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PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Wednesday, March 7, 1979*

The House met at 3 p.m.

The Chaplain, Rev. James David Ford, B.D., offered the following prayer:

Almighty God, we give You thanks that we have been called to live in these days. You have said Your Word will be a "lamp to our feet and a light to our path." Because of this promise we are assured that we need not walk in darkness or in fear of being alone, for we have the assurance and confidence of Your abiding presence.

Give each one, O Lord, appreciation for the dignity of our calling, enthusiasm for the opportunities at hand, and the willingness to be led by the light of Your Spirit in the paths of life. In the Lord's name we pray. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PREDATORY TRADE PRACTICE

(Mr. DAN DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAN DANIEL. Mr. Speaker, the attempt to acquire control of Dan River, Inc., by a Hong Kong textile exporter, probably acting for certain Far Eastern textile giants, represents an ingenious new type of predatory trade practice not covered by existing U.S. statutes. Unless prompt legislative action puts an end to this practice, all publicly owned textile manufacturers in the United States will be vulnerable to takeover by foreign companies increasing their share of the U.S. market regardless of quotas and other trade agreements.

The new technique, reduced to its essentials, is simply this: The foreign exporter participates in flooding the U.S. market with low-cost goods, thereby driving down the profitability of the U.S. companies and the price per share of the publicly held companies. With stock value below book value, the exporter then buys control of the U.S. company at a bargain price, thereby enhancing his position in the U.S. market without building any new facilities or creating any new jobs. Inasmuch as his newly acquired assets are worth more than his outlay for stock, the U.S. company is in effect financing its own demise. The exporter can then sell off the assets; send the cut cloth to a foreign affiliate for assembly and reshipment to the United States for a fraction of the usual duty, section 807; export all profits or take whatever action he wishes without regard to the trade and tariff agreements which formerly restricted his share of the U.S. market.

Congress has previously prohibited foreign corporations from acquiring more than a specified low percentage of U.S. companies engaged in certain sensitive industries, such as air transportation, communications, and coastal shipping. Shareholders of the textile industry, as the Nation's most import-sensitive industry, are entitled to the same protection—not against a foreign investor building his own plants and hiring his own staff, which he is free to do if he wishes to compete from within the U.S. market, but against his acquiring against its will a publicly held textile company whose stock he is able to obtain at depressed prices in large part because of the flood of low-cost textile imports into the United States, in which he played a part.

Today I am referring this matter to the appropriate committee for speedy action.

A WORD TO THOSE WHO THINK SALT II DOES NOT GO FAR ENOUGH

(Mr. CARR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARR. Mr. Speaker, I have said many times that SALT II does not go far enough. But I cannot imagine how anyone capable of a positive IQ score can say we should reject it for that reason. The only alternative to the high limits of SALT II is to have no limits at all and even more weapons.

Actually, the main shortcoming of SALT II is that it deals with the wrong question: It sets numerical limitations when the real issue is control of new technologies which could increase the possibility of nuclear war. This wrong focus is a legacy of the incompetence of the Nixon-Ford administration; and the Jackson amendment to SALT I; the only way to deal with it is to finish up SALT II as quickly as possible and move on to the important questions in SALT III. Those who say we should defeat SALT II and go back to the drawing boards for a better agreement are living in a dream world; if SALT II is defeated there will be no SALT of any kind for many years.

☐ 1505

SOME BAD EFFECTS OF THE AIRLINE DEREGULATION ACT

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, in an attempt to keep my colleagues informed of some of the bad effects of the Airline Deregulation Act, I would like to provide some additional information concerning Delta Air Lines and Meridian, Miss.—the largest city in my district.

As I reported earlier, Delta has announced they will cancel all service to Meridian even though Meridian has been a passenger stop for 49 of the 50 years Delta has been in operation. Actually, Delta is not canceling the flights. They will simply fly over Meridian rather than stopping for the few minutes necessary to load passengers heading to the east or west. The flight will still operate, but Meridian and east Mississippi and west Alabama will be denied the service.

Mr. Speaker, I want to urge the Public Works and Transportation Committee to hold oversight hearings on the Airline Deregulation Act and consider very seriously and thoughtfully the need to better define "essential service" for medium-size cities.

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

PRESIDENT UNJUSTLY CRITICIZED FOR FAILURE TO SHOW STRENGTH AND DECISIVENESS

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Speaker, there has been a lot of talk lately about the need for the United States to exercise leadership with greater force and courage. With turmoil in Iran, the assassination of our Ambassador in Afghanistan, inflation persisting and indeed growing at home—to name but a few problems—the President has been criticized for failure to show strength and decisiveness in attacking the many issues facing us. We are hearing a call for dramatic action.

I find this ironic after the past 10 or 15 years when incumbent administrations were attacked for knee-jerk, showy reactions to developments at home and for excessive intervention in events overseas. There is much to be said for taking a moderate and reasoned approach in both domestic and foreign policy. Problems at home and abroad are complex and confusing. They often defy quick, simplistic solutions. We all want to end inflation, especially without a rise in unemployment, and we would all like to prevent the kind of disruptions that result from events abroad like the upheaval in Iran. We, in a long American tradition, would like to overcome such problems right away. However, easy answers to complex problems often result in a quick jolt for national pride but a painful aggravation of the underlying problem.

I prefer Presidential courage which accommodates restraint, patience, and perseverance as well as strength, assertion, and boldness. I hope President Carter's critics and supporters recognize the wisdom and courage of restraint as well as the courage of swift action and the time for each. While last week, Hugh Sidey was writing in Time magazine "Even while suffering dramatic political losses, Carter comes down on the side of patience—the essence of courage for these hours"; in this week we see the President risking his political future by bold action on a quest for peace in the Middle East.

□ 1510

ANOTHER GLARING EXAMPLE OF A SENIOR CITIZEN BEING HURT BY CURRENT FOOD STAMP PROGRAM DEMONSTRATES NEED FOR A NEW FOOD STAMP BILL

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, 2 weeks ago I indicated to the House that we were going to make every effort to get 100 cosponsors on the food stamp bill to help the elderly and disabled.

As of this afternoon, Mr. Speaker, we have received 93 cosponsors; and it is my hope that before today is over we will reach that 100.

Mr. Speaker, here is another example of what has happened to an elderly person. A 70-year-old widow, who is a diabetic with a heart condition, has a total income of $306 a month. Her combined rent, shelter, and telephone costs come to $212 a month. She had been receiving $28 in food stamps, hardly a tremendous amount; but as of last week this was reduced to $10.

Mr. Speaker, it is our hope that we will do something about this matter and act as quickly as possible.

INVITATION TO SPECIAL MEETING OF AD HOC CONGRESSIONAL COMMITTEE FOR IRISH AFFAIRS

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BIAGGI. Mr. Speaker, as chairman of the Ad Hoc Congressional Committee for Irish Affairs I wish to invite my colleagues to a special meeting of the committee tomorrow at 11:30 a.m. in room 2168, Rayburn. The committee will be honored to have as its guest speaker, Dr. Sean MacBride of Ireland, the 1974 Nobel Peace Prize winner, and a cofounder of Amnesty International.

Sean MacBride will discuss the current situation in Ireland and provide his views about the upcoming Congressional Irish Peace Forum which the Ad Hoc Committee will sponsor beginning the week of May 14. It is our distinct privilege to have a man of the international stature of Sean MacBride address us and I urge all Members to attend this meeting.

Sean MacBride has had a career replete with accomplishments and honors. Included among them was his being named the recipient of the 1978 American Medal of Justice. At this point in the RECORD I wish to list several of the many highlights of Dr. MacBride's career:

Member Irish Parliament: 1948–55.

Minister of External Affairs, Irish Government: 1948–51.

President, Irish United Nations Association. Honorary President World Federation of United Nations Associations: 1972 to present.

Lenin International Prize of Peace: 1977.

In addition Sean MacBride was one of the sponsors and signatories to the following international treaties:

Convention for European Economic Cooperation.

Statute of the Council of Europe.

Geneva Conventions for Protection of War Criminals.

European Convention of Human Rights.

WHY THE UNITED STATES SHOULD RECOGNIZE ANGOLA

(Mr. MAGUIRE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAGUIRE. Mr. Speaker, I want to call the attention of my colleagues to a very important statement which was made earlier today by one of our former colleagues who is now the junior Senator from Massachusetts, Mr. PAUL TSONGAS.

The statement was a presentation of a case for why the United States should recognize Angola and establish diplomatic relations. At the present time we do not have such relations; and as a result, we have no regular and reliable communication with that important African state.

President Neto of Angola has been very helpful with respect to our peace initiative in Namibia; and Angola has three times—the most recent instance being yesterday—suffered an invasion by South African military forces.

Mr. Speaker, nonrecognition of Angola also, as Senator TSONGAS pointed out, deprives our companies of expanding their export of technology, capital, and developmental expertise. Boeing, Mobil, Gulf, and Arthur D. Little are working with the Angolans now; but so much more could be done commercially if we normalize our relationships. Unfortunately, our policy apparently has been dominated—despite all the experience we have had with this error in the past—by misapplied cold-war notions. Probably we would have more impact on events in Namibia and in Southern Africa if we were to adopt the Senator's well reasoned policy suggestion.

□ 1515

H.R. 55 ESTABLISHING FISCAL POLICY AND MAKING DECISIONS CONFORM TO AGGREGATE POLICY

(Mrs. HOLT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. HOLT. Mr. Speaker, last session 197 Members of this House voted for reduced aggregate budget figures set out in the Holt amendment. As we started this session, the House leadership conned the majority of this Congress into voting for a rule that prohibits voting on a total budget outlay figure before we decide how much we are going to spend for all our favorite programs.

This was a mistake. This was the first vote of this session on fiscal responsibility. Instead of first establishing how much income this Nation has and how much we can afford to spend, we are expected to willy-nilly prepare our letter to Santa Claus.

Now we are on the threshold of preparing the first concurrent budget resolution for fiscal 1980, and we are shackled with a system that forces us to haggle over everybody's pet projects and programs before we make the broad policy decisions.

I heard accusations yesterday of people caving in to special interests. Of course, we are all going to cave in to special interests. We must have a way to discipline ourselves.

We now force the Budget Committee

to give undue emphasis to line-item spending decisions that properly belong to the Appropriations Committee. We cannot achieve the discipline we so desperately need.

We are being forced to operate under a procedure that serves special-interest budgeting and the normal political inclination to accommodate special interests.

Mr. Speaker, I have introduced H.R. 55, which would require us to establish fiscal policy and then make individual spending decisions conform to the aggregate policy. The time to debate priorities is after we have established the policy.

I cannot understand why the chairman of the Budget Committee is so vehemently opposed to this prudent system. If we had a constitutional amendment to balance the budget, we would have to use this system. I hope you all will cosponsor H.R. 55.

FEC AND HOUSE ELECTIONS

(Mr. MYERS of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. MYERS of Indiana. Mr. Speaker, news reports in recent days indicate the President will soon file a committee for his reelection with the Federal Elections Commission. It is also expected that former California Gov. Ronald Reagan will file a similar committee today. This will make two candidates from 1976 who will again be candidates in 1980.

But do my colleagues know that the FEC still has not completed its audit of the 1976 Presidential election? We still do not know if all the 1976 candidates used public funds in a legal manner. We really do not know how successful public financing is, since we do not have an FEC audit on the 1976 election, the first Presidential campaign which used taxpayer financing.

I raise this point because there are some in the House who support H.R. 1 and who want to bestow the blessing of public financing on congressional elections.

But before we do that, let me cite a few facts:

First. It is possible, under the terms of H.R. 1, that 870 House candidates would be eligible to receive $60,000 each in public funds. This would require a Federal expenditure of $52.2 million for House candidates alone. And the FEC estimates that administrative costs would add another $6 million.

Second. The FEC now has 250 employees. This is up from 160 in 1976. And again, I remind my colleagues that the FEC still has not completed its audit of the 1976 Presidential campaign.

Third. Commissioner Neil Staebler has estimated that the FEC would need an additional 200 employees to oversee public financing of congressional elections.

I wonder how the FEC is going to monitor the financing of the 1980 Presidential campaign when it has not completed its work on the 1976 campaign. And, I wonder how the FEC will ever monitor 870 taxpayer-financed House campaigns in 1980, if H.R. 1 is adopted, when the FEC could not complete work on just a handful of Presidential campaigns in 1976.●

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2479, UNITED STATES-TAIWAN RELATIONS ACT

Mr. DODD, from the Committee on Rules, submitted a privileged report (Rept. No. 96–30), on the resolution (House Resolution 148) providing for the consideration of the bill (H.R. 2479) to help maintain peace, security, and stability in the Western Pacific and to promote continued extensive, close, and friendly relations between the people of the United States and the people on Taiwan, which was referred to the House Calendar and ordered to be printed.

PROVIDING FUNDS FOR EXPENSES OF COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 111) providing funds for the expenses of the Committee on Standards of Official Conduct, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 111

Resolved, That (a) effective January 3, 1979, the Committee on Standards of Official Conduct is authorized in carrying out its functions and duties under the rules of the House, to incur such expenses, not to exceed $500,000, as the committee considers appropriate, including expenditures—

(1) for the employment of committee staff personnel; and

(2) for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2) U.S.C. 72a(i)).

Such expenses shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration.

(b) Not to exceed $400,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202 (i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but such monetary limitation shall not prevent the use of such funds for any other authorized purpose.

Sec. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Standards of Official Conduct shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

Sec. 3. The authorization granted by the resolution shall expire immediately prior to noon on January 3, 1980.

Sec. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

COMMITTEE AMENDMENT

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Strike out all after the resolving clause and insert:

That (a) effective January 3, 1979, the Committee on Standards of Official Conduct is authorized in carrying out its functions and duties under the rules of the House, to incur such expenses, not to exceed $500,000, as the committee considers appropriate, including expenditures—

(1) for the employment of committee staff personnel; and

(2) for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); and

(3) for specialized training, pursuant to section 202(j) of such Act, as amended (2 U.S.C. 72a(j)) of committee staff personnel performing professional and nonclerical functions;

Such expenses shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration.

(b) Not to exceed $400,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); and not to exceed $10,000 of such total amount may be used to provide for specialized training, pursuant to section 202(j) of such Act, as amended (2 U.S.C. 72a(j)), of staff personnel of the committee performing professional and nonclerical functions; but neither of these monetary limitations shall prevent the use of such funds for any other authorized purposes.

Sec. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Standards of Official Conduct shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

Sec. 3. The authorization granted by the resolution shall expire immediately prior to noon on January 3, 1980.

Sec. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. BRADEMAS (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER. The gentleman from Indiana (Mr. Brademas) is recognized for 1 hour.

Mr. BRADEMAS. Mr. Speaker, we have before us today six more resolutions providing for the expenses of studies and investigations to be conducted by committees of the House.

When the House adopted 10 committee funding resolutions last week, I indicated that the Subcommittee on Accounts, which I have the honor of chairing, was exercising its twin responsibilities of eliminating any wasteful or unnecessary congressional spending over which we have jurisdiction while insuring that Congress has the resources to oversee the proper implementation of the programs we have authorized.

Perhaps the most difficult aspect of this work, however, is that the members of the Accounts Subcommittee must fight in subcommittee to be tightfisted in the face of the entreaties of committee chairmen and ranking minority members and then turn around and face charges on the floor of being too profligate.

Mr. Speaker, the resolutions before the House today represent prudent and carefully considered estimates of the necessary expenses of these committees this year.

The Accounts Subcommittee cut these budget requests an aggregate of $681,500. And while there are some individual increases from last year, in the aggregate, the six resolutions represent a reduction from 1978 of $314,000.

In fact, Mr. Speaker, the Committee on House Administration has reduced the funding requests contained in the 16 resolutions it has reported this year by a total so far of over $2.1 million. These reductions amount to authorizations of $636,000 below the 1978 level.

The amounts in these resolutions are not excessive. In my view they are necessary if we are to oversee the work of the executive branch adequately.

Mr. Speaker, House Resolution 130 provides $519,000 for investigations and studies to be conducted by the Committee on Rules.

Mr. Speaker, the amount approved by the House Administration Committee is $104,000 less than the committee requested.

☐ 1520

Mr. Speaker, I reserve the balance of my time. I would be very glad to yield to the gentleman from Ohio, the distinguished ranking minority member of the subcommittee (Mr. DEVINE), who has been very helpful on this legislation for any comment the gentleman may wish to make.

Mr. DEVINE. Mr. Speaker, I thank the gentleman for yielding. I have no comment on House Resolution 111. I think that the chairman and ranking minority member of the committee made a case in justification for their requests. That is why the subcommittee and the committee approved the amount they requested.

Mr. BRADEMAS. Mr. Speaker, does the gentleman from California (Mr. DANNEMEYER) wish me to yield?

Mr. DANNEMEYER. Yes.

Mr. BRADEMAS. Mr. Speaker, I would be glad to yield for purposes of debate only.

Mr. DANNEMEYER. Mr. Speaker, can the gentleman explain why it is that the committee authorized a spending increase for this committee over what it spent in 1978 of 13.7 percent?

Mr. BRADEMAS. Yes.

Mr. DANNEMEYER. The reason I ask that question, in case it is not obvious, is that our President has requested the people of this country to limit its increases in wages and prices to 7 percent. That being the request from our President, I wonder why a committee of the House would suggest that a spending increase be authorized which is in excess of what our President says we should limit our price increases to?

Mr. BRADEMAS. If I may say to the gentleman from California, I am sure that the gentleman would not disagree that it is very important to the operations of the House of Representatives that we maintain, both substantively and in terms of public perception, the highest standards of official conduct.

It is the fundamental purpose for the existence of the Committee on Standards of the Official Conduct to take care that both those objectives be realized.

It is certainly not possible as those who testified from the Committee on Standards of Official Conduct in support of the budget request of $500,000 for that committee to know now the extent to which it is going to have to undertake investigations and studies during the year ahead.

I am sure that the gentleman from California would agree with me that we hope it will not have a very busy agenda of business, but we do not know, as the gentleman from North Carolina (Mr. PREYER), the ranking Democratic member of the committee, explained to the Subcommittee on Accounts, we cannot now know what may develop during the year ahead.

☐ 1525

For this committee to have come in with a request identical to the amount authorized last year is, it seems to me—and clearly it seemed so to the members of the subcommittee who unanimously approved this request, as did the full committee—wholly commendable. I would hope, therefore, that the gentleman would understand the purpose of this committee and the rationale for the approval of this amount.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. Yes, for debate only.

Mr. DANNEMEYER. Mr. Speaker, I notice, since the gentleman mentioned that the committee request this year was consistent with what the committee authorization was last year, that it is interesting by way of contrast to note what the authorization has been over the years since 1974.

For instance, this committee in 1975 was authorized $35 million, in 1976, it was $235 million, and now in 1979 we are up to $500 million.

Or is it $500,000——

Mr. BRADEMAS. Mr. Speaker, if the gentleman will allow me to make this clear, I know the gentleman wants to make a certain point, but for the gentleman to suggest the figure is $500 million tells more about the inspiration of the gentleman in making his observation than anything the gentleman from Indiana could observe.

Mr. DANNEMEYER. No, I apologize for that. I misspoke. It is $500,000.

In any event, this increase from $35,000 to $50,000 in a 4-year span represents a remarkable growth in the expenditures of the committee, as meritorious as the purposes of the Committee on Standards of Official Conduct may be.

Mr. BRADEMAS. Mr. Speaker, I fail to understand the gentleman's rationale completely, and I move the previous question on the resolution, as amended.

The SPEAKER. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. BRADEMAS. Mr. Speaker, I move the previous question on the resolution, as amended.

The previous question was ordered.

The SPEAKER. The question is on the resolution, as amended.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 353, nays 53, not voting 26, as follows:

[Roll No. 23]

YEAS—353

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Cavanaugh
Cheney
Chisholm
Clausén
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gramm
Grassley
Gray
Guarini
Gudger
Guyer
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Holtzman
Hubbard
Huckaby

Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lederer
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marlenee
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Treen
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff, N.Y.
Wolpe, Mich.
Wright
Wyatt
Wydler
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—53

Applegate
Archer
Badham
Bauman
Bethune
Brown, Ohio
Burgener
Collins, Tex.
Conable
Corcoran
Crane, Daniel
Crane, Philip
Dannemeyer
Early
Edwards, Okla.
Erdahl
Fenwick
Findley
Fish
Gingrich
Goldwater
Goodling
Gradison
Green
Grisham
Hansen
Hinson
Holt
Hopkins
Jeffries
Jones, Okla.
Kramer
Leach, Iowa
Lee
Luken
McDonald
Marriott
Miller, Ohio
Moorhead, Calif.
Mottl
Pashayan
Paul
Quayle
Ritter
Schroeder
Shumway
Solomon
Stangeland
Symms
Whittaker
Wilson, C. H.
Wylie
Young, Alaska

NOT VOTING—26

Anderson, Ill.
Ashbrook
Boggs
Bonior
Buchanan
Burton, John
Carter
Chappell
Flood
Hagedorn
Hall, Ohio
Hollenbeck
Horton
Howard
Jones, N.C.
Lehman
Lott
McKinney
Marks
Mathis
Mitchell, Md.
Pepper
Runnels
Traxler
Waxman
Williams, Ohio

☐ 1540

Mr. RITTER changed his vote from "yea" to "nay."

Mr. MIKVA and Mrs. SNOWE changed their vote from "nay" to "yea."

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1545

PROVIDING FUNDS FOR COMMITTEE ON RULES

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 130) providing funds for the Committee on Rules, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 130

Resolved, That effective January 3, 1979, in carrying out its duties during the first session of the Ninety sixth Congress, the Committee on Rules is authorized to incur such expenses (not in excess of $623,000) as it deems advisable. Such expenses shall be paid out of the contingent fund of the House on vouchers authorized and approved by such committee, and signed by the chairman thereof.

Sec. 2. Funds authorized by the resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. BRADEMAS (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Strike out all after the resolving clause and insert:

That effective January 3, 1979, expenses of investigations and studies to be conducted by the Committee on Rules, acting as a whole or by subcommittee, not to exceed $519,000, including expenditures—

(1) for the employment of investigators, attorneys, and clerical, stenographic, and other assistants;

(2) for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); and

(3) for specialized training, pursuant to section 202(j) of such Act, as amended (2 U.S.C. 72a(j)), of committee staff personnel performing professional and nonclerical functions;

shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $10,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); and not to exceed $5,000 of such total amount may be used to provide for specialized training, pursuant to section 202(j) of such Act, as amended (2 U.S.C. 72 (j)), of staff personnel of the committee performing professional and nonclerical functions; but neither of these monetary limitations shall prevent the use of such funds for any other authorized purpose.

Sec. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Rules shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

Sec. 3. The authorization granted by this resolution shall expire immediately prior to noon on January 3, 1980.

Sec. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. BRADEMAS (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER. The gentleman from Indiana (Mr. Brademas) is recognized for 1 hour.

Mr. BRADEMAS. Mr. Speaker, House Resolution 130 provides $519,000 for investigations and studies to be conducted by the Committee on Rules.

Mr. Speaker, the amount approved by the Committee on House Administration is $104,000 less than the committee requested.

Mr. Speaker, I yield for debate only to the distinguished gentleman from Ohio (Mr. Devine).

Mr. DEVINE. I thank the gentleman for yielding.

Mr. Speaker, this is probably the most controversial funding resolution that will come before the House during this session. The Committee on Rules under its new chairman has a vast jurisdiction that has not been heretofore exercised. There are areas that the chairman of the Committee on Rules would now like to pursue. Accordingly, he has asked for a sum measurably more than in the history of the Committee on Rules.

Last year the Committee on Rules requested $49,500, and they expended $19,200. When the chairman of the Committee on Rules appeared before the Accounts Subcommittee he outlined the reasons for his increase, his request for funds this time: $623,000. The committee in its wisdom reduced that amount to $519,000, and this amount passed the Committee on House Administration by a vote of 17 ayes and 6 noes. Those people who like to deal with figures have figured up that if the House adopts the recommendation of the Committee on House Administration and awards $519,000 to the Committee on Rules, it will be an increase from the expenditure of last year in the amount of 2,600 percent—2,600 percent.

☐ 1550

Accordingly, Mr. Speaker, recognizing the fact that there is jurisdiction within the Committee on Rules that perhaps should be pursued, I think those Members that ran their campaign on the symbol of being inflation fighters, against a deficit budget and even following the Presidential guidelines of 7 or 8 percent could not in good conscience set an example by increasing the authorization before the Committee on Rules by 2,600 percent.

Accordingly, I intend to vote no on this and if the resolution is defeated it will have to come back to the Committee on House Administration for further consideration.

I thank the gentleman for yielding.

Mr. BRADEMAS. Mr. Speaker, I yield for the purpose of debate only to the gentleman from California (Mr. BADHAM), a member of the Committee on House Administration.

Mr. BADHAM. I thank the gentleman for yielding.

As others of the Accounts Subcommittee, I was quite shocked by this request which was given to us by the respected chairman of the Committee on Rules as admittedly a stunning request but I asked the chairman of the Committee on Rules in his appearance before the Accounts Subcommittee about this increase from an expenditure of $19,000 to a request for $623,000, now pared down to a modest $519,000, and the reply was that there is going to be extensive travel, there is going to be a great increase in the staff of the Committee on Rules to perform all of these new subcommittee and oversight super committee functions that the Committee on Rules has neglected for, apparently, the past 95 Congresses.

In this time when we are all talking at home about fiscal restraint, it just seems to me that when the people of this Nation are somewhat doubtful about the operation of the Congress that this is not the time to increase something by, as the distinguished gentleman from Ohio says, over 2,000 percent.

I asked the chairman of the Committee on Rules where most of the money would go and he said basically into two areas: One is for staff for two subcommittees and the other is for travel. I wondered if this might be for international travel to examine rules committees in other legislative bodies throughout the world and he said, "no." This travel money is to examine, my colleagues if you will, State legislatures in the United States of America.

My colleagues, if our system here in the Congress is imperfect, and I think we would all agree on that if nothing else; the system of our State legislatures is probably indeed somewhat more imperfect; so whether we should be expending vast amounts of money to travel around to look at how our State legislatures operate should be clearly doubtful. To increase the staff allowances by some forty-fold would be, I think, somewhat questionable. So in the interest of trying to keep our Committee on Rules doing what it ought to be doing; namely, considering the rules that come before it for traffic to the floor, I am going to vote "no" because I think even if the staff positions requested were authorized with almost 25 percent of this calendar year gone it would be economically and fiscally impossible to staff up on the salary schedule they have for the balance of the year. So I am going to vote "no" and I think the House should join me so that this might go back to committee and our Committee on Rules might come again to the floor with a reasonable request that would be amenable to the House and to the people of the United States.

I thank the gentleman for yielding.

□ 1555

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. Mr. Speaker, I will yield to the gentleman who asked me first to yield, and then I will be glad to yield time to the gentleman from Minnesota (Mr. FRENZEL).

I yield to the gentleman from California (Mr. LUNGREN) for purposes of debate only.

Mr. LUNGREN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to speak against the resolution giving the Rules Committee a 2,600-percent increase in its budget.

As a freshman Member of Congress, I am desperately looking for a clue that this Congress truly recognizes that the people of this country want a trim Federal Government.

It seems that since Congress has come in session, we have voted increases in the money we spend on ourselves, while we are out telling the rest of the country that this is the budget-cutting Congress.

This funding increase for the Rules Committee is no exception; it is, in fact, the most glaring example of our indifference to the message of the American people.

I would like to know how a 2,600-percent increase in spending for this committee could possibly be justified?

The Rules Commtitee, as I understand it, wants this money to increase its staff and jurisdiction. It has named 31 different areas it wants to look into. It wants an investigative staff and a $500,000 budget increase.

What on earth for?

As far as I am concerned, the Rules Committee has one primary job, and one alone.

It is supposed to decide under which rule a bill will be considered, and then issue a report to the House on that rule.

I would like to read one of these reports. It is the report that accompanied the debt limit bill we voted on last week.

I would like to read the entire report, which will not take very long because it is only three lines:

> The Committee on Rules, having had under consideration House Resolution 133, by a nonrecord vote, reports the same to the House with the recommendation that the resolution do pass.

That is it. That is the work of the Rules Committee. One page—three lines of explanation. It tells us absolutely nothing about why the committee voted the bill out under such a rule.

If this is the best the Rules Committee can give us with the 27 staff members it has now, there is no doubt that there is great room for improvement here. But does the committee really need $500,000 in additional funds to get the job done?

I do not think so. After looking over the list of expenses and new jurisdictions the committee wants, I am convinced that if we give them this increase they will be doing everything BUT the job they are supposed to do.

For example, why does the Rules Committee need $55,000 in travel expenses? Where do they plan to go? Why do they need to take trips at all?

Why does the Rules Committee want $8,000 in witness fees, when the only people who testify before the Committee are Members of Congress?

Why does the committee want $5,000 for subscriptions? What technical journals do they have to subscribe to in order to understand other Members of Congress testifying?

What do they need a $1,000 education fund for? Could this possibly be to hire summer interns?

And why are they going to triple their budget for telephones and telegraph equipment?

I assume that all of these increases are for the new staff the committee will hire to study the 31 new policy areas that the committee would like to investigate.

Where did they get these 31 areas from, anyway?

Did the committee meet and decide that these were areas of vital importance for the continued existence of the House?

No, they got this laundry list from the Library of Congress. From the Congressional Research Service.

Under the 1970 Executive Reorganization Act, the CRS is required to prepare for each committee, at the beginning of every Congress, a list of areas it may wish to pursue.

The list of 31 policy areas the Rules Committee presents to us today is the identical list prepared by the CRS for the committee at the beginning of this Congress.

If you go through the CRS report and read it, you will see that many of the areas are prefaced by the words: "may wish," "might wish," "et cetera." It is on every other page.

In other words, this list of 31 policy areas the committee wants to study is nothing more than a wish list authored by the Library of Congress and put forth by the Rules Committee as justification for this huge increase in budget and staff.

Apparently, this list was not scrutinized very well, because many of the 31 policy matters the committee wants to study are already being handled by someone else.

Nos. 8, 9, and 10—revision of the committee jurisdictions in the Congress, subcommittee structure and operation, and the study of multiple referrals are all the jurisdiction of the Committee on Committees which we are supposed to create this afternoon.

Scheduling House activities—No. 6 on the wish list—is something that the

House Administration Committee already does.

Suits by the House and Congressional Intervention in courts suits—Nos. 20 and 21—are constitutional questions which should properly be put before the Judiciary Committee.

No. 25 is the printing of a condensed rules manual. The Parliamentarian of the House already has a budget for this.

And No. 24—staff training—is taken care of by the Select Committee on Government Operations.

Already, just a cursory glance at this list turns up 8 of the 31 areas which are already taken care of in other committees.

I do not think the Rules Committee needs to look into 31 areas of additional inquiry. I do not think they need one area of additional inquiry. I think they just need to do the job they are supposed to be doing already, instead of following a wish list dreamt up by the Library of Congress.

For although the Library of Congress may wish the Rules Committee to undertake these areas of study, the American people may wish their tax dollars to be spent on something more than the creation of congressional bureaucacy.

What if every committee came to us—like the Rules Committee is doing today—and asked for increased budget and staff based solely on the recommendations of the Library of Congress?

We would soon be the billion dollar Congress, instead of the million dollar Congress—the dubious distinction we have now.

Mr. Speaker, as I said, what we have here is the Committee on Rules bringing to us a "wish" list, a "wish" list of those various areas they want to look into. I would invite the other Members to look at that list and see where the duplication is and see where they have asked us in later votes to vote for a Select Committee on Committees, which is to do the very thing they claim they wish to do and for which we are to expend these tremendous sums.

I would ask, if they are going to look at a "wish" list and justify the request of us in that way, we remember that the American people also have a "wish" list, and that is that they wish less government and they wish less taxes. The only way we are going to do that is to wish for them and to give them less spending.

So, Mr. Speaker, I urge my colleagues to vote against this increased funding for the Rules Committee.

We do not need it.

And if we go along with this exercise in empire building, we will do nothing but lower our credibility in the eyes of the American people—if that is possible.

Mr. BRADEMAS. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. Frenzel) for the purpose of debate only.

Mr. FRENZEL. Mr. Speaker, I was one of the six negative votes of the Committee on House Administration for this particular resolution. I think it is a very unusual case when the House has before it a bill that has been cut by more than 20 percent in the Committee on House Administration and it still represents a 2,600 percent increase.

It is very hard for any of us to imagine this size increase for the Committee on Rules, particularly because later on in the day we are going to have a request for a special Committee on Committees which will probably spend half a million dollars, in its own right, studying many of the things that were on the list the Committee on Rules said it wants to work on.

Mr. Speaker, for years I have opposed the request of the Committee on Rules for funds because it now provides a special staff asitant for each member of the committee, a $33,000 employee, that none of the other committees of the House, with a few exceptions, have.

□ 1600

I think that practice, in itself, is profligacy. But to come to us now and say we have to increase this legislative expense by 26 times I think is stretching any kind of credulity that may exist around here.

Mr. Speaker, I hope that this resolution will be defeated.

Mr. BRADEMAS. Mr. Speaker. I yield such time as he may consume to the gentleman from Tennessee (Mr. Quillen), the distinguished ranking minority member of the Committee on Rules.

Mr. QUILLEN. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of this funding resolution because I think it is absolutely necessary for the future of this House to have in-depth studies conducted by the subcommittees of the full committee which have been appointed on oversight, sunset legislation, congressional veto legislation, the Congressional Budget Act processes, the authorization-appropriation process, and many other issues that are being demanded by the American people.

Mr. Speaker, we have so many agencies, so many programs, that sunset legislation would certainly be in order. I think the Committee on Rules would do a great service to each individual Member of this House, by making the studies, which have been proposed. The results could be recommendations to relieve the burden of deficit spending, a balanced budget, congressional control of the bureaucracy, and a more orderly congressional process. This would save money in many ways. But if we do not study these issues, then we are failing in our duties.

Mr. Speaker, what is wrong with the Committee on Rules having the dignity of other committees of this House? I see the committee chairmen. I see other Members, the ranking Members, come before us during the year. What is wrong with us having the same dignity and the same operational capacity as any other committee of this House?

I have seen, since 1965, when I became a member of the committee, that it has not exercised its authority and its full jurisdiction. You can call our jurisdiction a wish list if you like, but that list is very important to the American people. They want to see something done. What committee has taken jurisdiction over sunset, oversight, or congressional veto? And you can go on down the list of the 31 items that the Library of Congress says the Committee on Rules should act on.

I say to each and every Member: Let us permit the Committee on Rules to go forward and do the necessary job. It has been downtrodden long enough. Do not kick it any more—because the work of this committee will relieve the pressures of legislative inefficiency and benefit the House.

Yes, stand on the floor and say, "I am going to vote against the measure because it is fiscally irresponsible." But that is not being said about the other requests of funding for other committees. And let me say, in closing, let us not be "penny wise and pound foolish." Let us give this committee the funds needed to go forward and do a job that is necessary to be done.

Mr. BRADEMAS. I thank the gentleman for his contribution.

Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. Levitas).

Mr. LEVITAS. Mr. Speaker, I rise in support of this resolution. It is important to pass this resolution, but I think it is even more important that the Members of this House go on record one way or the other on the underlying issue of the congressional veto which this resolution will make possible. Now is the time to put up or shut up.

□ 1605

We have been talking about and voting for the right of the Congress to exercise a congressional veto over the rules and regulations issued by the unelected bureaucracy. For the past several years, we have been unable to get that comprehensive legislation reported out of the Rules Committee, and one of the reasons was that they said they could not make the far-ranging, in-depth study necessary to do it.

This resolution provides the funds so that we will have, I predict, before the end of this Congress, comprehensive legislation before this House on the subject of congressional veto. That is we will be able to vote on the issue of who passes the laws in America, the Congress or the unelected bureaucrats.

I have introduced H.R. 1776, the comprehensive congressional veto bill. H.R. 1776 has over 150 cosponsors and it is now pending in the Rules Committee.

The SPEAKER pro tempore. The time of the gentleman from Georgia has expired.

Mr. BRADEMAS. Mr. Speaker, I yield 1 additional minute to the gentleman from Georgia (Mr. Levitas).

Mr. LEVITAS. This is our first opportunity to say whether all we want to do is talk about congressional veto at election time, or are we willing to let a serious study be made and let the chips fall where they may. I predict that this Congress will have the opportunity to vote on that issue of congressional veto. This resolution is the means by which we can get this vital bill to the floor. We will save in 1 week twice as much money as it will cost to make that study.

This resolution does not merely raise the funding level of a committee one year over last year. This resolution provides for new and vital functions of two new subcommittees on the Rules Committee. One will deal with sunset legislation and one will deal with the legislative veto. There are no more important issues pending before Congress which are unresolved. The American people demand that we act on these issues. To do that job the Rules Committee has created these two subcommittees. We will make a mockery of this effort if we fail to provide the funds necessary to investigate these issues and let this Congress vote for two of the most effective means for controlling the bureaucracy, cutting redtape, reducing the size of government, and reducing Federal spending.

Mr. Speaker, I urge the Members of this House to vote for this resolution for that reason.

Mr. BRADEMAS. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Rules, the gentleman from Missouri (Mr. BOLLING).

Mr. BOLLING. Mr. Speaker, I am not going to take much time. The Members on my left have had a little fun, and that is something that they should enjoy. I do not think they really—some of them, maybe a new one or two—really understand what the Rules Committee is all about, but I had a choice as the new chairman of the committee to be honest with the House and try to do a real job with the jurisdiction that the committee has. It is something that I have been studying, as most Members know, for quite a long time, and it is not a usual list.

It is a list of procedural processes, matters that have been neglected for about 40 years. It includes the whole question of oversight; it includes the relationship of the legislative committees to the appropriation committees; it includes sunset; it includes the legislative veto. It goes on from there, and I did not see—and my committee agreed with me almost unanimously—how we could do less than try to do an honest job for the House.

It is not such a large amount of money, although it seems large by comparison to what we had before. It is a good deal less than many of the committees of the House, and it is designed for specifics; the function of the two subcommittees, one of which will deal first with sunset and the next of which will deal with the legislative veto.

In addition to all the agenda items that we have to look at and think about, we have been mandated by the Democratic Caucus to deal with a variety of very difficult subjects. I did not think the choice that we had was a particularly pleasant one because it is nice for people to be able to make fun of the percentage increases, but the fact remains that the budget as a whole is significantly lower than most of the major committees of the House. I ask for bipartisan support of an effort to do something about the processes of this institution which, if better managed, can save us vast sums of money that are now being wasted because of the inadequacy of our own processes.

☐ 1610

Mr. BRADEMAS. Mr. Speaker, I urge approval of this resolution.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield to me momentarily.

Mr. BRADEMAS. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, the gentleman from Missouri (Mr. BOLLING), chairman of the Committee on Rules on which I have the honor to serve, has made an adequate statement of his position.

I just want the record to reflect that the committee was not unanimous and that while I appreciate the chairman's argument and said so in committee, I just do not feel that there was any justification presented for the enormous amount requested. That is why I voted against it and why I will oppose it today.

Mr. Speaker, I hope other Members will join me in voting against this resolution.

The SPEAKER pro tempore (Mr. NATCHER). The question is on the committee amendment.

The committee amendment was agreed to.

Mr. BRADEMAS. Mr. Speaker, I move the previous question on the resolution, as amended.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DEVINE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 249, nays 163, not voting 20, as follows:

[Roll No. 24]

YEAS—249

Addabbo
Akaka
Albosta
Alexander
Ambro
Andrews, N.C.
Annunzio
Anthony
Ashbrook
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brocmfield
Brown, Calif.
Burlison
Burton, Phillip
Byron
Carter
Cavanaugh
Chisholm
Clausen
Clay
Cleveland
Coelho
Collins, Ill.
Conyers
Corman
Cotter
D'Amours
Danielson
Daschle
de la Garza
Dellums
Derrick
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Calif.
Erlenborn
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Gonzalez
Gore
Gray
Guarini
Hall, Ohio
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Holland
Holtzman
Horton
Howard
Hubbard
Hutto
Ichord
Ireland
Jacobs
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Tenn.
Kastenmeier
Kazen
Kogovsek
LaFalce
Leach, La.
Lederer
Leland
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCloskey
McCormack
McEwen
McHugh
McKay
Markey
Matsui
Mattox
Mavroules
Mica
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Peyser
Pickle
Preyer
Price
Quillen
Rahall
Rangel
Ratchford
Reuss
Richmond
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Schroeder
Sebelius
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Weaver
Weiss
White
Whitten
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff, N.Y.
Wolpe, Mich.
Wright
Wyatt
Yates
Yatron
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NAYS—163

Abdnor
Anderson, Calif.
Andrews, N. Dak.
Applegate
Archer
Atkinson
Badham
Bafalis
Bauman
Bennett
Bereuter
Bethune
Brown, Ohio
Broyhill
Burgener
Butler
Campbell
Carney
Carr
Cheney
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Davis, S.C.
Deckard
Derwinski
Devine
Dickinson
Dornan
Dougherty
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Evans, Del.
Evans, Ind.
Fenwick
Ferraro
Findley
Fish
Forsythe
Fountain
Frenzel
Gilman
Gingrich
Goldwater
Goodling
Gradison
Gramm
Grassley
Green
Grisham
Gudger
Guyer
Hall, Tex.
Hansen
Harsha
Heckler
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Huckaby
Hughes
Hyde
Jeffords
Jeffries
Jenkins
Jones, Okla.
Kelly
Kemp
Kildee
Kindness
Kostmayer
Kramer
Lagcmarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lent
Lewis
Livingston
Loeffler
Lujan
Lungren
McClory
McDade
McDonald
Madigan
Maguire
Marlenee
Marriott
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Nelson
Nichols
O'Brien
Paul
Pritchard
Pursell
Quayle
Railsback
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roth
Rousselot
Rudd
Satterfield
Sawyer
Schulze
Sensenbrenner
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stockman
Stump
Symms
Tauke
Taylor
Thomas

Treen
Trible
Vander Jagt
Walker
Wampler
Watkins
Whitehurst
Whitley
Whittaker
Winn
Wydler
Wylie
Young, Fla.

NOT VOTING—20

Anderson, Ill.
Buchanan
Burton, John
Chappell
Flood
Hagedorn
Jones, N.C.
Lehman
Lott
McKinney
Marks
Mathis
Mazzoli
Pashayan
Pepper
Runnels
Santini
Traxler
Waxman
Williams, Ohio

☐ 1625

Mr. HANLEY changed his vote from "nay" to "yea."

Messrs. RHODES, LIVINGSTON, GRASSLEY, BUTLER, and VANDER JAGT changed their vote from "yea" to "nay."

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1630

PROVIDING FOR EXPENSES OF INVESTIGATIONS AND STUDIES BY COMMITTEE ON THE DISTRICT OF COLUMBIA

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 112) to provide for the expenses of investigations and studies to be conducted by the Committee on the District of Columbia, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 112

Resolved, That, effective January 3, 1979, expenses of investigations and studies to be conducted by the Committee on the District of Columbia, acting as a whole or by subcommittee, not to exceed $325,000, including expenditures for the employment of investigators, attorneys, and clerical and other assistants and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $25,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on the District of Columbia shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. The authorization granted by the resolution shall expire immediately prior to noon on January 3, 1980.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. BRADEMAS (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from Indiana?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do so for the purpose of asking the majority whip, is it correct that the House will not work this evening past 5 o'clock?

Mr. BRADEMAS. Mr. Speaker, if the gentleman will yield, the answer is yes.

Mr. BAUMAN. Then we will not finish the calendar today?

Mr. BRADEMAS. The gentleman is correct.

Mr. BAUMAN. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Strike out all after the resolving clause and insert:

That, effective January 3, 1979, expenses of investigations and studies to be conducted by the Committee on the District of Columbia, acting as a whole or by subcommittee, not to exceed $315,000, including expenditures from the employment of investigators, attorneys, and clerical and other assistants and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $25,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on the District of Columbia shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. The authorization granted by the resolution shall expire immediately prior to noon on January 3, 1980.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. BRADEMAS (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana (Mr. BRADEMAS) is recognized for 1 hour.

Mr. BRADEMAS. Mr. Speaker, House Resolution 112 provides $315,000 for investigations and studies to be conducted by the Committee on the District of Columbia.

Mr. Speaker, the amount approved by the House Administration Committee is $40,000 more than this committee received last year and is $10,000 less than the committee requested.

Mr. Speaker, I yield for the purpose of debate only to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. I thank my colleague for yielding.

Mr. Speaker, I think a 25-percent increase is too much. I think we have a committee on which there are 11 people receiving salaries of $30,000 a year, and 2 of them receive $50,000 each. I think we have, in addition to the moneys here described, as most standing committees have, $1½ million by statute for salaries; and I do not know what the public would think if all of this were laid plainly before them, as I know it will be. However, in all fairness, I am a new member of this committee. The ranking minority member, our distinguished colleague, the gentleman from Connecticut (Mr. MCKINNEY), is ill, having had open-heart surgery. He has sent me a letter, and I will insert it into the RECORD. For the record, I would like to say that he approves the actions of the committee, but my own objections I hope will be registered.

The letter referred to is as follows:

WASHINGTON, D.C., *February 21, 1979.*

Hon. SAMUEL L. DEVINE,
Ranking Minority Member,
Subcommittee on Accounts,
Washington, D.C.

DEAR SAM: As you probably know, I am currently recuperating from open-heart surgery. Consequently, I shall be unable to appear before your Subcommittee when you consider the budget for the Committee on the District of Columbia.

Although I shall be unable to be present to articulate my views, I do want to take this opportunity to inform you that I support the budget request submitted by Chairman Dellums. I realize that the requested authorization is larger than those actually made during the past two sessions of the 95th. However, I feel the request is justified in view of the more active role that our new chairman has charted for the Committee to play in D.C. affairs.

After reviewing the specific activities to be covered by this Committee during this session, I trust that you and the other Minority Members of House Administration will join me in supporting the Committee's budget request.

Sincerely,

STEWART B. MCKINNEY,
Ranking Minority Member.

Mr. BRADEMAS. I thank the gentlewoman for her observation and for advising the House that the ranking minority Member of the committee, the gentleman from Connecticut (Mr. MCKINNEY), supports the resolution.

The SPEAKER pro tempore (Mr.

DANIELSON). The question is on the committee amendment.

The committee amendment was agreed to.

Mr. BRADEMAS. Mr. Speaker, I move the previous question on the resolution, as amended.

The previous question was ordered.

☐ 1635

The SPEAKER pro tempore. The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 222, nays 187, not voting 23, as follows:

[Roll No. 25]

YEAS—222

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Burton, Phillip
Byron
Carr
Carter
Cavanaugh
Chisholm
Clausen
Clay
Cleveland
Coelho
Collins, Ill.
Conyers
Corman
Cotter
Danielson
Daschle
Davis, S.C.
de la Garza
Dellums
Derrick
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Erlenborn
Evans, Ga.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Garcia
Gephardt
Giaimo
Ginn
Gonzalez
Gore
Gray
Guarini
Gudger
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Hefner
Hightower
Holland
Holtzman
Howard
Huckaby
Hutto
Jacobs
Jenrette
Johnson, Calif.
Johnson, Colo.
Kastenmeier
Kazen
Kogovsek
LaFalce
Lederer
Leland
Lloyd
Long, La.
Long, Md.
Lowry
Lundine
McCloskey
McCormack
McHugh
McKay
Maguire
Markey
Matsui
Mattox
Mavroules
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Perkins
Peyser
Pickle
Preyer
Price
Quillen
Rahall
Rangel
Ratchford
Reuss
Richmond
Roberts
Rodino
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Udall
Ullman
Vanik
Vento
Wampler
Waxman
Weaver
Weiss
White
Whitley
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff, N.Y.
Wolpe, Mich.
Wright
Wyatt
Wydler
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—187

Abdnor
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Badham
Bafalis
Bailey
Bauman
Beard, Tenn.
Bereuter
Bethune
Bouquard
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Campbell
Carney
Cheney
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ind.
Fenwick
Fish
Flippo
Forsythe
Fountain
Frenzel
Gaydos
Gibbons
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gradison
Gramm
Grassley
Green
Grisham
Guyer
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Heckler
Heftel
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Hughes
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jenkins
Jones, Okla.
Jones, Tenn.
Kelly
Kemp
Kildee
Kindness
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Lujan
Luken
Lungren
McClory
McDade
McDonald
Madigan
Marlenee
Marriott
Martin
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Ind.
Nelson
Nichols
O'Brien
Panetta
Paul
Pease
Pritchard
Pursell
Quayle
Railsback
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roth
Rousselot
Rudd
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Treen
Trible
Vander Jagt
Volkmer
Walgren
Walker
Watkins
Whitehurst
Whittaker
Williams, Mont.
Winn
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—23

Anderson, Ill.
Buchanan
Burlison
Burton, John
Chappell
Findley
Flood
Hagedorn
Jones, N.C.
Lehman
Lott
McEwen
McKinney
Marks
Mathis
Mazzoli
Pashayan
Pepper
Roe
Runnels
Traxler
Van Deerlin
Williams, Ohio

☐ 1650

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the funding resolutions agreed to earlier.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
March 6, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 4:05 p.m. on Tuesday, March 6, 1979, and said to contain a message from the President concerning intergovernmental fiscal assistance, together with draft legislation.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

INTERGOVERNMENTAL FISCAL ASSISTANCE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96-67)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Government Operations and ordered to be printed:

To the Congress of the United States:

Three years ago, at the lowest point of our Nation's deepest recession since the 1930's, many urban and rural communities were experiencing severe fiscal distress. The recession had weakened their revenue bases at the same time that their unemployment and service costs rose sharply.

In 1976, Congress enacted the Antirecession Fiscal Assistance program to provide emergency fiscal assistance to these distressed States and localities. When I came into office, I strengthened this program as part of my Economic Stimulus Package. Since 1976, approximately $3 billion has been spent under this program, which was effective in avoiding excessive layoffs of essential employees, service reductions and counterproductive tax increases in many areas.

Fortunately, nearly four years of national economic recovery have produced great progress in restoring the fiscal health of most of these communities. However, a number of communities still are experiencing severe fiscal problems and need more time to recover. The unexpected and abrupt termination of this program last fall has threatened many of these localities with painful reductions in vital services and with costly layoffs.

To assist these communities in regaining their financial stability and to protect State and local governments against unexpected future downturns in the economy, I am hereby transmitting to Congress the Intergovernmental Fiscal Assistance Amendments of 1979. These amendments outline a two-tier program which meets the fiscal needs of our Nation's communities and which is consistent with the overall austerity of my budget.

The targeted fiscal assistance portion of this legislation (Title I), is designed only for those local governments with significant fiscal need—those urban and rural communities with unemployment rates of 6.5 percent or more. I am requesting that $250 million be spent in FY 1979 and $150 million in FY 1980 for this program. These funds would be distributed only to those local governments that face the most serious economic and fiscal problems—1231 local governments in FY 1979. No community will receive less than $20,000 annually or will be eligible if its per capita income exceeds 150 percent of the national average.

The legislation also provides a standby program of Federal fiscal assistance (Title II), to State and local governments through 1980. This assistance would be provided if national economic conditions deteriorate sharply, as evidenced by a national unemployment rate of 6.5 percent or higher in any quarter. In that event, governments with quarterly unemployment rates of 5 percent or more would receive aid. This program should not involve any budget outlays in the next two years. The Administration does not expect the national unemployment rate to rise above 6.5 percent. But, I urge the Congress to authorize this standby economic insurance program for State and local governments as a hedge against economic adversity and as an insurance policy in the event of an unexpectedly large downturn in the economy.

Our ability to act quickly to prevent the problems resulting from an economic downturn can reduce both the severity and duration of any downturn. Help that is delayed too long often takes effect after the crisis, and contributes to inflationary pressures during the economic recovery.

Together, this two-tier program addresses both immediate and prospective needs: a carefully targeted program for a limited number of fiscally strained communities and a more comprehensive standby program for State and local governments to protect them against an unexpectedly severe economic downturn. This proposal meets a pressing and immediate need and allows our Nation's communities to plan sensibly for the future. I urge Congress to enact this important legislation.

JIMMY CARTER.

THE WHITE HOUSE, *March 6, 1979.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C., *March 6, 1979.*
Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 4:05 p.m. on Tuesday, March 6, 1979, and said to contain a message from the President on hospital cost containment, together with draft legislation.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

HOSPITAL COST CONTAINMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96–68)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interstate and Foreign Commerce and the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

Inflation is America's most serious domestic problem. It affects every individual and every institution in the country, and it damages the health not only of our economy but of our society. The American people are demanding prompt action against inflation from their elected representatives—action that is strong, prompt, and effective.

One of the most important components of inflation is the soaring cost of hospital care, which continues to outpace inflation in the rest of the economy. A decade ago, the average cost of a hospital stay was $533. In just the past two years, the average cost of a hospital stay has increased by $317 to $1634 a day—an increase of almost 24 percent.

Hospital cost inflation is uniquely severe. It is also uniquely controllable. It offers us one of our best opportunities to bring down the rate of overall inflation. This year, once again, I ask the Congress to join me in grasping that opportunity by enacting a tough program of hospital cost containment.

The Senate passed a Hospital Cost Containment bill last year, but the House did not complete action on it. The legislation I am transmitting to the Congress today is similar to the bill that passed the Senate last year. It responds to Congressional concerns that were raised during consideration of last year's bill, and it is strong enough to do the job.

The Hospital Cost Containment Act of 1979 will be one of the clearest tests of Congress' seriousness in dealing with the problem of inflation. Through this one piece of legislation, we can, at a stroke, reduce inflation, cut the Federal budget, and save billions of dollars of unnecessary public and private spending.

The legislation I am transmitting today will save $3.7 billion in fiscal year 1980. It will save $1.4 billion in the Federal budget, over $420 million in state and local budgets, and almost $1.9 billion in private health insurance and payments by individuals. Altogether, the potential savings that could result from this measure amount to some $53 billion over the next five years.

Because most hospital bills are paid by public or private insurance programs, the impact of hospital inflation is sometimes disguised. But that impact is painfully real for every American.

When hospital costs rise, so do health insurance premiums. This means that workers take home smaller paychecks. It means that businesses are forced to charge higher prices. For example, over $140 of the cost of every automobile manufactured in this country goes to pay for health insurance premiums.

When hospital costs rise, so do health budgets of Federal, state and local governments. From 1969 to 1979, Federal government expenditures for hospital care rose by 330 percent. State and local government expenditures for hospital care rose by 140 percent. Sooner or later every taxpayer pays more to finance these increases.

When hospital costs rise, the elderly—who need more hospital services—are particularly hard hit. The Medicare hospital deductible paid by the elderly has almost quadrupled—from $44 in 1969 to $160 in 1979. If hospital cost inflation is not restrained, the deductible will reach $260 in 1984.

The inflationary rise in hospital costs is not inevitable. While there have been dramatic and desirable improvements in the quality of hospital services, much of the increase in hospital expenses has been unnecessary. No one's health is improved by the existence of thousands of unfilled hospital beds, by hospital stays that are unnecessarily long, by surgery and X-ray tests that are unneeded and sometimes harmful, by wasteful supply purchasing practices, by inefficient energy use, or by pointless duplication of expensive facilities and equipment. But these wasteful practices cost billions.

In the past, hospitals have had little incentive to be efficient. The hospital sector is fundamentally different from any other sector in our economy. Normal buyer-seller relationships and normal market forces do not exist. The consumer of services—the patient—rarely pays the bill directly. Nor does the patient decide what services he or she will receive in the hospital. The person who makes those decisons—the physician—does not pay the bill either, and therefore has little or no incentive to see that services are provided in an efficient manner. Often, doctors do not even know the costs of the tests and X-rays they order.

There is a growing determination throughout the country to make hospitals efficient. Nine states—Colorado, Connecticut, Maryland, Massachusetts, New Jersey, New York, Rhode Island, Washington, and Wisconsin—have enacted mandatory cost containment programs. Hospitals in these states, which include many of the most renowned medical institutions in the world, have reduced cost increases substantially while continuing to provide care of high quality.

The legislation I am transmitting today would ensure that every hospital in this country has the incentive to be efficient. It establishes a reasonable goal for hospital cost inflation. It sets mandatory limits only for those hospitals which have been unable to meet this goal. Specifically, the Hospital Cost Containment Act of 1979 will:

—Establish an annual goal for the rate of hospital cost increases. This goal would reflect actual increases in the price of goods and services hospitals use, changes in population, and improvements in hospital services. In the event that the hospital industry does not, as a whole, meet the national goal, mandatory reimbursement limits on individual hospitals, also based in part upon the actual costs of goods and services, would go into effect on January 1, 1980.

—Exempt hospitals which individually meet the voluntary goal, have fewer than 4,000 admissions annually, are less than 3 years old, or have 75 percent of their patients enrolled in federally qualified health maintenance organizations.

—Exempt all hospitals in a state if the state on average met the voluntary goal or had an approved mandatory cost containment program.

—Provide for a system of bonuses and penalties to hospitals, depending on their efficiency relative to other hospitals of similar type and location.

—Include an adjustment for wage increases provided to nonsupervisory personnel in hospitals.

The Hospital Cost Containment Act of 1979 is reasonable and realistic. It permits a period of time for voluntary action, with mandatory limits only if voluntary action fails to meet the reasonable goals established in the bill. Under current assumptions the national goal will be 9.7 percent in 1979; it will be adjusted to reflect the actual increases in the price of goods and services hospitals use. In 1977, one-third of the nation's hospitals—from all regions and of all types—had cost increases of 9.7 percent or less.

Even if triggered, the stand-by mandatory program holds regulation to a minimum. It does not interfere with the day-to-day management decisions of hospital administrators and physicians. Rather, the program establishes an overall limit on the rate of increase in reimbursements, permitting doctors and hospital administrators to allocate their own resources efficiently, responding to local needs and patient care concerns. The program changes the incentives under which hospitals have functioned, from a system in which hospitals receive guaranteed reimbursement for their services, whether efficiently provided or not, to one in which hospitals are rewarded or penalized for their actual efficiency and productivity.

Congress has debated hospital cost containment for almost two years. There is now no reason for delay. I call upon the Congress to demonstrate its commitment to the fight against inflation by promptly enacting the Hospital Cost Containment Act of 1979.

JIMMY CARTER.

THE WHITE HOUSE, *March 6, 1979*.

☐ 1655

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following from the Clerk of the House of Representatives:

WASHINGTON, D.C., *March 7, 1979*.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 1:00 p.m. on Wednesday, March 7, 1979, and said to contain a message from the President where he transmits the sixteenth quarterly report of the Council on Wage and Price Stability, describing the Council's activities during the third quarter of 1978.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

SIXTEENTH QUARTERLY REPORT OF THE COUNCIL ON WAGE AND PRICE STABILITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Banking, Finance and Urban Affairs:

To the Congress of the United States:

In accordance with Section 5 of the Council on Wage and Price Stability Act, as amended, I hereby transmit to the Congress the sixteenth quarterly report of the Council on Wage and Price Stability. This report contains a description of the Council's activities during the third quarter of 1978 in monitoring both prices and wages in the private sector and various Federal Government activities that may lead to higher costs and prices without creating commensurate benefits. It discusses Council reports, analyses, and filings before Federal regulatory agencies.

The Council on Wage and Price Stability will continue to play an important role in supplementing fiscal and monetary policies by calling public attention to wage and price developments or actions by the Government that could be of concern to American consumers.

JIMMY CARTER.

THE WHITE HOUSE, *March 7, 1979*.

INTRODUCING LEGISLATION TO AMEND FEDERAL CIVIL DEFENSE ACT OF 1950

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SKELTON. Mr. Speaker today, I am introducing legislation that would amend the Federal Civil Defense Act of 1950 and provide for an enhanced civil defense program for fiscal years 1980 through 1986. I feel this proposed legislation will help give our national civil defense program more clearly defined goals.

The purpose of this act is to add a new title to the Federal Civil Defense Act of 1950, as amended, which defines an enhanced civil defense program for the 1980's and to authorize appropriations for the new civil defense program. In other words, it sets down objectives and then offers a financial route for reaching these aims.

By approving this legislation, Congress would determine that the national civil defense program should enhance the survivability of the American people in the time of nuclear war. It would also determine that civil defense should contribute to perceptions of the overall strategic balance and to crisis stability and to reduce the possibility that the United States could be coerced by an enemy in times of increased tension. Passage of this legislation would recommend the planning for population relocation during times of international crisis and still be adaptable to deal with peacetime emergencies.

There are several elements to this program. For example, there would be improvements to warning systems, radiological defense capabilities, public information and training, and intra-civil defense communications. There also would be planning for both in-place protection (shelters) and population relocation.

A thorough understanding of this proposed legislation can be acquired after studying it carefully. I would encourage the Members to do so. I feel that civil defense does not presently have a clearly defined purpose. I believe it is time for Congress to take the lead in offering Americans a viable, workable civil defense—one that can save lives in times of peace and crisis and also be part of our Nation's strategic defense planning. It is my opinion that this proposed bill, which has the support of the Defense Civil Preparedness Agency, will do these things.

The following is a text of my bill:

H.R. 2704

A bill to amend the Federal Civil Defense Act of 1950, to provide for an enhanced civil defense program for fiscal years 1980 through 1986, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that

SECTION 1

The purpose of this Act is (a) to add a new Title to the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251–2297) which defines an enhanced civil defense program for the nineteen eighties, and (b) To authorize appropriations for the new civil defense program. The Table of Contents of the Act as amended is amended by adding the following:

TITLE V.—ENHANCED PROGRAM FOR NINETEEN EIGHTIES

Sec. 501. Policy.
Sec. 502. Program Elements.
Sec. 503. Administrative Provisions.

SECTION 2

The Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251–2297) is further amended by adding thereto the following new Title V.

TITLE V.—ENHANCED PROGRAM FOR NINETEEN EIGHTIES

POLICY

SEC. 501. The Congress finds that recent studies have shown that a program providing for relocating the population of the larger United States cities and other risk areas during a period of strategic warning resulting from an international crisis can be effective, and cost less than alternative programs. The Congress finds the present civil defense program is inadequate, but that a new program can be immediately developed which, with only a modest increase in resource allocation can enhance the civil defense capability of the United States. The Congress accordingly determines that a new civil defense program should be implemented to give effect to the following policies:

(a) That the United States civil defense program should enhance the survivability of the American people and its leadership in the event of nuclear war, thereby improving the basis for eventual recovery, as well as reducing vulnerability to a major attack;

(b) That the United States civil defense program should enhance deterrence and stability, and contribute to perceptions of the overall strategic balance and to crisis stability, and also reduce the possibility that the United States could be coerced by an enemy in times of increased tension;

(c) That the policy not suggest any change in the Nation's policy of relying on strategic nuclear forces as the preponderant factor in maintaining deterrence; and

(d) That the program include planning for population relocation during times of international crisis, and also be adaptable to deal with natural disasters and other peacetime emergencies.

PROGRAM ELEMENTS

SEC. 502. In order to implement this policy, the President shall develop and execute a civil defense program which includes the following elements:

(a) Survey of shelter inherent in existing facilities;

(b) Nuclear civil protection planning for both in-place protection and population relocation during times of international crisis;

(c) Planning for the crisis development of additional shelter, development of capabilities for shelter management, marking and stocking of shelters, and development and procurement of ventilation kits for shelters;

(d) Improvement of warning systems;

(e) Improvement of systems and capabilities for direction and control of emergency operations, by civil governments at all levels, including development of a distributed survivable network of emergency operating centers;

(f) Improvement of radiological defense capabilities;

(g) Improvement of emergency public information and training programs and capabilities;

(h) Research and development; and

(i) Development of such other systems and capabilities as are necessary to realize the maximum lifesaving potential of the civil defense program.

ADMINISTRATION PROVISIONS

SEC. 503. The authorities contained in Titles II and IV of this Act shall be used in the conduct of the program described in this Title.

SECTION 3

Section 408 of the Federal Civil Defense Act of 1950 is amended by striking out the first two sentences of such section and inserting in lieu thereof the following:

There are hereby authorized for the purpose of carrying out the provisions of the Federal Civil Defense Act, as amended the sums of $145,900,000 for fiscal year 1980, $180,000,000 for fiscal year 1981, $243,000,000 for fiscal year 1982, $283,000,000 for fiscal year 1983, $293,000,000 for fiscal year 1984, $393,000,000 for fiscal year 1985, and $375,000,000 for fiscal year 1986. The authorization for FY 1981 through 1986 is in 1979 dollars, and these sums shall be adjusted for each fiscal year by the inflation factor used by the Office of Management and Budget in preparing budget estimates submitted to the Congress so that the actual dollars authorized for each fiscal year shall reflect then current dollars.

CONGRESSMAN JOHN BRADEMAS DISCUSSES "BALANCED BUDGET" AMENDMENT TO THE CONSTITUTION

(Mr. WRIGHT asked and was given permission to address the House for 1 minute and include extraneous matter.)

Mr. WRIGHT. Mr. Speaker, earlier this week our colleague, the distinguished majority whip, the Honorable JOHN BRADEMAS of Indiana, delivered an address in which he discussed proposals for amending the Constitution of the United States to maintain a balanced Federal budget.

Mr. BRADEMAS delivered his address at the annual meeting of the National League of Cities here in Washington, D.C., and he gave another talk on this subject later this week at the National Democratic Club here.

Mr. Speaker, because I believe Members of the House of Representatives and Senate will read with great interest Mr. BRADEMAS' remarks, I include them at this point in the RECORD:

REMARKS OF CONGRESSMAN JOHN BRADEMAS OF INDIANA

I am delighted to have this opportunity to speak to you today. It is a pleasure for me both personally and as a member of the Majority Leadership of the House of Representatives.

You know already, I'm sure, that you, as mayors, are among friends when you meet with members of the House Majority Leadership. We are all city people—Speaker Tip O'Neill represents Cambridge, the Boston area; Majority Leader Jim Wright is from Fort Worth; I am from South Bend; and my Chief Deputy, Dan Rostenkowski, is from Chicago.

We grew up in cities; we understand their problems; we know their needs.

Indeed, George Gross, your Director of Federal Relations, suggested I talk this morning about the implications for domestic programs, particularly for cities, of the adoption of a constitutional amendment to mandate a balanced Federal budget.

George, as you know, formerly was staff director of the House Budget Committee, so he knows as much about the implications as I do. And I hope that most of you have been thinking about them.

GENERAL OBSERVATIONS

But before getting into this specific question, I'd like to make some general observations about the budget, the economy and the idea of adding such limitations to the Constitution.

Let me say first that I want the Federal budget to be balanced. I know of few advocates of continuous deficit spending; I know of no one who is opposed to the objective of balancing the Federal budget.

In fact, Congress has taken major steps in recent years toward getting Federal expenditures under control with a view to achieving a balanced budget.

These steps began with the adoption of the Budget Act of 1974, which created Budget Committees in both the House and the Senate and established new and rigorous procedures to monitor and control Federal spending.

Under these procedures, which have been in full effect for only three years, Congress, for the first time, has been able to study the national budget as a whole and to establish national priorities. No longer is the White House the only institution in our national government that has this capacity.

For the first time, Congress has been able not only to indicate sources of revenue but also to set firm ceilings on the amount of money to be spent.

If this is the case, you ask, why do we still have deficits in the Federal budget? Why has there been a Federal deficit in every year since 1969?

REASON FOR DEFICITS

The major reason for the deficit over the 1969–1974 period is obvious—the war in Vietnam. Unless we increase taxes, there is simply no way to fight a war without borrowmoney to finance it.

In fiscal 1974, as that war ended, the deficit dropped to $4.6 billion and it appeared as though the era of deficit spending caused by the war was at an end.

But during 1974 there began what developed into the worst economic decline America had experienced since the Great Depression of the 1930s and, under President Ford, the deficit ballooned in fiscal 1975 to more than $45 billion. That figure was 4.6 percent of the Gross National Product.

A year later, 1976, the first stage of the new Congressional budget process came into effect. The same year also marked the start of an attack by the Federal government on unacceptably high unemployment. The deficit rose to $66.4 billion. But because the economy was beginning its recovery, that huge deficit in fiscal 1976 was only 3.2 percent of the Gross National Product, 1.4 percent less than the year earlier.

Since President Carter was inaugurated, the the deficit has dropped from that $66.4 billion figure in President Ford's last year to $37.3 billion this year, the lowest deficit in five years. Our hope is that it will drop still further, to under $30 billion next year.

Moreover, as a percentage of the Gross National Product, which is the figure the economists tell us is the most important, the Federal deficit declined from the 4.6 percent of GNP in President Ford's final year to 1.6 percent this year. That, I suggest, is a considerable decline.

NATIONAL DEBT

Equally significant, and still more dramatic, has been the steady decline in the national debt as a proportion of the Gross National Product.

In 1950, the national debt equalled more than 75 percent of GNP; by 1970 this had dropped to 30 percent. This year, the national debt as a percentage of GNP is estimated to be 28.4.

Contrast this record with that of private individuals and private corporations. Over the same period, while the national debt declined from 75 percent of GNP to less than 30 percent, the debt of private individuals rose from about 33 percent of GNP to almost 60 percent and corporate debt jumped from 50 to 84 percent of GNP.

Let us look at another measure, the totality of indebtedness in the economy. By this calculation, the Federal government debt amounted to less than 20 percent in 1978 while private debt accounted for 70 percent of the total. The other 10 percent is debt run up by state and municipal governments.

The recent recession was expensive, even more expensive than the war. In Federal budget terms, the recession costs the Treasury about $20 billion in unemployment assistance and lost revenues for each one percent of the work force (over 4 percent) that is unemployed.

Meanwhile, as Federal policies stimulated the economy and reduced the deficit, unemployment dropped from about 8 percent in December 1976 to its current rate of just under 6 percent.

In the last two years, in fact, in large part as a consequence of policies deliberately undertaken and enacted by President Carter and Congress, 7.2 million new jobs were created in our economy—more than in any two-year period in our history. And those jobs were in addition to the millions of men and women who returned to work as the unemployment rate dropped from 8 to less than 6 percent.

That is economic progress . . . progress in ending a recession . . . progress in reducing the deficit . . . progress in handling the debt . . . progress in getting control of the Federal budget.

CONCERN OVER DEFICIT

Despite this progress, there is a concern in the country—and it is a legitimate concern—over the fact that a deficit still exists. It is a concern we in Congress share.

Barring unforeseen domestic or international problems, there is even a possibility that we will have a balanced budget in fiscal 1981. That is my goal, it is the goal of the leaders of Congress, it is the President's goal.

We are not, however, simply sitting back, waiting for this to happen. We are taking steps to make a balanced budget a reality.

The proposals that President Carter has been sending to Congress provide for little in the way of new spending programs, and I foresee Congress approving few new programs that would increase the projected deficit.

Most of our work this year will instead be in the nature of oversight. We shall be examining the effectiveness of Federal programs and determining whether Federal funds are being spent wisely and in accord with the intent of Congress.

A great deal of attention will be directed to ferreting out expenditures that may be wasteful. We will be seeking to reduce fraud. We believe that taxpayers should have confidence in the way their money is being used.

As people who oversee the expenditure of millions of Federal dollars, you mayors also have a major responsibility to see that those funds are being used wisely and well. You know as well as I, for instance, that there have been widespread allegations of waste by cities of CETA funds and of law enforcement assistance grants.

CONSTITUTIONAL AMENDMENT

I have tried to touch on some of the aspects of the national budget and the economy as a whole which seem to me help explain the reasons for our recent deficits, and I have suggested that President Carter and most of us in Congress are determined to act in a fiscally responsible manner. Let me turn now to proposals for a constitutional amendment to require a balanced budget and the effect such an amendment would have.

Here are just a few observations that I believe we must have in mind.

First, amendments to the Constitution must always be approached with great caution. They must not be impulsive; they must not be rushed; they must not be thought of as a quick and simple solution to whatever problem is thought to exist.

In 1848, speaking about "the general proposition of amending the Constitution," Abraham Lincoln said:

"As a general rule, I think we would much better let it alone. No slight occasion should tempt us to touch it. Better not take the first step, which may lead to a habit of altering it. . . ."

There are today, clearly just such temptations to amend the Constitution as those of which Lincoln warned. But as Lincoln suggested, we should resist such temptations, until such time as all of the ramifications have been considered and debated. At least we should not reach decisions until we are aware of all of the consequences.

I would remind you that we have amended the Constitution only 16 times in our national history—23 times if you count the Bill of Rights, which was adopted concurrently with the Constitution itself. On most of those occasions, we have acted only in response to great historic issues, such as slavery, votes for women and limiting the terms of Presidents.

On the one occasion when the Constitution was amended to address a more mundune concern—consumption of alcoholic beverages—the experiment, however noble in intent, was a failure and had to be rescinded through yet another resort to the complicated amendment process.

Now let me say that as a Hoosier Methodist, I grew up aware of the dangers of drink.

But as a politician and a political scientist, I must add that prohibition was not exactly, to be euphemistic about it, an unqualified success. In my judgment, a balanced budget amendment—no matter how well-intentioned are its supporters—would be equally foolhardy.

DANGERS OF REQUIREMENT

In addition to being foolhardy, an amendment requiring a balanced budget would be dangerous.

It would be dangerous because it could so shackle the Federal government as to make it impotent in times of disaster or crisis.

It would destroy the flexibility needed by the government to meet unforseen circumstances.

It would blunt the government's major weapon—its budget—in the fight to maintain the national economy on an even keel.

Perhaps even more dangerous than the concept of the amendment itself is the proposal to achieve that result through the use of a constitutional convention.

Only once in our history has there been such a convention. Almost 200 years ago its delegates met to consider modifications in the Articles of Confederation, the document which then served as the glue keeping the 13 former colonies united.

The result was a totally new document, the Constitution, which scrapped the system then in existence.

Today there are many causes in which some Americans are passionately interested and would like to see enshrined in a new Constitution. The weight of scholarly opinion is that a convention to amend the Constitution could not be limited easily—if at all—to the single issue of a balanced budget.

The chance that our Constitution might be scrapped by a convention is a dangerous gamble to take.

It is a gamble I do not wish to take.

It is a gamble, I might add, that House Republican leaders also do not wish to take.

In fact, leaders of the Republican Party, meeting last month, refused to approve a proposal endorsing either a constitutional convention or an amendment requiring a balanced budget.

House Minority Leader John Rhodes of Arizona, labeling such an amendment "gimmickry," said he does not see how it could possibly work. Said Mr. Rhodes: "If we were passing a law, I wouldn't worry too much about it. When you talk about amending the Constitution, I do have grave problems and grave reservations."

Representative Barber Conable of New York, the ranking Republican on the Ways and Means Committee, expressing his sentiments against an amendment, said, "The Constitution should not be the repository of all kinds of nit-picking amendments."

Similar opposition has been expressed by Representative John Anderson of Illinois, chairman of the House Republican Conference.

And William Brock, the chairman of the Republican National Committee, said it would be a "very, very hazardous exercise" to write such a requirement into the Constitution.

Equally gratifying to me as this Republican view is the recent warning by my home town newspaper, the South Bend Tribune, that a constitutional spending limitation is "a potentially dangerously restrictive amendment to deal with a contemporary financial problem."

With that, I wholeheartedly agree.

Despite the sentiment against such an amendment, let us suppose, however, that the movement for a constitutionally required balanced Federal budget is successful.

Let us further suppose that such a mandate is in effect for a year like this one, when the budget proposed by the President simply maintains existing programs, yet projects a deficit of some $29 billion.

HOW IT COULD BE DONE

What would such a requirement mean to you as mayors, what would it mean to your cities, what would it mean to the people who live in them?

How could we go about balancing the budget?

One option would be to maintain existing programs by increasing taxes to make up the $29 billion deficit in the President's budget.

But that option simply wouldn't be realistic. The politics of 1979 wouldn't allow it. The still fragile economy of 1979 wouldn't allow a $29 billion tax increase.

So we would have to cut expenditures. What would be cut?

Well, some 76 percent of the Federal budget is composed of uncontrollable items—$404 billion out of $532 billion of total outlays. These are expenditures mandated for certain Federal activities, including Social Security, revenue sharing and interest on the debt. Payments for public assistance, veterans programs, commodity support programs and other so-called "entitlement" benefits also are mandatory under existing law.

Payments in fiscal 1980 for contracts negotiated in past years also are considered relatively uncontrollable, since halting them would require the rescission of already enacted budget authority and the renegotiation of contracts.

Now we could revise the law and reduce some of those payments, but that would be virtually impossible to accomplish in the short time allotted to balance the budget.

So what's left to cut?

DISCRETIONARY SPENDING

The answer is, for the most part, programs of the Defense Department, whose expenditures comprise over half the remaining 24 percent of controllable Federal expenditures in fiscal 1980.

Discretionary domestic programs account for the balance of fiscal 1980 expenditures, about 10.5 percent of the total Federal budget.

If, to achieve the balanced budget, the hypothetical cutback of $29 billion were spread evenly over those discretionary programs, it would mean a 22.5 percent cut in funding these programs.

If the reduction were spread evenly, the Defense Department budget would have to be cut by $20 billion. This would mean substantial reductions in both civilian and military personnel and widespread closing of military bases.

There also would be these cutbacks:

Community and Regional Development; $1 billion. There would be major reductions in community development block grants, and economic and rural development assistance.

Education; a reduction of $2.5 billion. This would end funds now used to help the education of 1,225,000 disadvantaged children; it would end the support of one-third of the 300 state agencies now caring for handicapped and neglected children; it would substantially reduce assistance given to students seeking higher education.

Employment and Training. The major reductions in employment program levels would result in the loss of 134,000 countercyclical and structural public service jobs. There would be 162,000 fewer youth jobs; 250,000 fewer summer youth jobs; cutbacks of 340,000 people now receiving on-the-job and classroom work training.

Social Services. The elderly would receive 207,000 fewer meals; services in community centers for the elderly would be reduced by 50 percent, thus eliminating services for 1.6 million persons; state grants for the developmentally disabled would be discontinued entirely.

Health. Half of all community and migrant health centers would have to be closed; there would be a 50 percent decrease in funds for grants to the states for maternal and child health care, for family planning and for comprehensive health services.

Veterans. One-third of all VA hospital and health service personnel would lose their jobs and thousands of VA hospital beds would be eliminated.

Energy. The programs enacted in the past two years to move to lessen our dependence on foreign sources of fuel would be absolutely gutted.

International Affairs. Aid to Egypt and Israel would be reduced by 25 percent; our Food and Peace shipments would be cut by 15 percent and support would be reduced for multilateral development agencies and for refugee assistance.

Those reductions, let me repeat, would be required if a balanced budget requirement were in effect today and a uniform 22.5 percent cutback were instituted on all discretionary programs in order to reduce Federal spending by $29 billion immediately.

You can see what that would mean to your cities.

OTHER APPROACHES

There are, of course, other approaches as well. Some of them might have even a greater impact on states and cities.

This year, according to Senator Edmund Muskie of Maine, the chairman of the Senate Budget Committee, there is spread throughout the President's budget the sum of $82.9 billion for grants to state and local governments. It is an increase, I might add, of some 66 percent over the last five years.

Obviously there is enough money there to balance the Federal budget quickly, easily and—to some—rather painlessly.

There is little sentiment now in Congress, however, to try to balance the budget by taking a big hunk of those funds away from the states and cities although the states, in 1978, had a combined surplus of $29 billion.

That sum matches the President's deficit for fiscal 1980. Much of that state surplus resulted from funds received from the Federal government, and much of that surplus is being used to reduce taxes in many states.

There is another convenient way to balance the Federal budget. That is to shift to an accounting system favored by many states. Under that system of bookkeeping, capital investments would be taken out of the regular budget and kept in a separate category. The remaining "budget" would include simply operating expenses.

That's an acceptable accounting procedure. Most corporations, as well as most states, keep their books that way.

If the Federal government shifted to that method of keeping its books—the same method, I repeat, used by most states—we could remove, depending upon what is defined as a capital expense, anywhere from $32 billion to $115 billion from the national budget immediately and there would be a "surplus" today instead of a deficit.

In mentioning these various proposals, I do not wish to leave the impression that I advocate them. They may deserve, however, as much consideration as is being given to the balanced budget amendment.

Before closing, let me make one brief comment about inflation, the major problem area in our economy and the primary reason for the movement toward enacting a balanced budget amendment.

It is illusory to think that a balanced budget itself will have much of an effect on that problem—if any at all.

Dr. Milton Friedman, the distinguished economist who is a leading theoretician for many of the balanced budget adherents, agrees with virtually all other economists that our inflation is not the result of deficit spending.

Inflation is the result of many public and private actions. Most of those actions actually are out of the control of the Federal government.

The price of energy and the effect of the weather on the food producing areas of the world may have more effect on prices than any policy carried out by the Federal government.

Yet an unbalanced budget has become a symbol.

The best way to get a balanced budget is not by a constitutional amendment, but by a balanced economy.

That is the manner in which we are proceeding. The statistics I cited earlier show that we are succeeding.

You, as mayors, recognize the potential consequences to your cities and your citizens of a constitutional requirement for a balanced budget.

As the leaders of your communities, you must explain those consequences to the people in your areas and to your governors and to your state legislators.

You must also make your position clear and your views known to Members of Congress while you are here in Washington and you must continue making that position clear to your own Representatives and Senators after you return home.

It is essential that your voices be heard. I hope they will be. For a concerted effort will be necessary to sidetrack this overly simplistic approach to our economic problems.

Thank you.

DIFFERENCES IN OPINION ON OIL SUPPLY SHORTFALL

(Mr. SHARP asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SHARP. Mr. Speaker, the world supply of oil is once again at the forefront of national attention and concern.

The Department of Energy analysis indicates that we are currently facing a worldwide oil-supply shortfall of 2 million barrels a day.

Last week, a study from the Library of Congress indicated that the shortfall was less than one-quarter million barrels a day.

The Department responds that it has gone to considerable lengths to confirm its own statistics and that the Library's analysis is faulty in two respects. First, the Library study underestimates the growth in worldwide oil demand; and second, it fails to correctly take into account what has happened to oil stocks over the last year.

Mr. Speaker, I include in the Record a letter from the Department of Energy spelling out its position on this important matter:

Department of Energy,
Washington, D.C., March 6, 1979.

Dear Mr. Sharp: This letter responds to your March 2 request for the Department of Energy's comments on a draft Congressional Research Service study on the current world oil situation, recently cited by Congressman Gore.

While the Department has not yet seen the full report, we can offer some preliminary observations based on an initial review of its basic methodology. In general, the CRS assessment of the amount of oil being produced in the world today is correct. However, the CRS assessment that these production levels, when compared to abnormally low 1978 production levels, are adequate to meet projected demand that has continued to grow since 1978, is both inaccurate and misleading.

There is currently a shortfall of 2 million barrels per day (b/d) in world oil production. This view is confirmed by the State Department and intelligence agencies as well as the International Energy Agency, independent oil analysts and oil companies. The 20 governments which met in Paris on March 2 at the International Energy Agency's Governing Board not only agreed that the shortfall is real, but also announced their determination to reduce world oil demand by about 2 million b/d to offset that shortfall.

The CRS study relies primarily on a comparison of current production levels with those in the first nine months of 1978. That approach is misleading for several reasons. In the fall of 1977, the oil industry built stocks to record high levels in anticipation of OPEC pricing decisions. The subsequent record drawdown of those stocks in the first quarter of 1978 and the lower than normal buildup of stocks during the second and third quarters of 1978 resulted in a depressed level of production insufficient to meet actual world demand. The use of stocks to supplement depressed levels of oil production gave rise to the false illusion of a world oil glut during this period, when in fact actual consumption was running much closer to world oil productive capacity.

There is little comfort to be drawn from the fact that today we are also drawing down stocks at an exceedingly high rate approximating that of the first quarter of 1978, but without the benefit of the extraordinary stock levels of late 1977 or Iranian productive capacity.

The CRS study also assumes only a negligible increase (160,000 b/d) in world oil demand for the first quarter of 1979. Most analysts expect world demand to increase more than 1 million b/d between 1978 and 1979. The combination of the true consumption level in 1978, taking into account stock drawdowns, and a realistic demand growth projection add an additional 2 million b/d to projected first quarter world oil supply requirements when compared to the base production period selected by CRS.

The Department of Energy analysis is based on a projection of world oil supply and demand on a quarterly basis through the first quarter of 1980. According to this projection, Iran was expected to supply the world oil market with 5 million b/d during 1979. In response to Iranian curtailments, extraordinary production by other countries of 3 million b/d higher than the precrisis projection has reduced the net shortfall to 2 million b/d. In order for world supply and demand to balance, the 2 million b/d shortfall must be drawn from world oil stocks. This abnormal demand on world oil stocks is putting strong upward pressure on world oil prices.

The Department's projections assume that the major industrialized countries will achieve the economic growth rates targeted by national governments, and do not assume any extraordinary conservation measures or general OPEC price increases above those already announced last December. Since we believe that there is a significance risk that the shortfall in production may continue, and world oil stocks are finite, we have proposed, and the other members of the International Energy Agency have agreed, that special policy measures to reduce demand must be initiated.

As you know, the President will soon complete his review of a draft response plan designed to reduce U.S. oil demand. We are confident our efforts will be matched by the other IEA governments. If we do not act to reduce demand, as stocks are depleted, the upward pressures on world oil prices could threaten our ability to control inflation and to achieve economic growth.

Sincerely,

Harry E. Bergold, Jr.,
Assistant Secretary, International Affairs.

REPUBLICAN FRESHMAN CLASS OPPOSES H.R. 1

(Mr. CAMPBELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CAMPBELL. Mr. Speaker, the Republican freshman class of the 96th Congress yesterday overwhelmingly adopted a resolution opposing the passage of H.R. 1, which provides for taxpayer financing of general House of Representatives political campaigns.

In the face of spiraling inflation and a $798 plus billion national debt—which, by the way, we just last week refused to increase by another $38 billion—we went on record against another costly spending program. Most of us ran on fiscal responsibility, and our action is an illustration of our real commitment to economy in Government. We owe our constituents that much.

The Federal Election Commission is expected to propose a 60-percent increase in taxpayer financing for candidates in the 1980 Presidential general election, from $21.8 to $35 million per candidate, and similar increases can be expected for convention and primary funding. Add public financing for congressional elections and the dollar checkoff fund—which only 28 percent of the taxpayers contributed to last year—will likely be in deficit after the 1980 elections.

Where is the money to come from, thereafter, Mr. Speaker? General revenues? Or would we be perpetrating a fraud on congressional candidates and the public by promising something we cannot deliver?

The text of the resolution approved yesterday follows:

Resolution Relating to Taxpayer Financing of Political Campaigns

Whereas excess government spending is one of the major causes of inflation, and

Whereas the debt of the Federal government is approaching $798 billion and Congress is being asked again to increase the public debt significantly, and

Whereas the people of 28 states have spoken through their Legislatures in support of a balanced Federal budget, and

Whereas the President in his budget message mentioned the need for a lean and austere budget for Fiscal Year 1980, saying the policy of restraint is "imperative if we are to overcome the threat of accelerating inflation", and

Whereas the President and the House Democratic Caucus have nonetheless termed taxpayer financing of congressional campaigns a priority for the 96th Congress, and

Whereas proposals to finance congressional elections with tax money would be another unnecessary, costly burden for hard-pressed American taxpayers,

Now, therefore, be it resolved that the Republican Freshman class of the 96th Congress, being firmly committed to fiscal responsibility, reducing Federal expenditures, and controlling spiraling inflation, opposes the passage of H.R. 1.

Adopted March 6, 1979.

INFLATION IN ONE PAGE

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PAUL. Mr. Speaker, every Member of this House damns inflation, but no one ever defines it.

Some blame it on labor unions or businessmen or consumers. Others talk about it as a mysterious plague, whose cause is unknown.

Often inflation is confused with rising prices, although they are a symptom of it.

In medicine, before we can cure a patient, we first must make a diagnosis. It is no different with economics, and a sick body politic.

Inflation is an increase in the supply of money and credit. It is as simple as that, no matter how much the administration may try to confuse us. And only one instrumentality controls the supply of money and credit—the Federal Government.

One of the clearest, short explanations of inflation comes from the noted economist and writer, Henry Hazlitt, as published in one of my favorite magazines, the Freeman. It follows:

Inflation in One Page

(By Henry Hazlitt)

1. Inflation is an increase in the quantity of money and credit. Its chief consequence is soaring prices. Therefore inflation—if we misuse the term to mean the rising prices themselves—is caused solely by printing more money. For this the government's monetary policies are entirely responsible.

2. The most frequent reason for printing more money is the existence of an unbalanced budget. Unbalanced budgets are caused by extravagant expenditures which the government is unwilling or unable to pay for by raising corresponding tax revenues. The excessive expenditures are mainly the result of government efforts to redistribute wealth and income—in short, to force the productive to support the unproductive. This erodes the working incentives of both the productive and the unproductive.

3. The causes of inflation are not, as so often said, "multiple and complex," but simply the result of printing too much money. There is no such thing as "cost-push" inflation. If, without an increase in the stock of money, wage or other costs are forced up, and producers try to pass these costs along by raising their selling prices, most of them will merely sell fewer goods. The result will be reduced output and loss of jobs. Higher costs can only be passed along in higher selling prices when consumers have more money to pay the higher prices.

4. Price controls cannot stop or slow down inflation. They always do harm. Price controls simply squeeze or wipe out profit margins, disrupt production, and lead to bottlenecks and shortages. All government price and wage control, or even "monitoring," is merely an attempt by the politicians to shift the blame for inflation on to producers and sellers instead of their own monetary policies.

5. Prolonged inflation never "stimulates" the economy. On the contrary, it unbalances, disrupts, and misdirects production and employment. Unemployment is mainly caused by excessive wage rates in some industries, brought about either by extortionate union demands, by minimum wage laws (which keep teenagers and the unskilled out of jobs), or by prolonged and over-generous unemployment insurance.

6. To avoid irreparable damage, the budget must be balanced at the earliest possible moment, and not in some sweet by-and-by. Balance must be brought about by slashing reckless spending, and not by increasing a tax burden that is already undermining incentives and production.

SOCIAL SECURITY DISABILITY PAYMENTS

The SPEAKER pro tempore (Mr. Levitas). Under a previous order of the House, the gentleman from Oregon (Mr. Weaver) is recognized for 10 minutes.

● Mr. WEAVER. Mr. Speaker, today I have introduced a bill dealing with social security disability.

There is a little recognized section of the Social Security Act that promises to increase the burden of disability payments on the social security trust fund. The Social Security Act requires that persons who receive both social security disability and workers compensation insurance receive total monthly benefits that do not exceed 80 percent of their former highest year's average monthly earnings (overly simplified). Thus, if a person is in receipt of workers compensation his/her social security benefits will be reduced (offset) to that 80-percent level. The present law, however, permits that the burden of full payments be shifted from workers compensation to social security—worker's compensation then pays an offset amount.

At present, nine States have chosen to make social security the primary payee and more are considering such legislation. In the 41 States that have not yet enacted such legislation, social security will save $172 million this year by offsetting persons who receive worker's compensation. By 1983, the (offset) savings will total 312 million. Should these remaining 41 States take advantage of this "loophole" in the Social Security Act these savings would be entirely wiped out—the savings would accrue to the State worker's compensation plans and private insurors.

Current law also requires a reduction in social security benefits to reflect cost-of-living increases made by worker's compensation. But because of poor recordkeeping by BDI and the voluntary reporting requirements of Federal law, very few of the required offsets were made in a timely fashion and many were not made at all. The second provision of my bill would pass cost-of-living increases through to recipients. A precedent for such a passthrough was set by last year's Veterans' Pension Reform Act: Exemptions are also made for those covered by the Jones Act (longshoremen) and for persons privately insured.●

THE ARMENIAN GENOCIDE MUST BE REPORTED

The SPEAKER pro tempore (Mr. Levitas). Under a previous order of the House, the gentleman from California (Mr. Danielson) is recognized for 30 minutes.

Mr. DANIELSON. Mr. Speaker, I rise to bring to the attention of my colleagues, and to those who read the Congressional Record, a matter of great importance which is currently before the United Nations Commission on Human Rights.

In its proposed report on genocide, the Human Rights Commission has been pressured to exclude paragraph 30 of the original draft from the final version of the report on genocide. It was paragraph 30 that contained the reference to the Armenian Genocide, the first genocide of this century, in which 1,500,000 people were killed on order of the Ottoman Empire, which was the Turkish Government in power at that time.

This is what paragraph 30 says:

> Passing to the modern era, one may note the existence of relatively full documentation dealing with the massacres of Armenians which have been described as "the first case of genocide in the twentieth century."

To this day the cruelty, the inhumaneness, and the magnitude of the American Genocide are not forgotten. I assure you that they are not forgotten, and they should not and shall not be forgotten. And yet we are in grave danger that the United Nations Commission on Human Rights will exclude all reference to the Armenian Genocide from its official report on genocide, simply because of political pressure.

In our time, today, you and I, are witnessing the incredible spectacle of efforts by the present Turkish Government to delete all references to the Armenian Genocide from proceedings before the world forum, the United Nations.

The Armenian people were the tragic victims of genocide, and they now find themselves in the incredible position of having to fight to prevent the genocide which happened to them, the cruel planned murder of their families, their loved ones, from being excluded from the official United Nations Report on Genocide. How ironic, how cruel, and how much a mockery of justice all of this has become.

Can you, for a single moment, imagine the present Government of Germany denying the genocide of Jews which took place in Germany in the thirties and forties? Of course, not. They have acknowledged, they have admitted to the planned extermination of Jews in Germany, and in German-controlled territories, during the shameful and horrible era of Adolf Hitler. And, if the world community had only listened, and learned and educated itself at that time about what had happened to the Armenians during the days of the terrible Turkish massacres of Armenians of 1915–20, the genocide of the Jews might well have been averted. Hitler himself, as he was about to embark on his plan of exterminating the Jews, on what he called his "final solution to the Jewish problem," is quoted as having said, in effect, "Who remembers today what happened to the Armenians."

Mr. Speaker, the time is going to come—and it would be much better sooner than later—when the incumbent Government of Turkey must face up to what happened under the Ottoman Government, the Turkish Government in power during the massacres, and must cease its fruitless efforts to cover up, to conceal, to paper over the facts of history and must commence to right the wrongs, to make amends, to the Armenian people. The tragic loss of lives, the suffering and the emotional scars found in the traumatic memories of genocide yet borne by those who escaped the executioner's reach and are still with us. They cannot be changed by any acts of conciliation, of course. But the Turkish Government must turn the corner on the course it has been pursuing, that of denying that the genocide ever took place, of attempting to expunge these horrible facts from the pages of history, of trying to exclude references to it in the United Nations Report on Genocide. These efforts must cease. The people of the world must not permit them to succeed.

You cannot possibly imagine the lengths to which the Turkish Government has gone in recent times to achieve those ends. Let me give you an example.

In 1971, during my first year in Congress, I was the guest speaker at a ceremony held on Sunday, April 25, at the Armenian Martyrs Monument in Montebello, Calif., a monument which I had watched being built in memory of all those who perished during the genocide. The program committee had requested, and the request had been accepted, that the U.S. Marine Corps send a color guard and a detachment of the Marine Corps Band from Camp Pendleton, to take part in the ceremony. On Thursday, 3 days before the ceremony, I received a frantic call from the program chairman saying that the Marine Corps groups would not attend. Unbeknownst to me, the Turkish Embassy in Washington had persuaded our State Department to withdraw the U.S. Marine Band unit which had been scheduled to appear. When I protested to then-President Nixon, I was given an excuse for the withdrawal which was a very, very lame one. The White House told me that the band would have to rehearse. Can you imagine, a foreign power, on American soil, preventing the appearance of the U.S. Marine Corps Band at a solemn, peaceful memorial ceremony organized by American citizens. And can you imagine the U.S. Marine Corps Band canceling an engagement, because they have to rehearse the Star Spangled Banner? I was shocked. After 8 long years I am still shocked as I reflect back upon it. The full details of that outrage appear in a speech I gave here on the floor on April 28, 1971. It is printed in the Congressional Record of that day, at pages 12338 and following.

And here is another example. Just a year ago, on March 9, 1978, at the University of California, Berkeley, the Armenian Students Association of that university installed a display of exhibits relating to the Armenian genocide in a display case in the university library. They had first gone through all appropriate channels and had obtained full permission for the display from the responsible university authorities. On Monday, March 20, 1978, the university librarian, Richard Dougherty, ordered the display materials to be removed. Subsequent investigation established that the display was removed as the result of external political pressure from representatives of the Turkish Government. Many persons, including myself, protested this action and on about April 20, 1978, the chancellor of the university allowed replacement of the Armenian genocide display case. In a letter at the time Chancellor Bowker stated that the committee on academic freedom of the academic senate had noted that—

> We believe that there was present in this instance external political pressure which represents an infringement on the academic freedom of the library staff.

From all of this negative activity, the Turkish Government must recognize an emerging phenomenon, one which is directly traceable to its own machinations. And that is that the Turkish Government, which professes innocence, is recognized as protesting too loudly and too much about the fact of the Armenian genocide. I ask you, Mr. Speaker, my colleagues, who else, who else but the perpetrator, or those who would protect the perpetrator, would seek to exclude the historical facts of the Armenian genocide from the proposed report on genocide by the United Nations Human Rights Commission? Who else would seek to expunge these facts from the pages of human history?

I call upon the Turkish Government to cease their references to the genocide of 1,500,000 men, women, children, and babies as "political" in nature. No one believes that; no one, least of all the Turkish Government itself. Instead, the Turkish Government should seize the initiative, acknowledge the facts of the genocide, and begin to make amends to the Armenian people. They, and the whole world, will have so much more to gain. For then, and only then, will the bitterness of these many years begin to subside. Then, and only then, can the healing process start. Thus, and only thus, will the cause of hatred be cast out.

And the first step should be taken now, by insisting that the report on genocide, by the United Nations Commission on Human Rights, truthfully report the massacre of 1,500,000 Armenian men, women, and children as the first genocide of the 20th century. And I call upon our own administration so to insist and thereby to protect the integrity of the report on genocide which even now is being debated in Geneva by the United Nations Commission on Human Rights. I am sending a copy of these remarks to our delegation in Geneva, and I ask my colleagues to let our administration know of their support for my position.

□ 1710

CONGRESSMAN BEARD SPEAKS OUT ON U.S. NATO POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

● Mr. KEMP. Mr. Speaker, my good friend and colleague, the Honorable ROBIN BEARD, has emerged as a major spokesman on the vital national defense and arms control issues which we face today. His leadership is very much needed in this vital aspect of our national defense.

He has served as the chairman of the House Republican Research Committee's National Defense Task Force, under his able tenure, a series of outstanding reports were prepared covering the entire spectrum of national defense issues.

I also have the pleasure to serve with him as a congressional adviser to the ongoing SALT negotiations, and I have enjoyed working with him on several topical papers on that subject.

Recently, Congressman BEARD addressed the subject of "NATO: The Challenge and the Opportunity." I think this is a timely and very important paper which puts in perspective some of the very real problems we and our NATO allies face.

I recommend this article highly to my colleagues and to the American people.

Mr. Speaker, I include Mr. BEARD's excellent article in the RECORD at this time:

UNITED STATES NATO POLICY: THE CHALLENGE AND THE OPPORTUNITY

(By ROBIN L. BEARD)

For well over a decade, the Soviet Union has been involved in a massive buildup of its conventional and strategic military forces. That buildup extends far beyond purely defensive requirements. Indeed, it appears quite clear that the Soviets are engaged in a systematic effort to achieve a military superiority over the West in order to achieve both political and military leverage.

Some will argue that the numerical superiority of Soviet conventional military forces is offset by the Wests' qualitative advantages. Many will argue that the United States and the Soviet Union today are in rough equivalence strategically and that we are ahead qualitatively. While I am firmly convinced that our industrial and technological capacity and ingenuity are of fundamental importance, it is unfortunately true that national governments of the West are increasingly stifling rather than harnessing, undermining rather than motivating, the industrial genius of our societies. Moreover, we are increasingly using such terms as "technological edge" and "qualitative advantages" as buzzwords to justify our inaction in the fact of Soviet military developments. We continue to underestimate the quality and technological achievements the Soviets have shown themselves capable of.

Regardless of how we view the present U.S.-Soviet military balance, unless we contain or reverse the adverse military trends that now confront us, the Soviet Union and its allies will achieve military superiority over the West in every relevant index of conventional and strategic military power.

Even when it was in a militarily inferior position, the Soviet Union did not hesitate to fill power vacuums or challenge the West to determine our resolve. Now, while we define the military power balance as being in "rough equivalence," the Soviets and their proxy Cuban military forces seem to believe they can pursue an aggressive foreign-military policy with impunity. Today, Soviet military presence in Africa is well known; in time, the Soviets may develop an overt presence in other parts of the world as well—perhaps even in Latin America, the Middle East, or Berlin. How will we respond?

It is the objective of NATO to preserve global stability and peace and to maintain the integrity of our member nations. To that end, the alliance cannot ignore what is happening elsewhere in the world. The European members of the NATO alliance must be concerned with U.S.-Soviet efforts to negotiate limitations on strategic weaponry.

NATO is a political-military alliance composed of sovereign nation-states, an alliance originally formed to meet a threat. That threat is greater today than ever before in our history; the magnitude of that threat must drive us toward even closer cooperation.

For more than three decades, the NATO alliance has preserved the freedom and security of the nations of Western Europe. That has been our greatest success. But today, we find ourselves outmanned, outgunned, outspent on defense, and, I fear, "outstrategized." There are 560 million people in the North Atlantic Alliance, as opposed to 360 million people in the countries composing the Warsaw Pact. Our combined gross national product is 235% greater than that of the Warsaw Pact nations. That we should find ourselves in our present position is the result of the failure of our political processes. Our failure is summarized by commentators on both sides of the Atlantic who say we cannot afford to maintain conventional forces adequate for the defense of Europe.

The U.S. strategic umbrella does extend to Europe. But our response to a conventional attack against Western Europe can no longer be based on an exclusive reliance on the strategic nuclear deterrent. We must be prepared to meet any Soviet-Warsaw Pact conventional threat against NATO, not so that Europe will be a battleground for the superpowers, but so that we will have a credible conventional defensive capability and can meet the threat at the level at which it is posed. With that kind of capability, we will remove any incentive for a preemptive attack with conventional forces. We will have stability, and in conjunction with our nuclear umbrella, we will have deterrence. For this reason, we have no alternative but to maintain conventional forces adequate for the defense of Europe.

Today, the nations of the North Atlantic alliance spend more than $120 billion annually on general-purpose forces. Why is this amount not enough to preserve an adequate balance of conventional military forces for NATO? The reason can be found in the basic lack of coordination that generally characterizes the alliance. Without an effective system of standardization, large amounts of money are wasted on duplication of effort within NATO. Recently, NATO has begun to address this problem by defining a 15-year Long Term Defense Program. But members of the U.S. Congress and parliamentarians in the assemblies of the NATO countries have, prior to the long-term program, taken initiatives to remedy these failures.

In legislation enacted in 1975, Congress directed the Secretary of Defense to assess the consequences in cost and loss of combat effectiveness of failures to standardize. In addition, the secretary was directed to make specific proposals in order to make standardization in research, development, procurement, and support an integral part of the NATO planning process. In 1976, Congress passed legislation committing the United States to a national policy of procuring weapon systems for the use of American forces in Europe that are standardized or at least interoperable with those of other nations. Implicit in the language of the legislation was congressional recognition that it is unreasonable to expect the European members of NATO to accept standardization on the basis of American equipment alone.

Last year, Congress undertook a major step when it authorized the Secretary of Defense to waive the "Buy America" Act in cases where he may find it "inconsistent with the public interest." During the May 1977 economic summit conference in London, President Jimmy Carter pledged that the United States would procure more European weapon systems for the use of U.S. troops. That same year, Secretary of Defense Harold Brown initiated a number of reforms in the area of weapons procurement practice intended to strengthen the NATO standardization initiative. His directive requires, among other things, that military departments consider standardization and interoperability in the defense systems acquisition process.

In addition, Secretary Brown appointed Ambassador Robert Komer, a forceful and articulate advocate in his position, to the newly created position of Advisor to the Secretary of Defense on NATO Affairs. The intent of this action was to ensure that a full-time senior DoD official is vested with the rank and responsibility necessary to direct all elements of U.S. NATO policy. In his capacity as a member of the Defense Systems Acquisition Review Council, the so-called DSARC process, Ambassador Komer will be in a position to influence the department's consideration of European weapon systems for U.S. procurement.

Now, in addition to the various legislation that has been passed in Congress, there have been other very positive developments within NATO itself. The nations of the alliance have committed themselves to increasing their annual collective defense expenditures by some 3 percent. To the extent that this increase is not offset by reductions in other areas, it is an important commitment. NATO's Long Term Defense Program, mentioned earlier, is also a significant step.

NATO must now put the theory of those resolutions into practice. It will take hard work, cooperation, and sacrifice, but will provide the critical test of the commitment. The central dilemma is how to resolve the problems of "rationalization," "standardization," and "interoperability."

The alliance has recently experienced both success and failure in these areas. In 1975, the United States selected the French/German Roland 2 missile as the winner in the multinational short-range air defense system competition. The transfer of this European technology to the United States caused some difficulty, but the problems were not insoluble, and the learning experience has proven valuable. The 1977 awarding of the U.S. Army contract for the Belgian MAG-58 machine gun, the first 10,000 of which will be manufactured in Belgium with possible later co-production in the United States, also contributed to the objective of the "two-way street." Paradoxically, it created problems for our objectives of achieving greater standardization, because West Germany will continue to deploy the German MG-3 machine gun on its XM-1 and Leopard 2 tanks. In spite of this discrepancy, the U.S.-German pledge to seek standardization in the elements that dominate logistics support has enabled us to salvage some success for our objectives. The European multirole combat aircraft (MRCA) development illustrates what joint European defense cooperation is capable of achieving. However, we remain at a crossroad—a fact that is illustrated by the replacement of the F-104 fighter-bomber now in the aircraft inventories of nine NATO countries. Four of those nations have selected the F-16 as a follow-on aircraft, two have chosen the MRCA, and two an improved version of the F-4.

Sovereign nations tend to look to industry to provide jobs and export items. To political figures representing local constituencies, jobs and exports are fundamental issues. When unemployment among constituents is an issue, the objective of the "two-way street" or standardization can be jeopardized if the more immediate concern of maintaining local jobs is given priority. Government officials, however, do have a special responsibility to go to constituents and explain the importance of NATO objectives. In spite of this reasoning, European members often criticize the United States for not contributing a fair share to the "two-way street" objective.

How do the individual nations of Europe compete with the United States in terms of the cost and quality of weapon systems? Can they compete, or should this country, in the interest of achieving a "two-way street," lower requirements, pay more money for weapon systems, or field less capable systems? The answer to these latter questions must be "no." Does that negate our objective of achieving a "two-way street"? I believe not. But to the extent that the European nations of the NATO alliance fail in their own efforts of collaboration, their criticism of the United States cannot be justified. Europe must move toward closer collaboration. Europe must achieve the quality, quantity, and cost of weapon systems that would be inherent in a common European defense effort, and it must make an effort to approach the U.S. standards for these matters.

I can well understand the European trepidation with some U.S. actions regarding arms sales, transfers, and exports. But it seems to me that the export of arms from the West is not the cause of instability, but rather a response to unstable situations. While we should collectively seek restraints on the level of global weapons deployment, we in the West cannot and should not do this alone. Our arms transfer policies are an extension of our foreign policy interests. We cannot and should not deny our friends and allies the ability to protect themselves and redress local imbalances of power.

But let us return to the problems of promoting the "two-way street," of achieving greater interoperability and standardization. First, we must be realistic in the objectives we set for ourselves. The Long Term Defense Program has provided a workable framework within which we can operate. Second, a joint European defense industrial base, preceded by increased joint European defense efforts, is, in my view, essential to a successful "two-way street" program. Competitive research and development with licensed coproduction may not be a panacea for the problems we face, but clearly it can provide immediate and tangible results which, if properly conceived and developed, will contribute to our longer-term objectives. European and American industries, with the proper support from their governments, and acting as coequal partners, could, through such programs, set the tone and provide the experience for closer increased cooperative efforts. The problems inherent in seeking interoperability—not the least of which may be cost—are real and troublesome, but they must not become insurmountable obstacles.

We in the West have one common failing when we view our defense requirements. We ask: Can we afford it? That is not a valid question. Instead, the question we must ask is this: Can we afford the alternative? Can we accept the consequences of *not* doing what is necessary to preserve an adequate defense effort? The answer, of course, must be "no." We in democratic societies seek a sensible balance in defense spending as part of our national priorities. For that reason, we also have no alternative but to undertake, on a constant basis, every effort to avoid waste and duplication.

I believe the U.S. Congress is doing precisely that. Earlier this year, the Chairman of the House Armed Services Committee, Melvin Price, announced the formation of the Special Subcommittee on NATO Standardization, Interoperability, and Readiness. This subcommittee, of which I am a member, is conducting a detailed study of the present state of efforts at standardization and interoperability within the North Atlantic Treaty Organization. The members have been asked to identify readiness problems in the alliance which result from a lack of joint procedures, doctrine or standard equipment. They have also been asked to identify those areas where standardization and interoperability might be most advantageously pursued. The findings and recommendations will be reported to the full committee no later than the close of the second session of the 95th Congress, which will be sometime later this year.

While I recognize the importance of NATO weapons interoperability and standardization, I believe we should not lose sight of a far more fundamental problem: that our objective is to deter or defeat any act of aggression that might be taken against the countries of Western Europe. What good are interoperable or standardized weapons if they never reach the men who are supposed to use them? What good are our weapons if they permit NATO to make a successful ground defense in Central Europe, only to lose control of the northern and southern flanks, and control of the Eastern Mediterranean?

NATO may be gearing up for the wrong kind of warfare, in the wrong theater, and for the wrong periods of conflict. Budgetary pressures may be driving NATO toward an obsession with a rigid mode of warfare and a specific set of theater contingencies, at precisely the time when Soviet-led forces are acquiring multi-theater capabilities and would have every incentive to implement multiple and varying combat options. We are in great danger of projecting our defensive priorities onto the Soviets. We are in danger of identifying as pivotal stakes for NATO strategic areas which may easily be of secondary concern to the Soviets. NATO's present posture is defensive, reactive, and geared for a short war. As a result, the alliance is heavily reliant on adequate mobilization and warning times. Because of this, the NATO commitment to the E-3A airborne warning and control system (AWACS) is an important decision. It is important, first and foremost, because the system will provide us with critically needed warning and a vital command and communications network for air defense. The decision is also important because it poses a challenge for U.S. and European industries to prove that they can work together with a large and complex program that will provide for our common defense and also provide tangible economic benefits for all of the participants.

Our present NATO posture gives the initiative to the Soviets, while at the same time it saddles us with a force structure that is unable to counteract multiple Soviet initiatives—much less unconventional Soviet initiatives—along with various axes of attack they are capable of mounting. In focusing on NATO's central front we are, in my view, depending on our ability to reinforce adequately, but we are too dependent on vulnerable airlift and prepositioned equipment. We have serious logistics deficiencies, and our manpower mobilization policies require drastic overhaul. The consequences of a Warsaw Pact attack, fashioned after the Israeli aerial blitzkrieg of the 1967 war, would devastate our immobile stocks of equipment, manned by troops deployed from vulnerable bases. Moreover, these troops' deployment routes and chokepoints can be mapped out in advance.

Let us assume the Soviets want to launch an attack that would minimize damage to NATO's industrial infrastructure and keep civilian casualties to a minimum. Let us also assume that they will have first-use options for tactical nuclear or chemical and biological warfare. Let us also assume that the Soviets would mount a sudden attack that would be so decisive that it would make it very difficult for the West to recover or to remount its mobilization. Under these assumptions, rather than pour massed armor across the borders and unleash their airborne or heliborne assault forces, assault gunships, and follow-on infantry, the Soviets would instead opt for a short, intense aerial attack. Specifically, they might concentrate on NATO's stored equipment, including nuclear storage units, troop barracks, airfields (to prevent our strategic airlifters from landing), railroads, bridges, roads, overpasses and other choke points used by deploying NATO forces. They could drop thousands of mines, weapons which could deny whole areas to friendly forces and which would completely overload our mine-clearing capability. They could drop chemical-biological contaminants into our equipment parks, thus capitalizing on NATO's lack of comprehensive chemical-biological defensive gear. This would result in the Soviets disabling NATO's mobilization prospects or preempting a NATO mobilization and presenting our alliance with a *fait accompli*.

What would happen if the Soviets used tactical nuclear and chemical-biological preemption, striking selectively and in great depth, with an eye to maximizing the success of those Soviet ground forces that would exploit the results of such attacks? What if the Soviets used such tactics in conjunction with control theater tactics, employing their navy out of the Kola peninsula, using ground forces to sweep through northern Lapland and Sweden to capture the Norwegian North Cape, denying us access to the island of Jan Mayen, driving Iceland out of the conflict, while moving against the Bosporus and Dardanelles? In such a case, the Soviets could also make preemptive nuclear strikes against NATO's naval ships, maintaining a post-attack naval superiority. From this position, the Soviets could dominate the air and sea routes between Europe and the United States with long-range air power and with their large force of submarines.

The Soviets, for their own reasons and requirements, may well prefer to consolidate their grip on NATO's northern flank. Or they may first seek to send "symbolic forces" to assist in a post-Tito civil war in Yugoslavia. They may—in no small part because of U.S. policy—be able to drive a wedge into NATO's southern flank by consolidating their position with a very important friend and ally, Turkey. (It is important to note here that one of the greatest NATO-related resolutions passed recently by Congress was its decision last July to restore U.S. aid to Turkey. Now we must do all we can to work out a peaceful settlement to the Cyprus problem, for both Greece and Turkey are critical to a strong NATO.)

We tend to envision Soviet offensive operations or moves against NATO in almost apocalyptic terms: Soviet armored forces surging across the German borders; Soviet infantry occupying towns and cities in classic

World War II fashion; intense conflicts in the urbanized terrains and open spaces along the central front. Nevertheless, is there not a compelling case to be made for less-than-apocalyptic possibilities, such as a quick disarming war followed by a politically coerced settlement? Might not the Soviets also be interested initially only in neutralizing West Germany? What if the Soviets mounted a limited land-grab or a "demonstration attack" in Europe, instead of the all-out blunderbuss that is our doctrinal fixation? Are we prepared to handle the bewildering array of threats against NATO's northern and southern flanks—the latter condition implicitly involving our friends and allies in the Middle East?

The Warsaw Pact forces in the future will be able to mount devastating attacks with little or no warning. The sheer mass and technological capabilities that the pact forces demonstrate today, coupled with their strategic umbrella, threaten to make obsolete our highly politicized calculations of today. Yet, it is these same calculations today that will provide the options that we will have available to us in the future. We need flexibility in our military capabilities; we need to reassess and integrate our doctrine with these new flexible capabilities.

The United States must not pare down its naval or strategic forces at the expense of an increased continental NATO effort. We must intensify our research and development activities and integrate our new technology into systems that can be fielded. We must integrate our new anti-arms technology with new precision technology and integrate our laser and infrared technology into weapon systems. We must improve our early warning intelligence capabilities—effectively utilizing the benefits of remotely piloted vehicles, for example.

Ways do exist by which we can exploit new technologies and combine them with new types of combat support platforms to increase our readiness and flexibility. One possibility involves the highly promising concepts of "assault breaker"—our ability to disperse and operate away from fixed pretargetable bases by using, for example, the British Harrier V/STOL; the road-dispersable Jaguars; the A-10s; the Alpha Jets now being deployed; the hundreds of helicopters we now operate! the highly mobile ground-launched cruise missile; dispersing command and control systems; target acquisition systems; and adequate ordnance stocks and other innovative systems. We might also begin to develop fighting vehicles that can be used in a standoff mode from the forward edge of the battle area to act as flexible multipliers for surviving NATO systems on the ground. We need a NATO ground-launched cruise missile or a similar system that could provide mobility and accurate warheads; we need a ground-mobile medium-range ballistic missile for assured prompt responsiveness. We need a massive investment in defensive chemical-biological warfare equipment; new defensive tactics for survival under nuclear preemptive attacks; new means of regrouping and redeploying existing forces. We need mobility forces—naval and airlift—that we can deploy on very short notice to NATO's northern and southern flanks in the very earliest stages of a Soviet move against these areas.

Knowing this, Congress this year overruled the president's proposed cancellation of the advanced STOL (short takeoff and landing) aircraft. This program meets the requirement for NATO's new doctrine of rapid and widely dispersed airlift capability able to operate away from geological constraints of fixed air bases or landing zones. Advanced STOL aircraft could give us the revolutionary capabilities that amphibious forces gave to navies—the ability to operate unpredictably and flexibly, which is an asset desperately needed by an alliance facing the threat that NATO faces. We need to improve dramatically our readiness and logistics capabilities, and we need to set about doing these things now.

The final subject I would like to review concerns the U.S. strategic posture and the ongoing arms control negotiations. Some of our European friends who recently visited the United States told us that we should not risk *détente* or the SALT (Strategic Arms Limitation Talks) negotiations by overreacting to Soviet-Cuban transgressions in Africa. "*Détente*" has always been a nebulous term. The term "Cold War" is blunt and provocative, and it reminds us that we want to be able to settle our differences with the Soviet Union in a cooperative and peaceful way. But let us not delude ourselves about *détente*. *Détente* does not mean that Soviet society has become more open, that human rights (even in the aftermath of the Helsinki accord) are more respected, or that freedom of emigration from the Soviet Union is being conducted in an enlightened way. It does not mean that the Soviets have shown restraint in their global adventurism. The Soviets remain committed to supporting so-called "wars of liberation," a guise for Soviet incitement and interventionism. It does not mean that the Soviets have shown restraint in the development and deployment of their conventional and strategic forces. On the contrary, during the era of "*détente*," the Soviet military buildup has continued at an unprecedented level.

Détente has meant that the West has shown significant and unilateral restraint in its own weapons development and deployment—a consequence perhaps not so much *détente* but based, nonetheless, on very calculated political decisions made in our own countries. *Détente* has meant that the West has not found clearly defined and consistently implemented policies with which to respond to Soviet-Cuban activities. *Détente* has meant that the West has taken at face value the promises and agreements that we have entered into with the Soviet Union, regardless of how the Soviets (and their Cuban proxy forces) have lived up to our expectations.

I am not advocating a return to the Cold War. I feel, however, that if the West would begin to respond to the Soviet challenge, as we did during the Cold War period, the atmosphere under *détente*, under those circumstances, would not be much different than it was during the Cold War period. The point is that the Soviet Union will not abandon its fundamental global objectives. To the extent that we find our objectives incompatible, to that extent we will have competition. To ensure that competition does not escalate into uncontrolled conflict, we must ensure that our foreign policy is credible and that we maintain the military capability to support those policies. SALT may indeed be separate and distinguishable from an adventurous and aggressive Soviet foreign policy, and SALT can—and should—be judged on its own merits. But let us not forget that arms control is only one element of national policy designed to enhance military stability and contribute to a peaceful environment. It is not a substitute for weapons acquisition.

If a nation is not ready to accept arms control as a means to promote a militarily stable environment, but instead seeks to use that policy, if not to achieve unilateral advantages, at least to undermine the awareness of Western societies of the need to maintain a vigorous defense effort—then achieving meaningful controls on weaponry through a dynamic arms control process becomes exceedingly difficult, if not impossible. The Soviet leaders are rational, cautious men, convinced of their righteousness and their determinist view of history. For the present, they will not seek to confront the United States or its European allies on their home grounds. But they do believe that military superiority is achievable and that it can be used as an instrument with political and military leverage. We must deny them that objective, because otherwise, at some point they will threaten us as they have before—possibly in Berlin again, or possibly the Middle East.

A future SALT II agreement will not enable us to reduce our defense expenditures, any more than the failure to achieve an agreement would result in a dramatic increase in the U.S. defense effort. With a SALT II agreement, as it is now envisioned, we may have to undertake a major air defense effort in the continental United States to negate the capabilities of the Soviet "Backfire" bomber; without SALT we would be in the same position. With or without SALT, the United States must redress the vulnerability of its fixed silo-based intercontinental ballistic missile force, and there are cost-effective verifiable ways to do this. With or without SALT the United States will upgrade the bomber leg of its strategic triad; the preferred solution now is the air-launched cruise missile program. With or without SALT, the United States will need to reexamine its future ballistic-missile submarine force structure. With or without SALT, the United States must maintain an intensive research and development effort, particularly if we wish to retain that qualitative advantage we are said to enjoy over Soviet forces.

The cost of our defense budget should not be the exclusive criterion for measuring the merits of a future SALT II agreement. In discussing the prospective SALT II agreement, members of both the House of Representatives and the Senate have established the criteria by which SALT II will be measured:

Any SALT II agreement must be balanced and equitable. The Soviet Union cannot be permitted any real or perceived strategic superiority that could be exploited for either military or political purposes.

The terms of any future agreement must be adequately verifiable. An agreement that is not verifiable would be a source of continuing dispute, instability, and a bar to further arms control agreements.

A future SALT agreement cannot permit the Soviets the ability to acquire a significant strategic advantage were the agreement to be violated or abrogated. Such a so-called "breakout" would leave the United States and its allies vulnerable and could dramatically shift the balance of power.

The final broad criterion for measuring the adequacy of SALT II is of special interest: the terms of the prospective SALT II agreement cannot be permitted to infringe on the independent interests of U.S. allies, nor should it restrict joint U.S.-ally efforts to preserve regional force balances.

Concerning this last point, anything in a future SALT agreement which prevents the United States from transferring technology—including cruise missile technology—to its European allies would not be acceptable to the majority of the members of the U.S. Congress. Similarly, Soviet programs such as the SS-20 mobile intermediate range ballistic missile and the "Backfire" bomber create overlapping concerns. They present potential breakout problems as strategic systems against the United States, but also are formidable systems for possible use against Western Europe. Congress is also concerned over possible restrictions on the U.S. ability to redress the vulnerability of its strategic forces. In particular, there is a growing awareness that because of the large throw weight and improved accuracy of Soviet ICBMs, the United States can no longer be confident that an acceptable number of its fixed silo-based ICBM force could survive a surprise Soviet attack early in the next decade. For that reason, a future SALT II agreement must explicitly provide for the deployment, counting, and verification of a survivable ICBM system. Finally, research and development activities which cannot be verifiably prohibited must be permitted as a safeguard against possible future Soviet "breakouts."

There is one other arms control effort under way among the United States, the Soviet Union, and Britain. This is to secure an agreement to stop all underground nuclear testing, a so-called Comprehensive Test Ban Treaty. Underground nuclear testing is necessary not only for new weapons development but also to maintain confidence in the existing stockpile of nuclear weaponry. An agreement banning all underground nuclear testing is not now within the state of the art of our verification capabilities. Thus, under such an agreement, the Soviets could conduct a covert nuclear test program sufficient for them to retain confidence in their nuclear weapons, while the United States could no longer maintain sufficient confidence in the reliability of its tactical and strategic nuclear weapons. The consequences of such a serious military asymmetry and the impact in Europe and elsewhere of the declining credibility of the U.S. nuclear umbrella would be devastating. Such a treaty which would not permit the United States to maintain confidence in the reliability of its nuclear weapons would not be acceptable to this country.

The United States has been accused of suffering from a post-Vietnam/Watergate malaise. There is some justification for such criticism. But we in the United States are also concerned with some of the things we see happening in Europe. The central issue which we jointly face, is this: Are we, the nations of NATO, going to allow Soviet propaganda to intimidate us, or are we prepared to meet the Soviets on their own terms? Are we prepared to do what is necessary for our common security? I believe that if we harness our strength and resolve, if we set ourselves to the task, we can maintain a prosperous and peaceful world. No challenge we face is more urgent.●

OHIO'S WINNING VOICE OF DEMOCRACY CONTESTANT—DOROTHY JONES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. Miller) is recognized for 5 minutes.

● Mr. MILLER of Ohio. Mr. Speaker, this year over 250,000 high school students from across the country competed in the Veterans of Foreign Wars democracy contest. Each State winner has traveled to Washington this week for the final judging.

The VFW has done an outstanding job in developing and promoting this scholarship program which has benefited so many of our Nation's youth. I am especially proud that Ohio's winning participant is a constituent, Miss Dorothy Jones of Gallia County. Miss Jones' speech is a poignant message of where we have been and who we are as a Nation. I wish to share these inspiring words with my colleagues:

1978–79 VFW Voice of Democracy Scholarship Program Ohio Winner

(By Dorothy I. Jones)

Dear America,

From one shining sea to another you are 3,000 miles long. We are a nation of extremes, from waves and sands that bookend us on East and West, to the pavements, billboards, and steel that hold us together. We are a tapestry of beliefs, biases, myths, and ideals.

So many times we take you for granted; but, we do care. We care because our government has been and is of our own choosing. We care because America is free in its principles—it has a just claim to our support and our confidence. We care because compassion is our heritage; it is in our blood.

Our forefathers founded this nation from beliefs born of compassion and caring. Beliefs in, as the Preamble to our Constitution reads, "life, liberty, and the pursuit of happiness." Many have risked much to see these beliefs come to pass.

The original colonists had a life in England. Granted it was not to their liking, but it had to offer more security than settling in an unknown, wild frontier; yet, they risked the life and security they already had to make a land of liberty.

Enormous obstacles were overcome because those first American citizens poured their all into those three principles—"life, liberty, and the pursuit of happiness." And by 1775 the thirteen colonies could claim an overall cohesiveness.

They cared, and a seed was sown; the harvest would and did come.

America, you never forgot your beginnings; and, because you didn't through the years you've been able to identify not only with the continuing struggles, defeats, and victories of your citizens, but with the fate of those in other nations. Because we cared, one of the basic purposes of the American system of constitutional government became to guarantee the natural human right of individual liberty to all.

Many people the world over found that they cared for the same ideals for which America was striving. Thus, we became a nation of immigrants. The term "melting pot" was applied and we experienced unprecedented diversity—but also unprecedented richness and vitality. As of 1970, 42 million immigrants had come to our shores, taken from and contributed to our "life, liberty, and pursuit of happiness."

America, I care because caring is why we are who we are—a nation that accepted the Japanese surrender, and then led the reconstruction of those who had been an enemy; a nation that sends care packages and the Red Cross to those less fortunate; a nation that on January 31, 1973 announced along with cease fire plans for Vietnam, plans for postwar aid to that same country.

Within our shores, recipients of our caring for "life, liberty, and the pursuit of happiness" have been contributing to the preservation of our system and compassion for many years.

We have had many Abraham Lincolns—people who have risen from poverty and ignorance to leave indelible marks on history—people like Felix Frankfurter who came to this nation as an immigrant boy and became a Supreme Court Justice—people who have died for the most noble reasons—beliefs!

"Life, liberty and the pursuit of happiness" are why I care, America. I care because America cares.

May I demonstrate my feelings every minute of my life.

Only through understanding our past can we understand our present and future; therefore, I dedicate myself to a study of history and government.

Through these studies I can become informed. Informed and responsible citizens have the privilege and the duty to participate in the elective process; therefore, I dedicate myself to exercising my right to vote.

The early colonists knew that manpower was a most valuable element to build a nation. It still is; therefore, I dedicate myself to assuming, my place as a member of our working force.

To these vows I add my dedication to compassion and caring. My life as an effective citizen will help guarantee future generations their personal liberties and freedoms. Each day we can sow the seeds that others may reap in years to come.

Let us take a deep breath and leap into our future as those before us did. However foggy the view from here, we don't need to be concerned about losing spirit or freedom. The time to start worrying, America, is when we stop caring. America, we won't stop caring, we can't. A heritage is forever.

Signed,
A proud, caring American citizen.●

INTRODUCTION OF THE PRESIDENT'S HOSPITAL COST CONTAINMENT PROPOSAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Rangel) is recognized for 15 minutes.

● Mr. RANGEL. Mr. Speaker, I am pleased to join with my colleague from California, the Honorable Henry Waxman, in introducing the President's proposed legislation to contain the escalation of hospital costs. Chairman Waxman and I have scheduled joint public hearings on this proposed legislation before our respective Health Subcommittees beginning on March 12.

Mr. Speaker, the President's proposal addresses a very serious issue. Over the past several years, the rate of increase in hospital costs has reached alarming proportions. Even with the voluntary cost containment effort undertaken by the hospital industry last year, the rate of increase significantly exceeded the general rate of inflation. Those of us who need to assure the financial solvency of the medicare program must be concerned about increases of this magnitude. State governments, whose budgets are upset as the cost of the medicaid program soars, and all who pay for hospital care directly or through insurance, must also be concerned about the continuing escalation of hospital costs.

I am certain there will be objections to various elements of the President's proposal. If the Congress is to act wisely, we will need to carefully examine all of the options and alternatives. At our hearings, I hope that those who find defects in the proposal will offer constructive suggestions that will enable us to take some positive step toward the resolution of this critical issue. I can assure the members that our subcommittees will make every effort to move responsibly toward the development of legislation that the House can support.

Mr. Speaker, I insert into the Record for the information of Members a summary of the President's proposal:

Summary of the Proposed Hospital Cost Containment Act of 1979 (H.R. 2626)

Section 1 would permit the bill to be cited as the "Hospital Cost Containment Act of 1979".

Section 2 would direct the Secretary of Health, Education, and Welfare to establish voluntary limits on increases in hospital expenses. The Secretary would calculate a national voluntary limit at the beginning of each year, to apply to increases in hospital expenses in the previous year. The limit would be set by adding three components: the percentage increases in the costs of goods and services purchased by hospitals (non-supervisory wage increases would be measured by increases for hospital workers, while other increases would be measured by increases in the economy as a whole), the percentage increase in the United States population, and one percent (to allow for an increase in hospital service intensity). If the Secretary's estimate made in the previous year for increases in the cost of goods and services (other than for non-supervisory wages) was higher than his final determination for those increases, the estimate would be used in calculating the voluntary limit.

The Secretary would also calculate a voluntary limit for each State. The limit for each State would be the national limit, modified to take into account State increases in the wages of non-supervisory hospital workers (if adequate data were not available, a State would receive no allowance for those increases), and to take into account the population increase or decrease in the State.

Finally, the Secretary would calculate a voluntary limit for each hospital. The limit for a hospital would be the limit for the State in which the hospital was located, modified to take into account the hospital's increases in the wages of non-supervisory workers (if adequate data were not available, the hospital would receive no allowance for those increases), and adjusted for (and applied to) the hospital's accounting period (where different from a calendar year).

Section 3 would direct the Secretary, by July 1 of each year, to determine if the voluntary limits applicable to the previous year had been met. A hospital would be subject to mandatory limits under the bill only if hospital expenses on the average in the United States in any prior year exceeded the national voluntary limit, if hospital expenses on the average in the State in which the hospital was located in that prior year or a later prior year exceeded the State voluntary limit, and if the hospital's expenses in that prior year or a later prior year exceeded that hospital's voluntary limit.

Section 4 would permit the Secretary to exempt from the application of mandatory limits all the hospitals in a State if and for so long as the Secretary found that the State had in effect a State mandatory hospital cost containment program as broad as the Federal program, received satisfactory assurances that the average increase in hospital expenses in the State would not exceed the voluntary limit for the State, received satisfactory assurances that the State program would treat all insurers (including Medicare and Medicaid), patients, and hospital employees equitably, and found that the State program met any other conditions that the Secretary prescribed.

Section 5 would permit the Secretary to exempt from the application of mandatory limits hospitals engaged in certain experiments or demonstrations.

Section 6 would apply the bill's mandatory limits to each hospital's inpatient charges (and to the reimbursement payable to a hospital by each insurer, including government insurers, paying on a cost basis), calculated on a per admission basis. The hospital's per admission charges (and each cost payer's per admission reimbursement) could not exceed those charges (or reimbursement) for the base accounting period (the last accounting period of the hospital not subject to a mandatory limit) by an amount greater than the compounded sum of the current and previous mandatory percentage limits calculated by the Secretary for the hospital.

Section 6 would also make appropriate reductions in the charges (and reimbursement) for the base accounting period in the case of the discontinuation of any inpatient hospital services, but would wave the reduction if the appropriate State health planning and development agency determined that the services should be discontinued.

Section 7 would specify the calculation of the annual mandatory percentage limit applicable to a hospital. First, the Secretary would add the percentage increase in non-supervisory wages paid by the hospital, multiplied by the fraction of the hospital's expenses due to such wages, and the percentage increases in the costs of other kinds of goods and services, multiplied by the fraction of the hospital's expenses due to each kind. The Secretary would use national instead of hospital-specific fractions for the first year the mandatory program applied to a hospital if the hospital so requested. In addition, the Secretary's prior year estimates of the increases in the costs of goods and services (other than of non-supervisory wages) would be used if those figures yielded a higher percentage limit than his final determinations for those increases.

The Secretary would develop a system for grouping hospitals, based on such characteristics as patient case mix and metropolitan or nonmetropolitan setting. He would also develop a method to measure relative efficiency of hospitals in each group, using a group norm based on all or certain hospital expenses (adjusted for local wage differentials). He would then assign to each hospital a percentage bonus (or penalty) depending on the extent to which the hospital's adjusted expenses were less than (or exceeded) the group norm, as follows:

	Percent
Less than 90 percent of group norm	+1
Equal to or more than 90 percent of group norm, but less than group norm	+½
Equal to or more than group norm, but not more than 115 percent of group norm	0
More than 115 percent of group norm, but not more than 130 percent of group norm	−1
More than 130 percent of group norm	−2

The Secretary could make further additions to (or subtractions from) the percentage limit for a hospital to take account of changes in hospital admissions, or of such other factors as he found warranted special consideration. He could make such adjustments on his own motion, or on request of a hospital filed with the appropriate Medicare intermediary. If the Secretary did not act within 60 days on a request filed by a hospital, the request would be considered granted.

The Secretary would make an additional subtraction for a hospital's first accounting period subject to a mandatory limit. This additional percentage penalty would be the sum of—

One-half the amount by which the hospital's percentage increase in expenses in the preceding accounting period exceeded (if at all) its voluntary limit for that period, and

One-half the amount by which the hospital's increase in expenses in the preceding accounting period exceeded (if at all) that increase in the second preceding accounting period (or if greater, the average of the increase in the second preceding accounting period and the third preceding accounting period).

This penalty, however, when added to any efficiency penalty assigned to the hospital, could not exceed ½ of the percentage increase for wages and other goods and services calculated for the hospital; any unused portion of the penalty would be carried forward to the next accounting period of the hospital.

Finally, the Secretary would adjust the percentage limit for an accounting period that was different from a calendar year.

Section 8 would provide for payments under Medicare, Medicaid, and the Maternal and Child Health programs to comply with the limits in the bill (or limits established by a State program in a State exempted by the Secretary from the Federal program).

Section 9 would subject each private cost payer (and each hospital) to an excise tax equal to 150 percent of the amount of reimbursement from the cost payer in excess of the mandatory limit for a hospital's accounting period. Section 9 would also subject each hospital to an excise tax equal to 150 percent of the product of the hospital's charges in excess of the mandatory limit and the fraction of those charges not attributable to cost payers. The hospital could avoid that tax by placing the excess amount in an escrow account. If the hospital, in further years, reduced its increase in charges sufficiently, it could withdraw the funds placed in the escrow account.

Section 10 would permit the Secretary to exclude a hospital from the Medicare, Medicaid, or Maternal and Child Health program if the hospital changed its admissions practices so as to reduce its proportion of patients who pay amounts (or for whom amounts are paid) that are less than the hospital's inpatient charges.

Section 11 would establish a Hospital Cost Containment Commission of fifteen members appointed by the Secretary. Five would be individuals representative of hospitals, five would be individuals representative of health care insurers (including the Administrator, Health Care Financing Administration), and five would be other individuals. Members would serve staggered terms of three years. The Secretary would appoint the Commission's chairman. The Commission would advise, consult with, and make recommendations to, the Secretary, with respect to the implementation of the bill, proposed modifications to the bill, and any other matters affecting hospital expenses or revenues.

Section 12 would authorize the Secretary to make adjustments in applying the provisions of the bill to hospital accounting periods of less than one year.

Section 13 would authorize the Secretary to prescribe regulations to carry out the provisions of the bill.

Section 14 would provide definitions and related matters. For purposes of the bill, "hospitals" would not include hospitals in existence for less than 3 years, long term care hospitals, Federal hospitals, health maintenance organization hospitals, and small nonmetropolitan hospitals.●

CONGRESS MUST MAKE HYPERTENSION DETECTION AND TREATMENT AVAILABLE TO ALL AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 15 minutes.

● Mr. PEPPER. Mr. Speaker, I have today introduced legislation to implement the legislative recommendations made to the Select Committee on Aging by the Blue Ribbon Advisory Panel on the Treatment of High Blood Pressure in America. If enacted, these proposals could, in my view, effectively eradicate hypertension as a threat to the Nation's health.

Hypertension is an insidious enemy of our people, rending the fabric of life and, through its consequences—heart attack, stroke, and kidney failure—destroying life itself. It afflicts some 60 million Americans and has been found to be a factor in 68 percent of all first heart attacks and 75 percent of all first strokes.

In July of 1977, the Subcommittee on Health and Long-Term Care of the Select Committee on Aging, both of which it is my privilege to chair, conducted the first hearing in Congress devoted exclusively to an examination of the extent of hypertension and Government efforts to detect and control it. This hearing confirmed our belief that hypertension and its consequences represent a major national health problem; that therapies which involve drugs, diet, and lifestyle are effective in reducing the risk of major disease and accidents of the cardiovascular system, and that current Federal efforts to apply what we know in a national framework are inadequate.

In an effort to build upon this work and to develop an effective program for combating hypertension, last fall I appointed a Blue Ribbon Panel of Americans distinguished in the fields of medicine, business, labor, government, and philanthropy to recommend legislative and administrative steps to combat this disease.

Members of the Panel are:

Ann Landers—syndicated columnist;

Michael E. DeBakey, M.D., president, Baylor College of Medicine;

Frank Stanton, chairman, American Red Cross (former president, CBS, Inc.);

E. M. Papper, M.D., vice president for medical affairs, University of Miami School of Medicine;

Andrew Biemiller, former director, legislative department, AFL–CIO;

Theodore Cooper, M.D., dean, Cornell Medical School (former Assistant Secretary for Health, DHEW);

Gerald Austen, M.D., immediate past president, American Heart Association (represented at hearing by Dr. James A. Schoenberger);

James H. Evans, chairman, Union Pacific Corporation;

Mrs. Anna Rosenberg Hoffman, Anna M. Rosenberg Associates;

James C. Hunt, M.D., dean, University of Tennessee Medical College;

Joseph A. Wilber, M.D., Georgia Department of Human Resources;

Isadore Rosenfeld, M.D., Cornell University Medical College;

The Honorable George Cushingberry, Jr., majority whip, Michigan House of Representatives;

Marvin Moser, M.D., Davis Avenue Medical Center, White Plains, N.Y.;

Mike Gorman, Citizens for the Treatment of High Blood Pressure, Inc.;

Henry Betts, M.D., executive vice president and medical director, Rehabilitation Institute of Chicago.

On January 31, in its first hearing of the 96th Congress, the committee received the report of the panel and heard testimony from these distinguished persons regarding the nature and extent of hypertension and the steps needed to combat this threat to our national wellbeing. The response of our committee was most positive and enthusiastic. The report of the panel, along with the transcript of this important hearing, will be printed and available from the committee in the near future.

According to the report, hypertension affects some 60 million Americans; 35 million have definite high blood pressure and an additional 25 million are borderline hypertensives. Only an estimated 7 million hypertensives currently are taking medication and achieving control of the disease.

The elderly, the poor, and blacks are likeliest to have high blood pressure. Almost 41 percent of persons 65 and over have high blood pressure; 64 percent of the 75-and-over population have definite or borderline hypertension. In 1975, persons 65 and over accounted for 79 percent of all deaths resulting from hypertension, 76 percent of coronary deaths, and 84 percent of the total number of deaths resulting from stroke.

Twenty-two percent of black Americans suffer from hypertension, as compared with 15 percent of whites. Of persons 17 and over, 25.7 percent with family incomes under $5,000 have hypertension. Over 18 percent of women are affected by hypertension, as compared with 12.5 percent of men.

In testimony before the subcommittee in July 1977. Dr. Robert I. Levy, Director of the National Heart, Lung, and Blood Institute, indicated that high blood pressure is the most important factor contributing to the development of strokes which kill almost 200,000 persons and disable over 250,000 each year in the United States. He also emphasized the relationship of hypertension to the development of arteriosclerosis and suggested that it is "a very significant factor in the 1.25 million heart attacks and the 650,000 heart attack deaths that occur each year in the United States."

In his testimony before the committee on January 31, Dr. Michael DeBakey, the noted heart surgeon said:

> I can tell you from my own experience with literally thousands of patients I have handled over the past three decades, I have come to the conclusion it is the most important risk factor in cardiovascular disease, and it becomes increasingly important in patients over 65 or 70 years of age. But it is important to all ages.

Cardiovascular diseases; i.e., coronary heart disease, stroke, and other cardiovascular diseases account for half of all deaths in the United States each year. Moreover, according to the panel report, the 1975 economic cost of diseases of the circulatory system was $50.4 billion, or over 20 percent of the total economic cost of illness. The panel report conservatively estimated the cost of hypertension alone to be $10.5 billion. The cost of illness is the total of direct expenditures for prevention, detection, and treatment and the indirect costs, or loss of output resulting from illness and premature death.

Moreover, according to the report, diseases of the circulatory system account for:

The greatest number of deaths;

The greatest number of social security disability cases;

The greatest number of potential years of life lost;

The greatest number of inpatient days in both short-stay hospitals and nursing homes;

The second greatest number of physician office visits;

The greatest amount of permanent disability, and

The greatest limitation of activity.

In terms of Government policy, the report made important observations regarding the cost to some Government programs of hypertension and its consequences. For example, in fiscal year 1977, social security disability payments amounted to $3 billion. Medicare paid an estimated $4.2 billion in fiscal year 1977 for treatment of hypertensive disease, ischemic heart disease, and cerebrovascular disease.

Supplemental security income benefits for persons disabled from these diseases amounted to $554 million; this figure does not include the aged. The Veterans Administration estimated a $47.7 million expenditure for inpatient care for persons with these diseases, and income support payments for these persons totaled some $129.9 million in that same year.

U.S. Civil Service disability payments for persons who retired on disability because of hypertension and related diseases amounted to $33.5 million, while the disability annuities for persons retired because of hypertension alone were $11.3 million in fiscal 1977.

These figures represent only a sampling of the direct costs to Government of hypertension and related diseases. They do not include payments under medicaid, private insurance, or Defense Department payments for health care. Unfortunately, neither physician, hospital, or insurance records are adequate to judge the exact total cost of hypertension in terms of direct care.

The cost of treatment, on the other hand, has been estimated to average only $200 annually.

The cause of most hypertension is not known. In only 5 to 10 percent of cases can the condition be traced to a specific disorder which is potentially curable. There is no known cause for primary or "essential" hypertension, but medical science has taught us how to control this disorder through drugs, diet, or lifestyle. Because most hypertension is without symptoms, it is necessary that persons be tested to determine the presence of hypertension. The diagnosed hypertensive must remain on medication, even though he may feel well, to avoid the severe complications of this disease. Adherence to therapy is high among the priorities of physicians and others who endeavor to control this condition, which has been called the "silent killer."

Federal efforts to control hypertension have been carried out in two main areas. Since 1972, the National Heart, Lung, and Blood Institute has conducted a National High Blood Pressure Education program whose goal is to develop better methods of detection and treatment through a national campaign aimed both at the general public and health professionals. In addition, the Institute conducts hypertension research and has conducted or sponsored a number of clinical trials.

The second major Federal effort began in 1975, with establishment of a formula grant program to the States for the development of hypertension programs. This program, conducted by the Bureau of Community Health Services, will become a project grant beginning in fiscal 1980. Appropriation levels for fiscal years 1976, 1977, and 1978 were, respectively, $3.75 million, $9 million, and $11 million. Public Law 95–626, the Health Services and Centers Amendments of 1978, authorizes funding for fiscal years 1979 through 1981 of $20 million, $24.5 million, and $29 million. Unfortunately, in his budget for fiscal year 1980, the President has requested only $13.3 million for this important program.

While the House would have allowed coverage under this program for treatment of hypertension under extraordinary circumstances, the final version did not include this component, felt by supporters of the program to be extremely important.

The success of these and other programs around the country has been most impressive. Since 1950, mortality rates have been on a downward trend, but more than one-third of the total 30-percent decline in the cardiovascular death rate has occurred since 1972, when the national high blood pressure education program was initiated.

The death rate for stroke decreased 9 percent from 1965 to 1970 and 18 percent from 1970 to 1975.

In 1971, only 50 percent of the 23 million persons then known to have hypertension were aware of the condition. By 1974, this number had increased to 70 percent.

Between 1968 and 1977, 311,700 lives were saved as a result of the decline in deaths from cardiovascular disease.

Mr. Speaker, it is clear that the efforts which have been made thus far are both cost effective and health effective for all Americans.

The panel report has made it clear that the largest single barrier to combating the threat of hypertension is the lack of access by individuals to diagnosis and treatment. Therefore, I have today introduced a package of legislation, reflecting the panel's recommendations, which would:

Amend the medicare law to include coverage of examinations for the detection, diagnosis and treatment of hypertension;

Provide a drug benefit for the elderly as a separate program and as a covered benefit under medicare part B;

Mandate that States provide hypertension screening, diagnosis, and treatment, including drugs, under medicaid; and

Provide for treatment of hypertension under the hypertension project grants of the Public Health Service, where treatment is not otherwise available.

Mr. Speaker, the testimony of these outstanding witnesses vividly demonstrates the challenges and problems involved in overcoming this threat to the well-being of so many millions of Americans. It is my hope that my colleagues will read this testimony when it is printed. The panel has made an outstanding contribution to the development of public health policy, and I am hopeful that the legislative committees will move on these recommendations with the greatest possible speed.

Mr. Speaker, in order to further explain and clarify these recommendations and the legislation I today offer, I insert the section of the panel report outlining recommendations at this point in the RECORD:

RECOMMENDATIONS

Hypertension is an insidious enemy of the nation's health. Unchecked, it poses a severe threat to the lives of millions of Americans. While the causes of high blood pressure remain largely a mystery, medical science has produced methods by which it can be controlled in most cases.

A significant decline in cardiovascular death rates in recent years attests to the value of efforts to educate the public regarding the dangers of hypertension and the necessity for adequate treatment. Yet barriers to screening and treatment remain.

Following are recommendations for action which can add new dimension to current efforts to bring hypertension under control and break its hold on the health of the American people.

* * * * *

1. Congress should enact legislation expanding Medicare coverage to include examinations for the detection, diagnosis, and treatment of hypertension.

2. Congress should enact legislation providing a drug benefit for the elderly, as a separately administered program or as a covered item under Medicare.

COMMENT

The program of Health Insurance for the Aged and Disabled (Title XVIII of the Social Security Act—Medicare) was enacted in 1965. While Medicare has provided the elderly and disabled a hedge against expenses for catastrophic illness, many gaps and limitations in coverage prevent Medicare from making assistance available where it is needed most—in health maintenance and care for chronic illness. Because of the inadequacy of coverage, and the impact of deductibles and coinsurance, Medicare covered only 38 percent of all health expenses of the elderly in fiscal year 1976. Coverage is not provided for preventive physical examinations, for example. And Medicare does not cover outpatient prescription drugs. In fiscal year 1977, the total national bill for drugs and drug sundries amounted to $12.5 billion. The elderly, who make up about 11 percent of the population, traditionally account for some 25 percent of prescription drugs. In fiscal year 1977, this amounted to $2.9 billion, 81.5 percent of which was purchased out-of-pocket by those least able to pay.

Speaking in support of a drug benefit in testimony before the Subcommittee on Health and Long-Term Care in October, 1977, John B. Martin, former Commissioner on Aging, representing the National Retired Teachers Association/American Association of Retired Persons, indicated that over 40 percent of elderly persons have some form of chronic illness. He further indicated that the elderly in 1974 spent an average of $72 per capita for prescription drugs—or nearly two-and-a-half times the average per capita amount for all ages.

Mr. Martin indicated that these figures are not totally representative, as many elderly persons require few prescription drugs or none at all. He stated: "Our associations did a more meaningful survey of drug users among our members and we found that expenditures between $200 and $1,000 a year were not uncommon among the respondents. Amazingly this represented from 10 percent up to as much as 45 percent of their incomes."

Also in testimony before the Subcommittee, in July, 1977, Dr. Robert I. Levy, Director of the National Heart, Lung and Blood Institute, spoke of the problems involved in effecting adherence to antihypertensive therapy: "High blood pressure medicine may be expensive and therefore not taken." He reaffirmed the particular problem of older Americans: "There is no doubt that high blood pressure is much more prevalent in those above 60. There is also no doubt that the dreadful consequences of high blood pressure occur much more frequently, the consequences of stroke, heart attack, heart failure. Though we may be able to reduce risk less in the elderly than in the younger group, there is no doubt that the immediate short-term benefits in terms of saving lives, in terms of improving quality of life can be found with treatment of high blood pressure in those over age 60."

Dr. Joseph Wilber of the Georgia Department of Human Resources, representing the American Heart Association, spoke, in testimony before the Subcommittee, of the financial barrier which prevents many elderly persons from seeking treatment. He indicated that the deductibles and copayments required of Medicare beneficiaries represent a barrier to treatment, or "they (the elderly) feel . . . they have to save that $100 deductible for major illness and they do not seek preventive medicine or a checkup." He recommended that Medicare and other health insurance plans for the elderly allow and pay for a defined health checkup annually for those over 65.

Witness after witness indicated their belief that the cost of physician visits and prescribed antihypertensive drugs—while relatively moderate—prevent many older persons from receiving the preventive care they need to control hypertension.

Older persons are most seriously affected by hypertension. Some 41 percent of those 65 and over suffer from definite or borderline hypertension, and 64 percent of persons 74 and over have high blood pressure. Persons 65 and over accounted for 79 percent of all deaths resulting from hypertension in 1975, 76 percent of coronary deaths and 84 percent of total deaths resulting from stroke.

It is clear that coverage of preventive and maintenance care, including necessary drugs, can be most effective in terms of cost to the nation and, most importantly, in terms of the loss of life or the quality of life.

3. Congress should enact legislation mandating that States provide hypertension screening, diagnosis and treatment (including drugs) under Medicaid.

COMMENT

Title XIX of the Social Security Act (Medicaid) provides medical assistance for the poor—families with dependent children which receive cash assistance payments and persons who receive Supplemental Security Income for the Aged, Blind, and Disabled (SSI—Title XVI of the Social Security Act).

Medicaid is administered by the States, within broad Federal guidelines, with a Federal payment ranging from 50 to 78 percent, depending on the per capita income of the State.

States are required to provide medical assistance under Medicaid to these "categorically" eligible persons and may, at their option, include the "medically needy," or persons in these categories whose income is not low enough to qualify for cash assistance but who, if they paid for medical expenses, would come under the established income requirements. States are required to provide a package of basic services and may receive Federal matching funds for additional optional services. Coverage for physician services is generally required; drug coverage is optional.

While most States have a drug program, many impose copayments or other limitations which make it difficult for the poor to afford the necessary drugs. At a hearing conducted in April, 1977, by the Subcommittee on Health and Long-Term Care of the Select Committee on Aging, Chairman Claude Pepper observed: "For the elderly poor, a 50-cent copayment, which seems insignificant to most of us, can mean the difference between a needed prescription and a quart of milk or a loaf of bread. What right have we to ask them to make this choice? There are people living in or approximate to my District who have to make a choice every day between a cup of coffee and the morning newspaper."

The Medicaid program generally exceeds Medicare in providing preventive health services, but the categories of eligibility and coverage of services vary widely from state to state.

The Health Interview Survey of 1974 revealed that hypertension is more prevalent among low-income persons. 25.7% of persons with family income under $5,000 have high blood pressure, compared with 11.6% of those with incomes over $10,000. This situation is even more pronounced for the elderly poor. Forty percent of persons 65 and over with family incomes of $5,000 or lower were found to be hypertensive, as compared to 30% with incomes of $15,000 or over.

Health Interview Survey of 1974—Persons 17 years and over with hypertension by family income:

Income:	*Percent*
Under $5,000	25.7
$5,000-$9,999	17.2
$10,000-$14,999	11.6
$15,000 or more	12.0

Source: National Center for Health Statistics.

Health and Nutrition Examination Survey, 1971–1974, revealed that among persons 65–74 years of age, both mean systolic pressure and mean diastolic pressure decreased as income increased.

Health Interview Survey of 1974—Persons 65 years and over with hypertension by family income:

Income:	*Percent*
Under $5,000	40.0
$5,000 to $9,999	35.4
$10,000 to $14,999	30.1
$15,000 and over	30.0

Source: National Center for Health Statistics.

In view of the relationship between poverty and hypertension, and the inconsistency of medical benefits among state Medicaid programs, it is felt that Congress should amend the law to require that State Plans for Medical Assistance include, as basic services, preventive examinations for hypertension (separately, or in combination with a medical visit for another purpose) and necessary antihypertension drugs.

4. Congress should include coverage for hypertension screening, diagnosis and treatment (including drugs) under any national health insurance plan for each category of beneficiaries.

COMMENT

A number of proposals for national health insurance have been put forward in recent years. It is expected that the 96th Congress will examine these proposals in great detail.

It is not the purpose of this report to endorse one proposal over another. Nevertheless, the evidence presented here and elsewhere strongly suggests that screening for hypertension (either separately or in combination with a medical visit), and opportunity for diagnosis and treatment, including drugs, should be covered for all who participate in a national health care plan. Follow-up services and patient counseling should be part of the covered services.

5. Congress should increase the level of funding for the work of the National Heart, Lung and Blood Institute, both in terms of hypertension research monies and support for the National High Blood Pressure Education Program. Moreover, enthusiastic support is encouraged for a clinical trial which is expected to be conducted by the NHLBI, in cooperation with the National Institute on Aging, to examine certain issues regarding hypertension in the elderly.

COMMENT

Heart disease and stroke account for nearly half of all deaths in the United States each year. Diseases of the circulatory system are the most profound in terms of economic cost. Yet the National Heart, Lung and Blood Institute received only some 17% of the total research budget for the National Institutes of Health and the Alcohol, Drug Abuse and Mental Health Administration in fiscal year 1978. In fiscal year 1979, the Institute's total expenditures for hypertension research and the High Blood Pressure Education Program were $71.1 million.

Adequate funds must be provided not only to protect the NHLBI budget against the vagaries of inflation and to support ongoing work, but also to support new undertakings aimed at discovering the causes of hypertension and other cardiovascular diseases and effective methods of treatment.

The Institute is favorably inclined to conduct a major clinical trial to examine the value of antihypertensive therapy among the elderly population.

At this time, the Institute prefers to limit the trial to men and women over age sixty who have isolated systolic hypertension. This limitation arises from the fact that, among the major types of hypertension found in the elderly, preexisting diastolic/systolic hypertension would continue to be treated and hypertension de nova at this age would be handled by following usual procedures for secondary hypertension diagnosis and management. Although other questions exist, isolated systolic hypertension is the major enigma from a therapeutic standpoint.

The trial would probably require a population of four to five thousand hypertensive persons over age sixty and be conducted over a five year period at an annual cost of about five to six million dollars.

Prior to initiation of the trial, at least one year of pilot testing would be required to better assess certain key questions including:

1. identification of any untoward effect of current antihypertensive drugs on an older patient,

2. certain technical questions regarding the reliability of blood pressure measurements in older persons,

3. ascertainment of reliability of selected psychological tests to measure changes in mental capability of the elderly, and

4. determination of reasonable goal blood pressures in this population including the interresponsiveness of systolic and diastolic pressures to therapies.

Although these are critical questions, Institute staff believe they can be resolved satisfactorily to permit initiation of the proposed trial.

6. Congress should enact legislation amending the Public Health Service Act to allow treatment under the program of project grants for preventive health services (Sec. 317) of hypertensive individuals for whom treatment is otherwise unaffordable.

During consideration of the Health Services Amendments of 1978, the House acted to include "control", but this provision was not included in the final law (Public Law 95–626). In its report on the bill, the House Interstate and Foreign Commerce Committee indicated that under extraordinary circumstances and when an individual could not pay for medication or qualify for any other Federal, State, or local program of support, funds could be used for the direct provision of treatment.

7. The Health Services Administration (Public Health Service, DHEW) should:

Expeditiously promulgate regulations implementing Sec. 202 of the Health Services and Centers Amendments of 1978 (Public Law 95–626), which replaces the previous formula grant program carried out under Sec. 314(d) with a new program, Project Grants for Preventive Health Services;

Consistent with the statute, give the broadest possible interpretation to provisions which might allow support for treatment under this program; and

Assure that hypertension screening, detection and follow-up are carried out in other programs it supports, such as home health care, primary care in inner cities, community health centers, migrant health centers, family planning programs and rural health centers.

Indications are that these functions are not being carried out, even though the law does not prohibit them.

8. The Secretary of Health, Education, and Welfare should require health systems agencies (HSAs) to collect, analyze and disseminate data regarding the adequacy of facilities and programs for hypertension screening and treatment within each designated health service area.

9. The Civil Service Commission is encouraged to continue and expand its efforts to screen and diagnose government employees who are hypertensive and should include preventive health services under the various health insurance plans which are offered to government employees.

10. The Department of Health, Education, and Welfare should continue and increase its use of the media to disseminate information regarding hypertension. Particular attention should be paid to the use of public service announcements as a vehicle to make this available. The Department should endeavor to have these messages aired, to the extent feasible, during prime viewing or listening hours.●

NATIONAL CONSUMER FINANCE ASSOCIATION ADOPTS A MODEL DEBT COLLECTION PRACTICES CODE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, today I would like to call congressional attention to the courageous and praiseworthy step taken by the National Consumer Finance Association, a trade association of loan and finance companies. This association has just adopted a comprehensive debt collection code to self-regulate the debt collection practices of its consumer finance company members.

On March 20 of last year, new Federal legislation went into effect which prohibits third party debt collectors from harassing or deceiving consumers. This law has undoubtedly already spared countless consumers from abusive contacts by unethical debt collectors. The law does not apply to people collecting their own debts, in contrast to debt collection agencies collecting debts owed to creditors.

In May of last year, shortly after the new law went into effect, I spoke at the annual convention of the National Consumer Finance Association. I warned the members of the association that my staff would be monitoring debt collection complaints to determine if coverage of the law should be expanded to include other kinds of collectors. This would be necessary if we received numerous serious debt collection complaints. I challenged the association to set up a collection committee to work to establish an industrywide debt collection code based on the Fair Debt Collection Practices Act. I also challenged them to put teeth in the code by enforcing it strictly.

I am delighted to state that the association has taken my suggestion to heart. In August, an association task force was set up to study my challenge. On December 5 of last year, a final draft of a proposed collection code was agreed to by the task force and recommended for adoption by the association.

I am impressed by this code, because the task force has not merely gone through the motions. This code is not window dressing. This code is excellent. It follows closely the protections and prohibited practices of the Federal law. For instance, communicating with a consumer at odd hours of the night, such as 4 a.m., is prohibited. Inappropriate contacts with third parties, such as a consumer's employer, prior to judgment are also prohibited. Harassing or abusive contact is forbidden, as well as deceiving or misleading representations and unfair or unconscionable collection means.

The association response to my challenge, self-regulation before Federal regulations, should protect consumers and cause no harm to finance companies; and self-regulation spares both the expense of Federal regulation.

All too often, members of an industry about to be brought under Federal regulation indignantly claim that they should be allowed to police themselves. This has a hollow ring to it, since the past and present failures of such an industry to clean up its own house are the reasons for the Federal legislation. In contrast, in this instance the National Consumer Finance Association has taken the decisive step toward effective self-regulation before legislation is being proposed. Furthermore, the establishment of an enforcement procedure and the closeness with which this code follows the Federal law reflects that the association has made a prompt and sincere effort to insure that its members adhere to ethical and honorable debt collection practices.

I believe the members of the association will find that debt collection can be done in a fair and reasonable manner in compliance with this code without the loss of efficiency or profit. Adherence to this code by finance companies should also bring in new customers impressed by this industry's concern for fair treatment of its customers.

Mr. Speaker, while I strongly applaud the action of the National Consumer Finance Association, I hope that the association will not use the new policy merely as a self-serving statement which has no teeth. If the association intends to live with the new policy then it must be prepared to take whatever action is necessary to punish members who do not live up to the code. In too many cases, other industries with a code of ethics do not punish offenders, and I sincerely hope that will not be the case with the National Consumer Finance Association.

The association's code is the first one I know of that has been adopted to voluntarily bring an industry into compliance with the requirements of the Federal debt collection law. Strong, good-faith self-regulation is the best way I know for an industry to avoid Federal legislation. I hope the association's code will become a model that other industries will soon follow.●

IN TRIBUTE OF DEAN SMITH, NATIONAL COACH OF THE YEAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. ANDREWS) is recognized for 5 minutes.

● Mr. ANDREWS of North Carolina. Mr. Speaker, although Chapel Hill, home of the Nation's oldest public university, is mostly in Mr. FOUNTAIN's Second District, a small part of it is in Mr. ANDREWS' Fourth District. Because of this, and because we are both graduates of the University of North Carolina, we work closely together in serving the university and the community affectionately known as the "Southern Part of Heaven."

It is with great pride that we take this occasion to pay tribute to an outstanding resident of Chapel Hill, a man who has done much to bring national and even international acclaim to our alma mater.

We are speaking of the highly regarded basketball coach, Dean Smith, who has just been named "National Coach of the Year" by the U.S. Basketball Writers Association.

This honor is just one of many that Dean has received in his 18 years of coaching the Tar Heels. Although it would suffice to say that his record to date has earned him a permanent niche in basketball annals as one of the greatest coaches of all time, we would like to point out just a few of his achievements.

In 1977, the Coaches Association selected him as National Coach of the Year. The Atlantic Coast Conference Sportswriters Association has named him ACC Coach of the Year five times.

The Heels, under Dean's coaching, have won the ACC tournament seven times and have been runnerup twice. For 9 years his teams have finished first in regular season ACC play.

Dean is the winningest coach in both the ACC and the NCAA's Eastern Regionals. His teams have won the Regionals five times, and he is second only to the retired Coach John Wooden of UCLA in terms of sending teams to the NCAA championships.

Dean's record at UNC to date is 386 wins to 126 losses. His teams, incredibly, have won more than three-fourths of their games.

Perhaps Dean's most notable achievement occurred in 1976, when he coached the U.S. basketball team which won the Olympics and brought home gold medals.

What Dean has done has been without even a whisper of scandal or a hint of wrongdoing. His integrity has never been questioned; it is above and beyond approach. He is an exemplary person as well as a coach, and his many fine qualities are reflected in his players, who have, over the years, been models of decorum both on and off the court.

The esteem in which we and countless other UNC fans hold Dean Smith was summed up this past weekend by a young schoolgirl in Chatham County, N.C. She told Congressman Andrews that adults should cease teaching children things they know not to be true. She said:

> Don't tell us that the cow jumped over the moon, because that is something we know is not possible. But, if you tell us that Dean Smith jumped over the moon, we will believe that!

We extend to Dean Smith our heartiest congratulations and sincere best wishes for many more years of successful coaching at UNC.●

POLISH HUMAN RIGHTS ACTIVIST ON TRIAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FASCELL) is recognized for 5 minutes.

● Mr. FASCELL. Mr. Speaker, it is with great distress that I inform you of the trial in progress of Polish human rights activist Kazimierz Switon. The court proceedings which began March 2 follow more than a year of unrelenting harassment suffered by Switon—one of the initiators of the Committee of Free Trade Unions in Katowice and an active member in the Movement for the Defense of Human and Civil Rights. His activities in behalf of fellow Polish citizens have prompted the Polish Government to deprive him of his job and of the possibility of other employment; Polish police have detained him for 48-hour periods more than a dozen times without declaring the legal grounds. Switon's whole family has suffered continuous harassment.

According to statements issued by Poland's Committee for Social Self-Defense—KOR, four functionaries of the Citizens' Militia attacked and beat Switon unconscious—in full view of family members and passers-by—last October 14. A waiting car drove him off, and Switon was taken into custody and charged with hitting four policemen and smashing a police car. Neither family nor friends have been able to contact Switon. The physical abuse he has suffered gives reason for further worry in view of his serious heart ailments.

Mr. Switon's defense attorney has submitted a motion to the prosecutor of the Katowice Voivodship to dismiss the charges against him. Hundreds of Polish citizens have signed a letter written by prominent Polish intellectuals and sent to the chairman of the Council of States, Henryk Jablonski, calling for Switon's release. The letter states that the reprisals against Switon "affect a man whose only guilt was that he openly uttered his views and acts within international and constitutional rights."

These appeals have been ignored. Civic protest against Switon's imprisonment and trial continue, and his supporters, too, are meeting with police violence.

The members of the Commission on Security and Cooperation in Europe and I add our voices to those who come forward in defense of this human rights activist. We urge the Polish authorities to exercise tolerance and restraint in dealing with those of their citizens who so courageously work toward the observance of human rights in their country, those human rights guaranteed in the Helsinki Final Act to which Poland is signatory.●

NATURAL RESOURCES REORGANIZATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 5 minutes.

● Mr. ALEXANDER. Mr. Speaker, on March 1, the President publicly announced his intention to consolidate the Federal Government's natural resources programs into a single agency. The President's proposed natural resources reorganization plan, which will shortly be transmitted to the Congress, calls for a Department of Natural Resources. This department represents nothing more than a retitling of the Department of the Interior coupled with a moving in of the Forest Service from the Department of Agriculture and the National Oceanic and Atmospheric Administration from the Department of Commerce.

I am not opposed to reorganization when it is reasoned to be in the public's best interest. We live in a changing and complex world and we must have institutional arrangements which are fully capable of responding to and meeting new needs and new priorities. It was my initial belief that the President's reorganization project would undertake its responsibilities with administrative objectivity rather than a "let's take what we can get" attitude. Indeed, you may remember that the President's reorganization project stated that its objective was to be "a bottom-up approach looking first at program structure and process." We also were encouraged by the President's commitment to develop a "fully integrated and coordinated national ocean policy." After all, we reasoned, how could any reorganization be undertaken without the benefit of a clear and concise national ocean policy? How, indeed?

Yet, without the benefit of an ocean policy to guide management decisions; without the benefit of a bottom-up approach to identify program deficiencies, unnecessary duplication, and greater opportunities for increased efficiency and effectiveness; without any of these essential management prerequisites, the President's reorganization project has divined for us a Department of Natural Resources.

While I know that our mid-America States are not generally considered to be particularly cognizant of the major issues in ocean policy, as a representative of the great State of Arkansas, I can assure you that we, indeed, recognize the importance of the oceans to our national security and social well-being. To us, the oceans are the vital links with our increasingly important foreign markets, the oceans are the principal influence on our weather and climate, the oceans provide us with fertilizer for our crops, with protein for our animal feed, with energy for our domestic and industrial needs, and with a variety of food. And, in return, through our inland waterways and rivers flow the basic nutrients which sustain the U.S. fishery resources.

Within our 200-mile zone, the oceans cover an area which is three times larger than all of the U.S. publicly owned land. As our last frontier for expansion, development, and use, the oceans are subject to the full thrust of human activities—extraction of oil, gas, and other minerals; production of food and drugs; defense of our Nation; transportation of goods and people; preservation of the environment; disposal of wastes; as well as public recreation and seaward development. These multiple uses and users of the oceans involve the confrontation and resolution of potentially conflicting interests, such as domestic and foreign rights; public and private enterprise; development and conservation concerns; Federal, State, and local governments; and civil and military activities.

The Congress, traditionally, has recognized the oceans' importance to our Nation and has repeatedly taken the initiative to advance the public's interest. Having come so far, we should resist any attempt at this time which subjects our principal ocean agency, the National Oceanic and Atmospheric Administration, to a superficially conceived, genetically simplistic regrouping of Federal agencies. I am reminded of one of the adages of public administration theory which states that "If it isn't broken, don't fix it."

I wish to remind the President of one of his commitments made as a Presidential candidate in a September 14, 1976, letter to the Marine Technology Society:

> America is a great maritime power, but we are in grave danger of losing our leadership because we lack a fundamental policy for the oceans. Together with the Congress, the President must develop a coherent and consistent national ocean policy.

I urge the President to forgo this reorganization attempt. Instead, he should act on that original promise so that together we may develop an urgently needed ocean policy. Such a policy will then provide us with the basis for pursuing any needed organizational changes through the appropriate legislative process.●

MONTHLY LISTS OF GAO REPORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BROOKS) is recognized for 5 minutes.

● Mr. BROOKS. Mr. Speaker, the monthly list of GAO reports includes summaries of reports which were prepared by the staff of the General Accounting Office. The January 1979 list includes:

LIST OF GAO REPORTS

NATIONAL DEFENSE

Is the AV-8B Advanced Harrier Aircraft Ready for Full-Scale Development? PSAD-79-22, January 30.

Transfer of Army Pacific Support Functions Resulted in Unwarranted Personnel Costs. FPCD-78-80, January 2.

The Army Should Use Available Serviceable Parts to Avoid Repairs. LCD-79-205, January 31.

DOD "Total Force Management"—Fact or Rhetoric? FPCD-78-82, January 24.

The Navstar Global Positioning System—A Program with Many Uncertainties. PSAD-79-16, January 17.

Better Equipment Maintenance and Training Needed to Improve Firefighting Capability on Navy Ships. PSAD-79-6, January 16.

Weaknesses Persist in Defense Overseas Cash Management Program. FGMSD-79-6, January 10.

Observations on the Fleet Support Provided by the Navy's Shore Installations in the Western Pacific and Indian Ocean. LCD-78-426A, January 26.

Followup on Use of Numerically Controlled Equipment to Improve Defense Plant Productivity. LCD-78-427, January 19.

The Civil Reserve Air Fleet—An Effective Program to Meet Defense Emergency Airlift Requirements. LCD-78-239, December 7.

Issues Concerning Air Force KC-10A Advanced Tanker/Cargo Aircraft. PSAD-79-8, January 5.

Letter reports

Cost of moving Naval Oceanography and Meteorology from Washington, D.C. to Bay St. Louis, Miss. and its effect on management and morale. LCD-79-304, December 28.

The Navy's decision to defer incorporating the modified stern of the FFG-7 class frigates was made without adequately considering all factors. PSAD-79-21, December 29.

General Electric's proposed costs for labor variances in the Grumman Aerospace Corporation were not based on current data PSAD-79-15, January 4.

Does the Army encourage its officers to drive themselves while on official business or are officers assigned enlisted personnel as drivers? LCD-79-241, January 9.

Comments on a letter concerning the Defense Department's Competitive Rate Program. LCD-79-206, January 19.

Target price of a McDonnell-Douglas contract was overstated, resulting in $1.7 million excess cost to the Government. PSAD-79-23, January 26.

INTERNATIONAL AFFAIRS

Population Growth Problem in Developing Countries: Coordinated Assistance Essential. ID-78-54, December 29.

State Department Should Improve Foreign National Pay Setting. FPCD-78-81, January 8.

Letter reports

The State Department can improve its traffic management practices and realize large savings. LCD-78-248, January 12.

ENERGY

More Use Should Be Made of Energy-Saving Products in Federal Buildings. EMD-79-11, January 23.

Reporting Unscheduled Events at Commercial Nuclear Facilities: Opportunities to Improve Nuclear Regulatory Commission Oversight. EMD-79-16, January 26.

Fossil Energy Research, Development, and Demonstration: Opportunities for Change. EMD-78-57, September 18.

U.S. Refining Capacityl: How Much Is Enough? EMD-78-77, January 15.

Transportation Energy Conservation in the Federal Government. EMD-79-3, January 25.

Electric Utility Fuel—Procurement Practices and the Impact of Rate Reform Activities on Small Business. EMD—79-2, January 19.

Letter reports

The Federal Regulatory Commission needs to develop effective regulations to make sure that there is non-discriminatory access to all Outer Continental Shelf pipelines. EMD-79-23, January 12.

Full funding needed to restore deteriorating nuclear weapon complexes in Savannah River, South Carolina and Oak Ridge, Tenn. PSAD-79-20, January 16.

The decontamination and dismantling of the nuclear site at Hanford, Washington, should be postponed. EMD-79-20, January 17.

The Department of Energy's estimates are a fair assessment of the Nation's uranium reserves. EMD-79-25, January 22.

Comments on the Department of Energy regulations for procurements of goods and services by Federal civil agencies. PSAD-79-11, December 26.

NATURAL RESOURCES AND ENVIRONMENT

Improvements Needed in Controlling Major Air Pollution Sources. CED-17-165, January 2.

Better Enforcement of Car Emission Standards—A Way to Improve Air Quality. CED-78-180, January 23.

Hazardous Waste Management Programs Will Not Be Effective: Greater Efforts Are Needed. CED-79-14, January 23.

Solving Corrosion Problems of Bridge Surfaces Could Save Billions. PSAD-79-10, January 19.

Progress and Problems of Fisheries Management under the Fishery Conservation and Management Act. CED-79-23, January 9.

Letter reports

The Coast Guard will need more facilities, equipment, and people to respond effectively to future oilspills. CED-79-32, January 12.

AGRICULTURE

Food, Agriculture, and Nutrition Issues for Planning. CED-79-36, January 29.

Letter reports

Action is needed to make sure that county offices carry out Agricultural Stabilization and Conservation Service instructions for administering the payment limitation. CED-79-31, January 4.

COMMERCE AND HOUSING CREDIT

Developing a Domestic Common Carrier Telecommunications Policy: What Are the Issues? CED-79-18, January 24.

Legislation Needed to Establish Specific Loan Guarantee Limits for the Economic Development Administration. FGMSD-78-62, January 5.

TRANSPORTATION

Need for Improved Action on Railroad Safety Recommendations. CED-78-171, December 29.

Amtrak's Economic Impact on the Intercity Bus Industry. PAD-79-32, January 12.

The 140-Foot Harbor Tugboat: Does the Coast Guard Need It on the East Coast? PSAD-79-17, January 15.

COMMUNITY AND REGIONAL DEVELOPMENT

DOD's Commendable Initial Efforts to Solve Land Use Problems Around Airfields. LCD-78-341, January 22.

Letter reports

Information on the District of Columbia's application to HUD for a grant to establish the National Children's Museum. CED-79-20, December 5.

HUD did not follow all legislative and notification procedures for filing housing applications for Oakwood apartments in Miami, Ohio. CED-79-7, January 10.

Section 8 rental housing owners and operators could sell or convert their projects to condominiums and displace low and moderate income tenants. PAD-79-43, January 16.

EDUCATION, TRAINING EMPLOYMENT, AND SOCIAL SERVICES

What Assurance Does Office of Education's Eligibility Process Provide? HRD-78-120, January 17.

Minority Firms on Local Public Works Projects—Mixed Results. CED-79—9, January 16.

The Award of Funds to the National Farm Workers Service Center, Inc. Was Poorly Managed. HRS-79-30, January 15.

Letter reports

Reasons for participant eligibility and program emphasis provisions of the Department of Labor's Skill Training Improvement Program. HRD-79-19, January 19.

HEALTH

Problems in Auditing Medicaid Nursing Home Chains. HRD-78-158, January 9.

A Federal Strategy Is Needed To Help Improve Medical and Dental Care in Prisons and Jails. GGD-78-96, December 22.

Letter reports

Because discrepancies were found in VA medical centers, additional controls and improvements are needed in existing procedures. HRD-79-29, December 21.

INCOME SECURITY

Need for Overall Policy and Coordinated Management of Federal Retirement Systems. FPCD-78-49, December 29.

Social Security Administration Should Improve Its Recovery of Overpayments Made to Retirement, Survivors and Disability Insurance Beneficiaries. HRD-79-31, January 17.

Social Security Should Improve Its Collection of Overpayments to Supplemental Security Income Recipients. HRD-79-21, January 16.

Considerations for Adjustment Assistance Under the 1974 Trade Act: A Summary of Techniques Used in Other Countries. ID-78-43, January 18.

Letter reports

Comments on 10 bills proposed to amend the railroad retirement act. HRD-79-23, December 28.

Windfall benefits dual payment of railroad retirement and social security benefits. HRD-79-33, January 11.

Proposal of two new deferrals and revisions to a previously proposed deferral in the President's fourth special message for fiscal year 1979. OGC-79-6, January 16.

VETERANS BENEFITS AND SERVICES

The Veterans Administration Can Reduce the Time Required to Process Veterans' and Survivors' Initial Claims for Benefits. HRD-79-25, December 27.

ADMINISTRATION OF JUSTICE

Information on Immigration in 17 Countries. GGD-79-15, January 12.

The FBI Can Improve Its Management Control Over Operations by Providing Effective Internal Audit. GGD-78-93, January 17.

GENERAL GOVERNMENT

GSA Can Reduce Procurements by Millions If More Material Returns Are Accepted From Federal Agencies. LCD-78-242, January 5.

Banks Having Problems Need Better Identification and Disclosure. FOD-79-1, January 24.

Audit of the Office of the Attending Physician Revolving Fund—Fiscal Year 1978. GGD-79-23, January 15.

Automated Systems Security—Federal Agencies Should Strengthen Safeguards Over Personal and Other Sensitive Data. LCD-78-123, January 23.

Financial Status of Major Federal Acquisitions. September 30, 1978. PSAD-79-14, January 11.

Letter reports

Development of military and civil agency nontactical secure voice systems. LCD-78-129, September 29.

Mail delivery service in Manhattan and the Bronx has been inconsistent. GGD-79-21, December 12.

How the Census Bureau manages and uses automatic data processing equipment and staff. FGMD-79-5, December 13.

Use of overtime in Federal agencies should be better monitored. FPCD-79-20, December 21.

Ten new deferrals and four revisions proposed in the President's third special message for fiscal year 1979. OGC-79-5, January 11.

The Postal Service should provide timely delivery to new and expanding communities when they are eligible for upgraded service. GGD-79-10, January 11.

The Monthly List of GAO Reports and/or copies of the full texts are available from the U.S. General Accounting Office, Distribution Section, Room 1518, 411 G Street, NW., Washington, D.C. 20548, Phone (202) 257-6241.●

UPI MISSTATES UNITED STATES-PEOPLE'S REPUBLIC OF CHINA CLAIMS SETTLEMENT AGREEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

● Mr. VANIK. Mr. Speaker, I wish to correct a misstatement in a UPI article appearing in the March 3 edition of the Washington Star concerning the recently initialed claims settlement agreement between the United States and the People's Republic of China. In comparing the PRC settlement to those of several East European countries, the article incorrectly stated that the United States-Czechoslovakian claims settlement agreement of 1974 provided for settlement at the rate of 20 cents on the dollar. In fact, the agreement provided for settlement of U.S. claims at the rate of 41 to 42 cents on the dollar. The error appears to be the result of calculating the amount paid as a percentage of the total claim, that is, principal plus interest.

However, the practice has been to calculate the payment as a percentage of the principal debt only. This practice was followed in describing the percentage repayment on the claims against the People's Republic of China. The U.S. claim of $196.8 million against the PRC represents the principal of the debt only. It does not take into account the interest which has been accruing in the nearly 30 years since the expropriations took place. Thus, the offered rate of repayment in the proposed United States-Czechoslovakian agreement is virtually identical to that in the United States-People's Republic of China agreement.

It is most unfortunate that special interests prevailed during congressional consideration of the Trade Act of 1974 and that an amendment was added which requires renegotiation of the United States-Czechoslovakian settlement agreement in order to obtain 100 percent repayment of the principal owed to U.S. claimants and conditions extension of most-favored-nation (MFN) tariff treatment to products of Czechoslovakia upon congressional approval of that settlement agreement. No such condition has been placed upon the extension of MFN to any other nonmarket economy country. Nor has the United States obtained any settlement agreement arising from the expropriation of U.S.-owned property following World War II which required payment of 100 percent of the outstanding principal debt to U.S. claimants.●

TAX-DEDUCTIBLE CONTRIBUTIONS FOR THE UNITED NATIONS

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, today I am again introducing legislation that would make tax-deductible contributions to the United Nations and its agencies and other specialized agencies of which the United States is a member.

The United Nations has recurring

problems in its efforts to stay financially solvent—problems which could be substantially alleviated if American foundations and individual taxpayers were permitted to take a tax deduction for making contributions to the U.N. and its agencies. At the present time, deductions for such contributions are not permitted under the U.S. Tax Code.

Congress is likely to find itself under great pressure this year to reduce our annual commitment to foreign assistance of all kinds, including our annual contribution to the U.N. It seems to me that one way to retain the good will of the developing nations of the world, and to impress upon them the sincerity of our commitment toward the peaceful resolution of global problems is to permit foundations and private citizens in the United States to make tax-deductible contributions to the U.N. Since this is not likely to result in a significant net increase in charitable giving by individuals or institutions, and since contributions by charitable institutions represent income that will not benefit the U.S. Treasury in any event, the tax loss to the Treasury is likely to be negligible. When we consider that the U.N.'s short-term debt last year was $135.9 million, the need for such legislation is clear.

The text of the bill, and a list of agencies which would be eligible follows these remarks:

I. U.N. AGENCIES

U.N. Headquarters.

U.N. Office at Geneva.

Economic Commission for Europe (ECE).

Economic and Social Commission for Asia and the Pacific (ESCAP).

Economic Commission for Latin America (ECLA).

Unted Nations Conference on Trade and Development (UNCTAD).

United Nations Environment Programme (UNEP).

World Food Council (WFC).

United Nations Children's Fund (UNICEF).

United Nations Development Program (UNDP).

Office of the United Nations High Commissioner for Refugees (UNHCR).

United Nations Institute for Training and Research (UNITAR).

United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA).

United Nations Research Institute for Social Development (UNRISD).

II. SPECIALIZED AGENCIES

United Nations Development Organization (UNIDO).

International Labour Organization (ILO).

Food and Agriculture Organization of the United Nations (FAO).

United Nations Educational, Scientific and Cultural Organization (UNESCO).

World Health Organization (WHO).

International Bank for Reconstruction and Development (IBRD).

International Finance Corporation (IFC).

International Development Association (IDA).

International Monetary Fund (IMF).

International Civil Aviation Organization (ICAO).

Universal Postal Union (UPU).

International Telecommunication Union (ITU).

World Meteorological Organization (WMO).

Inter-Governmental Maritime Consultative Organization (IMCO).

World Intellectual Property Organization (WIPO).

International Atomic Energy Agency (IAEA). (This was established "under the aegis of the United Nations"; it reports annually to the General Assembly.)

H.R. 2702

A bill to amend the Internal Revenue Code of 1954 to allow a deduction for any contribution, bequest, or gift to the United Nations

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (c) of section 170 of the Internal Revenue Code of 1954 (defining charitable contribution) is amended by inserting after paragraph (5) the following new paragraph:

"(6) The United Nations or an instrumentality or agency thereof of which the United States is a member, but only if the contribution or gift is to be used exclusively for the purposes for which such organization is established."

(b) Section 170(b)(1)(A) of such Code (relating to percentage limitations for individuals) is amended by striking out "or" at the end of clause (vii), by inserting "or" at the end of clause (viii), and by inserting after clause (viii) the following new clause:

"(ix) an organization referred to in subsection (c)(6),".

SEC. 2. (a) Section 2055(a) of the Internal Revenue Code of 1954 (relating to transfers for public, charitable, and religious uses) is amended by striking out "or" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or", and by inserting after paragraph (4) the following new paragraph:

"(5) to or for the use of the United Nations or an instrumentality or agency thereof of which the United States is a member, but only if the contribution or gift is to be used exclusively for the purposes for which such organization is established."

(b) Section 2006(a)(2)(A) of such Code (relating to transfers for public, charitable, and religious uses) is amended by striking out "or" at the end of the clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof "; or", and by inserting after clause (iii) the following new clause:

"(iv) to or for the use of the United Nations or an instrumentality or agency thereof of which the United States is a member, but only if the contribution or gift is to be used exclusively for the purposes for which such organization is established."

SEC. 3. (a) Subsection (a) of section 2522 of the Internal Revenue Code of 1954 (relating to charitable and similar gifts) is amended by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or", and by inserting after paragraph (4) the following new paragraph:

"(5) the United Nations or an instrumentality or agency thereof of which the United States is a member, but only if the contribution or gift is to be used exclusively for the purposes for which such organization is established."

(b) Subsection (b) of such section 2522 is amended by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or", and by inserting after paragraph (5) the following new paragraph:

"(6) The United Nations or an instrumentality or agency thereof of which the United States is a member, but only if the contribution or gift is to be used exclusively for the purposes for which such organization is established."

SEC. 4. The amendments made by the first section of this Act shall apply with respect to any gift or contribution payment of which is made after the date of the enactment of this Act, in taxable years ending after such date. The amendments made by section 2 of this Act shall apply with respect to the estates of decedents dying after such date. The amendments made by section 2 of this Act shall apply with respect to gifts and transfers made after such date.●

THE FAITHLESS ELECTOR: A CONTRACTS PROBLEM?

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, with two candidates already having declared for the Presidency and several undeclared candidates already actively seeking the nomination, it is not too early to be looking forward to the 1980 Presidential election and considering what Congress role in that election might be. Congress has been charged by the Constitution with important responsibilities in the process of choosing a President, including counting and certifying the electoral college vote from each State. One of the problems which has come up in past elections is that of the elector who violates the public trust by voting for a candidate other than the one for whom he has pledged to vote, as occurred in the 1960 election, when several electors cast their votes for Harry Byrd, Sr., and in the 1968 election, when an elector pledged to Richard Nixon voted for George Wallace.

In the past, these desertions have not affected the outcome of the election, and the votes have been allowed by Congress. However, keeping in mind the 1976 election, in which the difference of a few thousand votes in a pair of States could have substantially altered the outcome, it is not hard to imagine a situation in which a few vote switches in a close electoral college vote could swing an election. Under such circumstances, Congress would be ill-prepared to rule on whether or not to count the votes during the 2 hours allowed for deliberation.

Charles L. Black, Jr., a noted legal scholar at Yale University, has proposed one solution in an article published in the 1977 volume of the Louisiana Law Review, Forum Juridicum. In the article, entitled "The Faithless Elector: A Contracts Problem," Mr. Black asserts that the case of the elector who votes for a candidate other than the one to whom he is pledged "is a problem, primarily, not of constitutional law but of contract law," in that the elector, having been elected by the voters with the understanding that he would vote for a certain candidate, has entered into an implied contract with them. He goes on to argue that Congress has the powers of a court of equity to deal with such disputes.

Mr. Speaker, Mr. Black's article, which suggests to the Congress one method of heading off what could be a major constitutional crisis, is, I believe, a brilliant and significant contribution to the perfecting of our democratic processes.

The full text of the article follows these remarks:

THE FAITHLESS ELECTOR: A CONTRACTS PROBLEM*

(By Charles L. Black, Jr.**)

Availing myself of the marvelous freedom of this format, I am going to put an idea down here, as briefly as possible. I do not know whether this idea has been expressed by anyone else before. If it has, it cannot hurt for it to get another exposure; if it has not, it certainly should be put forward well before 1980.

Our electoral college system for electing the President sometimes generates the problem of the "faithless elector"—the elector who runs as a member of a slate pledged to vote for a particular candidate, but who casts his vote for somebody else.

I happened to be around Congress and in the galleries when this question came up in January, 1969.[1] One Dr. Bailey, an elector in North Carolina, was pledged to Richard Nixon but voted for George Wallace. The Congress faithfully followed the stage directions in 3 U.S.C. §§ 15–17.[2] When North Carolina was reached, and the problem of Dr. Bailey was raised, the Houses dissolved their joint session and each met separately (without any further time for research or preparation) for the two hours, and not a minute more, mandated by section 17,[3] with each member limited to a single five minutes' speech. After this deliberation, if so hectically hurried a "debate" can be called that, each House voted to receive Dr. Bailey's vote as cast, and to count for Wallace. Reconvening together, they acted accordingly.

This amount of consideration, for a great constitutional question whose solution might determine the identity of the President, could not be thought to rise to the level of frivolity—except for the fact that in the given case Nixon won no matter how you counted Bailey's vote. My friend, Congressman Bob Eckhardt, said the most sensible thing said on this occasion—in effect that the job of Congress was not to adjudicate issues of no present pragmatic relevance, but to decide who had been elected President, and that Congress should simply have left the "faithless elector" question where it was and declared Nixon to be elected no matter how Bailey's vote was counted.[4]

I decline to believe that such perfunctory consideration of a question, the answer to which made no difference at the time, could determine for all time the right answer to that question when its answer *does* make all the difference, as sometimes it easily may. So I have kept thinking, off and on, about the matter.

It struck me the other day—and this is the whole idea for this piece—that the problem of the "faithless elector" is a problem, primarily, not of constitutional law but of contract law.

The law of contract is after all the law we customarily think of when we consider what to do about broken promises. If there are firm evidentiary grounds for holding that an elector has made an express or implied-in-fact promise to vote for X (and if there are not the problem cannot arise), and if voters have voted for him in reliance on that promise, then it seems to me that a contract, with valuable and lawful consideration, has been made between him and them, the tenor of which is that he will perform a single, simple act, of a unique value not commensurable with money. This contract falls within familiar categories: It is (as my description of it makes clear) a classic case for the equitable remedy of specific performance; how could the "remedy at law" (money damages) be "adequate"? It is, quite clearly, a third-party beneficiary contract, with the candidate in the role of beneficiary, and modern contracts law generally acknowledges the right of such a beneficiary.

The only substantive question remaining is whether such a contract is "against public policy," and hence void. At this point, of course, we reach a facet of confrontation between contracts law and constitutional law. But how transformed is the constitutional question! The question is not now whether article II of the Constitution,[5] in and of itself, compels the elector to keep his promise, or frees him to break it. The question is rather (and in stating it fairly I think I virtually answer it) whether a promise of a sort *not forbidden* by article II, and regularly made and kept by electors in every article II election for the last century and a half at least, is "against public policy," so as to be unenforceable, notwithstanding its meeting all technical requirements of contract law. I do think that question pretty well answers itself; certainly I can think of no better way to argue it than merely to state it.

There remain questions of procedure for enforcement of this contract. I would hope that it will not be thought recourse must be had to a court. The Houses of Congress are already the judges of the validity and effect of certificates from the components of the electoral college. In that capacity, Congress should, when needful, have those simple powers of a court of equity which would suffice in this situation—the power to reform an instrument to conform to legal obligation, and (overarching both of these remedies) the general equitable power to treat that as done which ought to be done.

None of the foregoing seems to me in the least doubtful, as the law now stands. But it might be as well to codify it all in a revision of title 3, so that it could all roll off automatically if the problem of the "faithless elector" visits us again. The next time, the solution to the problem could determine the identity of the President. Since the people would barely stand for a person's being President who became President because Congress considered itself impotent to give effect to a plainly implied-in-fact contract, it might be as well to say so at once, in a title 3 revision declaratory of the applicability, to this problem, of simple contract law and remedies. No constitutional amendment would be necessary.

FOOTNOTES

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**Sterling Professor of Law, Yale University.

[1] *See* 115 CONG. REC. 145–72, 197–246 (1969).

[2] 3 U.S.C. §§ 15–17 (1970). These sections provide for a joint session of the Senate and House of Representatives to count electoral votes. If at least one Senator *and* one Representative should object to a particular elector's vote, each house shall meet separately to rule on the objection; unless *both* houses vote to reject the contested vote, it is counted as cast.

[3] *Id.* § 17.

[4] 115 CONG. REC. 164 (1969).

[5] U.S. CONST. art. II § provides, in pertinent part:

> Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress. . . .
>
> The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and the House of Representatives, open all the Certificates, and the Votes shall then be counted. . . .
>
> The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

The twelfth amendment, adopted in 1804 to modify article II insofar as the election of the Vice President was concerned, left the above provisions intact.●

SMALL BUSINESS COMMITTEE RULES

(Mr. SMITH of Iowa asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SMITH of Iowa. Mr. Speaker, I submit for printing in the RECORD a copy of the Rules of the Committee on Small Business for the 96th Congress which were adopted by the Committee on March 1, 1979:

RULES OF PROCEDURE OF THE COMMITTEE ON SMALL BUSINESS, HOUSE OF REPRESENTATIVES, 96TH CONGRESS

1. GENERAL PROVISIONS

The Rules of the House, and in particular the committee rules enumerated in clause 2 of rule XI, are the rules of the Committee on Small Business to the extent applicable and by this reference are incorporated. Each subcommittee of the Committee on Small Business (hereinafter referred to as the "committee") is a part of the committee and is subject to the authority and direction of the committee, and to its rules to the extent applicable.

2. DATE OF MEETING

The regular meeting date of the Committee on Small Business shall be the first Tuesday of every month when the House is in session. Additional meetings may be called by the chairman as he may deem necessary or at the request of a majority of the members of the committee in accordance with clause 2(c) of rule XI of the House of Representatives.

The determination of the business to be considered at each meeting shall be made by the Chairman subject to clause 2(c) of rule XI of the House of Representatives.

A regularly scheduled meeting need not be held if there is no business to be considered or upon at least three days notice, it may be set for a different date.

3. QUORUM

No measure or recommendation shall be reported unless a majority of the committee is actually present; for purposes of taking testimony or receiving evidence, two members shall constitute a quorum; and for all other purposes one-third of the members shall constitute a quorum.

4. MEETINGS AND HEARINGS OPEN TO THE PUBLIC

(A) Meetings

Each meeting for the transaction of business, including the markup of legislation, of the committee or its subcommittees, shall be open to the public except when the committee or subcommittee, in open session and with a majority present, determines by roll call vote that all or part of the remainder of the meeting on that day shall be closed to the public: *Provided, however,* That no person other than members of the committee, and such congressional staff and such departmental representatives as they may authorize, shall be present in any business or markup session which has been closed to the public.

This provision does not apply to any meeting that relates solely to internal budget or personnel matters.

(B) Hearings

Each hearing conducted by the committee or its subcommittees shall be open to the public except when the committee or subcommittee, in open session and with a majority present, determines by roll call vote that all or part of the remainder of that hearing on that day shall be closed to the public because of disclosure of testimony, evidence, or other matters to be considered would endanger the national security or would violate any law or rule of the House of Representatives: *Provided, however,* That the committee or subcommittee may by the same procedure vote to close one subsequent day of hearings.

No member may be excluded from nonparticipatory attendance at any hearing of the committee or any subcommittee, unless the House of Representatives shall by majority vote authorize the committee or subcommittee, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearings to members by the same procedures designated for closing hearings to the public.

5. ANNOUNCEMENT OF HEARINGS

Unless the chairman, or the committee by majority vote, determines that there is good cause to begin a hearing at an earlier date, public announcement shall be made of the date, place, and subject matter of any hearing to be conducted by the committee at least one week before the commencement of that hearing.

6. WITNESSES

(*A*) *Interrogation of witnesses*

The committee shall apply the 5-minute rule in the interrogation of witnesses in any hearing until such time as each member of the committee who so desires has had an opportunity to question each witness.

(*B*) *Statement of witnesses*

Each witness shall file with the committee, 48 hours in advance of his appearance, a written statement of his proposed testimony and shall make a brief oral summary of his views.

7. PROXIES

A vote by any member of the committee or any of its subcommittees by proxy is permitted, provided that such proxy shall be in writing, and delivered to the clerk of the committee, shall assert that the member so voting by proxy is absent on official business or is otherwise unable to be present at the meeting of the committee or its subcommittee, shall designate the person who is to execute the proxy authorization, and shall be limited to a specific measure or matter and any amendments or motions pertaining thereto; except that a member may authorize a general proxy only for motions to recess, adjourn, or other procedural matters. Each proxy shall be signed by the member assigning his or her vote and shall contain the date and time of day that the proxy is signed. Proxies may not be counted for a quorum.

8. SUBPOENAS

A subpoena may be authorized and issued by the chairman of the committee in the conduct of any investigation or series of investigations or activities to require the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers and documents as he deems necessary. The ranking minority member shall be promptly notified of the issuance of such a subpoena.

Such a subpoena may be authorized and issued by the chairman of a subcommittee with the approval of a majority of the members of the subcommittee and the approval of the chairman of the committee or a majority of the members of the committee.

9. COMMITTEE STAFF

The staff of the Committee on Small Business shall be as follows:

(A) The professional and clerical employees of the committee, except those assigned to the minority or to a subcommittee chairman or ranking minority member as provided below, shall be appointed and assigned, and may be removed, by the chairman. Their remuneration shall be fixed by the chairman and they shall be under the general supervision and direction of the chairman.

(B) The professional and clerical staff assigned to the minority shall be appointed and their remuneration determined as the minority members of the committee shall determine; *Provided, however,* That no minority staff person shall be compensated at a rate which exceeds that paid his or her majority staff counterpart. Such staff shall be under the general supervision and direction of the minority members of the committee who may delegate such authority as they deem appropriate.

(C) Each subcommittee chairperson and each ranking minority member on not more than six subcommittees shall have the right to appoint and assign one person to work on subcommittee business at a salary commensurate with the responsibilities prescribed but at a rate not to exceed 75 percent of the maximum established rate for the employees on the professional staff of the committee. Such staff members shall perform services in facilities assigned to the committee and to the extent that they are not occupied during regular working hours with tasks assigned by the subcommittee chairperson or ranking minority member who appointed them, they shall perform other tasks as assigned by the chairman or the staff director.

10. NUMBER AND JURISDICTION OF SUBCOMMITTEES

There shall be six standing subcommittees as follows:

1. SBA and SBIC Authority and General Small Business Problems.
2. General Oversight and Minority Enterprise.
3. Antitrust and Restraint of Trade Activities Affecting Small Business.
4. Impact of Energy Programs, Environment and Safety Requirements and Government Research on Small Business.
5. Access to Equity Capital and Business Opportunities.
6. Special Small Business Problems.

During the 96th Congress, the number of Members assigned to subcommittees shall be as follows:

Subcommittee No. 1: 8 Democrats, 4 Republicans.
Subcommittee No. 2: 6 Democrats, 3 Republicans.
Subcommittee No. 3: 6 Democrats, 3 Republicans.
Subcommittee No. 4: 6 Democrats, 3 Republicans.
Subcommittee No. 5: 6 Democrats, 3 Republicans.
Subcommittee No. 6: 6 Democrats, 3 Republicans.

The jurisdiction[1] of such subcommittees shall include the following:

I. SBA and SBIC authority and general small business problems

SBA and SBIC authorizations.
Access to SBA services.
Impact of tax policies on small business.
Export opportunities for small business.
Commodity Futures Trading Commission.
Illegal activities affecting small business.

II. General oversight and minority enterprise

Minority enterprise.
Procurement.
Renegotiation Board policies.
Postal Service.
General oversight of activities of Government agencies and legislation affecting small business.

III. Antitrust and restraint of trade activities affecting small business

Sherman-Clayton Act.
Robinson-Patman Act.
Federal Trade Commission and antitrust activities.
Anti-competitive activities affecting small business.
Problems (including job creation, capital formation and credit availabilities) in nonmetropolitan and rural areas.
Unassigned Regulatory Agency activities.

IV. Impact of energy programs, environment and safety requirements and government research on small business

Energy allocations, marketing, etc.
Energy Research and Development Contracts.
Impact of pollution laws and EPA rules.
Federal Power Commission.
Science boards and commissions.
Marketing of petroleum products.
Tennessee Valley Authority.
Occupational Safety and Health Administration.

V. Access to equity capital and business opportunities

Off-Budget agency activities.
Condemnations, relocations.
Access to equity capital.
Banking practices.
EDA.
HUD policies affecting small business.
SEC handling of ventures.
Franchising practices.
Surety bonds.

VI. Special small business problems

Various transportation matters affecting small business.
Various communications matters affecting small business.
Various Federal regulatory policies and programs affecting small business.

11. POWERS AND DUTIES OF SUBCOMMITTEES

Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the full committee on all matters referred to it. Subcommittee chairmen shall set meeting dates after consultation with the chairman of the full committee and other subcommittee chairmen, with a view toward avoiding simultaneous scheduling of committee and subcommittee meetings or hearings wherever possible. Meetings of subcommittees shall not be scheduled to occur simultaneously with meetings of the full committee.

12. SUBCOMMITTEE REPORTS ON INVESTIGATIVE HEARINGS

The report of any subcommittee on a matter which was the topic of a study or investigation shall include a statement concerning the subject of the study or investigation, the findings and conclusions, and recommendations for corrective action, if any, together with such other material as the subcommittee deems appropriate.

Such proposed report shall first be approved by a majority of the subcommittee members. After such approval has been secured, the proposed report shall be sent to each member of the full committee for his supplemental, minority or additional views.

Any such views shall be in writing and signed by the member and filed with the clerk of the committee within 5 calendar days (excluding Saturdays, Sundays, and legal holidays) from the date of the transmittal of the proposed report to the members.

After the expiration of such 5 calendar days, the report may be filed as a House report.

13. REFERRAL OF BILLS BY CHAIRMAN

Unless retained for consideration by the full committee, all legislation and other matters referred to the committee shall be referred by the chairman to the subcommittee of appropriate jurisdiction within 2 weeks.

14. RECORDS

The committee shall keep a complete record of all actions which shall include a record of the votes on any question on which a roll call vote is demanded. The result of each subcommittee roll call vote, together with a description of the matter voted upon, shall be promptly made available to the full committee and such votes shall be available for inspection by the public at reasonable times in the offices of the committee.

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[1] Each subcommittee is authorized to explore ways to reduce unnecessary paperwork; also each subcommittee may propose legislation and exercise oversight in the respective areas assigned.

15. ACCESS TO CLASSIFIED OR SENSITIVE INFORMATION

Access to classified information supplied to the committee and attendance at closed sessions of the committee or its subcommittees shall be limited to members, and to members of the committee staff and stenographic reporters who have appropriate security clearance when the chairman determines that such access or such attendance is essential to the functioning of the committee.

The procedure to be followed in granting access to those hearings, records, data, charts, and files of the committee which involve classified intelligence information or information deemed by a subcommittee to be sensitive shall be as follows:

(a) Only Members of the House of Representatives may have access to such information.

(b) Members who desire to read materials that are in the possession of the committee should notify the clerk of the committee or the subcommittee possessing the materials.

(c) The clerk will maintain an accurate access log which identifies without revealing the material examined, the staff member involved, and the time of arrival and departure of all members having access to the information.

(d) If the material desired is material which the committee or subcommittee deems to be sensitive enough to require special handling, before receiving access to such information, Members of the House will be required to identify the information they desire to read and sign an access information sheet acknowledging such access and that the Member has read these procedures.

(e) Such material shall not be removed from the room.

(f) A staff representative shall insure that the documents used by the Member are returned to the proper custodian or to original safekeeping as appropriate.

(g) No notes, reproductions or recordings may be made of any portion of such information.

(h) The contents of such information shall not be divulged to any person in any way, form, shape, or manner and shall not be discussed with any person who has not received the information in an authorized manner either under these rules or the laws or rules in effect for officials and employees of the executive branch.

(i) When not being examined in the manner described herein, such information will be kept in secure safes in the committee rooms.

(j) These procedures only address access to information the committee or a subcommittee deems to be sensitive enough to require special treatment.

(k) If a member believes the material should not be classified or considered restricted as to dissemination or use, the member may ask the committee or subcommittee to so rule; however, as far as materials and information in the custody of the Small Business Committee is concerned, the classification of materials as determined by the executive branch shall prevail unless affirmatively changed by the committee or the subcommittee involved, after consultation with the appropriate executive agencies.

(l) Other materials in the possession of the committee are to be handled in accordance with the normal practices and traditions of the committee and its subcommittees.

16. BROADCASTING OF COMMITTEE HEARINGS AND MEETINGS

Upon approval by the committee or its subcommittee, all committee and subcommittee hearings which are open to the public may be covered, in whole, or in part, by television broadcast, radio broadcast, and still photography or by any such methods of coverage.

The chairman of the full committee or the chairmen of the subcommittees are authorized to determine on behalf of the full committee or its subcommittees, respectively, whether hearings which are open may be broadcast, unless the committee or its subcommittees respectively by majority vote determine otherwise.

Permission for such coverage shall be granted only under the following conditions:

(1) Live coverage by radio or television shall be without commercial sponsorship.

(2) No witness served with a subpoena by the committee shall be required against his or her will to be photographed at any hearing or to give evidence or testimony while the broadcasting of that hearing, by radio or television, is being conducted. At the request of any witness who does not wish to be subjected to radio, television, or still photography coverage, all lenses shall be covered and all microphones used for coverage turned off.

(3) Not more than four television cameras, operating from fixed positions, shall be permitted in the room. The allocation among the television media of the positions of television cameras in the room shall be in accordance with fair and equitable procedures as devised by the Executive Committee of the Radio and Television Correspondents Galleries.

(4) Television cameras shall be placed so as not to obstruct in any way the space between any witness giving evidence or testimony and any member of the committee or the visibility of that witness and that member to each other.

(5) Television cameras shall not be placed in positions which obstruct unnecessarily the coverage of the hearing or meeting by the other media.

(6) Television and radio media equipment shall not be installed in, or removed from, the room while the committee is in session.

(7) Floodlights, spotlights, strobelights, and flashguns shall not be used, except that the television media may install additional lighting in the room, without cost to the Government, in order to raise the ambient lighting level to the lowest level necessary to provide adequate television coverage at the then current state of the art.

(8) Not more than five press photographers shall be permitted to cover a hearing or meeting by still photography. In the selection of these photographers, preference shall be given to photographers from Associated Press Photos and United Press International Newspictures. If request is made by more than five of the media for coverage, that coverage shall be made on the basis of a fair and equitable pool arrangement devised by the Standing Committee of Press Photographers.

(9) Photographers shall not position themselves, at any time during the course of the hearing or meeting, between the witness table and the members of the committee.

(10) Photographers shall not place themselves in positions which obstruct unnecessarily the coverage by the other media.

(11) Television and radio media personnel shall be then currently accredited to the Radio and Television Correspondents' Galleries.

(12) Still photography personnel shall be then currently accredited to the Press Photographers' Gallery.

(13) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and their coverage activities in an orderly and unobtrusive manner.

17. OTHER PROCEDURES AND REGULATIONS

The chairman of the full committee may establish such other procedures and take such actions as may be necessary to carry out the foregoing rules or to facilitate the effective operation of the committee.

The committee may not be committed to any expense whatever without the prior approval of the chairman of the full committee.

The committee may not be committed to any expense whatever without the prior approval of the chairman of the full committee.

APPENDIX

Excerpts of House rules pertaining to committee procedure Rule XI

* * * * *

COMMITTEE RULES

Adoption of written rules

2. (a) Each standing committee of the House shall adopt written rules governing its procedure. Such rules—

(1) Shall be adopted in a meeting which is open to the public unless the committee in open session and with a quorum present, determines by rollcall vote that all or part of the meeting on that day is to be closed to the public;

(2) Shall be not inconsistent with the Rules of the House or with those provisions of law having the force and effect of Rules of the House; and

(3) Shall in any event incorporate all of the succeeding provisions of this clause to the extent applicable.

Each committee's rules specifying its regular meeting days, and any other rules of a committee which are in addition to the provisions of this clause, shall be published in the Congressional Record not later than thirty days after the Congress convenes in each odd-numbered year. Each select or joint committee shall comply with the provisions of this paragraph unless specifically prohibited by law.

Regular meeting days

(b) Each standing committee of the House shall adopt regular meeting days, which shall be not less frequent than monthly, for the conduct of its business. Each such committee shall meet, for the consideration of any bill or resolution pending before the committee or for the transaction of other committee business, on all regular meeting days fixed by the committee, unless otherwise provided by written rule adopted by the committee.

Additional and special meetings

(c)(1) The chairman of each standing committee may call and convene, as he or she considers necessary, additional meetings of the committee for the consideration of any bill or resolution pending before the committee or for the conduct of other committee business. The committee shall meet for such purpose pursuant to that call of the chairman.

(2) If at least three members of any standing committee desire that a special meeting of the committee be called by the chairman, those members may file in the offices of the committee their written request to the chairman for that special meeting. Such request shall specify the measure or matter to be considered. Immediately upon the filing of the request, the clerk of the committee shall notify the chairman of the filing of the request. If, within three calendar days after the filing of the request, the chairman does not call the requested special meeting to be held within seven calendar days after the filing of the request a majority of the members of the committee may file in the offices of the committee their written notice that a special meeting of the committee will be held, specifying the date and hour of, and the measure or matter to be considered at, that special meeting. The committee shall meet on that date and hour. Immediately upon the filing of the notice, the clerk of the committee shall notify all members of the committee that such special meeting will be held and inform them of its date and hour and the measure or matter to be con-

sidered; and only the measure or matter specified in that notice may be considered at that special meeting.

Ranking majority member to preside in absence of chairman

(d) If the chairman of any standing committee is not present at any meeting of the committee, the ranking member of the majority party on the committee who is present shall preside at that meeting.

Committee records

(e) (1) Each committee shall keep a complete record of all committee action which shall include a record of the votes on any question on which a rollcall vote is demanded. The result of each rollcall vote shall be made available by the committee for inspection by the public at reasonable times in the offices of the committee. Information so available for public inspection shall include a description of the amendment, motion, order or other proposition and the name of each Member voting for and each Member voting against such amendment, motion, order, or proposition and whether by proxy or in person, and the names of those Members present but not voting.

(2) All committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the Member serving as chairman of the committee; and such records shall be the property of the House and all Members of the House shall have access thereto, except that in the case of records in the Committee on Standards of Official Conduct respecting the conduct of any Member, officer, or employee of the House, no Member of the House (other than a member of such committee) shall have access thereto without the specific, prior approval of the committee.

Proxies

(f) No vote by any member of any committee or subcommittee with respect to any measure or matter may be cast by proxy unless such committee, by written rule adopted by the committee, permits voting by proxy and requires that the proxy authorization shall be in writing, shall assert that the Member is absent on official business or is otherwise unable to be present at the meeting of the committee, shall designate the person who is to execute the proxy authorization, and shall be limited to a specific measure or matter and any amendments or motions pertaining thereto; except that a member may authorize a general proxy only for motions to recess, adjourn or other procedural matters. Each proxy to be effective shall be signed by the Member assigning his or her vote and shall contain the date and time of day that the proxy is signed. Proxies may not be counted for a quorum.

Open meetings and hearings

(g) (1) Each meeting for the transaction of business, including the markup of legislation, of each standing committee or subcommittee thereof shall be open to the public except when the committee or subcommittee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public: *Provided, however,* That no person other than members of the committee and such congressional staff and such departmental representatives as they may authorize shall be present at any business or markup session which has been closed to the public. This paragraph does not apply to open committee hearings which are provided for by clause 4(a)(1) of Rule X or by subparagraph (2) of this paragraph, or to any meeting that relates solely to internal budget or personnel matters.

(2) Each hearing conducted by each committee or subcommittee thereof shall be open to the public except when the committee or subcommittee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger the national security or would violate any law or rule of the House of Representatives. Notwithstanding the requirements of the preceding sentence, a majority of those present, there being in attendance the requisite number required under the rules of the committee to be present for the purpose of taking testimony,

(A) may vote to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger the national security or violate clause 2(k)(5) of rule XI; or

(B) may vote to close the hearing, as provided in clause 2(k)(5) of rule XI. No Member may be excluded from non-participatory attendance at any hearing of any committee or subcommittee, with the exception of the Committee on Standards of Official Conduct, unless the House of Representatives shall by majority vote authorize a particular committee or subcommittee, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearings to Members by the same procedures designated in this subparagraph for closing hearings to the public; *Provided, however.* That the committee or subcommittee may by the same procedure vote to close one subsequent day of hearing.

(3) Each committee of the House (except the Committee on Rules) shall make public announcement of the date, place and subject matter of any committee hearing at least one week before the commencement of the hearing. If the committee determines that there is good cause to begin the hearing sooner, it shall make the announcement at the earliest possible date. Any announcement made under this subparagraph shall be promptly published in the Daily Digest.

(4) Each committee shall, insofar as is practicable, require each witness who is to appear before it to file with the committee (in advance of his or her appearance) a written statement of the proposed testimony and to limit the oral presentation at such appearance to a brief summary of his or her argument.

(5) No point of order shall lie with respect to any measure reported by any committee on the ground that hearings on such measure were not conducted in accordance with the provisions of this clause; except that a point of order on that ground may be made by any member of the committee which reported the measure if, in the committee, such point of order was (A) timely made and (B) improperly overruled or not properly considered.

(6) The preceding provisions of this paragraph do not apply to the committee hearings which are provided for by clause 4(a)(1) of Rule X.

Quorum for taking testimony and certain other action

(h) (1) Each committee may fix the number of its members to constitute a quorum for taking testimony and receiving evidence which shall not be less than two.

(2) Each committee (except the Committee on Appropriations, the Committee on the Budget, and the Committee on Ways and Means) may fix the number of its members to constitute a quorum for taking any action other than the reporting of a measure or recommendation which shall be not less than one-third of the members.

Prohibition against committee meetings during 5-minute rule

(i) No committee of the House (except the Committee on Appropriations, the Committee on the Budget, the Committee on Rules, and the Committee on Standards of Official Conduct) may sit, without special leave, while the House is reading a measure for amendment under the five-minute rule. For purposes of this paragraph, special leave will be granted unless 10 or more Members object.

Calling and interrogation of witnesses

(j) (1) Whenever any hearing is conducted by any committee upon any measure or matter, the minority party Members on the committee shall be entitled, upon request to the chairman by a majority of them before the completion of the hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon.

(2) Each committee shall apply to five-minute rule in the interrogation of witnesses in any hearing until such time as each Member of the committee who so desires has had an opportunity to question each witness.

Investigative hearing procedures

(k) (1) The chairman at an investigative hearing shall announce in an opening statement the subject of the investigation.

(2) A copy of the committee rules and this clause shall be made available to each witness.

(3) Witnesses at investigative hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(4) The chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the committee may cite the offender to the House for contempt.

(5) Whenever it is asserted that the evidence or testimony at an investigatory hearing may tend to defame, degrade, or incriminate any person—

(A) such testimony or evidence shall be presented in executive session, notwithstanding the provisions of clause 2(g)(2) of this Rule, if by a majority of those present, there being in attendance the requisite number required under the rules of the committee to be present for the purpose of taking testimony, the committee determines that such evidence or testimony may tend to defame, degrade, or incriminate any person; and

(B) the committee shall proceed to receive such testimony in open session only if a majority of the members of the committee, a majority being present, determine that such evidence or testimony will not tend to defame, degrade, or incriminate any person.

In either case the committee shall afford such person an opportunity voluntarily to appear as a witness; and receive and dispose of requests from such person to subpoena additional witnesses.

(6) Except as provided in subparagraph (5), the chairman shall receive and the committee shall dispose of requests to subpoena additional witnesses.

(7) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the committee.

(8) In the discretion of the committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The committee is the sole judge of the pertinency of testimony and evidence adduced at its hearing.

(9) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the committee.

Committee procedures for reporting bills and resolutions

(l) (1) (A) It shall be the duty of the chairman of each committee (except as provided in subdivision (C)) to report or cause to be reported promptly to the House any measure approved by the committee and to take or cause to be taken necessary steps to bring the matter to a vote.

(B) In any event, the report of any committee on a measure which has been approved by the committee shall be filed within seven calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the clerk of the committee a written request, signed by a majority of the members of the committee, for the reporting of that measure. Upon the filing of any such request, the clerk of the committee shall transmit immediately to the chairman of the committee notice of the filing of that request. This subdivision does not apply to the reporting of a regular appropriation bill by the Committee on Appropriations prior to compliance with subdivision (C) and does not apply to a report of the Committee on Rules with respect to the rules, joint rules, or order of business of the House or to the reporting of a resolution of inquiry addressed to the head of an executive department.

(C) Before reporting the first regular appropriation bill for each fiscal year, the Committee on Appropriations shall, to the extent practicable and in accordance with section 307 of the Congressional Budget Act of 1974, complete subcommittee markup and full committee action on all regular appropriation bills for that year and submit to the House a summary report comparing the committee's recommendations with the appropriate levels of budget outlays and new budget authority as set forth in the most recently agreed to current resolution on the budget for that year.

(2)(A) No measure or recommendation shall be reported from any committee unless a majority of the committee was actually present.

(B) With respect to each rollcall vote on a motion to report any bill or resolution of a public character, the total number of votes cast for, and the total number of votes cast against, the reporting of such bill or resolution shall be included in the committee report.

(3) The report of any committee on a measure which has been approved by the committee (A) shall include the oversight findings and recommendations required pursuant to clause 2(b)(1) of Rule X separately set out and clearly identified: (B) the statement required by section 308(a) of the Congressional Budget Act of 1974, separately set out and clearly identified, if the measure provides new budget authority or new or increased tax expenditures: (C) the estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of such Act, separately set out and clearly identified, whenever the Director (if timely submitted prior to the filing of the report) has submitted such estimate and comparison to the committee; and (D) a summary of the oversight findings and recommendations made by the Committee on Government Operations under clause 4(c)(2) of Rule X separately set out and clearly identified whenever such findings and recommendations have been submitted to the legislative committee in a timely fashion to allow an opportunity to consider such findings and recommendations during the committee's deliberations on the measure.

(4) Each report of a committee on each bill or joint resolution of a public character reported by such committee shall contain a detailed analytical statement as to whether the enactment of such bill or joint resolution into law may have an inflationary impact on prices and costs in the operation of the national economy.

(5) If, at the time of approval of any measure or matter by any committee, other than the Committee on Rules, any member of the committee gives notice of intention to file supplemental, minority, or additional views, that member shall be entitled to not less than three calendar days (excluding Saturdays, Sundays, and legal holidays) in which to file such views, in writing and signed by that member, with the clerk of the committee. All such views so filed by one or more members of the committee shall be included within, and shall be a part of, the report filed by the Committee with respect to that measure or matter. The report of the committee upon that measure or matter shall be printed in a single volume which—

(A) Shall include all supplemental, minority, or additional views which have been submitted by the time of the filing of the report, and

(B) Shall bear upon its cover a recital that any such supplemental, minority, or additional views (and any material submitted under subdivisions (C) and (D) of subparagraph (3) are included as part of the report.

This subparagraph does not preclude—

(i) The immediate filing or printing of a committee report unless timely request for the opportunity to file supplemental, minority, or additional views has been made as provided by this subparagraph; or

(ii) The filing by any such committee of any supplemental report upon any measure or matter which may be required for the correction of any technical error in a previous report made by that committee upon that measure or matter.

(6) A measure or matter reported by any committee (except the Committee on Rules in the case of a resolution making in order the consideration of a bill, resolution, or other order of business), shall not be considered in the House until the third calendar day (or the tenth calendar day in the case of a concurrent resolution on the budget), excluding Saturdays, Sundays, and legal holidays, on which the report of that committee upon that measure or matter has been available to the Members of the House. Nor shall it be in order to consider any measure or matter reported by any committee (except the Committee on Rules in the case of a resolution making in order the consideration of a bill, resolution, or other order of business, or any other committee in the case of a privileged resolution), unless copies of such report and the reported measure or matter have been available to the Members for at least 3 calendar days, excluding Saturdays, Sundays, and legal holidays during which the House is not in session before the beginning of such consideration: *Provided, however,* That it shall always be in order to call up for consideration, notwithstanding the provisions of clause 4(b), rule XI, a report from the Committee on Rules specifically providing for the consideration of a reported measure or matter notwithstanding this restriction. If hearings have been held on any such measure or matter so reported, the committee reporting the measure or matter shall make every reasonable effort to have such hearings printed and available for distribution to the Members of the House prior to the consideration of such measure or matter in the House. This subparagraph shall not apply to—

(A) Any measure for the declaration of war, or the declaration of a national emergency, by the Congress; or

(B) Any executive decision, determination, or action which would become, or continue to be, effective unless disapproved or otherwise invalidated by one or both Houses of Congress.

(7) If, within seven calendar days after a measure has, by resolution, been made in order for consideration by the House, no motion has been offered that the House consider that measure, any member of the committee which reported that measure may be recognized in the discretion of the Speaker to offer a motion that the House shall consider that measure, if that committee has duly authorized that member to offer that motion.

Power to sit and act; subpoena power

(m)(1) For the purpose of carrying out any of its functions and duties under this rule and Rule X (including any matters referred to it under clause 5 of Rule X), any committee, or any subcommittee thereof, is authorized (subject to subparagraph (2)(A) of this paragraph)—

(A) To sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, and to hold such hearings, and

(B) To require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as it deems necessary. The chairman of the committee, or any member designated by such chairman, may administer oaths to any witness.

(2) (A) A subpoena may be authorized and issued by a committee or subcommittee under subparagraph (1)(B) in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present. The power to authorize and issue subpoenas under subparagraph (1)(B) may be delegated to the chairman of the committee pursuant to such rules and under such limitations as the committee may prescribe. Authorized subpoenas shall be signed by the chairman of the committee or by any member designated by the committee.

(B) Compliance with any subpoena issued by a committee or subcommittee under subparagraph (1)(B) in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present. The power to authorize and issue subpoenas under subparagraph (1)(B) may be delegated to the chairman of the committee pursuant to such rules and under such limitations as the committee may prescribe. Authorized subpoenas shall be signed by the chairman of the committee or by any member designated by the committee.

(C) Compliance with any subpoena issued by a committee or subcommittee under subparagraph (1)(B) may be enforced as authorized or directed by the House.

Use of committee funds for travel

(n)(1) Funds authorized for a committee under clause 5 are for expenses incurred in the committee's activities; however, local currencies owned by the United States shall be made available to the committee and its employees engaged in carrying out their official duties outside the United States, its territories or possessions. No appropriated funds, including those authorized under clause 5, shall be expended for the purpose of defraying expenses of members of the committee or its employees in any country where local currencies are available for this purpose; and the following conditions shall apply with respect to travel outside the United States or its territories or possessions:

(A) No Member or employee of the committee shall receive or expend local currencies for subsistence in any country for any day at a rate in excess of the maximum per diem set forth in applicable Federal law, or if the Member or employee is reimbursed for any expenses for such day, then the lesser of the per diem or the actual, unreimbursed expenses (other than for transportation) incurred by the Member or employee during that day.

(B) Each member or employee of the committee shall make to the chairman of the committee an itemized report showing the dates each country was visited, the amount of per diem furnished, the cost of transportation furnished, any funds expended for any other official purpose and shall summarize in these categories the total foreign currencies and/or appropriated funds expended. All such individual reports shall be filed no later than sixty days following the completion of travel with the chairman of the committee for use in complying with reporting requirements in applicable Federal law and shall be open for public inspection.

(2) In carrying out the committee's activities outside the United States in any country where local currencies are unavailable, a Member or employee of the committee may not receive reimbursement for expenses (other than for transportation) in excess of the maximum per diem set forth in applicable Federal law, or if the Member or employee is reimbursed for any expenses for such day, then the lesser of the per diem or the actual, unreimbursed expenses (other than for transportation) incurred, by the Member or employee during any day.

(3) A Member or employee of a committee may not receive reimbursement for the cost of any transportation in connection with travel outside of the United States unless the Member or employee has actually paid for the transportation.

(4) The restrictions respecting travel outside of the United States set forth in subparagraphs (2) and (3) shall also apply to travel outside of the United States by Members, officers, and employees of the House authorized under clause 8 of rule I, clause I(b) of this rule, or any other provision of these Rules of the House of Representatives.

(5) No local currencies owned by the United States may be made available under this paragraph for the use outside of the United States for defraying the expenses of a Member of any committee after—

(A) the date of the general election of Members in which the Member has not been elected by the succeeding Congress; or

(B) in the case of a Member who is not a candidate in such general election, the earlier of the date of such general election, the earlier of the date of such general election or the adjournment sine die of the last regular session of the Congress.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Traxler (at the request of Mr. Wright), for today, on account of hospitalization.

Mr. Buchanan (at the request of Mr. Rhodes), for today, and the balance of the week on account of participation as a delegate to the Human Rights Commission meeting in Geneva.

Mr. Andrews of North Dakota (at the request of Mr. Rhodes), for March 8, 1979, on account of official business.

Mr. Lehman (at the request of Mr. Wright), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Deckard) to revise and extend their remarks and include extraneous material:)

Mr. Kemp, for 10 minutes, today.

Mr. Miller of Ohio, for 5 minutes, today.

(The following Members (at the request of Mr. Mica) to revise and extend their remarks and include extraneous material:)

Mr. Rangel, for 15 minutes, today.

Mr. Pepper, for 15 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Andrews of North Carolina, for 5 minutes, today.

Mr. Fascell, for 5 minutes, today.

Mr. Rodino, for 5 minutes, today.

Mr. Alexander, for 5 minutes, today.

Mr. Brooks, for 5 minutes, today.

Mr. Vanik, for 5 minutes, today.

Mr. Murphy of New York, for 60 minutes, on March 8.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Danielson, to extend his remarks in the Extensions of Remarks today.

(The following Members (at the request of Mr. Deckard) and to include extraneous matter:)

Mr. Mitchell of New York.

Mr. Shuster.

Mr. Sawyer.

Mr. McCloskey.

Mr. Michel in two instances.

Mr. Brown of Ohio in two instances.

Mr. Paul in two instances.

Mr. Gingrich.

Mr. Broyhill.

Mr. Pritchard.

Mr. O'Brien.

Mr. Quayle.

Mr. Abdnor in three instances.

Mr. Kelly.

Mr. Johnson of Colorado in two instances.

Mr. Symms in two instances.

(The following Members (at the request of Mr. Mica) and to include extraneous matter:)

Mr. Murphy of Illinois.

Mr. Pease in two instances.

Mr. Kogovsek.

Mr. McCormack.

Mr. Waxman in three instances.

Mr. Florio in two instances.

Mr. Heftel.

Mr. Brooks in two instances.

Mr. Richmond.

Mr. St Germain.

Mr. Applegate.

Mr. Gramm.

Mr. Ertel.

Mr. Harris.

Mr. Flippo.

Mr. Rodino in two instances.

Mr. Udall.

Mr. Carr.

Mr. Miller of California.

Mr. Ashley in two instances.

Ms. Mikulski.

Mr. Nolan.

Mr. Alexander.

Mr. Thompson.

Mr. Gonzalez in three instances.

Mr. Anderson of California in three instances.

Mr. Mattox.

ADJOURNMENT

Mr. MICA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 11 minutes p.m.), the House adjourned until tomorrow, Thursday, March 8, 1979, at 11 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

860. A communication from the President of the United States, transmitting a draft of proposed legislation to authorize appropriations under the Arms Control and Disarmament Act for the fiscal year 1980, and for other purposes (H. Doc. No. 96-69); to the Committee on Foreign Affairs and ordered to be printed.

861. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report that various appropriations have been apportioned on a basis which indicates a need for supplemental appropriations for fiscal year 1979, in order to permit payment of pay increases, pursuant to section 3679(e)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

862. A letter from the Acting Secretary of the Treasury, transmitting a draft of proposed legislation to provide for increased participation by the United States in the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund; to the Committee on Banking, Finance and Urban Affairs.

863. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee and insurance transactions supported by Eximbank to Communist countries during January 1979; to the Committee on Banking, Finance and Urban Affairs.

864. A letter from the Assistant Secretary of State for Congressional Relations, transmitting reports on political contributions made by Ambassadors-designate John Prior Lewis and Francis J. Meehan, and by members of their families, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

865. A letter from the Chairman, Federal Communications Commission, transmitting a report on the Commission's activities under the Freedom of Information Act during calendar year 1978, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

866. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting a report on the Commission's activities under the Freedom of Information Act during calendar year 1978, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

867. A letter from the Director of the Office of Administration, Nuclear Regulatory Commission, transmitting a report on the Commission's activities under the Freedom of Information Act during calendar year 1978, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

868. A letter from the vice president, Panama Canal Company, transmitting a report on the Company's activities under the Freedom of Information Act during calendar year 1978, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

869. A letter from the executive director, Committee for Purchase from the Blind and other Severely Handicapped, transmitting a report on the Committee's activities under the Freedom of Information Act during calendar year 1978, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

870. A letter from the Under Secretary of State for Management, transmitting notice of a proposed change in an existing records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

871. A letter from the Administrator, National Credit Union Administration, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

872. A letter from the Secretary of the Interior, transmitting notice of various proposed refunds and credits associated with the Baltimore Canyon Outer Continental Shelf lease Sale No. 40, pursuant to section 10(b) of the Outer Continental Shelf Lands Act, as amended; to the Committee on Interior and Insular Affairs.

873. A letter from the Secretary of Health, Education and Welfare, transmitting notice of a delay until mid-December 1979, of a study of chiropractic education programs required by section 903 of Public Law 94-484 to be submitted by April 1, 1979; to the Committee on Interstate and Foreign Commerce.

874. A letter from the Secretary of Health, Education, and Welfare, transmitting the sixth annual report of the National Heart, Lung, and Blood Advisory Council, pursuant to section 418(b)(2) of the Public Health Service Act, as amended; to the Committee on Interstate and Foreign Commerce.

875. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for 3 additional years and for other purposes; to the Committee on Interstate and Foreign Commerce.

876. A letter from the Chairman, Marine Mammal Commission, transmitting the sixth annual report of the Commission, covering calendar year 1978, pursuant to section 204 of Public Law 92-522; to the Committee on Merchant Marine and Fisheries.

877. A letter from the Director, Office of Personnel Management, transmitting a draft of proposed legislation to amend the Retired Federal Employees Health Benefits Act, as amended, with respect to the Government contribution toward subscription charge; to the Committee on Post Office and Civil Service.

878. A letter from the Secretary of Energy, transmitting the Department's recommendations on the need for further assistance payments under the Atomic Energy Community Act of 1955 to the cities of Oak Ridge, Tenn., and Richland, Wash., and to the Richland School District, pursuant to section 91.d. [sic] of the act; to the Committee on Science and Technology.

879. A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend section 101 of title 38, United States Code, to limit the recognition of persons as legally adopted children of a veteran if adopted through courts in foreign countries; to the Committee on Veterans' Affairs.

880. A letter from the mayor of the District of Columbia, transmitting his response to the Comptroller General's report (GGD-78-16) entitled "Activities of Special Police and Guard Forces in the District of Columbia Can Be Improved," pursuant to section 736 (b)(3) of Public Law 93-198; jointly, to the Committees on the District of Columbia, and Government Operations.

881. A letter from the Comptroller General of the United States, transmitting a report on hospice care in the United States (HRD-79-50, March 6, 1979); jointly, to the Committees on Government Operations, Education and Labor, Interstate and Foreign Commerce, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DODD: Committee on Rules. House Resolution 148. Resolution providing for the consideration of the bill (H.R. 2479) to help maintain peace in the Western Pacific and to promote continued extensive, close, and friendly relations between the people of the United States and the people on Taiwan (Rept. No. 96-30). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ABDNOR:

H.R. 2674. A bill pertaining to the inheritance of trust or restricted land on the Standing Rock Sioux Reservation, N. Dak. and S. Dak.; to the Committee on Interior and Insular Affairs.

H.R. 2675. A bill to amend title 38 of the United States Code to require that veterans receiving care from the Veterans' Administration for non-service-connected disabilities be charged for such care to the extent that they have health insurance or similar contracts or rights with respect to such care, or have entitlement to private medical care under workers' compensation or automobile accident reparation statutes of any State, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. AMBRO (for himself, Mr. Walker, Mr. Brown of California, Mr. Ritter, Mr. Blanchard, Mr. Forsythe, and Mr. Lundine):

H.R. 2676. A bill to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1980, and for other purposes; to the Committee on Science and Technology.

By Mr. BROWN of Ohio:

H.R. 2677. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to food additives; to the Committee on Interstate and Foreign Commerce.

By Mr. CLAUSEN (for himself, Mr. Lagomarsino, and Mr. Won Pat):

H.R. 2678. A bill to authorize the enlistment of citizens of the Northern Mariana Islands in the Armed Forces of the United States of America; to the Committee on Armed Services.

By Mr. CORCORAN:

H.R. 2679. A bill to provide for congressional review of proposed changes in postal services; to the Committee on Post Office and Civil Service.

By Mr. COTTER:

H.R. 2680. A bill to provide for reimbursement through the Federal Disability Insurance Trust Fund to private physicians for services in supplying medical evidence of record needed to evaluate claims for social security disability benefits under title II of the Social Security Act; to the Committee on Ways and Means.

By Mr. COELHO:

H.R. 2681. A bill to name the Veterans' Administration-University of California, San Francisco School of Medicine medical education building to be located on the grounds of the Veterans Administration Hospital, Fresno, Calif., the "Milo E. Rowell Medical Education Building"; to the Committee on Veterans' Affairs.

By Mr. COTTER:

H.R. 2682. A bill to authorize the Secretary of Health, Education, and Welfare to establish a grant program designed to develop methods of prevention and treatment relating to domestic violence, and for other purposes; jointly, to the Committees on Education and Labor, Interstate and Foreign Commerce, and the Judiciary.

By Mr. DOWNEY:

H.R. 2683. A bill to reform electric energy ratemaking, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DOWNEY (for himself and Mr. Rangel):

H.R. 2684. A bill to amend title IV of the Social Security Act to provide for periodic case review of children placed in foster care and to allow Federal financial participation for an AFDC child in foster care after such a review has made of such child; to the Committee on Ways and Means.

By Mr. EMERY:

H.R. 2685. A bill to modify the project at Royal River, Yarmouth, Maine, and relating to the Federal share of the maintenance costs of the project; to the Committee on Public Works and Transportation.

By Mr. FLIPPO (for himself, Mr. Bevill, Mr. Jenkins, Mr. Bowen, Mr. Montgomery, Mr. Wampler, Mr. Beard of Tennessee, Mr. Boner, Ms. Bouquard, Mr. Duncan of Tennessee, Mr. Ford of Tennessee, Mr. Jones of Tennessee, Mr. Quillen, and Mr. Johnson of California):

H.R. 2686. A bill to amend section 15d of the Tennessee Valley Authority Act of 1933 to increase the amount of bonds which may be issued by the Tennessee Valley Authority; to the Committee on Public Works and Transportation.

By Mr. HARSHA:

H.R. 2687. A bill to eliminate the reduction in social security benefits for spouses and surviving spouses receiving certain Government pensions, as recently added to title II of the Social Security Act by section 334 of the Social Security Amendments of 1977; to the Committee on Ways and Means.

By Mr. HARSHA (for himself and Mr. Johnson of California):

H.R. 2688. A bill to amend the Internal Revenue Code of 1954 to reduce the rates of excise taxes on transportation by air; to the Committee on Ways and Means.

By Mr. HEFNER:

H.R. 2689. A bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for certain services performed by chiropractors; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. HUCKABY (for himself, Mr. Breaux, Mr. Livingston, Mr. Long of Louisiana, and Mrs. Boggs):

H.R. 2690. A bill to designate certain lands within the Kisatchie National Forest in Louisiana as wilderness, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MOAKLEY (for himself, Mr. Brodhead, Mr. Rodino, Mr. Drinan, Mr. Evans of Delaware, Mr. Ottinger, Mr. Zeferetti, Mr. Findley, Mr. Howard, Mr. Solarz, Mr. Conte, Mrs. Heckler, Mr. Hughes, Mr. Mitchell of Maryland, Mr. Markey, Mr. Lujan, Mr. Bonior, Mr. Pickle, Mr. Murphy of Pennsylvania, and Mr. Shannon):

H.R. 2691. A bill to amend title XVIII of the Social Security Act to permit payment under the medicare program for certain types of foot care; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. MOORE (for himself and Mr. Gibbons):

H.R. 2692. A bill to repeal the carryover basis provisions added by the Tax Reform Act of 1976; to the Committee on Ways and Means.

By Mr. PEASE (for himself and Mr. Pritchard):

H.R. 2693. A bill to amend the Internal Revenue Code of 1954 to provide for a deduction paid into a reserve for product liability losses and expenses, to provide a deduction for certain amounts paid to captive insurers, and for other purposes; to the Committee on Ways and Means.

By Mr. PEPPER:

H.R. 2694. A bill to eliminate the mandatory retirement age for certain members of the Foreign Service Retirement System; to the Committee on Foreign Affairs.

H.R. 2695. A bill to amend the Internal Revenue Code of 1954 to provide individuals a refundable credit against income tax for maintaining a household a member of which is an individual who has attained the age of 65; to the Committee on Ways and Means.

By Mr. PERKINS:

H.R. 2696. A bill to amend the Railroad Retirement Act of 1974 to reduce the minimum age requirements for retirement to age

55 in certain cases, to make corresponding changes in the age requirements for spouses' benefits, and to make the new requirements apply to all spouses' annuities without regard to the date the relevant employees retired; to the Committee on Interstate and Foreign Commerce.

By Mr. PERKINS (for himself, Mr. Ashley, and Mr. Slack):

H.R. 2697. A bill to amend the Clean Air Act; to the Committee on Interstate and Foreign Commerce.

By Mr. ROBERTS:

H.R. 2698. A bill to amend the State and Local Fiscal Assistance Act of 1972 to terminate the State government share of funds allocated to the States beginning with fiscal year 1980; to the Committee on Government Operations.

By Mr. RODINO:

H.R. 2699. A bill to amend title 28 of the United States Code to encourage prompt, informal, and inexpensive resolution of civil cases in U.S. district courts by the use of arbitration, and for other purposes; to the Committee on the Judiciary.

H.R. 2700. A bill to improve the administration of justice by providing greater discretion to the Supreme Court in selecting the cases it will review and for other purposes; to the Committee on the Judiciary.

By Mr. ROSE:

H.R. 2701. A bill to establish an administrative procedure and guidelines to be followed by the Department of the Interior in its decision to acknowledge the existence of certain Indian tribes; to the Committee on Interior and Insular Affairs.

By Mr. SEIBERLING:

H.R. 2702. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for any contribution, bequest, or gift to the United Nations; to the Committee on Ways and Means.

By Mr. SHANNON:

H.R. 2703. A bill to provide duty-free treatment to certain dyeing and tanning materials; to the Committee on Ways and Means.

By Mr. SKELTON (for himself, Mr. Brinkley, Mr. Mitchell of New York, and Mrs. Holt):

H.R. 2704. A bill to amend the Federal Civil Defense Act of 1950, to provide for an enhanced civil defense program for fiscal years 1980 through 1986, and for other purposes; to the Committee on Armed Services.

By Mr. SOLARZ (for himself, Mr. AuCoin, Mr. Leland, Mr. McHugh, Mr. Pease, and Mr. Simon):

H.R. 2705. A bill to amend the Agricultural Trade Development and Assistance Act of 1954 to encourage self-reliance in developing countries; to the Committee on Foreign Affairs.

By Mr. RAILSBACK:

H.R. 2706. A bill to amend the copyright law, title 17 of the United States Code, to provide for protection of ornamental designs of useful articles; to the Committee on the Judiciary.

By Mr. WEAVER:

H.R. 2707. A bill to amend the workers compensation-social security title II offset provisions; to the Committee on Ways and Means.

By Mr. CHARLES WILSON of Texas:

H.R. 2708. A bill to amend the State and Local Fiscal Assistance Act of 1972 to terminate the State government share of funds allocated to the States beginning with fiscal year 1980; to the Committee on Government Operations.

By Mr. YATRON:

H.R. 2709. A bill to amend the Railroad Retirement Act of 1974 to eliminate the reduction of railroad retirement annuities by amounts payable as social security benefits in cases of persons who had current connections with the railroad industry, had at least 5 years of service, and had attained the age of 65 as of the effective date of such act; to the Committee on Interstate and Foreign Commerce.

By Mr. YOUNG of Alaska:

H.R. 2710. A bill for the relief of the city of Nenana, Alaska; to the Committee on Interior and Insular Affairs.

By Mr. COLLINS of Texas:

H.J. Res. 243. A joint resolution authorizing the President to proclaim October 6, 1979, as "Children's Day"; to the Committee on Post Office and Civil Service.

By Mr. PASHAYAN:

H. Con. Res. 68. A concurrent resolution expressing the sense of the Congress with respect to the United Nations Report on Genocide; to the Committee on Foreign Affairs.

By Mr. DRINAN (for himself, Mr. Giaimo, Mr. Won Pat, Mr. Pepper, Mr. Lehman, Mr. Waxman, Mr. Long of Maryland, Mr. Dixon, Mr. Ambro, Mr. Neal, Mr. Philip M. Crane, Mr. Rosenthal, Mrs. Schroeder, Mr. Donnelly, Mr. Lent, and Mrs. Heckler):

H. Res. 149. Resolution expressing the sense of the House regarding an alternate site outside the Soviet Union for the 1980 summer Olympic games, and for other purposes; to the Committee on Foreign Affairs.

By Mr. REUSS:

H. Res. 150. Resolution authorizing the printing as a House document of the committee print entitled "Proposition 13: Prelude to Fiscal Crisis or New Opportunities?"; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII:

57. The SPEAKER presented a memorial of the Legislature of the State of Utah, requesting that Congress propose, or call a convention for the specific and exclusive purpose of proposing, an amendment to the Constitution of the United States to require a balanced Federal budget in the absence of a national emergency; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BREAUX:

H.R. 2711. A bill for the relief of Fulton Battise, Chief of the Tribal Council of the Alabama Coushatta Tribes of Texas and Ernest Sickey, Chairman of the Tribal Council of the Coushatta Tribe of Louisiana, and all other enrolled members of the Alabama Coushatta Tribes of Texas and the Coushatta Tribe of Louisiana, respectively; to the Committee on the Judiciary.

H.R. 2712. A bill for the relief of David Jerem; to the Committee on the Judiciary.

H.R. 2713. A bill for the relief of M. Sgt. Francis H. Comeaux; to the Committee on the Judiciary.

H.R. 2714. A bill for the relief of Dorethea Margaret Hernandez Boquer; to the Committee on the Judiciary.

H.R. 2715. A bill for the relief of Hikmat Koussa; to the Committee on the Judiciary.

By Mr. DORNAN:

H.R. 2716. A bill for the relief of Nathan Avineri; to the Committee on the Judiciary.

H.R. 2717. A bill for the relief of Claire Hamada Bach; to the Committee on the Judiciary.

H.R. 2718. A bill for the relief of Dr. Theodore A. Geissman; to the Committee on the Judiciary.

H.R. 2719. A bill for the relief of Pranas Brazinskas; to the Committee on the Judiciary.

H.R. 2720. A bill for the relief of Algirdas Brazinskas; to the Committee on the Judiciary.

By Mr. FISHER:

H.R. 2721. A bill for the relief of Harold F. Kenny; to the Committee on Interior and Insular Affairs.

By Mr. McCLORY:

H.R. 2722. A bill for the relief of Junior Edmund Moncrieffe; to the Committee on the Judiciary.

By Mr. TRIBLE:

H.R. 2723. A bill for the relief of Comdr. Joseph A. Siebel; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 23: Mr. Derwinski, Mr. Whitehurst, Mr. Beard of Tennessee, Mr. Fountain, Mr. McDonald, Mr. Neal, Mr. Whitley, Mr. Ichord, Mr. Gephardt, and Mr. Evans of Georgia.

H.R. 54: Mr. Kramer, Mr. Stump, Mr. Paul, Mr. Huckaby, Mr. Ichord, and Mr. Rousselot.

H.R. 211: Mr. Mitchell of Maryland, Mr. Richmond, Mr. Scheuer, Mr. Vento, Mr. Green, Mr. Rangel, Mr. Dellums, Mr. Roybal, Mr. Evans of the Virgin Islands, Ms. Mikulski, and Mr. Garcia.

H.R. 460: Mr. Zeferetti, Ms. Ferraro, Mr. Flippo, Mr. Bowen, Mr. Trible, Mr. Gingrich, and Mr. Coughlin.

H.R. 1309: Mr. Addabbo, Mr. Burgener, Mr. Corrada, Mr. Devine, Mr. Dornan, Mr. Fuqua, Mr. Hughes, Mr. LaFalce, Mr. Lagomarsino, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Murphy of Pennsylvania, Mr. Pepper, Mr. Wampler, and Mr. Charles Wilson of Texas.

H.R. 1320: Mr. Panetta, Mr. Evans of the Virgin Islands, Mr. Simon, and Mr. Cavanaugh.

H.R. 1437: Mr. McKinney, Mr. Mitchell of Maryland, Mr. Buchanan, Mr. Symms, and Mr. Gray.

H.R. 1666: Mr. Baldus, Mr. Buchanan, Mr. McHugh, Mr. Pritchard, Mr. Rahall, Mr. Rosenthal, Mr. Sabo, Mr. Seiberling, Mr. Vento, and Mr. Weiss.

H.R. 1744: Mr. Corrada, Mr. Madigan, Mr. Mikva, Mr. Mitchell of Maryland, Mr. Ottinger, Mr. Pepper, Mr. Rangel, Mrs. Spellman, Mr. Weaver, and Mr. Yatron.

H.R. 1969: Mr. Cheney, Mr. Young of Alaska, Mr. Kindness, Mr. Winn, Mr. Sawyer, Mr. Rousselot, Mr. Moorhead of California, Mr. Sensenbrenner, Mr. Grassley, Mr. Pritchard, Mr. Robinson, Mr. Rhodes, Mr. Madigan, Mr. Kelly, Mr. Butler, and Mr. Andrews of North Dakota.

H.R. 1977: Mr. Clay, Mr. Mottl, Mr. Roe, Mr. Wolff, Mr. Kindness, Mr. Vento, Mr. Ambro, Mr. Harsha, Mr. Rahall, Mr. Seiberling, Mrs. Holt, Mr. Bedell, Mr. McHugh, Mr. Wolpe, Mrs. Schroeder, Mr. Gaydos, Mr. Akaka, Mr. Edgar, Mrs. Spellman, and Mr. Williams of Montana.

H.R. 2157: Mr. Jenkins, Mr. Edwards of Alabama, and Mr. Perkins.

H.R. 2158: Mr. Edwards of Alabama, and Mr. Perkins.

H.R. 2623: Mr. John L. Burton.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

74. By Mrs. SCHROEDER: Petition of the city and county council of Denver, Colo., relative to declaring January 15 as an annual national holiday honoring Dr. Martin Luther King, Jr.; to the Committee on Post Office and Civil Service.

75. By the SPEAKER: Petition of Richard

W. Rylander, Sr., Sacramento, Calif., relative to redress of grievances; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2479

By Mr. QUAYLE:

Page 5, strike out line 1 and all that follows through line 17 on page 6 and insert in lieu thereof the following:

MAINTENANCE OF RELATIONS THROUGH LIAISON OFFICES

SEC. 202. (a) Except as the President may otherwise provide with respect to those types of dealings which are not normally conducted through diplomatic or other official missions—

(1) dealings of the United States Government with Taiwan shall be conducted through a United States Liaison Office on Taiwan; and

(2) dealings of Taiwan with the United States Government shall be conducted through a Taiwan Liaison Office in the United States.

(b) Upon the granting by Taiwan of comparable privileges and immunities to the United States Liaison Office on Taiwan and its personnel, the President is authorized to extend to the Taiwan Liaison Office in the United States, and its personnel, privileges and immunities (subject to corresponding conditions and obligations) comparable to those extended by the United States to accredited diplomatic missions of foreign countries, and the members of such missions.

Page 6, strike out line 18 and all that follows through line 4 on page 10 and redesignate sections 205, 206, and 207 as sections 203, 204, and 205, respectively.

SENATE—*Wednesday, March 7, 1979*

(Legislative day of Thursday, February 22, 1979)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. GAYLORD NELSON, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray:

God of man and nations, in the depths of Thy fatherhood all men are conceived in love and born to be brothers. Look upon the diverse nations of this world—some in freedom, some in anguish, some in war, some in ecstasy. May all men and all nations combine as seekers of peace and pray, "Thy will be done on Earth as it is in heaven." Grant to the President and those with whom he confers special gifts of wisdom and grace as they strive for peace in the land once called holy. Order their work and our work according to Thy will and purpose. In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 7, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable GAYLORD NELSON, a Senator from the State of Wisconsin, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. NELSON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The PRESIDING OFFICER (Mr. BAUCUS). The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield briefly to the distinguished Senator from Wisconsin (Mr. NELSON).

DEATH OF ARTHUR KUHL

Mr. NELSON. Mr. President, on Monday, February 19, the Senate suffered the loss of one of its most loyal servants. Art Kuhl, Assistant Secretary of the Senate, was stricken while attempting to reach the Capitol after more than 20 inches of snow had fallen the night before. It was typical of Art that he would think of duty first rather than his personal comfort or convenience.

Art was born in St. Martin, Minn., on July 2, 1924, and soon after, his family moved to Montana where they settled initially in Plevna, then Baker, Deer Lodge, and finally the capital city of Helena. During his early years, Art developed a love affair with Montana which never waned. He would return at every opportunity to fish and hunt, or just visit his family and friends.

Early in World War II, Art enlisted in the Army and entered service on February 8, 1943. He volunteered for airborne duty and after completion of jump school was assigned to Battery A, 457th Parachute Field Artillery Battalion where he served as a gunner corporal during the battles of New Guinea, the southern Philippines, and Luzon. He was discharged on January 18, 1946, and returned to Montana to continue his education at Carroll College in Helena.

Later he came to Washington to attend the Georgetown Foreign Service School and subsequently graduated from George Washington University with a B.A. in government in 1951. He earned his law degree from George Washington in 1954.

From 1953–54, he worked in the office of the late Senator James Murray of Montana. From June 1954 to March 1955, he was chief clerk of the Committee on Labor and Public Welfare and later became an investigator for that committee. In 1956, he was a professional staff member of the Committee on Interior and Insular Affairs. These positions were followed by assignment as chief clerk of a special committee to study foreign aid programs. From August 1958 to March 1977, he served first as a staff member of the Senate Committee on Foreign Relations, later as assistant chief clerk, and finally chief clerk of that important committee. In April 1977, he was appointed Assistant Secretary of the Senate and served in that capacity until his death.

Art Kuhl was in every respect a man—a professional man, a sportsman, a Senate man, but, above all, a gentle man. He was a person dedicated to improving the structure of this institution and maintaining the dignity of the term "professional staff." His firm commitment to what he believed was right, coupled with an inexhaustible supply of patience and understanding of both Senators and staff, made him a source of invaluable advice on legislative and procedural matters within the Senate.

If there is any meaning to modesty, Art Kuhl, as much as any other man, was entitled to that descriptive term. He was a selfless individual whose kindliness, courtesy, sincerity, integrity, and sympathetic understanding was known to all Members of this body on both sides of the aisle who served with him.

Whether hunting geese on Maryland's Eastern Shore, leading a pack horse into wilderness areas in Montana or Wyoming, fishing for salmon in Alaska, shooting quail and wild turkey in Florida, or casting a fly rod in Labrador, Art Kuhl was in his natural element, free, unfettered, and relaxed.

Along with his many friends, my wife, Carrie Lee, and I will miss him. We offer our sincere condolences to his sisters and brothers and other members of his family.

Mr. President, I yield the floor to the majority leader.

RECOGNITION OF LEADERSHIP

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. I thank the Chair.

PRESIDENT CARTER'S TRIP TO EGYPT AND ISRAEL

Mr. BAKER. Mr. President, this evening I understand the President of the United States will travel from Andrews Air Force Base to Cairo in his effort to conclude the negotiations for a treaty of peace between Egypt and Israel.

The President and I have disagreed on many elements of his foreign policy, and I have from time to time felt compelled to criticize him. I may do that again in the future.

But I rise now, Mr. President, to say that I commend the President for his continuing effort in this respect, for his diligence, perseverance, and initiative. I believe there is a chance for peace. I think the President's negotiating efforts and initiative are appropriate to the circumstances and, indeed, should be supported by all of us.

Few things are more important to the peace of the world and offer so much prospect for an improved economic situation for the United States than stability in the Middle East.

Therefore, Mr. President, I wish to take this opportunity to commend the President for his effort and to wish him well at the beginning of his voyage.

Mr. President, I reserve the remainder of my time under the standing order if that does not discommode the majority leader in his schedule.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, what is the order for the recognition of Senators, please?

The PRESIDING OFFICER. There is an order for the senior Senator from Arkansas (Mr. BUMPERS) for 15 minutes; the junior Senator from Massachusetts (Mr. TSONGAS) for 15 minutes; and the majority leader for 15 minutes, and then morning business.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I am ready to yield back my time if the minority leader wishes to do so.

Mr. BAKER. Mr. President, I have a request from the distinguished Senator from Arizona (Mr. GOLDWATER) for time this morning. I note that the scedule of business today provides for time for the transaction of morning business. I ask the majority leader if he would foresee any difficulty in trying to provide 10 minutes to the Senator from Arizona?

Mr. ROBERT C. BYRD. May I say to the distinguished Senator he may have 10 minutes of my order. I think I am the third to be recognized.

Mr. BAKER. That is very kind of the majority leader. That solves my problem, and I am prepared to yield back my time under the standing order.

Mr. ROBERT C. BYRD. I yield back my time.

SPECIAL ORDER

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas (Mr. BUMPERS) is recognized for not to exceed 15 minutes.

S. 553—EXTENSION OF TIME FOR CONGRESS TO CONSIDER ENERGY ACTIONS UNDER THE ENERGY POLICY AND CONSERVATION ACT

Mr. BUMPERS. Mr. President, I rise this morning to speak on a subject that has become increasingly important to me. It involves a trend by both the White House and the Department of Energy which, I think, is going to constitute, if it comes about, a very serious breach of faith by both the President and the Congress. It involves a policy decision which I frankly do not understand.

This morning I watched the "Today Show" and I heard that United, and maybe TWA, and one other airline had been canceling hundreds of flights because of a shortage of jet fuel.

We have been warned for some time that this shortage was impending, that the shortage of jet fuel was going to become acute.

A week ago last Friday this body considered the Department of Energy's proposal to deregulate the price of jet fuel. At that time I said, and I want to repeat it now, that jet fuel was selling for 13 cents a gallon in 1973 at the time of the Arab oil embargo, and 10 days ago on that Friday afternoon when the Senate took a vote and decided to approve the President's proposal to deregulate jet fuel, it was selling for 40 cents, almost, which constitutes a quadrupling of price in 4 years.

Now the argument has been made that if we are going to have an adequate supply of jet fuel, as well as all other petroleum products, we have to deregulate the price. Nobody suggests just how the deregulation of jet fuel, after prices have already quadrupled, was going to produce more jet fuel, but we accepted it. I spoke against it. I voted against it. I was sorry we did not have more time to debate it.

A little over 2 years ago the administration sent a proposal to this body to deregulate the price of home heating oil, and those same tired arguments were made then. The junior Senator from Massachusetts is in the Chamber. His State depends on home heating oil. My State heats its homes with natural gas, but in New England, as well as other parts of the country, they use home heating oil; and he knows that 2 years ago, when the price of home heating oil was deregulated, everybody said the only way to guarantee an adequate supply was to deregulate the price. The Senate bought that argument then, just as it bought it 10 days ago on the subject of jet fuel.

What has happened to the price of home heating oil since we deregulated the price? The price has gone from 40 cents to 72 and 73 cents a gallon in some parts of New England.

Yet, the shortage is more acute now than it was when the price was deregulated. And I will make you a prediction, Mr. President, that the same thing is going to happen with jet fuel. We are going to see an even more exorbitant escalation of prices of jet fuel, and we will see the same kind of shortages continue; and 2 years from now the shortages will still exist. The only difference is, airline fares will be up 40 to 50 percent.

The reason for this shortage accompanied by increasing prices is that this body has acted irresponsibly in approving deregulation of prices when there is absolutely no sensible or reasonable rationale for it.

This brings me to my point, Mr. President. The Secretary of Energy, Mr. Schlesinger, whom I have defended many times on this floor and many times in the Energy Committee, and the President, whom I have also defended at times when it was not too easy to do, are talking about deregulating the one final product that we get out of crude oil that is not yet deregulated. I have watched the Secretary of Energy on television, and almost every time he begins by saying that gasoline is going to cost a dollar a gallon. Even the President is now saying that gasoline is going to a dollar a gallon.

I cannot help but wonder where the controls on gasoline prices are now. Gasoline prices in my State, which have always been relatively cheap, are up 15 or 20 percent in the last 12 months. Where are the Department of Energy's controls on the price of gasoline now? I paid 84 cents a gallon for unleaded gasoline in Washington, D.C., last week; and I promise that every time the Secretary of Energy and the President say that gasoline is going to a dollar a gallon, the oil companies can hardly wait to get there. Every one of those statements is an assurance to them that DOE will turn its back when they start these exorbitant price increases.

As I said, I know of no convincing reason for it. I only know that the President's and the Secretary of Energy's continual talking about it will make it a self-fulfilling prophecy.

What has happened to the zeal to curb inflation? How can anyone talk about inflation being our No. 1 enemy and the energy crisis being the moral equivalent of war, and then simultaneously allow gasoline prices to rise to a dollar or a dollar and a half?

Mr. President, I wrote the President of the United States a fairly long, detailed, and objective letter last week. I said then, and I want to repeat it now, that we are headed toward the worst of two worlds: We are going to have $1.50 gasoline and rationing as well. The reason, as every economist in the country says, is that the demand for gasoline is price inelastic, which is an economist's way of saying that no matter the price of gasoline increases, the demand is constant.

Look at what has happened since 1973. Gasoline prices have now almost tripled in 4 years, and the demand is continuing to climb 3 percent a year. Not only is it wildly inflationary, but we are becoming an elitist in our solutions. We are going to ration gasoline by price, so only the affluent, the people who can afford it, will get it. The Energy Department admits that we are not going to curb gasoline consumption by price in this country, but they say the controls are so burdensome, and in a country which is absolutely in a frenzy about Government regulation the trend is to decontrol everything.

I am for decontrol, as a general rule, unless it amounts to an outrageous breach of faith with the American people, which is what the decontrol of gasoline prices amount to.

If we are going to deregulate all the refined products that come from crude oil—and gasoline is the only major product remaining to deregulate—then let us deregulate the price of crude, and make the oil companies of this country full-fledged partners in the OPEC cartel.

It does not make any sense to keep prices on crude oil regulated if we are not going to regulate the prices of the refined products that come out of it. That penalizes the producers and lets the refiners and marketers have all the profit, carte blanche.

Mr. President, I have never bought the argument that uncontrolled prices assure an abundant supply. I call the Senate's attention to the fact that the price of new crude oil, the product of one's present willingness to take the risk of finding new crude oil today, is within $1.50 of the OPEC price; within $1.50 a barrel of the price we have to pay the OPEC cartel. In 4 years the price on new domestic oil has gone from $3.40 on to about $13 per barrel. But despite this quadrupling of prices on new oil, production trends are steadily downward. Except for Alaskan oil, which was found 7 years before the OPEC embargo, the trend continues the same. With the quadrupling of domestic prices, the trend in production is down.

I have heard people ask, "Why is American oil not just as valuable as OPEC oil?" That is a simplistic question, which of course requires a simplistic answer. It is as valuable when it goes to putting it in an automobile. Yet any attorney who ever went to law school knows that the common law of this country has always prohibited unjust enrichment, and that is what we are talking about here: Unjust enrichment at the expense of the people who can least afford to pay.

A colleague over in the House of Representatives, Mr. GORE of Tennessee, asked the Congressional Research Service of the Library of Congress to do a study and tell us how much shortfall we have actually experienced as a result of the cessation of Iranian exports to this country. The Congressional Research Service says 80,000 barrels a day. The Department of Energy says that is dead wrong, that it is 2 million barrels a day, not to this country, but to the world, which consumes 53 million barrels a day. The effects of that shortfall on the United States are minimal, less than 5 percent.

I do not know who is right, DOE or CRS, but I know one thing: The leadership of this country has steadfastly continued to refuse to tell the American people anything they do not want to hear, and is steadfastly refusing to ask the American people to inconvenience themselves one scintilla, to accept any kind of a burden in order to curb inflation and determine our own destiny.

Why, you would think we were living in the old days, when the messenger that brought bad news to the king got executed. We are scared to tell the American people the truth, and the American people are pleading for the truth. We are scared to call on the American people to do something to control their own destiny, while the American people are crying to be asked.

It is a sad commentary that we refuse to deal with this critical problem, and watch inflation continue, and allow the OPEC countries to continue keeping this country in a stranglehold.

Mr. President, I am not going to be an accomplice in the decontrolling of gasoline, and I do not want to be an accomplice in telling people gasoline has to go to a dollar or a dollar and a half a gallon. The people in my State cannot pay their heating bills now. They cannot pay their electric bills now and can hardly keep gasoline in their cars, to get to and from work.

This all reminds me, as I see this body keep buying those specious arguments that have been refuted time and time again, of Lucy holding the football for Charlie Brown and saying, "This year, Charlie Brown, I am really not going to pull it out from under you." We keep falling for it just like Charlie Brown.

I am not going to be a party to that, Mr. President. I am going to resist the proposal to decontrol gasoline with all my strength. I could not think of a less propitious time to decontrol. I personally believe the oil companies of this country are not leveling with the American people right now. I think a lot of the alleged shortages are contrived, just as they were in 1974. I think the price escalation that we see at every pump in America is a manifestation of that.

Having said that, Mr. President, I am introducing a bill today to amend section 551 of the Energy Policy and Conservation Act, which will allow Congress 30 days rather than 15 days to decide on whether or not they want to approve or disapprove proposed deregulations that come over from the White House.

One of the arguments made here when we were arguing about deregulation of jet fuel was that the Congress had had 15 days to act and had not done anything. Well during 7 of these days people could hardly get to and from work because of the snow. I just want to make sure that in the future we have at least 30 days to make that decision.

Mr. President, as I said, this is a bill to amend section 551 of the Energy Policy and Conservation Act to allow Congress a longer period to consider energy actions proposed by the Department of Energy. The purpose of this amendment is to afford both Houses of Congress an adequate opportunity to analyze and evaluate those energy actions.

Currently, that act gives each House only 15 days to pass a resolution of disapproval of an energy action, or else it automatically becomes effective. The act also allows each House to pass a resolution of approval, thus implementing the energy action more quickly. My bill changes the act by allowing 30 days for disapproval, but it still allows for quick implementation by the affirmative approval of each House.

The energy actions which are subject to this procedure embrace a range of situations such as the implementation of contingency conservation or rationing plans, or the decontrol of petroleum products. A very recent example of such energy actions was the decontrol of kerosene-based jet fuels and aviation fuels which demonstrated that the 15-day period is not sufficient.

Those energy actions were accompanied by extensive findings regarding the anticipated effect upon supply, demand, and price of the respective fuels. These findings, however, were drafted in June 1978, well before the shutdown of Iranian oil production, an event of still uncalculated extent and of unknown effect, and thus they largely ignored that situation's effect upon supply. The 96-page findings on jet fuel devoted only a half page to an unreliable analysis of the Iranian situation. Clearly, all of the calculations concerning supply were superseded by events. Similarly, the intervening deregulation of airlines vastly altered the demand for jet fuel. Naturally, the conclusions concerning the impact upon price were inaccurate, being based upon an overestimate of supply and an underestimate of demand.

Nevertheless, having built up its inexorable bureaucratic momentum, the Department of Energy submitted its proposed decontrol. This body, confronted by that ill-considered action, lacked sufficient time to independently examine its possible defects. One such defect was that, because jet fuel demand is not responsive to jet fuel price, the price would skyrocket, aggravating inflation. A second defect was that the tantalizing price increase would entice refiners to shift from gasoline to jet fuel production, thus aggravating the impending gasoline shortage which the Department's studies ignored. It is possible that the gasoline shortage could become 20 percent worse as a result of such a shift in production. Even after this possibility was pointed out to the officials of the Department of Energy, they still refused to withdraw the energy actions voluntarily and simply resubmit them. This unacceptable situation was badly compounded by the expiration of the time set by the Energy Policy and Conservation Act for either House to disapprove the actions. As time expired, we attempted to get a vote on the resolution of disapproval. We were unsuccessful, because, we were told, a vote was not necessary since the other House had already decided not to disapprove the actions. The Senate, however, is a separate body, and it certainly is not bound by the other body's decisions; nor does it blindly accept them. Instead, it must itself analyze the situation and make its own informed decisions.

We were told that we necessarily had enough time to analyze the proposal because the House had managed to hold some hearings during that time. The Senate, however, is a different body, with different practices. In this case, the House rushed to hold hearings, perhaps even before it had a chance to familiarize itself with the proposal. This body's deliberations were cut short by a huge snowfall. I was still shoveling snow as the statutory deadline approached. The single controlling fact is that this body did not have enough time to analyze the proposal.

We were told that we had no need to analyze the proposal because no group had come forth to oppose it. The Senate, however, is an independent body, not just an open ear into which pressure groups whisper. Not all people belong to interest groups, and not all interest groups can mobilize on all issues. Therefore, this body, which considers all issues and acts for the people, not interest groups, should not and cannot supinely accept some pressure group's self-interested blandishment.

The way to avoid mimicking the House or relying upon interest groups is to expand to 30 days the time allowed for consideration of energy actions. The expanded time will allow an appropriate opportunity for hearings. I must emphasize that this necessary change still allows for the early implementation of any energy action because it does not change the provision allowing each House affirmatively to approve it. Therefore, this change does not create a bar to quick action when such action is necessary; it merely allows for measured consideration when it is possible.

Mr. President, I ask unanimous consent that this bill amending the Energy Policy and Conservation Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 553

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 551(c)(1) of the Energy Policy and Conservation Act is amended by—

(1) striking "15 calendar days" and substituting "30 calendar days", and

(2) striking "15-day period" and substituting "30-day period".

(b) Section 551(c)(2) of such Act is amended by striking "15-calendar day period" and substituting "30-day calendar day period".

(c) Section 551(d)(2) of such Act is amended by striking "15-calendar day period" and substituting "30-calendar day period".

(d) Section 551(f)(4) of such Act is amended by striking "5 calendar day" and substituting "20 calendar days".

SPECIAL ORDER

The PRESIDING OFFICER. Under the previous order, the Senator from Massachusetts (Mr. TSONGAS) is recognized for not to exceed 15 minutes.

THE ANGOLAN ADVENTURE

Mr. TSONGAS. Mr. President, in 1975 the cold warriors of our country sallied forth to do battle in Angola. Stung by their disaster in Vietnam, these ardent adventurists were bent on reasserting American will. They dreamed of winning Angola for democracy and defeating the Soviets in the Third World. Just the opposite happened.

As foreign policy initiatives go, our Angola adventure ranks as one of our most dramatic failures. We misinterpreted the situation, we over reacted, we made matters worse.

Now, almost 3 years later, Angola barely resembles the war-ravaged country of 1975. But American policy remains rooted in the past. Mr. President, we still refuse to recognize Angola. This is a grave miscalculation.

At a time when Angola is desperately seeking western technology and capital, we refuse to open diplomatic relations. At a time when Angola's cooperation is crucial to our peace initiative in Southern Africa, we obstruct communication. At a time when America could expand her influence in Angola, we insist on giving the Russians a free hand. Our policy should advance our interests, not Cuba's or the Soviet Union's.

The time for changing our policy is now. The United States should recognize Angola immediately and establish diplomatic relations. Angolans have asked us for recognition, but we refuse. In all the world only one other country has not recognized Angola—the People's Republic of China. Perhaps the rest of the world has a more rational policy toward a country rich in oil, coffee, diamonds, manganese, iron, silver, copper, and phosphates.

Nonrecognition of any country carries with it considerable costs. In the case of Angola, these costs have become very high.

Regular and reliable communication with this important African state is one serious casualty of our policy. Southern Africa is a cauldron of racial tension and guerilla wars. Angola is involved in the two major crises of Southern Africa-Namibia and Rhodesia. So far, President Neto of Angola has been very helpful to our peace initiative in Namibia. But that initiative is once again imperiled. We will need to work closely with the Angolan Government in the months to come.

The same applies to Rhodesia where the war is expanding rapidly. Recently Rhodesian planes flew to Angola and bombed guerrilla training camps. This provocative act will force Mr. Neto to make important decisions concerning the defense of his country. Under these conditions, it is essential that the United States enjoy the fullest measure of communication with the Angolan Government.

Nonrecognition of Angola cripples our strongest suit in the Third World—the export of our technology, capital, and developmental expertise. Angola's socialist principles are not as rigid as some may presume. Even without diplomatic relations, Angola has sought the assistance of American firms in its development programs. Boeing, Mobil, Gulf, and Arthur D. Little are working with the Angolans now. The potential for future American participation is enormous. But nonrecognition restrains this potential at every step. American companies must do without the security of diplomatic representation. They cannot obtain U.S. Government support for their initiatives. And for every American firm that cannot pursue an opportunity in Angola, there is a Cuban or Soviet official ready with an alternative.

With the costs of nonrecognition so high, why does the Carter administration support this policy? The administration can provide only two lame justifications.

The first justification is the lack of "effective control of the country." The administration questions whether the Angolan Government has effective control over the central highlands. A guerrilla group, UNITA, has long been active there.

First, it needs to be said that this "effective control" question is quite arbitrary. We have diplomatic relations with many governments whose effective control goes no farther than the streets of the capital and the army barracks on the outside of town. As for new governments, we recognize some whose control is tenuous at best. A recent example is Iran. As you know, the administration has recognized the Khomeini government, but if the ayatollah is in "effective control" of Iran, then President Neto governs the Garden of Eden.

In any event, the security situation in Angola has changed dramatically since 1975 when Henry Kissinger invoked the principle of effective control. A respected expert on Angolian affairs has just returned from a tour of the central highlands of Angola where UNITA has had strong support in the past. He reports that the Angolan Government administers the area effectively. Hundreds of thousands of farmers in the region have left the rural areas and settled near towns and villages controlled by the Government. They receive drought relief and agricultural assistance. These government programs have helped reduce the UNITA presence in the area to hit and run tactics. Three months ago, President Neto and President Tolbert of Liberia visited the highlands and spoke before some 100,000 people. There is no doubt that by any reasonable standard the Angolan Government "effectively controls" Angola.

So much for the question of "effective control." A more provocative consideration is the presence of 20,000 Cuban troops on Angolan soil. Two American administrations have declared that the Cuban troops block any possibility of recognition. Henry Kissinger argued that the Cubans "imposed" the present government in power. Today, the administration objects to the Cuban role as advisors and auxiliaries to the Angolan army. President Carter feels that the Cubans have participated in attacks on Zaire's Shaba Province.

No one can or should deny the importance of the Cuban troops in Angola. They are a major component of Angola's military capability. But most analysts now agree that the Cubans did not participate in the second Shaba invasion. I accept that conclusion.

I do not, however, accept or support the Cubans in Africa. Their social and ideological impact is, I think, destructive over the long term. They do not serve American interests. They do not serve true African interests. I would like to see them leave Africa.

On the other hand, I find it grossly inconsistent that we have protested Cubans in Angola and at the same time transported French and Belgian troops to Zaire. We certainly do not object to thousands of French troops stationed all over West Africa. The sad fact is that many African governments are militarily weak and require outside assistance, or in the words of one scholar, African states frequently must "borrow power on a short-term basis." Chad has needed up to 2,000 French troops to protect the President and the expatriate community. The French have 4,500 troops and some 12,000 civilians propping up the regime of Djibouti in the horn of Africa. 1,500 French soldiers and a squadron of jet fighters are stationed in Senegal. Gabon and Ivory Coast each has a 500 man contingent.

Angola belongs in this same category of power borrowers. The one distinction to make is that Angola is far more threatened than these other states. The UNITA insurgency is not the main threat. President Neto fears South Africa far more than UNITA, and well he should. South African military strength towers over African states. During the Civil War, South Africa actually invaded Angola. They defeated the Cuban and Angolan forces again and again. The South African threat continues to this day. Last May, South Africa invaded Angola to strike at guerrilla bases and, just yesterday, South African planes and ground forces again crossed into Angola from Namibia to attack guerrilla camps. Clearly President Neto's apprehensions are justified. He needs to "borrow power" on the short term. His choice is the Cubans. We object to his choice.

But there is really no alternative for Mr. Neto. Obviously he cannot expect the United States to provide his security needs. We refuse to recognize his government. And the longer we continue to refuse to recognize his government, the more wedded Mr. Neto becomes to the Cuban presence. Under these circumstances, I think we are hypocritical and unreasonable to ask that he get rid of the Cubans. For us to condition our recognition to the banishment of the Cubans strikes me as futile and pointless.

The "effective control" issue and the "Cuban menace" argument are transparent enough. The question is, what lies behind that thin facade? One can easily detect the basic proposition from which all the flimsy rationalizations flow. I refer to the intellectual armament of the cold warrior—the East-West struggle and anti-Communism. We can learn some important lessons if we simply look at the results our cold war tactics have produced in Angola.

In 1975, we fundamentally misinterpreted the situation in Angola. We assumed that each African guerrilla group was the ideological clone of an external sponsor and subservient to external control. Therefore, we identified UNITA as "pro Chinese;" we considered the MPLA "pro Soviet;" and the FNLA, our choice for covert support, we labeled "pro West." History is cruel to such naive assumptions. Subsequently, UNITA broke with the Chinese and accepted major military assistance from white supremacist South Africa. The FNLA wound up receiving both American and Chinese aid, and then disappeared after its defeat. The MPLA, the ultimate victor, entered a severe ideological crisis in 1977. An ultra-left group supported by the Soviets favored an antiwhite policy. President Neto's faction supported a more open racial policy and better relations with the West. With some Cuban help, Neto put down an attempted coup.

To the cold warrior, such ideological flip-flops must be quite disconcerting. To anyone who knows something about African politics, it is all very familiar. The motive force, the driving ideology of African politics, is not to be found in Peking, Moscow, or Washington. It will be found in Africa, where Africans have carried on a century-long struggle to win their freedom from colonial domination. That struggle continues to this day all over the continent in many diverse forms. From capitalist Nigeria to socialist Tanzania, Africans respond deeply to the challenge of nationhood. Their first loyalty is to the building of their young nations, to define for themselves how best to develop their economies, to expand health care, to educate and to feed their growing populations. Africans search widely and critically for developmental blueprints. They are suspicious of the monolithic system of the Soviet Union. They are attracted to the social, political, and economic ideas of the United States. What they finally select is more an outgrowth of their own culture and history than a product of foreign influence.

These African realities do not enter the thinking of the cold warrior. He is determined to see in the Soviets a sinister all-conquering force. He ignores the long string of Soviet setbacks in Africa. He transforms Soviet ineptitude into a grand design.

In the cold warrior's conception of the globe, the only struggle is between East and West. The Third World is nothing more than a passive battleground where the superpowers wage their East-West struggle. Africans matter only so much as they can be identified as "pro West" or "pro Soviet." The idea that Africans have their own valid interests is unthinkable to the cold warrior.

The implications of this warped conception go beyond its simple inaccuracy—the really tragic outcome is that when we wage cold war in Africa, we not only lose, we enhance the victory of our opponents. Our policy in Angola is an exact case in point. African leaders all over the continent regard us as hypocritical and racist. Angolans find no alternative but to depend ever more heavily on their Eastern sponsors. The opportunity for Americans to play a moderating role in Angola is lost. The cold warrior in this case has accomplished nothing more than to accelerate a process he initially set out to defeat. At the risk of causing considerable dismay in the Kremlin, I urge that our future conduct of foreign policy should avoid trying to do for the Soviets what they cannot do for themselves. We should allow the Soviets to wallow in their own ineptitude. We should cease trying to snatch defeat from the jaws of victory. We can begin by recognizing Angola.

Thank you, Mr. President.

Mr. McGOVERN. Will the Senator from Massachusetts yield to me?

Mr. TSONGAS. I yield to the Senator from South Dakota.

Mr. McGOVERN. Mr. President, first of all, I want to say I had the opportunity to look at the Senator's speech, which he was kind enough to send to me on yesterday. It is one of the most thoughtful presentations we have had in the Senate in a long time on the question of African issues and, more specifically, what American policy ought to be with regard to Angola. I wholeheartedly agree with the commonsense the Senator has developed so well in his remarks here today. It is almost beyond comprehension why a great country like the United States would turn its back on an emerging new state such as Angola, which is anxious to normalize relations with this country.

Why does anybody suppose it is in the interest of the United States to give the Soviets and the Cubans a free hand in Angola in terms of their presence there and the lack of an American presence. When I was in Angola last December, I talked with five different European ambassadors, all of whom are good friends of the United States, all of whom urged that the best way to reduce the Soviet-Cuban presence in Angola and their influence is for the United States and other Western countries to give Angola some other opportunity. As the Senator from Massachusetts points out, the Soviets are not 9 feet tall. In one country after another in Africa, where they have gone in they have been rebuffed. That has been true in the Sudan, in Egypt, in Somalia. The only way that I can see that men can insure their continued influence in Angola is by denying ourselves any influence there.

I commend the Senator from Massachusetts for the thoughts that he has developed here today. I hope that, some day, this country will get over this terrible fear we have of little Communist countries.

We seem to find it in our hearts to recognize the big ones. We do business with the Soviet Union, have for 40 years. We have now recognized China, another Communist country. No one would argue that they are any less Communist than the Angolans. But these little Communist countries still seem to terrify us—Cuba, Angola, Vietnam, countries all of whom are eager to move into a better relationship with us.

I hope Members of the Senate will read carefully what Senator TSONGAS has said here today and will take seriously the common sense suggestions that he has made. I commend the Senator for speaking out so early in his Senate career on an important issue.

Mr. TSONGAS. I thank the Senator for his comments. Mr. President, I yield back the remainder of my time.

SPECIAL ORDER

Mr. PERCY addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for the duration of his special order.

Mr. ROBERT C. BYRD. Mr. President, I yield 2 minutes to the distinguished Senator from Illinois.

AFRICAN-AMERICAN CONFERENCE

Mr. PERCY. Mr. President, from November 27 to December 1, 1978, I served as a delegate to the ninth African-American conference in Khartoum, the

Sudan. It was the largest African-American conference ever held, and covered a broad range of issues affecting relations between the countries of Africa and the United States.

The African-American Institute, sponsor of the conference, will be issuing a report within a couple of weeks. However, at this time I would like to present my own brief observation about the conference and share with my colleagues some thoughts on several issues which are crucial to U.S. foreign policy in Africa.

American delegates were drawn from the Congress, the executive branch, State and local government, labor, business, the media, humanitarian and philanthropic groups, and other segments of the private sector. African delegates included vice presidents, foreign and economic ministers, ambassadors, parliamentarians, and representatives of the private sector.

The conference featured seven plenary sessions and eight small workshop discussion groups. Except for the opening plenary, all the sessions were closed and off the record, thereby allowing for a frankness and candor which would not have been possible in other settings. I believe that all delegates benefited enormously from the constructive and lively exchanges which characterized the conference.

I was pleased to be invited to address a plenary session. My topic was "The North-South Dialog: The New World Economic Order." In addition to covering a number of economic issues which characterize the ongoing dialog between developed and developing countries, I took the opportunity to discuss our domestic economic situation. I pointed out to the delegates that the American people are very concerned about setting our economic house in order, and that it would be difficult to justify development projects—domestic as well as international—which did not meet a stringent cost-benefit test. On the other hand, I mentioned the several other ways the United States and Africa can cooperate on development, such as through the work of the private voluntary agencies and through private-sector involvement in trade and investment.

The United States and Africa can benefit considerably from economic cooperation. We are an increasingly have-not nation in raw materials, and the continent of Africa is rich in natural resources. The African nations also represent markets for our products, and the stronger their economies the stronger their markets.

Following that plenary session, I participated in a workshop on "U. S. Private Investment in Independent Africa." I argued strongly against the view of some developing countries that American investors abroad were merely exploiting the host country, that the profits gained from these investments were somehow evil, and that eventually American-held properties should be turned over to the host country, their "rightful owners." I stressed that a well-run enterprise which produced profits was to the benefit of all the parties involved.

If developing nations in Africa are ever to fulfill their goal of meeting the rising expectations of their people, investment capital must be attracted. There are few economies which can develop internally the kind of capital that is required. Though multilateral and bilateral foreign assistance can help in developing a foundation for economic growth, often the private sector can provide the level of funding as well as practical know-how and training necessary for growth.

A reasonable profit representing a fair rate of return on investment, commensurate with risks, is frequently a very small price when measured against the benefits achieved. Exploitation by investors and unreasonable profits are, of course, not consistent with achieving the goals of the host country, and in the end discredit the multinational involved. But without providing a reasonable opportunity to achieve a fair rate of return on investment, developing countries cannot expect to attract the private capital needed to obtain the goods and services for their internal development and to develop their own export markets to meet their foreign currency needs.

While the conference covered a number of issues pertinent to all of Africa, the discussions focused on the urgent problems of southern Africa. United States policy in Rhodesia was the subject of lengthy, heated, and sometimes agonizing debate.

At the outset I was struck by the drastic differences in African and American perceptions of the U.S. role in Rhodesia.

The prevalent opinion voiced by the Africans was that the United States, in concert with Great Britain, is doing everything possible to support the Ian Smith "internal settlement" and to frustrate an inevitable transition to majority rule.

Ironically, it is my feeling that here in the United States the administration's espoused policy of neutrality is seen as actually one of support for the patriotic front of guerrilla leaders Joshua Nkomo and Robert Mugabe.

Administration spokesmen maintained that the U.S. role in Rhodesia is that of a neutral "honest broker," and that they believe a real peace can only result from a political agreement—perhaps based on the proposed Anglo-American plan—negotiated among all the key parties.

The Africans were adamant in their conviction that Smith will never sanction a fair arrangement between the races; they implored the United States to cease in our efforts to bring about an all-parties conference and stop trying to delay the inevitable.

Administration representatives could not accept this view. Surely, they reasoned, any effort to bring about a relatively peaceful transition which minimizes future bloodshed is one worth pursuing.

However well-intentioned U.S. policy has been, it was clear that African concern about U.S. credibility was a major cause for the differences in perceptions.

One factor contributing to this uncertainty was the recent visit of Ian Smith to the United States. The U.S. Government's decision to grant Smith a visa repeatedly came under strong attack. The Africans viewed it as a violation of U.N. sanctions, and a signal of support for the Smith government. I joined with several American delegates in trying to explain that the issue was one of free speech, a right which is deeply cherished by the American people. Several Africans charged that in spite of this assertion by the Americans, a foreign political leader who did not enjoy support in the United States would not have been granted a visa. The Africans uniformly viewed it as a signal of bad faith on the part of the U.S. Government. I respectfully disagree with the African view. I supported Smith's right to come and speak in this country and I myself met with him in Washington. Nevertheless, it is a regrettable reality that Smith's visit was a setback for United States-African relations.

Perhaps the most ominous development in the Rhodesian situation is that, for all practical purposes, an all-parties conference now seems highly unlikely. Several factors have contributed to this impasse. Several African delegates argued that the West was never able to pin Smith down to a commitment to attend an all-parties conference in good faith. The bungling of the secret meeting between Smith and Nkomo created irreparable damage. The patriotic front and the front line states have charged that the United States and the United Kingdom have reneged on the terms for an all-parties conference, and that discussion of elections, or even of the Anglo-American plan itself, are no longer required. Many other factors have also come to bear, but the end result is that the patriotic front now considers an all-parties conference "dead."

A new constitution for a majority government which gives power to whites far beyond their proportional share has now been approved by a referendum in which no blacks were allowed to participate. The Rhodesian internal government now intends to hold elections in April in which the leaders of a new government are to be chosen.

Surely, Mr. Smith and the other leaders of his government must know that their go-it-alone approach will only lead to continued and escalating violence—not only because of guerrilla activity, but stemming from a struggle for power among the internal black parties. White emigration has never been higher, and the government is now offering bonuses to white civil servants and military personnel who agree to stay after the April elections.

Surely the patriotic front leaders know that by casting aside all hopes of negotiations they are condemning their followers and untold numbers of innocent residents in the area to even more deprivation and bloodshed.

What should the U.S. role be in Rhodesia now? Senator McGOVERN has called on the administrative to "disengage" from active diplomacy until the parties in the conflict indicate they are willing to negotiate in good faith. The British Government has taken the same position. I am not sure I agree with this tactic, but

I wholeheartedly agree with its purpose. The United States must try to convince the leaders on both sides of the conflict to stop hiding behind rhetoric. The leaders of the internal settlement and of the patriotic front have a responsibility to their followers not to let the suffering and death go on and on indefinitely, to the point that what is left is not worth fighting for. To continue on the tragic course they have set for themselves serves no one's interests.

The discussions at the conference on the question of Namibia had a special dimension of meaning for me. In 1976, when I visited Southern Africa, U.S. Government policy on Namibia was to demonstrate disapproval of South Africa's presence by stationing no officials in the area and by severely restricting travel there of executive branch officials. I was told that I was the first Member of the U.S. Senate to visit Namibia.

Subsequently, I arranged Secretary Kissinger to have the United States take a leading role in trying to bring about a peacefully negotiated settlement of the Namibia situation. Beginning in the spring of 1977, the United States and the other four members of the "contact group" of Western countries, together with the leaders of key black African states, worked to bring South Africa and SWAPO (the most important political party in Namibia) to an agreement. By the time of the Khartoum conference, however, trouble had developed: The South African Government was raising strong objections over several details of the implementation plan proposed by UN Secretary General Kurt Waldheim. Furthermore, they had announced their intention to go forward with an internal election during December 1978—an election which would not be recognized by the world community and which would be boycotted by SWAPO.

Convinced that all was lost, African delegates strongly urged Western sanctions on South Africa.

The intensity of their appeal for sanctions was equaled by the strength of their conviction that the West would never implement sanctions. Countering African cynicism, representatives of the administration insisted that in spite of the upcoming electons, the South Africans were giving signals that it was still possible to implement a U.N. plan. Furthermore, they stated that success in working out a peaceful solution with South African cooperation could bode well for the Rhodesian dilemma and for other problems on the continent.

The issue was not at all resolved at the conference, but the discussion brought out vividly the differences in the African view and the American view on the subject of relations with South Africa.

The internal elections in Namibia have been held. South Africa has now accepted the U.N. plan already accepted by SWAPO, and it is believed the beginnings of a U.N. force could be in place within weeks. Independence could come by the end of the year. If things continue to go well, it will be a major victory for rationality and peace over emotionalism and devastation.

Mr. President, I will end my remarks here. When the report of the African-American Institute has been issued, I will share it with my colleagues. I ask unanimous consent that my remarks before the African-American conference be printed in the RECORD at this point.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR CHARLES H. PERCY

It is a privilege to have the opportunity to address this very impressive assemblage of African and American leaders. We are grateful for the generous hospitality of President Nimeiri and the Sudanese government, and for the contribution the African-American Institute has made to African-American relations in organizing these conferences.

Before I begin my remarks, I want to pay tribute to the enormous contribution which Senator Clark has made to the furtherance of African-American understanding. Because of his work there is now much bipartisan support in the Senate for the goals he has worked so hard to achieve. If, or when, he is given an opportunity to continue his work in African affairs, I will give whatever appointment he may receive and accept my full and strong support.

We are here this morning to discuss together the vitally important economic issues associated with the North-South dialogue. I will discuss the present situation and what I see for the future from the perspective of the United States and as a member of the Foreign Relations Committee of the U.S. Senate.

These economic issues do not have the front-page appeal of dramatic political events, but they are the issues which in the long term are the ones most vitally important to the people of this planet. The subjects we will discuss can get rather dry and technical, but in human terms we are discussing the very basic issue of the quality of a person's life. The front pages carry stories of politics and human rights, but what about the rights of the billion people in this world who go to bed hungry every night? When we discuss the economic issues we are talking about the promise for millions of people of decent shelter, decent health care, decent education and training.

The Bretton Woods monetary system, the UN structure, and the World Bank all were established with the needs of the developed countries centrally in view. Let us frankly admit this. But since then, all these institutions have undergone a steady and massive change to adapt to new world conditions, responding to perceived needs but also, let us be frank, to Third World pressures. The Bretton Woods system of the gold standard and fixed exchange rates does not exist anymore. The needs of the LDCs dominate the work of most of the UN organizations. And the activities of the International Bank for Reconstruction and Development now focus on development instead of reconstruction.

But has the change been fast enough? No. But the direction of change is discernible. A new era of North-South relations emerged out of the oil embargo and OPEC's success in raising oil prices. This was followed by the subsequent passage of the Declaration on a New International Economic Order during the Sixth Special Session of the UN General Assembly.

As a U.S. delegate to the 29th UN General Assembly in 1974, I participated actively in negotiations on a Charter of Economic Rights and Duties. Of over 70 rollcall votes on a paragraph-by-paragraph basis, the U.S. only abstained or voted nay on a few (such as expropriation without adequate compensation). Although the U.S. and certain other developed countries could not fully support the final version, in my report to the Senate I urged that the Charter be looked on as an opportunity to help bring developed and developing nations closer together in philosophy and outlook. I still hold the view that the North-South dialogue can and should be a constructive process. Interdependence—our need for each other—is more evident now than ever before. The U.S. is increasingly becoming a have-not nation in raw materials, and increasingly Third World countries will need development capital, technology, and new expanded markets for their products.

I am pleased to observe that, compared to its turbulent early years of this decade, the tone of the dialogue has evolved from one of confrontation to one of increasing understanding and cooperation.

Some of the change can be attributed to the very real progress which has been made on specific issues.

Regarding commodities, the Carter Administration's official position is that price stabilization agreements can benefit both producers and consumers. The U.S. government has accepted the concept of shared responsibility for financing commodity agreements. Agreements for coffee, cocoa and tin have already been negotiated. The current cocoa agreement expires at the end of this year, and it is hoped that a new agreement can be reached which the U.S. can accept.

The U.S. is now negotiating in Geneva on the Common Fund for commodities. The Fund has very great symbolic importance to the Group of 77, and it is hoped that an acceptable agreement can be reached.

In other areas:

Liquidity and resources available to the LDCs have been expanded through the fourth IMF quota increase, creation of Special Drawing Rights, creation of new facilities (the Trust Fund, oil facility, and Witteveen Facility), expansion of the World's Bank lending ability, and increased bilateral aid flows.

The Compensatory Financing Facility was greatly liberalized, helping to offset temporary declines in export earnings.

In spite of economic troubles, the U.S. has taken the lead in reinvigorating the Multilateral Trade Negotiations. Special provisions should be made for LDCs in both tariff negotiations and in drafting of conduct.

The Senate Foreign Assistance Subcommittee approved an amendment, which is now law, providing debt relief for the poorest countries. It allows interest payments to be waived and payments on principal to be made in local currency to finance development projects.

Progress on specific issues has sometimes been halting. But progress has been made because interdependence is now a concept which is not just paid lip service, but which is understood and accepted by both developed and developing countries.

The declaration issued at the Bonn Summit meeting of industrialized nations in July takes special note of this two-way relationship. It acknowledges that just as economic gains in industrial countries benefit the developing countries, the reverse is also true.

Developing countries have seen that actions taken to derive immediate economic benefits may in the long term be counterproductive. The pricing policies of the oil-producing countries, for instance, must take into account their impact on the economies of their customers. In recent years, international oil prices have sent shock waves felt all over the world. In their own self-interest, producers of oil or any other commodity must avoid taking the kind of actions which could, in the end, prove harmful to their own economies. Saudi Arabia and Iran have most recently taken enlightened positions on the proposed next round of oil price increases.

It is of course obvious that we cannot expect any nation, rich or poor, to adopt policies which are not in its own long term self-interest. We must continue to seek common ground, because progress will only be possible when solutions to problems are mutually beneficial to all parties.

Much has been done, but much remains to be done. African countries face the problems of security, hunger, and the need for growth. President Nimeiri spoke eloquently yesterday of the way that foreign intervention hinders the efforts of African countries to achieve economic development.

It is inconceivable that having thrown off the yoke of colonialism, new nations would ever agree to alliances which would threaten their stability and nationhood. The U.S. can and should continue to respond to legitimate and essential requests of developing countries to assist them in protecting their security and creating a stable environment in which development efforts can go forward. But desperately needed development funds are too frequently diverted for military purposes.

The problem of hunger in the world is an urgent and enduring one—a problem which remains even when political problems are solved. Egypt may soon sign a peace treaty, but Egypt will still have the need to feed its hungry millions.

The U.S. should expand its export of agricultural products. I believe we should double agricultural exports over the next few years. The U.S. can also provide technical assistance to other countries to increase world food production. It has been said that Sudan can be the breadbasket of the Mideast. U.S. technical assistance, together with help from Arab friends, can make this goal become a reality.

Our final priority is the need for balanced economic growth. The U.S. is now experiencing a very damaging rate of inflation, a disastrous deficit in our balance of payments, a huge federal budget deficit, low increases in productivity, high increases in foreign oil purchases, and a resultant plummeting in the value of the dollar in world money markets. The problems of our domestic economy become global problems. We have an obligation, not only to our own citizens but to all the countries in the world, to reinvigorate our economy and provide, among other things, for steady, non-inflationary growth.

I was just a candidate for reelection and I can tell you from personal experience that the American electorate is concerned and troubled. Our serious economic problems have made them deeply concerned about the future.

I must tell you that I feel this could have an adverse effect on levels of U.S. funding for development assistance in the coming years. Domestic as well as international development projects will be subjected this next year to a tighter cost-benefit test than ever before.

Those of us who want to promote economic development would do well to take note of this reality and explore more fully the additional ways the U.S. can contribute to the growth of developing countries. There are many fine private voluntary agencies which are deeply involved in development activities in Africa. In the private sector, there are tremendous opportunities for trade and investment. The private sector can play a very large role in providing capital, technology, and production and marketing knowhow. The proper climate must be created to attract it to the developing world.

Although there are problems now and in the future, I am more optimistic today than I was even a few short months ago. I sense in the American people a willingness to take the difficult steps necessary to set our economic house in order, thereby greatly enhancing the prospects for the world economy. And I see a new sense of determination in the third world community to meet the rising expectations of its people.

We have the opportunity to build on what has already been accomplished, to the benefit of all people everywhere. We must and we will continue to work together to improve the lot of mankind. We must do this, and we must do it together. There is no rational alternative.

U.S. DRUG ENFORCEMENT ACHIEVEMENTS AND PROSPECTS: JAMAICAN CONNECTION ALL TOO LIKELY

Mr. PERCY. Mr. President, the efforts of our law enforcement agencies have had a noticeable impact on the drug problem in the United States. Peter Bensinger, Administrator of the Drug Enforcement Administration, recently announced a dramatic decline in death and injury rates from heroin and barbiturate abuse. Other achievements include a doubling over the previous year of the quantity of marijuana seized by Federal drug law enforcement authorities.

We can expect more successes. Authorities have recently been given greater powers to control drug abuse. President Carter has signed into law provisions which will allow the seizure of assets associated with illegal narcotics transactions. Our law enforcement communications network has been improved and expanded. Close cooperation with foreign governments is having some impact in reducing the international narcotics traffic.

But we cannot rest our efforts. New sources of drugs are continually sought by smugglers and profiteers; one target could well be our island neighbor of Jamaica. The strain of marijuana grown there, called "ganja," is reputed to be one of the most potent varieties.

Jamaica's unhappy economic climate could hasten the establishment of a "Jamaican Connection." The island suffers from a 40 percent inflation rate and high unemployment, particularly among farmers. Given the favorable growing climate of the island and the vast profits of the drug market, Jamaican ganja could well become the major variety of marijuana used by Americans.

The Chicago Tribune has noted that organized crime is forging an alliance with certain members of Jamaican religious cults which harvest much of the crop. And DEA officials have said that the quantity of ganja grown in Jamaica has doubled in a year.

I am concerned that the efforts of the Jamaican Government alone will not be able to break the grip of this highly organized and sophisticated narcotics trade. After decades of vigilance by American law enforcement agencies, organized crime still permeates the American economy. The Jamaican Government may be hard pressed to muster single handedly the equipment and highly-trained personnel needed to control an explosion of marijuana trafficking out of that island.

Our efforts to aid the governments of other countries have begun to succeed in curbing the illegal export of narcotics. The campaign by Mexico to eradicate marijuana and opium poppy fields has been credited with substantially reducing the flow of drugs across the Mexican border into the United States. The Colombian market that erupted in response, is being attacked by a military campaign of Colombian President Turbay. It is still too soon to see the full effect of his efforts, but the laws of economics suggest that when the supply from Colombia becomes scarce, smugglers will turn elsewhere—and the Jamaican connection is a very likely prospect.

I trust our State Department, U.S. Customs Service, and Drug Enforcement Agency will act soon to forestall this potential threat to our Nation's social and economic well-being. Their response must come promptly to be effective.

Mr. President, I ask unanimous consent that two items of interest be inserted in the RECORD at the close of my remarks. One is an address by DEA Administrator Bensinger to the United Nations Commission on Narcotic Drugs in Geneva, Switzerland, on February 15, 1979. Mr. Bensinger summarizes our achievements and continuing problems. Another is an excellent article by Jim Coates from the Chicago Tribune of February 4, 1979, explaining the causes for concern about Jamaican ganja and the likelihood of increased trafficking from that island nation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Feb. 4, 1979]

MARIJUANA EXPLOSION NEAR IN JAMAICA, U.S. FEARS

(By James Coates)

MONTEGO BAY, JAMAICA.—The coral pink hotel fronts on the turquoise Caribbean. Tanned girls in bikinis lounge and flirt lazily with lean young men. The air smells like burning grass. The Jamaicans call that scent ganja, Americans call it marijuana.

There are strong indications that Jamaican ganja soon will flood the United States in the wake of crackdowns on the weed in Mexico and Colombia. Those countries have been the major sources of supply for the 16 to 20 million Americans who, federal officials say, smoke marijuana regularly.

Officials in Washington, intelligence officers in the U.S. embassy in Kingston, and Jamaica authorities are fearful that the multibillion dollar marijuana racket is moving into this impoverished island nation.

Economic stagnation, a centuries-long tradition of widespread ganja use, and the turbulent local politics all favor a "Jamaican connection."

Marijuana farmers work in the interior highlands—areas accessible only by foot. Ganja as brought out on burros, usually to one of the island's 34 isolated airstrips.

Farmers, beset with a staggering 40 percent inflation rate, are increasingly cultivating ganja instead of such crops as yams, cabbage, and fruits. At $20 a pound, ganja is by far the island's best cash crop.

Ganja enjoys a world reputation as one of the most potent varieties of marijuana. Drug Enforcement Administration officials in Washington said the reputation is well deserved because the Jamaican strain contains more of the intoxicating chemical THC than other pot.

The limestone soil allows the resins containing the drug to spread to the maximum degree throughout the plant, while the long growing season enables plants to reach heights of 12 to 15 feet and enhances the potency, experts said.

Colombian marijuana—called "Santa Marta gold" by users—enjoys the next best reputation. Jamaica already is the third largest supplier of pot in the U.S. after Colombia and Mexico.

It took only two years for Colombian fields to become the world's largest supplier. The boom came after Mexico began to spray the deadly herbicide paraquat over its marijuana fields.

Warnings of a ganja boom came this winter after the Colombian air force started flying missions against pot smugglers there and soldiers seized an estimated 25 per cent of shipments—2,000 tons.

Senate investigators visited Colombia and Jamaica in December after The Tribune disclosed that Colombian pot trafficking was draining the U.S. economy of billions of dollars.

DEA officials in Kingston arranged aerial surveys of Jamaica's ganja crop and one agent said, "There is probably twice as much ganja growing this year than last." A Senate investigator commented that "the whole interior of the island is filled with the stuff."

"Farmers use it to erase the tedium of working in the fields and poor people use it because they can't afford any other recreation," Stone said. "It [ganja use] is no big moral problem here, although I think the [Protestant] church is still too strong for the government to legalize exporting it."

Stone estimated that "tens of thousands" of Jamaican farmers grow ganja for sale to local people, tourists, and smugglers.

Another ready source of supply are the fierce-looking members of the ganja-oriented Rastafarian religious cult. Stone estimates there are 100,000 "rastas" on the island. They worship the late Ethiopian emperor, Haile Selassie, and smoke ganja because they consider it the Biblical "tree of life," Stone explained.

The island already has forged a pot smuggling network based on an alliance between the "rastas" and the well-heeled Ethiopian Coptic Church of Jamaica. The church has two communes in the isolated countryside, a network for storing ganja in subterranean tunnels, and tens of millions of dollars in assets, U.S. analysts explained.

The Rasta-Coptic combine also has links to U.S. crime syndicate operations through a Jamaican, Norris Barnes, the brother of former Harlem heroin kingpin Nicki Barnes.

American investigators said the federal grand jury in Miami is investigating the financing of marijuana deals between American sellers and the Jamaican underworld.

"About half of those people really aren't unemployed," Stone said. "They can't get jobs, sure, so they hustle, man. They sell ganja to other Jamaicans and to tourists."

Tourism is another reason Jamaicans are not eager to crack down on ganja. Next to the island's bauxite mines, tourism is the largest industry and provides thousands of jobs and foreign money which the islanders need to pay for essential imports.

Recent unrest over inflation, caused by the country's poor rates of foreign exchange, already has hurt the tourism trade as many Americans and others cancel hotel bookings.

"Quite simply," said an aide to Foreign Minister P. J. Patterson, "we have put out the word to the police to leave tourists with ganja alone. We can't afford to hassle them anymore."

The aide said American visitors still will face prosecution for smuggling. but the police have been ordered to "look the other way" when visitors smoke ganja.

Despite the aide's statement, U.S. embassy personnel said that 50 Americans were fined small amounts for use and larger ones for possessing large quantities. The fines ranged from $24 to $2,000.

Professional smugglers seldom are concerned over the Jamaican penalties.

Last May, for example, a smuggler from Washington, D.C., Gregory Turner, was arrested at a coastal airport with four tons of ganja. Fined $1,000 and released, Turner told an exasperated DEA agent that he had moved 10 tons before his arrest.

The smugglers are aware that the Jamaican defense forces are relatively small compared with Colombia's military machine. Jamaica has eight helicopters and four seagoing vessels to patrol the hundreds of miles of coastline and the rugged interior.

Roy Haverkamp, acting U.S. ambassador to Jamaica, said: "We are concerned about the potential for expansion of the ganja business."

The Ambassador noted that the Jamaican economy is bankrupt and owes $200 million.

"Selling ganja would solve Jamaica's economic problems like that," Haverkamp said, snapping his fingers. However, he emphasized that neither U.S. nor Jamaican leaders favor that move.

Confirmation that Colombian connection operators have turned to Jamaica came Jan. 4 when a smuggling team tried to land a DC–7 cargo plane at an abandoned American air base at Vermanfield just before dawn and the tires blew.

About 150 Jamaicans were waiting for the plane with 12 tons of ganja. The flight crew fled on foot and abandoned the aircraft.

"That has all the earmarks of a classical Colombian operation," said a DEA official in Kingston.

Well-heeled operators in the Colombian connection frequently abandon expensive vehicles that are bought for the specific purpose of a single run. The 12 tons of ganja, valued at roughly $10 million, was worth far more to them than was the DC–7.

Address by Peter B. Bensinger

REVIEW OF ILLICIT TRAFFIC

Tht illicit drug traffic in the United States continues to include the wide spectrum of substances including heroin, cocaine, marihuana and psychotropic drugs. The enforcement results have been mixed. For our principal drug concern, heroin, the results are dramatic and very satisfying. In the last year we have seen a substantial decrease in heroin availability in the United States. Price and purity trends reflect this decrease in availability and more specifically, the overdose death rate in the United States from heroin has decreased from 150 deaths per month in 1976 to less than 50 heroin overdose deaths at the present time. Heroin injuries have likewise decreased from 1600 injuries per month two years ago to 700 at this time. The purity of retail heroin has decreased from 6.6 percent in March of 1976 to 3.5 percent for the last reporting period in 1978—a 47 percent decrease in heroin purity within two years. Availability has been cut to the point where not only heroin users and heroin addicts have shifted to other drugs but the traffickers have as well.

Success against heroin has been due in part to more effective targeting of major organizations and we have seen sentences for our top heroin traffickers of life in prison without probation in a number of instances. Our most significant heroin networks have been broken up. Much credit should also be attributed to the permanent Mexican Government opium poppy eradication program, which has effectively reduced the amount of heroin coming into the United States from that country. We commend the Government of Mexico for this effort and for their commitment to continue the program of destroying narcotics at the source. At the same time the French Connection has not been re-connected and we congratulate the French Police Judiciare on their vigilance; further, we have not seen illicit opium poppy production in Turkey. In summary, street heroin availability in the United States is at the lowest level it has been in this decade. To spite the encouraging progress in Mexico the United States remains concerned that illicit opium production continues in other regions of the world. Our growing concern is the hundreds of tons of opium being produced in the traditional growing areas of Afghanistan and Pakistan. A great deal of opium remains available for processing into finished narcotics within the region for ultimate distribution in the highly profitable illicit markets of Europe and/or the United States. We view this problem as one of great concern to which all countries and international organizations must devote increased attention and, I might add, increased resources.

Southeast Asia represents a major source of illicit opium and finished narcotics. The determined suppression of the illicit traffic undertaken by the Governments in that region, in particular, the Thai, Burmese and Malaysian enforcement agencies, have been effective in keeping the problem of Southeast Asian illicit narcotics from increasing. We commend them for their efforts. We also believe greater commitment and dedication of resources to this problem by all concerned governments and regional and international organizations is in order.

While the use and availability of heroin in the United States has dramatically decreased, the use and availability of cocaine in our country is on the increase. The extent of cocaine traffic in the future will depend in part on the efforts of the Governments of Bolivia and Peru to limit the production to that level required for legitimate use. Another important factor will be the ability of the Governments of Columbia and Ecuador to continue their increased enforcement efforts to immobilize cocaine trafficking organizations and laboratories in their countries. I want to add that I personally believe President Turbay of Colombia's commitment to this problem deserves special recognition and support.

The United States has a very serious marihuana problem, an indication of which can be seen from seizures made during a nine-month period by United States agencies in 1978, the total net tonnage in which totalled 2540 metric tons of marihuana. These large seizures have yet to have a measurable impact on domestic availability. The high profits in the marihuana trade have increased involvement by organized criminal organizations. The illicit income generated from the 15,000 plus tons of marihuana trafficked yearly in the United States is in the multi-billions of dollars. The organizations dealing in large amounts of marihuana are sophisticated criminal groups capable of investing their profits in large businesses, employing top legal talent and providing funds to other criminal activities.

Ninety-five percent of the marihuana abused in the United States is smuggled in from outside our borders largely through the Caribbean. The United States has mobilized its combined air and sea interdiction program in the Gulf of Mexico and on our East and West coasts. During a recent 45-day period, over 900,000 pounds of marihuana, 33 ocean vessels, 24 air and land vehicles and 220 persons, were seized or arrested in the Caribbean. This success is in no small measure due to the close cooperation we receive from countries and regions which have authorized on a case-by-case basis the United States Coast Guard to board smuggling vessels on the high seas.

Marihuana remains along with cocaine the severe drug problem in the United States. To deal with the growing marihuana and cocaine trafficking several significant steps have been taken by the United States Government since last year's meeting:

(1) President Carter signed into law forfeiture provisions enabling law enforcement

officers to seize assets, bank accounts, real estate, stocks, bonds and other property derived from illicit narcotic transactions; such assets traceable to illicit narcotic transactions; or such assets intended to be used to facilitate illegal narcotic transactions. This forfeiture provision will hit the criminal organizations in their pocketbooks and, I believe, will be particularly significant for the marihuana and cocaine networks. This is a new law and it is too early to announce its impact; however, we think it will be considerable. I would associate my remarks in this regard with those of the representatives of the United Kingdom and Hong Kong, Mr. Peter Lee, with respect to a forum on financial money flow investigations.

(2) The United States Government has increased by four times the value by which administrative seizures can be made of vehicles, vessels, aircraft, and other conveyances for drug violations. Both our agency and U.S. Customs can now administratively forfeit such property up to $10,000 in value without court process.

(3) The United States Government has doubled the size of our Federal Interagency Information Center at El Paso and, in addition to substantially increasing the Federal personnel and resources available to exchange information, more than 30 individual State Intelligence Systems have become partners in this vital information sharing system.

Another problem which has been referenced earlier but which is of concern in the United States is the abuse of phencyclidine (PCP). In recognition of the abuse of this drug the U.S. Congress has doubled the penalties for trafficking in PCP within the last four months. In addition, all distributors of piperidine, the chemical percursor necessary to make phencyclidine, must now make regular reports to our agency. I am pleased to report as well the continued excellent cooperation and communication we share with the Royal Canadian Mounted Police on this and other drug problems.

Barbiturate abuse in the United States has decreased and fast-acting barbiturate diversion into the illicit market is down due to more strict law enforcement measures, as are injuries and overdose deaths from barbiturates.

Mr. Chairman, the United States has taken since last year several major steps to increase the risks to drug traffickers in the United States through new laws and new investigative techniques. The U.S. Customs Service is faced with a tremendous challenge and has done a remarkable job at our ports and borders. The United States Coast Guard is making very significant seizures and our investigative agency, DEA, continues to focus on the large traffickers' networks. The individual States and local law enforcement agencies at the city and county levels are working more closely with Federal agencies. The key, however, to controlling drugs in any one country is the awareness of the international nature of this task. I would like to express to you and to all of the law enforcement agencies with whom we work the appreciation of the United States Delegation and our Government for the outstanding cooperation and friendship which has been extended to us in this mutual battle to control drug abuse.

ESTONIAN INDEPENDENCE DAY

Mr. PERCY. Mr. President, on February 24, 1979, the 61st aniversary of the proclamation of Estonian independence, those of Estonian heritage in the United States and in other nations observed that anniversary and renewed their commitment to the independence of Estonia.

Here in Washington, others of us who are not of Estonian heritage also observed the occasion by renewing our own commitment to the people of Estonia. Although the Estonian community in the United States is small in numbers, we are well aware of that community's deep concern for the situation in Estonia, and we share that concern.

We are moved by the desperation of all who are denied freedom in this turbulent world, and we pray that the blessings of freedom which we enjoy here in this country may one day be restored to all peoples who live under foreign domination.

UNSUNG ACTS OF HEROISM BY CHICAGO POLICE AND FIREFIGHTERS

Mr. PERCY. Mr. President, the lot of a police officer in our society is not easy. He or she is expected not only to enforce the law, but also to assist fellow citizens in every way possible. For example, recently three officers from the Chicago Police Department saved the life of one of my constituents through quick thinking and the expert application of mouth-to-mouth resuscitation techniques. On December 4, 1978, Ronald Marks of Highland Park, Ill. was the victim of senseless attack at his South Side Chicago currency exchange. An arsonist doused gasoline all over the counter of the exchange as he demanded to be let in. After Mr. Marks attempted to sound the silent police alarm, the arsonist ignited the gasoline and left Marks to die.

Fortunately, within minutes of the attack, three plainclothes officers from the 7th district tactical unit turned the corner at 59th Street and Racine Avenue in Chicago. They were Officers Gerald Dahlberg, Brian Lyons, and Hank Ribich.

They attempted to rescue Mr. Marks, but the intense heat and smoke drove them from the entrance of the exchange. However, they managed to evacuate several occupants of the building who lived above the exchange. Meanwhile, Marks had dropped to the floor at the direction of a police dispatcher he had called. He remained alive by breathing the thin layer of air that is maintained along floor surfaces even during an intense fire.

Four fire officials from flying manpower squad No. 3 arrived at the scene. They were Lt. Emil Grocholl, and firefighters Kenneth Wagner, Bob Bennett, and Tom Hughes. Using saws, they cut through a metal door at the rear of the exchange and finally reached Mr. Marks who was then unconscious and barely breathing. They dragged him from the exchange and handed him along to three awaiting Chicago policemen. En route to Englewood Hospital, Officer Dahlberg performed mouth-to-mouth resuscitation, keeping Mr. Marks alive until he reached the hospital where he received immediate and expert care.

Mr. Marks is fully recovered today because of the stellar and heroic deeds of several dedicated Chicago police and fire officials. Each day throughout this Nation, policemen and firefighters are performing similar deeds with little fanfare and recognition. Perhaps, it is time we began to recognize that such acts of heroism are far from routine.

PIRG'S VALUABLE TO BOTH STUDENTS AND UNIVERSITIES

Mr. PERCY. Mr. President, America's colleges and universities are entrusted with a very special responsibility. They are centers of vast information and technical expertise that are vital to the betterment of society. They bring together individuals at a time in their lives when they tend to be at the peak of their idealism and imagination. And, they are places where millions of people make important career decisions. But the most basic and important function of the university is to train people to be better citizens and thereby improve our society.

Colleges and universities function as subpolitical systems. Each has its own rules and regulations. Some are internally generated; others are imposed by the State or by the Federal Government. Students—the major population group in the system—are governed by these rules in most of their academic and nonacademic activities.

One way in which universities can educate youth for participation in a democratic society is to solicit student views on university rules and overall policy. Another is to encourage students to get involved in local and national issues of direct or passing concern to them. Through these means, student interests and talents would be well utilized, and valuable training for the future would be gained by those involved.

In recent years, student organizers of public interest research groups (PIRG's) have taken an innovative approach to furthering student involvement in their universities and in their communities. Each PIRG is directed by students and funded through refundable fee assessments. The student directors employ staffs of professionals—attorneys, scientists, writers, and others—to help them with their projects. From a financial standpoint, PIRG's operate under a system whereby students elect to assess themselves a fee in order to support particular activities. Student organizers of PIRG's have been successful in establishing their fee system at 175 universities across the Nation.

PIRG's conduct wide-ranging studies on matters of local and national interest. The topics are selected by the students themselves and usually cover areas such as consumer and environmental protection, human rights, and government responsiveness. Students who participate in PIRG studies gain first-hand experience in research, writing, and public speaking. They learn how to identify, study, and solve social problems, and in many instances have made significant contributions toward the resolution of sensitive or difficult issues. In short, PIRG's provide students with opportunities to do substantive work on issues of interest to them.

This past fall, students at Southern

Illinois University (SIU) in Edwardsville launched a drive to establish a PIRG on their campus. A petition supporting PIRG was signed by 4,200 of SIU's 10,000 students, and a student-sponsored referendum in favor of the group and of student self-assessment passed overwhelmingly. I understand that the board of trustees of SIU will vote on the establishment of this innovative concept at their March 8 meeting.

When one examines the enormous contribution students have made to this country in the last 20 years—promoting civil rights, raising our awareness about the Vietnam war, educating us about the fragility of our natural environment—it is clear how important an aware and active student constituency is to our future. Our colleges and universities have a great responsibility to educate our youth and to prepare them to make the decisions that will be required in the next decades. By providing students with opportunities such as those offered by PIRG, universities can help students feel more useful about their roles in, and responsibilities to, society.

I commend PIRG's for their valuable contributions to universities. Moreover, I urge the SIU board to carefully weigh the salutary effects of permitting this group to incorporate the refundable student fee assessment principle on the Edwardsville campus—consistent with the referendum results representing the expressed wishes of the students themselves.

ACTION AND APPROPRIATE TECHNOLOGY

Mr. PERCY. Mr. President, I wish to share with my colleagues an exchange of letters I have recently had with Sam Brown, the Director of ACTION. The letters concern indigenous volunteer organizations in Third-World countries and the growing role of appropriate technology in developmental work. I ask unanimous consent that these letters be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., December 11, 1978.

Mr. Sam Brown,
Director, ACTION,
Washington, D.C.

Dear Sam: As you know, I am very interested in furthering the Peace Corps' ability to work with host country volunteer groups, known as Domestic Development Services (DDS). I believe that the Peace Corps can be of real assistance to these groups at the village level where much significant development work is presently being done. It is my hope that Section 301(b)(1) of the Peace Corps Act, as amended by the 95th Congress, will enable the Peace Corps to become more fully involved in this area.

As you are aware, the Congress directed the Peace Corps to "devote only a minimal portion of its funds" to the support of DDSs. However, even "minimal" funding could be of great benefit to host nation volunteer groups working in impoverished rural areas.

I would greatly appreciate learning what the Peace Corps is presently doing and what it plans to do to comply with this section of the Peace Corps Act. Would you please include information as to the level of funding available for current fiscal year projects and the projected funding level for FY 1980.

I would also be interested to learn more about the appropriate technology work which ACTION is performing in the domestic sphere, through VISTA. Labor-intensive, small-scale technologies can be as beneficial in meeting basic human needs in rural areas of America as in developing countries. I believe it is important that VISTA emphasize this type of assistance.

I appreciate your time and consideration of these matters, and I look forward to hearing from you soon.

Sincerely,

Charles H. Percy,
U.S. Senator.

ACTION,
Washington, D.C.,
February 16, 1979.

Hon. Charles H. Percy,
U.S. Senate,
Washington, D.C.

Dear Senator Percy: Thank you very much for your letter of December 11, 1978. Your active encouragement and support for Domestic Development Service (DDS) programs has helped us to expand our efforts in these areas. I am pleased to share with you our current activities in DDS and our plans for the future.

It is clear that Domestic Development Service programs—particularly those emphasizing indigenous volunteer organizations and appropriate technology—are growing in popularity and importance throughout the world. To a considerable degree the limited financial resources of Third World Nations makes DDS programs a necessary component of future development efforts. But clearly their importance extends beyond the economies involved. The failure of the "trickle down" approach has taught us the need to consider carefully the values and desires of all participants in the development process. A key principle governing this approach is that in order to be viable and effective, development cannot be externally imposed but most grow from within. A structure of indigenous volunteer organizations would be an important element in realizing this growth.

Likewise, the essence of appropriate technology is its cost effectiveness and relevance to the local setting. The Peace Corps and VISTA have had a long and productive history in the field of appropriate technology. Peace Corps Volunteers, for example, have a special perspective: they speak the local language, understand the cultural differences, and share the day-to-day life of people with whom they work. They have a clear view of the needs, the resources, and the attitudes of the community. The approaches they take to solve development problems are firmly rooted in community participation. Thus Peace Corps Volunteers are uniquely suited to generate and adapt appropriate technologies in developing countries. Similarly, VISTA Volunteers working with low-income groups and local organizations in the United States, use approaches and solutions which are truly in tune with their communities, thus providing an excellent opportunity to introduce and field test various appropriate technologies.

Because of the seriousness of these efforts, ACTION has requested supplemental funds of $167,000 in FY 1979 and $334,000 in FY 1980 for Domestic Development Service programs. In brief, this request will emphasize cooperation with Domestic Development Services in three major areas: (1) encouraging experimentation through the provision of small grants for innovative projects; (2) strengthening DDS programs through leadership training programs focusing on more effective management; and (3) facilitating the exchange of information among programs through conferences and workshops, as well as through the continued support of Aspects, the only international journal devoted to Domestic Development Service.

Additionally, we are requesting $74,000 in supplemental funds for FY 1979 and $150,000 in FY 1980 for the Information, Collection and Exchange (ICE) program. ICE has as a principal goal the dissemination of technical materials derived from Peace Corps experience, especially those emphasizing field-based appropriate technologies, to interested groups and persons in the development community.

You also asked about the appropriate technology work which ACTION is performing in the domestic sphere through VISTA. The development of projects that utilize appropriate technology is of continuing concern to VISTA. A few examples will illustrate this concern. A home weatherization and insulation program in New Hampshire will enable low-income residents to save money on heating and will provide them with a healthier environment in which to live. A VISTA energy conservation/production project has been designing a wind generator in the hopes of providing a low-cost source of energy for small farmers in Nebraska. VISTA's working with the New Mexico Solar Energy Association were involved in the design and construction of attached solar greenhouses, solar water heaters, and solar crop dripers. These are just a few examples of our involvement in these efforts.

Obviously, much still remains to be done. What is learned in the field, if systematically collected and shared, may prove invaluable to others involved in the development process. We have an obligation to share this field-tested knowledge as widely as possible. The commitment and enthusiasm are here, and a beginning has been made. With the support of Congress, this broader vision can become a reality.

Sincerely,

Sam Brown,
Director.

Mr. PERCY. Mr. President, I thank my distinguished colleague, the majority leader, for yielding.

Mr. ROBERT C. BYRD. The Senator is welcome.

SPECIAL ORDER

Mr. ROBERT C. BYRD. Mr. President, I understand that now the distinguished Senator from Arizona needs some time. I have no need for my time. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 11 minutes remaining.

Mr. ROBERT C. BYRD. I yield to the Senator. I believe I understood the distinguished Senator needs 10 minutes?

Mr. GOLDWATER. I doubt that.

Mr. ROBERT C. BYRD. I yield as much of my time as the Senator needs.

Mr. GOLDWATER. Mr. President, I thank my friend from West Virginia.

TAIWAN

Mr. GOLDWATER. Mr. President, we are about to engage in debate on the Taiwan measure that the Foreign Relations Committee has reported.

I am going to support that measure with the amendment I just talked about of the Senator from Illinois.

I am doing that even though I do not

feel that the Taiwan approach by the Foreign Relations Committee is as strong as I would like to have seen it. Nevertheless, it is an accomplishment. It does put Taiwan in a better position relative to the world and its rights than they would have had had we just continued with the abrogation of the treaty.

It will be interesting to see what develops on this matter as we go through it in the next day of two. I understand we will not vote on it today because of the absence of the chairman of the Foreign Relations Committee.

As we know, Mr. President and my colleagues, I have filed a lawsuit, together with 25 other Members of Congress, against the President of the United States for this action in Taiwan. I can assure my colleagues that if this lawsuit is favorable in our direction, it will have no bearing at all on the recognition of Red China. It is merely an attempt to have the courts clarify what this body has been trying to clarify for years, the place that the Senate and the Congress takes in the preparation of treaties and in the abrogation of the treaties.

It is not my purpose to discuss that litigation any further at this point. The judge has made no decision on it and I do not want to appear to be trying to influence him.

But I would like to go back a bit on this whole Taiwan subject and explain how, first of all, I was interested in it.

I was one of the first aviation instructors that the Chinese had at the beginning of World War II. I have grown to know them and feel a very close and high regard for them.

In fact, I remember when President Nixon went to China. I was serving in my capacity then as a Reserve officer flying an Air Force jet to the west coast. As I left Tinker Air Force Base, which is in Oklahoma, I was called on the radio by Fort Worth center and told that Andrews was trying to get me for a phone patch.

I called Andrews and Andrews patched me through by telephone to Secretary Kissinger who told me that by the time I landed in California, President Nixon would have announced his intentions of going to Peking and would I keep my mouth shut.

I agreed to.

Then when I got back from that trip, as soon as I could visit with Dr. Kissinger, I went into my concern that President Nixon might have agreed with the Red Chinese to give away Taiwan. Dr. Kissinger assured me without any question of a doubt that the Shanghai Memorandum had nothing to do with the abrogation of any treaty with Taiwan and they would never agree to it. Not only once, but maybe as many as four times, Secretary Kissinger told me that, and someplace in my files I feel I have a letter or two on the subject. I am looking for them now.

President Nixon also told me that under no circumstances would he ever agree to any association with Red China that meant the abrogation of any treaties with Taiwan.

So I think my colleagues can understand my great shock and surprise when I was called at Fort Huachuca in Arizona and told that the President would call me later on in the day when I had flown back to my home in Phoenix.

He did not call personally, but the Secretary of Defense did, and told me what was going to happen later, which I had already found out through Ambassador Shen of Taiwan, who was visiting in my hometown at that time.

I was shocked because not only had two Presidents—that includes President Nixon and President Ford—and a Secretary of State, Dr. Kissinger, told me there would never be anything done that would hurt Taiwan, but I can recall in his campaign President Carter saying pretty much the same thing. Yet, without any notice, without consultation with any Members of this body that I know of, without talking it over with any Member of the Congress, he suddenly decided to abrogate the Mutual Defense Treaty with Taiwan, something that had never been done by a President of the United States before in our hsitory.

Now, defense treaties have been abrogated, one back in the time of John Adams, but it was done by the Congress, and later, in a backhanded sort of way, agreed to by the President.

So, Mr. President, I have a great interest in this Taiwan Agreement. I think it is a step forward. I think it is better than what we had before it was prepared. As I say, I intend to vote for it because it does give Taiwan a little better recognition. I think if we can agree to the amendment offered by the Senator from Illinois that it will make a highly acceptable piece of legislation. Because we have heard so much, Mr. President, from our present President about human rights, which seems to be the, really, only subject with which he concerns himself, I have considered the abrogation of the treaty with Taiwan to be the greatest slap in the face for human rights that has happened since any President of the United States has been in office.

For the purposes of clearing that up, I ask unanimous consent that an article appearing in the Air Force magazine of March 1979, entitled "Taiwan, Self-Determination, and Human Rights" by Gen. T. R. Milton, Air Force Reserve, be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TAIWAN, SELF-DETERMINATION, AND HUMAN RIGHTS

(By Gen. T. R. Milton, USAF, retired)

One Sunday afternoon a few years ago, the Chief of the Nationalist Chinese forces called on me in Brussels. He was on a swing through Europe, or at least that circumscribed part of Europe that still recognized the existence of his government. The purpose of his call, ostensibly to see an old acquaintance, really lay in the anxiety underlying his careful remarks. President Nixon had recently been to Peking, and the unasked question had to do with how much longer we would be friends and allies. While neither of us was frank, or honest, enough to say it, we both suspected the answer.

In the six years since that Sunday afternoon, there has been a slow but steady move toward normalizing our relations with what we used to call, accurately enough, Red China. Even so, the abruptness with which we abandoned our close friends on Taiwan has been a hard thing to swallow. The Peking asking price for this diplomatic accord stipulated a Taiwan sellout, and we sold out.

Well, on reflection, that is not quite the way to put it. The old men in Peking insist that Taiwan is part of China. If we acknowledge that to be so, then Taiwan goes along in the deal. There is only one China, they say, and Taiwan is part of it. It is the same position the old men in Taipei have taken for the thirty years they have ruled that subtropical island. During those years, the Republic of China has behaved as a government in exile, complete with nominal representatives of all the provinces on the mainland. Taipei was just a temporary capital, so the official line went. One day the seat of government would move back to Peiping, the Northern City, which would then, and only then, once more become Peking, the Northern Capital.

Back in the late fifties and early sixties, when our ties with Chiang Kai-shek's Republic were at their strongest, it was almost possible to believe this Kuomintang Apostle's Creed. It was especially easy to believe it on Double Ten Day, when there was the most splendid parade imaginable. On that occasion, as the old Generalissimo reviewed an almost endless procession of disciplined modern forces all shouting allegiance, and, as the Chinese Air Force jets thundered overhead, anything seemed possible. It was easy to forget that the native population of Taiwan had no desire to go back to a mainland they had never seen, nor had ever been a part of. They were, and are, Taiwanese—people of Chinese descent whose island has been variously controlled by Chinese dynasties, the Dutch, and for fifty years ending in 1945, by the Japanese.

The thirty years that Taiwan has been under Nationalist Chinese control have been, in many ways, the most significant in the island's history. In those thirty years, Taiwan has blossomed, from a comfortable but backward agrarian economy into one of the industrial powers of Asia, a prize exhibit for the free-enterprise system. The whole capitalist world has been attracted, it seems to a place where an educated, hardworking, and highly skilled population is looking for things to do. Trading the good life for the oppressive sterility of the People's Republic would not appear to be an attractive proposition to the average and, by Asian standards, prosperous citizen on Taiwan. Aside from the nostalgic desires of the aging mainlanders to see their ancestral homes once more, there is probably no great feeling anywhere on the island of Taiwan for a reunion with the tough Communists who run China. Even back in the sixties, when such thoughts verged on treason, there was a sizable faction in the Nationalist officer corps who believed the return to the mainland credo was nonsense. Taiwan's future, they felt, lay in its independence.

Chiang Kai-shek, along with most of the principal figures who struggled ashore with him in 1949, is gone. His widow, the Madame, who lent a truly regal air to the goings-on in Taipei, and who, even more than the Generalissimo himself, fostered the credo of back to the mainland, lives a reclusive life on Long Island. Her stepson, Chiang Ching Kuo, is certainly the last of the family who will function as President of the Republic of China on Taiwan or anywhere else.

In establishing diplomatic relations with Peking we have only done what almost everyone else in the world has done long since. Beyond that, there is a certain logic in becoming friendly with a nation that shares a common enemy. All in all, this recognition of the People's Republic has been an inevitable event since that first Nixon visit, as my Chinese general friend and I tacitly admitted that Sunday afternoon in Brussels.

That still leaves Taiwan, as distinct from the now presumably defunct Republic of China, to be dealt with. If we are to exercise the same concern for self-determination as we do in, for instance, Africa, then our consciences should begin nagging us very shortly. There, on Taiwan, are seventeen million free souls. They live under a government that is downright permissive by Communist standards. The population on Taiwan is ninety-three percent literate. Their currency is sound, and they have disciplined military forces capable of defending their country. Taiwan, in short, has everything a country could wish for to guarantee a bright future—save one. Their future has been bargained away. The One-China gospel, according to Mao on the one hand and Chiang on the other, now affects the future of seventeen million people who, by and large, had nothing to do with it.

All of which leads simply to a simple question. Whatever happened to self-determination, not to mention human rights?

Finally, there is this question we must face up to whether we like the answer or not. If our new friends in Peking decide to attack our old and faithful friends on Taiwan, do we sit by and watch on the legalistic grounds that, being an internal Chinese affair, it is none of our business, or do we lend the old friends a hand?

NEWSPAPERS SUPPORT COURT TEST OF UNILATERAL PRESIDENTIAL TREATY TERMINATION

Mr. GOLDWATER. Mr. President, since filing my lawsuit on December 22, which seeks to uphold the rights of the Senate in treaty-termination, as in treatymaking, I have been pleased to notice that newspapers all across the country have reported on it favorably.

These editorials, coming from as far away as Alaska to a Massachusetts paper that is careful to note it does not often support my views, show what the real voice of the people is on this critical issue.

I remind my colleagues that the lawsuit against President Carter's unilateral abrogation of the defense treaty with Taiwan is in a direct line with recent Senate action in the area of national commitments, executive agreements, and war powers. In acting on each of these three subjects, the Senate committees involved articulated their strong belief that the constitutional doctrine of separation of powers applies to the making of foreign policy decisions. The committee reports on this legislation emphasized that the President is not supreme in the field of foreign affairs, and that the Constitution calls for an active congressional role in the establishment of foreign policy.

Mr. President, that is the crux of my lawsuit. I am arguing that the President alone cannot give notice of withdrawing from a treaty, but that he must seek the approval of the Senate or, if he wishes, both Houses of Congress. The policy decision is a shared one, subject to the "checks and balances" implicit in the Constitution.

Mr. President, I believe the editorials will help explain this aspect of my suit in plain language, and I ask unanimous consent that 14 of them be printed at this point in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Phoenix Gazette, Dec. 18, 1978]

BREAKING THE LAW?

What effect will President Carter's sudden Chinese stroke have on prospects for the SALT II treaty?

Secretary of State Cyrus Vance is scheduled to meet with the Russians this week to put the finishing touches on the second strategic arms limitations treaty. Whether the Kremlin negotiators will make any changes in their positions in light of the China card played by Carter, only they know.

Surely it will do nothing to facilitate an agreement, even if the U.S.S.R. negotiators remain intent on the negotiations at hand, to give themselves the upper hand as they did in SALT I.

As for Senate ratification of a SALT II treaty, it would seem to have been made more difficult than ever by the high-handed manner in which Carter acted to abrogate the United States' treaty with our China friends on Taiwan and embrace the Communist Chinese on the mainland.

Besides, if a President can break a treaty—the law of the land—at will, what does America's word amount to in any treaty? The Russians might ask that very thing of Vance this week.

And if the Russians don't several prominent citizens, led by Senator Goldwater, are considering asking the question in court.

As Goldwater pointed out in a Heritage Foundation paper issued earlier this year on the very question of the China treaty, the President alone cannot repeal a statute, so he alone cannot repeal a treaty.

"In this age of concern about what is described as the imperial presidency," Goldwater said, "it is remarkable that anyone would contend the President is unchecked and unaccountable in a matter of such grave importance as breaking our treaties with other countries."

Carter apparently has chosen to arbitrarily force a decision upon the Congress as a fait accompli about which it can do nothing. That assertion of power should be challenged.

[From the Columbus Evening Dispatch, Dec. 22, 1978]

TREATY POWERS NEED SUPREME COURT TEST

In terminating a defense treaty with the Chinese government on Taiwan, President Carter apparently has acted in a way that authors of the Constitution did not intend.

Mr. Carter acted alone without the consent of Congress, while writers of the Constitution like James Madison clearly envisaged a role for the legislative branch in annulling any treaty.

For this reason it is both important and proper for Sen. Barry Goldwater, R-Ariz., to propose a legal test of presidential authority, which should lead to a landmark Supreme Court decision. We doubt the court decision will repeal Mr. Carter's action—certainly it will not affect his recognition of Mainland China. Recognition is an established presidential prerogative.

But a legal test will serve to clear the air on a controversial matter: Whether Mr. Carter had any right to cancel the defense treaty without the consent of Congress. Certainly, Mr. Goldwater believes the president exceeded his mandate and "runs the risk of impeachment."

In reviewing the early years of American diplomatic experience, an unambiguous lesson emerges. Congress asserted, and presidents conceded, that the national legislature had a role in abrogating treaties. For instance, it was Congress, not President John Adams, that declared null and void the treaties with France dating from 1778. In this first test of constitutional authority, the president consented to the action of Congress, thus establishing a precedent.

Interestingly, the first president to attempt to end a treaty without prior legislative approval was President Abraham Lincoln in 1864. Congress repudiated Mr. Lincoln's action, and reaffirmed its own role.

No one would assert the U.S. should maintain defense treaties with nations the U.S. does not recognize. And, it seems logical that in recognizing the mainland regime Washington must terminate its treaty with Taiwan.

But necessity does not offer a legitimate defense for unconstitutional actions. It seems to us that Mr. Carter clearly exceeded executive authority in acting unilaterally. The proper route was to consult Congress. Since Mr. Carter did not, his actions deserve a legal test.

[From the Bluefield (W. Va.) Daily Telegraph, Dec. 22, 1978]

IMMORAL AND ILLEGAL?

Many Americans wouldn't object at all to President Carter's recognition of Red China if he had not linked it with a disavowal of our diplomatic ties and treaties with Taiwan. However that was the price required by the Communist Chinese, and Carter submitted and paid it.

Of course Carter's action was completely immoral, at least to those who think morality has any place in international politics. And Senator Goldwater, among others, thinks it also may have been illegal.

The Arizona senator agrees that any President has the constitutional authority to sever diplomatic relations with any nation. But he thinks the matter of treaties is something else entirely.

Goldwater bases his argument on the unassailable fact that treaties cannot be concluded with any foreign nation without the consent of two-thirds of the U.S. Senate. By the same token, he says, once the Senate has ratified such a treaty, no President can on his own simply announce that the agreement is no longer in force. That too requires Senate consent, Goldwater contends.

"If the President can break the treaty with Taiwan," Goldwater says, "then he can withdraw from NATO or pull out of any other treaty without consulting Congress or getting its consent."

Unfortunately for those who agree with Goldwater, there is almost no law and no past experience in this area to guide us. The Constitution quite clearly leaves the conduct of foreign affairs to the President, requiring only that he obtain Senate approval of any proposed treaties.

However if President Nixon were still in office, and if he had attempted a similar action while Congress was controlled by hostile Democrats, you can bet your bottom dollar a way would be found to prevent him from doing it.

[From the Tulsa Tribune, Dec. 26, 1978]

THE GOLDWATER SUIT

Sen. Barry Goldwater and a group of congressmen have filed suit in federal district court in Washington, charging President Jimmy Carter with violating the U.S. Constitution in his announced determination to end the defense treaty between the United States and the Taiwan government on his own volition.

So, what does the Constitution say?

It says (Article II, section 2, paragraph 2): "He (the president) shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the senators present concur."

If the president clearly needs two-thirds approval by the Senate to make a treaty does it also follow that he needs the same approval to cancel one? This will be up to the court to decide. But it seems that common sense would insist that unmaking a treaty is as fundamental a foreign policy act as making one. Otherwise, the whole concept of senatorial review becomes meaningless, for, presumably, a president could simply expunge in a day our entire foreign policy as approved by the Senate.

Jimmy Carter may have led with his chin on the China issue. By his declaration that there is only one China and its government is in Peking he has put the United States in the position of denying that a separate government in Taipei has a right to exist. His attempts to convince Americans that there is some unannounced understanding with Peking that Taiwan will be let alone has enjoyed no confirming acknowledgment from the Chinese Communists.

Where can Jimmy Carter show documentary or even witnessed verbal proof that he hasn't sold out Taiwan completely? Administration apologists have said that Peking was unable to give any hands-off guarantees because it would have lost "face." What about America's face?

Red China needs America a lot more than America needs Red China. Alas, we seem to have a president who plays aces like treys.

[From the Muncie (Ind.) Star, Dec. 25, 1978]

The Return to Imperial Power

(By M. Stanton Evans)

WASHINGTON.—It seems like only yesterday that leading spokesmen of media, academy and government were explaining the evils of "the imperial presidency."

In the wake of the Watergate debacle, numerous authorities deplored the growth of presidential power, especially in the realm of foreign affairs. It was "the arrogance of power" and "executive usurpation" that allegedly led us to Watergate and the quagmire of Vietnam. The supposed lesson was that never again would Congress permit its rightful powers to be absorbed into the executive vortex.

That, however, was when Richard Nixon was president and the issues up for discussion were Watergate and Vietnam. Now that the focus has shifted to President Carter and the servering of our relationship with nationalist China, those earlier warnings are barely audible. For some reason, the people who denounced the overweening executive a couple of years ago are back to supporting the President's power to make our foreign policy as he pleases—without permitting the Senate to exercise its historic right of making and abridging treaties.

As part of its policy of accommodation with the Communists the Carter regime is trying to renounce the 1954 Mutual Defense Treaty with the Republic of China on Taiwan. The president and the State Department contend that the executive alone can dissolve the treaty, simply by telling the Free Chinese that we intend to terminate it after one year's notice—as provided in the treaty itself.

The treaty, however, doesn't vest this power in the president. It says that "either party may terminate it one year after notice has been given to the other party." And, of course, the "parties" to the treaty are not Free China and the president, but Free China and the government of the United States, functioning through its constitutional processes. That means, according to our fundamental law, the president and two-thirds of the U.S. Senate. The treaty can be unmade, that is, only by the parties who made it in the first place.

This common sense reading is fully supported by the historical record, as reviewed by Sen. Barry Goldwater (R-Ariz.) in an excellent monograph entitled "China and the Abrogation of Treaties" (Heritage Foundation). Goldwater shows that historical precedent in this area strongly supports the right of the Congress to participate in any decision to renounce a treaty, and that recent claims to the contrary are based directly on "the imperial Presidency" syndrome dating from the New Deal on.

Goldwater points out that there have been more than 40 instances in which Congress has taken part in the termination of treaties, several cases in which executive efforts to terminate by unilateral action have been repudiated, and only a handful of instances—mostly dating from the era of World War II—in which executive renunciation has been accepted, usually because external circumstances made fulfillment of the treaty's terms impossible.

Nowhere on record, Goldwater concludes, is there a case of presidents having unilaterally broken a treaty with a friendly power, in the absence of any treaty violation by that power, simply because the President and his advisors decided this was the expedient thing to do. What President Carter proposes, therefore, is an action outside the Constitution, which Goldwater and other members of Congress have moved to challenge in the courts and legislative chambers. All true opponents of "the imperial presidency" will wish them well in that endeavor.

[From the Northern Virginia Daily, Dec. 27, 1978]

In Our Opinion

GOLDWATER'S LAWSUIT

In his outraged initial comment on President Carter's announcement about full diplomatic relations with the People's Republic of China, Sen. Barry Goldwater threatened to sue. He challenged the constitutionality of Mr. Carter's move to abrogate the security treaty with Taiwan.

The Arizona Senator has now carried out his threat, seeking a federal court ruling that the President's actions violate the Constitution. In addition the suit (in Goldwater's words) "asks the court to block the president and secretary of state from taking any further action, without legislative authority, which will have the effect of terminating that treaty."

There has naturally been speculation as to Goldwater's motives in going to such lengths. Some suggest that conservative politics is the main impetus, a notion which is somewhat bolstered when one considers the roster of fellow lawmakers joining him in the suit. But that seems overly cynical.

We incline to tne view that Goldwater genuinely believes the Taiwan matter is both a moral issue and a constitutional question, and that the legal action he has begun is seriously intended. Well, then, is there much chance that the courts will declare the President's action unconstitutional?

Probably not. Other presidents have abrogated treaties without first obtaining the specific approval of Congress. And in this case it can be persuasively argued that Mr. Carter was only carrying out policy set in 1972—policy as to which there has been much White House consultation with Congress.

The court test is not inconsequential, however. Recent years have seen a jockeying for power between the executive and legislative branches of the government. A good case can be made for the thesis that no president ought to undertake any major foreign policy change without seeking the timely advice and consent of the Senate, if not the House.

The suit brought by Senator Goldwater and like-minded colleagues may serve to emphasize this principle. That would be all to the good.

[From the Albany (Oreg.) Democrat-Herald, Dec. 27, 1978]

What If Presidents Can Cancel Any U.S. Treaty?

No matter how practical and useful the renewed diplomatic relationship with mainland China may turn out to be, the question of whether the president—any president—has the authority to renounce a formal U.S. treaty casts a shadow over the Carter administration's China policy.

The question may be answered by the courts because Sen. Barry Goldwater of Arizona and several other members of Congress have filed suit. But even before the courts give a definitive answer, it seems doubtful that any president has the right to abrogate a treaty like the defense treaty with Taiwan.

The Constitution makes it plain that treaties cannot be made unless they are ratified by a two-thirds majority of the Senate. It follows that treaties cannot be unmade unless the Senate gives its approval.

If the Supreme Court eventually rules that way, the plans for normal diplomatic relations between the United States and China probably will be shattered. Cancellation of the Taiwan treaty and U.S. recognition of the Peking regime as the sole government of all China were conditions upon which China based its consent to diplomatic relations.

We think U.S. diplomatic recognition of China is a worthwhile development, because it holds trade advantages for the United States and the promise—through trade and modernization—of better living conditions for many Chinese. But there is no question that the proposal to drop the Taiwan treaty should be submitted to the Senate.

This country can't afford the kind of precedent that would be established if one person alone, the president, is allowed to cancel American treaties on his own.

If he can cancel a treaty, then what is left of the Constitutional requirement that he can't make a treaty without the advice and consent of two-thirds of the Senate? And if nothing is then left of that requirement, what kind of foreign entanglements can a president get us into?

If Carter's China measure fails on this point—the Taiwan treaty—the Coca Cola Co. will probably be forced to drop its plan to enter the Chinese market. But what's worse, a China without Coke or the U.S. Senate stripped of its treaty-ratifying role?

[From the Santa Monica (Calif.) Outlook, Dec. 28, 1978]

The Taiwan Challenge

Arizona Sen. Barry Goldwater has raised a serious constitutional issue in his suit challenging the right of President Carter to unilaterally abrogate this nation's mutual defense treaty with Taiwan.

Goldwater declared when he filed the suit that "the Constitution expressly says that a treaty is part of the supreme law of the land. It also specifically directs the president to 'take care that the laws be faithfully executed.' In short, the Constitution tells the president that he must carry out a treaty in good faith, which is exactly the opposite of what President Carter is attempting to do.

"Just as the president alone cannot repeal a law, he cannot repeal a treaty, which in itself is a law."

Goldwater went on to say that Mr. Carter's decision was "unprecedented" and "shrouded in secrecy."

"If the president gets away with it," the Arizona Republican continued, 'then each and every treaty the United States has with another country, such as NATO or our alliances with South Korea and Japan, will be put in doubt."

Those are sound points, legally as well as politically.

The Constituiton says in no uncertain terms that the president "shall have the power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the senators present concur. . . "

In this case, the mutual defense pact was ratified by the Senate. Moreover, Congress before it adjourned this fall specifically asked the president not to change this

nation's relationship with Taiwan and *Red China* without consulting the legislative branch. This the president didn't do.

The president's actions may have been political, but there is little doubt here that the federal courts have jurisdiction. The Constitution clearly says that "The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under this authority. . . "

Goldwater's legal position seems unassailable unless someone can find some fine print in the treaty which explicitly gives the president the authority to terminate it. The president, after all, has no authority to repeal garden-variety federal laws once legislation creating them goes into effect; the same principles should govern treaties, too, which are listed within the Constitution's "supreme law of the land" clause.

But while we find Goldwater's position unassailable under the Constitution, we nevertheless have misgivings about the wisdom of involving the courts directly in foreign affairs—especially when we are dealing with defense matters which clearly can't wait in crisis situations for leisurely legal arguments.

However, Goldwater did not provoke this crisis; Carter did when he rashly and foolishly attempted to break our understanding with Taiwan.

Mr. Carter should rescind his declaration on the mutual defense treaty and seek out the "advice and consent" of the Senate if he still wants to continue along this dangerous path.

[From the Chicago Tribune, Dec. 29, 1978]

Carter Has No Right to Rescind a Treaty

(By Patrick Buchanan)

WASHINGTON.—Secondary explosions from the bomb President Carter detonated over the Republic of China have only just begun.

The President's attorneys are very probably headed into the United States Supreme Court—there to explain to the sitting justices why Carter's abrogation of the mutual security treaty with Taiwan was not a gross abuse of presidential power.

A case is being readied in the offices of Sen. Barry Goldwater (R., Ariz.). From the reading of a paper the senator prepared for The Heritage Foundation, an impressive argument can be made that Carter asserted an authority he does not possess.

Like other treaties with foreign powers, the U.S. mutual security treaty of 1955 with the Republic of China required the approval of two-thirds of the Senate Where in the Constitution is the President given the authority to decide, unilaterally, to avoid an existing treaty?

Under article IV, an approved treaty with a foreign nation becomes part of the "supreme law of the land," just as a statute is the law of the land. Under Article II, the President is entrusted to "take care that the laws be faithfully executed." As he cannot repeal a statute, so he cannot repeal a treaty.

Thomas Jefferson put it directly: "Treaties being declared equally with the laws of the United States, to be the Supreme Law of the Land, it is understood that an act of the legislature alone can declare them infringed or rescinded."

Yet Carter did not even consult with Congress before announcing his intention to abrogate the Taiwan security treaty. Whence, then, his precedent and authority?

As Sen. Goldwater writes: ". . . the United States has never repudiated a defense treaty with a friendly nation. Nor has any President terminated a treaty that was not breached by the other party . . ."

No one questions Carter's right to remove his ambassador from Taipei and send his ambassador to Peking. No one questions his authority, as commander in chief to remove all American forces from the island of Taiwan.

But Jimmy Carter is not Julius Caesar; he is not some dictator who can declare treaties null and void on his own discretion. The sweeping authority asserted Friday night makes Nixon's impoundment of funds for sewer plants seem trivial.

And implications of a Carter victory in the Supreme Court are staggering:

"If the President," declares the senator, "can break the treaty with Taiwan on his own authority, then he can withdraw from NATO or pull out of any other treaty without consulting Congress or getting its consent."

South Korea, for example, could be put on notice by a dovish President that we were pulling out of our treaty commitment—at the very moment tensions arose on the frontier. Some future isolationist President could unilaterally inform West Germany and the West Europeans that the United States was serving notice it was leaving the alliance.

Of what value are security treaties with dozens of allies if they may be disposed of at the whim of a temporary occupant of the Oval Office?

Since we will no longer recognize the Republic of China as the government of China, the State Department may argue, our security treaty must automatically lapse.

But history disputes this interpretation: In 1929, when the United States did not recognize Soviet Russia, we nonetheless urged the Russians to sign the Kellogg-Briand Pact outlawing war as an instrument of national policy. And in 1962, the People's Republic of China, which the United States did not recognize, was party to the Laotian neutrality agreement.

Many who are delighted today with the dumping of Taiwan are likely unconcerned with constitutional niceties. But they are precisely the senators who would howl "Imperial President" if some future chief executive should unilaterally withdraw the United States from the Nuclear Non-Proliferation Treaty and begin transferring atomic weapons to our allies.

[From the Washington Star, Dec. 31, 1978]

Goldwater and the Abrogation of Treaties

(By James J. Kilpatrick)

WASHINGTON.—On May 18, 1978, six months before President Carter made his announcement on relations with China, Sen. Barry Goldwater published a monograph in which he anticipated precisely what the President would attempt to do. Goldwater's essay is must reading now.

The Arizona Republican foresaw that Mr. Carter would undertake to abrogate our 1954 treaty with Taiwan on his own presidential say-so. The Goldwater monograph, published under auspices of the Heritage Foundation, convincingly demolishes Mr. Carter's bold bid to abrogate a treaty-breaking power to himself alone.

Yes, it appears, presidents occasionally have announced the abrogation of treaties—but only under circumstances that do not apply in the matter of Taiwan. In the past 50 years, nine such terminations have been undertaken by the White House. Two of the announcements were withdrawn. The remaining seven involved instances in which a treaty had been patently breached, or changed circumstances made implementation no longer possible, or new law had intervened.

Goldwater cites chapter and verse. By way of example, Roosevelt in 1939 announced our withdrawal from the London Naval Treaty of 1936. The reasons was self-evident: Europe was in a state of war and the treaty had canceled itself.

At about the same time, Roosevelt notified Japan of our intent to terminate the Commercial Treaty of 1911. Again, the circumstances were compelling. We were bound under a later Nine Power Agreement to respect the territorial integrity of China.

In 1962, President Kennedy proclaimed termination of a 1902 commercial convention with Cuba, but his action provides no precedent for Mr. Carter and Taiwan. Kennedy had clear authority for his action under three separate acts of Congress.

From the very beginning of the Republic, dating back to John Adams' day, abrogation of a formal treaty has required congressional sanction. The rule is consistent with the entire structure of constitutional government. A president cannot make a treaty by himself; he has to have the consent of the Senate. It follows inexorably from this requirement that a president cannot unmake a treaty by himself, either. He has to have the consent of the Senate—or, as the precedents demonstrate, the consent of the Congress as a whole.

Is it supposed that a president, by his own dictatorial fiat, could repeal a statute? Could a president, for example, simply announce one morning that he had abolished the income tax, or sold off a national park, or rewritten the laws on the licensing of drugs? Plainly not. But treaties stand equally with the Constitution itself and the acts of Congress as the supreme law of the land.

Other presidents have understood this. In 1855, President Pierce wanted to suspend a commercial treaty with Denmark. He first asked and received the consent of the Senate. In 1874, President Grant proposed to suspend a treaty of commerce and navigation with Belgium. He got his permission from the Senate. Two years later, Grant was concerned about a treaty of extradition with Great Britain. "It is for the wisdom of Congress to determine whether the article . . . is to be any longer regarded as obligatory on the Government of the United States.

Goldwater cites other precedents involving Presidents Hayes, McKinley, Taft, Wilson and Harding. He concludes flatly that "no president acting alone can abrogate, or give notice of the intention to abrogate, our existing treaties with the government on Taiwan." If the 1954 treaty is to be abandoned, it can only be done with "the approval of two-thirds of the Senate or a majority of both Houses of Congress."

In Goldwater's view, "any president who would seek to thwart this constitutional mandate runs the risk of impeachment." Now, the House is not at all likely to impeach Jimmy Carter on the matter of Taiwan, but neither can the President be permitted to get away with this usurpation of power. In some fashion, the President's hand must be called and the role of the Senate must be regained.

[From the Fairbanks (Alaska) News-Miner, Jan. 2, 1979]

Senator Goldwater's Lawsuit

There were many cries of protest when President Carter announced he was recognizing Red China and cutting American defense agreements with the Republic of China. Now Sen. Barry Goldwater, R-Ariz., has taken the first real action against the move, and he's on the right track.

Sen. Goldwater didn't attack the recognition of Red China in his suit, he instead zeroed in on the breaking of our 24-year-old defense pact with the free Chinese government on Taiwan. He is asking a federal court to block Carter's action on the treaty until he has the Senate's concurrence.

The president is right in many of the reasons he states for recognizing the People's Republic of China. The U.S. can't forever ignore the largest nation on earth, no matter how much we disapprove of its record. Diplomatic recognition is the logical step following the moves President Carter's two predecessors have made to open China to the West.

But Sen. Goldwater's suit is only attacking the president's second move—the cutting of our ties with Taiwan. It is this part of his agreement with Red China that has brought the most flak, and rightfully so.

There's no reason we have to bow to the demands of mainland China and suddenly declare the island republic an internal matter that we will no longer be concerned with. Taiwan's close ties with the U.S., its advancement among free nations and its economic growth under our own protection should give it a special place in American Asian policy. Instead the president has sold Taiwan out completely, with nothing more than the barest informal assertions that it will remain free. In the eyes of President Carter, Taiwan is nothing more than a rebel state of China.

Sen. Goldwater's lawsuit might grow into an interesting and important test of powers between the legislative and executive branches. It will certainly serve us well as a test of this shocking and abrupt policy switch by the Carter administration, and it points out the danger of leaving foreign policy entirely up to a president who seems to take our long-standing policies and alliances so lightly.

[From the Indianapolis Star, Jan. 2, 1979]

TREATY-BREAKING POWER

Blasting President Carter's single-handed, surprise termination of the 1954 defense treaty with Taiwan, United States Sen. Barry M. Goldwater (R-Ariz.) described it as the act of an "imperial presidency."

Mr. Carter did not consult Congress. He did not make his intentions known, permitting a public debate. Like Caesar crossing the Rubicon, he presented his adversaries with a *fait accompli*, a deed which he apparently was confident could not be undone.

Quite understandably, his State Department said that Mr. Carter was justified by historical precedent and constitutional authority to break the treaty.

The intent of the Founding Fathers in this matter cannot be known, because the Constitution says nothing about treaty termination.

However, since the Constitution does require the advice and consent of the Senate in the making of treaties, it is not illogical to conclude that the advice and consent of the Senate should also be required in the breaking of treaties, which could be equally momentous and of grave consequence.

That point is made in the suit filed in federal court by Sen. Goldwater and 14 congressional colleagues asking that the termination be invalidated and that President Carter and Secretary of State Cyrus Vance be required to make the Senate a party to any action on the 1954 Taiwan treaty.

Some opponents have charged that Mr. Carter made his China announcement as a publicity stunt to divert attention from the collapse of his highly puffed up Mideast peace initiatives. If so, the "imperial presidency" theme rings true, for that sort of capriciousness was characteristic of Roman emperors such as Nero, Caligula and Tiberius.

History will be the judge of Mr. Carter's *fait accompli*. But we find ourselves recalling the sacrifice of Czechoslovakia at Munich, to appease Hitler and the Nazi warlords and, in the fatuous words of British Prime Minister Neville Chamberlain, to guarantee "peace in our time."

Thirty years ago amid secret maneuverings in Washington, it was later charged, high-level U.S. decisions were made that sealed the fate of Generalissimo Chiang Kai-shek's regime and assured the victory of Mao Tse-tung and the communists on the Chinese mainland.

Supporters of U.S. policy in that period say that the communist takeover was "inevitable." Three decades from now will they be saying the same thing about the capture, blood-purging and enslavement of Taiwan?

[From the Marlborough (Mass.) Hudson Daily Sun, Jan. 4, 1979]

CHECKS AND BALANCES

U.S. Sen. Barry Goldwater, conservative Republican, is leading a coalition of Republican and Democratic senators in a bold move to save the country from an "imperial presidency," or to put it more bluntly a White House dictatorship. The coalition has filed suit in U.S. District Court to stop President Carter from simply abrogating on his own, and without consent by the Senate, that 1955 defense treaty with Taiwan.

Goldwater has characterized the proposed virtual abandonment of Taiwan to the People's Republic of China—Red China—as not only an "infamous" action, but "one of the worst power grabs in history." The Senator rightly says that Carter's action, if allowed to stand, would henceforth subject all treaties to "the whim of the single person who happens to sit in the Oval Office at any given moment of history."

The Goldwater suit simply points out that constitutionally the U.S. Senate is a "partner with the President in treaty making." Treaties with foreign countries require under our laws ratification by two-thirds of the Senate; to give the President alone power to scrap treaties without even a bow to the U.S. Senate smacks of dictatorship, and a virtual end to the American checks and balances system.

"Just as the President alone cannot repeal a law, he cannot repeal a treaty, which itself is a law," says Goldwater. "The President's decision to act alone in seeking to break a defense treaty is unprecedented. If left unchallenged the unilateral action by defendant Carter will set a dangerous precedent . . . Such unchecked concentration of power in one person is totally inimical to our democratic form of government."

It certainly is. Not only Jimmy Carter, a Democrat, but two recent Republican Presidents—Richard M. Nixon and Gerald R. Ford—have shown that they want to grab more and more powers for the President alone, and without even a by-your-leave to the Congress of the United States which, after all, represents the people themselves, and is the very key to the traditional checks and balances system—executive, legislative, judiciary.

Nixon, of course, will be remembered not only for his disgrace in the Watergate affair, but for his efforts to surround the presidency with trappings of an "imperial President." Remember when he dressed up the White House guards like European palace guards? Only a few days ago, Gerald Ford said he thought the President should have more power, and Congress less. A surprising attitude on the part of Presidents who had served in the Congress.

Even though we certainly have not applauded some Goldwater views on social problems, we certainly cheer him on this suit to save the country from a virtual presidential dictatorship in foreign affairs. It is utterly inconceivable to say that while the Senate must approve treaties by two-thirds votes, a President can simply throw them out.

[From the Hackensack (N.J.) Record, Jan. 8, 1979]

THE GOLDWATER DOCTRINE

During the 1940's, American planes flew a route that carried them over Burma into China, bringing precious supplies and war material to the beleaguered forces of Chiang Kai-shek. Flying the hump, as it was known, was a dangerous mission in a dangerous time. It was one of the ties that bound up the United States with Chiang's Nationalist regime, the ghost of which survives on today on Taiwan.

One of the Americans who flew the hump was a young lieutenant named Barry Goldwater. Today, Mr. Goldwater is a United States senator, a former candidate for president, a national conservative spokesman, and an ardent supporter of the government of Taiwan. He is outraged by President Carter's decision to break the 25-year-old mutual-defense pact between the United States and Taiwan in order to gain recognition from the People's Republic of China; accordingly, he's filed suit against the president in United States District Court, claiming that the Constitution allows only one way of breaking a treaty—that is, in the same way it is made, by the president with the advice and consent of two thirds of the Senate.

Naturally, the senator's lofty constitutional arguments are grounded in ideological motives. He thinks the president can't find 67 senators to consent to breaking the Taiwan treaty, and he's probably right. Still, his argument can't be lightly brushed aside.

In a State Department memorandum that was obviously prepared to defend against just such arguments, the administration argues that there is ample precedent for its action, in the last half-century, it says, nine treaties have been terminated by the president alone. Mr. Goldwater's answer is that the administration's precedents don't apply, they deal with treaties that—unlike the Taiwain pact—were effectively superseded by other treaties or by acts of Congress. The Carter position simply won't do, he says, a treaty is the law of the land, and the president has no authority to change it without consulting the Senate.

What does the Constitution have to say about all this? "He [the president] shall have power, by and with the advice of the Senate, to make treaties, provided two thirds of the senators present concur . . ." Unfortunately, the Founding Fathers didn't complete the thought. They left us no wisdom about the kind of situation we now confront, the termination of a treaty.

So this is very much a question for the courts to answer. We've supported the president's decision to recognize mainland China, and it would be easy to say that we hope the precedents turn out to be on his side. But recent history—the presidential arrogance of Vietnam and Watergate—is too fresh in memory. Congress fought hard to regain its prerogatives then, and they should not be casually surrendered now, even in a good cause. If indeed the president has the unilateral right to break a treaty, he'll have to make his case in court, he hasn't yet made it to the American people.

Mr. GOLDWATER. Mr. President, I yield back the remainder of my time.

Again, I thank the distinguished majority leader for allowing me to speak.

Mr. GLENN. Mr. President, will the Senator yield for a question?

Mr. GOLDWATER. I yield.

Mr. GLENN. If I understood the distinguished Senator from Arizona correctly, he said that if this lawsuit were decided in his favor, it would affect the current process of normalization with the PRC. Did I understand the Senator correctly?

Mr. GOLDWATER. Maybe I did not state it sufficiently.

If the lawsuit is won, my understanding is that the President then would ask the Senate to approve the abrogation of the treaty, which I have no doubt the Senate would do. That is what I meant by saying that I do not think it would change anything.

We might go through a long hassle. But the fact has been accomplished. The lawsuit has not been filed for the purpose of destroying that accomplishment. Even though I object to it very strongly, I think we would approve it when it came here, and that is the whole purpose.

Mr. GLENN. That is my understanding of the procedure that would have to be employed. I misinterpreted what was said earlier.

Mr. GOLDWATER. I thank my friend for calling my attention to it.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, for not to exceed 10 minutes, with statements therein limited to 2 minutes each.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 93-568, appoints Ms. Marian G. Gallagher, of Seattle, Wash., to the Advisory Committee to the White House Conference on Library and Information Services, in lieu of Mr. J. C. Redd, of Jackson, Miss.

MR. SCHLESINGER AS SECRETARY OF ENERGY

Mr. METZENBAUM. Mr. President, on February 5, 1978, I publicly called for the resignation of James Schlesinger as Secretary of Energy. A few days later, in a meeting at the White House, I repeated the request personally to the President. At the time, I said that Dr. Schlesinger had lost his credibility with the American people and was a distinct handicap to the President.

In nearly 13 months since then, much has happened on the energy scene, but nothing has happened to change my original opinion. In fact, virtually every action taken by the Secretary of Energy has only reinforced my feeling that nothing major will be accomplished in our energy situation until we have new leadership at DOE.

Dr. Schlesinger's latest effort to secure higher gasoline prices for the oil industry is just one more example of how the American consumer is being held hostage by the Department of Energy.

Nearly 3 months ago, Dr. Schlesinger began his campaign to effect decontrol of gasoline prices. At a hearing of the Senate Energy and Natural Resources Committee, the Department of Energy was given a clear message that the Congress would not give its approval to such a request. With our soaring rate of inflation, it is patently obvious that it is the duty of every branch of the Government to do its utmost to lessen the burden on the consumer.

Somehow, however, that message has not gotten through to the Secretary of Energy. Or, possibly, the Secretary feels that his Department has a special immunity or dispensation that allows him to exercise his own prerogatives, even though they are in direct contradiction to the will of the Congress.

Knowing that there is no way that Congress will approve the decontrol of gasoline prices. The Secretary of Energy is now using the Iranian situation as a rationale to give administrative approval to higher gasoline prices by changing some of its regulations. By invoking a "tilt pricing concept," the Department of Energy expects to be able to allow the oil companies to get what they wanted anyway—higher prices.

In a March 5, 1979, article in the New York Times by Steven Rattner, the latest Schlesinger move is correctly labeled "surreptitious decontrol." in part, the article reads:

> Although the Iranian crisis has at least temporarily ended plans to seek gasoline and crude oil decontrol, the energy officials are engaged in what one called surreptitious decontrol. That means arcane changes in regulations on gasoline to increase incentives for refiners and higher prices for various types of crude oil that will bring the price of a quickly increasing percentage of oil to world levels.

How the Secretary of Energy can justify increased incentives for an industry that keeps reporting astronomical record profits is beyond me.

Almost daily we can read in a magazine or newspaper a new criticism of Dr. Schlesinger. Last week, in a syndicated column appearing in the Washington Post, Marquis Childs had this to say about the Secretary:

> In Congress he is considered arrogant, overbearing, bent on setting his own course regardless of what anyone else may think. The latest irritant is an interview in which he did a gloom-and-doom act predicting higher gasoline and fuel oil prices and long lines at the gas pumps as a result of the loss of Iranian oil. He failed, however, to come down hard for any course that might conserve gasoline and reduce the flow of imports.

His recent actions in our negotiations with our neighbors in Mexico have brought us embarrassing problems and could cause irreparable harm to our future plans for decreasing our dependency on Mideast oil.

Mr. President, the American people are well aware that we have serious energy problems and I believe they are willing to make the necessary sacrifices to help solve them. But they are confused and frustrated because of the constantly changing signals they are receiving from their Department of Energy. Until they are convinced they can rely on what they are hearing from Washington, it is going to be extremely difficult to motivate them to act.

I do not believe that motivation is going to come until there is new leadership at the Department of Energy. Once more, for the good of the Nation, I urge Secretary Schlesinger to perform the highest in public service and submit his resignation to the President.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there morning business? If not, morning business is closed.

TAIWAN ENABLING ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, S. 245, which will be stated by title.

The assistant legislative clerk read as follows:

> A bill (S. 245) to promote the foreign policy of the United States through the maintenance of commercial, cultural, and other relations with the people of Taiwan on an unofficial basis, and for other purposes.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PRYOR). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I hope that Senators will come to the Chamber with their amendments.

We started on the legislation on Monday. There was little time taken on Monday. I believe only Senator GLENN and Senator JAVITS made speeches that day, and those statements were not lengthy. There may have been other statements that I am not aware of. We certainly did not stay in long Monday. Senators had an opportunity to make statements on the measure. Those Senators who have amendments I hope will get to the Chamber and call them up so we can begin to move on this legislation. I hope we will complete action on the bill by tomorrow evening.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, the bill we take up today, S. 245, the Taiwan enabling legislation, has been significantly modified by the Foreign Relations Committee to correct deficiencies in the original administration proposal. The revised bill clarifies many ambiguities regarding trade, legal, and economic issues, in addition to inserting a specific security clause designed to reassure the people on Taiwan and alert the PRC to our expectations concerning the future.

Many Members share my dissatisfaction with the President's presentation of a fait accompli to Congress, and of the failure to better provide for the security of Taiwan despite an April 1977 Presidential review memorandum (No. 24) which reportedly set a goal of obtaining a specific commitment from the PRC that there would be no use of force against Taiwan.

I want to emphasize that this is a committee-drafted measure, not the administration bill. Taiwan's future is not some vague abstraction; rather, it is the reality of 17 million people with the second highest standard of living in Asia. The committee, while agreeing upon importance of normalization with the PRC, nevertheless felt these legislative changes were necessary to chart a safer course for Taiwan.

The immediate issue before the committee and the Senate is how to maintain an informal relationship with Taiwan in the absence of formal diplomatic ties. I believe that S. 245 will allow us to retain close and cordial ties with Taiwan, to continue mutually beneficial trade and investment, and to insure the freedom of the people of Taiwan to choose their own destiny.

The instability and violence of Asia during our lifetime has been intertwined with China's inability to rule itself. Since World War II, the festering Chinese civil war and the "one China" claims of both Taiwan and Peking has bedeviled American foreign policy. With the President's announcement of December 15, 1978, the United States opted out of supporting the continuation of that civil war and recognized the People's Republic of China, the Government ruling the mainland of China.

The United States has struggled for four decades to develop and implement an East Asian policy that would protect American interests and contribute to people and stability in the western Pacific. This effort has been carried out at great cost in blood and treasure and with traumatic divisions among our people as to whether the right course was being followed.

The task will not be simple, it will not be easy, but the United States must develop a sound and mutually beneficial relationship with China. Its central geographic position, 1 billion people, untapped resources, and cultural heritage make China the key nation in East Asia. Hostility between China and the United States has led, in part, to two wars. Cooperation between our two nations, even if limited, could benefit us all.

Yet such cooperation can only begin if each nation understands and respects the interests and views of the other. American and Chinese interests and policies coincide in some respects and differ in others, and it is crucial that we can differentiate one from the other. For example, the Sino-Vietnamese border conflict illustrates differing policies. We must remember that those in power today in Peking are essentially the same group that "punished" India in 1962, and may have a greater inclination toward the use of coercion in foreign policy. Americans have tended either to idolize or to disdain the Chinese, and we have frequently exaggerated or underestimated China's strength. No sound policy can be based upon such distorted perspectives.

Although this legislation deals only with Taiwan, it cannot be viewed in isolation. American policy toward Taiwan must be considered in the context of U.S. policy toward East Asia as a whole. This involves our relations with the People's Republic of China, the Soviet Union, Japan, the Republic of Korea, Australia and New Zealand, and members of the Association of Southeast Asian Nations (ASEAN)—Indonesia, Malaysia, the Philippines, Singapore, and Thailand. Their judgment of our political will and our wisdom will be significantly influenced by our ability to forge a new relationship with the PRC while continuing to conduct mutually beneficial relations with Taiwan. Indeed, the final judgment by Asian leaders on whether we are disengaging from Asia will be directly tied to how we deal with China and Taiwan in the next few years.

The importance of East Asia can hardly be exaggerated. The United States has fought three wars in the past four decades in the Western Pacific region. Even today military conflicts continue to rage in Vietnam and Cambodia. Since 1972, American trade with East Asia surpasses our trade with Western Europe. The natural resources, a third of the world's population, and the future evolution of international trade suggest that a part of our destiny is in East Asia.

The key to a stable East lies in the search for a less hostile relationship between China and the United States. This quest began in the late 1960's, when China's growing fear of the Soviet Union led it to fear the USSR more than the United States. America's bitter experience in the Vietnam war, undertaken in large part to contain China, led the United States to conclude that it was overextended in Asia. A reappraisal of our China policy was thus essential.

BILATERAL RELATIONS

As a result of that reappraisal, the Shanghai Communique, signed during President Nixon's visit to China in 1972, pledged both nations to normalize their relationships. Progress during most of the past 7 years was slow and uneven, despite the commitment of the Nixon, Ford, and Carter administrations to this goal.

The PRC continued to insist that diplomatic relations could only be established after the United States withdrew recognition from the Republic of China, withdrew all U.S. troops from the island, and ended the Mutual Security Treaty. Indeed, in 1977 the PRC added a fourth demand—that no arms sales be made to Taiwan after normalization.

In mid-1978, however, the prospects began to improve. The PRC had begun to place top priority on economic development and its four modernizations—industry, agriculture, science and defense. This forced it to look to the West and Japan for capital goods, technology and financial support. In these circumstances, any military move against Taiwan would risk rupturing its relations with the United States and Japan—thus destroying its "four modernizations" and its hope to become strong enough to face its major adversary, the Soviet Union. Hence, the PRC began to demonstrate greater flexibility on Taiwan.

The PRC began to speak of "reunification," rather than "liberation" regarding Taiwan. Vice Premier Teng Hsiaoping and other Chinese leaders said that after reunification Taiwan would be allowed to retain its higher living standards, its economic and social system, and even its armed forces. Declatory policies can change, of course, but nonetheless, these are encouraging signs.

Events moved rapidly late in 1978, and on December 15, President Carter announced that the United States would recognize the PRC and withdraw recognition from the Republic of China on January 1, 1979. Unfortunately, during the negotiations the administration, from my perspective, and I believe that of many other Members, made no effort to obtain a PRC pledge not to use force against Taiwan. It apparently believed that no Chinese Government could pledge itself not to use force against what it claimed was one of its own provinces. Yet, the administration states that it has made clear to the PRC that U.S. recognition was based upon the expectation that the issue would be resolved peacefully. The United States also insisted that the Mutual Security Treaty not be abruptly abrogated, as the PRC had previously demanded, but by being terminated after 1 year's notice as fully provided for in the treaty itself.

Finally, the United States insisted that it would continue to sell selected defensive arms to Taiwan after normalization of relations with the PRC, although it would agree not to make any new sales during 1979. The PRC objected to such arms sales, but agreed to normalization despite the U.S. position. On the basis of these understandings, the United States agreed to the PRC's original three conditions.

CONGRESSIONAL CONSULTATION

Unfortunately, the administration acted with such speed and secrecy that the Congress was not consulted. Let there be no doubt: informing some of us 2 hours before the public announcement cannot be considered consultation. This failure was particularly serious since the Congress had specifically directed the President in the International Security Act of 1978 to consult with Congress before making any move which could affect the Mutual Security Treaty.

Regrettably, the administration's failure to consult Congress on important issues has become, I am afraid, too much of a pattern, one which harms both the administration and the country. Judging from the bill submitted by the administration regarding our new relationship with Taiwan, Congress could well have provided useful advice to the President on how to normalize relations with the PRC while providing for Taiwan's security and economic progress.

TAIWAN-UNITED STATES RELATIONS

The Sino-American rapprochement in the early 1970's was a bitter disappointment for the Republic of China, which feared that it was being abandoned. Its fears increased when Japan shifted its diplomatic recognition from the Republic of China to the PRC in 1972. Nonetheless, Taiwan reacted with imagination and fortitude. It found ways to maintain the de facto status quo on an unofficial basis with Japan, and with other nations which had recognized the PRC. Taiwan's economy and foreign trade continued to expand rapidly—tripling, as a matter of fact. More native Taiwanese were brought into important government positions by the mainlanders who control the island, and the two groups have drawn closer together in the face of a common danger. The United States continued to provide arms to Taiwan, and its military capabilities remain sufficient to defend itself against any foreseen PRC threat.

Yet the December 1978 decision of the United States to shift diplomatic recognition from the Republic of China to the People's Republic of China created anger and anxiety on Taiwan. Taiwan had long feared and expected such moves, but their impact was made more severe by the failure of the Administration to consult a long-time ally—or even to inform it of the impending change until the last moment. Nonetheless, Taiwan has once again demonstrated its fortitude and its resilience. Economic activity continues at a fast pace, and despite their worries the people on Taiwan are adapting to their new situation.

American interests and our moral obligation demand that we assist Taiwan in adapting to these changed conditions. Our trade with Taiwan was $7.2 billion in 1978, and is expected to reach $9–$10 billion in 1979. We should make sure that trade can continue to grow. We have more than $500 million in direct private investments in Taiwan, $3 billion in loans from U.S. private institutions, and almost $2 billion from the Export-Import Bank. The island's continued access to both public and private American capital should therefore be assured. Taiwan is one of the few places in the world which has undergone rapid economic growth while reducing income disparities. Such a rare achievement should be encouraged by our policies.

Mr. JAVITS. Mr. President, will the Senator yield at that point?

Mr. GLENN. Yes.

Mr. JAVITS. I think what the Senator has said about trade is so important that it ought to be highlighted and juxtaposed with the expected trade with the People's Republic of China.

Let us remember that the much-applauded Japanese trade deal with the People's Republic is $2 billion a year for 10 years. That is approximately two and a half times that which we do with Taiwan right now.

Mr. GLENN. I thank the Senator for his remarks.

With less than one-fiftieth the PRC population, Taiwan does seven times as much trade with the U.S. as does the PRC. For the immediate future at least, Taiwan will remain a far more important economic partner.

Finally, there is substantial public support for the maintenance of close relations with Taiwan. Public opinion polls, both before and after President Carter's announcement confirm this fact. Thus, S. 245 provides a legal mechanism to insure the continuity of ties between the people of Taiwan and the people of the United States.

COMMITTEE ACTION

In considering this legislation, the committee heard a balanced and large number of witnesses. These included administration witnesses, such as the Secretary of Defense and the Deputy Secretary of State, a number of Members of the Senate, and public witnesses representing a wide variety of views. We also heard testimony in executive session dealing with Taiwan's security from the Chairman of the Joint Chiefs of Staff and other senior Defense Department officials. We also consulted many specialists in the fields of trade, banking and law. Their assistance was invaluable to us in dealing with the unique situation we faced.

When the administration recognized the People's Republic of China as the sole legal government of China, it also acknowledged the Chinese position that Taiwan is a part of China. However, the United States has not itself agreed to the PRC position, nor has the United States contested it. Neither the bill submitted by the administration nor the amended bill as approved by the committee takes a position on the extremely complex issue of Taiwan's status under international law. No such determination is necessary. For the bill treats Taiwan as a country for purposes of U.S. domestic law. It is based on the view that any benefits the United States decides to confer on Taiwan by statute can be conferred without regard to Taiwan's international legal identity. The committee consulted several eminent legal scholars, and they supported this view. Thus the bill sets forth the specific manner in which relations between the United States and Taiwan will be maintained.

The bill submitted by the administration provides for U.S. relations with the people on Taiwan to be conducted through the American Institute in Taiwan, a private organization which is funded by the U.S. Government and whose trustees are appointed by the Secretary of State. This is a unique approach for the United States, but one that has worked successfully for Japan since it normalized relations with the PRC.

The administration's bill, while sound in its basic structure and approach, was deficient in several important respects. The committee added a substantial number of amendments to remedy these shortcomings. I do not intend to describe in detail all the changes we made, for these are spelled out in the committee report, which I commend to all Senators and their staff. However, I do want to point out those changes that involve major policy issues.

One central difference between the bill submitted by the administration and the bill approved by the committee concerns the matter of specificity. Many matters in the administration's bill were dealt with implicity or in very general terms—if they were dealt with at all. The administration apparently believed that the intent of the various sections of the bill was clear enough so that a combination of administrative regulations and court decisions would provide an adequate framework for continued relations with Taiwan. The committee regarded such an approach as risky at best. Trade and investment do not flourish in an unknown and unpredictable environment. Billions of dollars in trade and financial assets are involved, and the laws that govern commercial activity between the United States and Taiwan must be clear.

Likewise, legal issues must be recognized and dealt with to insure minimal disruption. The committee was convinced that a definition of the phrase "the people on Taiwan" which appears throughout the bill was required. One was added, and the meaning of the phrase as defined includes the governing authority as well as the people governed by it. The continued validity of treaties and other international agreements made while the United States still had diplomatic relations with the Republic of China was thus affirmed. Matters involving the legal standing of the people on Taiwan to sue and be sued in U.S. courts, and the protection of the property rights of organizations and persons in both countries were dealt with through other amendments.

The bill as amended authorizes the President, on a reciprocal basis, to extend extensive privileges and immunities to the appropriate members of the organization established by the people on Taiwan to conduct their relations with the United States. The premises and organization itself will be accorded the same privileges and immunities as are accorded to foreign missions, and the privileges and immunities accorded the employers will be complete for all actions taken in the performance of their duties, but will not be as absolute as those granted diplomats. Anything less would seriously limit the effectiveness of the instrumentality. Anything more would have involved treating it as if it were an official government organization.

TAIWAN'S SECURITY

Finally, the bill as submitted by the administration contained no reference to Taiwan security or to the need to provide defensive arms to the people on Taiwan. The committee was determined to correct this weakness, and Members carried out extensive discussions on this matter. Some form of a tangible security clause of an indefinite future was deemed mandatory. I would like to read you the section in the bill that the committee adopted:

> (1) to maintain extensive, close, and friendly relations with the people on Taiwan;

> (2) to make clear that the United States' decision to establish diplomatic relations with the People's Republic of China rests on the expectation that any resolution of the Taiwan issue will be by peaceful means;
>
> (3) to consider any effort to resolve the Taiwan issue by other than peaceful means a threat to the peace and security of the Western Pacific area and of grave concern to the United States; and
>
> (4) to provide the people on Taiwan with arms of a defensive character.
>
> (b) In order to achieve the objectives of this section—
>
> (1) the United States will maintain its capacity to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan;
>
> (2) the United States will assist the people on Taiwan to maintain a sufficient self-defense capability through the provison of arms of a defensive character;
>
> (3) the President is directed to inform the Congress promptly of any threat to the security of Taiwan and any danger to the interests of the United States arising therefrom; and
>
> (4) the United States will act to meet any danger described in paragraph (3) of this subsection in accordance with constitutional processes and procedures established by law.

I want to make several points about this section of the bill, and the problem it is designed to deal with. First, the provisions should be read as a unit in order to be aware of their full force. Second, there were members of the committee who would have liked somewhat different language, on one point or another, but the committee believed it was important to have as broad a consensus as possible on this central issue. The same is true regarding the Senate as a whole. I believe that both China and Taiwan will be more impressed with a statement that has extensive support, rather than one that is approved by a small majority.

Finally, we must keep in mind the actual military balance in the area today, which is likely to prevail some years hence. The military forces on Taiwan are well-equipped, well-trained, and strongly motivated. U.S. sales of defensive arms can assure that these capabilities remain intact. The PRC has no amphibious capacity, nor is it moving to develop one, and such developments would be detectable well before any invasion could be mounted. It has a major adversary on its northern frontier, and it has recently acquired a small but powerful enemy on its southern border. In these circumstances its ability and inclination to move militarily against Taiwan will be quite limited.

But in this section of the bill, we have also addressed external coercion directed against the island's economic or social system. Thus the United States will maintain its capacity to resist any boycotts or blockades directed against Taiwan.

In conclusion, the committee has expressed in strong terms the U.S. interest in the peaceful resolution of the Taiwan issue.

The committee believes that the provisions we have added to the bill will reassure Taiwan without undermining the new relationship between the United States and the People's Republic of China. Based upon this conviction, we urge the Senate to approve this bill. Prompt passage will provide the continuity crucial in existing laws, treaties, and agreements.

Indeed, rapid passage is crucial for an additional reason—by passing a congressionally refined bill, we can symbolically manifest the American commitment to old friends and reassure our allies in East Asia.

Mr. JAVITS. Mr. President, on Monday, I laid out what I consider to be the background against which we legislate in terms of the security of the area and the relationship of that security to the security of the United States. Senator GLENN has, in my judgment, very accurately developed exactly what the committee did and why it did it. I shall not endeavor to retrace that ground, except to say that I have sought personally, based upon my own professional abilities, to examine with care all elements of this particular bill in order to see that it would do what we wish it to do; to wit, within the limitations allowed to us by diplomatic practice, to continue the same relations in every respect with Taiwan and the people of Taiwan as we had before, save only formal diplomatic recognition of Taiwan that we had up until the time that we terminated this recognition and terminated the mutual security agreement. This mutual security agreement, by the way, will run throughout this year, which none of us should forget.

I was especially concerned with the legal questions which related to the latter—that is, the termination of the mutual security agreement which we had with Taiwan. I know that that subject is being litigated. It is my professional judgment that this is a proper course and that, in the absence of any contrary action by the Congress, the President is the only authority which can actually terminate that agreement. However, it is far from an open and shut proposition.

In subsequent colloquy which I shall have with Senator GOLDWATER, I expect to make clear that there is absolutely nothing in this legislation which, in any way, prejudices, one way or another, the claim which is being made in our courts that the President does not have this authority. My opinion was solely directed to the fact that, in my judgment, the committee could and should proceed to report out favorably this piece of legislation—which is, of course, based upon the theory that the mutual security agreement will be terminated according to its terms as of the end of this year. That concept does not, in any way, change, affect, or invalidate any challenge to the President's authority.

Second, I have spent a good deal of time, as is pretty well known, trying to deal with the security situation on Taiwan. Whatever may be the great political and historic consequences of our actions in respect of the recognition of the People's Republic of China, like, I think, practically every other Member of this body, I have the deep conviction that we ought to do nothing in this matter which would expose the economic and social system new existing on Taiwan to being eliminated by force, directly or indirectly, or otherwise suppressed or suffocated by the action of the People's Republic of China. I believe in the essentiality of this protection to the people on Taiwan—and now I use that term not only as it is used in the statute but in its literal sense—who have established the second highest standard of living on the continent of Asia. They are a shining example of what can be done economically in the Asian complex, notwithstanding the traditional poverty which has surrounded hundreds of millions of people in Asia, including the hundreds of millions in the People's Republic of China.

I believe that the provision which we have now agreed upon—and I emphasize that phrase, "agreed upon," because I intend to stand by it, notwithstanding that it may use in some respects some other words than those I originally drafted—must have enough balance to have a broad consensus and willing participants, including those who will carry this out among the executive branch of the United States. I do not believe that any change whatever has been made in the substance of this security provision by what has been changed between the amendment's original submission and the amendment as finally agreed upon.

The only real change, Mr. President, occurs at page 14, lines 7 to 10, in section 114(a)(3). The words in question are as follows:

> consider any effort to resolve the Taiwan issue by other than peaceful means a threat to the peace and security of the Western Pacific area and of grave concern to the United States.

When I wrote my amendment, I had in mind the security interest of the United States as to that particular phrase. Mr. President, it was felt that that may be committing the United States in advance to a far broader reactive position than it should have in a very long-term commitment of this kind, considering my own War Powers Resolution and the normal stance we take respecting our "constitutional processes" provision in every U.S. mutual defense treaty, including the NATO treaty. We couple that with the fact that we state very clearly that we would consider such a breach of the condition on which we established diplomatic relations with the People's Republic. That is contained in this same section, paragraph 2 of section 114(a). We expected that any resolution will be only by peaceful means. We couple that with the commitment to supply arms to the people on Taiwan, and we couple it with the finding that a threat to the peace and security of the Western Pacific area will be involved.

I do not think there is any question about the fact that that actually represents a very serious threat to the security of the United States. We couple it with our commitment to maintain our capacity to resist any resort to force, et cetera, should it be tried against the people on Taiwan—not only force but coercion that would jeopardize the security or the social or economic system of the people on Taiwan; and that we will assist them to maintain a sufficient self-defense capability through the provision of arms.

It seems to me, Mr. President, that we have really locked this in as well as any nation can lock it in without assuming postures which would truly sound belligerent. Therefore, I concurred in what I really consider to be very modest changes. I hope that the Senate will sustain us in this effort to attain a broad consensus. At the same time, we say everything that we ought to on our determination to protect the security and the integrity of Taiwan from the use of force, direct or indirect, or the use of coercion, or what, in any other way, will suppress its economic and social system.

Finally, Mr. President, I believe this bill serves the high objectives which we have set for ourselves in respect of Taiwan, as well as the high objectives which we have set for ourselves in respect of the People's Republic of China.

It is a fact that the People's Republic invaded Vietnam, which we thoroughly disapprove of, notwithstanding the fact that only a brief time before, we had agreed to recognition.

So it is very important to restate what is recognition; recognition is to take a nation with all its warts as well as with all its virtue and to regularize and normalize our contacts.

Just think, Mr. President, if we withdrew our ambassadors from Moscow every time the Soviet Union did something we really did not like, or something which was inimical or harmful to the United States, those ambassadors would be yo-yos. They would be coming back and forth about every Wednesday.

So that cannot be our criteria. We can disapprove thoroughly of what the People's Republic of China may do. There may be a day when we will prefer to withdraw our ambassador and protest. That is our privilege, just as it is theirs. But that does not, in my opinion, change the necessity for a decision which regularizes our contacts and gives us the best means—I emphasize that, the best means—for maintaining a peaceful relation with the most populous nation on Earth and one which we all know is destined to be the third of the superpowers on this Earth.

So I believe that while it is an act which we protest and regret and could take whatever posture we wanted, we are not in any way inhibited from recognition. It should not be considered some argument why we should not have recognized the People's Republic.

On the contrary, the fact that the People's Republic felt free to take this overt and hostile action in that area of the world is exactly the reason why we should try to have as much opening into that society as we can, considering its secrecy, in order to know in advance what are the movements, governmental or social or political, which are going on in that country, which is one of the purposes of having an ambassador and an embassy there.

So, Mr. President, I believe that this is the right way to do what is right for our country. I hope the Senate will approve this bill as we have submitted it.

Mr. GOLDWATER. Will the Senator yield for a question?

Mr. JAVITS. Of course.

Mr. GOLDWATER. Mr. President, if the senior Senator from New York (Mr. JAVITS) would give me his attention, I would like to raise with him a mattter that he and I have discussed previously.

As the Senator, who is the ranking minority member of the committee, knows, I have filed a lawsuit, with 25 other Members of Congress, seeking to obtain a court determination of the legality of President Carter's attempted unilateral termination by notice of the Mutual Defense Treaty with the Republic of China.

It was my understanding that the committee did not address the merits of he legal question in the bill, which is now pending before us, but was willing to see what happened to the lawsuit before deciding whether or not to resolve it by legislation.

If that is what the committee intended, then that is fine with me. But I am disturbed at certain statements made in the committee report at pages 18 and 19, as they may relate to section 104 of the bill. The report seems to be of two minds on the issue.

First, at the top of page 18, it states that the answer "is unclear." This seems to support the willingness of the committee to allow the question of law to be answered in the courts.

But, then the report goes on to discuss the legal issue and states at page 19 that it appears the constitutional prerogatives of the Congress and the Senate have not been invaded.

Now, this second statement contradicts the first one, and may have a bearing on what interpretation is given to section 104 of the bill.

Section 104 provides that all treaties entered into between the United States and the government we formerly recognized officially as the Republic of China shall continue in force, "unless and until terminated in accordance with law."

On its face, the provision does not take any position as to whether President Carter's unilateral action in giving notice to the Republic of China is, or is not, in accordance with law. The section appears completely neutral on this issue.

But in view of the statement gratuitously inserted in the committee report at page 19, it is conceivable a wrong interpretation may be given to section 104 that does not appear in the text of the provision itself. Therefore, I seek to have some assurance from members of the committee that the provision does not mean something it does not say.

All I ask for is fairness: An opportunity to ask the court to say what the law is—under the Constitution and under the defense treaty. So long as the committee can assure me that nothing in the pending bill is to be construed as either approving or disapproving of the legality of President Carter's action regarding the defense treaty, I believe that will protect my right, and the rights of the many other Members of Congress who have joined me, to pursue this matter in the courts.

As the Senator from New York knows, he very graciously agreed to discuss this with me and make any clarifications he might be able to.

Mr. JAVITS. Mr. President, it is my judgment, and I sat through all the sessions of the committee, that the committee did not intend to approve or disapprove of the legality of President Carter's action.

The reason for the statements in the report which the Senator considers "inconsistent" is the fact that the committee had to consider not just whether this statute would affect the President's power; we could have passed on the President's power in it; we could have said that we confirm the President's power to terminate the agreement with the Republic of China on Taiwan.

We said no such thing. That was because, as I just answered, we did not intend to affect that. Therefore, we said at page 18:

> Although the Committee thus recognizes that any firm conclusion is impossible, it inclines to the belief that the President has not, in giving notice of termination pursuant to the Treaty itself, exceeded his constitutional authority.

We had to say that for the second reason, which was our question, should we pass this at all; are we engaging in a vain act? If we believed that the President had no authority and could not give notice of termination of the treaty, then what are we doing confirming Woodcock as ambassador? What are we doing making Taiwan a new and unique entity instead of the government it was that we dealt with for 30 years?

We had no business doing anything.

So what we said in effect is, we do not want to effect any challenge to his power in the courts. That goes on.

The answer is unclear as to that. We will hear from the courts. They may take jurisdiction, they may not. They may pass on the question, they may not.

But we consider there is enough to the President's authority in this regard, so we ought to go ahead and confirm Woodcock and pass this law.

The courts have overridden us many times before and the court may say, "We are sorry, Mr. Congress, you thought you were doing something for which a condition precedent had been fulfilled; we are sorry to tell you it has not, and we will have to worry about that and do something about it."

So we were not in any way trying to foreclose the Senator's challenge, nor do the words of the statute foreclose him by changing in any way the constitutional authority of the President, whatever it may be.

But we give enough credence to the fact that we think what he is doing is probably OK, so that we should go ahead and pass this law and confirm Woodcock, and we are not going through some sham or charade.

That is the whole story.

Mr. GOLDWATER. I thank the Senator from New York very much for that clarification.

I now intend to vote for this, because I think it is a vast improvement.

As I mentioned to the Senator from Ohio this morning, if the court happens to take this under consideration and decides in my favor, I do not think it will have any bearing on the recognition of the People's Republic of China. We will then be asked to do what I think we will do anyway.

● Mr. BAKER. Mr. President, I agree with the distinguished Senator from Arizona in his belief that we should clear up any ambiguity that may result from either the committee report on S. 245 or section 104 of the act with regard to the President's unilateral termination of the Mutual Defense Treaty with Taiwan.

It is important, Mr. President, because the Senator has a lawsuit pending in Federal court which challenges the authority to terminate treaties without the consent of the Senate or the approval of the Congress.

It is the view of this Senator, as a member of the committee, that it was not the intent of the committee to prejudge or prejudice the outcome of a lawsuit pending in Federal court.

More to the point, the question of whether the President was acting within his authority in the termination of the treaty was not before the committee, was not considered by the committee, and neither the report nor the act should be construed as a committee position on the question.●

● Mr. HAYAKAWA. Mr. President, as a member of the Foreign Relations Committee who attended most of the markup sessions, I wish to clarify that in acting on the bill, the committee did not take any position on the legal question of whether the President may, without the advice and consent of the Senate or the approval of the Congress, terminate the Mutual Defense Treaty with the Republic of China.

It is my view that the committee did not take up that issue. Nothing in the committee report or the bill itself may be construed as approving or disapproving of President Carter's action.

Mr. President, I know the Senator from Arizona has filed a lawsuit in Federal court seeking to obtain a judicial decision on the legal question involving termination of the defense treaty. In fairness to my colleague, I believe his right to pursue the case should be protected.

Accordingly I will repeat that nothing in the report or the bill shall be construed as either ratifying or disapproving of President Carter's action in giving notice to the Republic of China that the treaty will expire, without joint action by the Senate or Congress.●

(The following colloquy occurred later in the proceedings and is printed at this point by unanimous consent.)

Mr. HELMS. Mr. President, I would like to go back to a colloquy earlier today between the distinguished senior Senator from New York (Mr. Javits) and the distinguished senior Senator from Arizona (Mr. Goldwater) with reference to the intent of the Committee on Foreign Relations with respect to the suit brought by Senator Goldwater and the Senator from North Carolina and others on the question, on the constitutional question, of the President's abrogation of treaties.

I confess that prior to this colloquy I was most surprised and concerned to read in the committee report on page 19 that the committee had concluded that the constitutional prerogatives of the Congress and the Senate had not been invaded by the unilateral action of President Carter in giving notice of the abrogation of the Mutual Defense Treaty with the Republic of China.

Now, I realize that this is an issue on which reasonable men can differ. As I said earlier, I am a coplaintiff with the distinguished Senator from Arizona in a lawsuit to establish this precise point of law.

I recall further that this issue was raised in committee. But to the recollection of this Senator, I want the record to show that no conclusion was reached by the committee, no resolution was offered on the subject, and no vote was taken and, therefore, I was concerned to read on page 19, and I quote:

> It appears to the Committee, therefore, that the constitutional prerogatives of the Congress and the Senate have not been invaded in that neither the Congress nor the Senate has elected to exercise the powers granted it by the Constitution to participate in the process of treaty termination. Had either done so, a different conclusion would likely obtain.

Mr. President, I note further that this statement, indeed, the whole committee report, was not circulated among committee members before printing. At least it was not circulated to this Senator.

In my opinion, the observations I have just quoted have no status as a report or a conclusion of the committee but constitute only staff observations. Other members of the committee have the right to endorse them if they choose to do so. But it appears to this Senator that it is inappropriate for the committee to invade with premature conclusions a field that is the subject of controversy before the courts by a substantial number of our colleagues.

As I understand the comments of the distinguished Senator from New York, this was the position he took in his statement to Senator Goldwater, and I ask him now if that is not essentially correct.

Mr. JAVITS. Mr. President, will the Senator repeat the position that he feels I took? I was listening to my assistant.

Mr. HELMS. Yes. As I understood the Senator's comment to Senator Goldwater, nothing done or said by the committee had any intent to affect one way or another the suit brought by Senator Goldwater and others.

Mr. JAVITS. That is what I said, and that is what I mean.

I also said the committee had another question, to which the Senator has also addressed himself, and that is, would it legislate in this field at all, and obviously if the committee challenged the right of the President to abrogate, then it would not have dealt with this legislation, and that was discussed, Senator. The transcript of the committee will show that because I remember speaking to it myself. I said, and I think I will refresh the Senator, it does not affect the suit, and it does not in any way modify what I said before. That stands.

But the other question is I, as a Senator and a lawyer, had to decide if I wanted to legislate at all, because, if the President has no right to terminate this agreement, then why do we need this section that I had so much anguish over in writing to protect the people on Taiwan?

For myself, I concluded that I believed that under the circumstances he did have the right to terminate, and therefore that I was willing to legislate. That was discussed openly. I said that myself, as a matter of fact. I said I had trouble over the question of taking jurisdiction, because the courts have so often said they would not decide such matters. I am sure I said that.

I did not read the draft, but I am sure the minority staff director did, and knew my views, so I make no complaint about it. But I felt that adequate discussion within the committee, by me and others, confirmed that they were willing to act on the legislation because they did not feel that there was a bar to terminating.

But in no way do I change or dilute my fundamental statement, to wit, that there is no effect on the Senator's litigation by what the committee did.

Mr. HELMS. Well, Mr. President, of course the Taiwan Enabling Act has nothing whatsoever to do with the mutual defense treaty and its abrogation by the President. And even if the President is right, the treaty continues in force for a year, as the distinguished Senator knows, whether or not this bill becomes law. The bill turns upon the rupture in diplomatic relations. The Institute is to take the place of the U.S. Embassy. So whether or not the Senate acts on this bill is irrelevant to the treaty issue.

I am sure my friend from New York is aware that other Senators have the same concern that I have just expressed. I have here a letter written to the distinguished chairman of the Foreign Relations Committee by the junior Senator from Florida (Mr. Stone). It is an eloquent and very interesting letter, expressing very clearly his concerns, which are identical to my own. The distinguished Senator has kindly consented to have me put his letter in the Record, which I will do at this time.

Mr. President, I ask unanimous consent that Senator Stone's letter be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Washington, D.C.
March 6, 1979.

Hon. Frank Church,
Chairman, Senate Foreign Relations Committee, Dirksen Senate Office Building.

Dear Mr. Chairman: I am writing to express my deep concern and strong objections to certain language in the Foreign Relations Committee Report on S. 245. Beginning on page 17 and continuing for several pages thereafter, there is a discussion of "legal issues" relating to the termination of the Mutual Defense Treaty with the Republic of China and other legal issues regarding the Republic of China. On page 19, in connection with a discussion of the termination of the Mutual Defense Treaty, a paragraph is included which reads,

"It appears to the Committee, therefore, that the Constitutional prerogatives of the Congress and the Senate have not been invaded in that neither the Congress nor the Senate has elected to exercise the powers granted it by the Constitution to participate in the process of treaty termination. Had either done so, a different conclusion would likely obtain."

I do not believe it was the intention of the Committee and certainly it was not authorized by the Committee, to take a position as to whether the President's manner of terminating the Mutual Defense Treaty invaded the prerogatives of the Congress or not. While there was discussion during the course of the Committee's hearings, I am not aware of an attempt by any member of the Committee urging the Committee to take a position such as described by this paragraph.

I am particularly concerned about the implications which this paragraph may have for future decisions in the foreign policy area by the Executive Branch. It expresses the notion that when Congress, for whatever reason, chooses not to exercise certain Constitutional powers, that Congress has endorsed a particular Constitutional theory. I strongly disagree with any such theory of Constitutional interpretation. Finally, I am concerned about the inclusion of this paragraph inasmuch as Committee members were not given any opportunity to review the report before it was filed. Where it is necessary for the Committee and Senate to move as quickly as possible on important legislation such as this, I believe it is particularly important that the Committee report language be as carefully developed as possible and limited as much as possible to an explanation of the bill which the Committee has agreed to report.

I would appreciate your consideration of appropriate steps to eliminate the paragraph to which I have referred, from the Committee report, or to have a statement by the managers of the bill which would correct the gross misimpression which I believe will result if this language is incorporated in the Committee Report.

Warm personal regards.

Most cordially,

RICHARD "DICK" STONE.

Mr. HELMS. Mr. President, on December 22, 1978, our distinguished colleague from Arizona, Senator GOLDWATER, filed a lawsuit in the U.S. District Court for the District of Columbia challenging the constitutional authority of President Carter to terminate this country's Mutual Defense Treaty with the Government of Taiwan. The suit asks the court to declare the President's unilateral action "unconstitutional and illegal," and "to set aside his purported notice to cancel the treaty as having no effect."

In an article published in the February 1979 issue of the American Bar Association Journal, Senator GOLDWATER perceptively defines the court role of the Senate in foreign policy. He outlines the arguments for his position that the power to terminate a treaty—such as the Mutual Defense Treaty with Taiwan—does not rest with the President alone, but rather is a power to be exercised jointly by the executive and legislative branches of Government. The article strongly supports the contention that the President's unprecedented claim of unchecked power ought not be upheld in light of historical and legal precedent.

Mr. President, allow me to quote two key paragraphs from the distinguished Senator's article:

In 1856 the Senate Foreign Relations Committee had unequivocally found that language similar to Article X referred to "the will of the treaty-making power," which it defined as "the President and Senate." The Senate, together with the President and often with the House of Representatives, had participated in the termination of nearly 40 treaties by 1955, virtually all of which contained duration provisions similar to Article X of the R.O.C. defense treaty. From this, if any understanding could be attributed to the Senate when the treaty was ratified, it was that the term "party" meant the President and Senate jointly.

But the State Department would not only attribute a meaning to the R.O.C. defense treaty of which it never informed the Senate. It would put the same meaning on dozens of other major treaties that contain similar provisions. For example, the North Atlantic Treaty Alliance and our security pacts with South Korea, Japan, and the Philippines include articles allowing either "party" to withdraw after one year's notice. The Nuclear Test Ban Treaty, the Statute of the International Atomic Energy Agency, the Nuclear Nonproliferation Treaty, the Biological Weapons Convention, the Universal Copyright Convention, and the Outer Space Treaty, among others, each provide by their own terms for termination after one year's or less notice to the other parties. The consequences of accepting the State Department's interpretation of these provisions is far reaching indeed.

I wish to commend the senior Senator from Arizona for his leadership in challenging the attempted usurpation of congressional power by the President. His article should be read by everyone who believes in the integrity of the constitutional doctrine of separation of powers.

Mr. President, I ask unanimous consent that the text of Senator GOLDWATER's article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TREATY TERMINATION IS A SHARED POWER

(By BARRY M. GOLDWATER)

On December 15, 1978, while the Congress was out of session, President Carter announced that the United States would recognize the People's Republic of China as the sole legal government of China as of January 1, 1979. At the same time the president also made known, through informal briefings for the media his unilateral decision to terminate the defense treaty with the Republic of China, claiming authority to act under Article X of that treaty, which states "either party," not "either president," may cancel it after giving one year's notice. Without public announcement, the actual notice of termination of the defense treaty was sent by diplomatic note to the Republic of China on December 23, 1978, to be effective on and as of January 1, 1979.

The president's decisions were shrouded in secrecy and contrary to the purpose of Section 26 of the International Security Assistance Act of 1978, a law enacted by Congress just three months preceding his announcement, which specifically called for prior consultation with the legislative branch.

On December 22 I filed suit in the United States District Court for the District of Columbia, with 15 of my colleagues from both houses of Congress, challenging the validity of the president's attempted termination of the treaty without any supporting legislative authority. We asked the court to declare the president's action unconstitutional and illegal and to set aside his purported notice to cancel the treaty as having no effect.

It is the premise of our case that in acting alone to interpret the defense treaty and to make a self-serving interpretation of the constitutional allotment of powers among the executive and legislative departments, President Carter has not only usurped powers conferred on the Congress, but has attempted to exercise a function the Supreme Court has said is clearly reserved to the judicial branch, the power "to say what the law is." *United States* v. *Nixon*, 418 U.S. 683 (1974).

The question is not whether any past precedents justify the president's assertion of independent power, although I believe the weight of historical evidence proves that treaties are normally terminated only with legislative approval. The true question is whether his action represents the original intent of the people who drafted the Constitution.

This is a legal and historical question, and the hard fact is that nothing in the records of the federal convention or in the explanations at the state conventions on ratifying the Constitution confirm in any way the president's sweeping claim of unchecked power. To the contrary, contemporary materials and the text of the Constitution show that the termination of a treaty, involving as it does the sacred honor of the country and serious policy interests, is a decision of such major importance that the framers required the joint participation of both political departments, the executive and legislative, in making that decision.

If left unchallenged, the president's unilateral action will set a dangerous precedent that would enable him or a future president to terminate any defense treaty at will. In fact, the precedent could be used for the presidential termination of any treaty to which the United States may now be a party or become a party in the future—for instance, with Israel. This unchecked concentration of power is totally inimical to our democratic, representative form of government.

However one may feel about the wisdom of independent presidential termination of the defense treaty as a step required to complete full normalization of relations with Peking, we each should remember the admonition of Chief Justice John Marshall: "The peculiar circumstances of the moment may render a measure more or less wise, but cannot render it more or less constitutional." In filing suit, it was my purpose to defend the legislative function conferred by the Constitution, not to contest the rightness or wrongness of his policies, which can be debated in other forums.

The Constitution is silent as to how a treaty shall be terminated. It is also silent on how a statute or any other law shall be cancelled. Yet no one makes the argument that the president alone can repeal a statute. In fact, in *The Confiscation Cases*, 20 Wall. 92 (1874), the Supreme Court expressly said that "no power was ever vested in the president to repeal an act of Congress."

It is my belief that by placing treaties among "the supreme Law of the Land" in Article VI, clause 2, and by requiring in Article II, Section 3, that the president "shall take care that the Laws be faithfully executed," the framers meant, and expected without saying more, that the president would carry out a treaty in good faith. This is exactly the opposite of giving him an implied authority to cancel any treaty at will. It is also well known that the framers were concerned with restoring dependability to treaties made by the United States. They were anxious to gain the respect and confidence of foreign nations by keeping our treaty commitments.

For example, in the preface to his notes on debates in the Constitutional Convention, James Madison singles out the lack of obedience to treaties as one of the conditions the federal Constitution was intended to correct. Our unfaithfulness to treaties, Madison wrote, is among "the defects, the deformities, the diseases and the ominous prospects for which the Convention were to provide a remedy, and which ought never to be overlooked in expounding and appreciating the Constitutional Charter the remedy that was provided."

In a similar vein, James Wilson, who signed the Constitution and sat on the first Supreme Court, lectured his law students that a country "which violates the sacred faith of treaties, violates not only the voluntary, but also the natural and necessary law of nations. . . ." He added: "As the United States have surpassed others, even other commonwealths, in the excellence of their constitution and government; it is reasonably to be hoped, that they will surpass them, likewise in the stability of their laws, and in their fidelity to their engagements."

Would the framers who regarded violation of "the sacred faith of treaties" as "wicked," "dishonorable," and contrary to the best interests of the country in acquiring respect in the community of nations, have contradicted these purposes, by making it as easy under the new Constitution for a single officer of the government to repeal a treaty as it had been for individual states to nullify a treaty under the Articles of Confederation?

We should also remember the concern of the framers with sectional economic interests. Many of them hoped for advantageous commercial treaties that would open up trade for their sections with other nations. The framers also had extensive discussions about treaties of peace as being included within the treaty clause, in recognition of the fact that those treaties would be the normal method of terminating a war. Without any supporting textual evidence to show it, it is inconceivable that the framers assigned to one person power to denounce a commercial treaty that would be highly beneficial to the interests of a particular geographic region or a peace treaty that had formally concluded a war and whose faithful adherence would presumably avert the chance of resumption of hostilities, however slight that chance may be. As the language of the Constitution does not distinguish commercial and peace treaties from other treaties, such as a security pact, it is obvious that all treaties share the same protective armor.

JOINT PARTICIPATION NEEDED FOR ANY "GENUINELY CRITICAL DECISION"

In his landmark work on the subject in 5 *Seton Hall Law Review* 527 (1974), Prof. Arthur Bestor persuasively shows that the doctrine of separation of powers is "prescribed as explicitly for the conduct of foreign relations as for the handling of domestic matters" and explains: "The purpose and effect of any such arrangement is to require the joint participation—the co-operation and concurrence—of the several branches in the making and carrying out of any genuinely critical decision."

Justice Joseph Story, one of the foremost scholars to sit on the Supreme Court, confirms this statement. In his *Commentaries on the Constitution*, Story writes, in connection with the decision of the framers to allot the treaty authority jointly in the president and the Senate, "his joint possession of the power affords a greater security for its just exercise, than the separate possession of it by either" and that it "is too much to expect, that a free people would confide to a single magistrate, however respectable, the sole authority to act conclusively, as well as exclusively upon treaties."

Story adds, in words having equal relevance to making or unmaking a treaty: "The check, which acts upon the mind from the consideration, that what is done is but preliminary, and requires the assent of other independent minds to give it a legal conclusiveness, is a restraint which awakens caution, and compels to deliberation."

This is what the framers had in mind in establishing a system of checks and balances. They sought to protect the security of the people by making the president and the Senate checks on each other in the exercise of the full treaty power. By providing for the added deliberation and attention to the subject that would be required by vesting the full treaty power jointly with the president and at least one branch of the legislature, the security of the people would be far better protected than it would be if the power were conferred on a single officer. The security that follows caution and added deliberation would be lost if no check had been put on the unmaking of a treaty.

Why the framers would want to offer the people security in the making of treaties, but not in their termination, is unexplained by those who argue this difference exists. I believe there is no difference and that the checks and balances called for in the separation of powers is equally as applicable to the critical decision of casting aside our formal treaties with other nations as it is in making those treaties originally.

The early authorities, including some among the Founding Fathers, saw the repeal of a treaty in the same light as they saw the repeal of a statute. It would have been strange to hear anyone argue that the president, by his sole authority, could terminate whatever treaty he wished, whenever he wished. James Madison for one, believed that "the same authority, precisely," would be "exercised in annulling as in making a treaty." Thomas Jefferson, when he was Washington's first secretary of state, wrote a report in which he reasoned that the same authority who possessed the power of making treaties consequently had the power of declaring them dissolved. And, when he was vice president, Jefferson compiled the first manual of rules of the Senate, in which he wrote: "Treaties being declared equally with the laws of the United States, to be the supreme law of the land, it is understood that an act of the legislature alone can declare them infringed and rescinded."

Further evidence that the framers linked the repeal of treaties to the repeal of statutes appears in John Jay's brief analogy in *The Federalist*, Number 64: "They who make laws may, without doubt, amend or repeal them, and it will not be disputed that they who make treaties may alter or cancel them . . . ."

Justice Iredell, who served on the first Supreme Court, shared the views of Madison and Jefferson as to the legislative role in terminating treaties. In an opinion accompanying *Ware* v. *Hylton*, 3 Dall. 199 (1796), he twice stated his belief that Congress alone has "authority under our government" of declaring a treaty terminated, even in circumstances where the other country has first violated it.

Another authority who believed the legislature must act before a treaty is terminated is James Buchanan. In writing about the anicipated cancellation of a commercial treaty with Denmark considered damaging to our exports, then Secretary of State Buchanan wrote that "an act must first pass Congress to enable the president to give the required notice. . . ." His official concession of the joint possession of power is especially noteworthy since that treaty contained a provision similar to the one in the R.O.C. defense treaty so heavily relied on by President Carter.

Each treaty authorizes termination after notice being given to the other party. However, Secretary Buchanan obviously believed the sovereign authority who could make the decision to give notice was not the president alone, but the president together with the authority of a law enacted by Congress.

When the United States finally cancelled the treaty with Denmark, it was accomplished by a Senate resolution of March 3, 1855, passed unanimously, which advised and consented to authorizing President Pierce to give notice of its termination. The president had requested the authority, thereby giving some indication of his belief that the decision-making authority was jointly possessed by him and the legislature, or at least one branch of it, and was not vested in him alone.

The incident led to an authoritative report by the Senate Foreign Relations Committee in 1856. In response to public discussion over whether the Senate had acted properly in authorizing presidential action without the concurrence of the House of Representatives, the committee concluded that the Senate and president jointly possessed competence to terminate a treaty "without the aid or intervention of legislation" by the other house. Speaking precisely to the same issue presented by Article X of the R.O.C. defense treaty, the committee decided that "where the right to terminate a treaty at discretion is reserved in the treaty itself, such discretion resides in the President and Senate."

The committee explained: "The whole power to bind the government by treaty is vested in the president and Senate, two-thirds of the senators present concurring. The treaty in question was created by the will of the treaty-making power, and it contained a reservation by which that will should be revoked or its exercise cease on a stipulated notice. It is thus the will of the treaty-making power which is the subject of revocation, and it follows that the revocation is incident to the will." Thus, the committee clearly took a position at odds with the novel theory asserted by President Carter today.

LODGE THOUGHT CONGRESS COULD DISAPPROVE TAFT'S NOTICE

Henry Cabot Lodge, when he was chairman of the Senate Foreign Relations Committee in 1911, also believed the power of treaty termination was jointly possessed by the president and legislature. In response to a question in the Senate whether notice, given Russia by President Taft to terminate a commercial treaty because of Soviet violations, would be legal in the absence of congressional ratification, he replied, "Of course, Congress can disapprove his action; and then I take it, the notice fails. . . ." Senator Lodge added his opinion that the power to terminate that treaty by notice, as authorized in an article thereof, was vested in the Senate and president together "because in making such a treaty the Senate and the president represent the high contracting party."

Lodge was then acting as floor manager of legislation that did ratify the president's action, and his statements clearly express his interpretation of the term "contracting party," used in a treaty provision, as meaning the Senate and president jointly.

In 1917 Prof. Edward Corwin, recognized as one of the leading authorities on the Constitution in this or any other century and generally a defender of broad presidential power, wrote: "[A]ll in all, it appears that legislative precedent, which moreover is generally supported by the attitude of the executive, sanctions the proposition that the power of terminating the international compacts to which the United States is party belongs, as a prerogative of sovereignty, to Congress alone."

Another official admission of the necessity for legislative concurrence in the decision to provide notice in circumstances in which a treaty itself authorizes the giving of notice comes from an attorney general's opinion. In 1941 Francis Biddle, then acting attorney general, was asked to advise President Roosevelt whether, in view of the dislocation of oceanborne commerce because of war, the International Load Line Convention, which governed ocean tanker tonnage loads, had ceased to be binding. Biddle concluded the convention was inoperative because of the "well-established principle of international law, *rebus sic stantibus*, that a treaty ceases to be binding when the basic conditions upon which it was founded have essentially changed."

But he sharply qualified his opinion. While the president could decide whether the treaty was inoperative or suspended under this principle of international law, the president alone could not terminate the treaty if he acted under a treaty provision allowing withdrawal by giving due notice. Biddle wrote: "It is not proposed that the United States denounce the convention under Article 25 (47 Stat. 2256), nor that it be otherwise abrogated. Consequently, action by the Senate or by the Congress is not required."

Article 25 of that convention provided that it may be denounced by any "contracting government" by notification to the other parties and that the withdrawal should take effect 12 months after the date of notification is received. The article is similar to Article X of the R.O.C. defense treaty, which likewise allows denunciation by the United States after one year's notice. Thus, it is clear that Biddle believed legislative concurrence was needed in order to authorize presidential action pursuant to the terms of a treaty in circumstances identical to those asserted by President Carter as grounds for unilateral action. President Carter's decision to notify the Republic of China on his sole authority is directly in conflict with a 20th century opinion of the country's highest law enforcement officer.

History confirms the denial of an independent treaty termination power of the president, although there are minor exceptions explainable under principles of ordinary contract law. In fact, the first treaty terminations were done by act of Congress in 1798. These were the three treaties of alliance with France, which were cancelled by Congress after repeated French attacks on American shipping.

The second instance of termination by the United States was in 1846, 57 years after the Constitution was approved. President Polk asked Congress for authority to pull out of a treaty with Britain yielding joint rights to the Oregon Territory. A joint resolution was enacted giving him authority to provide notice of withdrawal, as was authorized in the treaty. This is the first known instance of termination by notice and is impressive historical evidence of what procedure is required to carry out a treaty provision similar to Article X of the R.O.C. defense treaty.

In all, I have identified 48 instances in which treaties have been terminated or suspended by the United States—40 with the clear authorization or ratification of an act of Congress, joint resolution, or Senate resolution. Four others were superseded by a later statute or treaty in conflict with the earlier treaty. The normal practice of treaty termination in the United States has been joint action by the president and Senate or Congress.

Only four treaties have been cancelled by the president entirely independent of any supporting legislative authority. The president may not have acted constitutionally even in these isolated cases, which are abnormal. In fact, Congress may not have been informed, and thus no challenge was made at the time. But if there is any difference in the two groups of cancelled treaties, a logical explanation may be found in contract law.

For in each of the situations of independent presidential action, the other party had first violated the treaty, it was impossible to perform the treaty, or there was a fundamental change of conditions essential to the operation of the treaty and originally assumed as the basis for it. In none of these incidents was the reason for terminating or withdrawing from a treaty the result of a breach or other action on our part inconsistent with the purposes of the treaty concerned.

In these circumstances, the incidents fall within the rules of early contract law by which a party is released from an agreement. All the first writers on the law of nations, such as Grotius and Vattel, whose works were consulted by the Founding Fathers, agreed that there is no difference in the rules of law applied to public treaties or private contracts.

The framers may well have silently assumed the president could determine a treaty ended if it should be violated by the other country, if performance became impossible, or if there was a fundamental change of conditions not of our own making. In their own experience, it was an implied condition of a contract or treaty that the obligations of the parties ended or were suspended on the happening of one of these events. Without conceding the legality of occasions when the president has acted unilaterally, these principles of contract law may explain independent presidential action in exceptional circumstances, none of which apply to the president's action regarding the R.O.C. defense treaty.

STATE DEPARTMENT'S MEMORANDUM BACKS CARTER'S ACTION

The State Department has released a memorandum by Herbert Hansell, its legal adviser, dated December 15, the same day as President Carter's public announcement, claiming the president could do what he did. That paper, actually a legal argument, contains highly selective quotations from authorities (none cited in this article appears in the memo) and sets forth a dubious list of alleged precedents for unilateral presidential action. Although the legal adviser lists 12 precedents for independent treaty termination, he admits on the face of the brief that two were never terminated (notice was withdrawn) and two more were instances in which the other nations first denounced the treaties, which seriously weakens the relevance of the precedents.

The State Department reaches so far to find an early precedent that it wrongly attributes the first example of presidential treaty termination to President Madison. This seeming rock of the State Department list is created from a passage in a letter from Secretary of State Monroe in response to the claim by the Netherlands in 1815 that an earlier commercial treaty had expired.

State claims Monroe's answer appears to accept the interpretation given the treaty by the Netherlands. Once Monroe was president, however, he repudiated that meaning of his letter. Monroe's secretary of state, John Quincy Adams, insisted that the earlier treaty had not been annulled. In *University* v. *Miller*, 14 N.C. 188 (1831), the Supreme Court of North Carolina accepted President Monroe's position and enforced the treaty as law.

The State Department also omits mentioning in its memo that the early commercial treaty had been concluded with a different state. During the Napoleonic wars the United Netherlands, with whom we had signed the treaty in 1782, was absorbed into the French empire, entirely disappearing as a separate nation. After the war it was reformed and joined with other areas. Samuel B. Crandall writes the state thus erected from the ashes of war "differed in name, territory, and form of government from the state which had entered into the treaty. . . ." In other words, if the treaty was annulled, it was because of the disappearance of one of the parties and not because of any broad power held by the president. This is the stuff of which the State Department memo is made.

Of the few alleged precedents that have any plausible basis (three or four at most), all can be explained by invoking the principles of contract law discussed above. None of these exceptions has any application to the R.O.C. defense treaty.

Even as to this handful of precedents, there is no ground for asserting independent presidential power. There is no court decision upholding their legality, and the last precedent is no better than the first. As the Supreme Court said in *Powell* v. *McCormack*, 395 U.S. 486 (1969): "That an unconstitutional action has been taken before surely does not render that same action any less unconstitutional at a later date."

It has been suggested that since the president alone has the power to remove executive officers appointed by and with the advice and consent of the Senate, he also has power to remove treaties. The two cases are completely dissimilar. The ability to remove officers clearly under his direction aids in the efficient performance of the president's duties. The removal of treaties violates the president's constitutional duty to see "that the laws be faithfully executed." It is obvious that the president's relation with subordinate officers cannot be equated to his relation with sovereign authorities of other nations. The courts also have sharply restricted the removal power to purely executive officers, holding the president cannot remove officers who exercise quasi-legislative or judicial functions in Humphrey's Executor, 295 U.S. 602 (1935). As the treaty power has long been found to partake more of the legislative than executive character, the analogy with the removal power does not hold up.

By admitting that the defense treaty "is technically still in effect" in 1979, until the notice period expires, the administration rejects any notion that the treaty lapsed upon derecognition of the R.O.C. By this and by asking Congress for legislation to permit the other "current agreements and treaties in effect with the government on Taiwan to remain in force," the administration admits that the authorities on Taiwan are a de facto government in control of the territory of Taiwan and that we can have dealings with them.

The only remaining question is whether, although the president normally cannot terminate a treaty without further legislative action, the Senate has consented to his action in the case of this treaty by having approved language in it that allows termination by notice. The answer is clear that no authority of this type can be inferred from the treaty or legislative history.

First, it should be noted that the provision does not authorize termination after notice by "the president" or "executive" of either country. The treaty uses the term "party." This obviously means the sovereign authority of the state giving notice. In determining who represents the sovereign authority, it is necessary to consult the constitutional processes of the state in order to find what power makes the decision to give notice and, after that decision has been made, what power shall actually transmit the notice. Under our Constitution, it is clear that whoever communicates notice, the power of making the initial decision belongs jointly to the president and Senate or Congress.

Although it is generally accepted that the president is "the sole organ of the nation in its external relations, and its sole representative with foreign nations" (229 U.S. 304, 319–20), this proves no more than that it is the president who shall act as the official representative of the nation in communicating with the foreign government. His capacity as a diplomatic organ in no way need imply a power of making the critical policy decision required before delivery of the notice.

There is absolutely nothing in the legistive reports and proceedings concerning the 1954 treaty that indicates the president can act alone in giving notice. In fact, the language of the defense treaty differs in a significant way from the text of the related Formosa Resolution, which did specifically authorize the president to cancel it. Thus, similar language was not used in the treaty.

The Formosa Resolution and the defense treaty both came before the Senate at the same time. The treaty was first considered in committee concurrently with the resolution in January, 1955. The resolution was reported to the Senate on January 26 and signed into law on January 29. The treaty was reported on February 8 and approved by the Senate on February 8.

IF THE TREATY MEANT "PRESIDENT," WHY DID IT SAY "PARTY"?

The Senate had each measure before it for immediate comparison. In this setting, it is striking that the Formosa Resolution, by its own language, expires "when the president shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, and shall so report to the Congress." The treaty, on the other hand, provides for termination on one year's notice by "either party."

Why, if the treaty meant to authorize "the president" of either party to terminate it by giving notice, did it not say so? The Senate had before it language of the specific kind in the Formosa Resolution, which it could have substituted for Article X, if it meant to approve independent presidential action. When it advised and consented to a treaty containing an entirely different term, without any explanation in the papers sent to it by the executive branch or in its own hearings, report, or floor debate, indicating that the term meant something other than what it said ("party"), this is surely conclusive that it did not understand "party" to mean "president."

In 1856 the Senate Foreign Relations Committee had unequivocally found that language similar to Article X referred to "the will of the treaty-making power," which it defined as "the president and Senate." The Senate, together with the president and often with the House of Representatives, had participated in the termination of nearly 40 treaties by 1955, virtually all of which contained duration provisions similar to Article X of the R.O.C. defense treaty. From this, if any understanding could be attributed to the Senate when the treaty was ratified, it was that the term "party" meant the president and Senate jointly.

But the State Department would not only attribute a meaning to the R.O.C. defense treaty of which it never informed the Senate. It would put the same meaning on dozens of other major treaties that contain similar provisions. For example, the North Atlantic Treaty Alliance and our security pacts with South Korea, Japan, and the Philippines include articles allowing either "party" to withdraw after one year's notice. The Nuclear Test Ban Treaty, the Statute of the International Atomic Energy Agency, the Nuclear Nonproliferation Treaty, the Biological Weapons Convention, the Universal Copyright Convention, and the Outer Space Treaty, among others, each provide by their own terms for termination after one year's or less notice to the other parties. The consequences of accepting the State Department's interpretation of these provisions is far-reaching indeed.

No matter that the Senate was not clearly informed of what the language meant when it gave its advice and consent to ratifying these arguments. No matter that the executive may have had a different understanding than the Senate and kept silent about it.

When it suddenly suits the needs of expediency for its policy of the moment, the State Department unveils a doctrine it has hidden from public discussion. After having exploited the use of executive agreements to the point where the president can make virtually any treaty he wants by calling it a mere executive agreement, now the State Department is ready to usurp the power of unmaking treaties as well.

Events in the year ahead may well determine whether the executive succeeds or fails in this historic power-grab.

Mr. HELMS. I ask unanimous consent also that this colloquy between the Senator from North Carolina and the Senator from New York appear in the RECORD immediately following the colloquy between the Senator from New York and the Senator from Arizona (Mr. GOLDWATER).

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(Conclusion of later proceedings.)

Mr. GLENN. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. GLENN. I concur completely with the recollection of Senator JAVITS as to the action taken by our committee in this regard; because when this came up, we deliberately did not try to deal with the constitutionality of the President's authority to deal with treaty situations or whether the Senate should or should not have become involved in that issue.

We separated that question from his specifically mandated authority on how to go about negating this relationship with Taiwan—so far as the old treaty was concerned. He did adhere to the letter of how to do that. He did not abrogate the treaty; he went by the treaty provisions. We separated that issue from the constitutionality question that the distinguished Senator from Arizona has raised.

So my recollection coincides with that of the Senator from New York. We did not attempt to deal with the court suit at all.

Mr. GOLDWATER. I thank both Senators.

Mr. JAVITS. I yield the floor.

(Mr. BOREN assumed the chair.)

Mr. HARRY F. BYRD, JR., addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. Mr. President, I commend the Foreign Relations Committee for the measure it has brought before the Senate.

In my judgment, this measure will go a long way toward reducing the clear threat to the security of Taiwan caused by the precipitate action of the President in announcing his intention to break our defense treaty with the Republic of China.

On balance, the pending legislation mitigates many of the major problems created by the President's action in breaking the Mutual Defense Treaty between the United States and the Republic of China.

I listened very carefully to the opening statement by the distinguished Senator from Ohio (Mr. GLENN). It impressed me as being an objective appraisal of the President's action. I listened carefully to the presentation and comments of the able senior Senator from New York (Mr. JAVITS) in discussing the pending legislation. I commend both of them and the committee for what they have brought before the Senate.

It is a much better proposal than I had anticipated would be brought to the Senate. It mitigates some of the concerns that the Senator from Virginia had on the opening day of Congress, dealing with the issue of Taiwan and mainland China.

Frankly, I favor establishing full diplomatic relations with the People's Republic of China. It is one of the great nations of the world; it has a population larger than that of any other country.

It is important that our country and the People's Republic have contact, that there be a dialog between our countries. So I look with favor upon the establishment of diplomatic relations.

What I do not favor, however, is that in bringing this about, the President of the United States threw overboard a longtime friend and ally. The Senator from Ohio (Mr. GLENN), in his presentation, pointed out that the treaty of friendship between the United States and Taiwan was abrogated by the President without consultation with the other partner to that treaty, the Republic of China; that, in fact, the first the Republic of China knew about the proposal to terminate the treaty was when it learned such fact on television or over the radio. So that aspect of it has concerned me a great deal.

The second aspect of this action taken by the President late last year is much broader than the question of Taiwan.

It seems to me that it is important to establish for the future whether a President may unilaterally terminate a Mutual Defense Treaty with other nations.

Our country has many such treaties. Some of them are extremely important, in the view of the Senator from Virginia, to the welfare of the United States.

I believe that a President alone does not have the authority to terminate such treaties. In the research that my staff has been able to do, no case has been found in which a major treaty with another nation, of a defense nature, ever has been abrogated unilaterally by a President of the United States. There have been cases, of course, in which minor treaties have been set aside; there have been cases in which, with the outbreak of war, the treaty became, ipso facto, nonexistent. However, so far as I can determine, this is the first time that a treaty of this consequence has been set aside by unilateral action of the executive branch of Government.

It occurs to me, Mr. President, that before the debate on the pending legislation concludes, the Senate should express itself as to what the situation should be in the future in regard to other mutual defense treaties which our Nation has throughout the world.

I ran across an interesting and significant statement by the then Secretary of State in 1954. In 1954, Secretary of State John Foster Dulles responded as follows to an inquiry by Senator Jenner of Indiana. This was the statement of the Secretary of State:

> In light of the fact that your letter specifically raised the question whether the Department of State, under the present administration, claims authority to modify treaties, I am glad to assure you that it is my view that the Executive may modify a treaty or a provision thereof only by the conclusion of another treaty entered into by and with the advice and consent of the Senate. This is also the view of my advisors who are fully aware of my position and fully share my views.

That is the end of the quotation from the statement of then Secretary of State John Foster Dulles, in 1954.

I am aware, of course, that there are many able and outstanding lawyers who take a different view from that expressed by the Secretary of State in 1954. I am aware that this is a gray area, so to speak, and that nothing really conclusive is set forth in the Constitution, that I can find, specifically denying to the President such a right.

On the other hand, it does seem reasonable to me that when the Senate of the United States must advise and consent in the approval of a treaty, the Senate should have some participation in the termination of such a treaty.

I have presented a Senate resolution, which is on the calendar, and incidentally this resolution was presented by me for myself and for Mr. THURMOND, Mr. WARNER, Mr. HELMS, Mr. HAYAKAWA, and Mr. GARN. That Senate resolution states this:

> It is the sense of the Senate that approval by the Senate of the United States is required to terminate any mutual defense treaty between the United States and another nation.

Before the debate on the pending legislation concludes, I likely will present this as a proposed amendment to the legislation reported to the Senate by the Foreign Relations Committee.

As I indicated earlier, the question is much broader, as I see it, than just the question of Taiwan. The question is, What is going to happen in the future to the many other mutual defense agreements and treaties which we have with other nations?

In summary and in ending, Mr. President, I again commend the Foreign Relations Committee for the legislation it has brought before the Senate. I think this legislation will go a long way toward correcting and improving some of the problems created by the President's action.

I commend the committee and I commend the manager of the bill, Senator GLENN, for his excellent presentation.

I seek to consult with him as to whether he might consider favorably a little later the Senate resolution which I mentioned.

Mr. GLENN. Mr. President, will the Senator yield for a comment?

Mr. HARRY F. BYRD, JR. I yield.

Mr. GLENN. I just wish to clarify the way the committee used the word "abrogate" in the treaty, because I am not sure it was in the same sense as was used by the distinguished Senator from Virginia.

To "abrogate" would mean we walked off from the treaty completely—just walked off and left it, period. That was the way we used the word "abrogate." The treaty was terminated by the President in accordance with the provisions of the treaty itself. In other words, he followed the arrangements that had been devised within the treaty for termination of the treaty.

We used that as a difference to set it apart from the use of the word "abrogate."

I just wanted to spell out that clarification because I think the way the distinguished Senator used the word "abrogate" was not in the same sense in which we used it in the committee.

Mr. HARRY F. BYRD, JR. May I say to the Senator from Ohio that I intended to use it, or intended it to be construed, in the same sense that the Senator from Ohio construes that term.

Mr. GLENN. All right.

Mr. HARRY F. BYRD, JR. Under the treaty either country, or the way it is expressed, either party, either party to the treaty has the right to terminate the treaty by giving a 1-year notice.

Mr. GLENN. That is correct.

Mr. HARRY F. BYRD, JR. The way I construe the word "party," I construe that to mean either Government.

Mr. GLENN. That is right.

Mr. HARRY F. BYRD, JR. When we speak of the U.S. Government, I construe that to mean the executive branch and the legislative branch acting together.

Mr. GLENN. We did not address that question of constitutionality. I think the courts are going to be called upon to decide that issue as has been indicated to Senator GOLDWATER a short time ago here in the Chamber.

I thank the distinguished Senator.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President. I certainly thank the Senators who are floor managers of the bill, and also the Senator from Kansas (Mr. DOLE).

Mr. President, the purpose of my brief remarks, and I shall not detain the Senate over 4 minutes, is to endorse section 114 of S. 245 that affirms a continuing interest of the United States in the future security and well-being of Taiwan.

I was a cosponsor of a resolution on this matter. The compromise language before us today was approved by a unanimous vote of the Foreign Relations Committee. I hope the Senate will give its approval to this provision by a solid vote.

NORMALIZATION OF RELATIONS WITH CHINA

At the outset, I would like to state that I favor what is called normalization of relations with China, a country that possesses over one-fourth of the world population. Our diplomatic recognition is just that—we are officially recognizing them as a nation and are not forming any alliance with them. We are by no means approving any form of communism on their part, or any part of their system.

I believe the time has come when we need to establish some form of diplomatic relations with them so that we could at least have ongoing communications between our two nations. This is extremely important since China has nuclear weapons and the capacity to deliver them on target.

Mr. President, I notice that emphasis is not given to that point as much as I think it should.

They also appear to be intent on modernizing their country, and that means expanded trade opportunities in future years where they will doubtless be purchasers of grain, soybeans, cotton, and other agricultural products and technological products from us.

Mr. President, this Taiwan provision pledges that any nonpeaceful efforts to reunite Taiwan with China would be viewed as a matter of grave concern to the United States. There is also a commitment to provide Taiwan with defensive weapons.

The United States has a moral obligation to the people of Taiwan and we must maintain our commercial, cultural, and other relations. Since the early 1950's, the United States has provided $5.5 billion in military and economic aid for Taiwan. I think that this was money wisely spent. With our assistance, Taiwan used its industriousness and creativity to transform their country into a modern and flourishing economy. I think it is important that we continue military and economic aid, as we have done for the past several years, on a credit basis. This provision maintains that right.

I gave my firm support to the Mutual Defense Treaty with Taiwan 24 years ago. That treaty served a useful purpose then, but the time has come for the United States to review its overall policy in the Pacific. And I have thought this, since we got into the war in Vietnam. Under the terms of the treaty the United States has notified Taiwan of its intention to terminate that treaty, but we are certainly by no means breaking off relations or turning our backs on Taiwan.

This bill is not part of a weak or moderate policy in the Pacific area. To the contrary, it states a positive policy to the effect that we shall maintain a capacity to resist and resort to force, if necessary, in the area of Taiwan. I favor an extension of the scope of this policy in the Pacific area and seek allies for this purpose.

Today we are debating important legislation that reaffirms our commitment and friendship with Taiwan while allowing us to undertake a new relationship with China. While this is an important first step in formulating a post-Vietnam Pacific policy, the time has come for the United States to go forward with a new Pacific policy which I think should include an expanded role for Japan.

For the past 14 months, several members of the Armed Services Committee, at my suggestion, have been reviewing the future military policy of the Pacific region. The Pacific study group, consisting of Senators NUNN, HARRY BYRD, HART, and TOWER, are still gathering facts from Government and foreign leaders here and abroad. The late Senator Bartlett of Oklahoma was an active and valuable member of this group. They have so far reached the following conclusions:

After their review of the Korean situation, they recommended that U.S. troop withdrawals from Korea be suspended.

Japan, an economic giant, now stands on the verge of making a willing contribution to East Asian security more commensurate with its economic stature. There are major real increases—recent and planned—in Japan's defense spending. There is a growing Japanese willingness to assume a larger share of the costs of stationing U.S. forces in Japan. I recommend that my colleagues in the Senate review the reports submitted to the Armed Services Committee by the Pacific study group.

There will be other reports that, I think, will also be important, to be filed soon.

So, Mr. President, I support this bill as a new start, in a way, of a new policy in the Pacific, and as a renewal of certain protection and aid to Taiwan.

Again I thank the leaders.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. STENNIS. If I have time.

Mr. JAVITS. I just want to say to the Senator that I think this statesmanlike attitude toward this matter is so much a part of his support for the war powers resolution which made it possible. I wish to say that, again for history, I am deeply grateful to him and it shows the fact that Senator STENNIS understands the relationship between military power and diplomatic effort.

Mr. STENNIS. Well, I appreciate the Senator's remarks very much, and I commend him again for his valuable, highly valuable, contribution in the passage of that so-called War Powers Act.

Mr. JAVITS. I thank the Senator.

Mr. STENNIS. He was the kingpin.

The PRESIDING OFFICER. The Senator from Kansas.

TAIWAN ENABLING ACT

Mr. DOLE. Mr. President, I would like to compliment the members of the Committee on Foreign Relations on the fine product of their labor in considering the Taiwan Enabling Act, S. 245. This was a bill whose inauspicious conception followed the administration's untimely announcement of the normalization of relations with the People's Republic of China on December 15, 1978.

SENATE NOT CONSULTED

The legislation proposed by the President in the wake of that announcement was woefully inadequate in addressing the needs of the people of the Republic of China and the important strategic and economic requirements of the people of the United States. If the administration had consulted with Congress, as it was bound to do by the terms of the legislation cosponsored by Senator STONE and myself last summer and signed by President Carter on September 26, 1978, the period of uncertainty and tension we and the people on Taiwan have passed through over the last 3 months would never have occurred. Many Senators, including myself, felt constrained to challenge the administration's bill and its apparent intent to obliterate any vestige of the valuable and trustworthy alliance the United States maintained with the Republic of China.

S. 245, WORTHY OF CONSIDERATION

The changes and modifications which we advocated for the Taiwan Enabling Act, after many hours of hearings and much labor by the members of the Committee on Foreign Relations, resulted in a complete rewrite of the bill, including the title, which immeasurably enhances the safeguards for security and continued excellent relations between America and Taiwan. My own particular concern was for the safety of Taiwan from attack or any aggressive reprisal from the People's Republic of China, and for the danger this would cause to U.S. affairs and strategic interests.

SENATE RESOLUTION 13

For that reason, I introduced Senate Resolution 13 to assure the Republic of China that the United States would not turn its back on a longtime ally. It was vital, I felt, to convey that assurance in a measure that specifically spelled out our Nation's commitment to aid the Republic of China in resisting aggression. Vaguely worded statements about general interests of the people concerned were not sufficient. We cannot rely on a leadership in mainland China that may prove to be unstable and transitory, nor on unofficial declarations about intentions that come only at politically opportune times. That is why the much more specific language of the Senate's version of S. 245 is so gratifying and necessary.

I especially would like to mention the effort of the distinguished Senator from Florida (Mr. STONE) to make certain that America's strategic needs and Taiwan's defense requirements were spelled out in this bill.

A NORMALIZATION THAT PROVIDES PEACE

None of the changes in this bill were made with an untoward motive of hindering the normalization process with the People's Republic of China. They were meant only to recognize the simple reality of U.S. concerns in the Asian-Pacific region and our desire for peace for an old and faithful ally. If the Taiwanese question is not resolved in favor of freedom and independence, then none of our allies, none of the people facing oppression in the world today, none of the nations who rely on the strength of America and the good faith of our commitments to dissuade stronger and more aggressive alliances—none of these can hope for freedom of choice in a secure and stable future.

Mr. President, I believe, as I have indicated, as the Senator from Kansas has indicated, at the outset that S. 245 represents an excellent attempt to come to grips with the concerns I have just mentioned.

I do have a series of eight amendments which, I hope, can either be accepted or adopted on rollcall votes which, I believe, will further clarify and specify our good intentions on the issues of security and justice for the people of Taiwan and for congressional oversight.

If these changes are adopted—and I am not suggesting that everyone must be adopted or that they cannot be further modified—it would seem to me that we should then go ahead and approve the legislation.

I think, just to summarize the amendment so that there might be some discussion, that I will offer one of the amendments before I yield the floor, that the first two amendments would remove the more obvious and unnecessary wording about the unofficiality of the relationship of Taiwan. They also follow the more direct language of the House version.

The third amendment would clarify the meaning of "threat." What is "a grave concern" used in the legislation? What is grave concern to the United States? It would include various economic and trade practices along the lines of the original resolution on security, which the Senator from Kansas introduced.

The fourth amendment would prevent Taiwan from being expelled from international organizations if the United States can do anything about it. That was also a provision in one of the original resolutions.

The fifth amendment would make specific that in accordance with the Security and Assistance Act arms requests from Taiwan must be reported to the Committee on Foreign Relations, and the status of those sales must be reported to the Committee on Foreign Relations and also to the Speaker of the House.

The sixth amendment is one that I understand I may be cosponsoring with other Senators, the Senator from South Carolina (Mr. HOLLINGS), the Senator from North Carolina (Mr. HELMS), and the Senator from Oklahoma (Mr. BOREN), and it strikes a section that specifically encourages the People's Republic of China to take Twin Oaks and the embassy property away from Taiwan. So the Senator from Kansas would be joining in efforts on that amendment.

The seventh amendment would follow the same reasoning of the first two amendments in changing the title.

Finally an amendment to provide Senate oversight on the selection of the American Institute's Director who is now chosen by the Secretary of State.

Mr. President, with reference to the reporting amendment, many of us in the Senate are concerned about continuing the sale of arms to Taiwan. We are convinced that without such sales it would be impossible for Taiwan to survive.

The President's action in putting a moratorium on arms sales this year, perhaps the most critical in our new relationship with Taiwan, requires a great deal of clarification.

The amendment that I plan to offer initially would clarify the intent of the International Security Assistance Act of 1978 with respect to Taiwan. It specifies that the President will not only report to the Committee on Foreign Relations all proposed arms sales to the Government of Taiwan but will report the status of all such requests for arms from the

Taipei authorities. So we will know totally in the Senate and in the House just what the status is and not just the sale itself. In this way it will be clear to the Senate and to the American people just what the United States is prepared to do to help insure the security of Taiwan.

It seems to me this is an amendment that I think would have the approval of the administration as well as the managers of the bill, and I am prepared to offer that amendment at this time.

UP AMENDMENT NO. 26

(Purpose: To require the President to transmit to the Congress a report on certain arms sales proposed for or requested by the people on Taiwan)

Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 26.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, line 24, strike out "and".

At the bottom of page 14 insert the following:

"(4) the President shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate on or before November 15 of each year a report on the status of arms sales of major defense equipment of $7,000,000 or more or of any other defense articles or defense services for $25,000,000 or more, which are considered eligible for approval during the fiscal year beginning on October 1 of such year and which are proposed for or requested by the people on Taiwan; and

On page 15, line 1, strike out "(4)" and insert in lieu thereof "(5)".

Mr. DOLE. Mr. President, I do not see the manager of the bill on the floor, but it is my understanding that this amendment has been agreed upon. I also understand that there is no objection from the State Department, and it is my hope that the amendment might be accepted. If the Senator from California would prefer to wait——

Mr. CRANSTON. Mr. President, if the Senator will yield, I think we would be prepared to accept this amendment, provided we renumber it to go into a different part of the bill. The language where the Senator seeks to place it has been very laboriously worked over. The proposed language is perfectly acceptable, but we would just like it placed in a different place. If you will let the clerk renumber it in the bill, it will be acceptable.

Mr. DOLE. The Senator from Kansas has no objection to that. We could make it a new section.

Mr. CRANSTON. Yes.

Mr. DOLE. Mr. President, I would so amend the amendment.

The PRESIDING OFFICER. To place it at the end of the bill?

Mr. DOLE. Yes, as section 115.

Mr. CRANSTON. With that understanding, we are now prepared to accept it.

The PRESIDING OFFICER. This would be section 115?

Mr. DOLE. Yes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment, as modified, was agreed to as follows:

On page 15, after line 4 insert a new section 115, as follows:

"The President shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate on or before November 15 of each year a report on the status of arms sales of major defense equipment of $7,000,000 or more or of any other defense articles or defense services for $25,000,000 or more, which are considered eligible for approval during the fiscal year beginning on October 1 of such year and which are proposed for or requested by the people on Taiwan."

UP AMENDMENT NO. 27

(Purpose: To substitute "Taiwan" for "the people on Taiwan")

Mr. DOLE. I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) offers an unprinted amendment numbered 27:

On page 8, line 18, strike out "the people on".

On page 8, line 20, strike out "people on".

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 18, strike out "the people on".

On page 8, line 20, strike out "people on".

On page 9, line 6, strike out "the people on".

On page 9, line 11, strike out "the people on".

On page 9, line 20, strike out "the people on".

On page 9, line 22, strike out "the people on".

On page 10, line 12, strike out "the people on".

On page 10, line 17, strike out "the people on".

On page 11, line 13, strike out "the people on".

On page 11, line 20, strike out "the people on".

On page 11, line 25, strike out "the people on".

On page 12, line 10, strike out "the people on".

On page 12, line 14, strike out "the people on".

On page 12, line 16, strike out "the people on".

On page 12, line 19, strike out "the people on".

On page 13, line 17, strike out "the people on".

On page 14, line 2, strike out "the people on".

On page 14, line 11, strike out "the people on".

On page 14, line 17, strike out "the people on".

On page 14, line 18, strike out "the people on".

On page 19, line 6, strike out "people on".

On page 20, line 17, strike out "the people on".

On page 22, line 22, strike out "the people on".

Mr. DOLE. Mr. President, I would point out that all through S. 245, the language "the people on Taiwan" is used repeatedly. It seems to me that we could simplify that language by striking those words wherever they appear and have it read simply "Taiwan."

This would not affect the meaning or intent of the legislation in the sense that our relations with Taiwan would not, in practice, be any more or less official than they are proposed to be. It would bring the language in S. 245 into line with the terminology used in the house version of this legislation. This language has been accepted by the Department of State.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. DOLE. Yes.

Mr. CRANSTON. What is the basis of the Senator's statement that the language has been accepted by the Department of State? It is not my understanding that that is the case.

Mr. DOLE. I am not suggesting that this amendment has been accepted, but I think the language in the House bill has been accepted.

Mr. CRANSTON. I see. I thank the Senator.

Mr. DOLE. I cannot give the Senator assurance that that will be forthcoming, although I think that is the case.

The present language presents the pretense that we are not dealing with a legal entity or government on Taiwan, and is an unnecessary slight toward the authorities with whom we must work on Taiwan. Taipei has insisted that its relations with the United States have the qualities of officiality and are controlled by the Government of the Republic of China. Any other language is both clumsy and uncalled for.

It seems to me that this is an amendment that does not require a great deal of debate. Since I know other Senators are wanting to speak—both the Senator from North Carolina (Mr. MORGAN) and the Senator from Florida (Mr. STONE) have indicated a desire to speak—I am prepared to vote now, or to set the amendment aside temporarily and have the vote follow their remarks.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STONE. Mr. President, I understand that the Senator from Kansas, who has an amendment pending, does not object if I make a few remarks at this point.

Mr. DOLE. Mr. President, I ask unanimous consent that the amendment be temporarily laid aside so that the distinguished Senator from Florida may proceed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STONE. I thank the distinguished Senator.

SENATE JOINT RESOLUTION 44

Mr. President, the Orient has never been something well-understood by Occidential man, from the time Columbus stepped out of his ship and thought he was in the East. In evolving American foreign policy over the past 200 years, our country's leaders have been only slightly more certain of their steps.

When the bill now before us first reached the Senate, it went only halfway along the path that the overwhelming majority of the American people think we should follow. It effectively formalized relations with Peking and shifted the dealings of our country with the government in Taipei to an unofficial, nongovernmental relationship, but it left unclear exactly what that unofficial, nongovernmental relationship is and how it will work.

After the Republic of China on Taiwan has stood by the United States for 30 years, following our lead and supporting our foreign policy even when others claiming to be our friends did not, it was wrong for the United States, in a pell mell rush to offset the Soviet Union in Asia, to leave the Government and people of the Republic of China on Taiwan hanging onto their relationship with the United States by only a thin, vague thread of off-the-record assurances that no matter what the Department of State said in public, things would stay as they had always been.

We have seen in the last month or so that is not the case. Representatives of the Republic of China on Taiwan have been heavily pressured into agreeing with the Department of State's demands. They have been pushed into giving up some of their offices in this country through which they do business with us in excess of $7 billion a year. They have found themselves this week unable to get even a piece of paper signed and notarized. No visas are being issued in Taiwan because the Department of State does not want to send an official U.S. Government check through the banks on Taiwan.

Mr. President, I ask unanimous consent to submit a joint resolution at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution will be received and appropriately referred.

Mr. STONE. Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 44

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the exchange of ambassadors or the establishment of embassies by the governments of the United States and the People's Republic of China, the President shall continue to carry out programs, transactions, and other activities with respect to the people on Taiwan to the same extent and in the same manner as provided in the memorandum of the President, dated December 30, 1978, relating to relations with the people on Taiwan, except that no program, transaction, or other activity with respect to the people on Taiwan may be carried out through the American Institute in Taiwan or any other instrumentality designated by the President, until the Congress enacts legislation specifically providing for such program, transaction, or activity to be carried out through such Institute or other instrumentality.

SEC. 2. For purposes of the resolution, the term "people on Taiwan" shall mean and include the governing authority on Taiwan, recognized by the United States prior to January 1, 1979 as the Republic of China, its agencies, instrumentalities, and political subdivisions, and the people governed by it in the islands of Taiwan and the Pescadores on December 31, 1978.

SEC. 3. This joint resolution takes effect on January 1, 1979.

Mr. STONE. Mr. President, I also ask unanimous consent to have printed in the RECORD a letter dated March 6, 1979, which I addressed to Senator FRANK CHURCH, chairman of the Foreign Relations Committee, and a telegram which I received from Frank P. Parker, president, American Chamber of Commerce in the Republic of China.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., March 6, 1979.

Hon. FRANK CHURCH,
Chairman, Senate Foreign Relations Committee, Dirksen Senate Office Building

DEAR MR. CHAIRMAN: I am writing to express my deep concern and strong objections to certain language in the Foreign Relations Committee Report on S. 245. Beginning on page 17 and continuing for several pages thereafter, there is a discussion of "legal issues" relating to the termination of the Mutual Defense Treaty with the Republic of China and other legal issues regarding the Republic of China. On page 19, in connection with a discussion of the termination of the Mutual Defense Treaty, a paragraph is included which reads,

"It appears to the Committee, therefore, that the Constitutional prerogatives of the Congress and the Senate have not been invaded in that neither the Congress nor the Senate has elected to exercise the powers granted it by the Constitution to participate in the process of treaty termination. Had either done so, a different conclusion would likely obtain."

I do not believe it was the intention of the Committee and certainly it was not authorized by the Committee, to take a position as to whether the President's manner of terminating the Mutual Defense Treaty invaded the prerogatives of the Congress or not. While there was discussion during the course of the Committee's hearings, I am not aware of an attempt by any member of the Committee urging the Committee to take a position such as described by this paragraph.

I am particularly concerned about the implications which this paragraph may have for future decisions in the foreign policy area by the Executive Branch. It expresses the notion that when Congress, for whatever reason, chooses not to exercise certain Constitutional powers, that Congress has endorsed a particular Constitutional theory. I strongly disagree with any such theory of Constitutional interpretation. Finally, I am concerned about the inclusion of this paragraph inasmuch as Committee members were not given any opportunity to review the report before it was filed. Where it is necessary for the Committee and Senate to move as quickly as possible on important legislation such as this, I believe it is particularly important that the Committee report language be as carefully developed as possible and limited as much as possible to an explanation of the bill which the Committee has agreed to report.

I would appreciate your consideration of appropriate steps to eliminate the paragraph to which I have referred, from the Committee report, or to have a statement by the managers of the bill which would correct the gross misimpression which I believe will result if this language is incorporated in the Committee Report.

Warm personal regards.

Most cordially,
RICHARD (DICK) STONE.

WASHINGTON, D.C.

Hon. RICHARD STONE,
Dirksen Senate Office Building,
Washington, D.C.

Have just learned State Department doubts consular section of American Institute in Taiwan will have power to notarize documents after Taipei consulate ceases operation February 28, clearly certain U.S.-Taiwan commercial relationships will be adversely affected because Taiwan notaries customarily refuse to notarize documents in languages other than Chinese. Although this is relatively small item, it illustrates again inadequacy State Department provisions for maintaining business relations on as usual basis.

Your continuing efforts tremendously appreciated by American businessmen in Taiwan.

ROBERT P. PARKER,
President.

Mr. STONE. When I first saw this bill and objected to the vagueness of its original language, I was told the vagueness was necessary, that I should not worry about it, that things would continue as they always had. I did not think that would be the case, and that suspicion has been proved correct. The bill as originally written would have left the Government of the Republic of China in some dim nether world, neither country nor ally.

Throughout the committee hearings and the markup sessions, I worked with others on the committee—the chairman and the ranking minority member in particular—to remove the vagueness, to make sure it was clear exactly how the relationship between the United States and the Republic of China on Taiwan would continue. Our committee rewrote this bill, providing numerous guarantees which were not in the original version. In some areas, particularly the area of military security for the Republic of China, I feel our language falls short, and, when offered, I intend to support amendments strengthening our commitment to the future security of the Republic of China on Taiwan.

In the area of our economic commitment to Taiwan, I think this bill, now that the committee has worked on it long and hard, effectively assures that the commercial ties between the Republic of China and the United States can remain strong.

The first thing that had to be done to guarantee that was to define exactly who it is we are dealing with. Under Japanese law, it was possible for the derecognition of the Republic of China, the recognition of the People's Republic of China, and the establishment of an unofficial relationship between Japan and the Republic of China to be done by executive fiat. That cannot work in this country. It may be all well and good to want an unofficial relationship with something called the people on Taiwan, but somewhere along the line American law must spell out exactly who are the people on Taiwan.

This bill now does that by defining the people on Taiwan as the governing authority on Taiwan, recognized by the United States prior to January 1, 1979, as the Republic of China. That tells Members of the Senate, the business people and the U.S. courts exactly who it is we have this unofficial relationship with, and it does not breech the agreement reached with the People's Republic of China that the United States and the Republic of China would not officially have direct government-to-government status in their future dealings with each other.

While I still think it is not the business of the United States to tell any country what to call itself and we should call the Republic of China by the name it has chosen for itself, the language of this section of the bill is a good compromise. The Department of State says it can live with it. The Republic of China can live with it. The People's Republic of China can live with it, and, even though it is not what I would most like to see the United States do, I can live with it.

Another key part of the bill comes in sections, 102, 103, and 104. There the committee spells out in clear, legal terms, the intention of the United States to continue unchanged the economic relationship and treaties we had with the Republic of China before the first of this year. The new committee language specifically continues, in the absence of formal diplomatic ties, the standing of the Republic of China, its agencies, its corporations, and its citizens to sue and be sued in U.S. courts. Without that guarantee, there would be real questions as to the validity of contracts, and the continuation of American investment and trade in the Republic of China would be imperiled.

I would also call attention to section 111 of the committee bill. The two subsections there make it clear that the property and assets of the Republic of China in the United States remain under the control and ownership of the Republic of China and would not be open to attachments or claims by or against the government on the mainland. A major aim of this provision is to protect bank deposits of the Republic of China in U.S. commercial banks—some $4 billion in New York City banks alone.

Without this protection, the economies of both countries would be threatened. When Fidel Castro came to power in Cuba, I recall all sorts of claims against the Cuban Government established by Castro and the assets of others from Cuba were attached in attempts to gain compensation for losses incurred by Americans in Castro's takeover. The same thing happened earlier in U.S. courts when the People's Republic of China sought to gain control of assets held in the name of the Republic of China by the Wells Fargo Bank.

For the same kind of legal battles to take place now over the cash reserves of the Republic of China held in the United States could mean an economic disaster for the United States. The stock market would fall, and interest rates would soar. The language adopted in committee avoids all that.

There is one other section I would like to comment on. That is section 113 dealing with privileges and immunities for the representatives of the Republic of China who are assigned to the offices of that country's institute in the Untied States. The bill simply says those representatives shall enjoy the privileges and immunities comparable to those provided to missions of foreign countries while carrying out their official duties. I suggested this language to the committee, and the members adopted the language, following the lead of many Senators who cosponsored my bill on privileges and immunities.

The extension of these standard diplomatic privileges and immunities means the representatives of the Republic of China will be able to do their jobs in this country, and it also manifests our intention to be as fair as possible to the Republic of China in this whole difficult situation. When we granted the People's Republic of China a liaison office in this country prior to the extension of diplomatic recognition, its representatives received these privileges and immunities on a diplomatic basis. Since it was agreed by the Department of State that there would be no formal diplomatic recognition of the Republic of China, the privileges and immunities extended to the members of Republic of China offices in this country are not fully diplomatic. They do parallel the diplomatic privileges and immunities granted other foreign missions, however, and they do show clearly the United States does recognize the Republic of China is to be represented as if it were a foreign country.

There are other important parts of this bill—not the least of which are the sections relating to security—but the sections I have outlined are those on which I worked during the committee hearings and which I think are absolutely necessary if this new arrangement is to work.

As I said, I would like to see stronger language on the security question—asserting, perhaps, that an attack on the Republic of China would be considered a threat to the national security of the United States rather than simply a matter of grave concern—but on the whole, this bill is much better than it was originally. It is not perfect, but it will work. And under its provisions I am sure the United States and the Republic of China can continue to be close friends and will remain profitable trading partners for a long time.

Mr. JAVITS. Will the Senator yield?

Mr. STONE. I yield.

Mr. JAVITS. I thank the Senator very much for his fine statement and also for the very fine work which he did on this bill, particularly in respect of insuring the assets of the people of Taiwan here in this country. The Senator mentioned New York City where the banks are very heavily involved. He joined very effectively in fashioning what was needed to deal with that situation.

I might say, too, that my agreement between the Senator and myself, I will propose an amendment to section 111 which will make it clear that organizations and other entities formed under the laws of Taiwan will also be included within the purview of the rights which are preserved.

That is necessary, as the Senator and I understand, because section 101(b) defining people on Taiwan speaks of the governing authority on Taiwan, its agencies, instrumentalities, and political subdivisions.

That may or may not include corporate entities or comparable entities organized under the laws on Taiwan.

To make that certain, with the Senator from Florida I will propose an amendment which will make that sure in section 111.

The reason I am not doing it this minute I would like to explain to the Senate. It is because Senator DOLE is raising the whole issue as to whether we should call it the people on Taiwan or Taiwan. So in order to have our amendment technically correct we have to wait until that is decided.

Mr. STONE. I think that is quite valid. I thank the distinguished Senator from New York, the ranking member of our committee, not only for his very kind words about my efforts at the committee level, but I want to thank him for his terrific leadership on this issue. From the very first day the committee started to consider this bill, it was wonderful. When I offered one of the clarifying amendments to the effect that the Republic of China ought to be preserved in its ownership of its assets, it was the Senator from New York who correctly pointed out that we needed additional provisions, taking care not only of the Government and its agencies but the individuals, the corporations, the trusts, all of which the Senator's and my amendment, which he will offer, would address.

Mr. JAVITS. Right.

Mr. STONE. Mr. President, the purpose of the proposed amendment of section 111 is to insure that the objectives of the Congress, as set forth in Senate Report 96-7, are fulfilled and to avoid any ambiguity or potential litigation. Senate Report 96-7 makes clear the Senate's intent that the rights and obligations of natural persons, juridical entities and the authorities on Taiwan are not affected by the normalization of relations with the People's Republic of China. Section 111, as reported by the Senate Foreign Relations Committee, already deals with the rights and obligations of natural persons and the authorities on Taiwan. Section 111, as amended, would make clear that the term "people on Taiwan" as used in section 111 would also include organizations and other entities formed under the law applied on Taiwan as well as natural persons and the authorities on Taiwan covered by the definition in section 101(b). The result of the proposed amendment is thus to avoid any implication of a diminution of the rights and obligations of juridical entities on Taiwan, including corporations and all other nongovernmental organizations and entities.

Let me close by saying that if the Congress does not rapidly complete action on this bill before us, we are, at this moment and for the days to come, in a very difficult and dangerous situation in terms of the commerce and trade between the Republic of China on Taiwan and the United States. We are in a hiatus, we are in a gap, which has been brought about by the normalization of relations and official recognition of Peking without the establishment of the institutions to carry on our commercial relationship with Taiwan.

This is not the purpose of the Government or the people of the United States. Therefore, earlier in my remarks, I had unanimous consent to introduce a joint resolution and a statement clarifying the purpose of that resolution which would authorize and direct the President of the United States to continue in effect the temporary actions justified and authorized by his Presidential memorandum in effect, temporarily continuing the relationships in order to keep validating papers and visas and the consular and other efforts that have to be made if trade and commerce are to continue. I hope this bill can be enacted swiftly enough so that we do not get into a commercial crunch. If this does not happen, then, week after week, the more than $7 billion worth of trade between the Republic of China on Taiwan and its citizens and firms and our own U.S. Government and our citizens and firms get to be a little bit shaky. That is a situation which we cannot tolerate for too much longer.

Mr. GLENN. Will the Senator yield?

Mr. STONE. I yield.

Mr. GLENN. We are already in a crunch. We do not have an American Institute on Taiwan and we do not have any money appropriated for such an entity. We have no authority to transfer the embassy funds over for that purpose. As of this moment, the things we speak of in the U.S. Senate are in limbo in Taiwan until this bill is passed and until we get the authorization and appropriation transferred over from the embassy to the new American Institute on Taiwan.

Mr. STONE. The Senator from Ohio, the distinguished floor manager of the bill, is correct. If that happens rapidly, that is fine. The resolution, though, that I have introduced would, if passed, allow and direct the administration to continue, on an informal, unofficial, and temporary basis, the actions of our representatives who are still in Taiwan and the representatives of the Republic of China who are still in Washington and in this country so that we do not get into a commercial crunch.

After all, if you lose 1 month out of a year and the year's trade is $7 billion, query: How much of that can we afford and can Taiwan afford to lose? Up to this point, it has not manifested itself too severely, although I have received a wire, a cable, from the American Chamber of Commerce on Taiwan complaining and expressing concern about this situation. If, in the next few days, we do not get a move on, I am afraid that we are going to have to consider some kind of temporary relief of the sort that I have introduced because it is of vital economic interest to both countries that we continue this trade.

Mr. SARBANES. Will the Senator yield on that point?

Mr. STONE. I yield.

Mr. SARBANES. I think the point the Senator is making is a good one. I think it is one of the strongest arguments for expeditious action on the legislation now pending before the Senate.

Mr. STONE. Quite right.

Mr. SARBANES. It would, of course, meet in every respect that at least the committee has been able to shape the legislation, all of the various problems to which the Senator has addressed himself. This legislation is very important in order to enable the long-standing economic and cultural relationships which have existed to continue to exist. I think the committee has acted with expedition and we are hopeful now that we shall be able to move here, in the Senate, on this matter in the next day or two and complete this legislation, reconcile our position with the House, and place it into law. That, of course, would then meet, in the most fully developed sense possible, all of these problems.

Mr. STONE. The distinguished Senator from Maryland is correct. I just want to say, in conclusion, that I think that my colleagues on the Committee on Foreign Relations were careful, were constructive, and were very responsive to the business community of the United States as well as the people and the business community and the Government of the people on Taiwan, the Republic of China. We made good strides in this bill. I am sure there will be some strengthening amendments offered on the floor and that we will rapidly enact this legislation so that our friendship and trade with the Republic of China on Taiwan and the people of Taiwan can continue and even increase.

The PRESIDING OFFICER. The question occurs on the amendment of the Senator from Kansas.

Mr. JAVITS. Mr. President, I yield to the Senator from Ohio.

Mr. GLENN. Mr. President, the amendment suggested by the Senator from Kansas goes right to the very heart of what we have attempted to do in the Senate Foreign Relations Committee. We have endeavored to make the American Institute on Taiwan an acceptable entity that could exist with the normalization of relations with the People's Republic of China. We have tried to make sure that the American Institute on Taiwan is acceptable to both parties—acceptable to the people on Taiwan and acceptable to the People's Republic of China. I think we have reached that balance. There have been those, of course, who have suggested that the people on Taiwan could declare their immediate independence, a move to be a separate entity entirely. I do not think that would be possible now. Some years ago, that might have been one of the options that the Republic of China might have wished to consider. But I think the situation now would be very muddled if that were the direction in which they were to go.

As I see it, the amendment by the distinguished Senator from Kansas would try to push a little bit in that direction. It tries to establish a separate entity by changing the language only this slight amount. Both sides of the street on Taiwan—the People's Republic of China and the Republic of China representatives—have said throughout the many years past that they are all part of one China.

One of the few things they have agreed upon has been that it is truly all one China. I think it would be a drastic mistake if we went ahead and indicated it was other than the one China that both sides have said all along is the case.

So I hope, Mr. President, that my colleagues in the Senate will see fit to vote against this amendment.

The committee, on page 8, already defines the inclusion of the governing authorities on Taiwan.

I read that section which starts on line 19 of page 8 of the bill, as follows:

> (b) Except as provided in section 205(d) of this Act, the term "people on Taiwan", as used in this Act, shall mean and include the governing authority on Taiwan, recognized by the United States prior to January 1, 1979 as the Republic of China; its agencies, instrumentalities, and political subdivisions; and the people governed by it in the islands of Taiwan and the Pescadores.

I think that is as clear a definition of the people on Taiwan and as meaningful a definition as anyone could come up with.

To try to alter that to some piece of geography, to try to redefine it at this point, would really do gross violence to the bill—the normalization process we have brought forward.

Mr. STONE. Will the Senator yield?

Mr. GLENN. Certainly.

Mr. STONE. Was it not the intention of our committee in this definition not to exclude the islands of Quemoy and Matsu for commercial purposes, but to exclude them for purposes of security, supporting assistance and security questions?

Mr. GLENN. It is my recollection that that type of situation which did not wish to give any military security guarantees to Quemoy and Matsu, from which there have been artillery fire exchanged for many years with the mainland. We did not intend to inject ourselves into that type of situation which did not seem to be called for.

But we did not preclude there being commercial arrangements with those islands as part of Taiwan's operation, if that was what they wanted.

Mr. STONE. As the Senator from Ohio might recall, it was at that point in our discussion when I referred to the excellent pottery that is done on the island of Quemoy and the great covered teapot with the handle I brought back from that island.

Mr. GLENN. I recall the conversation. I would not vouch for the quality of the Senator's teapot.

Mr. STONE. Not only that, but the tea it produces is excellent.

I thank the Senator.

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER (Mr. Exon). The Senator from New York.

Mr. JAVITS. Mr. President, first let it be noted, in respect to the previous colloquy, that the Mutual Defense Treaty between the United States and the Republic of China on Taiwan did not include Quemoy and Matsu. So even if we sought to recreate it, we would leave them out.

The important point here is, question: It avails us nothing, why should we provoke the People's Republic of China when we are just trying to get started on some kind of better, more normal relationship?

Yet that is exactly what this amendment, unfortunately, would do.

I know my friend from Kansas and he will tell us that all he is doing is calling a spade a spade. But sometimes it is unnecessary to call a spade a spade, everybody knows it is a spade, everybody understands and sees it, why rub it in?

That is all this is about.

Our definition includes every human being, every corporation, every trust, everything that will be included if the amendment is approved, except that it does not irritate the People's Republic of China.

Now, I would protest, I would irritate them until the cows came home, if it meant anything. But it does not, so why do it?

Second, if there is such a thing as propaganda in respect of these international affairs, and I believe there is a great deal of that, I think we are much better off dealing with the people on Taiwan than we are with Taiwan per se, for this reason: If Taiwan were governed by the people on Taiwan, then I would say, "Well, there's a lot to that case, but it is not." There are a good many Taiwanese in that government now, but it is still governed essentially by the apparatus that came over from the mainland in 1949.

Therefore, when the issue is dealing with substantive questions and piercing the artificialities of legal concepts, and so forth, we really are dealing with the people on Taiwan. Therefore, that is, in my judgment, a far more accurate picturization of the intention and design of the issue than if we said Taiwan alone.

So, in addition to the other arguments which have been made about the Shanghai communique, which of course is a fact, the fact is that both Chiang Kài-shek and Mao Tse-tung agreed on one thing, that there is one China.

The important point here is that we do not do anything for ourselves, and we unnecessarily irritate the other side.

Last, and perhaps more decisive than anything else, this really is a more accurate description of what we are doing in this bill.

Mr. STONE. Will the Senator yield?

Mr. JAVITS. Yes.

Mr. STONE. The Senator will recall that the Senator from New York and I made quite a fight in the committee early on to get a definition into this bill which said the Republic of China, because the bill that we were considering when it came to us never said it. The most that was offered was some explanatory notes down in the committee report somewhere, which would not have done it, which would not have carried it, and would have caused our friends on Taiwan unnecessarily to lose face for no purpose.

So the Senator from New York, the leadership of our committee, and I worked very hard to get a definition that would do the job, and we have done that. Therefore, to alter it at this point might well just push the situation over the edge to the point where the purpose to be served by friends of Taiwan might not practically be served.

Now, I intended to support some of the strengthening amendments to our bill, such as I did when Senator Percy offered his security amendment to the security issue at the committee level. But to tamper with this carefully drafted and redrafted and re-redrafted definition is at the root of this bill, I think, and I think the Senator from New York probably agrees with this, it would be a bad mistake for the friends and supporters of Taiwan.

Mr. JAVITS. I agree.

For the reasons which I have stated and which have been stated, Mr. President, I hope the Senate will reject the amendment.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I will just take a minute.

As I have said earlier, in complimenting the committee, I appreciate the efforts by all three Senators who have spoken.

Certainly I would not want to provoke anyone or anything, but it seems to me it is just a matter of judgment.

Their judgment has been quite good in some areas and perhaps it could be perfected by those of us who are not privileged to sit on the Committee on Foreign Relations.

I noticed that the House version treats it differently. I do not know that anybody has been provoked by the action on the House side.

It seems to me that we could adopt this amendment without doing violence to either our friends on Taiwan or the People's Republic of China. It does bring the language into somewhat more line with the terminology used in the House version. It seems to me that it is sort of a clever way to pretend that we are not really dealing with a legal entity or Government on Taiwan.

I have no further points to make. It might be a good first vote, to see what the temperature is in the Senate with reference to any amendments, and therefore I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church), the Senator from Kentucky (Mr. Ford), the Senator from Hawaii (Mr. Inouye), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. Hatfield) is necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "yea."

The PRESIDING OFFICER. Have all Senators present voted?

The result was announced—yeas 33, nays 62, as follows:

[Rollcall Vote No. 10 Leg.]

YEAS—33

Armstrong
Bellmon
Cohen
DeConcini
Dole
Domenici
Exon
Garn
Goldwater
Hatch
Hayakawa
Heinz
Helms
Hollings
Humphrey
Jepsen
Kassebaum
Laxalt
McClure
Nelson
Packwood
Pressler
Proxmire
Roth
Schmitt
Schweiker
Simpson
Stevens
Thurmond
Tower
Wallop
Warner
Young

NAYS—62

Baker
Baucus
Bayh
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cranston
Culver
Danforth
Durenberger
Durkin
Eagleton
Glenn
Gravel
Hart
Heflin
Huddleston
Jackson
Javits
Johnston
Kennedy
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nunn
Pell
Percy
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stevenson
Stewart
Stone
Talmadge
Tsongas
Weicker
Williams
Zorinsky

NOT VOTING—5

Church
Ford
Hatfield
Inouye
Stennis

So Mr. Dole's amendment (UP No. 27) was rejected.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 28

(Purpose: To clarify the definition of "People on Taiwan")

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) for himself and Mr. STONE proposes an unprinted amendment numbered 28:

On page 12, at the end of line 12, insert the following:

For the purposes of this section 111, the term "people on Taiwan" includes organizations and other entities formed under the law applied on Taiwan.

Mr. JAVITS. Mr. President, I believe this amendment will be acceptable, and I would like to explain it to the Senate.

The purpose of the amendment is to make clear that the term "people on Taiwan" as used in section 111 includes organizations and other entities formed under the law applied on Taiwan, as well as natural persons and the authorities on Taiwan. The result of the proposed amendment is thus to avoid any implication of a diminution of the rights and obligations of corporations and other nongovernmental entities on Taiwan.

Section 101(a) was adopted in order to make it clear that the power of suing and being sued in the courts of the United States——

Mr. GLENN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. We will have order in the Senate.

The Chair recognizes once again the Senator from New York.

Mr. JAVITS. Shall not be affected by the fact that the United States has recognized the People's Republic of China, and the right of action in all of these cases is already preserved both by the definition of what we mean by "the people on Taiwan" contained in section 101(b), and also by other provisions of this act which relate to the preservation of all rights in both people on Taiwan as defined to mean the "governing authority on Taiwan recognized by the United States prior to January 1, 1979 as the Republic of China; its agencies, instrumentalities, and political subdivisions; and the people governed by it in the islands of Taiwan and the Pescadores."

This amendment is intended to make it clear that, in section 111 when we speak of agencies, instrumentalities, and political subdivisions, we not only refer to the governing authority on Taiwan, heretofore known as the Republic of China, as well as the people governed by it but we refer also to all forms of nonofficial, nongovernmental artificial persons, legal entities, corporations, trusts, and other entities organized under the law applicable on Taiwan.

In order to make that crystal clear, the banks and other enterprises which hold important assets of those entities believe that this particular provision should be included, to remove any possibility of wrong inferences being drawn in respect of any potential actions at law.

I think the amendment only buttresses what we have already said, and I hope it may prove acceptable to the other manager of the bill.

The PRESIDING OFFICER. The Senate will please be in order. The Chair recognizes the Senator from Ohio.

Mr. GLENN. Mr. President, the Senator from New York and the Senator from Florida, in proposing this amendment, I think, have done an excellent job in bringing to our attention a fact on which the committee probably did not put sufficient stress, American interests in Taiwan. Our trade with Taiwan was $7.2 billion last year, and it is expected to reach $9 billion to $10 billion in 1979, $500 million in private investment in Taiwan.

So I think, in advancing this in the interests of financial stability and in the interests of the banking community that deals back and forth on a daily basis in these huge numbers in Taiwan, I am quite willing to accept this, and I think it is a good addition to our legislation.

Mr. JAVITS. Mr. President, may I say that Senator STONE made his argument for this amendment when he made his speech a little while ago, which immediately preceded action on the preceding amendment.

We are ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. I thank the Chair.

Mr. HELMS. Mr. President, I believe the distinguished Senator from New Hampshire (Mr. HUMPHREY) has an amendment, and I will yield to him.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Hampshire.

UP AMENDMENT NO. 29

Mr. HUMPHREY. I thank the Senator from North Carolina.

Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire (Mr. HUMPHREY) proposes an unprinted amendment numbered 29.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 19, strike out "section 205 (d)" and insert "subsection (c):

"For the purpose of applying section 102 of this Act to the Internal Revenue Code of 1954, and to any regulation, ruling, decision, or other determination under such Code, the term "people on Taiwan" shall mean the governing authority on Taiwan recognized by the United States prior to January 1, 1979, as the Republic of China and its agencies, instrumentalities, the political subdivisions; except that when such term is used in a geographical sense it shall mean the islands of Taiwan and the Pescadores."

On page 10, strike section 106(a) and insert the following new subsection (a):

"Programs, transactions, and other relations conducted or carried out by the President or any department or agency of the United States Government with respect to the people on Taiwan shall, in the manner and to the extent directed by the President, be conducted and carried out by or through the Liaison Office to the Republic of China (hereinafter 'the Liaison Office'). Under such terms and conditions as are consonant with the purposes of this Act, the President shall extend, or enter into an agreement extending, to the Liaison Office to be established in the United States of America by the Republic of China, and to the members thereof, the same privileges and immunities subject to the corresponding conditions and obligations as are enjoyed by diplomatic missions accredited to the United States and members thereof, upon the condition that privileges and immunities are extended on a reciprocal basis to the United States Liaison Office on Taiwan at no less than the level etablished herein."

Strike "Institute" wherever it shall appear and insert in lieu thereof "Liaison Office".

On page 10, strike out section 106(b).

Beginning on page 16, line 1, strike all through page 20, line 6.

On page 20, line 17, after the word "Taiwan", strike cut "on an unofficial basis". Beginning on line 18, strike all through page 21, line 4.

On page 22, strike out subsection (b) and insert in lieu thereof:

"(b) For purposes of subsection (a), the term 'agreement' includes any agreement entered into between the Liason Office and the Taiwan authorities or the instrumentality established by the Taiwanese authorities."

Mr. JAVITS. Mr. President, may we ask the Senator a question in connection with this amendment? I note the Senator's amendment affects different parts of the bill. Is it all one idea or are they different.

Mr. HUMPHREY. It is one idea, one field.

Mr. JAVITS. I thank the Senator.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, over the years, many polls have been taken on the attitude of the American people toward the China issue. One consistent result has been opposition by a majority of Americans toward the recognition of mainland China at the expense of the Republic of China. Flying in the face of the will of the people, the administration has taken just this action, and we have been brought here now, not to put the finishing touches on the policy that will best protect the security of the western Pacific area, but to salvage whatever is possible to insure the survival of the Republic of China as a free nation.

Next to the question of recognition itself, the most important matter to be determined is the legal nature of our new relations, given the absence of recognition. Thus, today I am introducing an amendment which would eliminate the While House's planned American Institute on Taiwan and establish instead government-to-government relations through an official U.S. Liaison Office in Taiwan.

Mr. President, there are a number of reasons which can be given in favor of this change, and which I will describe during the course of my remarks. But the first and most powerful argument is that of simple fairness.

From 1973 through the end of 1978 our relations with the People's Republic of China were conducted through a liaison office. Yet the creation, and later the continued existence, of this liaison office in Peking was strongly supported in a bipartisan manner by three administrations. Moreover, when the concept was first broached, a flurry of legislation occurred in Congress in its support. It was argued that the importance of our relations with the People's Republic of China and the level of contact merited no less than a liaison office. Given the scope of our relations with Taiwan, the argument applies equally to this situation.

I find it astounding that an argument which on its face speaks for itself should be so easily cast aside by the administration.

Many reasons are given, but the fundamental one is fear that government-to-government relations with Taiwan will anger Teng Hsiao-ping.

This is a symptom of the malaise affecting our overall foreign policy. Increasingly, we are permitting our foreign policy to be dictated, not by our national interests or by the factors which will best protect regional security, but by the priorities of other nations, after our adversaries.

Prof. Ray Cline of the Georgetown Institute on Strategic and International Studies, in his testimony before the Senate Foreign Relations Committee, described the President's proposal as "a Chinese fortune cookie baked by Communist Vice Premier Teng Hsiao-ping. It is being handed to you by the White House and the State Department, but the message inside was written by Peking." It is preposterous that we would be allowing the People's Republic of China to dictate our policy toward Taiwan; to say that we have no recourse as the President seems to imply, is a sad statement on our national decline from power.

In many ways it is particularly unfortunate to make Taiwan the victim of our deteriorating foreign policy. The Republic of China has been an unswervingly loyal ally of the United States, dismissing the benefits which might have accrued to it from an informal alliance with the Soviet Union against the Chinese mainland.

I might add, Mr. President, that while I was in Taiwan some weeks ago, some of us asked a high official of the Republic of China why they had not played their "Russian card."

Their answer was, "You may have given up your principles, but we have not."

Moreover, in only 30 years' time its people have turned a backward island with a rural economy into an Asian showcase of prosperity. All of us who have visited Taiwan have been deeply impressed by the commitment of the Taiwanese to increased economic prosperity and the retention of the freedom they now enjoy. It would be reprehensible for the United States to take any actions that endanger the benefits they have worked so long to reach.

It is ironic that President Carter's change in the U.S. policy is partially based on the premise of recognizing reality. But in practice, in recognizing one reality, that of the PRC, he is turning his back on two others. On the one hand, he is attempting to ignore the undisputable geographical fact that Taiwan exists, and that 17 million people live on it. Let us put this in context. There are countries with less than one-tenth of Taiwan's population, with less than one-tenth of its GNP; there are tiny countries most Americans never even heard of—all of which the United States sees some value in having relations with. Bearing this in mind, what kind of sense does it make to turn our backs on Taiwan?

The other reality he is ignoring is that, as Dr. Cline explains, there are two Chinese states and two Chinese Governments, and this has been the situation for exactly 30 years. President Carter said we should recognize reality. Reality is duality. The United States needs dual relations, one relationship with Peking, one with Taipei. There is no reason under normal standards of international laws and custom why these relationships should not be equal. Thus, recognizing the existence of the People's Republic of China as a separate entity need not have implied the derecognition of the existence of the Republic of China.

In his excellent minority views on S. 245, the distinguished Senator from North Carolina (Mr. HELMS) argues that there is a "calculated ambivalence" in our new policy "which can be explained only by fundamental intellectual dishonesty." He describes his logic eloquently:

> The Institute is an attempt to yoke together two logically contradictory propositions under a semantic gloss in order to avoid the inherent consequences of our actions. The New China policy seeks to deny the jurisdical existence of the sovereignty exercised by the government of the Republic of China, while at the same time reaping benefits which can be conferred only by recognizing that sovereignty.

Put in other words, the United States wishes to retain such ties as will allow it to pursue its interests, and in connection with these, deal with the elected authorities of the Republic of China, thus tacitly admitting their legitimacy. All the while, however, we will be busy proclaiming that they lack such legality. In summary, we will treat the Republic of China Government as a government, but deny that it is one. Such a policy, as Senator HELMS observes, "can be explained only by fundamental intellectual dishonesty."

The charade we are asked to undertake is a particularly flimsy one considering the strong quasi-governmental underpinnings of the proposed Institute. In virtually every respect it will function as though it were a U.S. agency. Employees will be paid at the same rate as though they were in Government service, and their service will count toward Government pensions. The funding for the Institute will come from the U.S. taxpayers, and audits of its books are to be performed by the Comptroller General of the United States. Finally, the bill provides that "agreements and transactions made or to be made by or through the Institute shall be subject to the same congressional notification, review and approval requirements and procedures as if such agreements were made by or through the department or agency of the United States on behalf which the Institute is acting."

So it will be a Government agency in everything but name. It will function like one, it will be monitored and funded by Congress as though it were one, and its employees will receive Government-level salaries and benefits out of the U.S. Treasury. But we are nevertheless asked to pretend it is not one, because to do so would irritate our Communist adversaries. It is difficult to accept this nonsense.

Another point can be cited which underscores still further the absurdity of the situation. We still have, and will continue to have for the remainder of the year, a Mutual Defense treaty with Taiwan. How on Earth can a country recognize another for purposes of its defense in the case of a threat, yet refuse to establish a liaison office within its territory? This contradictory logic will have practical implications as well. The necessary military contact growing out of our treaty obligations, as well as of our commitment to provide Taiwan with defensive arms, will be rendered far more difficult by the nature of the ties foreseen by the administration.

Mr. President, the bill which Congress ultimately approves will not settle all questions on the China issue. The need for decisions, many of them crucial, will arise with time and be left to the discretion of the administration. The source of many of these questions will be the administration's ambivalent position on sovereignty over Taiwan. In the Shanghai Communique and President Carter's December 15, 1978, statement, the official U.S. position is respectively that of "acknowledging" and "recognizing" that both Chinas feel there is but one China, of which Taiwan is a part. Ostensibly, the use of these terms rather than "acceptance" of this premise on the part of the People's Republic of China puts us in a neutral position. Against this, however, must be weighed our current diplomatic recognition of the People's Republic of China and our rejection of the legitimacy of the Republic of China Government. When this is taken into account, our ostensibly neutral position changes to one close to recognition of the People's Republic of China sovereignty over Taiwan.

Mr. HELMS. Mr. President, will the Senator yield for one moment at that point?

Mr. HUMPHREY. I yield.

Mr. HELMS. I concur with the Senator's amendment. I think it is an important one and would like to have a rollcall vote. I note that there are enough Senators present for a second. Perhaps we could get the yeas and nays on the Senator's amendment, if he wishes.

Mr. HUMPHREY. Very well. I am almost finished, and will be glad to yield then.

Mr. HELMS. All right.

Mr. HUMPHREY. I thank the Senator. Administration statements have done little to reassure this concern. Prof. Ray Cline has colorfully described the spokesmen for the new China policy, in their appearances before the Foreign Relations Committee, as—

> bobbing and weaving in the face of . . . questions to avoid making any legal binding governmental commitment to Taiwan's security or permanent ties with the United States.

This situation raises important questions about our reaction to an economic boycott or actual military aggression by mainland China against the Republic of China. Will the United States in fact respond? Or will a determination that the problem is a strictly internal one prevent us, the language in S. 245 notwithstanding, from helping Taiwan?

Having government-to-government relations will not solve this problem by itself, but it will be of significant assistance. It will be acknowledgment of the sovereignty of the Republic of China and the legality of its government.

It can be argued that the Republic of China's recent acceptance of the American Institute on Taiwan obviates any need for further discussion of government-to-government relations. Such a position, however, ignores many of the facts. From the time of the President's announcement on December 15, the Republic of China Government took the firm position that nothing less than relations at an official level would be adequate. It continued to hold staunchly to this position for 2 months. When it finally softened its stand, it was only days away from the March 1 deadline for the old relations to lapse. With so much at stake, including the possibility that the old ties would be replaced by an absolute vacuum, it is safe to presume that the Republic of China was in no position to bargain. Even now, however, its official position remains that government-to-government relations would be preferable.

Mr. President, all this amendment seeks to do is insert some degree of fairness in our future relations with Taiwan. If it was proper to have government-to-government relations with the People's Republic of China at a time when we did not recognize its government, it can be no less proper to have such ties with the Republic of China now that we have withdrawn recognition from it. To have an agency that in every way acts like a government agency but which we are supposed to pretend is a private entity is a sham, and a slap in the face at a loyal ally. We should not let the concerns of mainland China establish the priorities for American foreign policy.

Mr. President, the essence of S. 245 is the acknowledgment by this body of Peking's claim to Taiwan. Those who vote for the American Institute idea and the Taiwan counterpart in this country are saying to the world, "Yes, Taiwan is simply a rebellious province of the People's Republic of China." I reject that, Mr. President. The People's Republic of China has never ruled Taiwan. The free people of Taiwan have no wish to be ruled by the Communists on the mainland.

Mr. President, this American Institute proposal is a sham. The People's Republic of China is not fooled by it; the Republic of China is not fooled by it; the world is not fooled by it; the American people are not fooled by it; and many Members of this body are not fooled by it.

I repeat, the essence of S. 245 is the acceptance by the U.S. Senate of Peking's contention that Taiwan is merely a rebellious province of the People's Republic of China.

I reject it absolutely, and invite my colleagues to join with me in rejecting the contention by voting for my amendment to S. 245, which amendment would require the liaison office in Taiwan.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina.

Mr. HELMS. I do not want to preempt the distinguished sponsor of this amendment. Does he desire the yeas and nays on this amendment?

Mr. HUMPHREY. I do, yes.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina.

Mr. HELMS. What the Senator is saying, in effect, is that we had a liaison office previously in Red China, and that was at the time we were recognizing Taiwan. Now it is just why not the reverse?

Mr. HUMPHREY. That is correct. We had a liaison office in Peking. Now the question is why should we do less for our friends than we did for our Communist adversaries.

Mr. HELMS. I will say to the distinguished Senator that a great many Americans are asking that question today in connection with the legislation pending before the Senate. Again, I commend the Senator from New Hampshire for his amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio.

Mr. GLENN. Mr. President, I believe the first thing to be said about the amendment is that we cannot force the Taiwanese to say that there are two Chinas. They have consistently held to their view that it has been only one China, although they were on the island and there were some nearly 1 billion other people of Chinese heritage on the mainland. They have consistently agreed that there were not two Chinas.

The difference between the situation with the liaison office in Peking and the liaison office on Taiwan is very simply one of acceptance by both parties. In the previous situation, when we have maintained an Embassy on Taiwan and a liaison office in Peking.

The Government on Taiwan did not object to that as far as I know. They may have made some comments but there were no serious objections to it. That is not the case now.

The new relationship has been established and predicated on the fact that there would not be that dual recognition of two Chinas by the United States which neither side of the strait agrees with. In fact, the authorities on Taiwan have already accepted the unofficial offices which will be created by the establishment here of a Taiwan Coordinating Council on North American Affairs, and which will also serve as counterpart of our American Institute on Taiwan.

I think that the bill we have here, Mr. President, has achieved everything short of the official relations that the distinguished Senator might wish to provide. We are providing immunities and arms sales. At this point, it seems to me that to upset it by mandating a liaison office on Taiwan would only rupture the entire agreement and, in fact, work to the detriment of the people on Taiwan.

We had a discussion earlier this afternoon of the current status of the people on Taiwan. They are in limbo of sorts because we do not have a replacement for the embassy, we do not have the American Institute, and we do not have the appropriations or authorization to transfer the formal embassy funds over to operating that Institute. In fact, our trade and commerce that we have right now is in fact in limbo and operating on a day-to-day basis until we get this new Institute established.

I would hope that we would not see fit to take a chance of rupturing this entire agreement. I think it would stand an excellent chance of not only being vetoed once we finish our work on it, but I think it would stand an excellent chance of being turned down by the People's Republic of China—even perhaps the people on Taiwan.

I have had two groups visit me in the last few weeks from Taiwan and they are very much concerned that we begin to make this new relationship work, and that our trade patterns not be unduly interrupted with Taiwan.

I am sure that the people of Taiwan would not agree with upsetting things any further than they have already been upset.

Furthermore, one last argument I think is key U.S. interests have to come to the fore today. Our best interests in this country are certainly not served by twisting the tail of the PRC or furthering any disagreement with them. Since the people on Taiwan have accepted this new relationship and are trying to make it work, I think we would be well advised to go along with what has been provided in this bill and not upset it by trying to reestablish an official diplomatic relationship, even at the low level of a liaison office, which this amendment would do.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

Mr. JAVITS. Mr. President, naturally, this amendment could be divided. It is perhaps improper to apply it to the whole act.

For example, it has within it the statement, "strike 'institute' wherever it shall appear and insert in lieu thereof 'liaison office.' " I assume that means throughout the bill. It could be objected to as to form and so forth, but I have no desire to do that, and I will not. That is why I ask the Senator if it is one idea. If it is, we will vote on it as one concept and there is no point in fractionating it.

I am opposed to the concept because, Mr. President, this is really a case of the tail wagging the dog. We have an historic problem. Here are 800 million to 1 billion people in the world with whom we enjoy no effective relationship except by sufferance of a liaison office, which was understood to be a threshold proposition leading toward a normalization of relations which was so established. Indeed, I wish to refresh the Senate on a little bit of that history.

The fact is that this subject of a review of our policy with the People's Republic of China was first broached in 1970. I had the honor in that year to be the delegate from the Senate to the United Nations General Assembly. The speech which I wrote on that occasion called for review of our China policy. President Nixon endorsed that speech. He then went further in 1971 by seeking normalization with the People's Republic of China, and then making his famous trip to Peking preceded by that of Dr. Kissinger, which first opened the door to the possibility of normalization.

The liaison office was a step in that process. It was not an isolated thing, nor was it a postscript to another relationship, like what it would be with Taiwan.

(Mr. TSONGAS assumed the chair.)

Mr. JAVITS. It was an original action leading up to another state of relationships between us and the People's Republic of China, which has now been consummated. So let us not live in a dream world. We have decided not to butter up the People's Republic. They could not care less whether we butter them up or not. I think we will be treating them rather roughly in days ahead, just as they will be treating us. I assure you, you will not see the end of acerbic criticism in the United Nations or elsewhere by the People's Republic of us, nor by us of them, any more than you see it with the Soviet Union.

But any illusion that we are in some alliance with the People's Republic of China is, in my judgment, out of the question. I would not be for it if that were the case. I do not want an alliance with the People's Republic of China, but I want access to them and I want an opportunity to deal with them as I would deal with any other country. And I want a representative in Peking with as much standing and authority as the Russian ambassador has.

I should like to open up China to journalists, travelers, trade and cultural interchange in a way that is only halting and inadequate when it is left to the liaison office concept. That is why we are doing this. We are not doing this to suit them, we are doing it to suit us.

It was clearly written into the contract which we are now making in terms of recognition that we would accept the special status of Taiwan as they would. This is not a one-way street. There is nothing that would prevent the People's Republic of China from trying to suffocate Taiwan tomorrow, causing us to invoke the mutual defense treaty. I think every Senator who wants to vote for this had better understand that this calls off the deal. That it is not the deal we made.

It could be right, it could be wrong. It could only be semantics or it might be real. But that is the deal we made. So if you want to normalize relations with the People's Republic of China, you cannot vote for this amendment. If you do not, vote for it, by all means.

I think it is very unwise. I think we should normalize. I think that is essential to our own future in the world. But if you do not want to do it, this is an ideal opportunity to dump it. That is the realistic part of this equation.

As to the mechanics of the liaison office, I think it is very clear that we have had a liaison office with the People's Republic by arrangement. That arrangement was a step in the direction of normalization. That does not equate with a liaison office with Taiwan, because as far as Taiwan is concerned, that would be substituted for an embassy, which is what we had before. That would really be an artificial smokescreen. It would have the same rights, the same privileges, the same duties, except we call it a liaison office. So it defies the whole objective, which is to recognize what both Chiang Kai-shek and Mao Tse-tung always contended—that is, that there is one China, and Taiwan is a province of China—but, at the same time, to protect the economic and social and, indeed, political system on Taiwan.

I think it is a fair settlement and a settlement highly in the interests of the United States. We feel just as strongly, and we made it clear to the People's Republic when we did the deal, that we are going to supply them with arms, but we are not going to let them be subdued by force, direct or indirect. We told the People's Republic, "If you try it, you take us on." Would they not have the right to say the same thing to us? It is not up to us to say that they are arbitrary in not tolerating this as an amendment to the deal, which they will not.

So, in my judgment, we have to make the fundamental decision. That is the fundamental decision. That is their part of the bargain. We are getting our part of the bargain. We are getting in there on a recognized and established basis.

Their part of the bargain is that we should not have an official relationship of an embassy or what is tantamount to an embassy with the people on Taiwan. In my judgment, we have very carefully architected a bill which does everything in substance that we need to do without invalidating the deal. I think the deal is so desirable in the national interests of United States that I do not want to see it invalidated.

Therefore, Mr. President, I am against this amendment and I hope very much that it will be rejected.

Mr. HATCH and Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. Mr. President, at the appropriate time, I shall move to table the amendment. I do not want to shut off debate now. I just want to notify my colleagues that I shall move to table it.

Mr. HATCH. Mr. President, I want to compliment the distinguished Senator from New Hampshire for his approach here. Frankly, one of the arguments which has been used by proponents of normalization—and I should set the record straight; I am for normalization of relations with mainland China, but not at the cost of abdicating our responsibilities to the people of Taiwan. I think it is a failure on our part not to recognize 900 million people in this world. But I think there is a way of doing that without necessarily kicking our friends in the teeth or acting in ways which some people in our society and throughout the world have considered to be dishonorable.

As I understand it, all the distinguished Senator from New Hampshire is asking is that we have a very simple process of a liaison office in Taiwan to show that we have not totally rejected these people; that we have not, in our abrogation of the treaty with them, forgotten that they exist; that we do have respect for them and that we should, at least, give them some benefit when you consider that we have done the same for the mainland Chinese for some years since President Nixon allowed it to occur.

I do not think establishing a liaison office necessarily has to destroy the relationship with mainland China. I am not sure that that argument really should be offered. But if that is the way it is, then, as far as I am concerned, so be it, because that is not too much to ask of this great Nation, to recognize that we do have a moral commitment to the people on Taiwan and that a liaison office may help us to keep those moral commitments alive and the trade relationship which has existed in response to those moral commitments and many promises through the years in a good legal status.

I should like to join as a cosponsor in this amendment. It is not with a desire to scuttle any reasonable recognition of the mainland Chinese; it is with a desire not to scuttle the moral commitment that we have to the people on Taiwan, and our desire to recognize that we have entered into some 59 trade agreements with them in response to many moral commitments by many Presidents of this country who have indicated that we will not let them down, that they will always be our friends, and that we will always be committed to them.

In my humble opinion, we have let them down, and to not even have a liaison office, it seems to me, in our fear that we might not be able to sell Coca-Cola or have business or even have a political relationship, which would be higher than the prior two categories with the people of mainland China would be, I think, is pretty shortsighted on our part.

I have also been interested in the argument which has always been made by those who are proponents of recognition of mainland China that both Taiwan and mainland China want a one-China policy. Well, that is hardly the way to put it. I think that that is an overglossing of what both of them want. Taiwan wants a one-China policy as long as Taiwan controls that one China. Mainland China wants a one-China policy so long as mainland China controls that one China. As I view it ethically, philosophically, and mathematically, that means a two-China policy, because there are two different entities here who want to be dominant and who want to control that one China.

I do not believe, from having chatted with a great number of Taiwan people, that they would be dissatisfied with this amendment. As a matter of fact, I had great reason to believe that they would be very pleased, under present circumstances, that we would favor them to this limited extent, especially since we have disfavored them to such a great degree. I do not care what anybody says about this issue; we all have to look at it with at least a certain degree of shame—the way it occurred, the timing in which it occurred, the process in which it occurred, the zealous approach to achieving economic advantage, and the loss of prestige which has inevitably resulted.

I would like to see this simple amendment passed. I do not think it would destroy our relationship with Teng Hsiao-ping. If it does, then it seems to me that relationship is too tenuous to begin with. I do not think the U.S. Senate needs to clamor after it, the satisfactions desired so much by Teng Hsiao-ping and other leaders on mainland China. Nor should we ignore the responsibilities we have, perhaps, to recognize mainland China just because some people on Taiwan feel that that should never have occurred.

I think there has to be balance in this matter and the problem, as I see it, is that we do not have a balance. We have a one-sided view, a one-sided philosophy, controlled by those who are, it seems to me, desirous of establishing this relationship at all costs under the present circumstances.

Who am I to criticize that viewpoint because my fellow Senators did not create these circumstances?

We now have to resolve what has been a fait accompli by an administration which disregarded the prestigious Senators on the Hill and the prestigious Members of Congress who had made a very important request prior to our adjournment of the 95th Congress, and that request was simply to be consulted before the President normalized relationships with mainland China.

What bothers me is that not only were we not consulted, but it was so flagrant in the way we lacked consultation, and, in process, we have fallen all over ourselves to support this one-sided approach, to the detriment of our long-term friends, and I think to the greater detriment of ourselves, in the spirit of world peace.

I really believe the Senator from New Hampshire, for his first amendment on the floor of the Senate, can be very proud as he stood up for principle, albeit a very reasonable, modest request, after the fait accompli has occurred.

I think he deserves praise for that and he deserves, I think, support for that.

As a freshman Senator, I know how difficult it is to stand up and bring forth a first amendment.

This is no earth-shaking amendment. All it is, is a simple recognition that we have to continue business, we have to continue a modest relationship, we have to continue to try to be moral with regard to the people on Taiwan. Perhaps the best legal way to do it without totally slapping mainland China in the face, because nobody wants to do that, is to have a liaison office, a simple liaison office which we have already established a precedent for in mainland China.

I commend the Senator from New Hampshire. I hope this will be the first in a great number of well thought-out amendments which may very well do a great deal to help our country to be morally secure and more acceptable in the world of nations and among our fellowmen, especially in this country, sending a message to both Taiwan and Mainland China, which I consider to be not only a reasonable message, but an essential message.

I ask unanimous consent that I be added as a cosponsor on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I thank the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. I will wait for the Senator from North Carolina, Mr. President.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, what we are doing in this Senate is this: we are playing a game with Taiwan. It is called, "Heads Peking wins, tails Taiwan loses." No other face can be put on it.

I say that with all due respect to my friends who differ on this issue, but I think there are several things that need to be clarified. There has even been an attempt to blame Taiwan for the intemperate actions of U.S. policy.

For example, some administration apologists have glossed over history with respect to the diplomatic history of Taiwan and asserting that Taiwan has been "adamant" with respect to the one-China concept.

Now, historically, the position that Taiwan has been taking is that there is one China with two governments claiming to be sovereign. But from a practical standpoint Taiwan has tacitly admitted that the Government of the Republic of China does not control the mainland. If we forget that, then we are implicitly saying, "Well, there is nothing to this business of East Germany and West Germany, there is nothing to this business of North Korea and South Korea," and so forth. The implication of that is very clear, I think, to millions of Americans who are already concerned about the sell-out of Taiwan and the failure by the President of the United States or his advisers—and I hope it was the latter—even to have the courage to negotiate on the question of our relationship with both Chinese Governments.

Mr. President, I had the unpleasant duty of voting against Mr. Woodcock as first Ambassador to Peking. I did that out of no personal aversion to Mr. Woodcock. He is a very pleasant gentleman, very intelligent. But he sat in my office and he made clear that the judgment had been made not even to raise the question of the use of force against Taiwan, let alone the continued recognition of Taiwan.

But does any Senator on this floor know how such a negotiation would have come out? Just suppose we had maintained the integrity of our commitment to our friend and ally, Taiwan? I am concerned that there was no need, let alone any moral excuse, for selling out our friend and ally. Moreover, nothing could be clearer than the fact that China—Red China—needed us—not the other way around.

But a more important question is, how timid are we going to be as a Nation? Have we reached the point that we are trembling and fearful in a diplomatic confrontation with a Communist country that we do not even bring up the issues we consider important, no matter how much morality is involved in it, no matter how much obligation we have to a loyal friend and ally?

My own gut instinct about it, Mr. President, is that America has shamed itself before the world, and I do not blame the few remaining friends that we have for wondering what will happen to them—and I include Israel and Lebanon, South Africa, Japan, and even Europe in that.

But this glossing over of Taiwan's position with respect to "one China" needs to be examined a little bit more closely than it has been on this floor.

I have at hand the November-December issue of a publication known as "Asian Affairs and American Review." The edition is dated November-December 1977, a year before the ill-considered decision by President Carter to break relations with Taiwan.

Like the Senator from Utah, I have no objection to recognizing the reality of Red China. I do not know of any Senator who does. My problem is what the President has done to Taiwan.

In this issue of "Asian Affairs and American Review," is an article entitled "Normalizing Relations with China: Some Practical and Legal Problems," by Hungdah Chiu, who is a professor of law at the University of Maryland School of Law. On page 72, Professor Chiu has this to say, with respect to the position that Taiwan has taken concerning one China:

> Now let us turn to the PRC's claim to Taiwan. While the legal arguments summarized above would support the ROC's claim to Taiwan, the same arguments would not support the PRC's claim to Taiwan, for several reasons. In the first place, the PRC has denied the validity of both Japanese peace treaties mentioned above. On August 15, 1951, before the San Francisco treaty was signed, Premier Chou En-lai denounced the proposed treaty as "illegal, and therefore null and void." On May 5, 1952, after the treaty entered into force, Chou again repudiated it as "completely illegal." Peking can hardly claim any benefit from a document which it considers to be "illegal and void." Moreover, after Japan's renunciation of its claim to Taiwan, the PRC could not acquire title over the island through the international law principle of occupation, because it had no physical control over the island. Nor could the PRC act through the ROC occupation to claim title over Taiwan because it considers the ROC government to be an "illegal group" or even "bandits." Clearly, a government can no more claim benefits through a regime which it does not recognize as legal than it can through a document which it has declared illegal and void.
>
> Some PRC writers have argued that because Taiwan was originally Chinese territory, a peace treaty is not necessary to transfer title back to China, especially since the Treaty of Shimonoseki ceding Taiwan to Japan was abrogated as a result of the outbreak of the Second Sino-Japanese War in 1937. International practice, however, does

> not support the Chinese position. The provinces of Alsace and Lorraine, for example, were originally French territory, but were ceded to Germany in 1871. Subsequently, they were returned to France through the Treaty of Versailles signed between the Allied and Associated Powers (including France) and Germany on June 28, 1919. In other words, French sovereignty over its former territory did not automatically revert after World War I, but required the formal treaty mechanism. There does not appear to be any precedent or principle of international law supporting the PRC position that on Octobe 25, 1945, Taiwan was restored to China de jure and de facto.
>
> If this is correct, then the PRC's claim is primarily based on the theory of historical irredentism. PRC writers and officials have frequently argued that Taiwan is historically Chinese; and that during the Japanese occupation (1895–1945), the people of Taiwan longed for reunification with China. But while this is an undoubted historical fact, it can hardly support the PRC's claim to Taiwan today. In the first place, during the period of Japanese occupation, China was run by a government which permitted a free enterprise economy, and society was relatively free. If the people of Taiwan had known at the time that mainland China would become the totalitarian, highly regimented society it is today, it is unlikely that they would have longed so fervently for reunification. The fact that very few people from Taiwan participated in the Communist movement in China during the Japanese occupation period seems to support this point. And today, it seems abundantly clear that the vast majority of the people on Taiwan do not want to be united with the PRC.
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> Second, according to Edgar Snow, who was a close friend, Mao Tse-tung himself did not include Taiwan among China's "lost territories" to be regained from Japan. In an interview at Yenan on July 16, 1936, Mao said: "If the Koreans wish to break away from the chains of Japanese imperialism, we will extend them our enthusiastic help in their struggle for independence. The same thing applies for Formosa." Third, the doctrine of self-determination is now an accepted principle of international law, and one that has not been opposed by the PRC. This principle would certainly overrule any historical claim of the PRC toward Taiwan, since the great majority of the people of Taiwan now clearly oppose unification with the PRC.
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> In the 1972 Shanghai Communique, the United States declared: The United States acknowledges that all Chinese on either side of Taiwan Strait maintain there is but one China and Taiwan is a part of China. The United States government does not challenge that position.
>
> Some people have argued that the United States has thereby accepted the PRC's claim to Taiwan in the Shanghai Communique. But this is certainly not true. The phrase "does not challenge" is not equivalent to a recognition of the PRC claim. This interpretation was also confirmed by a high official of the US government. Soon after the issuance of the Shanghai Communique, Assistant Secretary of State for East Asian and Pacific Affairs Marshall Green denied that it represented any change in the position held by the United States since 1950, namely, that the status of Taiwan was as yet undetermined. Moreover, it was disclosed recently that at the time of negotiating the Shanghai Communique, then Secretary of State Kissinger wanted to accept the PRC's position on Taiwan by stating in the Communique that the United States "accepts" rather than "does not challenge" the belief of "all Chinese" in one China. But he was rebuffed in that attempt, possibly by President Nixon.
>
> A question closely related to the legal status of Taiwan is the ROC's claim to the mainland of China. If the ROC continued to make an *unconditional* claim to sovereignty over the mainland now controlled by the PRC, then, despite the special legal status of Taiwan, there would be no reason to question the PRC for making a similarly *unconditional* claim to sovereignty over Taiwan.

I interject to say that that is merely plain commonsense. Professor Chiu continues:

> Since its removal to Taiwan, however, the ROC has gradually imposed important limitations on its claim to the mainland. In the first place, treaties which were formerly applicable to all of China were tacitly revised to limit their application to Taiwan. For instance, the 1946 treaty of friendship, commerce, and navigation between the United States and the Republic of China has not been applicable to mainland China since the early 1950s.[11] Similarly, new treaties or agreements concluded since 1950 have all been limited in their application to the Taiwan area. For example, the 1954 mutual defense treaty with the United States provides in Article VI: "For the purposes of Articles II and V, the terms 'territorial' and 'territories' shall mean in respect of the Republic of China, Taiwan and the Pescadores."
>
> Second, the ROC has pledged, in an exchange of notes accompanying the 1954 mutual defense treaty, not to use force against the mainland without the consent of the United States. Third, in a joint communique issued by President Chiang Kai-shek and US Secretary of State John Foster Dulles on October 23, 1958, the ROC publicly made a more general pledge not to use force against the mainland. It states:
>
> The government of the Republic of China considers that the restoration of freedom to its people on the mainland is its sacred mission. It believes that the foundation of this mission resides in the minds and the hearts of the Chinese people, and that the principal means of successfully achieving its mission is the implementation of Dr. Sun Yat-sen's three people's principles (nationalism, democracy, and social well-being), and not the use of force.
>
> This pledge of the nonuse of force to achieve national unification was confirmed recently by a statement of the ROC Foreign Minister, Shen Chang-huan, on July 1, 1977, in which he said:
>
> It has been the consistent position of the government of the Republic of China to carry out its responsibility of delivering our 800 million compatriots from Communist tyranny by political means, while the Chinese Communists have never given up their design to "liberate" Taiwan by force. The "peace settlement" theme being harped on on by the Chinese Communists is but an attempt on their part to forcibly impose their tyrannical rule on the 16 million Chinese on Taiwan.
>
> In view of the above analysis, it seems clear that the ROC has, in fact, suspended its claim to the Chinese mainland by renouncing the use of force to achieve unification. The PRC, however, still insists on the use of force to "liberate" Taiwan—a territory to which it does not have a clear legal title. Such "liberation" by force is prohibited by international law, and by the Charter of the United Nations, as an attempt to vindicate a claim to territory by the use of force.

So I say to the Senator from New Hampshire: How does any Senator in this body get away with saying, "Oh, well, Taiwan was adamant that there would be one China and so there had to be one China or nothing"? The trouble with that is that it simply is not so, and history proves what Taiwan's position has been.

No matter what we do about the Taiwan issue, let us at least be fair to Taiwan. Let us be historically accurate as to Taiwan's position. We have done enough to a great ally by the abrogation of the mutual defense treaty. We have done enough to the people on Taiwan by turning our backs on them. Let us not compound the problem by misrepresenting the history of Taiwan's position.

So again I compliment my friend from New Hampshire for submitting this amendment, his first amendment in his career as a U.S. Senator and his enlightening elucidation of it. It is a good amendment; it is a simple amendment. The amendment simply says, "Let us treat one government as we have treated the other. We had a liaison office in Peking when we did not recognize Peking. So now that the President, in his wisdom—or lack of it—has broken relations with Taiwan, let us at least be as fair to our friends on Taiwan, and have a liaison office there."

What is wrong with that? Who really can argue with that—unless we want to continue this posture of timidity, this business of trembling so fearfully in confrontation with a Communist country? Do we really want to stop being Americans?

I do not know about other Senators, but this Senator thinks it is time for the Senate to demonstrate a willingness and the backbone to stand with our friends. At a very minimum, surely we must refuse to participate in selling our allies and friends down the river.

I compliment the Senator from New Hampshire. I hope that the distinguished managers of this bill will change their minds about a tabling motion and let there be an up and down vote. But in the event there is a motion to table, I hope Senators will reject the motion.

Mr. MORGAN. Mr. President, it is with considerable reluctance that I am participating in the discussion of S. 245, the Taiwan Enabling Act. My reluctance is predicated on two reasons: First, our act postpones but nevertheless formalizes the demise of Taiwan as a free and democratic nation, and second, we are forced to react to a situation that could have been avoided.

We should be under no illusion that, however well-intentioned our bill is, it acknowledges the fact that Taiwan is an integral part of Communist China, and that Taiwan's own communication is only a question of time. There is no historical evidence to indicate that a Communist and a democratic-capitalist regime can coexist within one state. The history of the Soviet Union and of Vietnam points to absorption; the continued separation of the two Germanies, the two Koreas and the two Yemens points to the unbridgeable gap between the two systems. Consequently, when S. 245 seeks to insure a continuity in the relations between two democratic nations, it is merely attempting to achieve the desirable goal of postponing the inevitable: the eventuality of a Communist Taiwan. Let us not be deluded but that we are only gaining a temporary respite with this bill and not a permanent solution. In Vice-Premier Deng Xiaoping's words, "The liberation of Taiwan is but a matter of time."

What concerns me, Mr. President, is that we maneuvered ourselves into this situation which by no means was unavoidable. In our haste to recognize the People's Republic of China, we are willing to accept Peking's so-called compromise of letting us live in a make-believe world for a little while longer while they are reaping the benefits of recognition far in excess of their own gesture. The PRC's four modernization goals need American investment, trade, and technical know-how. Their present hostility toward the Soviets demanded a closer association with the United States, easier access to military equipment and the neutralization of our 7th Fleet in the Taiwan Straits. The antihegemonial clause served the same purpose, as did the premature visit of the Vice Premier to Washington and American forbearance of the Chinese invasion of Vietnam.

In all honesty, Mr. President, what we have gained with our recognition of the PRC at this time aside from some monetary rewards and the potential of future trade is nil. We did not bargain for Taiwan's independence or at least autonomy, we lost a friend, we lost credibility, and we lost a useful ally and an island of strategic importance. The entire evolution of this matter must be characterized with what Evans and Novak described as "diplomatic masochism."

These are the reasons, Mr. President, why I am reluctant to engage in this debate. We seem to have no choice if we value our friends in Taiwan but to agree to the Enabling Act which, let me emphasize again, can create only a rather transient facade of normalcy. Our recognition of the PRC acknowledges that Taiwan is a mere province of China, and its ultimate fate is inextricably linked to that of Peking. Under these circumstances, it appears to me that we must seek to accomplish three objectives: security for Taiwan, protection of American economic interests, and maintenance of Asian-Pacific stability. Are the provisions of S. 245 the best contribution toward these goals?

In section 101 of the bill, we are in effect saying that we will accord to Taiwan all the sovereign privileges, short of diplomatic recognition, as if it were a state. Since our administration acknowledges Taiwan to be a province of China, we are placing ourselves in a rather untenable position that can easily be challenged by Peking and the international community. It also creates a questionable precedent. Given the facts as they are, however, I cannot see a viable alternative. But let us not deceive ourselves, we are establishing a legal anomaly that can only be sustained as long as we are prepared to back it up.

Section 112 of the Enabling Act seeks to secure continuity in our economic relations with Taiwan by maintaining the services of the Overseas Private Investment Corporation. This is a laudable objective as long as Taiwan can maintain its free market society and can protect foreign investment on equitable terms. Somehow, this ought to be expressed as a precondition for our assistance and, to the extent that the benefits of free enterprise are advantageous to Peking, will also be respected by the PRC. The transition of Taiwan's economy toward a State-directed and managed economic system will be gradual as its trade with the mainland expands and Peking demands ideological concessions in return. For this reason, Congress and the American business community may require more frequent analytic reports from the President than the 5 years stipulated in section 112(c).

Can Taiwan's security be assured with the delivery of some defensive weapons? Again, Mr. President, we are conjuring an illusion of security that cannot really be taken seriously. Shipment of arms to enhance a self-defense capability, as requested in section 114(b)(2), may raise the cost of invasion but cannot prevent it. Punitive actions, as we have recently seen in Vietnam, may be contemplated at a prohibitive price of lives and material. In addition to the transfer of weapons systems, we should endeavor to increase Taiwan's productive capacity in the arms field. Although the PRC can be expected to expand its military potential at a greater pace, we can at least insure for Taiwan a measure of independence in armament production.

Still, Taiwan's ultimate security will depend upon the United States and our willingness to become directly involved in any future conflict. Are we prepared to do that, Mr. President? The Enabling Act, in section 114, views force and any other form of coercion with "grave concern" and directs the President to inform Congress, and to meet dangers "in accordance with constitutional processes. Can such language act as a sufficient deterrent to armed aggression? Can we prevent an all out subversion of Taiwan's political system and its people?

To my mind, Mr. President, only an unequivocal statement that any change in the status quo of Taiwan would be detrimental to our own security interests, could possibly serve this purpose. Such an assertion would be in line with the posture statement for fiscal year 1979, by Gen. George S. Brown, Chairman of the Joint Chiefs of Staff, that "the Location of the * * * Republic of China (makes it) important to the United States in peacetime and militarily significant in wartime." Taiwan has been an essential element of our vital military presence in the Western Pacific, both in terms of its direct military value to us and in its linkage to our security commitments to our friends and allies in that region.

In the end, however, our most effective deterrent may not be of a military nature but simply economic leverage. Peking should be placed on notice that commerce, trade, credit, and overseas training opportunities will be terminated in the event of hostile actions against Taiwan. If China treasures its modernization program as much as it professes to, Taiwan will be relegated to be of mere symbolic significance. Thus the question arises as to how long the PRC will prefer our credits and technology to a military incorporation of Taiwan. The initial approach to an answer must be to establish a clear linkage between the well-being of the PRC and the security of Taiwan.

Mr. President, completely absent from the Enabling Act, for obvious reasons, is reference to the termination of the Mutual Defense Pact with Taiwan. Although it may not be germane within the context of our debate today, the rather abrupt ending of a security treaty, and the consequences for our own interests, do deserve further consideration. While the President should have sufficient flexibility for conducting our foreign policy, I am favorably inclined to the view that Congress is entitled to be given reasonable notice when a treaty termination is contemplated. No one likes unpleasant surprises whether it is Taiwan or the U.S. Congress.

Finally, Mr. President, this leaves the question of whether our new arrangement with Taiwan adds to the stability of the West Pacific region. I cannot help but be rather pessimistic about the answer. The future of Taiwan cannot, and should not be viewed in isolation. By voting for the Enabling Act, we must inevitably consider the consequences it can have for the area between Vladivostok and Jakarta. Our policy has been characterized by successive ad hoc moves which are difficult to fit into a cohesive pattern. Our Philippine base negotiations were apparently successfully concluded despite our disenchantment with martial law rule. Our troop withdrawal from Korea appears to be an on-again, off-again proposition. We declare our half-hearted support for the Association of Southeast Asian Nations, ASEAN, although it is the best thing we have going for us in that part of the world. Thailand is reassured of our adherence to the 1954 Manila Pact despite the fact that we are reducing our presence in the area. Japan's defense is guaranteed and yet we are dismantling the security sphere mentioned in article VI of our Mutual Defense Treaty. And I could go on pointing to apparent inconsistencies. Perhaps our situation can best be described by what Harvard Prof. Stanley Hoffman called "The Perils of Incoherence." And there definitely are perils, Mr. President.

As for ourselves, the unavailability of Taiwan will greatly complicate and potentially weaken our defense posture in the Pacific. We must reassess the bases, control points, intelligence assets, and logistics lines still at our disposal. We must make adjustments to our remaining capabilities so that we can still present credible defense assistance to our allies in the Pacific.

The Chinese connection will remain rather tenuous. In the case of Vietnam, the Peking leaders have demonstrated an absence of foreign policy predictability which will not be conducive to sound future relations. As a matter of fact, it is not difficult to anticipate a more permanent Soviet presence in Vietnam to counteract more rapidly any future Chinese incursions.

The Sino-American rapprochement has no doubt increased Soviet insecurity in East Asia. It has already led to a strengthening of its Pacific Fleet and to a more active base development in the Kurile Islands. Our carefully balanced approach to the Soviet Union appears to be in danger, and not entirely unintentionally. Vice-Premier Deng Xiaoping, when addressing the 3d Plenary Session of the Chinese Communist Party Central Committee on July 20, 1977, said, "we belong to the Marxist camp. They want to use the split between us and the U.S.S.R. to destroy the world socialist system. Why can't we take advantage of the contradiction between them (the United States and the Soviet Union) and initiate actions that would be favorable to our policy?" To my mind, Mr. President, they are beginning to succeed.

I have little doubt that our treatment of Taiwan has aggravated our security posture in East Asia. Our friends in the region will need more than verbal reassurance: They need evidence of our resolve to remain a Pacific power. There should be no recognition of North Korea until China is willing to do likewise in South Korea. Japan needs encouragement to channel more of its resources into self-defense and to take a greater interest in the economic development of Southeast Asia. ASEAN requires more than our paternal benevolence to prosper as a viable regional organization. And ultimately, we must make a constructive effort to bring all nations of the area into a mutually beneficial relationship.

In conclusion, Mr. President, I support S. 245, the Taiwan Enabling Act, not because it is the best that we can do for a friend and trusted ally, but because I see no realistic alternative.

UP AMENDMENT NO. 29 (AS MODIFIED)

Mr. HUMPHREY. Mr. President, I send to the desk a technical correction to my amendment and I ask unanimous consent that it be so modified.

The PRESIDING OFFICER. Is there objection to the modification? If not, it is so ordered.

The amendment, as modified, is as follows:

On page 8, line 19, strike out "Section 205 (d) and insert in lieu thereof "section 101 (c)".

On page 8, following line 25, add a new subsection (c).

"For the purpose of applying section 102 of this Act to the Internal Revenue Code of 1954, and to any regulation, ruling, decision, or other determination under such Code, the term "people on Taiwan" shall mean the governing authority on Taiwan recognized by the United States prior to January 1, 1979, as the Republic of China and its agencies, instrumentalities, the political subdivisions; except that when such term is used in a geographical sense it shall mean the islands of Taiwan and the Pescadores."

On page 10, strike section 106(a) and insert the following new subsection (a):

"Programs, transactions, and other relations conducted or carried out by the President or any department or agency of the United States Government with respect to the people on Taiwan shall, in the manner and to the extent directed by the President, be conducted and carried out by it through the Liaison Office to the Republic of China (herein after 'the Liaison Office'). Under such terms and conditions as are consonant with the purposes of this Act, the President shall extend, or enter into an agreement extending, to the Liaison Office to be established in the United States of America by the Republic of China, and to the members thereof, the same privileges and immunities subject to the corresponding conditions and obligations as are enjoyed by diplomatic missions accredited to the United States and members thereof, upon the condition that privileges and immunities are extended on a reciprocal basis to the United States Liaison Office on Taiwan at no less than the level established herein."

Strike "Institute" wherever it shall appear and insert in lieu thereof "Liaison Office".

On Page 10, strike out section 106(b).

Beginning on page 16, line 1, strike all through page 20, line 6.

On page 20, line 17, after the word "Taiwan", strike out "on an unofficial basis". Beginning on line 18, strike all through page 21, line 4.

On Page 22, strike out subsection (b) and insert in lieu thereof:

"(b) For purposes of subsection (a), the term "agreement" includes any agreement entered into between the Liaison Office and the Taiwan authorities or the instrumentality established by the Taiwanese authorities."

Mr. HUMPHREY. Mr. President, I thank the senior Senator from North Carolina and the Senator from Utah for their remarks supporting my amendment, and I would like to address myself very briefly to the remarks of the distinguished Senator from New York.

The distinguished Senators from New York and Ohio are men against whom I do not stand up here to do verbal battle, men who are more skilled at this point than I am in that field. After all, I am No. 100 in this body.

But I do want to say yes, there is a fundamental question here—in fact, there are very fundamental questions involved in this amendment, the most fundamental of which is, "Shall the United States sell out on the installment plan its ally in Taiwan, the Republic of China?" And I say, "No," and I say further, without my amendment to S. 245, that is exactly what this body will do if it chooses to pass that bill.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. I was just going to move to table.

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

Mr. HELMS. Mr. President, if the Senator will withhold that——

Mr. HUMPHREY. I will withhold it.

(Mr. HELMS and Mr. JAVITS had a colloquy, which is printed earlier in today's RECORD, by unanimous consent.)

Mr. HELMS. Mr. President, I yield the floor.

The PRESIDING OFFICER. Does the Senator from New Hampshire insist upon his point of order?

Mr. HUMPHREY. No.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Is there a point of order pending?

The PRESIDING OFFICER. It has been withdrawn. The Senator is recognized.

Mr. DOLE. Just let me say very quickly, I know we have other amendments and there are other matters pending, but I support the efforts of the distinguished Senator from New Hampshire.

The Senator from Kansas, on the opening day of this Congress, introduced two amendments to clarify our relations with the Republic of China. It seems to me that it is a legal fiction that we are talking about, that everyone suggests they want normalization to proceed, and we are also concerned that somehow we might revoke or upset that delicate relationship we have with the People's Republic of China, that we have had a long relationship of friendship and alliance with the Republic of China which has served well our strategic interests in Asia and the Pacific, and that certainly under such conditions the statements suggested by the distinguished Senator from New Hampshire for clarification would be appropriate. So I commend the distinguished Senator for his efforts, and support them.

Mr. JAVITS. Will the Senator from Ohio seek recognition, and yield to me?

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I know we are ready to vote, and I do not want to stand in the way of a vote, but I think we ought to have all the facts before us as one thing is being overlooked.

The argument has been made that we will irritate them a little more. My argument is that we will have vitiated the agreement with them, of which this is an aspect.

Why do I say that? Because the joint communique issued on December 15, 1978, which is the deal, says so. Let me read it. The President announced it, and it reads as follows:

The United States of America and the People's Republic of China have agreed to recognize each other and to establish diplomatic relations as of January 1, 1979.

The United States of America recognizes the Government of the People's Republic of China as the sole legal Government of China. Within this context, the people of the United States will maintain cultural, commercial, and other unofficial relations with the people of Taiwan.

The United States of America and the People's Republic of China reaffirm the principles agreed on by the two sides in the Shanghai Communique and emphasize once again that:

Both wish to reduce the danger of international military conflict

Neither should seek hegemony in the Asia-Pacific region or in any other region of the world and each is opposed to efforts by any other country or group of countries to establish such hegemony.

Neither is prepared to negotiate on behalf of any third party or to enter into agreements or understandings with the other directed at other states.

The Government of the United States of America acknowledges the Chinese position that there is but one China and Taiwan is part of China.

Both believe that normalization of Sino-American relations is not only in the interest of the Chinese and American peoples but also contributes to the cause of peace in Asia and the world.

The United States of America and the People's Republic of China will exchange Ambassadors and establish Embassies on March 1, 1979.

That is why I say what I do. The argument is very clear. Senator Hatch says, "If that is the way it is, then, as far as I am concerned, so be it." To wit, that is the end of the deal.

Senator Humphrey says if the Chinese consider this to be a breach of the deal, so be it, the deal is breached. The rest of us, I hope, will see that when you lay one issue beside the other, especially in view of the reservation which we made and which we are now implementing, it is very different, and that one is an elephant and the other a somewhat lighter animal.

In other words, we have to make a choice here whether or not we will go through with this deal on the basis of unofficial dealing with Taiwan. That is what we are doing, and I think extremely effectively legally.

I call attention to the preemption clause in this bill, which makes this bill the paramount law, whatever may be the District of Columbia law if we are going to organize a District of Columbia corporation. So this bill will be paramount.

Either we make the deal or we do not. I believe the geopolitical situation of the world, of which we are such a key part, makes this highly desirable in our national interest.

But let us call it what it is. The deal is off or it is on. We ought to be honest enough, if we want the deal, to keep it. If we do not want the deal, we can junk it. I think that is what this amendment is all about.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I concur completely with the remarks of the distinguished Senator from New York. I think if this amendment were to pass, we will have ruined our relations with Taiwan and killed any relations we have with the PRC—resulting in the worst of both worlds, really. I do not see that there would be any advantage to us.

The people of Taiwan I have talked with—the two Government groups that have come through my office in the last couple of weeks—have indicated a desire to get on with this new relationship under the institute and their coordinating council here.

I think the hazards of this amendment are that it would, in effect, kill the whole normalization process, as I see it.

Mr. GOLDWATER. Mr. President, may I ask the chairman if the so-called Shanghai communique, or Shanghai letter, has been printed at any point in any Record?

Mr. GLENN. Not in this debate, it has not.

Mr. GOLDWATER. Does the Senator know if it is available?

Mr. JAVITS. Yes, I have it right here.

Mr. GOLDWATER. The reason I raise the question, as I discussed earlier with Dr. Kissinger, he told me that after President Nixon's visit to China there had been no determination on what to do with Taiwan. I am trying to find the letters he has written to me, and I think it would be a good idea to make the Shanghai communique a part of the record.

Mr. GLENN. I ask unanimous consent that it be printed in the Record.

There being no objection, the communique was ordered to be printed in the Record, as follows:

Text of United States-People's Republic of China Communique Issued at Shanghai, February 27, 1972

President Richard Nixon of the United States of America visited the People's Republic of China at the invitation of Premier Chou En-lai of the People's Republic of China from February 21 to February 28, 1972. Accompanying the President were Mrs. Nixon, U.S. Secretary of State William Rogers, Assistant to the President Dr. Henry Kissinger, and other American officials.

President Nixon met with Chairman Mao Tse-tung of the Communist Party of China on February 21. The two leaders had a serious and frank exchange of views on Sino-U.S. relations and world affairs.

During the visit, extensive, earnest and frank discussions were held between President Nixon and Premier Chou En-lai on the normalization of relations between the United States of America and the People's Republic of China, as well as on other matters of interest to both sides. In addition, Secretary of State William Rogers and Foreign Minister Chi Peng-fei held talks in the same spirit.

President Nixon and his party visited Peking and viewed cultural, industrial and agricultural sites, and they also toured Hangchow and Shanghai where, continuing discussions with Chinese leaders, they viewed similar places of interest.

The leaders of the People's Republic of China and the United States of America found it beneficial to have this opportunity, after so many years without contact, to present candidly to one another their views on a variety of issues. They reviewed the international situation in which important changes and great upheavals are taking place and expounded their respective positions and attitudes.

The U.S. side stated: Peace in Asia and peace in the world requires efforts both to reduce immediate tensions and to eliminate the basic causes of conflict. The United States will work for a just and secure peace: just, because it fulfills the aspirations of peoples and nations for freedom and progress; secure, because it removes the danger of foreign aggression.

The United States supports individual freedom and social progress for all the peoples of the world, free of outside pressure or intervention. The United States believes that the effort to reduce tensions is served by improving communication between countries that have different ideologies so as to lessen the risks of confrontation through accident, miscalculation or misunderstanding. Countries should treat each other with mutual respect and be willing to compete peacefully, letting performance be the ultimate judge. No country should claim infallibility and each country should be prepared to re-examine its own attitudes for the common good.

The United States stressed that the peoples of Indochina should be allowed to determine their destiny without outside intervention; its constant primary objective has been a negotiated solution; the eight-point proposal put forward by the Republic of Vietnam and the United States on January 27, 1972 represents a basis for the attainment of that objective; in the absence of a negotiated settlement the United States envisages the ultimate withdrawal of all U.S. forces from the region consistent with the aim of self-determination for each country of Indochina.

The United States will maintain its close ties with and support for the Republic of Korea; the United States will support efforts of the Republic of Korea to seek a relaxation of tension and increased communication in the Korean peninsula. The United States places the highest value on its friendly relations with Japan; it will continue to develop the existing close bonds.

Consistent with the United Nations Security Council Resolution of December 21, 1971, the United States favors the continuation of the ceasefire between India and Pakistan and the withdrawal of all military forces to within their own territories and to their own sides of the ceasefire line in Jammu and Kashmir; the United States supports the right of the peoples of South Asia to shape their own future in peace, free of military threat, and without having the area become the subject of great power rivalry.

The Chinese side stated: Wherever there is oppression, there is resistance. Countries want independence, nations want liberation and the people want revolution—this has become the irresistible trend of history. All nations, big or small, should be equal; big nations should not bully the small and strong nations should not bully the weak. China will never be a superpower and it opposes hegemony and power politics of any kind. The Chinese side stated that it firmly supports the struggles of all the oppressed people and nations for freedom and liberation and that the people of all countries have the right to choose their social systems according to their own wishes and the right to safeguard the independence, sovereignty and territorial integrity of their own countries and oppose foreign aggression, interference, control and subversion. All foreign troops should be withdrawn to their own countries.

The Chinese side expressed its firm support to the peoples of Vietnam, Laos and Cambodia in their efforts for the attainment of their goal and its firm support to the seven-point proposal of the Provisional Revolutionary Government of the Republic of South Vietnam and the elaboration of February this year on the two key problems in the proposal, and to the Joint Declaration of the Summit Conference of the Indochinese Peoples. It firmly supports the eight-point program for the peaceful unification of Korea put forward by the Government of the Democratic People's Republic of Korea on April 12, 1971, and the stand for the abolition of the "U.N. Commission for the Unification and Rehabilitation of Korea."

It firmly opposes the revival and outward expansion of Japanese militarism and firmly supports the Japanese people's desire to build an independent, democratic, peaceful and neutral Japan. It firmly maintains that India and Pakistan should, in accordance with the United Nations resolutions on the India-Pakistan question, immediately withdraw all their forces to their respective territories and on their own sides of the ceasefire line in Jammu and Kashmir and firmly supports the Pakistan Government and people in their struggle to preserve their independence and sovereignty and the people of Jammu and Kashmir in their struggle for the right of self-determination.

There are essential differences between China and the United States in their social systems and foreign policies. However, the two sides agreed that countries, regardless of their social systems, should conduct their relations on the principles of respect for the sovereignty and territorial integrity of all States, non-aggression against other states, non-interference in the internal affairs of other states, equality and mutual benefit, and peaceful coexistence. International disputes should be settled on this basis, without resorting to the use or threat of force. The United States and the People's Republic of China are prepared to apply these principles to their mutual relations.

With these principles of international relations in mind the two sides stated that:

Progress toward the normalization of relations between China and the United States is in the interests of all countries;

Both wish to reduce the danger of international military conflict;

Neither should seek hegemony in the Asia-Pacific region and each is opposed to efforts by any other country or group of countries to establish such hegemony; and

Neither is prepared to negotiate on behalf of any third party or to enter into agreements or understandings with the other directed at other states.

Both sides are of the view that it would be against the interests of the peoples of the world for any major country to collude with another against other countries, or for major countries to divide up the world into spheres of interest.

The two sides reviewed the long-standing serious disputes between China and the United States. The Chinese side reaffirmed its position: The Taiwan question is the crucial question obstructing the normalization of relations between China and the United States; the Government of the People's Republic of China is the sole legal government of China; Taiwan is a province of China which has long been returned to the motherland; the liberation of Taiwan is China's internal affair in which no other country has the right to interfere; and all U.S. forces and military installations must be withdrawn from Taiwan. The Chinese Government firmly opposes any activities which aim at the creation of "one China, one Taiwan," "one China, two governments," "two Chinas," an "independent Taiwan" or advocate that "the status of Taiwan remains to be determined."

The U.S. side declared: The United States acknowledges that all Chinese on either side of the Taiwan Strait maintain there is but one China and that Taiwan is a part of China. The United States Government does not challenge that position. It reaffirms its interest in a peaceful settlement of the Taiwan question by the Chinese themselves. With this prospect in mind, it affirms the ultimate objective of the withdrawal of all U.S. forces and military installations from Taiwan. In the meantime, it will progressively reduce its forces and military installations on Taiwan as the tension in the area diminishes.

The two sides agreed that it is desirable to broaden the understanding between the two peoples. To this end, they discussed specific areas in such fields as science, technology, culture, sports and journalism, in which people-to-people contacts and exchanges would be mutually beneficial. Each side undertakes to facilitate the further development of such contacts and exchanges.

Both sides view bilateral trade as another area from which mutual benefit can be derived, and agreed that economic relations based on equality and mutual benefit are in the interest of the peoples of the two countries. They agree to facilitate the progressive development of trade between their two countries.

The two sides agreed that they will stay in contact through various channels, including the sending of a senior U.S. representative to Peking from time to time for concrete consultations to further the normalization of relations between the two countries and continue to exchange views on issues of common interest.

The two sides expressed the hope that the gains achieved during this visit would open up new prospects for the relations between the two countries. They believe that the normalization of relations between the two countries is not only in the interest of the Chinese and American peoples but also contributes to the relaxation of tension in Asia and the world.

President Nixon, Mrs. Nixon and the American party expressed their appreciation for the gracious hospitality shown them by the Government and people of the People's Republic of China.

Mr. GLENN. Mr. President, I move that the amendment of the Senator from New Hampshire be laid on the table.

Mr. HUMPHREY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from New Hampshire. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church), the Senator from Hawaii (Mr. Inouye), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I further announce that the Senator from New Jersey (Mr. Williams) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. Williams) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oregon (Mr. Hatfield) is necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "nay."

The PRESIDING OFFICER (Mr. DeConcini). Have all Senators voted who wish to vote on this amendment?

The result was announced—yeas 57, nays 38, as follows:

[Rollcall Vote No. 11 Leg.]

YEAS—57

Baucus
Bayh
Bentsen
Biden
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cranston
Culver
Danforth
Durkin
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Heflin
Huddleston
Jackson
Javits
Johnston
Kassebaum
Kennedy
Leahy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stevenson
Stewart
Talmadge
Tsongas
Wallop
Zorinsky

NAYS—38

Armstrong
Baker
Bellmon
Boren
Boschwitz
Byrd,
 Harry F., Jr.
Cohen
DeConcini
Dole
Domenici
Durenberger
Garn
Goldwater
Hatch
Hayakawa
Heinz
Helms
Hollings
Humphrey
Jepsen
Laxalt
Long
Lugar
McClure
Morgan
Pressler
Randolph
Roth
Schmitt
Schweiker
Simpson
Stevens
Stone
Thurmond
Tower
Warner
Weicker
Young

NOT VOTING—5

Church
Hatfield
Inouye
Stennis
Williams

So the motion to lay on the table UP amendment No. 29 was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was laid on the table.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 30

(Subsequently numbered amendment No. 93)

(Purpose: Relating to termination of mutual defense treaties.)

Mr. HARRY F. BYRD, JR. Mr. President, I send to the desk an amendment and ask that it be stated. I offer this amendment on behalf of myself, Mr. Thurmond, Mr. Warner, Mr. Helms, Mr. Hayakawa, and Mr. Garn.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Virginia (Mr. Harry F. Byrd, Jr.), proposes an unprinted amendment numbered 30:

At the end of the bill add the following new section:

"Sec. —. It is the sense of the Senate that approval by the Senate of the United States is required to terminate any mutual defense treaty between the United States and another nation.".

Mr. HARRY F. BYRD, JR. Mr. President, this is, I think, a very important amendment. It is a very brief one. It says that it expresses the sense and the view of the Senate that approval by the Senate is required to terminate any mutual defense treaty between the United States and another nation. It does not deal specifically with Taiwan.

As the Senate knows so well, our Nation has quite a few mutual defense treaties. Some of these are of vital importance to our Nation and to the free world. All of these treaties have been enacted with the approval of the Senate of the United States.

I think it is important to set the record straight for the future as to how these treaties may be terminated.

Now, I was persuaded to offer this amendment because of a very significant paragraph in the report from the Committee on Foreign Relations on the pending legislation, namely, S. 245. I refer to page 19 of the committee report. It, of course, deals with the President's action in regard to Taiwan.

This is what the paragraph on page 19 says:

It appears to the Committee, therefore, that the constitutional prerogatives of the Congress and the Senate have not been invaded in that neither the Congress nor the Senate has elected to exercise the powers granted it by the Constitution to participate in the process of treaty termination. Had either done so, a different conclusion would likely obtain.

I say again, that is from the committee report of the Foreign Relations Committee dealing with S. 245.

That committee report states clearly that the Senate has powers granted to it by the Constitution to participate in the process of treaty termination. It says further that the Senate in this particular case, the one dealing with Taiwan, has not chosen to exercise its authority. Had it done so, the committee report says, a different conclusion "would likely obtain."

So what this sense of the Senate provision would be doing is saying that, in regard to the termination of subsequent treaties, subsequent termination of treaties, the Senate will play its constitutional role and is so serving notice now on whomever might be President at any future date.

I realize that there are those in the Congress who feel that this matter, and matters of this type, and many matters, should be turned over to the Chief Executive. Some Members are glad to wash their hands of this whole problem. But, Mr. President, as this committee report states, the Senate has a constitutional role in the process of treaty termination.

Now, does the Senate want to exercise that role, or does it want it to go by default?

The committee report says that, insofar as the treaty of friendship with Taiwan is concerned, the Senate and the Congress decided to let that go by default.

If the Senate will approve the amendment which has just been stated, then it will serve notice that it is the sense of the Senate that approval by the Senate of the United States is required to terminate any mutual defense treaty between the United States and another nation.

I realize that there are different views as to whether the Senate should participate or whether the matter should be left entirely to our Chief Executive.

As one Senator, I feel the Senate should participate. I hope the Senate will approve this amendment.

Mr. President, I yield to my distinguished colleague from Virginia (Mr. WARNER).

Mr. WARNER. Mr. President, as a cosponsor of this amendment, I join in the remarks of the distinguished senior Senator from Virginia.

It is apparent that the Founding Fathers made clear the intent in article 2, section 2, of our Constitution that the executive branch is to share the power of international treaties with the Senate. The Senate was clearly meant to have a major role in these dealings, and the Founding Fathers thought it wise for a deliberative body such as the Senate to guard against certain actions of our Chief Executive officer.

To me, this section in the Constitution is a clear example of the checks and balances existing between the executive branch and the legislative branch.

It is essential to the preservation of the blueprint of our Nation that we, the Senate, go on record with this amendment. It is essential at this time in our history, when we as a nation are so dependent upon our allies, particularly in NATO, for the mutual security of the free world, that this amendment should be adopted.

Mr. HARRY F. BYRD, JR. I thank my distinguished colleague from Virginia.

I point out, Mr. President, that the major treaties the United States has of a defense nature do provide that either party may terminate the treaty after giving a year's notice. That was the case with the treaty with the Republic of China. The provision is in article X.

But it is important to note that the giving of notice serves only to make it possible for termination to occur; otherwise the treaty, under article X, continues indefinitely. The giving of notice does not cause termination; it only makes it possible, after 1 year, for a party to terminate without the consent of the other party but nevertheless in accordance with its own constitutional process.

That is the issue. Article X says simply that "a party may terminate 1 year after notice has been given to the other party"; it does not say a party must terminate nor does it say termination occurs automatically.

Now, Mr. President, to the Senator from Virginia, "a party" means that either government may terminate.

I take the Government of the United States to be both the executive branch and the legislative branch—and if it includes legislative branch, then it includes the Senate in particular, which was required to ratify all the treaties we now have.

So I think it certainly is reasonable and appropriate that the Senate have a role in the termination of such treaty.

I, for one, am very glad to see in this committee report a very clear, definite, and precise statement in regard to the powers granted to the Senate by the Constitution to participate in the process of treaty termination. Frankly, I had not expected to find such an unequivocal statement.

I want to read it into the record again, because to me it is clear. It says on page 19:

> It appears to the Committee, therefore, that the constitutional prerogatives of the Congress and the Senate have not been invaded in that neither the Congress nor the Senate has elected to exercise the powers granted it by the Constitution to participate in the process of treaty termination.

Those are the words of the Foreign Relations Committee. Then the Foreign Relations Committee report goes on to say:

> Had either done so, a different conclusion would likely obtain.

To me, that is highly significant.

I have no quarrel with any Senator who wants to take the position that the matter of terminating treaties is something that should be determined only by the Chief Executive, that the Senate has no role to play. It is perfectly all right with me if those Senators want to take that view. However, I take the contrary view; and I am very glad to note that the report of the Committee on Foreign Relations sustains the viewpoint of the Senator from Virginia in this regard.

Mr. President, I yield to the Senator from North Carolina.

Mr. HELMS. I thank the Senator.

The Senator from Virginia is addressing with this amendment—perhaps I should say that we are addressing with this amendment, because the Senator from North Carolina is a cosponsor of it, as is the junior Senator from Virginia and others—we are addressing a very fundamental and vital issue, and that is whether the Congress of the United States is going to abdicate its responsibility under the Constitution. It is as simple as that.

I have been amazed, in my years in the Senate, to hear Senators say, in effect, "Well, on this nomination, the President is entitled to have whom he wishes; therefore, I am going to vote for the nomination, even though I do not particularly care for the nomination." That is not what the Constitution tells us to do. The Constitution says that our responsibility is to advise and consent, and the very same thing is true with respect to the Senator's amendment.

It is time for the Senate to fish or cut bait on this business of abrogation of treaties. The Senator, with his amendment, is putting the Senate on notice that it has to take a position, yea or nay, as to our responsibility.

I am proud to be a cosponsor of the Senator's amendment, and I thank him for letting me be.

Mr. HARRY F. BYRD, JR. I am glad the Senator from North Carolina is a cosponsor.

I point out that the committee report, in effect, chastises the Senate for not exercising what it says are our constitutional prerogatives.

Mr. HELMS. Exactly. I hope the Supreme Court will read that section and interpret it properly, as the Senator from Virginia has, because the Senator is exactly right in his statement.

Mr. HARRY F. BYRD, JR. I thank the Senator from North Carolina.

Mr. President, I yield to my colleague from Virginia.

Mr. WARNER. Mr. President, if it is resolved that the President alone has the authority to invoke the abrogation mechanism, it would then follow that he has the authority to do so with other treaties containing similar language. This would present major problems for the stability of the future of U.S. foreign relations, as a number of our other treaties have similar, if not identical, abrogation clauses.

The admission that the sanctity of these treaties depends solely on the will of the U.S. President would, at the least, create concern among our other allies that a fate similar to that of Taiwan might await them should a future President find his diplomatic commitments to them inconvenient. It might also create considerable concern among U.S. citizens as to the future security of the United States itself, if no congressional authority would be required to invoke termination.

I ask unanimous consent to have printed in the RECORD a list of the termination clauses of the present treaties dealing with security. They are: Mutual Defense Treaty, United States and Republic of China, ratified by the United States February 11, 1955, article 10; North Atlantic Treaty (NATO), ratified by the United States July 25, 1949, article 13; Mutual Defense Treaty, the United States and the Philippines, ratified by the United States, April 15, 1952, article 8; Security Treaty Between Australia, New Zealand, and the United States, ratified by the United States April 15, 1952, article 10; Mutual Defense Treaty, the United States and the Republic of Korea, ratified by the United States February 5, 1954, article

6; Southeast Asia Collective Defense Treaty, ratified February 19, 1955, article 10; Mutual Cooperation and Security Treaty, the United States and Japan, ratified by the United States June 22, 1960, article 10; Inter-American Treaty of Reciprocal Assistance, ratified by the United States December 12, 1947, article 25.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TERMINATION MECHANISMS OF U.S. TREATIES IN FORCE

1. Mutual Defense Treaty, U.S. and Republic of China; ratified by U.S.: February 11, 1955. Article 10: "This Treaty shall remain in force indefinitely. Either Party may terminate it one year after notice has been given to the other Party."

2. North Atlantic Treaty (NATO); ratified by U.S.: July 25, 1949. Article 13: "After the Treaty has been in force for twenty years, any Party may cease to be a party one year after its notice of denunciation has been given to the Government of the United States of America, which will inform the Governments of the other Parties of the deposit of each notice of denunciation."

3. Mutual Defense Treaty, U.S. and Philippines; ratified by U.S.: April 15, 1952. Article 8: "This Treaty shall remain in force indefinitely. Either Party may terminate it one year after notice has been given to the other Party."

4. Security Treaty between Australia, New Zealand, and U.S. (ANZUS); ratified by U.S. April 15, 1952. Article 10: "This Treaty shall remain in force indefinitely. Any Party may cease to be a member of the Council established by Article VII one year after notice has been given to the Government of Australia, which will inform the Governments of the other Parties of the deposit of such notice."

5. Mutual Defense Treaty, U.S. and Republic of Korea; ratified by U.S. February 5, 1954. Article 6: "This Treaty shall remain in force indefinitely. Either Party may terminate it one year after notice has been given to the other Party."

6. Southeast Asia Collective Defense Treaty; ratified February 19, 1955 (SEATO). Article 10: "This Treaty shall remain in force indefinitely, but any Party may cease to be a Party one year after its notice of denunciation has been given to the Government of the Republic of the Philippines, which shall inform the Governments of the other Parties of the deposit of each notice of denunciation."

7. Mutual Cooperation and Security Treaty, U.S. and Japan; ratified by U.S. June 22, 1960. Article 10: ". . . after the Treaty has been in force for ten years, either Party may give notice to the other Party of its intention to terminate the Treaty, in which case the Treaty shall terminate one year after such notice has been given."

8. Inter-American Treaty of Reciprocal Assistance (Treaty of Rio de Janeiro); ratified by U.S.: December 12, 1947. Article 25: "This Treaty shall remain in force indefinitely, but may be denounced by any High Contracting Party by a notification in writing to the Pan American Union, which shall reform [sic?] all the other High Contracting Parties of each notification of denunciation received. After the expiration of two years from the date of the receipt by the Pan American Union of a notification of denunciation by any High Contracting Party, the present Treaty shall cease to be in force and with respect to such State, but shall remain in full force and effect with respect to all the other High Contracting Parties."

Mr. WARNER. Mr. President, each of these treaties has language closely resembling that found in the treaty with Taiwan which the President intends to abrogate.

Mr. HARRY F. BYRD, JR. Mr. President, the Senator from Virginia (Mr. WARNER) has pointed out many of the important treaties which the United States has with other nations. If the Senate is unwilling to go on record as saying that it has a role to play in regard to the termination of those treaties, that would mean, as my colleague from Virginia has just pointed out, that any of those treaties could be abrogated by a future President on his own initiative, at any time.

To quote again from the report of the Foreign Relations Committee, the Senate having refused to exercise its responsibility in this regard, it would be considered appropriate for the President to act unilaterally.

I say again that the issue is clear-cut: Either the Senate feels it has a role to play and wants to play that role, or the Senate feels it does not have a role to play and does not want to play a role.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, article II, section 2, of the Constitution provides:

> He—

Referring to the President—

> shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur.

That is the particular section to which I refer. In other words, the President can make a treaty with another country if two-thirds of the Senate concur.

Mr. President, if the President of the United States, acting under that authority, made a treaty with a country and the Senate ratified it, then if he saw fit, under the procedure he used in canceling the mutual defense treaty with Taiwan, the President could turn around immediately and cancel such a treaty. In other words, why could he not cancel every treaty this country has entered into? If the President could cancel a treaty with Taiwan, why could he not cancel the NATO Treaty or any other treaty? What is the difference?

Mr. President, evidently anticipating that the President might pursue such a course, Congress last year inserted in Public Law 95-384, the International Security Assistance Act of 1978, the following provision:

> It is the sense of the Congress that there should be prior consultation between the Congress and the executive branch on any proposed policy changes affecting the continuation in force of the Mutual Defense Treaty of 1954.

There we have a specific act of Congress in addition to the constitutional provision providing for the President to enter into a treaty with the approval of the Senate of the United States. In specific words, "It is the sense of the Congress," to do what? That there shall be prior consultation between Congress and the executive branch.

My understanding is that there was no prior consultation, and I believe the report on the Taiwan Enabling Act so states. So here we really have, I think, two points raised:

When this Government enters into a treaty, two specific steps are required: One is the President has to submit the treaty, and the other is the Senate has to ratify the treaty. That conforms to the Constitution and is the constitutional authority for so doing. But in addition to that, we have the statutory authority here which says there shall be prior consultation between the Congress and the executive branch on any proposed policy changes affecting continuation in force of the mutual defense treaty.

In other words, Congress was telling the President of the United States that, "If you are considering any changes in our relationship with Taiwan then there must be prior consultation."

There was no prior consultation. So the President of the United States on his own authority has seen fit to abrogate the Mutual Defense Treaty, ignore Congress, and cast Taiwan to the wolves. That is the effect of his actions.

I commend the Senator from Virginia for offering his amendment there which provides that it is the sense of the Senate that approval of the Senate of the United States is required to terminate any mutual defense treaty between the United States and another nation.

That to me makes sense and I think it makes sense to the American people. If under the Constitution the Senate has to ratify a treaty, why would the Senate not have to ratify or approve the cancellation of a treaty?

Can this Government enter into a treaty requiring the President and Congress both to act and then turn around and give the President alone the authority to cancel that agreement any time, anywhere, any place as he sees fit?

I do not think that is the intention of the Constitution. I do not think that is the proper construction of the Constitution, and I hope the amendment of the able Senator from Virginia will be adopted.

Mr. HARRY F. BYRD, JR. I thank the Senator from South Carolina and to further buttress what the Senator from South Carolina has said the Foreign Relations Committee itself in its own report here on page 19 says that the Senate has a constitutional role to play and that if it does not exercise that role it is its own fault.

That is what I am suggesting we do here. I think this matter of Taiwan is very serious, but I think something even more serious than the question of Taiwan is what is going to happen to all these other defense treaties and how may they be terminated by some future President at some future date? And what the Senate does in regard to this pending amendment will establish a precedent for many years to come as to what will happen in the way of terminating defense treaties with other nations.

Mr. THURMOND. Mr. President, will the Senator yield further?

Mr. HARRY F. BYRD, JR. I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, if the action of the President of the United States here goes unchallenged and he is allowed to cancel a treaty at any time with any nation as he sees fit, where does that leave the United States with regard to all of its treaties?

Mr. HARRY F. BYRD, JR. Where does it leave our allies?

Mr. THURMOND. Where does it leave our allies?

In other words, our allies look upon this country as a republic where no individual or even no one branch of Government has all the authority but where we have a tripartite system of Government, one branch of Congress, to make the law, the executive branch to administer the law, and the judicial branch to interpret the law. Each branch is a check and a balance on the other, and that is exactly what we have in this instance. We have the President of the United States entering into a treaty with another country provided the Senate by two-thirds vote, not even a majority, two-thirds vote approves such a treaty. If it requires a two-thirds vote of the Senate to act upon treaties, does it make sense then that one man, the President, can undo all of that? To me it just simply does not make sense, and I do not think it will to the American people.

I realize there will be arguments made that the President has such authority. But he cannot terminate the Mutual Defense Treaty without Senate ratification. That is the greatness of our Government. We have a Government of the people, as Lincoln said, by the people, and for the people. Representatives in Congress have so much power, the executive branch has so much power, and the judicial branch has so much power. In the matter of treaties our forefathers did not wish to entrust sole power to any one individual or any one branch of Government, and that is the reason they provided that in the case of a treaty that the President would submit the treaty but the Senate would have to ratify it, and not only approve it, but approve it by two-thirds vote of Senators present and voting.

That was not done in this case to cancel such a treaty. I think it would be a sound precedent here today if we turned down that action and followed the Constitution. I think it would be very helpful in the future for other Presidents to know that they cannot indiscriminately cancel treaties of vital importance because of their own whims that maybe it is not a good treaty.

I wish to thank the Senator.

Mr. HARRY F. BYRD, JR. I thank the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I understand from the Senator from Virginia that the amendment he suggests will not be applicable to this particular situation but only to apply to future situations; is that correct?

Mr. HARRY F. BYRD, JR. My feeling is that treaties ratified by the Senate can be terminated only by Senate participation.

The Foreign Relations Committee report says that since the Senate in its judgment failed to exercise its constitutional prerogatives then the treaty in regard to the Republic of China is not subject to Senate consideration at this point.

I am not sure whether that is the correct interpretation or not. The proposal offered by the Senator from Virginia and my other colleagues does not specifically mention any treaty. It states that:

> It is the sense of the Senate that approval by the Senate of the United States is required to terminate any mutual defense treaty between the United States and another nation.

Mr. GLENN. I thank the Senator for his comments.

Although I am sorry that the suit brought by the Senator from Arizona (Mr. GOLDWATER) has come up in this particular regard with respect to Taiwan and the normalization processes with the PRC, it is good that we will have the opportunity to get this issue settled once and for all. I think it is somewhat amazing that we have gone this far in our history without having a similar issue brought to the courts, but that is not the case.

So I think the administration, in proceeding with the normalization process, utilized Presidential authority to cancel treaties or to change them. There is a long list of cases that I could read off that have demonstrated past President's utilization of this authority. There are some 15 or 18 of them, I believe all within this century, that fall within that regard.

Therefore, I do not think this was just an effort by the President to suddenly take unto himself some now authority that he did not have hitherto; he merely followed the precedents created by his predecessors.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield at that point?

Mr. GLENN. Let me make just one more point, if I may. On its face, the Constitution itself provides no senatorial or congressional role in treaty terminations. The President's constitutional responsibility for the execution of the laws and implementation of the treaties, and his executive powers under article II, section 1 of the Constitution have been interpreted to give the President the power to terminate treaties. This power, as I stated, has been firmly supported by the 20th century practice in this country, and in all those instances Congress acquiesced, and, I might add, by the great majority of legal scholars who have addressed the issue.

I agree with the Senator it is good to get this thing settled, and I fully support taking this issue to the courts, although I am sorry to see it taken up on this particular case.

I hope that rather than making this an amendment to this particular bill—this enabling legislation—that we could take this to the Committee on Foreign Relations and have hearings on it, and explore more fully how we should approach this; what the limitations on the President should be; how far we should go with it; should it be completely binding; should it be a two-thirds vote, for instance, to unratify a treaty, as well as two-thirds vote to approve it?

I think there might be some different considerations there. I do not believe we have considered adequately all of the ramifications. I would certainly support sending this to the committee, having hearings on it, unfolding the case for it or against it, either one, and I hope the Senator from Virginia will agree with that approach.

Mr. HARRY F. BYRD, JR. In regard to the treaties that have been terminated, of which the Senator has a list, has any mutual defense treaty been terminated by unilateral action?

Mr. GLENN. I do not believe so, but I do not believe we had mutual defense treaties until after World War II, so that limits the time period.

Mr. HARRY F. BYRD, JR. But so far as the Senator, the manager of the bill, knows there has been no case where a mutual defense treaty has been terminated by executive action.

Mr. GLENN. In that time since World War II, which is the only time we have had mutual defense treaties, the answer is no. I believe the Senator is correct.

Mr. HARRY F. BYRD, JR. The report of the Committee on Foreign Relations itself establishes, in the judgment of the committee, that the Senate does have a constitutional role to play.

The Senator from Ohio, the able Senator from Ohio, mentioned that he hoped this would be settled once and for all by the courts.

I am not certain I can share that view. It seems to me this is a matter to be settled once and for all by the Senate of the United States.

I do not know how the Court is going to rule—none of us do, of course—but the able Senator from New York, who is an outstanding constitutional lawyer, indicated earlier today that the Court might very well take the view that this is a political decision to be made by the Senate or by the Congress.

It seems to me that that is a view that the court could very logically take. My own judgment is that this is a matter that should be determined by the Senate of the United States. Since it is the Senate of the United States which is the body that has the obligation and the responsibility to ratify treaties submitted by the executive branch, then it also has a role to play, according to the report of the Committee on Foreign Relations itself, a constitutional role to play in the termination of any treaties.

Mr. GLENN. I would say to the distinguished Senator from Virginia that my hope was that the courts would settle it, that what I hoped the court would do would be to develop a case either for or against it.

The courts can always say that this

is an area in which they do not have sufficient judgment or background. They could toss it right back to us, claiming that it is primarily a political decision.

In any event, if we did not like the decision of the court we could still pass legislation later on, after we had held a sufficient number of hearings to develop all sides of this particular question, and decide what the vote should be. Should it be two-thirds? Should it be a majority vote? There are lots of questions I would like to see answered before I would go ahead and try to pass this.

In the section, I might add, in the committee report, the committee also stated that the formulation which they were referring to—termination by the President of this defense treaty—would fall in sort of a twilight zone of categories which they had spelled out earlier in this report, they went ahead and said:

> The President would, accordingly, appear to possess the constitutional authority to do so absent any statute enacted by the Congress or resolution adopted by two-thirds of the Senate directing contrary action.

So we did not take a positive stand on this one way or the other, as I saw it, and our discussion of it were along the line that there should be hearings to develop whatever the process of deratification might happen to be.

Mr. HARRY F. BYRD, JR. Mr. President, if the Senator would not mind yielding at that point——

Mr. GLENN. I might add that I excerpted that from the same paragraph there so we have to take that whole paragraph to get the whole picture.

Mr. HARRY F. BYRD, JR. But what the Senator from Virginia has been reading is only one paragraph, so I will read the whole paragraph:

> It appears to the Committee, therefore, that the constitutional prerogatives of the Congress and the Senate have not been invaded in that neither the Congress nor the Senate has elected to exercise the powers granted it by the Constitution to participate in the process of treaty termination. Had either done so, a different conclusion would likely obtain.

That is the total paragraph.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. HARRY F. BYRD, JR. Yes.

Mr. JAVITS. I did not read this before it was put out, and I would like to give you my view as a lawyer.

I believe it is a question which the courts may or may not decide. It is up to them. I have made it very clear that the way is perfectly clear for a court decision. We are not prejudicing it either way.

I think what the Senator read is overstated. We do not know what the courts will do, or whether they will take jurisdiction at all. What I would have written, and what I think is the real feeling in the committee, is that as far as we are concerned, we are willing to legislate on the theory, on the hypothesis, that the President does have the right to terminate in the absence of contrary action by the Congress. But we do not know what the court would decide in another suit, that we could even restrain it if we acted, if we passed the law. The court might very well hold that the Constitution gives the President, as the chief negotiator of the United States—and they have decided that time and again—the power to terminate, even though it gives us the power to ratify.

Therefore, I would like to say this to you, Senator BYRD—and you are uniquely a Senator to whom one can talk this way—your amendment, with all respect, is so easy to vote for, because I am an advocate of war powers, and I have spent most of my life here trying to seek a voice for Congress in the war powers process.

Mr. HARRY F. BYRD, JR. I know you have, and I have supported you.

Mr. JAVITS. Of course you have. And I have always worried about voting for something without adequate hearings.

This matter has not been considered. Secondly, we have a very effective way, Senator, in which to enforce this. We do not have to depend on the Constitution or on a sense resolution. If we write a reservation into each treaty that we ratify, saying: "If this treaty should be terminated, the President has to come and get two-thirds of the Senate to agree to it before he terminates it," that is the law, and there is no question about our constitutional power to do that. And I want no treaty unless he complies with that reservation.

So what I would like to see, Senator—I am only giving you the optimum—a declaration, perhaps a commitment—FRANK CHURCH will be here tomorrow—by the Foreign Relations Committee, in which we would undertake to consider this question, with the idea of either bringing a piece of legislation to the Senate floor or with the idea of making it a rule of our committee that we would write into every treaty ratification a reservation respecting this question of termination.

To me that would be a very responsible course, and I would most respectfully suggest, as we are not going to finish this tonight, that perhaps the Senator might consider just laying it over until tomorrow. I am the ranking minority member of the committee; let us give the chairman and myself an opportunity to discuss this, take it up with the other members of the committee, and perhaps we could produce something satisfactory in terms of dealing with this question in the substantial and dignified way in which it should be dealt with.

As I say, I just lay that before the Senator; he can press his amendment just as he likes.

Mr. HARRY F. BYRD, JR. I thank the able Senator from New York.

I just want to read this; it is only a few words, probably 18 words, and I think it is dignified. It says:

> It is the sense of the Senate that approval by the Senate of the United States is required to terminate any mutual defense treaty between the United States and another nation.

That is not very difficult to understand. We either favor the Senate having that right or we oppose it, one way or the other.

Mr. JAVITS. Will the Senator yield again?

Mr. HARRY F. BYRD, JR. Just a moment.

Mr. JAVITS. It is certainly not difficult to understand, but it makes a policy declaration which is of a serious nature. Again, it is a first in our history. We have not done this for 200 years.

I would like to hear what objection there is to it. I am on your side, but I would like to hear what is the opposition.

Mr. HARRY F. BYRD, JR. Well, there are a hundred Members of the Senate. They can state their objections.

Mr. JAVITS. No, I do not think that is quite true, Senator. I think here you need the witness, the President or the State Department representing him.

Mr. HARRY F. BYRD, JR. You mean we need the State Department to tell the Senate what it should do about a sense of the Senate resolution?

Mr. JAVITS. No, that is not at all what I suggest. We hear the State Department all the time on lots of things that we have the power to do. We can deny the money, but we hear them. That is all I am saying; we ought to hear them.

So I would suggest again, most respectfully, that this matter be held overnight, so that we have an opportunity to find out what the other side of the case is.

Mr. HARRY F. BYRD, JR. I appreciate that.

I might point out to the able Senator from New York that this resolution, in these exact words, was introduced the first day of this session, on January 15, the first day of the session, and the Foreign Relations Committee has done nothing about it. They had plenty of time to get witnesses in here if they wanted to get witnesses.

Mr. JAVITS. Oh, Senator BYRD, the Foreign Relations Committee has been about as busy as the Finance Committee or any other committee you are a member of. They have not done lots of things about lots of bills. This is not the only one.

Mr. HARRY F. BYRD, JR. That is true of many committees, I will say. But, Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER (Mr. BRADLEY). The Senator is correct.

Mr. JAVITS Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that my assistant, Mr. Emerson, be accorded the privilege of the floor for the duration of this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. I would make the same request for Mr. Don Prather of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOSCHWITZ. Mr. President, I

make the same request for Mr. James Cowie of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I again suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the pending amendment, unprinted amendment No. 30, be temporarily laid aside for a period not to exceed 20 minutes and at the end of that time the present pending amendment would then become again the pending amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

THE TAIWAN BILL AND THE NATIVE TAIWANESE

Mr. PELL. Mr. President, in my view S. 245, the Taiwan Enabling Act, is an appropriate and effective instrument to facilitate the continuation of our 30-year relationship with Taiwan. I support the President's decision to normalize relations with the People's Republic of China, but at the same time we cannot in good conscience or in our own political and economic interest cut off all contract with Taiwan. Certainly, our concern for human rights would ring hollow if, by cutting off all ties with Taiwan, we were to signal that we were indifferent to an invasion from the mainland and the extension of Communist repression to Taiwan.

Under the bill we are considering today, the United States will, through a newly created private entity, have relations with the "people on Taiwan" instead of with the formerly recognized government of the Republic of China, which was situated on Taiwan but claimed to be the government of all of China. The newly coined term of art, the "people on Taiwan", is defined under the bill to include both the governing authorities on Taiwan and the people governed by those authorities. In this connection, the bill also contains language, in section 107, which I sponsored, directing the Institute "to strengthen and expand the ties between the people of the United States and all the people on Taiwan and to promote full human rights for all the people on Taiwan."

This language was the result of a compromise in the Foreign Relations Committee that modified my original proposal which read as follows:

> In carrying out its activities, the Institute shall take all appropriate steps to strengthen and expand the ties between the people of the United States and those individuals and entities on Taiwan that are representative of the majority of the people on Taiwan.

In proposing this amendment, it was my intention to underscore the need for the United States to show its concern for the rights of the native Taiwanese who constitute 85 percent of Taiwan's population, but who share in little of the island's political power. The roots of the Taiwanese majority go back some 300 years and the native Taiwanese always have considered themselves to be separate from mainland China. The regime of the mainlanders who arrived only after World War II has been characterized by severe repression of the human rights of native Taiwanese, although there has been some improvement in recent years. Tensions between the native Taiwanese and the Nationalist Government have, not surprisingly, been high as the Taiwanese sought to have a greater say in their own government.

In my view, the United States should have been faithful to its adherence to the principle of self-determination by pushing for an independent Taiwan after World War II.

I well remember this was the original American doctrine because in those years I attended military government school, and I trained for many months in the language, the geography, the customs, and the culture of Formosa. We were told that if there was one group of people the Formosans disliked more than the Japanese it was the Mainland Chinese, therefore, the idea was that we should govern them until they could govern themselves.

That all changed after the Cairo Conference between Chiang Kai-shek, Stalin, Roosevelt, and Churchill.

Then, with the occupation of Taiwan by Chiang Kai-shek, the belief of the United States in Taiwanese self-determination was completely glossed over.

I believe the Senate should, in this bill, give some recognition to the plight of the Taiwanese majority and the need for the new Institute to concern itself with the human rights of this majority. The recent events in Iran have, I hope, made it clear that the United States ought not be seen as the underwriter of a particular regime.

In promoting human rights on Taiwan, it is my expectation that the new Institute will apply all of the elements, including the one relating to political rights, that Secretary of State Vance set forth in his Athens, Ga., speech of April 30, 1977. The pertinent statement made by Secretary Vance on this point is as follows:

> Third, there is the right to enjoy civil and political liberties—freedom of thought, of religion, of assembly; freedom of speech; freedom of the press; freedom of movement both within and outside one's own country; freedom to take part in government.

Mr. President, through this bill the United States is defining a new relationship with Taiwan. In so doing, we ought, in my view, to make clear that this new relationship includes a heightened concern for the real Taiwanese, whose origins on the island go back at least 12 generations. Throughout most of Taiwan's recorded history, except for the period of Japanese rule from 1895–1945, the Taiwanese have run their own affairs and always considered themselves to be separate from China. I am confident, and I hope, that before long the current mainland dominated government on Taiwan will pass from the scene and be replaced by a native Taiwanese controlled government. We ought, therefore, to take a long view of our interests regarding Taiwan and lay the groundwork now for a close and harmonious relationship with the Taiwanese leaders of the future.

Mr. President, I am glad to yield at this point to the Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I should like to take this opportunity, as a new Member of this body, to compliment the Foreign Relations Committee for its work on S. 245. The members of this committee have reworked the original administration proposal to provide greater guarantees to the future security of Taiwan, to include more specific language defining our commercial and cultural relations, and to generally include more creative and just solutions to the problems created by the normalization of relations with the People's Republic of China.

I believe that the normalization of relations with the PRC was an historic inevitability, and I support this policy as a significant step toward a new U.S. policy in Asia which better insures our national security and national interests, and creates a framework for a lasting peace and improved relations with all nations of this region.

I especially commend the committee for its work on section 114 and for addressing the question of the security of Taiwan much more judiciously than did the administration's original bill. I share the concern of the members of this committee that the United States honor its traditional commitments and stand by its allies in these changing times.

As we move ahead in these next few days with debate on the question of our relations with Taiwan and the PRC, I am concerned that we address the issue—as Senator PELL has done—of the right to self-determination as it applies to the people of Taiwan.

As ironic as it may be, I would like to use the same phrase from the Declaration of Independence that I found myself using frequently against this body and its counterpart body during my recent campaign: "The just powers of government are derived from the consent of the governed." This principle was invoked as a fundamental part of U.S. foreign policy after World War I, by President Woodrow Wilson, who expanded on these words to state his belief that "No right anywhere exists to hand people about from sovereignty to sovereignty as if they were property."

I commend the Senate Foreign Relations Committee and my colleague Senator PELL for addressing this issue during the hearings. I concur with Senator PELL that it would be wrong for this body to treat this issue of U.S. relations with the PRC and the ROC as though we were "handing people from sovereignty to sovereignty as if they were property."

The fact is that there is a major split between the 85 percent of the population who are native Taiwanese, and the 15 percent who are mainland Chinese and came over to the island beginning in 1949. The native Taiwaneses have been systematically excluded from full political participation for 30 years. Martial law began in 1949 under the rationale of a continuing "state of war." I fail to see the legitimacy of these grounds for the abrogation of constitutional liberties 30 years later.

There have not been free elections in the history of the ROC in Taiwan. The elections scheduled for this past December were cancelled. While the change in U.S. policy at that time did cause some uncertainty and disruption, the Foreign Relations Committee has heard testimony that the Kuomintang regime feared defeat at the hands of the opposition "Non-Partisan Movement," and welcomed the opportunity to cancel the elections. Since then, no elections have been rescheduled, and the Government has broken up meetings of the opposition. On January 21 Yu Teng-fa, the 77-year-old leader of the opposition and a former magistrate, was arrested. Mr. President, I believe that the Senate should be aware that Yu Teng-fa is scheduled to be put on trial this Friday on trumped-up charges. I would like to go on record as protesting this repressive policy and in favor of justice for Yu Teng-fa.

I have conferred with Dr. Richard Kagan of Hamline University in St. Paul, Minn. Dr. Kagan submitted testimony to the Foregin Relations Committee. I ask unanimous consent to have this testimony, which can be found on pages 865–873 of the hearings, printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

PREPARED STATEMENT OF DR. RICHARD C. KAGAN, ASSISTANT PROFESSOR OF HISTORY, HAMLINE UNIVERSITY, ST. PAUL, MINN.

I would like to thank the Senate Foreign Relations Committee for the honor and opportunity of inserting my views and materials into the record. Because I had very little time to prepare, I hope that this does not seriously flaw my argument, my judgment, and my clarity.

I am preparing these remarks on behalf of the Clergy and Laity Concerned. Through their auspices I was able to travel to Taiwan from Dec. 14 to Dec. 28, 1978, in order to observe the upcoming elections. During this time I travelled by car, bus, train, and airplane from Taipei to Kaoshiung with many intermediate stops. Due to the announcement of Normalization on the 16th of December, the elections which were to be held on December 23rd were suspended. My stay in Taiwan, nevertheless, was consumed with interviews of both non-partisan (reform) candidates, the staff of Party candidates, and Government officials. Although the conversations often included discussion of normalization, they focused on the nature of the government's rule, and the future for the majority of Taiwanese.

What follows in my remarks concentrates on this period of interviews and travels, but it also draws on my two month experience in Taiwan during the summer of 1978, and my own research on Taiwan history.

PROFESSIONAL BACKGROUND

I received a PH.D. in Asian History from the University of Pennsylvania in 1969. Since then I have published on U.S.-China Relations, and the history of China. But most germane to this committee is the book which I edited and for which I wrote the introduction, "The China Lobby in American Politics" by Ross Y. Koen, Harper & Row, 1974. Currently I am an Assistant Professor at Hamline University, St. Paul, Minn.

PURPOSE OF THE TESTIMONY

The declaration of Normalization provides the United States with the opportunity to restructure totally our relations with the authorities in Taipei. The United States can discard the fiction that the Kuomintang (KMT) represents any interests other than the narrow interests of a ruling group which keeps power only through the use of martial law and the economic exploitation of its own island base. Normalization provides the occasion to hear the voice of the population of Taiwan.

These Hearings can focus on the nature of the rule of the Taipei government, and call attention to the historical fact that Taiwan's future has always been linked to international power politics. Up until now, international power politics have never taken account of the interests of the Taiwanese.

Finally, my testimony will outline the growth of a strong opposition force in Taiwan. This is not simply an "old" struggle between the dominant Mainlanders (the refugees from 1949) and the Taiwanese, but is the result of the economic and political effects of U.S. policy. The new struggle is parallel to struggles in developing countries throughout the world but especially in South Korea, the Philippines, Indonesia, Thailand, and Malaysia. Rapid economic growth has been unequally distributed. Great growth has also produced great gaps between the affluent and the poor. As in many other countries, the governmental response has been to declare martial law and to exacerbate the ecological, social, and economic problems.

The Senate's decision to consider Taipei, Beijing, or the Opposition's claims will result in promoting or impeding the furtherance of human rights and human welfare for the people of Taiwan. I hope my testimony will help to clarify the consequences of the choices that are made.

INTRODUCTION

The historical writing regarding Taiwan is plagued by fabrications, propaganda, and sheer ignorance. Of course many excellent works have appeared in Chinese and Japanese. But the English language works, and even more particularly the works for the general public, are few and on the whole inadequate.

The earliest popular work on Taiwan was George Psalmanazar's "Description of Formosa" (1704). This work became a best-seller in England, France, Germany, and Holland. Yet the book was a thorough hoax and fabrication. The author who had claimed to be a Formosan was in fact a Frenchman who populated the area with fictitious elephants and British knights, and who described fanciful scenes of human sacrófóce. Once the book was exposed, the term "Formosan" became associated with fraud and deception in British slang.

This ignorance about Taiwan has not yet been dissipated. Secretary of State John Foster Dulles began his testimony of Taiwan's history (Hearings on the Mutual Security Treaty, Executive Sessions of the Senate Foreign Relations Committee, 84th Congress, Vol. VII, First Session, 1955, p. 117) with this assurance: "There is a very long history there which I have studied. . . ." Yet in his brief survey he states that: "One of the main items of intercourse between Formosa and China in those days (17th–18th century) was that as the Chinese on Formosa killed the indigenous people, they salted their flesh and sold it back to China. . . ." The shade of Psalmanazar was definitely stalking the hearing.

Now, twenty-four years later, the Senate is again discussing the security of Taiwan. Yet, it has not significantly moved much closer to an understanding of the history and current condition of Taiwan than in 1704 or 1955. For instance the Congressional Research Service in its Issue brief (#IB76053) on China-U.S. Relations does not, to my knowledge, include a major reference to the political-economic conditions on Taiwan.

In summarizing, I urge the Committee to gather more information on Taiwan before making a considered decision regarding our future relations with that island-province. Our lack of correct intelligence has often misled our good intentions into the abyss of tragic policy—for ourselves and others.

HISTORICAL BACKGROUND

Two competing descriptions of Taiwan's history exist with contradictory conclusions for the status of Taiwan.

On the one side is the argument from Beijing and Taipei. Taiwan has historically been part of China: the natives, with the exception of the aborigines (who number about 240,000 or 2% of the population) are ethnically and culturally Chinese, the island has been under the control of China since the 17th century and achieved separate province status in 1885. In 1895 Taiwan was ceded to Japan as a war prize in the Sino-Japanese War, 1894–1895. Whereas the Ch'ing dynasty and the Republic of China (founded in 1911) never dropped its claim to Taiwan, the Chinese Communist Party initially acknowledged that Taiwan in the 1930's was a "weak and small nationality" which would have to have its own independent course of revolution and its own authentic sovereignty.

The Cairo Conference of 1943 laid the international legal foundations for Taiwan's return to China. Since then both the Nationalists and the Communists have argued that Taiwan is in fact legally as well as historically part of China. With the establishment of the government of the People's Republic of China in 1949 and the outbreak of the Korean War in June 1950, U.S. policy supported Chiang K'ai-shek's claim to represent China. The Shanghai Communique in 1972 reaffirmed the U.S. commitment to the proposition that Taiwan was a part of China. And normalization not only assumed this but placed the legitimacy for rule back in the domain of Peking.

On the other side is the argument that Taiwan has had a significantly different political and economic history which can legitimize a claim for independent nationhood. This argument is abbreviated by the epigram: Taiwanese are ethnically Chinese but not politically Chinese.

The Taiwanese make a comparison between Anglo-Saxon's in England and Anglo-Saxon's in North America. Their common ethnic heritage neither prevented a war of revolution nor the development of American or Canadian nationalism.

The Taiwanese draw upon a history which stresses continual colonialization and exploitation by foreign powers and attempts for self-rule. The first wave of heavy Chinese migration occurred in the 17th century under the sponsorship of the Dutch colonialists who required the services of migrant laborers and skilled farmers. From 1662–1683 Taiwan was used as an island outpost for a pretender to the Dragon throne in Peking. The defeat of this ill-fated undertaking resulted in the loose incorporation of Taiwan into China's rule. In fact the Taiwanese lived outside the range of direct rule. Taiwan was considered by Peking as a frontier post—a malarially infested island to send convicts and exiles, and ruled by local gentry and religious figures. China willingly gave the island up to Japan in 1895 despite the appeal of the citizenry to support an Independent Republic. This was the first Republic in Asia, and was quelled by Japanese troops and turned into an island colony.

When Japan surrendered Taiwan in 1945, it was unclear who would receive the island. Under the command of General Douglas MacArthur, Chiang K'ai-shek was given the mission of disarming Japanese troops and bringing order to the island.

At first the Taiwanese greeted the Nationalist troops and Mainlanders with joy. They believed naively that the new government would abolish the colonial policies of the Japanese and would promote the Democratic goals of Sun Yat Sen's Three People's Principles and the New Deal of Franklin Delano Roosevelt. By their actions, the Nationalist troops and officials expressed their disdain for the Taiwanese. Considered either as traitors or as un-Chinese and thus uncivilized the Taiwanese suffered under illegal confiscation of property, vandalism, the spread of lawlessness, rape, and the destruction of health and hygenic facilities. Within 18 months the economy was reduced to a barter system, and diseases hitherto wiped out began to reappear.

In 1947, an unarmed rebellion attempted to create an autonomous republic. History appeared to be repeating itself. The Nationalists, utilizing U.S. troop carriers, attacked the island and brutally killed and imprisoned the leadership. Up to 20,000 people may have been slaughtered. (One of the major groups to suffer from death and imprisonment were the Presbyterians, who had been active in opposition to Japanese rule. In 1948 they quietly changed the name of their press organ from "Restoration to the Mainland Publishing House" to the former name of the "Taiwan Church Press.")

In 1949, the Nationalists established their regiment in Taipei and declared martial law. Although certain democratic rituals are allowed, the Nationalists have ruled Taiwan through the military for thirty years. The Taiwanese regard themselves as colonialized again. For those Americans who declaim against selling out Taiwan to the Mainland, the Taiwanese reply: why were you not concerned about selling us out to the Nationalists? In 1979 a strong independence movement has again developed. In sum, it is in the interests of both the Nationalists and Communists to prevent the expression of an independent Taiwan. In the New Year's "Message to Compatriots in Taiwan" the Communist Party seeks an alliance with the KMT against the purveyors of the politics of independence: "The Taiwan authorities have always taken a firm stand of one China and have been opposed to an independent Taiwan. We have this stand in common and it is the basis for our co-operation." In previous Senate testimony, Professor John K. Fairbank ironically observed: "When one mentions the idea of an independent Taiwan, one is known as a capitalist spy in Peking, and a Communist traitor in Taipei." (U.S. Policy with respect to Mainland China, U.S. Senate Committee on Foreign Relations, 89th Congress, 2nd Session, 1966, p. 177)

Whichever view of Taiwan's history is accepted or rejected will effect policy considerations and the people's welfare.

MARTIAL LAW

Since 1949, the Republic of China has ruled Taiwan by means of martial law. Although today, the government claims that only a small percent of the country's laws fall under the military jurisdiction, in fact, the threat and use of the military is a reality. The Taiwan Garrison Command enforces all aspects of martial law through the use of military police, secret military courts, special agents who monitor meetings, tap phones, inspect the mails, and use provocateurs to break up meetings, create disturbances, and confiscate materials which are deemed subversive. One cannot exaggerate the consequences and effects of this system. Because it acts in secret, a pall of fear and a sense of paranoia impedes and often prevents any open critical political, religious, or economic discussion. I have been present at peaceful meetings which were broken up by agents who physically threatened the participants.

One leading Mainlander intellectual, writer for several important journals, and former political prisoner, compared the trials of Soviet dissidents with the numerous trials in Taiwan: "In the Soviet Union, one can at least demonstrate; even if only for 5 minutes and for 100 feet. Here, now there is not even that opportunity."

What is obvious to anyone who travels around the island is the large number of military police, secret police, and government agents. Uniformed military police are stationed at all major crossroads, tunnels and bridges. Plainclothed counter-insurgency military men have been brought into the cities. One can observe these young men hanging around street corners with small walkie-talkies in shoulder bags.

The new president of Tung-hai University is the former head of the Taiwan police academy. The regulations regarding student activities have become so restrictive that, as one University professor put it, "There is nothing they are allowed to do but follow the line." The Universities are receiving more political affairs and military intelligence officers and police to oversee student affairs in the class room.

The size of the military (300,000 troops with 2.5 million in reserve for a population of 17 million in fact, is not necessary just for return to the Mainland. In the Senate Hearings of 1955 on the Mutual Security Treaty, Secretary of State Dulles revealed that Chiang Kai-Shek had assured the Secretary that the Republic of China could not capture the mainland by military force.

To many observers, the size of the military is maintained to intimidate the population, and to enforce loyalty through military discipline.

Yearly expenditures on the military according to the 1977 report from the Republic of China, amount to 57,753,587,639 Taiwan dollars (over 1.5 billion U.S. dollars) or 53.82 percent of the entire budget. The closest figure is the 10+ billion Taiwan dollars (260+ million U.S. dollars) spent on economic development. This expenditure amounts to 10.3 percent of the budget. Besides the Administration of Finances (6.6 percent) and Miscellaneous projects (7 percent), all other categories range well under 5 percent of the budget. The Ministry of the Interior, which supervises health, worker, and other social services received 1.1 percent. Within the national defense, the bureau for intelligence work receives almost 1.6 billion Taiwan dollars or 41.5 million U.S. dollars. It has not been possible to ascertain what percent of this is spent on domestic surveillance, (as opposed to surveillance on the Mainland) but we can assume that it is a significant amount.

GOVERNMENT

Working under the protective umbrella of martial law are the national legislative bodies: The National Assembly which meets only once every six years to elect the President, and the Legislative Yuan, which makes laws. The representatives for both bodies were elected on the Mainland in 1948. No general elections have been held since then, because both branches represent all the people in China and elections cannot be held until the Mainland is recovered.

The National Assembly originally had 2,961 members; only 1,248 are still living and their average age is 74. In 1969, 15 supplementary representatives from Taiwan were added to the National Assembly, and these are elected positions.

The Legislative Yuan has a similar problem—of its 759 members elected in 1948, only 406 are left, including 60 supplementary representatives from Taiwan added in 1969 and 1972.

The government takes the position that Taiwan is just a province of China. Thus Taiwan has its own Provincial Assembly in Taichung. This Assembly has almost no power—no control over taxes, expenditures, budgetary decisions, etc. Local elections for this assembly and for municipal offices have been allowed in recent years with a limited time for electioneering. But one trend seems clear: whenever non-Party candidates become too powerful they are either arrested, or their position is no longer available. Thus the mayorship of Taipei, and governorship of Taiwan are now appointed positions.

In fact, the government is run by the Nationalist Party or KMT. The pledge of Allegiance to the Flag is directed not to the state or nation but to the Party. Membership in the Party provides some privileges and status. Threat of excommunication is used to prevent deviance.

SOCIAL AND ECONOMIC PROBLEMS

The non-partisans are responding to the consequences of economic and social change which have resulted from unplanned and uncontrolled economic investment, domestic and foreign. Within the last decade, a large group of writers have written realistic novels and poems about the hardship of workers, women, farmers, and the unemployed. After a local study in 1970, the analysis by four university professors confirmed the view of these writers of social realism:

"The daily lives of the workers have no protection nor do their lives have security. They desperately need higher wages, and occasionally they ask help from the labor unions. But when they find out that the leaders of their unions are none other than their employers, they can only wish that some day their employers might feel the pangs of conscience in the quiet of the night and grant them the favor. From time to time some of the more daring workers might attempt to seek higher wages through bargaining with their employers, but they usually are easily disposed of by severe political means. The other workers can only helplessly drive their wives and daughters to seek jobs so that they can maintain a subsistence living. Most of them live in the outskirts of the cities or in dark alleys behind huge buildings. In a tiny room of two or three mattresses a family of seven or eight exists. A nineteen-inch television set on the mattresses might maintain the facade of civilized living; however, from shouldering the heavy burden of civilization on their pale and bloodless faces are carved the deep lines of sorrow . . . " (cited from the Chinese "An Analysis of Social Forces").

Taiwan's prosperity has been gained primarily through a disregard for the environment and a reliance on a cheap labor force. The continuation of these conditions can only result in negative consequences for the people on Taiwan and for the international community. It is not in our interest to promote growth which results in the complete pollution of 19 of Taiwan's 24 rivers. Liu Wen-Kui, director of the Taipei City Sanitation and Sewage Administration, has noted, "that daily waste water from residences and factories in Taipei totals 1.1 million tons."

The human and monetary costs of water pollution are extreme. A study completed in 1970 has indicated: "Of 3,313 schoolchildren in 6 schools in 1968, 25.3 percent harbored ascarid roundworms; in 4 Taipei suburbs in 1970, 40 percent of 2,629 children harbored roundworms, hookworms, and liver-flukes; for all of Taiwan in 1970, 5,672 of 7,759 children (in same sample) harbored some water-borne parasite." An earlier study published in 1968 concluded that "77.4 percent of all schoolchildren and 73 percent of the total population harbored intestinal parasites."

The non-partisans argue that conditions have worsened. The government responds by banning the criticism and restricting research.

FEMALE LABOR IN TAIWAN

No where is the dependence on cheap labor more consciously and institutionally experienced than in the lives of female factory workers. In a 1974 report to the Conference on Population and Economic Development in Taiwan, Ms. Yen Hwa describes the role of female workers: "(Taiwan) expanded its labor-intensive manufactures for export to developed countries as a basic strategy to accelerate its economic growth. The female labor force has played a significant role in providing a part of the ample labor supply as well as in maintaining the competitiveness of products in international markets."

Work is not a vocation. There is no chance for upward mobility. The total female labor force in 1974 only records .39% attaining the rank of administrative or executive workers. The most significant use of women workers is in the development of light industry for export, notably the textile and electronics industries in Taiwan's 3 Export Processing Zones. 85% of the 67,000 workers are women and the overwhelming majority of these are young and unmarried. As of December 1977, well over 60 percent of these workers earned between NT$1600 and NT$3400 per month—this is equivalent to U.S. $40–$90 per month.

To begin to relate the preceding discussion of the EPZ labor force and wage levels to the issue of the quality of life, one might ask the question, "Are EPZ workers, and especially women workers, satisfied with their position in the factories?" Contrary to many reports published in this country, a number of recent studies addressing the issue of worker attitudes have shown considerable levels of dissatisfaction, especially among women. Anthropologist Lydia Kung's research has shown the bitterness of many women workers:

"Many workers at the factory say that working here amounts 'wasting away' our time, 'burying our youth', because each day by the time we get off work, it's already very late. There's hardly any time or opportunity to meet with friends. In the factory, where one has no freedom, it is as if we've sold our lives to the company."

Kung concludes:

" . . . the "bitter" quality of factory work derives from a combination of working conditions and the attitudes they encounter in the course of their work. They earn money through manual labor; their hands may become coarse and rough; the plant can at times be hot; inedequate ventilation leaves fumes or lint in the air; their uniforms become soiled; their tasks repetitive and monotonous; and many cannot leave the assembly lines or walk around."

A detailed study of 576 women workers in the Nantze Export Processing Zone has conclusively indicated significant levels of dissatisfaction, especially in the electronics industry. The survey found that over 70 percent (124 out of 173) were either somewhat (40 percent) or very dissatisfied (30 percent) with their jobs in that industry. Principal reasons for dissatisfaction included low salaries, the perceived difficulty of the work, the loss of eyesight due to working with mini-electronic circuits, excessive noise, and the basic feeling of alienation from their labor. Nowhere is the general sentiment of unhappiness shown more pervasively than in the high turnover rate in NEPZ factories. Of the workers questioned in 1978, nearly 50 percent said that they had changed jobs one or more times in their first year of employment in the NEPZ. Many women workers are driven to prostitution. Abortion clinics abound in the EPZ areas.

THE ELECTIONS THAT WEREN'T

The most significant local political development in 1978 was the rise of a collection of non-partisan candidates and embryonic opposition party. This group of candidates synchronized their campaigns for the December 23rd national election. Political observers on the island predicted a substantial victory for the non-partisans, with estimates of the total non-partisans vote reaching over 60 percent. The announcement of Normalization on the 16th provided the government with the excuse to suspend the elections and to harass and arrest the leaders of the opposition.

The primary centers for this resistance were in the Taipei-Taoyuan area, the Taichung-Changhua region, and the cities of Tainan and Kaoshiung. In the 1977 local elections of Taoyuan county, the KMT election officials were charged with election fraud. The people demonstrated in protest. They burned the police station, destroyed official cars, and drove the police off into the safety of the military barracks. Several people were shot to death, and after a few days order returned. But the non-KMT magistrate won! What is significant is the general refusal of the troops forcefully to quell the riot. The crowd chanted to them—you are our brothers, don't join the government. Large wall posters queried whether Communist tactics differed at all from the KMT's rigged election tactics. Although no deaths resulted, a similar incident occurred in the Changhua area. In Kaohsiung, the second largest city in Taiwan, a four day riot occurred over the same issue. There troops were brought in, but there was no violence. Whereas these incidents revealed the existence of mass based opposition, they also signaled the government that long-range pre-emptive measures must be organized to limit the power of this group.

THE NONPARTISAN MOVEMENT

Perhaps the best way to describe the movement is through its political platform. A ten point declaration was drawn up for the non-partisan convention called for December 25th, and to be held in the Ambassador Hotel in Taipei. However, the Garrison Command refused to allow the meeting. The Hotel was surrounded by military and police, and special agents waited inside to take pictures of all non-partisans who entered. Consequently, the platform was not fully discussed, and only a few signatures could be obtained. Nonetheless, the platform represents the consensus of the candidates.

Point number one demands the full implementation of constitutional government. This would include completely reelecting the representatives of the central government, the proclamation of self rule for all the cities, counties, and the province, the establishment of an independent judiciary, the severance of the military from KMT control, the protection of academic independence, freedom of speech, unobstructed debate, and repeal of the press censorship. At the heart of this plank of the platform is the charge to abolish martial law and to protect civilians from receiving military trials. Finally, the government is petitioned to respect personal dignity, i.e. to protect personal freedom, stop torture, illegal arrest and imprisonment, and to desist from invasion of privacy through wire taps and forced entries.

The remaining nine points of the platform focus on social and economic problems: administration of fair elections, creation of a national medical and unemployment insurance, aid to the farm population, enactment of basic labor laws which would guarantee collective bargaining (striking is a capital offense), enactment of tax reforms, creation of a reasonable sales system that will protect the producers and give protection for the income and rights of fishermen.

REACTION TO NORMALIZATION

For the government of Taiwan, normalization of relations between the United States and the People's Republic of China was a blow. But for the Taiwanese, it provided the opportunity to argue for independent development of their own island in their own self-interest.

Normalization produced a wave of anti-American demonstrations on Taiwan. The demonstrators were drawn from young students frightened by government propaganda about an imminent Communist invasion and from cadets of the military and government academies. These anti-American demonstrations did not reflect the views of the majority of the people there, many of whom actually welcomed normalization. Why? Because normalization destroys the myth which has justified the martial law and huge military expenditures used by the government on Taiwan to legitimize its claim to represent all of China. Normalization has encouraged those who wish to replace the ruling KMT Party, which represents the interests of mainland refugees, with a government reflecting the interests of the 17 million Taiwanese.

Among the leading critics of the myth is the Presbyterian Church, which in its Declaration of Human Rights in 1977 urged the Taiwanese to take "effective measures whereby Taiwan may become a new and independent country." Following President Carter's announcement, leading Presbyterians resolved to intensify their appeal for self-determination. They feel that the future of Taiwan is likely to be determined—unless there is direct interference from the mainland—by the struggle between the awakening Taiwanese and a weakened KMT.

The second major group to criticize the KMT's claim to rule all of China is the existing opposition party in Taiwan. One opposition candidate reflected the dominant views of his organization when he commented: "In the short run, normalization is bad because of its effect on the elections, but in the long run it is good because the KMT no longer can defend its claim to represent China. The Taiwanese now have a chance to rule their own territory."

A minority view within this opposition looks forward to reunification with the mainland—but under Taiwanese terms and based on widespread popular support. Supporters of this view argue that 10 years is needed to re-educate people away from anti-Communism thinking. Their great fear is that Peking either will become impatient and invade—thus producing tremendous disorder and loss of life—or will join with the United States in backing a KMT puppet regime over the island. The latter scenario would mean the stifling of internal reform and continuation of a semi-colonial status for Taiwan.

In sum, most self-conscious Taiwanese believe that normalization merely "recognizes the fact of 30 years of history." They have always agreed that the KMT should return to the mainland; they just disagree on why they have to pay for the KMT's financial and military preparations.

One politician, a former political prisoner, expressed this resentment and independence: "The KMT has neither the duty nor the right to forever assume full responsibility for national and governmental affairs. . . . We are all in the same boat, whether we continue to hold recovery of the mainland as an ultimate goal or whether we seek a temporary alternate route of survival."

Whether the Taiwanese are allowed to find such an "alternate route" to develop their own island in their own self-interest, or whether international powers will stifle them again, remains to be seen.

GOVERNMENT RESPONSE

The government had been well aware of the threat of the non-partisans. The Taiwan Garrison Command had prepared to interfere with the elections by means of a plan called "Operation Clear Sincerity." Concerned agents were to pay close attention to the every utterance of army personnel during the period approaching the election, and during the campaign itself. This was in order to differentiate the troops into those with strong KMT loyalties, and those who were less vocal in their "patriotism."

Ten days before the balloting, each household in the military dependent villages was to be visited, and three days before, to be given their "assignment cards," indicating to whom they were to give their "sacred ballot." On the day of the voting, party personnel were to be sent to drum up votes and furnish "necessary assistance" to achieve voter turnout in the military dependent villages. Soldiers known to be pro-KMT were to be given assignment cards, and on election day were to be ferried to vote in street clothes. Soldiers in vehicles, were to stop over 200 meters from the polling booth and get out and proceed to the station individually, and not in groups. This was to avoid giving people the impression that it was an operation organized by the military. Afterwards, the soldiers who had cast their "sacred ballot" would be given a day's leave.

Those believed to be of less sure loyalties, however, were to be given military duties which would prevent their leaving the base for the balloting station.

The military was instructed to maintain close collaboration with the election offices of their local KMT candidates throughout the campaign period. In the dependents' villages and on the bases, non-partisan and other "illegal" and "bad" publication, leaflets, fliers, posters, etc. that "distorted the truth" were to be found out and confiscated. People living in the villages were to be organized into hit squads that would leave their refuge for the battlefield of the election place and heckle non-partisan candidates, etc. The aim of this was to contribute to "mass opposition" to the "poisonous thoughts." Non-partisans were always to be referred to as "some social personages". Seven agents were to be assigned to each non-partisan election office to watch and create disturbances. During campaign activities such as rallies, the police would step in if "violence" was about to break out between non-partisan supporters and their "opponents"—and the latter whisked off to the safety of the local police station so that their agent provocateur identity would not be exposed.

But the suspension of the elections obviated the need of "Operation Clear Sincerity." The day following the announcement of normalization and suspension of the elections, President Chiang Ching-kuo "ordered the Executive Yuan to collect all opinions made by candidates during the campaign in the past week and send them to related departments for reference." (China Post, December 18). General Wang Ching-hsi, Commander of the Taiwan Garrison Command warned that application or martial law would intensify if "a small minority of conspiratorial elements, used by the communist bandit or Taiwan independence elements, take advantage of the situation to develop splittist, destructive or subversive activities damaging to national security and the people's welfare. Illegal activities include the holding of illegal marches or assembles." General Wang then commented that he was pleased to see that all the (non-partisan) campaign posters had been ripped down. The following day, December 18, President Chiang declared to a high-level KMT meeting, "Taiwan is always a part of the Republic of China and anyone talking of an independent Taiwan is betraying his country and people. We will not allow talk, organizations, or actions like that to exist on this bastion."

Nonetheless, the non-partisans continued to organize. Seventy-seven year old Yu Teng-fa, a former magistrate of Kaoshiung County, became the head of the opposition and called another conference for Februrary 1, 1979. However, on Jan. 21st he was arrested on charges of having "met and discussed subversive matters" with a communist agent. He was forcibly taken out of his home and his family could not learn of his whereabouts. Two days later, the KMT suspended publication of China Tide, a major forum for the opposition. In addition rumors vilifying non-partisan's moral and political behavior were circulated, and posters were pasted on walls which called for the death of oppositionist candidates. A non-partisan official explained: "We accepted the suspension of the elections because it was a defensive move by the Kuomintang. But the arrest of Yu. . . . is an attack on us." Another opposition politician said: "I'm not optimistic about the future." (See "Far Eastern Economic Review" Feb. 2, 1979).

Most recently, in order to attack anyone critical of the KMT the Taiwan Garrison Command announced that during the period January 20th to February 19th, over a million security agents, reserve troops, policemen, military police, and aboriginal youth would be mobilized for an all-out day and night effort to root out all kinds of "criminals and subversives."

CONCLUSION AND RECOMMENDATION

In concluding, I would like to bring to your attention the speech of a Catholic Father on December 10th, 1978 on the occasion of the 30th Anniversary of the Universal Declaration of Human Rights. Despite intensive pressures by the KMT threatening the laymen and priests if they attended the ceremony, the celebration was well-attended. Speaking in Taiwanese, the priest expressed the bitterness of his situation: "When I tell a poor man not to steal a chicken, everyone praises me and says that this is what the Church should do. On the other hand, when I tell a legislator not to steal, I am accused of being involved in politics." He told his flock that Human Rights is not just the job of a church specialist but is "now regarded as a basic responsibility of every Christian." He then elaborated on the rights which were lacking in Taiwan. Primary among them were the right to just economic order, right of conscience and political participation, and the right to a secure life.

I entreat this Senate Committee to consider seriously the human rights of the people on Taiwan. The initial means to accomplish this is to understand that the KMT does not express the wishes of the majority of the Taiwanese. For many Taiwanese the Senate's worry about the possibility that Peking might attempt to solve the "Taiwan question" by force begs the issue if at the same time the Senate neglects the reality of the KMT's seizure and control of Taiwan.

Taoyuan County Magistrate Hsu Hsin-liang, a leading member of the non-partisans and currently under KMT harassment, warned that, "if the government and ruling party do not have the confidence to move democracy and freedom but attempt to suppress the movement for democracy by force, they will fall in the same way as the Shah of Iran."

The U.S. Government should ensure that the people on Taiwan have the opportunity to pursue their rights and welfare. Their desire to express their own position of the future of Taiwan without KMT or outside threats should be respected. Most important is to remove U.S. government policies and support from furthering the exercise of martial law. Second, advise the Undersecretary of State for Human Rights that the conditions of the Taiwanese are still of great importance to U.S. policy. This can be effectuated by insisting that whatever continued relations are established with Taiwan, a person fluent in Taiwanese be directly involved in U.S.-Taiwan contacts. Third, appoint a study Committee to research the political-social-and-economic conditions of Taiwan. Although we cannot make up for past neglect, we should not repeat it.

Finally, it is in our self-interest to end our involvement in the civil war in China. A genuinely democratic, and economically and socially sound Taiwan will be a benefit to Beijing, Taipei, Tokyo, and Washington, D.C.

Mr. DURENBERGER. Mr. President, Dr. Kagan has been a frequent visitor to Taiwan. He last visited Taiwan from December 14 to 28, 1978, on behalf of the Clergy and Laity Concerned and had an opportunity to investigate the political situation first hand and in depth.

Some of the crimes punishable by death are: circulating rumors and beguiling the public; strikes; and the very ambiguous and convenient category of inciting rebellion.

I should like to address a few questions to the distinguished Senator from Rhode Island.

In light of this evidence of a lack of democracy and self-determination, I would like clarification of section 107 of this bill. Specifically, what monitoring of the political situation will be done by the AIT? Will there be a specific official assigned to report to the State Department? And does section 107 effectively require ongoing and regular reporting to Congress?

Let me say, in conclusion, that I do not raise these issues as an abstract statement of moral concern. I am confident that many of us in this Chamber would like to see a greater embodiment in our foreign policy of the principles of "just consent of the governed" and for the self-determination of all peoples. From a practical as well as strategic point of view, I believe that our security, economic and overall foreign policy interests are linked inextricably to political stability in Asia. Yet, it is possible that the ROC Government may be inciting greater instability through its repression of the huge majority of the population who are native Taiwanese. In Iran, we have seen all too bluntly what can happen when we stress support of foreign governments and pay too little attention to the rights and interests of people.

As we consider this bill, I am concerned that we lose sight neither of our long-term strategic interests nor, more importantly, of our historic commitment to the right of all people to national self-determination.

Mr. PELL. I thank my colleague for his remarks and kind words.

Mr. JAVITS. Mr. President, will the Senator yield to me momentarily?

Mr. PELL. I yield.

Mr. JAVITS. Mr. President, I have been advised that this is Senator DURENBERGER's maiden speech, and I congratulate him, on behalf of the minority, for this speech. He could not have chosen a topic more characteristic of the freedom-loving nature of the people he represents in Minnesota.

This is a very key, deeply troublesome, and aggravating point. I do not wish to interfere in any way with the answers. Perhaps I will join in the answers. I just wish to congratulate the Senator on speaking up for the people of Taiwan the way he has done in his maiden speech. It does great credit to him and the State he represents.

Mr. DURENBERGER. I thank the Senator.

Mr. PELL. Mr. President, I join in congratulating the Senator from Minnesota. I did not realize it was his maiden speech. It was delivered effortlessly and professionally.

In answer to the Senator's question as to who would have the responsibility for monitoring the human rights involved here, the man responsible for that function would be the Foreign Service officer who is assigned to that post as a so-called human rights officer. He, in turn, would be under the supervision of the man—he would not be Ambassador; I do not know what he would be called—who is in charge of the institute. He would be the man responsible, and his reports would be sent to the State Department and would be made available to us if we wished to see them.

Mr. JAVITS. Mr. President, does that terminate the colloquy?

Mr. PELL. I yield the floor.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Virginia.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. I yield to the Senator from Arizona.

Mr. GOLDWATER. I thank my friend from Virginia.

Sitting here this afternoon listening to the colloquy, I was rather particularly impressed by the lack of knowledge that was displayed on exactly what the Constitution says in this field, but more particularly what our Founding Fathers had to say in this important field. I simply wished to interrogate my friend.

For example, John Jay wrote in the Federalists, and this relates to the problem we are talking about:

> They who make laws may, without doubt, amend or repeal them; and it will not be disputed that they who make treaties may alter or cancel them.

I think that leads toward the idea that the Senate has to participate in the abrogation of treaties, particularly defense treaties. Will the Senator agree?

Mr. HARRY F. BYRD, JR. I think the Senator from Arizona is quite right.

Mr. GOLDWATER. Every one of us has a book on his desk, or he should have, called the Rules and Manual of the Senate. These rules still include a precedent which was set forth by Thomas Jefferson who, as we all know, compiled the first manual of rules and practices of the Senate when he was Vice President. He said, and I quote, and it is in the manual:

> Treaties being declared equally with the laws of the United States, . . .

And get this:

> . . . to be the Supreme Law of the Land, it is understood that an act of the legislature alone can declare them infringed and rescinded.

Was the Senator aware of that language by Thomas Jefferson?

Mr. HARRY F. BYRD, JR. Thomas Jefferson was perhaps somewhat closer to the Constitution and understood it better than the lawyers down at the Department of State. I think that his statement is a highly significant statement, and I thank the able Senator from Arizona for reading it to the Senate.

This clear statement by Jefferson further emphasizes the fact that a President cannot unilaterally, acting on his own, abrogate what becomes, as the Senator from Arizona pointed out, the supreme law of the land once the Senate concurs and approves it as a treaty.

Mr. GOLDWATER. He can no more do that than he can repeal any law that might be on the books because, if we agreed, by any action that we do or do not take in this body, that the President has this power, then a treaty being a law, I suggest that any law that the President does not like he can repeal.

Mr. HARRY F. BYRD, JR. That certainly sounds logical to the Senator from Virginia.

Let us take a case. The Senator from New York (Mr. Javits) several years ago developed legislation regarding Presidential war powers. I think the Senator from Arizona opposed that.

Mr. GOLDWATER. That is right.

Mr. HARRY F. BYRD, JR. The Senator from Virginia favored it, and I voted with the Senator from New York and supported that.

But it certainly seems logical that if a President can unilaterally set aside a treaty then he can also unilaterally set aside the War Powers Act which seeks to curb the powers of his office and which does curb the power of his office.

If he can set aside a treaty, why can he not set aside any other law on the statute books, as the Senator from Arizona suggested? I think the Senator is quite right. Obviously, the President cannot.

I think too that we should note that the Constitution does not provide specifically a method for repealing a statute yet no one asserts that the President can void a statute without Congress. He cannot void a treaty without the Senate.

Mr. GOLDWATER. I may continue, Mr. President, if the Senator will yield further.

Mr. HARRY F. BYRD, JR. I yield again.

Mr. GOLDWATER. The same parallel between laws and treaties was made by James Madison. On January 2, 1791, less than 4 years after the Constitutional Convention, he wrote a detailed exposition on treaties to Edmund Pendleton in connection with the Treaty of Peace with Great Britain explaining:

> That the Contracting powers can annul the Treaty can not, I presume, be questioned, the same authority, precisely, being exercised in annulling as in making a treaty.

I see my friend from New York is in the Chamber.

I think this question has to be turned over in the minds of those Senators intending to vote either this afternoon or tomorrow. If the President can abrogate this particular treaty, is it not true that he can abrogate treaties with NATO without coming to us for advice and consent?

Mr. HARRY F. BYRD, JR. I certainly think so. The purpose of the pending amendment is to make clear to a President, that mutual defense treaties cannot be terminated without the question of termination being submitted first to the Senate.

Mr. GOLDWATER. I further ask the Senator if he does not think it is true that the President could also unilaterally pull out of the United Nations Charter Treaty without even asking us whether it is all right.

Mr. HARRY F. BYRD, JR. Well, if the Senate accepts the precedent that the President, acting alone, can abrogate or eliminate the treaty of friendship with Taiwan, by the same reasoning he can certainly abrogate any other treaty that the United States has ratified.

That is why I think this amendment is so vitally important way beyond the question of Taiwan.

That is only one treaty. We have a dozen or more treaties, mutual defense treaties, such as NATO, which the Senator from Arizona just mentioned, which are vitally important to the United States and vitally important to the entire free world.

Mr. GOLDWATER. I wanted to engage the Senator from Virginia on this question because while the Constitution is not too precise in this field—and I think the Senator would agree to that——

Mr. HARRY F. BYRD, JR. Yes. But neither is it precise in specifying a mode for rescinding statutes; it only states how they may be enacted.

Mr. GOLDWATER [continuing]. Nevertheless, the Founding Fathers, in my opinion, made it very clear that the power to make treaties rested in part with the Senate or the entire Congress, and the power to repeal or abrogate a treaty rested with the Senate or the entire Congress.

I believe I am correct in saying that there has only been one defense treaty abrogated in the entire history of our country, that was by an act of Congress either just during the end of Adams' time or during his time. The Congress did it, and the President later agreed to it.

So I wanted to get these points made if I could, thinking that possibly we might not vote tonight, and that some of the Members who are not present, thinking we would not vote today, could have a chance to read these comments in the Record tomorrow.

I will just close by observing that in his careful analysis of the treaty abrogation power, Madison did not once consider the possibility of the President alone terminating a treaty, even where the other side had committed a breach of it, which offers an insight, in my opinion, into what the Founding Fathers thought about the subject.

I want to thank the Senator from Virginia, the State which is the home of one of my favorite liberals, Tom Jefferson, who did so much to make this country what it is.

I hope when we do get ready to vote that our colleagues in this body will pay very careful attention to what the Founding Fathers said about this, and the fact that this is the first time a President has ever tried this.

I thank the Senator for yielding.

Mr. JAVITS. Mr. President, does the Senator from Virginia have the floor?

Mr. HARRY F. BYRD, JR. Could I just make a brief comment?

May I just say that the able Senator from Arizona has made a most significant contribution to this debate.

I think the facts and statements that the Senator from Arizona has made available to the Senate should be tremendously helpful to the Members of the Senate in deciding how to vote on the pending legislation.

Undoubtedly the Senate, if it wishes, can say, "Well, we will table this amendment; we will vote it down. We do not want to have anything to do with the treaties after they are made. We will just let the President do whatever he wants." We have the authority to do that. Those Senators who want to do that certainly have the right to so vote.

The Senator from Arizona and the Senator from Virginia happen to take a different course. We believe the Senate has a constitutional role to play, just as the report of the Committee on Foreign Relations states. Here is the time to play that role.

Those who do not want to participate in it can say, "We are going to vote down this amendment. We are going to table it. We are going to oppose it one way or another. We are going to get rid of it some way."

Well, that is all right. The Senator from Arizona and the Senator from Virginia have been on losing sides before. It is nothing new to us.

But I just wonder why a person would want to be in the Senate if he is going to abdicate a vital constitutional role, namely, the role of the treatymaking process and, as the report of the Committee on Foreign Relations says, "the constitutional role to participate in the process of treaty termination?"

As the entire history of our country shows, going back to the lines quoted a moment ago by the Senator from Arizona from passages written by Virginians, incidentally, Thomas Jefferson and James Madison, the entire history of our country shows that it was certainly the clear view of those famous men of that era, and I think it is certainly logical, as the Senator from Arizona mentioned in his earlier remarks, that if a President could unilaterally set aside what is known as the supreme law of the land, then if he could do that in this case then he could do that in many, many other cases, including statutes of the Congress.

Here is an opportunity for the Senate to express its own view on this vital issue, and I associate myself with the Senator from Arizona, and I am proud to stand with him.

Mr. SARBANES. Mr. President, will the Senator from Virginia yield for a question?

Mr. GOLDWATER. I might just remind my colleagues that last fall we passed a resolution asking that the President come to us before he did anything about this treaty, not just his body, but the other body, too. I think there were four votes against it in the entire Congress. I may be wrong, but I think it was that. So while it was not law, it was certainly an expression of the Constitution the President should have understood.

I thank the Senator from Virginia for yielding.

Mr. HARRY F. BYRD, JR. I yield to the Senator from Maryland.

(Mr. BAUCUS assumed the Chair.)

Mr. SARBANES. Is the approval to which the Senator refers, the approval of the Senate, is that by a majority vote of the Senate?

Mr. HARRY F. BYRD, JR. Approval is ordinarily in that form; what is critical is that some formal legislative action occur.

Mr. SARBANES. The Senator means it would take two-thirds to ratify the treaty but that only a majority could terminate it?

Mr. HARRY F. BYRD, JR. I think it could. However, if the Senate would prefer to have it spelled out as two-thirds I would be willing to accept such a proposal.

Mr. SARBANES. I do not have an answer for the Senator from Virginia on that question which, I think, is a rather important one. That question, however, is one of the reasons that seems to me to support the suggestion made earlier in the afternoon by the managers of the bill that an amendment of this sort which raises some very basic constitutional questions, ought to be the subject of hearings.

I appreciate the thrust of some of the arguments which the Senator from Virginia has advanced. On the other hand, as a matter of logic one could quite easily argue that if it takes two-thirds to approve a treaty it ought to take two-thirds to terminate a treaty.

Let me ask the Senator from Virginia this question: Does the Senator feel that the Senate could terminate a treaty if the President did not wish a treaty terminated?

Mr. HARRY F. BYRD, JR. Well—possibly the entire Congress; I believe that has happened once already.

Mr. GOLDWATER. Mr. President, will the Senator yield at that point?

Mr. HARRY F. BYRD, JR. Yes.

Mr. GOLDWATER. I might say the only treaty, defense treaty, that has ever been abrogated was done precisely that way by the entire Congress.

Mr. SARBANES. The entire Congress, the House and the Senate.

Mr. GOLDWATER. Just a moment. If the Senate did not choose to do it, then the whole Congress could do it. But it does require a two-thirds vote in the Senate to abrogate a treaty when they are asked to do it alone or the President sends down a message he wants it done that way which, I think, is the proper way.

Mr. SARBANES. Well, now, can Congress, meaning the House and the Senate, terminate a treaty?

Mr. GOLDWATER. That was the case, as I related earlier, either at the end of Adam's term or thereabouts. They abrogated a treaty with France. Later the President came back and approved what Congress had done.

If the Senator from Virginia will allow me, I ask unanimous consent to have printed in the RECORD at this point the history of the terminations of 51 treaties or treaty provisions that have taken place during the history of our country since July 7, 1798.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TERMINATION OF TREATY OR TREATY PROVISION WITH LEGISLATIVE ACTION (51) [1]

A. Termination with legislative approval or ratification (48) [2]

Authorizing legislation, treaty, and total treaties affected:

Act of July 7, 1798, 1 Stat. 578, French-American Treaties of 1778–1788, 4.

H.J. Res. of April 27, 1846, 9 Stat. 109, Convention on Boundaries with Great Britain, 1.

S. Res. of March 3, 1855, 9 Senate Executive Journal 431, Commercial Treaty with Denmark, 1.

J. Res. of Jan. 8, 1865, 13 Stat. 566, Reciprocity Treaty with Britain, 1.

J. Res. of June 17, 1874, 18 Stat. 287, Treaty of Commerce and Navigation and Commercial Convention with Belgium, 2.

Act of February 26, 1883, 22 Stat. 641, Amity Treaty with G. Britain, 1.

J. Res. of December 21, 1911, 37 Stat. 627, Treaty of Commerce and Navigation with Russia, 1.

Seamen's Act of March 5, 1915, 38 Stat. 1164, Several treaties and conventions, 25.

S. Res. of May 26, 1921, 61 Cong. Rec. 1793, International Sanitary Convention, 1.

Treaty on Principles and Policies Concerning China (Nine Power Agreement) of February 6, 1922, 2 Bevans 375, Treaty of Commerce and Navigation with Japan, 1.

1944 Chicago Convention on International Civil Aviation, 3 Bevans 944, 965, 1928 Pan American Convention on Commercial Aviation, 1.

1946 Convention for the Regulation of Whaling, 4 Bevans 249, 1937 Convention for the Regulation of Whaling, 1.

Trade Agreements Extension Act of 1951, 65 Stat. 72, Treaties of Friendship, Commerce and Consular Rights with Hungary and Poland, 2.

1948 Convention on Safety of Life at Sea, 1929 Convention on Safety of Life at Sea, 1.

Foreign Assistance Act of 1961, 75 Stat. 424, Commercial Convention with Cuba, 1.

Export Control Act of 1948, 50 USC App. 2021 et seq.

Trading with the Enemy Act, 50 USC App. 1 et seq.

Mutual Assistance Act of 1954, 22 USC 1934.

Inter-American Treaty of Reciprocal Assistance of 1947, 4 Bevans 559.

Cuban Resolution of 1962, 76 Stat. 697.

Byrd Amendment of 1971, 85 Stat. 427, § 503, "One aspect of our treaty obligations under the U.N. Charter." *Diggs* v. *Shultz*, 470 F. 2d 461 (D.C. Cir. 1972), 1.

Fishery Conservation and Management Act of 1976, 16 USC 1801, Three Conventions on Fisheries, 3.

B. Termination with implied authority conferred by inconsistent legislation (3) [3]

Date of legislation, treaty, and total treaties affected:

Tariff Act of July 24, 1897, 30 Stat. 151 Commercial Convention with Switzerland, 1.

National Industrial Recovery Act of 1933,

Footnotes at end of article.

48 Stat. 195, Convention on Abolition of Import and Export Prohibitions and Restrictions, 1.

Trade Agreements Act of June 12, 1934, 48 Stat. 943, Treaty of Commerce and Navigation with Italy, 1.

FOOTNOTES

[1] One incident of Congressional ratification of a Presidential notice is not included in the table because notice was withdrawn before the treaty was terminated. In 1865, shortly after President Lincoln had notified Great Britain of our withdrawal from the Rush-Baggot Convention regulating naval forces upon the Great Lakes, Congress defended its power in the field by passing a Joint Resolution based on the principle that Lincoln's action was invalid until ratified and confirmed by Congress. H.J. Res. of Feb. 9, 1865; 13 Stat. 568.

[2] Congress terminated all existing treaties of the Hawaiian Islands with foreign nations in the Joint Resolution of July 7, 1898, but the action is not included in the table because those treaties were not ratified under the Constitution.

[3] Another treaty which was terminated because of inconsistent legislation is the 1891 Treaty of Amity, Commerce and Navigation with the Independent State of the Congo. In 1916, Belgium, which had annexed the Congo, twice denounced the whole treaty after Congress directed the termination of a substantive article thereof in the Seamen's Act of 1915. The treaty is counted only once in the above tables, being included with those treaties affected by the Seamen's Act in Table A. Termination of the treaty is reported by the State Department under the heading "Abrogation of Treaties and Provisions of Treaties which Conflicted with the Seamen's Act of March 4, 1915," Foreign Relations, 1920, vol. 1, pp. 207–209.

Mr. SARBANES. Will the Senator from Virginia continue to yield for further colloquy?

Mr. HARRY F. BYRD, JR. Go ahead.

Mr. SARBANES. Is it the view of the Senator from Virginia that the Congress, meaning the House and the Senate, can terminate a treaty?

Mr. HARRY F. BYRD, JR. A treaty being in the nature of a statute, I suppose that Congress, by joint action, the two Houses acting together, could do it. It has already happened at least once. I believe it was in 1798.

Mr. SARBANES. But is it the Senator's view that the Senate alone could terminate a treaty?

Mr. HARRY F. BYRD, JR. I would not think the Senate alone could do it, no. Under most of the treaties we have, as the Senator from Maryland knows, the provision that termination may be undertaken by either party only after 1 year's notice implies that such termination will be done in accordance with a party's internal constitutional process.

The Senator from Virginia contends that "either party" means either government. Under our form of government, the Senator from Virginia contends, it is the executive branch and the legislative branch acting together which forms the Government or the "party" which may terminate after 1 year's notice.

Mr. SARBANES. Well, of course, we could write into a treaty prior to ratifying it provisions defining what we mean by "party" in terms of terminating a treaty.

Mr. HARRY F. BYRD, JR. Certainly. But it is patently clear that "either party" means, in this case, either the United States or Taiwan. Any other conclusion would not be logical.

Mr. SARBANES. There is legal authority that says that "party" means the President, and termination has occurred in the past on that basis. That has been a part of treaty law, and that is what has taken place.

Mr. HARRY F. BYRD, JR. If the Senator will yield at that point, I think he will find that no mutual defense treaty has been unilaterally abrogated. And all that has happened here is that notice has been given. "Either party" may now terminate or not terminate as each sees fit, in accordance with its own constitutional process.

Mr. LONG. Mr. President, will the Senator yield to me at that point?

Mr. HARRY F. BYRD, JR. I yield.

Mr. LONG. I came into this discussion rather late in the game and have not heard all the profound discussion of this matter one way or the other, but it was my impression that the authority is made clear by article VI of the Constitution, which reads:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof, and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land, and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The impression I gather from that article is that a treaty signed by the President and ratified by a two-thirds majority of the Senate is the law, and if you have a later law to the contrary, it would supersede that law. In case of conflicting laws, whichever law is the latest of the two would prevail. That is the impression that I have.

If you want to repeal a law, you have to do it with another law. The Executive can make agreements, but he is sworn to uphold the law himself, so that he cannot repeal a law just by saying "I just don't like the law; I am not going to abide by it."

If one of us tried to do that, we would be put in jail. They would say, "You don't have the right to decide what law you are going to abide by or what law you are not going to abide by." As I say, they would put us in jail.

I am told the Attorney General has stated in recent years that even the President is subject to the law and has to abide by it, or get in deep trouble. So I just cannot understand how, if you make a law, it would cease to be the law unless you repeal it by a subsequent law or amend the Constitution. Can the Senator explain to me how you go about repealing a law? A treaty is described here as being the supreme law of the land. It is described, with the Constitution and the statutes, as being the supreme law. How can the President abrogate a law, just by saying, "I don't like it any more, it no longer suits our purpose, out with it"? How can you repeal a law just by the Chief Executive saying he is tired of it?

Mr. HARRY F. BYRD, JR. I am just as much in the dark about that as the Senator from Louisiana is. A President can veto a bill before it becomes law, of course. But once legislation becomes law, whether it be a treaty or a statute, I am certainly of the same persuasion as the Senator from Louisiana, that the President by himself cannot repeal that law, that it takes joint action with Congress to do that.

Mr. LONG. It totally baffles me try to understand how a law could be amended by the stroke of the pen of the Executive, unless Congress has acquiesced in that, or unless the Senate has acquiesced by a two-thirds vote as to a treaty. I do not understand how a treaty could be repealed by a simple declaration of the President.

Mr. HARRY F. BYRD, JR. The Senator from Virginia does not understand how that would be done—at least constitutionally—either. If that can be done, it seems to me that ratification of treaties by this body serves little purpose.

Mr. GLENN. Mr. President, will the Senator yield?

Mr. LONG. A President once told me that he could not do everything by just a stroke of a pen, but that was a way of changing a policy in a department.

Mr. HARRY F. BYRD, JR. An Executive order.

Mr. LONG. Yes, an Executive order, telling the people working under him or his cabinet officers that they are to do business in certain ways, because he thought it was wrong to do business otherwise.

That, I think, is strictly within the ballgame. There are all kinds of Executive agreements the President can make, as long as he can get us to uphold them. A succeeding President could respect them or not respect them, depending on his view of the matter.

But I fail to see how a treaty can be treated so casually.

Mr. HARRY F. BYRD, JR. The Senator from Louisiana has been around this Chamber almost as long as any Senator, with two or three exceptions. In all those years, can the Senator from Louisiana recall a time when any President—and he has served under many of them—has attempted unilaterally to strike down either a major treaty or a major piece of legislation by his own act, without the acquiescence of Congress?

Mr. LONG. I cannot recall it.

Mr. GLENN. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. Yes.

Mr. GLENN. I think all the questions that have been raised by the Senator from Maryland are very good questions; and the discussion which the Senator from Louisiana, the Senator from Virginia, and the Senator from Arizona have had indicates the lack of certainty and lack of knowledge that we have with respect to what is constitutional and what is not, the time that would be required to abrogate or to go through a deratification process, what the voting numbers should be, whether it be a majority or whether it be two-thirds, and so on.

All of these are very relevant questions to the proposal of the Senator from Virginia. I would like to state again that I would be happy to accept this as a matter which the Foreign Relations Committee should look into, hold hearings and get a hearing from our constitutional scholars in on both sides. Although we have not looked into this question indepth, we had no intention of dodging this. Since it was being brought up in the court, we expected that this issue would be thoroughly examined. If we were required to take action after that, we would be willing to. Certainly, court action would not preclude any action we might want to take, either pro or con. But the complexity and great importance of this matter leads me to caution against passing it on a hasty basis tonight just to get it on this bill.

I would be happy to accept this for the Foreign Relations Committee, to have hearings on it, to look into it indepth, and bring it back to the floor. I would sincerely hope, as I expressed earlier, that the Senator from Virginia would take that course, rather than forcing a vote upon us tonight, when we are, obviously, ill-prepared to consider something of this magnitude.

Mr. HARRY F. BYRD, JR. I thank the Senator from Ohio. I think this proposal we have before us tonight, if adopted, would not in any way preclude the hearings that the Senator from Ohio has generously indicated he would hold. I want to again read just what we will be voting on, if and when we are able to get to a vote. It just says this:

> It is the sense of the Senate that approval by the Senate of the United States is required to terminate any mutual defense treaty between the United States and another nation.

We are expressing our own view. Certainly we have a view as to whether we do or do not have a role. The Foreign Relations Committee report on page 19 states we have a constitutional role, right here in black and white.

Mr. GLENN. Will the Senator yield in that regard?

Mr. HARRY F. BYRD, JR. Yes.

Mr. GLENN. The Senator has quoted repeatedly that particular part of the report today. I can only say that he is well aware that these hearings and the reports that follow do not have the force of law behind them nor are they anything but expressions of opinions. In fact, sometimes there are errors. I was surprised when I read that particular part, because I think it overstates the situation and should not have been there. I am certain that if we took that back to the committee, had everyone read that particular item and vote on it, that language would have been stricken from the report. So I hope the Senator from Virginia will not pin us to the wall too hard on the exact language of the committee report.

Mr. HARRY F. BYRD, JR. I think those of us who are not on the committee have to be governed to some extent at least by the committee report. It is certainly a clear report. I had not heard any member of the committee object to it until I brought it up. As a matter of fact, the committee——

Mr. GLENN. I objected to it. I agree with the Senator objecting to it.

Mr. JAVITS. I objected to it before, long before it was brought up. In the colloquy with Senator HELMS. I told him that I thought this was overstated. And also with Senator GOLDWATER.

Mr. HARRY F. BYRD, JR. The fact is that this is a committee report. It was submitted to the Senate by the Foreign Relations Committee.

Certainly, the Members of the Senate have some reasonable right to accept this report and the accuracy of the report, particularly when the report dovetails precisely with what the Senator from Arizona has been saying, and many other Senators have been saying, and with what the Senator from Louisiana has been saying, that a President cannot particularly when the report dovetails exactly with the arguments made by those two Senators as well as with those of my colleague from Virginia, and with those two Senators as well as with those the Senator from South Carolina, and many other Senators in this Chamber.

As for the precise amendment which the Senate hopefully will be permitted to vote on at one time or another, it is clear. We do not need any public hearing to know what our own judgment is as to whether it is the sense of the Senate that approval by the Senate of the United States is required to terminate any mutual defense treaty between the United States and another nation. We either feel that way or we do not.

Mr. GLENN. If the Senator from Virginia feels that way, can he give very specific clearcut answers to all of his 99 colleagues on the issues raised by the Senator from Maryland? What would be the number of people who would vote on this?

Mr. HARRY F. BYRD, JR. This says that the question of termination of any mutual defense treaty shall be submitted to the Senate by the Chief Executive. I think that is clear. I would have no objection to requiring a two-thirds vote if the Senate feels that is desirable.

Mr. SARBANES. Will the Senator yield?

Mr. HARRY F. BYRD, JR. Yes.

Mr. SARBANES. I want to respond in part to some of the comments made also by the Senator from Louisiana.

There are two separate issues. One is should the President alone be able to terminate a treaty? That matter is the subject of a suit now pending in the courts. There is historical precedent for the view that he can. I can envision a situation in which we would want the President to be able to terminate a treaty and to move quickly. I suggest to the Senator from Virginia if he thinks about it he could also envision like situations in which the President, possessing the Executive power, has to move quickly and terminate a treaty.

We cannot make a treaty unless the President submits it to us. There is no way that the Congress, the House and the Senate, or the Senate alone, can make a treaty of its own initiative. It must be submitted to us by the President. In that respect, treaties are very different from statutes.

That issue is a very complicated constitutional question. The way to address it if it is desired to have a Senate role in the formulating may well be to spell it out in the resolution of ratification. The Senator from Arizona is in court on this issue. He has testified before our committee and has raised some very interesting questions.

Leaving the question of termination by the Executive alone to one side, there is still the very difficult question of how do you terminate a treaty even if it requires more than the Executive alone.

This amendment itself by the statement of the Senator from Virginia is unclear as to whether you do it by a majority vote of the Senate or by a two-thirds vote. If you do it by a majority, what is the logic of requiring two-thirds to approve a treaty and a majority to terminate it?

On the other hand, the Senator from Louisiana when he drew his analogy to repealing a law, said that the Congress could repeal a law. That is quite true. But the Congress is the House and the Senate and, it takes both to repeal a law just as it takes both to pass it.

Mr. JAVITS. And the President.

Mr. SARBANES. I will get to the President in a minute.

It is the House and the Senate acting together by a majority vote that pass and repeal laws. Yet you make a treaty by two-thirds of the Senate without action by the House. It is now suggested you can repeal it by a majority vote of the House and the Senate. Can a President veto the repeal of a treaty passed by a majority of both Houses? If he does, can the Congress override his veto of the repeal of a treaty by a two-thirds vote in both the House and the Senate?

Suppose a President does not want to terminate a treaty to begin with? Can we initiate the termination of the treaty in the Congress? Can the House of Representatives initiate the termination of a treaty? Can the House pass a resolution terminating a treaty and, if so, what vote would be required? If the House sent such a repeal over to us what would we then do with it? If we passed it, by what vote? Would the President have a veto authority with respect to the termination of that treaty?

I have raised all these questions really to underscore and subscribe to what the Senator from Ohio has suggested. There are a great number of unanswered questions. Even if you take the most narrow view of the amendment offered by the Senator from Virginia there will remain unanswered questions. It seems to me that the suggestion made by the Senator from Ohio that there is a need to delve into this matter in a very careful and considered way, is a very good suggestion.

All the questions raised concerning the very difficult issue of how one proceeds in this area makes the counsel that the Senator from Ohio was offering earlier particularly wise and prudent counsel.

Mr. GOLDWATER. Will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield to the Senator from Arizona.

Mr. GOLDWATER. I think this is a good point to get some history into this. That is why I absented myself from the floor long enough to look up some things that I do not think have been in the RECORD yet.

The answer to how a treaty is terminated is in history. The normal procedure for terminating treaties is by joint action of the President and Congress or the Senate. On 51 occasions, treaties have ended with legislative action. In only four instances have treaties been ended without legislative action, and that was done under international law, such as the principle that a treaty ends if the other nation goes out of existence—as in the case of the Netherlands, which I mentioned was in the days of Adams.

The Senate did not have a specific reservation to treaties spelling out the power of the Senate to act on treaty termination because it was obvious that, during all of history, the Senate has participated in this act under treaties identical to the language of the notice provision in the Taiwan treaty.

I just wanted to make that a matter of history so that we know what we are up to. We are establishing a precedent by allowing the President to get away with this. As I said earlier, if the President cares to send a message to the Senate saying he wants to abrogate this treaty, there is no question in my mind that the Senate will comply with the President's request. So we are not trying to knock down any decision of the President. I think we are just trying to keep the record straight and trying to keep the President on the right track so that somebody might not come along someday and say, "I am tired of NATO," sign his name and we are out of NATO; "I am tired of the U.N.," sign his name and no more U.N.; "I don't like this law against this," sign his name, and no more law.

I think it is very simple, what we are talking about. I do not think it is complicated. I think 201 years of history stand behind those of us who are arguing on behalf of the proposal of the Senator from Virginia.

I thank my friend from Virginia for having yielded again.

Mr. HARRY F. BYRD, JR. I yield to the Senator from North Carolina.

Mr. HELMS. I thank the Senator.

Mr. President, also very clear is the Senator's intent in his amendment. You can drag in all these "what ifs" and other hypothetical things, but the point is that this question would not be before the Senate if the President had sent it to the Senate and had conferred with the Senate and given the Senate an opportunity to act on it.

As I understand it, the position of the Senator from Virginia is very clear. He is saying, and I am putting this in the form of a question to him, the Senator is saying and saying no more than this: The President can give notice of intent to terminate, but he can terminate only after he receives authority to act by statute authorizing him to terminate a treaty.

Mr. HARRY F. BYRD, JR. The Senator from North Carolina is quite correct.

Mr. HELMS. That is very simple. I do not know that we need to have extensive hearings on this. A Senator is either in favor of the Senate's exercising its responsibility or a Senator is not in favor of that. That is what the Senator from Virginia is saying, is it not?

Mr. HARRY F. BYRD, JR. That is correct. I see no objection to hearings if the Senate will pass the amendment now pending. That does not preclude hearings. If they want to have hearings and go into other details, that is perfectly satisfactory with me.

I would think that the Senate would want to make clear its own view, and that is what it is expressing, its own view that the Senate has a role in the treatymaking process and in abrogating a treaty.

There is no need to write this procedure into each new treaty nor to amend the ones already ratified. It is clear from the face of the Constitution; there is no more ambiguity here than there is in the constitutional provisions for making statutes. We do not write into each statute the method of repeal; nor do we do it in treaties. All that is written into a treaty is that, as a matter of international law, 1 year's notice will be given before, pursuant to internal constitutional process, abrogation will occur, or not occur, as the case may be.

Mr. HELMS. It is amazing to me that, depending on which side of an issue a person may be on, his opinion may change. I notice the discussion about arithmetic, whether it is a majority vote or two-thirds. They had no problem with that arithmetic when the matter of extending the ERA ratification period was up. Those of us who tried to say, "two thirds," heard, "Oh, no, a majority vote is just right." But when the Senator from Virginia comes forward with an amendment that is just as clear and simple as it can be, the question is, "Oh, is it 51 votes or two-thirds, or what?"

By the way, when are we going to vote on the Senator's amendment?

Mr. HARRY F. BYRD, JR. The Senator from Virginia has been ready for 2 or 3 hours.

Mr. HELMS. So has the Senator from North Carolina. I ask the distinguished acting minority leader: When will we vote?

Mr. JAVITS. As soon as the Senator from Virginia sits down, I shall put the question.

Mr. HELMS. Is that an answer to my question?

Mr. JAVITS. Yes.

Mr. HELMS. Then I say to the Senator: sit down.

Mr. JAVITS. Mr. President, I am going to take my text from the Senator from Virginia. He says the words are plain, just as written. It says:

> It is the sense of the Senate that approval by the Senate of the United States is required to terminate any mutual defense treaty between the United States and another nation.

So he wishes us to adopt the proposition that it is not approval by the Congress, it is approval by the Senate and, we must assume, by majority vote.

He has himself conceded that that is not what he means. Those are the words. That is what he wants us to adopt.

Second, Mr. President, it is my judgment as a lawyer that what this does is put U.S. foreign policy in one of the worst tailspins it has ever been in. I shall say why.

The power of the President to have given this notice of termination, which he has given, is being challenged. This says the Senate agrees with the challenger. Therefore, it raises a big legal question: If the action of the President in giving notice of termination of this treaty is invalid, this whole piece of legislation falls. It would really be ridiculous to adopt it, because we would be doing something exactly contrary to what we believe. So the Mutual Defense Treaty, if he has no power to terminate it, remains in effect. That is what this resolution says.

It does not say, "should be," it does not say "will be." It says "it is." So we are substituting for the Supreme Court of the United States and we are deciding this question now, in the Senate.

I believe, from what I have heard, that that may be the clear purpose and intent of the Senator from Virginia, the Senator from North Carolina, and perhaps a majority, I do not know. But let us face it: That is what it is.

Mr. President, I think the Senate ought to have an opportunity to vote very clearly on whether it wishes to take this legal position and to say to the President, "We are going to really say that we do not consider your action to have been lawful in giving notice to the Republic of China that this treaty is terminated. It sounds like a sense resolution, but it is not, because this is our opinion. It is unlawful, Mr. President, what you have done and we say so. It is the sense of the Senate that you cannot do this. You have to get our approval, whatever that may mean."

So, Mr. President, this is not just another sense resolution that gives some pious hope and expectation of what we may and may not wish to do; this is the real McCoy. This is the end of it, because we are giving our legal opinion, our opinion that what the President has done is unlawful. And I cannot do that, however much I may wish to construct and I will lend myself to constructing.

And I am not asking the Senator to adjourn for 20 minutes, not at all. If he can get a vote, he will get it and he will get it very promptly, maybe tonight, maybe tomorrow morning. That is not my purpose at all. But let us understand what we are doing and if the Senate wants to knock this whole thing down, this is as good an occasion as any. It would be my purpose and intention and it has been my purpose and intention, because I think this is a very pertinent question, just as I applied myself, and the Senator from Virginia was very gracious, about developing a methodology respecting an area of the Constitution which was in the twilight zone; to wit, the war powers resolution.

It was a methodology. We cannot change the powers of a President under the Constitution. When that issue was debated, I think my colleagues will remember that I said a President could say to us, "I'm sorry, gentlemen, but I am going to disregard this whole thing, because you are trying to take away my constitutional powers."

Senator GOLDWATER appeared before us and argued that very strongly, that very thing.

But we felt it was a methodology very carefully worked out and, though the President vetoed it, we passed it over his veto. In that spirit of comity which represents the triumph of our society, the Presidents previous and the present President are accepting that methodology as what the Congress wants.

But this goes a lot further than that. This is not just a methodology. I think we could probably work out a methodology which would resolve this question. But this resolution, if we adopted it, just as the Senator from Virginia says, we can read the words, it is simple. This is what they said.

Well, what they say is that the President has acted unlawfully, that is the sense of the Senate. Therefore, this whole edifice we have been developing goes crashing down.

That is great for people who are against it anyhow. But, apparently, a majority of the Senate is not against it.

So whether we vote tonight or tomorrow, I think it is very important to get that clear.

Finally, the Senator said something which I do not agree with, with all respect, and he knows my great regard for him, and I would like to straighten it out. That is, that a motion to table is some kind of a substantive reverse. It is not. This is precisely what a motion to table was made for. It does not decide the merits. It gives us another opportunity, either never to do it, or to do it sometime, or even to do it later in this bill, in some way that suits us.

I will vote for the motion to table. I do not intend to prejudice this effort to find a way to deal with what is a very knotty and, apparently, quite an original question, can a President unilaterally give notice of the termination—everybody is using the word "abrogate" and I know that is wrong. There is no abrogation here at all. The treaty says it can be terminated within 1 year by either of the parties.

The question, Who is the party? It is the Government of the United States. But who acts for that Government? The President does lots of things under the Constitution. He commands our armies without congressional action. He can send men to their death without congressional action. That is power given him directly by the Constitution.

So I think this thing can be resolved, but it needs to be resolved effectively and intelligently.

As I see it, in this resolution, it is just a matter of torpedoing this whole thing, because we say the President did not have the authority to give the notice of termination, so the whole thing falls on that ground.

So I hope very much a motion to table will be made and that we may have the right and the duty to vote up or down as to whether we want to go forward with this, we may even want to do something about this, or whether we want to stop it here and now on this resolution.

I yield to the Senator.

Mr. GOLDWATER. If the Senator will yield for an observation, I do not believe that this is a resolution. I believe it is an amendment. I do not think there is any requirement in the Constitution that calls for a two-thirds vote on any amendment, whether it is to a treaty or not.

I just wanted to make that clear.

The PRESIDING OFFICER. Will the Senator use his microphone?

Mr. GOLDWATER. What the distinguished Senator from New York did with the War Powers Act, he did not take away the power of the President as Commander in Chief to go to war. He merely put some limitation on it.

So I see where we can draw a parallel between his successful action, and I think we are trying to do the same thing, the Senator will remember the debates we had on this floor during the war powers debate.

It was repeatedly stated that the courts, the Supreme Court four times, I think it was, has turned down a chance to decide whether or not the Constitution meant for the President to be the Commander in Chief. That is still a little fuzzy.

I just wanted to make the point that this is an amendment, not a resolution, and it does not require a two-thirds vote on it.

Mr. HELMS. If I may ask the Senator one question, just for the record, he does agree that the Mutual Defense Treaty has no relationship to the proposal for the Institute, the Institute would have nothing to do with the Mutual Defense Treaty?

Mr. JAVITS. But all the other provisions of this particular law, the very reason for the law, the whole Taiwan provision and other essential aspects of what we are doing, are occasioned by the fact we have assumed, it is certainly clearly assumed that there is a mutual defense treaty which is being terminated as of the end of this year, otherwise we would have a very different statute.

Mr. HELMS. I agree. But it has nothing to do with the Institute?

Mr. JAVITS. It does not have to do with the Institute.

Mr. HELMS. I thank the Senator.

Mr. STEVENS. If the Senator will yield, I am constrained, Mr. President, to say that I cannot support the position of the Senator from Virginia, maybe for a reason that others would not think of.

But I had the occasion to work in the administration of President Eisenhower and I have seen now 8 years of control of the executive branch by a party that did not control the Congress, and I cannot see fettering the actions of a President by requiring confirmation of a decision to terminate a relationship.

I can understand full well, on the entering into of a new relationship, the constitutional responsibilities to the Senate. But I do not believe we should take this position, and I hope the Senate will not support it, primarily because we do not have that constitutional power, so far as I am concerned, and we should not attempt to usurp the President's power in the role of foreign affairs, particularly in a situation where the President does not have a majority of the Congress.

The inference here may well be it would take two-thirds. I do not know. But at least it would take a majority of those voting, and I have seen too many times when on a purely political issue that was not there, and to deter the President in his responsibility under the Constitution in establishing new relationships, because of the lack of such support, I think would be wrong.

Therefore, I really cannot support the position of the Senator from Virginia on this. I hope the Senate will not support the Senator from Virginia.

I think we should insist to the fullest extent possible that the Congress, and particularly the Senate, have our full constitutional role in foreign affairs. I know of nothing in the Constitution that gives us such a role as that sought by the Senator from Virginia.

Mr. JAVITS. I thank my colleagues, Mr. President.

May I say the reason I made the point about tabling is that we who may vote to table, we do not want to be, at least I certainly do not want to be, prejudiced in what I may do on this particular matter, and on another occasion, and within another frame of reference.

It certainly is not going to foreclose me from trying to fashion some way of dealing with what is a matter, obviously, of great importance, not dealt with directly by the Constitution, and, if we do choose to deal with it, we will do it in a deliberate and intelligent way and not in what I consider a highly improvident way, which would be to negate the President's legal authority in an amendment to this very measure which all falls if we say right here and now that in our opinion he has no such legal authority.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. MOYNIHAN. Mr. President, I associate myself fully with the Senator's remarks, and I wish to make an observation which may be marginal at this moment, but which in very short order may be very central to our considerations.

President Carter, whom we all have just sent off to the Middle East with our prayers and our great hopes, in a recent interview in Atlantic Monthly magazine, in an article by James MacGregor Burns, expressed it as his view that if the Senate should fail to advise and consent to the ratification of a strategic arms limitation treaty, he would proceed to act as if the treaty were in effect. That is a matter which raises very large questions and ones which are going to concern us if that eventuality should come about. Therefore, it is all the more important that we be meticulous in asserting what is our power and what clearly is not.

The idea of implied powers is pervasive in the Constitution, and nothing is more clear than the initiative of the executive in foreign affairs. In the spirit of checks and balances, the Constitution places one restraint on that initiative. It is common throughout the Constitution to have these restraints, one body on the other, and that the President may not enter treaties without the advice and consent of the Senate. That his initiative is otherwise a full and plenipotentiary initiative in foreign affairs, extending to putting an end to a relationship, it is clear, has not been questioned in almost two centuries of the Republic.

At a time when the President is suggesting that he might assert a different premise, it seems to me that we have a greater responsibility to be strict constructionists, to be careful to attend to the precedent and to the clear practice of two centuries.

I believe the Senator from New York is clearly correct in this, and I shall be happy to support him.

Mr. JAVITS. I thank my colleague very much. I count his support very important, considering his very rich background in this field.

Mr. WARNER. Mr. President, as a cosponsor of this measure, I would like to put a question to those voicing opposition to the vote.

Hearings have been requested as a compromise. Would it be the intent of those proposing the hearings that the hearings would embrace the threshold question of whether or not the President acted properly in this case, before we, as a body, proceed with the measure before us, S. 245?

Mr. JAVITS. As for me, I cannot say that I would agree to hold up this case until we had those hearings; but I certainly would have no conceivable objection to having the hearings cover every subject, including the President's action in this case. The only point the Senator made which I could not accept is that this should be held up until we decide.

Mr. GLENN. Was it the Senator's intent that this would be held up until a decision was made?

Mr. WARNER. I think that in the debate it has been brought forth that there are many serious questions, and that is the predicate upon which the hearings were requested. Therefore, on the assumption that there is a serious question should we not hold up this matter until the hearings produce a result on which we can vote as a body, thereby interpreting this provision in the Constitution?

Mr. GLENN. I concur with Senator JAVITS. I think that in the consideration of what we are going to do, we examine every treaty that has been treated, including this one. But I would not want to hold up this legislation. Otherwise, it might go on for a long period of time.

Mr. WARNER. The point made by Senator JAVITS was that we could make a grievous error if we proceeded now to vote on this matter, and suppose we came to the conclusion that the President lacks the power to terminate.

Mr. JAVITS. I will tell the Senator why that is incorrect. I mentioned this morning—and I repeat—that the committee had to answer two questions: one, what was its legal opinion about the President's power to give notice of termination? It said that that question is unclear, and it gave no legal opinion, unless we adopt this amendment, and that squared away Senator GOLDWATER.

I said we had another question, and that is, Shall we act on this legislation? That implies that we accept the fact that that mutual defense agreement is terminated and will be at the end of the year. We answered that in the affirmative. We will act. We are not passing on the general issue, but in this case we are going to act on the hypothesis that it is terminated.

That seems to me to square exactly with why I say we would sit on this until such time as we decided. We have decided. We are ready to act on this particular matter.

Mr. WARNER. I thank the Senator. I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I had thought it might be possible to reach a vote this evening in relation to this amendment, but a good many Senators have gone from the Hill. Therefore, I ask unanimous consent that a vote in relation to the pending amendment occur tomorrow at 12 o'clock noon.

The PRESIDING OFFICER. Is there objection?

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, is it the intention of the majority leader that there be 20 minutes or a half hour, or something like that, for debate prior thereto?

Mr. ROBERT C. BYRD. I would be glad to include that in the order, Mr. President, that beginning at 11 a.m., there be 1 hour of debate, to be equally divided between Mr. HARRY F. BYRD, JR., and Mr. GLENN; that, in the meantime, the Senate, by unanimous consent, could set aside this amendment in order to take up other amendments or other matters.

Mr. HARRY F. BYRD, JR. Would votes be taken on other amendments?

Mr. ROBERT C. BYRD. They could be. I doubt that there would be, at this hour, it being almost 7 p.m. The agreement would allow for only 1 hour prior to the debate on the pending amendment.

I really would like to come in at 9 o'clock tomorrow and have 2 hours on other matters, but I could assure the Senator that there would be no other amendment voted on prior to his, if he wishes me to include that in the order.

Mr. HARRY F. BYRD, JR. I think that might be desirable.

Mr. ROBERT C. BYRD. The Senator understands that this request does not waive the right of Senators to move to table.

Mr. HARRY F. BYRD, JR. That is correct.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator from Virginia, and I thank all Senators.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the Senator from Wisconsin (Mr. PROXMIRE) be listed as a cosponsor of the pending amendment, unprinted amendment No. 30.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. BAKER. Mr. President, as we turn to S. 245, the Taiwan Enabling Act, I believe it appropriate to note the importance of this legislation. It is important not only to continuing our good and mutually beneficial relationship with Taiwan, but also as a means to insure that as we embark on the promising but uncharted course of our new relationship with the People's Republic of China we remain steadfast in our allegiance to our friends and our principles as a nation.

As I have said many times in the past, Mr. President, I have no quarrel with our recognition of the People's Republic of China, which I have long considered the inevitable and logical conclusion to the process begun with President Nixon's visit to Peking in 1973. This significant step in the process of normalization must be managed carefully and developed with a realistic appraisal on both sides of the Pacific of its prospects. It is a relationship that offers both problems and promises, but I am convinced that it can contribute significantly to the interests of the United States.

Nevertheless, in developing that new relationship, however promising, the United States must not sacrifice our principles of integrity and credibility as a nation. So as it pertains to the manner in which we treated our longtime friend and ally, the people and government of Taiwan, I do quarrel with the administration's recognition of Peking. In not seeking assurances that the dispute between Peking and Taipei be settled peacefully—in not seeking to maintain an official relationship with Taipei—and by acting precipitously without prior consultation with the Congress or with officials of the Government of the Republic of China—the administration treated cavalierly and shabbily a friend of the United States. In doing so the administration tarnished our integrity and credibility and, if for no other reason, this legislation, as amended by the Foreign Relations Committee, is extremely important.

This legislation helps to remove that tarnish, Mr. President, because it now contains a provision that I believe reflects the overwhelming sentiment of the American people to the continued security and prosperity of Taiwan. Moreover, it provides a mechanism of maintaining our relationship with Taiwan greatly improved over that proposed by the administration. Although no mechanism so constructed could substitute for a continued official relationship, I believe this will suffice as the foundation for a sound and prosperous relationship in the years to come.

It may be, Mr. President, that the Senate will wish to modify or strengthen the language reported out of the Foreign Relations Committee. More important than the mere words, however, is the spirit of the commitment of the American people to preserve our relationship with a secure Taiwan. That commitment will hold firm even as we move forward in the development of a new relationship with the Chinese on the mainland.●

● Mr. LAXALT. Mr. President, although I intend to support strengthening amendments, I will not oppose S. 245, the Taiwan Enabling Act. It seems to me that it is essential that we provide some mechanism for continuing relations with Taiwan and clearly state our ongoing security commitment to that island nation.

But I deplore the sequence of events which has made the bill necessary, a sequence which to my mind is part and parcel of an overall foreign policy which quite frankly frightens me. With this in mind, I will leave it to my distinguished colleagues to debate the finer points of S. 245, while confining my observations to the deplorable decision to jettison Taiwan, which made this bill necessary.

THE DECISION

Few in this body seriously object to extending diplomatic recognition to the People's Republic of China (PRC). I think most of us felt that this was a decision bound to come and even to a certain extent overdue.

But I do object, and I believe many of my colleagues object, to the manner in which the announcement was made, to the absence of consultation with the Congress, and to the extremely poor nature of the bargain struck.

Quite literally in the dead of night and right in the middle of the holiday season with Congress out of town and the Nation preoccupied with other matters, President Carter presented us with a secretly negotiated, fait accompli. As I understand it, our allies of some 30 years standing were cut loose with less than 1 hour's notice. This was a bit much from an administration which had made a campaign issue of the secretive nature of its predecessor's "Lone Ranger" methods and fancied itself to be in the Wilsonian tradition of "open covenants openly arrived at."

Yet, bad as it was to not consult with our allies, neglecting "prior consultation" with the Congress in clear violation of the Dole-Stone amendment to the International Security Assistance Act of 1978 was even worse. Although the administration did claim to have consulted with some Senators, this apparently consisted of at best a few hours' notice prior to the President's appearance on national television. As a cosponsor of the Dole-Stone amendment, this was certainly not my idea of "prior consultation" and I doubt whether it will satisfy any of the other 93 of my colleagues who approved the amendment in a unanimous vote.

In fact, the suddenness of the decision made in extreme secrecy at a time when Congress was not in session could certainly lead one to believe that the administration intentionally chose to evade the provisions of the Dole-Stone amendment. This is particularly disturbing from an administration which had chided its predecessor for not working well with Congress on foreign policy and which had pledged to the electorate in 1976 to do better.

But it is the substance of the China decision that I object to most. The People's Republic of China got everything it has asked for and then some. The United States was left with scarcely a fig leaf to cover what I consider a disastrous retreat. And Taiwan, of course, got nothing at all.

President Nixon could have secured the same terms in 1972 at the time of the Shanghai Communique. President Ford could certainly have secured them during his term of office. Indeed, it is fair to say that the terms offered by Teng Hsiao-p'ing and accepted by President Carter are little different than those offered to and rejected by five Presidents over the last 20 years.

The substance of the People's Republic of China demands has been known for a long time. The People's Republic of China has insisted: First, that diplomatic relations with Taiwan had to be terminated; second, that all U.S. military forces and installations had to be removed from the island; and third, that the United States-Republic of China Mutual Security Treaty had to be terminated.

Mr. President, the People's Republic of China achieved each and every one of these objectives. They also got a 1-year moratorium on new arms sales commitments by the United States to Taiwan.

In exchange for what? We can now call our mission in Peking an embassy rather than a liaison office. But, as the Foreign Relations Committee noted in its committee report on S. 245, the liaison office already was an embassy in all but name. The People's Republic of China has promised to be somewhat more sympathetic to economic offers tendered by our businessmen. But then again, the present political climate is very volatile: It could change, leaving our businessmen right back where they started. Finally, the People's Republic of China might even look the other way if we were to sell Taiwan arms of a defensive nature after the end of the year. But as the committee hearings show, even this is far from certain.

What about the use of force? Would the People's Republic of China pledge not to use force in resolving the Taiwan issue? Teng Hsiao-p'ing made it clear while in this country that it would not. Although the Foreign Relations Committee has gone to some length to express our concern that the Taiwan situation be resolved peacefully, the fact is the administration proceeded to recognize Peking without any commitment at all from the People's Republic of China on this score.

In exchange for tangible concessions of a concrete nature, then, we have secured ambiguous assurances from a 74-year-old leader of a highly explosive country, and nothing at all about a renunciation of the use of force. If Mr. Teng is in control in the People's Republic of China today, he may not be tomorrow, and there is no way for anyone to be certain just what will happen to President Carter's new China policy once Teng passes from the scene.

ITS CONSEQUENCES

Mr. President, I strongly believe that this new China policy is built on sand. I also believe that it is morally reprehensible in that we are abandoning a tried and trusted friend without cause and taking up with that friend's mortal enemy.

Let me turn now for a moment to the consequences. In foreign policy, as in any other area of human endeavor, our actions produce certain effects. It seems to me that the effects of the new China policy will be of at least three sorts: First, on ourselves; second, on our allies; and third, on our adversaries.

For ourselves, I cannot believe that this action, in the aftermath of Vietnam and in view of all the President's campaign promises of a more moral foreign policy, says very much that is favorable about the kind of moral image we Americans wish to convey to the world. Surely power politics is a difficult business in the best of times. But the American people have always thought themselves better than the sordid norm. Although historically as a nation we have done what we had to do to survive, we have legitimately looked upon our Nation as something better, a moral beacon amid the squalor of Old World rivalries.

In the past we left the bobbing and weaving and moral ambiguity to others. Now we have turned, I believe viciously and without cause, on a close friend. I cannot believe that this conforms to what our people have a right to expect this Nation to be in foreign affairs. And I am sure that our people will waste no time in repudiating it. But I am afraid that the cynicism and arrogance characteristic of turning on a friend will have left an additional scar which it might take some years to erase.

And what about our other friends and allies overseas? Mr. President, how would you like to be sitting in Bonn, Tokyo, Riyadh, Tel Aviv, or Brussels? To say nothing of London, Paris, Rome, or anywhere else this country is relied upon for security assistance? Quite frankly, an American administration capable of turning 180 degrees and repudiating its most solemnly pledged commitment to an ally of 30 years' standing is capable of most anything. And those responsible for the destinies of these and other friendly nations know this very well.

We in Nevada have a strong tradition of personal integrity. A man's word is his bond, and either you can trust him or you cannot. World politics, at bottom, is no different. Nations, like individuals, need to have reputations for trustworthiness and reliability. Those who do will find their share of friendship and support in the world. Those who do not risk being thrust backward, alone and isolated to face a hard world on its own terms.

This country in particular needs to be mindful of this lesson. Since the end of World War II, we have entrusted our security to a network of regional alliances, the common denominator of which has been the very same mutual security pledge violated by the administration's December 15 announcement. Whether we will be able to continue to do so now becomes an open question.

For our adversaries the lessons of December 15 must be even more perplexing. Press reports during the time of Vice Premier Teng's visit indicated that the administration had caved in so readily on Taiwan that Teng apparently began to wonder whether we would be of any use to him in his efforts to contain Moscow. The Russians are, of course, already strongly entrenched in Southeast Asia, courtesy of their Vietnamese ally, and with their Navy present in ever greater numbers in the Western Pacific have been given a virtual carte blanche to involve themselves even more actively in matters pertaining to the Formosa Straits.

Yet I am sure that even Moscow and Peking have had second thoughts about our capricious abandonment of a close ally. In the nuclear age, a certain amount of predictability is desirable in relations between adversaries, just as it is among allies. Nations with their fingers on a nuclear trigger need to know that the other side is reasonable, rational, and not likely to do anything foolish. A policy such as that announced by the President on December 15, indicating an ability and a willingness to turn a full 180 degrees throws all such reassuring assumptions out the window and adds a disturbing element of instability to the nuclear balance.

Mr. President, I am unhappy with S. 245. Not for what it does, but for what it represents. We in the Senate need to pass it to do what we can to make the best of a bad bargain. But I am afraid that our Nation and those immediately responsible will be long time living that bargain down.●

ORDER FOR ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, following any further discussion of this amendment this evening, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond 30 minutes, with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object, I ask the Senator if this means there will be no more rollcall votes tonight.

Mr. ROBERT C. BYRD. There will be no more rollcall votes tonight.

Mr. HARRY F. BYRD, JR. The request of the majority leader was that when the discussion of this amendment concludes, there be routine morning business?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 31

Mr. GLENN. Mr. President, I send a technical amendment to the desk. The present section 107 should be 106(c); other sections should be renumbered accordingly.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Ohio (Mr. GLENN) proposes an unprinted amendment numbered 31:
>
> The present section 107 should be renumbered section 106(c). Other sections should be renumbered accordingly.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, I should like to make several very brief comments.

The pending amendment, UP amendment No. 30, does not take away from the President any power the President has. What it says is perfectly clear: It is the sense of the Senate that approval by the Senate of the United States is required to terminate any mutual defense treaty between the United States and another nation.

It was brought out clearly in colloquy between the Senator from North Carolina (Mr. HELMS) and the Senator from Virginia that it has nothing to do with the President's right, the President's authority, to give the 1-year notice of his intention to submit to the Senate the abrogation of a particular treaty. It does not take any power away from the President. What it seeks to do is to say to the President that he cannot unilaterally abrogate a treaty. It is a very clear amendment.

All sorts of red herrings have been brought into this discussion this evening, but they do not apply in most cases. This takes nothing away from the President. It does assert the Senate's constitutional role in the treaty-making process, and in the treaty terminating process.

Contrary to what has been implied by the Senator from New York, this amendment would have no effect whatsoever to invalidate the notice already given by the President. That has been done. The amendment does not in any way challenge that authority. The amendment does not even state an opinion for or against that decision; the amendment simply asserts the Senate's view of the constitutional role of the Senate in this important area. If we are unwilling even to state our view, then we can expect to be ignored in this and future cases.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I understand we are in the morning hour.

The PRESIDING OFFICER. Is there further discussion on the amendment offered by the Senator from Virginia?

Mr. PROXMIRE. Mr. President, it is my understanding there is no further discussion of Senator BYRD's amendment. The majority leader has secured unanimous consent that we be in a morning hour and that a morning hour be permitted to make statements until 7:30 p.m.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. If there be no further discussion of the amendment, pursuant to the previous order, there will now be a period for routine morning business.

Mr. PROXMIRE. Yes.

The PRESIDING OFFICER. Is there morning business?

AMIN: A REMINDER OF GENOCIDE

Mr. PROXMIRE. Mr. President, recently there have been news reports from Africa that the government of Idi Amin is beginning to crumble. After a 4-month war with Tanzania, the Ugandan army is tired and discouraged. Machinegun fire can be heard in Kampala almost every night. Some reports claim that 80 members of Amin's family have been evacuated from Uganda.

If the Amin government falls, it will mean the end of one of the most brutal and oppressive regimes of the last decade. It will mean the overthrow of an egomaniacal tyrant of the last slaughter of hundreds of thousands of Ugandans. How has this butcher been allowed to murder Acholi and Langi tribesmen as well as Christians for the last 8 years? What has the United States done to halt these atrocities? Sadly, the answer is nothing. While we have politely condemned genocide in Uganda, we have dragged our feet in ratification of the only international treaty which attempts to prevent and punish mass-murder: the Genocide Convention.

Over the last 30 years while we have considered and reconsidered the Genocide Convention, millions upon millions of people have been the victims of genocide.

As we hail the imminent demise of the regime of Idi Amin, we must see to it that such human devastation never recurs. One way to accomplish this is that we must ratify the Genocide Convention.

MUTUAL SAVINGS BANKS

Mr. PROXMIRE. Mr. President, on January 9, 1979, the U.S. district court for the district of New Jersey ruled that provisions of New Jersey law which prohibit geographical discrimination in mortgage lending are applicable to national banks. I am pleased with this result. It is consistent with the legislative history of the Equal Credit Opportunity Act Amendments of 1976 which I believe makes clear that State laws prohibiting discrimination in lending, and which provide greater protection to applicants, should apply to federally chartered creditors.

Last August, in a similar case involving the State of California's antiredlining law, the U.S. district court for the eastern district of California ruled that Federal law preempts State antidiscrimination laws as they apply to federally chartered savings and loan associations. This case is now on appeal, and I hope the appeal is successful.

Last October, Congress passed legislation to give mutual savings banks authority to convert to a Federal charter. One provision of this legislation explicitly provides that mutual savings banks converting to a Federal charter must continue to comply with applicable State law pertaining to discrimination in the extension of home mortgage loans or adjustments in the terms of mortgage instruments based on neighborhood or geographical area, if the Federal Home Loan Bank board determines that State law and regulations impose more stringent requirements than Federal law and regulations. When this legislation was being considered by the Senate, I engaged in a discussion with Senator Brooke on the Senate floor designed to make clear that this explicit provision addressed only the issue of applicability of State law to converting mutual savings banks, and that this new provision did not affect existing law applicable to Federal savings and loan associations. My remarks at that time were certainly not intended, and could not in any case, contravene or reverse the legislative history of the Equal Credit Opportunity Act Amendments. Last year's legislation simply did not address this issue, one way or the other.

In response to a question from Senator Brooke on the Senate floor last October, one of my comments was that Federal law will continue to govern Federal savings and loan associations in the antidiscrimination area. This statement was made in the larger context of a statement explaining that the then pending legislation would not change existing law in this area as it affects Federal savings and loans. It also gave recognition to the fact that at that time, the only court interpretation of existing law was that Federal savings and loans were not subject to State antidiscrimination laws.

Since that time, as I have noted, the U.S. district court for the district of New Jersey has issued a ruling with respect to New Jersey's antiredlining law. While that ruling applies to national banks, it is possible that some of the court's reasoning may bear on the legal situation as it affects Federal savings and loans. Also, as I have noted, the California case is on appeal. My remarks last October were certainly not intended to affect the outcome of the appeal of that case, which should be decided on its own merits in accordance with existing law regarding the applicability of State antidiscrimination laws to Federal savings and loans, which, as I have noted, was not changed one way or the other by last year's legislation. If the appeal of the California case is successful, then certain of my remarks made last October would be rendered inaccurate and inapplicable.

Mr. President, I am making these comments because I have just learned that the bank board has cited my remarks of last October in its brief in defense of the appeal of the California case. Since I believe that the board's citation of my comments was done in a manner which misinterprets the basis and intent of my remarks, I believe it is necessary for me to set the record straight.

THE DEATH OF GEN. MUSTAFA BARZANI

Mr. PROXMIRE. Mr. President, I take a moment to take notice of the death of Gen. Mustafa Barzani who for 40 years fought for the freedom of his Kurdish people. On one occasion about 3 years ago General Barzani asked to come to my office. Through an interpreter he explained that he was present to thank me for a speech I had made dealing with the repressive measures taken against Kurdish tribesmen and women by the Iraqi and Iranian regimes. He spoke softly and directly. He indicated that one of the major disappointments of his life was the reversal in policy dictated by Secretary of State Kissinger that led to the bloody suppression of his revolt against the Iraqi Government. He asked for assistance, where possible, for Kurdish refugees. And then he left. He had said what he came to say.

The story of the U.S. role in the Kurdish revolt is not a pleasant one. It is an example of the worst form of geopolitics, the political games played by individuals and nations. When it served U.S. purposes, we supplied aid to the Kurdish cause. And when Secretary Kissinger felt it necessary to seal an alliance with the Shah of Iran, who was increasingly concerned about his western border, then the United States abruptly withdrew its assistance. The Kurdish people were the pawns in the chess game.

When Secretary Kissinger speaks of not allowing concern for human rights to dominate U.S. policy, perhaps he is thinking of the example of the Kurdish people—a four century struggle for independence that once looked promising but was snuffed out in a quick behind-the-scenes diplomatic agreement.

Mr. President, I ask unanimous consent that articles from the Washington Post and New York Times on General Barzani be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 3, 1979]

GEN. MUSTAFA BARZANI, EXILED KURDISH CHIEFTAIN, DIES

(By J. Y. Smith)

Gen. Mustafa Barzani, the colorful guerrilla chieftain who unsuccessfully fought for Kurdish independence in Iraq for more than 15 years, died Thursday evening at Georgetown University Hospital following a heart attack. He was 76.

Gen. Barzani, who was known to his followers as "the grand old man of Kurdish independence," came to the United States in June 1976. He was suffering from lung cancer and underwent treatment at the Mayo Clinic in Rochester, Minn. He lived in Washington, and at the time of his death, in McLean.

His exile here began a year after the collapse of his final campaign before an onslaught by the Soviet-equipped Iraqi army in the spectacular mountain regions that are the homeland of the Kurds.

The military defeat followed a political disaster. In March 1975, Iran withdrew its support for the Kurds as part of the settlement of a border dispute with Iraq. The two nations had been on the point of open war over the Kurdish question. The settlement of the border question defused this threat and with it what some regarded as a much wider threat to stability in the Middle East. Thus, the United States supported it.

Gen. Barzani and about 200,000 of the estimated 2 million Kurds living in northeastern Iraq fled to Iran, which offered them the choice of remaining—there is a sizable Kurdish population in Iran—or of returning to Iraq.

Shortly before he fled, Gen. Barzani told an interviewer "Sometimes things are good. Sometimes they are bad. Now they are bad. It is a fact of life."

Ironically, Shah Mohammed Reza Pahlevi of Iran, who had withdrawn Iranian support of the Kurds, also was in exile at the time of Gen. Barzani's death, having been forced to leave his country by the revolution of supporters of the Ayatollah Ruhollah Khomeini.

Gen. Barzani's departure from Iraq in 1975 ended a 17-year period in which he was the most visible of Kurdish leaders. In 1958, he had returned from an 11-year exile in the Soviet Union to a hero's welcome in Baghdad, the Iraqi capital. The Iraqi army had just overthrown the British-backed Hashemite dynasty and had launched Iraq on a path of socialism and intense Arab nationalism.

At first, it appeared that the new regime would be agreeable to allowing the Kurds a measure of autonomy. When these hopes failed, Gen. Barzani led his troops, the Pesh Merga, which means "forward to death," into battle.

The war continued intermittently for 10 years. In 1970, the Iraqis, their resources sorely strained by the effort, agreed to give the Kurds substantially what they wanted. They were to have their own local government and armed forces, five seats in the Iraqi cabinet and a vice presidency.

On however small a scale, this would have been the realization of a Kurdish dream. The Kurds claim a history of 4,000 years. There are an estimated 12 million of them living in an area encompassing the borders of five countries: Iran, Iraq, the Soviet Union, Syria and Turkey. An Aryan people with an Indo-European language, they are Sunni Moslems.

An independent Kurdistan had been promised by the Treaty of Sevres in 1920 between the Allied powers and Turkey. The promise was ignored by all parties.

Gen. Barzani apparently had doubts that the Iraqi proposals of 1970 would be implemented. In September 1971, nine persons dressed as holy men visited him at his headquarters in the village of Haj Omran near the Iranian border. One was a "human bomb." When he exploded, four other "holy men" and a Kurdish soldier were killed. Gen. Barzani escaped unharmed. His followers blamed the Iraqis for the attempt on his life.

The Iraqi concessions were to be implemented by 1974. As the deadline drew near, it appeared that they would not. The major stumbling block was the Kurdish claim to the rich Kirkkuk oil fields and a failure to reach agreement on the boundaries of the Kurdish sphere.

It was at this point that the shah of Iran offered to support Gen. Barzani in a renewed war against the Iraqis. The Israelis also reportedly offered covert assistance because Israel shared Iran's interest in tying down the Iraqi army and because it was concerned about its Iranian oil supplies.

According to the House Select Committee on Intelligence (the Pike Report), Gen. Barzani insisted on a U.S. guarantee of the shah's good intentions. The United States agreed to this, and supplied the Kurds with "untraceable" captured Soviet and Chinese arms through Iran.

Iranian army units took part in the subsequent fighting and Iraqi forces made incursions inside the Iranian border.

The Pike report maintains that the Kurds would have gained at least some measure of autonomy without further fighting. It is said the United States hoped that the Kurds would wear down the Iraquis, but that there was no intention of supporting Gen. Barzani through to victory.

In exile here, Gen. Barzani occasionally spoke out in favor of Kurdish rights. Mostly, his life was quiet.

He was born in the village of Barzan in Iraqi Kurdistan into a family of religious scholars and tribal leaders. He earned the title of mullah, or religious wise man. After his years in the Soviet Union, he sometimes was called "the Red Mullah."

He got his first experience of oppression at the age of 3, when he and 25 members of his family were imprisoned by officials of the old Ottoman Empire. He was in jail for nine months on that occasion.

In 1931, he and 40 other members of the family were restricted to a small village after Gen. Barzani's brother, a tribal leader, led an unsuccessful uprising against the British. But he remained active in behalf of Kurdish independence throughout the 1930s and into the 1940s.

In 1943, Gen. Barzani assembled a force to fight the Iraqis and the British. In 1945, he led his band into Iran and joined the Kurdish Mahabad Republic, which had been established with Soviet help. It was this government that gave him the rank of general.

A year later, the Soviets withdrew their support and the republic collapsed. The Iranian army hunted down most of the Kurdish insurgents. But Gen. Barzani led a band of 500 on a 52-day march through the mountains. Pursued by the British and the Turks as well as by the Iranians, they eventually arrived at the Araxes River on the Soviet frontier. They swam the stream and were treated as exiles by the Soviet government.

In the course of his 11 years in the Soviet Union, Gen. Barzani was an instructor in Soviet military schools.

Years later, he told an interviewer, who asked about his Soviet experiences, that "it is not right for a guest to speak critically of those who have fed and sheltered him." But he added, "(I) saw no humanitarian value in the life there. Anyone who doubts this should read Svetlana Stalin's book."

Gen. Barzani, who once said that "in my lifetime my family has 14 times built homes and seen them destroyed, always maintained that the Kurdish movement could have succeeded with U.S. assistance, whether it was "political, humanitarian or military . . . open or secret."

Of his life, he said, "Looking back, I suppose most men have some regrets on what they might have done or what they should not have done or what they left unaccomplished. I am one of those men."

Much of Gen. Barzani's family now is in Iran. An aide said last night that his body would be returned there. Survivors include two sons, Masoud and Edris.

[From the New York Times, Mar. 1, 1979]

IRANIAN KURDS RETURN TO OWN STRUGGLE

(By Nicholas Gage)

MEHABAD, IRAN, February 27.—"For us the revolution is not over."

The speaker, Ayatollah Ezzedin Hosseini, is the spiritual and political leader of Iran's Kurds, nearly two million mountain people who fought alongside Ayatollah Ruhollah Khomeini's revolutionary forces but with a different goal in mind. While Ayatollah Khomeini wanted an Islamic republic, the Kurds wanted their autonomy.

Because of the Kurds' dissatisfaction with their lot, northwest Iran has been torn by fighting, demonstrations and unrest since Ayatollah Khomeini achieved his victory nearly three weeks ago. In this Kurdish city, situated about 50 miles from the juncture of the borders of Iraq, Turkey and Iran, 23 persons have been killed and more than 40 wounded.

To anyone driving through the remote mountain reaches where the Kurds live, the contrast with the rest of the country is startling. The cities and towns are more squalid, with mud-brick huts clustered in isolated villages without electricity, plumbing or medical care.

TALL, SMILING AND HOSPITABLE

But unlike the natives of other parts of Iran, draped in dark colors and suspicious of strangers, the Kurds are tall, smiling and hospitable in spite of the fact that almost every man has a knife or gun tucked in his brilliantly colored sash. The women, dressed in a rainbow of colors, rarely wear the chador, the head-to-ankle shawl that conceals all but the eyes and hands.

The Kurds are an ancient people with their own language, culture and national identity. An estimated eight million of them live in mountainous Kurdistan, an area spread over parts of Iran, Iraq and Turkey. There are also Kurdish enclaves in Syria and the Soviet Union. But most countries with Kurdish populations, in an effort to discourage Kurdish nationalism, forbid the teaching of Kurdish in the schools.

The Kurds in Iran are Sunni Moslems, unlike most Iranians, who are Shiites. "We fought in the revolution not out of religious conviction," said Ayatollah Hosseini during an interview at his home, "but for political goals. We want autonomy—our own Parliament, our own language, our own culture. The revolution has destroyed despotism, but it has not ended discrimination against minorities. The revolution must go on until all major minority groups—the Kurds here, the Turks in Azerbaijan, the Baluchis in the East—win a measure of autonomy. Iran is a big country and can be a federation of autonomous states like other big countries."

ARMS FROM LOCAL BARRACKS

Ayatollah Hosseini is a tall, lean, gray-bearded man of 57. Dressed in the black robes of his Islamic rank, his head covered by a white turban, he sat in a nearly empty reception room. As he spoke, two guards stood behind him holding automatic rifles seized eight days ago when the people of Mehabad attacked an army barracks, which they still hold. Unlike Ayatollah Khomeini, Ayatollah Hosseini is a self-taught man who does not receive financial support from his followers; he supports his wife, son and six daughters by teaching Arabic at a school for mullahs.

The possibility of open rebellion among the Kurds, who have made Ayatollah Hosseini their primary leader, poses such a critical problem for the new Government of Iran that he was invited to Teheran to meet with Ayatollah Khomeini. He declined, saying there was no point in meeting until they had a basis for negotiations. So the Government sent a delegation headed by Minister of Labor Daryoush Farouhar to listen to the demands of the Kurds. They presented him with eight points, essentially asking for autonomy.

Ayatollah Hosseini said later that Mr. Farouhar found the terms "harsh" but would see what he could do. The Government has already indicated that it considers some of the demands, such as teaching Kurdish as a second language in the schools, to be legitimate.

Meanwhile, demonstrations are taking place almost daily. An organizer of one of them, held yesterday in the town of Saqqiz, was a 20-year-old agricultural engineer named Houshan Majdi.

"The central Government is very weak, so now is the best time to enforce our demands," he said. "But we are not opportunists. We want to make it clear that we don't ask for a separate state, only autonomy, and we don't want to be used as a scapegoat to unite Iran on the brightest elements riding the fear of separatism to power. If we don't get autonomy, however, we will launch a guerilla war. We have the experience and we have the guns."

Two fighter planes reportedly dropped several bombs near Iranian villages close to the Iraqi border last week. While newspapers in Teheran said they were Iraqi jets, the Kurds share the opinion of Ahmad Ghazi, a farmer and former teacher here, that "they were Iranian Phantom jets trying to intimidate us into thinking we are threatened by Iraq so we'll stop pressuring our demands and rush to Iran for help."

The new leaders of Iran, worried that a strong separatist movement may develop among other minorities and shatter plans for a new Islamic state, are unlikely to give the Kurds full autonomy. It was such a separatist revolt that united the military after the 1906 revolution and eventually brought Shah Mohammed Riza Pahlevi's father to the throne.

SPLIT INTO LEFTIST FACTIONS

In addition to the opposition from the Government, the Kurdish activists are hampered by an internal division. They are split into several political groups, mostly leftist, which alienates the conservative farmers and shepherds who make up the majority of the Kurdish population.

The most established faction is the 33-year-old Kurdish Democratic Party, but because it is suspected of being influenced by Iraq's ruling Marxist party, the Baathists, it is losing support. A second faction is a leftist guerrilla group led by Jelal Telebani that operates on the Iraqi border. A new movement is also being formed with Sayed Mohammed Nezami, an educator here, as one of its prime movers.

A fourth resistance group, the only one that is not leftist, is made up of the remnants of the guerrillas who were led by the famous Iraqi Kurdish chief, Mustafa Barzani. He received strong support from the Shah and the Central Intelligence Agency until the Shah closed Iran's border to the guerrillas in 1975 in a deal with Iraq, causing the war effort to collapse. General Barzani, therefore, is considered to have betrayed the Kurds. But some still agree with a farmer here who said: "I don't blame Barzani for deaing with the Shah and the C.I.A. We can't be choosy where we get our help."

COMMON GOAL IS AUTONOMY

Nevertheless, most Kurds seem to be gravitating toward the leadership of Ayatollah Hosseini because he's known not to be Marxist himself but to be willing to work with leftists for the cause. "As a faithful Moslem I don't accept Communism," he said, "but I accept the leftists in our movement because they fought in the revolution against the Shah and they're fighting for the same thing we are—autonomy."

The Ayatollah was reminded of the ancient Kurdish dream of an independent nation uniting all its people. He shook his head mournfully and said: "Of course it's a crime that eight million people who live in the same geographic area, speak the same language and have the same history and culture should be divided into five different countries and oppressed by all of them. But we know we'll never have our own country. Look at the Kurds in Iraq. After so many years of fighting, they've achieved nothing. We must concentrate on gaining autonomy here. As for a separate Kurdish nation, we can't allow ourselves to think about it."

Mr. PROXMIRE. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

NATIVE TAIWANESE

Mr. HELMS. Mr. President, earlier today there was a discussion of the so-called "native Taiwanese" who think of themselves as separate from the Chinese on the mainland. The Senator from North Carolina will grant that there are some native Taiwanese who are ethnically separate from the Chinese. They consist of about seven aborigine tribes, representing, as I understand it, about 2 percent of the population.

The rest of the population is Chinese, mainly from Fukien and Kwangchow. They speak a Fukien dialect. They share the same cultural, familial, and religious traditions as the mainland had before 1949. The "Area Handbook for the

Republic of China" prepared by scholars at American University says:

> Virtually all Chinese migrants, both early and late arrivals, share physical similarities and a broadly common cultural heritage. Although they speak different languages and dialects, they share the same written language, social and family organizations, religion, many art forms, and other cultural aspects which unite them into a recognizable ethnic unit.

I realize that there is a small political movement that has sought international visibility by claiming to speak for the pre-1949 inhabitants of Taiwan. But this is mere assertion. I believe that they should have political rights, of course, but political rights are often abridged in times of national danger. Our own Nation put thousands of Japanese-Americans in camps during World War II, an action that has been strongly criticized in the comfort of more peaceful times.

But the assertions that there are "native Taiwanese" who do not think of themselves as Chinese is like saying there are some Rhode Islanders who do not think they are Americans.

Mr. President, in order to clarify the ethnic composition of Taiwan, I ask unanimous consent that appropriate extracts from the authoritative "Area Handbook for the Republic of China," prepared by scholars at American University, be printed in the RECORD.

There being no objection, the extracts were ordered to be printed in the RECORD, as follows:

AREA HANDBOOK FOR THE REPUBLIC OF CHINA

SECTION I. SOCIAL

Chapter 1: General Character of the Society

The Republic of China under the Nationalist government in 1967 controlled, in essence, only one of the many provinces of China—the island province of Taiwan. The guiding objective of the government under the presidency of Chiang Kai-shek has been to recover mainland China from the Chinese Communists who have occupied it since 1949.

The island of Taiwan is situated about 115 miles off the southern coast of China mainland (see fig. 1). It is a mountainous, semitropical island in the warm Japanese current. The island, as a whole, is blessed with adequate rainfall. The arable section of the island, about one-fourth of the total area, is very fertile, thus affording a base for its intensive agriculture. Agriculture in 1967 was more than able to feed the population of over 13.5 million people.

Politically, the Republic of China is the direct descendant of the first Chinese republic set up by Sun Yat-sen in 1912. His Three Principles of the People, which are considered to be the proper basis for popular government, continue to be the basis for the Nationalist government on Taiwan under his closest disciple, Chiang Kai-shek.

Political power in the central government rests almost entirely with Chiang Kai-shek and the group of Nationalist Party (Kuomintang) leaders who arrived with him from the mainland in 1949. Power in the provincial, county, municipal, and local governments rests largely with the Taiwanese, although the governor of Taiwan Province has continued to be appointed by the central government in Taipei. Many Taiwanese belong to the predominant Nationalist Party, but many non-Nationalist candidates, including the mayor of Taipei, have been elected in free elections to important political positions over the party-supported candidates.

The people of Taiwan are almost entirely of Chinese origin, and they continue to speak various Chinese dialects. Before World War II, except for a small number of aborigines, the population consisted of the descendants of Chinese emigrants from Fukien and Kwangtung provinces on the mainland who had arrived on the island starting in the sixteenth century. In 1949 the population was augmented by some 2 million Chinese who, under Chinese Communist pressure, were forced to flee the mainland. These mainlanders included high ranking Nationalist government officials, intellectuals, and a military force of over 600,000 men.

Despite the ethnic identity of the Taiwanese and the mainlanders, there has been an important environmental difference between the two. Until 1895, when Taiwan was lost to Japan, the people of mainland China and those on the island had both been part of the Chinese Empire and had followed comparable courses; thereafter, however, their courses diverged as Taiwan became a colony of Japan and was isolated from events on the mainland. The Japanese set up an efficient police-type administration, taught the Japanese language to all as the language of the land and established an expanded economic system in which Japanese filled all important industrial and governmental posts. Few Taiwanese were trained as civil servants under the Japanese. On the mainland drastic political events were taking place, especially the overthrow of the Empire and the establishment of the Republic by Sun Yat-sen in 1912. These earthshaking events in China had almost no impact on Taiwan.

Cultural characteristics

For nearly 300 years Taiwan was more or less separated from the mainstream of Chinese culture and was left relatively free to develop on its own. The inherent inflexibility of Chinese culture, arising from the agricultural base and extending through social relationships, practically guaranteed that large deviations from the main features of Chinese traditional patterns would not occur. Foreign contact changed very little the indigenous culture of Taiwan during its history. After 50 years of occupation by Japan, the basic features of the Taiwanese family, the viewpoint of the average man toward the world, and even the essential ethnocentrism of Chinese culture were untouched by the Japanese. What has lingered of the occupation is a respect for the orderliness of Japanese administration, admiration for Japanese absorption of Western science and technology, and a desire to exceed the great expansion in the economic base of the island started under the Japanese.

The preservation of the traditional family system, in which several nuclear families were grouped around a compound with the hierarchy of authority extending downward from the eldest to the youngest male, suited the desire of the Japanese to control since each family could be held responsible for the misdemeanors of its individual members.

The Republic shares with some other nations in Asia the rapid expansion of its economic base and the change in its culture in recent years under the impact of the West. These changes can be localized in the period during which the effect of the influx of mainlanders has been greatest, mainly in the last 10 years. The mainlanders brought with them to Taiwan the result of nearly 50 years of development in response to the West, and they have been responsible for the desire to change and modernize Chinese civilization. What is resulting from these changes is an attempt to compromise between old Chinese cultural patterns and modern Western cultural patterns. The influence of Western culture is becoming increasingly important, but traditional patterns remain the base from which deviation is noted.

Religion is a major influence in the lives of the people, particularly the rural people, but organized religions have never played a major role. The religion of the Taiwanese is in essence the fusion of Confucianism and animism, permeated with Taoist elements and often placed in a Buddhist framework. Ancestor worship serves as the principal link between the two. In spite of the tendency to adopt Western values, Christianity has made a limited impression on the people.

Population

According to the official 10-year census completed on December 16, 1966, the total population of the territory under control of the government of the Republic of China was 13,512,143. This figure included some 15,000 for Matsu, 55,000 for Quemoy, 110,000 for the Pescadores and about 175,000 aborigines. The preceding census of 1956 recorded a total of 9,367,661 persons, but the figure did not include the aborigines or members of the armed forces.

In the mid-seventeenth century there were estimated to be 100,000 Chinese people on Taiwan. By 1898, according to figures published by the Japanese administration, there were more than 2.6 million Chinese on the island. The descendants of these, plus about 2 million mainland Chinese who came to Taiwan with the Nationalist government in 1949 and their offspring, make up the great majority of the 1967 population.

In the early centuries of settlement, the Chinese immigrants came mainly from the mainland province of Fukien. They cultivated the fertile land and plains of the coastal areas and their descendants continue to dwell mainly in lowlands. A second wave of settlers came principally from Kwangtung Province. They settled in the foothills, and their descendants continue to be responsible for the extensive terrace cultivation of rice found there. The overwhelming majority of the post-1949 arrivals from the mainland have settled in the urban centers and adjacent areas.

The aborigines were displaced from the lowlands by the Chinese settlers and forced back to the inhospitable and inaccessible mountains, which protected them from further encroachment but also served to contain them. Their descendants continue to dwell in the mountainous areas.

The density of population in 1966 was 980 persons per square mile, one of the highest in the world. Even this figure gives little indication of how densely the land actually is settled, however, because over 60 percent of the area is covered by rugged mountains, which are occupied sparsely. Almost all of the people live on the alluvial plain or the small marginal tableland which together constitute about 36.5 percent of the total area. The average density within that area is about 2,700 persons per square mile, and some places near the major cities are populated even more densely. The density on the Pescadores is about 2,250 per square mile, and the corresponding figures for Quemoy and Matsu are 815 and 1,430, respectively.

Chapter 4: Ethnic groups and languages

Approximately 98.5 percent of the population of Taiwan is Chinese. The remaining small number, according to the 1966 government census, consists of 175,000 aborigines whose ancesters occupied the island centuries before the beginnings of Chinese migration.

Before the influx of mainlanders from many provinces after the Communist takeover, almost all Chinese were descendants of rice farmers from the adjoining southern China provinces of Fukien and Kwangtung. The Fukien, who are Min-nan speakers, were in the majority, representing more than 80 percent of the population. Most of those from Kwangtung province are Hakka speakers;

they were low-status landless peasants from the mainland who became settled farmers on Taiwan. The major distinction between the two has been linguistic.

Virtually all Chinese migrants, both early and late arrivals, share physical similarities and a broadly common cultural heritage. Although they speak different languages and dialects, they share the same written language, social and family organization, religion. many art forms, and other cultural aspects which unite them into a recognizable ethnic unit. In addition to the similarities that already exist, the government actively is fostering the sentiment of Chinese unity by encouraging the study of Chinese culture and the universal use of the Mandarin language (see ch. 8, Education).

Although it is relatively small, the aboriginal population is more fragmented than the Chinese. Despite their small numbers, the aborigines are either the exclusive or predominant population on at least 45 percent of the island. According to estimates made over the last decade the aboriginal population appears to be decreasing; these estimates exclude those who have become assimilated as rural peasants and count only those who still live on mountain reservations.

Aboriginal contact with the Chinese began with the mass migrations of the seventeenth century. The Chinese had clan feuds among themselves and also had to deal with headhunting natives. The latter eventually had to choose between assimilation or expulsion to the mountain. The original culture of some groups, formerly called *sheng-fan* (unasimilated aborigines), which occupy the mountain areas and the east coast, has remained intact until the last few decades. The indigenous culture of the *shu-fan* (assimilated aborigines), now scattered on the plains in various parts of the island, has almost disappeared (see ch. 3, Historical Setting).

During the Japanese occupation the mountain-dwelling aborigines were pacified through negotiations. Some headhunting continued; the victims usually were Japanese police officials who administered aboriginal affairs. In addition to establishing medical units and enforcing regulations regarding trade between aborigines and outsiders, the Japanese pressed their language and religion on the natives, as they had upon the entire Taiwanese population.

Upon the return of Taiwan to China, new policies have been formulated and administered by the Nationalist government with the explicit aim of assimilating the aborigines into the Chinese way of life. Health services and educational facilities have been made increasingly available. Aborigines have local provincial suffrage, and the land-to-tiller program is scheduled to extend to the aborigines by 1969.

The Aboriginal minority

The aborigines of Taiwan are neither culturally nor physically homogeneous. The official classification made by the Chinese government in 1962 includes the Ami, Yami, Taiyal, Saiset, Tsou, Bunun, Paiwan, Puyuma, and Rukai. Some anthropologists using different cultural and sometimes biological criteria in making their classifications, include the Thao. Still others designate fewer major groups, and it is possible that subsequent fieldwork and analysis may support the position that the Puyuma, Rukai, Thao, and possibly even the Saiset should be included as subdivisions of other groups.

Only the Ami and Yami are not mountain groups. The Ami inhabit the eastern coastal plain, and the Yami occupy Lanyu Island, off the southeastern coast. The Puyuma range from the eastern foothills to the coast. The Tsou, Thao, and Bunun live in the Central Mountain region, and the Bunun inhabit the highest mountains. The Taiyal live in the north, the Saiset in the northwest, and the Paiwan in the south. The Rukai are south of the Bunun and north of the Paiwan (see fig. 3).

Attempts have been made to trace the origins of the indigenous peoples through physical, linguistic, and archaeological evidence. Claims have been made for physical affinities with Malayans, Papuans, Negritos, Polynesians, and the aborigines of mainland China. Linguistically, the mutually unintelligible languages of the various groups are placed in a Malayo-Polynesian category.

From archaeological evidence the prehistoric peoples of the northern and central parts of Taiwan appear to have been related to prehistoric mainland peoples. Archaelogical finds in the southern and eastern areas indicate some connections with South Sea Island culture. Most recent finds support the view that the majority of aboriginal immigrants were ancient "Austronesians" of South China who entered Taiwan at various periods beginning about 1500 B.C. It appears, therefore, that the cultural and physical characteristics of the aborigines resulted from the migrations and contacts of peoples from different areas and, perhaps more importantly, evolution through centuries of ecological adaptation to different environments.

Common Physical and Cultural Characteristics

In terms of predominant features the majority of the aboriginal population can be grouped under the label Southern Mongoloid. These features include short stature, generally less than 5 feet 6 inches, a complexion that ranges from olive to reddish brown and jet black hair that hangs straight. Faces are broad, with laterally enlarged cheekbones, long flat noses wide at the nostrils, and relatively thin, rather than full, lips. Eyes are chiefly oblique, with the Mongoloid fold.

Tribes of a strong Melanesian appearance have been reported by at least one nineteenth century observer, and a general dichotomy in physical type is accepted as existing between the mountain dwelling aborigines and the Ami and Yami.

Whatever degree of variation in physical type, all aborigines, except perhaps those physiologically assimilated, are physically distinct from the Chinese population. Even those culturally assimilated remain as a conspicuous group within the Taiwan population.

Although a degree of regionalism exists among the Chinese population, all can be seen as partaking of a general national culture. The political system, modern means of transportation and communication, a national educational system, literacy, and, of course, a common recognition of Chinese nationality all facilitate this national culture. On the other hand, the aborigines have been fragmented by geographical isolation, economic independence, linguistic distinctiveness, some mutual hostility, and a lack of political unity.

The Taiwanese aborigines, however, do have some cultural similarities. Except for the Yami, who inhabit Lanyu Island, all are dry-farming agriculturalists, millet eaters, observers of agrarian rites, and headhunters. Headhunting was once their most notorious specialty. Heads were taken by young men to gain adult status, prestige, and qualification for marriage. The headhunting practice diminished as control over aboriginal activities increased, and in the mid-1960's it was reportedly extinct.

In religion, the aborigines are ancestor worshipers and agrarian rite observers. Their belief is a kind of polytheism, with no distinction between gods and spirits. Only the Bunun and the Tsou have the concept of gods as creators.

In family organizations, some groups are matrilineal and have extended families organized around related women; some are patrilineal, and others are bilateral. Some groups are classless, whereas some distinguish common people from chieftains. Others have age-grades; that is, different levels of social status distinguished by age. Still others have bachelor houses, which are separate dwellings for unmarried males. Chinese influences have increased further the complexity of the social and cultural nature of the aboriginal groups.

In terms of marriage patterns all groups are strictly monogamous. In different groups the newly married couple either moves to the locality of the bride's family, to the locality of the bridegroom's family, or settles apart from either family.

Differentiated Groups

The Taiyal

The Taiyal occupy the northern mountain region, where 50 percent of the group live in altitudes ranging from 3,000 to 4,500 feet above sea level and some live as high as 6,560 feet. Their land is relatively poor, and, consequently, can support only a sparse population.

Taiyal economy is based on both hunting and farming. Their main crops are cereal grains and sweet potatoes, but they also grow peanuts, gourds, beans, and tobacco. Pigs, fowl, water buffaloes, and occasionally goats are kept. Hunting dogs also are kept because hunting is necessary to supplement their diet.

Since there is a scarcity of arable land, the forests have been destroyed by the slash-and-burn method of farming. In this method a limited area is cleared, and the felled trees and bush are burned. The cleared land is cultivated for several seasons, depending on the fertility of the soil. When the soil is exhausted, the farmer moves on to another area, and the process is repeated.

The Taiyal are localized into neighborhoods of dispersed homesteads or clusters of separated hamlets, but very often they will migrate to find new land for cultivation. Houses, similar to those of the Ami and Tsou, are constructed of bamboo, lumber, straw and reeds. The roof is heavily thatched with bamboo and rushes and sharply inclined. In Taiyal huts the walls are built of bamboo latticework and the trunks of trees. These windowless, damp huts are primarily sleeping places and have bamboo benches for beds built along the sides of the walls. Only on rainy days do the women cook and weave indoors. Outside the house there are small huts or granaries constructed on piles about 5 feet above the ground.

The Taiyal have no clan system, and households usually are comprised of only parents and their children. When a couple marries the young people often establish their home in the community of the husband's family, but they do not become part of his family's household. This system is different from some of the other aboriginal systems and also from the usual rural Chinese system, where new families become extensions of the husband's father's family, and households sometimes comprise several dozen people.

There are, however, two exceptions to the rule that newly married couples establish new households. The youngest or the only son always remains with his parents, even after marriage; this is because family property is inherited by the youngest son. If a family has no son, it usually will bring in a daughter's husband to remain in the household and inherit the family property.

The second exception is related to the practice of betrothal prices, common among the aborigines. Betrothal presents given to the wife's parents included beaded skirts, pigs, cows, or even guns. In some areas the complete series of gifts or payment is not paid until the wife has her first child. If the bridegroom cannot produce the necessary price at the time of the marriage, the couple will move into the wife's family's household. Thus, the husband becomes an economic asset to his parents-in-law and remains such until it is agreed that he has met the betrothal price through his labor. The new couple then sets up its own household.

The Taiyal believe that a human being consists of a carnal body and a spirit, which leaves the body temporarily during dreams and permanently at death. On its last journey the spirit goes to the top of the highest mountain to join its ancestral spirits. This concept has great importance to the Taiyal because their religion is based primarily on reverence for ancestors. In former times the success of headhunting expeditions was regarded as the judgment of their ancestral spirits. The belief that death would bring about association with the spirits of the revered ancestors might account for the Taiyal's well-earned reputation as having been the fiercest and most warlike of the aboriginal groups.

Taiyal religion does not include a creator, and the only diety they worship is the rain spirit responsible for the torrential downpours during the rainy season. All Taiwanese aboriginal religions include spirits associated with natural objects and events.

In former times the Taiyal tattooed their faces: the men tattooed their foreheads and chins, and the women, their foreheads and cheeks. The knocking out of teeth was also practiced by both sexes. These customs, along with headhunting, represent aspects of the traditional culture which have become extinct. Because of their location, however, the Taiyal have retained more of their traditional culture than the groups having more intensive contact with the Chinese population.

The Saiset

The Saiset occupy a relatively small area between the mountain regions inhabited by the Taiyal and the plains dominated by the rural Chinese. Their way of life reflects influences from both groups. In manner of living and in dress they are not very different from the neighboring Chinese peasants. In former times they copied customs of the neighboring Taiyal with respect to tattooing and knocking out of teeth.

The basic subsistence patterns of the Saiset are somewhat the same as the Taiyal. The Saiset, however, live mostly on the mountain slopes and have cultivated more permanent paddy fields. They employed plows, hoes and cattle earlier than the Taiyal. They are more acculturated, and a large portion of their territory has been placed under regular administration.

The Saiset are localized into neighborhoods of dispersed homesteads. They have 18 exogamous patrilineal clans, each with a particular clan name. Some of the clans are believed to have more intimate relations with each other than with the remainder of the Saiset clans. Their marriage rules and family system are somewhat like those of the Taiyal.

The Saiset religion includes belief in spirits, with distinction between deities and spirits. They believe that the regions they now inhabit were orginally the territory of the dwarves, who taught them to cultivate the land and harvest the crops and who were finally killed by the Saiset for being crafty and licentious. As penance for the murder, the descendants of the Saiset people now hold a ceremony, called pash-tai, every other year after harvestime. The ceremony lasts 5 nights, and every night is filled with singing and dancing.

The Bunun

The Bunun, who used to dwell in the barren highland mountain regions, spent most of their time hunting. They were migratory and formed semisedentary communities. Recently they have been encouraged to migrate to better farmlands in both the hills and plain areas. They now possess paddy fields in addition to millet, dry-rice, corn, and sweet potato lands. Plows, hoes, and cattle are employed in agriculture, and dogs are used in hunting. Pigs, fowl and, very rarely, goats are raised. They dislike fishing and exclude the eating of fish in all ceremonies.

The Bunun have a graded series of exogamus patrilineal kin groups consisting of several clans. All of the kin groups are exogamous units, and each subclan has a particular name.

The Bunun believe in gods and spirits. The observance of rites and taboos covers 100 days a year. A certain kind of tall green mountain grass is held as sacred. At sowing time and at harvest time great bundles of this grass are brought into the house, millet wine is sprinkled before the doorway and invocations to ancestors are sung and danced on the open ground between the houses of each village.

The Tsou

Tsou culture resembles that of the Bunan, their neighbors to the east. Their traditional economy, kinship system, clan structure and age-grading are similar. Since they are closer to the western plains, however, they have had frequent contacts with the Chinese population; this association has had a gradual effect on their culture.

Tsou houses are more similar to those of the Taiyal than to those of the Bunun. Huts are constructed of bamboo, straw, lumber, and reeds. The floor is of tamped earth; the walls are of rushes interlaced with grass; and the roof is heavily thatched with bamboo, sloping down on all four sides.

The spirit recognized by the Tsou comprise those of the mountains, forests, rivers, and other natural objects. The spirits of ancestors supply the active energy of this animism.

The Paiwan

The Paiwan are upland and paddy-field cultivators in the southern mountain regions. The uplanders depend primarily on tuber crops, especially the taro, and on cereals, in addition to the hunting of wild game and rearing of domestic animals.

The Paiwan are localized in compact villages. The uplanders build their houses of stone, including slate. The house of the chief has three windows, a wooden lintel decorated with carvings of human faces, snakes, and, occasionally, deer and a kind of slate platform.

The family system is of the minimal extended type which usually, but not always, consists of two related families one generation apart. Descent is bilateral. Marriage of the common people is monogamous, but the chief is permitted to marry two or more wives. The newly married couple lives for a short time with the parents of the bride before they build a home of their own or go to the home of the bridegroom's parents. Chieftainship of each village usually is descended from father to the eldest son. Occasionally a female chief rules; this is the case when the old chief has died without leaving a son.

Those living near the coast have adopted the Chinese style in building houses, in dress, and in other customs, without any distinction between common people and the chief of a village.

The Paiwan pay greater reverence to ancestoral spirits than to any other spirits. The human figure carved on a slate tablet in front of the chief's house represents a glorified ancestor. Ancestral spirits are believed to inhabit the ancient swords or knives which have been in the possession of the tribe for several generations. There are other spirits whose dwelling place is said to be the forest or jungle. All these are propitiated twice a year, at sowing and at harvesting. Once every 5 years at the time of the harvest festival occurs a great celebration; the game of *mavayaiya* is played at this celebration. This game is a contest between several warriors, each trying to impale on a bamboo lance a bundle made of bark which is tossed into the air; the one who catches it on the point of his lance is considered the victor. Tradition among them asserts that in earlier days it was a human head—that of a slain enemy—which was thus tossed into the air; a bundle of bark is considered a poor substitute.

The Ami

The Ami make their living by wet-rice field cultivation; stockbreeding, hunting, fishing, and handicraft are of secondary importance.

The Ami are localized in compact villages, and their houses normally are occupied by entire large extended families. They have become acculturated through contact with the Chinese, but their matrilineal exogramous clan system has remained among the southern subgroup. Among the northern and central groups, clan organization and its exogamous system have been lost; there exists instead many lineages derived from subclans. Marriage is monogamous.

Among the Ami a very complicated age-grade system prevails. In some localities there are 10 age-grades; In others there are 12. The boy joins the lowest grade when he reaches the age of 14 or 15, and his grade is promoted every 5 or 8 years. Men and women of the same age are accorded equal privileges, but the greatest deference always is paid to the oldest. The upper-age rank or the older men exercise control over social matters.

The Ami believe that thunderstorms are caused by the quarrels between a divine couple; the husband causes the thunder by stamping and by throwing about the pots, and the wife brings the lightning by completely disrobing herself in anger. Earthquakes are supposed to be caused by a spirit in the shape of a great pig scratching himself against a pole which extends from earth to heaven. The earth is said to be flat; the sun goes under it at night, and the moon and stars go under it during the day.

In times of illness or danger a priestess is asked to intercede with the various deities. Intercession takes the form of a chanting prayer; small colored pebbles and small pieces of the flesh of a wild pig are thrown into the air as an offering to the deities. The red stones or beads used by the priestess in her incantations also are used sometimes by the older warriors and huntsmen as talismans for good luck in hunting.

The Ami believe that good men and women go to heaven and bad ones, to hell. Heaven is said to be situated somewhere in the north, and hell is somewhere in the south. They believe that their ancestors drifted to the coast in a long dugout. Once a year a commemorative festival is held at the spot where their ancestors first landed, and food and drink are offered to the spirits of their ancestors.

The Thao

The Thao sometimes are included with the Bunun. Ch'en Ch'i-lu, an anthropologist who has done field work among the Thao, however, considers them a distinct group. In terms of social organization similarities exist between the two, but certain differences can be identified which are related to environmental conditions. The Bunun are averse to fishing, but the Thao, who live in the Sun-Moon Lake area, supplement their agricultural yield by using dugouts to fish on the lake.

Another product of environment can be seen in their religious beliefs. The Bunun hold a certain type of tall mountain grass as sacred; the Thao hold special reverence for an island in the middle of Sun-Moon Lake, which is said to be the home of the most powerful ancestor spirit of all.

The Rukai and Puyuma

Like the Thao, the Rukai and Puyuma are not always distinguished as separate groups because of the similarities which they both share with the Paiwan. None of the three have clan systems, and the only social differences appear to be in the manner of inheriting chieftainship. Their manner of dress is somewhat similar. Local differences exist in the manner in which their ancestor-oriented animistic religion is manifested.

Among the Rukai there is a tradition that their ancestors came from the moon and brought with them 12 earthenware jars, believed to be of lunar origin, and a large white circular stone. At the semiannual festivals priestesses dance before these treasured objects, on which offerings of millet and millet wine, fruit, and other food are placed; they chant to invoke the spirits of the moon-ancestors to bestow blessings upon the tribe.

In other groups where there are no sacred jars or stones, the priestesses arrange the food offerings in little piles closer together, forming a circle to simulate the full moon. To step within the charmed circle would be a sacrilege; this offense is so serious that only the death of the offender would remove the tribe from the blight which otherwise would fall upon it.

The most sacred spot to the Puyuma is a bamboo groove near the coast. They have a tradition that the first man and woman ancestors of the tribe sprang from different joints of this bamboo, which is believed to have been planted by a god. Markings on a stone near the sacred grove are said to be footprints of this first couple, for this reason the stone is considered most sacred.

THE YAMI

The Yami, who inhabit Lanyu Island, are the most geographically isolated of the aboriginal groups: Most of them are fishermen and skilled boatbuilders. Their boats, built of tree trunks, resemble the canoes of the people of the Solomon Islands rather than those of any coastal people on Taiwan. Their origins, and also their cultural contacts, doubtessly have been different.

Yami houses are usually two stories high; the lower part, built half underground, is used in winter, and the upper part, about 4 feet above ground level, is used in summer. Attached to the living quarters is the *makarang*, a structure where family members work. Villages are compact, and each house is surrounded by a high stone wall which acts as a windbreaker.

Fish is the main source of food, and agriculture is limited. The food plants include only a few kinds of cereals, tubers and vegetables. Pigs, goats, and wild fowl also are raised, but dogs and domesticated fowl are lacking.

The Yami is the only group in which adoption does not occur when there are no sons or daughters. In contrast with Taiwanese aborigines, no importance is attached to the continuation of the family line. Most households contain only nuclear families, and their are no clans.

The Yami have a tradition that their ancestors came out of the sea; they worship the sea god and observe a semiannual religious festival at which they cast offerings of fruit, food, and flowers into the sea.

They believe that a soul resides in one's body and that it turns into an evil spirit when one dies. To keep off the evil spirits, there are various taboos and charms. Weapons, such as swords and spears, are used as talismans against evil spirits more than as fighting instruments.

Interethnic relations and attitudes

Intergroup Relations Among the Aborigines

Before the exertion of administrative control by the Japanese and the Chinese, intertribal warfare took place. Weapons were spears and arrows. Headtaking and cannibalism at times were associated with the spoils of a victory.

As a result of Japanese suppression policies at the turn of the century and the ban on movement in and out of mountain reservations, the aborigines were isolated from one another; most of the groups had little to do with one another, except for business transactions. After the restoration of Taiwan to China, greater freedom was permitted. By this time such incentives to warfare as headhunting and territorial gain had been removed.

Conflicts that do occur are no longer on a tribal level, and intergroup harmony is a practical reality. Entire groups have been known to support individuals from different groups in local elections. Christian missionary activity has involved people from different aboriginal groups working in churches which are attended by different groups of aboriginal believers.

In the traditional setting, an individual identified his affiliations in such terms as kinship group, clan and tribe. As the government pursues its policies of assimilation for all aborigines, the natives learn to identify themselves as members of a single aboriginal group. A resulting concern with economic progress and improvement in living conditions may take precedence over possible intergroup rivalry.

The Aborigines and the Chinese

Chinese settlements on the western grasslands in the seventeenth century encroached upon the living space of the aborigines. Conflicts occurred and grew more acute as the landless peasants from Fukien and Kwangtung provinces sought to settle on the best parts of the southwestern plains. The Chinese government tried to intervene by prohibiting the cultivation of land already controlled by the aborigines, but encroachment and conflicts continued. By the beginning of the nineteenth century, the Chinese began cultivation of the eastern plains. This brought fierce retaliation by the aborigines, who were by now more concentrated. The eventual settling of the eastern plains had to be carried on under the protection of the army.

The Japanese and the Chinese governments both maintained the separation of the aborigines from the Chinese population. Entry into the mountainous areas occupied by the aborigines is restricted at present. The government maintains these restrictions to preclude the infiltration of undesirable elements and to protect the aborigines from unlawful people who might take advantage of their general ignorance of national economic and legal systems. The law naturally inhibits contacts between the aborigines and the Chinese. Those aborigines who have settled on the plains as fully assimilated rural farmers have continual contact with Chinese, but apparently little or no friction has resulted.

Government administration and protection of the Aborgines

During the Manachu dynasty (1683–1894), policies were adopted to educate the aborigines, segregate them from the plain dwellers, prohibit plainland people from going into mountainous areas, and prohibit interracial marriage. The Japanese rulers (1894–1945) adopted a combined policy of pacification and force. Organizations responsible for tribal affairs were established, but at times conflicts between the administrators and the aborigines occurred. Since the return of Taiwan to China, specific policies have been established with the ultimate purpose of assimilating the aborigines into the national community.

At present, the Civil Affairs Department of the Taiwan Provincial Government is in charge of the administration in mountain areas. Offices at the county level are in charge of civil affairs, public works, conscription, finance, and census. District offices have divisions to promote cultural and educational matters among the aborigines and to care for sanitation and health works.

There is self-government on the village level, for the aborigines elect their own chiefs. The aborigines also have been given the right to extend their representation beyond the village level. They elect provinicial assemblymen and can run for the office themselves. In 1965 a reserved quota of three representatives existed for the aborigines in the Taiwan Provincial Assembly; two are for the tribesmen in the mountains, and one representative is for those living on the plains.

Aborigines who successfully pass government examinations are allowed to be government officials. Since the educational level of the aborigines is below that of the Chinese population, the central government established special examinations which middle-school graduates and those who have served in village offices are qualified to take.

Special areas of state-owned land have been reserved for use by the aborigines. The people may use this land for construction, farming, animal husbandry, hunting, gathering firewood, felling trees, or other purposes without paying taxes. New farming techniques have been introduced by the government, and regulations have been established to facilitate the most expedient use of the land. At present, the Taiwan Provincial Government is completing a land survey which eventually will distribute land among the aborigines for their ownership.

Living conditions among the aborigines are much lower than among the Chinese population. The traditional aboriginal culture and their economic weakness are the primary reasons. Aborigines in the remote mountainous areas formerly were living in dire distress. After years of encouragement and aid by the government, the majority of them now are relocated on land adjacent to the plains.

The Taiwan Provincial Government provides equipment and medicine for sanitation stations. These stations are responsible for family sanitation, epidemic prevention, and consultion with mothers on child care. Appropriations also have been made for the construction of waterworks, public lavatories, and other projects for the improvement of sanitation.

Primary school education has been increasing. In secondary education the government subsidizes two agricultural-vocational schools with enrollment exclusively for tribal youths. The government encourages aboriginal youths to attend normal schools, vocational schools, and universities throughout the island. Enrollment standards are lowered for aborigines at the university level to give them a better chance to receive a higher education. At present there are more than a hundred aborigines in various universities, colleges, and service schools of the armed forces.

To extend aboriginal skills beyond farming and hunting, a handicraft seminar was established by the provincial government at Taitung. It provides training in carpentry, bamboo and rattan handicraft, construction, bicycle and sewing machine repair, and other vocational training. Classes for silkworm raising and for tailoring also have been established. The official regulations of the government stipulate that public and private enterprises should not exercise racial discrimination in employment, and job placement for aborigines has increased.

Present actions of the government therefore are geared to protection and controlled progress. The plan is to improve the living conditions and to prepare as many aborigines as possible for participation in the national society as productive members and sharers in the economic growth.

Languages

The Chinese use the same written language; the different spoken dialects, however, are mutually unintelligible. The three major dialect groups, all belonging to the Sino-Tibetan language family, are Min-nan, Hakka, and Mandarin. Min-nan and Hakka are spoken by the Taiwanese population whose ancestors migrated to the island starting in the early seventeenth century. Mandarin is the language of the majority of the mainlanders who have arrived since the end of World War II. Mandarin, as the official language of the Republic of China, is spoken by an increasing number of Chinese.

The aborigines have no written language of their own and speak various languages of the Indonesian branch of the Malayo-Polynesian family. As the process of cultural assimilation directed by the government continues, a greater portion of the aboriginal population learns Chinese.

Chinese

Min-nan

Min-nan, the mother tongue of the majority of the people of Taiwan, is a subdivision of the Min or Fukien language, which is comprised of Northern Min and Southern Min. The latter is represented by the Amoy dialect in southern Fukien and by the Swatow dialect in northeastern Kwangtung and on Hainan Island. Most Taiwanese, having originated from the area across the Formosa Straits, speak the dialect of Chang-chou, a city about 20 miles from Amoy. All speakers of Min-nan, regardless of differences in dialect, can understand one another.

Min-nan speakers settled primarily on the western plains and the northern part of the island, and their language dominates in these areas. Some Min-nan speakers have moved to the east coast as land there has become available. Increasing numbers of Min-nan speakers who move to urban areas learn Mandarin.

Hakka

Of the three major Chinese groups, Hakka speakers are in the minority. On the Chinese mainland the Hakka language spreads over an area extending on an east-west axis from Fukien to Kwangsi, including southern Kiangsi and northern Kwangtung. On Taiwan it is spoken by the descendants of early migrants from northern Kwangtung province. As with Min-nan, Hakka is spoken by a portion of the culturally assimilated aborigines.

Hakka speakers settled as farmers primarily on the northwestern part of Taiwan and in lesser numbers in the south and east of the mountains. Those having continual contact with Min-nan speakers learn the latter's language, and, as with Min-nan speakers, those moving to urban areas learn Mandarin.

Mandarin

Mandarin is the spoken language of about 70 percent of the population on the mainland. Its three major dialects are Northern Mandarin, Southeastern Mandarin, and Southern Mandarin. Its regional distribution is wide, but it only has been important on Taiwan since 1945 when mainlanders from all parts of China began migrating to the island.

Upon the return of Taiwan to Chinese rule, Mandarin became the official language used in administration, law, education and, to a large extent, commerce. The government continues to make vigorous efforts to teach the language to the non-Mandarin-speaking people of the island.

In the early 1950's only mainlanders and the better-educated Taiwanese spoke Mandarin. A decade ago most young people under 25 spoke Mandarin; today an entire generation, including mainlanders and Taiwanese, has shared a common education in a common language. As Mandarin becomes the national language, in fact as well as in policy, the distinction between the mainlanders and the ethnic Chinese natives is lessening.

Other Dialects

Although the mainlanders speak Mandarin as a rule, if only as a second dialect, they have also brought in a variety of other dialects, such as Cantonese, Shanhai, and Foochow (Northern Min). Among the native Taiwanese a minority group of Cantonese origin speak Cantonese.

Japanese

By 1898 the Japanese were formulating detailed policies for the administration of Taiwan. Specialized schools were established to develop local skilled manpower. Language schools were included so that some Taiwanese natives could be used to fill minor roles in the extensive bureaucratic system.

Many Taiwanese and some aborigines learned Japanese, particularly after 1937, when the Japanese Government made it the official language. Although many Taiwanese continued to speak Chinese in social and business relation among themselves, the exclusive use of Japanese in elementary schools, banks and government offices produced a widepread knowledge of the language. It came to be used as an auxiliary language among Min-nan speakers, Hakka speakers, and the arborigines when they could not converse otherwise.

Upon the return of Taiwan to China after World War II, the Japanese language was replaced by the Chinese language. Familiarity with the Japanese language now is confined largely to older people who were educated under Japanese rule and businessmen and specialists who use Japanese in their work.

Malayo-Polynesian

Twelve mutually unintelligible languages or dialects have been identified within the aboriginal population. According to one source these are listed as Atayal (Taiyal), Sedeq, Saisiyat (Saiset), Bunun, Kanakanabu, Saarua, Paiwan, Rukai (Tsarisen), Puyuma (Panapanayan), Ami (Pangtsah), and Yami. These all belong to the Indonesian branch of the Malayo-Polynesian family of languages. As the government pursues its policies of assimilating the aborigines, their languages, as well as other aspects of their aboriginal culture, appear destined to disappear.

Literacy and writing

The Chinese use an ideographic system of writing. It consists of a set of symbols that are associated with the same meanings but with different sounds among the speakers and readers of Chinese. A Chinese ideograph resembles the European use of "9." The symbol means the same to Frenchmen, Englishmen, and Germans, but in the spoken languages it is pronounced differently. Since one writing system is used by all Chinese, all literate people can communicate with one another even if they speak mutually unintelligible languages and dialects.

Since the establishment of the Nationalist government on Taiwan, efforts continually have been made to increase literacy. The rate of illiteracy of people over 6 years old has been cut from 42.1 percent in 1952 to about 20 percent in 1966. As literacy increases and Mandarin becomes more widespread, communication through the use of a common language is increasing (see ch. 8, Education).

There is no script for the languages of the aborigines. In early times the Dutch taught some of the aborigines to write their language in Roman letters, but the attempt achieved no lasting results.

Social connotations and uses of languages

Mandarin, as the official language and the language of the most influential people, has the most prestige. Of those adults who did not learn it at school, the people who acquire it and who become bilingual are mostly young men from rural areas who move to urban areas for employment. For rural people, the knowledge of the Mandarin language increases one's mobility and makes one more qualified to deal with officials and members of the business community.

Min-nan, as the mother tongue of the majority of the population, still has considerable social importance. Although Hakka is a minority language, it is still important in the rural areas dominated by Taiwanese from Kwangtung. On the mainland, Hakka speakers are considered socially inferior to Min-nan speakers, but this is not true on Taiwan. Members of both groups and speakers of Cantonese, who always maintained a distinctiveness from the rest of the population, are increasingly at a disadvantage as Mandarin gains in prominence unless they learn Mandarin as a second language.

The Japanese language now is proscribed officially. It is used by a decreasing number of people. English, on the other hand, has gained prestige, especially in urban areas, because of the elite groups who speak it.

In matters of public information a variety of languages and dialects are used. Besides Mandarin, Min-nan, and Hakka are used by local radio and television stations in rural areas. This facilitates the dissemination of information regarding national and international affairs, which otherwise would not be available to many rural dwellers.

NCAA FINALS TO BE PLAYED IN SALT LAKE CITY

Mr. HATCH. Mr. President, I am sure that many of my colleagues have noticed that this past weekend the NCAA selected the pairings to the upcoming collegiate basketball playoffs. I have a special interest in this year's tournament due to the fact that the NCAA finals will be held in Salt Lake City, March 24 through 26.

I am very proud that the great State of Utah will be well represented in the field of 40 teams selected to participate. There are four schools in the State which play in Division I of the NCAA—and all four have been offered and have accepted invitations to play for the national championship. These four schools all lie within 125 miles of each other, along the Wasatch Front in northern Utah.

At the northern end of the State, the Utah State Aggies finished second in the Pacific Coast Athletic Association during the regular season, and finished second in the conference tournament last week. They were invited to the NCAA by the selection panel on the basis of their overall season record, 19 wins and 10 losses. The Aggies bring a long winning tradition back to the NCAA tournament—the people of Logan, Utah, can be justifiably proud of their team.

Ogden is the home of Weber State College, where the Wildcats finished first in the Big Sky Conference and then concluded the season winning the conference tournament. They hold a 24–8 record, and may be one of the darkhorses of the tournament.

The NCAA tournament has become a habit at Weber State—a habit continued even after Weber consented to Dick Motta's move from head coach at Ogden to the NBA, where most of you know him as coach of the champion Washington Bullets.

In Salt Lake City, the host school of the NCAA finals is the University of Utah. Though plagued with injuries the Running Utes finished second in the Western Athletic Conference with a season record of 20–9. They will have the home court advantage should they get to the final four, which they last did 12 years ago. The Utes also bring a winning tradition to the NCAA tournament—they tend to make it to the final 16 whenever they appear in this tournament.

The southernmost school in Utah to enter the NCAA tournament is Brigham Young University. They are the champions of the Western Athletic Conference. They, too, will have an advantage should they get past their first round game against San Francisco. The Western Regionals will be in Provo, Utah, affording the Cougars of BYU the home court advantage there, and undoubtedly the home team status should they make it to the final four. This is a team that is composed of two freshman forwards, a junior center, a junior guard, and the leading WAC scorer, sophomore Danny Ainge at the other guard. The Cougars finished the season with a 20–7 record and will be very competitive in the tournament.

Mr. President, I know that all of this may seem like a bit of bragging on my part, but I am filled with pride over the accomplishments of the fine young men who represent these schools. I also feel confident that no other Senator can find four schools in his State that have the support of the fans like these schools. The attendance figures are not all in yet, but I can be sure that they will be impressive.

The Spectrum at Utah State seats about 10,500 and is filled to capacity each home game. At Weber State they have the new Dee Center which also fills up with over 12,000 fans per game. The University of Utah plays in the Special Events Center which seats about 15,500 fans, and will be increased to about 17,000 for the NCAA finals. The SEC is also sold out each game. The most impressive figures come from Provo. BYU's Marriott Center has a seating capacity of 23,000. At the last game between BYU and Utah, fans set a new attendance record of 23,009.

In summation, Mr. President, I think that we can look forward to an exciting tournament. I know that I will be watching with great interest and hope to see a Utah school among the final four in Salt Lake come March 24.

UTAH LEGISLATURE SPEAKS OUT ON WILDERNESS DESIGNATIONS

Mr. HATCH. Mr. President, sometime in the future, the U.S. Senate will consider the designation of vast tracts of public land as wilderness. In view of that fact the 43d legislature of the State of Utah has recently passed a resolution outlining their concerns with the total wilderness designation process and urging the Congress to consider this resolution before making a final determination.

Sixty-six percent of the land in Utah is owned by the Federal Government. Of necessity, our citizens are genuinely concerned with the effects which Federal legislation dealing with this public land will have on them. They depend heavily on mineral leases, timber harvesting, grazing of livestock, and water projects to make a living. Consequently, every new law which attempts to alter in some way the use or management of public land has a tremendous impact on their productivity. Sound legislative thinking and proper management of public land means prosperity to our citizens. The ramifications of wilderness set-aside will affect every citizen.

Mr. President, I have always been of the opinion that the top priority in considering land for wilderness is the effect which such withdrawal will have on the livelihoods of our citizens. By passing this concurrent resolution both the Governor and the Utah State Legislature have made known to Congress their objections to the proposed RARE II and Bureau of Land Management wilderness designations. I ask unanimous consent that the resolution as passed be printed in the RECORD following my remarks. I believe these objections must be addressed before Congress makes a final decision and I urge my colleagues to thoughtfully study this resolution.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

H. CON. RES. 5

Be it resolved by the Legislature of the State of Utah, the Governor concurring therein:

Whereas, the United States Forest Service has just completed the inventory of lands under its jurisdiction to determine the wilderness characteristics of these lands, as required by federal law;

Whereas, the Bureau of Land Management, United States Department of the Interior, has just begun to inventory the public domain lands to determine the wilderness characteristics of those lands as required by the Federal Land Policy and Management Act of 1976;

Whereas, the ultimate objective of the Forest Service and Bureau of Land Management inventories, as well as inventories of public lands within the National Park System and within National Wildlife refuges and game ranges, is to recommend to Congress tracts of roadless public land of 5,000 acres or more that may be suitable for inclusion in the National Wilderness Preservation System;

Whereas, the federal government owns approximately 66 percent of the State of Utah, and public lands are an important part of the economic base of almost every county in the state;

Whereas, substantial amounts of federal land within the state's boundaries are presently withdrawn from development and in many cases so strictly controlled that any use is virtually denied;

Whereas, Utah strongly endorses the concepts of multiple use and sustained yield as provided by Congress in Public Law 94–579, Section 103, and required by the planning process of Section 202 which gives voice to congressional intent that the resource values of the public lands be managed in combination to best meet the present and future needs of the American people; and that a sustained yield of output from the various renewable resources be maintained through high level annual or regular periodic production consistent with multiple use;

Whereas, significant data has not been developed concerning the economic impact of the wilderness designations on the State of Utah and its communities, and in particular, data related to oil and gas resources, mining, grazing, and recreation, and the impact of the 1977 Clean Air Act Amendments has been inadequately addressed by the wilderness designation process;

Whereas, Utah's energy resources must play a significant part in our national quest for energy self-sufficiency;

Whereas, Section 201(a) of Public Law 94–579 requires the Secretary of the Interior to prepare and maintain an inventory of public lands and Section 201(b) of this Law requires that the Secretary of the Interior shall provide state and local governments with data from the inventory "... for the purpose of planning and regulating the uses of non-federal lands in proximity to ... public lands.";

Whereas, designation of wilderness areas on public lands will result in the management of those lands and adjacent state and private lands according to authority given to federal agencies to manage wilderness areas which may hinder development of Utah's natural resources for state and national purposes;

Whereas, the Forest Service continues to violate the Congressionally-mandated rights of the State of Utah to administer, manage, lease, sell, or otherwise dispose of or utilize the school trust lands for the purpose of producing revenue for the support of the public schools;

Whereas, interim management of proposed wilderness areas by the Forest Service and other federal land management agencies has shown that the rights of access to reach and utilize for economical purposes state trust and private lands have been violated;

Whereas, the Federal Land Policy and Management Act of 1976 and the National Forest Management Act of 1976 require maximum input from state and local officials in regard to management of the public lands and areas affected by wilderness studies;

Whereas, local and state officials have requested that decisions concerning wilderness designations not be made without the important data necessary to properly make permanent land use decisions;

Whereas, federal land management agencies have not assembled that data despite the peladings of Utah's elected officials.

Now, therefore, be it resolved, by the General Session of the 43rd Legislature of the State of Utah, the Governor concurring therein, that they:

(1) Urge Congress to delay statutory designation of wilderness areas based on the proposed United States Forest Service RARE II designations in the State of Utah for the following reasons:

(a) The RARE II designation recommendation was not made in concert with the decision-making process of other federal land management agencies, obscuring the state's ability to see the total impact of wilderness designation.

(b) Significant facts on energy and natural resources inventories have not yet been determined.

(C) Wilderness designation by federal agencies which do not have the acceptance of locally-elected officials cannot be tolerated by the Utah Legislature.

(d) Wilderness designation inherently carries with it restrictions on use, and use of the public lands within the State of Utah are an integral and essential part of the economic bases of virtually every community within the state, and, therefore, the state itself. Any restriction on use affects the economic vitality and viability of this state.

(2) Urge Congress to act to:

(a) Assure that federal land management agencies and state and local governments retain limited access to all lands within the state for the purposes of watershed, wildlife, and fire control management and that reasonable access to state trust and private lands for economic development not be hindered by interim management or adjacent or surrounding proposed wilderness areas.

(b) Assure that all wilderness and potential wilderness areas within Utah be classified and managed as Class II air space unless otherwise recommended by the governor of the State of Utah.

(c) Encourage prompt action by federal agencies to return wilderness study areas within the state declared unsuitable for wilderness to multiple use management.

(d) Delay consideration by Congress of proposed RARE II designations until such consideration can be made in concert with consideration of wilderness designations of the other federal land management agencies to insure that the total impact of wilderness designations are assessed.

(e) Establish statutory procedures to provide for reassessment and reclassification of wilderness areas for multiple use management.

(3) Request Congress to direct the Bureau of Land Management to complete their review with all possible speed so that Bureau of Land Management and Forest Service proposals may be reviewed concurrently.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the President of the United States, the Secretary of the Department of Agriculture, the Secretary of the Department of the Interior, the Speaker of the House of Representatives, the President Pro Tem of the Senate, all members of the Utah congressional delegation, and to other members of the United States Congress.

VFW

Mr. THURMOND. Mr. President, the Committee on Veterans' Affairs yesterday was privileged to receive into testimony the priority legislative program of the Veterans' of Foreign Wars of the United States for the first session of the 96th Congress. Making the presentation in behalf of the VFW was the organization's commander in chief, the Honorable Eric Sandstrom of Washington. Accompanying Commander in Chief Sandstrom were national executive director of the Washington office, Cooper T. Holt; national legislative director, Donald H. Schwab; and the great national adjutant of the VFW, the Honorable Julian Dickenson.

In his testimony before the Veterans' Affairs Committee, Commander Sandstrom urged the Congress to approve an acceptable budget to fund ongoing veterans' programs and to maintain an adequate level of care in and staffing for the VA hospital and nursing care systems. He also urged favorable congressional action on needed cost-of-living increases in veterans' compensation and education programs.

In behalf of the more than 2.5 million ment and women of the VFW and its Ladies Auxiliary, Commander Sandstrom strongly urged unyielding loyalty and devotion to veterans and veterans' causes from the present administration. He also voiced strong VFW concern over the recent proposal by the Department of Labor to cut 52 secretarial positions from the Veterans Employment Service and urged favorable action on legislation to upgrade the position of Deputy Assistant Secretary of Labor for Veterans' Employment to a full Assistant Secretary.

Mr. President, the Veterans of Foreign Wars is our Nation's oldest and second largest veterans organization. Its membership is comprised of persons who have made meaningful and lasting contributions to the cause of peace and liberty. VFW views and concerns deserve the careful scrutiny of our members. I, therefore, ask unanimous consent that Commander Sandstrom's complete statement be printed in the Record at this point.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement of Eric Sandstrom

Mr. Chairman and Members of the Committee, it is indeed an honor and a privilege for me to appear before this most distinguished Committee representing the more than 2.5 million men and women of the Veterans of Foreign Wars of the United States and its Ladies Auxiliary, to present our priority legislative program for this first session of the 96th Congress. Our booklet entitled "V.F.W. Priority Goals Legislative and Security for 1979" is attached to my testimony. Without objection, it is requested this pamphlet be made a part of the record of this hearing.

First, let me state we are pleased that many of our old friends and the friends of all veterans have chosen to again serve on this Committee and we welcome those new members of this body. We note with pride that the Ranking Minority Member, the Honorable Alan Simpson is a life member of V.F.W. Post 2673 in Cody, Wyoming. Permit me to commend the Committee for advancing the many fine bills beneficial to our veterans, their dependents and survivors which became law during the 95th Congress. Also, I commend your staff and in particular, Jonathan Steinberg, your Chief General Counsel; Edward Scott, General Counsel; former Congressman Garner Shriver, Minority Counsel and Gary Crawford, Associate Minority Counsel for working so closely with the Executive Director of our Washington Office, Cooper T. Holt, and our National Legislative Director, Donald H. Schwab and their staffs.

With me today is the national leadership of the V.F.W. Those, who through their loyalty and hard work, have made this our 26th consecutive year of increased membership.

The President's proposed 1980 budget is $531.6 billion in outlays, an increase of $38.2 billion over 1979. Of this increase, the Department of Health, Education and Welfare will receive nearly 50 percent or $18.7 billion. At the same time, the proposed Veterans Administration budget is $20.4 billion in outlays which the Administration claims is an increase of more than $100 million over the 1979 budget of $20.3 billion. We of the V.F.W. do not see this as an increase, but a reduction of over $300 million from 1979 and at least $1.1 billion short of funding necessary for the Veterans Administration to properly care for our nation's veterans and carry out the programs mandated by Congress.

This, since the Senate and House conferees on the 1979 VA budget agreed in the Second Concurrent Budget Resolution, establishing spending ceilings, that the VA required $20.7 billion in outlays. Then, the Office of Management and Budget, not the Congress, decided the VA only needed $20.5 billion and now expects the VA will spend only $20.3 billion. Adding to the problem, OMB, not the Congress, has directed that $54.6 million appropriated to retain 3,132 hospital beds and the 1,500 personnel needed for their operation, additional staffing for outpatient facilities and staffing for new facilities would not be spent for those purposes, but, rather, for cost of living increases for VA personnel and to absorb postal rate increases. These are items for which the VA has always submitted a supplemental appropriation.

In addition, the budget is some $374 million short due to proposed negative legislation by the Administration to eliminate veterans benefits such as flight training and correspondence schools for Vietnam veterans; limit reimbursement for travel to VA facilities for treatment by non-service-connected veterans; limit outpatient drugs and medicines for non-service-connected veterans and eliminate dental care for Vietnam veterans the first year following separation from the Armed Forces. We oppose these reductions.

Mr. Chairman, we hope that you agree, and do not advance enacting legislation. These cuts do not even take into account at least $650 million needed for personnel in medical care and research, proposed increases in compensation, expanded medical care for Vietnam and disabled veterans and extending educational benefits for disadvantaged veterans. We ask this Committee to request this needed funding.

Mr. Chairman, we have noted the proposed budget includes a 7.8 percent increase in compensation and DIC. This is as it should be since our first concern must always be for those who have suffered disabilities on active duty in our Armed Forces, their dependents and survivors. However, since we are presently experiencing a 9 percent inflation rate, the proposed increase may well be inadequate. In addition, we request you make provisions for veterans with non-service-connected disabilities and those undergoing education and training.

Public Law 95–588, which restructured the pension program, is both good and bad, and certainly not all we had hoped for. As you will recall, Mr. Chairman, V.F.W. supported the House version of this legislation and we would ask you to take steps to increase the assured income for a veteran alone to $4,000 a year. We believe World War I veterans and their widows have still not been given proper consideration.

These men, who now total only 600,000, never had the advantages of veterans of subsequent wars. Therefore, one of our priority legislative goals is to grant such veterans and their widows a separate pension and reestablish the dates of World War I as April 6, 1917 and ending July 2, 1921.

Mr. Chairman, for the third consecutive year the President's budget has not included one cent for a cost of living increase for our Vietnam veterans availing themselves of the GI Bill for educational purposes, although through the effort of this Committee the last increase was granted by Public Law 92–202 and became effective October 1, 1977.

According to the National Center for Education Statistics, costs at all public institutions have gone up 11 percent in the past three years and 17.2 percent in private institutions. Adding to this hardship, and according to Senate Report 94–1243, 80 percent of the halftime or fulltime students have dependents and 61 percent have two or more dependents. We have noted that the proposed VA budget for 1980 includes $54 million to extend the ten year delimiting date for educationally disadvantaged Vietnam veterans and also, $3.2 million to enhance the vocational rehabilitation program.

Although we support giving additional help to those who need it, another of our priority goals is to seek a cost of living increase for those Vietnam veterans presently advancing their education and we hope you agree and will advance necessary legislation.

Mr. Chairman, we are more concerned this year about the future of the Veterans Administration hospital and medical care system than at any time since the 89th Congress when in 1965, the Johnson Administration sought to close 31 VA facilities.

As you are aware, the Administrator of the VA is authorized, subject to the approval of the President, to operate not less than 125,000 hospital beds in facilities over which he has direct control. This 125,000 bed authorization was first established over two decades ago when Sumner A. Whittier was the VA Administrator. Mr. Whittier's predecessor, Harvey V. Higley, had requested the same number of beds, but the old Bureau of the Budget, not the Congress, thought 87,000 beds were the right number. That was in 1955 when there were some 12 million fewer veterans than the current 30 million.

As of October 31, 1978, the VA operated 89,498 beds with an average daily patient census of 71,574. Since then, 3,132 beds have been cut bringing the bed count down to 86,366 notwithstanding the fact that the 95th Congress appropriated funds to maintain these 3,132 beds and the 1,500 personnel needed for their operation.

Furthermore, Max Cleland, the Administrator, has stated his intent to cut 5,000 more beds which would reduce the total to 81,366. This would be over 5,000 beds less than the Bureau of Budget thought "right" 24 years ago, when to repeat, there were 12 million fewer veterans.

Mr. Chariman, Max Cleland, the Administrator, has stated more beds are not needed. We believe otherwise. We believe many veterans seeking and needing medical or hospital care are turned away from VA facilities to seek treatment in community-based facilities. We know for a fact veterans with non-service-connected disabilities are being counseled by VA personnel with respect to alternate sources of treatment which in some cases means lining up with welfare recipients. That is not an unfounded claim, Mr. Chairman. No, we now have in hand two memoranda written by a hospital director and the thrust of them is to cut medical care for our veterans.

Effective January 22, 1979, the following restrictions were to be imposed: (1) discontinuance of follow-up for any new patients who are non-service-connected not holding a pension, and (2) notification to our sponsors that no new non-service-connected nonpension veterans will be taken into the program until further notice. The reasons cited for denying care to our nation's veterans are budgetary and personnel constraints. According to a VA publication, 22 hospitals have bed occupancy rates of 70 percent or less with Boise, Idaho at 54 percent.

Mr. Chairman, there is simply no way to justify the vast VA hospital and medical care system solely for the benefit of some 2.2 million veterans with service-connected disabilities. We believe the grand design of the President, the Office of Management and Budget, and Max Cleland is to close all the VA hospitals they can, turn the remaining hospitals over to some future national health insurance program and issue those with service-connected disabilities credit cards to be used in community-based facilities, and we believe the color of that card would be yellow.

If admitting physicians would treat all of our veterans who seek and need care, we believe 125,000 beds would be filled. After all, no veteran is going to travel great distances to a VA facility for care unless he is ill. If not, we could surely fill the beds with the dependents of permanently and totally disabled service-connected veterans, as recommended in the National Academy of Sciences Study, the 1.3 million men and women retirees from the Armed Forces who cannot be treated in service facilities and if necessary, the dependents of active duty personnel who, also, are experiencing great difficulty in receiving treatment in Armed Forces facilities.

We believe the Congress should mandate the Administrator to operate 125,000 hospital beds and I ask you now to introduce and advance legislation to accomplish this.

The situation with regard to nursing care beds is much the same. Of the 10,000 beds mandated by law in 1980, the VA is operating only a little over 8,000 beds with an average daily patient census of 7,600. This, despite the difficulty we have encountered in helping veterans to secure nursing care.

Another area of deep concern with us, as with you, Mr. Chairman, is the rapidly worsening personnel situation within the VA hospital and medical care system. Outpatient clinics have been understaffed and underfunded for years, and the overall staff-patient ratio is below that of private hospitals.

The Leach amendment to the Civil Service Reform Act requires the Executive Branch to cut personnel to the level in effect October 1, 1977. This means a cut of 30,000 positions throughout the entire government. Cutting the VA back to the October 1977 level would mean a reduction of nearly 5,000 positions. However, Mr. Leach has advised both the OMB and our organization that his amendment was not intended to cut personnel proportionately across the board, but left the option where cuts should be made to the President.

Having said this, the VA has already cut some 6,500 personnel within the Department of Medicine and Surgery and intends to cut another 1,600 in 1980. However, we believe the personnel cut will be 12,000. Additionally, within the same time frame, nearly 1,800 positions will be cut from the Department of Veterans Benefits, those with whom the veteran normally makes initial contact.

Making this situation worse was the President's insensitive hiring freeze imposed October 25, 1978 and which ran for more than 90 days permitted the hiring of only one person for every two positions vacated. In areas such as diatetics, housekeeping and maintenance, the damage done by reduction of VA personnel may take a long time to repair.

Mr. Chairman, I am shocked that the Office of Management and Budget can show its utter contempt for Congress and with impunity knowingly foil the will and intent of Congress as it has recently done with funds specially appropriated for personnel in the VA Department of Medicine and Surgery, and to retain 3,132 hosiptal beds. Maybe future appropriations should be requested by line item.

Unfortunately, Mr. Chairman, it pains me to tell you today we are deeply disappointed in the performance of the Administrator, as we have been in many of his predecessors. We have the highest respect and admiration for Max Cleland who has risen above his most crippling disabilities and projects in a way that is a real inspiration to anyone who is disabled.

During his confirmation hearing before this very Committee, we supported Mr. Cleland believing a man who had displayed such strength would continue to have the courage to confront the Office of Mangement and Budget and, yes, the President himself and fight for our nation's veterans. Instead, and regretfully, he has followed a familiar path of knuckling under to the dictates of the President and OMB.

One of our real disappointments was when the Administrator and his General Counsel stated the President's proposed cut in veterans preference, a program not under VA jurisdiction, was something with which they could live. Further tarnishing Mr. Cleland's credibility were his telephone calls to Members of Congress at the behest of the White House encouraging them to vote against the Hanley Amendment to retain veterans preference in federal employment.

Mr. Chairman, we look to this Committee and its counterpart in the House, and our friends in Congress to provide the funding necessary for the Veterans Administration to properly care for our nation's 30 million veterans and their dependents who constitute nearly half the population of our great nation. In recent years your task, and ours, has become more difficult due to change in the composition of Congress and the increasing number of activist groups which are highly vocal, highly demanding, highly visable and represent very few people.

In the past Congress we found it necessary to go out to our entire membership for grassroots support in saving this Senate Veterans Affairs Committee, saving veterans preference and in support of a House amendment, Mr. Chairman, to obtain an increase in the VA 1979 budget. Our task is, indeed, becoming more difficult. As a matter of fact, we are seriously considering and actively researching the advantages and disadvantages of a Veterans' Political Action Committee to which veterans of our organization could belong. This may well be the needed vehicle to elect to office those who recognize the very special service of our veterans and the debt we all owe them.

As we have stated before, our veterans and their dependents are very special, for because of them, and only because of them, we have a free nation where we, you and I, may live with dignity and honor in freedom and progress in accordance with our individual abilities and motivation.

Mr. Chairman, we are appalled at the continuing high unemployment rate among younger Vietnam and disabled veterans. Younger veterans are suffering a 13.8 percent unemployment rate while their non-veteran counterparts have an unemployment rate of 8 percent. The overall unemployment rate is 6.4 percent. The Department of Labor has historically treated veterans' employment as a stepchild. The situation became worse when Roland Mora was sworn in as Deputy Assistant Secretary of Labor for Veterans Employment in September 1977.

Since his resignation under pressure from the Honorable Margaret Heckler, a member of the House Veterans' Affairs Committee, and the V.F.W. in June of last year, veterans employment has floundered without either leadership or direction. The position continues to remain vacant. The state veterans' employment representatives have been underfunded for years and recently the Secretary of Labor has abolished 52 secretarial positions in order to retain the regional veterans' employment representatives. We have asked the Secretary of Labor to restore these positions and we ask you in your oversight capacity to see that Congress takes the necessary action to accomplish this.

We believe, Mr. Chairman, the position of Director of Veterans' Employment Service must be reestablished and the Deputy Assistant Secretary of Labor for Veterans' Employment filled immediately with a qualified veteran. Also, that this position be upgraded to an Assistant Secretary of Labor so that the incumbent has direct access to the Secretary of Labor and authority equal to his responsibility. This would fulfill another of our priority legislative goals. It is my understanding that you will hold oversight hearings with respect to veterans' employment in the near future and we hope in this oversight capacity you can bring pressure to bear on the Secretary of Labor to give proper priority to veterans' employment.

Mr. Chairman and Members of the Committee, I trust each of you will be with us tonight on the occasion of our Annual Congressional Banquet at the Sheraton-Park Hotel. We will be honoring the Honorable Bob Dole of Kansas with our 16th Annual Congressional Award. The reception will begin at 6:00 P.M., with dinner promptly at 7:00 P.M. I assure all of you, our program will conclude at approximately 9:15 P.M.

Thank you, Mr. Chairman and Members of the Committee.

THE NATIONAL BETA CLUB

Mr. THURMOND. Mr. President, the National Beta Club, a nonprofit, leadership service organization for high school students, headquartered in Spartanburg, S.C., requested President Carter to proclaim the week of March 4–10, National Beta Club Week but he declined to take such action. Since the President declined to take such action, and Congress does not have time to adopt a resolution requesting him to do so, I feel the Members of the Senate should be aware of this fine organization and the recognition it deserves.

The National Beta Club was established by its founder, John West Harris 45 years ago in Landrum, S.C. This organization has grown from an original membership of 15 in Landrum in January 1934 to 200,000 active members in 20 States today. Additionally, there are over 1 million alumni members. Alumni members include Governor Dalton of Virginia, Governor Hunt of North Carolina, and Governor Clinton of Arkansas. My wife, Nancy, is also an alumna of this fine organization.

Members of the Beta Club are picked for their character, achievements, attitude and scholastics set by standards supervised by principals of local chapters. Every student is potentially eligible, provided he or she meets the general merit qualifications in the Beta Club constitution and the local scholastic standards. Throughout the years, the Beta Club has done much to help others as stated by their motto: "Let us lead by serving others."

As some of my colleagues may remember, on October 19, 1972, Congress approved a joint resolution requesting President Nixon to designate the first week in March 1973 as National Beta Club Week. Although that designation has not been renewed, I wanted to recognize the Beta Club for its excellent record of service during these past 45 years.

SENATOR GORDON HUMPHREY

Mr. THURMOND. Mr. President, an article appeared in the Washington Post on Saturday, March 3, 1979, concerning my colleague from New Hampshire, Gordon Humphrey, and his successful campaign last year. The writer of this article, Robert Kaiser, relates to his readers that Gordon is a new breed of politician with the label of "new right" which, in Mr. Kaiser's words, makes Gordon an "oddity" in the U.S. Senate.

Mr. President, I do not consider Gordon an "oddity." There is nothing peculiar or odd about a person who believes that a U.S. Senator should be in touch with the day-to-day realities of his constituents. Nor is it peculiar for one to be disillusioned with the proliferation of Federal social programs and regulations. This article additionally relates that Gordon has taken a strong stand in favor of a sound fiscal policy for this Nation and a need to restore our military superiority. I share these views with my colleague and I believe that our Nation would be better served if other Members would adopt similar views.

Mr. President, I am pleased to serve with Gordon on both the Armed Services and Veterans' Affairs Committees, and I look forward to this service.

Mr. President, I ask unanimous consent that the attached article which appeared in the Washington Post be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

New Hampshire Ex-Democrat Turned Right Into Senate

(By Robert G. Kaiser)

There is a new sort of Humphrey in the United States Senate this year, a "strong conservative" (in his own words) named Gordon Humphrey who has as little in common with his namesake Hubert as Groucho Marx had with Karl.

Gordon Humphrey, a 38-year-old airline pilot who never held any public or political office before 1977, is the new Republican Senator from New Hampshire. He surprised virtually everyone in the state, apparently including most of the people who worked on his campaign, by defeating incumbent Thomas McIntyre by 6,000 votes in November.

In the Senate Humphrey is an oddity remarked on both by his more traditional Republican colleagues and by Democrats. Old-line Republicans tend to raise their eyebrows when the new Humphrey's name comes up; Democrats seem to talk about him and Roger Jepsen of Iowa (who defeated Dick Clark in November) as examples of a new and—for them—ominous breed of politician.

The usual label for the breed is "new right," and Humphrey accepts it. He sees himself as different from the "country club conservatives" of the past because he comes from a working-class background, and because his interests include new issues like abortion that haven't been associated with traditional conservatism.

The fact that Humphrey comes into the Senate with no formal background in politics or government does not seem to bother him at all. "It's fallacious, really, for people to think that you have to work your way up . . . or have a lot of government background," he said in a recent interview. Humphrey said he thinks it is healthy to elect people to the Senate "who are more in touch with reality than career politicians.

"Until 1970, maybe '69," Humphrey said, he had been a Democrat, even a liberal Democrat. But "disillusionment with the Great Society and all the programs it had spawned" and "government intrusions into our lives right down to the family" pushed him to the right, he explained. His first experience in politics came as chairman of the Conservative Caucus in New Hampshire.

He got that job almost by chance. Invited to an organizational meeting to revive a branch of this new right group in New Hampshire, Humphrey ended up as its chairman.

How had that happened? The invitation came because he was on conservative mailing lists, Humphrey reckons. And why was he picked as chairman? He isn't sure, but recalled that "one of the fellows who saw me at the meeting said he saw fire in my eyes."

Using the Conservative Caucus as a base of operations, Humphrey launched himself into politics, jumping at the chance to run against McIntyre (regarded by conventional politicians as virtually unbeatable) because, he says, he was convinced of McIntyre's vulnerability.

As a senator, Humphrey says, he hopes to "restore a sound and honest dollar" and reestablish "military superiority over those Russian bastards."

"I intend to speak a lot," he said, "to use the office as a pulpit to try to educate the citizenry. I think you can be very effective" in that way.

He got a lot of publicity at home by promising to be "the toughest skinflint in the Senate." He will stick by that promise, he said in the interview, "not because I'm hard hearted but because . . . I hope I'll be able to bring under control spending and inflation."

To demonstrate that he is not hardhearted, Humphrey called a press conference last week to call for the admission here of 100,000 more Indochinese "boat people."

"Conservatives have hearts, too," Humphrey said then.

Humphrey's political philosophy combines this concern over government spending and a desire to get ahead of the Russians with dire warnings that the country is headed "toward the shoals" of catastrophe.

Abortion, the new senator said, is a coming issue in American life, and in his view an important one. He was closely allied with the "right-to-life" movement in New Hampshire, and has now hired one of its leaders to run his office in Portsmouth, N.H.

"Right-to-life" advocates worked hard in Humphrey's campaign, during which he regularly invoked his total opposition to abortion. "We would have done more with it [that is, with the abortion issue in the campaign] if we had had the funds."

A pro-Humphrey leaflet distributed during the campaign against McIntyre caused a stir in New Hampshire last year. The leaflet accused McIntyre of supporting "experimenting on pre born infants" and supporting abortion generally. "If we truly respect God's gift of life," the leaflet said, "can we do less than vote for Gordon Humphrey for Senator? Seven million dead babies are enough. Humphrey—the choice we can all live with . . . unborn babies, too!"

Humphrey attributed this leaflet to an overzealous supporter.

Asked where his ideas came from—for important books or individuals or ideas that contributed to his view of the world—Humphrey replied, "I can't think of anything that stands out, to tell you the truth."

About six years ago, he said, he discovered that The Wall Street Journal is "a very interesting newspaper, particularly the editorial page. . . . Hardly a week goes by that I don't marvel at the clarity of an editorial there. It's been a real education."

Humphrey said he had no political tutors. He hopes to model his Senate career on those of other new conservative members like Orrin Hatch and Jake Garn, both Utah Republicans.

To run his office in Washington Humphrey has hired Don E. Shasteen, formerly administrative assistant to Sen. Carl Curtis (R-Neb.), who retired last year. Shasteen ran for Curtis's seat, but was trounced by James Exon, the popular governor of Nebraska. Humphrey has also hired several staff aides who have no Washington experience, and a legislative assistant who formerly worked for Sen. William Scott (R-Va.), who also retired.

By the vagaries of the presidential political calendar, Humphrey could become an important national figure next year. He has effectively won control of the New Hampshire Republican Party by placing his allies in key positions, and New Hampshire's first presidential primary could be influential in diminishing the crowded field of GOP contenders for 1980.

Humphrey is friendly with Rep. Philip Crane (R-Ill.), a declared candidate, but insists he hasn't made a final selection yet.

The country is going his way, Humphrey believes. The presidency could easily fall into conservative hands in 1980, and "we'll have a Republican majority in the Senate by 1984 at the latest," he predicted.

THE DEATH OF FORMER SENATOR DEWEY BARTLETT

Mr. THURMOND. Mr. President, with the death of former Senator Dewey Bartlett, I lost a good friend and America lost a valiant servant.

Senator Bartlett spent all of his life serving the country he loved so dearly. From a marine pilot in World War II to the floor of the U.S. Senate, he fought tenaciously for what he believed. He was a man of strong convictions and firm moral principles. His love for his country was exceeded only by his devotion to God, and Senator Bartlett's deep-seated Christianity governed his daily life.

Dewey Bartlett had a thoroughgoing knowledge of our Government, and was closely attuned to the people of his home State. His experience as a State Senator and Governor of Oklahoma, enabled him to admirably represent his State in the U.S. Senate as he effectively voiced the concerns of his constituents.

Dewey Bartlett ably served in the Senate for 6 years, and he showed himself to be a dedicated and conscientious Senator. As a member of the Senate Armed Services Committee, I worked closely with Senator Bartlett on national defense matters. He was vigorous in his efforts to provide a strong defense structure for our military. The wise counsel and support Senator Bartlett provided in maintaining the strength of our military forces will be long remembered. In his tenure in the Senate he rendered a distinct service to the security of our country and, especially in that respect, leaves an important legacy to all Americans.

Dewey Bartlett was a man who could transcend party boundaries for the higher good of his country. He was firmly committed to American ideals, and he continually stood strong against anything which might weaken our governmental system. His dedicated work for his State and Nation is something in which we can all take price, and he will be solely missed by those who knew him.

My wife Nancy joins me in extending deepest sympathy to Senator Bartlett's wife, Ann; to his three children, Dewey Follett, Joan Chilton, and Michael Hopkins; and to other members of his family who mourn his passing. They can take genuine solace, however, from the lifelong benefits gained by sharing a close family association and the outstanding contributions he made to his State and Nation.

THE DEATH OF FORMER CONGRESSMAN JAMES P. RICHARDS

Mr. THURMOND. Mr. President, former Congressman James P. Richards, one of the outstanding statesmen of this century, died recently, ending a long and distinguished career of public service.

As a young man, Congressman Richards served with the U.S. Army in France during World War I. After almost 2 years of service, he returned to his home State, where he attended college and received his law degree from the University of South Carolina.

While in college he made a name for himself as an athlete and was even offered a major league baseball contract. But Dick Richards knew his work lay with helping the people of South Carolina, and he was elected to Congress in 1933.

In Congress, Dick was known as a soft-spoken gentleman with keen insight into many of the problems facing our Nation. His hard work and selfless dedication to his country gained him respect from all of his colleagues.

For 25 years, Congressman Richards served with distinction as the representative from the Fifth District of South Carolina and served ably as the chairman of the House Foreign Affairs Committee.

The expertise Congressman Richards gained as a member of the Foreign Affairs Committee made his working knowledge of world events invaluable, and he was appointed a U.S. Delegate to the United Nations General Assembly in 1953.

In 1957, soon after he retired from Congress, Dick was appointed special ambassador to the Middle East by President Eisenhower. His task to explain the Eisenhower doctrine to the countries of the Middle East, was often difficult, but once again, his task was performed with excellence.

After a year as special ambassador, Dick Richards longed to retire to South Carolina, so he resigned his post and returned to the State he loved. But he continued to follow international affairs closely, and his opinion was constantly being sought on world events.

Congressman Richards was one of the ablest men to serve in Congress since I have been a Member, and I take great pride in claiming as friend such a great man.

My deepest sympathy is extended to Congressman Richards' wife, Katherine; his two sons, Richard and Norman, his daughter, Mrs. James R. Elliott; and his many relatives who mourn his passing. They can take genuine solace, however, from the lifelong benefits gained by sharing a close family association.

Mr. President, numerous articles and editorials concerning Dick Richards' death have appeared in newspapers throughout South Carolina and the Nation. I ask unanimous consent that two representative accounts be printed in the RECORD at the conclusion of my remarks, so that I may share them with my colleagues.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

JAMES P. RICHARDS: AUTHENTIC STATESMAN

James P. Richards, who died Wednesday at age 84, was an authentic American statesman who counted Winston Churchill, Anthony Eden, John Foster Dulles, and Dwight Eisenhower among his friends.

Yet, for all of the experiences, knowledge and recognition in more than a quarter century of national public life, he remained unchanging in his longing for his friends and his home in Lancaster County.

Dick Richards' 25 years in Washington was a period in which Southerners wielded great influence in the Congress. Indeed, the 5th District congressman chose to retire in 1956, at age 62, when the South's dominance of Capitol Hill began to wane. It is interesting, too, that he was first elected to Congress in the 1932 Roosevelt landslide. That year Solomon Blatt was elected to the State House of Representatives and J. Strom Thurmond to the State Senate.

It was the congressional seniority system that took Mr. Richards to the chairmanship of the House Foreign Affairs Committee. He surprised many in Washington who had disparaged him as a tobacco-chewing Southerner, a lazy man. Mr. Richards had spent almost his entire congressional career on that committee and knew what he was doing.

A wire service story in 1957 gave this insight: "At one time during the 1956 furor over tank shipments to Saudi Arabia, Richards protested that the Administration kept senators informed but not members of the House. He said the State Department apparently considered the House a 'weak-minded illegitimate son.' "

He got the attention of the Administration. The easy-going countryman proceeded to cut a half-billion dollars out of President Eisenhower's foreign aid budget, and he forced through legislation compelling our European allies to contribute more heavily to their own defense. He also authored a resolution of which some notice should be taken in these days: The resolution pledged this nation's military defense of the island of Taiwan (Formosa).

Mr. Richards also served as a delegate to the United Nations and became its stalwart defender. "Nothing under the sun is perfect," he said, "but we've simply got to have a way of talking out the world's problems—short of war."

Mr. Richards was an expert on Middle Eastern affairs, and on his retirement from Congress was named by President Eisenhower as a roving ambassador. He personally took the Eisenhower Doctrine, military defense against communist aggression to those who asked, to 20 Far East, Middle East and South Asian countries. That was the basis of our foreign policy for many years.

But when he finished that assignment, he gave in to his homing instincts. The President also offered him the assignment of ambassador to the North Atlantic Treaty Organization, but Mr. Richards declined. At age 62, more than two decades ago, he retired, returning to the law, the land and friends and family which he cherished.

Dick Richards might have been a lot of things instead of what he was. As a young man, after serving in the 118th Infantry Regiment in France during World War I, he finished law school at the University of South Carolina. He played football and baseball there, and was offered a major league contract to play professional baseball. He turned it down.

He also had opportunities to become governor of his state, following the footsteps of his uncle, Gov. John C. Richards. But he did not yield to the persuasion of his friends who wanted him to run.

Dick Richards took life easy after he'd served his turn. There's no telling what else he might have done.

FORMER FIFTH DISTRICT REP. RICHARDS DIES

LANCASTER.—James Prioleau Richards, former congressman from South Carolina's fifth district from 1932–57 and once President Dwight D. Eisenhower's special ambassador to the Middle East, died Wednesday at a Lancaster hospital. He was 84.

Mr. Richards' public career ranged from the probate judgeship of Lancaster County to a concentration of foreign affairs and the mission he carried out in the Middle East in 1957 under appointment from Eisenhower.

The Lancaster native had been ill for some time.

In and out of Congress, Mr. Richards was known to friends as "Dick" Richards.

Former Third District Congressman W. J. Bryan Dorn said Thursday that Richards "was a statesman who put national welfare over politics. He was one of the greatest leaders ever to come out of the South."

Sen. Ernest F. Hollings, D–S.C., in a statement from his Washington office, said, "Congressman Dick Richards was an outstanding public servant in every sense of the word, and was probably one of the most loved and respected South Carolinians to ever serve in Washington. He loved his people even more, as he could have taken on many other jobs, but chose to serve the people of Lancaster and South Carolina. He was one of the true greats and I will miss him."

And from Sen. Strom Thurmond: "Congressman Richards was one of the ablest men to serve in Congress since I have been a member. National leaders of his high caliber come along only rarely, and we mourn his passing but take great pride in all of the dedicated service he rendered."

Lancaster newspaperman Lester Robinson, a longtime friend of the Richards family, recalled that Richards was a friend of Spanish dictator Francisco Franco and other powerful world leaders but never lost the common touch with the people of his district.

"He used to love to go over to softball games at the mill and take a chew with a weaver," said Robinson.

H. W. Close, chairman of the board for Springs Mills Inc., recalled that Richards retained a deep interest in his district and community, attending hospital and organizational meetings after his retirement from Congress and his ambassadorship.

His international assignment came a week after he had retired from Congress where he represented his district for 24 years. He was then 62, but his father was still living and he accepted only after the elder Richards emphasized the opportunity it offered to serve the country and the cause of peace.

In the House of Representatives, Richards had risen at one point to the chairmanship of the Foreign Affairs Committee and there was inducted into the intricacies of world relationships. His membership on the committee was extended, as a Democrat, but his chairmanship was only from 1951 to 1953, when, under the system, elections dictated his replacement by a Republican.

Former House speaker Sam Rayburn once said that "Dick Richards is the most valuable political ally you can have in Washington. He can get you more votes than anybody."

He also advised young leaders like current Fifth District Rep. Ken Holland, who said, "I always treasured his advice. He was a valuable and beloved citizen of South Carolina."

In 1953, he became a U.S. delegate to the United Nations General Assembly, appointed by Eisenhower.

The 1957 appointment as special assistant on Middle Eastern affairs and special ambassador was still well away, but in the interim, Richards continued to busy himself with foreign affairs and to become a specialist in the field.

In January 1957, Richards decided to retire from Congress, but this did not mean a departure from public life, as that was the year Eisenhower appointed him.

Richards' assignment was primarily to explain to the Middle East nations what was known as the Eisenhower doctrine for that part of the world.

The doctrine, in essence, was: America would defend any Middle East country against Communist aggression if any such country asked for U.S. help.

Richards and his assistants visited 18 countries. Not all of them, especially Jordan, were friendly to the mission. But the message was delivered and the record shows that relative peace was maintained in that era.

After six months, and apparently regarding his job as done, Richards sought to resign. But Eisenhower persuaded him to stay on for another half-year.

This was the highlight of the Congressman's career, the probate judge reaching a pinnacle in his country's conduct of world affairs.

All the while he seemed anxious to return to his home area, not only to a law practice but to establish a rural home. This he did, to do a "little fishing, a little farming and a lot of reading," by buying and restoring a classic house not far from either Lancaster or Kershaw, on an old farm in a favorite part of South Carolina.

By 1958, with Richards back home, the usage of tobacco was coming under attack. He was offered, and accepted, the post of executive director of the Tobacco Institute Inc., which was defending the interests of the industry.

Richards said his goal would be to acquaint the public with the place of tobacco in the national economy.

As late as 1970, the problems of the Middle East were being taken to Richards by newspaper correspondents seeking interviews from the special ambassador of the late 1950s.

In The State, Sept. 8, 1970, he discussed the problem, then once more in turmoil over peace efforts and the hijacking of passenger airliners by Arab guerrillas.

He said Israel, from its own point of view, had ample reason to insist on holding onto the position it then occupied on the west bank of the Jordan River.

"Israel," he said then, would "defend the homeland even to the extent of starting a third World War." If I were running Israel, I would do everything I could to get the U.S. involved directly. But we would be foolish to become involved so far as sending men is concerned. Inevitably there would be conflict between the United States and Russia. And that would be planting the seeds of World War III. The main thing we must keep in focus is: "what is best for the U.S."

Earlier, in 1967, in an interview, Richards said he had reached the conclusion the U.S. should get out of Vietnam. He reminded his Columbia Record interviewer that until he had come to that conclusion he had supported the Vietnam policies of Eisenhower, Kennedy and Johnson and their secretaries of state.

"But now (July 1967), there is a question in my mind whether the price we are paying is worth it."

Mr. Richards was born Aug. 31, 1894, at Liberty Hill, in Kershaw County. His parents were Norman Smith and Phoebe Gibbes Richards.

He attended Clemson College and the University of South Carolina. In 1925, he married Katherine Hawthorne Wylie, of Lancaster, the town he had moved to in 1921, and where he served three terms as a probate judge.

He was a nephew of the late Gov. John G. Richards.

He served 23 months, in the U.S. and in France, during World War I as a member of the 118th Infantry of the 30th Division.

Mr. Richards was first elected to the House of Representatives in 1933.

Surviving are his widow, Mrs. Katherine Wylie Richards; two sons, Richard E. Richards of Lancaster and Norman S. Richards of Davidson, N.C.; a daughter, Mrs. James R. Elliott of Charlotte; two sisters, Righton Richards and Mrs. Edith Wardlaw of Liberty Hill; a brother, the Rev. John E. Richards of Macon, Ga.; and nine grandchildren.

Services will be 3:30 p.m. today at Lancaster First Presbyterian Church, with burial in Liberty Hill Presbyterian Church Cemetery.

ITALIAN INTERVIEW WITH AMBASSADOR GARDNER

Mr. PELL. Mr. President, this past January on the second anniversary of the Carter administration our Ambassador in Italy, Richard Gardner, was interviewed on Italian television and was seen by an audience estimated at in excess of 6 million.

Ambassador Gardner's remarks on the goals and achievements of the Carter administration are, I believe, very perceptive and are as interesting for an American as well as an Italian audience. In addition, during this time of political turmoil in Italy, I believe that my colleagues will find Ambassador Gardner's remarks on U.S. relations and cooperation with Italy to be most informative.

Mr. President, I ask unanimous consent that the full text of Ambassador Gardner's remarks be printed in full at this point in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

INTERVIEW OF AMBASSADOR RICHARD N. GARDNER

(By Alberto Ronchey)

Q. Ambassador Gardner, the Carter Administration is now two years old. I would like to ask you which events have characterized this period of American policy.

A. I think the record of the Carter Administration in these first two years is one of solid accomplishment, both in domestic and in foreign policy. At home, the most important thing is that President Carter, after our difficult period of Watergate and Vietnam, has restored the confidence of the American people in the integrity, morality, openness and responsiveness of our government. I think we have also made important progress in reducing unemployment and increasing our rate of economic growth. In all honesty, we have not done such a good job in controlling inflation. But overall, the record economically is a good one.

In foreign policy, I think we can say objectively that we have taken major initiatives for peace, for disarmament, for human rights and specifically to strengthen our relations with our close friends and allies in Europe and Japan. I need only mention the extraordinary initiative the President took in bringing about the Camp David agreement which, I believe, despite all difficulties, will lead to peace between Israel and Egypt in the Middle East. And I think as far as our allies are concerned, President Carter has demonstrated in his leadership in the economic summits and the NATO summits that we intend to work more closely than ever with you in Europe to assure Europe's defense and to assure a stronger international economic system. These seem to me to be the most important elements in the first two years of President Carter.

Q. You have just mentioned the problem of inflation. The Italian edition of your book "Politica economica ed ordine internazionale," with Guido Carli's preface, has been published recently. I remember that you have great experience in this field, and I would like to ask you if you think that a lasting stability of the dollar is possible despite the dangerous wandering masses of Eurodollars and petrodollars.

A. I think stability of the dollar is possible. Indeed it's essential, because the dollar, as you know very well, is not only an American currency, it's a world currency, it's the currency which is used for world trade, it's the currency used by most countries for the holding of reserves. Therefore, a strong dollar is in everyone's interest. And to this end, President Carter is totally committed, and we are going to have a strong dollar. The President, first of all, has committed himself in the November 1st announcement to intervene massively to prevent speculation against the dollar in the foreign exchange markets, and you've seen how this has succeeded in restoring confidence in the dollar; the dollar has recovered much of the value that it lost in previous months. In addition, to have a strong dollar, we must reduce our balance of payments deficit, and all the forecasts by objective sources, such as the International Monetary Fund and OECD, indicate that our deficit will be greatly reduced next year, mainly because our rate of growth relative to that in Europe and Japan will go down, so we'll be importing less and exporting more. And finally, we have made a very serious commitment to control our domestic inflation. We recognize that unless we control our inflation we can't have a strong dollar. To this end, the President has increased the discount rate and committed himself to reduce our budget deficit. These were not easy decisions for him to take; in some respects, they are politically unpopular. But they represent our recognition of our responsibilities, not only to our own people, but to the rest of the world.

Q. Ambassador Gardner, another subject. Thirty years have passed since the Declaration of Human Rights. During the past two years, right when the phenomenon of Soviet dissension was breaking out, President Carter has been pressing for the respect of human rights, especially in the USSR. But how can the Carter doctrine be compatible with Washington's policy towards other nations, such as Iran and Nicaragua, where these rights are violated? And this is not all. The more or less despotic governments of the world are about one hundred; do you think that the United States would maintain their influence on a world scale if they made their foreign policy conditional on each of those governments' respect for human rights?

A. This important question of human rights has interested me for many years. In fact I worked on that subject of human rights when I served in the Kennedy Administration. And more recently as a private citizen I was a member of the Board of Freedom House, which is perhaps the leading private organization in the United States concerned with human rights. That organization publishes every year a map of freedom in the world, and this year the map shows that in the world there are about forty countries that are truly free, about 60 countries that unfortunately are not free, and about 50 countries that are partly free and partly not free. Now it's obvious that the United States cannot impose freedom by military force on the countries that are not true democracies. And there would be no point in our cutting off diplomatic relations with the countries that are not free, because that would serve no purpose, we would then have no influence over them. So what this administration is doing, is to try to use its influence, political, economic, and moral, to persuade countries to grant more human rights to their citizens. We do this everywhere, not just with respect to the Soviet Union, but we do it in Latin America, we do it in Africa, we do it in Asia. We do it with Nicaragua and Iran, where we have consistently urged the leaders of those countries to grant more rights to their citizens and to move toward free elections. Our interest is global: not only does it apply everywhere in the world but it applies to economic rights as well as to political rights. We care deeply about such things as the right to form a free trade union, the right to strike, the right to choose one's job freely, the right to have decent working conditions, the right to move around one's country. All of these rights of course do not exist in the Soviet Union and in Communist countries. So we have a major interest in human rights in the world and every country now knows that how it treats its own citizens will be a major element in its relations with the United States. And that is our policy on human rights, it's neither more nor less than that.

Q. I see that the estimates of this map of freedom are more or less like mine, since 60 countries which are not free and 50 countries which are partly not free correspond, as I said before, to approximately 100 despotic governments in the world. I would like to ask you how you consider, today, the phenomenon called "Eurocommunism" with respect to its French, Spanish and Italian variations.

A. This is such an important question that you are asking, that I want to be sure that I give a precise answer and of course in a matter like this an ambassador doesn't make policy, he reflects the policy of his country.

So the first thing I want to say is that the Carter Administration has expressed its view many times, and that view has always been the same. We have said, first of all, that it is up to our friends and allies to decide how they want to be governed. They are sovereign countries, we will not interfere in their internal politics. We have said, secondly, that we are also a sovereign country and we have a right to express a preference as to what kind of friends and allies we wish to have, and we have said consistently that we do not favor the participation of Communist parties in West European governments and that we would like to see the influence of Communist parties reduced. This is not a new policy, it has been the policy of the United States from the time of Truman, Eisenhower, John Kennedy, Nixon, Ford and Carter.

If you ask the reasons for this position, I think I can do no better than to quote what President Carter himself said shortly after he was inaugurated, on May 2, 1977, in an interview with some European televison journalists. He said and I quote: "We strongly favor the election of leaders who are committed to freedom and democracy and who are free from Communist philosophy, which quite often has been dominated from the Soviet Union or other nations." And my former Columbia colleague Dr. Brzezinski, now the National Security Adviser of President Carter, has more recently, in the fall of 1977, expresed very precisely our view of Eurocommunism, and permit me to quote this because it's a very important statement. He said, in an interview on October 9, 1977, in the Washington Post: "Eurocommunism is a highly differentiated phenomenon. All it is really is a catchword for West European Communist parties. Some of these parties are still highly Stalinist, such as the Portuguese. Some of them have begun de-Stalinization, but they've only begun it, like the French.

Some of them are relatively de-Stalinized, but are still highly Leninist, like the Italian. Some are de-Stalinized and probably are de-Leninized, such as perhaps the Spanish. It's useful to bear these distinctions in mind because I think they enable us to make more discriminating judgments in regard to specific West European Communist parties, instead of lumping them under one label which really ignores quite important differences. I can do no more than to quote that which represents the continuing view of our Administration.

Q. One of the most impressive new facts in recent times has been the pragmatic turn of Teng Hsiao-Ping's China, which, I would say, can open new prospects in the political scene. Actually, let us say, contradiction, antagonism between the Chinese and the Soviets is not new since it dates back to the end of the 50's. But if it is possible for closer relations to exist between the United States and China, then a problem arises often underscored by the Soviets. What would happen (there was a recent interview of Arbatov by "The Observer") if Washington decided to play the Chinese card, I mean from the strategic point of view, among other things, against Soviet interferences in Africa and around the oil route; what risks would this choice involve?

A. Well, it's not a matter of playing the Chinese card. The fact is that the U.S. wants to have better relations with both the Soviet Union and China and we are not going to let either one of them dictate conditions to us that we must not have relations with the other. We're just not going to permit that, we want to have relations with both, and I think I can say as of this time that our relations with both countries are improving. I think we're very close to signing a SALT agreement, and other accords with the Soviet Union, which will put our relations on a more stable basis. As you know, we have announced the establishment of full diplomatic relations with China. We're naturally very pleased at the developments that have taken place in China. You spoke of the pragmatism of this regime, this is in the great tradition of Chinese pragmatism. That China is moving back into a constructive relationship with the world is a positive thing for everybody—for Europe no less than the U.S., and to the extent that trade develops between European countries and China, the U.S. and China, this is all to the good. As to the question of military sales, our position is very clear, it's the same position that other members of NATO have taken, it's for each NATO country to decide whether to sell weapons to China. As for ourselves, we don't sell weapons either to China or the Soviet Union, but we are not asking our NATO allies to put an embargo on sales to China, that is for each country to decide. But we want good relations with both of these countries, it's in the American interest, and frankly it's in the world interest to have these relations.

Q. Ambassador Gardner, a historical tradition of the relations between Soviets and Americans exists in accordance with which, when mutual suspicions and controversies reach the crucial point, a summit meeting is called. Thus one remembers Camp David between Eisenhower and Khrushchev, Vienna between Kennedy and Khrushchev, Glassboro between Johnson and Kosygin, Moscow between Nixon and Brezhnev. Is it now possible to ratify in the near future the SALT II agreement still without a Soviet-American clarification of some problems of intent possibly through a Carter-Brezhnev summit meeting?

A. President Carter has indicated that when the SALT agreement is ready for signature, he would like to meet with Chairman Brezhnev in the U.S. and I think the President has also indicated that he would like to use this meeting not just to sign SALT, but to review the totality of our relations with the Soviet Union. You remember during the Presidential campaign—when I had the privilege of being the co-chairman of President Carter's Foreign Policy Task Force, along with Doctor Brzezinski—during that campaign President Carter said it was his objective to make detente with the Soviet Union both more reciprocal, more of a two-way street, and more comprehensive, namely that detente should cover not just relations between our two countries, but the way our two countries act with respect to the rest of the world. It's obvious that we can't have a lasting detente if the Soviet Union considers itself free to send client states' military forces, Cuban forces, into Africa or other places to impose their particular kind of social system, that is not a detente, so detente must become more comprehensive and these issues will have to be discussed, frankly, at any future summit meeting.

Q. Many say that the new N-bomb is the capitalist bomb because it would destroy man saving things. How do you reply to this polemic?

A. This is the usual Soviet propaganda. I don't think serious people pay much attention to it, the facts are very simple. The so-called "Neutron-bomb" isn't a new weapon at all, it's simply an improved version of existing tactical nuclear weapons which both NATO and the Warsaw Pact have already installed in Europe, in large numbers. The difference between this improved version, the so-called Neutron-bomb, and existing weapons is simply this—that whereas the existing weapons make it possible to destroy an invading Soviet tank column within a diameter of one kilometer, while causing damage out to four kilometers in the surrounding countryside, the improved version makes it possible to destroy that same Soviet tank column within a radius of one kilometer, while limiting surrounding damage to two kilometers. So that far from being a weapon, as the Soviet propagandists say, that kills people and spares things, this is a weapon that kills less people and kills the right people, the aggressors, and spares the defending armies and the civilian populations, that's what it does, and that's why the Soviet Union is so anxious to prevent it from being deployed. And I find it strange, since you bring up the subject, that some people in Western Europe conduct this hysterical campaign against the neutron-bomb as an immoral weapon, and never say a word about the Soviet SS 16/18/20 weapons, which have twenty thousand times the destructive power of the so-called neutron-bomb. Why are they silent about this? Doesn't that tell us something about their good faith? Now I want to emphasize, I've always been a man of peace, I've spent my whole professional life working for disarmament, for the elimination of war, for the peaceful settlement of disputes, so I don't like *any* weapons, and frankly I would prefer to see the so-called neutron weapon not deployed, but as President Carter said, whether we will deploy it or not, will be determined by whether the Soviet Union is prepared to take minimum steps toward reducing their enormous buildup of conventional and strategic forces. They have sixteen thousand tanks, facing seven thousand tanks on the NATO side. If they're prepared to do something about this imbalance in conventional forces, it may be possible for us *not* to deploy this improved tactical nuclear weapon.

Q. Now, in connection with these remarks made by President Carter, on which conditions, exactly, could Washington give up the construction of the N-bomb? Do these conditions regard the MBFR negotiations, for the reduction . . . ?

A. Well, it's not for me to set precise conditions, our policy is simply this: we haven't decided on whether to deploy the so-called neutron bomb, we would prefer not to deploy it, our decision will be based on whether the Soviet Union shows restraint in its build-up, both of its conventional forces, such as the tanks, in which as I mentioned they have this big superiority, and in the build-up of its nuclear forces, including those nuclear weapons which are targeted on Western Europe. The Soviet build-up, on any objective standard, goes far beyond the Soviet Union's needs for defense and it is in Europe's interests and our interest to see some reduction in that military build-up. If that takes place, we will respond.

Q. Mr. Ambassador, to sum up, what are the problems which most engage you personally in your capacity as American Ambassador in Rome today?

A. Ninety percent of my time is spent on what I like to call "the strategy of cooperation," that is to say on about 10 very specific programs of cooperation and mutual benefit, between Italy and the United States, which we have initiated, in the Carter Administration. For example: we have a major program of cooperation in the energy field. We announced, in the first meeting between President Andreotti and President Carter, that we're prepared through the Export-Import Bank to finance a major part of the cost of Italy's eight 1000 megawatt nuclear reactor program. We're also working with the Italian Government to assure the safety and environmental security of those reactors.

Q. Mr. Ambassador, there are also programs for the utilization of solar energy . . .

A. Exactly, and because the Italian Government, just as the American Government, wants a balanced energy program, which uses not just nuclear energy, but as much as possible renewable energy sources, our two governments are working together on research and development of solar energy, wind energy, the conversion of waste material into energy (so-called bio-mass energy). This will also help the South of Italy, because the solar energy and the wind energy, are projects for Sicily and Sardinia. We are also exploring the use of coal of Sardinia, how to use it notwithstanding its high sulfur content in coal gasification projects. So we have a major program in energy of mutual interest to both sides. Also geothermal energy, in which Italy is the world leader, and we get benefits from cooperating with you.

Then, in the field of unemployment, we are sharing information on how to deal with unemployment problems, particularly youth unemployment. How to provide incentives to private industry to create more jobs, how to provide jobs through the public sector, we have major cooperation here.

In the field of health and environmental protection we have a major cooperative program with respect to dangerous chemicals and how they should be controlled, drug addiction, cancer and heart disease.

In the field of economics, we are doing everything we can to facilitate American investment in Italy, and we've had some successes. Recently there was this big agreement between Boeing and Aeritalia providing for Italian participation in the production of the Boeing 757 and 767, which will be the principal passenger aircraft that Boeing will produce in the rest of the century. And this will bring thousands of jobs and billions of dollars of new income to the Mezzogiorno of Italy. We are working together to create more export opportunities for Italy through keeping tariffs and trade barriers low. We rejected the proposal to put increased restrictions on Italian shoe exports, that was a major decision of President Carter to help Italy.

In the field of education and culture, we have started a truly exciting program by which the United States will help Italy improve English language instruction in Italian schools and universities, and your government is helping us improve the teaching of Italian in our schools and universities. You know, Italian is the fastest-growing language in America today, because so many Americans of Italian descent are rediscovering their roots, and many other Americans, not of Italian descent, want to learn Italian. I am a good example of that because I am not an Italian-American, I married a girl from Venice, and I think I am living proof that you don't have to be an Italian-American to want to learn Italian. So we have a big growth in interest in the Italian language in the United States and we need your help in training teachers.

And then we are increasing in a major way our exchange of persons. We have increased by 60 percent our funds for the bringing of young Italian leaders to the United States, political leaders, journalists, trade unionists and scholars. Together our two governments are encouraging the development of a student loan fund, in which the private sector of our two countries, banks and business firms, both Italian and American, will create student loans to bring up to 200 young Italians from poor families to do postgraduate work in the United States on subjects of importance to Italy's future. So in all these ways we are trying to find practical ways to help strengthen democracy and economic welfare in Italy as well as in the United States.

Q. You have mentioned possible investments. Well, on which conditions, in your opinion, would it be easier to obtain investment from the United States, particularly for Southern Italy?

A. Well, as you know very well, American private investors, like all private investors, are not charitable institutions. They invest where they see a chance to make a profit and investment security. And so we must study together how to create these conditions. American investors, like all investors, look at the cost of labor in Italy relative to the cost of labor elsewhere and they look at the issue of labor mobility. If they can be assured on those matters, and if they can be assured that national and local government authorities will take a favorable view, an encouraging view. I think they'll come to Italy. There's already three billion dollars of American investment in Italy. I'd like to see that grow. But that's something on which our two governments must work together. I'm doing everything I can when I return on visits to the United States to encourage American business to think of Italy as a place to invest, particularly in the South. And there are great opportunities, tourism is one area, agriculture, as well as industrial projects, in which our two governments can encourage investment.

Q. Therefore, you say that in the industrial sector competitive cost of labor and labor mobility are the two major conditions necessary to obtain foreign investment in general, and therefore also American investment.

A. And that's also true for Italian investment. There will be American investment in the Italian South when there is Italian investment in the Italian South. I'd like to see joint ventures between Italian and American investors. But my point is that most of my time as Ambassador is spent on this strategy of cooperation. Indeed, it's a measure of the interdependence of our two countries that we are working not only between foreign offices on diplomatic problems; we are working between labor ministries, education ministries, health ministries, and so on, on common problems that face all industrialized democracies. And this testifies to the very special, close, warm and friendly character of the relationships between Italy and the United States today.

MESSAGES FROM THE PRESIDENT RECEIVED DURING THE RECESS

Under authority of the order of the Senate of March 5, 1979, the Secretary of the Senate on March 6, 1979, received a message from the President of the United States submitting a nomination and a message withdrawing a nomination, which were appropriately referred.

(The nomination and withdrawal received on March 6, 1979, are printed at the end of the Senate proceedings.)

PROPOSED INTERGOVERNMENTAL FISCAL ASSISTANCE AMENDMENTS OF 1979—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE RECESS—PM 35

Under authority of the order of the Senate of March 5, 1979, the Secretary of the Senate, on March 6, 1979, received the following message from the President of the United States, together with accompanying papers, which was referred to the Committee on Finance:

To the Congress of the United States:

Three years ago, at the lowest point of our Nation's deepest recession since the 1930's, many urban and rural communities were experiencing severe fiscal distress. The recession had weakened their revenue bases at the same time that their unemployment and service costs rose sharply.

In 1976, Congress enacted the Antirecession Fiscal Assistance program to provide emergency fiscal assistance to these distressed States and localities. When I came into office, I strengthened this program as part of my Economic Stimulus Package. Since 1976, approximately $3 billion has been spent under this program, which was effective in avoiding excessive layoffs of essential employees, service reductions and counterproductive tax increases in many areas.

Fortunately, nearly 4 years of national economic recovery have produced great progress in restoring the fiscal health of most of these communities. However, a number of communities still are experiencing severe fiscal problems and need more time to recover. The unexpected and abrupt termination of this program last fall has threatened many of these localities with painful reductions in vital services and with costly layoffs.

To assist these communities in regaining their financial stability and to protect State and local governments against unexpected future downturns in the economy, I am hereby transmitting to Congress the Intergovernmental Fiscal Assistance Amendments of 1979. These amendments outline a two-tier program, which meets the fiscal needs of our Nation's communities and which is consistent with the overall austerity of my budget.

The targeted fiscal assistance portion of this legislation (Title I), is designed only for those local governments with significant fiscal need—those urban and rural communities with unemployment rates of 6.5 percent or more. I am requesting that $250 million be spent in FY 1979 and $150 million in FY 1980 for this program. These funds would be distributed only to those local governments that face the most serious economic and fiscal problems—1231 local governments in FY 1979. No community will receive less than $20,000 annually or will be eligible if its per capita income exceeds 150 percent of the national average.

The legislation also provides a standby program of Federal fiscal assistance (Title II), to State and local governments through 1980. This assistance would be provided if national economic conditions deteriorate sharply, as evidenced by a national unemployment rate of 6.5 percent or higher in any quarter. In that event, governments with quarterly unemployment rates of 5 percent or more would receive aid. This program should not involve any budget outlays in the next two years. The Administration does not expect the national unemployment rate to rise above 6.5 percent. But, I urge the Congress to authorize this standby economic insurance program for State and local governments as a hedge against economic adversity and as an insurance policy in the event of an unexpectedly large downturn in the economy.

Our ability to act quickly to prevent the problems resulting from an economic downturn can reduce both the severity and duration of any downturn. Help that is delayed too long often takes effect after the crisis, and contributes to inflationary pressures during the economic recovery.

Together, this two-tier program addresses both immediate and prospective needs: a carefully targeted program for a limited number of fiscally strained communities and a more comprehensive standby program for State and local governments to protect them against an unexpectedly severe economic downturn. This proposal meets a pressing and immediate need and allows our Nation's communities to plan sensibly for the future. I urge Congress to enact this important legislation.

JIMMY CARTER.

THE WHITE HOUSE, *March 6, 1979.*

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE COUNCIL ON WAGE AND PRICE STABILITY—MESSAGE FROM THE PRESIDENT—PM 36

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with Section 5 of the Council on Wage and Price Stability Act, as amended, I hereby transmit to the Congress the sixteenth quarterly report of the Council on Wage and Price Stability. This report contains a description of the Council's activities during the third quarter of 1978 in monitoring both prices and wages in the private sector and various Federal Government activities that may lead to higher costs and prices without creating commensurate benefits. It discusses Council reports, analyses, and filings before Federal regulatory agencies.

The Council on Wage and Price Stability will continue to play an important role in supplementing fiscal and monetary policies by calling public attention to wage and price developments or actions by the Government that could be of concern to American consumers.

JIMMY CARTER.

THE WHITE HOUSE, *March 7, 1979.*

PROPOSED HOSPITAL COST CONTAINMENT ACT OF 1979—MESSAGE FROM THE PRESIDENT—PM 37

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers, which was referred to the Committee on Finance and the Committee on Human Resources, jointly, by unanimous consent:

To the Congress of the United States:

Inflation is America's most serious domestic problem. It affects every individual and every institution in the country, and it damages the health not only of our economy but of our society. The American people are demanding prompt action against inflation from their elected representatives—action that is strong, prompt, and effective.

One of the most important components of inflation is the soaring cost of hospital care, which continues to outpace inflation in the rest of the economy. A decade ago, the average cost of a hospital stay was $533. In just the past two years, the average cost of a hospital stay has increased by $317 to $1,634 a day—an increase of almost 24 percent.

Hospital cost inflation is uniquely severe. It is also uniquely controllable. It offers us one of our best opportunities to bring down the rate of overall inflation. This year, once again, I ask the Congress to join me in grasping that opportunity by enacting a tough program of hospital cost containment.

The Senate passed a Hospital Cost Containment bill last year, but the House did not complete action on it. The legislation I am transmitting to the Congress today is similar to the bill that passed the Senate last year. It responds to Congressional concerns that were raised during consideration of last year's bill, and it is strong enough to do the job.

The Hospital Cost Containment Act of 1979 will be one of the clearest tests of Congress' seriousness in dealing with the problem of inflation. Through this one piece of legislation, we can, at a stroke, reduce inflation, cut the Federal budget, and save billions of dollars of unnecessary public and private spending.

The legislation I am transmitting today will save $3.7 billion in fiscal year 1980. It will save $1.4 billion in the Federal budget, over $420 million in state and local budgets, and almost $1.9 billion in private health insurance and payments by individuals. Altogether, the potential savings that could result from this measure amounts to some $53 billion over the next five years.

Because most hospital bills are paid by public or private insurance programs, the impact of hospital inflation is sometimes disguised. But the impact is painfully real for every American.

When hospital costs rise, so do health insurance premiums. This means that workers take home smaller paychecks. It means that businesses are forced to charge higher prices. For example, over $140 of the cost of every automobile manufactured in this country goes to pay for health insurance premiums.

When hospital costs rise, so do health budgets of Federal, state and local governments. From 1969 to 1979, Federal government expenditures for hospital care rose by 330 percent. State and local government expenditures for hospital care rose by 140 percent. Sooner or later every taxpayer pays more to finance these increases.

When hospital costs rise, the elderly—who need more hospital services—are particularly hard hit. The Medicare hospital deductible paid by the elderly has almost quadrupled—from $44 in 1969 to $160 in 1979. If hospital cost inflation is not restrained, the deductible will reach $260 in 1984.

The inflationary rise in hospital costs is not inevitable. While there have been dramatic and desirable improvements in the quality of hospital services, much of the increase in hospital expenses has been unnecessary. No one's health is improved by the existence of thousands of unfilled hospital beds, by hospital stays that are unnecessarily long, by surgery and x-ray tests that are unneeded and sometimes harmful, by wasteful supply purchasing practices, by inefficient energy use, or by pointless duplication of expensive facilities and equipment. But these wasteful practices cost billions.

In the past, hospitals have had little incentive to be efficient. The hospital sector is fundamentally different from any other sector in our economy. Normal buyer-seller relationships and normal market forces do not exist. The consumer of services—the patient—rarely pays the bill directly. Nor does the patient decide what services he or she will receive in the hospital. The person who makes those decisions—the physician—does not pay the bill either, and therefore has little or no incentive to see that services are provided in an efficient manner. Often, doctors do not even know the costs of the tests and x-rays they order.

There is a growing determination throughout the country to make hospitals efficient. Nine states—Colorado, Connecticut, Maryland, Massachusetts, New Jersey, New York, Rhode Island, Washington, and Wisconsin—have enacted mandatory cost containment programs. Hospitals in these states, which include many of the most renowned medical institutions in the world, have reduced cost increases substantially while continuing to provide care of high quality.

The legislation I am transmitting today would ensure that every hospital in this country has the incentive to be efficient. It establishes a reasonable goal for hospital cost inflation. It sets mandatory limits only for those hospitals which have been unable to meet this goal. Specifically, the Hospital Cost Containment Act of 1979 will:

—Establish an annual goal for the rate of hospital cost increases. This goal would reflect actual increases in the price of goods and services hospitals use, changes in population, and improvements in hospital services. In the event that the hospital industry does not, as a whole, meet the national goal, mandatory reimbursement limits on individual hospitals, also based in part upon the actual costs of goods and services, would go into effect on January 1, 1980.

—Exempt hospitals which individually meet the voluntary goal, have fewer than 4,000 admissions annually, are less than 3 years old, or have 75 percent of their patients enrolled in federally qualified health maintenance organizations.

—Exempt all hospitals in a state if the state on average met the voluntary goal or had an approved mandatory cost containment program.

—Provide for a system of bonuses and penalties to hospitals, depending on their efficiency relative to other hospitals of similar type and location.

—Include an adjustment for wage increases provided to nonsupervisory personnel in hospitals.

The Hospital Cost Containment Act of 1979 is reasonable and realistic. It permits a period of time for voluntary action, with mandatory limits only if voluntary action fails to meet the reasonable goals established in the bill. Under current assumptions the national goal will be 9.7 percent in 1979; it will be adjusted to reflect the actual increases in the price of goods and services hospitals use. In 1977, one-third of the nation's hospitals—from all regions and of all types—had cost increases of 9.7 percent or less.

Even if triggered, the stand-by mandatory program holds regulation to a minimum. It does not interfere with the day-to-day management decisions of hospital administrators and physicians. Rather, the program establishes an overall limit on the rate of increase in reimbursements, permitting doctors and hospital administrators to allocate their own resources efficiently, responding to local needs and patient care concerns. The program changes the incentives under which hospitals have functioned, from a system in which hospitals receive guaranteed reimbursement for their services, whether efficiently provided or not, to one in which hospitals are rewarded or penalized for their actual efficiency and productivity.

Congress has debated hospital cost containment for almost two years. There is now no reason for delay. I call upon the Congress to demonstrate its commitment to the fight against inflation by promptly enacting the Hospital Cost Containment Act of 1979.

JIMMY CARTER.

THE WHITE HOUSE, *March 6, 1979.*

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message received from the President of the United States, dealing with hospital cost containment, which has been introduced by the Senator from Wisconsin be jointly referred to the Committees on Finance and Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 11:03 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2439. An act to rescind certain budget authority contained in the message of the President of January 31, 1979 (H. Doc. 96-46), transmitted pursuant to the Impoundment Control Act of 1974.

The message also announced that, pursuant to the provisions of section 161(a), title I, Public Law 93-618, and upon recommendation of the chairman of the Committee on Ways and Means, the Speaker has selected Mr. VANIK, Mr. GIBBONS, Mr. ROSTENKOWSKI, Mr. CONABLE, and Mr. VANDER JAGT of that committee, to be accredited by the President, as official advisers to the U.S. delegations to international conferences, meetings, and negotiation sessions relating to trade agreements during the 1st session of the 96th Congress on the part of the House.

HOUSE BILL REFERRED

The following bill was read twice by title and referred as indicated:

H.R. 2439. An act to rescind certain budget authority contained in the message of the President of January 31, 1979 (H. Doc. 96-46), transmitted pursuant to the Impoundment Control Act of 1974; to the Committee on Appropriations and the Committee on the Budget, jointly, pursuant to order of January 30, 1975.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-680. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to provide a voluntary self-help program designed to assist producers of agricultural products to protect themselves against loss of production when natural or uncontrollable conditions adversely affect production and to assure consumers that producers will be able to continue to produce food and fiber; to the Committee on Agriculture, Nutrition, and Forestry.

EC-681. A communication from the Secretary of Agriculture, transmitting pursuant to law, a report on the Public Law 480 program; to the Committee on Agriculture. Nutrition, and Forestry.

EC-682. A communication from the Deputy Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Department of Transportation for "Grants to the National Railroad Passenger Corporation," for the fiscal year 1979, has been reapportioned on a basis which indicates the necessity for a supplemental estimate of appropriation.

EC-683. A communication from the Acting Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Army's proposed Letter of Offer to Kenya for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-684. A communication from the Secretary of Defense, transmitting pursuant to law, a report entitled "Rationalization/Standardization Within NATO," Department of Defense, January 1979; to the Committee on Armed Services.

EC-685. A secret communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the major limitation in the capability of the Navy's F-14A/Phoenix weapon system to meet the current or postulated threat to the Naval Fleet; to the Committee on Armed Services.

EC-686. A communication from the Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to provide for the advance payment of station housing allowances for members of the uniformed services assigned overseas; to the Committee on Armed Services.

EC-687. A secret communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the major issues concerning the Joint Tactical Information Distribution System; to the Committee on Armed Services.

EC-688. A communication from the Acting Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Air Force's proposed Letter of Offer to Thailand for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-689. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report on the HUD Coinsurance Program; to the Committee on Banking, Housing, and Urban Affairs.

EC-690. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report entitled "Developmental Needs of Small Cities"; to the Committee on Banking, Housing, and Urban Affairs.

EC-691. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Export Controls: Need to Clarify Policy and Simplify Administration," March 1, 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC-692. A communication from the Secretary, Interstate Commerce Commission, reporting, pursuant to law, that the Commission is unable to render a final decision in Docket No. 36746 (Sub-No. 74), Ferric Sulphate, Copperhill, TN, to Kitalou, Texas, within the initially-specified 7-month period; to the Committee on Commerce, Science, and Transportation.

EC-693. A communication from the Chairman, National Advisory Committee on Oceans and Atmosphere, transmitting, pursuant to law, a report entitled "Reorganizing the Federal Effort in Oceanic and Atmospheric Affairs, Volume 1, Findings and Recommendations," February 1979; to the Committee on Commerce, Science, and Transportation.

EC-694. A communication from the Assistant Secretary of the Interior, transmitting, pursuant to law, a draft of proposed legislation concerning the Pinelands National Reserve, New Jersey; to the Committee on Energy and Natural Resources.

EC-695. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report on the Energy Conservation Standards for New Buildings Program; to the Committee on Energy and Natural Resources.

EC-696. A communication from the Chairman, United States Water Resources Council, transmitting a draft of proposed legislation to implement State Water Management and Conservation Technical Assistance Programs; to the Committee on Environment and Public Works.

EC-697. A communication from the Acting General Counsel of Housing and Urban Development, transmitting a draft of proposed legislation to amend section 606 of the Disaster Relief Act of 1974, as amended, to authorize the appropriation of additional sums for fiscal years 1981, 1982 and 1983, and for other purposes.

EC-698. A communication from the Administrator, General Services Administration, transmitting a revised prospectus for the U.S. Post Office-Courthouse, Miami, Florida; to the Committee on Environment and Public Works.

EC-699. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report on Revenue Sharing covering federal fiscal year 1978; to the Committee on Finance.

EC-700. A communication from the Chairman, Federal Election Commission, reporting, pursuant to law, relating to a February 16, 1979, letter transmitting proposed regulations pertaining to the administration of the Presidential Primary Matching Payment Account Act (Chapter 96, Title 26, United States Code); to the Committee on Finance.

EC-701. A communication from the Executive Director, Board for International Broadcasting, transmitting a draft of proposed legislation to amend the Board for International Broadcasting Act of 1973 and to authorize appropriations for fiscal years 1980 and 1981 for carrying out that Act; to the Committee on Foreign Relations.

EC-702. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within sixty days after the execution thereof; to the Committee on Foreign Relations.

EC-703. A communication from the District of Columbia Auditor, transmitting, pursuant to law, report on (1) Regulation of Emergency Medical Transportation (February 12, 1979); (2) Payroll Verification, D.C. Department of Labor (February 20, 1979); and (3) Annual Report on Depository Activities, FY 1978 (February 22, 1979); to the Committee on Governmental Affairs.

EC-704. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to authorize an additional Assistant Secretary of Commerce; to the Committee on Governmental Affairs.

EC-705. A communication from the Director, Office of Management and Budget, Executive Office of the President, and the Acting Secretary of the Treasury, transmitting, pursuant to law, a report on the performance of functions and duties of the Office of Management and Budget and the Department of the Treasury; to the Committee on Governmental Affairs.

EC-706. A communication from the Mayor of the District of Columbia, transmitting, pursuant to law, a report of the Office of Emergency Preparedness of the District of Columbia for fiscal year 1978; to the Committee on Governmental Affairs.

EC-707. A communication from the Under Secretary of State for Management, transmitting, pursuant to law, a report of a new system of records; to the Committee on Governmental Affairs.

EC-708. A communication from the Mayor of the District of Columbia, reporting, pursuant to law, with respect to recommendations contained in a report from the U.S. General Accounting Office (CGD-78-16) entitled "Activities of Special Police and Guard Forces in the District of Columbia Can Be Improved"; to the Committee on Governmental Affairs.

EC-709. A communication from the Assistant Attorney General for Administration, Department of Justice, transmitting, pursuant to law, a proposed new system of records; to the Committee on Governmental Affairs.

EC-710. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of GAO Reports issued for the Month of January 1979; to the Committee on Governmental Affairs.

EC-711. A communication from the Assistant Secretary of the Treasury (Administration), transmitting, pursuant to law, a proposed new system of records; to the Committee on Governmental Affairs.

EC-712. A communication from the Assistant Secretary of Commerce for Administration, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-713. A communication from the Director, Office of Administration, United States Nuclear Regulatory Commission, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-714. A communication from the Acting Deputy Director for Information, Department of Agriculture, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-715. A communication from the Acting Chairman, Commodity Futures Trading Commission, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-716. A communication from the Administrator, National Credit Union Administration, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-717. A communication from the Chairman, Board of Governors, Federal Reserve Board, transmitting, pursuant to law, a report of the Federal Open Market Committee of the Federal Reserve System covering its implementation of its responsibilities under the Freedom of Information Act during calendar year 1978; to the Committee on the Judiciary.

EC-718. A communication from the Chairman, Board of Governors, Federal Reserve Board, transmitting, pursuant to law, a report covering the implementation of its administrative responsibilities under the Freedom of Information Act for calendar year 1978; to the Committee on the Judiciary.

EC-719. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders suspending deportation, as well as a list of persons involved; to the Committee on the Judiciary.

EC-720. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders suspending deportation; to the Committee on the Judiciary.

EC-721. A communication from the Administrator, U.S. Small Business Administration, transmitting, pursuant to law, a report on its administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-722. A communication from the Secretary, Federal Trade Commission, transmitting, pursuant to law, a report on its administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-723. A communication from the Chairman, Equal Employment Opportunity Commission, transmitting, pursuant to law, a report on its administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC–724. A communication from the Chairman, United States International Trade Commission, transmitting, pursuant to law, a report on its administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC–725. A communication from the Postmaster General, United States Postal Service, transmitting, pursuant to law, a report relating to its administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC–726. A communication from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC–727. A communication from the Chairman, U.S. Consumer Product Safety Commission, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC–728. A communication from the Freedom of Information/Privacy Officer, Interstate Commerce Commission, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC–729. A communication from the Acting Secretary of the Treasury, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC–730. A communication from the General Counsel, Export-Import Bank of the United States, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC–731. A communication from the Associate General Counsel for Legislation, Interstate Commerce Commission, reporting, pursuant to law, relating to the Regulatory Flexibility Act; to the Committee on the Judiciary.

EC–732. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC–733. A communication from the Director, Office of Government and Public Programs, National Science Foundation, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC–734. A communication from the Information Officer, Postal Rate Commission, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC–735. A communication from the Director, Community Services Administration, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC–736. A communication from the Director, Selective Service System, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC–737. A communication from the Governor, Farm Credit Administration, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC–738. A communication from the President, United States Railway Associataion, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC–739. A communication from the Chairman, Foreign Claims Settlement Commission of the United States, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC–740. A communication from the Acting Chairman, the Renegotiation Board, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC–741. A communication from the Executive Secretary, Administrative Conference of the United States, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC–742. A communication from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC–743. A communication from the President, Inter-American Foundation, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC–744. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports covering the period of February 1 through February 15, 1979, concerning visa petitions which the Service has approved according the beneficiaries of such petitions third and sixth preference classification under the Immigration and Nationality Act; to the Committee on the Judiciary.

EC–745. A communication from the Administrator, Veterans' Administration, transmitting a draft of proposed legislation to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their surviving spouses and children; and for other purposes; to the Committee on Veterans' Affairs.

EC–746. A communication from the Chairman, Board of Governors, Federal Reserve Board, transmitting, pursuant to law, a report relating to monetary policy; to the Committee on Banking, Housing, and Urban Affairs.

EC–747. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report of activities related to the Deepwater Port Act; to the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, and the Committee on Environment and Public Works, jointly, by unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication from the Secretary of Transportation, transmitting the fourth annual report of activities related to the Deepwater Port Act of 1974, be referred jointly to the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, and the Committee on Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

EC–748. A communication from the Acting Assistant Secretary of the Interior, transmitting, pursuant to law, a draft of proposed legislation to amend the Anadromous Fish Conservation Act of 1976, as amended; to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation, jointly, by unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication from the Secretary of the Interior, transmitting a proposal to amend the Anadromous Fish Conservation Act of 1976, be referred jointly to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation.

The PRESIDING OFFICER. Without objection, it is so ordered.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM–65. A resolution adopted by the Legislature of the State of Massachusetts; to the Committee on Commerce, Science, and Transportation:

"RESOLUTION

"*Whereas*, The Firestone Tire and Rubber Company has entered into a voluntary agreement with the federal government on the terms of a safety recall of certain steel belted radial tires which it manufactured; and

"*Whereas*, Many citizens of the Commonwealth have purchased steel belted radial tires which are within the categories included within such recall agreement; and

"*Whereas*, It appears that the Firestone Tire and Rubber Company has not complied with the terms of such agreement as to certain citizens of the Commonwealth; therefore be it

"*Resolved*, That the Massachusetts House of Representatives hereby respectfully urges the Congress of the United States and the Secretary of Transportation to take appropriate action to make certain that the Firestone Tire and Rubber Company complies with the terms of the safety recall agreement entered into with the federal government concerning certain steel belted radial tires which it manufactured; and be it further

"*Resolved*, That copies of these resolutions be transmitted forthwith by the Clerk of the Massachusetts House of Representatives to presiding officers of each branch of the Congress of the United States, to the members thereof from this Commonwealth, and to the Secretary of Transportation of the United States."

POM–66. A concurrent resolution adopted by the Legislature of the State of Arkansas; to the Committee on the Judiciary:

"HOUSE CONCURRENT RESOLUTION 27

"Whereas, in 1945 the McCarran-Ferguson Act (Title 15, United States Code, Sections 1011–1015) was enacted into law; and

"Whereas, in that Act is was stated that "Congress declares that the continued regulation and taxation by the several states of the business of insurance is in the public interest"; and

"Whereas, in the course of such regulation, the several states have encouraged and required continued improvements in insurance coverages and the provision of insurance at reasonable rates; and

"Whereas, the several states have continually reviewed, experimented with, and altered various approaches to regulation in an effort to assure the public of the availability of insurance at the lowest practicable cost; and

"Whereas, the business of insurance has developed a competitive structure; and

"Whereas, the public has benefited from the competitive structure of the insurance industry including at the retail level a wide variety of organizations, often small businesses, intensely competing, and from regulation of the industry by the several states; and

"Whereas, federal regulation has repeatedly been shown not to be a panacea; and

"Whereas, it is becoming increasingly clear that the establishment of federal regulation increases the cost of government, often increases the cost of products and services to the consumer, and often without providing offsetting benefits to the public; and

"Whereas, federal regulation often adds confusion and delay; and

"Whereas, there has been no showing that the several States cannot continue to regulate the insurance industry; and

"Whereas, there has been no showing that federal regulation of the insurance industry by limiting state regulation and permitting the application of the federal antitrust laws will have a salutory effect upon the industry or otherwise benefit the public; and

"Whereas, it is often necessary, subject to state regulations, to pool the resources of several insurance companies in order to provide for coordinated actions to provide effective insurance coverage of certain risks and to provide the public with reasonable prices, efficiency in which the services are rendered at reasonable cost, and innovation in which new products and services are made available; and

"Whereas, officials of the federal government have publicly, although unofficially, recommended amending the McCarran-Ferguson Act so as to limit state regulation of the business of insurance;

"Now, therefore, be it resolved, that this Legislature respectfully memorializes the Congress of the United States to reject any legislation amending the McCarren-Ferguson Act [15 U.S.C. §§ 1011-1015, 59 Stat. 33 (1945)].

"Be it further resolved that copies of this resolution be forwarded to the Secretary of the United States Senate, the Clerk of the United States House of Representatives, and to each member of Congress from the State."

POM-67. A resolution adopted by the Legislature of the State of Nebraska; to the Committee on the Judiciary:

"LEGISLATIVE RESOLUTION 106

"Whereas, with each passing year this nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenue, so that the public debt now exceeds hundreds of billions of dollars; and

"Whereas, the annual federal budget continually demonstrates an unwillingness or inability of both the legislative and executive branches of the federal government to curtail spending to conform to available revenue; and

"Whereas, unified budgets do not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit; and

"Whereas, knowledgeable planning, fiscal prudence, and plain good sense require that the budget reflect all federal spending and be in balance; and

"Whereas, believing that fiscal irresponsibility at the federal level, with the inflation which results from this policy, is the greatest threat which faces our nation, we firmly believe that constitutional restraint is necessary to bring the fiscal discipline needed to restore financial responsibility; and

"Whereas, under article V of the Constitution of the United States, amendments to the federal Constitution may be proposed by the Congress whenever two-thirds of both houses deem it necessary, or on the application of the Legislatures of two-thirds of the several states, the Congress shall call a constitutional convention for the purpose of proposing amendments. We believe such action is vital.

"Now, therefore, be it resolved by the members of the eighty-fourth Legislature of Nebraska, second session:

"1. That this body proposes to the Congress of the United States that procedures be instituted in the Congress to add a new article to the Constitution of the United States, and that the State of Nebraska requests the Congress to prepare and submit to the several states an amendment to the Constitution of the United States, requiring in the absence of a national emergency that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenue for that fiscal year.

"2. That, alternatively, this Legislature makes application and requests that the Congress of the United States call a constitutional convention for the specific and exclusive purpose of proposing an amendment to the Constitution of the United States requiring in the absence of a national emergency that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenue for that fiscal year.

"3. That this Legislature also proposes that the Legislature of each of the several states comprising the United States apply to the Congress requesting the enactment of an appropriate amendment to the federal Constitution; or requiring the Congress to call a constitutional convention for proposing such an amendment to the federal Constitution.

"4. That the Clerk of the Legislature transmit a copy of this resolution to the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, each member of the Nebraska Congressional delegation, the Secretaries of State and the Legislatures of each of the several states, and the Secretary of State for the State of Nebraska."

POM-68. A resolution adopted by the City Council, City of Elizabeth, New Jersey, urging the Congress of the United States to adopt and the President to sign into law legislation which would provide federal funds to all taxing districts in this country, including the City of Elizabeth, Union County, New Jersey, to whom there are delinquent taxes and interest owed as a result of bankruptcy, insolvency and the reorganization of railroads, including the Central Railroad of New Jersey; to the Committee on Commerce, Science, and Transportation.

POM-69. A resolution adopted by the Board of Supervisors, County of Sussex, Virginia, relating to price and income protection for farmers and to assure consumers of an abundance of food and fiber at fair and reasonable prices; to the Committee on Agriculture, Nutrition, and Forestry.

POM-70. A resolution adopted by the National Association of Regulatory Utility Commissioners, relating to Nuclear Power Plant Licensing Reform; to the Committee on Environment and Public Works.

POM-71. A resolution adopted by the National Association of Regulatory Utility Commissioners, supporting the continuation of Emergency Energy Assistance to Low Income Persons and Families; to the Committee on Human Resources.

POM-72. A resolution adopted by the National Association of Regulatory Utility Commissioners, relating to tax treatment of cost of removal upon retirement of public utility plant, and treatment of investment tax credit; to the Committee on Finance.

POM-73. A petition from a citizen, seeking remedy of a grievance; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. NELSON, from the Select Committee on Small Business:

Twenty-Ninth Annual Report of the Select Committee on Small Business (Rept. No. 96-31).

SELECT COMMITTEE ON SMALL BUSINESS ANNUAL REPORT FOR 1978

Mr. NELSON. Mr. President, as chairman of the Select Committee on Small Business, I am submitting to the Senate today the committee's 29th annual report covering its activities during 1978. I ask that the report be printed together with its illustrations, exhibits, and appendices.

COMMITTEE DUTIES

The original Senate resolution creating the Select Committee on Small Business (Senate Resolution 58 of 1950) requires the committee to—

> Study and survey by means of research and investigation all problems of American small business enterprises, and to obtain all facts possible . . . which would . . . be of public interest (and) would aid Congress in enacting remedial legislation, and to report to the Senate from time to time the results of such studies and surveys.

Beginning in the 95th Congress (1977-78) the Senate added requirements that the committee exercise legislative authority over all bills and matters primarily relating to the Small Business Administration (Senate Resolution 104 of April 26, 1976 and Senate Resolution 4, the Committee System Reorganization Amendments of 1977).

To carry out these responsibilities the committee held 65 days of public investigative hearings in 1977 and 47 in 1978—the largest number of hearings in any 2-year period in the committee's history.

The hearings, research, and related activities, and resulting legislative and administrative recommendations and actions are described in the 20 chapters of this report.

An introduction to the report briefly summarizes each chapter.

LEGISLATIVE ACTIVITY

The legislative highlights of the committee's activity are as follows:

During the 95th Congress 36 Senate bills and 4 House-passed bills, as well as 8 resolutions, 3 amendments, 2 nominations, and 38 executive communications were referred to the committee.

Of the 40 Senate and House bills, 6 major bills received final congressional approval. These 6 measures incorporated provisions of 19 bills referred to the committee.

Of the 6 bills sent to the White House, 5 were signed into law, enacting provisions of 15 separate proposals considered by the committee.

Two of the public laws (Public Law 95-14 and Public Law 95-89) were enacted in 1977, and are reported on in the committee's annual report for that year.

Three of the public laws were enacted in 1978: Public Law 95-315 (H.R. 11714), Public Law 95-507 (H.R. 11318), and Public Law 95-510 (H.R. 13418).

All eight resolutions were approved by the Senate, six in 1977 and two in 1978.

In addition to its public hearings during 1978, the committee conducted many executive sessions including eight conference committee meetings, four staff study conferences, and two public conferences. Two Presidential nominations were also considered and recommended to the Senate. Publications included three reports and four committee prints.

Following the introductory section of the report, the committee's major efforts in each subject area are discussed in detail in the succeeding chapters. Informational appendices follow the text.

The opening chapter of the report recounts the committee's efforts leading to the announcement of the first White House Conference on Small Business, which will be held in early 1980. The committee believes the conference can develop a systematic agenda for action over the next 25 years in order to restore an economic climate in which new and small business can survive and flourish.

LEGISLATION REFORMS CORPORATE TAX STRUCTURE

The report recapitulates the committee's extensive activities in the tax area. More than 20 days of hearings on tax and related matters since 1975 culminated during 1978 in the enactment of permanent corporate rate reductions and other small business provisions in the Revenue Act of 1978. As a result, beginning in 1979, corporate income under $100,000 will be subject to a significantly lower scale of taxation because the new rate structure is the most progressive since the corporation tax was enacted in 1909. This will yield tax savings for the 94 percent of U.S. companies earning less than $100,000 annually of $2 billion in 1979 and $2.2 billion in 1980.

Small business tax savings, 1975–79

Taxable income	Savings per company		Per bracket, 1979 (millions)
	Amount	Percentage	
$25,000 ----	$1,250	22.72	$371
$50,000 ----	8,250	47.14	616
$75,000 ----	12,750	43.22	592
$100,000 ---	14,750	35.54	449
			2,028

OVERSIGHT OF THE SMALL BUSINESS ADMINISTRATION

The report explains the committee's review of the programs of the Small Business Administration, leading to an omnibus small business bill (H.R. 11445) which sought to make that agency more efficient and more responsive to Congress. The bill was passed by both the Senate and the House in 1978 but was not signed by the President.

SMALL BUSINESS CAPITAL NEEDS DOCUMENTED

A series of pathfinding hearings on "Capital Formation" elicited evidence of the serious and growing capital accumulation gap for smaller enterprise. This critical situation imperils some of the Nation's most fundamental goals of job creation, economic growth, reducing inflation, and strengthening the dollar. The committee findings in 1978 are that:

During the past decade, the capital needed to support an average manufacturing worker has doubled (to $41,000) while the amount of startup capital new businesses were able to raise in a typical industry (electronics) was cut in half (from just over $1 million to $533,000 per company);

The formation of high technology companies fell from 204 in 1969 to 0 in the first 6 months of 1975;

The inability of promising U.S. small high technology companies to raise funds in this country has resulted in acquisition of controlling or near controlling interests by foreign investors or some of the most innovative new technology developed by American investors;

The individual investor who traditionally is more willing to take the risks of investing in a smaller business is in retreat from the stock market, with the individual investor population shrinking from 32 million to 25 million in this decade;

Institutional investors have also withdrawn from the market for the smaller companies;

The number of stockbrokers available to provide advice and assistance to new and small companies that wish to raise capital has declined from 4,700 in 1961 to 2,772 at the end of 1978, a reduction of over 40 percent.

The report reflects the committee's position that a true turn-around in small business formation will require simultaneous action on at least four fronts: Taxes; securities; investment policies under the Pension Reform Act of 1974 (ERISA); and improvement of venture capital institutions.

Small Business progress in the tax area during the past 4 years has been gratifying; but there is still far to go, particularly in the three other areas.

FORWARD MOVEMENT IN SMALL BUSINESS ORGANIZATIONS

Another heartening development noted in the report is the progress made by small business organizations in recent years. The National Federation of Independent Business has grown from less than 100,000 members in 1953 to 260,000 in 1970 and more than 550,000 in 1978.

During the same period, the National Small Business Association expanded from 20,000 to 50,000 members, and formed a coalition of 68 primarily small business trade associations with approximately 2¼ million members.

The National Association of Wholesalers has amalgamated 108 national organizations with 40,000 members, and has task forces on product liability operating in more than 30 States.

The annual Washington presentation of small business problems in May of each year has grown from one regional group in 1970 (New England) to a half dozen groups (including Wisconsin) and more are being added periodically.

Regional and national groups are working together in a coalition called the Council of Small and Independent Business Associations. (COSIBA)

All of these efforts have won increased attention from the Government at several levels and the public, and has already contributed importantly to legislative victories in Washington and several State capitals across the country.

OTHER COMMITTEE PROJECTS

Other chapters deal with committee efforts to bring about legislative and administrative actions to reduce regulatory and paperwork burdens on small business; to broaden government procurement for small business contractors and subcontractors; to encourage equality of treatment for women and minority women business owners; to assist family farmers; to resolve the product liability insurance crisis facing small producers and distributors; combat abuses of the competitive process—particularly in the pharmaceutical field, and to gain a fair share of Government research activity for smaller firms which account for half of all innovations—and many other matters.

RESEARCH ON SIGNIFICANCE OF SMALL BUSINESS ENTERPRISE

The report also sets forth the results of related committee research. Small business is a major element in the U.S. economy accounting for 97 percent of the 14 million U.S. business firms, more than half of all private employment, 48 percent of the business output, and approximately 43 percent of the gross national product.

An exhaustive committee investigation in 1978 also established that smaller business contributes more than half of new inventions and industrial innovations.

Small business is thus in a position to contribute significantly to our most important national objectives.

Thus, a wider understanding of the problems and the potential of small business has a direct bearing upon our country's ability to increase employment, fight inflation, increase productivity and efficiency, improve work environments, and to keep alive the American dream of business ownership for any who wish it. The committee believes these initiatives can strengthen the overall economy of our Nation and the fabric of our democratic society.

Accordingly, we are filing this 29th annual report with the hope that it will prove to be a valuable resource for research and action on the part of those in the Senate, the business community, and the general public who wish to advance the cause of free private enterprise.

Since the Senate has not been in session during most of last week, the submission of the report today is the earliest opportunity we have had to file it in compliance with the instructions of Senate Resolution 378 of the 95th Congress.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. **TALMADGE**, from the Committee on Agriculture, Nutrition, and Forestry:

Dale Ernest Hathaway, of the District of Columbia, to be Under Secretary of Agriculture for International Affairs and Commodity Programs.

(The above nomination from the Committee on Agriculture, Nutrition, and Forestry was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BUMPERS:

S. 553. A bill to extend the time for Congress to consider energy actions under the Energy Policy and Conservation Act; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI:

S. 554. A bill to modernize the programs of the Army Corps of Engineers; to the Committee on Environment and Public Works.

By Mr. MORGAN (for himself, Mr. Baker, Mr. Sasser, Mr. Percy, Mr. Inouye, Mr. Schmitt, Mr. Mathias, Mr. Riegle, Mr. McGovern, Mr. Ford, Mr. Cohen, Mr. Pell, Mr. Helms, Mr. Pressler, Mr. Durkin, Mr. Cochran, Mr. Levin, and Mr. Stewart):

S. 555. A bill to amend the tax laws of the United States to encourage the preservation of independent local newspapers; to the Committee on Finance.

By Mr. DOMENICI:

S. 556. A bill to improve the operations of certain water resources projects; to the Committee on Environment and Public Works.

By Mr. BENTSEN:

S. 557. A bill to amend the Internal Revenue Code of 1954 to permit an individual covered by a private retirement plan to establish a separate individual retirement account or deduct a separate contribution to the plan; to the Committee on Finance.

By Mr. DOMENICI:

S. 558. A bill to amend the John F. Kennedy Center Act to permit the distribution by the Center of free or reduced admission tickets, under certain circumstances; to the Committee on Environment and Public Works.

By Mr. PACKWOOD:

S. 559. A bill to amend section 21 of the Second Liberty Bond Act to require the President to submit an alternate balanced budget whenever the regular budget would result in an increase in the public debt limit or a deficit, to require the budget to identify revenue increases attributable to inflation, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, pursuant to order of August 4, 1977.

By Mr. DOMENICI:

S. 560. A bill to assure more adequate supplies of water to the Nation; to the Committee on Environment and Public Works.

By Mr. COCHRAN:

S. 561. A bill to amend the National Historic Preservation Act of 1966 to permit the Secretary of the Interior to make certain grants in excess of the 50 per centum limitation contained in such Act; to the Committee on Energy and Natural Resources.

By Mr. HART (by request):

S. 562. A bill to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes; to the Committee on Environment and Public Works.

By Mr. CANNON (for himself and Mr. Laxalt):

S. 563. A bill to provide for the establishment of a national cemetery in the State of Nevada; to the Committee on Veterans' Affairs.

S. 564. A bill to provide for the construction of a Veterans' Administration hospital in the State of Nevada; to the Committee on Veterans' Affairs.

By Mr. MATHIAS:

S. 565. A bill to provide for financial assistance to improve the capabilities of units of local government to deal with career criminals, to establish the Office of Repeat Offenders Prosecution Projects within the Law Enforcement Assistance Administration, and for other purposes; to the Committee on the Judiciary.

By Mr. MOYNIHAN:

S. 566. A bill to authorize a targeted fiscal assistance program for payments to local governments requiring fiscal relief, an antirecession fiscal assistance program, and for other purposes; to the Committee on Finance.

By Mr. DeCONCINI:

S. 567. A bill to amend title 28 of the United States Code to allow the United States attorney and assistant United States attorneys for the Eastern District of New York to reside within 20 miles of the district; to the Committee on the Judiciary.

By Mr. KENNEDY:

S. 568. A bill to promote the full use of human resources in science and technology through a comprehensive program to maximize the potential contribution and advancement of women in scientific, professional, and technical careers; to the Committee on Human Resources.

By Mr. DURKIN:

S. 569. A bill to prohibit any State from imposing a tax on the income derived by any individual from services in the Federal area within such State if such individual is not a resident or domiciliary of such State or of any other State which imposes a tax on income; to the Committee on the Judiciary.

By Mr. NELSON (for himself, Mr. Williams, Mr. Kennedy, Mr. Javits, Mr. Ribicoff, Mr. Pell, Mr. Moynihan, Mr. Tsongas, and Mr. Riegle):

S. 570. A bill to establish voluntary limits on the annual increases in total hospital expenses, and to provide for mandatory limits on the annual increases in hospital inpatient revenues to the extent that the voluntary limits are not affected; to the Committee on Finance and the Committee on Human Resources, jointly, by unanimous consent.

By Mr. RIBICOFF:

S. 571. A bill to permit a U.S. flag and flagholder to be placed next to the grave of any veterans of the Armed Forces of the United States; to the Committee on Veterans' Affairs.

By Mr. BELLMON:

S. 572. A bill to return to Congress, through the implementation of procedural reforms, the ability to insure that rules and regulations promulgated through the administrative process shall reflect the intent of Congress; to the Committee on Governmental Affairs.

S. 573. A bill to amend the authorization for the Tenkiller Ferry Lake project, Arkansas River, Okla.; to the Committee on Environment and Public Works.

S. 574. A bill to amend the authorization for the Kaw Lake project, Arkansas River, Okla.; to the Committee on Environment and Public Works.

By Mr. HATCH:

S. 575. A bill to prohibit the non-judicial enforcement of goals, quotas, timetables, ratios or any other numerical objective for persons on the basis of race, color, religion, national origin or sex, and for other purposes; to the Committee on the Judiciary and the Committee on Human Resources, jointly, by unanimous consent.

By Mr. HAYAKAWA:

S. 576. A bill for the relief of Larry Grathwohl; to the Committee on Veterans' Affairs.

S. 577. A bill for the relief of Jenny Flores; to the Committee on the Judiciary.

By Mr. DURKIN:

S. 578. A bill for the relief of Elias Smirnioudis; to the Committee on the Judiciary.

By Mr. BENTSEN:

S. 579. A bill for the relief of Narciso Michelina; to the Committee on the Judiciary.

By Mr. STONE:

S.J. Res. 44. A joint resolution to continue certain programs, transactions, and activities with respect to the people on Taiwan, pending further legislation, and for other purposes; to the Committee on Foreign Relations.

By Mr. HARRY F. BYRD, JR.

S.J. Res. 45. A joint resolution to amend the Constitution of the United States to mandate a balanced budget; to the Committee on the Judiciary.

S.J. Res. 46. A joint resolution to amend the Constitution of the United States to provide for balanced budgets and elimination of the Federal indebtedness; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BUMPERS:

S. 553. A bill to extend the time for Congress to consider energy actions under the Energy Policy and Conservation Act; to the Committee on Energy and Natural Resources.

(The remarks of Mr. Bumpers when he introduced the bill appear elsewhere in today's proceedings.)

By Mr. DOMENICI:

S. 554. A bill to modernize the programs of the Army Corps of Engineers; to the Committee on Environment and Public Works.

U.S. ARMY CORPS OF ENGINEERS

● Mr. DOMENICI. Mr. President, I am today introducing legislation that is intended to improve and streamline the operation of the U.S. Army Corps of Engineers. I am convinced that these changes will enable the programs of the corps to operate more efficiently and fairly, and thus to receive broader support among the public.

This bill is virtually identical to legislation I introduced during the 95th Congress as S. 774. Most of the provisions of that legislation were later adopted by the Senate. In fact, they passed on three separate occasions: As a part of S. 1529, then in H.R. 8309, and finally in amendments to H.R. 10979, the "pothole" bill adopted by the Senate in the final hours of the 95th Congress. None of these bills were passed subsequently by the House.

I believe that each of these proposals continues to merit the consideration and support of the Senate and the Congress.

Section 1 of the bill is intended to lessen the danger of major windfall benefits to any individual landowner as a result of water resources projects.

Section 2 would clarify a 1909 act by limiting the ability of the Corps of Engineers to rebuild navigation projects without congressional authorization.

Section 3 requires the development of information on possible dam failure in water resources projects.

Section 4 requires the submission of

information on recreational alternatives when a water resource project is submitted to Congress.

Section 5 requires that the Department of Transportation undertake the analysis of transportation benefits on navigation projects.

Section 6 establishes a system to automatically rescind the authority for unused and unnecessary studies.

Section 7 establishes an independent advisory board to advise Congress and the Corps of Engineers on the merit of complaints relating to water resources projects.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 554

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the Secretary of the Army, acting through the Chief of Engineers, or the Secretary of Agriculture, acting under Public Laws 83–566, as amended, submits a project to the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives that can be anticipated to provide benefits, more than 10 per centum of which are produced by an increase in anticipated land value to a single landowner, the Secretary of the Army or the Secretary of Agriculture, as appropriate, shall, prior to the construction of such project, enter into an agreement with such owner that provides that the owner contributes, either prior to construction, or when such benefits are realized, 50 per centum of the project's costs allocated to the owner's benefits.

Sec. 2. Section 4 of the Act of July 5, 1884 (23 Stat. 147), as amended by the Act of March 3, 1909 (33 U.S.C. 5), is hereby amended to read as follows:

"Sec. 4. The Secretary of the Army, acting through the Chief of Engineers, is authorized to operate, maintain, and keep in repair and rehabilitate any project for the benefit of navigation belonging to the United States or that may be hereafter acquired or constructed: *Provided,* That whenever, in the judgment of the Secretary of the Army, the condition of any of the aforesaid works is such that its reconstruction or replacement is essential to efficient and economical maintenance and operation, as herein provided for, and if the cost shall be less than $15,000,000, the Secretary may proceed with such work: *Provided further,* That the project does not increase the scope or change the location of an existing project: *And provided further,* That nothing herein contained shall be held to apply to the Panama Canal."

Sec. 3. Any report that is submitted to the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives by the Secretary of the Army, acting through the Chief of Engineers, or the Secretary of Agriculture, acting under Public Law 83–566, as amended, which includes construction of a water impoundment facility, shall include information on the possibility of failure of such facility due to geologic or design factors, the potential impact of the failure of such facility, and information on the design features that would prevent, lessen, or mitigate such possibility of failure or the impact of failure.

Sec. 4. When submitting any report on a project which includes benefits for recreation, the Secretary of the Army, acting through the Chief of Engineers, or the Secretary of Agriculture, under authority of Public Law 83–566, as amended, shall describe the benefits of other, similar recreational facilities within the general area of the project, and the anticipated impact of the proposed project on such existing recreational facilities.

Sec. 5. Beginning in the first full fiscal year after enactment of this section, the Secretary of Transportation shall be responsible for the preparation of all calculations on transportation-related benefits for any future water resources project proposed by the Secretary of the Army, acting through the Chief of Engineers. As a part of such calculations, the Secretary of Transportation shall identify, with reasonable specificity, the impact of such proposed project on the costs and the traffic of competing modes of transportation.

Sec. 6. (a) Any resolution authorizing a survey by the Secretary of the Army, acting through the Chief of Engineers, is automatically rescinded and is no longer authorized if no funds are expended for such survey within four full fiscal years following its approval.

(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to submit to the Congress, within six months of enactment of this section, a list of all existing surveys that have an inactive or deferred status, and all surveys on such list may be deauthorized within ninety days thereafter by resolution of either the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives.

Sec. 7. (a) There is hereby established an Advisory Board on Water Resources Complaints (hereinafter referred to as the "Board"), which is authorized to evaluate complaints of any existing or potential adverse impact of any proposed or existing water resources project undertaken by the Secretary of the Army, acting through the Chief of Engineers, and to make recommendations on any requested mitigation. The scope of Board review shall include changes in project operations, construction of new facilities or devices that would alleviate any anticipated or actual damages, or other adverse and definable unintended effects, or changes in requirements for local interests to provide, pay for, or share in the cost of any features of any project undertaken by the Secretary of the Army, acting through the Chief of Engineers.

(b) The Board shall be comprised of three members. One member shall be a Federal employee serving at the pleasure of the President. Two members shall be appointed by the President from the general public for terms of three years. Such public members, while attending meetings of the Board, shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for grade GS–18, as provided in the General Schedule under section 5332 of title 5 of the United States Code, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses including per diem in lieu of subsistence as authorized by law (5 U.S.C. 73b–2) for persons in the Government service employed intermittently. Anyone who has been an employee of the United States Army Corps of Engineers shall be ineligible to serve as a public member of the Board.

(c)(1) The Board shall meet at least four times annually to review matters referred to it by any State or local public agency, the Secretary of the Army, the Committee on Environment and Public Works of the Senate, or the Committee on Public Works and Transportation of the House of Representatives. At such meetings, the Board is authorized to review all information relating to any request for a change affecting an authorized project, and to recommend alterations in the project that can be achieved administratively or by appropriate legislation. Any recommendation by the Board shall include a statement evaluating the reasonableness and equity of the request; an estimate, if appropriate, of the cost of such alteration and the effect of such cost would have on the relation of total project benefits to costs; an explanation of how the request meets or fails to meet established national water resources policy. Recommendations by the Board are advisory and not subject to judicial review.

(2) A copy of any recommendation by the Board under paragraph (1) of this subsection shall be transmitted to the Secretary of the Army and to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives, as well as any interested State or local public agency. Following a review of any such recommendation, the Secretary of the Army shall notify the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives of any decision or proposal based upon such recommendation, together with a statement detailing any disagreement with the Board's recommendation.

(d) The Board shall, from time to time, report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives on issues and problem areas brought before it for advisory opinions, together with any recommended changes in the procedures or practices of the Secretary of the Army, acting through the Chief of Engineers, that would alleviate such problems in future projects.

(e) The sum of $500,000, beginning in the fiscal year ending September 30, 1980, and for each fiscal year thereafter, is authorized to be appropriated to the Board to carry out this section.●

By Mr. MORGAN (for himself, Mr. Baker, Mr. Sasser, Mr. Percy, Mr. Inouye, Mr. Schmitt, Mr. Mathias, Mr. Riegle, Mr. McGovern, Mr. Ford, Mr. Cohen, Mr. Pell, Mr. Helms, Mr. Pressler, Mr. Durkin, Mr. Cochran, Mr. Levin, and Mr. Stewart):

S. 555. A bill to amend the tax laws of the United States to encourage the preservation of independent local newspapers; to the Committee on Finance.

INDEPENDENCE LOCAL NEWSPAPER ACT OF 1979

● Mr. MORGAN. Mr. President, it is a great pleasure for me to introduce today the "Independent Local Newspaper Act of 1979." I believe that this legislation represents an important step in assisting the remaining independent newspapers of our country stay in operation. Through the creation of an estate tax prepayment trust, independent newspapers will be able to meet the spiraling burden of estate taxes and will be encouraged to remain community papers.

Last year, this bill enjoyed the strong support of some 10 Senators; this year the number has already grown to 17. During the last session, when Congressman Morris Udall introduced a companion bill in the House of Representatives, hearings were held before the Senate Finance Subcommittee on Taxation. Due to the press of business late in the session, we decided that floor action would not be possible. This bill enjoys the support of some 74 House Members and has attracted support from the newspaper community. It is a bill which has been subjected to review and has been adapted to meet criticism. It is a bill which I firmly believe can assist local newspapers.

Let me state some of the reasons this bill is necessary and talk about the mechanics of the tax proposal.

A few years ago, newspapers were considered primarily as a community service. Now, as we all know there is money to be made in newspapers and much emphasis is being placed on the business end of the enterprise. The "chain" approach to ownership, where one newspaper buys out another and eventually a string is owned and controlled by one person or one company has been around for some time. It is only in recent years that the impact of newspaper acquisitions came to our attention.

Today, there are about 1,775 daily newspapers remaining in this country. Only 600 of that number are independent, locally owned. The rest are parts of large and small chain operations. The number of independent dailies and weeklies continues to diminish. Last year of the 53 daily newspapers involved in sales, 47 went to chains.

With 72 percent of all daily circulation and 78 percent of all Sunday circulation controlled by chain-owned papers, the chances are very good that when you pick up a newspaper in your State, there will be quite a bit of news and editorial comment from a publishing office in another State.

Now, I am not suggesting that there is anything sinister in the works and I am cognizant that the chain newspapers, by pooling resources, are able to provide some valuable services. Many small local papers are not up to snuff and are not a pride to the industry. There is something to be considered, however, in the concentration of the printed media that we are witnessing today.

In the last few years, newspaper acquisitions have averaged 40 to 50 a year. With this type of trend, in about 10 years, we could be facing a situation where 15 or 20 chains control most of the newspaper circulation in this country.

Mr. President, for myself, and I believe that others share my concern, I am afraid of what can happen. We must maintain a free and independent press in this country. Of all the industries and businesses in this country, only one is mentioned by name in the bill of rights—the press. It is the right to a free press which I believe can quickly become threatened by corporate acquisition and concentration.

The ability of a local editor to express his anger or pride, free from any publisher, whether he be right or wrong from our perspective is a precious thing indeed. The political process which we enjoy in this country is very much founded on the freedom of the press to disagree, to debate, and to take different sides on an issue. The public must be informed and to my mind the newspapers of the United States have done an admirable job in providing information and generating opinion. There must also be freedom of information, a freedom from concentrated editorial supervision from a controlled press.

I do not want to go on too long with my reasons for desiring a preservation of a free and American press, which is not dominated by domestic chains or foreign investments. I do want to note that one reason that so many papers have been sold to chains and transferred from community control to editors from other cities or other States is our current estate tax laws.

At present, one of the major problems for independent papers which are run by one individual or by a small group of individuals is the payment of estate taxes. Simply put, when someone dies owning a share in a newspaper, that interest must be valued by the Internal Revenue Service. At present most newspapers calculate their worth at 15 times their yearly income. If a paper brings in $500,000 a year, then it should be worth $7.5 million.

The problem has been that with chains willing to pay 40 or 50 or even 60 times yearly earnings for a paper, the IRS has been valuing newspapers at a level which prohibits the payment of estate taxes. The result is that when an owner dies, or before his death, there is every incentive to sell the paper, make a profit and put his estate in order. The result has been a dramatic reduction in the number of independent newspapers.

What I am proposing today is a tax measure to assist—and I repeat, assist—independent newspapers in remaining independent. There is no cure-all in this proposal and since it is voluntary there is no guarantee that every independent paper will take advantage of this new tax mechanism.

The "Independent Local Newspaper Act of 1979" would allow independent newspapers to establish a trust for the payment of their estate taxes. A newspaper could establish a trust into which 50 percent of the paper's income could be placed annually, for the sole purpose of paying estate taxes which accrue on the transfer on death of the newspaper owner. There is no reduction in the estate tax burden under this bill.

Independent newspapers are defined as publications which are not part of a chain and which have all of their publishing offices in a single city, community or metropolitan areas, or as of January 1, 1979, had all its publishing offices within one State. The exception covers an in-State chain in operation before January 1, 1979, a classification which represents some 178 papers or 10 percent of all the dailies in the United States. No stock may be traded on the securities market for a paper to qualify as an independent local newspaper.

The bill is divided into two parts. The first permits the creation of a trust by an independent paper for the purpose of paying the State tax attributable to the owner's interest in the business. The trust must have an independent trustee and be funded only in U.S. obligations. The value of the trust cannot exceed 70 percent of the owner's interest in the business.

The newpaper income diverted to the trust is deductible from the income of the paper and the owner—a form of relaxation on the double taxation on corporate dividends that we now have. On death the trust is excluded from the gross estate of the owner. Deductions for transfers from the business to the trust are limited to 50 percent of the business profits.

The second part of the bill provides for a deferral of the estate tax liability, if elected by the heir, to pay for tax liability not covered by the trust. Interest would be charged on the tax liability, while the coverage of section 6166 of the current code would be extended to cover estates which involve newspaper trusts.

I would like to briefly address some of the potential criticisms of this bill. I feel that this may assist in our consideration of this measure.

It is true that there are certain departures from existing laws and certain innovative provisions in this bill. This I do not deny. There is some deal of complexity represented by the independent newspaper bill and there is always resistance to newness, but I personally feel that this bill is needed and that it should be favorably considered by the Senate. While tax consequences may be difficult to calculate, I think it is a fairly simple matter to understand this bill—it sets forth the option for local newspapers to set up trusts to prepay their estate taxes.

Next, I have heard it said that there are some benefits here that are extraordinary and create too great an inequality in the law. I think on reflection that this is not the case. There are certainly benefits to this proposal. Deducting 50 percent of income derived from a newspaper business is a definite attraction, just as I hope it will be. There must be some incentive to divert 50 percent of your income to a trust in order to pay estate taxes and I believe that the deduction is warranted. There is also a penalty in the bill to deter abuse. The newspapers do deserve some special attention. I am afraid that those who may cry special interest legislation may be rudely awakened one day if they find that we have no independent press in which they may place their charges. Yes, there is some special attention for newspapers here and our Constitution approves just such attention for the press.

There may be concern that the heir is receiving a benefit that normally would be treated as income; that is, the discharge of an obligation to the Internal Revenue Service. Again, I plead guilty and I remain convinced that this is mandated by conditions that exist today.

If there is concern that a trust can be set up by any paper which meets the test of independent local newspaper and that some large daily papers in this country will be allowed to establish a trust, then I believe that the focus is being drawn away from the key issue—maintaining some degree of independence among the press. In addition, while revenue loss is difficult to calculate, a rough estimate which I have received is that we are talking about some $10 million a year. This is just a preliminary figure and I am naturally concerned about any revenue loss, but in this case, I feel that it is in line with my basic views on fiscal conservatism to advocate this optional tax relief for local papers.

Finally, some have suggested that eventually every business interest would seek an option of prepaying taxes and because of this we should give careful review to comprehensive reform. My answer is simply this. The press stands alone in both the history and in the laws and in the fabric of this Nation. This tax relief is limited to this special institution and we should not be afraid to protect it. I would favor a comprehensive review, but that should not prevent the enactment of this bill into law.

Let me say Mr. President, that the need for this legislation is pressing. Newspaper acquisitions are continuing. I could go on detailing my concerns and explaining the technicalities of this bill, but I want to cut short this discussion and allow the Senators to review the bill, to study its provisions and consider the policy that it embraces. Time is short and I am confident that many community-based, independent newspapers feel the very same way.●

By Mr. DOMENICI:

S. 556. A bill to improve the operations of certain water resources projects; to the Committee on Environment and Public Works.

WATERSHED IMPROVEMENTS

● Mr. DOMENICI. Mr. President, I am today reintroducing legislation that is intended to preserve the agricultural character of the small watershed program which is within the responsibility of the Department of Agriculture's Soil Conservation Service. This bill, which is similar to legislation I introduced last year, would affect only those small watershed projects submitted for review and possible authorization to the Committee on Environment and Public Works.

Specifically, the bill requires that the full Senate pass on those projects that would cost $10,000,000 or more, rather than leaving that to the sole discretion of the Committees on Public Works of the two Houses. In addition, it requires that at least 20 percent of the benefits of a project relate directly to agriculture. Too often, I believe, the SCS program has moved into urban areas, rather than focusing attention on the many water resources problems still facing rural America. The requirement for a 20-percent agricultural benefit is a fair and equitable one, I believe. In addition, the bill adds a requirement for a report to the Congress on the ways to assure public recreational opportunities at SCS projects.

I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 556

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second sentence of the definition of "works of improvement", contained in section 2 of Public Law 83-566, as amended, is further amended by adding after "$250,000" the following: "but not more than $10,000,000, for any projects submitted to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives."

SEC. 2. Section 2 of Public Law 83-566 is amended by deleting the period and inserting a comma, at the conclusion of the proviso, and adding the following: "*And provided further,* That each such project must contain benefits directly related to agriculture that account for at least 20 per centum of the total benefits of the project."

SEC. 3. The Secretary of Agriculture, acting through the Administrator of the Soil Conservation Service, shall study and report by April 1, 1980, to the appropriate committees of the Senate and the House of Representatives on the feasibility, the desirability, and the public interest involved in requiring that full public access be provided to all water impoundments, with recreation-related potential, which were authorized or are proposed to be authorized, utilizing funds authorized by Public Law 83-566, as amended.●

By Mr. BENTSEN:

S. 557. A bill to amend the Internal Revenue Code of 1954 to permit an individual covered by a private retirement plan to establish a separate individual retirement account or deduct a separate contribution to the plan; to the Committee on Finance.

RETIREMENT SAVINGS ACT

● Mr. BENTSEN. Mr. President, I am today introducing tax legislation to encourage individuals to save for their retirement. This proposal to expand our private pension system will be of particular assistance to mobile employees such as engineers and scientists.

The 1978 Revenue Act included my amendment to enable small employers to establish "Simplified Pension Plans." This change will increase coverage of the private pension system. However, more must be done during the 96th Congress.

The legislation I am introducing today will allow wage earners to receive as much as a $1,500 annual tax deduction for contributions that the individual makes to an employer-sponsored pension plan or an Individual Retirement Account (IRA).

My proposal has several important objectives:

It will encourage greater savings and investment in our economy which is needed to boost productivity and moderate inflation.

It will provide an opportunity for groups such as engineers and scientists to earn private pension benefits for the first time.

Under existing law, an individual receives no tax deduction for his or her own contribution to a company pension plan. Furthermore, participants in an employer-sponsored plan are ineligible to participate in an IRA. The IRA concept was enacted as part of the Employee Retirement Income Security Act of 1974 (ERISA) as a means to encourage retirement savings by those individuals who do not participate in employer-sponsored plans. For persons eligible to establish an IRA, ERISA provided an annual tax deduction equal to the lesser of $1,500 or 15 percent of compensation for IRA contributions. In addition, the earnings of the assets in the account are not taxed currently. The 1976 Tax Reform Act expanded this deduction for so-called "spousal IRA's." Thus, in the case of an individual who has a nonworking spouse, the maximum deduction allowable is the lesser of 15 percent of compensation or $1,750, provided the individual shares the contribution equally with his or her spouse.

The legislation I am introducing today expands the IRA concept.

Mr. President, I would like to briefly explain the importance of this bill.

First, it would encourage greater individual savings. Our economy must have a greater source of capital for the investment needed to promote economic growth and boost productivity. The rate of savings in the United States is significantly lower than the savings rate in other industrialized nations. The U.S. rate of savings as a percentage of disposable national income in 1976 was 4.8 percent compared to a rate of 6.6 percent in the United Kingdom, 13.1 percent in France, 13.2 percent in Germany, 17.2 percent in Switzerland, and 25.3 percent in Japan.

One of the most important things that can be done in the fight to hold down the cost of living would be to help boost productivity. Productivity depends largely on investment in equipment and machinery which requires capital. Individuals must save more than they presently do for this capital to be available.

Second, my proposal will help provide greater retirement security, particularly for employees who do not remain with a company long enough to meet the minimum vesting requirements. This has been a serious problem for scientists and engineers. Very often these individuals do not earn a private pension benefit which could otherwise provide an important supplement to social security.

Mr. President, I urge Congress to adopt this legislation which will help provide greater retirement security.●

By Mr. DOMENICI:

S. 558. A bill to amend the John F. Kennedy Center Act to permit the distribution by the Center of free or reduced admission tickets, under certain circumstances; to the Committee on Environment and Public Works.

FREE TICKETS TO THE JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

● Mr. DOMENICI. Mr. President, I am today introducing legislation that would clarify the rights of the federally funded John F. Kennedy Center for the Performing Arts to provide free tickets or tickets at reduced prices. This is necessary, I believe, because of the Center's current inability to cover its debts and costs. When an organization fails to meet its financial obligations, it is not wise policy, simultaneously, to give the product away for free.

The Center has not paid anything toward the parking bonds that were issued to help pay for the Center; in fact, the

Center bartered away a large portion of the parking revenues in exchange for construction loans. And each year the taxpayers also spend several million dollars on heat, lights, and janitorial services for the Center, benefiting those who attend theatrical and musical events at the Center.

The Center daily gives approximately $500 in free tickets for the most choice seats—some $175,000 a year—to the White House and other special friends. Is that proper, when the Center is crying for more taxpayers' dollars to pay expenses for parking bonds, for roof repairs, for heating, lighting, and janitorial services?

Many of the seats—12 daily in the concert hall—are provided to the President. But only rarely are these White House tickets used by the President, personally, or even by members of the Cabinet or the Congress. Normally they are used by staff members at the White House or by congressional staff workers, or they go unused. Frankly, I believe that if a Cabinet member or a Senator or a staff aide from the White House or the Congress wants to attend the Kennedy Center, he or she should pay for the privilege, like any other American. This is particularly acute when the Center is unable to meet its financial obligations.

Under my bill, the Center could be permitted to provide tickets for free, or at reduced prices, in four instances:

First. For persons aged 65 or older;

Second. For a person whose physical or economic status is such that they could not otherwise attend performances at the Center. This would include the poor, the enlisted military, students, and persons who are physically handicapped;

Third. To anyone or any group when it is obvious, no more than 24 hours before a performance, that a particular performance cannot be sold out. In such a case, seats could be discounted, or given free, to assure a larger audience, and

Fourth. To the President and his party when the President personally attends a performance.

Mr. President, I believe that this legislation is merited. It certainly is fair. I hope it will receive early consideration.

I ask unanimous consent that the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 558

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the John F. Kennedy Center Act (Public Law 85-874, as amended) is amended further by adding at the end thereof the following new section, to be numbered accordingly:

"Sec. (a) No tickets for events for which a specific schedule of charges is provided to the public may be distributed without compensation in accordance with such schedule except tickets may be distributed:

"(1) at reduced rates to persons aged 65 years or older;

"(2) at reduced rates to assure access to the performing arts for persons who otherwise could not afford to attend such events;

"(3) at reduced rates, or without compensation, when it is determined, no more than 24 hours before a particular performance, that those tickets to be distributed without compensation or at reduced rates could not reasonably be expected to be sold in accordance with the schedule of charges; or

"(4) without compensation to the President of the United States and his party when the President attends a particular performance at the Center.

"(b) For the purposes of this section the term 'schedule of charges' shall mean any list of ticket prices contained in an advertisement or display for an event.

"(c) Any official of the Center violating this section shall be liable to a fine or no more than $100." ●

By Mr. PACKWOOD:

S. 559. A bill to amend section 21 of the Second Liberty Bond Act to require the President to submit an alternate balanced budget whenever the regular budget would result in an increase in the public debt limit or a deficit, to require the budget to identify revenue increases attributable to inflation, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, pursuant to order of August 4, 1977.

ALTERNATIVE BUDGET ACT OF 1979

● Mr. PACKWOOD. Mr. President, each month we get the bad news on inflation, and each month concern mounts over the primary cause of inflation: The growth of Federal spending and the need to reduce draining Federal deficits. There is no problem more important to the American people—there is no problem more important to this Congress. If a balanced budget is to be more than a goal which eludes us year after year, we must take concrete steps now, realistic steps now.

Today, Mr. President, I am introducing a bill which I believe would be a responsible, realistic step to stop the needless growth of Government debt. In addition, this bill will, for the first time, require disclosure of the tax increases imposed on all Americans by inflation. The companion bill in the House of Representatives is being introduced by the distinguished Representative Barber Conable of New York.

TRUTH IN SPENDING

The bill has three major provisions. The first provision requires the President to submit a balanced budget in any year in which the recommended Presidential budget calls for a deficit. This also applies if the budget calls for raising the public debt limit to a dollar figure higher than that provided in the temporary debt limit.

The purpose of this provision is to provide the information needed to work toward a balanced budget. The alternative budget would clearly state the differences between the recommended Presidential budget and the balanced budget. This would enable Members of Congress to see which additional cuts would be the best targets for savings.

This provision will provide a detailed roadmap for reducing Federal deficits. It will put—for the first time—the full talents of Government budget officials behind developing a balanced budget. Then, depending on economic conditions, Congress would be able to pare spending as needed.

Adoption of a responsible Federal budget is a shared responsibility of both the congressional and executive branches. It would be unrealistic for Congress to begin the process of developing a balanced budget after the executive branch budget is proposed.

Preparation of the Federal budget begins at the program and agency level within departments. Budget officials in each department and independent agency then make requests and recommendations to the Office of Management and Budget then prepares the final executive budget for the President's approval. It is forwarded to Congress in January. Spending levels and program effectiveness are considered throughout this executive branch review. This bill would, in effect, harness these resources to produce a balanced budget. It is not realistic to skip this phase of the budget process if we are serious about achieving a balanced budget.

Preparation of an alternate balanced budget can increase the Government's flexibility in dealing with changed circumstances that occur between submission of the Presidential budget in January and adoption of the first concurrent resolution in May. For example, this year President Carter submitted a budget providing a $29 billion deficit. Less optimistic economic assumptions or additional financial burdens of the Government, such as costs associated with the Camp David accord, could cause this estimate to increase. But if Congress had before it an alternate balanced budget identifying the best ways to cut $29 billion of Federal expenditures, it could more easily hold to the $29 billion figure.

This proposal is not a new idea. Congress in 1909 added to the law the requirement that the President submit spending reduction alternatives for any year the Secretary of the Treasury projects a deficit. Specifically, the Sundry Appropriations Act of 1909 provided that, in a year for which a deficit is projected, the President shall—

> Advise the Congress how in his judgment the estimated appropriations could with least injury to the public service be reduced so as to bring the appropriations within the estimated revenues, or, if such reduction be not in his judgment practicable without undue injury to the public service, that he may recommend to Congress such loans or new taxes as may be necessary to cover the deficiency. P.L. 60-328, sec. 7.

The congressional debates in 1909 on this provision contain arguments that are still valid today:

> Mr. Smith of Iowa. The object of this is simply to put upon the President of the United States, who is the head of all the departments, a measure of responsibility to see that the estimates are cut within the revenues, or else call upon him to propose a bond issue or new taxes covering the deficiency, and thereby take the odium that it would bring to his administration.
>
> Mr. Finley. Does not the gentleman think that it is the business of Congress to cut the appropriations to fit the revenues?
>
> Mr. Smith of Iowa. It is important that we should have Congress, as well as the Executive, to state where the cut ought to be made. It is possible for Congress to do much in that direction; but the President, being the head of all the departments, can greatly aid in pointing out where these re-

ductions can be made with the least injury to the public service." Cong. Rec.—House, Feb. 26, 1909, page 3310.

Unfortunately, the requirement that the President submit spending reduction alternatives is no longer in the law. The successor statute, 31 U.S.C. 13, drops the requirement that the President submit an alternative balanced budget. The Packwood-Conable proposal reinstates this requirement.

LIVING WITHIN OUR BUDGET

Another section of this bill helps to avoid increases in the deficit or spending during a fiscal year beyond that which was projected at the beginning of the fiscal year. It does this by requiring the President to submit spending reduction alternatives to Congress during any year that spending or the deficit increases beyond that projected in the second concurrent resolution on the budget. Similarly, the President would be required to submit a spending reduction plan in any year that the public debt limit is required to be increased to an amount greater than that provided in the second concurrent resolution on the budget, if attributable to reduced revenues or exceeding spending limits provided in the second concurrent resolution.

This provision does not dictate spending reductions. This is because there may be situations where it is in the Nation's interest to increase spending or incur deficits during a fiscal year, such as in response to a recession. However, the purpose of this provision is to assure that Congress has the information it needs to stick to the budget. Today, Government budgetary officials are not required to provide them with information to make the choice.

The provision, if in effect today, could have a dramatic effect on spending during the current year, fiscal year 1979. This is because spending has grown by $2 to $3 billion since adoption of the second concurrent resolution in September, 1978. The primary cause for the increase is the increase in interest rates and the resultant increased cost in borrowing funds to finance the deficit provided for the year. In other words, Congress is going to be faced with making a dramatic increase in this year's spending simply because the cost of paying for the deficit has increased. Congress may or may not adopt spending cuts to offset this increase; but it ought to be given the choice.

TRUTH IN TAXING

The third provision of the bill is designed to help break the cycle of unlegislated tax increases caused by inflation. Inflation causes "taxation by stealth," in the words of former OMB Deputy Director Paul O'Neill. Inflation erodes the value of the personal exemption, the standard deduction, it pushed low, middle, and upper income taxpayers into higher and higher tax brackets, and it makes a mockery of other fixed dollar limits provided in the Internal Revenue Code.

The enormous revenue gains attributable to inflation have permitted Congress to adopt so-called "tax cuts" almost annually. However, these tax cuts are frequently less than the unlegislated tax increase attributable to inflation.

This bill addresses this problem by requiring the President to include in his annual budget an estimate of the amount of tax increase which will occur because of inflation. The President would be required to indicate the amount of such tax increases, and to indicate its distribution by income group and family size. The estimate by the President would include revenue gain attributable to loss in value of fixed dollar limits in the Internal Revenue Code and any other factor which the Department of the Treasury can reasonably take into account.

The President would also be required to recommend whether or not these unlegislated tax increases should be permitted to go into effect. These recommendations would then be considered in connection with congressional deliberations on the budget.

We must make controlling spending and taxing a priority. This bill is a means to that end. It will change the rules of the game to help achieve these goals.

Representative CONABLE and I welcome any suggestions for improving this bill. I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD as follows:

S. 559

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Alternative Budget Act of 1979".

SEC. 2. (a) Section 21 of the Second Liberty Bond Act (31 U.S.C. 757b) is amended by inserting "(a)" after "SEC. 21". and by adding at the end thereof the following new subsection:

"(b)(1) Whenever the budget for a fiscal year transmitted by the President to the Congress under section 201 of the Budget and Accounting Act, 1921 (hereinafter referred to as the 'Budget'), which, if adopted, would result in an increase, either permanent or temporary, in the limit prescribed by subsection (a), or would result in a deficit, the President shall also transmit an alternate budget providing for a level of outlays which, if adopted, would not result in an increase in such limit or in a deficit. Such alternate budget shall be transmitted at the same time and manner, and shall be in the same form, as the budget and, except as provided in paragraph (2), shall be in such detail as the President determines necessary to carry out the purposes of this subsection.

"(2) An alternate budget for a fiscal year transmitted under paragraph (1) shall include a clear and understandable explanation of differences between the budget and alternate budget.

SEC. 3. After the House of Representatives and the Senate have agreed to the concurrent resolution on the budget for a fiscal year required under section 310 of the Congressional Budget Act of 1974 (31 U.S.C. 1331), if the President determines that—

(1) the statutory limit on the public debt will have to be increased during such fiscal year to an amount in excess of the amount set forth in such concurrent resolution, or

(2) the amount of deficit for such fiscal year will exceed the amount of deficit set forth as appropriate in such concurrent resolution, or

(3) the amount of total budget outlays for such fiscal year is expected to exceed the amount of total budget outlays set forth as appropriate in such concurrent resolution,

he shall submit to the Congress a plan for reducing outlays during such fiscal year by an amount equal to the greater of the excess determined under paragraph (1) or the excess determined under paragraph (2).

SEC. 4 (a) In the budget transmitted to the Congress under section 201 of the Budget and Accounting Act, 1921, for each fiscal year, the President shall set forth the increases in estimated receipts under the internal revenue laws for such fiscal year over such receipts for the fiscal year in progress which are attributable to—

(1) inflation, and

(2) tax increases first effective during the fiscal year which result from—

(a) provisions of existing law, or

(b) legislation proposed by the President.

The President shall indicate the total amount of such increases, and also classify them by income level and family size.

(b) The President shall also recommend any changes in the internal revenue laws which he considers advisable to offset such increases in receipts.

SEC. 5. This Act shall become effective beginning with the fiscal year beginning on October 1, 1980.●

By Mr. DOMENICI:

S. 560. A bill to assure more adequate supplies of water to the Nation; to the Committee on Environment and Public Works.

WATER SUPPLY ACT OF 1979

● Mr. DOMENICI. Mr. President, drought and water shortages have afflicted many regions of the Nation in recent years. As this Nation has long lacked an energy policy, we also lack a "water policy." Such a deficiency could eventually threaten the survival of communities, regions, and economic sectors of the Nation.

Today, I am introducing legislation intended to ameliorate the outlook for our national water supply, broadening the scope of Federal policy. When enacted and implemented, this bill should assure many sections of our Nation that they will have a more certain supply of water for the years ahead. Legislation very similar to this was passed by the Senate last year, but never won full House approval, due to its inclusion in legislation that contained several unrelated, but controversial, water projects.

This bill is one of several that I intend to introduce addressing various aspects of national water issues.

It is my hope that these bills will stimulate new approaches during hearings, new approaches on how to implement a national water policy. I hope that these bills will focus the attention of the Subcommittee on Water Resources on new initiatives. We, as a nation, must move toward more effective and efficient use of water for all purposes.

I do not know whether the lack of any coherent approach and policy is the result of inherent regional conflicts, or whether it is the result of an unfocused Federal program spread throughout many agencies. But we must find solutions.

This bill authorizes the U.S. Army Corps of Engineers to undertake regional and local water supply projects, and to undertake desalinization projects for municipal use. This is new authority for the corps, although the corps has been on the fringes of this problem for years. This bill will enable the corps to bring its recognized expertise to improve the national availability of water. This legislation has several precedents in existing practice, but precedents that have failed so far to achieve adequate solutions.

Since 1958 (Public Law 85–500), the Corps of Engineers has had the authority to design multipurpose projects that include water supply. But the basic purpose of the projects must be something else, such as flood control. Such a piggyback approach is inadequate.

In 1965, Congress enacted Public Law 89–298, authorizing the Northeastern United States water supply effort. That authority permits development of single-purpose water supply projects by the corps in the Northeast portion of the Nation. Some of these proposals have since come to the Congress for review.

And since 1939, the Bureau of Reclamation has had the authority to develop projects specifically designed to provide municipal and industrial water supply. But this authority has been used sparingly; Bureau projects, justified by municipal water supply, are rare.

The bill I am introducing today would broaden those authorities. It would establish a national approach, but on the basis that will discourage anything resembling an uneconomic boondoggle. The beneficiaries of each project will eventually repay the cost of the project, as required in other water supply projects.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 560

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Water Supply Act of 1979".

SEC. 2. Because many regions of the Nation confront water shortages that can be expected to continue or to increase, and because such shortages are, in part aggravated by a lack of any coordinated, national policy for the efficient and productive use and reuse of water, the Congress declares that there is a national interest in the development of new water supplies, on an economical basis, for domestic, municipal, industrial, and other public purposes.

SEC. 3. (a) In carrying out a policy to encourage a more efficient use and supply of water as a way to benefit municipal, industrial, and agriculture development, individuals, wetland preservation, fish and wildlife protection, and other national purposes, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed, whenever requested by a resolution adopted by either the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives, to survey the need for projects for the storage or desalination of water needed to meet present and anticipated demand, and for its transportation to regions of the Nation with present or anticipated water shortages. The Secretary of the Army, acting through the Chief of Engineers, is further authorized and directed to construct and operate projects studied under the preceding sentence, if such project has been specifically authorized by law subsequent to this Act.

(b) The costs allocated to water supply in any project constructed as a result of the authority of subsection (a) of this section shall be repayable, with interest, by the water users over a period of not more than fifty years from the date that water is first delivered, pursuant to contracts with municipalities or other public organizations. Such contracts shall be precedent to the commencement of construction of any unit or stage of the project. The contracting organization shall be responsible for the disposal and sale of water surplus to its requirements, but revenues therefrom shall be used initially for payment of operation and maintenance costs, interest, and retirement of the obligation assumed in the contract.

(c) The interest rate used for computing interest during construction and interest on the unpaid balance of the costs of the project allocated to municipal water supply shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for fifteen years from date of issue.

(d) The Secretary of the Army, acting through the Chief of Engineers, is authorized to extend the repayment period and to lower the rate of interest, if, in his judgment, the local community can not reasonably repay such costs.●

By Mr. HART (by request):

S. 562. A bill to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes; to the Committee on Environmental and Public Works.

NUCLEAR REGULATORY COMMISSION AUTHORIZATIONS, 1980

● Mr. HART. Mr. President, I am introducing, by request of Commission Chairman Joseph Hendrie, legislation authorizing appropriations of $373,300,000 for the Nuclear Regulatory Commission for fiscal year 1980.

The fiscal year 1980 budget was the subject of a hearing by the Committee on Environment and Public Works on February 5, 1979. The Subcommittee on Nuclear Regulation has tentatively scheduled further hearings for late March to examine the Nuclear Regulatory Commission's budget request more closely. The Committee on Environment and Public Works will report an authorization bill to the Senate in due course.

This is a watershed period for nuclear power development in our Nation. The public is focusing ever-increasing attention on such issues as nuclear waste management, siting and licensing of powerplants, and health effects of low-level ionizing radiation. We must insure that the Commission has the resources and support to carry out its responsibilities in these crucial areas.

The committee intends to determine the extent to which program priorities outlined in the NRC proposal reflect the 'directives authorized in the Commission's fiscal year 1979 authorization bill, public law 95–601. Specifically, such initiatives as research planning on health effects of low-level ionizing radiation, improved safety systems research, and studies on the respective regulatory roles of NRC and the States in the Federal nuclear waste management program will be reviewed for the adequacy of resource allocation in the coming fiscal year.

Mr. President, without making any commitment as to the merits of the particular funding levels, I am pleased to submit this proposal as an indication of needs identified by the agency. The NRC's total budget request represents an increase of 13 percent over the proceeding year. The committee, through its Subcommittee on Nuclear Regulation, intends to examine closely the Commission's proposal with the goal of achieving new efficiencies in Federal spending. While we cannot adequately protect the public health and safety by skimping on our nuclear regulatory program, we should be prepared to place greater emphasis on cost effectiveness. I look forward to working with Chairman Hendrie and Commissioners Gilinsky, Kennedy, Bradford and Ahearne in arriving at a final conclusion on the authorization for the Nuclear Regulatory Commission for the coming year.●

By Mr. CANNON (for himself and Mr. LAXALT):

S. 563. A bill to provide for the establishment of a national cemetery in the State of Nevada; to the Committee on Veterans' Affairs.

● Mr. CANNON. Mr. President, on behalf of myself and Senator LAXALT, I introduce, for appropriate reference, a bill to establish a national cemetery in the State of Nevada. At present, there is no national cemetery in Nevada to provide for the burial of deceased veterans.

Although national cemeteries came into being during the Civil War to provide for the burial of soldiers who had died in service, most of them are situated where battles occurred and therefore are not evenly distributed in the 50 States. For this reason, the western part of the United States has few national cemeteries, and the many veterans who served during World War II have no place within reasonable proximity to their domicile for burial. During the last World War we had approximately 16 million men under arms, and when you consider their dependents, we have a total of about 50 million people who are eligible for burial.

Due to the march of time, the need for this legislation is increasing in urgency. Early in the 2d session of the 92d Congress the Senate Committee on Veterans' Affairs considered the proposal to establish a national cemetery in Nevada. Unfortunately, the bill was not adopted. Nevada's congressional delegation has offered this proposal for many years and I am especially hopeful that the 96th Congress and the new administration can work together effectively to enact this proposal into public law.

I urge the committee to reconsider this proposal at the earliest possible opportunity.●

By Mr. CANNON (for himself and Mr. LAXALT):

S. 564. A bill to provide for the construction of a Veterans' Administration hospital in the State of Nevada; to the Committee on Veterans' Affairs.

● Mr. CANNON. Mr. President, I am introducing a bill today for myself and my Nevada colleague, Senator LAXALT, to provide for the construction of a Veterans' Administration hospital in the southern part of the State of Nevada.

At the present time, veterans in Nevada are served by only one VA hospital, located in Reno, in northwest Nevada.

Veterans in more populous southern Nevada, 500 miles to the southeast, have no VA facilities, except for limited services provided by an outpatient clinic in the Las Vegas area, and are therefore almost completely dependent on VA hospitals in crowded Los Angeles, 300 miles away.

I think it is a gross disservice to our veterans to force them to travel to Los Angeles to get treatment of service-related disabilities. In addition, it certainly is not fair to make the veterans of southern California wait for treatment because their facilities are overcrowded.

I urge serious consideration of this proposal at the earliest possible opportunity. Unfortunately, the former VA Administrator opposed this proposal in his September 1975 report to the Senate Committee on Veterans' Affairs on the basis that administration studies indicated the location did not meet the changing requirements of veterans. I want to urge the Veterans' Affairs Committee to request an updated study from the Veterans' Administration. Hopefully, that study will take into consideration that the majority of veterans in my State are located in the southern part of Nevada. Our principal city is Las Vegas. This particular location will also be accessible to many veterans in California and Utah.

It is my hope that the 96th Congress and the new administration will give this problem the serious consideration it warrants.●

By Mr. MATHIAS:

S. 565. A bill to provide for financial assistance to improve the capabilities of units of local government to deal with career criminals, to establish the Office of Repeat Offenders Prosecution Projects within the Law Enforcement Assistance Administration, and for other purposes; to the Committee on the Judiciary.

REPEAT OFFENDERS PROSECUTION ACT

● Mr. MATHIAS. Mr. President, I now send to the desk the Repeat Offenders Prosecution Act of 1979. This bill is virtually identical to title I of S. 28, which I introduced in the 95th Congress and which was the subject of a hearing on September 27, 1978, before the Senate Judiciary Subcommittee on Criminal Laws and Procedures.

Today crime stalks our Nation. It haunts our cities while our once sacrosanct suburbs increasingly are attractive to criminals. Small towns also report a dramatic rise in crime.

More and more our elderly citizens withdraw into isolation rather than risk assault on the streets. Everywhere shopkeepers and householders alike have armed themselves against intruders. Although no group and no area are out of crime's reach, nonwhites are four times more likely to be victims of crime than whites, according to the Urban League.

This situation is untenable. Civilized people simply cannot live this way. We must ask ourselves how such a tragic situation has come to pass? Where have we failed as a society?

The failure of government adequately to protect its citizens against crime has not been for lack of trying. We have spent millions of dollars and thousands of man-hours have been invested to control crime. Every day we see our law enforcement officers lay their lives on the line. But crime still blights our society.

The time has come to review the record of our effort to control crime, to see where we have succeeded, and where we have gone wrong. And, to learn what we can from the experience. Congress must attend to the difficult, but essential task of developing a new rational policy to combat crime in America. In my view, the key to such a policy is the revitalization of our criminal justice system, which has borne the brunt of public criticism for failing to establish itself as an effective deterrent to criminal behavior. We must work to eradicate the contempt that many lawbreakers feel for the system—a contempt based on the all-too-valid assumption that, more often than not, crime pays.

This will not be easy. The problem is pervasive. The issues are complex. Solutions have been elusive. In my view, we can best revitalize our criminal justice system by steadily improving specific elements of that system. The bill I now offer, the Repeat Offenders Prosecution Act of 1979, is designed to do just that. This proposal would provide Federal funds to eligible local governmental units to aid in the identification and prosecution of "career criminals," the repeat offender who uses his familiarity with the system to beat the system.

Recent studies show that a relatively small number of repeat offenders have been responsible for a disproportionately large number of serious crimes.

A study of 10,000 persons by University of Pennsylvania researcher Marvin Wolfgang reveals that 650 chronic offenders were responsible for one-third of all the arrests and two-third of the crime committed by the group over a 5-year period.

Another study, conducted by the Institute for Law and Social Research under the direction of William Hamilton, revealed that between 1971 and 1975 in Washington, D.C., 7 percent of those arrested for serious crimes accounted for 24 percent of all such arrests. Some criminals were arrested up to 10 times during that period.

One reason for this perplexing state of affairs was identified over 50 years ago by Roscoe Pound. In his revealing study of the Cleveland criminal courts, Pound reported that—

> The professional criminal and his advisers have learned rapidly to use this machinery and make devices intended to temper the application of criminal law to the occasional offender a means of escape for the habitual offender.

The situation today is still much as Pound described it. Testifying before the Senate Judiciary Subcommittee on Criminal Laws and Procedures, former LEAA official Charles Work, put the problem this way:

> Court-wise recidivists, often with other cases already pending before the Court, can and do exploit the anonymity which the large-scale, assembly-line system of case processing affords in order to escape prosecution. Most repeat offenders learn that by securing the services of a heavily committed defense counsel, they can increase their chances of gaining a series of continuances or postponements. A clever offender, by a calculated series of requests for continuances in face of an uninformed and hence unsuspecting judge and prosecutor, can delay the start of a trial often enough until, either exasperated or their memories obscured, the Government witnesses refuse to appear and the charges are dismissed.

Although the problem persists, we are at least beginning to apply our growing knowledge of the career criminal phenomenon to the operation of the criminal justice system. Today, one of the most important, innovative and exciting programs to come along in years is in full swing in many jurisdictions nationwide. I am referring, of course, to the career criminal programs developed at the Law Enforcement Assistance Administration under the guidance of Mr. Work. The program has grown rapidly since its inception in 1974. Today more than 60 jurisdictions are using Federal funds to help finance their own career criminal programs.

Last September Montgomery County, Md., received an LEAA grant of $258,945, becoming one of the first suburban jurisdictions to set up a federally funded career criminal program. A number of other programs are being run without Federal funds. Two of them are in my own State of Maryland—one in Anne Arundel County, the other in Baltimore City. And, last year the California Legislature appropriated $3 million to fund its career criminal programs.

With these career criminal programs in operation, we are cracking down on repeat offenders. We now have a mechanism that allows us to use our resources better, to identify repeaters and to process them quickly through the criminal justice system.

We have a system that provides:

Prompt identification of repeat offenders through the use of computers and other means;

Expeditious prosecutions of career criminals with emphasis on reduction of pretrial, trial and sentencing delays;

Special teams of prosecutors and investigators to follow career criminals through the criminal justice system, and

Sharp restrictions on plea bargaining by repeat offenders.

To date, reports on application of the career criminal concept nationwide are encouraging. A review of existing data indicates that the programs are a success. According to LEAA statistics on 24 of the federally funded programs, the conviction rate of offenders processed as "career criminals" is 94.7 percent, substantially higher than the rate for those not handled as career criminals.

Similar results are reported from jurisdictions using the "career criminal" concept, but relying solely on non-Federal funding, such as the District of Columbia, where last September U.S. Attorney Earl Silbert reported a 93 percent conviction rate for repeaters processed under the District's "Operation Doorstop."

Moreover, thanks to their new career criminal program, Anne Arundel County officials have finally succeeded in apprehending and convicting two individuals who have been responsible for a variety of serious offenses over a number of years but who, due to the piecemeal manner in which their cases were previously handled, were able to frustrate a series of prosecutions against them. When finally scrutinized by the county's career criminal program, which focuses its investigative and prosecutorial resources on just such defendants, they were convicted for a variety of offenses, ranging from drug distribution to rape. These offenders may be spending the next 12 to 20 years in Maryland prisons. Comparable results are indicated for Baltimore City's own career criminal program.

For example, LEAA is funding research to determine if the career criminal programs could be made even more effective by sharpening the focus of criteria used in selecting cases for the programs. Expansion of such research should be an important element of the continuing Federal commitment to this critical national need.

I am encouraged by these results. They justify making the career criminal concept an important part of our national anticrime effort. The Repeat Offenders Prosecution Act of 1979 seeks to do just that.

In framing this bill, I purposely provided a specific program under LEAA, with its own appropriation in order to insure that career criminal programs not lose out in the annual competition for LEAA funds.

The bill promotes career criminal projects in several ways. It provides technical and financial assistance for career criminal programs in localities with populations of 250,000 or more. It establishes an office within LEAA headed by a Presidential appointee to administer career criminal grant projects. This office would also provide technical assistance to qualifying communities to help them plan, develop, and administer such projects.

Perhaps the most important aspect of the bill is that it is not a one-shot demonstration project. I am aware that some jurisdictions have been reluctant to apply for LEAA career criminal grants because Federal funds are now only available for these progams on a short-term basis. This reluctance is understandable. Dollars are scarce and career criminal programs often are expensive to operate. To deal with this problem, I specifically included a provision for continued annual funding for career criminal projects, as long as they were needed and operated in conformity with provisions set forth in the bill. And, the bill gives due consideration to projects which predate enactment of the bill.

I am convinced that the enactment of the Repeat Offenders Prosecution Act of 1979 or similar legislation will guarantee that on-going career criminal programs are not discontinued for lack of funds and that jurisdictions do not forego starting such projects for fear Federal funds will be cut off sometime. Enactment of such legislation also will allow these programs to continue to serve as an inducement for other jurisdictions to adopt the career criminal concept.

Mr. President, the Senate Judiciary Committee is now involved in the important and time-consuming task of reviewing legislation to restructure LEAA. The possibility of such reorganization raises an important question: How can we be sure that the highly successful career criminal programs will be continued regardless of how LEAA is restructured? I have posed this question both to Deputy Attorney General Civiletti, and to those officials at LEAA responsible for the administration of the program. I have been assured that the administration's plans for reorganizing LEAA will not threaten these excellent programs. Similar assurances were voiced during the Senate hearings last year. We, in Congress, must be vigilant to insure this result. Enactment of this bill as free-standing legislation will assure the continuation of these indisputably successful programs.

CONCLUSION

Mr. President, the preamble to the Constitution clearly establishes that one of the main purposes of government is to maintain domestic tranquility. Yet a review of our Nation's dismal record of controlling crime can only lead to the conclusion that we have failed to fulfill this lofty purpose.

The Repeat Offenders Prosecution Act of 1979 holds out the hope that our criminal justice system may one day function as the Founding Fathers intended it to function. The bill I introduce today is based on the latest evidence and expert opinion in the criminal justice field. Its measures are grounded on a solid foundation of proven experience. I urge the Congress to remember that delay in taking the kind of realistic, responsible action I have outlined means continued victimization of innocent citizens, particularly the elderly, the poor and the minority residents of our cities, by a violent criminal minority whose actions threaten to undermine one of the basic constitutional goals set for our Federal Government: to insure domestic tranquillity.●

By Mr. MOYNIHAN:

S. 566. A bill to authorize a targeted fiscal assistance program for payments to local governments requiring fiscal relief, an antirecession fiscal assistance program, and for other purposes; to the Committee on Finance.

INTERGOVERNMENTAL FISCAL ASSISTANCE AMENDMENTS OF 1979

● Mr. MOYNIHAN. Mr. President, I am today introducing, on behalf of the administration, the Intergovernmental Fiscal Assistance Amendments of 1979. This bill would renew the program popularly known as countercyclical revenue sharing for 2 years—fiscal 1979 and fiscal 1980. But it is important that we be clear about how this drastically revised program would work, for it is revenue sharing only insofar as it transfers certain moneys from Washington to local governments. The underlying principle is substantially different from that embodied in prior antirecessionary fiscal assistance programs. It is that the Federal Government has an ongoing responsibility to provide temporary fiscal assistance to localities plagued by high unemployment and other problems associated with economic distress so that they can maintain essential services for their residents.

This program is highly targeted on the Nation's most distressed localities as signified by local unemployment rates. It would provide them with $250 million in fiscal 1979 and $150 million in fiscal 1980. Should the national economy fall into a recession during this period, there is a second title in the bill to provide additional antirecessionary funds.

This is not the only formula that could be devised. I have already joined with Senators DANFORTH and WILLIAMS in introducing S. 200, which embodies the formula agreed to by the Senate last autumn. In the administration's judgment, however, this new bill provides a well targeted and reasonable level of funding for localities most in need. Almost 40 percent of the assistance would go to the 10 cities with highest strain as measured by Richard Nathan and associates at the Brookings Institution.

There will be ample opportunity to consider alternative distribution formulas and overall funding levels. But there is surely no doubt that some form of direct intergovernmental aid is needed, and I intend to fight vigorously for its enactment.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 566

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled,

SECTION 1. This Act may be cited as the "Intergovernmental Fiscal Assistance Amendments of 1979".

SEC. 2. Section 201 of the Public Works Employment Act of 1976 (42 U.S.C. 6721) is amended by striking out paragraphs (3), (5) and (6), by redesignating paragraphs (4) and (7) as (3) and (4), respectively, by striking out the period at the end of new paragraph (4) and inserting a semi-colon in lieu thereof, and by adding the following new paragraphs:

"(5) that both a highly targeted, transitional fiscal assistance program which aids governments requiring fiscal relief, and a program of fiscal assistance to provide insurance against a future recession, constitute essential elements of a sound Federal fiscal policy;

"(6) that many local governments continue to experience high unemployment and fiscal strain, and have been adversely affected by the loss of antirecession fiscal assistance which has resulted in service cutbacks, increased taxes, municipal layoffs or sale of municipal assets; and

"(7) that highly targeted fiscal assistance which aids those jurisdictions requiring transitional fiscal relief and provides necessary time to take steps toward the fiscal stabilization of these governments would be least disruptive of employment or service levels."

Sec. 3. The Public Works Employment Act of 1976 (42 U.S.C. 6721 et seq.) is amended by inserting after section 201 the following:

"Subtitle A—Targeted Fiscal Assistance."

Sec. 4. Section 202 of the Public Works Employment Act of 1976 (42 U.S.C. 6722) is amended to read as follows:

"FISCAL ASSISTANCE AUTHORIZED

"Sec. 202. (a) Payments to Local Governments.—The Secretary of the Treasury (hereafter in this title referred to as the 'Secretary') shall, in accordance with the provisions of this subtitle, make annual payments for the fiscal years beginning October 1, 1978 and October 1, 1979 to local governments with local unemployment rates equal to or in excess of 6.5 percent.

"(b) Authorization of Appropriations.—There are authorized to be appropriated for the purpose of making payments under this subtitle, the sum of $250,000,000 for the fiscal year beginning October 1, 1978, and the sum of $150,000,000 for the fiscal year beginning October 1, 1979."

Sec. 5. Section 203 of the Public Works Employment Act of 1976 (42 U.S.C. 6723) is amended to read as follows:

"ALLOCATION

"Sec. 203. (a) In General.—The Secretary shall allocate from amounts authorized to be appropriated under section 202 for each appropriate fiscal year an amount to each local government with a local unemployment rate equal to or in excess of 6.5 percent, subject to the provisions of subsections (d) and (e), equal to the amount authorized for such year, less the amount allocable under section 216(b) (1) (A), multiplied by the applicable local government percentage.

"(b) Applicable Local Government Percentage.—For purposes of this section, the applicable local government percentage is equal to the quotient resulting from the division of the product of—

(1) the local excess unemployment percentage, multiplied by

(2) the local revenue sharing amount, by the sum of such products for all local governments.

"(c) Definitions.—For purposes of this subtitle—

"(1) the local excess unemployment percentage is equal to the difference resulting from the subtraction of 4.5 percent from the local unemployment rate, but shall not be less than zero;

"(2) the local unemployment rate—

"(A) for the fiscal year beginning October 1, 1978, is equal to the rate of unemployment in the jurisdiction of the local government for the six-month period which includes the two consecutive calendar quarters ending September 30, 1978, as determined or assigned by the Secretary of Labor and reported to the Secretary;

"(B) for the fiscal year beginning October 1, 1979, is equal to the rate of unemployment in the jurisdiction of the local government for the six-month period which includes the two consecutive calendar quarters ending June 30, 1979, as determined or assigned by the Secretary of Labor and reported to the Secretary;

"(C) Notwithstanding any provision of paragraphs (A) and (B) to the contrary, in the case of a local government which encompasses, or is within, a standard metropolitan statistical area or central city for which current population surveys were used to determine annual unemployment rates before January 1, 1978, the Secretary of Labor, for the purposes of this subtitle, shall determine or assign the unemployment rates for such government calculated by the current population survey methodology used prior to January 1, 1978, if such rates are higher than rates determined or assigned by the Secretary of Labor for that government for the appropriate six-month periods without applying the current population survey methodology.

"(3) the local revenue sharing amount is the amount determined under section 108 of the State and Local Fiscal Assistance Act of 1972, as amended, for the most recently completed entitlement period, as defined under section 141(b) of such Act; and

"(4) the term 'local government' means the government of a county, municipality, township, or other unit of government below the State which—

"(i) is a unit of general government (determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes), and

"(ii) performs substantial governmental functions. Such term includes the District of Columbia and also includes the recognized governing body of an Indian tribe or Alaskan Native Village which performs substantial governmental functions. Such term does not include the government of a township area unless such government performs substantial governmental functions.

"(d) Minimum Allocation.—If the amount which would be allocated to any local government under this subtitle is less than $20,000, no amount shall be allocated for such government under this subtitle.

"(e) Per Capita Income Limitation.—

"(1) In general.—Except as provided in paragraph (2), no amount shall be allocated under this title to any local government which had within its jurisdiction a per capita income equal to or in excess of 150 percent of the national per capita income for the most recently completed calendar year for which data are available, as determined by the Bureau of the Census for general statistical purposes and reported to the Secretary.

"(2) Noncontiguous state adjustment.—The percentage of the national per capita income used to limit allocations in paragraph (1) shall, for local governments in the States of Alaska and Hawaii, be increased by the average State percentage of basic pay which civilian employees of the United States Government receive as an allowance under section 5941 of title 5, United States Code. Such average State percentage shall be determined for the most recently completed calendar year for which data are available based on data provided by the Office of Personnel Management and reported to the Secretary.

"(f) Reallocation of Undistributed Amounts.—If the amount authorized to be appropriated for any fiscal year under this subtitle exceeds the sum of the amounts payable to local and territorial governments because of the provisions of subsections (d) and (e), the Secretary shall reallocate the excess among local governments receiving payments for the appropriate fiscal year, and pay to each such local government an amount which bears the same ratio to the amount of the excess as the amount of the payment made to such government for the fiscal year without regard to this subsection bears to the sum of the payments made to all local governments for the fiscal year without regard to this subsection."

Sec. 6. Section 205 of the Public Works Employment Act of 1976 (42 U.S.C. 6725) is amended by striking out paragraph (6) and by redesignating paragraphs (7) and (8) as (6) and (7)), respectively. Title II of such Act is amended by striking out section 209 (42 U.S.C. 6729).

Sec. 7. Title II of the Public Works Employment Act of 1976 is amended by inserting after section 205 the following new section:

"ADJUSTMENTS FOR PAYMENTS"

Sec. 206. Payments under this subtitle may be made with necessary adjustments on account of overpayments or underpayments."

Sec. 8. Section 210 of the Public Works Employment Act of 1976 (42 U.S.C. 6730) is amended to read as follows:

"PAYMENTS

"Sec. 210. From the amounts allocated for local and territorial governments under sections 203 and 216, the Secretary shall pay to each such government that has filed a statement of assurances pursuant to section 205, an amount equal to the amount allocated to such government under section 203 or 216. Payments under this subtitle for the fiscal year beginning October 1, 1978 shall be made as soon as practical, but not later than 60 days after the effective date of this Act, and payments under this subtitle for the fiscal year beginning October 1, 1979 shall be made within the first 5 days of such fiscal year."

Sec. 9. Section 215 of the Public Works Employment Act of 1976 (42 U.S.C. 6735) is amended to read as follows:

"DATA PROVISION RESPONSIBILITIES

"Sec. 215. The Secretary of Labor shall provide information and other necessary data and shall determine or assign unemployment rates necessary for the administration of this title. Such information, data, and rates shall be provided for each State and local government, and shall be made available to the Secretary to assist him in carrying out the provisions of this title. The Secretary of Labor shall also advise the Secretary as to the availability and reliability of relevant information and data. The Director of the Bureau of the Census and the Director of the Office of Personnel Management shall provide such information and other data as necessary for the administration of this title, and shall advise the Secretary as to the availability and reliability of relevant information and data."

Sec. 10. Section 216 of the Public Works Employment Act of 1976 (42 U.S.C. 6736) is amended as follows:

(a) The title of the section is amended to read:

"ALLOCATIONS TO PUERTO RICO, GUAM, AMERICAN SAMOA, AND THE VIRGIN ISLANDS."

(b) Subsection (a) is amended to read as follows:

"(a) In General.—The Secretary shall make payments under this title to the governments of the Commonwealth of Puerto Rico, Guam, American Samoa and the Virgin Islands."

(c) Paragraph (1) of subsection (b) is amended to read as follows:

"(1) (A) The Secretary shall allocate from the amounts authorized under section 202 an amount under this subtitle to such governments equal to one-half of one percent of such amounts for the appropriate fiscal year, as determined by the Secretary, multiplied by the applicable territorial percentage.

"(B) The Secretary shall allocate from the amounts authorized under section 231 an amount under subtitle B, subject to section 232(c) (1) (B), to such governments equal to one percent of such amounts for the appropriate calendar quarter, as determined by the Secretary, multiplied by the applicable territorial percentage."

(d) Section 216(b) (3) (C) is amended by striking out "203(c) (4)," "209," and "and" and by inserting ", 231(b), and 232 (c) (1) (B)" after "213".

Sec. 11. Title II of the Public Works Employment Act of 1976 is amended by inserting after section 216 the following:

"Subtitle B—Antirecession Fiscal Assistance

"FINANCIAL ASSISTANCE AUTHORIZED

"Sec. 231. (a) In General.—When the seasonally adjusted national rate of unemployment for the United States equal or exceeds 6.5 percent for a calendar quarter, the Secretary shall, in accordance with the provisions of this subtitle, make payments to State, territorial and local governments eligible under this subtitle. Such payments shall begin with the calendar quarter that is the third in a 3-calendar quarter period commencing with such calendar quarter during which unemployment equalled or exceeded 6.5 percent. Such payments shall continue until suspended pursuant to subsection (e).

"(b) Payments to Recipient Governments.—The Secretary shall pay, not later than 5 days after the beginning of each calendar quarter for which payments are authorized under subsection (a), to each eligible State, territorial and local government that filed a statement of assurances pursuant to section 205, an amount equal to the amount allocated to such government under section 232 or 216.

"(c) Authorization of Appropriations.—Subject to the provisions of subsections (d) and (e), there are authorized to be appropriated for the purpose of making payments under this subtitle during each of the seven succeeding calendar quarters beginning after December 31, 1978, the sum of $125,000,000, plus $25,000,000 multiplied by the number of whole one-tenth percentage points by which the seasonally adjusted rate of national unemployment for the calendar quarter which ended three months before the beginning of such quarter exceeded 6.5 percent.

"(d) Limitation on Authorization.—In no case shall the aggregate amount authorized to be appropriated for payments under this subtitle for any fiscal year exceed $1,000,000,000.

"(e) Suspension of Assistance.—When the seasonally adjusted rate of national unemployment is below 6.5 percent for a calendar quarter, no amounts shall be paid under this subtitle to any State, local or territorial government for the third calendar quarter of the 3 calendar-quarter period which began with such calendar quarter in which the rate of national unemployment was below 6.5 percent.

"ALLOCATION OF ANTIRECESSION FISCAL ASSISTANCE

"Sec. 232. (a) Reservations.—The Secretary shall reserve one percent of the amounts appropriated under section 231 for purposes of making payments pursuant to section 216. From the amount remaining after such reservation, the Secretary shall reserve one-third for the purpose of making payments to eligible State governments under subsection (b), and two-thirds for the purpose of making payments to eligible local governments under subsection (c).

"(b) State Allocation.—

"(1) In general.—For calendar quarters in which payments are authorized under section 231, the Secretary shall allocate from amounts reserved under subsection (a), for the purpose of making payments to each State with an unemployment rate equal to or in excess of 5 percent, an amount equal to the total amount reserved for State governments for the calendar quarter, multiplied by the applicable State percentage.

"(2) Applicable state percentage.—For purposes of this subsection, the applicable State percentage is equal to the quotient resulting from the division of the product of—

"(A) the State excess unemployment percentage, multiplied by

"(B) the State revenue sharing amount, by the sum of such products for all the States.

"(3) Definitions.—For purposes of this subtitle—

"(A) the term 'State' means each State of the United States;

"(B) the State excess unemployment percentage is equal to the difference resulting from the subtraction of 4.5 percentage points from the State unemployment rate for that State, but shall not be less than zero;

"(C) the State unemployment rate is equal to the rate of unemployment in the State during the appropriate calendar quarter, as determined by the Secretary of Labor and reported to the Secretary; and

"(D) the State revenue sharing amount is the amount determined under section 107 of the State and Local Fiscal Assistance Act of 1972, as amended, for the most recently completed entitlement period, as defined under section 141(b) of such Act.

"(c) Local Government Allocation.—

"(1) In general.—(A) For calendar quarters in which payments are authorized under section 231, the Secretary shall allocate from amounts reserved under subsection (a), to each local government with a local unemployment rate equal to or in excess of 5 percent, an amount, subject to paragraph (B), equal to the sum of the total amount reserved for local governments for the calendar quarter, multiplied by the applicable local government percentage.

"(B) The amount allocated to a local or territorial government under this subtitle for any calendar quarter shall be limited to the amount by which the sum of the allocations to such government under this subtitle for the fiscal year in which such quarter occurs exceeds the amount allocated to such government under subtitle A for such fiscal year.

"(2) Applicable local government percentage.—For purposes of this subsection, the applicable local government percentage is equal to the percentage resulting from the division of the product of—

"(A) the local excess unemployment percentage, multiplied by

"(B) the local revenue sharing amount, by the sum of such products for all local governments.

"(3) Definitions.—For purposes of this subtitle, each term used in this section which is defined or described in section 203(c) shall have the meaning given to it in that section, except that section 203(c)(2) shall not apply, and the term 'local unemployment rate' means the rate of unemployment in the jurisdiction of the local government during the appropriate calendar quarter, as determined or assigned by the Secretary of Labor and reported to the Secretary, *Provided however*, That in the case of a local government which encompasses, or is within, a standard metropolitan statistical area or central city for which current population surveys were used to determine annual unemployment rates before January 1, 1978, the Secretary of Labor, for the purposes of this substitle, shall determine or assign the unemployment rates for such government calculated by the current population survey methodology used prior to January 1, 1978, if such rates are higher than rates determined or assigned by the Secretary of Labor for that government for the appropriate calendar quarter without applying the current population survey methodology.

"(4) Minimum allocation.—If the amount which would be allocated for a calendar quarter to a local government under this section is less than $5,000, no amount shall be allocated to such government for such quarter.

"(d) Reallocation of Undisturbed Amounts.—If, for any calendar quarter, the amount appropriated under section 231 for payments to State, local or territorial governments exceeds the sum of the amount payable to such governments because of the provisions of subsection (c)(4) or section 203(e), the Secretary shall reallocate the excess among such State and local governments receiving payments for the calendar quarter, and pay to each such government an amount which bears the same ratio to the amount of the excess as the amount of the payment made to such government for the calendar quarter without regard to this subsection bears to the sum of the payments made to all such governments for the calendar quarter without regard to this subsection.

"APPLICATION OF CERTAIN SUBTITLE A PROVISIONS TO THIS SUBTITLE

"Sec. 233. The provisions of section 203(e), 204, 205, 206, 207, 208, 211, 212, 213, 214, and 215 shall apply to funds authorized under this subtitle." ●

By Mr. DeCONCINI:

S. 567. A bill to amend title 28 of the United States Code to allow the U.S. attorney and assistant U.S. attorneys for the eastern district of New York to reside within 20 miles of the district; to the Committee on the Judiciary.

● Mr. DeCONCINI. Mr. President, the bill I introduce today would permit the U.S. attorney and the assistant U.S. attorneys appointed for the eastern district of New York to reside within 20 miles of the district.

Under section 545(a) of title 28, U.S. attorneys are required to reside in the district to which they are appointed. This section represents a codification of the policy that law enforcement officials should reside in the same community in which they enforce the law. Exceptions to this rule, however, have been made for the District of Columbia and the southern district of New York because of their peculiar geographic composition and location.

New York City is the only city in the United States which is divided between two judicial districts—the eastern and the southern. Thus, as applied to New York City, the effect of section 545 is to carve out parts of the city as off-limits to the U.S. attorneys who live and work there. Congress has already recognized the arbitrary effect of applying the residency rule to New York City by including the southern district of New York in the 20-mile exemption originally created for the District of Columbia. This bill would eliminate the remaining glaring inconsistency by also including the eastern district—which encompasses the other half of New York City—within that 20-mile exemption.

This bill has the approval of the distinguished Senators from New York, Daniel Patrick Moynihan and Jacob Javits, and the Department of Justice.●

By Mr. KENNEDY:

S. 568. A bill to promote the full use of human resources in science and technology through a comprehensive program to maximize the potential contribution and advancement of women in scientific, professional, and technical careers; to the Committee on Human Resources.

WOMEN IN SCIENCE AND TECHNOLOGY EQUAL OPPORTUNITY ACT

● Mr. KENNEDY. Mr. President, for 50 years educational, institutional, and cultural barriers have stood in the way of the participation of women in careers in science and technology. For 50 years we have systematically shut the doors on scientific careers for women by the time they are 17 years old. For 50 years women have been denied equal educational and employment opportunities in scientific and technical fields. As a result, we have a scientific work force which is dangerously close to being an all male club.

The proportion of women earning doctoral degrees in science is no greater in 1979 than it was in the 1920's.

Only one-tenth of 1 percent of engineers are women. Only 2 percent of physicists are women. Only 5 percent of chemists are women.

Women seeking scientific and technical careers are experiencing unemployment rates three to five times higher than those of their male colleagues.

Those women who are employed in scientific and technological careers earn less than men in every field, at every degree level, at every level of experience, and in every employment setting.

Minority and handicapped women have yet to achieve any measurable participation in careers in science.

The Women in Science and Technology Equal Opportunity Act which I am introducing today is carefully tailored to deal with the problems facing women in scientific and technical fields and to ameliorate the effects of half a century of discrimination.

The National Science Foundation has issued several reports in recent years which document in considerable detail the extent to which women have been denied equal opportunity in science and technology. Those reports include: "Women and Minorities in Science and Engineering" (NSF 77–304); "Human Resources for Scientific Activities at Universities and Colleges," January 1978 (NSF 78–318); and "National Patterns of R. & D. Resources Funds and Personnel in the United States (NSF 78–313).

The National Research Council's Commission on Human Resources issued its report "Women and Minority Ph. D.'s in the 1970's: A Data Book" in 1977.

How many breakthroughs in science might have come from the 50 percent of the population which has been so arbitrarily discarded? How much more rapid might have been our advances in areas of national concern? How many Nobel prizes might have been won? And how different might have been our present perceptions about the role of women in medicine, science, and engineering?

This situation is far too disturbing to be written off as the natural outcome of an educational and career ladder on which advancement is based solely on merit. We are so far from equal opportunity that even with a 10-percent improvement every year it will be another 50 years before talented women have equal access to careers in engineering, physics, and chemistry. It will take over 30 years for women to gain equal access to careers in mathematics. And it will be a quarter of a century before women have equal access to careers in biomedical research.

The National Science Foundation has described the underrepresentation of women in science and engineering careers as a "significant national problem."

Nevertheless, those in the highest policymaking positions have failed to assign any priority to the funding or support of efforts to examine, understand, and change the present situation. The White House Office of Science and Technology Policy, the National Science Board, the National Science Foundation, and the Office of Management and Budget have joined in recommending that just $1 million in a Federal research and development budget of over $30 billion be focused directly on this problem this year. And as small as this amount is, this recommendation is actually less than the amount allocated for these programs last year.

In hearings before my Subcommittee on Health and Scientific Research last month, Dr. Lilli Hornig, chairperson of the National Research Council's Committee on the Education and Employment of Women in Science and Engineering, testified:

> Less than 5 percent of all women scientists are employed (in Federal laboratories and agencies); but only 3 percent of recent Ph.D.'s. This already low participation is further aggravated by unequal treatment on the job. For example, in the Department of Energy and its predecessor, the Energy Research and Development Agency, 85 percent of all male professionals were above Grade 12 but only 12 percent of women. Conversely, 8 percent of men but less than 1 percent of women were at the top two grades.

In the academic sector there are also serious problems—16 percent of graduates receiving doctoral degrees in science and engineering are women. Nevertheless, there are 27 major universities with chemistry departments of 28 or more professors in which there are no tenured women. There are 22 major universities with engineering departments of 28 or more full-time engineers in which no women are employed. There are 16 major universities with physics departments of 16 or more full-time scientists in which no women are employed.

A substantial amount of information has been gathered on the extent to which women are underrepresented in the scientific and technical work force. Research into the nature of the barriers women face the means to overcome those barriers is yielding promising results. Various pilot programs have been funded, both in the private sector and by the National Science Foundation. The Foundation, for example, has tested methods which may prove effective in attracting more qualified women into scientific and technical careers. The American Association for the Advancement of Science brought together a group of women who had recently received doctoral degrees in science and engineering both to gather information concerning their own experiences as well as to develop recommendations as to steps which could be taken to alleviate the problems confronting women in scientific and technical careers in the government, academic, and industrial sectors.

Later this month, the National Research Council's Committee on the Education and Employment of Women in Science and Engineering will issue its findings with regard to women in the academic sector. Assessments of the participation of women in science and technology in the government and industrial sectors are expected to be issued by the council later this year.

In 1978, the New York Academy of Sciences in cooperation with the Association for Women in Science Educational Foundation held a 3-day "Conference on Expanding the Role of Women in the Sciences." The results of that session are expected to be published shortly.

The information and recommendations which have been gathered thus far make it very clear that the appropriate agencies of the Federal Government must devote more substantial attention to the role they can play in assuring that women have an equal opportunity to develop skills in mathematics and science and to pursue careers in science and engineering. At the same time, we must establish programs which will encourage academic institutions and industrial laboratories to assign higher priority to activities designed to enhance employment and advancement opportunities for women with scientific and technical skills.

A concerted and long-term effort must be made to bring these changes about and to expedite the process. That effort must involve students, parents, teachers, counselors, administrators, academic institutions, industry, and the Federal Government. A comprehensive approach is required to provide equal education, training, and employment opportunities for women in science.

To begin the Federal effort, and to focus national attention on these concerns, I am introducing today the Women in Science and Technology Equal Opportunity Act. The bill establishes a 10-year, $250 million program to apply the resources and leverage of the National Science Foundation and the Federal Government to the achievement of equal opportunity in science. The bill provides:

Funding at the elementary, secondary and college level to encourage women to pursue courses in science and math;

Research and information programs to help women enter scientific and technical careers;

Programs to increase public awareness of the importance of full participation of women in the scientific and technical workforce;

Incentives for those individuals and institutions which demonstrate a record of achievement in encouraging women to study science and math and in providing employment opportunities for women;

Reporting procedures to measure programs and to help identify problem areas; and

Enforcement provisions to assure full compliance with all requirements relating to equal opportunity for women in science.

The legislation I am introducing today reflects the results of last year's hearings on S. 2550, a similar bill which I sponsored last year, and the comments of over 400 individuals and organizations who provided assistance in reviewing specific provisions.

All programs in the bill are designed to make maximum use of existing Federal programs, and to encourage the involvement of the private sector. The bill assigns the lead agency responsibility to the National Science Foundation and provides for full participation of groups with expertise assuring equal opportunity for women, especially groups involved in the advancement of women in science. Moreover, the bill places special priority on efforts with the potential to bring about comprehensive and long-term institutional change relating to the participation of women in science and emphasizes fields of study and employment in which the underrepresentation of women is most serious and in which existing public and private activities are insufficient.

Clearly, Federal legislation alone will not change patterns whose origins are as complex as those which characterize the present situation. That Federal effort will have to be accompanied by a new commitment on the part of the scientific community, educators, counselors, and administrators. It will require far greater involvement of parents in encouraging young women to persist in acquiring the basic skills which are the entrance requirements for an every increasing number of professions. It also holds substantial promise for those students who decide against scientific and technical careers. It will increase their ability to function effectively when faced with decisions for which basic science and math skills and understanding are required.

It is my conviction that this kind of comprehensive effort will enhance this Nation's scientific and technical strength. It will contribute to the standard of excellence which has been the hallmark of our scientific and technical enterprise. And it will assure that all of our talented students and researchers are given a full opportunity to pursue careers which are among the most challenging and rewarding that our Nation has to offer.

Mr. President, I ask unanimous consent that a summary of the provisions of the Women in Science and Technology Equal Opportunity Act and the text of the bill be printed in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 568

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Women in Science and Technology Equal Opportunity Act".

TITLE I—STATEMENT OF FINDINGS, PURPOSE, AND POLICY STATEMENT OF FINDINGS

SEC. 101. The Congress finds that—

(1) it is in the national interest to promote the full use of human resources in science and technology and to insure the full development and use of the talents of men and women with scientific and technical skills;

(2) women have long been denied equal educational and employment opportunities in scientific and technical fields;

(3) the preeminent position of the Nation in science and technology depends upon the development of the full potential of the talents of men and women with scientific and technological skills, and the full employment of such men and women produces job opportunities in technical and support occupations and exerts a strong multiplier effect on the gross national product;

(4) the full use of the scientific and technical human resources of the Nation is required to meet the strong demand for such resources over the long term; and

(5) skills in science and mathematics are essential for entry and achievement in a wide range of professional and technical fields;

(6) literacy in science and mathematics contributes importantly to the ability of the individual to function in a wide range of activities;

(7) although men and women have equal potential for excellence and advancement in scientific and technical fields—

(A) the proportion of women earning doctoral degrees in science has not increased over the last fifty years;

(B) less than 10 percent of scientists and engineers engaged in research are women;

(C) the unemployment rates of women scientists are three times higher than such rates for men in every field of scence, and are five times higher among young doctorates;

(D) women scientists earn less than men in every field, at every degree level, at every level of experience and in every employment setting; and

(E) minority and handicapped women have yet to achieve measurable participation in science.

DECLARATION OF PURPOSE

SEC. 102. It is the purpose of this Act to encourage the full participation of women in scientific, professional, and technical fields through new and existing programs and procedures which—

(1) improve science education, with particular emphasis on mathematics;

(2) promote literacy in science and mathematics;

(3) prepare women for scientific, professional, and technical careers;

(4) increase opportunities for the employment and advancement of women in science and technology;

(5) encourage the participation of minority and handicapped women in scientific and technical careers; and

(6) educate and inform the public concerning the importance of the participation of women in science and technology.

STATEMENT OF POLICY

SEC. 103. The Congress declares it is the policy of the United States to encourage women to acquire basic skills in science and mathematics, to assure equal opportunity for women in education, training, and employment in scientific and technical fields, and thereby to promote scientific literacy and the full use of the human resources of the Nation in science and technology. Activities conducted to carry out the purposes and provisions of this Act shall—

(1) be carried out under the direction of the National Science Foundation;

(2) provide for the participation of groups with expertise in the advancement of women, especially groups involved in the advancement of women in science and technology;

(3) make maximum use of existing Federal programs and funding;

(4) provide for full coordination between all Federal agencies involved in carrying out the provisions of this Act;

(5) encourage the involvement in and contribution of resources for such activities by the private sector;

(6) encourage opportunities for accomplishing comprehensive and long-term institutional change relating to the participation of women in science;

(7) emphasize fields of study and employment in which the underrepresentation of women is most serious and in which existing public and private activities are insufficient;

(8) encourage maximum involvement of parents of girls and young women, especially in programs affecting students in elementary and secondary schools; and

(9) provide for an encourage cooperation between the industrial and academic sectors in accomplishing the purposes of this Act.

DEFINITIONS

SEC. 104. For the purposes of this Act—

(1) the term "Federal agency" means an agency as defined in section 551(1) of title 5, United States Code;

(2) the term "State" means each of the several States and the District of Columbia;

(3) the term "Foundation" means the National Science Foundation;

(4) the term "Director" means the Director of the National Science Foundation; and

(5) the term "Committee" means the President's Committee for Equal Opportunity in Science Awards established under section 311.

TITLE II—EDUCATION

ELEMENTARY AND SECONDARY EDUCATION PROGRAMS

SEC. 201. (a) The Foundation is authorized and directed to support activities designed to strengthen elementary and secondary school programs in science and mathematics in accordance with the provisions of this section. Such activities shall demonstrate potential to interest and involve female students and assist them in acquiring knowledge, skills, and information.

(b) Programs assisted under this section shall emphasize activities focused on female students and shall include—

(1) the development of methods, instructional materials, and technologies to improve the quality and relevance of education in science and mathematics and to increase student awareness of career opportunities requiring scientific and technical skills;

(2) the training and retraining (including inservice training) of teachers, counselors, administrators, and other appropriate personnel to improve the quality and relevance of education in science and mathematics and to increase student awareness of career opportunities requiring scientific and technical skills;

(3) the use of innovative methods, systems, materials, visiting women scientists and technicians, or other arrangements to encourage students to continue in and complete courses in science and mathematics and to consider careers in scientific and technical fields;

(4) student science training programs, research participation projects, and internships; and

(5) workshops for students and their parents and guardians to increase awareness and understanding of the importance of basic skills in science and mathematics and of the extent to which scientific and technical skills are required for entry into careers.

(c) No grant may be made and no contract may be entered into under the provisions of this section unless an application is submitted to the Director at such time, in such manner, and containing or accompanied by such information as the Director may require.

HIGHER EDUCATION PROGRAMS

SEC. 202 (a) The Foundation is authorized and directed to support programs which demonstrate potential to (1) increase the participation of women in courses of study leading to degrees in scientific and technical fields, (2) encourage women to consider and prepare for careers in science and technology (3) provide traineeship and fellowship opportunities for women in science and technology, and (4) provide continuing education opportunities in science and technology for women whose careers have been interrupted, in accordance with the provisions of this section.

(b) Programs assisted under this section shall include—

(1) the development of technologies, methods, and instructional materials at the undergraduate level to strengthen basic skills in science and mathematics and to increase student awareness of career opportunities requiring scientific and technical skills;

(2) the training and retraining (including inservice training) of faculty, counselors, administrators, and other appropriate personnel at the undergraduate level to improve the ability of such personnel to (A) strengthen the basic skills in science and mathematics of students whose primary field of study is not scientific or technical, (B) increase student awareness of career opportunities for women in science, particularly in fields in which women are most seriously underrepresented, and (c) increase student awareness of career opportunities for women requiring basic scientific and technical skills;

(3) the award of graduate and postgraduate fellowships, and career development grants directly to individuals and to individuals through institutions;

(4) research participation, traineeships, work study, and internship programs;

(5) projects to encourage individuals interested in scientific and technical fields to continue in and complete courses of study leading to degrees in such fields.

(c) No grant may be made and no contract may be entered into under the provisions of this section unless an application is submitted to the Director at such time, in such manner, and containing or accompanied by such information as the Director may require.

(d) Recipients of traineeships and fellowships under paragraphs (3) and (4) of subsection (b) of this section shall be paid such stipends (including such allowances for subsistence, health insurance, relocation expenses, and other expenses for such recipients and their dependents) as the Director may prescribe by regulation.

CONTINUING EDUCATION PROGRAM

SEC. 203. (a) The Foundation shall initiate a program of continuing education in science and engineering which provides opportunities for women who (1) are in the work force at the time of selection under the program authorized by this section, or (2) have had their careers interrupted, to pursue courses of study and activities which encourage the acquisition of new knowledge, techniques, and skills in scientific and technical fields.

(b) The program developed under this section shall include—

(1) the development of special curricula, educational techniques, and recruitment activities in cooperation with industry and academic institutions for continuing education in science and technology;

(2) the award of full-time and part-time fellowships to enable individuals eligible under subsection (a) to pursue courses of study which provide continuing education in science and technology; and

(3) other activities, including pilot programs and regional efforts, to further the purposes of this section.

(c) The Director is authorized to make grants to, and to enter into contracts with, institutions of higher education and other academic institutions, nonprofit institutions and organizations, and private business firms, for the purpose of developing courses and curricula designed for continuing education in science and technology under this section.

(d) (1) The Director shall allocate full-time and part-time fellowships under this section in such a manner, insofar as practicable, as will encourage the participation and advancement of women in careers in science and technology.

(2) The Director shall pay to individuals awarded fellowships under this section such stipends (including such allowances for subsistence, health insurance, relocation expenses, and other expenses for such individuals and their dependents) as the Director may prescribe.

(3) Fellowships shall be awarded under this section upon application made at such times and containing such information as the Director shall by regulation require.

EVALUATION

SEC. 204. The Director shall require that programs supported under this title include support for and expertise in the development and use of standardized evaluation tools and mechanisms in order to determine, as promptly as possible, the impact of participation in programs authorized under this title on (1) individual participants, (2) the activities of institutions and organizations receiving grants or contracts, and (3) the employment and advancement of women in scientific and technical positions at institutions and organizations which are participating in such programs.

TECHNICAL ASSISTANCE

SEC. 205. In carrying out the activities required by this title, the Director is authorized to make available technical assistance relating to the design and conduct of activities under this title.

TITLE III—PUBLIC UNDERSTANDING

PART A—INFORMATION PROGRAMS

CLEARINGHOUSE ON WOMEN IN SCIENCE

SEC. 301. (a) The Foundation is authorized and directed to establish and operate a Clearinghouse on Women in Science. The Foundation may operate the clearinghouse directly, or may provide, by grant or contract, for the operation of the Clearinghouse in cooperation with other related publicly and privately supported activities. The Foundation shall take such action as may be necessary to assure that all activities associated with the development, implementation, and operation of the Clearinghouse are conducted with the full participation of groups active in the promotion of increased opportunities for women in science.

(b) The Clearinghouse shall closely coordinate its activities with existing publicly and privately supported efforts which further the purposes of this Act. The Clearinghouse shall assure that such coordination is designed to prevent duplication of effort in a manner consistent with the responsibility of the Clearinghouse to function as a primary and central source of information. The Clearinghouse shall collect, analyze, and disseminate to the public information concerning activities in the public and private sectors which encourage the full participation of women in science and technology. Such information shall include information concerning—

(1) publicly and privately supported programs designed to encourage the advancement of women in science;

(2) programs to assure equal opportunity for women in science and technology;

(3) programs to improve science education and promote literacy in science and mathematics;

(4) opportunities for minority and handicapped women in scientific and technical careers;

(5) data on the status and number of women in scientific and technological positions, including material gathered under titles II, III, and IV of this Act;

(6) research being conducted to increase the potential contribution of women in science and technology and to facilitate the participation and advancement of women in scientific and technological careers, and the results of such research, including material gathered under sections 302, 404, 405, and 406;

(7) scientific research of particular interest to women and the research activities of women in science and

(8) programs to educate and inform the public concerning the importance of the participation of women in science and technology.

(c) There is authorized to be appropriated the sum of $3,000,000 for fiscal year 1980 and for each of the nine succeeding fiscal years to carry out the functions of the Clearinghouse.

RESEARCH PROGRAM

SEC. 302. (a) The Director of the Foundation is authorized and directed to conduct, directly or by way of grant or contract, a comprehensive research program designed to increase understanding of (1) the potential contribution of women in science and technology and (2) the means to facilitate the participation and advancement of women in scientific and technical careers.

(b) The program shall include studies leading to understanding and amelioration of problems confronting young women in the study of science and mathematics, and the impact of science and mathematics skills on the entry and advancement of women in nonscientific fields.

DISSEMINATION

SEC. 303. Data collected and research conducted under sections 302, 404, 405, and 406 shall be made available to the public through appropriate dissemination mechanisms, including the Clearinghouse on Women in Science established under section 301.

MEDIA PROJECTS

SEC. 304. The Foundation is authorized and directed to support projects designed to improve the scope, relevance, and quality of information available to the public concerning the importance of the participation of women in careers in science and technology through the use of radio, television, journals, newspapers, magazines, and other media. In carrying out the provisions of this section, the Director shall develop criteria which assign highest priority to proposals which (1) demonstrate potential for increasing public awareness of the contribution of women in scientific and technical fields, (2) stress the importance of equal opportunity for women in careers in science and technology, (3) emphasize the importance of skills in mathematics and science in a wide range of activities and programs, or (4) include new techniques with potential to further the purposes of this section.

BOOKS AND INSTRUCTIONAL MATERIALS

SEC. 305. (a) The Foundation shall identify books and instructional materials which (1) encourage girls and young women to acquire basic skills in mathematics and science, (2) encourage girls and young women to pursue careers in scientific and technical fields, (3) stress the importance of equal opportunity for women in science and technology, and (4) emphasize the importance of skills in mathematics and science in a wide range of activities and programs. In identifying books and instructional materials under this section, the Foundation shall assign highest priority to books and materials which—

(1) portray women in scientific and technical careers;

(2) encourage girls and young women to consider careers in science and technology;

(3) emphasize the need for mathematical and technical skills in a wide range of activities and professions;

(4) present scientific and technical material in a manner responsive to the needs of girls and young women; and

(5) emphasize the equal ability and status of men and women in science and technology.

(b) Information concerning books and materials identified under subsection (a) shall be made available to the public through appropriate exisiting dissemination mechanisms, including the Clearinghouse on Women in Science established under section 301.

(c) The Foundation is authorized and directed to support the development of books and instructional materials which present science and mathematics in a manner consistent with the criteria established under subsection (a). Books and instructional materials developed under this subsection shall be considered for identification under subsection (a).

COMMUNITY OUTREACH

SEC. 306. (a) The Foundation is authorized and directed to support community outreach activities with the potential to attract substantial numbers of girls and young women and designed to—

(1) emphasize the importance of equal opportunity in scientific and technical fields;

(2) stimulate the interest of girls and young women in science and mathematics; and

(3) encourage girls and young women to continue in and complete courses of study in science and mathematics.

(b) In carrying out the provisions of this section, the Foundation shall make grants to nonprofit organizations which sponsor community activities, including afterschool, weekend, and summer programs, to enable such organizations to include programs related to mathematics and science in new or existing activities.

MUSEUM PROGRAMS

SEC. 307. The Foundation is authorized and directed to make grants and enter into contracts with museums and science centers for the support of projects which demonstrate potential to interest and involve women. Such projects shall be designed to encourage the study and development of basic skills in mathematics and science, to emphasize opportunities for careers in scientific and technical fields, and to stress the importance of equal opportunity for women in science and technology.

PART B—AWARDS

ESTABLISHMENT OF EQUAL OPPORTUNITY IN SCIENCE AWARDS COMMITTEE

SEC. 311. (a) There is established the President's Committee for Equal Opportunity in Science Awards, which shall be composed of thirteen members. The Committee shall make recommendations to the President and the Director concerning individuals to receive the awards authorized in sections 312 and 313 and to be Visiting Women Scientists under the program authorized under section 314. In making such recommendations, the Committee shall consider recommendations from governmental and private organizations active in promoting equal opportunity for women in science.

(b) Each member of the Committee shall be appointed by the President and the membership shall represent a cross section of the physical, life, and social sciences. At least two members of the Committee shall be nonscientists. At least seven members of the Committee shall be women. In appointing members to the Committee, the President shall consider recommendations submitted by governmental and private organizations active in promoting equal opportunity for women in science.

(c) Members of the Committee shall be appointed to serve for a three year term, except that the terms of office of members first appointed shall expire, as designated by the President at the time of the appointment, five at the end of one year, four at the end of two years, and four at the end of three years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor of the member was appointed shall be appointed for the remainder of such term. Members may be reappointed to serve one additional term of three years.

(d) Seven members of the Committee shall constitute a quorum, and any vacancy in the Committee shall not affect its power to function.

(e) The President shall designate one of the members of the Committee to serve as Chairperson.

(f) Each member of the Committee who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 under the General Schedule under section 5332 of title 5, United States Code, including traveltime, for each day such member is engaged in the actual performance of duties as a member of the Committee. A member of the Committee who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(g) The Foundation is authorized to provide such additional assistance as may be necessary and appropriate to carry out the purposes of this section.

(h) The Committee, with the approval of the President, is authorized to establish such additional procedures and criteria as necessary to implement the provisions of this part.

DISTINGUISHED ACHIEVEMENT IN THE ADVANCEMENT OF WOMEN IN SCIENCE AWARD

SEC. 312. The President, upon the recommendations of the Committee, shall make not more than twenty cash awards, of $25,000 each, to be known as the Distinguished Achievement in the Advancement of Women in Science Award. Awards under this section shall be made once each calendar year to the individuals, academic institutions, State or local public agencies, private nonprofit organizations, or business concerns which have made an outstanding contribution to the participation and advancement of women in science and technology. Each recipient of the award shall receive a suitable citation describing the achievements for which the award is presented.

MATHEMATICS AND SCIENCE INCENTIVE AWARD

SEC. 313. (a) The Director shall, upon the recommendations of the Committee, make not more than twenty cash awards of $10,000 each, to be known as the Mathematics and Science Incentive Award, to schools which include one or more of grades seven through twelve and which have demonstrated a commitment to encouraging the enrollment of girls and young women in mathematics and science courses, in accordance with the provisions of this section. Awards under this section shall be made to such schools which have demonstrated; over a period of at least three years, a substantial increase in the number of women enrolled in mathematics and science courses. Such schools which enroll substantially more than the national average of women in advanced mathematics and science courses shall also be eligible for awards. The Mathematics and Science Incentive Awards shall be presented once each year.

(b) Cash awarded under subsection (a) shall be used by the recipients to establish or further programs which encourage the participation of women in mathematical and scientific careers.

(c) Each recipient of the award shall also receive a suitable plaque to commemorate the achievements on which the award is based. The size and design of the plaques shall be determined by the Committee with the approval of the Director.

(d) The Director, in cooperation with the Committee, is authorized to establish such rules and regulations as are necessary to carry out his functions under this section.

VISITING WOMEN SCIENTISTS PROGRAM

SEC. 314. (a) There is established the Visiting Women Scientists Program. The purpose of the program is to select women scientists from a wide range of disciplines and geographic areas who shall visit secondary schools and institutions of higher education in all regions of the country in order to—

(1) encourage girls and women to acquire basic skills in mathematics and science;

(2) encourage girls and women to consider careers in science and engineering and to prepare themselves appropriately for such careers;

(3) provide information to students, parents, teachers, counselors, and administrators; and

(4) conduct lectures, seminars, informal discussions, and workshops concerning various aspects of scientific and technical careers for women.

(b) Each year, the Director, upon the recommendation of the Committee, shall name not fewer than thirty women from the government, industrial, private nonprofit, and academic sectors to be visiting women scientists. Each women selected shall demonstrate the potential to fulfill the purposes of the program as described in subsection (a). At least one-half of the visiting women scientists named in a particular calendar year shall be women who have degrees in science and engineering which were conferred during the five year period immediately preceding the date of their selection.

(c) Each visiting woman scientist who is not otherwise employed by the United States Government shall receive compensation at a rate of $100 per day for each day she is engaged in the actual performance of her duties as a visiting woman scientist. A visiting woman scientist who is an officer or employee of the United States Government shall serve without additional compensation. All visiting women scientists shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

TITLE IV—EQUAL EMPLOYMENT OPPORTUNITY

PART A—AGENCY RESPONSIBILITY AND ENFORCEMENT PROVISIONS

AGENCY RESPONSIBILITY

SEC. 401. (a) The head of each Federal agency, national laboratory, and federally funded research and development center which supports or conducts research and development in science and technology shall take appropriate action to—

(1) prevent discrimination against women in science and technology;

(2) increase opportunities for the employment, training, and advancement of women in science; and

(3) encourage the participation of minority and physically handicapped women in scientific and technical careers.

(b) The head of each such agency, laboratory, and center shall take such action as may be necessary to carry out the provisions of this section, including activities designed to increase the number of women—

(1) in permanent and temporary and in full-time or part-time scientific and technical positions at each appropriate GS level or other similar category;

(2) participating in internship and continuing education programs;

(3) realizing opportunities for promotion;

(4) serving on peer review and advisory panels; and

(5) serving as principal investigators for research projects, grants, and contracts.

REDUCTION OF THE INDIRECT COST RATE

SEC. 402. (a) (1) The head of each Federal agency, national laboratory, and federally funded research and development center which supports research and development in science and technology shall reduce the indirect cost rate of any organization or institution receiving Federal support for indirect costs in connection with the conduct of research and development in science and technology if, among the employees of the organization or institution holding doctorates in each of the fields of the mathematical, physical, medical, biological, engineering, and social sciences, the percentage of women employees of the organization or institution is more than 25 percent below the percentage of women among all individuals in the United States holding doctorates in each of such fields. In accordance with the provisions of paragraph (2), the indirect cost rate of any such organization or institution shall be reduced by one percentage point for every percentage point that the percentage of such women employees of the organization or institution in each of such fields is more than 25 percent below the percentage of women among all individuals in the United States holding doctorates in each of such fields.

(2) The indirect cost rate of any organization or institution under paragraph (1) may be reduced by up to 10 percent.

(b) Any organization or institution whose indirect cost rate has been reduced pursuant to this section may apply for an adjustment of such indirect cost rate once in each six month period after the date on which the Secretary initially reduced such rate.

(c) Upon good cause shown, the head of a Federal agency, national laboratory or federally funded research and development center may waive the reduction of the indirect cost rate required under paragraph (1).

(d) For purposes of this section, the term "indirect cost rate" means the percentage of the amount of Federal support for research and development in science and technology which is received by an organization or institution from the Federal Government in addition to the amount of Federal support received to carry out research and development in science and technology in order to provide Federal support for the institutional costs of such research and development.

GRANTS FOR LEGAL ASSISTANCE

SEC. 403. (a) The Foundation is authorized and directed to make grants to persons to support legal actions which relate to discrimination in scientific and technological fields in accordance with the provisions of this section. A grant under this section may include support for reasonable attorneys' fees, fees for expert witnesses, and other costs expected to be incurred by a person bringing such an action. The Foundation may make a grant to a person under this section if—

(1) the legal action brought by the person can reasonably be expected to contribute to the alleviation of discrimination against women in scientific and technological fields;

(2) the economic interest of the person bringing the action in the outcome of the proceeding is small in comparison to the costs of bringing the action; or

(3) the person demonstrates that insufficient resources are available to bring the legal action in the absence of a grant under this section.

(b) Any review panel established to evaluate applications for grants under this section shall consist of attorneys with experience in cases relating to discrimination and representatives of groups active in the promotion of equal opportunity for women in science and technology.

(c) (1) Any person applying for a grant under this section shall sign an agreement which states that such person agrees to pay to the Foundation an amount equal to any fees or costs awarded by a court in connection with a legal action supported under this section. No agreement under this paragraph shall require any person to pay to the Foundation an amount in excess of the total amount of any grants received by the person under this section.

(2) Notwithstanding any other provision of law, the Foundation shall use any amounts received pursuant to paragraph (1) to make grants under this section.

(d) No grant may be made under this section unless an application is submitted to the Director at such time, in such manner, and containing or accompanied by such information as the Director may require.

(e) For purposes of this section, the term "person" has the same meaning as in section 551(2) of title 5, United States Code, and includes a class of individuals and any individual member of such class.

REPORTING REQUIRED

SEC. 404. (a) The head of each Federal agency which provides Federal financial assistance for research and development in science and technology which equals or exceeds $30,000,000 in any fiscal year and the head of each national laboratory and federally funded research and development center, shall report to the Congress annually, to the maximum extent possible through existing appropriate reports, concerning the employment status of women in scientific and technical positions, both at the agency, laboratory, or center and in agency, laboratory, or center supported research and development projects. The reports required shall include a compilation, evaluation, and comparison, by sex, by discipline, and as a percent of the total of—

(1) the number of individuals in permanent and temporary and in full-time and part-time scientific and technical positions, by GS level or other similar category;

(2) the average salary of individuals employed in such scientific and technical positions, by GS level or other similar category;

(3) the number and type of promotional opportunities realized by individuals in such scientific and technological positions;

(4) the number of individuals serving on (A) peer review and (B) advisory panels dealing with scientific research and development activities; and

(5) the number of individuals serving as principal investigators in agency, laboratory or center supported or conducted scientific research and development project.

(b) The head of each Federal agency, laboratory, and center required to report under subsection (a) shall compile and evaluate the data collected pursuant to such subsection and shall transmit such data to the Director for use in the annual report required under section 404.

(c) The head of each Federal agency, laboratory, and center is authorized to establish such rules and regulations as are necessary to implement the provisions of this section.

DATA COLLECTION PROGRAM

SEC. 405. (a) The Director is authorized and directed to make an accurate assessment of the participation and status of women in all disciplines and job categories of scientific and technological fields in State and local governments, private enterprise, and academic institutions. The Director shall make and publicize such an assessment through the use of existing data collection, analysis, publication, and dissemination programs of the Foundation, other Federal agencies, and the private sector, and shall develop new programs, if necessary, in order to assure that a complete assessment of the participation of women in scientific and technological careers is made and publicized.

(b) The Director shall collect, compile, and analyze data concerning—

(1) the number of individuals in permanent and temporary and in full-time and part-time scientific and technological positions by appropriate job category;

(2) the average salary of individuals in such scientific and technological positions;

(3) the number and type of promotional opportunities realized by individuals in such scientific and technological positions;

(4) the number of individuals serving as principal investigators in federally conducted or federally supported research and development; and

(5) the unemployment rate of individuals seeking scientific and technological positions.

ANNUAL REPORT

SEC. 406. (a) Once each year, the Director shall make a report concerning the data received pursuant to section 404 and the data collected, compiled, and analyzed pursuant to section 405. The Director shall take such steps as may be necessary to assure that the data contained in the report is in a form which permits an accounting and comparison, by sex and by discipline, of the participation of women and men in scientific and technological positions in public agencies, business concerns, private nonprofit organizations, educational institutions, Federal agencies, Federal laboratories, federally funded research and development centers, and research and development projects, supported by such Federal agencies, laboratories, or centers.

(b) The report of the Director required under this section shall be made available to the public through new and existing dissemination mechanisms, including the Clearinghouse on Women in Science established under section 301.

(c) The Director shall transmit the report required under this section to the Director of the Office of Science and Technology Policy, the Attorney General, the Chairman of the Equal Employment Opportunity Commission, the Director of the Office of Civil Rights of the Office of Education of the Department of Health, Education, and Welfare and the Director of the Office of Contract Compliance of the Department of Labor.

(d) The Director of the Office of Science and Technology Policy shall include the report received from the Director pursuant to subsection (c) in the annual report submitted to Congress under section 209 of the National Science and Technology Policy and Priorities Act of 1976.

PART B—OPPORTUNITY PROGRAMS

FEDERAL GOVERNMENT TRAINING FOR THE ENCOURAGEMENT OF WOMEN IN SCIENCE

SEC. 411. The Office of Personnel Management is authorized and directed to include in its training program for officials of appropriate Federal agencies, information and instructions relating to—

(1) the recruitment, retention, and promotion of qualified women scientists, engineers, and technicians;

(2) Federal programs designed to assist in assuring equal opportunity for women in science and technology;

(3) Federal laws requiring equal employment, education, and training opportunity for women; and

(4) enforcement and compliance mechanisms available to assure full participation of women in scientific and technological fields.

CIVIL SERVICE REGISTERS

SEC. 412. The Director of the Office of Personnel Management is authorized to take such action as may be necessary to increase the number of women in registers of persons qualified for and seeking scientific and technological positions. The Director of the Office of Personnel Management is directed to assure that such registers are circulated to each Federal agency, national laboratory, and federally funded research and development center which supports or carries out research and development activities.

DEMONSTRATION PROJECTS

SEC. 413. (a) The Foundation is authorized and directed to make grants to, or enter into contracts with, public agencies, business concerns, private institutions and organizations, and individuals for activities to encourage employment and advancement of women in science and technology through—

(1) flexible work schedules and job sharing arrangements;

(2) eligibility for fringe benefits and the establishment of tenure for part-time employees;

(3) the removal of antinepotism employment conditions; and

(4) other similar arrangements, including day care, which show promise of encouraging such employment and advancement.

(b) No grant may be made under this section unless an application is submitted to the Director at such time and in such manner and containing or accompanied by such information as the Director determines to be reasonable and appropriate.

VISITING PROFESSORSHIPS FOR WOMEN IN SCIENCE

SEC. 414. (a)(1) The Foundation is authorized and directed to make grants to academic institutions for the establishment of full-time or part-time Visiting Professorships for Women in Science.

(2) An institution applying for a grant under this section shall assure that—

(A) any Visiting Professorship for Women in Science established with support under this section is designed to include appropriate research and teaching opportunities, as well as opportunities for the Visiting Professor to serve as a source of advice and counsel for young women considering careers in science and technology;

(B) any individual holding a Visiting Professorship supported under this section shall come from the industrial, governmental, or academic sectors;

(C) each Visiting Professorship shall be in a department in which women are seriously underrepresented and in which the establishment of a Visiting Professorship is expected to increase the participation of women in science; and

(D) each Visiting Professorship shall be for a period of at least one year and not more than two years.

(b) No grant may be made under this section unless an application is submitted to the Director at such time and in such manner and containing or accompanied by such information as the Director determines to be reasonable and appropriate.

PART C—GENERAL PROVISIONS

DEFINITIONS

SEC. 421. (a) For purposes of this title—

(1) the term "Federal financial assistance" means any grant, loan, or contract other than a contract of insurance or guaranty;

(2) the term "national laboratory" means any Government directed research and development laboratory, as well as any research and development laboratory funded at least in part by the Federal Government, except as provided in paragraph (3) of this subsection; and

(3) the term "federally funded research and development center" means any organization which performs research and development exclusively or substantially financed by the Federal Government and which is administered by an industrial firm, university, college, or other nonprofit institution.

(b) The Director of the Office of Science and Technology Policy, in consultation with the Director, the Director of the Office of Personnel Management, and the Director of the Office of Management and Budget, shall establish the criteria for defining "scientific, technological and technical positions" for the purposes of part A.

TITLE V—GENERAL PROVISIONS AUTHORITY

SEC. 501. (a) Except as otherwise provided in this Act the Foundation shall, in carrying out its functions under this Act, have the same powers and authority the Foundation has under the National Science Foundation Act of 1950 to carry out its functions under that Act.

(b) Except as otherwise provided in this Act, the Director shall, in carrying out the functions of the Director under this Act, have the same powers and authority the Director has under the National Science Foundation Act of 1950 to carry out the functions of the Director under that Act.

SEVERABILITY

SEC. 502. If a provision of this Act is held invalid, the validity of the other provisions of the Act shall not be affected. If an application of a provision of this Act to a person or circumstance is held invalid, the validity of the application of the provisions to another person or circumstance shall not be affected.

AUTHORIZATION OF APPROPRIATIONS

SEC. 503. There are authorized to be appropriated for the fiscal year 1980 and for each of the succeeding nine fiscal years, such sums, but not to exceed $25,000,000 in any fiscal year, as may be necessary to carry out the provisions of this Act.

SUMMARY OF THE BILL

This Act establishes a framework to promote the full use of human resources in science and technology through a comprehensive program to maximize the potential contribution and advancement of women in scientific, professional and technical careers. It establishes programs, policies and procedures to enhance education for women in science and mathematics, to promote literacy in science and mathematics, to improve training and employment opportunities for women in science and technology, and to prevent discrimination against women in scientific and technical fields.

TITLE I—STATEMENT OF FINDINGS, PURPOSE AND POLICY

Findings

The Congress finds that it is in the national interest to promote the full use of human resources in science and technology; that skills in science and mathematics contribute substantially to achievement in a wide range of professional fields; and that men and women have equal potential for excellence in scientific and technical fields. It also includes the findings of the Congress that:

(a) the proportion of women earning degrees in science has not increased over the last fifty years;

(b) less than ten percent of scientists and engineers are women;

(c) unemployment rates of women scientists and engineers are three times higher than for men in every field of science, and are five times higher among young doctorates;

(d) women scientists earn less than men in every field, at every level of experience and in every employment setting; and

(e) minority and handicapped women have yet to achieve measurable participation in science.

Declaration of purpose

It is the purpose of this Act to encourage the full participation of women in scientific, professional and technical fields through programs to improve science education; to promote literacy in science and mathematics and educate and inform the public concerning the importance of the participation of women in science and technology; to increase employment and advancement opportunities for women; and to encourage the participation of minority and handicapped women in science and technology.

Statement of policy

The Congress declares that it is the policy of the United States to assure equal opportunity for women in education, training and employment in scientific and technical fields and thereby promote the full use of human resources in science and technology. Activities to accomplish these objectives are to:

(1) be carried out under the direction of the National Science Foundation;

(2) provide for the participation of groups with expertise in the advancement of women, especially groups involved in the advancement of women in science and technology;

(3) make maximum use of existing Federal programs and funding;

(4) provide for full coordination between all Federal agencies involved in carrying out the provisions of this Act;

(5) encourage the involvement in and contribution of funding for such activities by the private sector;

(6) encourage opportunities for accomplishing comprehensive and long-term institutional change relating to the participation of women in science;

(7) emphasize fields of study and employment in which the underrepresentation of women is most serious and in which existing public and private activities are insufficient;

(8) encourage maximum involvement of parents of girls and young women, especially in programs affecting students in elementary and secondary schools; and

(9) provide for and encourage cooperation between the industrial and academic sectors in accomplishing the purposes of this Act.

TITLE II—EDUCATION

Elementary and secondary education programs

The National Science Foundation is directed to support activities to strengthen elementary and secondary school programs in science and mathematics. The activities supported must demonstrate potential to interest and involve female students and priority is to be given to activities focused on students in grades seven through twelve. Among activities eligible for support are:

(a) the development of methods, instructional materials and technologies to improve education in science and mathematics;

(b) the training and retraining of teachers, counselors, and administrators;

(c) the use of innovative methods, systems and materials to discourage attrition from courses in mathematics and science;

(d) opportunities for students to assist in research-related activities; and

(e) workshops for students and parents to increase awareness of the importance of acquiring basic skills in science and math.

Higher education programs

The National Science Foundation is directed to support activities which demonstrate potential:

(a) to increase the participation of women in courses of study leading to degrees in scientific and technical fields;

(b) to encourage women to consider and prepare for careers in science and technology;

(c) to provide traineeship and fellowship opportunities for women in science and technology; and

(d) to provide continuing education opportunities in science and technology for women whose careers have been interrupted.

Among activities eligible for support are:

(a) the development of methods, instructional materials and technologies at the undergraduate level to strengthen basic skills in science and mathematics and to increase student awareness of career opportunities requiring scientific and technical skills;

(b) training and retraining of faculty, counselors, and administrators at the undergraduate level;

(c) traineeships, graduate and postgraduate fellowships; and

(d) projects to encourage students to continue in and complete courses of study leading to degrees in scientific and technical fields.

Continuing education

The National Science Foundation is directed to initiate a program of continuing education in science and engineering, with particular emphasis on the participation and needs of women, to enable persons who are in the workforce or have had careers interrupted to acquire new skills and/or strengthen existing skills. The program includes the development of curricula, education techniques, and recruitment activities in cooperation with industry and academic institutions, as well as fellowships. The fellowships are to be allocated in a manner which encourages the participation and advancement of women in careers in science and technology.

Evaluation

Evaluation tools and mechanisms for determining the impact on individuals, institutions, and organizations of participation in programs authorized under this title are to be developed and used.

Technical assistance

Technical assistance for the design and conduct of activities under this Title is authorized.

TITLE III—PUBLIC UNDERSTANDING

Information Programs

Clearinghouse on Women in Science

A Clearinghouse on Women in Science is established to collect, analyze and disseminate to the public information concerning activities in the public and private sectors to encourage full participation of women in science and technology. An annual authorization of $3 million is provided.

Research program

The National Science Foundation is directed to conduct a comprehensive research program to increase understanding of the potential contribution of women in science and technology and of means to facilitate the participation and advancement of women in scientific and technological careers. The program is to include studies leading to understanding and amelioration of problems confronting young women in the study of science and mathematics and the impact of science and mathematics skills on the entry and advancement of women in nonscientific fields.

Media projects

The National Science Foundation is directed to support projects to improve the scope, relevance and quality of information available to the public concerning the importance of the participation of women in careers in science and technology through the use of the media. Highest priority is to be given to proposals which demonstrate potential for increasing public awareness of the contribution of women in scientific and technical fields, stress the importance of equal opportunity for women in careers in science and technology, emphasize the importance of skills in mathematics and science in a wide range of activities and programs, or include the use of new techniques.

Books and instructional materials

The National Science Foundation is to identify books and instructional materials which encourage girls and young women to study mathematics and science and to pursue careers in scientific fields and stress the importance of equal opportunity for women in science and technology. The National Science Foundation is also directed to support the development of books and instructional materials which meet this criterion. Information concerning books and materials identified and developed is to be made available to the public.

Community outreach

The National Science Foundation is directed to support community outreach activities designed to attract substantial numbers of young women and girls, to emphasize the importance of equal opportunity in scientific and technical fields, to stimulate the interest of girls and young women in science and mathematics and to encourage girls and young women to continue in and complete courses of study in science and mathematics. Support is to be available to nonprofit organizations which sponsor community activities including after school, weekend and summer programs.

Museum Programs

The National Science Foundation is directed to support projects at museums and science centers which demonstrate potential to interest and involve women. The projects are to encourage the study and development of skills in mathematics and science, to emphasize opportunities for careers in scientific and technical fields and to stress the importance of equal opportunity for women in science and technology.

Awards

Equal opportunity in science awards committee

A Committee is established to make recommendations to the President and the Director of the National Science Foundation concerning the names of persons to receive awards for contributions to the education and advancement of women in science. At least seven of thirteen members of the Committee must be women, and the membership must also include nonscientists and minority group members.

Distinguished achievement in the advancement of women in science award

Up to twenty awards of $25,000 each are to be made each year by the President to individuals, academic institutions, State or local public agencies, private nonprofit organizations or business concerns which have made an outstanding contribution to the participation and advancement of women in science and technology.

Mathematics and science incentive award

Each year the Director of the National Science Foundation is to make up to twenty awards of $10,000 each to schools which include one or more of grades seven through twelve which have demonstrated a commitment to encouraging and increasing enrollment of girls and young women in mathematics and science courses.

Visiting women scientists program

Each year the Director of the National Science Foundation is to name at least thirty women scientists who will visit secondary schools and institutions of higher education to: (1) encourage girls and young women to consider careers in science; (2) provide information to students, parents, teachers, counselors and administrators; and (3) conduct lectures, seminars and workshops involving young men and women concerning scientific and technical careers for women.

TITLE IV—EQUAL EMPLOYMENT OPPORTUNITY

Agency Responsibility and Enforcement Provisions

Agency responsibility

The head of each Federal agency, national laboratory and federally funded research and development center which supports or conducts research and development is to take action to: (1) prevent discrimination against women in science and technology; (2) increase opportunities for the employment and advancement to women in science; and (3) encourage the participation of minority and physically handicapped women in science. In meeting these requirements, action is to be taken designed to increase the number of women in permanent scientific and technical positions, realizing opportunities for promotion, serving on peer review and advisory panels, and serving as principal investigators.

Reduction of indirect cost rates

The indirect cost rates of organizations or institutions receiving Federal support to conduct research are to be reduced by up to 10% if among the employees of the organization or institution holding doctorates in science the percentage of women employees is substantially less than the percentage of women among all individuals holding doctorates in science.

Grants for legal assistance projects

The National Science Foundation is authorized to make grants to provide legal assistance to individuals or groups of individuals initiating legal action relating to discrimination in scientific and technological fields. Such assistance may be provided when the action can reasonably be expected to contribute to the alleviation of discrimination against women, and the grant recipient demonstrates that insufficient resources are available to bring the action without such support.

Reporting requirements

The head of each Federal agency which spends $30 million or more annually on research and development, and the head of each national laboratory and federally funded research and development center is to report annually to the Director of the National Science Foundation and Congress concerning the employment and status of women in scientific and technical positions, on peer review and advisory panels and serving as principal investigators. The reports are to include a compilation, evaluation and comparison, by sex and as a percent of the total, of the participation of women.

Data collection program

The Director of the National Science Foundation is to make an accurate accounting of the participation and status of women in all disciplines and job categories of scientific and technological fields in the public sector, private enterprise and academic institutions. These data are to be widely disseminated and made available to the public. Once each year the Federal agency reports and the data collected, compiled and analyzed are to be transmitted to the Director of the Office of Science and Technology Policy, the Attorney General, the Chairman of the Equal Employment Opportunity Commission, the Director of the Office of Civil Rights of the Office of Education of the Department of Health, Education, and Welfare, and the Director of the Office of Contract Compliance of the Department of Labor. The annual report of the Director of the Office of Science and Technology Policy shall include the findings of the data collection program.

Opportunity Programs

Federal Government training for the encouragement of women in science

Training programs for officials of appropriate Federal agencies are to include information and instructions relating to: (1) recruitment, retention and promotion of qualified women scientists, engineers and technicians; (2) Federal programs assuring equal opportunity for women in science and technology; (3) Federal laws requiring equal employment, education, and training opportunity; and (4) enforcement and compliance mechanisms to assure full participation of women in scientific and technological fields.

Civil Service registers

The Office of Personnel Management is to increase the number of women listed on registers for scientific and technical positions and to circulate such registers to each Federal agency, national laboratory and Federally funded research and development centers conducting research and development activities.

Demonstration projects

The National Science Foundation is to support demonstration projects to encourage the employment and advancement of women in science and technology through: (1) flexible work schedules and job-sharing arrangements; (2) eligibility for fringe benefits and tenure for part-time employees; (3) removal of antinepotism employment conditions; and (4) other similar arrangements, including day care, which show promise of encouraging the employment and advancement of women in science.

Visiting professorships

The Foundation is authorized to make grants for the establishment of full or part-time Visiting Professorships for Women in Science at academic institutions. Each grant shall be for a period of up to two years, and shall be in a department in which women are seriously underrepresented.

TITLE V—GENERAL PROVISIONS

Authorization of appropriations

For fiscal year 1980 and for each of the succeeding nine fiscal years, $25 million is authorized to carry out the provisions of this Act.●

By Mr. DURKIN:

S. 569. A bill to prohibit any State from imposing a tax on the income derived by any individual from services in the Federal area within such State if such individual is not a resident or domiciliary of such State or of any other State which imposes a tax on income; to the Committee on the Judiciary.

● Mr. DURKIN. Mr. President, I am today submitting a bill to correct a continuing injustice to the State of New Hampshire by clarifying existing Federal law.

Since 1969, New Hampshire citizens working at the Portsmouth Naval Shipyard have been forced to pay Maine State income taxes. Maine has required this payment even though these citizens do not receive any benefits from Maine to justify these taxes.

In support of this taxation without representation, Maine has relied on the Buck Act, passed by Congress in 1947. However, the legislative history of the act shows that the act was merely intended to clarify existing law and allow States to impose a sales or use tax on goods sold off Federal property and later sent on to this property. Neither the House nor the Senate reports reveal any indication at all that Congress contemplated including income taxes within the reach of the statute.

There are several thousand New Hampshire residents who are directly and adversely affected by this action of the State of Maine. These New Hampshire residents work on Federal property exclusively, property that Maine ceded to the Federal Government during the Civil War. They receive no significant services from Maine.

The Federal Government is responsible for maintaining the roads and providing emergency services and sanitation. The only thing that Maine does for these citizens is take some of their money. Even worse, although these residents of New Hampshire are treated as Maine citizens by the Maine tax man, they are not given the privileges of Maine residents by the tax man's bureaucratic cousins. For example, they still must pay Maine out-of-State license fees for such matters as fishing licenses.

My bill would remedy this unjust and inequitable situation by making it clear that a State does not have the power to tax income received by an individual for services performed in a Federal enclave when that individual is not a resident of the State imposing the tax and is a resident of a State that does not impose an income tax.

I urge my colleagues to join me in helping to remedy this simple injustice, and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 569

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 106(b) of title 4 of the United States Code is amended to read as follows:

"(b) Subsection (a) shall not apply with respect to income received during any period by any individual from transactions occurring, or services performed, in a Federal area located within any State if during such period such individual is not a resident or domiciliary of such State or of any other State which imposes a tax on the income of individuals.".

(b) The amendment made by subsection (a) shall apply with respect to income received from transactions occurring or services performed after December 31, 1976.●

By Mr. NELSON (for himself, Mr. WILLIAMS, Mr. KENNEDY, Mr. JAVITS, Mr. RIBICOFF, Mr. PELL, Mr. MOYNIHAN, Mr. TSONGAS, and Mr. RIEGLE):

S. 570. A bill to establish voluntary limits on the annual increases in total hospital expenses, and to provide for mandatory limits on the annual increases in hospital inpatient revenues to the extent that the voluntary limits are not effect; to the Committee on Finance and the Committee on Human Resources, jointly, by unanimous consent.

HOSPITAL COST CONTAINMENT ACT OF 1979

Mr. NELSON. Mr. President, today Senators WILLIAMS, KENNEDY, JAVITS, RIBICOFF, PELL, MOYNIHAN, TSONGAS, RIEGLE, and I are introducing the "Hospital Cost Containment Act of 1979" to bring exorbitant hospital costs under control.

This bill has been developed by the Department of Health, Education, and Welfare in full consultation with a bipartisan coalition of Members of Congress, physician and hospital groups, consumer and other public and private interest groups, as well as State and local officials.

President Carter requested that I introduce this bill in the Senate on behalf of the administration. At this time, Senators WILLIAMS, KENNEDY, JAVITS, RIBICOFF, PELL, MOYNIHAN, TSONGAS, and RIEGLE are joining me in introducing the administration's hospital cost control legislation. Companion legislation was introduced in the House of Representatives yesterday by Representatives RANGEL, WAXMAN, STAGGERS, and others.

NEED FOR LEGISLATION

According to all the major public opinion polls, getting inflation under control and controlling Federal Government spending are the foremost concerns on the minds of most Americans. Certainly, they are issues which this Congress has a responsibility to address. Hospital cost containment addresses each of these concerns. And if the Congress is determined to cut Federal spending and curb inflation this is a good place to begin.

The Department of Health, Education, and Welfare estimates that hospital cost control legislation would save the American people $53 billion over the next 5 years if enacted and implemented this year. No other proposal before Congress would save so much money. No other proposal would cut Federal spending as effectively. Every American stands to benefit from this legislation—whether or not they use a hospital's services—because this bill would save some $22 billion in Federal and State expenditures for medicare and medicaid alone.

Why single out hospital costs?

In the last 10 years, increases in hospital expenditures have outstripped virtually all other price increases in the economy.

Between 1975 and 1977 total hospital expenditures increased between 14 and 20 percent a year: More than two and one-half times the increase in the Consumer Price Index. Hospital costs rose faster than the cost of food, housing, or fuel—those items that lead the Consumer Price Index. If total hospital costs had simply held even with the inflation rate for other items in the Consumer Price Index, the CPI inflation rate would have been 5.8 percent in that 3-year period—instead of the actual 6.1 percent.

So we begin with a basic equation: Rising hospital expenditures are the major component of health care inflation—and health care inflation is an increasingly large contributor to general inflation.

What does this kind of inflation mean in real life terms? How does it affect Federal, State, and local budgets, business budgets—and, most important, the budgets of individual families?

Consider these facts:

At present rates, total health care costs are escalating at the rate of $1 million an hour, doubling every 5 years. Without hospital cost containment, these costs will increase from an estimated $206 billion in fiscal 1979 to $368 billion in fiscal 1984—from 9.1 percent of GNP to 10.2 percent.

Federal hospital expenditures have ballooned from $14.5 billion in 1974 to an estimated $33.1 billion in 1979; State and local spending on hospital expenditures has increased from $6.9 billion to $10 billion in the same period.

The costs of the medicare deductible for hospitalization for older Americans have jumped from $84 in 1974 to $160 in 1979.

The Department of Health, Education, and Welfare estimates that there are 130,000 excess hospital beds nationally, and that these led to unnecessary expenses of more than $4 billion in 1977 alone.

The average American now works 1 month each year—one-twelfth of his or her lifetime—just to pay for their share of the Nation's health care bill.

Five years ago in 1974, hospital bills totalled $41 billion. This year, it is expected to be $83 billion.

In fiscal 1979, more than 12.4 cents of every Federal tax dollar is spent for health care. Without hospital cost containment, escalating health care costs will eat up almost 15 cents of every Federal dollar by 1984.

In 1969, the average cost of a hospital stay was $533. In 1979, the cost will be $1,684. By 1984, without some restraint in the inflation rate, the cost of a hospital stay will average more than $2,660. With a cost containment program in effect, HEW estimates that the average hospital stay would be $2,160 in 1984.

General Motors now pays more to Blue Cross for its employees' health insurance than it pays to United States Steel.

Mr. President, these facts demonstrate that it is in the national interest to constrain inflation in the hospital industry—inflation that needlessly drains the budgets of individual families and governments. The rapid escalation in hospital costs has strained the national economy, forced unnecessary spending at both the Federal and State levels, and robbed the pocketbooks of the American people, especially our older citizens.

EXPERIENCE OF STATE HOSPITAL CONTAINMENT PROGRAMS

Mr. President, nine individual States have enacted hospital cost containment programs on their own during the past 8 years. These State-legislated mandatory cost containment programs have had a significant impact on lowering the rate of increase in hospital costs.

The nine States which have mandatory programs lead the Nation in containing hospital costs. The facts tell an eloquent story. According to the American Hospital Association's annual survey, the nine States with mandatory programs had a rate of increase of 12 percent. All other States had a rate of increase in hospital expenditures of 15.8 percent.

Several charts prepared by HEW readily demonstrate the actual experience of all the States in containing hospital costs and I ask unanimous consent that these charts be included at this point in the RECORD.

Mr. President, I ask unanimous consent that a chart entitled "Percentage Increases of Hosiptal Costs in the Various States in 1977 Over 1976" and another chart entitled "Performance of Mandatory State Hospital Costs Containment Progress in 1978" be printed at this point in the RECORD.

There being no objection, the charts were ordered to be printed in the RECORD, as follows:

CHART NO. 1.—PERCENTAGE INCREASES OF HOSPITAL COSTS IN THE VARIOUS STATES IN 1977 OVER 1976

States	Total expenses	Expenses per inpatient day [1]	Expenses per admission [1]
U.S. totals	[2]14.2	12.4	13.8
Alabama	19.0	13.1	14.6
Alaska	43.9	34.1	31.2
Arizona [3]	14.5	14.5	15.8
Arkansas	17.6	16.0	15.2
California	16.7	14.8	15.0
Colorado [4]	15.1	13.6	12.3
Connecticut [4]	11.4	11.4	12.0
Delaware	14.0	11.7	11.4
District of Columbia	17.1	24.5	22.8
Florida	17.7	13.4	13.5
Georgia	13.4	11.9	11.6
Hawaii	22.9	15.4	12.1
Idaho	19.6	17.7	14.4
Illinois	14.0	14.3	14.5
Indiana	16.4	14.7	16.3
Iowa	13.8	15.1	16.9
Kansas	19.0	16.8	18.3
Kentucky	13.8	11.7	13.3
Louisiana	19.2	14.2	16.1
Maine [3]	18.3	14.3	17.3
Maryland [4]	11.8	9.3	9.4
Massachusetts [4]	13.7	13.8	13.5
Michigan	12.1	10.4	13.2
Minnesota [3]	16.7	18.4	17.2
Mississippi	17.9	14.9	13.2
Missouri	17.2	16.2	14.8
Montana	14.7	11.8	15.4
Nebraska	10.2	13.0	13.1
Nevada	17.5	11.8	14.9
New Hampshire	16.7	14.4	14.3
New Jersey [4]	11.8	10.3	11.9
New Mexico	11.3	13.1	18.8
New York [2] [4]	6.2	7.4	8.6
North Carolina	15.5	14.3	14.9
North Dakota	19.2	16.9	15.8
Ohio	14.0	13.8	15.3
Oklahoma	17.4	16.7	16.3
Oregon [3]	15.6	11.5	13.2
Pennsylvania	13.4	14.5	14.8
Rhode Island [4]	11.1	9.5	11.0
South Carolina	20.1	15.3	16.4
South Dakota	13.3	13.6	12.1
Tennessee	20.8	13.0	16.5
Texas	16.5	14.7	16.2
Utah	20.1	13.9	20.3
Vermont	10.1	10.7	9.5
Virginia [3]	17.8	16.3	14.8
Washington [4]	15.2	11.9	13.6
West Virginia	13.7	16.4	15.8
Wisconsin [4]	12.4	12.7	18.0
Wyoming [4]	14.1	8.9	22.0

[1] Rate of increase in expenses per patient day and per admission have been adjusted for outpatient care.

[2] Published data on total expenses for New York in 1976 were inaccurate. Based on published data, the rate of increase for the United States was 14.9 percent and New York was 12.1 percent. The figures shown here are based on the corrected data.

[3] States with voluntary cost containment programs.

[4] States with mandatory cost containment programs.

Source: American Hospital Association 1977 unpublished data

CHART NO. 2.—PERFORMANCE OF MANDATORY STATE HOSPITAL COST CONTAINMENT PROGRAMS IN 1978

State	Year program began	Annual rates of increase in total hospital costs (percent)	
		1977 over 1976 [1]	1978 over 1977 [2]
Colorado	1977	15.1	13.3
Connecticut	1974	11.4	9.9
Maryland	1973	11.8	10.5
Massachusetts	1976	13.7	8.2
New Jersey	1971	11.8	9.0
New York	1969	6.2	8.5
Rhode Island	1971	11.1	10.0
Washington	1973	15.2	8.9
Wisconsin	1975	12.4	11.0
9-State average		12.0	9.9
National average		14.2	[3]13.3

[1] Source: American Hospital Association annual survey.

[2] Preliminary estimates based on State data.

[3] Estimate based on American Hospital Association panel survey.

Mr. NELSON. Those States that have taken steps to curb hospital costs are to be commended. Their achievements are an incentive for other States and the Nation as a whole. The legislation we are introducing today would not detrimentally effect those States which have enacted mandatory hospital cost control statutes, nor would it either inhibit or prohibit other States from enacting similar statutes.

Furthermore, the nine States which have enacted some form of hospital cost containment legislation would be exempt in 1980 from any mandatory controls. This question was raised with the Department of Health, Education, and Welfare by many Members of Congress, and Under Secretary of HEW, Hale Champion, addressed this issue in a letter which was sent to me on March 3, 1979.

Mr. President, I ask unanimous consent that that letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE UNDER SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., March 3, 1979.

Hon. GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR GAYLORD: In the course of consulting with various Members of Congress about our proposed hospital cost containment legislation, we have been asked whether those States which currently have mandatory cost containment programs in effect would be exempt from Federal controls in the event the hospital industry does not meet our voluntary guidelines.

As you know, the Administration's proposal would permit individual hospitals to be exempt from mandatory controls, even if the national limit is not met, in any one of several ways.

If the hospitals in any State meet the voluntary goal in the aggregate, all the hospitals in that State are exempt. If an individual hospital meets the goal, it is exempt even if a State is over the limit. Small non-metropolitan hospitals, new hospitals, and HMO hospitals are also exempt. And hospitals in any State with a mandatory cost containment program which is satisfactory to the Secretary would also be exempt.

Nine States currently have in effect mandatory cost containment programs which we are convinced would meet our criteria for exemption in the first year, either because those States would already be well within the voluntary goal or because they would clearly be able to demonstrate to our satisfaction their current or future effectiveness. Those nine States—New York, New Jersey, Massachusetts, Maryland, Connecticut, Rhode Island, Colorado, Washington and Wisconsin—have already demonstrated their ability as a group to meet or exceed our proposed voluntary limits, and we can assure you that, if their programs remain in effect, they would be exempted in 1980 if the mandatory program goes into effect. I trust this answers any questions you or your colleagues may have on subject.

With Best Regards,

HALE CHAMPION.

Mr. NELSON. Mr. President, the experience of these nine States with mandatory hospital cost control legislation proves that hospital expenditures can be contained while at the same time not sacrificing patient care. It is my judgment that Federal legislation is absolutely necessary and can work without hindering the efforts of the individual States.

PROVISIONS OF THE HOSPITAL COST CONTAINMENT ACT OF 1979

VOLUNTARY GOAL

Mr. President, this legislation would establish an average rate of increase for hospital costs in 1979, which hospitals in the national aggregate would be asked to meet voluntarily. Should the goal not be met, standby mandatory controls would be triggered beginning January 1, 1980. In each subsequent year, controls would be triggered if the voluntary goal was not met in the previous year. A number of exemptions for individual hospitals and for States are included in the bill.

The national goal for calendar 1979 would be established by adding together the general inflation rate plus additional cost factors that are unique to hospitals. More specifically, the national goal would be set by:

Determining the actual percentage rate of inflation in 1979 in the cost of goods and services purchased by hospitals;

Adding a percentage for population growth; and

Adding an additional percentage for anticipated increases in the quantity and intensity of services provided by hospitals.

According to projections made by the administration, the national goal in 1979 would be a 9.7-percent increase in total hospital expenses. Such a goal would be calculated by adding the three named components as follows:

The increase in the cost of goods and services purchased by hospitals (the so-called market basket). This is estimated to be 7.9 percent in 1979 in accordance with the administrations anti-inflation guidelines;

An allowance for population growth set at 0.8 percent; and

An allowance for increased service intensity (such as new services), set at 1.0 percent.

Should the actual rate of inflation be different than the rate now projected by the administration, corresponding changes would be made in the voluntary national goal.

MANDATORY PROGRAM

If the mandatory program were "triggered" on January 1, 1980, or thereafter, each individual hospital would be granted an allowable rate of increase for inpatient revenues charged per admission. The allowable rate of increase would be based on the individual hospital's market-basket costs, adjusted up or down by the hospital's efficiency rating as compared to other hospitals of like circumstance.

The mandatory program would work in the following manner. First, each hospital's actual market-basket costs would be determined, including the actual rate of increase experienced by that hospital in nonsupervisory wages and fringe benefits. Second, individual hospital efficiency ratings would be established based on comparing a hospital's actual routine costs with those of other hospitals of similar size and location. Similar hospital groupings already are used by HEW for purposes of setting medicare and medicaid reimbursement levels under section 223 of the Social Security Act.

A hospital may have a positive or negative efficiency rating. Efficient hospitals would be granted an extra amount of increase for having a good rating. Inefficient hospitals would be granted less of an increase for having a poor efficiency rating.

Hospitals with unusual circumstances—for example, major changes in patient loads or new capital expansions—could receive higher allowances on an exception basis.

The mandatory limit would be enforced by:

Refusal of medicare and medicaid to pay the excessive costs; and

By imposition of a 150-percent tax on excessive revenues collected by hospitals from nongovernmental payors.

EXEMPTIONS FROM MANDATORY CONTROLS

If the national voluntary goal were not met, many hospitals nevertheless still would be exempt from mandatory controls. For example:

If hospitals, in the aggregate, in any State meet the national goal, all hospitals in that State would be exempt (the goal would be adjusted to take into account average wage increases of nonsupervisory hospital workers in that State); also, each individual hospital in a given State meeting the voluntary national goal still would be exempt from mandatory controls, even if hospitals in the State in which that hospital is located do not meet the voluntary goal in the aggregate.

Small, nonmetropolitan hospitals (with fewer than 4,000 annual admissions), new hospitals, and HMO hospitals would be exempt from the mandatory program, regardless of their rate of increase.

Hospitals in States with statutory cost containment programs of their own also would be exempt if the State program meets standards established by the Secretary of HEW.

THE HEALTH CARE INDUSTRY IS A UTILITY WITH NO COMPETITION

Mr. President, no one wants to impose Federal controls on any sector of the economy. However, the hospital industry is distinct from most other sectors in that it is characterized by an almost complete absence of the general marketplace pressures, either for the services purchased or the price paid. It is, in fact, a utility with no competition. This situation, as well as other unique factors, have led to a rapid escalation of hospital costs.

For example, demand for health and hospital services has, of course, risen since the passage of medicare and medicaid in the midsixties. And hospitals—like other institutions—are affected by general inflation in the economy.

But the extraordinary inflation in the hospital sector is primarily due to inflationary pressures that are built right into the system. The facts cogently demonstrate this fact:

Ninety percent of all hospital bills are paid by third parties—insurance companies, medicaid, or medicare. Thus neither the consumer, the patient, nor the provider, the doctor and the hospital directly see or feel the pinch of rising costs.

Payments to hospitals are primarily cost-plus payments: That is, most payments are based on cost, and insurance covers whatever service has been provided. There are few incentives in such a system to hold down costs, and the more hospitals spend the more they get.

Most decisions in the health care marketplace are made by the provider, not the consumer: Physicians control 70 percent of all personal health care expenditures. So the usual mechanisms of the marketplace, like competition, do not work to bring down costs. Patients simply do not shop around for a less expensive battery of lab tests, or X-ray series. And in general, we know that physicians often have little knowledge of the cost of the services they order—and almost no incentive to ask.

Some hospitals and insurance carriers have sought to tackle waste and inefficiency and unnecessary procedures in our hospitals. Several weeks ago, Blue Cross-Blue Shield took an important and welcome step when it announced that it would no longer routinely pay for the standard "admission battery" of tests for entering hospital patients—only for tests that were relevant to the patient's actual case.

But, as a nation, we need to do more—far more—to cut waste and to streamline the operation of our hospitals. We could save literally billions of dollars each year in the hospital industry by eliminating unnecessary hospital beds, decreasing average lengths of hospital stays, eliminating unnecessary weekend admissions, replacing inefficient supply purchasing practices, eliminating unnecessary X-rays, making more efficient use of CT scanners, and eliminating waste due to inefficient energy use.

Mr. President, throughout the hospital industry opportunities abound to achieve savings by cutting unnecessary services, increasing productivity, and introducing innovative management techniques.

In short there is enough inefficient and unnecessary spending in the hospital industry to allow ample room for savings—without affecting the quality of patient care.

The legislation we are introducing today will give the hospital industry an opportunity to achieve a reasonable rate of inflation in hospital costs. Initially, a purely voluntary effort to constrain hospital costs will be established. If that fails to work, standby mandatory controls will be triggered on.

Mr. President, if the industry recognizes the great national need for restraint and mobilizes itself, the goal of holding the rise in hospital expenditures to about 9.7 percent in 1979 under this legislation can be met. Indeed, nearly a third of the Nation's hospitals—31 percent of them—achieved that goal or bettered it in 1977. And these were hospitals from all regions and of all types: urban and rural, large and small, teaching and nonteaching.

The hospital cost containment legislation recognizes that the key to solving the hospital cost problem is tough, hard-headed management, hospital-by-hospital. That is why this proposal includes a period of voluntary effort—a period in which the hospital industry as a whole seeks voluntarily to achieve a cost containment goal which, if met, will prevent standby mandatory controls from being imposed on any of our Nation's hospitals.

But the prospect of standby mandatory controls—and the powerful incentive to effect savings and to eliminate waste that they offer—also are included in this legislation.

ESTIMATED SAVINGS

If the hospital industry can meet the administration's projected 9.7 percent goal, the American people would realize extraordinary savings over the next 5 years of about $53 billion in total hospital operating expenses—according to figures prepared by HEW—more than five times the amount the Nation spent to reach the Moon. This figure includes:

More than $22 billion in Federal expenditures, including $19 billion in Social Security Trust Fund savings; and $6 billion in State and local costs.

The savings in insurance premiums through reductions in the rate of increased premiums could amount to more than $14 billion for employers and more than $5 billion to individuals.

Individuals could save some $6 billion in out-of-pocket health care costs in the 5-year period.

If such numbers seem too immense to comprehend, consider what we stand to save in just 1 year—1980—if hospital industry expenditures comply with the guidelines established under the administration's voluntary program for controlling inflation: $171 billion to the Federal Government; $510 million to States and local government; $1.3 billion to employers for employee health insurance; $900 million to individual consumers for insurance premiums and out-of-pocket payments.

The total first-year saving in the health care system would amount to nearly $4.5 billion.

SUPPORT FOR LEGISLATION

Mr. President, 31 health care, governmental, labor, business, and public interest groups and organizations supported enactment of hospital cost containment legislation last session. In a letter to Members of the Senate, the coalition called such legislation a "critical anti-inflation measure." The coalition included the American Public Health Association, the American Nurses Association, the National Governors Association, the Group Health Association, the National Mental Health Association, the United Auto Workers, and a number of insurance companies and organizations. Other groups supporting the effort included the AFL–CIO and the Consumer Federation of America.

It is our understanding that the same coalition of concerned interest groups will actively support the legislation this session.

Additionally, the National Council of Community Hospitals endorsed the President's guidelines for voluntary hospital cost restraint on February 16, 1979. This organization, which represents approximately 100 nonprofit community hospitals totalling more than 40,000 beds (about 5 percent of the Nation's total beds), stated in a letter to President Carter that it shares "your belief that inflation is the Nation's most critical domestic problem." Although the organization opposes mandatory cost regulation, its letter declared that "NCCH believes that hospitals must and will lend every effort to meet the goals. Hospitals are themselves victims of inflation, which hurts all Americans deeply and hospital patients most cruelly. Inflation frustrates hospitals in their overriding goal to provide better care to all patients, regardless of their ability to pay," the council said.

Mr. President, there can be no question that getting hospital costs under control will be a vital step in our Nation's efforts to control health care inflation and inflation generally. This bill we are submitting today will accomplish this goal. It deserves the support of the American public and the Congress.

At this point in the Record, Mr. President, I ask unanimous consent that a letter of transmittal on the Hospital Cost Containment Act from Secretary Califano as well as a section-by-section analysis. of the bill, the legislative language of the bill itself, and several other exhibits relating to this legislation be printed in the Record.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 570

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Hospital Cost Containment Act of 1979".

ESTABLISHMENT OF VOLUNTARY LIMITS

Sec. 2. (a) The Secretary, during January of 1980, and during January of each succeeding year, shall promulgate a national voluntary percentage limit. That limit shall consist of the sum of the following amounts (as determined or estimated by the Secretary):

(1) the average percentage increase in wages paid in the preceding year over wages paid in the second preceding year per employee per hour to employees (other than to doctors of medicine or osteopathy and to supervisors) of hospitals in the United States, multiplied by the average fraction (as determined or estimated by the Secretary from time to time) of the expenses of hospitals in the United States attributable to such wages,

(2) the greater of—

(A) the sum of the products of the average percentage increase in the United States in the price of each appropriate class (as determined by the Secretary) of goods or services (other than those covered by paragraph (1)) in the preceding year over the price in the second preceding year per unit of the class and the average fraction (as determined or estimated by the Secretary from time to time) of the expenses of hospitals in the United States attributable to that class, and

(B) (i) in 1980, 5.12 percent, or

(ii) in any succeeding year, the amount determined in the previous year under subsection (d) (2),

(3) the percentage increase in the population in the United States in the preceding year over the population in the second preceding year, and

(4) one percent (as an allowance for the net increase in service intensity in hospitals).

(b) The Secretary, during January of 1980, and during January of each succeeding year, shall promulgate a voluntary percentage limit for each State. The limit for each State shall consist of the sum of the following amounts (as determined or estimated by the Secretary):

(1) the sum of the amounts determined or estimated by the Secretary under paragraphs (2) and (4) of subsection (a),

(2) the average percentage increase in wages paid in the preceding year over wages paid in the second preceding year per employee per hour to employees (other than to doctors of medicine or osteopathy and to supervisors) of hospitals in the State (or zero, if the Secretary finds that there are not sufficient data to make a reasonable estimate), multiplied by the average fraction (as determined by the Secretary from time to time) of the expenses of hospitals in the United States attributable to such wages, and

(3) the percentage increase (including a negative increase) in the population in the State in the preceding year over the population in the second preceding year.

(c) (1) The Secretary, during January of 1980, shall promulgate a voluntary percentage limit for each hospital for the hospital's accounting period ending in 1979. That limit shall consist of the sum of the following amounts (as determined or estimated by the Secretary):

(A) the sum of—

(i) the sum of the amounts determined or estimated by the Secretary under paragraphs (1) and (3) of subsection (b) for the State in which the hospital is located, and

(ii) the average percentage increase in wages paid in the hospital's accounting period ending in 1978 over wages paid in the preceding accounting period per employee per hour to employees (other than to doctors of medicine or osteopathy and to supervisors) of the hospital (or zero if the Secretary finds that there are not sufficient data to make a reasonable estimate), multiplied by the average fraction (as determined by the Secretary from time to time) of the expenses of hospitals in the United States attributable to such wages, multiplied by the fraction of the accounting period occurring in 1979, and

(B) the percentage increase in the hospital's expenses in the accounting period ending in 1978 over those expenses in the accounting period ending in 1977, multiplied by the fraction of the accounting period that ends in 1979 occurring in 1978.

(2) The Secretary, during January of 1981, and January of each succeeding year, shall promulgate a voluntary percentage limit for each relevant hospital for the hospital's accounting period ending in the preceding year. That limit shall consist of the sum of the following amounts (as determined by the Secretary):

(A) the sum of—

(i) the sum of the amounts determined or estimated by the Secretary under paragraphs (1) and (3) of subsection (b) for the State in which the hospital is located, and

(ii) the average percentage increase in wages paid in the hospital's accounting period ending in the preceding year over wages paid in the preceding accounting period per employee per hour to employees (other than to doctors of medicine or osteopathy and to supervisors) of the hospital (or zero, if the Secretary finds that there are not sufficient data to make a reasonable estimate) multiplied by the average fraction (as determined by the Secretary from time to time) of the expenses of hospitals in the United States attributable to such wages, multiplied by the fraction of the accounting period occurring in the preceding year, and

(B) the amount determined under subparagraph (A) or paragraph (1) (A)) during the previous January for the hospital, multiplied by the fraction of the accounting period occurring in the second preceding year.

(3) For purposes of paragraph (2), a "relevant hospital" means a hospital not subject to a mandatory limit under section 3(d) for the hospital's accounting period ending in

the year preceding the year in which the Secretary is promulgating limits under this subsection.

(d)(1) The Secretary, during January of 1980, and during January of each succeeding year, shall estimate and announce the average percentage increase in the United States in the price of each appropriate class (as determined by the Secretary) of goods or services (other than those covered by subsection (a)(1)) in the year over the price in the preceding year per unit of the class.

(2) The Secretary, during January of 1980, and during January of each succeeding year, shall determine and announce the sum of the products of the average percentage increase (as estimated by the Secretary under paragraph (1)) in the United States in the price of each appropriate class (as determined by the Secretary under paragraph (1)) of goods or services (other than those covered by subsection (a)(1)) in the year over the price in the preceding year per unit of the class and the average fraction (as determined or estimated by the Secretary from time to time) of the expenses of hospitals in the United States attributable to that class.

APPLICABILITY OF MANDATORY LIMITS

SEC. 3. (a)(1) The Secretary, before July 1, 1980, and before July 1 of each succeeding year, shall determine or estimate the dollar amount by which the percentage increase in the expenses of each relevant hospital in the accounting period of the hospital ending in the preceding year over its expenses in the preceding accounting period exceeded (or was less than) the voluntary percentage limit for the hospital for the accounting period (as promulgated under section 2(c)).

(2) For purposes of paragraph (1), a "relevant hospital" means a hospital not subject to a mandatory limit under subsection (d) for the hospital's accounting period ending in the year preceding the year in which the Secretary is making the determinations or estimates under this subsection.

(b)(1) The Secretary, before July 17, 1980, and before July 1 of each succeeding relevant year, shall determine the sum of the differences determined or estimated under subsection (a). If the Secretary determines that the sum is equal to or less than zero, no hospital shall be subject to a mandatory limit under this Act for its accounting period ending in the year.

(2) For purposes of paragraph (1), a "relevant year" means a year following a year in which the Secretary determined that the sum of the differences under this subsection was equal to or less than zero.

(c)(1) The Secretary, before July 1, 1980, and before July 1 of each succeeding year, shall, if he has determined under subsection (b) that the sum of the differences is greater than zero, determine the sum of the differences determined or estimated under subsection (a) for hospitals in each relevant State. If the Secretary determines for a particular State that the sum is equal to or less than zero, no hospital in that State shall be subject to a mandatory limit under this Act for its accounting period ending in the year.

(2) For purposes of paragraph (1), a "relevant State" means a State for which the Secretary determined in the previous year that the sum of the differences under this subsection was equal to or less than zero, except that, for determinations being made in 1980, or in any year following a year in which the Secretary determined under subsection (b) that the sum of the differences was equal to or less than zero, every State is a relevant State.

(d) Every hospital, for each accounting period beginning after January 1, 1979, and for each succeeding accounting period, shall be subject to a mandatory limit as prescribed by this Act, unless (1) subsection (b) or (c) provides that the hospital, for that accounting period, is not subject to a mandatory limit, (2) the amount determined by the Secretary for the hospital for that accounting period under subsection (a) is equal to or less than zero, or (3) the hospital has been excluded under section 4 or 5 from the application of a mandatory limit.

EXEMPTION FOR HOSPITALS IN CERTAIN STATES

SEC. 4. At the request of the chief executive of any State, the Secretary shall exclude the hospitals in that State from the application of the mandatory limits established under this Act—

(1) if and so long as the Secretary determines that the State has in effect a State mandatory hospital cost containment program applicable to all hospitals in the State and to all revenues or expenses for inpatient hospital services,

(2) if and so long as the Secretary receives satisfactory assurances as to the equitable treatment under the State mandatory hospital cost containment program of all entities (including Federal and State programs) that pay hospitals for inpatient hospital services, of hospital employees, and of hospital patients, and

(3)(A) if the Secretary determines that the average rate of increase in hospital expenses in the State in the preceding year did not exceed the voluntary percentage limit for the State by more than one percent, or

(B) if and for so long as the Secretary—

(i) receives satisfactory assurances that the average rate of increase in hospital expenses in the State will not exceed the voluntary percentage limit for the State, and

(ii) determines that the State mandatory hospital cost containment program meets such other conditions as he may establish.

EXEMPTION FOR HOSPITALS ENGAGED IN CERTAIN EXPERIMENTS OR DEMONSTRATIONS

SEC. 5. The Secretary may exclude a hospital from the application of a mandatory limit established under this Act if he determines that—

(1) the exclusion is necessary to facilitate an experiment or demonstration entered into under section 402 of the Social Security Amendments of 1967, section 222 of the Social Security Amendments of 1972, or section 1526 of the Public Health Service Act, and

(2) the experiment or demonstration is consistent with the purposes of this Act.

APPLICATION OF MANDATORY LIMIT

SEC. 6. (a) The average reimbursement payable to a hospital by a cost payer per admission, and the average inpatient charges per admission of a hospital, for any accounting period of the hospital subject to a mandatory limit under section 3(d), exceed the mandatory limit if such reimbursement or charges exceed the average reimbursement payable to the hospital by the cost payer per admission, or the average inpatient charges per admission of the hospital, respectively, for the base accounting period of the hospital, by a percentage which is greater than the compounded sum of the percentage limits promulgated by the Secretary under section 7(d) or (e) for that accounting period and previous accounting periods of the hospital.

(b)(1) For purposes of calculating under subsection (a) for the base accounting period the average inpatient charges per admission of a hospital and the average reimbursement payable to the hospital by each cost payer per admission, the inpatient charges of the hospital (and the reimbursement payable to the hospital by each cost payer) for the base accounting period shall (except as provided in paragraph (2) by the Secretary), except as otherwise provided in paragraph (2):

(A) the average percentage increase in wages paid in the accounting period over wages paid in the preceding accounting period per employee per hour to employees (other than to doctors of medicine or osteopathy and to supervisors) of the hospital (or zero, if the Secretary finds that there are not sufficient data to make a reasonable estimate), multiplied by the fraction (as determined or estimated by the Secretary from time to time) of the expenses of the hospital attributable to such wages, and

(B) the greater of—

(i) the sum of the products of the average percentage increase in the United States in the price of each appropriate class (as determined by the Secretary) of goods or services (other than those covered by subparagraph (A)) in the year in which the accounting period ends over the price in the preceding year per unit of the class and the fraction (as determined or estimated by the Secretary from time to time) of the expenses of the hospital attributable to that class, and

(ii) for an accounting period ending after 1980, the sum of the products of the average percentage increase (as estimated by the Secretary under section 2(d)(1) in January of the year preceding the year in which the accounting period ends) in the United States in the price of each appropriate class (as determined by the Secretary) of goods or services (other than those covered by subparagraph (A)) in the year preceding the year in which the accounting period ends over the price in the year preceding that year per unit of the class and the fraction (as determined or estimated by the Secertary from time to time) of the expenses of the hospital attributable to that class.

(2) At the request of a hospital, the Secretary, in determining the percentage under paragraph (1) for the first accounting period of a hospital subject to section 3(d), shall substitute the average fraction of the expenses of hospitals in the United States for the fraction of the expenses of that hospital, with respect to each class of goods or services under subparagraphs (A) and (B) of paragraph (1). The amount determined under this paragraph as a substitute for the amount that would be determined under paragraph (1)(B) may not, for an accounting period ending in 1980, be less than 5.12 percent.

(b) The Secretary shall develop (and may from time to time revise) a system of grouping hospitals by appropriate characteristics, such as patient case mix and metropolitan or nonmetropolitan setting. He shall establish (and may from time to time revise) a method of measuring efficiency within each group that provides for setting a group norm, defined in terms of all or certain hospital expenses (adjusted for area wage differentials). The Secretary shall assign to each hospital in a group, with respect to each accounting period subject to section 3(d), a percentage bonus (or penalty) related to the extent to which the hospital's expenses (adjusted for area wage differentials) of the kind utilized in defining the group norm are less than (or exceed) the group norm, as follows:

(1) If the adjusted expenses are less than 90 percent of the group norm, the bonus shall be one percent.

(2) If the adjusted expenses are 90 percent of the group norm or greater, and are less than the group norm, the bonus shall be one-half of one percent.

(3) If the adjusted expenses equal or exceed the group norm, and equal or are less than 115 percent of the group norm, the bonus shall be zero percent.

(4) If the adjusted expenses exceed 115 percent of the group norm, and equal or are less than 130 percent of the group norm, the penalty shall be one percent.

(5) If the adjusted expenses exceed 130 percent of the group norm, the penalty shall be two percent.

The Secretary shall add the percentage bonus to (or subtract the percentage penalty from) the percentage determined or estimated for the hospital under subsection (a).

(c)(1) The Secretary may make further additions to, or subtractions from, the percentage determined with respect to a hospital's accounting period under the preceding subsections to allow for—

(A) changes in admissions, or

(B) such other factors as the Secretary may find warrant special consideration.

The Secretary may make such additions or subtractions on his own motion, or on request of a hospital as provided in paragraph (2).

(2) If a hospital wishes to request the Secretary to exercise his discretion under paragraph (1), the hospital shall file a request, in the manner and form prescribed by the Secretary, with the appropriate agency or organization with which the Secretary has entered into an agreement under section 1816 of the Social Security Act. If a hospital files a request as provided in the preceding sentence, and the Secretary has not acted on the request within 60 days of its filing, the request shall be treated as granted.

(d) The Secretary shall promulgate for purposes of section 6 a percentage limit for each hospital's accounting period subject to section 3(d) that follows an accounting period that was not subject to that section. That percentage shall consist of the sum of the following amounts (as determined or estimated by the Secretary):

(1) the difference between—

(A) the percentage determined under the preceding subsections, and

(B) the lesser of—

(i) the sum of—

(I) one half the amount by which the percentage increase in the hospital's expenses in its preceding accounting period over those expenses in the second preceding accounting period exceeded (if at all) the voluntary percentage limit promulgated by the Secretary under section 2(c) for the hospital's preceding accounting period, and

(II) one half the amount by which the percentage increase in the hospital's expenses in its preceding accounting period over those expenses in the second preceding period exceeded (if at all) the greater of—

(α) the percentage increase in the hospital's expenses in its second preceding accounting period over those expenses in the third preceding accounting period, and

(β) the average of the percentage increase under clause (α) and the percentage increase in the hospital's expenses in its third preceding accounting period over those expenses in the fourth preceding accounting period, and

(ii) the difference between—

(I) one half of the percentage determined or estimated under subsection (a), and

(II) the percentage penalty (if any) assigned to the hospital under subsection (b), multiplied by the fraction of the accounting period occurring in the year in which the accounting period ends, and

(2) the percentage increase in the hospital's expenses in the accounting period over those expenses in the preceding accounting period, multiplied by the fraction of the accounting period occurring in the preceding year.

(e) The Secretary shall promulgate for purposes of section 6 a percentage limit for each hospital's accounting period subject to section 3(d) that follows an accounting period that was subject to that section. That percentage shall consist of the sum of the following amounts (as determined by the Secretary):

(1) the difference between—

(A) the percentage described under subsections (a) through (c), and

(B) the lesser of—

(i) the amount (if any) by which the percentage previously determined or estimated for the hospital under subsection (d)(1)(B)(i) exceeded the percentage previously determined for the hospital under subsection (d)(1)(B)(ii), less any portion of that amount previously utilized under this clause, and

(ii) the difference between—

(I) one half of the percentage determined or estimated under subsection (a), and

(II) the percentage penalty (if any) assigned to the hospital under subsection (b) multiplied by the fraction of the accounting period occurring in the year in which the accounting perod ends, and

(2) the percentage determined under paragraph (1) or subsectiin (d)(1) for the previous accounting year, multiplied by the fraction of the accounting period occurring in the preceding year.

CONFORMANCE BY CERTAIN FEDERAL AND STATE PROGRAMS

SEC. 8. (a) Notwithstanding any provision of title XVIII of the Social Security Act, reimbursement for inpatient hospital services under the program established by that title shall not be payable, on an interim basis or in final settlement, to the extent that it exceeds the applicable mandatory limits established under this Act or under a State mandatory hospital cost containment program of a State whose hospitals have been excluded under section 4 from the application of the mandatory limits established under this Act.

(b) Notwithstanding any provision of title V or XIX of that Act, payment shall not be required to be made by any State under either of those titles with respect to any amount paid for inpatient hospital services in excess of the applicable mandatory limits established under this Act; nor shall payment be made to any State under either of those titles with respect to any amount paid for inpatient hospital services in excess of those limits.

EXCISE TAXES

SEC. 9 Chapter 36 of the Internal Revenue Code of 1954 (relating to certain other excise taxes) is amended by adding at the end the following new subchapter:

"SUBCHAPTER F—TAXES ON CERTAIN EXCESS REIMBURSEMENT AND CHARGES FOR INPATIENT HOSPITAL SERVICES

"SEC. 4495. IMPOSITION OF TAXES

"(a) TAXES ON EXCESS REIMBURSEMENT—

"(1) TAX ON HOSPITAL.—If a hospital has excess reimbursement with respect to a cost payer for an accounting period subject to a mandatory limit, there is hereby imposed on the hospital a tax equal to 150 percent of the amount of excess reimbursement.

"(2) TAX ON PRIVATE COST PAYER.—If a hospital has excess reimbursement with respect to a private cost payer for an accounting period subject to a mandatory limit, there is hereby imposed on the private cost payer a tax equal to 150 percent of the amount of excess reimbursement.

"(b) TAX ON EXCESS HOSPITAL INPATIENT CHARGES.—

If a hospital has excess inpatient charges for an accounting period subject to a mandatory limit, there is hereby imposed on the hospital a tax equal to the product of 150 percent of the amount of excess inpatient charges of the hospital for the accounting period and the fraction (as determined by the Secretary of Health, Education, and Welfare) of those charges not attributable to cost payers.

"(c) PAYMENT OF TAXES—

"(1) TAX ON EXCESS REIMBURSEMENT.—Any tax imposed by paragraph (1) or (2) of subsection (a) on any hospital or private cost payer, respectively, for any accounting period shall be paid not later than 30 days after the date the Secretary of Health, Education, and Welfare notifies the Secretary—

"(A) of the excess reimbursement, and

"(B) of the amount of tax which is due from the hospital or private cost payer under paragraph (1) or (2), respectively, of subsection (a).

"(2) TAX ON EXCESS INPATIENT CHARGES.—

"(A) IN GENERAL.—Any tax imposed by subsection (b) on any hospital for any accounting period shall be paid not later than 30 days after the date the Secretary of Health, Education, and Welfare notifies the Secretary—

"(i) of the excess inpatient charges, and

"(ii) of the amount of tax that is due from the hospital under subsection (b).

"(B) DEFERRAL AND ABATEMENT.—If the Secretary of Health, Education, and Welfare certifies to the Secretary that a hospital has an approved escrow account and certifies the cumulative amount deposited into the account, then—

"(i) an amount of the tax imposed on the hospital by subsection (b) for the accounting period, equal to 150 percent of the cumulative amount deposited (but not greater than that tax), shall be deferred,

"(ii) the amount of any tax previously imposed on the hospital by subsection (b) and deferred under this subparagraph shall be abated, and

"(iii) the hospital may withdraw from the escrow account the amount (if any) by which the cumulative amount exceeds 66⅔ percent of the tax imposed by subsection (b) for the accounting period. The deferral shall continue so long as the remaining amount remains in that account.

"(C) WITHDRAWALS FROM APPROVED ESCROW ACCOUNT.—Amounts deposited into an approved escrow account shall be treated as withdrawn from the account in the order in which they were deposited into the account.

"(d) DEFINITIONS.—For purposes of this section—

"(1) HOSPITAL.—The term 'hospital' has the meaning assigned by section 14(5) of the Hospital Cost Containment Act of 1979.

"(2) ACCOUNTING PERIOD SUBJECT TO A MANDATORY LIMIT.—The term 'accounting period subject to a mandatory limit' means an accounting period (as defined in section 14(6) of that Act) that is subject to a mandatory limit under section 3(d) of that Act.

"(3) COST PAYER.—The term 'cost payer' has the meaning assigned by section 14(9) of that Act.

"(4) PRIVATE COST PAYER.—The term 'private cost payer' has the meaning assigned by section 14(9)(B) of that Act.

"(5) INPATIENT CHARGES.—The term 'inpatient charges' has the meaning assigned by section 14(8) of that Act.

"(6) REIMBURSEMENT PAYABLE TO A HOSPITAL BY A COST PAYER.—The term 'reimbursement payable to a hospital by a cost payer' has the meaning assigned by section 14(10) of that Act.

"(7) EXCESS REIMBURSEMENT.—A hospital has excess reimbursement with respect to a cost payer for an accounting period subject to a mandatory limit if the Secretary of Health, Education, and Welfare determines that the average reimbursement payable to the hospital by the cost payer per admission for that accounting period exceeds the mandatory limit under section 6 of that Act for that accounting period.

"(8) EXCESS INPATIENT CHARGES.—A hospital has excess inpatient charges for an accounting period subject to a mandatory limit if the Secretary of Health, Education, and Welfare determines that the average inpatient charges per admission of the hospital for that accounting period exceeds the mandatory limit under section 6 of that Act for that accounting period.

"(9) AMOUNT OF EXCESS REIMBURSEMENT.—The amount of excess reimbursement with respect to a cost payer for a hospital's accounting period subject to a mandatory limit shall be the amount determined by the Secretary of Health, Education, and Welfare to be equal to the amount by which the reimbursement payable to the hospital by the cost payer for that accounting period would have to be reduced so that the average reimbursement payable to the hospital by the cost payer for that accounting period would not exceed the mandatory limit for that accounting period under section 6 of that Act.

"(10) AMOUNT OF EXCESS INPATIENT CHARGES.—The amount of excess inpatient charges of a hospital for an accounting period subject to a mandatory limit shall be the amount determined by the Secretary of Health, Education, and Welfare to be equal to the amount by which the inpatient charges of the hospital would have to be reduced so that the average inpatient charges per admission of the hospital for the accounting period would not exceed the mandatory limit for that accounting period under section 6 of that Act.

"(11) APPROVED ESCROW ACCOUNT.—The term 'approved escrow account' means an escrow account which is established and maintained by a hospital in a manner approved by the Secretary of Health, Education, and Welfare.".

IMPROPER CHANGES IN ADMISSION PRACTICES

SEC. 10. Upon written complaint by any institution that satisfies paragraphs (1) and (7) of section 1861(e) of the Social Security Act that a hospital has changed its admission practices in a manner that would tend to reduce the proportion of inpatients of the hospital for whom reimbursement is less than the anticipated inpatient charges applicable to them, the Secretary shall investigate the complaint and, upon a finding by him that the complaint is justified, he may exclude the hospital from participation in any or all of the programs established by title V, XVIII, or XIX of the Social Security Act.

NATIONAL COMMISSION ON HOSPITAL COST CONTAINMENT

SEC. 11. (a) The Secretary shall establish a National Commission on Hospital Cost Containment.

(b) The Commission shall consist of fifteen members appointed by the Secretary. Of those members—

(1) five shall be individuals representative of hospitals,

(2) five shall be individuals representative of entities that reimburse hospitals, of whom one shall be the Administrator, Health Care Financing Administration, and

(3) five shall be individuals who are not representative of either hospitals or of entities that reimburse hospitals.

(c)(1) Except as provided in paragraphs (2) and (3), members shall be appointed for three years.

(2) Of the members first appointed—

(A) five shall be appointed for a term of two years, and

(B) five shall be appointed for a term of one year.

(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of that term. A member may serve until the expiration of his term until his successor has taken office.

(d) The Secretary shall appoint one of the members as chairman, to serve until the expiration of the member's term.

(e) Eight members of the Commission shall constitute a quorum to do business. The Commission shall meet at the call of the chairman or at the call of a majority of its members.

(f) The Commission shall advise, consult with, and make recommendations to, the Secretary with respect to—

(1) the implementation of this Act,

(2) proposed modifications to the provisions of this Act, and

(3) any other matters that may affect hospital expenses or revenues.

(g)(1) Except as provided in paragraph (2), members of the Commission shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of Commission duties.

(2) Members of the Commission who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the Commission.

(3) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under 5 U.S.C. 5703.

(h) The Commission may, subject to the provisions of part III of title 5, United States Code, as they apply to the civil service, appoint, fix the pay of, and prescribe the functions of such personnel as are necessary to carry out its functions. In addition, the Commission may procure the services of experts and consultants as authorized by 5 U.S.C. 3109.

(i) The provisions of section 14(a) of the Federal Advisory Committee Act shall not apply with respect to the Commission.

SHORT ACCOUNTING PERIODS

SEC. 12. The Secretary may make appropriate adjustments in the application of the provisions of this Act with respect to short accounting periods (as defined in section 14(6)(B)).

REGULATIONS

SEC. 13. The Secretary may prescribe regulations to implement the provisions of this Act.

DEFINITIONS AND RELATED MATTERS

SEC. 14. For purposes of this Act, the term—

(1) "Secretary" means the Secretary of Health, Education, and Welfare,

(2) "State" means each of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands,

(3) "United States" means the geographic area consisting of all the States,

(4) "admission" means the formal acceptance by an institution of an inpatient, excluding newborn children (unless retained after discharge of the mother) or a transfer within or among inpatient units of the institution,

(5) "hospital", with respect to any period, means an institution (or distinct part of an institution if the distinct part participates in the program established by title XVIII of the Social Security Act) that—

(A) satisfies paragraphs (1) and (7) of section 1861(e) of the Social Security Act during all of the period and has satisfied those conditions during the preceding 36 months,

(B) had an average duration of stay of less than thirty days during the preceding 36 months,

(C) is not a Federal institution during any part of the period,

(D) derived less than 75 percent of its inpatient care revenues from one or more health maintenance organizations (as defined in section 1301(a) of the Public Health Service Act) during the preceding 12 months, and

(E) if located in a nonmetropolitan area, had averaged annual admissions of over 4,000 during the preceding 36 months,

(6) "accounting period" means—

(A) except as provided in subparagraph (B)—

(i) in the case of a hospital participating in the program established by title XVIII of the Social Security Act, the period of 12 consecutive calendar months utilized as the reporting period for reimbursement purposes under that program.

(ii) in the case of a hospital not participating in the program established by title XVIII of the Social Security Act, a calendar year, or, if requested by the hospital, such other period of 12 consecutive calendar months as the Secretary may approve, and

(B) in the case of a hospital whose period under subparagraph (A) is changed from one 12 month period to another, such period as the Secretary may establish,

(7) "inpatient hospital services" has the meaning assigned by section 1861(b) of the Social Security Act, but includes in addition the services specified in section 1861(b)(5) of that Act,

(8) "inpatient charges" means charges (as defined by 42 CFR § 405.452(d)(4) as in effect on the date of enactment of this Act) for inpatient hospital services,

(9) "cost payer" means (A) a Federal or State program, or (B) a carrier (as defined by section 1842(f)(1) of the Social Security Act), that in either case reimburses a hospital for inpatient hospital services on a basis related to the hospital's costs in furnishing those services or on any other basis other than inpatient charges.

(10) "reimbursement payable to a hospital by a cost payer" means the sum of—

(A) the amounts (other than the coinsurance or deductible amounts of another entity) payable by the cost payer to the hospital for inpatient hospital services, and

(B) the amounts payable by an individual or other entity to the hospital for inpatient hospital services if the individual's expenses for those services are payable in part by the cost payer, to the extent that those amounts are calculated as a portion of the costs or other basis on which the amounts payable by the cost payer are determined, except that amounts payable by a program established under title V, XVIII, or XIX of the Social Security Act shall be determined without regard to adjustments resulting from the application of 42 CFR § 405.415(d)(3), § 405.415(f), § 405.455(d), or § 405.460(g),

(11) in the case of the admission of an individual whose inpatient hospital services are to be reimbursed in part by more than one cost payer, the admission shall be attributed to the cost payer which is to reimburse for such services furnished before any such services are furnished for which other cost payers are to reimburse,

(12) "wages" has the same meaning as under the Fair Labor Standards Act of 1938,

(13) "supervisor" has the meaning assigned by section 2(12) of the National Labor Relations Act, and

(14) "base accounting period" means a hospital's last accounting period not subject to a mandatory limit under section 3(d).

SUMMARY OF THE PROPOSED HOSPITAL COST CONTAINMENT ACT OF 1979

Section 1 would permit the draft bill to be cited as the "Hospital Cost Containment Act of 1979".

Section 2 would direct the Secretary of Health, Education, and Welfare to establish annual voluntary limits on increases in hospital expenses. The Secretary would estimate in each year the percentage increases in the costs of goods and services (other than for non-supervisory wages). At the beginning of the following year, the Secretary would calculate a national voluntary limit, to apply to increases in hospital expenses in the previous year. The limit would be set by adding three components: the percentage increases in the costs of goods and services purchased by hospitals (non-supervisory wage increases would be measured by increases for hospital workers, while other increases would be measured by the greater of that year's or the previous year's estimates of increases in the economy as a whole), the percentage increase in the United States population, and one percent (to allow for an increase in hospital service intensity).

The Secretary would also calculate a voluntary limit for each State. The limit for each State would be the national limit, modified to take into account State increases in the wages of non-supervisory hospital workers (if adequate data were not available, a State would receive no allowance for those increases), and to take into account the population increase or decrease in the State.

Finally, the Secretary would calculate a voluntary limit for each hospital. The limit for a hospital would be the limit for the State in which the hospital was located, modified to take into account the hospital's increases in the wages of non-supervisory workers (if adequate data were not available, the hospital would receive no allowance for those increases), and adjusted for (and applied to) the hospital's accounting period (where different from a calendar year).

Section 3 would direct the Secretary, by July 1 of each year, to determine if the voluntary limits applicable to the previous year had been met. A hospital would be subject to mandatory limits under the draft bill only if hospital expenses on the average in the United States in any prior year exceeded the national voluntary limit, if hospital expenses on the average in the State in which the hospital was located in that prior year or a later prior year exceeded the State voluntary limit, and if the hospital's expenses in that prior year or a later prior year exceeded that hospital's voluntary limit.

Section 4 would permit the Secretary to exempt from the application of mandatory limits all the hospitals in a State if and for so long as the Secretary found that the State had in effect a State mandatory hospital cost containment program as broad as the Federal program, received satisfactory assurances that the State program would treat all insurers (including Medicare and Medicaid), patients, and hospital employees equitably, and either determined that the average increase in hospital expenses in the State in the previous year did not exceed the State's voluntary limit by more than one percent, or received satisfactory assurances that the average increase would not exceed the State's voluntary limit and found that the State program met any other conditions that the Secretary prescribed.

Section 5 would permit the Secretary to exempt from the application of mandatory limits hospitals engaged in certain experiments of demonstrations.

Section 6 would apply the draft bill's mandatory limits to each hospital's inpatient charges (and to the reimbursement payable to a hospital by each insurer, including government insurers, paying on a cost basis), calculated on a per admission basis. The hospital's per admission charges (and each cost payer's per admission reimbursement) could not exceed those charges (or reimbursement) for the base accounting period (the last accounting period of the hospital not subject to a mandatory limit) by an amount greater than the compounded sum of the current and previous mandatory percentage limits calculated by the Secretary for the hospital.

Section 6 would also make appropriate reductions in the charges (and reimbursement) for the base accounting period in the case of the discontinuation of any inpatient hospital services, but would wave the reduction if the appropriate State health planning and development agency determined that the services should be discontinued.

Section 7 would specify the calculation of the annual mandatory percentage limit applicable to a hospital. First, the Secretary would add the percentage increase in nonsupervisory wages paid by the hospital, multiplied by the fraction of the hospital's expenses due to such wages, and the percentage increases in the costs of other kinds of goods and services, multiplied by the fraction of the hospital's expenses due to each kind. The Secretary would use national instead of hospital-specific fractions for the first year the mandatory program applied to a hospital if the hospital so requested. In addition, the Secretary's prior year estimates of the increases in the costs of goods and services (other than of non-supervisory wages) would be used if those figures yielded a higher percentage limit than his final determinations for those increases.

The Secretary would develop a system for grouping hospitals, based on such characteristics as patient case mix and metropolitan or nonmetropolitan setting. He would also develop a method to measure relative efficiency of hospitals in each group, using a group norm based on all or certain hospital expenses (adjusted for local wage differentials). He would then assign to each hospital a percentage bonus (or penalty) depending on the extent to which the hospital's adjusted expenses were less than (or exceeded) the group norm, as follows:

Less than 90 percent of group norm, plus 1 percent.

Equal to or more than 90 percent of group norm, but less than group norm, plus ½ percent.

Equal to or more than group norm, but not more than 115 percent of group norm, 0 percent.

More than 115 percent of group norm, but not more than 130 percent of group norm, minus 1 percent.

More than 130 percent of group norm, minus 2 percent.

The Secretary could make further additions to (or subtractions from) the percentage limit for a hospital to take account of changes in hospital admissions, or of such other factors as he found warranted special consideration. He could make such adjustments on his own motion, or on request of a hospital filed with the appropriate Medicare intermediary. If the Secretary did not act within 60 days on a request filed by a hospital, the request would be considered granted.

The Secretary would make an additional subtraction for a hospital's first accounting period subject to a mandatory limit. This additional percentage penalty would be the sum of—

½ the amount by which the hospital's percentage increase in expenses in the preceding accounting period exceeded (if at all) its voluntary limit for that period, and

½ the amount by which the hospital's increase in expenses in the preceding accounting period exceeded (if at all) that increase in the second preceding accounting period (or if greater, the average of the increase in the second preceding accounting period and the third preceding accounting period).

This penalty, however, when added to any inefficiency penalty assigned to the hospital, could not exceed ½ of the percentage increase for wages and other goods and services calculated for the hospital; any unused portion of the penalty would be carried forward to the next accounting period of the hospital.

Finally, the Secretary would adjust the percentage limit for an accounting period that was different from a calendar year.

Section 8 would provide for payments under Medicare, Medicaid, and the Maternal and Child Health programs to comply with the limits in the draft bill (or limits established by a State program in a State exempted by the Secretary from the Federal program).

Section 9 would subject each private cost payer (and each hospital) to an excise tax equal to 150 percent of the amount of reimbursement from the cost payer in excess of the mandatory limit for a hospital's accounting period. Section 9 would also subject each hospital to an excise tax equal to 150 percent of the product of the hospital's charges in excess of the mandatory limit and the fraction of those charges not attributable to cost payers. The hospital could avoid that tax by placing the excess amount in an escrow account. If the hospital, in future years, reduced its increase in charges sufficiently, it could withdraw the funds placed in the escrow account.

Section 10 would permit the Secretary to exclude a hospital from the Medicare, Medicaid, or Maternal and Child Health program if the hospital changed its admissions practices so as to reduce its proportion of patients who pay amounts (or for whom amounts are paid) that are less than the hospital's inpatient charges.

Section 11 would establish a Hospital Cost Containment Commission of fifteen members appointed by the Secretary. Five would be individuals representative of hospitals, five would be individuals representative of health care insurers (including the Administrator, Health Care Financing Administration), and five would be other individuals. Members would serve staggered terms of three years. The Secretary would appoint the Commission's chairman. The Commission would advise, consult with, and make recommendations to, the Secretary with respect to the implementation of the draft bill, proposed modifications to the draft bill, and any other matters affecting hospital expenses or revenues.

Section 12 would authorize the Secretary to make adjustments in applying the provisions of the bill to hospital accounting periods of less than one year.

Section 13 would authorize the Secretary to prescribe regulations to carry out the provisions of the draft bill.

Section 14 would provide definitions and related matters. For purposes of the draft bill, "hospitals" would not include hospitals in existence for less than 3 years, long term care hospitals, Federal hospitals, health maintenance organization hospitals, and small nonmetropolitan hospitals.

MARCH 6, 1979.

Hon. WALTER F. MONDALE,
President of the Senate,
U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for consideration by the Congress is a draft bill "To establish voluntary limits on the annual increases in total hospital expenses and to provide for mandatory limits on the annual increases in hospital inpatient revenues to the extent that the voluntary limits are not effective".

The draft bill would establish a national hospital cost containment program. A detailed summary of the draft bill's provisions is enclosed.

Over the past three years, total hospital expenditures have risen very rapidly. The hospital room rate has increased at least two times as rapidly as the Consumer Price Index. Estimates of inefficient and unnecessary spending in the hospital industry indicate that there is ample room to realize substantial savings without adversely affecting the quality of health care.

The draft bill would contain hospital costs and thereby help to curb inflation, reduce the increasing cost to employers and workers of health insurance premiums, and assist individuals in paying their hospital bills.

The draft bill's hospital cost containment program would establish a national annual voluntary limit, equal to approximately 9.7 percent for increases in total hospital expenses in 1979 over those expenses in 1978. If hospitals failed to achieve this overall national goal, standby mandatory limits would be applied only to those hospitals which did not individually meet similarly set voluntary limits and which were in States that did not meet similarly set voluntary State limits. The national voluntary limit would be set by adding three components: an allowance for the increase in the costs of goods and services, an allowance for population growth, and one percent (as an allowance for increased service intensity). We estimate that less than half of the nation's 6,000 community hospitals would be subject to the mandatory program.

The mandatory limits would allow for increases in the costs of goods and services, would provide bonuses for efficiency (and penalties for inefficiency), and would permit the Secretary to make additional adjustments for changes in admissions or when specific circumstances warranted. Revenues from increases in excess of the mandatory limits would be subject to an excise tax of 150 percent.

The draft bill would also establish a Hospital Cost Containment Commission consisting of health care provider, health care insurer, and public representatives. The Commission would advise and make recommendations to the Secretary of Health, Education, and Welfare on the implementation of the hospital cost containment program.

We estimate the following savings would result if hospitals comply with the guidelines established under the Administration's voluntary program for controlling inflation:

[Fiscal years; millions of dollars]

	1980	1981	1982	1983	1984
Federal Government	1,710	3,020	4,570	6,270	8,120
State and local government	510	870	1,250	1,660	2,090
Private sector	2,240	3,790	5,530	7,290	9,090
Total	4,460	7,680	11,350	15,220	19,300

We estimate that the following savings would result if increases in hospital expenses exceed the guidelines established under the Administration's voluntary program for controlling inflation, and if the mandatory program under the bill goes into effect for 1980:

[Fiscal years; millions of dollars]

	1980	1981	1982	1983	1984
Federal Government	1,410	2,560	3,930	5,820	8,110
State and local government	424	745	1,072	1,544	2,087
Private sector	1,856	3,215	4,768	6,766	9,063
Total	3,690	6,520	9,770	14,130	19,260

We urge that the Congress give the draft bill its prompt and favorable consideration.

The Office of Management and Budget advises that enactment of the draft bill would be in accord with the President's program.

Sincerely,

JOSEPH A. CALIFANO, Jr.,
Secretary.

Enclosures.

STAYING WITHIN THE LIMIT—CAN IT BE DONE?

Some of the best hospitals in the country live comfortably within a 9.7% annual rate of increase in their total expenses and continue to provide high quality care to their patients.

A significant proportion of all types of hospitals kept total operating costs under 9.5 percent in 1977:

Percent of hospitals below 95% in 1976–77

	Percent
U.S. total:	31.71
Region:	
Northeast	39.1
North Central	30.9
South	30.4
Residence:	
West	29.1
SMSA	29.9
Non-SMSA	33.4
Type of control:	
Nonprofit	28.1
For profit	41.1
Government	33.9
Teaching:	
Yes	24.8
No	32.7
Bed size:	
Fewer than 100 beds	36.5
100–199	32.8
200–299	21.8
300–399	21.4
400–499	21.4
500 or more	26.3

* In 1977, the hospital market basket price index was 8.1 percent and population growth was 0.9 percent (for a subtotal of 9.0 percent).

This implies that the above hospitals were able to keep their net service intensity increase to less than 0.5 percent—an allowance which is feasible with efficient hospital management.

The continued deceleration of hospital costs in 1978 should result in an increasing proportion of hospitals with cost increases below 9.5 percent.

HOW HOSPITALS COULD SAVE AT LEAST 33 PERCENT ON ENERGY COSTS

(By Medical Tribune Report)

NEW YORK.—Expert analysis of energy use in a 116-bed Peekskill, N.Y., hospital indicates approximately a third of its energy costs could be saved. If all 67 small hospitals in New York State achieved the same results, about 75,000,000 gallons of No. 2 fuel oil would be saved, amounting to $43 million a year. The recent OPEC price boost will increase the total 14.5 percent by the end of 1979.

Nationally, the projected savings become astronomical because hospitals are rated the highest energy consumers of all building types. The same methods of energy saving can be applied to larger hospitals, according to Richard G. Stein and Associates, who made the study.

One of the nation's leading authorities on energy and architecture and long a specialist in hospital design, Mr. Stein says, "The best question you can ask in making a hospital energy study is, 'What is the medical relevance of this use of energy?' "

WASTEFUL SURGICAL SUITES

The operation of energy systems in surgical suites and other specialized areas "when there is no medical reason for them to be functioning" is one of the major sources of energy waste, says Mr. Stein. He points out that most operating suites are in use only 35 of the 168 hours a week, yet the air changing systems may operate around the clock. "Such a suite may require 25 complete air changes an hour, which has a high cost in terms of electricity and fuel oil, because the air introduced is controlled for temperature and humidity. The air must then be dumped outside rather than reused. Thus, you are constantly spending money to either heat, cool, humidify or dehumidify the air of the operating suite," he says.

SEPARATE CONTROLS

Sometimes a special operating room, used only occasionally, is tied into the suite or other systems in such a way that it cannot be separately controlled. "Or in some cases people simply don't think about the waste and do not turn the systems off," says Mr. Stein. He is the author of *Architecture and Energy* (Doubleday) and is a specialist in hospital and school building.

The study was carried out at the Peekskill Community Hospital under sponsorship of the New York State Energy Research and Development Authority and the State Energy Office.

Altogether, the Stein study made 29 recommendations for the Peekskill hospital, many of which could easily be implemented. Others require major structural or equipment changes. The pay-back time for the recommended changes is just over three years.

The incinerator in the Peekskill hospital turned out to be the major energy burner, consuming 20 percent of last year's fuel oil. "When you look into the medical requirements governing the incinerator's use," says Mr. Stein, "you find it is controlled by a definition that says, in effect, that pathological waste must be incinerated. While this is subject to interpretations that vary from jurisdiction to jurisdiction, we found in Peekskill that the amount of material being incinerated was four or five times as much as similar hospitals were incinerating."

METHODOLOGY ESTABLISHED

In its examination of everything from surgical suites to roof insulation, air conditioners, boilers, and hot water use, the study establishes a methodology for determining hospital energy waste.

The Stein study is expected to result in many changes in hospitals in New York and elsewhere. Newly passed federal energy legislation gives priorities to hospital and school energy savings. It provides 50 percent of the costs of energy studies and will also pay 50 percent of capital costs that would be paid back in 10 years. "There are competent architects and engineers all over the country who can use our forms to secure the needed data for the study of energy use in hospitals," says Mr. Stein.

Many of the changes require only "fine-tuning" of the existing regulatory mechanisms without extensive structural changes and capital outlays.

● Mr. KENNEDY. Mr. President, today I am pleased to sponsor the administration's legislation that addresses the critical problem of escalating hospital costs. This proposal for limiting hospital revenue increases recognizes general inflation and includes a small increment to allow hospitals to improve their quality of care. The need for such legislation is widely recognized.

Mr. President, as chairman of the Senate Subcommittee on Health and Scientific Research, I will hold hearings on this and related legislation beginning on March 9. These hearings are specifically designed to elucidate the relevant issues regarding methods for constraining the all-too-rapidly rising costs of health care. I anticipate promptly reporting a bill.

Mr. President, public opinion polls indicate that rising health care costs are among the top three domestic concerns of the American people—even ranking ahead of rising energy costs. This concern reflects a fundamental fact—rising health costs add significantly to burdens on the taxpayer, on the wage earner, and on those consumers who lack adequate health insurance protection.

Each day American taxpayers pay $59 million for all hospital care provided under medicare and medicaid.

Private health insurance premiums have jumped 20 to 30 percent in the last year, cutting into most workers' take-home pay. Indeed, many Americans today must work 6 weeks of every year just to pay for their health care. It takes 2 weeks' wages to cover hospital costs alone. Higher health insurance premiums paid for fully or in part by employers drain off money that could be provided to workers in the form of higher wage increases or pension benefits.

For the 18 million individuals in this country without any health insurance, the 65 million additional individuals with very inadequate insurance policies, rising health care costs—especially spiraling hospital costs—pose the direct threat of financial ruin, and a lifetime of indebtedness.

Rising health care costs have also hampered the ability of Federal and State governments to meet other pressing social problems. For example, between 1966 and 1978, the HEW health budget increased from $3 to $44.5 billion. Of this increase, $37.3 billion has gone to pay for benefits under medicare and medicaid, with only $4.2 billion left over for expansion of other governmental health activities beyond their 1966 level. The rapid increase in hospital costs has also made it necessary for many States to make serious cuts in ambulatory care services under medicaid.

Mr. President, last year Americans spent over $183 billion for health care—three times the amount we spent 10 years ago. At the current rate of increase, health spending will grow to more than $250 billion in 3 short years. Health care has become so expensive that many Americans are now working more than 6 weeks of every year just to pay for their health care—2 weeks' wages for hospital care alone.

Mr. President, specifically we are focusing in this proposal on hospital care, because the cost of this hospital care—which accounts for 40 cents of every dollar Americans spend on health care—has escalated even faster than overall health costs.

The Nation's hospital bill jumped from $3.8 billion in 1950 to $65 billion in 1977, a 15-fold increase. At the same time, the GNP increased approximately sixfold. Hospital costs for 1979 are estimated to be over $83 billion. If unchecked, this growth rate for hospitals would lead to hospital expenditures of almost $146 billion in 1984. Since 1965, the cost of an average hospital stay has jumped from less than $300 to over $1,600. Right now, the average family is paying over $1,000 annually for hospital care.

Mr. President, over the past 3 years alone, total hospital expenditures have increased at a rate more than two times the Consumer Price Index—even faster than the rate of increase in such highly inflationary items as food and fuel. Even the American Hospital Association acknowledges that it is not just the costs of supplies and equipment that is causing costs to go up. Hospitals continue to add expensive new facilities, personnel, and technology.

Even with the medicare program, the cost of hospital care can be a heavy burden on the elderly. The elderly need more health services and they have more limited income to use to pay for health care. Under medicare, the elderly are required to pay a deductible covering the average cost of the first day of hospital care. This deductible paid by the elderly has risen from $44 in 1969 to $160 in 1979. If current rates of hospital costs are not constrained, the deductible will reach $260 in 1984.

With hospital cost containment, the medicare deductible will be held to $216 in 1984. Each elderly person who was hospitalized would save $44 per spell of illness in 1984 alone. And if effective hospital cost containment begins now, there would be savings in 1980, 1981, 1982, and 1983 as well.

Mr. President, three factors unique to the hospital industry lie behind the explosive growth in hospital costs.

The first factor is that most hospitals are presently reimbursed on the basis of the costs of services they provide. The budget is openended, and there is no economic incentive to hold down costs. In fact, the reimbursement system tends to encourage hospitals to add expensive new facilities and technologies. For example, over the past 6 years, the number of laboratory and X-ray tests per hospitalization has increased by over 8 percent annually, and there is no evidence that all these tests make people healthier. This excess capacity in the medical care system means that the consumer must bear the burden of paying for the fixed costs of greatly underutilized facilities, services, and equipment.

The second factor is that 90 percent of all hospital costs are paid for by someone other than the patients—by Blue Cross, medicare, medicaid, or other insurance carriers or public programs. Few patients even know what their hospital stay costs. It is virtually impossible for consumers to do any kind of comparative shopping since most do not have the knowledge to diagnose or prescribe for themselves and must rely on the medical profession. Any permanent system to control costs must include programs for patient education so that consumers can be better informed about their own health needs and be part of the decisionmaking process.

The third factor is that the customary interactions between buyers and sellers do not take place in the hospital industry. Most decisions in the health care marketplace are made by the provider, not the consumer; physicians control 70 percent of all health care decisions. As a result, the normal mechanisms of the marketplace, like competition, do not work to bring down costs. Physicians know little about the cost of the services they order—and they have little incentive to find out. We must find ways to change this.

Mr. President, we can no longer just sit back and watch health costs continue to escalate at past rates. For too long, as I have indicated, we have allowed hospitals to be reimbursed at whatever level they wanted. Their budgets have been open-ended and they have had no economic incentive to hold down costs. We have encouraged more hospital beds than are needed, and today the consumer is bearing the burden of paying for the costs of these greatly underutilized facilities, services and equipment. A study by the prestigious Institute of Medicine documented that this Nation as a whole has at least 100,000 more hospital beds than it needs. These beds, which should be closed or used for other purposes, are costing all of us well over $2 billion per year.

Tragically, we are pouring so much money into hospitals right now for extra beds, for unneeded tests, for unnecessary surgery that we have not had money to spend on basic preventive health care. It is more humane, and it would be a lot less expensive, to prevent illness than to put someone into a hospital to cure them. Vital programs such as immunizing children have been overlooked for too long. Out of every Federal tax dollar, in 1979, 12.3 cents goes for health care and more than half of this goes for hospital care, while less than 1 penny is spent on preventive care. We need to redefine our priorities.

Almost 2 years ago I introduced S. 1391, the Hospital Cost Containment Act of 1977, which was ordered reported by the Committee on Human Resources on August 2, 1977. As chairman of the Subcommittee on Health and Scientific Research I held 5 days of hearings on this bill and other approaches to containing hospital costs. Testimony was received from over 100 witnesses, and many called for immediate action; however, today, in part due to the lobbying efforts of the hospital industry and the AMA, we still have not enacted a bill that would constrain the rate of increases in hospital costs. Hospital costs last year went up approximately 15 percent.

S. 1391, as modified by the Human Resources Committee, was carefully written and was designed to be implemented quickly and simply without creating a new bureaucracy. It specifically provided for phasing into a system that would classify hospitals according to size, geographical location and other criteria which would reflect efficiency and services provided. A cornerstone of the bill was the development of an inflation index specific to the hospital industry that would accurately reflect the rate of increases in prices of the inputs necessary for the production and delivery of hospital services.

The bill that I am sponsoring today builds on S. 1391. In the 18 months since that bill was reported, a hospital-specific index has been developed and we have learned more about classifying hospitals. Both of these components are in this new bill. The bill also contains a voluntary goal for the rate of increase in hospital expenditures.

Admittedly, the voluntary goal in this bill is tighter than that proposed by the hospital industry itself because that goal is not based on a sound determination of what the increase in hospital costs should be. Their goal merely accepts past, highly inflationary trends, and proposed improvements relative to those extraordinarily high rates of increase. For example, hospital costs continued to rise in 1978 at about 13 percent annually, which is significantly higher than the CPI as a whole, which rose at 9 percent in 1978. Of note, energy prices rose at a CPI rate of 8 percent in 1978—and food grew at an 11.3 percent CPI rate last year.

Although final data on the mandatory State cost containment programs for 1978 are not yet complete, there is evidence that much of the moderate nationwide reduction in hospital costs is attributable to the relative success of these nine programs. Preliminary data in the nine States with mandatory hospital cost containment programs indicate that these programs averaged a 9.7 percent rate of increase in total hospital costs during fiscal year 1978. The national average rate of increase in total hospital expenses was 13.3 percent for fiscal 1978 based on the AHA panel survey.

Some have argued that we should let the hospital industry try to meet voluntary goals. We are doing that in this bill, but these voluntary goals are backed up by a mandatory program. These will serve as an incentive to hold cost down. They provide the guarantee that, if the hospital industry cannot perform voluntarily, then the savings to our citizens will nonetheless be realized.

Some have argued that the voluntary limit in this bill is too restrictive. I would like to point out that in calendar year 1977, the last year for which there are complete records, almost one-third of the Nation's 6,000 community hospitals were able to operate at or below a 9.7-percent rate of increase in total expenditure. An even higher percentage of hospitals is expected to operate below that level in 1978. These include hospitals of all types—profit and nonprofit, teaching and nonteaching, urban and rural, small and large, and these were in all regions of the country.

Mr. President, I would also like to point out that in the entire New England region, where energy costs are highest and where there is an abundance of teaching hospitals, the rate of increase for fiscal 1978 (according to AHA panel survey data) was a low 8.3 percent. Obviously, the large majority of hospitals in this area have been able to hold increses below 9.7 percent in the year ending October 1, 1978. Massachusetts, Connecticut, and Rhode Island, three States in this region, had mandatory programs.

Mr. President, a purely voluntary effort will not work. Only with the prospect of standby mandatory controls—and the powerful incentive to effect savings and to eliminate waste that mandatory controls offer—can truly effective hospital cost containment occur.

Mr. President, some have argued that now is not the time for enactment of legislation that would further create new bureaucracies. This bill does not create any new bureaucracy, and, according to HEW, will be administered at the Federal level with few new employees. The Federal Government will not, contrary to the charges of many, tell a hospital how to run its business. The hospital cost containment program will not dictate specific ways in which hospitals must live within their revenue limit, but will only set the overall budget levels and let the trustees, health professionals, and administrators involved decide how to best allocate their resources. The bill would leave considerable flexibility to identify those economics appropriate for the local situation.

Some have charged that the quality of care would be affected if hospitals' expenditures were limited. There is no evidence of this. In regard to hospitalization, "more" is not necessarily "better" but is all too often merely excessive and unnecessary. Many cost reductions can, if managed appropriately, actually increase the quality of care and help hospitals better serve the needs of their patients and of society. Eliminating unnecessary beds, unnecessary laboratory tests, and unnecessary services can all go to saving hospitals considerable dollars.

Mr. President, Americans have repeatedly expressed the view that inflation is the number one problem they face, and health care costs are significantly contributing to this spiraling inflation. Although I believe that only national health insurance will effectively control health care costs, a national health insurance proposal would require some lead time prior to implementation. During this period as well, cost increases could be reduced.

Because hospital outlays today account for over 40 percent of all health care expenditures, and Federal, State, and local governments pay 45 percent of short-term general hospital costs, I believe that by starting to limit hospital costs now, we will be responding to the American people's immediate wish to control these health care expenditures. Last year medicare and medicaid payments for hospitals jumped $4 billion alone.

For too long we have been watching health care costs escalate and for too long we have allowed hospitals to be reimbursed at whatever level they have wanted. Their budgets have been open-ended and they have had no economic incentive to hold down costs.

The reductions in cost escalation laid out in this bill are reasonable. Several States which have enacted their own cost containment programs have succeeded in reducing costs to under 9 percent. These programs include hospitals of all types and are spread throughout the country. During the economic stabilization program (1971–74) hospitals managed, without loss of quality, to reduce rates of cost increases to the same level that we are requesting.

The province of Quebec in Canada held hospital revenue increases to 3 percent in 1976 and less than 1 percent in 1977. Their restraints have been successfully imposed without serious patient complaints regarding quality of care or services.

Mr. President, in our fight against inflation we cannot take the easy route and cut programs that lack the lobbying strength of the hospital industry. We cannot pick on the weak, while the special interests run wild. We have the tools to bring the system under control.

In conclusion, I hope my distinguished colleagues will join me in passing a meaningful cost containment bill.

Together we must all reassess our priorities and determine the best way to allocate our health care dollars so that all Americans can obtain decent health care. This means focusing on preventive health care, insuring that children are immunized and that people are educated about their health. This cannot be done when less than 1 cent of every Federal dollar is spent on prevention and this cannot be done when cost containment efforts are so watered down that they have no meaning and produce no results.

As chairman of the Subcommittee on Health, I have long advocated sweeping reform in the way we finance and deliver health care in America, and I remain firm in that commitment. I believe national health insurance is the only viable solution to the health care crisis in America, but even if it were signed into law tomorrow it would take substantial lead time to implement. In the meantime, we can no longer afford the double digit increases in hospital costs of the past decade.

A cost control program is needed. A program that is administratively simple, does not create a new bureaucracy and will result in significant savings. HEW estimates the savings from this bill to be $53 billion over the next 5 years.

We have to act. We can no longer continue to squander billions of dollars on unnecessary drugs, unnecessary surgery, and unnecessary technology while hundreds of thousands of children are not being immunized and millions of Americans cannot get basic health care.

Americans are telling us that they no longer want to sit back and watch health care costs escalate at the rate of: $1 million an hour; $24 million a day; $160 million a week; almost three-quarters of a billion dollars a month.

The figures speak for themselves. We

are talking about saving about $53 billion over the next 5 years. This is meaningful cost containment. I hope this proposal will receive serious consideration by all of my distinguished colleagues.●

● Mr. JAVITS. Mr. President, I rise in support of the hospital cost containment bill introduced by my colleague from Wisconsin, Senator NELSON.

Mr. President, for the past several years I, along with other Members of Congress, officials in the administration, and leaders from a diverse group of organizations in the private sector have grown increasingly alarmed at the tremendous rise in health care costs, much of which has taken place during the last 15 years. In 1963 the Nation's total health bill amounted to $32.4 billion; today that figure has climbed to $183 billion.

An increasingly significant proportion of these health care expenditures is devoted to hospital care. Consider, for example, these statistics recently issued by the Department of Health, Education, and Welfare:

The Nation's hospital bill jumped from $3.8 billion in 1950 to $55.4 billion in 1976—a fifteenfold increase—while the GNP increased only sixfold. This costs each person $254 or each family $890 a year and pushes the total annual medical bill per family to over $2,200.

Since 1965 the rate of increase in hospital costs has accelerated to 15 percent per year—doubling every 5 years. It is estimated that, if he left unchecked, this growth rate would lead to hospital expenditures of $220 billion by 1985.

Since 1965 the cost of an average hospital stay has jumped from less than $300 to over $1,300.

Hospital costs are the largest and fastest growing portion of medical expenses. Today, hospital outlays account for 40 percent of all health care costs as compared to just over 30 percent in 1950.

These staggering statistics call for remedial action. If we are ever to achieve equity in the delivery of medical care in this country, containing health care costs must receive our priority attention. Since hospital costs represent such a large proportion of overall health care expenses, I believe that enacting a carefully designed program aimed at controlling hospital costs would be a wise first step which would move us closer to our goal of better controlling all health care costs.

The administration first introduced in April, 2 years ago, the Hospital Cost Containment Act of 1977. This measure, if enacted, would have set an annual limit of approximately 9 percent on annual hospital cost increases. The Human Resources Committee, of which I am the senior minority member, reported a modified version of this bill in July of 1977. The legislative debate over this and other proposals to limit inflation in the hospital sector has produced a more precise and equitable bill this year. In the meantime, however, I am pleased to note that an effort has been undertaken by key organizations in the private sector—the American Medical Association, the American Hospital Association, and the Federation of American Hospitals—voluntarily to fight hospital cost inflation. This initiative, called by industry leaders the voluntary effort (VE), has my full support. The goal of the voluntary effort is to reduce hospital cost increases by 2 percent per year for the next 2 years and remain steady thereafter. In 1977, total hospital expenses increased 15.6 percent. In 1978, the annual increase in total hospital costs was down to 13 percent, but this was still 4 percentage points greater than the increase in the cost of living.

But, despite the initial success of VE, I have serious concerns about the long-term viability of such an effort. I am concerned that the industry on its own initiative will not be able to sustain the momentum necessary to turn this effort into a permanent reform. Therefore, while I believe that the VE should be given every reasonable opportunity to succeed, also I believe that the Congress should take prompt steps to enact a program which could be activated in the event that the VE is not able adequately to control hospital costs.

This standby approach to hospital cost containment is embodied in the Nelson bill. In the event that VE fails, I believe the best interests of this country would not be well served if additional time were allowed to elapse while the Congress debated various cost containment strategies.

There are important advantages in the Nelson bill this year over all former proposals, both in terms of controlling costs and in precision; to wit, in defining when the mandatory program will be triggered for hospitals which fail to meet the voluntary limit. The trigger level is calculated based on inflation, not inflation of all goods and services, but on an index precisely calculated for the hospital market basket of goods and services. The trigger will also take into consideration increases in the volume of services and the intensity of services delivered by a particular hospital. This is an equitable strategy, for if the market basket index is greater than the 7.9 percent estimated by the administration for this year, hospitals will be subject only to reimbursement limits based on their actual cost increases.

States with their own cost-containment programs will be exempted from the national program. I am pleased to note that New York, which was the first State to enact an effective cost-containment program, has held hospital increases to a statewide average of 6.2 percent in 1977. In my judgment, the experience of New York and of other States with effective programs illustrates both the practicality and the important savings possible under a national program.

This legislation is designed to save $3.7 billion in fiscal year 1980—$1.4 billion in the Federal budget, $420 million in State and local budgets, and almost $1.9 billion in private health insurance payments.

Mr. President, if we in the 96th Congress are serious about controlling inflation; if we mean what we say about gaining a measure of control over federally mandated expenditures for benefits provided through medicare and medicaid; if we are sincere about relief to the worker from escalating fringe benefit costs; and if we care about making room in the public sector for more equitable and adequate health insurance programs, then we must act favorably on hospital cost containment.●

● Mr. RIEGLE. Mr. President, I am pleased to join Senator KENNEDY and Senator NELSON in introducing legislation to restrain the rate of increase in hospital costs. The administration estimates that this bill could reduce Federal expenditures by up to $1.7 billion in fiscal year 1980 alone. The savings in the Nation's total hospital bill over the next 5 years could amount to some $40 billion.

Over the last decade, increases in hospital expenditures have outpaced virtually all other price increases in the national economy. In the last quarter of 1978, hospital expenditures increased at an estimated annual rate of 13.1 percent, at a time when inflation in the economy as a whole, as measured by the Consumer Price Index, rose by 8.8 percent. In 1968, the average cost of a hospital stay was $56 a day. By 1977, it had reached $183 a day. By 1984, unless something is done, it will climb to $400 a day.

Escalation in hospital expenditures is the driving force behind inflation in health care costs generally, which in turn contribute significantly to the overall rate of inflation in the economy. The proportion of our gross national product allocated to health care has risen from 5.2 percent in 1960 to an estimated 9.2 percent in fiscal year 1979. Without hospital cost containment, this figure will increase to 10.2 percent of GNP by fiscal year 1984. Over the last 5 years, Federal expenditures for medicare and medicaid alone have more than doubled. In the next 5 years, if nothing is done, spending in these two programs will double again, rising from approximately $32 billion in fiscal year 1977 to $66 billion in fiscal year 1982.

This alarming inflation in hospital costs—and the staggering increase in Federal spending for health services which it triggers—must be turned around. It has reduced the purchasing power of our citizens, particularly the elderly, and strained the national economy. It is rapidly eating away our scarce dollars at the Federal level. Without question, it has delayed the enactment of a national health insurance program.

There are many factors which contribute to this inflation, some of which are beyond the control of the hospital industry. Hospitals, like every other sector of our economy, are affected by inflation in the Nation as a whole. In addition, the demand for health care has increased dramatically over the years and this demand has played an important role in overall health care inflation.

But it must also be recognized that the health care system itself is inherently inflationary. The overwhelming majority of hospital bills—nearly 90 percent—are paid for by third parties, such as private insurance, medicare, or medicaid. Most third-party payers reimburse on a cost-plus basis. As a result, both patient and hospital are protected against the direct consequences of rising hospital costs and there is little incentive to hold down costs. The usual mechanisms of the marketplace, such as competition, simply do not apply.

In the last 2 years, the hospital industry has made a laudable effort to reduce waste and inefficiency and to voluntarily moderate the rate of growth in hospital expenditures. Total hospital costs slowed noticeably in late 1977 and the early part of 1978, although they unfortunately appear to be creeping upward again. After reaching a low of 12.7 percent in the second quarter of 1978, figures from the last quarter of 1978 show an annual growth rate estimated at 13.1 percent. This nevertheless represents a significant reduction from the 14 to 20 percent growth rates which prevailed prior to 1978.

In my own State of Michigan, an ambitious program to reduce excess hospital bed capacity is underway. A total of 5,000 unnecessary beds are expected to be eliminated under this program over the next 5 years. As part of this effort, a temporary moratorium on the issuance of new certificates of need for capital projects has been instituted.

In addition, the reimbursement formula under the State's medicaid program now includes a cap on allowable hospital increases. The other major third-party payer in the State, Blue Cross-Blue Shield, has instituted a program of prospective reimbursement for hospitals.

All of these efforts—and similar efforts in other States—are commendable and vitally important.

The legislation being introduced today builds on the efforts of the hospital industry to voluntarily control costs. It would establish an average rate of increase for hospital costs as a goal for this year, which hospitals would be requested to meet on a voluntary basis. Only if that goal was not met would standby Federal controls be triggered.

In setting the target rate of increase for 1979, the actual rate of inflation in the cost of goods and services purchased by hospitals would form the basis of the allowable increase. An additional percentage for demographic shifts in the U.S. population and for anticipated increases in the quantity and intensity of services provided by hospitals would be added to the basic inflation factor. The administration estimates that this formula will result in a 9.7-percent target increase for calendar year 1979. Only if hospitals are unable to meet this goal would Federal controls come into play.

The legislation further provides that if hospitals in a given State meet this goal—even if hospitals in the Nation as a whole did not—hospitals in that State would be exempt from mandatory controls. Individual hospitals meeting the goal would also be exempt, even if the hospitals in the State, in the aggregate, do not. Also exempted are hospitals in States with statutory cost containment programs of their own (providing the State programs meet standards established by HEW), new hospitals, HMO hospitals, and small rural hospitals with fewer than 4,000 annual admissions.

In the event that mandatory controls had to be imposed, each individual hospital would be given an allowable rate of increase for inpatient revenues on a per admission basis. The allowable rate of increase would be based on the individual hospital's market-basket costs, adjusted up or down by the hospital's efficiency rating as it compares to its peers. Hospitals with unusual circumstances—for example, major shifts in patient referral patterns or approved capital expansions could receive a higher allowance on a case-by-case basis. Hospitals which failed to live within these limits would have a 150-percent tax on excessive revenues imposed by non-Government payers and medicare and medicaid would refuse to pay excess costs.

As a nation, we have no choice about controlling increases in hospital expenditures and the inflation which they fuel. I believe that the bill being introduced today is an attempt to do that in a manner which is reasonable, fair and flexible. It builds on the commendable efforts of the hospital industry to control hospital inflation on a voluntary basis and triggers standby Federal controls only if voluntary action fails. It recognizes the impact of inflation in the general economy on hospital costs, by basing the allowable rate of increase on the hospital's actual market basket of goods and services. As the general inflation rate in that market basket increases, so would the voluntary goal.

It is my hope that hospitals, insurance companies, State government, consumer groups, and others who will be affected by this critical legislation can work together in the coming months to enact a reasonable, equitable, and effective approach to controlling hospital costs. I am sympathetic to the problems of the hospital industry and I want to continue to work with the industry to find ways to meet their legitimate concerns. I believe that the legislation which I am cosponsoring today makes a good faith effort to address these concerns, and I am open to suggestions which would further improve it.

This may be the most important anti-inflation legislation before the first session of the 96th Congress. I invite my colleagues to join in working for its early enactment.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill dealing with hospital cost containment which has been introduced by the Senator from Wisconsin (Mr. Nelson), for himself and others, be jointly referred to the Committee on Finance and the Committee on Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. BELLMON:

S. 572. A bill to return Congress, through the implementation of procedural reforms, the ability to insure that rules and regulations promulgated through the administrative process shall reflect the intent of Congress; to the Committee on Governmental Affairs.

REGULATORY CONTROL ACT OF 1979

● Mr. BELLMON. Mr. President, today I am introducing legislation which would insure that regulations promulgated by the executive branch conform to congressional intent. This proposal requires that when a governmental agency drafts regulations in order to implement Federal legislation, the congressional committee of origin has 60 days to either disapprove or approve of said regulations.

There is a pressing need for this legislation. The cost of excessive Federal regulations alone, in this time of trimming the Federal budget, makes such legislation imperative. Murray L. Weidenbaum, Director of the Center for the Study of American Business at Washington University in St. Louis, pointed out the need for this bill in an article appearing in the Washington Post, February 3, 1979. He states:

> Part of the problem in setting regulatory policy is that the benefits at times are more visible than the costs—not necessarily greater, but more evident. If the required scrubber for electric utilities is resulting in cleaner air, we literally see the benefits. But the costs are merely part of the higher electric bill we pay. Thus, the cost of regulation takes on the characteristics of a hidden sales tax that, like sales taxes in general, are ultimately paid by the consumer. The concern takes on the characteristics of a hidden sales from the fact that they are imposed initially on business, but the knowledge that the costs ultimately are borne by the consumer.

Mr. President, I ask unanimous consent that the text of this article be inserted in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

MEASURING THE COSTS OF REGULATION

(By Murray L. Weidenbaum)

It's time for a serious accounting of the impact of government regulation. The large amount of resources devoted to these activities surely warrant such attention. Moreover, the adverse effects that regulation can have on the cost of living, employment, productivity, capital formation and scientific progress all underscore the importance of such analysis.

It is strange that the very idea of attempting to quantify the effects of regulation outrages some people. They forget the objective that economists have in developing such measurements. Surely, the goal is not to eliminate all regulation. As economists of all political persuasions have testified before a variety of congressional committees, it is not a question of being for or against federal regulation of business. A substantial degree of government intervention is to be expected in a complex, modern society.

The key proposal for change urged by most economists, myself included, is somewhat less than revolutionary. It is a simple weighing of the benefits and the costs prior to issuing a new regulation. Those who howl with anguish when they see an estimate of the cost of regulation forget that benefit/cost analysis is a neutral concept. It gives equal weight to a dollar of benefits as it does to a dollar of costs.

Those critics who are offended by the notion of subjecting regulation to a benefit/cost test expose the weakness of their position: They must be concerned that some of their pet rules would flunk the test. After all, showing that a regulatory activity generates an excess of benefits is a strong justification for continuing it.

To clear the air, let us assure all non-economists that economists are deeply concerned about people, far more than about dollar signs. But it is the painful knowledge that resources and the ability to safeguard human lives are so limited that causes economists to become concerned when they see wasteful and ineffective use of those resources via mindless regulation. That is a harsh term. But, as James Tobin of Yale, a fine economist with impeccably liberal credentials, recently wrote, "Business and the consuming public are victims of excessive and mindless regulation."

Part of the problem in setting regulatory policy is that the benefits at times are more visible than the costs—not necessarily greater, but more evident. If the required scrubber for electric utilities is resulting in cleaner air, we literally see the benefits. But the costs are merely part of the higher electric bill we pay. Thus, the cost of regulation takes on the characteristics of a hidden sales tax that, like sales taxes in general, are ultimately paid by the consumer. The concern about the costs of regulation does not arise from the fact that they are imposed initially on business, but from the knowledge that costs ultimately are borne by the consumer.

It is surprising that, during this inflationary period, so few consumer advocates have become aroused by that important fact. That is precisely what led to the attempts to measure the costs of regulation. Those who have taken the pains to read our studies know that they are merely preliminary and exploratory—some have said pioneering—efforts to measure a difficult area of economic activity. Better numbers are always welcome.

We expressly underestimated the cost of regulation. In many cases—Department of Energy, National Regulatory Commission, Consumer Product Safety Commission, etc.—there were no reliable data, and we carried the cost at zero. That leaves the field clear to other researchers to fill in the blanks and thus add to our numbers. According to the estimates developed to date at our Center for the Study of American Business, complying with federal regulations is resulting in private-sector costs of approximately $97.9 billion in fiscal 1979, in addition to $4.8 billion to operate the regulatory agencies. The resulting total of $102.7 billion is hardly modest. (No critic of our numbers has come up with an alternate estimate.)

As explained so carefully in the methodology, the low end of the range of available data was generally used. In the important area of environmental protection, we relied on the figures developed by the U.S. Council on Environmental Quality. Larger numbers, which may well be more accurate, have been developed by Dr. Robert Crandall of the Brookings Institution ($25.3 billion in 1977). We have not used them, merely to be on the cautious side.

In the one area where we came up with a higher number than the government agency, auto-safety regulation, the federal agency would not provide substantiation of the lower figure that it uses. But the allegation that the Bureau of Labor Statistics has criticized my work (see Mark Green, "The Trouble with Murray," Outlook, C5, Jan. 21) is simply untrue. In his confusion, Green forgot that my estimate of $666 per car covers safety and environmental requirements.

It is not a matter of begrudging a "few" more billion dollars for regulation. The unfortunate fact is that, all too frequently, the regulations don't work. Accident rates rise despite the plethora of OSHA directives. Worker retirement plans fold under the barrage of paperwork issued by pension regulators. At times—as in the case of the on-again, off-again ban on spray adhesives—the action by the regulators leads not to saving lives, but to the reverse. in that sad case, nine women underwent abortions to avoid a hazard identified by a regulatory agency that more careful research showed did not really exist.

The contention on the part of some critics that any estimate of the costs of regulation be presented only after deducting the benefits is strange. They never have talked about benefits net of costs. Of course, costs and benefits are different sides of the regulatory equation. This is similar to writing about the tax burden in terms of the taxes we pay, even though those revenues hopefully generate offsetting expenditure benefits.

It is important not to lose sight of the basic reason for focusing on the cost of regulation. Quantifying the very large resources devoted to meeting the myriad of regulatory requirements sets the stage for improving the effectiveness with which the government carries out these expensive programs. By walking a path between the Neanderthals who oppose all regulation and the standpatters who tenaciously defend the status quo, we may yet see the reforms of regulation (and of other government activities) that will strengthen the now weakened public support for government. That would truly be serving the public interest.

Mr. BELLMON. Mr. President, I think that we forget about these "hidden" costs of regulation when both proposing legislation and reviewing proposals of the executive branch to implement such legislation. The Senate is well aware of the frustration of American citizens who believe that the Federal officials are callous and arbitrary. A system of checks and balances over the bureaucracy is needed to insure that the will of Congress is followed in the regulatory process and to insure that regulatory costs are capped.

The problems we now face in controlling the agencies and bureaus have evolved over time. When the first regulatory agency, the ICC, was formed in the late 1800's there was no way to predict the eventual expansion of regulatory agencies. Congress has shared its responsibility with the executive branch by giving agencies and departments the power to issue regulations, licenses and permits if the agency deems it to be "in the public interest."

For example, implementation of regulations concerning the Occupational Safety and Health Act are left to those Administrators who for the most part have never worked in private enterprise and do not understand the practicalities and expenses involved in many of the regulations which they require. These regulations apply equally to the giants of industry as well as the smallest, least sophisticated business in the country.

All sections of society, corporations, as well as the workingman and the poor are affected by these broad generalized grants of authority to administrative agencies. Millions of citizens are in a poor position to defend themselves against arbitrary agency actions. Congress needs to make certain that regulators do not become dictators. Any Member who has attempted to influence a Federal agency in the promulgation of regulations will understand the feeling of futility which is held by citizens across the land.

Many agencies, most notably those which have been granted the authority to disburse money for various Federal programs to individuals, organizations, and to the States, have almost the absolute power to turn on and off the flow of money.

The promulgation of regulations which are extremely complex and confusing to even the well educated are the source of agency power. These rules and regulations are the conduit through which the agency imposes its views upon the general public, and the practical opportunities for protest are limited. Arguably, the opportunities for protest are present because of the Administrative Procedure Act. However, it is difficult and quite costly for citizens to hire Washington lawyers to represent them before the agencies. It represents the classic David against Goliath situation.

The effect of this legislation would be to provide a check on those agencies. The check would be imposed by the Congress from which the agency's power is initially derived. The values at stake are of constitutional impact and importance. Clearly the public can no longer stand by while Federal agencies make decisions which affect their very livelihood. Congress can no longer allow the laws to be misconstrued by the agencies and bureaus which Congress created.

The agencies have promulgated regulations so complex that the public is endangered by the Government its taxes support. The effect has been to reduce the respect which the American people have for their Government. When Government is unresponsive to their needs, a sense of frustration and anger overwhelm them. As Winston Churchill remarked:

> If you have 10,000 regulations, you destroy all respect for the law.

The purpose of this bill is to restore this lost respect for the law by providing a check on the regulatory process.

By Mr. BELLMON:

S. 573. A bill to amend the authorization for the Tenkiller Ferry Lake project, Arkansas River, Okla.; to the Committee on Environment and Public Works.

S. 574. A bill to amend the authorization for the Kaw Lake project, Arkansas River, Okla.; to the Committee on Environment and Public Works.

● Mr. BELLMON. Mr. President, the two bills I am introducing today are designed to correct deficiencies in the original authorizations for the Kaw Lake and the Tenkiller Ferry Lake in Oklahoma. This legislation authorizes the Secretary of the Army, acting through the Chief of Engineers, to design, construct, and provide treatment facilities and a regional conveyance system of water from Kaw Lake and Tenkiller Ferry Lake for the ownership, use, operation, and maintenance of the communities and rural water districts in north central and eastern Oklahoma.

As our country grows, it is becoming increasingly obvious that the development of our water resources is a matter of the very highest priority. Already in many sections of the Nation, the ability to support future growth is seriously hampered by the lack of dependable supplies of potable water.

Many Government agencies have a vital role in developing and preserving our Nation's water resources. The Environmental Protection Agency, the National Oceanic and Atmospheric Agency, the Bureau of Reclamation, the Corps of Engineers, the Geological Survey, and many others are involved.

The impoundment and storage of water is primarily the responsibility of the Bureau of Reclamation and the Corps of Engineers. Both these agencies have done a remarkably successful job of developing water resources in the areas they serve. However, there is a serious difference in the authority between these two agencies which my amendment attempts to correct.

When the Bureau of Reclamation plans and constructs a water storage project, present law gives the agency the authority to construct a system for the distribution of the waters impounded. The Corps of Engineers does not have the authority to construct regional conveyance systems. The result is that in many areas of the country huge quantities of water are stored in Corps of Engineers projects and no system exists for distributing this water to the areas which could benefit from its use. Impoundments built by the Bureau of Reclamation are not limited by this handicap.

These two bills would give the Corps of Engineers the authority to construct a water treatment and distribution system from Kaw Lake and Tenkiller Ferry Lake to the surrounding communities and rural water districts which band together to use a common treatment and conveyance systems. These systems would be built on a fully reimbursable basis so that there would be no ultimate costs to the U.S. taxpayers.

Mr. President, the communities surrounding these two Corps of Engineers projects do not have the resources to undertake water treatment and distribution projects on their own. Further, it is totally uneconomic for each community or rural water district to attempt to build an individual water distribution and treatment system on its own. It is far more efficient to establish the authority for the Corps of Engineers to plan, design, and construct these systems on a fully reimbursable basis. In this way, a coordinated approach to the problem can be made with a significant savings in cost and improvement in efficiency which will benefit all involved.

Mr. President, this legislation corrects what I consider to be a serious oversight in the existing authority of the Corps of Engineers. There is no reason why this agency should not have the same responsibilities in dealing with water developments as the Bureau of Reclamation has historically had. This amendment will do much to meet both the present and future water needs of north central and eastern Oklahoma and I urge its passage.

I ask unanimous consent that these two bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 573

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the authorization for the Tenkiller Ferry Lake project, Arkansas River, Oklahoma, contained in the Flood Control Act approved June 28, 1938, is hereby amended to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to design, construct, and provide treatment facilities and a regional conveyance system of water from Tenkiller Ferry Lake for the ownership, use, operation, and maintenance of non-Federal public entities at an estimated cost of $100,000,000.

(b) Non-Federal public entities which use the facilities to be constructed at initial Federal costs under this Act, shall repay such costs and the Federal costs of any interim maintenance of the facilities in accordance with the principles of the Water Supply Act of 1958 (Public Law 85–500): *Provided,* That the allocation and initiation of these repayment requirements shall be scheduled by the Secretary of the Army, as he determines to be equitable, considering factors such as the date of initiation and extent of benefit and usage of the facilities.

S. 574

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the authorization for the Kaw Lake project, Arkansas River, Oklahoma contained in section 203 of the Flood Control Act of 1962 (Public Law 87–874) is hereby amended to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to design, construct, and provide treatment facilities and a regional conveyance system of water from Kaw Lake for the ownership, use, operation, and maintenance of non-Federal public members of the Kaw Reservoir Authority at an estimated cost of $82,000,000.

(b) Non-Federal public members acting through the Kaw Reservoir Authority, who are benefited by the facilities to be constructed at initial Federal costs under this Act, shall repay such costs and the Federal costs of any interim maintenance of the facilities in accordance with the principles of the Water Supply Act of 1958 (Public Law 85–500): *Provided,* That the allocation and initiation of these repayment requirements shall be scheduled by the Secretary of the Army, as he determines to be equitable, considering factors such as the date of initiation and extent of benefit and usage of the facilities.●

By Mr. HATCH:

S. 575. A bill to prohibit the nonjudicial enforcement of goals, quotas, timetables, ratios or any other numerical objective for persons on the basis of race, color, religion, national origin or sex, and for other purposes; to the Committee on the Judiciary and the Committee on Human Resources, jointly, by unanimous consent.

FREEDOM FROM QUOTAS ACT OF 1979

Mr. HATCH. Mr. President, over the past few years, the Federal Government has developed a legal instrument for enforcing our Nation's civil rights laws that is completely at odds with their overriding purpose. In the name of civil rights, both the letter and the spirit of the civil rights laws we in the Congress have supported and enacted have been distorted. This distortion has taken on the popular name of what the learned editor of the Public Interest, Prof. Nathan Glazer, has dubbed, "reverse discrimination."

Specifically, there has been and is a growing use of federally mandated racial goals and quotas in employment, education and business. Proponents of this "discrimination in reverse" appear to argue that the Federal Government and American citizens must be simultaneously color blind and yet color conscious. Not only is this impossible, but the results of this reverse discrimination are clearly antithetical to the principle of equal opportunity. Goals and quotas mutilate the civil rights laws by turning the prohibitions in such laws against discrimination into positive duties to discriminate. And for those who are victims of this reverse discrimination, the civil rights laws become instruments of injustice, for which they may obtain no relief. For those who benefit from such discrimination, they are provided preferences which they know are not based on merit, and they are thus inflicted with a loss of self-esteem.

I am the first to recognize that those who propose, promote, and enforce goals and quotas, only wish to do so for the best of reasons—reasons I sincerely share. But this policy is not working, and is in fact turning the clock back in the cause of promoting American civil rights, domestic harmony and human dignity. As an end result, these goals and quotas benefit no one. In fact, it is to the contrary. The individual who suffers their effects is embittered. The individual who initially benefits from them is left with a sense of inherent inferiority, and our society at large is further poisoned with inter-racial conflict.

For these reasons, I am today introducing the Freedom From Quotas Act of 1979. My bill is intended to promote the beneficial objective of our civil rights laws by prohibiting Federal departments and agencies from using goals and quotas as means of achieving the more legitimate and beneficial objective of ending discrimination. If enacted, my bill would reaffirm and reestablish the intent of the Nation's civil rights laws. It would assure equal opportunity by protecting the right of every person to be treated equally regardless of race, sex, religion, or national origin. It would assure that statistics alone will never again determine one's fate or impair one's dignity.

At this time, I ask unanimous consent that the text of my bill, the Freedom From Quotas Act of 1979 be printed in the RECORD. I also request that there be printed in the RECORD the following three items which will help to explain the need for this legislation and its scope. First, I have prepared a short legislative history of title VII, a historical summary which is intended to bring insight into previous congressional views of goals and quotas, and their impact on employment. Second, I have included an explanation of the manner in which Federal agencies and departments have sought to enforce the civil rights and equal opportunity laws and orders by improperly resorting to reverse discrimination. And finally, I include a copy of remarks I delivered last week before the Affirmative Action Association of Region VIII, meeting at the University of Utah.

I believe that, in the wake of the discussions held and bills considered during past Congresses concerning this problem, my legislation offers a reasonable settlement to a universally acknowledged problem. I solicit the cosponsorship and support of my colleagues, and I ask for your serious consideration.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 575

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Freedom From Quotas Act of 1979."

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that the remedial purposes of the several Civil Rights and equal opportunity laws, orders and regulations have been misconstrued by federal departments and agencies to require or permit goals, quotas, timetables, ratios or other numerical objectives to achieve the legitimate goal of ending discrimination. The Congress further finds that this misuse of the several Civil Rights and equal opportunity laws, orders and regulations has transformed the prohibition against discrimination into a positive duty to discriminate and has thus turned these beneficial laws into instruments of injustice, and has created divisive conflicts among the American people.

(b) It is the purpose of this Act to strengthen and clarify the several Civil Rights and equal opportunity laws, orders and regulations by prohibiting federal departments and agencies from requiring or permitting employers, contractors, grantees, employment agencies or unions to establish goals, timetables, quotas, ratios or other numerical objective for any person based on race, religion, color, national origin or sex.

DEFINITIONS

SEC. 3. For the purposes of this Act, the term—

(1) "contractor" includes any contractor subject to Executive Order 11246, as amended.

(2) "employer" means the United States, any employer subject to the provisions of title VII of the Civil Rights Act of 1964, and any employer subject to Executive Order 11246, as amended;

(3) "employment agency" means any employment agency subject to the provisions of title VII of the Civil Rights Act of 1964;

(4) "grantee" includes any person subject to the provisions of title VI of the Civil Rights Act of 1964; and

(5) "labor organization" means any labor organization subject to the provisions of title VII of the Civil Rights Act of 1964.

PROHIBITED PRACTICES

SEC. 4. No department or agency of the Federal Government may enforce any provision of title VI or title VII of the Civil Rights Act of 1964; Executive Order 11246, as amended; Executive Order 11625, as amended; or any other statute, order, regulation or procedure in such a manner as to require or permit a contractor, employer, employment agency, grantee or labor organization to establish goals, quotas, timetables, ratios or any other numerical objective for any person or persons on the basis of race, color, religion, national origin, or sex.

DISCRIMINATION IN EMPLOYMENT

Congress enacted Title VI of the Civil Rights Acts of 1964 to make it illegal to discriminate in employment on the grounds of race, color, religion, sex or national origin. During legislative consideration of the title, members of Congress expressed concern about whether the law would require hiring and promotions on a quota basis. Proponents of Title VII gave assurances that under no circumstances would it be used to impose quotas on employers or unions.

During House floor debate, Representative Emanuel Celler, Chairman of the House Judiciary Committee, responded as follows to charges that Title VII would mandate quotas:

"It has been claimed that the bill would deprive employers, workers and union members of their rights to be free to control their business affairs and their membership. Specifically, the charge has been made that the Equal Employment Opportunity Commission to be established by Title VII of the bill would have the power to prevent a business from employing and promoting the people it wished, and that a 'Federal inspector' could order the hiring and promotion only of employees of certain races or religious groups. This description of the bill is entirely wrong. The Equal Employment Opportunity Commission would be empowered merely to investigate specific charges of discrimination and to attempt to mediate or conciliate the dispute. It would have no authority to issue any orders to anyone.

In the event that wholly voluntary settlement proves to be impossible, the Commission could seek redress in the federal courts, but it would be required to prove in the court that the particular employer involved had in fact, discriminated against one or more of his employees because of race, religion, or national origin. The employer would have ample opportunity to disprove any of the charges involved and would have the benefit of the protection of all the usual judicial procedures.

"No order could be entered against any employer except by a court, and after a full and fair hearing, and any such order would be subject to appeal as is true in all court cases.

Even then, the court could not order that any preference be given to any particular race, religion or other group but would be limited to ordering an end to discrimination. The statement that a Federal inspector could order the employment and promotion only of members of a specific racial or religious group is therefore patently erroneous . . ."

"It is likewise not true that the Equal Employment Opportunity Commission would have power to rectify existing 'racial or religious imbalance' in employment by *requiring* the hiring of certain people without regard to their qualifications simply because they are of a given race or religion. Only actual discrimination could be stopped." 110 Cong. Rec. 1518 (emphasis added).

Similarly, Representative Lindsay stated that:

"This legislation . . . does not, as has been suggested heretofore both on and off the floor, force acceptance of people in . . . jobs . . . because they are Negro. It does not impose quotas or any special privileges . . .

"What the bill does do is prohibit discrimination because of race or religion . . .

"Everything in this proposed legislation has to do with providing a body of law which will surround and protect the individual from some power complex. This bill is designed for the protection of individuals. When an individual is wronged he can invoke the protection to himself. . . ." 110 Cong. Rec. 1540.

Representative Minish, another supporter, added:

"Under title VII, employment will be on the basis of merit, not of race. This means that no quota system will be set up, no one will be forced to hire incompetent help because of race or religion, and no one will be given a vested right to demand employment for a certain job. The title is designed to utilize to the fullest our potential work force, to permit every worker to hold the best job for which he is qualified. This can be done by removing the hurdles that have too long been placed in the path of minority groups who seek to realize their rights and to contribute to a full society." 100 Cong. Rec. 1600.

Whenever opponents of Title VII raised the possibility that it might promote racial balancing, supporters of the title unequivocally denied that it would do so. Representative Healey, for example, responded to such charges as follows:

"Opponents of the bill say that it sets up racial quotas for job[s]. . . . The bill does not do that. It simply requires . . . that industries involved in interstate commerce not deny a qualified person the right to work because of his race or religion." 110 Cong. Rec. 1994.

Similarly, when two congressmen renewed the claim that Title VII would require racial balancing, Representative Goodell responded:

"As I understand the gentleman's position, I do not think it can go unchallenged. There is nothing here as a matter of legislative history that would require racial balancing . . . We are not talking about a union having to balance its membership or an employer having to balance the number of employees. There is no quota involved. It is a matter of an individual's rights having been violated, charges having been brought, investigation carried out and conciliation having been attempted and then proof in court that there was discrimination and denial of rights on the basis of race or color." 110 Cong. Rec. 2558.

With this understanding, the House passed the Civil Rights bill, including Title VII, and sent it to the Senate. Similar concerns that Title VII would mandate quotas were expressed in the Senate. Again, supporters made clear that such would not be the case. Senator Humphrey, co-manager of the bill, stated flatly that percentage goals would not be required. 110 Cong. Rec. 5092. Senator Humphrey then introduced a Justice Department opinion on the bill, which stated that it "would not authorize anyone to order hiring or firing to achieve racial or racial balance". 110 Cong. Rec. 5094. "There is no enforced quota," Senator Humphrey declared, "[t]he quota system which has been discussed is nonsense". 110 Cong. Rec. 6001. Even in describing the remedies available to a court, he stated that " . . . there is nothing [in Title VII] that will give any power to the Commission or to any court to require hiring, firing, or promotion of employees in order to meet a racial 'quota' or to achieve a certain racial balance." 100 Cong. Rec. 6549. He later summed up the quota controversy:

"It is claimed that the bill would require racial quotas for all hiring, when in fact it provides that race shall not be a basis for making personnel decisions.

"As I have said, the bill has a simple purpose. That purpose is to give fellow citizens—Negroes—the same rights and opportunities that white people take for granted." 110 Cong. Rec. 6553.

Similarly, Senator Clark introduced an interpretative memorandum for himself and Senator Case, which stated:

"There is no requirement in title VII that an employer maintain a racial balance in his work force. On the contrary, any deliberate attempt to maintain a racial balance, whatever such a balance may be, would involve a violation of title VII because maintaining such a balance would require an employer to hire or to refuse to hire on the basis of race." 110 Cong. Rec. 7213.

During Senate filibuster of the bill, the following colloquy ensued between an opponent, Senator Robertson of Virgina, and Senator Humphrey:

"Mr. HUMPHREY. But I feel sure that the Senator from Virginia is not going to suggest or intimate that under this title of the bill there would be such a thing as a quota or a required percentage.

"Mr. ROBERTSON. Not only am I going to intimate it, I am going to charge it; and I am also going to point it out in detail.

"Mr. HUMPHREY. Does the Senator from Virginia say that clearly would be required by this part of the bill?

"Mr. ROBERTSON. I told that businessman it would be possible, and if it would be possible, such a provision should not be included.

"Mr. HUMPHREY. But can the Senator from Virginia point out in title VII any section or subsection or provision that would indicate that in connection with the elimination of segregation in employment based on color, race, religion or national origin an employer would be required to hire any member of a certain ethnic group?

"Mr. ROBERTSON. What does 'discrimination' mean? If it means what I think it does, and which it could mean, it means that a man could be required to have a quota or he would be discriminating. The question comes down to what is meant by 'discrimination' and the framers of the bill will not tell us.

"In the debate in the House it was frankly admitted that quotas were possible under the vague definition of what is 'discrimination.'

"Mr. HUMPHREY. Can the Senator point out any place in the language of the bill that calls for quotas or a percentage of employees based upon race, creed, color, or national origin? The Senator can say 'Yes' but what is discrimination'? It is like my asking the Senator about atomic energy, and he replies 'yes, but how about ice cream cones?' Really, it is a non sequitur. The Senator is a man of logic and reason. I ask him a simple question. We will get around to a definition of 'discrimination.' But what about percentages and quotas?

"Mr. ROBERTSON. The bill has been framed by some very clever lawyers. They were so clever that they even fooled my distinguished friend from Minnesota. . . .

* * * * *

"Mr. HUMPHREY. But I would like to make an offer to [the Senator]. If the Senator can find in title VII . . . any language which provides that an employer will have to hire on the basis of percentage or quota related to color, race, religion, or national origin, I will start eating the pages one after another, because it is not in there.

"Mr. ROBERTSON. . . . [I]t is proposed to write some vague language in this title VII and the Senator asks, 'Where do you find quotas in it?' I find it in the possible ruling of a bureaucrat and then confirmed by a court that does not operate in a way that I approve." 110 Cong Rec. 7418–20.

Other supporters of the bill responded in kind. Senator Javits stated that ". . . the bill is enforceable only in the courts and in no respect imposes a quota system or racial imbalance standard," (110 Cong. Rec. 11471) and Senator McGovern declared that "the bill does not create any hiring quotas." 110 Cong. Rec. 11768.

Nevertheless, in order to speed passage of the bill, Senators Dirksen and Mansfield introduced an amendment to Title VII specifically to allay fears that quotas would be lawful if the title was enacted. Senator Humphrey explained the new subsection as follows:

"A new subsection 703(j) is added to deal with the problem of racial balance among employees. The proponents of the bill have carefully stated on numerous occasions that Title VII does not require an employer to achieve any sort of racial balance in his workforce by giving preferential treatment to any individual or group. Since doubts have persisted, subsection (j) is added to state this point expressly. This subsection does not represent any change in the substance of the title. It does state clearly and accurately what we have mentioned all along about the bill's intent and meaning." 110 Cong. Rec. 12723.

Senator Dirksen explained:

"New subsection (j) provides that this title does not require preferential treatment be given any individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed, in comparison with the total number or percentage of such persons in that or any other area." 110 Cong. Rec. 12819.

With that understanding, the bill passed the Senate, the House voted to concur in the Senate's amendment, and the bill subsequently became law.

The legislative history of Title VII clearly shows Congress' intent to prohibit any deliberate attempts to maintain racial balance in a work force. Unfortunately, government agencies ignored this Congressional intent by simply not using the term "quota" and adopting instead such euphemisms as "goals" and "timetables" to accomplish the same result. A good example of this tactic is found in the contract compliance program under Executive Order 11246 (E.O. 11246).

Signed by President Johnson in 1965, E.O. 11246 continued the affirmative action obligations and nondiscrimination prohibitions of earlier executive orders, but transferred the responsibility for administering the compliance program from the Vice-President to the Secretary of Labor. Affirmative action began to take on its more contemporary attributes with the issuance of Department of Labor regulations concerning the Orders' implementation. They required each non-exempt contractor with more than fifty employees and a government contract valued at $50,000 or more to develop a written affirmative action program (AAP) for each of its establishments. The program was to include the identification and analysis of minority employment "problem areas" within an employer's work force and, where there were deficiencies, "goals and timetables" were to be established "to achieve prompt and full utilization of minorities. . . ." 41 C.F.R. § 60–2.10 (February 5, 1970). This language significantly altered both the direction and the purpose of the compliance program Originally, the program had been an effort to provide equal employment *opportunity* for all groups. Now, however, it became a program to provide minority groups and women with a guaranteed share of the existing jobs, commensurate with their representation in the work force or the population. Success was to be measured in the number of jobs won for minorities and women, and not by the establishment of nondiscriminatory employment practices. The purpose of the program became, not equal employment opportunity, but simply equal employment. In sum, the compliance program was turned into a vehicle for establishing and monitoring preferential treatment.

When Congress re-examined Title VII in 1972, there was an insufficient appreciation of how federal agencies had employed euphemisms to frustrate the clear intent of Congress as expressed in 1964. One senator, Sam Ervin, did raise the point that government officials were ignoring the prohibition against quotas in the 1964 Act. 118 Cong. Rec. 1662–64, 4917–18. But Senators Javits and Williams replied that government officials were imposing "goals" and "timetables," not "quotas." 118 Cong. Rec. 1664–65, 4918. Because Congress was more concerned at the time with re-defining the powers of the EEOC, Senate deliberation of the goals and quotas issue was hasty and incomplete. In the House, there were no votes at all on any proposed amendments dealing with quotas.

Fifteen years after passage of the Civil Rights Act, it is clear that quotas, in whatever words disguised, do violence to the purpose of ending discrimination. This has been acknowledged many times by the federal courts, which have been much more restrained in their approach to the use of preferential remedies than have federal agencies. Noting that "quotas are an extreme form of relief" [*Ostapowicz v. Johnson Bronz Co.*, 541 F.2d 394 (3d Cir. 1976)], the federal courts have used quotas and preferential treatment as a method for remedying proven discrimination, and in most instances, they have placed some limit upon the duration of the remedy.* As the federal court of appeals in New York has stated, quotas are "harsh and can only exacerbate rather than diminish racial tensions." *Bridgeport Guardians, Inc.* v. *Bridgeport Civil Service Commission*, 482 F.2d 1333 (2d Cir. 1973). Compare these opinions, however, with the views of federal officials in the Executive Branch:

"I would say that in a general way, affirmative action is anything that you have to do to get results." [Statement by Edward C. Sylvester, Jr., Director of the Office of Federal Contract Compliance. reprinted in R. P. Nathan, "Jobs and Civil Rights, The Role of the Federal Government in Promoting Equal Opportunities in Employment and Training," 93 (U.S. Comm. on Civil Rights, 1969).]

"[The Labor Department] and the compliance agencies put pressure on contractors to come up with commitments *even though those contractors are not guilty of any discrimination*, but because we think they are required under the Executive Order to go beyond, to provide affirmative action." Statement by Lawrence H. Silberman, Under Secretary of Labor, *Hearings on S. 2515, etc. Before the Subcom. on Labor of the Senate Comm. on Labor and Public Welfare*, 92nd Cong., 1st Sess. 88 (1971) (emphasis added).

Consistent with these opinions, the compliance program has adopted "goals and timetables" regardless of whether the discrimination alleged is actually proven, solely on the basis of questionable determinations of numerical underutilization.

The accompanying bill is designed to eliminate this pernicious practice. It would preserve the enforcement of equal employment opportunity laws, and the power of the courts to remedy proven acts of discrimination. It would, however, require federal officials to respect the nation's antidiscrimination laws "across the board," by not awarding jobs to individuals solely on the basis of skin color, or other irrelevant criterion.

DISCRIMINATION IN THE USE OF FEDERAL MONEYS

Education

Perhaps the best known objection to the concept of "reverse discrimination" was voiced in a case concerning a university's quota system. The voice was that of former Justice Douglas in the *DeFunis* case:

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* See, for example, *NAACP* v. *Allen*, 493 F.2d 614 (5th Cir. 1974), *Morrow* v. *Crisler*, 491 F.2d 1053 (5th Cir. 1974), *cert. denied*, 419 U.S. 895 (1974); *Carter* v. *Gallagher*, 452 F.2d 315 (8th Cir. 1972), *cert. denied*, 406 U.S. 950 (1972).

"There is no constitutional right for any race to be preferred . . . The Equal Protection Clause commands the elimination of racial barriers, not their creation in order to satisfy our theory as to how society ought to be organized." *DeFunis* v. *Odegaard*, 416 U.S. 312, at 336-337, 342 (1974).

Although the Supreme Court never resolved the *DeFunis* case on its merits, DeFunis, who as a white applicant to the University of Washington Law School was denied the opportunity to compete for a number of openings reserved for certain groups, nevertheless was admitted to the Law School and allowed to graduate. Others have been less fortunate. The case of Philip DiLeo, for example, has a far less happier ending.

DiLeo, the son of Italian immigrants, grew up in one of the most disadvantaged parts of New York City. Due to poverty and discrimination, his family had to share a one room flat with several other refugee families. Saving what money they could, he and his family eventually worked their way west to Colorado, where they have since settled.

Struggling with a new language which he eventually mastered, DiLeo also struggled through a series of odd and what are often thought to be, demeaning jobs. DiLeo eventually saved enough money to attend college at night while he worked as a laborer during the day. He also took part in community activity in Denver, and became the recipient of two of Colorado's highest community achievement awards.

DiLeo subsequently decided he wanted to attend law school. He took the LSAT standardized test given to all law school applicants. When he scored slightly below the normal admissions standards for the University of Colorado Law School, he applied to that School's special admission program, which was apparently available to all "disadvantaged" students who despite lower grades or test scores, might demonstrate potential nonetheless and who vowed additionally to make good grades in order to qualify.

DiLeo was accepted under the special program, and he and his family were elated. In a matter of days, however, he was informed that upon reconsideration, the University's Admissions Committee had rejected him. Only Black, Puerto Rican, and Asian Americans were permitted to apply for admission to the programs, and while the Admissions Committee originally had assumed he was Puerto Rican, when they learned of his Italian ancestry, they felt compelled to declare him ineligible for the program.

Relief is available for these victims of discrimination only on an erratic and uncertain basis. Allan Bakke, for example, successfully challenged the University of California's quota system by which a fixed number of places were set aside only for minority groups applicants. Four justices of the Supreme Court (Stevens, Burger, Stewart and Rehnquist) found that the special admissions program violated Title VI of the 1964 Civil Rights Act by excluding Bakke, who is white, from medical school because of his race. They concluded that Title VI is "colorblind" and that "[r]ace cannot be the basis of excluding anyone from participation in a federally funded program." *Regents of the University of California* v. *Bakke*, 98 S. Ct. 2733 (1978). Justice Powell agreed with these four justices that the University's quota system was unlawful, but also agreed with the remaining four justices that race is a factor which can be taken into account in the admissions process.

The accompanying bill would clear up this confusion by prohibiting all quotas, with their inherent characteristics of disregarding individual rights in favor of group-oriented preferential classifications. As Justice Stevens stated in *Bakke*:

"Both Title VI and Title VII express Congress' belief that, in the long struggle to eliminate social prejudice and the effects of prejudice, the principle of individual equality, without regard to race or religion, was one on which there could be a 'meeting of the minds' among all races and a common national purpose." See *City of Los Angeles, Dept. of Power & Water v. Manhart*, 46 LW 4347, 4349, ("the basic policy of the statute (Title VII) requires that we focus on fairness to individuals rather than fairness to classes"). This same principle of individual fairness is embodied in Title VI.

Business

The use of quotas unrelated to correcting acts of discrimination is turning our equal employment law and federal grant programs into nefarious instruments for social engineering clearly at odds with the intent of those who enacted the 1964 Act. Whether they be employees or students, Americans expect that they no longer will be treated as individuals, but rather that their chance for a job or opportunity for an education will depend upon such irrelevant factors as skin color. Not content with the Balkanization of the nation's work force and student body, the government now is beginning to divide the business community along ethnic and color lines as well. A prime example is in the area of federal subcontracting procurement policies.

In this area, Congress is to blame as much as the federal agencies, for it is Congress which, over the past several years, has casually introduced quotas into its procurement legislation. In 1977, for example, Congress, with practically no deliberation at all, permitted a ten percent minority business quota to become a part of that year's public works legislation. [Public Works Employment Act of 1977, 42 U.S.C. § 6705 (f) (2)] The quota spawned a rash of lawsuits nationwide challenging its constitutionality. Some federal district courts struck down the quota as violating the equal protection right of contractors.* One court declared that

> "the 10% quota [is] not a constitutionally acceptable means of promoting the Congress' legitimate interest in promoting employment in the construction industry among minority group members." *Associated General Contractors of Calif. et al. v. Secretary of Commerce*, F. Supp. , slip op. at 28-29 (C.D. Cal., Oct. 20, 1978).

That case, among others, is awaiting possible review by the Supreme Court.

Rather than acknowledge these problems with quotas, and consider other, less onerous alternatives of increasing minority participation, Congress last year passed yet another quota bill, this with a government-wide impact. Under this new legislation [Pub. L. No. 95-507, 92 Stat. 1757, 15 U.S.C. §§ 683 *et seq.*], companies receiving federal contracts exceeding one million dollars for construction and $500,000 for other purposes are required to develop and have approved a minority subcontracting plan. The subcontracting plan must include, among other things, percentage goals for the utilization by contractors of small businesses generally and those owned and controlled by "socially and economically disadvantaged individuals." The contractor is to presume that certain specified racial minorities are socially and economically disadvantaged. Furthermore, each procuring agency is to establish an Office of Small and Disadvantaged Business Utilization to consult with the Small Business Administration in developing "realistic goals" for small and disadvantaged business participation in federal contracts.

In these programs, as in the others discussed earlier, quotas have not been established to correct specific instances of past discriminatory acts or policies. Racial preferences have been imposed solely on the basis of statistical data indicating minority underrepresentation in comparison to the general population. This reliance upon statistics has nothing to do with assuring equal opportunity, and everything to do with redistributing jobs, education and business opportunities along racial and ethnic lines. Such a policy surely threatens the fabric of our pluralistic society.

The accompanying bill would return the nation's civil rights laws to its original purpose: that of protecting citizens from discriminatory treatment by assuring equal opportunity. As the Supreme Court declared in an equal employment opportunity case some years ago:

"[The Civil Rights Act of 1964] does not command that any person be hired simply because he was formerly the subject of discrimination, or because he is a member of a minority group. Discriminatory preference for any group, minority or majority, is precisely and only what Congress has proscribed. What is required by Congress is the removal of artificial, arbitrary, and unnecessary barriers to employment when the barriers operate invidiously to discriminate on the basis of racial or other impermissible classification." *Griggs* v. *Duke Power Co.*, 401 U.S. 424, 431 (1971).

EQUAL OPPORTUNITY, AND FREEDOM FROM QUOTAS

Mr. Chairman, Miss Sign, John (Florez) and distinguished guests,

I am delighted to be here this morning, because I come here as a friend. I come as one who admires what you do, and why you are doing it. Racial discrimination has always been repugnant to me. This was so as a private citizen, and I am equally revolted by it as a United States Senator. While our country has long had a reputation as a "melting pot" of diverse cultures—a reputation well deserved because of America's remarkable history of successfully assimilating peoples of different religions, values and backgrounds. Our country has only in recent years made it illegal to discriminate in employment on the grounds of race, color, religion, sex and national origin.

Specifically, for those of us who remember, it was twelve years ago when Congress took decisive action. This was accomplished when the Civil Rights Act of 1964 became law.

This was properly heralded as the end of one era and the beginning of a new age, and my only regret here is that my own election to the U.S. Senate had not come earlier in order that I might have been present at the creation. Had I the chance, I certainly would have voted for that law. I would have done so in order to make as a matter of legal right, something which has been readily accepted as part of our American tradition—that is, the equality of opportunity for every American.

No American who wants to do so, should resist entering a restaurant, or refrain from trying to buy a home, or make a job application because his or her skin is black or brown. The legislation of '64 defined legal rights and duties in order to correct this. The legislation holds that racial prejudice is not only against common decency, it's also against the law.

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*Associated General Contractors of Calif., et al. v. Secretary of Commerce, 441 F. Supp. 955 (C.D. Cal. 1977), judgment vacated and remanded, 46 U.S.L.W. 3892 (U.S. July 3, 1978); original judgment reinstated in full (C.D. Cal., Oct. 20, 1978); Montana Contractors Association v. Kreps, F. Supp. , No. CV 77-62-M (D. Mont., 1978). See also Wright Farms Construction, Inc. v. Kreps, 444 F. Supp. 1023 (D. Vt. 1977) (amendment unconstitutional as applied).

Any problems we have had since then have been problems of enforcement, or problems of interpretation. They have not been problems with the law itself, a law which in my opinion has since its passage twelve years ago been fully vindicated.

Unfortunately, there has developed in recent years a side to all of this which is both ironic and tragic. It is a sequel to the story of civil rights activism in America which runs directly contrary to our national commitment to end racial discrimination, and I ask you to consider the following example.

Very briefly, I would like to tell you the story of Philip DiLeo. Philip, the son of Italian immigrants, grew up in one of the roughest portions of New York City, a section dubbed "Little Italy." When he and his parents first came to America, they were denied housing due to anti-Italian discrimination in New York at that time. They shared a one room flat with several other refugee families in Little Italy, saving what money they could scrape together in pursuit of their dream; and the day finally came when they were able to work their way west as far as Colorado, where they have since settled.

Struggling with our language which he eventually mastered, Philip also struggled through a series of odd and what are often thought to be, demeaning jobs. Through hard work and the force of will, Philip saved enough money on his own to attend college at night while he worked as a laborer during the day. He also took part in community activity in Denver, and in fact became the recipient of two of Colorado's highest community achievement awards.

When Philip decided he wanted to attend law school, his parents were understandably elated. The fulfillment of the American Dream. For a DiLeo to become a lawyer, to become a professional would almost account for all the years of the poverty, the indignity and the fears of being the object of discrimination as the DiLeos of Palermo, Italy.

Philip took the L.S.A.T. standardized test given to all law school applicants. While he scored slightly below the normal admissions standards for the University of Colorado Law School, he applied to that school's special admission program which was apparently available to all "disadvantaged" students who despite lower grades or test scores, might demonstrate potential nonetheless and who vowed to make additionally good grades in order to qualify.

Philip DiLeo was accepted under the special program, and after receiving his acceptance letter his family celebrated. Some relatives pooled together resources in order to buy him a present, his first text book on constitutional law. It was probably only days later, after he was several hundred pages into this textbook when the word came. Upon reconsideration, the University's Admission's Committee was after all going to reject him. He would not be permitted into the program, and he would not be permitted to attend the university or its law school. Philip DiLeo was dark skinned, but he was also Italian. The special admission committee's program at the University of Colorado was not designed for Italians, and previously the school had assumed that he was Puerto Rican. Only Black, Puerto Rican, and Asian Americans were permitted to apply for admission to the program, and so once again it had happened. Philip DiLeo who was the object of discrimination all his life, became the object of discrimination once again. The Law School of the University of Colorado could have saved Philip a great deal of trouble by simply posting a notice, "Italians Need Not Apply."

Ladies and gentlemen, this is what so-called "reverse discrimination" is all about. All of us in this room—each and every one of us, who have had the compassion and sensitivity to understand the injustice of discrimination and who have worked to correct it. We will have all fought in vain if we fail to acknowledge and solve the problems created by quotas, by forced "guidelines."

Are there any among us who disagree with the guiding principle of the American Civil Rights Movement! Are there any who disagree, when I say that discriminatory hiring practices have no place in our country! America should pride itself upon guaranteeing each of its citizens an equal opportunity to earn a decent living. To benefit one man at the expense of another for reasons no more relevant than sex or race or national origin is a perversion of civil rights. It is a double standard. It is a reverse form of discrimination which any way you slice it, is still discrimination, and it's wrong.

The use of quotas to achieve the legitimate goal of ending discrimination is wrong, and it violates the congressional intent of the Civil Rights Act of 1964 as well as subsequent voting rights legislation. For any who doubt this, they should read the congressional debates of the period, and especially the eloquent statement by the late Senator Hubert Humphrey. The key supporter and certainly a champion of the bill, Senator Humphrey clarified the meaning of the Civil Rights Act by declaring that there "must be an intention to discriminate" before one could be held to have violated the law. He made a distinction which became the legislative consensus of the period, that being that the prevention of discrimination ought not to become preferential treatment for one individual or group at the express expense of another. To transform "equality of opportunity" into "equality of result" would violate the letter and spirit of the Civil Rights Act and subsequent legislation which remain the legal guarantor of all we have tried to do for social justice in our country.

To understand this problem, one must understand the basic details of the legislation in question.

Title VI of the Civil Rights Act of 1964 requires that any program or activity, including state or local government, which receives financial assistance must, as a matter of law, treat all participants equally without regard to race, religion, color, sex or national origin. The act, in Title VII, further prohibits any federal contractors, private employers or labor organizations from discriminating against applicants for employment. What Congress was doing, in brief, was abstracting the social policy articulated in the landmark Supreme Court school desegregation decision, *Brown v. Board of Education*. The idea was to take the Court ruling in this 1954 decision, give it legislative intent and extend it to federal programs and private employment. This policy was one in which discrimination on grounds of race, religion, color, sex or national origin was prohibited as constituting an antithesis of the principle of individual equality, individual dignity and individual justice on which the American nation was founded—principles which the Civil Rights Movement was given the task of translating into full practice.

It was only later, specifically, in 1965, that an Executive Order went a step further. President Johnson issued Executive Order Number 11246 requiring federal contractors to take "affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to race, creed, color or national origin."

With this order, the whole character of our legal commitment to end discrimination took on a different meaning. It did not change because of any change in the law, nor were any additional statutes added to those already on the books in the form of anti-discrimination provisions. Simply speaking, the White House took it upon itself not only to prohibit discrimination, but to force action to end inherently discriminatory practices.

In time, discrimination came to be interpreted as "the underutilization principle," by the Department of Labor when it issued orders in 1970 for forced federal compliance. That is, a statistical quota would be set as determined in Washington, and all businesses or enterprises of any kind in the United States would hire and fire not according to the principle of merit or the requirements of economics so much as by keeping consonant with the federally imposed quota.

This change came subtly. It came in the form of a relatively anonymous mechanism of rule-making whereby an enforcing agency like the HEW or the Department of Labor can expand or even redefine the essence of the law it is supposed to enforce. But in coming, the prohibition against discrimination became in itself a positive duty to discriminate. And those who lost out, those who were victimized by the new change were no longer the guilty ones. They were no longer the corrupt sheriffs, or the Klan supporters or the practicing bigots. The losers, the victims are instead what has become a new class of repressed minorities. They are the Alan Bakkes or the Philip DiLeos for whom the law as now being enforced has itself become a symbol of injustice, and for whom there is nowhere to turn for help.

This new minority group, like every other reasonable American, seeks justice. They simply ask for the assurance which is by the letter of the law given to every American, a fair shot at success in our country. Quotas deny them this chance. Quotas are invidious, because they ignore individual circumstances and mandate a selfish form of discrimination by any one group of Americans against any other group.

Many have complained to the White House over the past few years. They have complained to the Department of Labor, to the Department of HEW and all of it to no avail. For my part, I am convinced that the only solution rests with the Congress of the United States. It is the Congress which has a responsibility to reaffirm the intent of the Civil Rights Legislation which is on the books, intent which is crystal clear. It is a few but very influential members of the courts and agencies which have succeeded for the best of reasons in perverting the intent of the law to the point that the Civil Rights Act as it is used and quoted today has become unrecognizable.

The challenge before the Congress is to do away with quotas, goals and timetables which necessarily result in discrimination against some for the benefit of others. We must reaffirm the cause the spirit of the civil rights movement which began in the 1960's, and we must not let the cause die because of excess.

For these reasons and more, I am announcing today the legislation I will introduce on the floor of the Senate in the near future, legislation entitled, "The Freedom From Quotas Act of 1979." My bill will reaffirm Federal Government's role in requiring as a condition of receipt of any Federal grant or contract that the recipient must submit an affirmative action program to assure nondiscrimination. However, such programs will not be permitted to impose the establishment of employment goals, timetables or quotas based on race, religion, color, national origin or sex.

The Federal Government would be prohibited from requiring forced data collecting regarding race, religion, sex or national origin, unless the information were required and limited to discovery proceedings under the direction of a court. No longer should a citizen's right to privacy be in question, and no longer should the color of one's skin, one's religious affiliation or any other accidental attribute determine whether one is or is not permitted to attend a school or apply for a job. And statistics alone ought never again to determine one's fate or to impair one's dignity.

There is no suggestion on my part that we as a nation withdraw one iota from our commitment to end discrimination. On the contrary, the legislation I offer once it is enacted into law, will enforce the principles of non-discrimination and the equality of opportunity that are essential to a just and free society.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a bill relative to quotas under titles VI and VII of the Civil Rights Act of 1964, introduced by the Senator from Utah (Mr. Hatch), be referred jointly to the committees on Judiciary and Human Resources with each committee limited in its consideration to matters within its jurisdiction.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. STONE:

S.J. Res. 44. A joint resolution to continue certain programs, transactions, and activities with respect to the people on Taiwan, pending further legislation, and for other purposes; to the Committee on Foreign Relations.

(The remarks of Mr. Stone when he introduced the joint resolution appear elsewhere in today's proceedings.)

By Mr. HARRY F. BYRD, JR.:

S.J. Res. 45. A joint resolution to amend the Constitution of the United States to mandate a balanced budget; to the Committee on the Judiciary.

S.J. Res. 46. A joint resolution to amend the Constitution of the United States to provide for balanced budgets and elimination of the Federal indebtedness; to the Committee on the Judiciary.

Mr. HARRY F. BYRD, JR. Mr. President, I send to the desk two Senate joint resolutions and ask that they be printed in the Record and appropriately referred.

There being no objection, the joint resolutions was ordered to be printed in the Record, as follows:

S.J. Res. 45

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid for all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within three years after its submission to the States for ratification:

"Article —

"Section 1. In exercising its powers under article I of the Constitution, and in particular its powers to lay and collect taxes, duties, imposts, and excises and to enact laws making appropriations, the Congress shall assure that the total outlays of the Government during any fiscal year do not exceed the total receipts of the Government during such fiscal year.

Sec. 2. During the first fiscal year beginning after the ratification of this article, the total outlays of the Government, not including any outlays for the redemption of bonds, notes, or other obligations of the United States, shall not exceed total receipts, not including receipts derived from the issuance of bonds, notes, or other obligations of the United States.

"Sec. 3. In the case of a national emergency, Congress may determine by a concurrent resolution agreed to by a rollcall vote of two-thirds of all the Members of each House of Congress, that total outlays may exceed total receipts for the fiscal year designated in such concurrent resolution.

"Sec. 4 The Congress shall have power to enforce this article by appropriate legislation.

S.J. Res. 46

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid for all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within three years after its submission to the States for ratification:

"Article —

"Section 1. In exercising its powers under article I of the Constitution, and in particular its powers to lay and collect taxes, duties, imposts, and excises and to enact laws making appropriations, the Congress shall assure that the total outlays of the Government during any fiscal year do not exceed the total receipts of the Government during such fiscal year.

"Sec. 2. During the first fiscal year beginning after the ratification of this article, the total outlays of the Government, not including any outlays for redemption of bonds, notes, or other obligations of the United States, shall not exceed total receipts, not including receipts derived from the issuance of bonds, notes, or other obligations of the United States.

"Sec. 3. In the case of a national emergency, Congress may determine by a concurrent resolution agreed to by a rollcall vote of two-thirds of all the Members of each House of Congress, that total outlays may exceed total receipts for the fiscal year designated in such concurrent resolution.

"Sec. 4. During the fifth fiscal year beginning after the ratification of this article and for the next twenty-four succeeding fiscal years thereafter, the total receipts of the Government shall exceed outlays by an amount equal to 4 per centum of the Federal indebtedness at the beginning of the fifth fiscal year. The President shall, not later than the thirtieth day after the close of the fifth fiscal year, ascertain the total Federal indebtedness and transmit said total to Congress by special message.

"Sec. 5. Thereafter, whenever the Congress determines under section 3 that an emergency exists and authorizes outlays to exceed receipts, any indebtedness ensuing therefrom shall be extinguished within five fiscal years of being incurred.

"Sec. 6. The Congress shall have power to enforce this article by appropriate legislation.".

ADDITIONAL COSPONSORS

S. 43

At the request of Mr. Hatch, the Senator from Oregon (Mr. Hatfield), the Senator from Alaska (Mr. Gravel), and the Senator from New York (Mr. Moynihan) were added as cosponsors of S. 43, the National Ski Patrol System Recognition Act.

S. 76

At the request of Mr. Stone, the Senator from Montana (Mr. Baucus) and the Senator from New Jersey (Mr. Williams) were added as cosponsors of S. 76, a bill to amend title XVIII of the Social Security Act to authorize payment under medicare for certain services performed by chiropractors.

S. 100

At the request of Mr. Packwood, the Senator from Minnesota (Mr. Durenberger), the Senator from Montana (Mr. Melcher), the Senator from Alaska (Mr. Gravel), the Senator from Kansas (Mr. Dole), the Senator from Idaho (Mr. McClure), the Senator from Wisconsin (Mr. Nelson), and the Senator from Wyoming (Mr. Wallop) were added as cosponsors of S. 100, a bill to amend the Internal Revenue Code of 1954 to provide a deduction for expenses incurred for reforestation, and for other purposes.

S. 107

At the request of Mr. Morgan, the Senator from Texas (Mr. Tower) and the Senator from Missouri (Mr. Danforth) were added as cosponsors of S. 107, a bill to create a National Agricultural Cost of Production Board.

S. 195

At the request of Mr. Bumpers, the Senator from California (Mr. Cranston) was added as a cosponsor of S. 195, a bill to extend through October 1, 1979, provisions which expired on October 1, 1978, relating to payment under the Social Security Act for services of physicians rendered in a teaching hospital.

S. 219

At the request of Mr. Packwood, the Senator from Indiana (Mr. Lugar), the Senator from Mississippi (Mr. Cochran), the Senator from Arizona (Mr. DeConcini), and the Senator from Minnesota (Mr. Durenberger) were added as cosponsors of S. 219, a bill to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions.

S. 222

At the request of Mr. Durkin, the Senator from Iowa (Mr. Culver) was added as a cosponsor of S. 222, the Alaska National Interest Lands Conservation Act of 1979.

S. 223

At the request of Mr. Danforth, the Senator from North Carolina (Mr. Helms), the Senator from New Hampshire (Mr. Humphrey), the Senator from Alaska (Mr. Stevens), the Senator from Michigan (Mr. Riegle), and the Senator from Pennsylvania (Mr. Schweiker) were added as cosponsors of S. 223, a bill to amend the Antidumping Act, 1921, the Tariff Act of 1930, section 801 of the Revenue Act of 1916, and for other purposes.

S. 226

At the request of Mr. Morgan, the Senator from Arizona (Mr. Goldwater), the Senator from Wyoming (Mr. Wallop), and the Senator from South Carolina (Mr. Hollings) were added as cosponsors of S. 226, a bill to provide for military registration and mobilization assessment, and for other purposes.

S. 252

At the request of Mr. Glenn, the Senator from Rhode Island (Mr. Chafee), the Senator from Kentucky (Mr. Ford), the Senator from New Jersey (Mr. Williams), the Senator from New Hampshire (Mr. Durkin), the Senator from New York (Mr. Moynihan), the Senator from Hawaii (Mr. Matsunaga), and the Senator from Michigan (Mr. Riegle) were added as cosponsors of S. 252, the Anti-Arson Act of 1979.

S. 262

At the request of Mr. Ribicoff, the Senator from Hawaii (Mr. Inouye) was added as a cosponsor of S. 262, a bill to provide for the regulatory analysis of proposed rules and the review of existing rules by the agencies, to make other improvements in regulatory procedures, to establish the Administrative Conference of the United States, and for other purposes.

S. 265

At the request of Mr. Domenici, the Senator from Vermont (Mr. Stafford) was added as a cosponsor of S. 265, the Equal Access to Justice Act.

S. 266

At the request of Mr. Moynihan, the Senator from Delaware (Mr. Biden), the Senator from Pennsylvania (Mr. Heinz), and the Senator from Vermont (Mr. Stafford) were added as cosponsors of S. 266, a bill to amend the Social Security Act with respect to the issuance of social security cards.

S. 267

At the request of Mr. Moynihan, the Senator from Pennsylvania (Mr. Heinz) and the Senator from Vermont (Mr. Stafford) were added as cosponsors of S. 267, a bill to amend title 18, United States Code, to prohibit the counterfeiting and forgery of social security cards, and the sale of such forged or counterfeited social security cards.

S. 268

At the request of Mr. Durkin, the Senator from South Dakota (Mr. Pressler) was withdrawn as a cosponsor of S. 268, a bill to amend the Federal Trade Commission Act to provide that under certain circumstances exclusive territorial arrangements relating to the manufacture, sale, or distribution of soft drink products are not unlawful.

S. 299

At the request of Mr. Culver, the Senator from Arkansas (Mr. Bumpers), the Senator from Colorado (Mr. Hart), and the Senator from Nebraska (Mr. Exon) were added as cosponsors of S. 299, a bill to amend sections 551 and 553 of title 5, United States Code, to improve Federal rulemaking by creating procedures for regulatory issuance in two or more parts.

S. 316

At the request of Mr. Bentsen, the Senator from Alaska (Mr. Gravel) and the Senator from Oklahoma (Mr. Boren) were added as cosponsors of S. 316, the Deep Stripper Well Incentives Act of 1979.

S. 323

At the request of Mr. Hayakawa, the Senator from Wyoming (Mr. Simpson) was added as a cosponsor of S. 323, a bill to repeal the provisions of title 23 of the United States Code requiring a national maximum speed limit of 45 miles per hour.

S. 333

At the request of Mr. Ribicoff, the Senator from New Jersey (Mr. Williams) was added as a cosponsor of S. 333, the Omnibus Antiterrorism Act of 1979.

S. 378

At the request of Mr. Bellmon, the Senator from North Carolina (Mr. Morgan) and the Senator from New Mexico (Mr. Domenici) were added as cosponsors of S. 378, a bill to authorize the Robert A. Taft Institute of Government Trust Fund.

S. 380

At the request of Mr. Durkin, the Senator from Alabama (Mr. Stewart) was added as a cosponsor of S. 380, a bill to amend the Bank Holding Company Act of 1956 to limit the property and casualty and life insurance activities of bank holding companies and their subsidiaries.

S. 414

At the request of Mr. Bayh, the Senator from Nebraska (Mr. Exon) was added as a cosponsor of S. 414, the University and Small Business Patent Procedures Act.

S. 445

At the request of Mr. Percy, the Senator from Connecticut (Mr. Ribicoff), the Senator from Kentucky (Mr. Huddleston), the Senator from Alaska (Mr. Stevens), the Senator from Maine (Mr. Cohen), the Senator from New Hampshire (Mr. Durkin), the Senator from Idaho (Mr. McClure), the Senator from New Mexico (Mr. Domenici), the Senator from Texas (Mr. Tower), the Senator from Oklahoma (Mr. Bellmon), the Senator from Rhode Island (Mr. Chafee), the Senator from Louisiana (Mr. Johnston), the Senator from Vermont (Mr. Leahy), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Vermont (Mr. Stafford), the Senator from Missouri (Mr. Eagleton), the Senator from Alaska (Mr. Gravel), the Senator from Nebraska (Mr. Zorinsky), the Senator from Nebraska (Mr. Exon), the Senator from Pennsylvania (Mr. Heinz), and the Senator from Pennsylvania (Mr. Schweiker) were added as cosponsors of S. 445, the Regulatory Reform Act of 1979.

S. 458

At the request of Mr. Stafford, the Senator from Vermont (Mr. Leahy) was added as a cosponsor of S. 458, a bill to amend title XVIII of the Social Security Act for the purpose of including community mental health centers among entities which may be qualified providers of service.

S. 477

At the request of Mr. Bentsen, the Senator from Alaska (Mr. Gravel) was added as a cosponsor of S. 477, the Tertiary Recovery Incentives Act of 1979.

S. 523

At the request of Mr. Hart, the Senator from Montana (Mr. Melcher), the Senator from Tennessee (Mr. Sasser), and the Senator from Kentucky (Mr. Huddleston) were added as cosponsors of S. 523, the Uniformed Services Professionals Special Pay Act of 1979.

S. 535

At the request of Mr. Schmitt, the Senator from Missouri (Mr. Danforth) was added as a cosponsor of S. 535, the Nuclear Waste Transportation Safety Act of 1979.

SENATE JOINT RESOLUTION 37

At the request of Mr. Sasser, the Senator from New York (Mr. Javits), the Senator from Vermont (Mr. Stafford), the Senator from Idaho (Mr. McClure), the Senator from New York (Mr. Moynihan), and the Senator from Indiana (Mr. Lugar) were added as cosponsors of Senate Joint Resolution 37, authorizing the President to proclaim May 1, 1979, as "National Bicycling Day."

SENATE JOINT RESOLUTION 41

At the request of Mr. Burdick, the Senator from Louisiana (Mr. Johnston) and the Senator from Wyoming (Mr. Wallop) were added as cosponsors of Senate Joint Resolution 41, authorizing National Family Week.

SENATE RESOLUTION 50

At the request of Mr. Kennedy, the Senator from Connecticut (Mr. Ribicoff) was added as a cosponsor of Senate Resolution 50, disapproving the proposed deferral of budget authority to promote and develop fishery products and research pertaining to American fisheries.

SENATE CONCURRENT RESOLUTION 3

At the request of Mr. Hart, the Senator from South Carolina (Mr. Hollings) was added as a cosponsor of Senate Concurrent Resolution 3, commending the Air Force Academy on its 25th anniversary.

SENATE CONCURRENT RESOLUTION 7

At the request of Mr. Schweiker, the Senator from Oklahoma (Mr. Bellmon), the Senator from Missouri (Mr. Danforth), the Senator from Utah (Mr. Hatch), the Senator from Pennsylvania (Mr. Heinz), the Senator from Indiana (Mr. Lugar), the Senator from New Mexico (Mr. Schmitt), the Senator from Wyoming (Mr. Simpson), the Senator from South Carolina (Mr. Thurmond), and the Senator from Wyoming (Mr. Wallop) were added as cosponsors of Senate Concurrent Resolution 7, expressing the sense of Congress on the nonenforcement of sanctions against Zimbabwe Rhodesia.

SENATE CONCURRENT RESOLUTION 7

At the request of Mr. DeConcini, the Senator from Nevada (Mr. Cannon) was added as a cosponsor of Senate Concurrent Resolution 7, expressing the sense of Congress on the nonenforcement of sanctions against Zimbabwe Rhodesia.

SENATE RESOLUTION 91—SUBMISSION OF A RESOLUTION RELATING TO ALLOCATIONS OF DIESEL FUEL

Mr. EAGLETON submitted the following resolution, which was referred to the Committee on Energy and Natural Resources:

S. Res. 91

Resolved, That it is the sense of the Senate that the President should prescribe a regulation respecting the allocation of diesel fuel and prohibiting discriminatory pricing of such fuel in accordance with the authority vested in the President under section 12 of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 760a).

ALLOCATION OF DIESEL FUEL

● Mr. EAGLETON. Mr. President, I send to the desk a resolution expressing the sense of the Senate that the President should reimpose allocation of controls over diesel fuel as he is authorized to do under section 12 of the Emergency Petroleum Allocation Act of 1973.

Diesel fuel and heating oil were the first petroleum products to be deregulated by the President under authority granted him by Energy Policy and Conservation Act of 1975 (Public Law 94-163). That action occurred in July 1976 and removed all controls over price and allocation of supplies.

Until the recent events in Iran, I had no serious concern about deregulation of diesel. Prices increased more than I would have liked, but production also increased and stocks proved adequate for even the peak heating season.

The loss of Iranian crude production and the decision by some OPEC nations to take advantage of the situation by substantially increasing prices (for product as well as crude) has changed all that. Energy Secretary James Schlesinger has said publicly that we may face a period of shortages and runaway prices surpassing even the days of the Arab oil embargo. In anticipation, the administration has proposed to Congress a series of tough standby conservation measures, including possible coupon gasoline rationing.

I am concerned that despite this serious situation and the existence of spot shortages of diesel fuel, no action has been taken by the administration to deal with the potential diesel problem.

I was jarringly reminded of our lack of preparedness in this area last week when I called on the Department of Energy to help the Midcontinent Farmers Association obtain emergency supplies of gasoline and diesel oil. I was told there would be no problem with gasoline, but that as things stood, the Department was powerless to allocate Missouri any diesel. We gave up that power when we deregulated.

Mr. President, we are fast approaching the ploughing and planting season in Missouri and other farm States. Diesel fuel will be in heavy demand.

The Department of Agriculture estimates that fully 90 percent of new tractors sold today are diesel-powered. The same is true for combines. About a half of all the tractors and one-fourth of the combines in current operation depend on diesel fuel. Diesel fuel also accounted for about 11 percent of irrigation power in 1977 in the 17 States which contain over 90 percent of the irrigated acreage in the United States.

It is essential that our farmers be assured of an adequate supply of diesel to meet their needs. The only way we can provide that assurance is to reimpose authority to allocate diesel whenever and wherever shortages develop and I think we can reasonably anticipate there will be such shortages this year.

My resolution does not seek to reimpose price controls over diesel fuel except that it would prohibit discriminatory pricing in connection with allocated supplies. Its only purpose is to vest the Department of Energy with the authority it will need to respond to any disruptive shortages that occur in the months ahead.

I would hope that the Energy Committee will consider this resolution in conjunction with its review of the President's standby conservation plan.

Mr. President, I ask unanimous consent that a series of tables prepared by the Department of Agriculture showing the growth in farm use of diesel be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 1.—SALES OF TRACTORS ON FARMS BY ENGINE TYPE, 1970–75 WITH PROJECTIONS TO 1990

Year	Gasoline tractors		Diesel tractors		Total
	Sales number	Percent	Sales number	Percent	
1950	392,040	99.0	3,960	1.0	396,000
1955	220,335	87.4	31,765	12.6	252,100
1960	68,790	59.2	47,410	40.8	116,200
1965	70,525	43.4	91,975	56.6	162,500
1970	38,646	28.5	96,954	71.5	135,600
1971	32,659	24.3	101,741	75.1	134,400
1972	42,398	21.5	154,802	78.5	197,200
1973	28,747	17.9	131,853	82.1	160,600
1974	19,466	11.2	154,334	88.2	173,800
1975	14,177	8.8	146,923	91.2	161,100
1976 (estimate)	12,800	8.0	147,200	92.0	160,000
1977 (estimate)	11,250	7.5	138,750	92.5	150,000
1978 (estimate)	10,150	7.0	134,850	93.0	145,000
1979 (estimate)	12,025	6.5	172,975	93.5	185,000
1980 (estimate)	10,500	6.0	164,500	94.0	175,000
1981 (estimate)	8,800	5.5	151,200	94.5	160,000
1982 (estimate)	7,500	5.0	142,500	95.0	150,000
1983 (estimate)	7,250	5.0	137,750	95.0	145,000
1984 (estimate)	7,250	5.0	137,750	95.0	145,000
1985 (estimate)	7,500	5.0	142,500	95.0	150,000
1986 (estimate)	9,500	5.0	180,500	95.0	190,000
1987 (estimate)	9,000	5.0	171,000	95.0	180,000
1988 (estimate)	8,750	5.0	166,250	95.0	175,000
1989 (estimate)	8,000	5.0	152,000	95.0	160,000
1990 (estimate)	7,500	5.0	142,500	95.0	150,000

Source: FIEI retail sales reports and ERS estimates.

TABLE 2.—STOCK OF TRACTORS[1] ON FARMS BY ENGINE TYPE, 1950–75, WITH PROJECTION TO 1990[2]

Year	Gasoline tractors		Diesel tractors		Total
	Number	Percent	Number	Percent	
1950	3,544 100	99.8	4,000	0.2	3,548,100
1955	4,511,700	97.7	107,200	2.3	4,618,900
1960	4,499,500	93.6	306,300	6.3	4,805,800
1965	4,054,900	85.9	662,900	14.1	4,717,800
1970	3,440,400	74.9	1,155,000	25.1	4,595,400
1971	3,276,300	72.5	1,244,600	27.5	4,520,900
1972	3,112,100	69.2	1,385,000	30.8	4,497,100
1973	2,924,400	66.0	1,500,200	34.0	4,424,600
1974	2,718,700	62.4	1,635,200	37.6	4,353,900
1975	2,504,100	58.7	1,759,300	41.3	4,263,400
1976 (estimate)	2,287,700	54.9	1,880,000	45.1	4,167,700
1977 (estimate)	2,073,400	51.0	1,988,900	49.0	4,062,300
1978 (estimate)	1,869,100	47.2	2,089,200	52.8	3,958,300
1979 (estimate)	1,679,400	43.0	2,224,000	57.0	3,903,400
1980 (estimate)	1,503,800	39.0	2,344,900	61.0	3,848,700
1981 (estimate)	1,343,700	35.4	2,447,500	64.6	3,791,200
1982 (estimate)	1,199,200	32.1	2,536 600	67.9	3,735,800
1983 (estimate)	1,071,100	29.0	2,615,600	71.0	3,686,700
1984 (estimate)	956,300	26.2	2,689,400	73.8	3,645,700
1985 (estimate)	854,700	23.6	2,762,800	76.4	3,617,500
1986 (estimate)	767,600	21.1	2,868,000	78.9	3,635,600
1987 (estimate)	690,800	18.9	2,958,100	81.1	3,648,900
1988 (estimate)	623,200	17.0	3,037,200	83.0	3,660,400
1989 (estimate)	563,300	15.4	3,096,500	84.6	3,659,800
1990 (estimate)	509,700	13.9	3,141,300	86.1	3,651,000

[1] Stock figures include some units which are in inventories of dealers, branch depots, and manufacturers.

[2] Duane A. Paul and Herbert E. Robinson III. "An Approach to Estimating Stocks of Tractors and Other Machines on Farms." NEAD Working Paper. NEAD/ERS, August 1976.

TABLE 3.—SALES OF COMBINES ON FARMS BY TYPE OF ENGINE 1965–75, WITH PROJECTIONS TO 1990

Year	Gasoline and LP combines		Diesel combines		Total sales
	Sales number	Percent	Sales number	Percent	
1965	37,120	98.7	489	1.3	37,609
1966	38,587	97.5	989	2.5	39,576
1967	39,133	96.2	1,546	3.8	40,679
1968	31,654	95.0	1,666	5.0	33,320
1969	24,835	91.6	2,277	8.4	27,112
1970	22,965	86.0	3,739	14.0	26,704
1971	20,930	77.0	6,267	23.0	27,247
1972	18,080	64.8	9,821	35.2	27,901
1973	17,716	50.5	17,366	49.5	35,082
1974	10,426	33.0	21,169	67.0	31,595
1975	6,617	20.0	26,467	80.0	33,084
1976 (estimate)	3,200	10.0	28,800	90.0	32,000
1977 (estimate)	3,100	10.0	27,900	90.0	31,000
1978 (estimate)	3,000	10.0	27,000	90.0	30,000
1979 (estimate)	3,000	10.0	27,000	90.0	30,000
1980 (estimate)	3,500	10.0	31,500	90.0	35,000
1981 (estimate)	3,400	10.0	30,600	90.0	34,000
1982 (estimate)	3,200	10.0	28,800	90.0	32,000
1983 (estimate)	3,100	10.0	27,900	90.0	31,000
1984 (estimate)	3,000	10.0	27,000	90.0	30,000
1985 (estimate)	2,900	10.0	26,100	90.0	29,000
1986 (estimate)	2,900	10.0	26,100	90.0	29,000
1987 (estimate)	3,400	10.0	30,600	90.0	34,000
1988 (estimate)	3,200	10.0	28,800	90.0	32,000
1989 (estimate)	3,100	10.0	27,900	90.0	31,000
1990 (estimate)	3,000	10.0	27,000	90.0	30,000

Source: FIEI retail sales reports, Department of Commerce Current Industrial Reports MA35-(A), and ERS estimates.

TABLE 4.—STOCK OF COMBINES[1] ON FARMS BY TYPE OF ENGINE 1965-75, WITH PROJECTIONS TO 1990[2]

Year	Gasoline combines		Diesel combines		Total
	Number	Percent	Number	Percent	
1965	295, 743	99. 8	489	0. 2	296, 232
1966	329, 147	99. 5	1, 477	. 5	330, 624
1967	362, 126	99. 2	3, 020	. 8	365, 146
1968	386, 398	98. 8	4, 677	1. 2	391, 075
1969	402, 384	98. 3	6, 936	1. 7	409, 320
1970	415, 092	97. 5	10, 643	2. 5	425, 735
1971	424, 576	96. 2	16, 857	3. 8	441, 433
1972	429, 982	94. 2	26, 596	5. 8	456, 578
1973	433, 921	90. 8	43, 836	9. 2	477, 757
1974	429, 710	86. 9	64, 802	13. 1	494, 512
1975	420, 833	82, 2	90, 957	17. 8	511, 790
1976 (estimate)	407, 841	77. 4	119, 279	22. 6	527, 120
1977 (estimate)	394, 020	72, 9	146, 478	27. 1	540, 498
1978 (estimate)	379, 002	68. 7	172, 523	31. 3	551, 525
1979 (estimate)	362, 695	64. 7	198, 271	35. 3	560, 966
1980 (estimate)	345, 957	60. 3	228, 206	39. 7	574, 163
1981 (estimate)	328, 510	56, 1	256, 901	43. 9	585, 411
1982 (estimate)	310, 488	52. 3	283, 423	47. 7	593, 911
1983 (estimate)	291, 885	48. 6	308, 619	51. 4	600, 504
1984 (estimate)	272, 490	45. 0	332, 366	55. 0	604, 856
1985 (estimate)	251, 882	41. 5	354, 589	58. 5	606, 471
1986 (estimate)	230, 174	38. 0	376, 052	62. 0	606, 226
1987 (estimate)	208, 140	34. 2	401, 111	65. 8	609, 251
1988 (estimate)	185, 852	30. 5	423, 367	69. 5	609, 219
1989 (estimate)	164, 481	27. 1	443, 566	72. 9	608, 047
1990 (estimate)	144, 937	23. 9	461, 556	76. 1	606, 493

[1] Stock figures include some units which are in inventories of dealers, branch depots and manufacturers.

[2] Duane A. Paul and Herbert E. Robinson III. "An Approach to Estimating Stocks of Tractors and Other Machines on Farms." NEAD Working Paper. NEAD/ERS, August 1976.

TABLE 5.—IRRIGATED FARMLAND ACREAGE AND PROPORTIONS POWERED WITH DIESEL FUEL, SELECTED STATES, 1972 AND 1977[1]

State[2]	1972		1977	
	Acres irrigated (thousands)	Percent diesel (percent)	Acres irrigated (thousands)	Percent diesel (percent)
Nebraska	4, 533	27	7, 165	35
Texas	8, 500	4	8, 900	6
Wyoming	1, 780	8	1, 659	8
Colorado	3, 281	6	2, 470	5
Washington	1, 500	0	1, 631	0
Oregon	1, 841	0	1, 885	0
California	8, 678	0	8, 189	8
Oklahoma	660	10	952	8
Arizona	NA	0	1, 150	0
New Mexico	1, 031	10	1, 240	10
Utah	1, 400	14	2, 034	NA
Nevada	1, 300	NA	1, 305	20
Idaho	3, 850	1	3, 934	1
Arkansas	1, 500	10	1, 699	10
Montana	3, 200	NA	3, 114	1
Florida	1, 618	35	2, 918	50
Kansas	2, 056	5	3, 158	14
17 State total	47, 828	7	53, 403	11

[1] Source: Irrigation Association.

[2] These States accounted for over 90 percent of the irrigated acreage in the United States in 1977.

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SENATE RESOLUTION 92—SUBMISSION OF A RESOLUTION RELATING TO THE U.S. FOREIGN POLICY PROGRAM

Mr. PELL submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 92

Whereas the United States desires to continue to help the less developed countries in their efforts to acquire the technology and resources necessary for development;

Whereas the idea of providing development, humanitarian, and disaster assistance, pioneered by the United States, has been taken up by multilateral organizations as well as by other countries;

Whereas multilateral organizations and private organizations are becoming increasingly important and effective in providing development and other forms of assistance because, among other reasons, their activities are not influenced by national considerations; and

Whereas a new International Development Cooperation Administration has been proposed as an independent agency within the Executive branch: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) continued, heavy reliance by the United States on bilateral assistance programs is no longer necessary or desirable; and

(2) the Administration should review the foreign assistance program with a view toward providing all United States development, humanitarian, and disaster assistance through (a) multilateral organizations and (b) private voluntary organizations or (c) through the Department of State where bilateral programs are appropriate; and

(3) in this connection, the proposal to create the International Development Cooperation Administration should be withdrawn and a new proposal should be submitted by the Administration embodying the approach recommended in paragraph (2) above.

ORGANIZATIONAL CHANGES IN THE PROVISION OF AMERICAN FOREIGN ASSISTANCE

Mr. PELL. Mr. President, today, I am resubmitting a resolution that I introduced in 1977 as Senate Resolution 118 recommending that the administration withdraw its proposal to establish an International Development Cooperation Administration and instead prepare a plan to channel developmental humanitarian and disaster assistance funds through multilateral and private organizations on one hand or the Department of State on the other where bilateral programs are appropriate for political reasons.

The United States has been the pioneer in promoting and implementing the idea of developmental, humanitarian and disaster assistance. We have been so successful in this that the number of nations as well as multilateral and private organizations providing such assistance has grown enormously.

This very success has, at the same time, considerably altered the circumstances surrounding assistance—broadening and diversifying its base—so that it now is another reflection of the great complexity and interdependence of our world. No longer is the United States the only important actor in this field, and no longer are governments the only significant sources of assistance. Indeed one of the most encouraging developments in this area is the growth of assistance activities managed and directed by multilateral organizations like the United Nations, the Organization of American States, and private voluntary organizations such as the Foster Parents Plan, the International Rescue Committee, the Partners of the Americas, and the National Catholic Relief.

Let me give some examples of the growth in U.S. Government contributions to these organizations. The International Bank for Reconstruction and Development received $160 million from us in fiscal year 1971, but the figure for fiscal year 1979 has grown to $1.4 billion. The Inter-American Development Bank received $275 million from us in fiscal year 1971 and will receive $764 million in fiscal year 1979. Grants to American private voluntary organizations will increase from $206 million in fiscal year 1971 to $530 million in fiscal year 1979.

I find this trend to larger American reliance on multilateral and private organizations in the assistance field encouraging for two reasons: First, such organizations foster a shared sense of purpose and common struggle for a decent and meaningful life because they involve many people of diverse backgrounds from both developed and developing nations actively in the planning and implementation of assistance programs. This kind of cooperative behavior which transcends governments is an imperative in this era of interdependence. Second, this trend will probably result in more effective programs and, therefore, more useful and meaningful results.

The reasons for this effectiveness are many. The most important, however, is probably the fact that their activities do not jar the national sensitivities of the countries concerned. This permits them to set and enforce higher standards than can bilateral donors or lenders. The attitude of recipient countries is well expressed in the words of Eduardo Frei Montalva, the last Christian Democratic President of Chile:

> It is inadmissible that the mere fact of making available financial aid gives any nation the right to demand that another implement specific types of structural changes. This would constitute an intolerable infringement of national sovereignty. That is why in this situation, it is necessary to use multilateral channels for the supply of foreign assistance.

This point was made more explicitly by Eugene Black in his farewell address to the Board of Governors of the International Bank for Reconstruction and Development:

> An international organization will make

> aid available with the sole purpose of helping the country receiving that aid. Because they are known to have no ulterior motive, they can exert more influence over the use of a loan that is possible for a bilateral lender: they can insist that the projects for which they lend are established on a sound basis, and—most important—they can make their lending conditional on commensurate efforts being made by the recipient country itself.

In addition to this general rule of effectiveness of nongovernmental assistance programs, private organizations enjoy some unique additional advantages: Their programs directly involve and release the creative energy of large numbers of people in this country and others. This is a critically important matter for the shaping of cooperative international behavior because it creates constituencies in the United States and abroad that AID has failed to develop. Second, private programs, because of their diversity and relatively small scale, are likely to be more flexible and innovative than large, bureaucratic, official organizations.

Finally, as I know from my own experience when I was vice president of the International Rescue Committee, private programs are generally more cost effective than governmental ones because their overhead costs are much lower—principally because the salaries and allowances they pay are lower and the perquisites they provide to their employees are much less than those received by persons working for nonprivate groups. Moreover, their infrastructure and support staff is always much less than is the case with Government organizations. This, of course, is another expression of the high motivation animating the private groups.

At the same time, bilateral assistance programs are meeting with increased difficulty—principally because of their decreasing acceptability to less developed countries for nationalistic reasons. This situation lessens their effectiveness and can lead to perversions of the original purpose of the assistance program if the donor or lending country compromises excessively on performance terms with the recipient country for reasons of state.

As I said earlier, the very success of assistance—a matter for which this country is largely responsible—has changed the circumstances surrounding it. The major change is the rise of other than governmental donors and lenders. This is a significant and welcome development and marks a step forward in international cooperation and in economical and effective assistance delivery. This trend should be encouraged, and we should act now to adjust our own official assistance programs to take advantage of this new reality and opportunity.

The administration recently submitted to the Congress a proposal to create an International Development Cooperation Administration as an independent agency within the executive branch. While this proposed new agency would represent an improvement over the present Agency for International Development, it falls far short, in my view, of what we ought to be doing in the foreign assistance field. I am, therefore, urging the administration to withdraw this proposal and instead develop a new plan that would involve the dismantling of AID and channeling of U.S. development, humanitarian and disaster assistance through multilateral and private organizations on the one hand or through the Department of State on the other where bilateral programs are appropriate for political reasons.

SENATE CONCURRENT RESOLUTION 9—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO THE RESTORATION OF THE FREE EXERCISE OF RELIGION IN THE UKRAINE

Mr. GOLDWATER (for himself, Mr. Bayh, Mr. DeConcini, Mr. Hatfield, Mr. Heinz, Mr. Lugar, Mr. Stone, Mr. Williams, and Mr. Zorinsky) submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. Con. Res. 9

Whereas the Charter of the United Nations, as well as its Declaration of Human Rights, sets forth the objective of international cooperation "in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion . . ."; and

Whereas in the so-called Brezhnev Constitution of the Union of Soviet Socialist Republics article 52 unequivocally provides that "Freedom of conscience, that is, the right to profess any religion and perform religious rites or not profess any religion, and to conduct atheistic propaganda, shall be recognized for all citizens of the United Soviet Socialist Republic. Incitement of hostility and hatred on religious grounds shall be prohibited;" and

Whereas not just religious or civil repression but the attempted genocide—the absolute physical extermination—of both the Ukrainian Orthodox and Catholic Churches, and all other truly independent religions, in a nation of about fifty million persons brutally violates the basic civilized rights enunciated above: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring) That it is the sense of Congress that the President of the United States of America shall take in the name of human rights immediate and determined steps to—

(1) call upon the Government of the Union of Soviet Socialist Republics to permit the concrete resurrection of both the Ukrainian Orthodox and Catholic Churches and other independent religions in the largest non-Russian nation both within the Union of Soviet Socialist Republics and in Eastern Europe; and

(2) utilize formal and informal contacts with Union of Soviet Socialist Republic officials in an effort to secure the freedom of religious worship in places of both churches and all other independent religions as their own constitution provides for; and

(3) bring to the attention of all national and international religious councils the nature of this outstanding Stalinist crime and perpetuated violation of basic human rights, with an appropriate address to the mobilization of their resources toward the realization of the objective of this resolution.

● Mr. GOLDWATER. Mr. President, I am pleased to submit today a concurrent resolution, urging the President to work through official and other channels toward the restoration of the free exercise of religion in Ukraine. The resolution is cosponsored at this time by Senators Bayh, DeConcini, Hatfield, Heinz, Lugar, Stone, Williams, and Zorinsky.

Mr. President, as a signatory of the Helsinki accord, the Soviet Union is bound to comply with the principles of individual human rights, not the least of which is the right to religious freedom. Furthermore, the Constitution of the U.S.S.R. unequivocally stipulates:

> The right to profess any religion and perform religious rites . . . shall be recognized for all citizens.

Yet, the Soviet persecution and attempted annihilation of religious groups in Ukraine must be put high on the list of crimes against humanity.

The ruthless treatment of religion in Ukraine is particularly abhorrent to all people of conscience because of the systematic and institutionalized methods employed by the Soviet Government. The Ukrainian Orthodox and Catholic Churches has suffered especially in the past, because of the nationalistic identity associated with these institutions. Of late, Ukrainian Jewish, Baptist, Seventh Day Adventists and others have equally fallen prey to the official liquidation policy of the Soviets.

Amidst the talk of détente and within the spirit of the Helsinki accord, it is the responsibility of the United States as cosignators to bring these outrages to public attention. Accordingly, I believe the U.S. Government should reaffirm the basic principle of religious freedom which has sustained our Nation by making this statement in defense of human dignity.●

AMENDMENTS SUBMITTED FOR PRINTING

TAIWAN ENABLING ACT—S. 245

AMENDMENT NO. 79

(Ordered to be printed and to lie on the table.)

Mr. PERCY (for himself, Mr. Goldwater, Mr. DeConcini, Mr. Hollings, Mr. Tower, Mr. Huddleston, Mr. Stevens, Mr. Stone, Mr. Cohen, Mr. Weicker, and Mr. Proxmire) submitted an amendment intended to be proposed by them, jointly, to S. 245, a bill to promote the foreign policy of the United States through the maintenance of commercial, cultural, and other relations with the people on Taiwan on an unofficial basis, and for other purposes.

AMENDMENT NO. 80

(Ordered to be printed and to lie on the table.)

Mr. BOREN (for himself, Mr. Dole, Mr. Hollings, Mr. Helms, and Mr. Morgan) submitted an amendment intended to be proposed by them, jointly, to S. 245, supra.

AMENDMENTS NOS. 81 THROUGH 92

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted 12 amendments intended to be proposed by him to S. 245, supra.

AMENDMENT NO. 93

(Ordered to be printed.)

Mr. HARRY F. BYRD, JR. (for himself, Mr. Thurmond, Mr. Warner, Mr. Helms, Mr. Hayakawa, Mr. Garn, and

Mr. PROXMIRE) proposed an amendment to S. 245, supra.

AMENDMENT NO. 94

(Ordered to be printed and to lie on the table.)

Mr. DECONCINI submitted an amendment intended to be proposed by him to S. 245, supra.

ENFORCEMENT OF ANTITRUST LAWS—S. 300

AMENDMENT NO. 95

(Ordered to be printed and referred to the Committee on the Judiciary.)

Mr. EAGLETON submitted an amendment intended to be proposed by him to S. 300, a bill to restore fair and effective enforcement of the antitrust laws.

● Mr. EAGLETON. Mr. President, I am submitting an amendment to change the effective date of provision of S. 300, a bill to restore fair and effective enforcement of the antitrust laws.

Mr. President, as currently drafted, S. 300, would reverse two Supreme Court decisions applicable to private antitrust enforcement under the Clayton Act (15 U.S.C. section 15 et seq). It would reverse *Illinois Brick Co.* v. *Illinois*, 431 U.S. 720 (1977), which permits only direct purchasers to obtain monetary relief from illegal overcharges, and *Hanover Shoe, Inc.* v. *United Shoe Machinery Corp.*, 392 U.S. 481 (1968), which prohibits defendants from avoiding liability to direct purchasers by arguing that those purchasers passed on the illegal overcharges down the distribution chain. Section 4 of S. 300, as introduced, would reverse these cases retroactively, allowing indirect purchasers to sue and the possible use of a pass on defense in all cases pending on the date of enactment of the bill.

The amendment to S. 300 here proposed would not change the bill with respect to the retroactive application of the Illinois Brick reversal. It would amend section 4 of that bill to reverse Hanover Shoe prospectively.

Subsection (a) of my amended version of section 4 would permit indirect purchasers to recover damages under section 4, 4A or 4C of the Clayton Act in all cases, pending or future, irrespective of when the damages occurred.

Subsection (b), however, would permit defendants to assert the pass-on defense (subject to the discretion of the court, under the current draft of S. 300) in all cases, but only as to damages occurring after the enactment of S. 300.

The rationale for the retroactive application of the Illinois Brick reversal has been well-documented in the hearings record. As a rule, I oppose retroactive legislation. But a detailed look at pending cases that had been brought by State governments, consumers, and other indirect purchasers prior to the Illinois Brick decision, shows that retroactivity is necessary in this case to avoid doing a serious injustice to their claims.

In attempting to avoid that injustice, however, S. 300 should not impose injustice on a different class of plaintiffs. The retroactive application of the provision overruling Hanover Shoe would be a financial disaster for direct purchaser plaintiffs who filed suit in reliance on the prohibition against use of the pass-on defense.

I will use, as an example, a case brought by a Missouri businessman for alleged damages due to price fixing. I will not mention his name or the name of his case since, of course, the matter is still in litigation. This businessman filed a suit under the Clayton Act some 4 years ago against two major oil companies for ongoing damages amounting to several million dollars. At that time, he assessed his position under Hanover Shoe and, in accordance with the mandate and encouragement of Congress in section 4 of the Clayton Act, began a complex and expensive antitrust case. This was a business decision to invest a significant amount of capital to recover the overcharge and the additional damages due to him for acting as a "private attorney general."

Now, more than 4 years later, he should not have the ground cut from under him by retroactive legislation. Nor should he have the Congress impose upon an existing lawsuit the requirement that he spend additional money in the extensive and expensive litigation of pass-on issues which were not in the case when he filed it.

If this happens, his potential for recovery is made considerably more difficult and expensive. The remaining damages might barely cover his final attorney's fees. It is hardly fair to encourage the investment upfront of substantial attorney's fees, only to retroactively slash the amount of recovery after 4 years of litigation. Moreover, there has never been an indication that any of the indirect purchasers, to whom some of the overcharge was passed on, were likely to join in the suit. This was the case before the Illinois Brick decision, and during the pendency of the overruling legislation. Thus, if Hanover Shoe is overruled retroactively, the defendant in the suit will receive a windfall by escaping a large percentage of liability through the pass-on defense and using the statute of limitations to foreclose any indirect purchasers from recovery.

I make no comment here about the wisdom of overruling Hanover Shoe prospectively. But to do so retrospectively is to renege on the promised incentives on which conscientious businessmen made business decisions up to 4 or 5 years ago. Furthermore, if Congress reneges now, how can it expect future victims of price fixing, direct or indirect, to rely on the "new" Clayton Act provisions enough to file the long, complex, and expensive antitrust cases.

Another reason for treating the statutory reversal of Hanover Shoe and Illinois Brick differently is that this legislation owes its proposal and most of its support to a negative reaction to the latter case. Illinois Brick, decided by the Supreme Court in 1977, sets out a new principle of law prohibiting indirect purchasers from recovering under the antitrust laws. No legitimate argument can be made that antitrust defendants have expended money or taken action based upon the expectation that they may with impunity violate the antitrust laws because they are invulnerable to suits by indirect purchasers. Also, there is a degree of inconsistency between both expanding the scope of permissible recovery by overruling Illinois Brick and restricting pending private actions by reversing Hanover Shoe retroactively.

I ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 95

On page 3, strike out lines 3 through 6, and insert in lieu thereof the following:

SEC. 4. (a) Section 4I (a) of the Clayton Act, as added by section 2 of this Act, shall apply to any action under section 4, 4A, or 4C of the Clayton Act which is pending on the date of enactment of this Act or which is commenced on or after such date of enactment.

(b) Section 4I (b) of the Clayton Act, as added by section 2 of the Act, shall apply to any action under section 4, 4A, or 4C of the Clayton Act which is pending on the date of enactment of this Act or which is commenced on or after such date of enactment, but shall apply only to damages occurring on and after the date of enactment of this Act.

NOTICES OF HEARINGS

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, the Select Committee on Small Business will hold a hearing on the impact of out-of-State acquisitions, mergers, and economic concentration has on the State and local communities.

The hearing will be held in Milwaukee, Wis., in room 254 of the Federal Office Building, on March 12, 1979 at 10 a.m.

Witnesses will be announced at a later date.●

SUBCOMMITTEE ON THE CONSTITUTION

● Mr. BAYH. Mr. President, the Subcommittee on the Constitution of the Committee on the Judiciary, will hold the first day of hearings on proposals for a balanced budget amendment to the Constitution. The hearings will commence at 9 a.m. on March 12, 1979, in room 6226, Dirksen Office Building.

Anyone wishing to submit testimony for the record should contact Kevin O. Faley, general counsel of the subcommittee, 102-B Russell Senate Office Building, Washington, D.C. 20510.●

SUBCOMMITTEE ON CIVIL SERVICE AND GENERAL SERVICES

● Mr. PRYOR. Mr. President, I wish to announce that the Subcommittee on Civil Service and General Services of the Governmental Affairs Committee will hold hearings on the work of the President's Commission on Pension Policy and consider legislation (S. 532) to authorize funds to continue the Commission's work on March 22, 1979 at 9:30 a.m. in room 357 of the Russell Senate Office Building.

Interested persons may contact the office of the Subcommittee on Civil Service and General Services, telephone (202 224-4551.●

SUBCOMMITTEE ON EDUCATION, ARTS AND HUMANITIES

● Mr. EAGLETON. Mr. President, on behalf of the Senator from Rhode Island

(Mr. Pell), I wish to announce that the Labor and Human Resources Subcommittee on Education, Arts and Humanities will hold hearings on March 12, 1979, in St. Louis, Mo., and on March 15 and March 28, 1979, in Washington, D.C., to continue its examination of basic skills achievement in elementary and secondary schools.

The subcommittee would be pleased to receive written testimony from those persons or organizations who wish to submit statements for the record. For further information regarding the hearing, you may wish to contact Marcia McCord or Bob Smith at 224–7654.●

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, on March 21 and 26, the Select Committee on Small Business will conduct authorization hearings on the Small Business Administration's fiscal year 1980 budget requests. The hearings will take place each day, beginning at 9:30 a.m., in room 424, Russell Senate Office Building.●

SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION, AND FEDERAL SERVICES

● Mr. GLENN. Mr. President, I would like to announce hearings to be held by the Subcommittee on Energy, Nuclear Proliferation, and Federal Services of the Governmental Affairs Committee on March 13 and 14, 1979, on the subject of nuclear waste management.

The March 13 hearings will take place in room 6226, Dirksen Senate Office Building, beginning at 10 a.m. and the March 14 hearings will take place in room 5110, Dirksen Senate Office Building, starting at 10 a.m., also.●

SUBCOMMITTEE ON THE CONSTITUTION

● Mr. BAYH. Mr. President, the Subcommittee on the Constitution has scheduled 2 additional days of hearings on S. 10, a bill to grant the Justice Department standing to sue on behalf of institutionalized persons, for Wednesday, March 28, 1979, and Thursday, March 29, 1979.

The hearing on March 28, 1979, will be held in room 1114, Dirksen Senate Office Building, and the hearing on March 29, 1979, will be held in room 1202, Dirksen Senate Office Building, both beginning at 9:30 a.m.

Any persons wishing to submit written statements for the hearing record should send them to Louise Milone, Subcommittee on the Constitution, room 102–B, Russell Senate Office Building, Washington, D.C. 20510.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, March 8, to hold a business meeting.

This request has been cleared with the minority.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NELSON ROCKEFELLER

● Mr. JAVITS. Mr. President, Judge Louis Lefkowitz was the Attorney General of the State of New York for 22 years, including all 15 years of the Nelson Rockefeller administration. He was very close to the Vice President in his official duties and was also a personal friend. The following is his tribute, as published in the New York Daily News, for Sunday, January 28, 1979:

THE NELSON I KNEW

(By Louis Lefkowitz)

(Judge Louis Lefkowitz was the state's attorney general for 22 years, including all 15 years of the Nelson Rockefeller administration.)

I am going to miss Nelson Rockefeller—but the Nelson Rockefeller I am going to miss is not the one most people think about. Yes, he was powerful and he was wealthy.

But the Nelson Rockefeller I am going to miss was also warm and kindhearted and caring, and I'm sorry that it was an aspect of Nelson that never really came out in the press or the books that were written about him. Probably most people don't even believe it. That is their loss.

I first met Nelson in 1958 when we campaigned on the same ticket together—he for governor, me for attorney general. Like everyone else, I was awed by the Rockefeller name and power. I wondered if I could develop a personal friendship with him. It didn't take long to get over that—not with him.

Nelson had a genuine interest in people who came from different backgrounds and had different problems. During the campaign, I would go with him to the lower East Side and explain the sweatshop conditions that Jewish immigrants were raised under. And we would talk to Jews and Puerto Ricans who today live under many of the same conditions.

It was a campaign and that was expected. But few people know that on many occasions during his 15 years as governor—at times he wasn't campaiging—he would ask me to walk the streets of the lower East Side, Harlem and Brownsville with him. And the press didn't know he was doing it.

You could see the care in his eyes as he looked at poor housing conditions in the city, and he would say, "Louie, I'm going to do something about this." And soon there would be housing legislation.

Because his name was Rockefeller, it was hard for the average person to understand just how much he really cared. Once we were taking a walk on Orchard St., greeting people—no election—and Nelson extended his hand to a fellow and said, "Hi, I just want to say hello."

The man, obviously a person without much money, looked at the governor and said, "I can't put a 'hello' in the bank." Nelson was hurt.

The Nelson Rockefeller that I am going to miss had something that doesn't come with money and power. It was a feeling for other people—and it was a family trait—his brothers David and Laurance had it too. A few years ago he showed me a letter that he had received from his parents while he was a college student at Dartmouth. They had appealed to him to remain unspoiled despite his wealth and to be a "human being." He always kept the letter.

The Nelson Rockefeller that I am going to miss was the one who would call me up and say, "Louie, let's go down to Ratner's (a Jewish restaurant on the lower East Side) and have some blintzes." And there was no campaign on.

Nelson Rockefeller and I had many disagreements—mostly over the implementation of law. I disagreed with him on his program of life sentences for drug addicts. And many people felt he made a mistake at Attica. But I never once felt that he made any move that he didn't sincerely feel was the right thing.

He was a tough person, impatient; he hated red tape and bureaucracy, and would have us in meetings 14 hours straight until problems could find solutions.

If I had to guess at the one thing he did that he was probably most proud of, it would be creation of the State University System. I remember we used to look at the plight of people in ghetto areas, and he would insist that "education is the only way out of the cycle."

The biographers can write all they want about his power and money and estates around the world. To me that says that Nelson Rockefeller could afford not to care about people. He could have made life very easy for himself. But that is not the Nelson Rockefeller I knew.●

THE SURGEON GENERAL'S REPORT ON SMOKING AND HEALTH

● Mr. HART. Mr. President, I want to call to the attention of my colleagues the 1979 Surgeon General's report on Smoking and Health. It is a comprehensive assessment of new evidence linking smoking with a variety of diseases which bolsters the findings of the first report in 1964. The evidence is drawn from a large number of studies done not only in this country but also in Canada, Great Britain, Sweden, and Japan, some of which spanned periods of up to 20 years.

Few will be surprised to learn to that new evidence overwhelmingly identifies cigarette smoking as a major health hazard. Just one grim statistic conveys the tenor and magnitude of the findings. Mortality from all causes is up to 70 to 100 percent higher in smokers than nonsmokers, no matter what their age. Heart disease and cancer, two of the top killers in this country, as well as a host of other crippling diseases, are causally related to smoking. The cost to the Nation of smoking is estimated at $27 billion annually for medical care, absenteeism, lost work productivity, and accidents. The pain and suffering of individuals is incalculable.

Of the many new statistics presented in the report, I am particularly alarmed by those concerning the adverse effects of smoking on women and children. While there was a substantial decrease since 1964 in the percentage of male smokers, the percentage of female smokers has remained the same. During the same period of time, the incidence of lung cancer among women increased 300 percent. At the present rate, lung cancer will soon surpass breast cancer as the number one cancer killer of women. Women smokers who take estrogen-based oral contraceptives have 10 times the incidence of heart attacks as do nonsmoking women. The report clearly suggests that smoking does not discriminate on the basis of sex.

Most disturbing is the indication that children are adversely affected by their smoking parents. Smoking during pregnancy can reduce the rate of fetal growth and cause babies to be born premature or underweight. Subsequent physical, emotional, and intellectual development of children with smoking mothers may be retarded. The smoking parent is the primary determinant in the election of the adolescent to begin smoking. This is particularly worrisome because the report indicates those who begin smoking earlier become ill and die earlier. Once smoking begins, it is typically a life-long habit which is very difficult to stop.

My particular concern about smoking by pregnant women and its effects on children is based on the country's need for a coherent health care strategy. The children of today are the health care consumers and costs of the future. Working to improve the health of the Nation and holding down future costs depends largely on prevention of future ill health and the promotion of good health habits in the children of today. Smoking by the pregnant woman, apart from the hazard to her own health, may start the unborn child down the road of ill health.

Mr. President, I concur with the Surgeon General's conclusion that smoking is the single greatest preventable health hazard to our citizens. I support Secretary Califano's initiative to reduce the incidence of smoking both as a means of improving citizen health and reducing the Nation's health care costs. And I call on the parents of the country to consider the consequences of their smoking both to themselves and the health and wellbeing of their children.●

THE LEGACY OF SALT I: SOVIET DECEPTION AND U.S. RETREAT

● Mr. GOLDWATER. Mr. President, appearing in Strategic Review for winter, 1979. Mr. David S. Sullivan, whose background is given in the preface of this article, has written, "The Legacy of SALT I: Soviet Deception and U.S. Retreat." I suggest that all of my colleagues read this because it tells the truth about SALT I and points out the real dangers that exist in SALT II as it is now being prepared. I disagree completely with my President, who claims that this present document is a vital necessity to the future of peace in the world. It could very well be the key that would unlock world war III, and I would much rather take my chances with the rebuilding of American military strength than rely on the doubtful word of the Russians relative to the use of theirs. I ask unanimous consent that Mr. Sullivan's article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE LEGACY OF SALT I: SOVIET DECEPTION AND U.S. RETREAT

(By David S. Sullivan)

(In brief. In SALT I the United States fell victim to Soviet deceit, and to its own gullibility and myopic assumptions. In essence, the United States traded off its superior ABM technology in return for what proved to be illusory constraints on Soviet offensive strategic capabilities. Carefully shrouding their ongoing and ambitious strategic programs, the Soviets negotiated ceilings that in no way compromised their force goals. They used this deception and loopholes in the SALT agreements both to camouflage and legitimize a thrust to strategic superiority that will endure at least into the 1980s. As the debate over the ratification of SALT II gathers, the question becomes ever more insistent: Has the United States learned from its blatant mistakes or is it destined to compound them, with ever more dire consequences for its security?)

The Strategic Arms Limitation Talks (SALT) between the United States and the Soviet Union are significantly shaping the terrain that will hold the strategic environment of the future. The SALT I concords of May 1972-October 1977 have been extended for over a year. Many of their provisions will be continued and expanded in the emerging SALT II Agreement. In the meantime, awesome strides by the Soviet Union in strategic programs and weapons deployments since 1972 have startled many U.S. policymakers. Hindsight illuminates more clearly Soviet negotiating behavior and intentions in May 1972 as indicators of future behavior and intentions. It is therefore vitally important, as we approach the ratification debate over SALT II, that we recognize keenly the lessons of the past.

In casting this backward look, this article advances five general propositions about the "arms race" and SALT. The first proposition is that *SALT has not led to true or balanced arms control*. The Anti-Ballistic Missile (ABM) Treaty of 1972 is not a valid exception to this statement, nor was the required deactivation of the 210 old Soviet SS–7 and SS–8 intercontinental ballistic missiles (ICBMs) under the Interim Agreement on Offensive Systems. The ABM Treaty in effect limited only U.S. ABMs; there is no known evidence that in 1972 the Soviets planned to deploy more than the ABM system around Moscow. The old Soviet ICBMs in 1972 were probably slated for retirement anyway, and it can be argued that SALT in fact prolonged their life; they nevertheless may have been replaced under the SALT Interim Agreement by the reported covert stockpiling of an equivalent number of mobile SS-16 ICBMs, as well as by 210 modern sea-launched ballistic missiles (SLBMs). There has thus been double replacement of the old ICBMs, not to mention the numerical implications of the refire capability of the new "cold-launched" SS-18s and SS-17s and the probable stockpiling of about 1,000 older SS-11s.

The second proposition is that the Soviets clearly have gained the most from the SALT process. Throughout the SALT negotiations period, from 1969 to the present, the Soviet Union has continued the pace of both its quantitative and qualitative improvements over the full spectrum of weapons capabilities. The Soviets have carefully and deceptively negotiated provisions to accommodate the deployments originally programmed by them, and they have taken maximum advantage of every loophole and ambiguity in the agreements. Indeed, Soviet strategic advantages in many categories have widened throughout this period. At the same time, the Soviets successful thwarted the U.S. strategic program of greatest concern to them: the more technically advanced U.S. ABM program. The Soviets have used the SALT negotiations process as a smokescreen to conceal their mounting strategic superiority from a complacent United States.

A third and corollary proposition is that SALT has stimulated the arms race by allowing a Soviet build-up without any real quantitative and qualitative constraints. Given the self-imposed reins on quantitative U.S. deployments after 1967, a qualitative upgrading of U.S. ICBMs and SLBMs through MIRVing became necessary in June 1970. The Soviet Union responded by accelerating its own program of MIRVing Soviet ICBMs, even while continuing the massive deployment of SLBMs. This Soviet response probably occurred sometime later in 1970, after the United States deployed Minuteman III and Poseidon. In 1975, after Vladivostok, the Soviets probably decided to deploy large numbers of MIRVed SLBMs in imitation of U.S. plans for Trident. It is clear, however, that these Soviet MIRV deployments would have taken place sooner or later, irrespective of the fact or timing of U.S. programs.

Fourth, the United States could have achieved a Strategic Arms Limitation Agreement more advantageous to itself much earlier than May 1972. In April 1970, the United States and the USSR reportedly were in general accord on the shape of an ABM agreement: each side was to be allowed one ABM complex to defend its capital. These terms were tantamount to those of the ABM Treaty of 1972, especially as amended in July 1974 to allow one ABM site each to the United States and the USSR. It was U.S. insistence upon linking an ABM Treaty to constraints on Soviet offensive programs that delayed agreement on a SALT I package until May 1972. Meanwhile, in this 1970–1972 period, the Soviets reportedly added about 400 new launchers (mostly SLBMs). Moreover, the purported "freeze" of Soviet offensive programs through 1977 ostensibly achieved by the May 1972 agreement has turned out to be a sham. There was clearly no freeze of either quantitative or qualitative Soviet deployments.

The final proposition advanced in this article is that under SALT I the United States has traded away its ABM in return for a tripling or quadrupling of the Soviet strategic threat against it, all the while tolerating Soviet negotiating deception and massive operational concealments and ruses in Soviet strategic deployments. Moreover, in one important case revealed by the State Department in February 1978, the Soviets admitted that they were then in violation of SALT I by having failed to deactivate by March 1976 the required number of SS–7s and SS–8s.[1] Most observers agree that in all other compliance areas the Soviets stretched their interpretation of the SALT I agreements to the limits of the wording of the provisions and of U.S. tolerance.

U.S. STRATEGIC RETREAT SINCE 1963

History will record that the vaunted "U.S. strategic missile build-up" was in reality short-lived, essentially spanning three years between 1960 and 1963. It was during this brief period that the United States made the force structure decisions that would result in levels by 1967 of 1,054 ICBMs and 41 submarines with 656 SLBMs. In fact, the selection of these levels was arbitrary: they were considerably below those desired by the U.S. Air Force and Navy. The U.S. B–52 bomber force has dwindled since 1965, and the deployment of new ICBM and SLBM launchers stopped in 1967.

The United States and the USSR drew opposite conclusions from the Cuban Missile Crisis of October 1962. The U.S. strategic posture since that period can be characterized as one of strategic retreat. Both the U.S. strategic budget and strategic force structure have been declining since 1963, when the United States commenced the deactivation of its more costly medium bombers and early ICBMs. Conversely, the humiliation suffered by the Soviet Union in the Cuban crisis evidently prompted a decision in the Kremlin to overcome Soviet strategic inferiority at all costs. It is now clear that simultaneous with the cutbacks in U.S. strategic programs decided upon in 1963, Khrushchev cast the decision for the massive Soviet strategic build-up of the 1960s in ICBMs, SLBMs and ABMs.

The U.S. approach under Secretary of Defense McNamara was one of unilateral restraint, because it was believed then that U.S. superiority was unshakable. In 1963, McNamara ordered the start of the deactivation of about 185 Atlas and Titan I ICBMs,

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Footnotes at end of article.

some of which had been operational only since 1960 and most of which had only recently been completed. Moreover, he also ordered the phasing out of the entire force of U.S. B–47 and B–58 medium bombers. These U.S. unilateral decisions in 1963 were rendered for the sake of greater "cost effectiveness" in the U.S. defense budget: the forces marked for deactivation were more expensive to maintain and operate than the newer Minuteman I ICBMs and B–52 bombers. Yet, these cutbacks were not matched by any commensurate deactivations of weapons systems by the Soviet Union. It is well known that most of the 700 or so Soviet Tu-16 Badger and Tu-22 Blinder bombers—comparable to the U.S. B–47 and B–58 forces—are still in active service in 1979, and the last of the 210 Soviet SS–7 and SS–8 ICBMs, comparable to the U.S. Atlas and Titan I, have only recently been deactivated. Moreover, even before the Cuban Missile Crisis, the United States had decided to remove its forward-based IRBMs from Europe. In contrast, Soviet MR/IRBM forces targeted on Western Europe have remained in place since the late 1950s.

By 1965, Secretary McNamara's Defense Posture Statements reflected the goal of stabilizing the aggregate number of U.S. strategic delivery vehicles, improving only their quality. "Assured destruction" came increasingly into vogue thereafter as the U.S. strategic doctrine (becoming "mutual assured destruction" as the Soviets reached parity by about 1969). Assured destruction called for only finite U.S. forces, capable of destroying merely a certain percentage of Soviet urban-industrial ("value") targets. It was believed that deterrence required that the United States be capable under all circumstances of destroying about one-third of the Soviet urban-industrial target base.

The U.S. Defense Posture Statement of 1965 and a survey of the U.S. press during that year indicate two important decisions taken by McNamara at that time. The first was the decision to develop and retrofit MIRVed warheads in both the existing Minuteman ICBM silos and Polaris SLBM tubes. With this decision, the United States shifted the emphasis of its strategic programs to qualitative developments—principally to MIRV's for ICBMs and SLBMs (MIRV deployment levels were not announced until December 1970). The Soviets evidently followed suit in the mid-1960s with the development of their own MIRV programs—the fourth-generation SS-19, SS-18 and SS-17 missiles—programs which would not bear fruit until after 1972. In 1965, also, the United States began active development of an anti-ballistic missile system.

Notwithstanding these qualitative development moves, the series of decisions in the early 1960s can only be characterized as a strategic retreat by the United States. The retreat began as early as in 1963, when Secretary McNamara decided to end ICBM and SLBM deployment in 1967 and initiate his "cost effectiveness" cutbacks in U.S. strategic forces.

An analysis of the Soviet press suggests that it was Khrushchev who made the decision in early 1963 to increase dramatically the Soviet ICBM and SLBM construction programs[2]. In February 1963 it was announced that Khrushchev's 1959–1965 Seven Year Plan was being revised. By March it became apparent that this revision was directly related to the concurrent preparation of the new 1966–1970 Five Year Plan. Some massive new investments evidently prodded this planning activity. It is significant that Dmitri F. Ustinov, who had previously managed the Soviet defense industries and is now Defense Minister, was made responsible for management of the entire economy. Ustinov's promotion in early 1963 suggests that the new investments in the revised Seven Year Plan and new Five Year Plan were related to bolstering the Soviet defense posture.

It is therefore a myth that a chastened Khrushchev favored a Soviet posture of minimal deterrence after the Soviet Union's humiliation in the Cuban Missile Crisis. The high levels in Soviet strategic forces achieved by 1970 clearly point to a decision in 1963 to augment massively the Soviet strategic posture. Moreover, a reading of the Soviet press suggests that the 1963 strategic decision required the rewriting of the last two years of Khrushchev's 1959–1965 Seven Year Plan, concurrent with the preparation of the 1966–1970 Five Year Plan. The changed Soviet economic priorities in favor of defense spending thus determined the momentum of the Soviet strategic build-up that has continued into the present period. Indeed, it is now clear that the Five Year Plans of 1966–1970, 1971–1975, 1976–1980 and 1981–1985 have served—and continue to serve—as the framework for programming the Soviet build-up.

It is also worth noting that Khrushchev's decision in 1963 with respect to a massive Soviet strategic program was paralleled by diplomatic progress toward the U.S.-Soviet Limited Nuclear Test Ban Treaty, which was signed on July 25, 1963. At least in terms of circumstantial evidence, we thus have an early example of the Soviet Union's use of arms control negotiations to deflect attention from concerted Soviet strategic armaments efforts.

THE NIXON-KISSINGER DESCENT FROM SUPERIORITY TO "SUFFICIENCY"

In July 1968, the Soviets had agreed to enter into negotiations with the United States toward strategic arms limitations, but the Soviet invasion of Czechoslovakia in August delayed the opening of the talks. One important motive in the Soviet decision to enter into SALT in 1968 was surely their desire to protect their approaching position of strategic parity against qualitative advances by the United States in ABM and MIRV technology, and against possible new U.S. weapons deployments. By about 1968 the Soviets had achieved parity with the United States in terms of total ICBM, SLBM and bomber forces (counting those probably under construction at the time).

It is worth reemphasizing that in contrast to the steady growth in the Soviet strategic posture afer 1963, the United States did not increase the number of its ICBMs or SLBMs after mid-1967, when the last Minuteman silos and Polaris SSBNs became operational. The last B–52 bombers had been delivered to SAC in 1962;[3] in fact, the U.S. B–52 force declined after 1965 in the wake of McNamara's decision to phase out the older one-third of the force and as a result of attrition in the Vietnam conflict. The aggregate of U.S. strategic delivery vehicles thus peaked in 1967, and has been declining ever since.

Like Barry Goldwater before him in 1964, Richard Nixon campaigned in 1968 on a platform of promising the maintenance of U.S. *superiority* over the Soviet Union: "As a candidate, Nixon had stressed the need for 'clear cut military superiority' over the Soviet Union, sharply criticizing the Democrats for settling for anything short of that."[4] By January 1969, when President Nixon and his National Security Adviser, Henry Kissinger, assumed office, this goal was evidently scaled down to the one of preserving only a rough strategic balance between the United States and the USSR.

The Joint Chiefs of Staff in early 1969 put pressure on Nixon to resume expansion of the U.S. strategic arsenal in order to keep pace with the accelerating Soviet build-up. The JCS recommended that the United States resume the construction of ICBMs . . . and that the United States step up its production of nuclear-powered submarines and long-range bombers. Kissinger realized that the Soviet strategic arsenal was growing every day but, during an NSC meeting on March 5 devoted exclusively to a review of the ABM system, he argued strenuously *against* the JCS recommendations on the ground that they would escalate the arms race, thereby jeopardizing the long-range prospect for SALT and *unnecessarily antagonizing the Russians.*[5]

Moreover, also in early 1969. Dr. Kissinger received a series of studies he had ordered of the existing and future U.S.-Soviet strategic equation. These studies indicated to Kissinger the magnitude of the strategic shift under way and the low likelihood of redressing it. Kissinger's biographers describe the inferences that were drawn: "It was impossible to escape the conclusion, [NSC staffer Morton] Halperin noted to Kissinger, that no conceivable American strategic program would give you the kind of superiority that you had in the 1950's."[6]

This striking conclusion reached in early 1969 had a profound effect upon a U.S. strategic posture that had already been restrained in terms of aggregate delivery vehicles. Kissinger convinced Nixon that, since the objective of regaining superiority seemed no longer feasible, some other goal had to be substituted. He recommended that "sufficiency" should be substituted for "superiority" as the goal of the U.S. military policy. Nixon brought the idea, but he sought to camouflage his strategic retreat by suggesting that it would be a mistake to concentrate on semantics. . . . he said on 29 January 1969, "I think sufficiency is a better term, actually, than either *superiority* or parity."[7]

"Sufficiency" therefore was different from "parity." The use of the term opened the way to a U.S. descent into inferiority which, given the long development lead-times for strategic weaponry, seems ordained into the 1980s.

Thus, in early 1969 the Nixon Administration rejected proposals by the military to resume new U.S. deployments of ICBM and SLBM launchers and bombers in response to the still continuing and massive Soviet ICBM and SLMB build-up. This U.S. unilateral decision not to keep pace with the Soviets was justified with allegations of the necessity to be conciliatory toward the Soviets. Moreover, Nixon and Kissinger reportedly believed that, against the background of an unpopular Vietnam war, the U.S. public would not support additional expenditures for new strategic weapons.[8] Furthermore, Nixon wanted to open SALT negotiations with the Soviets in the hope that arms control negotiations and agreements could restrain ongoing Soviet ICBM and SLBM programs and thus help cushion the problems facing the United States in the strategic competition. More pointedly, it was hoped that SALT could solve the problem posed by the increasing vulnerability of the U.S. Minuteman ICBM force to the growing number of Soviet heavy SS–9 ICBMs, by buying the Soviet Union's restraint in the deployment of such systems.

In looking to SALT for the solution of American problems, Nixon and Kissinger proceeded on a path already charted by McNamara. The latter had sought arms negotiations in order, first, to prevent or limit an ABM deployment by the United States, which he viewed as "destabilizing" and a needless expense, and second to constrain the Soviet ICBM threat to the United States. He thus inaugurated the trend that cast the United States into the role of diplomatic *demandeur* in SALT. This concessionary bargaining posture was to continue under Dr. Kissinger and has prevailed throughout SALT II.

Footnotes at end of article.

By early 1969, Kissinger shared McNamara's aversion to a concerted U.S. ABM program. He tended to see the ABM as a "weapon system in search of a rationale." [9] In early 1969, Nixon shifted the rationale of the U.S. ABM program from population and area defense to ICBM site defense, renaming it from Sentinel to Safeguard. Kissinger evidently became a lukewarm supporter of the ABM in this new deployment context, but it is important to examine an apparently significant motive shared by him and President Nixon: "Uncited by the President [in his arguments justifying the Safeguard ABM], but perhaps most significant of all, was the 'bargaining chip' rationale. The ABM, in the President's view, would give the United States some negotiating currency in any forthcoming dealings with the Russians." [10]

Kissinger was persuaded "by the President's argument that the U.S. needed an ongoing weapons system to *trade off* during SALT." [11] This kind of bargaining ploy seems a strange rationale for developing a U.S. weapon system, especially one as expensive as the U.S. ABM and earmarked for a clear military purpose: namely, that of defending an increasingly vulnerable force of U.S. ICBMs. In any event, the role of the U.S. ABM, as defined by Nixon and Kissinger, was therefore simply that of grist for the bargaining process.

Kissinger's approach to deployment of U.S. MIRVs is less clear. According to his biographers, he was ambivalent with respect to the U.S. MIRV programs, but in the end went along with the reaffirmation in 1969 of the earlier decision to deploy them.[12] One apparent motive was that the development of MIRVs would obviate the deployment of new U.S. ICBM and SLBM launchers.

The irony is that Kissinger reportedly discerned in 1969 the real thrusts of the Soviet strategy in SALT: "Their strategy . . . would be to engage in arms talks to lull the Americans into a false sense of security." [13] According to accounts by Admiral Zumwalt of conversations with Kissinger in November 1971 and May 1972, the latter held to the Spenglerian view that the U.S. had "passed its historic high point like so many earlier civilizations," and that the U.S. was going "downhill and cannot be roused by political challenge." His job was "to persuade the Russians to give us the best deal we can get, recognizing that the historical forces favor them." He prophetically believed that "the American people have only themselves to blame" for his having negotiated SALT terms favorable to the Soviets, "because they lack stamina to stay the course against the Russians who are 'Sparta to our Athens.'" [14]

Kissinger thus seemed to realize that the Soviet objectives in SALT I were to put shackles on the U.S. ABM, while at the same time resisting U.S. attempts to limit the numbers and quality of Soviet weapons. By 1969, the Soviets probably were after a safe charter for their quantitative ICBM and SLBM deployment programs, as well as for their superior MIRVed ICBM and SLBM follow-on systems then under secret development.

In that same context, an important part of the Soviet SALT I negotiating strategy evidently was to delay a SALT agreement as long as possible in order to be able to complete their build-up and achieve superiority in both quantitative and qualitative categories. The longer SALT I continued, the more favorable the elapsed time was for Soviet programs of developing and deploying ABMs, ICBMs, SLBMs and MIRVs, while the United States was only fashioning MIRVs and ABMs.

In contrast, the United States had no quantitative deployment programs to protect in SALT. Minuteman III and Poseidon MIRV flight-testing began in August 1968, and the testing of the ABM Sprint and Spartan systems took place throughout the late 1960s. The U.S. Minuteman III and Poseidon MIRV programs consisted only of retrofitted replacements. In terms of opposing bargaining assets, the United States could credibly offer ABM constraints only in a bid for reciprocal limitations of the Soviet ABM program.

In other words, SALT I reprsented a highly asymmetrical strategic and negotiating situation, in which the Soviets had the advantages of strategic momentum and better bargaining leverage. The Soviets could bargain from an increasingly strong position, while the U.S. position was growing progressively weaker. Moreover, the Soviets benefitted from the inherent advantages of a closed society in a bargaining situation: they knew U.S. programs and goals, while the United States was uncertain about Soviet efforts and objectives. It can reasonably be deduced from the SALT dialogue that the Soviets were aware of how little the United States knew of the Soviet Union's secret new MIRV programs. This asymmetry in favor of the Soviets was to prove crucial.[15]

In sum, by early 1970 the Nixon Administration favored deployment of the U.S. ABM system in order to use it as a SALT "bargaining chip" to extract concessions from the Soviets in the form of restraints on their offensive strategic programs. Kissinger was reportedly ambivalent about the U.S. Minuteman III and Poseidon programs, but went along with the decision to deploy these MIRVed systems and ABM.

ABM deployment in the United States began in April 1970, and MIRVed ICBM and SLBM deployment followed in June 1970. By December 1970, U.S. plans were announced for retrofitting MIRVed warheads on 550 ICBMs and 496 SLBMs through 1975. These plans had been under discussion in U.S. Defense Posture Statements since 1965, when the decision was made to improve the quality of U.S. strategic forces while freezing the number of delivery vehicles. Meanwhile, the Soviets were continuing to build additional ICBMs and SLBMs while accelerating the development of their own MIRVs for ICBMs and SLBMs.

THE MAY 1971 SALT COMMUNIQUE

Two major events stand out in the 1970–1971 period. The first was the reported U.S. proposal in early 1970 for an agreement covering only ABMs and calling for one ABM site on each side to protect the National Command Authority, or capital. Unexpectedly, this "NCA only" proposal by the United States was accepted immediately in April 1970 by the Soviets, causing the United States to draw back.[16] Yet, this withdrawn proposal amounted to essentially the same equation as the "two-and-two-sites" formula embodied in the 1972 ABM Treaty, especially with the July 1974 modification of the latter agreement to permit one ABM site each to the United States and the USSR. Had the United States gone ahead with the original proposal, it would have gained the same ABM agreement as it did in 1972, but without the codification of Soviet ICBM and SLBM superiority which was explicit in the Interim Agreement of May 1972.

The second major event of this period was the SALT Communique of May 20, 1971. The Communique was worked out in top-level U.S.-Soviet diplomatic exchanges between January and May. It established the broad framework for the SALT I agreements and laid the basis for the May 1972 SALT Summit. It contained a simple formula. By linking an agreement on ABMs with an agreement on offensive weapons, it made one agreement contingent upon the other. This linkage had long been a Kissinger goal. The agreed framework also allowed for the "modernization and replacement" of offensive weapons on both sides. As it turned out, this caveat was to hamper U.S. efforts in 1972 to impose constraints on Soviet deployment of new heavy ICBMs. The Soviets insisted on leeway for modernization and replacement in order to protect their own secret ICBM MIRV programs, which had probably been underway since 1965.

There was, however, one notable complication in converting the May 20, 1971 Communique to the SALT I Agreements. Reportedly, neither the Communique nor the diplomatic record provided for the inclusion of a constraint on Soviet SLBMs in the agreement on offensive forces.[17] This early concession by Dr. Kissinger became a problem later in 1971 and in early 1972, because by then the United States had decided that an offensive weapons agreement would have to include SLBMs. Thus the United States was forced to expend more negotiating time in getting the SLBMs back into the framework—and, as we have noted, the passage of time favored the Soviet strategic build-up and bargaining position. Reportedly, the construction of Soviet SSBN/SLBMs continued apace throughout the 1969–1972 SALT I period (as well as thereafter), although there was evidently a brief pause in the Soviet ICBM construtcion program during this period, probably in anticipation of the advent of the new, MIRVed Soviet ICBMs after 1972.[18]

THE MAY 1972 SALT I SUMMIT

By early 1972,the objectives of the May 20, 1971 Communique were approaching fulfillment. In April 1972, Dr. Kissinger traveled to Moscow and finally achieved inclusion of SLBMs in the offensive agreement that was taking shape. The stage was being set for the summit meeting in May.

In Moscow, Brezhnev himself reportedly proposed to Dr. Kissinger that the Soviets be allowed 62 SSBNs with 950 SLBMs.[19] The United States had in operation only 41 submarines with 656 tubes, and none had been constructed since 1967. In 1972 the new U.S. system of follow-on MIRVed Trident SLBMs was in its earliest design stages, and the first Trident boat was not planned for launch until 1978 or 1979, well after the five-year (1972–1977) timeframe of the Interim Agreement. We shall consider later the significance of these proposed Soviet numbers of 62 SSBNs and 950 missiles and the Soviet justification for them, as well as the complicated negotiations required for the United States to accept them.

By May 1972, the main outlines and most of the details of the ABM Treaty had also been agreed upon. The two sides had concluded that each would be allowed two ABM complexes—one for the protection of the capital and the other to defen an ICBM site. Although the Soviets had preferred minimal radar restrictions, they finally agreed to radar power constraints in the ABM Treaty. As far as the Treaty was concerned, all that was left for the summit was agreement on the relatively minor issue of the precise distance of separation between the two allowable ABM complexes. The United States wanted to maximize this distance, in order to prevent the Soviets from overlapping the coverage of the two allowed complexes and forming them into an area defense of large sections of territory and large population centers. During the summit, this distance was set at 1,300 kilometers, as reflected in the ABM Treaty.

Thus the main tasks for the May 1972 Summit was to complete the Interim Agreement on Strategic Offensive Weapons. The three main issues of the SALT I Interim Agreement discussed at the Moscow Summit reportedly were:

1. The missile-silo size issue, which revolved around U.S. attempts to constrain the

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sizes of new Soviet ICBMs intended to replace older ones. The United States was especially trying to prevent the Soviets from placing heavy ICBMs in silos previously housing light ICBMs. The U.S. purpose in all this was to constrain the Soviet ICBM threat to U.S. Minuteman ICBMs.

2. The question of establishing a ceiling on Soviet SSBNs and SLBMs, which also entailed agreeing to a baseline of Soviet SSBNs operational and under construction, above which the Soviets could build to their higher ceiling only by deactivating some old weapons.

3. The question of whether mobile ICBMs were to be banned.[20]

As has been noted, the principal Soviet goals in SALT I were probably to constrain the more technically advanced U.S. ABM program, while at the same time keeping their own new ICBM and SLBM modernization programs unrestrained. The Soviets were successful in achieving these goals in the SALT I Interim Agreement. The circumstances during and after the Summit suggest that an element of negotiating deception was involved in the Soviet approach to each of the three main issues of SALT I. Moreover, the Soviets evidently exploited the lack of knowledge in the United States of new Soviet strategic programs and of the characteristics of the new Soviet ICBMs and SLBMs.

An explanation of the circumstances suggesting Soviet negotiating deception in May 1972 is really quite simple and is derived wholly from the public record. The Soviets by this date reportedly had under secret development a new generation of MIRVed ICBMs—the fourth-generation SS–19, SS–18, and SS–17—intended to replace the SS–9 and SS–11 forces. Of these, the SS–19 seems most important. However, these secret new ICBMs reportedly were not flight-tested until late 1972 and early 1973, well after May 1972.[21] The Soviets also had a new SLBM, the SS–N–8, which had been flown before the Summit, but only over a limited range. After the Summit, the SS–N–8 reportedly was tested over an intercontinental range of about 4,000 nautical miles.[22]

Given the long lead-times in strategic weapons development, the new SS–19, SS–18, SS–17 and long-range SS–N–8 SLBM programs must have been underway in the Soviet Union since the mid-1960s, in all likelihood since about 1965. In 1972, however, the existence and characteristics of these new missiles were evidently known only to the Soviets. It later became clear to the United States that the SS–19 was a *heavy ICBM* by the standard that the United States was proposing in May 1972 to define such a missile.[23] Moreover, the SS–N–8 with its long-range capability could reach most U.S. targets without even leaving home ports.[24]

One of the most important U.S. objectives in the Interim Agreement was to constrain the heavy ICBM threat by the Soviet Union. In an attempt to restrict heavy Soviet ICBMs and to present heavy missiles from replacing light (SS–11) ICBMs, the United States proposed Article II of the SALT I Interim Agreement: "The Parties undertake not to convert land-based launchers for light ICBMs, or for ICBMs of older types deployed prior to 1964, into land-based launchers for heavy ICBMs of types deployed after that time." [25]

As can readily be seen, in order to constitute an effective constraint, this provision calls for a definition of a "heavy ICBM." Because (unknown to the United States at the time) the SS–19 was indeed a heavy ICBM by the U.S. definition of 1970–1972, and because the Soviets in May 1972 evidently had plans to deploy it widely,[26] Moscow faced a negotiating problem. How could they agree to Article II while still deploying the SS–19? They could do so obviously by not agreeing to the required definition of a heavy ICBM, thus rendering Article II ineffectual. This is exactly what happened. No agreement was reached on a definition of a heavy ICBM, leaving a large loophole in the provision designed to deal with the most important U.S. goal in SALT I: constraints on Soviet heavy ICBMs. The United States finally was forced to offer the following Unilateral Statement on May 26, 1972:

The U.S. Delegation regrets that the Soviet Delegation has not been willing to agree on a common definition of a heavy missile. Under these circumstances, the U.S. delegation believes it necessary to state the following: The United States would consider any ICBM having a volume significantly greater than that of the largest light ICBM now operational on either side to be a heavy ICBM. The U.S. proceeds on the premise that the Soviet side will give due account to this consideration.[27]

On June 15, 1972, in a Congressional briefing at the White House, Dr. Kissinger made clear the U.S. interpretation of Article II and the U.S. definition of a heavy missile. However, he very misleadingly implied that the U.S. Unilateral Statement defining a heavy ICBM could be made binding upon the Soviet Union in the context of constraints on heavy missiles replacing light missiles. He said the following in response to a question by Senator Jackson:

Now with respect to the definition of heavy missiles, this was the subject of extensive discussions at Vienna and Helsinki and finally Moscow. No doubt one of the reasons for the Soviet reluctance to specify a precise charactetristic is because undoubtedly they are planning to modernize within the existing framework some of the weapons they now possess. The agreement specifically permits the modernization of weapons. There are, however, a number of safeguards. First, there is the safeguard that no missile larger than the heaviest light missile that now exists can be substituted. Secondly, there is the provision that the silo configuration cannot be changed in a significant way and then the agreed interpretive statement or the interpretive statement which we made, which the other side stated reflected its views also, that this meant that it could not be increased by more than 10 to 15 percent. We believe that these two statements, taken in conjunction, give us an adequate safeguard against a substantial substitution of heavy missiles for light missiles . . . . as far as the break between the light and heavy missiles is concerned, we believe that we have assurances through the two safeguards that I have mentioned to you.[28]

The first "safeguard" alleged by Dr. Kissinger is really a synthesis of the agreed wording of Article II and the U.S. Unilateral Statement. Thus Dr. Kissinger made a U.S. Unilateral Statement appear to be binding on the Soviet Union, when in reality it was not. He seemed to be misleading Congress on the most crucial issue of SALT I. The stakes riding on this U.S. interpretation were heightened even further. Thus John Newhouse wrote in his book published in 1973 that ". . . language worked out in Helsinki [i.e., in May 1972] probably assures protection against any increase in the number of missiles in the SS–9 class [i.e., Article II], but it is nonetheless a bit vague and incomplete, lacking for example, a definition of what constitutes a 'heavy' missile. The Soviets were determined to keep it that way. And they did. Still, any violation of the spirit of this language, let alone the letter, would probably oblige the United States to withdraw from the agreements. Moscow understands that." [29] Thus, even Newhouse, who was quite sympathetic to Kissinger's policies, considered the Article II-heavy missile issue of paramount importance, involving a threat of abrogation of the agreement by the United States if its unilateral definition of a heavy missile was not honored by the Soviets. As it turned out, the definition was not honored by the Soviet Union.

As has been noted, various public accounts indicate that the Soviets tested and deployed a new SS–11 replacement missile after May 1972. This missile was the SS–19. It is quite clear from public statements by Kissinger that the United States did not know the existence, size or capabilities of the SS–19 until well after 1972. Given the long lead-times involved, the SS–19 must have been under development since about 1965. Public data also reveals that the SS–19 is a heavy ICBM, in terms both of the U.S. definition proposed in May 1972 as well as the U.S. Unilateral Statement defining a heavy ICBM as any missile significantly larger than the SS–11 and Minuteman III. The SS–19's throw-weight is comparable to that of the only U.S. heavy ICBM, the Titan II. The SS–19 is now being widely deployed.

The Soviet deployment of SS–19s has not constituted a violation of the SALT I Agreement, notwithstanding the allegations of some observers. It is not a compliance issue, but an important example of Soviet negotiating deception at the May 1972 Summit with respect to a central issue of SALT I. The Soviets protected their right legitimately to deploy a large number of SS–19s, all the while leading the United States to believe that such a missile would be prohibited. It is worth noting that three years after his June 1972 Congressional Briefing, Dr. Kissinger completely reversed himself on the question of the SS–19. On December 9, 1975, Kissinger said: "The Soviet Union specifically disavowed . . . unilateral American statements. I think it is at least open to question whether the United States can hold the Soviet Union responsible for its own statements when the Soviet Union has asserted that it does not accept that interpretation." [30] Kissinger added that the agreement to constrain increases in silo dimensions to not more than 15 per cent "is the only legal requirement in the agreement" affecting the deployment of heavy missiles as S–11 replacements. These two statements are in direct contrast to his combination of the U.S. Unilateral Statement and Article II in June 1972. Finally, Kissinger said three years after the fact:

Starting in the middle of 1974, it became apparent that at least one of them [i.e., the new Soviet ICBMs], the SS–19, could be as much as 40 per cent larger [i.e., than the light SS–11]. So we had the dilemma that we have a missile that is larger, by that percentage, than the SS–11 put into a hole that is not, however, in violation of the agreement by a better utilization of existing space and more efficient use of fuel. And that raises a serious question. We are attempting—the assurances I gave in 1972, which were based on the provision of the agreement [i.e., the 15 per cent constraint on silo dimensional increases], obviously dealt with the missiles we then knew. We obviously did not know in 1972 what missiles the Soviet Union would be testing in 1974; and the questions I was asked were always concerned with whether the Soviet Union would be able to put the SS–9 into the SS–11 hole—the SS–11 hole being the smaller one. And all of my answers, obviously, had to be directed toward the missiles I knew [i.e., in 1972 these were the SS–19 and the SS–11], and not toward the missiles that came along 2 years later [i.e., the new, heavy SS–19].[31]

Kissinger thus acknowledged openly that only the Soviets knew in May 1972 that their new SS–19 was a heavy missile by U.S. standards, and that in order to protect their plans to deploy this missile they would not agree to a definition of a heavy missile. Kissinger thereby acknowledged that the Soviets had engaged in a negotiating deception. This revelation by Kissinger in 1975 also strengthens the inference that Congress had been

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misled on this crucial issue of SALT I in June 1972. Indeed, since Article II of the Interim Agreement was perpetuated in the Vladivostok accord of November 1974 without a definition of a heavy ICBM, we can conclude that the Soviet Union deceived the United States *twice* with respect to the SS-19.

We now turn to the complex issue of the Soviet SLBM ceiling, and the subissue of replacement baseline. These issues were embodied in Article III of the Interim Agreement and in the SLBM Protocol. In the interest of brevity, we can conclude that the ceiling of 62 SSBNs and 950 SLBNs put on Soviet sea-based strategic systems corresponded with Soviet force goals through 1977. Brezhnev himself proposed these numbers to Kissinger in April 1972, and no U.S. analysts could understand them then.[32] According to Raymond L. Garthoff:

> "The price for Soviet agreement to include SLBM launchers (i.e., in the SALT I Agreement) was to place the "limitation" at a very high level—indeed, at the *highest level* then estimated that the Soviet Union might deploy in the five year period of the interim freeze even without any SALT limitation! (Theoretically possible higher Soviet SLBM levels for 1977, developed after the April Moscow meeting, were later cited as support for the value of the limitation.) . . . No real restraint was provided for the short term duration of the Interim Agreement. . . . The momentum of the Soviet SLBM buildup was not impeded.[33]

It is apparent in retrospect that the Soviets negotiated deceptively to persuade the United States to accept the 62/950 numbers in the belief that they represented a constraint or "freeze" on Soviet SLBM construction, when the numbers probably represented their original program objectives through 1977. The Soviets evidently also concealed the thirty old H-class SLBMs in the 950 total in order to preclude their deactivation.

A U.S. condition for extending to the Soviets this high ceiling for SSBNs and SLBMs was that a certain number of old weapons were to be deactivated. In order to negotiate the number of old weapons to be disposed of, it was necessary first to negotiate a "baseline" of Soviet SSBNs and SLBMs operational and under construction as of May 1972. The Soviets tried to *minimize* the number of old weapons to be deactivated, probably by *maximizing* the numbers of submarines (48) and SLBM tubes (768) they claimed were then operational and under construction.[34] This Soviet ploy involved the exaggeration of the numbers both of boats and tubes. As Kissinger himself said in his press conference on May 26, 1972, in their negotiations on this replacement baseline issue:

> The Soviets claim that they have more than the [i.e., the Soviets claimed 48 boats with 768 tubes operational or under construction in May 1972]. . . . *The Soviets may not tell us exactly what they have,* but they are in a better position to know than we, *painful as this is to admit.*[35]

According to *Cold Dawn,* however, the United States estimated in May 1972 that the Soviets had only 42 submarines with 640 SLBM tubes operational or under construction. This falsification of boat and tube numbers clearly constituted negotiating deception. Moscow thus exploited U.S. uncertainties with respect to Soviet capabilities.

Equally significant, the Soviets exaggerated by 6 boats and 128 tubes. Moreover, like the heavy SS-19 ICBM which was secret during the May 1972 Summit, the Soviets had another new missile whose characteristics they wished to conceal. This was the SS-N-8 which, as was noted earlier, was fired only in late 1972, after the Summit, over a range of about 4,000 nautical miles.[36]

Footnotes at end of article.

The main Soviet argument for being allowed the high 62/950 ceilings related to the "geographical asymmetries" rationale. The Soviets argued that because they lacked forward bases for submarines comparable to the ones that the United States had access to in Guam, Spain and Great Britain, their submarines had to operate on longer patrols; therefore, they should be allowed more submarines and SLBMs in compensation. Kissinger seemed to accept this rationale in developing the argument that the Soviets required three SSBNs for every two of the United States—three-to-two ratio. Kissinger said as much to Congressional leaders on June 15, 1972: "Then there are such factors as deployment characteristics. For example, because of the difference in geography and basing, it has been estimated that the Soviet Union requires *three* submarines for *two* of ours to be able to keep an equal number on station."[37]

Therefore, in comparison with 41 SSBNs for the United States, the Soviets were allowed 62. Yet, the long range of the SS-N-8, which was demonstrated only after the Summit, showed that it could be fired to most U.S. targets without even leaving home ports. The reportedly broad deployment of SS-N-8 missiles on D-class submarines invalidates the Soviet "geographical asymmetries" argument; indeed, it could be argued that the U.S. should have been compensated. It is another example of negotiating deception, because the Soviet leaders surely knew of the SS-N-8 capability in May 1972.

Finally, we must consider briefly the third principal issue of May 1972—that involving mobile ICBMs. The United States tried to negotiate a formal ban on mobile ICBMs, but the Soviets refused, suggesting that mobile ICBMs would not be deployed:

> Nixon and Brezhnev recognized the complexity of the problem. After lengthy debate, *they promised one another that they would not build land-based mobile ICBMs.* But Brezhnev refused to write this promise into the interim agreement. Nixon stressed that the United States would state its own understanding of the prohibition in a separate declaration that would be submitted to the Congress; and he warned that if the U.S. caught Russia cheating on this issue, it would immediately abrogate the entire SALT agreement. *Brezhnev said that he understood and agreed.*[38]

Yet, according to the *New York Times* of November 2, 1977, and other public sources, the Soviets have produced and covertly stockpiled about 100 mobile SS-16s. Stockpiled mobile ICBMs are potentially more dangerous than visibly deployed ones, because they could be quickly hauled out for use in time of crisis. This covert stockpiling is inconsistent with Brezhnev's promise not to build mobile ICBMs, and also with the U.S. Unilateral Statement against such deployment. Such covert stockpiling of a mobile ICBM gives the Soviets an equivalent to a proposed U.S. multiple aim point system (MAPS) *already.* Moreover, the Soviets reportedly have camouflaged and concealed all SS-16 production and development activity from U.S. national technical means of verification, thereby confusing U.S. intelligence.[39]

The above analysis clearly indicates that the Soviet leadership negotiated deceptively on *each* of three key issues of SALT I: constraints on heavy ICBMs, and SLBM ceiling and replacement baseline, and mobile ICBMs. A comparison of Kissinger's remarks in 1972 and 1975 shows that in 1972 Brezhnev and other Soviet negotiators deliberately shrouded significant Soviet capabilities in order to ensure that Articles II, III and the Protocol of the SALT I Interim Agreement did not constrain Soviet programs. Brezhnev evidently even falsified the claimed Soviet submarine and tube baselines in order to try to minimize the numbers of old Soviet weapons to be deactivated. Despite the threat of U.S. abrogation, Moscow also reneged on Brezhnev's promise not to build mobile ICBMs and has actively concealed them.

Notwithstanding this conclusive evidence, many U.S. observers seem to cling to a belief in the basic sincerity of Soviet negotiating behavior. In his memoirs published in 1978, former President Nixon still accepts uncritically Brezhnev's denial in May 1972 that the Soviets were engaging in deception at that time. Nixon reports that in the context of a discussion of U.S. concerns about verification and compliance during the May 1972 Summit, Brezhnev said in an injured tone of voice: "If we are trying to trick one another, why do we need a piece of paper? We are playing clean on our side. The approach of 'catching each other out' is quite inadmissible."[40] Inexplicably, it has taken the United States six years to "catch out" the Soviets in their deception.

THE LONG SHADOWS OF SALT I

Both of the SALT I concords—the ABM Treaty and the Interim Agreement—were inimical to U.S. interests and to the U.S. strategic posture.

First, the ABM Treaty resulted in the demise of the technically more advanced U.S. ABM program. In May 1972, four U.S. ABM sites intended to defend ICBMs were funded by Congress, and two of these sites were under advanced construction. Construction on one was stopped immediately after the SALT I agreements were signed and the other two funded deployments were soon abandoned. Then, in July 1974, the United States and the Soviet Union in effect agreed to only one ABM complex on each side, and the remaining U.S. ABM system was deactivated in February 1976 just after it had achieved its initial operational capability. In both ABM Agreements, the United States thus opted for less than was allowed. In effect, the ABM Treaty destroyed all political support in the United States for any ABM capability.

Meanwhile, the Soviets reportedly kept their remaining Moscow ABM-1 system. It is also well known that the Moscow system probably protects some Soviet ICBMs. There is no evidence that Soviet ABM efforts and intentions were really constrained: evidently the Soviets never planned more than one ABM complex, while continuing a large and very active R&D program that reportedly continues apace. Dr. Kissinger himself admitted in May 1972 that the U.S. ABM program was superior to that of the Soviet Union: ". . . it is perhaps true that in the ABM field we had the more dynamic program which is being arrested as a result of these developments."[41] Yet, he clearly rationalized this in terms of a linkage between the U.S. ABM concessions and the "success" in persuading the Soviets to agree to a "freeze" on offensive weapons: "I would think it probable, however, that we could not have negotiated the limitations on offensive weapons if it had not been *linked* to the limitations on defensive weapons and to their desire of stopping the deployment of the ABM system."[42]

Yet, what did the United States achieve in return, in the way of effective constraints on Soviet offensive strategic programs? SALT I constituted the codification of a roughly three-to-two Soviet advantage over the United States in each category of strategic missilery—in ICBMs and SLBMs. The USSR was allowed 1,408 ICBMs and 950 SLBMs, as against 1,054 ICBMs and 656 SLBMs for the United States. The aggregate ceilings under SALT were 2,358 Soviet and 1,710 U.S. missiles, meaning an overall advantage to the Soviets of 648 missiles. SALT I also codified an overwhelming Soviet superiority in missile throw-weight.

It has often been noted by the defenders of SALT I that intercontinental bombers were not limited by the accords. Although the United States has about 349 B–52s as against approximately 150 Soviet long-range bombers, this apparent U.S. advantage must be sharply discounted in light of the overwhelming Soviet superiority over the United States in effective air defenses.

Moreover, SALT I placed no real constraints on Soviet weapons programs. First, SS–19 deployments swept through the SALT I loophole with respect to heavy ICBMs. Second, there wer no reins on MIRV development, allowing the Soviets to catch up in this key qualitative arena. Third, the original Soviet SSBN/SLBM program through 1977 was evidently codified, not constrained. It must also be recalled that this codified Soviet level was reportedly *above* the *highest* U.S. estimates of what the Soviets could deploy in the 1972–1977 period. Fourth, Soviet mobile ICBM production was evidently not curtailed. Finally, there is the clear evidence of Soviet negotiating deception with respect to each of the three main issues of the May 1972 SALT I Summit, and their exploitation of U.S. uncertainties about the existence and characteristics of new Soviet ICBM and SLBM programs.

The Soviets had reason to be jubilant about the results of SALT I. Soviet Ambassador to the United States Dobrynin reportedly admitted this about SALT I: "Frankly, we were elated at the results of SALT I. It gave us the strategic advantage in central systems necesary to offset your Forward Based Systems, and it reserved for us the right to match you with regard to warheads in the future."[43]

Dr. Kissinger tried to justify the SALT I Agreements by claiming that they imposed a "freeze" on Soviet ICBM and SLBM programs—that in the absence of SALT I these Soviet programs would have ascended to even higher levels. He thus argued that the United States was merely restraining the degree of Soviet superiority, which had already been conceded by U.S. inaction since 1967: ". . . The question to ask in assessing the freeze is not what situation it *perpetuates*, but what situation it *prevents*. The question is where we would be without the freeze. The question of whether the freeze perpetuates a *Soviet numerical superiority* is beside the point. The question is: What would the margin have been without the freeze? That is the justification for the margin."[44] Yet, as we have seen, there actually was no freeze on Soviet ICBM and SLBM programs. Massive flight-testing and deployment of the new SS–19, SS–18 and SS–17 MIRVed ICBMs and SS–N–8 began after 1972, and the Soviet SLBM build-up continued uninterrupted to the 62/950 levels.

Kissinger also argued that the ostensible offensive "freeze" was really a Soviet *concession* to the United States. In answer to a question on May 26, 1972, on whether the United States had emerged with a bad bargain with respect to submarines, Kissinger asserted: "That is an absurdity. It is a total absurdity. It was the United States which insisted that the submarines be included. The United States was in a rather complex position to recommend a submarine deal since we were not building any and the Soviets were building eight or nine a year, *which isn't the most brilliant bargaining position I would recommend people to find themselves in.*"[45] He added on June 15, 1972: "Neither the freeze of ICBMs nor the freeze of submarine-launched missiles was a Soviet idea, and hence, it is not an American concession. On the contrary, in both cases it was the Soviet Union which reluctantly acceded to American proposals after the long and painful deliberation."[46]

But the validity of these arguments depended on whether the Soviets were actually constrained or "frozen" in ICBMs and SLBMs. As we have seen, there is overwhelming evidence that they were not. In arguing that the United States proposed the ICBM and SLBM freeze, Kissinger must also admit that in reluctantly agreeing to them, the Soviets were likely to have proposed freeze levels favorable to themselves and in accord with their original plans. In exchange for accepting the principle of ceilings, the Soviets were permitted to determine these ceilings. In both the ICBM and SLBM cases, these levels represented their original goals. This freeze rationale for the SALT I agreements merely bolsters the conclusion that the United States was deceived by the Soviets in May 1972.

In addition to the "freeze" jurisdiction for the Interim Agreement, Kissinger advanced several equally questionable arguments. We have already seen that the U.S. advantage in bombers must be severely discounted because of Soviet air defenses. The argument of geographical asymmetry to support higher SSBN–SLBM ceilings was invalidated by the large-scale Soviet deployment of long-range SS–N–8 missiles. Kissinger has also argued that U.S. Forward Based Systems (FBS) in NATO and the Far East in effect conferred upon the United States adequate compensation for the three-to-two advantage to the Soviets in ICBMs and SLBMs. Omitted in this argument, however, is the fact that the Soviets have their own forward-based systems that already checkmate those of the United States. Their approximately 600 MR/IRBMs in the Western USSR, together with the large Tu-16 Badger and Tu-22 Blinder medium bomber forces and their numerous fighter-bombers, are more than a match for U.S. land- and carrier-based aircraft in Europe and the Pacific. Recent massive Backfire and SS–20 deployments, for which there are no Western equivalents, add to the imbalance in Europe.

Kissinger claimed, as we have seen, that the SALT I Agreements were the best we could achieve under the circumstances in May 1972. This argument founders in light of the fact that the United States could have achieved the essential outcome of the ABM Treaty as early as in April 1970, when the Soviets unexpectedly accepted the ABM proposal by the United States providing for the defense of national capitals. This would have been a better agreement than was achieved in May 1972, because while the United States was "standing still" and trying to constrain the Soviets in the 1970–1972 period, the Soviets reportedly added more than 400 launchers (mostly SLBMs) to their force.[47]

Kissinger argued that the U.S. MIRV capabilities deployed after June 1970 gave the United States an important edge over the Soviet Union in numbers of warheads. Yet, in his May and June 1972 statements he acknowledged that the Soviets, too, could be expected to develop and deploy their own MIRVs during the 1972–1977 period—which they did. Hence, this too was a suprious argument. Indeed, the U.S. advantage in numbers of MIRVed warheads is rapidly shriveling and probably will be wiped out by 1985. All analysts agree that with or without SALT II, by as early as 1982 the Soviets will probably have mustered enough superiority in MIRVed ICBM warheads to threaten the U.S. Minuteman force. Moreover, it should be remembered in comparing MIRVed warhead totals that most U.S. re-entry vehicles are small, inaccurate Poseidon warheads for attacking cities, while the bulk of Soviet vehicles are large and accurate RVs on ICBMs for attacking U.S. silos.

Public evidence also suggests that Kissenger relied on the "China factor" as a redressive element with respect to Soviet strategic advantages and regarded British and French strategic capabilities as additional balancing factors. Irrespective of such considerations, however, his famous utterance in Moscow on July 3, 1974, of the question—"What in the name of God is the meaning of strategic superiority?"—reinforces the impression that Kissinger basically regarded strategic superiority as a phenomenon that is neither measurable nor operationally meaningful.

In his May 26–27 and June 15, 1972 briefings, Kissinger tried to disavow responsibility for the unfavorable bargaining position in which he found himself in May 1972. He explained:

> By 1969, therefore, we had no active or planned programs for deploying additional ICBMs, submarine-launched ballistic missiles or bombers—in other words, as a result of decisions made in the 1960's, and not reversible within the time-frame of the projected agreement, there would be a numerical gap against us in the two categories of land and sea-based missile systems, whether or not there was an agreement. Without an agreement, the gap would steadily widen.[48]

Kissinger did not mention that in 1969 he had recommended against a resumption of ICBM, SLBM and bomber construction by the United States. Why did he do so? Perhaps Soviet Ambassador Dobrynin supplies the answer: ". . . It was Dr. Kissinger's view that the American people would not make the sacrifices necessary to maintain parity."[49]

THE INSISTENT QUESTIONS

SALT I leaves to SALT II six principal legacies. First, America's strategic inferiority codified by SALT I in the 1972–1978 period is ordained by development lead-time problems to be perpetuated into the 1980s. Second, we can assume that Soviet deception in defending fourth-generation missiles against SALT II constraints is likely to be repeated in SALT II in efforts similarly to give free rein to the five new fifth-generation Soviet ICBMs and SLBMs known to be under development. Third, SALT II will explicitly allow the Soviets about 700 heavy, MIRVed SS–19s and SS–18s, compared to only 54 obsolete, single-RV U.S. Titan IIs due to be phased out. Fourth, the failure by the United States in SALT I to prevent the heavy SS–19 from replacing the light SS–11 means that the new un-MIRVed ICBM envisaged by the Soviets to replace about 400 older SS–11s under SALT II will be as heavy as the SS–19. Thus by 1985 the Soviets could command 1,100 heavy launchers as contrasted with zero for the United States. Fifth, the SS–16 is already available to the Soviet Union for mobile deployment or multiple aim point basing, while under SALT II the United States may be constrained with respect to similar deployment options. Finally, in light of the Soviet record of deception, any assurances by Brezhnev with respect to basing and operations of the Backfire bomber can be considered neither credible nor durable.

Whatever may have been the rationalizations for the American failures in SALT I, the shadow of the outcome of those negotiations pervades the fateful arena of the U.S.-Soviet strategic competition. As we approach the climatic debate over SALT II, the question becomes ever more insistent: Does a great nation learn from its past mistakes—from the clear record of the adversary's deceit and its own gullibility—or does it continue headlong on the road to potential disaster?

FOOTNOTES

[1] U.S. Department of State, *Selected Documents*, No. 7, February 21, 1978, p. 7.

[2] Frank B. Horton III, Anthony C. Rogerson and Edward F. Warner III, editors, *Comparative Defense Policy* (Baltimore: Johns Hopkins University Press, 1974), p. 314; William T. Lee, "The Political-Military-Industrial

Complex of the USSR," *Journal of International Affairs*, Vol. 26, No. 1, p. 78.

[3] Norman Polmar, *Strategic Weapons* (New York: Crane, Russak and Company, 1975), p. 29.

[4] Marvin Kalb and Bernard Kalb, *Kissinger* (Boston: Little, Brown and Company, 1974), p. 107.

[5] Ibid., p. 109, emphasis added.

[6] Ibid., p. 107.

[7] Ibid.

[8] Admiral Elmo R. Zumwalt, Jr., USN (Ret.), *On Watch* (New York: Quadrangle/New York Times Book Co., 1976), pp. 304, 319.

[9] Kalb and Kalb, op. cit., p. 108.

[10] Ibid.

[11] Ibid.

[12] Ibid., p. 109.

[13] Ibid., p. 110.

[14] Zumwalt, op. cit., p. 319. See also pp. 390–391.

[15] Robert L. Pfaltzgraff, Jr., *Contrasting Approaches to Strategic Arms Control* (Boston: D. C. Heath, Lexington Books, 1974), pp. 14–15.

[16] Raymond L. Garthoff, "Negotiating With the Russians: Some Lessons from SALT," *International Security*, Spring 1977, Vol. 1, No. 4.

[17] Ibid. See also Raymond L. Garthoff, "Negotiating SALT," *The Wilson Quarterly*, Autumn 1977, Vol. 1, No. 5.

[18] Raymond L. Garthoff, "SALT and the Soviet Military," *Problems of Communism*, January–February 1975.

[19] John Newhouse, *Cold Dawn: The Story of SALT* (New York: Holt, Rinehart and Winston, 1973), p. 244.

[20] Ibid., pp. 240–272.

[21] *U.S. Defense Posture Statement 1974; U.S. PCS Posture Statement 1974.*

[22] *Washington Post*, September 27, 1973; *New York Times*, October 4, 1974.

[23] Garthoff, op. cit., "SALT and the Soviet Military," p. 32. See also Colin S. Gray, "SALT I Aftermath: Have the Soviets Been Cheating?," *Air Force Magazine*, November 1975.

[24] *U.S. Defense Posture Statement 1974.*

[25] "Message from the President of the United States Transmitting the ABM Treaty and Interim Agreement and Associated Protocol," June 13, 1972.

[26] *U.S. Defense Posture Statements* for 1974, 1975, 1976. Also, Dr. Henry A. Kissinger, Secretary of State, Press Conference, December 9, 1975.

[27] "Message from the President," op. cit.

[28] Dr. Henry A. Kissinger, Assistant to the President for National Security Affairs, White House Congressional Briefing, June 15, 1972. Emphasis added.

[29] Newhouse, op. cit., p. 252. Emphasis added.

[30] Kissinger, op. cit., Press Conference, December 9, 1975. Emphasis added.

[31] Ibid. Emphasis added.

[32] Ibid., Newhouse, op. cit., pp. 244–247.

[33] Garthoff, op. cit., "Negotiating with the Russians," pp. 9, 16. Emphasis added.

[34] Newhouse, op. cit., pp. 247–248. See also, Dr. Henry A. Kissinger, Press Conference, May 26–27, 1972; *Washington Post*, August 16, 1972.

[35] Kissinger, op. cit., Press Conference, May 26–27, 1972. Emphasis added.

[36] *U.S. Defense Posture Statement 1974; Washington Post*, September 27, 1973.

[37] Kissinger, op. cit., White House Congressional Briefing, June 15, 1972. Emphasis added.

[38] Kalb and Kalb, op. cit., p. 320 Emphasis added.

[39] Melvin Laird, "Arms Control: The Russians Are Cheating!," *Reader's Digest*, December 1977. See also numerous articles in *Aviation Week and Space Technology*.

[40] Richard M. Nixon, *R.N.: The Memoirs of Richard Nixon* (New York: Grosset and Dunlap, 1978), p. 611.

[41] Kissinger, op. cit., Press Conference, May 26–27, 1972.

[42] Kissinger, op. cit., White House Congressional Briefing, June 15, 1972. Emphasis added.

[43] Zumwalt, op. cit., pp. 486–487.

[44] Kissinger, op. cit., Press Conference, May 26–27, 1972. Emphasis added.

[45] Ibid. Emphasis added.

[46] Kissinger, op. cit., White House Congressional Briefing, June 15, 1972.

[47] Garthoff, op. cit., "SALT and the Soviet Military," pp. 30–31.

[48] Kissinger, op. cit., White House Congressional Briefing, June 15, 1972; Kissinger, op. cit., Press Conference, May 26–27, 1972.

[49] Zumwalt, op. cit., p. 486.●

ADMINISTRATION SHOE POLICY CONTINUING ECONOMIC DISASTER

● Mr. EAGLETON. Mr. President, recently my colleague from New Hampshire, Mr. Durkin wrote an article that appeared in the Portsmouth Herald concerning the closing of the Converse shoe factory in Berlin, N.H. Senator Durkin's strongly worded article lends emphasis to the plight of the nonrubber footwear industry in the United States.

What happened to the Converse shoe factory is indicative of what is happening in other parts of the country in spite of the fact that orderly marketing agreements were negotiated with Korea and Taiwan in 1976. The results of these OMA's have been disappointing; it appears that there has been little relief for the footwear industry.

I believe that the administration must take immediate steps to substantially improve the administration of these orderly marketing agreements. I ask that Senator Durkin's article entitled "Administration Shoe Policy Continuing Economic Disaster" be printed in the Record.

The article follows:

Administration Shoe Policy Continuing Economic Disaster

The impending closure of the Converse shoe factory in Berlin, with the loss of over 800 jobs, reminds us of a simple fact—this Administration's policy on shoe imports, like that of its predecessors, is a disaster. While President Carter, like Presidents before him, sends his Ambassador off to negotiate so-called Orderly Marketing Agreements (OMA) with our economic competitors, the only thing orderly happening is the systematic closing of shoe factories in New Hampshire, New England and all across the U.S.

This must cease immediately. It is time for the Administration to reverse its policy, take every action necessary to revitalize the New Hampshire and New England shoe industry, and impose the quotas and tariffs necessary to give New Hampshire shoe workers the fair chance they deserve.

As in past years, Taiwan is the worst offender, even though they have signed an Orderly Marketing Agreement supposedly to limit their imports. When that agreement was signed, I attacked it strongly, realizing its loose provisions were an open invitation to Taiwan and other overseas competitors to continue to devastate our domestic production. My worst fears have been exceeded.

In 1976, Taiwan sent 65 million pairs of rubber soled and fabric based shoes to this country. In 1977, the Administration and Taiwan reached an agreement to limit Taiwan exports to the U.S. Yet in 1978, Taiwan sent 97.5 million pairs of similar shoes, a one third increase. The Federal bureaucrats do not have to be experts in international economics to realize an incredible 32.5 million increase in two years is not a limitation.

Korea has also contributed to the problem. In 1976, Korea sent 31.4 million pairs of rubber soled and fabric based shoes. In 1978, once again after the Administration and Korea supposedly reached agreement to limit shoe imports, this total rose to an astounding 59 million pairs—an 88 percent increase in just two years. Once again, the so-called limitation that the Koreans agreed to has only meant open hunting season on New Hampshire shoe workers.

The effect of these unrestrained imports has been devastating in New Hampshire and across the country. In the ten year period from 1968–77, almost 50 percent of the workers in the New Hampshire shoe industry lost their jobs because of cheap imports—a loss of 9,000 jobs. Thirty-three companies were forced to close their doors at last count, with the Converse Berlin closing raising the outrageous total to thirty-four. New Hampshire is the seventh most-important footwear producing state in the U.S., yet in 1977, we produced only 21 million pairs of shoes, down over 55 percent from 1968.

New Hampshire shoe industry workers are some of the most industrious and hard-working in the world. Productivity is not the problem. They can compete head-to-head with shoe workers in any country. What they cannot compete with are the government and industrial policies in Taiwan and Korea that mean wages of approximately 55¢ an hour in those countries, government subsidies and other forms of assistance, and the absence of basic health and industrial safety protection for their workers.

Taiwan is not the only country taking advantage of misdirected Administration policy. Korea, the Philippines, Italy, Hong Kong, and Brazil are all doing their best to decimate the U.S. shoe industry. Since 1977, when the Administration supposedly began to take actions to curb overall imports, all types of imported shoes—leather, rubber, and fabric—have increased significantly. In 1978 non-rubber imports exceeded the incredible levels of 370 million non-rubber pairs in 1976 And rubber soled footwear has increased an incredible 52 percent in those two years from 115 million pairs to 175 million pairs.

Quotas and tariffs are the only answer in the short run. I believe in freed trade, but free trade means fair trade. And fair trade does not mean New Hampshire workers have to compete with subsidized workers in other countries who are paid slave wages and work in unsafe and unhealthy conditions.

The International Trade Commission, that branch of the Federal government charged with detailed analysis of foreign dumping practices, came to the strong conclusion several years ago that without quotas and tariffs, the American shoe industry would continue to suffer and decline. President Carter chose to ignore their recommendation, and workers in Berlin and acoss the state and the country are feeling the effects of that decision. This simplistic belief on the part of some people in the Administration that Taiwan, Korea, and other countries would quietly fold their tents and steal away because they signed a meaningless piece of paper, has only meant heartache and troubles for American shoe workers.

Taiwanese and Korean shoes cannot be allowed to continue to come into this country in almost unlimited numbers at subsidized prices. The President has the means to stop this, and the sooner he understands this and takes the appropriate actions, the better off we will all be.

Fighting for New Hampshire shoe workers, N.H. industry, and New Hampshire consumers against an entrenched bureaucracy and against an Administration which has yet to understand the real threats to the American workers livelihood is not an easy battle. But I will not give up. I have been fighting this battle since I came to the Senate, and I will not stop until New Hampshire workers, industry, and consumers get the fair chance they have earned and deserve.●

U.S. RELATIONS WITH MEXICO

● Mr. GOLDWATER. Mr. President, most of the people who were born near the Mexican border, as I was, and who have spent their lives living with and knowing the wonderful Mexican people held a sincere hope that President Carter's recent visit to the capital of Mexico would produce some immediate results. As one of the people who held such hopes, I am not going to stand here on the floor of the Senate and characterize the President's visit as a dismal failure or even a partial failure because I believe the very fact that an American President visited Mexico City will have some beneficial effects.

Mr. President, in a whole lifetime of knowing the people of Mexico, I have never felt that my country held the right attitude toward them. The Mexican people have perhaps a more reverent attitude toward the democratic principles we hold so dear than do the people of the United States. Now, I know that statement may be challenged and if anyone wishes to debate with me on that subject, I think I can answer point-for-point and show that the Mexican people love freedom and are willing to work for it where too many American people now seem to take it for granted and no longer care to protect it in a universal way. In my lifetime, I do not believe we have ever had the correct attitude toward our sister republic to the South. We have repeatedly ignored their periods of crisis while paying attention to periods of trouble encountered by countries remotely located around the globe and whose troubles have very little effect upon the United States.

Let me remind my colleagues that by the year 2000 nearly half a billion people will live south of the Mexican-United States border and that these people are rapidly becoming self-sufficient. I can remember a time when a friend of mine, now deceased, took over the Sears Roebuck Co. of Mexico back in 1940 and they imported nearly 96 percent of the merchandise they sold. Now they no longer depend upon the United States. In fact, the United States now depends on Mexico for many of the articles sold by that very corporation in our country.

One can argue today about our war with Mexico, whether it was right or wrong. I happen to side with the Mexicans. There was no reason for that war but it happened and we won it and took over large portions of Texas and the Southwest as a result. And people can argue that the Gadsden Purchase was a mistake. Regardless, it was as a result of the purchase that Mexico forever closed any further discussions with the United States over the acquisition or the use of their land. Let me remind you that the Gadsden Purchase involved only $10 million and it allowed part of Arizona to become part of the United States. Last year alone, the United States collected over $400 million in taxes from that area. But that is beside the point.

What I am driving at is that throughout the history of our relationship with Mexico, we have been totally wrong in our attitude towards that country. For example, because of the loud protests from the labor movements in this country, we have stopped what used to be called the bracero program, or the green card program, whereby Mexican Nationalists could cross the border and work at farms in this country doing chores that no American laborer would perform. And because we stopped this program, the Mexicans who want to come to our country clear and honest are referred to as unwanted aliens. Let me tell my colleagues that there is much work being done in this country by Mexican people, work that would never be done if it were not for their willingness to labor hard and live under adverse conditions. I might go so far as to suggest that President Carter consider a resumption of the bracero program. I might even take a further step and suggest to him that we open the door, as we have opened it forever for our friends from Canada.

Mr. President, if my colleagues could realize the great cultural contributions that Mexico has made to the United States, and if I could get my colleagues to shift their attention from other areas of the world so they could study Mexico and learn about it and come to believe in it as I do, I think we could forge a lasting brotherhood between our two countries. If we could do this, we could develop a strength combining Canada, the United States, and Mexico that could literally challenge any country or group of countries that might wish to do us harm. Personally, I want to thank the President for going to Mexico. I know he had some difficult times. But I also know that he learned that the Mexicans are very patriotic individuals who can mix vitriolic truth in their conversation as well as sympathy and understanding. I only hope the President came back home with the deep knowledge that Mexico is a country with which we must—and I repeat must—have closer ties. We must try to do more for her and forget trying to do so much for other countries clear across the world who have no bearing on or interest in the future. Let me close by saying Mexico understands freedom. We would do well to follow her example.●

OPPOSITION TO THE DEPARTMENT OF EDUCATION

● Mr. MOYNIHAN. Mr. President, one is repeatedly told by proponents of a Cabinet-level Department of Education that the idea enjoys broad popular support. In that context, one must at least be perplexed by the breadth and vigor of the grassroots opposition to the creation of such a Department, particularly as revealed in the editorials and columns of newspapers across the Nation. These are not the rantings of wicked or reactionary citizens opposed to the support and improvement of American education. Rather, they are reasonable doubts voiced by reasonable people as to the necessity for and likely results of taking education out of HEW and placing it at the Cabinet table. Will children learn more? Will schools and colleges teach better? Will public funds be more efficiently and effectively deployed? Will vital resources make their way through the bureaucracy and into the classroom? Will informal and nonpublic education be recognized as the important resource it is, alongside the public schools? Will education be adequately linked with other modes of human development and social advancement? Will our strong traditions of State and local control be enhanced or diminished?

These are some of the questions being raised in every corner of the Nation. These are questions of such fundamental importance that if they cannot be adequately and persuasively answered one must begin to share the doubts expressed by the authors of these editorials and columns.

In order that my colleagues may have the opportunity to peruse and ponder these matters at their convenience, I ask that the several articles and editorials submitted herewith be printed in the RECORD.

The material follows:

[From the Chronicle of Higher Education, Mar. 5, 1979]

LET'S NOT TAKE EDUCATION OUT OF H.E.W.

(By Edward C. McGuire)

In 1867, Congressman James A. Garfield led the fight to persuade an indifferent Congress to pass legislation that created a Department of Education. Many educators enthusiastically supported the idea. This new department was aimed at securing the recognition and the financing so rightly deserved by education. One of America's foremost educators, Henry Barnard, became its head. After one year of grandiose schemes and little tangible accomplishment, Congress reduced the department to bureau status in the Department of the Interior.

In 1923, and several times since, this "bold" idea was resurrected, reconsidered, and soon forgotten.

Many believe that a separate Department of Education would magically result in the resolution of all the problems, including the financial ones, confronting education. However, the relatively recent creation of the Department of Transportation certainly cannot be held up as a model of efficiency or as an answer to the problems of transportation facing this nation. Likewise, putting all of the federal energy programs into a new agency has not resulted in less confusion in that area, either. Or take an old, well-established agency like the Department of Agriculture. Certainly it has been around a long time; it has had time to put its house in order and whip its programs into shape. Need I relate the problems still facing both the farmer and the consumer because of the ineptness with which its programs were conceived?

Is education doomed to follow the same pattern? Shifts in bureaucratic structure do not automatically result in increases in prestige or leadership. Change in these areas begins with hard work at the state and local level, where most education decisions are made. A separate education department has existed before in our history. It contributed nothing to education's leadership or prestige. An expansion of prestige will come with successful programs.

Many believe that a separate Department of Education would magically result in an increase in federal education funds, though they stop short of explaining exactly how this will happen. It is my belief that federal funds for education will increase only when the education lobby gets its house in order and proposes increases directly related to clear explanations of need and then develops quality programs to meet those needs. Rep. Shirley Chisholm is an educator who also served as a member of the House Education and Labor Committee. She has publicly stated that education legislation has advanced on Capitol Hill only because of the backing of organized labor, not as a result of lobbying by the education associations.

Increases in education funds depend on the amount of public support behind various programs rather than on budget mechanics. If education has the confidence of the American people, it will get the dollars it needs to get the job done. If it doesn't, it won't. Having a separate department will not change the dominant role of the Office of Management and Budget in administrative initiatives. Nor, rightfully, will it change the important role of Congress in approving educational initiatives.

There are those who argue that a Cabinet-level education officer, with more visibility and prestige, would promote sensitivity to education throughout the federal government. That same person would have the ear of the President and the respect of Congress. Just what has the U.S. Commissioner of Education been doing if not these very things?

It is naive to believe that a new title would result in a change of attitude by Congressional leaders toward education. Dean Acheson once said that the American Cabinet was not a collective body, but a "plural noun." His characterization was and is appropriate, principally because we operate under a presidential rather than a cabinet form of government. Our Cabinet is composed not of leaders of legislatures, but rather of presidential appointees. The President appoints his Cabinet officers in accord with his intentions for the departments over which they will exercise leadership. To quote a former member of a President's staff. "The only role for a Cabinet secretary is when the President says 'Jump' to ask, 'How high?'."

Presidents seldom evaluate prospective Cabinet appointees in terms of their potential as agents for change, but rather as conformists to the President's goals. Do you remember Walter Hickel or Elliot Richardson? They disagreed, and soon they found themselves on the outside looking in. Secretary of Health, Education, and Welfare Joseph A. Califano, Jr., did a complete about-face on the position of creating a separate Department of Education. Originally he opposed the idea; within a week or two he did a complete flip-flop and now is a strong advocate of the idea. Do you think he wasn't subject to presidential persuasion in the interim?

A disturbing question about a separate Department of Education concerns the relationship between education and the federal government. Our public school systems and our publicly supported institutions of higher learning are built on a system of local and state control. That they need additional federal assistance is beyond dispute. But the degree to which that will mean a greater amount of federal control has not been widely discussed. What should the federal role be? Many people are complaining about the heavy hand of federal control. The creation of a new Cabinet-level department in an area that traditionally and constitutionally has been left to the states and localities should at least require careful study.

Another phenomenon is overlooked by those who argue for a separate department. The largest federal program of support for higher education, the GI Bill of Rights, was enacted primarily as an unemployment and income-security program. In fiscal 1979, its appropriations totaled some $2.2-billion. It is administered by the Veterans Administration. Lobbying the veterans' groups scuttled the idea of including the GI Bill in an education department.

What is now the second largest student-aid program, the Social Security program for the 18-to-22 year-old children of workers, may be phased out if the Carter Administration has its way. It paid out an estimated $1.3-billion in benefits to college students in academic year 1977–78.

If one looks at the higher-education budget of the U.S. Office of Education for fiscal year 1980, one will see that over $4-billion has been allocated for student assistance. Less than $400-million is allocated for institutional assistance and other higher-education programs. We are witnessing a continued high priority being placed on assuring that all qualified students have an opportunity to obtain a postsecondary education. That, I believe, is a worthwhile goal. But, to emphasize my point, more than 90 per cent of the funds committed to higher education are in reality channeled to and for individuals, making them in reality welfare programs; and as welfare programs they justifiably fit into the bigger picture of Health, Education, and Welfare—not as a separate entity.

Over 25 percent of all of higher education's funds come from the federal government, while only 9 percent of elementary- and secondary-education funds are federal funds. Research funds for institutions of higher education come from practically every department in the federal government. Their administration probably never could, or should, be consolidated. The creation of a separate department would be primarily characterized by moving the Education Division, already dominated by elementary- and secondary-education interests, out of H.E.W. Higher education would be further overshadowed in a new department in which its voice would be even more difficult to project.

There is a very strong relationship between federal education and welfare policies. Any program designed to develop support for child care in all of its health and welfare dimensions must take into account the role of the schools. The present combined administration of health, education, and welfare encourages a comprehensive examination of these domestic priorities in relation to one another.

Rather than encouraging the go-it-alone tendencies of many educators by setting education's administration off by itself, we should launch a coordinated health, welfare, and education approach to the major domestic problems our nation faces—poverty, youth employment, and health security.

What the advocates of separation also lack is an understanding of the proposition that administrative acts of government are also policy acts. They distribute costs and benefits just as do acts of Congress, executive orders, or judicial decrees. Consequently, every education agency or program that might be consolidated under the guise of sound management principles has a politically potent constituency that will not wish to be consolidated. Therefore it is not prudent to assume that the consolidation goals will be achieved even if a Department of Education is created.

Another possibility looms on the horizon regarding the vested interest groups. Adding a new department will undoubtedly increase the pressure of these groups to follow suit and demand their own separate departments. And the more departments there are, the more difficult it will be to gain agreement on approaches that may affect more than one area.

It is clearly not necessary to have such a department to address the total needs of education. What is important is that we have a President and a Congress who care about education and are willing to give it a high priority in the federal government's financial commitments. Perhaps our energies should be directed to electing public officials who will continue that commitment.

[From the New York Times, Mar. 4, 1979]

No Reason for Separate Ed Department

Some big education battles will be taking place in the Congress in the months ahead. One of these will be over the budget, a subject I'll get to in a future column. Another is the fight over whether there should be a separate Cabinet-level department of education. This would mean taking education out of the Department of Health, Education & Welfare. Even though the President promised, during his election campaign, that he would *reduce* the number of federal departments, in this case, he is asking that another one be created.

President Carter came out in support of a separate department at a time when it seemed to be a motherhood issue. A number of education groups were in favor of it, and no one seemed to be against it, so why not please some people? Also, the supporters of the plan argued that a separate department would accomplish two major objectives. First, it would give greater prestige to education. Second, it would consolidate and coordinate various education programs which are paid for by the United States government but administered by different departments. School lunches, for example, overseas teachers for children of service men and women and manpower training are education programs managed by the Departments of Agriculture, Defense and Labor, respectively. There are other programs run by other agencies of the goverment.

Since the proposal was made it has been subject to severe criticism and much organized opposition. Giving "prestige" to education is not a good reason to create a department. Who can say in advance whether such a department would enjoy high or low prestige? And should we create a new department and add a member of the Cabinet to provide prestige for the "environment," for "consumer protection," for "safety" and other concerns of the American people? Unless we want government even larger than it is now, with no department head having adequate access to the President, the answer is no.

So we are left with the second argument: bring all the education programs together. But last year, when the bill was first introduced, the constituent groups in these other programs were outraged by the proposal that they be included in the new education department. Head Start demanded exclusion. So did school lunches, manpower, Indian education and other programs. It became obvious that if the programs which were to be coordinated by a separate department were included in it, there would be so much opposition from these groups that the bill would not pass Congress. So, what did the President do? He submitted a new bill which excluded most of the programs which were supposed to be coordinated! Santayana defined a fanatic as one who redoubles his efforts after he has forgotten his aims. The separate department continues to be frantically pushed even though the major reason for it—coordination and unification of education programs—has been abandoned.

The bill should be defeated.

According to the polls, the American people do not want it.

Many fear that while a federal education department will do little to improve education, it may establish a new, unneeded bureaucracy and erode local control.

It is opposed by most civil rights groups, the AFL-CIO, higher education groups, major organizations representing private and parochial schools—and a strong plurality of public school parents.

The needs of education can be met by reorganizing HEW.

Education will be weaker when separated from the health and welfare forces which lobby for the same budget.

The separate department has been opposed editorially by the *Washington Post*, *The New York Times*, and the *Wall Street Journal*, among other newspapers.

The latest argument used by the Administration is that the United States is the only major democratic industrial nation which does not have a separate department of education. That may be true, but is there any evidence that we are worse off for it? No. In fact, the evidence seems to point the other way. In a paper on "American Education in the Perspective of Education in Other Nations," Ralph W. Tyler, director emeritus of the Center for Advanced Study in the Behavioral Sciences, gives us some interesting statistics. In a cross-national evaluation of reading, the average of the combined scores on comprehension and interpretation for 14-year-olds was compared. The Americans score an average of 16.5. Only New Zealand, with 18.7, and Finland, with 17.2, were higher. The average for England was 16.1, for Swedes, 15.9. The average scores of the other industrialized nations ranged from 13.8 to 16.4

Most 14-year-olds in the industrialized world are still in school. But this is not the case with older children. When the international assessments were being made, the United States retained 78% of the age group through the final year of secondary school. Japan retained 70%, Sweden 65%, Australia 29%, Hungary 28%, England 20%, Scotland 17%, Italy 16%, and New Zealand and the Netherlands 13% each. But, despite the fact that American students finishing high school represent nearly 80% of their age group, our average literacy score—21.9—was topped only by New Zealand (26.8), England (26.4), Finland (23.8) and Sweden (23.3). Clearly, American education enables *most* of our youth to maintain the literacy that most other nations *only achieve with a very select group.*

In providing educational opportunity, the United States also does very well in comparison with other countries. In 1974, 14% of our secondary school seniors were from families of unskilled or semi-skilled workers. In West Germany, it was only 1%, and in England and the Netherlands, only 5% of the seniors came from such families.

So much for the Administration's "international" argument for a separate department of education. Without one, we're doing pretty well—better than most countries with such a department. American schools have problems, of course, especially in educating the urban poor. But they won't be solved by a new bureaucracy in Washington.

[From the Washington Post, Feb. 11, 1979]

THE EDUCATION DEPARTMENT—AGAIN

Never underestimate the power of a bad idea to generate bad arguments. Vice President Mondale's remarks the other day in favor of the creation of a Cabinet-level Department of Education were an example. The vice president, in a briefing, made the point that the United States "is the only major industrial democracy in the world that does not have a department or a ministry of education," although, to our certain knowledge, this is neither a symptom nor a source of what is wrong with American education. Mr. Mondale, according to the news story, also suggested that education "suffers because its highest official 'is not at that Cabinet table speaking directly to the president.'"

You would hardly judge from any of this that the United States is also the only major industrial democracy (or any sort of country) in the world in which three-quarters of the children graduate from high school and half of those graduates go on to college. And we also question whether, despite the proponents' assurances, a new federal department would not subtly and unwisely enlarge the federal jurisdiction in the schools. In theory anyway, education remains a primary function of the states and localities, which is surely one reason this country has not had a national ministry of education as part of its political tradition. We think it is a tradition worth holding on to.

It is, of course, true that much of the money for our public schools now comes from general revenues and that there has been a vast increase of federal involvement in public education over the past couple of decades. But both the money and the involvement can be managed by government instrumentalities now available to do so. It is argued by those who favor the new department that it would work pretty much as a harmless conduit of federal funds and coordinator of federal programs, all the while respecting the primacy of the states and localities in school affairs, and that it would do all this much more efficiently than is done under the present slovenly dispensation. Consulting ancient and modern bureaucratic precedent and looking around us at the evidence of our senses, we discover no reason at all to believe this is how things will turn out. They never do. Look at the Labor Department. Look at Commerce. A Department of Education, if such unfortunately is enacted into law, will become a gigantic single-minded lobbying outfit. It will be the NEA writ large.

Anyone who observed last year's congressional proceedings on this subject—the hearings, committee debates and so forth—should understand that what we really have here is a fight over turf: who gets which hunk of jurisdiction over whom and what and how much money. Evidently the administration, in coming back with its Education Department legislation in this Congress, has carved up the turf in a new and politically more persuasive way, so that the proposal is likely to have a smoother time this year. We hope it does not. The purpose of the federal government—as we keep harping when this proposal comes up—should be to fit federal education programs into a system of priorities and values larger than the education industry's perspective permits it to see, not to break off those programs into a client- and constituent-run principality of its own.

The best thing that could happen to President Carter's proposal for a department of education, from his point of view and everyone else's, would be for Congress to bury it.

[From the Wall Street Journal, Feb. 13, 1979]

EDUCATION SHELL GAME

Officials in the Carter administration say they're making a good faith effort to run the federal government more efficiently. We think this is so, and we're happy to praise them for it. But it's going to be hard to believe they really care much about making government work if they keep up their current campaign for a Department of Education.

As we and many of our fellow journalists have said by now, the proposal to create a Department of Education is one of the most inane policy ideas to come down the pike in a long time. It would take the education part out of the present HEW, add some of the educational enterprises now run by other government departments from Defense to Interior, and put them together in a new organization with a $14 billion budget and some 16,000 employes.

The National Education Association, the country's biggest teachers' union and the chief supporter of the new department, says the consolidation would give a "clear expression, from the national viewpoint, about what we should do for education in this country." Perhaps it would; if so, it's hard to imagine a less cheering prospect than a unified national education policy set by the NEA. The thought seems to be upsetting lots of other people as well. Most of the bureaucracies and constituencies that the NEA wants to fold into the new department have been energetically lobbying to keep themselves out. And, needless to say, it would cost a bundle to carry out the changes necessary to neaten up the organization charts.

The NEA has members everywhere in the country. During the 1976 election campaign candidate Jimmy Carter promised he would support their new department. The NEA responded by endorsing Mr. Carter for the presidency. President Carter introduced a bill to create the department and now, with the re-election fight coming, has reintroduced it into this Congress. Moreover, his effort hasn't been pro forma: We hear that high administration officials have been, to put it indelicately, calling in the markers. They've been meeting with educational groups that have expressed reservations about the bill, reminding them of Mr. Carters' generosity to educators, and trying to persuade them to keep quiet.

The bill as it now stands would include in the new department mainly the organizations now in HEW and overseas schools run by the Department of Defense. But once a new department is created, a President could reorganize other agencies into it without congressional approval. If the new department stays small, it will be mostly a colossal waste of money. If it grows, it will not only waste even more money but begin to present the more serious dangers inherent in educational centralization. We hope more people will begin to speak out and say so.

[From the Christian Science Monitor, Oct. 27, 1978]

NO TO A DEPARTMENT OF EDUCATION

(By John E. Sawyer)

(From remarks by the president of the Andrew W. Mellon Foundation at the inauguration of Elizabeth Topham Kennan as president of Mount Holyoke College.)

The most distinctive feature of American higher education is surely its diversity and extent, and the absence of any single, integrated national control from above. Though the United States offers more educational opportunities to more people than any nation has ever attempted, it has done so without any central plan or governing authority, through thousands of institutions offering more than 1,500 kinds of programs to more than 11 million students under a mixture of public and private sponsorship.

Given the complexity and sensitivity of the field, the variety of our needs, and the size and divergent interests of different sectors and regions, I feel this has been a good thing, and that we should strive to keep it so.

Looking back at our history one finds the beginnings of higher education on the continent of Europe organized along guild lines, with the master professors admitting students, hiring and training apprentices, and determining what was taught and how. Upon these beginnings the emerging secular states gradually imposed a centralized bureaucracy, fiscal control, and more or less uniform systems of administration.

In the United States, by contrast, a mixture of historical accident, denominational drive, and divided state and local jurisdictions has given us a rich, sprawling diversity of institutions and forms of governance.

Confusing overlapping, competitive, sometimes wasteful and often redundant, this mixture has provided opportunities for education of great variety for ever-increasing numbers; it has encouraged multiple sources of initiative and response; it has generated diverse sources of funding; and has inspired the kinds of dedication and leadership needed to create and sustain institutions. Perhaps most distinctive, it has largely concentrated administrative energies and decision-making authority on the individual campuses where the students are—and where the problems emerge (and these two are *not* necessarily synonymous)—rather than at far away centers setting inflexible rules in their prescription for a national system.

The example set by [the independent liberal arts] colleges helped reinforce the practice of chartering state universities under their own Boards of Trustees or Regents, with substantial institutional autonomy. In more recent years the growth in systems and sub-systems of post-secondary education and in the size of their budgets has led to more centralized state planning and control; perhaps necessarily so. But the state level seems a good place for the process of centralization to stop.

The intrusion of federal regulation offers a warning of the pressures that a separate national Department of Education could set in motion. Given the dynamics of government and the ambitions of men, one need not be a hardened conservative to anticipate the drift toward centralized planning and control that would follow; or the ways in which this could undercut the diversity and initiative, responsiveness, flexibility, and independence of the network of private and public institutions, locally governed, that history has given us.

Where federal funding assistance may be essential, we already have experience with how it can be handled while avoiding serious loss of institutional autonomy—the "G.I. Bill" after World War II, current Educational Opportunity Grants, the support of science and medical research via the National Science Foundation and the Institutes of Health, program grants subject to peer review, National Defense Education Act support of foreign language study and area centers, library support through the Office of Education. We could develop other models.

But whatever the deficiencies of existing educational forms and practices—and they are many—let us resolve them without installing an overarching authority and attendant bureaucracy that will almost inevitably bring remoteness and rigidity in place of the ranging, rambling, resiliency of our present pluralism. In a country as diverse as ours and in a field as sensitive for a free and open society as higher education, the unintended consequences of centralization could be both regrettable and, once in place, difficult to reverse.

[From the Washington Post, Jan. 26, 1979]

A FEDERAL EDUCATION POLICY?

(By William Raspberry)

I suppose there may be some bureaucratic efficiencies that have resulted from the creation of the Department of Energy.

But bureaucratic efficiency was not the reason for creating the department. President Carter wanted to pull together the bits and pieces of energy programs scattered throughout the federal bureaucracy for one principal reason: so that the federal government could bring a unified approach to energy—so it could get a handle on energy policy.

Similarly, there might be some efficiencies that would result from the creation of a Department of Education, though I doubt it.

But don't kid yourself for one second that efficiency is the reason the backers of the idea are so fervent about it. The real reason is that pulling together the bits and pieces of education-linked programs presently scattered throughout the federal bureaucracy would give the federal government—and those who could reasonably expect to influence the new department—a handle on educational policy.

The difference between the two things is this: We were pretty well agreed that we needed a rational, consistent federal policy on energy. But we are by no means agreed that we want a federal policy on education, with Washington taking over more of the policy function now relegated to state and local officials.

We aren't agreed because we haven't even debated the question. We haven't understood that the creation of a Department of Education is in fact a policy question, not merely a matter of efficiency.

Do we want a federal policy on education? The impulse is to say: Why not? Standards (for high school graduation, for instance) vary so much from jurisdiction to jurisdiction that a diploma cannot be taken at face value. Why not a single, federal standard?

Wouldn't it make sense to have consistent standards to determine what and how much children should be expected to learn at every grade level? After all, we already have nationally standardized tests to see what they've absorbed.

"That's easy enough for you noneducators to say," one government official told me. "But if one of us said it, I can predict what would happen.

"The first day, there would be applause. The second day, the unions and chief state school officials and the school boards would attack.

"And the third day, the same people who thought it such a wonderful idea on Day One would begin saying, 'On second thought . . .' "

The scenario might not be far off. The teachers' unions—including members of the National Education Association, one of the major lobbyists for the proposed department—would quickly learn that national standards for what and how much should be taught naturally lead to national standards for determining who is qualified to teach it. All teachers' colleges are not created equal.

The state and county school authorities would attack because they are responsible for running some of these bad schools. The school boards would resent the federal usurpation of their policy-making role.

Okay, I know that the supporters of the proposed department don't anticipate federal standard-setting and policy-making. Their dubious rationale is that a president would pay more attention to education if its interests were articulated at the Cabinet level. Thus, a Department of Education would enhance the visibility and prestige of education within the federal establishment.

But visibility and prestige for what? For greater federal outlays? Is there any reason to suppose that creation of the department would in fact increase the amount of federal money available? And if it did, do they think for one moment that they could get more Washington money without more Washington standard-setting?

Maybe we ought to have national standards and educational policy. The point is, you cannot create a Department of Education first and decide the question of policy and standards later.

The creation of the department is a policy decision—even if it masquerades as reorganization for bureaucratic efficiency.

We ought to keep that in mind when the proposal is taken up again, probably later this month.

[From the San Francisco Examiner, Feb. 2, 1979]

NO MORE DEPARTMENTS, PLEASE

President Carter's plea for "lean" federal spending, aiming toward a balanced budget, is marred by one glaring contradiction—his own support of the plan to create a new cabinet level Department of Education.

Across the whole field of federal spending, Carter in effect is telling congressmen to resist those powerful lobbies, national and local, that continue to demand more federal money, and that fight any plan to trim their domestic projects. Yet here is Carter, capitulating to one of the biggest lobbies of all, the National Education Association, which desperately wants this giant new agency.

To bring into being this federal department, and to expand the Cabinet by one more member, would be to assure that the costs of the federal role in education would soar and that federal control over local units of schooling would become radically stronger, which is precisely what the people do not want.

In the last session of Congress, this measure actually passed the Senate. It was stopped in the House—but just barely—not far before adjournment. A few brave House members stood up against it and managed to block it, and one of those was the late Rep. Leo Ryan of San Mateo. A longtime educator himself, he was appalled at the implications of the legislation, as to both excessive cost and excessive federal power over all the public schools of the nation.

Of course the proponents do not speak of expansion, they speak of streamlining. The new, single department is needed, says the NEA, to cure the fragmentation of educational functions scattered among federal agencies, but centered mainly in the Department of Health, Education and Welfare. Education is but a second thought within the huge HEW apparatus and doesn't receive the attention, the priorities, it deserves, is the claim.

Well, we think it hasn't done too badly in HEW. And what we're talking about here, in the super-agency plan, is not just a consolidation of functions, but a consolidation of power.

As envisioned now, the new department would have 16,000 employees and a budget of some $14 billion. If it took over all the education-related programs of the federal government, its budget could approach the $20 billion a year. In terms of spending, that would make it approximately the third largest federal department. It would have enormous, concentrated power to disburse money, and also, thereby, to set policy, and to set standards reaching into every district of the United States.

Naturally, the consolidation itself would give this new unit of government a great deal more clout, so as to wring more and more money out of Congress, so as to gain more and more power by the handing out of that money. It would be a snowballing affair, as the proponents of it well knew.

There is a great body of analytical opinion to the effect that the motivating force really isn't reorganization, but that this is merely a means for creation of a national education policy, with the muscle to enforce that policy. We think the public does not want a National School Board of bureaucrats in Washington to set national standards for education, which could amount to federal say-so over textbooks, teaching methods, curriculum and possibly, in the long run, even teacher qualifications.

There has been too much of this already—"experts" dictating, in effect, from afar to local districts, and educational performance has suffered for it. Furthermore, the public has sent clear messages, through the voting booths, that it does not want greater centralization of authority in Washington, which is what this new department undoubtedly would amount to.

How can the president choose, on this particular question, to ignore public sentiment against the spread of government into people's local lives? How can he be that indebted to the more activist elements of the national education lobby? How can he ask Congress to restrain itself fiscally, to fend off the pressure groups, while he proposes to bloat the bureaucracy even more to make the educational empire-builders happy?

[From the Dallas Times Herald, Feb. 10, 1979]

Keep the 'E' in HEW

Once again, President Carter has asked Congress to establish a new $13 billion cabinet-level Department of Education. We are not convinced that such a department is necessary or wise.

The Department of Health, Education, and Welfare was established to bring together many of the federal government's "people programs" and to recognize how these three important service areas are linked together in individual lives.

President Carter endorsed a separate Department of Education during his 1976 campaign and a bill to accomplish his goal passed the Senate during the 95th Congress. That bill died in the House, partly because of intramural fighting about which programs to move from other departments into a new education bureaucracy.

Sen. Abraham Ribicoff, chairman of the Senate Governmental Affairs Committee, has introduced his Education Department bill again and is holding hearings on the legislation. Budget director James McIntyre said the new department would have a workforce of more than 16,000 and would include more than 150 programs now in the departments of Health, Education and Welfare, Defense, Housing, Agriculture and Labor.

Presented in the context of government reorganization in the name of efficiency and effectiveness, the establishment of an independent Department of Education seems harmless and perhaps even worthwhile.

The unanswered question, however, is what changes in direction necessitate a separate department. Although the federal government spends billions on education, most of its programs are related to goals other than the control of educational policy. The GI Bill, for example, provides educational funds for veterans, but it does not establish a course of training for them.

Rep. John N. Erlenborn, R-Ill., a member of the House Committee on Government Operations, has pointed out that "the creation of a cabinet-level Department of Education is, in itself, a statement of government policy, a signal of greater centralization of authority in Washington."

Rep. Erlenborn said he doubts people really want Washington instead of local school boards or states to make decisions as to course content, textbooks and curricula.

There are some opponents of a separate department who believe the National Education Association would wield undue influence on policy and would attempt to carry out the NEA goal of increasing federal support of education from some 8 per cent to 33 per cent. That would not necessarily occur, but it is reason enough to question the need for a separate department.

Education is important, but its needs can be given greater visibility within HEW just as well as in a separate department. We are for keeping the "E" in HEW.

[From the Philadelphia Inquirer, Feb. 15, 1979]

Don't Take "E" Out of HEW

There for awhile it looked as if President Carter might decide not to ask Congress to set up a separate Department of Education. The administration and Congress already have a plateful of controversy before them now and in the coming months.

But the White House now has sent up its latest plan for government reorganization, a Cabinet-level Department of Education, and supplied the same rationalizations that persuaded the Senate last year, but did not persuade the House.

It is asserted, for example, that the plan would provide better management of roughly 150 educational programs, a stronger voice to education and an end to fragmentation at the federal level and improved coordination all around.

One could make a similar assertion to support, say, an independent Department of the Navy and maybe a separate Department of the Air Force, too. The Department of Defense, like the Department of Health, Education, and Welfare, has waste and inefficiency because of its size. But the reason for unifying the military in DOD is the same as the reason for unifying the civilian services of HEW: They are interdependent and interlocking services which can be coordinated better under one roof than off by themselves.

Testifying against the proposed plan last year, Andrew J. Biemiller of the AFL–CIO made just that argument. "Rather than encouraging the traditional go-it-alone tendencies of many educators to want to set education off by itself, we should launch a coordinated approach to the major problems our nation faces—poverty, equal educational opportunity, welfare and health security. . . . A fragmentation of health, education and welfare administration will only encourage narrow thinking and a fragmentation of the political voice that now speaks for all of them."

If a separate, independent Department of Education is so desirable, why leave so many educational programs out of it? Why leave out the GI Bill under the Veterans Administration, the Labor Department's manpower training, Indian education and Head Start, to mention only a few? "In the real world, we couldn't get them through the Senate," Sen. Abraham Ribicoff (D., Conn.) acknowledged. In other words, their constituencies want to keep these programs out of the new department. Political expediency can be an effective argument, but in this case the result would appear to demolish the claims for that vaunted coordination.

"This is the only major industrial democracy in the world that does not have a department or a ministry of education," Vice President Mondale declares. It is also a democracy with a long tradition of local control of education. If the administration merely wants to spend more federal dollars on education, it does not need a separate department to do it.

[From the Wichita Eagle, Feb. 2, 1979]

A Department of Education?

On the surface, President Carter's proposal to create a new cabinet-level Department of Education sounds like a reasonable idea. It would, he contends, give education the kind of emphasis it deserves in our lifestyle, and at the same time, would be a more efficient approach to coordinating school programs that the federal government is involved in.

Although scaled down somewhat from a similar administration proposal from last year, the latest version of an independent Department of Education in the president's Cabinet would begin life with a $13.5 billion budget and a pool of some 16,000 employees. That would make it bigger than five of the existing Cabinet departments, at birth.

With the well-known propensity for massive growth of federal bureaucracies in mind, many people are afraid a new Department of Education would mean bigger, not necessarily more efficient, government involvement in education, and that too much tax money would go into stoking the fires of the new department, and too little would make its way to the schools, where it is really needed. We share some of those misgivings.

There is also the fear that there might be more use of the bullying federal tactic of "you do things our way or we cut your money off." Those threats are already a problem in some areas, and could get worse under an independent Department of Education with enhanced enforcement powers.

Education traditionally has been a local undertaking, financed largely by local folks through local taxes. The school systems have, as a result, remained fairly responsive to the wishes of the people whose children attend them. There is a need for some national guidelines, such as mandates guaranteeing programs for special education students, but many people are no more convinced that we need a national school board than that we need a national police force.

Most of the arguments in favor of a national Department of Education are based on vague promises of improved efficiency and "priorization," things that few federal bureaucracies are noted for. Without some very specific, compelling reasons for reshuffling an already overweight bureaucracy, the plan looks too much like a move toward centralized government, not a better educational system.

Although White House spokesmen are all but predicting the final congressional tally favoring the new cabinet department, some lawmakers including Sen. Bob Dole, R-Kan., and Rep. Dan Glickman, D–Kan., are having second thoughts about the proposal. And there should be plenty of thought given to the idea before such a major revision is approved and implemented.

Education deserves renewed emphasis, and there should be better coordination of federal school programs, but we're not yet convinced those things can't be done through the current structure of the Department of Health, Education, and Welfare. The claimed benefits so far don't outweigh the risks of setting yet another governmental bureaucracy into perpetual motion.

[From the New York Daily News, Feb. 19, 1979]

Who Needs It?

President Carter should be able to find a better use for his time and energy than spending it in a push to create a separate Department of Education.

At a time when the administration is supposedly looking for ways to streamline the bureaucracy, reduce costs and make government more efficient, this idea makes no sense at all.

A cabinet-level education agency would mean another layer of costly bureaucratic fat and strengthen a special-interest constituency pleading for a bigger share of federal largesse.

The scheme becomes even more suspect when we see that its primary supporter is the National Education Association—the country's largest teachers' union.

The NEA argues that a full-fledged education department would provide "a clear expression, from the national viewpoint, about what we should do for education in this country."

There is nothing in the government's record to indicate that it would be wise—or even safe—to take control of education policy out of local hands and place it in the custody of a federal outfit, especially one dominated by the mandarins of the NEA.

The original proposal for a Department of Education died on Capitol Hill last year through inaction. This year, Congress ought to fling it back in the face of the President and the NEA with a definite, resounding, uncompromising "No!"

[From the Omaha World Herald, Feb. 12, 1979]

How Not To Cut Bureaucracy

When a politician does something clearly out of character with what he has been saying, the first impulse is to look for the motive.

President Carter has been saying consistently that he wants to streamline the bureaucracy in Washington, make the federal government more efficient and responsive, cut costs and so on.

So when he proposes adding a vast new Cabinet-level bureaucracy, what's the motive?

The new bureaucracy would be a Department of Education, with its own secretary, assistant secretaries, undersecretaries, deputy assistant undersecretaries, hordes of paper-shufflers and guideline-writers, car pools, executive dining rooms, etc.

At present the federal government's educational enterprises are centered in the Department of Health, Education, and Welfare.

One of the most insistent promoters of a separate new department at Cabinet level has been the National Education Association. In the Carter presidential campaign, NEA political and financial support was closely coupled with Carter's promise to create a new education department. There's the quid pro quo—and, we suspect, a large part of Carter's motivation.

As columnist James J. Kilpatrick pointed out on this page Jan. 30, the NEA could be expected to have the heaviest influence on the policies and procedures of the new department. And as Kilpatrick also noted, "the NEA in recent years has come to embody every single cause that has contributed to the crisis that threatens our public schools."

It seems to us that when so many Americans are so distressed about the performance of the public schools—and with good reason—first attention should go to reforming and streamlining the bureaucracy that already exists, before thought is given to enlarging it and giving it more status.

Carter last Wednesday sent to Congress a bill to create the new Department of Education. It deserves the same fate as his proposal to create a super-duper consumer advocacy agency.

[From the St. Louis Globe, Feb. 12, 1979]

Stop Education Boondoggle

When President Dwight D. Eisenhower prevailed on Congress to create the Department of Health, Education, and Welfare in 1953 he said he was combining the department's functions to improve efficiency of operations and hold down costs.

In that era, before White House occupants and the Democratic majority in Congress discovered they could spend taxpayers' money without any limit, HEW costs were still relatively small. In 1956 the nation spent $2.07 billion on HEW programs.

Then came the Great Society and the great giveaway artists, starting a spending spree in Washington that still goes on. The annual cost of HEW now has hit $200 billion, about 100 times that 1956 figure.

It would seem that some sharp cost cutting would be in order to check the HEW monster. But President Carter has other ideas. He has proposed increasing HEW expenditures by about $16 billion in fiscal 1980.

The president also has another blockbuster proposal—creating a new Department of Education headed by a Secretary of Education, who would be a member of the Cabinet.

Note the size of this proposed new colossus—a budget of nearly $13.5 billion in 1980 with a staff of more than 16,000! There would be 14 executive level positions created to run the department, including assistant secretaries for civil rights, elementary and secondary education, postsecondary education, and research and improvement.

Before the era of Lyndon Baines Johnson there was little federal aid to education. The cost has skyrocketed virtually every year. If the huge federal expenditures have improved education, it isn't possible to tell how. Virtually all of the measuring devices show a steady deterioration of reading, writing and arithmetic since Washington decided to start immersing educational institutions in dollars.

It is now the proud boast of the Education Division that it has 142 programs. It would take a volume as large as a telephone book to tell what they all do.

So what did Vice President Walter F. Mondale say to try to justify creation of a new Department of Education? He pointed with pride to the fact that the administration had increased spending on education by 60 percent in two years.

What is missing, said Mondale, is the administrative structure to match this financial commitment of the administration.

This personifies the arrogance of the key figures running the Carter administration. First they impose unconscionable educational expenditures on taxpayers at a time when citizens all across the country are rebelling against the high cost of government. Then they use bloated budgets as a basis for claiming the need for a new Department of Education.

Instead of institutionalizing massive overspending and giving a new Department of Education an even greater springboard for higher spending, Congress should undertake a long overdue review with an eye to drastic cuts.

If all of the 142 programs were put under critical scrutiny, how many of them could justify the huge amounts of money that are being poured into them?

It is apparent that the Carter administration, despite its claims of wanting to make the government more efficient and economical, is doing just about everything it can to continue boondoggles and increase spending.

[From the Rocky Mountain News, Feb. 13, 1979]

A Department of Education?

Back it has come, like a bad penny, the flu, a deadbeat's bouncing check: the Carter administration's call for the creation of a Department of Education.

It is disheartening, though not surprising, that President Carter continues to pester Congress with this proposal. After all, he said he would do so when he was campaigning for president. Because he said he would do so, he got the unprecedented endorsement of a potent teacher's union, the National Education Association. Now he's making good on his campaign pledge. That's politics.

So the main drive to create this special-interest, Cabinet-level department comes from the NEA, which seeks to upgrade education's (and its own) clout in Washington. The NEA wants to grab off more federal dollars.

The responsibility for education now lies, and should lie, with local and state governments. Uncle Sam already kicks in eight cents out of every dollar spent on education in this country, which gives it enough power in the field.

The best possible argument for a new department is that it could coordinate the many and varied education-aid programs that are now scattered throughout the federal government.

If one is naive enough to believe that "coordination" is not a euphemism for more federal intrusion into the local classroom, one might buy the argument in the name of efficiency.

But the Carter administration's proposal can't even meet that test. The Head Start program for pre-schoolers wouldn't be in the Education Department. Neither would the Indian education program. Nor would vocational education, the school lunch program, veterans education programs under the GI bill and many other grant programs.

Why are they not included? Because the special interest groups which they serve want to remain under the cozy wing of the Veterans Administration, or the Interior Department, or the Labor Department, or the Agriculture Department, or wherever they are now.

In fact, federal education-aid programs left out of the proposed new department are larger than the ones that would be included in it.

Then why bother with the whole thing? Good question.

[From the Washington Post, Mar. 1, 1979]

For the Record

From a commentary by Dr. Lloyd H. Elliott, president of George Washington University.

President Carter has reviewed his request for the creation of a Cabinet level Department of Education, and Sen. Abraham Ribicoff (D–Conn.) along with 42 cosponsors, has introduced the necessary legislation. . . . Those who support the proposal claim that results will be greater visibility for education on the national scene, a strengthening of the country's educational programs because of national leadership, greater political clout and, therefore, more dollars for education. . . .

More likely results will be:

A stepped-up flow of suggestions, pleas, guideline, directives and regulations from the federal establishment to states and localities and to schools, colleges and universities.

A swing with each change in the White House to new dawns, new thrusts, new programs and, of course, new foundations.

A guaranteed politicization of the federal role in education because of the partisan support and loyalty required by presidents of Cabinet officers.

A stronger role of the National Education Association in both education and politics because the proposal is the payment of a campaign promise.

Centralization of educational policy-making in a ministry of education, which in other countries has gradually, relentlessly smothered change, innovation and diversity.

The creation of a Department of Education will bring the federal government even closer to the final determination of what, how, and by whom American citizens of all ages will be taught. . . .

The whole concept flies in the face of less political intrusion into academe, less bureaucracy in the classroom and less government in American life.

[From the Boston Herald American, Feb. 19, 1979]

"Only" $13.4 Billion

At first glance the creation of a federal Department of Education seems like an eminently logical thing to do. After all, everybody's in favor of education.

Nevertheless, there are good and sufficient reasons why the Congress should do as it did last year, and kill the proposal for another department. It should not pile another bureau on top of an already tall and costly bureaucracy.

In the first place, there is nothing a Department of Education can do that can't be done by the Department of Health, Education, and Welfare, and other existing departments and agencies. And second, public schools and universities are regulated to the hilt as it is, and one thing they don't need is entanglement in the web of another administrative structure.

Sponsors of this year's bill argue that the revised version calls for a department of "only" 16,000 employes rather than the previous 24,000. They argue the new department would cost "only" 13.4 billion.

We trust a House of Representatives that killed last year's extravagant budgetary bite won't be fooled by that "only" business. Thirteen billion dollars is still too much to pay for an unnecessary department, even if we weren't losing the battle against inflation.

[From the Chicago Tribune, Feb. 21, 1979]

A DEPARTMENT WE DON'T NEED

Before long Congress will be acting on a new crop of bills to create a federal Department of Education. The proposal was on Candidate Jimmy Carter's agenda and helped earn him the support of the National Education Association. It sailed through the Senate last September on a vote of 72 to 11, only to stall in the House because of the delaying tactics of a small number of opponents. With a new Congress and lots of time and with continuing support from the President, the measure is very much alive. Those who want to kill it need to speak out again and again.

The principal reason why the NEA wants a Department of Education can be expressed in one word—money. The reasonable expectation is that a federal Department of Education would enlarge the part of the federal budget appropriated and spent in the name of education. Estimated start-up figures are $15 billion a year and 16,000 employes. From a lobbyist's point of view, it is obviously desirable to shift the sources of school money as much as possible away from school districts and states, which cannot print money, to the federal government, which can.

Money is likewise a major argument against a Department of Education. What would the department deliver that would justify the vast added expense? Though it might enlarge the total amount of money spent in the name of education, and multiply and increaes salaries, can anyone guarantee or even plausibly contend—or does experience suggest—that more taxpayers' money would secure any great gain for learning? The newest cabinet department—of energy—has done more to prolong problems than to solve them.

There are other good reasons, too, for opposing a federal Department of Education: increased centralization of control as well as funding in Washington; corresponding loss of local influence on the schools and of the local support of schools that has been the foundation of our public education; the submersion of programs involving higher education and science in a monolithic structure inevitably preoccupied with elementary and secondary schooling.

Originally, sponsors of a Department of Education said the new department would contribute to the rationalizing of government by bringing scattered programs that have grown up in Agriculture, Defense, and Interior under one central agency. But as concessions to those who prefer things as they are, the sponsors have now given up on folding into a new Department of Education most of the relevant programs now outside of Health, Education, and Welfare. The rationalization argument has been almost wholly abandoned.

President Carter has his own reason for backing a Department of Education—to pay a campaign debt to the NEA. That formidable union has clout and credits with numerous senators and representatives, too. So those of us who do not consider ourselves dependent on the NEA must remind members of Congress that we, too, are constituents, and that our wishes also require consideration.

Now, when the country is struggling to hold down deficits and inflation, is no time to saddle the present and the future with a costly and worse than useless addition to the federal superstructure. The proposal for a federal Department of Education should be defeated.

[From the Chicago Sun-Times, Feb. 20, 1979]

GIVE THIS EDUCATION IDEA AN "F"

"Look," we were told, "when President Carter saw the energy problem, he created the Energy Department to deal with it. Education has big problems, too. It needs a separate department just as much as energy."

To which we reply, "Yes—but no."

Yes, education has problems. No, taking education out of the Health, Education and Welfare Department to create the separate department Carter wants is not the solution.

Congress should flunk the idea.

Remember, energy lacked a prominent federal niche; education has one in HEW. A new department made sense to pull together energy policies that were spread throughout government. Not only is there no similar need for an education agency, it's hard to see how creating a new bureaucracy is the answer to real school problems such as teaching Chicago youngsters how to read.

What's more, a $13.4 billion agency with 16,000 employes isn't the most economical, efficient or desirable way to cope with other failures in national school policies.

That's especially true since a new department probably would be dominated by teachers' unions like the National Education Assn., which is lobbying hard for it. It's hardly a plus for any national agency to be under the thumb of special interest groups. A "whistle-blower" who spots a wrong would have little chance in that situation.

Also neither the President nor Congress has the time to take on the problems that come with creating a new Cabinet department. Their energies are needed for more urgent issues now. An anti-inflation program is one obvious example, since further inflation is a greater threat to the soundness of American schools than the lack of a separate Education Department.

Carter, unfortunately, isn't likely to drop the idea. So Congress should say no—quickly—and get on to more useful business.

[From the Bangor (Maine) Daily, Jan. 31, 1979]

FOOLING US TWICE

Under the Carter administration, the U.S. Department of Energy was created as a consolidation measure. The government's scattered energy programs were supposed to be brought together under this new administrative umbrella resulting in a unified national energy problem.

In fiscal 1980, this new cabinet level department will cost American taxpayers almost $9 billion. Even if government energy regulations was helping, which it doesn't seem to be doing, there would still be little justification for such an outlandish outlay for running one massive bureaucracy.

Later this month, despite President Carter's State of the Union pledge to streamline government and reduce Big Brotherism, the White House will lobby Congress for creation of another new cabinet level department: the U.S. Department of Education.

Official rationale for this move is very similar to that used for creation of the Department of Energy: We must get a handle on national education policy.

Do we want a federal policy on education?

Those quick to respond with approval, the National Education Association and a host of educators, should look beyond the superficial desirables of higher visibility and prestige for education, which might spring from a new federal establishment.

Many educators themselves privately harbor disdain for ever-increasing levels of federal intrusion into our schools.

And only a fool would believe that federal intrusion in our school systems will lessen with the creation of a new cabinet-level Department of Education. In all likelihood, the new department would impose a new federal standard for public education across the country.

This in turn would perpetuate a larger and larger federal bureaucracy to oversee standardization of public education. And once Washington is calling all the shots, and promulgating standards to determine what and how much our children should be expected to learn at every grade level, it will be just a matter of time before national standards for learning lead to national standards to determine who is and who is not qualified to teach.

Undoubtedly, too, under this new education department in Washington, school boards around the country would find more and more of their policy-making roles usurped.

The proposal to create a new U.S. Department of Education is in itself a major policy statement on education. It deserves to be fully debated before—not after—the fact. Thus debate really never took place with our $9 billion a year Department of Energy.

[From the (Mass.) Marlboro Enterprise, Feb. 1, 1979]

NO EDUCATION DEPARTMENT?

Vice-President Walter Mondale applauded vigorously and politely when his "boss" Jimmy Carter told the Congress about his new "tight and austere" $531 billion budget with its $29 billion deficit. He then lost no time in conferring with some 130 persons about establishing a brand new federal Department of Education to pile yet another expensive bureau on top of the Washington bureaucracy that he and Carter promised to reduce in their 1976 campaign.

It is apparently not enough that we now have that multi-billion dollar bureaucracy known as the Department of Health, Education and Welfare—or HEW. No, says Mondale, a new Department of Education must be set up to play "an essential requirement in making the federal role in education as good as it should be."●

MARTHA GRAHAM TESTIFIES ON APPROPRIATIONS FOR NATIONAL ENDOWMENT FOR THE ARTS

● Mr. JAVITS. Mr. President, on the 5th of March a great lady and a great artist graced the halls of Congress by her appearance to present testimony to the Senate Appropriations Committee. Speaking on behalf of the American Arts Alliance, Martha Graham presented to the Subcommittee on Interior and Related Agencies a statement at once thoughtful and lyrical, on the continuing need for Federal assistance for the arts. The American Arts Alliance represents the interests of opera, theaters, orchestras, and art museums as well as dance. The Alliance certainly chose well in selecting this preeminent American dancer and artist to bring their views to the subcommittee and the Congress.

In 1976 President Ford awarded Martha Graham the Medal of Freedom in recognition of the decades of her dedication and her inspiring accomplishments in the arts.

I regret that responsibilities with the Foreign Relations Committee made it impossible for me to be present personally during this testimony. Senator ROBERT BYRD, the chairman of the Interior and Related Agencies Subcommittee graciously received my letter of introduction for Mrs. Graham. I appreciate his kindness in this matter and I wish to extend my appreciation to Senator DENNIS DECONCINI, who chaired the hearing and submitted the letter for the RECORD.

I believe that all our colleagues who love the arts will very much enjoy reviewing the testimony presented by Martha Graham. I ask that these remarks as well as my letter to Senator Robert C. Byrd in this connection be printed in the Record.

The material follows:

Martha Graham Center of
Contemporary Dance, Inc.
New York City, N.Y., March 5, 1979.

Gentlemen. I am a dancer; but I have been given the honour and the deep responsibility to speak for the other disciplines as well, although as I understand it my colleagues will have presented a written statement such as my own. I feel that if I have been asked to speak for my colleagues it is in part because our needs and aspirations are same, as is our recognition that there is only one sin in the arts, mediocrity.

I cannot address myself to the special needs of each of the disciplines here represented but can only speak personally and share with you some of the needs and demands that I have faced throughout my career. It is for this reason that I have chosen to refer to a statement in which I once set forth my beliefs as a dancer. I believed deeply in its words when I made that statement then; I believe deeply in them now. In this description of my own roots and my dreams I feel that there is a manifestation in part of the beliefs common to all the arts.

I am a dancer, I believe that we learn by practice. Whether it means to learn to dance by practicing dancing or to learn to live by practicing living, the principles are the same. In each it is the performance of a dedicated precise set of acts, physical or intellectual from which comes shape of achievement, a sense of one's being, a satisfaction of spirit. One becomes in some area an athlete of God

Practice means to perform, over and over again in the face of all obstacles, some act of vision, of faith, of desire. Practice is a means of inviting the perfection desired.

I think the reason dance has held such an ageless magic for the world is that it has been the symbol of the performance of living. Many times I hear the phrase . . . the dance of life. It is close to me for a very simple and understandable reason. The instrument through which the dance speaks is also the instrument through which life is lived . . . the human body. It is the instrument by which all the primaries of experience are made manifest. It holds in its memory all matters of life and death and love. Dancing appears glamorous, easy and delightful. But the path to the paradise of that achievement is not easier than any other. There is fatigue so great that the body cries, even in its sleep. There are times of complete frustration, there are daily small deaths. Then I need all the comfort that practice has stored in my memory, and a tenacity of faith. But it must be the kind of faith that Abraham had wherein he "staggered not at the promise of God through unbelief".

It takes about ten years to make a mature dancer. The training is two-fold. There is the study and practice of the craft in order to strengthen the muscular structure of the body. The body is shaped, disciplined, honored and, in time, trusted. Movement never lies. It is the barometer telling the state of the soul's weather to all who can read it. This might be called the law of the dancer's life . . . the law which governs its outer aspects.

Then there is the cultivation of the being. It is through this and the legends of the soul's journey are re-told, with all their gaiety and all their tragedy, the bitterness and sweetness of living. It is at this point that the sweep of life catches up the mere personality of the performer and while the individual (the undivided one), becomes greater, the personal becomes less personal.

And there is grace. I mean the grace resulting from faith . . . faith in life, in love, in people, in the act of dancing. All this is necessary to any performance in life which is magnetic, powerful, rich in meaning.

In a dancer there is a reverence for such forgotten things as the miracle of the small beautiful bones and their delicate strength. In a thinker there is a reverence for the beauty of the alert and directed and lucid mind. In all of us who perform there is an awareness of the smile which is part of the equipment or gift of the acrobat. We have all walked the high wire of circumstance at times. We recognize the gravity pull of the earth as he does. The smile is there because he is practicing living at the instant of danger. He does not choose to fall.

It has not been an easy path for me to work to present my ballets before the public while maintaining a standard of honour to my craft. I know very well what it is to scrub my own studio floors and to teach eight hours of classes a day so that at the end of the year I might give one professional Broadway performance a year; a performance which was of necessity given on a Sunday, the then dark night of the theatre. From that period I certainly did not emerge with a belief that there was a virtue in poverty. And yet at that early period of my career, something gave me the wisdom or commonsense to understand that if subsidy came too soon, it would weaken me, prevent me from practicing dangerously my craft.

Today there is more dance practiced in the world, more highly trained dancers than ever before. It gives me great joy to see this happen and to know that an audience might night after night, rather than once each year, experience a dance performance. I feel that our country is to be congratulated for reaching the present level of recognition and support of the arts.

I know that from my own experience the financial aid which I have received from the National Endowment for the Arts in recent years has been responsible in good part in enabling me to reestablish my own Company, to undertake work on revivals of many of my ballets which would have been lost if I had not been helped to leave a record, to begin new ballets, and what in many ways is of deepest importance to me at this moment, to begin those projects which are crucial for my plans to project my Company and Technique into the future.

At the present time it is a key part of the plans that I have evolved with my Company's Associate Artistic Directors, Linda Hodes and Ron Protas, for the present and future life of my Company that there be two, two month periods of creative work, free from the pressures of performance and of too heavy a work load of teaching responsibilities. It is our hope that these residencies take place at two universities in our country. These plans would never have even been contemplated had it not been for the possibility of financial help made available by the National Endowment for the Arts.

Yet, there is a danger and responsibility in giving funds. For it is hopeless to demand that the making of dances, or any creative act be a democratic process. Art is not democratic. It exists and flourishes in a democracy and should be made available to all who wish to experience it. But the fact remains that the responsibility for revealing the hidden voice of man lies in the one, the expression of the one.

There is I believe a prime danger for dance today. For sometimes choreography is used as a device solely to be able to perform, to further a career; in many cases, it is lacking in the craft and in the technique that should be an intrinsic part of its creative life. This self-indulgence of some choreographers, so-called, I believe stems from the fallacy that all dancers are therefore choreographers. Nothing could be further from the truth.

There is a fragment of poetry which has always had a deep meaning for me. It referred to a long lost civilization: "They had no poet and so they died."

For the record of history lives in the Arts.

It is my passionate hope that the current appropriation for the Arts be passed and not cut or further limited. The Arts today desperately need even a far greater support than is now under consideration. For the Arts must continue to live and to contribute to the fabric of our society.

Even as I write this statement time has begun to make today yesterday . . . the past. Even the most brilliant scientific discoveries will in time change and perhaps grow obsolete, as new scientific manifestations emerge.

But Art is eternal; for it reveals the inner landscape which is the soul of man.

Martha Graham.

March 2, 1979.

Hon. Robert C. Byrd,
U.S. Senate,
Washington, D.C.

Dear Bob: Our beloved Martha Graham is due to testify before your Interior Subcommittee on Monday morning at 10:45 a.m.

I had hoped to have the privilege of introducing her, but I have been called to meet with Prime Minister Begin at that time. Would you be good enough to do me the honor of reading this letter into the record.

Martha is one of the real inspirations of the cultural development of our country, both a pioneer and a great artist, as well as a wonderful woman.

I know that you and our colleagues will pay the greatest attention and respect to her views, as I have for years.

Please convey to her my warmest regards and respects.

Sincerely,

SOVIET JEWISH REFUGEES IN ROME

● Mr. KENNEDY. Mr. President, over 8,000 Soviet Jewish refugees and other migrants are currently backlogged in Rome waiting to join family members and friends in the United States. And the number is growing every day.

Yet there are now no conditional entry numbers available under the immigration law, and the existing parole numbers have been exhausted. The result is that these refugees are forced to sit in Rome for an average of 3 to 4 months at great and unnecessary cost to the taxpaver.

Mr. President, it serves no useful purpose to keep these Soviet Jewish refugees in transit when it is clear they will all eventually be admitted to the United States. It makes no sense to spend some $1.2 million in care and maintenance each month, when we can act to parole them immediately into the United States.

It is for this reason that I have appealed to the Attorney General to exercise his parole authority under section 212(d)(5) of the Immigration and Nationality Act, to parole into the country special migrants and refugees from the Soviet Union.

As chairman of the Judiciary Committee, I will shortly conduct hearings on proposals to reform the refugee provisions of our immigration law—and I am hopeful this Congress can enact legislation to rationalize the admission of refugees into the United States. But pending congressional action on this legislation, it is my view that the parole authority should be used, as it has been for more than two decades, to meet our international responsibilities toward the homeless.

Mr. President, I ask that the text of my recent letter on this subject to Attorney General Griffin Bell be printed in the RECORD.

The letter follows:

U.S. SENATE,
Washington, D.C., March 2, 1979.

Honorable GRIFFIN B. BELL,
Department of Justice,
Washington, D.C.

DEAR MR. ATTORNEY GENERAL: As you know, the Committee will soon have under active consideration legislative proposals to reform the provisions of the Immigration and Nationality Act relating to the admission of refugees into the United States. However, pending Congressional action on these proposals, it is my view that you should continue to use, when needed, the parole authority (under Section 212(d)(5) of the law) to meet our international responsibilities toward the homeless.

Of immediate urgency is the need to respond to the growing backlog of Soviet Jews and other Eastern European refugees now developing in Rome, due to the lack of sufficient conditional entry numbers and the exhaustion of existing parole numbers. All indications suggest that this situation will continue for sometime costing an unnecessary amount in care and maintenance, and causing needless delays and hardships to persons clearly destined to join family or others in the United States.

Therefore, I would like to strongly recommend that the parole authority be exercised in their behalf on a standby basis, and without a specified ceiling on the number of entries into the United States over the coming months. Such a program, carried out in consultation with Congress, is consistent with past practices involving other groups of special migrants and refugees.

Many thanks for your consideration, and I look forward to working with you and others in the Executive Branch to insure that our country responds to the resettlement needs of refugees of special concern to the American people.

With best wishes.

Sincerely,

EDWARD M. KENNEDY.●

RETIREMENT OF GALEN FROMME

● Mr. MATHIAS. Mr. President, the retirement of Galen Fromme on February 23, 1979, from his position at WBAL radio brings to a close an unprecedented career in broadcasting.

For 40 years, Baltimoreans received their morning news from Mr. Fromme. During his distinguished career he covered news events ranging from the coronation of Queen Elizabeth II to the Vietnam war and delivered over 155,000 newscasts.

I would like to commend Mr. Fromme for his professional dedication and long service to Baltimore and the Free State. I know that he will be missed and that my wishes for a contented and fulfilling retirement for him in a land where the sun never stops shining are shared by all of his listeners.

Mr. President, I ask that an article about Mr. Galen Fromme from the Baltimore Sun be printed in the RECORD.

The article follows:

[From the Baltimore Morning Sun, Feb. 24, 1979]

FROMME CALLS IT QUITS AFTER 40 YEARS ON RADIO

Finally, after 40 years in the broadcasting business, Galen Fromme can sleep late.

The radio veteran, who logged more than 155,000 newscasts in a career that began in Pennsylvania and flowered here at WBAL, read his last story yesterday on the station's 8 A.M. news report.

At the end of the broadcast, the praise begain to flow in from David Brinkley, who called Mr. Fromme's record "unmatched"; from Edwin Newman, and from his colleagues here at the NBC-owned station.

It has been a career at the top of his profession for Galen Fromme. The stories he has covered form a list of memorable news events: six national political conventions, the coronation of Queen Elizabeth II, the Vietnam war.

And it all began for him in radio when he sang an aria on the "Major Bowes Amateur Hour." It brought 32 job offers. None for singing. All for announcing.

He took a job in Reading, Pa., moved to WBAL in 1939, and the rest is broadcasting history.

Now, the man who turned down offers from New York to stay in Baltimore has turned his eye to one of his "great loves"—the Caribbean.

It will be different from Baltimore mainly in the fact that Mr. Fromme will not have to rise every morning at 2 to go in to work and read the news.

"I'll go down there and sit on the beautiful white sand, and that blue water, beneath the eternal sun which never stops shining, and love it," he said yesterday.●

PARITY INCOME FOR FARMERS

● Mr. MORGAN. Mr. President, I recently had the opportunity to review a speech that merits the attention of the Members of this Chamber, especially those Members concerned with farm income. The speech that I call attention to was made by Joseph Halow before the Colorado Wheat Advisory Board. Mr. Halow discussed in his remarks the topic of parity income and how such an objective could be reached. Mr. Halow, executive director of the North American Export Grain Association, insists that a more aggressive export policy, combined with a lowering of trade barriers, is the most sensible way to reach such a goal. Also, Mr. Halow compares the concept of parity income with parity loan rates and parity target prices. While I do not agree with all of the specifics in Mr. Halow's remarks, I do believe that they merit review by those interested in farm problems. Therefore, Mr. President, I ask that the entire text of Mr. Halow's speech be printed in the RECORD.

The speech follows:

PRESENTATION BY JOSEPH HALOW

When I was first asked to speak before this group, I was told I would be asked to speak on a controversial subject and was then given the title: "The Effects of a 90% Parity Loan Rate on World Trade In Grain." My own feeling is that there would be a great deal less controversy about this subject if it were more clearly defined and, obviously, then also more clearly understood—both by the urban population and the farmers themselves.

The question itself is so broad as to create problems in attempting to respond. I decided that the most difficult part of the assignment was, indeed, attempting to focus on one aspect of the topic without wandering off into different directions. I could, in any event, not address the topic properly in all aspects here in the short time allotted each of the speakers.

I suppose that this whole question is also considered controversial because it has been so closely associated with the entire farmer protest. I have, however, been completely in sympathy with the farmer protest and am only surprised and disappointed that it has taken the farmer so long to speak up. I have to add quickly, however, that I have been disappointed in the course of the farmer protest and the fact that the farmer's message has not been clear and that the protest itself has lacked the direction it would have needed to make it successful.

The farmer is really protesting regulation and the fact that the Government has chosen to regulate the farmer's grain marketing. I feel very strongly that if the Government wants to regulate or control grain exports it must then assume an obligation to compensate for the farmer's loss of income. The problem has been that the Government does not feel it can help guarantee the farmer's income beyond the extent it already has, and the farmer does not feel it is enough. The farmer is apparently accepting the controls on his marketing and demands the Government give him the guarantees it is apparently unable to extend. There should be an easier way for them to get together, one which should be acceptable to the Government and to the urban population to which the Government must also respond.

I think the term "parity" also leads to confusion, because there are various means by which the farmer can achieve parity. I feel that it is important to distinguish between the concept of a 90 percent parity loan rate, a 90 percent parity target rate for grains and 90 percent parity income—or it could all just as easily be 100 percent of parity, which I am sure most farmers would find even more acceptable. I must assume, in any event, that what the farmer is talking about when he speaks of "parity" is income, for it should be immaterial to him how he achieves it. I would assume also that he would like to have it with as few strings attached as possible, for a large number of restrictions and conditions could make it unpalatable.

Since I was asked to speak on a 90 percent parity loan rate, I shall first address myself to that and then make some brief comments also on the 90 percent parity target rate and 90 percent parity income.

I must state, however, that I would have preferred to discuss parity income, with which I am completely in sympathy. It is something I believe in and for which I worked for years while I was in Great Plains Wheat. I am slightly less enthusiastic about a parity target price as it might be used, as I shall attempt to explain later, and I find that the U.S. farmer would not be well served by a 90 percent parity loan rate. This, I think, is where the confusion comes, for the three concepts are different, and I also think it is very important for everyone to understand the difference.

The 90 percent parity loan would mean a Government guarantee of an absolute minimum unit price for wheat. A 90 percent parity target price would mean the same type of guarantee but would permit wheat prices to drop below that level, with the Government making up the difference in direct payments to the farmers. Parity income would mean neither of those but that the farmer be permitted to achieve what he would consider parity income through increased marketing of his wheat. I assume I am speaking here to an audience which realizes that the export markets are not just important—but crucial—to the farmer and to U.S. agriculture. I won't even dwell on that aspect, for I have to assume that that has been adequately proved to all farmers during the past seven or eight years.

In responding to the original question, I feel we actually are discussing a moot point here, for I don't think anyone here or anywhere else now expects that Washington is going to approve a 90 percent parity loan rate on grains. The message has been so clearly and frequently expressed that there can be no doubt in anyone's mind.

Secretary Bergland has been very explicit in stating the Administration's position so there can hardly be any question about where he stands. For those who might think he is standing alone, the fact that he is still in his job proves that he isn't. Whether or not you will agree with the way he stated his position, one cannot deny that it takes guts for a Secretary of Agriculture to respond to farmer demands as he has. For there is really nothing he can do, and the realistic legislators on Capitol Hill, like Congressman Tom Foley, are also attempting to describe the situation honestly to the farmers.

There are, incidentally, many aspects of the current Administration's agricultural policy with which I would take strong issue, but the issue of a 90% parity loan level is not peculiar only to this Administration. You will remember that this found opposition in the last Administration, and I would venture to say that it will find opposition in the next Administration and the one after that.

Bob Bergland has always been very sympathetic to the farmers, but as a member of the Administration, he is forced to consider other responsibilities as well and an additional constituency to which he must respond. In this regard he is no different from any other secretary of agriculture or other member of the Cabinet. The non-farming constituency is much larger than the rural constituency, and I cannot forget that last year the urban population and the urban press were relatively sympathetic to the farmer until they realized what it was the farmer meant by "parity" and their concerns about what it could mean to them. The press soured overnight, and it is fairly obvious that the press hasn't gotten any sweeter yet. The press coverage on the farm protesters now in Washington has been almost disastrous.

I must state that I find consumers' fears should be groundless, that higher wheat prices should not immediately translate into higher bread prices, but, unfortunately, for the consumer they do. As soon as wheat prices increase, the American Bakers Association begins to protest that bread prices must be increased to cover the additional cost of acquiring flour. During the early 1970's this is exactly what happened, and bakers have conceded since then that this provided them with an opportunity to cover some labor costs which they had not been able to pass off earlier. For whatever reason, bread prices would rise, so that the consumer would immediately feel the difference. This would be doubly painful to the consumer, for he would feel that he was, through his taxes, paying to increase artificially the price of a commodity, so that he would then also have to pay a higher price for the food items produced from it. He would also have no other benefit from such an operation. When prices rise normally through expanded marketing of grain overseas, the consumer finds that, although commodity prices rise, production is also increased. He does not pay for the increase by additional outlays from the Federal purse, and he benefits from the revenue realized by the expansion of exports.

Realistically speaking, I do not see how one could deny that increasing the U.S. loan rate would not affect the U.S. competitive position around the world. There was a perfect example of how this works in 1976 when in its final months the last Administration increased the loan rate and the United States suddenly found that it was not competing in the world markets. Such a move has the immediate effect of keeping up the price of U.S. commodities, but it also has the immediate effect of cutting into our sales, soon leading to the situation in which you find yourselves now—holding the largest part of the world stocks after already having cut back production for two years.

Whether or not we like the idea, the U.S. loan level does provide a floor price for wheat production around the world, and increasing it encourages other countries—both importers and exporters—to grow more wheat, with the result that there would be more competition for a smaller market. The United States would, in effect, be raising a price umbrella over production which would compete with our exports. To what extent this would happen no one can tell, for this obviously depends on the level at which the price is set or the extent to which it is increased and then also to weather conditions during any given year. It must be obvious, however, that all the other countries would have greater incentive to try to produce more at a higher guaranteed price than at a lower one.

This is obvious also from the posture of some of our chief competitors. For the last couple of years we have heard representatives of some of the United States' major competitors abroad, addressing U.S. farmers, with a message which at first hearing sounds even logical. It sounds something like this: "You should raise your prices—your prices are too low. We shall undercut your prices anyway, so wouldn't you rather have us undercut them at $5.00 a bushel than at $3.00 or $2.50 a bushel?" They also urged the United States' farmers to cut back production, stating that the United States was overproducing and the world markets couldn't handle all that wheat.

Now when a fierce competitor of mine begins giving me good advice on how I should conduct my affairs, I step back and begin to think. I wonder if he is advising me in my own interests or his, and I may be cynical, but I always decide that it is his own interest he is pursuing.

Amazing, however, the number of farmers who repeated the message, apparently impressed. They obviously didn't know that the advice these spokesmen gave to their own farmers was quite the opposite. For at the same time the United States was cutting back production, the other major producers were increasing theirs. It is obviously more economical for them to undercut U.S. prices when the U.S. tells the world it will not sell wheat below $5.00 per bushel, and with that kind of a guarantee they can grow a lot more wheat. Once the additional land is put into production, it normally remains there, for after the production pattern is set, it doesn't easily change.

They also didn't mention it, but it should be very obvious that if they undercut us at $5.00 a bushel, we aren't selling at that price level either. A farmer can price his wheat at whatever level he wishes, but it is of no benefit until someone buys it.

What happens then in the United States when it finds that it is selling less abroad and begins to accumulate stocks? The same thing that has happened the last two years: The Government begins to discourage production. Eventually there would have to be severe production cuts if the stock accumulation continued. A production cutback of 25% or 30% might not be very serious for a farmer with several thousand acres, but it would about mean the end of farming for a small farmer with less acreage which could grow nothing but wheat.

A target price tied to a parity level would be a safer way to achieve the same goal, for it would not affect the unit price of the grains. It would, however, make the farmer dependent on the Government to provide the difference between the market price and the target price, and with this dependence—as with a parity concept tied to the loan rate—come restrictions. The Government's exposure, depending, of course, on the difference between the markt price and the target price, makes the Government look for means of reducing what would be the Government outlay.

One way—the less palatable way—would be to raise the loan rate so that the difference would not be so great, but this creates the problems just described. The Government then takes the other route—cutting back production—which is what it has done during the past couple of years. And this has been one of the most important factors determining the decisions on the set-asides. Farmers just don't get more under such circumstances. I may be a poor mathematician, but I can reason that farmers are not getting more in Government payments when the Government is paying out less.

The third option is, I am sure, the most palatable one to everyone, but I am surprised that it seems to be one that is largely ignored: and that is getting parity income through the marketplace. I can't imagine that farmers were happier than during the period 1973 through 1975. It is no coincidence that this too was the period of time before export restraints became a way of life and the Government became absolutely determined to provide stability in agriculture. Export controls took the life out of the markets late in 1975, and the markets have not really been the same since.

Colorado has been one of the pioneer states in agricultural movement. I was not surprised that the farmers strike had its beginning here. The Colorado Wheat Advisory Committee was one of the pioneers in the farmer effort to develop overseas markets for U.S. wheat. It would seem logical that this might be the direction the farm protest could and should take. With overseas markets which already exist, it would appear to me that the proper direction the American Agriculture Movement might take would be one with which no one could argue. The Government should be encouraged to give up its obsession with stability—which I can only interpret as meaning keeping the status quo or, worse yet, stagnation—and pursue a policy which encourages exports. It is a goal with which the urban population should be in accord, for it would bring them the benefits which come with a general improvement of the economy. Export expansion would help stabilize the dollar, increasing confidence in the U.S. economy and respect for the U.S. abroad.

It would be so much easier to sell such a package I wonder why farmers continue to ask for something which they must know the Secretary of Agriculture and their legislators cannot deliver. Worse yet, if they were able to deliver, it would be something which would be so encumbered with restrictions and further regulation of agriculture the farmer would himself ultimately not be happy with it.

The Administration should be committed to expanding exports: it has been given prominent mention in all of the President's major speeches lately, and Congress has been giving exports a great deal of attention in hearings and proposed legislation. Under such favorable circumstances it would appear to be the logical route by which the farmer would be able to achieve not 90%, but 100% of parity income.●

APPRECIATION FOR DEWEY BARTLETT

● Mr. PACKWOOD. Mr. President, today, I join all my colleagues in the Senate to mourn the passing of our good friend, Dewey Bartlett. Our sorrow is not confined to this Chamber, but is shared by the Nation and the people of Oklahoma. I want to extend my deepest sympathy to Ann and his family who feel his loss most of all.

I remember Dewey in countless ways. He was a consummate legislator and a Senator who led by the strength of his beliefs. The Senate and the Nation are richer for having known this man. He leaves us saddened by his absence, yet indebted for his service and long friendship.

Last month, I chaired the Tidewater Conference of Elected Republican Leaders, which met for the second time. Although we were miles apart, we did not forget Dewey Bartlett and his legacy. Senators Henry Bellmon and Pete Domenici proposed a deeply felt resolution of appreciation on behalf of Dewey Bartlett that was quickly endorsed by every Tidewater participant. Although Dewey's public career was marked by memories, milestones, and tributes, I can assure you no other testimonial has been written with more sincerity nor more affection.

I ask to have printed in the Record the full text of the Tidewater II resolution of appreciation for Dewey Bartlett.

The resolution follows:

Tidewater II Conference: Resolution of Appreciation

Whereas, former Senator Dewey F. Bartlett of Oklahoma served the people of his State both as Senator and as Governor, and

Whereas, as Governor, Dewey Bartlett was supremely energetic in pursuing job opportunities with innovative economic development approaches, and

Whereas, as Senator, Dewey Bartlett has been a staunch advocate of the free enterprise system and sought to protect that system from the encroachment of crippling government regulation, and

Whereas, Senator Bartlett exhibited a rare knowledge of America's peculiar situation in the field of energy and sought workable solutions to our energy problems;

Therefore, be it resolved that this Tidewater II Conference of the Republican Party express the appreciation of all elected Republicans here assembled for the valiant efforts of Senator Dewey F. Bartlett in serving his State and his Nation in a most exemplary manner, and we do hereby extend to our friend and colleague our best wishes and our gratitude for the example he has given us as elected Republicans.●

BENNY GOODMAN: THE KING OF JAZZ

● Mr. RIBICOFF. Mr. President, we all love, enjoy, and respect Benny Goodman, the king of jazz. Benny is an old and dear friend. Not only is he a great musician, but a warm and compassionate human being. On April 29 he will be honored by the Intercollegiate Jazz Festival at Quinnipiac College in Connecticut. I had planned to be present and extend a few personal remarks. I now find that I will be in China on Senate business and will not return prior to the dinner being held in his honor. This I regret.

On March 4, 1979, the Washington Star published an outstanding article on Benny Goodman by Tim Warren. I would like to share this article with the friends of Benny Goodman. I ask that this article be printed in the Record.

The article follows:

Benny Goodman: The Endurance of a "King"

(By Tim Warren)

Benny Goodman is 70 years old this May; it is 41 years since jazz was dignified—i.e.. deemed "serious"—by the marvelous concert he put on at Carnegie Hall. He has played jazz and classical music on clarinet to a large part of the world as an unofficial American ambassador of good will. Sometimes his brand of diplomacy seems to work better than that of the guys from the State Department.

Goodman, amazingly, endures. Five decades of performing by the Chicago native have slowed his concert schedule ("I couldn't take it, going out on the road night after night"), but his position is such that he is able to pick his spots. Accordingly, his concerts have become special events.

Goodman still records regularly. His umpteenth album, "The King," a collection of standards such as "Makin' Whoopee," is out on Century records and selling well. He has in the past commissioned works for clarinet by such distinguished composers as Bela Bartok and Aaron Copland; a piece by Richard Rodney Bennett is in the works now.

"I've got no problems now," Goodman says easily. "I'm quite fortunate. Not to sound egotistical, but these days I can do just about what I want to do, which isn't a bad position to be in, I guess."

Indeed it isn't.

In giving a brief summary of the life and times of Benjamin David Goodman, clarinetist and band leader, one might begin with a glance through some newspaper clippings. They can be a wonderful thing, news clips. Desultory, to be sure. But marvelously instructive.

Dec. 13, 1940.—"There was no shagging in the aisles of Carnegie Hall last night when Benny Goodman made his formal debut as soloist with a major symphony," begins a story out of New York by the Associated Press (The headline: "Benny Goodman Plays Sweet Instead of Hot With Symphony").

July 11, 1941.—Goodman conducts a concerto for an unnamed symphony orchestra in a Philadelphia hall, then leads his own band in "One O'Clock Jump" and "Running Wild" as thousands of youthful fans, in the auditorium and outside, go wild. The concert is described thusly: "Music critics—the professionals—said Mr. Goodman's technique in leading the symphony was excellent. The jive devotees said his technique in the jam session was terrific."

April 1, 1947.—In response to requests from Moscow for more swing music on American short-wave broadcasts to Russia, the State Department enlists Goodman to act as a program consultant.

July 15, 1956.—The Washington press breathlessly awaits Goodman's pronouncements on rock and roll and the future of jazz. He allows he doesn't hate rock—it depends on the record—and opines that "kids who are interested in jazz will get to it—you can't stop them." The Star's writer notes that "Benny, though modest, is a living success story."

July 4, 1960.—At a party given by the late Nelson Rockefeller, then governor of New York, Goodman gives a concert after dinner for the guest of honor, King Brumibol of Thailand. He is described as a "hep young king" and "a jazz enthusiast from way back." A worshipper of Goodman in particular, the king has produced a jazz radio program from the royal palace; he also jams twice weekly with other jazz buffs. At the dinner party, he joins the band after intermission and plays alto saxophone for more than an hour. It is also noted that Goodman has had three dozen numbers on the Thai hit parade.

March 9, 1962.—In the very midst of the Cold War, it is announced that as part of a two-year cultural exchange agreement, Goodman and his band will tour Russia in the spring ("Decadent King to Play Decadent Jazz for Reds"). The Russians at first insist they want no jazz music to penetrate the Iron Curtain, but the State Department wins out by noting that Goodman is also an accomplished classical musician.

May 31, 1962.—His opening night performance in Moscow—the first jazz concert performed by Americans in the Soviet Union—is "a great hit," according to Tass. Premier Nikita Khrushchev, later to criticize jazz in a meeting with Goodman, has to leave at intermission but tells newsmen, "I enjoyed it."

Aug. 17, 1964.—Two Russian musicians defect to the West, saying they decided to leave a traveling variety show in Japan because they just had to play "real jazz." Their inspiration: a late-night jam session with some of Goodman's musicians during the visit to the USSR two years before. The musicians, a 31-year-old bassoonist and a 27-year-old clarinetist, leave their wives behind.

What all this suggests is that Goodman may be the best-known jazz musician ever to pick up a instrument. A strong case could be made for Louis Armstrong or Duke Ellington, but it is likely that Goodman has been even more popular, if only because his white skin ensured a wider recognition from white Americans.

His impact boggles the mind. It thoroughly pervades American music; surely no one else was quite as successful in bringing jazz to the masses as Goodman was in the '30s. And whereas jazz players had always insisted stoutly—and rightly—that their product was plenty "serious" and needed official sanction from no one, Goodman as much as anyone helped these misguided unfortunates see that jazz musicians were both skilled and dedicated. Practically no one today will allege that jazz musicians are illiterates, as was frequently the case before Goodman helped herald in the Swing Era.

He is clearly pleased, when complimented on the trio and quartet work, "That's the nicest thing I've ever heard," he says with genuine appreciation. "I really like that. I think they've got a lasting quality."

But for many, Goodman was—and is—jazz, the forever-to-be-labeled King of Swing.●

VIETNAM AND CHINA—AND OUR MIA'S AND POW'S

● Mr. DOMENICI. Mr. President, familiar names and places in Vietnam are again in the news. A country we do not recognize, and one with whom we just bestowed official recognition, are fighting one another. No one is certain what global repercussions these battles may have, but we do know the threats of superpower involvement exist.

So often we hear arguments that Vietnam is in the past, that it should be forgotten. Or, the Vietnam war should serve as an example for non-American involvement in internal conflicts around the world. Or, that Vietnam was an American military defeat, and a lesson in how not to fight a war. There are probably as many opinions on this issue as there are commentators.

However, no matter how we try to erase the memories of Vietnam, or at times even exploit them to justify our own particular view, we should perhaps pause and remember the Americans who not returned from this horrible conflict. There are still Americans who are unaccounted for; Americans whose families have not given up hope that they may still return.

In recent months, hundreds of MIA's and POW's have received a new status of existence—a presumptive finding of death classification. But others remain unaccounted for. To the families and friends of these hundreds of Americans, a reclassification, a letter of regret, a hearing, or even a form of apology from some Government official fails to erase the terrible emptiness left by simply not knowing what has happened to the loved one.

And, now, compounding their grief, are numerous reports from recent Vietnamese refugees who have additional information about their family and friends. Knowing the facts will not always be pleasant; knowing the facts may not bring the loved one back; but, knowing the facts will at least ease the burden that all has been done that could be done.

Vietnam and China have both been responsible for withholding important information on our missing in action and prisoners of war. And now these two nations, both tied differently to our interests, are actively engaged in combat with one another. Whatever our response to this conflict may be, we should, at least, continue to speak out in behalf of those who have not returned, and for those whose existence is still unknown. We owe it to the families and friends of these loved ones. And, we owe it to the brave Americans themselves. We have not forgotten. The renewed fighting in Vietnam, and the People's Republic of China's role in this war, only serves to reinforce our memories.●

FUNCTIONAL ILLITERACY

● Mr. McGOVERN. Mr. President, millions of Americans needlessly suffer from a learning handicap more severe and restrictive than many physical disabilities—a handicap that threatens our intellectual, political, and economic stability, as well as the very security of this country. Functional illiteracy effectively paralyzes over 23 million adult Americans. Many cannot read a street sign, understand a bus schedule, follow directions in the workplace, or even on a bottle of medicine. The results are oftentimes tragic, not only for the individual, but for our society.

A recent front page article in the Washington Star by John J. Fialka spells out the debilitating effects of illiteracy on our defense: The Army now relies on comic books to train the troops how not to blow themselves up. Jonathan Kozol, a noted expert in education, provides an ingenious blueprint for literacy in a recent article appearing in the New York Times. Mr. Kozol's plan calls for millions of volunteer tutors drawn from the young and the old; furthermore, the plan promises to benefit not only the student but the teacher as well.

I will introduce in the coming weeks a proposal to establish a National Commission on Literacy to investigate the extent of this problem and to recommend a solution. We have waited far too long for a comprehensive effort to end illiteracy.

Many well-educated people in this country find it hard to believe that the problem of illiteracy here in America is so widespread. They simply are not aware of the facts. I urge my colleagues to read these articles.

Mr. President, I submit these articles for the Record:

Operation Illiteracy

(By Jonathan Kozol)

Boston.—Twenty percent of adult men and women in this nation cannot read enough to understand a want-ad or write enough to fill in a job application. The term for this condition, which is crippling to any dream of leading a productive or rewarding life, is "functional illiteracy."

The figure is higher for blacks (44 percent) even higher for those of Spanish surname (56 percent). The total is 23 million at the lowest—more likely 30 million. The cost to the nation (including welfare and lowered productivity) is $6 billion a year.

The Elementary and Secondary Education Act of 1965 (Title I), the last great hope for an injection of adrenalin into public schools' reading programs, is of no use to adults. Nor is it of much use to those still in classrooms. Title I students receive less time in reading than those not in Title I. The program appears to hinder more children than it helps.

The answer is not another research project.

Rather, it is to turn our backs on this—and on all other standard substitutes for action—and to launch an all-out national attack on adult illiteracy, giving it the same priority as plague, pestilence or war. If we wished to learn from experience, we would start this battle in a non-school setting. We would also insist on a maximum teacher-learner ratio of one-to-fiive.

Our first need, therefore, is to sign up and prepare five million literacy teachers to go into the homes of 23 million to 30 million illiterate adults. We cannot find this many people in the ranks of classroom teachers. The sole solution is to free from class individuals who have the energy and competence to do the job, and to do it virtually for free: university and high school pupils who can read and write with more than marginal success.

Volunteers might be as young as 15, others might be over 25. They would receive a 10-day crash course in the basics of a strong phonetic method, heightened by addition of specific, charged words, proved in a number of pilot projects to bear the greatest power of provocation. The words (not "Dick" and "Jane," but "grief" and "pain" and "lease" and "license," "power," "protest," "police") are those that set the heart and mind alive with possibilities of making something different of the world.

Volunteers would live in the neighborhoods in which they teach. They would teach (at least two hours wtih each pupil, every day, five days a week) either in their pupils' homes or in a house especially renovated for this purpose, a "literacy center" large enough to offer the facilities for all their living needs and teaching goals.

If volunteers began their work at school semester's end in June, Christmas might be a logical target date for victory. Other nations (Brazil, Cuba, Israel) have succeeded at the same task in periods that range from 60 days to seven months. If there were to be a follow-up, as literacy experts in most nations recommend, this might take place in a two-month "crash" course running for two years in a row during each of the two subsequent summers.

Volunteers might properly receive course credit from their colleges and high schools for the time devoted to this endeavor. Instead of having spent one full semester studying "Problems of Democracy," they would have done their best to solve one such problem.

The volunteers would operate in "teams"—groups of black, white and Hispanic kids selected to provide the class and ethnic mix that has a chance to overcome the usual problems of top-down benevolence.

Volunteers should receive their living-stipend from the Federal Government—$20 a week perhaps, but very little more—and personal back-up, friendship and specific pedagogic counsel from an older man or woman, a "team leader." The leader might be a teacher in the public school or college that the volunteers would attend if they were not in this campaign. When this was the case, the teacher ought to get a normal salary from the local school board, university or college. (In cases where teachers do not wish to leave classrooms, or where school boards won't agree, leaders might easily be found among those several hundred thousand certified teachers who are out of work.)

A question about this proposal is asked repeatedly: "How can we expect so many youngsters to give up a full half-year out of their adolescent lives to join a pedagogic and historic struggle of this kind?"

I have just returned from a tour of 30 colleges in 20 states. The myth of student lethargy is just that—a myth—but it is not even working as a self-fulfilling prophecy. The kids I met remain alive and ethical in their convictions. The students are less rhetorical, more realistic; they are determined to take a role in shaping history rather than to watch it on television. One thing they have greatly missed since 1972 has been a single concrete focus for their energies and ideals. This project offers that focus for the first time in seven years.

Illiteracy of Army Recruits Forces Overhaul of Training

(By John J. Fialka)

The All Volunteer Army, which has a higher percentage of high school graduates than any army in U.S. history, is having difficulty finding recruits who can read, a problem that is becoming increasingly expensive, serious and embarrassing for the Pentagon.

It is expensive because the Army has discovered that the inability to read requires longer training. Illiteracy is also believed to be a major cause of the Army's high dropout rate. Currently 32 percent of Army's volunteers are leaving before their first tour of duty is completed.

It is serious because Army planners are about to introduce an entire generation of new, highly sophisticated military hardware, some $61 billion worth of complex new weaponry that is more potent and more demanding than anything ever seen before on a battlefield.

It is embarrassing because Pentagon officials from Secretary of Defense Harold Brown on down have repeatedly defended the quality of the All-Volunteer Army by pointing out that 83 percent of the Army now consists of high school graduates—double the percentage that fought in World War II and more than 10 percent higher than the draftee Army which fought in Vietnam.

Furthermore, officials have pointed out that the Army now has a lower percentage of so-called "category fours," people whose intelligence ranks in the lowest third of the population.

But statistics and high school diplomas mask an immense illiteracy problem that has forced a quiet overhaul and drastic simplification of the Army's entire training system. Some examples:

In December, Bernard W. Rogers, Army chief of staff, ordered that all training manuals for lower echelon troops be rewritten to be no higher than the 7th grade reading level. Even at that level, according to Rogers, some 27 percent of the Army's new enlistees will have trouble reading them.

One of 20 recruits now coming into the Army is a "functional illiterate" and eligible for a new program which takes soldiers out of basic training for as many as six weeks of remedial training to raise their reading skills above the fifth grade level.

Millions of dollars worth of audio-visual equipment, comic book-style training manuals, and highly simplified, uniform training procedures are being deployed to try to teach the new weaponry to the new Army.

According to those who have studied the Army's reading problem, there are two basic explanations for what is happening.

One is that a high school diploma no longer means what it used to and the U.S. public school system no longer teaches people to read well. The other is a steady and largely unheralded growth in the second lowest mental category which the Army draws from. This is called Category 3B and it includes those whose intelligence ranges from the 30th to the 50th percentile.

According to Army statistics, in 1972, the last year of the draft, 26 percent of the Army fell in that category. Just five years later, in 1977, it was 49 percent.

The Army's new weaponry is part of a modernization program that was delayed by the war in Vietnam. According to Col. Frank A. Hart, head of the Army's Training Development Institute, they include 400 new systems that will be introduced from now through the 1980s.

The weapons include wire-guided anti-tank weapons, computer-driven artillery, five new air defense systems, a tank—the XM-1—that can see in the dark and fire accurately while rumbling down a bumpy road at 40 mph, and artillery shells that home in on the reflected image of a laser beam.

Hart is part of the Army's Training and Doctrine Command (TRADOC) which operates 275 schools and is one of the largest education organizations in the nation. As he explains it, the armed services have always had an illiteracy problem to some degree, but it wasn't until 1974 that they realized how bad it was becoming. That was when a number of training problems began to arise.

That year the Army fielded a new anti-tank weapon capable of high accuracy. In the field, however, the troops were unable to hit tanks with it.

A year later Navy researchers found that 40 to 50 percent of their recruits were unable to read traditional training materials.

Although the Army, Navy, Marines and Air-Force all proudly announced that they were attracting more high school graduates than ever before, a General Accounting Office investigation in 1977 revealed that up to 60 percent of the servicemen found in remedial reading courses had high school degrees.

It has been Hart's mission to develop training programs that are effective with the new recruits. He has borrowed ideas from such diverse sources as the British Army, the U.S. Air Force and McDonald's hamburger chain.

The basic concept of the new training, he explained, is to break each Army job description down into a number of simple tasks. Hart's staff started with a list of over 700 tasks that field commanders felt had to be performed by the basic infantryman. After much argument the list was winnowed down to 54 relatively simple tasks. Then a test was designed to see how well each soldier had mastered the tasks.

In 1976, the first year the new task-oriented training and the tests were administered, the results were not encouraging. Eighty percent of the Army flunked. Since then there has been more tinkering with training and the test until 84 percent of the troops passed the test this year.

"Admittedly we've got people out there who are getting better at taking the tests, but that's what we want," Hart said. "The tests are the job."

While the old pre-volunteer Army used "a lot of Q & A discussions and theory sessions," to teach how things work, Hart explained, the new theory emphasizes the repetitive practicing of simple tasks. "Now we have five minutes on theory and 45 minutes on practicing."

When the soldier has mastered each task, he is tested on it and receives either a "Go" or a "No Go." If it's a No Go he practices unil he can pass the test. The new training courses are "guaranteed" to teach soldiers, according to Hart, because they are honed and simplified until 80 percent of a sample of new recruits can pass them.

The tests, called Skill Qualification Tests (SQTs), are about to become as much a part of the new Army as close order drills and KP duty were a part of the old one.

The job of developing the new training manuals and other devices used to teach the new weapons falls to another TRADOC unit, the Army Training Support Center, which has recently authorized the use of hundreds of new, simplified training manuals, many of which resemble comic books. In the manual entitled "Don't Blow Up!" for example, a talking dog is used to explain the different types of mines and booby traps.

According to one official at the center, Col. John W. Swaren Jr., the Army is using the same audiovisual training techniques to train troops that McDonald's hamburger chain developed to train teenagers to operate restaurant equipment. According to Swaren, tests show that new recruits learn and retain more from television screens, tape recorders and slides than from printed manuals, although some other Army education say the evidence is "debatable."

The debate over the causes and solutions to the problems of illiteracy in the military will undoubtedly be sharpened in the next few weeks as the House and Senate Armed Service committees begin hearings on alternatives to the All Volunteer Army, ranging from registration to reinstitution of the draft.

A new defense management study, released by the Pentagon last week, has already poured fuel on the fire. It asserts that training men and women for relatively simple, specific tasks has introduced a "compartmentalization" into the military that runs counter to one of the main theories supporting the formation of an experienced, "professional" all volunteer force.

"Over simplicity," the report asserts, may be prohibitively expensive because it reduces a soldier's chances to get a variety of experience. In combat it means that units will find it harder to fill "holes" created by casualties.

On the other side of this debate are some of the founders of the All Volunteer Army concept, including Rep. Les Aspin, D-Wis., who recently argued that the Pentagon should solve its growing recruiting problems by attracting more people from the lowest mental category, Category 4, because there will always be simple jobs to do in the Army.

"These men are not 'dummies,'" argues Aspin, "They are fully capable of performing many jobs in the military. In fact, under the irrationally high standards of today, Sergeant (Alvin) York (who killed 25 Germans and captured 132 more in World War I) would probably never be allowed into boot camp."

Although they still publicly support the All Volunteer concept, several Army training experts agreed privately that the days of Sgt. York are long gone. They asserted that the Army has gone about as far as it can go in explaining the new high technology weapons systems in simplified terms.●

THE POPULATION INCREASE

● Mr. PACKWOOD. Mr. President, I wish to report that, according to the Census Bureau's approximations, the total population of the United States as of last Thursday, March 1, 1979, was 220,099,586. Despite the greatly publicized reductions in America's fertility levels, this is an increase of 1,650,343 since March 1 of last year. And it is an increase of 113,498 in just 1 month, since February 1, 1979.

During the last year, therefore, we have added more than enough people to this country to fill Memphis and Toledo and Buffalo combined. In 1 short month, in fact, our population has increased enough to fill the city of Cedar Rapids, Iowa.●

VIETNAM'S ACTION ON FAMILY REUNION

● Mr. KENNEDY. Mr. President, for many months I have been actively pursuing family reunion problems that have grown between the United States and Vietnam since 1975.

Last August, a study mission I sent to Vietnam facilitated the exit and transportation out of Vietnam of the first direct family reunion cases to the United States. Their report in a hearing before the Judiciary Committee on August 22 also provided the first concrete evidence that the Vietnamese Government was prepared to respond to family reunion cases.

Today, Vietnam has announced, through the good offices of the United Nations High Commissioner for Refugees, that it will soon begin to process, in an orderly and systematic way, family reunion cases to the United States.

I want to commend the Government of Vietnam for this humanitarian action. I believe that resolving family reunion problems that exist between our two countries will also contribute to reconciliation between our people and a normalization of relations between our governments.

Action by Vietnam on this issue—which touches the lives of so many in the United States—also reminds us of the many other humanitarian problems and needs that remain among the Vietnamese people and throughout Indochina, and that this must be of deep concern to the American people as well.

Mr. President, I urge the administration to respond to this latest diplomatic gesture by Vietnam, and further promote family reunion to the United States by establishing consular and diplomatic relations with Vietnam.

The Immigration Service must also begin immediate planning to expedite entry procedures for family members of recent Vietnamese arrivals.

Finally, our Government must give strong and continuing support to the important work of the United Nations High Commissioner for Refugees, whose representatives have achieved this breakthrough that holds out promise to thousands of wives and husbands, fathers and mothers, and children, that they will eventually be reunited with their family members in the United States and elsewhere.

Mr. President, I ask that the Washington Post's article on today's action by Vietnam be printed in the RECORD.

The article follows:

[From the Washington Post, Mar. 7, 1979]

VIETNAM TO ALLOW PEOPLE TO LEAVE TO JOIN FAMILY ALREADY ABROAD

(By Lee Lescaze)

BANGKOK, March 6.—Vietnam has agreed to allow Vietnamese to emigrate to join family members who already have fled the country, a United Nations refugee official said today.

An agreement between Hanoi and the U.N. High Commissioner on Refugees could lessen the exodus of "boat people," whose desperate efforts to escape have scattered them in misery around Southeast Asian seas and often led to their deaths.

Dale de Haan, deputy high commissioner for refugees, said a new program worked out with Vietnamese officials during a week-long visit to Hanoi "will regularize the departure of those who would leave anyway."

Many details remain to be worked out, but the Vietnamese decision is a major reversal of a policy that has left thousands of its citizens, almost all in what was formerly South Vietnam, with no way out except to risk the hazards of the sea and the often hostile reception upon arrival in neighboring nations.

Vietnam has pledged that former officials in the south and others who have been sent to re-education camps or otherwise detained will be eligible for emigration, de Haan said. Hanoi also dropped an earlier reservation that would have barred men of military age from leaving, he added.

Only criminals and persons in possession of state secrets will be barred from emigrating, de Haan added. The definition of criminals does not include political opponents of the government, he said.

"I think the Vietnamese are serious about this and are approaching it in good faith. They see this as a positive contribution to easing the problems of Southeast Asia," de Haan said.

The U. N. official said that he did not know how many would apply or how many would be accepted by countries with Vietnamese population but that the number might reach 500,000.

Since 1975, the United States has admitted almost 175,000 Indochinese, most of them Vietnamese. Since the upsurge of Vietnamese migration, the United States has been accepting about 2,100 monthly, compared to 1,000 by France, 1,000 by Canada and 1,750 by Australia. These countries support the new program, said de Haan, who is a U.S. citizen.

Analysts continued to note hints of Chinese objections to the actual location of the border, which could lead to new disputes or armed clashes. A Chinese diplomatic note on last Thurs * * * charging that Vietnam was still mistreating its resident ethnic Chinese and forcing them to flee to China.

[Deputy Assistant Secretary of State Frank Sieverts said the U.S. government "welcomes any program allowing for family reunions" and already has authorized visas that await only followup action by Vietnam. Such cases are handled independent of existing quota programs.]

This new emigration program, which will begin by summer, will not be at the expense of those refugees who are in camps or floating on ships, awaiting permission to resettle in some other country, de Haan said. The numbers of those refugees being accepted by foreign countries is not to decline.

Any Vietnamese can apply to emigrate through his local district authorities, de Haan said. These applications will be forwarded to the U.N. High Commissioner officials working in Vietnam.

Only those seeking to be reunited with their families and a smaller number of other "humanitarian" cases will be eligible. De Haan said the Vietnamese government will publicize the program in its radio broadcasts and newspapers.

The emigration program has no time limit at present, nor has it been decided what possessions or amounts of money emigrants will be allowed to take with them. Among the first to be considered will be people whose requests for immigrant visas had been approved before the April 1975 collapse of South Vietnam and those whose requests were pending.

These emigrants will have to qualify under the immigration laws of the countries receiving them but most nations give priority to relatives of citizens or permanent resident aliens. Vietnamese living abroad will be able to request that their relatives be allowed to join them.

People who apply and are refused permission to leave will not be punished or suffer hardships, de Haan said, declining to discuss what assurances he had received.

De Haan's trip to Hanoi was in response to a Jan. 12 announcement that Vietnam was willing to discuss the orderly movement of persons seeking to emigrate.

Questions about Vietnam's motives for changing its policy should be addressed to Hanoi officials, de Haan said. He added, however, that the officials he met were sensitive to the tragic loss of lives on the seas where boats have sunk or broken down and drifted while food and water supplies were exhausted.

Hanoi's decision acknowledges its failure to incorporate all the former South Vietnamese people into its social and economic system. The boat people have told stories of increasing inflation and food shortages and large numbers of people have been barred from getting work and government rations because of their identification with the defeated government.

De Haan said that reunion of families in Vietnam also was discussed. The U.N. High Commission has about 2,000 applications from Vietnamese who fled and now seek to return to Vietnam.●

A NEW HOOVER COMMISSION

● Mr. DOLE. Mr. President, I have been pleased to see published reports this week that President Carter is considering creation of a national commission to study problems associated with excessive Government regulation.

Expensive and confusing regulations continue to plague our economy. Today there are over 80 regulatory agencies and more than 100,000 Federal workers who have as their sole function telling other Americans what Government says they can or cannot do. The Office of Management and Budget has estimated the cost of such regulation to be as high as $130 billion—roughly equal to $2,000 for every American family, or enough to supply every American with a year's supply of groceries.

The only way we can arrive at a positive alternative to the current regulatory tangle is to take the problem out of the glare of politics and study it in a rational, evenhanded way.

That is why I have suggested that we appoint a group, patterned on the two Hoover commissions of the 1940's and 1950's. Together, they saved the American people $8 to $12 billion. Apart from dollars saved, however, such an approach permits a scientific review of Government policy in a way that Congress does not encourage. Cast in nonpartisan terms, a new Hoover commission should be directed to examine the regulatory structure with an eye toward suggesting reform and revision.

If such a study is to get off the ground, if it is to result in anything more than mildewed recommendations on a bureaucratic shelf, then it must be led dynamically, creatively, by an American of national prestige and intimate understanding of Government's nooks and crannies. I think the man for the job is Gerald Ford.

Like Herbert Hoover in 1947, President Ford can count upon a special reserve of respect and admiration that automatically lends any public project in which he is involved an authenticity that goes beyond most such endeavors. I have spoken with President Ford about this idea, and he agrees with my perception of the dangers that continued strangulation of free enterprise holds for the American economy.

I first proposed the creation of a commission earlier this year. My efforts received the encouraging support of Republican leaders at the Tidewater II conference in Maryland last month. Because of the dramatic need for serious study of current regulatory procedures, I hope that such a commission can achieve bipartisan support throughout the country.

I am most pleased that the administration is adopting a similar approach to this vital problem. As I said when I first announced my plan, it is important that the fight against regulation not become a partisan issue. The public simply should not be made to wait any longer for relief from over regulation.

I will be introducing legislation to establish a commission in the next few weeks. I welcome the support of the President in this effort. Regulation can be regulated. A Ford commission is a first, giant step toward that goal. I hope Congress will agree, and lend its support to the concept.●

LITHUANIA, IN SILENT AGONY

● Mr. DECONCINI. Mr. President, I would like to join my distinguished colleagues in the Senate and the House of

Representatives in expressing my concern for the oppressed people of Lithuania. On February 16, 1979 Lithuanian Americans throughout the country commemorated the 61st anniversary of the reestablishment of the independent state of Lithuania. The original Lithuanian kingdom was established in the year 1251 and is commemorating its 728th anniversary. However, Lithuania has suffered numerous invasions and during much of its history has been dominated by foreign powers. But, on February 16, 1918, following World War I, the independence of the Lithuanian state was reestablished. This is the 61st year of that independence.

However, Lithuanians today are still not free and independent. They now daily risk, and often sacrifice, their lives in defiance of the Soviet regime that was imposed upon them in June of 1940 when the Soviet Union invaded, occupied, and subsequently annexed the Lithuanian nation. In this era of cries for human rights, the Lithuanian people and their struggle must not be ignored. I ask to have printed in the RECORD an article entitled, "Lithuania, In Silent Agony."

The article follows:

LITHUANIA, IN SILENT AGONY

The day-to-day struggles of the small and the weak are infrequently acknowledged in the global village. The town crier of our electronic age, the international media, keeps one eye open for the spectacular with which to whet audience appetites; the other eye is fixed on more prosaic, more palatable items which won't disturb a regular diet. In between these extremes is a vast gray theater known intimately only to the actors, who suffer or rejoice in silent anonymity.

Such has been the case with Lithuania. Her seven hundred years of history are found in few textbooks . . . the fourteenth century kings who made her the largest nation in Europe, stretching from the Baltic to the Black Sea, have long since ceased to boast. On February 16, 1918, after 123 years of oppression under the Czars, her reestablishment as an independent nation was lost amid the tumult of a world emerging from war. During the next 22 years, Lithuania's brave steps through freedom, her achievements as well as her failures, made little headway against the banner headlines of armament. The experiment in autonomy was cut short in June of 1940, when the Soviet War Machine lumbered onto Baltic soil to stake its imperial flag. During World War II, Lithuania became the battleground of Nazi and Soviet armies. The Soviet victors claimed her as war booty in 1944, and with western acquiescence, clamped a steel-jacketed glove over the lips of any who dared object. Over three hundred thousand Lithuanian lives were lost during that war. True, the Nazis killed some, but the Red Army killed more.

So it seems to continue. The Russian minions have followed a ruthless policy of forced assimilation in their captured lands. Immediately after the war, tens of thousands of Lithuanians were killed, imprisoned, or deported to Siberia. Others managed to find sanctuary in the forests and hills, for a time. A guerrilla war carried on by Lithuanian patriots managed to last eight years, until 1952. It ground to a halt amid broken promises of amnesty and the bodies of 50,000 partisans and innocents.

The intervening years have seen a lessening of that "blood-dimmed tide." The repression is less obvious now, but no less invidious.

The Lithuanian language has always been a prime target of the Russians. A Baltic tongue which should never be confused with Slavic, the Lithuanian language has roots reaching back to the origins of the proto-Indo-European family of languages. Linguists credit it with being the oldest Indo-European language still spoken. The Soviet overlords, like the Czars before them, seek to eradicate it.

Roman Catholics have also become special targets. Lithuania, which was the last European nation to embrace Catholicism, now has the highest number of Roman Catholics in the Soviet Union and the only remaining seminary for training priests in the Latin Rite. Under the "official atheism" of the Soviets, churches have been converted to war museums or have been left to rot. Repairs need government approval, which is nearly impossible to obtain. Priests have suffered imprisonment and torture; churchgoers have been dismissed from their jobs; schoolchildren of the faithful are publicly harassed and ridiculed; supporters receive threatening telephone calls; and still, more than half of the population of over three million regularly goes to Mass.

Repression of political dissent is more blatant. Those Lithuanians who voice their protests, like Balys Gajauskas or Viktoras Petkus, are denounced as traitors and accused of anti-Soviet agitation. Their trials are closed, the juries and galleries are hand-picked, and the sentences are always long. Those who point out that the liberties being denied to Lithuanians are guaranteed in the Soviet Constitution are declared mentally insane, like Algirdas Zypre. The prescribed therapy for such "deranged" minds in the Soviet Union's psychiatric hospitals is not intended to cure.

And so it continues.

The United States does not officially recognize the Soviet annexation of the Baltic States—Lithuania, Latvia, and Estonia. It is doubtful of the frequency or volume with which this policy is publicly stated will ever bore anyone. It is time that the United States government does more than pay lip service to its own policies. It is time that a voice be given to the silent agony of Lithuania.●

SENATOR MATHIAS GIVES SIGNIFICANT SPEECH TO WEST VIRGINIA LABOR FEDERATION (AFL–CIO)

● Mr. RANDOLPH. Mr. President, recently our able colleague, Senator CHARLES MATHIAS, was in Charleston to address the West Virginia Labor Federation, headed by Joe Powell, at the AFL–CIO's annual legislative dinner. It was my privilege to introduce him.

The federation sought a speaker of stature and ability who could give the 600 delegates and State officials a broad overview of our Nation, its problems, and progress, and one who could relate the role of the labor movement in the overall economic and social environment of America.

Senator MATHIAS performed that function most admirably, and his thoughts about the free enterprise system and the need for a coalition of effort to combat inflation are worthy of close study. In order to share my colleague's views with a broader audience, I ask that the significant speech be printed in the RECORD.

The speech follows:

TOWARD A NEW SOCIAL CONSENSUS

(By Senator Charles McC. Mathias, Jr.)

Where in the Senate today are the great champions of the broad social, economic and political program that was forged in the crucible of the trade union movement? How many speak for that program—from civil rights to minimum wage—which was the nation's agenda for so many years?

Paul Douglas is gone. Phil Hart is gone. Hubert Humphrey is gone. So is Clifford Case. Gone, too, are five of the Democrats who voted to invoke cloture in the anti-labor law reform filibuster last year. They are Senators Anderson, Clark, Hathaway, McIntyre and Muriel Humphrey.

The Senate in the 96th Congress has its second largest freshman class since becoming a popularly elected body in 1914. I saw 20 new faces when I walked into the Senate chamber on January 15th. Almost half of the members of the Senate—48 in all—are serving their first term. Veterans of the battle to legislate that great agenda of social and political issues I spoke of earlier are few and far between. The institutional memory is fading.

Before talking to you tonight, I decided to brush up on my skills by reviewing Senator Randolph's wonderful book on public speaking, Mr. Chairman, Ladies and Gentlemen. It was a mistake. I've already gone wrong by having a text and not having jokes. And now I'm going to commit the cardinal sin. Senator Randolph warns a would-be-speaker in bold type and in no uncertain terms:

"Your duty is to set an example of good fellowship, to radiate enthusiasm, optimism, and good will."

Good fellowship and goodwill I feel in abundance and I'm radiating them as best I can. But the facts, as I read them, just don't inspire much enthusiasm or optimism.

The labor movement has never shied away from hard truths. It has always faced them honestly and come to terms with them, which is one of its great strengths. So I'm not going to evade issue or mince words with you now.

The new composition of the Congress; the weakening of political parties and of party discipline; the growing power of single-issue groups; the declining voter participation in elections and Proposition 13 fever, all are danger signal for you. They warn that politics is in flux. Its destination is unknown. Its course uncharted.

The implications of this for organized labor in the 96th and subsequent Congresses are profound. As usual, George Meany looked the facts in the eye when he told the convention of the Seafarers' Union last October:

"It hasn't been a very good year for labor on Capitol Hill. We had a few victories but some very severe disappointments."

The most severe disappointment, of course, was the failure to enact Labor Law Reform. The House passed legislation. A similar bill was debated in the Senate for 19 days, but was recommitted to committee after a filibuster by opponents and six cloture motions failed to limit debate. I supported all six attempts to invoke cloture. And, if it comes to that again, I will do so again.

Afterwards Vic Kamber, director of the AFL–CIO Task Force on Labor Law Reform, said he had had the votes to pass Labor Law Reform, but that he didn't have the votes to break a filibuster.

Richard J. Margolis commenting on this in the New Leader echoed labor's frustration. "I have run out of patience with the United States Senate," he wrote, "which—to borrow from Pope—makes its own little Senate laws and sits attentive to its own applause."

Margolis' impatience is understandable; his judgment seems a little harsh.

The troubles Labor Law Reform encountered in the Senate, I think, can be traced largely to President Carter's timing. The President apparently didn't want to call the legislation up before the Panama Canal Treaty votes were taken. I'm told he calculated that two controversial bills were one too many for the Senate in an election year. And because he really wanted a Panama Canal Treaty he sent it up first.

President Carter, of course, isn't the first president to sell the Senate short. Will Rogers maintained that:

"Distrust of the Senate by presidents started with Washington who wanted to have 'em court-martialled. Jefferson proposed life imprisonment for 'em. Old Andy Jackson said "to hell with 'em" and got his wish. Lincoln said "The Lord must have hated 'em for he made so few of 'em." Roosevelt whittled a big stick and beat on 'em for six years. Taft just laughed at 'em and grew fat. They drove Wilson to an early grave. And Coolidge never let 'em know what he wanted, so they never knew how to vote against him. . . ."

I must say it was hard to know what President Carter wanted last summer too. But, in any case, by the time Labor Law Reform was brought up there was already such a logjam of legislation to be disposed of before adjournment that few people were willing to risk a time-consuming filibuster.

Right now the Senate is debating the rules that govern its operation. We do this at the beginning of every Congress and inevitably the suggestion is made that Rule 22, which governs the votes needed to limit debate, be changed to require only a simple majority. In the past, Rule 22 has been amended. Originally, 67 votes were needed to limit debate; today only 60 are required.

I will oppose any further change in the number of votes required to invoke cloture, but I will support a rational effort to bring substantive issues to a vote once cloture has been invoked.

Rule 22 may sound like Catch 22 to you, but I honestly believe that, if Labor Law Reform is introduced in a timely way in the 96th Congress, we will overcome the cloture hurdle in the normal process. I also believe that we must take care, in framing the rules of the Senate, to safeguard the deliberative process from the tyranny of a small majority.

From the time Teddy Roosevelt handed down the first pro-labor legislative program of any president, the labor movement in this country has gone from strength to strength. The progress has not always been steady. There have been fierce battles and bitter defeats. But, in the end, there has always been progress. An impressive record of achievement for the labor movement in America has been written from the time of Teddy Roosevelt's Square Deal through the New Deal and Fair Deal and on to the Great Society.

President Carter, in his State of the Union message, however, isn't making any deals—fair, square, or otherwise. Instead, he speaks of building "new foundations." I want to join the President in building new foundations wherever they are needed. But, first I'd like to take a look at how some of the trusted old foundations of our society are bearing up. One of these is the AFL–CIO.

By any objective standard you are strong. Your membership has grown from 3.4 million in 1930 to nearly 25 million today, counting employee associations. There are more than 175 national unions, 71,000 affiliated local unions and 35 national employee associations. In 1969, American unions at all levels had $3.2 billion in income and $2.6 billion in assets.

Those figures paint a pretty rosy picture. But there are other, more sobering statistics to be considered. In the past two years, while job-holders have increased by six million, the AFL–CIO has lost half a million dues-paying members. The percentage of workers organized into unions has dropped from a high of 35 percent 30 years ago to 20 percent today. And labor lost more than 75 percent of the decertification elections held last year. Although there's small choice among sour apples, polls show that labor leaders have dropped even more in public esteem than politicians. To give you a feel for how low that is, the last poll I read put politicians several notches below sanitation workers.

What concerns me most about these developments is how they affect what Murray Finley, President of the Amalgamated Clothing and Textile Workers Union, calls the unwritten "social contract" that has been in force between labor and management in America for the past 30 years.

Under that tacit agreement: Labor would support free enterprise and business would support a strong, democratic labor movement.

Collective bargaining has been the practical expression of that unwritten social contract. George Meany points out:

"On its philosophical side, collective bargaining is a means of assuring justice and fair treatment. In the economic realm it is a means of prodding management to increase efficiency and output, and of placing upon trade unions great responsibilities to limit their demands to practical realities. A failure to recognize the unique role of collective bargaining is a failure to understand the distinctive new nature of American private enterprise as it has evolved over the past seventy-five years."

I think that is a very fair assessment of the creative tension between labor and management that has made our free enterprise system what it is.

Recently, I am sorry to say, few voices have been raised in favor of this unique system. Instead we hear on one hand of "southern strategies" and on the other of "class warfare." I cannot make common cause with either of these factions.

Long ago Justice Louis D. Brandeis gave us some very sound advice in these matters. He said:

"Don't assume that the interests of employer and employee are necessarily hostile * * * the opposite is more apt to be the case."

I know that last summer's battle over Labor Law Reform opened wounds that will be long in healing. But I also know that neither you, nor I, nor our country can afford to spend too much time and energy on recriminations.

The specific problems that labor faces—inflation, unemployment, automation, loss of jobs to foreign competition and the shift of industry from the union-strong frostbelt to the open-shop sunbelt—cannot be solved by labor alone. Just as management alone can't solve its problems either. How, without the cooperation of labor, is management to increase productivity and remain competitive?

I recognize that the disagreements that separate labor and management cannot be swept under the rug. But I think it is time you began to concentrate on what unites you, instead of what divides you.

If I had to make a list of the things that unite you, I would start with inflation which, if not brought under control, will destroy our traditional American values. I would put the energy crisis right up there at the top of the list, too. If we cannot work together to get a handle on these twin national problems, and soon, we can forget about individual problems.

The President's anti-inflation guidelines are one way to begin. I don't know that they are the best way. I wish we had a better choice. But they are the only way that has been offered us and if they are administered honestly without a tilt in any direction, I shall back them. What I would really like to see develop is a spontaneous competition between management and labor to see who can outdo the other in increasing productivity and making the guidelines unnecessary and outmoded. In the meantime we should remember George Meany said that as far as the AFL–CIO is concerned:

"The fight on inflation must be on the basis of equality of sacrifice—not on the sacrifice of equality."

But, as you all know, the wage and price spiral is only part of the inflation equation. Government spending is an equally important factor. For my part, I pledge to do all I can to monitor government spending to see that what is spent is spent in the right places and what has been spent in the wrong places is saved so that we can lower the budget deficit without depriving a single citizen in need of the help he or she deserves.

Last year the Joint Economic Committee of the Congress conducted a special study on Economic Change in the United States. The panel discussions dealt with many of the issues I've touched on tonight. In that discussion, Dr. Gardner Ackley recommended noncompulsory incomes policy as the only sensible approach to inflation. But, he wasn't optimistic about our prospects for success. A deterioration of our general social consensus, he said, appeared to be an important source of our present inflation which "tends to aggravate truculence rather than to push toward consensus."

Tonight I have spoken very frankly. I have tried to clear away obstacles to achieving consensus. I have tried to discourage truculence. If I have succeeded, even in a small way, I am happy.

Long ago Sophocles told the Greek people: "Without labor nothing prospers." While I do not aspire to improving on Sophocles, I might at least be permitted to bring him up-to-date by saying: Without labor's leadership nothing prospers.●

THE ALABAMA SPACE AND ROCKET CENTER

● **Mr. STEWART.** Mr. President, on Monday, February 26, Senator HEFLIN and I introduced S. 501 which would call for the transfer of Army property to the Alabama Space and Rocket Commission for use in expanding their Space and Rocket Center.

In 1965, the citizens of Alabama and the State Legislature voted to construct a missile and space exhibit in Huntsville, Ala. Over $2.5 million was invested by the city of Huntsville, Madison County, and the State of Alabama in the design and construction of the Alabama Space and Rocket Center. In 1968, the Congress of the United States provided property for its location by deeding to the Space Science Exhibit Commission, property on Redstone Arsenal. The combined facility serves as a Visitor Information Center for all governmental agencies based in the area. These include: NASA's Marshall Space Flight Center, U.S. Army Material Readiness Command, Missile Research and Development Command, Missile and Munitions Center and School, Corps of Engineers, Ballistic Missile Defense Systems Command, and the Readiness Command Group.

The Alabama Space and Rocket Center has become the largest missile and space museum in the world. It has in its collection over 1.500 pieces of missile and space hardware valued at over $26 million. The center also serves as a major repository for the Smithsonian Institution's National Air and Space Museum, having over 300 historical artifacts on loan from that institution.

The State of Alabama has retired the bonds which were used to finance the design and construction of the facility and the center has been self-sustaining since its opening, operating on nominal admission fees.

The center has undertaken a 10-year expansion plan which would involve the addition of several new public facilities. They would include an educational complex, a missile and rocket park, a youth science center, an energy information center, a space theater planetarium, a cafeteria, an earth resources facility, and a large recreational area.

The bill Senator HEFLIN and I have introduced would not call for a single dime of Federal money. It would simply transfer existing Government property to the State of Alabama for their future use. The expansion proposals would serve to complement the existing Government facilities and provide the taxpayer with a valuable educational experience and a chance to see their dollars put to efficient use.●

TRIBUTE TO DOMPIERRE

● Mr. DOLE. Mr. President, Oliver Dompierre is leaving the Senate after an illustrious career that spanned nearly a half century. The simple fact of his departure, the stark words of a letter of resignation, should not be allowed to stand by themselves. For alone, they convey no sense of the service and the selflessness that animated Dom's service to my party and the Senate itself.

It is people like Dom who form the heart of this body, who give it its personal touch and who make it work far better than if it were left to Senators alone. While we debate and decide, it is people like Dom who advise and guide us and—in a sense—put up with us.

But the time has come for Dom to own his days. I know that we will miss him here, both personally and professionally. But I also know that all of us who have been privileged to work with him count ourselves lucky for that experience, and extend to him our warmest wishes for a future as rewarding as his distinguished past.

He will be missed. But he will be remembered too.●

ON THE DEATH OF DEWEY F. BARTLETT

● Mr. MUSKIE. Mr. President, Dewey Bartlett was laid to rest in his home town of Tulsa, Okla., yesterday. I think he would be the first to say we should not mourn his passing too deeply, but rather remember his warmth, his humor and his affection for people.

Those who were in this Chamber last October 14 will remember that Dewey was not defeated, although finally he lost his battle with cancer.

Dewey was an able representative. He brought to this job broad political experience gained as a State legislator and as Governor of his State, and valuable practical experience in the fields of energy and small business.

He used these skills effectively, and the people of Oklahoma enjoyed the benefits of his work.

But beyond that, those of us fortunate enough to have served with Dewey will remember the pleasure of his company. And we will miss him.●

TRIBUTE TO THE LATE H. MILT PHILLIPS, PUBLISHER OF THE SEMINOLE, OKLA., DAILY PRODUCER

● Mr. BOREN. Mr. President, last week, Oklahomans suffered two great losses. Not only did the State lose a great statesman and public servant in the passing of former Senator Dewey F. Bartlett, but it also lost one of its greatest civic leaders in the death of H. Milt Phillips, publisher of the Seminole Daily Producer.

Milt was a close and treasured friend. The fact that my hometown of Seminole, Okla., is a vital and progressive community today is in no small way due to the efforts of Milt Phillips. Local industrial jobs and a forward-moving junior college attest to his determination that Seminole would not wither away.

This amazing man touched virtually every worthwhile institution in the State of Oklahoma, and the State is filled with living monuments to his life of service.

Milt was not afraid to be controversial. He had the courage of his convictions and even those who disagreed with him had to admire his integrity and honesty.

Since my boyhood days, I was always an avid fan of Milt's editorial column "Cluttered Corner." His commentary was often cryptic, but always current as he discussed a wide range of subjects expressing his concerns and dreams for his beloved community of Seminole, the State of Oklahoma, and the entire Nation.

He was someone from whom I actively solicited advice, and I will miss him very much.

I would like to recite just a few of the myriad of activities in which Milt was involved during his lifetime.

He was one of Oklahoma's pioneers and was born in 1898 in Cleveland County, Okla. He began his long newspaper career in 1911 at the age of 13 as a newsboy for the Daily Oklahoman. Two years later Milt began working as a "printer's devil" for a newspaper in Norman and worked as a circulation agent for another newspaper.

Milt was patriotic and intensely loyal to his country. He served both in World War I and World War II, volunteering for service on each occasion.

When World War I broke out, Milt entered the U.S. Signal Corps. He reentered active service in 1943 with the U.S. Navy and served with the Seabees.

In between the wars, he attended the University of Oklahoma and also served as department adjutant of the Oklahoma American Legion and as editor of the Legion's newspaper.

After World War II, Milt was personally commissioned by then Governor Robert S. Kerr to reorganize Oklahoma's war veteran services.

He saw the Okmulgee technical branch of Oklahoma State University established as a training facility for returning veterans, and also helped to see the VA Hospital in Oklahoma City designated and established. He remained active in veterans' activities the remainder of his life serving on numerous local, State and national Legion committees.

He served as President and held every other office of the Oklahoma Press Association and was active in several other State and national journalism groups.

Milt was one of the original appointees to the first Oklahoma Judicial Nominating Commission, was a founder of the Oklahoma Higher Education Alumni Council and was a member of the Oklahoma Turnpike Authority. He served for many years on groups prompting improvement of local highways to boost industrial growth.

He actively sought industry for his city and organized the Seminole Industrial Foundation which he served as president for 12 years. Milt lived to see Seminole become a small industrial city with the location of several small manufacturing firms in the city industrial park.

Milt was president of the University of Oklahoma Alumni Association and held virtually every office in the Oklahoma Historical Society. He originated a project to preserve State history by microfilming State newspapers and also was active in beginning the "living legends" oral history project of the society.

He was inducted into the Oklahoma Journalism Hall of Fame in 1977. In 1968, Milt was inducted into the Oklahoma Hall of Fame, a distinguished honor reserved for few Oklahomans, which appropriately signified the mark he made on his State and his community.

Milt Phillips will be sorely missed not only by me, by his family and other friends, but by the entire State of Oklahoma.●

TOO MANY PROGRAMS, TOO LITTLE MONEY

● Mr. EAGLETON. Mr. President, the administration has made austerity the theme of this year's budget. In some areas, it has succeeded. In others, it has failed, and we are told that more is less. Congress must now try to juggle some hefty figures to decide where this fiscal year's money can be spent most judiciously.

William Flannery of the Center for Defense Information wrote an article in the February 27 New York Times which takes a critical look at the defense budget. As Mr. Flannery points out:

> The real issue is that we have too many military programs and not enough money in the treasury to pay for all of them.

He mentions one area of particular concern—procurement—and states that soaring procurement costs have begun and will continue to cut into other vital areas of the budget.

I hope my colleagues will read Mr. Flannery's article preparatory to making important decisions on this year's defense budget, and I ask that it be printed in the RECORD.

The article follows:

PENTAGON SPENDING

(By William Flannery)

WASHINGTON.—Only in the rarified atmosphere of Pentagon spending can a $10 billion net increase in a budget be described as very austere.

Secretary of Defense Harold Brown's comment notwithstanding, the Carter Administration's defense budget for 1980 represents a major increase in spending and is the largest single increase of any departmental budget in the Federal Government.

Nor is this trend likely to change in the near future. Mr. Brown has forecast that the Pentagon's budget will reach an estimated $178 billion in five years—an increase of nearly 44 percent over the 1979 budget—in order to maintain the current structure of forces and modernization programs.

It is unfortunate, but the current public debate over the 1980 budget and future trends in military spending has degenerated into a crude shouting match between liberals and conservatives over the amount being spent.

The liberals charge that the Pentagon's budget is too high and that President Carter has drafted widows, orphans and the poor to be his shock troops in the battle for the balanced budget.

The conservatives countercharge that we are spending far too little. Defense must be our No. 1 priority, they argue: The Department of Health, Education and Welfare's budget is meaningless if Soviet marines land on New Jersey's beaches.

It is verbal trench warfare of the worst kind. Real issues die under a rolling barrage of cliches.

The fundamental problem is not that we are spending too little or too much. The real issue is that we have too many military programs and not enough money in the treasury to pay for all of them.

The forecast increases in military spending are too low to buy all the new weapons, to man them and to operate and maintain them.

In the wake of the Vietnam War, the United States began much-needed arms-modernization programs for the armed forces. Many of the projects were to overhaul and upgrade existing weapon systems. Simultaneously, major new weapons-building programs got under way.

The Air Force started procuring new families of combat aircraft (the F–15, F–16, A–10 and others) and modernizing its fleets of B–52, C–5, C–141 and C–130 aircraft. It also started new strategic-weapons projects such as the MX missile and the cruise missile.

The Navy began six new aircraft programs and an across-the-board building program of over 220 new warships, submarines and support vessels.

The Army started dozens of new projects costing over $40 billion ranging from a new main battle tank to helicopters and missiles.

In the rush to modernize, marginal and questionable weapons were pushed along with the high-priority projects. Inflation, poor procurement procedures and continual design changes have added up to large-scale cost overruns.

The latest estimates from the General Accounting Office show that 55 major weapon systems—totaling some $210 billion—have suffered a total cost increase of nearly 70 percent over their initial estimates.

The share of the Pentagon's budget for procurement of weapons has grown from about 20 percent in 1974–75 to nearly 26 percent for 1980. This trend will continue and will cut into the funds for manpower, operations and maintenance. The procurement funding increase will come at a bad time, because manpower costs will be going through the roof in the early 1980's as a result of the decrease in the number of young males in the population.

The negative impact of trading procurement dollars for manpower dollars is already starting to take effect. The Army may have to place 1,000 helicopter gunships in storage because of a lack of crews. A similar situation is developing in the Navy. Although shipyards could begin large-scale production of the Perry-class guided-missile frigates with very little effort, the Navy has refused to speed up delivery dates, primarily because of crew shortages.

Except for a few minor changes in the Navy's shipbuilding budget and cuts for a few other projects, the Administration's 1980 military budget continues the funding of marginal and questionable weapons systems.

The Administration's refusal to face the weapons-procurement crisis headon is merely delaying the inevitable, and is compounding the crisis because the longer a weapon project is allowed to develop the harder it is to cancel.●

REASONS FOR USE OF THE REGULAR LEGISLATIVE PROCESS TO CREATE A DEPARTMENT OF NATURAL RESOURCES

● **Mr. RIBICOFF.** Mr. President, as chairman of the Committee on Governmental Affairs, I should like to state my views regarding the administration's proposal to create a new Department of Natural Resources.

The Reorganization Act of 1977 prohibits the use of reorganization plans to create new executive departments. Legal questions aside, it is my belief that large-scale cabinet-level reorganizations, which involve major policy and organizational shifts, are too complicated substantively and politically to be handled through the Reorganization Act authority.

Last week, the administration proposed the establishment of a new Department of Natural Resources by use of Reorganization Act authority. Such a department would be responsible for the Nation's oceanic, atmospheric, and public land programs, including timber, atmospheric, and public land programs, including timber, wildlife, mineral and energy resources. In these vital areas, it will be asked to make difficult, complex decisions in balancing the competing claims for the use of public resources. For this reason, every document supplied to the Congress by the OMB Reorganization Task Force has stressed the necessity of accompanying natural resource consolidation with a strong and clear statement of mission for the new Department. Thus, the OMB stated:

> Our natural heritage involves a vital, continuing and interrelated portion of the total public interest, warranting creation of a Cabinet department to assure the key policy and management for natural resources. The establishment of a clear statement of mission and mandate to the new Department is a key element of this option.

I believe the Congress should express itself very clearly and forcefully regarding the mission and purpose of a new DNR, but no such statement of mission can legally be included in a reorganization plan. Thus, under the administration's proposal, the Nation would end up with a single, consolidated natural resources department that had no legislative guidance or direction as to priorities or the balancing of competing interests.

Further, in order to accomplish the missions that will be assigned to the new department, the administration plans to create a wholly new structure. This structure would not just build on the existing Interior Department, NOAA and Forest Service structures but would represent a completely revamped set of organizational relationships. As the OMB staff documents state:

> The internal organization of the DNR has a significant bearing on how well its potential benefits are achieved. The many interrelationships among the programs comprising the DNR constitute the major premise for bringing them together in the same Department. The internal structure is an important means of capitalizing more closely on these interrelationships.

At present, it is my understanding that the administration is leaning toward the creation of five new operational programs administrations, each headed by an Administrator, as well as the creation of a new deputy secretary, an undersecretary and several assistant secretaries. This substructure, and the key interrelationships the OMB argues are so important, should be determined by Congress and not by the Executive alone. A reorganization plan would give Congress little or no say on how such interrelationships would be forged or on the manner in which particular departmental functions would be carried out.

Finally, though the Governmental Affairs Committee will attempt to move with dispatch, as it did regarding the Department of Energy, full legislative hearings should be employed so that all voices—individuals and public and private interest groups—would have a chance to be heard. This is impossible with the 30-day deadlines imposed by use of Reorganization Act authority.

Section 905(a) of the Reorganization Act of 1977 states that no reorganization plan may provide for or "have the effect of creating a new executive department." It is my belief—and the belief of a number of other Senators—that this prohibition was written into the law to cover just the kind of situation we are facing in this instance. Thus, while I think that Congress should give the President's proposal careful and prompt attention, the appropriate means for the creation of a Department of Natural Resources is through the regular legislative process.●

DOWN ON THE FARM

● **Mr. MORGAN.** Mr. President, I share, with many Members of this Chamber, a long and abiding interest in the welfare of America's farmers. Perhaps I understand their plight better than most Senators, because of my heritage of having lived on a tobacco farm in Harnett County, N.C., during the formative years of my life. Having toiled the Earth and endured the elements, I know what is involved in surviving the risks involved in producing a crop.

Recently, the Winston-Salem Sentinel published a series by reporters Rebecca Olmstead and Linda Brinson entitled "Down on the Farm." The series discusses the changing, day-to-day struggle brought on by rapidly evolving technology and increasing capital requirements for land and operating costs that farmers face. The series shows how some farmers in North Carolina, particularly in the Piedmont, have struggled to meet the constant challenges and opportunities involved in being part of American agriculture.

Mr. President, I believe that all of my colleagues could benefit by reading the "Down on the Farm" series. Therefore, Mr. President, I ask that this series, which was published in the Sentinel from February 12 through 16, be printed in full in the Record.

The material follows:

Fewer Call It Home

(By Linda Brinson and Rebecca Olmstead)

There are two distinct types of people in this country—farmers and non-farmers.

To the farm family, its business is also its way of life. It is a business that does not begin at 9 a.m. and end at 5 p.m. The farmer lives with his work every hour of the day, every day of the year.

But the farmer, and the farm family, are dying breeds.

Once, back in the 1800s, large families and the nation's farms were synonymous. They raised vegetables, grains and hay, and kept hogs, chickens and cattle primarily for their own use—and primarily as a means of self-preservation.

As industrialization began to creep across the continent at the turn of the century, the number of farms began to decline. Soon came a new lifestyle. Americans, hundreds of thousands of them, discovered urbanization and forgot about life down on the farm.

With technological advances in agriculture, fewer farms were needed to feed the farm families and their kinfolk who had moved away. Around 1850, a farmer produced enough food to feed five or six people. Today, each farmer produces about 10 times that much.

Nevertheless, agriculture officials are alarmed at the dwindling number of family-owned, family-operated farms and are concerned about the problems facing the farm family.

They feel the personal pride a farm family puts into its work is important in the country's most essential business—producing food.

Some officials and farmers fear corporate investors will gobble up farm land and create a monopoly in the food industry.

"I think the family farm is on a downhill drag," said Walter Hobbs, executive director of the Agricultural Stabilization and Conservation Service in Forsyth County. "Down the road as time goes on, it is going to play out. In years to come farming is going to be done by large corporate farms. You need too much capital, you have to invest too much for the average person to get into farming today."

And, "when you get few enough large farms producing enough of the food," said Forrest Harmon, Forsyth County Agricultural Extension chairman, "then you will have a monopoly and they can set the price of food, and we'll pay it."

Farmers and people who know them think that a salaried worker on a corporate farm could never muster the dedication of a farm family. That dedication is one of the things that has helped to keep food prices from going much higher than they have already.

Men tending their own farms will work in driving rain and sweltering heat; they will labor around the clock when it is necessary, they will go the extra mile and beyond when they are working their own land. But would they do it if they were just working for someone else? And if they did, would they demand high wages and overtime pay? How would that affect the price of food?

One corporate farm recently decided that employees did not take care of farm equipment and the farm went to an arrangement whereby it leases land to farmers and buys the crops at harvest time.

The number of people tending their own land has dropped sharply in the last two decades. In 1959 there were more than 190,000 farm operators in North Carolina. Fifteen years later, the last year for which figures are available, the number had decreased by more than half to 91,280 and only about 61,000 of them were full-time farmers.

While there are fewer farms, the size of the farms has increased. The average Tar Heel farm in 1959 was 83 acres. That increased to 123 acres by 1974. The average for the nation, which figures in the huge grain farms in the Midwest and West, is about four times the size of a farm in this state.

The increase in acreage and overall farm operations has made it necessary to have a larger investment to get started.

A young couple starting out in years past knew they could make a comfortable living if they worked hard, but most of today's young people can't even consider going into farming for a living unless they are taking over a going concern, or are blessed with a lot of money and maybe some inherited land.

Young people are opting for other careers over the expensive, chancy business of farming.

The average age of the North Carolina farmer in 1959 was 49.7 years. By 1974 it had moved to 52.9 years. According to the U.S. Census of Agriculture, in 1974, the greatest number of farmers in North Carolina, 24,616, were 55 to 64 years old. There were only 8,050 between the ages of 25 and 34, and only 1,654 were under 25.

It is very hard for a person to make his total living from his farm, according to Leo Hawkins, a human development specialist with the N.C. Agricultural Extension Service in Raleigh. There are government loans for land and crops and most counties in North Carolina give some tax relief to Farmers, but he said "very few" people in North Carolina are going into farming full time.

Hawkins said specialization, growing one or two major crops, is the only way farmers can make it today. "The number of farms is going down but the size is going up. You've got to go into it in a pretty big way."

When Harmon, the agricultural extension chairman, started work here in 1952, there were 127 Grade A dairies in Forsyth County; now there are 17. But those 17 produce the same amount of milk or more than the 127, and with fewer cows.

"Family farms are fast becoming a thing of the past because of the inequities—the difference between what he's (the farmer) got to pay to produce a crop and what he gets for it is just not enough," Harmon said.

He questions whether farmers will be able to keep up with inflation when the price they receive for their products does not go up as fast as the price of things they have to buy. "A tractor a farmer could buy for $4,000 a few years back costs $30,000 now," he said. "The price of gasoline has tripled and quadrupled. The price of equipment has tripled. But a chicken sells cheaper than it did in 1935."

"The price of land is going up every day, even in the rural counties," said Hobbs of the ASCS. "They just ain't making any more of it. As time goes on and there are more of us, we've got to live somewhere and build factories somewhere. Land is becoming more and more scarce."

Hobbs said he knows "it sounds like Communist Russia," but he thinks there needs to be some group to take an overall look at land and decide to set aside some choice land for farming—or else there won't be any farm land left. The best land for farming is also the best land for development, he said.

"There are more of us to feed every day," Hobbs said. "We've got to leave some land for farming, and the productivity of the land has got to be increased."

While development has made land too expensive for prospective farmers to buy, some present farmers see the chance to make large profits from selling their land, land from which they have reaped only meager incomes for years.

"The land is very, very expensive in most places in North Carolina," Hawkins said. "After the pressure (of development) gets to be so much the farmer is going to sell out." Nobody can stop development—it is a matter of economics, he said. "The ones who stay in it (farming) in the next generation are going to be the elite."

Harmon said farmers must find some way to organize either through unions or cooperatives to make sure they get a fair price for their products.

"Labor unions have increased the prices of everything," he said. "OPEC has increased the price of oil . . . Farmers don't have a union. They are the only people anywhere around who have something to sell and say 'What'll you give me for it.' "

For the family farm to survive Hobbs said there will have to be some breaks given to farmers by government. "We give breaks to factories every day. The public's going to have to give some breaks to farmers, and the public is the one who will benefit," he said.

Times Were Hard, and We Worked Hard

(By Linda Brinson)

King.—When Joe Gibson and George Frye got married in February 1929, they didn't discuss whether they wanted to be farmers. They just started to work.

He was 17 and she was 16. He was an orphan who had gotten along by helping out on other people's farms; her wedding present from her grandmother was a hen and "a gang of biddies."

Neither had ever been far from Stokes County. They moved in with a family Gibson had been helping. In December, they moved into a rough log tenant house, and in March 1930, their first baby was born.

The babies kept coming. In all, the Gibsons reared 15 children. Getting started in those Depression years with a growing family was not easy.

Sitting today in the comfortable front room of their large white farmhouse south of King, the Gibsons can recall the details of each of those difficult years. They were tenant farmers, so no matter how hard they worked, they received only half the meager profit their crop brought.

The cash crop, of course, was tobacco. Growing tobacco in those days was rough going—plowing with a mule, hoeing, curing with wood. There were no bulk barns or stringing machines, and weeds and suckers and tobacco worms were removed by hand, not by chemicals.

"We started out in one of the hardest years—'30 was a dry year. We got $84 for our crop in '30, and then had to pay half of it (to the landowner)," Gibson said.

"Then '31," Mrs. Gibson said, "in '31 we did just a little bit better. Our crop brought about $200, so we got $100."

They reeled them off . . . '32 was a wet year. Their share came to $300. In '33, they raised a good crop, and it brought in $1,300. With part of their lot there, a small tract there. Land values in the King area had begun to soar, and the Gibsons were able to pay what they still owed and get completely out of debt by selling some of their land. Other sales have provided money to supplement their Social Security income.

Some of the land they have sold to some of their children. "I told the young 'uns I'd get an evaluation on anything I had and sell it to them for ⅔ of the value and give them 10 years to pay for it," Gibson said. "I figured that was the best way to be fair. Five of them live on the hill over there now," he said, pointing to a neighborhood of houses and trailers.

None of the Gibson children are full-time farmers. Two sons are dead now. One son is buying most of the few cattle Gibson has left. The Gibsons were delighted last year when their youngest daughter and her husband decided to buy about 29 acres from them and take over the tobacco allotment. The young couple raise the tobacco in addition to working regular, full-time jobs. Gibson and some of his sons help.

"I don't feel too bad about selling off the land I worked so long to get, because I'm not able to farm it anymore," Gibson said.

It does worry the Gibsons some to think that none of their grandchildren could start out like they did—with nothing—and make a good life for themselves by farming.

COSTS ARE HIGH

"There's no way a young couple now could do what we did. Even if a man gave them the land, they couldn't buy the tools. The price of tools—that's what we called 'equipment'—and fertilizer would overrun the price of what you were selling.

"The only way young people can farm now is by having other jobs, he said. "If they don't do something up in Washington to help the farmers, people are going to have to go out in the fields and eat grass," Gibson said.

The Gibsons live comfortably now. Their old, white house is in good repair, and they shut off most of it in the winter. The big farm kitchen still has a long dining table, almost long enough for the whole family, and a big Home Comfort wood cookstove beside the modern range.

The cattle barn burned a year ago, and Gibson decided not to build it back. He still keeps a few cattle in the empty chickenhouse.

The Gibsons don't know what will become of the 21 acres of land they still own, or if their handsome old house with its handhewn logs and pegged-together doors. The way things have been going in the Rural Hall-King area, they realize it may not even be a farm at all in a few years.

"I don't know. I don't know whether some of the children will buy it before we die, or whether it will all be auctioned off," Gibson said.

The Family Farm

(By Linda Brinson)

KERNERSVILLE.—"The family farm today is more of a family business," David Matthews said.

Matthews, his wife, Shirley, and their children, Lee, 15, and Lou Ann, 11, have a thriving family business on their farm near Kernersville.

They make their living through full-time farming by choice, and it was a choice that required a lot of hard work. It took several years of holding down "town" jobs before they earned the privilege of being able to farm full-time.

Having reached that goal, the Matthews are outspokenly proud to be farmers. They are active with farm groups—Matthews is president of the Forsyth County Farm Bureau, a national lobbying organization; Mrs. Matthews is involved with the extension homemakers; Lou Ann is a 4-H member.

"We think farm people are just the finest of people," Matthews said.

"I think there will always be a place for family farms, but I think the definition will change," Matthews said. "The family farm used to be a man and his family, making a sort of self-sufficient living, and they were considered to be less educated. Today it's more of a business. It takes a lot of capital and planning and knowledge."

"And bookkeeping," added Mrs. Matthews.

Although they live on a farm, the Matthews laughed at the prospect of keeping their own chickens for eggs or cow for milk. They do garden, and Mrs. Matthews cans and freezes a considerable amount of garden produce. But they have primarily an early garden because they don't have time for gardening in late summer when the tobacco is ready to be primed.

"You can't let a nickel stand in the way of a dime," Matthews said.

"The family farms now are specialty farms," he added. "Instead of trying to be self-sufficient, we try to do well with what we do, and go to the store and buy our eggs and milk like everybody else."

What the Matthews try to do is raise tobacco, beef cattle, and hay and grain crops. Tobacco has accounted for about two-thirds of the family's farm income since they started farming.

Matthews always knew he wanted a farm. The Matthews married soon after high school and before long bought 40 acres of land. Mrs. Matthews had never farmed at all; Matthews had helped on his grandfather's farm.

"We both worked at public work and farmed nights and holidays and weekends," he said.

When the Matthews first moved onto their land on Teague Lane, the road was unpaved and did not even have mail or telephone service. There was not a building on their property; they built everything themselves.

"You have to be versatile to make it on a farm," Matthews said. "You have to be able to do a little carpentry, a little plumbing, a little mechanic work. . . . We've built all our buildings, and a neighbor and I even have our own sawmill."

After a few years, Mrs. Matthews quit her town job to take care of young Lee and to do as much of the farm work as she could. Matthews continued with his job, doing farm work on the side.

"We just sort of grew into it. We bought a little land and paid it off, then bought a little more and paid it off. We're still doing it—we just bought 30 more acres, with a 20-year loan that will carry us into retirement," he said.

For several years, Matthews continued with his dual jobs. In 1968, when the family felt they had enough land and enough equipment to make it, he quit his job and turned to farming full-time.

The Matthews now own 121 acres in Forsyth County, in four tracts. They lease an additional 85 acres of tendable crop land in the county. Mrs. Matthews has inherited 101 acres in Randolph County, where the family is planting pine trees.

This year, the Matthews will probably raise about 18 acres of tobacco, depending partly on how many pounds of allotment they can lease. Lee plans to raise some tobacco of his own this summer. Matthews has recently bought bulk curing barns to use for the first time this year.

Full-time farming does support the family comfortably.

"The farm has been good to us, over the last several years," Matthews said. "We've made a respectable living. We have all the modern conveniences. We have everything the people over there in the development have—a car, a truck, a deep freeze. . . .

"But five families used to make a living off the land we are tending," he said.

All four members of the family will tell you that they are farmers mainly because Matthews wants it so. "I like farming better than any of the rest of the family," he said.

Matthews wanted to farm partly because of the way of life it offered for the whole family.

"I think it is a wonderful place to live and raise a family," he said. "You can have the freedom to roam the woods and fields.

"But it is a right competitive business now to make a living farming," he said. "And it's one of the few businesses where you have to contend with the elements in your daily work. What some people say they don't like about farming is that it's always either too hot or too cold or too nasty."

Mrs. Matthews said she is convinced that farm life makes for closer families. "You have to be closer because you're together so much," she said.

"You share more time with your children which is something you appreciate more over the years," Matthews said. The Matthews children know they are expected to help with the farm work as long as they are living at home. Lee started driving a tractor when he was 5; Lou Ann can do pretty well herself.

So far, the Matthews have managed to get by harvesting their tobacco crops without hiring migrant labor. They hire some retired people, and a lot of schoolchildren, friends of the children, which helps make the work more pleasant.

Both Lee and Lou Ann say they do not want to go into farming themselves, because they "don't like the work." Lee said he might like to go into forestry, while Lou Ann isn't sure what she wants to do.

"I feel sure they'll both want to be in the country even if they don't want to farm for a living," Matthews said. "Right now, Lee thinks sometimes he doesn't like all the work, but he and his friends all want to spend their time here—where they can be out in the woods, go down to the fish pond, have some freedom."

While it hasn't been that long since the Matthews worked their way into full-time, successful farming, Matthews was pessimistic about the chances for a young couple to do today what he and his wife did, at least in Forsyth County.

Things have changed rapidly. Not only does Teague Lane now have paving and telephone and mail service, it also has a golf course and some high-priced new homes within walking distance of the Matthews farm.

"It would be awfully hard for someone to get started now, especially in Forsyth County, without help—farming the family farm or something like that. The price of land is way out of line. Farmers can't compete with the developers.

"Even if a young farmer rented his land, the cost of machinery would make it very difficult to get started," he added.

The Matthews' three tractors are of moderate size, he said, and are not new, but it would cost about $15,000 to replace one of them.

"The interest rate has gone up, the price of everything has gone up so much," he said. "I've been farming full-time 11 years, and my expenses last year were considerably more than my gross income the first year.

"It would be awfully hard for anyone starting out now to make it."

The Dairy Farm: Long and Hard Hours

(By Rebecca Olmstead)

JONESVILLE.—Barbara Myers left teaching to become a full-time farm wife.

She's very happy with that decision and she's proud to be married to a dairy farmer. "I think it's a noble profession," she said of her husband's work. "What more can you do for humanity than provide a healthful food source? I feel a great deal of pride."

Dwayne Myers and his father Glenn operate a 325-cow, 750-acre dairy just outside of Jonesville.

Mrs. Myers sometimes becomes irritated by what she calls the general public's misconceptions about farmers. Some people feel that because her husband is a farmer he must be "too dumb to do anything else," she said.

But Myers, who holds a bachelor's degree from N.C. State University, is a businessman and he and his father run their dairy with the same management techniques and planning needed for any successful manufacturing operation.

The product they manufacture (or rather their cows manufacture) is milk.

Myers' father had operated a dairy for about 25 years when his son joined the business in 1970. They operate a Grade A farm, which means their milk is of drinking quality and is processed to be sold on retail dairy counters. There are more restrictions and regulations governing a Grade A operation than other dairies which produce milk primarily for cheese.

Myers said he decided to become a partner in his father's business because he likes the challenge of farming. "I like to face the problems and work them out," he said. "The key to farming today is being efficient and being a good manager."

The young couple live about three miles from his parents' house where the center of the dairy operation is located. They have two sons, Chad, 4, and Zach, 2, and they are expecting their third child in June.

Mrs. Myers said they get up at about 6 a.m. to have breakfast, and Myers leaves the house by 7 or 7:30. He often is gone until early evening, particularly in the summer.

"The major disadvantage (in working your own farm) is perhaps the hours," Mrs. Myers said. "His are hard and long." They would be even longer, except for the two men the farm employs full-time.

"In the dairy business today it's impossible to do it yourself," Myers said. "A lot of times you're better off in the office."

He said he has to pay wages competitive with industry in order to find and keep reliable help. And "we have good help," he said.

One of the men handles the milking and care of the cattle. He comes to work at 3:30 a.m. and begins milking 30 minutes later, finishing about 8 a.m. He's back at the milking parlor at 2:30 p.m. and completes the evening milking about 6:30.

The other employee helps with general farm work and feeding the cattle. "Dad and I do a little bit of everything," Myers said. They also take turns milking on the weekends to allow the employees to be off.

Dairying is not seasonal, as are some farming operations. It demands constant attention. For that reason, vacations for the Myers are sporadic.

"We can't really plan things," Mrs. Myers said. "We're sort of at the cows' mercy." There have been times when they were ready to leave on a trip and a cow became sick or another emergency arose. And it's nearly impossible to get away during the planting and harvesting seasons, which last from early spring through early winter.

Even during the winter there are repairs and general maintenance work to do on equipment, plus the ever-present daily feeding and milking.

Of the 325 cattle on the farm, about 150 actually produce milk at any one time. Others are heifers or cows waiting to give birth.

Behind Myers' father's house is a large pen in which several holsteins with swollen bellies wait to calve before going back to work. Mrs. Myers calls the area the maternity ward.

The Myerses raise all of their replacement cows because nonregistered dairy heifers, ready to calve, sell for $1,200 to $1,400. Registered heifers cost more. The Myerses usually milk a cow for only three years before she is replaced.

Eighteen to 20 calves are housed at a time in a barn shed and are fed from bottles. It is more profitable to put their mothers into production than to let them nurse the calves. Also, a modern-bred dairy cow gives much more milk than a calf can use.

Feeding the calves will soon become Chad's job, Mrs. Myers said. "Chad insists he's going to be a farmer but he says he's not going to have any bulls," she said.

Thats' because of a run-in Dwayne Myers had with a bull last fall that put him in the hospital for 16 days.

He was atempting to free a large holstein bull which was hung up in a chain when the bull attacked him.

"He never let me get up," Myers said The bull slammed Myers against trees and roots as it dragged him through the woods. He was nearly killed and is still unable to work because of the severity of his injuries.

Before the bull incident, Myers injured an eye when he was struck in the face by a tree limb while driving a tractor. And he contracted Rocky Mountain spotted fever when a tick bit him.

He's living proof that farming is the third most dangerous occupation in the country.

Mrs. Myers said her husband's income is probably less than that of other men his age with the same education. Myers said most businesses try to show an annual profit of 10 to 15 percent. In a dairy operation, "10 percent is really good."

"Inflation is hurting us like everyone else," he said. "We're needing a new tractor," one that will cost $40,000 to $43,000. He wanted to buy it this year, but decided to wait.

He and his father also would like to build a new milking parlor. The cinderblock building they use is the same one the elder Myers started with in the 1940s. A new parlor and equipment will cost from $70,000 to $100,000. They also plan to buy a computer to control feed blending.

In addition, farmers have to face increased state and federal regulations on their products. Meeting those regulations creates additional costs which the farmer cannot pass along in the price of the product.

When people complain about the price of milk, Mrs. Myers said she tries to explain the problems faced by farmers, "I always try to help them realize the investment the farmer has," she said.

As of Jan. 1, the Myerses receive $1 per gallon of milk they sell. The price in the grocery store is about $1.70 per gallon.

But even with its restraints, farm life is what the Myerses prefer. "To me the major advantage is the family life," Mrs. Myers said. "Our business is our way of life."

Mrs. Myers had a "bird's-eye view" of farm life before she married. She learned about dairying while dating Myers, and her father farmed for a hobby in Davidson County.

She feels her family is closer than some. "Dwayne's hours are long but he's usually accessible," she said.

The couple raise most of their food. Last summer they had a garden which was just over a half acre. They also drink milk from their cows. Mrs. Myers said she feels raw milk is more healthful than processed milk.

Myers believes family-owned and family-operated farms are here to stay, despite increasing costs and taxes. He said some corporations that have bought farms have found that the percentage of profit is less than they could get from other types of investments.

There will be fewer family farms, he said, but the operations will become larger.

"I think the farm family has been the backbone of agriculture for all these years and I think it will continue to be," he said.

Mrs. Myers added, "It takes that personal pride in the land and the product to make it work."

THEY KNOW ABOUT WORK

(By Rebecca Olmstead)

KERNERSVILLE.—When Kenneth (Pa-Pa) Stafford worked his farm tending livestock and growing tobacco, a couple of his grandchildren would usually tag along.

He taught them all he thought they should know about farming. By the time they were 8 or 9, his two grandsons, Ken and Jerry, were priming tobacco. Two granddaughters, Sara and Sandy, helped him care for the beef cattle.

Stafford died in an accident in 1977. Now four of his six grandchildren, with the help of their parents, work his 55-acre farm on Old Salem Road near here.

The work includes growing six acres of tobacco each summer plus four or five acres of oats, five acres of corn and several acres of hay to feed the five beef cattle and a Shetland pony named Surprise.

"He taught them how to do all these things," said Stafford's widow, Mildred, as she sat in the living room of her home, surrounded by her family.

It is a close family.

Mrs. Stafford's two sons, Jerrell and Stanley, their wives and children live in brick houses which face each other across Old Salem Road. Their mother's white frame house is just up the read, within sight of both.

Stanley and his wife, Sue, have four children, three of whom—Ken, 17, Sara, 13, and Sandy, 11—live at home. Another daughter, Susan, 21, is a student at N.C. State University.

Jerrell and wife, Ethel, have two children, Jerry, 17, and Jennie, 20, a student at the University of North Carolina at Chapel Hill.

Stanley and Jerrell grew up on the farm, but like many other modern-day farm children they left it for work at "public jobs." (Ethel said she doesn't see how a family can make it on a farm without an outside job.) But by working day shifts at Western Electric, they are free to help the children in the afternoons and work in the gardens each family puts out every year.

The brothers are glad their children have had the opportunity to grow up on and work a farm. They feel the hard work and the responsibility have numerous benefits.

"One of the main advantages is the fact that they (the children) know what work is like yet they're not tied down to it," Stanley said. He prefers that his children farm rather than have summer jobs with more set hours. "I don't think it's good for a kid to be confined at an early age."

You'll hear no real complaints from the young Staffords about life on the farm. They like the freedom.

"You can work whenever you get a chance," Jerry said. "You have your nights free."

Sara said one advantage to their setup is that the children are able to work without constant adult supervision. "When you're stripping tobacco, the kids are there and we can goof around a little bit."

Farming also gives Jerry and Ken time for one of their favorite pastimes—baseball. "They take off a few hours to play ball when they can," their grandmother said.

The boys aren't the only Staffords who enjoy the national pastime. "Their daddies coached for years," Ethel Stafford said.

But the farm work is hard and puts some restraints on the cousins. "When it comes time, you have to work and you have to put in long hours," Stanley said.

When the tobacco needs priming they are out of bed at 5 a.m.; when there isn't much to do they sleep until 7.

Sometimes "you can't go off with your friends because you have to work in tobacco the next day," Sara said.

Farming is particularly hard, Jerry said, "when you have to get everything done at one time."

After listening to these "disadvantages," Ken laughed and said, "You only remember the things you hate."

Then there are times when things go wrong.

For instance, one day last summer they forgot about a sled of tobacco and left it in the field. The leaves were sun-cured instead of flue-cured, Jerry said.

Then there was the time Ken was spraying tobacco and the pressure from the sprayer pump blew off a hose, "drowning" several tobacco plants. Most of the plants survived, he said.

After the hard work, the mistakes, the ups and downs, the long hours, there are the rewards. When the tobacco is sold, the cousins get the money.

The Staffords are happy with their lifestyle, and farming is an important element of their family relationship.

"I just think it makes families closer," said Ken, who wants to make farming his profession. "This way you work together."

"If we didn't do it as one big family, we couldn't do it," Stanley said.

Sandy, the youngest and least talkative of the young farmers, put it simply: "I like to live here."●

THE SOVIET RECORD IN AFRICA

● Mr. McGOVERN. Mr. President, one of the primary concerns of the American public regarding Africa is the growing role of the Soviet Union. The debate in the United States on this issue is often characterized by a failure to take a realistic look at the record of Russian success or to make a serious assessment of likely future gains.

A Nigerian writer, Stanley Macebuh, has produced one of the most thoughtful analyses of this subject to date. It was published in the Nigerian Daily Times, the newspaper with the highest rate of circulation in Africa's most populous state. I submit this article for the RECORD so that we, too, can profit from a sober African view of the situation.

The article follows:

THE SOVIET DILEMMA IN AFRICA

(By Stanley Macebuh)

The curious thing about the alleged competition between the Soviet Union and the United States for the souls of black folk in Africa is that neither of them really understands Africa. The Soviet Union believes it has the objective and immutable laws of history on its side. America believes it has the human desire for the good things of life on its own side. But neither of them appears to have taken much time trying to find out precisely what kind of human beings Africans are, how far they are willing to go in search of the good things of life, or how far their lives are likely to corroborate the iron laws of history.

The Americans do not know Africa, but they do have the experience of Western European countries to fall back on. The Russians do not, on the other hand, have any such mentor, and this is beginning to show in their relations with African nations. It must surely be a matter of some concern for Soviet foreign policy makers that the Russian impact on Africa has been a rather spasmodic one. This is not a question of ideological preference. It is one of describing what actually exists.

First, the Russians move into some African nation, usually at a time when that nation's very survival is threatened. For a while, there is a halcyon period of fraternal collaboration, usually cemented by a massive infusion of military aid. The nation feels a litle more secure, and begins to worry about such mundane things as food and hospitals and roads. It turns to the Russians, hoping they will give economic aid as readily as they gave military aid. The Russians say they don't have the money. The nation turns to the West, which is waiting in the wings. A quarrel ensues, and the Russians are asked to leave, sometimes respectfully, sometimes rudely.

This pattern has repeated itself so often, in Sudan, Egypt, Somalia (with Angola and Mozambique soon, it seems, to follow) that one would have thought the Russians would reassess their posture and adjust to a situation apparently not predicted in their blueprint. That they have not done so underscores an old axiom of diplomacy. Nations evolve their foreign policy primarily in response to internal stresses and needs, not to suit the desires of other nations. In the case of the Soviet Union, the compulsions behind its policy in Africa are singularly exacting, and have very little, in fact, to do with Africa. That much, at least, was clear at discussions recently held at the Nigerian Institute of International Affairs between Soviet and Nigerian academicians.

In so far as Africa is concerned, there are, it appears, two basic compulsions in Soviet foreign policy. The first is that the Russians do have a pathological fear of war. You can hardly blame them. They lost 20 million of their citizens in the two world wars, most of them young men and women. In the Second War, major Russian cities were devastated, so that the Soviet Union was obliged to begin from scratch to rebuild, whereas the U.S. for instance, gained from the war at least in terms of the boost it gave its economy.

The cardinal principle of Soviet foreign policy is, then, to prevent war, or at least to prevent it from reaching Soviet territory. Thus the Soviet Union is virtually a massive war machine, the reasoning being that protection lies only in being militarily strong. In economic terms, that has meant a topsided development, more money being constantly devoted to arms than to social development in Russia.

From this perspective the specific ideological choice which the Soviet Union has made becomes, ironically, the very thing that increases its fear of possible aggression, and therefore compels it to continue to spend more and more on defence. Defending the Soviet way of life thus becomes not just a matter of ideology, but in fact of survival.

The Russians apparently gave up the classic Marxist vision of world revolution a long time ago. Their interest in the rise and survival of Marxist governments in Africa has very little to do with the assumption that the Soviet way of life is exportable and ought to be exported. The reasoning seems rather to be that Marxist governments are more likely to be friendly than non-Marxist ones, and that it is therefore in the interest of Soviet defence to encourage their formations in Africa as elsewhere. Almost invariably, that has meant massive Soviet military aid to those African governments that seemed interested in socialism, because the Russians quite logically believe that defending them means defending the Soviet Union.

The trouble, of course, has been that African governments, even the Marxist ones, are naturally far more interested in defending themselves than the Soviet Union. Once the Russians have helped them come to power, they usually discover that the Rhetorics of socialist solidarity have to be matched by their ability to provide for their citizens the basic necessities of life. They know that unless they provide these things, the anger of their own citizens will be a far greater threat than the fear of external aggression. Some of them, would certainly prefer to remain socialist if only the Russians could help them with the money to finance their ideological choice.

But economic aid has never been a major principle of Soviet policy in Africa partly because the Russian do not really have that much money to give out, and partly because, in keeping with their own defence needs, they prefer to give money only to those whose socialism is closely linked to the Soviet prototype.

And herein lies the crux of the Soviet dilemma in Africa. It is much safer, in the short term, to give military aid, because the recipient's very life depends on it. He is more likely to be entirely beholden to the giver, who in any case can withhold further shipments at will. Economic aid tends to be more open-ended, though obviously more useful in the long term. It is true that a proper utilization of economic aid is bound to engender greater independence on the part of the receiver, and therefore could in time remove him from the pale of influence of the giver. And since the Russians are far more interested in winning support, in the short term, for their defense posture, they tend to prefer the kind of aid that would bind the receiver to them in this way.

The reality of Africa is such, however, that such calculations tend to fall flat on their face sooner rather than later. The compulsions of development are totally different from the requirements of a philosophy based on defending what you already have. Most African states do not have much that is worth "defending." Governments may carry their peoples along with them for a while by persuading them that the external, or even internal enemy is plotting against the state. But soon enough the people are bound to begin to demand more food, more hospitals and better roads and homes, and at that point it is not enough to tell them that your benefactor is only interested in offering military aid. Nobody eats bullets, even if, sometimes, bullets seem so desirable to have.

In effect, then, the situation in Africa at the present time is such that the Soviet Union is losing out to the Americans, not so much because African countries detest socialism (though their approach to it may sometimes seem so heretical), as because the Soviet Union is unwilling to, or incapable of providing more economic than military aid. Sudan and Egypt are already sold on the Western way of life. Somalias problem was a little different, but it boiled down to the same issue of incompatibility of purposes. Ethiopia is still basking in the first phrase of military brotherhood, and may yet ask the Russians and Cubans to leave. Mozambique and Angola are already flirting with the West that's what "non-alignment" usually means. Guinea has decided to mend its fences with France. And Zimbabwe and Namibia are unlikely to go a different course.

It is a truly ironic situation, for what it means is that all the Americans have to do is fold their hands and wait for the honeymoon to end before stepping in for the picking. The Americans are of course, well aware of this, and their protests against Russian incursions into Africa are designed precisely to accelerate the process of disaffection and disillusionment.

In a quite profound sense, what it does mean is that African nations often against their own inclination are being denied all meaningful options in terms of the economic arrangements they have to make for themselves. But it also, means that we need not get too starry-eyed about the possible gains to be had from the Russians, at least in terms of our concern for economic development. They would have to modify their policies first.●

THE CONSTITUTION AND THE BUDGET

● Mr. MUSKIE. Mr. President, JOHN CULVER spoke recently to the Second State Democratic Conference in his home town of Cedar Rapids, Iowa. The topic was an important one—whether we should amend our Constitution to require a balanced budget. JOHN's answer was that we should not.

In a forceful analysis, he said in part:

> Simplistic approaches, such as a constitutional convention or a constitutional amendment, are overly rigid and dangerous remedies that on the one hand would trivialize the Constitution and deny Government the flexibility it needs to react quickly to changing conditions, and on the other hand create enormous uncertainties about the very structure of our Government and its ability to function.

JOHN went on to relate this question to the role of the Democratic Party in providing the leadership and the ideas to respond to the hopes and aspirations of all Americans. I believe each of us, Democrats and Republicans alike, ought to reflect on this distinction between leadership and reaction.

I commend JOHN CULVER's thoughts to our colleagues, and ask that the text of his remarks be included in the RECORD.

The remarks follow:

Fellow Democrats: I am extremely proud and encouraged by the turnout for this important meeting. It reflects great credit on all of you who were willing to venture out in the winter weather and to devote a day of your time to substantive discussion. It also reflects credit on our state committee. I might add that in Ed Campbell, Jerry Fitzgerald, Jean Haugland John Law and their co-workers, we have one of the best teams we have ever had to carry out the state committee's policies.

It is especially meaningful to me that this meeting is here in Cedar Rapids. My roots—both political and personal—are here. It is where both Ann and I spent our childhoods. This is where I began to work with you in the Iowa Democratic party and where we began together to share the successes that are worth recalling this morning.

I remember that before 1964 we had only two democrats in the Linn county courthouse. That year we elected six democrats to the courthouse and seven to the statehouse and I became the second district congressman. Mike Oxley and I were pictured together on his farm in my first campaign brochure.

I remember Pat Kane becoming county recorder in 1966 and Jim Hennessey's election to county treasurer in 1970—posts those men fill ably to this day.

I remember our beginning here with a young professor named Dick Clark voter identification and registration efforts that put the Democratic Party across the political map of Iowa.

I remember calling him here in Cedar Rapids in 1971 when we all helped Cloyd Robinson win the special election to the State Senate.

I remember Democrats filling every courthouse seat in this county in 1972—and we still hold them to this day.

I remember how grateful I felt for your support and indispensable assistance in my five consecutive elections to the House of Representatives and especially a November night in 1974 when I learned in my mother's house in Cedar Rapids that I had been elected to the United States Senate.

The increased confidence and trust reflected in the growth of the Democratic Party is a tribute to the public's respect for the quality of representation which we have provided. At a time when public frustration, fear and disillusionment are rampant there is a special responsibility at this moment to exhibit those strengths of character which have been responsible in substantial part for our political success the past 15 years.

One week ago today I spoke in Des Moines to the first of these three conferences on the future of the Democratic Party in Iowa. This is a subject in which all of us here today have a deep and shared common interest.

On that occasion I spoke out strongly against the proposal for a constitutional amendment or a constitutional convention to achieve a balanced budget.

I also spoke out strongly against those legislators who voted for this proposition not on the basis of sincere convictions but because they felt it would aid them in their reelection.

I mentioned no individuals but went on to say that in my judgment such representation has no place in public life and public officials who tarnish the public trust in this manner should be removed from public office.

Newspaper stories reporting on this speech, while basically accurate in their story text of my remarks, featured headlines which read "Culver Calls for Purge of Democratic Legislators Who Voted for Constitutional Convention" and in another account said I "Ridiculed Area Legislators" who were then listed by name.

In subsequent stories it was also suggested that I was advocating defeat of party office holders on this single issue.

First, I wish to say that my observation as to the standard of integrity that should be applied to determine fitness to serve knows no partisan parameters but is applicable to Republican as well as Democratic public servants As a Democrat, however, I naturally would feel most uncomfortable if I were to encounter behavior short of this standard in our own party.

Moreover, I was not speaking of a single-issue which should be grounds for electoral rejection but rather of a standard of integrity which if violated should constitute reproach and ultimately repudiation. I am talking in this context not of issues and causes but of integrity and character.

I am not interested in a litmus test of ideological purity for our party. While I consider myself a party loyalist it is in no small part becaust of the historical tolerance of diversity within our party. Further, I will forever defend the right of dissent to a party position whenever that course is taken out of conscience and sincere conviction. This is not unfamiliar terrain for John Culver. I have been there before myself and I have every expectation to find myself there again.

This, however, is not inconsistent with the standard of integrity which I have described but rather an exercise of it because that standard represents a higher duty than mere partisan fidelity.

I recall a conversation I once had with Senator Russell Long who told me that one time early in his Senate career he was troubled by a very important vote he was soon to cast where the popular wishes of his constituents at that moment were vigorously opposed to a position which he knew in his own mind was very much in the national interest. He said that he consulted Senator Richard Russell for whom he had a great deal of respect and told him he thought he was going to vote with his people because otherwise it would hurt him in the next election. He said Senator Russell gave him some advice which led him to change his mind and later try to always follow—"Russell, once in a great while a man has to do the right thing around here, if it is in the national interest, even if it might cost him a few votes."

There should, of course, be tolerance for different views in public life but in my judgment there should not be tolerance for those who would sacrifice what they know to be right involving a fundamental matter affecting the constitution or the security of the nation in order to remain in office.

An acceptable definition of public service cannot be limited to the self-interest of reelection. Such conduct does not demonstrate respect for public opinion but contempt of it. Adlai Stevenson reminded us to never be reluctant to talk sense to the American people for as Harry Truman said, "The average American is a lot smarter than the average."

If an officeholder consistently votes against the wishes of a majority of his constituency he or she will not or indeed should not be returned to office. But those of us who are privileged to posses the public trust for however brief a period are properly expected to do more than simply mirror the monetary mood of public opinion on the great issues of our time. If our democratically elected officials are not willing to lead and take risks I really do not see why they are there or indeed that it makes any real difference who is.

Edmund Burke once said that, "a Representative should not pick up or lay down a great political system for the convenience of the hour . . . he is in parliament to support his opinion of the public good, and does not form his opinion in order to get into parliament, or to continue in it."

Last Monday I had a meeting with a number of legislators, some from here in our country about the misunderstandings that had arisen over the interpretation of my remarks at the Saturday convention. We had what I felt to be a frank and cordial exchange of views on this issue of a balanced budget and the subject of a constitutional amendment and a constitution convention. I had a valuable opportunity to learn of the depth of conviction and sincerity of concern with which this issue was viewed by many of those present, and I trust there were some who perhaps also profited from the feelings which I possess on this subject.

Since that time in Des Moines I have traveled throughout the State—and spent much of my time discussing the importance of this issue with the people of Iowa.

I have talked with people about this in: Ames, Nevada, Webster City, Fort Dodge, Sioux City, Cherokee, Storm Lake, Spencer, Council Bluffs, Harlan, Atlantic, Marshalltown, Mount Vernon, Iowa City, Davenport, Muscatine, Keokuk, Fort Madison and I am here today.

This moving dialogue has fortified me once again in my lifelong conviction that the real test of a politicians' faith in and respect for the people is the willingness to have an honest exchange of views with them. Confident that the resulting judgment will be in the best interest of our country.

I believe that today the most serious domestic issue that our nation faces is inflation. Its economic consequences ravage those who are most vulnerable. Its psychological consequences lead to fear and tend to bring out the worst instincts rather than the best in each of us as well as our society.

How then do we deal with it? It's best as in most things to try to understand it. Its causes are not solely or even largely attributable to the size of government or even the size of the deficit. A major cause is that in 1973 a barrel of oil cost $2 and now it costs $14 and this has resulted in a bomb-like explosion which has reverberated pervasively throughout our economy—impacting on virtually everything we make, buy or use. In addition, the wage/price spiral, consumer credit, protectionist trade policies, monopolistic price-fixing to name but a few—all play a role.

Thus to attack this complex issue successfully will require a careful medley of fiscal, monetary and governmental policies.

The size of the Federal budget is also a factor. When President Carter campaigned for the Presidency in 1976 the budget deficit from the Nixon-Ford administration was $66 billion dollars. Last year working with the Congress he reduced it to $40 billion and next year he proposes that it be under $30 billion, a reduction of more than one-half in just over two years.

I believe that the goal of a balanced budget is desirable and within our reach if we proceed responsibly. We are moving with the appropriate legislative and executive actions to accomplish this objective consistent with avoiding throwing our economy into a recessionary tailspin.

The President in making up his budget has estimated that our $2.2 trillion economy will move in the next fiscal year beginning October 1, 1979 at a rate of 2.2 percent growth, 6.2 percent unemployment and at a 7.4 percent rate of inflation. To hold unemployment at the 6.2 percent level which in and of itself means suffering for millions of Americans—it is necessary to maintain the 2.2 percent growth in the economy. If we were to attempt to balance the budget precipitously then, of course, unemployment would soar. It is important to note that for each 1 percent in unemployment it is estimated that it will cause a loss to the treasury of $20 billion in the loss of taxes paid in and income supplements paid out in unemployment compensation, welfare, and job-retraining—thus creating an even greater deficit and human tragedy.

Simplistic approaches, such as a constitutional convention or a constitutional amendment, are overly rigid and dangerous remedies that on the one hand would trivialize the constitution and deny the Government the flexibility it needs to react quickly to changing conditions, and on the other hand create enormous uncertainties about the very structure of our Government and its ability to function.

Some States show a surplus at the present time simply because of a difference in accounting procedures from the procedures followed by the Federal Government, and because of enormous amounts of aid they are receiving from the Federal Government.

If the Federal Government were to adopt similar bookkeeping procedures, it would be in balance, too, but the balance would not be an accurate record of the true situation. Similarly, if we were to withdraw even half of the nearly $80 billion the Federal Government is now giving to the States, the Federal Government would be in balance overnight—but the economy would also be thrown into a tailspin, and the States would either face huge deficits themselves or have to raise their own taxes to make up the shortfall.

Our party has an obligation to deal honestly with this significant issue and chart a responsible course of action for the Nation.

Despite the warnings of the experts and the very real shifts we see in the electorate that change or diminish some of the traditional functions of the parties, I am strongly convinced that the party system has not outlived its usefulness.

Parties make it possible to have organized and coherent politics and thus an accountable democracy. They are also the most powerful political institution working for all those people who lack specialized political organization of their own, and serve as the critical link between them and the policymaking process.

Emerson once said that mankind was divided between the party of conservatism and the party of innovation, between the past and the future, between memory and hope. There can be no doubt where the Democratic Party has stood in this great division.

We in the Democratic Party have a great foundation on which to build for the future. The party has served us and the country well. It deserves the loyalty of all elements of the coalitions that have made it great.

We have some rebuilding to do in our party to adjust to these changing times. And I think we should face the fact that we are not going to rebuild the party and its intended image with mechanical reorganization alone.

We must, of course, continue to honor our traditional commitment to help people of greatest need. We must also be innovative and tailor our party's issues and programs to the present realities of a constituency that has gone through profound changes since the days of the New Deal. A big percentage of the "have nots" of those days have become the "haves" of today. We must shape our programs to the working man who has seen his wages doubled, only to see that inflation and taxes have cruelly eroded his take-home pay. A sensitive and fair anti-inflation program can be a strong social program. A liberal has a more legitimate concern than most toward the elimination of waste and mismanagement in programs because those of us who care the most about a positive and humane role of Government have the most at stake in making these programs work.

Only 16 percent of Iowa's younger voters voted in the last election. This can only change if they see in the programs of our party something more attractive and inspiring than a choice between tweedle dum and tweedle dee. For a farmer, home-owner, small business operator, factory worker or new voter, it is not enough to offer the warmed-over programs of earlier times when economic circumstances, demographics, and often human expectations were far different from what they are today. We must have the will to eliminate what doesn't work—strengthen what does, and, above all, be imaginative in the design of particular programs and policies which are responsive to the needs of America today.

What is needed more than anything else is a spiritual reawakening, a reaffirmation of our sense of purpose and commitment to public service.

Then comes the tough, inescapable job of organization at all levels.

Are we, as a party, putting too much faith in the modern gimmicks of television commercials, polls and the formulae of professional political consultants? These are useful, perhaps indispensable, to a campaign these days. But without thorough, old-fashioned organizational work of the person-to-person, neighborhood variety, the victory bonfires will never be lighted.

In his speech accepting the Democratic nomination in 1960, John F. Kennedy posed the central question that faces us today:

"Can a nation organized such as our endure? That is the real question. Have we the nerve and the will? Can we carry through in an age where we will witness not only new breakthroughs in weapons of destruction—but also a race for the mastery of the sky and the rain, the ocean and the tides, the far side of space and the inside of men's minds . . .?"

Do we possess a genuine confidence in the people working in turn of their continued public trust.

Do we in the Democratic Party have the nerve and the will to forge a new public philosophy that will nourish the spiritual hunger of our times and keep faith with our Democratic heritage?

If we didn't believe this, we wouldn't be here today.

Thank you—have a successful conference. What you accomplish here today may very well affect how others live not only in our State but throughout the world—not just today but for tomorrow.●

NOTICE OF EXTENSIONS OF TIME FOR FILING FINANCIAL DISCLOSURE STATEMENT

● Mr. STEVENSON. Mr. President, the Ethics in Government Act of 1978 (Public Law 95–521) requires that after January 1, 1979 new employees of the Senate and certain legislative agencies (see below) who are compensated at or above the GS–16 level file a public financial disclosure statement within 30 days of beginning employment.

These individuals are those who begin service as employees of the Senate, the General Accounting Office, the Cost Accounting Standards Board, the Office of Technology Assessment, and the Office of Attending Physician, and who are compensated at a rate equal to or in excess of the GS–16 rate (presently $44,756).

The Select Committee has developed forms and instructions for annual public disclosure but has not yet issued forms and instructions for the initial filing by the new employees described above.

Therefore, pursuant to the authority of the committee under section 101(f) of the act to grant reasonable extensions of time for filing any report, no financial disclosure report from a new employee described above will be due until 30 days after the forms and instructions are available. The new employees will be notified by the committee at that time.●

INFLATION

● Mr. DURKIN. Mr. President, inflation is our No. 1 domestic problem, and controlling it must be our No. 1 domestic priority.

A thought-provoking and interesting article on causes of inflation recently appeared in the Washington Star, written by Gar Alperovitz and Jeff Faux, entitled "Of Football, Inflation, and Coaches."

Their article is critical of present administration-propounded theories as to the solutions which should be employed to combat inflation. It raises some timely questions, and I commend it to my colleagues. I ask that the article be printed in the RECORD.

The article follows:

OF FOOTBALL, INFLATION AND COACHES

(By Gar Alperovitz and Jeff Faux)

Football's popularity has made it a favorite metaphor for politicians seeking to impress their programs on the popular imagination. Now that the season is behind us, it may be worth examining the latest use of the game in the interest of public policy.

In announcing his new anti-inflation program on October 24, 1978, President Carter stated that inflation "is like a crowd standing at a football stadium. No one can see any better than when everyone is sitting down—but no one is willing to be the first to sit down . . ."

He then went on to propose his game plan of cutting federal spending, raising interest rates, and guiding wages and prices. The hope is the latter will "sit down" together.

There is some obvious truth to the football stadium image. If everyone were to take a cut in wages and prices, then self-evidently wages and prices would decline. But the analogy and the policy it is used to justify break down when we consider the nature of today's inflation.

To begin with, inflation is not evenly spread. Some of the people in the inflationary football stadium are in effect sitting in their chairs while some are standing on their neighbor's shoulders.

The driving force behind current inflation is not simply a psychological problem of business, labor and consumers but rather specific conditions in four key economic sectors: food, housing, energy and medical care. The annualized rate of price increases in these sectors in the first 11 months of 1978 was 11 percent. All other consumer prices rose at 6.2 percent—a level already within the administration's guidelines.

The necessity sectors are where inflation is hurting most. We can postpone buying a car or color TV but we can't stop buying food or paying the rent. Since high necessity prices hurt poor and moderate income people proportionally much more, in practice half the stadium has a tough time even getting to a full standing position.

The basic factors pushing up prices in the four areas, moreover, do not derive from either general excess demand in the economy or a simple wage-push phenomenon—the twin assumptions of current policy.

High food prices, for example, can be traced to the beef cycle, the structure of the price support system, previous international grain deals, and concentration in the food processing industry. Energy inflation is caused by arbitrary actions of the world oil cartel and administration policy. Housing prices are rising primarily because of interest rates, sky-rocketing land costs, and hedge speculation. Medical care inflation derives substantially from the wasteful fee-for-service and third-party insurance systems.

Until recently the administration seemed to agree that the main sources of the basic problems lay in the specific problems of specific sectors. Here, for instance, is the assessment of the Council of Economic Advisers' 1978 Annual Report: "The dominant influence was the (early 1970s) rise in fuel and food prices. Its force was not limited to direct effects. The pass-through of cost increases into other prices broadened the inflation, and the rise in consumer prices led to efforts by wage earners to recover lost real incomes."

Given such underlying causes, it is difficult, moreover, to see how budget cutting—short of inducing a major recession—can help much. Nor (despite much public discussion to the contrary) do most government economists believe inflation derives from too much spending. As the President's top economic adviser, Charles Schultze, stated during even more favorable conditions last summer: "We do not have an inflation problem that stems from excess demands placed on the economy by government deficits. . . . The evidence is quite to the contrary."

The answer to high prices originating in the specific sectors lies in mounting specific, direct attacks on the inflationary factors in each basic necessity area. Yet with the exception of hospital cost containment proposals, as energy policy illustrates, the present antiinflationary strategy so far substantially excludes virtually all of the major underlying factors. Moreover, the policy of raising interest rates adds to costs (mortgages, inventory financing, consumer financing) at the same time that it reduces the supply of housing.

Given these weaknesses, the government's overall plan in practice does not ask everyone at the stadium to sit down at once, but forces wage earners to sit down first. Workers have not kept even with inflation; real spendable weekly earnings dropped 3.3 per cent in the first 11 months of 1978. In energy, housing and hospital care, labor as a percentage of total cost has actually been declining in recent years. To ask workers to limit their income without controlling the driving forces behind 70 per cent of the consumer budget of four out of five families seems a little utopian. Even the most cooperative union leaders have difficulty explaining to their members—or their spouses—why they should sit down when those who are profiting from the high cost of living are not required to do so.

Not only is this policy unlikely to succeed, it will surely incur considerable anger if unemployment grows as underlying sources of necessity inflation continue unchecked. The president's new inflation adviser, Alfred Kahn, seems to be aware of many of these difficulties, but as yet no major changes in administration strategy have been announced.

Unless quiet new policies are adopted, another football analogy may therefore become popular: when your team continues to lose, the fans often demand another coach.●

DEAF TO HOPE

● **Mr. HATCH.** Mr. President, a recent editorial in the Wall Street Journal entitled "Deaf to Hope" has finally addressed one of the most bothersome arguments advanced by administration economic policymakers. I have never understood why real growth of the economy contributes to inflation. Yet administration economists tell us that Americans will have to become accustomed to a lower rate of economic growth to cool off inflationary fires.

Ironically, over the past 10 or 15 years, the Government has not done a very good job at either controlling inflation or promoting real economic growth with this trade-off approach. Because of the stagflation our economy has suffered over the past several years, the average spendable weekly earnings of American workers have shown no real increase since 1965.

Indeed, inflation is a major cause of our faltering economic growth. As inflation pushes individuals into higher tax brackets, causing them to pay more taxes on the same real income, and as inflation increases business' real tax liabilities by understating depreciation allowances, it destroys incentives to work, save, produce, and invest. The consequence of this destruction of incentive is lower real economic growth.

Some economists recognize that real economic growth and a reduction of inflation are not inconsistent. These are the supply-side economists who designed the Roth/Kemp tax reduction bill to offset the disincentive effects that inflation and a progressive tax structure have had on our economy.

There is one sector of the economy where lower real growth would contribute to a lessening of inflation. That is the Government sector. If the rate of growth in Government were slowed down to a rate less than the growth of the economy, we might have a chance to attack the real cause of inflation—excessive money growth. If Federal spending and taxes, instead of increasing faster than the economy as they have for the past several years, were to grow slower than the economy, Government's deficits would be reduced and there would be less pressure on the Federal Reserve to expand the money supply. Less money would mean less inflation. The American people understand this.

I am glad that the Wall Street Journal has told the American people that there are economists and Members of Congress who recognize that they do not have to be deprived of real economic growth to control inflation. I commend this editorial to my colleagues and encourage them to join the side of hope. I ask that the editorial be printed in the RECORD following my remarks.

The editorial follows:

[From the Wall Street Journal, Feb. 27, 1979]

DEAF TO HOPE

It often happens that nations turn a deaf ear to hopeful voices at a time when their counsel is most needed. That is what we are witnessing now on the economic policy front. Counseled by tired and worn-out Keynesian doctrine, the nation seems to be settling down with the bleak prospects of trading off economic growth for lower inflation. Federal Reserve Chairman G. William Miller, for example, warned last week that the nation will have to become accustomed to a reduced level of economic growth. "We will have to settle for slower growth," he said, "dampening down the tendency for Americans to somewhat worship the cult of growth."

We seriously doubt that the inflation we are experiencing has been caused by too much economic growth. And with real economic growth as low as it already is, we don't know where Mr. Miller is going to get any to trade for less inflation. Unlike foreign exchange, it is not a commodity that can be borrowed from other nations.

The problem, we believe, is that the conventional wisdom confuses the growth in aggregate demand with the growth of the economy. Restraining inflation does require a slower growth in demand, but the economy could actually grow faster as a consequence. There is, after all, a supply side to the economy, and aggregate demand is not the only factor to which supply responds. Supply is also influenced by production incentives and expectations about the future. Both have been adversely affected by the excessive demand stimulation that the economy has experienced for over a decade.

The Keynesians who have had their hands on the policy reins rely on strong demand fed by budget deficits to spur investment and supply, but it has not worked out that way. The government's deficits have caused uncertainty about the future and shortened the time horizon of investors, with the result that productivity-increasing investment has lagged. At the same time the inflation fueled by the deficits has brought higher tax rates and eroded production incentives. The spur to investment of strong demand has been offset by greater uncertainty and smaller rewards. The problem, then, is not that too much economic growth has caused inflation, but that demand has been stimulated while supply has been stunted.

The solution is to stimulate demand less and supply more. Mr. Miller can do an important part—hold down the growth of money—but he can't do it all. The Congress must not give him any large deficits to monetize, and tax rate reductions paid for by slowing the growth in spending would restore production incentives. As monetary and fiscal restraint squeezed out inflation expectations, the interest rate would fall. And if tax rates were reduced, the added boost of incentives would send the economy on its way. This is a scenario of high growth, low inflation and a strong dollar.

The economists who offer hope today are found in the "rational expectations" and "supply-side fiscalist" schools. They say that if the economy is on a "Phillips curve" where it is forced to trade off unemployment and inflation, bad policy put it there, and good policy can get it off. Stagflation, they say, is entirely the result of neglecting the supply side of the economy and not, as some leading gurus of the old order are saying, "a disease deep in the body politic of the mixed economy."

Sooner or later the economists who offer hope will get the nation's ear. For the people's sake, we hope it is sooner rather than later.●

A MEMORIAM TO NELSON A. ROCKEFELLER

● Mr. JAVITS. Mr. President, shortly after the passing of my friend and colleague, former Governor of New York and Vice President Nelson A Rockefeller, the news media published and broadcast numerous epitaphs to Mr. Rockefeller. Many of these were excellent portrayals of the life and work of Nelson Rockefeller, one in particular I would like to share with my colleagues.

The report was carried on New York City radio station WINS, written and narrated by Doug Edelson, a reporter who knew Nelson Rockefeller for most of his career in public service in New York.

Mr. President, a transcript of that special radio program follows. I would like to offer it for printing in the RECORD this day.

The transcript follows:

A MEMORIAM TO NELSON ROCKEFELLER

(By Doug Edelson, WINS News, N.Y.)

I'm Doug Edelson. The program; a remembrance of Nelson Rockefeller.

Nelson Aldrich Rockefeller died never fulfilling his life long dream, to be the President of the United States. This was the one thing he wanted more than anything in the world, but it was to become the most elusive single thing in his life. Three times during his career he sought the Republican Party's nomination, and three times his party gave it to someone else. Asked some years ago when he decided he wanted to be President, Mr. Rockefeller smiled and said, "All my life." Yet despite the fact that he never achieved his highest ambition he continued to serve. This he often said was what it was all about, and for Nelson Rockefeller that really was the entire story.

He spent much of his life wanting to be accepted for what he was as a person, and not for his family's wealth and position as a member of one of the world's wealthiest families.

Nelson Rockefeller had a feel for people. All people. The middle class, minorities and the underprivileged. I once asked him how he knew what it was like; not to be able to pay a light bill, or a phone bill, or the rent. He looked at me and answered simply, "I just know. I feel what it's like." And that really is what Nelson Rockefeller was all about. He felt what it was like and he made the decision early in life to exercise the family's vast economic power and wealth, not as a selfish personal tool, but as a trust for those not as fortunate.

He worked hard at anything he did, nothing was done half way. Thoroughness was one of the many demands he made, not only on himself, but those around him. Sloppiness simply was not tolerated.

Nelson Rockefeller's death came as a shock. His energy, vitality, and outlook on life, belied the fact that anything could ever happen to him. He seemed invulnerable. Some people you feel emotionally, if not intellectually, will always be around. And such was the case with Nelson Rockefeller.

Dying simply was not part of his plan. There was too much for him to do, to be bothered by such mundane things as death. Yet, death did come as it does to every mortal, and with it comes the emptiness and the feeling of loss. For him not to be among us is a loss, a tremendous loss. His mere presence on this earth, like him or not, made it at least a little better place to live in. That's what he wanted. He wanted it to be a better place; and if you were to look at his career with a fair and unjaundiced eye, this really was his life work. He loved people, all people, and was just as much at home in the corporate board rooms of Wall Street as he was talking to a coal miner in West Virginia. All of the Rockefeller children were taught early in life that the Rockefeller fortune was a trust and a responsibility and that it was to be used in the widest possible manner to benefit humanity. But, setting money aside, young Nelson knew from his earliest days that he would be criticized for his money and position; yet he also learned how to ignore it rather than let it interfere with his status as an understanding human being.

Nelson Rockefeller's philosophy of life, of politics, of people, and of the world and it's betterment, is a heritage. But, as with every heritage, sometimes we forget. We forget the deeds of man when he becomes dust and go our merry way without concern for those who preceded, and the good they left behind. And so it will be with Nelson Rockefeller. It will take time and space and a sense of history, before we will really understand what he gave us.

In all the years I knew Mr. Rockefeller, I never knew him to shirk his obligations or principles. Adversity only added to the intensity of finding answers. He could grasp the most complex of situations in minutes. He had a uncanny memory for details. He never hesitated in making decisions. Many of the decisions were difficult, but he knew they had to be made, and he made them. He, like the man who asked him to switch his party allegiance, Harry Truman, was not a buck passer. Perhaps one of the more succinct tributes paid to Mr. Rockefeller came, following his death, from his brother Laurence, who said, "Nelson dramatically demonstrated this fantastic ability to be both statesman and artist. To endlessly bring order out of chaos, whether it be within the family, the state, the nation, or the world itself."

Laurence said he had taken solace in the last lines of the prayer of St. Francis which said, "It is in dying that we are born to eternal life."

Nelson Rockefeller has been born to eternal life indeed. He passed through, affected our lives and moved on to his reward. In many ways we will never be the same.

To fully understand what Nelson Rockefeller stood for, what he wanted out of life and what he wanted for others, is simple. He expressed himself without hesitation and spoke with sincerity about the things he believed in. For instance I once asked him, "Why run for public office? Why serve? Why in fact do anything? After all, I said, you don't have to."

"Well, Doug, that's a good question. Let me say there are two very simple answers. One: I really love this country, and I think it is the greatest system in the world. I believe in it. I think if you believe in something, and you feel that it is good, you want to be a part of it, and you want to make it better.

I like people very much, and being in public life gives an opportunity to meet the most interesting people, all across the board, in every walk of life. I enjoy that.

Finally, I frankly enjoy solving problems. Some people like to play bridge, some people like to play bridge, some people like other occupations, I happen to like solving problems. I enjoy the analytical side of it. Trying to understand the forces and the factors that are there, and then to develop an imaginative approach, a new approach, to get the legislation drawn, to work with the legislators in getting it passed, and then to set up the administrative procedures to carry it out. This to me is exciting. Therefore, I enjoy the whole process."

And enjoy the whole process he did. He had a zest for challenge and the process, either accepting it or changing it. Well I asked him, "Are there really any easy answers for the problems we face."

"Yes, I think there are. And that is to speak with integrity, and honesty, and if you don't know, say you don't know. And if you have a limited suggestion, make it on a limited basis; if you have full knowledge, express yourself on the basis of the full knowledge. Just follow your conscience, and try and be constructive rather than negative."

When it came to giving advice it was an entirely different story. I asked him on another occasion if he believed it was easier to give advice than it was to take it.

"You're darn right it is. And that's why I'm so very very hesitant to give advice. I've been in government, now, for a great many years, and I was in Washington under three administrations, President Roosevelt, for five years, President Truman, and then with President Eisenhower. It's not easy to solve problems and to be constructive and to get things done. There are an awful lot of people who feel that because they are elected to local office that they should be an authority on all national questions. Frankly, having been in the Federal government, in various areas, and knowing how complicated these situations are, I am therefore very hesitant, having been elected as Governor, to express myself every time anyone sneezes in Washington, about what they should do, or what drug they should take, or what course they should pursue."

Nelson Rockefeller's philosophy was in reality very simple. Give of yourself all you can. Help but don't hurt, and don't talk about things of which you know nothing. It was for this reason he was sought out on so many occasions to consult on a myriad of problems. What he had to say came from the head and from the heart, and several United States Presidents, of both parties, knew this and called on him to exercise his unique talents.

Elected as Governor of New York State for four terms, Nelson Rockefeller always started as the underdog and worked his way up. This is the way he liked it. To start at the top, he always said, let too much room to slide down. Unfortunately his success in New York State was never to be a possibility on the national scene.

When he ran for the Republican nomination for President, on three occasions, he made one mistake that he always joked about. He was too busy campaigning with the people that he forgot about the Party delegates. And it is the delegates that are really important when it comes to being nominated for President. Few people doubt that he would have beaten most of opposition he would have run against for the Presidency. He was a popular vote getter, but his party never afforded him the opportunity. Somehow, whenever the nomination seemed within his grasp, it slipped away. The answer as to why this happened is still a political mystery.

Throughout it all he cautioned the public about electing the right people to public office. Any public office.

"We are living in a period of tremendous change, and in a period of change there is uncertainty because people's patterns of life are being modified and that creates uncertainty, and with uncertainty there is fear. Now, in this kind of a period, it is tremendously important that there be people running responsible for the key positions in government, who have the capacity to understand change and then have the kind of creative, imaginative ability to come up with solutions to these emerging problems, and to change the structure of government to keep in step with the new needs. Then who have the capacity to actually carry out administratively, to pick good people."

The qualifications for public office, Mr. Rockefeller told me in 1965, should be a combination of experience, in both business and government. He used himself as the example.

"I had spent eleven years in Washington in various jobs; Coordinator of Inner American Affairs, Assistant Secretary of State, Under Secretary of Health, Education and Welfare, Special Assistant to the President in International Affairs, and Chairman of the President's Advisory Committee on Government Organization, so I had spent a lot of time with government, and I had also been Chairman of the Constitutional Convention Commission for the State. I think some exposure to government, some knowledge of the political process, the democratic process, is a very valuable thing in addition to business experience."

To gain public office, he admitted, was an expensive proposition. "Times have changed," he said, "and any candidate running for any office, had to change with the times."

"I think the purpose of a democracy is to have the people, each one make an independent judgment, each voter, based on his appraisal of the individuals that are involved, their positions on the issues, their records and their programs for the future. In order to do this you can't go and stand on Main Street and reach the majority of the people. Nor can you go into the village green and speak from the bandstand and reach to many people."

And, Mr. Rockefeller had his own theory about campaigning, something he loved because it meant contact with the people.

"I like to go to the people. I like to talk to them on the street corner or in rallies or wherever it may be. In debates, on television, wherever you can get into contact with people and get their feelings and their ideas and their concerns and have an exchange. This to me is one of the great periods in our democratic process because it is then that the leaders and the people come into most intimate contact and out of that grows a lot of impressions and experiences which are tremendously important when the elections are over and the administration and the legislative and administrative period starts."

When Nelson Rockefeller campaigned, whether it was for the Presidency of the United States or Governor of New York, the effort was made in a grandiose manner. It was first class all the way for him and for everybody traveling with him. Traveling with the Governor meant having your own seat on his private jet, eating what he ate and sleeping where he slept. Telephones were always available, even while in the air. And when you arrived in a strange city for the night, your hotel key was waiting for you, and when you opened the door to your hotel room your luggage was already there. Those traveling with him, in particular members of the media, paid their own way. But few men on the stump offered the physical comfort of campaigning with Rockefeller.

In 1970 I talked with him about campaign spending.

"I've always tried to go to the people through the media, on the issues, substantively, and I will do so again this year. Now each year, each time, it's gotten more expensive because rates have gone up. Costs have gone up. This is an expensive business. This is a matter of concern to everybody. I'm sure that the candidates in the other parties are going to spend everything they can get together to do the job. I will do the best I can with the funds that can be arranged."

A tough task master, Nelson Rockefeller demanded and got complete loyalty from those who worked for him. In turn he offered the same kind of loyalty. Working for him in many ways meant life time security. This has been borne out many times with former Rockefeller staffers now holding key jobs within the Rockefeller organization itself, or in a major corporation, or in government. But there was a criteria. You had to know your business, and you had to work at it.

On the political side, Mr. Rockefeller was, by party tag, a Republican. This, however, could be, and has been, disputed by members of the G.O.P. who considered him too liberal, and felt that he belonged to the wrong political party. As we mentioned earlier, one of those who thought his politics too liberal for the Republican Party was Harry Truman. Nelson Rockefeller's political philosophy, however, constantly changed. And he could best be described as a middle-of-the-roader. Much depended on the issue as to what his position would be. His record as Governor of New York state proved this. Many of the social programs now in existence in the state can be attributed to him. Yet when he called for residency requirements for people seeking welfare, and enacted strict drug laws, he was called a conservative. Nelson Rockefeller was a strong, determined man, who rarely considered failure in anything he did. It just wasn't in his vocabulary.

And he believed what he couldn't do the first time around, he would do later. This philosophy extended into his quest for the Presidency. In many ways he never gave up despite failure. Why do it all? Why put such energy into public office—Serving the people—especially if, like Mr. Rockefeller, you don't have to.

"I guess one could get back some pretty simple things, and that is that really the greatest satisfaction in life is doing for others. The people who think they are going to find satisfaction in seeking selfish gratifications find, sooner or later, that really that is a very illusory goal. The real reward in life is to be able to do for others. To do constructive things that benefit others. I get great pleasure out of that, and satisfaction. I am very grateful to the people for the opportunity which they have given me, and the greatest opportunity of service which I could have ever hoped to have had."

He offered leadership, this really was the key to the whole thing. I asked him one time, "What is the key to good leadership as he saw it."

"Well I guess I would say, there are two facets here. One: is one's capacity to understand people, to be receptive to their thoughts, hopes, fears, and to relate them to the problems themselves, whether they are economic, or social, or political, or legislative, whatever it might be. That's one problem. This understanding and the ability to translate into action. Then the other problem is the ability to, when you have decided on what should be done, then to actually carry it out."

In February of 1968 Mr. Rockefeller called a news conference. His purpose; to take himself out of the race for the Republican Presidential Nomination.

"I'm not a candidate, that I'm not going to be a candidate, that if I was faced with the draft I'd have to face it at the convention."

Despite his statement he was asked if he would challenge Richard Nixon for the nomination if the opportunity presented itself.

"I have fought in the primaries once, I attempted to, didn't get very far, the second time I did go through primaries, and I frankly feel that in this period of tremendous tension and strain, which the American people feel at home in the problems we face at home, the problems we face internationally, that what we need is unity. We need unity towards a common objective. We need it within the party. We need it within the country. I do not want to contribute to disunity in the party. I would like to contribute to unity in the party."

Nevertheless, he went on to talk about alternatives.

"What the American people wanted was a viable alternative to the present administration's solutions to problems at home and abroad. The Republican Party provides that with a kind of dynamic leadership that should go with it, then I think that the Republican Party will be called into office."

It wasn't too many months later that Nelson Rockefeller did enter the Presidential primary. His campaign criss-crossed the United States. He attracted large crowds of people at every stop: in the cities, in the farm lands, in the suburbs, and in the industrial areas. But crowds don't win primary elections. The final analysis as he learned some years before; it's the delegates that select the candidate at the party convention. Mr. Rockefeller lost the nomination to Richard Nixon but he still never took his eye off the White House.

Many times during that campaign he was asked if he would accept the second spot on the ticket. Would he want to be Vice-President of the United States? He had a standard answer. "No sir," he would say, "I'm not standby equipment."

To him it was the top spot or nothing. After running in three primaries there was little question in anybody's mind that he try again the next time around. Perhaps for the last time, win or lose. Age was catching up with the ageless Mr. Rockefeller.

In December of 1973 he called a news conference in the State Capital. There were few present who didn't know what he was going to say. It had been coming for some time.

"I have decided not to seek a fifth term as Governor of New York. I will resign next Tuesday after fifteen years of service to the people of the state."

And he talked about his future:

"We live in critical times. I have great faith in our country and I am optimistic about the future. But we can't take that future for granted. Therefore after long and careful consideration, I have concluded that I can render a greater public service to the people of New York and the Nation, by devoting myself to the work of two bipartisan national commissions."

His resignation was seen, however, as a step toward once again seeking the Presidency and he was asked the question.

"My only regret is that my undertaking these tasks has been interpreted as a political maneuver to seek the Presidency. I'm not a candidate for nomination for the Presidency or for any other political office. Whether I will become a candidate in the future, I do not know. I should like to keep my options open. But under no circumstances would I consider such a move before the latter part of 1975, or while I'm chairman of these commissions."

As he said, he was leaving the door open, and there were few people who believed that he could just turn his back and walk away from politics. For a time he did, but then came Watergate, Richard Nixon resigned and Gerald Ford became President of the United States. He needed a Vice President and the spotlight fell on Nelson Rockefeller. After a tough investigation by the Senate and following hours of testimony and hearing into his vast wealth and power he was confirmed.

At a joint session of Congress, Nelson Rockefeller, his hand on the family Bible, took the oath of office from Chief Justice

Warren Burger for a job he never really wanted. He was not, as he said, standby equipment.

"Raise your right hand and repeat after me. I Nelson Aldrich Rockefeller."

"I Nelson Aldrich Rockefeller."

"Do solemnly swear."

"Do solemnly swear."

"That I will support and defend."

"That I will support and defend."

"The Constitution of the United States."

"The Constitution of the United States."

"Against all enemies, foreign and domestic."

"Against all enemies, foreign and domestic."

"That I will bear true faith and allegiance to the same."

"That I will bear true faith and allegiance to the same."

"That I take this obligation freely."

"That I take this obligation freely."

"Without any mental reservation or purpose of evasion."

"Without any mental reservation or purpose of evasion."

"And that I will well and faithfully discharge."

"And that I will well and faithfully discharge."

"The duties of the office."

"The duties of the office."

"On which I am about to enter."

"On which I am about to enter."

"So help me God."

"So help me God."

Nelson Rockefeller now stood a heart beat away from the job he had searched for so many years. An irony, yet a reality. He was called to service, the service of his country, and he was to offer his years of experience to help make things right.

"I'm not starting a new career. But I've had a great deal of experience. I would like to put that experience to the use of this country. If that opportunity should offer. I did not expect it would. It did. It came out of the blue. So I accepted. Therefore at my age and with my experience this affords me an opportunity to be where the action is."

This is what he wanted. He wanted to be where the action was, and to be a vital and important participant in the action. But he was more than aware of the difficulties ahead.

"The rule of law by which this great republic functions. This is a period in which our country faces tremendous difficulties. An unprecedented problem. Both at home and at abroad. Problems that affect every section of our country and every family in America. But there is nothing wrong with America that Americans can not right."

There were questions following his nomination by President Ford. Many feared he would outshine the President. He would be too strong, and would in effect be the tail wagging the dog. There were those who were suspicious of him. Again it was his power, his wealth, and no question about it, his politics.

True, he wasn't a liberal. He was in the 60's but the party still didn't trust him. He was too independent. And it was this independence that concerned them. Yet, in his acceptance speech Mr. Rockefeller really summed up where he stood.

"As I stand before you, I feel a great sense of humility. I feel a great sense of gratitude for the privilege of serving the country I love. I feel a deep sense of gratitude to President Ford, to the Congress of the United States, and to the people of America."

Yet, despite his commitment, Mr. Ford did not select him to run for a full term as Vice President, and he was dropped from the ticket. In January of 1977 he returned home. He was out of politics for good. He said so but there was still many skeptics. They couldn't believe that Nelson Rockefeller could leave the political scene behind him. He meant it, however, and after a short rest and some traveling he embarked on a new career. To him there were always new horizons, always new things for him to learn. During his lifetime Nelson Rockefeller assembled what was considered one of the world's greatest private collections of modern paintings and sculpture.

It was to this collection that he turned for what he liked to call, his new career.

While governor he filled the walls of the executive mansion with paintings from his collections. They were unpopular with all of his guests and visitors, many of whom were unschooled in the abstraction of modern art. Nevertheless, Mr. Rockefeller liked to be surrounded by the things he admired. And like it or not, they remained on the walls.

Late in 1978, the former vice president made public his new work. He was going to sell, by mail order, reproductions from his vast collection: Statuary, carvings, plates, paintings, and the things he personally admired. "I want to share them," he said, "with people who can't afford to collect the originals." He went into the business with all of his zest and determination. He enjoyed something new and despite the criticism he received regarding the reproductions, he moved ahead learning every facet of the new business including the manufacture and packaging of the objects of art. Even went so far as opening a store on 57th street in New York where the reproductions could be displayed and where the public could see them. He combined this with the work he was doing on a book of contemporary art. A project he was working on when death came.

A new challenge, a new horizon for Nelson Rockefeller. Whatever he tackled he did with great energy and great enthusiasm.

In 1962 Nelson Rockefeller divorced his first wife and married Margaretta Fittler Murphy. This new marriage produced two children, Nelson Jr., and Mark. Margaretta, known to her friends as Happy, once told me, "To be really a Rockefeller you have to be born one."

A charming, sweet woman, Happy is well read, but always found it difficult to understand the game of politics. This despite the lessons she received at the hands of the master. She doesn't like to travel. Flying frightens her, although she has become more accustomed to it, but she prefers to spend her time with her children.

Happy to me is one of the most compassionate people in the world. Much as Nelson Rockefeller had a feel for the plight of people, so too does she.

Some years ago, when I suffered a personal tragedy, hardly a day went by that I didn't hear from one or the other. And when Happy was unable to reach me, I received by a messenger a handwritten note offering me hope and encouragement. Neither had to do it, but they were true friends and they proved themselves as such by their acts of kindness.

To the press and public he was known simply as Rocky. To his friends he was Nelson. The others called him Governor.

The title Mr. Vice President never caught on and even his Washington staff referred to him as the Governor.

Nelson Rockefeller, as we pointed out, was a patron of the arts. Among other things, he was responsible for the construction of the New York State Theatre at Lincoln Center. Yet his favorite song—the one they played when he walked into a room, or the one he would request—was neither Beethoven or Bach or Chopin.

Nelson Rockefeller's favorite song was *Sweet Georgia Brown*. I never asked him why, but I assume it was connected with some event in his life, or, as is the case with most of us, simply the fact that he liked it.

The tributes to Nelson Rockefeller came from the great and the powerful, as well as the poor and the disenfranchised. They really all said the same thing. You didn't have to be partisan, and you didn't have to like everything he did. He was nevertheless a great man who touched our lives for the better and moved on.

On a very personal note, I consider Nelson Rockefeller one of the great men of contemporary history. It will be hard ever to ever find his equal. To me his compassion, his understanding people and his love of life were unparalleled.

We will wait a long time before a man of his great ability ever walks again on the face of this earth.

Nelson Aldrich Rockefeller is gone. He will be missed by all of us, but in particular by those of us whose lives he touched on a personal level. His brother Laurence was right when, in quoting from the prayer of St. Francis, he said, "It is in dying we are born to eternal life."

Nelson Rockefeller has been born to eternal life, but the deeds he performed while with us are equally as eternal.

This is Doug Edelson.●

ADDRESS BY SENATOR TALMADGE BEFORE A JOINT SESSION OF THE GEORGIA GENERAL ASSEMBLY

● Mr. NUNN. Mr. President, on Friday, March 2, 1979, my good friend and colleague HERMAN TALMADGE addressed the Georgia General Assembly and delivered one of the finest speeches I have had the opportunity to hear.

His forthright and erudite statements on such widely diverse issues as energy, trade, agriculture, foreign aid, and the Federal budget are worthy of review by every Member of this body. I ask that his remarks be printed in the RECORD.

The remarks follow:

ADDRESS OF SENATOR HERMAN E. TALMADGE

Governor Busbee, Lieutenant Governor Miller, Speaker Murphy, distinguished members of the General Assembly of Georgia, ladies and gentlemen:

First, let me thank Georgia's very distinguished and able Governor, for the generosity of warmth of his presentation. It is indeed pleasant to be praised by those who are themselves praised.

Governor Busbee took office as Chief Executive of this state little more than four years ago under very difficult and trying circumstances. We were in the midst of the worst recession that our nation has known since the Great Depression of the 30's. He had some difficult rows to hoe. He did an outstanding job, continues to do an outstanding job. He's one of the most popular and able governors in the entire history of our state.

Let me also express my deep appreciation for the generous and kind words spoken by my distinguished colleague, Senator Nunn.

Senator Nunn fortunately came to the Senate as a young man, with wisdom far beyond his years. In the years that I have served in the Senate, I think Sam Nunn quickly won the respect of his colleagues on both sides of the aisle to a greater degree than any member of the Senate that I have served with, who followed me to the United States Senate.

He has become one of the recognized leaders in our nation in his knowledge of national defense and the security of our country. When Sam Nunn speaks in the Senate, people listen and they take heed and wisdom from his remarks. He is following in the footsteps of the late Richard B. Russell, and the late Walter F. George. In my judgment, he is destined to become one of the giants of the Senate. He will stay in that body as long as he sees fit to do so.

It's good also to be in Georgia. My family settled in Monroe County in 1821, more than 150 years ago. Whatever strength I have, I derive from the strength of the people of Georgia. Whatever wisdom I may possess, I derive from the people of Georgia.

When I come home, and I do so as often as my duties permit, I get reinvigorated with the association, with the sound common sense, good judgment, and fairness the people of this state who have honored me with the two highest offices within their gift on six separate occasions during the past 30 years. I can never repay the debt of gratitude that I owe to the people of this state.

For me, an invitation to speak before the Georgia General Assembly is not just an invitation. It is a command, and I appreciate greatly you who invited me, the friendships that I've had in this body for more than 30 years.

A little more than 30 years ago, I raised my hand to Almighty God, placed my left hand on the Bible, and took the oath of office as Chief Executive of this state. That was shortly after the great World War.

People at that time in Georgia, the General Assembly at that time in Georgia, and I hope I, as Chief Executive of Georgia, were determined to move this state forward. Georgia, at that time, started on an unparalleled road to progress, and has never ceased since that time.

We passed the Minimum Foundation for Education. We revised the tax structure. We built more new school buildings in Georgia than any states in the Union except New York and California, both with about four times the population of our state, and a much higher per capita income. We built health centers and hospitals throughout the length and breadth of Georgia. We built more roads than any predecessor had done in the history of our state. We established the finest forestry program of any state in the Union and, since that time, we've seen our forest products increase in value more than ten-fold from just $300 million a year to well in excess of $3 billion. We conserved our natural resources, and tried to make progress in human relations, and human resources.

I am proud of the fact that every succeeding legislature and every succeeding Governor have improved on those programs that we launched at that time. What's been the result? Georgia's per capita income has increased more than four-fold. Our gross national product has increased dramatically. I am proud of the fact that of all of the jobs that have been created in this nation in industrial plants in the past decade, 72 percent of them have been in the Sunbelt, a high percentage in the Southwest. The area that Franklin D. Roosevelt proclaimed in the early 30's as the people who were ill-housed, ill-shod, and ill-fed, are now leading the nation in every area of human economic and social endeavor. I am proud of that fact.

You remember Henry W. Grady proclaimed about a hundred years ago that the future of this nation lay in the South. We've seen that future arrive. We have seen it continue. And, with dedicated public servants like Governor Busbee, Lieutenant Governor Miller, Speaker Murphy, and you, who have the honor and the privilege of serving in the Georgia Legislature, that progress will continue undiminished and will increase over the years.

Our country has serious problems now. That's no news to you. It's no news to any American. We are in the midst of a continued and constant inflationary spiral. It hits hardest at those who can least afford it. Our aged, those who are retired, those in low income categories, those who are working for hourly wages, they have difficulty making ends meet.

That inflationary spiral has been with us now for more than fifteen years, since we were fighting a war in Southeast Asia, and at the same time reducing taxes, and at the same time starting new Great Society programs that cost countless billions of dollars.

Our government today is the principal engine of inflation. We've had deficit after deficit, forty, fifty, sixty billion dollars. We've resorted to printing press money. We have an estimated $700 to $800 billion scattered around the world. The law of supply and demand has come into effect. Those dollars are declining rapidly in value simply because no one wants them. They've got too many.

As long as we continue with these budgetary deficits, we're going to have continued and constant inflation. We have not been treating causes of inflation. We have been treating the symptoms.

I give President Carter great credit. He's trying to attack the problem as best he knows how. And he deserves the support of all of us in trying to close the gap between these huge budgetary deficits that we've had year after year.

But in the final analysis, I see no solution unless we do what Georgia did in 1877, when Bob Tombs wrote a provision in the Georgia Constitution that mandated a balanced budget. I've taken a leaf from Bob Tomb's book.

Almost twenty years ago, when it was unpopular to do so, I submitted a Constitutional amendment to mandate a balanced budget. Congress, with its present composition, has not seen fit to submit that to the respective legislatures. Every poll that I've seen indicates that 75 to 80 percent of the people in our nation want a balanced budget. The majority of the states have Constitutional prohibitions against deficit spending, but unfortunately, the printing presses continue to roll in Washington. As long as they continue to roll, inflation will be continued and constant.

We've had a good deal of talk in recent years about a mandated balanced budget. Some 27 state legislatures have passed resolutions in accordance with Article V of the Constitution of the United States to call a Constitutional Convention to mandate a balanced budget. I'm somewhat concerned about that. Neither you nor I nor anyone that I know wants a Constitutional Convention that might be runaway, tamper with the Bill of Rights, and other things that we hold so near, so dear and so sacred.

I think if the requisite number of the states mandate a Constitutional Convention that the Congress has the authority and power and the duty to determine what can be considered at that Constitutional Convention. I think it ought to be limited merely to requiring that the budget be balanced, and I have an escape valve in mine.

I think it's absolutely essential that we do have an escape valve. Mine would mandate a balanced budget except in times of emergency so declared by the Congress of the United States. If we are in war, we must have unbalanced budgets. If we have serious recessions, we must have unbalanced budgets. But in normal times of prosperity, likewise I think we must have balanced budgets.

I am very proud of the fact that the Georgia legislature is one of the first to go on record in favor of a balanced budget. I'm very proud of the fact that the Southern Governor's Conference took the lead in requiring a mandated balanced budget. Governor Busbee took the lead in it. Southern Governor's Conference passed that resolution unanimously, and I think it's imperative that we take action along that line.

One of the grave problems that's adding to our inflationary spiral and also the devaluation of the dollar is the fact that we are running up huge deficits on our balance of trade, last year in excess of $34 billion, the previous year in excess of $31 billion.

The problem is we do not have the same opportunities to export in their markets that they have in ours. Every nation on Earth talks about free trade. None of them practice it entirely. Probably the United States of America, with the possible exception of Great Britain, practices free trade to a greater degree than any other nation on the face of the Earth. You look about you here in Atlanta. You see Datsuns, you see Toyotas, you see Sony television sets, all of those things that the Japanese ship to this country with a high labor content.

What do we ship to Japan? Nothing that they can get along without. You don't see any American cars over there. You don't see any American manufactured equipment with high labor content except super-sophisticated technology that they themselves cannot match, cargo aircraft, IBM computers, and they are rapidly overhauling us in that regard. What are we shipping them? Soybeans, wheat, cotton, things of that nature, logs—not even sawed logs, raw logs—with little labor content. Those are the things we're shipping to Japan. What's been the result? Due to the fact that I'm Chairman of the Senate Committee on Agriculture, Nutrition and Forestry, the Japanese delegation calls on me at least once a month. They always drop by, visit with me. And they boast of the fact that they increased their import quota on oranges, grapefruit. They increased their import quota on beef—infinitesimal, now—Tokyo could eat up our beef import quota in 24 hours. You know what beef sells for in Japan? $15 a pound. They boast of that fact.

I have spoken bluntly with them. I say, "Now looka here. If I served in the Japanese Diet, I probably would take the same position you have. But I don't serve in the Japanese Diet. I serve in the Congress of the United States, and it's my responsibility to protect the people of this nation. And I'm going to do so to the best of my ability." Since the Japanese boasted of increasing those little items, the trade deficit of Japan has not gone down, it's increased from $8 billion to $11.6 billion last year, and Japan's earnings on foreign trade last year—$18 billion. Almost two-thirds of it was with the people of the United States.

You know, it's an amazing thing—about 30 years ago, or a little over, both Germany and Japan were reduced to rubble and ashes, as a result of the war. Today, Germany has the largest reserves of gold and hard currency of any nation on the face of the Earth. Japan has the next largest reserves of gold and hard currency of any nation on the face of the Earth, Saudi Arabia, three, the United States of America, number four.

They have out-worked us, they have out-produced us, they have out-negotiated us, they have out-traded us and out-sold us, not only worldwide, but in our own market also. So I say to you, my friends, it's absolutely essential in my judgment that our trade negotiators demand equality of treatment in the markets of our trade competitors that they have in ours.

I have talked with Ambassador Strauss time and again about that fact. He concurs. As a result of the Talmadge amendment, we will have an opportunity for the first time to review those trade agreements after the fact as well as before the fact. Heretofore, we delegated power to the trade negotiators and their idea was to get an agreement. If they came back with an agreement, even though they gave away Fort Knox and George Washington's monument, it was considered a great victory.

This time they have got to give something to the people of the United States because the Congress is going to have an opportunity to look at it after the fact.

As you know, Georgia has more than

200,000 people, working in our textile and garment industry. It's very important to the people of our state and it's important to our nation. We have just yesterday reached formal agreements to normalize relations with Red China, a nation of about 900 million people. They are highly talented, they are highly industrious, they learn readily. If we have unrestricted trade with Red China to the same degree that we've had with the Japanese, we may be taking in each other's washing. I hope that our trade negotiator will make plans to protect us from what could be the greatest trade problem that we have yet faced.

If I were President of the United States, I would call in the Japanese Ambassador and I'd say, "Now look, you've been running up these huge surplusses on our trade year after year, you haven't been fair with us. You haven't given us equality of opportunity in your market that we give you in ours. I am going to give you 30 days to take corrective action and if you don't do so, I am going to levy a 20 percent import duty on every item that comes into this country from Japan." That would get their attention. I think they would respond.

For two consecutive years, Georgia has had the worst drought within our memory. We've been visited with thousands of farmers last year and again this year, many of them from Georgia. I wish I could promise a better outlook for the agricultural population of our state and our nation, but with the present climate in Washington and with the attitude of the Administration, I see little opportunity to raise price supports or loan levels.

We will have a busy year, however, in agriculture, reenacting some of the things that expire. Also, we'll try to do something about our disaster program which in the words of Bob Bergland itself has been a disaster. I had to amend a law to get payments for Georgia's burned up corn farmers, and it resulted in $50 million coming into our state.

I've talked to you about the deplorable trade balance. The only bright item that we can boast of is agriculture. We export about $14 or $15 billion more in agricultural commodities than we import and without that, our trade deficit would be truly catastrophic beyond what it is.

Now most people don't think we have an energy problem. They think as long as you can go up to a filling station and fill up your car with gas and oil, that the energy problem is all talk. But my friends, the problem is this, we are importing about 50 percent of our energy at the present time.

What does that mean? That foreigners have life and death control over the economy and the security of our nation. We saw that come into play in 1973. As a result of that, quadrupled prices of petroleum, blackmail prices, petroleum that costs ten cents a barrel to produce, selling as high as $20 a barrel, unrealistic profits, gouging, huge deficits added to our balance of payments because of the importation of petroleum.

Now except a few voices on the Senate Finance Committee, the whole effort thus far unfortunately has been conservation without doing anything to develop alternative sources of energy in this nation. I am all for conservation. But conservation standing alone and by itself means that you just die a little more slowly than you would otherwise.

What I think we need to do—and that's long overdue and that's the direction the Senate Finance went last year, but unfortunately the House conferees would not buy it—we need a national resolve on the part of the Administration, Congress and the people of this nation to do something about domestic development of alternative sources of energy. That national resolve needs to be as strong as our national resolve when we developed the atomic project during World War II to develop the atomic bomb at that time, when we developed synthetic rubber in World War II, and when we had a national resolve to put a man on the Moon by 1970.

We have alternative sources of energy in this country. We have a third of the coal reserves in the known world, which is a very efficient source of energy. Coal can be gasified and liquified. That's how Hitler ran his war machine in World War II. There are successful plants in South Africa, successful plants in Scotland and we need to do more in that regard.

We have in our shale oil deposits in this country an estimated 2.7 trillion barrels of petroleum, more than all the OPEC nations combined. Yet, we have done nothing to develop that shale rock in this country. We have geothermal energy in this country in abundance. It takes 15 years from the drawing board to get a nuclear plant on stream in the United States. In Japan, it takes 7 years. We must develop all those sources of alternative energy and we must have the resolve and the will to do so.

The Governor was kind enough to mention my efforts to try to do something about controlling the unreasonable cost of Medicaid and Medicare which this year cost our taxpayers $55 billion. It's been increasing at about 15 percent a year. In 1978, Medicaid cost Georgia a little over a $7 million. This year over $120 million, an increase of about 15 times, Medicare a little less. But those things are rapidly bankrupting our government and Medicaid is rapidly bankrupting our states.

The problem is, under existing law the more you spend, the more you get paid. It's like making out a check and leaving the amount blank, and letting the payee fill it in.

Our Committee and I have been working in that field for some five or six years now. I put a bill through the Senate last year, but unfortunately the House didn't act. Under the Constitution, all revenue raising measures must originate in the House. The House failed to act, so I took a House passed bill and sent it back by way of amendment. I hope the House will act in accordance with its Constitutional processes this year. If the House doesn't act, I'll try to resort to the same method that I did last year and I hope with better results.

Our nation needs to try to get along with every nation on the face of the Earth. Our foreign policy should be enlightened self-interest of the United States of America and its people. Unfortunately, since the conclusion of World War II, our foreign policy has been in many respects to try to act as Santa Claus and banker and policeman for the whole world.

We've seen that policy bankrupt. We've spent about $250 billion a year in foreign aid. I think human nature is the same all over the world. I don't think you can buy friends. I haven't supported that program except in its humanitarian provisions.

I am happy to se the President state as his policy that we are not going to intervene in the Chinese-Vietnam war. I applaud that. I hope that never again will this country intervene in any foreign war unless our own direct national security is involved. And if we do, God forbid, I hope we'll fight that war to try to have an ultimate victory.

You've been reading a great deal about SALT. It's to our interest to try to remove the tensions that may exist with our major powers, particularly nuclear powers, and I applaud its objectives and I hope that we can reach some agreement with the Soviet Union that's fair to them and fair to us. I must admit I have an inherent distrust for the Soviet Union. They have not carried out agreements except in their own national interest.

I think we ought to wait and see what is presented to the Congress before we reach a decision on it. I hope it is something that I can support. If it's self-policing, if it's fair, I am going to support it. I hope I'll live to see the time when we can take weapons of destruction and cast them aside, and use the countless billions of dollars that we spend on national security and weapons of destruction for things that are useful to our society.

Now, in conclusion let me say, Governor, that I'm delighted that you won't be a candidate to the United States Senate next year.

You have honored me on six separate occasions of the two highest offices within your gift. Twice as Governor, four times as United States Senator. I've tried to represent you without fear or favor as God has given me the light to see my duties and my responsibilities. As long as I have the honor to serve you in the United States Senate in part, I'll still serve you without fear or favor as God has given me the light to see my responsibilities. Thank you and God bless every one of you.●

ALASKAN OIL

● Mr. GRAVEL. Mr. President, last week I submitted for printing in the RECORD a poll by Cambridge Reports which shows that a full two-thirds of Americans oppose locking away Federal wilderness lands without exploring those lands for their energy and mineral resources.

I would like to carry this one step further today and submit for the benefit of my colleagues an editorial which appeared a week ago in the Anchorage Times.

This editorial calls attention to the very irrational policy of the current administration in discussing, on the one hand, plans for gasoline rationing—while at the same time acting to lock up tens of millions of acres of potential oil and gas lands in Alaska.

Mr. President, only the contribution of Alaskan oil has kept this country from becoming even more dangerously dependent on foreign energy supplies than it already is. To remove these lands from our potential domestic repository of oil and gas is simply irrational.

Mr. President, I recommend the Anchorage Times editorial for my colleagues' reading, and I ask that it be printed in the RECORD.

The editorial follows:

TIME TO WAKE UP

The United States government is in the grip of irrationality—and nobody in charge seems aware of it. The situation is almost beyond belief.

Consider three items in today's headlines:

1. President Carter, still not on top of the energy situation, held a press conference in which energy was expected to be the focal point of some sharp questioning in the wake of new oil price increases by members of the Oil Producing and Exporting Countries.

2. Plans for a stand-by gasoline rationing program were ready for an unveiling in Washington, with expectations that the scheme would be activated and become a reality for American motorists sometime this summer or fall.

3. While the administration attempts to find a sensible solution to this oil shortage and the economic crisis that will result, over on Capitol Hill the House Interior Committee began markup work on HR 39. That's the Udall-Seiberling bill designed to solidify and confirm land withdrawals in Alaska that will make it virtually impossible for the United States to explore and develop new oil and natural gas reserves in the state.

On the one hand the nation is in real trouble because it can't get sufficient crude oil. On the other hand the Congress, backing up an irrational decision made last year by the administration, is taking steps to make certain that no new Prudhoe Bays are discovered.

It's anybody's guess as to how long the people of the United States will accept such leadership without waking up to it blunders.

It's astonishing that the Alice in Wonderland aspects of this situation have not captured the attention of the national opinion-makers as well as the public consciousness.

One reason might be that the emotional wave of environmental zeal has so overwhelmed the politicians and the national media that they have been unable to see the truth. The hundreds of thousands of dollars expended on massive lobbying efforts by such environmental groups as the Wilderness Society and the Sierra Club has so distorted the values of policymakers and lawmakers that they can't seem to get back to reality.

Alaska, to the environmental extremist, has only one destiny—to be preserved forever in a pristine state. The development that is already here, in this view, is an abomination to be allowed no further growth, in hopes that even it—if sufficiently stifled—will wither and blow away.

Unfortunately for those who adhere to such beliefs, Alaska also is several other things.

It is, politically speaking, a full-fledged, sovereign state. Some members of Congress, President Carter and Interior Secretary Cecil Andrus may join the wilderness crowd in ignoring this concept, but eventually the state's rights will prevail.

Further, the pioneer spirit still motivates a majority of the people of Alaska. They are determined to achieve greatness for their state through balanced economic and resource development while at the same time conserving and protecting its rich scenic beauty, a richness that includes vast areas that forever will be wilderness regardless of what man or Congress proclaims.

Lastly, Alaska is the nation's treasure house of natural resources and its greatest hope for oil and gas development to make America energy-independent, if only government will regain its sanity and permit proper development. Unless the United States is forever to be beholden to the whims of Mid-East oil producers, and if the country is to be able to avoid the economic recession that will follow oil and gas rationing, Alaska's resources must be developed.

Such exploration and development can come hand-in-hand with environmental protection, as was proved with the Prudhoe Bay fields and the construction of the trans-Alaska oil pipeline.

How the Congress and the administration can overlook this is impossible to understand.●

SALT AND NUCLEAR STABILITY

● Mr. CRANSTON. Mr. President, our colleague the senior Senator from Massachusetts (Senator KENNEDY) recently made a major address regarding the state of arms control and the need for a good SALT II agreement. Though newspapers reported on this fine speech, I want to share with my colleagues the full text.

Senator KENNEDY stresses the history of bipartisan support for negotiated alternatives to the arms build-up. He points out that the United States is as strong and vital a world economic and military power as it was when one of the first major arms agreements was signed: the Limited Nuclear Test Ban Treaty of 1963. Given that, he wonders why some believe the United States must rush into full-scale engineering development of a new missile (MX) which would be deployed in some yet undecided mobile or deceptive basing mode. Some believe this step is necessary because growth in the number and accuracy of Soviet nuclear warheads have made U.S. land-based forces theoretically vulnerable to a disarming "surgical" first strike. According to this theory, the United States would not retaliate because after such a retaliatory strike, the Soviet Union would still have the power to destroy a number of U.S. cities. And, those preaching this fearful scenario believe that it would allow the Soviet Union to extract yet undefined political concessions from the United States by merely threatening this surgical strike on our ICBM force.

I concur with Senator KENNEDY's assessment that "the theory is not credible. It suggests that an American President—having seen the devastation of 90 percent or more of our land-based missiles and the killing of 20 million or more Americans—would hesitate to retalliate with the 70 percent of our force which will remain at sea and in the air or with the remainder of our ICBM's. With this force, we would be able to destroy the vast majority of Soviet targets, military as well as civilian, hard as well as soft." And, since the United States retains the option to launch its ICBM's after warning of imminent Soviet attack, the Soviet Union would lack confidence that its strike would not land on empty silos.

A more credible thesis is that the Soviet Union, having suffered the terrible national experience of losing millions of its people in war, conducts its foreign and military policies to avoid the ultimate risk of destroying Soviet society. To threaten or to execute such a first strike would require the Soviet Union to undertake an incredible risk. The enormity of that risk, plus Soviet dependence on Western technology and foodstuffs for its own development and survival are powerful deterrents to such an attack.

The U.S. defense posture of a diverse and powerful triad of strategic forces, with superiority in numbers of warheads, provides us with the time in which to devise sensible effective improvements to those forces which are consistent with future arms control efforts. We should not be panicked into hasty and ill-advised new weapons systems which could create more problems than they solve, and vastly complicate future arms control efforts.

Senator KENNEDY's speech makes many important points on arms control and its relationship to U.S. national security. Thus, I ask that the entire text of his speech be printed in the RECORD.

The text follows:

ADDRESS OF SENATOR EDWARD M. KENNEDY

1977 was a year of initiatives and expectations for arms control. President Carter came into office with the largest and most ambitious set of proposals presented by any recent Administration.

But 1978 was a year of postponement. Agreements we had expected never came to fruition. Breakthroughs we had hoped for never materialized. Important opportunities may have been lost.

1979 should be a year of accomplishment.

This spring, we should see the successful conclusion of the SALT II negotiations.

Later this year, we should complete negotiations for a comprehensive nuclear test ban.

We should seize opportunities for progress in the stalled MBFR negotiations, and in the talks on anti-satellite weapons, on conventional arms transfers, and on the Indian Ocean.

In ways like these, we can resume the progress of other years, progress made possible in no small part by the Arms Control Association and by its many distinguished leaders; progress marked by such milestones as the limited Nuclear Test Ban Treaty, the Nuclear Non-Proliferation Treaty, and the SALT I accords.

We have succeeded partly because of the long-standing bipartisan support in this country for maintaining our national security and reducing the dangers of war, particularly a nuclear war capable of devastating the globe for generations. Ever since the birth of the nuclear age at Hiroshima, leaders of both parties and the overwhelming majority of Americans have recognized that the pre-eminent task of our foreign and military policies must be to prevent nuclear catastrophe while assuring security for ourselves and our friends.

And this is where most Americans stand today. Numerous polls have shown that the overwhelming majority support both SALT and a comprehensive test ban. They do so because these treaties will reduce the danger of nuclear war. These treaties may not solve vexing political, economic and security problems, but they give us the necessary mutual confidence to tackle them more effectively in the future.

Recent events in Vietnam, Cambodia, Afghanistan and Iran sharply remind us that the world has not become more peaceful or more secure. With our allies, we face great turmoil today. But unlike the past, this turmoil has little to do with our own relative strength or weakness. Instead it is the product of internal revolutionary change, as in Iran, or of conflict among the Communist states, as in Cambodia and now Vietnam.

Our Nation's finest historic role has been that of peacemaker—of helping to bring wars to a close and to create fresh conditions of security and prosperity in the world. In bringing the present turmoil under control, we should recognize our own fundamental strengths. Despite the problems of energy and inflation, which we share with many other countries, the United States remains the world's strongest economy. Despite the challenges to free institutions everywhere, the United States remains not only the world's oldest democracy but also the world's most effective political system. Despite the intense debates on both foreign and domestic policy, the United States remains a strong and resilient society which can meet any challenge facing us at home or overseas. Despite the military buildup of the Warsaw Pact and other countries, the United States has the most powerful military capability of any nation in the world, with strong and powerful allies in NATO, ANZUS and Japan.

There is no cause for serious pessimism about the role of the United States in the world. Our military power is strong. Our democratic system of government is a beacon of hope for other nations and other peoples. With the same confidence and will we have summoned at other times of challenge in our history, we can respond effectively to the present crises, and emerge from them even stronger than before.

Today, political and social revolution in Iran has brought that country to a turning point between increased bloodshed and paralysis, on the one hand, and movement toward order and a civilian government based on popular support, on the other. At last United States policy has emerged from over a decade of exclusive political support for, and unconstrained military supply to, a repressive and corrupt regime. We now have an opportunity to encourage Iran to take the course of peace and reconstruction, and to rebuild a bilateral relationship which reflects the extensive political, economic and security interests shared by our two nations.

Today, however, partisan voices prefer to allocate blame rather than to recognize that the failure in Iran was as bipartisan as should be today's efforts to rebuild our shattered relationship. Partisan voices proclaim that the United States is in strategic retreat. Partisan voices portray SALT II as hastening that retreat. Full of sound and fury, they undermine our national security by advocating a nuclear arms race instead of nuclear arms control with the Soviet Union.

These partisan voices do our nation a grave disservice. They exaggerate the real problems which we face, and they fail to offer adequate alternatives. They sell America short. They do not give the nation credit for our political, economic and military strengths. They minimize or ignore the weaknesses of our adversaries.

In the arms control arena, the life of a soviet military planner is not a happy one. His nation is encircled by hostile or potentially hostile states. It faces 9,000 American nuclear warheads, and has only 5,000 of its own. It must live with an invulnerable American submarine fleet and hundreds of future cruise missiles against which it has no defense.

To make SALT a partisan issue is to ignore recent history. It will not work. The American people remember that it was President Nixon who signed the SALT I treaties. They remember that it was President Ford who laid the basis for the current SALT agreement at Vladivostock. Let no responsible leader of either Party forget the bipartisan responsibility and support for SALT and the depth of that support among the American people.

Sadly, certain others withhold their support, despite their participation in the long and difficult negotiating process.

Dr. Kissinger drags his heels on SALT II. He tells the Economist magazine that SALT II will have to take into account a dangerous counterforce gap between the United States and the Soviet Union.

The theory is not credible. It suggests that an American President—having seen the devastation of 90% or more of our land-based missiles and the killing of 20 million or more Americans—would hesitate to retaliate with the 70% of our force which will remain at sea and in the air or with the remainder of our ICBMs. With this force, we would be able to destroy the vast majority of Soviet targets, military as well as civilian, hard as well as soft.

Opponents of SALT in other quarters are demanding vast tributes as the price of any agreement, tributes that would force the nation into large increases in spending for defense that cannot be justified on any rational basis and that, in some cases, would actually destabilize the arms race and bring us closer to nuclear war.

SALT is supposed to save us money on defense, not add large new increases to the budget—like the $2.2 billion supplemental military appropriation, even before military appropriations are increased by 3.1% not just for NATO but across the board.

SALT is supposed to make the danger of nuclear war less likely, not bring us closer to the brink by developing new weapons system like the M-X missile, which the Soviets could well view as a first-strike threat by the United States.

If we want to reduce ICBM vulnerability by going mobile, we don't need a new ICBM to do so. The highly potent Minuteman could be made mobile at least as easily as a new M-X, and could be available much sooner. For a decade, we have been trying to teach the Soviets a fundamental strategic lesson—that an invulnerable deterrent, a secure retaliatory force, adds to stability, while a first-strike capability reduces stability. It is time that we relearned that lesson ourselves. We should refuse to deploy M-X or any other land-based missile unless we are convinced that it will be more stable, more economic and more verifiable than its alternatives.

As if all this were not enough, we find that parts of the Executive Branch have been actively under-cutting President Carter's clear and important commitments to ban all nuclear tests for as long as possible and to reduce global sales of conventional arms.

The nuclear testing bureaucracy saw to it that our negotiators fell back from a comprehensive test ban of unlimited duration, to a CTB of five years and finally a CTB of three years—despite the fact that a CTB would enhance strategic stability, protect U.S. advantages in weapons design, and contribute in a major way to our non-proliferation efforts. In major breakthroughs over the past two years, the Soviets have agreed not to test so-called "peaceful" nuclear explosions, and they have agreed to on-site inspections and seismic stations located on their territory. So let us build upon these solid accomplishments, instead of diluting them further. Let us especially *not* yield to those in the government who are pressing for a virtual commitment to resume testing after three years. Creating the public impression that we have already decided to resume testing after a three-year halt would make a mockery of the President's stated desire to put an end to the nuclear arms race.

Unlike any of his predecessors, President Carter has imposed at least some limits on US arms sales abroad, and he has pursued essential multilateral support to make these limitations effective and enduring. It would be tragic if this unprecedented effort were to fail. Yet unbelievably—I would say even ludicrously, our negotiators on conventional arms were forced to refuse to listen in Mexico City when the Soviets sought to discuss areas of the world we did not want even to hear about: East Asia and the Persian Gulf, where a blank-check arms sales policy injured U.S. security by aggravating the problems we now face in Iran. Since when has the United States been afraid of discussing international issues which could affect our interests and our security—in any part of the world?

A disturbing pattern emerges from all this. The arms control advocates and supporters are timid and defensive, where they should be confident and assured. There are increasing pressures to make basic national security decisions primarily on political grounds. There are overtones of partisanship on issues which are too important for the security of our country and of our allies to be decided in partisan terms. This was not the way they were decided on the test ban in 1963, or on the NPT in 1968, or on Salt I in 1972. This should not be the way they are decided in 1979.

There is a critical test of any arms control agreement. The test is whether it contributes to our national security or detracts from it. That is why we should oppose linkage. That concept holds that, even if Salt increases our national security, it should be opposed if there are other conflicts in U.S.-Soviet relations. When I met last year with Andrei Sakharov in Moscow, he stressed that the greatest threat to humanity and human rights is the threat of nuclear war. His plea to us is to ratify Salt; not only to reduce the threat of nuclear war, but also to create the mutual confidence necessary to resolve the other important issues between the Soviet Union and the United States.

So we must hold the line against those who would make our common survival hostage to competition in other areas. How our two nations compete and cooperate is bound to affect the overall foreign and defense policies of the United States. But rejection of Salt II will not increase Soviet respect for human rights or Soviet restraint in various parts of the world. Let the advocates of linkage explain how the cause of human rights in the Soviet Union will be served by a Senate refusal to ratify SALT. Let them explain how the stability of troubled regions will be enhanced by rejection of this Treaty on the floor of the Senate. Let them explain how our security would be enhanced, and how the world would be a safer place, by failure to ratify SALT and by a return to Cold War confrontation.

Although improved U.S.-Soviet relations would facilitate Senate ratification of SALT, we should not succumb to the argument that worsened relations for some reason make ratification less desirable. If SALT II contributes to our national security and diminishes the danger of nuclear war, then it will be even more important to achieve in a climate of worsened relations than in a climate of improved relations with the Soviets.

What President Kennedy said of the early disarmament negotiations under his Administration is just as true today:

> "Verifiable disarmament arrangements are not a fair weather phenomenon. A sea wall is not needed when the seas are calm. Sound disarmament agreements, deeply rooted in mankind's mutual interest in survival, must serve as a bulwark against the tidal waves of war and its destructiveness. Let no one, then, say that we cannot arrive at such agreements in troubled times, for it is then that their need is greatest."

We must also guard against those who expect too much from SALT. To some, SALT must not only limit Soviet forces more than ours; it must solve the vulnerability of our Minuteman missile force; and it must reestablish the military balance in central Europe—or it is worthless. To others, SALT must dramatically reduce force levels; it must prevent M-X and multiple aim points; it must prohibit a cruise missile race in central Europe; it must provide significant reductions in government spending—or else it is not worth having.

We must beware of those who insist that SALT II do more than is feasible in this treaty, at this time. We must hold high standards and goals for the SALT process, but we should be realistic about what can be achieved with this particular treaty. SALT II represents a small but essential step toward more effective nuclear arms control. It is not a giant leap toward peace or toward a solution of the many complex security problems that our nation faces in the modern world. It will not relieve us of our obligation to tackle each problem one at a time, on its own merits, and to make difficult choices for the future.

So let us reject the arguments of those who would defeat SALT II by burdening it with unrealistic demands. At the same time, we must not be timid or ashamed about what it does do. America will have no apologies to make for SALT II, because President Carter will not sign and the United States Senate will not ratify a SALT agreement that does not contribute to our national security and that is not a significant step on the road to nuclear arms control.

In at least eight substantial ways, SALT II will enhance the security of the United States.

First, it will establish unprecedented equal ceilings for the strategic nuclear forces of the two superpowers. It thus reflects the 1972 guidance of the Congress and builds on the achievements of President Ford, who established the principle of equality at Vladivostok in 1974.

Second, it will require the Soviets to dismantle some 250 nuclear systems, while not requiring us to eliminate a single operational system.

Third, it will provide a series of equal sub-ceilings on various categories of weapons with multiple warheads, with the specific net effect of constraining the most threatening Soviet program—its MIRVed ICBMs.

Fourth, it will limit each country to only one new type of ICBM, thereby controlling the pace of modernization for the first time and imposing a more severe practical limit on the Soviets, given their heavy reliance on ICBMs.

Fifth, it will limit the number of warheads that can be placed on a given missile, thus preventing the Soviets from fully exploiting their heavy missiles by deploying thousands of warheads against the United States.

Sixth, it will prohibit the deployment of mobile ICBMs during the period of the Protocol, again a more severe constraint on the Soviets who could deploy a mobile ICBM today.

Seventh, it will protect our ability to verify what it is important to verify.

Eighth and finally, SALT II will protect those options the Department of Defense believes are necessary to maintain the viability of our deterrent triad—the Trident submarines and long-range air-launched cruise missiles on our B–52 bombers. It even protects options which should not be exercised, such as the M–X missile system.

The primary achievement of SALT II will be to strengthen the strategic balance which the facts and honest analysis tell us already exists. It will foreclose an unending, uncontrolled escalation of the strategic arms race. It will begin the long-sought process of arms reductions. And it will commit both countries to a continuing SALT process, to further numerical reductions and qualitative constraints, for the future.

Suppose there is no SALT. What then? Our intelligence estimates are that the Soviets, just with the momentum of their present program, could deploy some 500 more nuclear delivery systems by 1985. This means that SALT could prevent some 750 nuclear systems—up to 10,000 additional nuclear warheads—from being aimed at the United States.

Of course, we could match this potential Soviet strategic threat. To do so, we would double our protected Trident submarines and missile launchers. We would deploy 300 or more M–X missiles. We might well deploy a new generation of heavy bombers. And the price tag for an unconstrained new round of the arms race would be $100 billion more, at current prices, than we would spend under SALT II.

But far worse than its dollar cost, another turn in the spiral of the strategic arms race would increase the danger of nuclear war. A world without SALT is a world in which each side feels compelled to race ahead. It is a world in which it is far more difficult to monitor Soviet strategic deployments. The combination of increasing build-ups, uncertainty and fear about the forces of the other side is a prescription for nuclear disaster that any Senator or planner should reject.

I strongly agree with what President Carter said this morning in Georgia:

> "Each crisis, each confrontation, each point of friction—as serious as it may be in own right—would take on an added measure of significance and an added dimension of danger. For it would occur in an atmosphere of unbridled strategic competition, and deteriorating strategic stability. It is precisely because we have fundamental differences with the Soviet Union that we are determined to bring this most dangerous dimension of our military competition under control."

Beyond its own contributions to national security and apart from the unacceptable alternatives it precludes, SALT II should be seen in the context of other items on the arms control agenda—and as it is woven into the fabric of our relations with our allies and the Soviet Union.

The success of SALT II will give an important boost to the broad range of arms control negotiations we are conducting in other areas. The failure to ratify SALT, on the other hand, will surely mean a setback to our whole arms control program and thus security of our nation and our allies.

Last month at Guadeloupe, our closest allies voiced their strong suport for SALT II, which would strengthen their security and would permit long-standing patterns of defense cooperation to continue. Looking toward SALT III, it will be important to prevent a race in theater nuclear weapons in Europe. The West may choose to respond to the Soviet SS–20 missile and Backfire bomber with a modified Pershing missile, ground-launched cruise missiles, or even another ballistic missile—above and beyond existing British and French nuclear capabilities and our own forward-based aircraft.

A new theater nuclear race in Europe would make neither side more secure. It may rival the M–X missile as a block to substantial progress in SALT III. To give negotiations a chance, we should seek Soviet restraint in SS–20 missile deployments in addition to the assurances they are already prepared to give in their backfire bomber. We should offer corresponding restraint pending negotiations to improve the theater nuclear balance. This mutual restraint would give us the time to reflect the interests of all the states that would be affected, and to take into account the many asymmetries in weapons.

So we look to SALT II to lead the way to more substantial nuclear arms reductions under SALT III. But we also look to SALT II to make nuclear war less likely, not only by increasing strategic stability, but if possible by reducing the incentives to even consider the option of nuclear war. I have no doubt that failure to ratify SALT II would be a major blow to the potential for future US-Soviet cooperation. By contrast, ratification of SALT II will make it possible for the Soviets and us to address our other mutual problems in a climate of increased assurance and hope for the future. We should not be surprised when our interests conflict, but we should address any differences with a new sense of balance and confidence in this crucial bilateral relationship.

Almost 16 years ago this country had the ambition, the pragmatism, and the confidence to take the first step in nuclear arms control. We were then able to negotiate successfully a test ban treaty. Our reach did not exceed our grasp.

Surely, we have learned so much more since then about our adversaries, our allies, and ourselves, that we can move with ambition, pragmatism, and confidence and take this next step, SALT II, with an eye towards SALT III and our other essential arms control efforts. Then it can be said today about SALT II what President Kennedy said in 1963 about the limited test ban treaty:

"It will not put an end to war. It will not remove basic conflicts. It will not secure freedom for all. But it can be a lever, and Archimedes, in explaining the principles of the lever, was said to have declared to his friends: 'Give me a place where I can stand, and I shall move the world.' "●

DEATH OF DR. LELAND J. HAWORTH, FORMER DIRECTOR OF THE NATIONAL SCIENCE FOUNDATION

● Mr. JAVITS. Mr. President, it was with deep sadness that I learned of the recent death of Dr. Leland J. Haworth, former Director of the National Science Foundation, former director of the Brookhaven National Laboratories, and New York State resident. As a member of the Human Resources Committee, which has jurisdiction over the National Science Foundation, I knew the work of Dr. Haworth during his 6-year tenure as Director of the National Science Foundation following his appointment in 1963.

While at the NSF, Dr. Haworth supported the policy that basic research should be the Foundation's chief concern. At the same time, he recognized the need for the agency to also focus on applied research. His ideas ultimately found fruition in legislative changes in the NSF's authority. While stressing the maintenance of high standards of quality for research, he sought to expand the number of centers of excellence in the country. The Foundation's science development program was established to support this goal. Also under Dr. Haworth's leadership, the NSF's activities in the provision of new national research capabilities, especially those involving larger, advanced technology equipment, grew substantially.

Upon his retirement from the NSF, the National Science Board paid this most fitting tribute to Dr. Haworth:

> Dedicated, tireless, of impeccable integrity, master of the last detail of the programs for which he has been responsible, viewing each problem in turn from the standpoint of the national interest, he has constantly been the epitome of fairness and objectivity. Under his guidance and direction, the National Science Foundation has matured as a unique instrumentality to assure that science and scientists will make their maximum contribution to our national security and the general welfare.

In addition to his service at the National Science Foundation, Dr. Haworth served as Brookhaven National Laboratory's second director, as vice president and as president of Associated Universities, Inc., and as a member of the U.S. Atomic Energy Commission. His long and distinguished career in scientific research and administration contributed to elevating science and scientific research to a prominent discipline in this country. Lee Haworth was a great American and a great scientist.●

DEWEY BARTLETT

● Mr. HAYAKAWA. Mr. President, the recent death of our former colleague, Dewey Bartlett, has brought sorrow to all of us who have had the privilege of calling him our friend. Needless to say, his presence has been sorely missed here in the Senate since he retired and now, upon his death, it will be sorely missed in Oklahoma.

Mr. President, Dewey was many things. He was educated, kind, highly respected, dedicated to his work and he had a zest for life even when he knew that his health was failing. But above all else, Dewey Bartlett was considered a gentleman by all who knew him and in my opinion, no greater honor can be bestowed on any man.

His fine work and achievements while serving on the Energy and Armed Services Committees will be remembered. I could go on and on about Dewey's accomplishments, but all of us here in the Senate do not really need to be reminded of his unselfish contributions to this body.

Dewey Bartlett's death has saddened us all. But let us console ourselves in the knowledge that he did not depart this earth without leaving his mark here for us to remember him by.●

ANTI-ARSON ACT OF 1979

● Mr. GLENN. Mr. President, arson remains a serious problem, a crime difficult to prove, and a subject which requires a more concerted effort on the part of government at all levels if it is to be brought under control.

Toward that end, I have introduced S. 252, the Anti-Arson Act of 1979, which I hope will receive early and favorable action in the Senate.

Two recent articles, one from the journal of the International Association of Fire Chiefs and the other a report in the New York Times, have helped to focus attention on the problem of arson and on the need for a permanent means of documenting the statistics on arson. I ask that these two articles be printed in the RECORD.

The articles follow:

FBI BEGINS COLLECTION OF NATIONAL ARSON STATISTICS

(By Colin A. Campbell)

In the waning hours of the recent 95th Congress, legislation was passed mandating the reclassification of arson as a Part I crime in the FBI's Uniform Crime Reporting (UCR) Program. For the past several months, representatives of the FBI, the law enforcement community and the fire service, including the International Association of Fire Chiefs, have been meeting and working to implement a program for the collection of national arson statistics. The bulk of the work has been performed by the FBI with input and technical advice from fire service and law enforcement officials. The statistics collection program is ready and, barring unforeseen delays, now is being mailed to cooperating law enforcement agencies around the country.

HISTORY

Before describing how this program will work, a brief look at the history of the Uniform Crime Reports should help the fire service understand the mission and accomplishmets of the UCR.

In 1871, a group of police chiefs met in St. Louis, Missouri, to discuss common issues and problems concerning the rising incidence of crime. Those chiefs continued to meet periodically and, in the mid-1890s, decided to form an association that would attempt to evaluate the extent of the crime problem in this counry. That organization became the International Association of Chiefs of Police (IACP).

In the mid-1920s, the IACP received a grant from the Rockefeller Foundation targeted at the implementation of a program which would help society understand the phenomenon of crime. A research group was formed, including representatives from the academic community, state and local legislatures, and all aspects of the criminal justice community. The charge of this research group was to develop a program to count crimes, a program which would provide law enforcement officials with the information necessary to make management decisions and develop innovative programs to combat crime.

The work of the research group was supervised by the IACP's Committee on Uniform Crime Records, formed in 1924. The Committee, in an effort to provide as complete a picture as possible, chose to obtain data on offenses that became known to police, since greater numbers of these data were available than in any other category of reportable crime information. A meaningful overview of crime was available through examination of seven offenses which were selected because of their seriousness, frequency of occurrence and likelihood of being reported to police. These offenses, known as the Crime Index, are murder and non-negligent manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny-theft, and motor vehicle theft.

Even in the 1920s, when this program was being researched and developed, the question of arson was raised. The Committee decided that arson did not meet one of the criteria that had been established as a test for the Crime Index, namely the likelihood of its being reported to law enforcement agencies.

As a result of the work of the research group and the Committee, uniform crime reporting began in 1929. The membership of the IACP reacted affirmatively, data was submitted to the Association and, in January of 1930, the IACP issued its first six month crime report.

However, it quickly was recognized that, in order for the program to grow and continue, it needed better resources than the Association could provide. Accordingly, the U.S. Congress authorized the Department of Justice, specifically the FBI, to assume administrative control of the UCR program. The IACP remained as a technical advisor.

FBI officials point out that uniform crime reporting is a voluntary program. While the FBI is mandated to collect data, no law enforcement agency in the country is mandated to supply the information. However, from a beginning of 353 law enforcement agencies, today nearly 15,000 law enforcement agencies contribute statistics to the UCR. The FBI says 98 percent of the nation's population is covered by those contributing agencies.

ARSON ADDED TO CRIME INDEX

With the addition of arson to the list of offenses covered by the Uniform Crime Reports, the FBI is in the process of implementing a program to collect arson statistics nationwide. Following a December meeting with several law enforcement and fire service agencies and following several weeks of input from fire service personnel, the FBI has finalized (pending approval by the federal Office of Management and Budget) the form that will be used by law enforcement agencies to report arson.

A special information package, including the form, instructions for filling out the form and other material, is being sent to the 45 state agencies around the country responsible for collecting crime statistics. From these agencies, the forms will be sent to the individual law enforcement agencies that contribute to the Uniform Crime Reports. In Washington, Mississippi, Missouri, Vermont and Indiana, where there are no state UCR departments, the FBI will mail the information packages directly to the cooperating law enforcement agencies.

FIRE CHIEFS' COOPERATION IMPERATIVE

FBI officials emphasized that cooperation between fire chiefs and law enforcement officials is the cornertone to the success of this program. Liaison between the fire departments and law enforcement agencies must be initiated and implemented at the local level if the statistics collected are to reflect accurately the nation's arson problem. The FBI has indicated it will neither establish nor suggest any guidelines for programs of cooperation between local fire service and law enforcement officials.

If a fire chief wishes to have his arson statistics reported, he should contact the chief of the law enforcement agency with jurisdiction. Because police and fire protection districts do not coincide in many areas of the country, this means that some fire chiefs will have to make contact with several law enforcement agencies. The key is that an arson or attempted arson should be reported to the law enforcement agency which has jurisdiction over the location of the fire.

Only those arsons or attempted arsons should be reported that meet the definition of arson established for the purposes of this statistics collection program. The definition, printed on the form instruction sheet, reads: "The offense of arson is defined by the national Uniform Crime Reporting (UCR) Program to include any willful or malicious burning or attempts to burn, with or without intent to defraud, a dwelling house, public building or any building, motor vehicle or aircraft, personal property of another, etc." That definition does not include suspicious fires or fires of unknown origin. The UCR statistics collection prorgam will cover only those fires which the appropriate investigating agency unequivocally declares to be arsons.

If, in the attempt to report arson statistics, a fire chief is confronted by a law enforcement agency which does not contribute to the UCR, the fire chief should make contact with the next highest law enforcement agency, perhaps the county sheriffs or the state police. If a fire chief is faced with a law enforcement agency which refuses to participate in the arson program, that refusal should be made known to the state UCR agency.

THE ROLE OF THE FBI

The FBI has emphasized to fire service officials that the Bureau's role in this program is simply to collect statistics. As with the other seven offenses in the Crime Index, the Bureau points out that it serves no investigative function under the UCR program.

However, the FBI has indicated it will maintain constant contact with the national fire service organizations to monitor the progress and effectiveness of the arson program. The FBI also welcomes suggestions or criticisms from any member of the fire service. Comments should be directed to Special Agent Rick Dean, UCR Program, Federal Bureau of Investigation, Washington, D.C. 20535, (202) 324-2614.

Instrution on the new arson forms will be included in the uniform crime report training programs conducted periodically by the FBI around the country.

The FBI currently publishes four quarterly releases and an annual report of crime statistics. A spokesman for the Bureau said it was uncertain how soon arson statistics could be included in the quarterly releases because of the possible undependability of the initial statistics. The earliest that arson figures could be included in an annual report would be the 1979 report published in 1980.

Special compilations of crime statistics are available free from the FBI on a limited, first-come, first-served basis. In the past, these reports have been requested by cooperating agencies, academicians, public officials, the insurance industry and the general public, among others. Again, however, it should be pointed out that such reports covering arson statistics would not be available for about a year.

SPECIAL ARSON PROGRAM SUGGESTED

The FBI has suggested the implementation of a specialized arson statistics program as an alternative to the continued inclusion of arson in the Crime Index. The program would be similar to the reports, "Assaults on Federal Officers," "Law Enforcement Officers Killed" and "Bomb Summary," presently published annually by the Bureau. The FBI argues that such a special reporting system would be more flexible and more detailed because the Bureau would collect incident reports on arson fires. For example, according to the FBI, a special program could include the collection of statistics on suspicious fires, injury or loss of life to civilians and fire fighters, motives, unusual circumstances, modus operandi and devices used to start arson fires.

In a late December meeting with U.S. Senator John Glenn (D-Ohio), the FBI suggested the special arson program. Senator Glenn indicated he favored the program but also favored the continuation of Part I crime status for arson. Senator Glenn and Rep. John Seiberling (D-Ohio) were responsible for the legislation which mandated the reclassification of arson.

Because that legislation came in the form of an amendment attached to the fiscal year 1979 Justice Department Authorization Bill, arson reclassification is effective for only one year and will expire on September 30, 1979. Senator Glenn has not stated publicly yet what his plans are for legislation to make permanent the classification of arson as a Part I crime. However, it is expected that Senator Glenn will introduce a major anti-arson bill soon after the 96th Congress convenes. Indications are the bill will contain a provision mandating the continued reclassification of arson.

ASSISTANCE OFFERED

The International Association of Fire Chiefs has established a cooperative relationship with the FBI officials responsible for administering the arson statistics collection program. If any fire chief is having difficulty reporting arson statistics or has any questions concerning the arson program, contact the IAFC at 1329 18th Street, N.W., Washington, D.C. 20036, telephone (202) 833-3420.

ARSON REPORT

This report is authorized by law Title 28, Section 534, United States Code, and the enactment of the fiscal year 1979 Department of Justice Authorization Bill S. 3151. While you are not required to respond, your cooperation in using this form to report all incidents of arson which become known to your department during the month will assist the FBI in compiling comprehensive, accurate data on a timely basis.

INSTRUCTIONS

The offense of arson is defined by the national Uniform Crime Reporting (UCR) Program to include any willful or malicious burning or attempts to burn, with or without intent to defraud, a dwelling house, public building or any building, motor vehicle or aircraft, personal property of another, etc.

In Column 2, report all arson incidents which occurred in your jurisdiction and became known to your department during the month. Use your law enforcement jurisdiction and not fire districts to determine if an arson incident should be scored on your report. Count all arsons even though the offenses may have occurred in conjunction with violent crimes reported on the Return A. Include attempts to commit arson. Also, include "unfounded" reports of arson.

In Column 3, include all reports of arson which prove to be unfounded; those reports which prove upon investigation to be baseless and no offense of arson was attempted or committed.

In Column 4, enter the number of actual offenses of arson. This number is obtained by subtracting the number in Column 3 from the number in Column 2. Include attempts to commit arson.

In Column 5, enter the total number of arson offenses which were cleared by arrest or exceptional means.

In column 6, enter the number of arson offenses cleared by arrest or exceptional means involving only persons under 18 years of age. This number is included in Column 5 and excludes those situations in which one or more of the persons involved were 18 years of age or over.

In Column 7, enter the number of arson offenses listed in Column 4 which involve structures (a-h only) which were uninhabited, abandoned, deserted, or not normally in use.

In Column 8, enter the estimated value of property damaged for all arson offenses listed in Column 4. Enter zero ($0) if no value.

The UCR Handbook may be used as a guide to preparing this report with two exceptions:

1. The hierarchy rule will not apply in this additional report. Crime Index offenses occurring in conjunction with an arson will be reported in Return A and the arson will be reported on this report.

2. If one of the property crimes occurs in conjunction with the arson, the value of the stolen property will be reported on the Supplement to Return A and the property loss due to fire, smoke, water, or other damage resulting from the arson will be reported in Column 7 of this report.

Each agency is requested to submit this arson form each month even if there are no arsons or attempted arsons to report. (In those instances, please submit the form indicating "None" or zero (0) arson offenses.)

Any questions regarding this report may be addressed to Uniform Crime Reporting, Federal Bureau of Investigation, Department of Justice, Washington, D.C. 20535, telephone (202) 324-2614.

ARSON AT AN EPIDEMIC RATE, WITH 300 PERCENT RISE IN 3 YEARS

(By Michael Goodwin)

JERSEY CITY, February 26.—For Anibal Cotto and the other adult males who live at 356 York Street, the night is not for sleeping. Instead, it is the time to be alert, to wait and to watch so that if the arsonist tries again they can get their families out alive.

The building, a four-story, rundown tenement in the heart of Jersey City's Hispanic section, has been the target of at least four arson fires since last September. In the adjacent building, No. 358, an early morning fire last Jan. 22 killed seven people, including five children. A 20-year-old man and a 14-year-old boy have been arrested and charged with arson and murder.

But Mr. Cotto, the 29-year-old superintendent of No. 356; his father, Martin, and several other males in the building still do not feel safe enough to close their eyes for long at night. They do not know why the building next to theirs was burned, and they do not know who has been trying to burn them out, or why, and so they sleep a little in the morning and a little in the late afternoon and evening.

In many ways, Jersey City, an industrial city of 260,000 across the Hudson River from New York City, exemplifies the nationwide problem of arson, a problem that is growing dramatically in nearly every American city. Arson has reached epidemic proportions, according to Federal officials, who put the increase at 300 percent in the last three years alone.

FEAR A PART OF LIFE

Interviews with fire and police officials in a number of cities, including New York, Detroit, Chicago, Los Angeles and Boston, produced numerous statistics to illustrate how serious and widespread arson has become. Arson seems to be everywhere, and fear of it has become a way of life for millions of Americans.

The officials say that fires caused by arson, which represent about 25 percent of all fires, kill about 1,000 people a year. Because most arson fires occur in older, poorly maintained residential buildings in inner cities, most of the victims are poor blacks and Hispanic-Americans.

Arson, the officials say, costs insurance companies upwards of $1.5 billion a year, making the value of property lost because of arson higher than that for any other crime except motor vehicle theft. Arson losses, of course, are passed on to all insurance holders in the form of higher rates.

Arson also costs local governments tax money and has a negative effect on most other forms of economic life in the surrounding neighborhood. Arson is perhaps the fastest way to frighten away potential investors.

OTHER CRIMES RISING

Why arson has grown to such proportions is not clear, though experts say there apparently are several contributing factors. One is the continued deterioration of inner-city neighborhoods and the frustration that seems to accompany life there. Crimes of all types are increasing in such areas, including intentional fires. Many arson fires are started by vandals in vacant buildings.

Another reason is the financial rewards to owners whose buildings are worth more in fire insurance than they are through sale. Recently the staff of the Senate Permanent Subcommittee on Investigations released a report that accused the insurance industry of "laxity" in fire insurance underwriting and adjustment procedures. The report said that the industry had encouraged arson by not routinely challenging fire claims and not examining the backgrounds of applicants and their property.

Further, officials say, fire has become a weapon to be used in settling personal disputes.

"Just like some people use knives or guns, we're seeing that more people now use arson," said Richard R. Strother, associate administrator of the United States Fire Administration, a branch of the Commerce Department. "These revenge fires are usually where the deaths occur."

EQUAL TO RAPE AND MURDER

Recently arson was made a "class-one" crime, with such crimes as rape and murder, in the Federal Bureau of Investigation's national reporting system. And Federal officials have begun a campaign to coordinate their arson investigations with those on state and local levels. But arson remains one of the most difficult crimes to solve. Detecting it often can be difficult, and making arrests and gaining convictions even more so.

"It's very difficult to get a conviction because you've got to prove a crime was committed and then tie the person to the crime," Philip Saunders, an arson investigator with the Miami Fire Department, said. "In addition, so much evidence is destroyed by a fire that it's difficult to prove arson 100 percent."

As part of the growing recognition of the problem, a number of cities have started training sessions to teach firemen what to look for when they arrive at a fire. Part of this training aims at teaching firemen how to detect the tell-tale signs of common accelerants used by arsonists.

In what Mr. Strothers called one of the best programs in the country, officials in New Haven, Conn., have developed a computerized early-warning system that helps them predict what buildings are arson-prone. The theory is that if such buildings can be identified and helped, fires might be prevented.

OWNER UNDER INVESTIGATION

Kibby Kevelson, who owns the adjacent Jersey City buildings involved in fires, is one of several owners under investigation by Jersey City police and fire officials. The investigations came as a result of a large number of suspicious fires in the owner's buildings. Yesterday, Mayor Thomas F. X. Smith of Jersey City asked the City Council to investigate Mr. Kevelson.

Also, the New Jersey state police have started a separate arson investigation and have subpoenaed files of the Fair Access to Insurance Requirements Plan, the insurance underwriters association that issues fire insurance to many city buildings. Neither state police nor FAIR Plan officials would comment on the targets of the investigation.

However, Raymond Maloney, the Jersey City Fire Director, said that his department had opened its investigation because of the pattern of suspicious fires. He said that 18 of Mr. Kevelson's buildings had suffered a total of almost 60 fires in the last two years. Five of these buildings, including the two on York Street and three more on Montgomery Street, had at least 27 fires.

While Mr. Maloney emphasized that he had uncovered nothing incriminating against Mr. Kevelson or any other owner, he said he believed that the owners, through neglect of the buildings, were contributing to arson. More importantly, he said, because the owners often have inflated insurance on the properties, they benefit financially from fires.

No. 358 York Street, for example, had insurance of $43,000, despite its rundown condition. In addition to the amount Mr. Kevelson receives when he files his claim, he will receive Federal money when the city acquires the property as part of a redevelopment project. The amount of the Federal money will be determined soon through appraisal.

Mr. Kevelson, who said he owned about 35 properties in Jersey City and 35 in Newark, denied any wrongdoing and blamed tenants and vandals for the fires.●

ARTHUR KUHL

● **Mr. HOLLINGS.** Mr. President, recently, death took from our midst a personal friend of mine and a valued employee of this body.

On a day when a vicious snow storm paralyzed the Nation's Capitol, Art Kuhl died attempting what few were able to do—get to work. No one who knew Art would be surprised, for his entire life was characterized by hard work and devotion to duty.

Born in St. Martins, Minn., Art grew up in Montana where his father ran a prison farm in the State penal svstem. After graduating from high school in Deer Lodge, Mont., Art enlisted in the U.S. Army as a paratrooper. At the time Art entered the Airborne, he had never been in an airplane, and he used to joke that he took off in a plane six times before he ever landed in one. After jump school, Art joined the 457th Parachute Field Artillery Battalion of the 11th Airborne Division and served with distinction in the Philippines, New Guinea, and Luzon. During this time, he made 17 combat jumps. Immediately after the Japanese surrender, he served in Japan with the first occupation forces.

Upon completion of his military service, Mr. Kuhl came to Washington, D.C. where he worked his way through Georgetown University and George Washington Law School by working as a Capitol Hill policeman and elevator operator. Art then commenced a series of top professional staff positions culminating in his being named Assistant Secretary of this body.

Art Kuhl was a dedicated employee of the U.S. Senate for a quarter of a century, but to his friends, that was an adjunct facet of his life. The memory that shall last is that of a quiet, gentle, and generous man in rough clothes and worn boots with rod or gun in hand roaming the woods and mountains of the land he dearly loved.

And when I remember Arthur, I am reminded of the words of Shelley—

> He is made one with nature
> There is heard his voice
> In all her music.●

DR. NICHOLAS KRIKES

● **Mr. HAYAKAWA.** Mr. President, at the annual session of the house of delegates of the California Medical Association to be held March 9 through March 14, Dr. Nicholas Krikes will be stepping down as president. I would like to say a few words in his honor. Dr. Krikes has assumed many responsibilities throughout the community working with his neighbors and colleagues to improve the quality of living for others.

Dr. Krikes received his medical degree from the University of Southern California, and served his internship and residency in general practice at San Bernardino County Medical Center. In addition to his fine medical practice, Dr. Krikes has served his community well in all aspects of the medical field. At various times, Dr. Krikes has served in official capacities of such distinguished associations as the San Bernardino County Medical Society, the California Medical Association, the American Medical Association, the California Academy of Family Practice, the American Academy of Family Practice, the American Board of Family Practice, the American Cancer Society, and many other service organizations.

In addition to these professional affiliations, Dr. Krikes has participated in many social service organizations like the Kiwanis Club, the Goodwill Industries, and the Boy Scouts of America.

It is difficult to bid farewell to someone like Dr. Krikes, who has distinguished himself in his community and profession. As a fellow Californian, and in recognition of his dedication to medicine, I want to thank Dr. Krikes for his fine years of service in the California Medical Association, and express my best wishes for the years to come.●

SENATE RESOLUTION 93—SUBMISSION OF A RESOLUTION TO POSTPONE THE EFFECTIVE DATE OF RULE XLIV OF THE STANDING RULES OF THE SENATE

Mr. STEVENS (for himself and Mr. MOYNIHAN) submitted the following resolution:

Resolved, That section 313(c) of Senate Resolution 110, 95th Congress, is amended by striking out "January 1, 1979" and inserting in lieu thereof "January 1, 1983".

Mr. STEVENS. Mr. President, I am submitting today an amendment to section 313(c) of Senate Resolution 110. I do so on behalf of myself and the distinguished Senator from New York (Mr. MOYNIHAN). This amendment will defer the effective date for the implementation of rule XLIV of the Standing Rules of the Senate until January 1, 1983.

Rule XLIV provides for a limitation on outside earned income for Members of the Senate and staff earning over $35,000 a year. It also limits the size of honorariums. Rule XLIV, under the terms of Senate Resolution 110, went into effect on January 1, 1979.

Members of this body will recall my opposition to this rule during our debate in 1977. I felt then, and remain convinced, that an arbitrary 15 percent limitation on outside earned income was discriminatory, unneeded, and unwise. It encourages only the wealthy to run for the Senate and places a large burden on some in this body. But, my purpose today is not to eliminate the limit.

This amendment will defer the effective date for 4 years. I think it is necessary for many reasons. Chief among those are the unfair effect of this rule on current Members and the effect this rule will have on the purchasing power of Members of the Senate.

Should this amendment pass we would still be subject to the limitation on honoraria imposed by the Federal Election Campaign Act of 1976. But that limit of $2,000 per appearance and $25,000 per year is a much more realistic limit that we never gave a fair chance to work.

The change in the rules, made by rule XLIV, in the middle of a Member's term is, I think, unfair. I know that Senators are not motivated to serve in this body by the salary we receive. Although it is generous, it is still considerably less than salaries paid top level executives in private corporations, whose responsibilities are comparable to ours. While we did not seek the job for the pay, many of us sought the job with an understanding of the salary and an expectation of the likelihood of outside income.

Being a Senator is an expensive proposition. I maintain a house in Washington and an apartment in Alaska. I pay the cost of upkeep and the taxes on both those homes, even though I use the Alaska residence only sparingly. During my 10 years in the Senate I have returned to Alaska 185 times, at Government expense, I might add. While these trips were paid for by the Senate and others by my campaign committee, the travel of my late wife was not. When my children have returned to Alaska, I paid their way. I have kept a car in Alaska, which was seldom driven but needed when I visited. I often find that I must host breakfasts, lunches or dinners for constituents, which my allowances do not cover. Other Senators have other expenses more extensive than mine. Most cannot be avoided, and the end result is that being a Senator is more expensive than the average American job.

To pay those expenses, Senators traditionally have been allowed outside income. Some have relied on personal or family wealth to meet their obligations. Others who are not personally wealthy, have earned additional money from the sale of books, or from recordings. Still others, without literary or artistic skills have been able to augment their Senate salaries by making speeches, ouside appearances, or writing articles.

These were the expectations many had when they joined the Senate; that if their Senate salary fell short they could use personal wealth, or write a book, or make a speech to help make ends meet.

In 1977 this was changed when the Senate adopted rule XLIV, which permits a Senator to continue to earn money from invested wealth, or to continue to write books to help with the family treasury; but speeches, honorariums and other "outside earned income," such as wages, salaries, bonus commissions were arbitrarily limited. As I said, I opposed the distinctions we made then and I still do, but another concern motivates me today. I am concerned about the change in rules in midstream, which has effectively reduced many Senators' salaries in the middle of their terms.

They entered into service here with the expectation that if their finances ran short they could augment their salary, made a 6-year commitment to the people of their State, and now find they are limited in what they can earn. Many of the Members of this body are not wealthy. I know of several Senators for whom service in this body, while a great pleasure, is also a serious economic burden. The limitation on outside earnings in Rule XLIV will further aggravate their problems. If we decide to limit Senators' incomes, we should make it effective on a date when no Senator, who was elected with one understanding, must serve under new rules, which limit his ability to care for his family.

I do not know of any Senator who has resigned because he or she cannot make ends meet, but someone might. Others may have to borrow against savings. Some may have to go into debt to complete their terms. Some may have to ask their wives to work.

Service in the Senate should not require a sacrifice. We do not need to pay salaries which will make people rich, but we should not limit a colleague, whose financial burden may be great, by an arbitrary limit on outside income. By January, 1983, every Senator will have had an opportunity to reassess his situation to determine if he wishes to run again and serve again under the limitation on outside income in rule XLIV. Every Member whose term began in 1977 will have completed a full term and can decide for himself or herself if they wish to, or can afford to, live under this new limit.

Interestingly, the drafters of our Constitution understood the unfairness of reducing a person's salary during his term. The Constitution has two provisions which provide that the compensation paid the President and Federal judges shall not be diminished during their term in office. Aside from an attempt to avoid political blackmail, attempts to reduce salaries to gain favorable treatment, such provisions also recognize the principle that a person seeking office should not be expected to suffer financial hardship while in office. Unfortunately, no such limitation exists for the Congress.

Another important factor is that since 1977 inflation has drastically reduced the purchasing power of our salaries. While this is true for all in this country, with our higher expenses it affects us perhaps more. Inflation is running at an annual rate of 10 percent or more, and our ability to purchase goods and services is decreasing at that rate.

An arbitrary limit, as in rule XLIV, imposes a particular burden on those without family wealth and artistic skills, who must supplement their income from honoraria or other earned income. They find that while other Senators are spared the ravages of inflation by writing a new book, or dipping into investment income, he must sacrifice and suffer. When we first enacted this limit the economy was not as seriously out of line. But, now that inflation is out of control Senators must either seek another pay increase, which will increase Government spending and inflationary pressures, or delay this limit so we can continue to support our families.

If the effective date of this rule is delayed we will still be subject to all of the other requirements of the code. Under rule XLII, we must disclose our personal and family finances, including a listing of all honoraria received, all earned income in excess of $100, the identity of each source of unearned income and gifts, and many other financial details. We also are required under the Ethics in Government Act to report these items and all reimbursements we receive. Those financial reports must be audited at least once during each term.

Rule XXXIV prohibits us from accepting gifts from persons or groups with interest in legislation.

Rule XLV limits many activities which might cause conflicts of interest. We cannot engage in professional activity or employment which might cause conflicts. We cannot affiliate with a firm, or allow our name to be used, nor can we hold any position as officer or director of a public corporation, and we are prohibited from lobbying our colleagues for 1 year after leaving office.

Rule XLVI limits us in the funds we can use for expenses we incur in our official duties.

Failure to comply with these rules subjects us to investigation and the full range of penalties available to the Ethics Committee.

With full disclosure, and the strict limits on possible conflicts of interest, the public interest in honest Senators is certainly protected. Whether a Member takes $8,250 in honoraria or $8,251 in honoraria should not be a major concern. What we need to do is insure that any abuse of the honorarium system is controlled and punished, not force Members to choose between public service and personal sacrifice.

Even if we delay the effect of this rule, we will still be subject to the much higher limits on honorariums in the FECA. Those limits, I feel, are more reasonable. The limits of $2,000 per appearance and $25,000 per year provide much more flexibility for individual Member's different financial needs.

Those limitations on honoraria were enacted late in the spring of 1976 after lengthy debate in both Houses. Rule XLIV was adopted less than a year later, in April of 1977, and drastically changed those limits. The public image of this body suffers more from this kind of confused, contradictory legislating than any alleged financial misconduct.

A delay in implementing rule XLIV, which is only fair to our colleagues, will also enable us to give the FEC honoraria limits a chance. They are more realistic and more reasonable than the arbitrary limit on all outside earned income in rule XLIV.

The FEC limits do not incorporate the arbitrary distinction between earned and unearned income, which limits service here to the wealthy. The FEC covers only honoraria and leaves questions as to the propriety of other income to the limitations and disclosures required elsewhere in our rules and gives the voters the final voice in determining what their Senator should and should not do.

By delaying the implementation of rule XLIV, we can let the scheme worked out with such effort in the FEC amendments operate. We can rely on disclosure and the conflict of interest limits and we can avoid making a distinction between earned and unearned income. We can see if this system is adequate and we can avoid forcing our colleagues to sacrifice or leave public service in midstream. When all Senators have made the decision to seek election under the new rules, the new rules can apply.

Mr. President, I am not sponsoring this amendment out of greed, or a desire to trade on my position to become wealthy. While it is not easy to provide college educations to five children, keep homes in two of the highest cost cities in the Nation, and travel back and forth regularly, I have not lost money while here. I do not consider myself a rich man. But I know of others in this body who are less fortunate, with more children, less savings, and higher costs, for whom these arbitrary limits are a burden. It is a matter of simple fairness to delay the effective date until their terms end so they can decide if the sacrifice is worth it for themselves. It will help avoid inflationary pressures. A delay will not mean no control. The rest of the code will apply in full, and the limit in the FECA will remain in effect.

The Senate should not become a rich man's club, as rule XLIV seems to require. But it most assuredly should not force the poorer Members to either leave in midterm or suffer great financial loss to satisfy some vague, unrealizable, and arbitrary dream of proper ethical conduct.

I am happy to yield to my good friend from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I thank my friend from Alaska. I rise to join with him in this matter and to associate myself with the statements he has made. It is a complete and comprehensive statement of our view.

I would only add a very few further remarks. First, we have had 2 years of experience under the arrangement that we propose to continue for another 4, and I think it fair to say that these arrangements have worked well. There have been, to my knowledge, no abuses and, to my knowledge, there has been no suggestion that there have been any.

I think it is worth noting that the Congress and the Senate, in which we speak tonight, most surely of all the representative legislative bodies in the world require of themselves so total a disclosure of their personal circumstances.

Not only do we report our incomes, but we also release our income tax returns, a matter which would have been thought 20 years ago to be a very large event.

We disclose our entire property holdings. If they change from one year to the next, these matters are of complete public record, accessible to anyone, as it should be, and to which no one in any way objects.

Certainly Senator STEVENS and I do not object, and I do not know of anybody, any Member of this body, who does.

But it is also the case, as the Senator from Alaska has said, that we come to this body in different circumstances. Some of us have families in different stages of growth. There are different ranges of resources, from very little to considerable.

It is well-known, especially for those whose families are at a particular state of need in education and for whom inflation continues to be a problem, that a cloud hovers over the experience of being a Senator, which ought not to be there.

May I simply suggest that in the early day of the American Republic, one of the large efforts was to remove the property qualification for voting, a common feature of the 18th and early 19th century governments. This effort was successful.

It would be ironic if, after we got rid of the property qualification for voting, that we found that we had, in effect, imposed a property qualification for holding office.

We do not want to do that, and I think at least for these 4 years we can prevent it by the simple extension of the previous arrangements, the status quo ante, with rule XLIV, which with other rules, provides the most explicit prohibition not simply of conflict of interest but of the appearance of conflict of interest.

I think the arrangement works well. I do not think it would be a mistake at all. I think it would be prudent to see if another 4 years do not, in fact, establish its validity and the principle the Senator has raised—that, at the end of that 4 years, a body will be able to make a decision knowing full well, having entered the Senate, what the terms of service here are.

Mr. STEVENS. I thank the Senator from New York. It does seem to me that fairness also requires us to recognize that this is exactly the way the Constitution has treated the Presidency and the Judiciary. All we are asking with this resolution is that the change in the rules not go into effect until the completion of the terms of those who were elected in the immediately preceding election.

I think that is a sound proposition. If in that period of time we can devise a more equitable approach to this problem, I for one am quite willing to try to work it out.

Mr. MOYNIHAN. And I would be happy to join with the Senator in that effort.

Mr. STEVENS. My hope, however, is that in this period we will allow the limitations imposed by the Federal Election Campaign Act of 1976, and, as I pointed out in my statement, the reporting requirements of that Campaign Act, to come into full effect, and see what it entails in the way of approval or disapproval by our respective constituencies with regard to our activities, as it was prior to the change of the rule, with $25,000 a year or $2,000 per appearance on honoraria.

Mr. President, I have sent the resolution to the desk. I ask for its immediate consideration.

I suggest the absence of a quorum until the arrival of the majority leader.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I now renew my motion for the immediate consideration of the resolution, and state to my good friend from West Virginia that I would be happy to enter into a time agreement concerning its consideration, if he is willing to do so at this time.

The PRESIDING OFFICER. The clerk will state the resolution.

The assistant legislative clerk read as follows:

Resolved, That section 313(c) of Senate Resolution 110, 95th Congress, is amended by striking out "January 1, 1979" and inserting in lieu thereof "January 1, 1983".

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution? Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the resolution.

ORDER FOR RECESS UNTIL 9:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:15 a.m. tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDERS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order tomorrow, the Senator from Missouri (Mr. EAGLETON) and the Senator from Pennsylvania (Mr. HEINZ) be recognized, each for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESUMPTION OF THE PENDING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. I ask unanimous consent that at no later than 10 a.m. tomorrow, the Senate resume its consideration of the pending resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. And that the time thereon be equally divided between the Senator from Alaska (Mr. STEVENS), the author of the resolution, and myself—I will control the time for any Senator who wishes to oppose the resolution—and that the debate thereon extend no later than 11 o'clock a.m., at which time the Senate resume its consideration of the Taiwan legislation, S. 245, the pending question on which will be with relation to the Byrd amendment.

I would anticipate a motion to table that amendment. That vote on tabling the Byrd amendment will occur at 12 noon. I ask unanimous consent that the vote on the resolution by Mr. STEVENS then occur, at no later than 12:30 p.m. tomorrow.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. STEVENS. I thank the majority leader. I appreciate his courtesy, and I appreciate the support of the Senator from New York.

Mr. ROBERT C. BYRD. I thank the Senator from Alaska. Does the Senator from New York seek recognition?

Mr. MOYNIHAN. No, I have finished.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following Calendar Order Numbers: 9, and 16 through 38.

If there is no objection to proceeding to the consideration of those measures, I add to my unanimous-consent request that the measures be considered en bloc, but that they be shown in the record as having been considered separately, and that appropriate extracts from the committee reports be inserted in the record in explanation of the measures.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the aforementioned calendar orders be considered en bloc, be approved en bloc, that the motion to reconsider en bloc be laid on the table, and that the amendments be adopted where shown.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROPOSED CHANGE OF THE NAME OF THE COMMITTEE ON HUMAN RESOURCES TO THE COMMITTEE ON LABOR AND HUMAN RESOURCES

The Senate proceeded to consider the resolution (S. Res. 30) to amend rule XXV of the Standing Rules of the Senate to change the name of the Committee on Human Resources to the Committee on Labor and Human Resources, which had been reported from the Committee on Rules and Administration with an amendment to strike all after the resolving clause and insert the following:

That (a) clause (1) of paragraph 1(l) of rule XXV of the Standing Rules of the Senate is amended by striking out "Committee on Human Resources" and inserting in lieu thereof "Committee on Labor and Human Resources".

(b) Subparagraph (l) of paragraph 1 of such rule XXV is redesignated as subparagraph (m), and subparagraph (m) of such paragraph is redesignated as subparagraph (l) and shall follow after subparagraph (k).

Sec. 2. The table contained in paragraph 2 of rule XXV of the Standing Rules of the Senate is amended by striking out the item relating to the Committee on Human Resources and inserting after the item relating to the Committee on the Judiciary the following:

"Labor and Human Resources---------- 15".

Sec. 3. Any reference in any rule, resolution, or order of the Senate or in any law, regulation, or executive order to the Committee on Human Resources of the Senate shall be considered as referring to the Committee on Labor and Human Resources of the Senate.

The amendment was agreed to.

The resolution, as amended, was agreed to.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

The Senate proceeded to consider the resolution (S. Res. 42) authorizing additional expenditures by the Committee on Agriculture, Nutrition, and Forestry for inquiries and investigations, which had been reported from the Committee on Rules and Administration, with an amendment on page 2, line 12, strike "$766,000" and insert "$756,000".

The amendment was agreed to.

The resolution, as amended, was agreed to, as follows:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Agriculture, Nutrition, and Forestry is authorized from March 1, 1979, through February 29, 1980, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimburseable basis the services of personnel of any such department or agency.

Sec. 2. The expenses of the committee under this resolution shall not exceed $756,000 of which amount not to exceed $25,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

Sec. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1980.

Sec. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–9), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

Senate Resolution 42 as referred would authorize the Committee on Agriculture, Nutrition, and Forestry from March 1, 1979, through February 29, 1980, to expend not to exceed $766,000 for a study of matters within its jurisdiction under rule XXV of the Standing Rules of the Senate, of which amount not to exceed $25,000 would be available for the procurement of the services of individual consultants or organizations thereof.

During the second session of the 95th Congress, the committee was authorized by Senate Resolution 384, agreed to March 6, 1978, to expend not to exceed the same amount ($766,000) for the same or similar purposes. The committee estimates that the unobligated balance under that authorization as of February 28, 1979 (funds returnable to the Treasury) will be approximately $90,000.

The Committee on Rules and Administration has amended Senate Resolution 42 by reducing the requested amount from $766,000 to $756,000, a reduction of $10,000.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON ARMED SERVICES

The Senate proceeded to consider the resolution (S. Res. 81) authorizing additional expenditures by the Committee on Armed Services for inquiries and investigations, which had been reported from the Committee on Rules and Administration, with an amendment on page 2, line 1, strike ", or any subcommittee thereof,".

The amendment was agreed to.

The resolution, as amended, was agreed to, as follows:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Armed Services, is authorized from March 1, 1979, through February 29, 1980, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

Sec. 2. The expenses of the committee under this resolution shall not exceed $763,900, of which amount not to exceed $60,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

Sec. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1980.

Sec. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–10), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

Senate Resolution 81 would authorize the Committee on Armed Services from March 1, 1979, through February 29, 1980, to expend not to exceed $763,900 for a study of matters within its jurisdiction under rule XXV of the Standing Rules of the Senate, of which amount not to exceed $60,000 would be available for the procurement of the services of individual consultants or organizations thereof.

During the second session of the 95th Congress the committee was authorized by Senate Resolution 385, agreed to March 6, 1978, to expend not to exceed $808,800 for the same or similar purposes. The committee estimates that the unobligated balance under that authorization as of February 28, 1979 (funds returnable to the Treasury) will be approximately $198,800.

The Committee on Rules and Administration is reporting Senate Resolution 81 with a technical amendment.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

The Senate proceeded to consider the resolution (S. Res. 57) authorizing additional expenditures by the Committee on Banking, Housing, and Urban Affairs for inquiries and investigations, which had been reported from the Committee on Rules and Administration, with an amendment on page 2, line 12, strike "$1,190,000" and insert "$1,137,600".

The amendment was agreed to.

The resolution, as amended, was agreed to, as follows:

S. Res. 57

Resolved, That in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Banking, Housing, and Urban Affairs is authorized from March 1, 1979, through February 29, 1980, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis, the services of personnel of any such department or agency.

Sec. 2. The expenses of the committee under this resolution shall not exceed $1,137,600.

Sec. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the

Senate at the earliest practicable date, but not later than February 29, 1980.

Sec. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–11), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

Senate Resolution 57 as referred would authorize the Committee on Banking, Housing, and Urban Affairs from March 1, 1979, through February 29, 1980, to expend not to exceed $1,190,000 for a study of matters within its jurisdiction under rule XXV of the Standing Rules of the Senate.

During the 2d session of the 95th Congress, the committee was authorized by Senate Resolution 371, agreed to March 6, 1978, to expend not to exceed $1,126,000 for the same or similar purposes. The committee estimates that the unobligated balance under that authorization as of February 28, 1979 (funds returnable to the Treasury) will be approximately $48,000.

The Committee on Rules and Administration has amended Senate Resolution 57 by reducing the requested amount from $1,190,000 to $1,137,600, a reduction of $52,400.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON THE BUDGET

The Senate proceeded to consider the resolution (S. Res. 73) authorizing additional expenditures by the Committee on the Budget for inquiries and investigations, which had been reported from the Committee on Rules and Administration, with an amendment on page 2, line 10, strike "$2,395,100" and insert "$2,366,500".

The amendment was agreed to.

The resolution, as amended, was agreed to, as follows:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on the Budget is authorized from March 1, 1979, through February 29, 1980, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

Sec. 2. The expenses of the committee under this resolution shall not exceed $2,366,500, of which amount not to exceed $80,500 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(1) of the Legislative Reorganization Act of 1946, as amended).

Sec. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1980.

Sec. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–12), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

Senate Resolution 73 as referred would authorize the Committee on the Budget from March 1, 1979, through February 29, 1980, to expend not to exceed $2,395,100 for a study of matters within its jurisdiction under rule XXV of the Standing Rules of the Senate, of which amount not to exceed $80,500 would be available for the procurement of the services of individual consultants or organizations thereof.

During the second session of the 95th Congress, the committee was authorized by Senate Resolution 387, agreed to March 6, 1978, to expend not to exceed $2,406,500 for the same or similar purposes. The committee estimates that the unobligated balance under that authorization as of February 28, 1979 (funds returnable to the Treasury) will be approximately $472,800.

The Committee on Rules and Administration has amended Senate Resolution 73 by reducing the requested amount from $2,395,100 to $2,366,500, a reduction of $28,600.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

The Senate proceeded to consider the resolution (S. Res. 26) authorizing additional expenditures by the Committee on Commerce, Science, and Transportation for inquiries and investigations, which had been reported from the Committee on Rules and Administration, with an amendment on page 2, line 12, strike "$2,652,800" and insert "$2,627,800".

The amendment was agreed to.

The resolution, as amended, was agreed to, as follows:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Commerce, Science, and Transportation is authorized from March 1, 1979, through February 29, 1980, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

Sec. 2. The expenses of the committee under this resolution shall not exceed $2,627,800, of which amount (1) not to exceed $100,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(1) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,300 may be expended for the training of professional staff of such committee (under procedures specified by section 202(j) of such Act).

Sec. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1980.

Sec. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–13), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

Senate Resolution 26 as referred would authorize the Committee on Commerce, Science, and Transportation from March 1, 1979, through February 29, 1980, to expend not to exceed $2,652,800 for a study of matters within its jurisdiction under rule XXV of the Standing Rules of the Senate. Of that amount (1) not to exceed $100,000 would be available for the procurement of the services of individual consultants or organizations thereof; and (2) not to exceed $2,300 would be available for the training of committee professional staff.

During the second session of the 95th Congress, the committee was authorized by Senate Resolution 374, agreed to March 6, 1978, to expend not to exceed $2,677,800 for the same or similar purposes. The committee estimates that the unobligated balance under that authorization as of February 28, 1979 (funds returnable to the Treasury) will be approximately $680,143.

The Committee on Rules and Administration has amended Senate Resolution 26 by reducing the requested amount from $2,652,800 to $2,627,800, a reduction of $25,000.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

The Senate proceeded to consider the resolution (S. Res. 60) authorizing additional expenditures by the Committee on Energy and Natural Resources for inquiries and investigations, which had been reported from the Committee on Rules and Administration, with an amendment on page 2, line 13, strike "$1,466,300" and insert "$1,465,000."

The amendment was agreed to.

The resolution, as amended, was agreed to, as follows:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Energy and Natural Resources is authorized from March 1, 1979, through February 29, 1980, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

Sec. 2. The expenses of the committee under this resolution shall not exceed $1,465,000, of which amount not to exceed $50,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(1) of the Legislative Reorganization Act of 1946, as amended).

Sec. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1980.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–14), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 60 as referred would authorize the Committee on Energy and Natural Resources from March 1, 1979, through February 29, 1980, to expend not to exceed $1,466,300 for a study of matters within its jurisdiction under rule XXV of the Standing Rules of the Senate, of which amount not to exceed $50,000 would be available for the procurement of the services of individual consultants or organizations thereof.

During the second session of the 95th Congress, the committee was authorized by Senate Resolution 367, agreed to March 6, 1978, to expend not to exceed $1,235,000 for the same or similar purposes. The committee estimates that the unobligated balance under that authorization as of February 28, 1979 (funds returnable to the Treasury) will be approximately $87,815.

The Committee on Rules and Administration has amended Senate Resolution 60 by reducing the requested amount from $1,466,300 to $1,465,000, a reduction of $1,300.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

The Senate proceeded to consider the resolution (S. Res. 43) authorizing additional expenditures by the Committee on Environment and Public Works for inquiries and investigations, which had been reported from the Committee on Rules and Administration, with an amendment on page 2, line 11, strike "$1,429,200" and insert "$1,386,200".

The amendment was agreed to.

The resolution, as amended, was agreed to, as follows:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Environment and Public Works is authorized from March 1, 1979, through February 29, 1980, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $1,386,200, of which amount (1) not to exceed $17,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $500 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1980.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for disbursement of salaries of employees paid at an annual rate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–15), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 43 as referred would authorize the Committee on Environment and Public Works from March 1, 1979, through February 29, 1980, to expend not to exceed $1,429,200 for a study of matters within its jurisdiction under rule XXV of the Standing Rules of the Senate, of which amount (1) not to exceed $17,000 would be available for the procurement of the services of individual consultants or organizations thereof, and (2) not to exceed $500 would be available for the training of professional staff of the committee.

During the 2d session of the 95th Congress, the committee was authorized by Senate Resolution 379, agreed to March 6, 1978, to expend not to exceed $1,386,200 for the same or similar purposes. The committee estimates that the unobligated balance under that authorization as of February 28, 1979 (funds returnable to the Treasury) will be approximately $172,850.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON FINANCE

The Senate proceeded to consider the nomination (S. Res. 52) authorizing additional expenditures by the Committee on Finance for inquiries and investigations, which had been reported from the Committee on Rules and Administration, with an amendment on page 2, line 9, strike "$1,300,000" and insert "$1,019,600".

The amendment was agreed to.

The resolution, as amended, was agreed to, as follows:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Finance is authorized from March 1, 1979, through February 29, 1980, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $1,019,600 of which amount not to exceed $200,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1980.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–16), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 52 as referred would authorize the Committee on Finance from March 1, 1979, through February 29, 1980, to expend not to exceed $1,300,000 for a study of matters within its jurisdiction under rule XXV of the Standing Rules of the Senate, of which amount not to exceed $200,000 would be available for the procurement of the services of individual consultants or organizations thereof.

During the second session of the 95th Congress, the committee was authorized by Senate Resolution 392, agreed to March 6, 1978, to expend not to exceed $909,600 [1] for the same or similar purposes. The committee estimates that the unobligated balance under that authorization as of February 28, 1979 (funds returnable to the Treasury) will be approximately $62,800.

The Committee on Rules and Administration has amended Senate Resolution 52 by reducing the requested amount from $1,300,000 to $1,019,600, a reduction of $280,400.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON FOREIGN RELATIONS

The Senate proceeded to consider the resolution (S. Res. 75) authorizing additional expenditures by the Committee on Foreign Relations for inquiries and investigations, which had been reported from the Committee on Rules and Administration, with an amendment on page 2, line 9, strike "$1,371,700" and insert "$1,301,000".

The amendment was agreed to.

The resolution, as amended, was agreed to, as follows:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Foreign Relations is authorized from March 1, 1979, through February 29, 1980, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $1,301,000, of which amount not to exceed $105,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

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[1] As amended by S. Res. 487, agreed to Aug. 2, 1978, which authorized the committee $300,000 (increase from $609,600 to $909,600) in supplemental funds.

Sec. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1980.

Sec. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–17), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

Senate Resolution 75 as referred would authorize the Committee on Foreign Relations from March 1, 1979, through February 29, 1980, to expend not to exceed $1,371,700 for a study of matters within its jurisdiction under rule XXV of the Standing Rules of the Senate, of which amount not to exceed $105,000 would be available for the procurement of the services of individual consultants or organizations thereof.

During the second session of the 95th Congress, the committee was authorized by Senate Resolution 377, agreed to March 6, 1978, to expend not to exceed $1,231,000 for the same or similar purposes. The committee estimates that the unobligated balance under that authorization as of February 28, 1979 (funds returnable to the Treasury), will be approximately $200,000.

The Committee on Rules and Administration has amended Senate Resolution 75 by reducing the requested amount from $1,371,700 to $1,301,000, a reduction of $70,700.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON GOVERNMENTAL AFFAIRS

The Senate proceeded to consider the resolution (S. Res. 79) authorizing additional expenditures by the Committee on Governmental Affairs for inquiries and investigations, which had been reported from the Committee on Rules and Administration, with an amendment on page 2, line 11, strike "$4,348,100" and insert "$4,328,100".

The amendment was agreed to.

The resolution, as amended, was agreed to, as follows:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Governmental Affairs is authorized from March 1, 1979, through February 29, 1980, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

Sec. 2. The expenses of the committee under this resolution shall not exceed $4,328,100, of which amount not to exceed $46,585 may be expended for the procurement of the services of individaul consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

Sec. 3. The committee, or any duly authorized subcommittee thereof, is authorized to study or investigate—

(1) the efficiency and economy of operations of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of Government funds in transactions, contracts, and activities of the Government or of Government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public: *Provided*, That, in carrying out the duties herein set forth, the inquiries of this committee or any subcommittee thereof shall not be deemed limited to the records, functions, and operations of the particular branch of the Government under inquiry, and may extend to the records and activities of persons, corporations, or other entities dealing with or affecting their particular branch of the Government;

(2) the extent to which criminal or other improper practices of activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(3) syndicated or organized crime which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions which are in violation of the law of the United States or of the State in which the transactions occur, and, if so, the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, what facilities, devices, methods, techniques, and technicalities are being used or employed, and whether or not organized crime utilizes such interstate facilities or otherwise operates in interstate commerce for the development of corrupting influences in violation of the law of the United States or the laws of any State, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activities have infiltrated into lawful business enterprise; and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect the public against the occurrences of such practices or activities;

(4) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety;

(5) riots, violent disturbances of the peace, vandalism, civil and criminal disorder, insurrection, the commission of crimes in connection therewith, the immediate and longstanding causes, the extent and effects of such occurrences and crimes, and measures necessary for their immediate and long-range prevention and for the preservation of law and order and to insure domestic tranquillity within the United States;

(6) the efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(A) the effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(B) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge, talents, and

(C) the adequacy of present intergovernmental relationships between the United States and international organizations principally concerned with national security of which the United States is a member; and

(D) legislative and other proposals to improve these methods, processes, and relationships;

(7) the efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to—

(A) the collection and dissemination of accurate statistics on fuel demand and supply;

(B) the implementation of effective energy conservation measures;

(C) the pricing of energy in all forms;

(D) coordination of energy programs with State and local government;

(E) control of exports of scarce fuels;

(F) the management of tax, import, pricing, and other policies affecting energy supplies;

(G) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(H) the allocation of fuels in short supply by public and private entities;

(I) the management of energy supplies owned or controlled by the Government;

(J) relations with other oil producing and consuming countries;

(K) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and

(L) research into the discovery and development of alternative energy supplies:

Provided, That, in carrying out the duties herein set forth, the inquiries of this committee or any subcommittee thereof shall not be deemed limited to the records, functions, and operations of the particular branch of the Government under inquiry, and may extend to the records and activities of persons, corporations, or other entities dealing with or affecting that particular branch of the Government.

(b) Nothing contained in this section shall affect or impair the exercise of any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946, as amended.

(c) For the purpose of this section the committee, or any duly authorized subcommittee thereof, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 1979, through February 29, 1980, is authorized, in its, his, or their discretion (1) to require by subpena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents, (2) to holding hearings, (3) to sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate (4) to administer oaths, and (5) to take testimony, either orally or by sworn statement.

Sec. 4. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1980.

SEC. 5. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-18), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 79 as referred would authorize the Committee on Governmental Affairs from March 1, 1979, through February 29, 1980, to expend not to exceed $4,348,100 for a study of matters within its jurisdiction under rule XXV of the Standing Rules of the Senate, of which amount not to exceed $46,585 would be available for the procurement of the services of individual consultants or organizations thereof.

During the 2d session of the 95th Congress, the committee was authorized by Senate Resolution 370, agreed to March 6, 1978 ($4,242,900), and by Senate Resolution 587, agreed to October 11, 1978 ($115,227), to expend not to exceed a total of $4,358,127 for the same or similar purposes. The committee estimates that the total unobligated balance under these authorizations as of February 28, 1979 (fund returnable to the Treasury) will be approximately $349,162.

The Committee on Rules and Administration has amended Senate Resolution 79 by reducing the requested amount from $4,348,100 to $4,328,100, a reduction of $20,000.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON HUMAN RESOURCES

The Senate proceeded to consider the resolution (S. Res. 31) authorizing additional expenditures by the Committee on Human Resources for inquiries and investigations, which had been reported from the Committee on Rules and Administration, with an amendment on page 2, line 9, strike "$2,792,000" and insert "$2,753,000".

The amendment was agreed to.

The resolution, as amended, was agreed to, as follows:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Human Resources is authorized from March 1, 1979, through February 29, 1980, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $2,753,000, of which amount not to exceed $50,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1980.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-19), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 31 as referred would authorize the Committee on Human Resources from March 1, 1979, through February 29, 1980, to expend not to exceed $2,792,000 for a study of matters within its jurisdiction under rule XXV of the Standing Rules of the Senate, of which amount not to exceed $50,000 would be available for the procurement of the services of individual consultants or organizations thereof.

During the second session of the 95th Congress, the committee was authorized by Senate Resolution 361, agreed to March 6, 1978, to expend not to exceed $2,623,000 for the same or similar purposes. The committee estimates that the unobligated balance under that authorization as of February 28, 1979 (funds returnable to the Treasury) will be approximately $250,000.

The Committee on Rules and Administration has amended Senate Resolution 31 by reducing the requested amount from $2,792,000 to $2,753,000, a reduction of $39,000.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY

The Senate proceeded to consider the resolution (S. Res. 48) authorizing additional expenditures by the Committee on the Judiciary for inquiries and investigations, which had been reported from the Committee on Rules and Administration, with amendments as follows:

On page 2, line 3, strike "28" and insert "29";

On page 2, line 10, strike "$4,835,900" and insert "$4,735,900";

On page 2, line 18, strike "28" and insert "29".

The amendments were agreed to.

The resolution, as amended, was agreed to, as follows:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on the Judiciary is authorized from March 1, 1979, through February 29, 1980, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $4,735,900, of which amount not to exceed $230,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1980.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-20), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 48 as referred would authorize the Committee on the Judiciary from March 1, 1979, through February 29, 1980, to expend not to exceed $4,835,900 for a study of matters within its jurisdiction under rule XXV of the Standing Rules of the Senate, of which amount not to exceed $230,000 would be available for the procurement of the services of individual consultants or organizations thereof.

During the second session of the 95th Congress, the committee was authorized by Senate Resolution 398, agreed to March 6, 1978, to expend not to exceed the same amount ($4,835,900) for the same or similar purposes. The committee estimates that the unobligated balance under that authorization as of February 28, 1979 (funds returnable to the Treasury) will be nil.

The Committee on Rules and Administration has amended Senate Resolution 48 by reducing the requested amount from $4,835,900 to $4,735,900, a reduction of $100,000. The committee also is reporting the resolution with technical amendments.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON VETERANS' AFFAIRS

The Senate proceeded to consider the resolution (S. Res. 66) authorizing additional expenditures by the Committee on Veterans' Affairs for inquiries and investigations, which had been reported from the Committee on Rules and Administration, with an amendment on page 2, line 10, strike "$279,000" and insert "$269,000".

The amendment was agreed to.

The resolution, as amended, was agreed to, as follows:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Veterans' Affairs is authorized from March 1, 1979, through February 29, 1980, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $269,000, of which amount not to exceed $22,500 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

Sec. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1980.

Sec. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–21), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

Senate Resolution 66 as referred would authorize the Committee on Veterans' Affairs from March 1, 1979, through February 29, 1980, to expend not to exceed $279,000 for a study of matters within its jurisdiction under rule XXV of the Standing Rules of the Senate, of which amount not to exceed $22,500 would be available for the procurement of the services of individual consultants or organizations thereof.

During the 2d session of the 95th Congress, the committee was authorized by Senate Resolution 382, agreed to March 6, 1978, to expend not to exceed the same amount ($279,000) for the same or similar purposes. The committee estimates that the unobligated balance under that authorization as of February 28, 1979 (funds returnable to the Treasury), will be approximately $84,000.

The Committee on Rules and Administration has amended Senate Resolution 66 by reducing the requested amount from $279,000 to $269,000, a reduction of $10,000.

ADDITIONAL EXPENDITURES BY THE SELECT COMMITTEE ON SMALL BUSINESS

The Senate proceeded to consider the resolution (S. Res. 69) authorizing additional expenditures by the Select Committee on Small Business for inquiries and investigations, which had been reported from the Committee on Rules and Administration, with an amendment on page 2, line 18, strike "$327,000" and insert "$326,000".

The amendment was agreed to.

The resolution, as amended, was agreed to, as follows:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by section 134(a) of the Legislative Reorganization Act of 1946, as amended, and S. Res. 58, Eighty-first Congress, agreed to February 20, 1950, as amended and supplemented, in accordance with its jurisdiction under such Senate resolution, the Select Committee on Small Business is authorized from March 1, 1979, through February 29, 1980, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency, and (4) to procure the temporary services (not in excess of one year) or intermittent services of individuals, consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946, as amended.

Sec. 2. The expenses of the select committee under this resolution shall not exceed $326,900, of which amount not to exceed $7,000 may be expended for the procurement of the services of individual consultants, or organizations thereof.

Sec. 3. The select committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1980.

Sec. 4. Expenses of the select committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the select committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report. (No. 96–22), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

Senate Resolution 69 as referred would authorize the Select Committee on Small Business from March 1, 1979, through February 29, 1980, to expend not to exceed $327,000 for a study of matters within its jurisdiction under Senate Resolution 58, 81st Congress, agreed to February 20, 1950, as amended and supplemented, of which amount not to exceed $7,000 would be available for the procurement of the services of individual consultants, or organizations thereof.

During the second session of the 95th Congress, the select committee was authorized by Senate Resolution 378, agreed to March 6, 1978, to expend not to exceed $276,900 for the same or similar purposes. The select committee estimates that the unobligated balance under that authorization as of February 28, 1979 (funds returnable to the Treasury) will be approximately $100.

The Committee on Rules and Administration has amended Senate Resolution 69 by reducing the requested amount from $327,000 to $326,900, a reduction of $100.

ADDITIONAL EXPENDITURES BY THE SPECIAL COMMITTEE ON AGING

The Senate proceeded to consider the resolution (S. Res. 65) authorizing additional expenditures by the Special Committee on Aging, which had been reported from the Committee on Rules and Administration, with amendments as follows:

On page 1, line 4, strike "28" and insert "29";

On page 2, line 8, strike "28" and insert "29";

On page 2, line 9, strike "$325,305" and insert "$325,300";

On page 2, line 20, strike "28" and insert "29".

The amendments were agreed to.

The resolution, as amended, was agreed to, as follows:

Resolved, That the Special Committee on Aging, established by section 104 of S. Res. 4, Ninety-fifth Congress, agreed to February 4 (legislative day, February 1), 1977, is authorized from March 1, 1979, through February 29, 1980, in its discretion to provide assistance for the members of its professional staff in obtaining specialized training, in the same manner and under the same conditions as a standing committee may provide such assistance under section 202(j) of the Legislative Reorganization Act of 1946, as amended.

Sec. 2. In carrying out its duties and functions under such section and conducting studies and investigations thereunder, the Special Committee on Aging is authorized from March 1, 1979, through February 29, 1980, to expend $325,300 from the contingent fund of the Senate, of which amount (1) not to exceed $25,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

Sec. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1980.

Sec. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at annual rate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–23), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

Senate Resolution 65 would authorize the Special Committee on Aging from March 1, 1979, through February 29, 1980, to expend not to exceed $325,305 for a study of any and all matters pertaining to problems and opportunities of older people. Of that amount (1) not to exceed $25,000 would be available for the procurement of the services of individual consultants, or organizations thereof; and (2) not to exceed $1,000 would be available for the training of committee professional staff.

During the second session of the 95th Congress, the special committee was authorized by Senate Resolution 375, agreed to March 6, 1978, to expend not to exceed $321,000 for the same or similar purposes. The special committee estimates that the unobligated balance under that authorization as of February 28, 1979 (funds returnable to the Treasury) will be approximately $15,000.

The Committee on Rules and Administration is reporting Senate Resolution 65 with technical amendments.

ADDITIONAL EXPENDITURES BY THE SELECT COMMITTEE ON INTELLIGENCE

The Senate proceeded to consider the resolution (S. Res. 76) authorizing additional expenditures by the Select Committee on Intelligence, which had been reported from the Committee on Rules and Administration, with an amendment on page 2, line 1, strike "$1,890,000" and insert "$1,799,500".

The amendment was agreed to.

The resolution, as amended, was agreed to, as follows:

Resolved, That the Select Committee on Intelligence, in carrying out the duties and functions prescribed by S. Res. 400, Ninety-fourth Congress, agreed to May 19, 1976, as amended, is authorized from March 1, 1979, through February 29, 1980, to make expenditures from the contingent fund of the Senate not to exceed $1,799,500, of which amount not to exceed $12,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Reorganization Act of 1946, as amended).

SEC. 2. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1980.

SEC. 3. Expenses of the committee under this resolution shall be paid from the contingent fund by the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-24), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 76 as referred would authorize the Select Committee on Intelligence from March 1, 1979, through February 29, 1980, to expend not to exceed $1,890,000 in carrying out the duties and functions prescribed by Senate Resolution 400, 94th Congress, agreed to May 19, 1978, as amended. Not to exceed $12,000 of that amount would be available for the procurement of the services of individual consultants or organizations thereof.

During the 2d session of the 95th Congress, the select committee was authorized by Senate Resolution 383, agreed to March 6, 1978, to expend not to exceed $1,809,500 for the same or similar purposes. The select committee estimates that the unobligated balance under that authorization as of February 28, 1979 (funds returnable to the Treasury) will be approximately $335,717.

The Committee on Rules and Administration has amended Senate Resolution 76 by reducing the requested amount from $1,890,000 to $1,799,500, a reduction of $90,500.

EXPENDITURES BY THE SELECT COMMITTEE ON INDIAN AFFAIRS

The Senate proceeded to consider the resolution (S. Res. 70) authorizing expenditures by the Select Committee on Indian Affairs for inquiries and investigations, which had been reported from the Committee on Rules and Administration, with an amendment on page 2, line 9, strike "$622,949" and insert "$621,600".

The amendment was agreed to.

The resolution, as amended, was agreed to, as follows:

Resolved, That carrying out the duties and functions imposed on it by section 105 of S. Res. 4, Ninety-fifth Congress, agreed to February 4 (legislative day, February 1), 1977, as amended, and in exercising the authority conferred on it by such section, the Select Committee on Indian Affairs is authorized from March 1, 1979, through February 29, 1980, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $621,600, of which amount not to exceed $12,000 may be expanded for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1980.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-25), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 70 as referred would authorize the Select Committee on Indian Affairs from March 1, 1979, through February 29, 1980, to expend not to exceed $622,949 in carrying out the duties and functions imposed on it by section 105 of Senate Resolution 4, 95th Congress, agreed to February 4, 1977, as amended. Not to exceed $12,000 of that amount would be available to the select committee for the procurement of the services of individual consultants or organizations thereof.

During the second session of the 95th Congress, the select committee was authorized by Senate Resolution 368, agreed to March 6, 1978, to expend not to exceed $621,600 for the same or similar purposes. The select committee estimates that the unobligated balance under that authorization as of February 28, 1979 (funds returnable to the Treasury) will be approximately $24,600.

The Committee on Rules and Administration has amended Senate Resolution 70 by reducing the requested amount from $622,949 to $621,600, a reduction of $1,349.

PRINTING OF "STUDY ON FEDERAL REGULATION, FRAMEWORK FOR REGULATION, APPENDIX TO VOLUME XI"

The resolution (S. Res. 44) authorizing the printing of the committee print entitled "Study on Federal Regulation, Framework for Regulation, Appendix to Volume VI" as a Senate document, was considered and agreed to, as follows:

S. RES. 44

Resolved, That the committee print of the Committee on Governmental Affairs entitled "Study on Federal Regulation, Framework for Regulation, Appendix to Volume VI" be printed as a Senate document, and that there be printed four hundred and fifty additional copies of such document for the use of that committee.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-26), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 44 would provide (1) that the committee print of the Committee on Governmental Affairs entitled "Study on Federal Regulation, Framework for Regulations, Appendix to Volume VI" be printed as a Senate document; and (2) that there be printed 450 additional copies of such document for the use of that committee.

The printing-cost estimate, supplied by the Public Printer, is as follows:

Printing-cost estimate

To print as a document (1,500 copies)	$11, 335. 82
450 additional copies, at $2,422.62 per thousand	1, 089. 00
Total estimated cost, Senate Resolution 44	12, 424. 82

PRINTING OF "STUDY ON FEDERAL REGULATION, VOLUME VI, FRAMEWORK FOR REGULATION"

The resolution (S. Res. 45) authorizing the printing of the committee print entitled "Study on Federal Regulation, Volume VI, Framework for Regulation," as a Senate document, was considered and agreed to, as follows:

Resolved, That the committee print of the Committee on Governmental Affairs entitled "Study on Federal Regulation, Volume VI, Framework for Regulation", be printed as a Senate document, and that there be printed one thousand additional copies of such document for the use of that committee.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-27), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 45 would provide (1) that the committee print of the Committee on Governmental Affairs entitled "Study on Federal Regulation, Volume VI, Framework for Regulation" be printed as a Senate document; and (2) that there be printed 1,000 additional copies of such document for the use of that committee.

The printing-cost estimate, supplied by the Public Printer, is as follows:

Printing-cost estimate

To print as a document (1,500 copies)	$5, 051. 61
1,000 additional copies, at $1,129.07 per thousand	1, 129. 07
Total estimated cost, S. Res. 45	6, 180. 68

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON FINANCE

The resolution (S. Res. 51) authorizing additional expenditures by the Committee on Finance for routine purposes, was considered and agreed to, as follows:

Resolved, That the Committee on Finance is authorized to expend from the contingent fund of the Senate, during the Ninety-sixth Congress, $30,000 in addition to the amount, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-28), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

Section 134(a) of the Legislative Reorganization Act of 1946 (Public Law 601, 79th Congress, 60 Stat. 812, August 2, 1946) authorized each standing committee of the Senate to expend not to exceed $10,000 per Congress for routine purposes.

Senate Resolution 51 would authorize the Committee on Finance to expend from the contingent fund of the Senate, during the 96th Congress, $30,000 in addition to the amount, and for the same purposes, specified in said section 134(a).

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON APPROPRIATIONS

The resolution (S. Res. 53) authorizing additional expenditures by the Committee on Appropriations for routine purposes, was considered and agreed to, as follows:

Resolved, That the Committee on Appropriations is authorized to expend from the contingent fund of the Senate, during the Ninety-sixth Congress, $400,000 in addition to the amount and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96-29), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

Section 134(a) of the Legislative Reorganization Act of 1946 (Public Law 601, 79th Cong., 60 Stat. 812, August 2, 1946) authorized each standing committee of the Senate to expend not to exceed $10,000 per Congress for routine purposes.

Senate Resolution 53 would authorize the Committee on Appropriations to expend from the contingent fund of the Senate, during the 96th Congress, $400,000 in addition to the amount, and for the same purposes, specified in said section 134(a).

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON ARMED SERVICES

The resolution (S. Res. 82) authorizing additional expenditures by the Committee on Armed Services for routine expenses was considered and agreed to, as follows:

Resolved, That the Committee on Armed Services is authorized to expend from the contingent fund of the Senate, during the Ninety-sixth Congress, $100,000 in addition to the amount, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96-30), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

Section 134(a) of the Legislative Reorganization Act of 1946 (Public Law 601, 79th Cong., 60 Stat. 812, August 2, 1946) authorized each standing committee of the Senate to expend not to exceed $10,000 per Congress for routine purposes.

Senate Resolution 82 would authorize the Committee on Armed Services to expend from the contingent fund of the Senate, during the 96th Congress, $100,000 in addition to the amount, and for the same purposes, specified in said section 134(a).

MARY LUCY KUHL HAWORTH, FRANCES T. KUHL, PIUS A. KUHL, JAMES H. KUHL, AND RICHARD A. KUHL

The resolution (S. Res. 86) to pay a gratuity to Mary Lucy Kuhl Haworth, Frances T. Kuhl, Pius A. Kuhl, James H. Kuhl, and Richard A. Kuhl, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Mary Lucy Kuhl Haworth and Frances T. Kuhl, sisters of Arthur M. Kuhl; and Pius A. Kuhl, James H. Kuhl, and Richard A. Kuhl, brothers of Arthur M. Kuhl, an employee of the Senate at the time of his death, a sum to each equal to one-fifth of one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider, en bloc, the votes by which the various measures were agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PETER W. LeROUX

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution commending Peter W. LeRoux for his service to the Senate, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution.

The assistant legislative clerk read as follows:

S. Res. 94

Whereas, Peter W. LeRoux is retiring after having served for more than 30 years as an attorney on the staff of the Office of Legislative Counsel of the Senate; and

Whereas, during this long period of service Peter W. LeRoux has performed his duties for the Senate with skill and distinction: Now, therefore, be it

Resolved, That the Senate of the United States extends its appreciation and gratitude to Peter W. LeRoux for his long and faithful service in the Office of the Legislative Counsel of the Senate.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to Peter W. LeRoux.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

Mr. STEVENS. Mr. President, may I inquire of the majority leader, this is the resolution cosponsored by Senator Baker?

Mr. ROBERT C. BYRD. Yes, with me.

Mr. STEVENS. Mr. President, I am happy to hear that, and would like the record to so show, that we are pleased to join in supporting this resolution.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

Without objection, the resolution is agreed to.

Without objection, the preamble is agreed to.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, if the distinguished acting Republican minority leader agrees, that the time of the two leaders on tomorrow morning be reduced to 5 minutes each.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 9:15 tomorrow morning, following a recess. Following the recognition of the two leaders or their designees under the standing order, Mr. Eagleton and Mr. Heinz will be recognized each for not to exceed 15 minutes. At no later than 10 o'clock a.m. the Senate will resume its consideration of Senate Resolution 93, offered by Mr. Stevens and Mr. Moynihan, with the time to be equally divided between Mr. Stevens and myself, the time to run no later than 11 o'clock a.m., at which hour the Senate will resume its consideration of S. 245, a bill to promote the foreign policy of the United States through the maintenance of commercial, cultural, and other relations with the people of Taiwan on an unofficial basis, and for other purposes.

After 1 hour of debate on the pending amendment by Mr. Harry F. Byrd, Jr., the 1 hour to be controlled by Mr. Harry F. Byrd, Jr. and Mr. Glenn, a vote will occur in relation to that amendment, and that will be a tabling motion.

I assume that it will be a rollcall vote.

Following the vote on the tabling of the Byrd amendment, the Senate will resume consideration of the resolution by Mr. Stevens and Mr. Moynihan, Senate Resolution 93, with a vote to occur thereon at not later than 12:30 p.m.

Mr. President, there will be rollcall votes throughout the afternoon tomorrow. It would be very much appreciated if action could be completed on S. 245 tomorrow but, in any event, Senators should be ready to call up their amendments thereto. There will be votes on those amendments and on motions in relation to S. 245 throughout the afternoon.

PERIOD FOR ROUTINE MORNING BUSINESS TOMORROW

Mr. President, I ask unanimous consent that if there is any time between the consummation of the order for recognition of Senators and the hours of 10 o'clock a.m. tomorrow, such time be utilized for routine morning business and that Senators may be permitted to speak therein for not to exceed 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, with thanks to the distinguished acting Republican leader and all Senators, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 9:15 a.m. tomorrow.

The motion was agreed to, and at 7:41 p.m., the Senate recessed until Thursday, March 8, 1979, at 9:15 a.m.

NOMINATION AND WITHDRAWAL

Executive nomination and a withdrawal received by the Senate March 6, 1979, under authority of the order of the Senate of March 5, 1979:

THE JUDICIARY

Joyce Hens Green, of Virginia, to be U.S. district judge for the District of Columbia, vice Howard F. Corcoran, retired.

Withdrawal sent to the Senate on March 6, 1979:

Joyce Hens Green, of Virginia, to be U.S. district judge for the District of Columbia, vice a new position created by Public Law 95-486, approved October 20, 1978, which was sent to the Senate on March 2, 1979.

Executive nominations received by the Senate March 7, 1979:

IN THE AIR FORCE

The following Air National Guard of the United States officers for promotion in the Reserve of the Air Force under the provisions of section 593(a) title 10 of the United States Code, as amended:

LINE OF THE AIR FORCE

To be lieutenant colonel

Maj. Allen W. Boone, [redacted].
Maj. Lawrence J. Burda, [redacted].
Maj. Patrick R. DiCaprio, [redacted].
Maj. Donald L. Early, [redacted].
Maj. Marvin J. Foster, Jr., [redacted].
Maj. John E. Frank, [redacted].
Maj. David B. Hill, Jr., [redacted].
Maj. Franklin C. McKee, [redacted].
Maj. John F. Peebles, [redacted].
Maj. Gerald R. Posanka, [redacted].
Maj. Charles D. Reed, [redacted].
Maj. Raymond C. Sandy, [redacted].
Maj. John C. Schwartz, [redacted].
Maj. Ronald L. Seely, [redacted].
Maj. Charles E. Turk, [redacted].

JUDGE ADVOCATE

Maj. Howard G. Carpenter, Jr., [redacted].

CHAPLAIN

Maj. Marvin J. Boes, [redacted].

MEDICAL CORPS

Maj. Richard D. Christensen, [redacted].

IN THE AIR FORCE

The following officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force:

MEDICAL CORPS

To be lieutenant colonel

Bailey, Robert J., [redacted].

To be captain

Bell, Christopher P., [redacted].

The following persons for appointment as Reserve of the Air Force, in grade indicated, under the provisions of section 593, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated:

MEDICAL CORPS

To be lieutenant colonel

Alkie, Leonard E., [redacted].
Augustine, Gesner, [redacted].
Brickler, Lewis M., [redacted].
Donlan, William H., [redacted].
Kurtze, Arthur G., [redacted].
Simmons, Earl M., [redacted].
Ward, Swan S., [redacted].
Zetterstrand, Philip A., [redacted].

The following officers for promotion in the Air Force Reserve, under the provisions of sections 593 and 8376, title 10, United States Code:

LINE OF THE AIR FORCE

Major to lieutenant colonel

Alvey, Dennis H., [redacted].
Anderson, Charles E., [redacted].
Bourgeois, Paul J., [redacted].
Breese, Richard P., [redacted].
Butler, Jay M., [redacted].
Campana, Augustine F., [redacted].
Coniglio, Joseph G., [redacted].
Fisher, Darell R., [redacted].
Foley, David D., [redacted].
Graham, Alex L., [redacted].
Gruhn, Jeremy J., [redacted].
Hart, Don F. [redacted].
Hartman, John E., [redacted].
Hidden, James G., [redacted].
Keene, David V., [redacted].
McCarthy, Michael L., [redacted].
McClelland, David H., [redacted].
Michalowski, Thomas J., [redacted].
Morrison, John A., Jr., [redacted].
Paillex, Robert G., [redacted].
Patterson, Charles W., [redacted].
Perkins, Larry F., [redacted].
Putters, James E., [redacted].
Searle, Ronald L., [redacted].
Shinpaugh, John A., [redacted].
Simcoe, Larry P., [redacted].
Simms, Robert A., Jr., [redacted].
Sims, Clark W., [redacted].
Thompson, Richard L., [redacted].
Torre, Rocco J., [redacted].

CHAPLAIN CORPS

Keane, Thomas F., [redacted].

MEDICAL CORPS

Francisco, Edgardo C., [redacted].
Hampton, John R., III, [redacted].
Harris, Melvin E., [redacted].
Krege, John W., [redacted].
Otto, Ralph E., [redacted].
Swift, Dean C., [redacted].
Wooley, Galen S., [redacted].

NURSE CORPS

Richardson, Daphne A., [redacted].
Stockbridge, Cynthia A., [redacted].
Stoffel, Carol E., [redacted].

The following-named Air Force officer for reappointment to the Active List of the Regular Air Force, in the grade of lieutenant colonel, Regular Air Force, under the provisions of sections 1210 and 1211, title 10, United States Code, with active duty grade of temporary colonel, in accordance with sections 8442 and 8447, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated:

DENTAL CORPS

Lord, Hunting J., Jr., [redacted].

The following-named Air Force officer for reappointment to the Active List of the Regular Air Force, in the grade of colonel, Regular Air Force, under the provisions of sections 1210 and 1211, title 10, United States Code, with active duty grade of temporary colonel, in accordance with sections 8442 and 8447, title 10, United States Code.

LINE OF THE AIR FORCE

Paul, Norman L., [redacted].

IN THE ARMY

The following-named officer as permanent professor at the U.S. Military Academy, under the provisions of title 10, United States Code, sections 4331 through 4333:

To be professor and head of the Department of Behavioral Sciences and Leadership

Prince, Howard T., II, [redacted].

IN THE NAVY

The following-named ensigns of the U.S. Navy for temporary promotion to the grade of lieutenant (junior grade) in the line and staff corps, as indicated, pursuant to title 10, United States Code, sections 5784 (line and staff corps officers) and 5791, subject to qualifications therefor as provided by law:

LINE

Adamonis, Joseph E.
Albrecht, Ricky, I
Allen, Andrew J.
Allen, Bradley K.
Allen, Gene R.
Allen, Maxwell
Allen, Robert J.
Anderson, Phillip D.
Argalas, Barry E.
Arlen, Richard L.
Askin, William D.
Atchison, Ralph L.
August, Bernard J., Jr.
Ayers, William S., Jr.
Bailey, Thomas P.
Baker, Charles V.
Baldassano, David R.
Bancroft, Herman G., III
Bard, Carter P.
Barkman, John G., Jr.
Barlow, Cecil E.
Barnes, Richard S.
Baron, Robert D.
Beaton, George E.
Beckstrom, Donald R., Jr.
Begy, Carl R.
Bell, John W.
Bellard, Johnny
Beres, Randolph G.
Berg, Gustave L., III
Berry, William W.
Bertrand, Shelton
Bickmann, Arnold
Biggerstaff, William S.
Black, Edward J.
Blount, Alvin A.
Booth, Richard L.
Botulonski, Thomas J.
Bouquet, Tommey E.
Bowen, William G.
Boyd, Edward M.
Boyles, Bruce A.
Brackett, Frederick P., Jr.
Bradhurst, John G.
Bradley, James J.
Brewmaker, Ronald L.
Brewer, David A.
Brewer, Luther S.
Bright, Leroy F., Jr.
Bristow, Isaac
Britt, David F.
Brittan, Harry L.
Brookshire, David R.
Brown, Gerald C.
Brown, Lance L.
Brown, Lonny D.
Brown, Paul A.
Brown, Richard C.
Bruni, David P.
Bryan, William J., Jr.
Budgins, John M.
Bugtong, Jame B. R., Jr.
Burke, Richard E.
Burkett, Michael C.
Burleigh, Richard R.
Burrill, Joseph E.
Burrill, Larry D.
Burton, Edward O.
Burton, William J.
Byer, James C.
Callahan, Steven W.
Callaway, Joseph E.
Canell, Edward J.
Canfield, Bruce T.
Cannon, David W.
Cantos, Cornelio F.
Carey, Harold F., Jr.
Carpenter, Bruce A.
Carter, William R., Jr.
Casanova, William
Case, Michael J.
Catherman, Ronnie N.
Ceely, Richard A.
Celli, Lino J.
Chalker, James R.
Chavez, Juan L.
Cheatham, William H.
Christopher, Ronald J.
Clemons, Clevie L.
Clingenpeel, Roy
Coble, Richard A.
Cole, James P. III
Cole, John F.
Conradi, Joseph R.
Coppinger, Michael L.
Cordell, Thomas R.
Craig, Douglas W.
Crary, Howard L.
Crawford, Rex F.
Crutz, David A.
Culver, Robert J.
Currie, William S.
Curtis, Larry J.
Curtis, Richard L.
Cyrus, Richard E.
Czulewicz, Thomas S.
Daigle, Dennis W.
Dale, Larry J.
Dattoli, Joseph S.
Davie, Robert A.
Davis, Charles W.
Davis, Jack L.
Davis, Leon D., Jr.
Dearbeck, Jerry L.
Degloma, Thomas E.
Dell, Franklin E.
Deloach, Willie L.
Denecamp, Gustav A., III
Deryck, Wayne D.
DeSilva, Philip E., Jr.
Dickinson, Michael L.
Dixon, Willard E.
Doane, Ellis H., III
Dodds, William H., Jr.
Dotson, Edward L.
Douglas, Robert E.
Dowling, Russell L.
Dufeck, Jerry L.
Dumpert, David R.
Dundee, Jack L.
Dundon, Nicholas G.
Dunphy, Joseph J. G.
Edwards, Perry B.
Edwards, William E., Jr.
Eimes, James E.
Elford, David A.
Elliott, Sidney M.
Elmlinger, Ronald H.
English, Floyd E.
Eschete, Donald P.
Etterman, James E., Jr.
Faris, John M.
Faulk, Allen M.
Felder, Gary C.
Ferguson, David B.
Ferranti, Jerry W.
Ferris, Albert D., III

Fett, Hans G.
Fiore, Samuel S.
Fisher, James E.
Fisher, John W.
Fitzgerald, William C.
Ford, Jesse B.
Forgach, Gary L.
Fortner, William S.
Foster, Dennis P.
Foster, James W.
Fountain, Bruce E.
Fowler, Leonard H., III
Fox, Michael E.
Fox, William F., Jr.
Francia, Anthony A.
Frenck, Wayne H.
Fry, Rene M.
Fulton, Terry L.
Gagnon, James H.
Gallipo, Leslie K.
Gamble, Bruce T.
Gannon, Harold J., Jr.
Gardner, David C.
Gardner, Dennis M.
Gill, Bruce J.
Goldberg, John W.
Gowens, Michael W.
Gray, Arthur R.
Gray, James R.
Green, Melvin C.
Green, Nathaniel
Gregory, James L.
Gross, Harold
Gruben, Roger S.
Gumpright Robert E. Jr.
Haag, Gunter
Hada, Wilford V.
Hagerty, George J.
Hale, Mark S.
Hall, Homar H., Jr.
Hall, Tommy E.
Ham, Jimmy L.
Hamilton, Robert W.
Hammond, James L.
Hampel, Kenneth E.
Hampton, Cecil L.
Hansen, Joseph A.
Hanson, Zane L.
Hardwig, Larry K.
Harmon, John M.
Harris, Charles M.
Harris, David J.
Harris, Lawrence J.
Harrison, Lonnie P.
Hart, Gerald E.
Hartman, Richard W., II
Havemann, Leonard P.
Hayes, Stuart A.
Heiney, Gary J.
Hennig, William A.
Herbel, Richard C.
Hill, Clarence D.
Hitchcock, Thomas L.
Hoffman, James E.
Hogan Patrick G.
Hohorst, Dedrich C.
Holland, James W., Jr.
Holmberg, Hilding A.
Hood, Jack N.
Hopkins, Dennis L.
Houchins, Ronald W.
Houghton, Charles I.
Howard, John R.
Howard, Stephen R.
Howarth, Peter T.
Ingram, Michael R.
Jackson, John E., III
Jacob, Anthony
Jaggard, Joseph F., Jr.
James, Richard L.
Johnsen, Arvin W.
Johnson, Philip N.
Jones, Donald L.
Jones, Eric M.
Jones, Henry B., III
Jones, Richard L.
Jones, Stephen C., Jr.
Jordan, Dorsett W.
Judy, Daniel E.
Kaczmarek, Christopher
Keever, Douglas F.
Kelley, William J.
Kennedy, Peter C.
Kenner, Robert P.
Kile, Larry B.
Kimmel, John F., Jr.
Kindergan, Walter B.
King, Michael C.
King, Roger L.
Klansnic, William J.
Koebel, Jerry A.
Kolar, Scott A.
Kolthoff, David L.
Konkel, Michael J.
Koritar, John A.
Kraemer, Kent H.
Kramer, David R.
Krohn, Gary L.
Kruk, Edward M.
Kuntz, John F.
Lake, Billy G.
Lambard, Richard E., Jr.
Laney, Terance
Larsen, Duane A.
Laughrun, Jerry L.
Lauseng, Leroy L.
Ledoux, Alton D.
Lemaster, Robert E.
Lewis, Dave E.
Lian, Robert A.
Lieberman, David L., III
Lineburg, Frederick F.
Little, Patrick E.
Lockwood, Tyrone
Lofton, Randall B.
Long, Richard K.
Long, Robert C.
Longway, James G.
Lonigan, Thomas J.
Lopez, Raymond F., Jr.
Lopiccolo, Richard J.
Lorenz, Duane E.
Losardo, Vito, Jr.
Lubbers, James E.
Luckenbach, James W.
Lyon, Charles R.
Macdonald, Patrick
Maguire, Edwin J.
Mahoney, William A.
Majority, James N.
Manley, Larry J.
Mann, Liberty E., III
Marschall, Charles S., Jr.
Martin, Stanley R.
Martine, Dennis K.
McAllister, Herbert J.
McAuliffe, Thomas J.
McCammon, Michael A.
McCaskill, Thomas H.
McComb, Jeffery L.
McCracken, Lance D.
McCree, Joseph W., Jr.
McKinney, Patrick D.
McKinnon, Jack A., Jr.
McLemore, Henry, Jr.
McManigle, James E.
McNabb, Steven D.
Meyer, Thomas J.
Miles, Neal S.
Miller, Charles J.
Miller, Theodore G.
Milling, Phillip O.
Milstead, James A.
Mock, Robert C.
Mohs, Wayne C.
Moore, Bruce F.
Moore, Michael L.
Moore, Thomas L.
Morgan, Perry W.
Morgan, Roger D.
Mosely, Charles L.
Murray, William C.
Muth, William E.
Myers, Harry S.
Neeley, Martin F.
Nelson, Stuart A.
Newlan, James D.
Nidel, William J.
Noble, Thomas K., Jr.
Norris, Melvin S.
Oakes, John E.
Ogden, Richard D.
Oleary, Thomas M., Jr.
O'Neal, William C.
Oshiro, Oliver S.
Otto, Garland A.
Paez, Rudolph A.
Parker, Ronnie K.
Pasnak, Richard P.
Patnode, William B.
Patrick, Robert J., Sr.
Pauley, Frederick P., Jr.
Pearson, John R.
Pehling, Gary W.
Pfannenstiel, Gary A.
Picard, Roland R.
Pierson, John E.
Pincus, William A.
Pind, Michael D.
Pittman, Ronald C.
Ploeger, Ernst O., III
Polak, Dennis M.
Polio, Joseph R.
Poole, James W.
Poole, Michael L.
Porter, Vernon, Jr.
Prendergast, Richard K.
Presto, Anthony F.
Preston, Richard W.
Prosser, David R.
Prudot, John T.
Pulley, Samuel D.
Quinn, Joseph M., Jr.
Rains, John N.
Ramsey, Marshall N.
Reilly, Everett E., Jr.
Rhames, William C.
Rice, Stephen W. C.
Rinaudo, Cosmo
Ringering, David A.
Risko, Georgi W.
Roadinger, Michael J.
Robbins, David E.
Rock, Stephen K.
Rouse, Russell E.
Rovero, Peter J.
Royer, Kenneth P.
Rublee, James R.
Ruby, Donald L.
Rugenstein, Mark W.
Ruple, Robert W., II
Russell, Kenneth W., Jr.
Ryan, John E.
Sala, Alan J.
Salts, Rodney J.
Sammons Ronnie E.
Sanderson, David P.
Sansom, Richard T.
Sargent, Roger A.
Schaumburg, Gary L.
Schorr, Donald F.
Schrader, John L.
Seay, David B.
Severance, Frank R.
Sharpes, David R.
Shelton, John P.
Shepp, Barre L.
Shewchuk, William O.
Simberly, Paul B.
Simmons, Jerry M.
Simonds, Frank H., Jr.
Simpson, Jerry R.
Sipin, Nelson A.
Sitton, George D., III
Skinner, Robert J.
Slack, Carl W.
Smartt, Frederick F., III
Smith, Frank W.
Smith, Isaac H., Jr.
Smith, Waymon A.
Smock, Terry D.
Smoot, Melton L.
Smyre, Melford E.
Sneide, Larry J.
Snider, Gene
Snodgrass, William J.
Sohns, Michael E.
Souza, Gerald W.
Sprenkle, James R.
Spruill, Danny E.
Stacy, Bobby R.
Stanwood, Arthur H., Jr.
Stevens, Thomas E.
Stone, John A.
Stone, William B.
Strawder, Freddie E.
Strother, Burhl E., Jr.
Sullivan, Richard T.
Summers, Mark E.
Summers, William E.
Swan, Gregory A.
Swear, George M.
Sweeney, John F.
Sychterz, Joseph A., III
Tanner, Randall E.
Taylor, Bobby J.
Teats, Robert B.
Tenant, James J.
Tenard, Harry N.
Thomas, Guadalupe
Thomas, James B.
Thomas, Ronald D.
Thompson, Harry M.
Tipton, Richard G.
Tomlinson, Richard S.
Tomlinson, Randal S.
Trammel, Gary M.
Tucker, David W.
Turk, William J.
Turner, Richard W.
Turner, Thomas J.
Turpen, Michael C.
Urrutia, Ronald
Utterback, Norman A.
Vanderveer, John K.
Vanhoose, Sammy J.
Vansickle, William R.
Vaughan, Charles F.
Vaughan, Danny
Vaughan, James L.
Venerdi, Henry T.
Vobrak, James W.
Vogel, Charles E.
Vorndran, Thomas F.
Wachter, Michael L.
Wadeson, Robert G., Jr.
Wagner, Phillip E.
Walker, Charles B., Jr.
Walters, George F.
Walz, Alfred F., Jr.
Warr, Kenneth N.
Weller, Phillip A.
Wells, Ralph C.
Wendelin, Olli P.
Werner, James P.
Westhusin, Daniel J.
White, John W.
Whitkop, Robert N.
Wilkins, Donald M.
Williams, Michael E.
Williams, Robert E.
Willis, Gary L.
Willis, William R.
Wishon, Milborn F.
Wolfe, Gregory J.
Woods, William E., Jr.
Woodward, William L.
Zane, George K.

SUPPLY CORPS

Adams, Jackie D.
Alligood, Clifford J.
Asp, Lawrence W.
Bates, Leslie A.
Bird, Jerry L.
Brooks, David C.
Camburn, Robert V.
Cannon, Hammond G., Jr.
Corelli, Einar L.
Cresto, John H.
Delaney, John V., III
Deno, Thomas R.
Douglas, David S.
Grieger, Thomas A.
Haines, Dennis
Hughes, William G., Jr.
Humphries, John C.
Jackson, Julius J.
Jio, Nathan M.
Konrad, Robert A.
Kuskie, Ronald C.
Lauster, Ronald J.
Leib, Frederick W.
Loftus, Edmund M., Jr.
Miller, Jack, E.
Motz, John P.
Nelson, Richard A.
Noel, Jerry L.
Pacheco, Edward W.
Rickel, Jack M.
Stowell, William J.
Toledo, Crispin A.
Tomas, Rufino M.
Trowbridge, Jay R.
Wolfe, Gary T.
Wright Edward

CIVIL ENGINEER CORPS

Haefner, Wayne D.
Sefton, Reynold A., Jr.
Smith, Robert M.

The following-named woman ensign of the U.S. Navy for temporary promotion to the grade of lieutenant (junior grade) in the line, pursuant to title 10, United States Code, sections 5787b and 5791, subject to qualifications therefor as provided by law:

Crowder, Sharon K.

EXTENSIONS OF REMARKS

EXPRESSION OF SORROW AT THE UNTIMELY DEATH OF WILLIAM WEAVER

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. BONER of Tennessee. Mr. Speaker, today it is with a heavy heart that I rise to report to the Congress of the passing of a civic giant, William Weaver of Nashville.

Mr. Weaver was chairman and chief executive officer of the NLT Corp., and its principal subsidiary, the National Life and Accident Insurance Co., when he retired last October upon reaching the mandatory retirement age. In business in Nashville for 45 years, and with National Life since 1940, Mr. Weaver is credited by financial analysts as being the person who guided National Life to 19th in the Nation among life insurance companies and 6th among stock companies, ranked by assets.

As chairman of the board of WSM, Inc., Mr. Weaver was also the top official of the Grand Ole Opry and Opryland, U.S.A., two Nashville institutions known around the world. He was instrumental in negotiating WSM's acquisition of the Ryman Auditorium, where the Grand

● **This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.**

Ole Opry was presented until it moved to the new Opry House in 1974.

Mr. Weaver was a director of the Third National Bank since 1964, the Third National Corp., since 1972, and a member of the Vanderbilt Board of Trust since 1973. He was one of the founders and developers of the Green Hills Village shopping center, which opened 24 years ago.

In 1972, he led the Middle Tennessee Council of Boy Scouts in a successful fund-raising drive for more than $4.5 million, the largest ever undertaken by a Scout council. Fifteen years earlier the council bestowed upon Mr. Weaver the award of Silver Beaver, the highest award for volunteers in scouting.

Upon his retirement, Mr. Weaver said that he would officially end his business career but that his, "abilities and energies will be at the service of my hometown as long as I live."

Last August, Mayor Richard Fulton named Bill Weaver cochairman, with Charles Kane, of the 64-member finance committee of Nashville's Century Three celebration.

During a long association with the NLT Corp., Bill Weaver served in various management capacities in the investment, real estate, and mortgage loan departments before becoming financial vice president in 1963. Quickly moving upward he was appointed senior vice president of finance in 1964, executive vice president in 1967, and finally president of National Life in 1969. In 1973, he was appointed to become the chief executive officer of the giant NLT Corp., which has assets of more than $3 billion. NLT Corp. owns Interreal, NLT Computer Services, Corp., Guardsman Life Insurance, and Nation Property Owners Insurance Co., in addition to National Life, WSM, Inc., the Grand Ole Opry, and Opryland, U.S.A.

The service that this gentleman provided to his community was not all to the business and civic organizations; he was very active with his church, the United Methodist Church. Mr. Weaver served on the board of trust of his home church, West End Methodist, as well as a member-at-large on the board of the Methodist Publishing House.

The void left by the passing of William Weaver will be felt by his community, by his business, and by those of us who were fortunate enough to know him, for years to come.●

LOS ANGELES CITY COLLEGE—GOLDEN ANNIVERSARY

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. WAXMAN. Mr. Speaker, it gives me pleasure to commemorate the 50th anniversary of Los Angeles City College, an institution which is one of the finest assets of the city of Los Angeles and one which I am proud to have in my own 24th Congressional District.

Founded in the fall of 1929, it was the original site for UCLA and later California State University, Los Angeles.

Located in the Hollywood area, it has grown not only in size but has responded to the ever changing needs of the community. The college now serves 18,000 day and evening students through its 2-year programs. It offers preprofessional training for those planning to transfer to 4-year colleges and universities, as well as occupational training.

Los Angeles City College is tuition-free to California residents, thus affording the opportunity of continuing education to many students who otherwise could not afford a post-secondary education. Through its educational and community services, LACC has been a source of cultural enrichment and inspiration to thousands of people. Its graduates have consistently distinguished themselves in industry, business, government and the entertainment field.

During the past half century, Los Angeles City College has clearly represented the character, spirit and diversity that is Los Angeles. It will, I know, continue not only to serve the Los Angeles community, but will remain a model of purpose and achievement to other centers confronting the same needs and aspirations. I ask the Members to join me in honoring this fine educational institution.●

TAX GUIDELINES FOR SENIOR CITIZENS

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. RICHMOND. Mr. Speaker, our Nation's soaring, double-digit inflation figures have been a true hardship to all American consumers. Indeed, inflation is our cruelest tax.

As food prices continue to skyrocket, and housing and medical expenses increase at unprecedented rates, many Americans, particularly our older citizens and low-income consumers, are finding fewer and fewer ways to make ends meet. Our Nation's senior citizens on fixed incomes—especially in urban areas such as New York City, where inflation hits the hardest—are experiencing increases in living expenses that threaten their very existence.

While we in Congress must continue to assure that social security, medicare and other essential human needs programs keep pace with inflation, it is equally important that we counsel and assist older Americans in taking advantage of the many tax laws that may lessen the burden of inflation.

Mr. Speaker, the Senate Special Committee on Aging recently published its Checklist of Itemized Deductions, a guidebook designed to protect older Americans from overpayment of Federal taxes. I would like to share this extremely helpful publication with my colleagues, as well as the millions of taxpayers who could benefit from its useful guidelines.

The checklist follows:

CHECKLIST OF ITEMIZED DEDUCTIONS FOR SCHEDULE A (FORM 1040)

MEDICAL AND DENTAL EXPENSES

Medical and dental expenses (unreimbursed by insurance or otherwise) are deductible to the extent that they exceed 3% of your adjusted gross income (line 31, Form 1040).

INSURANCE PREMIUMS

One-half of medical, hospital or health insurance premiums are deductible (up to $150) without regard to the 3% limitation for other medical expenses. The remainder of these premiums can be deducted, but is subject to the 3% rule.

DRUGS AND MEDICINES

Included in medical expenses (subject to 3% rule) but only to extent exceeding 1% of adjusted gross income (line 31, Form 1040).

OTHER MEDICAL EXPENSES

Other allowable medical and dental expenses (subject to 3% limitation):

Abdominal supports (prescribed by a doctor).

Acupuncture services.

Ambulance hire.

Anesthetist.

Arch supports (prescribed by a doctor).

Artificial limbs and teeth.

Back supports (prescribed by a doctor).

Braces.

Capital expenditures for medical purposes (e.g., elevator for persons with a heart ailment)—deductible to the extent that the cost of the capital expenditure exceeds the increase in value to your home because of the capital expenditure. You should have an independent appraisal made to reflect clearly the increase in value.

Cardiographs.

Chiropodist.

Chiropractor.

Christian Science practitioner, authorized.

Convalescent home (for medical treatment only).

Crutches.

Dental services (e.g., cleaning, X-ray, filling teeth).

Dentures.

Dermatologist.

Eyeglasses.

Food or beverages specially prescribed by a physician (for treatment of illness, and in addition to, not as substitute for, regular diet; physician's statement needed).

Gynecologist.

Hearing aids and batteries.

Home health services.

Hospital expenses.

Insulin treatment.

Invalid chair.

Lab tests.

Lipreading lessons (designed to overcome a handicap).

Neurologist.

Nursing services (for medical care, including nurse's board paid by you).

Occupational therapist.

Ophthalmologist.

Optician.

Optometrist.

Oral surgery.

Osteopath, licensed.

Pediatrician.

Physical examinations.

Physical therapist.

Physician.

Podiatrist.

Psychiatrist.

Psychoanalyst.

Psychologist.

Psychotherapy.

Radium therapy.

Sacroiliac belt (prescribed by a doctor).

Seeing-eye dog and maintenance.

Speech therapist.

Splints.

Supplementary medical insurance (Part B) under Medicare.

Surgeon.

Telephone/teletype special communications equipment for the deaf.

Transportation expenses for medical purposes (7c per mile plus parking and tolls or actual fares for taxi, buses, etc.)

Vaccines.

Vitamins prescribed by a doctor (but not taken as a food supplement or to preserve general health).

Wheelchairs.

Whirlpool baths for medical purposes.

X-rays.

Expenses may be deducted only in the year you paid them. If you charge medical expenses on your bank credit card, the expenses are deducted in the year the charge is made regardless of when the bank is repaid.

TAXES

Real estate.

State and local gasoline.

General sales.

State and local income.

Personal property.

If sales tax tables are used in arriving at your deduction, ordinarily you may add to the amount shown in the tax tables the sales tax paid on the purchase of the following items: automobiles, trucks, motorcycles, airplanes, boats, mobile homes, and materials used to build a new home when you are your own contractor.

When using the sales tax tables, add to your adjusted gross income any nontaxable income (e.g., Social Security, Veterans' pensions or compensation payments, Railroad Retirement annuities, workmen's compensation, untaxed portion of long-term capital gains, dividends untaxed under the dividend exclusion, interest on municipal bonds, unemployment and public assistance payments).

CONTRIBUTIONS

In general, contributions may be deducted up to 50 percent of your adjusted gross income (line 31, Form 1040). However, contributions to certain private nonprofit foundations, veterans organizations, or fraternal societies are limited to 20 percent of adjusted gross income.

Cash contributions to qualified organizations for (1) religious, charitable, scientific, literary or educational purposes, (2) prevention of cruelty to children or animals, or (3) Federal, State or local government units (tuition for children attending parochial schools is not deductible).

Fair market value of property (e.g., clothing, books, equipment, furniture) for charitable purposes. (For gifts of appreciated property, special rules apply. Contact local IRS office.)

Travel expenses (actual or 7c per mile plus parking and tolls) for charitable purposes (may not deduct insurance or depreciation in either case).

Cost and upkeep of uniforms used in charitable activities (e.g., scoutmaster).

Purchase of goods or tickets from charitable organizations (excess of amount paid over the fair market value of the goods or services).

Out-of-pocket expenses (e.g., postage, stationery, phone calls) while rendering services for charitable organizations.

Care of unrelated student in your home under a written agreement with a qualifying organization (deduction is limited to $50 per month).

INTEREST

Home mortgage.

Auto loan.

Installment purchases (television, washer, dryer, etc.).

Bank credit card—can deduct the finance charge as interest if no part is for service charges, loan fees, credit investigation fees, or similar charges.

Other credit cards—you may deduct as interest the finance charges added to your monthly statement, expressed as an annual percentage rate, that are based on the unpaid monthly balance.

Points—deductible as interest by buyer where financing agreement provides that they are to be paid for use of lender's money and only if the charging of points is an established business practice in your area. Not deductible if points represent charges for services rendered by the lending institution (e.g., VA loan points are service charges and are not deductible as interest). Not deductible if paid by seller (are treated as selling expenses and represent a reduction of amount realized).

Penalty for prepayment of a mortgage—deductible as interest.

Revolving charge accounts—may deduct the separately stated "finance charge" expressed as an annual percentage rate.

CASUALTY OR THEFT LOSSES

Casualty (e.g., tornado, flood, storm, fire, or auto accident provided not caused by a willful act or willful negligence) or theft losses—the amount of your casualty loss deduction is generally the lesser of (1) the decrease in fair market value of the property as a result of the casualty, or (2) your adjusted basis in the property. This amount must be further reduced by any insurance or other recovery, and, in the case of property held for personal use, by the $100 limitation. Report your casualty or theft loss on Schedule A. If more than one item was involved in a single casualty or theft, or if you had more than one casualty or theft during the year, you may use Form 4684 for computing your personal casualty loss.

MISCELLANEOUS

Appraisal fees to determine the amount of a casualty loss or to determine the fair market value of charitable contributions.

Union dues.

Cost of preparation of income tax return.

Cost of tools for employee (depreciated over the useful life of the tools).

Dues for Chamber of Commerce (if as a business expense).

Rental cost of a safe-deposit box used to store income-producing property.

Fees paid to investment counselors.

Subscriptions to business publications.

Telephone and postage in connection with investments.

Uniforms required for employment and not generally wearable off the job.

Maintenance of uniforms required for employment.

Special safety apparel (e.g., steel toe safety shoes or helmets worn by construction workers; special masks worn by welders).

Business entertainment expenses.

Business gift expenses not exceeding $25 per recipient.

Employment agency fee under certain circumstances.

Cost of a periodic physical examination if required by employer.

Cost of installation and maintenance of a telephone required by your employment (deduction based on business use).

Cost of bond if required for employment.

Expenses of an office in your home if used regularly and exclusively for certain business purposes.

Educational expenses that are: (1) required by your employer to maintain your position; or (2) for maintaining or sharpening your skills for your employment.

Political Campaign Contributions.—You may claim either a deduction (line 31, Schedule A, Form 1040) or a credit (line 38, Form 1040), for campaign contributions to an individual who is a candidate for nomination or election to any Federal, State, or local office in any primary, general, or special election. The deduction or credit is also applicable for any (1) committee supporting a candidate for Federal, State, or local elective public office, (2) national committee of a national political party, (3) State committee of a national political party, or (4) local committee of a national political party. The maximum deduction is $100 ($200 for couples filing jointly). The amount of the tax credit is one-half of the political contribution, with a $25 ceiling ($50 for couples filing jointly).

PRESIDENTIAL ELECTION CAMPAIGN FUND

Additionally, you may voluntarily earmark $1 of your taxes ($2 on joint returns) for the Presidential Election Campaign Fund.

ADDITIONAL INFORMATION

For any questions concerning any of these items, contact your local IRS office. You may also obtain helpful publications and additional forms by contacting your local IRS office.

OTHER RELIEF MEASURES

Filing status:	*Required to file a tax return if gross income is at least—*
Single (under age 65)	$2,950
Single (age 65 or older)	3,700
Qualifying widow(er) under 65 with dependent child	3,950
Qualifying widow(er) 65 or older with dependent child	4,700
Married couple (both spouses under 65) filing jointly	4,700
Married couple (1 spouse 65 or older) filing jointly	5,450
Married couple (both spouses 65 or older) filing jointly	6,200
Married filing separately	750

Additional Exemption for Age.—Besides the regular $750 exemption, you are allowed an additional exemption of $750 if you are age 65 or older on the last day of the taxable year. If both a husband and wife are 65 or older on the last day of the taxable year, each is entitled to an additional exemption of $750 because of age. You are considered 65 on the day before your 65th birthday. Thus, if your 65th birthday is on January 1, 1979, you will be entitled to the additional $750 exemption because of age for your 1978 Federal income tax return.

"Zero Bracket Amount."—The "zero bracket amount" is a flat amount that depends on your filing status. It is not a separate deduction; instead, the equivalent amount is built into the tax tables and tax rate schedules. Since this amount is built into the tax tables and tax rate schedules, you will need to make an adjustment if you itemize deductions. However, itemizers will not experience any change in their tax liability and the tax computation will be simplified for many itemizers.

Tax Tables.—Tax tables have been developed to make it easier for you to find your tax if your income is under certain levels. Even if you itemize deductions, you may be able to use the tax tables to find your tax easier. In addition, you do not have to deduct $750 for each exemption or figure your general tax credit, because these amounts are also built into the tax table for you.

Multiple Support Agreements.—In general, a person may be claimed as a dependent of another taxpayer, provided five tests are met: (1) Support, (2) gross income, (3) member of household or relationship, (4) citizenship, and (5) separate return. But in some cases, two or more individuals provide support for an individual, and no one has contributed more than half the person's support. However, it still may be possible for one of the individuals to be entitled to a $750 dependency deduction if the following requirements are met for multiple support:

1. Two or more persons—any one of whom could claim the person as a dependent if it were not for the support test—together contribute more than half of the dependent's support.

2. Any one of those who individually contribute more than 10 percent of the mutual dependent's support, *but only one of them,* may claim the dependency deduction.

3. Each of the others must file a written statement that he will not claim the dependency deduction for that year. The statement must be filed with the income tax return of the person who claims the dependency deduction. Form 2120 Multiple Support Declaration) may be used for this purpose.

Sale of Personal Residence.—You may exclude from your gross income some or all of your gain from the sale of your principal residence, if you meet certain age, ownership, and occupancy requirements at the time of the sale. These requirements, and the amount of gain that may be excluded, differ depending on whether you sold your home before July 27, 1978, or on or after that date. The exclusion is elective, and you may elect to exclude gain only once for sales before July 27, 1978, and only once for sales on or after that date.

If you sold your home before July 27, 1978, and you were age 65 or older before the date of sale, you may elect to exclude the gain attributable to $35,000 of the adjusted sales price if you owned and occupied the residence for 5 of the 8 years ending on the date of sale. If you sold the home after July 26, 1978, and you were age 55 or older before the date of sale, you may elect to exclude $100,000 of gain on the sale if you owned and occupied the residence for 3 of the 5 years ending on the date of sale (or 5 of 8 years under certain circumstances). Form 2119 (Sale or Exchange of Personal Residence) is helpful in determining what gain, if any, may be excluded.

Additionally, you may elect to defer reporting the gain on the sale of your personal residence if within 18 months before or 18 months after the sale you buy and occupy another residence, the cost of which equals or exceeds the adjusted sales price of the old residence. Additional time is allowed if (1) you construct the new residence; (2) you were on active duty in the U.S. Armed Forces; or (3) your tax home was abroad. Publication 523 (Tax Information on Selling or Purchasing Your Home) may also be helpful.

Credit for the Elderly.—You may be able to claim this credit and reduce taxes by as much as $375 (if single), or $562.50 (if married filing jointly), if you are:

(1) Age 65 or older, or

(2) Under age 65 and retired under a public retirement system.

For more information, see instructions for Schedules R and RP.

Credit for Child and Dependent Care Expenses.—Certain payments made for child and dependent care may be claimed as a credit against tax.

If you maintained a household that included your dependent child under age 15 or a dependent or spouse incapable of self-care, you may be allowed a 20% credit for employment related expenses. These expenses must have been paid during the taxable year in order to enable you to work either full or part time.

For detailed information, see the instructions on Form 2441.

Earned Income Credit.—If you maintain a household for a child who is under age 19, or is a student, or is a disabled dependent, you may be entitled to a special payment or credit of up to $400. This is called the earned income credit. It may come as a refund check or be applied against any taxes owed. Generally, if you reported earned income and had adjusted gross income (line 31, Form 1040) of less than $8,000, you may be able to claim the credit.

Earned income means wages, salaries, tips, other employee compensation, and net earnings from self-employment (generally amount shown on Schedule SE (Form 1040) line 13). A married couple must file a joint return to be eligible for the credit. Certain married persons living apart with a dependent child may also be eligible to claim the credit.

For more information, see instructions for Form 1040 or 1040A.

ENERGY TAX ACT

The Energy Tax Act of 1978 is directed at providing tax incentives for energy conservation measures and for conversion to renewable energy sources.

A credit of up to $300 may be claimed for expenditures for energy conservation property installed in or on your principal residence, whether you own or rent it. The residence must have been substantially completed by April 20, 1977. Items eligible for the credit are limited to the following: insulation (fiberglass, cellulose, etc.) for ceilings, walls, floors, roofs, water heaters, etc.; exterior storm (or thermal) windows or doors; caulking or weatherstripping for exterior windows or doors; a furnace replacement burner which reduces the amount of fuel used; a device to make flue openings (for a heating system) more efficient; an electrical or mechanical furnace ignition system which replaces a gas pilot light; an automatic energy-saving setback thermostat; and a meter which displays the cost of energy usage.

A maximum credit for renewable energy source property is $2,200. Equipment used in the production or distribution of heat or electricity from solar, geothermal, or wind energy sources for residential heating, cooling, or other purposes may qualify for this credit.

Energy credits may be claimed by completing Form 5695 and attaching it to your Form 1040. Credit for expenditures made after April 19, 1977, and before January 1, 1979, must be claimed on your 1978 tax return. Do not file an amended 1977 return to claim a credit for expenditure in 1977.

Examples of items which do not qualify for energy credit are the following: carpeting, drapes, wood paneling, exterior siding, heat pump, wood or peat fueled residential equipment, flourescent replacement lighting system, hydrogen fueled residential equipment, equipment using wind energy for transportation, expenditures for a swimming pool used as an energy storage medium, and greenhouses.

For further information, consult the instructions for Form 5695 and IRS Publication 903, Energy Credits for Individuals.●

TAX EXPENDITURES AND THE BUDGET ACT

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. PEASE. Mr. Speaker, both the public and the Congress have come to put enormous importance on the amount of Federal spending and the deficit created by such spending. Much if not all public concern is over how much the Government spends, or the payout it must make in one manner or another.

Little attention is given, however, to the amount of money, or the trend of the amount, that comes into the public Treasury in the form of taxes or fees. Obviously, if the income (revenue) is equal to or exceeds the amount of money spent (expenditures) for Government programs, the budget would be balanced or in surplus. But the public and its Government can balance a budget or create a surplus in several ways. For one, Government spending can be cutback—existing program can be eliminated and possible new ones not approved. This would decrease expenditures and, given a constant supply of revenue, move the country toward a balanced budget.

At the same time, if Government is not careful to protect the revenue that it is already receiving, balancing the budget will be even more difficult. Balancing a budget, whether it is for the Federal Government or a household, is a matter of determining how much income one will have and how much one can therefore afford to spend. If income goes down, spending must go down or the Government/household will create a deficit. (This simplicity ignores credit, which both the Government and the household use to expand their expenditures.)

Before adoption of the Congressional Budget Control Act of 1974, the term "tax expenditure" was coined to refer to certain revenue not collected by the Federal Government. In probably the most extensive look at tax expenditures since the term began to be used, the Senate Budget Committee defined them as—

> . . . revenue losses resulting from Federal tax provisions that grant special tax relief designed to encourage certain kinds of behavior by taxpayers or to aid taxpayers in special circumstances. (*Tax Expenditures*, page 3, September, 1978, Senate Committee on the Budget)

The Senate Budget Committee publication goes on to say that tax expenditures may be regarded as a simultaneous collection of revenue and an equal direct budget outlay to the beneficiary taxpayer.

Just as expenditures made under the normal authorization-appropriations process can end up as good or bad programs or agencies, likewise tax expenditures also may end up as good or bad programs. They should not be painted with a broad brush that describes them as categorically bad or inefficient or wasteful.

The point I want to make, Mr. Speaker, is that there are two sides to any budget: income and spending. Spending can be at high levels if there is income to match it. But if income is whittled away by any action—recession or depression, drastic changes in individual or corporate tax revenues, or large amounts of tax expenditures, the budget will be harder and harder to balance.

THE ADVANTAGES OF TAX EXPENDITURE BENEFITS

For a taxpayer beneficiary, benefits received through tax expenditure programs are often much preferable to ordinary grant or loan or appropriated programs for several reasons. Once enacted, tax expenditures are relatively permanent—they seldom have limits on their lifetime. The tax writing committees of the Congress are reluctant, and encouraged to be so by the taxpayer beneficiaries, to change or remove a tax expenditure once it has been enacted because the taxpayers directly affected claim that such a change would be "economically disruptive" or negate the intended effects of the original provisions. Unfortunately, this means that tax expenditures go on and on and on, with little or no congressional followup to gage their effectiveness. A subcommittee on oversight for the House Ways and Means Committee, for example, was not established until the 94th Congress.

Tax expenditures also have the distinct

advantage of having to be approved by only two congressional committees rather that the four that most every other program needs. Other programs must first be authorized by one committee and then later have another committee approve appropriations for that program. This two-committee consideration is required in both the House and again in the Senate.

A tax expenditure, on the other hand, needs to be approved only by the House Ways and Means Committee and the Senate Finance Committee before they are able to go to the floor of either House for a vote. Both the Ways and Means Committee and the Senate Finance Committee essentially act as both an authorizing committee and the appropriations committee at the same time.

Needing the approval of only two committees gives tax expenditures a large advantage in that their adherents can concentrate their time and money lobbying on fewer committees and fewer Members of Congress.

THE BUDGET ACT DISCIPLINE AND ITS UNINTENTIONAL FLAW

Since the Congress passed the Budget Act in 1974, each House has been obligated to estimate what its committees would spend in the coming fiscal year and make a series of estimates of what each of the committees will contribute to that total. Tax expenditures, like most every other program, are covered by this language so that Congress and the country can try to plan ahead what to expect and what to spend.

If the tax writing committees expected to pass legislation to increase cigarette taxes, for example, that would show up as an increase in Federal revenues. If the committees expected to pass a measure like the tuition tax credit legislation that we considered last year, then they would estimate that revenues would decrease by a certain amount since the bill would lower taxes paid by some taxpayers.

In the last fiscal year, tax expenditures amounted to about $130 billion. Although that figure is not included specifically in the official spending figure of $616 billion, since it is only revenue foregone, the loss of revenue to tax expenditures must be taken into account by fiscal planners.

The problem comes with part of the Budget Act. As currently written, the budget resolutions that the House and the Senate pass are for the current fiscal year. However, the Budget Act contains a very large loophole that tax expenditure enthusiasts are happy to have. By the language of the Budget Act, only the current fiscal year must be considered in the binding budget resolutions that mandate House and Senate spending levels. Consequently, a tax code provision could be enacted that has a revenue effect of just $1 in the first year of a 10-year program, but $100 billion in each of the other 9 years—one way to do this would be to begin the program just before the end of a fiscal year. Resultingly, such a hypothetical bill, extremely expensive, could be enacted but escape the mandated planning and scrutiny of the budget resolution. The following year's budget resolution could do nothing but accept the $100 billion year program since of was already passed.

Mr. Speaker. this amounts to a huge budget resolution loophole that too much legislation can take advantage of. It allows the Budget Act language to be perverted so that spending becomes uncontrollable—exactly the situation that brought the Congress to enact the Budget Act in the first place. As Members who voted for and support attempts to impose self-control on Federal spending, we must be careful that this Budget Act loophole is not taken advantage of.

Although the House of Representatives has no revenue or tax legislation before it now, I intend to pay close attention to each such bill brought to the floor so I can alert my colleagues that the loophole might be used and a particular tax measure may eventually cost more than we initially estimate. If we are serious about making the Budget Act and congressional self-control work, we cannot allow this flaw to be taken advantage of—no matter what our political persuasion or our position on a particular matter.●

RURAL AMERICA ALSO NEEDS AMTRAK

HON. RAY KOGOVSEK

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. KOGOVSEK. Mr. Speaker, the Department of Transportation's proposal to slash the current Amtrak system just does not make sense.

In the 3 months I have been in Washington, I have seen headlines that say we will be paying $1 for a gallon of gasoline, gas stations will be closed on Sundays to conserve fuel and during the rest of the week, we may have to use rationing coupons to buy gas for our cars.

Yet, DOT and the Office of Management and Budget have delivered the one-two punch that will knock out Amtrak, an energy-efficient and convenient transportation system.

A percent example of the lack of commonsense in DOT's proposal is in my district. The Southwest Limited is our train. It travels from Chicago to Los Angeles, crossing seven Western States and serving more than 350,000 passengers annually.

In southern Colorado, the Southwest Limited passes through small and isolated communities whose residents are forced to drive at least 100 miles to get to a major city. Instead of driving, many of the residents use Amtrak—providing the system with $2.06 in revenue per passenger mile. That is the highest figure of any train in the national rail system.

And yet, the route is recommended for cancellation, and rural Colorado will be left with no alternative but to drive, and drive on secondary roads and minor highways. The only other transportation available is bus service, limited to only the larger towns and schedules that do not serve the needs.

Rural America needs Amtrak as much as the population centers do, and it is the Federal Government's responsibility to provide economical and energy-efficient ground transportation to them.

The Department of Transportation want a fast route. Ours is the fastest diesel-powered train in America. The "new and improved" route shaped by Secretary Adams is limited to a 45-mile-an-hour maximum speed in many places and as low as 20 miles per hour in others.

DOT wants more riders. But the proposed route to replace the Southwest Limited is 239 miles longer, meaning an additional 5 hours of travel from Chicago to Los Angeles. You do not need a calculator to tell you ridership will decrease if the length of the trip increases.

Mr. Speaker, in my district, rerouting the Amtrak system will mean the loss of $750,000 in payroll alone, not counting the many social inconveniences that can never be measured in dollars and cents.

Finally, DOT has somehow forgotten to mention safety in its report. The present route of the Southwest Limited, maintained by Santa Fe Railroad, is already equipped with the most modern safety features, including the automatic bloc system, train control system and the automatic train stop system. The proposed new route has none of these features.

The people in southern Colorado are spread across many miles of rural land. People have learned to count on Amtrak as their major source of long-distance transportation.

Two questions arise when talking about continued Amtrak service—energy and dollars.

The Department of Transportation knows that people will ride the trains during an energy crisis. In its preliminary report issued in May, DOT said:

> It is clear that during the 1973–74 period of reduced availability of gasoline, people turned to the train. It is also clear that an unexpected surge in traffic was accommodated by Amtrak.

That same report recommended retention of the Southwest Limited and even proposed an additional route through Pueblo to Denver. Mysteriously, both were dropped in the final recommendation to Congress, forcing continued use of gas-guzzling automobiles.

The second question is dollars, and the answer is simple. The objective of Amtrak is not, and never has been, to make money. The goal is to provide a necessary public service.

Mr. Speaker, the people of Colorado and the entire Southwest need the Southwest Limited. I urge my colleagues to join me in disapproving the Department of Transportation's recommendation.

The New York Times printed an editorial on February 24 which reflects my opinion of the Secretary of Transportation's decision to cripple the American railroad, and cripple rural America:

The article follows:

LEFT HAND VS. RIGHT

(By Tom Wicker)

The headline above first appeared over this column on July 9, 1975, but on numerous occasions before and since it could have been used to make an apparently unchanging point: In the attempt to meet the gathering energy crisis, the left hand of the Administration (any Administration) usually works against the right.

At the moment, for example, Energy Secretary James Schlesinger is pondering the effect of sharply diminished Iranian oil production and rising OPEC prices, having in mind such steps as Sunday service station closings and strict observance of the 55 m.p.h. speed limit. He has just predicted that by this summer gasoline supplies may be down 5 to 8 percent and prices up 3 to 4 cents a gallon.

But President Carter has sent Congress a budget providing for an 8 percent increase in highway construction obligations, up to a level of $8.6 billion. Yet, as his recent maunderings about the need for car pools suggest, he knows the automobile is the most profligate energy waster in America, and nothing encourages use of automobiles like the interstate highway system.

At the same time, Secretary of Transportation Brock Adams, as if to compound confusion, has proposed the amputation of 43 percent of the energy-efficient rail passenger system operated by Amtrak. His shortsighted aim is to save taxpayers $1.4 billion over five years (just under $300 million a year) in Federal subsidies; never mind the cost in scarce, high-priced gas wasted in private auto travel.

Mr. Adams's meat-ax assault on Amtrak is all the more weird because he himself said recently that future transportation decisions would be studied for their impact on energy usage. Worse, he demanded policies of Amtrak that would drive away riders from the poor bleeding stump of a system he would permit still to operate.

Notably, Mr. Adams demanded higher fares—when the record shows that after Amtrak in November 1978 tried to match cut-rate airline fares with its own discount rates, ridership rose by 16 percent over that of November 1977. Indeed, one of his own department's reports demonstrates that the largest—not the smallest—possible Amtrak system would produce the lowest deficit per passenger mile.

Mr. Adams has got the caboose before the engine. The task of America is to increase ridership and reduce the nation's energy consumption, while making intercity travel as convenient as possible. Amtrak's job is not to turn a profit, as Mr. Adams seems to think, or even to hold down its operating deficit at the expense of its real objectives. (Mr. Carter proposed an operating subsidy for next year of only $552 million, against that $8.6 billion for highway obligations.)

Rail ridership, in fact, has been increasing—up 7.5 percent in December 1978 over the same month in 1977. Traffic on the New York-to-Florida lines picked up by 38.4 percent in December, but Mr. Adams wants to cut service from three trains a day to one. Los Angeles-San Diego ridership rose 142 percent from 1973, although the frequency of service increased by only 87.5 percent. The Panama Limited, running from Chicago to New Orleans, gained 7,000 passengers in 1978 after switching to a new fleet of cars.

Amtrak critics try to make two major cases—that people just won't ride trains, and that trains aren't all that much more energy efficient anyway. The first point is debatable and the second nonsense.

Actually, evidence is substantial that people will be attracted to trains with modern equipment, decent on-board service, competitive fares and on-time performance. That attraction will grow as gasoline inevitably becomes scarcer, and dearer. Thus, a well-developed rail service could again become a highly useful part of a national transportation system, as it is almost everywhere else in the world.

As for energy efficiency, it's misleading to base comparisons on the few lightly patronized trains running today. It's quite another thing to calculate energy efficiency on the basis of the potential ridership of a good railroad system in an era of gasoline scarcity. Even now, however, the Department of Transportation has reported that Amtrak's Los Angeles-Seattle train, using heavy and outmoded equipment on a mountainous run, is 47 percent more fuel-efficient than an automobile making the same trip.

No one would suggest such extremes as banning automobiles or forcing people to ride trains. But surely it would be prudent for the Government to follow policies and make investments that over time—perhaps a decade—might cause a substantial shift of intercity traffic from private automobiles to energy-efficient trains. Mr. Adams' policy—cut service and raise fares—can only have the opposite effect.

Besides, despite present doubts, if the time ever comes when the need for a decent national rail network is generally conceded, the cost of replacing a vanished or irreparable system would be astronomical. By comparison, that $200 million a year Brock Adams wants to save the taxpayers would be like something Jimmy Carter will someday have to go back to growing.●

KATHRYN ANN VAN STRATEN WINS TEXAS VOICE OF DEMOCRACY CONTEST

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. GONZALEZ. Mr. Speaker, I am very pleased and honored to be able to place in the Congressional Record today a speech written by a young constituent of mine, Kathryn Ann Van Straten, for the Voice of Democracy Contest conducted by the ladies auxiliary of the Veterans of Foreign Wars. Miss Van Straten's speech was the winning speech from the State of Texas, and the State winners are presently in Washington for the final judging. Miss Van Straten is a senior at Robert G. Cole High School in San Antonio and plans to pursue a career in the communicative arts. She is the daughter of James Van Straten who is an Army officer in the Medical Service Corps and Patricia Van Straten.

The speech follows:

Why I Care About America

(By Kathryn Ann Van Straten)

The "Great Depression," one of the hardest times ever endured by Americans, caused many citizens to take a searching look at our country and its ideals. As a result of this probing look, Woody Guthrie, a prolific songwriter left homeless by the devastating dust storms that swept across Texas, wrote one of his most memorable songs . . . "This land is your land. This land is my land. This land is made for you and me."

Why this intense loyalty and dedication from a man who had been treated so cruelly? Why this spirit of homeland and patriotism from a man left homeless and penniless? I have asked myself these questions, and have come to the following conclusions:

I care about America, as Woody Guthrie cared about America, because the ideals of the country, as manifested in the Constitution and the Bill of Rights, are my ideals. I subscribe to them; I believe in them. I fully accept the notion that the individual person, and his right to the pursuit of happiness, is of preeminent importance. I accept the notion that God created all men equal, and therefore the state must guarantee equality of opportunity to all citizens. America does this; many other countries do not.

I love the natural beauty of my country. I have witnessed the placid beauty of a Wisconsin lake in the early morning, the grandeur of the Shenandoah Mountains in Virginia, the power of the Liberty Bell in Philadelphia's Freedom Hall. I have tasted of a summer morning in the Hill Country of Texas during bluebonnet season. I have roamed the ancient, cobblestoned streets of Williamsburg, Virginia and wondered what would it have been like to have been a colonial. I have toured our nation's capital with mixed feelings of reverence and awe. I have stood at the Tomb of the Unknown Soldier in Arlington Cemetery on a golden autumn day and have given silent thanks. I have admired the courage of the millions of immigrants who settled our great country as I walked up to the Statue of Liberty in New York harbor. I have been touched by the majesty of the Big Bend Country in Texas and by the simplicity and quiet beauty of the Alamo where so many died that Texas might be free. I have stood in wonder at Mount Rushmore as I studied the faces of great Americans hewn in stone.

Yes, I love America. I care about America.

I care about America because it offers equality of opportunity. It offers unsurpassed natural beauty. It offers a life of dignity to any who are willing to take it. And it offers freedom—freedom to decide how to live one's life, what goals to establish for one's self and how one can best serve his fellow man and his God.

Yes, I care about America.●

A COMPARISON OF UNITED STATES AND SOVIET ARMED FORCES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, March 7, 1979, into the Congressional Record:

A Comparison of United States and Soviet Armed Forces

Over the past 15 years the Soviet Union has been engaged in a steady military build-up of major proportions. Its world-wide military presence has increased visibly, and critics of American defense policy charge that the U.S. is not keeping up with the Soviet challenge. No one will deny that the armed strength of the U.S.S.R. has grown, but it is by no means overwhelming. The Soviet Union is potentially dangerous to us, and we have no choice but to keep up our guard. However, we should neither exaggerate nor underestimate Soviet strength.

The U.S must maintain the balance of military power at two basic levels: the nuclear and the conventional. Although the nuclear balance is more discussed, the conventional balance is also important and should not be overlooked.

Our nuclear arsenal remains strong. American missiles are more accurate and advanced than Soviets', so the U.S.S.R. has been able to achieve a rough nuclear parity with us only by constructing a greater number of inferior missiles. But no matter how the statistics are analyzed, each side has enough strategic firepower to inflict unacceptable damage on the other in the event of nuclear war. The facts of mutual nuclear deterrence have not changed.

Recent debates on strategic defense policy have centerd on the possibility that the Soviet Union may improve the accuracy of its missiles in the 1980s. This possibility is serious because our land-based missiles would then become vulnerable to a first strike. Many factors, however, would continue to favor the U.S. We already have thousands of marine-launched missiles that the Soviets could never hope to reach in a first strike. Also, the internal organization of Soviet society, with large portions of vital industries concentrated in single complexes, makes that nation very susceptible to nuclear retaliation. Even so, the U.S. must act to modernize its strategic defense forces. We should proceed to develop and deploy a mobile missile and an air-launched cruise missile, both of which would present an extreme retaliatory threat to the U.S.S.R.

As far as conventional land and air forces are concerned, our main effort is in Central Europe. Virtually all observers agree that NATO, with its superior economic resources and vast reserve forces, is capable of winning a long conventional conflict with the Soviets and their Warsaw Pact allies. The problem is that the Soviet Union has apparently equipped itself and the other Warsaw Pact nations for a lightning offensive designed to win a war in Europe within a matter of weeks, before NATO could throw its full weight into the fight. Many critics have argued that the U.S. is not prepared to meet such an offensive head-on.

While simple numbers of men and weapons may favor the Soviet Union and the other Warsaw Pact countries, NATO's edge in tactical nuclear armament would make any surprise attack very risky. Moreover, the Soviets' Warsaw Pact partners are of uncertain reliability, and many of their divisions are manned at levels which would earn them a "not ready" rating in the U.S. The involvement of Soviet divisions in occupation duty and the distance of the main Soviet force from the front are just two more factors that reduce the likelihood of a surprise attack on NATO. The Soviet Union cannot at present be confident of a rapid conventional victory in Europe, but NATO still does not have as strong a conventional deterrent as most experts consider prudent. In my view, we must reinforce the conventional capabilities of NATO.

The conventional land and air forces of the U.S.S.R. have gained in strength, but the Soviet Navy provides the most dramatic example of military expansion. It grew from a small coastal defense force in the 1950s to a formidable blue-water fleet in the 1970s. The defects of the Soviet Navy, however, are obscured by its size. Unlike the American fleet, which enjoys two full ocean coastlines, it is severely handicapped by geography. Its access to open water is mainly through narrow straits that are easily mined or blocked. The Soviet fleet is also handicapped by a limited ability to support conventional forces abroad, one of the most critical functions of a modern maritime force. It cannot match the awesome projection power of the U.S. task forces.

I believe that our current military posture in the world is satisfactory, but some trends (such as the gap between U.S. and Soviet defense spending) could eventually weaken us. There are both important defense measures to be taken and phony cries of alarm to be exposed. By most standards, the U.S. is the strongest nation in the world. No one has our economic power, political stability, and sophisticated technology. Only one comes near us in sheer military strength. Allies support us around the world, and people everywhere envy our way of life. Of course, there will always be challenges to face. Soviet military strength is just one, and it makes a resolute defense necessary to our national well-being. As with most challenges, our response is neither fully adequate nor completely inadequate. Our current military posture is neither as weak as the pessimists believe nor as strong as most of us would like it to be.●

COURT-ANNEXED ARBITRATION ACT OF 1979

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. RODINO. Mr. Speaker, I am introducing a bill entitled "the Court-Annexed Arbitration Act of 1979" that would authorize Federal district courts to adopt a process of mandatory, but nonbinding, arbitration for certain categories of civil cases. It is designed to reduce the expense and delay of litigation in the Federal courts.

The bill was developed by the Department of Justice and is modeled on the successful use of this procedure by the courts of several States, including Arizona, California, Michigan, New York, Ohio, and Pennsylvania. In addition, three Federal district courts adopted the process last year on a trial basis under local rule.

The act would allow any district court to adopt court-annexed arbitration as set forth in the bill. That process consists of the referral of specified categories of civil cases to a panel of arbitrators for an early hearing. Those categories are actions in which the relief sought consists only of money damages not in excess of $100,000—or such lesser amount as a district court may set—and which are based upon a negotiable instrument or a contract or are for personal injury or property damages. There are four exceptions made to the general categories. A court may not refer cases that involve claims of civil rights violations, constitutional torts, fraud against the Government, or official immunity. The tort and contract categories encompass the types of cases that present relatively straightforward factual issues and, consequently, are most amendable to arbitration. The exceptions exclude the new subcategories that are more appropriately left with the district court judge.

The bill further provides that the arbitration hearing in a case must be held within 150 days of the filing of the answer or 30 days from the disposition of any motions on the pleadings. This will insure that arbitration hearings are not unduly delayed. The hearings are to be less formal than trials, with hearsay admissible where appropriate.

Promptly after the conclusion of the arbitration hearing the arbitrators are to file their award with the court. The parties thereupon have 30 days within which to file a demand that the case be replaced on the district court docket. If no such demand is filed, the award of the arbitrators becomes a nonappealable judgment. If a demand is filed, the case returns to the district court with the right to a bench or jury trial fully preserved. At such a subsequent trial, however, the judge in assessing costs may tax the costs of the arbitration hearing as costs, taking into account whether the demand for trial de novo was made for good cause.

Within the requirements set forth above, a district is free to adopt a process that suits its local needs and conditions.

This legislation is a part of the ongoing effort by the Congress, the Judiciary and the administration to make the judicial process more responsive to the needs of our citizenry. It is designed to reduce the costs of litigation and to speed the disposition of cases in the Federal courts. Justice thereby would be rendered more accessible to the American people.

I look forward to the prompt and careful consideration of this legislation by my colleagues on the Judiciary Committee.●

INCREASE IN TVA REVENUE BOND AUTHORITY

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. FLIPPO. Mr. Speaker, it is a pleasure to introduce today legislation which would allow the Tennessee Valley Authority to increase the amount of revenue bonds the agency issues to finance the construction of its electric power facilities.

In this legislation I am joined by my colleagues in the TVA service area who are concerned about the future well-being of this great region and the people who live in it. The TVA is a valuable institution for the region and has been one of the Federal Government's most profitable investments. Its future is our future.

Many of us within the service area have differences of opinion from time to time with the details of the management of the TVA. This Agency, and any other, merits the close and continued scrutiny of all Members. Its management and employees are no more infallible than the rest of us.

However, those of us who have examined the need for this legislation recognize the great need for it.

Without this authority TVA cannot discharge its utility responsibility, and economic progress in the seven-State Tennessee Valley region would be seriously impeded. The ability of TVA to raise sufficient capital for its self-supporting and self-financing electric power system is the principal factor in the economic and social well-being of this region.

In 1959 Congress amended the TVA Act by adding section 15d, which authorized TVA to borrow up to $750 million and made the TVA power program financially self-supporting. Power program costs, capital and operating, are now paid for from power system revenues and borrowings secured solely by those revenues. Bonds issued under section 15d are not financial obligations of or guaranteed by the United States.

Since 1959 the dollar ceiling on TVA's bond authority has been increased roughly once every 5 years—to $1.75 billion in 1966, to $5 billion in 1970, and to $15 billion in 1975. These increases were necessary to keep pace with the demand for more electric power generation in the Tennessee Valley region and the rising cost of new generating plants.

The increase to $30 billion in the proposed legislation would maintain that 5-year historical pattern of funding.

The proposed legislation would amend section 15d of the TVA Act to increase the ceiling on TVA's indebtedness from $15 to $30 billion. This increase is necessary to fully fund TVA's existing construction program of generating units which include the Sequoyah, Watts Bar, Bellefonte, Hartsville, Phipps Bend, and Yellow Creek Nuclear Plants; the obligations incurred for cost-effective investment in conservation facilities to reduce the need for additional generating facilities, transmission facilities, nuclear fuel investments, pollution control equipment; and other additions and improvements to the TVA power system. It would also provide the necessary resources to make fully funded commitments through 1985 for an additional 7,200 megawatts of generating facilities now anticipated to be needed to meet the electric energy requirements of the Tennessee Valley through 1995.

I have been assured that TVA will use the new authority only as carefully determined estimates of load growth justify such investments.

The homeowners and businesses dependent on TVA for power are entitled to build homes and expand their industrial plants with confidence that electricity will be available. The same is true for homeowners and businesses in other areas of the country who in power emergencies, are often directly affected by the power supply situation on the TVA system with which their own systems are interconnected.

Because of the amendment's importance to the entire Nation, I will be seeking a timely review and presentation of it to the House.●

IN COMMEMORATION OF GIRL SCOUT WEEK

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. HARRIS. Mr. Speaker, the week beginning March 12, 1979, marks the commemoration of "Girl Scout Week." The setting aside of a mere 7 days could not possibly do justice to the many contributions made by the members of this wonderful American institution. However, I am pleased to have this opportunity to relate to the Congress my thoughts on this important organization.

Founded in 1912 by Juliet Gordon Low, the Girl Scouts have provided this Nation's young women with the opportunity to develop their full potential as individuals and to acquire a better understanding of how to relate to this exciting, and somewhat perplexing world. For over 60 years, this organization has offered its members a continuous adventure in learning how to best utilize their talents toward the betterment of society. Without a doubt, the Scouts have done an excellent job of teaching those on the verge of full womanhood how to "be prepared" for the challenges that will confront them in the future.

I find it particularly appropriate that the Girl Scouts have just recently changed their emblem from the traditional trefoil to a simple portrait of a woman. For too many years, the Girl Scouts have assumed a less publicized role to that of its male counterpart, the Boy Scouts. The new emblem, however, symbolizes that young women are also making significant contributions to society. And these contributions are numerous. A Girl Scout devotes much of her time to community service and vocational education, often combining them by being a volunteer hospital aide or a museum aide, or by assisting at a public playground. Being a Scout entails raising money for worthwhile causes, undertaking projects to help clean up the environment and helping the less fortunate segments of our society such as the sick and disabled.

Most importantly, however, the Girl Scouts provide young women with the opportunity to make friends. Too many young people grow up in isolated environments and they are never given the chance to learn how to interact with their fellow human beings. Only by communicating our problems and concerns can we hope to resolve them. The prospect of developing women who can help alleviate the many problems that confront our Nation and the world is indeed the greatest contribution of the Girl Scouts. It is a contribution that should be highlighted during "Girl Scout Week."●

NONSEXIST EDUCATION

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. NOLAN. Mr. Speaker, I would like to bring to the attention of the House of Representatives the outstanding accomplishments of the St. Cloud, Minn., public schools in conjunction with the Equity in Education Institute of St. Cloud State University in eliminating sexual bias in the public schools as required by title IX.

During the past 4 years under title IX funding, the joint project has developed a model for other school districts as a means to successfully implement the title IX regulation. The school district through the leadership of its school board and Superintendent Kermit Eastman have made continued efforts toward assuring equal educational opportunity for both boys and girls. This commitment has been carried out by dedicated administrators and faculty who have been willing to put in extra hours of time to attend training sessions, review curriculum materials, conduct training for other persons and examine district policies.

Presently this district is conducting an intensive needs assessment to determine its progress thus far in implementing title IX regulations and determining what more needs to be done. St. Cloud public schools have demonstrated this commitment to a nonsexist education by making concentrated efforts to increase athletic opportunities for its female students, through extensive hours of inservice awareness training, adoption of policies which require examination of newly purchased material for sex bias, recruitment efforts at the vocational school for students to attend nontraditional classes, and examining practices as well as policies.

Since we come from an education history in which women were not always treated equally, educators must be in the process of pioneering new ways to examine their system for old entrenched ideas. This school district has adopted an attitude which in effect sets a norm of looking for positive, creative ways to implement change. Leadership of this nature provides direction for other school districts to follow.

In particular Charles Sell, Jack G. Carlson, Wallace E. Preutzer, Pat Hill, Barbara Carlson, and all members of the title IX committee deserve special appreciation for their efforts and the leadership they continue to provide in insuring equality of opportunity for all.

Also deserving special recognition are university faculty who have provided assistance to St. Cloud public schools through the Equity in Education Institute and its excellent staff, including Sharon Voss, Kaye Willhite, Barbara Lucket Carlson, Diane Schmitt, and Alan Downes. Support to the project from the College of Education has been given by Dean Kenneth Ames, Dr. Al Schelske, and Dr. Douglas Risberg.●

PRESIDENT CARTER'S RESTRAINT

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. BINGHAM. Mr. Speaker, last week I happened to hear the columnist Tom Braden comment on President Carter's restraint in dealing with recent incidents overseas. I like what he said, and having obtained the text from Mr. Braden, share it here with my colleagues and other readers of the CONGRESSIONAL RECORD—the comments were made on an NBC radio program called "Confrontation" in which Mr. Braden and Mr. Pat Buchanan are the regular participants:

> You've got to admit, Pat, that the President is running in very bad luck and the bad luck has given rise to a whole new school of critics. Their motto is, "I'm mad as hell and I won't take it anymore."
>
> "Show the flag", they say; "Get tough; Do something—to somebody—somewhere."
>
> But what Pat? If Jimmy Carter had landed an airborne division to save the Shah of Iran, what kind of trouble would we be looking at right now?
>
> As for the ambassador murdered in Afghanistan, what could we do to retaliate? We don't even have mug shots of the terrorists who killed him. So what's the point of barging in to punish Afghanistan?
>
> And what's the President supposed to do when he's insulted by the President of Mexico? Insult him back? What good would that do? And how would it affect our future relations and our access to Mexico's oil?
>
> Men who think constantly of public opinion love to use force because it lends them the tinselly aura of derring-do. But force is

often dangerous and sometimes silly, like Gerald Ford and Henry Kissinger rescuing the Mayaguez from a bunch of natives with rowboats.

Jimmy Carter is a wiser man. Confident in his country's power, he will use force only when it is necessary to achieve a necessary end. He is civilized; he is restrained; he is wise. Once he runs out of bad luck, the American people will see him that way.●

SUPPORT FOR THE DEPARTMENT OF NATURAL RESOURCES

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. UDALL. Mr. Speaker, I would like to share with my colleagues two recent editorials supporting the President's reorganization plan.

Both of these editorials point to the logic of the proposal, but warn of troubled waters ahead. Despite the difficulties inherent in any reorganization plan, I think all observers must agree that the present system for developing and protecting our natural resources is redundant and inefficient.

I believe our constituents will be watching to see if we create a Department of Natural Resources, or if we are paralyzed by the past.

Both editorials criticize the President's proposal for not going far enough. They may be right; if we were creating where nothing was before, the plan may well have looked different.

While I understand my colleagues have legitimate concerns about this proposal, I believe the plan is a good compromise and deserves our support.

The articles follow:

[From the New York Times, March 2, 1979]

YES, AND NO, ON REORGANIZATION—SEA LIONS AND SEA OTTERS BELONG TOGETHER

President Carter's proposal to consolidate three agencies into a Department of Natural Resources has, predictably, aroused Congressmen, special interest groups and bureaucrats who fear losing present leverage. But the proposal is, if anything, too modest; it sensibly follows along lines repeatedly proposed in the past by blue-ribbon commissions.

The Interior Department would form the core of the new department, augmented by the Forest Service, now part of the Agriculture Department, and the National Oceanic and Atmospheric Administration, now part of Commerce.

The consolidation is desirable on several grounds. It should help make natural resource management more consistent. It makes little sense for the Forest Service and Interior Department agencies to manage adjacent lands under differing policies. The two agencies fought for a decade over whether the Mineral King Valley in California should be developed as a ski resort before Congress finally stepped in and said no.

Consolidation could also bring bureaucratic divisions more into line with those of nature. Can anyone explain why the Fish and Wildlife Service in Interior is responsible for protecting sea otters and walruses while the Oceanic and Atmospheric Administration in Commerce looks after sea lions and seals? Or why those two agencies spent two years and half a million dollars working out an agreement giving one jurisdiction over the sea turtle on shore while the other protected it at sea?

There are some dangers in the proposal. The timber industry is concerned that if the Forest Service is moved to a department dominated by Interior, it will become more interested in preservation and less in production. The Forest Service itself, an elite organization, fears dilution of its professional reputation if it must join Interior's land managers. But these concerns can be met by careful administration. Forests, for instance, should be managed for many purposes, including both logging and preservation of wilderness, something best achieved in a department devoted to multiple uses of natural resources.

The most disappointing aspect of the reorganization is what was left out. The new department should have responsibility for planning all water projects, including dams now built by the Army Corps of Engineers. Nonetheless, if that omission is the price of getting Congress to go along, it is worth paying.

[From the Washington Post, March 4, 1979]

A DEPARTMENT OF NATURAL RESOURCES?

The idea of creating a Department of Natural Resources is so old that its history is already blurred. Harold Ickes supported it, or something like it, in the 1930s. The Hoover Commissions on government reorganization recommended it in the 1930s and again in the 1950s. President Nixon specifically proposed such a new department in 1971. All those efforts, and others going back at least half a century, failed for reasons that had little to do with the merits of the idea. So it is not surprising that President Carter's plan to create a new department encountered immediate criticism despite its overwhelming logic.

The president's plan is to add two agencies—the Forest Service and the National Oceanic and Atmospheric Administration—to the existing Interior Department and give the combination a new name. The rationale is simple. The Park Service and the Bureau of Land Management, which are housed in Interior, do essentially the same job—manage federally owned land—done by the Forest Service, which is part of the Department of Agriculture. It makes little sense, for example, to have the nation's wilderness areas managed by two different government departments, as they are now. Similarly, NOAA, which is located in the Commerce Department, has missions that overlap with three agencies now housed in Interior. The White House claims the merger would save around $100 million a year and eliminate about 2,000 jobs.

Under the present system, no one below the president is responsible for the government's policy toward natural resources, and the buck can be passed readily from one agency to another. The objections to the president's plan to remedy this—beyond the disruptions in the bureaucracy it would cause—are almost all political. The merger would change the existing channels through which industry groups and members of Congress try to influence policy. It would also reduce the importance of some congressional committees, which stand to lose jurisdiction. Not that it would take long for those who have particular interests to learn their way around the new bureaucracies. But these are comfortable for them now. And the same is true of the congressional jurisdictions and baronies—at least for those in charge.

The genuine weakness in President Carter's proposal is not that it would upset these arrangements. It is that it falls short of achieving the goal he staked out during the campaign, namely including the critical natural resource—water. The Corps of Engineers and the Soil Conservation Service belong in the new department just as much—and for precisely the same reasons—as NOAA and the Forest Service. They are not included because President Carter was convinced that Congress would kill the plan if they were.

His judgment on that count is understandable and, perhaps, wise. Every previous effort to create a department of this kind floundered because too many members of Congress chose to protect the status quo, and their own pleasant arrangements, rather than approve a logical and needed administrative overhaul. But, in an age of fiscal restraint and energy shortage, when the nation is confronted with a desperate need for a comprehensive natural-resources policy and the means to make it effective, a short step in the right direction is better than none at all. The president is trying to take that step, and Congress should help him.●

THE EDUCATION SHUFFLE

HON. DAN QUAYLE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. QUAYLE. Mr. Speaker, this is an editorial which was published in the Fort Wayne, Ind., Journal-Gazette February 17, 1979. It points to the folly in the current proposal to create a separate Department of Education. I urge my colleagues to read it.

"THE EDUCATION SHUFFLE"

We've waited since Jimmy Carter the candidate promised a department of education to hear a good argument for it. Mr. Carter is back with the idea, and we're still waiting.

So far the best the administration has offered was a recent statement by Vice President Mondale. Mr. Mondale, given to comparisons with other countries, said that the United States "is the only major industrial democracy in the world that does not have a department of ministry of education."

This may be an interesting observation for people who think our government should be organized along the lines of other countries. Yet it really begs the question. Most other democracies have a parliamentary system, though that's not in itself much of a case that the United States should adopt one.

More to the point, there's no evidence that the other democracies run their national education programs more economically or more efficiently than this country does. To the contrary.

The American record speaks eloquently for itself. No other democracy can boast so great a percentage of high school graduates or that half of those graduates go to college. And if the education part of HEW sometimes acts befuddled, the department at least distributes massive doses of federal aid equitably and according to the law.

If comparisons are in order, supporters of a separate department of education need only to look at other independent and Cabinet-level departments such as Labor or Commerce. Anyone who can find efficiency either place will be using a high-powered microscope.

But our basic reservation about a new department is that it may easily become a hostage to special interests in education, principally the National Education Association. The NEA represents more people than any lobby group in the country and, potentially, it could be the strongest. To hand the NEA a department on a silver platter, despite assurances to the contrary, would be like turning labor policy over to the Teamsters or economic policy over to the Chamber of Commerce.

There are a lot of other voices in education than the NEA in this country. But it's a safe bet these would be further muted in a single-purpose bureaucracy of the sort

President Carter, at the NEA's urging, proposed. And there should be no illusions on appointments to such a department. Any president would have to get the NEA's blessing for every major job.

A final consideration, by no means insignificant, is whether a new department would foster a larger role in education for the federal government and, conversely, a smaller role for the states. Again, supporters discount the fear. They are, though, at a loss to explain how a centralized agency would politely decline to add to its power and influence. Experience, sadly, suggests otherwise.

So the arguments don't favor a separate department of education unless Mr. Carter is saving a reason we haven't heard as a surprise for the right time. Until then, we'll continue to wait, convinced that an exclusive education bureaucracy is one campaign promise Mr. Carter shouldn't be allowed to keep.●

THE GYPSY PIANIST RETURNS TO US

HON. JAMES P. (JIM) JOHNSON

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. JOHNSON of Colorado. Mr. Speaker, Loveland, Colo., was honored recently with a visit and performance by an important American pianist, Wayne McEvilly.

Mr. McEvilly shared his interpretation of selections from the finest Western composers—Bach, Chopin, Mozart, and Schubert, in his January performance at Thompson Valley High School.

The pianist, also a philosophy professor and writer, offered his perspective on the performing arts and explained his interest in the application of Eastern philosophy to Western music. In an article in the Loveland Daily Reporter Herald, written by Phyllis Walbye, Mr. McEvilly discusses his career and interest in seeing that people "come to know the value of music beyond entertainment, to know its fabulous, mystical, educational, spiritual dimensions."

To commemorate the happy occasion of Mr. McEvilly's visit to Loveland, I am inserting Ms. Walbye's article in the RECORD:

THE GYPSY PIANIST RETURNS TO US

(By Phyllis Walbye)

In his afterward to the small novel by the late Anais Nin, "Seduction of the Minotaur," Wayne McEvilly wrote, in reference to the heady works of close friend Nin, "This is no small world. In it one must spend much time—before its dimensions begin to reveal themselves; vast dimensions, perhaps illimitable."

Now ten years after that writing, the affirmation applies to his own work. Not so suddenly the world of pianist-writer-philosopher Wayne McEvilly is opening to new, perhaps limitless dimensions. McEvilly is a man not inclined to think in limits, but now his own inner visions seem to be finding substance and assurance in the outside world.

Wayne McEvilly, pianist, will be in concert at Thompson Valley High School Civic Auditorium at 8 p.m., Thursday Jan. 11 for his first concert of the new year. His concert in Loveland nearly two years ago was a great success. He was one of the first artists to use the community auditorium Steinway piano and his concert then was a benefit performance to help pay for the instrument.

Immediately after that concert McEvilly was able to purchase his own concert grand piano. His personal choice was a Mason and Hamlin, a piano built by a venerable old New England firm that builds only ten of the massive instruments each year. McEvilly will bring his Mason and Hamlin, weighing 200 pounds more than a Steinway and which he calls lovingly "a heavy duty dude," with him for the concert and for the workshops he will conduct for students at TVHS on the day before his performance.

"It is so integral to the music I perform, with its provision for certain subtleties, orchestration and timbers, I really must use it for the concert I want to perform in Loveland," he explained. Perhaps most important is the fact that his Mason and Hamlin piano is tuned at the vibrational level he feels is important.

McEvilly says, "Even the ear of a skilled musician is not likely, unalerted, to detect that a piano is tuned as 448 rather than 435 as my Mason and Hamlin is tuned. They will hear it as 'brilliant' or as 'mellow' but the soul feels the difference. When a pitch is set at 448 vibrations per second, you are liable to get into 'nervous tension,' and even the piano strings begin to complain."

"In general, a higher pitch will give a more strident, tense and irritable consciousness. At the turn of the century, the pitch usually stood fixed at 435 vibrations per second. Some kind of rascaldom in the 1920's shot it up to 440 and today there are pianists requesting their instruments be tuned to 448 and above for 'brilliance.'

"More and more I am turning to the music of Bach for inspiration and performance. Bach wanted his music to be like a benediction, full of glorious harmony, a 're-creation of the spirit.' That is where the vibrations should lie, so to play it, or hear it, gives a sort of profound refreshment," the pianist said.

In his "Allegro Project" that followed his 1977 concert in Loveland, Bach became pertinent in the consciousness of Wayne McEvilly. Allegro was a way of bringing music to all sorts of people on the road. Earlier, McEvilly had crossed the nation on motorcycle, playing the classics on any piano where people could come to listen.

For Allegro the dimensions grew, as the pianist loaded his beloved Mason and Hamlin on a truck and toured from north to south, giving music that reached hearts of high government officials to boisterous grade school children. Over and over he found it was the music of Bach which touched both the troubled and the serene most deeply.

Although his vocation for some years was as professor of philosophy. McEvilly has been a life-long student and performer in piano with international credits in concerts. He feels his most affecting study was three years with the late John Crown of the University of Southern California School of Performing Arts. Crown was himself a student of the legendary Moritz Rosenthal, one of the closest students of Listz.

At one time McEvilly studied in Bombay with India's greatest teacher of singing, not as a singer, but as a pianist to add that quality to his technique.

In India he learned the dedication to doing one thing with excellence, rather than the western absorption in trying to do and be everything. It was then he came completely to music, believing "to those who want to listen, it can change the world. People must come to know the value of music beyond entertainment, to know its fabulous, mystical, educational, spiritual dimensions."

To work personally toward this vision, McEvilly embarked on his "rotunda music." He has set about to perform the classics in government buildings, most especially in capitol rotundas, where he often finds the music astonishingly magnified and enhanced.

In his rotunda project, he is following in the example of poet laureate Robert Frost in the late sixties. Frost was foremost in "lobbying for the arts," saying that we must defend the place of that (the arts) which is of the spirit, in forums devoted largely to dealing with the things of the world of materialism. McEvilly has found the doors of marble and granite buildings warmly opened to him by governors of Colorado, New Mexico and Kansas. He believes more will do so as the project continues, echoing Robert Frost's cry to government, "Let the arts resound from public places."

Of immediate excitement to the musician is the newly created, tax-exempt foundation he has developed called Santa Fe Conservancy, Inc. The Loveland concert is being presented under its auspices. The new board of directors includes Clara Apodaca, wife of the former governor of New Mexico, and long-time supporter of McEvilly's music; James Bibb, another "fan" and Director of the Budget for the state of Kansas; William F. Claire, former editor of "Stars and Stripes" and "Voyages," literary magazine; and Vamanra Deshpande, Bombay, India's highest music authority.

"Such support has now allowed me to define the goals of the Conservancy," McEvilly said. "They are four-fold. The first is presentation and performance of musicians nationally, in public places. Second is the application of time-tested oriental attitudes and methods of practice to our western tradition. In other words, we want no artist led astray into a case of nerves over their music. Also along this line, our third goal is the restoration of restraint to certain classic texts. Finally we shall embark in the publication of eastern texts applying to western practice."

First and foremost, however, is the excitement of his Jan. 11 concert in Loveland. McEvilly has chosen the following program: By Bach, Prelude & Fuge in B Minor; Jesu Joy of Man's Desiring; Prelude and Fugue in G Minor; Prelude and Fugue in C major. From Chopin, Ballade in G minor. Bach's Prelude and Fugue in C minor. Mozart's Fantasia in C minor, Chopin's Etude in G flat major and Waltz in C sharp minor, and Schubert's Impromptu in G flat major, Impromptu in A flat major and Du Bist Die Ruh. Tickets at $2 will be available at the door.

Then McEvilly will return to the Conservancy which he describes as "a moving entity, working through various wings." He will continue to be at least in part as he was early in his career, "a gypsy pianist rolling along." To pin the career down more would be to become lost in words as symbols and as McEvilly wrote further of the art of Anais Nin: "The visionary artist doesn't use merely symbols. He sees that they are there. His seeing in itself is symbolic transformation, and he knows this as his point of departure, that which gives his work life. He sees that things are golden, and so they are."

It seems apparent that the "gypsy pianist" upon his return to our Loveland stage, will bring to us "things that are golden." ●

SUPREME COURT JURISDICTION ACT OF 1979

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. RODINO. Mr. Speaker, I am introducing a bill entitled the "Supreme Court Jurisdiction Act of 1979," to improve the administration of justice by providing greater discretion to the Supreme Court in selecting the cases it will review. This legislation was developed by the Department of Justice and is an important part of our legislative program.

The bill would substantially curtail the Supreme Court's appellate jursidiction, which currently comprises almost half of the cases decided by the Court on the merits. These cases would instead be placed on the certiorari docket, and would be reviewed by the Court only if they present questions of such magnitude that plenary review would be warranted. Thus, enactment of this proposal would permit the Court to concentrate its efforts on the most important cases before it. Noted academicians and judges, including Chief Justice Burger, have long advocated the elimination of the Court's obligatory appellate jurisdiction.

I look forward to the prompt and careful consideration of this legislation by my colleagues on the Judiciary Committee.●

SALUTING FLORIDA'S FOLIAGE INDUSTRY

HON. RICHARD KELLY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. KELLY. Mr. Speaker, one of the fastest growing industries in the State of Florida is the foliage industry. During the past few years, there has been a tremendous increase in the use of decorative plants in American homes, and Florida produces about 44 percent of the plants sold in this country.

In response to the increased use of plants in home and commercial design, a group of 29 growers in Florida has formed an organization called the Florida Foliage Producers, the purpose of which is to assist consumers in purchasing high quality plants.

The following article, which appeared in the Washington Post explains some of the problems facing the foliage industry, and some of the efforts by the industry to solve them.

I commend the article to my colleagues for their consideration.

THE HARD LIFE OF STORE-BOUGHT PLANTS

(By Tom Stevenson)

What is the life expectancy of a foliage plant taken into the home? That question is often asked. It depends, of course, on the treatment the plant receives. Some plants not only stay alive for years but continue to be attractive. The same plant in a different home with poor treatment might last only a few months.

But the care the plant receives after it goes into the home is not the only factor; equally important is the condition of the plant when purchased. Many plants are sold in poor condition and should have been discarded instead.

It is a mistake to assume you can buy a sick plant and restore it to good health; the odds are overwhelmingly against it. Even if it were given to you instead of being sold as a bargain, it usually is not worth taking home unless of course you are fond of nursing and would like to see what you can do with it.

The big problem used to be that the plants were grown in full sun and few survived when taken into the dim light of the average home. That has been taken care of to a large degree by acclimatization (adjusting them to a low-light environment).

About 44 percent of foliage plants sold in the United States come from Florida. The foliage plant growers of Florida are proud of their plants and most now are producing them in shade or acclimatizing them before they leave the state.

Twenty-nine of the growers have formed an organization called Florida Foliage Producers (FFP), the primary aim of which is to "increase identification of high-quality Florida-grown plants, expand the use of Florida foliage in home and commercial interior design and provide information to consumers, retailers, and architect designers."

FFP is developing a labeling program; the label on the plant will be distributed nationally and found only on plants of the member growers, "all of whom have demonstrated high standards and good quality control in growing and shipping foliage."

However, growing and shipping are only part of the problem no doubt. FFP members have a good idea of the big job ahead of them, teaching thousands of retail store personnel how to take care of the plants so they will be in good condition when sold.

On the way to market, the plants may have been on the road five days in a box without light. We don't know how long plants can go without light and not be seriously damaged. Some say seven days is the maximum.

The plants may have become chilled. If the temperature goes much below 55 degrees F. the plants may be badly hurt.

The truck's exhaust system may have leaked fumes into the truck. Gas injury is not severe enough usually to be seen immediately but it is possible there could be visible symptoms.

There may have been a buildup of respiration gases in the packing boxes. All plants produce some ethylene; too high a concentration of this gas will harm them.

Surveys indicate a high percentage of foliage plants are sold to the public in supermarkets. The personnel of almost all of these stores are not horticulturists and do not know how to take care of the different plants. "We need simple, easy-to-understand instructions," they say.

When the plants are delivered to the headquarters of the company that will distribute them to its stores, the tops should be removed from the cardboard boxes and the sleeves (paper wrappers) taken off immediately so air can circulate around them. Plants that remain boxed and sleeved will deteriorate rapidly from lack of vital air and light.

When the plants get to the store that will sell them to the public, they should be placed immediately where they will get good light and not be crowded. The best temperatures for them are 60 to 65 at night and 70 to 75 during the day.

The plants should be watered with room-temperature water when needed; much more damage can be done by overwatering than by under watering. The plants should not be fertilized.

In many cases, light in the retail shop may be lower than desirable, however the plants should not be seriously damaged unless light levels are too low for easy reading.

FFP members say retail personnel will be provided with helpful information on positioning plants in the store environment and proper living conditions under which the plants will thrive and look attractive.

The public also can help. If the plant does not appear to be in good condition, don't buy it. That is certain to persuade the store personnel to learn how to take better care of the plants or stop handling them.●

NATURAL RESOURCES REORGANIZATION

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. ALEXANDER. Mr. Speaker, on March 1, the President publicly announced his intention to consolidate the Federal Government's natural resources programs into a single agency. The President's proposed natural resources reorganization plan, which will shortly be transmitted to the Congress, calls for a Department of Natural Resources. This Department represents nothing more than a retitling of the Department of the Interior coupled with a moving in of the U.S. Forest Service from the Department of Agriculture and the National Oceanic and Atmospheric Administration from the Department of Commerce. I am not opposed to reorganization when it is reasoned to be in the public's best interest. We live in a changing and complex world and we must have institutional arrangements which are fully capable of responding to and meeting new needs and new priorities. It was my initial belief that the President's reorganization project would undertake its responsibilities with administrative objectivity rather than a "let's take what we can get" attitude. Indeed, you may remember that the President's reorganization project stated that its objective was to be "a bottom-up approach looking first at program structure and process." We also were encouraged by the President's commitment to develop a "fully integrated and coordinated national ocean policy." After all, we reasoned, how could any reorganization be undertaken without the benefit of a clear and concise national ocean policy. How indeed.

Yet, without the benefit of an ocean policy to guide management decisions; without the benefit of a bottom-up approach to identify program deficiencies, unnecessary duplication, and greater opportunities for increased efficiency and effectiveness; without ony of these essential management prerequisites; the President's reorganization project has divined for us a Department of Natural Resources.

While I know that our mid-America States are not generally considered to be particularly cognizant of the major issues in ocean policy, as a Representative of the great State of Arkansas, I can assure you that we indeed recognize the importance of the oceans to our national security and social well-being. To us, the oceans are the vital links with our increasingly important foreign markets, the oceans are the principal influence on our weather and climate, the oceans provide us with fertilizer for our crops, with protein for our animal feed, with energy for our domestic and industrial needs, and with a variety of food. And in return, through our inland waterways and rivers flow the basic nutrients which sustain the U.S. fishery resources.

Within our 200-mile zone, the oceans cover an area which is three times larger than all of the U.S. publicly owned land. As our last frontier for expansion, development, and use, the oceans are subject to the full thrust of human activities—extraction of oil, gas, and other minerals; production of food and drugs; defense of our Nation; transportation of goods and people; preservation of the environment; disposal of wastes; as well as public recreation and seaward development. These multiple uses and users of the oceans involve the confrontation and resolution of potentially conflicting interests, such a domestic and foreign rights; public and private enterprise; development and conservation concerns; Federal, State, and local governments; and civil and military activities.

The Congress, traditionally, has recognized the oceans importance to our Nation and has repeatedly taken the initiative to advance the public's interest. Having come so far, we should resist any attempt at this time which subjects our principal ocean agency, the National Oceanic and Atmospheric Administration, to a superficially conceived, genetically simplistic, regrouping of Federal agencies. I am reminded of one of the adages of public administration theory which states that "If it isn't broken, don't fix it."

I wish to remind the President of one of his early commitments made as a Presidential candidate in a September 14, 1976 letter to the Marine Technology Society:

> America is a great maritime power, but we are in grave danger of losing our leadership because we lack a fundamental policy for the oceans. Together with the Congress, the President must develop a coherent and consistent national ocean policy.

I urge the President to forego this reorganization attempt. Instead he should act on that original promise so that together we may develop an urgently needed ocean policy. Such a policy will then provide us with the basis for pursuing any needed organizational changes through the appropriate legislative process.●

KISSINGER'S NONSENSE ON IRAN EXPOSED

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. CARR. Mr. Speaker, it is fascinating to note that those who led us into Vietnam and kept us there have been complaining that we have now repeated their mistakes in Iran. It is disturbing to note that many of these voices of past error, most conspicuously Dr. Henry Kissinger, are being taken seriously by some elements of the media.

A column in the February 26 Baltimore Sun by George Ball dramatically and effectively lays bare the folly of Dr. Kissinger's criticisms. For the benefit of anyone who does not believe we have acted wisely in avoiding military involvement in Iran, or who does not yet understand that support of a corrupt despot is as counterproductive as it is immoral, I now insert Mr. Ball's article in the RECORD.

HE HIMSELF BEARS HEAVY RESPONSIBILITY

(By George Ball)

Henry Kissinger's comments on Iran are filled with factual errors and flawed analysis. Contrary to what he twice asserts, the United States government never advocated that the Shah create a coalition government. Nor did the Shah leave "office under the visible urging of the United States." Quite the contrary, no American representative ever suggested to him publicly or privately—visibly or invisibly—that he should go, and President Carter gave him unqualified support to the end.

In all Mr. Kissinger's long postmortem he fails even to mention the two most conspicuous causes of the Shah's debacle—for one of which he himself bears heavy responsibility. The first was the pervasive corruption practiced by the Shah's family and by the whole large circle of sycophants, supporters and hangers-on. This gave force, passion and unity to the hatred of the Shah in all sectors of society, including the middle class.

The second was President Nixon's disastrous encouragement to the Shah to overload his country with inappropriate military hardware. This costly burden resulted not only in precipitiating a financial squeeze that compelled cut-backs on construction, with resulting unemployment and disaffection; it also led the Shah to a megalomania that cut him off from all contact with reality and the Iranian people. In May, 1972, in Mr. Kissinger's presence and in the spirit of the so-called Nixon doctrine, President Nixon embraced the Shah as an equal and proclaimed him our "protector" in the whole Gulf area, asking that he not shut off the oil supply as that "crazy man" Mossadegh had done. The Shah replied that he would defend the Gulf area and maintain the flow of oil on three conditions: that the United States help him put down the Kurdish revolt, that we send him a large number of military technicians, and—most important—that he have an unrestricted right to buy our most advanced weapons. Mr. Nixon agreed wholeheartedly.

Thereafter, the United States not only furnished covert help against the Kurds and supplied military technicians, but Mr. Kissinger, then national security adviser, issued one of the most remarkable documents in American history. In the name of the President, he directed the secretaries of state and defense that they should let the Shah buy any and every kind of our most advanced military hardware (including F-14s and F15s still in development and laser-guided bombs), that the Iranian government should have the final word and that no American official should try to discourage any purchase.

Prior to this 1972 act of folly, our government had prudently kept a tight rein on the Shah's obsession with elegant weapons. During the 22 years from 1950 through 1971 we had limited our aggregate military sales to Iran to only $1.2 billion, but during the brief span of seven years after Nixon's reckless decision our aggregate military sales vaulted to almost 16 times that amount—or $19.5 billion. With such spectacular instruments of power under his control, how could the Shah avoid delusions of grandeur? No wonder he stopped predicting that he would lead Iran to a European standard of living (like Portugal or Greece). Now he boasted that he would make his country the fifth most powerful in the world, even overtaking West Germany—and that Allah was supporting him in that objective.

It is nonsense for Mr. Kissinger to say that the Shah "certainly had the means at his disposal to resist more strenuously than he did. And he chose not to exercise them because he must have had doubts as to our real intentions." The reason the Shah did not stand and fight was that his whole country was solidly against him and his army was beginning to disintegrate under the pressure of competing loyalties—as has now occurred. It is fatuous to think that we could have kept a hated absolute monarch in power by encouraging the repressive use of military force. This was, after all, an internal revolt. What would Mr. Kissinger have done? Sent the Sixth Fleet steaming up the Gulf?

I can only believe that Mr. Kissinger is laying down a protective smokescreen when he seeks to put the blame on too rapid modernization (the current facile, but inadequate, cliche) or on American efforts to persuade the Shah to liberalize, or on President Carter's human rights policy. I am sure he knows better than that.●

CONTINUING CRISIS IN FOSTER CARE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. MILLER of California. Mr. Speaker, for 3 years, I have been sharing with my colleagues articles, studies, and a wide range of statistical information about the continuing crisis in foster care. The nearly unanimous agreement of child welfare and juvenile justice experts throughout the United States in support of reform legislation based on this data should compel the Congress to act expeditiously on H.R. 1523, which I have recently introduced, "The Foster Care and Adoption Reform Act of 1979."

This legislation is nearly identical to a bill I authored last Congress, which passed the House overwhelmingly as H.R. 7200. As Members of this body are aware, the administration shortly thereafter proposed its own legislation, which was introduced in the Senate by my colleague from California, Senator ALAN CRANSTON. Unfortunately, the Senate did not act quickly enough on the bill, and we were unable to resolve differences in the two versions before the end of the 95th Congress.

I am hopeful that by beginning early this session, we will be able to move quickly toward enactment. Already this year, a great volume of reports and studies have been released further testifying to the great need for this cost effective reform plan. Yesterday, the Children's Defense Fund released its long-awaited study of foster care, Children Without Homes, which will be the subject of a briefing on March 12, 1979, in S. 206 of the Capitol. Another important recent statement on the need for foster care reform was contained in the article I am submitting to the RECORD today, "Child Welfare: Fostering Turmoil, Confusion," by Robert L. Woodson, a resident fellow at the American Enterprise Institute.

Mr. Woodson's excellent article is still further proof of the great need for expeditious action on H.R. 1523. I urge my colleagues to read his views, and to join nearly 40 of our colleagues in cosponsoring H.R. 1523.

The article follows:

[From the Washington Post, Oct. 30, 1978]

CHILD WELFARE: FOSTERING TURMOIL, CONFUSION

(By Robert L. Woodson)

The Montgomery County Court recently ordered the return of the 2½-year-old adopted daughter of Barbara Bernhardt to the Lutheran Child Care Agency. According to agency officials, the action was taken because of Bernhardt's failure to divulge information concerning marital problems that eventually led to her divorce. Only the intervention of some concerned neighbors prevented the child's immediate removal. The agency agreed to "restudy the home" and render a final decision as to whether little Deborah is to remain with Bernhardt or be returned to the child-care agency's supervision.

That decision has now been rendered. Deborah is to return to the child-welfare system, where her chances of living a normal life are dim, given the plight of this country's 300,000 children who are compelled to live in a state of perpetual limbo called "foster care." One person described it as an indeterminate sentence for children whose only crime is to be dependent and neglected by their parents.

Many children come into the foster-care system as a result of abuse or neglect by their parents, who are compelled to surrender custody by court decree. Others are voluntarily committed to the child-welfare system by parents who are ill, incapacitated or experience personal problems that render them incapable of adequately caring for their children. In either case, the responsibility then rests with the public authorities, who place the child in foster care for what is supposed to be a temporary period until the child can be returned home. If that is impossible, the authorities are responsible for finding an adoptive home.

What starts out to be a temporary arrangement usually ends up as the beginning of long and arduous period of turmoil and confusion. Many children are virtually held hostage to the child-welfare system, which operates on policies providing perverse incentives for keeping children in foster care as a means of the agencies' survival. For example, a recent study revealed that, in New York City, $280 million in public funds is spent annually for children in foster care. The money goes to public and private non-profit agencies that maintain a host of foster homes. Half is retained by the agencies for overhead and services; the other half goes to the foster homes. An audit revealed that 62.8 percent of the children sampled spent a total of 602 excessive years in foster care—a waste of $233 million, not to mention the untold human devastation to the children.

As children grow up in the system, many experience as many as four or five moves from one foster home to another. Many suffer emotional and psychological deterioration as a result. There is evidence to suggest a strong correlation between the number of children in foster care who experience such a decline and the number who develop criminal patterns of behavior leading to incarceration. In one metropolitan area, 30 percent of the children committed to juvenile jails had spent some time in the foster-care system.

A study by Dr. Robert Hill, "Informal Adoption Among Black Families," suggests some alternatives to the present system through informal placement of children within the extended-family network. Hill concludes: "About 3 million children, almost half of whom are black, currently live in the households of relatives, while millions more reside with relatives for short periods. . . . Although informally adopted children are more likely to be economically disadvantaged, most of them are not on public assistance. In addition, child abuse is less prevalent."

Current child-welfare policy tends to ignore this valuable resource, choosing instead to maintain a formal, bureaucratic system of care as the primary vehicle. In fact, current policy works against extended-family placement. The state will pay strangers (foster parents) to care for children but provides no financial support for a relative to care for a child in familiar surroundings with some degree of continuity and stability.

If one surrogate parent of a child placed with the informal or extended-family arrangement dies, the child is ineligible for Social Security under existing laws. Take the case of surrogate parents who want to formally adopt a child who has lived with them for 10 years. The social agency must conduct a study of the suitability of the surrogate parents to care for the child. The family risks losing the child if the agency determines that they are unfit, based upon child-care standards as viewed from the perspective of a social worker who may share no common understanding of the culture, traditions or lifestyle of the family being studied.

Current policy makes it too easy for a child to be placed in foster care, but too difficult for the child to leave the system. As children are screened into the foster-care system, prospective adoptive parents are screened out. Adults applying to adopt children often feel compelled to lie or deceive authorities to circumvent stringent agency rules and regulations that bear little relationship to the quality of care the child is to receive.

When are we going to wake up to the fact that existing "systems of child care" can be just as destructive to children in need of out-of-home placement as the social circumstances that spawned that need? Child-welfare policy and practice must be reformed to support the child within the existing family or within the extended-family network. Professional social workers should play a supportive role instead of being the dominating influence. Maybe then we can change the conditions confronting this country's "boat people." ●

BUREAUCRATIC DELAY AND RED-TAPE ON COAL

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. APPLEGATE. Mr. Speaker, I would like to draw the attention of this Congress and that of the Nation to a perfect example of needless bureaucratic delay and redtape at a time when the economy of virtually an entire State is in peril.

For the benefit of those individuals unfamiliar with the problem at hand, my native Ohio is a major producer of our most abundant and easily obtainable energy source, coal. Unfortunately, most of this coal exceeds current air quality standards when it is burned because of its high sulfur content. Since imposition of sulfur dioxide (SO_2) air standards, many Ohio utilities have chosen to purchase out-of-State, low sulfur content coal in order to meet those air standards rather than to upgrade their facilities to include methods of cleaning Ohio coal to the point where it can be burned legally. These coal cleaning measures might include washing, blending high and low sulfur coal, or any other method including costly and sometimes inefficient desulfurization equipment, commonly referred to as scrubbers.

As a result of the utility company's decision to switch from Ohio coal to that coal which is mined outside the State, there have been thousands of miners layed off because of a lack of available work. The overwhelming majority of those 3,000 unemployed miners are constituents of mine.

During debate of the Clean Air Act amendment in July of 1977, this Congress had the wisdom of approving section 125 of those amendments which are now referred to as the Metzenbaum amendment. In short, this amendment provided that a major coal burner, such as a utility, could legally be forced to burn locally or regionally mined coal if the absence of mining that coal would cause severe economic hardships on an area.

After countless meetings and hearings and thousands of pages of testimony by miners, their families, representatives of the mining industry, public officials and concerned citizens alike, the U.S. Environmental Protection Agency, on December 20, 1978, proposed that severe economic hardships would result in southeastern Ohio in particular and Ohio in general if section 125 were not invoked.

Just how severe would the economic hardship be? EPA studies show that if no action is taken under the Clean Air Act and Ohio utilities' planned switch to out-of-State low-sulfur coal occurs:

By 1980, Ohio utilities' consumption of Ohio coal would be reduced by 48.9 percent from their 1977 level, and total Ohio coal production would decrease by 33.7 percent.

By 1980, 5,270 Ohio coal mining jobs would be lost, a 35 percent decrease in Ohio coal mining employment from 1977 levels.

A total of between 13,180 and 15,300 jobs would be lost in Ohio, 7,910 to 10,030 as a "ripple effect" of coal mine unemployment.

Ohio would suffer a $400 million loss in its annual gross State product.

Ohio's annual wage loss would be between $195 and $215 million.

Ohio would have to pay additional unemployment benefits ranging from $36 to $41 million. This would constitute about 10 percent of current payments in Ohio. After 26 weeks, such benefits would cease and welfare payments could begin for those eligible.

Ohio consumer electric bills would increase almost as much as if the utilities continued using Ohio high-sulfur coal with sulfur dioxode cleaning devices called scrubbers, or in other cases blended high-sulfur coal with low-sulfur coal.

By any standard, Mr. Speaker, this is severe.

Since this December 20 announcement, the EPA held one last hearing on the matter in the hopes of determining the correct definition of just what the term "locally or regionally mined coal" meant and also to give all parties concerned an opportunity to speak to the issue before a final determination on section 125 was made. While the hearing lasted only 1 day, the comment period was to remain open until February 27, 1979, with a final decision to be rendered approximately 30 days thereafter.

Since December 20, 1978, negotiations between the EPA and the several Ohio utilities have been conducted in order to reach a compromise that would be fair to the utilities while still allowing the mining of Ohio coal. While I can appreciate the value of such negotiations, I also see the need of limitation the time in which these negotiations can be conducted. After all, jobs are at stake here. The February 27, 1979, date indicating the close of the matter was acceptible to me. However, I now understand that the final deadline has been delayed yet another 30 days in order to give the utilities more time to negotiate a settlement.

It will be at least May before a final determination is made now and we in the 18th Congressional District can expect additional days off in the mining industry. The EPA has given in to the wishes of the utilities once too often. The agency should recognize the fact that the utilities are only trying to delay the final decision as they realize they do not have the law on their side in this case.

It is imperative that the EPA realize that they are permitting a once healthy economy to be destroyed by a few narrow-minded and inconsiderate utilities. If they continue to allow this, they are accomplices in the Ohio Valley's demise.

Mr. Speaker, we in the buckeye State have reluctantly accepted the dictatorial rules of the EPA and are willing to live within them. However, the agency must realize that there are limits to everything and a public can be pushed only so long while it fights back. The people I represent have reached that point and are willing to do what is necessary to keep their families and homes together. I do not believe it is much to ask the EPA for a little cooperation along these lines.

The time extension was unneeded and unwarranted, and serves only to help the utilities, and the people who have lost jobs. As for the matter of properly defining the term "locally or regionally mined coal," all that need to be done is to issue a definition emphasizing the purchasing of coal from "historical or traditional market," rather than limiting it to only that coal produced in Ohio.

This type of definition needs to exist for two major reasons. First, I doubt if only Ohio could supply all the coal necessary to fill the utilities orders. Additionally coal would have to be shipped in from West Virginia, Kentucky, or elsewhere. Second, a definition of this type could satisfy the interstate political squabble between Ohio and her neighbors as to the sale of coal.

Once again, Mr. Speaker, as I have said many times in the past, I implore the EPA to consider the strong likelihood of such lay-offs as they delay making a final determination on section 125 and urge them to consider the damage their delays are causing.●

PRODUCT AND PROFESSIONAL LIABILITY INSURANCE

HON. JOEL PRITCHARD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. PRITCHARD. Mr. Speaker, I am pleased to join my colleague, Mr. PEASE, as the cosponsor of the Product Liability Partial Self-Insurance Act which we are introducing today.

Our bill has two main features. First, it helps manufacturers who want to self-insure for their first layer of protection against product liability risk. This will be of direct benefit to the many companies that currently operate without any commercial insurance coverage. For others, this legislation will allow firms to increase their insurance policy's deductible feature and thus reduce their premiums.

Second, the bill extends the self-insurance option to those in the design professions, namely architects and engineers. In the near future we will be introducing a second bill designed specifically for doctors, lawyers, and other professionals with malpractice insurance problems.

We believe it makes great sense to address the insurance problems of design professionals at the same time that we consider product liability. In the manufacturing process the producer's insurance usually covers the design as well as the fabrication of the product. But in the case of bridges, office buildings, and so forth, the designer needs separate insurance apart from that of the builder. Yet the problem is the same.

Two years ago Mr. PEASE and I participated in a study that found that one out of every five small manufacturers in the United States was forced to operate without commercial insurance for product liability. And for those who could get coverage it sometimes cost them as much as 2 or 3 percent of their gross receipts.

We subsequently learned that perhaps as many as one out of every four professional engineers and architects may be working without professional liability insurance. And the average premium for those with commercial coverage runs from 5 to 8 percent of their gross.

Clearly, they are entitled to the same relief we propose for manufacturers. This is especially true because of the design professional's close association with a physical product.

In the last Congress there was only one proposal that addressed the question of revising the tax code to help those with professional liability insurance problems. That was H.R. 7711, the Product Liability Insurance Tax Equity Act introduced by our former colleague Chuck Whalen.

Mr. PEASE and I were coauthors of that legislation. We regard the bill we are introducing today as the successor to H.R. 7711. The basic concepts remain unchanged.

We have revised the legislation to reflect the changes that were made in the Internal Revenue Code at the end of the last session and to take into account the helpful and constructive comments made at the hearings on the Product Liability Insurance Tax Equity Act. In preparing this bill we have worked closely with Senators CULVER and MATHIAS who are leading efforts on its behalf in the other body.

I understand that the gentleman from Ohio (Mr. PEASE) is placing in today's RECORD the text of the Product Liability Partial Self-Insurance Act. In the coming days we will be providing a summary of its provisions.●

PRODUCT LIABILITY PARTIAL SELF-INSURANCE ACT

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. PEASE. Mr. Speaker, today I am introducing H.R. 2693, the Product Liability Partial Self-Insurance Act. The gentleman from Washington (Mr. PRITCHARD) joins me as the chief cosponsor of this bill.

The purpose of the bill is to change the Internal Revenue Code to facilitate partial self-insurance for product or professional liability. Some small progress was made in this direction with the tax code amendments enacted late last year, but much remains to be done.

Today the tax code continues to give substantial tax advantages to the purchasers of commercial insurance and to penalize those who find that they must self-insure against product or professional liability risk.

The legislation we have developed, together with Senators CULVER and MATHIAS in the other body, succeeds the Product Liability Insurance Tax Equity Act, H.R. 7711, introduced on June 9, 1977. It has grown out of a merging of the old H.R. 7711 with the Product Liability Self-Insurance Act, S. 3049, introduced on May 9, 1978.

In the last Congress, Mr. PRITCHARD and I were privileged to serve on a special ad hoc panel chaired by our former colleague, Charles W. Whalen, to study the product liability insurance problem. We presented our findings to the House Small Business Committee in April 1977.

Our study found that small manufacturers were suffering from dramatic increases in product liability insurance costs—we found an average increase of 945 percent over a 6-year period. We also found that 22 percent of the companies surveyed said they were involuntarily operating without any commercial insurance coverage for product liability. And other companies told us they were forced to take high deductibles on their policies, in effect selfinsuring for part of their risk.

It was not unusual that many of the companies responding from my district showed a tripling or quadrupling of product liability insurance premium costs in the same period that sales volumes increased only 25 to 75 percent. The financial and emotional trauma of the oil burner manufacturer in Ohio whose sales increased by 27 percent in the same one-year period that the firm's premium cost rocketed by 346 percent is shared by many manufacturing and product design firms, across the country.

Mr. Speaker, it thus became obvious that many small businesses are operating either wholly or partially outside of the product liability insurance market. A number of firms told us that they wanted to self-insure for all or part of their risk, but they were blocked from doing this because of the Federal tax laws.

At that time, the Internal Revenue Code inhibited self-insurance in two ways. First, it did not allow the taxpayers to take as business deductions the funds paid into a product liability reserve account, even though such deductions are available for the purchase of commercial insurance. Second, it imposed a tax penalty for undistributed dividends if a reserve fund was somehow built up with aftertax dollars.

To correct this situation Congressman Whalen introduced H.R. 7711. Mr. Pritchard and I were coauthors of that bill. Besides manufacturers with product liability risk, the legislation also offered assistance to doctors, lawyers, architects, engineers and others with professional liability insurance needs.

The object of the Product Liability Insurance Tax Equity Act was to put the self-insurer on an equal tax footing with those who purchase commercial insurance coverage. Our bill was discussed throughout the 95th Congress and hearings were held in the Ways and Means Committee in September 1978.

We are very proud of the broad support we received. Sixty-six Representatives cosponsored H.R. 7711 and over 50 national trade and professional associations endorsed it.

As I mentioned, we succeeded—with the crucial help of Mr. Culver in the Senate—in amending the tax code last year. It is now lawful for a corporation to build up a loss reserve account for product liability. But it still must be done with aftertax dollars, and use of this option is limited to corporations with product liability problems.

A second change made in the tax law last year was to extend from 3 years to 10 years the carryback of losses attributable to product liability. However, as Charles Whalen explained in the Congressional Record of July 21, 1978, this feature, which was proposed by the Commerce Department, is of very little help to the small companies with the most severe problems.

Mr. Speaker, I have reflected on the voluminous testimony received by the Ways and Means Committee in the last Congress. I have reviewed the likely impact of the recent changes in the Internal Revenue Code. I have met with representatives of key trade and professional groups, and have worked closely with counterparts in the Senate.

Today I am pleased to introduce again with the gentleman from Washington, the Product Liability Partial Self-Insurance Act of 1979, the followthrough on the Product Liability Insurance Tax Equity Act which we helped develop 2 years ago. This new legislation is the result of considerable thought and effort by many individuals. We believe it is a responsible and balanced approach to a serious problem.

At the conclusions of my remarks I will insert in the Record the text of our bill. It is very similar to legislation introduced on March 5 by Senator Culver. However, there are several substantive differences. Senator Mathias of Maryland will be introducing the companion bill to our legislation in the Senate.

Elsewhere in today's Record Mr. Pritchard will be explaining the professional liability provisions of our legislation.

The text of the Product Liability Partial Self-Insurance Act follows:

H.R. 2693

A bill to amend the Internal Revenue Code of 1954 to provide for a deduction paid into a reserve for product liability losses and expenses, to provide a deduction for certain amounts paid to captive insurers, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Product Liability Partial Self-Insurance Act of 1979".

Sec. 2. (a) Section 165 of the Internal Revenue Code of 1954 (relating to losses) is amended by redesignating subsection (i) as subsection (j) and by inserting immediately after subsection (h) the following new subsection:

"(i) Self-insurance for product losses and expenses.—

"(1) General rule.—In the case of a taxpayer engaged during the taxable year in a trade or business which involves the manufacture, importation, distribution, lease, or sale of a product or products with respect to which the taxpayer may incur any product liability, at the election of the taxpayer, there shall be allowed as a deduction under subsection (a) the sum of—

"(A) any amounts transferred by the taxpayer for such taxable year to his product liability trusts, including net income earned on the corpus of that trust and net gains realized from the sale or exchange of trust assets so transferred, and

"(B) any amounts paid by the taxpayer for such taxable year to a captive insurer with respect to the product liability of the taxpayer.

"(2) Determination of amount.—

"(A) Taxpayer with severe product liability insurance problem.—In the case of a taxpayer who has a severe product liability insurance problem (as defined in paragraph (11)) for the taxable year, the maximum amount for such taxpayer determined under paragraph (1) shall not exceed the smallest of—

"(i) 5 percent of the gross receipts of the taxpayer for such taxable year from the manufacture, importation, distribution, lease, or sale of such product or products with respect to which the taxpayer may incur any product liability,

"(ii) the amount which when added to the sum of—

"(I) the balance of the taxpayer's product liability trust, and

"(II) the net contributions of the taxpayer to his captive insurer, if any, equals 15 percent of the taxpayer's average yearly gross receipts from the manufacture, importation, distribution, or sale of such product or products during the base period, or

"(iii) $100,000.

"(B) Other taxpayers.—In the case of a taxpayer who does not have a severe product liability insurance problem for the taxable year, the amount determined under paragraph (1) shall not exceed the smallest of—

"(i) 2 percent of the gross receipts of the taxpayer for such taxable year from the manufacture, importation, distribution, lease, or sale of such product or products with respect to which the taxpayer may incur any product liability.

"(ii) the amount which, when added to the sum of—

"(I) the balance of the product liability trust, and

"(II) the net contributions of the taxpayer to his captive insurer, if any, equals 10 percent of the taxpayer's average yearly gross receipts from the manufacture, importation, distribution, lease, or sale of such product or products during the base period, or

"(iii) $25,000.

"(C) Base period.—For the purpose of this paragraph, the term 'base period' means the shorter of—

"(i) the period beginning with the most recent preceding taxable year for which the taxpayer elected to have this subsection apply which is immediately preceded by a taxable year for which the taxpayer did not so elect and ending with the current taxable year, or

"(ii) the 5-fiscal-year period of the taxpayer which ends with or within the taxable year.

"(3) Disallowance of deduction for certain losses.—In determining the amount of the deduction allowable for the taxable year under subsection (a) to a taxpayer who has elected to have this subsection apply, no deduction shall be allowed for any product liability loss sustained by the taxpayer during the taxable year except to the extent that the aggregate amount of such losses during such year exceeds the sum of—

"(A) the amount in the product liability trust of the taxpayer at the beginning of such taxable year, plus

"(B) the aggregate amount of payments by the taxpayer to such trust within the taxable year which are allowable as a deduction under paragraph (1).

"(4) Use of funds of trust for inappropriate purpose.—

"(A) In general.—If any amount in a product liability trust is, during a taxable year, used for any purpose other than the purpose set forth in paragraph (9) (D) (iii)—

"(i) an amount equal to the amount so used shall be included in the taxable income of the taxpayer for the taxable year, and

"(ii) the liability of the taxpayer for the tax imposed by this chapter for such taxable year shall be increased by an amount equal to 10 percent of the amount so used.

"(B) Exception.—Subparagraph (A) shall not apply to amounts paid out of any product liability to trust not later than the last day prescribed by law (including extensions thereof) for filing the taxpayer's return with respect to the tax imposed by this chapter for the taxable year to the extent the amount of such payment is not more than the excess of—

"(i) the aggregate amount of payments by the taxpayer to such account for the taxable year, over

"(ii) the maximum amount of such payments which may be deducted under paragraph (2).

"(5) Time when payments to account deemed made.—For the purposes of this subsection, a taxpayer shall be deemed to have made a payment to his product liability trust on the last day of the preceding taxable year if the payment is made on account of such taxable year and not later than the last day prescribed by law (including extensions thereof) for filing the taxpayer's return with respect to the tax imposed by this chapter for such taxable year.

"(6) Payments to trust to be in cash or certain other items.—No deduction shall be allowed under paragraph (1) with respect to any payment to a taxpayer's product liability loss reserve account other than a payment in cash or in items in which the assets in said account may be invested under paragraph (10).

"(7) Special rule for controlled groups.—

"(A) In general.—For the purpose of paragraph (2)—

"(i) in the case of any taxpayer who, during a calendar year, is a member of a controlled group of corporations, only gross receipts properly attributable under section 482 to such taxpayer for such year shall be taken into account; and

"(ii) the aggregate deductions under this subsection taken by all of the members of a controlled group of corporations for each taxable year shall be limited to the amount that would be permitted under paragraph (2) if all the component members of such group were considered to be a single taxpayer.

"(B) Definition of controlled group.—For the purpose of subparagraph (A), the term 'controlled group of corporations' has the meaning given such term by paragraphs (1), (2), and (3) of subsection (a) of section 1563, except that the determination of whether a taxpayer is a component member of a controlled group of corporations at any time during a calendar year shall be made on December 31 of such year.

"(C) Controlled groups containing persons other than corporations.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraphs (A) and (B) shall be applied to groups of taxpayers under common control where one or more of such taxpayers is not a corporation.

"(8) Election, termination, and withdrawal of funds.—

"(A) Making election; terminating account.—The Secretary shall prescribe by regulations—

"(i) the time, manner, and conditions under which the election under paragraph (1) shall be made by a taxpayer;

"(ii) the time, manner, and conditions under which a taxpayer may terminate his product liability trust, and the funds accumulated therein, if any, may be distributed to the taxpayer without being subject to the penalty under paragraph (4); and

"(iii) the time, manner, and conditions under which a taxpayer may withdraw all, or any portion of, the funds from his product liability trust without penalty under paragraph (4).

"(B) Special requirements.—The regulations prescribed by the Secretary regarding the election under paragraph (1) shall require the taxpayer to indicate whether he is electing to transfer all, or any portion, of (i) the net income earned on amounts previously transferred to his product liability trust and (ii) the net gains realized on the sale or exchange of trust assets to that trust. Such amounts which the taxpayer does not elect to transfer to his product liability trust may be withdrawn from that trust without penalty under paragraph (4).

"(C) Withdrawal of funds.—The regulations prescribed by the Secretary regarding the withdrawal of funds from a taxpayer's product liability trust without penalty under paragraph (4) shall permit such withdrawals when the taxpayer has no outstanding product liability claims or lawsuits asserted against him and no reasonable expectation that any product liability claims and lawsuits will be asserted against him.

"(D) Inclusion in income.—Amounts distributed to a taxpayer from his product liability trust without penalty under this paragraph shall be included in the net income of the taxpayer in the taxable year in which the distribution is made.

"(E) Transfers to another trust.—In the case of a transfer of an amount from a product liability trust to another product liability trust, the maximum amount of deduction allowable to the taxpayer under paragraph (2) shall, for the taxable year of the transfer, be increased by an amount equal to the amount included in the income of the taxpayer for such year under subparagraph (D).

"(F) Other regulations.—The Secretary shall prescribe such other regulations as may be necessary to carry out the purposes of this subsection.

"(9) Definitions.—For purposes of this subsection—

"(A) Product.—The term 'product' includes any service provided by the taxpayer in the professional design, planning, evaluation, preparation of specifications, or administration of a contract, for the construction or modification of any building or structure on real property.

"(B) Product liability.—The term 'product liability' includes—

"(i) liability of the taxpayer for damages on account of physical injury or emotional harm to individuals, or damage to or loss of the use of property, attributable to negligence in, breach of warranty regarding, or defects in any product manufactured, imported, distributed, leased, or sold by the taxpayer, but only if

"(ii) such injury, harm, or damage arises after the taxpayer has completed or terminated operations with respect to, and has relinquished possession of, such product.

"(C) Product liability loss.—The term 'product liability loss' means any loss attributable to the product liability of the taxpayer.

"(D) Product liability trust.—The term 'product liability trust' means any trust—

"(i) established in writing which is created or organized under the laws of the United States or of any State (including the District of Columbia) by the taxpayer;

"(ii) the trustee of which is a bank (as defined in section 581) or another person (other than the taxpayer or any component member of a controlled group of corporations, within the meaning of paragraph (7), of which the taxpayer is a member) who demonstrates to the satisfaction of the Secretary that the manner in which that other person will administer the trust will be consistent with the purposes for which the trust is established;

"(iii) the exclusive purpose of which is to satisfy, in whole or in part, the product liability losses sustained by the taxpayer and the expenses incurred in the investigation, settlement, and opposition of any claims for compensation against the taxpayer with respect to his product liability, and to pay the administrative and other incidental expenses of such trust in connection with the operation of the trust and the processing of claims against the taxpayer;

"(iv) the assets of which will not be commingled with any other property other than in a common trust fund (as defined in section 584) and will only be invested as permitted in paragraph (10); and

"(v) the assets of which may not be borrowed, used as security for a loan, or otherwise used by the taxpayer for any purpose other than those described in clause (iii).

"(E) Captive insurer.—The term 'captive insurer' means any insurer—

"(i) which is directly or indirectly—

"(I) wholly or partially owned or controlled by the taxpayer, or

"(II) wholly owned or controlled by an association of which the taxpayer is a member, and

"(ii) which is licensed to provide product liability insurance to the taxpayer under the laws of a State of the United States, including the District of Columbia.

"(F) Net contributions of taxpayer to captive insurer.—The term 'net contributions of taxpayer to his captive insurers' means the sum of all premiums paid by the taxpayer to his captive insurer for product liability insurance, less all amounts paid by his captive insurer for claims against the taxpayer for compensation with respect to the product liability of the taxpayer.

"(10) Restrictions on investment of assets.—The assets of a product liability trust may not be invested in anything other than—

"(A) public debt securities of the United States,

"(B) obligations of a State or local government which are not in default as to principal or interest, or

"(C) time or demand deposits in a bank (as defined in section 581) insured by the Federal Deposit Insurance Corporation, a savings and loan association insured by the Federal Savings and Loan Insurance Corporation, or an insured credit union (as defined in section 101(6) of the Federal Credit Union Act) located in the United States.

"(11) Severe product liability insurance problem.—A taxpayer has a severe product liability insurance problem for a taxable year if, for such taxable year—

"(A) the taxpayer is unable to obtain a premium quotation for product liability insurance, with coverage of up to $1,000,000, from any insurer other than a captive insurer; or

"(B) the lowest insurance premium quotation for product liability insurance, with coverage of up to $1,000,000, obtained by the taxpayer was equal to more than 2 percent of the gross receipts of the taxpayer for such taxable year.

"(12) Deductibility of amounts paid to captive insurer as an ordinary and necessary business expense.—The deductibility, in whole or in part of amounts paid by a taxpayer to a captive insurer for product liability insurance coverage under this subsection shall not affect the deductibility of such amounts under section 162 (relating to ordinary and necessary business expenses), except that such amounts shall not be deducted more than once.

"(13) Discharge of indebtedness of taxpayer by product liability trust.—For the purpose of section 61 (relating to gross income), the payment by the trustee of a taxpayer's product liability trust of product liability losses sustained by the taxpayer, expenses incurred in the investigation, settlement, and opposition of any claims for compensation against the taxpayer with respect to his product liability, or other expenses permitted to be paid by the trustee of such trust under paragraph (9), shall not be included in the gross income of the taxpayer.".

(b) Accumulated earnings tax.—Paragraph (4) of section 537(b) of the Internal Revenue Code of 1954 (relating to the accumulated earnings tax) is amended to read as follows:

"(4) Product liability loss reserves or insurance.—Amounts accumulated in a taxpayer's product liability trust and amounts paid by a taxpayer to his captive insurer for liability insurance shall be treated as amounts accumulated for the reasonably anticipated needs of the business of the taxpayer to the extent those amounts are deductible under the rules of section 165(i). The accumulation of reasonable amounts, in addition to amounts deductible under section 165(i), for the payment of reasonably anticipated product liability losses (as defined in section 165(i)(9)(C)), as determined under regulations prescribed by the Secretary, shall be treated as accumulated for the reasonably anticipated needs of the business."

(c) Effective date.—The provisions of this Act apply to taxable years beginning after September 30, 1979.●

OUR NEIGHBORHOOD SCHOOLS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

• Mr. ROSENTHAL. Mr. Speaker, I am today inserting in the RECORD a recent installment in the current series of excellent articles appearing in the New York Sunday News in my home borough of Queens.

The series, entitled "Our Neighborhood Schools," is written by veteran journalist Ed Hurley. His articles have earned praise from educational, community and public officials. Mr. Hurley, the author of bestselling books on politics and sports, is a native of Queens and one of its outstanding citizens and critics.

His book, "The Last Poor Man," showed the best and the worst of local politics. His knowledge of Queens County is unchallenged.

Mr. Speaker, this article involves the young people of my district, and I am proud to salute them for their outstanding work as students and as citizens.

The article follows:

OUR NEIGHBORHOOD SCHOOLS—STUDENTS LEARN FROM THE NEWS

(By Ed Hurley)

Teachers at several elementary and junior high schools are reacting to the popular Daily News Neighborhood School series with positive programs for their students. The News actually has become a teaching utensil at Public School 100 on 118th St. in South Ozone Park.

Principal Vincent Romano and teacher Palma Cardillo established "Daily News Week" to motivate the students' interest in proper grammer and current events about their city and community. Cardillo's second graders welcomed the change of pace from the regular blackboard routine.

A portion of the paper was employed as a teaching tool for each of the five subjects taught the second-year children. Principal Romano was so impressed by the results that he authorized video taping of the lessons.

The Parents Club observed the video production at last month's meeting and were pleased by the students' attentive reactions. One parent observed, 'The kids have grown up with the Daily News and the paper obviously enjoys their trust."

Earlier in the school series, Forest Hills High School Principal Jack Groveman reported that several of his teachers felt that The News was useful in teaching sentence structure, as well as civics.

Over in Flushing, the students at Daniel Carter Beard Junior School 189 on Barclay Ave. are turning out an impressive school paper of their own. It too is proving to have educational value.

TOPS IN THE STATE

The Beard Bugle is guided by teacher Steve Steinberg and is generally ranked among the top JHS journalistic efforts in the state. The paper is circulated to various Flushing groups including the Senior Citizens Residence, Franklin Nursing Home, local candy stores and the district's grade schools, PS 20, 21 and 22.

Steinberg urges his ninth-grade student writers and reporters to "dig" for stories around school and the neighborhood. A recent 20-page issue featured a front-page exclusive interview with Rep. Ben Rosenthal. The veteran solon said of the interview, "These kids asked bright, timely questions and came right to the point."

The paper's governing editorial board includes Toni Bitsakis, Elizabeth Kahn, Efran Vaca, Jill Wendrow, Gary Dersarkissian and Katy Koprowicz. The students of 9AB1 and 9BE1 assume the general reporting assignments.

The art staff includes Selina Choy, Johnny Owen, Judy Woo and Susie Epstein, while Scott Gerard, Andy Mendez and Bob Acevedo are among the top photography staffers.

THE UNSUNG STARS

Undergraduate typists are usually among the unsung stars of any scholastic journalistic endeavor. Steinberg is blessed with a squad of dedicated typists including Marie Forte, Alice Lee, Beth Davidson and Tina Ortiz.

Neighborhood merchants are also doing their part, inserting regular ads to help cover the ever-rising production costs. Local Flushing businesses such as Fashion Avenue Sportswear, Mayfair Gift Shop and Angie's General Store are among the regular advertisers. The local Burger King and Volcano's popular Italian restaurant on Northern Blvd. are also boosters of The Beard Bugle.

"The paper's success isn't the big story. It's the fact these youngsters are able to do the job and learn about the business world while at a very tender age," according to one educator.

The paper ran an interesting story on the King Tut exhibition last December and helped establish wide interest among many of the county's younger school children. For example, the grade schoolers from Whitestone's District 25 have taken the "Treasures of Tutankhamun" to their hearts.

STRONG INTEREST IN TUT

Community Superintendent Joan M. Kenny and PS 184 Principal Eugene Mirsky are both enthusiastic over their charges positive reactions to the King Tut fever. Students from all 13 schools in the northern Queens' district have enjoyed discussions, presented drawings and reported on newspaper and television coverage of the exhibition.

The highlight of the district's King Tut program was the Elementary School Principals' exhibition including students replicas of Tut items on display at the Metropolitan Museum of Art. District 25, as prelude to the principals' exhibit, staged a community exhibition to spotlight the talents of the Whitestone areas students.

The King Tut collection, which remains at the museum until April 15 and then moves to San Francisco, has stimulated remarkable student interest. Elmhurst's PS 89 on Britton Ave. employed the informative Sunday News Magazine story and illustrations as a guide for its salute to Tut.

Randy Diaz, Michelle Fausto and Chris McLaughlin were among the PS 89 students who worked on King Tut reproductions under the leadership of Principal Cleonice LoSacco. The principal is quick to award the credit for her school's interest in the art classics to teachers Joseph Piro, Carole Heller and Silverlane Clark.

The media, of course, has been more than partly responsible for the wide and continuing interest in the museum's extended presentment of King Tut this winter. Many educators feel the younger students identify with the child monarch, King Tut, the youthful Egyptian of long ago, has helped the children of today expand their learning scopes.●

ANATOLY SHCHARANSKY: 2 YEARS OF IMPRISONMENT

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. WAXMAN. Mr. Speaker, March 15 will mark the second anniversary of the arrest of Anatoly Shcharansky by the Soviet authorities. His detention, trial, and conviction—all of which constituted a mockery of justice, even by Soviet standards—was the climax of the Soviet campaign to utterly destroy the movement of refuseniks and dissidents in that country. But with the passage of time, the cause for which Mr. Shcharansky and his colleagues sacrificed their freedom—Soviet compliance with the provisions of the Helsinki accords—has grown even stronger.

Although emigration from the Soviet Union has increased over the past year, the continuing repression of many thousands more who have applied to leave demonstrates that these problems have not been resolved. Similarly, the emigration figures show the utility of the Jackson-Vanik amendment and the need to maintain its provisions in the law.

Anatoly Shcharansky's courageous wife, Avital, has arrived in the United States for a speaking tour on behalf of her husband and the other prisoners of conscience, such as Vladimir Slepak, Ida Nudel, Joseph Begun, Aleksandr Ginzburg, Grigory Goldstein.

I wish to share with my colleagues her message at the commencement of her visit, as well as her husband's statement to the Soviet court in defiance of his unjust conviction last summer:

[From the Union of Councils for Soviet Jews, March 1, 1979]

TO MY AMERICAN FRIENDS

(By Avital Shcharansky)

On March 15, it will be two years since my husband Anatoly Shcharansky was arrested and held in solitary confinement. His case was an attempt to liquidate the Jewish emigration movement in the USSR.

These two years have been an ordeal for both me and Anatoly's parents in Moscow. We have not heard from him for two months and his parents were recently refused their half-yearly visit with him.

My husband's bonds with Israel and world Jewry helped him stand firm during the brutal interrogations and the "trial" itself. The steadfastness shown under the most cruel conditions by Anatoly and Jewish activists Vladimir Slepak, Ida Nudel, Joseph Begun fills our hearts with new strength.

They are still there—in jail, in Siberia, or refused permission for long years to leave the U.S.S.R. But we are free and can fight for their release.

Let us be strong and not despair. I pray God will protect them. Our sages say: "The Guardian of Israel does not slumber or sleep."

[From the New York Times, July 15, 1978]

NEXT YEAR IN JERUSALEM

Moscow, July 14.—Following is a transcript of Anatoly B. Shcharansky's closing words from notes taken by his brother, Leonid:

In March and April, during interrogation, the chief investigators warned me that in the position I have taken during investigation, and held to here in court, I would be threatened with execution by firing squad, or at least 15 years. If I would agree to cooperate with the investigation for the purpose of destroying the Jewish emigration movement, they promised me early freedom and a quick reunion with my wife.

Five years ago, I submitted my application for exit to Israel. Now I'm further than ever from my dream. It would seem to be cause for regret. But it is absolutely otherwise. I am happy. I am happy that I lived honestly, in peace with my conscience. I never compromised my soul, even under the threat of death.

I am happy that I helped people. I am proud that I knew and worked with such honest, brave and courageous people as Sakharov, Orlov, Ginzburg, who are carrying on the traditions of the Russian intelligentsia. I am fortunate to have been witness to the process of the liberation of Jews of the U.S.S.R.

I hope that the absurd accusation against me and the entire Jewish emigration movement will not hinder the liberation of my people. My near ones and friends know why I wanted to exchange activity in the emigration movement for a life with my wife, Avital, in Israel.

For more than 2,000 years the Jewish people, my people, have been dispersed. But wherever they are, wherever Jews are found, every year they have repeated, "Next year in Jerusalem." Now, when I am further than ever from my people, from Avital, facing many arduous years of imprisonment, I say, turning to my people, my Avital: Next year in Jerusalem.

Now I turn to you, the court, who were required to confirm a predetermined sentence: to you I have nothing to say.●

FROM PURE SCIENCE TO RESEARCH UTILIZATION: THE EARTHQUAKE EXAMPLE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. BROWN of California. Mr. Speaker, one of the failings of Government programs in complex subject areas is the gap which almost inevitably develops between one agency and another that share responsibility for that subject. The almost chronic problem of interagency and intergovernmental coordination has been addressed in many ways in both the executive and the legislative branch. On some occasions both the legislative and executive branch agree on an approach and the people who are actually expected to do the work in the field agree with the approach Government officials work out. The Federal program for earthquake hazards reduction is just such an example.

Mr. Speaker, as one of the main supporters of the Earthquake Hazard Reduction Act of 1977—Public Law 95-124—and as chairman of the Subcommittee on Science, Research and Technology of the Committee on Science and Technology, which has jurisdiction over this subject area, I am quite aware of the history of the Federal earthquake program, and the intent of those involved with this public policy issue. We attempted, through a carefully planned Government-wide earthquake hazards reduction program, to develop a comprehensive, coherent, and coordinated program that included all major elements of public policy—from basic research to the application of research results to decisionmaking. Unfortunately, for the program and for the credibility of Congress as a responsible manager of complex issues, a major aspect of this comprehensive program was cut in the fiscal year 1979 budget. That cut, in the "research for utilization" part of the earthquake program, has remained in the fiscal year 1980 budget request for the earthquake program. The legislative committee is taking steps to reverse this mistake, which I hope will be endorsed by the whole Congress.

Mr. Speaker, the earthquake program is not the only place where this type of problem can be found. I believe all Members of the House would find this case of interest, not only for its own merits, but for the lessons it offers us for other complex subjects. Dr. Karl V. Steinbrugge, a distinguished expert in the earthquake field, gave an excellent concise statement on this subject which presents clear lessons for all of us.

Perhaps the most important point, which is made is that, because of the imbalance in the present budget, the gap between what we know and what we use will grow.

The testimony follows:

STATEMENT OF KARL V. STEINBRUGGE

Congressman Brown and Committeemen: I am delighted at this opportunity to express my views on the progress being made in Federal Earthquake Hazard Reduction programs and to comment on the problems which still face us.

It was my privilege to have been a member of the Advisory Group which prepared the "Earthquake Prediction and Hazard Mitigation Options for USGS and NSF Programs" in 1976 (so-called "Newmark Report.") This report discussed three levels of funding of which the middle one (Option B) was accepted for USGS and NSF. It is my personal view that this middle ground represented an appropriate increase in scientific research, consistent with the growing awareness of the hazard, yet not so large as to invite inefficiencies.

Of equal importance was the broad multidisciplinary approach taken by the Newmark Report; this viewpoint is too often given no more than lip service. It has been my experience that significant research findings in one discipline fail to be fully implemented in the real world because related disciplines are not carrying out related studies. The "Newmark Report" had 6 multi-disciplinary elements, all of which were well-balanced and well-related among each other. These 6 elements were:

1. Fundamental Earthquake Studies
2. Prediction
3. Induced Seismicity
4. Hazard Assessment
5. Engineering
6. Research for utilization

These elements ranged from pure science to and through research for utilization.

The next major development in Federal thinking came as a result of the "Earthquake Hazards Reduction Act of 1977" (Public Law 95-124). President Carter assigned the responsibility of preparing an Implementation Plan to the Office of Science and Technology Policy. Once again it was my privilege to become deeply involved, this time as Chairman of the Working Group on Earthquake Hazards Reduction for the Office of Science and Technology Policy. The end products were a detailed discussion of problems, or "Issues", for an Implementation Plan as well as the plan itself.

Despite this progress, there appear to be several significant problem areas that are developing.

First, the delay in bringing the new agency, the Federal Emergency Management Agency (FEMA), into operational status has also delayed the implementation of significant earthquake hazard reduction programs that are related to the intended goals of this agency. It is vital that existing momentum towards hazard mitigation is not lost due to this delay. Hazard reduction is very often the economic preference to repeated post-disaster "give-aways"; FEMA should be a catalyst in improving this scene. Also, this delay should not allow mitigation to become lost because of personnel change.

Turning next to the more research oriented agencies, NSF and USGS began their expanded "Newmark Report" programs in excellent manners. However, based upon my interpretations of the report of the House Committee on Appropriations for fiscal 1979 activities, I am led to believe that the NSF program may be becoming unbalanced. If so, there will be an increasing likelihood that hazard mitigation measures will not be nearly as well implemented as in the past. The gap between what we know and what we use will grow.

In all recent integrated reports, the pipeline of knowledge begins with pure geophysical and earthquake engineering research, then eventually flows through building code provisions, earthquake engineering design, "lifelines" (such as water systems and energy systems), and land-use to minimize geologic hazards. The real world requires the foregoing to be placed in an appropriate economic setting with an appropriate knowledge of probable public attitudes, and research for utilization is required. A classic and fundamental example of crucial research is the strong motion program, funded by NSF but managed by the USGS, without which there would be comparatively little improvement in earthquake resistive design and life safety.

My concern and my recommendations stem from a fear that the NSF and USGS programs, goals, and funding may become reduced and/or unbalanced. In general summary and conclusion,

there is need to maintain the previously established funding levels for all of the agencies currently involved in earthquake hazard reduction,

there is no need to redistribute programs and sub-programs among the existing agencies (to do so would risk a reduction in benefits from multi-disciplinary approaches), and

there is need to hasten the date that FEMA becomes operational and takes on its earthquake hazard reduction roles.

One rather specific recommendation is also in order. Research for utilization at the level of Option A of the Newmark Report was considered by its preparers to be barely adequate to accomplish the objectives of the national program. Option A called for $5.3 million for fiscal 1979 while the House Committee on Appropriations appears to state "no more than $1,000,000 in fiscal year 1979". It seems quite clear that this portion of the program is in serious jeopardy, particularly with respect to NSF. In my view, $5.3 million is the very minimum.●

NIGHTMARE OF ESTATE TAX "CARRYOVER BASIS"

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. ABDNOR. Mr. Speaker, I would like to call the attention of my colleagues to a problem within our estate tax laws which threatens to place extreme hardships on small property owners and their heirs.

In passing the Tax Reform Act of 1976, Congress implemented a provision known as the "carryover basis." Although touted as a better method of taxing estate transfers, it has quickly become a nightmare.

The carryover basis provides that for tax purposes, the "basis" or market value of property, "carries over" from a deceased owner to the heirs of an estate. The heir who at some point disperses of inherited property, rather than paying capital gains only on any increase in value realized during the period of actual ownership, must also pay additional capital gains on the appreciation occurring from the time the deceased owner purchased the property. This forces the heirs of an estate to pay both death taxes and extremely high income tax on false profits ballooned by inflation. The carryover basis also fails to account for the fact that many times the increases in property value result solely because of the greater management expertise on the part of the new owner. Yet, with the carryover basis this individual is also required to pay a tax penalty on his abilities.

Equally as abhorrent as the increased rate of taxation is the encumbrance of recordkeeping required by the carryover basis. To determine the appropriate basis, the market value at time of purchase must be known for virtually all property. Although there is an exemption for some household property, nearly all items must be properly identified to be in compliance with the law.

One can imagine the problems this causes for survivors and the attorney handling the estate transfer. In the situation of farm assets, the carryover basis forces farmers to know when every head of livestock was born or purchased, when feed went into the silo, the date of machinery purchases, and keep records of many miscellaneous transactions. For the small businessman, the carryover basis will cause similar problems.

Attorneys in my State have written with hundreds of examples of the comprehensive formulas and accounting procedures contained within the carryover basis structure. Professionals who have dealt with tax laws for a lifetime admit they are hard pressed to comprehend the details of this provision. All of this requires massive amounts of time to work through an estate and the increased manhours cost money. Attorney fees will soar because of the carryover basis at the very time Congress made a commitment to simplify estate transfers and hold down the costs of probate.

In the 95th Congress, recognition was given to the problems which I have described. In the Revenue Reform Act, we delayed the effective date of the carryover basis until January 1, 1980, so that Congress might have sufficient time to review these laws and make needed reforms. The Senate Finance Committee will be holding hearings on this issue beginning next week. Hearings are also likely to be forthcoming in the House. I would urge my colleagues to contact the respective tax committees and solicit the repeal of the carryover basis. We have only 10 months in which to arrive at a much-needed alternative.

For the additional information of my colleagues, I call attention to a resolution adopted recently by the 54th legislature of the State of South Dakota. This resolution states the objections of this distinguished body to the provisions of the carryover basis:

RESOLUTION

A concurrent resolution, requesting repeal of the carryover basis provisions of the Tax Reform Act of 1976

Whereas, each separate tax as a component and the tax system as an edifice ought to harmoniously combine the disparate principles of equity, economic efficiency, and ease of administration to the extent possible; and

Whereas, the carryover basis provision of the Tax Reform Act of 1976 does not contribute to the goal of equity because it produces double taxation in the form of an estate tax and an income tax when the inherited property is sold with the latter failing to take into account either inflation-induced appreciation or the importance of management in producing the capitalized income stream inherent in the value of the property; and

Whereas, the carryover basis provision of the Tax Reform Act of 1975 does not contribute to the goal of economic efficiency because it destroys both the incentives and the capability of the small business and farm sector of the economy to innovate and compete with the large-scale corporate sector, the former sectors being the source of much technological innovation and frequently more efficient through many spectrums of scale economies in different fields; and

Whereas, the carryover basis provision of the Tax Reform Act of 1976 does not contribute to the goal of ease of administration either from the standpoint of the taxpayer or the internal revenue service with its complex record-keeping requirements and equally complex tax computations:

Now, therefore, be it resolved, by the House of Representatives of the Fifty-fourth Legislature of the state of South Dakota, the Senate concurring therein, that the Congress of the United States repeal section 2005 of the Tax Reform Act of 1976 and revive the prior law with an effective date of October 4, 1976; and

Be it further resolved, that a copy of this Resolution be sent to the President of the United States, the Speaker of the House of Representatives, the President of the Senate, the Chairman of the House Ways and Means Committee, the Chairman of the Senate Finance Committee, and each member of the congressional delegation of the state of South Dakota.●

HOSPITAL FOUNDATION HONORS CHARLOTTE JEAN MEIER

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. DANIELSON. Mr. Speaker, I want to call to the attention of my colleagues the fact that one of my constituents, Mrs. Charlotte Jean Meier, of Montebello, Calif., will be honored next week as the Beverly Hospital Foundation's Woman of the Year—an honor which she richly deserves.

Mrs. Meier, the wife of Dr. Woodrow W. Meier, has been active in charitable and service organizations in the Los Angeles area for many years. I think that her service to the community is best described by the resolution that the Hospital Foundation passed in her recognition which I am inserting in the Record at this point.

RESOLUTION

The Board of Trustees of the Montebello Beverly Hospital Foundation present to Mrs. Charlotte Jean Meier this Woman of the Year Award.

Whereas, Mrs. Meier was a charter member of the Beverly Hospital Guild and served as its President; and

Whereas, Mrs. Meier was the first woman to serve on the Beverly Hospital Foundation Board of Trustees; and

Whereas, Mrs. Meier has served her community as a Life Member of the Montebello Park Parent Teacher Association, a past president; the Montebello Women's Club, The Order of Eastern Star, Guardian Council, Order of Jobs Daughters No. 78, The Montebello 4-H Club and the Grace El Siloe United Presbyterian Church; and

Whereas, Mrs. Meier has served the Greater Los Angeles Area in the Los Angeles County Medical Association Auxiliary as a member and Past President of District 11, the Red Cross Blood Bank Program, and now serves on the Executive Committee of Assistance League of Southern California and as liaison for this organization with The Boys Club of Hollywood. The Downey Assistance League, The Los Angeles Chapter of the National Charity League, The Kappa Kappa Gamma Sorority Mothers Club, The Achievement Reward for College Scientist, and Membership Chairman and Board Member of the Los Angeles Chapter of Freedoms Foundation at Valley Forge.

Now, therefore, we the Board of Trustees of the Montebello Beverly Hospital Foundation do on this 17th day of March, 1979 hereby recognize and proclaim Mrs. Charlotte Jean Meier as Woman of the Year for her dedicated service to this hospital and the community it serves.

George R. Hensel, *President*.

PUBLIC DEBT CEILING

HON. WILLIAM PHILIP GRAMM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. GRAMM. Mr. Speaker, next week the House will again consider legislation to raise the public debt limit. At that time Congressman Lott, Congressman Jones of Oklahoma, and I intend to introduce an amendment which would link the public debt ceiling to the congressional budget process and provide a step-by-step means of complying with the Byrd amendment (section 7 of Public Law 95-435), which requires a balanced Federal budget by fiscal year 1981. The text of our amendment follows:

AMENDMENTS TO H.R. 2534

(To be offered by Mr. Gramm, Mr. Lott and Mr. Jones)

On the first page, strike out lines 3 through 7 and insert:

That the public debt limit set forth in the first sentence of section 21 of the Second Library Bond Act (31 U.S.C. 757b) shall be temporarily increased—

(1) by $430,000,000,000 during the period beginning on the date of the enactment of this Act and ending on September 30, 1979, and

(2) by $497,000,000,000 during the period beginning on October 1, 1979, and ending on September 30, 1980.

On page 2, after line 16, insert the following:

SEC. 5. (a) It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution (or amendment thereto) which would provide for a statutory limit on the amount of the public debt greater than $897,000,000,000 for any period during any fiscal year beginning after September 30, 1980—

(1) until the second required concurrent resolution on the budget for such fiscal year has been agreed to pursuant to section 310 of the Congressional Budget Act of 1974, and

(2) unless—

(A) the appropriate level of the total budget outlays for such fiscal year as set forth in such concurrent resolution is equal to or less than the recommended level of Federal revenues for such fiscal year as set forth in such concurrent resolution, or

(B) such concurrent resolution is agreed to in both the House of Representatives and the Senate by a vote of more than two-thirds of the Members voting (a quorum being present).

(b) The provisions of this section shall take effect on the date of the enactment of this Act.●

PRIVATE JOHNNY STILL CAN'T READ

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. MICHEL. Mr. Speaker, what is wrong with our educational system? Individually, teachers are among the most dedicated and responsible human beings you will ever hope to meet. School administrators, generally speaking, are equally dedicated to quality education. Parents certainly want their children to get the very best education possible. And today's children are, in most important ways, the same as children have always been: Properly motivated, at home and at school, they are capable of learning and often willing to learn.

Given all of this, why are we turning out a generation of illiterates? The Washington Star has just reported that the U.S. Army is having difficulty "finding recruits who can read * * *." All training manuals for recruits have had to be rewritten for persons reading at the seventh grade level. Twenty-seven percent of the Army's new enlistees will have trouble reading such material.

Now some might argue that this is because we have a high dropout problem. It might be argued that if only these young men and women had finished high school the reading problem would not exist.

But the amazing fact is that the Army now has a higher percentage of high school graduates than at any time in our Nation's history. The Army has too many illiterates who have finished 4 years of high school.

How have we come to this state of affairs? I would think that there would be numerous studies of the situation and many congressional inquiries. I would think that the educational organizations who spend most of their time lobbying for tax dollars would want to know why our schools are turning out illiterates.

But nothing seems to be done. I think it is because the powerful and well-funded educational lobbying groups and unions have such a stranglehold on American public education that there is a fear of offending them by asking tough questions.

Well, Mr. Speaker, the Congress should start asking these questions. We are concentrating our time and energy on a debate concerning a Department of Education. This new bureaucratic empire will simply keep things the way they are and give more power to the Federal education bureaucrats, their education lobby cronies and the politicians who are ever so anxious to please these lobbies. This is the iron triangle of power that controls and has so greatly damaged our schools. And we are being asked to institutionalize its power in one department, easily controlled.

Let us not kid ourselves that local control of schools means what it used to. The Federal Government, the unions, and the education organizations to a great degree run our schools these days. Let us turn the schools back to the parents. The first place to begin is to defeat this Department of Education boondoggle, this monument to the folks who brought us so many illiterate American children.

At this point I want to include in the RECORD, "Private Johnny Can't Read," which originally appeared in the Washington Star and was reprinted in the Chicago Tribune, March 5, 1979.

The article follows:

PRIVATE JOHNNY STILL CAN'T READ

WASHINGTON.—The all-volunteer army, which has a higher percentage of high school graduates than any other army in United States history, is having difficulty finding recruits who can read.

The problem is becoming increasingly expensive, serious, and embarrassing for the Pentagon.

It is expensive because the Army has found that soldiers who can't read require longer training. Illiteracy also is believed to be a major cause of the army's high dropout rate. Currently, 32 per cent of the army's volunteers leave before their first tour of duty is completed.

It is serious because army planners are about to introduce about $61 billion worth of highly complex military hardware, weapons more potent and more demanding than anything ever seen before.

It is embarrassing because Pentagon officials, from Secretary of Defense Harold Brown on down, have repeatedly defended the quality of the all-volunteer army by pointing out that 80 per cent of the soldiers were high school graduates—double the percentage that fought in World War II and more than 10 per cent higher than the mostly draftee Army that fought in Viet Nam.

Furthermore, officials have pointed out that the army has a lower percentage of so-called "Category 4s," recruits whose intelligence falls between the 10th and 30th percentiles on a scale of 100.

But statistics on the number of soldiers with high school diplomas mask an immense illiteracy problem that has forced a quiet overhaul and drastic simplification of the army's entire training system.

In December, Gen. Bernard W. Rogers, Army chief of staff, ordered all training manuals for lower-echelon troops to be rewritten for understanding by persons reading at the seventh-grade level. Even at that level, according to Rogers, about 27 per cent of the Army's new enlistees will have trouble reading them.

One of every 20 recruits is a "functional illiterate," eligible for a new program that takes soldiers out of basic training for as much as six weeks of remedial training to raise their reading skills above the fifth-grade level.

Millions of dollars worth of audiovisual equipment, comic book-style training manuals, and simplified training procedures are being used to teach the new weaponry to the new army.

According to those familiar with the army's reading problems, there are two explanations for what is happening.

One is that a high school diploma no longer means what it used to and the U.S. public school system no longer teaches people to read well.

The other is a steady growth in the second lowest mental category that the army draws from. This is called Category 3b and it includes those whose intelligence ranges from the 30th to the 50th percentile.

According to army statistics, in 1972, the last year of the draft, 26 per cent of the army fell into that category. In 1977, it was 49 per cent.

The Army's new weaponry is part of a modernization program that was delayed by the war in Viet Nam. According to Col. Frank A. Hart, head of the army's Training Development Institute, new weapons include 400 new systems that will be introduced through the 1980s.●

PROPOSED CHANGE IN DAYLIGHT SAVINGS TIME

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. MURPHY of Illinois. Mr. Speaker, today I am introducing an amendment to the Uniform Time Act of 1966. My amendment simply extends the period of daylight savings time 1 week to the first Sunday in November. Under present law we observe daylight savings time from the last Sunday in April to the last Sunday of October of each year.

The intent of this amendment is to simply allow children an extra hour of daylight on Halloween. This change would not only benefit the children out trick-or-treating, but would also allow parents to feel better about their safety.

In the past, bills designed to extend the daylight savings time period have met with much controversy and opposition. These proposals, however, attempted to extend the period an additional 2 months. My bill is a simple 1-week extension designed specifically to afford youngsters the opportunity to stay out a little longer on one special night a year.

PTA groups and teacher organizations have long supported this change. It is my hope that my fellow colleagues will join me in supporting this proposal.

H.R. —

A bill to amend the Uniform Time Act of 1966 to extend the period of daylight savings time in each year by one week

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(a) of the Uniform Time Act of 1966 (15 U.S.C. 260a(a)) is amended by striking out "last Sunday of October" and inserting in lieu thereof "first Sunday of November".

SEC. 2. This Act shall take effect on the date of enactment of this Act, except that if the date of enactment occurs in any calendar year after October 1, this Act shall take effect on the first day of the following calendar year.●

OUTDATED FOREIGN POLICY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. BROWN of California. Mr. Speaker, recent events in Iran, Southeast Asia, Africa, and Central America have increased international tension and pointed to the inability of the outdated foreign policy of most developed countries to function in the present world. It is on the subject of the need for policy changes in developed countries that I wish to address myself today. I want to point out from the start that while I will be referring mostly to U.S. foreign policy, my comments apply to all other developed countries as well and to both Eastern and Wastern bloc countries.

Much of the recent political instability is the natural result of the accelerated pace of modernization that is taking place in many societies. Some countries have advanced centuries in the last few years, a pace too rapid for gradual adjustment. In Iran, this has resulted in a reactionary movement that toppled the Shah.

The problem is not so much the pressures for modernization, an inevitable result of modern communication and education, rather the problem lies in the terms of the modernization. Too often technical and economic assistance is offered and development takes place on terms dictated by the more developed countries in order to meet their political or resource needs. Too often the culture, history, and needs of the people in less developed countries (LDC's) are not taken into account in order to avoid complications in dealing with current political leaders. This lack of sensitivity frequently backfires as exemplified by current United States-Iran or United States-Nicaragua relations.

The more developed countries need to pursue a mature foreign policy with the LDC's and the United States should lead the way. We should treat other countries as equals and respect their culture and needs for someday we will surely be forced to deal with them on their terms. The OPEC countries have made that point quite plain and Mexico is reminding us of our past mistakes in dealing with them. The days of gunboat diplomacy and economic subjugation are over.

There have been a series of international meetings over the last few years that have provided an opportunity for the United States to inaugurate its new foreign policy. To date, there has been no indication of any realization of the need for such a policy change by the United States.

The United Nations Special Session on Disarmament held last year was an excellent chance for a show of concern for the needs of the Third World. The developing world wanted greater progress toward disarmament, espousing a "guns versus butter" philosophy. Many large countries spend more on weapons than the entire gross national product of some LDC's. Less developed countries are also worried about becoming involved in "proxy wars" such as have occurred in Angola, Ethiopia, and Southeast Asia. They sought to secure the establishment of nuclear weapon free zones to prevent the use of these weapons in countries without nuclear weapons capability.

All of these positions were dealt with superficially, if at all, by the Eastern and Western powers. Most developed countries devoted their energies at this conference to defending their position against attack by the LDC's. One of the few innovative approaches offered was a French proposal for an internationally run surveillance satellite.

Under this proposal all countries would have access to the information produced, allowing hot spots to be detected and defused before serious disruptions occurred. Surprise attacks would be made more difficult and international monitoring of weapons would be possible. Unfortunately the United States and the Soviet Union, countries that now use the technology needed to make this system a reality, did not support or even respond to the French proposal and it was not developed at this meeting.

More recently, the United Nations Educational, Science, and Cultural Organization (UNESCO) held a meeting in Paris at which international communications policy was to be an issue. Many less developed countries feel a mixture of fear and envy at the communications technology that the developed countries, mainly the United States, possess. On the one hand, they fear an inundation of radio and television broadcasting over which they have no control since satellite broadcasting has made national borders meaningless. On the other hand, they see the advantage of using satellite communications for educating and unifying a population without using expensive microwave and other ground based telecommunications methods.

Many less developed countries are also upset with what they see as biased reporting of events in their countries. They claim that Western news sources, UPI, AP, BBC, Reuters, and so forth, report only the negative stories of wars, famines, and failures in the Third World and do not pick up the advances being made. Many of these countries want a "Third World News Pool" developed so that they have an alternative to the traditional news sources.

These issues were raised at a 1976 UNESCO meeting in Nairobi, Kenya. After a great deal of tension, the United States promised to help the Third World develop their own news sources in return for the tabling of a measure designed to give countries more control over broadcasts beamed across their borders.

The UNESCO meeting last year opened with very little having been done by the United States to make good on its promise of help. Again, this country spent its time in the meeting avoiding confrontation and accomplishing little. We could have offered meaningful assistance and thus helped form lasting alliances and created markets for our products and technology but again, this country was not willing to make the necessary changes in order to better operate in the 1970's and 1980's.

The next international meeting in this series is the United Nations Conference on Science and Technology for Development (UNCSTD) scheduled for August of this year. The meeting will provide an excellent setting for the developed countries to announce a meaningful program of technology transfer and technical assistance for Third World countries. I hope to help develop this program in my role as a member of the U.S. delegation to the conference.

There is endless potential for innovation in the area of development assistance. Aerospace technology can provide breakthroughs in communications, resource mapping, climate prediction, and crop monitoring. The more developed countries have much to offer the Third World in resource development and management, agronomy, manufacturing, transportation, and countless other fields. But in order for this technology transfer to work, we need to involve the recipient countries in the planning and come up with new cooperative development approaches. We also have to begin to think in terms of technology serving the LDC's needs rather than imposing our technology.

Industrialized countries should be pooling their development efforts, perhaps through an organization such as UNESCO, rather than developing competing, often duplicative programs. Likewise, less developed countries would do well to set up cooperative ventures in order to stretch aid dollars. Perhaps a number of groupings based on climate, terrain, resource base available, geographic location, or other variables would make development easier and more effective.

Above all, sensitivity on the part of more developed countries is the key. Exporting energy intensive, irrigated cropping systems to countries without the means to support such a system is a waste of effort. Rather we should be developing plant strains adapted to the existing ecosystem or developing the potential of indigenous species in order to meet the agricultural needs of the recipient country with less expensive maintenance needs. We can reap the benefits of such an effort at home as well since domestic growers are facing some of the same economic and climatic constraints.

I hope that the third of these meetings, the UNCSTD conference, will provide the beginning of a new direction in development assistance. This conference will see all of the political, economic, and natural forces together at one place at one time, a rare opportunity for discussion. But the promise of this conference will be wasted unless the more developed countries, led by the United States, decide to embark upon a new foreign policy in the Third World.●

TODAY'S ECONOMY AND ADAM SMITH

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. SYMMS. Mr. Speaker, in these days of inflation and fear of recession it is rare that one seeks guidance from the past. Yet the words of possibly the world's greatest economist, Adam Smith, ring as true today as they did some 200 years ago. The author of "The Theory of Moral Sentiments" is perhaps better known today for his economic gem the "Wealth of Nations."

I should like to introduce into the RECORD today an editorial from the February 1979 edition of the Boise Cascade Quarterly that captures the essence of Adam Smith. The editorial is entitled "Adam Smith and Today's Economy" and might well be pondered by my colleagues.

ADAM SMITH AND TODAY'S ECONOMY

"Every individual endeavors to employ his capital so that its produce may be of greatest value. He generally neither intends to promote the public interest, nor knows how much he is promoting it. He intends only his own security, only his own gain. And he is in this led by an invisible hand to promote an end which was no part of his intention. By pursuing his own interest, he frequently promotes that of society more effectively than when he really intends to promote it."

So wrote one of the world's great economic thinkers, using the phrase "invisible hand" to describe the personal incentives which shape our economic life. Since Adam Smith wrote those words, our economic life has been increasingly shaped by the very visible hand of government, whose intentions to promote the general welfare have sometimes been detrimental to a truly sound national economy.

The aim of most Americans is to maintain, if not improve, the quality of their lives and the lives of their families. Historically. we have attempted to achieve that goal by increasing our ability to obtain desired goods and services. To do that, we must increase productivity. In other words, we must achieve more production relative to the resources used.

Basic to improved productivity in any economy—whether it's ours, Great Britain's or China's—is increasing investment in plant and equipment, the physical capital goods that ultimately produce the consumer goods and services that largely determine our lifestyle. But today, our tradition of economic growth and increasing productivity is imperiled by government programs and policies that unwittingly discourage investment in U.S. business.

Unfortunately, the rate of investment growth in capital goods has been declining for several years now, along with the rate of growth in real gross national product (GNP). In the last 15 years or so, real business investment has slowed from an average growth rate of about 8% to approximately 1.5%; real GNP from 5% to 2.5%; and productivity from 3-4% to 1978's deplorable 0.4%.

Why has investment decreased? Frankly, investing in productive capital assets has not been a very rewarding experience for individual investors because of "taxflation," a combination of taxes and inflation. Investors who bought stocks or bonds in 1968, sold them at the end of 1977 and paid taxes on the gains were left with 33 cents and to 76 cents of the purchasing power of the original dollar, depending on the type of investment. Those who put their money in savings banks did no better.

So what have American investors done? Over the past 10 years, they've been taking their money out of investments in productivity-raising ventures that get their capitalization from the nation's equity markets. This capital flight has especially hurt those new "high technology" companies that depend on the small investor and venture capitalists to supply needed capital for growth. And these are the very companies that can contribute so much to increases and sometimes quantum leaps in productivity. These are the companies that provide America's technological leadership which is so important to our export trade and balance of payments.

Where is the money going? Into capital preservation and consumption types of investments such as real estate, gold, jewels, art and foreign currencies which do little or nothing to help underwrite the wealth that the next generation requires—the wealth that is generated through production of valued goods and services.

We cannot hope to maintain satisfactory levels of growth, employment and quality of life without a healthy rate of investment in business for improvement and expansion. If our economy is to continue to provide jobs, goods and services—if the structure of our society is to endure—the trend of decelerating investment growth has to be reversed.

The tax reforms that took effect at the beginning of this year might help to attract some investors back to business. Reducing the maximum tax on capital gains, for example, was a commendable first step. Further steps should be taken, however.

1. Government deficit spending, a major source of inflation, needs to be stopped.

2. "Legislated inflation" resulting from government regulations and well-meaning social programs needs to be better understood and mitigated.

3. The double taxation of dividends should be eliminated.

The hand of government will probably never become invisible, but it certainly could become less conspicuous. The personal incentives which Adam Smith described as the "invisible hand" would then be more free to promote the interests of society effectively.●

JOHN PARK TRIBE

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. ULLMAN. Mr. Speaker, I want to take a moment today to mark the memory of a constituent who has made his views known widely, concisely, and sensibly to many Members of Congress and other elected officials.

John Park Tribe of Klamath Falls, Oreg., shared his thoughts on the full range of issues in letters to all of our national, State, and local leaders. His voluminous correspondence was easily identifiable as he confined his remarks to a single page of tiny handwritten points on issues ranging from veterans' assistance to the Internal Revenue Service Code. His letters to me were always signed, "our No. 1 Oregon Booster."

John was not only a letter writer. Although an amputee as the result of service injuries, John demonstrated undaunted courage in carrying out his responsibilities with the Soil Conservation Service before retiring in 1971. His retirement was a tremendous boon to the American Red Cross. John's dedicated work as a volunteer ranged from pounding nails and painting walls to handling the bloodmobiles. He was honored as Volunteer of the Year in 1978.

He had a good grasp of the issues about which we corresponded. While we did not always agree, there always was a feeling of mutual respect. And I know John felt that way about all those with whom he corresponded.

John Park Tribe died January 19. His cogent commentary on the current issues will be deeply missed.●

CONFUSION OVER COAL IN CLEAN AIR ACT

HON. THOMAS L. ASHLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. ASHLEY. Mr. Speaker, I am pleased to join my distinguished colleague from Kentucky, CARL PERKINS, in introducing today an amendment to section 125 of the Clean Air Act that will clear up the current confusion regarding the use of "locally or regionally available coal," where significant economic disruption might ensue if nonregional coal is used within a particular State. As many of you know, the Environmental Protection Agency has issued a preliminary determination under section 125, that would restrict Ohio's large coal users (that is, the coal-fired public utilities) to the use of exclusively Ohio coal, which is high-sulfur in content; this preliminary determination would also mandate the installation of "scrubbers" by the utilities, at considerable expense, in order to comply with emissions standards. It had been the expressed intention of the affected Ohio utilities, however, to resort to the use of low-sulfur coal from West Virgina and Kentucky for a portion of their needs as a means of achieving compliance.

Clearly then, the preliminary determination by EPA is bottomed on the curious premise that Kentucky and West Virginia coal is not "locally or regionally available" to Ohio's large coal burners. In my judgment, this is a tortured interpretation of section 125, even as currently constituted. This is a matter of grave concern both now and in future years for Ohio's energy consumers, and a matter of no little concern to our neighbors in Kentucky and West Virginia. I share Congressman PERKINS' view that this amendment will leave absolutely no doubt as to the intent of the Congress in passing section 125 in the first instance.

The resolution of whatever confusion

may still exist, as to the ambit of section 125, holds significance well beyond the mid-Eastern region that includes Ohio, Kentucky, and West Virginia. This is especially so in light of the broad coal policy that is an integral part of the National Energy Act. My purpose today, however, is to concentrate on the controversy at hand.

There are additional facts now available concerning the Ohio-Kentucky-West Virginia section 125 imbroglio which the Congress would do well to bear in mind in consideration of the amendment Congressman PERKINS and I are offering today. I commend to the attention of all of my colleagues the comments of the Council on Wage and Price Stability that were released on Thursday, March 1, 1979. This report did not address itself directly to the regional/nonregional question which is the crux of this amendment. It did deal directly, however, with the employment and economic consequences that would flow from the Ohio utilities resorting to Kentucky and West Virginia coal. The COWPS conclusions are, in essence, repudiations of the findings underpinning the Preliminary Determination of the EPA that severe economic disruption would befall Ohio; in fact, COWPS noted that there likely would be "serious employment and economic consequences . . . in Ohio and elsewhere in the Appalachian region" if the EPA mandate of scrubbers assumes the force of law.

Scrubbers are enormously expensive to install and maintain. Of equal importance, however, is the EPA-overlooked fact that scrubbers are also thought by many experts to be of dubious efficiency for the task intended. Many, including Secretary of Energy Schlesinger, feel that the development of alternative and more efficient devices to insure the clean burning of coal is close at hand—a fact which may render these expensive, inflationary scrubbers obsolete within the short term.

No one is more committed than I to the achievement of clean air standards. That, however, is not the issue in the Ohio section 125 controversy. We are concerned with a rather elementary exercise in legislative interpretation, which should be dispositive of the entire controversy. If not, thereafter we should be concerned with a dispassionate evaluation of the various economic impacts that will result from scrubbers versus the use of nonregional coal.

COWPS has done an excellent job of outlining the economic and employment picture. This amendment is offered to eliminate any legislative confusion, and I urge your support.●

TRIBUTE TO EDWARD L. LUBRANT

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. FLORIO. Mr. Speaker, I would like to pay tribute to an outstanding gentleman from my district, Mr. Edward L. Lubrant. A Whitman Park native, Mr. Lubrant has been an employee of RCA/Camden for over 43 years.

On Friday, March 9, 1979, relatives and friends will join coworkers in wishing Mr. Lubrant well in the future at a testimonial dinner in his honor.

After attending local public schools, Mr. Lubrant began his dedicated service to RCA on July 28, 1930, earning 36 cents an hour. As 1 of 11 children in his family, Mr. Lubrant shared much of the financial responsibility while growing up in the city of Camden.

Today, Mr. Lubrant continues to maintain active participation and membership in such worthwhile organizations as the Polish American Citizens Club, the Friends of Polish Veterans, and the St. Joseph's Church Holy Name Society.

I would like to take this opportunity to extend my best wishes to Mr. Lubrant who is certainly deserving of a long and happy retirement.●

DON'T MAKE A $4 BILLION MISTAKE

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. HANSEN. Mr. Speaker, the taxpayers and consumers of this Nation are about to suffer the worst single assault on their pocketbooks in history—unless we act now.

The Senate approved the Panama treaties in 1978 with ringing assurances that there would be no cost to U.S. taxpayers. But hard realities have now replaced the "Alice in Wonderland" State Department fantasies as we see U.S. taxpayers facing a mountainous $4 billion price tag just to pay the transfer costs for giving away the Panama Canal.

In fact, the House must now decide whether to approve implementing legislation calling for a minimum average annual cost to U.S. taxpayers of $200 million for transfer costs and $100 million in foreign aid over a 20-year period to turn over a $20-billion asset with strong assurance of a similar $300-million payment for each year beyond 2000.

This means that it will cost every American family of four no less than $472 for implementation of the Panama Canal treaties.

Maybe I am old fashioned, but I do not like this assault on our family finances—and especially I do not like to be deceived in the process.

The American canal in the Isthmus of Panama has always been self-supporting and at reasonable rates. The plan to give the canal to Panama with a huge toll increase guarantees that Americans will pay higher prices for our food and fuel, not to mention Toyotas, Volkswagens, electronics, and all other imported items (even U.S. coast-to-coast shipments).

The plan to pour even more funds into Panama out of hard-earned American taxpayer money adds insult to injury. How much more abuse do our citizens have to take?

Frankly, if we are going to expend huge sums of money for something, why not let charity begin at home? Let us stop the giveaway of hundreds of millions of dollars to Panama and put it into American schools, American social security, American veterans programs, American farms or American cities—or better yet, let us let the taxpayer keep it and spend it for himself.

The legislation to implement the ill-advised Panama Canal treaties is now before Congress and due to be acted on very soon. Now is the time for Congress to take control of this situation to guarantee that there will be no treaty implementation obligating the United States to a massive transfer of property and huge long-term expenditure of taxpayers' money without an act of Congress.

Mr. Speaker, I have introduced legislation H.R. 1958, called the "Taxpayer Relief Amendments to Panama Treaty Legislation" which prevents irresponsible and even illegal transfer of American property and assets and prohibits any use of U.S. taxpayer money to implement the Panama Canal treaties of 1977.

I strongly urge all members of Congress to join me in cosponsoring H.R. 1958 to protect the interests of the American taxpayers and also to protect the constitutional prerogatives of the House of Representatives.

It is important that we act now.●

KISATCHIE HILLS WILDERNESS AREA

HON. JERRY HUCKABY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. HUCKABY. Mr. Speaker, today I am introducing legislation to designate certain lands within the Kisatchie National Forest in Louisiana as wilderness. The bill would classify this portion of land, known as Kisatchie Hills and comprising 9,120 acres, as a component of the National Wilderness Preservation System. I believe the designation of this area as wilderness would preserve the natural state of the land and, therefore, is desirable to many native Louisianians and visitors. I am pleased to say that my esteemed colleagues from the State of Louisiana have joined me in cosponsoring the legislation in a concerted effort to preserve our natural resources as a legacy for future generations to enjoy.

Last year I introduced a similar measure which required the U.S. Forest Service to survey and evaluate this area for possible inclusion in the National Wilderness Preservation System. Prior to my efforts, similar legislation was initiated in the U.S. Senate in 1976. More recently, Kisatchie Hills was recommended for wilderness designation by the Secretary of Agriculture in his identification of roadless areas as part of the roadless area review evaluation II (RARE II) process. I believe this is evidence of national interest in establishing the Kisatchie Hills wilderness area and calls for immediately legislative action.

The Kisatchie Hills area is known locally as the "Little Grand Canyon," because of its exceptionally rugged terrain. The ridges and hills rise sharply for about 200 feet above the creek bottoms and give the impression of a mountainous area. Many mesas, cliffs, sandstone outcrops, shallow caves, rocky streams, and small waterfalls dot the area. The topography of the terrain is truly unique in the State of Louisiana. The hills and ridges are forested with a dense growth of longleaf pine whose needles carpet the ground. The extensive creek bottoms support a luxurious growth of hardwoods and present welcome contrasts. The area supports a wide variety of plant and animal life.

A continual flow of interest in this potential wilderness spot has been expressed by environmentalists and outdoorsmen for some time now. In fact, a wilderness review was conducted by students attending the university in the vicinity of this site and they concluded that the area was indeed suitable for wilderness allocation. I think this demonstrates that there exists genuine local interest in setting aside Kisatchie Hills for wilderness enjoyment.

At the time of my initial investigation, some concern was expressed on the part of the local government and timber industry about the adverse economic impact resulting from the wilderness designation of Kisatchie Hills. More specifically, they anticipated an increase in the unemployment rate, decreased revenues, and the elimination of future timber yield. In addressing these concerns, I found that the loss of employment would be so minimal as to be insignificant—a fraction of 1 percent. Loss of tax and other revenues from the harvest and sale of timber in Kisatchie Hills would be offset by Federal payments to the local government as authorized in the Payments in Lieu of Taxes Act of 1976, Public Law 94-565. And finally, the amount of saw-timber that could not be cut for commercial use is determined by the U.S. Forest Service to be approximately 0.4 million board feet per year. This figure is inconsequential when one compares it to 165.9 million board feet of anticipated sawtimber to be harvested annually in the national forest lands of Louisiana. I feel it is justifiable to set aside a little over 9,000 acres for wilderness recreational interests. It would be a small price to pay for the inestimable tourist, recreational, scientific, and aesthetic value this wilderness area would provide.

Wilderness recreation is the fastest growing leisure activity in the United States today. Kisatchie Hills is the best area of sufficient acreage in Louisiana for hiking, backpacking, and other types of wilderness recreation. If we do not establish this area as wilderness now, there will probably never be any other federally owned land available in the future. Certainly none as scenic as Kisatchie Hills.

Wilderness is part of our American heritage. This Nation was spawned in wilderness, and from the beginning to the present day we have drawn material and spiritual strength from wilderness.

As the denuding of land for agricultural purposes increases and as the urban sprawl threatens to engulf us all, we desperately need to set aside certain lands that will forever remain in their natural state. With this thought in mind, I urge your speedy and favorable consideration of this measure.●

DEEP SEABED MINING—A TREATY OR UNILATERAL U.S. LEGISLATION?

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. McCLOSKEY. Mr. Speaker, on March 19, the Law of the Sea Conference will reconvene in Geneva for what may well be its last attempt to reach consensus on a comprehensive treaty.

I have been intrigued for many years over the question: Is the cause of international peace advanced best by diplomats negotiating treaties or by commercial interests broadening their commercial trade and investments in other countries?

A fair case can be made, I think, that commercial enterprises do a better job than diplomats in bringing the nations of the world closer together, and in lessening, or at least inhibiting the forces that lead nations into warfare.

When one nation's businesses have substantial investments in foreign countries, there certainly seems to be a certain reluctance to bomb those countries back into the stone age. The broadening of trade relationships, increased interdependency on materials and products, international monetary exchanges and loan guarantees, airline landing rights and steamship transportation rights—all commercial relationships—may often be more helpful to world peace than the painful pace of diplomatic negotiations amongst sovereign nations.

This question squarely underlies an issue now facing the U.S. Congress:

Should the Congress unilaterally enact a law encouraging U.S. industry, in partnership with foreign corporations, to mine the seabed? Or should Congress withhold legislation pending conclusion of the current treaty negotiations?

Since unilateral action by the United States may scuttle the current treaty negotiations, this question involves a major choice: Whether to maintain the momentum of continuing U.S. leadership in deep seabed mining technology development, or to support the significant, but slow, progress we have made in negotiating a far-reaching and historic new International Law of the Sea Treaty.

The benefits of a treaty cannot be understated.

In our own history as a nation, disputes on the oceans have often led us into war.

Some examples:

Privateering against U.S. shipping by Great Britain was a contributing cause of our Revolutionary War, and probably the major cause of the War of 1812.

In our Civil War, the naval blockade against the Confederacy—and European acceptance of that blockade—was a key factor in preventing the South from permanently dividing the Nation.

The sinking of the *Maine* in Havana Harbor in 1898 triggered the Spanish-American War.

The sinking of the *Lusitania* was a material factor in moving us toward involvement in World War I.

More recently we saw cases like that of the *Pueblo* and the *Mayaguez* bring us into sharp confrontation.

In the case of the *Pueblo* for example, our Navy, in its wisdom, and with a certain propensity to test the will of foreign nations, chose to deliberately send the *Pueblo* within the claimed territorial sea of Korea—a claim which we did not recognize as valid under international law. We should not forget how close we Americans came to going to war rather than accept that seizure and the later humiliation of the U.S. Navy crew.

When the Cambodians seized the *Mayaguez*—again in disputed waters—President Ford did commit Marines to recover the crew.

And finally, there is the famous Gulf of Tonkin resolution. This fatal mistake by the Congress, which permitted us to later become involved in a major and disastrous war without the declaration of war required by the Constitution resulted from the Navy's decision to send two destroyers, the *Turner Joy* and the *Maddox*, within a 12-mile limit claimed by North Vietnam, and within a few hours steaming distance of an ongoing amphibious operation by our allies, the South Vietnamese.

So we have a great deal to gain from a treaty: Finalizing of territorial seas at 12 miles; guarantees of free transit through and over straits; agreement on firm definitions of the rights within a 200-mile economic zone; and, perhaps most important, establishment of a system of dispute settlement for conflicts involving oceans issues. Establishment of these principles would constitute a tremendous step toward reducing conflict and tension on over two-thirds of the Earth's surface.

On the other hand, should the Congress give up on on the slow pace of the Law of the Sea Conference negotiations, now stretching into their 6th year?

Congressional impatience stems not only from the slow pace of the negotiations, but also from the recognition that after successive unproductive negotiating sessions on the deep seabed portion of the treaty, agreement on language which would be acceptable to the U.S. Senate is now regarded as unlikely if not impossible by most Members of Congress who followed the negotiations. It now seems almost inevitable that Congress will, therefore, pass unilateral legislative action to permit U.S. corporations to proceed with deep seabed mining during 1979, or early 1980 at the latest.

Even the administration now supports legislation, apparently believing that deep seabed mining is going to go forward whether or not a treaty is negotiated, and being desirous that U.S.

companies have some certainty of the conditions applicable to such mining during the period before a treaty can be ratified.

But will such legislative action in fact destroy the substantial progress that the Law of the Sea Conference has made to date?

A good case can be made that it will Certainly a number of third world delegates to the conference say that it will.

It will be regrettable if these unprecedented negotiations come to a halt at the 11th hour. The people of the world share a common interest in conserving and utilizing the resources of the oceans, in protecting freedom of navigation, in protecting freedom of navigation, in protecting the marine environment from pollution and in enhancing scientific knowledge of the oceans. Failure to achieve agreement can exacerbate the same tensions and ambiguities which have so often led to conflict in the past. Failure will also hurt those nations which can least afford it—those which cannot defend their interests. Adoption of a new dispute-settlement mechanism covering two-thirds of the world's surface could be the most significant step toward peace in this century.

I personally have opposed unilateral action to date, because of my view that a new comprehensive Law of the Sea Treaty is far more valuable to the United States than is early use of U.S. technology to obtain a new source of nickel, cobalt, and copper.

I view the dispute settlement procedures in the treaty alone as being of far greater ultimate worth to the people of the United States than a guaranteed source of these particular metals when there are at least 10 other essential metals (with an import dependence of greater than 80 percent) upon which we will always require foreign developing countries for sources.

But my view is not the majority view of my colleagues in the House and Senate—

The clear majority view is that any Law of the Sea Treaty negotiated by the United States must guarantee access to deep seabed mining by U.S. companies. If the treaty submitted to the Senate does not clearly guarantee access for U.S. companies, there is simply no hope that the U.S. Senate will ever ratify it.

That majority view of the House of Representatives, and I believe the Senate as well, is probably fairly accurately set forth in a letter I have appended as exhibit A to this statement, sent to President Carter on January 29 by Chairmen MURPHY and BREAUX of the House Merchant Marine and Fisheries Committee and Oceanography Subcommittee.

I disagree with the letter, and particularly with its criticism of the U.S. delegation to the Law of the Sea Conference. That delegation's work has been superb, in my judgment, and I am inclined to agree with Secretary Vance's reply of February 16, 1979, appended as exhibit B to this statement.

Again, I believe it is inevitable that an impatient Congress will pass deep seabed mining legislation in late 1979 or early 1980 at the very latest. The question then is what should this historic and precedent-setting legislation contain? Our experience with legislation with international impact has taught us that clear and careful draftsmanship is required. The Fisheries Conservation and Management Act provides a good example. Our self-serving exception regarding tuna has resulted in bad relations with many developing countries whose expanded economic zones can be the source of productive tuna fishing. These countries refuse to recognize our provincial position that we will not regulate tuna fishing in our 200-mile zone (where tuna rarely go), and they cannot regulate tuna fishing in their 200-mile zones (where tuna do go). These countries have understandably excluded the United States from recent negotiations to establish regional management schemes.

In addition, it is clear that after the United States enacts a deep seabed mining bill other countries of the world will use that bill as a model and will enact similar legislation. This being so, our bill should at a minimum include the following concepts:

Recognition of the "Common Heritage of Mankind" and the anticipated conclusion of a fair treaty.

Establishment of a revenue sharing fund for distribution to the entire international community when a suitable treaty can be negotiated.

Preservation of the concept of freedom of the seas.

No appearance of an assertion of sovereignty over any portion of the seabed.

Comprehensive environmental protection, resource management, and safety.

Acceptable provision for international tax and customs policy.

Free location of processing plants.

Free choice of construction and flag of mining, processing, and transportation vessels.

Antitrust review prior to license issuance.

Reasonably precise definition of the terms, conditions, and restrictions on licensing.

I believe that H.R. 3350, passed by the House by a large majority last year, can be easily amended to reflect the recommendations I have offered above.

After introduction of a deep seabed mining bill I will introduce a series of amendments which will accomplish these purposes. I hope that all Members of Congress will give thoughtful consideration to these amendments in light of the historical significance of the legislation.

The material follows:

WASHINGTON, D.C.,
January 29, 1979.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We are compelled to raise a matter about which we are gravely concerned. The United States delegation to the Third United Nations Conference on the Law of the Sea appears to be engaged in a headlong rush to the conclusion of a comprehensive oceans treaty which is inimical to critically important interests of the United States. This effort is being undertaken without adequate consideration of Congressional opinion. Indeed, we are convinced that, unless remedied, this defect in the process is likely to lead to the conclusion of a treaty which will be signed by the United States, ratified by more than 100 foreign States, but which will fail to obtain Senate approval. We hardly need point out the international consequences.

A major, long-standing policy of the United States at the Law of the Sea negotiations has been to achieve assured access by this nation to the minerals of the international deep seabed. Those minerals include, among others, cobalt, manganese, and nickel, each of which is essential to the production of high quality steel and specialized alloys for high technology items. Commercially attractive quantities of copper are also on the deep seabed.

It is clear that the United States and other western industrialized countries, whose economic and political interests are very different from those of the Third World and East Bloc, would be in a distinct minority in the International Seabed Authority which would supervise and control ocean mining under the treaty regime. Consequently, until recently, the United States has sought to negotiate at the Law of the Sea Conference a detailed mining code clearly setting forth reasonable conditions of access and carefully circumscribing the rulemaking and discretionary powers of the Authority.

There is at present, however, a movement by the delegation to consider a simplified treaty text. The theory is that the complexities of the detailed approach are too great to permit the resolution of major outstanding issues by the Conference in a viable time frame. The developing countries are calling for an early end to these protracted negotiations. What is contemplated, therefore, on both sides is a negotiation at the Conference of relatively undetailed treaty provisions which would be fleshed out by an interim organization prior to ratification.

The difficulty is that this approach would call upon the United States to sign a treaty without knowing whether access to ocean minerals would be assured; it would be, in essence, a blank check. The argument that we would insist upon an interim organization structured to protect our interests in developing rules and a permanent procedure which would not allow the rules to be undone against our interests is unpersuasive. The Third World will not accept that kind of situation. The long history of negotiations and the ideological nature of the Third World position make this abundantly clear. At best, our ability to protect our interests would have to be ambiguous to be widely acceptable among the developing countries. Once signed by more than 150 nations, the treaty would change the political and legal equation greatly. If the interim organization failed to produce assured access in the detailed regime, and the United States failed to ratify, the cost would be far higher to this country than if the treaty were not concluded in the first instance. Realizing that, the Third World would apply greater pressure in the interim organization to achieve its aims. Our ability to protect our interests would be substantially diminished.

There are other grave problems, insofar as the delegation has developed an unclassified, officially uncontrolled document reflecting not only the simplification approach, but also numerous substantive provisions highly prejudicial to United States interests. Mandatory transfer of technology as a practical condition of access; a seabed mining production ceiling, which while time limited on its face, would insure politically that the ceiling would be renegotiated to become indefinite; a national quota system for mine site allocation; a system of selection of applicants for mine sites badly tilted toward joint ventures which would benefit the Third World and not the United States; a moratorium on ocean mining of manganese nodules 25 years after the treaty enters into force, which while not legally automatic, would be politically inevitable precisely at the time the national need for the minerals became acute; a moratorium on all mining of non-manganese nodule minerals, pending adoption of a regime for them; and a system of governance for the Authority which would fail to protect U.S. interests adequately.

In short, access would not be assured. Moreover, mandatory transfer of technology and a production ceiling violate clear, long-standing United States policy on technology transfer and commodity arrangements. The results of these two features, alone, are bound to be adverse in terms of technological innovation, inflation, national balance of payments, and jobs.

As a whole, the provisions in the delegation document would deny the United States security of supply of vital seabed minerals for the indefinite future. The delegation denies that the document reflects a United States position, but the impression of foreign States is to the contrary and delegation testimony on key issues during Congressional hearings indicates that those States are correct.

The balance of the treaty offers the United States little if any, advantage over customary law, so far as the continental shelf and fisheries are concerned. The treaty regime for marine scientific research is highly restrictive. The navigation regime contains dangerous ambiguities which almost certainly would be interpreted to the disadvantage of our maritime interests, notwithstanding the fact that global commercial and military interests dictate relative freedom of movement on the seas. As far as the system of dispute settlement under the treaty is concerned, it is so complex and fraught with exceptions that it is likely to be of little practical value. In short, the abandonment of deep ocean minerals cannot be justified on the basis of benefits to be derived from other elements of the treaty.

Mr. President, we urge your personal intervention to assure that the Congress is heard and its views properly taken into account before the United States delegation places the nation in a seriously adverse position. Implementation of the Panama Canal treaties and the ratification of SALT II already promise to place a severe strain on the ability of the Congress to accommodate Administration foreign policy. We are convinced that a Law of the Sea treaty such as that which the delegation is apparently prepared to accept—notwithstanding unconvincing caveats to the contrary—would be more than the political traffic could bear.

Sincerely,

JOHN B. BREAUX,
Chairman, Subcommittee on Oceanography.
JOHN M. MURPHY,
Chairman, Committee on Merchant Marine and Fisheries.

WASHINGTON, D.C.
February 16, 1979.

JOHN B. BREAUX,
Chairman, Subcommittee on Oceanography, House of Representatives

DEAR MR. CHAIRMAN: I am replying on behalf of the President to your letter of January 29 concerning the Third United Nations Conference on Law of the Sea.

Before addressing any of the specific issues you raise in the letter, I want to assure you of our very real appreciation for your continued strong interest in these negotiations and our sincere desire to harmonize our negotiating effort with regular consultations with concerned members of the Congress and their staffs. Recently, Congressional staff members were invited to participate in discussions at the Department with Ambassador Aldrich, industry representatives and others. We shall continue to seek your advice and keep you currently informed on the course of the Law of the Sea Negotiations.

Your letter expresses concern about "simplification" of the Informal Composite Negotiating Text (ICNT), and I believe it would be useful to bring you up to date on this matter. There has been criticism from many quarters that the present text has accumulated detailed provisions more suitable for a mining code than for the charter of an international organization, and, because of these encumbrances, that the negotiations will require too much time. In response, our negotiators undertook to explore the feasibility of simplifying the text through deferring some of the details for later incorporation into the rules and regulations which would in any case have to be adopted at some future date. It was never anticipated that any vital treaty provision would be deferred or that any necessary detail would be eliminated.

One result of this exercise was the conclusion that comparatively few substantive provisions of the text can appropriately be deferred, although there are significant opportunities for clarifying it. Another conclusion was that some mechanism far adopting rules, regulations and procedures after signature of the treaty and before ratification is desirable. These results were discussed with representatives both of the Congress and of the deep seabed mining industry in a series of meetings at which informal papers were available. The idea of simplification was also discussed with other delegations at informal consultations in Mexico City in early January. The idea generated little enthusiasm among most of the other delegations and was strongly opposed by some. It was the consensus that whatever simplification might be useful should be accomplished in the course of substantive negotiations on unresolved issues rather than as an independent undertaking. We concur, and we intend to proceed on this understanding. This result was communicated to industry representatives and Congressional staffers shortly after the return of our negotiators from Mexico City.

Another significant result of the Mexico consultations was general support for the concept of a "preparatory commission" charged with developing rules and regulations for the International Seabed Authority to be created by the treaty. This concept, which was proposed in Mexico by the Special Representative of the UN Secretary General on the basis of precedents drawn from other international organizations, would have the twofold advantage of (1) making constructive use of the interval between signature and entry into force of the treaty and (2) enabling the International Seabed Authority to go into operation promptly upon coming into existence. Since the rules and regulations would thus be available before the treaty came into force, the United States, as well as the international community, would also gain practical benefits. For one thing, the Administration and the Congress would have the opportunity to take a close look at the rules and regulations before deciding whether the treaty as a whole on balance served our interests, rather than leaving to the Authority the elaboration of such rules and regulations only after the treaty's entry into force. For another, the Authority could get down to the business of considering applications for exploration licenses and exploitation permits immediately upon entry into force, rather than delaying this process while working out its rules and regulations. I do recognize, however, the real concerns regarding the legal status and political implications of the period between signature and ratification, especially with regard to existing or planned mining operations. We will be addressing these problems further.

Your letter tends to convey the impression that the United States is prepared to accept various treaty provisions that in fact are contrary to our official positions and that have been firmly opposed by our delegation at the Law of the Sea Conference. Should this impression gain currency at the Conference, it could prejudice our negotiating positions. By way of example, we have rejected proposals that would have made negotiation of a transfer of technology a pre-condition of obtaining a contract. We have also opposed a national quota system for minesite allocation. Concerning the system of governance of the seabed mining regime, we stand firm in our insistence on treaty protections for the interests of consumers and seabed miners of the minerals involved. Referring to the relevant provisions of the ICNT, Ambassador Richardson told assembled delegations in Geneva on January 31 of this year that "there is no possibility that the United States would ratify a convention containing his text."

With respect to production controls, at the Sixth Session of the Conference the U.S. Delegation, acting within Presidential instructions, offered to accept an arrangement whereby seabed nickel production would be limited over a 20–25 year period to 100 percent of the cumulative growth segment of the nickel market. At the Seventh Session in 1978, the U.S. and Canadian Delegations negotiated *ad referendum* an agreement allowing a lower percentage that is still subject to Presidential review. In any event, we consider production controls to be an interim measure, although we are alert to the possibility that others may one day seek to extend such controls.

Turning to issues outside the context of seabed mining, we differ in particular on one important point. In our view, ICNT provisions do preserve the high seas freedoms of navigation and overflight and related and associated uses of the seas beyond the territorial sea. Qualitatively and quantitatively, these freedoms and rights are the same both within and beyond the 200-mile Exclusive Economic Zone to be established by the treaty. At the same time, the text provides unequivocally for transit passage through, under and over straits used for international navigation. With respect to marine scientific research, we are presently engaged in a major effort to negotiate improvements to the ICNT.

Ambassador Richardson would welcome the opportunity to review with you personally all of the questions raised. Indeed, as I said at the outset, we are all eager to cooperate and coordinate fully with you and your colleagues at all stages of the law of the sea negotiating process. Finally, let me assure you that all substantive issues involved regularly receive high level attention in the Administration and that negotiating positions will continue to conform to instructions and guidelines approved by the President.

Sincerely,

CYRUS VANCE.●

THE PROPOSED FAA CHANGES

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. SYMMS. Mr. Speaker, I submit to the RECORD an excellent article written by Gerard K. O'Neill which appeared in the Washington Post of March 5, 1979.

As a pilot myself, I oppose these changes which increase the amount of controlled airspace but which would not have prevented a tragedy such as the San Diego midair collision.

I know that most of the pilots around the country also oppose these new proposed changes, and I urge my colleagues to read the O'Neill article which points out some of the problems which would result from these regulations.

The article follows:

MAKING THE SKIES REALLY SAFE

(By Gerald K. O'Neill)

The Federal Aviation Agency is using the September 1978 San Diego midair collision as a lever to push through sweeping increases in its own power and budget—though, by its own admission, the proposed changes would not have prevented that tragedy. Worse still, they may increase rather than decrease aviation-related deaths.

The FAA wants a vast increase in "controlled airspace," where responsibility for collision avoidance is shared uneasily between pilots and ground controllers. Yet the FAA itself, together with the National Transportation Safety Board, the Professional Air Traffic Controllers' Organization, and the Air Line Pilots' Association, are all in agreement that the proposed changes, had they been in effect, would not have prevented the San Diego disaster.

The prime cause of accidents is human error. Significantly, FAA is trying to run through its new rules before the San Diego investigation is completed—but clearly human error was responsible. An FAA official report quotes "a number of deficiencies" at its San Diego control operation: controllers unfamiliar with airport traffic areas and procedures and uncertain in their own coordination. We know also that the cockpit of the 727 airliner that overtook and collided with a training aircraft from behind was crowded with off-duty crewmembers, and that its voice-recorder taped continuous conversation unrelated to flight duties up to the moment of the crash.

That "positive control" system the FAA now wants to expand is a patchwork of leftover 1940s technology, the same combination of ground-based radar plus "identification friend-or-foe" with which the Battle of Britain was fought. It has many blind spots, and the most vital information of all—altitude—is measured only by barometer readings in the aircraft.

FAA proposes lowering its "positive control" floor to 30,000 feet, slightly higher in mountainous areas. The existing floor, 18,000 feet, is a natural boundary. Jets cruise far above it, but the light, efficient piston-engined planes that constitute 96 percent of the civil fleet all have ceilings near that height. In our energy-starved world, we would lose if we legislated them away.

A typical modern four-place business aircraft gives us good gas mileage as most cars, goes point-to-point instead of wastefully "via Atlanta," and delivers twice as many passenger-miles per gallon of fuel as a Boeing 727.

Lowering the control floor won't affect the Lear-jet set, but it will endanger pilots, self-employed or employers of a few people, whose economic survival requires frequent travel between small cities. Icing and thunderstorms are their most serious dangers, and both are worse at low altitudes. At present a pilot approaching difficult weather can exercise judgment to climb. If FAA has its way, that judgment will be clouded by a legal requirement for admission, often difficult or impossible to obtain, into the "controlled environment." In flying, height is safety. An aircraft in trouble at high altitude has time to glide to avoid populated areas; one at low altitude doesn't.

FAA also proposes multiplying eightfold the number of "terminal areas," where aircraft are "controlled" all the way to ground level. Even places like Valdosta, Ga., with so little traffic that two years ago FAA wanted to close down its control tower entirely, would become a "terminal area." There are sensible alternatives: Aviation organizations have proposed climb-and-descent corridors, put where they would be used, for the FAA's "control" of vast areas where no airliner ever flies.

The tragedy of FAA's present mistaken drive for power is that it is a substitute for research toward a really safe air-traffic system. In the long run, flight in many areas will be too important to be left either to the pilots or the controllers. A total, safe air-traffic system is possible, but it will have to be developed with the ideas of the space age, not with those of 1940. FAA hasn't seriously considered them, because its bureaucratic "turf" includes the atmosphere but not the space above it. A total system would require just three receiving antennas in the synchronous orbit where communications satellites are located, and a beacon transmitter on each plane. That system would have no blind spots, and it would locate every plane to a precision of a few feet.

Clearly FAA needs redirection from its power-grab to a search for genuine solutions to our air-safety problems.●

RELIEVING U.S. TAXPAYERS ON PANAMA TREATIES

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. HANSEN. Mr. Speaker, when Panama Treaty negotiator Sol Linowitz told a House committee on August 17, 1977, that "it will not involve any additional burden for the American taxpayer since it can be financed from canal revenues," he set in motion a groundswell of misinformation that has become a monstrous fraud.

The Senate approved the Panama treaties in 1978 with ringing assurances that there would be no cost to U.S. taxpayers. But hard realities have now replaced the "Alice in Wonderland" State Department fantasies as we see U.S. taxpayers facing a mountainous $4 billion price tag just to pay the transfer costs for giving away the Panama Canal.

I have introduced legislation H.R. 1958 called the "Taxpayer Relief Amendments to Panama Treaty Legislation" which prevents irresponsible and even illegal transfer of American property and assets and prohibits any use of U.S. taxpayer money to implement the Panama Canal treaties of 1977.

I strongly urge all Members of Congress to join me in cosponsoring H.R. 1958 to protect the interests of the American taxpayers and also to protect the constitutional prerogatives of the House of Representatives.

The text of the bill follows:

H.R. 1958

A bill to protect the interests and express wishes of the taxpayers of the United States as espoused by the United States Senate in its ratification of the Panama Canal Treaty of 1977; to insure domestic harmony; to assist the United States Treasury in providing for a balanced Federal budget; to require that all funds used to implement the Panama Canal Treaty of 1977 be expended only with the express consent of the Congress of the United States; and to require that no territory or other property of the United States in the Panama Canal Zone be transferred to the Republic of Panama unless the Congress hereafter enacts legislation which expressly authorizes such transfers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "Taxpayer Relief Amendments to Panama Treaty Legislation".

I. All previous and future expenses incurred by the United States to implement the Panama Canal Treaties of 1977 shall be treated as an expense of the Panama Canal Commission. The Commission shall make full reimbursement to the United States Treasury for all such expenses incurred.

II. No payment or any amount thereof to the Republic of Panama by the United States as guaranteed by article XIII, paragraph 4, sections (a) through (c) and article III, paragraph 5 of the Panama Canal Treaty of 1977 will be paid out of the general or any other revenues of the United States Treasury.

III. No payments shall be made to the Republic of Panama or the Panama Canal Commission except from the separate account created in section VI of this Act. No general or any other revenues of the United States may be deposited in said account.

IV. The present cash assets of the Panama Canal Company will be immediately paid to the United States Treasury and applied to the Canal Company's outstanding debt to the people of the United States.

V. The Panama Canal Commission is hereby directed to continue paying off its outstanding debt to the United States Treasury on an annual basis, the last payment to be made by December 1999. Such payments shall be included as an operating cost of the Panama Canal Commission.

VI. Section 203: Subsection (g) of section 62 of title 2 of the Panama Canal Code is amended to read as follows:

"(g) The Panama Canal Commission shall pay all canal operating revenues into a separate account in the Treasury of the United States and shall, only when expressly authorized by Act of Congress on an annual basis, pay to the Republic of Panama those payments required under paragraph 4 of article XIII of the Panama Canal Treaty of 1977.".

VII. New Section 214: The General Accounting Office shall monitor all costs incurred by the Panama Canal Commission. It shall determine the reasonable costs that would have been incurred by the commission had it continued to operate as the Panama Canal Company under United States direction. The General Accounting Office shall determine the difference in cost to the American taxpayer between annual payments to Panama under this legislation and those annual payments that would have been incurred under the previously existing system of operation and report on such differences to the Congress not later than thirty days after the end of each fiscal year. Such costs shall include operating cost increases as well as increased costs to consumers in all goods due to increases in canal tolls.

VIII. No funds of the United States (whether appropriated or nonappropriated), including any funds under the control of any department, agency, or other instrumentality of the United States (including the Panama Canal Company and the Canal Zone Government), may be used to implement the Panama Canal Treaty of 1977 in any way, either directly or indirectly, or to take any action in preparation for such implementation unless the use of such funds for that purpose has been expressly authorized in an appropriation Act enacted by the Congress after the enactment of this Act.

IX. No right, title, or interest of the United States (or of any department, agency, or other instrumentality of the United States, including the Panama Canal Company and the Canal Zone Government) with respect to any real property, or improvements thereon, in the Canal Zone may in any way be transferred (whether by conveyance, relinquishment of control, or any other means) to the Republic of Panama pursuant to the Panama Canal Treaty of 1977 unless such transfer is expressly authorized by an Act of Congress enacted after the enactment of this Act.

X. The prohibitions contained in this Act shall apply notwithstanding any other provision of law, including (1) any provision authorizing transfers of funds for contingency purposes, or waivers of prohibitions, (2) any provision authorizing transfers or conveyances of property or property interests of the United States, and (3) any provision of the Panama Canal Treaty of 1977 which might be construed to authorize, require, or otherwise provide for, the obligation or expenditure of funds, or the transfer of property.

XI. Notwithstanding the provisions of the Panama Canal Treaty of 1977, the Panama Canal Company and Canal Zone Government under the Canal Zone Code of 1977 shall not cease to exist and shall not cease operations with respect to the Panama Canal and the Canal Zone except pursuant to an Act of Congress.

XII. As used in this Act, the term "Panama Canal Treaty of 1977" means the Panama Canal Treaty between the United States of America and the Republic of Panama signed September 7, 1977, and any agreement relating to or entered into in conjunction with that treaty, including any agreement or other arrangement with respect to the furnishing of assistance by the United States to or for the Republic of Panama.●

TRIBUTE TO RUTH MANCUSO

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. FLORIO. Mr. Speaker, I wish to pay tribute to an outstanding woman from my district, Mrs. Ruth Mancuso of Glassboro.

The citizens of Glassboro are honoring Mrs. Mancuso for her leadership in the field of education at an appreciation dinner on Friday, March 9, 1979.

Mrs. Mancuso has been active nationally, statewide and locally. As a parent, she has served on various public committees and is a member of the Gloucester County YMCA board of directors.

Devoted to community service, Mrs. Mancuso serves on the Glassboro Public Library board of directors and that town's Community Action Committee.

Her dedication to education is exemplary. In 1957, Mrs. Mancuso was elected to the Glassboro Board of Education and served as its vice president from 1964 to 1969. She was also president of the New Jersey School Boards Association in 1962. Currently a member of the New Jersey State Board of Educataion, she has served as that group's president from January 1975 to July 1978.

Mrs. Mancuso was president of the National School Boards Association from 1967 to 1968. Among numerous national education committees in which she is active are the National Project for Educational Leadership Advisory Committee, the Institute for Education Leadership Advisory Board, and the Round Table of National Organizations for Better Schools, where she served as moderator.

Among the many awards Mrs. Mancuso has received are the Outstanding Alumni Citation from Trenton State College, the Citizen of the Year Award from both the Glassboro Chamber of Commerce and Gloucester County College, the Trenton State College Dean of Education Award for Distinguished Service, and honorary degrees from both Glassboro State College and Rider College in the field of literature and writing.

Mrs. Mancuso has served education to the utmost and mutual benefit of the citizens of Glassboro, the State and the Nation. She is certainly deserving of this recognition and should be noted for the time and effort she has devoted for the benefit of all.●

HAWAII WINNER OF VOICE OF DEMOCRACY CONTEST

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. HEFTEL. Mr. Speaker, it is the nature of a democracy that each and every individual making up the Nation understands that he or she is the measure of its greatness. This has never been more true than in America, where our citizens are truly the source by which we measure our strength.

It gives me cause for great hope for our country's future when I read the writing of young people such as Stephanie Maile Akina of Honolulu, Hawaii.

Stephanie is the State winner of the American voice of democracy contest, sponsored by the Veterans of Foreign Wars. After reading her inspiring words, I feel sure that the Nation's future will be bright and our freedom well guarded.

I take special pride in bringing the following essay to your attention:

1978–79 VFW VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM—HAWAII WINNER—STEPHANIE MAILE AKINA

A dream is born,
  Conceived in the mind.
Of a new, better place,
  For all people to find.

The dreams like a child,
  The child is land.
The land's called America,
  On which a proud nation stands.

I wonder if they knew. I wonder if our founders realized that their special dream of happiness, freedom and a new life would succeed for over two hundred years in the way it has. They gave us many things, these proud men and women, and one of the special gifts we've received from them is our feeling of caring for this land they gave their lives for.

But I was born into a time of turbulence. A time of changing morality-of-everybody's doing it, a time of war and senseless slayings, a time of shaken belief in our government. I was born into the America of today.

Now as I turn toward adulthood and responsibility in a world full of fast foods and instant stars, a world where the only permanency seems to be temporary, I've found something to believe in. Something I can trust because I care. That something is America. The America not only of today, but of yesterday and tomorrow.

Why do I care about America? As a student I've learned through books the correct amount of historical dates. I can recite famous speeches spoken by great men. I can answer correctly on a pop-quiz in my history class. But I've also learned that history is lived through and is made by men and women who believe in their goals. America's settling will always be alive in books—but much more important than the how, or the when, is the why.

I care about the America that believes all men are created equal. I care about the America that was founded on freedom. I care about the America that struggled for independence, the America that sought to be united, the America that overcame prejudice to work together to make my country what it is today.

In today's America I see myself. Both of us are in a rapidly changing world where new standards are created daily. Yet the America I believe in and care about is not just sitting back and letting the world pass by. I care about America because it speaks up and takes an active stand. I care about this nation because while striving to improve parts of it's own low living standards, America still reaches out to help fill the bowls of hungry people in other lands. I care because important advancements in technology and medicine is used to help underdeveloped nations. I care about America because it provides aid to other countries in times of crisis. These are some of the reasons I care because my country cares.

The future of America is something I believe in. And I care enough to take an active part in seeing that the American dream does not die in the minds of its people. The dream of hope, freedom and opportunity for all people. The dream that is America.

To me America will always be the land of the free, the land that I love.

A dream is born,
  Conceived in the mind.
Of a new, better place,
  For all people to find.●

BANNING FOOD ADDITIVES

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. BROWN of Ohio. Mr. Speaker, I have introduced today legislation to provide for an assessment of benefits, as well as risks, in deciding what food additives should be banned. The bill is consistent with the thrust of the National Academy of Sciences report to Congress Friday, recommending elimination of the automatic ban now required when any substance is found to cause cancer in man or animals. My bill is identical to legislation I introduced in 1977 to modify the Delaney clause, which sets Food and Drug Administration procedures regarding food additives.

The Delaney clause is an absolute regulation which leaves no room for discretion and, to quote the NAS panel majority, including its chairman, Dr. Frederick Robbins of Case Western Reserve, the provision sets up "irrelevant and impractical" rules which "confuse and impede rational scientific decisions."

As early as August 1972, I pointed out in my additional views to a Government Operations Committee report on the regulation of food additives, that the arbitrary nature of the Delaney clause would create havoc for the American consumer and food economy. In those additional views, I specifically addressed myself to the need for a risk/benefit tradeoff, rather than an arbitrary approach, to complex scientific and technological questions affecting our food supply. I am gratified that the scientific community has finally recognized the validity of the need for a more reasoned approach to the problem.

In 1977, the absolute nature of Delaney led to the banning of our only remaining artificial sweetener, saccharin, and it now threatens other essential food additives such as nitrites, which are used in curing pork to prevent the formation of botulism. In the case of nitrites, which have been used for over 2,000 years in the curing of meats, the benefits are obvious. In the case of saccharin, the Delaney clause will remove from the market the only available alternative diabetics now have to sugar, which for the diabetic is itself a deadly food additive.

My amendment to the Delaney clause establishes six criteria for determining the risk of a food additive to human health. Four of these relate to scientific criteria: The totality of available data, the levels of ingestion in test animals compared to the levels at which humans would ingest the additive, the scientific validity of the animal tests, and current knowledge about the reliability of the animal test in predicting human cancer.

The remaining two criteria relate to the availability of alternative ingredients to serve the same function and the usefulness of that function in terms of human nutrition, dietary management of disease and the cost, availability, and acceptability of food.

It is now clear that even the Federal Food and Drug Administration is willing to concede the need for some degree of flexibility in the Delaney clause. It is my hope that my risk/benefit proposal will finally receive serious consideration during the debate on the issue.●

UNITED STATES SHOULD CONTINUE IMPORT RESTRAINTS FOR SPECIALTY STEEL

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. O'BRIEN. Mr. Speaker, today the U.S. International Trade Commission begins hearings on a joint industry-labor petition to extend the current import restraints on specialty steel. While other Members of this body engaged in a colloquy on behalf of specialty steel on Monday, February 26, another commitment kept me in my district. However, as a member of the executive committee of the steel caucus, I would like to share my own thoughts on this vital industry.

Specialty steel is not merely important to this country, we simply could not function without it. While most people could quickly tell you that specialty steel is used in automobile production and heavy industry, few also recognize the extent to which specialty steel is used in our everyday living for home utensils, cutlery, medical services, food processing, electrical power generation, and telephone communication. I could name many other uses.

With our daily lifestyle depending upon this industry, it is essential that our domestic businesses provide the majority of our needs and that foreign imports continue only in a supplemental category. And this was the case for many years until 1975 when imports soared and the domestic industry suffered a severe reversal in production orders which necessitated massive layoffs and an unemployment rate of 40 percent for specialty steel. The industry petitioned and in June 1976, President Ford established quotas on certain steels by implementing the antidumping provisions of the Trade Act of 1974. This 3-year program is due to expire June 13, 1979.

In the last 2½ years, the specialty steel industry has made real progress in recapturing a part of the U.S. market lost to imports up to 1976. Unemployment in the industry has been reduced and many businesses have undergone major revitalization programs to improve cost efficiency. However, the recovery has just begun and the industry is nowhere near ready to stand on its own two feet and effectively compete with Government-subsidized foreign imports.

The quotas imposed during the last 2½ years have allowed our domestic firms to anticipate the business future and plan accordingly. Without this stability, there would not have been any recovery or capital modernization. In my own district, Columbia Tool Steel Co. was drastically impacted by the unrestrained imports and has only begun to recover in the last 12 months. But, they are still in the reclaiming stage and cannot pursue planning or revitalization policies unless there is an orderly market in this country.

Columbia Tool Steel has petitioned for extension of the current import restraint program along with 21 other American specialty steel firms and the United Steelworkers. I join them and my colleagues in the steel caucus in urging the U.S. International Trade Commission and the President to grant the requested extension. Without it, the current recovery will evaporate along with our domestic specialty steel industry.●

IRS IS GOING TOO FAR

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. GINGRICH. Mr. Speaker, I would like to share with the Members my testimony for the Oversight Committee of the Ways and Means Committee on the IRS proposed revenue procedure for determining the tax-exempt status of private schools:

> Many of my constituents will be hurt by the Proposed Revenue Procedure for determining the tax exempt status of private schools recently revised by the Internal Revenue Service.
>
> I oppose these new regulations. The IRS has clearly gone beyond the authority Congress has given to the IRS in proposing this regulation. The regulation certainly violates congressional intent. The IRS Commissioner has even stated the agency doesn't have the statutory authority to put forward these new rules.
>
> Your committee has heard numerous people testify opposing this regulation. I want to go further—I am protesting the mentality which leads to regulations like these.
>
> Why do bureaucrats persist in going farther than congressional authority and the Constitution allow?
>
> Why do they persist in wasting our time and the public's money, forcing us to spend long hours trying to reverse a decision they can't legally make? And then no doubt the IRS will spend even more money defending it in court at our expense!
>
> Partly I think bureaucrats forget what their job is supposed to be. The IRS should collect taxes—not enforce social policy. The bureaucrats design imaginative regulations which won't assist them in collecting taxes, and will actually harm people.
>
> And as they collect these taxes, they still should view it as the people's money. The bureaucrats have adopted a mentality which sees tax exemption as a privilege the government is kind enough to grant, rather than seeing the power of taxation as a power which the people grant to the government for certain limited purposes.
>
> My special concern is this type of thinking. Church and Christian schools would be hurt by this regulation and the type of thinking behind it.
>
> In the case of Christian schools, the agency is going not only the legal guidelines laid down by Congress, but is violating the First Amendment of the Bill of Rights.
>
> I realize those are strong words. But if the agency had stopped long enough to read a court decision about themselves before rushing headlong to put out this regulation, we would have had a different result. The agency would have discovered the judicial position is clear. This case is Bob Jones University v. United States—FSp—(DSC 1978), and the decision was handed down Dec. 26, 1978.
>
> Bob Jones University had its tax exempt status removed by the IRS on the grounds of racial discrimination. This was challenged in court, and the IRS decision was overturned.
>
> Even though Bob Jones University is affiliated with no particular denomination or church (as most Christian schools are) the court still ruled the university qualified as a religious organization. The Court then noted:
>
> "Conflict with the (1st Amendment) Establishment Clause lurks within defendants (IRS) construction of the exemption provision because defendant puts no limit on its application. All religious organizations such as plaintiff, are to be denied tax exemptions unless the IRS has judged the organization's purposes and practices to be in line with expressed federal policy. Under the government's reading of the statute, only those religious organizations, whose purposes and practices are in harmony with those of the federal government will be granted an exemption. To preserve its tax exemption, a church, or other religious organization, such as plaintiff, would have to make sure it stayed in step with federal public policy . . . Although the purpose of the government's

construction of § 501(c)(3) may be considered secular in nature in that it promotes federal public policy, a primary effect is the inhibition of those religious organizations whose polices are not coordinated with declared national policy and the advancement of those religious groups that are in tune with federal public policy. . . One form of oppression of religion by government is the taxation of it."

If the IRS had accepted the court's ruling, the regulation we are considering would have been withdrawn. The proposed regulation clearly violates the Constitution on the same grounds the court cites.

But even for those private schools which have no religious connection, the IRS has clearly gone beyond its authority. Allow me to finish by quoting the Court again from their ruling:

"It is the province of Congress, not the IRS, to make the federal tax laws. The law that Congress has passed in this instance is clear and unambiguous, and this Court will give it effect. Should Congress desire to change the law, it may so do in keeping with the Constitution. This Court cannot, and will not, approve changes in the law by an administrative agency that completely bypasses the legislative process."

In the name of religious freedom and the Constitution, I would urge the IRS to go back to its job of collecting taxes, and stop trying to enact public policy. Thank you.●

ESSAY WRITTEN BY MISS LISA MARIE MAIN, OF PORTSMOUTH, R.I.

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. ST GERMAIN. Mr. Speaker, a young woman from Portsmouth, R.I., Miss Lisa Marie Main, has recently written a very enjoyable and insightful essay in which she describes her unique vision of our Nation.

In her piece, Miss Main cites mobility as one of the great freedoms allowed in this country. The right to be master of one's own destiny, she points out, and the freedom to move wherever that destiny may lead us is an important part of our heritage and a vital ingredient in the democratic experiment.

"Mobility," she states, "is a precious liberty."

I would like to take this opportunity to bring this work, for which Miss Main has been selected as the Rhode Island representative in the Veterans of Foreign Wars Voice of Democracy scholarship program, to your attention, Mr. Speaker, and to that of my other distinguished colleagues.

1978–79 V.F.W. Voice of Democracy Scholarship Program Rhode Island Winner

(By Lisa Marie Main)

Why do I care about America? I can express it in one word that is unique to our great country. The word is *mobility*. Webster's Dictionary defines mobility as: 1) capable of moving; 2) changeable in appearance, mood or purpose; 3) characterized by the mixing of social groups and 4) the opportunity to undergo a shift in status between social levels. Although the aforementioned definitions are often taken for granted, I regard them to be the foundation of respected ideals in our country. The individual efforts that we can undertake, without restraint, are what make this country a fortress for individual accomplishment and a birthplace of competition and progress. I care that the freedom of mobility be maintained to encourage our individualities and strengthen our love for the American way of life.

Capable of moving alludes to the early United States government supporting the mobility of settlers to the frontier. Freedom of movement became a way of life for Americans. In recent years, many countries have made bans on international and domestic travel. There are no restraints on traveling in America. Whether vacationing, visiting to learn about different areas, or establishing a new residence, our citizens are capable of traveling about freely. Our freedom to move and travel can open Opportunity's door and create a different and better life for us.

Changeable in appearance, mood or purpose gives rise to the idea that a person can change his appearance to become more original and this gives each individual the opportunity to be herself or himself. This country gives consideration to our attitudes and moods. We don't have to accept the majority's moods and thoughts about issues. We have the freedom to express our own moods and feelings. This free expression can raise the consciousness of the people and alter the attitudes of the government to bring about social change. On a very personal level, each individual has the ability to change his direction in life. The career or goals which we may pursue are not planned for us, but are put in our individual hands so that we may freely seek our own purpose in life.

Being a member of a particular social class or culture doesn't mean separation of people as it does in some countries. Characterized by the mixing of social groups, is an aspect of mobility which, paradoxically, indicates separateness with mixing. It is significant to our way of life that social levels do not exist as barriers between people. People can associate with each other no matter what their background, economic situation, or position in society may be. If this were not so, we would be left unaware of existing conditions, and would isolate ourselves from learning experiences that come with free association. Sharing ideas, opinions and knowledge has greatly benefited this country because we do have a social and cultural mixing of our people.

The opportunity to undergo a shift in status between social levels is the substance of the American way of life. It is American mobility at its best. I am proud of the fact that a person has the freedom of mobility to change the level of his social status. Many people born in poverty or obscurity dream of rising above their circumstances and this has become a reality for many in America. One's own actions can still determine what heights can be reached through individual achievement. With initiative and hard work, everyone has an opportunity for upward mobility within our social structure.

With all its meanings, I believe *mobility* to be the central, fundamental concept that has made our American way of life so different and better than the way of life in other countries. Individual satisfaction, due to mobility, leads to patriotism. Freedom of mobility may be taken for granted, but it could not easily be taken from our way of life. Mobility is a precious liberty extended to us personally, socially and politically.

I care about my way of life in America because I have the right to go where I want to go, to be who I want to be, to socialize with whomever I wish to socialize, and become whomever I please, anywhere within the social structure of America.●

REDUCED MAILING RATES FOR UNITS OF LOCAL GOVERNMENT

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. SAWYER. Mr. Speaker, on February 15 I introduced H.R. 2246, a bill to amend the United States Code to allow local governments to utilize reduced mailing rates when mailing matters of public interest. It has come to my attention that previously units of local government have not been eligible for these special rates, regardless of the purpose of the mailing. Nonprofit organizations, such as schools, and by definition all "religious, education, scientific, philanthropic, agricultural, labor, veterans' or fraternal organizations or associations, which are not organized for profit," are however, eligible for the special rates.

In the past, the definition of "qualified nonprofit organization" has come into question numerous times and the above definition is its current interpretation. The history of interpretations of this phrase, by the Congress, dates back to 1962, when the statute was first amended from its original 1951 form.

Mailings by local governments will of course have to be greatly restricted so that they do not become in any way political or vulnerable to abuse. I believe, however, that strictly informational "newsletter" types of mailings could be very valuable in informing citizens of how and where their tax dollars, for instance, are being spent. The expense of full postal fees has in the past inhibited expenditures for these mailings. Reduced special rates would obviously be an incentive to initiate these types of mailings in the future.

A copy of the legislation I have introduced follows:

H.R. 2246

A bill to amend title 39, United States Code, relating to local governments mailing matters of public interest at reduced rates

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3626(c) of title 39, United States Code, is amended to read as follows:

"(c) In the administration of this section—

"(1) one conservation publication published by an agency of a State which is responsible for management and conservation of the fish and wildlife resources of such State shall be considered a publication of a qualified nonprofit organization which qualifies for rates of postage under former section 4358(d) of this title;

"(2) any matter of public interest published by an agency of a political subdivision of a State shall be considered a publication of a qualified nonprofit organization which qualifies for rates of postage under former section 4358(d) of this title; and

"(3) any matter of public interest mailed in bulk by an agency of a political subdivision of a State shall be considered a matter mailed in bulk by a qualified nonprofit organization which qualifies for rates of postage under former sections 4452(b) and 4452(c) of this title.".●

REFLECTIONS ON THE VIETNAM WAR

HON. JAMES P. (JIM) JOHNSON

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. JOHNSON of Colorado. Mr. Speaker, on Sunday, February 25, Richard Cohen of the Washington Post wrote a column about the Vietnam war. While there is very little new to be said about that "adventure," the piece was poignant and touching and deserves wider readership. We never seem to learn, and though it has only been a few short years since we left Vietnam, already the same voices who were wrong then are speaking of the necessity of renewing the peacetime draft, decrying our diminished influence in the world, and generally vocalizing the aggressive, warlike attitude which has prevailed in our country during this century. A reminder of the consequences is not going to change "hawks," but perhaps others will be made more alert to the dangerous rhetoric and posturing which is increasing in stridence and incipient violence.

[From the Washington Post, Feb. 25, 1979]

VIET WAR REFLECTIONS: AN APOLOGY SOUGHT

(By Richard Cohen)

Sometimes I think of Peg Mullen. I imagine her, this time of the year at least, on her Iowa farm, cold and snowy with drifts like waves, and I want to ask her if anyone's called. By now, everyone must know that her boy died for nothing. It would be nice if they said they were sorry.

I know Peg Mullen from a book. It's called "Friendly Fire" and it's about a number of things, Vietnam and the war, but it's mostly about Peg Mullen—how the war and the death of her son changed her. She went from Iowa farm wife to radical—a real "crazy." You couldn't blame her. For a long time, she couldn't find out how her boy died and even when she came to know that she never knew why—why we fought that war in the first place. It gets harder and harder to answer that question.

I think of Peg Mullen now because the Chinese are at war with the Vietnamese and the Russians are threatening to fight the Chinese and the Vietnamese are still fighting with the Cambodians. All of a sudden the World War III they warned you about in school is a real possibility only we've been left out. We have to think hard just to pick a side.

This was never supposed to happen. Back when I was younger, they drafted people like me and explained it all with a map. They marched you into a big hall and some sergeant yelled "lights" and some film went on about the dangers of communism—how it was on the march. In the film, Russia went the color of red and then China and then North Vietnam—the red of communism spreading over the globe like someone had kicked over a paint can. They had to be stopped here, they said, pointing in those days to Vietnam, or we would be fighting them "on the streets of San Francisco." That is the expression you heard and the only thing I could figure out is that some clever someone realized right off that no one would fight for Los Angeles.

I believed it all. I was raised on it. I remember a television program where Dwight Eisenhower explained the crisis over Quemoy and Matsu by going to the same map. John Foster Dulles was going with him and at one point Ike called the secretary of state "Foster" and asked him to go to the map with a pointer. As Ike talked, Foster worked the map and what you came away with was the belief that there was this thing called communism, this unified force, and it was coming to San Francisco unless we stopped it. Most of my life I believed that and for a time I was willing to die for it. Michael Mullen did.

Now, of course, the whole thing has come apart. The dominoes have turned on each other. The academics—the snobby, pointy-headed effete, elite eggheads so scorned by Spiro Agnew and George Wallace—turned out to be right. The Vietnamese really do hate the Chinese. Our war in Vietnam now makes as much sense as some 19th century British colonial expedition, some crazy world war in some place of no importance, all but forgotten save for some crypt in the wall of some cathedral saying some young man had died for a cause no one can remember.

So I keep waiting for one of them to step forward and say they're sorry—a politician, a general, a columnist. I keep waiting for one of them to admit they were wrong, that it was all wrong, that people died for nothing. It would be nice for them to say this before they lead us off again to some new adventure—something to do with Iran or Afghanistan or maybe Vietnam in some new way. It would be nice if they would say something because then you would know that they learned something, that they know where they once went wrong and they aren't trying to prove years later that they were right all along .

This is why I think of Peg Mullen. There are plenty like her—mothers and fathers and wives and others, but always she comes to mind. I imagine her on that farm, 120 acres of snow and cold and some road leading down to the highway—all of that, even though she may not be there anymore. I can see it all anyway and I wonder if anyone ever calls to say they're wrong and they're sorry.

Gentlemen, the lady is waiting for your call.●

WHY DO I CARE FOR AMERICA?

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. ABDNOR. Mr. Speaker, each year the Veterans of Foreign Wars conducts a Voice of Democracy contest wherein 250,000 high school students compete for scholarship prizes.

This contest also serves a fine purpose in prompting our young people into deeper thought concerning our country, its freedoms, and their responsibilities.

This year's winner in South Dakota is Clinton Allen Baker, a senior at Belle Fourche High School. Upon his graduation he plans to attend South Dakota School of Mines & Technology to study geological engineering.

I commend his most excellent speech to the attention of my colleagues.

SPEECH BY CLINTON ALLEN BAKER

"Why do I care about America?" You might as well ask me, "Why do I care for my family?" I care about my home because my family offers love, security, opportunity, compassion, and enjoyment. As I look out to the world I see the very same things in my country, America.

In "love", a family gives all for all. As I grow and develop, I know in America, my horizons broaden. I have begun to think of my country as my family.

In a family there is a provider and protector. As we mature, in America, we become providers and protectors for our rights and the rights of others. In time we grow out of our families and into our country. We develop to develop.

Through unity America has given me security; however, my first feeling of security came from my home. In a family we reach out and band together to give strength to one another and to the whole. In America we band together through our ideas. This is necessary to amplify them and to bring into play new ones. This is brought about by the freedom of the vote. The right to vote is given to every qualified adult. It gives us the option to voice our democracy with respect to inherentacy.

When I think of opportunity in America, I envision a large multi-colored door that is ready to open for anyone who is willing to knock. In America both the family and government places emphasis on opportunity—in education.

We should be proud of our educational system. It reaches out, wholeheartedly, and provides for all people. The opportunity to become what we wish is truly held in education. As a result, my country, America, is unsurpassed with the liberty of education. America continues to be the land of opportunity for one and for all.

Compassion begins in the family. This is where understanding, caring and sharing with others originates. In a family, compassion flows from one heart to the hearts of others. This carries on in a nation such as ours, our compassion spreads and flows like a river from one to all. Americans truly care about their fellow-persons and this is reflected in many ways throughout our country. In America blacks and whites are treated equally under the laws. In what other country can a man or woman, black or white, catholic, jew or protestant, become a leader through the voice of the people . . . my people . . . our people . . .

Through these aspects I have mentioned—we learn enjoyment. Enjoyment in the home and in the country. The enjoyment is found in the caring and sharing, in the freedom of choice, in the freedom to express our ideas, yet not suppress those of others, and the freedom to develop as we see fit.

Finally, through these senses of belonging and only these senses can we hope to promote and further our hopes, our dreams, and our lives to the millions yet to breathe the freedom of America.

That is why I care for America!●

FOOD SAFETY LAWS AND SACCHARIN

HON. JIM MATTOX

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. MATTOX. Mr. Speaker, an article in the Wall Street Journal of February 14, prompts me to take issue with some of the recent statements of the Commissioner of the Food and Drug Administration, Donald Kennedy. The writer of the article, Rich Jaboslovsky, interviewed Kennedy about his thoughts on changing the food safety laws and quoted the Commissioner as saying "A good food safety law would still require the removal of saccharin." In spite of the benefits that millions of people ascribe to their use of saccharin, Kennedy claims health benefits of saccharin have never been proven in scientific studies; so he would ban it even if a new food safety law required benefits to be considered along with risks when deciding on regulation of food additives.

This is an example of the way in which the Commissioner has assumed a role of deciding by himself what is good for the public. Not only is he out of touch with the public, but he is out of touch with the scientific community, particularly the very capable career scientists in his own FDA organization. This was illustrated at a recent conference on toxicology and occupational hazards at the University of Miami where FDA's Associate Director for Science, Dr. Albert C. Kolbye, stated "I am not aware of any substantial risk that is present in the American food supply. I think we have a very safe food supply." As for the saccharin in soft drinks, Kolbye said someone would have to drink artificially sweetened beverages constantly day and night to be in even the slightest danger.

Another scientist, Dr. Morris Cranmer, former director of the FDA's National Center for Toxicological Research, completed a 6-month study and issued a complete report on the saccharin matter last June. This was done at the request of Commissioner Kennedy. Last November Dr. Cranmer addressed the Conference on Sugar Substitutes sponsored by the European Research Group for Oral Biology and stated:

> In conclusion, it seems to this observer that in the U.S. the FDA continues to pursue the doctrine of absolutes and has not been as responsive as possible to the wishes of the consumer or Congress. Millions of dollars of precious legislative and bureaucratic time has been squandered on trying to argue a solution to a scientific problem. In a real sense, most knowledgeable cancer researchers and epidemiologists consider saccharin vs. FDA to be a bureaucratic game and a non-issue health hazard. The medical community is more concerned over the control of obesity, dental caries, diabetes and hyperkinesis. Perhaps the cruelest hoax of all is that the American people now speak of saccharin and cancer in the same breath, as cigarettes or asbestos and cancer. This delusion of relative importance dilutes concern and attention from the real causes of cancer and for this there can be no excuse.

Members of the Congress should constantly be aware of the one-sidedness of the Commissioner whenever legislation is being considered on saccharin.

I think Walter S. Ross has offered an interesting description of the Commissioner in his feature article, "The California Style of FDA's Donald Kennedy," in the December 1978 issue of Private Practice, the official publication of the Congress of County Medical Societies. I submit the article in its entirety in the RECORD.

The article follows:

THE CALIFORNIA STYLE OF FDA'S DONALD KENNEDY

(By Walter S. Ross)

The Food and Drug Administration is the most ransacked agency in the federal bureaucracy. Often accused of malfeasance, misfeasance, and nonfeasance, its shortcomings may have been exacerbated, if not actually caused, by the necessarily invasive techniques used by its perennial probers, the insistent and insensitive of which are Congressional subcommittees.

One wonders why anybody would want the job of FDA Commissioner. A pride of recent Commissioners succumbed quickly to the job's relentless pressure—the agency lost five successive top leaders in the decade preceding the incumbent, Donald Kennedy, PhD. Criticism comes from many sources outside government as well: the medical profession, the pharmaceutical industry (and others, for FDA is responsible for foods, additives, cosmetics, medical tests and devices), consumer advocates, the press and broadcast media.

Enough to make any FDA head dizzy, but Donald Kennedy has stayed cool, together, very much in command.

Commissioner Kennedy, a neurophysiologist from Stanford University, came to the FDA with a reputation as a defuser of crises which he told me is "not entirely undeserved."

His willingness to assess his own performance with high marks is one of many disarming characteristics. He speaks clearly in an easy baritone that rises and falls, speeds up and slows down, with an accent that mixes New York (where he was born 47 years ago), prep school, and California, while peering through large, rimmed spectacles that give him a quizzical, owl-like demeanor.

Kennedy told me he'd already testified about 30 times before Congressional committees; he feels Congressional oversight is proper, and that he must be responsive, says he's been generally well treated, although there have been occasional cheap shots. "But I know that's part of life."

The Commissioner's spoken syntax combines parsed sentences with some mild slang; he often uses "buzz words" (his expression—it means symbolic words, without substance). His language seems to find receptors in people's heads even when it contradicts their beliefs, or interests.

As an example, a physician friend of mine showed me, approvingly, a copy of Kennedy's April 13 piece in the *New England Journal*—"Creative Tension: FDA and Medicine"—in which Kennedy had written "I think that the FDA has to liberate itself from the notion, with which it more than occasionally comforts itself and its medical constituency, that it regulates drugs and devices but not doctors. As much as we might wish otherwise, to regulate technology is to regulate practice." He went on to say that the agency wasn't "anxious to exert direct regulatory control over the way in which physicians and other health professionals work. But like other regulatory agencies, FDA has turned an important corner from policing the health-care system against fraud, quackery, and bad manufacturing practice, to functioning as a regulator in the transfer of health technology."

No previous Commissioner, all of whom in recent years have been physicians, had ever announced such dogma. Alexander M. Schmidt, MD, Kennedy's immediate predecessor, had said exactly the opposite not long ago: "(It) is clear to me that a member of potentially toxic drugs are being held hostage (by FDA) because of the possibility of their being misused by physicians. Is that a good reason to withhold approval? Shouldn't problems of medical practice be solved by the medical profession, rather than by FDA fiat?"

It seemed anomalous that a non-MD should be so willing to regulate medical practice (and that my doctor friend should approve) when a physician-commissioner would not. The *New England Journal* piece made me want to meet Kennedy. Reading it carefully revealed a disturbing mixture of opposing or contradictory concepts (is tension "unavoidable" between physicians and the FDA, how much tension, and can this be creative?).

Studying Kennedy's major speeches and articles since his ascension to office in April 1977, along with statements made on TV shows like *Face the Nation*, one could see his thoughts develop, change, double back, and occasionally cancel each other.

For example, probably the most persistent and vital argument between doctors and the FDA is the "drug lag." (A short description of the term is the delay in reaching or absence from the U.S. market of important new drugs available in other medically advanced countries.) Kennedy had described this in some of his first speeches as a "pharmaceutical innovation." Later he said that the drug lag concept had been created by the pharmaceutical industry and was "akin to the missile gap."

Another time he'd said he didn't know whether users of the term referred to "years of delay, or ratios of uniquely marketed drug entities, or in ratios of new introductions in a particular year . . ."

Without pausing to resolve these questions, he went on two sentences later "I think there is no question that the drug lag exists, although it is substantially less serious than the Food and Drug Administration critics make it out to be."

I mentioned to the Commissioner that he'd made several speeches in which he'd identified the drug lag as a "buzz word."

"Sure, I think it is," he replied.

"Later, you said it existed."

"Look, let's be very careful about what we mean by a drug lag," he said. "Wardell[1] coined the term and meant a difference in new drug approval rates between the United States and some of the European drug developing nations. . . . Wardell engaged in an elaborate comparison of apples and oranges in his JAMA article[2] when he defined the drug lag part of the time as a rate differential, part of the time as a temporal change in the rate of drug innovation. These are separate arguments."

I mentioned the beta blockers: the United States has had, until a couple of months ago, only a single beta blocker—propranolol (Inderal, Ayerst)—for more than a decade, while perhaps a dozen others had been marketed in European countries. Propranolol had laboriously picked up three FDA indication approvals for arrhythmia, high blood pressure, and angina (a fourth, migraine, is under application), but having only a single representative of an entire class of drugs imposes restrictions on clinicians and patients, for many do not respond to this drug, or cannot take it.

"We're always going to be in the position of finding drugs marketed elsewhere that aren't marketed here," Kennedy said, "no matter even if we were the world leader, because it's the nature of the international drug market that they're introduced one place and other nations follow."

Kennedy mentioned the FDA's rating system, putting "A" drugs considered important therapeutic advances on a "fast track" for quick approval. He adduced sodium valproate (recently approved for *petit mal* (epilesy) as an example (Wardell had cited it as an example of how the FDA only responded to extreme outside pressure). I asked the Commissioner who at FDA was qualified to pick the "A" drugs; he said that the agency depended on the companies to identify them. But FDA's judgments in this area are often poor. During 1976–77 the FDA approved NDAs for three new cancer drugs: CCNU, BCNU, and tamoxifen; the first two from Bristol, the last by ICI. Oncologists consider all three major advances in the treatment of cancer—the FDA rated them all "C": "little or no therapeutic gain."

Footnotes at end of article.

A large part of our 75-minute conversation was devoted to bioequivalence among drugs. The February 1978 issue of the *FDA Consumer* had carried an article "Generic Drugs: How Good Are They?" by Annabel Hecht, an FDA staff writer, along with a supporting statement by the Commissioner. Miss Hecht had written "Whether you buy a bottle of 'house brand' aspirin at a discount drugstore or a nationally advertised brand, there will be no difference in the pain-killing quality ... because any drug that claims to be aspirin must meet the official FDA standards. . . ."

I gave Commissioner Kennedy a review article, prepared by Upjohn, with more than 300 published references to drugs for which there was some question of bioinequivalence. One was aspirin—there were 14 studies showing a wide range of bioavailability in different brands of aspirin.

Kennedy replied that "Just because somebody wrote in our house organ that every bit of aspirin is equivalent doesn't make it so. That statement may well be in error, for all I know. The person who wrote it thought it was all right."

But, of course, this was not just any writer, it was an FDA staff writer, writing under the imprimatur of the FDA, and with a large endorsement by the Commissioner, and the FDA had heavily promoted the piece, distributing at least 800,000 reprints. If the agency and the Commissioner wished to disown responsibility, they should have done so before the article was printed—and so widely promoted and disseminated.

The same article had said that all tetracyclines "met the same standards" and had "an extra measure of assurance because every batch must be tested and certified by FDA. . . ."

When I showed the Commissioner several studies illustrating bioinequivalence among different brands of tetracycline, he at first attacked a recent JAMA article[3] as "impossibly bad" and then added "there's obviously a very concerted effort on the part of the brandname drug industry to lay as much stress as, it possibly can on every anecdotal case." But these studies had not been done by pharmaceutical manufacturers; nor were they anecdotal reports, but controlled investigations published in professional journals.

During our conversation the Commissioner laid heavy stress on the prices of drugs. This did not seem to be FDA's responsibility; but Kennedy said that they had to get into it because when FDA certified quality, they were in effect certifying the basis for a price differential.

He said that drug pricing forced "some people in society (to pay) for research who can least well afford it."

Yet he also said that the proposed new drug law, which he is backing, would encourage innovation. But by whom? On the NBC-TV Betty Furness *Buy-Line* show of March 13, 1978, he had said: "I don't think that the right solution is to have large price differentials between products of equal quality. Our solution to that kind of problem is to pay for—to have government subsidize research with tax money rather than having consumers pay for it without knowing what they're paying for."

Asked about his principles, Kennedy replied, "I think the world is a pretty complicated place, and you take it issue by issue. There are principles, but they don't lead to automatic decision-making; ideology is not much help with tough public policy."

This is a laudable credo for the head of a medical-scientific regulatory agency. But can it be taken as truly descriptive of Kennedy's beliefs? There are many inconsistencies in his other statements that lead us to doubt that it is. Thus, in the saccharin controversy, he told the House of Representatives subcommittee on health and environment, on June 27, 1977, "The Canadian epidemiology study ("An Association Between Artificial Sweetener Use and Human Bladder Cancer") is, in our view * * * more complete * * * superior in design to preceding epidemiological studies * * * that, in fact, there is now at hand a direct demonstration of human risks." Privately, at the same period, he was writing to Dr. Geoffrey Howe, one of the authors of the study, for more information about it.

When a member of the same subcommittee asked whether Kennedy thought the study provided adequate evidence of the etiological relationship, Kennedy replied, "Yes, I do. I think the editor of *The Lancet*, the journal to which the authors have submitted it, will probably consider it adequate, too." But along with the study *The Lancet* editorialized: "Most readers will find the case against saccharin unimpressive."

In his house magazine, *FDA Consumer*, Kennedy had said that "All the available evidence demonstrates that saccharin can cause cancer in test animals, and we have every reason to believe that it also causes cancer in people." But about the same time (December 1977) the National Cancer Institute-FDA study group of scientists were concluding "there is neither enough evidence to accept nor to reject the hypotheis that use of . . . saccharin increases the risk of bladder cancer in humans."

The contrast is inescapable between Kennedy's stated empiricism, and the ideology revealed by his actions. He is pushing a strong new drug law that would greatly expand FDA's powers and hegemony. He puts heavy emphasis on drug prices (which represent only eight percent of the U.S. medical care dollar in 1976 as compared with 12 percent in 1966). He's strongly for generic substitution, endorsing all drugs under NDAs and ANDs (with a few exceptions) as bioequivalent—although bioequivalence studies have not been done for most drugs, and in those that have been studied a disturbing number of inequivalences have shown up. He is often critical of physicians and the pharmaceutical industry, but rarely, if ever, of Ralph Nader or his house doctor, Sidney Wolfe.

Yet, except for the Wardell rebuttal of the Kennedy drug lag piece, I've not seen a coherent critique of the Commissioner in print. He has a good press, and even those who oppose his ideology don't seem to realize what he stands for.

Perhaps because the Kennedy *persona* is so attractive, and the agenda so hidden behind hedges and inconsistencies. He has a quick mind and a quicker tongue; he's a pleasure to talk with; his Congressional hearings are studded with (laughter). He has charm, poise, wit—all adding up to *style*. It reminds one of the style of a California politician like Governor Jerry Brown, in whom style is nearly everything. Kennedy uses style as a gladiator's net, immobilizing opponents. He also employs it as an analgesic, dulling the pain of heavy-handed regulation; or a narcotic, lulling critics of FDA inadequacies; or a bland excipient, packaging some very foxy strategy. Perhaps the Commissioner and his style should be required to have their own NDA before being permitted in use. And, along with it, the public should have a detailed Patient Package Insert about the Kennedy style, carefully spelling out (in lay language) indications, contraindications—and possible adverse reactions.

FOOTNOTES

[1] Dr. William M. Wardell, associate professor of pharmacology and toxicology and head of the Center for the Study of Drug Development at the University of Rochester medical school.

[2] Kennedy had written "A Calm Look at 'Drug Lag'" in JAMA, January 30, in which he'd indicated that the drug lag was merely symbolic language, but called for a new drug law to do away with it; Wardell's article, "A Close Inspection of the 'Calm Look'" which appeared in JAMA May 12, 1978, had rebutted the Commissioner's arguments.

[3] Tetracycline: "Another Example of Generic Bioinequivalence," Wood, J. R., Flora, K. P., Duma, R. J. JAMA May 5, 1978.●

KICKING THE BIG SPENDING HABIT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. PAUL. Mr. Speaker, Dr. Thomas Sowell, professor of economics in the great department at the University of California at Los Angeles, is one of the few economists who can write well. Moreover, he invariably has something to say that is full of good sense and intelligence.

Others have remarked that if you laid all the economists in the United States end to end, you would not reach a conclusion. But Dr. Sowell cannot be included in that number. His conclusions, based on the free market and limited government, are always worth listening to. For that reason, I would like to bring the following article to my colleagues' attention. It appeared in the Washington Star, and helps explain the fear now emanating from the big spenders in Congress.

Kicking the Big-Spending Habit

(By Thomas Sowell)

After half a century of almost constant deficits by the federal government, a desperate effort is being made to stop this trend with a constitutional amendment requiring a balanced budget. Twenty-eight state legislatures have already voted to have a constitutional convention called for that purpose.

Another six states and a convention will have to be called, for the first time since 1787.

Washington politicians and pundits, who have calmly accepted the deficits and the runaway inflation for nearly two generations, are suddenly in hysteria over the thought of a constitutional convention.

All sorts of reasons are given why a budget cannot be balanced. All sorts of terrible things are predicted if a constitutional convention is called. The Bill of Rights could be repealed, for starters, according to alarmed big-spending politicians and their media friends.

Despite all the Washington mumbo-jumbo, balancing the federal budget is hard for basically one reason: It is popular to give people things from Uncle Sam and unpopular to raise taxes.

Before this political trend took hold back in the 1930s, balanced budgets were the rule rather than the exception. Every federal budget in the 1920s either was balanced or had a surplus. Throughout the 19th Century, the federal government finished in the black far more often than it finished in the red.

Balancing the budget is not some mysterious problem that we have to wait for a genius to solve. It was done for a long time before the New Deal discovered the political magic of winning votes with give-aways without losing votes with tax increase. The great political success of that formula has led to its continued use and expansion ever since.

Kicking that habit is the problem.

The relationship between government deficits and inflation is very clear, despite all the quibbles that can be made by big spenders and their political allies. We have gotten so used to inflation that we have come to think of it as somehow inevitable.

But throughout the 1920s, there were no significant increases in the general price level. Then came the era of big spending. The price level more than doubled between the 1930s and the 1950s. It doubled again between the mid-1950s and the mid-1970s.

And the end is not yet in sight.

Economic "experts" have told us that a balanced budget is just a fetish. Special circumstances may even make it undesirable at times. But history tells us that once politicians are free from the need to balance the budget, the sky is the limit.

The "special circumstances" that economists talk about become a fetish. Such circumstances seem to be happening almost all the time, for most of the last 50 years. "Crisis" has become a routine word.

We can always leave room for genuine emergencies by allowing Congress to authorize an unbalanced budget with a two-thirds or three-fourths majority. We don't need to leave them a blank check, the way we do now.

Some people argue that a constitutional amendment is not the best way to limit federal spending. Since we obviously haven't yet discovered any other effective way, why wait until we think of the perfect way before doing anything? One approach does not preclude other approaches as well.

The second aspect of the current political attacks on a constitutional convention to limit spending are the bogeyman fears that are being whipped up. Some big-spenders picture the Bill of Rights being repealed, the Supreme Court abolished and Congress handcuffed. All this hysteria ignores one simple fact. Whatever a constitutional convention proposes, all the states have to vote on it, and two-thirds have to agree, in order for the proposal to become "the law of the land."

It is true that there are many things the American people resent besides inflationary deficits, and some of these might also be considered by a constitutional convention. But after decades of quiet acceptance of power grabs by appointed federal judges taking over the functions of elected representatives, and anonymous bureaucrats issuing more laws than Congress, it is ironic to see this sudden panic at the thought of government of the people, by the people and for the people.

Paul Revere won fame by sounding the alarm, "The British are coming!" Today's big spenders and paternalists are sounding the alarm because the Americans are coming.●

VFW OREGON WINNER

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. ULLMAN. Mr. Speaker, "Why I Care About America" is the theme of this year's Voice of Democracy Contest, sponsored by the Veterans of Foreign Wars and its ladies' auxiliary. More than a quarter of a million high school students competed and winners were selected from each State. The winning essay from Oregon was written by Bill Warren La Dassor, who attends McNary High School in Salem.

WHY I CARE ABOUT AMERICA

(By Bill Warren La Dassor)

First, do I really care about America? Yes. And no. Yes, because care is a part of what I feel. No, because care is too mild a term for that more intense feeling so much on our minds in the Christmas and Easter seasons . . . I love America. Yet I must admit that I did not initiate that love. Rather, I love it only because, like the man who came to bring peace on earth, like a mother before a child is born . . . it loved me first.

In fact, not only did it love me first, but it did so long before I was a gleam in my father's eye. Once upon a time, an old friend I've never met, by the name of Tom, wrote a historic proclamation for 13 new colonies. And he also wrote it for the yet unnamed state on the West coast, for the house on 22nd Avenue not yet built, for an appliance repairman fixing machines not invented, and for that repairman's last born son, me . . . who is still not yet a lot of things he should be, but who is thankful for Mr. Jefferson's gift to mankind. It's truly a miracle that the drab black ink from Jefferson's pen could brighten my future and color me free.

Freedom, next to life itself, there is no greater gift. For more than anything else, freedom is the ability and the opportunity to have and make choices. And the choices some of our ancestors made, have given America a rich legacy and changed the course of human history.

Wilbur and Orville Wright chose to challenge the sky, and in 1903 put a shabby plane in the air and Kittyhawk on the map . . . a victory for science and a giant step for aviation without which Neil Armstrong would never have been able to take his giant step for mankind.

172 years ago, two young men by the names of Merriwether and William chose to go on a backpacking trip that beat anything the *Guiness Book of World Records* listed for hiking. And they succeeded without the benefit of waterproof matches, freeze dried corn, apricot leather and Red Wing high top boots. And yet, against heavy odds, Lewis and Clark reached the Pacific coast whose 20th Century maps still carry many of the names they gave to their Western Paradise . . . A victory for geography and for man's spirit of adventure; a spirit now challenged only by the deepest of seas, the darkness of space and the continuing quest for peace.

It feels good to come from a country with the spirit to explore new frontiers. It feels good to come from a country with the ingenuity to put a man on the moon. And it feels great to come from a nation that has the power and desire to win a war for the sake of world peace. Nor can we be robbed of those memories, for the footprints we have left in the trail of time cannot be erased. And for those past achievements and present opportunities there can be nothing more necessary than giving thanks. NOR AT TIME CAN THERE BE ANYTHING MORE DANGEROUS. Why? Because it's easy for us to become mere armchair orators; to say how much we love America and then turn on the television and forget to vote.

But, proclaiming love, and demonstrating love, are two different things. They shouldn't be. It's unthinkable that love can be divorced from action. If my parents had only spoken of love, I would never have progressed from a gleam in Dad's eye to a thorn in his side and a pain in his neck. And if the 3,000 GI's who died trying to secure Saipan had merely given their voices, not their lives, peace might have waited for more war, or it might not have come at all.

If I don't act on my pledge of love, I'm guilty of the worst kind of hypocrisy, the kind which thanks the past for the blessings it has brought to the present, but does nothing in the present to secure the same blessings for the future . . .

Just how can we act to show our love for America? It is not as hard as it might seem. And it does not always require heroic action or history making. Just an action. Whether it be the pursuit of excellence in our jobs or involvement in youth group activities or helping an elderly woman up an icy flight of stairs. It's just action born of sensitivity to life, to freedom and to one's fellow man.

America has shown her love for me by her past. Now it's up to me to act out of love for her future so that next century's grandchildren can look back and say "Thanks America for caring." ●

CONTROLLING HEALTH CARE COSTS

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. BROYHILL. Mr. Speaker, I am having submitted into the RECORD today Report No. 2 which is entitled "How Business Can Use Specific Techniques To Control Health Care Costs" as the second in my series of summaries of the five National Chamber of Commerce's Health/Action kits designed to control inflation in the health care sector.

HOW BUSINESS CAN USE SPECIFIC TECHNIQUES TO CONTROL HEALTH CARE COSTS

According to the Department of Commerce, in 1977, employers spent nearly $34.5 billion on group health insurance premiums for employees and their dependents. This level of spending is partly the result of demands by labor for nonwage compensation and a continuing increase in the cost of employer-paid health insurance, which had risen 284 percent between 1967 and 1977. By comparison, wages rose only 98 percent during the same period.

Currently, 80 percent of all health insurance is purchased through the workplace, with employers paying about 70 percent of this cost. Over the past 25 years, employers have been paying for an ever larger portion of this cost. For example, the number of cases in which the employee and employer share in the cost of health insurance has remained the same—about 50 percent. However, as noted earlier, the ratio of cases in which the employer paid for all and the employee for none of such costs reversed itself from 1:4 in 1950 to 4:1 by 1975.

Employers, then, are paying increasingly more money for health care benefits. It is estimated that American business allocates 6 percent of its compensation costs to this purpose. But, in many cases actual benefits have not increased, and even where they have, real improvement in health is not apparent—a classic example of diminishing returns on increasing investment.

This strategy report primarily concentrates on what employers can do to contain costs and improve health while working within the framework of existing or obtainable health insurance programs. Hence, most of the recommendations in the report must be implemented through your insurance carrier. The report urges employers to "make demands on your carriers; in a competitive market, they will do their best to accommodate you."

Strategies to reduce the cost of health benefits include using techniques aimed at lowering costs through administrative control such as claims review and analysis, coordination of benefits and subrogation, and self-insurance.

Claims Review.—a retrospective administrative technique which examines your health care experience and identifies costs which may not have to be paid.

Coordination of Benefit's and Subrogation.—procedures essential for avoiding duplicate claims and recovering expenses that are the responsibility of another party.

Self-Insurance.—the company acts as an insurance carrier to cover health claims. Advantages of self-insurance programs, such as saving premium taxes and earning interest on reserve funds, should be compared with the possible disadvantages of incurring additional risk and the need for added staff support in your firm.

Another strategy focuses on broadening benefits to alter the utilization of services and employs techniques such as consumer cost sharing, hospital utilization review, second surgical opinions, pre-admission testing, ambulatory surgery, and home health care.

Consumer Cost Sharing.—co-payments and deductibles which transfer part of the cost and risk to employees, in the hope of resulting in more prudent use of health services.

Hosptial Utilization Review.—review techniques used by physicians which are designed to determine the appropriateness of hospital admissions, to assess the need for continued hospitalization, and to evaluate the treatments which have been prescribed.

Second Surgical Opinions.—encouraging or requiring patients to obtain the opinion of a second surgical specialist before undergoing recommended surgery to avoid unnecessary surgery; most appropriate for cases of elective surgery.

Pre-Admission Testing.—programs to reduce hospital lengths of stay for selected admissions by covering the cost of pre-surgical (e.g., laboratory) tests done on an outpatient basis.

Ambulatory Surgery.—reduces surgical costs by performing such procedures on a one-day outpatient basis, thus avoiding a hospital admission.

Home Health Care.—programs designed to cover the cost of providing medical care in the home when it would otherwise have been provided in the hospital; used as a substitute for, or in addition to, hospitalization.

A third strategy deals with better controlling charges for health services and highlights the benefits of prenegotiated physician fee schedules and volume purchases of selected medical products.

Pre-Negotiated Physician Fee Schedules.—a panel of physicians is identified that will accept the agreed-upon fee as payment in full and a list of participating physicians is made available to employees.

Volume Purchasing of Health Products.—lower charges for products and services negotiated with suppliers by guaranteeing a specified volume of business. Examples include drugs, eyeglasses, and hearing aids.●

SMALL BUSINESS SUCCESS

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. ABDNOR. Mr. Speaker, family-owned small businesses have been the backbone of this Nation's economy since the days of the early colonies.

They have persevered in serving their customers and the communities despite—or perhaps, in spite—of all the obstacles in the form of rules, regulations, redtape, paperwork, and inflation which the Government has thrown in their paths. The quality of their service and their dependability is one of the more salient reasons this Nation does not need now and will not need in the future a Consumer Protection Agency.

One of my constituents, Mr. Milo Rypkema, has been serving Rapid City, S. Dak., in an outstanding manner for many years. He has recently been given national recognition for his achievements.

RAPID CITY AUTO DEALER EARNS REGIONAL AWARD FROM TIME MAGAZINE

Milo Rypkema, president of Dodge Town, Inc., Rapid City, South Dakota, has been named a 1979 Regional Representative in the TIME Magazine Quality Dealer Award (TMQDA) program.

He also owns a 1300 acre registered angus cattle ranch.

Rypkema, whose dealership is located at 1120 East Omaha Street in Rapid City, is one of only 10 dealers in the entire nation selected as a Regional Representative in the TMQDA program. Fifty-eight other dealers were recipients of the 1979 award.

The TMQDA program, sponsored by TIME in cooperation with the National Automobile Dealers Association (NADA), annually honors outstanding new car dealers in America for "exception performance in their dealerships combined with distinguished community service."

Rypkema's award was announced by Michael M. Carey, director of the TMQDA program for TIME. He and 67 other national winners were chosen by a panel of faculty members from the University of Michigan Graduate School of Business Administration. The same panel of judges selected Rypkema as a Regional Representative on the basis of "qualities considered to be most typical of the 68 winners."

Presentation of Rypkema's award was made at the NADA convention in Las Vegas, February 10. At the convention, Rypkema and the other winners were honored at a brunch and at the opening business meeting attended by over 5,000 people involved in the automotive industry.

Born in North Dakota, Rypkema, 56, served with the U.S. Army during World War II. Following the war, he was manager of Horn's General Merchandise Store in Nevada, before joining Eddie's Tire & Glass Company in Rapid City in 1946, as manager. He remained in the service station, auto glass, tire and recapping business for 20 years.

In 1966, he purchased Dodge Town, Inc., becoming president when John Hillard, who is married to his niece, offered to sell it. Originally founded in 1930, the dealership was moved to its present location, at 1120 East Omaha Street, in 1974.

Rypkema was nominated for the TIME award by the South Dakota Automobile Dealers Association, of which he is a member. He also is a past president of the Rapid City New Car Dealers Association, and a member of the NADA.

In addition, he has served as chairman of Dodge's District and Zone Dealer Councils, and is a member of its National Dealer Advisory Council.

Rypkema has led his dealership to many honors, including a 1977 Chrysler Corporation 5-Star Quality Dealer Award, and a 1977 Recreational Vehicle Service Excellence Award.

Active in community affairs, Rypkema is president-elect of the Rotary Club, and a past president of the Chamber of Commerce, Central States Fair, Black Hills Angus Association, and Mt. Rushmore Toastmasters.

He also has served as vice president of the Boy's Club, and as chairman of the Black Hills Stock Show, South Dakota Elks Crippled Childrens Trust Fund, and Pennington County Easter Seal Society, and as a director of the Rapid City Library Board.

In addition, he is a member of the Western South Dakota Development Corporation, Rapid City Community Development, and the Defense Orientation Conference, which acts a liaison with Congress on military affairs.

Rypkema was finance chairman of the Black Hills Council of Boy Scouts of America in 1977–78, and has served on fund raising projects for the State 4–H Foundation, Regional Hospital, Water Treatment Plant Bond Election, and Waste Disposal Plant Bond Election.

In political and educational affairs, he is a past member of the South Dakota Highway Patrol Civil Service Commission, appointed by the governor in 1961, a past finance chairman, in 1977–78, of the Pennington County Republican Party, and a former member of the Rapid City Common Council, and Pennington County Commission. He annually participates in driver training programs at area schools, and is an advisory board member of the South Dakota School of Mines and Technology.

His fraternal and social memberships include Naja Temple Shrine, Midwest Shrine, Royal Order of Jesters, Masons, Elks, of which he is a past trustee chairman, #1 Gourmet Club, and Singing Tribe of Wahoo.

A member of the First Presbyterian Church, he has served as a Deacon and trustee.

His many honors for community activities include a 1975 State of South Dakota Certificate of Meritorious Achievement, the L.A. Pier Good Government Award, 1973 Boss of the Year Award, and the honorary chairmanship of United Fund.

Rypkema and his wife, Helen, who live in Rapid City, have five children. Their son, Michael, is service manager at the dealership, and Marty is a salesman.●

TRUCKING DEREGULATION

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. PAUL. Mr. Speaker, the eloquent Mr. Robert M. Bleiberg, editor of Barron's, has written an important article on trucking deregulation and those opposing it.

The free market does work, despite the doubts of businessmen, labor leaders, and Government regulators. Because it is so important to return this important industry to free enterprise—for everyone's sake—I commend Mr. Bleiberg's editorial to my colleagues' attention:

TRAFFIC IN REGULATION?

THE DRIVE TO DECONTROL TRUCKING HAS RUN INTO ROADBLOCKS

"Rank avowedly has its privileges, but there is always the other side of the coin. Under the obligation we perennially feel to bring light to the heathen, we found ourselves the other day participating in a seminar on financial journalism jointly sponsored by the Public Relations Society of America and New York University. For half an hour or so we eloquently held forth on our favorite topic, the magazine we edit, getting off such zingers as 'Today is history, Tomorrow is *Barron's*,' 'Covering Washington for *Barron's* is like covering Cape Town for Ebony.' Then we took questions from the floor, at which point a pert R-person in the front row, who had been listening raptly to our discourse, raised her hand and asked if *Barron's* was interested in deregulation. Fascinated, we replied at considerable length, thereby hoping to make a convert to the philosophy of Adam Smith. Fat chance. To our chagrin, we learned afterward that the winsome Ms. is media specialist for the American Trucking Associations in Washington, D.C. As to deregulation, like her bosses she's against it."

Win some, lose some, as we said at the time (*Barron's,* Feb. 2, 1976). Since then, in the realm of deregulation, the good guys have been winning big. Taking the bull—thanks to such prolific sources as the spokesmen for the Air Transport Association, there was no lack of it—so to speak by the horns, the former head of the Civil Aeronautics Board last year dragged the airlines kicking and screaming into a new and highly promising arena, a thrust to which Congress subsequently (if belatedly) gave thumbs up. At White House behest, the lawmakers also have begun seriously to ponder freeing up the nation's barges, buslines and railroads from Interstate Commerce Conmmission control.

Perhaps most striking, the ICC, which in a century or more has clinched the title as the most counter-productive agency ever to come down the pike, has finally (and unexpectedly) done something right. In particular, by easing entry into the field and in other ways, it has moved to deflate the inflated, inflationary and excessively profitable traffic in regulated truck transportation.

So far, so good, and better late than never. Any movement that lines up such diverse organizations as the Consumer Federation of America, National Association of Manufacturers, National Federation of Independent Business, American Farm Bureau Federation and Common Cause on one side of the issue, the American Trucking Associations and the Teamsters union on the other, must be in hot pursuit of sound public policy. Nonetheless, in the past few weeks the drive for deregulation has run into one roadblock after another. For example, a jurisdictional dispute has sprung up between a committee headed by Sen. Edward M. Kennedy (D., Mass.), who has been in the forefront of the effort, and that of Sen. Howard W. Cannon (D., Nev.), who is widely viewed as leaning toward the truckers' interests.

Though the former has held hearings which fill three thick volumes and total 1,790 pages, the latter contemplates launching its own "thorough and diligent" investigation of the economic regulation of motor carriers, a road show that will take it all over the country and presumably stall legislative action indefinitely. Then there are the crucial negotiations between the trucking industry and the Teamsters, which, with a strike deadline looming by the end of the month, have just entered the critical stage. The Carter Administration is avowedly big on principal, but few observers in or outside of Washington would be surprised if, in an effort to shore up its sagging campaign for voluntary wage and price restraint, it opted to trade off deregulation for what at least looked like a moderate settlement.

That would be too bad. For as the widespread support it has won suggests, deregulation is an idea whose time has finally, and rightfully, come. In air transportation, the return to a more or less free market has trimmed fares, lifted seat-miles and—despite some recent turbulence, which by and large reflects the rise in oil prices and the threat of shortages—brightened the airlines' earnings outlook. Despite wildly exaggerated claims to the contrary, not to mention a propaganda campaign that would do credit to P. T. Barnum, deregulation of trucking would yield equally significant gains. Most authorities, dispassionate or otherwise, agree that it would increase efficiency, decrease the use of energy and, by curtailing or eliminating what amount to windfall profits, lower the cost to consumers of everything that goes by truck. This is no time to slam on the brakes.

And yet the powers-that-be are palpably gearing up for such a shift. True, under new management, the ICC lately has made a number of moves in the right direction. It has restored the right of one regulated trucking company to oppose another's application for expansion of service. It has eliminated the so-called "rule of eight," under which contract truckers were limited to a handful of large customers. It has authorized companies that operate trucks for their own business to hire out their rigs to other shippers. It even recently adopted a proposal to weigh rate competition in granting future operating rights. ICC aside, the most far-ranging—at least potentially—move came in January, when Sen. Kennedy, "as an essential first step in a larger effort now beginning both at the federal level and in many states to restore genuine competition to the trucking industry," introduced a bill to ban legalized price-fixing (via so-called rate bureaus) in trucking.

On the surface, all systems seem to be go; in fact, the lights are flashing amber, if not red. The jurisdictional clash between Senators Kennedy and Cannon, which is likely to divert deregulation of trucking onto a protracted detour, has been cited. More alarming are the signs and portents of a deal between the White House and the Teamsters; a go-slow official policy might be offered in exchange for a package of wage and fringe benefits which, with a bit of tugging and hauling, might seem to fit into the anti-inflation guidelines. "All sides deny it," remarked a business weekly the other day, "but the evidence is overwhelming that that's what's going on."

Prime mover of the pro-regulation forces, of course, is the American Trucking Association, which evidently wields a lot of clout, political and otherwise. For years ATA has mounted one of the shrillest (and least persuasive) drives to change hearts and minds that we have ever had the sorry lot to run into. Ranging from so-called white papers to television films featuring the sincerest voices on the tube, ATA has sought to persuade public opinion that in the absence of federal regulation, disaster would befall trucker and shipper alike. Yet an impressive body of evidence, offered last November by James C. Miller III, who did such a devastating critique of airline regulation, goes a long way toward exposing the hollowness of the industry's position.

Contrary to ATA claims, deregulation would not automatically lead to predatory pricing and "cutthroat" competition (whatever that is); with freedom of entry, such practices simply wouldn't pay. Smaller cities and towns—which studies show are just as profitable to serve as big ones—would not be left in the lurch. In an industry which is gradually consolidating anyway, and where economies of scale are limited, there is scant cause for concern over undue concentration. The same is true of the red flags which ATA misleadingly proceeds to raise over highway safety and the alleged menace of "fly-by-nights." As Prof. Miller concludes: "In summary, one should have grave reservations about the validity of any of the arguments put forth to defend the present truck regulatory regime."

Critics, contrariwise, make a powerful case for change. By curtailing competition, they aver, existing rules and regulations gouge the public—estimates range from a low of $2 billion per year to as high as $15 billion—and unconscionably swell the industry's coffers. What's beyond cavil is that in the past half decade (at least until a recent crackdown by the ICC), truckers' return on capital and equity alike has run far ahead of the average manufacturer's, and that the regulated industry has placed a total value of upwards of $5 billion on its license to operate. Other signs point the same way. Thus, in one Eastern state where carriers are virtually unregulated rates run 10%–15% below interstate rates on comparable shipments. And when some commodities were temporarily freed from regulation, rates dropped nearly one-third below previous levels. We may never convince the ATA: as we said at the outset, a Ms. is as good as a mile. Yet as the rest of the country increasingly has come to see, deregulation is the way to go.●

THE 96TH CONGRESS SCOUTING SURVEY

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● Mr. BROWN of Ohio. Mr. Speaker, during each of the past six Congresses, I have surveyed the Members of the House and Senate for the Boy Scouts of America to determine the participation of Members of Congress in Scouting, either as Scouts during their youth or as leaders.

The survey for the current Congress is now complete. I thank my colleagues for their 100-percent participation and cooperation.

As I have done in the past, I am placing the results of the survey in the RECORD so that they will be available to Members and others during the next 2 years. The results also are made available through the press and the Boy Scouts of America.

I am happy to report that the percentage of Members who have participated in Scouting has increased by 2 percent since the 95th Congress, signaling a welcome increasing trend.

The percentage of Members who have participated in Scouting stands at 60.9 percent for the 96th Congress. The 326 Members who have participated is an increase over the 314 Members of the 95th Congress. The totals include 263 Members of the House and 63 Members of the Senate.

There are three more Eagle Scouts in the 96th Congress than in the 95th. The House lost three (one of whom went to the Senate), but gained four Eagles. In addition to the former House Member, the Senate also gained a new Eagle Scout.

A summary of the results and a list of the participating Members follow:

SUMMARY

Breakdown of the 96th Congress scouting survey

	Representatives	Senators	Total
Scout	175	45	220
Scout and leader	68	14	82
Leader (only)	20	4	24
Total	263	63	326

Total who were Leaders: 106.

Percentage of Members who participated in Scouting: 60.9 percent.

EAGLE SCOUTS:

Senators

Lloyd Bentsen, Tex. (D), Bill Bradley, N.J. (D), Thad Cochran, Miss. (R), John Culver, Iowa (D), Richard G. Lugar, Ind. (R), Sam Nunn, Ga. (D), and Richard Schweiker, Penn. (R).

Representatives

Bill Alexander, Ark. (D).
Mark Andrews, N.D. (R).
Charles Bennett, Fla. (D).
Clarence J. Brown, Ohio (R).
M. Caldwell Butler, Va. (R).
Barber E. Conable, N.Y. (R).
William Dannemeyer, Calif. (R).
Charles F. Dougherty, Penn. (R).
Daniel J. Flood, Penn. (D).
Richard A. Gephardt, Mo. (D).
Dan Marriot, Utah (R).
John P. Murtha, Penn. (D).
Charles Pashayan, Jr., Calif. (R).
Donald J. Pease, Ohio (D).
J. J. (Jake) Pickle, Tex. (D).
Henry S. Reuss, Wisc. (D).
Eldon Rudd, Ariz. (R).
Richard T. Schulze, Penn. (R).
Keith J. Sebelius, Kans. (R).
Philip R. Sharp, Ind. (D).
Ike Skelton, Mo. (D).
J. William Stanton, Ohio (R).
Tom Steed, Okla. (D).
Larry Winn, Jr., Kans. (R).

SILVER BUFFALO

Senator John Glenn, Ohio (D), Senator Malcolm Wallop, Wyoming (R).

SILVER BEAVER

Senator Mark Hatfield, Ore. (R) and Senator Malcolm Wallop, Wyoming (R).

Representatives: Clarence J. Brown, Ohio (R) and Larry Winn, Jr., Kansas (R).

SILVER ANTELOPE

Senator Mark Hatfield, Ore. (R) and Senator Malcolm Wallop, Wyoming (R).

CUB SCOUT DEN MOTHER

Rep. Marjorie Holt, Md. (R).

RESULTS OF BOY SCOUT SURVEY, 96TH CONGRESS, 1ST SESSION, CONDUCTED BY CONGRESSMAN CLARENCE J. BROWN, OHIO

(Scout denoted by "S"; Leader or Adult Volunteer by "L"; Scout and Leader denoted by "S&L").

ALABAMA

Sen. Donald W. Stewart (D) S.
Sen. Howell T. Heflin (D) S.
John Buchanan, Jr. (R) L.
William L. Dickinson (R) S.
Ronnie G. Flippo (D) S&L.
Richard C. Shelby (D) S.

ALASKA

Sen. Mike Gravel (D) S.
Sen. Theodore F. Stevens (R) S&L.

ARIZONA

Sen. Barry Goldwater (R) S.
John J. Rhodes (R) S.
Eldon D. Rudd (R) S.
Morris K. Udall (D) S&L.

ARKANSAS

Sen. Dale Bumpers (D) S.
Sen. David H. Pryor (D) S.
Bill Alexander (D) S.
Beryl F. Anthony, Jr. (D) S.
Edwin R. Bethune, Jr. (R) S.
John P. Hammerschmidt (R) S&L.

CALIFORNIA

Sen. Alan Cranston (D) S.
Sen. S. I. Hayakawa (R) S.
Robert E. Badham (R) S&L.
Anthony C. Beilenson (D) S.
James C. Corman (D) S.
George E. Danielson (D) S.
William E. Dannemeyer (R) S&L.
Ronald V. Dellums (D) S.
Robert K. Dornan (R) S.
Don Edwards (D) S.
Vic H. Fazio (D) S.
Barry Goldwater, Jr. (R) S.
Harold T. Johnson (D) L.
Robert J. Lagomarsino (R) S.
Jerry Lewis (R) S.
Jim Lloyd (D) S.
Daniel E. Lungren (R) S.
Paul N. McCloskey, Jr. (R) L.
Robert T. Matsui (D) S.
George Miller (D) S.
Norman Y. Mineta (D) S&L.
Leon E. Panetta (D) S.
Charles Pashayan, Jr. (R) S.
Jerry M. Patterson (D) S.
John Rousselot (R) S&L.
Edward R. Roybal (D) S.
Normal D. Shumway (R) S&L.
William M. Thomas (R) S.
Lionel Van Deerlin (D) S.
Bob Wilson (R) S.

COLORADO

James P. Johnson (R) S.
Raymond P. Kogovsek (D) S.
Kenneth B. Kramer (R) S.
Patricia Schroeder (D) S.
Timothy E. Wirth (D) S.

CONNECTICUT

Sen. Abraham A. Ribicoff (D) S.
Sen. Lowell P. Weicker, Jr. (R) S.
William R. Cotter (D) S.
Robert N. Giaimo (D) S.
Stewart B. McKinney (R) S.
Toby Moffett (D) S.

DELAWARE

Sen. Joseph R. Biden, Jr. (D) S.
Sen. William V. Roth, Jr. (R) L.
Thomas B. Evans, Jr. (R) S&L.

FLORIDA

Sen. Lawton Chiles (D) S&L.
L. A. Bafalis (R) S.
Charles E. Bennett (D) S&L.
Dante B. Fascell (D) S.
Don Fuqua (D(S&L.
Sam M. Gibbons (D) S.
Earl D. Hutto (D) L.
Andrew P. Ireland (D) S.
Claude D. Pepper (D) S&L.
C. W. Bill Young (R) S.

GEORGIA

Sen. Sam Nunn (D) S.
Jack Brinkley (D) S&L.
Newton L. Gingrich (R) S.
Bo Ginn (D) S.
Edgar L. Jenkins (D) S.
Elliott H. Levitas (D) S.
Larry McDonald (D) S.
Dawson Mathis (D) S&L.
D. Douglas Barnard, Jr. (D) S&L.

HAWAII

Sen. Spark M. Matsunaga (D) S.

IDAHO

Sen. Frank Church (D) S.
Sen. James A. McClure (R) S.
George Hansen (R) S&L.

ILLINOIS

Sen. Charles H. Percy (R) S.
Frank Annunzio (D) L.
Daniel B. Crane (R) S.
Philip M. Crane (R) S.
Edward J. Derwinski (R) S&L.
John N. Erlenborn (R) S.
Robert McClory (R) S.
Edward R. Madigan (R) S.
Paul Simon (D) S.
Bennett Stewart (D) L.
Sidney R. Yates (D) S.

INDIANA

Sen. Birch Bayh (D) S.
Sen. Richard Lugar (R) S.
John Brademas (D) S&L.
H. Joel Deckard (R) S.
Lee H. Hamilton (D) S.
Elwood Hillis (R) S.
Andrew Jacobs, Jr. (D) S&L.
Philip R. Sharp (D) S.

IOWA

Sen. John C. Culver (D) S.
Berkley Bedell (D) S&L.
James A. S. Leach (R) S.
Neal Smith (D) L.

KANSAS

Sen. Bob Dole (R) S.
Daniel Glickman (D) S.
James E. Jeffries (R) S.
Keith G. Sebelius (R) S.
Robert R. Whittaker (R) S&L.
Larry Winn, Jr. (R) S&L.

KENTUCKY

Sen. Wendell H. Ford (D) L.
Sen. Walter Huddleston (D) S.
William H. Natcher (D) S.
M. G. Snyder (R) S.

LOUISIANA

Sen. J. Bennett Johnston, Jr. (D) S.
Thomas L. Huckaby (D) S&L.
Anthony C. Leach, Jr. (D) S.
Robert Livingston (R) S&L.
W. Henson Moore (R) S&L.
David C. Treen (R) S.

MAINE

Sen. William S. Cohen (R) S.
Sen. Edmund S. Muskie (D) S.

MARYLAND

Sen. Charles McC. Mathias, Jr. (R) S.
Sen. Paul S. Sarbanes (D) S.
Michael D. Barnes (D) S.
Marjorie S. Holt (R) S&L.
Clarence D. Long (D) S.
Gladys Noon Spellman (D) S&L.

MASSACHUSETTS

Sen. Paul E. Tsongas (D) S.
Brian J. Donnelly (D) S.
Edward J. Markey (D) S.
John Joseph Moakley (D) S.
Thomas P. O'Neill, Jr. (D) L.
James M. Shannon (D) S.

MICHIGAN

Sen. Donald W. Riegle, Jr. (D) S&L.
William S. Broomfield (R) S&L.
Robert W. Davis (R) S.
John D. Dingell (D) S&L.
Lucien N. Nedzi (D) L.
Carl D. Pursell (R) S&L.
Harold S. Sawyer (R) S.
Howard E. Wolpe (D) S.

MINNESOTA

Sen. David F. Durenberger (R) S&L.
Arlen I. Erdahl (R) L.
Bill Frenzel (R) S.
James L. Oberstar (D) S.
Bruce F. Vento (D) L.

MISSISSIPPI

Sen. Thad Cochran (R) S&L.
David R. Bowen (D) S.
Trent Lott (R) S.
G. V. Montgomery (D) S.

MISSOURI

Bill D. Burlison (D) S&L.
William L. Clay (D) S.
Richard A. Gephardt (D) S&L.
Ike Skelton (D) S&L.
Harold L. Volkmer (D) S&L.
Robert A. Young (D) S.

MONTANA

Sen. Max Baucus (D) S.
Pat John Williams (D) S.

NEBRASKA

Sen. J. James Exon (D) S&L.
Douglas K. Bereuter (R) S.
John J. Cavanaugh (D) S.

NEVADA

Sen. Howard Cannon (D) S.
Sen. Paul Laxalt (R) S.
Jim Santini (D) S.

NEW HAMPSHIRE

Sen. Gordon J. Humphrey (R) S.
Norman E. D'Amours (D) S&L.

NEW JERSEY

Sen. Bill Bradley (D) S.
James A. Courter (R) S.
James J. Florio (D) S.
Harold C. Hollenbeck (R) S.
James J. Howard (D) S.
William J. Hughes (D) S&L.
Andrew Maguire (D) S.

NEW MEXICO

Sen. Harrison J. Schmidt (R) S.
Manuel Lujan, Jr. (R) S&L.

NEW YORK

Sen. Daniel P. Moynihan (D) S.
William Carney (R) S.
Barber B. Conable, Jr. (R) S&L.
Thomas J. Downey (D) S.
Hamilton Fish, Jr. (R) L.
Benjamin A. Gilman (R) S.
Frank Horton (R) S&L.
Jack Kemp (R) S.
Gary A. Lee (R) S&L.
Robert C. McEwen (R) S.
Matthew F. McHugh (D) S.
Donald J. Mitchell (R) S.
Peter A. Peyser (D) S.
Frederick W. Richmond (D) S.
Gerald B. Solomon (R) L.
Samuel S. Stratton (D) S.
Theodore S. Weiss (D) S.
John W. Wydler (R) S.

NORTH CAROLINA

Sen. Jesse A. Helms (R) S.
Ike F. Andrews (D) L.
James T. Broyhill (R) S.
L. H. Fountain (D) S.
Lamar Gudger (D) S&L.
James G. Martin (R) S.
Stephen L. Neal (D) S.
Richardson Preyer (D) S&L.

NORTH DAKOTA

Mark Andrews (R) S.

OHIO

Sen. John Glenn (D) L.
John M. Ashbrook (R) L.
Clarence J. Brown (R) S&L.
Samuel L. Devine (R) S.
Tennyson Guyer (R) S&L.
Tony P. Hall (D) S.
Thomas N. Kindness (R) L.
Delbert L. Latta (R) S.
Clarence E. Miller (R) S.
Ronald M. Mottl (D) S.
Donald J. Pease (D) S.
J. William Stanton (R) S.
Louis Stokes (D) S&L.
Lyle Williams (R) S.
Chalmers P. Wylie (R) S&L.
William H. Harsha (R) S.

OKLAHOMA

Sen. David L. Boren (D) S.
Mickey Edwards (R) S.
James R. Jones (D) S.
Tom Steed (D) S&L.
Wesley W. Watkins (D) S.

OREGON

Sen. Mark O. Hatfield (R) S&L.
Sen. Bob Packwood (R) S.
Les AuCoin (D) S.
Robert Duncan (D) S&L.
Al Ullman (D) L.

PENNSYLVANIA

Sen. Richard S. Schweiker (R) S&L.
Eugene V. Atkinson (D) S.
William F. Clinger, Jr. (D) S.
Lawrence Coughlin (R) S.
Allen E. Ertel (D) S.
Daniel J. Flood (D) S.
William F. Goodling (R) S&L.
Raymond F. Lederer (D) S&L.
Joseph M. McDade (R) S.
Marc L. Marks (R) S.
Austin J. Murphy (D) S&L.
John P. Murtha (D) S&L.
Donald L. Ritter (R) S.
Richard T. Schulze (R) S&L.
E. G. Shuster (R) S.
Doug Walgren (D) S.
Robert S. Walker (R) S.
Gus Yatron (D) S.
Robert W. Edgar (D) S.

RHODE ISLAND

Sen. Claiborne Pell (D) S.
Sen. John H. Chafee (R) S&L.

SOUTH CAROLINA

Sen. Strom Thurmond (R) S&L.
Sen. Ernest F. Hollings (D) S.
Carroll Campbell, Jr. (R) S.
Mendel J. Davis (D) S.
Butler Derrick (D) S&L.
Kenneth L. Holland (D) S&L.
John W. Jenrette, Jr. (D) S.
Floyd Spence (R) S&L.

SOUTH DAKOTA

James Abdnor (R) S.
Thomas A. Daschle (D) S.

TENNESSEE

Robin L. Beard (R) S&L.
William H. Boner (D) S.
Marilyn Lloyd Bouquard (D) S.
John J. Duncan (R) S&L.
Harold E. Ford (D) S.
Ed Jones (D) S.

TEXAS

Sen. Lloyd M. Bentsen (D) S&L.
W. R. Archer (R) S.
James M. Collins (R) S.
E de la Garza (D) S&L.
Henry B. Gonzalez (D) S&L.
William P. Gramm (D) S.
Kent R. Hance (D) S.
Jack Hightower (D) S&L.
Abraham Kazen, Jr. (D) S.
J. Marvin Leath (D) S.
George T. Leland (D) S.
Thomas G. Loeffler (R) S.
James A. Mattox (D) S.
Ronald E. Paul (R) S.
J. J. Pickle (D) S.
Ray Roberts (D) S&L.
Charles W. Stenholm (D) S.
Charles Wilson (D) S.
James C. Wright, Jr. (D) S&L.
Joseph P. Wyatt, Jr. (D) S.

UTAH

Sen. Jake Garn (R) S&L.
Sen. Orrin G. Hatch (R) S&L.
K. Gunn McKay (D) S&L.
David D. Marriott (R) S&L.

VERMONT

Sen. Patrick J. Leahy (D) S&L.
Sen. Robert T. Stafford (R) S.
James M. Jeffords (R) S.

VIRGINIA

Sen. John Warner (R) S.
M. Caldwell Butler (R) S.
Joseph L. Fisher (D) S.
J. Kenneth Robinson (R) S&L.
David E. Satterfield III (D) S.
Paul S. Trible, Jr. (R) S.
William C. Wampler (R) S&L.

WASHINGTON

Sen. Henry M. Jackson (D) S.
Don Bonker (D) S.
Norman D. Dicks (D) S.
Thomas S. Foley (D) S.
Michael E. Lowry (D) S.
Al Swift (D) S.

WEST VIRGINIA

Sen. Jennings Randolph (D) S&L.
Sen. Robert C. Byrd (D) S.
Robert H. Mollohan (D) S.
Nick J. Rahall II (D) S.
John M. Slack, Jr. (D) S.
Harley O. Staggers (D) L.

WISCONSIN

Sen. William Proxmire (D) S.
Robert W. Kastenmeier (D) S.
Henry S. Reuss (D) S&L.

WYOMING

Sen. Alan K. Simpson (R) L.
Sen. Malcolm Wallop (R) S.
Richard B. Cheney (R) S.●

THE BIG PANAMA CANAL PAYAWAY

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 1979

● **Mr. HANSEN.** Mr. Speaker, the Senate had its turn at bat last year and by a narrow margin approved giving the Panama Canal away—based on high-level assurances that there was no cost to U.S. taxpayers.

Now it is our turn at bat as implementation legislation is before Congress. But, the situation is far different. An outrageous price tag is attached—a $4 billion transfer cost to U.S. taxpayers—an average of $200 million per year for 20 years. (See price tag No. 1.)

No. 1 price tag[1]: Panama Canal transfer costs $4 billion.

No. 2 price tag[1]: Panama Treaty contingency costs, $2 billion.

No. 3 price tag[2]: Panama Canal property to be transferred, $20 billion.

No. 4 price tag[1]: Panama Treaty costs after year 2000: $200 million per year.

Proponents said it would cost U.S. taxpayers nothing, but the giveaway price tag is now over $4 billion—and rising.

HIGH-LEVEL GUARANTEES AGAINST ANY PRICE TAG FOR U.S. TAXPAYERS

President Carter emphatically and for months *stated that the Panama Canal treaties would not cost the American taxpayer a single dollar*. Numerous Administration officials made similar statements before the Congressional Committees during Senate consideration of the treaties (Panama Canal Treaties U.S. Senate Debate 1977–1978, Subcommittee on Separation of Powers, Senate Judiciary Committee January 12, 1977–February 24, 1978).

President Carter on October 22, 1977, Denver, Colorado Briefing on the Panama Canal Treaties—"I would like to add one other thing. We are not taking any taxpayers' money to pay the Panamanians. There will be a sharing of income of the canal use fees."

Mr. Solomon, Undersecretary of State for Monetary Affairs (p. 300)—"My understanding is that these payments represent Panama's share of the benefits from operation of the Canal; they will be paid out of Canal revenues and not out of U.S. tax revenues."

Mr. Warren Christopher, Deputy Secretary of State, (p. 739)—"We insisted during the negotiations that payments to Panama for its contribution to the Canal enterprise be drawn from the Canal's earnings, but the treaties will not require any appropriations from the American taxpayer."

Senator Frank Church, Chairman of the Senate Foreign Relations Committee, (p.) 1477)—"All the studies relating to the costs of operating the Panama Canal and to the possibility of increasing Canal tolls indicate that revenues will meet expenditures, including the payments to be made to Panama under the new treaties."

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[1] Not disclosed or admitted in Senate debate.

[2] Covered partially in Senate debate.

Senator Paul Sarbanes, Floor Manager of the Panama Canal treaties (p. 1491)—"What the President said in his statement to the people was that under the new treaty, any payments to Panama will come from tolls paid by ships which use the Canal."

Mr. GOLDWATER. "That is wrong."

Mr. SARBANES. "I think that it is an accurate statement."

Mr. GOLDWATER. "It is not accurate."

Mr. SARBANES. "Any payment to Panama will come from the tolls paid by ships that use the Canal."

President Carter, national T.V., February 1, 1978. "Are we paying Panama to take the Canal? We are not. Under the new treaty, any payments to Panama will come from tolls paid by ships which use the Canal."

Mr. Cyrus Vance, Secretary of State (p. 1845)—"The treaties require no new appropriations, nor do they add to the burden of the American taxpayer."

President Carter, T.V. interview with Barbara Walters, December 28, 1977—"We wanted a treaty that did not put a financial burden on the American taxpayer, and we got it."

ITEMIZED PRICE TAG NO. 1—PANAMA CANAL TREATY TRANSFER COSTS (PRESIDENT'S PROPOSAL)

Interest payment to U.S. Treasury discontinued at $20 mil/year (GAO testimony—2-26-79), $400,000,000.

Deficit 20 year liability projected to U.S. taxpayers using 1978 treaty-adjusted tolls at $36.2 mil. (Canal Co. letter—1-16-79), $724,000,000. ($35.6 mil. loss projected based on 1977 tonnage.)

Expenses to U.S. taxpayers for transfer costs of Canal and Zone. (GAO testimony—2-26-79), $399,000,000.

Toll increase—A U.S. taxpayer expense if not taken as a consumer expense—guaranteed for 20 years by U.S. taxpayers. (Canal Co. letter—1-16-70 and GAO testimony—2-26-79), $744,000,000. (Based on 1978 Canal figures of $37.2 million.) (1977 equals $36.5 mil.)

Expense to U.S. taxpayer for replacing Navy equipment being given to Panama, $150,000,000. (House Committee Hearings—2-24-79.)

Canal Construction costs which will remain unpaid to U.S. Treasury, $319,000,000. (GAO testimony—2-26-79.)

Loss to U.S. Treasury of untransferred surplus cash now in Canal operating fund, $70,000,000. (GAO Testimony—2-26-79.)

Estimated $65 (and perhaps $70) million dollar costs to U.S. taxpayers for 20 years in annual military appropriations for services now provided by Panama Canal Co., $1,300,000,000. (House Committee Hearings—2-24-79.)

FAA transfer of U.S. tax-paid equipment to Panama effective 10-1-79, $5,000,000. (FAA News Release—January '79.)

Total cost to taxpayer for transfer, $4,111,000,000.

NOTE.—Many additional expenses could have been included; all figures use the most conservative estimates.—Does not include millions for inflation; guarantees of payments to Panama, or to the Commission for unforeseen deficits; added costs for eventual disruption of jungle warfare school; and many other items.

Total transfer costs to the U.S. taxpayer $4.1 billion.

ITEMIZED PRICE TAG NO. 2.—*Panama Treaty contingency costs*

$100 million dollars annual U.S. foreign aid to Panama including economic and military assistance and loans and guarantees. (1978 Congressional Action.)

Panama demands "right to tax American businesses doing business in the Canal Zone going back to 1903. There are 180 American businesses in the Zone and retroactive taxation . . . would put half of them out of business." (House Committee Hearings—2-24-79.)

Panama says "the U.S. must restore Coco Solo Naval Base" and France Field, "unused for more than 20 years, to" their "original state before" they are "turned over to Panama on October 1." (House Committee Hearings—2-24-79.)

Churches on property turned over to the government of Panama will probably have to be repurchased by members of the congregation. (House Committee Hearings—2-24-79.)

These are typical of additional prices to be paid for the privilege of giving away the Panama Canal.

ITEMIZED PRICE TAG NO. 3.—*Panama Canal property to be transferred*

A $20 billion dollar estimate of the replacement value of property to be transferred was not disputed by GAO (House Committee Hearings—2/26/79).

For land 50 miles by 10 miles.

For Canal with locks, dams, watershed, lakes and channels.

For huge intercontinental highway bridge.

For oil tank farms, marine terminals, drydocks, military installations, commercial and residential facilities.

For transcontinental railroad.

NOTE.—For comparison, U.S. Natural Gas pipeline across Canada now considered to cost $12 billion. The replacement of the Interocean Canal would be similarly huge.

ITEMIZED PRICE TAG NO. 4.—*Panama treaty costs after year 2000*

Military bases in Spain now cost some $700 million per year—how much will our continued Air, Land and Sea presence cost U.S. taxpayers to rent facilities no longer owned by us to fulfill Panama Treaty commitments?

Maybe the price would be a low $200 million, or $700 million like Spain or more with inflation sending costs skyrocketing.

And there are other costs at year 2000—realignment of military reprogramming of special functions such as jungle warfare training facility and etc.

ACT NOW TO SAVE THE TAXPAYER

Mr. Speaker, the Senate approved the Panama Treaties in 1978 with ringing assurances that there would be no cost to U.S. taxpayers. But hard realities have now replaced the "Alice in Wonderland" State Department fantasies as we see U.S. taxpayers facing a mountainous $4 billion price tag, just to pay the transfer costs for giving away the Panama Canal.

In fact, the House must now decide whether to approve implementing legislation calling for a minimum average annual cost to U.S. taxpayers of $200 million for transfer costs and $100 million in foreign aid over a 20-year period to turn over a $20 billion asset with strong assurance of a similar $300 million payment for each year beyond 2000.

Now is the time for Congress to take control of this situation to guarantee that there will be no treaty implementation obligating the United States to a massive transfer of property and huge long-term expenditure of taxpayers' money without an act of Congress.

I have introduced legislation H.R. 1958 called the Taxpayer Relief Amendments to Panama Treaty legislation which prevents any use of U.S. taxpayer money to implement the Panama Canal Treaties of 1977.

Millions of dollars have already slipped through the cracks to begin paying away the Panama Canal through the designs of bureaucrats acting in direct defiance of the Congress. The trickle will no doubt become a torrent if agencies can exploit a timid Congress. It is important to act now.

I do not know how any Member of Congress can go home to his congressional district and stand before his people and say, "I not only allowed the Panama Canal to slip into other hands, but I paid them to take it, and we will continue to pay them hundreds of millions of dollars each year."

I strongly urge all Members of Congress to join me in cosponsoring H.R. 1958 to protect the interests of the American taxpayers and also to protect the constitutional prerogatives of the House of Representatives.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, March 8, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 9

9:00 a.m.
Judiciary
Antitrust, Monopoly and Business Rights Subcommitteo
To markup S. 390, proposed Antitrust Procedural Improvements Act.
5110 Dirksen Building

9:30 a.m.
Judiciary
To hold hearings on S. 300, proposed Antitrust Enforcement Act.
1114 Dirksen Building

Veterans' Affairs
To consider recommendations which it will make to the Budget Committee in accordance with the Congressional Budget Act, to be followed by markup of S. 7, to revise and improve certain health care programs of the Veterans' Administration.
412 Russell Building

10:00 a.m.
Appropriations
Military Construction Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1960 for military construction programs.

1223 Dirksen Building

Budget

To resume hearings in preparation for reporting the first concurrent resolution on the fiscal year 1980 congressional budget.

6202 Dirksen Building

Energy and Natural Resources

Energy Research and Development Subcommittee

To hold hearings on proposed authorizations for fiscal year 1980 for the Solar Energy Technology Programs, and Biomass Programs with special emphasis on gasohol and alcohol fuels.

3110 Dirksen Building

Finance

Revenue Sharing, Intergovernmental Revenue Impact, and Economic Problems

To hold hearings on S. 200, proposed Intergovernmental Antirecession and Supplementary Fiscal Associate Amendments Act.

2221 Dirksen Building

Governmental Affairs

Federal Spending Practices and Open Government Subcommittee

To resume oversight hearings on the programs of the Office of Federal Procurement Policy.

3302 Dirksen Building

Joint Economic

To hold hearings on the employment-unemployment and price data situation for February.

1202 Dirksen Building

11:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1980 for the Council on Environmental Quality, and the National Commission on Air Quality.

1318 Dirksen Building

2:00 p.m.

Select on Intelligence

Budget Authorization Subcommittee

To resume closed hearings on proposed fiscal year 1980 authorization requests for intelligence operations of the Federal Government.

S-407, Capitol

MARCH 12

9:00 a.m.

Judiciary

Constitution Subcommittee

To hold hearings on S.J. Res. 5, 6, 18, and 38, proposed amendments to the Constitution, to require a balanced Federal budget.

6226 Dirksen Building

9:30 a.m.

Energy and Natural Resources

To hold hearings on possible initiatives to reduce U.S. dependence on imported oil.

318 Russell Building

Human Resources

To hold joint hearings with the Committee on Veterans' Affairs on the nomination of Dr. Dennis R. Wyant, of Maryland, to be Deputy Assistant Secretary of Labor for Veterans' Employment.

4232 Dirksen Building

Judiciary

Antitrust, Monopoly and Business Rights

To hold hearings on the practices and procedures used by the life insurance industry's industrial and monthly debit ordinary life insurance policies.

2228 Dirksen Building

Veterans' Affairs

To hold joint hearings with the Committee on Human Resources on the nomination of Dr. Dennis R. Wyant, of Maryland, to be Deputy Assistant Secretary of Labor for Veterans' Employment.

4232 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

International Finance Subcommittee

To resume hearings on proposed legislation to extend through fiscal year 1984 the Export Administration Act.

5302 Dirksen Building

Commerce, Science, and Transportation

Surface Transportation Subcommittee

To resume hearings on proposed fiscal year 1980 authorizations for the National Rail Passenger Corporation (AMTRAK), and on proposed route restructuring of AMTRAK.

235 Russell Building

Finance

Taxation and Debt Management Subcommittee

To hold hearings on the carryover basis provisions of the estate tax law.

2227 Dirksen Building

Finance

Revenue Sharing, Intergovernmental Revenue Impact, and Economic Problems Subcommittee

To resume hearings on S. 200, proposed Intergovernmental Antirecession and Supplementary Fiscal Assistance Amendments Act.

1224 Dirksen Building

10:30 a.m.

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1980 for the Department of HEW.

S-128, Capitol

2:00 p.m.

Appropriations

State, Justice, Commerce, the Judiciary Subcommittee

To hold hearings on proposed budget estimates for FY 1980, and on supplemental appropriations for FY 1979, both for the Department of Commerce.

S-146, Capitol

Banking, Housing, and Urban Affairs

International Finance Subcommittee

To continue hearings on proposed legislation to extend through fiscal year 1984 the Export Administration Act.

5302 Dirksen Building

Select on Intelligence

Budget Authorization Subcommittee

To resume closed hearings on proposed fiscal year 1980 authorization requests for intelligence operations of the Federal Government.

S-407 Capitol

MARCH 13

9:30 a.m.

Judiciary

To resume hearings on S. 241, to authorize funds through fiscal year 1983 for the Federal Law Enforcement Assistance Administration.

2228 Dirksen Building

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To continue hearings on proposed budget estimates for fiscal year 1980 for the Agency for International Development.

1114 Dirksen Building

Appropriations

Interior Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1980 for the National Endowment for the Arts.

1224 Dirksen Building

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1980 for the Department of HEW.

S-128, Capitol

Commerce, Science, and Transportation

To hold a business meeting on pending calendar business.

235 Russell Building

Energy and Natural Resources

To resume review of those items in the President's budget for fiscal year 1980 which fall within its legislative jurisdiction and consider recommendations which it will make thereon to the Budget Committee.

3110 Dirksen Building

Finance

Health Subcommittee

To hold hearings on proposed legislation to control increases in hospital revenues (Hospital Cost Containment).

2221 Dirksen Building

Governmental Affairs

Energy, Nuclear Proliferation and Federal Services Subcommittee

To hold hearings on nuclear waste management.

6226 Dirksen Building

Governmental Affairs

Federal Spending Practices and Open Government Subcommittee

To hold hearings on S. 5, proposed Federal Aquisition Reform Act.

3302 Dirksen Building

2:00 p.m.

Appropriations

State, Justice, Commerce, the Judiciary Subcommittee

To continue hearings on proposed budget estimates for FY 1980 for the Department of Commerce.

S-146, Capitol

2:30 p.m.

Appropriations

Labor-HEW Subcommittee

To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of HEW.

S-128, Capitol

MARCH 14

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on S. 354, proposed supplemental authorizations for FY 79 for NASA, and S. 357, proposed authorizations for FY 80 for NASA.

235 Russell Building

Judiciary

To hold hearings on proposed legislation to reform the refugee admission provisions of the Immigration and Nationality Act.

2228 Dirksen Building

Judiciary

Antitrust, Monopoly and Business Rights Subcommittee

To resume hearings on S. 300, proposed Antitrust Enforcement Act.

4200 Dirksen Building

10:00 a.m.

Appropriations

Interior Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1980 for the U.S. Forest Service, Department of Agriculture.

1224 Dirksen Building

Appropriations

Labor-HEW Subcommittee

To estimate hearings on proposed budget estimates for fiscal year 1980 for the Department of HEW.

S-128, Capitol

Appropriations

Military Construction Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1980 for military construction programs.

1318 Dirksen Building

Banking, Housing, and Urban Affairs
To consider those items in the President's budget for fiscal year 1980 which fall within its legislative jurisdiction and consider recommendations which it will make thereon to the Budget Committee.
5302 Dirksen Building

Budget
To resume hearings in preparation for reporting the first concurrent resolution on the fiscal year 1980 congressional budget.
6202 Dirksen Building

Finance
Health Subcommittee
To resume hearings on proposed legislation to control increases in hospital revenues (Hospital Cost Containment).
2221 Dirksen Building

Governmental Affairs
Energy, Nuclear Proliferation and Federal Services Subcommittee
To continue hearings on nuclear waste management.
5110 Dirksen Building

2:00 p.m.

Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of HEW.
S-128, Capitol

Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To continue hearings on proposed budget estimates for FY 1980, and on supplemental appropriations for FY 1979, both for the Department of Commerce.
S-146, Capitol

Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1980 congressional budget.
6202 Dirksen Building

Select on Intelligence
Budget Authorization Subcommittee
To resume closed hearings on proposed fiscal year 1980 authorization requests for intelligence operations of the Federal Government.
S-407, Capitol

MARCH 15

9:30 a.m.

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold closed hearings on S. 354, proposed supplemental authorizations for FY 1979 for NASA, and S. 357, proposed authorizations for FY 1980 for NASA.
235 Russell Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To resume hearings to explore the areas of basic learing skills used in elementary and secondary schools.
6226 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To hold hearings on roles of women in health and science.
4232 Dirksen Building

10:00 a.m.

Appropriations
Foreign Operations Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for International programs, Department of State.
1114 Dirksen Building

Appropriations
HUD-Independent Agencies Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Veterans' Administration.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Indian Health Service.
1224 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for FY 1980 for the Department of HEW.
S-128, Capitol

Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
S-146, Capitol

Budget
To continue hearings in preparation for reporting the first concurrent resolution on the FY 1980 congressional budget.
6202 Dirksen Building

Finance
To resume consideration of those issues relating to the implementation of the Multilateral Trade Negotiations.
2221 Dirksen Building

2:00 p.m.

Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for FY 1980 for the Department of HEW.
S-128, Capitol

Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To continue hearings on proposed budget estimates for FY 1980 for the Department of Commerce.
S-146, Capitol

Select on Ethics
To hold an open, followed by a closed, business meeting.
Room to be announced

MARCH 16

9:30 a.m.

Human Resources
Health and Scientific Research Subcommittee
To hold hearings on S. 230, proposed Nurse Training Amendments Act.
4232 Dirksen Building

Judiciary
Antitrust, Monopoly and Business Rights
To resume hearings on the practices and procedures used by the life insurance industry's industrial and monthly debit ordinary life insurance policies.
2228 Dirksen Building

10:00 a.m.

Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Veterans' Administration, the American Battle Monuments Commission, and the U.S. Army cemeterial expenses.
1318 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for FY 1980 for the Office of Human Development Services, Department of HEW.
S-128, Capitol

Budget
To continue hearings in preparation for reporting the first concurrent resolution on the FY 1980 congressional budget.
6202 Dirksen Building

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on the Northeast corridor improvement project.
235 Russell Building

2:00 p.m.

Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1980 congressional budget.
6202 Dirksen Building

MARCH 19

9:30 a.m.

Judiciary
To resume hearings on S. 300, proposed Antitrust Enforcement Act.
1114 Dirksen Building

10:00 a.m.

Energy and Natural Resources
Energy Regulation Subcommittee
To resume hearings on the Department of Energy's proposals for emergency energy conservation and gasoline rationing.
3110 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To hold hearings on proposed legislation authorizing funds for programs of the Safe Drinking Water Act (P.L. 95-190), the Toxic Substances Control Act (P.L. 94-469), and the Ocean Dumping Act (P.L. 95-153).
4200 Dirksen Building

Finance
Taxation and Debt Management Subcommittee
To resume hearings on the carryover basis provisions of the estate tax law.
2227 Dirksen Building

2:00 p.m.

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for FY 1980 for the Department of HEW.
S-128, Capitol

Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on proposed budget estimates for FY 1980 for the Equal Employment Opportunity Commission, U.S. Metric Board, and the Legal Services Corporation.
S-146, Capitol

Select on Intelligence
Budget Authorization Subcommittee
To resume closed hearings on proposed FY 1980 authorization requests for intelligence operations of the Federal Government.
S-407, Capitol

MARCH 20

9:30 a.m.

Human Resources
Child and Human Development Subcommittee
To resume hearings on S. 4, proposed Child Care Act.
4232 Dirksen Building

10:00 a.m.

Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1980 for International Financial Institutions, Department of the Treasury.
1114 Dirksen Building

Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Office of Territorial Affairs.
1224 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for FY 1980 for the Social Security Administration, Department of HEW.
S-128, Capitol

Energy and Natural Resources
Energy Regulations Subcommittee
To continue hearings on the Department of Energy's proposals for emergency energy conservation and gasoline rationing.
3110 Dirksen Building

Finance
Taxation and Debt Management Subcommittee
To continue hearings on the carryover basis provisions of the estate tax law.
2227 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for FY 1980 for the Department of HEW.
S-128, Capitol

Appropriations
State, Justice, Commerce the Judiciary Subcommittee
To hold hearings on proposed budget estimates for FY 1980 for the Federal Communications Commission and the Small Business Administration.
S-146, Capitol

MARCH 21

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee.
To resume oversight hearing on the implementation of P.L. 94-282, establishing the Office of Science and Technology Policy.
235 Russell Building

10:00 a.m.
Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Office of Territorial Affairs.
1224 Dirksen Building

Appropriations
Military Construction Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for military construction programs.
1114 Dirksen Building

Finance
Tourism and Sugar Subcommittee
To hold hearings on S. 463, to implement the International Sugar Agreement and to insure stable domestic sugar prices.
2221 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on proposed budget estimates for FY 1980 for the Commission on Security and Cooperation in Europe, Federal Maritime Commission, Marine Mammal Commission, and on supplemental appropriations for FY 79 for the Board of International Broadcasting.
S-146, Capitol

Select on Intelligence
Budget Authorization Subcommittee
To resume closed hearings on proposed fiscal year 1980 authorization requests for intelligence operations of the Federal Government.
S-407, Capitol

MARCH 22

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To hold hearings on proposed legislation authorizing funds for programs of the Resource Conservation Recovery Act of 1976 (P.L. 94-580).
4200 Dirksen Building

Veterans' Affairs
To resume hearings on S. 330, to provide for a judicial review of the administrative actions of the VA, and for veterans' attorneys fees before the VA or the courts.
6226 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Environmental Protection Agency.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the U.S. Geological Survey.
1224 Dirksen Building

Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
S-126, Capitol

Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 14, proposed Reclamation Reform Act.
3110 Dirksen Building

Finance
Health Subcommittee
To markup proposed legislation to control increases in hospital revenues (Hospital Cost Containment).
2221 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on proposed budget estimates for FY 1980 for the Commission on Civil Rights and the Federal Trade Commission.
S-146, Capitol

Appropriations
Military Construction Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for military construction programs.
1223 Dirksen Building

Energy and Natural Resources
Energy Research and Development Subcommittee
To continue hearings on S. 14, the Reclamation Reform Act.
3110 Dirksen Building

Select on Intelligence
Budget Authorization Subcommittee
To continue closed hearings on proposed fiscal year 1980 authorization requests for intelligence operations of the Federal Government.
S-407, Capitol

MARCH 23

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on a proposed joint government/industry program of advanced automotive technology development.
235 Russell Building

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To continue hearings on proposed legislation authorizing funds for programs of the Resource Conservation Recovery Act of 1976 (P.L. 94-580).
4200 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Environmental Protection Agency, and the Consumer Information Center.
1318 Dirksen Building

Finance
Health Subcommittee
To continue markup on proposed legislation to control increases in hospital revenues (Hospital Cost Containment).
2221 Dirksen Building

MARCH 26

9:30 a.m.
Energy and Natural Resources
Energy Regulation Subcommittee
To hold oversight hearings on the competitive situation in the retail gasoline market.
3110 Dirksen Building

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for FY 1980 for the Department of Labor, and related agencies.
S-128, Capitol

Banking, Housing, and Urban Affairs
To resume hearings on S. 85, to strengthen the ability of the Federal Reserve Board to conduct monetary policy, promote greater competitive equality, enhance the safety and soundness of the banking system, and improve the efficiency of the Federal Reserve payments system.
5302 Dirksen Building

Energy and Natural Resources
Energy Resources and Materials Production Subcommittee
To hold hearings to examine strategic petroleum reserve regional storage.
3302 Dirksen Building

Finance
Tourism and Sugar Subcommittee
To resume hearings on S. 463, to implement the International Sugar Agreement and to insure stable domestic sugar prices.
2221 Dirksen Building

MARCH 27

9:30 a.m.
Human Resources
To hold hearings on S. 420, to strengthen State workers' compensation programs.
4232 Dirksen Building

Human Resources
Child and Human Development
To markup S. 239, authorizing funds for programs administered by Domestic Volunteer Service Act (ACTION).
6226 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Bureau of Indian Affairs.
1224 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for FY 1980 for the Department of HEW.
S-128, Capitol

Appropriations
Military Construction Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for military construction programs.
S-126, Capitol

Banking, Housing, and Urban Affairs
To continue hearings on S. 85, to strengthen the ability of the Federal Reserve Board to conduct monetary policy, promote greater competitive equality, enhance the safety and soundness of the banking system, and improve the efficiency of the Federal Reserve payments system.
5302 Dirksen Building

Finance
To hold hearings on S. 350 and S. 351, to encourage and facilitate the availability, through private insurance carriers, of basic health insurance at reasonable premium charges.
9221 Dirksen Building

2:00 p.m.

Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for FY 1980 for the Department of HEW.
S-128, Capitol

Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To receive testimony from Members of Congress on proposed budget estimates for FY 1980 for the Departments of State, Justice, Commerce, and the Judiciary.
S-146, Capitol

MARCH 28

9:00 a.m.

Human Resources
Health and Scientific Research Subcommittee
To hold hearings on proposed legislation on biomedical research programs.
Room to be announced

9:30 a.m.

Commerce, Science, and Transportation
To hold oversight hearings on the trucking industry economic regulation by the Federal Government.
235 Russell Building

Human Resources
To continue hearings on S. 420, to strengthen State workers' compensation programs.
4232 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To resume hearings to explore the areas of basic learning skills used in elementary and secondary schools.
457 Russell Building

Judiciary
Constitution Subcommittee
To resume hearings on S. 10, authorizing the Department of Justice to initiate suit to enforce constitutional rights to institutionalized persons.
1114 Dirksen Building

10:00 a.m.

Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for FY 1980 for the Department of HEW.
S-128, Capitol

Banking, Housing, and Urban Affairs
To continue hearings on S. 85, to strengthen the ability of the Federal Reserve Board to conduct monetary policy, promote greater competitive equality, enhance the safety and soundness of the banking system, and improve the efficiency of the Federal Reserve payments system.
5302 Dirksen Building

Finance
To continue hearings on S. 350 and S. 351, to encourage and facilitate the availability, through private insurance carriers, of basic health insurance at reasonable premium charges.
2221 Dirksen Building

2:00 p.m.

Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for FY 1980 for the Department of HEW.
S-128, Capitol

MARCH 29

9:30 a.m.

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on proposed legislation to establish an Earth Data and Information Service which would supply data on the Earth's resources and environment.
235 Russell Building

Human Resources
Health and Scientific Research Subcommittee
To continue oversight hearings on health programs administered by the National Institutes of Health.
4232 Dirksen Building

Judiciary
Constitution Subcommittee
To continue hearings on S. 10, authorizing the Department of Justice to initiate suit to enforce constitutional rights to institutionalized persons.
1202 Dirksen Building

Veterans' Affairs
To hold hearings to receive legislative recommendations for FY 1980 from AMVETS, Paralyzed Veterans of America, Veterans of World War I, blinded veterans, and Purple Heart.
6226 Dirksen Building

10:00 a.m.

Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1980 for ACTION—International Program.
1114 Dirksen Building

Appropriations
HUD-Independent Agencies Subcommittee
To resume hearings on proposed budgets estimates for FY 1980 for the National Aeronautics and Space Administration.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the National Endowment for the Humanities.
1224 Dirksen Building

Energy and Natural Resources
Energy Resources and Materials Production Subcommittee
To hold hearings on S. 493, proposed Deep Seabed Mineral Resources Act.
3110 Dirksen Building

10:30 a.m.

Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for FY 1980 for the Departments of Labor and HEW.
S-128, Capitol

2:00 p.m.

Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
S-146, Capitol

MARCH 30

9:30 a.m.

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings on proposed legislation to establish an Earth Data and Information Service which would supply data on the Earth's resources and environment.
235 Russell Building

10:00 a.m.

Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the National Aeronautics and Space Administration.
1318 Dirksen Building

APRIL 2

9:30 a.m.

Human Resources
To resume hearings on S. 420, to strengthen State workers' compensation programs.
4232 Dirksen Building

APRIL 3

9:30 a.m.

Human Resources
To continue hearings on S. 420, to strengthen State workers' compensation programs.
4232 Dirksen Building

10:00 a.m.

Appropriations
Foreign Operations Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for programs administered by the Department of State.
1114 Dirksen Building

Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Office of the Secretary and the Office of the Solicitor.
1224 Dirksen Building

APRIL 4

10:00 a.m.

Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the National Science Foundation.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Heritage Conservation and Recreation Service.
1224 Dirksen Building

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings on the implications of the proposed multilateral trade agreements for U.S. exports.
5302 Dirksen Building

APRIL 5

9:00 a.m.

Veterans' Affairs
To hold hearings on proposed legislation extending certain veterans' health benefits programs through FY 1980.
5110 Dirksen Building

10:00 a.m.

Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1980 for foreign assistance programs.
1114 Dirksen Building

Appropriations
HUD-Independent Agencies Subcommittee policy.
To resume hearings on proposed budget estimates for fiscal year 1980 for the National Science Foundation, and the Office of Science and Technology policy.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To continue hearings on proposed budget estimates for FY 1980 for the Heritage Conservation and Recreation Service.
1224 Dirksen Building

Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
318 Russell Building

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To resume hearings on the implications of the proposed multilateral trade agreements for U.S. exports.
5302 Dirksen Building

2:00 p.m.

Appropriations
Transportation Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
318 Russell Building

APRIL 6

10:00 a.m.
Appropriations
Transportation Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
12224 Dirksen Building

11:00 a.m.
Appropriations
Transportation Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

2:00 p.m.
Appropriations
Transportation Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

APRIL 10

9:30 a.m.
Veterans' Affairs
To hold oversight hearings on the role of the Federal Government in providing educational employment.
6226 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Fish and Wildlife Service.
1223 Dirksen Building

Finance
To markup S. 350 and S. 351, to encourage and facilitate the availability, through private insurance carriers, of basic health insurance at reasonable premium charges.
2221 Dirksen Building

APRIL 11

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Federal Emergency Management Administration.
1318 Dirksen Building

Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To hold hearings on S. Res. 59, proposed Small Savers Equity Resolution.
5302 Dirksen Building

Energy and Natural Resources
Parks, Recreation, and Renewable Resources Subcommittee
To hold oversight hearings on the National Park Service Concession Policy.
3110 Dirksen Building

Finance
To continue markup on S. 350 and S. 351, to encourage and facilitate the availability, through private insurance carriers, of basic health insurance at reasonable premium charges.
2221 Dirksen Building

APRIL 12

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of the Treasury.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Bureau of Mines.
1223 Dirksen Building

Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue hearings on S. Res. 59, proposed Small Savers Equity Resolution.
5302 Dirksen Building

2:00 p.m.
Appropriations
Transportation Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Transporttaion.
1224 Dirksen Building

APRIL 24

10:00 a.m.
Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Bureau of Land Management.
1223 Dirksen Building

APRIL 25

9:30 a.m.
Human Resources
To hold oversight hearings on the conditions, trends, and new approaches to linking education, health, and work in the coming decade.
4232 Dirksen Building

Veterans Affairs
To mark up S. 330, to provide for a judicial review of the administrative actions of the VA, and for veterans' attorneys fees before the VA or the courts, and on proposed legislation extending certain veterans' health benefits programs through FY 1980.
412 Russell Building

10:00 a.m.
Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Department of the Interior, to hear congressional witnesses.
1223 Dirksen Building

APRIL 26

9:30 a.m.
Human Resources
To continue oversight hearings on the conditions, trends, and new approaches to linking education, health, and work in the coming decade.
4232 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Housing and Urban Development.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To continue hearings on proposed budget estimates for FY 1980 for the Office of Surface Mining Reclamation and Enforcement, Office of Water Research and Technology.
1223 Dirksen Building

Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

2:00 p.m.
Appropriations
Transportation Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

APRIL 27

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Housing and Urban Development, and the Neighborhood Reinvestment Corporation.
1318 Dirksen Building

Appropriations
Transportation Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

MAY 1

9:30 a.m.
Human Resources
Child and Human Development Subcommittee
To hold oversight hearings on the implementation of the Older American Volunteer Program Act (P.L. 93-113).
4232 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the National Park Service.
1223 Dirksen Building

MAY 2

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for HUD and independent agencies.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Smithsonian Institution.
1223 Dirksen Building

MAY 3

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for HUD and independent agencies.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Energy.
1223 Dirksen Building

Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

MAY 7

10:00 a.m.
Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

2:00 p.m.
Appropriations
Transportation Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

MAY 8

10:00 a.m.
Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Energy.
1223 Dirksen Building

MAY 9

10:00 a.m.
Appropriations
Interior Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Energy.
1223 Dirksen Building

MAY 10

10:00 a.m.
Appropriations
Interior Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Energy.
1223 Dirksen Building

Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

MAY 17

10:00 a.m.
Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

2:00 p.m.
Appropriations
Transportation Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

SENATE—*Thursday, March 8, 1979*

(Legislative day of Thursday, February 22, 1979)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Draw nigh to God and He will draw nigh to you.—James 4: 8.

Most holy Father, we turn from the tumult of the world without, from the pressure of daily duties, from the contentions of debate, from the confusion of many voices to hear again Thy "still small voice." Shed Thy light and Thy truth upon us. Teach us the Lenten lesson that Friday and Calvary precede Easter morning and the open tomb. Give us the grace and the power to triumph in temptation and to turn suffering into a testimony and rise to new life with Thee. Bless all who labor in this place. Bless the Nation we serve and make it a blessing to the whole world.

And to Thee shall be the praise. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 8, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. BURDICK thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 o'clock tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS FROM FRIDAY TO MONDAY, MARCH 12, 1979, AT 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate convenes on Monday, it convene, following a recess, at the hour of 11 a.m. This can be changed, of course.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I withhold the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

POLL ON CRIME AND FIREARMS

Mr. STEVENS. Mr. President, this morning we will be announcing the results of the national poll which has been taken to measure attitudes on crime and firearms. This poll shows that the majority of the American public view "swift, sure, and strict punishment as the most effective way to fight crime," and see gun control laws as inherently ineffective in deterring criminal use of firearms.

This poll was conducted by Decision-making Information of Santa Ana, Calif., and commissioned by the NRA Institute for Legislative Action. The DMI research was based on a scientifically selected sample of registered voters in 1,500 in-home interviews taken during May and June of 1978 and in 1,010 telephone interviews in December. I think it is one of the most comprehensive studies yet compiled on the American attitude on crime, firearms ownership, and firearms control.

In researching the public's attitudes and perceptions of the causes and solutions for crime, DMI has shattered some major misconceptions on firearms control and has revealed new insights which should prove invaluable to Congress and especially to State legislatures in dealing with crime.

The DMI research shows that among the American electorate:

Eighty-eight percent of registered voters believe that they have an individual right to keep and bear arms.

Gun ownership was acknowledged in 47 percent of voters' households, projected to 45 million gun owners with 23 percent of the total sample having one or more handguns in the home. In 14 percent of all voters' households, or 13 million households, a gun had been used in defense of self, family, or property. With many voters having a direct experience with firearms for self-defense, DMI finds that 83 percent feel "most people who have guns in their home feel safer because of it."

Crime is perceived as an increasing threat in the coming decade with the most feared crimes being crimes of violence committed by criminals, especially murder in the course of another crime and robbery/mugging. So-called crimes of passion—murder by a relative or friend—are of little concern, ranking with white collar crimes of fraud, embezzlement/forgery.

Ninety-three percent favor strict mandatory penalties for criminal use of firearms in commission of crime. According to DMI:

> The electorate clearly sees steps to increase or hasten the punishment suffered by criminals, especially violent criminals, as the best way to fight crime.

In an open-ended question on the best means to fight crime, only 1 percent suggested gun controls. DMI says that since its 1975 survey:

> Gun control has dropped almost completely out of the public mind, it does not spontaneously occur to voters as an anti-crime measure.

● **This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.**

In estimating the effectiveness of 17 anticrime measures, DMI finds by far the most highly rated are those involving increased punishment for convicted criminals. Of the gun proposals on that list, according to DMI:

> The more severe the restrictions placed on gun ownership, the less effective such measures are judged to be.

Fifty-four percent see no need for more laws governing the possession and use of firearms.

Fifty-seven percent feel that more gun control laws would fail to reduce crime.

The American electorate opposes many specific laws proposed by "gun control" advocates; according to DMI:

Eighty-three percent oppose a ban on handguns. Seventy-two percent believe that domestic shootings do not justify a handgun ban. Over 80 percent reject the arguments that banning handguns would prevent assassination attempts on public officials.

Eighty-eight percent agree that "registration of handguns will not prevent criminals from acquiring or using them for illegal purposes," and 61 percent oppose the Federal Government spending massive sums for a registration system. Furthermore, DMI finds that:

> Seventy-one percent would be concerned about the loss of privacy entailed in computerized files virtually inherent in a nationwide registration system.

Fifty-one percent feel that national gun registration might well lead to confiscation.

The general consensus of the DMI survey finds that while most Americans see crime as worsening, they do not view gun restrictions as effective measures for Government to institute in fighting crime. Above all else, the DMI findings conclude that:

> Clearly, a majority of the American people want government to focus on tougher treatment of criminals before trying new social engineering as the treatment of crime.

Mr. President, I reserve the remainder of our time.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Missouri (Mr. EAGLETON) is recognized for not to exceed 15 minutes.

A PRESIDENTIAL SCORECARD

Mr. EAGLETON. Mr. President, Winston Churchill made an astute comparison between the fortunes of politics and the misfortunes of war. He said:

> Politics are almost as exciting as war, and quite as dangerous. In war you can only be killed once, but in politics many times.

President Carter has been to war in the polls lately, and everyone from the public to the pundits is keeping a running balance sheet on his performance. A poll done by CBS and the New York Times at the end of February shows that only 30 percent of the American public approve of President Carter's foreign policy. Yet, 63 percent would not approve of the use of American troops under any circumstances excepting an attack on the United States.

There is an irony in these statistics. Everyone wants muscle, but no one wants might. The message seems to be "talk loudly, but throw away the stick." Although people disapprove of the overall foreign policy, the truth is that the American people have had their fill of foreign intervention. The last time we tried that it failed miserably, and we have spent the 5 years since binding our wounds at home.

Within the past year, nearly every continent on Earth has experienced some kind of turmoil. We were blindsided in Iran as that country evolved from 25 years of absolute monarchy under the Shah to an Islamic republic under the ayatollah. No sooner did that upheaval begin to register than Southeast Asia erupted. First Cambodia, then Vietnam. Then from Indochina to Afghanistan. Finally, as if to aggravate the already open wounds, President Carter traveled to Mexico at the invitation of President Lopez Portillo only to be met with strong — occasionally insulting — language.

It may be a lean time for foreign policy, Mr. President, but it is fat city for the pundits. Their business is thriving. Our foreign policy problems have engendered rare harmony between such disparate commentators as William Buckley and Joseph Kraft. Mr. Buckley believes that President Carter's "difficulties are organic." Mr. Kraft suggests that President Carter "has lost control of events in ways that permit, even promote, highly dangerous confrontations."

What has created the perception that the President is too soft in his foreign policy? How much is illusion? How much is reality? I am sure that Mr. Buckley and Mr. Kraft arrived at their conclusions via entirely different analytical routes. After reviewing the gamut of press accounts, I have decided to draw my own chart of President Carter's performance. My list contains eight items which I would like to mention briefly.

IRAN

First is Iran, where the administration earned failing marks.

Our perception of Iran for the past 25 years has been one-dimensional. We put the Shah on the throne in 1953 and, since that time, enjoyed an exclusive relationship with him. We almost totally disregarded the growing dissent in almost every segment of Iranian society. We took the Shah at his word when—as late as last fall—he assured us that he was firmly in control and there was no need for concern.

President Carter cannot be wholly faulted for the turn of events in Iran. Substantial discredit also must be given to President Nixon and his Secretary of State, Henry Kissinger. The Nixon administration was so eager to nurture our cozy relationship with the Shah that they encouraged his visions of empire by assuring him virtually any advanced U.S. weapon system he fancied. Hindsight bears out the shortsightedness of that policy. Now our Government must live with the uncertain future of the sophisticated weapons the Shah purchased from us. Henry Kissinger and George Ball recently exchanged sharp views on Iran in consecutive issues of the Economist. In response to Kissinger's theory that Iran's fall can be attributed to the combination of the Shah's modernization program and Jimmy Carter's human rights campaign, George Ball responded:

> Prior to [Nixon and Kissinger's] 1972 act of folly, our government had prudently kept a tight rein on the Shah's obsession with elegant weapons. During the 22 years from 1950 through 1971 we had limited our aggregate military sales to Iran to only $1.2 billion, but during the brief span of seven years after Nixon's reckless decision, our aggregate military sales vaulted to almost 16 times that amount—or $19.5 billion.
>
> With such spectacular instruments of power under his control, how could the Shah avoid delusions of grandeur? No wonder he stopped predicting that he would lead Iran to a European standard of living . . . Now he boasted that he would make his country the fifth most powerful in the world, even overtaking West Germany—and that Allah was supporting him in that objective.

Robert Graham, a former Financial Times correspondent in Tehran, has written a comprehensive study of the situation in Iran, with particular emphasis on the impact of the enormous increase in oil revenues on Iran between 1973 and 1977. Graham points out the tragic misuse of these oil dollars as they were funneled into building up the Shah's arsenal at the expense of pressing social needs. He also faults the West for its naivete in turning a blind eye to the Shah's use of repression and military might as tools of his modernization program.

The Carter administration erred in allowing the Nixon-Kissinger carte blanche policy to continue unchecked. Whatever the Shah asked for, he got. In November 1977, during a visit to the United States, the Shah handed in a $9 billion wish list. A portion of that list was actually ordered—2 destroyers, 55 F-16's, and more than 600 missiles. Now we are left holding the bag, and the Pentagon wants Congress to bail out our defense contractors and pick up the tab.

In response to the question, "Who lost Iran?", the point has been made aptly that Iran was never ours to lose. The bottom line is that we had no control over the events which toppled the Shah. The movement which brought the ayatollah to power is part of a larger Islamic movement which is currently experiencing a resurgence through the Moslem world. It is most noticeable in Iran, but ripples are being felt elsewhere in the Near East. We could not control this movement any more than we could control any other religious movement. Our failure in Iran was one of omission, not of commission. By putting all of our money on the Shah, we put ourselves out of touch with other elements in Iranian politics, and, therefore had no warning of what was to come.

The Carter administration—following the pattern of the two previous administrations—was sadly shortsighted in believing that the Shah could absorb the sophisticated weaponry we were selling him. And both the United States and the Shah were grievously mistaken to think that, in the end, those weapons could prevent the inevitable.

On the positive side, President Carter deserves praise for the skillful way in which he handled the evacuation of some 35,000 Americans from Iran, as well as for his use of quiet diplomacy to secure the release of Sgt. Larry Kraus, the marine guard who was held in prison in Tehran by Khomeini forces. The decision to pursue the release of Sergeant Kraus through diplomatic channels rather than by use of force paid dividends after 3 or 4 days of negotiations. The risk of another *Mayaguez* situation—in which 41 American lives were lost to save 39 lives—was too great, and I give the President and his advisers high marks for avoiding such a situation.

AFGHANISTAN

The tragic murder of Ambassador Adolph Dubs in Afghanistan is one event—sadly—over which we had no advance control. This does not make it any less a tragedy, but we must realize the near impossibility of protecting celebrities from terrorists. Over the past 9 years, the United States has lost five ambassadors in service. The assassination of Aldo Moro last year is another example of the sheer unpredictability of such events.

President Carter's actions in the aftermath of this tragedy were as strong as could be expected under the circumstances. The administration conveyed to the Soviet Union in strong terms its unequivocal condemnation of Soviet participation in the assassination. The administration has also recommended a $12 million cut (from $15 to $3 million) in this year's proposed aid to Afghanistan. Both actions, in my opinion, indicate a position of strength, not of weakness.

MEXICO

As far as the President's trip to Mexico is concerned, little needs to be said. The President travelled to Mexico as the invited guest of President Lopez Portillo. He did not travel that distance to be lectured by the President of Mexico. While I admire President Carter for his grace under pressure, I feel that the occasion warranted a somewhat more pointed response than that given.

SOUTHEAST ASIA

There is simply no way the United States—anymore than the Soviet Union—could have done anything to prevent the Chinese invasion of Vietnam. That conflict long predates even the existence of the United States. Under the circumstances, the administration's protests and admonitions to the People's Republic to end the fighting and withdraw seem to me to be the only option we had, not to mention the wisest. It appears that the moderation exercised by the administration has paid off and, if we can believe current reports—including those of this morning—it looks as though the Chinese are in the process of withdrawal.

CHINA

Normalization with the People's Republic of China is a big plus on the Carter scoreboard. The only problem—and this too predates the Carter administration—is that it is about 30 years too late. Since 1949, we have indulged ourselves in the diplomatic fiction that the People's Republic did not exist. Normalization is a step that should have been taken long ago.

MIDDLE EAST

Of course, it is too early to make predictions on the outcome of President Carter's trip to the Middle East. I, for one, continue to believe that Camp David will bear fruit. And it should be noted, Mr. President, that no President of the United States has devoted more of his personal time, interest, and attention or has risked more of his political future than has Mr. Carter in his attempt to bring peace and stability to the troubled Middle East.

SAUDI ARABIA

There is a tendency to read monumental importance into every international action and reaction. The Saudis' decision to cancel Prince Fahd's scheduled visit to the United States is not the grave issue some reports painted it to be. Fahd has ample reason to stay home with a border conflict raging between South Yemen and Yemen. There will be an appropriate time for a Saudi visit, whether now or later.

One problem with sagging polls is that they occasionally cause the subject of the poll to look for ways to demonstrate strength. The recent F–15 fly-in to Saudi Arabia was just such a project, and, from what I understand, it was considerably less successful than anticipated. For all our expense, there is little indication that the Saudis either wanted or appreciated the gesture.

SALT II

The long and painstaking negotiations on the second round of SALT are a credit to this and previous administrations. Current polls reflect the highest public support yet for a SALT II treaty. I think one of them indicated an 81 percent support rate. Such a treaty is in the best interests of the United States, the Soviet Union and the entire world. If the administration can present the Senate with a balanced and verifiable treaty, I believe it should be ratified.

Mr. President, I respectfully submit this scorecard on President Carter's foreign policy to the scrutiny of my colleagues. I do not support every foreign policy decision made by this administration, but I do find reasons to commend the President for his evenhandedness in the midst of crisis.

Critics who claim that President Carter is categorically weak overlook the fact that not a single American life has been lost in combat during the Carter administration. Not a single American troop has been dispatched to a combat situation during this administration.

Most of the criticism of the President is unfocused. It demands more style, with little suggestion for substance. The question that must be pondered is how we, as a world leader, can best exert our influence and aid the cause of world peace.

It is simplistic to seek an overall pattern in foreign policy. It is equally simplistic to blame the President of the United States for situations he is powerless to control. In Iran, for example, we have acknowledged an intelligence failure on our part. But there was no way we could shape or direct the Islamic movement that now is surfacing in parts of the Moslem world. In Afghanistan, there was simply no way we could have prevented the tragic act that took the life of a fine American public servant. In Vietnam, we were powerless to prevent a conflict which has its roots in a centuries-old hostility between that country and China.

We no longer live in a world where, because of our power and might, we can do damn well whatever we please. We are not the only tough guy on the block. But that does not mean we should become impotent. We should resolve to demonstrate our strength in ways that avoid armed conflict, in ways that make maximum use of diplomacy, in ways which turn an existing situation to our best advantage.

Of course, we are not entirely without fault in setting into motion certain recent international events. Cambodia. Iran. Vietnam. Each of these conflicts has the mark of the United States on it somewhere along the line. To profess detachment is to practice selfdeception. Who can deny that in some way our military role in Cambodia—our blind support of the Shah—our prolonged involvement in Vietnam contributed to the current line-up of world events.

But we must not be hostage to our past blunders. We must learn from them. If anything, we have learned that we have an obligation to the world to exercise our policies with responsibility and integrity. In the words of columnist Anthony Lewis:

> This is a difficult world, in which the United States cannot push a button and have its way. And it would be wise to note that bluster requires less courage than do patience and restraint.

In a recent speech to members of the media, President Carter said:

> The United States continues to be the most powerful nation on earth—militarily, economically and politically. I am committed to preserving and even enhancing that power. We will make responsible use of that power where our interests are directly involved . . . I hope that need will never arise.

Finally, Mr. President, in this age of political uncertainty around the world and nuclear overload among the great powers, we are fortunate to have a leader who is dedicated to the principle of reasoned restraint rather than to the practice of blustering retaliation.

I yield back the remainder of my time.

SPECIAL ORDER

The PRESIDING OFFICER (Mr. BOREN). Under the previous order, the

Senator from Pennsylvania (Mr. Heinz) is recognized for not to exceed 15 minutes.

SENATE CONCURRENT RESOLUTION 10—SUBMISSION OF A CONCURRENT RESOLUTION TO AUTHORIZE THE WEARING OF THE MAROON (OR RED) BERET BY ARMY AIRBORNE UNITS

Mr. HEINZ (for himself, Mr. Levin, Mr. Goldwater, Mr. Jepsen, and Mr. Durenberger) submitted the following concurrent resolution, which was referred to the Committee on Armed Services:

S. Con. Res. 10

Whereas, our Airborne is an elite corps, feared by our foes and admired by our friends, whose members are imbued with the highest dedication to serving their country;

Whereas, esprit in a military unit is an irreplaceable force—delicate, intangible and bonding—which can only be developed over time, and which lends significant distinction and morale to our fighting units;

Whereas, history has shown that in times of crisis and challenge those who can call on a special reserve of spirit will prevail;

Whereas, the Maroon Beret, being an acknowledged symbol of the Airborne, has helped build this unit's esprit and ability.

Whereas, a lessening of morale and esprit can result in a blow to military discipline and effectiveness;

Whereas, prohibiting the Airborne from wearing the familiar Maroon Beret will undoubtably injure the morale of active members of the unit, as well as affront the pride and esprit of those veterans who served valiantly in the past;

Whereas the special forces of other services branches have not banned the use of distinctive headgear for their members;

Whereas the U.S. Army has authorized two elite units to wear distinctively colored berets which have become symbols of their skills and missions;

Whereas the Maroon Beret is a privilege for which the Airbrone troopers pay themselves, so that this ban effects no cost savings for the U.S. Army;

Whereas the Maroon Beret in no way demeans the regular authorized uniform of the Airborne, nor does it impede the troopers' ability to do their jobs;

Whereas the ban takes away a privilege the Airborne members have earned through their special training, unique missions and notable patriotism, its impact is particularly negative on the morale of Airborne members;

Whereas the symbolic gesture of authorizing the wearing of the Maroon Beret for Airborne members to continue would have significant impact in terms of building morale and encouraging discipline at a time when our military strength is being challenged and the effectiveness of our military forces is being seriously questioned;

Therefore, be it resolved that it is the sense of the Senate (The House of Representatives concurring) that it strongly opposes the ban on the U.S. Army Airborne wearing the Maroon Beret, which has become a recognized symbol of the valor and patriotism of its members, and that it urges the Secretary of the Army to reinstate the Maroon Beret as the accepted and distinctive headgear of the Airborne Unit immediately.

Mr. HEINZ. Mr. President, I rise today to ask my colleagues' support for a resolution to urge the Secretary of the Army to reverse the decision to ban the wearing of the maroon or so-called red beret by the Army Airborne units.

This seemingly insignificant decision on the part of the Army has triggered a strong and understandable cry of outrage from Airborne members and admirers. The Airborne is an elite corps which is recognized by the maroon beret or the so-called red beret—they are feared by our foes and envied by our friends. Their achievements in military history are legend, because of their valor, tenacity, and "esprit". This morale or esprit comes from the knowledge that the Airborne is elite among our military units.

I do not think I have to remind most people that the Airborne was in large part responsible for the success of the D-day invasion of Europe in 1944, and it was obvious even then that they would find a symbol to mark them out as a "special" force. Indeed, they are. We could not be the free and democratic country we are today if the Allies had failed at Normandy, and I believe we appear an ungrateful and forgetful Nation to now say the Airborne cannot wear the maroon beret.

I am very fortunate to have as a constituent and a good friend a great military commander, Gen. Matthew B. Ridgway, who was the Supreme Commander of the Allied Forces in Europe and former Army Chief of Staff. He was one of the first to protest the Army's decision to "retire" the maroon beret. His concern, as a military leader, a military strategist and an eminent student of military history, was for the effect of this action on the esprit and effectiveness of our Armed Forces. General Ridgway wrote, in a letter to the editors of the New York Times in January, the following:

> Esprit in a military unit, as every military man knows, is a delicate intangible, nurtured over a long period of time in many seemingly trivial ways. The result translates into far-reaching, positive benefits in times of crisis, above all in war, and those benefits to the country concerned can endure for many generations, as they have done so brilliantly in so many armies. They can also be destroyed at a stroke, and what was an elite unit becomes just another run-of-the-mine organization * * *

General Ridgway, as we all know, speaks from his heart and his experience. And I have heard from many other members and admirers of the Airborne who share his concerns about the "best interests of our Army and our Nation."

I wrote the Secretary of the Army in January to ask why this decision was made. I know it was not done as a cost-saving device, for the Airborne members pay for their own berets. I know it was not done as a safety procedure, for the berets in no way prevent the men from doing their jobs and can, in fact, be hidden under helmets if necessary in combat. And furthermore, I know it was not done as an equalizing gesture, for the reply I received from the Department of the Army advised me that the Army will continue to authorize distinctive headgear for at least two elite groups—the Rangers (black berets) and the Special Forces (green berets). Instead, I am advised that "* * * while the Army fully appreciates the beneficial effects which distinctive items can have on the esprit of a particular unit * * * the proliferation of nonstandard items has gotten out of hand."

It seems to me that if permitting the use of "nonstandard items" such as the maroon beret can improve the morale of those who must defend us, at no cost to anyone but the wearers, we would be "missing the forest for the trees" to let this happen.

The resolution I am submitting today, which asks the Secretary of the Army to reverse the ban on the maroon beret and instead authorize it as the official insignia of this unit, comes in response to my feeling that esprit de corps is possibly our most valuable military strength when it comes to defending our country. I would agree with the Army that it may not be wise to authorize new symbols or gear for our special units, and I do not think that Congress should get into the business of legislating military uniform. However, to take away the privilege of wearing the maroon beret from these men who defended us in many notable battles seems a hollow and ungrateful gesture at this point in time. Similarly, I would oppose banning the green and the black berets, which are recognized as symbols of the units that wear them. History has shown that in times of crisis those who can call on a special reserve of spirit will prevail. The wearing of the maroon beret is an outward sign of the inward strength and dedication of the men of the Airborne. And it is a small distinction and privilege we accord them for being prepared to pay the ultimate price of giving their lives for their country.

Thus, I ask my colleagues to join me in making it the sense of this body that we are strongly opposed to the ban on the maroon (or "red") beret and that we urge the Secretary of the Army to take immediate steps to authorize wearing of this headgear for all members of the U.S. Airborne divisions.

Mr. President, I ask unanimous consent that General Ridgway's letter to the editors, and my letter to Secretary Brown be printed in the Record.

The letters follow:

There being no objection, the material was ordered to be printed in the Record, as follows:

January 10, 1979.

Hon. Harold Brown,
Secretary of Defense,
The Pentagon.

Dear Mr. Secretary: It has come to my attention that the Airborne's Red Beret has been banned as of January 1st of this year.

This seemingly insignificant decision has, however, triggered a strong and understandable response, especially from those who understand best the real value of those berets and what they have meant to our nation.

In a time of crisis and challenge, history has shown that those who can call upon a special reserve of spirit will prevail. All factors being equal, this esprit de corps, intangible as it may be, is often the critical stroke to the final outcome.

I do not know why this decision to ban the Red Beret was made. As I understand it, there is no cost saving to the Army. I do know that with this one, single blow, the mark of distinction and pride which the Airborne earned has been removed. The dedication and achievements which marked these men at D-Day in June, 1944 through December, 1978, was unceremoniously and ignominiously taken away.

It is my hope that this decision can be reconsidered. The tradition and pride which are associated with the right to wear the Red Beret are not products of salary or bonuses, but are a distinction and privilege far transcending any monetary value.

Your response and explanation would be much appreciated.

Sincerely,

H. JOHN HEINZ III, *U.S.S.*

[From the New York Times, Jan. 4, 1979]

ON THE AIRBORNE'S LOSS OF THE RED BERET

To the Editor:

The decision to ban the Airborne's red beret, effective Jan. 1, may appear trivial, but it is one which has a far greater adverse impact within our army than appears on the surface.

Esprit in a military unit, as every military man well knows, is a delicate intangible, nurtured over a long period of time in many seemingly trivial ways. The result translates into far-reaching positive benefits in times of crisis, above all in war, and those benefits to the country concerned can endure for generations, as they have done so brilliantly in so many armies. They can also be destroyed at a stroke, and what was an elite unit becomes just another run-of-the-mine organization.

Our Airborne is an elite corps, envied and feared by our foes and admired by our friends. Its members are inbued with the highest concepts of dedicated service, proud of its achievements and its uniform, proud of the Airborne image in the public eye, and proud of the red beret, which marked them at once for all who saw them. Without them, as both Eisenhower and Bradley said, the D-Day invasion of Europe in June 1944 would have failed.

We should scrupulously maintain that pride of the Airborne. safeguard all the little things that made and sustain it, high among them the privilege of wearing the red beret, which cost our Government not one penny. The Airborne troopers proudly paid for it themselves.

Since this decision is reported to have been made by competent official authority, it is with the greatest reluctance that I publicly protest it, urging, as I strongly do, that it be reversed. But I have never hesitated, nor shall I, to speak out when, in my heart and from my own experience, I know such action to be in the best interest of our Army and our nation.

I publicly protested the adoption of the volunteer army, now a demonstrated failure and perhaps a disaster, as only a test of war can prove. I publicly deplored the dismantling of Selective Service and the admission of women into our service academies. Every one of those actions is now looming as potentially detrimental to the esprit and effectiveness of our armed forces—a blow at discipline, without which no military unit is worth its keep. All these actions may well prove to have been egregious mistakes when this nation's armed forces face the critical tests which future war will inevitably present. I fervently hope we shall start now to correct them, before it becomes too late.

M. B. RIDGWAY,
General, U.S. Army (Ret.).

Mr. HEINZ. Mr. President, I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business with statements to be limited to 2 minutes each.

Is there morning business?

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STAFF STUDY ON THE ROLE OF THE INSURANCE INDUSTRY IN ARSON-FOR-PROFIT

Mr. PERCY. Mr. President, the staff of the Permanent Subcommittee on Investigations released February 17 a staff study on the role of the insurance industry in dealing with arson for profit.

This report regrettably finds that the industry could do significantly more in dealing with this problem. Indeed, the information presented in the study raises serious questions about the diligence of some companies in combating arson. The report concludes by recommending steps that the industry could take to substantially reduce arson for profit.

The Permanent Subcommittee on Investigations, of which I am the ranking minority member, has been conducting an investigation into arson for profit for over a year. We have devoted a great deal of staff time and energy to the study of this insidious problem which is ravaging many of America's cities.

What we have learned has been both frightening and shocking:

An estimated 1,000 people die each year and another 10,000 are injured in fires that were deliberately set;

Arson losses running more than $1.6 billion a year, and arson is rising by 25 percent annually;

Only 1 in 100 accused arsonists is ever convicted.

As this study on the role of the insurance industry points out, arson not only increases the financial burden which all insurance policyholders must bear, but in a very real sense it threatens the social and economic fabric which holds our cities together.

During hearings held by the subcommittee last year, we heard testimony from many people familiar with the problem of arson for profit. One theme running throughout much of their testimony was the role the insurance industry plays in providing a financial incentive for arson. The subcommittee staff report, based on responses from 15 companies to a questionnaire, forcefully and cogently confirms that the insurance industry can do a great deal more to remove the financial attractions of arson.

As this study notes, the insurance industry has a responsibility to aid law enforcement officials in reducing the incidence of arson. Without a doubt, arson for profit could be substantially reduced if the industry would review its present approach toward arson and more carefully screen applicants and their requests for coverage.

It is an unfortunate truth that the insurance industry, although perhaps unwittingly, has contributed to arson for profit by writing coverage in amounts well above the true value of properties. In addition, buildings with numerous code violations which could easily be detected are frequently insured without any inspection at all. Both of these practices enable arsonists to reap illegal and untoward financial benefits from their heinous crime.

Mr. President, I would like to submit this study for inclusion in the RECORD but, before doing so, I want to summarize some of its key points and recommendations.

First of all, insurers should carefully inspect all properties before writing coverage. This will help prevent the dual problems of overinsurance and coverage of properties which fail to meet building code standards.

Second, insurers should develop a method to enable them to avoid writing insurance for people who have been convicted of arson in the past.

Third, companies should train their adjusters to detect evidence of arson; unfortunately, most insurance adjusters today have not had sufficient training in arson investigation to make intelligent and informed decisions on suspected arsons.

Finally, the insurance industry should develop better statistical information on arson so it will have a fuller appreciation of the dimensions of this problem.

In conclusion, I would like to thank Chairman NUNN and Senator GLENN for their diligent and thoughtful contributions. I also want to express my appreciation to Daniel Melnick of the Congressional Research Service, who assisted the staff in designing the questionnaire.

Mr. President, I ask unanimous consent that the staff study on the role of the insurance industry in dealing with arson for profit be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

ARSON-FOR-PROFIT: THE INSURANCE INDUSTRY'S ROLE

BACKGROUND

According to insurance sources, arson claims cost insurance companies $1.6 billion in 1977, and the figure is growing. Recent hearings held August 23 and 24 and September 13 and 14, 1978 by this subcommittee developed substantial evidence confirming that arson-for-profit is a nationwide problem which demands far greater attention than has been accorded to date by both the Federal Government and private insurers.

The subcommittee hearings, and three reports from the General Accounting Office, document a minimal Federal response to arson-for-profit, and demonstrated that Federal agencies with responsibility in the area had done virtually nothing to deal with this fast-growing problem.

Since the "profit" in arson-for-profit comes from insurance company treasuries, Senators Charles H. Percy, Republican, of Illinois and Sam Nunn, Democrat, of Georgia, ranking Republican and vice chairman respectively, determined on May 3, 1978, that it would be useful to submit a questionnaire to a major fire insurance companies in the United States to determine what their policies and practices were with respect to arson loss claims. The questionnaire, sent to 15 of the Nation's largest fire insurance companies, was designed to ascertain whether business practices and attitudes within the private insurance market may be a factor contributing to the upsurge in arson-for-profit. A second purpose was to elicit comment on obstacles faced by the companies in improving performance against arson-for-profit. Recipients of the questionnaire were selected from "Best's Aggregates, Property Casualty 1977," an industry trade publication. To encourage forthright responses to sensitive areas of inquiry—some of which might have a bearing on pending litigation—the subcommittee approved anonymity to all the companies respecting their responses. The companies did permit the subcommittee to list their names as respondents. Appendix B lists carriers that participated in the subcommittee survey.

The major areas addressed in the questionnaire were the following:

Inspections and underwriting;
Claims investigation;
Claims adjuster training;
Statistical information;
Obstacles to limiting arson-for-profit; and
Organized crime involvement.

The responses to the subcommittee's questionnaire, and testimony from insurance company officials and law enforcement officials received during the subcommittee's 4 days of hearings, raised disturbing questions concerning the private insurance industry's role in the Nation's arson crisis, and the adequacy of the industry's commitment to combating the problem.

INSPECTIONS AND UNDERWRITING

The "profit" in arson-for-profit derives from insurance money. Because preliminary evidence developed by the staff indicated that arson profiteers often participate in all facets of the crime—including the procurement of insurance—one portion of the subcommittee questionnaire sought to discover whether prevailing inspection and underwriting practices contribute to the incidence of fire insurance fraud.

Overinsurance

Insuring properties for more than their true value plays a key role in most arson-for-profit schemes, subcommittee witnesses testified. Mr. James McMullen, director of security investigations for Farmers Insurance Group, testified to his belief that "nearly all" arson-for-profit cases involve deliberate overinsurance of properties (p. 131).[1] Former insurance adjuster Joseph Carter, convicted by Federal prosecutors in Tampa, Fla. for participating in a major arson-for-profit conspiracy, informed the subcommittee that, in his view, 99 percent of arson-for-profit involves deliberate overinsurance.

He told of one building in Tampa that was purchased for $30,000, insured for $290,000, then set ablaze for profit (p. 99). Mr. McMullen also told of a building worth $27,000 which burned shortly after being insured for $90,000, under circumstances where fraud was suspected (p. 131).

Overinsurance is widespread, according to subcommittee testimony, because of the failure of insurance companies to verify the value or condition of properties they insure. Mr. Leonard Mikeska, chief arson investigator for the city of Houston, testified:

"Arson is on the increase, because of the ease with which people can obtain insurance on their properties, frequently at amounts that make it hard, even for the average honest citizen, to resist at least contemplating arranging for his place to be burned." (p 173)

Ronald Ewert, acting executive director, Illinois Legislative Investigating Commission, testified:

"Private insurance companies also contribute to the arson problem by failing to inspect applicant background or to perform value appraisals on properties prior to issuing policies. This allows potential arsonists to insure their properties for much more than their fair market values." (p. 202)

Responses to the subcommittee questionnaire indicate that none of the 15 companies surveyed regularly perform inspections on properties, prior to coverage.

Underwriting inspections usually occur after coverage is bound, if at all. Responses varied as to how often or under what conditions such inspections occur. Commercial properties appear to receive inspection more frequently than private dwellings.

Two companies surveyed stated that they inspect most insured properties. Another said they inspect commercial risks valued at more than $20,000, private dwellings under $10,000 or over $75,000, nonowner occupied dwellings, and three- and four-family dwellings.

Only one company acknowledged outright that it follows no standard inspection guidelines. However, the responses indicate this may well be the case with most of the companies surveyed. One company wrote that, "as a general rule, fire insurance risks are not subject to physical inspection."

Survey responses confirm testimony that companies rely heavily upon the judgment of their agents in accepting or refusing risks. But, agents often do not heed their responsibility to become familiar with the risks they accept, according to Mr. McMullen, because "their profit motive through the sale is placed at a bigger priority than their responsibility toward their insurer" (p. 130). The agent's income depends on the number and dollar value of the policies he writes. Subcommittee witnesses testified that rather than keeping coverage to a minimum, many agents prefer to sell as much insurance as the owner requests, and sometimes more. A Minneapolis arsonist, testifying under an alias, noted that agents often refuse to sell less coverage than is specified in a standard policy, even if the owner requests it:

"You can't buy the amount of insurance you want on these buildings. They stuff it down your throat. You try to buy $10,000 worth of insurance, they stuff you with $25,000. It just makes it very profitable." (p. 25)

According to insurance adjuster Joseph Carter, agents routinely accept poor, unexamined, and overinsured risks:

"Building owners would routinely tell the insurer that their buildings, while in fact vacant, were tenant-occupied. Often a building owner will come into an agent's office, give him the address of the structure, how large it is, and what kind of coverage he wants. The agent will then tell him how much the premium is, the building owner will give him a check and the property owner is immediately covered under a binder until the company issues a policy. The agent does not inspect the property."

"In my experience as an adjuster in Tampa, I was appalled at the number of buildings on which I adjusted fire and other types of loss which were unbelievably overinsured." (p. 86)

Carter also said, "I didn't think the insurance companies should cover properties with code violations, but they did it all the time" (p. 86). Thus, reliance on poorly-monitored agents, understandably interested in boosting their own commissions, leaves companies wide open to arson profiteers who, unlike most honest property owners, seek as much coverage as possible for maximum potential gain.

Companies contend that routine prior inspections would prove prohibitively expensive. However, subcommittee witnesses indicated that more such inspections—perhaps triggered by unusual circumstances or performed randomly—could save money in the long run. Mr. McMullen told the subcommittee that building inspections could be made at nominal expense. Mr. Eades Hogue and Ms. Eleanor Hill—the Federal strike force attorneys who prosecuted the Tampa arson-for-profit case—noted that many structures insured as dwellings by the participants in that conspiracy were certified by Tampa housing officials as unfit for human habitation. It was their feeling that agents or their companies could really learn of such risks simply by telephoning the local housing inspector (p. 122).

CLAIMS INVESTIGATION

Because it appeared that arson profiteers are rarely challenged, either in criminal or civil court, one portion of the subcommittee questionnaire explored whether claims investigation procedures provide a significant deterrent to attempted arson-for-profit.

Eleven companies stated that they investigate fully all suspected arsons, regardless of cost. At the same time, witnesses before the subcommittee testified that companies will often negotiate settlements with suspicious claimants, if money can be saved by doing so. For example, Tampa adjuster Joseph Carter stated that he would often "'buy out" suspicious fire claims. Suspecting arson in connection with a particular fire, he would confront the culprit, threaten him with prolonged legal harassment, and instruct him to settle for less than the full face value of the policy. He testified that companies "which wanted to settle claims quickly at the least amount of cost" applauded his work, since it freed them from paying the full face amount of the policy and avoided costly litigation. He suggested that many companies operate in this fashion:

"If they can get out for less than the face value of the policy and they don't have to hire an attorney to handle the claim in court, which costs them more money, they are willing to settle without any big hassle." (p. 94)

Mr. Mikeska of the Houston arson squad commented that, "Most (insurers) are not very vigilant. It is extremely difficult to convince them to file a complaint against a suspected arson conspirator (p. 137).

Mr. Ewert of the Illinois Legislative Investigating Commission concurred. His study showed that insurers often fail to pursue investigations fully, preferring to save money by negotiating settlements with suspicious claimants.

In this context, four surveyed companies acknowledged to the subcommittee that they might settle a claim with a suspected arsonist, if investigatory costs seemed too high compared with the value of the claim. One company wrote that, "the value of the claim is a factor in determining how thorough an investigation should be, because of economical (sic) consideration." Another wrote that, "the amount of expense we are willing to incur would depend to some extent upon the size of the loss."

Though aware of the financial risks facing companies attempting to challenge suspicious claims, witnesses nevertheless felt that the industry should increase the current level of commitment to claims investigation. Discussing possible remedies to the arson problem, Mr. Carter suggested that:

"Insurance companies should be much more willing to hire outside, independent investigators to do a full-scale inquiry into suspected arson. This would be money well-spent because it would get the word out on the street that the companies are beginning to be much more conservative in paying out on fire claims." (p. 94)

PROFESSIONALISM OF CLAIMS ADJUSTERS

Sometime called the "elusive" crime, arson commonly escapes detection by all but the most trained eye. Physical evidence tends to be consumed by the blaze or buried in the rubble. Evidence of fraudulent intent may also lie undiscovered, if insurance and law enforcement authorities fail to conduct investigative interviews and to examine public and private records that might reveal motive. To gain information on the current level of professionalism within the claims adjustment business, one portion of the Subcommittee survey focused on arson detection training.

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[1] Refers to pages in the printed hearings of the Permanent Subcommittee on Investigations entitled "Arson-for-Hire."

Only six of the companies queried could specify how many hours of arson detection training they required of each property claims adjuster. Five companies indicated they required no arson detection training for their adjusters. The four remaining insurers said they required arson detection training, but could not specify the number of hours, chiefly because training usually comes only as part of overall adjuster training programs.

Training varies considerably in quality. One company sponsors a two-day arson fraud workshop for all new adjusters, given at a special training facility. Another requires only three hours of arson detection training, but relies solely on outside programs rather than in-house training.

Subcommittee witnesses testified that arson detection training for adjusters is spotty. Mr. Carter, whose 20-year career in the adjusting business included service with several major companies, said: "I never received any training when I began fire adjustment, except what I learned on the job. No type of formal training or seminars or schooling" (p. 94).

Mr. Gary Bowdach, a subcommittee witness on organized crime matters, testified on August 2, 1978 concerning growing mob involvement in arson-for-profit. Acknowledging that "arson-for-profit is the easiest thing there is to get away with." And that "the chances of getting caught are almost nil," Bowdach suggested that insurance companies could greatly alleviate the problem by contesting suspicious claims more vigorously:

> "I think the insurance companies really should be the ones to do it because they have the biggest stake. (They) should have a staff of trained investigators in arson and trained investigators in seeking out the people and motivation behind these things. They leave it up to the local fire marshals and the police department arson squad and it just does not seem to get the job done because the police departments have to take things in priority.[2]

Mr. Carter concurred. Stressing the crucial roles of adjusters in originating claims investigations, he indicated that formal training would upgrade their alertness and efficiency. Thus, through well-trained adjusters, insurers could challenge a larger number of fraudulent claims.

Reports from adjusters of suspected fraud or bribery sometimes go unheeded by central offices. Companies which disregard advice from the field may sap morale, undermine professional diligence, and encourage cynical attitudes toward responsibility in this area. Mr. Carter cited an example of insurer indifference which he believes to be typical of what adjusters encounter in the field. Following a partially successful Tampa arson fire which he adjusted, Carter advised the two companies holding the risks on the building to stop coverage: "Only one, however, follower my advice. The other company continued covering the partially burned building until it burned all the way down on (the) second try" (p. 92).

Subcommittee witnesses were also questioned about the extent of corruption within the adjusting business. Asserting that adjusters are "grossly" underpaid as a profession, Mr. Carter felt that this fact, combined with frequent temptations in the form of bribe offers, produces extraordinary levels of corruption in the business (p. 106). Based upon his knowledge of adjusting practices, Mr. McMullen, of the Farmers Insurance Group, agreed, estimating that "probably about 25 percent of adjusters would succumb to proposals to participate" in an arson-insurance fraud conspiracy (p. 132). Such assertions from persons experienced in the field indicate that potential arson profiteers may find it all too easy to enlist cooperative insurance adjusters.

STATISTICAL INFORMATION

Reports from the GAO, the Illinois Legislative Investing Commission and the Aerospace Corp. (under a grant from the Law Enforcement Assistance Administration) all indicate a shortage of basic statistical information on arson, making it difficult to assess the precise nature of the problem and its possible solutions. The Subcommittee queried companies on their recordkeeping practices, seeking to ascertain how much in-house information currently exists among insurers.

Only eight companies surveyed said they retained cumulative data on both the number of structures covered by fire insurance and the number and value of structures lost to fire. Of these eight, five keep this data only for dwellings, not for commercial properties (including businesses and most large apartment buildings). Consequently, most insurers have no firm grasp of the magnitude of their own arson losses.

Only one company said it records how many structures undergo inspection prior to coverage. One records how many fire losses were inspected by adjusters prior to payment. No company surveyed retains cumulative records in both of these categories. Consequently, insurers frequently know little about the diligence of agents and adjusters working for them.

Only one company stated that it records the number of losses that are followed by interviews with the property owner or his acquaintances, witnesses, or law enforcement authorities. That same company was the only one to say it records the number of losses followed by financial background checks on the owners. Thus, most of the surveyed companies indicated little awareness of the thoroughness of their own adjusters in investigating suspicious fires.

Mr. Ewert of the Illinois Legislative Investigating Commission noted that the lack of good fire loss data makes it highly difficult to identify evolving patterns of insurance fraud and obscures questions of policy and allocation of resources. The Illinois Commission interviewed industry officials who reiterated this view. Companies may fail to take effective and timely action against arson, partly because they are poorly informed. In an address before the Fire Marshal's Association of North America in November 1975, Ralph J. Jackson, loss prevention manager of Allstate Insurance Co., discussed possible reasons for insurance company inaction on arson:

> "The insurance companies do not know how serious the arson problem is. Very few companies have been collecting information on arson, so it just isn't available in their computers."

During the subcommittee hearings, Senators Percy, Nunn, Chiles, and Glenn, all expressed surprise that insurers retain so little information on arson, while at the same time compiling extensive, up-to-date data, for example, on auto claims. Because auto claims information provides a useful basis for denying or limiting coverage to poor risks, the Senators wondered why insurers have not compiled and recorded comparable claims information on fire losses.

While several companies advised the subcommittee that they are developing systems to provide data on the number and value of arson losses, nine out of fifteen companies stated that they have no plans to develop more useful procedures for compiling and analyzing arson-related data.

PRIVACY AND FAIR CLAIMS PRACTICES LAWS

Aware that legal problems may discourage insurers from taking effective action against arson profiteers, the subcommittee sought comments on this matter.

Most companies surveyed criticized existing privacy laws and fair claims practices acts for seriously obstructing their efforts to investigate suspicious claims.

Privacy laws, designed to protect individuals against unwarranted disclosure of confidential information concerning them, are cited by insurers as impeding the exchange of information between insurers and law enforcement authorities. Evidence gathered by law enforcement agencies, though often insufficient to prove criminal charges, may be useful in civil proceedings by companies attempting to demonstrate fraud. Privacy laws, however, prevent exchange of information by establishing grounds for slander suits against public authorities who release incriminating information to private companies.

Likewise, the companies commonly noted that an individual can sue the insurer for releasing information to enforcement authorities seeking to build a criminal case.

Lack of information and fear of law suits were both cited as preventing companies from aggressively pursuing suspected arson incidents. Mr. McMullen related a case in which his company had to pay $4 million in damages for releasing to police facts detrimental to the policyholder (p. 132).

Fair claims practices acts, designed to insure fair treatment of policyholders, require companies to decide promptly whether to pay claims and to disclose grounds for decisions not to pay. The subcommittee survey confirms that payment must often be made before time-consuming arson investigations yield any concrete proof of fraud. Yet, payment delays, while the company evaluates its position, may result in assessment by the courts of heavy punitive damages against a company. On the other hand, companies complain, too-quick assertion of suspected fraud may leave the insurer open to a slander suit, unless subsequent investigation substantiates the charge. Companies indicate that they hesitate to charge fraud when their evidence is not complete. Thus, they maintain, legal requirements and financial hazards often force them to pay claims that might be successfully contested, if enough time were allowed.

Several other laws also received criticism from survey respondents. One company noted that state arson laws often lack severe enough penalties, and fail to specify who is responsible for enforcement. In addition, a number of states require insurers to pay full face value on policies—well above a property's fair market value—thereby encouraging arson-for-profit. Another respondent criticized local ordinances which require burned buildings to be demolished quickly, often leading to the destruction of physical evidence of arson.

ROLE OF GOVERNMENT

The companies surveyed were not in agreement in their assessment of law enforcement efforts against arson. Several sympathized with the lack of adequate training and manpower. Criticism was leveled at the Federal Bureau of Investigation for lack of interest and reluctance to share information.

The companies offered a number of suggestions, encouraging the Federal Government to:

Use the Law Enforcement Assistance Administration to fund state and local anti-arson programs aimed at acquiring better equipment, at putting more and better people on the job, and at improving arson training and detection programs;

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[2] Hearings "Organized Criminal Activities—South Florida and U.S. Penitentiary, Atlanta, Ga.," U.S. Senate Permanent Subcommittee on Investigation, August 1978, pt. 1, p. 90.

Provide more funding for the National Fire Prevention and Control Administration in the Department of Commerce;

Establish a nationwide bureau of records on suspicious fires and offenders, along with a national fire academy, modeled on the national police academy;

Review insurance requirements of the Department of Housing and Urban Development, the Small Business Administration, as well as various banking regulations, with an eye toward reducing arson-for-profit;

Make arson a part I crime in the FBI's uniform crime reports, thus expanding the available data and inducing local authorities to give more attention to the crime;

Prosecute arson more vigorously, particularly through use of the Federal Racketeer Influenced and Corrupt Organizations (RICO) statute; and

Revise the privacy laws to foster freer exchange of arson-related information.

In addition, respondents proposed that State and local governments should:

Revise definitions of arson to include any intentional destruction of buildings by fire in order to defraud;[3]

Stiffen penalties for arson;

Loosen fair claims practices requirements to facilitate good faith arson investigation;

Enact state laws modeled on the Federal RICO statute;

Establish clear lines of responsibility for arson investigations and

Publicize neighborhood arson patrol and confidential informant reward programs.

ORGANIZED CRIME

Subcommittee witnesses left little doubt that organized crime now views arson-for-profit as a low-risk means to garner whopping profits. Gary Bowdach, who committed four mob-linked arsons in a 1-month period in Florida, termed the available revenues "inviting" for organized crime, and suggested that crime families may now employ traveling professional torches who can easily make lucrative incomes plying their trade throughout the country.[4] Mr. Carter warned that crime syndicates "are becoming well-acquainted with the vast amount of moneys that could be made out of arson-for-profit" (p. 100). Mr. Angelo Monachino, another subcommittee witness, who participated in 11 arsons-for-profit as a soldier in the Rochester, N.Y., Mafia, agreed that "organized crime is becoming increasingly involved in arson-for-profit" (p. 60). San Jose Police Chief McNamara commented that, "arson is but a visible manifestation of the traditional techniques of organized crime" (p. 183).

One portion of the subcommittee survey asked insurers to provide any information known to them concerning organized crime involvement in arson-for-profit. None of the companies could supply any information. One company commented that, "We have seen no evidence of involvement on the part of national organized crime syndicates." A more typical response was that, "We are not in a position to answer this question." Such responses raise serious questions about the lack of attention being paid by insurers to what appears to be a major aspect of the Nation's growing arson problem.

Organized crime's growing stake in the arson business lends special urgency to the search for solutions. Any reluctance by insurers to take strong steps against arson-for-profit—or any barriers to their doing so—can only abet the growth of organized crime's involvement in the increasing number of arsons. Contrary to assertions from some quarters of the industry, arson-for-profit cannot be eliminated solely through improved efforts from government and law enforcement. Nor should the industry limit its involvement to publicity campaigns and financial support for study groups, though these are usually worthwhile. Companies truly wishing to contribute must pay closer attention to the problem and show greater willingness to alter their own day-to-day business practices, several of which currently make it easy for arsonists and their clients to commit their crimes with little fear of apprehension.

INDUSTRY AND GOVERNMENT REACTION

In the 4 months that have passed since the conclusion of the subcommittee's hearings, key segments of the industry—the American Insurance Association, Insurance Information Institute, National Association of Insurance Agents, and National Association of Independent Insurers, among others—have not contacted the subcommittee either by way of responding to criticisms of industry policies, or setting forth anticipated reforms for the future. It should be noted, however, that other than the questionnaire submitted to 15 major companies, the insurance industry was not specifically asked for its response to the hearings.

The Federal bureaucracy, moving with commendable dispatch, was specifially contacted by the subcommittee in connection with the August-September hearings and has affirmatively responded to the crisis. The Federal Bureau of Investigation; the Law Enforcement Assistance Administration; and the Alcohol, Tobacco and Firearms Bureau of the Treasury Department have all informed the subcommittee that they will begin targeting arson-for-profit as a major law enforcement priority. Specifically, the FBI has advised each of the 59 Bureau offices throughout the country to identify, actively pursue, and monitor arson-for-profit cases involving organized crime. The LEAA has actively encouraged each of its state and territorial law enforcement planning agencies to look favorably upon and to begin investing funds in arson control programs. And the ATF has established expert task forces in 17 cities that will focus on arson-for-profit schemes.

One industry trade association—the Alliance of American Insurers (AAI)—did submit a post-hearing statement to the subcommittee. Its message was that the arson upsurge is "completely beyond the control of insurance underwriters," a contention disputed by witness after witness at the hearings. The response from AAI expresses that organization's "serious" concern about the "rapidly spreading cancer of arson-for-profit," while defending current industry practices (p. 463). AAI asserts that "substantial sums" have been invested for arson detection training for adjusters and maintains that companies do not make a "policy" of paying off on fraudulent or suspicious claims (p. 477). While it may not be a "policy" to pay suspicious claims, evidence received by the subcommittee from numerous witnesses suggests that refusals to pay are rare; particularly when costly investigation would be involved. Finally, AAI disputes other testimony before the subcommittee by stating, without specific reference, that dishonesty among insurance adjusters is rare, and by denying that there is any need for tighter standards on precoverage risk inspection.

In sum, the AAI agrees that there is a problem, but absolves the industry of any blame for that problem.

FINDINGS AND RECOMMENDATIONS

The subcommittee hearings and insurance company survey together confirm substantial shortcomings in the response of the industry as a whole to the current arson crisis. As Chief Mikeska of Houston's arson squad told the subcommittee:

"I recently attempted to get $10,000 life insurance increased on my life. I was required to go to my doctor to have a complete physical. If I want to increase my insurance on my home, I get on the telephone, advise my agent I would like to increase my insurance by $50,000, there is a binder put on it, no questions asked whatsoever." (p. 176)

The insurance industry over the years has controlled and minimized its auto and life insurance risks. But fire fraud losses—made possible in part by laxity in underwriting and claims adjustment procedures—continue to cost billions of dollars each year.

The upsurge in arson-for-profit stems primarily from two conditions: the enormous profits available and the ease of obtaining them without fear of penalty. In light of arson's skyrocketing human and financial costs, leaders of the American insurance industry should review and reformulate current operating procedures so as to screen out poor risks, reduce incentive to commit arson, and increase the odds against getting away with fraud.

The following recommendations are advanced:

(1) Insurers should require routine risk reviews prior to coverage, including property inspection and background checks on applicants.

Urban devastation due to arson cannot be halted unless access to big insurance dollars can be more tightly restricted. Even more than police and fire authorities, the insurance industry can help take the "profit" out of arson-for-profit.

Through routine prior-to-coverage risk review, insurers or their agents could:

Verify that properties in question are being occupied or utilized as stated and are not tax delinquent or deteriorated to a point where they might be abandoned and burned;

Ensure that requested coverage corresponds to actual property value, thus avoiding overinsurance; and

Screen applicants for prior history of fire losses.

Witnesses agreed that insurers must undertake greater initiative in this area. Mr. Carter noted:

"The insurance agent should be much more selective in choosing which properties are covered by his company. It is incumbent upon him to go out and inspect each and every risk. I think they should inspect every single property they insure." (p. 94)

Mr. Hogue, one of the Federal prosecutors in the Tampa case, said:

"First of all, they need to inspect the property. They need to go out and look at the property. Additionally, the companies are going to have to screen applicants for fire insurance more closely. They are going to have to insist that they scrutinize who wants fire insurance." (p. 125)

These practices would inevitably entail added costs, but would foreseeably save enormous sums in the long run. Rather than examining all risks, insurers could minimize their inspection loads by obtaining and sharing information with building code authorities and realty agents. Insurance agents and underwriters could further protect their companies by researching an applicant's financial history, along with the fire history and age of the property. Such research could alert companies to possible motives behind sudden requests for sizeable increases in coverage.

(2) *Insurers should scrutinize current policy on claims challenge, develop effective*

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[3] A Minneapolis arsonist, "Michael Smith," told the subcommittee how he escaped prosecution for arson because Minnesota law at that time defined arson only as fire started without the owner's consent, which is rarely the case in arson-for-profit (p. 24).

[4] Hearings "Organized Criminal Activities—South Florida and U.S. Penitentiary, Atlanta, Ga.," U.S. Senate Permanent Subcommittee on Investigations, August 1978, pt. 1, p. 111.

arson investigation teams, and make more frequent civil challenges on arson fraud.

As survey respondents pointed out, insurance companies often confront hard choices while handling suspicious claims. In some cases, even the most thorough investigation may fail to turn up enough evidence to support suspicion of fraud. Because most State laws require prompt decisions on whether to honor or to challenge claims, insurers understandably prefer routine settlement to the riskier course of challenge based on less-than-complete evidence.

Nevertheless, the current upsurge in arson-for-profit poses a challenge to the insurance industry. In the ABC–TV news closeup, "Arson: Fire for Hire," an informed source claimed that arson rings know which companies pay off most easily and with the least careful investigation. He said torches and their clients prefer to "do business" with these companies. Subcommittee investigators confirmed the accuracy of those observations. But an arsonist may think twice before attempting to defraud a company with a reputation for being "tough" on claims. Many companies claim vigorous followup procedures, but nationwide arson statistics and Subcommittee testimony both indicate considerable room for improvement throughout most of the industry. Aggressive claims challenges may prove an effective way for companies to protect their assets, and thus keep premiums down.

(3) Companies should develop in-house investigative expertise and be prepared to pursue arson investigations.

As Mr. Carter and other witnesses indicated, insurers must take measures to improve their success ratio substantially. With capable assistance on hand or on ready-call, companies would be better prepared to challenge borderline cases, where appropriate.

(4) Insurers should work together with government officials toward modifying privacy laws and fair claims practices laws.

The record before the subcommittee indicates that changes in these laws may enable insurers more easily to contest fraudulent claims. Insurers could assist in drafting model arson laws, spelling out key definitions, expanding immunity or exemptions for information exchange, and lengthening claims payment deadlines in cases of good faith suspicion of arson.

(5) Companies should require claims adjusters to have better arson investigation training.

To challenge claims successfully, insurers must be alert to possible instances of fraud, and adept at gathering the evidence needed to support denial of fraudulent claims. Insurers often cannot rely on fire and police authorities to perform these tasks. Even where authorities are well-trained to detect arson, they sometimes fail to relay essential information to the insurer. Hence, fraudulent claims are paid routinely, simply because companies are unaware of the situation. The survey results show that some companies have already developed comprehensive programs, suggesting that other companies could offer much-improved anti-arson training. Without their own cadre of well-trained adjusters, many companies may continue each year to pay uncounted millions in fraudulent claims, while fire insurance premiums soar.

(6) Companies should investigate the possibility of serious corruption in the ranks of claims adjusters.

To ensure honesty and professionalism among adjusters, companies should more assiduously monitor settlement arrangements and pay close heed to allegations from adjusters concerning attempted bribery and suspected fraud. Because relatively low-salaried adjusters who oversee huge outlays of money may be too frequently exposed to lucrative bribe offers, insurers may want to review the salary situation of their adjusters.

(7) Companies should retain and share information on the number, value, and location of all arsons and suspicious fires, as well as information concerning the owners of such properties.

Successful anti-arson planning may well depend on each company's efforts to compile accurate, up-dated data on the nature of its own arson problem. Although the American Insurance Association in 1970 discontinued its former Fraud and Arson Bureau and arson loss reference files, it recently established a new property insurance loss register which should expand the fund of arson information available to insurers for claims challenges.

Individual companies, however, could much improve their own data-gathering procedures. Currently, uncertain both of the size and nature of their arson losses, too many companies appear inadequately prepared to map out better tactics for coping with arson. Some companies have recently initiated efforts to improve their arson data-keeping procedures, indicating awareness that such efforts may help them combat arson more effectively.

(8) Insurance industry representatives should be afforded an opportunity to testify at public hearings to present evidence concerning measures being taken to materially reduce the criminal attractiveness of arson-for-profit.

Such hearings would serve to demonstrate how the industry is responding and proposes to respond to the arson epidemic, while providing the American public with a fuller understanding of the industry's role in combating this crime. They would also serve as a vehicle for the industry to express its views on the problem and suggest changes in the law that would assist the companies in coping with this insidious crime.

APPENDIX A

QUESTIONNAIRE SENT TO 15 INSURANCE COMPANIES BY THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Company name:——
Company address:——
Official responding:—— Position:—— Tel. No.——

1. Prior to issuing a fire insurance policy, what practices does your company follow with respect to physical inspection of structures?

2. Which of these factors influence your decision to research the background of an applicant for fire insurance?

	Farm property	Commercial property	Private home
Newness of ownership	--	--	--
Depends on value of property to be insured	--	--	--
Location of property	--	--	--
Type of use	--	--	--
a. If decision to research an applicant's background is based on value insured for, state amount	$--	--	--

3. What factors influence your decision to conduct a physical inspection of each property fire loss?

	Farm property	Commercial property	Private home
a. Size of loss (state amount)	$--	--	--

b. The difference between the cost of investigation, if arson is suspected, and value of claim.

c. Other factors (please specify on separate sheet of paper).

4. Please specify at what amount of loss does the adjuster interview the following:

	Farm property	Commercial property	Private home
Police Dept.	$--	$--	$--
Fire Dept.	--	--	--
Witnesses to fire and causes	--	--	--
Persons familiar with claimant	--	--	--
Business associates of claimant	--	--	--
Relative of claimant	--	--	--

a. If there are no dollar loss criteria for conducting any of the interviews cited in this question, please attach a statement explaining what criteria is used to determine the scope of investigation by the adjuster.

5. Is each adjustor required to participate in a program involving training in arson detection? Yes—; No—.

a. If yes, how many hours of arson detection training is required of each adjustor?——hours.

6. Are current state laws or local regulations regarding fire insurance any impediment to investigation of arson by your company? Yes—; No—.

a. If yes, explain.

7. What actions can the federal government take to remove the profitability from arson?

8. On a separate sheet of paper, please evaluate the degree of cooperation your company receives from local, state and federal law enforcement agencies on arson fraud detection, as well as any reasons you may think explain the degree and kind of cooperation or non-cooperation?

9. What could local, state and federal officials do to curb arson-for-profit?

10. In view of the increasing incidence of arson, how have your company procedures and policies changed to deal with this problem?

11. Do you believe that organized local rings, acting without assistance from national crime syndicates, are responsible for arson-for-profit operations? Yes—; No—.

a. Please provide specific examples of such activities.

12. Do you believe that national organized crime syndicates are responsible for arson-for-profit operations? Yes—; No—.

a. Please provide specific examples of such activities

13. What factors other than profitability make arson attractive?

PART I

14. Please check the categories for which your firm maintains records which indicate the following facts during 1977:

a. Number of structures covered by fire insurance: —.

b. Number of structures physically inspected inside and out before insurance coverage was granted: —.

c. Number of structures involved in fire loss, together with amount of loss: —.

d. Number of losses which were inspected by adjustors prior to payment: —.

e. Number of structural losses which were followed up by interviews with:

(1) owner: —.
(2) police dept.: —.
(3) fire dept.: —.
(4) witnesses: —.
(5) business associates of owner: —.
(6) friends of owner: —.
(7) neighbors of owner: —.
(8) relative of owner: —.

f. Number of investigations of financial status of owners of property which incurred losses: —.

PART II

Do you expect to have any additional compilations of statistics referenced in Part I pertaining to 1977 available later in the year? Yes —; No —.

a. If yes, please provide a statement describing the statistics which will be available.

PART III

Do you plan to begin collecting any of the data referenced in Part I in the future? Yes— No—

a. If yes, please provide a statement describing your plans.

15. Overall, how effective do you think your underwriting and adjusting practices are in curbing arson-for-profit? Very good — Good — Fair — Poor —

a. What changes in your practices could be made to reduce arson-for-profit?

16. Please provide any suggestions you think relevant in connection with the Subcommittee's inquiry into arson-for-profit.

APPENDIX B

The following companies responded to the Permanent Subcommittee on Investigations' questionnaire:

Aetna Life and Casualty Co., Hartford, Connecticut.

Allstate Insurance Companies, Northbrook, Illinois.

Commercial Union Insurance Co., Boston, Massachusetts.

Aetna Insurance Co. (affiliate of Connecticut General Life Insurance Co.), Hartford, Connecticut.

Continental Assurance Co., New York, New York.

Fireman's Fund Insurance Co., San Francisco, California.

Hartford Insurance Group, Hartford, Connecticut.

Home Insurance Co., New York, New York.

Insurance Company of North America, Philadelphia, Pennsylvania.

Reliance Insurance Co., Philadelphia, Pennsylvania.

Royal Globe Insurance Co., New York, New York.

Safeco Insurance Company of America, Seattle, Washington.

St. Paul Fire and Marine Insurance Co., St. Paul, Minnesota.

Transamerica Insurance Co., Los Angeles, California.

Traveller's Corp., Hartford, Connecticut.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired.

POSTPONEMENT OF THE EFFECTIVE DATE OF RULE XLIV OF THE STANDING RULES OF THE SENATE

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of Senate Resolution 93, which the clerk will state by title.

The legislative clerk read as follows:

A resolution (S. Res. 93) to postpone the effective date of rule XLIV of the Standing Rules of the Senate.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(At this point Mr. STEVENSON addressed the Senate in connection with the introduction of legislation. His remarks and a colloquy with Mr. MOYNIHAN are printed under Statements on Introduced Bills and Joint Resolutions.)

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator wish the time equally divided?

Mr. MOYNIHAN. Will the Chair please explain?

The PRESIDING OFFICER. The quorum call must come out of the time of one side or the other.

Mr. MOYNIHAN. I ask unanimous consent that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. MOYNIHAN. Mr President, the distinguished Senator from Alaska has control of the time.

Mr. STEVENS. Mr. President, I yield to the Senator from Illinois such time as he desires.

Mr. STEVENSON. Mr. President, I thank the distinguished Senator from Alaska. I rise to ask the Senator from Alaska if this resolution would in any way affect the limitations on honoraria which are contained in the Federal Election Campaign Act.

Mr. STEVENS. I will say to the Senator from Illinois it will not affect those limitations. The Election Campaign Act limitations will remain in effect. As I pointed out last evening, the limitations under rule XLV which pertain to activities that might cause conflict of interest will also remain in effect. We cannot engage in professional activities or employment which might cause conflicts. We cannot affiliate with a firm, allow our name to be used, or hold any position as officer or director of a public corporation, or lobby our colleagues for a period of 1 year after leaving office. The provisions of rule XXXIV prohibit us from accepting gifts from persons or groups with interest in legislation and rule XLVI limits the funds we can use for expenses we incurred in line with our official duties. All remain in effect and are not changed by this resolution. This resolution affects only the provisions of rule XLIV as they apply to honoraria and outside income.

Mr. STEVENSON. I thank the Senator.

The purposes of rule XLIV are to minimize the possibilities of conflicts of interest, reduce the appearance of conflicts of interest, and limit the amount of time that a Senator can spend away from senatorial business.

Mr. President, those purposes are also served by the requirements of rule XLII for reporting gifts and outside earned income, including honoraria. So I ask my friend if the provisions of rule XLII would be affected in any way by this amendment.

Mr. STEVENS. I say to the Senator from Illinois they would not be as I pointed out yesterday. We must disclose our personal and family finances, including a listing of all honoraria received, all earned income in excess of $100, the identity of each source of unearned income and gifts, and many other financial details required by rule XLII. This has no impact on that rule in regard to disclosure.

Mr. STEVENSON. I thank the Senator. This colloquy will demonstrate that the Senate has at least three rules for every conceivable form of questionable conduct.

Rule XLV also deals with the same purposes as rule XLIV; namely, the possibilities of conflicts of interest. Rule XLV prohibits conduct which could give rise to a conflict of interest or any appearance of such a conflict. For example, it prohibits a Senator or Senate employee from exerting improper influence of compensation, from using one's official position in the passage of legislation, or receiving a pecuniary interest from affiliation with a firm or corporation for compensation, from serving on the board of certain publicly regulated corporations, from engaging in any outside business or employment for compensation which is inconsistent or in conflict with the conscientious performance of his official duties.

I ask my friend if the resolution would in any way alter the prohibitions now contained in rule XLV.

Mr. STEVENS. The answer to the Senator from Illinois is no, it would not.

Mr. STEVENSON. Mr. President, I again thank the Senator.

For the benefit of all Members and the staff of the Senate, I remind them that these other rules are in effect, and that they are, of course, enforced rigorously by the Senate Ethics Committee.

That committee has interpreted these rules in a manner which prevents conflicts of interest, limits the amount of time spent on nonsenatorial activities, and, of course, requires the disclosure of all financial interests of Senators and the staff. These rules, enforced by the Ethics Committee, also require public disclosure of participation in outside activities by Senators and Senate employees.

I might take advantage of this opportunity, if my friends will indulge me the time, to read from certain of the interpretive rulings of this committee.

Mr. STEVENS. Mr. President, if I might interrupt the Senator from Illinois, the time now is reserved for the Senator from Virginia, (Mr. Harry F. Byrd, Jr.) for 1 hour preceding the vote on his amendment to S. 245.

Mr. STEVENSON. Mr. President, I ask unanimous consent, then, that excerpts from Interpretative Rulings 33, 56, and 70 of the Ethics Committee be printed in the Record so there will be no doubt about the intentions of the Senate and the consequences of its action today if we approve this resolution. Conflicts of interest, any appearance of conflicting interests will remain prohibited.

There being no objection, the material was ordered to be printed in the Record, as follows:

Interpretative Ruling No. 33

The propriety of outside employment is governed by Rule 45. No employee, regardless of salary level, may receive compensation by virtue of influence improperly exerted. Nor may any employee engage in any outside business or professional activity or employment for compensation which is inconsistent or in conflict with the conscientious performance of official duties.

Interpretative Ruling No. 56

It prohibits Members and employees from engaging in any outside business or professional activity or employment for compensation which is inconsistent or in conflict with performance of official duties.

Interpretative Ruling No. 70

Paragraph 6 of Rule 45 on conflicts of interest was intended to severely restrict the practice of any profession (for compensation) by Senate employees. That paragraph states in pertinent part that no Member or (full-time) employee compensated at a rate in excess of $25,000 per annum shall; a) affiliate with a firm or partnership, b) permit his or her name to be used by such, or c) "practice a profession for compensation to any extent during regular office hours of the Senate office in which employed."

Mr. STEVENSON. With the assurances of the Senators and that understanding, I have no objection to the resolution which they have offered.

Mr. HARRY F. BYRD, JR. Mr. President, I shall yield 5 minutes of my time to the Senator from Alaska.

Mr. HARRY F. BYRD, JR. was recognized.

Mr. HARRY F. BYRD, JR. Mr. President, I shall be glad to yield 5 minutes of my time to the Senator from Alaska.

Mr. MOYNIHAN. Mr. President, we thank the distinguished Senator from Virginia and express our deep appreciation to the Senator from Illinois, chairman of the Senate Ethics Committee, for his forthright and forceful statement.

Mr. STEVENS. I join the Senator from New York in thanking the Senator from Illinois for his statement. I point out for the Record that the rules that are in effect concerning conflicts, disclosure, and in particular, the association of a Senator or employee with firms or publicly held corporations, remain in effect notwithstanding the postponement of the date in rule XLIV which will be brought about in this resolution.

I thank the Senator from Virginia, also, for yielding time.

TAIWAN ENABLING ACT

The PRESIDING OFFICER. Under the previous order, the hour of 11 o'clock having arrived, there will be 1 hour of debate on the amendment of the Senator from Virginia (Mr. Harry F. Byrd, Jr.) to be equally divided between the Senator from Ohio and the Senator from Virginia.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

> A bill (S. 245) to promote the foreign policy of the United States through the maintenance of commercial, cultural, and other relations with the people on Taiwan on an unofficial basis, and for other purposes.

ORDER OF PROCEDURE

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. I should like to inquire, what disposition was made of the matter we have been discussing for the last hour?

Mr. MOYNIHAN. The Senator from New York informs his friend from Arizona that the matter will be taken up following the disposition of the bill before the Senate at this moment, which I believe is to be at noon today. We shall resolve this other matter by 12:30 p.m.

The PRESIDING OFFICER. That is correct. The vote on disposition of the Byrd amendment to the bill will occur at 12 noon. Then the Senate will vote at 12:30 on Senate Resolution 93.

Mr. MOYNIHAN. The Senate will vote by 12:30, I believe.

The PRESIDING OFFICER. Not later than 12:30, the Senator is correct.

TAIWAN ENABLING ACT

The Senate resumed consideration of the bill, amendment No. 93.

Mr. HARRY F. BYRD, JR. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business of the Senate is amendment No. 93 to S. 245.

Mr. HARRY F. BYRD, JR. Is not the pending matter the amendment offered by the Senator from Virginia?

The PRESIDING OFFICER. Yes, it is, the Senator is correct.

Mr. HARRY F. BYRD, JR. Mr. President, the pending amendment states this:

> It is the sense of the Senate that approval by the Senate of the United States is required to terminate any mutual defense treaty between the United States and another nation.

Mr. President, in the heat of debate last evening, some of the opponents attributed to this amendment provisions which are not incorporated in any way in the amendment. Let me state what the amendment does not do.

First. The amendment does not express either approval or disapproval of the President's decision to give notice under article X of the Mutual Defense Treaty between the United States and the Republic of China.

Second. The amendment does not take from the President any power he now has.

Third. It does not prevent the President from expressing the intent to abrogate a treaty.

Fourth. It does not affect in any way the notice the President has given under article X, which states:

> Either party may terminate the treaty one year after notice has been given to the other party.

Fifth. It does express the view of the Senate that, under the Constitution, the President cannot unilaterally nullify a treaty.

I state again the precise amendment on which the Senate will be voting at the hour of 12 noon. The amendment reads as follows:

> It is the sense of the Senate that approval by the Senate of the United States is required to terminate any mutual defense treaty between the United States and any other nation.

This, Mr. President, in the view of the Senator from Virginia is an extremely important matter. It goes far beyond the question of Taiwan. The United States has many very important mutual defense treaties with many different nations. The Senate of the United States, by its action today in voting down the Byrd amendment, if, indeed, the Senate takes that action, would be establishing a precedent by saying to the Nation and to subsequent Presidents that a President, acting alone, can terminate a treaty that has become law as a result of approval by a two-thirds vote of the Senate of the United States.

Mr. President, in the discussion yesterday, the able senior Senator from Louisiana (Mr. Long) called attention to article VI of the Constitution. Article VI reads thusly:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof, and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land, and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

Senator Long then very aptly stated this:

> The impression I gather from that article is that a treaty signed by the President and ratified by a two-thirds majority of the Senate is the law, and if you have a later law to the contrary, it would supersede that law. In case of conflicting laws, whichever law is the latest of the two would prevail. That is the impression that I have.

Then he continues:

> If you want to repeal a law, you have to do it with another law. The Executive can make agreements, but he is sworn to uphold

> the law himself, so that he cannot repeal a law just by saying "I just don't like the law; I am not going to abide by it."

The Senator from Louisiana continues:

> If one of us tried to do that, we would be put in jail. They would say, "You don't have the right to decide what law you are going to abide by or what law you are not going to abide by."

The Senator from Louisiana continues in that same vein, pointing out that a treaty, being a law, cannot be set aside unilaterally by one branch of the Government, or cannot be set aside unilaterally by the President of the United States, whoever he may be.

Mr. President, I realize that there are many who feel that the President should have that prerogative, but under the Constitution I think it is very clear that he does not have it.

The purpose of this amendment is not to focus on Taiwan, but the purposes of this amendment is to focus on the broader problem of what happens to future treaties made by the United States, ratified by the Senate, with other nations of the world.

Mr. GOLDWATER. Will the Senator yield for a question?

Mr. HARRY F. BYRD, JR. I yield to the Senator from Arizona.

Mr. GOLDWATER. I think it would be helpful if the members of the Foreign Relations Committee, including the chairman, would indicate to those of us who support the Senator's amendment whether they would approve of the President abrogating or terminating the treaty in which it created the United Nations or created NATO.

I think this is rather important that the chairman, or ranking member, or any member, say that they want that condition to prevail in this country.

If the Senator would further yield, because he just referred to the words of Thomas Jefferson which are in our manual, and we are supposed to live by that manual.

I would like to read what the Supreme Court Justice Joseph Story, a very scholarly jurist, wrote in his commentaries on the Constitution of the United States in connection with treaties:

> This joint possession of the power—

Speaking of the President—

> affords a greater security for its just exercise, than the separate possession of it by either.

It continues:

> [I]t is too much to expect, that a free people would confide to a single magistrate, however respectable, the sole authority to act conclusively, as well as exclusively, upon the subject of treaties . . . there is no American statesman, but must feel, that such a prerogative in an American president would be inexpedient and dangerous.

Now, I think that might be right at the heart of what the Senator from Virginia is talking about and which we do not seem to be able to convince the members of the Foreign Relations Committee is valid.

I might further comment that while the Constitution is not too precise in this field, the words of the Founding Fathers are bound with precision in relation to the power of the Senate in treaties and the power of the President in treaties.

Story adds, in words having equal bearing upon repealing or making treaties:

> The check, which acts upon the mind from the consideration, that what is done is but preliminary, and requires the assent of other independent minds to give it a legal conclusiveness, is a restraint which awakens caution, and compels to deliberation.

To me, that is all we are trying to do. We want to solve this question, can a President of the United States wake up in the middle of the night, without talking to anybody, and say, "Well, that treaty, I don't like that treaty, let's end NATO, let's end our association with Japan, let's end any of the treaties we have," and we have to stand by and put up with it.

We have no power under the argument advanced yesterday by members of the Foreign Relations Committee, no power to act.

I think it is very necessary that the Senator's amendment is put into this measure, which I consider to be a good piece of legislation, much better than we originally had.

I think we need the teeth to keep consistency with the desires of most members of the Foreign Relations Committee that I know to bring back to the Congress those powers which left this Congress during the last 40 years.

Here we are playing around with something that has never been done in the 201-year history of our country until this President took it on himself to do it.

I just wanted to make those few comments. I thank the Senator from Virginia.

Mr. HARRY F. BYRD, JR. The able Senator from Arizona is so right. I thank him for his statement.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. RIEGLE). Who yields time?

Mr. CHURCH. Mr. President, I yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished chairman.

Mr. President, the Constitution reads on this particular question, and I am reading from paragraph 2 of section 2, article II of the Constitution: "He"—the President—"shall have Power, by and with the Advice and Consent of the Senate, to make Treaties"—to make treaties. It does not say anything about shall have the power to terminate them.

It would seem to me that the authors of the Constitution intended for this to be a share in power, meaning by my saying "this," I mean the terms of the treaty.

If the authors of the Constitution had intended that the power to terminate be shared, they would have said so. The Constitution only talks about making treaties, and in that instance includes the Senate.

"He"—the President—"shall have Power, by and with the Advice and Consent of the Senate, to make Treaties."

It seems to me that the distinguished Senator from Virginia has raised a very nice, interesting, important and far-reaching question, and the constitutional implications are broad. They are broad. It is a question that I think should be carefully considered.

The Foreign Relations Committee has indicated that it would hold hearings on this matter. I suppose that the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) would certainly avail himself of that opportunity on such occasion.

The constitutional questions are so broad, Mr. President, that I would hope that the distinguished Senator from Virginia, having raised the issue, having expressed a strong viewpoint on it, having made a case, from his standpoint, that is worthy of consideration and attention for hearing and study, would consider withdrawing the amendment and not pressing the Senate to a vote on it at this particular time.

The distinguished Senator from Virginia has indicated that the adoption of his amendment by the Senate to the pending matter would not affect the Mutual Defense Treaty with Taiwan, would have no impact on that whatsoever. That being the case, the distinguished Senator from Virginia would lose nothing in withdrawing the amendment, inasmuch as, in his viewpoint, it would have no impact on what the President has done to terminate in accordance with the provisions of article X of the Mutual Defense Treaty—that treaty.

This is not the proper vehicle for this amendment. Mr. GOLDWATER, our distinguished colleague from Arizona, and others—I have not looked over the names, but I do know of Mr. GOLDWATER and others—are pressing this issue in the courts; and I think it would be well to let the courts make a decision on it. In the meantime, the Foreign Relations Committee could conduct hearings. Mr. HARRY F. BYRD, JR. could send a resolution to that committee, and hearings could be conducted, evidence could be presented, and the Senate then would be in a better position, with that kind of preparation, to vote on this very broad, far-reaching constitutional question.

If the Senate had intended in a mutual defense treaty that the Senate vote on its termination, the Senate would have written that in as a reservation. The Senate approved the ratification of that treaty with its eyes open, with its ears open, and knowing full well of the provisions in article X of the treaty allowing for termination of the treaty by either party.

Some will say, "Well, who is the party?" If the "party," by the constitutional forebears, had been intended to be the Senate, it seems to me they would have said so, just as they said that the party in making treaties is the President, by and with the advice and consent of the Senate. They certainly must have foreseen that treaties might be terminated, that treaties might even be abrogated, that it might be in the interests of our own country to terminate a treaty. They must have foreseen that. If they had meant for the Senate to be a party to the termination of treaties, I am constrained to believe that they would have had the foresight and the wisdom to have written that into the Constitution.

Mr. President, I simply urge my distinguished colleague from Virginia, Mr. BYRD, he having raised a very important question here, to consider withdrawing the amendment at this time and pursuing it before the Committee on Foreign Relations. It is a matter that is appropriate for thorough consideration by that committee.

No hearings have been held on this amendment. There has been no consideration of it by the Foreign Relations Committee. Again I say that the members of the committee already have indicated on the record their willingness to hold hearings and to give serious study to the issue. I think that is the appropriate manner for dealing with this question. I do not believe that the Taiwan Enabling Act is the appropriate vehicle. It is not a treaty.

In the future, if the Senate wants to write into any treaty a provision that will outline clearly the termination of such treaty, or the abrogation of it, that it is a question which will have to be decided jointly between the President and the Senate, it can do so. Also, it can say in that provision whether or not the Senate should terminate by a majority vote or by a two-thirds vote, or whatever.

Without the kind of study that is needed, I hope that the Senate would not be forced to take action at this point, and on this vehicle, on an amendment that has such far-reaching implications. It would be a blanket requirement. In order for all treaties to be terminated in the future, the approval by the Senate would be required. By what vote? A two-thirds vote? A three-fifths vote? What?

It may be in the interests of this country—who knows?—to terminate some other treaties down the road. It may be in the security interests of this country to terminate some other treaties down the road. Who knows? We may have a Republican President at some far distant time in the future, or we may have a Democratic President. But, whichever, that President, as the Chief Executive of this country, is in the best position, I believe—and apparently the Founding Fathers thought so—to terminate a treaty; and they left it open to the Senate to write provisions in any treaty. They left it open to the Senate.

There is nothing in the Constitution that prevented the Senate in 1954 from writing a provision therein which said that either party shall have the power to terminate, with the understanding that the U.S. Senate, on the part of the United States, shall first approve the termination.

The constitutional forefathers left that door open for us. They did not leave the door open when it came to making treaties. They said that the President of the United States shall have the power, by and with the advice and consent of the Senate. The door is closed. The President cannot make a treaty without the approval of the Senate, and I have so said to Mr. Carter in connection with SALT. I said:

> If an agreement is sent up there, count me out. If it is done by way of an Executive agreement, count me out—o-u-t.

I am against it to start with, should it be sent in by an agreement. The constitutional forebears closed the door there. It has to be done with the advice and consent of the Senate. It would not be so with the termination of a treaty. They did not say that.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. So I do plead with my friend from Virginia, who is a very understanding Senator, who is a very able Senator, who wants the Senate to do the right thing in the interests of the United States; and I am sure he believes that the right thing can best be done if the Senate is well informed through adequate hearings. If he would do that, the Senate then would be in a position to proceed with its hearings in the Foreign Relations Committee and would not have to cast a vote today, when Senators are not prepared. I am not prepared. I have my own viewpoint, hastily arrived at through reading a couple of lines in the Constitution and thinking about it overnight. But what other evidence do I have? I need other evidence. I need a report on the part of the Foreign Relations Committee. I need its testimony. I need to read its hearings so that I will be guided properly and so that I will not vote in the wrong way. I intend to vote against the amendment, and I intend to vote for a tabling motion, if such a motion is offered, but that might not be the right thing.

I urge the Senator to consider withdrawing the amendment and letting the Foreign Relations Committee conduct hearings on the matter, and let us approach it from an informed standpoint, after adequate testimony has been adduced and thorough study has been had. I cannot read any Senator's mind, but there are Senators today who, for political reasons or otherwise—they may be running for reelection next year—may feel constrained, in the light of events and for other reasons, to vote for the amendment.

I think it is not. I hope they would not be forced to do that without adequate preparation and study on a matter of such far-reaching constitutional implications, and I mean they can be far reaching with respect to security interests of this country in the future.

For their sake, I hope they will not be forced to vote on this issue today. It is the wrong vehicle. It is the wrong time. It is under the wrong circumstances. It will not affect one way or the other this particular subject that is before the Senate, basically, the Taiwan Enabling Act. And for all of those reasons, I hope that the distinguished Senator from Virginia will consider withdrawing the amendment and that he will withdraw it.

I respect him if he does not. I respect his right to disagree with me. But I know that he will think about it. In consideration of the need for all Members of the Senate to be fully informed on this subject before they vote one way or the other, I hope that he will withdraw the amendment.

Now I yield to my friend from Arizona, Mr. GOLDWATER.

Mr. GOLDWATER. I thank my good friend and leader.

I just wished to read a piece of testimony that I gave before the Foreign Relations Committee to show that this is not exactly new:

> I wish to remind the Senate that the issue before us is not novel. It is not new.
>
> In 1856, the Foreign Relations Committee took up the identical question before us today.
>
> They examined the question of how a treaty should be terminated when the treaty itself provides for cancellation after notice given by either party.
>
> The Committee had no difficulty in answering the question. In its official report, our Senate Committee in 1856 said that "where the right to terminate a treaty at discretion is reserved in the treaty itself, such discretion resides in the President *and* Senate."
>
> The report went on to say that a treaty can also be repealed by joint action of both Houses of Congress, but it rejected any idea that the President could do it alone.

Yesterday I put a list of 51 treaties in the RECORD that have been abrogated or terminated, as some would prefer, since the beginning of our Republic. If my memory serves me correctly only one treaty of mutual defense was included, and that was abrogated by the entire Congress and later the President approved the action.

So this is not new, and I will say to that the Constitution is not exactly clear in this whole field.

I asked a question earlier that no member of the Foreign Relations Committee has answered. I wish to know what the opinion, for example, of the majority leader might be on any President—I do not care if he is a Republican, if we live that long, or a Democrat if we have to put up with that—but would he wish to have any President have the power to say, "We are going to pull out of the United Nations tomorrow," or "We are going to leave NATO tomorrow," or "We are going to cancel our Japanese treaties"?

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. GOLDWATER. The majority leader has the floor.

Mr. ROBERT C. BYRD. I had hoped the Senator was letting me yield to him on his time

Mr. GOLDWATER. Gladly, but I have to get permission from my boss.

Mr. HARRY F. BYRD, JR. The Senator from Arizona does not have time.

Mr. ROBERT C. BYRD. I thought it was on the Senator's time.

Mr. GOLDWATER. I assume it is on the Senator's time. I will be glad to split it with the Senator.

Mr. ROBERT C. BYRD. All right.

Let me just respond, if I may, to the distinguished Senator.

No 1, he has referred to a committee of the Senate 123 years ago that in the light of circumstances at that time issued a report saying thus and so.

The Senate did not say it. It was the committee.

Second, he has asked how I feel about the President of the United States terminating this treaty or that treaty, and then he mentioned the NATO Treaty.

I cannot envision any President, Republican or otherwise—or Democratic—terminating our responsibilities under NATO, because that would run against the security interests of the United States. Everyone knows that.

But there might be a treaty which would be not in the security interests of the United States which the President would feel he should terminate and which he had the right to terminate in accordance with the provisions thereof.

I say leave it to the judgment of that President at that time and under those circumstances.

It was clearly within the province of the Senate when the Mutual Defense Treaty with Taiwan was written in 1954 to have included in its provisions that the approval of the Senate should be had for termination.

I think it comes at a late date now to claim that, and the Senator from Virginia does not so claim. He says it would not have affected that treaty, and that is one of the basic reasons why I hope he will withdraw his amendment on this occasion, because it will not affect that treaty.

It can go before the Foreign Relations Committee. Hearings can be held. They will be held. And the Senate then will be in a position to knowledgeably, knowingly, and in an informed manner vote on the issue at an appropriate time.

I thank the Senator.

I thank the Senator for yielding.

Mr. HARRY F. BYRD, JR. I have so little time. I yield myself just 1 minute.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 1 minute.

Mr. HARRY F. BYRD, JR. Mr. President, I wish to point out that the Constitution does not say how to repeal a statute. It does not say the power to terminate a law is shared with Congress. But it is obvious Congress must act to terminate a law.

At this point, also, Mr. President, I wish to print in the RECORD information that was submitted yesterday by the Senator from Arizona (Mr. GOLDWATER) listing 51 treaties which were terminated by legislative action, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TERMINATION OF TREATY OR TREATY PROVISION WITH LEGISLATIVE ACTION (51)[1]

A. Termination with legislative approval or ratification (48)[2]

Authorizing legislation, treaty, and total treaties affected:

Act of July 7, 1798, 1 Stat. 578, French-American Treaties of 1778–1788, 4.

H.J. Res. of April 27, 1846, 9 Stat. 109, Convention on Boundaries with Great Britain, 1.

S. Res. of March 3, 1855, 9 Senate Executive Journal 431, Commercial Treaty with Denmark, 1.

J. Res. of Jan. 8, 1865, 13 Stat. 566, Reciprocity Treaty with Britain, 1.

J. Res. of June 17, 1874, 18 Stat. 287, Treaty of Commerce and Navigation and Commercial Convention with Belgium, 2.

Act of February 26, 1883, 22 Stat. 641, Amity Treaty with G. Britain, 1.

J. Res. of December 21, 1911, 37 Stat. 627, Treaty of Commerce and Navigation with Russia, 1.

Seamen's Act of March 5, 1915, 38 Stat. 1164, Several treaties and conventions, 25.

S. Res. of May 26, 1921, 61 Cong. Rec. 1793, International Sanitary Convention, 1.

Treaty on Principles and Policies Concerning China (Nine Power Agreement) of February 6, 1922, 2 Bevans 375, Treaty of Commerce and Navigation with Japan, 1.

1944 Chicago Convention on International Civil Aviation, 3 Bevans 944, 965, 1928 Pan American Convention on Commercial Aviation, 1.

1946 Convention for the Regulation of Whaling, 4 Bevans 249, 1937 Convention for the Regulation of Whaling, 1.

Trade Agreements Extension Act of 1951, 65 Stat. 72, Treaties of Friendship, Commerce and Consular Rights with Hungary and Poland, 2.

1948 Convention on Safety of Life at Sea, 1929 Convention on Safety of Life at Sea, 1.

Foreign Assistance Act of 1961, 75 Stat. 424, Commercial Convention with Cuba, 1.

Export Control Act of 1948, 50 USC App. 2021 et seq.

Trading with the Enemy Act, 50 USC App. 1 et seq.

Mutual Assistance Act of 1954, 22 USC 1934.

Inter-American Treaty of Reciprocal Assistance of 1947, 4 Bevans 559.

Cuban Resolution of 1962, 76 Stat. 697.

Byrd Amendment of 1971, 85 Stat. 427, § 503, "One aspect of our treaty obligations under the U.N. Charter." *Diggs* v. *Shultz*, 470 F. 2d 461 (D.C. Cir. 1972), 1.

Fishery Conservation and Management Act of 1976, 16 USC 1801, Three Conventions on Fisheries, 3.

B. Termination with implied authority conferred by inconsistent legislation (3)[3]

Date of legislation, treaty, and total treaties affected:

Tariff Act of July 24, 1897, 30 Stat. 151 Commercial Convention with Switzerland, 1.

National Industrial Recovery Act of 1933, 48 Stat. 195, Convention on Abolition of Import and Export Prohibitions and Restrictions, 1.

Trade Agreements Act of June 12, 1934, 48 Stat. 943, Treaty of Commerce and Navigation with Italy, 1.

Mr. HARRY F. BYRD, JR. Mr. President, one further word. I shall, of course, take under advisement and give full consideration to the wishes and desires of the majority leader.

The PRESIDING OFFICER. The Senator's minute has expired.

Mr. HARRY F. BYRD, JR. I yield myself one-half additional minute.

The PRESIDING OFFICER. The Senator from Virginia is recognized for one-half minute.

Mr. HARRY F. BYRD, JR. I will not make a decision at this moment, but I will, of course, give full consideration to his wishes, although I see very little need for it.

Mr. CHURCH. Mr. President, how much time remains to the opponents of this amendment?

The PRESIDING OFFICER. The Chair will advise that 11 minutes remain.

Mr. CHURCH. Mr. President, I reserve 5 minutes of that time to reply to the distinguished Senator from Virginia.

First of all, let me say to him that this summer the committee will have before it a major treaty on treaties, the Vienna Convention on the Law of Treaties, at which time we shall be conducting thorough hearings, that could include the very question that has been raised by the distinguished Senator.

I should think that would be an appropriate time to consider all of the possible ramifications of the very important issue he has raised.

I wish to assure the Senator that at that time or at some other appropriate time the committee will examine this question in depth.

I reiterate the request of the majority leader that the Senator from Virginia give serious consideration to withdrawing the amendment at this time, because I feel that it is inappropriate as a part of this bill. Furthermore, before we pass judgment on a question of such far-ranging ramification, we should have the benefit of thorough hearings and expert testimony.

For example, Mr. President, the resolution as it is presently written raises questions on its face. Even if we were to accept the arguments offered in support of the amendment, which I cannot accept, the arguments raise a question as to why the amendment has been framed in such a way as to be limited to mutual defense treaties.

In other words, if the Senator from Virginia or the Senator from Arizona are correct in their assertion that a treaty may not be terminated except with the consent of the Congress, then why should this sense of the Senate resolution be limited to one kind of treaty, namely, mutual defense treaties? Even on its face, the amendment is not consistent with the argument that has been advanced in support of it.

FOOTNOTES

[1] One incident of Congressional ratification of a Presidential notice is not included in the table because notice was withdrawn before the treaty was terminated. In 1865, shortly after President Lincoln had notified Great Britain of our withdrawal from the Rush-Baggot Convention regulating naval forces upon the Great Lakes, Congress defended its power in the field by passing a Joint Resolution based on the principle that Lincoln's action was invalid until ratified and confirmed by Congress. H.J. Res. of Feb. 9, 1865; 13 Stat. 568.

[2] Congress terminated all existing treaties of the Hawaiian Islands with foreign nations in the Joint Resolution of July 7, 1898, but the action is not included in the table because those treaties were not ratified under the Constitution.

[3] Another treaty which was terminated because of inconsistent legislation is the 1891 Treaty of Amity, Commerce and Navigation with the Independent State of the Congo. In 1916, Belgium, which had annexed the Congo. twice denounced the whole treaty after Congress directed the termination of a substantive article thereof in the Seamen's Act of 1915. The treaty is counted only once in the above tables, being included with those treaties affected by the Seamen's Act in Table A. Termination of the treaty is reported by the State Department under the heading "Abrogation of Treaties and Provisions of Treaties which Conflicted with the Seamen's Act of March 4, 1915," Foreign Relations, 1920, vol. 1, pp. 207–209.

The majority leader has already pointed out that under the Constitution the advice and consent of the Senate is required only for the purpose of making treaties. When it comes to their termination, it is true that the Congress can take part, and on numerous occasions in the past, that indeed has happened.

If the Congress had wished to initiate the action that would terminate the Mutual Defense Treaty with Taiwan, then there is nothing to prevent the Congress from passing a resolution—a joint resolution—calling for the termination of that treaty which, if signed by the President, would be an act of law. And, under the well-known doctrine of supersession, the last act of the Congress, being last in time, would still supersede the mutual defense treaty, and once bearing the force of law would operate to terminate the treaty.

So I do not argue with the proposition that it is appropriate for Congress when it wishes to assert its right to terminate treaties simply by passing a resolution which, when signed by the President, has the force of law and, being the last statement on the subject, supersedes any previous law. That is how we change statutes and treaties.

The PRESIDING OFFICER (Mr. Heflin). The time of the Senator from Idaho has expired.

Mr. CHURCH. I ask unanimous consent for 3 extra minutes, Mr. President.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

Mr. CHURCH. In the current case we happen to have a treaty which includes in its own text the manner by which it may be terminated. In article X the treaty itself provides:

> Either party may terminate it 1 year after notice has been given to the other party.

When this treaty came before the Senate in the first instance, when the Senate by a two-thirds vote ratified the treaty, it also ratified article X which contains the method whereby the treaty may be terminated. That is every bit as much a part of the treaty as any other article.

So the Senate placed its imprimatur of approval upon this method for terminating this particular treaty.

The President has acted in conformity with article X, and I think there is no question—at least there is no question in my mind—that he has acted in an appropriate manner, and that by giving this notice upon the expiration of the year's period, the treaty will be terminated according to its own terms.

I close, Mr. President, with a statement from one of the foremost authorities on international law. I quote from the Restatement of the Foreign Relations Law of the United States by the American Law Institute, from section 163 which reads as follows:

> Under the law of the United States, the President, or a person acting under his authority, has, with respect to an international agreement to which the United States is a party, the authority to take the action necessary to accomplish under the rules stated in section 155 the termination of the agreement in accordance with the provisions included in it for that purpose.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. CHURCH. I thank the Presiding Officer.

I ask unanimous consent that the remaining time be given to the distinguished Senator from New York, the ranking member of the Committee on Foreign Relations.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I have expressed to Senator Byrd yesterday, and I express again, my feeling that it is a great service to the Senate, and that this question will be resolved, and I will join—and I think he has known me long enough to take my word for that—actively and vigorously in resolving it, with his leadership.

I am deeply concerned about the adoption of this resolution now for this reason, Senator: The Senator from Arizona, exercising his right as an American, has started a suit. If the Senate declares even in a sense resolution that the action of the President, in its opinion, is not lawful, it leaves a very grave legal question as to whether we are complying with the agreement we are really implementing here with the People's Republic of China, because the communique says:

> The United States of American recognizes the Government of the People's Republic of China as the sole legal government of China.

Therefore, if we are going to violate that then we have violated what we started out to do, and this whole effort and the whole edifice fall.

So my point is because of the frame of reference in which this amendment is cast, and quite without the Senator from Virginia or any other author desiring it, I agree with that, and I notice the Senator has put it in writing, and I do not think you can help it when the Senate says in its opinion that this is an unlawful act, because the President has no such power, then you cannot avoid the legal consequences which are that the President has not yet acted until somebody else, stronger than we, more authoritative does so, and that is a tough one because I think the Supreme Court is very likely to dismiss this suit on the ground that it is a political question.

So if he has acted unlawfully what are we here for? This whole legislation collapses. That is why I am concerned about it.

That is why I would add, for whatever it is worth, my assurances to those of the leadership and those of Senator Church, our chairman, to most assiduously and faithfully do this job.

The VICE PRESIDENT. All time of the proponents has expired.

Mr. HARRY F. BYRD, JR. I thank the Senator from New York. I yield 2 minutes to my colleague from Virginia.

Mr. WARNER. I thank the Senator. As a cosponsor with the senior Senator from Virginia of this amendment, I address to the opposition a question: Since the Constitution provides the procedures for the creation of a statute or a treaty (although it does not in either case specifically provide procedures for repeal), and since it does declare both statute and treaty, alike, to be the supreme law, why does it not logically follow that treaties, like statutes, can only be repealed by action of the Senate?

I bring to your attention article VI of the Constitution which says:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof, and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land.

How can the President, with just a stroke of the pen, remove a part of the supreme law of the land?

The distinguished Senator from Arizona provided for the record historical facts with respect to past treaties, the ones that have been either abrogated or terminated by the President after consultation with this body.

I believe that only four treaties in our history have been concluded without the joint procedure. One where the other party (country) went out of existence, and the remaining three where the treaties became totally outdated and did not require action. Thank you Mr. President.

The VICE PRESIDENT. The time of the Senator has expired.

The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, article 10 of the treaty with Taiwan states that either party, and that means either government—in the United States the Government means both the legislative branch and the executive branch—either government may terminate the treaty 1 year after notice has been given to the other party.

So it may be terminated during this year.

I emphasize again what I said before, and what other Senators have continued to insist, that the Constitution says nothing about how a treaty shall be terminated. I say the Constitution says nothing about how a law shall be terminated. The Constitution does not say how to repeal a statute. It does not say the power to terminate a law is shared with Congress, but it is obvious that Congress must act to terminate a law.

Frankly, this amendment is so clear that I see no reason to hold public hearings on it, or any other hearings on it.

I will read it again for the Record:

> It is the sense of the Senate that approval by the Senate of the United States is required to terminate any mutual defense treaty between the United States and any other nation.

Senator Goldwater has put into the Record 51 treaties which have been terminated by legislative action.

As I say, I see no reason for an amendment as clear as this to be the subject of special hearings by the Foreign Relations Committee. I have no objection to it, however.

I want to give full consideration, of course, to the views expressed by the distinguished majority leader. I would give full consideration to a unanimous-consent request that if this amendment is withdrawn, the Foreign Relations Committee will consider and will report back to the Senate this precise amendment, expressing any views it wishes to on it, will report back this precise amendment for an up-or-down vote on a date certain. I prefer to vote today. I think this matter is of great importance. I think it should be determined now. But I am willing to give some consideration if a firm, ironclad agreement can be made to report this amendment back in 30 days; that it become the pending business before the Senate, and that an up-or-down vote occur on the amendment. Of course, the Foreign Relations Committee can present any viewpoint it wishes. They can say it is a lousy amendment and should be voted down. They can make any statement they wish. But I would seek an up-or-down vote on the amendment at a time certain.

If those who are opposing this amendment today want to enter into such an agreement, I will give it consideration. But I certainly will not do it merely on the basis that the Foreign Relations Committee will hold hearings on it and may or may not take any action on it. This is a vitally important matter. It affects the future of all of our treaties. It affects the future of the U.S. Senate. It affects the future of our Nation, as I see it, if we are going to say by a vote today, an unprecedented vote, if this amendment is voted down, that the President of the United States, in the sense of this Senate, has the right unilaterally to nullify a treaty.

Mr. President, how much time do I have remaining?

The VICE PRESIDENT. The Senator has 3½ minutes remaining.

Mr. HARRY F. BYRD, JR. Mr. President, I want to say again this amendment does not express either approval or disapproval of the President's decision to give notice under article 10 of the Mutual Defense Treaty between the United States and the Republic of China. The amendment does not take from the President any power he now has. It does not prevent the President from expressing the intent to abrogate a treaty.

It does, however, express the view of the Senate that under the Constitution the President cannot unilaterally nullify a treaty. So far as the Senator from Virginia is concerned, that is the position that I think the Senate of the United States should take, that a President cannot unilaterally nullify a treaty.

Mr. CHURCH. Will the Senator yield so I might respond?

Mr. HARRY F. BYRD, JR. Yes.

Mr. CHURCH. I would be happy to assure the Senator that the Foreign Relations Committee would hold hearings on the subject of the termination of treaties. We would look to the best authorities we could gather for that purpose. We would consider the Senator's proposal, and we would report back to the Senate on the subject in such form as the committee believes appropriate.

The Senator will always then have the opportunity to substitute his amendment for any proposal the committee might wish to offer.

I could not commit the committee in advance to report back the Senator's amendment in exactly the same language that the Senator has now presented it.

Mr. HARRY F. BYRD, JR. I thank the Senator. I will make the unanimous-consent request, and the Senate can do as it wishes. I ask unanimous consent, Mr. President, that if the Senator from Virginia and my associates agree to withdraw this amendment, that the Foreign Relations Committee will hold hearings, or do whatever it wishes to do—I do not think hearings are necessary—hold hearings or do whatever it wishes to do, and report this precise amendment back to the Senate and it become the pending business on May 1, and will continue to be the pending business until it is disposed of either by approval or by tabling.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, would the Senator not consider this type of a request: That the Senator's amendment be referred to the Committee on Foreign Relations; that the Committee on Foreign Relations hold hearings on the Senator's amendment, and that the Foreign Relations Committee be required to report back no later than, let us say, 60 days. We have to give them more time than May 1, because under the Budget Reform Act we have to have the first budget resolution disposed of before May 15, so we run into a lot of problems that, by law, we are already tied to.

Mr. President, I ask unanimous consent that the Senator from Virginia may have 2 additional minutes and the Senator from Idaho 2 additional minutes.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. No later than 60 days, or we can make it 90 instead of 60, that the committee report back that amendment, as amended, if amended.

I do not think we can put a committee into a straitjacket in their conducting hearings, the Agriculture Committee, the Small Business Committee, or whatever committee, to say that it will hold hearings and be required to report back that particular resolution, word for word, comma for comma, semicolon for semicolon, with no change, and that that measure then become the pending business in the Senate.

I hope the Senator would, with the assurance by the Senate, buy an order by the Senate itself that the committee report it back—the chairman and ranking member would do that anyway—report back no later than 90 days. Then, as majority leader, I am willing to add the provision that it then be the pending business, unless, at that particular point—well, the pending business following action on any business that then may be pending. We may have an appropriation bill up or we may have war powers, we may have—who knows what we may have up at that point?

That, it seems to me, is a good arrangement. It gives the Senator the assurance that his resolution has to be the resolution that the committee discusses, conducts hearings on, his amendment is going to be reported back as amended if amended, his amendment is going to be the pending business before the Senate at a particular point in this session. That gives the Senator assurance that the Senate is going to have an opportunity to act on this amendment or resolution.

I hope the Senator will allow me to make that request which, coming from the majority leader, I think, says the majority leader cannot change it. He cannot schedule anything, he is bound by the order. The committee cannot change it. It is bound by the order to report the Senator's amendment back as amended if amended. The Senator can continue with all his rights as a Senator to offer his amendment to that proposal if it is reported back. I hope the Senator will allow me to interpose that request.

Mr. President, I ask unanimous consent that there be an additional 15 minutes of debate, to be equally divided between Mr. CHURCH and Mr. HARRY F. BYRD, JR., in order that this matter might be resolved.

Mr. FORD. Will the Senator yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. FORD. Does this extend, then, the 12:30 vote, or will it come at 1:30?

Mr. HARRY F. BYRD, JR. What is the unanimous-consent request?

Mr. ROBERT C. BYRD. That there be an additional 15 minutes on this matter; not to exceed 15 minutes. We cannot guarantee that a quorum can be called off in 5 minutes.

The VICE PRESIDENT. Is there an objection?

Mr. HARRY F. BYRD, JR. Reserving the right to object, I am not sure I understand what the unanimous-consent request is.

Mr. ROBERT C. BYRD. This unanimous-consent request is simply that the time be extended for not to exceed 15 minutes before acting on the Senator's amendment. It probably will not take 5 minutes.

Mr. HARRY F. BYRD, JR. I do not object.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HEFLIN). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I had hoped that the distinguished Senator from Virginia would accede to the request which I presented, which I felt was a very reasonable request, allowing the Committee on Foreign Relations to conduct hearings on the resolution offered by the Senator from Virginia, which is in the form of an amendment at this point, which would require that the committee report back within 90 days, no later than 90 days—or, if the Senator wished to make it 60, that would be agreeable, no later than 60 days—the Senator's resolution as amended if amended, and that it then be the pending business before the Senate following the disposition of whatever the pending business was at that particular time.

Mr. President, that is a very reasonable request. It would allow the Foreign Relations Committee, which has jurisdiction over this type of legislation, to conduct hearings, to get eminent witnesses to come in, pro and con. Then the Senate itself would have an opportunity to vote in a knowledgeable way, after they have been adequately informed, on a question that could have far-reaching constitutional implications and which ought not to be submitted at this time on a vehicle which the distinguished Senator from Virginia, himself, says would not be affected by this. But it is a meaningful proposal.

The Senators are going to vote. The Senator does not agree to this request. The Senators are going to have to vote on a matter that has far-reaching constitutional implications and they are going to vote on the basis of their emotions, I suppose, their political intuitions, rather than on the basis of facts carefully secured by the Committee on Foreign Relations, thoroughly studied, and with all Senators having an opportunity to have a committee report, printed hearings, and thus be in a better position ably and knowledgeably to vote on such a far-reaching question.

Mr. NELSON. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. NELSON. I should like to appeal to the distinguished Senator from Virginia to go along with this request. This is an important issue which, for some reason or another, in the whole history of the Republic, so far as I know, has never been addressed. However, on its face, I think the Senator from Virginia is correct.

I think if there were no other choice, I would vote for the amendment as drafted by the Senator from Virginia, and after committee hearings I probably will. However, in that process, something may be raised that would cause me to think the phrasing ought to be somewhat different.

In any event, in principle, I am in agreement with the distinguished Senator from Virginia. But if there is an insistence that the vote occur today, I simply will have to vote against it.

I do not think we ought to be legislating on an historically important principle, involving all kinds of implications, without at least going through the normal process of having hearings and constitutional authorities testifying.

I suspect they will come down on the side of the distinguished Senator from Virginia. But I think we ought to use the process, since nothing has been done about this in 200 years, and I do not know why we could not wait another 60 days.

Mr. ROBERT C. BYRD. I thank the Senator.

On top of that, there is a case pending, Mr. GOLDWATER has presented a case dealing with the President's action in terminating the Mutual Defense Treaty with Taiwan, and that case would not be prejudiced one way or the other by a Senate vote today.

I just hope the Senator from Virginia and his colleagues who are supporting him in the amendment would think again one more time, give it another chance, and let the Senate order the proposal I have presented, or would present, as previously outlined.

It is a fair proposal. It is responsible. It lets everybody have a chance to know what they are voting on.

I may very well vote with the Senator at that time. But today I would have to vote against the proposition. As Senator NELSON says, he would have to, also.

It does put Senators in a difficult position to cast a vote on a matter of this kind with such far-reaching constitutional implications without a word of testimony, without a word of hearing, without a committee report.

Mr. JOHNSTON. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. The time has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate may proceed for 5 additional minutes, and that the Senator from Idaho may control half of the time and the Senator from Virginia half.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I ask for recognition simply to plead with my friend, the Senator from Virginia, to let this matter go to committee.

I say that because on yesterday, persuaded that he was right, I told the Senator from Virginia I would be with him on this particular matter.

On reflection overnight, I am troubled by the implications of the resolution. I am also cognizant of the fact that nothing would be lost to go to committee and report back within a period of 90 days because the notice, as given by the President on Taiwan, is not affected at all by this amendment.

So that if we report it back in 90 days, I expect to be with the Senator from Virginia. But I am not sure and am not prepared to do so today.

I would hope we could go to committee with this matter and find out if there are any implications that are not apparent on one day's study on the matter.

I thank the Senator.

Mr. HARRY F. BYRD, JR. May I ask, what assurance would there be that the Senator from Virginia could get an up or down vote on this precise amendment 60 days from now, as it might be?

Mr. CHURCH. If I may respond—without prejudging what the committee might recommend after hearings—the Senator would always be in a position to offer this precise language as a substitute for the language that was recommended by the committee, should he wish to do so; and I am prepared to have that decided then by an up or down vote at the appropriate time once the committee has had an opportunity to do its work on such a far-reaching issue.

Mr. JAVITS. If I may add one other thing, Senator CHURCH and I will pledge ourselves to see that the Senator has that opportunity, and that procedures not interfere with the right of the Senator—not just the right, but the right under this agreement—to substitute anything we proposed in haec verba, according to the way he has proposed it.

Mr. HELMS. On an up or down vote?

Mr. JAVITS. On an up or down vote, with no tabling.

Mr. HARRY F. BYRD, JR. The Senator from West Virginia indicated a 60-day timeframe would be satisfactory.

Mr. ROBERT C. BYRD. I said 90 days earlier, hoping that by doing so we would not come in conflict with the expired deadlines in connection with programs, or with requirements we have to meet by law, such as the action on the first concurrent budget resolution which has to be completed by May 15.

I would like to at least leave a little room for those contingencies.

Now, this is March, and then we have April, that is 60 days. May 15 is a deadline we know we have to meet under the law on the first concurrent resolution.

Could we not say not later than 90 days? That assures the Senator he is going to have a decision one way or the other on the matter.

We are talking about a different 30 days right now. But I would have to be conscious of the other problems that the Senate may be confronted with in connection with its programing of legislation, and legislation that by law we have to dispose of by certain deadlines.

Mr. JAVITS. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. I just made the suggestion to Senator CHURCH, he has to agree, but I make the suggestion to the Senator that the report of the committee come within 60 days, and the majority leader agree that matter be made the pending business within 90 days. That gives us the flexibility.

Mr. CHURCH. That is agreeable to me.

Mr. ROBERT C. BYRD. I hope very much that the Senator from Virginia would accede to that request——

Mr. HARRY F. BYRD, JR. Does that mean it would be made the pending business not later than the week of the 4th of June, for example?

Mr. ROBERT C. BYRD. I have not had the opportunity to look at the Calendar, but it would be that the majority would be bound by order of the Senate to make the resolution reported by the committee the pending business no later than 90 days from today.

Mr. HARRY F. BYRD, JR. The resolution reported by the committee, but the resolution reported by the committee, I judge from what the majority leader said and the chairman of the committee said, may not necessarily be this resolution.

Mr. ROBERT C. BYRD. It will be that resolution with the Senator's number, his name on it, as amended, if amended. It may not be amended. But I would think that the Senator would not object to the committee's taking testimony and offering amendments, voting on amendments to the resolution, in the light of evidence adduced.

When the matter comes up on the Senate floor, the Senator from Virginia could offer his pending amendment, which would be sent to the committee as a resolution, as a substitute for whatever the committee reports; or he could offer a perfecting amendment to the committee's resolution as reported. He would maintain all his rights. The two managers of the pending bill, who would be the managers in that case, have assured him that he would get an up-and-down vote on his amendment.

This goes a long way, I say to the distinguished Senator from Virginia. Nobody probably has thought of the fact that his amendment, when offered, can be amended, whether it is a substitute or what. The amendment can be amended on the floor. They have offered to give him a vote up and down on his amendment as it is written right at this moment.

Mr. JAVITS. His amendment can be amended right now.

Mr. ROBERT C. BYRD. Of course.

Mr. JAVITS. Even after we vote on a motion to table.

Mr. ROBERT C. BYRD. There is no question about it.

The Senator really is being very fair in considering this request. He is being protected fully all the way around. He is being assured by the order of the Senate that the committee is going to report back the subject matter; that the majority leader will have to program it; and that the Senator will have an opportunity for an up-and-down vote on his amendment as presently written, if he wants to offer it that way to the resolution, if the resolution is changed in its terminology by the committee.

Mr. GOLDWATER. Mr. President, reserving the right to object, will the leader make a clarification? Did the leader make some reference to the amendment after——

The PRESIDING OFFICER. Will the Senator use his microphone?

Mr. GOLDWATER. It does not work. [Laughter.]

The leader made some reference to the amendment as reported by the committee being then referred possibly to "the committee on resolution."

Mr. ROBERT C. BYRD. No, I did not.

Mr. GOLDWATER. I got "the committee on resolution."

Mr. ROBERT C. BYRD. I was misusing it. That was an inexactitude in the use of terminology.

I referred to his amendment as being reported. It is an amendment now that Senator BYRD has offered. I assume that if it goes to the Foreign Relations Committee, it would have to be a resolution. When it is reported from that committee, it will be a resolution. Then the Senator could offer an amendment to that resolution.

I just sort of got my tongue tied a bit, I say to the Senator from Arizona, and used the word "resolution" when I may have meant the word "amendment." He certainly misunderstood me. I did not say what he thought I said.

The PRESIDING OFFICER. The additional time has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from Virginia may have 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, as I understand the proposal, this entire matter would come back to the Senate, would be scheduled for action one way or the other in the Senate, not later than the 7th day of June.

Mr. ROBERT C. BYRD. If that is the 90th day, yes, that would be correct.

Mr. HARRY F. BYRD, JR. Today is the 8th day of March. If we follow that procedure, it would be Friday, June 8.

Mr. ROBERT C. BYRD. I do not know, because May has 31 days and April has 30 days. But it is 90 days. Whether we use the new math or the old, it is 90 days. [Laughter.] Provided it is not a Sunday.

The Senator can be assured that whether this majority leader is still the majority leader on that day or not, the RECORD will be there, the Senate will be standing, and the majority leader at that time will be bound and shackled and chained—he can come in kicking and screaming, if he wants to—but that resolution will have to be made the pending business when the 90 days runs their course.

Mr. HARRY F. BYRD, JR. Mr. President, this is a vital matter. I do not think it is necessary to hold hearings on it. But I always like to cooperate with my colleagues. With the assurance that the matter will come before the Senate not later than 90 days from today and that the Senate will have an opportunity to debate all aspects of it. I will cooperate with the wishes of the majority leader.

Mr. ROBERT C. BYRD. Mr. President, the Senator from Virginia always has been cooperative and reasonable, and I knew that he would be in this instance. He just vindicated my feelings.

Mr. WARNER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. WARNER. Mr. President, as a cosponsor with the senior Senator from Virginia, I join him in this measure. I compliment the senior Senator from Virginia, the majority leader, the chairman and the ranking minority leader of the Foreign Relations Committee for reaching this agreement. I believe the ultimate resolution of this issue will be one of the historic landmarks of the Senate.

Mr. HELMS. Mr. President, notwithstanding anything else, my understanding is that it will be reported by May 1.

The PRESIDING OFFICER. The time has expired.

Mr. ROBERT C. BYRD. I ask unanimous consent for 1 additional minute.

Mr. HELMS. What is the request?

The PRESIDING OFFICER. The time has expired.

Mr. CHURCH. Mr. President, I ask for 1 additional second.

The answer is "Yes."

Mr. HELMS. That is all I want to know.

Mr. HARRY F. BYRD, JR. In other words, the matter will be handled by the Foreign Relations Committee between now and May 1, and it will be reported back to the Senate on May 1.

Mr. CHURCH. By May 1.

Mr. HARRY F. BYRD, JR. By May 1. And the majority leader will schedule it for Senate consideration in a period of 90 days.

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. At this time, there are two pending unanimous-consent requests. The Chair asks that Senators indicate on which request they would like action at this time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendment that is now pending, by the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.), be withdrawn and that the amendment in the form of a resolution, bearing his name and the names of any other Senators he wishes to have as cosponsors, be referred to the Committee on Foreign Relations; that that resolution as amended, if amended, be reported back to the Senate no later than 60 days from today; that it be made the pending question before the Senate no later than 90 days from today, and that there be an up-and-down vote on his amendment at that time, if the distinguished Senator from Virginia feels constrained to offer it.

Mr. President, for the phrase "no later than 60 days," I substitute "no later than May 1."

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object—and I shall not object—the Senator from Virginia points out that there are two resolutions at the desk, both of which could be referred to the Foreign Relations Committee.

I ask unanimous consent that the name of the Senator from Wisconsin (Mr. PROXMIRE) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Is it clear, then, as to which resolution will be referred to the Foreign Relations Committee?

The PRESIDING OFFICER. Which one does the Senator want referred? One is a simple resolution and one is a joint resolution.

Mr. HARRY F. BYRD, JR. I would be willing to have both of them considered.

Mr. CHURCH. Very well.

Mr. ROBERT C. BYRD. We will take both, but the committee will report back only one.

Mr. HELMS. The language is the same.

Mr. HARRY F. BYRD, JR. The language is identical.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The PRESIDING OFFICER. The Chair is informed, with respect to order No. 12 under "General Orders," that this is on the calendar. Should it also go to the committee?

Mr. ROBERT C. BYRD. May I answer the question?

I ask unanimous consent that the joint resolution that is on the calendar go to the committee, because when it comes back, it will be put back on the calendar.

Mr. HARRY F. BYRD, JR. Yes. And the simple resolution, which is identical to the amendment——

Mr. ROBERT C. BYRD. Also go to the committee.

The PRESIDING OFFICER. Without objection, both will go to the committee.

● Mr. HART. Mr. President, had a vote occurred on the Byrd amendment, I intended a vote against the motion to table the amendment submitted by the Senator from Virginia, and I would like briefly to explain my reasons for doing so.

The amendment raises a fundamental issue of constitutional principle which rises above one's position on the issue of normalization of relations with the People's Republic of China. It is the issue of the Senate's role in foreign affairs and, more specifically, its role in the formulation and dissolution of treaties.

I do not challenge the President's primary and constitutionally unambiguous authority in the realm of foreign affairs. But the Senate must be forceful and consistent in exercising its own responsibilities in this area. Certainly this body—including many of my colleagues here who will vote to table this amendment—has fought hard over the past decade to restore to itself the constitutional powers which were eroded by executive usurpation and the failure of legislative assertiveness. I wish some of the supporters of this amendment would have been as assertive in exercising this responsibility on issues such as Vietnam and Cambodia. I wish those who felt as I did then about unilateral executive action in Cambodia would join me now in witnessing for the same principle.

My vote is not to turn back the clock and reverse the President's termination of the mutual defense treaty with Taiwan. Although I believe he acted in an unwise and unfortunate manner by ignoring the Senate, I nevertheless recognize the President's notification to Taiwan that the treaty will be terminated at the end of 1979 as a fait accompli. I have no desire to undermine the normalization agreement with the People's Republic of China.

Some of my colleagues have correctly noted that the amendment is not precise as to the procedure by which the Senate would give its approval and that it raises certain other ambiguities. Others have suggested that definng the Senate's proper role in treaty termination is too complex an issue to be settled at this time and should be addressed in subsequent hearings. I welcome such hearings, but I also cannot turn away from the principle raised by the Senator from Virginia. Consistent with my deeply held conviction that the Senate must meet its responsibilities in the field of foreign affairs, and reflecting my strong concern that unilateral executive action in terminating treaties is a dangerous precedent, I will vote to oppose tabling the amendment.●

POSTPONEMENT OF THE EFFECTIVE DATE OF RULE XLIV OF THE STANDING RULES OF THE SENATE

Mr. STEVENS. Mr. President, it is my understanding that the resolution I offered to amend the rules is to be voted on not later than 12:30 this afternoon.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Arizona may have 1 minute on the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I register my firm and unwavering opposition to Senate Resolution 93. This resolution undoes what the Senate has already agreed to. The Senate ethics resolution of the 95th Congress, Senate Resolution 110, limited the amount of outside earnings a Senator or highly paid staff member could earn. This provision was the subject of extensive debate, and agreement was finally reached that the amount of outside earnings to be allowed would be about 15 percent of salary.

The resolution before us today pushes back the effective date of this provision until January 1, 1983. Under the terms of Senate Resolution 110, this limitation should have gone into effect on January 1 of this year.

I am not unsympathetic to the concerns and needs of my colleagues. Yet, it seems to me that this body exercised its collective best judgment in the full glare of national publicity when it enacted Senate Resolution 110—a resolution that was hailed far and wide as a major reform in Senate ethics. We are now about to eliminate, at least for 4 years, the central feature of that reform. I cannot in good conscience, Mr. President, vote for this measure. And, I would urge each and every one of my colleagues to consider this matter carefully before casting a vote.

● Mr. SASSER. Mr. President, I wish the RECORD to show that I oppose this resolution, Senate Resolution 93.●

● Mr. EXON. Mr. President, if a rollcall vote would have been taken, I would have voted "no" on Senate Resolution 93.●

Mr. STEVENS. Mr. President, I move the adoption of the resolution.

Mr. METZENBAUM. Rollcall.

The PRESIDING OFFICER. Under the previous order the Senate will now proceed to vote on Senate Resolution 93.

The question is on agreeing to the resolution.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded .

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM addressed the Chair.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senator from Ohio have 2 minutes on the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise to indicate my opposition to this proposal.

I think that when there were salary adjustments made that this matter was taken into account. I think it was part and parcel of the entire package .

I myself have strong reservations and objections to changing the effective date and wish to be recorded in the negative in the event there is not a rollcall vote.

Mr. DECONCINI. Mr. President, I also wish to be recorded in the event there is not a rollcall vote in the negative.

Mr. BAUCUS. Mr. President, in the event there is not a rollcall vote I, also, wish to be on record as voting in the negative.

Mr. STEVENS. I move adoption of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

(Putting the question.)

The resolution (S. Res. 93) was agreed to, as follows:

Resolved, That section 313(c) of Senate Resolution 110, 95th Congress, is amended by striking out "January 1, 1979" and inserting in lieu thereof "January 1, 1983".

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. STONE. Mr. President, I was dismayed to learn that today, Thursday, March 8, the Senate passed by voice vote a resolution to defer for 4 years the implementation of Senate rule XLIV. This rule, which limits a Senator's outside earned income to 15 percent of salary, was a key feature of the Senate Code of Ethics which was adopted with much fanfare last Congress.

Suddenly, with no committee consideration, little floor debate and no rollcall vote, the Senate has put Senate rule XLIV in limbo for 4 years. It is a step in the wrong direction and one which could lead to a total abrogation of the rule when those 4 years are up.

I regret that this important change in the Senate rules was made without a rollcall vote and if such a vote had been conducted I would have voted against the change in the rule.●

TAIWAN ENABLING ACT

The PRESIDING OFFICER. The Senate will now resume consideration of S. 245, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 245) to promote the foreign policy of the United States through the maintenance of commercial, cultural, and other relations with the people of Taiwan on an unofficial basis, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, on December 15, 1978, after hurried and secret negotiations, and without adequate consultation with Congress, President Carter announced that the United States would establish diplomatic relations with the People's Republic of China (PRC) on January 1, 1979, with an exchange of Ambassadors on March 1, 1979. At the same time, the United States gave the required 1 year's notice that it would terminate its Mutual Defense Treaty with the Republic of China (Taiwan) on December 31, 1979.

The main issue growing out of the Carter administration's sudden normalization of relations with the People's Republic of China is not really the recognition of Peking, but rather the "derecognition" of the Republic of China on Taiwan. Our major concern today must be with the security of Taiwan and of American political, economic, and security interests there. America's allies and potential enemies throughout Asia and the world are watching this debate closely. They are looking for indicators of America's resolve to protect her interests and stand by her allies. The Taiwan legislation we pass today must send out a clear message that the United States will not sell out a friend, now or ever, to placate any powerful totalitarian regime.

The administration has proposed that unofficial relations with Taiwan be maintained after January 1 by a State Department manned, nongovernmental American Institute in Taiwan. This legislation, S. 245 is an outgrowth of that proposal. It speaks to the security of Taiwan and attempts to maintain all cultural and economic agreements and relations now existing between Taiwan and the United States. As such, it is far better legislation than that put forth by the Carter administration, but it must be improved. America's security interests in Taiwan must be clearly spelled out.

While Peking was anxious to normalize relations with the United States in order to counter Soviet influence in Asia, the Carter administration extracted no real concessions from Peking on the security of Taiwan. The United States has agreed to Peking's three major demands: Recognition of Peking as the legal government of Taiwan; withdrawal of all U.S. troops from Taiwan; and termination of the United States-ROC Mutual Defense Treaty. In addition, the United States has agreed to a moratorium on new arms sales to Taiwan for 1 year.

In exchange, the PRC has said that it will seek peaceful reunification of Taiwan to the mainland. However, Peking has very clearly refused to renounce the use of force against Taiwan. Peking says it will permit the people of Taiwan to keep their own political and economic systems and security forces as long as they choose. But these verbal pledges apply only if Taiwan agrees to recognize Peking's sovereignty and does not permit foreign military bases. The PRC has made no formal commitments on these already very conditional promises, and the administration itself has done little to amplify them.

For example, the PRC has pointed to Hong Kong and Macao as examples of coexistence with different economic systems on territory claimed by Peking, but those entities have not recognized Peking's sovereignty. A more disturbing example of reunification involves the subjugation of Tibet, a process which many would describe as "genocide." We should not take the example of Tibet too lightly. We have seen recently in Vietnam that China is willing to use force to achieve its objectives, but the examples of the Korean war, the Sino-Indian war, and the bloody purges following the Communist victory on the mainland should have already told us that.

In my view, the Carter administration has taken a stronger pro-Peking tilt than was necessary to achieve normalization and, in the process, has endangered the people of Taiwan. The Carter administration rejected alternative ways to deal with normalization such as the "German model" of recognizing two Chinas. It rejected placing our Embassy in Peking with an official liaison mission in Taipei.

The Carter administration has even refused to give any governmental status to Taiwan. It is the Congress which is considering granting diplomatic immunity to Taiwanese officials and, despite promises that the United States would not interfere with United States-Taiwan cultural exchanges, the Carter administration has moved to close down some of the Taiwanese consulates.

The weakness of the Carter administration in negotiating with Peking and in failing to show resolve with respect to the security of Taiwan cannot be corrected completely by the Congress. We can, however, move to strengthen the legislation before us, S. 245.

For that reason, I have cosponsored the amendment proposed by Senator Percy which would make clear that the security of Taiwan effects the security interests of the United States. I believe that the language in the bill as reported by the Foreign Relations Committee is not sufficiently strong. The words "of grave concern" do not carry in them the strong sense of commitment which I believe should be inherent in this legislation. Indeed, I believe that national leaders around the world will look upon the success or failure of Senator Percy's amendment as a measure of American will and reliability.

Today, and in the years ahead, the Senate must also insure that the security of Taiwan is not compromised indirectly. For example, the Congress should make clear that it will not condone administration acquiescence in any form of discrimination by Peking against firms doing business with Taiwan, and it must force the administration to take a firm stand protecting Taiwan in international monetary and financial institutions and facilitating trade and investment between the United States and Taiwan.

In short, we must make sure that our political, economic, and security interests in Taiwan mature rather than erode.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Baucus). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I would like to state my basic support for this legislation. I believe that it provides for the security of Taiwan and for uninterrupted continuation of warm and friendly relations with the people of Taiwan.

I do not believe that a relinquishment of concern for the fate of Taiwan should result from normalization of relations with the People's Republic of China. The Senate should clearly state its determination that the United States aid in maintaining the security of Taiwan and in maintaining fruitful trade and warm cultural relations with the people of that island.

This determination matches our desire to maintain the close and special intimacy which arises from our 30-year relationship with Taiwan. As a result of those relations, we have at present approximately 60 treaties with Taiwan covering such matters as trade, visas, and economic and technical cooperation. Our total trade with Taiwan was more than $7 billion last year. Our investment in Taiwan is almost one-third of all foreign investment on the island. This relationship cannot and should not end.

If the People's Republic of China wishes to maintain good relations with the United States, it must let the peace of Taiwan stand as the first litmus test of our new relationship. Let us hope that the Government of the PRC was sincere when it declared in its message of January 1, 1979, that it "will take present realities into account" and will "respect the status quo on Taiwan * * * in settling the question of reunification."

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois.

AMENDMENT NO. 79

(Purpose: To express United States policy with respect to any resolution of the Taiwan issue by other than peaceful means)

Mr. PERCY. Mr. President, I call up my amendment No. 79 to the pending legislation and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. Percy), for himself, Mr. Goldwater, Mr. Hollings, Mr. Tower, Mr. DeConcini, Mr. Huddleston, Mr. Stevens, Mr. Stone, Mr. Cohen, Mr. Weicker, Mr. Proxmire, Mr. Cochran, Mr. Morgan, and Mr. Danforth, proposes an amendment numbered 79.

Mr. PERCY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, lines 9 and 10, strike out "of grave concern to" and insert in lieu thereof "to the security interests of".

Mr. PERCY. Mr. President, I offer this amendment on behalf of myself and Senators GOLDWATER, HOLLINGS, TOWER, DECONCINI, HUDDLESTON, STEVENS, STONE, COHEN, WEICKER, PROXMIRE, COCHRAN, MORGAN, and DANFORTH.

Mr. President, as the chairman of the Foreign Relations Committee knows, the Senator from Illinois has long favored normalization of our relationships with China, because it is in the national interest. China should take its rightful place in the community of nations.

I believe the distinguished chairman of the committee would remember my former professor at the University of Chicago years ago, Paul Douglas, against whom I ran for the Senate in 1966. He will remember him not only as a beloved colleague, but also as a wise man for whom we had infinite respect. Nonetheless, I did find some of his economic theories erroneous and I sharply disagreed with his judgment on some matters in foreign policy.

I certainly disagreed with him, when I ran for the Senate, on the Vietnam war. This issue sharply divided us.

Senator Paul Douglas was one of the founders of an organization formed for the purpose of keeping mainland China out of the United Nations and I opposed him on that particular issue. I felt it most unrealistic that a government representing, at that time, three-quarters of a billion people, since grown, should be kept out of the United Nations and should not be a full member of the international community.

So, as I have worked in the Senate, I have taken a deep interest in the affairs of the People's Republic of China. I was privileged to lead a delegation of Senators and Congressmen to China to study firsthand that remarkable country, and felt even more deeply at that time that the process of normalization should be expedited to the greatest possible extent. So I am fully supportive of the legislation before us and have enjoyed working with the chairman of the committee (Mr. CHURCH) and the ranking minority member (Mr. JAVITS) on considering legislation that would enable us to move forward.

I have felt in the past and still feel today that full diplomatic relations are not only realistic, but they are also in the mutual national interest of both China and the United States. Therefore, with no intention to jeopardize this process, I call up amendment No. 79 to section 114 of the Taiwan Enabling Act for myself and for my distinguished cosponsors. Section 114 of the legislation deals with a continuing and strong U.S. interest in a peaceful solution to the Taiwan issue. This is a subject that we have been privileged to discuss among ourselves at great length, that has been debated by the American public, and that has been discussed fully among the Members of this body and Vice Premier Teng when he was here, together with the distinguished ambassadors and members of the Chinese diplomatic mission in Washington. As we all know, the executive branch really did not want Congress to make any statement whatsoever on this issue. The Senate Committee on Foreign Relations felt differently. The committee and the Senate, I think, owe a great deal to Senator CHURCH and Senator JAVITS for persuading the executive branch that the American people's concern about the future of the people on Taiwan could not be ignored. A strong statement on the issue was absolutely imperative.

The fundamental thrust of section 114 is good and there is a great deal in the language that I support and I urge my Senate colleagues to support. We state in this section that it is U.S. policy to make clear that "the U.S. decision to establish diplomatic relations with the PRC rests on the expectation that any resolution of the Taiwan issue will be by peaceful means." We also state that we will maintain our capacity to resist force or corecion that would jeopardize the security or social or economic system of the people on Taiwan. And we state that we will provide defensive arms to the people on Taiwan. These are strong statements of U.S. expectations and intent and I wholeheartedly endorse them.

I do recommend to the Senate, however one change which I believe strengthens and clarifies the section. Section 114 (a) paragraph (3) reads:

It is the policy of the United States to consider any effort to resolve the Taiwan issue by other than peaceful means a threat to the peace and security of the Western Pacific area and of grave concern to the United States.

My amendment would delete "of grave concern to" and would substitute "to the security interests of."

I believe this substitution of language is essential, because we have a responsibility to make to the PRC a clear statement of U.S. interests in a peaceful settlement of the Taiwan issue. We must not lead the Chinese to miscalculate or underestimate our interests. A clear statement reduces ambiguity and lessens the chances for misunderstanding.

Certainly, we, in taking any action, must take into account that succession of leadership takes places in our country and other countries. Therefore, we should make unmistakably clear in the language of this legislation how we feel on this matter.

The President did not obtain from the PRC a pledge on the nonuse of force against Taiwan. Perhaps this was diplomatically unobtainable, as the administration maintains. But the point is that China's spokesmen have been very clear in what they have said. Chinese Premier Deng Xiao'ping told the committee during his recent visit to Washington that China will fully respect the realities on Taiwan. But he also maintained, when pressed on the issue, that China will not make a commitment to use only peaceful means. In other words, the Chinese have retained use of force as a definite option. Vice Premier Deng was frank with us. He did not worry about the consequences for normalization.

He believed, as I believe, that it is best to be frank in exchanging views. When we agree, we agree to disagree and do so openly and we can each express ourselves. I think we have that obligation today.

Now it is our turn to be equally frank. We must state that a PRC effort to resolve the Taiwan issue by other than peaceful means would be a threat to the security interests of the United States.

I urged my colleagues on the Senate Foreign Relations Committee to adopt this language, but it was rejected.

One argument made against my amendment was that it might derail the normalization process. I reject this argument. We should not muddy our definition of U.S. interest because we are afraid of offending PRC sensitivities. Vice-Premier Deng did not mince words when he refused to pledge nonuse of force against Taiwan because of any concern that normalization would not proceed. Vice-Premier Deng was not concerned about offending the United States when he said in Tokyo, immediately following his tour here, that the United States had shown a lack of direction on the Iranian crisis and had mishandled it. The Chinese were not concerned about derailing normalization when they stated that they must "punish" Vietnam and when they soon thereafter invaded Vietnam. The Chinese say what they mean and we respect them for it. Now we must say what we mean and the Chinese, in my view, will respect us for it.

I do believe, even though there is sometimes a different approach taken in the field of diplomacy, we are still dealing with human beings. The experience of the Senator from Illinois has always been that a relationship is more normal, natural, and healthy and more long-lasting when friends are good enough to speak frankly to each other. I do not really believe that the Chinese would respect us if, knowing we felt deeply about something, we did not forthrightly, frankly, and honestly express exactly how we feel in important documents as is the legislation presently before us.

President Carter has declared that the United States could go to war over Taiwan. This is much stronger language than I am suggesting and the Chinese certainly have not terminated the normalization process because of it.

A second argument made in the Senate Foreign Relations Committee against my amendment was that it would commit the United States to take military action if the PRC used force against Taiwan. This criticism is unfounded. My amendment leaves completely open the options for a U.S. response. It neither pledges use of force nor rules out the possibility of use of force. I would oppose language that would commit us in advance to use force in the case of hostilities directed at the people on Taiwan. In fact, it is my view that it is unconstitutional to direct the President to use force under circumstances that may occur in the future.

We would not want to bind this Nation to action that goes even further than any mutual security treaty we have today.

None of these treaties, including the security treaty we are terminating with Taiwan, authorizes or requires the President to introduce Armed Forces into hostilities.

The mutual defense treaties that we have with Japan, South Korea, and the Philippines and the treaty that we are terminating with Taiwan all use the following language:

> Each party recognizes that an armed attack on either of the parties would be dangerous to its own peace and security and declares that it would act to meet the common danger in accordance with its constitutional processes.

If my language were to use that exact language or go even further stating something to the effect that "an attack on Taiwan is considered an attack on the United States" or "the preservation of the integrity of Taiwan is vital to the national security of the United States," critics of my amendment might be on firmer ground. But my language states only that a nonpeaceful resolution of the Taiwan issue would threaten the "security interests" of the United States. This is a clear statement of fact and in no way commits in advance the United States to military action.

The United States reserves the right—even under its defense treaty obligations—to determine for itself what military action, if any, is appropriate. My amendment makes no inflexible commitment for the United States. But my language is a more realistic and a more accurate statement of U.S. interests in a peaceful resolution than a mere expression of "grave concern." And I believe that it implies more clearly that the United States does not reject the option of use of force. In other words, we are retaining the same option that the Chinese are retaining for themselves.

Still another argument against my amendment is that a PRC effort to resolve the Taiwan issue by other than peaceful means would not be a threat to U.S. security interests. I wholeheartedly disagree with this argument and my reading of American public opinion is that most Americans would disagree with it. Can you imagine the shock and the dismay in this country if the People's Republic of China were to resort to force to settle the Taiwan issue? The United States would be faced with decisions that—no matter how resolved—would affect U.S. security interests.

If Taiwan were forcibly overrun by the PRC, U.S. stature in the world would be seriously affected and the confidence of America's other allies in the region would be weakened. The people of Japan would be deeply shaken. The situation could bolster our adversaries in the region. For example, North Korea would undoubtedly be encouraged to take aggressive action against South Korea. Our security interests are clearly involved.

Certainly, I think there would be a shaking of confidence in NATO, in Israel, and with every other ally if we were unable to prevent an attack on Taiwan.

Why have I arrived at the conclusion that the words "of grave concern" do not convey to the PRC the seriousness with which the United States would view a nonpeaceful settlement of the Taiwan issue? Let me share with you my research into some of the language we have used in the past to express our interest in situations where there really was no realistic option of possible use of force.

In 1956, after the Soviet Union had intervened with force in Hungary, a State Department spokesman said that "the actions of the Soviet Union are the cause of the greatest concern." But we did nothing. We took no action.

In 1975, Secretary Kissinger said that Soviet introduction of military equipment into Angola and Cuban participation in Angola are considered "a serious matter * * * and not compatible with the spirit of relaxation of tensions."

In 1976, a State Department spokesman said the United States viewed "with gravity and concern" the North Korean slaying of two American military officers in the demilitarized zone.

Just last month, February 9, the State Department spokesman that the United States "would be seriously concerned" over a Chinese attack on Vietnam.

And just last week, the White House expressed "grave concern" over the Israeli cabinet's rejection of a U.S. invitation to a Camp David summit meeting.

In my view, expressions of gravity and concern are simply not strong enough. The term "of grave concern" is not strong enough. It does not serve in any way as a deterrent. Nor does it convey the strength of our true feelings. We need language that expresses our interests strongly and clearly while at the same time allowing the U.S. flexibility in the case of hostilities. I believe my language meets both requirements—and I urge my colleagues to adopt it.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, the language proposed by the Senator from Illinois was discussed thoroughly and at length in the committee. He presented his arguments there ably and well, just as he did now. But the concern of all of us was that this language could produce more problems than it would resolve.

The language proposed by Senator PERCY should be rejected, as it was in the committee. The language of section 114(a) as it now stands reflects a careful balance, a balance between accurately reflecting what an armed attack against Taiwan would mean, on the one hand, and, on the other, avoiding legislating an approximation of the language of the Mutual Defense Treaty, which was terminated as part of the agreement on normalization of relations with the People's Republic. The current language is a product of the most careful discussions by our colleagues, and I think it states clearly and exactly what the circumstances require.

I think that all of us are well aware that the People's Republic does not have now and will not have in the foreseeable future the capability to launch a serious attack on Taiwan. To even begin serious preparations for such an attack would risk many of the other relationships—with Japan for example—that the Chinese have put such importance on. Neither do they have the motivation for it, since it is the principle of "one China" and of the PRC being that China that is the most important to them. Furthermore, the Chinese are wholly aware of American feelings on the matter.

But to say that the United States is opposed to any settlement other than a peaceful one is quite a different matter than declaring that a settlement by force would be a threat to the security interests of the United States.

Here I should note that we have the use of code words "security interests." I think the threat to the security and the threat to the security interests brings to mind the wording of the previous treaty, that we thought that while on its face the language of Senator PERCY's amendment could be acceptable, that when one takes into account the meaning of the words and what the words indicate, the perception of those words to the other nations in that part of the world, it could indicate a great deal more than the words on their face indicate.

So, all told, our committee was of the view that this amendment should be rejected, and this is the position the committee takes on the floor.

Let me note here that our military presence in Taiwan over the past two decades and our Mutual Defense Treaty were orginally predicated on the understanding of that earlier period that our interests in Asia faced a monolithic Communist threat. We might not have been totally wrong then, but certainly now it is clear that the situation has changed radically in these decades from a primarily East-West confrontation to confrontations primarily among Communist states.

In reaching the agreement on normalization with Peking, the administration agreed to terminate the Mutual Defense Treaty with Taiwan, including the formal security commitment in article 5 of that treaty. The language introduced by Senator PERCY could easily be interpreted as reviving the concept of that security commitment. As some of our colleagues pointed out in the committee's deliberations, we canot have it both ways: We cannot at one and the same time establish relations with one Government of China and retain a security commitment to another part of China; we cannot, in other words, have a new Mutual Defense Treaty by another name.

Let us also take a different look for a moment at the wording of the Percy amendment compared to that reported out of committee. We of course do have political, economic and moral interests in a peaceful settlement of the Taiwan question. The leaders in Peking, as will their successors, have no doubts about these interests, and we will continue to assert them clearly. We would, in fact, be gravely concerned about an effort to resolve the Taiwan question by other than peaceful means. But this is not the same as stating by legislation that a nonpeaceful solution would be a threat to our security. Those words, as we all know, have a special meaning that goes beyond what is warranted by the facts.

And, as the administration has said, any attack on Taiwan would so fundamentally alter the basis on which the

United States has normalized relations with Peking that obviously the administration would at that time consult with Congress and decide upon an appropriate response. But the degree of automaticity implied by the Percy amendment is highly undesirable.

At this point and at this time, however, I believe that we have struck the right balance in the language of section 114(a) as it now stands.

Let me add one point. What we want to achieve on this subject is a clear statement, demonstrating a virtual consensus, about the American people's concerns about our friends on Taiwan. We want Peking to get the message from Congress just as it already has been given the message by the President and Ambassador Woodcock. It is clear to me that Senator PERCY's amendment would not get strong majority support. What would we have gained by language of this sort adopted by a narrow majority? The message that would come through in that case would be that a substantial minority does not care about a nonpeaceful resolution. We obviously do not want that. And it would be small comfort to Taiwan. I urge that we support the estimable language that was negotiated in the committee. It accurately and strongly reflects the American position on this subject—in a manner that is called for at this point in history.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I ask unanimous consent that the name of the distinguished Senator from California (Mr. HAYAKAWA) be added as a cosponsor of the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAYAKAWA. Mr. President, inasmuch as I voted against the amendment in committee, I think I should explain why I have changed my position.

On first reading, it appeared to me that Senator PERCY's amendment was unnecessary, because it seemed to me to be covered by other aspects of the same document. But on second and third reading, and upon more mature reflection, it seems to me that I must support Senator PERCY's amendment, and therefore I rise to do so.

Mr. PERCY. I thank my distinguished colleague.

Mr. President, the senior Senator from Tennessee (Mr. BAKER), the minority leader, is necessarily absent from the Senate today on official business. Senator BAKER has authorized me, however, to make the following statement on his behalf.

Senator BAKER fully supports the Percy amendment to the Taiwan Enabling Act. When the committee voted on the security provision, he specifically asked that his proxy be withheld so that he may preserve his option to support amendments to the provision.

Although he is unable to be here for the vote, Senator BAKER hopes to be paired in support of the amendment.

I express deep appreciation to Senator BAKER for his counsel and advice and his support. Senator BAKER and I have met at some considerable length with Deputy Secretary of State Warren Christopher, have listened to his reasoning, and both Senator BAKER and I have reaffirmed our intention to go forward, because we feel that this is a point of view that I feel is shared overwhelmingly by the American people and by the Senate of the United States.

I should like to ask a question of the distinguished chairman of the Foreign Relations Committee who was present at the time of our hearings when General Jones, the chairman of the Joint Chiefs of Staff, appeared before the committee. At that time I asked General Jones to indicate whether or not an attack by force on Taiwan by the People's Republic of China would be a threat to our security interests or just a matter of grave concern to us.

General Jones replied:

> I believe that an attack on Taiwan would be not only of grave concern but would impact on our security interests. There is no question about it.

Now the Senator from Illinois does not wish in any way by offering this amendment to imply that I believe the PRC would attack and try to take Taiwan by force, because I have listened very carefully to everything that responsible officials in the Government of the People's Republic of China have said about their intentions. It seems eminently clear that they are patient and they wish to resolve this matter in an amicable and peaceful manner. It is also the judgment of the Senator from Illinois that a nonpeaceful resolution to the Taiwan issue is not at all in the interests of China.

It would be so contrary to the thrust of their intent to develop their economy and establish goods relationships with the Western world and Japan. The Senator from Illinois cannot really envision the use of force by China today or in the foreseeable future.

I was also very pleased to find that our own Chairman of the Joint Chiefs of Staff, felt that as well.

If I could find in the——

Mr. CHURCH. May I reply to the Senator?

Mr. PERCY. I will be happy to have a reply while I try to find the response that General Jones gave to our questions on that particular point. But I would be very anxious to have a reaction from our distinguished chairman as to whether he does feel that an attack on Taiwan would be more than just a matter of grave concern. While the distinguished Senator was off the floor, the Senator from Illinois reviewed a series of statements made by members of the State Department and various administrations describing U.S. feelings about particular situations. In each case, no action of any kind was taken by the United States. If I could say, the semantics of the situation are such that the signal is that a matter of grave concern does not imply that we take action; whereas, without any question, an attack upon a NATO ally, for instance, or an attack in other parts of the world where our vital interests would be threatened would certainly call for action. My amendment falls somewhere in between.

I ask my distinguished colleague if he would not agree with the Chairman of the Joint Chiefs of Staff and with the cosponsors of this amendment that a forceful attack on Taiwan would be a matter of more than grave concern, a phrase used frequently in diplomacy without action following it.

Mr. CHURCH. First, let me say that the language agreed to by the committee constitutes, in my view, a broader basis for reassurance to the people of Taiwan than the old arrangement between the United States and the Republic of China.

But as for the Senator's question, I call his attention to page 745 of the hearings where the Senator puts the following question to General Jones:

> Senator PERCY. . . . Let me put it this way for you, then. In your judgment, is it stronger to say "a threat to the security interests of the United States" rather than saying it is a "matter of grave concern" to us?
>
> General JONES. It may be stronger, but my problem with "threat to security interests" is that there is no qualifying factor there, and that our security interests are less there than in other areas of the Pacific or of the world. So, I would be concerned about the implication being far greater than intended.

So I think the record should be clear that General Jones did not call for the Percy amendment. In fact, at no time did he express any reservation about the language that is now contained in the bill.

Moreover, I believe that a careful reading of the general's testimony, as it appears here in the hearings, would convey to any Senator the fact that General Jones thought there were many other places in the Western Pacific that were of much greater importance than Taiwan to the security interests of the United States.

Now, having said that, Mr. President, let me go on to emphasize that the provisions of the bill in connection with our continuing concern for the security and well-being of the people on Taiwan go very far. If I were a citizen of Taiwan, I would be better satisfied with this congressional declaration of American policy than with the arrangement that previously existed.

I intend to speak to section 114 of the bill, but I would not want to do so while trespassing on the time of the Senator from Illinois, who presently has the floor.

I, for that reason, confine my response at this time to the answer to the question he put to me.

Mr. PERCY. Mr. President, I certainly hope that I did not imply that the Chairman of the Joint Chiefs of Staff, General Jones, supports my amendment.

The Senator from Illinois would never put the chairman of the Joint Chiefs of Staff in that position. At no time when I questioned him did I attempt to put him in the position of supporting a specific piece of legislation. The administration, as the Senator from Illinois understood at that time, had not yet addressed itself specifically to this language, but it was wellknown that they wanted as little change as possible. The current situation is somewhat similar to the Panama Canal Treaty debate where the administration wanted as little change as possible, but the Senate of the United States found it essential in order to ratify that treaty that we have our mark or imprint on it. We had to satisfy many of the concerns that some of us had and we did change that language.

But it is understandable that the administration, after having negotiated an understanding with China, would not want to change it any more than was absolutely essential or necessary.

The Senator from Illinois knows that General Jones would have preferred that somehow I would qualify the amendment to show that our security interests in Taiwan are, for instance, less than our security interests in, let us say, Japan. But I do think that this kind of ranking does neither ourselves nor our friends any benefit whatsoever.

When Secretary of State Dean Acheson drew the defense perimeter in Asia to exclude South Korea we saw a war break out there.

So I would say that for us to issue such a ranking in legislation and say one interest is relatively more important than another would not really serve our interests.

We are simply trying to say that there are certain areas of the world where our interests are not really affected. There are other areas where they are affected and we should indicate as accurately as possible the degree of concern we might have in a particular area to deter actions harming our interests.

We are certainly today stating very clearly that our interests in the Middle East are far ahead of our interests in many other parts of the world. They are absolutely vital there. What the Soviet Union might do in some area affecting the Middle East would be highly important to us.

It is highly important that a Marxist state such as South Yemen not be permitted to increase its strength along the borders of Saudi Arabia. It is in the vital interests of the United States that we provide assistance, help, backup, and support for the position taken by Saudi Arabia now so that North Yemen not become a vulnerable spot and endanger Saudi Arabia whose interests are inextricably bound up in our own interests.

Therefore, when we come to Taiwan we simply say it would be a matter of much more than grave concern. It would be a matter involving our own security interests because of the close relationships we have with South Korea, and the close ties that we have in Japan, and the interest we have in keeping ourselves as a Pacific power, and insuring as much freedom in that area as is possible.

So the Senator from Illinois is once again gratified at the degree of support this amendment has in the cosponsors in the Senate, and that some members in the Committee on Foreign Relations, who previously had voted against it or abstained from voting, have now, after reflection, supported it.

It would be my hope, of course, that taking fully into account the agreement and understanding reached by the chairman and the distinguished minority member of the Committee on Foreign Relations, with the administration, that they would find it acceptable and would not find it contrary to our normalization of relationships, and working together in a new spirit of friendship, accord, and partnership with China.

Mr. CHURCH. Mr. President, the amendment offered by the able Senator from Illinois should be rejected by the Senate, as it was rejected by the committee. The language of section 114(a) as it now stands reflects a careful balance. It is balanced between accurately reflecting what an armed attack against Taiwan would mean, on the one hand, and, on the other, avoiding an approximation of the language of the Mutual Defense Treaty—which was terminated as part of the agreement on normalization of relations with the People's Republic.

Mr. President, let me note here that our military presence in Taiwan over the past 2 decades, and our Mutual Defense Treaty, were originally predicated on the belief of that earlier period that our interests in Asia faced a monolithic Communist threat. We neither perceived nor understood the nature of communism as well then as we do today. In the intervening years, it certainly is clear that the situation in Asia has changed radically from what was a primarily east-west confrontation to a north-south confrontation involving the Communist governments, themselves.

If you look at China now, it is not a China poised on its coastline ready to leap across the Straits of Formosa for the purpose of subjugating the island and its people. Today's China looks to the north, expressing its daily concern over the threat posed by the other titan of the Communist world, the Soviet Union; and it looks to the south, where it has just been engaged in active warfare with another Communist neighbor, Vietnam.

Before we begin to tamper with the language in this bill, it would be prudent, first of all, to consider the nature of the present threat to the people of Taiwan.

The record is clear, made so by the many statements of the leaders of the People's Republic of China, that the Peking government presently entertains no intention of attacking Taiwan.

Furthermore, we have it from no less an authority than the Chairman of our own Joint Chiefs of Staff, that mainland China, even if it were to change its mind, presently lacks the military capability of successfully invading Taiwan.

Mr. PERCY. Mr. President, will the distinguished Senator yield at that point so that I can insert in the Record the quotations from General Jones that I have now found that would strengthen and support that argument?

Mr. CHURCH. I am only too happy to get whatever support is offered for any argument I make. If the Senator has pruned from the testimony of General Jones that part which sustains my argument, I would be pleased to have that material inserted at this point in the Record.

Mr. PERCY. Mr. President, the only carefully selection would be simply to boil it down as much as possible. It does fully support the Senator's position, and confirms the fact that the distinguished chairman of the Foreign Relations Committee and the Senator from Illinois have no disagreement whatsoever about this particular point.

I have stated my own personal judgment that there is no intention on the part of China to attack Taiwan. General Jones has already affirmed that it is a problem not only of capability, but also intention, as to whether it would be in their best interests.

I quote from the top of page 741 in the hearings record, where General Jones says:

> As we look at the People's Republic of China, we see increasing problems in their military capability. We have projected levels of capability and later found they haven't achieved that capability. We don't see an acceleration in the threat and we don't see any great urgency at this moment to make decisions on additional equipment (for Taiwan).

This is certainly reassuring. It should be reassuring to the people of Taiwan and it should be reassuring to all peace-loving people that there has been no buildup of capability.

If the People's Republic of China wished to, they could build up that capability. They have great human resources and great physical resources, and if they had wanted to, they could have developed that capacity. But they have not done so.

Further with respect to their intentions, General Jones said this. Quoting from the middle of page 751, I will read the entire quotation, so we can have in the Record once again what General Jones said about an attack on Taiwan.

He said:

> I believe that an attack on Taiwan would be not only of grave concern but would impact on our security interests. There is no question about it.

Then he continued, importantly:

> I believe that it is unlikely—not to the point of a zero probability, but very, very unlikely—to occur. It would also not be in the best interests of the People's Republic of China. It would increase the risk of incursions by the Soviet Union from the north. It would weaken them in their relationships with Japan and the United States.
>
> So I think it is clearly not in their best interest—and not in our best interest—that they do this.

It is General Jones' firm conviction, shared by so many of us, that it is not China's intention; they have not tried to develop the capability, and it is highly unlikely that they would do this, thus endangering, I might add, not just their relationships with the United States and Japan, but also with Western Europe.

It is those relationships on which China is now staking its future development. That is really central to their development. Taiwan is not central to that development. As they have indicated, they would have no objection to the institutions in Taiwan being carried on in the same way they are now, and they likened the situation there to that in Hong Kong.

So what my amendment does not arise from a concern about the intentions of the present leadership of China. I simply want to put into law an advance notice and an honest expression of opinion as to the degree of gravity with which the United States would look upon the use of force, unlikely as it might be.

I thank the distinguished Senator for yielding.

Mr. CHURCH. I thank the able Senator from Illinois for his contribution.

It appears, then, Mr. President, that we are agreed, first, that the Peking government has no present intention to resort to arms to settle the Taiwan question; and second, that even if this were not so, the mainland government does not possess the military capability, today, to successfully attack and conquer Taiwan.

Third, if the policy in Peking were to change, and an attempt were made to develop the capability necessary to successfully attack Taiwan General Jones has told us that it would take the Chinese at least 5 years to develop the amphibious forces to carry an invading force across the 100 miles of water that separate the mainland from the island. So at the very least, we would have 5 years' notice before any attack could be launched. There does not seem to be any disagreement on that score, either.

Furthermore, Mr. President, General Jones has confirmed that the people on Taiwan have a sufficient quantity of defensive weapons today to successfully defend themselves against any attack. We have learned, I think, from the Israeli experience that there is no security guarantee that can be given by any foreign country—not even by the United States—that means as much to the successful defense of any land as the willingness and capability of its own people to defend it. Just as this is true with Israel, so it is true in the case of Taiwan.

Now, against these basic premises—first, that the mainland government has no intention of attacking Taiwan; second, that it lacks amphibious capability to invade Taiwan, and it would require at least 5 years to build the capaibility; and third, that Taiwan has the defensive arms to successfully turn back any attack—let us read the language that the committee agreed upon in section 114 of the bill. I read the language, Mr. President, simply to underscore how broad the committee's expression of interest is in the future of Taiwan, as set forth in the language of the bill.

Section 114(a) reads:

> In order to achieve the objectives of this section—
>
> It is the policy of the United States—
>
> (1) to maintain extensive, close, and friendly relations with the people on Taiwan;
>
> (2) to make clear that the United States' decision to establish diplomatic relations with the People's Republic of China rests on the expectation that any resolution of the Taiwan issue will be by peaceful means;
>
> (3) to consider any effect to resolve the Taiwan issue by other than peaceful means a threat to the peace and security of the Western Pacific area and of grave concern to the United States; and
>
> (4) to provide the people on Taiwan with arms of a defensive character.

There, Mr. President, is the statement of American policy. It will be an expression of Congress. When signed by the President, it will be the law of the land.

What do we say about the action we will take to implement this policy, That is contained in part (b) of section 114, and reads as follows:

> (1) the United States will maintain its capacity to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan;
>
> (2) the United States will assist the people on Taiwan to maintain a sufficient self-defense capability through the provision of arms of a defensive character;
>
> (3) the President is directed to inform the Congress promptly of any threat to the security of Taiwan and any danger to the interests of the United States arising therefrom; and
>
> And (4) the United States will act to meet any danger described in paragraph (3) of this subsection in accordance with constitutional processes and procedures established by law.

I ask you, Mr. President, how could we design language better suited to accommodate the needs of the people on Taiwan as they look to the future?

(Mr. LEVIN assumed the chair.)

Mr. CHURCH. Mischief would be done by tampering with this language. The substitution of the words contained in the Percy amendment would bring us back very close to the phraseology that was used in the old mutual security pact which will be terminated as a result of the new relationship we have established with mainland China.

Yesterday, I spoke with the President of the United States. He is prepared to accept the committee language because it is drafted in such a way that it does not infringe upon any commitment he made on behalf of the United States. The language in the pending bill will not jeopardize the normalization of our relations with Peking, which the Senator from Illinois concedes he so strongly favors.

But if we adopt the language he would substitute, reminiscent as it is of the language contained in the old Mutual Security Treaty, then we place at hazard the new relationship we seek with mainland China.

The President was deeply concerned that we not make this mistake. He told me, as he has said to others, that he is obliged to comply with the understanding reached with the People's Republic of China. If this bill contains language that goes beyond that understanding, then he has only one honorable course to follow, and that is to veto the bill.

Why should we put this new relationship at such risk when it is utterly unnecessary?

Earlier in this debate, Mr. President, I said that if I were a citizen of Taiwan, I would prefer the statement of policy contained in this bill over whatever guarantees were proffered during the period of our alliance with Taiwan. I want to tell you why I say that, Mr. President. We have normalized relations with Peking because we believe it will benefit the United States. Normal relations with a government that maintains jurisdiction over one-fourth of the human race—normal relations with the great giant of Asia—makes sense. It not only opens up new opportunities for trade that will be beneficial to our farmers and to our businesses, but it strengthens the strategic hand of the United States in Asia.

For the past 30 years, we have dealt from a position of endemic weakness in Asia, which was one of the reasons for our involvement in two costly but indecisive Asian wars. With the normalization of relations with Peking we have the opportunity to convert that position of endemic weakness into a position of strategic strength, because as our relations with the Peking Government improve, the Soviet Union must take into account the new American position in Asia.

So we have good reasons to believe, Mr. President, that not only the economic but also the strategic and political interests of the Unied States will be substantially improved by normalizing relations with the Peking government.

By the same token, the Chinese have reason to believe that their interests will also be advanced. Why is Peking interested in normalizing relations with the United States? Why did that Government make concessions to us it had never previously made in normalizing its relations with other powers?

The reason is that China has great respect for American technology. China expects that we can contribute to her own efforts to modernize. China also realizes that there may be less danger of an attack from Russia as long as she maintains friendly ties with the United States. There are many, many different considerations which led the People's Republic of China to decide to normalize relations with the United States. And all of the expectations and benefits they expect to derive from this new relationship depend upon continued peace between the mainland and Taiwan.

Not only do we put Peking on notice from the very outset that American policy rests upon the expectation of continued peace, but we go on to say that we will furnish the people on Taiwan with sufficient arms for their defense in the future. In addition, we will view any use of force as a threat to the peace and security of the western Pacific area and of grave concern to the United States.

So, Mr. President, on all counts this language is perfectly adequate. It is broader than the rather narrow obligation assumed under the old security treaty. It is terribly important that the Senate uphold this language and not tamper with it. If we adopt the amendment offered by the Senator from Illinois, we will jeopardize a relationship that rests upon an agreement reached between the President of the United States and the Government in Peking.

Furthermore, if we adopt by a split vote the language offered by the Senator from Illinois, what have we accomplished? What kind of a message do we send? It is rather like the chairman of the board of trustees sending the hospitalized president of a corporation a get-well card, but by a vote of 6 to 5.

Is that the kind of message we want to send to Peking—that we have narrowly approved an amendment which substitutes "security interests" for "grave concern"—and that nearly half of the Senate opposed it? I do not think that furthers our interest or our purpose or, indeed, the objectives sought by the Senator from Illinois, himself.

How much better to accept satisfactory language that does the job for the people of Taiwan, and was unanimously adopted by the Foreign Relations Committee in its final vote. That is the way to send the message to Peking that we want sent; namely, that it is our expectation that there will be no resort to force in the future in the settlement of the Taiwan issue. For these reasons, Mr. President, I strongly urge the Senate to reject the Percy amendment.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. CHURCH. I am happy to yield to the able majority leader.

Mr. ROBERT C. BYRD. Mr. President, the Committee on Foreign Relations gave extensive study to the question of Taiwan's future security. The bill that was originally submitted by the administration was amended by the Committee on Foreign Relations to include language that leaves no doubt about our continuing concern for the well-being of the people of Taiwan. As the distinguished able chairman of the Foreign Relations Committee has so succinctly pointed out, the amendment agreed to in the committee makes absolutely clear, as clear as the noonday sun in a cloudless sky, to the people of the Republic of China that its new relationship with the United States would be jeopardized seriously if there were to be force used against Taiwan. As the chairman has pointed out, any effort on the part of the People's Republic to do this not only would jeopardize its new relationship with the United States, but it would be an extremely costly and counterproductive venture.

Now, Mr. President, the United States will always act in its own interest. The language clearly states that such action on the part of the PRC would be of grave concern to the United States. The Senate does not have to write any new language in this by way of an amendment to protect the United States in its use of whatever force it may need to bring to bear at some future time when its own security interest is at stake. We do not have to write that into this. That goes without saying. The United States always has that option.

Mr. President, I yield to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, I feel very heavy responsibility. I drafted the original Taiwan provision and fought for it in the committee. Then Senator CHURCH and I worked out this arrangement. The only possible change in it that could be made is the one that Senator PERCY suggests.

I believe that General Jones answered that completely and the reason that I accepted Senator CHURCH's modification—I used exactly the same words that are in this amendment originally. The reason that I accepted it was that I felt that Senator CHURCH was right, one, that we should not guarantee automaticity of response; and, two, that we should grade our national security interests based upon the facts of national security. He did not put in the first rank, like South Korea, the national security of the United States as it might be jeopardized by the use of force on Taiwan. But the provisions of the section as I drew it are very, very strong respecting the protection to the people on Taiwan. Just in 1 minute, they include conditioning our normalization on the nonuse of force; second, that if use of force were tried, a threat to the peace and security of the western Pacific area would be created. That is as much as a threat to the national security interests of the United States, quite apart from the words, "grave concern." Third, that when we are implementing this, we are going to retain our capacity to resist any display of force, and too, that it is going to apply very carefully spelled out, to the Taiwanese.

But it is very important to me, and this is what I got for it: one, we would not only resist any resort to force, and this is what I got, but other forms of coercion which would jeopardize the security, or the social, or economic system of the people on Taiwan.

Now, that is the guts of it. That is what we are trying to protect. It is not the security of the people on Taiwan alone, it is their right to continue the system of government which has made them the second most successful people in the whole of Asia.

Finally, we got another paragraph at the end of this section which said, "The United States will act to meet any danger." That ties into the way we have amended paragraph 3, which is the subject of what Senator PERCY wants to change. "The United States will act to meet any danger" described in that paragraph now sought to be changed, "in accordance with constitutional processes and procedures established by law," which is exactly the way we approach NATO.

Taking the whole section together, I felt it was stronger, more effective, more particularized and even better notice to the People's Republic of China than the way I had originally drafted it; but when I did, it did contain exactly the same approach which is now sought to be reintroduced. We have added those things which make it, in my judgment, even more effective.

For those reasons, I am compelled to oppose the Percy amendment. I think the majority leader for yielding.

Mr. ROBERT C. BYRD. Mr. President, I move to lay the amendment on the table.

Mr. HELMS. Will the Senator hold that for a few minutes?

Mr. ROBERT C. BYRD. I cannot, for reasons which I shall be glad to explain. I shall withhold it for 1 minute to the Senator.

Mr. HELMS. That will not be long enough. What was the agreement made?

Mr. ROBERT C. BYRD. There is no agreement.

Mr. HELMS. Is the Senator going to move ahead and move to table when other Senators wish to speak?

Mr. ROBERT C. BYRD. There was a long time in here that I was asking Senators to please, please speak.

Mr. HELMS. This Senator has been sitting here a long time, but if the majority leader has made that judgment, fine.

Mr. ROBERT C. BYRD. Mr. President, I move to lay the amendment on the table and I ask for the yeas and nays.

I thank the Senator from North Carolina for his usual courtesy and understanding.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from North Carolina (Mr. MORGAN), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

Mr. ROBERT C. BYRD. Mr. President, I ask for regular order.

The VICE PRESIDENT. Is there a Senator in the Chamber who has not voted?

Regular order is called for.

The result was announced—yeas 45, nays 49, as follows:

[Rollcall Vote No. 12 Leg.]

YEAS—45

Baucus
Bayh
Bentsen
Biden
Bradley
Bumpers
Burdick
Byrd, Robert C.
Chiles
Church
Cranston
Culver
Durkin
Eagleton
Exon
Glenn
Gravel
Hart
Heflin
Jackson
Javits
Johnston
Kennedy
Leahy
Levin
Magnuson
McGovern
Melcher
Metzenbaum
Muskie
Nelson
Nunn
Pell
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stennis
Stevenson
Stewart
Talmadge
Tsongas
Williams
Zorinsky

NAYS—49

Armstrong
Bellmon
Boren
Boschwitz
Byrd,
  Harry F., Jr.
Cannon
Chafee
Cochran
Cohen
Danforth
DeConcini
Dole
Domenici
Durenberger
Ford
Garn
Goldwater
Hatch
Hatfield
Hayakawa
Heinz
Helms
Hollings
Huddleston
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
Mathias
McClure
Packwood
Percy
Pressler
Proxmire
Pryor
Roth
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stone
Thurmond
Tower
Wallop
Warner
Weicker
Young

NOT VOTING—6

Baker
Inouye
Long
Matsunaga
Morgan
Moynihan

So the motion to lay on the table amendment No. 79 was rejected.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was rejected, and I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD addressed the Chair.

The VICE PRESIDENT. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Idaho.

Mr. CHURCH. Mr. President, I hope that the Senate will reconsider the vote that has just been taken.

Mr. HART. Mr. President, may we have order in the Senate?

The VICE PRESIDENT. The Senate will be in order.

Mr. CHURCH. Mr. President, the President of the United States is now in the Middle East, in an effort to win peace. I think that a vote of this kind, occurring while he is in Cairo, would send a very unfortunate message.

Just before he left yesterday, the President told me of his anxiety about Senate approval of this amendment. He said he hoped very much that the Senate would not insist upon going beyond the understanding that he had reached with the People's Republic of China, on the basis of which it became possible for both countries to normalize their relations.

I know of the concern of the People's Republic of China about substituting the words "security interests of the United States" for "grave concern." The Ambassador from Peking has raised this matter, asking me many probing questions about our motives and purposes in connection with the committee's language.

If it is the objective of the Senate to place in jeopardy the normalization of our relations with mainland China, then let it be clear to everyone that this is what we are doing with the vote just cast.

I ask the Senate, Why? The substitution of these words does not improve by one iota the measure of assurance we give to the people on Taiwan respecting their future.

This is a mischievous amendment because it insists on the use of two words borrowed from our Mutual Security Treaty with Taiwan. It thus raises the whole question of whether we will keep faith with our commitment to Peking, which forms the basis for our new relationship with Peking.

We are interfering here with what is regarded as an internal matter by the Chinese, not alone by Peking but by Taipei as well. Their proposition is that there is but one China and Taiwan is part of that China. It is a proposition subscribed to not only by Peking but by Taipei.

Now when we insert "security interests of the United States" we draw the American defense perimeter line between Taiwan and the mainland.

And I ask Senators why do it? I ask Senators what greater assurance can be given to the people on Taiwan than that which is already contained in the language of the bill?

Mr. President, before we decide upon the Percy amendment we should have a clear understanding as to the nature of the threat to which it is directed.

Earlier in the debate, the Senator from Illinois and I agreed, based on the record that was made in the hearings before the Foreign Relations Committee. We agreed, first, that presently there is no intention in Peking to attack Taiwan; second, that Peking lacks the military capability of conducting a successful attack upon Taiwan; third, that if the policy in Peking were to change it would require at least 5 years for them to obtain the amphibious fleet necessary to launch a successful attack upon Taiwan; and fourth, that Taiwan today possesses the necessary defensive weapons to turn back any attack that might be directed upon them.

Based upon those premises, what has the committee done to give assurances to the people of Taiwan as they look to the future?

If Senators will examine section 114(a) beginning on line 25 of page 13 of the bill, they will see that it is the policy of the United States, which as a part of this legislation once signed by the President, becomes the law of the land:

(1) to maintain extensive, close, and friendly relations with the people of Taiwan;

(2) to make clear that the United States' decision to establish diplomatic relations with the People's Republic of China rests on the expectation that any resolution of the Taiwan issue will be by peaceful means;

(3) to consider any effort to resolve the Taiwan issue by other than peaceful means a threat to the peace and security of the Western Pacific area and of grave concern to the United States; and

(4) to provide the people on Taiwan with arms of a defensive character.

Now, Mr. President, these expressions of concern for the people on Taiwan are broader than any ever contained in the old mutual security treaty. Read the language of that treaty and you will see that it was confined to one thing, an attack, in which event it promised mutual consultation in accordance with the constitutional processes of both countries.

But this declaration promises close, extensive and friendly relations with the people on Taiwan. This declaration makes it clear that everything the Chinese expect to get from their new relationship with our country is based upon our expectation that there will be continuing peace between the mainland and the island.

Do Senators want to send a message to Peking? What kind of a message do we send to Peking on the basis of this last vote? We are telling Peking that, a margin of four votes, the Senate of the United States has decided that any future attack on Taiwan would be an attack upon the security interests of the United States. That is like the board of trustees sending a get-well message to the corporate president saying that, "We want you to get well by a vote of 5 to 4." By four votes, the Senate practically split in twain. How can we send a clear signal that way? It is not one of unity but one of division, not the kind of unanimous vote we had in the committee when we finally adopted the words now contained in the bill.

This is a pointless and self-defeating amendment to adopt. It does not advance the interests of the United States. It could put our new policy in jeopardy, and it does nothing for the people on Taiwan that is not equally well accomplished by the language already contained in the bill.

(Mr. STEWART assumed the chair.)

Mr. CHURCH. Oh, it is political, I understand that. But I think we should be concerned here with the fundamental interests of our country. For 30 years we have been pretending that the Government of China was located in Taipei; for 30 years we have imposed upon ourselves a position of endemic weakness, because we failed to acknowledge the presence of the giant of Asia.

That old policy engulfed us in two indecisive wars in Asia for which we paid very dearly. But, oh, we love our illusions, Mr. President, so much so that we were the last of the major nations finally to acknowledge the truth, that the Government of China resides in Peking, and that it is in our national interest, as other countries have found it to be in theirs, to have normal dealings with that Government.

Why put all of that in jeopardy because of political considerations, partisan considerations? I do know that the words we have added could do mischief. I do know they could put our new policy in jeopardy, and I do know that they do not add one iota to the assurances we give the people of Taiwan in the language of the bill.

So I plead with the Senate to reconsider this vote, and I do so in the name of a rational policy. We have been so long in need of one in Asia.

The PRESIDING OFFICER (Mr. LEVIN). The Senator from Ohio.

Mr. GLENN. I thank the Chair.

Since coming to the Senate I have expressed my convictions and concerns about Taiwan's security on many occasions and, as various officials can testify, to two administrations. Thus I do not oppose the Senator from Illinois' amendment because I am any less concerned about Taiwan than is he, or less concerned about the perception of a U.S. presence in East Asia, because I share fully his concern on these points.

The reason why I oppose this amendment is because I feel there is a right way and a wrong way to send this message to all parties to this new normalization process, and to insure security. I think we will have chosen the wrong way if we adopt this amednment.

This amendment does nothing to materially affect Taiwan's security. It provides no weapons. Yet it creates a serious risk of the United States being pulled into a war not of our choosing. That is the important point about this language. It creates a serious risk of being pulled into a conflict not of our choosing.

Should an incident like a raid from Taiwan or an overflight, whether inadvertent or not, of PRC air space trigger a PRC reaction, we do not have American members of the Taiwan Defense

Command present on Taiwan. We will not have a U.S. representation when shooting starts in the Straits of Taiwan. Without the presence of an American military presence in the Taiwan Defense Command, now abolished, how do we determine the facts? Do we take someone's word for it that they have been attacked? "We just had a ship sinking in the Taiwan Straits, America, come to our help. We cannot manage this. It was by a submarine, and we have no antisubmarine warfare capability. We have no method of attacking submarines."

Do we take their word for it and immediately go out to the Taiwan Straits with a U.S. carrier and start a war?

We would be hard pressed, if this amendment is approved, to go against that request from Taiwan because what we are saying is that our front line of defense is the Taiwan Strait. I do not want to see us make a decision here today that would give that judgmental factor of whether to go to war to someone else.

What if we had a couple of aircraft shot down, inadvertently or not, and maybe they are shot down by weapons that are incapable of being opposed by the weaponry that the Republic of China, previously named, has on Taiwan? They call for our air assets to come out there and help counter that threat. Would we go automatically? Are not we stating that this is the security line that we are drawing for the United States of America? Yet, that "line of containment" is not under our control?

I find it very hard to believe that we would want to do that. Yet the language that is proposed in this U.S. Senate today could be used as justification for just such a call. We would then stand before the world as going back on yet another agreement, of not living up to our commitments around the world. Such a serious situation could arise because we made a judgment now that we did not want to know what was going on, we did not want to evaluate how serious it was, we did not want to know what weapons were used, we did not want to know why the attack occurred and whether it was instigated by Taiwan, perhaps to get us involved.

We would be, in effect, ruled out from making those most important life-and-death decisions if this security language is adopted.

I do not think we want to see those decisions go into other than American hands. I do not think we want to see that at all.

We do have a moral commitment to the people of Taiwan, but it is not included in the legislation, and it does not include, to my way of thinking, a required knee-jerk American response.

Much has been made of the fact that Taiwan is strategically significant to the United States.

Mr. PERCY. Mr. President, will the Senator yield for a question?

Mr. GLENN. Not until I finish my statement. Then I would be glad to answer any questions.

As to the situation with Taiwan's strategic location, that was addressed in the committee. General Jones, Chairman of the Joint Chiefs of Staff, told the committee that from a broad strategic interest Taiwan is less significant than South Korea, Thailand, and Japan, saying, "I would place it in a position of far less strategic interest than other nations in the Pacific." That is the Chairman of our Joint Chiefs of Staff speaking of Taiwan's strategic significance.

Yet we are told by this language that we now say that our front line runs down somewhere through the Straits of Taiwan.

Admiral Snyder, former Chief of Taiwan Defense Command, now defunct, and the most forceful witness for Taiwan's strategic importance, nevertheless concluded his answer to Senator PERCY with the observation that although Taiwan is important—

> I think that as long as we can keep Clark Air Force Base in the Philippines we can get along without it.

Meaning Taiwan—

> Thus, with the recently concluded amendment to the Philippines base agreement, we retain a power projection capability from the Philippines, Japan, and our at-sea forces sufficient to exert a U.S. presence in the Western Pacific.

So from a strategic standpoint solely Taiwan is neither a vital interest nor necessary to the effective employment of U.S. military forces in the region.

This amendment denies the United States the flexibility needed to cope with an uncertain future. When Senator PERCY asked the Chairman of the Joint Chiefs of Staff about the essence of this amendment, General Jones noted that although the language may be stronger:

> My problem with threat to security interests is that there is no qualifying factor there and that our security interests are less than in other areas of the Pacific or the world. So I would be concerned about the implication being far greater than what is intended.

That is a direct quote.

Any U.S. commitment must be credible and capable of being supported by the U.S. public; otherwise, the U.S. position is further eroded.

Yet, the Lou Harris and Roper polls show that despite a slight increase in favoring the use of U.S. troops to defend Europe, Korea, and Yugoslavia since 1974, public willingness to defend Taiwan has slipped.

More importantly, as I argued in a letter I sent to Secretary Vance a short time ago, providing sufficient arms to Taiwan, thereby deterring PRC action, is to be desired, rather than overblown rhetoric from the United States which may require U.S. forces engaging in combat if we are to honor our commitment.

The last paragraph of that letter I sent to Secretary Vance makes this point:

> Like many Americans, I want better relations with the PRC, but still have concerns about the security of Taiwan. I believe Taiwan's own military capabilities, aided by the qualitative improvements I have sought—is the best security guarantee for both Taiwan and the United States, and will provide the least likelihood of automatic American involvement in situations not of our making nor under our direct control.

I would add here that I have suggested that we get going at the earliest possible time with the weapons that Taiwan needs.

Mr. President, the United States will make very serious judgments before we decide to go to war. They will be based on the situation existing at that time. The language of grave concern for that situation that will exist at that time is the language that was carefully worked out in committee. That language does not mislead anyone.

Mr. President, I would submit that the language that has been suggested in this amendment will, however, lead to much misunderstanding. Why do we want to lead Taiwan into thinking we will make a commitment to them that we are not likely to honor in the crunch? Why do we want to mislead our friends around the world into thinking we would make that kind of commitment? Why do we want to mislead the people in the People's Republic of China into thinking that we would have a knee-jerk reaction to events beyond our control, or our defense command that we would have that kind of reaction?

Such a knee-jerk reaction would be expected when it will not occur; and the world should understand we will not be making that kind of commitment.

We need to send abroad a message of our grave concern as it was expressed in the bill brought out by the committee, Mr. President; and I urge my colleagues not to seek to make a commitment which will leave others to control whether we go to war, or indicating to the people of Taiwan and the PRC, or other friends around the world, that we have a commitment that we would honor regardless of the circumstances that may occur in the future.

Mr. PERCY. Mr. President, I ask unanimous consent that the name of the distinguished Senator from North Carolina (Mr. HELMS) be added as a cosponsor of the pending amendment.

The PRESIDING OFFICER (Mr. STEWART). Without objection, it is so ordered.

Mr. PERCY. Mr. President, it is my intention, at an appropriate time, after all Senators have spoken who wish to speak on this issue, to move to lay on the table the motion to reconsider.

I think that a discussion of this issue is important. I would like to express appreciation to Senator HELMS for his cosponsorship, because I know that Senator HELMS, if I understand his feelings correctly, feels that the so-called Percy amendment is the minimum that he can accept.

I have thought very carefully how far we could go to honestly express our point of view, just as honestly as China has expressed its point of view. The officials of the People's Republic of China have been very forthright in expressing their opinion. They absolutely refused to enter into any pledge of nonuse of force, but they did provide some degree of reassurance.

Though, as I have indicated, I cannot

go beyond the language of the so-called Percy amendment, I deeply appreciate the fact that there is wide support despite varying gradations of support. Senator HELMS' support for this amendment is meaningful because it is my understanding that his own amendment goes substantially further, and that if the Percy amendment fails, he might well carry forward with that amendment and press that issue.

The question also involves how we feel about normalization, and we have differing views on that. I have made it very clear that I strongly favor normalization of relationships, providing that every possible degree of assurance is given to the people of Taiwan, and providing also that we state unequivocally what our own national interest is. Just as we expect China to forthrightly, honestly, openly, and clearly express their national interest, we also have that right, that duty, and that obligation.

I am certain also that the People's Republic of China, particularly after Vice-Premier Teng's visit here and his personal discussions with the Members of the Senate, know how strongly the American people and the Members of the Senate feel on this issue. And though the executive branch of the Government did not want any changes whatsoever, Senator CHURCH and Senator JAVITS were able to convince the executive branch that it was essential and they put together language that more clearly expressed our point of view.

As we all recall during the Panama debate, many of us indicated there was no way we could ratify that treaty without amending the language to take into account certain contingencies. The leadership of the Senate, Senators BYRD and BAKER, the majority and minority leaders, helped work out language that made it possible for many of us to vote for that treaty, though even then many in good conscience could not.

I feel that it is necessary, just as the distinguished chairman and the ranking minority member of the Foreign Relations Committee felt it necessary, to adopt language that more clearly expresses our views. I think it is necessary now for the Senate to modify the language adopted by the committee, and the modifications we have suggested are, in the judgment of many, very mild indeed.

The implication has been made that the amendment before us would require the United States of America to act, or react, in case force was used. In reading the amendment, there is nothing that requires the United States to act. The amendment leaves open the option of action. It leaves it open completely. The amendment does not authorize the President to take any action in the case of hostilities. It is very clear that we simply are sending a message, a more honest and meaningful message than in the language in the legislation before us.

I cannot perceive how this amendment undermines anything. That word "undermine" has been used occasionally.

The Senator from Illinois cannot see that it will jeopardize anything. It jeopardizes nothing. We have a responsibility to be clear in our statements. We have a responsibility to be honest with China. We have honest differences of opinion which we should express just as honestly as the Chinese express their opinions.

They do not ever hesitate to lay it right on the line.

The Vice Premier laid it right on the line to us here and we respected him more for speaking forthrightly to us and letting us know how he stood on certain issues.

When he went to Tokyo he let us know through his conversations over there exactly how he felt about the way the United States had handled the Iranian situation.

He let us know unmistakably what he intended to do in Vietnam. And though we expressed our grave concern or our deep concern, or however it was we wrung our hands about that, he said right here he intended to punish Vietnam. He moved forthrightly to fulfill that pledge, and he did so, and he did it in a way that was rather impressive to the Vietnamese forces. The Chinese forces were very impressive in the way they administered that punishment.

He was honest about what he intended to do. Certainly, I think we have that same responsibility.

I respectfully suggest to the Senator from Idaho that it is in the U.S. national interest to state our security interests and not to mislead the Chinese. It would be wrong, in my judgment, not to tell the truth and adequately express how strongly we feel.

The distinguished Senator from Ohio has said that in his judgment the use of the term "gravely concerned" adequately expresses how we feel, and adequately expresses what we might do.

I would just like to go back into history a little bit and read to the distinguished Senator from Ohio what we have said as a country in the past.

In 1956, after the Soviet Union intervened with force in Hungary, a State Department spokesman said: "The actions of the Soviet Union are the cause of the greatest concern."

Did that in any way inhibit or even impress the Soviet Union? Not one bit. They held their ground.

In 1975, Secretary Kissinger said the Soviet introduction of military equipment into Angola and Cuban participation in Angola are considered "a serious matter not compatible with the spirit of relaxation of tension." That was almost reassuring to our adversaries that the United States had rejected the possibility of action.

It is a serious matter. We have said that before. That may be a signal that we intend to wring our hands. We look on it with grave concern, but we do not really intend to do anything because they are not our security interests. Should anyone doubt that this Nation will consider action if its security interests are threatened? Is there any doubt that we should move in Europe at any time the interests of the United States there are endangered?

Mr. BIDEN. Will the Senator yield for a question on that point?

Mr. PERCY. I am happy to yield.

Mr. BIDEN. Is the Senator equating our national interest in Taiwan as equal to that in Western Europe? Is the Senator suggesting they are the same?

Mr. PERCY. The Senator from Illinois is suggesting that the interests the United States has in a peaceful resolution to the Taiwan issue, in a nation with which we have had a mutual security pact for 30 years, are greater than the interests we may have in some other more remote part of the world where we have not had that kind of close relationship.

No, the Senator from Illinois, on a matter of priorities, would certainly put Europe ahead of Taiwan. He would put the Mideast ahead of Taiwan. And probably Japan and South Korea ahead of Taiwan.

Mr. BIDEN. I would hope the Senator would do that.

Mr. PERCY. But the Senator from Illinois would feel that if there was a use of force—I have said many times on this floor that I do not anticipate at all the use of force—if there were a use of force, I would personally feel that something more than just an expression of grave concern and a verbal slap on the wrist would be required. This Nation should consider acting under those conditions. It would only be fair to notify the People's Republic of China ahead of time that we put a peaceful settlement of the Taiwan issue as a high priority.

The Senator from Illinois put the question to the Chairman of the Joint Chiefs of Staff as to how he would look upon this matter. As I quoted earlier, General Jones replied, "I believe that an attack on Taiwan would be not only of grave concern but would impact on our security interests. There is no question about it." Would my distinguished colleague feel that there should be any question about it as to whether or not an attack by force on Taiwan would be contrary to the security interests of the United States of America?

Mr. BIDEN. Did not General Jones also say that the impact of such an attack would not be significant to American security? That its impact would be minimal? I do not have the language in front of me, but my recollection is that General Jones' comments were along those lines.

Is it not also true that the language of S. 245 as it now exists does not preclude us from using force? We retain the option to determine how and when we would use force. Maybe I can repeat myself to the Senator. He seems to have been occupied.

Does the language of S. 245 as it now stands preclude the United States from using force? Do not we retain the option to use force, depending on the situation? I assume the Senator would not suggest that should the 12 million indigenous population of Taiwan rise up against the 1 billion Chinese who run the mainland that we would send the U.S. fleet steaming in to take over. Or do my friends from Illinois and Ohio suggest that under those conditions we do move in?

There are all kinds of circumstances under which we should have a variety of reaction options.

I was just handed General Jones testimony. He said:

> It may be stronger but my problem with the threat to the security interests is that there is no qualifying factor there and that our security interests are less there than they are in other areas of the Pacific or other areas of the world. So I would be concerned about the implication being far greater than that intended.

I cite that to set the record straight.

I am infringing on the Senator's time. I have a good deal more to say about this if the managers of the bill will give me the opportunity, or when I am able to get the floor in my own right. I think the question here is whether or not we will face the political realities or continue to debate the China question. I remind my friend from Illinois that when we were in grade school we debated about "Who lost China." I suggest today we never had China to lose it, and I suggest now we are about to begin a new debate. With these amendments such as Senator PERCY's, I suggest that the debate over China will begin anew. If the Senator succeeds with his amendment, we will be debating again "Who lost China." The Senator's amendment suggests that the United States, in effect, institute a two-China policy. That would be a sham. Those are not the terms we agreed to in the normalization procedure. That is what the issue is about today.

Mr. President, I support S. 245, because it enables the United States to establish a creative new relationship with the people of Taiwan that assures that island's continued security and economic well-being without compromising our diplomatic commitment to Peking.

How to achieve these twin goals has been at the heart of the issue of our China policy since 1972. How to be fair, how to shortchange neither mainland China nor Taiwan, is the problem the Senate Foreign Relations Committee has just confronted, I think successfully. It is the crux of what has troubled the American people about the recent change in the direction of our China policy.

There is a large body of opinion—both in the Nation and in this Chamber—that is skeptical about the good intentions of the Communist Government of China. Chinese leaders came to this country and denounced the Soviet Union, trying to persuade us that "the enemy of my enemy is my friend." Days after they returned to Peking, Chinese forces invaded Vietnam.

Now, I do not approve of a leader of a country coming to our shores and denouncing a leader of a third country. Nor do I approve of military invasions. And I reserve the right to share my colleagues' skepticism about the motives and intentions of the People's Republic of China. But I maintain that recognition of the Peking government—the government of nearly 1 billion people—a government that has been in power for nearly 30 years—in no way implies approval of that government's every policy or of that government's social or economic system. What we are doing is simply recognizing that the government of Peking is the legitimate and legal government of one-quarter of the world's population.

What derecognition of the Government of Taiwan implies is not abandonment of an ally and friend. Neither my colleagues in the Senate nor the American people should in any way infer that the American Government is no longer concerned with the peace and prosperity of that island's 15 million inhabitants. What the new relationship with the people of Taiwan signifies is that U.S. policy has finally come out from under the figleaf of political pretense. The recognition of Peking and the derecognition of Taipei brings our policy into the clear light of present-day reality.

To put this diplomatic event into the proper context, I think we should look back. We could look back to the Shanghai communique of 1972. But for a moment I want to look still further back—into what is for me history.

Let us go back to 1949. After the Chinese civil war in which the Communists defeated the Nationalist forces of Chiang Kai-shek, the losers took refuge on the island of Taiwan, then called Formosa. This handful of Chinese Nationalists sheltering themselves on Formosa, still maintained that their government was the legitimate government of the Chinese people. And the United States joined them in that fiction.

Because of the geopolitics of the early fifties, the United States, understandably, did not change this fiction. There was the Korean war. There was also the overpowering threat to U.S. interests posed by the Moscow-Peking alliance.

During this decade of the fifties, there were many Americans who claimed that it was the U.S. policy of the 1940's that "lost China" for us. The debate over who lost China raged for a decade. I, personally, do not believe that China was ever ours to lose. In my opinion, the real loss of China for the United States was the loss of contact with the mainland. The real loss of China for America was the loss of influence with the Peking government.

Now, I will be the first to admit that it is easier to understand that loss today than it was 30 years ago. I refer to this history only because I believe that, after 30 years of deliberate fiction, it is time to set our relationships with China and Taiwan straight. In fact, not fiction.

We created that fiction of Taiwan. And we are willing to take the responsibility for it today. We will not abandon her. We recognize the fact of her economic prosperity and we will do everything we can to protect it. We recognize the danger to her security and we will do everything we can to protect it. But we can no longer perpetuate the fiction of Taiwan's political pretensions.

The first step toward a realistic U.S. policy on China was taken by President Nixon in 1972. The Shanghai communique issued at that time stated that there is but one China. The communique never stated which was the legitimate one. But it recognized the political reality of one China.

The brilliance of the Shanghai communique was less in its clarity than in its precise area of vagueness. Its brilliance lay in what it did not define. It contained what lawyers sometimes call "creative ambiguity."

While the credit for the initiative in a realistic China policy goes to a Republican administration, there is little doubt of the courage of President Carter in concluding that process of political reality.

It is to the Senate Foreign Relations Committee, however, that the final task was given. Because it is this committee, under its new leadership, that was able to flesh out, to specify and to amend the administration proposal. In a way that gives Taiwan a fair shake.

And it is this same committee that has had the foresight to recognize that giving Taiwan a fair shake does not mean that we create another two-China political faction to replace the old one. The committee was able to draft and pass legislation that is before us today that meets the objectives of U.S. policy. Let me say it more plainly—S. 245 serves the interests of both the United States and Taiwan.

Mr. President, in the long run, the interests of both countries are best served by good relations between the United States and China. And the passage of amendments to this bill which would, in effect, create a second China would lay the basis for another 30 years of fiction, of illusion and of instability.

Therefore, Mr. President, I urge my colleagues—not to "lose China" a second time.

Mr. PERCY will the Senator yield for a question?

Mr. BIDEN. Yes. The Senator has the floor.

Mr. PERCY. The Senator from Illinois appreciates the questions and the comments which were made, but I would like to point out as I have before that my amendment does not require the United States in any manner, shape, or form to use force. It simply leaves open certain options. With this amendment, we are retaining the same options the Chinese have retained We do not preclude options, but we give a clearer signal than does "grave concern" that we intend to do something other than wring our hands.

I know that the majority leader would like to make a motion, but the Senator from Illinois has promised the senior Senator from California the right to speak at this time. If the motion will preclude the right of Senators from commenting at this time, would the Senator withhold his motion?

Mr. ROBERT C. BYRD. Mr. President, my motion would not preclude Senators from speaking on the amendment. It would not.

I ask unanimous consent that I may be permitted to withdraw the motion to reconsider.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The motion to reconsider was withdrawn.

Mr. PERCY. I thank the distinguished majority leader.

Mr. HOLLINGS and Mr. HAYAKAWA addressed the Chair.

Mr. PERCY. The Senator from Illinois has not yielded the floor.

Mr. HOLLINGS. I yield to the Senator from California and I shall speak later. I thought since the motion was withdrawn, we could move on to something else. I was going to call up an amendment. I yield the floor and shall wait until after the Senator from California has completed.

Mr. ROBERT C. BYRD. Mr. President, if the distinguished Senator from California will yield, I say to the Senator from Illinois that I thank him for yielding. Perhaps we could reach an up-or-down vote on his amendment quickly after the Senator from California has yielded the floor.

Mr. HAYAKAWA. Mr. President, the distinguished Senator from Idaho has said that the amendment offered by the Senator from Illinois undermines the commitment to the basis on which our relations with the people of Peking have been established. Perhaps it is an act of temerity on my part, but I should like to remind the distinguished Senator from Idaho that the President may be committed to the basis on which our relations with Peking have been established, but we in the Senate were not consulted as to that basis on which those relations were established. As everyone here will recall, those relations were established in our absence and without consultation and on a date in which consultation was impossible. Hence, I cannot see how we are similarly committed.

This is the reason that many of us in this Chamber are adding amendment after amendment to the language of the Taiwan Enabling Act. This is only one of the amendments.

Mr. President, I have heard a lot of talk about how the United States can maintain a dual relationship with the two parts of China, and an analogy with Japan's success in maintaining such a dual relationship. If Japan can maintain nongovernmental relations with Taiwan at the same time as it maintains full diplomatic relations with the mainland, why cannot we do the same? That is the argument we frequently heard. What those who argue this position ignore is that Japan felt secure about this dual relationship, because the United States had a defense treaty with Taiwan. That protection to the peace of the Pacific and, therefore, that protection which Japan's trade with both parts of China enjoyed no longer exists at this moment. In short, Japan can no longer feel as secure as she did and what Japan will do about that fact, I do not know.

I do know that the peace of the Pacific and the whole area is no longer as secure as it was when we had a defense treaty with Taiwan. I do not expect or hope ever to restore that defense treaty with Taiwan under present conditions. But the Senator from California does welcome the wording of the amendment of the distinguished Senator from Illinois, since it spells out specifically the dangers involved in this new relationship that, at the same time, treats the two Chinas as one and also treats the two Chinas as two. There are so many ambiguities in this proposed relationship that the Senator from California, for one, fully intends to vote for the amendment offered by his distinguished colleague from Illinois (Mr. PERCY). In one respect, at least, those ambiguities will be reduced if we accept Senator PERCY's excellent suggestion.

I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, I am ready to vote. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. PERCY. Mr. President, there are others who wish to speak.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair.

Mr. President, I have listened with great interest to the comment by the distinguished chairman of the Committee on Foreign Relations and others. I notice that the distinguished chairman began his argument with the suggestion that the President would be embarrassed in his Middle Eastern trip if the Senate were to take the action of approving the amendment of the Senator from Illinois. I happened to think of a note that was left for me earlier this morning by a friend from North Carolina, who stopped by. I thought something of this sort might come up on the floor, and I had a young lady type it out. Let me read it.

He said:

> One final note. I feel that the administration will try to play on the Carter trip to the Middle East in its attempt to kill the Percy amendment. They will say, "Don't embarrass the President with this slap in the face just when he is trying to negotiate a delicate treaty, et cetera." They will claim that such a move shows the parties to the Mideast treaty that the Senate and the Congress cannot be relied on to uphold the President's actions.

Well, this friend of mine was certainly prescient. He must have had a crystal ball in his pocket.

He went on to say, with respect to his earlier comment:

> This is nonsense. Why? Because there was prior consultation with the Senate prior to the President's trip—the briefing of the committee, the Begin visit, et cetera. There was none of that with Taiwan.

Mr. President, that is it in a nutshell. The President of the United States has sent the Senate a scrambled egg and has said, "Now unscramble it." If he had conferred with the Congress, or even with the Foreign Relations Committee, the Senator from North Carolina does not believe that we would be in this fix this afternoon. Certainly, I take no pleasure in resisting the legislation pending before us, but I feel in good conscience that we must do something to strengthen the defense section. As my friend from Illinois has indicated, this is the minimum insofar as the Senator from North Carolina is concerned. I am happy to cosponsor his amendment. I think, as he has indicated, that we should go farther, but I am willing to compromise on this.

In the comments by the distinguished chairman of the Committee on Foreign Relations earlier, he said, "What will we be telling Peking?" What will we be telling Peking by approval of what the distinguished chairman called a frivolous amendment by the distinguished Senator from Illinois?

I think the more important question is, what will we be telling such friends as we have left around the world if we do not do this? I might raise another question, what was the President telling the Congress when he declined to confer with Congress when he made the judgment to dump Taiwan and embrace Red China? There are all sorts of questions that we can raise and which we should raise. I, for one, do not feel that we should indulge in obfuscation. We ought to lay it all out to be seen.

The statement was made earlier, and I think by the distinguished chairman, that General Jones had assured the committee that Red China does not have the capability to boycott, blockade Taiwan.

Well, not quite, Mr. President, not quite.

Actually, what General Jones said was, and I will read from page 747:

> Now that does not mean that they could not develop that capability over a number of months, of course.

Obviously, they can. And in a number of months, not years.

Now, I wish to offend no one, but the administration has deliberately refused access to a report that I personally know is in existence and which was requested from a number of administration witnesses during the course of the committee's deliberation of this bill. It is now in my possession. It is a secret report, entitled "Consolidated Guidance Study No. 9, Taiwan's Military Requirements in a Post-Normalization Environment." It was made available to me today by a concerned citizen. In this report, high Pentagon officials are on record as knowing that Taiwan could be blockaded.

I am not going to quote from that secret report. I am not that kind of Senator. But if the distinguished chairman or any other Senator wants to see it, I will be glad to show it.

But, in any case, Mr. President, it seems to me to be rather ominous that this Senate should be debating the security of Taiwan this particular week, because it was exactly 20 years ago this week that the Dalai Lama in Tibet was forced to submit to Peking's terms with respect to Tibet's future status.

On March 9, 1959, the Dalai Lama attended a meeting of the Chinese State Council and was forced to accept various decrees including the establishment of a so-called "Preparatory Committee for the Autonomous Region of Tibet."

This action led to the exodus from Tibet of the Dalai Lama and many of his followers. From exile in India the Dalai Lama protested in April 1959 that in practice "decisions in all important matters were made by the Chinese authorities."

The Dalai Lama did not return to Tibet, but has remained in exile. Instead the Peking authorities proceeded with the communization of Tibet that led to another revolt by the people of Tibet. And all this was done under the authority of the agreement with Tibet signed in 1951 that allegedly granted them regional autonomy.

In a 17-point agreement signed in 1951 the PRC purportedly granted to Tibet regional autonomy. Does that sound familiar? It is instructive today to look at the language of this signed agreement by Peking and then the following historical record of ruthless suppression of the people of Tibet that led to the exodus of the Dalai Lama and many of his followers.

It is important to note especially articles 3, 4, 5, and 6 of this agreement, particularly as we now listen to supposedly soothing words of Teng Hsiao-ping about the future status of Taiwan. His are only words; Peking had a written agreement with Tibet and it was Chou En-lai, Teng's spiritual predecessors, who played a large role in "negotiating" this agreement.

Mr. President, I ask unanimous consent that the terms of this agreement be printed in the RECORD, that the brief chapter on the 1959 uprising in the book "Revolt in Tibet" be included, and the statement from exile of the Dalai Lama.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APPENDIX I

Agreement of Measures for the Peaceful Liberation of Tibet (17—point Agreement of May 23, 1951)[1]

The Tibetan nationality is one of the nationalities with a long history within the boundaries of China and, like many other nationalities, it has done its glorious duty in the course of creation and development of the great Motherland. But, over the last 100 years or more, imperialist forces penetrated into China and in consequences also penetrated into the Tibetan region and carried out all kind of deceptions and provocations. Like previous reactionary Governments, the Kuomintang reactionary Government continued to carry out a policy of oppression and sowing dissension among the nationalities, causing division and disunity among the Tibetan people. The local government of Tibet did not oppose the imperialist deception and provocation and adopted an unpatriotic attitude towards the great Motherland. Under such conditions the Tibetan nationality and people were plunged into the depths of enslavement and sufferings. In 1949 basic victory was achieved on a nation-wide scale in the Chinese people's war of liberation; the common domestic enemy of all nationalities—the Kuomintang reactionary Government—the aggressive imperialist forces—was driven out. On this basis the founding of the People's Republic of China (CPR) and (CPG) was announced.

In accordance with the Common Programme passed by the Chinese People's Political Consultative Conference (CPPCC), the CPG declared that all nationalities within the boundaries of the CPR are equal and that they shall establish unity and mutual aid and oppose imperialism and their own public enemies, so that the CPR will become a big family of fraternity and co-operation, composed of all these nationalities. Within the big family of all nationalities of the CPR, national regional autonomy shall be exercised in where areas national minorities are concentrated and all national minorities shall have freedom to develop their spoken and written languages and to preserve or reform their customs, habits and religious beliefs, and the CPG shall assist all national minorities to develop their political, economic, cultural, and educational construction work. Since then, all nationalities within the country—with the exception of those in the areas of Tibet and Taiwan—have gained liberation. Under the unified leadership of the CPG and the direct leadership of higher levels of people's governments, all national minorities have fully enjoyed the right of national equality and have exercised, or are exercising, national regional autonomy.

In order that the influences of aggressive imperialist forces in Tibet might be successfully eliminated, the unification of the territory and sovereignty of the CPR accomplished, and national defence safeguarded; in order that the Tibetan nationality and people might be freed and return to the big family of the CPR to enjoy the same rights of national equality as all other nationalities in the country and develop their political, economic, cultural and educational work, the CPG, when it ordered the People's Liberation Army (PLA) to march into Tibet, notified the local government of Tibet to send delegates to the central authorities to conduct talks for the conclusion of an agreement on measures for the peaceful liberation of Tibet. At the latter part of April 1951 the delegates with full powers of the local government of Tibet arrived in Peking. The CPG appointed representatives with full power to conduct talks on a friendly basis with the delegates with full powers of the local government of Tibet. As a result of the talks both parties agreed to establish this agreement and ensure that it be carried into effect.

(1) The Tibetan people shall unite and drive out Imperialist aggressive forces from Tibet; the Tibetan people shall return to the big family of the Motherland—the People's Republic of China.

(2) The local Government of Tibet shall actively assist the PLA to enter Tibet and consolidate the national defences.

(3) In accordance with the policy towards nationalities laid down in the Common Programme of the CPPCC, the Tibetan people have the right of exercising national regional autonomy under the unified leadership of the CPG.

(4) The central authorities will not alter the existing political system in Tibet. The central authorities also will not alter the established status functions and powers of the Dalai Lama. Officials of various ranks shall hold offices as usual.

(5) The established status, functions and powers of the Panchen Ngoerhtehni (Lama) shall be maintained.

(6) By the established status, functions and powers of the Dalai Lama and of the Panchen Ngoerhtehni are meant the status, functions and powers of the thirteenth Dalai Lama and of the ninth Panchen Ngoerhtehni when they were in friendly and amicable relations with each other.

(7) The policy of freedom of religious belief laid down in the Common Programme of the CPPCC shall be carried out. The religious beliefs, customs and habits of the Tibetan people shall be respected and lama monasteries shall be protected. The central authorities will not effect a change in the income of the monasteries.

(8) Tibetan troops shall be reorganised step by step into the PLA and become a part of the national defence forces of the CPR.

(9) The spoken and written language and school education of the Tibetan nationality shall be developed step by step in accordance with the actual condition in Tibet.

(10) Tibetan agriculture, livestock-raising, industry and commerce shall be developed step by step in accordance with the actual condition in Tibet.

(11) In matters related to various reforms in Tibet, there will be no compulsion on the part of the central authorities. The local Government of Tibet should carry out reforms of its own accord and, when the people raise demands for reform, they shall be settled by means of consultation with the leading personnel of Tibet.

(12) In so far as former pro-imperialist and pro-Kuon intang officials resolutely sever relations with imperialism and the Kumintang and do not engage in sabotage or resistance, they may continue to hold office irrespective of their past.

(13) The PLA entering Tibet shall abide by all the above mentioned policies and shall also be fair in all buying and selling and shall not arbitrarily take a needle or thread from the people.

(14) The CPG shall have centralized handling of all external affairs of the area of Tibet; and there will be peaceful co-existence with neighbouring countries and establishment and development of fair commercial and trading relations with them on the basis of equality, mutual benefit and mutual respect for territory and sovereignty.

(15) In order to ensure the implementation of this agreement, the CPG shall set up a Military and Administrative Committee and a Military Area HQ in Tibet and—apart from the personnel sent there by the CPG—shall absorb as many local Tibetan personnel as possible to take part in the work. Local Tibetan personnel taking part in the Military and Administrative Committee may include patriotic elements from the local Government of Tibet, various districts and various principal monasteries; the name-list shall be set forth after consultation between the representative designated by the CPG and various quarters concerned and shall be submitted to the GPG for appointment.

(16) Funds needed by the Military and Administrative Committee, the Military Area HQ and the PLA entering Tibet shall be provided by the CPG. The local Government of Tibet should assist the PLA in the purchase and transport of food, fodder and other daily necessities.

(17) This agreement shall come into force immediately after signatures and seals are affixed to it.

Signed and sealed by delegates of the CPG with full powers: Chief Delegate Li Wei-Han (Chairman of the Commission of Nationalities Affairs); Delegates Chang Ching-wu, Chang Kuo-hua Sun Chih-yuan. Delegates with full powers of the local Government of Tibet; Chief Delegate Kaloon Ngabou Ngawang Jugme (Ngabo Shape); Delegates Dizasak Khememey Sonam Wangdi, Khentrung Thupten Tenthar, Khenchung Thupten Lekmuun, Rimshi Samposey Tenzin Thundup.

Peking, 23rd May, 1951.

TIBETAN DISCONTENT GROWS

On April 29, 1954, the "Agreement between the Peoples' Republic of China and the Republic of India on Trade and Communications between the Tibet region of China and India" was signed in Peking, according to a Chinese communiqué, "bringing to an end the remnant privileges of the British and so establishing the relations between China and India, concerning Tibet, on a new basis". The Agreement laid down five broad principles in addition to the liquidation of the Indian claims.

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[1] The full text of the 'Agreement of the Central People's Government (CPG) and the local Government of Tibet on measures for the peaceful liberation of Tibet', was signed in Peking on May 23, 1951. The text herein was given by the New China News Agency. See also Concerning the Question of Tibet (Peking, 1959); pp. 14–10; Documents of International Affairs (London, Royal Institute of International Affairs), 1951, pp. 577–579.

According to the Agreement India accepted the principle that Tibet constituted an integral part of China, and agreed to withdraw completely within six months the Indian contingent that had been stationed for decades at Yatung and Gyantse. Peking, it was stated, would render all assistance and facilities in aiding the withdrawal of Indian troops.

India agreed also to hand over all her property in Tibet to the Chinese authorities, leaving questions of detail regarding cost and manner of payment to be worked out later. These properties included all the telegraph, public telephone, and postal establishments, together with their equipment, and twelve rest houses situated in various parts of Tibet.

The Agreement, containing six articles, related only to the two issues of trade and pilgrim traffic. China would be permitted to open three trade agencies, in New Delhi, Calcutta and Kalimpong, while India would be allowed to establish similar offices at Yatung, Gyantse and Gartok. All trade and pilgrim traffic should henceforth be confined to six specific routes along the two-thousand-mile common frontier.

The Trade Pact, as it was briefly called, was acclaimed in India and China and the five principles, outlined in the preamble, which formed the basis of the pact—mutual respect for each other's territorial integrity and sovereignty, mutual non-aggression, mutual non-interference in each other's internal affairs, equality and mutual benefit and peaceful co-existence—became known as "The Five Principles of Peaceful Co-Existence", or "Panch Shila" in India, and were later taken up at Bandung as the accepted policy of the Afro-Asian bloc.

India gained practically nothing concrete from the pact. It was rumoured in Indian official circles that Mr. Nehru had hoped to obtain a fixed delineation of the hitherto vague border between Tibet and India, so limiting China's expansionist ambitions, but if this were the case it was another diplomatic defeat for India.

In a speech delivered in India's Lok Sabha on a debate on the international situation on May 15, 1954, Acharya T. B. Kripalani, the Leader of the Opposition, said:

'Recently we have entered into a treaty with China. This treaty concerns the whole of India. It does not concern a party or a person, it affects us all. We feel that China, after it had gone Communist, committed an act of aggression in Tibet. The plea is that China had the ancient right of suzerainty. This right was out of date, old and antiquated. It was theoretical; it was never exercised or very rarely exercised and even then in theory. It had lapsed by the flux of time. . . . I consider this as much a colonial aggression on the part of China as any colonial aggression indulged in by Western nations. The definition of colonialism is that one nation by force of arms and fraud occupies the territory of another nation. . . . Whether certain nations commit aggression against other peaceful nations does not always concern us. But in this case we are intimately concerned, because China has destroyed what is called a buffer state. In international politics, when a buffer state is destroyed by a powerful nation, that nation is considered to have committed aggression against its neighbours. . . . It is also well-known that in the new map of China other border territories like Nepal, Sikkim, etc., figure. This gives us an idea of the aggressive designs of China. . . . I do not say that because China conquered Tibet we should have gone to war with it. It was possible. But we did well in not going to war. But this does not mean that we should recognize the claims of China in Tibet. We must know that it is an act of aggression against a foreign nation. It is as abominable as colonialism of any Western power. . . .'

While Prime Minister Nehru and Chou En-lai were being acclaimed throughout Asia for their magnanimous and enlightened approach to relations between nations, Tibet, which had been the object of discussion and agreement, took a radically different view. The growing bitterness against India felt by Tibetans of all classes since 1950, which they interpreted as cynical self-interest and betrayal, flared up into public demonstration inside Tibet.

Posters were printed and pasted on to walls throughout Lhasa and copies were sent to all towns and monasteries in Tibet. The text was published in the *Tibet Mirror*, issued in Kalimpong on June 1, 1954:

"To Leaders, Officials, Monks, Soldiers, Traders, Craftsmen, Agriculturists, Nomads—the People of Tibet.

'This is to alert you to the great danger threatening our common cause, the independence of Tibet, regarding which I feel compelled to speak a few words.

'1. The last edition of the *Tibet Mirror* carried translations of articles from Indian papers of a trade pact signed at Peking between India and China regarding Tibet. There was a statement that "discussion in Peking related only to procedural matters and not to the substance of the issue." Neither was there any mention of which particular treaty formed the basis of the talks. Further, no full copy of the agreement was made public.

'2. Were the talks based on the Trade Regulations of 1893 or of 1908, both of which were mentioned in regard to the Peking Trade Agreement? If so, it is a violation of the Simla Convention of 1914 whereby both of those Trade Regulations are declared revoked in Clause 7.

'3. The Peking Trade Pact refers to Tibet as "an integral part of China", and there are many mentions of the "Tibet region of China", these being terms unprecedented in the history of Tibet and also another violation of the terms of the Simla Convention, Clauses 3 and 9 of which first of all recognized the mutual independence of Tibet inasmuch as the Tibetan Government kept her existing rights, which until the time of the recent invasion of Tibet included the management of her external affairs; secondly, guaranteed the non-violation of Tibetan territory, Great Britain and China agreeing to abstain from sending their troops, stationing civil and military officers, or establishing colonies in Central Tibet.

'4. The Simla Convention was signed by the fully empowered representatives of the three Governments of Tibet, India and China, whereas the Peking Pact was concluded between India and China, *the wishes of the Government and people of Tibet being completely ignored*. This makes it clear that China wishes not only to absorb Tibet but to destroy our culture, religion and eventually our race by intermarriage, as is shown by their moves to try to get in, in addition to the two hundred and twenty thousand in the Liberation Army already in Tibet, a further two million Chinese for the so-called economic development of our country. It is only too obvious how our two neighbours are willing to come to private arrangements in favour of aggression so as to serve their own inter-Asian imperialist policies.

'5. Please read carefully the second Independent Treaty signed at Simla between Tibet and the British Government in India, on the same day, and immediately after, the Tripartite Simla Convention, as it recognized not the autonomy but the complete independence of Tibet, as follows:

' "The Government of China refusing to fix her official seal thereto and in default of which, all rights and privileges claimed by the Government of China in and with regard to Tibet, are hereby declared revoked." '

The protest, circulating in Tibetan inside a closed Tibet, evoked no sympathy or response either in India or the outside world.

What was extremely significant about its widespread circulation inside Tibet was the fact that the anti-Chinese demands were now so numerous and strongly entrenched that such could now be printed and distributed throughout the country without detection of the organizers.

The chief anti-Chinese organization involved in the demonstrations and pamphleteering was a group known as the *Mi-mang Tsong-du* (or People's Party). While nationalist and subversive, they limited themselves to public demonstrations against unpopular Chinese Communist measures and took no part in violent activities of any form. Notices appeared on the walls of buildings overnight denouncing or mocking the Chinese occupation personnel; Chinese notices were torn down or besmeared with manure; Chinese parades or demonstrations were bombarded from densely packed crowds with dried yak dung and stones, or there were cleverly organized 'silences'. When the Chinese arrested some of the more prominent and handed them over for trial to the Tibetan courts they were released shortly afterwards on 'insufficient evidence', or some other bland reason. At their own demonstrations they could number four or five thousand people, and the Chinese dared do no more than arrest some of the more extreme orators and even then, as indicated, only hand them over to the Tibetan courts with complaints.

In June 1954 the Dalai Lama received an invitation from the Chinese Government to visit Peking and other places in China. The invitation evoked an immediate protest in Tibet and there were many demonstrations to protest against the Dalai Lama leaving the country, the general suspicion being that he would not be permitted to return.

In addition to demonstrations the *Mi-mang Tsong-du* in Lhasa secretly organized a mass revolt on the day scheduled for the Dalai Lama's departure, when thousands of Tibetans were to throw themselves in the Dalai Lama's path so that he could not pass through them without having to walk over their bodies. The Chinese got word of their plans, and several days before the scheduled date of departure moved the Dalai Lama to a relative's house and from there on his way to China.

However, the Chinese were unpleasantly surprised by the intensity of the feeling shown by the Tibetans to their invitation to the Dalai Lama and gave strong assurances that he would be well treated in China. On the other hand, it did not prevent them from engineering at least two attempts on the Dalai Lama's life on his way to China. On one occasion a bridge mysteriously collapsed just after the Dalai Lama had crossed over, and the Chinese blamed Kham bandits; and on another occasion a landslide almost carried the party away.

The Panchen Lama had also been invited to visit China at the same time. For some while the Chinese had been building up the Panchen Lama's influence in Tibet, both to undermine the Dalai Lama's prestige and to seek to divide the Tibetans into two camps over the centuries-old controversy so that they could be dealt with more easily.

After Britain, China and Tibet had signed the Tripartite Treaty in 1914 and then Panchen Lama, who was very pro-Chinese, was forced to flee in 1920 to China where the Kuomingtang Party was emerging as the new government. Right away the Panchen Lama began scheming with the Kuomingtang officials to support him with money, arms and men to re-enter Tibet, but the new Kuomingtang Government was in no position to indulge in such adventures.

In 1933 the Thirteenth Dalai Lama died. During his reign it had been virtually impossible for a Chinese national, civil or military, to enter Tibet, but as it usually took several months or years to discover a reincarnation of the Dalai Lama the ageing Panchen Lama prevailed upon the Kuomingtang Government to assist him in 'liberating' Tibet. On this occasion help was given, and while the Chinese forces were converging on Tibet's eastern borders a Chinese goodwill mission was sent to Lhasa to persuade a leaderless Tibetan Government to accept a permanent Chinese delegation in Lhasa on grounds of common cultural and religious ties. As a direct result of this offensive, in 1935 a meeting was called in Lhasa and it was decided that the Panchen Lama should be allowed to re-enter Tibet accompanied by his household and a few followers, but before he could take advantage of this the Panchen Lama died in China.

When the new reincarnation of the Dalai Lama was discovered in 1938 in Amdo Province a new reincarnation of the Panchen Lama was found in that same year and in the same province. The position of this reincarnation, however, was still unsettled as there was a simultaneous discovery of two other claimants in Lhasa. According to custom the authorities in Lhasa requested the Amdo claimant to appear in Lhasa for verification of his claims, but the Chinese authorities, for obvious reasons of their own, refused to comply with this request and some years later, without consultation with Lhasa, officially installed their protégé as the new Panchen Lama. When the Kuomingtang Government was defeated and fled to Formosa the Chinese Communist Government took over the care and training of the Amdo Panchen Lama.

In 1950, 'at the request of the Panchen Lama', the Chinese ordered the People's Liberation Army into Tibet, and in 1951 the Panchen Lama was present for the talks conducted by the Chinese Communists with the Tibetan goodwill mission on the special initiative of the Peking Government. The pact which recognized China's suzerainty over Tibet acknowledged also the Amdo reincarnation as the true Panchen Lama. In 1952 the newly declared Panchen Lama, escorted by a strong force of Chinese troops, entered Lhasa, and from that time the Chinese had made every effort to build him up politically, but the Tibetan Government and people, while accepting the installation under force of circumstances, refused to recognize him as anything more than a spiritual figure. The Chinese tried by every means to override the objections of the Tibetan people and on every public occasion introduced the Panchen Lama as an equal to the Dalai Lama.

After being in China several months the Dalai Lama and Panchen Lama were invited to attend a meeting of the Chinese State Council on March 9, 1955, where they were forced to submit to a number of decisions on Tibetan affairs. One of these decisions was the establishment of a 'Preparatory Committee for the Autonomous Region of Tibet'. The Committee consisted of fifty-one members, fifteen from the Lhasa administration, ten from the 'Panchen Lama's Bureau', ten from the Chamdo 'People's Liberation Committee,' eleven from monasteries and 'People's Organizations', and five representing the Chinese Government, with the Dalai Lama being named a chairman. It was announced that the members of the Committee were appointed 'with the approval of the Chinese State Council' and the three regions of Tibet were subordinate to it. It was also stated that the chief task of the Preparatory Committee was to prepare for regional autonomy in accordance with the provisions of the Chinese Constitution, the Agreement of 1951 and the concrete circumstances of Tibet. The first meeting of this Preparatory Committee was held on April 22, 1956, and thereafter there were in the next three years twenty-seven meetings out of which the Dalai Lama was present at and presided over twenty-five. But on his arrival in India the Dalai Lama stated at Tezpur on April 15, 1959, that 'in practice, even his body had little power and decisions in all important matters were taken by the Chinese authorities'.

In China during the visit of the two Lamas the Peking Government went out of its way to show preference for the Panchen Lama on every occasion, presumably to impress upon the Dalai Lama how they were prepared to treat those who co-operated with them. If this were so the rather naive policy had exactly the opposite effect, and as the Dalai Lama went about the country, saying the proper things prepared for him by his hosts but noting particularly their attitude towards religion, the complete absorption in ruthless materialistic policies, the cynical playng off of the Panchen Lama against himself to further their own ends, he came to certain very definite conclusions in his own mind. He said nothing to anyone at the time, not even to Mr. Nehru, whom he met in Peking during the Indian Prime Minister's visit to China, and who asked him in a private conversation if there was anything India could do to help Tibet, and it was only later that I was able to find out his impressions from his family.

Meanwhile in Tibet the Tibetans were becoming uneasy at the unduly prolonged visit which seemed to confirm their suspicions that the Chinese were going to hold the Dalai Lama in China as a hostage. Demonstrations were organized in Lhasa by the Mimang Tsong-du demanding his early return, and even in Kalimpong there was a mass protest and public prayers. From Tingri in West Tibet, an area noted for its fighters, several hundred Tibetans marched to Lhasa to add their voices to the general request and also threaten armed action if the Dalai Lama were not returned immediately.

If the Chinese had ideas about the Dalai Lama they were quickly changed in view of this ominous reaction and he was permitted to return to Tibet.

Shortly after his arrival in Lhasa evidence of his new attitude to Communist China began to appear, both directly and indirectly. Immediately there was a hardening of official opposition to Chinese proposals. The move by the Chinese to have Chinese paper currency substituted for the silver Tibetan currency was flatly rejected, and the offer of economic integration with China refused. The Chinese then countered with an order that only traders with letters of credit issued by the Bank of China and negotiable in branches in India would be allowed to trade—and found themselves with a monumental leakage of Chinese silver coins being smuggled into India. They failed to elicit any enthusiasm for their project and the Preparatory Committee for the Autonomous Region of Tibet became increasingly exasperated by Tibetan excuses at inability to attend.

On the 23rd day of the Tibetan fifth month (July–August) 1955 the Dalai Lama made a public speech in Norbulinka, the summer palace. After reviewing the history of Tibet and pointing out that when there was a balanced emphasis on both religion and politics the country had prospered, but that when politics took prominence over religion to the exclusion of the latter there was national deterioration, he went on:

'At present and in the future we shall carry out many new changes both in our religious and political life, and this is the urgent task which faces us. But in what way can we make progress? Today our Tibetan people are facing many difficulties from every side. We have no strength of our own and we have no political experience. We have no means to progress in any way. It is for this reason that the Chinese Communists have sent their men here to help us in the reconstruction of Tibet. But we must recognize very clearly that the Chinese Communists have not come here to control us, or become our masters, or to oppress us. We should adopt a friendly attitude towards them.

'If the Chinese Communists have come to Tibet to help us, it is most important that they should respect the Tibetan people's own social system, culture, customs and habits, and honour the wishes of the whole people of Tibet, and not obstruct or do damage to the high principles of our nation. If the Chinese Communist personnel in Tibet do not understand the conditions, and harm or injure our people, you should immediately report the facts to the Government. The Government will certainly take steps to make them correct their ways. If the Chinese Communists do not correct their ways our Government can immediately ask for their expulsion.

'I hope all our Tibetan people will take upon themselves the responsibility for carrying out the various tasks allotted to them. For example, if the members of a family can themselves control and carry out the affairs of the family that family may be said to be a self-managed family or an independent one. A country is also in the same position as a family. I sincerely hope that the officials of the Government and the people will stand at their posts, will remain determined in their attitudes, carrying out their responsibilities and using their full strength in performing their duties.

'Today I am very pleased with the officials of the Government and the people and thank them for working extremely hard for the welfare of their district, Government and country. But there are some officials and people who have a very narrow outlook and cannot take a broad view of things. For their own selfish advancement and under the attraction of glittering gold they do not care for the good of the country and the people, they practice oppression and deceit, they give trouble to the people and harm the Government, and thus are responsible for great harm to the country. I would request such people to correct their former mistakes and, becoming new men, atone for their misdeeds in the interests of the country and the people. Besides them there are some few people who disregard their national culture and history, consider themselves to be progressive, and who have changed their ways to doing what they like in a very confused manner. I regard such ideas as mistakes. Progress cannot be attained suddenly in a confused manner and must be attained gradually in an ordered way. Again, there are Government officials who are envious of each other, create conflicts and bitterness, and cannot cooperate with each other. Because they fritter away their energies they cannot carry out the work of the administration effectively. I desire that they give up their selfish attitude and take a broad view of things, correct each other and become united together. Only by doing so can we create and develop our strength. For example, it is not possible for a single person to lift a big stone using his own strength, but if the strength of several people is pooled together it becomes very easy to lift the same stone. This is a very simple example but I know that all of you will pay special attention to this matter.

'Tibet consists of Kham, Tsang, U and Amdo, and all consist of the Tibetan people. Their spirit and way of living have such intimate connexions that they cannot be separated from each other. I hope that all of you will deeply think over this matter, love each other, and be united with each other, and not become separated from each other.

'Finally, I hope that the people of the whole of Tibet by their unity and co-operation will increase our strength and put all their energies into the construction of a new Tibet based on the unity of political life and religion.'

This outspoken speech was wildly acclaimed in Lhasa and other parts of Tibet for it marked the emergence of the Dalai Lama on the political scene in favour of a united 'Greater Tibet' without Chinese occupation, and it immediately encouraged and strengthened the hands of the anti-Chinese groups throughout the country.

Two months later the Mi-mang Tsong-du came out publicly with an even stronger declaration.

'We Tibetan people make the following appeal because we oppose the Chinese Communists who are destroying all our customs and systems, and also because of the complete breach of the Seventeen-Point Sino-Tibetan Agreements signed by them. . . .

'But speaking about the present situation in Tibet we declare that our religiou is facing a very grave crisis which has thrown us into the very deep valley of darkness and destruction. The Dalai Lama has been robbed of his political and religious powers. The future of the Tibetan nation is facing as grave a danger as a candlelight in a severe storm. The root cause of this crisis is the oppressive ways in which the Chinese Communists have been forcing Communist ideas upon the Tibetan people, the most deplorable policy of violence practised by the Chinese Communists, and the failure of the Chinese Communists to implement any of the promises made by them to the Tibetan people. In order to save our country from this dangerous future we have already, on a previous occasion, made a formal protest to the Chinese Government and the Dalai Lama.

'Formerly, under the Dalai Lama, there were Regents, Kashag and the various other Government organizations which carried out the administration of the whole of Tibet. But since the occupation of Tibet by the Chinese Communists all the former organizations of the Government have ceased to function and the Chinese Communists have established a large number of illegal organizations in their place to carry out the administration. . . . The Chinese Communists have not only increased administrative organizations but they have also established organizations such as the "Patriotic Youth League" and the "Chinese Schools", with the sole object of forcibly indoctrinating the youth of Tibet in Communism, and thus to destroy the culture and civilization of the nation. Moreover, in opposition to the will of the people the Chinese Communists have destroyed the social system of Tibet in which political and religious life are joined together, and have also destroyed the religion of the Tibetan people. Therefore we, in the name of the people of Tibet, have come forward to appeal to the Dalai Lama. We request that the Dalai Lama stop the organization of the "Patriotic Youth League", close the "Chinese Schools" and prevent the indoctrination of the Tibetan people in Communism by the Chinese Communists. We are now resolved not to accept the establishment of the proposed Regional Autonomous Government in Tibet as we already have the Government of the Dalai Lama. At the same time we also request the Chinese Communist Military Representative in Tibet to allow us to go to Peking to lodge this protest. If the Chinese Communists disregard the people's wishes, and by force, oppression and violence suppress the earnest appeal of the people, we, in the name of all the people of Tibet, are fully resolved to shed our blood and sacrifice our lives to oppose the Communists and we shall definitely not cooperate in any of the activities of the Chinese Communists in Tibet.'

The Dalai Lama Bears Witness

(The Dalai Lama has issued four statements which have had worldwide publicity. The first went out from Tezpur, shortly after his arrival in India; the second followed almost immediately and was a refutation of Peking's charge that the Tezpur statement was issued under duress. The third was given to the press at Mussoorie nearly two months later, when news that he was getting from Tibet had confirmed his earlier appraisal of the situation in his homeland. Frequent quotations from these statements appear in the texts that follows; but the very obvious truthfulness of his testimony, his eagerness to have international inspection of the situation in Tibet and his simple belief that "the truth shall make you free", make these the most important documents yet submitted to the world on the Tibetan Question.)

THE DALAI LAMA'S STATEMENT IN TEZPUR, INDIA, ON APRIL 18, 1959

It has always been accepted that the Tibetan people are different from the Han people of China. There has always been a strong desire for independence on the part of the Tibetan people. Throughout history this has been asserted on numerous occasions. Sometimes the Chinese Government has imposed its suzerainty on Tibet and at other times Tibet has functioned as an independent country. In any event, at all times, even when the suzerainty of China was imposed. Tibet remained autonomous in control of its internal affairs.

In 1951 under pressure of the Chinese Government a 17-article agreement was made between China and Tibet. In that agreement the suzerainty of China was accepted as there was no alternative left to the Tibetans. But even in the agreement it was stated that Tibet would enjoy full autonomy. Though the control of external events were to be in the hands of the Chinese Government it was agreed that there would be no interference by the Chinese Government with Tibetan religion and customs and her internal administration. In fact, after the occupation of Tibet by Chinese armies the Tibetan Government did not enjoy any measure of autonomy, even in internal matters and the Chinese Government exercise full powers in Tibetan affairs.

In 1956 a preparatory committee was set up for Tibet with the Dalai Lama as the Chairman and the Panchen Lama as Vice-Chairman and General Chang Kuo-hua as the representative of the Chinese Government. In practice, even this body had little power and decision in all important matters were taken by the Chinese authorities. The Dalai Lama and his government tried their best to adhere to the 17-article agreement but interference of the Chinese authorities persisted. By the end of 1955 a struggle had started in Kham Province and this assumed serious proportions in 1956. In the consequential struggle, Chinese armed forces destroyed a large number of monasteries.

Many Lamas were killed and a large number of monks and officials were taken and employed on the construction of roads in China and interference in the exercise of religious freedom increased.

The relation of the Tibetans with China became openly strained from the early part of February 1959. The Dalai Lama had agreed a month in advance to attend a cultural show in the Chinese headquarters and the date was suddenly fixed for the 10th of March. The people of Lhasa became apprehensive that some harm might be done to the Dalai Lama and as result about 10,000 people gathered around the Dalai Lama's summer palace at Norbue Lingka and physically prevented the Dalai Lama from attending the function.

Thereafter the people themselves decided to raise a bodyguard for the protection of the Dalai Lama. Large crowds of Tibetans went about the streets of Lhasa demonstrating against Chinese rule in Tibet. Two days later thousands of Tibetan women held demonstrations protesting against the Chinese authorities. In spite of this demonstration from the people the Dalai Lama and his government endeavoured to maintain friendly relations with the Chinese and tried to carry out negotiations with the Chinese representatives as to how best to bring about peace in Tibet and assuage the people's anxiety.

While these negotiations were being carried out reinforcements arrived to strengthen the Chinese garrisons in Lhasa and Tibet. On the 17th of March, two or three mortar shells were fired in the direction of Norbu Lingka Palace. Fortunately the shells fell in a nearby pond.

After this, the advisers became alive to the danger to the person of the Dalai Lama and in those difficult circumstances it became imperative for the Dalai Lama, members of his family and his high officials to leave Lhasa.

The Dalai Lama would like to state categorically that he left Lhasa and Tibet and came to India of his own free will and not under duress.

It was due to the loyalty and affectionate support of his people that the Dalia Lama was able to find his way through a route which is quite arduous. The route which the Dalai Lama took involved crossing Kyichu and Tsang-po rivers and making his way through Loka area, Yarlung valley and Psonadzong before reaching the Indian frontier at Kanseymane near to Chuttanmu.

On March 29, 1959 the Dalai Lama sent emissaries to cross the Indo-Tibetan border requesting the government of India's permission to enter India and seek asylum there. The Dalai Lama is extremely grateful to the people and government of India for their spontaneous and general welcome as well as asylum granted to him and his followers.

India and Tibet have religious, cultural and trade links over a thousand years and for the Tibetans it has always been a land of enlightment having given birth to Lord Buddha. The Dalai Lama is deeply touched by kind greetings extended to him on his safe arrival in India by Prime Minister Jawaharalal Nehru and his colleagues in the government of India. The Dalai Lama has already sent a reply to this message of greeting.

Ever since the Dalai Lama entered at Kanzeymane near Chuttanmu he has experienced in full measure the respect and hospitality extended to him by the people of Kameng Frontier Division of the Northeast Frontier Agency and the Dalai Lama would like to state how the Government of India's officers posted there has spared no effort in making his stay and journey through this extremely well-administered part of India as comfortable as possible.

The Dalai Lama will now be proceeding to Mussoorie which he hopes to reach in the next few days. The Dalai Lama will give thought to his future plans and if necessary give expression to them as soon as he has had a chance to rest and reflect on recent events.

His country and people have passed through an extremely difficult period and all that the Dalai Lama wishes to say at the moment is to express his sincere regret at the tragedy which has overtaken Tibet and fervently hope that these troubles will be over soon without any more bloodshed.

As the Dalai Lama and the spiritual head of all Buddhists in Tibet, his foremost concern is the well-being of his people and in insuring perpetual flourishing of his sacred religion and freedom of his country.

While expressing once again thankfulness at his safe arrival in India the Dalai Lama would like to take this opportunity to communicate to all his friends, well wishers and devotees in India and abroad his sincere gratitude for many messages of sympathies and concern with which they have flooded him.

STATEMENT BY THE DALAI LAMA MADE ON APRIL 22, 1959

On April 18, I issued a statement at Tezpur. I did not wish to follow it up with another statement at this stage. However I have seen a New China News Agency report implying that I was not responsible for this earlier statement. I wish to make it clear that the earlier statement was issued under my authority and indicated my view and I stand by it. I am making this brief statement to correct the wrong impression created by the New China News Agency's report and do not propose to state anything more at present.

TEXT OF THE DALAI LAMA'S STATEMENT OF JUNE 20, 1959 AT MUSSOORIE, INDIA

Ever since my arrival in India I have been receiving almost every day sad and distressing news of the suffering and inhuman treatment of my people. I have heard almost daily with a heavy heart of the increasing agony and affliction, their harassment and persecution and of the terrible deportation and execution of innocent men. These have made me realize forcibly that the time has manifestly arrived when in the interests of my people and religion and to save them from the danger of near annihilation, I must not keep silent any longer but must frankly and plainly tell the world the truth about Tibet and appeal to the conscience of all peace-loving and civilized nations.

To understand and appreciate the significance and implication of the recent tragic happenings in Tibet, it is necessary to refer to the main events which have occurred in the country since 1950.

It is recognized by every independent observer that Tibet had virtually been independent by enjoying and exercising all rights of sovereignty whether internal or external. This has also been implicitly admitted by the Communist Government of China for the very structure, terms and conditions of the so-called agreement of 1951 conclusively show that it was an agreement between two independent and sovereign States. It follows, therefore, that when the Chinese armies violated the territorial integrity of Tibet they were committing a flagrant act of aggression. The agreement which followed the invasion of Tibet was also thrust upon its people and Government by the threat of arms. It was never accepted by them of their own free will. The consent of the Government was secured under duress and at the point of the bayonet.

My representatives were compelled to sign the agreement under threat of further military operations against Tibet by the invading armies of China leading to utter ravage and ruin of the country. Even the Tibetan seal which was affixed to the agreement was not the seal of my representatives but a seal copied and fabricated by the Chinese authorities in Peking and kept in their possession ever since.

While I and my Government did not voluntarily accept the agreement we were obliged to acquiesce in it and decided to abide by the terms and conditions in order to save my people and country from the danger of total destruction. It was, however, clear from the very beginning that the Chinese had no intentions of carrying out the agreement.

Although they had solemnly undertaken to maintain my status and power as the Dalai Lama, they did not lose any opportunity to undermine my authority and sow dissension among my people. In fact, they compelled me, situated as I was, to dismiss my Prime Ministers under threat of their execution without trial, because they had in all honesty and sincerity resisted the unjustified usurpations of power by representatives of the Chinese Government in Tibet.

Far from carrying out the agreement they began deliberately to pursue a course of policy which was diametrically opposed to the terms and conditions which they had themselves laid down. Thus commenced a reign of terror which finds few parallels in the history of Tibet. Forced labour and compulsory exactions, a systematic persecution of the people, plunder and confiscation of property belonging to individuals and monasteries and execution of certain leading men in Tibet, these are the glorious achievements of the Chinese rule in Tibet.

During all this time, patiently and sincerely I endeavoured to appease my people and to calm down their feelings and at the same time tried my best to persuade the Chinese authorities in Lhasa to adopt a policy of conciliation and friendliness. In spite of repeated failures I persisted in this policy till the last day when it became impossible for me to render any useful service to my people by remaining in Tibet. It is in these circumstances that I was obliged to leave my country in order to save it from further danger and disaster.

I wish to make it clear that I have made these assertions against the Chinese officials in Tibet in the full knowledge of their gravity because I know them to be true. Perhaps the Peking Government is not fully aware of the facts of the situation.

But if it is not prepared to accept these statements let it agree to an investigation on the point by an international commission. On our part I and my Government will readily agree to abide by the verdict of such an impartial body.

It is necessary for me to add that before I visited India in 1956 it had become increasingly clear to me that my policy of amity and tolerance had totally failed to create any impression on the representatives of the Chinese Government in Tibet.

Indeed they had frustrated every measure adopted by me to remove the bitter resentment felt by my people and to bring about a peaceful atmosphere in the country for the purpose of carrying out the necessary reforms. As I was unable to do anything for the benefit of my people I had practically made up my mind when I came to India not to return to Tibet until there was a manifest change in the attitude of the Chinese authorities. I therefore sought the advice of the Prime Minister of India who has always shown me unfailing kindness and consideration. After his talk with the Chinese Prime Minister and on the strength of the assurances given by him on behalf of China, Mr. Nehru advised me to change my decision.

I followed his advice and returned to Tibet in the hope that conditions would change substantially for the better and I have no doubt that my hopes would have been realized if the Chinese authorities had on their part carried out the assurances which the Chinese Prime Minister had given to the Prime Minister of India.

It was, however, painfully clear soon after my return that the representatives of the Chinese Government had no intention to adhere to their promises. The natural and inevitable result was that the situation steadily grew worse until it became impossible to control the spontaneous upsurge of my people against the tyranny and oppression of the Chinese authorities.

At this point I wish to emphasize that I and my Government have never been opposed to the reforms which are necessary in the social, economic and political systems prevailing in Tibet.

We have no desire to disguise the fact that ours is an ancient society and that we must introduce immediate changes in the interests of the people of Tibet. In fact, during the last nine years several reforms were proposed by me and my Government but every time these measures were strenuously opposed by the Chinese in spite of popular demand for them, with the result that nothing was done for the betterment of the social and economic conditions of the people.

In particular it was my earnest desire that the system of land tenure should be radically changed without further delay and the large landed estates acquired by the State on payment of compensation for distribution amongst the tillers of the soil. But the Chinese authorities deliberately put every obstacle in the way of carrying out this just and reasonable reform. I desire to lay stress on the fact that we, as firm believers in Buddhism, welcome change and progress consistently with the genius of our people and the rich tradition of our country.

But the people of Tibet will stoutly resist any victimization, sacrilege and plunder in the name of reforms—a policy which is now being enforced by the representatives of the Chinese Government in Lhasa.

I have attempted to present a clear and unvarnished picture of the situation in Tibet. I have endeavoured to tell the entire civilized world the real truth about Tibet, the truth which must ultimately prevail, however strong the forces of evil may appear to be today. I also wish to declare that we, Buddhists, firmly and steadfastly believe in peace and desire to live in peace with all the peoples and countries of the world. Although recent actions and policies of the Chinese authorities in Tibet have created strong feelings of bitterness and resentment against the Government of China, we Tibetans, lay and monk alike, do not cherish any feelings of enmity and hatred against the great Chinese people.

We wish to live in peace and ask for peace and goodwill from all the countries of the world. I and my Government are, therefore fully prepared to welcome a peaceful and amicable solution of the present tragic problem, provided that such a solution guarantees the preservation of the rights and powers which Tibet has enjoyed and exercised without any interference prior to 1950.

We must also insist on the creation of a favourable climate by the immediate adoption of the essential measures as a condition precedent to negotiations for a peaceful settlement. We ask for peace and for a peaceful settlement but we must also ask for the maintenance of the status and the rights of our State and people.

To you gentlemen of the Press I and my people owe a great debt of gratitude for all that you have done to assist us in our struggle for survival and freedom. Your sympathy and support has given us courage and strengthened our determination. I confidently hope that you will continue to lend that weight of your influence to the cause of peace and freedom for which the people of Tibet are fighting today.

Mr. HELMS. Mr. President, some people are saying "Why, Senator, do you bring all this up?"

Well, if we do not learn from history, we are going to remain ignorant. If we do not know now what we are dealing with and if we do not describe it clearly, then we deserve what we will get.

But the problem is that our friends and allies on Taiwan are going to be getting something they do not deserve.

I repeat that it is important to note especially articles 3, 4, 5, and 6 of the agreement I referred to a moment ago, the so-called Agreement of Measures for the Peaceful Liberation of Tibet, particularly as we now listen to supposedly soothing words about how we have taken care of everything.

After all, we had that cuddly little panda bear Vice President Teng here not long ago, and we fawned over him—about as cute and cuddly as a rabid panda bear.

But when are we going to learn what we are dealing with, Mr. President, and when are we going to start acting like Americans?

I find myself more and more appalled as we back up and back up and say, "Oh, we must not offend this Communist nation, or that one; we must appease and we must coexist."

Mr. PERCY. Will the Senator yield for a question?

Mr. HELMS. Yes.

Mr. PERCY. The distinguished Senator from North Carolina used a phrase, "When are we going to start acting like Americans?"

That brings to mind, I would tend to think, the times we have really defined our national interests, we have really stood for something, and our standing for something made a difference.

Mr. HELMS. Exactly.

Mr. PERCY. In human history.

Mr. HELMS. The Senator is exactly right.

Mr. PERCY. In the history of the world as to whether we have a free Europe. Our standing for something could make a difference as to whether there is an Israel or not.

I think the problem is the U.S. decline in the opinion of the world. It is because we have not acted as the world has learned to respect Americans for acting in the past.

It brings to mind what kind of development we are going to have in the Gulf area now. We have a pattern developing in the gulf area.

South Yemen, moved from being a British colony, oriented in and tipped heavily toward the Labor Party unions, to what is now classified as Marxist. North Yemen has had three presidents in the last 2 years, two of them assassinated. The feeling is rather strong that the South Yemenites had something to do with at least one of those assassinations.

They want to change the North Yemen Government. They want to, just like North Vietnam, just like North Korea, they want to unify it, the Yemenites, and bring them all together under one flag, as long as it is red.

Mr. HELMS. That is right.

Mr. PERCY. They are very clear about what they want to do.

Mr. HELMS. Once again the distinguished Senator is right.

Mr. PERCY. And if they cannot get it by killing the chief executive officers of the country, then they start harassing him in three different places on the borders, as they are doing right at this very minute.

Now, the Soviet Union is not equivocating about what they are doing. They are supplying equipment, manpower, and training.

The Government of North Yemen has a large population, 6½ million. But of that, a million are in Saudi Arabia.

What would happen if South Yemen took over North Yemen? What would happen? The men up there would be held hostage because their families would be down in North Yemen and the men are up in Saudi Arabia.

This would cause concern on the part of the Saudi Arabians because they also saw Afghanistan fall. They see the beginning of a pattern, and they are worried about what we are going to do. They wonder when we are going to start acting like Americans.

Are our vital interests concerned in the gulf area? You bet they are.

Mr. HELMS. You bet they are.

Mr. PERCY. This country can be brought to its knees economically overnight, and do not think our adversaries do not have that in mind.

Khrushchev said quite honestly, "We're going to bury you." He did not mean they are going to take the risk of fighting us. They have been through a war. They lost 20 million people. They found a much easier way to do it. It is to just create a little chaos. A little trouble starts in Iran—throw in the chaos, ferment the thing. Get the Cubans to do it. After all, they are sending a million dollars a day to them—eating all that sugar, smoking all those cigars. Why not have the Cubans do something for them?

So they are waiting around in South Yemen to see whether they are needed. They are down there training forces in South Yemen today. When are we going to start acting like Americans?

All the people in the world are standing there waiting to see what the United States of America is going to do in the Middle East, in the Persian Gulf, in the Indian Ocean, and in Europe. The People's Republic of China has criticized us for not fighting, in a sense, for what we believe in and for what they conceive to be our mutuality of interests, including our deep mutual concern about the intentions and the capabilities of the Soviet Union. Therefore, I think they will understand if we make it very clear how we feel about Taiwan, how we feel about these 17 million people, how we have had for 30 years, how we feel about the representations we have made: That we intend to keep up the cultural and educational exchanges; that we intend to keep up Taiwan's defense capability.

I wonder whether I can read something to my distinguished colleague. This is what the President of the United States has said. I read now from the Presidential document for the week ending Friday, February 16, 1979, put out by the White House, the administration of Jimmy Carter, an interview with the President. This is what the President said about this issue, and I quote directly:

> There's nothing to prohibit a future President or a future Congress, if we feel that Taiwan is unnecessarily endangered, from interposing the American Pacific Fleet between the island and the Mainland. And there's certainly nothing to prevent a future President or Congress from even going to war, if they choose, to protect the people of Taiwan, or to protect any other people in the country [world] that we look on with favor. So, we still have complete flexibility to deal with that kind of conjectural possibility if we choose.

When the President expressed himself forthrightly as to what options were available to the people of the United States, I did not hear the People's Republic of China say that we had gone so far that we had jeopardized this relationship. Not at all.

We simply want to change a couple of words. The words "grave concern," history has demonstrated, send one kind of signal—of inaction, wringing our hands, and doing nothing. We want to send the right kind of signal. It is not put in the strong terms that the President used.

The Senator from Illinois used words so moderate that the distinguished Senator from North Carolina feels that it is the absolute minimum we can do. We simply identify a peaceful resolution of the Taiwan issue as in our security interests.

The Senator from Illinois stated this in open testimony at the Foreign Relations Committee hearings, and the original wording of the distinguished Senator from New York was even stronger. On reflection, he felt that he should back off from that. I have many times commended him and Senator Church for taking the initiative, the congressional initiative, and going much further than the administration had originally thought acceptable. The administration will thank us some day, as they will for the congressional position with respect to the Panama Canal.

When the distinguished Senator says, "When are we going to start acting like Americans?" we had better start today. The whole process of leadership is eroding. John Connally knows that; Texas knows it; America knows it.

We had better start acting like Americans, unequivocally stating what we think is in our security interests and sending unmistakable signals as to what we might consider necessary. All options are open as to how we would act. The whole range is available.

The Senator from Illinois is quite willing to have a degree of ambiguity there, because it is in our interest to have it vague, as long as the language is strong enough to convey that we would consider taking action.

We cannot leave Taiwan out of that perimeter of security interests. When the President of the United States says that the option is open to send our fleet right in those straits, the Congress should be free to make a strong statement as well.

If we just say "grave concern," we are not sending that signal. We are not reflecting what the President has said forthrightly. We are not reflecting at all what I consider to be the mood of the Congress of the United States, particularly the Senate.

I thank my distinguished colleague for yielding. Is that what the Senator had in mind when he said, "When are we going to begin acting like Americans?"

Mr. BIDEN. Mr. President, will the Senator from North Carolina yield for 30 seconds?

Mr. HELMS. I yield.

Mr. BIDEN. I suggest that America will start acting like Americans want it to act when we start to act in our self-interest and stop engaging in hyperbole which is a breast-beating exercise in machismo. I suggest that when we start acting in our self-interest, we will be acting like Americans.

Mr. HELMS. Mr. President, I never have heard the Senator from Illinois speak more eloquently. I commend him.

I say to the Senator that I went to one of the hotels on Tuesday evening to attend the annual dinner of the Veterans of Foreign Wars. Each year, the VFW has an oratorical contest, and there is a winner from each State. The winner this year was a young lady from Illinois, and she sounded almost like the distinguished Senator from Illinois in her presentation.

The last thing she said was:

> Remember that the last four letters of "American" are i-c-a-n—I can.

I think this is what the Senator from Illinois is talking about.

But let us speak in a bipartisan spirit. I recall John Kennedy in the confrontation with respect to Soviet missiles in Cuba. He stood eyeball to eyeball, and in effect he said, "I can and we will"; and the Soviets backed off.

Here we are haggling over the mildest sort of change in the language. I say this with no disrespect to the distinguished Senator from New York, my friend, or to the distinguished chairman of the committee, Mr. CHURCH. I simply think that the language of the Senator from Illinois is the absolute minimum we should do in connection with our friends and allies in Taiwan.

Reference was made yesterday and just a few moments ago to the effect that Taiwan had insisted that there be one China and that Taiwan be that one China, while Peking was insisting the same thing on the other side. That simply is not so, Mr. President. I read into the RECORD yesterday the history of Taiwan's position on that: An article by a distinguished professor at the University of Maryland, Hungdah Chiu, who reviewed, item by item and year by year, the position of the Republic of China (Taiwan), showing that Taiwan had the position of one China with two governments.

Anyone who wants to reject that in order to be consistent has to say, "Oh, well, you cannot have two Governments of Korea or two Governments of Germany." I do not think any Senator is going to seriously suggest that.

But at least let us be fair to Taiwan in what we say in terms of historical fact. I do not think Taiwan has gotten a fair shake.

Mr. President, I issue the invitation again to any Senator who wants to see a document marked "Secret" by the Pentagon, which I have in my hand here. I will not divulge it to the media; but with any Senator, who doubts the accuracy of what I have said about General Jones' testimony with respect to the capability of the People's Republic of China to blockade Taiwan, I will be glad to share this secret document. I am not going to say what it says but it is marked here and on several other places. It is marked to show exactly what the Pentagon said before the President of the United States in secret, and I use these words advisedly, sold Taiwan down the river.

That is why the Senator from North Carolina feels so strongly about this. We get doubletalk.

We got doubletalk on the Panama Canal. Last year I heard one thing in my office from certain military officers, and then the same officers would appear in public before a committee and they would couch their language so carefully to give the opposite impression. I remember one of our distinguished colleagues became furious with me when I suggested that this was happening.

It has happened again here. Everything that the Pentagon drafted for its own edification with respect to this matter shows that concern about the capability of Peking, and now we are told, "Oh, no, they don't have capability to blockade Taiwan."

(Mr. FORD assumed the chair.)

Mr. GOLDWATER. Mr. President, will the Senator yield for a question?

Mr. HELMS. I am delighted to yield to my friend.

Mr. GOLDWATER. It is not that I want to dispute the integrity of my good friend, General Jones, but to point out that men in uniform occasionally can be inconsistent. Does the Senator remember General Jones about 2 years ago stating that we really did not need the B-1? And now he says that we need another penetrating bomber? That is in a matter of a year or a year and a half.

I also ask the Senator another question I think that has a bearing on this, because I believe the Senator from Delaware made an approach to it. Why should we have an interest in Taiwan that would require the kind of language that the Senator from Illinois has proposed and which the Senate has obviously agreed to? I do not think that was discussed in the Foreign Relations Committee, although I am not a member of that committee as the Senator is. It is something that Americans forget that our central point of foreign interest in this country for about 101 or 102 years has been the Pacific, not Europe, not South America, not Africa, but the periphery of the Pacific. We bought Alaska in 1867. We acquired Hawaii a year or year and a half later. Why? Because those men over 100 years ago had the commonsense to realize that Europe even then was pretty much through as a developing continent or a developing nation. I suggest that when any country reaches its frontiers, reaches its boundaries it can only recede and go backward, and that is what Europe had started to do then.

So we moved into the Pacific. We recognized then that if there were going to be a part of this world that in the lifetime of our Republic, an extended one hopefully, would become important it would be those countries around the Pacific, and that has proven true. The great shining spots of the economy of the world are not in Europe. They are around the Pacific. They are the countries that are developing. They are the countries that are contributing vast amounts of money in helping us and helping themselves.

And so the question always intrigues me when someone says what is so important about the Pacific and about Taiwan?

Let us take a look at it: Here we have made a deal with the Republic of China, even though this same body last September passed, without any dissenting vote, that the President of the United States should come to us before we did anything about stabbing Taiwan in the back. That is the way I put it. I think the Senator from North Carolina expressed it in another way. He did not do it.

Now we have given a hand up to the Red Chinese. I will never know why a man who has devoted his lifetime, supposedly, to human rights would want to crawl in bed with an organization that murdered 50 million people. I think that is part of what the Senator is saying about being an American.

Mr. HELMS. That is it exactly. That is a minimum of 50 million, I say to the Senator.

Mr. GOLDWATER. All right. I want to get back to this subject of the Pacific to try to explain why Taiwan is so doggone important to us, the United States of America.

We built one of the finest airbases on Taiwan that has ever been built in this world. It will take the weight of any aircraft yet built and any aircraft that we are going to build in the foreseeable future. Taiwan has two good ports, one excellent port on the southern tip, that can handle the ships of our fleet and the ships also, I might say, of the Soviet fleet.

Let us say that we did not have this kind of language that the Senator from Illinois has put in. Let us say that Taiwan is sort of "We are not going to get any help from our old friends in the United States. We better take another look at the Soviet Union," and they say to the Soviets, "We are interested in trade with you always but we would like you to consider the possible use of our harbors, the possible use of this beautiful airbase for protection purposes."

I happen to have been all through the Island of Quemoy. I have been all over that area. I have flown over it. I have been through it. I have to say I would hate to be the commanding general that is given the order to take Quemoy. I think I would ask for leave and relaxation some place, but that is beside the point.

Once the Soviets move in there, and they are liable to do it if we do not make this language pretty strong, they might go into Camranh Bay and like the secret document the Senator has, I cannot divulge any more than they might go into Camranh Bay. If the Senator asks me sometime I will tell him a little more, but I cannot say it here.

What is next? Singapore. Where is the Pacific? Gone. Every country in the Pacific and the perimeter of the Pacific depends on the Strait of Malacca.

Now let us move over there. People say why are we all excited about the fall of Afghanistan and the revolution, so-called, in Iran? I have known the shah for many, many years, and I remember asking him, "Why do you want to buy all these helicopters in a country that borders on Russia that now has over 3,000 of them?" He said, "I am not worried about Russia. I am worried about the day Afghanistan falls," and he says, "Mark my word, it is going to fall, and when it falls it will fall from Soviet influence," and that gives them an open door across that vast desert of western Pakistan, and I know something about it. I used to fly over that in World War II, and there is nothing out there, nothing to stop the Russians from building railroads, highways, down to the Indian Ocean, which they have been wanting to do all of their history.

Now they are going to do it. They are going to circumvent the former Straits of Iran. They are going to go through Afghanistan which is now theirs for the asking. They are going to go across Pakistan whether Pakistan likes it or not, and they cannot do much about it. And they will establish ports on the Indian Ocean.

The distinguished Senator from Illinois has described what has been going on in the Horn of Africa. We have lost that through our stupidity and our weakness. And he said, "When are we going to act like Americans?" When we get a little guts right here?

Mr. HELMS. Right.

Mr. GOLDWATER. That is when we are going to start.

Now what happens when the Russians own the Indian Ocean, which I happen to think is the strategic focal point of the whole world today?

We have not done much about Diego Garcia. We sat in here and argued about it, a little old atoll about 12 miles long; we want to spend enough money to deepen the harbor. We do not have to depend on Subic Bay which is 4,000 miles away. We cannot have a place out in the middle of the ocean where we can put ships and put aircraft.

But we have not done much about it. What we are talking about now is the connection of the Indian Ocean with the Pacific through the Strait of Malacca.

When you ask what importance is that—and we are getting now to the real nub of it—the Strait of Malacca is a very narrow strait; it is a very shallow strait. A couple of tankers strategically sunk in that strait could stop traffic through it. This would mean oil would have to go either about 7,500 miles further or we would see the stoppage of all oil from the Middle East to our friends around the Pacific.

So we say—friends in this organization I have heard them say, "Why are we interested in the Pacific? Why do we need language like the language of the Senator from Illinois? Why do we have to put something in this bill that we are talking about," which, I have to say, is a lot better than we started off with, and I intend to vote for it, but I will vote for it with a much better conscience if we have the language that Senator PERCY proposes in it. We have got to give this world some indication that we are not going to sit over here and back away from everything that is done to us.

When the distinguished Senator from Idaho got up I could not think of a better argument for the proposal of the Senator from Illinois than the fact that he said we are making the Red Chinese mad. I do not care if we, and I do not give a damn if we, make them mad. I would like to make them real mad. It is when they change their spots that I might change mine a little bit.

I just want to thank the Senator for allowing me to ask that long question. I think it is what he expected of me; is that not right?

Mr. HELMS. I am delighted, and I appreciate the Senator's reply, as I always do. He is a very courageous man who has stood fast on his principles, and he knows of my support.

Mr. President, I am not going to take much more time. I just want to say again if any Senator has any doubt that the administration was working and planning—and I quote the Senator's words—"to sell out Taiwan," even during the closing days of the last session when this Senate and the House of Representatives were voting almost unanimously for the Dole amendment. I think there were four votes against it over in the House and none in the Senate—all anyone needs to do is to look at this document and they will see that the administration was making plans to sell out Taiwan, over the reservations and the concerns, of the Joint Chiefs of Staff, about the capability of the People's Republic of China, which I prefer to call Communist China, to throttle Taiwan.

The point is, Mr. President, that we cannot unscramble an egg, and yet that is what we are trying to do here. I know it must appear to some that the Senator from North Carolina is being a little heavyhanded with his friend from New York (Mr. JAVITS) and his friend from Idaho (Mr. CHURCH). But that is not my intent. I know they did the best they could with what they had. But the problem is you cannot make a silk purse out of a sow's ear, and my feeling is we ought to acknowledge, as many have on both sides of the aisle, that we have been had on this proposition. Therefore, we ought to strengthen the security section, at the minimum, to what the Senator from Illinois proposes and, for this Senator's part, I will be willing to let her go, as the saying is.

But if we are going to reject even such a modest change as proposed by the Senator from Illinois, then I think perhaps we ought to debate this thing for a pretty good while, and we ought to vote and vote and vote on some amendments so that we can properly ventilate it.

This I do not want to do. But if the State Department wants to get this over with, let them say, "OK; we will live with the Percy amendment." I guarantee you that the Senator from North Carolina will cooperate with anybody in shutting this thing down.

But there has been too much said about Taiwan that is not so. There has been so much done to Taiwan which should never have been done that I, in good conscience, as just one Senator, cannot keep silent. I love nothing better than comity. I have great love and respect for my colleagues, even those with whom I disagree with most strongly.

But we have come to the place where right is right, and as that little girl from Illinois said, the last four letters of "American" are "I can." This Senate can, and this Senate should, and I hope this Senate will.

I yield to my friend from——

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. HUMPHREY. Mr. President, I believe the Senator yielded to me.

The PRESIDING OFFICER. Does the Senator from North Carolina yield?

Mr. HELMS. I yield to the Senator from New Hampshire.

The PRESIDING OFFICER. Does he yield for a question or does he yield the floor?

Mr. HELMS. I will find that out when I find it out. The Senator asked me if I would yield and I said, yes.

The PRESIDING OFFICER. Yield for a question?

Mr. HELMS. Is the Chair going to impose that strict a rule?

The PRESIDING OFFICER. Well, there have been several Senators standing wanting recognition. The Senator attempted to yield the floor. If the Senator yielded for a question——

Mr. HELMS. I believe that the RECORD will show that I was attempting to yield to my friend from New Hampshire. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I yield to the Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I want to wholeheartedly associate myself with the amendment offered by the Senator from Illinois, and the fine remarks buttressing those of the Senator from Illinois offered by the Senator from North Carolina, the Senator from Arizona, the Senator from California, and others.

I find it incredibly ironic that at a time when the United States of America has in force a mutual defense treaty with the Republic of China, we should be quibbling so about the security section of the Taiwan enabling bill. To be perfectly honest, I would like to see the security section made even stronger than has been proposed by the Senator from Illinois, with all due respect to him, but perhaps it is the best we can do. I would like to see some honor put back in that section.

In my opinion, all that is being attempted here is to firm up some wobbly gums a little bit; to firm up those wobbly gums sufficiently so that in the future we cannot so readily speak out of both sides of our mouth on this sort of issue.

I think the fact that we are today quibbling about the security section of the Taiwan enabling bill, on the one hand, while on the other we have in force a mutual defense treaty, indicates that some fundamental change has taken place in the relationship between the United States and the Republic of China, and, of course, indeed, a fundamental change has taken place. Indeed, a fundamental change is embodied in S. 245.

The very essence of S. 245, Mr. President, is the tacit acknowledgment by the Senate and by the United States of America of the contention of the People's Republic of China that Taiwan is but a rebellious province of the PRC.

I reject that, and I hope a majority of the Members of this body will reject that dishonest contention. The People's Republic of China has never ruled Taiwan. The 17 million people on Taiwan are free, and they want to remain free, They do not want to be governed by the Communist Government of the People's Republic of China.

Why can we not aid them in that desire a little bit? A couple of weeks ago President Carter, in his speech at Georgia Tech, made four main points, one of which was this: "We shall stand by our friends."

Well, let us do it. Let us put into practice what we say. We have suffered a terrible loss in respect, in credibility in this world, in the last several weeks and the last several years, and we will continue to suffer that loss as long as we continue to act in this perfidious, cowardly, stupid manner.

If we acknowledge to the People's Republic of China that indeed they own Taiwan, it is only a matter of time before they attempt to take what we have told them they own, by one means or another. I happen to believe that the most likely course of action by the Communists will be an economic boycott of the Republic of China, and I am supporting some legislation in an amendment which I understand will be introduced before this discussion is over that will at least help prevent that kind of economic boycott.

But at the same time, while I consider that to be the main threat, I do not for a minute underestimate the potential for direct military action against Taiwan by the People's Republic. Why should they hesitate to do that? Did they hesitate to roll their army into Vietnam? Not for a moment did they hesitate, even at a very crucial time in the evolvement of the new relationship between the United States and the People's Republic of China. They did not hesitate a moment; and to my way of thinking they would not hesitate a moment, if they thought they could get away with it, from direct aggression against Taiwan.

It has been said in this Chamber today that the People's Republic of China does not have the capability, and will not have for perhaps 5 years, of engaging in a waterborne invasion of Taiwan. Perhaps that is so, but I am not in the least comforted by that, because 5 years goes by very quickly. And at least they do have today the capability of blockading Taiwan by submarines, and that would be very devastating for Taiwan, and would, in my opinion, call for the United States to interpose its naval forces to prevent that.

In my opinion, the People's Republic of China will show no hesitation, if it thinks it can get away with it, in engaging in military aggression against Taiwan.

In today's New York Times there is an article which I should like to read, to make it a part of the Record, about what are perhaps the first, certainly early Chinese overtures to this country to provide military weapons to the People's Republic of China. Not incidentally, I have an amendment which I hope to offer to S. 245 before the discussion is closed which will make it impossible for the People's Republic of China to obtain military materiel from this country. After all, we do not sell it to the Soviet Union; we do not sell it to any of the members of the Warsaw Pact countries; and we should not, if we have any sense at all left—and I am not sure we have, frankly—sell it to the People's Republic of China.

Some people argue that we ought to build up the PRC as a counterpoise to the Soviet Union; but let us remember that 20 years ago the U.S.S.R. and the PRC were fast friends. Twenty years or 10 years from now they may be fast friends again; and I hope, for the sake of the future of this country, we do not build up a second Communist power.

The New York Times article, under the heading "China Showing Interest in Buying U.S. War Planes," written by Fox Butterfield, reads as follows:

> Hong Kong, March 7.—China has quietly expressed interest in buying American military planes and associated technology, and may make a formal request to Washington within a few months, knowledgeable sources in the aircraft industry have disclosed.
>
> Such an overture would run counter to the policy of the Carter Administration to refrain from selling arms to either the Soviet Union or China, in order to avoid the appearance of favoring one over the other. But the Administration has said it would not object to allies of the United States making such sales to China, and Peking is negotiating with Britain to buy the Harrier jet fighter.

That, parenthetically, Mr. President, for those who are not aware of it, and I suspect most in this room are, is a vertical takeoff fighter which requires only the shortest of runways, one whose bases could be changed on very short notice—for instance, to move them closer to the coastline of the People's Republic of China.

Resuming the quotation:

> According to an aviation industry representative who recently visited China, the Chinese have shown a particular interest in buying the Lockheed C–130, a versatile four-engine military transport, and the Lockheed P–3C antisubmarine patrol plane. The Chinese also reportedly expressed interest in advanced electronic equipment produced by McDonnell Douglas, which makes the new F–15 Eagle fighter and the highly effective but older F–1 Phantom.
>
> Last month Fang Yi, China's Deputy Prime Minister for science and technology, visited the headquarters of Lockheed and McDonnell Douglas, ostensibly—

Ostensibly, I emphasize—

> to inspect their commercial airliners, the Lockheed Tristar and the McDonnell Douglas DC–9 and DC–10. But he was reported to be surprisingly well informed about the companies' military planes.
>
> Representatives of the two manufacturers have made several trips to China in recent months to discuss sales of commercial airliners, and during one visit, a Chinese official asked a Lockheed representative how to negotiate with the Pentagon for a military order. "We told them they could buy the L–100, the civilian version of the C–130," the American said, "but they indicated they would like the C–130 itself."
>
> He said the Chinese were aware of President Carter's prohibition on arms sales to Peking but seemed to hope that the normalization of relations between the United States and China might lead to a relaxation of the ban.
>
> Another possible motive behind a Chinese request to buy United States warplanes is that even if Washington was to turn it down, the overture could help give Moscow the impression that there was a growing Chinese-American alliance. The recent trip to the United States by Deng Xiaoping, China's senior Deputy Prime Minister, and his stop in Tokyo to brief the Japanese on his visit, may also have been designed with this purpose in mind.
>
> Whatever Peking's motivation, a direct request to buy American military aircraft could prove very embarrassing to President Carter, particularly after China's invasion of Vietnam.
>
> Peking has moved slowly to buy weapons abroad and has been extremely cautious about committing its scarce foreign exchange reserves to military purchases. Analysts here, for example, say reports last fall that Peking had sought $700 million worth of French antitank and antiaircraft missiles were premature and that no contracts had been signed.
>
> One reason for delays is that the modernization of China's antiquated armed forces has been given the lowest priority in Peking's ambitious economic development program.
>
> This could change, however, because of China's experience in Vietnam, where Chinese commanders may have discovered they were at a disadvantage because they lacked the modern field radios, fighter planes and missiles the Vietnamese had.
>
> China has had considerable difficulty developing its own aircraft industry. Most of its 5,000 planes are outdated Russian Mig-17's, plus a few Mig-21's. There is also a Chinese-built version of the Mig-21 called the Shenyang F–9, but Peking has reportedly had trouble keeping the plane in operation because of faulty design.

I commend the Senator from Illinois for trying to firm up the security section of the Taiwan enabling bill. To my way of thinking, there is little to allay our fears that the Chinese on the mainland will not continue in the future in their military adventurism such as they have shown in recent weeks. As the Senator from Illinois has said, we wish to arrest the decline of the United States, the decline in our respect and credibility, the decline in our ability to effect events. We are going to have to make it clear where we stand in this world.

Mr. President, I wish we could erect on that wall right behind you a giant map of the world with a light behind each country, each nation, and switch off one by one the light behind each country which has disappeared into the darkness of communism since World War II. I think if we could do that it would be so dramatic that there would be no question about whether or not the Senate would agree to the amendment offered by the Senator from Illinois.

Things are going to hell in a handbasket. They really and truly are. We are going to have to take a stand in the world. We are going to have to exert some leadership if we really care about passing on to our children the kind of world we want to see them inherit.

Russian Communists, like Nature itself, abhor a vacuum. Every place we have allowed a vacuum to form, Russians move to fill it preceded, perhaps, by the Cubans, but they come nonetheless.

The future of America is at stake—not just the future of Taiwan but the future of America.

I invite my colleagues in this body to support the Senator from Illinois in his attempt to modestly stiffen, modestly strengthen, the security section of this bill which, in any case, will fall far short of the mutual defense treaty which the President proposes unilaterally to terminate at the end of this year, and in which I hope he will fail.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Thank you, Mr. President.

I would like to present perhaps a different New England view or position. The Senator from Illinois said it was time that we began to act like Americans. I would like to give my personal perspective on that issue.

In the summer of 1964 I was coming back from my service in the Peace Corps to go to law school. I thought I had spent those 2 years acting like an American who recognizes the world that exists, not the world that we cast in our own rhetoric.

In that same summer, in this same Chamber, the U.S. Senate voted the Tonkin Gulf resolution. As a result of that action, 55,000 Americans, most of them my age, are no longer alive.

In my naivete at that point I could not understand how that was possible. I sat here and listened to the heady jingoism or listened to the dynamics that result from power, and I understand why 15 years ago we moved in that direction.

If I do anything in this body, Mr. President, it will be to try to make this body recognize that the world has changed. You can do what you want with all your rhetoric, but it is the next generation that will pay that price.

There is one basic foreign policy flaw in this Senate. That is that this body as a whole views the world in East-West terms. There are only two parts of the world: Those who are for us and those who are for them.

Whether or not that was true in the 1940's and 1950's is arguable. It is not true today. It was not true in the 1960's. There is a third world that, frankly, does not give a damn on which side of the ideological split they end up. Their major motivation is nationalism, and they did not give up colonialism from the French, the British, the Belgians, or whoever, to take on the Soviets.

If you were a resident of those countries you would have exactly the same attitude.

But we do not recognize that. We impose our ideology on the Third World. The problem with that approach is not only is it based on an unreality, but it just does not work.

There is something so psychologically enjoyable to get up and rant and rave about this country or that country falling to the Soviets. I lived in the Third World. I have seen the Soviets in the Third World. They are hopelessly inept. The only way we have any viable Soviet success is totally based on the capacity of this country not to know what it is doing.

It seems to me it is about time we acted in what are the best interests of this country in not falling into the hands of the Soviets.

How is it possible when we talk about acting like Americans that we, as a supposedly advanced, educated, intelligent society, could not have recognized China for 30 years?

It is very easy. It is the same rationale that says we do not recognize Angola today. We do not learn from the past. We continue to repeat the mistakes.

How is it that we as a country that talks about human rights, dignity, and justice could have a long history of supporting leaders not based on their policies at home but based on their willingness to mouth the appropriate ideological rhetoric?

I do not know whether we are going to learn anything. I do not know whether my service here is going to advance the cause. But I would suggest that it is about time we deal with the world as it sees itself and not try to impose an American view, not only because it is right but because it works. There is the next generation whose existence and stability is dependent upon the Senate coming to that awareness.

ORDER VITIATING ORDER FOR SESSION TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I hope that the Senate will reach a vote shortly, up or down, on the amendment by Mr. PERCY. I ask unanimous consent that the order for a Senate session on tomorrow be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAIWAN ENABLING ACT

The Senate resumed consideration of the bill.

Mr. JAVITS. Mr. President, I do not expect to speak more than a few minutes, I might reassure the majority leader.

I must say, as one Senator, that I sat here with great satisfaction and heard our newer Members express their views. I say to them: That is what this place, gentlemen, is all about. You are here because you bring a new quality, a new freshness, a new set of ideas to liven us all up. I hope you keep it up.

Now, as to the measure that we are debating, Mr. President, I had to pinch myself to be sure I was awake. After all, none of these gentlemen invented this security provision for Taiwan. I did. When I invented it, I did not propose to do Taiwan in. I proposed to help and save Taiwan.

I am mortified, and I do not think I did very well, frankly, that we could not get a unanimous vote in this Chamber. That is what really counts. Who is going to be terribly impressed at 47 to 45? You cannot even approve a treaty with that vote.

Let us hear all these strong words about how we Americans are going to stand up when we have a draft up here, or when we increase the defense budget 10 percent, or when we impose wage and price controls or gas rationing. That is what the world is looking at us for. You can utter all the brave words you like; you can write them in this resolution. It means absolutely nothing. It is not what we say. That has been our trouble: We have said too much; we have not done anything.

Sure, this provision is more modest than it should be, but it was made more modest in order to get the greatest consensus behind a unilateral policy which said, "Listen, People's Republic of China, we are recognizing you, but lay off Taiwan."

I am satisfied that these words say it, "Lay off Taiwan."

Why do I say that? I am not given to asking you to take my word for anything. I should like to show very briefly why.

The things which are not in my formulation which are in here now seemed to me to far preponderate over this concatenation of words on whether we say "a threat to the peace and security of the Western Pacific area and of grave concern to the United States" or whether we say the same thing, "a threat to the peace and security of the Western Pacific area and to the security interests of the United States."

I wrote those words originally. But when you look at what we gain, when we want to say to the People's Republic of China, hands off Taiwan, this is what we gain:

We gain, one, an absolute condition that we are recognizing the People's Republic based upon the fact that it will not seek to resolve the Taiwan issue by force. That is the real guts of this thing. Right now, for the next years, that is what they are more afraid of than they are that we will interpose our Navy between Taiwan and the mainland. We did that before under General Eisenhower, and we did not have such a resolution at that time.

Second, we gain what to me is the most important part of this thing. That is, the naked force, the naked boycott, the naked blockade is not nearly as important to me as what will, and these Chinese are very clever, what will jeopardize the security or the social or economic system of the people of Taiwan. That is what we are seeking to preserve. That is in here now. It was not in here before.

Finally, we put the word, a very important word, in the self-defense capability, which we would equip. That is doing things. The word is "sufficient." That is that they have enough to defend themselves, whatever it took. That to me also, in security terms, was a very important word.

Finally, and very importantly, if the Members will look on page 15, lines 1 to 4, we used the very same provisions which are in the NATO Treaty.

> The United States will act to meet any danger described in paragraph (3) of this subsection in accordance with constitutional processes and procedures established by law.

Now, frankly, as I say, if I knew we were going to get into this hassle, with such close votes, I really would have been appalled before I drafted and dealt with this thing. It has happened. We are here. We have the result. But the key to what we shall do will depend on what we have in the Pacific. We agree here in this provision to maintain our capacity to resist any resort to force, with what we have in the Pacific and our will to use it. We sent a carrier from Subic Bay to the Persian Gulf and we stopped it. Now, I believe—I do not know, but I believe we have sent a carrier to off the Yemen coast and we have not stopped it. That is what really counts.

So I hope, and the message we send is to the people of the United States—they are the people who have to back what will make this really effective, whatever form of words we use. Because I hoped that we could get the greatest amount of consensus upon this provision as it was and because of the very sharp division which has developed here over these words, I felt it my duty to explain why I considered the whole provision far more important than these words. I hope very much that we do sustain the language of the agreement that we have arrived at with the other side and that that is a substantial vote. That is the best way to give notice, especially if it has behind it our will to implement what we are writing.

Mr. ROBERT C. BYRD. Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. PERCY. Mr. President, I should like to respond to the ranking minority member of the Committee on Foreign Relations and ask a question of the chairman.

Senator JAVITS indicated that the resolution is more modest than it should be. I agree with that. I have fully taken into account, however, the overall job that was done and have persistently and steadily expressed appreciation to both of my colleagues on the Foreign Relations Committee for what they did accomplish. It was my feeling, however, that, good as that job was, we could make it just a little bit better.

The Senator from Illinois, for better than 12 years, has seen the Senator from New York take his pencil and carefully change a couple of words and get quick agreement on it. The Senator from Illinois felt there should not be much dispute over this particular point.

Mr. CHURCH. May I just say to the Senator that it is just a question of judgment as to how close we have come to the brink. I think the committee language brought us right to the brink. If you stand right at the brink of the Grand Canyon, you get a magnificent view. If you take one more step, you are in trouble. This is the difference between our two positions. We disagree on how close we have approached the brink.

Mr. PERCY. I appreciate that. It is a question of judgment. It is the judgment of the Senator from Illinois that we can just inch forward a little bit and get a clearer picture of the whole canyon, not fall over the precipice, and not jeopardize anything.

I persistently and steadily worked toward normalization and will continue to do so. I have a deep respect for many of the accomplishments of China and certainly the commonality of interests that we share in certain areas of security important to the United States.

The question the Senator from Illinois would like to ask the chairman of the Foreign Relations Committee——

Mr. SARBANES. Will the Senator yield on the point he just made?

Mr. PERCY. Yes, of course.

Mr. SARBANES. I think the difference with respect to the judgment call to which the Senator from Illinois and the Senator from Illinois referred earlier, is that if the Senator from Illinois is wrong, it is not within our power to control the situation. If his language goes too far, normalization will have been lost. On the other hand, the language in the committee bill and the assurances that the United States is making thereunder and the action we will take are within our control. We can act on the basis of the committee's language without the amendment by the Senator from Illinois, in order to meet our commitments with respect to the people on Taiwan. That is a critical difference. There is no gamble, from our perspective, with the committee's language, because how we act pursuant to it is within our control and we do not need the Senator's proposed amendment to act differently.

With the Senator's amendment, there is a gamble, because the reaction to it as it may affect normalization is not within our control.

That is the essential difference in the judgment call being made here on the floor of the Senate with respect to the Senator's amendment.

Mr. PERCY. This amendment was offered and fully discussed publicly in committee.

After the amendment was defeated, I discussed it with two members of the Chinese diplomatic mission to see whether there was any adverse reaction. I said that we were trying to express in the language of this amendment exactly what we had been saying to the Vice Premier when he visited the Senate and was in the United States.

There has been ample time for the Chinese mission, now the members of the Chinese Embassy, to contact Members of the Senate to express their concern about this and say why they feel we should not be expressing this point of view and whether or not it would jeopardize normalization of relations.

The Senator from Illinois to this date has not had any direct indication, nor has any spokesman for the administration been able to express anything other than their own concerns about what might possibly be a reaction.

But, as I have said, the People's Republic of China has not hesitated to express itself forthrightly and honestly and they have taken their chances on jeopardizing our relationship and it was their judgment that plain speaking would not harm our relations.

So far, everything they have done, whether it is an invasion of Vietnam or whether it was a criticism of the policy of the U.S. Government, with respect to Iran, has had some degree of risk, but they were honest and forthright and laid it on the line.

I think most of us had respect for them doing that. I would just hope they would be fair enough to respect us for being frank. In the Senator from Illinois' relationship with them I have found them eminently fair.

We have simply agreed to disagree on some issues, and in interpretation of certain events transpiring.

All the amendment does is simply state what has already been stated by many Members of Congress and much more strongly by the President of the United States in his interviews with the press. It is certainly more forcefully and strongly stated by language that has been developed by others in the Senate of the United States.

The language offered in this amendment is, as one Member of the Senate said, the mildest language, in his judgment, we could adopt to honestly express our views.

The Senator from Illinois understands there was one other Senator, my distinguished colleague from Iowa, who might wish to speak at this time. If so, I am happy to yield to the distinguished Senator whatever time he feels desirable, taking into account that there is a desire now to get the vote underway.

The PRESIDING OFFICER. Is the Senator from Illinois yielding the floor?

Mr. PERCY. I am happy to.

The PRESIDING OFFICER. The Senator from Iowa is recognized in his own right.

Mr. JEPSEN. I thank the Chair.

Mr. President, I have heard the distinguished Senator from Idaho say today, "What kind of a message are we sending?"

I have heard the distinguished Senator from Maryland say, "We are taking a chance by changing two words."

I have one question. We are taking a chance with what and with whom? What kind of a chance are we taking when Secretary Blumenthal was in Peking telling the whole world China was an aggressor shortly after our recognition?

I think that is of somewhat greater magnitude—we talk about taking a chance—something more than what we are talking about here with strengthening a couple of words.

I do not think we should say the Senate of the United States is fouling things up. The administration seems to have an exclusive right on that.

A friend of mine went out to the Theodore Roosevelt Memorial Island the other day to enjoy some winter solitude. It is one of his favorite places in Washington.

It is the island in the middle of the Potomac across from the Kennedy Center. Dedicated as a wildlife refuge, it features a huge, concrete plaza dominated by an enormous statue of Teddy, his arm raised in exclamation, flanked by giant tablets bearing inscriptions of Roosevelt quotations.

Anyway, when he was out there, he was sitting there alone, and suddenly a high-pitched and rasping voice said, "Young man, you there."

He looked up. It was the statue that was talking. The statue of Teddy Roosevelt.

Teddy said:

> Don't be alarmed, I'm perfectly harmless, I assure you. I simply get lonely from time to time and need someone to talk to. I get particularly hungry for news of the outside world. Tell me, what's going on out there? I've been out of touch for months.

My friend said:

> Well, let's see, last week President Carter went to Mexico on a state visit and was insulted by the President of Mexico, our embassy was captured by leftist rebels and the staff had to be rescued by supporters of a right wing religious nut, and our ambassador to Afghanistan was kidnapped and murdered.

Teddy Roosevelt said:

> Thunderation! Where did the President send the fleet first? It would be a difficult choice. I suppose I'd start with Mexico. An affront to the President is an attack on the American flag. Is that what he did? Did he send the fleet steaming into Vera Cruz, or did he just send a punitive expedition over the border?

My friend said:

> Neither. He answered the insult by telling an assembled luncheon gathering about a case of diarrhea he once had while in Mexico.

Teddy said:

> At a luncheon, you say? Well, not the kind of revenge I'd have taken but it's something, anyway. I'll wager he took stronger action against the cheeky beggars who took over our embassy in Iran. Send in a company of marines to occupy the country, did he? Hang the offenders in a public square as an example to others?
>
> No, he sent a sharp note to the Soviet Union, saying that if it didn't stop stirring up the natives against us, we were going to get mad.

Teddy said:

> Am I missing something? Is the Marine Corps ill? What did he do about our murdered ambassador, send a telegram of apology to the heathen who did it?

He said:

> No. He expressed dismay and surprise that the kidnapping was handled so badly by Afghanistani authorities.

Well, he said:

> I know I always advocated talking softly, but I don't understand what is going on with this situation.

My friend said:

> Well, he's in a difficult position. We need oil from most of these countries and if we're not nice to them they won't sell it to us, we'll have to give up our lifestyle of snowmobiles and campers and two cars to a family and one person to a car.

He said:

> That is certainly a sad commentary on what's happened to the country. If that had been the attitude when I was President, we wouldn't own the Panama Canal today.

My friend said:

> Mr. Roosevelt, sir, can you sit down? I've got something to tell you.

I say to the Members of the Senate that there is a message today that is bouncing off the mountain tops, that is echoing from the valleys and ringing from the hearts of all freedom-loving people throughout the world. They are saying, "America, where are you?"

Recently, leaders of the European nations met in Guadeloupe. According to this administration and press reports, everything seemed rosy. But then the leader of France went back and disassociated himself from American policies—the policy of now you see it, now you do not.

In an interview last Friday, I was told by representatives of the German Bundestag that they were worried that "the United States is going to leave us high and dry and directly facing the hordes of Russian military might all by ourselves"; that this was causing the German Government to begin to think about making book with Russia. But the simple fact of life is that America no longer has the conviction and the will to stand up to those of the left in the world, to those who, through acts of terror and intimidation, are bent on destroying the ability and the will of freedom-loving nations to stand firm against the worldwide conflict being practiced by those who would like to see America on her knees.

I think this amendment we are talking about today is really a drop in the bucket, but at least it is something. It is a ray of hope. It is a glimmer. It is a response to the call that many countries and freedom-loving people around the world are expressing, and that is, "America, where are you?"

I hope that this distinguished body—which I understand will vote on this matter in a few moments—in its wisdom will vote "aye" on this amendment. It will be the first indication in some months that there are people in this country, 100 Members in the Senate, who do represent collectively all the people of the United States of America, who are hungering for leadership, who are desirous that we do take a stand and tell the world: "Yes, we accept the responsibility of being the leaders of freedom around world: "Yes; we accept the responsibility of being the Nation that must keep the peace."

I assure Senators that if we do not assume that and accept and continue in that role, there will not be peace and there will not be freedom, and someday, perhaps, there will not be an America. So I am going to vote for this.

I thank the Senator from Illinois for yielding time.

Mr. JACKSON. Vote.

Mr. PERCY addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Illinois yield?

Mr. PERCY. I yield.

Mr. ROBERT C. BYRD. Will the Senator let the Senate come to a vote on his amendment? Several Senators have plane reservations and need to leave. If we could vote now, it would be my plan, after Senator HOLLINGS calls up an amendment which he says will be accepted, to go over until Monday—if the Senator will let us vote now.

Mr. PERCY. The Senator feels that a vote could come in 5 minutes. I have one question to ask the chairman.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a vote occur, up or down, on the amendment within 5 minutes.

Mr. PERCY. Better say 10 minutes.

Mr. ROBERT C. BYRD. Not later than 10 minutes.

The PRESIDING OFFICER (Mr. BUMPERS). Is there objection? The Chair hears none, and it is so ordered.

Mr. PERCY. Mr. President, the question I wanted to ask the distinguished chairman relates really to a comment that he made earlier. I have made a notation about the comment—that you can understand the politics of this.

I hope there is no implication in that that politics is involved. The Senator from Illinois, first of all, deeply believes that, whenever possible, there should be a bipartisan foreign policy and will adhere in every conceivable way to trying to leave partisanship out of policy. It is confusing enough without partisanship.

Second, I have just checked to see whether we have received much mail on this. We have not received as much as we got in an hour on the Panama Canal. I cannot recall when anybody has spoken to me about it, except Taiwanese living in Illinois who are concerned about their rights on the island of Taiwan. As a majority, they do not have the rights they feel they should have, and they hope someone will speak up for that. We have expressed in the hearings our feelings on that issue.

Was there some implication the Senator from Illinois did not get as to what the politics were that are involved here?

Mr. CHURCH. The Senator knows that I am aware of his role in the committee, and I have never known him not to place the national interest first. I am sure he does so in this case.

As I mentioned earlier, this is a judgment call. The Senator from Illinois would not knowingly or purposefully offer this amendment in the expectation that its approval would lead to a dissolution of the ties that now have been established between Washington and Peking.

Mr. PERCY. I thank my distinguished colleague. I value his friendship and his judgment.

If there were any political aspect to this, I must be blind, because I cannot see it. It does not seem to be an issue of great public interest, and it certainly was not during my visit to Illinois.

It is a matter of deep personal conviction that we should express ourselves, so that we gain respect by saying exactly what we mean and saying it as forthrightly and honestly and openly as other nations have. That is the concern I have.

In all the relationships that the Senator from Illinois has been able to establish through the years in business or in public life, the central core always has been the mutuality of interest. Can both sides gain by this relationship?

The term "brinkmanship" has been used: Are we on the brink of possibly going over the precipice or losing this? For the life of me, I cannot see how we could; because, basically, from the standpoint of the United States, it is in our national interest that normalization proceed. We should have diplomatic relationships at the highest level. We should have every conceivable kind of relationship—cultural, economic, every other aspect of interrelationships between the largest nation on Earth, 900 million people, and the most powerful nation on Earth, the United States of America, economically, militarily, and we hope politically, certainly in the Mideast now, as we use our influence there to bring peace.

I believe it is in our interest to go forward with normalization and I am strongly for it. But I also believe normalization is in the interest of the People's Republic of China.

The Chinese are not going to let something go down the drain simply because they might object to our using or prefer us not to use words other than "of grave concern." I cannot imagine they would permit that to endanger our entire relationship.

For them, normalization is a very good thing, because it gives them full diplomatic relations with the United States of America. It opens up to them the kind of contacts they need to advance themselves into the future. They have been open and forthright about saying that they want that technical know-how, that they want that contact between our peoples, that they want that relationship for their educational institutions. In the end, it is going to be beneficial to them. If there are benefits to the United States and to the People's Republic of China, this relationship will go forward.

All the Senator from Illinois is saying in this amendment is:

> Let us honestly express our interests in a peaceful resolution of the Taiwan issue. Let us speak clearly. The administration did not get verbal commitment from the People's Republic of China that they would not use force. The Chinese have left that option open. Let us not fail to be just as forthright and clear in what we say as to how important we consider the people on Taiwan.

So it is not just a question of semantics or just a couple of words. It is an intention of a people and it is to make absolutely certain that we express how strongly we feel about this matter.

Again I commend my distinguished colleagues for the work they have done on this matter. In no sense would the Senator from Illinois, by changing a few words, try in any way to detract from the very good job they have done, in the best tradition of the U.S. Senate, in conjunction with the executive branch. They have worked out excellent language that I feel is not modified in principle at all but simply improved and somewhat strengthened and placed on the solid foundation they have built with respect to the relationship between the People's Republic of China and the United States of America.

Mr. President, I have no further comments to make, and I am ready for the vote.

● Mr. KENNEDY. Mr. President, after very careful deliberation, the committee incorporated section 114 designed to help insure the security of the people on Taiwan. As agreed by the committee, this section makes very clear the interest of the United States in the future security, prosperity, and welfare of Taiwan.

We must act to support that interest, consistent with the fundamental decision to recognize Peking as the sole legal Government of China. But we must remember that the primary assurance of Taiwan's security rests with the capability of its own people to defend themselves. It rests with the readiness of the Chinese on both sides of the Taiwan Strait to resolve their differences by peaceful means.

Senator Percy's amendment does not add to that assurance. It runs the risk of antagonizing the People's Republic of China without increasing the security of Taiwan by one iota. It reduces our future flexibility in determining whether and to what extent our interests in Taiwan are actually jeopardized.

Moreover, the amendment suggests that our security interests in Taiwan are equivalent to our security interests in Japan, Korea, or other close allies. The Joint Chiefs of Staff differ with this view, as is clear from the committee hearings. General Jones, the Chairman of the JCS, told the committee that his concern with Senator Percy's language is "that our security interests (in Taiwan) are less than in other areas of the Pacific or the world."

I agree with General Jones.

But more fundamentally, I believe that the committee's language represents good policy as well as a fair political compromise. Senator Percy's amendment would be a step back from that policy and would undermine that compromise. I urge the Senate to reject this amendment.●

Mr. CHURCH. Mr. President, I hope, upon reconsideration, that the Senate will reject the amendment offered by the Senator from Illinois.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Alaska (Mr. Gravel), the Senator from Hawaii (Mr. Inouye), the Senator from Louisiana (Mr. Long), the Senator from Hawaii (Mr. Matsunaga), the Senator from North Carolina (Mr. Morgan), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. Morgan) would vote "yea."

On this vote, the Senator from Nevada (Mr. Cannon) is paired with the Senator from Hawaii (Mr. Inouye).

If present and voting, the Senator from Nevada would vote "yea" and the Senator from Hawaii would vote "no."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker) is necessarily absent.

The VICE PRESIDENT. Will Senators please clear the well?

Are there any Senators who have not yet voted?

The result was announced—yeas 42, nays 50, as follows:

[Rollcall Vote No. 13 Leg.]

YEAS—42

Armstrong
Bellmon
Boren
Boschwitz
Byrd,
  Harry F., Jr.
Cochran
Cohen
Danforth
DeConcini
Dole
Domenici
Durenberger
Garn
Goldwater
Hatch
Hatfield
Hayakawa
Heinz
Helms
Hollings
Humphrey
Jepsen
Laxalt
Lugar
McClure
Packwood
Percy
Pressler
Proxmire
Randolph
Roth
Schmitt
Schweiker
Simpson
Stevens
Stone
Thurmond
Tower
Wallop
Warner
Weicker
Young

NAYS—50

Baucus
Bayh
Bentsen
Biden
Bradley
Bumpers
Burdick
Byrd, Robert C.
Chafee
Chiles
Church
Cranston
Culver
Durkin
Eagleton
Exon
Ford
Glenn
Hart
Heflin
Huddleston
Jackson
Javits
Johnston
Kassebaum
Kennedy
Leahy
Levin
Magnuson
Mathias
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Pell
Pryor
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stennis
Stevenson
Stewart
Tsongas
Williams
Zorinsky

NOT VOTING—8

Baker
Cannon
Gravel
Inouye
Long
Matsunaga
Morgan
Talmadge

So the amendment (No. 79) was rejected.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The VICE PRESIDENT. The Senator from South Carolina. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from South Carolina yield?

Mr. STEVENS. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. Bumpers). Senators will please retire to the cloakroom. The Senate will not resume until there is order in the Chamber. Please retire to the cloakroom to continue conversations.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from South Carolina yield to me?

Mr. HOLLINGS. Yes, I yield.

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today, but Senators who may wish to call up amendments, and have voice votes thereon—some amendments will be accepted—the Senate will continue to do business until such amendments have been disposed of.

UNANIMOUS CONSENT AGREEMENT TO VOTE ON PASSAGE NO LATER THAN 5 P.M. TUESDAY, MARCH 13, 1979, AND TIME-LIMITATION AGREEMENT ON AMENDMENTS

Mr. President, I ask unanimous consent—and I have cleared this with Mr.

HELMS and Mr. STEVENS and with other Senators—that a vote on passage of the legislation occur no later than 5 p.m. on Tuesday next, with the proviso that there be 1 hour on each of three amendments by Mr. HELMS, that time be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be 1 hour on any amendment to be equally divided in accordance with the usual form, other than the amendment by Mr. HOLLINGS which, I understand, is going to be accepted.

Mr. HOLLINGS. I hope so.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 32

(Purpose: To establish the Joint Commission on Security and Cooperation in East Asia.)

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from South Carolina.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) proposes an unprinted amendment numbered 32:

At the bottom of page 22, insert the following:

Title V—

Mr. HOLLINGS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without out objection, it is so ordered.

The amendment is as follows:

At the bottom of page 22, insert the following:

TITLE V—JOINT COMMISSION ON SECURITY AND COOPERATION IN EAST ASIA

SEC. 501. (a) There is established a joint congressional commission known as the Joint Commission on Security and Cooperation in East Asia (hereinafter in this title referred to as the "Joint Commission") to exist for a period of three years, which period shall begin upon the date of enactment of this Act.

(b) The Joint Commission shall monitor—

(1) the implementation of the provisions of this Act;

(2) the operation and procedures of the Institute;

(3) the legal and technical aspects of the continuing relationship between the United States and the people on Taiwan; and

(4) the implementation of the policies of the United States concerning security and cooperation in East Asia.

(c)(1) The Joint Commission shall be composed of twelve members. Of the members provided for under the preceding sentence—

(A) six shall be Members of the House of Representatives to be appointed by the Speaker of the House of Representatives, four of whom shall be selected from the majority party, and two of whom shall be selected, upon the recommendation of the Minority Leader of the House of Representatives, from the minority party; and

(B) six shall be Members of the Senate to be appointed by the President pro tempore of the Senate, four of whom shall be selected, upon the recommendation of the Majority Leader of the Senate, from the majority party, and two of whom shall be selected, upon the recommendation of the Minority Leader of the Senate, from the minority party.

(2) In each odd-numbered Congress, the Speaker of the House of Representatives shall designate one of the Members of the House of Representatives selected under paragraph (1)(A) as Chairman of the Joint Commission, and the President pro tempore of the Senate shall designate one of the Members of the Senate selected under paragraph (1)(B) as Vice Chairman of the Joint Commission. In each even-numbered Congress, the President pro tempore of the Senate shall designate one of the Members of the Senate selected under paragraph (1)(B) as Chairman of the Joint Commission, and the Speaker of the House of Representatives shall designate one of the Members of the House of Representatives selected under paragraph (1)(A) as Vice Chairman of the Joint Commission.

(d)(1) Members of the Joint Commission shall serve without compensation but shall be entitled to reimbursement for travel, subsistence, and other neecssary expenses incurred by them in carrying out the duties of the Joint Commission.

(2) The Joint Commission may appoint and fix the pay of such staff personnel as it deems desirable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates.

(e) The Joint Commission may, in carrying out its duties under this title, sit and act at such times and places, hold such hearings, take such testimony, and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as it deems necessary. Subpenas may be issued over the signature of the Chairman of the Joint Commission or any member designated by him, and may be served by any person designated by the Chairman or such member. The Chairman of the Joint Commission, or any member designated by him, may administer oaths to any witness.

(f)(1) The Joint Commission shall prepare and transmit a semiannual report to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the President on—

(A) the progress achieved by the United States in maintaining full and unimpeded cultural, commercial, and other relations with the people on Taiwan, and

(B) the legal and technical problems arising from the maintenance of such relations,

together with recommendations for legislation to resolve such problems and recommendations for strengthening such relations and for carrying out the commitment of the United States to human rights in East Asia.

(2) The Joint Commission shall provide information to Members of the House of Representatives and the Senate as requested.

(g)(1) There are authorized to be appropriated to the Joint Commission for each fiscal year and to remain available until expended, $550,000 to assist in meeting the expenses of the Joint Commission for the purpose of carrying out the provisions of this title. Such appropriations shall be disbursed by the Secretary of the Senate on vouchers approved by the Chairman of the Joint Commission, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

(2) For each fiscal year for which an appropriation is made the Joint Commission shall submit to the Congress a report on its expenditures under such appropriation.

(3) For purposes of section 502(b) of the Mutual Security Act of 1954, the Joint Commission shall be deemed to be a joint committee of the Congress and shall be entitled to the use of funds in accordance with the provisions of such section.

On page 23, line 1, strike out "TITLE V" and insert in lieu thereof "TITLE VI".

On page 23, line 2, strike out "SEC. 501." and insert in lieu thereof "SEC. 601.".

On page 23, line 4, strike out "SEC. 502." and insert in lieu thereof "SEC. 602.".

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank the Senator. Mr. President, for the further information of Senators, the order for tomorrow has been vitiated. There will be no meeting of the Senate tomorrow. The Senate will come in at 11 o'clock on Monday.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the names of the following Senators be added as cosponsors of my amendment: The Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. DECONCINI), the Senator from Indiana (Mr. BAYH), the Senator from Oklahoma (Mr. BOREN), the Senator from Illinois (Mr. PERCY), and the Senator from Alabama (Mr. STEWART).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, this is the amendment establishing an oversight commission with respect to Taiwan.

Let me first, before we get into the debate, commend the Committee on Foreign Relations, and particularly Senators CHURCH and JAVITS, for the excellent job that they have done so far in taking a rather casual, inadequate administration bill and substantially improving it by recognizing the agencies and instrumentalities on Taiwan, by providing that when dealing with the institute, it would be dealt with as an instrumentality of the government, by providing for privileges and immunities, and by spelling out that other than peaceful means employed against Taiwan would be of great concern to the United States. On the latter, by a tie vote here on two occasions, we have expressed really the United States sense that a threat to our security would be involved.

Mr. President, with those improvements, the bill has been substantially improved. Though I do not minimize in any way the hard work done by the Foreign Relations Committee with the poor bill submitted to them, frankly, what we really are engaged in is one of the most fraudulent shams that you could possibly conceive. We could not find anywhere else a precedent for calling the Government an institute and the institute a government.

We wondered about the covert activities of the CIA. They might not have worked well in Iran, but they are working extremely well right now participating in designing this covert operation. So we are saying the Government is going to work with the government in Taiwan, and it is not the Government, but it is the people, and it isn't the public, but it is our tax money—and around and around in a circle it goes. I cannot get over the very strong feeling that this is pure sham, and not in the best interests of the people of the United States. But I am trying to be realistic in trying to work out of this situation the best we can.

We heard earlier—and I guess this is the best way to get to the point with respect to the need for a commission—in the statement of my distinguished colleague from North Carolina, of a secret report of how Taiwan could be successfully blockaded by the People's Republic of China. That has not concerned me as much as the economic squeeze and strangulation of the people by embargo or economic means—and that is far, far easier, Mr. President, than any kind of military action to blockade.

I am not minimizing in any sense the concern that Senators might have over a military blockade, but that is not really my primary concern. I had expressed this concern for several weeks when I was first briefed on the subject of Taiwan by the State Department, and then later an article appeared, written by a distinguished former ambassador and foreign service officer of the U.S. Government, Ambassador William J. Porter, and published in the Christian Science Monitor of January 10, 1978. I ask unanimous consent to have this piece printed in its entirety in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Jan. 10, 1979]

WHAT CARTER GETS UNITED STATES INTO

(By William J. Porter)

PEOPLE'S REPUBLIC OF CHINA

Administrative Notice to Shippers—Certificates of Control and Clearance

(To ease congestion in the ports of the People's Republic of China (PRC), and to facilitate the importation and exportation of merchandise, all shippers are hereby notified that shipments to and from the PRC, including the province of Taiwan, must be accompanied by a Certificate of Control and Clearance (CCC) stating the nature of the cargo and its port of destination.

(These certificates may be obtained from the consular section of any Embassy of the PRC or at any Chinese port on the mainland.)

The thrust of this imaginary "Notice" should be clear. It is intended to bring into view sovereign authority which the Peking government may choose to assert, and which the United States is no longer in a position to dispute once the Carter administration recognized Peking's hegemony over Taiwan.

The White House has informed the public that all details of the arrangement with the PRC have been revealed—with no mention of safeguards against the possibility of such regulatory measures. There are, of course, several additional areas in which Peking may choose to exercise its sovereign authority without fear of anything but remonstrance from the Americans. The example cited above begs a specific question. Would the United States accept such PRC regulations if applied to vessels carrying defensive weapons to "the province of Taiwan" during and after the period in which the U.S.-Taiwan mutual defense treaty remains valid?

Apparently such serious possibilities were not properly considered or negotiated before the recognition of the PRC, which indicates the hasty nature of the President's decision. We are, of course, assured by those who approve the manner in which the event was manipulated that it would not be in the interest of the PRC to take such action. But such optimism is not convincing because it presumes to judge in advance solutions which a very self-centered communist power may find expedient. The public and Congress are certainly due an explanation as to why Mr. Carter, Mr. Brzezinski and Mr. Vance did not make an effort to obtain necessary assurances concerning actual and possible problems relating to the matter. Let us note here that Mr. Teng and his friends avoided that error: They protected their own interests and preserved all their options very well.

Another embarrassing example of unseasoned diplomacy in this matter was the eagerness with which Mr. Carter used to his own advantage an alleged statement of approval of the recognition by Mr. Brezhnev. The Washington Post, which may be thinking of establishing a Peking edition, headlined Mr. B's "very positive" message on the subject, as related in glowing terms by the President. Moscow, however, corrected the White House version very quickly in a statement to the effect that the account did not represent Mr. Brezhnev's message correctly.

The PRC recognition fits into a rather disorderly ensemble, other elements of which are the Camp David debacle, the oil price rise which need not have happened, and the looming Rhodesian disaster in all of which current U.S. diplomatic techniques figured prominently. Two years in office would seem sufficient to impress our leaders with the obvious fact that in these complicated matters the desire for publicity should not be allowed to overwhelm the need for thoroughness.

The best we can hope for now is that, when he next visits the Far East, Mr. Vance will be able to tidy up the unhappy position in which the U.S. finds itself. The statement from Peking on Dec. 24 is not encouraging, however, stressing as it does the view that the PRC alone, and no one else, including the U.S. is qualified to handle the problem of Taiwan. It made even clearer, if that was necessary, the PRC's belief that it is in no way obligated to accommodate the United States or Taiwan and that Mr. Carter's expectations are therefore illusory.

Mr. HOLLINGS. Some of our commercial colleagues in Japan, asked whether or not the Japanese would adhere to that kind of activity taken by the People's Republic, answered "Yes."

What is that activity? The activity, my friends, is not a military blockade, but rather the very simple device of issuing a public notice in the Journal of Commerce that, due to the congested conditions in the port facilities of the People's Republic of China, vessels entering the sovereign water of the PRC would have to obtain an anchorage license to do business.

So any captain of a ship, not wanting to be turned back after his long trip, would apply for the license, and the rest is very obvious: If you do not like the way they do business, there will be no license. If you think they need a lesson, there isn't much the captain can do except accept or go back. I am not criticizing the People's Republic at this point, or addressing their action in Vietnam, but we do know that we are now dealing with a people that are willing to give lessons; and if they wanted to give a lesson to any particular commercial entity that was not doing business the way they thought business should be conducted, there would be no license; there would be a general economic squeeze, and I venture to say that in a matter of months or at most a few years, that $7.2 billion of business done by the United States of America with Taiwan, export and import, would all of a sudden be dried up, and then you would have the strangulation of Taiwan. We heard earlier from one of our colleagues that we tried to impress our way in Vietnam, and I agree with him; but we learned a lesson there that the American way was not always accepted.

But there are areas where the American way is fully accepted, and in Taiwan it is accepted: The commercial, free enterprise, competitive, capitalistic system.

That is exactly why we have misgivings when we see our State Department use that nice State Department language of art, "grave concern." Because the State Department leaves a lot to be desired by way of mind and by way of commonsense.

They really barreled on Taiwan and took a friend, one of the best friends we have ever had, and treated them, I should say, as persona non grata. The State Department came up and gave certain "advice" on how Taiwan should sell their U.S. property to the Saudis. That advice was not taken. Incidentally, I will join in the Twin Oaks bill later on. That will be a different amendment.

That advice to sell was not taken by our friends on Taiwan, those who had accepted our way and whom we helped prosper economically, and who we helped build militarily in every sense. They did everything we asked them to do and we with them. They then allowed that the property of the Taiwanese in Washington would immediately be the property of the People's Republic of China.

Of course, we know historically the People's Republic of China in this century had neither control nor jurisdiction of these properties. We were hearing a little earlier about the little cuddly bear, Teng Hsiao-ping. Well, I do not know that the gentleman has ever had the chance to visit Taiwan, though we here in the United States have had that opportunity. I do not know anyone in the PRC government, including Mr. Teng, who has ever been to Taiwan. They do not have control there and have not had jurisdiction. To come out now and say these properties will go to the PRC is just an un-American way to do business.

The way they admonish their ambassador to not even attend a news conference is another thing. I can go down a list or a bill of particulars. But nothing presents it more dramatically than the scurrilous piece of legislation sent over here which shows the total disregard from what was being said publicly. They were saying publicly they want continued cultural, educational, and commercial relationships in the full.

As was stated here a little while ago, on February 16 the President even talked about the security, and how a later President could go to war to protect that security. We know that the President insisted on sending arms. I know not what the purpose of the arms was to be, except to protect the people of Taiwan. And I know of no threat at this particular moment that the United States is concerned about other than the military threat of the People's Republic of China at and against Taiwan.

So we were concerned about the security, our President was concerned about the security, but that has been a no-no word all afternoon. And we see a total disregard of the security pact which we have at this very minute. We have given notification of termination by the end of this year, in accordance with the treaty, but we do have a solemn treaty with the Taiwanese, a security pact. When the Senator from Maryland and everyone else gets upset when we begin to regard that, when we begin to acknowledge that, when we begin to show a little nationalism here on the floor of the Senate, I do not intend to be lectured by those who claim to see the real world. about the nationalism in the other countries.

I do not know where the nationalism of the people of South Vietnam ever was. We gave 56,000 lives trying to develop it.

There is a lot to be said about nationalism. We learned that people do not like foreigners. We learned that in the People's Republic of China, in Iran, and in France, when they kicked NATO out. We learned that the world around. We have had many lessons about the consideration they have for foreigners.

But when we try to talk and clarify "grave concern" or what it means, then we get blamed for inexact language, and we should go with nebulous nonsense. with a frightened stance, and without speaking clearly.

I want to add one more comment with respect to Vietnam. I respect my colleague from Massachusetts and his dedication to the Peace Corps and his comments with respect to Vietnam. Others have also commented on that.

I remember that commitment. We will obviously not have time to argue it at this time. The Senator from Delaware and others were asking about commitments, whether or not the commitment to Taiwan was as good as the commitment to Western Europe. My answer is yes.

The commitment with Vietnam, and I participated in the debate on the floor, was one of the finer commitments that went along with the Peace Corps.

I happened to be in on the innovation of that institution. There we were doing away with the image of the ugly American, to go to the undeveloped and those countries which wanted help from an advanced nation and say, "Yes, we will help you in medicine with doctors; in langauge we will help you with teachers, in mathematics, we will help you with instructors, and if you want to build bridges, we will send Peace Corps members there."

And, yes, we were not only committed to our white Caucasian heritage, to Western European culture, but we were just as committed irrespective of race in the Far East.

The commitment in Vietnam was the commitment of the white man for the yellow man, the commitment of the richest nation for the poorest nation, the commitment of the developed for the undeveloped, the commitment of the privileged for the underprivileged.

People forget that, too, as if it was not carried through. But it had the highest sense of commitment from President Kennedy, President Eisenhower, President Johnson, and many others. A lot of us would be glad to debate that particular commitment some time.

But, yes, to the people of Taiwan I feel we should have a commitment.

What makes it a tremendous frustration to us all is the government itself. I make no commitment to Quemoy and Matsu. This is why we all have a consternation, frustration, and confusion in trying to actually treat a country that is not a country or will not act like a country.

I cannot get anyone on Taiwan to come forward and ask for self-determination. I have discussed this with the Secretary of State and all the people who have come to brief me, asking why do they not have a plebiscite under the United Nations to see whether they want to join the mainland, whether they want to become an independent entity, or whether they want to go back to the Japanese.

Again, back in Vietnam we gave 56,000 for the right of self-determination. That is the kind of commitment I would do for those people as a people, with their own way of life, with a confused heritage.

Taiwan was settled by the Dutch and the Portuguese. The name "Formosa" means "beautiful island" in the Portuguese language. It was a refuge for the Ching Dynasty and then it was taken over by the Manchus, and then conquered in the Sino-Japanese War in 1895. Then they had the Japanese heritage up until the end of World War II when our Western culture was developed there.

I cannot make up the minds, and I have no intention of making up the minds, of the people of Taiwan. They can expect certain measured judgments to be made since there is no language which will trigger us. We do believe in their security but we do not believe in their claim to mainland China. That was a charade and that, too, was a sham. I think the sooner they developed and have a free election the better the Senator from South Carolina is going to feel. In the meanwhile, while we do not consider it a country, and we are not proud of abandoning friends, but the friends will not organize a country, then what do we do? We try to maintain relationships as if they were a country and as if they were still our friends, or in the President's expression, continue cultural, educational, and commercial relations.

In looking at that $7.2 billion worth of business that we have, our ninth largest trading partner, I can tell you quite candidly that these relations cannot happen under this institute.

That would be like delivering lettuce by way of a rabbit. That institute is not going to represent the United States of America. It will represent the very, very fuzzy and impolite and discourteous conduct of our own State Department.

I say that advisedly, knowing how the State Department came to the Foreign Relations Committee and how they came to our appropriations State-Justice-Commerce subcommittee with the bum's rush. There is no better way to describe it: they tried to treat their own representatives just the same way they treated the Taiwanese.

So we are told—take the President's bill and if you make one amendment, we are going to veto it.

They came to me and said, either take the transfer of funds and give them immediately or, come the 1st of March, there will be riots and there will be bloodshed down in Taipei, and you will be responsible for it.

When you are dealing with that kind of mind and incapacity, and stupidity, then what you ought to do is try to give them counsel and care. I will never forget when I first came here, I was told that Washington was the first insane asylum run by the inmates. Not necessarily, but if you were looking for one institution, you could go find it in the personage of the State Department and the way they conduct some of our affairs from time to time.

I have the highest regard individually for the distinguished Secretary of State and many of the officers. I have been a supporter of their endeavors to get better management principles and so on. There is a lot to be admired, do not misunderstand. But they have certain ones from time to time who just go way off the deep end. This is one of those cases.

With that institute, they do not have any idea of doing exactly what the Congress intends. The people of Taiwan know that. The commercial interests in the United States know that. And to a man, they have said, "If you can get some kind of oversight commission similar to what we had with the Helsinki agreements, then it would stabilize Taiwan materially, safeguard the commercial enterprise, and assist the whole relationship between Taiwan and the United States of America."

I have just come back from the NATO conference, and I have followed the Helsinki Agreement. We traveled and I learned its tremendous value in Czechoslovakia, where my distinguished senior colleague on the Foreign Relations Committee, the present manager of the bill (Mr. PELL) served, in Prague. The dissonant movement of 1977 made certain contacts with us and that is their only hope—not the agreement itself, but the Oversight Commission, the Helsinki Commission, composed of Members from Congress and from the executive branch. They can get to and speak to and correspond with and try to help the cause of freedom in East Europe.

I think if we have a commission, the administration does not want to have any executive branch members; I well understand that. They do not want to have an institute. They do not want to have any relations. In fact, I am not nonplussed at that at all. Their idea of an institute was to end the relationship. You would never hear any more than a one-line report of something from time to time, but that would phase out Taiwan and then they would move on to greater things. Then we would have a black eye in the Far East about keeping our word and being true to our representations and true to freedom. We would have lost our credibility because, assuredly, Mr. President, this is exactly what happened in the way the President conducted the business on the Taiwan score.

We had asked, we had signed into law last year our desire for consultation. We did not get consultation.

Everyone had heard of the great objection that we had from our strongest ally in the Far East, Japan, how they were totally disregarded in the Shanghai communique and the visitation of Mr. Kissinger and President Nixon, and assuredly we all knew that we should not disregard them in that fashion again. But again we awakened them in the middle of the night and told them that the Taiwan security pact was gone. They have always had a war party in Japan. Now they will have greater persuation, greater weight for their arguments. They can say, "You know, we have a security pact with the Government of the United States, but you can see how a President can do what he wants to. He can call you up in the middle of the night and say, 'That is the end of that.' We had better start moving."

This President, who has great concerns about nuclear proliferation and what have you, sure lost the battle on that one, because I can tell you now that if you live in Japan, you had better worry and wonder, under this administration, when it comes to a security pact.

Then Israel. That is where the gentleman will be on Saturday. If he gives them a promise of a security pact, I hope the Knesset, I hope the Prime Minister, do not break out laughing about the security pact, because they have every right to say, "Mr. President, that is what you gave to Taiwan and without any consultation, for reasons of greater interest that you had at the moment, you changed a 30-year policy with a call in the middle of the night. We love your security pact, but we would rather have greater assurances than that."

That hurts my feelings, to have our country conduct its business in this fashion. I think it not only hurts our feelings here in the United States; I think it hurts the feelings of all of our friends. It raises serious doubts.

We have spent billions upon billions of dollars to try to establish confidence and friendship, through all the economic instrumentalities—foreign military sales, Peace Corps endeavor, and everything else—to say "You can count on the moral force of the freedom-loving nation, the United States of America, and we shall always stand for that." Then we turn and, bam, bam, it's over.

We did not do as Canada did. Canada said they took note of the PRC's claim to sovereignty over Taiwan. They did not recognize, and they got relations with the People's Republic. Our friends, the British, acknowledged, but they did not recognize, and they got relations.

But rather than just acknowledge, we allowed that Chinese transcript to be written with the word "recognize" and they can continue to say "recognize."

I am back to my little economic notice in the Journal of Commerce. Yes, with that recognizing of the People's Republic as sovereign, we cannot interfere with sovereignty. That is what the whole argument was with respect to the Panama Canal Treaties. So we do not interrupt sovereignty and we have no standing.

Then they come around and say, "Why can't we handle the property in court?" We have no standing in our own court of public opinion, much less the legal courts. I am trying to get standing in the court of world opinion, not any technical titles and that kind of thing. I am trying to build America, and I am not ashamed of it, when I talk as I do on the floor of the U.S. Senate.

I feel very strongly about this commercial approach to the problem that we have, because, with all the language and nuances, whether it is "grave concern" or "security" or whether it is this or that, it depends on the implementation of this particular piece of legislation. I welcome the assiduous concern and attention that we have had for the bill itself by the House Foreign Affairs Committee and our Senate Foreign Relations Committee. If we can formalize that concern in the form of an oversight commission, then we can bring immediate stability to the dark clouds and trouble on the horizon of where we go from here with Taiwan.

No. 1, Taiwan will not be forgotten. No. 2, there will be contact. No. 3, there will be oversight. And number four, we at the appropriations level are going to follow with good intent the intent of the full Congress, House and Senate, on this particular score.

I appreciate the adjustments that the managers of the bill have made in order to accept this amendment. As I understand, the amendment will be accepted. I agreed then that we would not require a rollcall.

I have agreed to amend that original version to provide for a three-year duration of the commission. I am a believer in sunset legislation. The commission does not have to go on, but I would think within 3 years we would approve it. I do not mind being put on trial with this particular idea. I would have hoped that the validity, the efficacy, the need and the power of an oversight commission would have proved itself to all men of good will and good intent with respect to our involvement in Taiwan and that it would be renewed, perhaps, at that time.

I cannot foresee whether I will be there to renew it or not. I will watch that government over there to see whether they have the right of self-determination.

I guess I am recognizing the People's Republic. I am a realist. I have no bone to pick with them. If they can pick up Taiwan by bamboozling the President of the United States, because they know how to use their power, and we have lost the ability to use ours, that will be a sad ending.

But this little bit of oversight power we have in a national people's body, the Congress of the United States—where we can see that we do act like Americans, as the distinguished Senator from North Carolina pointed out so appropriately earlier this afternoon—can help us keep watch, keep vigilant, keep involved, and hopefully bring a measure of hope and pride where otherwise we would have none.

Mr. President, I am glad to yield the floor at this time.

Mr. HELMS. Did the Senator yield to me or did he yield the floor?

Mr. HOLLINGS. I yielded the floor.

Mr. HELMS. Mr. President, I have heard the distinguished Senator from South Carolina speak on many occasions and I always enjoy him and admire his eloquence. But I think he has risen to new heights today.

I commend him not only on what he said, but on the amendment that he has proposed and which, as he knows, I am cosponsoring with him.

Mr. President, I rise to join the distinguished Senator from South Carolina in his concern for monitoring our policy in China. I strongly support his idea of a Commission on Security and Economic Cooperation in Asia. Indeed, the Senator from North Carolina proposed a similarly-named commission based on the Helsinki commission model on January 29. The version of the Senator from South Carolina is a broader proposal and I am pleased to be a cosponsor.

The idea of Helsinki-type monitoring is particularly relevant to this bill, because Congress must become aware of the meaning of "peaceful unification" of Taiwan into the mainland. I recently requested the Far Eastern Law Division of the Library of Congress, under the competent direction of Dr. T. T. "Shaw" Hsia to prepare a report on recent developments related to human rights in the People's Republic of China. This was accomplished in a most scholarly and balanced manner, and has been printed as a committee document by the Committee on Foreign Relations. I believe that a copy is on every Senators desk, and I commend it highly. It will make a fine starting point for the proposed commission.

I also want to refer again to the excellent study on human rights in the People's Republic of China prepared by the Institute on American Relations which I placed in the RECORD during the debate on the Woodcock nomination. It is an excellent and deeply moving report.

Mr. President, the recognition of the Government of mainland China by President Carter has raised a great amount of anxiety over the future of the island province of Taiwan, and the Government of the Republic of China which is located there in Taipei. Despite assurances by President Carter that the mainland government is pledged not to use force against the Government of Taipei, recent statements by Chinese Vice-Premier Teng Hsiao-ping that he would not rule out the use of force as the ultimate sanction to induce negotiations have unveiled the ultimate goal.

The question is whether there are any circumstances whatsoever under which U.S. policy would like to see the peaceful unification of Taiwan with any Communist government on the mainland. The issue raises larger questions about our belief in the nature of freedom and our willingness to see any group of peoples in the world lose their right of self-determination. It is scarcely conceivable—at least to this Senator—that any people living in the relative freedom of life on Taiwan would willingly choose to be absorbed into a Communist society, even if such a fate took place peacefully.

Teng's threat that force must be reserved as the ultimate sanction to induce the Government of the Republic of China to negotiate indicates that a policy of pressure will be followed, one that doubtless will include diplomatic, economic, and psychological efforts to isolate Taiwan, to restrict its freedom of action in international activities, and to destroy its economy. Taiwan cannot be said to have a choice if its freedom is strangled "peacefully" in a silken noose.

Similarly, Taiwan's choice cannot be said to be free if it is threatened militarily by a buildup of the kind of forces and armaments directed at military invasion, particularly if these forces are concentrated in regions adjacent to the Taiwan Straits. In part, Taiwan's ability to respond will depend upon the United States; but a great deal will depend upon the actions of the Peking government.

There are those who say, hopefully, that Peking will never invade because it would disrupt relations with Japan and the United States. But no one can predict under what future circumstances Peking might decide to act.

The fact remains that the Peking Government has the worst—let me repeat for the purpose of emphasis—the worst human rights record in history, one that surpasses even the graphic descriptions of witnesses to the Cambodian tragedy. A study prepared for the Senate in 1971 estimated that as many as 64 million Chinese died during the Communist programs of liquidation and purge.

Even today, Chinese Communist officials estimate that between 5 and 10 percent of the Chinese people suffer "the dictatorship of the proletariat" in forced labor camps. With a population of 900 million, 5 to 10 percent in forced labor camps is a number equivalent to one-quarter to one-half of the population of the United States. So that, Mr. President, is what we confront.

Those who are not in the forced labor camps live continually in the fear that they, too, might fall under surveillance or "dictatorship." Legal protections are virtually nonexistent; men and women are incarcerated by party directive (the Gang of Four being the most notorious examples).

Personal mobility is restricted not only by the poverty and failure of the Chinese economic system under communism, but also by one of the most restrictive systems of rationing basic daily necessities in the world. Indeed, the very rights which we hold to be fundamental to the nature of man are rigorously suppressed, including the following:

First. The rights of family. The Chinese sense of family runs very deep, based upon the Confucian ideal of respect for one's ancestors. The party has worked very hard to break down this tradition. The liberation of women, most of whom do manual work in the fields, has placed great stress on the family unit. Parents have no control over the education of their children. Millions of so-called educated youth have been sent from urban centers to remote villages for permanent settlement. Restrictions on marriageable ages forced separation of married couples to job assignments hundreds of miles apart, and public pressures on individual women for abortion and contraception further erode marital rights and privacy.

Second. The rights of religion. Millions of Chinese were adherents of the Buddhist, Taoist, Moslem, and Christian faiths before 1949, and millions more were active followers of the ethical precepts of Confucius. The thousands of temples have been closed, many have been destroyed. A mere handful of religious buildings are kept open for the inspection of foreigners, but no Chinese citizen would dare to enter. Attendance at religious rites would result in job loss, discrimination, surveillance, decrease in rations, and perhaps even a trip to the labor camps.

Third. The rights of labor. No Chinese may join an independent trade union, much less enter upon a strike. Wages in China have been raised only twice in 20 years. A worker has no right to select his job or his assignment.

Fourth. The rights of property. Needless to say, the right to hold private property has completely disappeared, including peasants who may have owned only 2 or 3 acres. Forced collectivization was imposed on all agriculture. Property rights are the foundation of human liberties, and they are nonexistent in Communist China.

Fifth. The rights of political expression. There is only one party in China. There is not even an organized network of dissenters, such as in the Soviet Union. The recent, brief flowering of big character posters, under the careful guidance of party officals, shows that free political expression on the mainland is nonexistent.

Sixth. The rights of economic-self determination. Anyone who advocates personal or private enterprise, no matter how insignificant, is considered a "capitalist roader." No individual may attempt to establish his own economic self-sufficiency outside of the collective plan.

Seventh. The rights of due process. Legal rights simply do not exist in China, and the recent calls for the establishment of legal procedures only points up the fact that, for 20 years, citizens have been at the mercy of party directives, as interpreted by local officials. There is not even a criminal code, much less a code for political offenders.

Mr. President, it is the hope of many that the total absence of human rights, as generally understood in the West, will be ameliorated as time goes by. The emergence of Teng as the strong man in China after the death of Mao has given an indication that there might be evolution toward a better situation. But no one knows how long the adherents of Teng will hold power. The historical record give little confidence that the situation will change for the better permanently. It is far too soon to decide.

All of these reasons are reasons why we should not be in haste to consign the people on Taiwan to the benevolence of the Peking regime. After all, the Republic of China has not ceased to be a legitimate government merely because the United States has withdrawn its Ambassador. It remains in control of a significant part of the territory of China. I believe that it is generally accepted under international law that a country cannot be "de-recognized." A new government may be recognized once it has de facto control of territory. But once it is recognized, it is recognized as long as it has that control. The withdrawal of ambassadors is a separate act that has no bearing on recognition.

Indeed, nations may withdraw ambassadors and go to war with each other, without any implication that their opponents no longer exercise sovereignty over such territory as they control. In fact, quite the opposite is implied.

However, since the administration has chosen to withdraw the U.S. Ambassador from Taiwan and to recognize Peking as the sole government of China, in defiance of reality and international law, special steps should be taken by Congress to safeguard the human rights of the Chinese people who are under the Government of the Republic of China on Taiwan. Neither that Government nor the people cease to exist because of the President's action. It is up to Congress to monitor the human rights situation on the mainland and any potential military buildup which would threaten Taiwan.

The PRESIDING OFFICER (Mr. BRADLEY). The Senator from Utah.

Mr. HATCH. Mr. President, I appreciate having this time to also associate myself with the remarks of the distinguished Senator from North Carolina and to express my viewpoint that I have always enjoyed the comments that he makes, even when I disagree with him, which is not very often. I have a deep and very firm regard for him.

Mr. President, I ask unanimous consent that I may be added as a cosponsor on his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I appreciated very much the kind words of the Senator from South Carolina.

As cochairman of the Commission on Security and Cooperation in Europe, the so-called Helsinki Commission, I am familiar with the operations of joint commissions of this sort.

Our commission deals with a different problem, however. It deals with a treaty that is multinational in scope and with a treaty that is really a set of pious intentions.

There are very few, if any, specific commitments in that treaty. It is a question of aspirations and intentions.

Now, this commission would deal with one country—or, no longer a country, an area, whatever we wish to call it—and it is a commission that has a different composition. It is not evenly divided between the parties as is the Helsinki Commission, and it does not have members of the executive branch on it.

Personally, I would have qualms about the enactment of this legislation. However, on behalf of the Foreign Relations Committee, we accept the amendment with the proviso that the words "to exist for a period of 3 years, which period shall begin after date of enactment of this act" added onto section 501(a).

I understand that language is in the bill.

Mr. HOLLINGS. That is correct. That is the way the amendment is reported.

Mr. PELL. Before accepting it, I would defer to the ranking minority manager of the bill.

Mr. JAVITS. Mr. President, as I understand it, this commission is a commission composed of Members of Congress and is limited for a period of 3 years.

In a sense, it tends to deal with the jurisdiction which should be that of the Foreign Relations Committee and, I think they call it, the Foreign Affairs Committee in the House.

But in view of the unusual circumstances which are here involved and the fact that we will be going to conference with the House, I see no objection to accepting it.

Mr. HOLLINGS. Wait a minute.

Mr. President, I do not know what this conference with the House is all about. I want to make the record perfectly clear. I have talked and worked in good faith with Senator CHURCH and the director, and others, of the Foreign Relations Committee.

I was told last week they would agree to this amendment. I was told today they would agree to this amendment, and I do not want any monkeyshines in conference. If the Senator wants to have a full vote, I can get an overwhelming vote for this commission. I do not want to act as though this is a little sop to make a political record for the Senator from South Carolina.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. JAVITS. I hope the Senator will not jump at conclusions so fast about sops, and so on. The Senator is welcome to his vote, and I will vote with him. But what is so great about that?

Mr. President, this says that six members would be Members of the House of Representatives, to be appointed by the Speaker.

Mr. HOLLINGS. Right.

Mr. JAVITS. All I had in mind was that they would have an opportunity to examine this and see if it is agreeable to them, too. That is their pigeon, not ours.

Mr. HOLLINGS. I agree with that.

Mr. JAVITS. I have no quarrel with the Senator or his provision, and I wish the Senator would not jump at conclusions about me so fast. I am not given to giving sops or receiving them.

Mr. HOLLINGS. Well, I have been asked by the committee's staff member for three sops within the last hour with respect to the Helms amendment; and when I heard the Senator speak the way he did, I could not think of it as anything other than a sop; because it was said, "If we go along, will you do this, and if we go along, will you do that?"

I am trying to do a substantive thing. I am trying to carry out the intent of the Foreign Relations Committee and the intent of Congress.

As the Senator says, the House could disagree and turn it down. I thought I had the leader of the bill; I thought I had Senator CHURCH. But when I hear someone say, "I don't know about this. Helsinki is different," and someone else says something about weak words when we get to conference, that is why I react the way I do.

Mr. PELL. Mr. President, when we go to conference, no matter whether we think it is different or not, or whether we personally agree or do not agree, we have an obligation to have the act prevail. If I am in that conference, that is my intent, whether I agree or not.

Mr. HOLLINGS. I appreciate the Senator acknowledging that, because we get shaky in the saddle.

I have worked with conference committees, and there is one particular committee in the Senate that has a very common habit—the Finance Committee—of taking any and all amendments.

So I say to the Senator that he should not act as though I am acting strangely, because I have seen this done, and some here are members of the Finance Committee. They will take the amendments and say, "Senator, we'll let you make your talk, but we're not going to stand for that 5 minutes in the conference."

I just wanted that understood clearly. While I agreed to a voice vote and waited to the end, to be courteous to everybody, we can get into this debate and debate all Monday and all Monday night and make absolutely sure that it is brought home to my colleagues. I have been working with Senator GLENN and his staff. We put this amendment off, trying to work it out, in deference to the unanimous vote of the Foreign Relations Committee, in being accommodating and being realistic, and wanting support, also.

But it has to be understood that it is not a political move. We intend, and have those on the House side who fully intend, to keep it there.

Mr. JAVITS. The amendment is acceptable to me, period.

Mr. PELL. Mr. President, I move the acceptance of the amendment of the Senator from South Carolina.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment was agreed to.

Mr. HOLLINGS. I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 33

(Purpose: To construe the Taiwan Enabling Act with respect to the continued membership of the people on Taiwan in certain international organizations)

Mr. HOLLINGS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) proposes an unprinted amendment numbered 33:

On page 15, between lines 4 and 5, insert the following:

SEC. 115. Nothing in this Act may be construed as a basis for supporting the exclusion or expulsion of the people on Taiwan from continued membership in any international financial institution or any other international organization.

Mr. HOLLINGS. Mr. President, I do not know at this point whether this amendment is acceptable to the Foreign Relations Committee. It is worded in the negative. I reworded it from the original amendment I had, with the understanding that what we want is that nothing be done by the Congress of the United States in this particular bill to rue out membership by the people of Taiwan in the World Bank, in the Asian Development Bank, and the International Monetary Fund.

There was a UPI report relative to the visit of our distinguished Secretary of the Treasury to the People's Republic of China, to the effect that the authorities there were pressuring him to help bring about the dismissal of the people of Taiwan from the World Bank and these other international institutions.

That is of tremendous concern to those who want to continue the constancy and uninhibited commercial relations between the United States and the people of Taiwan. I thought that should be spelled out at least in the sense that it is certain that we do not want to evict them from these institutions. Many of the guarantees, many of the business relationships we have, and many of the construction and trade agreements and everything else are based on those guarantees and loans by the Asian Development Bank, the International Monetary Fund, and the World Bank.

I will wait to hear whether we will debate it further and what the disposition of the Foreign Relations Committee is.

Mr. CHURCH. Mr. President, I think this amendment belongs in the bill, and I am happy to accept it.

Mr. HOLLINGS. I thank the distinguished chairman of the Foreign Relations Committee.

Mr. JAVITS. Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 34

Mr. McCLURE. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 34.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15, line 4, insert a new section as follows:

"Nothing in this Act, nor the facts of the President's action in extending diplomatic recognition to the People's Republic of China, the absence of diplomatic relations between the people on Taiwan and the United States or the lack of recognition by the United States, and attendant circumstances thereto, shall be construed in any administrative or judicial proceeding as a basis for any United States Government agency, commission or department to make a finding of fact or determination of law under the Atomic Energy Act of 1954, as amended, and the Nuclear Nonproliferation Act of 1978, to deny an export license application or to revoke an existing export license for nuclear exports to the people on Taiwan.

Mr. McCLURE. Mr. President, this amendment deals with the provisions of S. 245 and the current status of Taiwan and their relationship to continued, uninterrupted cooperation with Taiwan in the peaceful uses of atomic energy under the Atomic Energy Act and the Nuclear Nonproliferation Act of 1978. I have reviewed the actions of the Foreign Relations Committee and the reported bill, as they may bear on such continued, uninterrupted cooperation, and I am convinced that further clarification and perfection of the bill to insure that cooperation is appropriate and, in fact, may be absolutely necessary. I am anxious to work closely with you and the committee to that end.

Nuclear power development on Taiwan under the 1972 Agreement for Cooperation with the United States has been aggressively pursued. Taiwan has an advanced nuclear power research program and it is becoming increasingly dependent on nuclear power for electric generation. Six nuclear power reactors are in various stages of design, construction, and operation, and they will provide over 10,000 Mwe power by mid-1985. Four additional reactors are scheduled to begin operation later in the 1980's, and nuclear power by 1990 will provide about 50 percent of Taiwan's electrical capacity. Also, pending before the Nuclear Regulatory Commission at this time are seven license applications for two reactors (pending for almost a year), critically required fuel and other materials. Obviously, then, continued, uninterrupted U.S. cooperation is an essential element of Taiwan's economic future, as well as our good-faith relationship with the Taiwan people. Also, as you know, the United States has played a key role in the development of this nuclear power capacity within the context of a renewed commitment to peaceful uses only of nuclear power, and strict adherence to nonproliferation requirements, in the context of our mutual nonproliferation objectives. Continued, uninterrupted cooperation, therefore, is absolutely essential for both Taiwan and the United States.

I reviewed and analyzed in detail the reported bill, S. 245, after it was reported, and I was convinced that, in the absence of further amendment and additional legislative history, the U.S. cooperation with Taiwan in peaceful uses of atomic energy could be interrupted and seriously jeopardized. I based that conclusion, not on the failure of the committee to address responsibly the general legal situation, but rather on the intricacies and complexities of our domestic licensing law in the Nuclear Regulatory Commission under the Nuclear Nonproliferation Act of 1978. I also based that conclusion on the January 30, 1979 Memorandum to the Nuclear Regulatory Commission's General Counsel on the subject of "Legal Issues Arising from the United States' New China Policy" and the Nuclear Regulatory Commission's General Counsel's letter of February 15, 1979 to House Foreign Affairs Committee Chairman Zablocki on the same subject. In fact, I want to commend the Foreign Relations Committee for concerted efforts to deal constructively and responsibility with the virtual Gordian knot of legal technicalities resulting from the administration's actions in recognizing the People's Republic of China as the sole legal authority for mainland China and Taiwan, and derecognizing the Republic of China.

The possibility of difficulties under the adopted bill flow from the very specific findings of fact and law that must be made by the Nuclear Regulatory Commission under the Nuclear Nonproliferation Act. As was demonstrated graphically in the Tarapur, India, export case last year, and may be repeated again on the next export license for Tarapur now pending in the Nuclear Regulatory Commission, those required findings of fact and law can and have been rejected on both narrow legal technicalities and virtually unbounded speculation. My strong opinions on the Tarapur case and the outright rejection of the clear congressional intent for continued exports to India under phase I safeguards was documented in my testimony before the Foreign Relations Committee on May 24, 1978 in the hearing on that case. For instance, I am convinced that the recognition of the People's Republic of China as the sole legal authority for Taiwan, as well as the mainland, and the arguable U.S. position that the People's Republic of China eventually and ultimately will be constituted as de facto, as well as de jure governmental authority on Taiwan, could and probably would be argued as the basis for rejection of the required findings for the pending reactor and fuel licenses. Also, the legal arrangements under the bill for the American Institute on Taiwan and its nongovernmental, corporate counterpart in Taiwan probably would be argued as not satisfying the exact requirements for the specific findings of fact and law. Additionally, there are a series of sensitive matters related to our formal cooperation with Taiwan dealing with exports and nonproliferation that must be covered fully under the reported bill, but which also could be jeopardized in the Nuclear Regulatory Commission in the absence of further clarification and perfection of the bill. I have taken the liberty of sharing these views with several senior administration officials in the nuclear power area, and they share my conclusions and very serious concern about continued, uninterrupted cooperation with Taiwan.

It obviously would be extremely unfortunate if Congress enacted a statute which generally purports to preserve all of our ongoing commercial, cultural and other relationships with Taiwan, but was immediately followed by an effective legal embargo on nuclear exports. We already have experienced that same unfortunate result with India after passage of the Nuclear Nonproliferation Act last year, and we also had an extended legal embargo of our European allies in EURATOM, under the act. Recognizing the critical and immediate importance of this matter, and its extreme sensitivity, I am convinced that we must act to insure that the enacted bill directly preserves, as a matter of clearly predictable law, our nuclear cooperation with Taiwan. As I mentioned, I have concluded that an amendment will be appropriate and probably necessary to achieve that goal.

Mr. President, once I concluded that action was appropriate on this issue, I approached last week the chairman of the Foreign Relations Committee, my colleague from Idaho, with my conclusions and recommendations. We have proceeded over the last week to work closely and cooperatively together on this issue, with the State Department and our respective staffs to develop a mutually-agreeable approach to resolving the issue. The pending amendment is the product of our cooperative efforts. I thank him, his committee staff, and the State Department for their assistance and cooperation in fashioning the required clarification and perfection of the bill on this issue.

Let me turn now to the details of the amendment. The effect of the amendment will be to state expressly in the statute that this act is intended to and shall be construed in any administrative or judicial proceeding as providing the full legal basis, in terms of the continuing legal relationships betweeen the United States and the people on Taiwan, to satisfy all statutory requirements and criteria for nuclear exports under the Atomic Energy Act of 1954, as amended, and the Nuclear Nonproliferation Act of 1978, and thereby insure the continued legal basis for full, uninterrupted cooperation in the peaceful uses of atomic energy between the United States and the people on Taiwan pursuant to the 1972 Agreement for Cooperation, as amended, and any other applicable agreements, notwithstanding: First. The President's action in extending diplomatic recognition to the People's

Republic of China, the President's action in withdrawing diplomatic recognition from the Republic of China, and attendant circumstances; nor, second, the operation of any specific provisions of this Act, such as those dealing with the American Institute on Taiwan or its counterpart instrumentality representing the people on Taiwan. That effect is achieved by stating affirmatively that the facts of the People's Republic of China recognition and the derecognition of the Republic of China, and attendant facts shall be legally irrelevant in any proceeding dealing with nuclear exports and other forms of cooperation under the Atomic Energy Act and the Nuclear Nonproliferation Act, and also that the procedures under S. 245 for continued cooperation with Taiwan through the American Institute on Taiwan and its counterpart instrumentality shall satisfy the procedural requirements of those acts.

The Amendment also states that nothing in S. 245 on the facts of the status changes for the People's Republic of China or the Republic of China can be used as a legal basis to deny an export license application, revoke an existing license, or disapprove other authorized forms of cooperation. These parallel affirmative and negative formulations in the Amendment will leave no room for the types of interpretation suggested in the Nuclear Regulatory Commission's General Counsel's Memorandum of January 30, 1979 or his letter of February 15, 1979. Also, this formulation should foreclose as a matter of law the type of creative misinterpretation which formed the basis for the opinion of Commissioners Bradford and Galinsky in the Tarapur case last year.

Several additional matters are relevant at this point. This Amendment and the related provisions of the bill will insure full, continued cooperation with Taiwan. That cooperation legally can include government-to-government transfers under section 54, 64, and 111 of the Atomic Energy Act (section 301 of the Nuclear Nonproliferation Act), technology transfers under section 57B (section 302 of the Nuclear Nonproliferation Act), subsequent arrangements under section 131 (section 303 of the Nuclear Nonproliferation Act), export licensing under sections 126, 127, 128, 129, 130, and 109 (sections 304 through 309 of the Nuclear Nonproliferation Act), and other authorized forms of cooperation under the provisions of the Atomic Energy Act and the Nuclear Nonproliferation Act.

All of these specific forms of cooperation shall continue through and by the American Institute on Taiwan and the counterpart instrumentality on Taiwan. The legally-satisfactory, specific procedures for that cooperation, pursaunt to this amendment and the other provisions of this bill, will be in the following form:

SUMMARY OF NUCLEAR EXPORT PROCEDURES APPLICABLE TO THE PEOPLE ON TAIWAN UNDER S. 245

Section 101 (a) provides that whenever any law, regulation, or order the U.S. refers or relates to a foreign "nation", or uses another such similar term, such term shall include, and such law, regulation or order shall apply with respect to, the People on Taiwan. In this regard the Foreign Relations Committee report on the Act (Report No. 96-7, 96th Congress, 1st session) indicates that Section 101 (a) continues the eligibility of the people on Taiwan under the Atomic Energy Act of 1954.

The Atomic Energy Act of 1954, as most recently amended by the Nuclear Non-Proliferation Act of 1978 (NNPA), contains numerous provisions relating to nuclear cooperation with foreign "nations". For example, Section 123 of the Atomic Energy Act, as amended, requires an agreement for cooperation with a "nation" before certain specified cooperation may be undertaken. Section 127 establishes criteria that must be met by nations for nuclear export. Such provisions, under Section 101 (a) of the Taiwan Enabling Act (TEA), would be applicable to the people on Taiwan.

Section 104 of the proposed TEA confirms that all treaties and other international agreements entered into between the U.S. and the government recognized as the Republic of China prior to January 1, 1979, and in force until December 31, 1978, shall continue in force unless and until terminated in accordance with law. In accordance with this provision, the agreement for cooperation with Taiwan and any other applicable international agreements in the nuclear field continue in force. Under Section 123 of the Atomic Energy Act, as amended, agreements for cooperation are prerequisite for certain nuclear cooperation. Section 405(a) of the NNPA of 1978 confirms the authority to continue coperation under agreements entered into prior to enactment of that Act. Section 104 of S. 245 makes clear this applies in the case of Taiwan.

Section 105 of the proposed TEA provides for the continuance of programs, transactions and other relations with respect to the people on Taiwan in accordance with applicable laws in the U.S. The Foreign Relations Committee report makes clear that this will assure continuation of authority for nuclear exports. Thus, this provision reconfirms that nuclear programs, transaction and relations with Taiwan may continue in accordance with law.

Section 106 (a) of the proposed TEA provides that programs, transactions, and other relations shall, in the manner and to the extent directed by the President be carried out or through the American Institute in Taiwan (AIT). In connection with this provision, it is anticipated that the President will direct that nuclear programs, transactions and other relations be carried out by or through the AIT.

Section 108 of the TEA empowers the AIT, in the manner and to the extent directed by the President, to enter into, perform, enforce, or have in force agreements or arrangements relative to the people on Taiwan. In connection with this provision, it is anticipated that the President will direct that agreements or arrangements in the nuclear field be entered into, performed, enforced or considered to be in force by all through the AIT. Thus, pursuant to this section (and to Section 405 (a) of the NNPA, mentioned above), the current nuclear cooperation agreement with Taiwan remains in force and valid authority for exports thereunder. Further, Section 404 (a) of the NNPA requires the President to seek to renegotiate such agreements. Section 108 of S. 245 makes clear that the AIT may conduct such renegotiation. Further the AIT will be able to perform, on behalf of the U.S. or any Department or Agency or enforce agreements or other arrangements relative to the people of Taiwan.

Section 109 of the proposed TEA provides that any performance, communication, assurance, undertaking or other action on behalf of the people on Taiwan shall be rendered, in the manner and to the extent directed by the President, through an instrumentality established by the people on Taiwan. In connection with this Section, it is noted that Taiwan has announced the establishment of the Coordination Council for North American Affairs (CCNAA) to act as this instrumentality. It is anticipated that the President will direct that performance, communication, assurances, undertakings and other actions in the nuclear area be rendered or provided to or received or accepted from the CCNAA. Proposed Section 109 authorizes this to be done on behalf of the U.S. or any department or agency. Thus, assurance that a proposed export is subject to the U.S.-Taiwan Agreement for Cooperation may be provided by and received from the CCNAA. Further, any clarification or assurance required during the process of export license applications would be obtained from the CCNAA.

Section 401(c) of the proposed TEA indicates that agreements and transactions made by or through the Institute shall be subject to the same congressional notification, review and approval requirements and procedure as if such agreements are made by or through the Department or Agency of the U.S. on behalf of which the Institute is acting. The Senate Foreign Relations Committee report indicates that this provision insures that procedures parallel to currently applicable procedures for agreements for cooperation under Section 123 of the Atomic Energy Act will apply.

Within this framework, the same procedures established by the NNPA, the Nuclear Regulatory Commission's regulations contained in 10 CFR Part 110, and the Executive branch procedures published at 43 Federal Register 25326-30 will apply. These procedures are described in Chapter IX of the First Annual Report of the President to the Congress pursuant to Section 601 of the NNPA.

The procedural variance in the application of the procedures is that we envisage that the CCNAA will act, in all respects, on behalf of the people on Taiwan in the export process. To the extent that the USG must deal with, seek assurances from, or receive assurances from the CCNAA, the USG will act through the AIT.

Thus, the export licensing process for source or special nuclear material or production or utilization facilities would be as follows:

The process is initiated when the U.S. company that is either the shipper of the source or special nuclear material or the exporter of the production or utilization facility submits an application for an export license to the NRC. The Commission then requests the Executive branch analysis and judgment provided for in Section 126 of the Atomic Energy Act, as amended.

In preparing this judgment, the Executive branch would seek, in accordance with Section 1 (c) of Part B of the Executive Branch Procedures, confirmation that the export would be subject to the terms and conditions of the U.S.-Taiwan Agreement for Cooperation, that the consignee is authorized to receive the export, and that adequate physical security measures will be maintained. Since it is the task of the Department of Energy to obtain this confirmation, the Department of Energy would submit the request to the AIT which would transmit it to the CCNAA. The confirmation of the CCNAA on behalf of the people of Taiwan would be transmitted back to the Department of Energy by the AIT and would in all respects satisfy the requirements of law.

The Executive branch judgment and analysis would deal with the criteria specified by law and would, in addition, transmit to the NRC this confirmation.

When the NRC receives the Executive branch judgment and analysis, the export license application would, in all respects, be treated as any other similar application. If during the course of either NRC or Executive branch consideration of an export license application concerning Taiwan there arose a need to seek further assurances or obtain further information, the request would be transmitted by the Department of State through the AIT to the CCNAA, which would provide the necessary assurances or information.

The procedure that I have outlined here is the complete and adequate basis for the Nuclear Regulatory Commission to make all the findings with regard to the continuation of the Agreement for Cooperation under section 123, including section 126a(2) and section 53a and section 103d requirements of the Atomic Energy Act of 1954, as amended, along with other relevant sections of that act. Therefore, it is clear to me that the full intent of the Senate in adopting this amendment is to insure that the 1972 Agreement for Cooperation with Taiwan, as amended, has been and remains fully in force. Furthermore, the Tri-Lateral Agreement between the United States, the IAEA, and the Taiwan authorities is fully preserved by this amendment and the act and remains fully in force.

On the basis of the content of the Taiwan Enabling Act, it is my belief and clear understanding that the Nuclear Regulatory Commission can make all of the necessary findings without the required amendment to the Nuclear Regulatory Commission regulations once the President has used his authority under the act to direct the appropriate procedure.

The continued approval of exports to the people of Taiwan is not dependent upon the continuation of the IAEA Tri-Lateral Agreement for Cooperation with the United States and Taiwan because the safeguards necessary to satisfy Criterion 1 of section 128 of the Atomic Energy Act of 1954, as amended, can be met under the Bi-Lateral Agreement for Cooperation between the United States and Taiwan. This is so because Criterion 1 in the statute only requires that the IAEA safeguards or their equivalent must be maintained. Fully equivalent safeguards may be provided by and carried out under the control of the American Institute on Taiwan with Nuclear Regulatory Commission or Department of Energy personnel for satisfying the requirements of the Nuclear Regulatory Commission. This approach should be wholly adequate to maintain adequate safeguards over U.S. exports and technology in the unlikely event that the IAEA Tri-Lateral Agreement is suspended.

In case there is any doubt, it is my belief and intent that the amendment makes it clear that physical security inspections pursuant to IAEA procedures and required by Criterion III of section 127 of the Atomic Energy Act of 1954, as amended, can be met through assurances and inspections provided by the American Institute on Taiwan and that the Nuclear Regulatory Commission should find those assurances and inspections by the American Institute on Taiwan to be acceptable for meeting the requirements of the Atomic Energy Act of 1954, as amended.

I have also considered the requirement for the Nuclear Regulatory Commission to find that an export is not inimicable to the common defense and security of the United States in approving exports, and I have, in drafting the amendment, clearly intended to address that issue. It is my intent that the Nuclear Regulatory Commission shall not consider that extension of recognition of the People's Republic of China or the absence of diplomatic relations between the people on Taiwan and the United States as cause for establishing any differences in circumstances per se for its findings on the issue of inimicality to the common defense and security of the United States with regard to nuclear exports to the people on Taiwan.

It is also my intent by offering this amendment that the scope of the amendment not only apply to export licenses and applications, but also any other authorized form of cooperation with the people on Taiwan in the peaceful uses of atomic energy pursuant to both the Atomic Energy Act of 1954, as amended, and the Nuclear Nonproliferation Act of 1978. For instance, the amendment contemplates that there will be no change in law or circumstance with regard to processing applications for government-to-government transfer, technology transfers and subsequent arrangements among others.

● Mr. STONE. Mr. President, I respectfully request to join as a cosponsor of the amendment offered by the distinguished Senator from Idaho. This amendment makes absolutely clear that the ending of formal, diplomatic relations between the United States and the Republic of China and the enactment of pending legislation shall not, in any way, interfere with the present procedures, agreements, or arrangements in the future between the United States and the Republic of China with respect to cooperation in the peaceful uses of atomic energy pursuant to the Atomic Energy Act of 1954.

Mr. President, while S. 245 and the committee report, as reported by the Senate Foreign Relations Committee make clear that the Republic of China will constitute a "nation" under the Atomic Energy Act of 1954 and would be eligible for continued full cooperation under that act, S. 245 establishes such an unusual and unprecedented framework for the relationship between our country and another country; namely, the Republic of China, that I think this amendment is necessary to remove any ambiguity as to the intention of Congress that the Nuclear Regulatory Commission proceed as usual in considering present and future nuclear export arrangements between the United States and the Republic of China and that neither the President's action in recognizing the People's Republic of China nor the absence of diplomatic relations between the Republic of China and the United States shall be legally relevant in any proceedings or procedures pursuant to the Atomic Energy Act.

Mr. President, my concern about this matter is evidenced by a letter which I wrote to the Chairman of the Nuclear Regulatory Commission, to which I have not yet received a reply. I ask that the text of my letter be printed at this point in the Record.

The letter follows:

FEBRUARY 14, 1979.

Chairman JOSEPH HENDRIE,
U.S. Nuclear Regulatory Commission, Washington, D.C.

DEAR CHAIRMAN HENDRIE: The Senate Foreign Relations Committee is soon to markup the Administration's proposed legislation under which commercial relations with the Republic of China are to be continued. This draft legislation in Title I is designed to implement the President's stated intent that all existing commercial relations are to be continued. However, in view of the importance of American nuclear exports to the Taiwan economy and to our nuclear industry, I should like to receive the specific assurance of the Commission that under this proposal nuclear export licensing will continue in accordance with the existing Agreement for Cooperation between the United States and the Republic of China on Taiwan, and that the U.S. commitment to the reliable supply of nuclear goods and services under this Agreement is promptly reaffirmed. For this reason, I am soliciting your early agreement to the following:

That Taiwan, or that the People of Taiwan, meet the criteria and standards required for nuclear cooperation under the Nuclear Non-Proliferation Act of 1978;

That the Nuclear Regulatory Commission will be able to resume nuclear export licensing under the existing Agreement immediately following passage of the Administration's enabling legislation;

That the Commission does not foresee any legal problems under the Atomic Energy Act that may require a legislative solution to permit continued nuclear cooperation with the People of Taiwan.

Your early response to these inquiries will be greatly appreciated.

Most cordially,

RICHARD (DICK) STONE.●

Mr. McCLURE. Mr. President, will the floor manager of the bill, the chairman of the committee, agree with me that the provisions of S. 245 before the Senate are intended to continue the full cooperation in the peaceful uses of atomic energy, pursuant to the Atomic Energy Act of 1954, as amended, and the Nuclear Nonproliferation Act of 1978, which existed before January 1, 1979?

Mr. CHURCH. I agree completely that the provisions of the bill are intended to achieve that result, and I would invite the attention of my colleague to the following passages in the Foreign Relations Committee report on the bill. In the discussion of subsection 101(a), on page 23 of the report, it is expressly stated that the people on Taiwan will constitute a "nation" under the Atomic Energy Act of 1954, thus continuing the eligibility of the people on Taiwan for full cooperation under that act, and, as a result, the Nuclear Nonproliferation Act. The discussion of section 105, on page 25, makes specific reference to the assured continuation of authority for nuclear exports.

The discussion of section 109, on page 27, discusses as an example how the Arms Export Control Act is intended to operate, under the provisions of this bill, through the American Institute on Taiwan and the counterpart instrumentality established by the people on Taiwan. The procedures for the Arms Export Control Act would be analogous to those for the Nuclear Nonproliferation Act, and would be intended to satisfy the requirements of the latter act. Also, the discussion of subsection 401(c), on page 39, expressly states that the procedures of section 123 of the Atomic Energy Act, which was amended by the Nuclear Nonproliferation Act, for review and approval of agreements for cooperation in the peaceful uses of atomic energy shall continue to apply to such agreements with the people on Taiwan by or through the American Institute on Taiwan. In summary, it is the committee's clear intent that the provisions of the bill apply directly to the cooperation with the people on Taiwan in the peaceful uses of atomic energy and assure the predictable continuation of that cooperation.

Mr. McCLURE. The House Foreign Affairs Committee report on the companion legislation, H.R. 2479, on page 10, indicates that—

> The bill does not affect the future resolution of legal issues based on changed circumstances; it simply makes the fact of derecognition irrelevant to the resolution of those issues. For example, under this section, the Nuclear Regulatory Commission will be able to make the required findings and determinations under the Atomic Energy Act of 1954, as amended, in order to permit continued nuclear exports to Taiwan, and derecognition will not constitute a basis for not making those findings and determinations. At the same time, nothing in this bill will prevent the Commission from taking into account subsequent changes in circumstances in its application of the statutory criteria.

Also, the House report on page 8 states that—

> In other words, derecognition is to be legally irrelevant in deciding issues involving Taiwan under United States law. In particular, this section preserves the rights and obligations of Taiwan under United States law.

Is it correct to say that the intent of the Foreign Relations Committee and the provisions of S. 245 are consistent with that expressed House Committee position.

Mr. CHURCH. Yes; the committee intends that the provisions of S. 245 will lead to the same result in that regard, as the expressed House committee position. In effect, the operation of this bill is intended to satisfy fully the procedural requirements of the Atomic Energy Act and the Nuclear Nonproliferation Act, and further, the facts of the President's action in recognizing the People's Republic of China, the absence of diplomatic relations between the people on Taiwan and the United States or the lack of recognition by the United States, and the attendant circumstances thereto will be legally irrelevant in any administrative or judicial proceeding dealing with nuclear export license applications or other authorized forms of cooperation in the peaceful uses of atomic energy with the people on Taiwan. So, this bill and our intent are consistent with the House companion bill and the House committee position in this regard.

Mr. McCLURE. With regard to the specific, step-by-step procedures for nuclear exports and other authorized forms of cooperation in atomic energy, would you agree that the provisions of this bill provde all of the necessary authority to continue those exports and other authorized forms, and further that those procedures under the provisions of this bill are intended to satisfy the requirements of the Atomic Energy Act and the Nuclear Nonproliferation Act?

Mr. CHURCH. Yes; S. 245 clearly provides the authorities necessary for the U.S. Government and the people on Taiwan to continue procedurally that cooperation, including nuclear exports and other authorized forms, by and through the American Institute on Taiwan and the counterpart instrumentality established by the people on Taiwan. Further, it is the clear intent of the bill that those procedures by and through the Institute and the counterpart instrumentality shall satisfy any procedural requirements of the Atomic Energy Act or the Nuclear Nonproliferation Act for such cooperation, as mentioned earlier. Procedurally, this is how it would be done.

SUMMARY OF NUCLEAR EXPORT PROCEDURES APPLICABLE TO THE PEOPLE ON TAIWAN UNDER S. 245

Section 101(a) provides that whenever any law, regulation, or order the United States refers or relates to a foreign "nation," or uses another such similar term, such term shall include, and such law, regulation or order shall apply with respect to, the people on Taiwan. In this regard the Foreign Relations Committee report on the Act (Report No. 96-7, 96th Congress, 1st session) indicates that section 101(a) continues the eligibility of the people on Taiwan under the Atomic Energy Act of 1954.

The Atomic Energy Act of 1954, as most recently amended by the Nuclear Nonproliferation Act of 1978 (NNPA), contains numerous provisions relating to nuclear cooperation with foreign "nations." For example, section 123 of the Atomic Energy Act, as amended, requires an agreement for cooperation with a "nation" before certain specified cooperation may be undertaken. Section 127 establishes criteria that must be met by nations for nuclear export. Such provisions, under section 101(a) of the Taiwan Enabling Act (TEA), would be applicable to the people on Taiwan.

Section 104 of the proposed TEA confirms that all treaties and other international agreements entered into between the United States and the government recognized as the Republic of China prior to January 1, 1979, and in force until December 31, 1978, shall continue in force unless and until terminated in accordance with law. In accordance with this provision, the agreement for cooperation with Taiwan and any other applicable international agreements in the nuclear field continue in force. Under section 123 of the Atomic Energy Act, as amended, agreements for cooperation are prerequisite for certain nuclear cooperation. Section 405(a) of the NNPA of 1978 confirms the authority to continue cooperation under agreements entered into prior to enactment of that act. Section 104 of S. 245 makes clear this applies in the case of Taiwan.

Section 105 of the proposed TEA provides for the continuance of programs, transactions and other relations with respect to the people on Taiwan in accordance with applicable laws in the United States. The Foreign Relations Committee report makes clear that this will assure continuation of authority for nuclear exports. Thus, this provision reconfirms that nuclear programs, transactions, and relations with Taiwan may continue in accordance with law.

Section 106(a) of the proposed TEA provides that programs, transactions, and other relations shall, in the manner and to the extent directed by the President be carried out or through the American Institute in Taiwan (AIT). In connection with this provision, it is anticipated that the President will direct that nuclear programs, transactions, and other relations be carried out by or through the AIT.

Section 108 of the TEA empowers the AIT, in the manner and to the extent directed by the President, to enter into, perform, enforce, or have in force agreements or arrangements relative to the people on Taiwan. In connection with this provision, it is anticipated that the President will direct that agreements or arrangements in the nuclear field be entered into, performed, enforced, or considered to be in force by all through the AIT. Thus, pursuant to this section (and to section 405(a) of the NNPA, mentioned above), the current nuclear cooperation agreement with Taiwan remains in force and valid authority for exports thereunder. Further, section 404(a) of the NNPA requires the President to seek to renegotiate such agreements. Section 108 of S. 245 makes clear that the AIT may conduct such renegotiation. Further the AIT will be able to perform, on behalf of the United States or any department or agency or enforce agreements or other arrangements relative to the people on Taiwan.

Section 109 of the proposed TEA provides that any performance, communication assurance, undertaking or other action on behalf of the people on Taiwan shall be rendered, in the manner and to the extent directed by the President, through an instrumentality established by the people on Taiwan. In connection with this section, it is noted that Taiwan has announced the establishment of the Coordination Council for North American Affairs (CCNAA) to act as this instrumentality. It is anticipated that the President will direct that performance, communication, assurances, undertakings, and other actions in the nuclear area be rendered or provided to or received or accepted from the CCNAA. Proposed section 109 authorizes this to be done on behalf of the United States or any department or agency. Thus, assurance that a proposed export is subject to the United States-Taiwan Agreement for Cooperation may be provided by and received from the CCNAA. Further, any clarification or assurance required during the process of export license applications would be obtained from the CCNAA.

Section 401(c) of the proposed TEA indicates that agreements and transactions made by or through the Institute shall be subject to the same congressional notification, review and approval requirements and procedure as if such agreements are made by or through the department or agency of the United States on behalf of which the Institute is acting. The Senate Foreign Relations Committee report indicates that this provision insures that procedures parallel to currently applicable procedures for agreements for cooperation under section 123 of the Atomic Energy Act will apply.

Within this framework, the same procedures established by the NNPA, the Nuclear Regulatory Commission's regulations contained in 10 CFR part 110, and the executive branch procedures published at 43 Federal Register 25326–30 will apply. These procedures are described in chapter IX of the First Annual Report of the President to the Congress pursuant to section 601 of the NNPA.

The procedural variance in the application of the procedures is that we envisage that the CCNAA will act, in all respects, on behalf of the people on Taiwan in the export process. To the extent that the USG must deal with, seek assurances from, or receive assurances from the CCNAA, the USG will act through the AIT.

Thus, the export licensing process for source or special nuclear material or production or utilization facilities would be as follows:

The process is initiated when the U.S. company that is either the shipper of the source or special nuclear material or the exporter of the production or utilization facility submits an application for an export license to the NRC. The Commission then requests the executive branch analysis and judgment provided for in section 126 of the Atomic Energy Act, as amended.

In preparing this judgment, the executive branch would seek, in accordance with section 1(c) of part B of the executive branch procedures, confirmation that the export would be subject to the terms and conditions of the United States-Taiwan Agreement for Cooperation, that the consignee is authorized to receive the export, and that adequate physical security measures will be maintained. Since it is the task of the Department of Energy to obtain this confirmation, the Department of Energy would submit the request to the AIT which would transmit it to the CCNAA. The confirmation of the CCNAA on behalf of the people on Taiwan would be transmitted back to the Department of Energy by the AIT and would in all respects satisfy the requirements of law.

The executive branch judgment and analysis would deal with the criteria specified by law and would, in addition, transmit to the NRC this confirmation.

When the NRC receives the executive branch judgment and analysis, the export license application would, in all respects, be treated as any other similar application. If during the course of either NRC or executive branch consideration of an export license application concerning Taiwan there arose a need to seek further assurances or obtain further information, the request would be transmitted by the Department of State through the AIT to the CCNAA, which would provide the necessary assurances or information.

At this point in the RECORD, I ask unanimous consent to include a letter from the Department of State confirming the administration's intent to proceed in the manner I have outlined. Again, these procedures are intended, as a matter of law, to satisfy all of the Atomic Energy Act and the Nuclear Nonproliferation Act procedural requirements for continued cooperation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, D.C., March 8, 1979.

Hon. FRANK CHURCH,
Chairman, Foreign Relations Committee, U. S. Senate.

DEAR MR. CHAIRMAN:

This letter is in response to your request for a description of how the Administration expects the proposed Taiwan Enabling Act, S. 245, to be implemented with respect to the processing of nuclear exports. The Department has prepared the enclosed summary document to clarify this matter.

I believe this explanation shows that, under the pending bill, the absence of diplomatic relations will be irrelevant to continued nuclear exports to Taiwan. Apart from the involvement of the American Institute in Taiwan and the Coordination Council for North American Affairs in the procedures, nuclear exports will proceed on the same basis as prior to U.S. normalization of relations with the People's Republic of China.

I hope the enclosed explanation will be helpful to the Senate in its consideration of the proposed legislation.

Sincerely,
DOUGLAS J. BENNET,
Assistant Secretary for Congressional Relations.

SUMMARY OF NUCLEAR EXPORT PROCEDURES APPLICABLE TO THE PEOPLE ON TAIWAN UNDER S. 245

Under the U.S. Atomic Energy Act of 1954, as most recently amended by the Nuclear Non-Proliferation Act of 1978 (NNPA), an "agreement for cooperation" is a prerequisite for the export of nuclear reactors and fuel. Such agreements are concluded in accordance with a procedure established by section 123 of the Atomic Energy Act. Actual exports of reactors and fuel pursuant to such agreements are licensed by the Nuclear Regulatory Commission, after it has received the judgment of the Executive branch on whether the license should be issued. This licensing is done in accordance with substantive export licensing criteria established by law and under procedures established by law, regulations, and Executive branch department and agency procedures.

The United States entered into a nuclear cooperation agreement with the Republic of China in 1955. This agreement, as amended, was superseded by an agreement that entered into force in 1972 and was amended in 1974. Exports of nuclear reactors and fuel have been licensed under these agreements.

With respect to the authority for continued nuclear exports to Taiwan, section 101(a) of the proposed Taiwan Enabling Act S. 245, provides that whenever any law, regulation, or order the U.S. refers or relates to a foreign "nation", or uses another such similar term, such term shall include, and such law, regulation or order shall apply with respect to, the people on Taiwan. In this regard, the Foreign Relations Committee report (Report No. 96–7, 96th Congress, 1st session) indicates that section 101(a) continues the eligibility of the people on Taiwan under the Atomic Energy Act.

Section 104 of S. 245 confirms that all treaties and other international agreements entered into between the U.S. and the government recognized as the Republic of China prior to January 1, 1979, and in force until December 31, 1978, shall continue in force unless and until terminated in accordance with law.

Section 105 of S. 245 provides for the continuance of programs, transactions and other relations with respect to the people on Taiwan in accordance with applicable laws in the U.S. The Foreign Relations Committee report makes clear that this will assure continuation of authority for nuclear exports.

Section 106(a) of S. 245 provides that U.S. Government programs, transactions and other relations with respect to the people on Taiwan shall, in the manner and to the extent directed by the President be carried out by or through the American Institute in Taiwan (AIT).

Section 108 of S. 245 empowers the AIT, in the manner and to the extent directed by the President, to enter into, perform, enforce, or have in force agreements or arrangements relative to the people on Taiwan.

Section 109 of S. 245 provides that any performance, communication, assurance, undertaking or other action on behalf of the people on Taiwan shall be rendered, in the manner and to the extent directed by the President, through an instrumentality established by the people on Taiwan.

The Presidential directives under sections 106, 108 and 109, since provided for by statute, will have the force of law and be binding on all persons and government agencies.

Section 401 (c) of S. 245 indicates that agreements and transactions made by or through the Institute shall be subject to the same congressional notification, review and approval requirements and procedure as if such agreements are made by or through the Department or Agency of the U.S. on behalf of which the Institute is acting. The Senate Foreign Relations Committee report indicates that this provision insures that procedures parallel to currently applicable procedures for agreements for cooperation under section 123 of the Atomic Energy Act will apply.

The Atomic Energy Act contains numerous provisions relating to nuclear cooperation with foreign "nations". For example, section 123 of the Atomic Energy Act requires an agreement for cooperation with a "nation" before certain specified cooperation may be undertaken. Section 127 establishes criteria that must be met by nations for nuclear export. Such provisions, under section 101 (a) of S. 245, wolud be applicable to the people on Taiwan.

In accordance with section 104 of S. 245, and with the stated concurrence of the authorities on Taiwan, the agreement for cooperation with Taiwan and any other applicable international agreements in the nuclear field continue in force. Section 405 (a) of the NNPA confirms the authority to continue cooperation under agreement entered into prior to enactment of that Act. Section 104 of S. 245 makes clear this applies in the case of Taiwan.

Section 105 of S. 245 reconfirms that nuclear programs, transaction and relations with Taiwan may continue in accordance with law.

Under section 106(a) of S. 245, it is anticipated that the President will direct that these nuclear programs, transactions and other relations be carried out by or through the AIT. Transactions by private U.S. firms in nuclear matters would, of course, continue on a direct basic without AIT involvement.

It is further anticipated that the President will, in connection with section 108 of

S. 245, direct that agreements or arrangements in the nuclear field be entered into, performed, enforced or considered to be in force by or through the AIT. Thus, pursuant to this section (and to section 405 (a) of the NNPA, mentioned above), the current nuclear cooperation agreement with Taiwan remains in force and valid authority for exports thereunder. Further, section 404 (a) of the NNPA requires the President to seek to renegotiate such agreements. Section 108 of S. 245 makes clear that the AIT may enter into such an agreement. Further the AIT will be able to perform, on behalf of the U.S. or any department or agency or enforce agreements or other arrangements relative to the people on Taiwan.

Taiwan has announced the establishment of the Coordination Council for North American Affairs (CCNAA) to act as its instrumentality for unofficial dealings on behalf of the people on Taiwan. It is anticipated that the President will, in connection with section 109 of S. 245, direct that performance, communication, assurances, undertakings and other actions in the nuclear area be rendered or provided to or received or accepted from the CCNAA. Proposed section 109 authorizes this to be done on behalf of the U.S. or any department or agency. Thus, assurance that a proposed export is subject to the U.S.-Taiwan Agreement for Cooperation may be provided by and received from the CCNAA. Further, any clarification or assurance required during the process of export license applications would be obtained from the CCNAA.

Within this framework, the same procedure is established by the NNPA, the Nuclear Regulatory Commission's regulations contained in 10 CFR Part 110, and the Executive Branch Procedures published at 43 Federal Register 25326–30 will apply. These procedures are described in Chapter IX of the First Annual Report of the President to the Congress pursuant to section 601 of the NNPA.

The significant variance in the application of the regulations and procedures is that we envisage that the CCNAA will act, in all respects, on behalf of the people on Taiwan in the export process. To the extent that the United States Government must deal with, seek assurances from, or receive assurances from the CCNAA, the United States Government will act through the AIT.

Thus, the export licensing process for source or special nuclear material or production or utilization facilities would be as follows.

The process is initiated when a company that is either arranging for the transport of the source or special nuclear material or is the supplier of the production or utilization facility submits an application for an export license to the NRC. The Commission then requests the Executive branch analysis and judgment provided for in section 126 of the Atomic Energy Act .

In preparing this judgment, the Executive branch would seek, in accordance with section 1 (c) of Part B of the Executive Branch Procedures, confirmation that the export would be subject to the terms and conditions of the U.S.-Taiwan Agreement for Cooperation, that the consignee is authorized to receive the export, and that adequate physical security measures will be maintained. Since it is the task of the Department of Eenrgy to obtain this confirmation, the Department of Energy would submit the request to the AIT which would transmit it to the CCNAA. The confirmation of the CCNAA on behalf of the people on Taiwan would be transmitted back to the Department of Energy by the AIT and would in all respects satisfy the requirements of law.

The Executive branch judgment and analysis would deal with the criteria specified by law and would, in addition, transmit to the NRC this confirmation.

When the NRC receives the Executive branch judgment and analysis, the export license application would, in all respects, be treated as any other similar application. If during the course of either NRC or Executive branch consideration of an export license application concerning Taiwan there arose a need to seek further assurances or obtain further information, the request would be transmitted by the Department of State through the AIT to the CNAA, which would provide the necesary assurances or information.

Mr. McCLURE. A memorandum of January 30, 1979, to the Commissioners of the Nuclear Regulatory Commission from the Commission's General Counsel, Subject: Legal Issues Arising from the United States' New China Policy, raises a series of questions about continued nuclear exports to Taiwan resulting from the January 1, 1979, change in status, including the issue of the legal definition of "nation" in the Atomic Energy Act, the status of the 1972 Agreement for Cooperation, the status of assurances and commitments, the legal import of the People's Republic of China recognition, and other issues. Would you agree that S. 245 addresses and disposes of all of those legal issues, so that cooperation in the peaceful uses of atomic energy, including nuclear exports, can continue, without any legal impediments, as before?

Mr. CHURCH. Yes. S. 245 addresses and dispenses directly of those issues in the January 30 memorandum to insure that there is full legal authority to continue that cooperation, including nuclear exports, and it is our specific intent that the authority shall be used so that continued cooperation will result.

Mr. McCLURE. A letter of February 15, 1979, to Chairman ZABLOCKI of the House Foreign Affairs Committee from the Nuclear Regulatory Commission's General Counsel responded to a series of questions from the chairman on the issue of continued cooperation, including nuclear exports. The letter raised some additional issues regarding the legal import of the status of the people on Taiwan for nuclear export statutory criteria, the legal authority of the American Institute on Taiwan and its counterpart instrumentality, under the Atomic Energy Act and the Nuclear Nonproliferation Act, to procedurally continue cooperation, including nuclear exports, the authority of the President to establish the specific procedures, and other issues. Does S. 245 address and dispose of all the legal issues raised in the February 15, 1979, letter, so that cooperation can continue without any legal impediments, as before?

Mr. CHURCH. Yes. S. 245 addresses and disposes directly of all those issues in the February 15 letter to insure that there is full legal authority to continue that cooperation, including nuclear exports, and it is our specific intent that the authority shall be used so that continued cooperation will result.

Mr. McCLURE. Would you agree, then, that the pending amendment will clarify fully, as a matter of law in the statute, the clear intent of the Congress that all of the aforementioned legal and procedural questions are resolved in the bill and that this bill shall authorize and assure continued cooperation, including nuclear exports?

Mr. CHURCH. I agree completely with your statement of the effect of the amendment and the intent of the Congress in enacting it in this bill.

Mr. McCLURE. It is my intent by offering this amendment that the scope of the amendment not only apply to export licenses and applications, but also technology transfers, subsequent arrangements and any other authorized form of cooperation with the people on Taiwan in the peaceful uses of atomic energy pursuant to both the Atomic Energy Act of 1954, as amended, and the Nuclear Nonproliferation Act of 1978. Is that also your intent in agreeing to accept this amendment?

Mr. CHURCH. Yes; the intent is not to limit the scope of the amendment in a legal sense to only export licenses and applications.

Mr. President, I find this amendment acceptable, and I believe that it clarifies the matter of real importance to the United States in the field of implementing our nuclear policy.

I commend the Senator for offering the amendment.

Mr. President, I move the adoption of the amendment.

Mr. JAVITS. Mr. President, the amendment is acceptable to me, and I am grateful for the explanation about the detail of what the Senator from Idaho intends.

I thank my colleague.

Mr. CHURCH. I thank the Senator from New York.

Mr. McCLURE. I thank the Senator from New York.

Mr. CHURCH. Mr. President, with the support of the ranking minority member, I again move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho.

The amendment was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TAIWAN ENABLING ACT AND THE U.S.-ROC MUTUAL DEFENSE TREATY

• Mr. CRANSTON. Mr. President, today we are considering the Taiwan Enabling Act, S. 245. I support that legislation as an essential part of the process of normalization and the establishment of full diplomatic relations with the People's Republic of China while at the same time maintaining our strong commercial, cultural, and other relations with the people on Taiwan on an unofficial, but no less substantive, basis.

One of the essential acts in the process of normalization of relations with the People's Republic of China was the termination of the mutual defense treaty between the Republic of China on Taiwan and the United States.

The President, on behalf of the United States, has given notice of the termination of that treaty effective December 31, 1979. I personally believe that this action of the President was correct and within his authorized and constitutional powers because article X of the treaty expressly authorizes such termination.

However, the constitutional question of the power of a President to so terminate the mutual defense treaty is the subject of a considerable difference of opinion, including that of two of the most distinguished colleagues in this Senate Chamber. Senator KENNEDY, the distinguished senior Senator from Massachusetts, is of the firm view that President Carter was right in recognizing the People's Republic of China and in giving notice to terminate the mutual defense treaty with Taiwan.

The distinguished senior Senator from Arizona, Senator GOLDWATER, is of the equally firm view that the President does not have the power unilaterally to terminate the mutual defense treaty with the Republic of China, whatever the merits of recognizing the People's Republic of China as the sole legal government of China. Senator GOLDWATER is of the view that the President needs either two-thirds approval of the U.S. Senate or congressional concurrence. This constitutional issue has now been presented by Senator GOLDWATER and some of his colleagues both in the House and Senate to our judicial system for resolution.

Both Senator KENNEDY and Senator GOLDWATER have presented their views in the current issue of the American Bar Association Journal. Senator KENNEDY has written an article supporting his view under the title "Normal Relations with China: Good Law, Good Policy." And Senator GOLDWATER has presented his views immediately following Senator KENNEDY's views in an article entitled "Treaty Termination Is A Shared Power."

Mr. President, I welcome these two articles and their scholarly and succinct presentation of the constitutional questions and public policies involved. I personally believe that Senator KENNEDY's position is the stronger position from the standpoint of constitutional law and history and is the preferable position from the standpoint of the conduct of foreign policy. However, I think it important that each of us consider both sides of this important question.

Mr. President, I ask that the text of the article by the Honorable EDWARD M. KENNEDY and the article by the Honorable BARRY M. GOLDWATER in the February 1979, issue of the American Bar Association Journal be printed in the RECORD.

The articles are as follows:

NORMAL RELATIONS WITH CHINA: GOOD LAW, GOOD POLICY

(By EDWARD M. KENNEDY)

For almost three decades, until the end of 1978, American foreign policy was plagued by an anomaly. Alone among the major nations of the world, the United States had failed to recognize officially a basic fact of international life—that the People's Republic of China effectively governs China's territory and one billion people. But last December 15 President Carter courageously decided to establish diplomatic relations with the People's Republic as of January 1, 1979, and to exchange ambassadors on March 1. He thereby successfully concluded the normalization process begun by President Nixon and Chairman Mao in the 1972 Shanghai communiqué.

At the same time the president notified Peking's rival, the Republic of China on Taiwan, that the United States would terminate diplomatic relations with it. The two competing governments have long held that only one of them can be recognized as the government of China and that Taiwan is a part of China. The president also announced that the United States would give notice on January 1—as it did—of its intention to terminate one year hence the 1954 Mutual Defense Treaty with the government of Taiwan under Article 10 of the treaty.

The United States formerly declared, however, its continued interest in the peaceful resolution of the Taiwan issue and the continuation of commercial, cultural, and other nongovernmental relationships with the people of Taiwan. The Carter administration also provided for Taiwan's future ability to defend itself by making clear that its authorities could continue to purchase selected defensive weapons in the United States.

I welcome and support this decision. It was right in its recognition of the reality of China. It was responsible in its provision for the continuing well-being of the people of Taiwan. It was a well-timed stroke of grand strategy, giving the United States maximum benefit in our triangular relationship with China and the Soviet Union, consolidating the unprecedented process of accommodation among China, Japan, and the United States, and ushering in a new era of cooperation and friendship between the world's most powerful and the world's most populous nations.

In thus establishing a normal and enduring relationship with China, the president enhanced the prospects for peace and prosperity of Taiwan. By changing the form of our relations with the island, the president enhanced their substance and durability. While Peking continues to maintain that Taiwan "is entirely China's internal affair," it has not contradicted the statement that the United States "continues to have an interest in the peaceful resolution of the Taiwan issue and expects that the Taiwan issue will be settled peacefully by the Chinese themselves." In addition, although Premier Hua Kuo-feng registered China's objection to continuing American arms sales to Taiwan, he said that, despite these differing views, "nevertheless the joint communique was reached."

Chinese leaders have often stated their preference for a peaceful resolution of the Taiwan issue, and one can understand why. Peking is preoccupied with the Soviet military threat, and it lacks the military means successfully to invade Taiwan. It is clearly interested in improving its relations with the West, especially the United States and Japan, in order to promote both parallel action to balance Soviet power and cooperative arrangements to modernize its agriculture, industry, technology, and defense. Nothing would more surely jeopardize this vital strategic endeavor than the use of force against Taiwan.

Of course, circumstances may change over time, and it is noteworthy that the United States managed to normalize relations without undermining the legal basis for American action in behalf of Taiwan in the unlikely event that should become necessary. The recent joint communique did nothing to clarify the United States' view of the legal status of the island, which the Shanghai communique left artfully obscure. In the new communique the United States simply "acknowledges the Chinese position that . . . Taiwan is part of China."

This creative ambiguity in our legal position leaves open what actions we might take to assure the peaceful future of Taiwan, just as that question was left open under the new terminating 1954 defense treaty, which provides only the vague assurance that, in the event of attack, the United States will "meet the common danger in accordance with its constitutional processes."

I believe that the combination of improved Sino-American ties, continuing nongovernmental relations with Taiwan (including access to defensive arms), and Washington's statement of interest in a peaceful settlement of the island's future will give Taiwan increased security and prosperity. To help realize this prospect, I intend to join in sponsoring legislation that will facilitate nongovernmental contact with the island and will sustain its well-being.

CAN THE EXECUTIVE TERMINATE THE TREATY ON ITS OWN?

Despite these measures to safeguard the island, some critics have denounced President Carter's normalization decision as a "stab in the back" of Taiwan. Sen. Barry Goldwater and others are now challenging, in the courts as well as in Congress, the presidential notice terminating the defense treaty. They incorrectly argue that the executive lacks authority to terminate the treaty, according to its own terms, without the approval of two thirds of the Senate or a majority of each house of Congress.

I strongly oppose this challenge, which threatens to sidetrack one of the most important foreign policy initiatives of recent history into domestic constitutional controversy. I am confident that this effort will fail, for law, practice, and policy clearly support the president's notice of termination in these circumstances. It is in no one's interest to throw our future relations with Taiwan into legal limbo, instead of assuring the continuity of our relations with the people of that island.

The president might have avoided the constitutional question by simply exercising his unchallenged prerogative to recognize the People's Republic as the government of China and to establish diplomatic relations with it. As demonstrated by the experience of other nations that have switched recognition from Taipei to Peking, this would have led to the lapse of the 1954 defense treaty and of the other bilateral agreements between Washington and Taipei, which Peking has always regarded as invalid, with the Congress then providing for continuing nongovernmental relations with Taiwan. By reiterating its previous declarations that the defense treaty was a nullity, Peking could have left no doubt that the treaty no longer had legal effect, as a consequence of the position of China's new government rather than through a termination decision by Washington.

The president chose, however, to end the defense treaty according to its one-year termination provision and to state that other agreements with the Republic of China on Taiwan endure until replaced by new arrangements with the authorities on the island. Whatever the merits of the latter claim under international law and practice, the president plainly has the independent authority to terminate a treaty according to its notice provision.

Although the Constitution requires the president to obtain the advice and consent of the Senate prior to concluding a treaty, it sets forth no such requirement for terminating a treaty. In approving the 1954 defense treaty with the Republic of China, the Senate might have required the president to obtain the approval of the Senate or Congress prior to termination, but it chose not to do so. The treaty simply provides for termination with one year's notice. In the light of 20th century practice, this plainly confers on the president the power to terminate the treaty at his discretion. In his December 15, 1978, momorandum to Secretary of State Vance, the State Department legal adviser, Herbert J. Hansel, stated categorically that "the president has the authority to decide under the Constitution whether the United States shall give the notice of termination provided for in Article X of the U.S.-R.O.C. Mutual Defense Treaty and to give that notice without congressional or Senate action."

Presidents have given notice of treaty termination independent of the Senate or Congress on 14 separate occasions in our nation's history, and ten of these instances have occurred in the last 50 years:

1815 (Madison). Agreement on annulment of 1782 Treaty of Amity and Commerce with the Netherlands.

1899 (McKinley). Notice of termination of certain articles of 1850 Convention of Friendship, Commerce, and Extradition with Switzerland.

1920 (Wilson). Agreement on termination of 1891 Treaty of Amity, Commerce, and Navigation with Belgium concerning the Congo.

1927 (Coolidge). Notice of termination of 1925 treaty with Mexico on prevention of smuggling.

1933 (Roosevelt). Notice of withdrawal from 1921 multilateral Convention for the Abolition of Imports and Export Prohibitions and Restrictions.

1933 (Roosevelt). Declaration of termination (withdrawn subsequently) of 1931 Treaty of Extradition with Greece.

1936 (Roosevelt). Protocol of termination (withdrawn subsequent) of 1871 Treaty of Commerce and Navigation with Italy.

1939 (Roosevelt). Notice of denunciation of 1911 Treaty of Commerce and Navigation with Japan.

1944 (Roosevelt). Notice of termination of 1929 protocol to Inter-American Convention for Trademark and Commercial Protection.

1948 (Truman). Notice of withdrawal from 1937 multilateral Convention for the Regulation of Whaling.

1954 (Eisenhower). Notice of withdrawal from 1923 Convention on Uniformity of Nomenclature for the Classification of Merchandise.

1962 (Kennedy). Notice of termination of 1902 Convention on Commercial Relations with Cuba.

1965 (Johnson). Notice of denunciation (subsequently withdrawn) of 1929 Warsaw Convention concerning international air travel.

1975 (Ford). Notice of termination of participation in the International Labor Organization.

Especially in the 19th century, presidents occasionally terminated treaties at the direction of or with the prior or subsequent consent of the Senate or the Congress. But this fact in no way negates the president's power to act independently. In modern practice this presidential exercise of independent authority outnumbers the total of all other methods utilized.

Since 1920 only President Hoover and Nixon have not terminated treaties pursuant to a notice provision. All other modern presidents, from Wilson through Carter, have exerted their valid constitutional authority by terminating treaties without formal advice and consent. Their actions have been accepted by the Congress and unchallenged in the courts.

No American judicial decisions directly address the question of the president's right, pursuant to a notice provision, to terminate a treaty without formal congressional approval. Some court cases assume independent presidential power to terminate. In *Charlton* v. *Kelly*, 229 U.S. 447 (1913), for example, the Supreme Court pointed out that it is for the president to determine whether a treaty violation has occurred and, if so, whether termination is warranted. And in *Terlinden* v. *Ames*, 184 U.S. 270 (1902), the Supreme Court held that on the question of whether an American treaty with Prussia survived the formation of the German Empire, the actions of the executive branch and the German government were of controlling importance.

Often the issue of treaty termination is related intimately to the question of recognition of a foreign sovereign and establishment of diplomatic relations, as indeed it is in the case of China, and both questions have been regarded as requiring political judgments that arc within the president's authority.

An overwhelming number of contemporary scholars of international and constitutional law who have considered this question agree that the president has the clear prerogative to give notice of termination, pursuant to a notice provision in a treaty, without the approval of the Senate or the Congress.[1] The American Law Institute takes the same position in Sections 155 and 163 of the Restatement of the Law (Second), Foreign Relations of the United States.

PRESIDENT CAN'T ENTANGLE ALONE, BUT HE CAN DISENTANGLE

Sound historical and policy reasons sustain this conclusion. The framers of the Constitution feared "entangling alliances" and required the president to obtain the advice and consent of two thirds of the Senate prior to concluding a treaty. The framers manifested no similar concern with the president's exercise of discretion to disentangle the nation from alliances, and the Constitution thus imposed no requirement of Senate participation in treaty termination.

In the absence of specific constitutional, treaty, or statutory language restraining the president, it has been understood that he is responsible for determining how to deal with treaties once concluded. For example, in referring to the 1793 Neutrality Proclamation by President Washington and its relation to American treaties with France, Alexander Hamilton wrote that "treaties can only be made by the President and Senate jointly; but their activity may be continued or suspended by the president alone." Hamilton, incidentally, made this statement with specific reference to a situation almost identical to that involved in normalization with China.

He wrote, as quoted in Letters of Pacificus and Helvidius on the Proclamation of Neutrality of 1793:

"The right of the executive to receive ambassadors and other public ministers, may serve to illustrate the relative duties of the executive and legislative departments. This right includes that of judging, in the case of a revolution of government in a foreign country, whether the new rulers are competent organs of the national will, and ought to be recognized, or not; which, where a treaty antecedently exists between the United States and such nation, involves the power of continuing or suspending its operation. . . .

"This power of determining virtually upon the operation of national treaties, as a consequence of the power to receive public ministers, is an important instance of the right of the executive to decide upon the obligations of the country with regard to foreign nations."

Despite the fact that the president's independent power to terminate treaties is well-established, supported decisively by modern practice, and accepted by the Congress and most scholars, Senator Goldwater now seeks to challenge it. Because the president, especially in the nineteenth century, occasionally terminated a treaty with prior or subsequent Senate or congressional participation, he argues that the president must always obtain legislative approval, except that, as he wrote in *China and the Abrogation of Treaties*, "history indicates the president may, if Congress raised no objection, determine whether or not a treaty (1) has been superseded by a later law or treaty inconsistent with or clearly intended to revise an earlier one, (2) has already been abrogated because of its violation by the other party, or (3) cannot be carried out because conditions essential to its continued effectiveness no longer exist and the change is not the result of our own action." He would dismiss the many instances of independent presidential treaty termination as "exceptions" to the supposed general rule requiring legislative approval.

Senator Goldwater's analysis is seriously flawed. When carefully examined, the instances of independent presidential termination do not fall into the three categories of "exceptions" that he suggests. Rather, they demonstrate that the president has been free to terminate treaties in a variety of situations whose common denominator is that in each case it was no longer wise for the United States to adhere to the treaty in question. Contrary to Senator Goldwater's assertion, most instances of independent presidential termination have occurred in circumstances in which there was no inconsistent law or treaty superseding the treaty in question, there was no violation by the other party, and there was no impossibility of performing treaty obligations.

For example, Senator Goldwater claims that President Coolidge independently terminated our 1925 treaty with Mexico on the prevention of smuggling because it was "impossible to implement the convention." Yet there is no factual basis for this contention. The record reveals that the secretary of state thought it inadvisable to retain the treaty so long as Mexico failed to conclude an arrangement safeguarding American commerce against discrimination. (U.S. Archives, 74 D 481, Box 16678.)

Similarly, Senator Goldwater seeks to portray President Roosevelt's 1939 termination of the 1911 commercial treaty with Japan as being compelled by our obligations under the 1922 Nine-Power Agreement. But nothing in the later agreement required the United States to terminate the purely commercial treaty.

The only evidence offered to support Senator Goldwater's view is a statement by Senator Schwellenback that actually shows that he did not believe it necessary to terminate the 1911 treaty (84 Cong. Rec. 10785.) The treaty was terminated, as the notice stated, because it "contains provisions which need new consideration . . . with a view to better safeguarding and promoting American interests as new developments may require."

In fact, not only is Senator Goldwater's interpretation flawed by its misconstruction of the precedents, but it also is flawed logically as well. What is the source of the president's power to make "exceptions" unless it derives from his authority to terminate a treaty without legislative approval? Why cannot the president make other "exceptions"? Since the 14 cases of independent presidential termination that supposedly constitute "exceptions" outnumber the total of all other methods utilized in modern practice, they are strange "exceptions" indeed.

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[1] See, e.g., Cohen, "Normalizing Relations with the People's Republic of China," 64 A.B.A.J. 940 (1978); Tribe, *American Constitutional Law* 164 (1978); Henkin, *Foreign Affairs and the Constitution* 136 (1972); Hyde, *International Law Chiefly as Interpreted and Applied by the United States*, Vol. II, 1519–20 (2d rev. ed. 1945); McDougal and Lans, "Treaties and Congressional-Executive or Presidential Agreements," 54 YALE L.J. 181, 336 (1946); McClure, *International Executive Agreements* 16, 306 (1941); Willoughby, *The Constitutional Law of the United States*, Vol. I, 585 (2d ed. 1929); Reeves, "The Jones Act and the Denunciation of Treaties," 15 A.J.I.L. 33, 34, 38 (1921); Letter from Lowenfeld to the *New York Times*, May 28, 1978.

The treaty power is not the only one in which the Constitution requires the approval of the Senate before the president takes certain action but does not require similar approval when he undoes that action. The Senate's consent is necessary for the appointment of cabinet officers but not for their removal. (272 U.S. 52; 295 U.S. 602.) "The conduct of foreign relations, like the duty to see that the laws are faithfully executed, is a plenary executive power," Prof. Randall Nelson wrote in 42 *Minnesota Law Review* 879 (1958). "In the absence of express limitations upon the power to remove and the power to terminate, there is a strong presumption that no such limitation was intended."

SUBSEQUENT PRACTICE HAS REPUDIATED EARLIER VIEWS

In seeking to bolster his position, Senator Goldwater relies on quotations from Thomas Jefferson and James Madison—uttered before the nation had any experience with treaty termination—to the effect that legislative consent is legally required. Yet in the same discussion Jefferson conceded that there were disagreements about the treaty power, and in 1815 Madison became the first president to terminate a treaty without legislative consent. Subsequent presidential practice has plainly repudiated the early view of Jefferson and Madison and confirmed that of Hamilton and later Madison.

Nor is there substance to Senator Goldwater's general argument that, apart from the many "exceptions," when the president terminates a treaty without legislative consent, he violates his constitutional duty to "take care that the laws be faithfully executed," because the Constitution makes a treaty "the supreme law of the land."

This misses the point of the very case at issue. Article 10 of the treaty in question provides for its termination. In giving notice of an intent to terminate the treaty pursuant to that provision, the president was not violating the treaty but acting according to its own terms—terms that were approved by the Senate when it consented to the treaty.

As Charles C. Hyde, former legal adviser to the Department of State, put it in his leading treatise: "The president is not believed . . . to lack authority to denounce, in pursuance of its terms, a treaty to which the United States is a party, without legislative approval. In taking such action, he is merely exercising in behalf of the nation a privilege already conferred upon it by the agreement."

This suggests the proper course for senators who are troubled by the president's independent authority to terminate a particular treaty or category of treaties. At the time that each treaty is made and submitted for their advice and consent, they could seek to condition Senate approval on acceptance of the Senate's participation in its termination. The Senate might have done so when it consented to the 1954 defense treaty with the Republic of China, but it did not. Any attempt, at this point, to invalidate the president's notice of intention to terminate is not only unwise as a matter of enlightened China policy but also without legal foundation. Prof. Louis Henkin, one of our leading constitutional authorities, has written: "Attempts by the Senate to withdraw, modify, or interpret its consent after a treaty is ratified have no legal weight; nor has the Senate any authoritative voice in interpreting a treaty or in terminating it."

GOOD LAW, GOOD POLICY, AND IN OUR AND CHINESE NATIONAL INTERESTS

Normalization of relations with China is good law and good policy. It is in our national interest, in the interest of Chinese on both sides of the Taiwan Strait, and in the interest of peace in Asia and the world. We should not allow an argument that is based on a misconception of the law to divert us from supporting the president's statesmanship. The Congress and the American people should focus their efforts on co-operating with the executive branch to develop the measures required to consolidate our new and encouraging relations with both the People's Republic and Taiwan.

Treaty Termination Is a Shared Power

(By Barry M. Goldwater)

On December 15, 1978, while the Congress was out of session, President Carter announced that the United States would recognize the People's Republic of China as the sole legal government of China as of January 1, 1979. At the same time the president also made known, through informal briefings for the media, his unilateral decision to terminate the defense treaty with the Republic of China, claiming authority to act under Article X of that treaty, which states "either party," not "either president," may cancel it after giving one year's notice. Without public announcement, the actual notice of termination of the defense treaty was sent by diplomatic note to the Republic of China on December 23, 1978, to be effective on and as of January 1, 1979.

The president's decisions were shrouded in secrecy and contrary to the purpose of Section 26 of the International Security Assistance Act of 1978, a law enacted by Congress just three months preceding his announcement, which specifically called for prior consultation with the legislative branch.

On December 22 I filed suit in the United States District Court for the District of Columbia, with 15 of my colleagues from both houses of Congress, challenging the validity of the president's attempted termination of the treaty without any supporting legislative authority. We asked the court to declare the president's action unconstitutional and illegal and to set aside his purported notice to cancel the Treaty as having no effect.

It is the premise of our case that in acting alone to interpret the defense treaty and to make a self-serving interpretation of the constitutional allotment of powers among the executive and legislative departments, President Carter has not only usurped powers conferred on the Congress, but has attempted to exercise a function the Supreme Court has said is clearly reserved to the judicial branch, the power "to say what the law is." *United States* v. *Nixon*, 418 U.S. 683 (1974.)

The question is not whether any past precedents justify the president's assertion of independent power, although I believe the weight of historical evidence proves that treaties are normally terminated only with legislative approval. The true question is whether his action represents the original intent of the people who drafted the Constitution.

This is a legal and historical question, and the hard fact is that nothing in the records of the federal convention or in the explanations at the state conventions on ratifying the Constitution confirm in any way the president's sweeping claim of unchecked power. To the contrary, contemporary materials and the text of the Constitution show that the termination of a treaty, involving as it does the sacred honor of the country and serious policy interests, is a decision of such major importance that the framers required the joint participation of both political departments, the executive and legislative, in making that decision.

If left unchallenged, the president's unilateral action will set a dangerous precedent that would enable him or a future president to terminate any defense treaty at will. In fact, the precedent could be used for the presidential termination of any treaty to which the United States may now be a party or become a party in the future—for instance, with Israel. This unchecked concentration of power is totally inimical to our democratic representative form of government.

However one may feel about the wisdom of independent presidential termination of the defense treaty as a step required to complete full normalization of relations with Peking, we each should remember the admonition of Chief Justice John Marshall: "The peculiar circumstances of the moment may render a measure more or less wise, but cannot render it more or less constitutional." In filing suit, it was my purpose to defend the legislative function conferred by the Constitution, not to contest the rightness or wrongness of his policies, which can be debated in other forums.

The Constitution is silent as to how a treaty shall be terminated. It is also silent on how a statute or any other law shall be cancelled. Yet no one makes the argument that the president alone can repeal a statute. In fact, in *The Confiscation Cases*, 20 Wall. 92 (1874), the Supreme Court expressly said that "no power was ever vested in the president to repeal an act of Congress."

It is my belief that by placing treaties among "the supreme Law of the Land" in Article VI, clause 2, and by requiring in Article II, Section 3, that the president "shall take care that the Laws be faithfully executed," the framers meant, and expected without saying more, that the president would carry out a treaty in good faith. This is exactly the opposite of giving him an implied authority to cancel any treaty at will. It is also well known that the framers were concerned with restoring dependability to treaties made by the United States. They were anxious to gain the respect and confidence of foreign nations by keeping our treaty commitments.

For example, in the preface to his notes on debates in the Constitutional Convention, James Madison singles out the lack of obedience to treaties as one of the conditions the federal Constitution was intended to correct. Our unfaithfulness to treaties, Madison wrote, is among "the defects, the deformities, the diseases and the ominous prospects for which the Convention were to provide a remedy, and which ought never to be overlooked in expounding & appreciating the Constitutional Charter the remedy that was provided."

In a similar vein, James Wilson, who signed the Constitution and sat on the first Supreme Court, lectured his law students that a country "which violates the sacred faith of treaties, violates not only the voluntary, but also the natural and necessary law of nations. . . ." He added: "As the United States have surpassed others, even other commonwealths, in the excellence of their constitution and government; it is reasonably to be hoped, that they will surpass them, likewise in the stability of their laws, and in their fidelity to their engagements."

Would the framers, who regarded violation of "the sacred faith of treaties" as "wicked," "dishonorable," and contrary to the best interests of the country in acquiring respect in the community of nations, have contradicted these purposes by making it as easy under the new Constitution for a single officer of the government to repeal a treaty as it had been for individual states to nullify a treaty under the Articles of Confederation?

We should also remember the concern of the framers with sectional economic interests. Many of them hoped for advantageous commercial treaties that would open up trade for their sections with other nations. The framers also had extensive discussions about treaties of peace as being included within the treaty clause, in recognition of the fact that those treaties would be the normal method of terminating a war. Without any supporting textual evidence to show it, it is inconceivable that the framers assigned to one person power to denounce a commercial treaty that would be highly beneficial to the interests of a particular geographic region or a peace treaty that had formally concluded a war and whose faithful adherence would presumably advert the chance of resumption of hostilities, however slight that chance may be. As the language of the Constitution does not distinguish commercial and peace treaties from other treaties, such as a security pact, it is obvious that all treaties share the same protective armor.

JOINT PARTICIPATION NEEDED FOR ANY "GENUINELY CRITICAL DECISION"

In his landmark work on the subject in 5 *Seton Hall Law Review* 527 (1974), Prof. Arthur Bestor persuasively shows that the doctrine of separation of powers is "prescribed as explicitly for the conduct of foreign relations as for the handling of domestic matters" and explains: "The purpose and effect of any such arrangement is to require the joint participation—the co-operation and concurrence—of the several branches in the making and carrying out of any genuinely critical decision."

Justice Joseph Story, one of the foremost scholars to sit on the Supreme Court, confirms his statement. In his *Commentaries on the Constitution*, Story writes, in connection with the decision of the framers to allot the treaty authority jointly in the president and the Senate, "his joint possession of the power affords a greater security for its just exercise, than the separate possession of it by either" and that it "is too much to expect, that a free people would confide to a single magistrate, however respectable, the sole authority to act conclusively, as well as exclusively upon treaties."

Story adds, in words having equal relevance to making or unmaking a treaty: "The check, which acts upon the mind from the consideration, that what is done is but preliminary, and requires the assent or other independent minds to give it a legal conclusiveness, is a restraint which awakens caution, and compels to deliberation."

This is what the framers had in mind in establishing a system of checks and balances. They sought to protect the security of the people by making the president and the Senate checks on each other in the exercise of the full treaty power. By providing for the added deliberation and attention to the subject that woud be required by vesting the full treaty power jointly with the president and at least one branch of the legislature, the security of the people would be far better protected than it would be if the power were conferred on a single officer. The security that follows caution and added deliberation would be lost if no check had been put on the unmaking of a treaty.

Why the framers would want to offer the people security in the making of treaties, but not in their termination, is unexplained by those who argue this difference exists. I believe there is no difference and that the checks and balances called for in the separation of powers is equally as applicable to the critical decision of casting aside our formal treaties with other nations as it is in making those treaties originally.

The early authorities, including some among the Founding Fathers, saw the repeal of a treaty in the same light as they saw the repeal of a statute. It would have been strange to hear anyone argue that the president, by his sole authority, could terminate whatever treaty he wished, whenever he wished. James Madison, for one, believed that "the same authority, precisely," would be exercised in annulling as in making a treaty." Thomas Jefferson, when he was Washington's first secretary of state, wrote a report in which he reasoned that the same authority who possessed the power of making treaties consequently had the power of declaring them dissolved. And, when he was vice president, Jefferson compiled the first manual of rules of the Senate, in which he wrote: "Treaties being declared equally with the laws of the United States, to be the supreme law of the land, it is understood that an act of the legislature alone can declare them infringed and rescinded."

Further evidence that the frames linked the repeal of treaties to the repeal of statutes appears in John Jay's brief analogy in *The Federalist*, Number 64: "They who make laws may, without doubt, amend or repeal them, and it will not be disputed that they who make treaties may alter or cancel them . . ."

Justice Iredell, who served on the first Supreme Court, shared the views of Madison and Jefferson as to the legislative role in terminating treaties. In an opinion accompanying *Ware* v. *Hylton*, 3 Dall. 199 (1796), he twice stated his belief that Congress alone has "authority under our government" of declaring a treaty terminated, even in circumstances where the other country has first violated it.

Another authority who believed the legislature must act before a treaty is terminated is James Buchanan. In writing about the anticipated cancellation of a commercial treaty with Denmark considered damaging to our exports, then Secretary of State Buchanan wrote that "an act must first pass Congress to enable the president to give the required notice. . . ." His official concession of the joint possession of power is especially noteworthy since that treaty contained a provision similar to the one in the R.O.C. defense treaty so heavily relied on by President Carter.

Each treaty authorizes termination after notice being given to the other party. However, Secretary Buchanan obviously believed the sovereign authority who could make the decision to give notice was not the president alone, but the president together with the authority of a law enacted by Congress.

When the United States finally cancelled the treaty with Denmark, it was accomplished by a Senate resolution of March 3, 1855, passed unanimously, which advised and consented to authorizing President Pierce to give notice of its termination. The president had requested the authority, thereby giving some indication of his belief that the decision-making authority was jointly possessed by him and the legislature, or at least one branch of it, and was not vested in him alone.

The incident led to an authoritative report by the Senate Foreign Relations Committee in 1856. In response to public discussion over whether the Senate had acted properly in authorizing presidential action without the concurrence of the House of Representatives, the committee concluded that the Senate and president jointly possessed competence to terminate a treaty "without the aid or intervention of legislation" by the other house. Speaking precisely to the same issue presented by Article X of the R.O.C. defense treaty, the committee decided that "where the right to terminate a treaty at discretion is reserved in the treaty itself, such discretion resides in President and Senate."

The committee explained: "The whole power to bind the government by treaty is vested in the president and Senate, two thirds of the senators present concurring. The treaty in question was created by the will of the treaty making power, and it contained a reservation by which that will should be revoked or its exercise cease on a stipulated notice. It is thus the will of the treaty-making power which is the subject of revocation, and it follows that the revocation is incident to the will." Thus, the committee clearly took a position at odds with the novel theory asserted by President Carter today.

LODGE THOUGHT CONGRESS COULD DISAPPROVE TAFT'S NOTICE

Henry Cabot Lodge, when he was chairman of the Senate Foreign Relations Committee in 1911, also believed the power of treaty termination was jointly posssessed by the president and legislature. In response to a question in the Senate whether notice, given Russia by President Taft to terminate a commercial treaty because of Soviet violations, would be legal in the absence of congressional ratification, he replied, "Of course, Congress can disapprove his action; and then, I take it, the notice fails. . . . " Senator Lodge added his opinion that the power to terminate that treaty by notice, as authorized in an article thereof, was vested in the Senate and president together "because in making such a treaty the Senate and the president represent the high contacting party."

Lodge was then acting as floor manager of legislation that did ratify the president's action, and his statements clearly express his interpretation of the term "contracting party," used in a treaty provision, as meaning the Senate and president jointly.

In 1917 Prof. Edward Corwin, recognized as one of the leading authorities on the Constitution in this or any other century and generally a defender of broad presidential power, wrote: "[A]ll in all, it appears that legislative precedent, which moreover is generally supported by the attitude of the executive, sanctions the proposition that the power of terminating the international compacts to which the United States is party belongs, as a prerogative of sovereignty, to Congress alone."

Another official admission of the necessity for legislative concurrence in the decision to provide notice in circumstances in which a treaty itself authorizes the giving of notice comes from an attorney general's opinion. In 1941 Francis Biddle, then acting attorney general, was asked to advise President Roosevelt whether, in view of the dislocation of ocean-borne commerce because of war, the International Loan Line Convention, which governed ocean tanker tonnage loads, had ceased to be binding. Biddle concluded the convention was inoperative because of the "well-established principle of international law, *rebus sic stantibus*, that a treaty ceases to be binding when the basic conditions upon which it was founded have essentially changed."

But he sharply qualified his opinion. While the president could decide whether the treaty was inoperative or suspended under this principle of international law, the president alone could not terminate the treaty if he acted under a treaty provision allowing withdrawal by giving due notice. Biddle wrote: "It is not proposed that the United States denounce the convention under Article 25 (47 Stat. 225), nor that it be otherwise abrogated. Consequently, action by the Senate or by the Congress is not required."

Article 25 of that convention provided that it may be denounced by any "contracting government" by notification to the other parties and that the withdrawal should take effect 12 months after the date of notification is received. The article is similar to Article X of the R.O.C. defense treaty, which likewise allows denunciation by the United States after one year's notice. Thus, it is clear that Biddle believed legislative concurrence was needed in order to authorize presidential action pursuant to the terms of a treaty in circumstances identical to those asserted by President Carter as grounds for unilateral action. President Carter's decision to notify the Republic of China on his sole authority is directly in conflict with a 20th century opinion of the country's highest law enforcement officer.

History confirms the denial of an independent treaty termination power of the president, although there are minor exceptions explainable under principles of ordinary contract law. In fact, the first treaty terminations were done by act of Congress in 1798. These were the three treaties of alliance with France, which were cancelled by Congress after repeated French attacks on American shipping.

The second instance of termination by the United States was in 1846, 57 years after the Constitution was approved. President Polk asked Congress for authority to pull out of a treaty with Britain yielding joint rights to the Oregon Territory. A joint resolution was enacted giving him authority to provide notice of withdrawal, as was authorized in the treaty. This is the first known instance of termination by notice and is impressive historical evidence of what procedure is required to carry out a treaty provision similar to Article X of the R.O.C. defense treaty.

In all, I have identified 48 instances in which treaties have been terminated or suspended by the United States—40 with the clear authorization or ratification of an act of Congress, joint resolution, or Senate resolution. Four others were superseded by a later statute or treaty in conflict with the earlier treaty. The normal practice of treaty termination in the United States has been joint action by the president and Senate or Congress.

Only four treaties have been cancelled by the president entirely independent of any supporting legislative authority. The president may not have acted constitutionally even in these isolated cases, which are abnormal. In fact, Congress may not have been informed, and thus no challenge was made at the time. But if there is any difference in the two groups of cancelled treaties, a logical explanation may be found in contract law.

For in each of the situations of independent presidential action, the other party had first violated the treaty, it was impossible to perform the treaty, or there was a fundamental change of conditions essential to the operation of the treaty and originally assumed as the basis for it. In none of these incidents was the reason for terminating or withdrawing from a treaty the result of a breach or other action on our part inconsistent with the purposes of the treaty concerned.

In these circumstances, the incidents fall within the rules of early contract law by which a party is released from an agreement. All the first writers on the law of nations, such as Grotius and Battel, whose works were consulted by the Founding Fathers, agreed that there is no difference in the rules of law applied to public treaties or private contracts.

The framers may well have silently assumed the president could determine a treaty ended if it should be violated by the other country, if performance became impossible, or if there was a fundamental change of conditions not of our own making. In their own experience, it was an implied condition of a contract or treaty that the obligations of the parties ended or were suspended on the happening of one of these events. Without conceding the legality of occasions when the president had acted unilaterally, these principles of contract law may explain independent presidential action in exceptional circumstances, none of which apply to the president's action regarding the R.O.C. defense treaty.

STATE DEPARTMENT'S MEMORANDUM BACKS CARTER'S ACTION

The State Department has released a memorandum by Herbert Hansell, its legal adviser, dated December 15, the same day as President Carter's public announcement, claiming the president could do what he did. That paper, actually a legal argument, contains highly selective quotations from authorities (none cited in this article appears in the memo) and sets forth a dubious list of alleged precedents for unilateral presidential action. Although the legal adviser lists 12 precedents for independent treaty termination, he admits on the face of the brief that two were never terminated (notice was withdrawn) and two more were instances in which the other nations first denounced the treaties, which seriously weakens the relevance of the precedents.

The State Department reaches so far to find an early precedent that it wrongly attributes the first example of presidential treaty termination to President Madison. This seeming rock of the State Department list is created from a passage in a letter from Secretary of State Monroe in response to the claim by the Netherlands in 1815 that an earlier commercial treaty had expired.

State claims Monroe's answer appears to accept the interpretation given the treaty by the Netherlands. Once Monroe was president, however, he repudiated that meaning of his letter. Monroe's secretary of state, John Quincy Adams, insisted that the earlier treaty had not been annulled. In *University* v. *Miller*, 14 N.C. 188 (1831), the Supreme Court of North Carolina accepted President Monroe's position and enforced the treaty as law.

The State Department also omits mentioning in its memo that the early commercial treaty had been concluded with a different state. During the Napoleonic wars the United Netherlands, with whom we had signed the treaty in 1782, was absorbed into the French empire, entirely disappearing as a separate nation. After the war it was reformed and joined with other areas.

Samuel B. Crandall writes the state thus erected from the ashes of war "differed in name, territory, and form of government from the state which had entered into the treaty. . . ." In other words, if the treaty was annulled, it was because of the disappearance of one of the parties and not because of any broad power held by the president. This is the stuff of which the State Department memo is made.

Of the few alleged precedents that have any plausible basis (three or four at most), all can be explained by invoking the principles of contract law discussed above. None of these exceptions has any application to the R.O.C. defense treaty.

Even as to this handful of precedents, there is no ground for asserting independent presidential power. There is no court decision upholding their legality, and the last precedent is no better than the first. As the Supreme Court said in *Powell* v. *McCormack*, 395 U.S. 486 (1969): "That an unconstitutional action has been taken before surely does not render that same action any less unconstitutional at a later date."

It has been suggested that since the president alone has the power to remove executive officers appointed by and with the advice and consent of the Senate, he also has power to remove treaties. The two cases are completely dissimilar. The ability to remove officers clearly under his direction aids in the efficient performance of the president's duties. The removal of treaties violates the president's constitutional duty to see "that the laws be faithfully executed." It is obvious that the president's relation with subordinate officers cannot be equated to his relation with sovereign authorities of other nations. The courts also have sharply restricted the removal power to purely executive officers, holding the president cannot removal officers who exercise quasi-legislative or judicial functions in Humphrey's Executor, 295 U.S. 602 (1935). As the treaty power has long been found to partake more of the legislative than executive character, the analogy with the removal power does not hold up.

By admitting that the defense treaty "is technically still in effect" in 1979, until the notice period expires, the administration rejects any notion that the treaty lapsed upon derecognition of the R.O.C. By this and by asking Congress for legislation to permit the other "current agreements and treaties in effect with the government on Taiwan to remain in force," the administration admits that the authorities on Taiwan are a de facto government in control of the territory of Taiwan and that we can have dealings with them.

The only remaining question is whether, although the president normally cannot terminate a treaty without further legislative action, the Senate has consented to his action in the case of this treaty by having approved language in it that allows termination by notice. The answer is clear that no authority of this type can be inferred from the treaty or legislative history.

First, it should be noted that the provision does not authorize termination after notice by "the president" or "executive" of either country. The treaty uses the term "party." This obviously means the sovereign authority of the state giving notice. In determining who represents the sovereign authority, it is necessary to consult the constitutional processes of the state in order to find what power makes the decision to give notice and, after that decision has been made, what power shall actually transmit the notice. Under our Constitution, it is clear that whoever communicates notice, the power of making the initial decision belongs jointly to the president and Senate or Congress.

Although it is generally accepted that the president is "the sole organ of the nation in its external relations, and its sole representative with foreign nations" (29 U.S. 304, 319–20), this proves no more than that it is the president who shall act as the official representative of the nation in communicating with the foreign government. His capacity as a diplomatic organ in no way need imply a power of making the critical policy decision required before delivery of the notice.

There is absolutely nothing in the legislative reports and proceedings concerning the 1954 treaty that indicates the president can act alone in giving notice. In fact, the language of the defense treaty differs in a significant way from the text of the related Formosa Resolution, which did specifically authorize the president to cancel it. Thus, the record bears strong evidence the Senate did not mean for the president to act alone in denouncing the treaty, since similar language was not used in the treaty.

The Formosa Resolution and the defense treaty both came before the Senate at the same time. The treaty was first considered in committee concurrently with the resolution in January, 1955. The resolution was reported to the Senate on January 26 and signed into law on January 29. The treaty was reported on February 8 and approved by the Senate on February 9.

IF THE TREATY MEANT "PRESIDENT," WHY DID IT SAY "PARTY"?

The Senate had each measure before it for immediate comparison. In this setting, it is striking that the Formosa Resolution, by its own language, expires "when the president shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, and shall so report to the Congress." The treaty, on the other hand, provides for termination on one year's notice by "either party."

Why, if the treaty meant to authorize "the president" of either party to terminate it by giving notice, did it not say so? The Senate had before it language of the specific kind in the Formosa Resolution, which it could have substituted for Article X, if it meant to approve independent presidential action.

When it advised and consented to a treaty containing an entirely different term, without any explanation in the papers sent to it by the executive branch or in its own hearings, report, or floor debate, indicating that the term meant something other than what it said ("party"), this is surely conclusive that it did not understand "party" to mean "president."

In 1856 the Senate Foreign Relations Committee had unequivocally found that language similar to Article X referred to "the will of the treaty-making power," which it defined as "the president and Senate." The Senate, together with the president and often with the House of Representatives, had participated in the termination of nearly 40 treaties by 1955, virtually all of which contained duration provisions similar to Article X of the R.O.C. defense treaty. From this, if any understanding could be attributed to the Senate when the treaty was ratified, it was that the term "party" meant the president and Senate jointly.

But the State Department would not only attribute a meaning to the R.O.C. defense treaty of which it never informed the Senate. It would put the same meaning on dozens of other major treaties that contain similar provisions. For example, the North Atlantic Treaty Alliance and our security pacts with South Korea, Japan, and the Philippines include articles allowing either "party" to withdraw after one year's notice. The Nuclear Test Ban Treaty, the Statute of the International Atomic Energy Agency, the Nuclear Nonproliferation Treaty, the Biological Weapons Convention, the Universal Copyright Convention, and the Outer Space Treaty, among others, each provide by their own terms for termination after one year's or less notice to the other parties. The consequences of accepting the State Department's interpretation of these provisions is far reaching indeed.

No matter that the Senate was not clearly informed of what the language meant when it gave its advice and consent to ratifying these agreements. No matter that the executive may have had a different understanding than the Senate and kept silent about it.

When it suddenly suits the needs of expediency for its policy of the moment, the State Department unveils a doctrine it has hidden from public discussion. After having exploited the use of executive agreements to the point where the president can make virtually any treaty he wants by calling it a mere executive agreement, now the State Department is ready to usurp the power of unmaking treaties as well.

Events in the year ahead may well determine whether the executive succeeds or fails in this historic power grab.●

ORDER FOR RECESS UNTIL MONDAY, MARCH 12, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 12 o'clock noon on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERNATIONAL TRAVEL AUTHORIZATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 15, S. 233.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 233) to amend the International Travel Act of 1961 to authorize additional appropriations, and for other purposes,

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation with an amendment on page 2, beginning with line 8, strike through and including line 14, and insert in lieu thereof the following:

"SEC. 9. The Secretary shall reduce the number of employees of the United States Travel Service in the offices of such Service in the District of Columbia, in order that the total number of such employees as of September 1, 1979, and thereafter, does not exceed 40 per centum of the total number of such employees as of December 31, 1978.".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled, That the first sentence of section 6 of the International Travel Act of 1961, as amended (22 U.S.C. 2126) is amended by striking out "and" immediately after "1978;", and inserting immediately before the period at the end thereof the following: "; and (8) $8,000,000 for the fiscal year ending September 30, 1980".

SEC. 2. The International Travel Act of 1961, as amended (22 U.S.C. 2121 et seq.) is further amended by adding at the end thereof the following new section:

"SEC. 9. The Secretary shall reduce the number of employees of the United States Travel Service in the offices of such Service in the District of Columbia, in order that the total number of such employees as of September 1, 1979, and thereafter, does not exceed 40 per centum of the total number of such employees as of December 31, 1978.".

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Virginia.

Mr. WARNER. I thank the distinguished Senator from West Virginia.

Mr. President, I rise in support of S. 233.

The chairman, Senator CANNON, and the chairman of the subcommittee, Senator INOUYE, and myself have cosponsored this bill.

It is for the purpose of continuing the U.S. Travel Service for a year at a greatly reduced level.

Mr. President, I rise to support S. 233 introduced by the senior Senator from Hawaii, Mr. INOUYE, which I cosponsored, to continue funding of the U.S. Travel Service for 1 year at a greatly reduced level. Included in this reduction is a 60-percent cut in the staff of the USTS Washington office.

International travel and tourism—persons coming to the United States from other countries—are of tremendous benefit to our Nation's economy. It is for this reason that, in 1961, the Congress approved the International Travel Act, authorizing the Secretary of Commerce to encourage such travel and tourism in the United States through the U.S. Travel Service.

Since enactment of that legislation, the Congress has kept a close watch on the tourism industry. Extensive hearings have been held on the subject and, from time to time, additional legislation has been enacted to encourage growth in the travel and tourism industry.

In 1974, the Senate, without a dissenting vote, adopted Senate Resolution 347 authorizing the Senate Commerce Committee to undertake a comprehensive study of the tourism industry and to recommend legislation to establish a national tourism policy. That mandate was carried out. Last year, the Commerce Committee published the National Tourism Policy Study.

Mr. President, that study found that three USTS travel service programs during the period of fiscal 1974–77 for tour development, incentive travel, and conventions had a cost-benefit ratio of $18.60 in foreign exchange earnings for the Nation's travel and tourism industry for every USTS budget dollar expended.

That would seem to me to represent a very fine investment, particularly at a time that the deficit in the United States balance of payments has reached an all-time high.

In spite of this, the administration, by recommending that the USTS not be funded for the coming fiscal year, has proposed to eliminate an agency which has had a strong positive impact toward reducing that balance-of-payments deficit.

As a result of the National Tourism Policy Study by an earlier Congress, the Commerce Committee has held hearings and soon will come forth with legislation to implement a national tourism policy. In the meantime, I believe that the U.S. Travel Service, for the reasons I have already mentioned, should be continued at a reduced level until such time as Congress acts on implementing a national tourism policy.

Therefore, Mr. President, I support passage of S. 233.

Mr. President, I ask unanimous consent that Senator Pressler may have the remainder of my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I thank the Senator from Virginia.

I wish to express my support for S. 233 and to commend Senators CANNON, INOUYE, and WARNER for their leadership in this area.

I join as a cosponsor in that effort.

I commend them for their recognition of the importance of the tourism industry in our Nation. Their work in this area is greatly appreciated by the people of South Dakota and myself.

In South Dakota, tourism is our second largest industry. This is largely family tourism, and much of it is in the Black Hills. It is very important for Congress to take a careful look at this wholesome industry, and the importance of retaining the U.S. Travel Service offices, both here and abroad.

I was very concerned to hear that the administration wanted to eliminate the USTS budget for 1980. Eighty-six percent of our foreign visitors come from the six countries where we maintain USTS offices: Canada, Mexico, the United Kingdom, France, West Germany, and Japan. Five percent of our international tourism is from nine countries where USTS conducts travel promotion efforts. This brings the total of foreign visitors affected by the USTS to 91 percent.

The Administration maintains that these visitors would come to the U.S. regardless of the USTS. I disagree. South Dakota is very much an interior State. While foreign visitors may come naturally to our bigger east and west coast cities, it takes a special effort to let them know what we have available in some of our States in the Midwest. If we lose the USTS, international tourism will be dealt a severe blow in South Dakota, and other interior States. Our transportation systems are limited so private industries will not be contributing to our tourism through their promotional efforts. We need some assistance in this area.

Currently, tourism brings about $444,000,000 per year into the State of South Dakota. The U.S. Travel Service grants matching funds to South Dakota, and to the Old West Trail Foundation, in the amount of about $20,000 annually. Most recently, this has been used to encourage Canadian tourists to come to our State. This summer, tour brokers from Frankfurt, Germany, are being brought to South Dakota by the USTS. In addition, foreign journalists are also being brought to South Dakota an a publicity tour. Such efforts have resulted in a marked increase in foreign visitors to South Dakota. During recent years, nearly $25 million has been spent by these foreign visitors annually. That is $125 in revenue for South Dakota for every $1 of U.S. Travel Service funds expended in our State. Where else can we see such a good return for our investment?

Again, I express my wholehearted support for S. 233. We need the U.S. Travel Service and its international offices.

For this reason I have joined as a cosponsor. I feel that tourism is very important particularly in terms of the value of the dollar and the need for us to attract this additional revenue and business.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill, as amended, pass?

The bill (S. 233), as amended, was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–8), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

This legislation would continue funding the United States Travel Service (USTS) for 1 year at a reduced level of $8 million, and require a staff reduction in the USTS Washington office by 60 percent, effective September 1, 1979. Pending the legislative recommendations of the National Tourism Policy Study which will be forthcoming from this Committee within the next few months, S. 233 as amended, is intended to permit the continuation of international tourism marketing programs currently being carried out by the Department of Commerce through the Travel Service in six major markets and other designated markets throughout the world. By failing to request funds for USTS, the administration is, in effect, repealing the International Travel Act of 1961.

The six major markets in which USTS maintains offices are: Canada, Mexico, Japan, West Germany, France and the United Kingdom. USTS also carries on marketing activities in nine other countries. Although its limited resources do not permit it to maintain offices in these countries, the agency conducts travel promotion efforts through U.S embassies, and the travel trade. These countries are: Venezuela, Austraila, Italy, the Netherlands, Switzerland, Sweden, Brazil, Spain, and Belgium. These 15 countries generated 91 percent of the visitors to the United States in 1977. (16.9 million international arrivals, and 85 percent of foreign exchange earnings from tourism ($5.4 billion.))

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business with Senators permitted to speak up to 10 minutes therein, but the period not to last beyond 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR RANDOLPH'S 77TH BIRTHDAY

Mr. PROXMIRE. Mr. President, today is an unusual day in many ways, but I think one of the principal reasons is because today is the 77th birthday of Jennings Randolph.

All of us who have been in the Senate for any length of time know Jennings as a really marvelous human being. He is the epitome of courtliness. He is generous. He works very hard. He accomplishes a great deal. As we all know, he is chairman of the Committee on Public Works. He is a man with whom I have been working closely on some things, and I have been in opposition, strenuous opposition, with him on others, but he is a wonderful Senator, and I do think that the day should not pass without recognition of the fact that this marvelous man has given so much of his 77 years to this country and to this body.

He has been in Congress longer than any other Member of Congress. He came to the Congress in 1933, and served in the House for a number of years. Then he went into private business, and then returned, and has served in the Senate since 1958, always with great distinction.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. PROXMIRE. Yes, indeed.

Mr. ROBERT C. BYRD. I join with the distinguished Senator from Wisconsin in complimenting my very able senior colleague, and wishing him the best on this happy birthday.

Jennings is a man who has tremendous energy. He is always working for the people of West Virginia. He is a very pleasant colleague to work with. I have worked with him now going on 21 years. There is the song which says "21 years with the wrong woman." But this is 21 years with the right colleague.

May I just quote a bit of verse at the end of this long day as it slips up on all of us, and I will say these lines to Senator Randolph:

Count your garden by the flowers,
Never by the leaves that fall.
Count your days by the sunny hours,
Not remembering clouds at all.
Count your nights by stars, not shadows.
Count your life by smiles, not tears.
And on this beautiful March evening
Count your age by friends, not years.

Mr. PROXMIRE. I thank the majority leader for a really marvelous and most appropriate poem. Seventy-seven years, as you say, about Jennings, he is so full of energy and vitality and really youthful attitude. He is just remarkable in so many ways, and I am delighted to hear that most appropriate verse from our distinguished majority leader.

Mr. ROBERT C. BYRD. I thank my friend.

Mr. PELL. Mr. President, I, too, would like to add my words of support to the remarks concerning the senior Senator from West Virginia, and add my voice of congratulation to the senior Senator from West Virginia on his birthday. His sense of history, his courteousness, his kindness, and his commonsense are all of the highest order, and he is, indeed, a decoration not only of West Virginia but of the U.S. Senate, and may we have him for many more successful years in our body.

FAILURE TO RATIFY THE GENOCIDE CONVENTION A SOURCE OF POLITICAL EMBARRASSMENT

Mr. PROXMIRE. Mr. President, our failure to ratify the Genocide Convention has given our ideological enemies a significant symbolic advantage in the eyes of the world community. Soviet propagandists have never hesitated to point out the inconsistencies of a national policy that, while guaranteeing certain indivdual freedoms and liberties to its citizens, refuses to make even a symbolic effort to insure that those liberties are extended to members of the world at large.

Consider what the Soviet News Service Izvestia had to say regarding the United Nations Declaration of Human Rights:

> In the conditions of capitalism the declaration's basic tenets remain unfulfilled to this day. The bourgeois democracies, which serve the interests of imperialist monopolies, have turned the rights and freedoms assured by their constitutions into a farce. Thanks to the unstinted efforts of the Soviet Union . . . the United Nations has taken a series of measures aimed at restoring the independence of colonial people, the ending of all forms of racial discrimination, and (has) signed conventions condemning racism and genocide.

Mr. President, by the looks of this quote one would think that the Soviet Union was a freethinker's paradise. Although every person present today knows that this statement is ludicrously false, it is nonetheless true that the United States has maintained a bewildering policy in this area.

We have no reason to duck this issue. For 30 years we have done so, to our enemies' delight. Former United Nations Ambassador Charles Yost further confirmed this during the 1970 Foreign Relations Committee hearings on the Genocide Convention when he detailed the way that our failure to ratify this treaty was smugly thrown in our diplomats' faces whenever we had protested gross violations of human rights in other nations.

Mr. President, we must put an end to the lie that our detractors allege against us. We can do so by ratifying the Genocide Convention.

Mr. President, I yield the floor.

Mr. PELL. Mr. President, I would like to commend the Senator from Wisconsin for raising the question of the Genocide Convention. He does it regularly, and I hope the day will come when success will reward his efforts. I share his belief in regard to criticizing our failure to ratify it.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider one nomination on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF AGRICULTURE

The PRESIDING OFFICER. The clerk will report the nomination.

The second assistant legislative clerk read the nomination of Dale Ernest Hathaway, of the District of Columbia, to be Under Secretary of Agriculture for International Affairs and Commodity Programs.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.).

ORDER FOR REFERRAL OF SENATE RESOLUTION 15 TO COMMITTEE ON FOREIGN RELATIONS

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that Senate Resolution 15 to be sent to the Committee on Foreign Relations in conformity with the unanimous-consent agreement which was obtained at around 12:45 p.m. today, and that Senate Joint Resolution 3 remain on the calendar. That was a part of the unanimous-consent agreement made earlier in the day. It does not conform to the amendment which was before the Senate at the time, so I am asking unanimous consent to send only the one resolution, rather than two resolutions, to the Committee on Foreign Relations.

Mr. STEVENS. Mr. President, reserving the right to object, it was my understanding that Senate Joint Resolution 3 would be on the calendar.

Mr. HARRY F. BYRD, JR. Senate Joint Resolution 3 is on the calendar, and the request would be to send the other resolution, Senate Resolution 15, to the Committee on Foreign Relations in conformity with the unanimous-consent agreement made at 12:25 p.m. today.

Mr. STEVENS. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODIFICATION OF UNANIMOUS-CONSENT AGREEMENT ON TAIWAN ENABLING ACT

Mr. ROBERT C. BYRD. Mr. President, anent the unanimous-consent order that was entered with respect to the Taiwan enabling legislation, I will try to flesh out that agreement now.

The distinguished acting Republican leader and I have discussed this, and I believe I am correct in saying he approves the request I am going to make, though he is here and will speak for himself, of course.

I ask unanimous consent that the time for debate on the enabling act be equally divided between and controlled by Mr. CHURCH and Mr. JAVITS; that there be a period of not to exceed 5 hours for debate on the act; provided further, that there be a time limitation on any debatable motion, appeal, or point of order, if such is submitted by the Chair to the Senate, of 20 minutes, to be equally divided and controlled; and that the agreement be in the usual form.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object, there is already a time agreement on any amendment.

As to the usual form, it is my understanding that the time on those amendments, of course, would be controlled by the sponsor of the amendment and the Senator from Idaho, and that if the majority leader's request now is to put into the usual form a time limit on points of order and debatable motions made with regard to the Taiwan legislation itself, and we are not intending any limitations on Senator HELMS' amendment, those agreements would still stay in order.

Mr. ROBERT C. BYRD. No.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I am saying that this does not apply to the amendments to be offered by Mr. HELMS. I have not seen them, but this would not put a rule of germaneness, of course, on Senator HELMS' amendment; is that correct?

Mr. ROBERT C. BYRD. No, it would not, because we have already got his amendments designated by name.

Mr. STEVENS. But this does not apply to any amendments?

Mr. ROBERT C. BYRD. It would to other amendments.

Mr. STEVENS. We have an agreement of 1 hour on all amendments.

Mr. ROBERT C. BYRD. Well, he is protected.

Mr. STEVENS. But I mean all other amendments.

Mr. ROBERT C. BYRD. All other amendments, under this request, would have to be germane.

Mr. STEVENS. I have no knowledge of what the amendments to be offered by the Senator from Idaho, for instance, would be.

Mr. ROBERT C. BYRD. I will be glad to modify my request as follows: That the agreement with respect to the division and control of time be in the usual form.

Mr. STEVENS. I thank the Senator from West Virginia.

The PRESIDING OFFICER. Is there objection to the modified request?

Mr. STEVENS. There is no objection, if the modified agreement does not impose the rule of germaneness on amendments that will have 1 hour, according to our understanding.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOSPITAL COST CONTAINMENT

Mr. ROBERT C. BYRD. Mr. President, most people do not need facts and figures to tell them that it is costing them more to obtain basic medical care. A Harris survey, conducted last fall, found that, along with general inflation and uncontrolled Federal spending, Americans ranked the cost of health care as one of their major concerns. The average American now works 1 month each year—one-twelfth of his or her time—just to pay his or her share of the Nation's health care costs. The typical family of four with an annual income of $16,000 is now spending about $2,000 for medical services and in taxes used to support these services.

HOSPITAL COSTS

In 1950, total health care spending in the Nation comprised 4.5 percent of the gross national product; in 1968, 6.5 percent; in 1978, 8.9 percent. Expenditures for hospital care are the largest component—40 percent—of total health care costs in this country.

In recent years, hospital costs have risen annually at an average rate of 15 percent. Between 1975 and 1977, hospital costs increased between 14 and 20 percent each year—an inflation rate more than two times the general rate of inflation as measured by the consumer price index. Five years ago, more than $29 billion was spent on hospital care in this country. Last year, more than $60 billion was spent.

Hospital costs are often called "invisible costs" since most people pay only a small portion of these costs directly. More than 80 percent of all hospital expenditures are paid by the Government or by employers through insurance plans. Nevertheless, the bite out of the paycheck is real. Every employed person now pays an average of $15 each week to finance the country's hospital expenditures.

Most private health insurance is obtained as a fringe benefit of employment, with employers generally paying about 85 percent of the cost of employees' health insurance plans. Hospital cost inflation burdens employers with increased insurance premiums and taxes. This year, employers are expected to spend more than $30 billion on hospital expenses. Employers' costs are passed on to employees in the form of forgone wages or fringe benefits. Additionally, employees as consumers are faced with rising prices of the goods and services produced. Hospital cost inflation directly affects all workers through increased out-of-pocket expenditures during hospitalization.

Rising hospital costs also mean increased taxes. Medicare, medicaid, veterans' health benefits, and public hospitals are financed through Federal, State, and local revenues. More than 12 percent of our Federal tax dollars are now spent on health care. The Federal Government will spend more than $30 billion on hospital care this year. State and local governments are expected to spend about $10 billion.

Twenty-five percent of the social security payroll tax goes toward financing medicare and that money is supplemented by general revenues. The elderly are now paying more out of their own pockets for medical care than they were in 1964, the year medicare was enacted. It is estimated that the medicare and medicaid programs will cost the Nation's taxpayers more than $55 billion in 1980, up from $44 billion last year, and $39 billion in 1977.

THE 95TH CONGRESS

In the final days of the 95th Congress, by a vote of 64 to 22, the Senate passed its own version of a hospital cost containment bill, which I supported. It was the product of a great deal of study and work on the part of many Senators.

Senator Talmadge, and Senator Long, of the Finance Committee, offered a plan which addressed the impact on hospital cost inflation on the medicare and medicaid programs. Senator Kennedy and Nelson, of the Human Resources Committee, offered legislation which addressed the need for an immediate slowdown of hospital cost inflation in the private as well as the public sector.

Both of these measures made important contributions; ultimately, the Senate acted wisely in accepting the "Nelson compromise." In its recognition of volunteer efforts at costcutting in the hospital industry, I found it to be a reasonable and positive approach. Mandatory Federal cost controls would have been imposed only as a last resort—only if hospitals failed to achieve their own cost containment goals. I regret that the measure died in the House.

THE HOSPITAL COST CONTAINMENT ACT OF 1979

Senator Nelson and Senator Kennedy, along with other Senators, have introduced a measure which builds upon the action taken by the Senate last session. It would establish an average rate of increase for hospital costs in 1979, which hospitals would be asked to meet voluntarily. As in the plan passed last year by the Senate, Federal mandatory controls would be imposed only as a last resort—should the goal of slowing down hospital cost inflation not be met on a nationwide basis.

The measure recognizes that hospital delivery of services is not the sole cause for hospital cost inflation. The national goal for the hospital industry in calendar year 1979 would be based on the general rate of inflation plus additional cost factors unique to the industry. These factors include the actual percentage rate of inflation in the cost of goods and services purchased by the hospitals as well as allowances for growth in population served and for increased quantity and quality of services.

Many provisions adopted by the Senate in its own version of hospital cost containment are included in the mandatory cost control program. Any individual hospital meeting the national goal would be exempt from the mandatory program. Additionally, all hospitals in any State would be exempt from the program, should the goal be met on a statewide basis.

Certain types of hospitals which face unusual financing situations would be exempt from the program. These include small, rural hospitals, new hospitals, and health maintenance organization hospitals, as well as hospitals located in States with their own statutory cost containment programs.

THE NEED FOR ACTION

The cost of hospital care has been rising faster than the overall cost of living, and faster than other medical costs. While there was an improvement in the rate of hospital cost increase last year—due to the voluntary efforts of the hospital industry and the savings incurred by hospitals in States with mandatory cost containment programs—the rate of increase accelerated sharply at the year's end, renewing public concern. Moreover, the hospital cost inflation rate of 13.1 percent even exceeded price increases for other highly inflationary items in the economy. It exceeded food prices, which rose at a rate of 11.8 percent; fuel prices, which rose by 8.0 percent; and housing costs which grew at a rate of 11.5 percent, as measured by the consumer price index.

The hospital industry is one of the most inflationary segments of our economy. Hospital cost inflation results in inequitable and inefficient distribution of scarce health care dollars. Our tax dollars must be prudently spent. Adequate care must be as accessible to poor and middle-income citizens as well as to those for whom price is no object. It is my hope to see legislation which will bring hospital cost inflation under control become law this session.

THE OLYMPIC JOB OPPORTUNITY PROGRAM

Mr. STEVENS. Mr. President, we are all aware of the many demands the Federal and State governments make on private industry. For the most part, the business community has always come through as requested. It is pleasing to learn of a private business who has set the pace for not only other businesses, but the Government as well.

Such is the case of the Canteen Corp., a Chicago-based firm which has embarked on a commendable and far-reaching program to assist the U.S. Olympic athletes throughout the Nation through their Olympic job opportunity program. The Canteen Corp. of America has placed numerous athletes in their corporate jobs. Many of these athletes currently training for the 1980 Olympic Games could not continue training were it not for programs such as that sponsored by the Canteen Corp. This is a commendable program, and one which I hope the Federal Government will emulate.

Senate Bill 387, a bill I recently introduced, follows the example of the Canteen Corp. by providing leave time for Olympic athletes employed by the Federal Government. Note: the 1980 Olympics are only 1 year away.

Mr. President, I ask unanimous consent that an article, "Jobs for Olympians: Business Pitches In," published in the June 12, 1978, issue of Business Week, be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record as follows:

JOBS FOR OLYMPIANS: BUSINESS PITCHES IN

The 1976 Summer Olympics in Montreal struck Howard C. Miller, president of Canteen Corp. in Chicago, as unfair—not the games themselves, but the sight of state-subsidized athletes competing against Americans whose only support came from family and friends.

Instead of complaining about "the Russians and East Germans subsidizing amateur athletics," Miller addressed himself to the apparent inequity. The result is the Olympic Job Opportunity Program, an organization that has already found corporate jobs with flexible hours and paid time off for 23 U.S. Olympic hopefuls now in training. Some 80 major companies have endorsed the idea, and Miller envisions companies supporting up to a quarter of the 600 U.S. athletes who will compete in the 1980 summer games in Moscow and winter games at Lake Placid, N.Y.

"The U.S. has been losing three out of four classes of super athletes who do not happen to graduate from college during an

Olympic year," he maintains. "They have no place to go but work." Although swimmers peak at 18 or 19, the average age of U.S. Olympic athletes is 25.

NO HANDOUTS

To aid these athletes, Canteen began organizing the job opportunity program in late 1976. It sent out letters to the nation's 500 largest companies and got responses from nearly 300. "We're asking for a full-time job, not a handout for three years," Miller emphasizes. Salaries of the two dozen athletes placed so far average $12,000 to $15,000 a year, and, even if the individual trains and competes half of the time, that only costs the company $3,000 or $3,750 after tax.

Since last year, Canteen has built up the largest corporate team of Olympic contenders. It includes long-distance runner Tom Burleson, hurdler Charles Dobson, and 1976 gold-medal speed-skater Peter Mueller. While Mueller works as a maitre d' at a Canteen restaurant in Milwaukee, his wife, 1976 silver-medal speed-skater Leah Paulos, works as a youth-market sales representative for Coca-Cola Co.

Rower Carol Brown, a 1976 bronze-medal winner, is working in the marketing department of Pepsi-Cola/Seven-Up Bottling Co. of Seattle. Race walker August Hirt is an accountant for Continental Illinois National Bank & Trust Co. of Chicago. And biathlon athlete Peter Hoag works for Samsonite Corp. in Denver, where he has access to both skiing and a shooting range. Other companies hiring Olympic contenders include Montgomery Ward, General Mills, Standard Brands, Johnson & Johnson, and Wilson Sporting Goods. Last October, Wilson employed sprinter Stanley Vinson as a $9,000-a-year customer-service representative in the team sports promotion program.

"There was little support in the job market for athletes wanting to continue to compete," says Vinson, who had an assortment of moving and dishwashing jobs before Wilson hired him. Without the job opportunity program, he emphasizes, "I was at the end of my athletic career." Now he sells Wilson sporting equipment and voluntarily trains in Wilson T-shirts and jogging shoes.

COKE AND SHOWER HEADS

Companies participating in the job program are advised not to expect publicity from their involvement. But Miller acknowledges that if athletes do bring home the gold, later commercial endorsements are "a benefit that may accrue."

The job opportunity program is, of course, just one aspect of the U.S. effort, which, the U.S. Olympic Committee predicts, will cost $26 million between 1977 and 1980—double the previous four-year budget. About 85% of this cost is split between private donations and the corporate identification program, which allows companies to identify products with the U.S. Olympic Committee and team for $50,000 and up. There are more than 50 commercial categories, from candy and cosmetics to orange juice and toothbrushes.

Companies are starting their Olympic-related advertisements earlier, says Arthur 1. Kuman, director of the Olympic Committee's corporate participation program. "It's intelligent repetition that counts," he adds. Already, Coca-Cola and Pollenex shower heads are being advertised and Toyota Motor Co. and its 1,000 domestic dealers have embarked on the largest corporate identification program ever, dubbed "the million dollar dash for the 1980 Olympics." Between Apr. 24 and June 30, Toyota will contribute at least $1 million—about $10 per vehicle sold—to the U.S. Olympic Committee.

All of these programs are important, but Canteen's Miller suggests the job opportunity program "seems to be the only logical system for mustering the full potential of our amateur athletes."

FRONTIER FARMING IN ALASKA

Mr. STEVENS. Mr. President, in light of President Carter's action under the Antiquities Act and the current debate over the status of Alaska lands, I would like to bring to my colleagues' attention a chapter of Alaska's history concerning the development of her extensive agricultural resources.

The potential for agriculture in Alaska has been well documented since the turn of the century. History shows us that the development of Alaska's agriculture and other renewable resources have been impeded and blocked by inconsistent and often shortsighted Federal policies based on fear, overreaction, and misconceptions about Alaska.

In 1906, during a period of intense interest in Alaskan grain farming, following the movement of the railroad to the interior, President Roosevelt withdrew all Alaskan coal lands from entry, by Executive order, pending Government investigation. Out of this action came one of the pivotal issues in the American conservation movement known as the Ballinger-Pinchot controversy. Although Roosevelt promised Alaska a swift implementation of a coal-leasing system, the ramification and repercussions of the conservation-exploitation dialog delayed legislation on the issue for 8 years.

Since the development of Alaskan railroads at that time depended upon coal, the closing of the coal lands meant a virtual halt to railroad construction. Without the railroad, which was the backbone of American agriculture, the movement to develop grain farming in interior Alaska came to a standstill and has never fully recovered momentum until the present.

The development of agriculture in Alaska once again stands at a critical juncture. The State has during the last 2 years initiated a mandate to release large tracts of State-owned land for agricultural production and has committed itself to subsidize in part the infrastructure required for developing these resources.

The President's recent action under the Antiquities Act withdraws roughly 15 million acres of the highest potential agricultural lands out of the 18.5 million acres identified by the U.S. Conservation Service as suitable for agriculture, roughly 80 percent of Alaska's agricultural land.

I can only hope that history in this case does not repeat itself and the Congress will move promptly in resolving the issue.

Mr. President, I ask unanimous consent that an article printed from the Annals of the Association of American Geographers be printed in the RECORD as well as a short statement regarding the agricultural situation in Alaska.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE COLLAPSE OF FRONTIER FARMING IN ALASKA

(By James R. Shortridge)

[Figures not printed in the RECORD]

(Abstract. Literature of the 1898–1950 period predicted that Alaska would be occupied by pioneer farmers, in a manner similar to the rest of the United States. Physical conditions allow subsistence farming in large areas of Alaska, and many government inducements were offered to pioneers. These included liberal land laws, a subsidized government railroad, and a demonstration group settlement scheme. The almost complete failure to attract settlers seems attributable mainly to a decline in the traditional advantages of frontier agriculture in the twentieth century and a simultaneous rise in the opportunities and amenities of urban life. These trends were generally not acknowledged by government planners until about 1950, and their increasingly elaborate plans to force the recalcitrant yeoman farmer onto the "last frontier" were thus exercises in frustration.)

Agriculture has always been miniscule in Alaska. Only some three hundred farms exist at present and the total has never been above 623.[1] Alaska is thus one of the exceptional areas in the United States where the cherished yeoman farmer tradition was not implemented. This anomaly has been noted by many observers, and the usual explanation invokes a combination of limited physical potential, poor transportation, and small markets. Certainly these factors are important, but a historical perspective on the question suggests a much more complex situation.[2]

Contemporary sources from the early decades of this century reveal a general agreement among laymen and professional authorities that Alaska was ripe for frontier agricultural settlement. The land was thought to be physically capable of supporting a substantial agriculture and the nation as a whole was assumed to require a new pioneer fringe. Yet, somehow frontier agriculture failed to develop. It is argued here that Alaskan physical conditions would have allowed subsistence farming. The critical factor in the anomaly was a change in American attitudes toward pioneering that occurred nearly simultaneously with the expectations of Alaskan development. A gap was created between the collective American mind and the individual one; the symbol and idealization of the yeoman farmer survived long after individual Americans were willing to pioneer. From about 1900 to 1950 Alaska endured this quandary, suffering frustration as increasingly elaborate but largely futile government programs were proposed to attract farmers to this last frontier. These programs are detailed here as they represent a final chapter in the pioneer westward expansion of this country, a demonstration of the strength and resiliency of the agrarian yeoman vision to Alaskans and Americans generally.[3]

PHYSICAL POTENTIAL FOR AGRICULTURE

No one could ever argue that Alaska is a physical paradise for agriculture. Many parts are mountainous, other large areas are poorly drained, and a short growing season prohibits farming in many additional sections. There is, nevertheless, a substantial acreage that could conceivably be farmed. This easily demonstrable fact is apparently very hard for Americans to accept, however, as a steady stream of Alaskan writers from the 1860s to the present have felt compelled to correct

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Footnotes at end of article.

the public's overly negative appraisals of local climatic conditions. In 1946, for example, an exasperated Alaskan Commissioner of Agriculture compained: [4]

"I don't know what we can do to persuade the American people. They *want* to believe that Alaska is a land of snow and ice. When I talk with persons in the States about our wonderful agriculture up here, most of them smile and say with their eyes, 'Poor fellow, he's been away too long. Talks like a bad case of North Pole fever. There just can't be farms in Alaska as he describes.' "

The explanation of the overly pessimistic judgments of the Alaskan climate is beyond the scope of this paper, but as such opinion casts a persistent negative aura over any discussion of agricultural potential in the region, it seems desirable to briefly summarize the physical potential of the area as it is described in modern studies.[5]

Soils and grazing potential

Good soil is a scarce and highly localized commodity in Alaska. Steep mountainous terrain covers a large portion of the area, and lowland soil forming processes are frequently retarded by poor drainage. Permafrost, occurring discontinuously in the vast Yukon basin, restricts downward percolation where it is found. Still another obstacle to soil formation is the slow rate of weathering encountered north of the Alaska Range. Low ground temperatures for much of the year effectively prohibit several chemical and biological weathering agencies and slow most others.

Despite all the above limitations it would be wrong to conclude that Alaska lacked soils suitable for cultivation. Weathering does go on and the region has "a very large area of loess-like deposits and river terraces having nutrient-enriched, stone-free substrata of favorable texture, and often either level or smooth topography." [6]

Several million acres, at least, are so blessed (Fig. 1).[7] The principal arable soil association in Alaska is generally termed Subarctic Brown Forest. This title suggests a similarity to the Brown Forest soils of more southerly regions, and although both the name and the implied similarity have been challenged, the soils remain the finest in Alaska. Perhaps the primary precondition for their formation is a well-drained site, and this is one of their most valuable characteristics for agriculture. They tend to be acidic at the surface, but are much less so and even slightly alkaline with depth. Texture is also acceptable for cultivation and the plant nutrient content is in "fairly high supply" at least in comparison with most other Alaskan soils.[8]

All of the arable lands can certainly also be considered to have grazing potential, but in addition, nearly every other part of Alaska short of ice cap and rock outcrop is capable of supporting life to some extent. The exact degree depends on the type of animal involved and the amount of supplementary feed available. This leads to a certain amount of arbitrariness in measuring grazing potential. If one limits the consideration to rangeland capable of sustaining grazing animals for the bulk of the year without appreciable sunplementary feeding, a criterion traditionally used by frontiersmen, a general picture can be sketched.

Reindeer pasturage must first be distinguished from cattle and sheep ranges; the far hardier reindeer can graze year-round where other domesticates would starve. The Alaska and Aleutian Ranges effectively divide the two territories. Although climatic differentials caused by the mountains are one prime reason for this, varying pasture types are important also.

The only authoritative map of reindeer pasture potential was prepared in 1922 by the U.S. Department of Agriculture (Fig. 2).[9] Despite the fact that it was compiled when Alaskan vegetation was only sketchily known, it is still being used in modern studies.[10] The core of the reindeer range is the cottonsedge tundra, a land of moss and lichens with scattered patches of grass, many flowering plants, and occasional low shrubs. The actual extent of this browse has never been carefully estimated. Guesses by those best informed range from 150,000 to 350,000 square miles.[11]

South of the Alaska Range, extending from the Kenai Peninsula, south of Anchorage, westward to Unalaska Island is a lush grassland of approximately 10,000 square miles suitable for cattle and sheep grazing.[12] The dominant grass is bluetop (*Calamagrostis langsdorfit*) which frequently is in pure stands. Its height (often reaching six feet), the obvious way cattle thrive on it, and its desirability as a hay species were important observations that very few travellers to Alaska failed to make. The grass has certain problems, however, including a tendency to decline in vigor if cropped annually for hay. Complaints of low protein percentage and high levels of crude fiber are common in the literature, but this was caused by harvesting too late in the season.[13] The bluetop plant has thus been partly responsible for the very mixed agricultural forecasts for the south Alaska grasslands; on the one hand it fattened animals without human aid, and on the other frustrated herdsmen who attempted to store it for winter use.

Climatic potential

Few people considered Alaska's rangelands unsuitable for agricultural settlement despite the variability in soils. The exact available quantities of each soil and rangeland type were questioned, but their existence was not. As for climatic conditions, nearly every author on the region has assailed the myth that "all Alaska is a frozen, treeless waste." [14]

One of the most important and misunderstood factors controlling the agricultural climate of Alaska is high latitudinal position.[15] Especially important are several important ramifications of long summer days for plant growth. Not only are the July mean maximum temperatures above sixty degrees in nearly all the state and exceed seventy degrees over a broad portion of the interior, but the long days minimize the danger of a midseason frost. If the temperature should fall to the freezing mark, sunrise can often raise it again before damage to the plant occurs. Long days also increase the time that photosynthesis can cperate. According to recent work, the middle Yukon Valley has one of the world's highest rates of potential photosynthesis for the four month period from May through August.[16]

A map of the mean number of days between frosts shows large areas of the interior with seasons of eighty days or more, a period adequate for the production of hardy grains and vegetables given the long subarctic summer days (Fig. 3). The government experiment station at Rampart, on the middle Yukon River, never had a grain failure during its entire twenty-six-year existence. The long days, high temperatures, and a near absence of thunderstorms in the interior all bode well for crops. The only summer handicap is an occasional mild drought. Though precipitation totals rarely exceed sixteen inches in this region, crop failures are rare because of low evaporation rates.

Southward from the Alaska Range is a completely different climatic world. Marine influences produce narrow ranges of diurnal and annual temperature and a superabundance of cloud cover, fog, and rain. Growing seasons average 140 or more days along the entire coast, and grasses can grow nearly continuously. Subsistence grazing is possible with a minimum of expense, although the maritime conditions do not favor the ripening of many crops and even inhibit the field drying of hay.

A coarse summary of the physical adaptability of Alaska to agriculture can be obtained by comparing the maps of soils and growing season length (Figs. 1 and 3). The eighty-day isoline fairly adequately delimits the possibilities for hardy grains and vegetables in all areas north of the Alaska Range. Within this isoline, soil conditions limit the physical potential for extensive development. Large areas in the lower valleys of the Yukon, Kuskokwim and other Bering Sea rivers are unsuitable on this account. The most favorable areas for cultivation are large portions of the middle and upper Yukon and Kuskokwim valleys, the lower and middle Tanana Valley, the Cook Inlet lowland, and scattered lowlands along the extended Gulf of Alaska shoreline.

THE EXPECTATION OF DEVELOPMENT

Before the great Klondike gold stampede began in 1897 there was no real need for Alaska to be settled nor any rational expectation that it would be. Americans were busy populating the much more accessible and better known plains states. The rapid influx of literally thousands of miners to the territory brought the need for prompt reassessment, especially since the mining boom corresponded in time to the virtual exhaustion of the fertile, drought-free portions of the public domain stateside. Apparently a new agricultural frontier would have to be developed to counter the rising land values and tenancy rates in the Middle West. If not, many feared that the era of cheap food and general nrosperity would soon be gone forever.[17] Either of these conditions was considered reason enough to expect large-scale agriculture development in Alaska; together they seemed to make it inevitable.

The mining boom swelled the white population of Alaska from 4,298 in 1890 to 30,493 by 1900, and no one foresaw any reason for the rush to cease.[18] A market for local produce thus seemed assured. The population influx also encouraged the U.S. Department of Agriculture to set up local experiment stations, and with amazing speed the physical feasibility of agriculture was verified. In 1902 the head of the experiment stations stated that "it has been demonstrated that Alaska has agricultural possibilities of a high order." [19] A few years later the governor indicated that the opinion was general: "Speculation has already passed out of fashion among a large number of Alaskans who think there is no longer any doubt as to the general feasibility of agriculture in the Territory." [20]

The experiment stations, under the skillful and ebullient leadership of C. C. Georgeson, quickly rectified many of the bugbears of Alaskan agriculture. Stations were established both on the coast and in the interior, hardy varieties of seed and livestock were introduced, and cultivation practices were studied. The net results were overwhelmingly positive, so much so that after two years of work Georgeson could claim that: "at a conservative estimate, the tillable and pastureland of the Territory amount to 100,000 square miles" (Fig. 4).[21]

The initial aim of Klondike-era agriculture was local supply only, but as immense acreages of potentially productive land became known, export products came to dominate discussions. Three possibilities were highly touted: cattle and sheep ranching, wheat farming, and reindeer herding. Together they

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seemed to hold a promise for a new agrarian empire.

Cattle and sheep ranching in the lush natural grasslands of Kodiak and the Aleutian Peninsula was the first enterprise to gain national attention. The grasslands had long been known, and when a Seattle packing firm placed some 9000 sheep and 200 cattle on Kodiak in 1902 and 1903, many took note.[22] Although the pastures remained relatively empty for the next twenty years, the work of the experiment station at Kodiak was quite successful. Government and private sources echoed a similsr sentiment: [23]

"At present this part of the country is almost entirely neglected. But one of these days the stock raisers of the world will wake up. They will find no finer spot on earth for the promulgation of their industry than the Island of Kodiak."

It naturally became harder to keep up the enthusiasm as time passed without development, but in the middle 1920s sagging hopes were revived. Two companies each imported a thousand head of sheep to Unalaska and Umnak Islands in 1924, and one of them, reporting "exceedingly promising results," brought in another 3500 head by 1927.[24] Additional hope for development came from Congress, which in 1927 approved the creation of grazing leases on the public lands. The General Land Office reported having 80 applications on file for the southern Alaskan leases in 1930, and 190 in 1931.[25]

Wheat, like livestock a traditional American frontier commodity, was not accorded the same enthusiasm as the ranching industry in the years immediately following the gold rush. Wheat would not grow well on the coast and its potential in the interior was stymied by inaccessibility. Bonanza dreams picked up after plans for the Alaska Railroad were announced in 1914, however, and reached euphoric levels by the early 1920s when government wheat breeding efforts were deemed successful. The optimistic outlook became general when a Fairbanks farmer's association built a grain mill in 1921. Many waxed grandiloquent, and even the governor was impressed: [26]

"There is absolutely no reason why, with the extension of the acreage under culture, Alaska should not produce all the flour that is needed for home consumption and in the course of time have a surplus for export. The completion of the Government railroad will give access to the coast settlements, and if freight rates are adjusted to the economic requirements of the Territory, Alaska flour can and will be shipped to southeastern Alaska and elsewhere."

Both the wheat and cattle-sheep industries were enthusiastically promoted in the early years of the century, but their sporadic, very slow development rates were constant hindrances to public credibility. In contrast, the reindeer industry in this period was a model of rapid and smooth growth. It seemed to be an enterprise uniquely suited to the vast tundra lands, and supplied a product for which abundant markets could be created in the coterminous United States and elsewhere.

Reindeer were introduced into Alaska in 1891, originally to provide subsistence for the destitute Eskimo population. It was soon observed that the animals were thriving, doubling their numbers every three years given only minimal care. It seemed almost too good to be true, and Americans were quick to see the implications. The clarion call was sounded in 1903: [27]

"There are 400,000 square miles of barren tundra in Alaska where no horse, cow, sheep, or goat can find pasture; but everywhere on this vast expanse of frozen land the reindeer can find the long, fibrous, white moss which is his food. There is plenty of room for 10,000,000 of these hardy animals. The time is coming when Alaska will have great reindeer ranches like the cattle ranches of the southwest . . . In thirty-five years Alaska will be shipping each year to the United States anywhere from 500,000 to 1,000,000 reindeer carcasses and thousands of tons of delicious hams and tongues. At no distant day, it may be safely predicted, long reindeer trains from arctic and subarctic Alaska will roll into Seattle and over most western cities like the great cattle trains that now every hour thunder into the yards of Chicago."

Grosvenor had made a most daring prophecy, but one which the developments of the ensuing years seemed to substantiate. Articles appeared bearing such titles as "Alaska, the World's Meat Shop," "The Reindeer Revolution," and "The T-Bone of Tomorrow," each espousing Grosvenor-like dreams.[28]

A market was all that the industry needed, and no one doubted this prospect for a minute. Reindeer meat could be delivered to the west coast cities at a price one-fourth to one-half that of beef, and the meat was universally judged first-class, both in quality and in taste. By 1920 the largest of the reindeer operators had lined up distributors in Seattle, Portland, Minneapolis-St. Paul, Oklahoma City, Chicago, New York, and Boston, and had obtained contracts with several major hotels and passenger railroads. Herd size was reported at 350,000 in 1924 and still growing. It was, in the words of geographer J. Russell Smith, an industry "thoroughly established." [29]

THE ENIGMA OF NON-DEVELOPMENT

The reindeer, wheat, and cattle-sheep industries, together with the general land needs and beliefs existent in the United States, comprised a tenable platform from which Alaskan agrarian dreams could be projected. From 1897 until the days of the Great Depression people were continually led to predict an imminent settlement boom. With the exception of the reindeer business, however, the years passed with only token development, and a doctrine of imminent settlement became harder and harder to sustain. The white population remained virtually static from 1910 through 1930 at 30,000 people, and the number of farms climbed only slightly from 12 in 1900 to 500 in 1929.[30] The trickling growth was hardly a boom.

What was wrong with Alaska? That any piece of American territory would not develop a strong class of yeoman farmers was beyond the belief of most citizens. It had been the pattern from Massachusetts to Kansas and Oregon. Farmers were an integral link in the accepted "wave-theory" of settlement and, as the public generally linked farming with both democracy and independence, nonsettlement seemed almost un-American.[31] Alaska was truly an enigma in the late 1920s and early 1930s, and the search for an explanation became almost a mania. Article after article carried such titles as "What Ails Alaska?," "Why Alaska Is Being Rapidly Depopulated," and even "Will Alaska Secede?" [32]

The reasons advanced for the lack of settlers were varied, and changed somewhat throughout the period as stagnation remained after supposed problems were rectified. Inadequate land laws were blamed early, and later foils included government bureaucracy and the influence of special interest groups. The principal and continuing concern, however, was the transportation issue. Through sympathetic and often enthusiastic government and private activity, most of these supposed obstacles to settlement were removed by 1930, but the result was an even deeper enigma in 1930 than in previous decades. There were still no farmers in Alaska, but now there were no convenient scapegoats to blame.

The land laws

A major concern in the immediate post-Klondike years was the form and operation of the homestead laws originally extended to Alaska in 1898. They specified that all entries must be on officially surveyed land, but the first surveys were delayed some ten years.[33] Moreover, eighty acres was the maximum entry allowed, a holdover from the days when vegetable gardens were deemed the only possibilities for the land.

Since inadequate land laws or even their absence altogether were rarely an important factor in keeping American settlers out of a new territory, it is unlikely that the survey and acreage controversies in Alaska were more than limited obstacles to settlement. As the federal government progressively liberalized the land laws, no convincing case could be made against them. Enlargements of the homestead entry limit were considered in 1900 by the U.S. House of Representatives, reasoning that "an 80-acre homestead is too small for actual use in any new country, and instead of reducing the size of a homestead in that region there would be greater reason for increasing it to a half section, or even a whole section." Two years later the maximum entry was enlarged to 320 acres.[34]

Railroads and the conservation movement

Concerned writers of the time increasingly began to focus on the transportation issue as the land laws improved and settlement was still slow. Transportation woes, of course, were by no means unique to the Alaskan frontier. They were an inevitable accompaniment of every move into new land. Their solution was almost always a slow process, but usually a steady one, as increasing numbers of people and natural resources justified the construction and maintenance of more railroads, roads, sea lanes and the like. Since railroads were at the peak of their national popularity at the time of the Klondike, attention was concentrated mainly on them.

Transportation in Alaska seemed to be improving at an acceptable and even surprising rate in the early years of the century. Following the passage of a bill to grant railroad rights-of-way in 1898, private capital was rapidly invested in railroads all over the territory. The White Pass and Yukon Railroad was completed from Skagway to the Yukon River at Whitehorse in 1900, and the Alaska Central began construction from Seward toward Rampart on the Yukon in 1902. Elsewhere, between 1897 and 1903 at least four companies were organized to drive up the Copper River valley before the successful Copper River and Northwestern Railroad began work there in 1905. Short lines also sprang up in the Tanana Valley, at Yakutat, and on the Seward Peninsula.[35]

Gold, copper, and coal were the main lures for railroad construction, but it was acknowledged that the opening of rich agricultural valleys would be a most important auxiliary feature. Seen through the eyes of enthusiastic railroad builders, farming potentials appeared limitless. Trumpeted one railroader with more fancy than fact: [36]

"Alaska is really a fertile region. . . . Thousands of people have been going north to Alaska not simply to dig for gold, and then return, but to locate there permanently. . . . Barley, oats, and buckwheat have become quite important crops, and thousands of bushels of grains are now transported south to the coast from the great interior plains."

Others were just as extreme. The completion of a line to either Fairbanks or Eagle, wrote a promoter in 1903, "means the development there of three or four agricultural

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and mining states like Iowa, Minnesota, the Dakotas, and Montana in central Alaska."[37]

All of the above agrarian dreams were dealt a severe blow in 1906 when, because of an attempt to monopolize the Bering coal lands inland from Cordova, President Roosevelt withdrew all Alaskan coal lands from entry pending government investigation. Out of this simple action came one of the pivotal issues in the American conservation movement, the Ballinger-Pinchot controversy.[38] Although Roosevelt promised Alaska a swift implementation of a coal-land leasing system, the ramifications and repercussions of the conservation-exploitation dialog delayed legislation on the issue until 1914.

The implications of the coal dilemma for Alaskan transportation were predictable. Since "all Alaskan railroads wanted coal—those bankrupt, those building, and those few operating," the closing of the coal lands meant a virtual halt to railway construction.[39] The Ballinger-Pinchot controversy inextricably tied the transportation issue to the conservation one, and the latter was put forward time and time again as the underlying reason behind the population stagnation. A prominent geographer of the time, Ralph S. Tarr, was of the opinion that "Alaska and Alaskans have been made the victims of a combination of stupid land laws, awakened public conscience, the clamor of the unreasoning mob, and politics." Tarr welcomed the conservation wave but warned:[40]

"There is danger lest it become a quack medicine that will kill and maim instead of being the cure-all it is proclaimed to be. Even continued exploitation may be preferable to unwise conservation. In Alaska it has so far checked progress, and no immediate prospect of relief is in sight."

The Alaska Railroad

Helpless Alaska, an innocent victim of the latent environmental concern of the nation, soon became a theme not only for popular writers and social critics, but also for leading government officials. Largely to atone for this guilt, the Secretary of the Interior and others threw their wholehearted support to an already well publicized plan for a government-built, government-run railroad into the Alaskan interior.[41] The idea met with some opposition, but public support was overwhelmingly in its favor. The "guilt" aspect was probably the biggest selling point for the railroad, but close behind lay the hope and expectation that this transportation improvement would bring in its wake * * *.

By 1914, with the Alaska Railroad under construction and a coal leasing system finally in operation, the future looked bright to most observers. Progress, however, was only fleeting and Alaska soon fell once again into stagnation. This time an explanation was much harder to find—the land laws were good, transportation was notably improved, and the coal fields were reopened.[42] World War I provided a temporary excuse, with Governor Riggs suggesting that Alaskans "have flocked to the colors in great numbers," and that "a large proportion of the population, seized by the general restlessness of the country, has left for the scenes of greater excitement and anxiety.[43] This exodus was undoubtedly largely responsible for the drop in the white population from 36,400 in 1910 to 27,883 in 1920, but does little to explain why a large population upswing did not occur in the immediate postwar years.[44]

Analysts were practically at a loss to explain the stagnation of the 1920s. A few attempted to muster a case for bureaucratic red-tape and the problems inherent in government from long distance (i.e., control of Alaskan affairs in Washington, D.C.), but why these would keep out settlers was never stated.[45] The problem clearly went much deeper.

As the 1920s wore on, and especially after the arrival of the Great Depression, the tendency was to ignore the issue at last, and thus by implication to assume that rural settlement was somehow not "fated" for Alaska. The Depression effectively extinguished the flickering hopes for large cattle and sheep operations as well as those for grain elevators and mills. Of the three agricultural export hopes, only reindeer remained and this industry too, even with its strong initial market penetration and 700,000 head of stock in 1931, was destined to practically die by the end of that decade.[46]

The collapse of the reindeer industry

Declining reindeer exports in the early 1930s were properly attributed to the Depression, but this economic crisis was only one of many problems which descended suddenly on the industry. Some of the troubles were perhaps inevitable given the rapid growth and pioneering nature of the business. Insect and parasite problems, for example, which had been negligible in the early years when the herds were small, progressively increased as the deer multiplied. In the same manner, but of much greater consequence, problems of range management and herding procedure also grew along with the herds. Straying became more and more common with the animals either joining wild caribou bands or falling victim to wolves, a predator which naturally increased its numbers along with the reindeer. At the same time, government surveys found evidence of serious overgrazing.[47] Lichen pastures required from fifteen to thirty years to recover from heavy use, a much slower time than had been suspected. This meant fewer animals could be grazed per square mile and led to increased herding costs.

The above problems might have been largely overcome had the healthy meat export picture of the late 1920s maintained itself. Two forces, however, combined to prevent this: the Great Depression of the 1930s and pressure tactics adopted by the American cattle industry to keep out the "competition from Alaska." Around 1930 the cattlemen apparently began to feel that reindeer exports were increasing at an alarming rate. "Today it is two million pounds," their trade journal railed, "tomorrow it may be twenty million."[48] The major battle of the reindeer-cattle "war" seems to have occurred when Carl Lomen, the main reindeer operator, contracted with a nationwide chain-store system to stock and advertise reindeer meat:[49]

"Quick to sense the danger in this movement, stockmen at once took action. They held up to the management of the concern in question the falsity of some of their claims, and especially stressed the disloyalty to members of an industry upon which the welfare of the whole community largely rested. So hot and insistent was the attack that the chain-store people capitulated. A promise was drawn from them that in the future no reindeer meat would be handled in their stores."

The tactics of the cattlemen effectively killed the white-owned reindeer export business and indirectly hurt the native operators, as they too were left without large outlets for surplus deer. A widespread sentiment developed to prohibit white ownership in the hope of preserving the remainder of the dwindling market for the Eskimo herders. The sentiment was made into law in 1937.[50]

From 1937 on the industry went into even more rapid decline. The native herders began to lose heart without the technical, managerial, and marketing skills of the white businessmen and many returned to their traditional hunting and fishing existence, allowing wolves to gradually decimate the reindeer. The inventory was down to 250,000 deer by 1940, when World War II supplied the death blow. Eskimo herders deserted to take new government jobs and discovered in the process a way of life which made reindeer herding seem a poor alternative; by 1945 only 60,000 deer remained and by 1949 there were only 27,920.[51]

THE DECLINE OF PIONEERING

The reasons for the reindeer fiasco seem fairly obvious, but they apply only to that particular industry. The more general question, why rural settlement never came to Alaska on a significant scale, remains unanswered. As has been shown, the principal reasons advanced at the time—poor land laws, lack of transportation, and the government conservation policy—were unsatisfactory; the problem remained after each supposed cause was remedied. A more adequate answer, which in retrospect seems quite obvious, was almost totally passed over by contemporary writers. American life in general and American agricultural life in particular was rapidly undergoing changes in the early decades of this century which made pioneer farming an increasingly undesirable alternative for most people, both from an economic and a social standpoint.

Two major reasons for the decline of pioneering can be seen by examining the traditional economic rationale of the frontier farm. Cheap land and a fertile, virgin soil were important assets, and in theory, these outweighed the handicaps of long distance to markets and an absence of many of the amenities of established society. Only two members of this equation stayed relatively constant as the new century advanced: cheap land and distance to market. The other two changed radically, and in a direction so as to tip the already tedious balance away from the pioneer existence. Rich soil, with the growing use of fertilizers, insecticides, and better soil conservation practices, became no longer the sole property of the virgin lands. Moreover, the amenities of civilization the frontier family had to give up increased immeasurably. This second point, while not nearly so well known as the first, is one of the most important factors in bringing to an end the age of pioneering. Isaiah Bowman saw it as early as 1931, and expressed it well:[52]

"The first question the modern pioneer asks of a land where he is to dwell and create a home is, "What is the *quality* of the life I shall have to live there"? Such a question rarely interested the pioneer of an earlier day because he left comparatively little behind him. . . . In their home communities early families had only a low level of medical skill, and there were no telephones, no bathtubs, no movies, and no many-other-kind-of-things for them to relinquish in order to become pioneers. If they subjected their families to the dangers of the wilderness they also offered them such advantages as there may be in an outdoor life. Today it requires courage to leave the telephone behind, for at the other end of it is a skilled specialist, not merely an herb doctor, who may save the life of a member of the family in a crisis. . . . Social pleasures and social communication have increased enormously in recent years, and these the pioneer can enjoy only in greatly attenuated forms."

In addition to the above considerations, at least two others contributed to the demise of American pioneering. One was the development of higher yielding plant varieties. With new wheat varieties and the development of greater skill in utilizing the subhumid lands of the Great Plains, there was no longer any need for the crop to be grown on the Alaskan frontier, thousands of miles from markets of the East.

A concurrent trend in United States agriculture was one toward increased mechanization. This, while easing the workload of the established farmer, was another severe blow to pioneering. Pioneers traditionally were people long on ambition and brawn,

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but short on capital.[53] In the early 1900s it became increasingly impossible to compete on the commercial market without such new "necessities" as tractors and reapers. One could still practice subsistence agriculture with ambition and a mule or two, but in view of increased knowledge of how "the other half" lived, this alternative appealed to only a very few.

The absence of settlers in Alaska in the 1920s was evidence that the American people would no longer participate in subsistence frontier agriculture. In spite of this the public apparently could not understand why "other" Americans would not be willing to emigrate. Pioneering was so deeply embedded in the fabric of American culture that people found it nearly impossible to acknowledge that it was no more. One of the earliest admissions of the real state of affairs was by the novelist John Steinbeck. In 1938 he wrote of an old California frontiersman who painfully realized that an era was at its end:[54]

> "It wasn't Indians that were important, nor adventures, nor even getting out here. It was a whole bunch of people made into one big crawling beast. . . . It was westering and westering. Every man wanted something for himself, but the big beast that was all of them wanted only westering. . . . Then we came down to the sea, and it was done. . . . There's a line of old men along the shore hating the ocean because it stopped them. . . . But that's not the worst—no, not the worst. Westering isn't a hunger any more. It's all done. . . . It is finished."

There was no reason, of course, for the insight of Steinbeck to have any noticeable effect on Alaska, but in the same year that he published the above lines a remarkably perceptive government report was issued by the National Resources Committee expressing the same general thought.[55] With regard to agricultural settlement, it categorically denied many of the long-held official opinions on the subject. The Scandinavian analogy, by which great development for Alaska had traditionally been predicted, was shown to be faulty. Moreover, and even more revolutionary, the changing nature of pioneering and the end of subsistence agriculture were explicitly stated. The report concluded that the agricultural future of the territory could only be a limited one—that of supplying the small local market.

The report was not wholly negative, but when compared to the recent prophecies of reindeer by the million and wheat fields covering thousands of acres, both expansive enough to supply the rest of the nation, it was quite a comedown. The document was most sobering, but an accurate indication of the true position of Alaska in the modern era of commercialization, mechanization, and improved transportation.

THE REVIVAL OF AGRARIANISM

The report of the National Resources Committee in 1938 finally stated what long years of frustration had failed to make obvious to most Alaskans—that agriculture would be only a minor element in the economy of the territory. One might expect that given the honesty of the report and its official source, it would serve as a model for subsequent similar statements by journalists and other analysts. Alaskans then would be relieved from their long-time infatuations with agricultural pursuits and look for other economic opportunities.

Such a development did not immediately follow the National Resources Committee report. In fact, some ten years later talk of agriculture and settlement booms was almost as widespread as it had been in the immediate post-Klondike days. Only after about 1950 were the findings of the Committee generally accepted.

Why was the boom period so prolonged? Of primary importance were the Great Depression and World War II. As will be discussed, depression times caused many Americans to forsake urban life for the supposed economic security of living on the land. Alaska, by virtue of its frontier image and a resettlement plan in the Matanuska Valley sponsored by the federal government, was prominently involved in this activity.

World War II was also responsible for an agrarian revival in Alaska. The strategic location of the territory with respect to Japan led to rapid infusions of military dollars and personnel. National attention was directed to the vulnerability of Alaska, and to the need for settling the land and making it as self-sufficient as possible. Plans for the importation of European refugee farmers soon followed, as did efforts to encourage United States veterans to settle in the Northland once the fighting was over. In the mid-1940s agricultural optimism was higher than it had been since the immediate post-Klondike days.

Matanuska and the "back-to-the-land" movement

The Great Depression came just after a time when millions of people had been attracted from rural areas to cities. As hard times persisted "many men turned their eyes back to the land, to the old homestead, to security, to a memory."[56] The sentiment was naturally a boon to the long-frustrated promoters of Alaska settlement, especially since the federal government saw fit to encourage the trend through a Subsistence Homestead division within the Department of the Interior.

Some one hundred agricultural "colonies" were established by the Division of Subsistence Homesteads and other government agencies during the mid-1930s.[57] One resettlement effort took place in the Matanuska Valley northeast of Anchorage.[58] The allocation of a colony to Alaska angered a few Americans who wanted more federal money for their own states, but from the standpoint of the government it made a good deal of sense. Past settlement attempts in the area had provided valuable information about soils, for example, and a government controlled railroad already operated in the valley. Land surveys were also completed.

Matanuska was to be a shining example of what agriculture could be in Alaska—a convincing final refutation of the "Seward's Icebox" image, and a demonstration for other, independent settlers. In the words of one of the general directors of the project in 1936:[59]

> "The primary purpose was to show by actual example that Alaska was a suitable place for colonization. Information already assembled indicated that soil and climatic conditions were very favorable. But because nearly everyone in this country has traditionally thought of Alaska as a land of extreme cold, perpetually ice covered, and suitable only for Eskimo, reindeer, polar bear, and hardboiled gold miners, few people thought seriously of going up there and trying to make a home.
>
> The government considered that if this colony should turn out to be a success, then the general public of America would know that Alaska was suitable for colonization. Many people lacking the opportunity to make a living in some parts of the United States would then go up there of their own accord, and try their fortunes on our last great physical frontier."

The combination of government subsidy and continuing depression created a large settler pool in the United States from which to draw. When word of the planned Alaska project was released, letters by the thousands began to pour into the offices of the Interior Department. According to one authority, some 26,000 letters were at one time on file from individuals "begging to be moved to Alaska."[60] Since the scope of the Matanuska scheme was to be only on the order of 200 families, it thus seemed probable that the settlers chosen could be ones well suited to meet the Alaskan challenge.

The government decided to restrict the Matanuska recruiting to the upper Middle West and, in particular, to the extremely depressed "cutover" region of Michigan, Minnesota, and Wisconsin. The reasoning, of course, was that people from this area would have less trouble adjusting to the climate and farming conditions of Alaska than would recruits from other regions. Further stipulations required colonists to be "honest to God" farmers, young, healthy, married, aware of the possible hardships to be encountered, and "possessed of a rugged, pioneering spirit."[61] The 202 families finally selected by the government case workers ostensibly satisfied these guidelines. The men averaged 32.7 years in age, the women 28.3, and all the families claimed they had had previous farming experience.

Would the hand-picked pioneers of 1935 succeed? The selection procedures indicated that they would, but the results were mixed. Many colonists complained and within a year sixty-four of the families had departed. Another large contingent were enthusiastic, however, stating that the problems had been exaggerated. Description and analysis of this situation has been a popular undertaking by amateur and professional social scientists from 1935 to the present. They all essentially agree on the basic problems of the project, but often differ in their interpretations.

It is obvious that opinion on Matanuska was sharply divided. There were those settlers who saw principally opportunity in being placed in Alaska, and those who focused on the absence there of accustomed refinements. Past analyses have often tended to support one side or the other, either labeling the complainers as a small group of misfits or attacking the enthusiasts as a romantic minority. Viewed from a historical perspective, however, the schism was to be expected. It simply represented the division between the traditional pioneers and the new wave of Americans unwilling to make the sacrifices even government-aided pioneering required. It was a fluke of timing that in Matanuska both sides would be represented by large numbers; earlier, the traditional pioneers would have predominated and complaints would have been few, while later in time only a small number probably could have been found to undertake subsistence agriculture in this remote locale.

Was Matanuska a success? This question has never been resolved. Most authorities who wrote in the 1930s predicted it would be, but the facts are that conditions deteriorated in the years through 1938. There was increasing dissatisfaction with subsistence farming, the Anchorage market was not large enough to allow complete farm commercialization, and production and shipping costs were too high to permit export to other centers. A *New York Times* reporter in 1935 prophetically saw what was to happen:[62]

> "But the indications are that, although the colonists can undoubtedly find a rich subsistence in the valley, their chances to make more than small change are not extraordinarily bright. At present this gives them almost no concern. After years of wrestling with crop failures and tobogganing prices, most of them are happy to look out over their forty acres of fertile, tax-free land and accept its promise of comparative security. The more ambitious may not take the same attitude later on, especially if conditions improve at home."

The World War II boom

Matanuska in 1938 was just about to prove that American pioneer settlement, even

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when aided by the federal government, was doomed to failure in any area not possessing large markets close at hand. The myths of agrarianism and the national need for a Turnerian agricultural frontier, along with the drives they generated to place yeoman farmers in Alaska, seemed close to extinction. If a well-financed, government-backed venture failed, could there be doubt that others would as well? This was the mood sensed and reported in 1938 by the National Resources Committee. Agricultural settlement on a significant scale was apparently not to be achieved in Alaska; a cherished American tradition was about to be abandoned.

The only force which could insure success for the Matanuska colony was a significant increase in the size of the local Alaskan market, and any possibility of this seemed very remote in 1938. The situation was changed abruptly the following year. With the possibility of United States involvement in the growing world conflict, military precautions demanded that Alaska be fortified. A naval base was begun at Kodiak and army installations were built near Anchorage and Fairbanks. In addition, military road construction was initiated on a large-scale. Civilian and military personnel poured into the territory, and practically overnight the Matanuska farmers had more orders than they could fill.[63]

The King-Havenner Bill. Alaskan agriculture was revitalized by the war effort in several ways. Besides the simple expansion of local production for the larger market, the military ideal of making Alaska as self-sufficient as possible in the even of attack prompted renewed government interest in the settlement question. In new strategy proposed by the Department of the Interior, the problem was seen to be a "vicious" economic cycle: [64]

Underpopulation over a large area leads to excessively high transportation costs.

High transportation costs result in a high cost of living.

High living costs result in high costs of production.

High costs of production and transportation make most industries unprofitable.

Lack of industrial development results in seasonal unemployment.

High living costs and seasonal unemployment discourage immigration and encourage emigration.

All of which results in underpopulation.

The report stressed that once the cycle was broken, Alaska could easily prosper on its own. The problem was how to make the initial incision. Individual immigrants could never do it. A large-scale colonization effort was needed, backed by "large amounts of capital and long-range planning." To avoid the problems which beset Matanuska, two basic changes were proposed: to entrust the colonies to government-chartered but privately-financed corporations in the manner of the old Plymouth and Dutch East India Companies, and to select as settlers refugees and others who might better appreciate the advantages of Alaska than did many of the Matanuskans.[65]

The plan was quite imaginative and, backed by both the Labor and Interior Departments, it was introduced into Congress as the King-Havenner bill in 1940. Although it failed to get out of committee, the bill represented an important step in the American perception of the Alaskan frontier.[66] Agricultural settlement, especially given defense needs, was still thought to be essential to Alaska, but the means of achieving it had changed. The unregulated, individual immigration characteristic of Middle Western development was an acknowledged failure in Alaska. The shortcomings of this system were partially rectified by the group colonization effort at Matanuska, but the many complaints suggested that even this approach would not work with the new generation of luxury-accustomed Americans. The King-Havenner bill advocated having European refugees do the initial pioneering. Once the hard work was done and the local economy established, Americans could then move in. As a prominent economist-sociologist suggested at the Senate Hearings: [67]

"Americans cannot go to a place which is not growing. It [Alaska] is not a place that will attract the ordinary American workman. If, on the other hand, we had some device by which the population would come and stay there, and give the nucleus of growth, then we will begin to see our American unemployed gradually attracted there. . . . I have . . . talked to hundreds of young men who have felt the same way, that Alaska was a growing country, but until it had actually got well on the way to growth, they could not go there."

A New Land Rush. A bill similar to the King-Havenner proposal also failed in the next Congress, but proponents of Alaskan settlement were not terribly upset. Wartime Alaska was booming on its own. Over 100,000 military personnel were stationed in the territory during 1943 and 1944, and many of them were impressed by the land and its possibilities. Talk of a postwar boom mushroomed. The General Land Office was "deluged" by information requests in 1944, and sent out "tens of thousands of leaflets" on the subject of land availability.[68]

The demand for knowledge about farming in Alaska generated a considerable mass of new literature. In the popular magazines, Alaska was almost without exception portrayed as a "Land of Promise." [69] The scientists at the Alaska agricultural experiment station were nearly as optimistic. One wrote in *Successful Farming* that conditions were not too dissimilar from those in Iowa, and that if a person was willing to work, an Alaskan farm would provide "an income beyond the realm of possibility for the ordinary farmer in the States." [70] The former director of the station was quoted as follows: [71]

"I can truthfully say that the right kind of farmers can make a living more easily here in Alaska than almost any place I know of. Any family that has made a success of farming in the States, and has $4,000 in cash, should be largely self-supporting up here after the first year's harvest."

These officials also prepared a series of pamphlets for public distribution. One was a general information bulletin and the others dealt with conditions in the Matanuska and Tanana Valleys and with the prospects for ranching.[72] All were very encouraging to the prospective immigrant.

The information bulletins put out by the federal government were more guarded in their appraisals of the agricultural potential, and placed more emphasis on the need for capital, the limited market, and the physical limitations than did the pamphlets just mentioned.[73] These warnings, however, did little to check the popular enthusiasm for Alaskan settlement. The territory had acquired a new image. As two critics colorfully put it: "the territory has become in the public mind a land of dreams come true, a paradise of milk and honey and slippered case, an Eldorado where you can shoot moose and duck from your back porch and turn over solid-gold nuggets whenever you hoe your potatoes." [74]

The pervasiveness of the Eldorado image is suggested by the tone of several publications of the time which attempted to expose the fallacies in the boom talk. One writer stressed that all of Alaska was not like the Matanuska Valley, that it was not all good grazing land, and that winters throughout the territory were not all as mild as a large part of the Middle West.[75] In so doing, the author strongly suggests that many Americans were thinking of Alaska in these rosy terms. A somewhat similar approach can be found in a popular book of the times entitled *Opportunity in Alaska*.[76] Nearly every "opportunity" discussed is draped with warnings and restrictions, but the mere fact that such a book was published indicates that the boom was well-developed.

There were several underlying causes of the postwar enthusiasm. Postwar times were traditionally ones in which people were willing to move and begin new life styles, and, since Alaska had just been seen and admired by many thousands of servicemen, some influx of population could be expected. The natural beauty and untouched resources of the territory probably also appealed to the idealism and romanticism of young Americans tired of noise and fighting. A third force was the publicity created by those convinced that Alaskan settlement was essential to national security and by Alaskans who hoped settlement would keep the local economy at something near the fever-pitch it was during the war.[77]

The Veteran Homestead Bills. In the summer of 1947 a popular news magazine claimed that twenty families a day were moving to Alaska over the new Alcan Highway, and the Bureau of Land Management reported that requests for settlement information "averaged at least 5,000 a month." The civilian population of the territory reflects this interest. There were 79,000 residents in 1945, 83,000 in 1947, and 93,000 in 1948. It seemed to be only the beginning, for the Eightieth Congress had before it several plans to aid veterans in homesteading the land.[78]

The provisions of the homestead bills were tremendously liberal. The 160-acre limit was to be increased to a maximum of 1,920 acres in certain areas, no specific cultivation requirements were stipulated, and military service time could reduce the residency requirement to as little as one year. Essentially all that was required of an individual was to build a house on the land, and live on it, and to derive "some part" of his income from the claim. The hearings on the bills revealed a great deal of enthusiasm for the proposal, and the only major opposition was from the United States Forest Service which wished to retain as National Forest certain of the lands due to be opened for homesteading. One version of the bills unanimously passed the House but did not receive action by the Senate Committee on Public Lands.

The following year, 1948, President Truman specifically advocated government encouragement of Alaskan settlement, and soon the legislators were again busy. They passed a law to permit the sale of public lands in the territory and another to extend there the provisions of the Farm Credit Act of 1937. The most ambitious provision was a revival of the veteran homestead bill an expanded and even more liberal form.[79] The advantages of the 1947 version were all retained, and many others were added. The acreage maximum was increased to 2,560 in certain locations; the Secretary of the Interior was authorized to provide assistance at cost in land clearing, grading, road construction, and house building; and long-term, low-interest loans were provided to pay for these and similar endeavors. Moreover, the Department of Agriculture would clear at no cost up to five acres for the farmstead and private farm roads.

The provisions of the veteran homestead bill of 1948 were unparalleled in the history of the public lands, as they included almost every conceivable aid and inducement to settlement. It was as if after some eighty years of frustration, the United States government was finally pulling out all stops in an effort to colonize its northern territory. Enthusiasm for the bill was again very high in the House, and it was approved with only token opposition. The national security issue was the primary force behind this passage, but one can also detect in several of the

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speeches remnants of old agrarian philosophy.[90]

Even though the Senate again failed to act on the veteran homestead bill, Alaska in the late 1940s was experiencing the greatest population inflow in its history and nearly everyone was overjoyed. The territory was at last being settled.[81]

Although many attractions lured people to Alaska, the primary one was thought to be agriculture. This was the message stressed in the government and popular publications of the time, and judging from the number of requests for homesteading information received by the Interior Department, this was also the message received by the potential settlers.[82] Pioneering was an immensely popular idea.

It was thus a common belief in the late 1940s that Alaskan agriculture was flourishing. Only a very few writers bothered to record that, in fact, the immigrants were not becoming farmers. Although final homestead entries for the years 1946 through 1950 increased regularly (7, 20, 23, 156, and 186, respectively), their numbers were as nothing in comparison with the gains for those years in the total civilian population (1,000 3,000, 10,000, 7,000, and 12,000, respectively).[83] Apparently, hardships of pioneer farming quickly overcame romantic "living-off-the-land" notions, and, with the easy alternative of military construction work available, thousands of the intended farmers turned to this more lucrative field.

It was not really surprising that so few people noticed and recorded the nonparticipation of agriculture in the general postwar boom. Population was up sharply, business was good, and federal dollars were still pouring in. Alaska was enjoying its greatest prosperity since the Klondike times, and it was easy to overlook stagnation in one small facet of the economy.

The Census of 1949 revealed that the farming situation in Alaska had improved only slightly over conditions in 1929, and had fallen considerably from the peak statistics recorded during the military buildup of 1939. The number of farms was 525, up 25 from 1929, but down 98 from 1939 and a similar pattern existed for most other measures.[84] There was absolutely no basis for keeping alive dreams of an agricultural boom. By about 1950 the failure of the returning veterans to stay with farming had become obvious and Alaska at last began to pass into a new age. The agrarian dreams which had been sustained for half a century had finally ended.

THE ALASKAN FRONTIER IN RETROSPECT

The relationship of man with the land in Alaska has been a unique one, certainly without parallels in the United States experience. Americans consistently expected Alaska to develop along the lines established in the old Northwest Territory and repeated more or less regularly across the entire Middle West, Great Plains, and West Coast. An initial occupation by miner, hunter or trapper would gradually give way to a denser one featuring the pioneer farmer. These hardy souls, taking advantage of free land and virgin soils, would endure initial privations but would eventually profit from increased land values and the rapid commercialization of agriculture as more and more settlers came. Finally, villages and cities would form and manufacturing arise, creating the fully established landscape.

The Alaskan experience was true to this historical model for approximately forty years following the 1867 purchase. There were initial attempts at "booming" the Russian towns, but for the most part the land laid peacefully in wait for the first wave of settlement. As farmers occupied the western Middle West, fur traders and miners began to poke through the Alaskan wilds. In 1897, at almost the same time as the good, drought-free lands were being exhausted stateside, the Klondike gold rush got underway. Alaska was still very much following the model—the potential market of the miners and the free homesteads began to encourage the pioneer farmer to try his hand on this "last frontier."

The years immediately following 1900 should have been prosperous, exciting ones for Alaska if the stateside experience was to be repeated. Railroads would criss-cross the land, speculators would lay out city grids, and settlers would pour into the territory. Statehood would soon follow. With only minor exceptions, none of these events occured; for some reason Alaska did not progress as had Iowa and California before it. This startling reality shocked Alaskans and other Americans alike, and the ensuing years were spent in a chaotic search for an explanation. Attention was focused on such issues as inadequate homestead laws and slowness in railroad construction; Congress dutifully followed all suggestions. They amended the land laws, built an unprecedented government railroad, and even sponsored, as an example, the settlement of two hundred depression victims on Matanuska Valley farms—but to no avail. Pioneer farming just would not work in Alaska.

If it be granted that large areas of Alaska were physically suited for farming and that the techniques and attitudes of nineteenth and very early twentieth century America were conducive to pioneering, it is interesting to consider how close Alaska came to being the new agrarian empire that was visualized by so many. My research suggests that it came quite close. At the turn of the century American farmers were ready to spread to new lands. With only arid areas remaining in the West and soil rejuvenating fertilizers not yet common, the principal choice lay between the virgin lands of Alaska and the prairies of Canada. Alaska offered settlers the advantage of remaining on American soil, while the Canadian lands were closer at hand. If the judgments of the farmers had been based solely on these factors, there is little doubt that Canada would have attracted the majority of the American farmers. Alaska was simply too far away. It is doubtful, however, if the migration would have been as one-sided as it was were it not for the lock-up of the Alaska coal lands in 1906. Though undoubtedly stopping a monopolistic business venture, the decision removed the principal incentive to build railroads in the territory. Consequently, the considerable settlement incentives of the railroads and their advertising were lost to Alaska at a very crucial time. The would-be immigrants naturally turned to nearby and railroad-rich Canada. By the time the best Canadian lands were taken it was the 1920s, and by that time American society had changed enough so that the people were no longer willing to pioneer.

One can speculate farther on this topic. What would have happened if Canadian-American relations had been less amiable at this time? What if, for some reason, widespread adoption of fertilizers, indoor plumbing, electricity, and mechanized agriculture in general had been delayed in the United States for another decade? Alaska might have had it made. All it would have taken was a small start—the initial subsistance farmer. Once the land was cleared and the rural population established, the territory might well have developed like the rest of the United States.

After a final effort to entice veterans of World War II to farming, Americans rather abruptly abandoned their hopes to place a rural population in the territory. Fostered by the decline of agrarian doctrine in the states and supported by sound economic studies showing how widespread commercial farming in an area so remote, uncleared, and sparsely populated was not feasible, Alaskan agriculture settled into a small, specialized niche supplying fresh milk and vegetables to the local markets. The territory regained a sense of harmony with the rest of the union in doing this. While Alaska had been striving to achieve rural settlement in the first half of this century, the remainder of the country was beginning to abandon it. By the time of statehood in 1959 the Alaskan settlement scene actually did not look too different from that of Massachusetts or New Hampshire. The agricultures of all three were small and specialized, the people were overwhelmingly urban and concentrated in a few locations, and even the rural landscapes were somewhat similar. The abandoned fields and pastures of New England were not terribly different in appearance from the never cleared ones of Alaska.

The failure of pioneer agriculture to work in Alaska was a major anomaly in the American experience and a cause for considerable national concern. In spite of an acceptable physical environment, an end to the free humid lands stateside, and widespread agricultural publicity from private and government sources, the rate of rural settlement was never more than a trickle. The basic error that had been made, an error that apparently never has been fully understood, was to have regarded Alaska as simply an extension of the traditional American frontier. This it was not. The physical environment, while allowing cultivation, was strikingly different from any met in previous settlement. This difference was augmented in the public mind by the northern location of Alaska and its physical separation from the rest of the United States, and led to the belief that large portions of the territory were perpetually ice-shrouded. There was also an important temporal gap between the period of Alaskan settlement and that of the other states. When measured in years this difference does not seem great, but it looms as critical when measured in terms of technological advance. The rapid mechanization of farming; the changes in living produced by modern medicine, electricity, and plumbing; the increase of nonagricultural employment opportunities, and a host of similar revolutions acted to create a virtually new American culture. Pioneering, which had been an important, necessary part of the old way of life, became not only unpopular but unnecessary in the new.

FOOTNOTES

[1] The maximum was recorded in 1940. U.S. Bureau of the Census, *Sixteenth Census of the United States: 1940. Agriculture, Territories and Possessions*, p. 13.

[2] Karl E. Francis, "Outpost Agriculture: the Case of Alaska," *Geographical Review*, Vol. 57 (1967), pp. 496–505; Burke G. Vanderhill, "Perspectives on Alaskan Agriculture," *Journal of Geography*, Vol. 72 (1973), pp. 38–52. A more balanced treatment, though focusing primarily on the Matanuska colony of the 1930s, is Orlando Miller, *The Frontier in Alaska and the Matanuska Colony* (New Haven: Yale University Press, 1975).

[3] See Clifford B. Anderson, "The Metamorphosis of American Agrarian Idealism in the 1920s and 1930s," *Agricultural History*, Vol. 35 (1961), pp. 182–88.

[4] Quoted in Herbert Hilscher, "66-Day Barley in Alaska," *The Rotarian*, Vol. 69, No. 12 (Dec. 1946). pp. 18–19. See also Ernest Gruening, "Let's End Alaska Climythology," *Bulletin*, American Meterological Society, Vol. 43 (1962), pp. 533–38.

[5] The origin and persistence of overly negative appraisals of the Alaskan climate is explored in James R. Shortridge, "American Perceptions of the Agricultural Potential of Alaska: 1867–1958," unpublished doctoral dissertation, University of Kansas, 1972, pp. 35–43.

[6] S. A. Wilde and H. H. Krause, "Soil-Forest Types of the Yukon and Tanana Valleys in Subarctic Alaska," *Journal of Soil Science*, Vol. 11 (1960), pp. 266–79; reference on p. 267.

[7] Charles E. Kellogg and Iver Nygard, *Exploratory Study of the Principal Soil Groups of Alaska*, U.S. Dept. of Agriculture, Monograph No. 7 (Washington: Government Printing Office, 1951), p. 124.

[8] Wilde and Krause, op. cit., footnote 6, p. 271. Detailed studies are available from the U.S. Soil Conservation Service for the four principal farming areas in the state. They are: Samuel Rieger and R. Eugene Wunderlich, *Soil Survey and Vegetation of Northeastern Kodiak Island Area, Alaska*, Series 1956, No. 17 (1960); Samuel Rieger, G. W. Allen, A. D. Backer, E. G. Link, and B. B. Lovell, *Soil Survey of Kenai-Kasilof Area, Alaska*, Series 1958, No. 20 (1962); Samuel Rieger, James A. Demont, and Dupree Sanders, *Soil Survey of Fairbanks Area, Alaska*, Series 1959, No. 25 (1963); and Dale B. Schoephorster, *Soil Survey of Matanuska Valley Area, Alaska* (1968).

[9] Seymour Hadwen and Lane J. Palmer, *Reindeer in Alaska*, U.S. Department of Agriculture, Bulletin 1089 (Washington: Government Printing Office, 1922), p, 21.

[10] George A. Llano, "Utilization of Lichens in the Arctic and Subarctic," *Economic Botany*, Vol. 10 (1956), pp. 367–92; map on p. 369.

[11] The 150,000 figure is from Hadwen and Palmer, op. cit., footnote 9, p. 20; the 350,000 figure is from Carl J. Lomen, "Reindeer as a Source of Food," *Scientific American*, Vol. 141 (1929), pp. 104–18; reference on p. 106. Lomen was the leading reindeer owner in Alaska during the 1920s and the man most responsible for the industry's commercialization.

[12] The acreage estimate (the only one available) is from C. V. Piper, *Grasslands of the South Alaska Coast*, U.S. Department of Agriculture, Bureau of Plant Industry, Bulletin 82 (Washington: Government Printing Office, 1905), p. 9.

[13] G. W. Gasser, "The Grasses of Alaska," *Proceedings*, Third Alaskan Science Conference, 1952 (College, Alaska: Univ. of Alaska, 1954), pp. 46–51; William W. Mitchell, "Composition and Yield of Native Grasslands and Inherent Problems Pertinent to their Use"—Abstract, *Proceedings*, Seventeenth Alaska Science Conference, 1966 (College: University of Alaska, 1966), p. 76.

[14] Edith Fitton, 'The Climates of Alaska," *Monthly Weather Review*, Vol. 58 (March 1930), pp. 85–103; reference on p. 85.

[15] For a more complete discussion of Alaskan climatology than is sketched here see Fitton, op. cit., footnote 14; Murray Mitchell, Jr., "The Weather and Climate of Alaska," *Weatherwise*, Vol. 11 (1958), pp. 151–60; and Harold W. Searby, *Climates of the States; Alaska*, U.S. Dept of Commerce, Environmental Science Services Administration (Washington: Government Printing Office, 1968).

[16] Jen-hu Chang, "Potential Photosynthesis and Crop Productivity," *Annals*, Association of American Geographers, Vol. 60 (1970), pp. 92–101; map on p. 95.

[17] Josiah Strong, *Our Country: its Possible Future and its Present Crisis* (New York: Baker and Taylor, 1885), p. 153; James Bryce, *The American Commonwealth*, Vol. 2, new edition (New York: Macmillan, 1921), p. 913; William J. Trimble, "The Influence of the Passing of the Public Lands," *The Atlantic Monthly*, Vol. 113 (1914), pp. 755–67.

[18] Alfred H. Brooks, *Blazing Alaska's Trails*, B. L. Fryxell, ed. (College: University of Alaska and Arctic Institute of North America, 1953), p. 343.

[19] C. C. Georgeson, "The Possibilities of Alaska," *National Geographic Magazine*, Vol. 13 (1902), pp. 81–85; reference on p. 81.

[20] Walter E. Clark, "Farming in Alaska," *Sunset: the Pacific Monthly*, Vol. 24 (1910), pp 495–502; reference on p. 495.

[21] C. C. Georgeson, *Fourth Report on the Agricultural Investigations in Alaska, 1900*, U.S. Department of Agriculture, Office of Experiment Stations, Bulletin 94 (Washington: Government Printing Office, 1901), p. 67.

[22] John G. Brady, "Annual Report of the Governor of Alaska," in *Annual Report of the Department of the Interior*, House Doc. 5 of the 58th Cong., 2nd Sess., 1903, p. 20.

[23] William B. Stephenson, Jr., *The Land of Tomorrow* (New York: George H. Doran, 1919), pp. 57–58. For similar views see Brooks, op cit., footnote 18, p. 457; and Hugh H. Bennett, "Report on a Reconnaissance of the Soils, Agriculture, and Other Resources of the Kenai Peninsula of Alaska," in *Field Operations of the Bureau of Soils, 1916*, U.S. Department of Agriculture (Washington: Government Printing Office, 1921), pp. 39-174, especially pp. 139–40.

[24] Scott C. Bone, *Annual Report of the Governor of Alaska* (Washington: Government Printing Office, 1924), p. 33; U.S. Department of the Interior, *General Information Regarding the Territory of Alaska* (Washington: Government Printing Office, 1927), p. 76.

[25] U.S. General Land Office, *Annual Report of the Commissioner: 1930*, p. 50; U.S. General Land Office, *Annual Report of the Commissioner: 1931*, p. 13.

[26] Scott C. Bone, *Annual Report of the Governor of Alaska* (Washington: Government Printing Office, 1921), p. 41. See also Andrew J. Stone, "The Natural Resources of Alaska," *The Century Illustrated Monthly Magazine*, Vol. 100 (1920), pp. 841–48; "Agriculture in Alaska," *Science*, Vol. 52 (July 30, 1920), pp. 101–02; and A. H. Pulver, "Alaska as a Food Producer," *The Rural New Yorker*, Vol. 79 (1920), p. 1854.

[27] Gilbert H. Grosvenor, "Reindeer in Alaska," *The National Geographic Magazine*, Vol. 14 (1903), pp. 127–48; reference on pp. 127, 147–48.

[28] Emil E. Hurja, "Alaska, the World's Meat Shop," *The Overland Monthly*, Vol. 63 (1914), pp. 120–25; "The Reindeer Revolution," *The Independent*, Vol. 77 (1914), p. 163; and Francis J. Dickie, "The T-Bone of Tomorrow," *Sunset: the Pacific Monthly*, Vol. 43, No. 6 (Dec. 1919), pp. 41–42, 92.

[29] On prices and taste see E. W. Nelson, "What Reindeer Mean to the United States," *Weekly News Letter* (of the U.S. Department of Agriculture), Vol. 8, No. 26 (Jan. 26, 1921), p. 9, and Jean Bunnell, "The Alaska Reindeer Industry," *Journal of Home Economics*, Vol. 21 (1929), pp. 17–20; on distributorships see Carl J. Lomen, *Fifty Years in Alaska* (New York: David McKay Co., 1954), p. 90; the herd estimate is from Bone, op. cit., footnote 24, p. 43; the Smith quotation is from his "The Reindeer Industry in America: A Study of a New Industry and also of the Origins of Geographic Error," *The Scottish Geographical Magazine*, Vol. 40 (1924), pp. 74–88; reference on p. 84.

[30] U.S. Bureau of the Census, *Fifteenth Census of the United States: 1930. Outlying Territories and Possessions*, p. 29.

[31] Robert E. Riegel, "American Frontier Theory," *Journal of World History*, Vol. 3 (1956), pp. 356–80.

[32] W. P. Richardson, "What Ails Alaska?," *Current History*, Vol. 14 (1921), pp. 960–68; "Why Alaska is Being Rapidly Depopulated," *Current Opinion*, Vol. 72 (1922), pp. 408–09; Theodore M. Knappen, "Will Alaska Secede?" (in his column "The West in Washington"), *Sunset: the Pacific Monthly*, Vol. 50 (1923), pp. 47–48.

[33] U.S General Land Office, *Annual Report of the Commissioner:* 1909, p. 46.

[34] U.S. Congress, House, Committee on the Public Lands, *Homesteads in Alaska*, Report No. 569 of the 56th Cong., 1st Sess., 1900, p. 1; U.S. Congress, House, Committee on the Public lands, *Homesteads in Alaska*, Report No. 778 of the 57th Cong., 1st Sess., 1902, p. 1.

[35] Franklin W. Burch, "Alaska's Railroad Frontier: Railroads and Federal Development Policy, 1898–1915" unpublished doctoral dissertation, Catholic University of America, 1965, pp. 74–108.

[36] A. S. Atkinson, "Arctic Railroading," *The Railroad Gazette*, Vol. 35 (1918), p. 818.

[37] Frederick H. Chase, "Alaska's Railroad Development," *The American Review of Reviews*, Vol. 38 (1908), pp. 693–99; reference on p. 694. See also Harrington Emerson, "Opening of the Alaska Territory," *The National Geographic Magazine*, Vol. 14 (1903), pp. 99–106.

[38] James L. Penick, *Progressive Politics and Conservation: The Ballinger-Pinchot Affair* (Chicago: University of Chicago Press, 1968).

[39] Burch, op. cit., footnote 35, p. 203.

[40] Ralph S. Tarr, "The Alaskan Problem," *The North American Review*, Vol. 195 (1912), pp. 40–55; references on pp. 40, 43. For similar views see Sherman Rogers, "Alaska, the Misunderstood," *The Outlook*, Vol. 132 (1922), pp. 608–12; "Alaska and the Press Agents." *Hampton's Magazine*, Vol 26 (1911), pp. 659–60; C. L. Andrews, "Agriculture in Alaska," *The Alaska-Yukon Magazine*, Vol. 12 (1911), pp. 352–56; and Charles R. Tuttle, *Alaska: its Meaning to the World* (Seattle Franklin Shaey and Co., 1914), p. 23.

[41] U.S. Department of the Interior, *Annual Report of the Secretary:* 1913, p. 6.

[42] This is not to say that the coal issue was not an important one in curtailing Alaskan development. The willingness of Americans to pioneer declined greatly betwen 1906 and the 1920s. Had the coal lands remained open in 1906 and the private railroad building continued as expected, Alaska may well have received a sizable immigration of rural settlers in the 1906–1914 period.

[43] Thomas Riggs, Jr., Annual Report of the Governor of Alaska," in *Annual Report of the Department of the Interior* Vol. 2 (Washington: Government Printing Office, 1978). pp. 509–82; reference on p. 509.

[44] The 1930 census reported only 28,640 whites in Alaska.

[45] U.S. Department of the Interior, *Annual Report of the Secretary: 1921*, p. 7; Scott C. Bone, "The Land that Uncle Sam Bought and then Forgot," *The American Review of Reviews*, Vol. 65 (1922), pp. 402–10.

[46] George A. Parks, *Annual Report of the Governor of Alaska* (Washington: Government Printing Office. 1931), p. 111.

[47] Lawrence J. Palmer, *Progress of Reindeer Grazing Investigation in Alaska*, U.S. Department of Agriculture, Department Bulletin 1423 (Washington: Government Printing Office, 1926), p. 29.

[48] "Competition from Alaska," *The Producer: the National Livestock Monthly*, Vol. 12 (Jan. 1931), p. 17.

[49] "Reindeer Meat," *The Producer: the National Livestock Monthly*, Vol. 11 (March 1930), pp. 19–20; reference on p. 20. See also Lyman S. Brewster, "Reindeer in Alaska," *The American Cattle Producer*, Vol. 16 (May 1935), pp. 3–6; for the story of the reindeer men see Lomen, op. cit., footnote 29, p. 213. and Vilhjalmur Stefansson, "Alaska: American Outpost No. 4," *Harper's Magazine*, Vol. 183 (1941), pp. 83–92.

[50] U.S. Congress, House, Committee on the Teritories, *Reindeer Industry in Alaska*. Report No. 1188 of the 75th Cong., 1st Sess., 1937.

[51] The figures are from Ernest Gruening, *Annual Report of the Governor of Alaska* (Washington: Government Printing Office, 1940), p. 47; Ernest Gruening, *Annual Report of the Governor of Alaska* (Washington: Government Printing Office, 1945), p. 24; and Margaret Lantis, "The Reindeer Industry in Alaska," *Arctic*, Vol. 3 (1950), pp. 27–44; reference on p. 38. Since 1949 the diminished reindeer numbers have remained relatively constant. For the more recent history of the industry see J. Sonnenfeld, "An

Arctic Reindeer Industry: Growth and Decline," *Geographical Review*, Vol. 49 (1959), pp. 76–94; and Virginia Kraft, "Reindeer Find a Santa Claus," *Sports Illustrated*, Vol. 25 (Dec. 12, 1966), pp. 41–42, 47–49.

[52] Isaiah Bowman, *The Pioneer Fringe* (New York: The American Geographical Society, 1931), pp. 12–14.

[53] Lack of capital was probably the chief factor in the nondevelopment of the cattle-sheep grazing industry in southwestern Alaska. To tap the national or international market, a company needed not only livestock but ships, docks, and abattoirs. No one seemed willing to invest on this scale, in part because the reindeer industry farther north looked like a more viable concern for a while, and in part because capital at this time could be invested more safely and profitably in a wide variety of nonagricultural endeavors. On this latter point see Paul Wallace Gates, "The Role of the Land Speculator in Western Development," *Pennsylvania Magazine of History and Biography*, Vol. 66 (1942), pp. 314–33.

[54] John Steinbeck, *The Long Valley* (New York: The Viking Press, 1956), pp. 302–03. The passage quoted is from the story "The Leader of the People."

[55] U.S. National Resources Committee, *Regional Planning, Part VII, Alaska: Its Resources and Development* (Washington: Government Printing Office, 1938).

[56] Paul K. Conklin, *Tomorrow a New World: The New Deal Community Program* (Ithaca: Cornell University Press, 1959), p. 11.

[57] The provision creating the Division was part of the National Industrial Recovery Act of May, 1933. Another New Deal agency, the Federal Emergency Relief Association (FERA), was also active in the subsistence homestead program. Alaskan activities derived from this latter source.

[58] There is an abundance of literature on the Matanuska colony. Some of the more complete analyses are: M. A. Halldorson, "The Matanuska Valley Colonization Project," unpublished masters thesis, Univ. of Colorado, 1936; Theodore C. Feldman, "The Federal Colonization Project in the Matanuska Valley, Alaska," unpublished masters thesis, University of Washington, 1941; C. C. Hulley, "A Historical Survey of the Matanuska Valley Settlement," *Pacific Northwest Quarterly*, Vol. 40 (1949), pp. 327–40; Kirk H. Stone, *Alaska Group Settlement: The Matanuska Valley Colony*, U.S. Department of the Interior, Bureau of Land Management (Washington: Government Printing Office, 1950); Hugh H. Johnson and Keith L. Stanton, *Matanuska Valley Memoir: the Story of How One Alaskan Community Developed*, University of Alaska, Alaska Agricultural Experiment Station Bulletin No. 18 (Palmer, Alaska, 1955); Evangeline Atwood, *We Shall Be Remembered* (Anchorage: Alaska Methodist University, 1966); and Miller, op. cit., footnote 2.

[59] Lawrence Westbrook, *Questions and Answers about Matanuska Valley Colonization Project* (text of a radio broadcast), Works Progress Administration (Washington: Government Printing Office, 1936), p. 2.

[60] Atwood, op. cit., footnote 58, p. 22.

[61] Stone, op. cit., footnote 58, p. 29. Another advantage of the "cutover" population was its Scandinavian heritage. Finns, in particular, had long been advocated as the ideal settlers for Alaska. See C. C. Georgeson, *A Second Report to Congress on Agriculture in Alaska* U.S. Department of Agriculture, Office of Experiment Stations Bulletin 62 (Washington: Government Printing Office, 1899), p. 43; U.S. General Land Office, *Annual Report of the Commissioner: 1902*, p. 404; and Eugene Van Cleef, "The Finns of the Pacific Coast of the United States, and Consideration of the Problem of Scientific Land Settlement," *Annals*, Association of American Geographers, Vol. 30 (1940), pp. 25–38.

[62] Elsie McCormick, "A Planned Economy is Put to the Test," *The New York Times*, Sept. 8, 1935, Section 7, p. 19.

[63] The military personnel stationed in Alaska for the years 1940 through 1944 were, respectively: 1,000, 8,000, 60,000, 152,000, and 104,000. During the same time period the civilian population of the territory rose from 74,000 to 81,000; George W. Rogers, *The Future of Alaska* (Baltimore: Johns Hopkins Press, 1962), p. 95.

[64] Harry Slattery, *The Problem of Alaskan Development*, U.S. Dept. of the Interior (Washington: Government Printing Office, 1939), p. 29.

[65] As the report put it: "Settlers . . . who can go back to a more or less comfortable existence if they tire of Alaska, are apt to take a critical view towards the problems of a pioneer community, whereas men and women who have definitely cut their ties with the past, who feel they must make their new life a good life or perish in the attempt, are more likely to face the hardships and to endure the sacrifices which the fashioning of that good life demands." (Slattery, op. cit., footnote 64, p. 35.)

[66] The principal arguments against the bill were that the refugees might well be "the secret agents of the dictators," and that it made no sense to bring in European immigrants when unemployment was already high in the U.S.; U.S. Congress, Senate, Committee on Territories and Insular Affairs, *Hearings, Settlement and Development of Alaska*, 76th Cong., 3rd Sess., 1940, pp. 74, 119.

[67] *Hearings, Settlement and Development of Alaska*, op. cit., footnote 66, p. 115. The author is Dr. Alvin Johnson, long-time director of the New School for Social Research in New York City and an authority on immigration.

[68] U.S. General Land Office, *Annual Report of the Commissioner: 1944*, p. 149. Similar statements can be found in the reports of 1945 and 1946.

[69] This was the title of an article by E. L. Bartlett, long-time Alaskan Delegate to Congress and, after statehood, a U.S. Senator; *American Federationist*, Vol. 52 (March 1945), pp. 21, 32. For similar optimism see Fergus Hoffman, "There's Good Farming in Alaska." *The Christian Science Monitor Magazine*, July 24, 1943, pp. 5, 13; Hilscher, op. cit., footnote 4; and Russell Annabel, "Homesteading Isn't for Softies," *The Saturday Evening Post*, Vol. 220 (Nov. 8, 1947), pp. 19 ff.

[70] Stanley L. Balloun, "A Farmer Looks at Alaska," *Successful Farming*, Vol. 43 (March, 1945), pp. 22 ff.; references on pp. 40, 42.

[71] Lorin T. Oldroyd, quoted by Hilscher, op. cit., footnote 4, p. 19.

[72] G. W. Gasser, *Information for Prospective Settlers in Alaska* (Juneau: Alaska Development Board, 1946); G. W. Gasser, *Livestock in Alaska* (Juneau: Alaska Development Board, 1946); G. W. Gasser, *The Matanuska Valley* (Juneau: Alaska Development Board, 1946); and G. W. Gasser, *The Tanana Valley* (Juneau: Alaska Development Board, 1946).

[73] *General Information Regarding the Territory of Alaska*, U.S. Department of the Interior (Washington: Government Printing Office, 1941); *Information Relative to the Disposal and Leasing of Public Lands in Alaska*, U.S. Department of the Interior, General Land Office Information Bulletin 2 (Washington: Government Printing Office, 1944); *What Has Alaska to Offer Postwar Pioneers?*, U.S. War Department, Education Manual 20, G.I. Roundtable Series (Washington: Government Printing Office, 1944); P. V. Kepner and Lorin T. Oldroyd, *Agriculture in Alaska*, U.S. Department of Agriculture, War Food Administration, Extension Service (Washington: Government Printing Office, 1945); and *Alaska:1946*, U.S. Department of the Interior, Division of Territories and Island Possessions (Washington: Government Printing Office, 1946).

[74] Corey Ford and Alastair MacBain, "Uncle Sam's Icebox," *Colliers': the National Weekly*, Vol. 107 (January 4, 1941), pp. 28–30, 40; reference on p. 30.

[75] William L. Worden, "Is it True What They Say About Alaska?" *The Country Gentleman*, Vol. 113 (July, 1943), pp. 16, 24–25.

[76] George Sundborg, *Opportunity in Alaska* (New York: The Macmillan Company, 1946).

[77] It is an unexplored question why World War II generated so much settlement activity and World War I so little. Improved transportation and communication may be part of the answer, but the two principal reasons are probably that many servicemen were exposed first-hand to the beauties of Alaska during World War II and that government spending at the time was generating a local economic boom.

[78] "Promise Land," *Time*, Vol. 49 (June 16, 1947), pp. 26–29; U.S. Bureau of Land Management; *Annual Report of the Director: 1947*, p. 283; the population figures are in Rogers, op. cit., footnote 63, p. 95; on the homestead bills see U.S. Congress, House, Committee on Public Lands, *Hearings, Alaska Veterans' Homesteading Act of 1947*, 80th Cong., 1st Sess., 1947; and *Providing for the Settlement of Certain Parts of Alaksa by War Veterans*, Report No. 944 of the 80th Cong., 1st Sess., 1947.

[79] The ——— statement is in U.S. *Congressional Record*, 80th Cong., 2d Sess., 1948, Vol. 94, Part 5, p. 9266; for other legislation see U.S. Congress, House, Committee on Public Lands, *Hearings, Homesteading in Alaska by War Veterans*, 81st Cong., 1st Sess., 1949, and *Providing for the Settlement of Certain Parts of Alaska by War Veterans*, Report No. 734 of the 81st Cong., 1st Sess., 1949.

[80] The need to protect the national security was prompted not only by the recent war, but by growing distrust of the Soviet Union (see the speech by Rep. Lemke in U.S. *Congressional Record*, 81st Cong., 2d Sess., 1949, Vol. 96, Part 6, p. 7652); a popular 1947 toast ran as follows: "Here's to Joe Stalin: Alaska's best friend." ("Promised Land," op. cit., footnote 78, p. 27). For the agrarian argument see the speeches of Reps. Murdock and Jensen in U.S. *Congressional Record*, 81st Cong., 2d Sess., 1949, Vol. 96, Part 6, p. 7651.

[81] Total population increased from 99,000 in 1946 to 138,000 in 1950 (Rogers, op. cit., footnote 63, p. 95).

[82] Requests averaged at least 5,000 per month in 1947. See U.S. Bureau of Land Management, *Annual Report of the Director: 1947*, p. 283.

[83] Homestead information is from *Homesteads*, U.S. Department of the Interior, Bureau of Land Management (Washington: Government Printing Office, 1962); population figures are from Rogers, op. cit., footnote 63, p. 95. One of the few accurate observers of the situation was Richard L. Neuberger, "Our Urbane, Civilized Frontier," *The New York Times Magazine*, July 13, 1947, pp. 16–17, 22–23.

[84] U.S. Bureau of the Census, *Seventeenth Census of the United States: 1950. Agriculture, Vol. 1, Part 34.1: Alaska*, pp. 8–9, 13–14, 17.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

COORDINATION OF U.S. ECONOMIC POLICIES AFFECTING DEVELOPING COUNTRIES—MESSAGE FROM THE PRESIDENT—PM 38

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

As required by Title III of the International Development and Food Assistance Act of 1978, I am writing to inform you of the steps I have taken and propose to take to strengthen the coordination of U.S. economic policies affecting developing countries.

I propose to create an International Development Cooperation Administration (IDCA) as an independent agency within the executive branch. The IDCA Director would report both to me and to the Secretary of State, and would serve as our principal international development adviser. The Director would receive guidance concerning the foreign policy of the U.S. from the Secretary of State. He would submit his budget to the Office of Management and Budget after consulting with the Secretary.

The principal responsibilities of the IDCA Director would be to ensure that the varied instruments by which the U.S. contributes to development abroad are utilized effectively and in concert, and that the efforts of U.S. bilateral programs and those of the multilateral development institutions are complementary. To carry out those responsibilities, the IDCA Director would establish and control the budgets and policies of IDCA's several component agencies, and make recommendations to me concerning the appointment and removal of senior officials of each component. IDCA would contain:

The Agency for International Development.

The Overseas Private Investment Corporation, of whose Board of Directors the IDCA Director would become Chairman.

A new Institute for Technological Cooperation designed to promote scientific and technological research in the developing countries, which I have proposed through legislative amendment.

In addition:

Lead responsibility for policy and budget for our voluntary contributions to the following international organizations will be transferred to IDCA: UN Development Program; UNICEF; OAS Technical Assistance Funds; UN Capital Development Fund; UN Educational and Training Program for Southern Africa; UN/FAO World Food Program; FAO Post Harvest Losses Fund; and UN Disaster Relief Organization.

Existing arrangements with regard to the multilateral development banks (MDBs) would be modified so that the Secretary of the Treasury will consult with the IDCA Director in the selection of candidates for the U.S. Executive Director and Deputy Executive Director positions in the MDBs, and the IDCA Director will advise U.S. Executive Directors on MDB projects and program proposals.

The IDCA Director would take part in executive branch decisionmaking concerning such matters affecting international development as trade and monetary issues; he would speak to the relative priority of development and other U.S. objectives in respect of these and other issues. He would replace the AID Administrator as Chair of the Development Coordination Committee.

I have directed OMB to review alternative organizational arrangements respecting all ACTION programs, and will consider the possible relation of Peace Corps to IDCA in light of the conclusions of that review.

I intend to propose the creation of IDCA under the reorganization authority renewed by Congress in 1977. In addition, various administrative and program adjustments will be made by Executive order and agency delegation.

I believe these steps will substantially strengthen the coordination of U.S. policies affecting the developing world, and will lead to a more coherent strategy of development and the more effective use of the various bilateral and multilateral instruments by which the U.S. can encourage the growth of developing economies. I am pleased that these actions and proposals are similar to those proposed last year by the late Senator Hubert H. Humphrey. I look forward to joining with you to put them into operation.

JIMMY CARTER.

THE WHITE HOUSE, *March 7, 1979.*

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-749. A communication from the General Counsel of the Department of Defense, transmitting a draft of legislation to amend title 10, United States Code, to provide for a Department of Defense Military Retirement and Disability Fund, and for other purposes; to the Committee on Armed Services.

EC-750. A communication from the Secretary of the Navy, transmitting a draft of proposed legislation to amend section 409 of title 37, United States Code, to eliminate restrictions for transporting a house trailer or mobile dwelling by a member of the uniformed services, and for other purposes; to the Committee on Armed Services.

EC-751. A communication from the President, United States Railway Association, transmitting, pursuant to law, a report of the accomplishments of the association during fiscal year 1978; to the Committee on Commerce, Science, and Transportation.

EC-752. A communication from the Chairman, Marine Mammal Commission, transmitting, pursuant to law, its sixth annual report, for calandar year 1978; to the Committee on Commerce, Science, and Transportation.

EC-753. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for three additional years, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC-754. A communication from the Deputy Assistant Secretary for Land and Water Management, Department of the Interior, transmitting, pursuant to law, a report entitled "Modification of Island Park Dam, Stage One, Minidoka Project, Idaho and Wyoming," January 1979; to the Committee on Energy and Natural Resources.

EC-755. A communication from the Under Secretary, Department of Energy, transmitting, pursuant to law, a report entitled "Application and System Design Study for Cost-effective Solar Photovoltaic Systems at Federal Installations," February 1979; to the Committee on Energy and Natural Resources.

EC-756. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled "Report of the DOE Working Group on Communist Assistance," December 1978; to the Committee on Energy and Natural Resources.

EC-757. A communication from the Assistant Secretary of the Interior, transmitting, pursuant to law, a report and final comprehensive supplementary environmental statement of the Secretary of the Interior on modification of the Garrison Diversion Unit, Pick-Sloan Missouri Basin Program, North Dakota, authorized for construction by Public Law 89-108, dated August 5, 1965; to the Committee on Energy and Natural Resources.

EC-758. A communication from the Director, Office of Revenue Sharing, Department of the Treasury, transmitting, pursuant to law, the sixth annual report of the Office of Revenue Sharing, Department of the Treasury, March 1, 1979; to the Committee on Finance.

EC-759. A communication from the Acting Secretary of the Treasury, transmitting a draft of proposed legislation to provide for increased participation by the United States in the Inter-American Development Bank, the Asian Development Bank, and the African Development Bank; to the Committee on Foreign Relations.

EC-760. A communication from the President of the United States, transmitting a draft of proposed legislation to authorize appropriations under the Arms Control and Disarmament Act for the fiscal year 1980, and for other purposes; to the Committee on Foreign Relations.

EC-761. A communication from the Director, Office of Personnel Management, transmitting a draft of proposed legislation to amend the Retired Federal Employees Health Benefits Act, as amended, with respect to the Government contribution toward subscription charge for health coverage; to the Committee on Governmental Affairs.

EC-762. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Unique Helium Resources Are Wasting: A New Conservation Policy Is Needed," March 7, 1979; to the Committee on Governmental Affairs.

EC-763. A communication from the Administrator, National Credit Union Administration, transmitting, pursuant to law, a report relating to a new system of records; to the Committee on Governmental Affairs.

EC-764. A communication from the Chairman, Board of Directors, Tennessee Valley Authority, transmitting, pursuant to law, a report relating to the Government in the Sunshine Act; to the Committee on Governmental Affairs.

EC-765. A communication from the Chairman, Federal Communications Commission, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-766. A communication from the Director, Federal Mediation and Conciliation Service, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-767. A communication from the Secretary, Railroad Retirement Board, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-768. A communication from the Acting Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-769. A communication from the Chairman, National Endowment for the Humanities, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-770. A communication from the District of Columbia Representatives, Ladies of the Grand Army of the Republic, Inc., transmitting, pursuant to law, a report of the audit of the books of the organization; to the Committee on the Judiciary.

EC-771. A communicataion from the Director, United States Water Resources Council, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-772. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Hospice Care—A Growing Concept in the United States," March 6, 1979; to the Committee on Labor and Human Resources.

EC-773. A communication from the Administrator, Veterans Administration, transmitting a draft of proposed legislation to amend section 101 of title 38, United States Code, to limit the recognition of persons as legally adopted children of a veteran if adopted through courts in foreign countries; to the Committee on Veterans' Affairs.

EC-774. A communication from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to establish voluntary limits on the annual increases in total hospital increases in hospital inpatient revenues to the extent that the voluntary limits are not effective; to the Committee on Labor and Human Resources and the Committee on Finance, jointly, by unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation dealing with hospital cost containment, be jointly referred to the Committee on Labor and Human Resources and the Committee on Finance.

The PRESIDING OFFICER. Without objection, it is so ordered.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-74. A joint memorial adopted by the Legislature of the State of Idaho; to the Committee on Commerce, Science, and Transportation.

"JOINT MEMORIAL No. 15

"Whereas, Congress in its wisdom established the National Rail Passenger System, better known as 'Amtrak,' to provide an alternate means of transportation for those persons who by choice wish to travel by other than automobile, bus or airplane; and

"Whereas, the Secretary of Transportation, Mr. Brock Adams, has recommended to the Congress that the entire rail passenger system be reduced from the present 27,000 miles to 15,000 miles, or a 43 percent reduction of the total mileage in the system; and

"Whereas, this reduction would eliminate the 'Pioneer Route' which extends from Seattle, Washington to Salt Lake City, Utah and traverses through southern Idaho providing services to the cities and surrounding areas of Nampa, Boise, Mountain Home, Shoshone and Pocatello; and

"Whereas, the 'Pioneer Route' has, since its beginning in June, 1977, exceeded the expectations of Amtrak by steadily increasing ridership, in providing an alternate method of transportation, and in being used extensively by our senior citizens and young families; and

"Whereas, rail passenger transportation provides the most fuel efficient method of transportation; and

"Whereas, we are asked by the President of the United States to conserve energy and especially in the area of fossil fuels; and

"Whereas, the supply of oil and gasoline is very uncertain and the rationing of aviation fuel and gasoline is a very real possibility in the near future.

"Now, therefore, be it resolved by the members of the First Regular Session of the Forty-fifth Idaho Legislature, the Senate and House of Representatives concurring therein, and speaking on behalf of the citizens of the State of Idaho, that we ask the Congress of the United States and the President of the United States to take necessary steps to insure that the present rail passenger system remain intact, most notably the 'Pioneer Route.'

"Be it further resolved that the Secretary of the Senate be, and she is hereby authorized and directed to forward copies of this Memorial to the Honorable Jimmy Carter, President of the United States, the President of the Senate and the Speaker of the House of Representatives of Congress, and the honorable congressional delegation representing the State of Idaho in the Congress of the United States."

POM-75. A joint resolution adopted by the Legislature of the State of Virginia; to the Committee on Commerce, Science, and Transportation:

"SENATE JOINT RESOLUTION No. 142

Whereas, the television stations in Virginia for more than a quarter century have made a significant contribution to the education, enlightenment, instruction and entertainment of the people of the Commonwealth; and

"Whereas, the contributions of air time and other services in support of community and State activities by the television stations in Virginia have been generous and substantial; and

"Whereas, public service broadcasting of television programs and announcements in Virginia has helped significantly to place the Commonwealth in the forefront of states in such important areas as observance of speed limits, thus reducing accidents and thereby saving lives on Virginia highways; has helped Virginia to become a model among states in its programs of energy conservation; has contributed significantly to the anti-litter program of the Old Dominion, to the promotion of tourism in Virginia, and to many other endeavors that enhance the economy and the quality of life in our State; and

"Whereas, through news and public affairs programming, the television stations of Virginia serve daily to inform the citizens of the Commonwealth of the issues that affect their lives and well-being; and

"Whereas, dating from the first commercial television station's efforts, all commercial television stations of Virginia have consistently encouraged and supported the growth of educational television and Public Broadcasting Service in the Old Dominion; and

"Whereas, the eleven commercial stations and five Public Broadcasting Service stations provide service that virtually every Virginian welcomes into his home regularly; and

"Whereas, television stations in Virginia are in the front ranks of those making possible the success of innumerable community activities, such as United Way Campaigns, Red Cross Blood Programs, Cancer Society Drives and many other worthwhile programs vital to community life; now, therefore, be it

"Resolved by the Senate, the House of Delegates concurring, That the General Assembly expresses its awareness of the contributions of television stations in the fields of economic, cultural, educational, political and informational endeavor, and its confidence in the capabilities of the individual television stations in Virginia; and be it

"Resolved further, That the Clerk of the Senate is hereby directed to send copies of this resolution to the Chairman of the Federal Communications Commission, to members of the Virginia delegation to the Congress of the United States and to the individual television stations in Virginia, that they may be apprised of the appreciation of this body."

POM-76. A resolution adopted by the Legislature of the State of Hawaii; to the Committee on Energy and Natural Resources:

"HOUSE RESOLUTION 162

"Whereas, the Energy Policy and Conservation Act signed into law on December 22, 1975 authorized the creation of a Strategic Petroleum Reserve with an initial capacity of five hundred million barrels of oil for the United States; and

"Whereas, President Carter's administration has subsequently proposed an amendment to expand the Strategic Petroleum Reserve to one billion barrels of oil by 1985, an approximately six-month supply; and

"Whereas, the 1975 Act also provided that each noncontiguous area of the United States which does not have overland access to domestic crude oil should have its component of the Strategic Petroleum Reserve within its respective territory; and

"Whereas, on December 15, 1976 the Federal Energy Administration (now incorporated in the Department of Energy) recommended that no component of the reserve be located in Hawaii because of the high costs involved and environmental hazards; and

"Whereas, the Federal Energy Administration further noted that the one billion barrel reserve planned for the Louisiana salt domes would be sufficient to provide for Hawaii's needs as well as for the rest of the nation during an oil emergency; and

"Whereas, after long and persistent lobbying by Hawaii's state administration and congressional delegation, Hawaii was successful in persuading the Department of Energy to support a three million barrel emergency oil storage facility in the Islands rather than to store all of Hawaii's reserve in the Louisiana salt domes; and

"Whereas, while the Department of Energy's decision will give Hawaii a limited measure of protection (approximately a one-month reserve), the three million barrel reserve is much smaller than the ten million barrel capacity that Hawaii needs to adequately protect itself in an oil emergency; and

"Whereas, a ten million barrel oil reserve (an approximately ninety-day reserve) is essential to Hawaii because of the State's almost complete dependence on imported oil for its energy needs; and

"Whereas, it has been estimated that any additional emergency shipment from the Louisiana salt domes would take approximately sixty-three days to reach Hawaii and that any supply of Alaskan oil would have only limited use in Hawaii because of its high sulfur content; and

"Whereas, the storage of only three million barrels of oil in Hawaii would result, therefore, in a serious shortfall of energy for Hawaii in the event of another disruption to oil supplies as experienced in the Arab embargo of 1974; and

"Whereas, plans for a three million barrel, $12 million emergency oil storage in Hawaii have been deleted from the Carter Administration budget; and

"Whereas, while the threat of an oil embargo for the continental United States is only partial because of its domestic crude oil, coal, natural gas, shale oil, hydroelectric and nuclear power, and its interconnecting electric grids and oil and gas distribution systems, the threat to the Island State of Hawaii which has none of the aforementioned backup resources, is total; now, therefore,

"Be it resolved by the House of Representatives of the Tenth Legislature of the State of Hawaii, Regular Session of 1979, that the United States Department of Energy is requested to increase Hawaii's Strategic Petroleum Reserve to a ten million barrel capacity in view of Hawaii's unique vulnerability and problem as an Island State situated thousands of miles from the continental United States; and

"Be it further resolved that Hawaii's delegation to the United States Congress is respectfully requested to do everything within its power to establish a ten million barrel Strategic Petroleum Reserve in Hawaii; and

"Be it further resolved that certified copies of this Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Secretary of Energy, and to each member of Hawaii's delegation to the United States Congress."

POM-77. A resolution adopted by the Legislature of the State of Massachusetts; to the Committee on Foreign Relations:

"RESOLUTION

"*Whereas,* The industrial northeast is the backbone of the American economy; and

"*Whereas,* American industry and homes are extremely dependent on a continued flow of oil; and

"*Whereas,* A Mexican oil and natural gas pact is essential to the economic livelihood of the New England states; now, therefore be it

"*Resolved,* That the Massachusetts Senate memorializes the President and the Congress of the United States to secure an oil and natural gas pact with Mexico; and be it further

"*Resolved,* That copies of these resolutions be transmitted forthwith by the Clerk of the Senate to the President of the United States and to the presiding officer of each branch of Congress; and copies shall also be transmitted to the Governors of the several states of the Union."

POM-78. A joint resolution adopted by the Legislature of the State of Arkansas; to the Committee on the Judiciary:

"HOUSE JOINT RESOLUTION 1

"Whereas, with each passing year this Nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues, so that the public debt now exceeds hundreds of billions of dollars; and

"Whereas, the annual Federal budget continually demonstrates an unwillingness or inability of both the legislative and executive branches of the Federal government to curtail spending to conform to available revenues; and

"Whereas, unified budgets do not reflect actual spending because of the exclusion of special outlays which are not included in the budget not subject to the legal public debt limit; and

"Whereas, knowledgeable planning, fiscal prudence, and plain good sense require that the budget reflect all Federal spending and be in balance; and

"Whereas, believing that fiscal irresponsibility at the Federal level, with the inflation which results from this policy, is the greatest threat which faces our Nation, we firmly believe that constitutional restraint is necessary to bring the fiscal discipline needed to restore financial responsibility; and

"Whereas, under Article V of the Constitution of the United States, Amendments to the Federal Constitution may be proposed by the Congress whenever two-thirds of both Houses deem it necessary, or on the application of the legislatures of two-thirds of the several states the Congress shall call a constitutional convention for the purpose of proposing amendments. We believe such action vital;

"Now, therefore, be it resolved by the seventy-second General Assembly of the State of Arkansas:

"That this Body proposes to the Congress of the United States that procedures be instituted in the Congress to add a new Article to the Constitution of the United States, and that the General Assembly of the State of Arkansas requests the Congress to prepare and submit to the several states an amendment to the Constitution of the United States, requiring in the absence of a national emergency that the total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated Federal revenues for that fiscal year; and

"Be it further resolved:

"That, alternatively, this Body makes application and requests that the Congress of the United States call a constitutional convention for the specific and exclusive purpose of proposing an amendment to the Federal Constitution requiring in the absence of a national emergency that the total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated Federal revenues for that ficsal year; and

"Be it further resolved:

"That this Body also proposes that the legislatures of each of the several states comprising the United States apply to the Congress requesting the enactment of an appropriate amendment to the Federal Constitution, or requiring the Congress to call a constitutional convention for proposing such an amendment to the Federal Constitution; and

"Be it further resolved:

"That copies of this Resolution be sent by the Secretary of State to the Arkansas Congressional Delegation; and

"Be it further resolved:

"That the Secretary of the State of Arkansas is directed to send copies of this Joint Resolution to the Secretary of State and presiding officers of both Houses of the Legislature of each of the other States in the Union, the Clerk of the United States House of Representatives, Washington, D.C., and the Secretary of the United States Senate, Washington, D. C."

POM-79. A resolution adopted by the Legislature of the State of Georgia; to the Committee on the Judiciary:

"HOUSE RESOLUTION 254

"Whereas, millions of abortions have been performed in the United States since the decision on abortions by the United States Supreme Court on January 22, 1973; and

"Whereas, to date, the Congress of the United States has not proposed a 'human life' amendment to the Constitution of the United States.

"Now, therefore, be it resolved by the House of Representatives that this body hereby urges the Congress of the United States to call a convention for the sole and exclusive purpose of proposing an amendment to the Constitution that would protect the lives of all human beings, including unborn children, at every stage of their biological development.

"Be it further resolved that this application shall constitute a continuing application for such a convention pursuant to Article V of the Constitution of the United States until such time as the legislatures of two-thirds of the states shall have made like applications and such convention shall have been called by the Congress of the United States.

"Be it further resolved that copies of this concurrent Resolution be presented to the President of the Senate of the United States, the Secretary of the Senate of the United States, the Speaker of the House of Representatives of the United States, and to each member of the Congress from Georgia attesting the adoption of this Resolution by the House of Representatives of the State of Georgia."

POM-80. A joint resolution adopted by the Legislature of the State of Utah; to the Committee on the Judiciary:

"JOINT RESOLUTION

"Whereas, with each passing year, this Nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues, so that the public debt now exceeds hundreds of billions of dollars;

"Whereas, the annual federal budget continually demonstrates an unwillingness or inability of both the legislative and executive branches of the federal government to curtail spending to conform to available revenues;

"Whereas, unified budgets do not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit;

"Whereas, knowledgeable planning, fiscal prudence, and plain good sense require that the budget reflect all federal spending and be in balance;

"Whereas, numerous states have constitutional requirements that appropriations not exceed anticipated revenues for the forthcoming year;

"Whereas, believing that fiscal irresponsibility at the federal level, and the inflation which results therefrom, constitutes the greatest threat now facing our nation, this Legislature is of the firm conviction that constitutional restraint is necessary to bring the fiscal discipline needed to restore financial responsibility; and

"Whereas, under Article V of the Constitution of the United States, amendments to the federal constitution may be proposed by the Congress, whenever two-thirds of both houses deem it necessary and, on the application of the legislatures of two-thirds of the several states, the Congress shall call a constitutional convention for the sole purpose of proposing amendments, which action this Legislature deems vital.

"Now, therefore, be it resolved by the 43rd Legislature of the State of Utah, that the Congress of the United States is requested to institute procedures to add a new article to the Constitution of the United States and to prepare and submit to the several states an amendment to the Constitution of the United States requiring, in the absence of a national emergency, that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year.

"Be it further resolved that, alternatively, this Legislature applies to the Congress of the United States to call a constitutional convention for the specific and exclusive purpose of proposing an amendment to the federal constitution which would require, in the absence of a national emergency, that the total of all federal appropriations made by the Congress for any fiscal year may not exceed that total of all estimated federal revenues for that fiscal year.

"Be it further resolved, that this Legislature calls upon the legislatures of each of the several states to request Congress to enact an appropriate amendment to the federal constitution or, in the alternative, to apply to the Congress to call a constitutional convention for the sole purpose of proposing such an amendment to the federal constitution.

"Be it further resolved, that copies of this Resolution be forwarded to the President of the Senate and the Speaker of the House of Representatives of the United States and to all members of the Utah delegation in Congress.

"Be it further resolved, that copies of this Resolution also be prepared and forwarded to the secretaries of state and to the presiding officers of the legislatures of the several states with the request that they join this State in making application to the Congress of the United States to pass such an amendment or, in the alternative, to call a convention for the sole purpose of proposing such an amendment.

"Be it further resolved, that this application for a Convention Call for proposing amendments be limited to the subject matter of this Resolution and that the State of Utah be counted as a part of the necessary two-thirds states for such a call only if the convention is limited to the subject matter of this Resolution."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MAGNUSON, from the Committee on Appropriations, without amendment:

S. Res. 50. A resolution disapproving the proposed deferral of budget authority to promote and develop fishery products and research pertaining to American fisheries (together with view of the Committee on the Budget) (Rept. No. 96–32).

By Mr. MAGNUSON, from the Committee on Appropriations, with amendments:

H.R. 2439. An act to rescind certain budget authority contained in the message of the President of January 31, 1979 (H. Doc. 96–46), transmitted pursuant to the Impoundment Control Act of 1974 (together with additional views and views of the Committee on the Budget) (Rept. No. 96–33).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

Larry E. Meierotto, of the District of Columbia, to be an Assistant Secretary of the Interior.

(The nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. JACKSON. Mr. President, as in executive session, from the Committee on Energy and Natural Resources, I report favorably the nomination of Larry E. Meierotto, of the District of Columbia, to be an Assistant Secretary of the Interior.

I ask unanimous consent that a biographical statement and the required financial statement of Mr. Meierotto be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LARRY EDWARD MEIEROTTO

Mr. Meierotto is experienced in a wide range of executive positions in which he has been responsible for budget and administrative management.

He became the Assistant Director for Administrative Services for the State of Idaho in 1971.

In 1972, he served as a Special Assistant to the Governor of Idaho Cecil D. Andrus, and as Special Assistant to the Budget Director for the State of Idaho.

In 1974, Mr. Meierotto assumed the responsibilities of Planner with the Idaho Department of Environmental and Community Services, and later served as Coordinator of the Re-election Campaign of Andrus for Governor.

During 1975, he served as Director of Special Projects for the Pacific Northwest Regional Commission coordinating efforts to encourage expanding business and new industry in the region.

In 1976, Mr. Meierotto again became a Special Assistant to Governor Andrus.

In January of 1977, he moved to Washington, D.C. and became a Special Assistant to the Secretary of the Interior.

In July, 1977, the Secretary appointed him Deputy Assistant Secretary for Policy, Budget and Administration since November, 1977.

Mr. Meierotto earned his B.A. Degree in Political Science from the University of Portland in 1967. He performed graduate studies at the University of Idaho, where he served as President of the Associated Graduated Students of the University of Idaho.

He has served on many public and civic boards including the Idaho Traffic Safety Commission, Idaho Volunteers in Corrections, Central Volunteer Bureau, United Cerebral Palsy of Idaho, and the Coalition for Advocacy of the Developmentally Disabled.

He has been listed in Outstanding Young Men of America.

FINANCIAL STATEMENT

ASSETS

Cash on hand and in banks, $2,033.01.

Listed securities—add schedule, $15.00.

Real estate interests—add schedule, $8,600.00.

Personal property, $5,000.00.

U.S. Government Federal Retirement, $5,310.20.

Deposit—1615 Swann St. NW, Washington, D.C., $675.00.

Total assets, $21,633.21.

LIABILITIES

Loan, Department of Interior Credit Union, $619.99.

Total liabilities, $619.99.

Net worth, $21,013.22.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Meierotto, Larry Edward.

Position to which nominated: Assistant Secretary, Policy, Budget and Administration. Date of nomination: January 18, 1979. Date of birth: August 10, 1945. Place of birth: Dalles, Oregon, Marital status: Divorced. Name and ages of children: Thackeray (2).

Education: institution, dates attended, degrees received, and dates of degrees: The Dalles Senior High School, September 1961 to June 1963, Diploma, June 1963. University of Portland, September 1963 to June 1967, B.A., June 1967. University of Idaho, September 1967 to May 1968. Graduate School, January 1970 to May 1970.

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

The Dalles, Oregon General Auto Supply, Inc., Auto Parts, Counter Man, Mr. and Mrs. O. J. Hylland, December 1961 to January 1970.

Coordinator, State Senator Cecil D. Andrus, Boise, Idaho, June 1970 to November 1970.

Administrative Aid to Governor, State of Idaho, Gov. Elect Andrus, Boise, Idaho, November 23, 1970 to January 3, 1971.

Assistant Director, Administrative Services, State Capitol, Boise, Idaho, State of Idaho, Governor Andrus, January 4, 1971 to May 23, 1971.

Special Assistant to Governor Andrus, State of Idaho, State Capitol, Boise, Idaho, May 24, 1971 to July 27, 1972.

Special Assistant to the Budget Director, State of Idaho, Gov. Andrus, DE Chilberg, Boise, Idaho, September 1, 1972 to April 21, 1973.

Planner, State Government, Dept. of Environmental and Community Services, Roy Haney, Boise, Idaho, February 25, 1974 to April 26, 1974.

Coordinator, Gov. Cecil D. Andrus, Boise, Idaho, May 1, 1974 to November 30, 1974.

Director, Special Projects, State Government, Boise, Idaho, March 24, 1975 to December 31, 1975.

Special Assistant to the Governor, Gov. Cecil D. Andrus, State Capitol, Boise, Idaho (January 1, 1976–January 1, 1977).

Special Assistant to the Secretary, Cecil D. Andrus, Department of the Interior, Washington. D.C. (January 21, 1977–June 23, 1977).

Deputy Assistant Secretary-Policy, Budget & Administration, Dept. of the Interior, Cecil D. Andrus, Washington, D.C. (June 23, 1977–Present).

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Outstanding Young Man of America.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization, office held (if any), dates.

United Cerebral Palsy of Idaho, Member of Board, 1975–1976.

Jude Home, Inc., Board of Directors, 1976.

Coalition for Advocacy for the Developmentally Disabled, Advisory Board Member, 1976.

Idaho Volunteers in Correction, Member of Board and Vice President, 1972–1974.

Central Volunteer Bureau, Member of Board and Vice President, 1972.

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written.

None.

Qualifications: State fully your qualifications to serve in the position to which you have been named.

Future employment relationships: 1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Yes, where applicable.

2. As far as can be foreseen, state whether

you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

No.

3. Has anybody made you a commitment to a job after you leave government?

No.

4. Do you expect to serve the full term for which you have been appointed?

Yes.

Potential conflicts of interest: 1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

None.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

None.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy.

None.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

Divestiture.

Mr. NUNN. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the following nominations for the Air Force: Lt. Gen. Howard M. Fish (age 55), for appointment to the grade of lieutenant general on the retired list and also Lt. Gen. John R. Kelley (age 54), for appointment to the grade of lieutenant general on the retired list; for the Navy, Vice Adm. William R. St. George (age 54), for appointment to the grade of vice admiral on the retired list and six Navy captains for temporary promotion to the grade of rear admiral (list begins with Clinton Hershey Lowery); and, in the Marine Corps, there are nine permanent appointments to the grade of brigadier general (list begins with Richard M. Cooke). I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. In addition, Mr. President, in the Army there are 66 for appointment to the grade of lieutenant colonel and below (list begins with Stanley E. Reinhart, Jr., to be a permanent professor of the U.S. Military Academy) and 1,895 scholarship students for appointment in the Regular Army to the grade of second lieutenant (list begins with Henry H. Adair, Jr.); in the Navy there are 389 for promotion to the grade of lieutenant (list begins with James S. Appelquist) and in the Navy and Naval Reserve there are 143 for temporary and permanent appointment to the grade of captain and below; and, in the Marine Corps, there are 1,615 temporary and permanent appointments to the grade of lieutenant colonel and below (list begins with Bernard V. Burchette). Since these names have already appeared in the Congressional Record and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the Record on February 26, 1979, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. STEVENSON:

S. 580. A bill to establish an Energy Company of America, and for other purposes; to the Committee on Governmental Affairs.

By Mr. STEVENSON (for himself and Mr. Moynihan):

S. 581. A bill to establish an Energy Bank of America to provide supplemental financing and economic assistance for those activities with the greatest potential for assuring energy conservation and adequate energy supplies at reasonable prices for the United States, consistent with protection of the environment, for which private sector financing is either insufficient or available only on terms which are commercially prohibitive, to provide for the development of a national energy policy and make possible its implementation, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. NELSON (for himself, Mr. McGovern, Mr. Melcher, Mr. Heinz, Mr. Stafford, Mr. Ford, Mr. Pressler, Mr. Stevens, Mr. Leahy, Mr. Hollings, Mr. Riegle, and Mr. Levin):

S. 582. A bill to provide Federal guarantees for State programs designed to assist individuals who, except for their lack of financial means, would be qualified to enter farming on a full-time basis; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. RIBICOFF (for himself, Mr. Weicker, Mr. McGovern, Mr. Sarbanes, Mr. Riegle, and Mr. Magnuson):

S. 583. A bill to provide for the development and implementation of programs for children and youth camp safety; to the Committee on Labor and Human Resources.

By Mr. CHURCH (by request):

S. 584. A bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, and for other purposes; to the Committee on Foreign Relations.

By Mr. JACKSON (for himself and Mr. Magnuson):

S. 585. A bill to authorize the Secretary of the Interior to engage in a feasibility study of the Yakima River Basin water enhancement project; to the Committee on Energy and Natural Resources.

By Mr. CHURCH (by request):

S. 586. A bill to authorize appropriations for the Department of State, International Communication Agency, and Board for International Broadcasting for fiscal years 1980 and 1981, and a supplemental authorization for State for fiscal year 1979, and for other purposes; to the Committee on Foreign Relations.

By Mr. SCHWEIKER:

S. 587. A bill to amend the Federal Food, Drug, and Cosmetic Act to authorize an evaluation of the risks and benefits of certain food additives; to the Committee on Labor and Human Resources.

By Mr. CHURCH (by request):

S. 588. A bill to amend the Foreign Assistance Act of 1961 to authorize development assistance programs for fiscal years 1980 and 1981, to make certain changes in the authorities of that act, to authorize the establishment of an Institute for Technological Cooperation, and for other purposes; to the Committee on Foreign Relations.

By Mr. BENTSEN (for himself, Mr. Javits, Mr. DeConcini, Mr. Hayakawa, and Mr. Church):

S. 589. A bill to restore the deductibility of expenses for attending certain conventions in Mexico and Canada; to the Committee on Finance.

By Mr. JAVITS (for himself, Mr. Kennedy, Mr. Williams, Mr. Randolph, Mr. Stafford, Mr. Riegle, and Mr. Inouye):

S. 590. A bill to amend the Public Health Service Act to revise and strengthen the program under that act for the regulation of clinical laboratories; to the Committee on Labor and Human Resources.

By Mr. DOLE (for himself, Mr. Moynihan, Mr. Bentsen, Mr. Ribicoff, Mr. Cranston, Mr. Danforth, Mr. Schweiker, and Mr. Javits):

S. 591. A bill to amend title XVI of the Social Security Act with respect to presumptive disability, earned income in sheltered workshops, benefits for individuals who work despite a severe medical impairment, and the exclusion of certain work expenses in determining substantial activity; to the Committee on Finance.

By Mr. PRESSLER:

S. 592. A bill to authorize the Corps of Engineers to undertake additional work at the Fort Randall-Lake Francis Case project in South Dakota; to the Committee on Environment and Public Works.

By Mr. WILLIAMS (for himself, Mr. Chiles, Mr. Sarbanes, Mr. Church, Mr. Heinz, Mr. Metzenbaum, Mr. Cranston, Mr. Stewart, Mr. Tsongas, and Mr. Glenn):

S. 593. A bill to amend section 202 of the Housing Act of 1959 to extend the program to provide housing for the elderly or handicapped, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. McGOVERN (for himself, Mr. Laxalt, Mr. Bumpers, Mr. Gravel, Mr. Riegle, Mr. Baucus, Mr. Leahy, Mr. Hatfield, Mr. Matsunaga, Mr. Cannon, and Mr. Metzenbaum):

S. 594. A bill to provide for a formal process of State participation and concurrence regarding the management and storage of radioactive materials; to the Committee on Energy and National Resources.

By Mr. TOWER:

S. 595. A bill to amend the Urban Mass Transportation Act of 1964 with respect to labor standards; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DANFORTH (for himself and Mr. Hart):

S. 596. A bill to provide a fair procedure for establishing congressional districts; to the Committee on Governmental Affairs.

By Mr. BAYH (for himself, Mr. Hatfield, Mr. Randolph, and Mr. Cohen):

S. 597. A bill to provide that polling and registration places for elections for Federal office be accessible to physically handicapped and elderly individuals, and for other purposes; to the Committee on Rules and Administration.

By Mr. BAYH (for himself, Mr. Cochran, Mr. Armstrong, Mr. Baker, Mr. Baucus, Mr. Bellmon, Mr. Bentsen, Mr. Boren, Mr. Boschwitz, Mr. Burdick, Mr. Cannon, Mr. Chiles, Mr. Cranston, Mr. Danforth, Mr. DeConcini, Mr. Domenici, Mr. Eagleton, Mr. Ford, Mr. Garn, Mr. Goldwater, Mr. Gravel, Mr. Hart, Mr. Hatch, Mr. Hayakawa, Mr. Heflin, Mr. Helms, Mr. Hollings, Mr. Huddleston, Mr. Humphrey, Mr. Inouye, Mr. Jackson, Mr. Jepsen, Mrs. Kassebaum, Mr. Leahy, Mr. Lugar, Mr. Magnuson, Mr. Laxalt, Mr. Mathias, Mr. Matsunaga, Mr. McClure, Mr. McGovern, Mr. Melcher, Mr. Morgan, Mr. Moynihan, Mr. Nunn, Mr. Percy, Mr. Pressler, Mr. Pryor, Mr. Randolph, Mr. Riegle, Mr. Roth, Mr. Schmitt, Mr. Simpson, Mr. Stennis, Mr. Stevens, Mr. Stewart, Mr. Stone, Mr. Talmadge, Mr. Thurmond, Mr. Tower, Mr. Warner, Mr. Williams, and Mr. Young):

S. 598. A bill to clarify the circumstances under which territorial provisions in licenses to manufacture, distribute, and sell trademarked soft drink products are lawful under the antitrust laws; to the Committee on the Judiciary.

By Mr. BAYH (for himself and Mr. Lugar):

S. 599. A bill relating to the Indiana Dunes National Lakeshore, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KENNEDY (for himself, Mr. Metzenbaum, Mr. Pressler, Mr. Melcher, and Mr. McGovern):

S. 600. A bill to preserve the diversity and independence of American business; to the Committee on the Judiciary.

By Mr. PROXMIRE (by request):

S. 601. A bill to increase the number of class C directors of Federal Reserve banks and to make certain changes in the terms and positions of the Chairman and Vice Chairman of the Federal Reserve Board; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MATHIAS (for himself and Mr. Stafford):

S. 602. A bill to amend the Internal Revenue Code of 1954 to modify the credit allowed for expenses for household and dependent care services necessary for gainful employment to include credit to individuals for expenses for the care of a mentally or physically handicapped child of such individual and to provide for the exemption from taxation of trusts established to provide care for such children except to the extent of distributions and to provide a deduction for contributions to such trusts; to the Committee on Finance.

By Mr. JAVITS (for himself, Mr. Stafford, Mr. Chafee, Mr. Schweiker, and Mr. Hayakawa):

S. 603. A bill to amend title XIX of the Social Security Act to provide that States may include coverage under medicaid for individuals who perform substantial gainful activity despite a severe medical disability; to the Committee on Finance.

By Mr. HATCH (for himself and Mr. Schweiker):

S. 604. A bill to amend the Small Business Act; to the Select Committee on Small Business.

By Mr. BELLMON (for himself and Mr. Domenici):

S. 605. A bill to permit the States to consolidate and reorganize certain food programs administered by the Department of Agriculure for the benefit of needy persons; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MATHIAS:

S. 606. A bill for the relief of Damian Cheong-leen; to the Committee on the Judiciary.

By Mr. WILLIAMS:

S. 607. A bill for the relief of Point Pleasant Hospital, of Point Pleasant, N.J., to the Committee on Armed Services.

S. 608. A bill for the relief of Patsy J. Perry; to the Committee on the Judiciary.

By Mr. TSONGAS:

S. 609. A bill for the relief of Mary N. Panagiotakis; to the Committee on the Judiciary.

S. 610. A bill for the relief of Hanna E. Aboufarah; to the Committee on the Judiciary.

By Mr. BAUCUS (for himself and Mr. Durkin):

S.J. Res. 47. A joint resolution designating May, 1979, as "Family Camping Month"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STEVENSON:

S. 580. A bill to establish an Energy Company of America, and for other purposes; to the Committee on Governmental Affairs.

By Mr. STEVENSON (for himself and Mr. Moynihan):

S. 581. A bill to establish an Energy Bank of America to provide supplemental financing and economic assistance for those activities with the greatest potential for assuring energy conservation and adequate energy supplies at reasonable prices for the United States, consistent with protection of the environment, for which private sector financing is either insufficient or available only on terms which are commercially prohibitive, to provide for the development of a national energy policy and make possible its implementation, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

BLUEPRINT FOR A COMPREHENSIVE ENERGY POLICY

Mr. STEVENSON. Mr. President, now we can look back nostalgically to the time when OPEC controlled the price of oil. Oil prices are rising erratically. The OPEC surplus is heading back to the $60 billion a year level, leaving consumer nations with larger payments deficits and greater temptation to subsidize exports and protect themselves from imports. Oil costs and the infirmities of the world's monetary system are depressing world trade and investment. Slower growth rates in the industrialized nations will diminish export opportunities for the United States and that, combined with higher oil import costs, could perpetuate our $30 billion trade deficit. Inflation will take a turn for the worse, and inflation is now associated with unemployment and recession. The graver portents of the recent events in Iran have to do with political instabilities in many regions of the world, including the Persian Gulf, and now the world has little margin of energy supply for the near term upon which to fall back.

The United States is reacting to crisis with emergency measures to manage oil shortages and with little effort to prevent them. We responded earlier with an Energy Department instead of a comprehensive energy policy. The national energy plan is a collection of easy choices with voluntary "requirements" for conservation and subsidies or tax credits for production. As with most U.S. policies, it lacks an international dimension, although energy supply is rooted in world supplies and consumption. The notion of energy independence was always an illusion. It will be a long time, if ever, before the Nation is self-sufficient. Until then it will remain dependent on undependable foreign sources of oil, unless it takes action. The proposals I suggest would help tide us over until fusion, solar power, coal and other alternative sources can make a significant contribution to the Nation's energy supply.

I am today introducing a bill which would create the Energy Company of America (ECA), whose charter is not to enrich itself, but to produce and buy energy for the Nation. This company, through its own efforts and joint ventures with private companies and foreign governments, would explore for, develop, produce and purchase energy in the United States and throughout the world. As a competitive entity in the oil industry, it could signal an end to costly and inefficient price controls on oil and gas. This bill would deregulate oil and gas when ECA is able to perform as an effective competitor and supply independent refiners and distributors.

The second bill I introduce today would create the Energy Bank of America (EBA), through which Government, in cooperation with private facilities, both foreign and domestic, would assure financing for the development of energy sources too risky or costly for private enterprise alone.

These proposals would provide us with some control of our destiny and give our energy policy an international dimension.

ECA would negotiate with foreign governments for the purchase of crude oil at stable and reasonable prices, rather than leaving this task exclusively to oil companies whose interest is in higher energy prices. The recent experience with Mexico over natural gas and now with oil in Iran, demonstrates again that it is foolish to leave international negotiations to entities accountable to themselves and foreign governments—and not the American people. With an incentive to raise prices and no power to lower them, energy companies in these cases agreed to pay prices in excess of OPEC prices. The United States buys oil like it sells food in the world—for the benefit of its economic adversaries.

Our economic power, in concert with other consuming nations, is the equal of the OPEC countries, but it has not been used. ECA could reflect, not oppose, U.S. policy in negotiations for energy. To say the least, in times of stress it would not cut off fuel to American Armed Forces as have private companies.

It is impossible to estimate with certainty potential oil reserves in the world. But vast quantities of oil and natural gas probably exist in the unexplored regions of Latin America, Asia and Africa.

The oil companies have little access to these resources. Their presence is often made impossible by foreign politics and antagonisms toward multinational oil companies spawned by history. With large investments and contractural obligations in the Middle East and elsewhere, these companies have difficulty diversifying their foreign sources of supply. ECA would be charged with doing so, Instead of seeking to persuade nations in the Middle East to increase production when they have an incentive to decrease production, ECA would cooperate with nations elsewhere that have a strong incentive to increase production. That cooperation would take the form of joint ventures for exploration, development and production, and long-term oil purchase contracts. Such contracts could stabliize U.S. supplies and prices and also provide a basis for financing production in other countries. Such an effort to diversify foreign oil supplies would require the Carter administration to concede that the human rights records of Argentina and other nations with potentials for oil production are no more offensive than those of Iraq or Libya.

Resource availability is not the problem. By reason of inertia, institutional rigidities and world politics, the U.S. Government now makes no direct effort to diversify and expand world oil supplies. The problem is developing and using the world's productive oil capacity. The instabilities associated with rapid development in Iran may prompt other developing nations with potential oil resources to move cautiously. Government-to-government dealings offer an opportunity to break down the barriers to resource development in ways that are mutually acceptable.

ECA would also explore for, inventory and develop domestic oil, gas, uranium and coal resources in the U.S. public domain. The bulk of the Nation's proven and undiscovered energy reserves lies on Federal land, on and off shore. The American people own these resources, yet their Government knows little about their location and extent, and leaves their development and allocation to private oil companies. ECA could develop public energy resources in cooperation with private corporations, to assure supplies for the public and reduce our reliance on undependable foreign sources. It would do so by methods that are environmentally sound, developing new technologies.

The development and production of Federal naval petroleum reserves could proceed systematically, providing supply to meet current needs while maintaining reserves to withstand supply curtailments. ECA could also operate the strategic petroleum reserves.

ECA could return substantial revenues to the Treasury. It could allocate supplies during times of shortage and spur competition, not through costly regulations but as a competitive entity whose production costs and performance would be a matter of public record. Through its production and purchases, ECA could sell oil and oil products to independent refiners and independent marketers who compete with the major oil companies and are dependent on them.

ECA would be authorized to mine and produce coal and uranium, as well as oil and gas, to mill and enrich the uranium it develops, reprocess nuclear fuel and dispose of nuclear wastes. It could engage in research and development for improved methods of exploration, development, production, mining, enrichment, reprocessing, refining, storage and transport of oil, gas, coal, uranium and products derived therefrom. As the Nation increases its dependence on alternative sources of energy, it becomes more important that the Government act to assure their availability. The growing accumulation of coal and uranium reserves by oil companies makes such action the more necessary. Last year's coal strike reemphasizes the vulnerability of energy supplies to the actions of labor unions, foreign governments, and multinational oil companies.

The most promising near-term alternative sources of energy are coal and nuclear fuel. The burning of coal has serious economic and environmental implications. While mine mouth coal fired electrical generating plants are a promising option, the administration proposes to reduce expenditures for plants to test the economic and technical feasibility of technologies for the conversion of coal to liquid and gaseous fuels on a commercial scale. These plants convert coal to forms which can be transported and burned with less environmental degradation and at a cost made feasible by $20 per barrel oil. The Congress should make funds available for an adequate demonstration of coal conversion technologies.

About 18 light water nuclear reactors would make up the expected U.S. shortfall from Iran's curtailed production of oil. In the last 2 years, only six new reactors have been ordered. Plans for 32 reactors have been canceled in the same period. U.S. exports of nuclear reactors have virtually stopped. U.S. manufacturers of nuclear facilities, having lost hundreds of millions of dollars, may be forced to withdraw from the business. And because the United States is now regarded as an unreliable supplier of nuclear facilities and fuels, other nations desperate for energy turn to suppliers less fastidious about environmental and political implications. In the name of nonproliferation the Carter administration has encouraged the proliferation of nuclear energy, including energy from the plutonium cycle, and it has exacerbated the world's energy emergency.

The ECA could reprocess spent fuel rods in order to recover enriched uranium and plutonium for use in reactors when needed. At present these valuable materials are piling up in temporary storage facilities with no means of either using or disposing of them. Reprocessing would produce nuclear waste byproducts which can be disposed of more easily and safely. The use of outer space for disposal, of such wastes should be carefully considered. The design of waste containers which could withstand any adversity during launch or reentry is an engineering job that can be solved. The economics, as against less reliable systems for disposal, should be tested.

ECA's activities could be performed abroad as well as at home. The utilization of remote sensing systems based in space is a promising method of exploration for fuels in the world. NASA should be mandated to operate a global remote sensing system. This system would involve the cooperation of ECA and industry and in time perhaps its operation by industry. It could identify promising areas in the world for exploratory drilling. With some imagination the U.S. could involve many nations in a remote sensing system for many purposes. Soon I will introduce legislation to make that possible.

ECA is an alternative to regulation and nationalization. It would supplement, not supplant, private enterprise. Canada's experience with its national oil corporation, Petro-Canada, has been favorable, even in the view of some who opposed its creation a scant 3 years ago. The British experience also provides useful insights. Those countries, like the Dutch, the French, the Mexicans and many others, have recognized what we in this country have not: the development of energy resources and the security of their supply is too important to be left entirely to oil companies, the largest of which are subject to foreign control.

The private sector alone cannot finance the development and production of the increased energy supplies and distribution systems essential to the Nation's security and prosperity. Lenders and private investors, including the major oil companies, cannot accept the risks entailed in all long-term energy projects, nor the low profit margin on many energy conservation measures. If it is in the Nation's interest to finance housing, food supplies, medical care, and exports, surely it is in its interest to assure the financing of energy supplies upon which all else depends. Federal support for research and development is not enough. So-called demonstration projects are useful, but they must often be replicated on a commercial scale before private financing becomes adequate. Financing is needed to bridge the gap between development and commercial operation. Research and development has reached the point, or will, where commercial application should be attempted in oil shale and tar sands recovery, heavy oils, coal gasification and liquefaction, coal seam methane, large-scale solar energy projects, solid waste utilization, and transportation systems such as the Alaskan gas pipeline. The Nation needs this pipeline whether or not private investors are ready to participate. The private sector by itself will not take on all the risks and large capital investments such projects require. A bank of last resort is needed.

The proposal I introduce differs in material respects from that put forth by former Vice President Rockefeller. First, EBA should support energy development overseas as well as at home. Oil exploration and development must be expanded around the globe. The World Bank has recently begun funding exploration but will cover a small fraction of what is needed. The Eximbank is supporting development of additions to supply in the world—Algerian natural gas, for example—but its resources are for U.S. export promotion and are inadequate for the task at hand.

Instead of seeking an illusory energy independence, we must relieve ourselves of dependence on undependable foreign sources by increasing domestic supply and diversifying foreign supply, and not fall prey to the drain-America-first syndrome. That is the way to put downward pressure on energy prices—by increasing supply everywhere. And that is the way to enhance our national security.

The financing of energy supply and conservation projects by EBA would be available to public as well as private entities. Municipalities in particular could benefit from access to energy project financing. The bank could finance multiple purpose projects—for example, municipal solid waste treatment plants which provide both waste disposal and energy production.

No one can say how much may ultimately be needed, but I propose that initially $1 billion be appropriated to the bank as capital, and that the bank have authority to issue bonds backed by the full faith and credit of the U.S. Government. Total commitments by the bank could be limited to $20 billion. Of course, the funds should be loaned on a basis that offers a reasonable probability that they will be repaid with revenues from successful energy projects, but it would be foolhardy to insist on early repayment or to shy away from risky projects. EBA would press on with energy projects which are too risky or large for the private sector to fund unaided.

More needs to be done.

Legislation will be considered and should be enacted to expedite the nuclear licensing process and eliminate the uncertainties which have brought the construction of nuclear facilities to a virtual halt. The 12 to 13 years it takes to build a nuclear plant should be reduced to no more than 6. In addition, the United States should move ahead with its plant to test the feasibility of breeder reactors. The nuclear option can be made safe. Of all the near term options, it may threaten the least environmental degradation.

By enhancing supplies of nuclear fuel for reactors at home, we would be perceived to be a more reliable supplier of enriched uranium abroad. That perception, combined with a more realistic nuclear export policy (not permitting exports of any part of the plutonium cycle) would facilitate efforts to safeguard nuclear facilities throughout the world.

Energy conservation remains the least expensive and most effective means of increasing energy supplies. But we have not faced up to the most obvious means of conserving energy. The consumption of gasoline in the United States is sheer profligacy. Its consumption for noncommercial uses can be reduced without adverse economic consequences. Indeed, the economic and environmental consequences of decreased gasoline consumption would be wholesome. Gasoline taxes should be increased to discourage consumption and produce revenues for energy development, efficient transportation systems, tax relief and a balanced budget.

The energy crisis is associated with oil shortages, less clearly with the inflation and economic stagnation caused by energy shortages and high energy prices. But the crisis consists also of deepening payments deficits, overextended credit facilities, and a temptation to subsidize exports while resisting imports. In addition to the threat of trade barriers, domino-like national and commercial insolvencies and declining world trade and investment, financial reserves build up in a handful of producing nations. The investment of these reserves can be influenced by political considerations. The institutions in which they are invested can be controlled or pressured for political purposes. If shifted capriciously from one investment medium to another on short notice, they can also cause serious disequilibria in the world's financial system. The control of these reserves is, like the control of oil itself, a large and tempting source of world power. All of which underscores the importance of a comprehensive energy policy. It also underscores the need for an institutional means of more effectively recycling these monetary reserves back into a shaky world economy. The financial system has worked reassuringly well—but now it is stretched. Some nations are already rescheduling debts. Some financial institutions are overextended. Credit is tight. Expanded IMF resources are necessary. For the longer term a global monetary institution is needed to succeed the IMF, bringing Communist countries and oil producer surpluses into a new global institution and a monetary system which moves the world away from its artificial divisions, unreliable reserve currency and vulnerable monetary fund.

These suggestions, including the twin entities, Energy Company of America (ECA) and Energy Bank of America (EBA), working in concert with themselves and other agencies of the Government, foreign nations and private enterprise on a global scale would give the nation some control of its fate. They invite the United States to reverse its retreat and lead a worldwide assault on the energy crisis.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield.

Mr. MOYNIHAN. This is not the first time I have expressed my admiration for the energy and creativity that the Senator from Illinois has shown in this field. He responds to a question and a need that seems so overwhelming as somehow to repress any initiatives. It is so obvious as to have been overlooked, and I would deem it an honor if he would put the junior Senator from New York down as a cosponsor of the second of the two bills that he has just now introduced.

Mr. STEVENSON. Mr. President, I am grateful to the Senator for his words. He recognizes that the United States, having created an Energy Department, still has not created a comprehensive energy policy and that now, faced more evidently than before, with a crisis, we are reacting with emergency measures with which to deal with shortages and still are not considering the measures with which to end the shortages.

Mr. MOYNIHAN. If I may say so, if ever there were a case of treating symptoms, we see it all about us.

Mr. STEVENSON. There still is no international dimension to our energy policy; and if it were not obvious before, it should be obvious now that for some time to come the United States will remain dependent on undependable foreign sources of energy, unless it begins to act to diversify and increase foreign sources of energy at the same time it is increasing domestic sources of energy.

Mr. MOYNIHAN. Is it not the case that we have no alternative but to respond to the conditions imposed upon us in what one might call a comparable technological mode? The oil producers have produced a kind of economic and geopolitical technology in the multinational monopoly. It is an invention. It never existed before. It would have horrified the world of liberal economics until 20 or 30 years ago. It is a technique.

It is like the Cuban Army as a Third-World weapons system. The Rand Corp. in its most brilliant moment could never have thought up the Cuban Army, an army where white officers go anywhere in Africa and kill anyone, and which is regarded as somehow progressive.

This multinational monopoly is a fact. If we respond to it with the techniques of low-level antitrust action in the United States, confining ourselves to the United States, price regulations, and seeking supplies by looking about, we are dealing with 19th century technology in the face of 20th century fact.

The Senator's energy bond proposal is a response in kind and, absent it, it seems to me we are in the condition of a technologically backward nation confronting something new that we do not know how to deal with.

Mr. STEVENSON addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, before the Senator yields, may I ask a unanimous-consent request?

Mr. MOYNIHAN. I am happy to have the majority leader make a unanimous-consent request.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senators may speak out of order under the Pastore rule and that the time be equally charged against both sides on the pending question.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. MOYNIHAN. The majority leader is most gracious to keep us in order.

Mr. STEVENSON. Mr. President, the Senator speaks with much wisdom. If it were shared by the Government, the Nation would not be in such a sorry plight today. It was traumatized in Angola, by its experience in Vietnam, unable to distinguish the difference, and now it is traumatized by economic orthodoxies which are rooted in abstractions from the 18th century about the behavior of nations and markets.

The Senator has mentioned OPEC. I have to say to the Senator we can begin to look back nostalgically to the time when OPEC could control the prices of oil.

But having said that, in this world, this very imperfect world, in which the law of supply and demand is stood on its head by nations and by ideas, some of them as ancient as those of the Ayatollah Khomeini, we could react; the consumers in this imperfect marketplace have as much leverage as the producers of oil. But we have left our purchases to a handful of multinational corporations which have very little power or incentive to bargain for lower prices of oil.

Ashland Oil recently broke the OPEC price in Iran. Before that it was the oil companies, the utilities, and the rest of this apparatus which agreed to pay the Mexican Government prices for natural gas that were in excess of the OPEC prices for oil.

In addition to combining and exercising what economic leverage we have, the United States could, it seems to me, also recognize that, pushed to the wall, it has comparable sources of authority. Food, for example, is an infinitely renewable source unlike oil which, managed properly, could be used for humane purposes. It could be used to enlarge our economic advantage throughout the world as well as to restore our political authority.

But we sell food as we buy oil, for the benefit of our adversaries.

Mr. MOYNIHAN. If I may say to the Senator from Illinois—although it is not the best practice to quote oneself—that when OPEC came into existence, I remarked in a commencement address at Stanford University that it seemed to me that this event would lead to the largest expansion of Government power in the economy of the United States of any event since the New Deal; but that it had been forced upon us from the outside, by exogenous events, they would say; and the question was whether we would recognize it early on, and say it was an act that was imposed upon us, and how would we respond?

The alternative was either to take it on and try to create among ourselves institutions that could be effective in representing our interests, or just decline into an endless complexity of small and marginal regulations.

I fear we have done the latter.

Mr. STEVENSON. We have given ourselves the worst of both worlds. We could, with some imagination, contrive methods for involvement by the Government when necessary, but which are far less intrusive, far less burdensome for the entire economy, than a multibillion dollar a year Department of Energy.

The company which would be authorized by the legislation I have introduced not only assures energy supply. Every other country with any resources to develop has such a corporation. In fact, this legislation, a variation of it, was enacted by the Canadians not long ago.

But it could become a far more discrete means of allocating resources in the United States during times of shortages than through regulations of the Department of Energy and, in time, of regulating through healthy competition prices, again without the expensive, burdensome regulations of the Department of Energy.

So I welcome the cooperation of the Senator from New York. I think he speaks with much wisdom, and his words are among the most encouraging that I have heard since I began my own efforts to alert the country to the energy crisis with measures to meet it, in 1970, the year of my election to this body.

I thank the Senator from New York.

Mr. MOYNIHAN. It is we who are in the Senator's debt, and I would like to acknowledge it.

The PRESIDING OFFICER. The bills will be received and appropriately referred.

Mr. MOYNIHAN. I thank the Chair.

By Mr. NELSON (for himself, Mr. McGovern, Mr. Melcher, Mr. Heinz, Mr. Stafford, Mr. Ford, Mr. Pressler, Mr. Stevens, Mr. Stewart, Mr. Leahy, Mr. Hollings, Mr. Riegle, and Mr. Levin):

S. 582. A bill to provide Federal guarantees for State programs designed to assist individuals who, except for their lack of financial means, would be qualified to enter farming on a full-time basis; to the Committee on Agriculture, Nutrition, and Forestry.

FARM ENTRY ASSISTANCE ACT

Mr. NELSON. Mr. President, I send to the desk a bill in behalf of myself, Mr. McGovern, Mr. Melcher, Mr. Heinz, Mr. Stafford, Mr. Ford, Mr. Pressler, Mr. Stevens, Mr. Stewart, Mr. Leahy, Mr. Hollings, Mr. Riegle, and Mr. Levin to provide Federal guarantees for State programs designed to assist individuals who, except for their financial means, would be qualified to enter farming on a full-time basis.

Mr. President, the last few decades have witnessed a disturbing decline in both the number of family farms and their relative contribution to American agriculture. A large part of the explanation for this trend is the increasing difficulty of entering family farming. As costs become more and more prohibitive, only those who already have substantial assets can get access to credit. The result is that farmland is sold primarily to farmers expanding their operations, to large corporations with the capital to invest in land, either to farm or to develop, or to investors and speculators, many of whom will eventually withdraw the land from farming altogether. Only a fortunate few can gather the resources to begin farming under these circumstances.

The result of this pattern is fewer and larger farms, less land in production, and less business for local rural communities dependent on a family farm economy. Current Federal programs have eased the problem somewhat, but data shows that they have not helped nearly enough. The bill I am introducing today, along with Senators McGovern, Melcher, Heinz, Stafford, Ford, Pressler, Stevens, Stewart, Leahy, Hollings, Riegle, and Levin, provides a way to ease entry into farming with a minimum amount of Federal expenditure and involvement.

This bill would authorize the Secretary of Agriculture to guarantee assistance made available through State programs designed to facilitate entry into farming by well-qualified, but low asset individuals. States would design and administer the programs, and would select the applicants for participation.

If a State's program was approved by the Secretary of Agriculture, the Government would guarantee 90 percent of the payments of a program beneficiary on a loan, a contract for deed installment sale, or a lease. Applicants would have to show that the farm they intend to operate is a family-sized unit and that they could operate it in a way that would provide them with an income adequate for living and farm expenses.

States would be encouraged to enact programs that relieve new farmers of a portion of their payments in the early years of operation, either by State loans to cover some of these costs or through other means such as variable repayment mortgages. States with such especially beneficial programs would receive extra guarantee authority, but all States must be able to show that their programs would promote family farming and would be fiscally responsible. Four hundred million in loan guarantees would be authorized annually, 75 percent of which would be distributed according to farm population and 25 percent of which would be granted to States with especially meritorious programs.

Only a fraction of this amount, however, would be needed to be appropriated as a reserve fund, probably no more than 10 percent. The fiscal impact, therefore, will be very small. The Secretary of Agriculture will make a recommendation to Congress on the precise reserve fund needed each year.

The need for this program is very clear. In the last 40 years, the number of farms has been cut by a third, from 6.8 million in 1935 to an estimated 2.3 million in 1978. While the number of farms has declined, the relative importance of the family farm has declined as well. If a family farm is defined as one with no more than 1.5 man/years of outside labor, then family farms account for 90 percent of all farm units, but only 60 percent of the total output. The rapidly growing category of industrially organized farms, on the other hand, accounts for only 2 percent of the farms, but 15–20 percent on the output.

The decline of the family farm, in fact, has recently been thoroughly documented by two congressional agencies: the General Accounting Office, in its study entitled "Changing Character and Structure of American Agriculture," and the Congressional Budget Office in its "Public Policy and the Changing Structure of American Agriculture."

This decline is not a result of inefficiency. According to the GAO, IRS returns show that farms in the typical family farm category are the most efficient of all in terms of costs of production and return on investment. The Congressional Budget Office concluded that even if the Government were to follow a policy that severely restricted farm expansion, food costs would remain basically unaffected. USDA studies have repeatedly confirmed that the family farm is the most efficient sized unit. The basic cause of the decline of the family farm is not, then, any lack of efficiency, but as the Congressional Budget Office stated, a Federal policy that has "led to greater concentration in farming."

Family farming is more than just efficient, however, studies published by the Small Business Committee have provided empirical proof of the commonsense observation that rural communities surrounded by family farms are more vital and prosperous than communities surrounded by large farms. Large farms will get their supplies elsewhere, and the labor force they hire will be much less likely to participate in community life in the same way that independent farmers are.

Unfortunately, family farming is extraordinarily difficult to enter, an observation supported by recent studies. According to a recent report of the Federal Reserve Bank of Kansas City, in 1976 only about 20-25 percent of the land sold for use in farming went to new farmers starting operations. This compares with 60 percent in 1956. A 1973-75 Minnesota study showed that 90 percent of the land is being purchased for expansion. The reason for these trends, of course, is the cost of farmland and equipment.

To capitalize a moderate-sized family farm (sales of $40,000-$60,000 annually), between $250,000 and $575,000 is required, according to the GAO. A recent study by University of Wisconsin researchers found that farmers who actually started operations between 1961 and 1976 averaged $37,000 in funds available for startup costs, and these figures do not reflect the tremendous inflation of the last two decades. When inflation is taken into account, this study suggests that $50,000 or $60,000 in available funds would be required for startup, a sum very few beginning farmers are likely to have. Without these funds, however, creditors are very reluctant to make loans to entering farmers, especially when there is demand for the land from well-established farmers and from wealthy investors.

In the last several years, many States have recognized the seriousness of the problem and have seriously considered legislation to address it. While bills are still pending in many States, two States—Minnesota and North Dakota—have already started programs. The Minnesota program is the most ambitious, guaranteeing loans and payments on contracts, making loans to new farmers to help pay early interest costs, and giving a tax break to sellers who sell to program participants at lower rates.

In the first 14 months of the program, 86 loans were guaranteed. The total staff for the program consisted of three people, and the total administrative cost was only $80,000. The program has been a great success. In fact, retiring farmers are coming to the program in large numbers to ask that they be able to sell under the program to a neighbor, relative, or friend who lacks resources. These sellers are willing to give the buyer special breaks in interest and sale price in return for the State's guarantee.

It is this local participation that is crucial to a program's success, and this bill would guarantee that participation. There is, of course, an existing program under Farmers Home. While this program, under its new regulations, will be of substantial assistance to low-asset entering farmers, Farmers Home officials estimate that two-thirds of the applicants who might qualify are turned down for lack of funds, and many other potentially qualified people never even apply because of the long delays involved in getting Farmers Home assistance. Moreover, Farmers Home has been chronically beset with a shortage of personnel to administer its program.

Even if Farmers Home had the money and the staff, however, it would still be unable to provide credit in a number of situations which are especially well-suited to an entering farmer. Farmers Home cannot, for instance, guarantee payments on a contract for deed sale, in which a seller agrees to sell his farm on a contract, stating that 29 percent will be paid down and the rest paid over 10-20 years, sometimes with a balloon payment at the end. Farmers Home can assist in getting a loan for the down payment, but that is all, and many sellers would be reluctant to sell to a person with no other assets or backing.

Contract sales are rapidly gaining in popularity, however, since they offer the seller substantial capital gains tax advantages. They also offer the buyer a way to purchase a farm with a substantially smaller down payment, and often with interest rates on the contract below bank interest rates. In fact, in many States, most sales of land from one farmer to another are through contracts. In Minnesota, almost all participants in the farm entry program buy through contracts.

The bill I am introducing today would allow a State to use the Federal guarantee to guarantee payments on these contracts. States could then add additional features, such as loans to the farmer to ease the impact of early payments while he is getting established, tax breaks to the seller in return for a lower price for the farm, and agreements with the seller to include special provisions in the contract, such as a long payback time, to make the operation more feasible for the new farmer. Since many retiring farmers would like to sell their farm to a new farmer—perhaps a neighbor or a relative—but are reluctant to take the risk, the contract guarantee procedure offers a way to help everyone out simultaneously.

This is but one example. State designed programs can have tremendous variety—lease guarantees, variable amortization plans, and so forth—with the framework of the bill. States can learn from the experiences of other States which approaches work and which do not. States which do not want to participate do not have to do so.

This bill would provide, therefore, a creative and innovative supplement to Farmers Home. It would take some of the pressure off their overburdened staff, and it would provide hundreds and eventually thousands of opportunities for new farmers who otherwise would have to do something else.

The cost of this program is modest—$400 million per year in guarantee authority. Only a small fraction of this would be needed as appropriations, however. Farmers have a remarkable record of repaying their debts, so the guarantees would rarely be used in all likelihood. The reserve fund necessary to be appropriated to cover this program, therefore, should be small, perhaps 10 percent per year or less, meaning actual annual appropriation of $40 million per year or less.

This small annual appropriation will have very large economic benefits for farm communities and the agricultural economy. I urge all of my colleagues to consider this bill carefully. I believe that if you do, you will support it.

I ask unanimous consent that a copy of the bill, plus a summary and section-by-section analysis of it, be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 582

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Farm Entry Assistance Act"

SEC. 101. The Congress finds that—

(1) the average size of farms has been increasing, and the number of farms declining. The decline in farm numbers limits rural opportunities both on the farm and in the communities that depend on a strong farm economy;

(2) the cost of entering family farming on a full-time basis has grown substantially in recent decades, making entry into farming almost impossible except for those individuals who inherit a farm or who have considerable financial assets;

(3) because the entry barriers into family farming are so significant, it is increasingly difficult for new farmers or part-time farmers to enter full-time farming, even when they possess the ability to make a good living from farming. Neither the private market nor the existing federal programs can provide the necessary means for such individuals to enter farming;

(4) if new entrants into full-time family farming are discouraged by the high capital barriers, farmland that might otherwise have gone to new farmers will be sold to existing farmers consolidating and expanding their holdings, to non-farming investors for lease to farmers, or to investors who will remove the land from agricultural use. The effect of these acquisitions will be to expand farm size, since new entrants into farming are more likely to enter farming on a smaller scale;

(5) the maintenance of a farm system dominated by family-sized units is and should be a basic goal of American agricultural policy. The maintenance of such a system, however, is only possible if entry into

full-time family farming is possible for those without substantial individual assets;

(6) the most appropriate manner for entry into full-time family farming, and the barriers to such entry, vary by state and region. Any program to provide assistance to those seeking to enter into full-time family farming should be adapted to local conditions; and

(7) federal support for local efforts to aid those interested in and qualified for entry into full-time family farming would help to maintain the family farm system and prevent further consolidation of farm size.

PURPOSES

SEC. 102. The purposes of this Act are to—

(1) establish a program to provide federal guarantees for loans or other forms of assistance to individuals who wish to enter full-time family farming and who are well-qualified to do so in all respects other than their financial assets; and

(2) distribute the guarantees through programs to be established by the individual states.

DEFINITIONS

SEC. 103. As used in this Act—

(a) The term "family farm" means a farm (1) owned and operated or leased and operated by an individual; (2) of a size sufficient to be maintained and operated by such individual and members of his or her family or with no more than the equivalent of one person-year of hired labor; (3) which provides sufficient income by itself in average or better than average agriculture years to enable the individual to meet necessary family and operating expenses, including the maintenance of essential chattel and real property and the payment of debts.

(b) The term "full-time family farmer" means an individual whose primary occupation is the operation of a family farm. An individual with employment off the farm shall not be excluded from this term if such employment is intended only to supplement income provided from the farming operation and does not prevent the individual from performing necessary tasks of the farming operation personally.

(c) The term "Secretary" means the Secretary of Agriculture.

(d) The term "land sales contract" means a contract for the sale of farm land in which the seller agrees to transfer land permanently to the buyer upon completion of the terms of the contract agreed on by the seller and buyer which specifies that no more than 29 percent of the total cost is to be paid in the initial payment, subsequent payments are to be made for not less than ten years, and prior to completion of the terms of the contract, title is to remain in the seller.

(e) The term "variable repayment program" means a program for the repayment of a loan in which the lender and seller agree that the terms of the loan may be subsequently altered to increase the term of the loan, to decrease or defer individual interest or principal payments, or any other agreement designed to decrease payments during periods of financial stress to the borrower.

(f) The term "beneficiary" means an individual receiving assistance under this program.

(g) The term "state" shall include all of the 50 states of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, the Commonwealth of the Northern Marianas, and the territories and possessions of the United States.

(h) The term "state agency" shall mean the agency of state government which has the responsibility for administering the farm entry assistance program in that state.

TITLE II.—ESTABLISHMENT OF FARM ENTRY ASSISTANCE PROGRAM

FEDERAL PROGRAM

SEC. 201. (a) The Secretary shall establish within the Department of Agriculture a program to provide financial assistance to individuals who are seeking to establish and operate full-time family farms, who have been approved by appropriate state agencies for participation in the program, and who are qualified under the qualifications set forth in Title III of this Act.

(b) The Secretary, through the program, is authorized to guarantee loans made by any legally organized lending agency to eligible applicants approved for participation in the program and to guarantee the payment of contract obligations on or leases of family farms by eligible applicants approved for participation in the program. No contract guaranteeing any such loan or lease shall require the Secretary to guarantee more than 90 percent of the principal and interest on such loan or more than 90 percent of payments due under such lease or contract.

STATE PROGRAMS

SEC. 202. Participation in the family farm entry program shall be through programs established and administered by the states.

SEC. 203. If a state wishes to participate in the program, the Governor of the state shall submit an application to the Secretary setting forth such information as the Secretary shall require with regard to the operation of the program at the state level. The Secretary shall approve or disapprove any application submitted by a state within 6 months after receipt by the Secretary in accordance with regulations to be issued by the Secretary within 180 days after enactment of this Act. Proposed regulations shall be issued for public comment within 120 days after enactment of this Act.

SEC. 204. A state may amend its program with the approval of the Secretary. Amendments shall be approved or disapproved within 90 days after submission to the Secretary.

SEC. 205. The Secretary shall approve a state program if it includes the following:

(a) A state agency created or designated to administer the program subject to the advice of the advisory committee.

(b) An advisory committee, designated or appointed by the Governor of the state to include local bankers, farmers, agricultural specialists and such other representatives as the Governor may determine necessary, to advise the state agency concerning the administration of the program, including the selection of applicants and the approval of the guarantees to lendors and lessors.

(c) A procedure to assure that the program will select applicants who are likely to repay all obligations.

(d) A procedure to encourage the settlement of family-size farms generally not larger than average family farms for the area by eligible applicants as defined in this Act.

(e) A reasonable likelihood that the program will lead to eventual purchase of all or part of the land operated by program beneficiaries except when a guarantee of a lease is involved.

(f) A reasonable likelihood that the program will make a contribution to the maintenance of a family farm structure in the area.

(g) Adequate administrative mechanisms.

(h) Adequate provisions to assure that leases, contracts or mortgages do not include conditions detrimental to the successful operation of the farm.

SEC. 206. The Farmers Home Administration shall cooperate fully with state agencies in administering the program.

SEC. 207. The Secretary shall periodically review state programs to assure that they continue to meet the requirements of this Act. If any of such requirements are not being met, the Secretary shall notify the state that such a finding has been made. The state shall have six months to revise the program and submit the revised program to the Secretary, who shall approve or disapprove it within 90 days after receipt of the submission. Disapproval shall terminate any further responsibility of the Secretary to provide guarantees to any individuals not * * * state agency. A state which has had a program terminated may reapply at any time.

TITLE III

APPLICATION FOR THE PROGRAM

SEC. 301. Individuals wishing to receive assistance under the program must apply through a qualified state program which has been established pursuant to Title II of this Act.

SEC. 302. In addition to such qualifications as the state may designate, to be eligible for assistance under this Act applicants must meet the following criteria:

(a) Applicants must be seeking to operate a family farm and must be entering farming on a full-time basis for the first time during the ten years prior to the date of application.

(b) Applicants must certify that without the assistance made available through the program, they would be unable to obtain the credit necessary to enter farming on a scale adequate to cover family and farm expenses and to generate a reasonable return on investment in normal or above normal agricultural years for the area. Such certification must include denial of credit on reasonable terms from a commercial source and the Farmers Home Administration. Denial of credit by the Farmers Home Administration due to an excess of applicants will qualify an individual under this section.

(c) Applicants must be able to demonstrate that they are qualified to operate a family farm on a full-time basis. Part of this demonstration shall be a record of direct on-farm experience for not less than one year.

(d) Applicants must have net worths of less than $75,000 in 1979 dollars, as may be adjusted by the Secretary to account for inflation in subsequent years. This limit may be raised by the Secretary to account for special circumstances within a state which may, in his judgment, justify a higher limit.

SEC. 303. Applicants meeting the above criteria and approved by the state agency shall be eligible to receive federal assistance through the state agencies as specified in this Act, upon certification by the state agency that—

(1) the farm unit they are proposing to operate can, if properly managed, generate enough income to cover family and farm expenses in normal or better than normal agricultural years for the area;

(2) the farm unit they are proposing to operate would be the size of a family farm as defined in this Act; and

(3) applicants have met any other criteria the state may have designated concerning farm size and structure.

TITLE IV

FEDERAL ASSISTANCE TO APPLICANTS THROUGH STATE AGENCIES

SEC. 401. Federal assistance to applicants approved through state family farm entry programs shall be made available by the Secretary upon the Secretary's receipt of notifications by the state agency of approval of the applicants. Such assistance shall be in the form of guarantees of loans or leases as specified in section 201 and shall be subject to the requirements of this Title.

SEC. 402. (a) In the event of a default by any beneficiary on a loan guaranteed under this Act, the lender shall notify the state agency. No claim on the guarantee may be filed until the beneficiary shall have been allowed 180 days to remedy any such default.

If the default is not remedied at the end of such period, the lender may file a claim for payment of the amount in default with the state agency and that agency shall forward the claim to the Secretary if the agency agrees that a default has taken place.

(b) Upon receipt of a claim for payment of an amount in default, the Secretary shall determine, with the advice of the state agency, whether the beneficiary is likely to default again. If the Secretary determines that the beneficiary is not likely to default again, the Secretary shall make a loan to the beneficiary for the amount in default. The interest rate on such a loan shall be determined by the Secretary, but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed 1 percent, as determined by the Secretary, and adjusted to the nearest one-eighth of 1 percent. Any such loan shall be payable in not more than 10 years and secured in such manner as the Secretary determines appropriate.

(c) If the Secretary determines that the beneficiary is likely to default again, the Secretary shall pay the lender the outstanding balance due on the loan, up to the amount guaranteed, and shall take an assignment of all the lender's rights in the loan and interest in any property which served as security for the loan. In the case of default on a loan for the purchase of a farm or equipment, the Secretary may foreclose upon the property and sell it to the highest bidder within one year from the date of foreclosure. Any net proceeds received from such a sale shall be placed in the revolving fund created by section 503 of this Act.

(d) In the event of a second default, the Secretary will remedy the default as outlined in subsection (c).

SEC. 403. In the case of a guarantee of a lease, if a payment is not made within 90 days of its due date, the lessor may request payment from the Secretary. The Secretary shall make 90 percent of all payments due for up to 3 months, in full, within 60 days of the Secretary's certification of the validity of the claim. Such certification shall occur within no more than 30 days after receipt of the lessor's request by the Secretary. The payment shall be a loan to the beneficiary. The interest rate on such a loan shall be determined by the Secretary but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loan plus not to exceed 1 percent as determined by the Secretary and adjusted to the nearest one-eighth of 1 percent. Any such loan shall be repayable in no more than 5 years. The Secretary shall make two such payments during any ten year period if needed. If the beneficiary fails to make payments within 90 days of their due date after the Secretary has made two previous payments, the lessor may again request payment and the Secretary shall make the payment as above. The Secretary shall, however, notify the lessor that no further payments will be made. The beneficiary shall repay the government for the loans as specified above. In the event of a default on the loan by the Secretary for any of the payments, no penalties shall be applicable but the information shall become part of the beneficiary's record and shall be kept on file with the state agency.

SEC. 404. (a) In the event of a default by any beneficiary on contract payments guaranteed by the Secretary under this act, the seller shall notify the state agency. No claim on the guarantee may be filed until the beneficiary has been allowed 180 days to remedy the default, or such time as the contract may specify, whichever is shorter. If the default is not remedied in this period, the seller may file a claim for the payment of 90 percent of the amount in default with the State agency and that agency shall forward the claim to the Secretary if the agency agrees that a default has taken place.

(b) Upon receipt of a claim for payment of an amount in default, the Secretary shall determine, with the advice of the state agency, whether the beneficiary is likely to default again. If the Secretary determines that the beneficiary is not likely to default again, the Secretary shall make a loan to the beneficiary for the amount in default, following the procedures and conditions established in Sec. 402(b).

(c) If the Secretary determines that the beneficiary is likely to default again, the Secretary shall pay the lender the amount in default. The lender will then have the option of:

(1) Using those remedies available to him in law under the contract, including reassuming the contract and selling the farm unit. In the case in which such an option is chosen, however, the seller must pay 90% of the total contract payments which had been guaranteed by the government up to the point at which default had occurred, or,

(2) Requesting that the Secretary continue to make 90% of the payments due under the contract until such time as the state agency can find another qualified beneficiary to assume the remainder of the contract. At that time, the Secretary will again provide a 90% guarantee of payments on the contract by the beneficiary, and the new beneficiary will be considered in the same category as other beneficiaries beginning their contract payments. States must locate such a new beneficiary within one year of default. Failure to do so will be cause for a review of the consistency of the state program with the purposes of the act.

(d) In the event of a second default, the Secretary will make payments as specified in Sec. 404(a), and proceed as in subsection (c) above.

SEC. 405. (a) Guarantees shall be available for approved applicants under other state programs using approaches other than those specified above, provided that the Secretary determines that they are consistent with the requirements of subsections (c) through (b) of section 205 of this Act. Approaches involving land sale contracts, lessor payments, or land or equipment purchase loans must, however, follow the guidelines set forth in this section.

SEC. 406. Guarantees to lenders shall be available through approved state programs in the following circumstances:

(a) Guarantees shall be available for approved applicants to purchase land sold by the seller pursuant to a land sale contract, provided that the terms of sale call for not less than a ten year repayment period. Programs which encourage sellers to extend the term of repayment beyond ten years shall receive preference. Land sale contracts of less than ten years shall be guaranteed only if the Secretary determines that local conditions are such that allowance of the shorter repayment period will not be likely to cause program beneficiaries to default in non-disaster years.

(b) Guarantees shall be available to approved applicants for loans for the purchase of farm land, for operating purposes, or for both. Programs which encourage lenders to provide for deferred principal payments or other variable repayment approaches shall be given preference. Programs without such approaches shall be approved only if the Secretary determines that such approaches are not necessary in the local area to assure that the Federal government will not have to cover an unreasonable number of defaults.

(c) Guarantees shall be available for approved applicants to make payments to lessors for a period of not more than ten years.

(d) Guarantees shall be available for approved applicants under other state programs using approaches other than those specified above, provided that the Secretary determines that they are consistent with the requirements of subsections (c) through (g) of section 205 of this Act. Approaches involving land sale contracts, lessor payments, or land or equipment purchase loans must, however, follow the guidelines set forth in this section.

SEC. 407. Loan guarantees or lease payment guarantees for loans or leases obtained by fraud shall be invalid.

SEC. 408. Guarantees for loans for the purchase of land shall be made only after the state agency has conducted an appraisal of the land to be purchased and has certified that the price of the land is reasonable based on the market value of other land in that area. Procedures for such appraisal must be included in the state's application to the Secretary.

SEC. 409. Guarantees for the purchase of land or equipment shall not be transferable and shall be terminated upon sale of the equipment or property covered by the guarantee. State programs must include provisions preventing use of the programs for speculative purposes, including a provision that any sale of land by a program beneficiary occurring within 10 years of the issuance of the guarantee shall be to the Secretary at the price at which the land was purchased, adjusted to reflect any change in the consumer price index for the period. In the event of a sale of land to the Secretary, the Secretary shall sell the land within one year to the highest bidder. The state program, however, may allow waiver of the requirement for sale of land to the Secretary in cases of disability, death, or extreme hardship.

TITLE V

FUNDING

SEC. 501. There are hereby authorized to be appropriated to the Secretary such sums as the Congress shall deem necessary for the administration of this Act.

SEC. 502. Commencing with the first fiscal year beginning at least one year after the enactment of this Act, the Secretary shall make available not more than $400 million in guarantees for each of the following four fiscal years. Such guarantees shall be allocated among the states having approved programs under this Act in the following manner:

(a) $100 million shall be allocated to those states with programs of special merit or addressing special needs as determined by the Secretary;

(b) The remainder shall be allocated by the Secretary among the states with approved programs in the proportion that the farm population of such state bears to the total farm population of all of the states with approved programs as determined by the Secretary based on the latest preceding decennial census. Any allocation which remains unobligated at the end of a fiscal year shall revert to the Secretary for allocation in the following year.

SEC. 503. (a) There is hereby created the Farm Entry Assistance Fund (hereinafter called the "Fund") which shall be used by the Secretary as a revolving fund for the discharge of the obligations of the Secretary under contracts guaranteeing loans or leases under this Act.

(b) There are hereby authorized to be appropriated such sums as the Congress shall deem necessary to establish the Fund and to replenish amounts paid from the Fund to cover defaults on guaranteed loans and other payments pursuant to contracts of guarantee.

TITLE VI

REPORTS

SEC. 601. The Secretary shall report to the Committee on Agriculture, Nutrition, and Forestry, United States Senate, and the Committee on Agriculture, United States House of Representatives, not later than December 31 of each year on the operation of the program under this Act during the preceding fiscal year. The first report shall be made after the first full fiscal year of operation of the program.

SUMMARY OF THE FAMILY FARM ENTRY PROGRAM

The family farm entry program would authorize the Secretary of Agriculture to guarantee assistance made available through state programs to aid new farmers get started in farming.

Under the program, states could design programs to assist new farmers who are well-qualified, but lack the necessary resources to get started in farming. If the Secretary approves the program, he would guarantee the credit portion of the assistance made available. The state would administer the program, including selection of the applicants and supervision of their performance in the program. States could add any additional features to the program they choose, such as loans from the state to help pay for early interest costs or tax reductions to sellers who sell to beginning farmers at lower prices.

In order for a program to qualify, a state would have to show that it would select applicants who have farming skills and experience, and are likely to repay any credit guaranteed. Their net resources must be less than $75,000 in 1978 dollars, and they must be able to demonstrate that they could not obtain credit elsewhere within a reasonable amount of time. They must be entering full-time farming for the first time (part-time farms may apply), and must present a plan for farm operation that is feasible. The farm they plan to operate must not be larger than average size family farms for the area.

Applicants will be selected by the state, with the advice of local advisory committees. States may design their program in any number of ways, including arranging federal guarantees of conventional farm purchase loans, guarantees of payments on installment sale contracts, and guarantees of lease payments. On conventional loans, however, states must arrange the loans so that early interest or principal payments can be deferred (this could be done through state loans for early interest payment or bank agreements to charge less in early years), unless they can present a compelling reason why this is not necessary.

The guarantees will be granted automatically to successful applicants, and will provide 90% of the amount due. If a beneficiary is in default on payments once, the Secretary may make up his payments through a loan to the beneficiary. After the second default, however, the Secretary will be required to fulfill the terms of the contract with the lender or with the seller in an installment sale.

Guarantees will be distributed by formula. 75% will be distributed according to farm population by state, and 25% will be distributed at the discretion of the Secretary to states with especially meritorious programs, such as those that provide loans for early interest payments or special tax breaks for sellers who sell to beginning farmers at lower costs.

$400 million in guarantee authority is provided for fiscal year 1980, but only $40 million will be appropriated as a reserve fund to cover these guarantees.

SECTION-BY-SECTION ANALYSIS OF FAMILY FARM ENTRY PROGRAM

Sec. 101. Findings. This section states that the Congress finds that family farms are declining in number and relative importance and that entry into farming has become increasingly difficult, even for well-qualified people. The high capital barriers to entry means that more and more farmland will be purchased by farmers expanding their operations and by investors and large corporations who may, in some cases, withdraw the land from agricultural use.

Sec. 102. Purposes. This section states that it is the purpose of the act to assist well-qualified new farmers who lack the necessary assets to enter farming on a full-time basis. The assistance will be made available through federal guarantees administered by the states.

Sec. 103. Definitions. A family farm is one operated by an individual large enough to provide an adequate income in normal years, but small enough to be operated with no more than one person-year of outside hired labor.

A family farmer operates the family farm full-time, but is not precluded from working part-time to supplement his income.

Land sale contracts and variable repayment mortgages are defined.

Sec. 201. This section establishes the program at the federal level. 201 (a) and (b) authorize the Secretary to make 90% guarantees of the payments due on loans, land sale contracts or leases made to beneficiaries selected by states having approved farm entry programs.

Sec. 202. Establishes that participation in the program shall be through state programs approved by the Secretary.

Secs. 203 and 204. Establishes time limitations on approval of state programs and amendments to state programs by the Secretary.

Sec. 205. Establishes criteria for approving state programs. Among other criteria, states must create an agency to administer the program, and local advisory boards to participate in administration. Programs must select people who can demonstrate that they have the ability to farm successfully and repay their obligations. Programs must also require that farms purchased or operated in the program must be no larger than average family farms in the area, and must be capable, in the judgment of the Secretary, of making a contribution to the maintenance of family farming in the area.

Sec. 206. Authorizes the Farmers Home Administration to cooperate fully with the states in administering the program.

Sec. 207. Authorizes the Secretary to review the program periodically.

Sec. 301. Specifies that individuals will apply through their state agencies for participation in the program.

Sec. 302. Establishes requirements for applicants wishing to participate. Among other requirements, the applicants must be entering full-time family farming for the first time in ten years, must certify that they could not get credit elsewhere within a reasonable amount of time, must demonstrate that they are qualified to enter full-time farming, and must have net worths under $75,000.

Sec. 303. Establishes that applicants meeting the criteria in 303 may be approved provided that the farm unit they intend to operate is family-sized and is capable of generating an adequate income. States may also specify additional requirements.

Sec. 401. Establishes that federal guarantees will be made available through the states.

Sec. 402. Establishes procedures for defaults on loans. A beneficiary who defaults will have 90% of the amount in default paid to the creditor by the Secretary, with the amount being considered a loan, provided that the Secretary does not determine, on advice of the state, that the beneficiary is likely to default again. In that case, or on the second default, the Secretary will pay 90% of the remaining amount due on the loan, take title to the land, and sell to the highest bidder.

Sec. 403. Establishes procedures for defaults on lease payments. This section again calls for 90% payments of amounts in default, with the amount being considered a loan to the beneficiary, provided default is not likely to occur again. In that case, or in the case of a second default, the 90% amount in default will again be paid, and the guarantee will cease.

Sec. 404. Establishes procedures for payment of defaults on contract obligations in installment sales. The procedure follows that in 402, except that in the event of a default, the seller may exercise his rights in law and reassume the contract (to resell the property) provided that he pays the government 90% of the amount paid on the contract. This provision is designed to prevent sellers from encouraging default so that they can take advantage of the guaranteed payments and then resell the property once it has been partly paid for. If the seller does not reassume the contract, he will receive 90% of the remaining payments due, but the government will direct the state agency to find new applicant to assume the remainder of the contract.

Sec. 405. Specified types of assistance for which guarantees will be available. These include land sale contracts with repayment periods of at least ten years, loans for farmland purchase or the purchase of operating equipment, provided that these loans have provisions for deferral of some portion of the early payments, and guarantees of leases.

Sec. 406. This section specifies that approaches other than those in 405 can be accepted, provided that they meet the criteria of the act.

Sec. 407. Fraudulently obtained guarantees are invalid.

Sec. 408. Guarantees of land purchases may only be made after an appraisal by the state has concluded that the price of the land is consistent with other land prices in the area.

Sec. 409. Establishes procedures for preventing the use of the program for speculation.

Sec. 501. Authorizes funding for the program.

Sec. 502. Authorizes a ceiling of $400 million in guarantees annually for the next four years, and establishes that $100 million will be authorized to be distributed by the Secretary to especially meritorious programs, with the other $300 million distributed by farm population.

Sec. 503. Creates a reserve fund to be established to cover defaults.

Sec. 601. Calls on the Secretary to report on the program annually.

Mr. McGOVERN. Mr. President, I rise as the principal coauthor with my good friend from Wisconsin (Mr. NELSON) to place before the Senate for its consideration the Farm Entry Assistance Act of 1979. It is a bill that comes to grips realistically with one of the most serious economic problems of the agricultural community: The problem of young farmers coping with the realities of financing an economically sound agricultural unit.

Let me say that this problem is not one that has just surfaced. It has been with us for years and conditions are worsening with the passage of time. Each time I go back to South Dakota, I learn anew that the insurmountable financial problem of young farmers is probably the most pressing credit problem on the scene. The average age of America's farmers is now approaching 55 years and there is no long-range answer to getting the new farmer in business. Indeed, the cynical side of the equation is that a young man planning to enter farming must either inherit land from well-to-do parents or marry into an existing successful operation. How long can we rely on this mechanism as an answer to solving the credit problems of future food producers?

I am not new to this problem, Mr. President. Several years ago, I with nearly 20 cosponsors, introduced the Young Farmers Homestead Act, patterned somewhat after an experiment that has been a success with our neighbors in Canada. I continue to believe that this legislative initiative is the best answer to this pressing problem. Its drawback is not necessarily conceptual. Someday, a program like the Young Farmers Homestead Act will be adopted. Rather, the problem is that it calls for a substantial original outlay of Government funds. In these days of fiscal austerity, there is little reason to believe that any administration would be willing to shoulder the financial commitment to move this type of legislation.

Given this condition, it is not possible to retreat from the problem. It is possible, however, to develop a more modest approach by using convenient credit tools of Government guarantees in concert with money outlays from the private sector.

The bill we propose today would involve the Secretary of Agriculture as a guarantee authority for acceptable programs set up in the several States. States would formulate programs for the selection of qualified young farmer applicants and would administer and oversee the program under their own sovereign authority. From a legal real estate vehicle, the young farmer would select and purchase his farm on a contract for deed with the requirement that it be an economically viable unit. Initially we would envision a guarantee authority of $400 million, distributed to the States in proportion to farm population. The leverage created by a fiscally sound reserve together with the initially relatively low commitment of a contract for deed would create a substantial buying authority, even in the initial years, thus making the fiscal impact somewhat modest in relation to the amount of land that would initially come under contract commitment. An unrecognized meritorious feature would be the IRS benefit to sellers who presumably would desire to sell their inflated land under installment-type contracts, thus minimizing their exposure for capital gains liability under Internal Revenue Code regulations.

Let me say, Mr. President, that this concept is not without precedent. Under its own initiative, the Minnesota State Legislature adopted a similar plan several years ago, admittedly modest to start with, but, nevertheless, a substantial success due to prudent management on the part of Minnesota State officials.

It is not necessary to detail a need for this program, Mr. President. Any Senator with a modicum of agricultural constituency already knows this. The facts are that it takes over a quarter of a million dollars for a young man to start farming. We obviously cannot go very far at either the State or Federal level in extending this needed credit. Thus, it is necessary for us to gather together the most imaginative credit tools whereby we can get the greatest number of acres into a young farmers program for the least number of dollars. Leverage is a credit tool used by virtually all real estate developers. Why cannot we in Government take a page from the developers' handbook and enact legislation which uses the same credit tools? For this reason, I commend this bill to my colleagues and plead for their support. Senator Nelson and I will hold early hearings on this bill and we ask the Secretary and the administration to rise to their own responsibilities and give it the support we think it deserves.

● Mr. HEINZ. Mr. President, I rise today to join my distinguished colleagues, Senator Nelson, Senator McGovern, and Senator Stafford, and others in introducing the Farm Entry Assistance Act. I am supporting this bill because I am deeply concerned over the decline of the small family farm. The family farm is not a romantic notion of our distant past; the family farm today plays a key economic role in our society and we in Congress must work to insure its continued viability.

The legislation we are introducing today addresses one of the major difficulties in family farming, the inability of young, talented farmers to purchase or lease small farms. How can we expect the small family farm to continue if those who want to enter agriculture as a career lack the access to credit so sorely needed to have a farm of their own? Statistics reveal that it takes $250,000 to $500,000 to capitalize a moderate size family farm. Clearly a means is needed to allow families the credit to make such an investment. Accordingly, our bill would call on the States to create programs to assist qualified new farmers in getting started by providing Federal credit guarantees. The Secretary of Agriculture would make available to States with approved programs 90 percent guarantees of loans, payments on contract-for-deed, and leases. These guarantees would be available only to those who are entering full-time family farming for the first time, have low personal assets, are experienced and well qualified to farm, and who have been unable to obtain credit elsewhere. Without such action the prohibitive up-front costs of farming will insure that future farms and farmland will be sold primarily to only current farmers who are increasing their holdings, to large corporations with the means to invest in land, or to speculators, who may not even choose to farm the land.

One of the key ingredients of this bill is the emphasis placed on the role of the States. This is not a program that will serve to further bloat the Washington bureaucracy. Rather, the bill encourages States to design and administer their own programs. The States would select the applicants to the program and make the decisions on whether to grant the guarantees. States would be given incentives to link the loan guarantees to other measures such as variable amortization mortgages and tax breaks to farmers who sell to new entrants at lower cost. The Federal Government's involvement would be simply to review and approve the programs to assure fiscal responsibility and to develop certain guidelines so that the programs created help alleviate the problem of family farm entry.

To be sure, this bill will not solve all the problems facing the small family farm. However, I believe it is a positive first step. I am hopeful that through this bill and others, the Congress can engage in a constructive debate that brings the plight of the family farm to the Nation's attention.

It is my belief that if we fail to address this issue the family farm may become an anachronism remembered only in our paintings and literature. Small family farmers would not be the only losers; urban and rural residents alike would suffer the loss.

The decline of the small family farm is clear. Since 1936, the number of farms has declined from 6.8 million to 2.7 million. In 1956, 60 percent of all farm sales were for new starts; by 1978, the percentage was estimated at only 20 to 25 percent. Average farm size has jumped from 197 acres in 1940 to 440 acres in 1974. Only farms with over 1,000 acres have experienced a real rise in farm numbers. Farm population has dropped from over 15.6 million in 1960 to just under 8.3 million in 1976. The largest 20 percent of all farms now make up 80 percent of all gross agricultural sales and the top 2 percent account for about 30 percent of sales.

Disturbing as these statistics are, they are only numbers. In no way can these figures adequately convey both the personal and national loss associated with the disappearance of the family farm.

Now, there are those who say "Yes, the small family farm is dying out, but is it really worth saving?" I would answer yes. Let us reflect for a moment on the importance, unique contribution, and benefits of the family farm.

First, we should reject the philosophy that family farms are simply not economically efficient and have become obsolete in an age of large-scale, mechanized, factory-type farms. Such a view is too simplistic. For example, studies have shown that small farmers realize a relatively larger share of the total net farm income per acre grown, or per dollar invested, than large farmers. Research in California concluded that small farms were not less efficient than large farms in terms of return per dollar of investment, were more efficient in terms of return per acre, and only 5 to 15 percent less efficient in terms of cost per unit of output.

In addition, the economics of the small family farm should not be viewed solely in the context of productivity. To fully realize the economic importance of these units, it is essential to examine the whole fabric of rural life in America.

The growing predominance of larger farms has resulted in an increase in the number of farmland owners who do not operate or occupy the farm on a day-to-day basis. These owners often do not live in the local community, do not contribute or participate in community efforts and events, and may take the revenues from the farm operation outside the local area. On occasion, these large landowners in search of quick profits may exploit the soil through overcropping, excessive pesticide application, and poor soil conservation practices.

The trend of a few large farms replacing many small family farms makes it increasingly difficult for many small towns in rural America to survive. The local income distribution becomes less balanced. Farm related businesses and local jobs disappear as supplies and equipment come more and more from a few large distribution centers. Local service operations and small firms, dependent on a large class of moderate income farmers, lose their clientele. The independent, self-sufficient, rural, small-town lifestyle, that so many cherish, can quickly become a thing of the past.

The decline in the number of family farms and the inability of young people to get into farming due to the costs involved and lack of access to credit has also increased outmigration problems in many rural communities. The loss of productive young men and women combined with a steadily increasing elderly population, places severe financial burdens on the community. Outmigration can also often result in a loss of potential leadership and a loss of continuity between generations.

The gradual disappearance of the small family farm has serious implications for our entire country. I would raise the question whether large-scale farming consolidation, further concentration of power in the diminished number of farms, and increased specialization does not diminish flexibility in our agricultural economy. Small farmers have traditionally played the role of a kind of shock absorber to carry the country through adverse economic conditions. There exists a certain resiliency, continuity and flexibility in the small family farm. The basic structure of family farms—high equity, self-employment, lower operating costs, and the fact that once crops are in the costs of continuing the process until harvest are extremely low—serves as an incentive to maintain output even if product prices fall to disastrously low levels. The existence of the small family farm thus helps to provide a constant food supply at affordable prices.

For these and other reasons, I am convinced that the small family farm plays a unique and crucial role in our society. In examining how we can assure its continued viability, I hope the Congress will look not only at specific problems facing the family farmer such as cash flow, storage, transportation, and availability of credit, but also at whether present Government programs are actually hurting the small family farmer. The General Accounting Office reports that despite the Federal Government's expressed desire to maintain the family farm system, many agricultural programs have the opposite effect. For example, GAO contends that since price support crop allotment programs "have been tied to specific commodities and to volume and acreage, they have tended to benefit larger crop-specific and regional-specific farms. Such programs coupled with changes in technology and economic conditions have encouraged increases in farm size. This has resulted in many small volume farms going out of business. Price support and crop allotment programs have been capitalized into increased land values, often raising the purchase price of the land as well as land rental, thus making it more difficult for new farm operators or land renters to get started or expand their operations."

Similarly, the General Accounting Office has written that present Government tax policies have promoted the trend away from smaller, family-owned and operated farms, while attempting to do the opposite. "Federal income tax laws provide an excellent tax shelter for outside investors. Recent estate tax laws may inhibit sale of farmland outside the owning family, thus creating a 'landed aristocracy' with fewer avenues for new farmers to enter."

I believe we should also take a look at the research and extension activities of the U.S. Department of Agriculture. A report by the Subcommittee on Administrative Practice and Procedure which examined priorities in agricultural research last year makes clear that serious questions exist over USDA bias. Much of the testimony presented contended that USDA has virtually ignored the small family farmer.

In summary, the small family farm is a part of American agriculture we cannot afford to lose. The economic, social, and environmental benefits of small-scale farming clearly refute the adage that bigger is always better. We need to work to resolve the problems facing the small farmer. Some of our efforts should be new programs like loan guarantees to ease the credit obstacles young people face in entering farming. And some of our efforts must be directed toward reevaluating existing programs which may not be achieving their intended results. I am not suggesting we give the small farmer any special treatment, but I question whether we should force him to operate at a disadvantage. We need the small family farmer. Let us not sit quietly and simply watch over his demise.●

By Mr. RIBICOFF (for himself, Mr. WEICKER, Mr. MCGOVERN, Mr. SARBANES, Mr. RIEGLE, and Mr. MAGNUSON):

S. 583. A bill to provide for children and youth camp safety; to the Committee on Labor and Human Resources.

CHILDREN AND YOUTH CAMP SAFETY ACT

● Mr. RIBICOFF. Mr. President, for well over a decade I have addressed this body on the frightful conditions which exist in many summer camps. I have pointed out that while some 8 to 10 million boys and girls attend 10,000 summer camps each year, only 10 States have some type of agency responsible for monitoring camp conditions and operations. It has been almost 13 years since I first introduced legislation establishing a Federal role in encouraging and aiding States to develop health and safety standards for youngsters attending camps. Unfortunately, no affirmative steps have yet been taken.

The rich and rewarding experience which summer camping can offer American youth is often diminished by appalling conditions in far too many camps. All too often there is dangerous equipment, unsafe or improperly operated vehicles, poor sanitation facilities, inadequate medical provisions, untrained personnel, improper supervision, and hazardous activities. Consequently, children have been killed, permanently injured, sexually abused, or suffer accidents requiring medical care.

In March 1978 my constituent, Mitch Kurman of Westport, Conn., presented forceful testimony before the Senate Child and Human Development Subcommittee on the need for Federal camp safety legislation. Mitch lost his own son in a tragic camping accident in Maine and he has devoted many years to documenting camp accidents and unsafe camp conditions throughout the United States. I consider him to be one of the leading experts in this field. He has aroused the conscience of many Americans and I commend him for his tireless efforts and perseverance in behalf of meaningful camp safety standards.

Mr. President, from time to time I hear that there is no proper Federal role in the area of child and youth camp safety. Some maintain that the issue is better left to the individual States. I would be among the first to agree that it is both the duty and function of each State to protect, safeguard, and monitor the health, safety, and welfare of the Nation's youngsters attending youth camps. I must note, however, that only 12 States have some meaningful health and safety regulations and only 28 States have some type of regulation dealing with youth camp safety.

As with Connecticut and a few other States, good safety laws are possible when States want to protect their young campers. Regrettably, all States are not so inclined. Thus, the Federal Government must act where appropriate.

Today I am again introducing legislation to eliminate unacceptable and unsafe conditions which exist in many summer camps. As in either bills I have offered in this area, this measure recognizes that the State should assume responsibility for the development and enforcement of effective youth camp safety standards. It also provides that the Department of Health, Education, and Welfare, operating through an Office of Youth Camp Safety, will develop and issue Federal youth camp safety standards and will provide consultative services to youth camps in States which do not have any State regulations. I have redrafted some aspects of the legislation I offered in the 95th Congress in order to address some of the concerns voiced at last March's hearings.

Mr. President, the bill I am reintroducing today is a necessary and positive approach to the longstanding problem of camp accidents. It is certainly no panacea. Neither Federal nor State regulations can prevent accidents. The bill nevertheless sets in motion a mechanism for dealing with this persistent problem. It will encourage and assist States in developing proper and effective youth camp standards. It will help furnish the protection our young campers need and deserve.

I ask unanimous consent that the text of my Children and Youth Camp Safety Act and a section-by-section analysis be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 583

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Children and Youth Camp Safety Act."

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to protect and safeguard the health and well-being of the youth of the Nation attending day camps, residential camps, short-term group camps, travel camps, trip camps, primitive or outpost camps, and Federal recreational youth camps, by providing for establishment of Federal standards for safe operation of youth camps, to provide Federal financial and technical assistance to the States in order to encourage them to develop programs and plans for implementing safety standards for youth camps, and to provide for the Federal implementation of safety standards for youth camps in States which do not implement such standards and for Federal recreational youth camps, thereby providing assurance to parents and interested citizens that youth camps and Federal recreational youth camps meet minimum safety standards.

(b) In order to protect and safeguard adequately the health and well-being of the children and youth of the Nation attending camps, it is the purpose of this Act that youth camp safety standards be applicable to intrastate as well as interstate youth camp operators.

CONGRESSIONAL INTENT REGARDING STATE INVOLVEMENT

SEC. 3. It is the intent of Congress that the State assume responsibility for the development and enforcement of effective youth camp safety standards. The Secretary shall provide, in addition to financial and technical assistance, consultative services necessary to assist in the development and implementation of State youth camp safety standards.

DEFINITIONS

SEC. 4. For purposes of this Act—

(1) The term "youth camp" means any residential camp, day camp, short-term group camp, troop camp, travel camp, trip camp, primitive or outpost camp, or Federal recreational youth camp located on private or public land, which—

(a) is conducted as a youth camp for the same ten or more campers under eighteen years of age;

(b) may include activities promoted or advertised as something other than a youth camp, but offers youth camp activities;

(c) may include any site or facility primarily designed for other purposes, such as, but not limited to, any school, playground, resort, or wilderness area; and

(d) may include any site or facility advertised as a "camp" for youth regardless of activities offered.

(2) The term "youth camp activities" includes, but is not limited to, such waterfront activities as swimming, diving, boating, lifesaving, canoeing, sailing, and skindiving; such other activities as archery, riflery, horseback riding, hiking, and mountain climbing, and other sports and athletics; and campcraft and nature study activities, under the auspices of a youth camp operator. The term does not include—

(a) the activities of a family and its guests carried out as a purely social activity;

(b) regularly scheduled meetings of voluntary organizations such as the Girl Scouts or Boy Scouts that do not involve camping experience:

(c) regularly scheduled athletic events that do not include camping experience;

(d) bona fide extracurricular activities conducted under the auspices of the schools;

(e) learning experiences in the arts and drama or conferences of forums; and

(f) activities carried on in private homes.

(3) The term "permanent campsite" means a campground which is continuously or periodically used for camping purposes for a portion of a day by a youth camp operator, which may or may not include temporary or permanent structures and installed facilities.

(4) The term "residential camp" means a youth camp operating on a permanent campsite for four or more consecutive twenty-four-hour days.

(5) The term "day camp" means a youth camp operated on a permanent campsite for all or part of the day but less than twenty-four hours a day and which is conducted for at least five days during a two-week period, but does not include—

(a) swimming facilities operated by a public agency or by a private organization on a membership basis, except where that private organization utilizes such facilities as part of a youth camp;

(b) a day care center except where the center operates a day camp; or

(c) playgrounds and other recreation facilities provided for neighborhood use by local public agencies.

(6) The term "troop camp" means a youth camp which provides youth camp activities conducted for not less than twenty-four hours a day for organized groups of campers sponsored by a voluntary organization serving children and youth.

(7) The term "short-term group camp" means an organized camping activity of more than twenty-four but less than a ninety-six-hour period for groups, clubs and troops of campers sponsored by an organization or person.

(8) The term "travel camp" means a youth camp which provides youth camp activities conducted for not less than twenty-four hours a day and which uses motorized transportation to move campers as a group from one site to another over a period of two or more days.

(9) The term "trip camp" means a youth camp which provides youth camp activities conducted for not less than twenty-four hours a day which moves campers under their own power or by a transportation mode permitting individual guidance of a vehicle or animal from one site to another.

(10) The term "primitive or outpost camp" means a portion of the permanent camp premises or other site, under the control of the youth camp operator at which the basic needs for camp operation, such as places of abode, water supply systems, and permanent toilet and cooking facilities are not usually provided.

(11) The term "Federal recreational camp" means a camp or campground which is operated by, or under contract with, a Federal agency to provide opportunities for recreational camping to campers.

(12) The term "camper" means any child under eighteen years of age, who is attending a youth camp or engaged in youth camp activities.

(13) The term "youth camp operator" means any private or public agency, organization, or person, and any individual, who operates, owns, or controls, a youth camp, whether such camp is operated for profit or not for profit.

(14) The term "youth camp staff" means any person or persons employed by a youth camp operator, whether for compensation or not, to supervise, direct, or control youth camp activities.

(15) The term "youth camp director" means the individual on the premises of any youth camp who has the primary responsibility for the administration of program operations and supportive services for such youth camp and for the supervision of the youth camp staff of such camp.

(16) The term "youth camp safety standards" means criteria issued by the Secretary designed to provide to each camper safe and healthful conditions, facilities, and equipment which are free from hazards that are causing, or are likely to cause death, serious illness, or serious physical harm, including adequate supervision to prevent injury or accident, and safety instruction by properly qualified personnel, wherever or however such camp activities are conducted and with due consideration to the type of camp involved and to conditions existing in nature. The criteria shall be directed toward areas including—but not limited to—personnel qualifications for director and staff; ratio of staff to campers; sanitation and public health; personal health, first aid and medical services; food handling, mass feeding and cleanliness; water supply and waste disposal, water safety; including use of lakes and rivers; swimming and boating equipment and practices; firearms safety; vehicle condition and operation; building and site design; equipment; and condition and density of use.

(17) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(18) The term "State" includes each of the several States, the District of Columbia, Puerto Rico, American Samoa, Guam, the Virgin Islands, and the Trust Territories of the Pacific.

(19) The term "serious violation" means any violation in a youth camp if there is substantial probability that death or serious physical harm could result, unless the operator did not, and could not, with the exercise of reasonable diligence know of the presence of the violation.

(20) The term "consultative services" means advice on the interpretation or applicability of the general duty under section 5; of the general duty under State law required by section 8(b)(2); or of youth camp safety standards, and advice on the most effective methods of complying with such duty and such standards.

GENERAL DUTY

SEC. 5. Each youth camp operator shall provide to each camper—

(1) safe and healthful conditions, facilities, and equipment which are free from recognized hazards which cause, or are likely to cause, death, serious illness, or serious physical harm, and

(2) adequate and qualified instruction and supervision of youth camp activities at all times, wherever or however such youth camp activities are conducted and with due consideration existing in nature.

DIRECTOR OF YOUTH CAMP SAFETY

SEC. 6. (a) There is established in the office of the Secretary an Office of Youth Camp Safety which shall be headed by a Director of Youth Camp Safety (hereinafter referred to as the "Director"). In the per-

formance of his functions under this Act, the Director shall be directly responsible to the Secretary.

(b) The Director shall be appointed by the Secretary.

(c) The Director shall report to the President and to the Congress, on or before January 1 of each year, on the activities carried out under this Act, including the statistics submitted to and compiled by the Director under section 11(c), and such report shall include the certification required under section 8(d).

PROMULGATION OF YOUTH CAMP SAFETY STANDARDS

SEC. 7. (a) The Director shall develop, with the approval of the Secretary, and shall by rule, promulgate, modify, or revoke youth camp safety standards. In developing such standards, the Director shall consult with the Federal Advisory Council on Youth Camp Safety established under section 15, with State officials, and with representatives of appropriate public and private organizations, and shall consider existing State regulations and standards, and standards developed by private organizations which are applicable to youth camp safety, and shall make such suitable distinctions in such standards as are necessary and appropriate in order to recognize the differences in conditions and operations among residential camps, day camps, short-term group camps, travel camps, trip camps, primitive or outpost camps, or Federal recreational youth camps. The Director shall promulgate the standards required by this section within one year after the effective day of this Act. Such standards shall take effect in each State at the completion of the first regular legislative session of such State which begins after the date on which such standards are promulgated.

(b) Notwithstanding any other provision of law, the Director shall, before promulgating any standard under subsection (a) or any rule or regulation under any other provision of this Act, transmit such proposed standard, rule, or regulation to each House of the Congress. No such proposed standard, rule, or regulation may take effect if either House of the Congress adopts a resolution, within sixty legislative days of continuous session of the Congress after such proposed standard, rule, or regulation is transmitted by the Director, which disapproves such proposed standard, rule, or regulation. Any such resolution shall void the proposed standard, rule, or regulation involved. The failure of either House of the Congress to adopt any such resolution shall not be considered to be an expression by the Congress that the standard, rule, or regulation involved is within the scope of authority delegated to the Director by this Act.

STATE JURISDICTION AND STATE PLANS

SEC. 8. (a) During the two-year period after the initial promulgation of Federal standards and annually thereafter any State which, at any time, desires to assume responsibility for development and enforcement of comprehensive youth camp safety standards applicable to youth camps therein (other than Federal recreational youth camps operated by a Federal agency) shall submit a State plan for the development of such standards and their enforcement.

(b) The Director shall approve a plan submitted by a State under subsection (a), or any modification thereof, if such plan in his judgment—

(1) designates a State agency as the agency responsible for administering the plan throughout the State,

(2) provides that each youth camp operator shall have the same general duty under State law as is provided under section 5,

(3) provides, after consultation with youth camp operators and other interested parties in that State, for adoption and enforcement of comprehensive youth camp safety standards which standards (and the enforcement of such standards) are or will be at least as effective in providing safe operation of youth camps in the State as the standards promulgated under section 7, and provides that where penalties are not employed as a method of enforcement of such standards a system of licensing and loss of license is in effect which is at least as effective as penalties.

(4) provides for the enforcement of the standards developed under paragraph (3) in all youth camps in the State which are operated by the State or its political subdivisions,

(5) provides a procedure whereby the State agency may petition the appropriate State court to seek injunctive relief to restrain any conditions or practices in any youth camp or any place where camp activities are conducted which are such that a danger exists which would reasonably be expected to cause death or immediate serious physical harm, or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by State law or regulation, which is at least as effective as that provided in section 13.

(6) provides for a procedure for the issuance of variances from standards developed under paragraph (3) upon application by a youth camp operator showing extraordinary circumstances or undue hardship, on terms and conditions at least as effective as that provided in section 14.

(7) provides for consultative services to youth camps in the State with respect to the general duty and comprehensive youth camp safety standards under such State plan,

(8) provides for an inspection of each such youth camp at least once a year during a period that camp is in operation,

(9) provides for a State youth camp advisory committee, to advise the State agency on the general policy involved in inspection and licensing procedures under the State plan, which committee shall include among its members representatives of other State agencies concerned with camping or programs related thereto; persons representative of professional or civic or other public or nonprofit private agencies, organizations, or groups concerned with organized camping; and members of the general public having a special interest in youth camps,

(10) provides for a right of entry and inspection of all such youth camps which is at least as effective as that provided in section 11,

(11) contain satisfactory assurances that such State agency has or will have the legal authority and qualified personnel necessary for the enforcement of such standards,

(12) gives satisfactory assurances that such State will devote adequate funds to the administration and enforcement of such standards,

(13) provides that such State shall coordinate the inspection efforts of such State agency so that undue burdens are not placed on camp operators with multiple inspections,

(14) provides that such State agency will make such reports in such form and containing such information as the Director may reasonably require,

(15) provides assurances that State funds will be available to meet the portions of the cost of carrying out the plan which are not met by Federal funds, and

(16) provides such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting of funds received under this Act.

(c) The Director shall approve any State plan which meets the requirements of subsection (b), but shall not finally disapprove any such plan, or any modification thereof, without affording the State agency reasonable notice and an opportunity for a hearing.

(d)(1) The Director shall review annually each of the State plans which he has approved, and the enforcement thereof, and shall certify that each such plan is administered so as to comply with the provisions of such plan and any assurances contained therein, and report such certification to the Congress in the annual report required under section 6(c).

(2) Whenever the Director finds, after affording due notice and opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan (or any assurance contained therein), and such failure would result in the failure to meet the standards developed by the Director under section 7, he shall (A) notify the State agency of his withdrawal of approval of such plan and upon receipt of such notice such plan shall cease to be in effect, but the State may retain jurisdiction in any case commenced before the withdrawal of the plan in order to enforce standards under the plan whenever the issues involved do not relate to the reasons for the withdrawal of the plan; and (B) shall notify such State agency that no further payments will be made to the State under this Act (or in his discretion, that further payments to the State will be limited to programs or portions of the State plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments may be made to such State under this Act (or payment shall be limited to programs or portions of the State plan not affected by such failure). Any such failure of a State to comply with any provision of the State plan shall not in any way impede any youth camp therein pending action by the Secretary under this section.

(e) The State may obtain a review of a decision of the Director withdrawing approval of or rejecting its plan by the United States court of appeals for the circuit in which the State is located by filing in such court within 30 days following receipt of notice of such decision a petition to modify or set aside in whole or in part the action of the Director. A copy of such petition shall forthwith be served upon the Director and thereupon the Director shall certify and file in the court the record upon which the decision complained of was issued as provided in section 2112 of title 28, United States Code. Unless the court finds that the Director's decision in rejecting a proposed State plan or withdrawing his approval of such plan is not supported by substantial evidence the court shall affirm the Director's decision. The judgment of the court shall be subject to review by the Supreme Court of the United States as provided in section 1254 of title 28, United States Code.

(f)(1) The Secretary, at the request of the Director, is authorized to make personnel from the Department of Health, Education, and Welfare, who have the necessary expertise, available to States to assist in developing State plans, and in training State inspectors and other personnel associated with youth camps. The Director may call upon the expertise of organized camping groups for such assistance to Federal and State personnel.

(2) the Secretary, at the request of the Director, shall provide technical assistance and consultative services necessary to assist in the development and implementation of the plan.

GRANTS TO STATES

SEC. 9. (a) The Director shall make grants to the States for the development of State youth camp safety plans in accordance with section 8; to States which have in effect plans approved under section 8; to assist such States with plan initiation and training costs; and to States for the early operation and improvement of youth camp safety programs. Any grant made under this section shall be based upon objective criteria which shall be established under regulations promulgated by the Secretary in order to insure equitable distribution. No such grant may exceed 80 per centum of the cost of developing and carrying out the State plan.

(b) Payments under this section may be made in installments and in advance or by way of reimbursement with necessary adjustments on account of underpayments or overpayments.

CONSULTATIVE SERVICES AND ENFORCEMENT

SEC. 10(a) Upon the request of any youth camp operator or director, or during any inspection under section 11(a), the Director shall provide consultative services to youth camps in States which do not have in effect a State plan approved under section 8. No citations shall be issued nor shall any civil penalties (except penalties for repeated violations under section 12(b)) be proposed by the Director upon any inspection or visit at which consultative services are rendered, but if, during such inspection or visit, an apparent serious violation of the duty imposed by section 5, of any standard, rule, or order provided pursuant to section 7, or of any regulations prescribed pursuant to this Act is discovered, the Director shall issue a written notice to the youth camp operator describing with particularity the nature of the violation, and the action which must be taken within a reasonable period of time specified by the Director for the abatement of the violation. Where a youth camp operator fails to comply with the abatement instructions within the prescribed period, a citation may be issued as provided in subsection (b) or a civil penalty under section 12 may be assessed. Nothing in this subsection shall affect in any manner any provision of this Act the purpose of which is to eliminate imminent dangers.

(b) The Director shall issue regulations and procedures providing for citations to youth camp operators in States which do not have in effect a State plan approved under section 8 for any violation of the duty imposed by section 5, of any standard, rule or order promulgated pursuant to section 7, or of any regulations prescribed pursuant to this Act. Each citation shall fix a reasonable time for abatement of the violation. The Director may prescribe procedures for the issuance of a notice in lieu of a citation with respect to minor violations which have no direct or immediate or serious relationship to safety or health.

(c) The Director shall afford an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to any youth camp operator issued a citation under procedures promulgated pursuant to subsection (b) or subject to penalties under section 12, or under any other procedure applying enforcement by the Director under this Act. Any youth camp operator adversely affected by the decision of the Director after such hearing may obtain a review of such decision in the United States court of appeals for the circuit in which the youth camp in question is located or in which the youth camp has its principal office by filing in such court within thirty days following receipt of notice of such decision a petition to modify or set aside in whole or in part such decision. A copy of the petition shall forthwith be served upon the Director, and thereupon the Director shall certify and file in the court the record upon which the decision complained of was issued as provided in section 2112 of title 28, United States Code. Such decision, if supported by substantial evidence, shall be affirmed by the court. The judgment of the court shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code.

INSPECTIONS, INVESTIGATIONS, AND RECORDS

SEC. 11(a) In order to carry out his duties under this Act, the Director may enter and inspect any youth camp and its records in States which do not have in effect a State plan approved under section 8, may question employees privately, and may investigate facts, conditions, practices, or matters to the extent he deems it necessary or appropriate. The Director shall inspect each such youth camp at least once a year during the period the camp is in operation.

(b) In making his inspections and investigations under this Act the Director may require the attendance and testimony of witnesses and the production of evidence under oath. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of a contumacy, failure, or refusal of any person to obey such an order, any district court of the United States, or the United States courts of any territory or possession, within the jurisdiction of which such person is found, or resides, or transacts business, upon the application by the Secretary, shall have jurisdiction to issue to such person an order requiring such person to appear to produce evidence if, as, and when so ordered, and to give testimony relating to the matter under investigation or in question, and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(c) To determine the areas in which safety standards are necessary and to aid in promulgating meaningful regulations, camps subject to the provisions of this Act shall be required to report annually, on the date prescribed by the Director, all accidents resulting in death, injury, and serious illness, other than minor injuries which require only first aid treatment, and which do not require the services of a physician, or involve loss of consciousness, restriction of activity or motion, or premature termination of the camper's term at the camp. Camps operating solely within a State which has in effect a State plan approved under section 8 shall file their reports directly with that State, and the State shall promptly forward such reports on to the Director. All other camps shall file their reports directly with the Director. The Director shall compile the statistics reported and include summaries thereof in his annual report required under section 6(c).

(d) Any information obtained by the Director, or his authorized representative, under this Act shall be obtained with a minimum burden upon the youth camp operator and with full protection of the rights of youth camp operator and with full protection of the rights of youth camp staff members. Unnecessary duplication of efforts in obtaining information shall be reduced to the maximum extent feasible.

(e) A representative of the youth camp staff director and a representative authorized by the youth camp staff shall be given an opportunity to accompany the Director or his authorized representative during the inspection. Where there is no authorized youth camp staff representative, the Director shall consult with a reasonable number of youth camp staff members concerning the matters of health and safety.

PENALTIES

SEC. 12. (a) Any youth camp operator who fails to correct a violation for which a citation has been issued under section 10(b) or for which a notice has been issued under section 10(a) within the period permitted for its correction may be assessed a civil penalty of not more than $500 for each day during which such failure or violation continues, until the camp closes in its normal course of business.

(b) Any youth camp operator who willfully or repeatedly violates the requirements of section 5, of any standard, rule, or order promulgated pursuant to section 7, or of any regulations prescribed pursuant to this Act may be assessed a civil penalty of up to $1,000 for each day during which such violation continues, until the camp closes in its normal course of business.

(c) Civil penalties assessed under this Act shall be paid to the Director for deposit into the Treasury of the United States and shall accrue to the United States and may be recovered in a civil action in the name of the United States brought in the United States district court for the district in which the violation is alleged to have occurred or in which the operator has his principal office.

PROCEDURES TO COUNTERACT IMMINENT DANGERS

SEC. 13. (a) The United States district courts shall have jurisdiction, upon petition of the Director, to restrain any conditions or practices in any youth camp, or in any place where camp activities are conducted in States which do not have in effect a State plan approved under section 8, which are such that a danger exists which could reasonably be expected to cause death or immediate serious physical harm or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this Act. Any order issued under this section may require such steps to be taken as may be necessary to avoid, correct, or remove such imminent danger and prohibit the presence of any individual in locations or under conditions where such imminent danger exists except individuals whose presence is necessary to avoid, correct, or remove such imminent danger.

(b) Upon the filing of any such petition, the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order pending the outcome of an enforcement proceeding pursuant to this Act.

(c) Whenever and as soon as an inspector concludes that conditions or practices described in subsection (a) exist in any campsite or place of camp activity, he shall inform parents or guardians, camp owners, and camp supervisory personnel and shall assure that all affected campers are so informed of the danger and that he is recomemnding to the Director that relief be sought.

VARIANCES

SEC. 14. The Director, in States which do not have in effect a State plan approved under section 8, upon application by a youth camp operator showing extraordinary circumstances or undue hardship, and upon the determination by a field inspector, after inspection of the affected premises and facilities, that the conditions, practices, or activities proposed to be used are as safe and healthful as those which would prevail if the youth camp operator complied with the standard, may exempt such camp or activity for specific requirements of this Act, but the terms of such exemption shall require appropriate notice thereof to parents or other relatives of affected campers. Such notice shall be given at least annually. Nothing in this Act shall allow the operation of a substandard camp.

FEDERAL ADVISORY COUNCIL ON YOUTH CAMP SAFETY

SEC. 15. (a) The Director shall establish in the Department of Health, Education, and Welfare a Federal Advisory Council on Youth Camp Safety to advise and consult on policy matters relating to youth camp safety, particularly the promulgation of youth camp safety standards. The council shall consist of the Director, who shall be chairman, and fifteen members appointed by him, without regard to the civil service laws, from persons who are specifically qualified by experience and competence to render such service and shall include one representative from the Department of the Interior, the Department of Health, Education, and Welfare, and the Department of Agriculture and the Department of Labor. There shall be eight such members so appointed from appropriate associations representing organized camping. There shall be appointed three members from the general public who have a special interest in youth camps.

(b) The Director may appoint such special advisory and technical experts and consultants as may be necessary in carrying out the functions of the council.

(c) Members of the Advisory Council, while serving on business of the Advisory Council, shall receive compensation at a rate to be fixed by the Director but not exceeding $100 per day; including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

ADMINISTRATION AND AUDIT

SEC. 16. (a) The Director is authorized to request directly from any department or agency of the Federal Government information, suggestions, estimates, and statistics needed to carry out his functions under this Act; and such department or agency is authorized to furnish such information, suggestions, estimates, and statistics directly to the Director.

(b) The Director shall prepare and submit to the President for transmittal to the Congress at least once in each fiscal year a comprehensive and detailed report on the administration of this Act.

(c) The Director and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers and records of States receiving assistance under this Act.

NONINTERFERENCE

SEC. 17. (a) Nothing in this Act or regulations issued hereunder shall authorize the Director, a State agency, or any official acting under this Act, to prescribe, determine, or influence the curriculum, admissions policy, program, or ministry of any youth camp.

(b) Nothing in this Act or regulations issued hereunder shall be construed to control, limit, or interfere with either the religious affiliation of any camp, camper, or camp staff member, or the free exercise of religion of any youth camp which is operated by a church, association, or convention of churches, or their agencies.

(c) Nothing in this Act or regulations issued hereunder shall authorize the Director, a State agency, or any official acting under this Act, to require or authorize medical treatment for a person who objects (or, in the case of a child, whose parent or guardian objects) thereto on religious grounds; nor shall examination or immunization of such person be authorized or required except during an epidemic or threat of an epidemic of a contagious disease.

AUTHORIZATION

SEC. 18. There are authorized to be appropriated $7,500,000 for the fiscal year ending September 30, 1980, and for each of the four succeeding fiscal years, to carry out the provisions of this Act.

EFFECT ON EXISTING LAWS

SEC. 19. (a) Nothing in this Act shall be construed to supersede or to enlarge or diminish or affect in any other manner the common law or statutory rights, duties, or liabilities of youth camp operators and campers under any law with respect to injuries, diseases, or death of campers arising out of, or in the course of, participation in youth camp activities covered by this Act.

(b) Notwithstanding the provisions of this Act, no State law which provides youth camp health and safety standards equal to or superior to those promulgated under the provisions of this Act shall be superseded thereby.

SECTION-BY-SECTION ANALYSIS

Sec. 1. "Children and Youth Camp Safety Act."

Sec. 2. Purpose is to protect and safeguard the health and well-being of the Nation's youth attending camps by providing for Federal standards for safe operation, Federal financial and technical aid to States to encourage them to develop programs and plans for implementing youth camp safety standards, and Federal implementation of safety standards in States which do not implement such standards. Declares that youth camp safety standards are to be applicable to intrastate as well as interstate youth camp operators.

Sec. 3. States should assume responsibility for the development and enforcement of effective youth camp safety standards.

Sec. 4. Definitions. Youth camp includes residential, day, short-term, troop, travel, trip, primitive or outpost or Federal recreational youth camps. Also covers a wide variety of camping activities such as swimming, diving, boating, lifesaving, sailing, skindiving, riflery, horseback riding, mountain climbing, campcraft and natural studies. Exempted are activities of a family and guests in a purely social activity, regularly scheduled meetings of groups such as the Scouts, regularly scheduled athletic events not involving camping, extracurricular activities carried on by schools. Definitions are also provided for various types of camps, camp director, camp safety standards.

Sec. 5. Youth camp operators shall provide each camper safe and healthful conditions and adequate supervision to prevent injury and accidents and safe instruction by qualified personnel.

Sec. 6. An Office of Youth Camp Safety is established in the Office of the DHEW Secretary, headed by a Director.

Sec 7. The Youth Camp Safety Director will develop and promulgate Federal youth camp safety standards. He will consult with a Federal Advisory Council on Youth Camp Safety as well as with public and private groups. He will consider existing State regulations and standards and standards developed by private organizations. Before promulgating any standard it shall first be submitted to the Congress and will not be effective if either House of Congress disapproves it within 60 days.

Sec. 8. Any State desiring to develop and enforce camp safety standards shall submit a State plan for the development of such standards and their enforcement. The Youth Camp Safety Director shall approve the plans if they meet certain criteria such as provisions for enforcement, consultative services, State youth camp advisory committee, rights of entry and inspection and satisfactory financial underwriting. The Director shall annually review State plans and can withdraw approval if there is a failure to comply with any provision of the State plan. DHEW can make personnel available to the States to aid in developing State plans and in training State personnel.

Sec. 9. DHEW can make grants to States to develop youth camp safety plans. Grants may be up to 80 percent of the cost of developing and carrying out these plans.

Sec. 10. DHEW can provide consultative services to youth camps in States which do not have in effect an approved State plan. The Director shall issue regulations and procedures providing for citations to youth camp operators in States which do not have an approved State plan and a hearing procedure is established.

Sec. 11. The Director may enter and inspect any youth camp and its records in States which do not have an approved State plan.

Sec. 12. Provides for civil penalties of up to $500 per day during which a failure to correct a violation or violation continues and $1,000 per day for any willful or repeated violations.

Sec. 13. Provides procedures to counteract imminent dangers.

Sec 14. In States which do not have an approved State plan the Director may exempt a camp or activity if the youth camp operator can show extraordinary circumstances or undue hardship.

Sec. 15. A Federal Advisory Council on Youth Camp Safety is established in DHEW to advise and consult on policy matters relating to youth camp safety. The Director will serve as the chairman and it will have 15 members incuding representatives of DHEW, and the Departments of Agriculture, Interior and Labor, eight members representing organized camping groups, and three members of the general public.

Sec. 16. Administration and audit of the program including an annual report to the Congress.

Sec. 17. Specifies that the Director, State agency or any official is not authorized to prescribe, determine or influence the curriculum, admissions policy, program or ministry of any youth camp. The Act and regulations do not interfere with the religious affiliation of any camp, camper or camp staff member or the free exercise of religion.

Sec. 18. Authorizes $7.5 million to be appropriated for Fiscal Year 1979 and for the four succeeding fiscal years.

Sec. 19. The Act does not supersede, enlarge or diminish common law or statutory rights, duties or liabilities of youth camp operators and campers with respect to injuries, diseases, or deaths of campers.●

● Mr. WEICKER. Mr. President, today I am pleased to offer my full support for the Children and Youth Camp Safety Act of 1979. For almost 13 years, my colleague from Connecticut, Senator Ribicoff, has worked to provide meaningful protection for those youngsters who attend our Nation's youth camps. Once again, I am proud to join with him in cosponsorship of a piece of legislation years overdue.

The remarkable truth is that the majority of States make no effort to safeguard our millions of camping youngsters by providing that some minimum safety standards be met. The results of this inaction recur each summer: Drownings, accidental shootings, blindings, and cripplings. To an alarming extent, these are the result of poorly trained camp staffs, many of whom are juveniles themselves, or delapidated facilities that are somehow thought adequate for camping youngsters under the guise of "roughing it."

This problem has repeatedly been brought to the States' attention; yet, the protection necessary to safeguard the health and well-being of our Nation's youth has not materialized. In an effort to eliminate any future deaths or accidents, this bill would provide for Federal financial and technical aid to States to encourage them to develop programs and plans for implementing youth camp safety standards. Furthermore, under this act, a new provision has been added to insure that States and youth camps are not overburdened by unnecessary Federal regulations. This new provision would essentially direct any Federal standard promulgated by the Office of Youth Camp Safety to the Congress for its approval within 60 days.

Mr. President, I would like to commend Senator RIBICOFF for the work he has done over the years to properly protect the young campers of America. I hope that it will be the last time he must reintroduce this needed legislation.

Now, let us work expeditiously, Mr. President, to see that in this session of Congress prompt and favorable action will be taken to alleviate this persistent problem of camp accidents. Early passage will mean one less summer of disability or death, because of preventable camping accidents.●

By Mr. CHURCH (by request):

S. 584. A bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, and for other purposes; to the Committee on Foreign Relations.

INTERNATIONAL SECURITY ASSISTANCE ACT OF 1979

● Mr. CHURCH. Mr. President, I introduce by request a bill to authorize appropriations for international security assistance programs for fiscal years 1980 and 1981.

The bill has been requested by the Secretary of State and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the section-by-section analysis, and the letter from the Secretary of State to the President of the Senate dated February 23, 1979.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 584

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Security Assistance Act of 1979".

CONTINGENCIES

SEC. 2. (a) The caption of chapter 5 of part I of the Foreign Assistance Act of 1961 is amended by striking out "Contingency Fund" and inserting in lieu thereof "Contingencies".

(b) Section 451 of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "Contingency Fund" immediately after "Sec. 451." and inserting in lieu thereof "Contingencies"; and

(2) by amending subsection (a) thereof to read as follows:

"(a)(1) Notwithstanding any other provision of law, the President is authorized to use for any emergency purposes not to exceed $10,000,000 in funds made available to carry out any provision of this Act in any fiscal year to provide assistance authorized by this part in accordance with the provisions applicable to the furnishing of such assistance.

"(2) The President shall promptly report to the Speaker of the House of Representatives and to the Committees on Foreign Relations and Appropriations of the Senate each time he exercises the authority contained in this subsection.".

INTERNATIONAL NARCOTICS CONTROL

SEC. 3. Section 482 of the Foreign Assistance Act of 1961 is amended by striking out "$40,000,000 for the fiscal year 1979" in subsection (a) and inserting in lieu thereof "$37,800,000 for the fiscal year 1980".

MILITARY ASSISTANCE

SEC. 4. (a) Section 504(a)(1) of the Foreign Assistance Act of 1961, relating to authorization, is amended to read as follows:

"(a)(1) There are authorized to be appropriated to the President to carry out the purposes of this chapter not to exceed $110,200,000 for the fiscal year 1980. Not more than the following amounts of funds available to carry out this chapter may be allocated and made available for assistance to each of the following countries for the fiscal year 1980:

Country	*Amount*
Portugal	$30,000,000
Spain	3,800,000
Jordan	30,000,000
Philippines	25,000,000

The amount specified in this paragraph for military assistance to any such country may be increased by not more than 10 per centum of such amount if the President deems such increase necessary for the purposes of this chapter.".

(b) Section 506 of the Foreign Assistance Act of 1961, relating to special authority is amended to read as follows:

"SEC. 506. SPECIAL AUTHORITY.—(a)(1) If the President determines and reports to the Congress in accordance with section 652 of this Act—

"(A) that an unforeseen emergency exists which requires immediate military assistance to a foreign country or international organization; and

"(B) that the emergency requirement cannot be met under the authority of the Arms Export Control Act or any other law except this section;

he may direct the drawdown of defense articles from the stocks of the Department of Defense and defense services of the Department of Defense and military education and training for the purposes of this part, in an aggregate value of not to exceed $10,000,000 in any fiscal year, subject to reimbursement from subsequent appropriations made specifically therefor under subsection (b).

"(2) The President shall keep the Congress fully and currently informed of all defense articles, defense services and military education and training provided under this subsection.

"(b) There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for defense articles, defense services, and military education and training provided under subsection (a) of this section.".

(c) Section 516(a) of the Foreign Assistance Act of 1961, relating to termination of authority, is amended by striking out all that follows after "before September 30, 1977" and inserting in lieu thereof "and such authorities shall remain available for a period of three years next following any fiscal year after the fiscal year 1977 for which assistance under this chapter has been authorized for a country, to the extent necessary to carry out obligations incurred under this chapter with respect to such assistance for such country on or before September 30 of such fiscal year.".

STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES

SEC. 5. Section 514 of the Foreign Assistance Act of 1961 is amended—

(a) in subsection (b)(2), by striking out "90,000,000 for the fiscal year 1979" and inserting in lieu thereof "$95,000,000 for the fiscal year 1980"; and

(b) in subsection (c), by inserting "the Republic of Korea or" immediately following "stockpiles located in".

INTERNATIONAL MILITARY ASSISTANCE AND SALES PROGRAM MANAGEMENT

SEC. 6. Section 515 of the Foreign Assistance Act of 1961 is amended—

(a) in subsection (b)(1), by striking out "fiscal year 1979" and inserting in lieu thereof "fiscal year 1980", and by inserting "Greece," immediately after "Panama,"; and

(b) in subsection (f), by striking out "December 31, 1977" and inserting in lieu thereof "December 31, 1978".

SECURITY SUPPORTING ASSISTANCE

SEC. 7. (a) Chapter 6 of part II of the Foreign Assistance Act of 1961 is repealed.

(b) Chapter 4 of part II of the Foreign Assistance Act of 1961 is amended to read as follows:

"Chapter 4—SECURITY SUPPORTING ASSISTANCE

"SEC. 531. AUTHORITY.—(a)(1) The Congress recognizes that under special economic, political, or security conditions the national interests of the United States may require assistance for countries or in amounts and under circumstances which could not be justified solely under chapter 1 of part I. In such cases, the President is authorized to furnish non-military assistance to countries or organizations, on such terms and conditions as he may determine, in order to promote economic or political stability.

"(2) In planning programs under this chapter, primary emphasis should be given to programs intended for economic development. In carrying out such programs, the President shall take into account to the maximum extent feasible the policy directions of section 102.

"(b) In addition to other assistance under this chapter, the President is authorized to furnish assistance to countries and organizations, on such terms and conditions as he may determine, for peacekeeping operations and other activities carried out in furtherance of the national security interests of the United States, including reimbursement to the Department of Defense for expenses incurred pursuant to section 7 of the United Nations Participation Act, as amended.

"SEC. 532. AUTHORIZATION.—(a) In addition to amounts otherwise available for the purpose, there are authorized to be appropriated to the President to carry out the purposes of this chapter for the fiscal year 1980 $1,995,100,000.

"(b) Amounts appropriated to carry out the provisions of this chapter are authorized to remain available until expended.".

(c)(1) Section 502B(d)(2)(A) of the Foreign Assistance Act of 1961 is amended—

(A) by striking out "economic support fund" and inserting in lieu thereof "security supporting assistance"; and

(B) by striking out "or chapter 6 (peacekeeping operations)".

(2) Section 620B of such Act is amended in paragraph (1) by striking out "5, or 6" and inserting in lieu thereof "or 5".

(3) Section 653(b) of such Act is amended—

(A) by striking out "or assistance under chapter 6 of part II of this Act" in each of the two places it appears;

(B) by inserting "or" immediately after the comma following "assistance under chapter 4 of part II of this Act" the first place it appears; and

(C) by striking out "or assistance under chapter 6 of part II" immediately before the comma in paragraph (2).

(4) Sections 669(a) and 670(a) of such Act are each amended—

(A) by striking out "(including assistance under chapter 4 of part II)" immediately after "economic assistance", and by inserting "or security supporting" immediately before "assistance or grant military education"; and

(B) by striking out "providing assistance under chapter 6 of part II," immediately after "training,".

(5) After September 30, 1979, any reference in any law to economic support fund assistance, or to peacekeeping operations assistance, shall be deemed to be a reference to security supporting assistance under chapter 4 of part II of the Foreign Assistance Act of 1961.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

SEC. 8. Section 542 of the Foreign Assistance Act of 1961 is amended by striking out "$31,800,000 for the fiscal year 1979" and inserting in lieu thereof "$32,900,000 for the fiscal year 1980".

TRANSFERS OF DEFENSE ARTICLES, RELATED TRAINING, AND OTHER DEFENSE SERVICES AMONG NATO AND NATO MEMBER COUNTRIES

SEC. 9. Section 3(d)(3)(C) of the Arms Export Control Act is amended to read as follows:

"(C) to transfers among members of the North Atlantic Treaty Organization and between the North Atlantic Treaty Organization and any of its member countries.".

RECIPROCAL QUALITY ASSURANCE, INSPECTION, AND CONTRACT AUDIT SERVICES

SEC. 10. Section 21 of the Arms Export Control Act is amended—

(a) by redesignating subsection (h) thereof as subsection (i); and

(b) by inserting a new subsection (h) to read as follows:

"(h) The President is authorized to provide, without charge, quality assurance, inspection, and contract audit defense services under this section—

"(1) in connection with the placement or administration of any contract or subcontract for defense articles or defense services entered into after the date of enactment of this subsection by, or under this Act on behalf of, a foreign government which is a member of the North Atlantic Treaty Organization, if such government provides such services in accordance with an agreement on a reciprocal basis, without charge, to the United States government; or

"(2) in connection with the placement or administration of any contract or subcontract for defense articles or defense services pursuant to the North Atlantic Treaty Organization Infrastructure Program in accordance with an agreement under which the foreign governments participating in such program provide such services, without charge, in connection with similar contracts or subcontracts.".

NATO COOPERATIVE PROJECTS

SEC. 11. Chapter 2 of the Arms Export Control Act is amended by adding at the end thereof the following new section:

"SEC. 27. NATO COOPERATIVE PROJECTS.—(a) For the purposes of this section, a 'cooperative project' means a project described in an agreement, entered into after the date of enactment of this section, under which—

"(1) the North Atlantic Treaty Organization, or one or more member countries thereof, agrees to share with the United States the costs of research, development, test and evaluation of certain defense articles, and the costs of any agreed joint production ensuing therefrom, in order to further the objectives of standardization and interoperability of the armed forces of NATO member countries; or

"(2) the North Atlantic Treaty Organization, or one or more member countries thereof other than the United States, agrees to bear the costs of research, development, test, and evaluation of certain defense articles (or categories of defense articles) and to have such articles produced for sale to, and licensed for production within, other participant member countries including the United States, and the United States agrees to bear the costs of research, development, test, and evaluation of other defense articles (or categories of defense articles) and to have such defense articles produced for sale to, and licensed for production within, other participant member countries in order to further the objectives of rationalization of the industrial and technological resources within the North Atlantic Treaty area.

"(b) The President may reduce or waive the charge or charges which would otherwise be considered appropriate under section 21(e) of this Act (and, in the case of agreements under subsection (a)(2) of this section, may reduce or waive the charges for reimbursement of the costs of officers and employees of the United States Government which would otherwise be required) in connection with sales under section 21 and section 22 of this Act in furtherance of cooperative projects. Notwithstanding the provisions of section 21(e)(1)(A) and section 43(b) of this Act, administrative surcharges shall not be increased on other sales made under this Act in order to compensate for reductions or waivers of such surcharges under this section. Funds received pursuant to such other sales shall not be available to reimburse the costs incurred by the United States Government for which reduction or waiver is approved by the President under this section.

"(c)(1) Not less than 30 days prior to signature on behalf of the United States of an agreement for a cooperative project, the President shall transmit to the Speaker of the House of Representatives, the chairman of the Committee on Foreign Relations of the Senate, and the chairman of the Committee on Armed Services of the Senate a numbered certification with respect to such proposed agreement, setting forth—

"(A) a detailed description of the cooperative project with respect to which the certification is made;

"(B) an estimate of the amount of sales and exports expected to be made or approved under this Act in furtherance of such cooperative project;

"(C) an estimate of the dollar value of any charges expected to be reduced or waived under this section in connection with such cooperative project, such dollar value to consist of expenses that will be charged against Department of Defense funds without reimbursement and amounts not to be recovered and deposited to the general fund of the Treasury;

"(D) an estimate of the dollar value of the costs to be borne by the North Atlantic Treaty Organization or by the member countries thereof in connection with such cooperative project; and

"(E) a statement of the foreign policy and national security benefits anticipated to be derived from such cooperative project.

"(2) The provisions of subsection (b) of section 36 of this Act shall not apply to sales made under section 21 or section 22 of this Act, and the provisions of subsection (c) of section 36 of this Act shall not apply to the issuance of licenses or other approvals under section 38 of this Act, if such sales are made, or such licenses or approvals are issued, in furtherance of a cooperative project.".

FOREIGN MILITARY SALES AUTHORIZATION AND AGGREGATE CEILING

SEC. 12. Section 31 of the Arms Export Control Act is amended—

(a) in subsection (a), by striking out "$682,000,000 for the fiscal year 1978 and $674,300,000 for the fiscal year 1979" and inserting in lieu thereof "$656,300,000 for the fiscal year 1980";

(b) in subsection (b), by striking out "$2,152,350,000 for the fiscal year 1978 and $2,085,500,000 for the fiscal year 1979, of which amount for each such year" and inserting in lieu thereof "$2,063,000,000 for the fiscal year 1980, of which";

(c) in subsection (c), by striking out "fiscal year 1979" and inserting in lieu thereof "fiscal year 1980"; and

(d) in subsection (d), by striking out "$150,000,000" and inserting in lieu thereof "$250,000,000".

REGIONAL CEILING

SEC. 13. Section 33 of the Arms Export Control Act is repealed.

REPORTS TO THE CONGRESS

SEC. 14. (a) Section 36(a) of the Arms Export Control Act is amended by—

(1) striking out "thirty" and inserting in lieu thereof "sixty";

(2) inserting "and" after the semicolon in paragraph (7);

(3) striking out "; and" at the end of paragraph (8) and inserting in lieu thereof a period; and

(4) striking out paragraph (9).

(b) Section 43 of the Arms Export Control Act is amended by adding at the end thereof the following new subsection:

"(c) On or before February 15 of each year the President shall report to the Congress the number of officers and employees of the United States Government carrying out functions on a full time basis under this Act for which reimbursement is provided under subsection (b) of this section or under section 21(a) of this Act.".

DEFINITIONS

SEC. 15. Section 644(d) of the Foreign Assistance Act of 1961 and section 47(3) of the Arms Export Control Act, relating to definitions, are each amended by inserting "(except source material incorporated in defense articles solely to take advantage of high density or other characteristics unrelated to radioactivity)" immediately after "source material".

TRANSFER OF WAR RESERVE MATERIEL AND OTHER PROPERTY TO THE PEOPLE ON TAIWAN

SEC. 16. (a) Notwithstanding any other provision of law, during the calendar year 1980 the President is authorized to transfer to the people on Taiwan, under such terms and conditions as he may deem appropriate, such of the United States war reserve materiel as he may determine that was located on Taiwan on January 1, 1979.

(b) Notwithstanding any other provision of law, during the calendar years 1979 and 1980 the President is authorized to transfer to the people on Taiwan, under such terms and conditions that he may deem appropriate, such rights of the United States in property other than war reserve materiel as he may determine that was located on Taiwan on January 1, 1979.

AMMUNITION SOLD TO THAILAND

SEC. 17. The Royal Thai Government shall be released from its contractual obligation to pay to the United States Government such amount as is due on or before October 30, 1979 as a condition precedent, under the letter of offer accepted by the Royal Thai Government on April 12, 1977, to the transfer of title to the last increment of United States ammunition stocks sold to the Royal Thai Government under such letter of offer pursuant to the Memorandum of Agreement of March 22, 1977 relating to the storage of ammunition in Thailand.

MISCELLANEOUS PROVISIONS

SEC. 18. Authorizations of appropriations and limitations of authority applicable to the fiscal year 1979 as contained in provisions of law amended by this Act shall not be affected by enactment of this Act.

SEC. 19. There are authorized to be appropriated for the fiscal year 1981 such sums as may be necessary to carry out programs and activities for which appropriations for the fiscal year 1980 are authorized by this Act.

SECTION-BY-SECTION ANALYSIS OF THE PROPOSED INTERNATIONAL SECURITY ASSISTANCE ACT OF 1979

I. INTRODUCTION

The proposed International Security Assistance Act of 1979 (hereinafter referred to as "the Bill") amends the Foreign Assistance Act of 1961 (hereinafter referred to as "the FAA"), and the Arms Export Control Act (hereinafter referred to as "the AECA") in order to authorize appropriations to carry out international security assistance programs for the fiscal year 1980, and to make certain changes in the substantive authorities governing those programs. The Bill also contains authorizations for certain economic assistance programs and, in accordance with the Congressional Budget Act of 1974, requests authorizations for the fiscal year 1981.

II. PROVISIONS OF THE BILL

Section 1. Short Title.

This section provides that the Bill may be cited as the "International Security Assistance Act of 1979."

Section 2. Contingencies.

This section consists of two subsections, as follows:

(a) This subsection amends chapter 5 of part I of the FAA, relating to the contingency fund, by retitling it "Contingencies".

(b) This subsection retitles section 451 of the FAA "Contingencies", vice "Contingency Fund", and amends subsection (a) thereof to authorize the President to use not more than $10,000,000 in funds made available under any other provision of the FAA in any fiscal year in order to provide assistance under part I for any emergency purpose. Any such assistance would be subject to the terms and conditions of the FAA governing such assistance, and the President would be required to report to the Congress promptly upon each exercise of this contingency authority.

Section 3. International Narcotics Control.

This section amends section 482 of the FAA to authorize not to exceed $37,800,000 in fiscal year 1980 appropriations for the international narcotics control program.

Section 4. Military Assistance.

This section consists of three subsections, as follows:

(a) This subsection amends section 504(a)(1) of the FAA to authorize appropriations of not to exceed $110,200,000 for carrying out military assistance programs in the fiscal year 1980. The amount of such assistance which may be provided is specified with respect to each of four designated countries. These allocations may be increased by not more than 10 percent if deemed necessary for the purposes of the chapter. With respect to those four countries, the amended section 504(a)(1) constitutes the specific authorization required by section 516(a) of the FAA. The military assistance program for the fiscal year 1980 is made up of new budget authority plus reimbursements to the military assistance account. It is estimated that approximately $55,800,000 of the total program will be used to pay administrative and related expenses. The total program of $144,600,000 in the fiscal year 1980 will require the appropriation of $110,200,000. The amount requested includes funds to reimburse the Department of Defense for the cost of overseas management of security assistance programs, as required by section 515 of the FAA.

(b) This section amends section 506 of the FAA, relating to special authority, to authorize the President to furnish not to exceed $10,000,000 in defense articles and defense services, and military education and training, in any fiscal year to meet unforeseen emergencies requiring immediate military assistance to a country or international organization. The use of such emergency authority is conditioned upon the President's determination and report to the Congress that such an emergency exists and that it cannot be met under the authority of the AECA or any other law. Appropriations to reimburse the Department of Defense for any such articles, services, or training are authorized by the amended section 506.

(c) This subsection amends section 516(a) of the FAA to provide that the military assistance authorities of the FAA shall remain available for a period of no more than three years following the expiration of the last fiscal year (after the fiscal year 1977) for which military assistance is authorized for a country in order to carry out obligations incurred under the military assistance chapter of the FAA during such fiscal year with respect to such country. This provision obviates the need under the present section 516(a) to amend that section each year to provide such authority with respect to each country for which no further military assistance is authorized.

Section 5. Stockpiling of Defense Articles for Foreign Countries.

This section consists of two subsections, each amending section 514 of the FAA, as follows:

(a) This subsection amends section 514(b)(2) of the FAA to establish a ceiling of $95,000,000 on the aggregate value of additions made in the fiscal year 1980 to overseas stockpiles of defense articles (other than in NATO countries) which are to be designated as war reserve stocks for allied or other foreign forces (WRSA). The United States retains title to any stocks so designated. Section 514(a) prohibits the transfer of such defense articles to a foreign country except under the authority of the FAA or of the AECA, and within the limitations and funds available under those acts.

(b) This subsection amends section 514(c) of the FAA to authorize the establishment of stockpiles in the Republic of Korea outside a United States military base or a military base used primarily by the United States. At present, such stockpiles may be established only in countries members of the North Atlantic Treaty Organization. This amendment will facilitate the establishment of needed WRSA stockpiles in the Republic of Korea.

Section 6. International Military Assistance and Sales Program Management.

This section amends section 515(b)(1) of the FAA to authorize the assignment, in the fiscal year 1980, of more than six military personnel to perform security assistance management functions in each of fourteen countries: Portugal, Spain, Jordan, the Philippines (that is, those countries for which military assistance in the fiscal year 1980 is authorized by section 504(a)(1) of the FAA, as amended by section 4 of the Bill), Greece, Turkey, Indonesia, Thailand, Korea, Panama, Morocco, Iran, Kuwait, and Saudi Arabia. The assignment and functions of such personnel will continue to be governed by the terms and conditions set forth in section 515 of the FAA.

This section also amends section 515(f) of the FAA to provide that the number of defense attaches performing security assistance management functions in a foreign country may not exceed the number of attaches authorized to be assigned to that country on December 31, 1978.

Section 7. Security Supporting Assistance.

This section consists of three subsections, as follows:

(a) This subsection amends part II of the FAA by repealing chapter 6 thereof, relating to peacekeeping operations and other programs carried out in furtherance of the national security interests of the United States. Programs hitherto authorized under chapter 6 of part II would be carried out under chapter 4 of part II, as amended by section 7(b) of the Bill.

(b) This section amends chapter 4 of part II of the FAA by redesignating that chapter as "Security Supporting Assistance" and by recasting it to consist of two sections:

New section 531 provides for basic authority to carry out security supporting assistance programs, comprising "non-military assistance . . . in order to promote economic or political stability". Section 531 programs intended for economic development are to be carried out to the extent feasible in accordance with the general policy guidelines applicable to economic assistance under part I of the FAA. Subsection (b) of new section 531 provides additional authority to provide assistance for activities in furtherance of the national security interests of the United States. This authority also would permit reimbursement to the Department of Defense for expenses incurred by that Department in connection with the peacekeeping activities carried out under the authority of the United Nations Participation Act of 1945, as amended, and for which reimbursement is not sought from the United Nations.

New Section 532 of the FAA authorizes appropriations of $1,995,100,000 to carry out security supporting assistance programs in the fiscal year 1980.

(c) This subsection makes a number of technical, conforming changes to the FAA and related statutes in order to take into account the repeal of chapter 6 of part II and other changes to the FAA made by sections 7(a) and (b) of the Bill.

Section 8. International Military Education and Training.

This section amends section 542 of the FAA to authorize appropriations of $32,900,000 to carry out grant international military education and training programs in the fiscal year 1980.

Section 9. Transfers of Defense Articles, Related Training and Other Defense Services among NATO and NATO Member Countries.

This section amends section 3(d)(3)(C) of the AECA to exempt from the requirement for thirty calendar days advance notice to the Congress of the intention of the United States to consent to the transfer of FMS or MAP origin defense articles, related training, or other defense services among NATO member countries or between NATO and any of its member countries. The requirement for prior United States consent to any such transfers would continue to apply, as would all other substantive and procedural third-party transfer criteria under the AECA. The purpose of the existing section 3(d)(3)(C) of the AECA is to facilitate NATO standardization and other cooperative military supply efforts involving the purchase by NATO or a NATO government of defense articles, related training and other defense services under FMS for transfer within the Alliance. The current reference in that subsection to "cross-servicing arrangements"—which this amendment deletes—could be read, however, as limiting the scope of transfers within the Alliance. This amendment makes clear that such a narrow interpretation is not intended.

Section 10. Reciprocal Quality Assurance, Inspection, and Contract Audit Services.

This section amends the AECA to add a new section 21(h) to the AECA to authorize the President to furnish, without charge, quality assurance, inspection, and contract audit defense services in two sets of circumstances: (1) in connection with contract placement or administration for defense articles or services entered into by, or under the AECA on behalf of, a NATO member pursuant to an agreement whereby the member government provides such services on a reciprocal, non-reimbursable basis to the United States Government, or (2) in connection with contract placement or administration pursuant to the NATO Infrastructure Program, under an agreement whereby the participating governments provide such services on a reciprocal, non-reimbursable basis for NATO Infrastructure. The quality assurance, inspection, and contract audit services that would be furnished under this authority would extend to commercial contracts as well as to FMS procurement contracts entered into pursuant to section 22 of the AECA. Agreements would only be established with those countries capable of providing specific services to the United States on a reciprocal basis. This authority is necessary to enable the United States Government to fulfill certain obligations under existing agreements with Canada, and will facilitate NATO infrastructure efforts.

Section 11. NATO Cooperative Projects.

This section amends the AECA to add a new section 27 to the AECA to encourage NATO cooperative projects of a cost-sharing nature or where research and development responsibilities with respect to various "families of weapons" are allocated by agreement of two or more NATO member governments. This new section consists of three subsections, as follows:

(a) This subsection defines the "cooperative projects" to which the provisions of section 27 would apply; (1) those involving agreement between NATO or one or more NATO member countries and the United States to share with the United States research, development, test, evaluation, and production costs of certain defense articles, where such sharing is intended to further the standardization and interoperability of the armed forces of NATO member countries; and (2) the so-called "family of weapons" projects, in which NATO or NATO members agree to bear research, development, test, and evaluation costs for certain defense articles, or categories of defense articles, for sale to NATO members (including the United States), and in return the United States agrees to bear such costs for other defense articles or categories of defense articles for sale to NATO and participating NATO members, in furtherance of the rationalization of NATO industrial and technological resources.

(b) This subsection authorizes the President to reduce or waive charges for United States research and development, plant and production equipment use, and administrative services costs, in connection with FMS sales made in furtherance of the projects described in new subsection (a), and for the direct costs of United States Government officers and employees otherwise chargeable as a "defense service" in connection with sales under subsection (a)(2). In addition, the worldwide administration surcharge imposed on all FMS sales under section 21 (e)(1)(A) may not be increased insofar as it applies to other FMS sales in order to compensate for any such reduction or waiver, nor may funds received from such other sales be used for that purpose.

(c) This subsection provides that the the President must transmit to the Congress a detailed certification describing the cooperative project in question (including an estimate of the amount of sales to be made and exports to be licensed), and the benefits to the United States expected to be derived from such a project, not less than 30 days prior to signature of a cooperative project agreement on behalf of the United States. The advance notification requirements of sections 36 (b) and (c) of the AECA would not apply to FMS sales made, and export licenses and other approvals issued, in furtherance of the cooperative project with respect to which such a certification is made.

Section 12. Foreign Military Sales Authorization and Aggregate Ceiling.

This section consists of four subsections, each amending section 31 of the AECA, as follows:

(a) This subsection amends section 31(a) to authorize appropriations of not to exceed $656,300,000 for the fiscal year 1980 to carry out FMS credit and loan guaranty programs under the AECA.

(b) This subsection amends section 31(b) to establish a ceiling of $2,063,000,000 for the fiscal year 1980 on the aggregate total of credits extended, and the principal amount of loans guaranteed, pursuant to the AECA, and to allocate not less than $1,000,000,000 of that aggregate total to Israel.

(c) This subsection amends section 31(c), relating to terms and conditions governing repayment by Israel of financing extended pursuant to the AECA, to make that subsection applicable to such financing extended in the fiscal year 1980.

(d) This subsection amends section 31(d), relating to the ceiling on the aggregate acquisition cost of excess defense articles sold under the AECA or granted under the FAA, to increase that ceiling from $150 million to $250 million.

Section 13. Regional Ceiling.

This section amends the AECA to repeal section 33 thereof, which imposes a ceiling of $40,000,000 on the amount of military assistance under the FAA, and financing under the AECA, which may be furnished to African countries in any fiscal year. Because the authorized FMS financing program for African countries in each of the past several fiscal years has exceeded this ceiling, it has been necessary in each of those years for the President to exercise his waiver authority under section 33(b) of the AECA. Repeal of section 33 will eliminate this unnecessary burden on the President and will take into account the FMS financing levels actually authorized each year by the Congress.

Section 14. Reports to the Congress.

This section consists of two subsections, each amending the AECA as follows:

(a) This subsection amends section 36(a) of the AECA to require that the quarterly reports to the Congress on commercial and FMS sales and exports be submitted within sixty days of the close of the quarter to which they relate, vice thirty days under present law. This change will enable the preparation of more useful and accurate reports in that it would permit more time in which to compile and analyze the relevant data.

This subsection also amends section 36(a) of the AECA by striking paragraph (9) thereof, relating to defense services being performed by officers and employees of the United States on a sales basis under section 21(a) of the AECA. The bulk of the information provided under the deleted paragraph would continue to be furnished as part of the report required by section 43(c) of the AECA, as added by section 14(b) of the Bill.

(b) This subsection amends section 43 of the AECA to add a new subsection (c) requiring the President to report to the Congress, on or before February 15 of each year, the number of officers and employees of the United States performing functions on a full-time basis under the AECA for which reimbursement is provided under section 43(b) of the AECA (that is, out of the charges for administrative expenses incurred in carrying out functions primarily for the benefit of a foreign country), or under section 21(a) of the AECA (sales of defense services). This change takes into account the recently-established SAMAS reporting requirement in connection with Department of Defense budgetary projections. In addition, this new reporting requirement would be more realistic than that under the present section 36(a)(9) of the AECA in that it would include personnel costs reimbursed from administrative surcharge collections as well as personnel costs reimbursed directly by FMS purchasers under specific sales cases.

Section 15. Definitions.

This section amends section 644(d) of the FAA and section 47(3) of the AECA, each relating to the definition of "defense article", to provide that the exclusion from such definition of "source material" (as defined by the Atomic Energy Act of 1954, as amended) shall not include source material which may be incorporated in other defense articles solely to take advantage of its density of other non-atomic characteristics. This amendment would permit the sale of defense articles incorporating depleted uranium (DU, or staballoy) on a government-to-government (FMS) basis under the AECA. DU is a heavy, dense metal of extremely limited residual radioactivity and which is useful in effective anti-tank ammunition and as aircraft ballast. At present, by virtue of the blanket exclusion of "source material" from the definition of "defense article" for FMS purposes, such articles may not be sold under FMS, although their export may be licensed under section 38 of the AECA if sold to eliminate an inadvertent and anomalous prohibition on the FMS sale of defense articles utilizing DU for its non-atomic characteristics only, and would not affect the licensing responsibilities of the Nuclear Regulatory Commission under the Atomic Energy Act of 1954, as amended.

Section 16. Transfer of War Reserve Materiel and Other Property to the People on Taiwan.

This section gives the President authority to transfer to the people on Taiwan rights held by the United States Department of Defense in military-related materiel and property located on Taiwan. Under this section, the President has discretionary authority to transfer the rights in that materiel and property which he deems appropriate for transfer, and under terms and conditions that he determines. Such transfers would not be subject to any terms and conditions that would otherwise be imposed by any other provision of law. This discretionary authority is limited to transfer to the people on Taiwan only of Department of Defense-held rights to materiel and property located on Taiwan as of January 1, 1979.

This section consists of two subsections, as follows:

Subsection (a) gives the President the discretionary authority to transfer to the people on Taiwan during the calendar year 1980 United States war reserve materiel located on Taiwan and under the control of the Department of Defense as of January 1, 1979.

Subsection (b) gives the President discretionary authority to transfer Department of Defense-held rights in other property located on Taiwan to the people on Taiwan during the calendar years 1979 and 1980. Under this subsection, the President can transfer both property that the Department of Defense has control of outright, and other Departmnet of Defense-held rights in property, such as rights to installations and improvements placed on Taiwan-owned real property by the United States. Residual United States rights in equipment previously furnished under the military assistance (MAP) program would be transferred under this subsection.

Section 17. Ammunition Sold to Thailand.

This section releases the Royal Thai Government from its obligation to pay the United States for the last increment of ammunition stored in Thailand by the United States and sold to the Royal Thai Government under an FMS letter of offer accepted by the Thais on April 12, 1977. The Royal Thai Government would not be released from any other obligation (including payment for previous increments) under that letter of offer, and would remain liable for repayment of any FMS financing extended to the Royal Thai Government for previous increments of ammunition sold under that letter of offer. No other Thai obligations under other letters of offer or FMS financing arrangements would be affected.

Section 18 and 19. Miscellaneous Provisions.

Section 18 provides that authorizations and limitations applicable to the fiscal year 1979 by provisions of law amended by the Bill will not be affected by enactment of the Bill. This is to take into account the possibility that the Bill will become law prior to the end of fiscal year 1979.

Section 19 authorizes appropriations for the fiscal year 1981 of such sums as may be necessary to carry out programs and activities for which fiscal year 1980 appropriations are authorized by the Bill. This section is necessary in order to comply with the Congressional Budget Act of 1974.

THE SECRETARY OF STATE,
Washington, February 23, 1979.

Hon. WALTER F. MONDALE,
President of the Senate.

DEAR MR. PRESIDENT: On behalf of the Executive Branch, I hereby transmit a bill to authorize international security assistance programs for the fiscal years 1980 and 1981. Through these programs, the United States assists friendly and allied nations to acquire and maintain the capability for their own defense and to cope with political, economic, and military crises. These programs are essential for the attainment of our own foreign policy goals in an increasingly complex and interdependent world.

The bill will authorize both military and economic forms of security assistance, with the greater part of the funds requested intended for non-military security supporting assistance programs. Of this economic component, a preponderance of the funds will go toward our programs in the Middle East and make a direct contribution to the furtherance of a climate conducive to peace in that region. Some of the funds intended for military programs will enable the United States to continue security cooperation with those countries where we maintain overseas bases or other important military facilities. Funding for international narcotics control programs is also provided for in the bill.

In addition to the necessary authorizations of appropriations for the fiscal years 1980 and 1981, the bill will make several substantive changes in the authorities governing security assistance programs. On the economic side, the bill amends the Foreign Assistance Act of 1961 to merge the authorities for the economic support fund and for peacekeeping operations into a single security supporting assistance account. In this regard, the bill preserves most of the features of the former authorities, but under a single assistance category. We believe that such a reconstitution will obviate the need to draw distinctions between programs contained in one account as opposed to the other, and that a single account is desirable in the interest of the effective and efficient implementation of this important form of assistance.

In addition, the bill contains a number of provisions designed to facilitate military cooperation with our Allies in the North Atlantc Treaty Oorganization. The bill amends the Arms Export Control Act to remove certain procedural impediments to effective intra-alliance efforts at cooperative weapons development and production projects, while preserving the essentials of United States Government controls over defense articles and defense services furnished under that Act. We believe that these changes in existing law are important if the United States is to maintain its role in NATO rationalization, standardization, and interoperability efforts.

Apart from the authorization of funds for ongoing military programs, the bill contains authority for two extraordinary transfers that we consider to be of particular significance. First, the bill authorizes the transfer to the people on Taiwan during the calendar year 1980 of Department of Defense war reserve materiel located on Taiwan as of January 1, 1979, and during the calendar years 1979 and 1930 of United States rights in property other than war reserve materiel located on Taiwan as of January 1, 1979. Second, the bill provides that repayment shall not be required from the Government of Thailand for the last increment of United States ammunition stored in Thailand and sold to the Government of Thailand under the Arms Export Control Act. This is intended to help Thailand strengthen its defense capability in view of the unstable conditions prevailing in Southeast Asia.

Other substantive changes to existing law made by the bill include a revised economic assistance contingency authority and a comparable military assistance authority, an amendment to the definition of "defense article" for military assistance and foreign military sales purposes so as to permit the government-to-government transfer of conventional defense articles incorporating depleted uranium, and certain changes in reporting requirements under the Arms Export Control Act.

The programs authorized by this bill are essential elements of the foreign and national security policies of the United States. They have been formulated so as to be as effective and efficient as possible in an era of necessary budget constraint. In addition, these programs reflect our continued commitment to human rights and conventional arms transfer restraint as major United States foreign policy goals.

With particular regard for the authorization being requested in this bill for security assistance programs for Greece and Turkey, I hereby certify, in accordance with section 620C(d) of the Foreign Assistance Act of 1961, as amend, that the furnishing of such assistance to Greece and Turkey will be consistent with the principles set forth in section 620C(b) of that Act. The explanation of the reasons for this certification in each case is contained in the congressional presentation materials for the fiscal year 1980 security assistance program.

The Office of Management and Budget advises that there is no objection to the presentation of this proposed legislation to the Congress and that its enactment would be in accord with the program of the Persident.

I urge early passage of the enclosed legislation.

Sincerely.

CYRUS VANCE.

By Mr. JACKSON (for himself and Mr. MAGNUSON):

S. 585. A bill to authorize the Secretary of the Interior to engage in a feasibility study of the Yakima River Basin water enhancement project; to the Committee on Energy and Natural Resources.

YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT

● Mr. JACKSON. Mr. President, for myself and the senior Senator from the State of Washington, I am sending to the desk a bill which would authorize the Secretary of the Interior to undertake a feasibility grade study of the proposed Yakima River water enhancement project which would be located in the Yakima River Valley in Washington State.

This proposal is the culmination of years of effort on the part of the people of the Yakima Valley in concert with the government of the State of Washington. As my colleagues know, the history of irrigated agriculture in the Yakima Valley goes back to the late 1800's when pioneer settlers first diverted stream flows to irrigate crops. As each success brought further efforts, irrigated agriculture in the valley grew to regional and national importance. In spite of success, the people of the valley have continued to look toward the future and the full development of the water and land resources of the area for the benefit of the region and the Nation.

In 1977, severe drought conditions throughout the Western States and in particular the Yakima Valley, focused attention on the need for further efforts to both expand and assure existing water supplies. In addition, as available supplies were reduced, disputes arose as to how the remainder was to be equitably distributed.

The legislation which I am today introducing will go far toward providing answers to the questions surrounding the future of water supplies in the Yakima Valley and what course we should pursue in resolving the problems presented by future drought and existing dispute.

As proposed, the measure authorizes the Secretary of the Interior to undertake a comprehensive feasibilty investigation of five potential reservoir storage sites and one reregulating reservoir site in the Yakima Basin. Premilinary estimates indicate that up to 30,000 acres of land could receive new water supplies and 70,000 acres presently irrigated would receive supplemental water supplies. In addition there would be substantial benefits to water quality and fisheries habitat throughout the Yakima River system. The proposal is truly multipurpose as flood control and hydroelectric generation are integral parts of the study plan.

It is, of course, impossible to say at this time what the results of the feasibility study will be. However, the preliminary work carried out by the State of Washington's Department of Ecology and existing studies by the Department of the Interior all point the way toward authorization of a comprehensive study of the additional water resource potential in the valley. I have long advocated that we should look at the entire resource base in the area and that we should not address related water problems on a piecemeal basis. The proposed Yakima River Basin water enhancement study will provide that framework.

Mr. President, I must express my personal thanks at this time to the State of Washington and the members of the Yakima Indian Tribe without whose cooperation and strong support this proposal would have been impossible to achieve. I hope that this spirit will continue for the benefit of all the citizens in the valley.●

By Mr. CHURCH (by request):

S. 586. A bill to authorize appropriations for the Department of State, International Communication Agency, and Board for International Broadcasting for fiscal years 1980 and 1981, and a supplemental authorization for State for fiscal year 1979, and for other purposes; to the Committee on Foreign Relations.

FOREIGN RELATIONS AUTHORIZATION ACT, 1980 AND 1981

● Mr. CHURCH. Mr. President, I am introducing today the "Foreign Relations Authorization Act of 1980 and 1981." This legislation consolidates the administration's requests for the authorization of appropriations for the Department of State, the International Communication Agency and the Board for International Broadcasting for fiscal years 1980 and 1981. This bill also contains a supplemental authorization request for the State Department for fiscal year 1979.

Hearings on this legislation will be held before the Foreign Relations Committee on March 28–29, 1979, and a markup session is scheduled for April 3, 1979.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

TITLE I—DEPARTMENT OF STATE

Sec. 101.—Authorization of Appropriations.

Subsection (a).—This subsection provides an authorization of appropriations for the Department of State in accordance with the provisions of Section 407(b) of the Foreign Assistance Act of 1971. The proposed Act authorizes funds to be appropriated for the fiscal years 1980 and 1981 by category.

Category (1).—Authorizes appropriations under the heading "Administration of Foreign Affairs" for fiscal years 1980 and 1981. This category provides the necessary funds for the salaries, expenses and allowances of the officers and employees of the Department, both in the United States and abroad. It includes funds for executive direction and policy formulation, conduct of diplomatic relations with international organizations, domestic public information activities, central program services, and administrative and staff activities. This category also provides for representational expenses in accordance with Section 901 of the Foreign Service Act of 1946, as amended. Further, it provides funds for such activities as the acquisition, operation and maintenance of office space and living quarters for American staff abroad; funds for relief and repatriation loans to United States citizens abroad and for other emergencies of the Department; and payments to the Foreign Service Retirement and Disability Fund. The amount included in this category for FY 1981 is the Department's best estimate at this time; however, significant events could alter this amount.

Category (2).—Authorizes appropriations for fiscal years 1980 and 1981 under the heading "International Organizations and Conferences". This category provides the necessary funds for United States contributions of its assessed share of the expenses of the United Nations and other international organizations of which we are a member. Also included are the necessary funds for the missions which represent the United States at the headquarters of certain international organizations in which the United States has membership or participates pursuant to treaties, conventions or specific Acts of Congress. In addition, provision is made for funding of official United States Government participation in regularly scheduled or planned multilateral intergovernmental conferences, meetings and related activities, and for contributions to international peacekeeping activities in accordance with international multilateral agreements. The amount included in this category for FY 1981 is the Department's best estimate at this time; however, significant events could alter this amount.

Category (3).—Authorizes appropriations for fiscal years 1980 and 1981 under the heading "International Commissions". This category provides funds necessary to enable the United States to meet its obligations as a participant in International Commissions and includes expenses of the American Section (U.S. and Canada), the International Boundary and Water Commission (U.S. and Mexico) and the International Fisheries Commissions. The amount included in this category for FY 1981 is the Department's best estimate at this time; however, significant events could alter this amount.

Category (4).—Authorizes appropriations for fiscal years 1980 and 1981 under the heading "Migration and Refugee Assistance" to enable the Secretary of State to provide assistance to migrants and refugees, both on a multilateral basis through contributions to organizations such as the Inter-governmental Committee for European Migration and the United Nations High Commissioner for Refugees, and on a unilateral basis through assistance to refugees designated by the President, as authorized by law. The amount included in this category for FY 1981 is the Department's best estimate at this time; however, significant events could alter this amount.

Category (5).—Provides authorization of such amounts as may be necessary for appropriations for mandatory increases resulting from adjustments in salary, pay, retirement, other employee benefits as authorized by law, foreign currency exchange rates, U.S. assessed contributions to international organizations and for other nondiscretionary costs. This provides authorization of appropriations to meet mandatory items which are unanticipated at the time of budget formulation and which have a material impact upon the operations and fiscal resources of the Department. The clause has been expanded this year to clarify its applicability to mandatory increases caused by foreign currency exchange rate fluctuations adversely affecting the dollar and to cover additional assessed contributions to international organizations. This clause is particularly necessary this year in light of the Department's request for a two year authorization.

Subsection (b).—This subsection provides the customary extension of availability of funds beyond the end of the fiscal year. This authority is required to enable the Department to retain funds appropriated for construction projects, the completion of which extends beyond a single fiscal year, and to fund international conferences.

Subsection (c).—This subsection provides that any unappropriated portion of one of the first four authorization items contained in subsection (a) of this bill, may be considered an authorization for another of those items, provided that no item is increased by more than 10 percent.

Sec. 102. U.S.-Yugoslavia Agreement.

This legislation would authorize $7,000,000, following entry into force of a five year bilateral science and technology agreement between the U.S. and Yugoslavia, for payment at any time of the U.S. share of expenses of the agreement.

A similar five-year Agreement on Science and Technology Cooperation was signed between the United States and Yugoslavia on May 18, 1973. The Agreement established a U.S./Yugoslav Joint Board on S&T Cooperation and funding for selected projects through a joint fund of U.S.-owned Yugloslav dinars and a matching dinar amount from the Yugoslav government. Projects selected by the Joint Board were in the areas of agriculture, energy, ecology, technology, health, and transportation.

The President has approved the continuation of the agreement for an additional five year period since it has proven to be mutually advantageous to both countries. However, since the supply of U.S.-owned dinars is nearing depletion, the President has decided to seek funding for the program in the FY 1980 budget through a one-time appropriation of $7,000,000 to cover the United States share over the second five-year period of the Agreement.

In the initial five years of this program, the U.S./Yugoslav Joint Board on S&T Cooperation has involved eight U.S. agencies with all six of Yugoslavia's constituent republics in a total of 140 projects. Over 1,000 persons from both countries have travelled in connection with these projects.

Sec. 103.—Supplemental Authorization for fiscal year 1979 for the Migration and Refugee Assistance Appropriation.

The amendment provides additional authorization of $53,257,000 to cover the costs associated with a fiscal year 1979 supplemental appropriation funding the costs of increased flows of refugees from the Soviet Union, Eastern Europe and Indochina.

The United Nations High Commissioner for Refugees will receive an additional $15,000,000 from the supplemental appropriation. The increased contribution will assist in meeting the increased care and maintenance, and third country resettlement costs, associated with the dramatically increased flow of Indochinese refugees.

Increased costs amounting to $37,757,000 are expected to occur in the United States Refugee Program. These costs represent the care and maintenance costs of Soviet and East European refugees and resettlement costs associated with those refugees and the Indochinese refugees who qualify for resettlement in the United States.

Inflation and the reduced exchange value of the dollar versus the Swiss Franc have had a severe budgetary impact on the Intergovernmental Committee for European Migration. The United States assessment for the administrative budget of this organization has, therefore, been raised by $500,000.

TATLE II—INTERNATIONAL COMMUNICATION AGENCY

Section 201.—This section authorizes appropriations for the U.S. International Communication Agency (USICA) in accordance with the provisions of Section 701(a) of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1476(a)). The proposed authorization will enable the Agency to carry out international communication, educational, cultural and exchange programs under the United States Information and Educational Exchange Act of 1948, as amended; the Mutual Educational and Cultural Exchange Act of 1961, as amended; and Reorganization Plan Numbered 2 of 1977.

The authorization request covers all activities of the Agency under the following subsections:

Subsection (1).—This subsection provides $432,782,000 to fund Agency operations in fiscal year 1980 under four appropriations as they are now reflected in the "Budget of the United States Government". The four appropriation accounts are:

Salaries and Expenses, $403,265,000, providing operating resources for all international communications, educational, cultural and exchange programs of USICA. The amount requested for fiscal year 1980 represents an increase of $28.5 million over the amount appropriated to date and pending for fiscal year 1979. The increase will cover the increased costs of continuing current activities and will provide $5.8 million for program increases, primarily in the exchange of persons program.

Salaries and Expenses (Special Foreign Currency Program), $13,012,000, providing resources for USICA operating expenses in excess currency countries. The increase of $2.7 million over the 1979 level is required to meet added built-in requirements.

Center for Cultural and Technical Interchange between East and West, $14,835,000, providing funds for a grant to the East-West Center in Hawaii. The increase of $1.3 million over the 1979 level is requested primarily to meet added built-in costs.

Acquisition and Construction of Radio Facilities, $1,670,000, providing resources to meet continuing engineering, research and major maintenance needs. The decrease of $18 million is attributable to the completion of funding in 1979 of several major relay station augmentation projects.

Subsection (2).—This subsection provides $466,179,000 to fund Agency operations in fiscal year 1981. A request for fiscal year 1981 is in keeping with the provisions of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344) requiring advance fiscal year authorization of appropriations.

The amount requested is intended to cover projected increases in operating costs in 1981 for USICA programs contained in the fiscal year 1980 budget. It also provides for a further increase of $5 million in the exchange of persons programs.

The 1981 authorization amount is necessarily the level assumed for USICA in the projections contained in the President's fiscal year 1980 budget. As such, it reflects the economic and budget assumptions used in formulating that budget. Changes in those assumed conditions or in demands for communication program responses to the changing world situation and foreign policy needs could alter the request. Such changes can not now be predicted.

Subsection (3).—Authorizes appropriations for increases in Federal pay, retirement, and other employee benefits as authorized by law which occur from time to time. This subsection further provides authorization of appropriations to meet other nondiscretionary cost increase items which cannot be forecast accurately at the time the basic budget estimates are being prepared, and which would have a material impact upon the operations and fiscal resources of the International Communication Agency. This authorization permits more rapid and responsive action to meet increased costs resulting from such items as adverse currency exchange fluctuations.

TITLE III—BOARD FOR INTERNATIONAL BROADCASTING

Section 301(a).—This paragraph authorizes funds for the Board to carry out its functions during fiscal year 1980.

Section 301(b).—This paragraph authorizes funds for the Board to carry out its functions during fiscal year 1981. It also provides $5,000,000, to remain available until expended, only for the downward fluctuations in foreign currency exchange rates in order to maintain the budgeted level of operation for RFE/RL, Inc.

Section 302.—This section provides for the repeal of Section 307 of the Foreign Relations Authorization Act, Fiscal Year 1979, concerning the use of broadcasting facilities by Communist countries. Section 307 amended the Board for International Broadcasting Act of 1973 (22 U.S.C. 2871-2877) by adding at the end thereof the following new section:

"Use of broadcasting facilities by Communist countries

"Sec. 9. No funds or other assistance may be provided by the Board under this Act to RFE/RL, Incorporated, if RFE/RL, Incorporated, permits any Communist country (within the meaning of section 620(f) of the Foreign Assistance Act of 1961) to use its broadcasting facilities unless that Communist country permits RFE/RL, Incorporated, to use that country's broadcasting facilities on a comparable basis."

The Board believes that the above section, as presently worded, would restrict the ability of the Administration to negotiate a cessation of the jamming of RFE/RL broadcasts.

By Mr. SCHWEIKER:

S. 587. A bill to amend the Federal Food, Drug, and Cosmetic Act to authorize an evaluation of the risks and benefits of certain food additives; to the Committee on Labor and Human Resources.

FOOD ADDITIVE SAFETY AMENDMENTS OF 1979

● Mr. SCHWEIKER. Mr. President, today I am introducing a bill to authorize evaluation of the risks and benefits of food additives regulated under the Federal Food, Drug and Cosmetic Act.

On Friday, the National Academy of Sciences submitted its food safety policy report to Congress and the Food and Drug Administration, as required under legislation we passed last session delaying FDA's proposed saccharin ban, pending further study. The NAS attempted to sort out the maze of Federal food regulatory policy and emerged with a clear call for legislative reform. The report supports the basic concept of legislation I introduced in March of 1977, providing for risk-benefit assessments of food additives as the keystone of a rational food safety policy, and outlines a decisionmaking framework for allowing food additives to remain on the market in the future.

It is widely acknowledged that current food law is seriously defective in not allowing for the possibility that a food additive, which may pose some risk of cancer, may at the same time have benefits, including health benefits, that justify its continued use in the absence of acceptable substitutes. The purpose of the Delaney clause in existing law is to insure that unsafe, cancer-causing substances do not enter the food supply. That general purpose is still valid, but I believe that it is time to change the Delaney clause's absolute requirement that any additive found to cause cancer in humans or animals must be banned. In light of our increased scientific sophistication in detecting risks, and the fact that there may be substantial health risks entailed if some additives are banned, my bill will give Federal officials some flexibility in administering the food safety laws in a way that will safeguard the public health.

Clearly, we cannot have a risk-free food supply. As the saccharin case so vividly illustrates, the public neither expects nor desires such an unrealistic policy goal. The answer, in my view, is to provide for risk-benefit assessment. I know that such evaluations cannot be precise, but here as in so many other fields, we must act in the absence of perfect knowledge.

Specifically, this legislation would allow the Secretary of Health, Education, and Welfare to make a finding that the benefits of permitting continued use of a food additive outweigh the risks to human health posed by its continued use. The Secretary would have to consult with an advisory committee composed of trained scientists, consumer representatives, industry representatives, nutritionists, and other experts. He would have to provide a reasonable opportunity for comments from interested persons, and his finding could not take effect until 120 days after it was published in the Federal Register.

In making his evaluation of an additive, the Secretary would specifically be required to take into consideration such factors as the reliability of any tests performed with the additive, intake levels, ways to minimize human exposure to any risk posed by the additive, environmental effects, nutritional effects, and other considerations relating to the general public interest.

This bill represents a starting point for consideration of the more comprehensive measures proposed in the NAS report. Further congressional action needs to be taken to insure that, insofar as possible, the same rational standard of risk-benefit analysis is applied to all food additives, though obviously some benefits, such as coloring, weigh less heavily than others. The NAS report also suggests broadening the range of food additive regulatory options available to the FDA to include such alternatives as labeling requirements, phased withdrawal of the additive from the market, and restricted distribution of the additive in bulk foods while continuing its availability for specific populations who benefit from its use. We should consider other "technology-forcing" measures that will encourage the development of substitutes that provide the same benefits at less risk. Consumer information and education should be improved so that truly informed choices are possible in the marketplace. Lastly, a phased transition period from the current system of additive regulation to the new, single-standard system should be carefully constructed.

In the specific case of saccharin, Congress may find it necessary to extend the current law's postponement of a ban until such comprehensive changes in food regulatory laws as I have suggested are implemented.

One aspect of the NAS report that concerns me, and, I might add, also troubles FDA Commissioner Donald Kennedy, is its proposed delegation of a great deal of discretionary authority to Federal regulatory officials. We in Congress have a responsibility to review these proposals very carefully and insure that those charged with agency decisionmaking have adequate guidance in the law and are accountable to us and to the public they serve. This is not to say that the Congress should involve itself in technical consideration of scientific evidence for each separate substance, but we must all realize the inherently subjective and political nature of decisions about whether a certain level of risk, as assessed scientifically, is an acceptable level of risk. We have a responsibility to be diligent in writing laws that will protect the public health and insure that the American people do not face unnecessary and substantial risks of serious harm as the result of unsafe, cancer-causing food additives.

The issue of saccharin, and food safety

policy in general, is highly controversial. Even the experts do not agree, as the need to place minority views in the NAS report attests. I know that the Subcommittee on Health and Scientific Research, on which I serve as ranking Republican, will be grappling with these difficult issues in the coming weeks. The issues merit careful, serious consideration, and the bill I introduce today is a step in that direction.

Mr. President, I ask unanimous consent that the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 587

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Food Additive Safety Amendments of 1979".

Sec. 2. Section 409(c)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(3)) is amended—

(1) by inserting "(A)" after "(3)", by striking out "(i)" and "(ii)" in subparagraph (A), by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), by inserting "(I)" after "shall not apply with respect to", and by inserting after the semicolon the following: "(II) any food additive to be used as an ingredient of food for human consumption if, upon petition setting forth the grounds therefor, the Secretary has, in accordance with the subparagraph (B), made and published in the Federal Register a finding that, based on all the data presented, the benefit to the general public from permitting the use of the additive outweighs any risk to human health that permitting such use may present"; and

(2) by adding at the end the following:

"(B)(i) A finding described in subparagraph (A)(i)(II) may be made only after the Secretary has received and considered the recommendations respecting such finding submitted by an advisory committee appointed by the Secretary from (I) individuals who are qualified by scientific training and experience to evaluate the carcinogenic effect of the food additive with respect to which such finding would be made and to evaluate the other effects of the use of such additive, (II) persons representative of the interests of consumers and the food additive industry affected, and (III) nutritionists, economists, scientists, and lawyers. The Secretary shall also provide reasonable opportunity for interested persons to comment on such a finding, and such a finding shall not take effect until the expiration of one hundred and twenty days after it is published in the Federal Register.

"(ii) In making such a finding with respect to a food additive, the Secretary shall consider and in the finding—

"(I) evaluate the intake level at which the food additive causes cancer in animals in relation to the reasonably expected intake level of the additive by humans,

"(II) evaluate the quality of any test data and the validity of any tests which may have been performed on the food additive,

"(III) assess human epidemiological and exposure data respecting food additive and statistical data on human consumption of it,

"(IV) evaluate any known biological mechanism of the carcinogenic effect of the food additive,

"(V) evaluate the means available to minimize human exposure to the risks presented by the food additive and the adequacy of the data available on such means, and

"(VI) evaluate the probable effects of prohibiting the use of the food additive and evaluate the probable effects of permitting its use, such evaluations to be made in accordance with the following priorities: first, health risks and benefits; second, nutritional needs and benefits and the effects of the nutitional value, cost, availability, and acceptability of food; third, environmental effects; and fourth, the interests of the general public.".●

By Mr. CHURCH (by request):

S. 588. A bill to amend the Foreign Assistance Act of 1961 to authorize development assistance programs for fiscal years 1980 and 1981, to make certain changes in the authorities of that act, to authorize the establishment of an Institute for Technological Cooperation, and for other purposes; to the Committee on Foreign Relations.

INTERNATIONAL DEVELOPMENT ASSISTANCE ACT OF 1979

● Mr. CHURCH. Mr. President, I introduce by request a bill to authorize appropriations for foreign assistance development programs for fiscal years 1980 and 1981, and for other purposes.

The bill has been requested by the Acting Secretary of State and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the Record at this point, together with the section-by-section analysis, and the letter from the Acting Secretary of State to the President of the Senate dated February 24, 1979.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 588

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "International Development Assistance Act of 1979".

TITLE I—DEVELOPMENT ASSISTANCE

AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION

Sec. 2. The first sentence of section 103 (a)(2) of the Foreign Assistance Act of 1961 is amended to read as follows: "There are authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $715,366,000 for the fiscal year 1980 and $789,000,000 for the fiscal year 1981.".

POPULATION AND HEALTH

Sec. 3. The first sentence of section 104(g) of the Foreign Assistance Act of 1961 is amended to read as follows: "There are authorized to be appropriated to the President, in addition to funds otherwise available for such purposes—

"(1) $216,321,000 for the fiscal year 1980 and $255,000,000 for the fiscal year 1981 to carry out subsection (b) of this section; and

"(2) $146,573,000 for the fiscal year 1980 and $210,000,000 for the fiscal year 1981 to carry out subsection (c) of this section.".

EDUCATION AND HUMAN RESOURCES DEVELOPMENT

Sec. 4. The second sentence of section 105(a) of the Foreign Assistance Act of 1961 is amended to read as follows: "There are authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $119,497,000 for the fiscal year 1980 and $140,000,000 for the fiscal year 1981, which amounts are authorized to remain available until expended.".

TECHNICAL ASSISTANCE, ENERGY, RESEARCH, RECONSTRUCTION, AND SELECTED DEVELOPMENT PROBLEMS

Sec. 5. Section 106(b) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(b) There are authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $136,122,000 for the fiscal year 1980 and $180,300,000 for the fiscal year 1981, which amounts are authorized to remain available until expended.".

ENERGY PROGRAMS

Sec. 6. (a) Section 119 of the Foreign Assistance Act of 1961 is amended by amending the section caption to read "Energy Programs."

(b) Such section is further amended by redesignating existing subsection (a) as subsection (b) and by inserting the following new subsection (a) immediately after the section caption:

"(a) The Congress finds that energy production and conservation are vital elements in the development process and that energy shortages in developing countries severely limit the development progress of such countries. Inadequate access by the poor to energy sources as well as the prospect of depleted fossil fuel reserves and higher energy prices require an enhanced effort to expand the energy resources of developing countries, primarily through greater emphasis on renewable sources. Renewable and decentralized energy technologies have particular applicability for the poor, especially in rural areas.".

(c) Such section is further amended by redesignating existing subsection (b) as subsection (d) and by inserting the following new subsection (c) between subsections (b) and (d), as so redesignated by this subsection and subsection (b) of this section:

"(c) Such programs may include research, development, demonstration, and application of suitable energy technologies (including use of wood); analysis of energy uses, needs, and resources; training and institutional development; and scientific interchange.".

SAHEL DEVELOPMENT PROGRAM—IMPLEMENTATION

Sec. 7. Section 121(c) of the Foreign Assistance Act of 1961 is amended by inserting the following sentence immediately after the first sentence of section 121(c): "In addition to the amount authorized in the preceding sentence, and funds otherwise available for such purposes, there is authorized to be appropriated to the President $160,000,000.".

RELATIVELY LEAST DEVELOPED COUNTRIES

Sec. 8. Section 124(c)(2) of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new sentence: "Amounts due and payable during fiscal year 1980 and fiscal year 1981, respectively, to the United States from relatively least developed countries, on loans made under this part, or any predecessor legislation, are authorized to be used in accordance with the provisions of paragraph (1) of this subsection, in an amount not to exceed $18,800,000 for fiscal year 1980 and $18,200,000 for fiscal year 1981.".

AMERICAN SCHOOLS AND HOSPITALS ABROAD

Sec. 9. Section 214(c) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(c) To carry out the purposes of this section, there are authorized to be appropriated to the President $15,000,000 for the fiscal year 1980 and $20,000,000 for the fiscal year 1981, which amounts are authorized to remain available until expended.".

HOUSING AND OTHER CREDIT GUARANTY PROGRAMS

Sec. 10. (a) Section 222(a) of the Foreign Assistance Act of 1961 is amended—

(1) in the second sentence by striking out "$1,180,000,000" and inserting in lieu thereof "$1,505,000,000"; and

(2) in the third sentence by striking out "1980" and inserting in lieu thereof "1982".

(b) Section 222A(h) of the Foreign Assistance Act of 1961 is amended by striking out "until September 30, 1979" and inserting in lieu thereof "through September 30, 1982".

(c) Section 223(f) of the Foreign Assistance Act of 1961 is amended—

(1) by striking out everything after "not" in the first sentence through "exceeds" in the second sentence and by inserting in lieu thereof "exceed"; and

(2) by striking out "such Department" in the second sentence and inserting in lieu thereof "the Department of Housing and Urban Development".

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

Sec. 11. Section 302(a)(1) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(a)(1) There are authorized to be appropriated to the President for grants to carry out the purposes of this chapter, in addition to funds available under any other Acts for such purposes, $277,190,000 for the fiscal year 1980 and $315,325,000 for the fiscal year 1981.".

INTERNATIONAL DISASTER ASSISTANCE

Sec. 12. Section 492 of the Foreign Assistance Act of 1961 is amended by striking out "$25,000,000 for the fiscal year 1979" and inserting in lieu thereof "$25,000,000 for the fiscal year 1980 and $25,000,000 for the fiscal year 1981".

COMPLETION OF PLANS AND COST ESTIMATES

Sec. 13. Section 611(b) of the Foreign Assistance Act of 1961 is amended by striking out "Memorandum of the President dated May 15, 1962" and inserting in lieu thereof "Principles and Standards for Planning Water and Related Land Resources, dated October 25, 1973".

REIMBURSABLE DEVELOPMENT PROGRAMS

Sec. 14. Section 661 of the Foreign Assistance Act of 1961 is amended in the first sentence by striking out "$3,000,000 of the funds made available for the purposes of this Act for the fiscal year 1979" and inserting in lieu thereof "$3,800,000 of the funds made available for the purposes of this Act for the fiscal year 1980 and $5,000,000 of the funds made available for the purposes of this Act for the fiscal year 1981".

OPERATING EXPENSES

Sec. 15. Section 667(a) of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "fiscal year 1979" and inserting in lieu thereof "fiscal years 1980 and 1981"; and

(2) in paragraph (1) by striking out "$261,000,000" and inserting in lieu thereof "$268,000,000 for the fiscal year 1980 and $285,000,000 for the fiscal year 1981".

REGISTRATION OF PRIVATE VOLUNTARY AGENCIES

Sec. 16. Sections 123(b), 607(a), and 635(c) of the Foreign Assistance Act of 1961 and sections 104(f) and 202(a) of the Agricultural Trade Development and Assistance Act of 1954 are amended by striking out the words "Advisory Committee on Voluntary Foreign Aid" and "Advisory Committee" wherever they appear and inserting in lieu thereof "Agency for International Development".

MISCELLANEOUS REPEALS

Sec. 17. Section 105(c), the last sentence of section 111, section 113 (b) and (c), section 118(c), and section 620(o) of the Foreign Assistance Act of 1961 are repealed. Subsection (d) of section 113 of such Act is redesignated as subsection (b).

ADJUSTMENT OF AUTHORIZATION ACCOUNT LEVELS

Sec. 18. Appropriations for the fiscal year 1981 are authorized to be made to carry out sections 103 through 106 of the Foreign Assistance Act of 1961, in an amount up to 10 percent greater for any such section than the amount authorized by that Act for the fiscal year 1981 for such section; except that the total amount appropriated for the fiscal year 1981 to carry out sections 103 through 106 of the Foreign Assistance Act of 1961 may not exceed the total amount authorized by that Act for such sections for the fiscal year 1981.

EFFECTIVE DATE

Sec. 19. The amendments made by this Title shall take effect on October 1, 1979.

TITLE II—INSTITUTE FOR TECHNOLOGICAL COOPERATION

STATEMENT OF POLICY

Sec. 20. As declared by Congress in the Foreign Assistance Act of 1961, as amended, a principal objective of the foreign policy of the United States is the encouragement and sustained support of the people of developing countries in their efforts to acquire the knowledge and resources essential to development and to build the economic, political, and social institutions which will improve the quality of their lives. The Congress reaffirms the profound humanitarian and foreign policy concerns of the United States in the economic and social progress of the developing countries and in the alleviation of the worst physical manifestations of poverty in these countries.

In furtherance of that objective, the Congress recognizes that developing countries require extensive scientific and technological capacity in order to deal effectively with their development problems, relate to the industrialized nations, and constructively participate in the shaping of a mature world order.

It is therefore in the mutual interest of the United States and the developing countries to increase scientific and technological cooperation and jointly to support long-term research on those critical problems that impede development and limit efficient use of the world's human, natural, and capital resources.

INSTITUTE FOR TECHNOLOGICAL COOPERATION

Sec. 21. To strengthen the capacity of the people of developing countries to solve their development problems through scientific and technological innovation, to foster research on problems of development, and to facilitate scientific and technological cooperation with developing countries, the President is hereby authorized to establish an Institute for Technological Cooperation (hereinafter referred to as "Institute"), which shall be subject to the foreign policy guidance of the Secretary of State.

FUNCTIONS OF THE INSTITUTE

Sec. 22. (a) In carrying out its purposes, the Institute shall have the following functions:

(1) assist developing countries to strengthen their own capacity to generate, adapt, utilize and disseminate knowledge and technologies necessary for their development;

(2) support research, in the United States and in developing countries, on critical development problems, with emphasis on those which affect the lives of the majority of the people in developing countries;

(3) foster the exchange of scientists and other technical experts with developing countries, and other forms of exchange and communication to promote the joint solution of problems of mutual concern to the United States and developing countries;

(4) advise and assist other agencies of the United States Government in planning and executing policies and programs of scientific and technological cooperation with developing countries;

(5) facilitate the participation of private United States institutions, businesses, and individuals in research, training and other forms of cooperation with developing countries;

(6) gather, analyze, and disseminate information relevant to the scientific and technological needs of developing countries.

(b) For purposes of carrying out the functions of the Institute, the President may utilize, in addition to authorities conferred herein, such authority contained in the Foreign Assistance Act of 1961, as amended; the Foreign Service Act of 1946, as amended; Title V of the Foreign Relations Authorization Act, Fiscal Year 1979; and Title IV of the International Development and Food Assistance Act of 1978, as the President deems necessary.

(c) The Institute shall carry out its functions in consultation and cooperation with the agencies of the United States Government, international organizations, and agencies of other governments engaged in promoting economic, social and technological development in developing countries.

(d) The President shall prescribe appropriate procedures to assure coordination of the activities of the Institute with other activities of the United States Government in furthering the use of science and technology in the cause of development.

GENERAL AUTHORITIES

Sec. 23. To carry out the purposes and functions of the Institute, the President may—

(1) make and perform contracts and other agreements with any individual, institution, corporation, or other body of persons however designated, within or without the United States, and with governments or government agencies, domestic or foreign;

(2) make advances, grants, and loans to any individual, institution, corporation or other body of persons however designated, within or without the United States, and to governments or government agencies, domestic or foreign;

(3) employ such personnel as necessary and fix their compensation;

(4) make provision for compensation, transportation, housing, subsistence (or per diem in lieu thereof), and health care or health and accident insurance for foreign nationals engaged in activities authorized by this Title while they are away from their homes, without regard to the provisions of any other law;

(5) accept and use money, funds, property and services of any kind by gift, devise, bequest, grant or otherwise in furtherance of the purposes of the Institute;

(6) acquire by purchase, lease, loan, bequest, or gift and hold and dispose of by sale, lease, loan, or grant, real and personal property of all kinds;

(7) prescribe, amend, and repeal such rules and regulations as may be necessary to the conduct of the business of the Institute;

(8) utilize information, services, facilities, officers, and employees of any agency of the United States Government;

(9) establish a principal office in the United States and such other offices within or without the United States, as may be necessary;

(10) make such expenditures as may be necessary for administering the provisions of this Title;

(11) adopt, alter and use an official seal for the Institute, which shall be judicially noticed;

(12) take such other actions as may be necessary and incident to carrying out the functions of the Institute.

DIRECTOR OF THE INSTITUTE

SEC. 24. (a) There shall be a Director of the Institute (hereinafter referred to as the "Director") who shall be the chief executive officer of the Institute. The Director shall be appointed by the President by and with the advice and consent of the Senate, and shall receive compensation at the rate provided for Level III of the Executive Schedule under Section 5314 of Title 5 of the United States Code.

(b) The President may exercise any authorities conferred upon him by this Title through the Director or any other agency or officer of the United States Government as he shall direct. The Director or head of any such agency or any such officer may delegate to any of his subordinates authority to perform any of such functions.

DEPUTY DIRECTOR AND OTHER STATUTORY OFFICERS

SEC. 25. (a) A Deputy Director of the Institute shall be appointed by the President by and with the advice and consent of the Senate. The Deputy Director shall receive compensation at the rate provided for Level IV of the Executive Schedule under Section 5315 of Title 5 of the United States Code;

(b) The Deputy Director shall perform such duties and exercise such powers as the Director may prescribe;

(c) The President may establish up to two additional positions in the Institute to be compensated at the rate provided for Level V of the Executive Schedule under Section 5316 of Title 5 of the United States Code.

COUNCIL ON INTERNATIONAL TECHNOLOGICAL COOPERATION

SEC. 26. (a) In order to further the purposes of the Institute, the President is authorized to establish a Council on International Technological Cooperation (hereinafter referred to as the "Council").

(b) The Council shall—

(1) advise the Director with respect to the policies, programs, and procedures of the Institute;

(2) make recommendations to the Director on the use of the resources available to the Institute; and

(3) advise the Director on matters involving the activities of the Institute overseas and appropriate relationships with the private sector, within and without the United States.

(c) The Council shall consist of up to twenty-five members selected by the President, one of whom the President shall designate as Chairman. The members of the Council shall be selected from among—

(1) citizens of the United States who are widely recognized for their broad knowledge of, or expertise in, science and technology, or their interest in the scientific and technological problems of developing countries;

(2) citizens of foreign countries who by their knowledge and expertise are capable of providing advice and guidance to the Institute on the application of science and technology to the problems of developing countries, except that not more than one-third of the membership of the Council shall consist of members who are citizens of foreign countries; and

(3) up to five members of the Council may be officials of the United States Government, one of whom shall be the Secretary of State or his designee.

(d) Members of the Council who are not officials of the United States Government shall be entitled to compensation, not to exceed the daily equivalent of the highest rate which may be paid to an employee under the General Schedule established by section 5332 of Title 5 of the United States Code, while in the performance of their duties under this Title, and to reimbursement for expenses and per diem in lieu of subsistence while away from their homes, or regular places of business, in accordance with the provisions of Section 5703 of Title 5 of the United States Code for persons in government service employed intermittently. Members of the Council who are not officials of the United States Government shall not be deemed officers, employees, or otherwise in the service or employment of the United States Government for any purpose, except that members of the Council who are United States citizens shall be deemed Government employees for the purposes of sections 202, 203, 205, 207–209 of Title 18 of the United States Code.

INSTITUTE FELLOWSHIPS

SEC. 27. (a) The President is authorized to award up to twenty fellowships annually for periods up to two years, such awards to be renewable for an additional period not to exceed two years, to individuals who have demonstrated exceptional competence and ability in the fields of scientific, technological, economic or social endeavor selected by the Institute for concentration. The awards shall be made so as to encompass a wide diversity of disciplines and backgrounds, and shall be made on the basis of criteria established by the President upon the advice of the Council. Up to ten of the awards in any year may be made to citizens of countries other than the United States. Individuals awarded fellowships shall be designated as Institute Fellows.

(b) The President may assign Institute Fellows to undertake such activities, in the United States or abroad, as will further the purposes of the Institute.

(c) The amount of the awards made pursuant to this Section shall be established by the President, but shall not in any case exceed the highest rate which may be paid to an employee under the General Schedule established by Section 5332 of Title 5 of the United States Code. In addition, where appropriate, the President may make provision for transportation, housing (when assigned outside country of residence), subsistence (or per diem in lieu thereof), and health care or health or accident insurance for Institute Fellows and their dependents while engaged in activities authorized by this Title.

(d) Except as provided otherwise in this section, Institute Fellows shall not be deemed employees or otherwise in the service or employment of the United States Government. Institute Fellows shall be considered employees for purposes of compensation injuries under chapter 81 of Title 5 of the United States Code and the tort claim provisions of chapter 171 of Title 28 of the United States Code. In addition, Institute Fellows who are United States citizens shall be considered Government employees for purposes of sections 202, 203, 205, 207–209 of Title 18 of the United States Code.

(e) Alien participants in any program of the Institute, including Institute Fellows and their dependents, may be admitted to the United States if otherwise qualified as nonimmigrants under Section 101(a)(15) of the Immigration and Nationality Act, as amended, for such time and under such conditions as may be prescribed by regulations promulgated by the Secretary of State and the Attorney General.

CONFLICT OF INTEREST

SEC. 28. Members of the Council and Institute Fellows shall avoid any action which might result in, or create the appearance of, a conflict of interest, including but not limited to:

(1) using their office or position for private gain;

(2) giving preferential treatment to any person;

(3) making recommendations or decisions relating to any activity authorized by this Title in other than an impartial and independent manner;

(4) misusing Government property or official information obtained through their office or position which has not been made available to the general public; or

(5) affecting adversely the confidence of the public in the integrity of the Institute.

APPROPRIATIONS

SEC. 29. There are hereby authorized to be appropriated to the President to carry out the provisions of this Title, in addition to funds otherwise available for such purposes, $25,000,000 for the fiscal year 1980, and $40,000,000 for the fiscal year 1981. Funds appropriated under this Section are authorized to remain available until expended.

ANNUAL REPORT

SEC. 30. Within ninety days after the end of each fiscal year, the President shall submit to Congress a complete and detailed report of the Institute's operations during such fiscal year.

MISCELLANEOUS PROVISIONS

SEC. 31. (a) Section 5314 of Title 5 of the United States Code, relating to Level III of the Executive Schedule, is amended by adding at the end thereof the following:

"(67) Director, Institute for Technological Cooperation."

(b) Section 5315 of Title 5 of the United States Code, relating to Level IV of the Executive Schedule, is amended by adding at the end thereof the following:

"(122) Deputy Director, Institute for Technological Cooperation."

(c) Section 5316 of Title 5 of the United States Code, relating to Level V of the Executive Schedule, is amended by adding at the end thereof the following:

"(144) Additional officers, Institute for Technological Cooperation (2)."

(d) The number of positions published pursuant to section 5311(b)(1) of Title 5 of the United States Code is hereby increased by four.

SECTION-BY-SECTION ANALYSIS OF THE PROPOSED INTERNATIONAL DEVELOPMENT ASSISTANCE ACT OF 1979

I. INTRODUCTION

The proposed International Development Assistance Act of 1979 (hereinafter referred to as the "bill") in Title I is essentially an amendment to the Foreign Assistance Act of 1961, as amended (hereinafter referred to as the "Act"). Title I also includes several freestanding provisions not made a part of the Act. A major purpose of the bill is to provide authorization for appropriations for activities under the Act for the fiscal years 1980 and 1981. The bill contains authorizations for appropriations for development assistance activities only. The fiscal year 1980 authorization levels requested for programs under part I of the Act are those set forth in the President's fiscal year 1980 budget. The fiscal year 1981 authorization levels are those approved by the Office of Management and Budget

Title II of the bill authorizes the establishment of an Institute for Technological Cooperation under the foreign policy guidance of the Secretary of State. The bill contains authorization for appropriations for the Institute of $25 million for fiscal year 1980 and $40 million for fiscal year 1981. The proposed Institute is an important new initiative to strengthen the capacity of the United States Government to provide scientific and technological assistance to developing countries. The Institute will carry out programs of research, scientific exchange, and institutional strengthening in developing countries in close collaboration with other agencies engaged in related development activities. The Institute will be headed by a Director, who would receive advice from a council on international technological cooperation. A program of fellowships permits the Institute to select outstanding individuals to undertake scientific and research activities for limited periods of time in support of the Institute's goals. The new Institute will add a valuable new means of cooperating with other nations on technological matters for the benefit of developing countries and in our own national interest.

The principal substantive amendments under the development assistance title are: a restatement of policy for energy programs emphasizing renewable energy technologies; an increase in the no-year authorization for the Sahel Development Program in Africa; use of the authority provided in section 124 of the Act for retroactive terms adjustment on amounts falling due during fiscal years 1980 and 1981 to the United States from the relatively least developed countries on loans made under part I of the Act; an increase in the guaranty authority for the Housing Guaranty program and a change in the formula for calculation of maximum interest rates on loans guaranteed; and a provision authorizing appropriations in fiscal year 1981 for chapter 1 programs in amounts up to 10% greater than authorized dollar levels for that year for any given account so long as the total amount authorized for chapter 1 programs is not exceeded.

II. PROVISIONS OF THE BILL

Title I—Development Assistance

Section 1. Short title.

This section provides that the bill may be cited as the "International Development Assistance Act of 1979".

Section 2. Agriculture, rural development and nutrition.

This section amends section 103 of the Act, which authorizes programs in agriculture, rural development and nutrition. Section 103(a)(2) of the Act is amended to authorize $715,366,000 for the fiscal year 1980 and $789,000,000 for the fiscal year 1981 to carry out programs under section 103. Agriculture, rural development and nutrition will continue to receive primary emphasis under this authorization.

Section 3. Population and health.

This section amends section 104 of the Act, which authorizes programs of population planning and health. Section 104(g) of the Act is amended to authorize $216,321,000 for the fiscal year 1980 and $255,000,000 for the fiscal year 1981 for population planning programs and $146,573,000 for the fiscal year 1980 and $210,000,000 for the fiscal year 1981 for health programs.

Section 4. Education and human resources development.

This section amends section 105 of the Act, which authorizes programs of education and human resources development. Section 105(a) of the Act is amended to authorize $119,497,000 for the fiscal year 1980 and $140,000,000 for the fiscal year 1981 for programs relating to education and human resources development.

Section 5. Technical assistance, energy, research, reconstruction and selected development problems.

This section amends section 106 of the Act, which authorizes programs relating to technical assistance, energy, research, reconstruction and selected development problems. Section 106(b) of the Act is amended to authorize the appropriation of $136,122,000 for the fiscal year 1980 and $180,300,000 for the fiscal year 1981 for such programs.

Section 6. Energy programs.

This section amends section 119 of the Act by (1) changing the section caption to read "Energy Programs"; (2) by adding a new subsection (a) which states the findings of Congress that energy production and conservation are vital elements in the development process and that an enhanced effort to increase the access of the poor to energy sources and to expand the energy resources of developing countries, primarily through greater emphasis of the renewable resources, is required; and (3) by adding a new subsection (c) which includes an illustrative list of energy programs which may be pursued, including research, development, demonstration, and application of suitable energy technologies; analysis of energy uses, needs, and resources; training and institutional development; and scientific interchange.

Existing subsections (a) and (b) of section 119 of the Act remain unchanged, but are redesignated as subsections (b) and (d), respectively.

Section 7. Sahel development program—implementation.

This section amends section 121(c) of the Act to authorize, in addition to amounts previously authorized, $160,000,000 for the Sahel Development program on a "no-year" basis. Section 121(c) of the Act currently authorizes on a "no-year" basis a total amount of $200,000,000 for the Sahel Development program in Africa, so the new total authorized amount will be $360,000,000. Amounts appropriated for the program through fiscal year 1979 total $125,000,000.

Section 8. Relatively least developed countries.

This section amends section 124(c) of the Act to provide retroactive terms adjustment during fiscal years 1980 and 1981 for relatively least developed countries on outstanding loans made under part I of the Act. Pursuant to the provisions of section 124 of the Act, the President may on a case-by-case basis allow relatively least developed countries to deposit local currency into special accounts for development uses in amounts equivalent to dollar payments due to the United States in a given year in place of repayment. Authorization for implementation of this provision for eligible countries is included in the amount of $18,800,000 for the fiscal year 1980 and $18,200,000 for the fiscal year 1981.

Section 9. American schools and hospitals abroad.

This section amends section 214 of the Act, which authorizes assistance to schools and hospitals located outside the United States which serve as demonstration centers for American ideas and practices and are sponsored or founded by United States citizens. Section 214(c) of the Act is amended to authorize $15.000,000 for the fiscal year 1980 and $20,000,000 for the fiscal year 1981 for the American Schools and Hospitals Abroad programs.

Section 10. Housing and other credit guaranty programs.

These sections amend title III of chapter 2 of part I of the Act, relating to housing and other credit guaranty programs.

Section 10(a) amends section 222(a) of the Act by increasing the maximum guaranty authority for housing guaranty programs to $1,505,000,000. This represents an increase of $325,000,000 from the current level of $1,180,000,000. Section 10(a) also extends the period of program authorization through September 30, 1982.

Section 10(b) amends section 222A(h) of the Act to extend program authority for the issuance of guaranties under the Agricultural and Productive Credit and Self-Help Community Development Programs through September 30, 1982.

Section 10(c) amends section 223(f) of the Act by deleting the existing formula for establishing interest rates on loans guaranteed under the Housing Guaranty program on the basis of a range establishing both minimum and maximum interest rate levels. The existing formula is replaced by a new formula for setting maximum interest rates without specifying minimum interest rates. It continues to be tied, as under current legislation, to not more than 1% above the maximum interest rate allowable on mortgages insured by the Department of Housing and Urban Development.

Section 11. International organizations and programs.

This section amends section 302 of the Act, which authorizes grants to international organizations for their programs. Section 302(a)(1) of the Act is amended to authorize appropriations for grants in the amount of $277,190,000 for the fiscal year 1980 and $315,325,000 for the fiscal year 1981 for these programs.

Section 12. International disaster assistance.

This section amends section 492 of the Act, which authorizes funds for international disaster assistance. Section 492 of the Act is amended to authorize appropriations of $25,000,000 in each of the fiscal years 1980 and 1981.

Section 13. Completion of plans and cost estimates.

This section amends section 611(b) of the Act, which relates to plans and cost estimates for water or related land resource construction projects financed under the Act. Section 611(b) of the Act requires that a cost-benefit analysis be carried out for such water-related projects according to the procedures of a Memorandum of the President dated May 15, 1962. Since that document has been superseded by a later document on the same subject, this technical amendment updates the statutory reference by citing the document entitled "Principles and Standards for Planning Water and Related Land Resources, dated October 25, 1973".

Section 14. Reimbursable development programs.

This section amends section 661 of the Act, which authorizes use of a specified amount of funds made available for the purposes of part I of the Act in order to stimulate reimbursable development programs. Section 661 of the Act is amended to allow use of up to $3,800,000 and $5,000,000, respectively, of the funds made available for the purposes of the Act for the fiscal year 1980 and the fiscal year 1981.

Section 15. Operating expenses.

This section amends section 667 of the Act, which authorizes funds for operating expenses of the Agency for International Development. Section 667(a) of the Act is amended to authorize $268,000,000 for the fiscal year 1980 and $285,000,000 for the fiscal year 1981 for operating expenses.

Section 16. Registration of private voluntary agencies.

This section amends sections 123(b), 607(a), and 635(c) of the Act and sections 104(f) and 202(a) of the Agricultural Trade Development and Assistance Act of 1954, as amended, to change the responsibility for registration of private voluntary agencies for assistance under the foreign assistance program from the Advisory Committee on Voluntary Foreign Aid to the Agency for International Development. References to the Advisory Committee on Voluntary Foreign Aid in the context of responsibility for registration of private voluntary agencies are changed wherever they appear to references to the Agency for International Development.

Section 17. Miscellaneous repeals.

This section repeals section 105(c), the last sentence of section 111, section 113 (b) and (c), section 118(c), and section 620(o) of the Act. Section 105(c) is an outdated provision of the Act relating only to specified uses of funds authorized for the fiscal years 1977 and 1978. The last sentence of section 111 of the Act is an outdated provision related only to specified use of funds authorized for the fiscal year 1978. Section 113 (b) and (c) are outdated provisions requiring the submission to the Congress of a report which has already been submitted. Section 118(c) of the Act is an outdated provision requiring submission of a report to the Congress which will have been submitted before the passage of this bill. Section 620(o) of the Act is an obsolete provision requiring that consideration be given to excluding from assistance any country which seizes or imposes any penalty or sanction against any United States fishing vessel on account of its fishing activities in international waters. This provision relates back to past controversies between the United States and certain foreign countries over the right of such countries to establish fishing jurisdiction over their coastal waters out to a 200-mile limit. Since the United States now has also adopted that same 200-mile limit and recognizes the right of other countries to do so, this provision has become obsolete.

Section 18. Adjustment of authorization account levels.

This section is a freestanding provision in the bill which authorizes appropriations in the fiscal year 1981 for the programs authorized in chapter 1 of the Act in an amount up to 10% greater than the dollar amount authorized for any given account, provided that the total amount authorized for chapter 1 programs is not exceeded. This section provides authority for appropriations in the fiscal year 1981 for given accounts in chapter 1 to be greater than the amounts authorized for such accounts for the fiscal year 1981 in this bill; but in order to meet the requirement that the total authorization level for chapter 1 programs is not increased, any increases in given chapter 1 accounts would have to be matched by corresponding decreases of authorized levels in other chapter 1 accounts.

Section 19. Effective date.

This section is a freestanding provision which provides that the amendments made by Title I shall take effect on October 1, 1979.

Title II—Institute for Technological Cooperation

This is a freestanding title which authorizes the President to establish an Institute for Technological Cooperation (the "Institute") to assist developing countries through science and technology.

Statement of Policy

Section 20. Purpose. This section sets forth the fundamental policies and principles underpinning the programs of the Institute. The section begins by referring to the Foreign Assistance Act of 1961 and by emphasizing that the purposes of the Institute are consistent with the development assistance philosophy enunciated in section 101 of the Foreign Assistance Act of 1961, as amended (the "FAA"):

"A principal objective of the foreign policy of the United States is the encouragement and sustained support of the people of developing countries in their efforts to acquire the knowledge and resources essentia lto development. . . ."

The section reaffirms the humanitarian and foreign policy concern of the United States in the economic and social progress of the developing countries and in the alleviation of poverty. The section recognizes the importance of science and technology in development and the mutual gains for developed and developing countries that will derive from expanded programs in this area. It further recognizes the importance of strengthening the capacity of developing countries to generate technology and to participate more effectively in common efforts to shape a better world order.

Background. This section is designed to provide a coherent link between the important purposes set forth in the FAA and the programs of science and technology contained in this Title.

Institute for Technological Cooperation

Section 21. Purpose. Section 21 authorizes the President to establish the Institute for the purposes of:

(1) strengthening the capacity of the people of developing countries to solve their development problems through scientific and technological innovation;

(2) fostering research on problems of development; and

(3) facilitating scientific and technological cooperation with developing countries.

The Institute shall operate under the foreign policy guidance of the Secretary of State.

Background. The legislation authorizes the President to establish an Institute which will provide scientific and professional direction to programs of capacity-building, research and technological cooperation for development. The Institute would be established in order to provide for a sustained, long-term effort in bringing scientific and technological skills to bear on the solution to critical development problems. The structure of the Institute provides a unique means for directly engaging United States and developing country scientists and technologists in joint programs of research and programs to build the capacities of developing country institutions.

The purposes of the Institute derive from the basic purposes of the FAA. The Institute is distinguished from the Agency for International Development which administers Part I of the FAA, by the Institute's primary focus on science and technology, and by its promotion of programs of technological cooperation with developing countries on both development problems of the poor and those concerning global maintenance such as environment and energy. The specific purposes of the Institute address the serious limitations in the knowledge and capacity available to solve problems of the majority of the population in developing countries. Specific agronomic, biological, immunological and environmental factors have inhibited the effectiveness of technology transferred directly or adapted from the developed countries; social, cultural, and economic factors have also prevented effective transfer and application of such technology for the benefit of the majority of people in these countries. Mobilizing the scientific and technological skills in the U.S., collaboratively with those in developing countries, provides a valuable tool in addressing these obstacles. The processes of joint research, analysis, and training should not only provide answers to some of the most important problems, but are aimed at building relevant skills in the developing countries for addressing their own development problems in the future.

Functions of the Institute

Section 22. Purpose. Section 22(a) sets out six functions by which the Institute should carry out its purposes. These include:

(1) strengthening institutional capacity to solve development problems in the developing countries themselves;

(2) supporting research on critical development problems, especially those which affect the majority of the population in developing countries;

(3) fostering the exchange of scientists and information to promote the joint solution of problems of mutual concern to the U.S. and developing countries;

(4) advising and assisting other U.S. Government agencies in the application of science and technology to development;

(5) facilitating private sector participation in scientific and technological cooperation with developing countries; and

(6) providing information on science and technology of use to developing countries.

Section 22(b) provides that the President may utilize the authorities of the FAA, the Foreign Service Act of 1946, as amended, Title V of the Foreign Relations Authorization Act, Fiscal Year 1979, and the unified personnel provision of Title IV of the International Development and Food Assistance Act of 1978, in addition to the authorities in this Title, to carry out the functions of the Institute.

Section 22(c) states that the Institute should carry out its functions in consultation and cooperation with other governmental institutions—domestic, foreign, and international—engaged in promoting development.

Section 22(d) empowers the President to prescribe appropriate procedures to assure coordination of the Institute's activities with other activities of the U.S. Government aimed at furthering development through science and technology.

Background. The six functions of the Institute relate to, strengthen, and in some cases add to the development assistance principles set forth in section 102(b) of the FAA.

The first function, strengthening local institutional capacity for problem solving, parallels sections 102(b)(1), 102(b)(2), and 102(b)(3) of the FAA, which emphasize local responsibility for development. This function aims at improving skills and capacities which enhance people's ability to satisfy basic human needs in the developing countries and which provide the scientific and technological capacity to enable countries to provide for their own growth and the welfare of their populations on a continuing basis.

The second function, supporting research on critical development problems, follows closely the language of section 102(b)(5) of the FAA, and places emphasis on problems which affect the majority of the population in developing countries. Such research will not always assure a direct, immediate benefit for the poor, but will be managed so as to find solutions to the problems of the poor.

"Research" is furthermore assumed to include, wherever appropriate, the necessary development and testing of research results to demonstrate their value to the poor, to developing country governments and institutions, and to donor agencies. Research will also be conducted on other problems of mutual concern to the United States and the developing countries.

The third function is designed to promote joint work with developing country scientists on problems of mutual concern to the U.S. and those countries. This is intended to include exchange of information, cooperative research undertakings, exchange of teachers, joint teaching, and other activities which promote joint solution to those problems. Problems of mutual concern include those in which the U.S. has a general policy interest, such as those related to poverty in the developing countries, and those problems in the developing countries whose study or solution could enhance the health, economy, or other aspects of American life. Programs contributing to these objectives would be undertaken with middle-income developing countries, on a cost-shared basis, as well as with the poorer developing countries in order to, among other things, gain as fully as possible from the technological skills and capacities emerging in those countries.

The fourth function directs the Institute to work with other government agencies engaged in programs of scientific and technical cooperation with developing countries in order to maximize benefits and assure efficiency. The fifth function requires the Institute to facilitate private sector participation in development, a similar emphasis to that found in section 102(b)(8) of the FAA. The sixth function stresses the importance of gathering, analyzing, and disseminating information relevant to solving development problems.

Collectively, the six functions provide

the outline of an Institute which will and sustained problem-solving. The Institute should, with this legislative charge, be at the forefront of new knowledge relating to development: its functions of exchanging scientist, disseminating information, and facilitating private sector activities should ensure its capacity to stay abreast of new information and discoveries; its support for collaborative research and training should enable it to contribute substantially to overcoming technological and other obstacles which inhibit development. The results of its programs would contribute to the more efficient use of other development assistance funds.

Section 22(b), (c) and (d) are designed to ensure close coordination and cooperation between the Institute and other agencies and institutions, domestic or foreign, engaged in development activities. Sections (c) and (d) particularly provide sufficient flexibility for the Institute to work with or relate to AID or any other successor organization. Section 22(c) parallels in part the principle set forth in section 102(b)(11) of the FAA and is consistent with Title V of the Foreign Relations Authorization Act, Fiscal Year 1979.

General Authorities

Section 23. Purpose. Section 23 sets forth the general authorities granted to the President by which he shall carry out the purposes and functions of the Institute. Such powers or authorities are:

(1) the making and performance of contracts and agreements;

(2) the making of advances, grants, and loans;

(3) the establishment of a personnel system, subject to general civil service rules and regulations;

(4) the utilization of the talents of foreign nationals by payment of compensation and their expenses while assisting the work of the Institute;

(5) the acceptance of money, funds, property, and services for Institute use;

(6) the acquisition and disposition of property of all kinds;

(7) the establishment of Institute rules and regulations to guide its operations;

(8) the ability to utilize the services, information, and employees of any agency;

(9) the establishment of a principal office and other necessary offices;

(10) the making of necessary expenditures;

(11) the use of an official seal for the Institute; and

(12) such other actions as may be necessary and incident to carrying out functions of the Institute.

Background. The general authorities are necessary powers which enable the President to carry out the functions of the Institute. Such grant of authorities to the President in this Title to carry out the work of the Institute is consistent with the grant of authorities to the President in the FAA and enables the President to exercise such authorities directly through the Institute or through any agency or administrative arrangement he chooses.

The general authorities require little background information beyond the explanation contained in the purposes above. The personnel provision in (c) permits the establishment of a personnel system adapted to the needs of the Institute but subject to civil service laws and regulations, including the recently enacted Civil Service Reform Act of 1978. That Act contains provisions for a Senior Executive Service, and sets mandatory ceiling limits on the numbers of positions in that category as well as for scientific and professional personnel. The Institute would require the allocation of a certain number of positions in each category for its effective operation.

At the same time AID is preparing a new personnel system in response to Title IV of the International Development and Food Assistance Act of 1978. The President is also empowered pursuant to section 22(b) of this Act to use the authority contained in Title IV as well as authorities from the FAA of 1961 and the Foreign Service Act of 1946, to establish a personnel system adapted to the needs of the Institute, but patterned after that designed for AID to the extent desirable.

The establishment of offices of the Institute abroad would be subject to the concurrence of the Secretary of State, if this authority is delegated to the Director or other officers of the U.S. Government.

Section 23(d) is necessary to permit the Institute to utilize fully the services of foreign nationals in planning and reviewing the activities of the Institute. The involvement of foreign nationals, particularly those from developing countries, is a unique and crucial element in the operational style of the Institute.

Director of the Institute

Section 24. Purpose. Section 24(a) establishes the office of Director of the Institute, who shall be the chief executive officer of the Institute. He shall be appointed by the President by and with the advice and consent of the Senate, and receive compensation at the rate provided for Level III of the Executive Schedule.

Section 24(b) enables the President to exercise the authorities of this Title through the Director or any other agency or officer.

Background. This section establishes the Director as the chief executive officer of the Institute. Section 24(b) enables the President to exercise the authorities of this Title through the Director or any other agency or officer, consistent with whatever organizational structure for U.S. foreign assistance programs is established. Depending on the organizational structure established, the Director may report directly to the President or indirectly to him through his designee, as may be provided for in anticipated reorganization of the foreign assistance agencies and programs.

Deputy Director and Other Statutory Officers

Section 25. Purpose. This section establishes the position of Deputy Director of the Institute to be appointed by the President by and with the advice and consent of the Senate. He shall perform such duties and exercise such powers as the Director may determine, and receive compensation at the rate provided for Level IV of the Executive Schedule. The section also provides for up to two additional officers appointed by the President to be compensated at the rate provided for Level V of the Executive Schedule.

Background. This section establishes the positions of Deputy Director and up to two additional officers for the Institute.

Council on International Technological Cooperation

Section 26. Purpose. This section authorizes the President to establish a Council on International Technological Cooperation to advise the Director. The Council has three specific duties:

(1) to advise on policies, programs, and procedures of the Institute;

(2) to make recommendations on the use of resources available to the Institute (such as appropriated funds, gifts and donated services, and the scientific and technical resources at the disposal of the Institute);

(3) to advise on the overseas activities of the Institute, and the appropriate relationships with the private sector.

Section 26(c) provides that the Council shall consist of up to 25 members selected by the President, one of whom shall be designated chairman by the President. Up to one-third of the membership of the Council may be non-citizens of the U.S. Up to five officials of the U.S. Government may be designated members of the Council, one of whom shall be the Secretary of State or his designee.

Section 26(d) enables the non-official members of the Council to be compensated for their services at rates no higher than the highest daily rate for an employee under the Civil Service system and to be reimbursed for their travel and per diem expenses. Compensation of members of the Council does not make them officers or employees of the U.S. Government for any purpose, including the requirements of taking an oath of allegiance to the United States (Section 3331 of Title 5 of the U.S. Code), an unwarranted and unnecessary burden on the foreign members of the Council. However, members of the Council who are United States citizens are subject to the conflict of interest provisions of Title 18 of the U.S. Code as they apply to Government employees.

Background. The Council may be established in order to provide a strong and informed body to advise the Director on the work of the Institute. Members are to be selected from among citizens of the United States and citizens of other countries whose knowledge enables them to provide advice and guidance to the Institute on the application of science and technology to development problems. Members ought to be selected so as to provide a breadth of views and representation from United States and foreign universities and research institutions, private and voluntary organizations, business, and other organizations concerned with development.

The President shall designate one of the members to be Chairman. Meetings should be held with sufficient frequency to keep the members fully informed of the activities of the Institute. The terms of the members may be set by the President, but they should be staggered to permit continuity of advice.

The Council should set its manner of conducting business, subject to the Federal Advisory Committee Act.

The specified duties of the Council are not intended to limit the activities of the Council, but to define its particular areas of responsibility. It is the intent of the legislation that the Director shall actively seek the advice of the Council and keep the members fully and currently informed regarding the policies and activities of the Institute so that they may discharge their responsibilites properly.

The involvement of non-citizen members of the Council, especially those from developing countries, is an especially important feature designed to secure diverse opinions and to ensure that the Institute remains relevant to developing country needs. Their participation makes it inappropriate to apply such provisions of law as an oath of allegiance to the U.S. required of U.S. officers and employees.

Institute Fellowship

Section 27. Purpose. Section 27 establishes a program of Institute Fellowships. Up to twenty fellowships may be awarded annually for periods up to two years, with the possibility of renewal for an additional period of two years. Thus, the number of fellowships at any one time would not exceed forty. The awards are to be made to individuals who have demonstrated exceptional competence and ability in their fields of endeavor. During the period of their tenure as Fellows they are to undertake activities that will further the work of the Institute, whether in the U.S. or abroad, as the President may determine. In some circumstances, Institute Fellows would be engaged in research on critical development problems. Up to ten of the awards in any one year may be made to foreign nationals in order to utilize exceptional talent worldwide.

Section 27(c) sets a ceiling on the amount of the awards at a level no higher than the highest rate for an employee under the Civil

Service system. In addition, Fellows may be provided transportation, housing, subsistence (or per diem in lieu thereof), and health care or insurance where appropriate, in the United States or abroad, when engaged in Institute activities.

Section 27(d) provides that Institute Fellows shall not be deemed employees or otherwise in the service or employment of the United States Government. The exceptions would provide coverage by workmen's compensation and the Federal Tort Claims Act. In the case of United States citizens Institute Fellows would be considered Government employees insofar as they are subject to the conflict of interest provisions of Title 18 of the U.S. Code.

Section 27(e) provides authority for non-citizens, including Institute Fellows, engaged in Institute activities to obtain non-immigrant visas to the U.S. under section 101(a)(15) of the Immigration and Nationality Act. This provision is similar to section 635(f) of the FAA and section 9 of the Peace Corps Act.

Background. Institute Fellowships are a principal means of mobilizing scientific talent in the cause of development. Fellows may be utilized in activities that will further the purposes of the Institute. The fellowships, similar to those provided by the National Institutes of Health, provide a means for bringing into the Institute scientists and technical professionals, both senior and junior, whose careers are with universities, the private sector, or in governments overseas, but who are prepared to spend two to four years devoting their skills to the problems of development. They will provide the Institute non-career expertise, and help encourage scientists to work on development problems during their careers. The inclusion of scientists from developing countries adds relevance to the Institute's focus and will help establish a cooperative network of scientists and technical specialists working on common problems in developing countries. Up to ten of the fellowships awarded in any one year may be to foreign nationals. The amount of the awards shall be set by the President, but the amount may not exceed the highest salary for an employee under the Civil Service system. While Institute Fellows are not considered Government employees or officials, it is the intent of the legislation that Fellows will participate fully in programs and activities of the Institute.

Conflict of Interest

Section 28. Purpose. Section 28 provides standards of ethical conduct which shall apply to members of the Council and Institute Fellows. These are similar to those governing employees and special government employees provided for in Executive Order No. 11222 of May 8, 1965. U.S. citizens who are Council members or Institute Fellows, and regular employees of the Institute would also be governed by applicable provisions of the U.S. Code.

Background. A special conflict of interest provision is necessary to cover members of the Council and Institute Fellows who are declared by statute not to be employees or otherwise in the service or employment of the United States Government. The provision is intended to require standards of conduct of the same quality of integrity required of United States Government employees. U.S. citizen Fellows and members of the Council who are U.S. citizens are also covered by the statutory provisions in Title 18 of the U.S. Code which relate to conflict of interest for Government employees.

Appropriations

Section 29. Purpose. Section 29 authorizes appropriations of $25 million for FY 1980 and $40 million for FY 1981, in addition to funds that may be otherwise available from other legislation. Funds appropriated are authorized to remain available until expended.

Background. This section provides a two-year authorization for the Institute, and authorizes funds appropriated to remain available until expended.

Annual Report

Section 30. Purpose. Section 30 requires the Institute to produce an annual report on its operations for Congress.

Background. This section provides for the usual report by a Federal Government entity to Congress on its activities. This enables the Congress to exercise its oversight functions with respect to the Institute.

Miscellaneous Provision

Section 31. These provisions add the four Presidentially-appointed positions authorized in sections 24 and 25 of this Act to the relevant sections of Title 5 of the U.S. Code, and enable these four positions to be added to the number promulgated under section 5311(b)(1) of Title 5 of the U.S. Code.

DEPARTMENT OF STATE,
Washington, February 24, 1979.

Hon. WALTER F. MONDALE,
President of the Senate.

DEAR MR. PRESIDENT: Enclosed herewith is the proposed International Development Assistance Act of 1979, an Act to authorize appropriations for foreign assistance development programs for the fiscal years 1980 and 1981, the establishment of an Institute for Technological Cooperation, and for other purposes. The bill contains authorization for appropriations for development assistance activities only. The fiscal year 1980 authorization levels requested are those set in the President's fiscal year 1980 budget. The fiscal year 1981 authorization levels are those approved by the Office of Management and Budget.

Title II of the bill authorizes the establishment of an Institute for Technological Cooperation under the foreing policy guidance of the Secretary of State. The bill contains authorization for appropriations for the Institute of $25 million for fiscal year 1980 and $40 million for fiscal year 1981. The proposed Institute is an important new initiative to strengthen the capacity of the United States Government to provide scientific and technological assistance to developing countries. The Institute will carry out programs of research, scientific exchange, and institutional strengthening in developing countries in close collaboration with other agencies engaged in related development activities. The Institute will be headed by a Director, who would receive advice from a council on international technological cooperation. A program of fellowships permits the Institute to select outstanding individuals to undertake scientific and research activities for limited periods of time in support of the Institute's goals. The new Institute will add a valuable new means of cooperating with other nations on technological matters for the benefit of developing countries and in our own national interest.

The enclosed bill also includes amendments of a technical nature intended to simplify and remove obsolete provisions of the Foreign Assistance Act of 1961, as amended. The principal substantive amendments included in Title I of the bill relating to development assistance are: a restatement of policy for energy programs emphasizing renewable energy technologies; an increase in the no-year authorization for the Sahel Development Program in Africa; and use of the authority provided in section 124 of the Foreign Assistance Act of 1961, as amended, for retroactive terms adjustment on amounts falling due on loans made under part I of that Act during fiscal years 1980 and 1981 from the least developed countries.

The Office of Management and Budget advises that there is no objection to the presentation of this proposal to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

WARREN CHRISTOPHER,
Acting Secretary.

By Mr. BENTSEN (for himself, Mr. JAVITS, Mr. DECONCINI, Mr. HAYAKAWA, and Mr. CHURCH):

S. 589. A bill to restore the deductibility of expenses for attending certain conventions in Mexico and Canada; to the Committee on Finance.

MEXICAN AND CANADIAN BUSINESS MEETINGS

Mr. BENTSEN. Mr. President, Senator JAVITS and I are introducing a measure today that is intended to remove a major irritant in our bilateral relations with Mexico and demonstrate our willingness to work with our North American neighbors to resolve problems of mutual concern.

Specifically, we are proposing to amend the tax code so as to remove certain restrictions on tax deductions for attending business meetings in Canada and Mexico. Under the terms of this legislation a convention, educational seminar, or similar meeting held in Mexico or Canada would be treated for tax purposes as if it were held in the United States or its possessions.

Mr. President, this country has traditionally focused its foreign policy attention on remote areas of potential conflict or strategic importance. In the process, we tend to overlook the fact that our relationship with our North American neighbors has a unique character and significance. We share common borders and a common destiny with both Mexico and Canada. Our futures are irrevocably intertwined.

Clearly, Mr. President this special relationship argues for special treatment whenever possible and consistent with our own best interests.

President Carter's visit to Mexico last month, together with the ongoing publicity concerning Mexico's vast energy resources, have helped focus public attention on the importance of U.S.-Mexican relations. As we move to establish a stronger, more enduring basis for our bilateral relations with Mexico, it will obviously be incumbent on both nations to seek out areas of cooperative endeavor and mutual advantage.

After accompanying President Carter on his trip to Mexico, and as a result of my experience in interparliamentary conferences with our Mexican counterparts, I can attest that the existing limitations and restrictions on foreign conventions are of deep concern to the Mexican Government. For further evidence of this concern, I refer my colleagues to Senator JAVITS' excellent report on the recent Quadripartite meeting which appears on page 3583 of the March 1 RECORD.

There can be no question, Mr. President, that foreign convention restrictions in the 1976 law have had a severe, adverse impact on Mexico's tourism industry. The number of people attending conventions in Mexico has been reduced by approximately one-half, a development that could cost Mexico as much as $80 million a year.

Tourism, which is both labor-intensive and an important foreign exchange earner, is vital to Mexico's economic well-being. And a prosperous, stable Mexico well disposed toward the United States is an increasingly important element in our foreign policy.

I submit, Mr. President, that removal of the foreign convention limitations, as they apply to Mexico and Canada, would have important symbolic and practical benefits for the future of our friendship with these nations. It would provide concrete evidence to Mexico in particular that the United States of America is prepared to help resolve the problems and develop the friendship inherent in our relationship.

Mr. President, the high unemployment rate and the underemployment rate in Mexico are of concern to us. Part of the unemployment has been exported to the United States. One of the ways we can help overcome it is by helping them promote labor-intensive industry within their own country. It is important to the future of Mexico as well as of the United States. The population of Mexico will double in 19 years. The fact that Mexico must be politically and economically stable is very important to this country.

I am delighted to join Senator JAVITS in this measure.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BENTSEN, I yield.

Mr. JAVITS. Mr. President, I express my great pleasure in joining Senator BENTSEN, whom I have joined in other matters, in sponsoring this legislation which is a direct outgrowth of his work on the U.S.-Mexico Quadripartite Commission. My report of the last meeting of that commission, which dealt with tourism, is the one to which the Senator referred. He realizes for both of us, in introducing this bill, the urgent requirements of Mexico to realize progress in its tourism industry.

A former President of Mexico, Miguel Aleman, who was elected in 1945, heads their public effort so far as tourism is concerned. He was at the meeting to which I just referred. Their minister of tourism and many other officials as well as business leaders attended the meeting in Manzanillo.

I associate myself completely with the reasons for this action and for the introduction of this bill as advanced by Senator BENTSEN. In view of his membership on the Committee on Finance, where he is one of the senior members, I am very hopeful that this particular provision may be wrapped into some appropriate bill at the earliest time. This is a way in which we can show Mexico that we mean what we say when we state our cooperation.

I also hope that, with the cooperation of Senator BENTSEN, we may go on in the Quadripartite Commission with other elements of the Mexican economy. The work of the U.S.-Mexican Quadripartite Commission, and this bill in particular, will reduce the pressure of undocumented aliens on the border through an expanded and more productive Mexican economy. I submit that is the single best way in which to deal with this very vexing problem.

Also, the President of the United States has spoken most glowingly of Senator BENTSEN'S role in the President's visit and talks with President Lopez Portillo. I congratulate Senator BENTSEN upon that role in the highest interests of our country.

Mr. BENTSEN. I thank the distinguished Senator from New York.

Mr. DECONCINI. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the measure introduced by Senator BENTSEN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I thank both Senators for joining us in this effort.

● Mr. JAVITS. Mr. President, I join with Senator BENTSEN today in introducing legislation to amend our tax laws in order to remove what has unintentionally become a major obstacle to development of Mexico's tourism sector. As Senator BENTSEN has so ably described, our Tax Code's restriction on foreign convention business deductions needlessly obstructs Mexico's efforts to develop this vital sector of its economy. While this legislation would offer nondiscriminatory treatment for both Canada and Mexico and, in my judgment, would symbolize properly the neighborly relations among the North American nations that for so long have been neglected, its main result is likely to assist Mexico's economic development.

As I indicated in my report of March 1 to the Senate on my trip to Mexico, the recent success of the United States-Mexico Quadripartite Commission in tourism in establishing a meaningful dialog between United States and Mexican private sectors and in coordinating investment projects in developing sectors of the Mexican economy has not only been recognized by Mexican President Lopez Portillo but also by own own Government. This legislation would be a fine step in eliminating certain roadblocks to development.

The tourism is recognized as central to Mexico's development strategy as it is a prime generator of employment and foreign exchange. The United States-Mexico Quadripartite Commission has chosen to focus initially on this sector to target U.S. investment funds. Enactment of this legislation would help us meet that goal and demonstrate the Commission's effectiveness in eliminating in the United States official barriers that tend to inhibit Mexico's economic development and may stand in the way of improved United States-Mexico relations.

I want to express my gratitude to my dear friend and colleague from Texas for his efforts on behalf of this legislation and also for his long-standing support for the United States-Mexico Quadripartite Commission.●

By Mr. JAVITS (for himself, Mr. KENNEDY, Mr. WILLIAMS, Mr. RANDOLPH, Mr. STAFFORD, Mr. RIEGLE, and Mr. INOUYE):

S. 590. A bill to amend the Public Health Service Act to revise and strengthen the program under that act for the regulation of clinical laboratories; to the Committee on Labor and Human Resources.

CLINICAL LABORATORY IMPROVEMENT ACT OF 1979

● Mr. JAVITS. Mr. President, I introduce the Clinical Laboratory Improvement Act of 1979 (S. 590). The bill is cosponsored by six Senators: Senators KENNEDY, WILLIAMS, RANDOLPH, STAFFORD, RIEGLE, and INOUYE.

The bill is the successor to two previous Senate-passed bills, S. 1737 in the 94th Congress and S. 705 in the 95th Congress. S. 590, as did its predecessors, extends the existing program of licensure based on uniform standards of quality to all large laboratories, regardless of location or affiliation. The bill responds to the problems which compromise—both in economic and human terms—the quality and efficacy of medical laboratory testing, a key element in health care for all Americans.

Mr. President, there are deep problems in the quality of medical lab services:

When a patient dies, a child develops severe retardation, or when cancer in a patient goes undiagnosed, all because a laboratory test was incompetently conducted or read:

When key laboratory personnel—medical technologists—testify to the need for employee protection provisions in law so they can come forward freely to tell us in Congress the truth about the quality and accuracy of lab work, and any fraud and corruption in the medical laboratory business;

When a 1976 HEW survey of 200 medicare clinical laboratories revealed serious deficiencies in 74 percent of the labs inspected;

When proficiency test results administered by the Center for Disease Control reveal continuing failures by some laboratories correctly to identify any of the five test samples that make up the proficiency test;

When the Department of Health, Education, and Welfare testifies that an average between 8 percent and 25 percent of all laboratory tests are inaccurate, depending upon the procedure tested;

When an estimated two million medical laboratory results every day are in error, resulting in a higher rate of unnecessary hospitalization, unneeded surgery, inappropriate treatment, undiscovered disease, injury and even death.

Mr. President, there is in addition larceny in the laboratory and it must be stopped:

When, according to a U.S. Senate subcommittee, there is rampant fraud in clinical laboratories;

When, because "certain criminal elements are involved in the purchase of laboratories," there is a major fraud investigation in New York City by the U.S. attorney's office;

When the Government Accounting Office—GAO—the investigatory arm of Congress—reports that its examination in four States and the District of Columbia shows physician markups of 151 percent in their billing to medicare and medicaid for patient lab work done at independent lab services.

These are not isolated instances. The litany of shocking truths about clinical labs is documented in testimony on problems of medicaid fraud and abuse before the House Subcommittee on Oversight and Investigations; the Senate Subcommittee on Long-Term Care report on fraud and abuse among clinical laboratories; and the hearings before the Health Subcommittee of the Senate Labor and Human Resources Committee.

This is a problem which cries out for reform, and I believe the bill I introduce today, which is substantially similar to last year's Senate-passed bill, marks an historic milestone in a national commitment to provide quality laboratory testing and honest laboratory business administration.

These problems in clinical laboratory performance have been compounded by the bureaucratic problems attendant on Federal responsibility for assuring the quality of laboratory activities. There are three different agencies responsible for administering the clinical laboratory program—CDC, HCFA, and the FDA—and the record demonstrates that one agency often does not know what the other is doing. Attempts to define and coordinate these responsibilities through a series of proposed interagency agreements within HEW have not proven effective. Particularly with reference to the quality of laboratory work reimbursed through the medicare program, the Department has compiled a sad record of years of bureaucratic backbiting and infighting, indecisiveness, and inaction. I do not believe that an effective, coordinated program can be established within HEW absent the clear statutory mandate embodied in CLIA. In my judgment, this lack of administrative commitment and direction has hampered the effort to improve laboratory performance in the field.

In comparison with last year's bill, which passed the Senate by unanimous consent, this bill rationalizes and simplifies the existing patchwork of overlapping, confusing, and incomplete jurisdictional arrangements without creating a new Federal bureaucracy. Instead, the program is carefully integrated into the existing program of medicare certification that already applies to a majority of large laboratories and which is staffed and administered by State personnel in every State. States would be fully reimbursed for their enforcement expenses through the usual medicare agreements with the Secretary of Health, Education, and Welfare.

The important function of the Center for Disease Control is preserved through its responsibility to develop the national standards, to provide technical assistance, and to monitor the adequacy of State enforcement.

The key provisions of the bill:

First. Expand the existing licensure program now in place for interstate laboratories to cover large laboratories which perform services related to patient care.

Second. Establish national standards for licensure designed to assure accurate procedures and services, including standards relating to quality control, recordkeeping, proficiency testing, and personnel qualifications.

Third. Direct the Secretary to administer this program through the existing State medicare certification system for both medicare and nonmedicare laboratories within each State.

Fourth. Authorize the Secretary to take necessary actions to revoke or suspend licenses against laboratories which do not meet applicable standards.

Fifth. Require the Secretary to delay the application of personnel standards for 2 years to laboratories located within a rural area.

Sixth. Permit the Secretary to exempt laboratories in physicians' offices, or in group practices of five or fewer physicians, which perform only routine laboratory tests or which participate in a proficiency testing program.

Seventh. Exempt both research and insurance laboratories from national standards.

Eighth. Provide for criminal penalties for individuals who operate unlicensed laboratories or who engage in fraud, kickbacks, or bribes in connection with laboratory services.

Ninth. Provide for technical assistance to States medicare programs and to laboratory personnel; $10 million annually is authorized for purposes of such technical assistance.

Tenth. Require HEW to conduct studies of clinical laboratory quality assurance programs, and to report to the Congress with respect to results and recommendations.

Eleventh. Limit medicare reimbursement to physicians for laboratory services performed elsewhere to either an identified nominal collecting and handling fee, in addition to the lab's charge, or to the lowest locally available charge for the laboratory service performed.

Twelfth. Limit medicare reimbursement to hospital-associated pathologists to payments for only those services personally performed or directed by the pathologist. Disallows reimbursement based upon a percentage of the hospital's income or laboratory billings to the extent that it exceeds a reasonable salary or fee for the service actually performed plus costs.

The need for this legislation is great. Medical laboratory testing occupies an increasingly vital place in both diagnostic and preventive medicine. Nearly 5 billion tests are done annually at a cost of over $12 billion, or about 10 percent of our annual expenditures for medical care. I believe that every person is entitled to protection from inaccurate and unreliable results because of a failure of laboratories to observe basic quality standards and procedures. Every person is entitled to have professionally qualified personnel performing this vital work.

This bill's fundamental goal is medical laboratory improvement, upon which our public health depends. Yet until this bill is enacted into law, I believe that essential medical laboratory improvement to cover those which should be covered remains illusory.

Mr. President, I ask unanimous consent that the text of this bill and a summary be printed in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 590

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Clinical Laboratory Improvement Act of 1979".

FINDINGS

SEC. 2. The Congress finds that—

(1) clinical laboratory testing is a vital element of health care throughout the Nation;

(2) health care in this Nation will only be effective and of high quality if procedures utilized for testing by clinical laboratories assure accurate and reliable results;

(3) it is essential to the public interest that the health and welfare of consumers of health care be protected by requiring that all clinical laboratories comply with uniform standards to assure accurate and reliable testing by laboratories;

(4) testing in clinical laboratories which do not comply with such standards can be performed at less expense and thus such laboratories are able to compete unfairly with the clinical laboratories which do comply with such standards;

(5) requiring compliance with standards to assure accurate and reliable testing by clinical laboratories which operate in interstate commerce without provision for requiring compliance with such standards by other clinical laboratories will discriminate against and depress interstate commerce and adversely burden, obstruct, and affect such commerce; and

(6) all clinical laboratory testing is either in interstate commerce or substantially affects such commerce; and

(7) consequently, regulation by the Secretary in cooperation with the States as contemplated by the amendment made by this Act is appropriate to prevent and eliminate burdens upon interstate commerce, to effectively regulate interstate commerce, and to protect the health and welfare of consumers of health care.

AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT

SEC. 3. (a) Part H of title III of the Public Health Service Act is amended to read as follows:

"PART H—CLINICAL LABORATORIES

"DEFINITIONS

"SEC. 370. As used in this part—

"(1) The terms 'laboratory' and 'clinical laboratory' mean (A) a facility for the biological, microbiological, serological, chemical, immunohematological, radioimmunological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, humans, or (B) a facility for the collection, processing, and transmission of such materials for such purposes, other than a facility exclusively engaged in the collection or processing of human blood or its components intended for transfusion or further manufacturing.

"(2) The term 'interstate commerce means trade, traffic, commerce, transportation, transmission, or communication between any State, territory, or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, and any place outside thereof, or within the District of Columbia.

"LICENSES

"SEC. 371. (a) The Secretary shall establish and have in effect within 24 months after the date of enactment of this section a system for the licensure of all clinical laboratories subject to national standards in effect under section 372. A clinical laboratory subject to the national standards in effect under section 372 shall not perform any tests or provide any services 36 months after the date of enactment of this section unless such laboratory has in effect a valid license issued under this section. A license issued under such system for a clinical laboratory (1) shall specify the categories of tests and procedures which such laboratory may perform, and (2) shall be valid for such period as the Secretary may prescribe not in excess of 24 months. A clinical laboratory may, at the discretion of the Secretary, perform tests and provide services during the period its application for a license is pending.

"(b) The system established under subsection (a) shall require the following as a condition to the issuance or renewal of a license under the system:

"(1) the submission of an application in such form and manner as may be prescribed by the Secretary, and

"(2) a determination by the Secretary that the applicant meets the national standards in effect under section 372.

"(c)(1) If the Secretary finds, after reasonable notice and opportunity for a hearing, that—

"(A) a clinical laboratory licensed under this subsection is not in compliance with applicable national standards in effect under section 372, or

"(B) such laboratory has (i) failed to comply with reasonable requests of the Secretary for any information, specimens, or tests on specimens, as the Secretary deems necessary to determine the laboratory's continued eligibility for its license under this subsection or continued compliance with applicable national standards in effect under section 372, or (ii) refused a request of the Secretary or any officer, employee, or agent duly designated by him for permission to inspect or monitor the laboratory and its operations, specimens, and relevant records at any reasonable time,

the Secretary may revoke such laboratory's license for the remainder of its term or may limit or suspend such laboratory's license until such laboratory has demonstrated to the satisfaction of the Secretary that the laboratory is in compliance with such national standards or such requests will be complied with, as the case may be.

"(2) If the Secretary finds, after reasonable notice and opportunity for a hearing (in accordance with the procedures specified in section 1869 (c) of the Social Security Act), that a clinical laboratory licensed under this section—

"(A) has been guilty of misrepresentation in obtaining the license;

"(B) has engaged or attempted to engage in, or represented itself as entitled to perform, any laboratory test or procedure or category of tests or procedures not authorized by the license;

"(C) has engaged in a billing practice under which charges for laboratory services provided a patient, on whose behalf reimbursement (in whole or in part) for such charges is provided funds under any Federal program, are made at a higher rate than charges for comparable services provided a patient for whom such reimbursement is not made;

"(D) has offered, paid, solicited, or received any kickback, bribe, finder's fee, rebate, or other illegal remuneration but excluding any discount or other reduction in price and excluding any amount paid by an employer for employment in the provision of the services, directly or indirectly, overtly or covertly, in cash or in kind in connection with the provision of clinical laboratory services; or

"(E) has engaged in any false, fictitious, or fraudulent billing practice for the purposes of obtaining payment under any program the funds for which are provided in whole or in part by the United States,

the Secretary may revoke such license for the remainder of its term or may make the laboratory or any person determined by the Secretary to have made the misrepresentation described in subparagraph (A) or to have engaged in any activity described in subparagraphs (B), (C), (D), or (E) ineligible to apply for a license under this subsection for such period (not to exceed 24 months) as the Secretary may prescribe, or take both such actions. A billing practice which results in different charges for the same laboratory services solely because of differences in administrative costs related to receiving reimbursement for the provision of such services shall not be considered a billing practice described in subparagraph (C).

"(3) Any person who is convicted under section 375 or under section 1877 or 1909 of the Social Security Act after the date of enactment of the Clinical Laboratory Improvement Act of 1979 for a violation occurring after such date shall not be eligible to apply for a license under this subsection for a clinical laboratory during the 10-year period beginning on the date of such person's judgment of conviction. Where the person so convicted has a direct or indirect ownership or control interest of 5 percent or more in the laboratory involved in such violation, or is an officer, director, agent, or managing employee (as defined in section 1126(b) of the Social Security Act) of such laboratory, the Secretary may revoke the license of such laboratory.

"NATIONAL STANDARDS

"SEC. 372. (a) Within one year after the date of the enactment of the Clinical Laboratory Improvement Act of 1979, the Secretary shall publish proposed national standards for clinical laboratories. Within 180 days after such standards are proposed, the Secretary shall promulgate such standards with such modifications as the Secretary deems appropriate and such standards shall take effect upon their promulgation. Standards under this subsection may be amended by the Secretary.

"(b) National standards promulgated under subsection (a) for clinical laboratories, designed to assure consistent performance by clinical laboratories of accurate and reliable laboratory tests and other procedures and services, shall—

"(1) require clinical laboratories subject to the standards to maintain appropriate quality control programs,

"(2) require such laboratories to maintain such records, equipment, and facilities as may be necessary for the proper and effective operation of such laboratories,

"(3) require satisfactory performance by such laboratories based upon periodic proficiency tests developed in accordance with subsection (d) (3),

"(4) to the extent necessary to insure the accuracy and reliability of the performance of tests and services by such laboratories, prescribe qualifications for directors and supervisory personnel of, and laboratory technical personnel employed in, such laboratories which qualifications shall (A) not be limited solely to education requirements but shall include, where appropriate, training, experience, and examination requirements, (B) include requirements designed to insure the continued competence of laboratory personnel, and (C) take into account advances in the sciences and improvements in the technology utilized in laboratory testing which may require specialty personnel,

"(5) contain adequate provisions for inspecting laboratories and enforcing and monitoring the enforcement of standards, and

"(6) include such other requirements as the Secretary determines necessary to assure consistent performance by such laboratories of accurate and reliable tests and other procedures and services.

"(c) Standards prescribed under subsection (b) for clinical laboratories may vary on the basis of the type of tests, procedures, or services performed by such laboratories or the purposes for which such tests, procedures, or services are performed.

"(d) Within one year after the date of the enactment of the Clinical Laboratory Improvement Act of 1979, the Secretary, in consultation with appropriate professional organizations, shall—

"(1) develop job-related proficiency and practical examinations (including reasonable standards for determining successful completion of such examinations) as determined necessary by the Secretary for personnel in clinical laboratories which examinations reflect the nature of the work performed by such personnel,

"(2) develop mechanisms designed to assure the continued competence of such personnel, and

"(3) develop standards for the proficiency testing of clinical laboratories which standards—

"(A) shall require such tests to be administered at least annually to all laboratories subject to the national standards in effect under subsection (a);

"(B) shall require a system of on-site testing, including supervised unannounced on-site testing, of the proficiency of a laboratory in the examination of specimens; and

"(C) may require a system for the testing of a laboratory's proficiency in the examination of specimens under which system the laboratory is not informed that its proficiency is being tested (commonly referred to as 'blind proficiency testing').

"(e) The examinations developed under paragraph (1) of subsection (d) shall be required to be administered only during the 24-month period immediately following the initial administration of such examinations.

"(f) (1) National standards for clinical laboratories in effect under section 372 shall be administered and enforced by the Secretary and shall, except as provided in this subsection, apply to each clinical laboratory which is engaged in commerce.

"(2) During the two-year period beginning on the date that national standards for clinical laboratories first take effect under section 372 the provisions of such standards prescribing qualifications for laboratory personnel shall not apply to a clinical laboratory which—

"(A) the Secretary determines is located in a rural area (as defined by the Secretary) in which individuals with the qualifications prescribed by such provisions are not available,

"(B) performs services solely for hospitals and licensed physicians, dentists, or podiatrists (or any combination of such practitioners) located within such a rural area, and

"(C) provides the Secretary satisfactory assurances that it will take such actions as may be necessary to train individuals to meet such qualifications or to employ individuals with such qualifications.

"(3) (A) Upon such conditions as the Secretary may by regulation prescribe, the Secretary may exempt from the national standards for clinical laboratories any clinical laboratory—

"(i) which is located in the office of, and operated by, a licensed physician, dentist, or podiatrist, or a group of not more than five such practitioners, or in a rural health clinic, as defined in section 1861 (aa) (22) of the Social Security Act, and

"(ii) in which the only tests or procedures which are performed are routine tests or procedures (as determined by the Secretary) performed by such a practitioner or clinic in connection with the treatment of the patients of such practitioner (or practitioners) or clinic.

"(B) If the Secretary finds, after reasonable notice, that a laboratory granted an exemption under subparagraph (A) is not a laboratory which is described by clauses (i) and (ii) of subparagraph (A) or that such laboratory has engaged in misrepresentation in obtaining the exemption, the Secretary shall withdraw the exemption granted such laboratory.

"(C) The national standards for clinical laboratories may not apply to any clinical laboratory described in of subparagraph (A) (i) if the laboratory successfully participates in a proficiency-testing program approved by the Secretary and if the laboratory has submitted to the Secretary in accordance with this paragraph notice of its participation in such a program. The notice required by this paragraph shall be made in such form and manner as the Secretary shall prescribe. The Secretary may not approve a proficiency testing program for purposes of this paragraph unless the program operator has entered into an agreement with the Secretary to provide information to the Secretary respecting the results of the proficiency tests administered under such program.

"(D) The Secretary shall exempt, on such terms and conditions as may be appropriate, from the national standards for clinical laboratories any laboratory in which the tests or procedures which are performed are primarily tests or procedures for biomedical or behavioral research.

"(E) The Secretary shall exempt, on such terms and conditions as may be appropriate, from the national standards for clinical laboratories any laboratory in which the only tests or procedures performed are tests or procedures for persons engaged in the business or insurance solely for the purpose of determining whether to write an insurance contract or determining eligibility for payments under an insurance contract.

"(4) Any clinical laboratory in interstate commerce shall, during the period beginning on the date of the enactment of the Clinical Laboratory Improvement Act of 1979, and ending on the date such laboratory is required to have in effect a license issued under this section, comply with the licensing requirements in effect under section 353 prior to the date of enactment of the Clinical Laboratory Improvement Act of 1979.

"AGREEMENTS

"SEC. 373. (a) The Secretary may enter into agreements with qualified nonprofit private entities which, as determined by the Secretary, have adopted and implemented laboratory standards at least as stringent as those in effect under section 372, under which agreements such entities shall make such inspections as the Secretary may require to determine if clinical laboratories are in compliance with applicable standards, administer such proficiency tests as the Secretary may require for clinical laboratories, or administer such examinations of laboratory personnel as the Secretary may require.

"(b) Where a State agency or local agencies demonstrate that sufficient qualified personnel are available to them to permit the effective enforcement of this part, and in the case of any State which has an agreement with the Secretary under section 1864 of the Social Security Act with respect to clinical laboratories, the Secretary shall amend such agreement with respect to any such State which is able and willing to do so to provide that the State agency or local agencies which are utilized under such agreement with respect to clinical laboratories will be utilized for the purpose of determining whether clinical laboratories in such State meet the requirements for a license under section 371.

"FEDERAL CLINICAL LABORATORIES

"SEC. 374. (a) Federal clinical laboratories under the jurisdiction of the Secretary shall be subject to national standards in effect under section 372 and any other Federal clinical laboratory in a State shall be subject to such standards unless (1) the laboratory is under the jurisdiction of any of the Armed Forces of the United States or the Administrator of Veterans' Affairs, or (2) the agency which has jurisdiction over such laboratory has in effect standards for such laboratory which are no less stringent than the national standards in effect under section 372.

"(b) The Secretary shall bring the national standards in effect under section 372 to the attention of the Secretary of each military department and the Administrator of Veterans' Affairs so that such standards may be considered and applied, as appropriate, by such Secretaries and Administrator to clinical laboratories under that jurisdiction.

"PROHIBITED ACTS; REMEDIES

"SEC. 375. (a) Whoever—

"(1) knowingly and willfully solicits, or knowingly and willfully accepts, directly or indirectly, any specimen for a laboratory test or other laboratory procedure by a clinical laboratory which is required to have in effect a license issued under section 371 and which does not have such a license in effect or which is not authorized by its license to perform such test procedure shall be fined not more than $25,000 or imprisoned for more than 5 years, or both; or

"(2) (A) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for a license under this part;

"(B) having knowledge of the occurrence of any event affecting the initial or continued right to any such license, conceals or fails to disclose such event with an intent fraudulently to secure or hold such license when no license is authorized; or

"(c) having made application to receive a license for a specific use and having received it, knowingly and willfully converts such license to an unauthorized use,

shall—

"(i) in the case of such a statement, representation, concealment, failure, or conversion by any person in connection with the obtaining of a license, be guilty of a felony and upon conviction thereof fined not more than $25,000 or imprisoned for not more than 5 years or both, or

"(ii) in the case of such a statement, representation, concealment, failure, or conversion by any other person, be guilty of a misdemeanor and upon conviction thereof fined not more than $10,000 or imprisoned for not more than one year, or both.

"(b) (1) Whoever solicits or receives any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly, or covertly, in cash or in kind—

"(A) in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service described in this part; or

"(B) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or items described in this part.

shall be guilty of a felony and upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than 5 years, or both.

"(2) Whoever offers or pays any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person—

"(A) to refer an individual to a person for the furnishing or arranging for the furnishing of any item or service described in this part, or

"(B) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any good, facility, service, or item described in this part,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than 5 years, or both.

"(3) Paragraphs (1) and (2) shall not apply to—

"(A) a discount or other reduction in price obtained by a provider of services or other entity under this title if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under this part; and

"(B) any amount paid by an employer to an employee (who has a bona fide employment relationship with such employer) for employment in the provision of covered items or services.

"(c) Whenever the Secretary has reason to believe that continuation of any activity by a clinical laboratory required to be licensed under this section by the Secretary would constitute a substantial risk to the public health, he or she may bring suit in the United States district court for the district in which such laboratory is situated to enjoin continuation of such activity and, upon proper showing, a temporary injunction or restraining order against continuation of such activity pending issuance of a final order by the court shall be granted without bond.

"(d) (1) No employer may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation or the terms, conditions, or privileges of his employment solely because the employee (or any person acting pursuant to a request of the employee) has—

"(A) commenced or caused to be commenced, or is about to commence or cause to be commenced a proceeding under this part;

"(B) testified or is about to testify in any such proceeding; or

"(C) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this part. "(2) (A) Any employee who believes that he or she has been discharged or otherwise discriminated against by any person in violation of paragraph (1) may, within 60 days after such alleged violation occurs, file (or have any person file on the employee's behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination. Such 60-day period shall be tolled during the pendency of any grievance procedures or other efforts at conference, conciliation, or mediation. Upon receipt of such a complaint, the Secretary of Labor shall notify the person named in the complaint of the filing of the complaint.

"(B) (i) Upon receipt of a complaint filed under subparagraph (A), the Secretary of Labor shall conduct an investigation of the violation alleged in the complaint. Within 30 days of the receipt of such complaint, the Secretary of Labor shall complete such investigation and shall notify the complainant (and any person acting with the authority of the complainant) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within 90 days of the receipt of such complaint the Secretary of Labor shall, unless the proceeding on the complaint is terminated by the Secretary of Labor on the basis of a settlement entered into by the Secretary of Labor and the person alleged to have committed such violation, issue an order either providing the relief prescribed by clause (ii) or dismissing the complaint. An order of the Secretary of Labor providing for the relief prescribed by clause (ii) shall be made on the record after notice and opportunity for agency hearing. The Solicitor of Labor shall, with the consent of the employee, represent such employee at any such hearing.

"(ii) If in response to a complaint filed under subparagraph (A) the Secretary of Labor determines that a violation of paragraph (1) has occurred, the Secretary of Labor shall order (I) the person who committed such violation to take affirmative action to abate the violation, (II) such person to reinstate the complainant to the complainant's former position together with the compensation (including back pay), terms, conditions, and privileges of the complainant's employment, (III) the award of compensatory damages, and (IV) where appropriate, the award of exemplary damages. If such an order is issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) reasonably incurred, as dedetermined by the Secretary of Labor, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(3)(A) Any employee or employer adversely affected or aggrieved by an order issued under paragraph (2) may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within 60 days from the issuance of the final order. Review shall conform to chapter 7 of title 5 of the United States Code.

"(B) An order of the Secretary of Labor, with respect to which review could have been obtained under subparagraph (A), shall not be subject to judicial review in any criminal or other civil proceeding.

"(4) Whenever a person has failed to comply with an order issued under paragraph (2)(B), the Secretary of Labor shall file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts of the United States shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory and exemplary damages.

"(5) Paragraph (1) shall not apply with respect to any employee who, acting without direction from his or her employer (or any agent of the employer), deliberately causes a violation of any requirement of this section.

"ADMINISTRATION

"SEC. 376. (a) The Secretary shall designate a Director of Clinical Laboratories who shall serve at the pleasure of the Secretary.

"(b) The Secretary, acting through the designated Director of Clinical Laboratories, shall have responsibility—

"(1) to establish a uniform regulatory policy for the administration of the functions authorized under this part and the laboratory certification and regulatory functions presently administered under this Act, the Federal Food, Drug, and Cosmetic Act, and titles XVIII and XIX of the Social Security Act,

"(2) to provide guidance with respect to the laboratory component of other health programs administered and enforced by the Secretary,

"(3) to improve laboratory methodology and utilization promotion and funding of grant and contract projects and studies, both solicited and unsolicited.

"TECHNICAL ASSISTANCE

"SEC. 377. (a) The Secretary shall provide technical assistance to States to assist in carrying out the requirements of this part. Such assistance shall include—

"(1) training of State laboratory personnel (including the provision of instructional materials and equipment) where necessary to qualify such persons for the enforcement of this part;

"(2) monitoring of the adequacy of State enforcement of this part through a program of follow-up Federal inspections and testing of laboratories inspected and tested by State personnel or by organizations designated by the Secretary to inspect and test laboratories under this part.

"(b) The Secretary shall provide for technical assistance to laboratories. Such assistance shall include a program of technical consultations and technical training for employees of laboratories which have deficiencies documented through evaluation programs such as proficiency tests.

"(c) The Secretary is authorized to make grants to and enter into contracts with public and nonprofit private entities for projects and studies respecting clinical laboratory methodology and utilization. No grant may be made or contract entered into under this subsection unless an application therefor has been submitted to and approved by the Secretary. Such application shall be submitted in such form and contain such information as the Secretary may reasonably require.

"(d) There are authorized to be appropriated for the purposes of this section $10,000,000 for the fiscal year ending September 30, 1981, $10,000,000 for the fiscal year ending September 30, 1982, and $10,000,000 for the fiscal year ending September 30, 1983.

"ANNUAL REPORT

"SEC. 378. Not later than January 1, 1981, and January 1 of each succeeding year the Secretary shall make a report to the Congress (1) respecting the accuracy and reliability of tests and procedures performed by clinical laboratories during the preceding fiscal year, and (2) evaluating the effect of the costs and pricing of clinical laboratory tests and procedures on the overall cost of health care services and the relation of the costs of such tests and procedures to the costs of the health care services for which the tests and procedures are conducted.

"STUDIES RESPECTING REQUIREMENNTS FOR LABORATORIES AND LABORATORY PERSONNEL

"SEC. 379. (a) The Secretary, in cooperation with appropriate public and private entities, shall conduct studies of (1) existing voluntary certification standards and State licensure laws for clinical laboratory supervisors, technologists, and technicians, (2) qualifications of entities that certify such personnel as qualified to perform laboratory procedures in clinical laboratories licensed under section 353 of the Public Health Service Act, (3) existing and proposed public and private mechanisms to determine the continued competence of such personnel, (4) existing laboratory proficiency testing methods used to evaluate the performance of clinical laboratories, and (5) the relationship of requirements for such personnel and of clinical laboratory proficiency testing requirements with clinical laboratory performance.

"(b) The studies required by subsection (a) shall include—

"(1) an assessment of the need for certification of such personnel pursuant to national standards and for assurance of their continued competence;

"(2) development of national standards which the Secretary determines should be used as guidelines for entities which certify such laboratory personnel with consideration of the need for increased geographic and career mobility of such personnel;

"(3) a determination of the numbers of technical laboratory personnel who would meet standards developed by the Secretary under paragraph (2) and a projection of the numbers of such personnel in the calendar years 1982, 1986, and 1990;

"(4) an analysis and evaluation of the effect on the costs of laboratory tests and procedures and quality of such tests and procedures of a requirement that a laboratory may not be licensed under this part unless its personnel meet standards developed by the Secretary under paragraph (2);

"(5) an analysis and evaluation of the problems encountered by rural clinical laboratories in recruiting qualified personnel; and

"(6) an analysis and evaluation of the performance of the laboratories located in the office of a practitioner and the advisability of continuing in effect the exemption procedure authorized under section 372(d)(3)(A).

"(c) Within three years of the date of the enactment of this Act the Secretary shall submit to the Congress the results of the studies conducted pursuant to subsection (a) and recommendations for legislation which the Secretary considers necessary.

"REIMBURSEMENT BY SECRETARY

"SEC. 379A. (a) The Secretary shall reimburse to the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund any amount expended from such funds under the provisions of section 371 or under an agreement entered into under section 1864 of the Social Security Act, which has expended with respect to a clinical laboratory which does not participate in the program of health insurance for the aged and disabled under title XVIII of the Social Security Act.".

(b) Subpart 2 of part F of title III of the Public Health Service Act is repealed.

REPORT ON EXEMPTIONS

SEC. 4. The Secretary of Health, Education, and Welfare shall report to the Congress with respect to such laboratories as may be exempt from the requirements of standards established pursuant to section 372 during the three-year period beginning on the date national standards take effect under section 372 and, on the basis of such report, make recommendations (1) as to whether clinical laboratories granted exemptions under section 372 should be required, as a condition to their exemption, to have laboratory procedure manuals, participate in laboratory proficiency testing programs, and maintain quality control programs prescribed under such standards, and (2) as to whether such section 372 should otherwise be revised. Such report shall be submitted within 3 months of the expiration of such period.

AMENDMENTS RELATING TO CERTIFICATION OF CLINICAL LABORATORIES

SEC. 5. (a) (1) The second sentence of section 1861(s) of the Social Security Act is amended to read as follows: "No diagnostic test performed in any laboratory shall be included in paragraph (3) unless such laboratory is licensed under section 371 of the Public Health Service Act, or if the licensing requirements under that section are not applicable, meets such conditions relating to the health and safety of individuals with respect to whom such tests are performed as the Secretary may find necessary.".

(2) Paragraphs (12) and (13) of section 1861(s) of such Act are redesignated as paragraphs (10) and (11), respectively.

(3) The first sentence of section 1864(a) of such Act is amended by striking out "the requirements of paragraphs (10) and (11) of section 1861(s)" and inserting in lieu thereof "the requirements of section 1861(e) (9), section 1861(j) (15), or the second sentence of section 1861(s)".

(b) (1) Section 1861(e) of such Act is amended—

(A) by striking out "and" after the semicolon at the end of paragraph (8);

(B) by redesignating paragraph (9) as paragraph (10); and

(C) by inserting after paragraph (8) the following new paragraph:

"(9) is licensed under section 371 of the Public Health Service Act with respect to any laboratory (as defined in section 370 of such Act) which is a part of the institution; and".

(2) Section 1861(j) (15) of such Act is amended by inserting after "physical facilities thereof" the following: "(including a license under section 371 of the Public Health Service Act with respect to any laboratory (as defined in section 370 of such Act) which is a part of the institution)".

(3) (A) Subparagraphs (C) and (D) of section 1814(a) (2) of such Act are each amended by striking out "and (9)" and inserting in lieu thereof "and (10)".

(B) Section 1861(f) (2) of such Act is amended by striking out "(3) through (9)" and inserting in lieu thereof "(3) through (10)".

(C) Section 1861(g) (2) of such Act is amended by striking out "(3) through (9)" and inserting in lieu thereof "(3) through (10)".

(4) (A) Section 1865(a) (3) of the Social Security Act is amended by striking out "paragraph (6) thereof" and inserting in lieu thereof "paragraphs (6) and (9) thereof".

(B) Section 1865(a) (4) of such Act is amended by striking out "paragraph (9) thereof" and inserting in lieu thereof "paragraph (10) thereof".

(C) The third sentence of section 1865(a) of such Act is amended by inserting "(other than those in subsections (e) (9) or (j) (15) thereof)" after "section 1861 (e), (j), or (o),".

(c) Section 1866(e) of such Act is amended by inserting ", independent clinical laboratory," after "rehabilitation agency".

(d) The amendments made by this section shall become effective three years after the date of the enactment of this Act.

PAYMENT TO PHYSICIANS WITH RESPECT TO LABORATORY TESTS

SEC. 6. (a) Section 1842 of the Social Security Act is amended by inserting at the end the following new subsection:

"(h) If a physician's bill or request for payment for a physician's services includes a charge to a patient for a laboratory test for which payment may be made under this part, the amount payable with respect to the test shall be determined as follows:

"(1) If the bill or request for payment indicates that the physician who submitted the bill or for whose services the request for payment was made personally performed or supervised the performance of the test or that another physician with whom that physician shares his practice personally performed or supervised the test, the payment shall be based on the reasonable charge for the test (less the applicable deductible and coinsurance amounts).

"(2) If the bill or request for payment indicates that the test was performed by a laboratory, identifies the laboratory, and indicates the amount the laboratory charged the physician who submitted the bill or for whose services the request for payment was made, payment for the test shall be based on the lower of—

"(A) the laboratory's reasonable charge to individuals enrolled under this part for the test, or

"(B) the amount the laboratory charged the physician for the test,

plus a nominal fee (where the physician bills for such a service) to cover the physician's costs in collecting and handling the sample on which the test was performed (less the applicable deductible and coinsurance amounts).

"(3) If the bill or request for payment indicates the test was performed by a laboratory and identifies the performing laboratory but does not include the amount charged by that laboratory, payment shall be the lowest charge at which the carrier determines the test could have been secured by a physician from a laboratory serving the locality based on available data including charge schedules of laboratory prices to physicians (less the applicable deductible and coinsurance amounts).

"(4) If the bill or request for payment (A) does not indicate who performed the test, or (B) indicates that the test was performed by a laboratory but does not identify the laboratory, payment may not be made under this part.".

(b) Section 1124(a) (1) of the Social Security Act is amended by inserting before the period at the end the following: ", and in the case of a disclosing entity which is an independent clinical laboratory, furnish such information and access to its records as the Secretary may require to determine whether and in what amounts the laboratory has charged a physician for laboratory services performed by the laboratory".

(c) The amendments made by this section shall apply to bills submitted and requests for payment made on or after such date (not later than July 1, 1979) as the Secretary of Health, Education, and Welfare prescribes by a notice published in the Federal Register.

HOSPITAL-ASSOCIATED PHYSICIANS

SEC. 7. (a) (1) Section 1861(q) of the Social Security Act is amended by adding "(1)" after "(q)" and by adding before the period at the end thereof the following: "; except that the term does not include any service that a physician may perform as an educator, an executive, or a researcher; or any professional patient care service unless the service (A) is personally performed by or personally directed by a physician for the benefit of the patient, and (B) is of such nature that its performance by a physician is appropriate.".

(2) Section 1861(q) is amended by adding the following paragraph at the end thereof:

"(2) Pathology services shall be considered 'physicians' services' to patients only where the physician personally performs acts or makes decisions with respect to a patient's diagnosis or treatment which require the exercise of medical judgment. These include operating room and clinical consultations, the required interpretation of the significance of any material or data derived from a human being, the aspiration or removal of marrow or other materials, and the administration of test materials or isotopes. Such professional services shall not include professional services such as the performance of autopsies, and services performed in carrying out responsibilities for supervision, quality control, and for various other aspects of a clinical laboratory's operations that may appropriately be performed by nonphysician personnel.".

(3) Section 1861(b) of such Act is amended—

(A) by striking out "or" at the end of paragraph (6),

(B) by striking out the period at the end of paragraph (7) and inserting "; or", and

(C) by adding at the end thereof the following paragraph:

"(8) a physician, if the services provided are not physicians' services (within the meaning of subsection (q))"."

(b) (1) Section 1861(s) of the Social Security Act is amended by adding at the end thereof: "The term 'medical and other health services' shall not include services described in paragraphs (2) (A) and (3) if furnished to inpatients of a provider of services unless the Secretary finds that, because of the size of the hospital and the part-time nature of the services or for some other reason acceptable to him, it would be less efficient to have the services furnished by the hospital (or by others under arrangement with them made by the hospital) than to have them furnished by another party.".

(2) Section 1842(b) (3) of such act is amended by adding at the end thereof the following: "The charge for a physician's or other person's services and items which are related to the income or receipts of a hospital or hospital subdivision shall not be considered in determining his customary charge to the extent that the charge exceeds an amount equal to the salary which would reasonably have been paid for the service (together with any additional costs that would have been incurred by the hospital) to the physician performing it if it had been performed in an employment relationship with the hospital plus the cost of other expenses (including a reasonable allowance for traveltime and other reasonable types of expense related to any differences in acceptable methods of organization for the provision of services) incurred by the physician, as the Secretary may determine to be appropriate.".

(c) Section 1861(v) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(8) (A) Where services are furnished by a physician under an arrangement (including an arrangement under which the physician performing the services is compensated on a basis related to the amount of the income or receipts of the hospital or any department or other subdivision) with a hospital or medical school, the amount included in any payment to the hospital under this title as the reasonable cost of the services (as furnished under the arrangement) shall not exceed an amount equal to the salary which would reasonably have been paid for the services (together with any additional costs that would have been incurred by the hospital) to the physician performing them if they had been performed in an employment relationship with the hospital (rather than under such arrangement) plus the cost of other expenses (including a reasonable allowance for traveltime and other reasonable types of expense related to any differences in acceptable methods of organization for the provision of the services) incurred by the physician, as the Secretary may determine to be appropriate.".

(d) (1) Section 1833(a) (1) (B) of the Social Security Act is amended by inserting "(except as provided in subsection (i))" immediately after "amounts paid shall".

(2) Section 1833(b) (2) of such act is amended by inserting "(except as otherwise provided in subsection (i))" immediately after "amount paid shall".

(3) Section 1833 of such act is amended by redesignating the second subsection (g) as subsection (h) and by adding at the end thereof the following:

"(i) The provisions of subsection (a) (1) (B) and clause (2) of the first sentence of subsection (b) shall not apply to any physician unless he has entered into an agreement with the Secretary under which he agrees to be compensated for all such services on the basis of an assignment the terms of which are described in section 1842(b) (3) (B) (ii).".

(e) The amendments made by this section shall, except those made by subsection (d), apply to services furnished in accounting periods of the hospital which begin after the month following the month of enactment of this act. The amendment made by subsection (d) shall become effective on July 1, 1979.

SUMMARY OF S. 590

THE "CLINICAL LABORATORY IMPROVEMENT ACT OF 1979"

The Clinical Laboratory Improvement Act of 1979 would amend Part H of Title III of the Public Health Service Act to revise and improve the authorities under the Act for the regulation of clinical laboratories. Briefly, it would do the following:

1. Proposed new section 371 of the Public Health Service Act. It would require the Secretary to establish a system of licensure of all clinical laboratories engaged in commerce and sets forth the circumstances under which such a license could be suspended or revoked.

2. Proposed new section 372 of the Public Health Service Act. It would require the Secretary of Health Education, and Welfare to establish national standards for clinical laboratories designed to assure accurate procedures and Services. These standards would

(a) require laboratories to maintain quality control standards;

(b) require laboratories to maintain records, equipment, and facilities as necessary for effective operation;

(c) include requirements for periodic proficiency testing of laboratories;

(d) prescribe qualifications for directors and supervisors of, and technical personnel employed in, laboratories.

(e) vary for specialty laboratories on the basis of the type of laboratory services performed or the purposes for which such services are performed.

Section 372 would require all clinical laboratories to comply with the national standards with the following exceptions:

(a) The application of requirements for qualifications of supervisory and technical personnel would be delayed for two years from their effective date with respect to a clinical laboratory located within a rural area in which supervisory and technical personnel with the prescribed qualifications are not available, and which performs services only for hospitals and health professionals located within the rural areas, and which provides assurances that it will take action to train or employ individuals who will meet the qualifications.

(b) National Standards would not apply to clinical laboratories located in the offices of, and operated by, physicians, dentists, or podiatrists, or a group of five or fewer practitioners, in which the only tests or procedures which are performed are routine tests or procedures performed by such practitioners in connection with the treatment of their patients.

(c) National standards would not apply to clinical laboratories performing more than routine tests or procedures which are located in the offices of, and operated by, physicians, dentists, podiatrists, or a group of five or fewer practitioners, if the laboratory successfully participates in an approved proficiency testing program.

(d) The Secretary would be required to exempt from national standards laboratories in which the only tests or procedures which are performed are primarily tests or procedures for biomedical or behavioral research.

(e) National standards would not apply to a clinical laboratory in which the only tests or procedures are services for persons engaged in the business of insurance to assist in determining whether to write an insurance contract or determine eligibility for payment under an insurance contract.

3. Proposed new section 373 of the Public-Health Service Act. It would require the Secretary to enter into agreement with qualified private nonprofit organizations to administer tests and make inspections, and directs the Secretary to enter into agreements with states to administer the clinical laboratory program under the Medicare program.

4. Proposed new section 374 of the Public Health Service Act. Federal clinical standards would be subject to national standards unless (i) they are under the jurisdiction of the Armed Forces or the Veterans Administration or (ii) the agency with jurisdiction over the laboratory has in effect standards no less stringent than national standards.

5. Proposed new section 375 of the Public Health Service Act. Subsection (a) would provide that individuals who solicit or accept a specimen for a laboratory which does not have a license shall be fined not more than $25,000 or imprisoned for not more than five years, or both. It would impose similar penalties for fraud, kickbacks, or bribes in connection with the provision of laboratory services.

Subsection (b) would permit the Secretary to sue for a temporary injunction to halt laboratory activities which are found to constitute a substantial risk to the public health.

Subsection (c) would prohibit an employer from discharging or otherwise discriminating against an employee because the employee commenced, or testified in, a federal or state proceeding relating to violations of the legislation, and would require the Secretary of Labor to investigate the charges of discrimination and authorize him to order reinstatement and damages in appropriate instances.

6. Proposed new section 376 of the Public Health Service Act. It would direct the Secretary to designate a Director of Clinical Laboratories, through whom the Secretary would be responsible for establishing uniform regulatory policy with respect to clinical laboratories, and for guiding the Department's efforts to improve laboratory performance.

7. Proposed new section 377 of the Public Health Service Act. It would direct the Secretary to provide technical assistance (a) to the states' Medicare programs to assist their laboratory enforcement capability; and (b) to laboratory personnel where deficiencies have been found. The Secretary is authorized to make grants for projects and studies on laboratory methodology and utilization. $10,000,000 is authorized for the purposes of technical assistance.

8. Proposed new section 378 of the Public Health Service Act. It would require the Secretary to report to the Congress annually with respect to the accuracy and costs of laboratory tests and procedures during the previous fiscal year.

9. Proposed new section 379 of the Public Service Act. It would require the Secretary to conduct studies of certification standards and state licensure laws for laboratory personnel; qualifications of certifying bodies; mechanisms to determine continued competency of laboratory personnel; proficiency testing methods used to evaluate the performance of clinical laboratories; and the relationship of personnel requirements and of clinical laboratory testing requirements with clinical laboratory performance. Results of the studies and recommendations for legislation are to be submitted to Congress within three years from the date of enactment.

10. Section 379 A. Reimbursement by Secretary.

Subsection (a) would provide for reimbursement to the Medicare trust funds any amounts expended from such funds with respect to the licensing of non-Medicare laboratories.

Subsection (b) would repeal the Clinical Laboratory Improvement Act of 1967.

11. The bill would also require the Secretary to report and make recommendations to the Congress within three years as to whether any laboratories exempt under section 372 from national standards should be subject to further requirements or whether section 372 should be otherwise revised.

AMENDMENTS TO TITLE XVIII (MEDICARE) OF THE SOCIAL SECURITY ACT

1. Section 5 of the bill requires all clinical laboratories to be licensed under the Clinical Laboratory Improvement Act as a condition for Medicare certification. This section also makes conforming changes to ensure that payment for laboratory services under Medicare will not be made unless the laboratory meets applicable state and federal requirements.

2. Section 6 of the bill, in an effort to discourage unwarranted markups of bills for laboratory services and to encourage direct billing by physicians, would provide that payments to physicians under the Medicare program be determined as follows:

(a) If the physician's bill indicates that the physician or another physician with whom the physician shares his practice personally performed or supervised such services, the payment shall be the reasonable charge of a physician for such services.

(b) If the bill indicates that the services were performed by a laboratory and specifies the amount the laboratory billed the physician who submitted the bill, payment shall be the lower of (a) the reasonable charge of the laboratory for such services, or (b) the amount billed by the laboratory plus a nominal fee to cover the physician's costs in collecting and handling the sample.

(c) If the bill does not indicate who performed the services or indicates the services were performed by a laboratory which is not identified, payment shall be at the charge estimated to be the lowest charge at which services could have been secured by a physician from a laboratory in the applicable locality.

3. Section 7 of the bill would limit Medicare reimbursement to hospital-associated pathologists to payments for only those services that are personally performed or personally directed by the pathologist. Charges for reimbursements which are based upon percentages of the hospital's income or receipts would be disallowed to the extent that they exceed a reasonable salary or fee paid for the service actually performed plus costs.●

By Mr. DOLE (for himself, Mr. MOYNIHAN, Mr. BENTSEN, Mr. RIBICOFF, Mr. CRANSTON, Mr. DANFORTH, Mr. SCHWEIKER, and Mr. JAVITS):

S. 591. A bill to amend title XVI of the Social Security Act with respect to presumptive disability, earned income in sheltered workshops, benefits for individuals who work despite a severe medical impairment, and the exclusion of certain work expenses in determining substantial gainful activity; to the Committee on Finance.

● Mr. DOLE. Mr. President, the Senator from Kansas is pleased to introduce a bill which amends title XVI of the Social Security Act to make various improvements in the supplemental security income program for handicapped persons. I am pleased to have as cosponsors the Senator from New York (Mr. MOYNIHAN), the Senator from Texas (Mr. BENTSEN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from California

(Mr. CRANSTON), the Senator from Missouri (Mr. DANFORTH), the Senator from Pennsylvania(Mr. SCHWEIKER), and the Senator from New York (Mr. JAVITS).

HISTORY

Last year, the Finance Committee studied the supplemental security income (SSI) program and its impact on severely handicapped persons. Weekly, I receive letters from disabled individuals who complain that the provisions of the SSI program impose strict work disincentives on those who wish to move off the unemployment rolls and into jobs. However, because SSI benefits are now cut off when a person's earnings reach $280 per month, many handicapped persons find it impossible to live independently on a small, starting income.

After studying various SSI provisions, it is obvious that the program is built on the misconception that handicapped persons do not and can not work. Mr. President, while at one time this might have been believed, we know now that it is simply not true.

Handicapped persons are making strides in their efforts to be recognized as individuals rather than as disability statistics. Society is beginning to realize that there are options to a life of confinement for handicapped individuals, and that with a little imagination and creative thought handicapped persons can lead active lives. Given forethought and effort, it is reasonable to expect that many—if not most—handicapped persons can find employment suitable to their skills.

CURRENT SITUATION

Presently, a handicapped person is considered disabled under SSI if he meets the definition of disability and if his earnings do not exceed the level of substantial gainful activity (SGA). By regulation, SGA is determined to be $240 currently, although I understand from the Social Security Administration that regulations will soon set the level at $280 per month. This means that severely disabled persons are allowed to earn up to $280 per month before losing SSI and medicaid. If persons hold jobs which pay less than this amount, their SSI benefits are decreased, but continue. Once earnings surpass the SGA level, the recipient is given a 9-month trial work period during which he continues to be eligible for benefits. After the 9 months, he loses all SSI and medicaid benefits.

I think at this point it would be helpful to point out that not all handicapped persons are subjected to this stringent requirements. The SGA test does not apply to blind workers, and instead, their benefits are phased out gradually up until the break-even point, the point where assistance payments fade out to zero. This occurs when the recipient earns $43 per month.

I appreciate the fact that Congress has recognized that it is difficult for the blind to hold low paying jobs and at the same time finance complete medical expenses. But, I suggest that it is equally difficult for many disabled persons to do this, and think that legislation should be enacted to make the program more fair for all handicapped persons.

THE DIFFICULTIES

It becomes apparent that it is quite difficult for most severely handicapped persons to locate a job and start a life on their own with earnings of $300 a month. Their situation is made particularly difficult because of the medical expenses they incur, in addition to other disability related expenses. In some situations, it becomes a losing proposition to hold a job. Needless to say, when expenses outweigh earnings, it is impossible for a person to retain his job.

I think it is time for us to recognize through legislation that handicapped persons should be encouraged to hold employment, even if they may need a little assistance to do so. Also, we need to recognize that some handicapped persons may not be able to work full time, but they could work part time and reduce their assistance payments somewhat. The legislation which I am introducing today addresses these and other problems, and if enacted, would make it easier for handicapped persons to move into full- or part-time work.

PRESUMPTIVE DISABILITY

The first provision in my bill allows for a person who was once disabled and receiving SSI to be considered presumptively disabled if he leaves the SSI rolls to seek employment and later finds it necessary to quit his job and go back on SSI. In that situation, a person would be considered presumptively disabled, and allowed to begin receiving benefits without first having to reestablish disability. This is a provision which was passed last year by the House of Representatives, and which was approved by the Senate Finance Committee. Unfortunately, because of the press of legislation at the end of the 95th Congress, we were not able to consider this bill.

Currently, there is an average waiting period of 67 days between application for SSI and its receipt by disabled individuals. For 10 percent of blind and disabled applicants, the waiting time is over 90 days. Many persons feel that the difficulty and delay in regaining SSI benefits deters individuals from attempting to become employed. Under this presumptive disability clause, applicants would still have to meet other requirements, which includes income and assets restrictions.

This bill contains a repayment provision whereby benefits could be repaid if received by persons later determined not to be disabled.

INCOME FROM SHELTERED WORKSHOPS

A second provision in this bill provides that earnings received in sheltered workshops and work activities centers shall be deemed as earned income rather than unearned. This, too, is a provision which the Finance Committee approved as an amendment to H.R. 7200, but which never came before the Senate for a vote.

Currently, income received by handicapped persons working in sheltered workshops is treated as unearned income. The law allows the first $20 of unearned income to be disregarded in determining eligibility and benefit levels. Unearned income above the $20 disregard reduces SSI benefits $1 for each $1 earned. Earned income, however, is disregarded up to $65. In other words, a person can earn $65 of earned income before his SSI benefits are reduced on a dollar for dollar basis.

The rationale for treating income from sheltered workshops as unearned is rather vague. Apparently in the past, it was felt that an employer/employee relationship did not exist in a sheltered workshop, particularly if it was also providing rehabilitation services. To my way of thinking, however, this is not a valid distinction. My association with sheltered workshops leads me to believe that an employer/employee relationship does indeed exist, and that earnings from them like earnings retreated as earned income. With this provision, the handicapped person would be able to earn $65 from work in sheltered workshops before his benefits are reduced. I think it is important that we recognize sheltered workshops as a legitimate work experience, and treat earnings from them like earnings received from any other job.

BENEFITS UP TO THE BREAK-EVEN POINT

A third provision of this bill would allow persons who are disabled on the basis of a medical disability to continue receiving cash benefits even after their earnings reach the level of substantial gainful activity. In other words, when a medically disabled person has earnings in excess of $280 a month, he shall continue to receive a cash supplement equal to the SSI payment which the blind now receive. The cash supplement will continue until earnings reach the break-even point ($443 per month).

Payments received under this provision would be treated as supplemental security income benefits for purposes of titles XIX and XX, so long as the recipient continues to meet the disability requirements and nondisability related requirements, except for earned income. As the individual's earnings increase, his cash benefit will decrease until the point his earnings reach $443 monthly, at which time cash benefits cease completely.

This provision is important for it allows handicapped persons to accept a job without running the risk that all public assistance will be cut off when his monthly earnings are still quite low. As I said before, it is unreasonable to expect that handicapped persons can jump from public assistance into a job which pays sufficiently to cover all medical and disability-related expenses, and make up for lost SSI. This provision would make that transition smoother.

From my conversations with handicapped persons, I have found that this is one of the most traumatic problems which they encounter. Because many find it insurmountable, they are never able to accept work and gradually move off the SSI rolls. In addition, this is a step which helps equalize benefits between disability groups, and gives more equal treatment to both the blind and the disabled.

CONTINUED MEDICAID ELIGIBILITY

Another aspect of this bill would allow the continuation of medicaid benefits to certain handicapped persons who meet or equal the medical listings, and whose earnings surpass the break-even point, resulting in the termination of their SSI benefits. Again, this provision is similar to one which the Finance Committee approved last year, but which never reached the full Senate for a vote.

The Secretary of HEW is given authority to continue medicaid to a medically disabled person who continues to meet the nondisability related requirements (except for his earnings) if termination of benefits under titles XIX and XX would make it extremely difficult, if not impossible, for that person to continue working.

In other words, this provision is geared toward the handicapped person who is able to work, but who continues to have high medical expenses which he cannot cover out of his income. I do not feel it is fair to keep a person from working simply because he has high medical expenses over which he has no control. In addition, if we can remove disincentives by continuing medicaid so that the person can enter the work force, we are helping this person to make a gradual transition from complete dependence on the Federal Government to a great deal of independence.

While the Secretary can continue medicaid as long as it could be shown the individual required that assistance to continue working, SSI payments would be discontinued. I think it is reasonable to believe that those persons with extremely high medical expenses would rarely, if ever, be able to work without some financial aid.

With this provision, we are helping to move persons into jobs in spite of high medical expenses. I think it is safe to say that without such a provision, these persons would never be able financially to seek employment, and would be forced to remain on welfare the entirety of their lives. This is not simple speculation, but a conclusion which I have drawn after talking with numerous handicapped individuals and after reading many letters from handicapped individuals who find themselves with no choice but to remain on welfare.

EXCLUSION OF ATTENDANT CARE

The final measure in this bill allows an individual who, because of his disability requires assistance in order to work, to disregard costs of attendant care, and certain medical devices and equipment in the determination of SGA. Again, this is a provision which the Finance Committee approved last year and which was also contained in a House-passed bill. When the disabled individual has to pay for attendant care services in order to work, it seems unreasonable for those payments to count as earnings under the definition of SGA. In many instances the cost of attendant care would consume more, if not all, of a person's starting salary. If he is then left with no other resources, it is financially impossible once again for him to hold employment.

COST

Because benefits of this bill are clearly targeted just to those individuals with severe handicaps, the Congressional Budget Office has estimated the bill to cost $5 million in fiscal year 1980, and $11 million in fiscal year 1981. I believe that this is a minor price to pay for the significant revisions made in the SSI program under this act, which would eliminate some of the biggest employment problems the handicapped now face.

CONCLUSION

Gradually, the public is beginning to realize that despite handicaps, disabled individuals have skills and services to offer in the work force. Unfortunately, our public assistance programs have not kept pace with the expanded opportunities offered to this population, and we continue to have strong work disincentives built in the law. The purpose of this bill is to remove the biggest of those work disincentives and to make it easier for handicapped persons to find and hold jobs.

The changes proposed were made after careful study of the issues and of action taken by the Finance Committee and the House of Representatives in the last Congress. As a result of my study, I believe this bill manages to relieve work disincentives for the severely disabled without having the resulting effect of increasing dependency on public assistance by those with less severe disabilities.

I am pleased with this bill, and with the support which it has received from my respected colleagues who are knowledgeable about these problems and sensitive to the needs of severely disabled individuals. I am encouraged by the support which the bill has received from advocacy groups for the handicapped, and hope that it will be enacted this year.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 591

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PRESUMPTIVE DISABILITY

Section 1. (a) Section 1614(a)(3) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(F) An individual applying for benefits under this title as a disabled individual (or as an eligible spouse on the basis of disability) shall be considered presumptively disabled if, within the five years preceding the date of the application, he was treated for purposes of this title or title II as a disabled individual but ceased to be so treated because of his performance of substantial gainful activity; but nothing in this subparagraph shall prevent his performance of such gainful activity from being taken into account in determining whether he is currently disabled in fact.".

(b) Section 1631(a)(4)(B) of such Act is amended by striking out "shall in no event be considered overpayments" and inserting in lieu thereof "shall not (except where such individual applied for such benefits on the basis of disability and was presumptively disabled solely by reason of section 1614(a)(3)(F)) be considered overpayments".

(c) The amendment made by this section shall apply with respect to applications filed on or after the first day of the month following the month in which this Act is enacted.

EARNED INCOME IN SHELTERED WORKSHOPS

Sec. 2. (a) Section 1612(a)(1) of the Social Security Act is amended—

(1) by striking out "and" after the semicolon at the end of subparagraph (A); and

(2) by adding after subparagraph (B) the following new subparagraph:

"(C) remuneration received for services performed in a sheltered workshop or work activities center; and".

(b) The amendments made by this section shall apply only with respect to remuneration received in months after the month in which this Act is enacted.

BENEFITS FOR INDIVIDUALS WHO PERFORM SUBSTANTIAL GAINFUL ACTIVITY DESPITE SEVERE MEDICAL IMPAIRMENT

Sec. 3. (a) Title XVI of the Social Security Act is amended by adding after section 1618 the following new section:

"BENEFITS FOR INDIVIDUALS WHO PERFORM SUBSTANTIAL GAINFUL ACTIVITY DESPITE SEVERE MEDICAL IMPAIRMENT

"Sec. 1619. (a) Any individual who is an eligible individual (or eligible spouse) by reason of being under a disability on the basis of medical severity of disability, and who ceases to be an eligible individual (or eligible spouse) because his earnings have demonstrated a capacity to engage in substantial gainful activity, shall nevertheless qualify for a monthly benefit equal to an amount determined under section 1611(b)(1) (or, in the case of an individual who has an eligible spouse, under section 1611(b)(2)), and for purposes of titles XIX and XX of this Act shall be considered a disabled individual receiving supplemental security income benefits under this title, for so long as the Secretary determines that—

"(1) such individual continues to be under a disability on the basis of medical severity of disability and continues to meet all nondisability-related requirements for eligibility for benefits under this title; and

"(2) the income of such individual, other than income excluded pursuant to section 1612(b), is not equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611(b) (if he were otherwise eligible for such payments).

"(b) Any individual who would qualify for a monthly benefit under subsection (a) except that his income exceeds the limit set forth in subsection (a)(2), for purposes of titles XIX and XX of this Act, shall be considered a disabled individual receiving supplemental security income benefits under this title for so long as the Secretary determines under regulations that—

"(1) such individual continues to be under a disability on the basis of medical severity of disability and, except for his earnings, continues to meet all nondisability-related requirements for eligibility for benefits under this title;

"(2) the income of such individual would not, except for his earnings, be equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611(b) (if he were otherwise eligible for such payments);

"(3) the termination of eligibility for benefits under titles XIX or XX would seriously inhibit his ability to continue his employment; and

"(4) such individual's earnings are not sufficient to allow him to provide for himself a reasonable equivalent of the benefits which would be available to him in the absence of such earnings under this title and title XIX and XX.

"(C) For purposes of this section, an individual shall be considered to be under a disability on the basis of medical severity of disability if his impairment is one described in the regulations of the Secretary as being of such severity (or is an impairment medically equivalent in severity to an impairment so described) as to permit a finding that he is under a disability, as defined in section 1614 (a) (3), without an evaluation of his vocational capacity in the light of his age, education, and work experience.".

(b) (1) Section 1616 (c) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) Any State (or political subdivision) making supplementary payments described in subsection (a) shall have the option of making such payments to individuals who receive benefits under this title under the provisions of section 1619.".

(2) Section 212 (a) of Public Law 93-66 is amended by adding at the end thereof the following new paragraph:

"(4) Any State having an agreement with the Secretary under paragraph (1) may, at its option, include individuals receiving benefits under section 1619 of the Social Security Act under the agreement as though they are aged, blind, or disabled individuals as specified in paragraph (2) (A).".

(c) The amendments made by this section shall become effective 60 days after the date of the enactment of this Act.

EXCLUSION OF CERTAIN WORK EXPENSES IN DETERMINING SUBSTANTIAL GAINFUL ACTIVITY

SEC. 4. (a) Section 1614 (a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(5) In applying the criteria prescribed pursuant to subparagraph (D) of paragraph (3), in the case of an individual whose disability results in a functional limitation requiring assistance in order for him to work, for purposes of determining whether such individual continues to be under a disability there shall be excluded from his earnings an amount equal to the cost (to such individual) of any attendant care services, medical devices, equipment, or prostheses, and similar items and services (not including routine drugs or other routine medical care and services) which are necessary in order for him to work, whether or not such assistance is also needed to enable him to carry out his normal daily functions. The Secretary shall, by regulation, determine those items and services to be excluded under this paragraph.".

(b) The amendment made by this section shall become effective 60 days after the date of the enactment of this Act.●

● Mr. MOYNIHAN. Mr. President, I am happy to join Senator Dole in sponsoring a bill to modify title XVI of the Social Security Act to lower the legal and financial barriers now faced by severely disabled SSI recipients who wish to return to work.

It is clear that present law contains strong disincentives to employment. This is an unintended consequence of a program intended to assist those who are unable to work. Certainly it is wrong to penalize a disabled person who wants to work and is able to do so, despite his or her handicaps, so long as working does not bring a sudden end to such important benefits and necessary forms of assistance as medicaid.

Last fall the Subcommittee on Public Assistance held a hearing on these issues, and the Finance Committee reported out a bill that, in our judgment, would have solved the most urgent of these problems without increasing the SSI rolls by relaxing the legislative definition of disability. The press of business in the final days of the 95th Congress prevented the Senate from taking up this bill.

The version we are offering today is similar in concept to the approach agreed to by the Finance Committee, although it differs in some particulars. I believe it is both responsive and responsible. It is important to bear in mind, however, that this year the administration has proposed a number of changes in Federal disability programs. These primarily pertain to the basic title II program, but have implications as well for the SSI program, not least because of the importance of maintaining consistent definitions and requirements for persons who obtain benefits from both programs. The House of Representatives is presently considering these proposals. When the time comes for the Senate to do so, we must bear in mind that the solutions we ultimately adopt for the problems addressed in this bill must be harmonized with other solutions we may wish to adopt for related problems in the two large Federal disability programs.●

Mr. BENTSEN. Mr. President, I am happy to be here today cosponsoring a bill which I hope my colleagues will support. This bill addresses one very serious problem faced by seriously handicapped people—the problem of work disincentives under our program of supplemental security income (SSI). Simply stated, our law is such that some disabled people cannot afford to work—they cannot afford to help themselves. Under the SSI program, which is designed to guarantee a minimum income to aged, blind, and disabled Americans, seriously disabled people are no longer considered to be disabled if they earn over a certain amount which the Social Security Administration designates as substantial gainful activity, or "SGA."

This SGA level is about to be set at $280 per month. This means that disabled people are cut off of SSI as soon as they earn $280. The loss of SSI cash assistance is serious enough, but it causes an even more serious result since medicaid eligibility is usually tied to the receipt of SSI. Besides losing cash assistance and medical assistance, the disabled person who earns over $280 in many cases loses eligibility for social services.

Just picture the choice facing disabled people—they can live entirely on various public assistance programs without working and increasing their personal and financial independence, or they can make a heroic effort to work, and face the loss of every scrap of assistance at the point their income exceeds $280 per month.

It is obvious that a salary of $281 a month will not meet the subsistence and medical needs of many severely disabled people. Some of you may recall the plight of a young woman in California which was recently the subject of a segment of the "60 Minutes" television show.

This woman, a paraplegic confined to a wheelchair, received SSI and also did telephone work out of her home to supplement her benefits. When these extra earnings were discovered, the Social Security Administration informed her that she was no longer eligible for SSI and that she owed money back to the Government for benefits she had already received. After considering her plight and realizing that she had to give up her job, pay money back that she didn't have, and try to live on a monthly amount only a few dollars more than her rent bill, this young woman went home, tape-recorded her thoughts, and then took her own life. Unfortunately, some people who saw her story on television drew the conclusion that the heartless social security bureaucrats had forced her to this terrible end.

But let me clear up any mistake. The fact is that the law leaves no flexibility and that the bureaucrats were only carrying out the law.

And that is exactly why we are here now. The problem is in the law; so we must change the law. The problem is tragic, but as legislators we must look at the problem with a clear eye and find an equitable solution. I do not want to make changes to loosen up our program of disability benefits to let able-bodied people retire compliments of the taxpayer; but I intend to do my best to change the law to assist seriously disabled people who can come back into the work force to have the chance to work their way off assistance and back to productivity and independence.

The bill before us makes some important changes toward removing work disincentives in our current law. It would allow a person to come back onto SSI with less redtape if he has left SSI to work and cannot make it at the time. This provision will encourage people to try to work, without fearing a long application process if public assistance again becomes necessary.

This bill would also make a technical change in the law so that workers in sheltered workshops will have their incomes counted the same way other workers do for calculating their SSI benefits. Current law treats sheltered workshop workers less favorably, thereby discouraging them from working.

This bill would allow other severely disabled people to be treated like blind people are already treated, with a special cash payment that phases out as their earnings reach a level to substitute for their disability benefit. This will improve greatly on the current law situation in which a person's SSI disappears entirely when earnings exceed $280 per month.

Another improvement that this bill would make is to allow certain disabled people to retain medicaid coverage after their cash benefits have stopped if such coverage is necessary for them to be able to work. Under current law, the threat of large medical expenses is so great for disabled people that they cannot afford to give up medicaid, even if they could find some job. Since private health insurance is unavailable or prohibitively expensive, the fear of medical expenses prevents many disabled people from trying to work.

Finally, the bill would allow certain expenses that handicapped people incur because of their handicaps to be excluded in determining their monthly income. For example, if a person must pay $200 a month for attendant care and special medical equipment related to his disability, the first $200 of his earnings would be disregarded as necessary work expenses. Under current law, public assistance payments are financing these services with no end in sight.

When this bill becomes law, people will be encouraged to earn what they can. It only makes sense that a disabled person, like any other person, starts with low wages before he moves up the earnings ladder. By encouraging disabled people to start where they can, and assisting them while they need help, we speed the day when these people can be independent.

That independence is good for them and good for all of us, and it strikes at the heart of what all public assistance is about—a temporary helping hand only for the time a person needs his neighbors help. Let us help disabled people help themselves by working toward the swift passage of this bill.

I am delighted to join my distinguished colleague Senator Dole and other Senators in this very important effort.

● Mr. CRANSTON. Mr. President, I join with Senator Dole, the ranking minority member of the Finance Committee, Senator Moynihan, chairman of the Public Assistance Subcommittee of the Finance Committee, and my colleagues Senators Bentsen, Ribicoff and Danforth, also members of the Finance Committee and Senators Javits and Schweicker, in sponsoring this legislation to amend the Social Security Act to remove disincentives to the employment of handicapped individuals receiving SSI benefits under title XVI of the Social Security Act.

Mr. President, currently, in order for an individual to be eligible for SSI—and thus generally, automatically eligible for medicaid under title XIX—that individual must not be involved in substantial gainful activity (SGA); SGA is defined by the Department of Health, Education, and Welfare as earnings in excess of $240 a month. Greg Sanders of the Center for Independent Living pointed out in testimony last fall before Senator Moynihan's Subcommittee on Public Assistance that defining such earnings—approximately equal to one-half the minimum wage—as "substantial" serves as a disincentive to employment for individuals with severe disabilities. Most of these individuals have many expenses for special equipment, personal assistance, attendance care, transportation, health, and social services. And these expenses cannot be met on such a small amount of income.

Mr. President, the goal of this legislation—removing disincentives to employment for handicapped individuals—is of great importance.

The amendments include in S. 591 would remove barriers that stand in the way of handicapped Americans' voluntary efforts to seek their full share of the rights to which all are entitled in our land.

Mr. President, one aspect of the bill—found at section 4— that I believe should be reviewed carefully by the Finance Committee during its consideration of S. 591 relates to the exclusion of certain expenses in making the determination of that portion of the SSI eligibility criteria that relates to substantial gainful activity. I believe that careful attention should be given to the extension of that exclusion to the determination of eligibility for title XVI on the basis of income.

Mr. President, I strongly support the aims of this legislation and look forward to working with my colleagues to secure Senate approval.●

By Mr. WILLIAMS (for himself, Mr. Chiles, Mr. Sarbanes, Mr. Church, Mr. Heinz, Mr. Metzenbaum, Mr. Cranston, Mr. Stewart, Mr. Tsongas, and Mr. Glenn):

S. 593. A bill to amend section 202 of the Housing Act of 1959 to extend the program to provide housing for the elderly or handicapped, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

ELDERLY AND HANDICAPPED HOUSING ACT OF 1979

● Mr. WILLIAMS. Mr. President, at the end of fiscal year 1979, the authority will expire for the section 202 program of housing for the elderly and handicapped. I am pleased to introduce legislation today to reauthorize the program for another 3 years, and I am delighted to be joined by a number of my distinguished colleagues.

The section 202 program provides low-cost Federal loans to nonprofit organizations, such as labor unions and churches, for the purpose of building specially designed rental housing for elderly and handicapped individuals with modest incomes. First enacted in 1959, the program has proven to be one of the most popular and most successful of all Federal housing programs. Between 1959 and 1968, when the program was folded into other programs, section 202 produced more than 45,000 units, enjoying a record virtually free of project default.

In 1974, the program was revived and revamped. Its 3 percent interest rate was increased to the Federal Government's cost of borrowing, and section 8 rental assistance was made available to all tenants obtaining units under the revised program. This change has allowed section 202 to focus more attention on those persons with the most serious financial need.

HUD began making loan reservations under the revised program during 1976. Since then, 74,621 units have been reserved, and construction has started on about 28,000 of them. Even though the revised program established an annual production significantly higher than the previous program, demand for section 202 loans has continued to outstrip available funds. Last year was typical. Nonprofit sponsors submitted over 900 applications, involving some 74,000 units, but only 288 applications for 19,700 units were reserved. When Congress revived the program, its annual production was expected to be 27,000–30,000 units. In the fiscal year 1980 budget, the administration has called for a single year's extension of that program, with an authorization of $800 million, which does not take inflation into account. The result of the administration's recommendation is a loss in reservations of about 1,500 units from fiscal year 1979, and a 33-percent reduction from the level achieved in fiscal year 1976.

The continued erosion of the program's production potential is unacceptable. It is not how Congress intended for the program to perform, and it denies the increasing pressures for senior citizen housing that the aging of our population is now creating. Consider this fact. By the turn of the century, the population over 65 will have increased by about a third, and 20 years thereafter it will have grown by another 50 percent. Americans are living longer than ever, and the birth rate is declining. We must prepare to answer the housing demands of this growing segment of our population, and we must prepare now.

Not only must we fulfill our responsibility to accommodate future housing needs, but we ought to recognize that many elderly presently lack adequate incomes to obtain decent shelter. Although we have made significant gains during this decade in providing income security for senior citizens, in 1976, the latest year for which data is available, upwards of 3.3 million older Americans received less than poverty-level incomes. This means that one out of seven elderly individuals were in serious financial trouble. In addition, in 1976, it was estimated that 1.5 million elderly households were living in substandard housing.

The legislation I introduce today will extend the program for another 3 years at approximately the same reservation level as for fiscal year 1979—about 21,200 units. In fiscal year 1980, the full amount of borrowing authority needed for the program would be $877 million. Since the Department of Housing and Urban Development already has $342 million to carryover from previous authorizations and from repayments of earlier loans to the program's revolving fund, the total amount of new borrowing authority would be $535 million. In fiscal year 1981, the amount of borrowing authority would be $950 million, and in fiscal year 1982, $975 million.

The 3-year authorization is necessary to demonstrate a continuing Federal commitment to adequate housing for the elderly and handicapped. By encouraging program stability and continuity, as we have done through multiyear authorizations since the program was revived in 1974, we facilitate planning among potential section 202 sponsors, which can only have a beneficial effect on costs. I should emphasize that the borrowing authority requested will not expand the program, but will only keep it from declining still further. This is particularly important in light of HUD's efforts to increase use of section 202 loans among sponsors of housing for the handicapped.

It is also important to realize that while the borrowing authority contained in this bill exceeds the administration's fiscal year 1980 request by $75 million, this additional amount will have no impact on the projected deficit or upon the current inflationary pressures in our society. For one thing, no outlays will occur under the fiscal year 1980 authorization for several years, due to the time needed to process applications to construction, and HUD's use of the program's revolving fund to provide construction loans. Thus, any borrowing authority approved for fiscal year 1980 will not result in the injection of new money into the current overheated economy.

Other sections of the legislation would:

First, require the Secretary of HUD to provide technical assistance to inexperienced or minority applicants, who have not enjoyed full access to the program;

Second, require the Secretary to readjust the section 8 rent subsidy accompanying the section 202 loan if there should be an increase in the loan's long-term financing rate between the date of reservation and the date of closing;

Third, require the Secretary to give special consideration to applicants whose projects would help stabilize and upgrade neighborhoods, would provide relocation housing in areas where the elderly are experiencing displacement, and would utilize cost-effective rehabilitation;

Fourth, require the Secretary, within 6 months of enactment, to recommend ways to reduce program costs, without unduly burdening sponsors or reducing program quality.

There are a number of issues that have not been addressed in this legislation, but which should be explored. Eligibility criteria for sponsors, the adequacy of present mortgage ceilings, especially in high cost areas, the status and use of the program's revolving fund, and the need to assure adequate participation in the program by handicapped sponsors, are just a few of these issues. Hearings which I have scheduled next month for the Senate Housing and Urban Affairs Subcommittee should give us ample opportunity to conduct the necessary examination of these and other questions.

Mr. President, decent, affordable housing for the elderly and handicapped, indeed for all our citizens, is one of the basic promises of our country, and it is one of the ways we measure the worth of our society. I believe that the legislation I have introduced today would continue our progress toward fulfillment of this promise.

Mr. President, I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 593

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Elderly and Handicapped Housing Act of 1979".

REAUTHORIZATION OF LOAN AUTHORITY

SEC. 2. Section 202(a)(4)(B)(i) of the Housing Act of 1959 is amended by striking out "and to $3,300,000,000 on October 1, 1978" and inserting in lieu thereof the following: "to $3,300,000,000 on October 1, 1978, to $3,835,000,000 on October 1, 1979, to $4,785,000,000 on October 1, 1980, and to $5,760,000,000 on October 1, 1981".

APPLICATION REVIEW AND SPONSOR ASSISTANCE

SEC. 3. Section 202(a) of the Housing Act of 1959 is amended by adding at the end thereof the following:

"(6) In reviewing applications for loans under this section, the Secretary may consider the extent to which such loans—

"(A) will assist in stabilizing, conserving, and revitalizing neighborhoods and communities;

"(B) can serve as a relocation housing resource for elderly and handicapped families in neighborhoods and communities in which they are experiencing significant displacement due to public and private reinvestment; or

"(C) will substantially rehabilitate in an economical manner, structures having architectural, historical, or cultural significance.

"(7) The Secretary shall make available appropriate technical and training assistance to assure that applicants having limited resources and lacking prior housing management experience, particularly minority applicants, are able to more fully participate in the program carried out under this section.".

ADJUSTMENT OF RENTAL ASSISTANCE

SEC. 4. Section 202(c) of the Housing Act of 1959 is amended by adding at the end thereof the following:

"(4) At the time of settlement on permanent financing with respect to a project under this section, the Secretary shall make an appropriate adjustment in the amount of any assistance to be provided under a contract for annual contributions pursuant to section 8 of the United States Housing Act of 1937 in order to reflect fully any difference between the interest rate which will actually be charged in connection with such permanent financing and the interest rate which was in effect at the time of the reservation of assistance in connection with the project.".

COST REDUCTION STUDY

SEC. 5. Section 202 of the Housing Act of 1959 is amended by adding at the end thereof the following:

"(h) Not later than 6 months after the date of enactment of the Elderly and Handicapped Housing Act of 1979, the Secretary shall transmit a report to the Congress containing recommendations on means to reduce the costs of the program carried out under this section without—

"(1) unduly burdening sponsors of programs and projects under this section; or

"(2) adversely affecting the ability of the program under this section to meet the housing needs of elderly and handicapped families.".●

● Mr. CHILES. Mr. President, it is my pleasure to join today with the distinguished chairman of the Subcommittee on Housing and Urban Affairs, Senator WILLIAMS, in introducing the "Elderly and Handicapped Housing Act of 1979." This legislation will reauthorize, for 3 years, the Department of Housing and Urban Development's section 202 program of loans to nonprofit sponsors for the construction of housing meeting the special needs of older and handicapped Americans.

Under section 202, in its present form, loans are made for 40-year terms to nonprofit organizations. The interest rate is set at the average in effect for all Federal obligations at the time of final closing for the housing project. Currently, that rate is 7⅝ percent. Further all units in projects built under this program are eligible for section 8 rent subsidies, to assure that low-income tenants, having less than 80 percent of area median income, pay no more than one-quarter of that income for rent.

The nonprofit sponsors assisted to provide housing under this program include religious organization, unions, community organizations and cooperatives, and fraternal groups. The quality of shelter built with this loan assistance has been high, and the financial record has been excellent, with a foreclosure rate of less than 1 percent after 20 years of operation.

Between 1959 and 1968, when it was suspended in favor of other housing programs, more than 45,000 units were constructed with section 202 loan assistance. In 1974 the Congress—comparing this program's record of performance and assessing the need for greater efforts to house an aging population—reactivated the 202 program, with some operating modifications and with higher annual goals. From fiscal years 1976 through 1979, authorizations were provided sufficient for the reservation of approximately 89,000 new units. Some of those units are now occupied in newly opened projects and others are in varying stages of construction. The 21,200 units which can be funded from the fiscal 1979 authorization of $800 million are now awaiting the evaluation of applications, with HUD's final selections for funding scheduled for June.

Section 202 housing is most popular and successful, both with sponsors and tenants. Currently, only 1 out of 6 applications submitted to HUD can be funded. Meanwhile, tenant turnover in existing projects is extremely low, and waiting lists for the few vacancies are long. All evidence points to the conclusion that this is one Federal program which is completely meeting a very real need in a cost-effective manner.

Further, with the recent enactment of the Congregate Housing Act of 1978, which I cosponsored, funds will soon be going from HUD to section 202 sponsors for the provision of meals, housekeeping aid, and personal assistance to frail elderly residents. This new service component of Federal housing programs for the elderly will maintain the independence and dignity of tenants who might otherwise be needlessly placed in nursing homes and other institutions, at great psychological cost to them and at significantly higher financial expense to the taxpayers.

Mr. President, I believe that in a year when all of us must give increased emphasis to fiscal responsibility, this bill maintains the national commitment to providing shelter to older Americans in a sound way. The 3-year term of reauthorization provides an assurance of program continuity which is particularly important to encouraging the development of high quality applications by nonprofit sponsors. The modest increase in the fiscal 1980 authorization over this year's level is sufficient to maintain total unit reservations at about 21,000 units. The authorizations for fiscal 1981 and 1982—which decrease in percentage terms in anticipation of a reduction of inflation—continue this commitment to a steady level of unit reservations.

Other portions of this legislation include:

Permitting the HUD Secretary, in reviewing applications, to consider the extent to which proposed projects may assist in stabilizing or revitalizing neighborhoods, provide relocation housing in areas where elderly households are experiencing significant displacement, and rehabilitate existing structures in a cost-effective manner. This provision will in no way alter the allocation of funds for this program or shift its primary goal away from providing top-grade housing for elderly and handicapped Americans. It will, however, encourage the use of the 202 program as a tool, where feasible, for the building of neighborhood confidence and the adaptive reuse of existing buildings.

New assistance for sponsors lacking prior housing management experience, particularly minority group applicants. The exclusion of minorities from the program is one of its few deficiencies, and it is my hope that this provision will correct that problem for the future.

A guaranteed adjustment of rental assistance under the section 8 program to take into account any changes in the permanent financing rate. This will help to continue the excellent financial track record of the 202 program.

Mandating that the HUD Secretary report to Congress, within 6 months after the bill's enactment, recommendations for reducing the costs of section 202 housing without threatening the program's quality or soundness. It is my belief that significant gains can be made in reducing processing time of applications, and cutting construction costs, which will assist both project sponsors and the taxpayer.

Mr. President, as chairman of the Special Committee on Aging, I am acutely aware of the serious housing cost and availability problems which confront older Americans. New construction programs alone can never meet the total need, and we must give increasing attention to assisting the 70 percent of the elderly who own their own homes to adequately maintain them within an environment of healthy, revitalized neighborhoods and communities. Nonetheless, new multiunit construction must be part of our overall housing strategy, and I have seen time and again the enormous enthusiasm and pride which tenants of section 202 projects have for the very fine accommodations they reside in. I ask that my colleagues review the legislation which is being introduced today and join with me in supporting this continuing commitment to meeting the shelter requirements of thousands of older Americans.●

Mr. SARBANES. Mr. President, I am pleased to join with my distinguished colleague from New Jersey, Senator WILLIAMS, as an original cosponsor of legislation to strengthen a program of vital importance to our Nation's elderly and handicapped citizens.

This legislation will amend section 202 of the Housing Act of 1959 (Public Law 86–372). Section 202 loans have enabled us to provide decent housing for thousands of Americans and have contributed to the revitalization of urban neighborhoods. Through these loans many elderly citizens have been able to remain in their home neighborhoods and not suffer the cruel effects of displacement and relocation. The section 202 program has also made possible the construction of congregate living facilities for citizens who otherwise would often find themselves isolated and alone.

The section 202 program, first established in 1959 and revised and revitalized by the Housing and Community Development Act of 1974, provides direct loans to eligible private nonprofit sponsors to finance the construction or rehabilitation of housing units for elderly or handicapped persons. These funds are often used in conjunction with section 8 rental subsidies to provide housing for low and moderate income elderly and handicapped persons. Since the revitalization of this program in the 1974 Housing and Community Development Act, approximately 67,619 housing units have been approved.

Over the past 4 years about 30 major section 202 projects have been approved in my home State, providing more than a thousand housing units for the elderly and handicapped citizens of Maryland all over the State. From our largest 202 project, the Essex Cooperative in Baltimore County with 208 units, to the small rural projects of 6–10 units on the upper eastern shore, these facilities have provided homes for 1,603 Maryland families.

This bill makes two important changes in the current section 202 program. First, the program would be authorized for 3 years instead of the current annual authorization, thereby facilitating long-range planning and more effective utilization of section 202 funds. Second, this bill adjusts section 202 funding levels to take into account the inflationary impact on program costs. The number of section 202 housing units funded is expected to remain around the fiscal year 1979 level under these increases. S. 593 retains the current allocation formula for this program.

Housing is undoubtedly one of the most critical challenges facing the Nation. The section 202 direct loan program has made an important contribution toward meeting the housing needs of our elderly and handicapped citizens. The present period of inflation places a special burden on those living on fixed incomes. Section 202 has proved to be an effective program for providing decent housing at affordable rents to thousands of elderly and handicapped Americans.

For these reasons I am pleased to join in introducing this legislation to strengthen section 202 and urge my colleagues to join with me in working for its prompt enactment.

● Mr. HEINZ. Mr. President, I am pleased to join with Senator WILLIAMS in introducing legislation to reauthorize the section 202 direct loan program for the housing of the elderly and the handicapped. The budget authority for this vital program expires this year, and our action today will serve to provide a 3-year extension of the existing section 202 loan authority.

In 1971, the White House Conference on Aging concluded that there was a clear need for the development of specially designed housing for the elderly. Shortly thereafter, the section 202 loan program was revived and funded by the Congress to provide direct, long-term 40-year loans to nonprofit sponsors for the construction and rehabilitation of rental housing for the elderly and handicapped. The section 202 loan has since received an excellent operating record and has now become the primary Federal financing program for the development of housing for older Americans.

During the first operational year of the program, the Department of Housing and Urban Development was flooded with over 1,500 applications for section 202 loans to construct more than 200,000 housing units. The following year, 1,200 applications to build 180,000 units were received by the Department of Housing and Urban Development. Unfortunately, only approximately 200 applications per year can be funded. The program response clearly indicates its necessity and illustrates the fact that our efforts to ease the problem of adequate housing have been positive and in the right direction. Nevertheless, the needs of the elderly and handicapped for appropriate housing continue.

We must assure the elderly community of congressional concern by addressing the issue through a long-term approach. The 3-year reauthorization term expresses congressional commitment to the serious problems faced by the elderly. The loan reauthorization figures of the proposed legislation reflect careful long-term consideration. Each year, a slight increase in funding is provided for the accommodation of inflation, in order to maintain approximately the same number of elderly housing units as the 1979 fiscal year levels.

The proposed legislation does not overlook the more specific problems of our elderly and handicapped citizens. A provision in the section 202 reauthorization bill requires the Secretary of the Department of Housing and Urban Development to give special consideration to 202 projects which provide relocation housing in areas where the elderly are experiencing displacement. The Secretary is also required to assist inexperienced applicants, particularly minority group sponsors. This represents substantial improvements over the present loan program, since in the past, minorities have lacked access to 202 loans. Authorization to fund this assistance exists in other housing legislation.

A final provision of the 202 reauthorization requires the Secretary, within 6 months after enactment, to report to the Congress means of reducing section 202 costs without unduly burdening sponsors or reducing program quality. This section's language not only demonstrates congressional concern that continued cost boosts threaten the program, but it is also expected to result in recommendations for speeding processing time and reducing construction costs.

As the number of senior citizens increases, it is even more important to provide for them, a stable base and a constant production of housing units. The reauthorization of section 202 direct loan program represents almost the total Federal housing effort for the elderly for the forthcoming year. The section 202 loan program has proved effective. I believe the benefits of this program and the clear need for its continuation, justify the reauthorization of section 202. I urge my colleagues in the Senate to give favorable consideration to this legislation.●

By Mr. McGOVERN (for himself, Mr. Laxalt, Mr. Bumpers, Mr. Gravel, Mr. Riegle, Mr. Baucus, Mr. Leahy, Mr. Hatfield, Mr. Matsunaga, Mr. Cannon, and Mr. Metzenbaum):

S. 594. A bill to provide for a formal process of State participation and concurrence regarding the management and storage of radioactive materials; to the Committee on Energy and Natural Resources.

RADIOACTIVE WASTE MANAGEMENT ACT OF 1979

● Mr. McGOVERN. Mr. President, today I am pleased to introduce the Radioactive Materials Waste Management Act of 1979. I am introducing this legislation on my behalf and that of Senators Laxalt, Bumpers, Gravel, Riegle, Baucus, Hatfield, Leahy, Cannon, Matsunaga, and Metzenbaum.

Since its inception, the location of and planning for our radioactive waste disposal facilities have been the prerogative of the Federal Government, with little thought or responsibility given to a strong State role in those States in which a disposal facility may be sited.

LEGISLATIVE HISTORY

In 1975, ERDA inherited the responsibility of recommending and carrying out the Nation's waste management policy. This responsibility was overwhelming, because without success the potential nuclear energy development could come to a halt as the long list of disposal failures continues. It is apparent that this effort must be a united effort by the Federal and State governments.

ERDA, in its 1976 announcement of expanded data gathering for potential sites for geologic nuclear waste disposal, was careful to include in each phase consultation with State and local officials. This announcement flatly stated:

> ERDA will terminate a particular repository site selection project if the State raises the issue of the project connected with selection criteria, and their application, that are not resolved through mutually acceptable procedures.

ERDA then attempted to carefully outline State local inclusion in the decisionmaking process for site selection stating:

> The expanded ERDA geologic study program is designed to proceed on a phased basis, enlisting review and cooperation by local and state officials, as well as by other federal agencies. Public forums to discuss the program and to obtain local advice will be conducted in the areas of geologic surveys.
>
> Public hearings on the generic as well as the specific impact statements will be conducted as appropriate.
>
> There will be a period for substantial public discussion of relevant concerns.
>
> ERDA recognizes the need and will provide the opportunity for the public to participate in each phase of the National Terminal Storage program.
>
> Based on environmental analyses and other technical data developed in the interim, ERDA, in consultation with State officials will re-evaluate the candidate site.

But the final statement directed to the third phase of the procedure simply states:

> ERDA will make a decision regarding the location of a repository.

It would seem that by providing ERDA with the final authority, instead of allowing a cooperative decisionmaking process, the agency had violated the spirit if not the letter of its previous rulemakings, while perhaps more importantly, antagonizing many States who wished to become an integral party to the siting procedure. At that time, ERDA faced considerable opposition from a number of States on this particular ruling. By 1977, 26 States had passed or initiated legislation directed at allowing themselves some form of direct control over nuclear waste facilities.

If the Agency had at least confirmed the States rights to act jointly in the final decision, they might have avoided the tremendous amount of resistance to placement of the six planned commercial repositories.

Since that time additional States have passed or have pending legislation in an attempt to establish control over the siting of nuclear waste repositories in their States. Numerous congressional hearings have been held on the issue across the country without any resolution of the problem.

CONSULTATION AND CONCURRENCE

In 1978, the Department of Energy released a preliminary inter-agency task force report on nuclear waste management forming the basis for their present waste facility selection policy. This report promoted a policy of concurrence between the Federal Government and affected States in which the State would be a formal participant in each step of the siting process and, further stating, that if substantial concurrence could not be achieved that the Federal Government would respect the State's objections and would not proceed with plans for that particular site.

I have predicated this legislation on the concept of concurrence and consultation because it will, for the first time, allow affected States a strong and formal role in the waste facility siting process.

We must begin to respect the States abilities to come to grips with this issue and conduct rational decisionmaking. When I offered an amendment 2 years ago providing States the authority to veto nuclear waste disposal projects, the proposal narrowly failed the Senate indicating the level of support for a strong State role.

However, many States have advised me that although they may have passed legislation in reaction to earlier ERDA proposals, that their primary concern was to establish a formal mechanism for their control over the siting process. For the most part, States do not wish to undermine Federal efforts to effect a rational radioactive materials storage program. They are only asking that which is rightfully theirs.

The policy of concurrence and consultation as developed in the Department of Energy is a solid step in this direction. However, internal policies are too easily subject to change with changes in the Department and in the administration. I contend we must go a step beyond this internal policy and show State governments that we are serious about providing them a formal partnership with the Department, through legislatively authorizing this policy and establishing the appropriate guidelines.

Unfortunately, Secretary Schlesinger and I are in disagreement on this matter. Although the Department has not opposed this proposal, the Secretary recently testified before the Joint Economic Committee that he felt the proposal was unnecessary as he was already pursuing this policy.

On the other hand, the U.S. General Accounting Office contends that the Department may not have the necessary statutory authority to pursue concurrence and consultation. In a letter to Congressman Dingell, the distinguished chairman of the House Subcommittee on Energy Power, the GAO advised that any departmental policy which would allow a State to reject a possible waste disposal site could constitute a "veto." They further stated that the Department lacked the authority to pursue its present policy in that it was possible a veto could occur.

Many of my colleagues and I agree with the conclusions of the General Accounting Office on this matter.

More importantly, regardless of our varying views on the viability of nuclear power and the needs for a comprehensive waste management program, we contend that any State should have the authority to exercise some control over such projects. Those who have stated that if this legislation were passed we would see all 50 States reject all possible projects, give their States little credit.

This legislation would guarantee States a voice in the councils of Federal nuclear energy decisionmaking. It does nothing more, and nothing less, than allow the people most directly affected to exert some control over decisions made affecting their lives.

I firmly believe that once we establish a true partnership with the States on this or any issue, they will make a good faith effort to come to grips with the issues pertinent to waste facility siting.

SECTION-BY-SECTION ANALYSIS

The purpose of the bill is to provide for a formal process of State participation and concurrence regarding the management and storage of radioactive materials.

Section (a) requires the Chairman of

the Nuclear Regulatory Commission (NRC) to publish in the Federal Register, and to notify the Governor, the presiding officers of a State legislature, and the tribal council of any affected Indian tribe, of any intent to explore a site within such State or within such Indian reservation for the purposes of establishing a storage of disposal facility for radioactive materials.

Section (b) authorizes the Governor, or the tribal council, upon notification by the NRC, to request the creation of a Federal/State Radioactive Materials Management Commission for the purposes of examining issues related to achieving substantial concurrence between the affected State, the affected Indian tribe, and the Department of Energy and the Nuclear Regulatory Commission on any Federal proposal regarding radioactive material management. Such radioactive material shall include high-level defense waste, spent fuel reactor assemblies, transuranic materials, and other mid- and high-level radioactive materials.

Section (c) sets forth the guidelines for composition of the Commission. Members will include one official from each of the following Federal agencies: the Nuclear Regulatory Commission, the Department of Energy, and the U.S. Geological Survey. The Commission shall also include the Governor of the affected State—or a representative designated by the Governor—a representative of any affected tribal council, and other State and local officials to be designated by the Governor jointly with the leadership of the State legislature.

Section (d) requires the Commission to examine all issues related to achieving substantial concurrence, including socioeconomic, institutional, technical, environmental and health and safety issues.

Section (e) provides that if the Commission cannot achieve substantial concurrence with the proposed action within the affected State, the Governor, in consultation with the other Commission members, shall file a report stating the Commission's objections and identifying acceptable alternatives.

Section (f) provides that State legislatures of any affected State, pursuant to the State's laws and constitution, may concur or disagree with the Commission's decision as reported by the Governor.

Section (g) prohibits the Department of Energy from proceeding with any proposal regarding site selection or site development for radioactive waste management for the specified site, unless the objections of the State issued pursuant to sections (e) and (f) are satisfied.

Mr. President, I request unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 594

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Chapter 19 of the Atomic Energy Act of 1954, is amended by inserting the following new section after section 241:

"SEC. 242. Notice to States with regard to Disposal of Nuclear Waste.—

"a. Except as may otherwise be provided, the Chairman shall notify (and publish such notice in the Federal Register) the Governor, the presiding officers of the various chambers, where applicable, of a State legislature, and where applicable, the Tribal Council of any affected Indian tribe, of its intent to explore a site in such State, or within an Indian reservation, for the purpose of establishing, evaluating, or contracting for construction of facilities intended for the storage or disposal of radioactive materials.

"b. Except as may otherwise be provided, the Chairman shall, after making the notification required by subsection a., and upon the request of the Governor of an affected State or an affected Tribal Council, establish a Federal and State Radioactive Materials Management Commission (hereinafter in this section referred to as the Commission) for the purpose of achieving, in an expeditious manner, substantial concurrence between the State, the affected Indian tribe, and the Department of Energy for each proposal made by the Department of Energy regarding site selection, evaluation, contracting, or construction of facilities intended for the management and storage of radioactive materials including high-level defense waste, spent fuel reactor assemblies, transuranic materials and other mid- and high-level radioactive materials.

"c. The Commission shall consist of—

"1. the appropriate officials from the Nuclear Regulatory Commission designated by the Chairman.

"2. a representative from the Department of Energy designated by the Secretary.

"3. a representative from the United States Geological Survey,

"4. the Governor of each affected State, or his designated representative,

"5. a representatives of any affected Tribal Council,

"6. not to exceed 6 State or local officials, or interested citizens from the affected State designated by the Governor, in consultation with the leadership of the State legislature,

"7. such other individuals to be selected at the discretion of the Chairman or the Governor of the affected State.

"d. The Commission shall meet to examine all proposed actions to be taken under subsection a., with the objective of achieving substantial concurrence on each and any socioeconomic, institutional, technical, environmental, health and safety issues associated with such action.

"e. In the event that the Commission representatives of the affected State determine that concurrence cannot be achieved with regard to any proposed action, the Governor, in consultation with the other Commission members from the affected State, shall file a report stating his objections and identify acceptable alternatives.

"f. The State legislature of any affected State may by point or concurrent resolution or by law, or in those States with a unicameral legislature by single resolution, or by other powers subject to each State's constitution concur or issue nonconcurrence with the decision of the Commission."

"g. No Federal agency or its representative shall proceed with any project for storage or disposal of radioactive materials unless the State has determined that its objections have been resolved."●

By Mr. TOWER:

S. 595. A bill to amend the Urban Mass Transportation Act of 1964 with respect to labor standards; to the Committee on Banking, Housing, and Urban Affairs.

Mr. TOWER. Mr. President, I am today introducing legislation which would help to assure that the dollars of Federal taxpayers are spent effectively. The bill would repeal the Davis-Bacon Act, as that act applies to federally assisted public transportation programs. As a member of the Committee on Banking, Housing, and Urban Affairs, I have great concern about the wasteful effect which the Davis-Bacon Act has upon Federal spending in public transportation programs, and I believe that its repeal is essential if we are to control Federal spending in this area.

Efforts to assure that each Federal dollar spent yields the maximum possible return should be made under any circumstances. But particularly at a time when the Nation's economy is beset by inflation, a major cause of which is excessive Federal spending, it is essential that unnecessary costs be eliminated.

The Davis-Bacon Act, which was enacted during the 1930's, is an act whose time has gone. Even if the act were administered in accordance with the original congressional intent, it would have no place in our present economy. But the problems engendered by the act as it is actually applied by the Department of Labor lead to an outrageous misuse of Federal resources.

The Davis-Bacon Act requires construction contractors engaged in federally assisted projects costing over $2,000 to pay their workers at wage rates determined by the Secretary of Labor. The Secretary's determination is supposed to reflect the wage rates prevailing for similar types of workers in the community where the project is located. The purpose of this act was to prevent contractors from using so-called itinerant workers from outside the local community to work on federally assisted projects at lower wage rates than prevail in the community. The concern was that this would undercut the wage rates of local construction workers. The problem is that this inflated the wage rates which contractors must pay their workers on federally assisted projects. As a result, the American taxpayer has had to foot the bill for the higher costs of federally assisted construction. Moreover, the Davis-Bacon Act is disruptive to the private wage scales of many contractors, and has discouraged many of those contractors from bidding on Federal projects.

The Davis-Bacon Act applies to federally assisted public transportation projects by virtue of section 13 (a) and (b) of the Urban Mass Transportation Act, as amended. Because of the substantial costs necessarily involved in any significant construction project involving public transportation, it is obvious that the effect of the Davis-Bacon Act provision is substantial.

The costs involved with the Davis-Bacon Act generally are enormous. They have been estimated at $2.7 billion annually. Of this, $1.8 billion is estimated to result from the effect which the act has on inflating construction wage rates in the case of private construction contracts.

Repealing the Davis-Bacon Act would not only reduce the direct costs which the taxpayer is asked to bear as a result of inflated wage rates on federally sponsored construction projects, but it would eliminate the added spillover cost into private construction projects as a result of the higher wage rates which the Davis-Bacon Act encourages workers to seek.

As everyone knows, inflation is our No. 1 economic problem. And, as the President said in his economic report to the Nation:

> It is now more essential than ever that our government, in both its budgetary and regulatory programs, make the best use of the resources at its disposal and seek better, less costly means to achieve our national objectives.

I continue to be an advocate of meaningful Federal support for public transportation, and I believe that public transportation programs can play a vital role in addressing a number of urban problems, including congestion, energy consumption, and the environment. However, it is critical that Federal expenditures in this area not be wasted, and elimination of the artificial barriers of the Davis-Bacon Act is essential if we are to serve the interests of the taxpaying public.

At the time when the Davis-Bacon Act was passed, there were no minimum wage laws, no unemployment compensation programs, and no other laws to protect the wages of workers. Because of massive unemployment and the severe competition for Government contracts and for jobs, the act was believed necessary to prevent hiring of itinerant workers at lower wages than those prevailing in the community and thus depressing local wage structures. The changes in our economy since the 1930's make it abundantly clear that Davis-Bacon is outmoded and counterproductive.

The problems created by the Davis-Bacon Act are exacerbated by the Department of Labor's implementation of the act. In addition to the added costs of every project in which the Labor Department's determination is higher than the actual prevailing wage rate, the act requires unnecessary and unproductive costs to comply with the payroll reporting requirements and costs to Federal agencies to administer and enforce the act.

If we are really serious about dealing with inflation, there is no better place to begin than by repealing the Davis-Bacon Act. The bill I am introducing today would repeal the application of that act on all federally assisted public transportation programs. These programs are under the jurisdiction of the Committee on Banking, Housing, and Urban Affairs, and as a member of that committee I intend to pursue this matter vigorously during the 96th Congress.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 595

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 13 of the Urban Mass Transportation Act of 1964 is amended by striking out subsections (a) and (b).

By Mr. DANFORTH (for himself and Mr. HART):

S. 596. A bill to provide a fair procedure for establishing congressional districts; to the Committee on Governmental Affairs.

CONGRESSIONAL ANTI-GERRYMANDERING ACT OF 1979

Mr. DANFORTH. Mr. President, today, together with Senator HART, I am introducing legislation to reform the process by which congressional districts are created.

Simply stated, we propose the establishment of bipartisan redistricting commissions in each State entitled to more than one representative following reapportionment pursuant to the 1980 census and all subsequent censuses.

Redistricting would be accomplished in accordance with standards which would militate against gerrymandering; namely, that districts, when created, be as equal in population as practicable, that the boundaries of districts coincide with the boundaries of local political subdivisions, that districts be composed of contiguous territory, and finally, that districts be compact. Redistricting commissions would be prohibited from creating districts to advantage or disadvantage political parties or specific persons—usually incumbent officeholders—and they would be further prohibited from creating districts for the purpose of diluting voting strength of racial or language minority groups. All redistricting plans would be subject to possible court review.

Each redistricting commission would consist of five members. Four members would be appointed by the leaders of the State legislature. The precise appointment procedure varies, depending on the organization of the State legislature, but in the most common example—the partisan bicameral legislature—the majority leader of the Senate, the minority leader of the Senate, the Speaker of the House, and the minority leader of the House would each appoint one member of the commission. The fifth member would be appointed as chair by the commission members themselves.

It should be clear why we are taking this action. The practice of gerrymandering congressional districts has debilitated political parties and discouraged the Amercan people from participating in the political process. It has robbed the people of effective and fair representation in Congress, and we want to see it stopped.

Although some States have already established redistricting commissions for State legislative districts, by and large congressional redistricting remains the province of the State legislatures, where, it has been said, there are two ways of redistricting—the Republican way and the Democrat way, depending on the leanings of the legislature. We have chosen to vest redistricting in bipartisan commissions, because we are thereby assured that the political forces will be evenly balanced. We do not have that assurance if redistricting is left to State legislatures.

However, it is not sufficient to simply create bipartisan commissions. Students of government will quickly point out that there is a phenomenon known as "bipartisan gerrymandering," wherein Republicans and Democrats put their heads together and decide who gets what—with incumbent officeholders the usual winners. So, something more is needed. To that end, we have provided a set of judiciable standards to guide the commissions—and the courts. At the heart of these standards is subsection (d)(5) which provides that "the boundaries of districts may not be drawn for the purpose of advantaging or disadvantaging any political party, incumbent legislator, or other person or group."

Under current law, although some States provide standards to guide the process of redistricting, the only standard essentially applicable to all States is "one person, one vote," the standard established by the Supreme Court. Unless substantial population disparities are present, most redistricting plans will survive challenge. Even racial gerrymandering has been tolerated absent strong evidence of intent and harm. A fair system of congressional districting requires more.

The mere fact that a congressional district has no more people than any other should not permit district boundaries to run hither and yon in an effort to protect an incumbent legislator, neither should it excuse racial or ethnic gerrymandering. Districting done for the purpose of advantaging or disadvantaging any person or group of persons is wrong, and should be illegal. That does not mean that a redistricting scheme should fall simply because it favors some person or group. It is inevitable that someone or some party will benefit from any redistricting scheme. The primary consideration should be the purpose for which the district is created. Thus, a redistricting scheme would not fall simply because it inured to the benefit of the Democratic or Republican Parties. But a plan could not survive legal challenge if it could be shown that it was designed to create Republican districts or preserve Democratic districts.

It is not the purpose of this legislation, however, to hand over the job of redistricting to the courts. Far from it. If the redistricting commissions follow the mandate of this legislation, there is a significant likelihood that no redistricting plan will face serious court challenge. Should a case go to litigation, the court will have justifiable standards to guide its judgment, a marked contrast with the situation which currently prevails. And if the commission's plan is found wanting, the court is mandated to return it to the commission for further consideration. Only if the commission fails a second time can the court set itself to the task of drawing district lines.

I am aware there are some who would dismiss this legislation as idealistic. Let them. I am firmly convinced that this bill—or something like it—is very much needed. I cannot conceive of a single argument for tolerating a system which perpetuates gerrymandering. In my opinion, a great deal of the current disaffection with American Government stems from the belief—on the part of a great many people—that they have lost control over the political forces that control their lives. They have come to believe that they count for nothing, that their votes count for nothing, that political parties count for nothing, that their elected representatives do not care about them. And, if we tolerate a system which treats people as political pawns, which debilitates political parties, which allows incumbent officeholders to ignore their constituents (secure in the knowledge that they will be returned to office in any event), then we invite and encourage the apathy and disillusionment which now characterize American politics.

In this legislation, with reapportionment only a few years away, we have an opportunity to open up the political process by providing a fair procedure for establishing congressional districts. It is a job worth doing.

Mr. President, I ask unanimous consent that the Congressional Anti-Gerrymandering Act of 1979 be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 596

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Congressional Anti-Gerrymandering Act of 1979".

SEC. 2. Section 22 of the Act entitled "An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress", approved June 18, 1929 (2 U.S.C. 2a), is amended by striking out subsection (c) and inserting in lieu thereof the following:

"(c) (1) In each State entitled in the Ninety-eighth Congress or in any subsequent Congress to more than one Representative under an apportionment made pursuant to subsection (b) of this section, a redistricting commission shall be established. Such commission shall be established within sixty days after the executive of such State receives a certificate pursuant to subsection (b) of this section. The commission shall consist of five members, none of whom may be officers of Federal, State, or local government, or officers of any political party. Members shall be appointed as follows:

"(A) In the case of a partisan bicameral legislature, the following officers in such legislature, or equivalent officers therein, shall each appoint one member of the commission:

"(i) The majority leader of the senate.

"(ii) The speaker of the house.

"(iii) The minority leader of the senate.

"(iv) The minority leader of the house.

"(B) In the case of a nonpartisan bicameral legislature, the leader of each house of such legislature shall each appoint two members of the commission.

"(C) In the case of a partisan unicameral legislature, the majority leader and the minority leader of such legislature shall each appoint two members.

"(D) In the case of a nonpartisan unicameral legislature, the leader of such legislature shall appoint four members of the commission, no more than two of whom may be members of the same political party, after consultation with leaders of political parties in such State.

"(E) The four members appointed pursuant to subparagraph (A), (B), (C), or (D) as the case may be, shall, by an affirmative vote of at least three members, select a fifth member, who shall chair the commission.

For the purposes of this paragraph, the determination as to which official constitutes the minority or majority leader of a house of a State legislature shall be made by the members of such house.

"(2) A vacancy in a commission shall, within fifteen days after it occurs, be filled in the same manner in which the original appointment was made.

"(d) The redistricting commission for each State shall establish a number of districts equal to the number of Representatives to which such State is entitled under the apportionment made pursuant to subsection (b) of this section, and Representatives shall be elected only from districts so established, no district to elect more than one Representative. In order to provide an equitable system to all electors of Representatives and to insure fair representation in the House of Representatives, districts shall be established in accordance with the following standards:

"(1) The number of persons in districts within each State shall be as equal as practicable, as determined under the then-most-recent decennial census. A State may make reasonable deviations from numerical equality in order to take into consideration the requirements set forth in paragraphs (2) through (4), except that in no case may a district in a State contain a number of persons which differs by more than two percent from the quotient obtained by dividing the population of such State (under the decennial census) by the number of Representatives to which the State is entitled under the apportionment made pursuant to subsection (b) of this section.

"(2) The boundaries of each district shall, to the extent consistent with the requirements of paragraph (1), coincide with the boundaries of local political subdivisions. The number of counties and municipalities divided among more than one district shall be as small as possible. No county or municipality shall be divided among more than two districts that include other counties or municipalities.

"(3) Each district shall be composed of convenient contiguous territory, including adjoining insular territory.

"(4) Districts shall be compact in form. The boundaries of each district shall be as short as practicable, consistent with the requirements set forth in paragraphs (1), (2), and (3).

"(5) The boundaries of districts may not be drawn for the purpose of advantaging or disadvantaging any political party, incumbent legislator, or other person or group. In preparing a plan, the commission shall not take into account the addresses of incumbent legislators. The commission shall not use the political affiliations of registered voters, previous election results, or demographic information other than population head counts for the purpose of advantaging or disadvantaging any political party, incumbent legislator, or other person or group.

"(6) The boundaries of districts may not be drawn for the purpose of diluting the voting strength of any language minority group (as defined in section 14 (c) (3) of the Voting Rights Act of 1965) or of any racial minority group.

"(e) Nothing in this section shall be construed to supersede any provision of the Voting Rights Act of 1965.

"(f) The redistricting commission, in preparing a plan setting forth the boundaries of districts, shall conduct public hearings, at which the commission may take such testimony and receive such evidence as it considers necessary to carry out its duties. Not later than one hundred and eighty days after its appointment, the commission shall propound a redistricting plan, which shall be transmitted forthwith to the Federal Election Commission. The Federal Election Commission, upon receipt of the plan, shall publish it in the Federal Register. On the sixtieth day after the date of publication in the Federal Register, the plan shall take effect.

"(g) (1) Not later than sixty days after the date of publication of a redistricting plan in the Federal Register, pursuant to subsection (f) of this section, a person in any State meeting the qualifications for voting in an election of a Member of the House of Representatives may bring an action in the district court of the United States for the district of which such person is a resident, without regard to the amount in controversy, to enforce the provisions of this section with regard to the State in which such person resides. The court may consolidate such actions.

"(2) The court shall have authority to enter all judgments, orders, and decrees necessary to bring a State into compliance with this section, except that if the court finds that the plan is not consistent with the requirements of this section, or violates any other Federal law, the court shall declare the plan invalid in whole or in part and remand it to the redistricting commission with instructions to prepare a new plan consistent with such order. Not later than sixty days after receipt of such order, the redistricting commission shall submit a new plan to the court. If the new plan still fails to comply with this section, or other Federal law, the court shall issue an order establishing single member districts according to law.

"(h) (1) The district courts of the United States shall have exclusive jurisdiction to hear and determine any action brought under subsection (g) which shall be heard by a district court of three judges. The case shall be heard at the earliest practicable date, and

"(2) An appeal from a final decision under subsection (g) shall be filed within thirty days after the entry of such decision. Appeals brought to the Supreme Court under this section shall be heard as soon as practicable.

"(3) In any action or proceeding brought to enforce the provisions of this section, the court may in its discretion allow the prevailing party, other than a State or the United States, a reasonable attorney's fee.

"(i) A commission appointed pursuant to subsection (d) shall cease to exist sixty days after the publication pursuant to subsection (f) of the redistricting plan prepared by such commission, except that such commission shall continue to exist during the period in which any action under subsection (g) with respect to such plan is pending.

"(j) Until a State is redistricted in the manner provided by law after any apportionment, the Representatives to which such State is entitled under such apportionment shall be elected in the following manner:

"(1) If there is no change in the number of Representatives, they shall be elected from the districts then prescribed by law, and if any of them are elected from the State at large they shall continue to be so elected.

"(2) If there is an increase in the number of Representatives, such additional Representative or Representatives shall be elected from the State at large and the other Representatives from the districts then prescribed by law.

"(3) If there is a decrease in the number of Representatives but the number of districts in such State is equal to such decreased number of Representatives, they shall be elected from the districts then prescribed by law.

"(4) If there is a decrease in the number of Representatives but the number of districts in such State is less than such number of Representatives, the number of Representatives by which such number of districts is exceeded shall be elected from the

State at large and the other Representatives from the districts then prescribed by law.

"(5) If there is a decrease in the number of Representatives and the number of districts in such State exceeds such decreased number of Representatives, they shall be elected from the State at large.".

Sec. 3. (a) The Federal Election Commission shall pay to each State redistricting commission, an amount equal to the reasonable costs actually incurred by such State commission, including reasonable salaries for members of the State commission.

(b) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

Sec. 4. The second paragraph (relating to congressional redistricting) of the Act entitled "An Act for the relief of Doctor Richardo Vallejo Samala and to provide for congressional redistricting", approved December 14, 1967 (2 U.S.C. 2c) is repealed effective January 1, 1981.

● Mr. HART. Mr. President, I join with Senator Danforth today in introducing legislation designed to promote the principles of meaningful representation and electoral fairness upon which our democratic system is based.

The Supreme Court's decisions of the 1960's, which required periodic reapportionment on the basis of "one man, one vote," eliminated gross population inequities among legislative districts. The Court's decisions marked an important step in the direction of assuring fair and effective representations for all citizens. The Court, however, did not deal with the equally important problems of racial and political gerrymandering. Congress must complete the reapportionment revolution begun by the Supreme Court.

Presently, all State constitutions contain some provision regarding congressional redistricting and reapportionment. Most State constitutions require the State legislature to reapportion on the basis of population following each Federal decennial census. Standards, where they exist, are often vague and unenforceable. As a result, many state legislatures are free to draw districts of bizarre configurations designed to serve partisan or personal ends.

Discriminatory districting, better known as gerrymandering, operates to inflate unfairly the political strength of one group and deflate that of another. It disrupts entire cities, towns, and communities for the sole purpose of creating and maintaining political power bases. Racial and ethnic minorities are often the victims of such discriminatory districting.

The Constitution establishes Congress' role in regulating the manner in which its Members are chosen. The legislation which Senator Danforth and I are introducing today will constructively reform the congressional redistricting process. This bill is based on the underlying theory that congressional redistricting should be an administrative act rather than a political one. In brief, the bill would reform congressional redistricting by creating standards to be followed by independent bipartisan redistricting commissions in each State.

My own State of Colorado is one of three States in the Nation to adopt procedures for reapportionment of the State legislature which meet the antigerrymandering standards advocated by Common Cause and incorporated into this legislation. This legislation, which applies to congressional redistricting, would not, of course, affect the reapportionment of State legislative seats.

Rigorous antigerrymandering standards are essential if we wish to avoid undermining the system of competitive elections upon which our representative system of government is based. Political gerrymandering dilutes the value of political participation and makes legislators less responsive to their entire constituency.

Political gerrymandering works to shut people out of the political process. The legislation we are introducing today will benefit the public by broadening political participation and increasing electoral competition.

Reapportionment will not take place until 1981 when congressional district lines will be redrawn based on the 1980 Federal census. Therefore, Congress should move this year to develop standards for the reapportionment procedures of State legislatures so that the legal framework for the development of fair reapportionment plans is in place and ready to be used. I hope Congress will act expeditiously on this important measure.●

By Mr. BAYH (for himself, Mr. Hatfield, Mr. Randolph, and Mr. Cohen):

S. 597. A bill to provide that polling and registration places for elections for Federal office be accessible to physically handicapped and elderly individuals, and for other purposes; to the Committee on Rules and Administration.

VOTING RIGHTS FOR THE ELDERLY AND THE HANDICAPPED ACT

● Mr. BAYH. Mr. President, today I am introducing legislation on behalf of myself, Mr. Hatfield, Mr. Randolph, and Mr. Cohen which is designed to help the elderly and handicapped citizens of our great Nation exercise one of the most sacred privileges—the right to vote. This legislation is substantially identical to legislation I introduced along with my distinguished colleague from Oregon (Mr. Hatfield) in the 95th Congress.

The right to vote is regarded by most Americans as one of the vital ingredients in the functioning of our democratic society. Despite our allegiance to this sacred principle, every election day every year, we disenfranchise millions of our Nation's voters. This disenfranchisement takes place, because many of our registration sites and voting places prove to be inaccessible for our Nation's elderly or handicapped. Architectural barriers in effect prevent these citizens from being able to participate in the electoral process that is the very bulwark of our Nation.

While it is difficult to obtain accurate statistics on the number of voters that are affected by such impediments as architectural barriers, it has been estimated that the number of persons in the United States that must rely on mobility aids is placed conservatively at 20 million. The National Center for Health Statistics reports that there are approximately 1.87 million Americans of voting age whose mobility is severely restricted as a result of physical handicap. When you add to this the large percentage of the 23.5 million elderly persons who might have similar mobility problems, the 1.87 million figure grows substantially. The Department of Transportation has estimated that at any one time, more than 2.6 million potential voters are disabled by short-term illnesses. I am deeply concerned over the impact of this problem for the 705,000 disabled and 783,000 elderly in my own State of Indiana.

The legislation we are introducing today seeks to correct this unfortunate situation by requiring the Attorney General, in consultation with the Secretary of Health, Education, and Welfare, to set standards for all polling places used in Federal elections which would assure access to such facilities for elderly and physically handicapped voters. At a minimum these standards would require that all polling and registration places be located in a building or other facility which provides access, by ramp or otherwise, to individuals in a wheelchair. States and local jurisdictions which have established standards as stringent as those proscribed by the Attorney General shall not be affected by our legislation.

If there is no accessible polling or registration site available, the State or local jurisdiction would be required to provide alternative methods of voting. Whenever alternative methods are deemed necessary, public notice shall be given at least 60 days in advance.

Additionally, this legislation would require that paper ballots be available at all voting sites used for Federal elections for those persons unable to use a conventional voting machine. Blind and other voters who have difficulty both in operating a voting machine and in marking a paper ballot would be allowed to designate an individual to assist them.

One of the most compelling reasons for legislation such as we are introducing today is the confusion of State laws and practices regarding assisting the elderly or handicapped in voting. For example, 12 States currently require a doctor's certificate to be filed before a handicapped or elderly person is eligible for an absentee ballot. Twenty-six States require that an absentee ballot be either notarized or certified in some way. Eighteen States have mail registration for all voters; and an additional nine States allow mail registration specifically for the handicapped. Twelve States permit curbside voting if a person is disabled. Only 15 States currently specify that polling places must be accessible and only five States now permit a handicapped voter to go to the nearest accessible polling place if his assigned place is not accessible.

Mr. President, we have come a long way toward extending the franchise to those various groups in our society who have been denied the vote over the years. It is no longer permissible to discriminate against a voter, because of his race or his language. With the passage of the legislation we are introducing today, it will no longer be permissible to discriminate against the older or handicapped voter.

Mr. President, I ask unanimous consent that the text of our bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 597

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Voting Rights for the Elderly and the Handicapped Act".

PURPOSES

SEC. 2. It is the intention of Congress in enacting this Act to promote the fundamental right of all citizens to vote by requiring polling and registration places for elections for Federal office to be readily accessible to physically handicapped and elderly individuals.

SELECTION OF POLLING AND REGISTRATION PLACES

SEC. 3. (a) The Attorney General, in consultation with the Secretary of Health, Education, and Welfare shall prescribe, in accordance with section 553 of title 5, United States Code, such standards for polling and registration place facilities used for elections for Federal office as may be necessary to insure that physically handicapped and elderly individuals have ready access to such facilities. Except as provided in subsection (b), such standards shall require at a minimum that all polling and registration places be located in a building or other facility which provides access, by ramp or otherwise, to individuals in wheelchairs, and be located on the ground level of a building or other facility, or at a location within such building or facility as is accessible by elevator. Any building or other facility which is temporarily made to comply with the standards prescribed by the Attorney General under this subsection may be used as a polling or registration place.

(b) (1) No site which does not comply with the standards of accessibility prescribed under subsection (a) may be used as a polling or registration place in elections for Federal office unless it is determined by the appropriate election official of a State or political subdivision, after all reasonable efforts have been made to locate an appropriate site, that there is no such site available in the applicable voting precinct.

(2) Whenever a site which does not comply with the standards prescribed under subsection (a) is designated as a polling or registration place for an election for Federal office under subsection (b) (1), the appropriate election official shall file a report with the Attorney General not later than sixty days before the election in the case of a polling place and not later than sixty days before the close of registration in the case of a registration place, in such form and containing such information as the Attorney General may require, including assurances that all reasonable efforts have been made to locate an appropriate site.

(c) The requirements under subsections (a) and (b) (2) shall not apply to any State which, in the determination of the Attorney General, (1) has established by law standards for polling and registration places at least as stringent as those prescribed by the Attorney General under subsection (a), and (2) has adopted and is implementing adequate procedures for the enforcement of such State's standards. The Attorney General may require such State to keep records and make reports as he deems necessary to implement this Act.

ALTERNATIVE METHODS OF VOTING AND REGISTRATION FOR THE PHYSICALLY HANDICAPPED AND THE ELDERLY

SEC. 4. (a) Each State shall provide by law, within one year of the date of enactment of this Act, for one or more alternative methods of voting by physically handicapped and elderly individuals in elections for Federal office in cases in which such individuals are assigned under section 3(b) (1) to polling places which do not meet the standards prescribed under section 3(a). Such alternatives may include—

(1) the selection of one or more alternative polling places outside of the voting precinct (but within the same congressional district) to which such an individual may be assigned to vote;

(2) the selection of an alternative method of voting within the voting precinct, such as by the use of an absentee ballot on or before election day, or by curbside balloting outside of a polling place; or

(3) any other method, or combination of methods, which guarantee that such individuals will be able to fully exercise their right to vote.

(b) Whenever an alternative method of voting is selected under subsection (a) for a voting precinct, the appropriate election official of the State or political subdivision in which such precinct is located shall issue public notice of such method as early as practicable, but in any case not later than sixty days before the election in which the alternative method is to be used. Any physically handicapped or elderly individual who notifies the appropriate election official of his or her intention to vote by the alternative method at least thirty days before such election, and who is otherwise eligible to vote in such election, shall be allowed to vote by such method.

(c) Each State shall provide by law, within two years of the date of enactment of this Act, for one or more alternative methods of registering to vote for elections for Federal office by physically handicapped and elderly individuals who do not have ready access to registration places meeting the standards prescribed under section 3(a).

(d) Whenever an alternative method of registration is selected under subsection (c) the appropriate election official of the State or political subdivision in which such precinct is located shall issue public notice of such method of registration as early as practicable but in any case not later than sixty days before the deadline for registration for the election for which the alternative method is to be used.

ALTERNATIVE PAPER BALLOTS AND SELECTED ASSISTANTS

SEC. 5. (a) Paper ballots shall be made available at each polling place for an election for Federal office, whether or not such polling place is in compliance with the standards prescribed under section 2(a), for the use of voters who would otherwise be prevented from voting because of their inability to operate a voting machine.

(b) Within two years after the date of the enactment of this Act, each State shall permit any physically handicapped individual who is unable to operate a voting machine or use a paper ballot to use such alternative methods of voting in elections for Federal office as the State may designate under this subsection. The State shall provide such physically handicapped individual with braille ballots, permit such individual to select another individual to accompany him into the polling place for purposes of providing assistance in completing the ballot, or employ such other alternative methods of voting as the State considers appropriate to provide such individual with an opportunity to vote in the election for Federal office.

ENFORCEMENT

SEC. 6. Whenever the Attorney General has reason to believe that a State or political subdivision (1) has selected a site for a polling or registration place within a voting precinct which does not comply with the standards prescribed under section 3(a), and that there exists within such precinct an available site which does comply with such standards, (2) has failed to provide an alternative method of voting or registering to vote as required by section 4, or (3) has failed to make paper ballots available or to permit alternative selected assistants as required by section 5, he may institute, in the name of the United States, any actions in a district court of the United States against the State or political subdivision, including actions for injunctive relief, as he may determine to be necessary to implement this Act.

DEFINITIONS

SEC. 7. As used in this Act, the term—

(1) "elderly individuals" means individuals sixty-five years of age or older;

(2) "election for Federal office" means a general, special, primary, or runoff election for the office of President or Vice President of the United States, or Senator or Representative in, or Delegate or Resident Commissioner to the Congress of the United States;

(3) "physically handicapped individuals" means individuals who need mechanical or personal assistance to provide for their safety and mobility; and

(4) "voting precinct" means the area inhabited by all citizens assigned to one polling place for an election for Federal office.●

By Mr. BAYH (for himself, Mr. COCHRAN, Mr. ARMSTRONG, Mr. BAKER, Mr. BAUCUS, Mr. BELLMON, Mr. BENTSEN, Mr. BOREN, Mr. BOSCHWITZ, Mr. BURDICK, Mr. CANNON, Mr. CHILES, Mr. CRANSTON, Mr. DANFORTH, Mr. DECONCINI, Mr. DOMENICI, Mr. EAGLETON, Mr. FORD, Mr. GARN, Mr. GOLDWATER, Mr. GRAVEL, Mr. HART, Mr. HATCH, Mr. HAYAKAWA, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. INOUYE, Mr. JACKSON, Mr. JEPSEN, Mrs. KASSEBAUM, Mr. LEAHY, Mr. LUGAR, Mr. MAGNUSON, Mr. LAXALT, Mr. MATHIAS, Mr. MATSUNAGA, Mr. MCCLURE, Mr. MCGOVERN, Mr. MELCHER, Mr. MORGAN, Mr. MOYNIHAN, Mr. NUNN, Mr. PERCY, Mr. PRESSLER, Mr. PRYOR, Mr. RANDOLPH, Mr. RIEGLE, Mr. ROTH, Mr. SCHMITT, Mr. SIMPSON, Mr. STENNIS, Mr. STEVENS, Mr. STEWART, Mr. STONE, Mr. TALMADGE, Mr. THURMOND, Mr. TOWER, Mr. WARNER, Mr. WILLIAMS, and Mr. YOUNG):

S. 598. A bill to clarify the circumstances under which territorial provisions in licenses to manufacture, distribute and sell trademarked soft drink products are lawful under the antitrust laws; to the Committee on the Judiciary.

SOFT DRINK INTERBRAND COMPETITION ACT

● Mr. BAYH. Mr. President, today I, along with 62 of my colleagues are introducing legislation designed to preserve a unique industry practice—the manufacture, bottling, and distribution of trademarked soft drinks by local companies operating under territorial licenses. Sometime ago Senator COCHRAN and I drafted and circulated the Soft Drink Interbrand Competition Act and it is significant to note that almost two-thirds of our colleagues have seen fit to express support for this measure prior to its introduction.

For over 75 years the soft drink industry has used territorial franchise agreements with smaller bottlers to provide services to a wide variety of its customers. These restrictions limit the geographical territory in which a bottler may manufacture and distribute soft drink products and have been the basis of the industry's structure.

In 1971, the Federal Trade Commission (FTC) instituted a proceeding to bar as unlawful these restrictions in trademark licensing. The Soft Drink Interbrand Competition Act will simply clarify the circumstances under which territorial license provisions are lawful. The bill specifically sets out that there must be the presence of "substantial and effective competition with other products of the same general class" as a prerequisite for the continuation of territorial franchises.

We believe that the antitrust laws should not be used to restructure an industry, especially where there is an acknowledged high level of interbrand competition. Such a restructuring might change the nature of an industry in which the franchises are, by and large, small family-owned businesses. We are concerned that, should territorial licenses be prohibited, we would find these small businesses swallowed up by large bottlers. In the long run, the FTC ruling would, therefore, be anticompetitive. The industry will be transformed from one with many components to an oligarchical industry. In 1979, over 2,000 bottling plants were operating throughout the United States. Over 1,500 of these plants employ fewer than 50 employees. Although the distribution of bottling plants tends to parallel the distribution of population, they are generally located in small cities. The end result of the FTC ruling, in our opinion, will be not only detrimental to the industry but, therefore, costly to the consumer.

We must continue to be aware of the needs of the small businessman in America and to protect the invaluable contribution he or she makes to our economy and our way of life. I believe this legislation is vital to the survival of the small bottler and to the maintenance of a high level of service we have come to expect from the soft drink industry.

Mr. President, I ask unanimous consent that the text of the bill, together with a section-by-section analysis, be printed in the Record.

There being no objection, the bill and summary were ordered to be printed in the Record, as follows:

S. 598

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

Section 1. This Act may be cited as the "Soft Drink Interbrand Competition Act".

Sec. 2. Nothing contained in any antitrust law shall render unlawful the inclusion and enforcement in any trademark licensing contract or agreement, pursuant to which the licensee engages in the manufacture (including manufacture by a sublicensee, agent, or subcontractor), distribution, and sale of a trademarked soft drink product, of provisions granting the licensee the sole and exclusive right to manufacture, distribute, and sell such product in a defined geographic area or limiting the licensee, directly or indirectly, to the manufacture, distribution, and sale of such product only for ultimate resale to consumers within a defined geographic area: *Provided,* That such product is in substantial and effective competition with other products of the same general class.

Sec. 3. The existence or enforcement of territorial provisions in a trademark licensing agreement for the manufacture, distribution and sale of a trademarked soft drink product prior to any final determination that such provisions are unlawful shall not be the basis for recovery under section 4 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes," approved October 15, 1914.

Sec. 4. As used in this Act, the term "antitrust law" means the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies" (the Sherman Act), approved July 2, 1890, the Federal Trade Commission Act, approved September 26, 1914, and the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" (the Clayton Act), approved October 15, 1914, and all amendments to such Acts and any other Acts in pari materia.

Section-by-Section Analysis

Section 2 of the bill provides that the exclusive territorial arrangements used in the soft drink industry shall not be held unlawful under the antitrust laws if the soft drink products subject to such arrangements are in substantial and effective competition with other products of the same general class. The arrangements covered by Section 2 are those contained in soft drink trademark licensing agreements which limit the territory within which the licensee may manufacture, distribute and sell the trademarked soft drink product, and which prohibit sales outside the territory, whether such sales are made directly or indirectly.

The provisions of the bill are applicable to such arrangements only where there is "substantial and effective competition" with other products of the same general class. The words "substantial and effective competition" are intended to be flexible, but it is the intent of the legislation that if vigorous interbrand competition is found to exist, the fact that intrabrand competition has been foreclosed will not preclude the application of the bill. Some of the factors to be taken into account in determining whether or not substantial and effective interbrand competition exists are: the number of brands, types and flavors of competing products available in a licensee's territory; the number and strength of sellers of competing products; the degree of service competition among vendors; ease of entry into the market; the persistence of inefficiency and waste; the failure of output levels to respond to consumer demands; and failure to introduce more efficient methods and processes.

The "substantial and effective" test is intended to express a more specific standard for evaluating these practices. Since the territorial provisions have been in effect for more than 75 years, they should not be cast aside without careful scrutiny of their merits. This is exactly what the Federal Trade Commission did in the Coca-Cola and Pepsico cases when it ignored the findings of the Administrative Law Judge that there was vigorous interband competition among soft drinks and that these arrangements promote, rather than lessen, competition. Section 2 would compel the Commission to make a careful examination of the effects on interband competition rather than relying simply upon the intraband effects of the territorial provisions.

Section 3 of the bill is intended to eliminate the possibility of treble damage exposure as a result of the inclusion of territorial provisions in a soft drink licensing agreement prior to any final determination in a particular case that such provisions are unlawful. Territorial provisions have been utilized in the soft drink industry for more than 75 years on the clear understanding that they were legally permissible. Such arrangements were held lawful by a Federal court as early as 1920, and on several recent occasions. Moreover, the legality of such territorial arrangements was not challenged by the Federal government until 1971, after the industry practice had been openly engaged in for decades. Of course, if particular territorial arrangements are found to be unlawful because of the absence of substantial and effective competition, treble damage suits would not be barred in the event such arrangements are continued after a final determination of their illegality.

Section 4 of the bill defines the term "antitrust law" as used in the bill. In includes the Sherman Act, the Federal Trade Commission Act, the Clayton Act, and all amendments to such acts, together with any other acts which have historically been considered to be antitrust laws.●

● Mr. COCHRAN. Mr. President, I am pleased to join with my colleague from Indiana (Mr. Bayh) in introducing legislation designed to preserve a unique industry practice—the manufacture, bottling, and distribution of soft drinks by local, independent companies. It is most gratifying that over 60 Senators have agreed to join in sponsoring this legislation.

The Soft Drink Interbrand Competition Act will permit local bottlers to operate under exclusive territorial licenses for their trademarked soft drink products as long as there is "substantial and effective competition" between different trademarked brands. For the last 75 years these territorial licenses have served to create an industry organization of 2,000-plus small units which effectively compete with each other.

According to all the key indicators of competition, there is today intense competition in the soft drink industry. This competition has been a major factor in keeping consumer cost down. The cost per ounce of Coca-Cola in the 6½-ounce bottle in 1939 was seventy-seven one hundredths of 1 cent per ounce. The cost today in the 16-ounce returnable bottle is seventy-nine one hundredths of 1 cent per ounce. This is only a 2.6-percent increase in over 28 years.

Vigorous competition is also demonstrated by advertising. Heavy advertising demonstrates heavy competition. In the last few years, advertising in the industry has increased 132 percent, rising much faster than the 84-percent increase in sales during the same period. The only explanation for this growth in advertising is competition with the industry for a share of existing markets.

Notwithstanding this strong evidence of competition, the FTC instituted a proceeding against the bottlers in which it alleged the territorial licenses violated the antitrust laws. After 7 years, the Commission ruled 2 to 1 to overturn an administrative law judge's decision and conclude the licensing agreements were unlawful.

If this legislation is not adopted, and the FTC decision against the territorial licenses is allowed to stand, there will be a short spurt of intrabrand competition, after which many of the small independent bottlers will be swallowed up by large regional bottlers. In the long run, the FTC ruling will be anticompetitive. Another serious consequence of the FTC ruling is that returnable bottles which cannot, as a practical matter, be distributed by large regional operations, will be discontinued. The alternative nonreturnable containers are more expensive for the consumer, use more energy in production, and simply create an additional waste problem.

If this legislation is adopted, we will protect the livelihood of the small independent companies which can best serve their local customers. In addition, these local bottlers would be able to continue to use returnable bottles, thereby keeping down costs and saving energy.

Mr. President, this legislation will preserve the high level of competition which exists in the soft drink industry, it will help fight inflation by keeping prices down and will help encourage the continued use of energy-saving and environmentally sound returnable bottles. I urge all my colleagues who have not yet given full consideration to this bill to join us in this effort.●

By Mr. BAYH (for himself and Mr. Lugar):

S. 599. A bill relating to the Indiana Dunes National Lakeshore, and for other purposes; to the Committee on Energy and Natural Resources.

INDIANA DUNES NATIONAL LAKESHORE

● Mr. BAYH. Mr. President, it is my pleasure to join with Senator Lugar in introducing legislation again this year which would expand the Indiana Dunes National Lakeshore. This bill contains substantially the same provisions as an amendment we offered which was passed by the Senate last October. Unfortunately, due to the crush of last minute business that amendment was not acted upon by the House of Representatives.

Mr. President, more than a decade ago Congress enacted legislation to protect the Indiana dunes, located at the south tip of Lake Michigan on a fascinating complex of dune ridges, moving dunes, beautiful beaches, marshes, woodlands, and bogs. It was my privilege to sponsor with the late Senator Paul Douglas of Illinois the initial legislation establishing the Indiana Dunes National Lakeshore and subsequent legislation authorizing its expansion.

In this regard, Mr. President, I would like to take a moment to note the great contributions of Senator Douglas to the lakeshore. The establishment of the Indiana Dunes National Lakeshore was originally his dream, and for years he persevered in fighting for this objective. There is absolutely no question that without his vision and untiring efforts we would not have a national park to protect this beautiful and unique natural setting, and for this reason it is especially appropriate that provisions in the bill we now introduce will dedicate the lakeshore to his memory. Our bill further designates the West Beach unit of the lakeshore as the "Paul H. Douglas Ecological and Recreation Area" and provides for the designation of a suitable structure within the lakeshore to be known as the "Paul H. Douglas Center for Environmental Education." These provisions of our bill will provide an enduring memorial to this great and brilliant man from Illinois and provide a reminder to the thousands who visit the Dunes each year of his accomplishments. I hope the Senate will agree that they are an important feature of this legislation.

The bulk of our bill, Mr. President, relates to questions which were left unanswered in the Dunes legislation of 1976. The legislation which authorized expansion of the lakeshore in October of that year added several units to the national lakeshore, but Congress deferred making a decision about three specific areas until additional information concerning these areas could be reported in a special study conducted by the National Park Service.

Unfortunately the 1976 act also modified the 1966 legislation establishing the lakeshore by changing the homeowners' provisions regarding the length of the leaseback term from 25 years to 20 years and eliminating the exemption from condemnation. This has resulted in landowners in different parts of the lakeshore being treated differently, leading to substantial misunderstanding and dissatisfaction.

The study required by the 1976 legislation was completed in June 1977 and it is now crucial for the Congress to consider the further expansion of the lakeshore. Our bill would annex the study areas into the park with the exception of area II–A, the "NIPSCO Greenbelt." It would also restore the homeowners' provisions of the 1966 act, so that all homeowners within the park boundaries would receive equal treatment from the Park Service.

Looking first at the study areas, there are two portions of the town of Beverly Shores which were not included in the national lakeshore in 1966. Area III–A is the Beverly Shores "island," a 652-acre, low-density residential area, with minimal commercial development, now completely surrounded by Federal lands. Over 500 of the 652 acres are unimproved and immediately available for park purposes. Area III–C is a 56-acre strip of land lying along both sides of U.S. Highway 12 which supports low-density residential and commercial development.

National Park Service ownership and control of both of these areas would eliminate noncompatible uses and insure preservation of an interesting and unique ecosystem for enjoyment and use by the visiting public. Federal acquisition of the Beverly Shores area would make the Federal beach much more accessible than it is now and would ultimately end conflicts between park visitors and residents. Acquisition of the U.S. Highway 12 strip would add approximately 1.5 miles of continuous highway frontage to the existing 5.2 miles of National Park Service "parkway" frontage and will greatly enhance the scenic quality of the road.

I would point out, Mr. President, that while this land is relatively expensive, when compared to the vast unoccupied lands of the western part of our country, its timely inclusion in the park is fiscally prudent. There is wide agreement among those who have seriously studied the lakeshore that the park will never reach its full potential until the remaining parts of Beverly Shores are included. I have no doubt in my mind that Congress at some point will agree. If we delay, however, the cost of land acquisition will be astronomical. Most of Beverly Shores is currently unimproved, Mr. President, but the forces for development are growing. If Congress fails to include this area again this year, I am certain that developers will interpret our inaction as a green light to build and build and build. We literally cannot afford to let this happen.

The remaining area discussed in the National Park Service study presents some difficult problems. The Greenbelt (Area II–A) is a 92-acre parcel of land owned by the Northern Indiana Public Service Co. This land forms the interface between the heavily developed Northern Indiana Public Service Co. powerplant site and the national lakeshore. With the conversion of much of the lakeshore region to heavy industrial use, the land of this area has taken on importance as a buffer between the steel mills and powerplants on one side and the more quiet natural scene on the other.

Provisions in S. 2560, which Senator Lugar and I introduced last February, would have included portions of Area II–A within the lakeshore. It was our belief that these provisions would protect the natural resources of the Greenbelt and the park while not interfering with existing or planned operations of the Northern Indiana Public Service Co. Unfortunately, these provisions met with broad opposition, and I am informed that as a result of our experience last year, Senator Lugar has concluded that no acceptable formula for inclusion of the Greenbelt is available. For this reason, we have not included provisions to acquire the Greenbelt in this bill.

Nonetheless, I firmly believe that acquisition of the Greenbelt is essential to the maintenance of the environmental integrity of the lakeshore. I further believe that acquisition of the Greenbelt should and would have no impact upon NIPSCO operations. In the days to come I will be working to devise a formula which will allay the fears of all interested parties, and I will introduce an amendment for consideration of the Energy Committee prior to its hearings on the bill.

The second major feature of this legislation is the revision of the homeowners provisions. The bill would provide homeowners with an exemption from condemnation when appropriate zoning laws are in effect, reinstate the 25-year leaseback provisions contained in the initial legislation, and add an option of a life tenancy. These modifications will not thwart development of the park but will give fair and equitable treatment to all landowners within the park and thereby correct the present situation where residents of different areas of the park are subject to different provisions. I am pleased to report that these changes have a broad base of support among all interest groups. The cutoff date for the study areas would be July 1, 1977.

A third provision of this legislation calls for a transportation study. The national lakeshore is designed to preserve the outstanding natural features of the area and to provide to all people the opportunity for recreation and enjoyment. Unfortunately, the attainment of these worthy objectives is often frustrated by the failure to plan and provide access to these outstanding areas.

The vast majority of our national parks, lakeshores, and recreation areas are accessible only by private automobile. This reliance on the automobile for park access can have deleterious effects on fragile ecosystems such as the dunes. Extensive use of cars causes environmental damage and requires that more and more previous parkland be devoted to roads and parking lots. Consequently it is essential that all modes of transportation be carefully analyzed to develop those which are the most energy efficient, environmentally compatible, and provide the best public service. The study called for in this legislation is aimed at meeting this important need.

In closing, Mr. President, I would like to note that we have been working with Congressman **Benjamin** regarding the acquisition of other small parcels of land bordering the park. We would hope that this work will be completed in the near future and that we can make definite suggestions for this relatively minor expansion to the Energy Committee.

The bill we are offering today provides the inclusion of two highly significant areas which will assure protection of the lakeshore environment. We have also included provisions to expand the options offered residential property owners within the lakeshore boundaries in order to insure preservation of the area and an orderly and acceptable property acquisition policy.

Mr. President, I would like to urge my colleagues to favorably consider the Indiana Dunes National Lakeshore expansion bill which we are introducing today. The Indiana Dunes is an area which deserves the expanded protection to be afforded by this bill.

Mr. President, I ask unanimous consent that the text of this bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 599

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that (a) the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966, as amended (16 U.S.C. 460u), is amended by adding the following new section:

"Sec. 21 (a) That the Indiana Dunes National Lakeshore is hereby dedicated to the memory of Paul H. Douglas in grateful recognition of his leadership in the effort to protect, preserve, and enhance the natural, scientific, historic, and recreational value of the lakeshore for the use, enjoyment and edification of present and future generations.

"(b) To further accomplish the purposes of subsection (a) of this section, the Secretary of the Interior shall designate the West Beach unit as the 'Paul H. Douglas Ecological and Recreational Area' and shall, subject to appropriations being granted, design, develop and construct a suitable structure or designate an existing structure within the lakeshore to be known as the 'Paul H. Douglas Center for Environmental Education' which shall provide facilities designed primarily to familiarize students and other visitors with, among other things: (1) the natural history of all units of the lakeshore and their association with the natural history of the Great Lakes Region; (2) the evolution of human activities in the area; and (3) the historical features which led to the establishment of the lakeshore by the Congress of the United States.

"(c) To inform the public of the contributions of Paul H. Douglas to the creation of the lakeshore, the Secretary of the Interior shall provide such signs, markers, maps, and interpretive materials, literature and programs as he deems appropriate.

"(d) In addition to such sums as have been heretofore authorized, there are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section, but not more than $500,000 shall be appropriated for the construction of the Paul H. Douglas Environmental Education Center authorized pursuant to subsection (b) of this section.".

(b) Such Act is amended by inserting immediately before "which map", in the last sentence of the first section, the following: "including the areas identified on such map as 'Study Areas', except the area designated as 'II–A'."

(c) Section 4 of such Act, as amended (16 U.S.C. 460u–3), is amended to read as follows:

"Sec. 4. (a) The Secretary's authority to acquire property by condemnation shall be suspended with respect to all improved property located within the boundaries of the lakeshore during all times when an appropriate zoning agency shall have in force and applicable to such property a duly adopted, valid zoning ordinance approved by the Secretary in accordance with the provisions of section 4A of this Act.

"(b) The term 'improved property', whenever used in this Act, shall mean, in the case of improved property located within the areas identified as 'Study Areas', a detached, one family dwelling, construction of which was begun before July 1, 1977, in the case of improved property located within the boundaries delineated on a map identified as 'A Proposed Indiana Dunes National Lakeshore', dated September 1966, and bearing the number 'LNPNE–1008–ID', such a dwelling construction of which was begun before January 4, 1965, and in the case of any other improved property, located within the lakeshore, such a dwelling construction of which was begun before February 1, 1973; together with so much of the land on which the dwelling is situated, such land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on lands so designated. The amount of land so designated shall in every case be not more than three acres in area, and in making such designation the Secretary shall take into account the manner of noncommercial residential use in which the dwelling and land have customarily been enjoyed: *Provided,* That the Secretary may exclude from the land so designated any beach or waters, together with so much of the land adjoining such beach or waters, as he may deem necessary for public access thereto or public use thereof. All rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to assure the use of such property in accordance with the purposes of this Act."

(d) Such Act is further amended by inserting immediately after section 4 thereof the following new section:

"Sec. 4A. (a) As soon as practicable after the enactment of this section, the Secretary shall issue regulations specifying standards for approval by him of zoning ordinances for the purposes of this Act. The Secretary may issue amended regulations specifying standards for approval by him of zoning ordinances whenever he shall consider such amended regulations to be desirable due to changed or unforeseen conditions. The Secretary shall approve any zoning ordinance and any amendment to any approved zoning ordinance submitted to him which conforms to the standards contained in the regulations in effect at the time of adoption of such ordinance or amendment by the zoning agency. Such approval shall not be withdrawn or revoked, by issuance of any amended regulations after the date of such approval, for so long as such ordinance or amendment remains in effect as approved.

"(b) The standards specified in such regulations and amended regulations for approval of any zoning ordinance or zoning ordinance amendment shall contribute to the effect of (1) prohibiting the commercial and industrial use, other than any commercial or industrial use which is permitted by the Secretary, of all property covered by the ordinance within the boundaries of the lakeshore; and (2) promoting the preservation and development, in accordance with the purposes of this Act, of the area covered by the ordinance within the lakeshore by means of acreage, frontage, and setback requirements and other provisions which may be required by such regulations to be included in a zoning ordinance consistent with the laws of the State of Indiana.

"(c) No zoning ordinance or amendment thereof shall be approved by the Secretary which (1) contains any provision which he may consider adverse to the preservation and development, in accordance with the purposes of this Act, of the area comprising the lakeshore; or (2) fails to have the effect of providing that the Secretary shall receive notice of any variance granted under and any exception made to the application of such ordinance or amendment.

"(d) If any improved property, with respect to which the Secretary's authority to acquire by condemnation has been suspended according to the provisions of this Act, is made the subject of a variance under or exception to such zoning ordinance, or is subjected to any use, which variance, exception, or use fails to conform to or is inconsistent with any applicable standard contained in regulations issued pursuant to this section and in effect at the time of passage of such ordinance, the Secretary may, in his discretion, terminate the suspension of his authority to acquire such improved property by condemnation.

"(e) The Secretary shall furnish to any party in interest requesting the same a certificate indicating, with respect to any property located within the lakeshore as to which the Secretary's authority to acquire such property by condemnation has been suspended in accordance with provisions of this Act, that such authority has been so suspended and the reasons therefor.".

(e) The first Sentence of section 5(a) of such Act, as amended (16 U.S.C. 460u–5), is amended to read as follows: "Except for owners of property within the area on the map referred to in the first section of this Act as area II–B, any owner or owners, having attained the age of majority, of improved property on the date of its acquisition by the Secretary, may retain the rights of use and occupancy of the improved property for noncommercial residential purposes for a term ending on his or her death or the death of his or her spouse, whichever occurs last, or for a term of twenty-five years, or such lesser term as the owner or owners may elect at the time of acquisition by the Secretary. All rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to assure the use of such property in accordance with the purposes of this Act.".

(f) Section 9 of such Act is amended by striking out "$60,812,000" and inserting in lieu thereof "$95,312,000" and by striking out "$9,444,000" and inserting in lieu thereof "$10,440,000".

(g) Section 15 of such Act (16 U.S.C. 460u–14) is amended to read as follows:

"SEC. 15. (a) Within one year after the date of the enactment of this section, the Secretary shall submit, in writing, to the Committee on Interior and Insular Affairs **and to the Committee on Appropriations of** the United States Congress a detailed plan which shall indicate—

"(1) the lands which he has previously acquired by purchase, donation, exchange or transfer for administration for purpose of the lakeshore, and

"(2) the annual acquisition program (including the level of funding) which he recommends for the ensuing five fiscal years.

"(b) It is the express intent of the Congress that the Secretary should substantially complete the land acquisition program contemplated by this Act, within six years after the date of enactment of this section.".

(h) Such Act is further amended by adding the following new section:

"SEC. 22. The Secretary, in consultation with the Secretary of Transportation, shall conduct a study of various modes of public access into and within the lakeshore, including roads, public transportation facilities, and nonmotorized access.

"(a) In carrying out the study, the Secretary shall utilize to the greatest extent practicable the resources and facilities of the organizations designated as clearinghouses under title IV of the Intergovernmental Cooperation Act of 1968 as implemented by Office of Management and Budget Circular A–95, and which have comprehensive planning responsibilities in the regions where the lakeshore is located. The Secretary shall make provision for timely and substantive consultation with the Highway Department of the State of Indiana, local elected officials, and the general public in the formulation and the implementation of the study.

"(b) This study shall be completed and presented to the Congress no later than October 1, 1980.

"(c) The study shall address the adequacy of access facilities for members of the public who desire to visit and enjoy the lakeshore. Consideration shall be given to alternatives for alleviating the dependence solely on automobile transportation and resulting congestion, environmental impacts, and management difficulties. The study shall inventory the condition of roads in and out of the lakeshore, and the condition of the public transportation rolling stock. The study of public transportation facilities shall cover the distance from cities of thirty-five thousand population or more within fifty miles of the lakeshore. It shall further include the identification of routes, available facilities, and assets of transit operators within this area, and shall discuss their increase or decrease of passengers and their financial condition over the previous five-year period.

"(d) The study shall include proposals deemed necessary to assure equitable visitor access and public enjoyment by all segments of the population, including those who are physically or economically disadvantaged. It shall provide for retention of the natural, scenic, and historic values for which the lakeshore was established, and shall propose plans and alternatives for the protection and maintenance of these values as they relate to transportation improvements.

"(e) The study shall present alternative plans to improve, construct, and/or extend access roads, public transportation, and bicycle and pedestrian trails. It shall include accurate estimates of the costs of such alternatives, to be based upon statistical data available for similar expenditures, and shall discuss existing and/or proposed sources of funding for the implementation of the recommended plan alternatives.

"(f) There is hereby authorized to be appropriated not to exceed $250,000 for this study."

(i) Such Act is further amended by adding the following new section:

"SEC. 23. (a) There is hereby established the Indiana Dunes National Lakeshore Communities Council (hereafter referred to as the 'Council') which shall be composed of twenty-one members selected by the following processes:

"(1) One member selected from the elected or appointed officials by each of the following municipalities: Porter, Chesterton, Portage, Beverly Shores, Ogden Dunes, Dune Acres, Gary, Michigan City, The Pines, Burns Harbor, Pines Township, Westchester Township, and Portage Township.

"(2) The sheriffs of Lake, Porter, and La Porte Counties or their appointed representatives.

"(3) One member selected from or appointed by each Board of County Commissioners in Lake, Porter and La Porte Counties.

"(4) One member appointed by the Governor of the State of Indiana.

"(5) One member appointed by the Director of the National Park Service.

"(b) The purpose of the Council is to create an intergovernmental forum for the discussion of mutual programs and problems, including, but not limited to, police and fire protection, garbage collection, litter control, traffic coordination, zoning regulations, and other services.

"(c) The Council shall elect by majority vote the chairman; all members of the Council would be eligible for the Chairmanship except the representative of the National Park Service.

"(d) The Council shall elect by majority vote an Executive Board composed of the chairman and four other Council members.

"(e) Any vacancy shall be filled in the same manner in which the original appointment was made.

"(f) Members of the Council shall serve a term of four years, and may be appointed for succeeding terms. Members shall serve without compensation.

"(g) The Council shall meet at least quarterly." ●

● Mr. LUGAR. Mr. President, it is a privilege to join my colleague from Indiana, Senator BAYH, to reintroduce legislation to expand the historic Indiana Dunes National Lakeshore Park in northwest Indiana.

The Indiana Dunes National Lakeshore was authorized in 1966 as the first urban national park. It is one of the few recreational areas in our part of the country where people in northwest Indiana and nearby areas can retreat to quiet open spaces surrounded by beaches, wetlands, marshes, and woodlands. In 1976, a bill to add additional units to the park was deferred pending a National Park Service study of certain areas proposed for inclusion.

Senator BAYH and I introduced similar legislation last year. Regrettably, our bill, which passed the Senate, was defeated in the House. Although we tried to resurrect the bill again in the final hours of the last session, our efforts were unsuccessful. I am hopeful that the Congress will approve the acquisition of land to a park which is very important to our State and, we believe, to the country.

Legislation to expand the Indiana Dunes has been debated by the Congress for years and it is time to resolve the final boundaries of the park once and for all. The bill which we are introducing today has resulted from the Park Service's study of three areas proposed for inclusion: Beverly Shores, U.S. Highway Strip 12 and the Greenbelt. I wholeheartedly favor the inclusion of the first two areas. I strongly oppose inclusion of the third study area—the Greenbelt.

The bill which we are introducing today addresses the study areas of Beverly Shores "island," a 652-acre residential area surrounded by parkland, and U.S. Highway Strip 12—two strips of land on either side of U.S. Highway 12, 56 acres in size. This area contains residences and some commercial buildings. This bill also addresses the homeowner leaseback and exemption from condemnation provisions affecting homeowners, and lastly, dedicates this park to the memory of the late Senator Paul H. Douglas.

I would first like to stress the importance of the homeowner provisions. The 1966 legislation contained a 25-year leaseback and exemption from condemnation for all affected homeowners. However, the 1976 legislation rescinded the exemption from condemnation provision and lowered the term of the leaseback from 25 years to 20. This unexpected change by the Park Service in its original promises to homeowners already in the park has caused skepticism and distrust among these people as to what their rights really are. We are attempting through this bill to establish uniform homeowner provisions, identical to the provisions in the 1966 legislation which would apply to all landowners in the park. Anyone who became a landowner in the park prior to July 1, 1977, would be eligible for these provisions. I would like to add that the Park Service has been most generous in adhering to our request to discontinue condemnation practices until we establish uniform homeowner provisions for affected citizens in the area. The sooner we can accomplish this, the better.

This issue of inclusion of the Beverly Shores "island" and Strip 12 is one of simple justice and equity for the citizens who live there. The problems which the citizens of Beverly Shores face, in particular, by not being in the park in terms of administering their local government and meeting day-to-day needs are immense—1,548 acres of the town are already incorporated in the park—and not of their own making. The remaining 652 acres, the "island," are the only taxable acres left. Revenue for town funds has diminished because of an eroding tax base. The result is inadequate police, fire protection, and maintenance services. The solution is either to develop the remaining acres, which would deface the park, or include them in the park. The majority of citizens in the area desperately wish to be in the park. The longer we defer the acquisition, the more expensive it becomes. I therefore hope that my colleagues will act on this legislation as soon as possible.

After lengthy review and research, I have concluded that the inclusion of the third study area, the so-called Greenbelt, is not warranted now or in the future. The Greenbelt is a 92-acre parcel of land owned by the Northern Indiana Public Service Co. This area serves as a buffer between this highly industrialized area, which is the site for the company's nuclear powerplant, and the lakeshore boundary, which is only 800 feet away.

Last year we tried to devise a complicated compromise which would have delayed acquisition of the area until 1986 and would have further protected NIPSCO from indemnification if the so-called dike, which serves as a retaining wall between the industrialized area and the wetland area, was torn down or breeched by the Park Service. At that time the Park Service and some members of the committee stated their opposition to inclusion of the Greenbelt because of its cost and management problems. I have since been convinced by the Park Service and the weight of public opinion that because of the delicate problems associated with managing an industrial area which abuts a park this area is best left as a permanent buffer. The Park Service stated last year that cooperative agreements reached between NIPSCO and the Park Service are evidence that the Park Service can manage this property without acquiring it.

The Greenbelt is 92 acres in size. The estimated cost, according to the Park Service, of its acquisition is $25,000 per acre. This cost does not even reflect the additional $900 per acre for relocation of NIPSCO facilities and purchase preparation costs. This is an incredible cost for a parcel of land whose acquisition merits are highly questionable and, which according to Park Service scientists and the U.S. Geological Survey, is not suffering any adverse impact under present management conditions. In the future these costs will only continue to escalate. At this time of high inflation, and with other more pressing matters concerning the dunes, I cannot rationalize this expenditure.

Since the proposal of last year's bill, I have heard from many citizens and community leaders in northwest Indiana who oppose acquisition of the Greenbelt. The Governor of Indiana, mayors of both political parties, Chambers of Commerce, leaders of labor unions, county commissioners, interest groups concerned about employment and economic development, the local county Farm Bureau, and many members of the Indiana Dunes National Lakeshore Advisory Commission, all oppose inclusion. These citizens assert, as does the Park Service, that the Greenbelt would contribute little or nothing to park development. On the other hand, these citizens deem it essential to the development of the vitally needed NIPSCO nuclear power plant.

Mr. President, with all respect for the park and its environment, I believe this is one case where the energy and employment needs of the citizens of northwest Indiana must take precedence. Indiana needs electrical power, and specifically needs the Bailly nuclear facility, which has experienced more delay and more judicial scrutiny that virtually any other project in the United States. NIPSCO estimates that the plant, which has been stalled because of regulatory delays, will cost ratepayers $850 million, if it is completed by 1984. It would have cost $187 million had it met the first scheduled completion date of 1976. That is a difference of over $650 million because of repeated delays and reviews. This means an additional $1,850 in rates for each of NIPSCO's 358,000 customers. Although these costs are obviously borne by the ratepayer over a long consumption period, this is nevertheless an enormous burden.

The other major aspect of this bill is of extreme importance to Senator Bayh and myself, and to the citizens of northwest Indiana—the dedication of the park to the late Senator Paul H. Douglas of Illinois. There have been repeated efforts by Members of Congress outside our State to rename the entire park after the late Senator. Certainly, his valued contributions to the establishment of the Dunes as a national park must be suitably honored. However, we, and most members of the Indiana delegation, have stated our strong opposition to such a move. We are joined by thousands of citizens in northwest Indiana, the Governor, the Save the Dunes Advisory Commission, leading citizens groups in our State, and newspapers in both Indiana and Illinois. They believe that the historical identity of the park with our State ought to be maintained. We are also joined by the Park Service, who has long had a policy against the renaming of national parks and monuments for specific individuals.

I hope that the provisions which we have added to the bill this year to honor Senator Douglas will satisfy the concerns of all of those people who rightfully wish to remember his efforts on behalf of the Dunes. Our bill would dedicate the entire park to Senator Douglas; designate the West Beach unit as the Paul H. Douglas Ecological and Recreational Area, authorize funds for the development of the "Paul H. Douglas Center for Environmental Education," and direct the Secretary of the Interior to suitably inform the public of his contributions. I believe that these provisions offer a strong compromise which will provide lasting remembrances to Senator Douglas and his contributions without renaming the park against the heated objections of Indiana citizens.

It is a privilege to join with Senator Bayh in introducing this bill.●

By Mr. KENNEDY (for himself, Mr. Metzenbaum, Mr. Pressler, Mr. Melcher, and Mr. McGovern):

S. 600. A bill to preserve the diversity and independence of American business; to the Committee on the Judiciary.

SMALL AND INDEPENDENT BUSINESS PROTECTION ACT OF 1979

Mr. KENNEDY. Mr. President, I am introducing today the Small and Independent Business Protection Act of 1979, which is designed to help preserve the integrity of a political and economic system committed to diversity. This legislation reflects far more than a narrow or technical concern with the interaction of forces within a given market structure. It represents a far broader perspective—a social concern with the impact of corporate power not only upon the character and responsiveness of individual economic markets, but upon the very social and political fabric of a nation committed to diversity and individual freedom of choice.

As Judge Learned Hand wrote in his famous Alcoa opinion:

> Our antitrust laws are rooted in the belief that great industrial consolidations are inherently undesirable regardless of their economic results. In the debates in Congress Senator Sherman himself . . . showed that among the purposes of Congress in 1890 was a desire to put an end to great aggregations of capital because of the helplessness of the individual before them.

The Supreme Court echoed that language in discussing the legislative history of the Celler-Kefauver amendments to section 7 of the Clayton Act:

> Throughout the recorded discussion may be found examples of Congress fear not only of accelerated concentration of economic power on economic grounds, but also of the threat to other values a trend toward concentration was thought to pose.

That threat persists today, Mr. President, by virtue of a gap in the scope and reach of current legislation as interpreted by our courts. In passage of section 7 of the Clayton Act in 1914, Congress was reacting to the dramatic effects of the first great merger wave in our history, which witnessed the absorption of 5,300 companies by 319 industrial trusts, and of 2,400 other firms by only 127 utilities. Between 1898 and 1902, there were 2,653 important industrial mergers, a yearly average of 531, as compared with a total of 46 mergers over the previous 3 years. Born were DuPont, General Motors, Swift, United Shoe, International Paper, and American Can, and in the end, 319 trusts controlled 40 percent of the manufacturing capital in the United States.

That wave was matched by a second between 1925 and 1929, a total of 4,583 mergers, 1,245 in the year before the crash. Twelve thousands firms disappeared through mergers between 1919 and 1930, including 43 percent of all existing public utilities.

For the most part, both merger waves involved the consolidation of market power within specific industries, the absorption of hundreds of smaller enterprises into the dominant market giants which today are household words. That trend was far less apparent, however, in the third great wave of mergers which followed World War II and has yet to be abated. Between 1945 and 1968, almost 17,000 mergers were recorded just in the manufacturing and mining sector. Some 1,276 manufacturing and mining corporations with assets of at least $10 million—or 38 percent of all such firms of that size—surrendered their independence during that period, and with it control over $52 billion in assets. Of the top 500 industrial corporations, 110 disappeared between 1962 and 1968; eight companies alone acquired $13 billion in assets during the 1960's.

The third trend, however, has been different in character from the first two. Only in part has it witnessed the continuing absorption of smaller firms by giants in the same industry. Two factors have served to stem the tide of such vertical and horizontal activity: More vigorous antitrust enforcement by the Department of Justice, and operation of the 1950 Cellar-Kefauver amendments strengthening the merger provisions of section 7 of the Clayton Act.

Despite a legislative record broadly concerned with the social, political, and economic effects of corporate power, the courts have interpreted section 7 to apply only to those mergers which have a demonstrable effect upon competition within the confines of a given industry. That interpretation has effectively closed the door to significant horizontal or vertical mergers within a specific line of commerce. But for a number of reasons, it has signaled a clear invitation to increasing conglomerate merger activity—the merger of two ostensibly unrelated economic enterprises. While such mergers can produce demonstrable effects upon competition within the industry of an acquired firm, the problems and complexity of proof are enormous once the focus shifts from an insular perspective upon a single industry to a transfer of power across industry lines. Moreover, the courts have flatly rejected application of section 7 to mergers which increase the concentration of economic power less within the boundaries of a given market than throughout the economy as a whole.

Thus the Government has failed to win a litigated conglomerate case since 1974. Between that year and 1977, there were 12 unsuccessful challenges to mergers predominantly conglomerate in nature. Moreover, the current pattern of economic activity has reflected recognition of that gap in enforcement of our antitrust laws. In 1950 only 38 percent of mergers were conglomerate in nature. In recent years the figure has reached 80 to 90 percent. A major tire company now owns radio and television stations, an airline, and a soft drink company. A car manufacturer makes coffee in Brazil. A bus company now owns meatpacking and computer companies, and a major oil company is now concerned with publishing, food processing, and the record industry.

The character of merger activity has changed. However, its intensity, its size and breadth, and its significance to our economy and our society have only increased. There were 1,299 separate mergers in 1975, 1,441 in 1976, and 1,676 in 1977. The dollar value of all corporate mergers and acquisitions rose from almost $12 billion in 1975, to $20 billion in 1976, to almost $22 billion in 1977, to $34 billion in 1978. Between 1968 and 1977, firms with more than $1 billion in assets acquired 160 independent industrial enterprises averaging $130 million in assets. In 1948, the 200 largest manufacturing firms acquired assets in manufacturing and mining of $63,200,000. In 1966, the figure was $789,400,000, and in 1977, $5,236,900,000. Even adjusting for inflation, the increase is dramatic. In 1977 dollars, the figures for 1948 are $159,100,000; for 1960, $1,615,300,000; and for 1977, $5,236,900,000.

By any measure, the number of large mergers is increasing. In 1971, there were 59 mergers or acquisitions involving acquisition of assets of over $10 million. There were 96 such transactions in 1977. In 1976, manufacturing and mining firms with assets of at least $1 billion acquired 18 firms with assets of over $10 million, for a total acquisition of $2.5 billion in assets. In the following year, there were 28 acquisitions of that nature, of assets totalling $4.6 billion. In 1975, there were only 14 mergers involving a purchase price of $100 million or more. That number rose to 39 in 1976, to 41 a year later, and almost doubled to 80 in 1978.

Mr. President, the implications of these figures are significant. They describe a pattern by which independent enterprises are increasingly absorbed within the corporate umbrella of conglomerate giants to which they may bear no logical economic relationship. Unless the growth of new companies can be said to match the disappearance of existing companies, the inevitable result is that more and more economic power is now concentrated in fewer and fewer hands. In far too many sectors of our economy, that is precisely the case. As Professor Galbraith said recently:

> In the United States a couple of hundred large industrial corporations now provide around 60 percent, not much less than two-thirds, of all manufacturing employment. Similarly the handful of big airlines, the two telephone companies, the three broadcasting networks, the separate power companies that are dominant in their respective industries and markets. Around fifty of the largest banks provide about half of all the banking services in the United States. The insurance business is yet more concentrated. Even retailing is dominated by a relatively small number of large chains. The overall result is that a couple of thousand big corporations now provide more than half of all production of goods and services.

The merger trend has only entrenched that level of concentration. In the postwar period, one study found, almost two-thirds of the increase in the concentration ratio for the top 500 manufacturing and mining firms was accounted for by mergers. Three other studies placed the figure anywhere from 75 percent to 84 percent for the top 200 such firms, and two studies found mergers responsible for up to 75 percent of the increase in concentration among the top 100.

Across our economy as a whole, the level of economic concentration is too high already, and in too many sectors of our economy it is getting higher. The Fortune top 100 firms now control about the same share of manufacturing assets as did the top 200 30 years ago. In 1977 the figure was 58 percent, up from 54 percent in 1975, 49 percent in 1965, and 44 percent in 1955. The top 200 firms now have the same percentage share of manufacturing assets as did the top 1,000 in 1941. In 1955, the top 500 industrials controlled 65 percent of all manufacturing and mining assets. In 1965 the figure was 73 percent, and in 1977 it was 83 percent. That means that 500 companies now control over eight-tenths of the manufacturing assets in this country. Their share is 10 times greater than that of the second 500 industrials. They control almost 60 percent of our gross national product, 30 percent of total business receipts, and about 70 percent of manufacturing revenues.

Moreover, the power of such firms does not stop at national boundaries. The U.S. Chamber of Commerce estimates that by the year 2000, a few hundred multinational corporations will own $4 trillion in assets, or 54 percent of projected world wealth. Thirteen of the largest 20 multinationals are American companies. Nor can it be said that the ownership of such companies is in any sense diffuse. According to recent studies, 1 percent of all stockholders own 72 percent of all American corporate stock. Interlocking directorates and joint ventures only further collapse the number of individual decisionmakers.

By any measure over the long term, fewer and fewer economic decisionmakers are controlling more and more economic power in this country. Within the confines of a specific market, there may be structural or physical limitations to the maximum growth by acquisition of any individual firm. But across the entire economy, the only limit to expansion by acquisition is the wealth of the acquiring corporation. Using only accumulated cash or liquid assets, Exxon or IBM could buy up more than a dozen of the fortune 500 companies, including J. C. Penney Co., DuPont, Goodyear and Anheuser-Busch. As Fortune Magazine warned recently, "the U.S. economy might end up completely dominated by conglomerates happily trading with each other in a new kind of cartel system."

It almost goes without saying, Mr. President, that the trend toward conglomeration and increased concentration carries significant implications for our country's commitment to political and economic diversity. Even before pausing to specify the range and significance of the social, political, and economic implications, each of us must find disquieting at the least the notion of a comparative handful of corporate decisionmakers imposing their own views upon a growing and disparate range of economic questions. Fewer and fewer decisionmakers now determine matters tangibly affecting all Americans—the kind and quality of clothes we wear, food we buy, or books we read. More and more, corporate managers exercise dominion over a widening scope of product and service decisions, not merely those about which they may have some expertise. More and more, they exercise that dominion at a growing distance from consumers, a distance which may measure not only the pyramid of individual corporate power, but just as much, a concomitant decline of corporate accountability, responsiveness and responsibility.

In the publishing industry alone, there have been over 300 mergers and takeovers during the last 20 years. Ten paperback publishers now control 90 percent of paperback sales—not just traditional publishers like Doubleday, Hearst, and Bertelsman, but huge conglomerates like RCA, Gulf & Western, CBS and MCA. In 1976, 89 percent of book club net sales were controlled by 10 publishers. The implications for the first amendment are significant, and similar social costs—of which the full impact may be immeasurable—can be seen in relation to any marketable product or service.

There are also social costs to the community of the firm acquired by a conglomerate. Distant economic managers may lack the necessary commitment to the growth and prosperity of a community or of workers over which they find themselves exercising power. In many cases, of course, large companies are among the best corporate citizens, maintaining strong commitments to the fair treatment of their workers and their communities. Nevertheless, absentee ownership, however benign, tends to place distance between a company and those who work for it or depend upon it; and sometimes distance alone attenuates that commitment.

In 1969, Youngstown Sheet and Tube Co. was acquired by the Lykes Corp., a New Orleans-based steamship firm. At that time Youngstown's Campbell works, though in need of modernization, was a successful company, accounting for 77 percent of Campbell's total revenues. In 1977, however, after abandoning reinvestment for modernization and looting Youngstown's assets to pay off preexisting debts—including those incurred to purchase Youngstown—and to further diversify by acquisition, Lykes closed 75 percent of the Campbell works. Five thousand workers immediately lost jobs. From 6,000 to 10,000 additional jobs were lost through ripple effects. Unemployment rose above 10 percent in the Mahoney Valley of Ohio. Property tax valuation dropped 27 percent, overall tax collections 40 percent. Sales in the Campbell area dropped by $15 million annually. A city bond effort was nullified. One witness estimated the cost to government alone—in welfare, food stamps, and lost taxes—at $72 million. No one can measure the cost in human suffering: unemployment, depression, alcoholism, alienation, divorce, and suicide. Even to secure an economic benefit, can any society afford such costs?

There are political costs as well as social, when fewer and fewer corporate entities become more and more powerful. We have seen a correlation between the size and wealth of individual corporations, and their ability to influence political processes. These include the election of candidates, the distribution of government benefits, the passage of legislation, and the process of its implementation. By virtue of size organization, wealth, access, prestige, and media influence. Large conglomerates gain disproportionate power over electoral processes, the distribution of government benefits, the zealousness of dissident employees, and the vocalness of buyers and sellers.

Corporate political instruments are already powerful. Last year the political action committees of corporations spent $4.7 million on congressional campaigns. There were 700 separate corporate lobbies registered in Washington. But only 34 groups operate there for social welfare programs, only 53 for minority groups, only 15 for older Americans. And with individual corporate growth comes individual corporate power. And every increase in corporate political power creates concomitant pressure for countervailing governmental power, even at a time of inflation, budget deficits, and pressure for less government. As Franklin Roosevelt said once: "Big Business collectivism in industry compels an ultimate collectivism in government." Without this legislation to control the power, we will witness inevitably a concomitant growth in governmental power.

Finally, Mr. President, there are serious economic costs of conglomerate merger activity, of a kind traditionally recognized by courts in enforcing the antitrust laws. Conglomerate mergers may significantly undermine competition in the industry of the acquired firm, by virtue of the size and power of the acquiring firm. That power can be exercised in a variety of ways—by intimidation of potential entrants into an industry; by foreclosure of toe-hold or de novo entry by the acquiring firm itself; by bringing corporate power to bear against current competitors; by disproportionate influence over governmental processes, by reciprocity among subsidiaries of a conglomerate; or by mutual forebearance among conglomerates whose subsidiaries compete. There are also harms to economic growth and efficiency: The opportunity cost of effectively nonproductive fund transfers, which might have financed shareholder reinvestment or internal expansion; the reduction in diversity which may undermine the opportunities for innovation or aggressive management; the disruption of traditional collective-bargaining relationships and balances, causing work stoppages or plant shutdown; the inefficiency and waste of overextending distant or inexpert managers; and the waste of time and money in exploring acquisitions or resisting them.

Nor are such harms offset by competing economic advantages. At least four theories have been advanced by which conglomerate mergers are said to help the economy. That they help achieve economies of scale or other synergies; that they facilitate the raising and movement of capital; that they help set stock prices at a level more reflective of the value of an enterprise; and that they help promote efficiency in management through takeovers or the threat of takeovers. Even if all of those benefits were demonstrable, Mr. President, they would not justify the often devastating social, political, and economic harms produced by conglomerate merger activity. Moreover, such benefits are greatly exaggerated, especially with respect to the large mergers covered by this legislation. At some point, prospective parties to a merger become large enough to achieve its benefits independently. Finally, this legislation permits a showing by proponents of a merger that it would substantially enhance competition, or yield economies of scale or other substantial efficiencies. It may be possible to prevent the costs of conglomerate mergers while preserving those which produce benefits. Surely that outcome is more desirable than continuing to suffer the political, social, and economic costs of such activity.

It is the purpose of this legislation to address and to prevent those costs—costs to the diversity and integrity of our economy and our political values. In the weeks to come, the Senate Judiciary Committee, and the Subcommittee on Antitrust and Monopoly, will be considering the complex questions raised by this issue. They are by no means easy questions, susceptible of simple answers. We recognize, for example, that growth of firms by internal expansion offers positive benefits to our society. We recognize that larger firms have offered positive contributions to our economy and our society. This legislation is not an attack on bigness. Rather it addresses those problems inherent in one method by which corporations seek to grow larger. Our purpose is to find the best means of dealing with a difficult and complex issue, with broad implications for our society and our economy. Some action is necessary, to secure the integrity of a nation's commitment to economic and political diversity. I am confident that in this Congress, we will take another important step toward achieving that objective.

By Mr. PROXMIRE (by request):

S. 601. A bill to increase the number of class C directors of Federal Reserve banks and to make certain changes in the terms and positions of the Chairman and Vice Chairman of the Federal Reserve Board; to the Committee on Banking, Housing, and Urban Affairs.

FEDERAL RESERVE REFORM ACT AMENDMENTS OF 1979

Mr. PROXMIRE. Mr. President, I am today introducing legislation at the request of Chairman Miller of the Federal Reserve Board titled the "Federal Reserve Reform Act Amendments of 1979."

The Federal Reserve Reform Act of 1977 (Public Law 95–188) prohibited the discriminatory selection of Federal Reserve bank directors on the basis of race, creed, color, sex, or national origin and expanded the criteria for selection of non-bank directors so that due consideration would be given to the interests of agriculture, commerce, industry, services, labor, and consumers.

In a letter dated February 22, 1979, transmitting this legislation, Chairman Miller points out that the Federal Reserve is having difficulty complying with the terms of the Federal Reserve Reform Act of 1977 because it selects only three of the nine directors itself, two of whom must also have the qualifications to serve as Chairman and Deputy Chairman of the Board of Directors. Chairman Miller proposes to meet the broader selection requirements of Public Law 95–188 by expanding the number of directors of each Federal Reserve bank from 9 to 12, 6 of whom would be chosen by the Federal Reserve. Since the Chairman and Deputy Chairman would be chosen from this group, Chairman Miller's recommendations will, as a practical matter, result in four directors (or one-third of the Board) to be chosen by the Federal Reserve on the basis of the expanded criteria. Title I of the proposed legislation contains the amendments in these respects recommended by Chairman Miller.

Public Law 95–188 also provided for the Chairman and Vice-Chairman of the Federal Reserve to be designated by the President by and with the consent of the Senate for a term of 4 years. Chairman Miller recommends in the legislation that the 4-year term of the Chairman expire on January 31 of the year after the inauguration of the President. The effect of this provision will be to insure that each President will have the power to name his own man as Chairman of the Federal Reserve 1 year after assuming office. Chairman Miller also recommends housekeeping provisions which make clear that in the event of death or disability of the Chairman, that the Vice-Chairman has power to act as Chairman. These recommendations are contained in title II of the legislation.

Mr. President, I am sure the members of the Banking Committee will give careful consideration at an early time to the recommendations of Chairman Miller, including the effects of adoption, if any, on the independence of the Federal Reserve of Chairman Miller's amendments. I ask unanimous consent that the text of Chairman Miller's letter of February 22 be printed in the Record, together with the text of the Federal Reserve Reform Amendments Act of 1979.

There being no objection, the bill and letter were ordered to be printed in the Record, as follows:

S. 601

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Reserve Reform Act Amendments of 1979".

TITLE I—FEDERAL RESERVE BANK PUBLIC DIRECTORS

Sec. 101. (a) The ninth paragraph of section 4 of the Federal Reserve Act (12 U.S.C. 302) is amended by striking out "nine" and inserting in lieu thereof "twelve".

(b) The twelfth paragraph of section 4 of the Federal Reserve Act (12 U.S.C. 302) is amended—

(1) by striking out "three" in the first sentence and inserting in lieu thereof "six"; and

(2) by adding at the end thereof the following: "Of the three new class C members first appointed by the Board of Governors of the Federal Reserve System pursuant to and after the enactment of the Federal Reserve Act Amendments of 1979, one shall be designated to serve for a term ending December 31, 1980, one for a term ending December 31, 1981, and one for a term ending December 31, 1982, and thereafter each member so appointed shall serve for a term of three years as provided in paragraph 9 of this section."

(c) The last sentence of the twentieth paragraph of section 4 of the Federal Reserve Act (12 U.S.C. 305) is amended by striking out "third class C director" and inserting in lieu thereof "class C director designated by the chairman".

TITLE II—TERMS OF FEDERAL RESERVE BOARD CHAIRMAN AND VICE CHAIRMAN

Sec. 201. The second paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 242) is amended by striking the third sentence and inserting in lieu thereof the following: "The President shall appoint, by and with the advice and consent of the Senate, one member of the Board to serve as chairman for a term of four years. The chairman's term shall expire on January 31 of the first calendar year commencing after the calendar year during which the term of the President appointing the chairman is scheduled to expire. In the event a chairman does not complete the entire term, the successor shall be appointed to complete the unexpired portion of that term. The President also shall appoint, by and with the advice and consent of the Senate, one member of the Board to serve as vice chairman for a term of four years.".

Sec. 202. The second paragraph of section 10 of the Federal Reserve Act is amended by inserting immediately after the fifth sentence thereof the following: "In the temporary absence and unavailability or disability of the chairman, or, in the event of the death, resignation, or permanent incapacity of the chairman, the vice chairman shall have the power to act as chairman during such temporary absence or unavailability or permanent incapacity pending appointment of a successor to the chairman. Upon the expiration of the term of office of the chairman or vice chairman, the chairman or vice chairman, as the case may be, shall continue to serve in that capacity until a successor is appointed and has qualified."

Sec. 203. The provisions of this Act and the amendments made by it shall take effect upon the date of its enactment, except that any person who is the chairman of the Board of Governors of the Federal Reserve System immediately prior to the date of enactment of this Act may continue in the office of chairman until the expiration of the full four-year term to which he or she was appointed, and the amendments made by section 201 shall not be applicable to him or her prior to the expiration of the full four-year term.

Federal Reserve System,
Washington, D.C., February 22, 1978.

Hon. William Proxmire,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

Dear Bill: Enclosed for your consideration is a proposal from the Board's 1979 legislative program, entitled the "Federal Reserve Act Amendments of 1979," which would increase the number of class C directors of Federal Reserve Banks from three to six; provide for appointment of the Chairman of the Federal Reserve Board at regular four-year intervals, beginning one year following the inauguration of the President; and make other changes in the terms and positions of the Chairman and Vice Chairman of the Federal Reserve Board. Title I of the draft bill dealing with the class C directors is a resubmission from the 95th Congress, which the Board transmitted on June 9, 1978; Title II ("Terms of Federal Reserve Board Chairman and Vice Chairman") is a revised version of H.R. 12510 of the 95th Congress, which Congressman Mitchell introduced on May 2, 1978.

Title I——Federal Reserve Bank Public Directors.

For several years, the Board has been endeavoring to broaden the representative aspect of the directors of Federal Reserve Banks. These efforts have been accelerated with the passage of the Federal Reserve Reform Act of 1977, which urges the System to increase the representation of consumers, labor and service interests on the boards of directors. The law also calls upon directors to be appointed "without discrimination on the basis of race, creed, color, sex or national origin."

The Board, however, has encountered difficulties in fulfilling the Congressional mandate since under present law it is only able to appoint directly the three class C directors of Reserve Banks, two of whom must also meet the qualifications to serve as Chairman and Deputy Chairman of the Board. The member of class C vacancies that occur in any year is further limited since directors are appointed for three-year terms.

The Board in considering this problem has concluded that, in order to implement the Federal Reserve Reform Act of 1977 as expeditiously as possible, additional legislation is desirable to increase the number of class C directors at each Reserve Bank from three to six. Enactment of this legislative recommendation would permit the Board to appoint immediately three new class C directors at each Reserve Bank. The terms of office for these new directors would be three years, but initially would be staggered with one director being appointed to a one-year term, one director to a two-year term, and the third director to a three-year term.

Title II——Terms of Federal Reserve Board Chairman and Vice Chairman.

The Federal Reserve Act states that whenever a vacancy occurs among the seven members of the Board, a successor is to be appointed by the President, by and with the advice and consent of the Senate, to hold office for the unexpired portion of his predecessor's term. Of the persons serving on the Board, one is designated to serve as Chairman for a term of four years. Each newly appointed Chairman is appointed for a full four-year term whether or not his predecessor completed a term as Chairman.

Proposals to align the term of the Chairman of the Federal Reserve in some way with the term of the President have been under consideration by Congress in various forms for a number of years. The Board believes there is a sound basis for making the four-year term of the Chairman begin one year following the inauguration of the President—i.e., on February 1 of the year after the President's term of office commences. Title II of the enclosed draft bill would accomplish this change and correspondingly would permit a Chairman or Vice Chairman who is filling the vacancy created by an unexpired term to serve only until January 31 of the post-inaugural year, after which he or she would be eligible for appointment to a full term (Section 201).

Title II would also (a) authorize the Vice Chairman to act as Chairman in the event of the temporary absence and unavailability or incapacity of the Chairman, or the death, resignation or permanent incapacity of the Chairman pending appointment and confirmation of a successor; and (b) clarify that the Chairman or Vice Chairman shall continue to serve in that capacity after expiration of his or her term until a successor is designated and confirmed (Section 202). The Federal Reserve Act makes no clear provision for the former situation; and it contains an ambiguity for the latter by allowing Board members to continue serving, upon the expiration of their terms, until their successor is confirmed, without specifying their continuity on the Board as Chairman or Vice Chairman *per se.*

The Board's proposal is drafted to exempt the current Chairman from the co-terminous term provisions of Section 201; otherwise, the incumbent's term as Chairman would expire on January 31, 1982, rather than March 8, 1982—five weeks less than the four years to which he was appointed (Section 203). This would mean, however, that the current Chairman's successor would serve for a corresponding five weeks less than the full four-year term of office.

The Board would be grateful for the prompt consideration of the enclosed proposal.

Sincerely,

BILL.

By Mr. MATHIAS (for himself and Mr. STAFFORD):

S. 602. A bill to amend the Internal Revenue Code of 1945 to modify the credit allowed for expenses for household and dependent care services necessary for gainful employment to include credit to individuals for expenses for the care of a mentally or physically handicapped child of such individual and to provide for the exemption from taxation of trusts established to provide care for such children except to the extent of distributions and to provide a deduction for contributions to such trusts; to the Committee on Finance.

CHILD CARE AND FAMILY CARE TRUST ACT OF 1979

● **Mr. MATHIAS.** Mr. President, parents with mentally or physically handicapped children often face uncommon expenses relating to the care and supervision of their offspring. Unless the expenses are for medical care, or are in connection with a parent seeking gainful employment, the parents now may not reduce their Federal tax liability even though the costs of specialized child care and supervision may be extraordinary. My bill gives a tax break to families in this situation by increasing the amounts that can be claimed for child care expenses in the case of handicapped children, and by not requiring a parent to seek gainful employment in order to claim the credit. The maximum tax credit per severely handicapped child is $1,600 per year.

Helping parents of severely handicapped children deal with high child care expenses is not a complete answer to the problem of caring for such persons. Parents face an additional financial burden when they learn that their children are so handicapped that it is unlikely that they will be able to become self-supporting and independent at the age of majority or later. Many parents feel obligated to continue providing care and supervision to such children. Families become particularly concerned about how severely handicapped children will be cared for after the parents' own working years have ended, and after they are deceased.

In view of the long term care problem, my bill would amend the tax code so that parents, grandparents, brothers, and sisters of severely handicapped children may establish qualified family care trusts. Parents and other close relatives would be encouraged to deposit some of their income, singly or in combination, in such trusts in order to accumulate money during their working years to fund some of the costs of continuing child care and supervision after the parents retire or are deceased. Money deposited by contributors in such trusts would be treated as a deduction from adjusted gross income in the same way as is money placed in an individual retirement account up to a maximum of $1,500 per handicapped child per year.

The problem of providing long-term care to a family member is not confined to children. Each year some adults are diagnosed as having multiple sclerosis, Hodgins, or another progressively disabling disease. My bill permits families to use the qualified family care trust in such circumstances to provide for the long-term care of an adult family member who will be completely incapacitated as the disease takes its toll. In such cases children and spouses, in addition to other close relatives, can participate in funding qualified family care trusts.

Trustees could invest money from such trusts and accumulate earnings. Taxes on the earnings would be levied against the qualified family care trusts when distributions are made to pay for care and supervision of severely handicapped children or progressively disabled adult family members. Distributions may begin anytime after the children reach age 21 or the grantor dies, whichever occurs first. In the case of progressively disabled adult family members, distributions may begin anytime after they no longer can engage in any substantial gainful activity. Money distributed to pay for the care or supervision of beneficiaries of such trusts would not be taxable to them, nor could the assets of the trusts be considered for purposes of determining their eligibility for such benefits as supplemental security income.

The alternative to making it financially possible for families to provide for their own severely handicapped children or progressively disabled adults, of course, is to relv exclusively upon Government to provide the care at taxpayer expense. The existing Government programs to assist such persons surely have value. But, I believe that most Americans would support a governmental policy of offering financial encouragement to families with severely handicapped children or progressively disabled adults such that they can provide the essential care for as long as possible.

I am pleased that both providers of health care and supportive services, as well as organizations representing the handicapped, favor the bill. The American Congress of Rehabilitation Medicine, American Osteopathic Association, American Public Health Association, American Psychiatric Association, American Occupational Therapy Association, American Physical Therapy Association National Rehabilitation Counseling Association, American Personnel and Guidance Association, American Rehabilitation Counseling Association, Association on Rehabilitation Facilities, National Association of Private Psychiatric Hospitals, American Association on Mental Deficiency, National Easter Seal Association, National Association of the Deaf, Alexander Graham Bell Association for the Deaf, Arthritis Foundation, Epilepsy Foundation of America, National Association of Retarded Citizens, Muscular Dystrophy Association, and the National Multiple Sclerosis Society are among the organizations supporting the bill.

Mr. President, I now ask unanimous consent that the text of the Child Care and Family Care Trust Act of 1979, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 602

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MODIFICATION OF SECTION 44A CREDIT.

(a) IN GENERAL.—Subsection (f) of section 44A of the Internal Revenue Code of 1954 (relating to special rules for expenses for household and dependent care services necessary for gainful employment) is amended by adding at the end thereof the following new paragraph:

"(9) Special rule for handicapped child.—In the case of a qualifying individual described in subsection (c) (1) (B) who is the child (as defined in section 151 (e) (3)) of the taxpayer—

"(A) expenses for the care of the qualifying individual shall be treated as employment-related expenses without regard to whether or not such expenses are incurred—

"(i) to enable the taxpayer to be gainfully employed, or

"(ii) outside the taxpayer's household;

"(B) the amounts '$4,000' and '$8,000' shall be substituted for '$2,000' and '$4,000', respectively, in subsection (d); and

"(C) the limitation contained in subsection (e) shall not apply.".

(b) CONFORMING AMENDMENTS.—

(1) The caption of section 44A of such Code is amended—

(A) by inserting "CERTAIN" before "HOUSEHOLD", and

(B) by striking out "NECESSARY FOR GAINFUL EMPLOYMENT".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by striking out the item relating to section 44A and inserting in lieu thereof the following:

"Sec. 44A. Expenses for certain household and dependent care services.".

SEC. 2. ALLOWANCE OF DEDUCTION FOR CONTRIBUTIONS TO QUALIFIED CHILD CARE TRUSTS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as 222 and by inserting after section 220 the following new section:

"SEC. 221. CONTRIBUTIONS TO QUALIFIED CHILD-CARE TRUSTS

"(a) General Rule.—In the case of an individual there is allowed as a deduction the sum of the amounts paid or contributed by that individual for the taxable year to or under a trust described in section 645 established by that individual.

"(b) Maximum Deduction—The deduction allowable by subsection (a) for any taxable year shall not exceed 15 percent of the compensation (as defined in section 401(c)(2)) includible in gross income for the taxable year, or $1,500, whichever is less.

"(c) No Deduction When Beneficiary Is Not a Dependent.—No deduction is allowed under subsection (a) for amounts contributed during any taxable year for which the taxpayer may not claim the deduction allowed by section 151 with respect to the beneficiary.".

(b) Allowance of Deduction from Gross Income.—Section 62 of such Code (relating to definition of adjusted gross income) is amended by adding at the end thereof the following new paragraph:

"(14) Qualified child-care trust contributions.—The deduction allowed by section 221.".

(c) Clerical Amendment.—The table of sections for such part is amended by striking out the last item and by inserting in lieu thereof the following:

"Sec. 221. Contributions to qualified child-care trusts.

"Sec. 222. Cross references.".

SEC. 3. TRUST FOR CARE OF AN INCOMPETENT CHILD OF THE TAXPAYER

(a) In General.—Subpart A of part I of subchapter J of chapter 1 of the Internal Revenue Code of 1954 (relating to general rules for taxation of estates and trusts) is amended by adding at the end thereof the following new section:

"SEC. 645. QUALIFIED CHILD-CARE TRUSTS

"(a) Exemption From Income Taxes.—

"(1) Exemption for qualified child-care trust.—Except as provided in paragraph (3), a qualified child-care trust shall be exempt from taxation under this subtitle for the taxable year.

"(2) Exemption for beneficiary.—Except in the case of a mandatory distribution provided for in subsection (b)(1), any amount distributed during the taxable year by a qualified child-care trust shall not be included in the gross income for the taxable year of the qualified beneficiary to or for whom such amount is so distributed to the extent that such amount is received by any individual—

"(A) who is not the spouse of the grantor of such trust, and

"(B) whose relationship to such grantor is not described in paragraph (1), (2), (3), (4), or (5) of section 152(a),

for the purpose of providing care for such beneficiary.

"(3) Trust funds to be taxed on distributions.—Except in the case of a mandatory distribution provided for in subsection (b), a qualified child-care trust shall be treated as having taxable income for the taxable year in an amount equal to the sum of the amounts distributed by the trust during the taxable year, reduced by any portion of such distributions included in the gross income of a beneficiary for the taxable year under paragraph (2).

"(b) Mandatory Distributions.—

"(1) To beneficiary upon cessation of dependence.—If the grantor of a qualified child-care trust cannot claim the deduction allowed by section 151 with respect to the beneficiary for 5 successive taxable years because of the earned income of the beneficiary, then, beginning with taxable year beginning after the fifth such taxable year, the amount in the trust shall be distributed to the beneficiary over a period of not more than 5 taxable years.

"(2) To grantor upon death of beneficiary.—If the beneficiary of a qualified child-care trust dies during any taxable year of the grantor of the trust, the amount in the trust shall be distributed to the grantor over a period of not more than 5 taxable years.

"(C) Definitions.—For purposes of this section—

"(1) Qualified child-care trust.—The term 'qualified child-care trust' means any trust—

"(A) which is created and governed by a written instrument under which—

"(i) it is impossible, at any time before the termination of the trust, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of care for any qualified beneficiary of the trust, the payment of administrative expenses of the trust, or a mandatory distribution required under subsection (b), and

"(ii) the grantor of the trust has no reversionary interest in any portion of the trust (other than in the case of a mandatory distribution required under subsection (b)(2)) which may take effect in possession or enjoyment before the death of all qualified beneficiaries of the trust or before all beneficiaries of the trust cease to be qualified beneficiaries of such trust;

"(B) the trustee of which is a bank (as defined in section 401(d)(1) or any person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the purpose of the trust; and

"(C) no beneficiary of which is a beneficiary of any other qualified child-care trust.

"(2) Qualified beneficiary.—The term 'qualified beneficiary' means any individual—

"(A) who is the son, stepson, daughter, or stepdaughter of the grantor;

"(B) who, under regulations prescribed by the Secretary, at the time such trust is established, is unable to engage in any substantial gainful activity because of a medically determinable mental or physical impairment which can be expected to be of long-continued and indefinite duration, and

"(C) who, if the grantor is alive at the close of the taxable year of the trust, has attained the age of twenty-one years.".

(b) Clerical Amendment.—The table of sections for such subpart A is amended by adding at the end thereof the following new item:

"Sec. 645. Qualified child-care trusts.".

SEC. 4. AMOUNTS FROM TRUST NOT TAKEN INTO ACCOUNT FOR PURPOSES OF OTHER FEDERAL ASSISTANCE.

Amounts paid from a qualified child-care trust (as defined by subsection (c)(1) of section 645 of the Internal Revenue Code of 1954) for the care of a beneficiary of such trust, other than amounts required to be distributed under subsection (b)(1) of such section, shall not be taken into account for purposes of determining the eligibility of such beneficiary for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to taxable years beginning after the date of enactment of this Act.●

By Mr. JAVITS (for himself, Mr. STAFFORD, Mr. CHAFEE, Mr. SCHWEIKER, and Mr. HAYAKAWA):

S. 603. A bill to amend title XIX of the Social Security Act to provide that States may include coverage under medicaid for individuals who perform substantial gainful activity despite a severe medical disability; to the Committee on Finance.

● Mr. JAVITS. Mr. President, I am introducing for myself and Senators CHAFEE, SCHWEIKER, STAFFORD, and HAYAKAWA a bill which will enable severely disabled persons who are capable of gainful employment to receive medicaid assistance.

Employable disabled persons in our country are victims of a most egregious situation: The medicaid program, designed to help people, instead may place severely handicapped individuals in very real "life-or-death" dilemmas, which virtually require them to go on public assistance.

Under title XIX of the Social Security Act, a disabled person's eligibility for medicaid depends not only upon financial eligibility under State-established standards; but also upon meeting the requirements of the definition of "disabled" used for purposes of the supplemental security income (SSI) program under title XVI of the act. Section 1614

> The Secretary shall by regulations prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity. Notwithstanding . . . [an individual otherwise meeting the SSI medical definition of disability], an individual whose services or earnings meet such criteria . . . shall be found not to be disabled.

Mr. President, "substantial gainful activity" under current Federal regulations is defined by a $240 monthly gross earnings limitation. This means that most disabled persons earning more than $240 monthly are considered legally not disabled, and hence, are ineligible for any medicaid services.

There are only two exceptions to this "substantial gainful activity" limitation. First, any disabled person may receive medicaid services if he or she engages in a trial work period of up to 9 months per disability regardless of monthly gross earnings over this period. Second, any disabled person eligible for medicaid services in December 1973 is still eligible, provided that his or her State's approved medicaid plan did not at that time include a "substantial gainful activity" test. Despite these exceptions, many severely disabled workers are eliminated from eligibility for required services.

Mr. President, severely disabled workers in this Nation frequently need home health aides, prescription drugs, and other services covered under State medicaid plans to assist them in meeting their daily personal requirements. The cost of these services may be quite high depending upon the individual's needs. Many disabled persons who are employed earn incomes above the $240 monthly gross earnings limitation—incomes too high for medicaid eligibility but often unquestionably too low to cover the cost of life-sustaining care. Thus, the employable disabled person who wishes to work may be forced by this limitation upon his or her earnings to remain unemployed—or underemployed—since his or her earnings cannot cover the cost of necessary personal services.

To force an individual to choose between employment and personal attendant care, for example, is unacceptable. Our employable disabled citizens should have the opportunity for both, so that they may lead productive, independent lives.

The case of a woman in New York is instructive of the devastating effect of this situation faced by disabled workers. She was forced to make the untenable choice between work or life. When she first wrote me, the earnings limitation for purposes of defining her as "disabled" was $140 per month, but the precise figure is less relevant to the issue than the very clear fact that, regardless of employment, a disabled person is still disabled and still may require life-sustaining services such as a home health aide. I should like to read into the RECORD a part of her original letter to me:

> I am a 26-year-old severely disabled woman

> who was put through school by the Division of Vocational Rehabilitation. I graduated Hofstra University in 1969 and sought work. In 1971 I began work for the Department of Social Services as a caseworker aide. I lived with my family; mother took care of my personal needs such as bathing, dressing, toileting, as well as those of my disabled younger sister. In 1973 I moved into my own apartment as I realized that as my sister grew older it was increasingly more difficult for my mother to care for us (my sister is now 14).
>
> I wanted to try to live independently, now, before I had to. My parent would someday be unable to care for me. I shared my apartment with a disabled roommate on public assistance. She had an aide paid for by medicaid. I supplemented the aide and she took care of me too. In June, my roommate moved. I used my savings to pay an aide and tried several "arrangements" where I offered free room and board in exchange for service. I had my life jeopardized by an alcoholic, a drug addict, and a mentally ill woman.
>
> I applied for medicaid and was told I could not qualify as anyone between the ages of 21 to 64 who earns more than $140.00 per month cannot be considered disabled. I earned $9400 per year; took home $133.00 per week; paid $241.00 per month for utilities and rent and an aide costs from $25.00–$35.00 per day. I applied for public assistance on the grounds that the Home Health Aide was a necessary expenditure to my working. I was denied because if I needed a Home Health Aide I was disabled and should apply for SSI. Social Security said I would not be eligible for SSI, because if I worked full time I was not disabled.
>
> The emotional strain and lack of proper care brought about by this catch–22 situation caused my condition to worsen. I resigned from my job with a Doctor's note. My case was opened for welfare and medicaid, and a Home Health Aide provided.
>
> I can work, but I cannot live without a Home Health Aide. If I return to work, I lose my medicaid, my Aide, and therefore, my life. I do not want to remain on welfare or SSI. I want to be considered disabled because I cannot independently provide for my own personal activities of daily living (toileting, bathing, turning in bed, dressing, etc.)

Mr. President, this is a tragic situation, unfortunately not an uncommon one, which we must not allow to continue.

I have asked officials of the Department of Health, Education, and Welfare and their counterparts in State government whether this unintended result can be remedied by regulation. After much discussion and correspondence over a period of time, it has become apparent that the most feasible remedy to this highly inequitable situation is for the Congress to amend the Social Security Act.

The legislation which I introduce today will correct this intolerable situation by amending title XIX of the Social Security Act to permit any severely disabled individual who is unable to care for his or her own personal needs, even though employable, to receive the services of a home health aide, and other medicaid services, under applicable State plans. The bill will extend attendant care and medical assistance covered by medicaid to disabled individuals who would not otherwise qualify because their incomes, while low, nevertheless are presently deemed too high solely because of the substantial gainful activity test of current law which is applied only to disabled persons.

This bill establishes eligibility for medical assistance under medicaid programs for handicapped persons who presently are barred from eligibility by the "substantial gainful activity test" of present law which prohibits eligibility regardless of severity of need. Severely handicapped persons are no less in need of medical assistance, and no less deserving of such assistance, than, for example, are blind persons, the very young, or the elderly.

Under our proposal, disabled persons would be subject to the same State-determined financial eligibility requirements for medicaid as are, for example, blind and elderly persons. This bill simply removes the "substantial gainful activity" test, currently applicable only to the disabled, for purposes of receiving medicaid. The test will continue to apply for eligibility of disabled persons for title XVI SSI assistance.

Under the provisions of this bill, disabled workers would be required to meet the Federal medical test of severe disability and State medical and financial eligibility standards for receipt of medicaid. Thus, under most State medicaid eligibility formulae, disabled individuals with substantial annual incomes would not be eligible for any such assistance unless their personal medical expenses were astronomical.

Joined by nine other Senators, including two distinguished members of the Committee on Finance, Senators Dole and Moynihan, I introduced an initial version of this legislation, as S. 2505, in the 95th Congress. I would like to review briefly for my colleagues the history of S. 2505 and related legislation in the last Congress.

Near the end of the 95th Congress, the other body considered and passed legislation to modify title XVI, SSI provisions by increasing the amount of earnings disabled individuals could receive and still be eligible for SSI disability payments, provided they continued to meet the medical definition of disability. During its consideration of this legislation, after hearings on the issue of work disincentives and disability assistance, the Senate Committee on Finance incorporated the basic form and concepts of S. 2505 into the modified version of H.R. 12972 reported by the committee to the full Senate. The modifications made in H.R. 12972, which addressed certain serious reservations held by members of the committee and by representatives of the administration regarding H.R. 12972, were the result of the exemplary efforts of Senators Dole and Moynihan.

As reported, H.R. 12972 would have enabled severely disabled SSI recipients who lose eligibility because of the performance of "substantial gainful activity," but otherwise continued to meet SSI eligibility requirements, including medical criteria, to receive medicaid and title XX assistance through receipt of a special monthly benefit of $10 per month. In addition, under H.R. 12972, severely handicapped individuals who received this special benefit, but whose earnings reached the "breakeven point" for receipt of SSI—currently $443 per month—could have continued to be eligible for medicaid and title XX services, if the loss of such services would result in an individual's inability to continue employment.

The legislation also provided, for a severely handicapped individual who became eligible for SSI on the basis of medical criteria, and who subsequently sought or obtained employment, that the Secretary of HEW disregard from that person's income, for purposes of determining "substantial gainful activity," such amounts of earned income as necessary to pay the cost of needed attendant care, provided that such care was necessary to enable such individual to work.

Unfortunately, due to the crush of business in the final hours of the last Congress, no final action was taken on H.R. 12972 as modified. As this, I believe, was one of the most important pieces of legislation the last Congress considered, it is critical that the issue of work disincentives be reopened by again introducing legislation to remove the most egregious barrier to gainful employment for severely handicapped persons—to wit, the Damocles sword of facing the possible loss of life-sustaining medical care and attendant assistance.

I understand that the administration plans to recommend legislation to rectify the problems of work disincentives in the title II disability insurance and title XVI SSI disability programs. I believe that the issue of work disincentives can be initially and easily addressed by legislation such as that which we introduce today, and would hope that the rectification of this problem will not be tied up in the general debate over welfare reform and cash assistance which, as we all know, may take considerable time and much discussion before final resolution by Congress.

New York has more than 225,000 disabled individuals currently receiving SSI benefits, many of whom are also in need of, and receiving, medical assistance under title XIX. Many of these persons can, and wish to work, and this legislation will enable them to do so.

The cost of the measure reported last year by the Finance Committee was estimated by the Congressional Budget Office to be $6 million over 3 years. The cost of the bill we introduce today, addressing only medical assistance under title XIX and not the cash assistance portion of title XVI, will be even less, and that is indeed a small price to pay.

This legislation could be, in fact, cost-saving, for part of the expenses incurred would be recoverable through the taxes of disabled citizens who now would be enabled to work and pay taxes. Most of our severely disabled workers do not wish to be on public assistance; we should not require them to be so.

Mr. President, this measure will provide severely disabled workers with the opportunity for full and productive lives, and will remedy an injustice which has for too long precluded our disabled citizens from exercising their right to live and work.

To present the disabled worker with a choice of either working and losing all assistance, or not working to retain eligibility for needed daily assistance is, in effect, no choice at all.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 603

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 1905 (a) of the Social Security Act is amended—

(1) by striking out "or" at the end of clause (vi);

(2) by inserting "or" at the end of clause (vii); and

(3) by adding after clause (vii) the following new clause:

"(viii) severely disabled individuals who meet such criteria of medical severity of disability as the Secretary shall prescribe in regulations, notwithstanding such individuals' performance of 'substantial gainful activity' within the meaning of title XVI of this Act;".

Sec. 2. The amendments made by this Act shall be effective with respect to services furnished in calendar quarters beginning on or after the date of the enactment of this Act.●

By Mr. HATCH (for himself and Mr. Schweiker):

S. 604. A bill to amend the Small Business Act; to the Select Committee on Small Business.

SMALL BUSINESS PAPERWORK COST REIMBURSEMENT ACT OF 1979

Mr. HATCH. Mr. President, I am pleased to introduce legislation designed to relieve the most onerous burden imposed on free enterprise—paperwork.

Do you realize that small businesses annually file a required 10 billion sheets of paper to Federal agencies? Time spent on this noncompensatory exercise is counterproductive to business interests. Compliance drains the limited resources of a small business concern with a promise of no benefit. Too often the entrepreneur is not in the competitive position to pass these hidden costs on in the form of increased prices. Too often small businessmen have neither the time, ability or know-how to influence regulatory agencies or Congress in their behalf.

Mr. President, 97 percent of the Nation's business concerns who provide 43 percent of the Nation's national product while employing 58 percent of the Nation's nonagricultural work force are helpless against the onslaught of paper.

We are on the verge of choking America's greatest resource: private incentive. Our strength is sapped; we must turn the tide, and this bill will do just that.

Mr. President, this bill requires Federal agencies to reimburse small businesses for the reasonable cost of completing and filing paperwork. It also authorizes a suit against the responsible agency to recover costs where reasonable reimbursement is not made on a timely basis. By requiring reimbursement funds to come out of an agency's currently appropriated funds, the payments will be a source of valid current information concerning the true cost of paperwork to the economy while at the same time providing incentive to an agency to reduce paperwork demands. As a side benefit, reimbursement will provide capital to finance productive pursuits.

Mr. President, I ask unanimous consent that the text of the bill and its summary be printed in the Record.

There being no objection, the bill and summary were ordered to be printed in the Record, as follows:

S. 604

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Business Paperwork Cost Reimbursement Act of 1979".

Sec. 2. The Small Business Act is amended by adding at the end thereof the following:

"Sec. 22 (a) The reasonable cost of preparing, furnishing, and submitting any form, report, data, or information, incurred by any small business concern in complying with the requirement of any department, bureau, or agency of the Federal government shall be reimbursed to such conern by such agency from its currently appropriated and budgeted funds as herein provided.

(b) Reimbursement hereunder will be made promptly upon agency receipt of an invoice stating the costs of providing the required material.

(c) Where the agency finds the invoice to be less than the reasonable cost of preparing and filing the material, the agency may pay such additional amount as it deems necessary to cover such costs. Where the agency finds the invoice to exceed the reasonable cost of preparing and filing the material, the agency will obtain a determination of such cost reasonableness from the Administrator, and promptly pay the amount determined.

(d) Claims for any number of unpaid, partially paid or contested invoices may be included in a single action at law. When the petitioner in such action is awarded judgment of any sum, the court may also include interest, court costs, punitive damages (including, but not limited to, "lack of promptness in payment"), and attorney fees in such judgment. No action may be brought on an invoice remaining unpaid for longer than two years after submittal.

(e) This section shall not apply to any filing required for tax purposes by the Internal Revenue Service.

Summary of the Small Business Paperwork Cost Reimbursement Act of 1979

The bill will provide that the cost of preparing and submitting required forms to an agency of the Federal Government must be reimbursed to the submitting small business from an agency's currently appropriated and budgeted funds, and that reimbursement must be paid promptly when an agency receives an invoice for paperwork costs from a small business. The bill allows the agency to obtain a Small Business Administration determination of the cost reasonableness of the invoice submitted by a small business concern. The agency may pay the invoiced amount, or the amount determined by the SBA Administrator to be reasonable.

The bill also allows a small business concern to sue the appropriate agency for a partially paid invoice, an unpaid invoice, or, in the case where the lower SBA determined amount has been paid, for the difference between the determined amount and the invoiced amount. Any number of claims may be included in a single action at law. If the petitioner is awarded judgment, the court may also award: 1) interest, 2) court costs, 3) punitive damages, which includes the situation where the agency does not promptly pay a properly submitted invoice, 4) and attorney's fees. A statute of limitations on bringing an action would be limited to within 2 years after submitting the invoice. Finally, the bill provides that it shall not apply to any paperwork required for tax purposes by the Internal Revenue Service.

By Mr. BELLMON (for himself and Mr. Domenici):

S. 605. A bill to permit the States to consolidate and reorganize certain food programs administered by the Department of Agriculture for the benefit of needy persons; to the Committee on Agriculture, Nutrition, and Forestry.

FOOD AND NUTRITION PROGRAM OPTIONAL CONSOLIDATION AND REORGANIZATION ACT OF 1979

● Mr. BELLMON. Mr. President, today I am introducing the Food and Nutrition Program Optional Consolidation and Reorganization Act of 1979. I am joined in this initiative by the senior Senator from New Mexico (Mr. Domenici) whose influence upon the concept of consolidation of Federal programs for State administration and design is significant. Before describing this approach, it is necessary to recount the history of present programs.

The psychology of many current Federal food programs is tied to the depression. At that time, needy families and school lunch programs were selected as desirable outlets for the distribution of commodities purchased by the Government to bolster agricultural prices and incomes. When the National School Lunch Act of 1946 was passed, the Federal Government's commitment to supporting school lunch programs was clearly established. This legislation had two clear purposes: to safeguard the health and well-being of the Nation's children and to encourage domestic consumption of agricultural commodities. Later, in 1954, special legislation was enacted making reduced-price milk more widely available to preschool and school age children.

During the 1950's and 1960's surplus agricultural commodities were distributed to needy persons in programs imitative of those begun during the depression. After some pilot food stamp programs were undertaken in the early 1960's to test the effectiveness of this alternative for improving nutrition of needy people, the 1964 Food Stamp Act was adopted, increasing the availability of this program to low-income families.

Increased attention to food and nutrition problems in the United States during the 1960's led to a new focus within the Department of Agriculture, the Food and Nutrition Service. Over the years, participation in the food stamp plan and extensions of the school lunch program have increased Federal efforts enormously: a food stamp plan begun with $35 million in 1965 cost $5.5 billion in 1978 and is estimated to have outlays in 1979 of $6.3 billion. If we add to this substantial base the child-feeding programs, which have grown in their categorical numbers and their coverage, the nutrition program for the elderly, the community food and nutrition program, food distribution programs, and the expanded food and nutrition program, we have 1976 Federal obligations of $8.3 billion, an 1,100-percent increase in this Nation's food program expenditures between 1965 and 1976.

There is evidence that, if we have not eradicated the desperate needs for sustenance which prompted these programs, we have certainly reduced them quite considerably. Considering the widespread diffusion of Federal food programs and the dramatic upsurge in Federal funding in recent years, it is not unreasonable to presume that we are reaching a plateau of funding sufficiency, if our concern is to be limited to the emergency considerations which originated the programs. If, on the other hand, our concern is shifting to such considerations as appropriate program design and nutritional effectiveness, then our current problems with these categorical programs must be said to include administrative clumsiness and inefficiency, fraud and abuse, the revelations that some school lunch programs do not meet the minimum nutritional standards for Federal reimbursement, and plate waste in school lunch programs.

In addition, we are becoming aware that, while there are still persons whose basic caloric needs remain to be met, the larger problem is one of targeting food programs to special populations, the prevention of obesity, and the provision of nutritional counseling. We are just now beginning nutrition education efforts in conjunction with the national school lunch program, yet its need has been evident for years. The momentum and inertia of large-scale Federal programs, which have developed their own professional constituents, make it difficult to adapt these programs to the somewhat variable needs of local and State populations. Suggestions for change which would allow more flexibility at the State and local levels are met with a barrage of objections from those who fear that change might possibly diminish their stake in the Federal funding configuration. In the process, the true needs of populations are forgotten, and program structures are perpetuated to satisfy the income security needs and other needs of those associated with the programs.

There is little evidence of the desirable nutritional consequences of our massive Federal feeding effort, and that ought to be of considerable concern to us since the health consequences of diet appear to be substantial. Faced as we are with the enormous inflationary pressures of rising medical care costs, it makes sense to tie nutritional information and education to our public feeding efforts. Prevention of serious disease related to dietary habits would ease the pressure on our system of health care.

Part of the difficulty we have in adjusting our Federal efforts to these inevitable shifts in need and emphasis stems from the assumption that we can structure Federal categorical programs which are appropriate across the broad range of geographic, demographic, economic, and social conditions which make up this country. In other words, Mr. President, in my judgment we have been hampered by the feeling that all wisdom resides in Washington and that all programs must be designed here to apply in every State and every locality across the country.

Instead of new or better categorical programs, or consolidation of Federal programs at the highest possible level in order to put together a more effective uniform national approach, I am suggesting a consolidation for State administration, rather than an unrestricted block grant to States. I propose that we establish a procedure by which citizens and agencies at the State level could reorganize and administer food and nutrition programs now federally determined.

This proposal is based upon the realization that State and local needs vary considerably, that administrative complexity is the inevitable result of accountability to remote bureaucracies. I propose that States be granted the option of consolidating, for State reorganization and administration, a number of Federal categorical food and nutrition programs. This legislation would not mandate State consolidation and reorganization, allowing States to continue the present Federal categorical arrangement, if desired. For States which choose the option, the bill I am offering would consolidate:

The food stamp program provided for under the Food Stamp Act of 1977.

The child feeding programs provided for under the National School Lunch Act and the Child Nutrition Act of 1966, including the national school lunch program, the school breakfast program, the child care food program, the summer food service program for children, the special milk program, the special supplemental food program for women, infants, and children (the WIC program), the supplemental food program, the nonfood assistance program (equipment), State administrative expenses, nutritional training and survey program, and special developmental projects.

The expanded food and nutrition education program provided for under the Smith-Lever Act, as amended.

The commodity supplement food program.

In all, Mr. President, there are 14 programs that would be available for the States that opt to use this approach.

All of these programs are currently administered at the Federal level through the Department of Agriculture. Other food and nutrition programs administered through such agencies as HEW and CSA as well as commodity distribution programs would not be consolidated, but States which choose to consolidate would be required to account for all State and Federal food and nutrition programs in the required comprehensive State plan mandated by this bill, so as to avoid overlap and duplication.

Each State which chose the consolidation option would be eligible for a planning grant to be used over a period prior to the actual program consolidation. During this period, a single State agency would be designated to perform the required assessments, formulate the State plan, receive and apportion the funds, monitor the progress of programs, prepare general guidelines, and examine all required reports and audits.

The State plan would be initiated with a comprehensive assessment of the food and nutritional requirements of the neediest people of that State. It would also incorporate the results of a comprehensive assessment of the need for food and nutrition education among the people of the State. It would also incorporate the results of a comprehensive assessment of the need for food and nutrition education among the people of the State. These assessments must include, but are not limited to, the children, infants, expectant mothers, elderly people, institutionalized populations, and isolated populations of the State. who are living in circumstances of poverty or who are unable to provide themselves with an adequate nutritional diet. The Secretary of Agriculture would participate in the planning process and his approval would be required before the consolidation process could begin.

States which chose the consolidation would not be bound to pattern State programs after existing Federal models: they would be free to design a package of programs which would meet the needs of populations as revealed by the assessments of need.

An open planning process requiring the participation of interested citizens, local organizations, units of general local government, and appropriate State agencies is required. The State plan would establish program priorities, and would insure that funds would be coordinated with other State and Federal funds so as to avoid duplication of effort and to safeguard program effectiveness.

The State plan would contain procedures for, and results of, the needs assessments; the goals to be achieved by the consolidated programs; program descriptions; policies and procedures to be followed; description of the organization structure for program administration; procedures for necessary monitoring and technical assistance with respect to agencies, institutions and organizations within the State; audit requirements; procedures to eliminate unnecessary paperwork and duplication; methods for insuring that local agencies develop and implement program plans; an appeal process for local agencies; and the requirement that the Secretary of Agriculture will make timely notification to the State as to whether or not its State plan complies with the requirements of the act and, if it does not, in what respects it is deficient.

The State choosing to consolidate would receive funds equal to the amount in total received by that State under the categorical programs specified earlier in the most recent fiscal year in which the State received funds. This amount would be adjusted semiannually to reflect changes in the price of food. Federal funds would have to be used to supplement, and not to supplant, State and/or local funds.

Each State which elected and qualified for the consolidation would also be eligible for an additional amount of funds equal to up to 10 percent of the consolidated Federal funds, providing the State matched that amount with an equal amount of funds from non-Federal sources—considering Federal-State revenue sharing funds to be non-Federal.

No more than 7½ percent of the funds made available to a State under this bill could be used for administrative purposes. The State would not lose funds if it used than 7½ percent for administration.

In addition to the procedural and auditing safeguards required in the State plan, States would be required to perform annual program evaluations, using an evaluation model developed by the Secretary of Agriculture or a model designed by the State. No later than the end of the 5th fiscal year after enactment of this bill, the Comptroller General would evaluate the entire consolidation experience and make recommendations for legislation, if he sees fit.

To insure implementation of programs for conformity with the act, the Secretary of Agriculture would undertake such monitoring efforts as are deemed necessary. The Department would be required to undertake an evaluation of consolidated programs every 2 years. That process would include the conduct of open public hearings in the States which have exercised the option to consolidate. When noncompliance with the State plan was found, steps to be taken for the necessary modifications would be arranged with the appropriate State agency. The Secretary of Agriculture would provide advice, counsel, and technical assistance upon request of State and local agencies.

In case of noncompliance, the Secretary of Agriculture could reduce the amount otherwise payable to the State by an amount not to exceed 7½ percent; he could seek an injunction requiring compliance from the Attorney General; or he could terminate the participation of the State in the consolidated program and permit the State to return to categorical programing.

Funds under this act would be subject to the usual civil rights protections. Nonpublic school children would participate. There would be criminal penalties for individual fraud.

Those States not exercising the consolidation option would have the right to do so at a later date. Unless and until they do, they would continue receiving funds through regular categorical programs.

In order to accommodate the dual track of regular categorical and consolidated programs, the Secretary of Agriculture would establish a separate identifiable administrative unit within the Department of Agriculture. Depending upon the number and size of the States which elect to consolidate, personnel to be employed in the administration of the consolidation program would be transferred to the new unit from program units administering the categorical programs consolidated under this bill.

Mr. President, these are the principal features of the legislation that I am offering today.

With my remarks I am submitting a copy of the bill, and I ask unanimous consent that the bill be printed in the RECORD.

Mr. President, I urge that the Senate consider carefully this decentralized approach to the reform of Federal food programs. The optional approach utilized in this proposal would permit, if you will, a number of pilot efforts at reform which would allow program design to flow from assessed need instead of some notion of national uniformity. It does not force States which may be unprepared for consolidation to undertake it.

It places the burden of economizing and policing upon State and local agencies, who are in the best position to respond. It provides up to 10 percent more Federal funding for food and nutrition programs, which, when matched by the State, would result in a maximum increase of 20 percent in program funds. It undertakes to infuse food and nutrition programs with information and education intended to improve the public health. It replaces the practice of categorical program proliferation with more economical consolidation, including elimination of program duplication and multiple eligibilty standards. It depends heavily upon an open planning process and upon the anticipatory planning required to implement programs effectively. It would raise the level of sophistication of food and nutrition programs from the depression-reaction context which we now experience.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 605

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Food and Nutrition Program Optional Consolidation and Reorganization Act of 1979".

STATEMENT OF PURPOSE

SEC. 2. (a) It is the purpose of this Act to afford to the States the option of consolidating and reorganizing the following food assistance programs presently being provided the States under existing laws:

(1) the food stamp program provided for under the Food Stamp Act of 1977;

(2) the child feeding programs provided for under the National School Lunch Act and the Child Nutrition Act of 1966;

(3) the expanded food and nutrition education program provided for under the Smith-Lever Act; and

(4) the commodity supplemental food program.

(b) It is the further purpose of this Act to permit those States which select the consolidation and reorganization program authorized by this Act greater flexibility in the use of Federal funds provided for food and nutrition assistance than such States presently have under the separate programs described in subsection (a); to permit the States to formulate, establish, and administer food and nutrition programs which match the requirements of their neediest populations; to develop effective methods of educating their citizens regarding the health consequences of diet and nutrition; and to encourage the States to operate food and nutrition programs in an efficient and effective manner.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "Secretary" means the Secretary of Agriculture.

(2) The term "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands. Such term also includes any agency designated in accordance with applicable State law to receive and disburse funds made available under this Act.

CONSOLIDATED PROGRAM OPTION

SEC. 4. (a) Any State may, upon application to the Secretary and subject to the other provisions of this Act, participate in the consolidated program provided for in this Act. Any State which elects and qualifies to participate in such program shall receive the funds it would have otherwise received under—

(1) the food stamp program provided for under the Food Stamp Act of 1977;

(2) the programs provided for under the National School Lunch Act and the Child Nutrition Act of 1966, including the special supplemental food program provided for pregnant women, infants, and children carried out under section 17 of the Child Nutrition Act of 1966;

(3) the expanded food and nutrition education program provided for under the Smith-Lever Act;

(4) any other program which is enacted after the date of enactment of this Act, administered by the Department of Agriculture, and provides food assistance to needy persons or provides nutrition information or education to the citizens of the several States, unless the legislation enacting such program specifically provides otherwise.

(b)(1) Any State which elects to participate in the consolidated program in lieu of the categorical programs described in subsection (a) may withdraw its election to participate in the consolidated program and continue participation in the categorical programs if such State withdraws its election at any time prior to the beginning of the first fiscal year it would have been eligible to receive funds (other than planning funds) under the consolidated program.

(2) Any State which has participated in the consolidated program for at least two fiscal years may terminate its participation in such program upon written notice to the Secretary at least sixty days prior to the end of any fiscal year.

(3) A State which terminates its participation in the consolidated program as provided in paragraph (2) shall become eligible to participate in the categorical programs described in subsection (a) at the beginning of the fiscal year following the fiscal year in which participation in the consolidated program ends.

(c) All States which elect to participate in the consolidated program shall begin participation at the beginning of a fiscal year. In no case may a State participate in the consolidated program and in one or more of the categorical programs described in subsection (a) in the same fiscal year.

CONSOLIDATION PROGRAM PAYMENTS

SEC. 5. (a) Each State which elects and qualifies under this Act to receive funds for carrying out the consolidated program provided for in this Act shall be paid by the Secretary of the Treasury each fiscal year such amount as shall be certified to him by the Secretary.

(b) The Secretary shall certify for payment in the case of any State participating in the consolidated program in any fiscal year an amount equal to the total amount received by such State under the categorical programs described in section 4(a) in the most recent fiscal year in which such State received funds under such programs. In no case shall the amount certified for payment in any fiscal year in the case of any State which participated in the consolidated program in the preceding year be less than the amount such State received under this subsection in such preceding year.

(c) The amount to which any State is entitled under this section shall be adjusted each fiscal year to reflect changes in the preceding fiscal year in the prices of food as published by the Bureau of Labor Statistics, Department of Labor.

PLANNING GRANTS

SEC. 6. (a) Any State desiring to participate in the consolidated program authorized by this Act may, for the purposes of preparing a consolidated plan in accordance with this Act, receive a planning grant for use in not more than two consecutive fiscal years. Any State desiring to receive a planning grant under this section shall file an application at such time, in such manner, and including such information as the Secretary may reasonably require consistent with this section. Each such application shall include, but not be limited to, provisions which—

(1) describe the objectives to be achieved in the development of the State plan with assistance made available under this Act,

(2) set forth procedures to assure an opportunity for comments to be submitted by the chief executive of the State,

(3) set forth assurances that the comprehensive State plan required under section 9 will be prepared in accordance with section 8, and

(4) describe procedures for the promulgation of regulations for the State administration of the programs consolidated by this Act.

(b) The maximum amount of a grant which a State may receive under this section is equal to not more than 2 per centum of the total amount of funds allocated to that State under the programs described in section 4(a) in the most recent fiscal year, and the minimum amount is $500,000.

STATE ADMINISTRATION

SEC. 7. (a) Each State desiring to receive funds for the consolidation program authorized by this Act for any fiscal year shall—

(1) designate, as provided by the constitution and laws of the State, the single State agency within the State which will be responsible for—

(A) assessing the food and nutrition needs of the neediest population of the State;

(B) formulating the State plan provided for under section 9;

(C) receiving and apportioning the funds (Federal and State) made available for carrying out in such State the consolidated program provided for in this Act;

(D) monitoring on a continuing basis the progress of the programs carried out in such State under this Act;

(E) preparing the general guidelines for the State plan; and

(F) examining all reports and audits required in connection with the consolidated program carried out in such State under this Act;

(2) publish prior to the first year of consolidated assistance made to that State under this Act, and each fourth year thereafter, a four-year comprehensive State plan which—

(A) is developed in accordance with the procedures described in section 8, and

(B) contains the provisions designed to meet the requirements of section 9,

(3) develop and publish an annual update of the comprehensive State plan, and

(4) certify to the Secretary that it has developed and published the comprehensive State plan or annual update in accordance with the provisions of this Act.

(b) A State desiring to receive funds for the consolidation program authorized by this Act for any fiscal year shall, in addition to the requirements of subsection (a), provide for—

(1) an audit of expenditures for each program year as provided in the State plan;

(2) an annual evaluation of the implementation of the State's final comprehensive plan, and any amendment thereto, adopted under section 8; and

(3) an annual report of that audit and evaluation which report shall include—

(A) such information as the Secretary may prescribe consistent with the consolidation and provisions of this Act, and

(B) assurance that funds were expended in accordance with the Act and the comprehensive State plan.

PROCEDURE FOR DEVELOPING THE COMPREHENSIVE STATE PLAN

SEC. 8. Each State shall, in the development of the comprehensive State plan, establish procedures designed to assure that—

(1) a comprehensive assessment is made to determine the food and nutritional requirements of the neediest people of the State, such assessment to include, but not be limited to the children, infants, expectant mothers, elderly people, institutionalized populations, and isolated populations of the State, who are living in circumstances of poverty or who are unable to provide themselves with an adequate nutritional diet;

(2) a comprehensive assessment is made to determine the need for food and nutrition education among the people of the State, including segments of the State's population which may be suffering from overnutrition as well as those segments which may be suffering from inadequate nutrition;

(3) procedures are established for obtaining the participation of interested citizens, local organizations, units of general local government, and appropriate State agencies prior to and during the development of the comprehensive plan;

(4) the legislature of the State will be informed of the development of the procedures required by this subsection;

(5) programs will be identified in terms of priorities for which funds will be allotted, distributed, and expended;

(6) the use of funds for purposes described in this Act will be coordinated with the use of State, local, and Federal funds (including commodities) made available for similar purposes;

(7) the use of funds for purposes described in this Act will be coordinated with each other and other Federal programs to avoid duplication of effort;

(8) the proposed comprehensive State plan or the annual update thereof will be published at least one hundred and twenty days prior to its effective date and such plan or update thereof will be available to interested parties and to local agencies within the State. Comment relating to such plan must be accepted for a minimum of forty-five days after such publication;

(9) a final comprehensive State plan or annual update thereof, will be published and made generally available prior to its effective date together with a summary of the comments received and an explanation of the differences between the proposed plan and the final plan and the reasons therefor;

(10) any amendment to the final comprehensive State plan prepared by the State agency designated pursuant to section 7(a)(1) will be published as a proposed amendment on which the public may comment for a period of at least twenty days, and thereafter the final amendment, together with a summary of the comments received and the action taken on such comments, will be published;

(11) procedures will be established to assure that regulations and rules established, amended, or repealed by that State will be established, amended, or repealed with the counsel of local agencies and consistent with State administrative procedures and due process;

(12) the aggregate amount to be expended by the State and its agencies from funds derived from non-Federal sources for the consolidation program for any fiscal year will not be less than the amount expended by the State and its agencies in the preceding fiscal year on programs described in section 4(a) and on similar or related programs; and

(13) Federal funds provided under this Act supplement and in no case supplant State and/or local funds.

PROVISIONS OF THE COMPREHENSIVE STATE PLAN

SEC. 9. (a) A comprehensive State plan meets the requirements of this section if such plan—

(1) sets forth the procedure for, and the results of, the needs assessments conducted pursuant to section 8(a)(1);

(2) sets forth the goals to be achieved under the plan, the basic program objectives and a description of the programs to be carried out under the plan;

(3) sets forth the State's program for providing food and nutrition education and information designed to meet the needs of its people as revealed in the needs assessment;

(4) sets forth the policies and procedures to be followed by the State to assure that the distribution of funds to State and local agencies, institutions, and organizations within the State is in accordance with the provisions of this Act;

(5) contains a description of the organizational structure through which the program consolidated by this Act will be administered;

(6) sets forth the State's program (if any) for providing meals and food and nutrition education in connection with or as a part of (A) any Head Start or Follow Through program for children, (B) the nutrition program for the elderly carried out under title VII of the Older Americans Act of 1965, (C) the community food and nutrition program, and (D) any other federally funded food or nutrition education or information program carried out with funds not provided under this Act.

(7) sets forth the procedures for monitoring activities of the agencies, institutions, and organizations within the State responsible for administering the comprehensive plan of the State, including a provision for technical assistance by the State to each such agency, institution, and organization;

(8) contains a description of the process that the State will use to insure that any agency, institution, or organization in the State which receives funds under this Act will annually develop or update a comprehensive plan for the use of such funds and that the plan will be made available to the public for comment as provided in the comprehensive State plan;

(9) provides, consistent with State law and practice, for an audit of the expenditure of funds received under this Act by local agencies, institutions, and organizations;

(10) sets forth procedures to be used by the State to eliminate unnecessary paperwork and duplication of informational requests in regard to local agency applications, evaluations, and reporting;

(11) prescribes procedures to be followed by the State when a local agency fails to develop or implement a program plan, including procedures for notice and opportunity for hearing in any case funds are to be withheld;

(12) provides a local agency appeal process within the State for any local agency which is dissatisfied with the State's action with respect to the State's compliance with substantive and procedural provisions of the Act. A local agency may appeal the final ruling of the State to the Secretary;

(13) provides for an audit of expenditures for each program year in accordance with generally accepted accounting principles, conducted, in a manner approved by the Secretary, by—

(A) an auditor of the State, using certified public accountants, or

(B) a private certified public accountant or auditing firm utilizing certified public accountants; and

(14) provides for an annual report of such audit.

(b) The Secretary shall, within sixty days after receiving any comprehensive State plan from any State, notify such State in writing whether such plan complies with the requirements of this Act. In the event the Secretary fails to notify any State within the time period prescribed, the comprehensive State plan shall be deemed to have been approved by the Secretary. If the Secretary notifies a State that a plan does not meet the requirements of this Act, he shall indicate specifically in what respect such plan failed and what action must be taken to meet the requirements.

SUPPLEMENTAL PAYMENT

SEC. 10. (a) Each State which elects and qualifies to receive funds for carrying out a consolidated program under this Act shall also be eligible, upon application therefor, to an additional amount of funds for carrying out such program equal to 10 per centum of the amount to which such State is entitled under section 5 on the condition that such amount is matched by such State with an equal amount of funds from non-Federal sources which will be used for carrying out the purposes of this Act. A State may, if it so elects, receive any amount under this section equal to less than 10 per centum of the amount it is entitled to receive under section 5 on the condition that such lesser amount is matched by such State with an equal amount from non-Federal funds which will be used to carry out the purposes of this Act. For purposes of this section, funds received by any State under a Federal-State revenue sharing plan shall be considered to be funds from a non-Federal source.

(b) If the sums appropriated for any fiscal year for making payments to States under this section are not sufficient to pay in full the amount to which each State is entitled under this section for such fiscal year, the amounts which all States may receive under this section for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

(c) Additional funds under this section shall be paid to a State by the Secretary of the Treasury upon certification of the amount to be paid by the Secretary.

TIME OF PAYMENTS

SEC. 11. The Secretary shall determine the time or times at which payments under this Act are to be made to States.

FEDERAL SERVICES; USE OF FUND FOR FOOD SERVICE EQUIPMENT AND FACILITIES

SEC. 12. (a) Whenever any State elects to carry out a consolidated feeding program under this Act and any part of such program is substantially the same or provides substantially the same benefits as any of the programs described in section 4(a), the Secretary shall, upon the request of such State, furnish with respect to such part of such program any services in-kind which would have been furnished such State by the Federal Government had such State participated in the programs described in section 4(a) on a separate basis rather than electing to participate in a consolidated program under this Act.

(b) Funds made available to any State under this Act may be used for the purchase of any food service equipment and facilities necessary or appropriate to carry out effectively the comprehensive State plan of such State.

ADMINISTRATIVE EXPENSES

SEC. 13. None of the funds made available to a State under this Act in any fiscal year (excluding the State's share of matching funds under section 10) in any amount in excess of an amount equal to 7½ per centum of such funds may be used for administrative expenses in carrying out the consolidated programs under this Act in such fiscal year.

EVALUATIONS

SEC. 14. (a) The Secretary, after consulting with and obtaining the assistance of the State agency designated pursuant to section 7(a)(1), shall prepare and design several models for evaluation of program effectiveness which will be consistent with the purposes of the consolidation program authorized by this Act. Evaluation of local agency programs should focus on the food and nutrition services provided for needy persons in the State, the food and nutrition education program, the number of such persons served by each program, and the effect or results of such services and programs.

(b)(1) Each State participating in the consolidation program authorized by this Act shall (A) select one of the models developed under subsection (a) of this section, or (B) use a model developed by that State, and shall be responsible for the use of that model in program evaluation of the consolidation program authorized by this Act. Each such evaluation design shall involve participation by local agencies of that State.

(2) An evaluation report which is consistent with the procedures established pursuant to this section and the State comprehensive plan shall be prepared annually by each local agency and submitted to the State agency designated pursuant to section 7(a)(1). No other evaluation reports for programs authorized by this Act may be required of local agencies by the State agency.

(3) The annual State agency evaluation report prepared pursuant to this subsection shall be submitted to the Secretary on such date as the Secretary shall establish. The Secretary shall analyze the State evaluations received under this paragraph and shall, not later than March 1 in the year succeeding the year in which the evaluations are submitted, prepare and submit to the Congress a report on such evaluations.

(c) The Comptroller General shall conduct an evaluation of the program authorized by this Act and, not later than the end of the fifth fiscal year following the fiscal year in which this Act is enacted, prepare and submit to the Speaker of the House of Representatives and the President of the Senate a report on such evaluation together with such recommendations, including such recommendations for legislation, as the Comptroller General deems advisable.

(d) The Secretary is authorized to make applicable to the consolidated programs of all States those program components of the various State consolidated programs determined by him on the basis of evaluations carried out under this section to most effectively and efficiently meet the objectives of this Act.

(e) The Secretary shall conduct a comprehensive evaluation of the operation of the consolidated program in the case of each State electing to participate in such a program. The first such evaluation shall be conducted by the Secretary within three months after one or more States have participated in such program for a period of two years. Thereafter such evaluation shall be made at the end of every second year. In carrying out his evaluation of the operation of the consolidated program in the case of any State, the Secretary shall hold public hearings in such State to afford interested persons a reasonable opportunity to give testimony regarding such program. The Secretary shall report the results of each such evaluation to the Speaker of the House of Representatives and to the President of the Senate together with such comments and recommendations as the Secretary deems appropriate.

MONITORING AND TECHNICAL ASSISTANCE

SEC. 15. (a) The Secretary shall conduct annually such monitoring programs in each State selecting the consolidation program authorized by this Act as he deems appropriate. The monitoring program authorized by this section shall include review of the development of the comprehensive State plan for compliance with the provisions of this Act. Monitoring shall also include review of implementation of programs for conformity with this Act and with the comprehensive State plan. In order to avoid duplication of monitoring visits as well as an excess of such visits, the Secretary shall coordinate his visits under this section with monitoring visits made by other Federal departments and agencies of the Government.

(b) Whenever, as a result of monitoring activities conducted pursuant to this section, the Secretary identifies areas of noncompliance, the Secretary shall establish procedures with the appropriate State agency designated under section 7(a)(1) for the necessary modifications.

(c) The Secretary shall provide advice, counsel, and technical assistance upon request of State and local agencies.

INTERSTATE COOPERATION

SEC. 16. (a) The Secretary shall carry out a program of making grants to States which have elected to consolidate under this Act for the purpose of interstate cooperation.

(b) Such grants for cooperation among States shall be for the purpose of addressing common administrative problems under this Act and for planning and research.

(c) There are authorized to be appropriated $3,000,000 for each of the ten fiscal years beginning October 1, 1977, to carry out the provisions of this section.

FEDERAL ADMINISTRATION

SEC. 17. (a) The consolidated program authorized by this Act shall be administered by a separate identifiable administrative unit to be established within sixty days after the date of enactment of this Act by the Secretary in the Department of Agriculture.

(b) Personnel to be employed in the administration of the consolidation program authorized by this Act shall come from program units administering the categorical programs consolidated under this Act. Any additional personnel necessary for the administration of such consolidated program shall be based on the number and population of the States which elect to consolidate.

(c) The Secretary shall establish procedures to minimize all paper work in regard to information required of State and local agencies.

DELEGATIONS, TRANSFERS OF FUNDS, AND CONTRACTS BY THE STATE AGENCY

SEC. 18. The State agency designated pursuant to subsection 7(a)(1) may, to the extent necessary to carry out the provisions of this Act—

(1) delegate its administrative functions, under this Act to other appropriate State agencies,

(2) transfer to such agencies administrative responsibilities and any funds provided to the State under this Act, and

(3) enter into contracts with public and private agencies, organizations, and institutions for carrying out activities authorized under this Act. Any arrangements entered into under this section for any fiscal year shall be set forth in the comprehensive State plan for that year.

ENFORCEMENT

SEC. 19. (a)(1) No payment may be made under section 5 or 10 to any State that has failed to provide the certification required by section 7(a)(4).

(2) In the case of any State that has provided those certifications, if the Secretary, after reasonable notice and opportunity for

a hearing to the State, finds that the comprehensive plan fails to comply with the requirements of sections 8 and 9, or the State has failed substantially to comply with any provision of that plan, or has failed to inform the Secretary of any substantial failure to comply with any provision of that plan or those sections, the Secretary is authorized to (A) reduce the amount otherwise payable to the State under section 5 by any amount equal to not in excess of 7½ per centum, (B) refer to the Attorney General of the United States the matter regarding any such failure by a State with a request that the Attorney General seek an injunction requiring compliance by the State with the requirements of sections 8 and 9 or the provisions of the State plan, as the case may be, (C) terminate the participation of the State in the consolidated program and permit the State to return to participation in the categorical programs described in section 4(a), or (D) utilize any combination of (A), (B), and (C) as he deems appropriate.

(b) The Secretary shall establish a due process procedure to consider appeals made by local agencies under section 9(a)(12).

(c)(1) If any State or local agency is dissatisfied with the Secretary's final action with respect to any action taken under this Act, the State may, within sixty days after notice of that action, file with the United States court of appeals for the circuit in which the State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(d) The Secretary and the Comptroller General of the United States, in the exercising of their authority under this Act may not prescribe to the State any requirement for expenditures of funds other than funds provided under this Act.

CIVIL RIGHTS REQUIREMENTS

SEC. 20. Funds made available under this Act shall be subject to title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d—2000 d-5), title IX of the Education Amendments of 1972, and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

PARTICIPATION OF NONPUBLIC SCHOOL CHILDREN

SEC. 21. If a State is prohibited by law from providing for the participation of children enrolled in private nonprofit or Indian tribal elementary and secondary schools, or if the Secretary determines, after affording notice and an opportunity for a hearing, that a State has substantially failed to provide for such participation, he shall arrange, by contract or otherwise, for such children to receive, on an equitable basis, services similar to those provided under this Act to public school children in the State. The cost of providing those services for any fiscal year shall be paid from the allotment of the State under section 5.

CRIMINAL PENALTY

SEC. 22. Any individual who is an officer, director, agent, or employee of, or who is connected in any capacity with, any partnership, association, firm, group, corporation, business, organization, or other entity, public or private, which receives benefits under this Act by means of a grant, contract of assistance, subsidy, or any other form of Federal assistance, and who knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery, any funds, assets, or property obtained under any program authorized by this Act shall be fined not more than $10,000 or imprisoned for not more than five years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud, false statement, or forgery does not exceed $200, such individual shall be fined not more than $1,000 or imprisoned not more than one year, or both.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 23. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, subject to the limitation contained in section 16(c) on the amount that may be appropriated for interstate cooperation grants.●

● Mr. DOMENICI. Mr. President, I am pleased today to join my distinguished colleague, the senior Senator from Oklahoma, in sponsoring what I believe to be a very important, progressive, and far-reaching piece of legislation, the Food and Nutrition Program Optional Consolidation and Reorganization Act of 1979. This bill will be familiar to many of you, as it was introduced during the 95th Congress.

I will not burden the RECORD with a lengthy reiteration of the specifics of this bill, which my colleague has ably summarized in his introductory remarks. Rather, I would prefer to offer some philosophical comments.

As both a legislator and a former mayor of the city of Albuquerque, I am familiar with the depth of frustration one experiences in attempting to carry out Federal assistance programs for the benefit of the people. This frustration is derived from two basic problems which are intrinsic to so many Federal assistance programs—first is the problem of nonspecificity; second is the problem of redtape.

I am concerned that we in the Congress, along with our counterparts in the administration, underestimate the wisdom and ability of the citizens of this country to know what is best for them and to effectively manage their own programs. This arrogance is often reflected in sweeping Federal programs which we, here in Washington, contrive and offer as solutions to local problems. Clearly, Federal assistance is needed and greatly sought after by State and local governments. Nevertheless, many of our Federal programs, in attempting to meet the general needs of all, fail to meet the specific needs of any. Thus, we see massive sums of mistargeted Federal money, shameful abuses of Federal programs, and growing local disenchantment with centralized government

The second problem faced daily by local administrators is the enigma of Federal redtape, and how to cope with it. The plethora of rules, regulations, and guidelines which are built into Federal spending programs are intended to assure that the taxpayer's dollars are being wisely and prudently spent. How ironic it is that vast sums of taxpayers' dollars are expended to implement these same rules, regulations, and guidelines.

Another unfortunate characteristic of redtape is that it tends to build on itself. Every year more rules and regulations are promulgated in order to implement new programs and to fine tune existing ones. It is an impossible task for the conscientious local administrator to keep up to date with these new rules which seem to proliferate uncontrolled.

In conclusion, I believe that the principal contribution of the Bellmon-Domenici food and nutrition consolidation bill is that it effectively circumvents the above mentioned problems by permitting the States—if they so desire—to plan their own food programs based upon their own needs and to run them with a minimum of Federal interference. The end result, in my judgment, will be a higher level of nutrition for millions of Americans, with minimal increase in Federal spending.

Mr. President, today everyone, both in and out of government, is talking about the need for reform in Federal programs: the need to build flexibility into the programs; the need to eliminate the evergrowing arbitrariness of categorical grant programs; the need to reduce regulations and redtape; and, perhaps most vehemently, the need to derive more from the taxpayer's dollar through effective management of programs. I believe that these concerns are held by a predominance of people in the United States and that all of those in the executive branch, at the local level and here in Congress are responsible for recognizing that concern and acting upon it. I strongly suggest that each of you look carefully at the concept and philosophy espoused in this bill brought here to the Senate by the good senior Senator from Oklahoma, and also that you look at Senate bill 1780 of the 95th Congress, an optional consolidation and simplification system in education which Senator BELLMON and I will be reintroducing in the near future.●

By Mr. BAUCUS (for himself and Mr. DURKIN):

S.J. Res. 47. A joint resolution designating May 1979, as "Family Camping Month"; to the Committee on the Judiciary.

FAMILY CAMPING MONTH

● Mr. BAUCUS. Mr. President, today it is with great pleasure that I am introducing a resolution to proclaim May 1979 as Family Camping Month.

This year more Americans than ever will enjoy the beauty and recreation provided by our national resources, and camping is perhaps the most wholesome and economical form of this recreation.

The number of campers is increasing each year. More than 58 million Americans currently participate in this healthy recreational activity. Camping, in fact, is the fourth largest ranking sport in the United States today. In 1977, the National Park Service reported over 17 million overnight stays in National Park areas alone. This figure does not include the number of overnight stays in the more than 800 camping areas administered by Kampgrounds of America, Inc.

The American family's love for camping is indicated by the expanding camping industry. In 1977, sales of camping equipment totaled $517 million. This figure represented a 7-percent increase over sales in 1976. More specifically, in 1977 over 500,000 recreational vehicles were shipped throughout the United States.

Family camping is an economical activity. Inflation and rising prices have made it increasingly difficult for the American family to enjoy a week's vacation together. But a family vacation in one of our beautiful wilderness areas is affordable. The average family of four on an 8-day camping vacation saves about $700 over the motel-restaurant type of vacation.

National support for camping is revealed by the existence of large camping associations. The National Campers and Hikers Association has a membership of over 500,000 families. All across the Nation, hundreds of trade, business, and commercial organizations have been established in response to this expanding recreational activity.

Family Camping Month has received endorsements from major camping and recreational associations. As a Member of the House of Representatives I urged my colleagues to support family camping. I received letters from individuals representing many regions of the Nation, expressing their support for this noncontroversial commemorative event.

I believe that a Family Camping Month really does have significance. There are many reasons to support this proclamation. Family camping is wholesome recreation; it is healthy; it is one of the few activities which allows a family to participate as a unit; it is economical; camping teaches appreciation and respect for our natural resources and the list could go on. Above and beyond these reasons, however, is the simple fact that over 58 million Americans enjoy this activity each year. It is in honor of these Americans that I am introducing this resolution today.

I ask that the text of the joint resolution be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 47

Whereas family camping encourages conservation of the Nation's beauty and wise use of natural resources for better outdoor recreation;

Whereas family camping stimulates public interest in, and enjoyment of, the Nation's great outdoors;

Whereas family camping is a wholesome and economical form of family recreation; and

Whereas approximately fourteen million American families go camping every year: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May, 1979, is hereby designated as "Family Camping Month" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.●

● Mr. DURKIN. Mr. President, one of the greatest assets this country has is the outdoors. From the gentle, rolling Appalachian hills of New Hampshire to the snow-capped mountains of the high Sierras, our Nation is blessed with an abundance of pristine, unspoiled country ideally suited for outdoor recreation.

It is little wonder, then that an estimated 14 million American families pack knapsacks full of tents, food and camping gear each year and take to the countryside in search of closer contact with nature.

When it comes to family camping, I can speak from firsthand experience. My home State of New Hampshire—with its clear lakes and streams, thick forests and majestic mountains—is an ideal place for outdoor activity, and my family and I have on a number of occassions had the pleasure of living in the midst of New Hampshire's natural beauty. We have hiked along wooded trails, fished its waters and relished the special pleasure that comes from experiencing New Hampshire's scenic land.

From my own point of view, I cannot underestimate the value of these family encounters with the outdoors.

They not only enable us to come to grips with our heritage, but they also help promote conservation of this Nations' beauty and a wise use of our increasingly limited resources for outdoor recreation.

More importantly, they help us to escape, at least temporarily, the pressures and distractions of everyday living and renew the unique bonds that tie families together. In the end, they enable us to get to know ourselves better.

Because of my strong support for family camping, it is a great pleasure for me to cosponsor a resolution—introduced by my colleague, Senator Baucus—designating May 1979 as Family Camping Month." ●

ADDITIONAL COSPONSORS

S. 6

At the request of Mr. Leahy, the Senator from Pennsylvania (Mr. Heinz) was added as a cosponsor of S. 6, to amend the Agricultural Act of 1949, and for other purposes.

S. 76

At the request of Mr. Stone, the Senator from Arizona (Mr. Goldwater) and the Senator from South Dakota (Mr. Pressler) were added as cosponsors of S. 76, a bill to amend title XVIII of the Social Security Act to authorize payment under medicare for certain services performed by chiropractors.

S. 221

At the request of Mr. Wallop, the Senator from Montana (Mr. Baucus), the Senator from Minnesota (Mr. Boschwitz), the Senator from Rhode Island (Mr. Chafee), the Senator from Mississippi (Mr. Cochran), the Senator from Maine (Mr. Cohen), the Senator from Kansas (Mr. Dole), the Senator from New Mexico (Mr. Domenici), the Senator from Minnesota (Mr. Durenberger), the Senator from Oregon (Mr. Hatfield), the Senator from North Carolina (Mr. Helms), the Senator from Nevada (Mr. Laxalt), the Senator from Rhode Island (Mr. Pell), the Senator from Illinois (Mr. Percy), the Senator from South Dakota (Mr. Pressler), the Senator from West Virginia (Mr. Randolph), the Senator from Michigan (Mr. Riegle), the Senator from Vermont (Mr. Stafford), the Senator from Pennsylvania (Mr. Schweiker), and the Senator from Texas (Mr. Tower) were added as cosponsors of S. 221, a bill to establish a congressional award program.

S. 246

At the request of Mr. Bentsen, the Senator from Texas (Mr. Tower) was added as a cosponsor of S. 246, to amend the Internal Revenue Code to encourage greater individual savings.

S. 268

At the request of Mr. Durkin, the Senator from South Dakota (Mr. Pressler) was withdrawn as a cosponsor of S. 268, a bill to amend the Federal Trade Commission Act to provide that under certain circumstances exclusive territorial arrangements relating to the manufacture, sale, or distribution of soft drink products are not unlawful.

S. 331

At the request of Mr. Proxmire, the Senator from Arizona (Mr. Goldwater) was added as a cosponsor of S. 331, to require a balanced budget when the economy grows at a real rate of 3 percent or more.

S. 340

At the request of Mr. Leahy, the Senator from South Dakota (Mr. McGovern) was added as a cosponsor of S. 340, the Rural Health Needs Planning Act of 1979.

S. 420

At the request of Mr. Williams, the Senator from Montana (Mr. Melcher) was added as a cosponsor of S. 420, the National Workers' Compensation Standards Act of 1979.

S. 445

At the request of Mr. Percy, the Senator from Arizona (Mr. DeConcini) was added as a cosponsor of S. 445, the Regulatory Reform Act of 1979.

S. 446

At the request of Mr. Williams, the Senator from South Dakota (Mr. Pressler), the Senator from Ohio (Mr. Metzenbaum), and the Senator from Massachusetts (Mr. Tsongas) were added as cosponsors of S. 446, a bill to amend title VII of the Civil Rights Act of 1964 to prohibit discrimination against individuals because they are handicapped, and for other purposes.

S. 505

At the request of Mr. Talmadge, the Senator from West Virginia (Mr. Randolph) was added as a cosponsor of S. 505 to provide for the reform of the administrative and reimbursement procedures currently employed under the medicare and medicaid programs.

SENATE JOINT RESOLUTION 3

At the request of Mr. Harry F. Byrd, Jr., the Senator from North Carolina (Mr. Helms), the Senator from California (Mr. Hayakawa), the Senator from Utah (Mr. Garn), and the Senator from Wisconsin (Mr. Proxmire) were added as cosponsors of Senate Joint Resolution 3, regarding mutual defense treaties.

SENATE RESOLUTION 15

At the request of Mr. Harry F. Byrd, Jr., the Senator from Wisconsin (Mr. Proxmire) was added as a cosponsor of Senate Resolution 15, a resolution concerning mutual defense treaties.

SENATE RESOLUTION 49

At the request of Mr. Schmitt, the Senator from Arizona (Mr. DeConcini) was added as a cosponsor of Senate Resolution 49, to disapprove the Amtrak route terminations.

SENATE RESOLUTION 62

At the request of Mr. Leahy, the Senator from Alabama (Mr. Stewart) and the Senator from New Hampshire (Mr. Durkin) were added as cosponsors of Senate Resolution 62, to disapprove the final recommendations of the Secretary of Transportation designating the basic route system for Amtrak.

SENATE RESOLUTION 78

At the request of Mr. Hatfield, the Senator from Louisiana (Mr. Johnston), the Senator from New Jersey (Mr. Bradley), the Senator from Kentucky (Mr. Ford), the Senator from Montana (Mr. Melcher), the Senator from Ohio (Mr. Metzenbaum), and the Senator from Connecticut (Mr. Weicker) were added as cosponsors of Senate Resolution 78, expressing the sense of the Senate with respect to the immediate need for energy emergency preparedness in the United States, in light of world oil supplies and the situation in Iran.

AMENDMENT NO. 80

At the request of Mr. Boren, the Senator from West Virginia (Mr. Randolph) was added as a cosponsor of Amendment No. 80, intended to be proposed to S. 245, the Taiwan Enabling Act.

SENATE RESOLUTION 95—SUBMISSION OF A RESOLUTION RELATING TO THE IMPORTANCE OF RECREATION IN AMERICAN LIFE

Mr. BAUCUS submitted to the following resolution, which was referred to the Committee on Governmental Affairs:

S. Res. 95

Whereas Americans value their leisure time and participate in a wide variety of recreational activities;

Whereas there is a consensus among experts that recreation is essential to the physical and mental health of the individual;

Whereas the industries that provide goods and services for recreational activities account for a large portion of national employment and production, and Americans spend more than $160 billion a year on goods and services provided by those industries; and

Whereas departments and agencies of the Federal Government make policy determinations on such issues as the use of limited resources and public lands, fuel allocation, and taxation, and these policy determinations may have a direct effect on recreation and the industries providing recreational goods and services: Now, therefore, be it

Resolved, That it is the sense of the Senate that, when departments and agencies of the Federal Government make policy determinations to curtail spending, allocate resources, regulate industry, raise revenue and counter the effects of inflation, considerable weight should be given to the contribution of recreation to the health, safety and welfare of the country, and the important roles of recreation facilities and the industries that provide recreation goods and services in our nation.

● Mr. BAUCUS. Mr. President, today I am submitting a resolution concerning the significant importance of the recreational industry upon our way of life and our national economy.

The recreation industry, and all its individual segments, has become the Nation's No. 1 industry. America's recreation industry accounts for annual expenditures of more than $160 billion.

My purpose for introducing this resolution is to draw attention to the significant contribution of the recreation industry to our public health, safety, and welfare. Federal departments and regulatory agencies contemplating actions in such national concerns as energy allocation, public land use, and taxation must recognize the importance of the recreation industry on the national economy.

During this period of national sacrifice, particularly in the area of energy consumption, the recreation industry should shoulder its fair share of the burden. It should not be discriminated against or asked to carry a disproportionate share compared to the other elements of the American economy.

In my home State of Montana, tourism and recreation contribute significantly to the economic well-being of the State. Montana has been blessed with Glacier and Yellowstone National Parks, numerous blue-ribbon trout streams, unparalleled snow skiing, abundant wilderness and wildlife.

For these reasons, I submit this resolution.●

AMENDMENTS SUBMITTED FOR PRINTING

TAIWAN ENABLING ACT—S. 245

AMENDMENTS NOS. 96 THROUGH 98

(Ordered to be printed and to lie on the table.)

Mr. HATCH submitted three amendments intended to be proposed by him to S. 245, a bill to promote the foreign policy of the United States through the maintenance of commercial, cultural, and other relations with the people on Taiwan on an unofficial basis.

NOTICE OF HEARINGS

SENATE BUDGET COMMITTEE

● Mr. MUSKIE. Mr. President, the Senate Budget Committee will continue its hearing on the first budget resolution for fiscal year 1980 with the appearance of Secretary of Agriculture, Bob Bergland, on Friday, March 9, 1979, at 10 a.m. The Secretary will discuss the health of American agriculture and the administration's agriculture budget for fiscal year 1980.

Mr. President, the Budget Committee is also extending its previously announced morning hearings on national priorities and State and local issues to provide the opportunity for additional public witnesses to present their views during afternoon sessions. All hearings will be held in 6202 Dirksen Senate Office Building. A revised schedule for March 14 and 16 follows:

Revised Schedule

March 14, 1979—National priorities: Morning Session 10 a.m. Shearon Harris, Chairman of the Board, U.S. Chamber of Commerce; Douglas Fraser, President, United Auto Workers; Carl Holman, Executive Director, National Urban Coalition.

Afternoon Session 2 p.m. Patsy Mink, Americans for Democratic Action, on behalf of the ad hoc coalition on the FY 1980 Budget; Mylio Kraja, Director of Legislation, American Legion; Ruth Hinerfeld, President, League of Women Voters; Reuben Johnson, Director of Legislation, Farmers Union.

March 16, 1979—State and local issues. Morning Session 10 a.m. John Shannon, ACIR; Governor Richard Snelling of Vermont; Mayor John Rousakis (Savannah, Ga.), President, League of Cities.

Afternoon Session 2 p.m. Jon Weintraub, Associate Director, National Association of Counties; Mayor Coleman Young, Chairman, Urban Economics Committee, Conference of Mayors; John Bragg, Chairman, State-Federal Assembly, Association of State Legislators; Anthony Carnevale, Director, Department of Legislation, American Federation of State and County Municipal Employees (AFSCME).●

DEPARTMENT OF EDUCATION MARKUP

● Mr. RIBICOFF. Mr. President, I wish to announce that the Committee on Governmental Affairs will meet in an open business session to mark up legislation (S. 210) to establish a separate, Cabinet-level Department of Education in the Federal Government at 10 a.m., Wednesday, March 14, 1979, in room 3302 of the Dirksen Senate Office Building.●

SUBCOMMITTEE ON CHILD AND HUMAN DEVELOPMENT

● Mr. CRANSTON. Mr. President, I would like to announce that the Subcommittee on Child and Human Development will continue hearings on S. 4, the proposed "Child Care Act of 1979," on Tuesday, March 20, in 4232 Dirksen from 9:30 a.m. until 12:30 p.m.●

COMMITTEE ON LABOR AND HUMAN RESOURCES

● Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Labor and Human Resources and the Committee on Veterans' Affairs has scheduled a joint hearing on Monday, March 12, 1979, at 9:30 a.m. in room 4232, Dirksen Senate Office Building, on the nomination of Dennis R. Wyant, of Maryland, to be Deputy Assistant Secretary of Labor for Veterans' Employment. Immediately following this hearing the Committee on Labor and Human Resources will hold a hearing to consider the following nominations to be members of the Board of Directors of the Legal Services Corporation:

Michael Kantor, of California; Robert J. Kutak, of Nebraska; F. William McCalpin, of Missouri; Revius O. Ortique, Jr., of Louisiana; Howard R. Sacks, of Connecticut; and Ramona Toledo Shump, of Kansas.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate today to mark up the committee's report to the Budget Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate today to hold an executive session to hear a briefing by the Departments of State and Defense on the impending SALT treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON LATIN AMERICA AND SOUTH AMERICA

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Subcommittee on Latin America and South America of the Committee on Foreign Relations be authorized to meet during the session of the Senate today to consider United States-Latin American affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CHINA

● Mr. WILLIAMS. Mr. President, no amount of advance preparation really prepares one for the reality of China. Its enormity; its massive population; the warmth of the people; the hardships; the indominable spirit and the charm of that nation all exceed any of the feelings that can be obtained from talking to travelers or from reading the available materials.

Our travels, made at the request of President Carter, took us from Peking in the north to Canton in the south; from Shanghai on the coast deep into the mountains of Lushan, an area visited rarely by Western visitors even before the advent of the People's Republic and, of course, even less since then.

Our journey took us into factories; hospitals; schools; a commercial commune; through cities and countryside and into the homes of people. Thus, while we only scratched the geographic surface of that enormous nation, we do feel that we received a most meaningful impression of China, its people and its leadership.

To the outsider, China sometimes seems to be a nation held together by the fortitude of the human spirit. The labors of the people are legendary; the absence of mechanization well known. People still do by hand the onerous and basic chores. Scenes of a hundred years ago roll past one's eyes.

We saw a team of laborers in Lushan moving massive rocks by hand, chanting a rythmic song to keep their lifting and hauling movements in concert. Roadbeds were being laid by hand, rock by rock. Buildings which were being cleared for new construction were taken away brick by brick. People laboriously pulled heavy carts through the countryside. Fields were being irrigated and fertilized bucket by bucket, bone-wearying trip by bone-wearying trip.

The human being clearly is China's most valuable natural resource and it is a resource that never should be underestimated.

Living conditions are primitive. While electricity stretches into rural communes, central heating is a rarity. Apartments are small and overcrowded. Dirt floors predominate in the countryside.

There is no doubt that the people would opt for an easier life with more material goods, but they bear their hardships with great fortitude and even a high degree of cheer. One determines this not only from conversations for it cannot be expected the people would verbalize their complaints to foreign visitors. No, it is not through words but rather through feelings that can be transmitted above and beyond language barriers that this feeling comes across.

I ascribe this spirit to several factors. First, the Chinese have a clear historic perception of where they have been and where they are. Few people talked at length about the hardships and deprivations of the past, except to recite production statistics and other figures showing great improvement in recent years. The full horror of China's history only becomes apparent when a commune leader makes an incidental and offhand comment that his brothers were sold off as laborers in the late 1930's and he has not seen them since then.

Thus, what might seem bad to a visitor, clearly is viewed as far better than what had been. And, the people feel most strongly that rather than working for a landlord, their labors and their sacrifices today are being made for their own benefit and that of all of the people of China.

A second factor which seems to maintain the human spirit is the simple, yet so important feeling of hope for the future. There seems to be no doubt in the mind of the Chinese that the future will bring great improvements in the nation and in individual standards of living.

These are people who know that they have survived a landlord system akin to slavery; corrupt national government; the cultural revolution and the gang of four. They now feel that they are on their true course as a nation.

Another contributing factor is the universal belief that normalization of relations with our country will be a major factor in bringing a modern age to China. It was a fact universally mentioned in our conversations with the people and with their leaders.

When one views the problems of China, the problems of this Nation pale by comparison. I only wish that we could marshal just a small amount of the collective determination of the Chinese people. If we could do that, I am convinced that there is no dilemma facing our Nation that could not be dealt with.

However, part of the Chinese unity reflects the fact that at this point it is a most monolithic nation; although such events as the posting of dissident wall posters indicate that the individual spirit is beginning to manifest itself.

Everywhere we went, people expressed very much the same views. As you know, the people's uniform is the prevailing dress style. Even the great swarms of bicycle riders all seemed to move at the same speed, like great clouds. No one lagged behind and no one attempted to get ahead.

Conversations everywhere carried the same themes; the importance of normalization; the threat of the Soviet Union, or the "Russian Bear" or "Northern Bear", and its proxies, Castro, Vietnam; the terrible impact of the Gang of Four.

And, I might add that as you well know, the Gang of Four inflicted a toll on China that could exceed that extracted on any nation in this century by its leadership. No students were admitted to Peking University for years; the teaching of geography and history was halted; admissions to schools was on the basis of politics and not scholarly merit.

Much of the nation's production came to a halt. We visited a tractor factory in which nothing was produced for 21 months.

Many of the nation's most talented people were shunted from the positions for which they were most qualified. A municipal official in Shanghai, with whom we met, educated at Harvard and the University of Pennsylvania, had just recently been brought back from the countryside.

Historic culture had been shunted aside. We were privileged to witness a traditional opera and a performance of the Shanghai Ballet Orchestra, both events which could not have taken place during the reign of the Gang of Four.

I might add that both events were among the highlights of our trip and that the orchestra certainly was on a par with the best of our western ensembles. Incidentally, at the orchestral performance, a program was distributed written in Chinese. However, an interpreter explained that it did not indicate the order of performance but rather listed the orchestra's repertoire.

It is obviously frightening in retrospect to think that such a small coterie could extract such a price. One is forced to believe that it was a unique event that would only have happened with the aegis of someone so revered as Chairman Mao and that it could not happen again.

Despite the fact that the society is monolithic and certainly not democratic, there was no feeling of overt oppression. Those of us who had traveled in eastern European nations, or into Russia, noticed a vast difference in the atmosphere.

While the language barrier represented a major difficulty, we were free to go where we wanted in the brief periods of free time which were available to us. There was no strictures on photographs, a noticeable difference from just a couple of years ago.

And, most importantly, we were made to feel welcome and at home. I do not believe that there is a nation on earth—particularly in these times—where Americans are so warmly welcomed and respected.

The warmth and friendship that prevailed universally is our most cherished memory of a trip that most of us regarded as the most monumental travel experience of our lives.

There are, unfortunately, less happy aspects that we must deal with in our new relationship. One of these is the Chinese invasion into Vietnam, an action that hopefully is coming to an end.

No war; no combat is excusable. However, I must believe that the Chinese regarded it as essential to their national sovereignty and to its efforts to help Cambodia.

In our discussions throughout the country, there was a universal recognition of the fact that China could ill afford to waste its resources in war. This came not only from leaders, but from all segments of the population, including students at Peking University.

Threats to China from external forces seemed to generate a paranoic concern; although historically, it might be regarded as a much more real concern; a national fear as old as the Great Wall.

Further, I think that one must also realize the great Chinese belief in the manifest destinies of peoples, not governments. In our discussions, the Chinese would not deal with the questions concerning atrocities that have been inflicted upon the people of Cambodia by its government. One university student said, "The only place I hear that is on the Voice of America" then went on to say that even if it were true, it was not important. The destiny of the people was what was at stake.

Historically, I think it also true that China has not engaged in aggression for territory beyond which it considers legitimately its own. Of course what is, and what is not China's, can be the subject of great debate and I make the point only in an attempt to shed some light on that nation's thinking.

In Korea, there are those who now are convinced that the Chinese only came into the war because of their concern that the Americans would drive up into its industrial heartland. And, in Vietnam, they regarded the Americans as aggressors; thwarting the rights of the Vietnamese people.

It is interesting that the Chinese interest in people, as distinct from government, came through most clearly in our discussions about Taiwan. Time and time again, Chinese leaders stressed that they understood our interest in the well-being of the people of Taiwan and assured us that nothing would be done to adversely affect that.

Obviously, we as a nation have the most solemn obligations to make sure that that is the case.

Finally, I have been asked to discuss trade with China and its possible impact on New Jersey. This is a somewhat difficult question to deal with in practical terms because we are faced with the usual mixture of good news and bad news that seems to surround everything in these times.

The good news is that the Chinese needs are enormous. The bad news is that they will have problems paying for what they need and want. How they develop their own ability to pay will be one of the major factors in determining the parameters of our trade.

Hopefully, the Chinese oil supply will be one major source of revenue that will enable them to solve their dilemma.

In addition, China does not enjoy most favored national status with us; nor we with them. China has no access to export-import loans and guarantees, or other financial programs of our government with the exception of agriculture credits.

Further, over the long run, the questions of export licensing, commercial representation and patent protection must also be addressed.

However, these are matters which are susceptible to solution and, like the claims and assets question, I am confident that they will be solved.

As most of you know, trade with China now is at about the rate of $1 billion annually. This, under present conditions, is expected to total about $10 billion over the next 5 years.

However, the potential for a much greater trade is apparent. China, under its ambitious modernization plans, expects to import $50 billion of complete plants between 1979 and 1985 and the total purchases of capital equipment could run in the neighborhood of $70 and $85 billion.

As the most technologically advanced nation, we would seem to have an excellent chance at a large share of that market. And, as the Chinese themselves have pointed out, the devalued dollar helps us in our competition with such nations as Japan. I might point out that during our trip while the Chinese expressed a great willingness to trade with us, they made it clear that they were going for the best possible prices in the world market.

No State in the Nation has more technological and research capacity than New Jersey. So, I would expect our State to be in the forefront of the new wave of business with China.

It is imperative that our business community respond to this challenge. We have gotten a later start than some nations so we must make every effort to draw even, and to forge ahead.

We saw a number of examples of this in China. Outside Shanghai, we toured a new city developed around a most modern petrochemical complex. That complex was developed with Japanese help. And, in a tour of the crowded Shanghai waterfront, we were told that China had turned to European experts to redesign the port for containership operations. In both of these areas, we clearly had the expertise to compete but were unable to before normalization.

As a concluding note, I think that while we increase our opportunities for trade and proceed toward truly normal relations, we can learn a great deal from the Chinese. Their fortitude and spirit is just one example.

Another is in the total utilization of resources. We saw an example of that in the commercial commune that we visited. One of its major products are silkworms. As you know, silkworms live on mulberries.

The Chinese take the residue from the mulberries and dump it into ponds where fish are raised. Periodically, the fish are harvested and the bottom of the pond cleared. The material taken is used as fertilizer not only for mulberries but for bananas and sugarcane as well.

The cycle is constantly repeated; creating an artificial but naturally functioning ecological cycle. We could well do with similar efforts in our country.

So, I thank you for inviting me here and know that we can work together toward the advancement of mutual trade, mutual benefit and mutual understanding with the world's largest nation.●

THE SOVIET BUILDUP

● Mr. GOLDWATER. Mr. President, one of the disturbing elements surrounding the very obvious Soviet military buildup are the growing indications that the American people are not being told the whole truth. It has become increasingly apparent that administration officials—anxious to sell a SALT II agreement to the American people—have not been forthcoming about the size and importance of the Soviet buildup. And now, the highly respected Armed Forces Journal has leveled a direct charge of coverup at Pentagon officials in this regard. In its March issue, the magazine accuses the Pentagon official spokesman, Assistant Defense Secretary Thomas B. Ross, of covering up "an unprecedented, unexpected, and massive Soviet strategic arms buildup" in 1978. The magazine says the Pentagon knew but refused to acknowledge that the Soviets were continuing to deploy new warheads and ICBM's at twice the forecast rate; that Russia was developing and flight testing a new long range air-to-surface cruise missile and that Soviet warheads and ICBM's were becoming more accurate than predicted.

Mr. President, I ask that the Armed Forces Journal article by Benjamin F. Schemmer be printed in the RECORD.

The article follows:

PENTAGON COVER UP UNPRECEDENTED 1978 USSR STRATEGIC ARMS BUILD-UP

(By Benjamin F. Schemmer)

From last June thru late January, the Pentagon's official spokesman covered-up an unprecedented, unexpected and massive Soviet strategic arms build-up, which leaked in part to the press soon after it became known to senior DoD officials, but went unreported because the spokesman said that a story revealing the build-up was wrong. Some of the data in the story *was* wrong—but not the most important revelations in it.

JOURNAL REVELATIONS, JUNE 1972

The story, given to the Pentagon in early June on a "confirm or deny" basis, was to have appeared in last July's *Journal* and reported in its lead sentence that:

"Russia has deployed in the past six months between 200-300 more new strategic nuclear warheads or modern missiles than U.S. intelligence estimates last October said would probably be fielded by now."

It added that "among the ominous Soviet deployments detected in recent months" were "more accurate warheads and ICBM's than those being replaced," and revealed, that "Russia has a new long range air-to-surface missile to increase the Backfire bomber's stand off distance."

PENTAGON REVELATIONS, JANUARY 1979

Late in January, Defense Secretary Harold Brown admitted in his Fiscal Year 1980 "Annual Report" that:

"The Soviets are now estimated to be introducing new missiles with more accurate warheads and improving the accuracy of their warheads more rapidly than we expected about a year ago." Elsewhere in his report. Brown acknowledged that Soviet "force loadings" (independently targetable nuclear weapons carried by deployed strategic missiles and bombers) "have increased by around 1,000 since last year." Brown did *not* say so, but that represents a 20% *increase in warhead deployments in one year*. (The rate of increase has to be calculated from other data nearby in Brown's report.)

Brown's report also did not reveal that Russia was *testing* a new, long range cruise missile. He said only, that "they *may* be developing a long range cruise missile of their own design." [italics added for emphasis.] Since Brown's statement on the military balance was released January 24th, however, news that the Soviets, in fact, have *tested* a 1200km range (600nm) cruise missile has leaked out elsewhere, made prominent headlines, *and* been confirmed by the Pentagon.

AFJ has learned that seven or eight such tests were made in 1978. Some of them were made from the Backfire. The Soviets have made at least three more flight tests of the new air-to-surface missile this year.

The Soviet arms build-up and the Pentagon's cover-up of it continue.

Brown's statement in his Annual Report that the Soviet's "*may* be developing a new long range cruise missile" amounts to pure dissembling. He knew far back in 1978 that the Soviets were developing the missile *AFJ* wrote of last June, yet would not admit its existence even to Congress as recently as late January in his only annual comprehensive public survey of the strategic balance.

These discrepancies raise serious questions about the accuracy, timeliness, and integrity of the Carter Administration reporting to the American public and to Congress on the US/USSR strategic balance, and White House efforts to sell the new SALT II agreement.

At the time *AFJ* killed its July story on these arms developments, the Carter Administration was still working to obtain a SALT II agreement by mid-August.

Between last June and December, further *Journal* queries were made of the Pentagon, both on and off the record, about unexpected or major new Soviet strategic arms developments and deployments. They elicited official and informal replies from the Pentagon public affairs office that said out-right, in some cases, and clearly implied in others, that no new or surprising changes had been detected by American intelligence.

In fact, however, the Pentagon knew throughout this period that the Soviets were continuing to deploy new warheads and ICBM's at about twice the forecast rate; that Russia was developing and flight testing a new long range air-to-surface cruise missile, and testing it off Backfire; and that Soviet warheads and ISBMs were not only becoming more accurate, but more acurate than had been predicted.

The extent to which the June cover-up was, and is now, intentional and Administration-directed, or the result of superficial, erroneous and possibly cavalier work on a grave national security matter, is not clear—in part because of Pentagon footdragging since *AFJ* asked it in early February to clarify and explain its denials of last June, and in part because the Pentagon insists that more recent corroborative information on Soviet strategic developments is "classified."

The spokesman behind the cover-up is Thomas B. Ross, Assistant Secretary of Defense for Public Affairs. Ross is a Presidential-appointee confirmed by the Senate who was the first person recruited by Harold Brown in 1977 for the Carter Administration's new Pentagon team.●

HELLER-GREENSPAN TESTIMONY

● Mr. MUSKIE. Mr. President, on Monday, March 5, the Budget Committee heard testimony from a distinguished panel of economists regarding statutory and constitutional restraints on Federal spending and budgeting.

Dr. Walter Heller and Dr. Alan Greenspan speak from widely different points of view. While each has served as chairman of the Council of Economic Advisers, Dr. Heller served Presidents Kennedy and Johnson while Dr. Greenspan served Presidents Nixon and Ford.

Despite many differences and conflicting opinions, both men agree that a constitutional amendment to balance the Federal budget would be a very serious mistake. Their testimony is persuasive. Moreover, their additional views on the character of our current economic difficulties and on various approaches toward solving them are also particularly thought-provoking and instructive.

I recommend that their views be given a careful reading by all who are concerned about the need for taking rational and realistic approaches to fiscal policy.

Mr. President, I ask that the statements of Dr. Heller and Dr. Greenspan be printed in the Record.

The statements follows:

Statement by Walter W. Heller

I appreciate this opportunity to appear before the Senate Budget Committee on the hotly debated topic of mandatory budget-balancing and spending limits constitutional or otherwise.

The territory that Chairman Muskie has asked us to roam is very wide and deep, comprising budget-balancing, spending-limit, and tax-cutting proposals, both constitutional and legislative. To make this Herculean task more manageable, let me start with the proposal that seems to have caught the popular imagination—a constitutional amendment mandating a balanced-budget—and is claimed to have the support of 26 to 28 state legislatures.

I am not unaware that leading members of this Committee have forcefully and cogently attacked the proposal to enshrine a rigidly balanced-budget in the Constitution. Senator Muskie has called it "unworkable, counter-productive, and even irresponsible." Senator Bellmon has warned Governors not to "go overboard and adopt a mechanistic process that will make it difficult to deal with changing circumstances." And they have been joined by other Congressional leaders like Senator Kennedy (Chairman of the Senate Judiciary Committee), Representative Rodino (Chairman of the House Judiciary Committee), and House Minority Leader John Rhodes (who has expressed "grave reservations" about a balanced-budget amendment). So it might appear that an attack on the balanced-budget proposal is a bit like flaying a dead or at least dying horse.

But the Gallup Poll, the legislators of some 28 states, and the half dozen members of this Committee who are co-sponsors of bills to mandate a balanced-budget in one form or another all suggest that the movement is by no means on its last legs.

In an era of dissatisfaction with big government, high taxes, and stubborn inflation, it is not too surprising that the Gallup Poll shows a six-to-one majority favoring a balanced-budget amendment. And it must be a strong temptation for an elected official—if he or she wants to be re-elected—to vote for such a proposal.

But this is one case where the majority is simply wrong—not in seeking some curbs on government and inflation, for that is their inherent right in a democracy—but in seeking to do so by putting the federal government in a fiscal straitjacket. In other words this is a case where responsible political leadership consists in leading voters out of the valley of error and supporting better and sounder ways to achieve their goals.

Since the major thrust for the balanced-budget amendment (and some of its half-siblings) comes from a misinformed public, it may be worth while to examine some of the fallacies that seem to underlie public thinking on this subject.

FALLACY NO. ONE

"Individuals, families, and households have to run a balanced-budget—so why shouldn't Uncle Sam?" People fail to realize that typically when they buy a car or a boat, or most obviously, a house, they are doing anything but running a balanced-budget. At times, they run deficits—often huge deficits—relative to current income. So they are asking Uncle Sam to adhere to a rigid and austere standard that they don't observe themselves.

Prudent budgeting and balanced-budgets simply aren't the same thing. Often, a rigidly balanced-budget is pure fiscal *im*prudence. Unlike the household, the federal government has the specific statutory responsibility to serve as a balance wheel for the economy, using the federal budget not simply as a means of financing government activities but as a means of overcoming unemployment and recessions on one hand and an overheated economy on the other. More often than not, that calls for unbalanced-budgets.

FALLACY NO. TWO

Closely related to the first fallacy is the second one that runs something like this: "We consumers (homeowners, corporations) pay back our debts, but Uncle Sam just keeps piling up his debts without end."

The surprising—to some even jolting—truth is that in the period since World War II, the federal debt has been the slowest growing major form of debt. As the following table shows, the federal debt today is less than three times the size it was in 1950, while consumer installment debt is nearly fourteen times, mortgage debt sixteen times, corporate debt eleven times, and state-local debt thirteen times its 1950 level.

Even with the unprecedented run-up of federal debt in the face of two recessions in the 1970's, the doubling of that debt since 1970 is just about equaled by the rise of corporate and state-local debt, while consumers and homeowners have substantially out-distanced Uncle Sam in expanding their debt.

None of this is meant to justify the present levels of federal deficits or debts nor to suggest that the federal debt poses no problems. But the figures do serve to put the federal debt in a perspective that is often misunderstood.

POSTWAR GROWTH OF MAJOR FORMS OF DEBT

[Dollar amounts in billions]

Type of debt	1950	1970	1978	Ratio of 1978 to 1950 (times)	Ratio of 1978 to 1970 (percent)
Consumer installment	$22	$127	$299	13.6	235
Mortgage (1–4 family homes)	45	298	732	16.3	246
Corporate	142	797	[1] 1,580	11.1	198
State-local	22	145	[2] 290	13.2	200
Federal (in hands of public)	217	301	611	2.8	203
GNP	288	1,063	2,110	7.4	198

[1] Approximation based on table B–64 in 1978 report and table B–62 in 1979 report.

[2] Estimate.

Sources: Economic Reports of the President and Economic Indicators.

FALLACY NO. THREE

"State and local governments have to live by the balanced-budget rule, so why shouldn't Uncle Sam?"

True, states and localities have to balance their budgets annually, *except for* capital outlays, for which they can borrow. But federal budgetary accounting throws current and capital outlays (as it should) into the same pot. So balancing the federal budget means matching *total* outlays with current tax revenues, which is quite different from the balanced-budget concept for states and localities.

Not only is the state-federal budget analogy off base, but states would be the first, or at least one of the first, to feel the sting of a balanced-budget mandate in the Federal Constitution. There is already serious talk in Congress of cutting revenue sharing and other grants to state and local governments as the most natural targets of budget austerity, especially if the states force a year-in-year-out balanced-budget on the federal government.

Let me underscore another decisive difference between state and federal budget impacts: a state or local budget can be balanced by tax hikes or spending cuts without jarring the whole U.S. economy. The federal budget cannot. If the national economy starts to slide, joblessness rises, income and profits fall, and the federal budget automatically goes into deficit as revenues shrink and spending rises. Try to balance it by boosting taxes or forcing cuts in spending, and the result will inevitably be to draw that much more purchasing power out of an already soft and sluggish economy.

Trying to balance the budget under these circumstances would send the economy into a deeper tailspin, thereby throwing more people out of work, further cutting tax revenues and boosting unemployment compensation, food stamps, and similar entitlement expenditures, thus throwing the budget even more out of whack. A dog chasing its own tail comes to mind.

FALLACY NO. FOUR

"But unlike private and state-local deficit financing, federal deficits are a major, perhaps even the major, source of inflation." Both analysis and evidence fail to support this proposition.

Except where federal deficits pump more purchasing power into an already prosperous or overheated economy, they simply are not inflationary. When the economy is slack or in a recession, when there are idle workers and idle plants and machinery to be activated by additional demand for goods and services, the deficit will help the economy get back on its feet. In those cases, tax cuts or spending hikes that enlarge the deficit serve to overcome the waste of human and material resources associated with economic slack or recession.

In other words, there are both destructive federal deficits and constructive deficits, depending on the state of the private economy. What we should seek is fiscal discipline—the avoidance of waste, inefficiency, boondoggling, and unnecessary government programs—but not at the cost of strangling the federal government in its attempts to serve as a balance wheel for the national economy and an instrument for avoiding that greatest of wastes, namely, the idling of millions of human beings and machines and factories in recession and slack.

Even a cursory inspection of the data on deficits and inflation shows little relation between the two:

Reaching back to 1919–20, we note that rapid inflation was associated with a large surplus.

Then Milton Friedman also reminds us that "one of the most extreme deflations we had in history—decline in prices—was in the 1931–33 period. In those years, the federal government was running a deficit."

From 1959 to 1965, federal deficits were the order of the day, yet price inflation was little more than 1 percent a year.

In the face of huge deficits in 1974–76, price inflation dropped from over 12 percent to less than 6 percent.

FALLACY NO. FIVE

"Well, even if deficits aren't as bad as we thought the federal budget is out of control, and the only way to get it under control is to slap some kind of a Constitutional lid on it."

Once again, the facts run to the contrary:

As a proportion of the Gross National Product, the budget is being reduced from 22.6% in 1976 to 21.2% in 1980.

As against 12.2% annual increases in spending for 1973–78, the rise from 1979 to 1980 will be only 7.7%.

According to the Congressional Budget Office staff, President Carter's proposed $531 billion budget for 1980 falls $20 billion short of the amount that it would cost simply to maintain current services under current law.

The trend growth in revenues from 1978 to 1980 will be 12%, well ahead of the trend growth of 8½% in expenditures. (These are the comparative growth rates in an economy that is growing at a steady trend rate.)

Quite apart from the numbers, the popular clamor for "getting the budget under control" seems to ignore two important facts:

For the past four years, the Congress has been operating under a new budget procedure that has brought vastly more discipline and responsibility into the budget process. In other words, the mechanism for getting the budget under control is already in place and is working.

Both the White House and the Congress have heard and heeded the message implicit in Proposition 13, calls for Constitutional budget limits, and the like. Whether one likes it or not, budget austerity is the political order of the day.

FALLACY NO. SIX

"The balanced-budget mandate is a simple and workable way to force the White House and Congress at long last to match spending and tax revenues."

The simple truth is that this simplistic approach is beset with simply prohibitive difficulties of definition, administration, evasion, and incentives for bad government practice:

A mandate to balance taxes and expenditures first has to define them. Does spending include outlays of social security and highway trust funds? (It didn't until 1968.) Does it include lending activities? If not, moving things from expenditures into loan programs would be an inviting loophole. Imagine the Founding Fathers two centuries ago trying to draw a dividing line between "on-budget" and "off-budget" expenditures. No less an authority then House Minority Leader Rhodes has noted that "it would be so easy to end-run it."

Administering the mandate would be a nightmare. In January each year, the President submits a budget for a fiscal year that ends eighteen months later. Given the unexpected twists and turns of the economy, revenues may well fall below the forecast path. Imagine the scramble to adjust and readjust the budget as revenues misbehaved or unexpected shifts occurred in the costs of farm programs, Medicare, costs-of-living adjustments in social security benefits, and so on.

It does not take too much imagination to foresee Congress, caught in the balanced-budget vice, shoving some expenditures off into the private sector (e.g., by requiring private industry to support laid-off workers); or onto state-local governments by mandating outlays on Medicaid, pollution control, and so on, without picking up the tab," or onto consumers by relying more on higher farm price supports and acreage set-asides and less on federal deficiency payments.

So many exceptions, exclusions, and special emergency provisions would be necessary to make the amendment workable that it would no longer be meaningful. The drafters of the amendment would find that they were writing a prescription for Congressional action, not a Constitutional mandate. A meaningful amendment would not be workable, and a workable amendment would not be meaningful.

Even if some magic formula could be found to hold the government's nose to the balanced budget grindstone, it would be an affront to responsible democratic government to do so. The essence of that government is to adapt economic, social, and other policies to the changing needs of the times and the changing wills of the majority. It is the job of the Constitution to protect basic human rights and define the framework of our self-governance. Taking the very stuff of democratic self-determination out of the hands of legislative bodies and freezing them into the Constitution would not only hobble our ability to govern ourselves but dilute and cheapen the fundamental law of the land.

That consideration applies also to other budget limits that have been proposed. Take for example the proposal by the Committee on National Tax Limitation (and Milton Friedman) to limit federal spending to a percentage of the immediate past Gross National Product, adjusted for inflation. Merely to put the definition of the limit into the Constitution—let alone the provisions for enforcement through the courts—has spawned draft Constitutional language that makes one despair for this Constitution that John Marshall told us was "intended to endure for ages to come."

The Friedman proposal *is* of the very stuff of which statutory law is made—a cutting of the budget cloth to suit the times—moving one way when an explosion of aspirations, school-age population, and public needs calls for an expansion of public services as in the 1960's and moving another way when the pendulum swings toward government austerity as in the late 1970's. (One need not even invoke the technical objections that GNP for any given period is subject to frequent and prolonged revisions and that tying spending to GNP would invite political intrusion into the definition and measurement process.)

Suppose we remove the Constitutional constraint and shift the mandate from annual balance to something approximating balance over the business cycle. That is the underlying philosophy of a proposal by Senator Proxmire, co-sponsored by several members of this Senate Budget Committee, to enact a law requiring the President to bring to Congress a balanced budget whenever the real rate of economic growth is 3% or more. A statute is better than a Constitutional amendment, and requiring a balanced budget only when the economy is growing at 3% or more is better than a balanced budget requirement through thick and thin. But it is hard to say more than that on behalf of the proposal.

Suppose that the economy is growing at 3%, but is running about 10% below its potential: would one really want a rigid balanced-budget requirement under those circumstances? In effect, it would say that fiscal policy should be restrictive whenever the economy is moving up at a rate of 3% or better, no matter how far below par its level of operation might be. Fiscal and monetary policy have to take account not only of the *direction* of the economy but its *level*.

And as to Senator Proxmire's call for a proposal that "will at least provide us with a balanced budget over the cycle," I would agree with the statement of the London *Economist* some 30 years ago. In the 1940's when the proposal to balance the budget over the business cycle (presumed to average five years), was gaining a lot of attention, the *Economist* noted that "there is no greater sanctity in a quinquennium than in the time it takes the Earth to revolve around the Sun." That statement is no less true today than it was 30 years ago. To define the "business cycle," identifies its various phases, and force federal spending into equality with tax revenues over that cycle would provide a bit more flexibility than an annually balanced budget rule but might well put unbearable and perverse pressures on the budgetary process and economic policy as the cycle neared its stated end.

Time and space do not permit assessment of the many other proposals that now dot the budgetary landscape. But I should like to comment quickly on two of them:

One proposal imbed in the Constitution a provision that all "money bills"—that is, all those having to do with budget authorizations, appropriations, outlays, off-budget credits, and so on—would require a two-thirds vote by both Houses of Congress. Even leaving aside the problems of definition (and possible end runs via tax preferences), one wonders how this can be reconciled with the basic principle of majority rule that is so fundamental to American democracy. To give one-third of either House a veto power over all government programs and appropriations is to redefine the whole American concept of the "rule of the people."

Another approach to the budget problem has been suggested by those who would have the federal government set up a capital budget permitting debt financing of capital expenditures. While originally attracted by this idea some thirty years ago, I have long since seen the error of my ways. I agree entirely with the President's Commission on Budget Concepts, which stated in its October 1967 *Report* (page 33) that there is "little merit in proposals to exclude outlays for capital goods from the total of budget expenditures that is used to compute the budget surplus or deficit." It strongly recommended against such a budget on grounds that it would lead to inappropriate fiscal policy, temptations to stretch the capital budget rules to include current expenditures, and a tilting of Congressional decisions toward debt-financed capital outlays and against tax-financed current outlays. Beyond this, there would be monumental problems of deciding what is a true capital expenditure.

Let me, in closing, come back to the public pressure and clamor to do *something* to cut back spending, taxes, waste, and inflation. In the face of this irresistible force, the federal budget cannot be an immovable object. Wrong headed as the move for a rigidly balanced budget may be, it reflects a mood that demands a response.

Part of that response has already been forthcoming: both in the Congressional process and in the growing move toward budgetary pruning and restraint, one sees that response. One is even entitled to ask whether it may be pushed too far. But given that the Constitutional approach is unwise, unworkable, and unworthy of democratic self-government, one hopes that Congress will work out a statutory solution that will be responsive to the public will without imposing destructive shackles on itself.

EXCERPTS OF THE TESTIMONY OF ALAN GREENSPAN

It is a pleasure to appear before this Committee to testify on proposals to mandate fiscal restraint, either legislatively, or in its most dramatic form, through a Constitutional amendment. Most economists, myself included, do not favor such an amendment. However, it would be shortsighted of the Congress not to recognize that, while the growing pressures for such an amendment may be mistaken in form, they are a reflection of the increasing concern of the American people that the U.S. Congress cannot come to grips with the problem of chronic federal budget deficits and the inflationary pressures they support. The advocvacy for a Constitutional amendment, I believe, is largely symbolic. It is a proxy to do something on the fiscal front.

It would accordingly be inappropriate for the Congress to respond narrowly with a Constitutional amendment mandating a balanced budget. Such an amendment, should it come to pass, would, in fact, not achieve the very purposes which those advocating it desire. It, in itself, will not prevent the growth in government and leaves open and, in fact, creates, the likelihood that budget balancing would be achieved more through increasing taxation, than through curbing expenditures.

Moreover, the Congress cannot readily control the actual budget deficit in the short run—say, a year. Except for relatively small parts of the budget, the levels of expenditures in the short run are determined either by entitlement programs or previously committed funds for which scheduled payments to private contractors are relatively fixed. Hence, the level of outlays in the short run is, to a substantial extent, outside the realm of executive or Congressional discretion. Similarly, the Congress sets a tax rate structure which means that the level of federal receipts largely becomes a function of the level of taxable incomes generated. Notwithstanding those who believe that the federal government can fine tune the economy, taxable income levels, at least in the short run, remain outside the discretion of government.

Finally, even where considerable discretion does exist, outlays often are unpredictable; the surprising outlay shortfalls in recent years being a clear case in point.

The fact that there are technical difficulties in achieving budget balance or expenditure restraint in the short run makes it all the more imperative that we come to grips with the underlying long-term rate of growth in federal outlays. Unrestrained, federal outlay growth will soon run ahead of our tax raising capacity. It is becoming increasingly evident that we must create a far more effective mechanism to restrain outlay expansion than we have constructed to date.

The basic problem is that, while restraint in total outlays is supported by virtually everybody, when it comes to a specific expenditure proposal, the short-term benefits to a specific constituency tend to override the long-term costs to the nation as a whole. The current services budget estimates for future years invariably indicate that expenditure growth will slow rather markedly. But this is partly illusory, since there is an implicit assumption that the Congress will be on vacation fifty-two weeks a year and will add no new spending to the Budget. We often forget that there is a special type of uncontrollable spending which is built into our political system.

It derives from the fact that the Congress meets for extended periods each year and that most bills on which committees hold hearings have a significant price tab on them. It is rare that a Congressional committee will meet in extended session on an inconsequential budgetary matter unless it has wide political or media interest. One cannot tell in advance which particular bills will pass or which particular expenditures will be authorized. However, we would not be terribly far off if we specified a certain aggregate level of newly authorized outlays per day of Congressional session. This, in a certain sense, is as much an uncontrollable add-on as previously mandated outlays.

It appears, therefore, that the only way in which we can permanently curb a rate of growth in federal outlays which outruns the revenue raising capacity of the economy is to impose some form of restraint on outlays which cannot be bypassed by simple majority votes. This would require a Constitutional amendment. I endorse this with great reluctance. Constitutional amendments should not have to deal with technical problems such as those which now confront us on the budget. However, given our institutional structure, I see little hope of achieving the type of restraint that our economy requires other than through the Constitution.

While the Constitutional amendment proposals which endeavor to limit expenditures, rather than mandate a balanced budget, skirt some of the obvious problems of a balanced budget amendment, they, too, have a significant problem associated with them: namely, the criteria against which budget restraint is measured. Any attempt to employ, for example, the gross national product as a measure to guide expenditure growth confronts the obvious problem that the gross national product is continuously undergoing redefinition with respect to inclusion and coverage.

Moreover, estimates, especially preliminary estimates, are subject to revision of as much as a full percentage point. (For a $500 billion budget tied to GNP, this implies a potential shift in the ceiling of $10 billion.) Remember, a Constitutional amendment must be as meaningful fifty years from now as today. Various statistical measures such as gross national product or the consumer price index are not likely to live in perpetuity in their current form. One may, of course, bypass this technical problem by merely creating a generic basis for expenditure restraint in the Constitution and have Congressional enabling legislation specify the elements which would guide that restraint.

I find this solution, however, complex and unsatisfactory. We need something simpler. We should probably resolve the outlay growth problem by requiring that all budget authority, appropriation, expenditure and credit-guarantee bills be passed by a two-thirds, rather than a simple, majority of both houses. A Presidential veto would merely require that the two-thirds vote be reaffirmed. Such a procedure would avoid many of the problems associated with defining an appropriate Constitutional amendment. It would not, however, resolve the problem of defining what, in fact, constitutes expenditures.

I have no doubt that if we restrain what is covered under the current definition of outlay or expenditure by some legal prohibition, the Congress, in its wisdom, will find alternate means to accomplish what it ordinarily would do on the expenditure side. However, I nonetheless believe that such means are limited and that while we can never expect a Constitutional amendment requiring a two-thirds vote on money bills to be fully effective, it clearly would have a major impact on restraining the growth of the federal sector.

Most of the areas where the Congress is apt to create expenditure bypassing devices are on the tax side, through credits. I do not consider this totally undesirable. We will need periodic cuts in tax rates, and any restraint on expenditure levels will probably exert additional pressure on the Congress to cut taxes in order to avoid excessive budget surpluses.

Pending the passage of a Constitutional amendment requiring a two-thirds vote on money bills, we might wisely amend the Budget Act of 1974 in a similar fashion. While the two-thirds vote requirement could be rescinded by a majority of the Congress (with the acquiescence of the President), individual Congressmen might well be persuaded not to vote for such a rescission since it might stamp them as less than fiscally responsible. So there is a possibility that a legislative two-thirds requirement could indeed hold. I doubt, however, that one could rely on that for an overly extended period. A Constitutional amendment mandating such a requirement appears to be the only viable long-term solution.

Restraining budget outlays, however, will not be enough, in itself, if our underlying goal is to defuse inflationary pressures. We must focus not only on on-budget outlays and financing requirements, but on all of the direct and indirect preemptions of private savings embodied in federal policy as well. The inflationary impact of the federal government is only partly related to the on-budget deficit financing requirements and I believe we take far too simplistic a view by employing the deficit as our sole measure of fiscal policy.

Off-budget borrowing has risen sharply in recent years. So have mandated capital investments by business (pollution, safety equipment, etc.) which must be financed; and matching grants, which have induced increased spending and borrowing by state and local governments. These demands have added heavily to capital market pressures, but in total have been small compared with the extraordinary expansion in mortgage credit.

Prior to the 1970's an increase in mortgage credit on one- to four-family homes rarely exceeded $15 billion per year. During the past year, the increase has approached $100 billion. Changes in institutional structures and subsidy programs sponsored by the federal government, from mortgage-backed bonds to the newest six-month certificates tied to the Treasury bill rate, have been responsible for this explosion in mortgage credit.

As a result, we have arrived at a point where we no longer have the luxury of employing sophisticated mixes of fiscal and monetary policy. Monetary policy has become increasingly hostage to fiscal policy in recent years. Until we reduce the aggregate drains on the credit markets created by federal policy, direct and indirect, the Federal Reserve will have little leeway to pursue a discretionary monetary policy. We have largely run out of options which enable us to calibrate various degrees of monetary restraint and budgetary stimulus.

Unless we apply strong restraining policies, both on the fiscal and the monetary side, we risk being unable to subdue, and ultimately defuse, the inflationary pressures which undercut the productiveness of the American economy. There is no question that policies of restraint risk the inadvertent triggering of a recession. But we have procrastinated so long in suppressing inflationary pressures that we have run out of low risk policies.●

CITIZENS' COMMISSION ON ECONOMIC REGULATORY OVERSIGHT

● Mr. TOWER. Mr. President, complaints have been rising about excessive Government regulation. But most of the proposals to do something about this have scant chance of success. The reason for this is that the inevitable solution for a system that works poorly is to add another system on top of the existing one. The added layer often compounds the problem.

These are the conclusions of Dick Givens in his recent article appearing in the January 22, 1979, issue of Photo Weekly. Mr. Givens sees as a solution the alternative approach in the proposal to establish a Citizens' Commission on Economic Regulatory Oversight. The members of this Commission, composed of citizens from outside Government, could perform the function of taking a fresh look at Government regulations and agencies to see which ones are still needed. The examination would be from the standpoint of the "consumers" of governmental activity rather than from the perspective of those providing such services.

Mr. President, I request that the article be printed in the RECORD.

The article follows:

CITIZENS COMMISSION ON ECONOMIC REGULATORY OVERSIGHT

(By Dick Givens)

For a long time, complaints have been rising about the burden of what many consider to be excessive, overlapping and unnecessary regulation which has an inhibiting effect on economic activity and raises the cost of goods and services to the public.

Most of the proposals for doing anything about this have a scant chance of effectiveness. Parkinson's law insures that usually whatever we do merely adds to the amount of complexity in the system. Society knows only how to ADD not SUBTRACT. Like entropy in physics, complexity in society seems always to increase, never to decrease.

If any of our systems for handling problems work poorly, the answer almost always seems to be to add another system on top of the existing one. This, no matter what the theoretical objective, turns out to add to the systems lower down as well. The more there is for a higher-level system to control, the more important *it* in turn becomes, no matter what the objective is supposed to be.

This type of behavior of organizations has been noted as far back as 1967 by Herbert Stein, who recently received the Nobel Prize for economics, in his book *Organizations*. Perhaps the award of a Nobel Prize to a student of organization will increase attention to this subject, pioneered in the past by such leading thinkers as Peter Drucker (*Concept of the Corporation*, 1960), Antony Jay (*Management and Machiavelli*, 1968), Robert Townsend (*Up the Organization*, 1970), C. Northcote Parkinson (*Parkinson's Law*, 1957), Peter & Hull (*The Peter Principle*, 1969), Robert Karasch (*The Institutional Imperative*, 1973), R. Alec Mackenzie (*The Time Trap*, 1972) and Gall, whose name also describes the phenomenon he describes ("Why Nothing Works the Way It's Supposed To," N.Y. Times Magazine 12/26/76). The tendency of complexity to feed on itself is also brilliantly portrayed by the novelist Hermann Hesse in *The Glass Bead Game* (1943).

How can review of excessively burdensome compliance requirements and bureaucracy be moved forward against the tremendous inertia involved? One possible technique is the creation of a "Citizens Commission on Economic Regulatory Oversight," proposed by Senator John Tower of Texas in the closing days of the 95th Congress as Senate Bill No. 3459 (Aug. 24, 1978). Although introduced too late to receive serious consideration in the 95th Congress, this proposal deserves further attention as a means of bringing about impartial review of the need for and effect of regulations which have accumulated over the past few decades like debris piling up on top of the ruins of an ancient historic site. At some point, there is a need to dig through the strata to see what is there and why.

At the federal level, throughout most of the nineteenth century, the authority of Congress to enact economic regulation under its power over interstate commerce was narrowly construed. In 1895, even a nationwide monopoly in a manufacturing industry was held to be purely a local matter because the manufacturing itself occurred within individual states and did not cross states lines!

Today, of course, the opposite is the rule: if activities, even in their totality, have an effect on interstate commerce, they are within the scope of federal power under the commerce clause of the constitution. Regulation can therefore be imposed absent violation of some other specific constitutional provision, such as the guarantee of due process of law or the First Amendment protection of freedom of expression (which now clearly includes commercial speech). As a result of the clarification of the broad extent of the power of Congress over commerce, the exercise of this power has expanded more and more rapidly. New major economic regulatory legislation has been added at an increased pace every decade, while virtually none of it has been repealed or simplified.

A Citizens Commission on Economic Regulatory Oversight could perform the function of taking a fresh look at all this. The personnel of the Commission would not come from the agencies whose work would be reviewed. Rather, outside citizens would be called upon, as was the case with the Hoover Commission which reviewed the structure of governmental agencies several decades ago.

The new "little Hoover Commission" would not be concerned with the organizational charts of agencies, or how the work is divided among them. Rather, it would look at the impact on the citizen and the private sector in terms of what requirements and burdens are imposed on non-governmental persons and entities. It could also look at the functional structure of how agencies work as viewed from the bottom—in other words, what actual steps have to be taken for routine actions to occur, and what is the delay, expense, inconvenience, or other harm if any generated?

The examination would be from the standpoint of the "consumers" of governmental activity rather than the perspective of those providing such helpful or harmful services.

This could be a breath of fresh air.●

COMMENTS ON SUGAR POLICY: PRODUCERS AND CONSUMERS

● Mr. McGOVERN. Mr. President, on May 4, 1977, President Carter said:

> I believe that a strong and viable domestic sugar industry is vital to the economic well-being of the American people.

The President is correct in wanting to maintain "a strong and viable domestic sugar industry."

I want to help him attain this desirable objective. It is right and makes sense in our economy.

However, the evidence available to me reveals that we are not going in that direction. On February 5, 1979, the World Food and Agricultural Outlook and Situation Board at USDA released a significant report for domestic sugar growers. It admits that the administration's sugar policy is failing and contributing in a major way to the budget deficit and to the unfavorable balance of payments.

According to the report:

> Early season planting intentions by U.S. sugarbeet growers in 14 States report plans to cut seedings by about 11 percent (about 139,000 acres). This would suggest about 1.11 million acres in sugarbeets this year in the surveyed States. Growers will be surveyed again in April to get an up-date closer to planting time. About four-fifths of the decline came from Colorado, Idaho, Utah, and Washington where five sugarbeet plants will close.

The 6-million-ton production from the domestic sugar industry is essential if we are to maintain reasonable sugar prices in the United States. In the absence of such an industry, the United States could be the victim of another OPEC, a sugar cartel.

In introducing the Sugar Supply Assurance Act of 1976, then Congressman and now Secretary of Agriculture Bergland stated correctly:

> In addition to the obvious effects on those engaged in the domestic sugar industry, dislocation and disruption of domestic sugar cane and sugarbeet production capability would make American consumers dependent upon the unstable world sugar market for up to 100 per cent of their sugar supplies, putting them at the mercy not only of the vagaries of the world market, but also of possible cartel arrangements by sugar exporting nations.

I want to avoid this type of unfavorable circumstance and the resultant drain on our economy.

Even in the absence of a cartel, consumers should not forget that a relatively small shortage in production propelled domestic prices to over 65 cents per pound in 1974. Moreover, the United States expended over $2.5 billion to import sugar in the year ending June 30, 1975. This was the result of world consumption demand exceeding supplies briefly in 1973–74. Currently, the import costs are down to about $1 billion per year. We need a viable and strong domestic industry if we are to avoid a repetition of this inflationary effect.

Further in the February 5, 1979, report, we find the following:

> (1) Thus, in January 1979, the derived domestic sugar price fell short of the price objective.

In its first test of this price level objective it has failed. It has not done what Vice President MONDALE promised last October when he committed himself to 15 cents in the marketplace. This policy implementation failure resulted in the following as revealed in that report:

> (2) U.S. imports are expected to total 5 to 5.5 million shorts tons (raw value) in calendar 1979, increasing from the preliminary estimate of 4.6 million for 1978. The prospective increase reflects (1) reduced domestic beet sugar production, (2) likely CCC acquisition of significant quantities of sugar, and (3) substantial quantities of domestic sugar placed under CCC loans.

The increased imports will add to the balance-of-payments deficit about $150 million, thus weakening the value of the dollar. On September 26, 1978, President Carter said:

> The large trade deficits the United States States has experienced in recent years have weakened the value of the dollar, intensified inflationary pressures in our own economy, and heightened instability in the world economy.

The President wants to correct this imbalance, as I do. I want to help him attain this objective.

On February 19, 1979, there were about $715 million of sugar loans outstanding plus about $50 million worth of sugar owned by CCC. Thus, the administration has an investment of about $765 million in sugar stored in warehouses. This is being displaced by imported sugar. Customers of domestic sugar are turning to foreign sugarcane suppliers, while U.S. produced sugar remains in warehouses.

This is not a policy. It is a market abdication. It is adding to the budget deficit and to Treasury borrowing.

The proposed budget for fiscal year 1980 contains no provision for making sugar payments to enable industrial users of sugar to acquire that essential product at less than the cost of production. There is no sound economic reason for making such payments. Producers want their returns in the marketplace. They have told that to the Congress time after time. Moreover, there is no proof that the unappropriated sugar payments in excess of $200 million made for the 1977 crop resulted in lower costs to consumers.

The Secretary of State in a letter to the President, dated December 24, 1977, stated:

> United States interests have been seriously affected by sugar price fluctuations. The United States produces more than half of its own sugar needs, and its producers are suffering from the current prices, which are below their costs of production. Low prices lend to production cut-backs, which leave the consumer vulnerable to extremely high prices, particularly if crop disasters do strike in the United States or elsewhere. Furthermore, recent history suggests that price increases for sugar-containing products are passed on to the ultimate consumer more readily than price declines.

There are certain basic facts that should be understood relative to sugar consumption. First, only about 15 percent is purchased directly by consumers at retail. The balance is purchased by industrial users, such as soft drink manufacturers, bakers, restaurants, institutions, schools, and so forth.

The U.S. market price for raw sugar peaked in November 1974, at an average of 57 cents per pound, and 4 years later was about 14½ cents per pound. Consumer price indices for sugar containing products hardly reflected these sugar price changes, and are now generally at record high levels—except for table sugar bought at retail—15 percent of consumption.

The uncommitted sugar of the world amounts to 20 percent of production and constitutes the so-called free world market. It is simply the dumping ground for the world's surplus sugar. The price is usually well below the cost of production. One year out of seven the world demand supply balance in sugar has been disrupted, and this surplus sugar has been bid up to very inflated prices. This last occurred in 1973–74.

The American market is now open to this surplus sugar. The U.S. market prices, even with the duty and fee, are still below the costs of production. American producers are forced to sell their sugar in competition with the 20 percent of the world's production and this surplus sugar enters well below the costs of production. They are beginning to quit production, as reflected in the January 1979 Intentions Report.

We must have sugar prices that will be fair to the domestic consumer and to the domestic producer.

We need to adopt such a sugar policy for the following reasons:

First. To scrap the industry would be unfair to sugar producers and a great waste of heavy capital investment in plant, equipment, and technical knowhow. It would be stupid to do this because of a false idea that American sugar producers should compete in a "free" world sugar market which is really a dumping market.

Second. Thousands of lost jobs would result.

Third. Importing all our sugar would add at least $2.5 billion per year to our international trade deficit, thereby weakening the dollar in international markets.

Fourth. Domestic producers can provide a significant portion of our total sugar needs and can protect us against supply curtailment due to war, embargoes, or internal upheavals in foreign countries.

Fifth. The industrial users of sugar who buy 80 percent of the product—for beverages, canned fruits, baked goods, confectioneries, preserves—would be better off with a steady price of sugar and a guaranteed supply at reasonable prices. The high sugar prices of 1974 and 1975 drove many consumers away from their products permanently.

On January 31, 1979, I inserted in the CONGRESSIONAL RECORD an interim audit report furnished me by the General Accounting Office relative to the operations of the 1977 sugar payment program. The Inspector General's report increases my deep concern, setting forth glaring weaknesses and abuses. We need a full scale inquiry into the operations of this payment program. The GAO has promised me a report in March.

It seems only prudent to carefully pursue this inquiry in great depth in view of indications that the administration is considering a return to the processor payment program as the basis for a domestic sugar program.

We must determine whether domestic sugar buyers could in fact afford to pay U.S. cost of production for their sugar requirements.

And we should determine whether imports at less than cost of production caused other sugar inventory to be turned over to the Government and stored indefinitely at taxpayers' expense.

Secretary of State Vance, in his letter of December 24, 1977, to the President stated:

> There has been a surplus of supply over demand in each of the past three years, and prices have now fallen to less than seven cents per pound, a level below the cost of production in most, if not all, countries.

All the sugar currently imported into the United States is still being sold at less than the cost of production—even at the extremely low wages of the producing countries.

USDA's top economist, Howard Hjort, testified before the Senate Finance Committee's Subcommittee on Tourism and Sugar on May 11, 1978, as follows:

> The national average cost of producing sugar is approximately 15.2 cents per pound.

That refers to 1978. Moreover, in an apparent adjustment of this cost of production estimate, Secretary of Agriculture Bergland stated on September 14, 1978, to the Agricultural Council of America, as follows:

> We know it costs about 16 cents a pound to produce American sugar, and so there lies a problem.

The Executive Office of the President on April 27, 1978, gave the following advice to U.S. sugar beet and sugarcane producers:

> It should be noted that sugarbeet and sugarcane producers have alternative uses for their land that are more in keeping with economic needs.

I do not believe that the President who desires a strong and viable domestic sugar production policy wishes to force many sugar producers out of production with resultant closing of sugar mills and loss of jobs. However, the effects of maintaining a domestic price at less than the cost of production is having just that undesirable effect, and impelling sugar producers to shift to other crops.

We must determine whether it is in the public interest to borrow hundreds of millions of dollars at high interest rates to make sugar payments so users can acquire sugar at less than the cost of production. And we must determine at the same time the real inflationary effect of such payment programs with borrowed money.

I am for a strong viable domestic sugar industry. However, I am opposed to shifting the costs of the sugar program to our children and grandchildren. New home owners and builders are already suffering from the interest rate for home mortgages exceeding 10 percent. The prime rate is 11½ to 11¾ percent. The U.S. Treasury is paying close to 10 percent for short-term money. Our children and grandchildren must not be asked to pay for what we are consuming now.

Sugar is a commodity for which we rely on imports to the extent of about 45 percent of our requirements. Therefore, it is not difficult to support a reasonable level of domestic prices through duties and import fees, or if necessary some other form of import management. A one-half cent per pound increase in import fees reduces the budget deficit by $50 million. A one-half cent per pound payment increases the budget deficit by $60 million.

Thus, the difference in the two approaches is about $110 million in the net immediate effect on the budget deficit.

Moreover, with current interest rates, the cost of a payment program to the Treasury will double in 7 years. It makes economic and fiscal sense for farmers to get their returns in the marketplace.

Ours is a market system. Therefore, we should not be following the approach of the Central Committee of the Chinese Communist Party which in a recent food communique stated:

> After the purchase price of farm produce is raised, the urban workers must be guaranteed against a fall in their living standards. The market price of all food grain will remain unchanged, and the selling price of other farm products needed for daily life must also be kept stable, if some prices have to be raised, appropriate subsidies will be given to the consumer.

The Senate Committee on Agriculture Nutrition and Forestry needs to examine all aspects of the 1977 payment program. Moreover, we need to assess blame where it occurs and learn from the hearings. Only thus can we develop a fair legislative proposal which will provide a permanent future to the domestic sugar industry—an essential ingredient of our national economy. A fair price in the marketplace is a reasonable approach.●

THE WORLD ADMINISTRATIVE RADIO CONFERENCE

● Mr. GOLDWATER. Mr. President, on February 27 in Munich, Germany, Ambassador John A. Gronouski, chairman of the U.S. Board for International Broadcasting, spoke before a group on WARC, which is the coming World Administrative Radio Conference. He brings out in very plain language what a number of us has been trying to get across to American users and our colleagues as to the dangers inherent and predictable in this coming session of WARC. I ask that the remarks of Ambassador Gronouski be printed in the RECORD, and I suggest my colleagues read this, because you are going to become deluged by mail from home when this conference takes place.

The remarks follow:

REMARKS OF AMBASSADOR JOHN A. GRONOUSKI

A major link that binds together the members of the NATO Alliance, one that is of paramount importance to this Committee, is the responsibility that we share for preserving and expanding the unimpeded free flow of information.

Rather than attempt to survey all the aspects of this question which have, as you know, in recent years occupied a number of international forums—the UN General Assembly, UNESCO and so on—I would like to concentrate on one critical aspect on which decisions are being made at the present time, and important actions will be taken later this year. I am referring to short-wave broadcasting in the context of the World Administrative Radio Conference of the International Telecommunication Union. This conference, more commonly referred to as WARC–79, will convene in Geneva for a 10-week session this September. If its results are favorable, it will insure a freer and more balanced flow of information among the countries of the world for the remainder of this century. If its outcome is unfavorable, this vital flow could be severely restricted and our short-wave broadcasting efforts—those of the VOA and RFE/RL, of the BBC, the Deutsche Welle, Radio Canada, Radio Nederland, and of our other NATO partners—would suffer.

I am talking here about international broadcasting on the short-wave bands often referred to as external broadcasting. In the field of human communication, short-wave radio plays a unique role. Technically, it is the only mass broadcasting medium capable of direct, universal, personal and immediate communication to individuals and audiences throughout the world. Unlike standard broadcast stations in the medium and longwave bands, or TV and FM stations that can be received only over relatively short distances, shortwave broadcasting has global reach.

Short-wave broadcasts, then, differ from all other media of communication—books, newspapers, magazines, motion pictures—in that they cannot be stopped at frontiers, refused an entrance visa, confiscated, delayed, or censored. These broadcasts do not require the prior consent of the recipient government. Short-wave broadcasts never intrude on individual privacy. They can enter a listener's home only by invitation by the flick of a switch, the turn of a dial.

Over more than a half-century, the short-wave broadcasting bands have become a market place for ideas and information, an arena for ideological and political argument a vehicle for news and entertainment, a channel for the dissemination of a wide variety of serious and popular cultural programs.

Short-wave broadcasting is not the exclusive domain of the more powerful industrialized nations. It is the only practical information medium at present through which the voice of the smaller, less affluent country can be heard, and can reply to the major powers. Installations are relatively inexpensive, within the means of most of the developing nations. Along with the issuance of currency and postage stamps, one of the first steps often taken by a newly independent country is the creation of a short-wave broadcasting service to communicate with its neighbors and the world.

In the open societies in which we live, we have available a wide diversity of uncensored communication and information media. But to many millions of people, particularly those living in closed societies, shortwave broadcasts are the primary source of news and information from outside. Some countries know and fear this, and attempt to block reception by jamming.

Jamming of radio broadcasts violates the spirit if not the letter of the U.N.'s Universal Declaration of Human Rights as well as the Convention of the International Telecommunication Union. In 1977, at the 23rd Annual Session of this Assembly, Resolution 68 was passed strongly condemning jamming as a flagrant violation of the Final Act of the Conference on Security an Cooperation in Europe. Yet, vast networks of jamming transmitters continue to operate in the Soviet Union, Czechoslovakia, Bulgaria and Poland.

Last year, I publicly suggested as a "civilized alternative" to jamming, the application to international short-wave broadcasts of the well known American principle of the "right to reply." The Board for International Broadcasting, in concert with Radio Free Europe and Radio Liberty, stood ready to seriously consider airing responses by the Soviet Union and Eastern European countries to specific complaints against our broadcasts which were found to have merit. So far, there have been no takers. The jamming continues.

What is this audience for short-wave broadcasts? While precise figures are not available, experts estimate that of the world total of more than 900 million radio sets, as many as 300 million may be capable of tuning short-wave broadcasts. The ongoing transistor revolution and the development of micro-miniature, ultra-reliable space age components have made possible the manufacture of more compact, more sensitive radios than ever before, and at a price that more people can afford. On a typical day, it is estimated that as many as 200 million listeners throughout the world may be tuned to short-wave broadcasts. This is an impressive audience.

In this age of satellite communications, a question arises as to the likelihood of direct broadcasting satellites eventually replacing short-wave broadcasting and extending international broadcasting into the realm of television. I'm referring here to a system in which the broadcast signal would be focused from the ground to the satellite, and then beamed from the satellite directly to the listener's home receiver. This would require a satellite many times more powerful than those now being used for international telecommunications, since the satellite would be required to beam its signal to a small home-type television antenna rather than to a giant earth station.

The potentialities of such satellites have already been demonstrated successfully with the U.S.-Canadian joint experimental Communication Technology Satellite—CTS. Good quality signals were received from this satellite on conventional TV sets adapted with special signal converters and using outdoor disc antennas as small as a meter in diameter. The Japanese plan to inaugurate a direct broadcasting satellite system for domestic TV coverage within the next year or so. Plans for similar systems are on the drawing boards here in Europe and in North America.

Technically, direct broadcasting satellite systems appear to be feasible. But when we consider the resources necessary to design, manufacture and launch such systems, they are from the practical point of view still a long way off for all except the most technologically advanced countries. Moreover, even if such systems were to become practical on a worldwide basis, reception from satellites may be confined to receivers within the borders of the transmitting country. This is because international technical ground rules have already been established by the International Telecommunication Union that have the effect of requiring prior consent of the receiving country for transmission by satellite to viewers in that country. The use of broadcasting satellites for direct uncensored transmission of radio and television broadcasts across international borders may well have been stifled even before its birth!

Short-wave radio, therefore, appears to be the only viable medium for international broadcasting in the foreseeable future. This is why the WARC meeting later this year is so important to the members of NATO. Let me be specific. Approximately 150 countries presently broadcast on the shortwave bands. The number of transmitters in use has increased from 300 in 1950 to 1,500 today, and the amount of broadcasting has increased five-fold since the end of World War II. Most short-wave frequencies are now being used by double, and during preferential broadcasting hours, by three and four times the number of transmitters recommended as a reasonable norm by the ITU.

The results of this congestion, familiar to anyone who has tried to listen to short-wave broadcasts, is the all too common phenomenon of co-channel interference, when an otherwise clear signal is marred or blotted out by the program of another station on the same channel. A recent survey conducted by the European Broadcasting Union concluded that reception on two out of every three channels used for short-wave broadcasting is rendered ineffective by interference. This checks closely with what the VOA and RFE/RL have found; more than half the frequencies that they use are marred by interference and this does not include those RFE/RL channels which are intentionally jammed. I dare say that you will find the situation much the same for the short-wave broadcasts of your countries. The shortage of frequencies and the resulting high level of interference has in itself become a serious impediment to the free flow of information.

One might ask at this point: why isn't this a problem for telecommunication engineers and P.T.T. officials to tackle? Why should Parliamentarians and political scientists be concerned?

Traditionally, radio frequency management has been viewed as a highly specialized technical matter. But, in the case of short-wave broadcasting, there are strong political implications. They involve the East-West ideological struggle, for more than a third of the world's short-wave broadcasting stations are located in NATO and Warsaw Pact countries. (The Soviet Union is the leader in broadcast hours followed closely by the U.S., with the United Kingdom and the Federal Republic of Germany not far behind.) The North-South communication imbalance is also involved, for the developing countries claim to have been squeezed out by the industrial nations who were there first and who have greater resources. WARC–79 thus looms as a serious three-way confrontation between East, West and the Third World for control of broadcasting frequencies. I don't see how it can be avoided, and we must be alert to politically motivated strategies disguised as technical proposals.

Let me elaborate. We must assume that countries which maintain closed societies, resort to jamming foreign broadcasts and exercise censorship and other media controls are certain to use WARC–79 as a platform to press for further restrictions on short-wave broadcasting under the guise of technical proposals. The Soviet Union, for example, which recently announced the bringing into operation of 29 of the world's most powerful short-wave broadcasting transmitters, is calling for no increase in frequencies for broadcasting. The Soviets can afford to take such a position. Along with most other countries of the Warsaw Pact, they have established "safe havens" for their broadcasting by preempting segments of the short-wave spectrum reserved originally for other communication services, most of which have subsequently moved to satellites or other technologically advanced telecommunication systems. By resorting to a series of reservations taken at previous ITU conferences for justifying the takeover of these frequencies, Soviet broadcasts escape most of the interference that the rest of the world is encountering. Obviously, the Soviets would like to keep these more or less exclusive broadcasting enclaves for themselves and their allies at WARC–79.

In 1959, at the last ITU conference where frequencies were reallocated throughout the entire communication spectrum, the technologically advanced countries had the voting edge to sort out their differences among themselves. But voting power and patterns have changed drastically since then. Following the voting rules of the United Nations, each of the 154-members of the ITU has a single and equal vote. Togo and Fiji, for example, have the same voting rights as the United States and Russia. In recent years the non-aligned bloc has on several important issues demonstrated its ability to control the voting pattern in the ITU, and we must assume that they will be in a similar position at WARC–79.

If the Soviet proposal for no increase in broadcast frequencies were to prevail and the Third World majority were successful in forcing a redistribution of the present congested frequencies to "obtain their share of the pie" as some have already threatened, members of the NATO Alliance could expect to lose the most. If an adequate number of additional channels are not made available for short-wave broadcasting, satisfactory accommodation of the scores of "have not" nations would entail substantial reductions on the part of the few "haves." If this were to happen at WARC–79, the entire short-wave broadcasting effort of the NATO members might be seriously imperiled.

What can we do to avoid such an outcome?

First, we must recognize that collectively the NATO community is responsible for the bulk of the free world's international broadcasting and that this mandates responsibility for leading the conference towards an equitable solution which, at the same time, protects our interests. If we fail to assume a leadership role, free world international broadcasting could suffer irreparable damage.

Second, we must see to it through our proposals that a sufficient amount of additional short-wave spectrum is allocated to broadcasting. We should be able to demonstrate clearly that the reasonable and legitimate interference-free requirements of all countries, developed as well as developing, can be accommodated for the remainder of this century. It is a matter of simple arithmetic that the present broadcasting spectrum must be expanded two-fold to achieve this. This would involve but a small reduction (less than 20%) in the number of frequencies presently reserved for what is called the "fixed service," which for the most part would encompass the Soviet broadcasting enclaves, making them available for the entire world. The fixed service, used mainly for commercial and military communications, has made far-reaching advances in the utilization of worldwide satellite, cable and microwave technology, advances which have sharply reduced former needs for shortwave frequencies.

Third, if we are to gain majority support for our proposals, we must identify them with the responsible desires and goals of Third World nations who want to improve their communications posture and want to develop a greater balance in shortwave broadcasting. We cannot hope to achieve our goals at WARC-79, I submit, unless we can gain the support of these nations or, at least, avoid their active opposition.

As you will recall, these very points are contained in the resolution adopted at the 24th annual meeting of this Assembly last November.

In closing, I hope I have made the point clear that there is considerably more involved in the WARC-79 short-wave broadcasting issue than technical questions. I urge each of you, in your capacity as Parlamentarians with a special interest in seeing the continued unimpeded flow of information, to review the WARC-79 proposals of your respective countries in light of the NATO Assembly resolution.

If we can develop a coordinated NATO position around the three key points of Conference leadership, the availability of sufficient interference-free frequencies for all countries, and the tabling of a proposal that merits the support of the Third World, then I believe that we can hopefully anticipate results from WARC-79 that will satisfy world-wide short-wave requirements and, at the same time, see the rejection of proposals which could require forced reductions in our broadcasting efforts.●

JOBS AND THE TAX DEDUCTION FOR BUSINESS MEALS—A REBUTTAL

● Mr. KENNEDY. Mr. President, as part of the ongoing debate on the effort to reduce the tax deduction for business meals, a study was included in the February 22 RECORD, page 3111, purporting to show that a significant loss of jobs in the industry might occur if the deduction were to be reduced by 50 percent in accord with the Carter administration proposal in the past Congress.

The new study was prepared within the Bureau of Labor Statistics, although it was specifically stated that the study was not attributable to the Bureau. Its finding of significant job loss differed substantially from the conclusion reached by a Library of Congress study last year, which had estimated a much smaller jobs effect.

In light of the well-deserved reputation of the Bureau of Labor Statistics for impartial and accurate economic analysis, the lack of attribution of the new study to BLS turns out to be well-advised, since both the methodology of the study and its conclusions are highly questionable.

When the new study appeared, I asked the Library of Congress to analyze it. The analysis has now been completed, and the Library of Congress finds that, when certain errors in the BLS-related study are taken into account, the purported job loss vanishes. As a result, the BLS-related study verifies the earlier Library of Congress conclusion that the modification of the deduction will not result in any significant layoffs, either in the restaurant industry as a whole or in any segment of the industry.

Mr. President, I request that the analysis by the Library of Congress be printed in the RECORD.

The material follows:

EMPLOYMENT EFFECT IN THE RESTAURANT INDUSTRY OF THE PROPOSED RESTRICTION OF BUSINESS ENTERTAINMENT EXPENSES: COMPARISON OF CONGRESSIONAL RESEARCH STUDY AND STUDY PREPARED IN BUREAU OF LABOR STATISTICS

(By Jane G. Gravelle, Specialist in Taxation and Fiscal Policy, Congressional Research Service, Library of Congress, March 6, 1979)

I. Introduction:

Recently, a study was inserted into the Congressional Record done in the Bureau of Labor Statistics (BLS) on the employment impact of a 1978 Administration tax proposal to restrict deductibility of business entertainment meals.[1] The statement accompanying that study reported the finding that 250,000 employees in the restaurant industry would probably lose their jobs as a result of enactment of the tax proposal.

This finding is substantially different from that of a Congressional Research Service (CRS) study prepared last year which estimates a much smaller effect for the same year (1976).[2] As the following analysis indicates, however, the BLS study, if correctly interpreted and if certain errors in data use are recognized, is quite compatible with the CRS study.

II. Description of the Two Studies:

A. CRS Study:

The CRS study converted the limitation on deduction into a price effect and then estimated the impact on quantity supplied based on a price elasticity of 1. Some refinements were introduced with use of a curved demand function with a constant price elasticity of 1 and with assumption of a slightly elastic supply curve. The analysis then assumed that the reduction in demand would lead to a proportional reduction in employment, leading to a reduction of 40,000 jobs in 1976, the last year for which data were available. This job loss was termed the relative price effect.

In an attempt to arrive at a more complete representation of the effect on the industry (and particularly on actual layoffs) the CRS study also examined the impact on the industry stemming from increased demand in the economy in general due to the stimulus from the overall tax cut proposal which contained the proposed business entertainment restriction. Based on simulations of the impact of this stimulus by Data Resources Inc., its effect, termed the income effect, would also be a magnitude of 40,000 jobs in the restaurant industry, with the aggregate impact on the industry being no change. The study noted, however, that this effect would not be true for every restaurant in the industry.

In a similar pursuit of the goal of more complete representation of the effect on actual layoffs (where a similar job might not be attainable) the CRS study also examined the changes in employment in a dynamic context. Given the net offsetting of the relative price effect and the income effect, the industry would have continued to grow at its pre-tax-change growth rate, which in 1976 was equivalent to 7.7% or 280,000 jobs. This rate was somewhat higher than previous years; the three annual growth rates for 1973–1974, 1974–1975, and 1975–1976 averaged 5%.

B. BLS Study:

The BLS study actually reported in its tables four different estimates of the job loss: 24,407, 43,319, 127,336 and 218,958. These estimates cover a very wide range and represent use of different marginal tax rate assumptions and data bases. An attempt to explain the reasons for this range will be undertaken subsequently.

The basic methodology of the BLS study is, as in the case of the CRS study, to use the standard approach of estimating impact on quantity supplied of the change in price deriving from the restricted deductibility. The BLS study reflected price elasticities in a large scale consumer demand model. However, rather than assuming a proportional reduction in employment, the demand estimates were then entered into an input-output model which actually resulted in a less than proportional reduction in employment.

The study only estimates the "relative price effect" in the CRS study and, as the author notes, is a partial analysis. There is no consideration of the impact of the tax-cut stimulus, nor is there any examination of the employment effects in terms of a change in the growth rate rather than an absolute positive or negative decline. Thus the numbers in the BLS study should be compared with the 40,000 job relative price effect which was the first step in the CRS analysis.

III. Examination of the Range of Estimates in the BLS Study.

Because of the wide range of estimates presented in the BLS study this section will examine the reason for those ranges and try to determine the most apropriate estimate in the BLS study.

A. Marginal Tax Rate:

The 24,407 job estimate and the 127,336 estimate reflect use of a marginal tax rate of 29 percent (reflecting a 20 percent price increase)[3] and two different data bases: those from an IRS survey and the Bureau of Economic Analysis (BEA). The 43,319 and 218,958 estimates reflect use of a marginal tax rate of 44% (reflecting a 40% price increase). However, it is clear from the author's discussion that the marginal tax rate chosen on any empirical basis was 29 percent, reflecting an estimate of the marginal tax rate of individuals with income over $20,000. The 44% tax rate was chosen as a means of performing a sensitivity analysis—to explore how changing the tax rate would affect the outcome. No basis for this 44 percent rate was given. A rate lower than 29% could have been chosen as well to perform sensitivity analysis and the resulting range of estimates would have been lower. Therefore, the actual result of the study using empirically based marginal tax rates is a range of 24,407 to 127,336.

The CRS study used a marginal tax rate of 36 percent (reflecting a 28% price increase), the rate used by the Treasury Department in estimating the revenue loss.

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[1] "The Employment Effects of the Proposed Change in the Tax Deductibility of the 'Three Martini' Lunch," by Stephen D. Braithwait, Congressional Record, February 22, 1978, pp. S1725–S1728. The study is not attributable to the Bureau.

[2] "The Proposed Curtailment of the Deduction for Business Expenses: General Issues and the Employment Impact in the Restaurant Industry," by Jane G. Gravelle, Congressional Research Service, Library of Congress, February 23, 1978.

[3] With a 29 percent marginal tax rate, the cost of $100 worth of entertainment expenses is $71. With the elimination of one-half of the deduction, the price will rise by $29x(½) or $14.50. $14.50/$71 equals 20 percent.

B. The Data Base:

The wide difference between the 24,407 job loss estimate and the 127,336 estimate derives from the use of two widely disparate data bases. The IRS data were based on a tax return survey and adjusted to reflect entertainment meals. This number was estimated at $2.4 billion in 1973. The Bureau of Economic Analysis data were the estimated portion of consumption of food and beverages in the economy which was associated with business expenditures. This estimate was $12.85 billion in 1973. The wide disparity between these two numbers can be explained by noting that the $12.85 billion BEA estimate consists mostly of expenditures which would not be affected by the restriction on deductibility, including expenditures of tax exempt entities (such as the government and other non-taxable entities) and business expenditures for food and beverages consumed when the employee is in travel status. Thus, the BEA data is conceptually incorrect for estimating the impact of the restriction on entertainment expenses on employment. When only the conceptually correct IRS data is used (adjusted to 1976), the estimate in the BLS study is 24,407 jobs, an estimate which is actually lower than the estimate in the CRS study.

C. Final Reconciliation of CRS and BLS Relative Price Effects:

The difference between the 40,000 job estimate in the CRS study and the 24,407 job loss estimate in the BLS study can be attributed to three factors, all of which lead to the lower BLS estimate. The first is the marginal tax rate effect described above. The second is that the consumer demand model generated slightly lower price elasticities than those used in the CRS study. The CRS study used a demand curve with a unitary elasticity. The BLS study reflects elasticities of .86 for food and .665 for alcohol when the 29% marginal tax rate is used and elasticities of .745 for food and .576 for alcohol when the 44% marginal tax rate is used. Thirdly, the BLS study used an in-put, out-put model for translating changes in demand to employment, which apparently led to an approximate ⅔ percent decline in employment for each 1 percent decline in demand.

The marginal tax rate data used in the CRS study is probably a better measure for determining relative price effects than that in the BLS study since the 36 percent marginal tax rate is directly associated with business expenditures. However, use of the empirically based elasticities in the consumer demand model and use of the in-put, out-put model would seem to present improvements over the parameters used in the CRS study. If the marginal tax rate in the CRS study were retained and the elasticities and employment parameters in the BLS study used, the job estimate for 1976 would be around 30,000 jobs. This more precise measure represents an improved estimate of the job effect deriving from the relative price effects.

D. The Income Effect and the Dynamic Context: Aggregation Problems:

The CRS study took the two additional steps of looking at the economic stimulus from the tax cut and the share of that increased demand accruing to the restaurant industry as well as placing the effects in a more dynamic context (i.e. looking at the change in growth rate rather than absolute levels). These steps were included because the public policy concern at that time was focused on the actual lay-offs with inability to obtain similar jobs. Subsequent to the CRS study, and also mentioned in the text accompanying the insertion of the BLS study, the question of the degree of aggregation in the CRS study was raised. Basically, the criticism is that while there would not be an absolute decline in jobs in the entire industry, there could be in the particular part of the industry (sit-down, full menu restaurants) which would be most affected. Furthermore, it was argued that the rate of growth in that segment was lower than the overall growth rate.

The BLS study reflects the same level of aggregation as the CRS study; however, it does not explore the further questions of stimulus from the tax cut and growth rates in the industry in general and cannot be criticized on that ground.

While the level of aggregation in the CRS study was necessitated by the limitations of available data, the criticism is a valid one. However, data which was subsequently presented in the hearings on the tax cut, and some of the data in the BLS study now allow some exploration of this question.

The National Restaurant Association presented data[4] indicating that the sit-down restaurants in 1977 represented $52.5 billion in revenues, and 3 million employees. If the decline in price of 2% ([.28 price increase x $3.777 billion (affected expenditures in 1977)] divided by $52.5 billion) is multiplied by the apparent elasticity in the BLS study (around .7) and by the implied less than proportional reduction of jobs (.67), the net effect on employment is .9%. However, in that same submission, employment in that segment of the industry is estimated to increase by 3.3% from 1977 to 1978. Thus jobs in that segment would still be expected to increase.

Further refinements in disaggregation are made more difficult because there are no growth figures for the particular segments of the industry being considered. A survey by the American Hotel and Motel Association[5] asked its members what percentage of food and beverage sales was business and convention expenditures. The response showed an average of 57.5 percent and 72 percent for the highest category. Using data from the BLS study and the 36 percent marginal tax rate, the employment effect would be 1.4% overall and 1.8% for the highest category.[6] A statement by Thomas W. Power, General Counsel, Food-service and Lodging Institute,[7] claimed that most of the estimated $3.2 billion in sales attributable to business entertainment occurred in a small percentage of the nation's restaurants—that is, higher-priced sit-down restaurants. The annual sales of this small group of restaurants were approximately $10 billion. If it is assumed that all of the entertainment expenses occurred in this sector, the net result would be a 4.2% decline.[8]

The basic unknown in this exercise is what rate of growth the higher-priced sit-down restaurants are experiencing. If, for example, the rapid growth rate in the fast food industries reflects a tendency to substitute fast food meals for those in moderately-priced restaurants as opposed to higher-priced sit-down restaurants, the higher priced restaurants may be growing faster than the 3.3 percent growth rate for sit-down restaurants overall.

Without sufficient data one cannot come to certain conclusions. However, except for the last estimate, the reduction of jobs was still less than overall projected growth rates; even with the last estimate, the shortfall was quite small (around 5,800 jobs for 1976). Therefore, it still seems unlikely that there will be any significant lay-offs which would result from enactment of the proposal, particularly in view of normal turnover in the industry.●

THE DEATH OF DEWEY BARTLETT

● Mr. WILLIAMS. Mr. President, we all mark with great sadness the passing of our former colleague, Dewey Bartlett. His service here among us was an example of extraordinary courage and a reminder that a smile and good humor can be most potent weapons when battling for one's convictions.

Dewey was a fine public servant and statesman and the comments others in the Chamber have made about his record reflect the high esteem in which we all held him. I have to confess that many of his greatest victories were moments of retreat for me but rarely has there been someone who was such a gracious adversary.

Mr. President, on that long night at the close of the 95th Congress we had an opportunity to express our appreciation and affection for Dewey while he was still here on the floor with us.

Thinking back on that time, I remember saying how much I appreciated in him the virtue of compassion which was reflected in a simple thing like his love for the pigeons which flock around the Russell Senate Building.

Well, Mr. President, during our storm a few weeks back I noticed that the pigeons are not getting as good treatment now that Dewey's gone, particularly when snow covers the ground, so I bought a bag of birdseed to help tide them over.

When I feed those birds, I will think of Dewey, his love for life and his devotion to making the world around him a little better for all who exist together in it.

Mr. President, we have lost a noble Senator and wonderful person.●

SENATE BUDGET COMMITTEE AND CONGRESSIONAL RESEARCH LETTER STUDIES ON BALANCED BUDGET

● Mr. MUSKIE. Mr. President, I call to Senators attention two staff studies that have been prepared by the staff of the Senate Budget Committee and the Congressional Research Service. They analyze the various approaches to a balanced budget proposed in State applications for a constitutional amendment and in legislative proposals introduced in the Senate to date. Mr. President, I ask that these documents be printed in the RECORD.

The documents follow:

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[4] Testimony of the National Restaurant Association, in hearings before the Senate Finance Committee on the Revenue Act of 1978, Part 2, August, 1978, pp. 526–527.

[5] Testimony of the American Hotel and Motel Association, in hearings before the Senate Finance Committee on the Revenue Act of 1978, Part 2, August, 1978, p. 534.

[6] Calculated in the following manner:

Percentage Business	0.575	0.720
Times Percentage of Business Reflecting Entertainment (IRS data divided by BEA data for 1973)	0.187	0.187
Times Percentage Price Reduction for 36% Marginal Tax Rate	0.28	0.28
Times Approximate Price Elasticity from BLS Study	0.7	0.7
Times Translation from Reduction in Demand to Reduction in Employment	0.67	0.67
Equals	0.014	0.018

[7] Statement of Thomas W. Power, General Counsel, Foodservice and Lodging Institute, in hearings before the Senate Finance Committee, Part 2, August, 1978, p. 544.

[8] Calculated similar to manner described in note 6: (.32)x(.28)x(.7)x(.67).

MEMORANDUM

To Senator Muskie.
From Jill Scheu and Lew Shuster.
Date March 1, 1979.
Subject A balanced Federal budget: Analysis of State applications and Senate legislative proposals.

Almost 50 State Petitions, bills and resolutions focused on a balanced federal budget are now under consideration in the Senate. To aid the Budget Committee's review of these matters, an analysis of those documents has been prepared. This memorandum categorizes and summarizes the constitutional convention applications from the states for a balanced federal budget and the legislative proposals for budgetary balance introduced in the Senate in the 96th Congress. Categorization is based primarily on the formula used to achieve a balanced budget. For each category there is a brief description and analysis of the economic defects.

1. Balanced Federal budget formula:

a. State Applications:

(1) Four states (Florida, Georgia, North Carolina, and Oregon) have passed applications that incorporate the following wording:

". . . to require a balanced federal budget and to make certain exceptions with respect thereto."[1]

Three applications are convention calls only; the fourth also requests Congress to propose an amendment.[2]

Georgia would call convention for the "specific and exclusive" purpose of proposing this amendment. In addition, the Georgia application states that it constitutes a continuing application until ⅔ of the states have submitted applications, or if Congress proposes an "identical" amendment before January 1, 1977, the application will cease to be in effect.

Oregon's application is similar to Georgia's, except that it gives Congress until January 1, 1979, to propose an identical amendment. It also calls on other state legislatures to pass similar petitions.

North Carolina's application imposes a time limitation so that in the event Congress proposes the amendment, the budget must be balanced within four years of the amendment's ratification.

(2) Idaho adopted the new NTU model petition which provides:

". . . that the federal budget be balanced in the absence of a national emergency."

The application also contains the following resolutions:

Congress shall propose an amendment or, alternatively, Congress shall call a convention for the specific and exclusive purpose of proposing such an amendment;

This application constitutes a continuing application until ⅔ of the legislatures have made application, but if Congress proposes an identical amendment, then this petition is no longer in effect;

This application is null and void if the convention is not so limited;

This legislature proposes that legislatures or other states similarly apply to Congress.

It is probable that Indiana and Utah, states recently adopting applications, also adopted this model.[3]

b. Legislation Introduced in the Senate: None.

c. Defects:

Limits the ability of the federal government to respond quickly and flexibility to changing economic conditions, particularly in periods of recession and high unemployment.

May be absolutely impossible to achieve in periods of steep economic downturn which, though severe, would be difficult to characterize as a "national emergency."

Does not define "national emergency" thus causing the likelihood of prolonged debate which would likely go on until a deep recession or depression had already occurred, thus rendering any timely federal budget response impossible.

Could lead to higher future taxes and higher future spending, since the simplest way to balance the budget in periods of economic growth is refrain from cutting taxes.

2. Appropriations/revenues formula:

a. State Applications;

(1) 10 States (Alabama, Kansas, Nebraska, Nevada, New Mexico, Oklahoma, Pennsylvania, South Dakota, Tennessee and Virginia) passed applications using the following formula:

(In the absence of a national emergency . . . the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year."

(2) Eight of these states (Alabama, Kansas, Nebraska, New Mexico, Oklahoma, Pennsylvania, South Dakota and Virginia) passed identical petitions[4] based on the first model petition of the National Taxpayers Union which included the following resolutions:

That Congress shall submit an amendment containing this formula to the states for ratification;

That alternatively, Congress shall call a convention for the "specific and exclusive purpose" of proposing such an amendment;

That the legislatures of each of the several states shall pass similar applications.

The other two (Nevada and Tennessee) used the same basic formula, but only called for a convention.[5]

(3) Four more states (Arizona, Maryland, South Carolina and Wyoming) have passed applications using the same formula, but adding a clause which excludes from total revenues all revenues derived from borrowing.[6]

b. Legislation Introduced in the Senate: None.

c. Defects:

Goes well beyond the concept of a balanced budget; would require large budget surpluses because appropriations in recent years have run about 10% higher than outlays and are likely to continue to do so in an expanding economy. This would seriously slow economic growth.

Would be likely to undermine the "full funding" concept for multi-year projects under which the full cost of such projects is appropriated at the outset so that Congress and the public can see in advance the total cost.

Limits the ability of the federal government to respond quickly and flexibly to changing economic conditions, particularly in periods of recession and high unemployment.

May be absolutely impossible to achieve in periods of steep economic downturn which, though severe, would be difficult to characterize as a "national emergency."

Does not define "national emergency" thus causing the likelihood of prolonged debate which would likely go on until a deep recession or depression had already occurred, thus rendering any timely federal budget response impossible.

Could lead to higher future taxes and higher future spending, since the simplest way to balance the budget in periods of economic growth is to refrain from cutting taxes.

3. Outlays/revenues formula:

a. State Applications:

(1) Delaware passed a convention call only, to propose an amendment requiring that the costs of operating the federal government shall not exceed its income during any fiscal year except in the event of a declared war.

b. Legislation introduced in the Senate:

(1) Six resolutions (Talmadge, Helms, Lugar, McClure, Heflin, Byrd, H.) use simple balance-the-budget language stating that total expenditures or outlays shall not exceed receipts. Two provide for suspension of the terms of the amendment on a vote by 2/3 of each House; one provides for suspension if both Houses agree to a concurrent resolution declaring an emergency.

c. Defects:

Limits the ability of the federal government to respond quickly and flexibly to changing economic conditions, particularly in periods of recession and high unemployment.

May be absolutely impossible to achieve in periods of steep economic downturn which, though severe, would be difficult to characterize as a "national emergency."

Does not define "national emergency" thus causing the likelihood of prolonged debate which would likely go on until a deep recession or depression has already occurred, thus rendering any timely federal budget response impossible.

Could lead to higher future taxes and higher future spending, since the simplest way to balance the budget in periods of economic growth is to refrain from cutting taxes.

4. Balanced budget/national debt formula:

a. State Applications;

(1) Three states (Texas, Louisiana and Mississippi) have passed applications which deal with both a balanced budget and reducing the national debt:

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[1] Exceptions are not spelled out in the call.

[2] Florida would call a convention for the "sole" purpose of proposing this amendment.

[3] Copies of these applications are not yet available for actual review.

[4] Kansas passed a petition identical in all respects except that a time limit is imposed in the event Congress proposes the amendment, so that the budget must "balance" within 5 years of the amendment's ratification by the states.

South Dakota's petition is also identical except that it adds a clause proclaiming the petition null and void if the constitutional convention is not limited to such exclusive purpose or if Congress proposes an amendment "identical in subject matter" to the one contained in the state's application.

[5] Nevada's application is a convention call only and does not request Congress to propose an amendment. Rather, it states that the petition constitutes a continuing application until two-thirds of the other states have made similar applications. However, should Congress propose a "similar" amendment before January 1, 1981, the application will cease to be in effect.

Tennessee's petition is also a convention call only. The suspension clause is also modified so that it takes the President and two-thirds of the Congress to declare a national emergency, and the suspension applies only to one particular fiscal year. A further provision states that the application is a continuing one and will cease to be in effect only if Congress proposes such an amendment within 60 days after two-thirds of the states have made application for a convention.

[6] In addition, Arizona's application included a clause stating the petition is to stay in effect until the will of the state to the contrary is communicated to the Congress.

Maryland, South Carolina and Wyoming include the requirement that the convention should be called for the specific and exclusive purpose of considering this amendment. In addition, all three applications contain a suspension clause which allows the President and two-thirds of all members of each House to set aside the requirement for that fiscal year in cases of national emergency. All three applications also call on other state legislatures to pass similar applications.

". . . achievement of a balanced budget and amortization of the national debt."

While Texas simply calls for an amendment, not a convention, which would require the achievement of a balanced budget within a reasonable time after adoption and establish a procedure for amortizing the national debt, the provisions of the Louisiana and Mississippi petitions call for a convention and present the same issue in more specific terms.[7]

b. Legislation introduced in the Senate:

(1) Three joint resolutions (Wallop, Thurmond and Armstrong) provide for both a balanced budget and repayment of the national debt. Two provide that 5% of the receipts shall be available only for repayment of the national debt over a twenty year period. The third requires repayment at the rate of 1/10 every 10 years for 100 years. All three contain clauses allowing suspension of the provision for national emergencies; one requires that any indebtedness incurred pursuant to such a suspension must be repaid within three years.

c. Defects:

The statement is internally inconsistent, since amortization of the national debt would require a budget surplus, not a budget balance.

Puts a further drag on economic growth.

Limits the ability of the federal government to respond quickly and flexibly to changing economic conditions, particularly in periods of recession and high unemployment.

May be absolutely impossible to achieve in periods of steep economic downturn which, though severe, would be difficult to characterize as a "national emergency."

Does not define "national emergency" thus causing the likelihood of prolonged debate which would likely go on until a deep recession or depression has already occurred, thus rendering any timely federal budget response impossible.

Could lead to higher future taxes and higher future spending, since the simplest way to balance the budget in periods of economic growth is to refrain from cutting taxes.

5. Year and GNP limitation formula:

a. State Applications: None.

b. Legislation Introduced in the Senate:

(1) Two bills (Dole, Roth) have been introduced to amend the Budget Act by imposing limits on total outlays and revenues contained in concurrent budget resolutions to specific percentages of the GNP. The Dole bill also limits the number of budgets that may contain a deficit to not more than one every four years. In addition, any deficit must be made up within two years. Each bill provides for suspension of its provisions by a ⅔ vote in each House.

(2) One joint resolution (Dole) limits the number of years in which expenditures may exceed receipts to 3 out of 8 years. Each year's deficit must be made up by surpluses in the following years. Federal outlays shall not exceed 18 percent of the GNP beginning with the third year after ratification.

c. Defects:

Contains arbitrary limitations of 1 deficit in 4 years, or 3 deficits in 8 years—the state of the economy may require anywhere from 0 to 4 to 8 deficit years in a particular time period, and there is no way of knowing for sure in advance.

Imposes an arbitrary spending limit, constraining outlays without consideration of economic and social needs.

Has a perverse cyclical impact, allowing outlays to rise rapidly in inflationary periods and holding down outlay growth when economy has just experienced a recession.

6. Surtax formula:

a. State Applications: None.

b. Legislation Introduced in the Senate:

(1) Two joint resolutions (DeConcini, Stennis) require the President to determine the amount by which outlays exceeded receipts at the close of each fiscal year, and to then impose an income tax surtax that would produce the amount. The two resolutions are identical except that one requires a ⅔ vote for suspension, the other a ¾ vote.

c. Defects:

Places a heavy burden on the economy—if a deficit was experienced one year because the economy experienced a recession, the combined effect of a balanced budget and the surtax the following year might plunge the economy into an even deeper recession.

Promotes a spend now, pay later mentality—spend this year, taxes rise automatically next year.

Limits the ability of the federal government to respond quickly and flexibly to changing economic conditions, particularly in periods of recession and high unemployment.

May be absolutely impossible to achieve in periods of steep economic downturn which, though severe, would be difficult to characterize as a "national emergency."

Does not define "national emergency" thus causing the likelihood of prolonged debate which would likely go on until a deep recession or depression had already occurred, thus rendering any timely federal budget response impossible.

Could lead to higher future taxes and higher future spending, since the simplest way to balance the budget in periods of economic growth is to refrain from cutting taxes.

7. Percent of national income formula:

a. State Applications: None.

b. Legislation Introduced in the Senate:

(1) One joint resolution (McClure) restricts outlays to not more than 33⅓% of the average national income for the 3 prior calendar years. A vote of ¾ from both Houses may approve expenditures in excess of 33⅓% in case of war or emergency.

c. Defects:

Imposes an arbitrary spending limit, constraining outlays without consideration of economic and social needs.

Averages 2 years of actual data with 1 year of projection, forcing us to base a spending limit on a forecast of national income that is uncertain and subject to change.

Has a perverse cyclical impact, allowing outlays to rise rapidly in inflationary periods and holding down outlay growth when economy has just experienced a recession.

Promotes the idea that this is how fast spending *should* grow—the specified ceiling might become a floor.

8. Spending limit tied to prior year's growth formula:

a. State Applications: None.

b. Legislation Introduced in the Senate:

(1) Within the next two weeks a joint resolution is expected to be introduced (Stone and Heinz) that incorporates the Friedman formula. It would hold the growth of federal spending in any year to the rate at which the economy grew the year before. Restrictions would be even tighter if inflation exceeded 3%. Any surpluses would be used to reduce the national debt. The spending limits could be lifted in times of national emergency by a ⅔ vote of Congress. The limits could be lifted permanently only with a ¾ vote of Congress and approval of 26 state legislatures.

c. Defects:

Imposes an arbitrary spending limit, constraining outlays without consideration of economic and social needs.

Estimates of GNP represent the "best guess" of a group of Bureau of Economic Analysis experts—their judgment would be the basis for a limit on federal spending.

Holds down outlay growth when the economy has just experienced a recession, which could hinder progress of an economic recovery.

9. Deficit spending prohibition formula:

a. State Applications:

(1) Colorado passed a convention call only, for the specific and exclusive purpose of proposing an amendment which would prohibit deficit spending. The application would be void if the convention was not so limited.

b. Legislation Introduced in the Senate: None.

c. Defects:

Limits the ability of the federal government to respond quickly and flexibly to changing economic conditions, particularly in periods of recession and high unemployment.

May be absolutely impossible to achieve in periods of steep economic downturn which, though severe, would be difficult to characterize as a "national emergency."

Does not define "national emergency" thus causing the likelihood of prolonged debate which would likely go on until a deep recession or depression had already occurred, thus rendering any timely federal budget response impossible.

Could lead to higher future taxes and higher future spending, since the simplest way to balance the budget in periods of economic growth is to refrain from cutting taxes.

10. Limited Federal debt formula:

a. State Applications:

(1) Arkansas passed a convention call only to consider an amendment that would require no debt above the national debt ceiling existing at the date of ratification, unless voted by ⅔ of Congress, or unless to repel invasion, suppress insurrection, defend the United States in war or to pay the existing debt.

b. Legislation Introduced in the Senate: None.

c. Defects:

Would require a budget surplus of $31.3 billion in FY 80, which would seriously slow economic growth.

Limits the ability of the federal government to respond quickly and flexibly to changing economic conditions, particularly in periods of recession and high unemployment.

May be absolutely impossible to achieve in periods of steep economic downturn which, though severe, would be difficult to characterize as a "national emergency."

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[7] Louisiana and Mississippi passed convention calls only, suggesting the following amendment:

Congress shall make no appropriation that would cause total appropriations to exceed revenues. (Section 1)

There shall be no increase in the national debt, and the existing debt shall be repaid over a 100 year period after ratification, with payments of no less than 1/10 every 10 years. (Section 2)

Where there is a national emergency declared by ¾ of the Congress, Section 1 may be suspended, but not for longer than the two year term of the Congress that suspended it.

If the national emergency continues, suspension of Section 1 must be reenacted.

National debt incurred pursuant to a suspension shall be repaid under the provisions of Section 2.

The amendment shall be effective for all fiscal years beginning 6 months after ratification.

The Louisiana application would strictly limit the scope of the Convention. Also the application is continuing until ⅔ of the other states pass similar applications.

The Mississippi application does not limit the scope of the convention. Also, it states that if Congress proposes an identical amendment before January 1, 1976, the application expires; otherwise it is continuing until ⅔ of the other states apply.

Does not define "national emergency" thus causing the likelihood of prolonged debate which would likely go on until a deep recession or depression had already occurred, thus rendering any timely federal budget response impossible.

Could lead to higher future taxes and higher future spending, since the simplest way to balance the budget in periods of ecoonmic growth is to refrain from cutting taxes.

11. Balanced budget in years of strong economic growth formula:

a. State Applications: None.

b. Legislation Introduced in the Senate:

(1) A bill (Proxmire) would amend the Employment Act of 1946 to require outlays to equal receipts in any year in which real economic growth exceeds 3%. Should the President and ⅔ of Congress determine that a national emergency exists, the President may submit an alternative budget, in addition to the "balanced" budget.

c. Defects:

Imposes rigid formula as substitute for careful budget decisions in light of each year's economic circumstances.

Requires a balanced budget, and would therefore slow economic growth in the recovery years immediately following a recession, which could abort the recovery and plunge the economy into an even more severe recession or a depression.

Triggers the balanced budget requirement on the basis of an uncertain economic forecast which could be subject to substantial revision.

12. Federal spending freeze formula:

a. State Applications: None.

b. Legislation Introduced in the Senate:

(1) A resolution (Stone) requires the Budget Committee to include in the concurrent resolutions for FY 80, FY 81, and FY 82 levels of outlays and budget authority which are not greater than 98% of the levels contained in the final concurrent budget resolution for FY 79.

c. Defects:

Freezes outlays at $447.8 billion through fiscal year 1982, resulting in cuts from current policy of $73 billion in fiscal year 1980 and $177 billion by fiscal year 1982.

Ignores growth in outlays required by current law, including effects of inflation adjustment and demographic changes on Social Security.

Means that by fiscal year 1982, we would have to abolish all Federal welfare, transportation, housing, agriculture, education, community development, employment and training, and energy programs and *still* fall short of cuts required to hold outlays to this level.

13. Unallocated $10 billion outlay cut formula:

a. State Applications: None.

b. Legislation Introduced in the Senate;

(1) A resolution (Roth) expresses the sense of the Senate that the first concurrent resolution for fiscal year 1980 should recommend a level of outlays at least $10,000,000,000 lower than the level recommended by the President.

c. Defects:

Imposes an arbitrary spending cut that has no rational basis and no analysis of economic and social needs or specific program areas to be cut.

Would require significant spending cuts below *current law*—something the Budget Committee expects to do this year, but which will be very difficult.

Falls heavily on outlays from new budget authority—26 percent of outlays are from prior year budget authority.

14. Balanced two-year formula;

a. State Applications;

(1) North Dakota's application calls upon "the people of the several states for a convention" to propose the following amendment:

The President shall submit a budget at the beginning of each new Congress.

Expenditures for each 2 year period shall not exceed estimated revenues except during war or national emergency declared by Congress.

b. Legislation Introduced in the Senate: None.

c. Defects:

Limits the ability of the federal government to respond quickly and flexibly to changing economic conditions, particularly in periods of recession and high unemployment.

May be absolutely impossible to achieve in periods of steep economic downturn which, though severe, would be difficult to characterize as a "national emergency."

Does not define "national emergency" thus causing the likelihood of prolonged debate which would likely go on until a deep recession or depression had already occurred, thus rendering any timely federal budget response impossible.

Could lead to higher future taxes and higher future spending, since the simplest way to balance the budget in periods of economic growth is to refrain from cutting taxes.

15. Separate Federal capital and operating budget formula:

a. State Applications: None.

b. Legislation Introduced in the Senate:

(1) A resolution (Hart) expresses the sense of the Senate that both the President's Budget and the Congressional Budget should divide proposed outlays between those for capital items and investment-type programs, and those for operating or current program or purposes.

c. Defects:

Promotes false sense of budgetary balance and masks the impact of the federal budget on the economy.

Weakens the budget as a control mechanism—could lead to higher federal spending for programs included in the capital budget and higher total federal spending.

Fails to define capital and operating programs; capital programs for the Federal government are not the same as for private business, and the definitions could cause extended controversy, particularly if the capital portion gets less scrutiny.

Changes accounting without any change in Treasury financing needs or the impact of the budget on the economy.

16. Establishment of a regulatory budget formula:

a. State Applications: None.

b. Legislation Introduced in the Senate:

(1) A bill (Bentsen) to amend the Congressional Budget Act, calling for new procedures aimed at producing a regulatory budget which would set maximum costs of compliance with rules and regulations promulgated by every federal agency.

c. Defects:

Imposes an unwieldy layer of procedural requirements on top of a very tight Congressional budget timetable.

Duplicates existing requirements for regulation impact analysis, focuses on costs rather than a balancing of costs and benefits, and fails to put information to use to review and possibly alter current laws and regulations. (Sharp contrast to Sunset, which would use existing analysis and provide a review process for evaluating each program's costs and benefits and terminating those which are no longer productive.)

Suffers from the problem that we could never measure private sector "costs of compliance" with the certainty implied by a regulatory budget, and those private sector expenditures would be beyond direct federal control.

CONSTITUTIONAL LIMITATIONS ON THE BUDGET

During the first month of the 96th Congress, more than 50 constitutional amendments were proposed to require a balanced budget or to limit the expenditures of the federal government. Approximately one dozen of these measures have been introduced in the Senate, and more can be expected as the pace of legislative activity accelerates. Congressional action has been spurred by petitions of many state legislatures for a constitutional convention to consider a balanced budget amendment. According to some counts, more than three-quarters of the required 34 states have already applied to Congress for a constitutional convention.

This paper reviews the various approaches to balanced budgets and spending limitations. It then examines some of the possible impacts of these types of constitutional restrictions on congressional budget practices. Finally, it explores the possibility of a capital budget for the federal government.

BALANCED BUDGETS AND SPENDING RESTRICTIONS

All of the proposed amendments introduced in the Senate intend to circumscribe the budgetary powers of Congress, but they pursue this objective in different ways. Nine purport to require a balanced budget each year; three would limit the total outlays of the federal government. One of the proposals (S.J. Res. 5) combines types of restrictions; Sen. McClure has introduced parallel measures providing for a limitation on federal spending (S.J. Res. 9) and a balanced budget (S.J. Res. 10).

Although the balance budget proposals are more numerous, there are indications of a trend away from this approach in favor of spending limitations. The Tidewater conference of Republican officials refused to endorse a balanced budget amendment and opted for spending limitations instead. Moreover, the Friedman (National Tax Limitation Committee) proposals call for a spending limit, not a balanced budget. There appear to be two distinct explanations for the sudden cooling of interest in a balanced budget by constitutional fiat. First, the requirement could either be unworkable or damaging to the economic interests of the United States. In case of an economic downturn, government receipts inevitably would fall below their projected level, and if Congress tried to compensate for the shortfall and retain a balance by raising taxes or lowering expenditures, it would further aggravate the nation's economic problems. (As will be discussed below, most budget-balancing amendments authorize Congress to suspend this requirement in case of emergency.) Second, a balanced-budget rule might induce higher taxes rather than lower expenditures. While this requirement would not compel Congress to legislate increases in tax rates, it might thwart the passage of the types of tax-cutting legislation approved by Congress in each year since 1975. If this were to happen, during periods of high inflation and economic growth, the portion of personal income going to the payment of federal taxes would inexorably rise.

Many of the balanced budget amendments would not actually bar deficit spending. S.J. Res. 2 (DeConcini) and S.J. Res. 6 (Stennis) provide that Congress "shall seek to assure" a balanced budget, but they do not prohibit either appropriations or outlays in excess of revenues. S.J. Res. 4 (Lugar) would require that the concurrent resolutions on the budget adopted twice (or more often) each year by Congress be balanced, but under this procedure it still would be possible for the federal government to incur a deficit. Consider the following hypothetical circumstances: the second resolution adopted by Congress shortly before the start of the fiscal year projects a balance. With all of the regular appropriation bills already enacted, it no longer is necessary for Congress to take any budget-related action. But during the fiscal year, economic performance falls below the expected level with the result that federal revenues also decline, thereby turning the projected surplus into an actual deficit without any action by Congress. It should also be noted that the congressional budget resolutions presently exclude about $12 billion of off-budget outlays; federal spending could be imbalanced in this amount without violating the letter of the Lugar amendment.

Some of the amendments impose the balanced budget requirement on Congress, others merely declare that total outlays shall not exceed total revenues. S.J. Res. 7 (Armstrong) for example, provides that "Congress shall make no appropriation for any fiscal year if the resulting total of appropriations for such fiscal year would exceed the total estimated revenues of the United States for such fiscal year." To the extent that deficits result from actions other than those taken by Congress in its appropriations process, Armstrong would not be an obstacle. The executive branch would be permitted to spend in excess of revenues, provided, of course, that it had budget authority to do so. Furthermore, deficits occasioned by shifts in federal revenues. whether by action of Congress or because of economic conditions, would not be directly covered by Armstrong. Another proposal, S.J. Res. 5 (Dole), does not mention Congress at all. It stipulates that "the aggregate amount of expenditures made by the government during any fiscal year shall not exceed the net amount of revenue." Leaving aside its obvious intent, a strict interpretation of the Dole Amendment is that Congress can appropriate in excess of revenues but that the executive branch would be barred from spending any excess.

Several amendments specify that "Congress shall assure that the total outlays . . . do not exceed the total receipts." (S.J. Res. 13, 16). This language clearly vests enforcement in Congress, but fulfillment of this responsibility might not be an easy task. Since actual outlays are made by the executive branch, a balanced budget requirement might lead to an expansion of executive impoundment practices which were curtailed by the Impoundment Control Act of 1974. If Congress were to require a President to use the impoundment controls even in the face of a prospective deficit, the effect might be to obstruct achievement of a balanced budget.

The problems in interpreting the Armstrong, Dole and other amendments are not semantic gyrations but arise out of the crucial fact that Congress does not presently make legally binding outlay decisions. The appropriations made by Congress relate to the amount of budget authority (authority to incure obligations) required by the federal government, not to its cash needs or expected outlays. Any effective constitutional prohibition would have to reckon with the budgetary practices of the United States and the division of responsibility between the executive and legislative branches. These issues will be considered later in this report.

The difficulty of securing budgetary balance by congressional action alone are rooted in two features of the federal budget process. First, as has been mentioned, Congress has an obligations-based appropriations process. As a result, the outlays made in any fiscal year depend not only on the current decisions of Congress but on past actions as well. Second, more than three-quarters of each year's budget outlays are "uncontrollable under existing law", either because of past legislative or executive actions or because of exogenous factors such as the inflation and unemployment rates.

Spending Limitations. Each of the measures calling for a limitation on total federal outlays takes a different approach. The Dole amendment would hold total outlays to no more than 18 percent of GNP: McClure's spending limitation (S.J. Res. 9) would restrict outlays to no more than one-third of national income; the Friedman proposal would limit each year's increase in outlays to the growth in GNP, minus an adjustment for inflation.

Dole's amendment would constrain federal spending at a level significantly below Carter's 1980 budget or projections for the next several years. His 18 percent of GNP ceiling compares to the 21.7 percent in Carter's budget and to the 22.6 average for the past 5 years. If the 18 percent limitation were in effect for fiscal 1980, total outlays would have to be restrained to approximately $450 billion. About $90 billion below the total (including off-budget) outlays recommended by the President. Although it deals only with the spending side of the budget, this limitation contemplates a truly significant reduction in federal tax revenues. Assuming no change in the existing tax structure, federal budgets in the 1980s would be running massive surpluses in excess of $100 billion per year. (Of course, this estimate does not take into account the likely dampening effect of such surpluses on the economy and budget receipts.) The overriding purpose of the 18 percent limit—as well as the other proposed spending limitations—is to retrench the relative size of the public sector.

This may be a difficult-to-achieve goal, however. Twenty years ago, in 1959, the federal budget was 19.5 percent of GNP; optimistic forecasts for the 1980s assume a larger federal government than would be allowed by the Dole amendment. Carter's latest budget projects that federal outlays will recede to 20.7 percent of GNP in fiscal 1982, but this target allows almost no room for program growth.

The Dole amendment would not prevent the government from using the budget to manage the economy but would effectively require that short-term fiscal stimulation be provided through tax reductions rather than expenditure increases. Yet changing economic conditions could play havoc with the 18-percent goal. Even if Congress were to approve budget resolutions and appropriations bills which conform to this target, unanticipated downturns in the economy could force expenditures well above 18 percent of GNP. Because of automatic features of fiscal stabilization, when economic output drops, there is a modest rise in federal expenditures. With smaller real GNP and higher outlays, the federal budget consumes a larger share of economic resources even without action by Congress. Thus, as a consequence of the 1958 recession, outlays climbed from 18.7 to 19.5 percent of GNP in fiscal 1959, only to recede to 18.5 percent in the following year when economic growth resumed. Similarly, the 1975 recession occasioned a 3 percent rise in federal outlays as a percent of GNP, with a dropoff (but not to the previous percentage level) when economic conditions improved.

McClure's amendment (S.J. Res. 9) would limit total outlays to no more than one-third of the average national income for the three prior calendar years. Unlike Dole, therefore, outlays would be linked to past rather than projected economic performance. Moreover, the use of a multiyear average in the McClure approach would shield the outlay limit somewhat from zigzagging economic performance.

National income is computed by subtracting capital consumption and various tax payments and liabilities from GNP along with several other statistical adjustments. In using this economic measure, McClure eschewed other, more familiar, computations such as personal income and disposable personal income. If it were applied, the 33⅓ percent limitation would compel a modest reduction in federal outlays (perhaps $10 billion below the total contemplated in the 1980 budget). Its main effect, however, would be to constrain future budgetary growth by limiting increases in federal outlays to the growth in national income. One can only conjecture about the severity of this constraint, for it depends on what the size of the budget would be in the absence of any limitation. But it is worth noting that outlays have climbed from approximately 30 percent of average national income at the start of the 1970s to about 34 percent at the present time.

The Friedman (National Tax Limitation Committee) proposal would limit each year's rise in total outlays to the increase in GNP during the preceding calendar year, but the allowable increase would be reduced by one-fourth of the rate of inflation above three percent. (The Friedman formula defines inflation as the difference between the change in real and nominal GNP.) Thus, if nominal GNP were to rise by 9.5 percent and prices by 7 percent (these rates approximate the Administration's economic forecast for 1980), the next year's budget outlays would be permitted to rise by no more than 8.5 percent.

This approach would not only bar any future permanent growth in the relative size of the budget, but it is likely to force a progressive decline as well. Although it lacks a rollback feature or an explicit ceiling (such as is found in the Cole and McClure measures), the inflation penalty in the Friedman formula would automatically compel a shrinkage in the government's relative expenditures every year that inflation exceeded three percent. Moreover, the Friedman formula differs critically from Dole and McClure in that it does not put a floor under the mandatory reduction in the federal budget. Dole does not require shrinkage below 18 percent of GNP; McClure does not compel outlays to be less than ⅓ of national income. But Friedman could set into motion a change in federal government that reduces it to well below either of the other targets.

The actual impact of Friedman will depend on the rate of inflation: the higher the rate, the faster and steeper will be the decline in relative outlays. For example, if the economic projections for 1980 with respect to inflation and GNP were to persist throughout the 1980s (prices rising 7 percent and output 9.5 percent), by the end of the decade the federal budget would have to drop from 21.7 percent of GNP to no more than 17.1 percent. While the economic assumptions upon which these calculations are based are not likely to materialize (it is highly unlikely that economic growth and inflation will experience constant rates through the decade), the implication nonetheless is unavoidable, that the Friedman scheme could require much steeper retrenchment than appears on its face.

The Friedman proposal speaks of a gentle as opposed to an abrupt scale-down in the relative size of government. But the potential change could be far greater than has been experienced in the postwar era. During the 1960s, outlays grew 2 percent in relative terms, and they have increased an additional one percent in the 1970s. As demonstrated above, with persistent inflation, the change within a single decade could be far greater under the Friedman idea.

The inflation penalty can have severely retrenching effects during periods of stagflation, when the economy is either stagnant or declining and inflation is high. The combination of these conditions would simultaneously lower the GNP base on which outlay increases are to be computed and raise the inflation penalty. The net effect could be a sharp decline in relative expenditures during a period of high unemployment. This real possibility can be shown by applying Friedman's formula to the economic conditions that prevailed in the mid-1960s when the OPEC boycott, worldwide food shortages, and other factors took a heavy economic toll. Real GNP fell in 1975 while unemployment soared to 9 percent, with more than 8 million Americans out of work. Nevertheless, inflation was extremely high, slightly in excess of 9 percent as measured by the Friedman formula. Had this spending limitation been in effect, it would have constrained budget outlays for fiscal 1977, the first full fiscal year after calendar year 1975. Total outlays in fiscal 1977 would not have been allowed to exceed $395.4 billion, $10 billion below the amount (including the off-budget entities) initially proposed by President Ford in what was widely regarded as an extremely tight budget, and $17 billion below the final results for that year. Without taking account of automatic adjustments in the economy (for example, a smaller budget might have led to lower GNP than was actually produced), federal outlays would have been about 21.5 percent of GNP, a drop of more than 1½ percent compared to the preceding fiscal year. Thus, in lieu of a gentle decline in GNP promised by the Friedman group, there might have been a steep, destabilizing drop during a period of continuing high unemployment.

The inflation penalty is intended to prod Congress to do something about inflation. In the words of its sponsors, "the higher the inflation rate, the greater the incentive for Congress to reduce inflation." The assumption is that inflation is always within the control of Congress, a position that ignores other contributing factors such as world markets and the actions of other countries.

At the core, the three spending limitations reviewed here seek a forced retrenchment in the size of the federal government. Their principal aim is to assure less rather than more government. McClure would require a modest cutback that probably could be accommodated within conventional budget methods. The cuts might be painful, but they could be achieved without requiring a significant redirection in the scale and priorities of the federal government. Dole would compel a much steeper reduction, amounting to about one-sixth of the size of the federal budget. Unless it was phased in over a number of years, the Dole amendment would be an abrupt turnabout in the role and scope of the federal government. Of course, Dole's concept could be retained but its impact mitigated by pegging the expenditure limit at above 18 percent of GNP. If 20 percent were set as the constitutional limit, it probably could be achieved without a disruptive effect on public policy.

The Friedman approach is open-ended with its impact depending on future economic growth and inflation. But it is possible that over time this could have a much more radical effect on the federal government than either of the other spending limitations. Unless inflation is significantly lower than it has been during the past decade, the size of the federal government will have to contract in order to abide the Friedman limits. Although the reductions would be decremental rather than all-at-once, the long-term consequences could be truly radical. One wonders whether a fundamental reordering of the role and purposes of the federal government should be considered under the guise of a spending limitation. The issues raised by Friedman are far more than budgetary matters alone, for they reach to almost every corner of public policy.

OVERRIDING THE CONSTITUTIONAL RESTRICTIONS

Most of the proposed constitutional amendments would authorize Congress to temporarily set aside the restrictions. While the procedures differ, they usually provide for a concurrent resolution (a legislative measure which is not presented to the President for his review) specifying that conditions warrant deficit spending or expenditures in excess of the constitutional limitation. A few (such as Friedman) predicate congressional override on a declaration of emergency by the President, but most enable Congress to act unilaterally without the participation (or concurrence) of the executive branch.

The proposed amendments differ as to the conditions that would permit an override.

Some refer to "national emergency," others to "grave national emergency"; some mention war, others speak in more general terms. As long as Congress can decide whether a particular condition meets the requirement, the differences in wording are of little consequence. However, the size of the congressional majority required to override could make a big difference. The requirement ranges from a majority of the voting members of the House and Senate in S.J. Res. 11 (Talmadge) to three-quarters of all the members of the House and Senate in S.J. Res. 7 (Armstrong). In a close vote, the numerical standard could spell the difference between victory and defeat for an override attempt. It bears noting that in recent years most of the concurrent resolutions on the budget have passed the House with razor-thin majorities, sometimes fewer than a handful of votes. With House Republicans lined up in virtually solid opposition to deficit spending, the resolutions have barely managed to squeak through. A high constitutional threshold for overriding the limitation is likely to bolster the bargaining positions of congressmen who favor smaller deficits or lower spending. By withholding their support until the deficit or spending level is brought closer to their preference, the holdouts would be able to magnify their influence over the budget. Thus, while a high requirement would not necessarily rule out imbalanced budgets or breaches of the spending limitations, it might lead to smaller deficits and less spending by Congress.

Some of the proposed amendments would place substantive restrictions on the power of Congress to override a balanced budget requirement. S.J. Res. 16 (Wallop) would not permit the deficit to exceed total revenues by more than 10 percent. At current budget levels, this would allow a deficit of about $50 billion. S.J. Res. 5 (Dole) would not permit a deficit in more than three years out of any eight consecutive years. If this restriction were to have retroactive effect, it would bar deficit spending during the first 5 years that the constitutional provision was operative.

REPAYING THE DEFICIT AND THE PUBLIC DEBT

A number of the proposed amendments provide for Congress to liquidate any deficit incurred after the constitutional restrictions take effect. S.J. Res. 2 (DeConcini) and S.J. Res 6 (Stennis) require that any deficit is to be paid off by a surtax levied in the next calendar year. The surtax would become effective without congressional action; all that would be required is a presidential message setting the surcharge at a rate sufficient to cover the deficit. However, Congress could suspend all or part of the surtax by a two-thirds (S.J. Res. 2) or three-quarters (S.J. Res. 6) vote. S.J. Res. 5 and S.J. Res. 16 allow more time for repayment, up to three years in the former and as much as four years in the latter.

A few of the proposed amendments would require the accumulation of surpluses to retire the public debt. S.J. Res. 7 would spread repayment of the debt over 100 years, with 10 percent repaid during each 10 year period. S.J. Res. 16 would establish a 20-year repayment schedule, with annual surpluses equal to 5.5 percent of total outlays used for this purpose.

WHAT'S IN A BUDGET?

Any constitutional restriction on deficits or expenditures must come to grips with the issue of what constitutes the budget of the United States Government. The question of what ought to go into the budget is by no means settled; current practices are a compound of written and unwritten rules, many of which were introduced by the executive branch without the explicit concurrence of Congress. Moreover, the emplacement of an expenditure or budgetary restriction in the Constitution will not bring an end to the improvisation of new governmental forms and accounting procedures. Quite the opposite, one can expect that the more formidable the restriction the more likely that it will invite the executive and legislative branches to contrive new practices. Only one thing can be certain: the more inclusive the definitive of the budget, the more restrictive will be any constitutional limitation on deficits or expenditures.

Off-budget programs. The leading candidates for inclusion in the budget are six federal agencies all or portions of whose activities have been excluded from the budget's totals by Congress. The six off-budget agencies are the Federal Financing Bank (FFB), the Rural Electrification and Telephone Revolving Fund, the Rural Telephone Bank, the Pension Benefit Guaranty Corporation, the Postal Service Fund, and the U.S. Railway Association. A seventh, the Board of Governors of the Federal Reserve System, has a somewhat ambiguous status. It is excluded from the budget by tradition rather than by law.

Off-budget outlays are expected to total $12 billion in fiscal 1980. More than $11 billion of this amount is accounted for by the purchase of federally-guaranteed obligations by FFB. Under its charter, the Federal Financing Bank is authorized to acquire any obligation guaranteed in whole or in part by any federal agency. (It also can purchase direct federal obligations, but these are included in the budgets of agencies making the loans.) There is no limit on the amount of guaranteed loans that can be purchased by FFB. When it needs funds to finance these purchases, FFB borrows from the Treasury which, in turn, provides for its cash needs by borrowing from the public. Thus, FFB's loan activities have the same impact as the regular budget deficit on capital markets.

The House Budget Committee recommended in 1976 (H. Rept. No. 94–1740) that various off-budget agencies be included in the federal budget, but it withheld a recommendation on the status of the Federal Financing Bank pending further study. However, in 1978 (H. Rept. 95–1055, p. 23) the Budget Committee supported legislation to include FFB in the budget. If all off-budget agencies were placed on-budget, there would be an estimated net addition of $12 billion to the fiscal 1980 outlays and deficit. Presumably, this additional amount would be covered by a budget or expenditure limitation written into the Constitution.

Government-Sponsored Enterprises. These enterprises are privately-owned corporations established and chartered by the United States to perform certain "public" functions. Seven such enterprises are identified in the fiscal 1980 budget, and their financial statements are annexed to the Budget Appendix. However, the finances of these organizations are not included in the outlay or deficit totals of the United States Government. The seven sponsored enterprises are credit operations: Student Loan Marketing Association;

Federal National Mortgage Association; Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Land Banks; Federal Home Banks; and the Federal Home Loan Mortgage Corporation.

These enterprises are only a few of the hundreds of corporations created or chartered by Congress since 1791. During the past two decades, Congress has devised a variety of organizations forms combining elements of public and private enterprise. These include private corporations which are funded entirely by federal appropriations (e.g., the Legal Services Corporation) private for-profit corporations which have public and private sources of revenues (Consolidated Rail Corporation), and profit-making corporations partly owned by the federal government (National Railroad Passenger Corporation).

The 1967 President's Commission on Budget Concepts devised a simple test for determining whether a government-sponsored corporation should be on- or off-budget:

"The criterion recommended by the Commission is basically that Government sponsored enterprises be omitted from the budget when such enterprises are completely privately owned."

As the activities and finances of the "quasi-governments" (as they are sometimes referred to) have become more complex, it has become increasingly difficult to use the private ownership test to distinguish between public and private activities. In a 1978 paper for the National Academy of Public Administration, Graham S. Finney argued that "an either/or, public/private world, separating government and for profit enterprises, has long ceased to exist, if it ever really did." But whether or not such distinctions are valid, they would have to be made in applying a constitutional limitation on the budget. Government sponsored corporations would have to be placed either within or outside the budget; no gray areas could be tolerated in deciding whether or not a quasi-public expenditure creates a deficit or exceeds a spending limitation.

The private ownership test is not a full measure of the federal government's involvement—financial and administrative—in the activities of sponsored organizations. With respect to the seven privately-owned enterprises annexed to—but not included in—the budget, the federal government has a considerable interest in their finances and performance. Their financial relationship to the federal government is described in the 1980 budget (Special Analysis, p. 164):

"Since they are private, their activities are not included in the budget totals. They are all subject, however, to some form of Federal supervision and by law or by custom consult with the Treasury Department in planning the marketing of their debt.

"Government sponsorship has endowed these enterprises with certain characteristics that differentiate them in credit markets from completely private institutions. They have been given special preferences, and certain tax exemptions and the special eligibility of offering their securities as investments of federally regulated institutions. These advantages give their security obligations a preferred position in the securities market, enabling them to borrow at rates only slightly higher than those of the Treasury."

Although the securities issued by these corporations disclaim any liability of the United States, they are similar to the "moral obligation" (or revenue) bonds issued by public authorities in many states. They are listed in the New York Times and other publications under the heading, "Government and Agency Bonds." Despite the legal disclaimer, the federal government probably would not be able to remain on the sidelines if any of the enterprises fail. The involvement of the United States is potentially greater than that of stockholders of private corporations whose exposure is limited to the value of their stock. The private ownership test might be an irrelevant standard by which to measure the public character of federally-sponsored enterprises. In its 1976 report on off-budget financing, the House Budget Committee explicitly rejected private ownership as the sole criterion for establishing the budgetary status of these enterprises. It noted that in most cases investment markets do not consider the Government-sponsored enterprises to be completely private nor, in most cases, would a member of the general public draw this distinction. Each of the Government-sponsored enterprises is subject to some greater or lesser measure of Federal direction, and some implicit subsidy may be presumed to arise whenever borrowing from the public is undertaken. (H. Rept. No. 94–1740, p. 7)

In accord with this finding, the Budget Committee recommended that Congress not create any new enterprises with off-budget status "pending resolution of the question of appropriate criteria for existing agencies."

The sponsored enterprises will account for an estimated $19 billion in outlays in fiscal 1980. It should be noted, however, that neither Congress nor the President exercises direct budgetary control over these loan activities, so that actual outlays can vary significantly from the original estimate.

One can anticipate that stringent constitutional restrictions on deficits or expenditures would invite the creation of additional "quasi-governmental" enterprises outside the budget. This clearly has been the experience in state governments, a number of which have turned to public corporations and "moral obligation" bonds in order to evade their own constitutional restrictions. States have financed billions of dollars of capital construction by vesting rersponsibility in private or quasi-public organizations which are not legally deemed to be governmental entities. These evasive practices often are more costly than direct borrowing by the state because revenue bonds generally bear higher interest rates than comparable general obligation bonds. Furthermore, these special institutions often escape not only constitutional limits on borrowing but also the political controls to which regular public organizations are subject.

It would not be difficult to remove tens of billions of dollars from the federal budget by creating "quasi" institutions with authority to raise revenues and to borrow. It would be possible, for example, to create a $100 billion dollar national health insurance system without a single dollar for this purpose appearing in the budget. While there may be legitimate reasons for creating these types of enterprises, overly restrictive constitutional controls can have a warping effect on the structure of the United States Government.

Guaranteed Loans. The third major category of federal financial transactions excluded from the budget total consists of loans for which the United States commits itself to pay all or part of the principal and or interest in case of default by the borrower. Guaranteed loans are excluded from the budget by section 3(a)(2) of the Congressional Budget Act which provides that the term budget authority "does not include authority to insure or guarantee the repayment of indebtedness incurred by another person or government." This exclusion is based on the fact that guaranteed loans (unlike direct loans which are in the budget) are a contingent liability in which the obligation of the United States is activated only in case of default. The United States bears no liability if the borrower makes the required debt payments; in case of default, any payment by the United States is included in the Budget.

The budgetary status of guaranteed loans was considered by the President's Commission on Budget Concepts in 1967. In comments prepared for the Commission, Dr. Arthur Okun predicted that the different budgetary treatment of direct and guaranteed loans "would lead to a strong preference in the budgetary process for guarantees over direct loans." Moreover, the staff of the Commission cautioned that—

"* * * continuing pressures on both Congress and the Executive to hold down the level of apparent Federal spending and the budget deficit establish artificial incentive to shift from direct loans to indirect lending whether or not the guarantee or insurance of private loans represents a fully satisfactory substitute."

These expectations have been realized. There has been a huge increase in the volume of loan guarantees. By the end of fiscal 1980, the total of such loans outstanding is projected to exceed $400 billion, an increase of almost $100 billion in the space of just three years. The total of such loans held by the Federal Financing Bank is expected to reach $56 billion, and the amount held by the public is estimated at $239 billion.

Various congressional committees have expressed alarms at the growth in these guarantees. In a 1979 report, the House Appropriations Committee was disturbed by—

"* * * the recent proliferation of legislative proposals involving program guarantees, which while they do not grant budget authority in the technical sense of the term, do thus establish a contingent liability on the taxpayer virtually beyond the subsequent control of Congress.

In a report on the second budget resolution for fiscal year 1977, the Senate Budget Committee voiced concern about "the increasing use of guarantee mechanisms that have the effect of circumventing the discipline of the Congressional budget process," and it indicated its desire for "appropriate recommendation to Congress to establish control over proliferation of such programs."

The 1980 budget takes two steps toward budgetary control of loan guarantees. For the first time, schedules of loan guarantees have been included in the Appendix for each account with which such guarantees are associated. In addition, the Administration has proposed that annual limits be set on outstanding loan guarantees. Even if such limits were established, one can anticipate that constitutional restrictions on direct budget outlays will generate pressure for circumvention by means of guarantees.

The three off-budget devices discussed here will net to more than $50 billion in fiscal 1980. Although they presently are the chief means for conducting financial activities outside the budget, new mechanisms might be devised in response to constitutional restraints.

WHAT IS AN OUTLAY?

If definition of the budget's scope is difficult, determining what constitutes an outlay can be even more troublesome. There is almost no law on the subject, and a jumble of conflicting practices and traditions complicates the quest for defensible criteria. Yet a spending limitation cannot be enforced without rules for deciding what is an outlay. The issue, at first glance, seems straightforward and without complication: an outlay occurs whenever the federal government makes a payment of funds. The issue, however, is not whether a payment constitutes an outlay, but how outlays are computed for budgetary purposes. It is in the counting of outlays that difficulties abound.

Grossing Versus Netting. In the course of each year, the federal government makes a sizeable number of direct loans (which, as noted earlier, are reported in the budget) and also receives payment from borrowers to whom loans were extended in previous years. The federal practice is to count direct loans in the budget on a net basis, that is the gross amount of new loans minus repayments. This method is consistent with the definition of outlays in the Congressional Budget Act as "expenditures and net lending of funds."

The financial activities of public enterprise revolving funds also are reported in the budget on a net basis. These funds conduct business type operations for which they obtain receipts from the users of their services. The receipts, however, are not computed in the budget as federal revenues, but offset the expenditures of the public enterprises. As a result of this accounting practice, the amount shown in the budget as outlays for public enterprise funds is the excess of their expenditures over revenues. In fiscal 1980, the gross outlays of the public enterprise funds will be about $46 billion, but with $38 billion in receipts from the public, the budget will show only approximately $8 billion in outlays. The treatment of these outlays on a net basis conforms to the 1967 recommendation of the President's Commission on Budget Concepts.

However, in 1977, the Comptroller General recommended that these funds be reported on a gross rather than a net basis. The reasons set forth in his report relate to the ability of Congress to control the budget.

"* * * when new accounts are classified (public enterprise) revolving funds or whenever existing revolving funds grow, budget outlays do not increase as rapidly as they would if accounted for on a gross basis. The changing of an account to a revolving fund gives the appearance that budget expenditures are declining even though the rate of expenditure may remain the same or even increase. Using the revolving fund classification might help to reduce budget totals and escape national priority debate by changing fund structure without changing fund purposes."

In other words, changes in accounting procedures and budgetary definitions can veil the actual budget totals. However, no constitutional restriction can be immunized against one or another form of budgetary legerdemain.

RECEIPTS AS NEGATIVE EXPENDITURES; EXPENDITURES AS NEGATIVE RECEIPTS

Various receipts of the federal government are treated as offsets against outlays rather than as federal revenues. These fall into two categories: receipts which offset particular categories of expenditure (about $1.6 billion in the 1980 budget), and $2.6 billion in undistributed receipts which are applied against the outlay totals in the budget. While there may be legitimate economic reasons for treating some of these receipts as negative expenditures (in the case of offshore income, for example, the United States can be regarded as exchanging one asset—the lease—for another—royalties), this budgetary practice can complicate the task of producing reliable receipt and outlay estimates, free from political bias. In some recent years, the Administration produced unrealistic estimates of the income from offshore oil and gas leases as a means of showing lower deficit and outlay totals in its budget.

One of the most controversial instances in which receipts are treated as negative expenditures occurs when the federal government sells loan assets (direct loans or securities known as participation certificates or certificates of beneficial ownership.) Here, too, the transaction is treated as an exchange of assets and the revenues are computed as offsets to expenditures. In view of the high volume of obligations owned by the federal government, this practice gives the executive branch a great deal of latitude in influencing the level of outlays that appears in the budget. It is possible to show a reduction in outlays merely by selling some of the assets to the public. The Office of Management and Budget has been critical of the manner in which sales of some loan assets are accounted for. It points out (The Budget for Fiscal Year 1980, p. 316) that—

"* * * as a means of financing outlays there is no difference in substance between an agency selling securities labeled "certificates of beneficial ownership", the same agency selling securities labeled "debt", and the Treasury selling securities labeled "debt." Moreover, when certificates of beneficial ownership are sold, the ownership of the specific loans is retained by the Government, interest payments on the loans continue to be made to the Government, and the Government continues to incur the servicing costs of the loans and to assume fully the risk of default on the loans."

If receipts sometimes are counted as negative expenditures, the opposite also has been true: expenditures are sometimes treated as negative receipts rather than as outlays of the federal government. The 1980 budget proposes to make direct payments to certain individuals whose wage increase is held to 7 percent or below. Some of these "wage insurance" payments are treated in the budget as refunds of tax receipts, not as outlays. The effect is to reduce outlays $2.3 billion below the total that would appear in the budget if such payments were computed as expenditures. Several years ago, when the "earned income credit" program—direct payments to low-income workers—was established, the House and Senate Budget Committees wrangled over whether credits in excess of tax liability should be accounted for as offsets to receipts or as outlays. For fiscal year 1978, the committees decided to treat them as negative receipts, but for the 1979 budget, they counted them as outlays, thus demonstrating the lack of hard and fast rules for these types of budgetary transactions.

The grossing versus netting argument and the existence of offsetting receipts and expenditures arise out of the complexity and sprawl of the federal budget. Even if no attempt were made to circumvent budgetary controls, there would be a great number of contentious accounting issues. But with constitutional restrictions in force, there surely will be ample incentive for manmade contrivances to evade the controls.

It should be noted that these issues relating to the definition of outlays would not affect computations of budgetary balance. Any change in the outlay totals would be matched by an adjustment to receipts and vice versa. However, constitutional limitations on expenditures would be significantly impacted by the manner in which outlays are handled in the budget.

Unless it were detailed in the extreme, a constitutional limitation on expenditures could not resolve these definitional and accounting issues. The matter would have to be resolved by statutory elaborations which give meaning to the bare bones constitutional intent. The effect of any limitation will depend, therefore, on statutory interpretation rather than on the constitutional provision. Arguably, therefore, the whole issue ought to be left for statutory determination where it would be decided anyway.

CONTROL OF OUTLAYS

In order to be enforceable, a balanced budget requirement or a spending limitation would have to be accompanied by means of controlling the outlays of the United States Government. At the present time, Congress lacks adequate means to hold outlays within limits. It does not directly decide how much is to be spent in a particular year by each federal agency or program. Its control extends to the appropriation of funds or to other legislation authorizing agencies to enter into obligations. The cash expenditure occurs only when the obligation is paid off, sometimes long after congressional activity has ended. In the ordinary sequence of events, Congress has little direct control over the timing of expenditures.

When an appropriation and the ensuing outlays occur in the same fiscal year, there is no difference between the two measures of budget activity. Such is estimated to be the case, however, for less than 65 percent of the new budget authority requested for fiscal 1980. An estimated $136 billion of the outlays projected in fiscal 1980 will derive from budget authority carried over from previous years.

The Congressional Budget Act requires Congress to set outlay targets in the first concurrent resolution on the budget and ceilings in the second resolution. However, these outlay amounts are not statutory limitations on the allowable expenditures of the federal government in a fiscal year. As discussed earlier, it is feasible for Congress to specify an outlay total in its budget resolution, but for federal spending to exceed that level because of matters beyond its direct control.

When the Budget Act was under consideration, one proposal called for Congress to fix outlay limits in each appropriation bill. The effect would have been to establish legally binding outlay numbers rather than merely "advisory" ones. During its work on the legislation, the Senate Committee on Rules and Administartion addressed the question of whether outlay limitations could provide effective budget control. The Committee concluded (S. Rept. No. 93-688, p. 20) that in view of the difficulty of precisely estimating such outlays, a limitation would not be workable:

"The problem with outlay ceilings is that it is difficult to estimate precisely how much will be spent in a particular fiscal year. Each year's outlays derive from past as well as current actions of Congress. More than $100 billion of the outlays estimated in the President's budget for fiscal 1975 result from budget authority provided in prior years. Congress controls current and future outlays by deciding how much new budget authority to give executive agencies, but once the authority is in the "pipeline," Congress can (under current procedures) control outlays only by imposing deep cuts on the fraction of the budget which is controllable.

"In the 1975 budget, approximately $223 billion, or almost 75 percent of total outlays, is estimated as uncontrollable under existing law. Many of the uncontrollable items are open-ended programs, spending for which cannot be effectively set in the appropriations process. It is exceedingly difficult to estimate these amounts precisely, and in recent years there has been considerable variance between the uncontrollable expenditures estimated in the budget and actual expenditures for that fiscal year. In an average year uncontrollable costs are more than five billion dollars above the original budget estimate."

During the first years of the congressional budget process, actual outlays were $10 billion or more below the original estimates, and even billions below the revised estimates made later in the year. While these shortfalls might seem to suggest that a constitutional limitation can be enforced, there is no reason to expect a shortfall to occur in every year. The same factors which have caused outlays to fall below estimates can have the opposite effect under different economic or political conditions.

Moreover, the shortfalls would have an exceedingly contractionary effect if the Friedman amendment were in effect. Every shortfall would lower the outlay base on which the next year's allowable expenditures would be calculated, it could cause the budget to shrink even below the relative levels projected earlier. Furthermore, with shortfalls prejudicing the outlay base, the executive branch would have a powerful incentive to spend up to its allowable limit. It would be penalized for prudent and efficient management. The Friedman amendment has an efficiency penalty which can impair financial management in the federal government.

POTENTIAL IMPACTS OF CONSTITUTIONAL RESTRICTIONS

Those who seek constitutional restrictions on the budget or on spending assume that requirements for a balanced budget or limitations on federal expenditures would force changes in federal practices. This section considers some of the intended—and possible unintended—effects of these requirements.

Tax Policy. None of the proposed amendments specifically addresses or purports to limit the tax policies of the United States. Yet one can foresee significant changes in the tax system. Balanced budget requirements would exert upward pressure on taxes; spending limitations would probably have the opposite effect. In the short run, the easiest (and sometimes only) way to secure a balance would be to raise taxes, or at least not lower them to the level that might otherwise be desired. As was discussed earlier, the recent practice of using the growth and inflation "dividends" of the tax system to reduce nominal tax rates might be seriously curbed. On the other hand, if stringent spending limitations were imposed, the federal government would likely accumulate massive surpluses in the absence of periodic tax cuts. But it is by no means certain that spending limitations would stimulate general tax reductions. Inasmuch as these limitations would constrain the ability of the government to provide benefits through direct outlays, pressure might build up for subsidies through the tax system. Rather than general tax reductions, Congress might respond by enacting new and increased "tax expenditures" for favored interests. In economic terms, a subsidy provided by means of preferential tax treatment has the same value as a subsidy provided via a cash outlay but whereas the latter would be constrained by a constitutional limitation, the former would not. Of course, if balanced budgets were mandated, the provision would have a restrictive effect on both general tax reductions and tax expenditures.

Another possible outcome derives from the accounting conventions discussed earlier. To the extent that an outlay can be defined as an offset to receipts, a spending limitation would goad Congress to devise transactions that could escape being tagged as outlays.

Fiscal Policy. Even with an override feature for national emergencies, any requirement that outlays not exceed receipts would have a dampening effect on the federal government's ability to respond to economic crises. Strict enforcement of a budgetary balance would compel a Hoover-like reaction, in which expenditures are reduced to match a drop in government revenues. If this were to happen, the stabilizing capacity of the federal budget would be severely impaired and comparatively mild recessions could blow up into major depressions.

This is not a likely scenario, however, because Congress probably would relax the requirement by exercising its override authority. Even Hoover was forced to abandon his balanced budget ideals: the federal budget ran a small ($462 million) deficit in fiscal 1931 and a much larger one ($2,735 million) in the next fiscal year. The point, however, is that even if a deficit were authorized, it almost definitely would be smaller than would occur in the absence of a constitutional limitation. Especially if extraordinary majorities (two-thirds or three-fourths) of the House and Senate were required to suspend the limitation, opponents might be able to block approval until the deficit is whittled down to acceptable size.

A spending limitation would not have these adverse impacts on the federal government's capacity to stimulate the economy. But both because of the sensitivity of tax receipts to economic performance and the constitutional inhibition against increasing expenditures, the bulk of the stimulus would have to be provided through tax policy. Such actions are likely to have different distributive impacts (which groups and individuals benefit) than economic stimulation provided through spending programs. One can conjecture that the lowest-income groups—often those hardest hit by a recession—would be most disadvantaged by a constitutional policy which biases fiscal policy toward tax relief.

Controllable and Uncontrollable Expenditures. More than three-quarters of fiscal 1980 outlays are classified by OMB as "relatively uncontrollable under existing law." This phrase has been challenged by some who claim that virtually all of the budget is controllable if Congress wishes to change existing law. Nevertheless, the concept provides a useful clue to how Congress and the executive branch might act when faced with a need to reduce outlays in order to uphold a constitutional requirement. Over the short-run, that is, the fiscal year for which such a requirement would be operative, much of the burden would have to be borne by the controllable sector of the budget. In the language of federal budgeters, the uncontrollable would bleed the controllables, a predicament which occurs in the best of times and is inescapable in the worst. How the required cuts are spread among the controllables would depend on the political climate for defense versus domestic programs. In view of the fact that defense accounts for almost 60 percent of controllable outlays, it is likely to be vulnerable to forced reductions, except when international conditions dictate higher spending for that purpose. Federal assistance to state and local governments is a likely target, though the Friedman amendment would protect these recipient governments against cutbacks for a six-year period.

Over the long-term, one can expect budgetary constraints to induce Congress to make marginal adjustments in the entitlement programs which have spiraled during the past decade and add up to 70 percent of all uncontrollables. By marginal adjustments, one has in mind trims in certain features of these programs rather than wholesale eliminations. The savings proposed by Carter for fiscal 1980 in social security are marginal, both in the sense that the initial cost reductions are modest and the basics of the program are undisturbed. But because modest savings tend to balloon over time, even marginal adjustments can have pronounced effects on future budgets.

Regardless of where the cuts would be distributed, constitutional constraints can be expected to bias the budget against proposed new programs. The preferred position of existing programs versus new ones is already entrenched in the budget, but the penalty against major initiatives within the budget will grow. Of course, this bias might be offset by the concentration of program starts outside the budget. New programs, under these circumstances, might be able to make it only if they carry methods of evading budgetary control.

Executive-Legislative Relationships. Although the proposed amendments are silent about relationships between Congress and the executive branch, one cannot escape the feeling that it is Congress which is to be constrained. The drive for anchoring budgetary restrictions in the Constitution is predicated on the belief that Congress cannot be trusted to abide any controls it is free to break. There also is an undertone of argument that Congress is culpable for the runaway spending and massive deficits which have beset recent budgets.

In at least two ways, the constitutional proposals can tilt the balance of budgetary power in favor of the executive branch. First, on the assumption that the resident's budget would consume just about all of the spending room available under a constitutional limitation, Congress would be left with the option of redistributing expenditures rather than adding to total outlays. It might be able to take from defense and give to domestic programs (a transfer which it has made in most years since Vietnam), but it would have little recourse other than to accept the President's dictates.

Congress might try to wriggle out of this predicament by shifting the costs of its decisions to future budgets. In view of the fact that Congress makes budget authority decisions and that much new authority is not spent until future years. Congress could establish programs with low first-year costs but with incremental costs locked into future budgets. If this were to happen, the focus of budgetary debate in Congress would shift from the current to future budgets, with congressmen competing to stake their claims for future increments. The net result would be a worsening of the ability of Congress to control out-year expenditures. A constraint intended to strengthen control over expenditures might have precisely the opposite effect, particularly since all of the proposed amendments take a one-year-at-a-time posture.

The second impact of these restrictions would be to bolster the President's claim of power to impound funds appropriated by Congress. In the past, Presidents claimed an inherent power to impound; under these limitations, they could claim a constitutional power to impound. Lest this prospect appear to be fanciful, one need only recall that in the great impoundment battle between President Nixon and Congress, a claim of authority to impound was grounded on presidential interpretations of statutory limits on expenditures and the statutory limit on the public debt.

The impoundment power might indeed offer the only means by which stern constitutional constraints could be enforced. The inability of Congress to control outlays has already been mentioned. In abiding the new budgetary limits, Congress might be forced to cede impoundment authority to the President or helplessly stand by as he works his will on the budget.

The Future Role of the United States. This section concludes by returning to a theme which was broached earlier: the proposed spending limitations mask their real purpose, a radical transformation in the character, reach, and purpose of the United States Government. The extent to which the trend toward active government would be reversed would depend on (1) the type of limitation written into the Constitution, and (2) the willingness and ability of the Government to do via other means that which it could no longer do via the budget. While one should not underestimate the ingenuity which surely will be applied to evade the controls or to act in nonbudgetary ways, there is no escaping the prospect that a federal government operating under a constitutional strait-jacket would be markedly different than one which is unfettered and can decide what and how to execute its will. The differences might be in the walling off of major segments of government from popular and legislative control through the expansion of "quasi" governments. They might be reflected in an untangling of the relationships that have grown between the federal and state and local governments, along with a dispersion of power and money from the center to states and municipalities. Change might come through a contraction of America's presence on the world scene or through greater reliance on market mechanisms to provide "social" goods and services and to manage economic affairs. The list of possible mutations certainly is endless, and yet no list could comprehend the full range of intended and unintended possibilities.

One must be concerned, therefore, about constitutional changes so rife with uncertainty, and so silent as to their real purpose. Budgetary discipline might be the least of the consequences wrought by constitutional experimentation. Surely the other possibilities ought to be debated before budgetary change is decided. And the terms of debate ought to be markedly broader than the budget alone: let the other possibilities be aired, and only then will it be possible to make informed judgments as to whether the budget is the appropriate means toward those ends.

BORROWING FOR CAPITAL INVESTMENT

The proposed balanced budget requirements have regenerated interest in a capital budget for the United States Government. A capital—or divided—budget is one in which the government's investment in physical, curable assets would be segregated from the regular ("operating") budget and would not be included (except perhaps for depreciation charges) in the calculation of the budget surplus or deficit. The capital budget is standard accounting practice for most large business firms as well as for many state and local governments which are restricted to borrowing only for permanent improvements. The capital budget concept has been around for many years, but it has never been adopted for the federal government.

Concern over a balanced budget is not the only argument advanced in favor of a capital budget. Perhaps the most compelling reason is that there is a fundamental distinction between a capital and a current expenditure. When the government purchases a capital asset, there is no change in its net worth, since it is merely exchanging one asset for another or concurrently creating assets and liabilities of equal value. However, when the government expends for current goods and services, there is a net decrease in its assets inasmuch as the asset it acquires has no permanent value.

It has been argued that a capital budget would facilitate long-range planning of physical improvements. The federal practice of lumping capital investments with current outlays induces a one-year-at-a-time perspective in which little attention is paid to future priorities and costs. Moreover, a capital budget might help to standardize existing budget practices with respect to "out-year" costs. At the present time, major weapons are "full funded", with new budget authority provided for acquisitions that might stretch over a number of years. Water resource projects, however, are funded on an installment basis, with each budget providing only the amount of new budget authority required for a single fiscal year.

A capital budget could provide a useful guideline for rgulating the use of debt. It could serve as an alternative to a rigid balanced budget concept and provide a yardstick for determining whether a particular level of debt financing is appropriate. If the federal government were to finance capital investments by borrowing—as is common in many states and localities—the public might accept the need to borrow for capital purposes as long as the regular budget is balanced.

Slightly more than 20 percent of the fiscal 1980 budget might qualify as capital expenses. Special Analysis D identifies $115 billion in investment-type programs, $44 billion of which goes for national defense and the remainder for civil programs. The investment programs include the acquisition of physical assets ($57 billion), research and development ($30 billion), and education and training activities ($21 billion). These estimated investment costs far exceed the projcted fiscal 1980 deficit, but some caveats are in order before the $115 billion number is used as a measure of net capital investments.

First, the estimates are approximations, not precise numbers. The federal government presently lacks an accounting system for segregating capital and current expenditures. Second, no adjustment is made for depreciation of federal assets acquired in the past. Even if the $115 billion estimate was firm, it would represent gross expenditures, not net capital investment. The measurement of depreciation could pose serious accounting difficulties especially for weapons systems. Third, a substantial portion of the $115 billion goes for the acquisition of assets or investment by non-federal entities. The federal government subsidizes the construction of merchant ships by private shipyards and highways by state governments. Although the United States Government does not own these assets, it finances their acquisition and the benefits accrue to the American people.

Most economists who have expressed themselves on the subject do not favor a separate capital budget. A major study by Maynard S. Comiez—*A Capital Budget Statement for the U.S. Government* (The Brookings Institution: 1966) concluded that "the case for a federal capital budget involving separate loan financing for capital outlays is not persuasive." (p. 30) The principal argument against a capital budget is that the condition of the economy rather than capital investment should be the main determinant of how much of a surplus or deficit ought to be incurred by the federal government. Countercyclical fiscal policy requires that overall economic conditions rather than immediate capital plans determine the government's borrowing policy. Because the federal government has economic management responsibilities, it should not apply the budget practices appropriate for state and local governments.

A subsidiary concern is that if capital outlays were financed by borrowing, there might be a tendency to favor them at the expense of operating programs. In some hard-pressed states and localities, for example, it sometimes is easier to get funds for a new facility financed in the capital budget than funds for maintenance of an existing facility in the operating budget.

It should be noted that the segregation of capital and current expenses by many states and localities is in many cases an outgrowth of their own constitutional and legal restrictions on borrowing for operating programs. If the federal government were subjected to a similar restriction, the temptation to develop a separate capital budget would be very great, whether the capital borrowing is excepted from the constitutional restriction or for special entities which do the borrowing in behalf of the government.●

HOSPITAL COST CONTAINMENT ACT OF 1979

● Mr. WILLIAMS. Mr. President, I am pleased to join with Senator NELSON and others in introducing the Hospital Cost Containment Act of 1979. This legislation would establish national limits for increased hospital costs. If hospitals fail to meet the goals of the act, mandatory Federal controls would be triggered in 1980.

One of the most crucial tasks of the Congress this session is to curb inflation. No national anti-inflation policy can succeed unless the problem of rising health costs is addressed.

For over two decades Congress has been devoted to improving the health care of Americans through a variety of publicly sponsored programs. As chairman of the Senate Committee on Human Resources, I am proud of the success of these programs. However, the cost of the taxpayer and the impact on health care costs in the private sector has been high.

National expenditures for health care have increased more rapidly than any other item in the economy. In 1968, national health care expenditures were 6.5 percent of the gross national product. Last year they were 8.8 percent. By 1983, they could rise to 10 percent.

Most distressing are the massive increases in national health expenditures which have not resulted in a proportionate improvement in the health of Americans. Many of our Nation's citizens—particularly the elderly and the poor—still cannot afford adequate health care. In these times of fiscal restraint, we cannot provide care to everyone until we demonstrate we can control national health care costs. This is the purpose of the Hospital Cost Containment Act we are introducing today.

Last year the administration and the Congress worked hard on hospital cost containment legislation. We learned much about the complex, interrelated factors which drive hospital costs upward. Ultimately a compromise bill passed the Senate but was not acted upon in the House of Representatives. This same spirit of compromise is reflected in our new bill.

Our bill establishes a national limit for increased hospital costs in 1979, a limit which hospitals would be asked to meet voluntarily. If hospitals fail to meet this goal, mandatory Federal controls would be triggered in 1980. And, in future years, these same mandatory controls would go into effect if the voluntary goals were not met the previous year.

Exceptions are provided in the legislation for individual hospitals meeting the goal when their State fails to meet national standards, small nonmetropolitan hospitals, HMO hospitals, and hospitals in States with effective statutory cost containment programs. I might add that I am proud that my State of New Jersey is one State having an effective statutory program. The bill's new refinements also offer additional protection to hospitals for increases in inflation for which health care costs are not responsible.

The Hospital Cost Containment Act of 1979 reflects the need to exert greater control over hospital costs. It reflects the resolute attitude of the Congress to curb the skyrocketing cost of health care. And while our bill recognizes the successes of the hospital industry's voluntary program, the health care cost problem is so critical that it needs an even more determined effort by both the private and public sectors. We are telling the hospital industry that if they cannot cut costs sufficiently, the Federal Government will step in.

As chairman of the Senate Committee on Human Resources and a member of the Health and Scientific Research Subcommittee, I plan to work to assure enactment of this legislation at the earliest possible date. I urge each of my colleagues to join me in this important effort.●

PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the Record the two notifications I have just received.

Defense Security Assistance Agency,
Washington, D.C., March 5, 1979.
In reply refer to I-10215/78ct.
Hon. Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 79-9 concerning the Department of the Army's proposed Letter of Offer to Kenya for defense articles and services estimated to cost $43.9 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,
Walter B. Ligon,
Acting Director,
Defense Security Assistance Agency.

[Transmittal No. 79-9]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Kenya.

(ii) Total Estimated Value: Major defense equipment,* $42.0 million; other, $1.9 million; total, $43.9 million.

(iii) Description of Articles or Services Offered:

Thirty-two (32) Hughes 500MD helicopters, 15 to be equipped to fire the TOW anti-tank missile, 2100 TOW missiles, and related equipment.

(iv) Military Department: Army (UAE).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: March 5, 1979.

Defense Security Assistance Agency,
Washington, D.C., March 2, 1979.
In reply refer to: I-11380/78ct.
Hon. Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 79-11 concerning the Department of the Air Force's proposed Letter of Offer to Thailand for defense articles and services estimated to cost $99.8 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,
Walter B. Ligon,
Acting Director,
Defense Security Assistance Agency.

[Transmittal No. 79-11]

Notice of Proposed Issuance of Lettfr of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Thailand.

(ii) Total Estimated Value: Major defense equipment,* $83.6 million; other, $16.2 million; total, $99.8 million.

(iii) Description of Articles or Services Offered:

Fifteen (15) F-5E and Three (3) F-5F aircraft with support equipment, spares and training.

(iv) Military Department: Air Force.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: March 2, 1979.●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the Record in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on February 28, 1979.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

Defense Security
Assistance Agency,
Washington, D.C., February 28, 1979.
In reply refer to: I-11418/78ct.
Dr. Hans Binnendijk,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a NATO country tentatively estimated to cost in excess of $25 million.

Sincerely,
Ernest Graves,
Lieutenant General, USA Director,
Defense Security Assistance Agency.●

SOUTH DAKOTA: SELF-RELIANCE, WORK

● Mr. PRESSLER. Mr. President, residents of Brown County, S. Dak., like all areas of my State, are special people. They are good. And they are hard working. They epitomize values all of us cherish and try to practice.

The Dakota Farmer, a fine farm magazine out of Aberdeen, S. Dak., has a spirited article in its February issue by Ray Pomplun of Brown County that I want to share with my colleagues.

The story, "Heroes Without Halos," is a fascinating bit of insight into what, in my opinion, makes South Dakotans so special and why we have folks who can—and do—"stretch their arms" and share fundamental concerns and, in the process, enjoy living to the fullest.

In some ways, the article expresses my own feelings about life in Dakota. And the farmers demonstrating on the Mall today feel the same loss of our rural heritage.

Mr. President, I submit for printing in the Record Ray Pomplun's article, "Heroes Without Halos":

Heroes Without Halos

(By Ray Pomplun)

In listing prominent happenings in my life, they never formed a complete picture since I've either forgotten or never fully understood events influencing my early thinking. Were those forging my ideas as great as I thought or did they impress me because they were always there? Memories resemble pages of a picture album: the trivial and important show, but often the former makes the more lasting impression. And we're reminded of the old axiom, "It's the little things that count."

I grew up on the plains of northeastern South Dakota where soil is black and winters hard. Temperatures fall to 40° below in winter and snow drifts roof-high. In July, eggs will fry on the town's sidewalk and hot smothering winds turn a man's face to leather.

If I refer solely to my parents, it's because I knew them best. To me they were giants but others just as tall walked with them. Their perseverance, courage, zeal and faith made South Dakota what it is today. In man's long history, Americans are but a moment removed from the farm, village or frontier, but our state is so young the sweat and blood of our heritage is not yet dry. We've just finished burying our pioneers.

In 1884, father's parents loaded their children and few belongings in a wagon and headed west from the lush farmlands of south central Minnesota. The oldest boy was eight and to him and the rest of the brood, the move was an adventure. The parents must have wondered what the future held, but their pioneering spirit urged them on. Seven years before they arrived, their destination Brown County, SD, sweltered under a summer sun without a white man's home on its face. Buffalo had been slaughtered, but their bleaching bones still covered the prairies. Dad would wonder in later years why they left Minnesota for the barren Dakota plains. But if you asked a mountain climber why he wished to conquer Everest, chances are he'd answer, "Because it's there." When colonists stood on our Atlantic shores, they wondered what lay beyond the trees. And this urge to find the better life lured pioneers across the Great Plains, through waterless wastes of the Great Basin and over two mountain ranges.

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* As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

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Since America's mid-section was noted for nothing except severe winters, intense summer heat, drought and Indians, previous emigrants hastened on without a pause. But in the two decades following the Civil War, people swarmed to this desolate expanse and stayed. Emigrants from Europe's northern countries came to the Daktoas because the Homestead Act offered a chance to rise above their past peasanthood. In these 20 years more United States' soil went under the plow than in two and one-half centuries since the Mayflower landed.

This land to which the Pompluns came was as flat as a floor. From Aberdeen to the North Pole it was said, nothing stopped the wind except barbed wire fences, and looking west, the Rocky Mountains offered the only formidable windbreak. In writing to his wife back East one man commented, "You can see as far as you please and every foot can be plowed." Many of these determined "sodbusters" broke their first ground with an axe. Life was hard. Relentless winds were so oppressive more than one lonely housewife went mad. And the entire region from the Canadian border to the Rio Grande, with the Mississippi River and Rocky Mountains as east-west boundaries, seemed to dare a man to tame it. Not all who came, stayed. Burned by drought, beaten by hail, withered by hot winds and frozen by blizzards many returned to their homes in the East or pulled stakes for the far West.

Every institution carried across the Mississippi River was either changed or altered substantially. Up to this time rural American civilization stood on three legs—water, timber and land. When that mighty river was crossed the first two were eliminated, leaving only the land. One western Dakota farmer before leaving his claim for better places, hung this sign on his sagging shanty door: "Two hundred fifty miles to the nearest post office 100 miles to wood, 20 miles to water and six inches to hell."

Only a few who came to Brown County, SD, at the turn of the century or before are still with us. Most rest in small town cemeteries close to the soil where they spent their lives. They didn't merely survive, but converted this bleak monotonous expanse into a most productive farmland. Sleek range cattle replaced buffalo and mile upon mile of wheat, oats, barley and corn fields stand where prairie grass once heaved and shimmered in the hot summer's sun. This is the northern end of America's bread-basket and the most productive farm ground in the world.

To a child, his parents are old and even as an adult I couldn't imagine mine having ever been young. During those austere years in the 1930's when I remember them best, it wasn't a time to celebrate. Drought, dust and depression sobered the heartiest, but Mother and Dad found the means to send their three children through college. It's been 37 years since Dad retired and although he passed away over 15 years ago, Mother still lives from what they produced those hard years working on the land. The 30 odd trees Dad planted as saplings shade the little old-fashioned bungalow and the many flowers she tends and watches each summer day are Mother's only crop.

In recent years things changed. Farmers are now more prosperous, work isn't as hard, and my generation which is today's old-timers, can look back and tell our grand kids "Farming isn't what it used to be." But the pace and fabric of rural life remains much the same as decades ago. Conversation still centers on the weather, high school football games, hunting seasons, Memorial Day parades, civic meetings, harvest and the long five-month winter.

Self reliance and individualism are still the principle virtues of South Dakota's people. They take care of themselves and any neighbor in trouble. An economist recently commented, "This frame of mind is poor preparation for the modern world", and he was right. But attempting to censure those who cling to the way of life which made this country, is showing one's ignorance. Remarks of most South Dakotans regarding the urban welfare problem, food stamps or relief are unprintable. They can't conceive of people being unable to solve their own problems through hard work.

Cities have been my home for three decades, but like other urban dwellers, I've often returned on vacation to the country and friends of my youth. Now, I've returned to stay. I learned early in life, rural and small-town America has a fullness and promise not attainable in big cities. I shared this luxury as a youth so why shouldn't I turn away from an existence of drawing board monotony? Despite our technology and conveniences in modern-day life we're dissatisfied: we long for the basic pleasures—pure air and a little dirt to dig in. Employment takes urbanites to the "concrete jungle", but when day is done they have flocked to the suburbs in such numbers they're again hemmed in by development housing and stereotype living.

I want to be where I can stretch my arms without hitting someone. Where people are individuals not statistics, and their personalities, joys and pains are known to each other. Here in this part of Dakota, concerns are fundamental. Skies are read as much as the afternoon newspaper. Birth is an important event and death is a community sorrow. Here, a person is important and his footprints will be remembered. Perhaps it's a throwback to the days of pioneering, of covered wagons and homesteads, of simple moral values and religious convictions. These are, thank God, still characteristics of many on Dakota's prairies.●

IMPACT OF INFLATION UPON OLDER AMERICANS

● Mr. CHILES. Mr. President, inflation affects all Americans in one form or another. But it oftentimes has a more devastating impact upon older Americans, because many are struggling on limited incomes.

During the past year—from January 1978 to January 1979—prices have risen by 9.3 percent. However, some items, which have a greater effect upon the elderly, increased at a more accelerated pace. Food and housing costs, for example, rose at a double-digit rate—10 percent and 12.4 percent, respectively—during the past year. These two items alone represent about 60 percent of the typical aged couple's budget.

Inflation today represents the number one problem for millions of older Americans.

This point has been made repeatedly to the Committee on Aging, of which I am chairman.

In the months ahead, the committee plans to devote special attention to the impact of inflation upon the elderly, as well as proposals to protect them from the harmful effect of rising prices, in our study concerning the economics of aging.

This takes on added importance, because elderly persons who retired on a seemingly comfortable income several years ago are discovering that it simply does not stretch as far today.

Several feature articles in a recent edition of U.S. News & World Report make this point very effectively and powerfully.

The articles also emphasize that planning for retirement is not only for older Americans but also for younger Americans.

Mr. President, I commend the U.S. News & World Report special section—entitled "Will Inflation Tarnish Your Golden Years?"—to Members of the Senate and request that it be printed in the Record.

The article follows:

Will Inflation Tarnish Your Golden Years?

More than at any time in American history, people are looking forward with zest to their retirement years.

Better health care, ease of travel and the wide interests open to a more educated older population—all hold the promise of a longer, happier, richer, retirement for the more than 1.5 million workers leaving their jobs each year.

But there is this irony: Although people today want much more from life in the golden years, many of them don't prepare sufficiently to make those dreams a reality.

"Most people still don't think seriously about retirement until they're on the verge of leaving work," notes gerontologist Woodrow Hunter of the University of Michigan. "The time to start preparing for retirement is when you're in your 30s and 40s."

As the 26 million people living on pensions have already learned, careful retirement planning is all the more important with today's soaring inflation.

The big problem, says economist James Schulz of Brandeis University, is that workers rely too much on benefits they hope to get from Social Security and private pensions. Even those who get both forms of benefits—and only a minority of workers have private pensions—generally receive about half of their preretirement income.

"In a very short time, people can go from a comfortable life to the ranks of the near poor," warns Schulz.

Economist Thomas Borzilleri of the American Association of Retired Persons says that "about 70 percent of the retired population is barely getting by." He urges people not to be duped by the old notion that retirement is much cheaper than the working life. His advice: Aim for a retirement income that is nearly 80 percent of working income—not the 60 percent guideline often mentioned in the past.

A higher income is particularly important if people intend to travel and stay active during their retirement years. Says Jack Ossofsky, executive director of the National Council on the Aging: "Retirement is cheaper only if your're content to spend the rest of your life in a rocking chair."

Better financial planning is only part of the groundwork for a good retirement. Where to live, how to spend leisure time, how to cope with new physical and emotional stresses—these questions, too, should be asked earlier in a worker's career. More employers are helping people do just that by offering formal preretirement courses.

Also helping to improve the lot of retirees is their growing political power. People age 65 and older now make up more than 11 percent of the population. By the year 2030, when most of today's "baby boom" generation will be into their retirement years, 1 in 6 Americans will be 65 or over.

A significant change came last year when an overwhelming majority of Congress voted to increase the mandatory retirement age from 65 to 70. Although most experts expect the trend toward early retirement to continue, they see the new law as a way to allow hard-pressed workers to earn more before leaving their jobs.

GRAYING BUDGET

Other steps to help older Americans are expected in years to come, despite all the debate about the "graying of the budget"—the fear that the country will become burdened by massive spending programs for senior citizens.

"There is plenty of time for the country to adjust to the aging of the population," insists economist Borzilleri of AARP, "and the fact that there will be fewer children will free funds that used to go to education."

Also predicted: a much fuller role for older Americans in U.S. society, as discrimination against the elderly decreases and more senior citizens find better opportunities for part-time jobs and volunteer work.

Gerontologist Bernice Neugarten of the University of Chicago sees an important place in the future for the "young old"—a growing population of vigorous, educated and financially secure retirees who will be demanding more of a say in national life. She sees this group as an "enormous resource" that the country has just begun to tap.

Those who become part of that vital group will largely be the people who have taken the time to prepare for it. To help in that process, a team of U.S. News & World Report editors has examined the major issues facing people looking ahead to retirement—finances, housing, work, leisure, stress—and how to plan, in time, for a meaningful and comfortable retirement.

IT IS NEVER TOO EARLY TO PLAN

In planning for retirement, everyone—young and old alike—shares this concern: It takes more money to live every year after the paycheck stops.

Whether retirement is fast approaching or still decades away, arranging for income for the years after leaving a job is critical.

Otherwise, hopes of travel, entertainment and new hobbies are likely to be replaced by the reality of a shrinking income. That's the fate of many retired people. Households headed by persons 65 or older typically received less than half the median household income of $13,572 in 1977, according to the latest Census Bureau figures.

LATE PLANNERS

"The biggest mistake people make is to start financial planning only three to five years before retirement, and by that time a lot of things are set in concrete," says Henry J. Moore, vice president for financial planning at the brokerage firm of Merrill Lynch.

Experts recommend starting a regular savings or investment program as early as possible, especially for people who plan to quit work before the age of 65. Leaving the job early means lower Social Security payments, perhaps cuts in pension benefits—plus more years of retirement to provide for.

Building up a nest egg is important, experts warn, because it is risky to count on retirement income from a part-time job. People are likely to overestimate their physical capacities or face unexpected medical problems. Plus, job-related expenses often eat away at the extra income.

Women especially need to give close attention to providing for income in their old age. On the average, they live longer than men and therefore need income longer. They are less likely than men to qualify for pensions, and their Social Security benefits are likely to be meager because of lower earnings and fewer work years.

The key question for most people: How much money will I need? As a rule of thumb, financial planners say pensioners need at least 60 percent of their preretirement income, and some recommend 80 percent. Retirees' expenses often are lower than they were during working years because job-related costs such as commuting, clothing, professional dues and restaurant meals drop sharply. Also, home mortgages may be paid off, and income taxes usually are lower.

Retirees also may receive discounts on public transportation, prescriptions, restaurant meals, entertainment and college tuition. Senior citizens' clubs, civic groups and government social-service agencies have information on these price breaks.

Uncle Sam provides some relief, too. A taxpayer age 65 or older can claim double the normal personal exemption. Older people also are entitled to a special 15 percent tax credit.

Despite these pluses, even a low-cost budget for a retired couple will run more than $5,000, according to latest estimates by the Bureau of Labor Statistics. An intermediate budget is put at $7,200 and a high one at $10,700.

Experts caution, though, that the sums needed can outpace preretirement expenses if plans include, say, extensive travel or the launching of a new business. Health care can be more expensive, too.

Inflation adds to the uncertainty. Take a couple who starts retirement with an annual budget of $10,000. At 7 percent inflation, the pair needs $10,700 the next year just to stay even. At the end of a decade, it takes $19,672 to match the buying power of that first-year income of $10,000.

Longer life spans mean that inflation hits even harder. A man retiring at 65 can expect, on the average, to live almost to age 79, a woman to 83. Many experts suggest adding a five-year cushion in figuring income needs. That means making plans to cope with 20 to 25 years of inflation.

Providing the income foundation for most retirees are Social Security benefits, which are tax-free. Nearly 22 million workers and their dependents, plus another 7.5 million survivors of workers, get monthly retirement benefits. The problem is that many people expect too much of Social Security.

"It was never meant to make us financially independent, only to prevent mass destitution," says Betty Syms, retirement-plans administrator for the Delaware Management Company.

The most a worker retiring right now at age 65 can expect is $503.40 a month, reports the Social Security Administration. A spouse's full benefits amount to half that much, for a combined maximum of $755.10. These amounts, of course, will rise for people retiring in future years.

For workers retiring early at age 62, monthly benefits are lower. On the other hand, working past age 65 increases the monthly payments that a worker will eventually receive.

INFLATION ADJUSTMENT

One big plus for retirees is that Social Security payments climb with inflation. If the cost of living rises from one year to the next by 6 percent, benefits automatically increase by roughly the same amount.

Local Social Security offices can tell individuals whether they are eligible for payments and estimate the amounts. The agency advises applying for benefits at least two months before retirement begins to be sure checks are mailed out on time. Applications for medicare, too, should be made several months before a person turns 65.

About half the private work force is covered by company or union-sponsored pension plans. For an employee with 30 years of service with a firm, most good pension plans provide 50 to 60 percent of preretirement income when coupled with Social Security benefits. The precise amount depends upon a person's work record and the firm's plan. However, few plans increase a retiree's payments to compensate for the rising cost of living.

Because pension setups vary so widely, experts advise workers to ask these questions of employers—

What happens to benefits if retirement comes before age 65—or later than that?

Do stated benefits include Social Security payments?

How long must an employee work for the firm before qualifying for any benefits? How long must he or she work to get full benefits?

How are payments made—in a lump sum, monthly, or annually?

How are benefits calculated? Is the amount defined, or does it depend on the investment earnings of the company's pension contributions?

What happens to payments in the case of disability or breaks in a worker's service, such as maternity leaves or layoffs?

Are benefits lost if the worker dies before retirement, or may the spouse collect all or part of them?

SECURITY FOR SPOUSES

One way to give better financial protection to a spouse is to select a joint-and-survivor arrangement in pension payments. Under this plan, annuity payments to the couple are lower than if paid to the worker alone. But if the worker dies, the surviving spouse continues to receive income as long as he or she lives. Financial experts say that the joint arrangement is advisable when there are few assets beyond the pension plan to provide for the spouse.

For the self-employed and others not covered by company pensions, there is plenty of opportunity to set up individual savings programs. More than 2.5 million individuals—still only a small percentage of the people eligible—have set up individual retirement accounts, known as IRA's. Under this arrangement, a person can put aside 15 percent of his or her annual earnings, up to a maximum of $1,500. The contributions are tax-deductible.

I addition, earnings that build up in the account are tax-deferred until the individual begins withdrawing the money at any time between ages 59½ and 70½. By then, the person is likely to be in a lower tax bracket. Workers can include nonworking spouses in an IRA, with an annual contribution limit of $875 each or $1,750 combined.

Even those who receive company pensions can take advantage of an IRA tax shelter by taking their pensions in lump sums and placing them in IRA accounts. That way, there is no tax obligation until funds are withdrawn.

More than half a million self-employed persons take advantage of similar setups, called Keogh plans. Under this arrangement, individuals can put aside 15 percent of their income each year, up to a maximum of $7,500, again with no tax obligation until retirement.

Variations on the Keogh are available for special circumstances. One example: A mini-Keogh, designed for those who earn extra money through free-lancing or moonlighting, allows people to set aside up to $750 in outside earnings each year, as long as their self-employed incomes are less than $5,000 and their adjusted gross incomes are under $15,000.

Those who want guaranteed incomes in retirement can set up Keogh-plus plans, which allow them to set aside more than 15 percent of their annual incomes toward such benefits.

It is important to proceed carefully in setting up an individual retirement plan, however. What makes it tricky is the wide choice in the way the money is set aside. Banks, savings and loans, insurance companies, investment firms and mutual funds all offer plans. Federal retirement bonds also are available. Each of these arrangements has its pluses and minuses.

Most plans have the potential for growing dramatically as interest builds up, particularly when tax advantages are taken into account. The $1,500 put annually into an IRA can add up to hefty amounts, as the chart on this page shows.

Because pension plans and Social Security often fall short, many counselors recommend savings and investments that will enable retirees to protect their lifestyles from inflation. However, Social Security Administration studies show that only a small percentage of people entering retirement have financial assets that amount to much.

Both a savings account for emergencies and life insurance are essential in anyone's financial picture, experts say. But neither alone provides the inflation hedge that advisers recommend for a retirement program.

A CAUTION ON ANNUITIES

Tax-deferred annuities, usually bought through insurance firms, also require careful shopping. They have the advantage of being tax-free until income is drawn in retirement, and an individual also knows precisely what income they will provide. But many annuities do not offer enough returns to compensate for inflation.

Counting on income from more-exotic investments, such as antiques, gold, stamps and art, can be risky. Buyers can be hard to find in a hurry if the investor needs cash, and it takes considerable skill to invest wisely.

Real estate, too, can be difficult to turn into cash quickly. However, in recent years home values in most places have risen faster than the inflation rate, giving many families hefty profits when it comes time to sell. A new tax provision also allows people 55 and older to exclude from taxable income profits up to a maximum of $100,000 from home sales.

Even so, more-liquid investments, such as corporate stocks and bonds and government securities, are often the heart of investment programs. No two individuals will proceed the same way, but experts say that as a general rule, the younger a person, or the more assets he holds, the more risk he can take. As a person nears retirement, the strategy should switch more to producing and protecting income.

People in their 30s and 40s might focus on growth-type stocks and mutual funds, says A. Scott Logan, a vice president of Massachusetts Financial Services. "I like a mix at all ages," he adds, "with a changing balance between safe, fixed-return bonds and U.S. Treasury offerings and riskier, but growth-oriented, stocks."

The younger person, for example, might sink 80 percent of his investment capital into stocks and only 20 percent into bonds. For people age 45 to 55, the balance would tip to 60–40. Then, for those whose retirement is near, the emphasis would shift to steady income. Logan, for example, sees perhaps 80 percent of a portfolio for an older worker in bonds and 20 percent in high-grade stocks.

"Establishing an income portfolio for retirement would be comparatively simple if yield were the only consideration," say experts with Standard & Poor's, the advisory company. "But a serious effort must be made to hedge against the erosive effects of inflation."

That firm's sample portfolio for persons in or near retirement, for example, is split almost evenly between common stocks with above-average yields and growth potential and high-grade, medium-term corporate bonds.

United Business Service suggests that people nearing retirement consider common stocks with good current yields and a pattern of rising dividends.

The important thing, say advisers, is for workers to get a clear idea of their financial well-being before retirement. It is often possible, with professional advice, to shuffle assets and investments and come up with more income. Says Logan: "A lot of individuals and small-business owners try to save a penny on the expense of professional help and end up losing a dollar."

RETIREES' ADVICE: STAY OUT OF THE EASY CHAIR

Many retired people, even those who used to long for more leisure, are finding that a lifelong work habit can be tough to break.

For them, a happy retirement means at least a part-time job or the opportunity for useful volunteer work. Others, who had hoped to quit the work force, discovered that they must stay on the job to make ends meet.

Taken together, an estimated 3 million persons above age 65 are in paid jobs, and 4.5 million others serve in volunteer posts. An additional 4 million say that they would like to work if they could find an opening.

"We're rapidly approaching the time when most workers will automatically enter second careers at retirement, simply to remain active or supplement their pensions," predicts Jarold Kieffer of the Academy for Educational Development and director of a new study on careers for older Americans. "We made retirement so attractive in the last 20 years that millions of workers left the labor force. Now we're beginning to pay the price for putting these people on the sidelines."

Many factors are cited by labor experts as being behind the interest in having careers during retirement. Among the most important:

Inflation has cut deeply into retirement incomes, despite cost-of-living hikes built into Social Security benefits and some pension plans.

The sudden change in lifestyle brought about by retirement is frustrating for many who are used to a set routine.

People are living longer, expanding the retirement period workers have to anticipate. At the same time, the increase in younger workers entering the labor force is slowing. Experts predict that more older workers will be needed to fill employment gaps in coming years.

LEGISLATIVE MOVES

Congress last year responded to these pressures by pushing the mandatory retirement age from 65 to 70, a move that could keep 250,000 more older workers on the job each year, according to Labor Department estimates. Some economists, however, believe a much larger number will continue working.

Also boosted in 1978 was the amount of outside income that can be earned before Social Security benefits are cut. Retired workers over age 65 can now earn up to $4,500, compared with $4,000 previously, without losing any benefits. Retirees under 65 can earn up to $3,480, and there is no limit on those 72 and older. The adjoining chart shows how Social Security payments drop if earnings exceed those limits.

Those continuing to work past 65 generally fare much better financially than retirees. A census study shows that full-time male workers between 65 and 69 had a median income of $14,536 in 1977. The average male receiving Social Security gets just $3,454.

The types of work available to older Americans vary widely. Some of the most common include retailing, child care, security work, office chores, consulting, teaching and income-producing hobbies.

Kieffer of the Academy for Education Development notes that scores of "unmet community needs"—such as transportation, tutoring, home health care and recreation—urgently need a helping hand from retiree volunteers.

PINCH-HITTER

One popular approach among retired workers is to serve their old organizations on a scaled-down basis. Lillian Hervey Jackson of Columbus, Ohio, who retired in 1977 after 39 years with the Young Women's Christian Association, now pinch-hits at local YWCA chapters that need a trained administrator for temporary duty. She also conducts free training workshops around the country at local Y's.

"I probably would have kept on working if I hadn't been faced with mandatory retirement," she says, "and now I realize the pressure I was under in my job. Retirement has spoiled me. I like the idea of not having to go to work every day."

Also taking advantage of longtime skills is Russell Brooke, 68, of Atlanta. Retired in 1972, the former government worker puts in one week a month as a labor arbitrator and makes $10,000 a year.

In California, Jack Gollihur, a lawyer who retired in 1975 at age 62 after a long career with Douglas Aircraft, has found a satisfying spot at a savings and loan association in Long Beach. He works 4 hours a day, 3 days a week, counseling senior account holders on everything from personal finance to medical care. Gollihur says: "What I wanted to hang on to was my active mind. I'm as busy now as I was in the full-time professional world, but in a variety of ways."

Many firms are eager to hire retirees for temporary or part-time work because they get experienced employees without paying full-time wages and fringe benefits.

Theodore H. Silbert, 74, chairman of Sterling National Bank & Trust Company of New York, is one who shares that enthusiasm. "When a younger officer has problems, he goes to the senior citizen for advice, because the past is a pretty good guide to the future," he says. "Forced retirement to an able-bodied citizen is another name for dismissal and unemployment. Most of these older employees want to capitalize on lifetime contacts. It keeps them healthy and strong."

Another road pursued by many retirees is self-employment—often a business or hobby at home that lets them set their own pace. Some 37 percent of males and 16 percent of women over 65 who work are self-employed.

One key reason for self-employment: Some retirees find the job market is tougher than they had expected. For one thing, age discrimination still exists in many places despite federal laws forbidding it.

Facing that problem was 70-year-old Harry Lapow of New York City, who was suddenly sidelined by his employer 10 years ago after long service as an industrial designer. "I was 60," he recalls. "I thought I could get a job anywhere. Well, it wasn't so."

After some consulting and freelance work, Lapow turned to his photography hobby several years ago, and now has established a growing reputation.

"I don't have to answer to anybody, and there are real creative rewards in my work," he says. "I'm against retirement. I don't think one should submit to what society has determined is the time to stop functioning."

IMPACT OF OUTSIDE EARNINGS ON SOCIAL SECURITY BENEFITS

Between the ages of 65 and 72, a retired person can earn $4,500 a year from a job before losing some Social Security benefits.

Beyond the $4,500 cutoff point, $1 in benefits is lost for every $2 of earned income.

Here are three examples of how the regulations are applied in individual cases:

1. A married couple retires at age 65 and qualifies for maximum Social Security benefits—$6,024 for him, $3,012 for her. He would have to earn $16,548 in outside income before losing his benefits entirely, and she, $10,524. A loss of benefits by one spouse does not affect benefits of the other.

2. A widowed housekeeper begins collecting survivor benefits of $4,308 a year at the age of 60. Until age 65, only $3,480 may be earned before benefits are reduced. She would have to take a job paying $12,096 annually before her Social Security checks ceased completely.

3. A 73-year-old man who earns $20,000 a year still collects his entire Social Security benefit. At the age of 72, all restrictions on earnings end. In 1982, the limits will be lifted for persons aged 70 or older.

Remember: Income limits are only on earnings. Unearned income—pensions, dividends, interest on savings, other investments—is not counted. Ceilings on earned income will be raised each year beginning in 1980.

BEFORE THE ENGRAVED WATCH, PRACTICAL HELP

Many companies now aid employees who are about to step down, offering advice on everything from cake decorating to real estate.

Like so many older workers, Charlie Bianchi wants to play golf when he retires. What sets him apart is that his boss is paying for his golf lessons.

Bianchi, 55, a foreman for Pitney Bowes, Inc., in Stamford, Conn., is one of a growing number of workers whose employers help them prepare financially and psychologically for retirement. A survey by the Conference Board, a business-research group, finds that 88 percent of the employers interviewed were providing such aid in 1977. Many of these programs are modest, simply offering employes in their early 60s a full explanation of future benefits. Fifteen percent, however, offer personal counseling, and some have elaborate programs.

The Pitney Bowes program includes seminars for older workers and cash grants to finance training for employes who wish to develop retirement hobbies or prepare for second careers. Says William Hayes, retirement-planning manager for Pitney Bowes: "What we're trying to get across is that you don't retire from something, but you retire to something."

The firm offers scholarships of up to $300 a year for training of any employe age 50 or older and another $300 for the employe's spouse. Workers have studied everything from cake decorating to accounting. International Business Machines Corporation offers a similar opportunity for its employes.

"It's a good deal," says Bianchi, whose wife also took golf lessons at the expense of Pitney Bowes. "I'm just a hacker, but I know that when I retire I would like to play more golf."

Planning on retirement at age 62, Bianchi also is considering a real-estate course at company expense, "so I'll have something to fall back on."

Other employers help older workers ease into retirement by making available a shorter workweek or extra vacation days. In the steel industry, for example, senior workers can take an extended 13-week vacation every five years. Union officials say this helps people explore ways to cope with long periods of leisure.

THE REGO WAY

One of the most unusual preretirement programs was developed by Rego Company, a small Chicago manufacturer. Rego confers the title of senator on an employe nearing retirement. The rewards include exemption from punching time clocks, free lunches, paid time off for personal business and retirement preparation, plus free physical exams.

The fastest-growing preretirement program involves a series of special seminars for older workers, often including their spouses. Some firms offer these seminars as much as 15 years before retirement so that the workers will have adequate time to make changes in their financial planning.

These seminars, ranging in length from one to 10 sessions, are conducted by many of the nation's leading companies, including Koppers, Dow Chemical, American Telephone & Telegraph, PPG Industries, Hughes Aircraft and General Electric.

GE was a pioneer in developing such seminars. Shirley M. Brown, manager of benefits and services at the company's plant in Lynn, Mass., says she has been running a one-day seminar for older workers and their spouses each year since 1958.

Brown relies on outside experts from the Social Security Administration, the Internal Revenue Service, unemployment office and Blue Cross to explain to the workers what financial benefits they can expect in retirement. Company officials then describe General Electric's own pension benefits.

In recent years, companies have been able to purchase a package of materials that are designed specifically to be used in preretirement seminars. One such package developed by Action for Independent Maturity (AIM), a branch of the American Association for Retired Persons, includes an instructor's kit, filmstrips and literature for the participants. The basic cost of the AIM package is $350.

Pitney Bowes uses the AIM program, which covers such topics as financial planning, legal matters, housing and location, potential health problems and psychological issues, including loneliness and marital strain. Explains AIM spokesman Albert Peterson: "We try to break down people's misconception that retirement is simply a matter of having enough money."

Similar programs have been developed by other nonprofit and profit-making groups. Hayes of Pitney Bowes reports that he has been contacted by outfits selling programs for as much as $600 for each participant.

"It's a growth industry," Peterson says. He estimates that AIM's program is being given by at least 600 companies, 200 community colleges and a number of religious groups.

ON COMPANY TIME

Unions also get involved in preparing their members for retirement. The Machinists, for example, have developed a series of six two-hour seminars that are offered to members, sometimes during working hours with company consent.

Not all companies favor preretirement programs. One firm told the Conference Board that employes who elect early retirement usually do not need advice. U.S. Steel Corporation's attorneys have discouraged retirement counseling, fearing the company could be held liable if the advice given to employes leads to bad decisions.

Some workers, too, are reluctant to attend seminars. "They're afraid of it," Hayes says.

But most employers say the majority of their retiring employes are grateful for the help. Says GE's Brown, "The response has been excellent."

An Expert Tells How to Adjust to Those Later Years

(Interview With Dr. Robert N. Butler, Director, National Institute on Aging)

Q Dr. Butler, what are the most common problems faced by people who retire?

A People may become depressed and disturbed and troubled by the change in the rhythm of their life. Many no longer have a daily schedule to meet and have to make adjustments.

If people have a rich life, with a variety of activities to turn to, they can adapt very well to retirement. Those people who have a very thin portfolio of activities, or whose career has been all-consuming, may not do very well. They may have serious problems with depression.

Q What can be done to help those who have trouble adapting to retirement?

A They can be encouraged to enter into activities in which they help other people. They also can be urged to join social organizations, to become active physically and to develop or sustain friendships. People need to be physically fit, personally fit, which means keeping their minds active, and socially fit—maintaining relationships with others.

When I used to be in private medical practice, I was struck by the number of people who developed what I call naturally occurring mutual-assistance pacts through which they aided each other. If you're retired and you become sick and it's very bad weather, a friend can go out and do the shopping while you stay home. Such social networks can make a great difference in maintaining morale.

Q Can a second career help someone who is having difficulty adjusting?

A Yes. Any type of useful activity in which one really feels a sense of accomplishment or of doing something worthwhile can make retirement more meaningful. Just imagine if you literally closed up shop and were not doing anything that gave you any sense of purpose or substance. That can be very devastating.

Q Do some personality types do better than others in retirement?

A From what data we have, the so-called independent person who has been autonomous and aggressive does worse in his stay in, say, a nursing home than someone who has tended to be more passive, relaxed and dependent. The independent person does well, of course, in the community.

Personality characteristics thought of as adaptive throughout life, such as competitiveness, may turn out to be maladaptive in old age because the social structure and the conditions are so different. So qualities like cooperation and congeniality need to be developed.

Q Do women or men adjust better to retirement?

A Women do better. Many already have a job as a homemaker, which they rarely retire from. Men are more helpless. Its very rare for men to carry their weight in home activities. Its usually the woman who bears the main burden of the preparation of food, cleaning the house, doing the laundry.

Q Can unexpected problems develop in retirement when husbands and wives are home all day with each other?

A Absolutely. In our early studies in the '50s, we found to our shock that fully a third of the marriages showed signs of deterioration after retirement. I think there's more divorce now among older people, probably because it's culturally acceptable.

People who just couldn't stand each other suddenly face each other 24 hours a day. The husband tries to tell his wife how to run the house. She would prefer that he go out and find something to do. Many wives complain about how their husbands get clingy and make it difficult for them to continue with outside activities, such as volunteering in a hospital. The men want and expect their wives' full attention.

But resourceful people can work these problems out. They come to realize that they just can't really spend that much time together. It isn't healthy.

Q Can children be of much help to parents who are retiring?

A The best thing they can do is indicate their willingness to help, but not in any sense take over and become bossy. If the parent has serious health problems, then he may indeed need the assistance of adult children.

But if all is going reasonably well, it's disadvantageous for the adult children to be too intrusive. It's very important that the older person feel in control of his life and make his own decisions until such point in time as it's not possible.

Q Are most older people better off, then, on their own rather than moving in with the children?

A. Only about 20 percent of people over 65 live with their children, and in many of these cases it is the children who have moved in with the parents. Most older people do not want to move in on their children. They do not want to "be a burden." As long as they are financially and physically able, they tend to live on their own.

Q. What kinds of problems arise when parents and their children live together?

A. I would suspect that in 80 percent of the cases where parents move in with the children there's some conflict—there are problems defining who's to do what and what the rules are going to be.

If a mother-in-law is involved, then there may be some competition with the daughter-in-law over the kitchen, over who's running the house. The older woman may be quite disturbed by the way her daughter-in-law is rearing the children.

But I don't want to leave the impression that there is invariably conflict when older people live with their adult children. What happens is often a function of very practical matters. If there is adequate physical space in the home, that can help. It works well if the older person has an apartment within the house.

If the older person winds up in the basement or in an attic room, or if an adolescent is displaced from his room to give the retiree a place, that automatically creates conflicts.

A. Lot of sensitivities are involved. If the adult children can be conscious of them and if they can have family meetings where they deal with some of these issues out in the open, it can at least help.

Q. What should a couple consider before pulling up stakes and moving to a retirement community?

A. Don't just go there on a vacation. Everything always looks wonderful that way. Try to visit for an extended period, simulating what it would be like if you were, indeed, retired. Don't sell your home before you've done this.

I've seen all too many people come back after trying out the place in the sun—and they find they can't stand it. They try to recapture the situation they've had before, but can't because of the escalating real-estate values and other things. So my advice is test it out very well first before you jump.

Q. What problems cause retirees the most anxiety?

A. Generally speaking, upon retirement your income is cut by 50 percent. So probably the No. 1 cause of distress for most retired Americans is their income. The second is probably their health. The third is their housing, and fourth is their sense of social status.

Next comes what I call the existential issues: "What kind of a life am I leading? What are my relationships, and the state of those relationships, with my spouse, with my children, with my friends, with my neighbors?"

Then you get into "life review" questions: "What have I done in my life? What are the kinds of things I regret?" Some people become full of reminiscences. But it's not an aimless wandering of mind. They're really trying to come to grips with basic questions. And that can be very distressing. It can lead to depression, to anger, to stormy regret, to recriminations.

It can also lead to reconciliations. Brothers who have not talked in 40 years might feel it necessary to come back together again to resolve an issue that may have separated them.

Q. How can people prepare themselves for the physical changes and limitations that come with the aging process?

A. First, they can find a doctor. Most of us have doctors who are older than we are. Consequently, by the time we get older, our doctors have retired or died. There are some data that show that only about 1 out of every 10 older persons actually has his or her own doctor. That leaves them extremely vulnerable.

You can watch your diet very carefully. Particularly if you're a woman, make certain you've got a lot of milk and protein because of a condition called osteoporosis. In the United States, there are 195,000 hip fractures a year, and in part this is related to the thinning of bones that occurs with age.

Nutrition is incredibly important in the later years. Many people who are alone will not eat adequately. This reduces their physical fitness and makes them more vulnerable to disease.

If one remains physically active, that makes a tremendous difference. It even makes a difference psychologically. We know that people who remain inactive and sit around a lot can become quite depressed.

Q. What happens to older people when they begin to experience the frequent deaths of friends and loved ones that occur in later life?

A. It's very painful. Loss is a consistent aspect of the later years of life, and grief is associated with it. We did a recent study to try to determine how much of an impact bereavement has.

We concluded that there are 25,000 excess deaths every year of people over 65—beyond what you would predict from an actuarial point of view—who've lost someone during the preceding year. And that doesn't count those who become ill and get stressed by the loss of loved ones. The more relationships we develop, the more support we have when we lose somebody close.

Q. How much prejudice against the elderly still exists in the United States?

A. It's very common. "Hey there, lady, get movin'," the bus driver might say to the woman getting on the bus because she seems too slow. The adult child is irritated because grandmother seems to take too long to get from one room to another.

In everyday language, terms that no racial or ethnic group would ever accept are tossed about: "old buzzard," "old fogy," "old biddy." Our language is replete with cruel epithets and terms.

Then there is the disinterest of doctors and medical stuents in older people. And lawyers, when they size up the fact that an older person is the plaintiff, will keep pushing for continuances because that way maybe "the old buzzard will croak" before the case comes to court.

There are so many institutionalized and subtle, as well as personal, prejudices that bear upon age that they're almost beyond counting.

Q. What about job discrimination?

A. It goes on, although it can't be admitted now because of the law barring mandatory retirement before age 70. Younger people find it hard to believe, and then as they get older and they're more aware, they become conscious of the extent to which it's felt.

People are becoming more sensitive to age discrimination, but it's still a long way from being eliminated.●

YEAR OF THE CHILD

● Mr. WEICKER. Mr. President, the Connecticut Association for Children with Learning Disabilities (CACLD) has spent the last 15 years working on behalf of learning disabled children throughout Connecticut and in Fairfield County in particular.

There are now over 5,000 learning disabled children being served in the public schools in Fairfield County. There are more waiting to be found, identified and appropriately served. It is clear that their parents desperately need information and support to help them understand and cope with this "hidden handicap."

Mr. President, in order that information on the important activities of the Association receive widespread dissemination, I request that the CALCD schedule of special events for the "Year of the Child" be printed in the Record.

The material follows:

CALCD PLANS YEAR OF THE CHILD EVENTS

In conjunction with the International Year of The Child, Mrs. Bruce Hawley, president of the Connecticut Association For Children With Learning Disabilities, announces a schedule of events to heighten public awareness about the needs of learning disabled children.

March 8: Members of the Legislature's Education Committee have been invited to present a "Legislative Forum" to discuss and evaluate legislation affecting the learning disabled child. The meeting will be held in Norwalk.

March 10: CACLD will participate in Connecticut's first Early Childhood Special Education exposition to be held at Southern Connecticut State College in New Haven.

March 30 and 31: CACLD will sponsor parent/professional workshops on "Learning To Read-Reading To Learn". These workshops will be free and are being made possible by a grant from the Foundation For Children With Learning Disabilities. The workshops will be led by Helen Grush, Assistant Professor at Lesley College Graduate School of Education, and will be held at Cooperative Educational Services (CES) 11 Allen Road in Norwalk. Registration will be limited to parents and professionals dealing with LD students in grades 1–6.

April 5: Doreen Kronick, internationally known author and lecturer on learning disabilities will be making her first appearance in southern Connecticut at a professional workshop and parent's forum being co-sponsored by CACLD and the Hall-Brooke Foundation in Westport. Her topic will be "The Psycho-Social Implications of Learning Disabilities".

October 27 has been set as the date of the 9th annual CACLD conference at the University of Bridgeport. The theme will be "The Year Of The LD Child—Stop The World I Want To Get On!"

"Other events including programs on the LD young adult, vocational education and the impact on the family are in the planning stages," said Mrs. Hawley. "The International Year Of The Child has inspired us to work even more vigorously on behalf of the learning disabled child," she concluded.

The Connecticut Association For Children With Learning Disabilities is a non-profit organization dedicated to improving the quality of life for people handicapped by a learning disability. LD children may have normal or even superior intelligence and a strong desire to learn but may have problems in reading, writing and arithmetic. If diagnosed early and given enough of the right kinds of services they can be helped to lead meaningful and productive lives. Some may go on to college.

Residents of Southern Connecticut may obtain information on CACLD by contacting their office at 20 North Main Street, South Norwalk, CT. 06854.●

WHY FARMERS PROTEST: DEPRESSION-LEVEL PRICES

● Mr. PRESSLER. Mr. President, the Sunday, February 11, 1979, edition of the Wichita Eagle and Beacon carried an editorial which deals with some of the reasons our country's farmers have been protesting.

The editorial, must reading for anyone attempting to find the reasons for some of our problems in agriculture, says in part:

> Few non-farmers realize that being a farmer today involves being in almost continuous debt. The expensive tractors, combines and implements sometimes are mistaken as signs of affluence. In fact, they are but a visible symbol of the kind of indebtedness that the high risk of modern farming mandates.

Mr. President, the editorial concludes by saying:

> The country can't afford to leave the producers of its food back in the first half of this century much longer. It must act swiftly to bring the farmer into the 1970s with the rest of the population, where he rightfully belongs.

I ask that the entire editorial, "Why the Farmers Protest," be printed in the RECORD.

The article follows:

WHY THE FARMERS PROTEST

If the frustrated farmers of the United States are to have a chance at preserving their way of life, more Americans are going to have to understand what it means today to be a farmer. The farm is not what is used to be: the quaint, quiet place where worries were few and the rewards of the good life were realized daily.

Somewhere along the line, the farm has been left out of the scheme of progress. Farm commodity prices still fluctuate from Depression-level lows to an occasional glimpse of prosperity. Meanwhile, literally every other cost that must be paid by the farming family has moved only in one direction: Up. Never back down.

That means that the farm has had to take up the slack, to adopt the technologically best methods of production, to cultivate more land, to produce more and more in an effort to keep up with the pricing pace. But while farming has responded admirably to the challenge of production, it has been kept at the mercy of a fickle supply-and-demand system that too often dances to the tune of the government piper.

The farmer's control of the price he gets for his food grains remains minimal, with commodity speculators and governmental intervention having much more impact on per-bushel prices than anything he does. It is not unreasonable for the farmer, in that situation, to expect the government to pay something in return for its controls on his product. Even at that, the farmer seldom is able to influence the policy decisions on farm support and crop deficiency payments that help him survive from year to year.

So there is the frustration of having very little control over one's own livelihood. That frustration is coupled with the tremendous dose of risk that every farmer must accept when he refinances for another growing season.

Few non-farmers realize that being a farmer today involves being in almost continuous debt. The expensive tractors, combines and implements sometimes are mistaken as signs of affluence. In fact, they are but a visible symbol of the kind of indebtedness that the high risk of modern farming mandates. The monthly payment books that cover each piece of equipment, to say nothing of the files of promissory notes on seed, fertilizer and fuel, more nearly tell the story of the farmer's real financial status.

The consuming public must understand that although literally hundreds of thousands of dollars may pass through a farmer's hands in the course of producing a crop, precious few of those dollars stick there. Consumers also must understand that the farmer's share of the final cost of the foods they buy is but a fraction of what they pay; and that the farmer is the only link in the food chain who faces the prospect of collecting Depression-level prices for his services during off years.

These are but a few of the factors that have brought the farmer to the point where he is today—hog-tied and finding little he can do about it—except shout his frustration.

There are other complicating variables, too, that always have been there: drought and hail and insect infestation. Those things haven't changed much, but a lot of other aspects of farming in America have. And unless the nation is ready to accept the prices and policies that big-corporation farming will decree, it needs to wake up and start understanding the changes that have brought the farmers into the streets in protest.

The country can't afford to leave the producers of its food back in the first half of this century much longer. It must act swiftly to bring the farmer into the 1970s with the rest of the population, where he rightfully belongs.●

SECRETS OF KABKAN

● Mr. GOLDWATER. Mr. President, there is an excellent article appearing in Newsweek magazine of March 12 entitled, "Secrets of Kabkan." I am asking that this be printed in the RECORD at this point in my remarks so that my colleagues can gain a better idea of just what the loss of Iran has meant to us, particularly as it concerns the two sites we had in that country to keep track of what the Russians were up to, not just in space, or in space developments on the ground, but in many other areas. It causes me great consternation to hear the President say that we can verify some Soviet activities by means other than these stations. This is not true, and wish the President would not say this. It is one thing to look down with cameras, but I am sure the Russians are experts in the science of camouflage. It is something else to be able to gather intelligence on particular Soviet activities which can only be done by the type of base that we have lost in Iran. This should cause great concern among my colleagues who may be in favor of the SALT treaty but who would not vote for it if they were not sure of complete verification of everything that we could tell about Russian activities as they relate to SALT.

The article follows:

SECRETS OF KABKAN

On a remote mountain overlooking Iran's northeastern frontier with the Soviet Union, the U.S. Government was embroiled last week in a bizarre confrontation with supporters of the Ayatollah Khomeini. The issue was severance pay for a group of Iranian employees at Kabkan, a secret CIA outpost built to eavesdrop electronically on missile tests inside the Soviet Union. The disgruntled workers held 22 American staffers as hostages until the U.S. Embassy in Teheran rushed in $200,000 to pay them off.

The Americans were evacuated, the base was shut down and the Carter Administration insisted that Kabkan's electronic secrets had been preserved. But the base, only 650 miles from the Soviet missile range at Leninsk, was lost for good, along with a second U.S. listening post on the Caspian Sea at Behshahr. The closing of the bases raised new questions about Washington's ability to verify Soviet compliance with a second-stage strategic arms limitation treaty (SALT II).

The fall of the Shah may have compromised other American secrets. Iran has an array of advanced U.S. weapons, including 77 top-of-the-line F–14 jet fighters. The F–14s are guarded closely by the Iranian Air Force, but the U.S. had to assume that the planes and their Phoenix air-to-air missiles may yet fall into unfriendly hands. The Pentagon conceded last week that secret manuals for the F–14 and its missiles already may have been compromised.

It was the loss of the bases at Kabhan and Behshahr, however, that mattered the most. They were ideally located to track Soviet missiles from the moment of lift-off during flight tests, recording valuable information on the capabilities of the rockets. The bases were replaceable—but only to a degree. The U.S. could monitor from Turkey to Pakistan—if their less-than-friendly governments agreed—but bases in those nations are farther from Leninsk.

Air Patrol: Soviet missiles also can be tracked, less efficiently in some respects, by satellites and ships, or by planes patrolling over the Black Sea. "It would be more expensive to do it that way, but it would be quite feasible," said Paul Warnke, President Carter's former chief negotiator on arms control. A less optimistic Congressional expert retorted: "What are you going to do, keep a 24-hour patrol flying there?"

Both hawks and doves on arms control insisted that the Iranian bases would not have played a crucial role in monitoring the Soviet compliance with SALT II. Some analysts hinted that, through radio interceptions, the bases were acquiring other kinds of information on Soviet strategic capabilities. "I would not want to be misunderstood as saying that the loss of these bases was unimportant," said Warnke. "It was important for reasons having nothing to do with verifying SALT."

Last week, State Department spokesman Hodding Carter repeated Administration assurances that it "will not submit [to the Senate] a SALT treaty which is not verifiable. We will be able to conclude a SALT treaty which is verifiable despite recent developments" in Iran. But the still-unconcluded treaty is already in trouble in the Senate. If the legislators are persuaded that the loss of the Iranian bases in any way impairs U.S. ability to assess Moscow's strategic power and intentions, the treaty will face an even harder fight for ratification.●

THE SUGAR STABILIZATION ACT OF 1979

● Mr. ZORINSKY. Mr. President, I have asked Senator CHURCH to add me as a cosponsor of S. 462, the Sugar Stabilization Act of 1979. The list of cosponsors includes my colleagues from both sugar cane and beet producing States. I am disappointed, however, that the bill as yet has no cosponsors from sugar-consuming States, because it is designed to benefit both producers and users.

The price supporting provisions of S. 462 are tied to the implementation of the International Sugar Agreement (ISA). This compact between more than 70 sugar producing and consuming nations proposes a free trade price corridor. Reserve stocks will be accumulated during years of surpluses to protect producers from prices below 15 cents a pound. Conversely, the reserves will be released in short-supply years to protect consumers from prices above 19 cents a pound.

The ISA offers a limited defense against the wild price fluctuations of the international sugar market. However, the domestic price support mechanism is even more critical to the interests of all Americans.

No one can accurately predict the myriad factors which affect the supply of vital commodities. Drought, floods, civil or military disturbances, and many other natural or manmade disasters can disrupt the production and commerce of necessary commodities. It would be foolhardy to assume that because a ready supply of cheap sugar exists today, that it will be available tomorrow at affordable prices. I need not remind you, Mr. President, that only a few years ago, energy supplies seemed boundless and cheap.

Our country has a reliable domestic source of sugar. We would be shortsighted, indeed, to allow that source to dwindle and falter. Rather, we should nuture and support it, for we cannot afford even the specter of a sugar OPEC.

The American sugar industry is failing. Every year another company disappears, overcome by the pressures of increasing costs and continually depressed markets. In my own State of Nebraska, the Great Western Sugar Co., one of the Nation's major beet processing firms, has announced that no grower contracts for the 1980 season will be offered in Dawson and Lincoln Counties. The combination of high freight rates and low sugar prices makes it impossible for the company to continue its purchase of sugar beets in this area.

The loss of this market will be a severe blow to the economy of the central Nebraska communities. Agricultural production in much of central and western Nebraska is limited to a few crops. The disappearance of a market outlet for sugar beets will further strain an economy already depressed by low grain prices. Farmers and local businessmen will suffer.

But even more significant is what the sugar company's action portends for the future of the American sugar industry. No sugar company ever reenters the market after closing down. Rather, companies first reduce production when faced with high costs and low returns and finally shut down altogether. In the past year, Mr. President, several major processing plants in the Western United States have halted operations.

We cannot allow this vital industry to die. It is too important to our country's farmers. It is too necessary to the small communities and businesses built around sugar cane and beet growing areas. And it is too crucial to our country's consumers.

I urge my colleagues to take the necessary steps to save the American sugar industry. Let us act swiftly to pass the Sugar Stabilization Act.●

DEMAND FOR WATER TO BECOME CRUCIAL

● Mr. PRESSLER. Mr. President, a dynamic city in western South Dakota—Rapid City—is facing some real "growing pains" problems. I want to do all that I can to help solve these dilemmas, always keeping in mind the fine line between governmental assistance and governmental suffocation.

A recent news article in the Rapid City Daily Journal points up the need for the start of careful study of a source of additional water supply for municipal purposes for Rapid City in light of the prediction that population will jump to 100,000 people by 1995, and 110,000 just over two decades from now, in the year 2000.

Mr. President, I am asking the Corps of Engineers to undertake a thorough and specific study of the Rapid City, S. Dak., area in light of these population projections. It is my hope that the corps can augment its western South Dakota study to include more information on the Rapid City area to more adequately serve this vital area's needs.

Mr. President, I ask that the article from the Rapid City Journal be printed in the RECORD. I commend it to the attention of my colleagues and pledge my best efforts to this crucial project.

The article follows:

DEMAND FOR WATER HERE MAY MEET OR EXCEED SOURCES

Demands for water will meet or exceed presently available sources when the population of the greater Rapid City area reaches 100,000, says the water resources committee of the Rapid City Area Chamber of Commerce.

A report released Friday predicts the area's population will reach 100,000 in the year 1995 and 110,000 in the year 2000.

The committee defined the greater Rapid City area as including the city, Ellsworth Air Force Base, Black Hawk, Piedmont, Box Elder and "immediate adjacent areas which can reasonably expect to be annexed by the City of Rapid City."

It used various population studies in its projection and assumed per capita water consumption, based on a 1975 study by the Corps of Engineers, of 200 gallons per day.

Principal recommendations of the committee were that the chamber urge the corps to evaluate prospective dam sites for potential municipal water supply and sponsor a comprehensive urban-hydrology study or studies of the area as soon as possible.

The hydrology studies, it said, should address the major inter-related categories of water supply, urban run-off and the ground water system.

The committee recommended the chamber urge area legislators to support legislation designed to set up a committee to negotiate with Wyoming and potential industrial water users for delivery of water through the proposed West River aqueduct.

Committee members noted that the proposed aqueduct represents an alternative for transporting 66,000 acre feet the city has in future-use water rights to Missouri reservoir water.

Other recommendations were that the chamber encourage the continued acquisition of Rapid Creek water rights from "willing" sellers and urge the city to adopt a water plan providing an adequate source of water for peak days rather than a plan anticipating water shortages during peak demands of the greater Rapid City area.

In concluding that the hydrology studies were necessary, the committee used an engineer's projection that peak demand would exceed 60 million gallons a day by the year 2000.

Leonard Swanson, city director of public works and committee member, said that with expansion of the city water plant, the city water system could have a capacity of 60,000 gallons a day.

The committee, however, found insufficient data on water sources to indicate that quantity or that for peak-month demands would be available.

Ground water, it said, should be investigated with emphasis on water levels, including recharge and losses, flow of creeks and springs, and detailed responses of the system in the immediate area to present and future stresses such as increased pumping.

Committee chairman Allen G. Nelson presented the report at a meeting of the chamber's legislative committee.●

S. 555—INDEPENDENT LOCAL NEWSPAPER ACT OF 1979

● Mr. SCHMITT. Mr. President, I am pleased to join with the distinguished Senator from North Carolina, Senator MORGAN, in cosponsoring the Independent Local Newspaper Act of 1979, which he introduced yesterday.

The public is slowly awakening to the fact that the independent local newspaper is becoming an endangered species. This applies to daily as well as weekly newspapers, which are being bought up at an ever-increasing pace by newspaper chains, communications conglomerates, and public corporations. Each year for the past several years, 40 to 60 daily newspapers have left the ranks of the independents and are merged into chains whose corporate headquarters are hundreds or thousands of miles away. At the present rate, in another few years, there will be virtually no independents left remaining. At this time, there are just over 600 independent dailies, but each week, another one or two are bought by the chains.

This bill allows the owners of an independent local newspaper to establish an advance estate tax payments trust to be funded by corporate earnings with not more than 50 percent of pretax income of the newspaper in any year. The contributions to and income of the trust may be invested solely in obligations of the United States. Excess funding of the trust is expressly prohibited. The funds accumulated in the trust may be used only to pay the estate taxes of the owners of the newspaper.

In addition, the bill provides for an extension of the time for payment of estate tax where the estate includes the interests in an independent local newspaper. Such extensions would be subject to payment of interest as now provided under the tax laws.

These provisions will permit the owners of independent newspapers to prepare far in advance for their estate taxes, and will thus permit more small, family-owned newspapers to be passed from generation to generation, as they have been since the days of our country's founding.

The Congress should do everything it can to encourage the continued existence of strong and healthy independent newspapers.

I agree with the words of Thomas Jefferson in this regard. He wrote:

> Were it left to me to decide whether we should have a government without newspapers or newspapers without government, I should not hesitate a moment to prefer the latter.

Freedom of expression is fundamental to our national life. It is the strongest bastion that exists to guard against encroachment upon the personal freedoms of our people. As Napoleon observed:

> Four hostile newspapers are more to be feared than a thousand bayonets.

I am hopeful that we will always have a good many papers that are hostile and critical to the activities of the Government. This appears to be the best means available to keep it on the straight and level.

We need as many organs of expression in this Nation as possible, representing the full spectrum of opinion on the issues, and I am, therefore, pleased to cosponsor and enthusiastically support this legislation.●

FAIR HOUSING AMENDMENTS ACT OF 1979

● Mr. BAYH. Mr. President, on March 1, 1979, Senator MATHIAS and I along with other colleagues of ours introduced S. 506, the Fair Housing Amendments Act of 1979, a bill designed primarily to give the Department of Housing and Urban Development (HUD) the authority to enforce the prohibitions against discriminatory housing practices passed by the Congress in 1968. As most Senators know, HUD now only has the power to seek a conciliation agreement between an "aggrieved person"—a person adversely affected by a discriminatory housing practice—and a respondent—a person allegedly engaging in such a practice. S. 506 would add to this authority by giving HUD a number of avenues to enforce the law once a charge is filed.

At any time after a preliminary inquiry into a charge HUD may do the following:

First, enter into conciliation with the parties;

Second, refer the charge to appropriate State or local officials;

Third, refer the charge to another appropriate Federal agency;

Fourth, make a further investigation under title VIII;

Fifth, refer the matter to the Attorney General for appropriate action under section 813 of title VIII or other applicable law; or

Sixth, notify the aggrieved person and respondent that adequate grounds to proceed are not present.

In addition to these powers, Mr. President, the Attorney General and aggrieved persons would retain their present rights under title VIII of bringing pattern and practice or private enforcement suits respectively. However, the main aim of S. 506 is to provide HUD with such a flexible enforcement mechanism that HUD will always have an efficacious response to diverse discriminatory housing practice allegations. In short, enactment of this bill will make title VIII as effective a tool in ending discrimination in housing as the 1965 Voting Rights Act has been in ending voting discrimination.

Mr. President, I request that a letter from the Secretary of Housing and Urban Development in support of S. 506 be printed in the RECORD.

The letter follows:

THE SECRETARY OF HOUSING
AND URBAN DEVELOPMENT,
Washington, D.C., March 6, 1979.

Hon. BIRCH BAYH,
U.S. Senate,
Washington, D.C.

Subject: Fair Housing Amendments Act of 1979.

DEAR SENATOR BAYH: I have received the February 15, 1979 letter from you and your colleagues, transmitting a copy of your proposed bill, the "Fair Housing Amendments Act of 1979", the amended version of H.R. 3504 and S. 571 introduced during the 95th Congress, and asking my support. I enthusiastically endorse your efforts to provide enhanced enforcement powers in the area of fair housing and generally support the bill.

As you have recognized, and as the President observed in his January 25 Message to the Congress, the Federal Fair Housing Act "remains largely an empty promise because of the lack of an adequate enforcement mechanism." The President has pledged to work with the Congress for prompt and favorable consideration of legislation to provide enforcement powers for this Department. It is my judgment that support for the enforcement machinery set out in your bill will be the most effective means possible of implementing that goal.

Authority in this Department to conduct hearings and to order appropriate administrative relief for the victims of housing discrimination is, in my view, the most compelling need related to Fair Housing. The additional litigation authority which would be provided the Attorney General is a matter of almost equal importance. Given these tools, the Department of Housing and Urban Development, in close cooperation with the Department of Justice, can take effective steps to assure final realization of the purpose of the 1968 Fair Housing Act. As I stated in my testimony in support of H.R. 3504, your proposal "might well be captioned 'A Bill to Fulfill the Original Promise of the Federal Fair Housing Act to Provide, Within Constitutional Limitations, for Fair Housing Throughout the United States.' "

The Administration's decision to support the improved enforcement powers in the proposal reflects our considered judgment that they are well designed to accomplish the goals we have all worked so long and hard to achieve. We will be prepared to discuss these and additional desirable features of the bill and may suggest certain revisions to other provisions in our testimony on the bill.

I hope you will call upon me for any assistance that this Department can provide in seeking prompt consideration and adoption of legislation necessary to implement more effectively the 1968 Fair Housing Act.

The Office of Management and Budget has advised that the enactment of the enhanced enforcement powers for Title VIII and, with modifications as appropriate, the other provisions, would be in accord with the President's program.

Sincerely yours,
PATRICIA ROBERTS HARRIS.●

A LETTER FROM STUDENTS AT McCORMICK JUNIOR HIGH SCHOOL IN CHEYENNE, WYO.

● Mr. WALLOP. Mr. President, I wish to submit for the RECORD a letter from 23 students at McCormick Junior High School in Cheyenne, Wyo.

These young people are showing the kind of generous sentiment which once made this country great. Any American citizen anywhere in the world deserves no less than the fullest protection which the entirety of our forces can provide.

Mr. President, we have forgotten this, and have sunk in the world's esteem and worse yet in our own.

I am proud that young people in my State think this way about the duties which every American citizen owes to every other. I ask the White House to turn its attention from its highly paid task forces, and listen to the voice of responsibility coming out of a junior high school in Wyoming.

The letter follows:

McCORMICK JUNIOR HIGH SCHOOL,
Cheyenne, Wyo., February 14, 1979.

DEAR SENATOR WALLOP: Recent developments, namely the storming of the American Embassy in Tehran, the brutal murder of the American ambassador in Afghanistan, the wanton destruction of private property of the Shah's mother in our own country, and the effort to obtain funds to assist Iranian students here, have disturbed us tremendously.

Because of the discrepancy between the treatments of our own citizens in the Middle East and of the Iranian guests in the United States, it is our desire and demand that our United States citizens in Iran be extended the protection of our armed forces for any and all necessary evacuation from that country. Furthermore, we believe it to be of paramount importance that those Iranians and Afghanistanis in the United States on temporary visas be deported.●

RULES OF THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

● Mr. RANDOLPH. Mr. President, the Committee on Environment and Public Works has adopted its rules for the first session of the 96th Congress and I submit them for printing in the RECORD:

RULES OF PROCEDURE OF THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Rule 1. *Regular Meeting Days.*—The regular meeting day of the Committee shall be the first and third Thursday of each month at 10:00 A.M., except that if there be no business before the Committee, the regular meeting shall be omitted.

Rule 2. *Committee Meetings.*—Subject to section 133(a) of the Legislative Reorganization Act of 1946, as amended, Committee meetings for the conduct of business, for the purpose of holding hearings, or for any other purpose, shall be called by the Chairman, after consultation with the ranking Minority Member. Subcommittee meetings shall be called by the Chairman of the respective subcommittee, after consultation with the ranking Minority Member. Notice of a meeting and the agenda of business to be discussed by the Committee will be provided to all Members not less than twenty-four hours in advance of such meeting. Additions to the agenda after that time may be made with the concurrence of the ranking Minority Member. Such 24-hour notice may be waived in an emergency by the Chairman, with the concurrence of the ranking Minority Member.

Rule 3. *Open Committee Meetings and Legislative Mark-up Sessions.*—Meetings of the Committee, including hearings and legislative mark-ups, shall be open to the public, except that a portion or portions of any such meeting may be closed to the public if the Committee determines by record vote of a majority of the members of the Committee present that the matters to be discussed or the testimony to be taken at such portion or portions—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of committee staff personnel or internal staff management or procedure; or

(3) constitute any other grounds for closure under paragraph 7(b) of rule XXV of the Standing Rules of the Senate (as amended by Senate Resolution 9, 94th Congress).

Rule 4. *Presiding Officer.*—(a) The Chairman shall preside at all meetings and hearings of the Committee except that in his absence the ranking Majority Member who is present at the meeting shall preside;

(b) Subcommittee Chairmen shall preside at all meetings and hearings of their respective Subcommittees, except that in the absence of the Subcommittee Chairman, the ranking Majority Member of the Subcommittee who is present at the meeting shall preside;

(c) Notwithstanding the rule prescribed by subsections (a) and (b), any Member of the Committee may preside over the conduct of a hearing.

Rule 5. *Quorums.*—(a) Except as provided in subsections (b) and (d), five Members, two of whom shall be Members of the Minority party, shall constitute a quorum for the conduct of business, except for the purpose of reporting any measure or matter.

(b) Quorums for the conduct of business by the Subcommittees shall be a simple majority of the Membership of the Subcommittees with at least one Minority Member present.

(c) Once a quorum as prescribed in subsections (a) and (b) has been established for the conduct of business, the Committee may continue to conduct business.

(d) Notwithstanding the rule prescribed in subsection (a), one Member shall constitute a quorum for the purpose of conducting a hearing.

Rule 6. *Proxy Voting.*—(a) Proxy voting shall be allowed on all measures, amendments, resolutions, or any other issue before the Committee or any Subcommittees. Any Member who is unable to attend the meeting may submit his vote on any such issue, in writing or through personal instructions; however, proxies shall not be voted for the purpose of reporting any measure or matter except when the absent Committee Member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. A proxy given in writing shall be valid until revoked, while a proxy given orally or by personal instructions is valid only on the day given.

(b) At the discretion of the Chairman, after consultation with the Ranking Minority Member, Members who are unable to be present and whose vote has not been cast by proxy may have their positions recorded on any vote on the same business day so long as the vote will not change the outcome.

Rule 7. *Public Announcement of Vote.*—Whenever the Committee by rollcall vote reports any measure or matter, or acts upon any measure or amendments thereto, the report of the Committee on such measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter by each Member of the Committee.

Rule 8. *Announcement of Hearing.*—The Committee, or any Subcommittee thereof, shall make public announcement and provide notice to Members of the date, place, time and subject matter of any hearings to be conducted on any measure or matter, at least one week in advance of such hearing, unless the Committee Chairman, or Subcommittee Chairman, with the concurrence of the ranking Minority Member, determines that there is good cause to begin such hearing at an earlier date, in which event not less than twenty-four hours notice shall be given.

Rule 9. *Statements of Witnesses at Hearings.*—(a) Each witness who is scheduled to testify at any hearing of the Committee, or any Subcommittee thereof, shall file a written statement of his proposed testimony not later than noon of the last business day preceding the day on which he is scheduled to appear. At the time of his appearance, he shall supply for the use of the Committee or Subcommittee, 25 copies of his prepared testimony or such greater number as may be requested in the letter of invitation. Except for witnesses from the Federal government, this rule may be waived with regard to field hearings.

(b) The presiding officer at a hearing may have a witness not read his written testimony and to confine his oral presentation to a summary of his statement.

Rule 10. *Regularly Established Subcommittees.*—The Committee shall have six regularly established Subcommittees as follows:

Subcommittee on Environmental Pollution;
Subcommittee on Water Resources;
Subcommittee on Transportation;
Subcommittee on Regional and Community Development;
Subcommittee on Resource Protection; and
Subcommittee on Nuclear Regulation.

Rule 11. *Subcommittee Membership.*—Following consultation with the Majority Members and the Ranking Minority Member of the Committee, the Chairman shall announce selections for membership of the Subcommittees referred to in Rule 10.

Rule 12. *Environmental Impact Statements.*—No project or legislation proposed by the Administration shall be approved or other action taken on such project or legislation unless the Committee has received a final environmental impact statement relative to it, in accordance with section 102(2)(C) of the National Environmental Policy Act of 1970, and the written comments of the Administrator of the Environmental Protection Agency, in accordance with section 309 of the Clean Air Act. This rule is not intended to broaden, narrow, or otherwise modify the class of projects or legislative proposals for which environmental impact statements are required under section 102(2)(C).

Rule 13. Whenever the Committee authorizes a project, under Public Law 89–298, Rivers and Harbors Act of 1965, Public Law 83–566, Watershed Protection and Flood Prevention Act, or Public Law 86–249, Public Buildings Act of 1959, as amended, the Chairman shall submit for printing in the Congressional Record, and the Committee shall publish periodically as a committee print, a report that describes the project and the reasons for its approval, together with any dissenting or individual views.

Rule 14. *Naming of Public Facilities.*—No building, structure or facility authorized by the Committee, shall be named for any living person, except former Presidents or former Vice Presidents of the United States, or former Members of Congress over 70 years of age.

Rule 15. *Committee Resolutions.*—(a) The Chairman, after consultation with the ranking Minority Member, is authorized to certify and pass on Committee resolutions for review of flood control and river and harbor reports and resolutions for studies of public building projects, and forward the resolutions to the appropriate Federal agency.

(b) Proponents of Committee resolutions shall submit appropriate evidence showing need for review or reports on river and harbor and flood control projects.

Rule 16. *Broadcasting of Hearings.*—Public hearings of the Committee, or any Subcommittee thereof, may be televised or broadcast, or recorded for television or broadcast, upon notification in advance to the Chairman through the Chief Clerk. During public hearings, photographers and other reporters using mechanical recording or filming devices shall position and use their equipment in such fashion as will not interfere with the seating, vision, or hearing of Committee Members or Staff on the dais, nor with the orderly process of the hearing.

Rule 17. *Amendment of Rules.*—The rules may be added to, modified, amended or suspended by a majority of the Committee Membership.●

RULES OF PROCEDURE OF THE COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. WILLIAMS. Mr. President, pursuant to Section 133B of the Legislative Reorganization Act of 1946, as amended, I submit the Committee on Labor and Human Resources rules of procedure to be printed in the RECORD:

SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES

RULES OF PROCEDURE (AS AMENDED, MARCH 23, 1978)

Rule 1.—Unless the Senate is meeting at the time, or it is otherwise ordered, the Committee shall meet regularly at 10:30 a.m. on the fourth Thursday of each month in room 4232, Dirksen Senate Office Building. The Chairman may, upon proper notice, call such additional meetings as he may deem necessary.

Rule 2.—The Chairman of the Committee or of a subcommittee, or if the Chairman is not present, the ranking Majority member present, shall preside at all meetings.

Rule 3.—Meetings of the Committee or a subcommittee, including meetings to conduct hearings, shall be open to the public except as otherwise specifically provided in subsections (b) and (d) of Rule 25.7 of the Standing Rules of the Senate.

Rule 4.—(*a*) Subject to paragraph (b), one-third of the membership of the Committee, actually present, shall constitute a quorum for the purpose of transacting business. Any quorum of the Committee which is composed of less than a majority of the members of the Committee shall include at least one member of the Majority and one member of the Minority.

(*b*) A majority of the members of a subcommittee, actually present, shall constitute a quorum for the purpose of transacting business: provided, no measure or matter shall be ordered reported unless such majority shall include at least one member of the Minority who is a member of the subcommittee. If, at any subcommittee meeting, a measure or matter cannot be ordered reported because of the absence of such a Minority member, the measure or matter shall lay over for a day. If the presence of a member of the Minority is not then obtained, a majority of the members of the subcommittee, actually present, may order such measure or matter reported.

(*c*) No measure or matter shall be ordered reported from the Committee or a subcommittee unless a majority of the Committee or subcommittee is actually present at the time such action is taken.

Rule 5.—With the approval of the Chairman of the Committee or subcommittee, one member thereof may conduct public hearings other than taking sworn testimony.

Rule 6.—Proxy voting shall be allowed on all measures and matters before the Committee or a subcommittee if the absent member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. While proxies may be voted on a motion to report a measure or matter from the Committee, such a motion shall also require the concurrence of a majority of the members who are actually present at the time such action is taken.

Rule 7.—There shall be prepared and kept complete transcript or electronic recording adequate to fully record the proceedings of each Committee or subcommittee meeting or conference whether or not such meetings or any part thereof is closed pursuant to the specific provisions of subsections (b) and (d) of Rules 25.7 of the Standing Rules of the Senate, unless a majority of said members vote to forgo such a record. Such records shall contain the vote cast by each member of the Committee or subcommittee on any question on which a "yea and nay" vote is demanded, and shall be available for inspection by any Committee member. The Clerk of the Committee, or the Clerk's designee, shall have the responsibility to make appropriate arrangements to implement this Rule.

Rule 8.—The Committee, and each subcommittee, shall undertake, consistent with the provisions of section 133A of the Legislative Reorganization Act of 1946, as amended, to issue announcement of any hearing it intends to hold at least one week prior to the commencement of such hearing.

Rule 9.—The Committee or a subcommittee shall, so far as practicable, require all witnesses heard before it to file written statements of their proposed testimony at least 24 hours before a hearing, unless the Chairman and the ranking Minority member determine that there is good cause for failure to so file, and to limit their oral presentation to brief summaries of their arguments. The presiding officer at any hearing is authorized to limit the time of each witness appearing before the Committee or a subcommittee. The Committee or a subcommittee shall, as far as practicable, utilize testimony previously taken on bills and measures similar to those before it for consideration.

Rule 10.—Should a subcommittee fail to report back to the full Committee on any measure within a reasonable time, the Chairman may withdraw the measure from such subcommittee and report that fact to the full Committee for further disposition.

Rule 11.—No subcommittee may schedule a meeting or hearing at a time designated for a hearing or meeting of the full Committee. No more than one subcommittee executive meeting may be held at the same time.

Rule 12.—It shall be the duty of the Chairman in accordance with section 133(c) of the Legislative Reorganization Act of 1946, as amended, to report or cause to be reported to the Senate, any measure or recommendation approved by the Committee and to take or cause to be taken, necessary steps to bring the matter to a vote in the Senate.

Rule 13.—Whenever a meeting of the Committee or subcommitte is closed pursuant to the provisions of subsection (b) or (d) of Rule 25.7 of the Standing Rules of the Senate, no person other than members of the Committee, members of the staff of the Committee, and designated such closed session, except by special dispensation of the Committee or subcommittee or the Chairman thereof.

Rule 14.—The Chairman of the Committee or a subcommittee shall be empowered to adjourn any meeting of the Committee or a subcommittee if a quorum is not present within fifteen minutes of the time scheduled for such meeting.

Rule 15.—Whenever a bill or joint resolution reapealing or amending any statute or part thereof shall be before the Committee or a subcommittee for final consideration, the Clerk shall place before each member of the Committee or subcommittee a print of the statute or the part or section thereof to be amended or replaced showing by stricken-through type, the part or parts to be omitted, and in italics, the matter proposed to be added.

Rule 16.—An appropriate opportunity shall be given the Minority to examine the proposed text of Committee reports prior to their filing or publication. In the event there are supplemental, minority, or additional views, an appropriate opportunity shall be given the Majority to examine the proposed text prior to filing or publication.

Rule 17.—(*a*) The Committee, or any subcommittee, may issue subpoenas, or hold hearings to take sworn testimony or hear subpoenaed witnesses, only if such investigative activity has been authorized by majority vote of the Committee.

(*b*) For the purpose of holding a hearing to take sworn testimony or hear subpoenaed witnesses, three members of the Committee or subcommittee shall constitute a quorum: provided, with the concurrence of the Chairman and ranking minority member of the Committee or subcommittee, a single member may hear subpoenaed witnesses or take sworn testimony.

(*c*) The Committee may, by a majority vote, delegate the authority to issue subpoenas to the Chairman of the Committee or a subcommittee, or to any member designated by such Chairman. Prior to the issuance of each subpoena, the ranking minority member of the Committee or subcommittee, and any other member so requesting, shall be notified regarding the identity of the nature of the information sought and its reperson to whom it will be issued and the nature of the information sought and its relationship to the authorized investigative activity, except where the Chairman of the Committee or subcommittee, in consultation with the ranking minority member, determines that such notice would unduly impede the investigation. All information obtained pursuant to such investigative activity shall be made available as promptly as possible to each member of the Committee requesting same, or to any assistant to a member of the Committee designated by such member in writing, but the use of any such information is subject to restrictions imposed by the Rules of the Senate. Such information, to the extent that it is relevant to the investigation shall, if requested by a member, be summarized in writing as soon as practicable. Upon the request of any member, the Chairman of the Committee or subcommittee shall call an executive session to discuss such investigative activity or the issuance of any subpoena in connection therewith.

(*d*) Any witness summoned to testify at a hearing, or any witness giving sworn testimony, may be accompanied by counsel of his own choosing who shall be permitted, while the witness is testifying, to advise him of his legal rights.

(*e*) No confidential testimony taken or confidential material presented in an executive hearing, or any report of the proceedings of such an executive hearing, shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the members of the Committee or subcommittee.

Rule 18.—Presidential nominees shall submit a statement of their background and financial interests, including the financial interests of their spouse and children living in their household, on a form approved by the Committee which shall be sworn to as to its completeness and accuracy. The Committee form shall be in two parts—

(I) information relating to employment, education and background of the nominee relating to the position to which the individual is nominated, and which is to be made public; and

(II) information relating to financial and other background of the nominee, to be made public when the Committee determines that such information bears directly on the nominee's qualifications to hold the position to which the individual is nominated.

Information relating to background and financial interests (Part I and II) shall not be required of (a) candidates for appointment and promotion in the Public Health Service Corps; and (b) nominees for less than full-time appointments to councils, commissions or boards when the Committee determines that some or all of the information is not relevant to the nature of the position. Information relating to other background and financial interests (Part II) shall not be required of any nominee when the Committee determines that it is not relevant to the nature of the position.

Committee action on a nomination, including hearings or meetings to consider a motion to recommend confirmation, shall not be initiated until at least five days after the nominee submits the form required by this rule unless the Chairman, with the concurrence of the ranking minority member, waives this waiting period.

Rule 19.—Subject to statutory requirements imposed on the Committee with respect to procedure, the rules of the Committee may be changed, modified, amended or suspended at any time: provided, not less than a majority of the entire membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose.

Rule 20.—In addition to the foregoing, the proceedings of the Committee shall be governed by the Standing Rules of the Senate and the provisions of the Legislative Reorganization Act of 1946, as amended.

SPECIAL ORDERS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders have been recognized under the standing order, Mr. EXON be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, are there any other orders for the recognition of Senators on Monday?

The PRESIDING OFFICER. There are none.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that I may be allotted 15 minutes on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. That is following Mr. EXON.

ORDER FOR A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday there then be, following the orders for the recognition of Senators, a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR CERTAIN ACTION DURING RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the recess over until 12 o'clock noon on Monday, the Vice President of the United

States, the President pro tempore of the Senate, and the Acting President pro tempore be authorized to sign all duly enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that during the same period, the Secretary of the Senate be authorized to receive messages from the President of the United States and/or the House of Representatives and that they may be appropriately referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR COMMITTEES TO HAVE UNTIL 5 P.M. TOMORROW TO FILE REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that committees may have until 5 p.m. tomorrow to file committee reports.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 12 noon on Monday. After the two leaders or their designees have been recognized under the standing order, there will be two orders for the recognition of Senators, following which there will be a period for the transaction of routine morning business not to exceed 15 minutes with statements therein limited to 5 minutes each, at the conclusion of which the Senate will resume its consideration of the Taiwan Enabling Act.

Pending amendments or motions in relation to the act will be called up on Monday. Rollcall votes will undoubtedly occur thereon. In accordance with the agreement, the final action on the Taiwan Enabling Act will occur at no later than 5 p.m. on Tuesday next.

RECESS UNTIL MONDAY, MARCH 12, 1979

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 12 noon on Monday.

The motion was agreed to; and at 6:51 p.m., the Senate recessed until Monday, March 12, 1979, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate March 8, 1979:

THE JUDICIARY

George P. Kazen, of Texas, to be U.S. district judge for the southern district of Texas, vice a new position created by Public Law 95-486, approved October 20, 1978.

William Ray Overton, of Arkansas, to be U.S. district judge for the eastern district of Arkansas, vice a new position created by Public Law 95-486, approved October 20, 1978.

NATIONAL CREDIT UNION ADMINISTRATION

Lawrence Connell, Jr., of the District of Columbia, to be a member of the National Credit Union Administration Board for the term of 6 years (new position).

NATIONAL RAILROAD PASSENGER CORPORATION

M. Athalie Range, of Florida, to be a member of the Board of Directors of the National Railroad Passenger Corporation for a term expiring July 18, 1981, vice Mary J. Head, term expired.

DEPARTMENT OF COMMERCE

Mary P. Bass, of New York, to be Inspector General, Department of Commerce (new position).

DEPARTMENT OF TRANSPORTATION

Frank Saburo Sato, of Virginia, to be Inspector General, Department of Transportation (new position).

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Eldon D. Taylor, of Virginia, to be Inspector General, National Aeronautics and Space Administration (new position).

SMALL BUSINESS ADMINISTRATION

Paul Robert Boucher, of Virginia, to be Inspector General, Small Business Administration (new position).

CONFIRMATION

Executive nomination confirmed by the Senate March 8, 1979:

DEPARTMENT OF AGRICULTURE

Dale Ernest Hathaway, of the District of Columbia, to be Under Secretary of Agriculture for International Affairs and Commodity Programs.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Thursday, March 8, 1979*

The House met at 11 a.m.

Rabbi Dov Edelstein, Moses Montefiore Synagogue, Appleton, Wis., offered the following prayer:

Ever living God: In these trying times of confusion and perplexity, we are looking to Thee for guidance and sustenance. We pray and grasp for peace and for harmonious relations among all Thy children; yet, there are detractors who despise these lofty aims and hinder their realization among mankind. Give us, O Lord, strength and encouragement that we may not falter.

Bestow Thy guidance and inspiration upon the elect representatives of this American Nation that they discharge their heavy responsibilities with prudence, courage, and humility. May they navigate the ship of our Nation in the turbulent waters to secure and tranquil havens. Do Thou crown with success the efforts of the President of the United States at establishing lasting peace among the nations in the Middle East.

Imbue, O Lord, the hearts of all Thy children with the precious gift of peace as an everlasting blessing for us, and for Thy eternal glory. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

RABBI DOV EDELSTEIN

(Mr. ROTH asked and was given permission to address the House for 1 minute.)

Mr. ROTH. Mr. Speaker, I am honored today to be able to recognize Rabbi Dov Edelstein, who delivered our opening prayer this morning.

Rabbi Edelstein has served for 9 years at the Moses Montefiore Synagogue in my hometown—Appleton, Wis. He is well known in Appleton as an exemplary citizen with an outstanding reputation for community service.

The Rabbi is a native of Romania, and was ordained to the rabbinate in Hungary in 1944. He is also a former inmate of the Nazi concentration camp at Auschwitz. Following the war, he was one of the 50,000 Jews interned by the British in camps on Cyprus prior to the establishment of the State of Israel.

From 1947 to 1962, he lived in Israel and taught Hebrew at several institutions and also taught the language to immigrants. In 1962 he entered the United States and settled in Weirton, W. Va., the sight of his first congregation, coming from there to Appleton 9 years ago.

Rabbi Edelstein holds a graduate degree in American history and is the author of a major study of the relationship of the Wisconsin press toward President Abraham Lincoln during the Civil War.

It is certainly a pleasure and an honor to welcome him here today.

OVERSIGHT HEARINGS INTO OCCUPATIONAL SAFETY AND HEALTH OF THE FEDERAL EMPLOYEE TO COMMENCE

(Mr. GAYDOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GAYDOS. Mr. Speaker, I wish to

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertio ns which are not spoken by the Member on the floor.

announce that the Subcommittee on Health and Safety, on which I have the honor to serve as chairman, will conduct a series of oversight hearings into the occupational safety and health of the Federal employee. The purpose of these hearings will be to determine whether or not the existing law properly protects the health and safety of Federal employees.

The first 2 days of public hearings will be on March 14, 1979, at which time representatives of the Department of Agriculture will testify, and March 28, 1979, at which time representatives of the Department of the Interior have been invited to appear before this subcommittee.

There will be additional hearings scheduled, at which time representatives of other Federal agencies will be invited, as well as representatives of employee organizations and members of the public.

□ 1105

INTRODUCTION OF BILL TO PROVIDE FOOD STAMP BENEFITS FOR SENIOR CITIZENS AND THE DISABLED

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, I want to take this opportunity of thanking my colleagues, Republicans and Democrats alike, for the courtesy and support they have given to my efforts to introduce a bill aimed at helping our senior citizens and disabled people who have lost so much of their food stamp benefits.

Mr. Speaker, today I will be submitting a bill with 105 cosponsors, and I think it is going to have a real impression on the Committee on Agriculture. It is my hope that the subcommittee that handles this matter will bring this bill out promptly. If other Members are anxious to join in cosponsorship of this bill as well, we will certainly be willing to add their names to the list.

FISCAL RESPONSIBILITY

(Mrs. HOLT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. HOLT. Mr. Speaker, imagine trying to build a house without any concept of the size or cost. You just keep building, adding features that you like.

That describes the congressional budget process in its current form. We spend many hours haggling over how much to provide for this and that program or activity, then conclude by adding everything and calling it a budget.

During the last session of Congress, some of us attempted to change this system. On a couple of notable occasions, we even forced the House to vote on budget totals before debating the various specific items and issues. We were demanding that Congress establish fiscal policy before debating how much to spend on each of the many functions.

But the House leadership has decided to prevent any such activity in this term. It persuaded a majority to adopt a rule that prohibits decisions on fiscal policy before we act on all the functions.

We cannot allow the current system to continue if we want the discipline required to move us toward a balanced budget, less inflation, and lower taxes.

I have introduced H.R. 55, providing for a two-step budget process which would require us to vote on aggregate policy before we make individual spending decisions.

This is the prudent and rational way to proceed. This is the mechanism for reaching the fiscal responsibility the public is demanding. I urge you to cosponsor H.R. 55.

THE REPUBLIC OF CHINA ON TAIWAN

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, with many of my constituents, who have made their outrage known to me through letters and telegrams, I wish to protest the shabby treatment President Carter continues to give to our old ally and good trading partner, the Republic of China on Taiwan.

The striped pants set at the State Department has ordered that honorable name stricken from American documents, but that does not change the fact of a country's existence.

For too long we ignored the existence of Red China; now we are ignoring Free China.

The most important thing this House can do for the people of Free China is to make sure they can always purchase all the advanced weapons they need to defend themselves.

The Marx Brothers war in northern Vietnam has shown Red China to be a military paper tiger. We must make sure that American taxpayers are not called upon, through subsidized loans, to give the tiger claws. Free China asks for no handouts. We must turn down the Communists' demands for subsidized American technology.

□ 1115

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time to inquire of the distinguished majority leader as to the program for the balance of the week and for next week.

Mr. WRIGHT. Mr. Speaker, if the gentleman would yield——

Mr. RHODES. I yield.

Mr. WRIGHT. The program for the remainder of this week is the bill H.R. 2479, the United States-Taiwan Relations Act. The rule, if adopted, will be an open rule providing 2 hours of general debate, and we hope to conclude that debate today.

Then, on Monday next the House would meet at noon. No legislative business is contemplated.

On Tuesday, we would meet at noon. If we do not complete H.R. 2479 today, we will first return to that bill. There are no suspensions scheduled, but we will then have a series of three House Committee funding resolutions.

Then, we will have House Resolution 118, to establish a Select Committee on Committees.

On Wednesday, we would meet at 3 p.m. and consider H.R. 2283, Council on Wage and Price Stability Reauthorization, subject to the granting of a rule.

On Thursday, we would meet at 11 a.m. and take up H.R. 2534, providing a temporary debt limit increase, subject to the granting of a rule.

We would expect not to be in session on Friday of next week, March 16. The House will adjourn by 5:30 on all days except Wednesday. Any further program, of course, would be announced later.

Mr. RHODES. May I ask the distinguished majority leader, if the business of the day is not completed by the time of adjournment, will there possibly be a session tomorrow?

Mr. WRIGHT. We expect to complete that business today.

Mr. RHODES. Previously, it was announced that there would be no session tomorrow. That is the reason I ask.

Mr. WRIGHT. That is correct. We expect to complete the business at hand today. We expect to complete action on H.R. 2479 today. If we fail to do so we will return to it on Tuesday next.

Mr. RHODES. I thank the gentleman.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

ADJOURNMENT TO MONDAY, MARCH 12, 1979

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12 o'clock noon on Monday, March 12, 1979.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

UNITED STATES-TAIWAN RELATIONS ACT

Mr. DODD. Mr. Speaker, by direction of the Committee on Rules, I call up

House Resolution 148 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 148

Resolution providing for the consideration of the bill (H.R. 2479) to help maintain peace, security, and stability in the Western Pacific and to promote continued extensive, close, and friendly relations between the people of the United States and the people on Taiwan

Resolved, That upon the adoption of this resolution it shall be in order to move, sections 401(b) and 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2479) to help maintain peace, security, and stability in the Western Pacific and to promote continued extensive, close, and friendly relations between the people of the United States and the people on Taiwan, the first reading of said bill shall be dispensed with, and all points of order against said bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Connecticut (Mr. DODD) is recognized for 1 hour.

Mr. DODD. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN) for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 148 provides for the consideration of H.R. 2479, the United States-Taiwan Relations Act. This resolution provides for an open rule with 2 hours of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs. The resolution also waives all points or order against the bill for its failure to comply with sections 401(b)(1) and 402(a) of the Congressional Budget Act and clause 5 of rule XXI of the rules of the House.

Section 401(b)(1) bars the consideration of any bill which provides new entitlement authority to become effective before the first day of the fiscal year which begins in the calendar year in which the bill is reported. Section 203 of H.R. 2479 contains entitlement provisions which would become effective prior to October 1, 1979 (the first day of fiscal year 1980), and therefore would be subject to points of order under section 401(b)(1) of the Budget Act.

Section 402(a) provides that it shall not be in order to consider any bill authorizing the enactment of new budget authority for a fiscal year unless the bill has been reported by May 15 preceding the beginning of the fiscal year. Since this bill was not reported prior to May 15, 1978, it would violate this provision of the Budget Act.

The chairman of the Budget Committee has informed the Rules Committee that he and his committee have no objection to these waivers since "strict compliance with the Budget Act would necessarily result in a breach in U.S. relations with Taiwan and that bill represents no real additional costs."

Finally, the resolution also provides a waiver of all points of order against the bill for its failure to comply with clause 5 of rule XXI of the rules of the House which prohibits the inclusion of appropriations in a legislative bill.

The resolution provides, in addition, for one motion to recommit.

Mr. Speaker, H.R. 2479, the United States-Taiwan Relations Act, redefines U.S. relations with Taiwan in light of President Carter's formal diplomatic recognition of the Peoples Republic of China. As my colleagues know, this is a rather controversial bill because it seeks to establish the mechanisms of our future nongovernmental relationship with the People of Taiwan now that our formal diplomatic links have been severed.

I would like to compliment my colleague from Wisconsin, Chairman ZABLOCKI, for what I believe has been a superlative job in treading his way through a minefield of hotly differing opinion and reporting out a fine and well considered bill.

Few of my colleagues, I believe, would seriously question the wisdom of extending diplomatic recognition to the Peoples Republic of China, and thus establishing direct government-to-government contacts with the world's most populous nation. Disagreements have arisen over the nature of our future relations with Taiwan. Unfortunately, the United States is unable to recognize both the PRC and Taiwan as each government has steadfastly insisted that only it is the legitimate government of all China. Obviously the President has taken the most realistic course in recognizing the PRC. However, the question we have all asked and will debate today is whether the price of this realism has been too high.

I must admit that at first I had my reservations about the way Taiwan was treated. I was, and still remain, deeply concerned over the future security of Taiwan. Most of my colleagues are aware that the bill we will be considering explicitly states that "any armed attack against Taiwan, or use of force, boycott, or embargo to prevent Taiwan from engaging in trade with other nations, would be a threat to the peace and stability of the Western Pacific area and of grave concern to the United States." This strong language expressing the deep concern of the United States is reiterated throughout section 1 of the bill, and I believe that the unambiguous intent of this bill's provisions concerning Taiwan's security will serve as adequate protection.

The bill, of course, also explicitly states that the United States will make available defense articles and services to Taiwan for its defense against armed attack and requires the President to promptly inform Congress of any danger to our interests arising from any threat to Taiwan. I feel that our flexibility in deciding how to respond to threats to Taiwan is well maintained by section 101(b) which says in part,

> The President and the Congress shall determine, in accordance with constitutional processes, appropriate action by the United States in response to any such danger.

I believe that the flexibility of this language would easily allow us to meet a threat to Taiwan in any manner we deem appropriate.

I do not believe that our relations with Taiwan will unduly suffer as a result of our new nongovernmental relationship. U.S. laws and programs will continue to apply to Taiwan as if derecognition had not taken place. In fact, all treaties and international agreements in force between the United States and the Republic of China before this year, except those terminated in accordance with treaty terms, shall continue in force. Our relations with Taiwan will be handled by the American Institute in Taiwan, a nongovernmental corporation, which will perform the duties usually associated with an embassy. Our commercial, cultural, and consular relations with Taiwan will, I believe, remain very much as they were before.

I would urge my colleagues to support this bill as it provides adequate security provisions for Taiwan, maintains the host of formal nondefense relations with Taiwan, and is a necessary part of a new era in United States-Asian relations which I think history will prove is not detrimental to the fundamental interests of Taiwan.

□ 1120

At this particular juncture, may I again compliment the Committee on Foreign Affairs. This is one of the most delicate diplomatic areas which we have encountered in some time, and the distinguished chairman, the gentleman from Wisconsin (Mr. ZABLOCKI), and the ranking minority member, along with their colleagues on that committee, have literally tiptoed through a diplomatic minefield in dealing with this legislation.

Mr. Speaker, I feel that the 2 hours of general debate will give Members an adequate enough time to express their views on the legislation. The waivers are technical in nature and necessary, and I would urge my colleauges to support this resolution, the rule, and the legislation.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Connecticut (Mr. DODD) has ably described the provisions of this resolution. I think it is very important that the House have an opportunity to debate the measure in depth. The eyes of the world are upon us. The people of Taiwan are our friends. The world wants to know how this country treats her friends, especially since we have lost face in Iran, in the African nations, and, you name it, around the world.

Mr. Speaker, I hope that this House will come up with a solution, which is very difficult in this hour of crisis, a solution which the world will applaud, which we will be happy with, and which our friends in Taiwan can live with.

Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. DODD. Mr. Speaker, I have no requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. ZABLOCKI. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2479) to help maintain peace, security, and stability in the Western Pacific and to promote continued extensive, close, and friendly relations between the people of the United States and the people on Taiwan.

The SPEAKER. The question is on the motion offered by the gentleman from Wisconsin (Mr. ZABLOCKI).

The motion was agreed to.

☐ 1125

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 2479, with Mr. DANIELSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill will be dispensed with.

Under the rule, the gentleman from Wisconsin (Mr. ZABLOCKI) will be recognized for 1 hour, and the gentleman from Michigan (Mr. BROOMFIELD) will be recognized for 1 hour.

The Chair now recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have before the House today an important and indeed a necessary bill. As Members know, the President has asked for prompt action on it.

This is a necessary bill for our national security interests and for Taiwan's protection in view of our present China policy. It has broad bipartisan support and I hope and believe that the House will give it overwhelming approval.

First, Mr. Chairman, let me give some background very briefly and then I will cite the principal provisions of the bill.

The background is as follows: On December 15, 1978, the President announced agreement with the People's Republic of China to an exchange of full diplomatic recognition as of January 1, 1979. Embassies were to be established and were established as of March 1 of this year.

The President also served notice of intent to terminate the Mutual Defense Treaty between the United States and the Republic of China so the treaty will terminate at the end of this year, December 31, 1979.

On December 30 of last year the President issued a memorandum to all Federal agencies which said in effect that the U.S. agencies will continue to do business with Taiwan much as before but will do it through an unofficial entity which will soon be established.

On January 16 this nongovernment entity which was designed to replace the American Embassy at Taipei was incorporated under District of Columbia law under the name American Institute in Taiwan. Late in January after the Congress convened, all of this was prior to the time Congress was in session, which deeply concerned many of us. But after the Congress convened the President sent up legislation to provide for a continuation of U.S. relations with Taiwan on an unofficial basis and to carry on operations through this American Institute in Taiwan.

Meanwhile, the Republic of China has set up its counterpart nongovernment instrumentality entitled "The Coordination Council for North American Affairs" which is now operating here in Washington in place of the former embassy.

Frankly, Mr. Chairman, the President's proposed legislation troubled the Committee on Foreign Affairs in a number of respects. It was ambiguous and contained many deficiencies. The major deficiency was, it made no provision for American policy with regard to the future security of Taiwan. The executive branch seemed more concerned with taking care of governmental programs and activities than providing the legal assurances which are needed for our private sector.

For example, business, commerce, tourism and the like. These activities are the bulk of our daily relationships with Taiwan.

Therefore we need this bill so these relationships can continue with a minimum of interruption.

After hearings the Committee on Foreign Affairs marked up a clean bill which we think will do a good job. The bill, H.R. 2479, which is before us, I am pleased that it bears the coauthorship of nearly all the Members of the Committee on Foreign Affairs on a bipartisan basis.

☐ 1130

Mr. Chairman, as I said, I will briefly outline the major features and provisions of the bill. It contains a declaration of future U.S. policy toward Taiwan in section 2. This section contains five principles, including the U.S. desire to preserve and promote friendly relations with Taiwan, to maintain peace and stability in the Western Pacific, and to maintain a friendly commercial and cultural relationship, as well as other relationships, between the United States and Taiwan.

May I call attention to principle 4, which is found on page 2, line 21 of the bill. Principle 4 states that Taiwan's future must be determined through peaceful means without prejudice to the well-being of the people on Taiwan.

The next principle, principle 5, is just as important. This principle 5 states that any armed attack against Taiwan, or use of force, boycott, or embargo to prevent Taiwan from engaging in trade with other nations, would be a threat to the peace and stability of the Western Pacific area and of grave concern to the United States.

Mr. Chairman, title I, which follows, spells out how and what we will do to carry out the policies spelled out in section 2. We will continue to provide defense articles and services to Taiwan for its defense against armed attack, and if any danger to the U.S. interests arise through any threat to Taiwan's security, the United States will take appropriate action.

With this combination of provisions, I submit that we have provided strong assurances for Taiwan's future. We are making it absolutely plain that we will not tolerate any armed attack or use of force against Taiwan.

Certainly we cannot precisely say in advance just what the United States will do if such an attack or use of force were to occur because that will, of course, have to depend on the circumstances. In any case, what we would do would be under the constitutional process, which is the same way we have acted or would have acted under a treaty. However, in my personal view, the very least the United States should do under such circumstances is to withdraw recognition of the PRC.

There are other important provisions, Mr. Chairman. Title II, section 201, for example, provides that all commercial and other nongovernmental relations may be carried forward under the same application of U.S. laws as if derecognition had not taken place. Taiwan will have the same standing to sue or be sued in U.S. courts as before. All property previously owned by the Republic of China will continue to be owned by Taiwan, including the embassy property here in Washington.

All treaties and other international agreements, except the defense treaty, will remain in force. In other words, whatever trade agreements we have, whatever cultural agreements we have, every agreement we had prior to January 1, 1979, will continue in force.

The bill provides in section 202 for a nongovernmental entity through which the U.S. Government will handle future dealings with Taiwan.

Now, we did not spell out the title or did not say what we want this entity to be called. It could continue to be the American Institute in Taiwan as the President has designated it. If he chooses to change the title, he may do so under the authority we provide, or it could be some other entity if he so chooses.

☐ 1135

Under section 203, U.S. Government personnel can be temporarily separated from Government service so they can work for this entity. Under section 204, the personnel of this entity will be able to engage in activities to protect and serve American persons and businesses on Taiwan in the same way U.S. consulates help U.S. citizens abroad in countries where we have diplomatic relations.

I have been asked whether there is provision in this bill for congressional oversight over and for Government auditing of the proposed new American entity on Taiwan. The answer is yes—because all U.S. laws will continue to apply, and they may be applied specifically to this entity as if it were an agency of the U.S. Government. The entity will be funded by contract from State Department funds. The two authorizing committees of the Congress will continue to have the same funding and oversight authority over the entity as they did before over the Embassy in Taiwan. The two Appropriations Committees will have the same in regards to appropriations. The GAO will have its same investigative power as with any other Government contract, and so forth.

At this point, Mr. Chairman, may I express my appreciation for the help given to us by the Ways and Means Committee in connection with this bill. I will include in the RECORD an exchange of letters between Chairman ULLMAN and myself. I will include letters, not only from Chairman ULLMAN, but from the chairmen of other committees, the Committee on Post Office and Civil Service, for example, and other letters that we had received, clarifying the positions and the policies that are in this legislation which could be interpreted to be within the jurisdiction of other committees of the House.

The letters are as follows:

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, D.C., March 7, 1979.
Hon. AL ULLMAN,
Chairman, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

DEAR AL: Thank you for your letter concerning H.R. 2479, the United States-Taiwan Relations Act.

We on the Foreign Affairs Committee are very appreciative of the advice and assistance rendered to us by your staff, and by the staff of the Joint Committee on Taxation, following my February 22 letter to you concerning this legislation. We were pleased to accept their suggestions *in toto* including a provision which we approved in H.R. 2479 and language in the report on the bill.

In regard to the Tariff Schedules of the United States, I am glad to confirm that your understanding and assumption are correct: namely, that H.R. 2479 does not amend or change in any way the Tariff Schedules of the United States which were in effect immediately prior to the changed status of Taiwan. Section 201(b)(1) of H.R. 2479 states that the absence of diplomatic relations and governmental recognition with respect to Taiwan "shall not affect the application of the laws of the United States with respect to Taiwan" and that U.S. laws "shall apply with respect to Taiwan in the manner that the laws of the United States applied with respect to Taiwan prior to January 1, 1979." Section 205(1) defines "laws of the United States" as including any statute, rule, regulation, ordinance, order, or judicial rule of decision of the United States. . ." Thus H.R. 2479 clearly does not amend or change the Tariff Schedules, and you may assure Members of your Committee that nothing in this legislation either explicitly or by inference would authorize the President unilaterally to change any of the tariff and trade relationships provided under statute immediately prior to the changed status of Taiwan. Indeed, a major function of this bill is to assure that there will be no change in the application of U.S. laws and that Taiwan will continue to be treated under U.S. law as it was prior to January 1, 1979.

Thank you again for your interest and cooperation in this matter.

With best wishes, I remain,
Sincerely yours,

——— ———.
Chairman.

COMMITTEE ON WAYS AND MEANS,
U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., March 6, 1979.
Hon. CLEMENT J. ZABLOCKI,
Chairman, Committee on Foreign Affairs, U.S. House of Representatives,
Hon. RICHARD BOLLING,
Chairman, Committee on Rules, U.S. House of Representatives.

DEAR MR. CHAIRMEN: I am writing with reference to H.R. 2479, the United States-Taiwan Relations Act, which the Committee on Foreign Affairs favorably reported on March 3, 1979, and with respect to which the Committee on Rules conducted a hearing this morning for a rule for consideration of the bill on the floor of the House of Representatives.

The Committee on Ways and Means today reviewed the reported bill and has directed me to advise you that the income tax aspects of the reported bill appear to be acceptable both from the standpoint of technical drafting and substantive policy.

However, the Committee also instructed me to make it clear that it is the Committee's understanding and assumption that this bill does not amend or change the Tariff Schedules of the United States which were in effect immediately prior to the changed status of Taiwan. In particular, Members of the Committee expressed their concern that there be nothing in this legislation which either explicitly or by inference would authorize the President unilaterally to change any of the tariff and trade relationships provided under statute immediately prior to the changed status of Taiwan.

Further, the Committee on Ways and Means wishes to emphasize that, in undertaking to cooperate fully with the evident expedited schedule set by the Committee on Foreign Affairs for consideration of this legislation, its favorable action this date should in no way be interpreted as a concession of any part of its jurisdiction over legislation affecting taxation or revenues, or of any part of its jurisdiction relating to trade and tariffs.

Sincerely,
AL ULLMAN,
Chairman.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
Washington, D.C., March 2, 1979.
Hon. CLEMENT J. ZABLOCKI,
Chairman, Committee on Freign Affairs, U.S. House of Representatives, Washington, D.C.

DEAR CLEM: Thank you for your letter of March 1, 1979, concerning certain provisions of H.R. 2479 ("United States-Taiwan Relations Act") which pertain to matters within the jurisdiction of this Committee.

Under section 203 of the bill, any employee of a Federal agency may be separated from Government service for a specified period for the purpose of accepting employment with the nongovernmental entity established under the bill to conduct dealings of the United States Government with Taiwan. An employee who is so separated is entitled to be reemployed by his former agency in an appropriate position without loss of rights or benefits. While employed with the new entity, the employee may continue to participate in any employee benefit program, such as retirement, life insurance and health insurance programs, but only to the extent that the appropriate employee and employer contributions to the programs are made.

As you pointed out in your letter, our Committee could request the Speaker to sequentially refer H.R. 2479 to this Committee for the purpose of considering those provisions which pertain to matters under our jurisdiction. However, I understand that expeditious consideration of this legislation is necessary to ensure uninterrupted relations between the United States and Taiwan and that consideration of the measure by the House has been scheduled for next week. In view of these facts, our Committee will interpose no objection to consideration of H.R. 2479, provided that such action is not construed as relinquishment of jurisdiction over the employees to whom section 203 of the bill applies.

I would appreciate the inclusion of this letter in your Committee's report on H.R. 2479.

With kind regards.
Sincerely,
JAMES M. HANLEY, *Chairman.*

This legislation, as I said at the very beginning, is very, very necessary. I have also been asked: What is the difference between the bill that is before us and the legislation that is being considered in the other body?

Let me at the very outset say, without assuming to be too immodest, that the bill we present to the Members is structured better. The bill that we present to the Members has the policy statement relating to the security of the United States and of Taiwan at the very beginning, and it is clearly spelled out. In the other body's bill the policy statement portions are within various sections of the bill.

Another difference is that the bill from the other body names the United States as an "Institute." H.R. 2479 is silent in that respect. The bill in the other body refers to the people on Taiwan repeatedly. The bill before us, Mr. Chairman, refers directly to Taiwan, as defined by what we mean by Taiwan and who are the people that we are referring to, including the authorities exercising governmental control over Taiwan in the section in the legislation dealing with definitions. The bill before us repeatedly takes into account the need for maintaining without change the legal, as distinguished from diplomatic, framework within which the private sector operates and which covers the major area of daily dealings with Taiwan.

☐ 1140

The bill in the other body is silent in this respect. The bill before us provides clearly that the employees of the U.S. entity in Taiwan will have all of the consular type authorities so that they will be able to assist and protect U.S. citizens, aid in promoting commerce, and so forth, just as consular officers in countries with whom we have diplomatic relations.

The House Foreign Affairs Committee bill specifically includes boycott and embargo actions against Taiwan, as matters which would be of grave concern to the United States. In this respect, H.R. 2479 also differ with the legislation reported out of the committee of the other body for consideration by that body.

Mr. Chairman, finally the bill before us includes the Embassy in Washington among the Republic of China property which would continue to be in Taiwan hands. The bill in the other body does not include this provision.

Again, Mr. Chairman, I submit this is a well-thought-out bill. The committee worked many, many weeks; held long hearings not only at the full committee level at the subcommittee level as well. Our colleague from New York, the chairman of the Subcommittee on Asia and the Pacific, Congressman LESTER WOLFF, likewise had extensive of hearings. The committee come to this body with a piece of legislation that we are proud of, and one that we hope and expect the House overwhelming approve Mr. Chairman, urge the House to support the bill H.R. 2479.

Mr. BROOMFIELD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I fully endorse the comments of my distinguished colleague, Mr. ZABLOCKI, H.R. 2479, the legislation we have before us today, reflects our deep concern for the security needs and economic freedom of the people of Taiwan, as well as the national security interests of the United States in the Western Pacific. In particular, the bill, under the diligent direction of the chairman of the committee and receiving the broad bipartisan support of our Members, takes significant steps beyond the administration's original legislation to protect the more than 17 million people of Taiwan.

Most importantly, the bill reflects the committee's concerns over many of the deficiencies of the administration's original legislative request—deficiencies which could have been corrected at even an earlier date given more informed congressional consultation by the administration.

As my colleagues well know, if the administration had consulted with the Congress before—during the normalization arrangement—we may have been able to better insure the way in which United States-Taiwan relations would eventually be conducted. Nevertheless, with the legislation we have before us today, the committee has in several significant ways improved upon the administration's position concerning our relations with Taiwan.

I believe that this legislation strengthens the administration's bill—which did not sufficiently address the broader concern for the peace and security of Taiwan. In particular, the Broomfield amendment, which received broad bipartisan support in the committee, improves the administration's legislative provisions concerning threats to the security of Taiwan, stating that beyond an armed attack, any economic boycott or embargo to prevent Taiwan from engaging in trade with other nations would also be a threat to the security of Taiwan.

Moreover, title I of the legislation requires the President to promptly inform the Congress of anticipated dangers to Taiwan. In this regard, it is the committee's intent that the President should inform the Congress of anticipated dangers and should not await their actual occurrence. Information relevant to the provisions of this bill would include the development of a military capability that might threaten Taiwan, deployment of armed forces in positions that could threaten Taiwan and any perceived intentions to undermine continued peace and prosperity on Taiwan. Such information would also include actions or anticipated actions of an economic nature, such as a boycott or embargo, which would also be a threat to Taiwan. This section of the bill also specifies that in the event such information is received, the President—and the Congress—shall determine an appropriate response in accordance with constitutional processes.

The committee also strengthened the administration's initial bill in other ways. The administration's legislation, for example, did not provide sufficient emphasis to assure the continuation of a broad range of private commercial, cultural, and nongovernmental activities which constitute an important exchange in the relationship between Taiwan and the United States. As a result, distinguished members and staff of our committee were constructive in providing language to better protect America's commercial interests on Taiwan. Moreover, the committee—in again improving the administration's bill—acted to protect the Embassy property of the Republic of China.

Because of the administration's original legislation, as well as the President's lack of consultation with the Congress and our ally, Taiwan—in relation to the specific normalization arrangement and the changes in continuation of our Mutual Defense Treaty—I am deeply concerned about the kinds of signals which the President has sent to our friends and allies abroad. In this regard, I sincerely believe that H.R. 2479 can help to restore certain concerns which the Congress has had in relation to the security and economic freedom of our friends and allies and in particular, Taiwan.

In conclusion, I believe that the Committee on Foreign Affairs has developed a bill which is a significant improvement over the administration's request. In light of these legislative improvements, I urge my colleagues to favorably support H.R. 2479.

□ 1145

Mr. ZABLOCKI. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, I want to thank the chairman of the full committee for yielding to me.

I take this time to raise a question which I am not sure has been addressed by the committee.

As the chairman is aware, the Committee on Armed Services, and particularly the chairman of the Committee on Armed Services, the gentleman from Illinois (Mr. PRICE), have been concerned for many years with the implications of nuclear energy and with the problem of proliferation. It is my understanding that in the course of a number of years in the past we have transferred nuclear fuel to Taiwan, large amounts of enriched uranium for the generation of nuclear power, and things of that kind. Under the previous arrangement, the International Atomic Energy Committee had authority to conduct onsite inspections in Taiwan, as a nation, to see whether they were carrying out the terms of the transfer and of the nonproliferation treaty.

I am concerned that if, under this new arrangement, we no longer regard them as a nation, whether, first of all, they are going to be bound by these commitments for onsite inspection and also are going to be subject to the inspection and safeguards of the International Atomic Energy Agency, and finally whether we ourselves will be retaining any capability for onsite inspection in Taiwan.

It would be ironic indeed if an administration which has been so concerned about the problems of nuclear proliferation by this action of breaking off our diplomatic relations were virtually to place Taiwan in a position where they could develop their own independent nuclear capability without any outside restraints.

□ 1150

The CHAIRMAN. The time of the gentleman has expired.

Mr. ZABLOCKI. I yield 2 additional minutes to the gentleman from New York.

Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the chairman, the gentleman from Wisconsin.

Mr. ZABLOCKI. I thank the gentleman for yielding.

I wish to advise the gentleman from New York, first of all, that I thank him for asking the question. I wish to assure him that our committee was just as concerned that nuclear nonproliferation safeguards and the laws of the United States in relation to nuclear supply be abided by. I call the attention of the gentleman to page 4 of the bill, section (b) which clearly states that the laws of the United States that applied to Taiwan on January 1, 1979, will continue to apply in the future. Furthermore, on the same page in the same subparagraph (c) the bill contains the following language:

> (c) All treaties and other international agreements which were in force between the United States and the Republic of China on December 31, 1978, shall continue . . . .

The committee, being concerned, as the gentleman's committee and the gentlemen have indicated, has consulted at length with the Department of State and legal counsel, the General Counsel's Office of the Nuclear Regulatory Commission. As a result, the committee has assured itself that this legislation will permit the NRC to make the required findings under the Atomic Energy Act which are necessary for continued export.

Second, the committee has been assured that the IAEA will continue to safeguard Taiwan's nuclear facilities. Third, if the gentleman will further yield, the committee has been assured that all special understandings, agreements, and peaceful-use guarantees will continue in force. Members of the committee with special expertise on nonproliferation issues have discussed various aspects of these matters in private sessions with officials of the Department of State.

In the long run we were assured and we believe that continued U.S. supply under terms consistent with the Nuclear Nonproliferation Act will provide the best possible framework for assuring that atomic energy is used only for peaceful purposes.

This legislation is the vehicle which will make it possible for the continuation of those assurances.

Mr. STRATTON. I wonder if the gentleman could say whether the present government on Taiwan has also given us their assurances that they will continue to abide by these arrangements.

Mr. ZABLOCKI. If the gentleman will yield further, I am advised that the present government on Taiwan in making the agreement has assured us that they will keep and continue to cooperate with the United States on agreements made.

Mr. STRATTON. I thank the gentleman for his assurances, and feel considerably relieved.

☐ 1155

Mr. BROOMFIELD. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, I would like to begin my remarks by congratulating Chairman ZABLOCKI, of the full committee, and Chairman WOLFF of the Asian Affairs Subcommittee, for their remarkable work on this legislation, H.R. 2479. I know that they put a lot of their own time and effort into the legislation, and they have really made the entire issue much clearer and easier to understand. There is simply no comparison between this bill and the earlier blank check that the State Department proposed; it is a substantial improvement.

I know that one of the primary concerns of both chairmen—which I share—involves our new relations with the Republic of China. Unfortunately this bill gives an ambiguous description of how those relations are to be carried out. The current phrasing is that a "nongovernmental entity" will be established to handle relations between the United States and the Republic of China.

With all due respect to the advocates of ambiguity, I would like to suggest that we make congressional intentions quite clear. First, I think it is important to have specific language which calls for some kind of government-to-government relations. The Republic of China has been our ally for the past 30 years: we have important economic ties with them, and they occupy an area of strategic importance. It is not in our interests or in the interests of the Taiwan authorities to have no formal relations between our 2 countries. A liasion office on Taiwan will not cause irreparable damage to our relations with Peking. It would be symetrical—giving the Republic of China the same status that the Peoples Republic of China had until recently.

I intend to propose an amendment suggesting to the President consideration of withdrawal of recognition if the People's Republic of China threatens Taiwan or the nearby islands. Lately Peking officials seem to think that U.S. recognition is a license for behaving irresponsibly. We must correct that impression in the strongest possible terms. Our recognition of the People's Republic of China should not be viewed as tacit approval of the Chinese invasion of Vietnam, nor as license for aggressive activity elsewhere in Asia.

This amendment would show the People's Republic of China that the United States is vitally concerned about their behavior, and it would put some teeth into our policy with China. We simply cannot sit by and let Peking upset delicate areas of the world without expressing our concerns, particularly should it affect Taiwan. President Carter says that, at least in part, his decision to recognize the People's Republic of China was based on his understanding the People's Republic of China would not attack Taiwan. Peking should be aware that the reverse could be true as well, that is, derecognition.

Most people seem to agree that the real threat to Taiwan is an economic boycott or embargo of some sort by the People's Republic of China. I supported an amendment in the committee saying that these threats would be to the "security interests" of the United States but a majority of the committee decided that this would actually be of "grave concern," which to me is a convenient way to duck the issue. Everything seems to be of "grave concern" to us these days. We should not hesitate to state our strong interests in continuing to trade with Taiwan. It is definitely in the "security interests" of the United States to maintain that trade, to say nothing of the physical security of the island.

In connection with this, I would like to add my voice to those advocating continued arms sale to Taiwan. I was distressed to learn that the President is hesitating to permit sales of sophisticated defense equipment to the Republic of China, such as all-weather fighter aircraft, to say nothing of the belated announcement of a 1-year moratorium on arms sales. Maybe President Carter is concerned that the people on Taiwan will actually attempt an invasion of the mainland. Maybe he believes that arms sales would offend the People's Republic of China.

In either case, I think it is important for Congress to signal its concern that appropriate arms sales continue. If President Carter is going to abrogate the defense treaty with Taiwan, the least we can do is sell arms to the willing buyers on Taiwan.

Another concern that I expressed in the committee hearings involves the Republic of China Embassy. As you know, the bill currently recognizes continued ROC ownership of the Twin Oaks Embassy in Washington. This is an essential provision for two reasons:

First, it is a clear signal to the Republic of China that they still have friends in the United States. At the very least, the ROC officials should be permitted to stay in the building they have occupied for the last 30 years.

Second, the provision represents Congress views that there is absolutely no continuity between the policies of the People's Republic of China and the Republic of China. If the People's Republic of China were to occupy a building that had been used by the Republic of China a few months earlier, some people might think that this is just a continuation of relations, which it is not.

This provision of the bill provides Congress with the opportunity to reject the abandonment of Taiwan; I certainly hope we take advantage of it.

Finally, I would like to make a comment for the record which concerns Senator GOLDWATER's lawsuit against the President. I want observers to understand that in my view none of this debate should be construed as congressional approval of the President's unilateral abrogation of the Taiwan Defense Treaty. It is simply action which is devoted to dealing with the reality of establishing new channels to communicate with the Republic of China.

☐ 1200

Mr. ZABLOCKI. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina (Mr. ROSE).

Mr. ROSE. Mr. Chairman, I would like to ask the chairman of the Committee on Foreign Affairs, the gentleman from Wisconsin (Mr. ZABLOCKI), a question concerning an important institution in Taiwan. Is the gentleman familiar with the Taipei American School in Taiwan?

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. ROSE. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Yes, I am, Mr. Chairman. I am very impressed with that particular school and with some of the other schools we have throughout the world.

Mr. ROSE. Mr. Chairman, I thank the gentleman for that comment.

I have a concern over the future of this school which I would like to share with my colleagues. If we agree to establish the American Institute in Taiwan to handle American interests on that island, I would hope that we would also be asserting that we intend for the Institute to continue to support the Taipei American School as well.

This school, which has been operating on Taiwan for over 25 years, has served as a leader in Asian American schools. The staff and students have enjoyed an innovative curriculum and cultural exchange program which have served to enhance our mutual relations with the people of Taiwan.

In addition, Mr. Chairman, this school has served the children of American missionaries, American technicians, American corporations, and diplomatic personnel.

I will insert in the RECORD at this point a partial list of the corporations and foundations which operate in Taiwan, as well as a brief description of the school. The material is as follows:

Taipei American School is a private school founded in 1949 by parents seeking an American-style education for their children. From humble beginnings in a rented room with 8 students and one teacher, TAS has expanded to its present 20.6 acre campus located in the north Taipei suburb of Shihlin.

The school is owned by the parents and governed by an elected nine member Board of Directors. The elementary school encompasses Early Childhood Education through grade 6 and the secondary school includes grades 7–12.

Broad goals for TAS established by a community committee place emphasis on basic skills, desire to learn, self-understanding, and appreciation of others.

Basic skills in language and math are stressed throughout the program. The elementary school uses the Ginn 360 reading series, the Laidlaw language arts series, and the Scott-Freeman mathematics series. The secondary program is basically college preparatory. Secondary students are required to take four years of English. Two years of math are required in grades 7–12 with pre-algebra through trigonometry courses offered. A program in English as a Second Language is available at all grade levels to increase English proficiency for non-native English-speaking students.

TAS seeks to foster a desire to learn. Elementary students participate in enrichment courses in art, music, library, P.E., and Chinese culture taught by specialists. Four resource teachers augment the instructional program by working with classroom teachers in developing alternatives for extended learning. The Science Resource Teacher has a complete science laboratory. Other resource teachers specialize in learning skills and ESL. No program is available for special education or for assistance with serious learning disabilities.

The secondary school augments the regular program with electives such as humanities, instrumental and vocal music, woodshop, mechanics, photography, and jewelry. Students may study French, Spanish, Chinese, and German in the Foreign Language program. Many extra-curricular activities encourage participation with over 25 clubs and organizations available on campus as well as numerous competitive sports programs.

An integral part of the program is the development of self-understanding, self-discipline, and self-respect. Each teacher strives to effect these goals by creating a positive classroom environment. A complete counseling program complements this effort at all levels with special services available in speech and testing.

Taipei American School also offers a chance for students to profit from their stay in a foreign country through a study of Chinese language and culture. Asian studies are required for elementary students and elective for secondary students. Cultural activities incorporate numerous field trips and visits from local artists and craftsmen.

U.S. Corporations and Foundations Operating in Taiwan

Adams (Taiwan) Ltd.
Admiral Overseas Corp.
AFIA Worldwide Insurance.
A. H. Robins Int'l Co. (Taiwan) Branch.
Air Asia Co., Ltd.
Air Associates Ltd.
Air Market Express H.K. Ltd.
Allied Artists of China Inc.
Allied Engineering Service.
Allied Transportation & Trading Corp.
American Airlines, Inc.
American Bureau of Shipping.
American Express Int'l Banking Corp.
American Int'l Underwriters Ltd.
American Meat Packing Co. (Taiwan) Ltd.
American President Lines Ltd.
Amerex Int'l Ltd. (H.K.)
Ampex Taiwan Ltd.
Anico Agencies H.K. Ltd.
Arvin (Taiwan) Ltd.
The Asia Foundation ROC office.
Asia Silicone Ltd.
Asia Tourist Co., Ltd.
Atari Inc. U.S.A.
Atlas Taiwan Corp.
Ault & Wiborg Co.
Babcock and Wilcox.
Baker & McKenzie.
Bank of America.
Bank of California.
Bankers Trust Co.
Bechtel Int'l.
Berkley Int'l Co., Ltd.
Better Electronics Corps.
Boyden Far East Ltd.
Boehringer Ingelheim Taiwan Ltd.
Bourland Insurance.
Bristol-Myers (Taiwan) Ltd.
Bushnell Enterprises Ltd.
Bernzomatic Int'l Corp.
Beverage Marketing Inc.
Caltex (Asia) Ltd.
Cambridge Advertising Co., Ltd.
Capetronic Int'l Corp.
Cargill Taiwan Corp.
Central Packing & Shipping.
Certified Electronics Ltd.
Champion Building Products.
Charment Enterprises Co.
The Chase Manhattan Bank Taipei Branch.
Chemical Bank Taipei Branch.
China American Petrochemical Co., Ltd.
The China Badger.
China Commercial Service Systems Inc.
China Gulg Plastics Corp.
China Industrial Management Co., Ltd.
Chung Teh Co., Ltd.
C.I.T.C. Industries Inc.
Citicorp/Citibank
Clinton Taiwan Corp.
Continental Camera Corp.
Continental Illinois National Bank & Trust Co. of Chicago.
Control Data Far East Inc. Taiwan Branch.
Cornell-Dubilier Electronics (Taiwan) Inc.
Carl Zeiss Asahi Taiwan Ltd.
Corvetine Shipping (Taiwan) Ltd.
Crown Pacific Ltd.
CTS Components Taiwan Ltd.
Cyanamid Taiwan Corp.
Circle Airfreight Int'l.
Collins Systems Int'l.
Dah Chen Construction & Engineering Co., Ltd.
Daiphone Int'l Ltd.
De Leuw, Cather Int'l.
DHL Int'l (Taiwan) Ltd.
Dimerco Express Corp.
Diamond Shamrock Taiwan Ltd.
Digital Equipment Taiwan Ltd.
Diversified Design Disciplines.
Dulux Paint Co., Ltd.
Dupont Far East Inc.
Dynamar (Taiwan) Ltd.
East & West P.A.
Eastwall Alliance (China) Ltd.
Ebasco Overseas Corp.
EDP Taiwan and Management Consultant Incorp.
Ekman & Co., Ltd.
Electronic Memories & Magnetics (Taiwan) Corp.
Eli Lilly & Co. (Taiwan) Inc.
Engineering Consulting Group, MOEA.
Erik Industries.
E & S Original.
Esso Eastern Inc.
Everett Shipping Agencies.
Fa Tai Chemicals Co., Ltd.
Fairchild Semiconductor (Taiwan) Ltd.
Federeal Plastic Manufacturing Co. (Taiwan) Ltd.
The Flying Tiger Line Inc.
Foremost Dairies (Taiwan) Ltd.
Ford Lio Ho Motor Co., Ltd.
Formosa Aristos Inc.
Fosforus (Taiwan) Corp.
Fu Ter Hong Trading Co., Ltd.
G & S Metal Products Inc.
GEM Inc.
General Electric Int'l Operations Co., Inc. Taiwan.
General Electric Technical Services Co., Inc.
General Instrument of Taiwan Ltd.
General Instrument Microelectronics Taiwan Ltd.
German Remedies Taiwan Ltd.
Gerber Industries Inc.
Getz Bros. & Co., Inc.
Gilbert Assoc. Inc.
Goodyear Taiwan Ltd.
GNJ Far East Co., Ltd.
Grace & Juliett Co., Ltd.
Grant K & E Ltd.
Great American Community Enterprise Co., Ltd.
Green Giant Co.
Grumman Int'l Inc.
Grundig Taiwan Co.
GTE Taiwan.
Gulf Oil Corp.
Great Wealth Int'l Co.
GEC Transportation Projects Ltd.
Haigo Shen & Assoc.
Harris Graham & Partners Ltd.
Herbert Kee Ltd.
Hercules Taiwan Co., Ltd.
Hewlett-Packard Far East Ltd.
Hilton Hotel.
Hong Kong Mercantile Ind.
Hong Kong Teakwood (Taiwan) Ltd.
Hsing Ta Marble & Cement.
Hsin Ho Co., Ltd.
Hughs Aircraft International Service Co.
IBM Taiwan Corp.
IBM World Trade Asia Corp.
ICC Trading (Taiwan) Ltd.
Inland Storage Distribution Center.
Institute of Cultural Affairs.
Int'l Engineers (Taiwan) Corp.
Int'l Executive Service Corps.
Int'l Inspection & Testing Corp.
International Tableware Industrial Corp.
Inter Nuclear Consultants Ltd.
Irving Trust Co.
ITT Unitron Industries Corp., Ltd.
ITW Paktron, Ltd.
Jacky Maeder (Taiwan) Ltd.
Jacobson Van Den Berg.
Jardine, Matheson & Co., Ltd.
Johnson & Anderson Inc. Consulting Engineers.
Johnson & Higgins, Inc. Taiwan Branch.
Jollette Assoc. Ltd.
Kearns Int'l.
Kirkwood, Kaplan, Russin & Vecchi.
KLM Royal Dutch Airlines.
Knowles Electronics Taiwan Ltd.
Kodak (Far East) Ltd.
Kresge K. Mart Ltd.
Lai Fu Trading Co., Ltd.
Lark Int'l (Taiwan) Ltd.
Lien Hwa Industries Corp.
Lien Tung Ltd.
Lion Rock Ltd.
3M Taiwan Ltd.
Mallory Taiwan Ltd.
Manow Int'l Corp.
May Department Store Int'l.
Mfgs. Hanover Trust Co.
Mardel, Ltd.
Maritime Transportation Agencies Ltd
Marsh & McLennan Taiwan Ltd.
Mattel, Ltd. (Taiwan).
Merril, Lynch, Pierce, Fanner & Smith Int'l Ltd.
Midland Overseas Ltd.
Miller Ski Co., Ltd. (Taiwan).
Mitsui & Co., Ltd.
Mobile Petroleum Co., Inc.
Monsanto Far East Ltd.
Morse Shoe Inc.
Motorola Asia Ltd.
Nakufreight (Taiwan) Ltd.
Nalco-Tairen Chemical Co., Ltd.
Nan Shan Life Insurance Co., Ltd.
National Office Equipment Corp.
Nankang Coachyard (British Rail Engineering).
National Distillers Co., Ltd.
National Office Equipment Corp. (NRC).
Northrop-Aircraft Group.
Northwest Airliner, Inc.
National Semiconductor Hong Kong Ltd. Taiwan Office
Oak Far East Corp.
Oak Material Taiwan Ltd.
Oakwood International Corp.

Oceanic Exploration Co., (Taiwan).
Orchard Corporation of America.
The Orchard Corp. of Taiwan Ltd.
Orient Pacific Int'l.
Oriental Union Chemical Corp.
Orion Industries, Taiyan, Ltd.
Otis Elevator Co.
Pacific Chemicals (Taiwan) Ltd.
Pacific Glass Corp.
Pan American World Airways Inc.
Pan Asia Consulting Engineers, Ltd.
Parson Corp.
Peat, Marwick, Mitchell & Co.
Petwood Int'l Ltd.
Pfizer Ltd.
Philips Electronics Building Element Industries.
Philips Taiwan Ltd.
Phillips Petroleum Int'l Inc.
Phillips Brothers Ocianic Inc.
Presto (Taiwan) Ltd.
Price Waterhouse & Co.
Rainier National Bank.
Raychem Far East Inc., Taiwan.
RCA Purchasing Co., N.V.
RCA Taiwan Ltd.
Ren's Motorhome Ltd.
Resonance Int'l Corp.
Richey Electronics Ltd.
Richman Bros. Co.
ROC Spicer Ltd.
Roche (Taiwan) Co., Ltd.
Royal House of Lee.
San Yang Industries.
Schering Taiwan Ltd.
Schmidt & Co. (Taiwan).
Scope Imports Inc.
Sea Land Service Inc.
Seattle First National Bank—Taipei.
Sears, Roebuck Overseas, Inc.
Security Pacific National Bank.
SGS Far East Ltd.
Seel International (USA) Ltd.
SGV Soong & Co.
Shaxon Int'l Ltd.
Shihlin-Kimberly Corp.
Simmons Int'l Ltd.
Singer Industries (Taiwan) Ltd.
Silo Corp.
Sita World Travel (Taiwan) Inc.
Southeast Engineering Corp. Taiwan Branch.
Sprague Taiwan Corp.
Squibb (Far East) Ltd.
S. T. Chiang & Co.
Sterling Products Int'l Inc.
Su Chiang & Co., Ltd.
Sueling Inc. (Taiwan).
Sung-I Industries Ltd.
Sylvania Philco Taiwan Corp.
Taipei American School.
Tait & Co., Ltd.
Taita Chemical Co., Ltd.
Tai Teh Umbrella Ltd.
Taiwan First Investment & Trust Co., Ltd.
Taiwan Int'l Patent & Law Office.
Taiwan Mfgs. Ltd.
Taiwan Maritime Co., Ltd.
Taiwan Motor United Co., Ltd.
Taiwan Orchid Express Ltd.
Taiwan Polypropylene Co., Ltd.
Taiwan Scott Paper Corp.
Taiwan Synthetic Rubber Corp.
Taiwan Trading Corp. USA.
Taiwan United States Industries Co., Ltd.
Taiwan Upland Industries Inc.
Teh Hua Chemical & Pharmaceutical Co., Ltd.
Teledyne Int'l Marketing.
Texas Instruments Taiwan Ltd.
Texas Instruments Supply Co.
TMX Taiwan Ltd.
Toronto Dominion Bank.
Tradepower (Taiwan) Ltd.
Trans Mediterranean Airways.
Trans World Electronics Co., Ltd.
TRW Electronics Components Co.
TTC Equipment & Service Ltd.
Union Carbide Eastern Taiwan Office.
Union Carbide Formosa Co., Ltd.
Union Pacific Railroad Co.
United Artists of China Inc.
United California Bank.
United Exporters & Co., Ltd.
United States Lines Inc.
United States Trade Center.
Universal Trading Co., Ltd.
Upjohn Int'l. Inc.
USI Far East Corp.
Int'l. Communication Agency.
U.S. Summit Corp. Taiwan office.
Warner Bros Inc.
Universal Financial Co., Ltd. H.K.
Wesco Products Co., Ltd.
Westinghouse Electric S.A.
William Hunt & Co.
Winthrop Lab. (Taiwan Branch).
Whashin Tiger Leasing Inc.
Wrigley Taiwan Ltd.
Watanmal Boolchand & Co., Ltd.
Western Offshore Drilling & Exploration Co.
Western Wheat Assoc. U.S.A. Inc.
Y. Chen & Co, Ltd.
Young Brothers Enterprises, Inc.
Zenith Taiwan Corp.
ZIM Israel Navigation Co., Ltd.

OTHER MULTI-NATIONAL COMPANIES IN TAIWAN

Alcron Int'l. Ltd.
Ash Int'l. Ltd.
Bluewater Yacht Bldg. Co., Ltd.
Carlin Products, Mfg. Co., Ltd.
C.B.S. Apparel.
Cementation Int'l. Ltd.
China Pacific Corp.
Ciba-Geigy Ltd.
Cilman & Co., Ltd.
Collins Systems Int'l.
Concord Express Ltd.
Cosa Libermann Taiwan Ltd.
Esinberg Group of Cos.
Fabel (Far East) Corp.
Food Fair Overseas Ltd.
George Chen & Co.
GETS Co.
Hapag Lloyd.
IBD Int'l. Co., Ltd.
ICI (China) Ltd.
Int'l. Bunker Sales Ltd.
Johns Consolidated Ltd.
L. M. Ericsson.
Morraex Taiwan Ltd.
Pepsi Cola.
Rohm.
Seagram Vintners Int'l.
Simens Liaison office.
Swire Trading.
Taiwan Scott Paper Corp.
Teh Hsin Dyes Chemical Co., Ltd.
Texair Co., Ltd.
TMS Taiwan.
TMX.
Tuff-Kote Dinol (Taiwan) Inc.
Winn Sports.
Whirlpool.

Mr. ROSE. Mr. Chairman, I appreciate the comments of the chairman of the committee. I think it is important for the record to show that we do intend to have the institute that we are establishing by this legislation continue its strong support and working relationship with this Taipei American School.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. ROSE. Yes, I yield to the chairman of the committee.

Mr. ZABLOCKI. Mr. Chairman, I desire to commend the gentleman from North Carolina (Mr. ROSE) for bringing his concern to the attention of the House.

Let me allay the fears of the gentleman. We know the value of the school, and our intent is that all of the activities which the United States had with Taiwan prior to January 1, 1979, should continue as they had prior to that date. I can assure the gentleman from North Carolina that in our oversight capacity we will establish our concern that the institute support the school.

Mr. ROSE. Mr. Chairman, I greatly appreciate the gentleman's comments, and I thank him for giving me this opportunity to express my views.

Mr. BROOMFIELD. Mr. Chairman, I yield 6 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, we find ourselves in an unprecedented situation today. It is unprecedented in the history of our Nation, because never before has a President of the United States unilaterally rejected one of our longstanding allies in favor of a Communist dictatorship that has been responsible for the deaths of 20 to 40 million of its own people. Red China's acts of aggression against its neighbors continue even at this very hour and it has a long and proven record of suppressing the human rights of its citizens.

Never before has a President of the United States contended that he alone, without the advice and consent of the other body or of the Congress, has a right to terminate a mutual defense treaty with an ally. And, never before has the good faith and the will of the Government of the United States to meet its international commitments been called into such serious question.

There is no parallel for the legislation before us today. Our history knows no instance of a corporate legal fiction financed by U.S. taxpayers, an anomalous entity proposed in lieu of an embassy to deal with a nation of 18 million people who are our friends.

You will be told that this legislation is necessary to help Taiwan. "Help," indeed. It offers the same service as gravediggers render to the deceased.

On December 15 last, the President of the United States with an arrogance unequalled in recent history ignoring the specific vote of the Congress of the United States, requiring consultation on the issue, announced that he had decided to recognize the People's Republic of China, and to cast into limbo, the Republic of China on Taiwan. He swallowed the Red Chinese terms which had been rejected by previous Presidents, because those terms totally undermined Taiwan and its security. The President not only recognized Red China and dumped Taiwan, but he sought to terminate by his sole act the 1954 Mutual Defense Treaty with the Republic of China.

His power to act in this manner has and is being questioned, and ultimately will be determined by the Supreme Court of the United States in a case in which I and many others in this House have joined as plaintiffs.

Out of all this has come a new mythology, that Peking governs not only the mainland, but also Taiwan. That is just as unrealistic as the claim that Taiwan was the de facto government of the mainland. So today, there are no governmental relations between the United States and the Free Republic of China. Enormous legal complications are facing both nations and this legislation will not cure them. Taiwan has been placed in a position of insecurity, subject to possible economic strangulation by mainland China, and eventual armed attack. And, all of this has been done against the overwhelming support of the American people who in every major public opinion poll have said we should not abandon our ally on Taiwan.

Put aside for the moment the argument whether Red China should or should not have been recognized by our Government. There is always a case to be made for recognition of a de facto government, and that is why we should continue to recognize Taiwan. I personally disagree with the recognition of Red China but that is not the question here.

The certain question that we must face in the process of amending this legislation is what is best for the United States and what will preserve the freedom of 18 million Taiwanese.

Mr. Chairman, the United States of America has always been willing to stand for freedom. We have opposed communism and recognized it for the evil that it is. What could possibly justify such an abrupt change in our policies and our principles? What could require this act of abject appeasement?

What did we gain? First, we are told that this recognition of this new "reality" will bring us peace.

Yet, within a matter of weeks after the President's decision, Teng Hsia-ping paraded across the country like a rabid little panda, shamefully using his tour as a forum to stir up trouble between the Soviet Union and the United States. So blatant were his actions that he even caused embarrassment to our Government, which does not embarrass easily these days.

Within a matter of weeks the Red Chinese had attacked Vietnam, and how many people died or were injured we will not know for some time; yet another manifestation of their peacefulness.

Throughout Asia and the Pacific, nations with whom we have alliances are reviewing their relationship with the United States, questioning whether we are actually a trustworthy partner for the future. And I have no doubt even as we debate here today that plans already have been laid by the Government of Red China for eventual economic and military action against Taiwan despite the repeated bland assurances by the administration; assurances that have not come forth from Red China. If peace and stability were the goal, we might have expected that the President would seek and obtain a guarantee of peace between mainland China and Taiwan. As it turned out, not only was this request of Red China never made, the President of the United States clearly misled the people on this important point.

At his press conference on January 17, he made a direct response to a question in which he was asked, "Mr. President, did you at any point ask the Chinese to provide a binding written pledge that they would not try to seize Taiwan by force, and if you did request it why didn't you get it, and if you didn't get it, why didn't you ask for it?"

The President replied before a national audience, having dealt with this subject in intricate detail for months:

> Yes, one of our goals in negotiation was to get a public commitment on the part of China that the differences with Taiwan would be resolved peacefully. This was not possible to achieve.

Administration officials later conceded that the President's answer was absolutely contrary to the facts. Taken together with the concealment of a U.S. pledge not to sell arms to Taiwan as well as other parts of the deal with Red China, one must question the sincerity of the President in presenting his case to the country. So once again "Peace in our time," has an all-too-familiar ring.

Was there economic benefit to be achieved from this deal? We are being told that, indeed, we will benefit greatly from trade with Red China; but that hollow claim is certainly exposed in the light of the facts. Trade between Taiwan and the United States alone in 1978 amounted to nearly $8 billion, making that nation our eighth largest trading partner in the world. This must be compared with less than a billion dollars in trade—exports and imports—with the People's Republic of China. In the last few days we have been informed by the international press that Red China has canceled abruptly without warning $2½ billion worth of contracts that it has made with Japan, and yet we are told they are a potentially reliable trading partner.

And, what is to happen when cheaply made products produced by slave labor in Red China flood our markets and jeopardize American jobs?

No, for the foreseeable future, no great economic boom will occur in the United States due to Red China trade.

What the President has done is not to insure the independence of the Republic of China on Taiwan, but to assure its eventual destruction at the hands of Red China. The President chose not to recognize the reality of two Chinas but in effect he changed sides in the conflict between these two nations. In this instance he changed sides in the conflict between freedom and communism. And in so doing he has created new tension in Asia and undermined the credibility of the United States and its commitment to freedom everywhere in the world.

And now Congress is left to "pick up the pieces." You do not have to accept that characterization from the gentleman from Maryland about this legislation. It is the appropriate description supplied by the distinguished chairman of the Foreign Affairs Committee, for whom I have the greatest respect. He described the role that Congress has been assigned in this mess as "picking up the bits and pieces" and went on to say that the administration's suggestion for a private corporation (which is not really a private corporation) to deal with Taiwan was at best "Mickey Mouse." I think that it is a denigration of that famous although small American character to associate him with this endeavor, but that phrase has come to mean all that is flimsy, insincere, and frivolous.

I hope that the House will adopt strengthening amendments today which will retain government-to-government relations with the free Republic of China regardless of how much the Red dictators in Peking may object. I hope that we will specifically provide for the security interests and the defense needs of the people of Taiwan. I hope that we will fashion this legislation to assure that unilateral actions by the President will not be able to weaken further the position of our free allies.

Mr. Chairman, no amount of soft words, pious hopes or propaganda can remove the stain on American honor that the President's actions have inflicted. It is left to us to try to salvage what we can.

☐ 1205

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. QUAYLE).

Mr. QUAYLE. Mr. Chairman, I thank my distinguished colleague for yielding.

Mr. Chairman, first of all, I would like to commend the chairman and the members who have drafted this bill. This is a greatly improved bill from what we started with. But I would just like to put in perspective what has happened.

In late November, I have quotes that the State Department officials and the people in the administration referred to the normalization of relations with the PRC as being on the back burner.

☐ 1210

I quote from a New York Times article:

> Officials stressed that in planning for an eventual normalization of relations with China, the Administration had assumed there would be a period of stability in China with the leaders in Peking strong enough to take the steps necessary to assure the U.S. that force would not be used to unite Taiwan to the mainland.

That was late November, ladies and gentlemen. On December 15 we moved forward with full diplomatic relations with the PRC. December 17 was the date we had the failure of the Camp David I peace accord. So, what did we gain by our new arrangement?

Let me read, and I quote from the context of the committee discussion on what we have gained:

> . . . the U.S. would be able to continue "unofficial" relations with Taiwan and would be able to give the required 1-year notification of termination of the Mutual Defense Treaty, instead of instant abrogation.

In other words, we can go ahead and live with the treaty we had with Taiwan, and give the 1-year notification, but unofficial recognition. We could not have a liaison office. We cannot recognize a government that has been there for 30 years, because the PRC told us not to. That was a major concession as far as the PRC was concerned.

Other concessions were:

> . . . The U.S. would be allowed to continue arms sales to Taiwan (however, it is likely those sales will be of less advanced or obsolete defense articles under PRC dicates).
>
> . . . the PRC would not contradict the President's statement that the Taiwan issue would be concluded peacefully.

The latter is a very important concession, because we never even asked the PRC to give a formal statement to not use force against Taiwan.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. BROOMFIELD. Mr. Chairman, I yield 1 additional minute to the gentleman from Indiana (Mr. Quayle).

Mr. QUAYLE. We did not even ask that force would not be used, and yet this is supposed to be a substantive concession by the PRC.

And the fourth substantive concession:

> . . . and China would refrain from referring to the "liberation" of Taiwan, but would instead call for the "reunification" of China.

Those, Members of Congress, are the substantive concessions that moved this thing from the back burner last November. I leave you with this question, what have we gained? I think the answer will be that we have not gained, but perhaps in the eyes of the world we have lost.

Mr. ZABLOCKI. Mr. Chairman, I yield 3 minutes to our colleague and very highly respected friend, the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. Rodino).

Mr. RODINO. Mr. Chairman, I have sought recognition in order to discuss several immigration-related provisions which are contained in the legislation now under consideration.

As the distinguished chairman of the Committee on Foreign Affairs (Mr. Zablocki) knows, these matters are within the jurisdiction of the Judiciary Committee, particularly the Subcommittee on Immigration, Refugees and International Law, and I have asked the chairwoman of that subcommittee to join us in our brief colloquy.

I would ask the gentleman whether he can assure me that the inclusion of these provisions in this bill is not meant to impinge upon the jurisdiction of the Judiciary Committee and that it has been done without prejudice to our jurisdiction over these items or to our future legislative consideration and oversight of these provisions once they are enacted into law.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. I thank the gentleman for yielding.

Mr. Chairman, I desire to thank the distinguished chairman of the Judiciary Committee for bringing up this issue. Certainly, I can assure the chairman and the gentlewoman from New York of the intent of the Committee on Foreign Affairs. It is not our intent to transgress or trespass on the jurisdiction of the Judiciary Committee on these matters of immigration.

□ 1215

I am sure that I can speak for the members of the Committee on Foreign Affairs when I say that we welcome the oversight of the gentleman's committee and review of the various immigration-related matters and provisions of this bill once they have been enacted into law. The Committee on Foreign Affairs, of course, will be exercising oversight jurisdiction and review of all provisions of the law within the jurisdiction of the Committee on Foreign Affairs. However, I can assure the gentleman from New Jersey (Mr. Rodino), the chairman of the Committee on the Judiciary, that it is not our intent to impinge on that committee's jurisdiction.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. I thank my distinguished chairman for yielding.

Mr. Chairman, I appreciate the remarks that have been made by the distinguished chairman of the Committee on Foreign Affairs (Mr. Zablocki) as well as the comments made by my distinguished chairman (Mr. Rodino). As the new chairwoman of the Subcommittee on Immigration, Refugees, and International Law I have a keen interest in the immigration-related provisions of this bill and have every intent to conduct oversight hearings at some future time to insure the officials of the American Institute in Taiwan properly and efficiently administer the provisions of the Immigration and Nationality Act. In my judgment it is essential that consular services and visa issuance functions which are performed in Taiwan be done with the closest scrutiny of U.S. Government officials who are charged with the responsibility of carrying out the provisions of our immigration law.

Likewise the foreign state chargeability provisions in this bill would allow Taiwan to be considered as a country for purposes of the 20,000 per country limitation on immigration to the United States. Once again my subcommittee will closely monitor the implementation of this provision, particularly in view of the heavy demand for immigrant visas in the PRC, Taiwan, and Hong Kong.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. Rodino) has expired.

Mr. ZABLOCKI. Mr. Chairman, I yield 2 additional minutes to the gentleman from New Jersey.

Ms. HOLTZMAN. If the gentleman will yield further, may I ask the chairman if he knows whether the President, who is authorized to treat Taiwan as a separate country for purposes of the 20,000 limit, intends to exercise that function?

Mr. ZABLOCKI. Mr. Chairman, if the gentlewoman will yield, it is my understanding that there is no intention on the part of the executive branch to admit the 20,000 Taiwanese who could be given immigration visas under the provisions of this bill.

Ms. HOLTZMAN. I very much hope that if the President does exercise the authority granted to him in this bill, that he will make every effort to urge the Taiwanese to accept for resettlement Vietnamese refugees, because as of this time, the Taiwan Government has accepted less than 20 refugees from Indo-China, as I understand it.

Mr. ZABLOCKI. If the gentleman will yield further, Mr. Chairman, I am sure the gentlewoman from New York (Ms. Holtzman) will agree that the President will take into consideration all aspects of the refugee program in exercising the immigration authority of the United States.

Ms. HOLTZMAN. Mr. Chairman, I thank the gentleman.

Mr. RODINO. Mr. Chairman, I thank the gentleman.

Mr. BROOMFIELD. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Illinois (Mr. Hyde), a foreign policy expert.

Mr. HYDE. I want to compliment the committee, Mr. Chairman, for making the best of a very bad situation; and my remarks are in no way to be interpreted as any criticism of the committee.

Mr. Chairman, the Red Chinese wanted three things for normalization, and they got all three: remove our troops, No. 1; remove our Ambassador from Taipei, No. 2; and repudiate the defense treaty of 1954, No. 3.

I might point out that there is going to be a traffic jam on the Pacific Ocean as the ships withdrawing our troops from South Korea bump into the ships withdrawing our troops from Taiwan, as we withdraw, as we retreat, as we advance to the rear out there.

As for removing the Ambassador from Taipei and putting him in Peking, why did we not live up to the Shanghai communique, that authoritative document so often cited as the precedent for what has been done? Under the Shanghai communique we opened up a liaison office in Peking and sent Mr. Woodcock's predecessors there.

Why do we not open up a liaison office in Taipei and simply shift the Ambassador from one capital to the other?

We did not even give the Taiwanese the kind of treatment we gave the Red Chinese under the Shanghai communique.

Insofar as repudiating the defense treaty of 1954 is concerned, we are told that the situation is different out there now. In 1954 our adversaries were China and the Soviet Union.

□ 1220

Now it is just the Soviet Union. We can embrace Red China without any misgivings whatsoever.

In addition to repudiating the defense treaty, we also agreed, and this came out later, not to initiate any new contracts, any new arms sales, to Taipei, to Taiwan, during the remaining waning year of that defense treaty.

In addition, Mr. Chairman, we just settled our claims with Red China, 40 cents on the dollar. How did they make out? One hundred cents on the dollar. So out of about six or seven issues, we got zero and they got everything they wanted.

Taiwan—17 million people, with a healthy expanding economy, militant anti-Communists, an unsinkable aircraft carrier, with five nuclear plants over there. And do you know what we got? We got the right, maybe, to trade with 1 billion slave laborers and get access to some of their oil, which they are going to keep when they industrialize or sell to Japan. That is some big deal.

The failure to consult with Congress by the President was a more significant reassertion of the imperial presidency than Nixon dressing up his palace guard as chocolate soldiers. This was a profound reassertion of the imperial presidency.

Leaders and policies change in China. It is almost like a business cycle. They go from the frown to the smile, from the smile to the frown. The most long lasting relationship that we had with a Communist country, the Soviet Union in World War II, has hardly been salutary or beneficial in the long term.

Ask Eastern Europe, ask the Middle East. We urge morality and high principle in fashioning our policies in the Middle East, but we get awfully pragmatic when it comes to Asia. We let Red China dictate the terms down to the last item.

Someone has described Woodrow Wilson at the Paris Peace Conference as a virgin in a bawdyhouse yelling for a glass of lemonade. I do not think our foreign policy has lessened its naivete since that time. Back in 1945 we told Chiang Kai-shek, "We are not going to give you any more aid until you broaden the base of your government. Get democratic. Bring in Mao Tse-Tung's agrarian reformers." He resisted, and we are about to finish the dissolution of anti-Communist China we started back then.

Does it sit well with the Members that we demand a high standard of human rights from all other countries that are pro-Western in South America or Africa, but we rhapsodize about normalization in mainland China? The one place one could go in the world up until December 15 where "Yankee go home" was not written on the walls was in Taipei. Our friendships become transient; they are illusory; and they are marked by duplicity. We let Red China pick our friends in Asia, and the terms of our friendship. That is an embarrassment and makes me less proud of my country than I was before this incident.

Mr. Chairman, I yield back the remainder of my time.

Mr. ZABLOCKI. Mr. Chairman, I yield 6 minutes to the gentleman from Pennsylvania (Mr. BAILEY).

Mr. BAILEY. Mr. Chairman, since the December decision by President Carter to accept mainland China as a separate and viable political entity, I have attempted to rationalize the administration's contemporaneous withdrawal of recognition from Taiwan. My concern has led me to speak with Dr. Brzezinski and other White House aides. Neither the wisdom nor the necessity of what might appear to be a questionably advantageous policy shift was apparent after my inquiry.

As I stated in a recent letter to the President, he is to be congratulated on accomplishing the long overdue and welcome recognition of mainland China as a member of the family of nations, but I fear we have corrected one error and committed another. Taiwan is a strong and viable nation which has long been our friend. Instead of withdrawing diplomatic relations with the Republic of China, we should have insisted on dual recognition. Moreover, I feel strongly that consultation with Congress would have placed more pressure on both Chinas and enhanced our bargaining position.

However, I will probably vote for the United States-Taiwan Relations Act to salvage what we can at this time and urge my colleagues to act accordingly.

A copy of my letter to the President is attached, and I would like to read it to you:

HOUSE OF REPRESENTATIVES,
Washington, D.C., March 7, 1979.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I wish to congratulate you on accomplishing the long overdue and welcome recognition of Mainland China as a member of the family of nations. Although we may not endorse the desirability of much in Mainland China's history, nor recommend her human rights posture, it is a strong nation toward which necessity dictates the prudence of full and complete recognition. There is no harm in open communication nor in an accommodation of common sense, political reality.

I wonder, however, if we have not merely corrected one error and committed another. Taiwan is also a strong and viable nation. The arbitrary insistence by both the Mainland Government and Taiwan of the Chinese nation's singularity cannot be legitimized by an equally foolish naivete on our part.

There simply seem to be no reasons for the drastic steps we have taken. Taiwan may now, in all probability, endeavor to become one more member of the nuclear family, something for which few, least of all us, can criticize them. Worse yet, we have withdrawn recognition from a nation, long our friend, that will continue to exist with or without us. The human rights foundation of our foreign policy, which you have so forthrightly and admirably advanced, has been set aside for a simple change of sides. Simply stated, we have traded one political fiction for another, without even compelling, practical reasons.

I deeply fear the error of your decision, and would have preferred the insistence and practice of dual recognition with an equally strong official refusal to address the issue of singularity. There seems to be nothing to indicate even the diplomatic desirability in giving so much in principle and practicality for so little. Above everything, our human rights philosophy forms the cornerstone of our policy, and like most fundamental political ideas, is only useful when practiced as strongly as reasonably possible. In the long run, we would have gained more had we followed a more intellectually honest approach.

I sincerely hope the Congress will find the strength to alter your position for an additional reason. Executive prerogative and power notwithstanding, I feel the manner and timing of this move was very poorly advised. Consultation with Congress and/or the public would have placed more pressure on both Chinas and enhanced our bargaining position, something which many feel we have foolishly given away. I hope you will consider the possibility of allowing the political process in this nation, through the Congress, an opportunity to effect these policy changes which were hasty and ill-advised.

With deepest personal regret, I am, even though in disagreement,

Most sincerely yours,
DON BAILEY,
Member of Congress.

□ 1225

Mr. BROOMFIELD. Mr. Chairman, I yield 9 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, the official opening of the U.S. Embassy in Peking last week signaled the termination of our Nation's long standing policies of the United States toward the Republic of China (Taiwan). By swift unilateral action, President Carter has committed our Nation to the extension of full diplomatic relations to Communist China while at the same time severing our official relations with Nationalist China. The reason given by the President for this hasty action was that "we are recognizing simple reality."

As pointed out in a recent editorial in the Omaha World Herald, there is substantial logic recognition of the mainland:

> Red China is there. It is a world power. To recognize it formally is not to endorse its form of government.

At the same time, however, the Herald points out that we must also recognize that—

> The "simple reality", to use the President's phrase, is that Taiwan is a self-supporting island nation which is not part of mainland, Communist China.

How incredibly inconsistent for the President of the United States to recognize "the simple reality" of Communist China's existence and, in the same speech, indicate that the United States will ignore the "simple reality" of Taiwan's separate, independent existence.

The issue at concern here is not our recognition of the Peking government or extending our friendship to all the people of the mainland. Closer relations and cooperation between Washington and Peking is no doubt in our national interest as a tool to advance world peace and world trade. The issue of concern resulting from the President's action is our continued commitment to Taiwan and the manner in which we intend to fulfill that responsibility.

For more than 20 years, the two great Communist giants, Russia and China, have faced each other on their common border. To the Chinese, the Soviets represent an ever-present threat to their very existence. Historical tensions and conflicts along that border coupled with recent Soviet inspired pressure along their southern boundaries have increased their fears of Soviet encirclement and hegemony.

Acting as a result of these fears, China has sought closer relations with the United States and her Western allies to act as a firm, reliable counterweight to Soviet pressure. In this manner, the Chinese would seek to increase western pressure on Russia in an effort to lessen the threat they now face from the Soviets.

To this end, the United States would share their concern about Soviet intentions and activities. We would share in the benefits of a closer relationship. The Soviet threat would be diminished by improved Sino-Western cooperation as well as increased economic benefits from trade. The critical question remaining is not one of mutual interest, but the terms under which such "normalization" and recognition are negotiated.

For many years, the Peking Government has insisted on three preconditions before it would accept any formal normalization of relations with the United States. First, the United States must withdraw recognition of Taiwan and acknowledge Peking as the sole legitimate government of all of China. Second, we must also withdraw all U.S. troops from the island. Finally, we must terminate our mutual defense treaty with Taiwan. The United States for its part had refused to accept those terms until Peking was willing to guarantee a peaceful settlement of the Taiwan issue. Both sides acknowledged and accepted the position of the other and agreed to disagree while moving forward in all areas of cooperation since the historic Nixon visit.

It was from this position that President Carter took his step toward a "simple reality." His action, incredibly accepted all three of Peking's original demands while relinquishing our own demand for a peaceful solution guarantee for our long and faithful friends on Taiwan. As recently stated by the Honorable George Bush, the former head of the U.S. Mission in Peking:

> The terms the Carter administration has accepted, and even trumpeted, are the same terms that have been available for the past seven years; but they were always refused before because we knew—just as the Chinese knew—that in the absence of sufficient guarantees, they were but a figleaf for an abject American retreat.

The next important question we must ask, is with whom have we made this new pact? The political situation in China suffers from the same instabilities and uncertainties that effect other Communist regimes. With no reliable succession procedures, what certainty do we have that with leadership change, we will not have a policy change? Should major policy decisions be based on an understanding with one man; particularly when that man's age, political support and past history call in to question his future influence. Yet, the President has by unilateral action placed the future of the 17 million people on Taiwan in the hands of just such a man with no assurances of their safety.

One of the major benefits that the United States is expected to achieve as a result of this action to normalize relations is the advantage of increased commercial and strategic ties. However, it has always been clear that with regard to foreign trade, China needs the United States and our technology much more than we need them. Their eagerness for such trade and technological assistance in the past had given the United States an important bargaining tool. If China's turn to the West is in fact a long-term commitment, then such leverage would have become even more significant in the future. Under the President's plan, unfortunately, that bargaining tool was cast aside.

Because of the Russian threat and their need for U.S. products and knowhow, the move to normalize and settle the Taiwan problem was never an obstacle for the Chinese. The advances we are likely to continue making in the areas of commercial and strategic importance would for the most part have occurred anyway under the existing relationship, a relationship, I might add, that provided for a de facto political relationship, allowing both sides to work together while at the same time permitting us to maintain the integrity of our commitment to Taiwan.

Once again, I must stress that the issue here is not whether we should normalize relations with China or that the President has the right to do so. The question here is one of fundamental morality and international strategy. At a time when we have declared to the world that "human rights is the soul of our foreign policy," how can we abandon all official ties to more than 17 million people in favor of recognizing a Communist dictatorship.

We should be considering what kind of signals this action has sent to our friends and foes alike. If we treat an old and trusted ally in this manner, what reaction can we expect from other nations—large and small—with whom we share mutual security interests. The administration assurances do little to reassure Israel that strategic importance of Middle East oil fields will never outweigh our moral commitment to their defense and survival. Unfortunately, the price we all paid for recognizing the People's Republic of China has not only diminished our credibility throughout the world, but also diminished the prospect for peace. China's recent invasion of Vietnam certainly underscores our questionable new relationship and our regard for stability and peace throughout the world.

Compounding these basic questions surrounding the new China policy are equally serious questions about the manner in which it was carried out. Congressional leaders were informed of the new policy at a time when the Congress was in recess and then only hours before its formal announcement to the rest of the world. But even more important than the administration's failure to consult with the Congress was the decision to terminate our defense agreements with Taiwan.

Despite a consultative procedure contained in security legislation passed last year, the President unilaterally decided to terminate our Mutual Defense Treaty with the Republic of China. In doing so, the President raised a constitutional question regarding the power the Chief Executive has to annul a treaty that required the Congress to approve. This decision is being challenged in courts with many serious questions hanging in the balance. As stated in a recent Richmond Times-Dispatch editorial:

> If the courts uphold a Presidential right to break such treaties without the restraint of legislative concurrence, then the credibility of the United States as a stable, dependable ally will be thrown into greater doubt.

The White House contends that "the treaty makes no reference to the Senate or Congress, or the need for approval of the legislative branch in order for notice to be given of termination of the treaty." On the other side, however, no less an authority than Thomas Jefferson wrote:

> Treaties being declared equally with the laws of the United States, to be the Supreme Law of the Land, it is understood that an act of the legislature alone can declare them infringed or rescinded.

The critical issue at stake in this dispute remains in the hands of the courts. Accordingly, the Congress must now act in this new "reality" to do what it can to assure Taiwan's safety and continued prosperity in conditions of freedom.

I submit that we can start by telling the 900 million people of the mainland that we seek peace and friendship and that we hope that our bonds of common interest will grow and that their government will evolve ways of allowing all of their citizens to participate in their national destiny. By the same token, we must emphatically state that as long as the people of Taiwan seek to retain their independence in the world and declare their unwillingness to be "reunited" with the Peking Government that we intend to respect and support those wishes.

The legislative vehicle to insure this support is currently before the House, H.R. 2479, the United States-Taiwan Relations Act. The prompt action taken by our House Foreign Affairs Committee in rewriting the administration's draft, strongly reflects the sentiment that the President should have consulted with Congress prior to making such an important decision. It emphasizes the concern that exists for the political, economic, and security independence of the people of Taiwan as well as the national security interests of the United States in the western Pacific.

The legislation now before the House is a significant improvement over the administration's bill. I urge my colleagues to study it carefully. Our actions on this issue may well have far greater impact on the future of our foreign relations with our remaining allies than on those with China.

For your information, the entire texts of the Omaha World-Herald and Richmond Times-Dispatch editorials follow:

[From the Omaha World Herald, Dec. 17, 1978]

"SIMPLE REALITY": WE SOLD OUT TAIWAN

There was an almost incomprehensible inconsistency in President Carter's announcement that he will grant diplomatic recognition to Communist China and sever diplomatic relations with Taiwan (Nationalist China).

In recognizing mainland Communist China, the President said, "we are recognizing simple reality."

There is logic in this. Red China is there. It is a major world power. To recognize it formally is not to indorse its form of government.

But there is no logic at all in the President's statement that the United States "acknowledges the Chinese position that there is but one China and Taiwan is part of China."

"The simple reality," to use President Carter's phrase, is that Taiwan is a self-supporting, independent island nation which is NOT part of mainland Communist China.

How incredibly inconsistent for the President of the United States to recognize "the simple reality" of Communist China's existence and, in the same speech, indicate that the United States will ignore the "simple reality" of Taiwan's separate, independent existence.

Adding to the inconsistency is the fact that the United States proposed to continue to sell "defensive arms" to the Chinese on Taiwan.

So we break diplomatic relations with Taiwan and acknowledge Red China's position that "Taiwan is part of China. Then why sell arms to the Taiwanese to help them continue an independent existence which the United States no longer acknowledges they are entitled to?

We approve of the proposal to sell defensive arms to Taiwan. We simply point out the utter inconsistency in the President's position.

Why does the United States not follow the logical—and equitable—course of formally recognizing Communist China while continuing diplomatic relations with the independent Chinese Nationalist government on Taiwan?

The answer is simple:

Carter chose not to follow the course of logic and equity because the Red Chinese dictated otherwise.

The Carter administration's two-faced stance in regard to Taiwan is underscored by these facts:

The President said he has paid special attention to assuring that recognizing Communist China "will not jeopardize the well-being of the people of Taiwan."

But in a separate statement, not attributed to Carter, our government announced that our mutual defense treaty with Taiwan is being terminated.

It does not seem to us too harsh a judgment to say that the people of the United States, through our President, have sold out the 16 million non-Communist Chinese who live on Taiwan.

That, we suggest, is another "simple reality" with which this nation, to its shame, will have to live.

[From the Richmond Times-Dispatch, Jan. 17, 1979]

The Treaty Stakes

In the coming showdown in the federal courts between President Carter and Sen. Barry Goldwater on the legality of the president's unilateral abrogation of the Taiwan defense treaty, both sides marshal historical precedents and opinions of learned authorities in support of their positions. Neither can cite *legal* precedents, however, because no court has ever ruled on the question of a president's power to break a treaty without securing approval of the Senate or both houses of Congress.

All of which means the Taiwan cases should prove to be intensely interesting, as well as highly significant.

The White House press office has distributed a "fact sheet" that lists several examples of presidential termination of treaties. The sheet also notes that Article 10 of the 1955 Taiwan treaty states that: "Either party may terminate it one year after notice has been given to the other party."

Contending that President Carter acted properly because he issued the one-year notice, the White House observed that: "The treaty makes no reference to the Senate or Congress, or the need for approval of the legislative branch in order for notice to be given of termination of the treaty."

In a study he prepared for the Heritage Foundation last spring, Mr. Goldwater noted, however, that neither does the treaty say the president is the sole "party" to act on behalf of this country. "Party" means the government involved, and in the U.S. the treaty power is a joint one shared by the president and Congress, wrote the Arizona Republican, his party's 1964 presidential nominee.

Furthermore, in examining nine instances of presidents serving termination notice without securing congressional approval, Mr. Goldwater argued that a closer examination of the record does not support the idea of untrammeled presidential ability to annul treaties. In two cases, notice of termination was withdrawn. Two treaties were scrapped because they were inconsistent with more recent laws passed by Congress and one was obviously superseded by obligations imposed by a later treaty. The remaining four, according to the Goldwater analysis, "appear to have been annulled or suspended after it became impossible to effectively carry them out."

Yet those cases were cited, without further explanation, by Mr. Carter's press agents as justification for the president breaking a treaty of his choosing. For example, the White House noted that in 1939, President Roosevelt gave notice of termination of a 1911 commerce and navigation treaty with Japan. But after examining that case more closely. Senator Goldwater pointed out that it was "persuasively argued in the Senate that the president was *compelled* to denounce the 1911 treaty with Japan because of our obligataions under a later treaty, the Nine Power Agreement, committing the United States to respect the territorial integrity of China."

It must be conceded that the White House was able to muster an impressive display of quotes from various scholars to the effect that a president may break a treaty unilaterally.

Mr. Goldwater, however, was not without some lustrous support of his own. Thomas Jefferson, in compiling the first manual of rules of the Senate when he was vice president, wrote: "Treaties being declared equally with the laws of the United States, to be the Supreme Law of the Land, it is understood that an act of the legislature alone can declare them infringed or rescinded."

The president has overall authority to conduct this nation's affairs with other nations, of course, and that includes the right, undisputed by Mr. Goldwater, to establish or end diplomatic relations with others. The courts may well rule that Mr. Carter was within his constitutional prerogative in serving notice on Taiwan. What then?

Practically every major treaty to which the U.S. is a party has an abrogation clause similar to the Taiwan one. These include the North Atlantic Treaty Organization (NATO), and security treaties with Australia and New Zealand (ANZUS), South Korea, Japan, the Philippines, and non-communist Southeast Asian countries (SEATO). If the courts uphold a presidential right to break such treaties without the restraint of legislative concurrence, then the credibility of the United States as a stable, dependable ally will be thrown into greater doubt.

Then, too, some liberals who delight today in Mr. Carter's fast China shuffle could some day rue a future president having a free hand. Senator Goldwater said he feared no contradiction in predicting an uproar among his colleagues if, for example, president, without giving the Senate or Congress opportunity for deliberation, unilaterally violated the Nonproliferation Treaty and transferred nuclear warheads to South Africa.

☐ 1230

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Colorado.

Mr. KRAMER. Mr. Chairman, today, as we debate the merits of this bill—the United States-Taiwan Relations Act—marks an important occasion in the modern history of our Nation. It is a date on which both the honor and credibility of the United States will be tested, before friend and foe alike. It is a date on which we as a Nation will either demonstrate, or fail to demonstrate, the moral fiber and firm resolve which must characterize a truly great Nation.

I wish that this were not so. I wish that we in the Congress were not faced with the difficult and complex situation which now challenges and confronts us. But hard fact is that we are. And the responsibility for this I would lay directly at the doorstep of this administration—for in its negotiations with the People's Republic of China the White House has seriously compromised the future security and well-being of our friends and allies on Taiwan, and with them has compromised the interests of the United States itself.

It is no exaggeration to say, I think, that in this deal with the People's Republic our Government "gave all and got nothing". We completely acceded to all three of Peking's principal conditions for the establishment of full diplomatic relations. Our troops have been withdrawn from Taiwan, notice has been given for the cancellation of our mutual security treaty with that country, and normal diplomatic relations have been totally severed.

In return we have received nothing but the unilateral right to declare that we will still sell arms to Taiwan, the right to use a circuitous fiction for what should normally be a close and friendly relationship with Taiwan, and the right to cut off Taiwan from its American security umbrella later than sooner.

I would hardly count these so-called "concessions" as major diplomatic achievements. On top of this, we have failed to wring from Peking even the faintest pledge that they will not use force to bring Taiwan under their political sway. Consistently, in this country and at home, Vice-Premier Teng has resisted our suggestions that he give such a pledge. To be so firm in his position is, of course, the Vice-Premier's political right. What I have to ask, however, is why our Government should have been so weak in asserting our own national rights and those of our allies. This, my friends, has proven a pathetic display of American political ineptitude.

This point is borne home all the more clearly by the fact that no sooner had Vice-Premier Teng returned to his country than Peking launched its military invasion of Vietnam. Obviously, our sacrifice of Taiwan has bought us precious little influence with our new Chinese "friends." On the other hand, China has succeeded in achieving normalization and placing the United States at its back before embarking on this new military adventure.

Not only this, but our Government is still proceeding with plans to open wide the doors of American trade and aid to Peking, even as the warfare in Vietnam continues.

It is not the establishment of full diplomatic relations with Peking that I challenge. This was desirable and perhaps inevitable. What I question is the terms on which this normalization was achieved.

I firmly believe, and have been advised by persons knowledgeable in the field, that had the United States exhibited some political will in its negotiations with Peking, we could probably have gained the clear right to a diplomatic liaison office in Taiwan. This seems even clearer in retrospect, given China's need for a neutralized United States in its worsening conflicts with Hanoi and Moscow, and its equally great need for American technology and resources to aid its ambitious modernization program.

All things considered—American trade, technology, and military support, and Taiwan itself for good measure—this action by our President may yet prove the biggest give-away of them all.

Obviously today we must look forward rather than back. What we are considering now is the future of our relationship with the Republic of China on Taiwan, and indeed the very future of that island republic itself. It seems to me that the bill which the White House originally sent to this Congress was totally inadequate to provide for either.

The bill now before us is a considerable improvement over that earlier version, but is still deficient, I believe, in a number of areas. A nonofficial, private corporation is, I believe, an inadequate vehicle for the conduct of our relations with Taiwan, our eighth-largest trading partner and a nation of some 17 million souls. In particular, in the absence of any official government-to-government relations the United States will lack any valid legal foundation which would permit it to come to Taiwan's aid in the event of political, economic, or military coercion by the PRC.

Cut adrift from the mainstream of normal diplomatic intercourse, Taiwan will in the absence of some form of government-to-government relations be left to drift alone on the political periphery, until it sooner or later is carried onto the shoals of political or military vulnerability. Should that happen, we in the United States, a longtime friend and ally of Taiwan, will have already unilaterally cut that one rope—governmental relations—which could remedy that situation.

We will, in other words, have not only abrogated a security treaty, but also a solemn relationship with a friendly people, built through years of mutual effort, cooperation, and a shared vision. This my friends, is not a moral position worthy of a great nation.

If we should allow this to happen, I can only wonder at the impressions of our allies, as well. Israel, the nations of NATO, Korea—despite the bland and encouraging statements emanating from the State Department on the subject, I can only wonder whether privately the leaders of those nations must have shuddered on hearing of this government's plan for its former Chinese ally.

They too must be wondering and watching to see whether they themselves might be next in line for the junkheap of nations whose friendship and ties with the United States had become too inconvenient to either defend or acknowledge.

This bill, my friends, is an unfortunate event. We can, however, make it better—in ways which will help to reassure our friends in Taiwan of our continuing support and interest; our allies around the world of the firmness and value of American friendship; and our own people of this Nation's moral worth and political integrity.

We can provide for continued relations between the United States and Taiwan on a modified government-to-government basis; we can provide clear and strong security assurances to the people of Taiwan; and we can provide the personnel and agencies of the government of Taiwan with those forms of de facto recognition which will accord them the dignity and respect they deserve as responsible and productive members of the world community. As a great nation and a generous people, my friends, we can surely do no less.

Mr. BROOMFIELD. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, the report on H.R. 2479 from the Committee on Foreign Affairs expressed a sense of urgency about this legislation. Phone calls to our offices from the State Department and the administration have echoed this urgency. In fact, I am finding that there are many here in Washington who would like to see this Congress pass H.R. 2479 as soon as possible "to facilitate action on this important legislation which is urgently required to insure uninterrupted relations between the United States and Taiwan." My view of this pressure is that it is not so much a sense of urgency to bolster our commitment to a loyal ally as it is an attempt to ram a "bill of goods" through the Congress before the American people awaken to what a shambles this administration has made of one of the closest and strongest relationships this Nation has ever had with another country. If we fall for this ploy we will have made official a disasterous set of policies that should never have seen the light of day.

If the President was so concerned over having congressional action to help ease the transition to a new policy toward the Republic of China why did he announce his new policy, and begin to implement it when a lame duck Congress was adjourned? Why did he not attempt to adequately consult the congressional leadership, of both parties, prior to his announcement? Why did he not wait until the Congress had acted before he wined and dined the Communist Chinese in our Capital and had gone ahead with appointing an Ambassador? His December announcement of the sell-out of a brave ally was not an act of courage or principle. It was a snide attack.

In addition why would the President want to go against the promises he made during his campaign? On October 6, 1976, during the Foreign Policy Debate with President Ford, Carter said:

> We've lost, in our foreign policy, the character of the American people. We've ignored or excluded the American people and the Congress from participation in the shaping of our foreign policy; it's been one of secrecy and exclusion . . . We've tried to buy success from our enemies, and at the same time we've excluded from the process, the normal friendship of our allies.

Was not this China deal accomplished by the exclusion of the American people and carried out in the secrecy of the type of diplomacy the President criticized not long ago? I submit to this House that we have probably not found out all there is to this China deal, and we should not act without a careful consideration of what we are doing to a loyal ally and to our own position in the world.

I wish to turn now to the bill that is before us. H.R. 2479 is a bill that so fundamentally alters our course in our relations with another nation that we should not leave any portion of this bill open to interpretation. We should make our mandate clear and precise. H.R. 2479, as presently reported fails to meet this critical need. What, for example, does the term "Western Pacific" mean? This bill says:

> The people on Taiwan, as well as the people on the China mainland and all other peoples of the Western Pacific area.

What does this term mean? Are we including all mainland China areas in the phrase? Are we including North Korea? Vietnam? Why are we diluting the bill's focus so much? If we are to address our future relations with the Republic of China let us address that issue and leave regional concerns to another bill. The present legislation is far reaching enough without bringing all of Asia or the Pacific in on it.

Another example is the central subject of the bill, the Republic of China. The bill does not even use its proper name! Even if we decide to not recognize their government officially we do not have the right to rename their nation for them. We call our enemies by their rightful names (U.S.S.R., Libya, People's Republic of China, Uganda, et cetera) why can't we extend the same courtesy to one of our most faithful friends? A more subtle point that should be made is that every time we decline to recognize that there still exists a sovereign nation known as the Republic of China we are setting the stage for our Republic's further decline in the eyes of the world. It is sheer hypocrisy. This point has not been lost on the sell-out artists of the administration, and we should be ever alert for their clever ploys.

The vagueness that permeates this bill gives way to pure fantasy and charade in regard to the "designated entity." This is an agency formed at the direction of the State Department, it will be staffed by its own employees, it will be funded by our tax dollars, and it will be under this Congress oversight. It is an organ of our Government and should be identified as such. I would prefer that we have a diplomatic liaison office to conduct our relations, and I think we will have the opportunity to discuss this matter in more depth later on. Whatever "entity" we decide upon should be an official agency of our Government. The Republic of China deserves a better framework than it is receiving here. We should not place our future relations with it in the hands of something that is fiction.

We can take our time on this bill. The stakes are too high to rush into any aspect of it. Our "nonimperial" President has been fit to present us with a "fait accompli' ". He has severed relations, he has established an "entity," he has sent formal memos to agencies on the future conduct of relations with the Republic, and he has set up an embassy and appointed an ambassador. This bill, therefor, is a vote of confidence, a congressional blessing for all that he has done.

He has gone out on a limb that is about to break and he is shouting at us to go out there with him. He is hoping that with more people out on that limb the less foolish his initial act will look. We have a duty to the American people to not take any action that might encourage the President to seek more limbs. One of these times a limb will break and all of us will go crashing down with it.

Mr. Chairman, I would like to ask the distinguished chairman of the committee some basic questions because I think, in order to understand the legislation and what we are doing here, we have to start at the very beginning. I would like to ask one specific question:

Is the legislation, H.R. 2479, predicated on the fact that the Republic of China is a sovereign nation, or is it predicated on the allegation of the Carter administration that it is not a sovereign nation?

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I will be glad to yield to the chairman of the committee.

Mr. ZABLOCKI. Mr. Chairman, as the gentleman fully knows, the legislation is predicated on the basis that our Government does not at the present time recognize the Republic of China, Taiwan, diplomatically. Nevertheless, it is the desire and the intention of our Government and certainly the wish of the people of the United States to continue relations with the people on Taiwan as we would with countries with which we do have diplomatic relations. This is the purpose of the legislation.

□ 1235

Mr. ASHBROOK. I thank my colleague for an honest and direct answer, as he always gives to any question, no matter how hard.

I think we start to see, then—and I will ask several other questions—some of the problems that are opened up by this.

From my point of view, a fact of life is that the Republic of China is a sovereign nation. Let us take immigration. I noted with interest the response the Chairman gave to our subcommittee chairman, the gentlewoman from New York (Ms. HOLTZMAN), and our chairman, Mr. RODINO.

Let me pose a question: If the Republic of China is not a sovereign nation, what if the People's Republic of China would issue an edict saying the passports must be stamped in Peking, including, in their terminology, not mine, the province of Taiwan? What then would be the position of this Government? Would the State Department say "Well, that is an internal problem within China, we have nothing to say about that?" Would that be the position if indeed the Republic of China is not a government? If we recognize the People's Republic of China as the government of all China, what if they were to say, on immigration, "All passports must be stamped in Peking?" What would be the response of the chairman?

Mr. ZABLOCKI. If the gentleman will yield, it is the understanding of the gentleman from Wisconsin that if the People's Republic of China took such a position, we would not recognize that to be within the authority of the People's Republic of China, to control passports of people who are on Taiwan, who are in any foreign country. The passports for the people on Taiwan for immigration to the United States would have to be issued by Taiwan.

Mr. ASHBROOK. I thank my chairman for that assurance. I hope the State Department understands that is what we have in mind.

Mr. WOLFF. Mr. Chairman, will the gentleman yield at this point for a clarification?

Mr. ASHBROOK. I yield to the gentleman from New York.

Mr. WOLFF. Mr. Chairman, we do not recognize that the laws of the People's Republic of China apply to Taiwan as such. In our unilateral declaration, the President did not recognize the laws of the People's Republic of China, as applying to Taiwan.

Mr. ASHBROOK. Let me say that if you do not do this, a snare may be planted in the bill. On page 10 it says:

> . . . the term "Taiwan" includes, as the context may require, the islands of Taiwan and the Pescadores, the inhabitants of those islands, corporations and other entities and associations created or organized under the laws applied on those islands . . .

Here is where the snare is:

> . . . and the authorities exercising governmental control on those islands . . .

The authorities exercising governmental control on those islands could be the People's Republic of China, because Mr. Carter has already indicated that the Republic of China is not a sovereign government and the sole legal authority is in Peking.

Mr. WOLFF. We have never recognized that the People's Republic of China can exercise any authority over the people on Taiwan.

Part of our unilateral declaration and part of the Shanghai communique indicated that there is but one China.

Mr. ASHBROOK. And the legal government is in Peking, is it not?

Mr. WOLFF. No. We did not say that.

Mr. ASHBROOK. That is what Jimmy Carter said, the President of the United States.

Mr. WOLFF. No, no. In the Shanghai communique, it was stated that we acknowledged that both sides of the Taiwan Strait indicate that there is but one China, and we do not challenge this.

Mr. ASHBROOK. The Shanghai Accord is not the question. The question is what the President said on December 15.

Mr. WOLFF. If the gentleman will yield further, in the subsequent declaration by President Carter there was no recognition of the fact that the laws on the mainland of China apply to Taiwan.

When we decided that the treaties that are in existence between the United States and the people in Taiwan will continue in force, we reaffirm that position.

Mr. ASHBROOK. It looks as if a snare has been planted in this bill. All we talk about is the people of Taiwan. We do not refer to the government of Taiwan. That is why I asked the chairman the specific question.

□ 1240

Yet, in definitions with reference to authorities exercising governmental control on that island, if indeed the Republic of China is not a government they cannot exercise governmental control. If Peking is the sole government for all of China, that is the only authority that exercises governmental control over the Republic of China. At least that would seem to be the import of the December 15 declaration coupled with H.R. 2479.

Mr. WOLFF. We never have recognized the fact that Peking is the sole government of all China.

Mr. ASHBROOK. But the gentleman is saying that the Republic of China is not a government and President Carter has said that Peking is the sole government of one, repeat, one China.

Mr. ZABLOCKI. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. GRADISON).

Mr. GRADISON. Mr. Chairman, I thank the distinguished chairman of the Foreign Affairs Committee for yielding. To preface, the course chosen by the administration in our China policy is not the one I would have chosen, nor is it the one that I think most of my colleagues would have chosen; nevertheless, we must face the reality that if we wish both to continue commercial, cultural, and other relations with Taiwan and to have normal diplomatic relations with the People's Republic of China, then we must opt for the diplomatic hocus pocus provided by this bill.

There are two issues I would like to raise about H.R. 2479, and I would appreciate the gentleman's comments. First, I am sure that the gentleman is aware that, under H.R. 2479, the United States will view with grave concern any embargo or boycott directed toward Taiwan. In fact, section 201(a) of this bill provides that no U.S. legal requirement, explicit or implicit, concerning existence of diplomatic relations or governmental recognition shall apply with respect to Taiwan. As I understand it, section 201(a) insures that section 4A of the Export Administration Act of 1969, which prohibits U.S. persons from complying with a foreign boycott directed against a friendly country, will apply to any boycott against Taiwan.

Mr. ZABLOCKI. Yes, that is the effect of the bill.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield on that point?

Mr. GRADISON. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding to me.

The representatives of the State Department stated unequivocally at our hearings that the antiboycott provisions of the Export Administration Act would apply to a boycott attempted to be imposed by the People's Republic of China against trade with Taiwan.

Mr. GRADISON. I thank the gentleman for that clarification.

Mr. Chairman, it seems to me to be the intent of this bill to insure that the present flow of goods into Taiwan shall not be restricted in the future; however, there are certain goods, in particular defensive arms and nuclear energy materials and equipment, which require by U.S. law certain assurances to our Government from the government of the nation to which they will be exported before permission to export is granted. Conceivably, since the United States has embarked on a policy of dealing with Taiwan on an unofficial basis, these assurances will not be able to be made, and the flow of defensive arms and nuclear energy supplies may be severed.

Now, clearly, it is not the intent of this bill to deprive Taiwan of the right to purchase and receive arms from the United States. Nor do I think it is the intent of the bill or of Congress to deprive Taiwan of the right to purchase nuclear energy material and equipment, provided that Taiwan agrees to continue to honor the terms of the Nuclear Non-Proliferation Treaty.

It is my understanding that section 202(a)2 provides that Taiwan's dealings with the United States shall be by or through an unofficial instrumentality established by Taiwan in agreement with the President. If I read this section correctly, the President should determine that this instrumentality has the necessary authority under the laws of Taiwan to provide assurances and take other actions on behalf of Taiwan with respect to the U.S. Government before he agrees to the instrumentality Taiwan proposes.

I would assume, therefore, that the intent of this section is that once the President agrees to the instrumentality proposed by Taiwan, then the President or any department or any agency of the U.S. Government which is required to accept an assurance from Taiwan is expected to accept such assurance except as the President may otherwise provide.

I appreciate any thoughts the gentleman may have regarding the intent of section 202(a)(2). In particular, I understand that the committee, in drafting this section, took into consideration that the Atomic Energy Act and the Arms Export Control Act both require assurances from the government of a recipient nation to the U.S. Government before the export of defensive arms or nuclear energy materials and equipment will be permitted, and that the committee decided to address these requirements with this section.

Mr. ZABLOCKI. I thank the gentleman of Ohio for raising this issue. His reading of section 202(a)(2) of H.R. 2479 is correct, as is his assumption regarding its intent.

□ 1245

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. McCLORY).

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Iowa.

Mr. LEACH of Iowa. Mr. Chairman, I would like at the outset to express my support for the President's decision to normalize our relations with the Peoples Republic of China. Recognition, after all, does not imply approval of a system of government. It only implies a realistic assessment of who controls what within a given political jurisdiction. In the case of mainland China, clearly the government of Peking effectively controls the apparatus of political decisionmaking for 950 million people.

The abrupt decision to recognize the Peoples Republic represents a traumatic change in direction for American policy and has produced understandable anxiety among the people of Taiwan. As we move forward with legislation to institutionalize our relationship with Taiwan, it is therefore important to insure that any actions taken at this time are fully consistent not only with American national interests but with the interests of the people of this fragile island. In this regard, I would like to comment briefly on certain aspects of the situation on Taiwan which I believe have not received sufficient notice.

In my judgment, the debate on normalizing relations with the government in Peking should occasion serious reconsideration of the support we have generated over the past 30 years to the less than democratic Nationalist Government of Taiwan. The population of Taiwan consists of two major elements: The native Taiwanese who constitute approximately 85 percent of the island's inhabitants, and those mainland Chinese who fled with Chiang Kai-shek to Taiwan who, along with their descendants, comprise the other approximately 15 percent.

Yet today, the Nationalist Government consists almost exclusively of members of Chiang Kai-shek's party, the Kuomingtang. There is little opportunity for participation by native Taiwanese in national elections. The majority of seats in the National Assembly are held by individuals who theoretically represent the 35 Provinces of China, only 1 of which is Taiwan. They were elected from their respective Provinces 30 years ago when the Nationalist Government still exercised broad control over the mainland. This anachronistic arrangement adds up to stark underrepresentation for the people of Taiwan—even though the island now represents the total extent of Nationalist control. Since elections cannot be held in the 34 mainland Provinces, the Nationalist Government maintains that those who were elected 30 years ago from these Provinces—some of whom today reside abroad—have lifetime rights to their seats. This aged minority of former mainlanders therefore controls the legislative branch of the Nationalist Government.

Perhaps this situation would be more palatable if the Nationalist Government were benign and passive in nature. But in fact, it is a harshly repressive regime which for years has denied the majority of people on the island the most fundamental human freedoms. Beyond that, police state tactics have been an accepted fact of life ever since martial laws as delared in 1948 purportedly for a temporary period to be in effect "during the period of communist rebellions." The martial law declaration is still in effect today and it has been reliably reported that there is frequently resort to secret arrests and secret trials as a means of dealing with political dissidents. Amnesty International reports that torture has been employed to gain "confessions" and the same organization states that "violations of human rights have been the prevailing practice in Taiwan." Indeed, for the past 30 years we have looked the other way when evidence of such repressive tactics has surfaced—preferring as a matter of expedience to place a higher value on Taiwan's status as an ally than on the fundamental rights of its citizens.

Interestingly, the widely respected Freedom House annually publishes a Comparative Survey of Freedom which ranks nations worldwide on the degree of freedom, using a scale of 1 to 7—with the higher numbers indicating increasing degrees of repression. In its ratings published in February, Taiwan received a 5, political rights, and a 4, civil liberties, rating while the PRC registered 6 to 6 on the Freedom House scale. This is compared to a 1 to 1 rating for the United States. Taiwan's rating reflects a narrowly controlled political system and is hardly impressive in its contrast with the PRC. While the basic political freedom and certainly economic opportunity are greater on Taiwan than the mainland, it can only be described as tragic that Taiwan has not adopted policies which would put it at the forefront of democratic expression.

It strikes me that we have in Taiwan, at this point in history, something resembling a people without a country and a government lacking a legitimatizing basis of authority. Generally speaking, legitimacy derives from either historical claim or consent of the governed. There is a distinction between a government in exile and a government claiming to represent the political aspirations of the Taiwanese people. U.S. recognition of the PRC implies our assessment that the civil war in China is over. The Nationalist claim to the mainland would appear fictional and its basis of consent on the island lacking democratic test.

Accordingly, in considering the legislation which will establish new unofficial ties with the Taiwanese people, I would urge the Members of Congress to include language which will encourage the Nationalist Chinese authorities in Taiwan to come to terms with political reality themselves and to begin good-faith efforts to establish a new basis of legitimacy resting on the consent of the governed and to permit full establishment of constitutional liberties such as freedom of the press, freedom of expression, and the right to assembled. If we, as Americans, are truly sincere in our efforts to mold a new policy toward Taiwan, grounded in truth and reality, this is the least we can do on behalf of a peaceful normalization of internal relations between the majority of native Taiwanese and the minority of Chinese from the mainland.

Just as it should be made clear to the PRC that the United States will not lightly countenance the use of force against Taiwan, it should be made clear to the Nationalist government that the United States does not easily condone the suffocation of basic individual freedoms on Taiwan. Accordingly, I would like to strongly endorse the language introduced in the other body by Senator PELL which underscores our concern for democratic rights on Taiwan. That language specifies that:

> In carrying out its activities, the Institute shall take all appropriate steps to strengthen and expand the ties between the people of the United States and the people of Taiwan and to promote full human rights for all the people of Taiwan.

Regarding this language, I should like to stress that any effort on our part to encourage greater freedom and self-representation on Taiwan does not necessarily conflict with the administration's recent commitments to the PRC. On several occasions, Vice Premier Teng Hsiao-ping has expressed his willingness to accept Taiwan's own social and economic system as well as armed forces. But whatever steps are taken to resolve the international status of Taiwan it should be understood by all sides that the future of the Taiwanese people ought to be decided by those representing the majority of the people on the island, not by a government unwilling to open its doors to full popular participation.

In addition, it would be my hope that in any legislation dealing with the legitimate security needs of the Taiwanese people, a strong sense of the Congress should be established that the U.S. Government not transfer any weapons, such as riot control equipment, which are of a nature that appear primarily oriented to maintaining internal order as opposed to external security.

Unfortunately, the timing of President Carter's December 15 announcement regarding normalization of relations with the PRC had unsuspected implications for the domestic political situation on Taiwan. Within hours of the President's announcement, the Nationalist Government seized upon the normalization action as a pretext to indefinitely postpone local elections which had been scheduled for December 22 and decreed the suspension of all political activity on Taiwan. By many accounts these elections—although for a small number of seats in the general assembly—would have resulted in significant gains for political candidates opposing the Kuomingtang Party. Those familiar with the internal political situation in Taiwan were keenly aware of the significance of this political event. The President's decision to announce normalization just 8 days before the election in Taiwan demonstrated great insensitivity to—or perhaps ignorance of—the internal affairs of the people of Taiwan and may have deprived the majority of the population of any opportunity in the near future to exercise their right to speak out at the polls on their own destiny.

The consequences of President Carter's precipitous preelection announcement carries certain irony. For it is the native Taiwanese rather than their Government who have been most supportive of the U.S. normalizing relations with the PRC and who have always regarded the Nationalist claim to mainland China as fantasy. Unfortunately it is these native Taiwanese who were most affected by the timing of the external normalization decision and who now find that the modest movement toward internal normalization of the political process on Taiwan itself has been severely jeopardized.

The precarious situation of Taiwanese who dare to publicly oppose the policies of the Nationalist government was forcefully underlined in late January when one of the elder statesmen of the responsible political opposition, Yu Teng-fa, was arrested and charged with "sedition". This individual's crime appears to be that he intended to host a conclave of opposition political leaders, the primary purpose of which was to promote a December 25 proclamation which called for the realization of human rights, representative government and the general liberalization of Taiwanese politics, and and end to 30 years of martial law. This can hardly be termed a radical manifesto. Thus, it appears certain that the arrest of Yu Teng-fa was not for seditious activity but rather was an attempt by the ruling authorities to intimidate the non-Kuomintang opposition in general.

Finally, as Congress considers the legislation dealing with our future relationship with the people of Taiwan, I would urge that the recent tragic developments of Iran be kept in mind. The provision of sophisticated weapons to a government does not in and of itself assure the security and stability of that government. It is time we begin to profit from experience and seek to insure that the United States not be too closely associated with regimes which are not based on the support of the majority of the people.

While such a policy may have short term advantages and may, indeed, be dictated by compelling circumstances at a given moment, we must recognize that governments which are not responsive to the aspirations of the majority of their people are living on borrowed time. In the case of Taiwan Congress has the opportunity to build into the legislation language which will clearly demonstrate to the world and to the Taiwanese that it is willing to go on record as encouraging authorities on the island to grant the native Taiwanese full democratic participation in the political process. Majority rule based on respect for individual rights is the lynch-pin of our own society as well as our human rights foreign policy. We should not shy away from advocating such a policy for the Taiwanese people.

Mr. McCLORY. Mr. Chairman, I am pleased to see legislation before us today directed at assuring continuation of United States-Taiwan relations on subjects of our mutual security, trade, travel, and other important contracts.

The people of Taiwan have been our friends for more than three decades. They are one of our closest allies and I was gravely disappointed when President Carter announced his intention to recognize the People's Republic of China at the expense of our friends on Taiwan.

Mr. Chairman, my close observations—both from personal visits to Taiwan and through extensive study of the government and social and economic systems of Taiwan—convince me that this nation of more than 17 million people is representative of the very best in terms of an orderly and progressive society in the world today.

Although I feel this legislation could go further to insure future political, economic, cultural, and social relations with the Taiwanese, I do feel it is a distinct improvement over the original measure proposed by the administration.

The sale of defense articles and services to Taiwan is one step toward insuring the security interests of this proud country, as well as our own security. However, it is my view that we still need a stronger commitment to protect Taiwan should the use of military force or economic coercion endanger their security.

It appears to me that we will have an opportunity to strengthen one of the provisions of this bill through an amendment to establish a U.S. liaison office in Taiwan with a similar Taiwanese liaison office located in the United States—giving the Taiwanese office and personnel privileges and immunities similar to those extended to diplomatic missions and personnel of accredited foreign governments in the United States. My own resolution, House Resolution 108, requests that such an official organization be established. When we opened relations with the People's Republic in 1972, we afforded that Government such privileges.

Mr. Chairman, we should deal with Taiwan on an equal basis with other allies and foreign countries. Otherwise, Taiwan stands the chance of being politically abandoned by other countries of the world. The establishment of only a non-government entity to handle our relations with Taiwan would be an affront to these fine people—a mistake we should not make.

Mr. Chairman, I urge my colleagues to overwhelmingly pass this legislation with such an amendment and let our friends on Taiwan know that they have not been forgotten.

Mr. ZABLOCKI. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon (Mr. AuCoin).

□ 1250

Mr. AuCOIN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise today in support of this bill as reported.

I just returned from a 12-day visit to the People's Republic of China and am even more convinced than ever before of the wisdom of President Carter's move to normalize relations.

One of the primary dividends this action will yield is greater long-term stability in the Pacific Rim. And one of the primary beneficiaries of that stability should be Taiwan.

Normalization of relations between the United States and China recognizes the reality in the Far East, and it provides real security for Taiwan. We are now in a much stronger position to influence policy in Peking and, I'm persuaded that China sees much to gain by establishing practical working relations with Taiwan. It also has too much to lose now to take ill-conceived actions against Taiwan.

My trip to China also showed me that we as a Nation and a people have much to offer the Chinese—and we have much to learn from them in return. I also learned that Americans and Chinese have much in common, and that commonality should be nutured so we both can grow and prepare for a new century of challenges.

The keynote for our relationship with China and Taiwan must be flexibility. We should not lock ourselves into frozen positions. Events are moving rapidly in the Far East, and as shifts occur, we must adjust.

Never has been a more golden opportunity for the United States to exert a constructive influence on this region than now. Our position has never been stronger, as we have friendly relations with the major powers in this region. Our constructive assistance to Japan and Taiwan following World War II is an example of world leadership not lost on China, which underwent a bitter experience with another example of world leadership whose aim was domination, not mutuality of benefits and equality.

We are not on the retreat in the Far East. Rather, we are moving forward, demonstrating responsible leadership. We have not deserted an ally. Our foreign policy in the Far East is evolving as a realistic, futuristic one. This bill is a key building block of that evolving foreign policy, and therefore merits your support.

I cannot predict, nor can anyone, whether full reunification of the mainland and Taiwan will occur and, if so, when and how. My instincts tell me, based on what I saw in China, that reunification will occur—peacefully, gradually and to the mutual benefit of both China and Taiwan.

Each has much in common with the other. At the moment, each has a common foe—the Soviet Union—who they both feel threatens the Far East. This common interest may very well serve as a starting point for real cooperation between the two.

As a number of Chinese officials told me privately during my recent trip: The two sides have worked together before against common enemies; there is no reason why they cannot again. The United States should not do anything to disrupt any natural reunification processes.

Despite China's recent invasion of Vietnam, I firmly believe China desperately needs peace if it is to succeed in its unprecedented modernization program. This invasion in one sense can be seen as a preemptive strike to keep the Soviet Union at bay and buy time for China to pull itself up by the bootstraps. But there is no evidence that China is mobilizing itself for war against Taiwan, or is about to launch a campaign of expansionism. There are too many pressing problems, and too many undeveloped acres, for that to occur, and I think responsible, rational Chinese leaders realize that—all too painfully.

This bill is vital if we are to keep our pledge to maintain viable economic and cultural ties with Taiwan. This legislation contains solid assurances for the continued security of Taiwan.

But as we consider this legislation and amendments today, I hope my colleagues will remember that the world exists as it is, not as we wish it to be.

Many wish there could be two Chinas. The fact is there is only one China, just as there is only one Chinese people, whether they live in Shanghai, Taipei or San Francisco. Being Chinese is a common heritage for an entire people, regardless where they live or under what government they exist. Theirs is a heritage that has survived dynastic collapse, foreign occupation, famine, floods, aberrations of government policy such as the cultural revolution and the upheaval of civil war.

As I left China, I carried with me a great respect for the Chinese people. Through the ages, they have achieved and maintained a high level of civilization. That civilization perseveres today, even though China is scrambling to escape from widespread poverty and underdevelopment. I am convinced that if any underdeveloped nation can break through and modernize, it is China, because its people are commited to that goal.

□ 1255

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. Mr. Chairman, the issue facing us today has an air of unreality about it. The Carter administration diplomatically recognized the regime on the mainland of China. One of the arguments by proponents of that move is that the United States is now recognizing the reality of the existence of 800 million people.

Without arguing the merits or demerits of that position, let us look at the other side of the coin. The Carter administration while recognizing the reality of the People's Republic of China is now denying the reality of the Republic of Taiwan and the 17 million people it governs. The Republic of China and its people have been a longtime ally of the United States and an important trading partner.

The legislation before us today is a definite improvement over the administration's bill and position but it is still trying to deal with the whole China issue in a hypocritical fashion. There is in existence a Republic of China. It has a history. It does govern 17 million people on Taiwan, the Pescadores, and the offshore islands. In other words, it is a country. At the minimum we should have some form of government-to-government relations. That is why earlier this Congress I introduced legislation—H.R. 1925—which authorizes a U.S. liaison office to be instituted in Taipei, Taiwan. But the Carter administration is caught up in its own fiction that the governmental entity of the Republic of China does not exist.

This would be bad enough in itself, but, as we all know, there is more. The Carter administration is trying to build its foreign policy in Asia on a further fiction. That fiction is that our longtime friend and ally the Republic of China on Taiwan does not have to worry about the Communist rulers on the mainland trying to invade, coerce, or extort the people of Taiwan. Supposedly, we all know that the People's Republic of China has no desire to forcefully take over Taiwan.

Unfortunately, the leaders of the People's Republic of China do not quite go along with this fiction of the Carter administration. They have never ruled out force or any other means to take over Taiwan. Is it not nice how President Carter, his advisers, and the State Department are deciding for the people and Government of Taiwan what other countries intensions are for them.

Of course, one only has to look at recent history to see just how peaceful the Chinese Communists are. This year they have invaded Vietnam. In the 1960's they got into a border conflict with India. In the 1950's they crushed the Tibetan people—a people that they had promised autonomy to. In the early 1960's the International Commission of Jurists found that the Chinese Communists had committed genocide against the Tibetan people. And of course, in the early 1950's there was the Korean war with the involvement of millions of troops from the supposedly peace-loving People's Republic of China.

In my opinion this is not much of a record for the leaders and people of Taiwan to feel secure about. Additionally, the Carter administration has agreed not to make any new sales of defensive weapons to Taiwan during 1979.

The Republic of China on Taiwan is a growing economic power in Asia. The standard of living of the people has continually improved. Compared to the mainland the people of Taiwan enjoy many freedoms and rights. President Carter's answer to all of this is to ignore it.

President Carter has basically told the leaders and the people of the Republic of China "trust me." While asking for trust, the Government of Taiwan has been treated shabbily at best. I Cheng-loh of the Republic of China's Embassy was forced to leave the United States after a letter of his appeared in several U.S. newspapers. According to reliable sources, the Government of the Republic of China was threatened to be cut off from even the unofficial American Institute if the Republic of China did not accept the Carter proposal. There has been no guarantee from the Carter administration of continued U.S. support for Republic of China membership in such important economic institutions as the International Monetary Fund or the World Bank. What type of defensive weapons will the Carter administration be willing to sell to Taiwan?

It is our responsibility as Members of Congress to attempt to correct the injustice that has been perpetrated by the Carter administration. The interests and basic principles of our own country demand no less.

Mr. ZABLOCKI. Mr. Chairman, I yield 5 minutes to the gentleman from North Carolina (Mr. FOUNTAIN).

Mr. FOUNTAIN. Mr. Chairman, I rise in support of H.R. 2479, the United States-Taiwan Relations Act. As ranking majority member of the Foreign Affairs Committee, I was pleased to cosponsor this important legislation, and, with some reservations, to urge its adoption.

Despite my support for the bill, however, I believe its provisions can be responsibly made stronger in several respects, and I hope my colleagues will give serious attention today to any amendments offered which will reaffirm our rightful commitment to peace and freedom on Taiwan—for example, to establish an official liaison office there.

Mr. Chairman, this bill declares that peace and stability in the western Pacific—including China—are in our paramount national interest, and that continued relations of every type with Taiwan are, as a result, essential. Any attack against Taiwan would be—and ought to be—of grave concern to our country, and continued shipments of defensive arms to Taiwan as provided for in the bill are, therefore, necessary. In addition, the bill recognizes the responsibility to be shared by the President and the Congress to be prepared to take any additional appropriate action—military or otherwise—to resist serious threats to Taiwan's security.

H.R. 2479 reaffirms the existence of all treaties and international agreements in effect between the United States and Taiwan at the end of 1978 and provides that they will continue in force unless and until terminated under their own terms or otherwise in accordance with law. All U.S. laws and programs respecting Taiwan will continue to apply as if derecognition had not taken place. Also, several administrative and technical provisions—both substantive and procedural—are included in the bill.

Mr. Chairman, many of us in this House were, quite frankly, shocked and saddened by the President's decision last December to extend diplomatic recognition to the PRC without first arriving at a fair and responsible solution to the so-called Taiwan question. However, since former President Nixon's summit visit to mainland China in 1972 and the resulting Shanghai Communique, eventual diplomatic recognition of the PRC has been by and large a foregone conclusion in most minds.

Yet, that extension of recognition should not have occurred, as it did, at the total expenses of our longtime friends and allies—of more than 30 years' standing—on Taiwan. The Government and people of Taiwan deserved far better treatment than what they got—in effect, an eviction notice without a guarantee of due process.

This legislation before us today, and the counterpart Senate bill now under debate in that body, are a legitimate and forthright congressional response to our being left—in practical terms—completely out in the cold by the administration's December action. The December 15 announcement, made without the prior consultation with the Congress called for in section 26 of last year's foreign aid bill, abrogated at least an understanding between the two political branches and has been seen by some as an example of executive arrogance—an attitude that says the executive branch on the one hand cannot trust the judgment and advice of the people's elected representatives here in the legislature, and on the other hand that the executive branch somehow can conduct business independently of the Congress, a coequal branch established by article I of our Constitution.

Mr. Chairman, there are those who claim that enactment of this legislation is unwise, that it will amount to congressional acquiescence in the President's China decision and will in fact establish a dangerous precedent for future unilateral terminations of mutual defense or security treaties with our allies. Others may argue against the legislation on the merits themselves, urging that the bill does not go far enough in guaranteeing defense and economic aid to Taiwan, and that the Congress should not by statute sanction unofficial, informal, and nongovernmental relations with Taiwan.

However, while I am sympathetic to those sentiments, I believe this bill is basically the best we can reasonably hope for, given the circumstances we face. For instance, I doubt seriously that the President's action will be overturned in the courts despite some intriguing legal arguments advanced by the plaintiffs in district court here in Washington who are challenging the constitutionality of that action.

Mr. Chairman, the Congress is often faced—regrettably—with a choice between half a loaf and none at all. What we have here today may amount to half a loaf, but it is at the same time at least an affirmative expression by the Congress that Taiwan is important, and that our Nation should take strong steps to insure the continued viability and free existence of the people there. Consequently, I ask my colleagues to embrace the concepts set forth in the bill, and to support these efforts on behalf of freedom in the western Pacific, an area of strategic importance to our own peace and security here at home.

□ 1300

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Chairman, I thank the gentleman for yielding this time to me.

I am not happy about how the administration has handled this issue. Today we cannot go back and unmilk the cow. Today we must fashion an institute so that the people on Taiwan can do business with the people in the United States. We must carry on our ordinary commerce and continue relations.

Having been to Taiwan in January and having sat through the hearings of the subcommittee and the full committee, I am convinced at this point that the chairman of the committee (Mr. ZABLOCKI), and the ranking minority member, with the staff and the other members of the committee, have done as good a job as is possible to protect the people on Taiwan, under the restrictions that we are laboring under.

So I am going to support this bill. I want to commend the chairman of the committee and the members for doing the work they have done under most difficult conditions.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, my colleague said something that is very interesting. He said, "under the restrictions" we are under. It is my understanding we are a sovereign body and we can have a legislative input as we see fit consistent with the Constitution. I am wondering what restrictions we are laboring under.

Mr. PRITCHARD. Mr. Chairman, I think it is under the facts of life, because I do not believe we are going to be able to turn this thing over. I do not think we have that choice today. The gentleman from Ohio may think we do, but I do not. I believe we are doing the best we can under the circumstances.

Mr. ASHBROOK. Mr. Chairman, I thank my colleague for this explanation.

□ 1305

Mr. ZABLOCKI. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Chairman, I want to say at the outset that I want to commend the committee for developing this legislation. I support the goals that it seeks to reach.

Mr. Chairman, I am concerned, as I know a number of other Members of the House are, about maintaining the economic stability of Taiwan in light of our new relationship with the People's Republic of China. The United States has established over recent years strong economic ties with Taiwan, including trade relations, which are essential to its long-term economic strength and viability.

Does the distinguished chairman of Foreign Affairs concur my understanding that derecognition of the Taiwan Government will not affect, and H.R. 2479 will preserve and continue, the current eligibility of Taiwan to nondiscriminatory trade treatment (most-favored-nation status) and the generalized system of preferences (GSP) under U.S. trade laws. Consequently, restrictions under U.S. trade laws with respect to Communist countries will not apply to Taiwan and exports from Taiwan to the United States will not be combined with those from the People's Republic of China in determining limitations under GSP and orderly marketing agreements.

Does the gentleman concur in that?

Mr. ZABLOCKI. If the gentleman will yield, the gentleman from Ohio, as most always, is absolutely correct in this interpretation of the provisions of the bill before us.

Mr. VANIK. Mr. Chairman, I would like to further say that Congress has traditionally reserved its constitutional authority to determine which countries should receive most-favored-nation tariff treatment, and under what conditions such treatment should be withdrawn. Therefore, I want to establish that H.R. 2479 does not provide in any way authority to the President or indicate any prior congressional approval for the President to withdraw most-favored-nation status at some future date. Rather, any change proposed in most-favored-nation trading status for Taiwan would be the subject of legislation referred to the appropriate committee of jurisdiction, affording the Congress the opportunity to judge the merits and economic consequences at the time.

I ask the distinguished chairman, are my understandings correct?

Mr. ZABLOCKI. The understanding of the gentleman from Ohio is eminently correct.

Mr. VANIK. During the course of our consideration of this legislation, the gentleman's committee sent the Committee on Ways and Means a letter concerning the next tax question.

I would like to ask the distinguished chairman of the Foreign Affairs Committee several questions so that he might confirm my understanding of the tax consequences of this legislation. First, as I understand it, the U.S. Government will deal with Taiwan through a nongovernmental entity designated by the President and that for tax purposes this entity will be treated exactly the same as the Federal Government is treated. Is that correct?

Mr. ZABLOCKI. The gentleman is correct. The sole activity of the designated entity will be to conduct the dealings with Taiwan which prior to derecognition were conducted by the U.S. Government, and for purposes of our domestic laws it will be treated, to the extent the President specifies, in the same manner as a Federal agency. It is contemplated, of course, that the President will specify that the designated entity will be treated as a Federal agency for tax purposes. Accordingly, it would be exempt from tax, and contributions to it would be deductible.

Mr. VANIK. Am I correct that employees of this entity will be treated in the same manner for tax purposes as Federal Government employees are treated?

Mr. ZABLOCKI. That is correct. The bill explicitly provides that its employees will be treated for tax purposes in the same manner as Federal Government employees are treated.

Mr. VANIK. Finally, as I understand it, the severing of diplomatic relations with Taiwan will in no way affect the treatment of Taiwan for tax purposes. Now this would mean, for example, that Americans working on Taiwan for the necessary period would qualify for the deductions for excess foreign living costs, and income taxes paid to Taiwan would qualify for the foreign tax credit if the other requirements of the code are met. Also, as is true with foreign governments, the governing authority on Taiwan, or its agencies or instrumentalities, would be exempt as long as the income does not inure to the benefit of any private individual and it is not derived from commercial activities. Now this is a point that I want to be very clear on—am I correct that there is no way that any private individual or company could use any provision of the bill to escape U.S. tax under present law.

☐ 1310

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I am happy to yield to the chairman.

Mr. ZABLOCKI. I thank the gentleman for yielding. This is definitely correct. The exemption from U.S. tax which would be available to Taiwan would only extend to governmental activities, and it would not apply in any sense where the income was derived from commercial activities or the income inured directly or indirectly to private interests.

Mr. VANIK. I want to thank the distinguished chairman of the Foreign Affairs Committee for his responses to these inquiries.

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. DORNAN).

Mr. DORNAN. Mr. Chairman, I will ask at the proper time to revise and extend my remarks so that I may put into the RECORD of the debate at this point the very moving farewell speech given at the Free China flag-lowering ceremony at Twin Oaks on last New Year's Eve by Mr. H. K. Yang, former Vice Minister of Foreign Affairs for the Republic of China.

Mr. Chairman, on December 15, 1978, President Jimmy Carter dramatically announced that he was going to sever diplomatic relations with an old and faithful ally, the Republic of China. He declared, furthermore, that he was going to establish diplomatic relations with the Communist regime and terminate the Mutual Defense Treaty with the Republic of China on January 1, 1979. Some Christmas present for the people of Taiwan.

Now, the Communist regime is engaged in a bitter and dangerous war with their ancient enemies, the Vietnamese. Against the battle-hardened young veterans of the Vietnamese Army they are now making considerable headway in their punitive expedition in retaliation for the Vietnamese defeat of Communist China's ally, the bloody regime of Pol Pot in the devastated country of Cambodia. The current demonstration of Chinese conventional power is not, in and of itself, awesome. But consider the possibilities if the Communists on the mainland were armed with the most sophisticated weapons. Consider the impact of their possession of high level technology on the stability of the international balance of power. In their legitimate fears of the Russian Bear, American foreign policy analysts and political scientists who favor the expansion of trade relations between the Chinese Communists and the West are doing nothing less than creating the proverbial Frankenstein monster, an enormous Leviathan which could, realizing its own incomparable demographic strength, break loose from the conventional bonds of international order and go on a rampage through Asia. This is not fancy. It is a very real possibility. In the euphoria of "normalization," the giddy camaraderie excited by Comrade Teng's journey to the shores of our republic, I think that we have lost sight of the awful potential of the new Middle Kingdom.

I am dismayed by the fact that this administration continually indulges in wishful thinking and optimistic theorizing. A classic example of this was the manner in which we broke diplomatic relations with Taiwan. When asked whether the Chinese Communists had given assurances that they would not use force against Taiwan, Secretary of State Cyrus Vance replied that he expressed the hope that such force would not be used and that the Chinese Communists did not offer any contradiction. What did that mean? Silence, on their part, told us nothing. But the President went on to assure the world that Red China had no intention of attacking Taiwan. In fact, the President already cut the ground from under himself when he agreed to Communist China's interpretation in the first place. By recognizing the Communist regime as the sole legitimate government of China, we have logically assumed that Taiwan is an internal affair. The Chinese, quite property, replied that we had no right to determine how they were to settle their internal affairs.

On January 5, 1979, Vice Premier Teng Hsiao-p'ng publicly acknowledged that the Chinese were not going to restrict themselves to the wishes, hopes, or pleadings of a confused and desperatively hopeful American administration. He declared that the Chinese Communists could not rule out the use of force in reuniting Taiwan with the mainland. He reiterated, once more, the point that the question of Taiwan is solely an internal matter.

Under what interpretation of national or international law, the custom and usage of states and nations, could the Carter administration possibly believe that the Chinese Communists have no legal or moral right to use force in the resolution of internal disorder or disturbances? The President had already given the proverbial game away.

The fundamental difference in perception between the administration analysts in the United States and the leaders of the Communist regime on the mainland is that the latter exhibit a fine-tuned understanding of the uses of international power. Using the United States as a platform to warn of the real dangers of Soviet Russian imperialism, it was not surprising that Vice Premier Teng would talk openly of punishing the Vietnamese. He understands the psychological impetus of his new found relationships with the United States. He must likewise grasp the incredibly naive approach of administration foreign policy leaders—who received no concessions whatsoever, even in negotiating the blatant betrayal of an old, trusted, and faithful ally. Such behavior must, I think, excite his contempt.

Mr. Chairman, the President has said that he will veto legislation that would provide long-term assistance to Taiwan. Then, later, it was reported that he would agree to use force in the protection of the Taiwanese. What does that tell us? It tells us what we have suspected all along. This administration has no foreign policy. This administration makes ad hoc decisions and proposals in response to events; but there is little, if any, attempt to control events. There is no vision, no plan, no overall intellectual framework.

Mr. Chairman, does anyone in the White House remember human rights? I mean, does anyone, straining their crania, recall the vaunted importance of the principles of human rights and the dignity of men in our foreign policy. When the President announced his new China policy. he remarked that he was only "recognizing reality"—the reality of the Communist conquest of 900 million human beings. Well, I agree that we ought to "recognize" this reality—all of it, in all of its ugly and heart rendering dimensions.

Yes, Mr. Chairman, let us extend full, complete and unreserved diplomatic relations to reality. According to the Guinness Book of World Records, the regime on mainland China is responsible for more political murders than any other government in human history. Yes, more than Hitler, Pol Pot, or even Stalin. The Walker report published by the United States Judiciary Committee in 1971, estimated that the human cost of communism in China since 1949 ranges anywhere from a conservative estimate of 32,000,000 to a high of 61,000,000 human souls. It is worth noting that the Communist Chinese themselves have openly claimed on several occasions that they have been engaged in mass executions of so-called class enemies.

As with virtually every major totalitarian political experiment since Lenin seized power in 1917, the force labor concentration camp has become a standard apparatus of repression. While there are no official government estimates of dissidents or prisoners forced into what the Communists call Lao Dong Gai Zao—reformed through force manual labor—a 1964 estimate published by the Guinness Book of World Records was 16,000-000. Where was Teng Hsiao-ping during this period of Communist rule. He was in the center of the violence, literally wading in the blood of innocent victims. As I said there is no reason why we ought not to extend diplomatic relations to every facet of reality—even those we boast and toast.

On December 31, 1978, the day before the United States decided to derecognize its veteran friend in war and prosperous trading partner in peace, former Vice Minister of Foreign Affairs for the Republic of China, H. K. Yang, delivered a farewell address. It was a very moving speech. It revealed the bravery and determination of the fine people he represents, the very last bastion of the venerable culture of Confucious in the world today.

As I said, I think we ought to examine the whole of reality in all of its heart-rendering dimensions. Mr. Yang's speech, therefore, cannot be overlooked—even from the very high altitudes of the State Department.

I ask my colleagues to read it with full awareness of the tragic history our current administration is writing:

TWIN OAKS ADDRESS BY VICE-MINISTER OF FOREIGN AFFAIRS H. K. YANG OF THE REPUBLIC OF CHINA

(Delivered at the flag-lowering ceremony held at Twin Oaks, Washington, D.C. on December 31, 1978)

It is with a heavy heart that I am here to officiate the ceremony of the lowering of our national flag—the flag of the Republic of China.

I am grateful to all of you—friends and fellow citizens—who are gathered here at Twin Oaks to take one more look at our national flag before it is taken down. Your presence gives us strength and confidence. Your presence speaks eloquently of the fact that in our fight for a just cause we are not alone.

China and the United States exchanged ministers exactly a hundred years ago. Ever since 1912 when the Republic of China was brought into being, the first republic in Asia, our two countries have maintained close and cordial diplomatic relations. Throughout the long years, in war or in peace, I am not aware of a single occasion when the Republic of China did anything perfidious or wrong to the United States.

Our people, known for their trustworthiness, honesty and loyalty, have always endeavored to live up to the moral and ethical standards they set for themselves in their dealings with the people of the United States. It is therefore only natural that we feel distressed when we realize that our national flag is not to be raised here at Twin Oaks after the end of this year, because President Carter has decided that on January 1st, 1979, the United States will terminate diplomatic relations with us the Republic of China—a loyal friend and ally of the United States, and establish relations with our enemy the Chinese Communist regime.

Beginning tomorrow, relations between the Republic of China and the United States of America shall undergo changes. Surely, there will be modifications and readjustments. Although the names of our respective embassies in Taipei and Washington, D.C. shall go into limbo, yet our many-faceted realistic and meaningful relations in trade and economic developments, in cultural and scientific exchanges, in people-to-people interflow will not only continue but also flourish.

The lowering of our national flag does not mean that we are giving up our fight against Communism. Fight we will. We in the Republic of China have the courage not to bow before the brutal forces of Communism. We fight against Communism not only for the seventeen million Chinese living in Taiwan, but also for more than twenty million overseas Chinese living in all parts of the world. And, what is more, we do it also for the 800 million Chinese who have been forced to live under an oppressive, totalitarian Communist regime. Indeed, we are continuing our fight against Communism for all freedom-loving people the world over.

We regret that the United States Government chooses to terminate diplomatic relations with us at a time when our people on the China mainland have begun to question the Communist regime, defiantly and courageously, why the economy on the mainland is not as good as it is in the Republic of China on Taiwan. Through such questions, the people are challenging Communism both as a form of government and as a way of life.

If the raison d'etre of a government is the promotion of the welfare of the people, then I would say that my government, the Government of the Republic of China, can stand the test. For the Chinese people living under my government enjoy a standard of living at least four times higher than that of the people living under the Peiping regime. Moreover, the people in the Republic of China on Taiwan enjoy full freedom while on the China mainland the people are even denied the freedom of silence.

We as a government never pay lip service to grandiose ideas of certain political philosophies. Yet, I am proud to say that under the leadership of President Chiang Ching-kuo, politically ours is an open society; and economically we are moving, quietly but vigorously, in the direction of an egalitarian society. We have confidence in our leadership. We have confidence in our Government. And we have confidence in ourselves. I wish to assure you that, come what may, the Government and people of the Republic of China will continue to strive for freedom and democracy and peace with justice—a just cause to which all of us who are gathered here have long dedicated ourselves.

Dear friends and fellow citizens, we may be facing a long dark night. But as long as we can persevere and keep our chins up—and I am sure we can—we shall be able to come here again soon, with renewed conviction and dedication, to welcome a new dawn and a new era in the relations between the Republic of China and the United States of America.

Before concluding, I should like to assure all of you that with conviction and confidence, we shall return! And we shall return with this same flag—the national flag of the Republic of China.

Thank you.

I hope, during the coming debate on the Taiwan issue amendments that we discuss thoroughly the security of Taiwan, and the military preparedness condition in which their good friend, the United States of America, leaves them. I hope that no one refers to Taiwan as being "armed to the teeth." We must differentiate between the skill of trained soldiers, sailors and airmen, that is between the brave men and women of the Republic of China's defense forces and the aging, obsolete, inferior equipment we allowed them to purchase.

Please do not confuse this stupid expression "armed to the teeth" with the hardware we have left behind. Take their F–100 fighter aircraft for example. The "Hun" was a great fighter when we brought it into our inventory in the fifties. I checked out in the F–100 aircraft over 22 years ago. Twenty-two years in fighter technology is more than a lifetime. The Air National Guard of the State of Arizona, for example, and of South Carolina and Tennessee picked up F–104 aircraft over 20 years ago and that plane is another in the Taiwan defense inventory. Our old F–100's and F–104's make up about 50 percent of the small 222 fighter plane force of Taiwan.

The small F–5 fighter, again 1950 technology, makes up the rest of their Air Force. This small force is in no way capable of defending that island for more than a few hours.

The pathetic figure of only 222 defensive aircraft is undercut by the low number of small surface ships—only 111—just 111 surface ships, not one of which has a surface-to-surface missile of the modern type necessary for effective island defense. The Soviet "Styx"-type missile used against the Israelis to sink their largest ship, the destroyer *Elat*, in the 1973 war, is an example of what Communist navies have today in heavy numbers. Our ally Taiwan was given zero missiles by their great protector, the United States.

In other words, we in the first delegation to visit Taiwan after our administration cut them adrift pressed our military liaison people in Taiwan in January to give us a factual briefing about the military hardware we left them for defense. The answer was, a loud, clear, tragic. The Taiwanese are in a desperate situation and their obsolete U.S. planes and ships are wholly inadequate. So, I hope we will go into depth on their fragile security situation this afternoon.

Mr. BROOMFIELD. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Idaho.

Mr. HANSEN. Mr. Chairman, I strongly oppose the administration's plan to provide for a private institute for handling U.S. dealings with the Republic of China on Taiwan. A terrible tragedy is about to occur unless we act decisively to prevent 17 million free people who have fled and fought communism from being forced back into its jaws.

The Republic of China on Taiwan is our eighth largest trading partner—much greater than the Soviet Union and Red China combined.

American bankers and businessmen in Taiwan have billions at stake which must be protected, and American farmers and businessmen could well lose all or part of an $8 billion market—one of the only world markets unsubsidized by U.S. taxpayers.

I have just returned from Taiwan. The people there want and need a continued official government-to-government relationship and a continuation of the Mutual Defense Treaty.

The institute proposal condemns the people of Taiwan to nonentity status among the family of nations giving the Communist Chinese Government a hunting license to absorb Taiwan when and as it will as a matter of internal politics, with relative immunity from serious challenge from other nations.

The institute proposal has seriously disturbed and threatened the American business community concerned with Taiwan who fear loss of markets, loss of investments, loss of assets, and already evident Red Chinese intimidation in doing business with Taiwan.

We need more than resolutions of good intent in these critical times—we need firm—decisive action preserving our longtime official government-to-government relations with the Republic of China in Taiwan. There has been an official two-China policy for years, since President Nixon opened the mainland, with U.S. liaison offices in Peking and a U.S. Embassy in Taipei. I have the personal assurance from Republic of China Premier Sun that despite U.S. recognition of the Peking government, Taiwan has always desired and continues to desire full official diplomatic relations with the United States.

The issue requires a strong stand to protect America and Americans, and to help assure the independence and freedom of 17 million Chinese people on Taiwan.

Free China is not our enemy. Free China has not committed acts of hostility against the United States. Free China is only guilty of being our friend and ally in a world where faithful friends are often hard to find.

In the legislation we finally approve today we must act to protect American and free Chinese interests by preserving the international status of the sovereign Republic of China and balancing our relations with the two Chinas.

Mr. DERWINSKI. Mr. Chairman, I thank the gentleman for his statement. I know that the gentleman in the process delivered specific criticism of the administration, and many other Members have; and because they have, I will take the high road. I do not criticize the administration as much as I call the Members' attention to the fact that the passage of this bill is necessary by the action of the administration. I think the administration is wrong, but the damage is done. The facts of life are that unless we pass this bill and then solve whatever problems remain in conference with the Senate, then we would be letting down our friends in Taiwan.

I will have a number of amendments to insure the status of Taiwan in international organizations; to prevent the PRC's interference with the economy of Taiwan; to, and to strengthen the antiboycott provisions in the bill.

□ 1315

Then I also have an amendment dealing with the ability of Taiwan to purchase defense arms without interference, political, or otherwise, from the government in Peking.

Mr. Chairman, I would like to point out to the Members the reality of the situation. "Reality" is a favorite word here in Washington these days, and there is reality in this discussion of the situation involving the Chinas.

My personal opinion is that we should not have normalized relations with the government in Peking unless they accepted the continuation of our relations with the government in Taipei. In my personal opinion, there are two Chinas, just as there are two Koreas and there are two Germanys. The problem is compounded by the fact that neither of the Chinas accept the fact, but realistically, there are two Chinas.

I would like to discuss with the Members one of the Chinas, mainland China. We are going to give enough attention to the Republic of China this afternoon. I would suggest that one must keep in mind that the People's Republic of China is not necessarily the most stable regime in existence on the globe today, and that the method by which heads of state are changed there and the method by which wall posters change the political course of events would lead us to conclude that they are something less than an absolute reliable diplomatic or trade partner. In fact, in the last few weeks the People's Republic of China found it necessary to advise the Japanese that some of the fat contracts they expected will be nonexistent, and that should be a lesson to us.

Mr. Chairman, one of the speakers earlier in debate mentioned Chinese oil. I suggest that all of the Members do a little research into this question of Chinese oil. There is not going to be that much available, and the quality of Chinese oil leaves much to be desired. Therefore, if any Members think that Chinese oil is going to be a panacea to our energy problem, think again. It is not.

Mr. Chairman, looking at this situation realistically, I would suggest that in this legislation we express the intent of Congress in this fashion: First, that we want to insure the security of the people of Taiwan; and if that means from time to time dealing with their governmental entity, so be it. Second, we want to insure their presence in international organizations. We want to insure that they will not be subject, directly or indirectly, to any trade boycott; and then in the spirit of the President's great interest in human rights, I am sure all Members would agree with me that it would be an absolute tragedy and a blot on the record of this country if we in any way condoned the loss of rights which the 17 million people on Taiwan now enjoy.

Compared to the situation on the mainland, Taiwan is Utopia, not just in an economic sense, but in the political, social, and religious sense, and in every other way in which a comparison could be made.

Mr. Chairman, I believe it is the intent of Congress, fortified by public support, that regardless of this change of recognition in government, the public wants us to maintain the fullest possible cooperation with the people and the governmental entities on Taiwan so that their progressive way of life and their economic success story may continue and that their relations with the United States at all levels may continue. That will be in the best interests of our country as well.

Mr. BROOMFIELD. Mr. Chairman, to close debate on the minority side, I yield the balance of our time to the gentleman from Illinois (Mr. FINDLEY).

The CHAIRMAN. The gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Florida.

Mr. KELLY. Mr. Chairman, I rise in opposition to the bill.

Mr. Chairman, the purpose of these remarks is not to question the recognition of the PRC, but to oppose action by the Congress that will complete the abandonment of the defense interests of the United States in the Western Pacific.

The most disturbing aspect of the President's abrupt normalization of relations with the People's Republic of China is the apparent disregard of U.S security interests in the Western Pacific

For the past 30 years, Taiwan has been a key strategic link in the U.S. Western Pacific defenses. During most of that time, the United States did not even recognize the Communist government on the mainland.

My concern is that in our haste to recognize the "reality" of 1 billion Chinese on the mainland, we should not ignore the reality of 17 million free Chinese on Taiwan who represent an important U.S. defense ally. At best, the President's action would transfer the initiative for dealing with Taiwan to the Communists. At worst, it would deliver a free nation—in a shrinking world of freedom—over to communism.

Government-to-government relations between the United States and Taiwan must be reestablished, with the United States retaining the international standing in law to defend the Republic of China, Taiwan, against military aggression or economic sanctions.

Without government-to-government relations, the United States will have recognized Peking's sovereignty over Taiwan, and thereby will have conceded that any effort by Peking to absorb Taiwan, by any means, would be strictly an internal affair of Communist China, and any interference on our part would constitute an act of war against the PRC the same as though the PRC would interfere with Hawaii. I do not think the United States should be so willing to surrender our foreign policy flexibility to the Communists.

As we consider Teng's appeals to the United States to join with the PRC in an alliance against the Russian "polar bear," let us also consider that ideologically, Peking is much closer to Moscow than to Washington. An unmistakable reminder of that fact is that in T'ien An Men square, in the center of Peking, there are five pictures, each some 20 feet high. The men pictured are Mao, Stalin, Lenin, Marx, and Engels. Thomas Jefferson is not pictured.

Furthermore, while Teng was in this country pleading the commonality of interests between his country and ours, Communist insurgents trained and supported by the PRC continued their pressure on the free governments of Thailand, Burma, and Malaysia. This past Tuesday, after Teng left this country, President Carter received Thai Prime Minister Kriangsak Chomanan, whose country is one target of the insurgents, and told him:

> Our nation . . . is deeply committed . . . to the freedom of Thailand.

In a recent interview, Vice-Premier Teng said that with respect to worldwide geopolitical considerations:

> It is in the interest of the U.S. to maintain the status quo.

While the Vice-Premier would not agree, I think that his statement applies with special force to our relationship with Taiwan. It is not in this country's interest to abandon Taiwan—an important defense base and trading partner—in order to placate the PRC—a Communist nation.

The United States is a Pacific nation. Our 50th State, Hawaii, lies some 3,000 miles out into that ocean. Our largest State, Alaska, repository of untold wealth in minerals, oil, and gas, extends by the Aleutian Island chain hundreds of miles into the Pacific. California, our most populous State, has 800 miles of Pacific coast. The shipping lanes of the Pacific carry trade between the United States and Japan, which for years has been our largest overseas trading partner. United States Pacific defense strategy must begin with the protection of our friends in South Korea, Japan, the Philippines, and Taiwan. We should never voluntarily give up any of these allies.

Government-to-government status is essential to preserve this country's ability to protect its security interests in the Pacific and to protect our credibility among the nations of the free world.

This bill is an extension of the Carter administration's policy of retreat and not in the interest of the United States and freedom in the world.

Mr. FINDLEY. Mr. Chairman, first of all, I want to congratulate the chairman of the Committee on Foreign Affairs and his staff and his colleagues on both sides of the aisle for what I think is an excellent piece of work.

Most of the legislation we handle in this Chamber is really not made on Capitol Hill. It is made at the other end of Pennsylvania Avenue. This is a notable exception and a splendid example of congressional initiative far superior to the language which was suggested by the Department of State and which was first suggested at the other end of the Capitol Building. So it is a quality piece of legislation.

□ 1320

I will not discuss the circumstances that have led us to this day. To me the important thing is the bottom line, the fact that normal relationships have now been established with the most populous nation on earth, a nation of great importance to our own future. The normalization has been arranged in a way that, with the enactment of this legislation, creates a position of decency and, I think, reasonable security for the people on Taiwan. I believe that every district Representative in this Chamber has people with a deep affection for the people on Taiwan and a deep concern about their future. That certainly is true in my case.

For me personally today is the culmination of a very long trail which began back in 1967 when I had the temerity to speak up for the entry of China into the United Nations, the opening of the door to China, the establishment of normal U.S. diplomatic relations with China. I believe I was the first Member of the House and Senate to do so, and this was not met with universal applause in my home district, I can assure the Members. I mention that because today is important to me personally, and I am gratified to have been able to serve in this body long enough to see this day come.

I am also pleased to note the important role that the Republican Party has had over the years in the development of China relations. John Hay, a Republican Secretary of State, opened the door to China many years ago. It was a Republican, Henry Kissinger, who made the first initiative on the China mainland leading to the establishment of a liaison mission there. It was a Republican President, Richard Nixon, who set in motion the orders, the process that led to the opening of the Liaison Office. And it was a Republican of continuing prominence, George Bush, who served as First Chief of the Liaison Office.

Much has been said and will be said later today about the quality of life or lack thereof in China, and I certainly hold no brief for the society that does exist there, or for the policies that that government carries out. To me that is not the important issue that we face today. The important issue we face today is the desirability of gaining the convenience of full diplomatic relations with a very important world power. The extension of diplomatic relations should not be viewed as conferring a compliment upon the regime in the Peoples Republic of China, nor aproval of the policies that it is carrying out. Rather, it is a means of securing a convenience, a convenience of great importance to our Nation.

If we establish diplomatic relations only with countries whose societies we approve and whose policies we approve, we will deal with very few countries. If we have diplomatic relations only with those countries that enshrine human rights as I believe they are in this country, we will have very few embassies on the face of the earth; if we go that route, we will be shortchanged as a nation, unable to deal as effectively as we can given the presence of normal diplomatic relations in all major nations.

In a sense we are establishing by this bill a relationship with the government on Taiwan, but not calling the government on Taiwan a government. To that extent it is cosmetic but sometimes cosmetic treatment is important. In this case it helps to make possible this larger and, I think, very important goal of full diplomatic relations with the People's Republic of China.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

Mr. ZABLOCKI. Mr. Chairman, I yield the remaining time on this side to close debate to the gentleman from New York (Mr. Wolff) the chairman of the Subcommittee on Asian and Pacific Affairs of the Committee on Foreign Affairs.

□ 1325

Mr. ZABLOCKI. Mr. Chairman, I yield the remaining 7 minutes of our time to the gentleman from New York (Mr. Wolff).

Mr. WOLFF. Mr. Chairman, I am pleased today to join with my chairman, Mr. Zablocki, as we present the House with the United States-Taiwan Relations Act, H.R. 2479.

The chairman has already outlined the principal features of the bill. Let me add my strong endorsement of it for two general reasons:

First, our bill remedies a major omission of the administration bill—that is—the failure to address the issue of Taiwan's security.

Second, our bill remedies the administration's failure to adequately define the framework under which the private sector will continue its economic and social relationships with Taiwan and its people. Chairman Zablocki has already covered this area.

In sum, then, our bill remedies the two major omissions of the administration bill in constructive ways which will both enhance normalization of relations between the United States and the People's Republic of China, and provide the people on Taiwan with the legal and psychological assurances they need to continue the traditional United States-Taiwan relationship.

As you know, I am the principal sponsor in the House of the Kennedy-Wolff bill on Taiwan's security, H.R. 167. More than 100 of our colleagues joined in cosponsoring this important legislation, as did more than 30 of our colleagues in the Senate.

I am pleased to be able to report to the House that Joint House Resolution 167 has been successfully incorporated into the bill before us today. From the outset, Chairman Zablocki and I together with our colleagues on the Foreign Affairs Committee, were determined that the issue of Taiwan's security, as well as the overall American interest, be addressed in a responsible fashion in the omnibus legislation requested by the administration.

The Asian and Pacific Subcommittee has spent 3 full years discussing all the ramifications of normalization including the tripartite relationship, the political, security, and economic aspects as they affect the United States. We have spent many long hours, including some half-dozen hearings, this year, at the subcommittee and full committee level, going into every necessity and every nuance of the security issue.

We are satisfied that the language before you today represents the security interests of Taiwan in a manner which meets the needs of the people on Taiwan, and, most importantly, a manner which meets the interests of the United States.

Let me stress that the security language before the House today authorizes the President to take whatever action he deems advisable in the event of a threat to Taiwan's security, including the threat of economic blockade or boycott. The language does not exceed the language of the War Powers Act, a point I emphasize because I am afraid that some of our colleagues here today would urge upon us language which—and I will be frank—constitutes a virtual "Gulf of Tonkin resolution" on Taiwan.

I make this point for two reasons:

First, we have all learned the lesson, I think of the dangers of an open-ended grant to Presidential power. That is the purpose, and the virtue of War Powers, which I and Chairman Zablocki fought so hard to make into law.

The second reason I would urge upon you is historical as well and that is take a careful look at the language of the mutual defense treaty signed in 1954 by John Foster Dulles. I think the acid test for any language proposed today as a substitute to the commitee's work is to judge it in light of what was seemed necessary and appropriate in 1954. I think that you will agree the language of our bill meets the tests of history, and of commonsense in protecting the vital interests of the United States.

For those who are concerned that our language has no real "teeth," let me call your attention to testimony before the Subcommittee on Asian and Pacific Affairs which echoed the public remarks of President Carter that, if appropriate, he would not hesitate to use force to defend Taiwan.

Our subcommittee received detailed testimony from political and legal experts of the State Department that under international law, the President would have legal justification for the use of force if deemed necessary and concurred in by the Congress in defense of Taiwan. The legislation before you today provides the President with the flexibility he needs, while at the same time mandating that, under War Powers, he report to the Congress and receive the approval of Congress for his actions.

But I would point out that our bill goes even further to meet the concerns expressed by so many of us:

First, the bill specifically mandates a continued U.S. role in supplying Taiwan with defensive weapons, even after expiration of the Mutual Defense Treaty in December.

Second, the bill specifically directs the President to promptly inform the Congress of any danger to U.S. interests arising from threats to Taiwan, including, as I have already noted, the threat of economic boycott or blockade.

In sum, then, the bill before you meets any realistic, and, I feel, any possible threat to Taiwan, now and in the future, and I urge adoption of H.R. 2479. I further urge any of our colleagues who still feels an amendment to the security section is in order to carefully read pages 5 and 6 of the committee report spelling out the ideas I have briefly highlighted.

May I add the following important historical perspective:

I received a letter from former President Nixon, the author of the opening to China, which prompts today's debate. In that February 14 letter, Mr. Nixon made two points I would like to share with the House today:

> In (Shanghai Communique) the U.S. "reaffirmed" its support of a peaceful resolution of the Taiwan issue. I consider that to be an unequivocal moral commitment. In my view U.S. policies toward the P.R.C. and Taiwan in the future should be formulated in a way to honor that commitment.

Mr. Nixon goes on to note:

> . . . at a time when U.S. credibility as a dependable ally and friend is being questioned in a number of countries, it is also vitally important that the Taiwan issue be handled in a way which will reassure other nations—whether old friends, new friends or wavering friends—that it is safe to rely on America's word and to be America's friend.

Mr. Chairman, I would suggest that H.R. 2479 meets the tests suggested by Mr. Nixon—the twin tests of credibility and moral commitment.

The tests must be linked, for surely a moral commitment which is stated in unrealistic language does not meet the genuine security or national interests of the United States. Thus, a commitment of that nature can hardly serve as a credible commitment, no matter how well-intentioned.

In sum, then, H.R. 2479 is a credible, moral, and legal commitment precisely because it is also a realistic commitment, one which does not go beyond the bounds of American national interest.

Mr. HUTTO. Mr. Chairman, I feel it necessary to state for the Record why I will be absent for the vote on H R. 2479, United States-Taiwan Relations Act, and also to state my view on this legislation.

I will be, at the time of this vote, on my way to Alaska with other members of the Merchant Marine and Fisheries Committee to view, firsthand, the lands in question under H.R. 39, the Alaskan lands bill. During the visit, we will be holding hearings to receive testimony directly from the many citizens who cannot bear the expense to travel to Washington. As you know, this legislation is of major importance to the people of the United States, the State of Alaska, and the future generations of America. I determined that this visit to Alaska was necessary after hearing numerous hours of testimony in the subcommittee and reading hundreds of pages of arguments, both pro and con, on this legislation. Due to my departure time, I must be absent at the time of the vote.

Let me now turn my attention to the legislation in question, the United States-Taiwan Relations Act.

As I have noted time and again, before this body and to my constituents, I have always supported a strong defense as a deterrent to aggression by our adversaries. We must remember though that our adversaries, those whose ongoing commitment is world domination, are philosophically opposed to us and our position and will leave no stone unturned in bringing us into their fold.

The United States has been a mainstay of the free world for many years. Our friends could always count on us; our strength, our compassion, and our assistance. It is disturbing to me as a citizen, as it must be to our many allies, when we capriciously abandon an ally who has fervently supported us even when things were darkest.

Other allies must now be reconsidering their policy toward the United States and the nondemocratic nations. How will other nations, both large and small, react when the United States calls upon them to stand tall against a major philosophical adversary? Were I a leader of one of these nations, I would surely consider my position should the United States abandon my nation. Let us hope that the United States not obtain the title of a "fair-weather friend" in international circles. I trust the President, the Department of State, and the Senate have considered these ramifications.

I further question the intelligence of using the hard earned technological advances of this great Nation to advance the nations committed to our downfall. As the administration views the world, free and Communist, with compassion, let them remember that in incident after incident, the nondemocratic nations have failed to follow our lead. When the time comes for a hard line disagreement on an issue and our adversaries have our technological advances available to them, will they be compassionate?

If the policy of the administration is to pursue these ties with Communist China, then let us insure that our close friends on Taiwan are guaranteed the right to maintain their free and democratic lifestyle. I believe that the United States owes this guarantee to a people who have been friends, through thick and thin, for many years. Let us not forget their friendship and let us pray to God that they will not abandon us.

Mr. RITTER. Mr. Chairman, the approach Congress takes in assuring the security of Taiwan will have major international implications. Our action here in considering the United States-Taiwan Relations Act will be a message to the entire world as to whether or not the United States can be trusted to honor its commitments and stand by our friends and allies around the globe.

The President's action in recognizing the People's Republic of China, as all Americans know, was taken without prior consultation with Congress. Like many of my colleagues, I was deeply disturbed at the way in which the President took that action without regard for the consent of the elected representatives of the people in Congress.

But since that action has already been taken, it is now Congress' obligation to make absolutely sure that the safety of the 17 million citizens of Taiwan is guaranteed by the nation Taiwan has stood by so faithfully for so long.

Unless we tell the world loud and clear that we will never tolerate any threat to our allies on Taiwan, we will give our adversaries the dangerous impression that aggressive acts will be permitted against our allies anywhere. We will also send a message to our allies that our will to protect American interests and honor our commitments has been destroyed.

I do not want to send that kind of message to the world, Mr. Chairman. Instead, I want this body to state our firmness in defense of our allies strongly enough that there will never be any doubt about its meaning.

So, I urge my colleagues to join me in supporting continued strong ties between this country and our Taiwanese allies.

Toward that end, I intend to support an amendment to this legislation that will insure that defense materials and services will be provided to Taiwan based entirely on Taiwan's needs, without regard for the views of the People's Republic of China.

I will also support the amendment to link the peaceful settlement of the Taiwan issue to continued U.S. recognition of the People's Republic of China.

In addition, I will support a provision for a more formalized relationship with Taiwan—such as the opening in Taipei of a consulate or liaison office. Government-to-government ties are necessary for both the needs of the United States and the needs of Taiwan.

I urge my colleagues to support these and other provisions which will strengthen Taiwan. This is the least we can do now for a friend and trusted ally.

Mr. DAN DANIEL. Mr. Chairman, there are few matters which will come before the Congress of greater long-term impact than what we consider today. Given the current international situation, our Government's actions relative to Taiwan have a potential significance far greater than the actions themselves.

On February 7, Adm. Edwin K. Snyder, U.S. Navy, retired, who was commander of the U.S. Taiwan Defense Command from 1974 into 1977 testified before a Senate Committee on Foreign Relations on the defense implications of abandonment of the Republic of China. I insert in the RECORD the points Admiral Snyder raises as they are important to our discussion and disturbing in their implications:

STATEMENT OF ADM. EDWIN K. SNYDER

Admiral SNYDER. Mr. Chairman, distinguished Senators of the Committee, it is an honor to be asked to testify before the Foreign Relations Committee on a subject that is very dear to my heart, the security and well being of some very dear friends, not only of mine, but of all of us, that is, the people of the Republic of China.

As Commander of the U.S. Taiwan Defense Command from 1974 to August 1977, I was responsible to the Joint Chiefs of Staff for contingency planning for the defense of the Republic of China including Taiwan and the Pescadores Islands.

My additional responsibilities as Commander U.S.T.D.C. included supervising the submission of the Republic of China five-year defense plan which was prepared by the Chief Military Advisory Assistance Group to the Republic of China.

As the ultimate consumer of any weapons systems purchased by the Republic of China I was vitally interested that they be the weapons that would be the most effective.

A third major responsibility of my staff was the oversight concern for the readiness of the Chinese and American forces that would be placed at our disposal should the need to defend ourselves ever arise. In this regard we conducted frequent and regular joint training exercises with Republic of China forces including one large-scale wargame on an annual basis.

So much for background. Mr. Chairman, I presume that the purpose of my presence today is to present an assessment of the capabilities of the armed forces of the Republic of China to defend itself.

First, let me say that in the event of a determined attempt by the PRC to conquer the Republic of China by military force—without the aid of immediate and extensive U.S. aid, the ROC Air Force would be neutralized within two to three weeks, in my opinion, by the overwhelming numerical superiority of the communist fighter inventory.

This is not to say that the Republic of China Air Force would not take a massive, and perhaps unacceptable, toll of PRC aircraft. But a little over 200 modern fighters are no match for the 2,500 that are now in place facing Taiwan.

Second, let me say that the Republic of China Navy is no match for the increasing numbers of PRC OSA patrol boats and modern destroyers, both armed with STYX type, surface-to-surface missiles. The 20-odd World War II destroyers in the Republic of China Navy, armed with five inch guns, are woefully inadequate to defend themselves against such firepower.

I have yet to mention the greatest threat to the Republic of China Navy and the maritime lifelines of the Republic of China. The PRC submarine force consists of almost double the number of attack submarines that we have in our whole Pacific fleet. True, they are diesel submarines, but one must remember that our diesel submarines devastated the Japanese lines of communications against similar vintage anti-submarine capabilities in World War II.

It is my opinion that the PRC submarine force in concert with its surface and air forces could totally disrupt the lines of communications to Taiwan in short order should they ever get the order to do so.

I admit, Mr. Chairman, that I have given you a rather gloomy view of the Republic of China capabilities to "go it alone." I would point out, however, that until just several years ago, there was never any indication that they would be required to "go it alone."

In the past few years, the Republic of China government has been exerting superhuman efforts and spending vast amounts of money to prepare itself. However, you don't just develop an effective ASW capability overnight, nor an air defense, nor any other military capability. Today's weapons systems are too frightfully complex and expensive.

An additional problem is that, in my opinion, several vital weapons that Taiwan really needs have been withheld from them for political reasons.

On the brighter side, I would close with one final observation. The armed forces of the Republic of China are superbly led. They are fierce fighters and they are completely loyal to their government.

In spite of my foregoing comments, there is no doubt in my mind that any fight the PRC should pick with the ROC would be a very painful and costly undertaking.

● Mrs. HOLT. Mr. Chairman, we have before us an agonizing bill. It is agonizing because the administration has forsaken a long and loyal friend—the Republic of China. I recently came across a translation of a Chinese poem which poignantly expresses how our wounded friends—the Free Chinese on Taiwan—feel about it all. I would like to share that translation with my colleagues:

TRANSLATION OF A CHINESE POEM

(Translated by Kenneth Wu)

When a friend turns his back and leaves us, what we have lost is nothing but friendship that has long ago changed its character; but we have not lost faith in ourselves.
Because, the Yellow River flows in our blood stream and there are Chinese people of the five mountains in our bones—our feet are the ones that have dared to tred on thorns,
and our eyes are the eyes that are not willing to shed tears.
Who can deny that there is winter plum in the snow? It does not exist because it is recognized and it does not perish because of denial. It embraces its own fragrance, it upholds its own purity, and it is a twig of plum that stands by itself.
In Taiwan there are 17,000,000 living souls, together eating the rice of the great earth, together drinking the waters given by Heaven, and together drawing from the ancient well endowed with a 5,000-year old culture, and together bathing under the sunshine that stretches for thousands and thousands of miles in boundless glory. Such 17,000,000 people do not need the recognition or derecognition by others.
Who has the right to examine our blood line and on what grounds?
On what basis can others determine our nationality?
We accept only the affirmation of the Chinese people to ourselves. We accept only the recognition of history.●

Mr. EDGAR. Mr. Chairman, in light of our Government's recognition of the People's Republic of China, it is necessary for the United States to redefine its relationship with Taiwan. The United States-Taiwan Relations Act, H.R. 2479, establishes an excellent legal framework which will permit our economic, trade, and political contacts with the people of Taiwan to continue, even though we formally now recognize the legitimacy of the mainland Chinese government.

By establishing the American Institute in Taiwan, the Congress will be following the example set by Japan, which has maintained and even enhanced its relationship with Taiwan under the framework of "unofficial" institutions. H.R. 2479 as reported establishes a very careful framework for new United States-Taiwan contacts. Taiwan will benefit, and the United States will benefit.

Today, as the House considers this bill, attempts will be made to change the carefully drawn language in H.R. 2479. I support the bill as written, and I will oppose amendments—even those which, on the surface, sound eminently reasonable. The bill as written represents careful negotiations between the administration and the foreign affairs committees of the Congress. We are working in a very sensitive diplomatic environment when we discuss the China question, and in my opinion this environment is not conducive to the political posturing and flag-waving showmanship that characterizes many of the attempts to amend this bill.

● Mr. GUYER. Mr. Speaker, I want to add my voice in support of H.R. 2479, the Taiwan resolution, and pay sincere compliments to Chairman ZABLOCKI and ranking minority member BROOMFIELD of the Committee on Foreign Affairs for the erudite manner in which they put together this meaningful legislation.

As a cosponsor of this measure and ranking member of the Subcommittee on Asian and Pacific Affairs, I have a long-interest in America's image in Asia, and a deep concern about our integrity and reliability as friends and partners to nations which have traditionally and through performance have established warm alliance with our country and our people.

I am both excited and distressed with current international events involving our relations with other countries. I am excited about American relations with the largest country in the world, a country which I was privileged to visit not too long ago, but distressed by the manner in which these diplomatic relations were announced and established.

Our President indicated many times during this campaign that he would bring sunshine in Government, that there would be no secret deals, and that he would work with the Congress in all matters where our views and opinions were in order.

Neither America nor the Congress were prepared for the sudden announcement of our breaking of the treaty with Taiwan and our establishment of diplomatic relations with the People's Republic of China. I am told that neither the chairman nor the ranking minority member of the Foreign Affairs Committee were consulted or even notified of this event, until 2 or 3 hours before the public announcement.

This is now the second time the President has stunned the American people by making major commitments without the advice and knowledge of Congress, the first being the historic signing of the Panama Canal treaties, with pomp and splendor, everything except the knowledge and consent of those most concerned—the people and their representatives.

These acts constitute quite a contrast to the much heralded pledges that this new administration would conduct foreign policy openly and there would be no secret negotiations nor agreements.

It is rather painful to see an Executive who espouses human rights on the one hand and disregard the rights of our friends on the other hand.

The President's new foundation for Asia omits a cornerstone which neither of our previous two Republican Presidents would have overlooked, that being the insistence on a promise from the PRC not to use force to reunify with Taiwan. I have been told that the President did not even ask the Vice Premier for such a pledge.

While I seriously doubt if the PRC can take Taiwan or force its reentry into the ancestral country, what is more important is whether the United States is giving a signal to the world that we desert our friends to embrace former enemies, and to announce to one and all that we do not keep commitments, nor honor our pledges.

At a time when Iran has caved into a terrorist leader, when our Ambassador has been assassinated in Afghanistan, when we have lost friend after friend in Africa, when Asian nations shake their heads with disbelief at our behavior, it seems we need to take some actions to restore our honor and integrity.

Failure to certify that we will stand up for Taiwan's continued existence and well-being, not to mention continued freedom and self-direction, is to invite a challenge. We need to make certain that we are strong, and that we do maintain a formidable presence in Asia and will be a partner in maintaining stability in the Western Pacific.

Mr. Speaker, the measure before us today, with strengthening amendments, can help in a measurable degree restore our constancy and world credibility. For these and many other reasons based upon our rich tradition of strength, fairness, and leadership, I am happy to be a sponsor and supporter of this resolution and its usefulness as an important contribution to American diplomacy.

All of us have a stake in our new relations in Asia. We welcome trade and exchange of culture and friendship. But let us not throw out the baby with the wash water, and let us prove by precept and example that the American eagle still flies high, and is the symbol of strength and free people.●

□ 1330

The CHAIRMAN. All time for general debate has expired.

Mr. BAUMAN. Mr. Chairman, I believe one quorum call is in order in the Committee of the Whole, and, therefore, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair has just counted the House and 58 Members are present. Obviously a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1335

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Pursuant to the rule, the Clerk will read the bill by titles.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "United States-Taiwan Relations Act".

DECLARATION OF PRINCIPLES GOVERNING UNITED STATES POLICY WITH REGARD TO TAIWAN

SEC. 2. United States policy with regard to Taiwan shall be governed by the following principles:

(1) The United States desires to preserve and promote friendly relations between the people of the United States and the people on Taiwan, as well as the people on the China mainland and all other peoples of the Western Pacific area.

(2) Peace and stability in the area are in the political, security, and economic interest of the United States, are matters of international concern, and must be maintained.

(3) Continued extensive, close, and friendly commercial, cultural, and other relations between the people of the United States and the people on Taiwan must be assured.

(4) The future of Taiwan must be determined through peaceful means without prejudice to the wellbeing of the people on Taiwan.

(5) Any armed attack against Taiwan, or use of force, boycott, or embargo to prevent Taiwan from engaging in trade with other nations, would be a threat to the peace and stability of the Western Pacific area and of grave concern to the United States.

Mr. ZABLOCKI (during the reading). Mr. Chairman, I ask unanimous consent that these sections be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

AMENDMENT OFFERED BY MR. QUAYLE

Mr. QUAYLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. QUAYLE: Page 3, after line 5 insert a new subsection (6) to read:

"The United States will maintain its capacity to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan."

Mr. QUAYLE. Mr. Chairman, this amendment simply strengthens our concern against an armed attack against Taiwan, or any kind of coercion, other than peaceful resolution of that country.

In the bill that the committee has produced, paragraph (5) reads:

Any armed attack against Taiwan, or use of force, boycott, or embargo to prevent Taiwan from engaging in trade with other nations, would be a threat to the peace and stability of the Western Pacific area and of grave concern to the United States.

☐ 1340

Mr. Chairman, "of grave concern" can mean many things. It is of grave concern that China has invaded Vietnam; it is of grave concern that Iran is in an unstable situation. The Middle East situation is of grave concern. Political unrest throughout the world is of grave concern. Of grave concern is a very ambiguous term we read every day in the newspapers. I think that our support for Taiwan and in our enthusiastic hope that we will have a peaceful resolution, that we should put in, in addition to that language, this language of the amendment:

> The United States will maintain its capacity to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. QUAYLE. I will be glad to yield to my very distinguished chairman of the Foreign Affairs Committee.

Mr. ZABLOCKI. Mr. Chairman, the gentleman from Indiana has shared his amendment with the committee. We have studied the amendment. As the gentleman knows, the executive branch bill did not mention security for Taiwan at all. The committee, in inserting the language, "of grave concern," certainly intended that if force was employed against Taiwan or an economic boycott or embargo were imposed to prevent Taiwan, as we say in the report on page 5, "* * * from engaging in foreign trade," that it would threaten peace and stability in the region and be of grave concern to the United States.

Studying the gentleman's language, he puts in the legislation to a broader extent the intent that the committee had. On this side, we are ready to accept the gentleman's amendment.

Mr. QUAYLE. I thank the distinguished chairman.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. QUAYLE. I yield to the gentleman from Michigan, and perhaps we may be able to expedite the matter.

Mr. BROOMFIELD. Mr. Chairman, we on the minority side have had a chance to review the gentleman's suggested amendment. We have no objection on the minority side.

Mr. QUAYLE. With that, Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. QUAYLE).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 2?

AMENDMENT OFFERED BY MR. HANSEN

Mr. HANSEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. HANSEN: Page 2, line 21, insert new section as follows:
>
> In interpreting boycott under the provisions of this section, the Republic of China shall be considered "a country which is friendly to the United States" under the terms of title II of Public Law 95-52 (91 Stat. 244).

Mr. HANSEN. Mr. Chairman, my amendment is very simple. It just elaborates on the intent of the bill by clarifying the reference to boycott as provided by previous law.

☐ 1345

To reiterate, Mr. Chairman, the amendment reads as follows:

> In interpreting boycott under the provisions of this section, the Republic of China shall be considered "a country which is friendly to the United States" under the terms of title II of Public Law 95-52 (91 Stat. 244).

Mr. Chairman, this reaffirms the commitment of the United States to the antiboycott provisions of Public Law 95-52 by applying it specifically to the Republic of China on Taiwan and insisting on language from the law to insure clarity in reference to the Republic of China.

I might mention further, Mr. Chairman, that title II of the Export Administration Amendments of 1977 prohibits Americans from participating in or supporting a trade boycott initiated by a foreign country against a nation friendly to the United States. At the time it was written this title was designed to apply specifically to the Arab boycott of Israel. Neither the Arab States nor Israel is mentioned by name, however; and the language is therefore applicable to boycotts directed by any foreign country against any nation friendly to the United States.

The Committee on Foreign Affairs has directed that it be written in its report that the Arab boycott amendments are considered applicable to any PRC boycott of Taiwan.

Inasmuch as language in the House report has little real psychological or legal effect, and we have seen this on many occasions before, Mr. Chairman, this understanding should be placed in the text of the bill itself to assure that it is properly understood and legally applicable.

Mr. Chairman, I urge the adoption of this amendment.

Mr. BINGHAM. Mr. Chairman, I rise in opposition to the amendment.

As was indicated earlier, the applicability of the antiboycott provisions of the Export Administration Act to Taiwan is not just an interpretation of the bill set forth in the committee's report, it is clear in the bill itself that the antiboycott provisions of the Export Administration Act would apply to any boycott sought to be imposed against Taiwan by the People's Republic of China.

The amendment, however, would change the whole thrust of this legislation because the amendment refers to the Republic of China. The term "Republic of China" is a reflection of the claim by the government on Taiwan that it is still the government of all of China. That is its claim, and many of the remarks which have been made during the debate have failed to reflect that fact. It is not just the island of Taiwan that the authorities there they claim to represent. In fact, the reference several times during the debate to the nation of Taiwan is an incorrect statement because the "Republic of China," the government on Taiwan, claims to be the government of all of China. Therefore, to use this phraseology in this amendment would be to contravene the entire thrust of this legislation.

Consequently, Mr. Chairman, the amendment is unacceptable.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I am glad to yield to the gentleman from Idaho.

Mr. HANSEN. Mr. Chairman, as I understand, the People's Republic of China contends that they own all the real estate in Taiwan and on the mainland, and the Republic of China makes a similar contention.

We are talking about realities. This has been stated all the way through.

It seems to me that we do not need to worry about internal contentions. We can recognize them just as we have the People's Republic of China. I think that we, as a sovereign nation, the United States of America, could make our recognitions on our own terms.

The name of the government operating from the island of Taiwan is the Republic of China. That is all we are saying. There is no other recognized name. We would otherwise be talking about an island, and I think that it is perfectly in order to refer to a government by its proper name, which in this case is the Republic of China, and also to give it the assurance that the United States reaffirms its commitments with respect to the antiboycott provisions of the present law.

Mr. BINGHAM. Mr. Chairman, if I could reclaim my time, the gentleman is well known for being opposed to what the administration has done. He has made a national campaign against it.

☐ 1350

The phraseology used in this bill has been very carefully worked out so as not to appear to attempt to reverse the action taken by the President that he was recognizing the PRC as the Government of China. That is why the bill refers throughout to Taiwan, the authorities on Taiwan, the people on Taiwan, and so forth. To refer to the Republic of China would be to give credence to the claim of that Government that it is still the representative of all the 900 million people on the mainland and on Taiwan.

Mr. SOLARZ. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

I think that this is a well-intentioned but totally unnecessary amendment. The committee, when it considered this legislation, was fully cognizant of the need to protect Taiwan against the possibility of a Peking-inspired boycott designed at some time in the future to bring Taiwan to its economic knees. We wanted to make sure that in the event the People's Republic of China should attempt to impose a boycott on Taiwan that American citizens and corporations would be legally prohibited from cooperating with such a boycott in precisely the same way they are now prohibited by law from cooperating with the Arab boycott against Israel. Thus it was that the committee, on page 4 of the bill, beginning on line 3, adopted language in the text of the bill which says that the laws of the United States shall apply with respect to Taiwan in the manner that the laws of the United States applied with respect to Taiwan prior to January 1, 1979. That means in plain language that to the extent the antiboycott provisions of the Export Administration Act were already applicable to Taiwan, they would continue to be applicable to Taiwan once this legislation was adopted. If there was any remaining doubt about the intent of the committee to make the relevant provisions of the antiboycott sections of the Export Administration Act applicable to Taiwan in the future, it utilized language on page 8 of the committee report from which I now quote:

> One such provision of particular importance is section 4A of the Export Administration Act of 1969 which prohibits U.S. persons from complying with a foreign boycott directed against a friendly country. The bill will ensure that those prohibitions would apply with respect to any boycott against Taiwan.

I would submit that it is, therefore, crystal clear, both in the text of the bill itself as well as in the language of the committee report, that the relevant sections of the Export Administration Act are already applicable and there is, therefore, absolutely no need whatsoever to add this language to the bill since the purposes the gentleman seeks to achieve have already been accomplished by the committee in this legislation.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from New York.

Mr. WOLFF. I thank the gentleman for yielding.

Let me say I support fully what the gentleman has indicated and alert the House to the situation that exists under this amendment, and probably other amendments that will be forthcoming. This amendment actually should be called the "Two-China Policy" Amendment because it now sets up language that is totally different from the intent of the bill in setting up a country as well as dealing with the Republic of China. Unfortunately, there are many friends of the old Republic of China who would like to be more Chinese or more Taiwanese than the Taiwanese themselves. They, the Taiwanese, have accepted certain portions of the negotiation that have gone on. The bill that we have before us is an attempt to help resolve those problems that still exist with the people of Taiwan.

☐ 1355

Mr. SOLARZ. I would simply add to what the gentleman just said that the only thing this amendment does which is not already provided for in the legislation is to gratuitously insert into the text of the bill the phrase, "The Republic of China," which, as my other good friend, the gentleman from New York (Mr. Bingham) pointed out, could create problems for us in terms of our ability to proceed with the policy of normalization.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I would like to have the record show that I rose to debate this subject immediately after the comments of my good friend, the gentleman from New York (Mr. Solarz). It is always my view that if you are going to debate, take on a heavyweight.

I compliment the gentleman from New York (Mr. Solarz) for his great leadership in foreign affairs accurate as well as occasionally inaccurate as it is.

I would like to point out to my good friend the gentleman from New York, that the gentleman really has not argued against the amendment. The only argument I heard is that the amendment is superfluous. There is no claim that the amendment does damage to the legislation, no claim made that the amendment in any way guts the bill, which is a normal phrase.

The point was made by the gentleman from New York that the committee report covers this subject, and therefore the language in the bill and in the committee report makes this amendment unnecessary.

I would like to point out to the Members that using that age-old gimmick of saying "it is in the report" really does not answer the question. The report, as we know, is nothing but detailed commentary produced by the staff and signed by Members. If reports were as valuable as we claim they are, we would legislate by report, so as a matter of principle, I take the position that hiding behind the language of a report is a weak argument against an amendment.

I looked at the amendment of the gentleman from Idaho (Mr. Hansen). All he does is spell out more distinctly what we all want to do. I do not see anything in this amendment that does a disservice to the intent of the President, the intent of the executive branch or the intent of Congress.

Frankly, it would be far better for the floor managers of the bill to accept these positive, helpful amendments, than to oppose them as they do in this case.

Mr. Chairman, I now yield to my friend, the gentleman from New York (Mr. Bingham).

Mr. BINGHAM. Mr. Chairman, I do not know if the gentleman was on the floor when I spoke. I did not make the argument that the amendment was unnecessary. The thrust of my remarks was rather that the wording of the amendment is entirely contrary to the main thrust of the bill, because the amendment refers to the Republic of China as a country. That is precisely what this bill is intended not to do.

For that reason, the amendment is objectionable. It is more than unnecessary. It is profoundly objectionable.

Mr. DERWINSKI. Mr. Chairman, I would like to remind my friend, the gentleman from New York, that earlier in the debate I referred to the reality of the situation. The reality is that, whether we call it a country or not, there is a Republic of China and it is a sovereign state. As we know, a rose by any other name will smell as sweet. We could call it Taiwan. We could call it an entity. We could call it an institute. It is for all practical purposes, the functioning government on the island. We could play games with nomenclature, but I do not think that this bill will be damaged by the language offered by the gentleman from Idaho. All this really does is clarify what otherwise might be legally doubtful.

Quite frankly, if I had any leverage in the State Department, I would suggest that this kind of language helps their position. It certainly does not hurt it.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield for a question?

Mr. DERWINSKI. Yes, of course.

Mr. BINGHAM. Mr. Chairman, does the gentleman feel that the government on Taiwan is the government of all of China?

Mr. DERWINSKI. No; all I am saying is that if they want to call themselves the Republic of China, if they want to claim that they represent all of China, while the reality is not quite that, I do not quarrel with what I understand is their technical position.

Mr. BINGHAM. The reality is not that.

Mr. DERWINSKI. The reality is not that, but the nomenclature is, they are the Republic of China as far as they are concerned.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from New York.

Mr. WOLFF. Mr. Chairman, the gentleman in his opening remarks indicated he supports the purpose of the bill in order to facilitate the problems that the people of Taiwan are faced with.

Would the gentleman object to an amendment to the amendment?

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(By unanimous consent, Mr. Derwinski was allowed to proceed for 2 additional minutes.)

☐ 1400

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. Yes, of course, I yield to the gentleman from New York.

Mr. WOLFF. Mr. Chairman, would the gentleman object or would the offerer of the amendment object to an amendment to the amendment which deletes the words, "the Republic of China" and inserts "the People on Taiwan"? Or is it the purpose here to inject the two-China policy, not the boycott?

Mr. DERWINSKI. Mr. Chairman, this is getting to be a Tinkers-to-Evers-to-Chance routine, and since the gentleman is directing his question to the author of the amendment, I will yield to the gentleman from Idaho (Mr. HANSEN).

Mr. HANSEN. Mr. Chairman, I thank the gentleman for yielding.

If it would ease the pain among some of the Members who are opposed to this legislation, I think that we might arrive at some language that might be mutually agreeable. I do not know that we can change the quote out of the previous law which refers to a "country," but I would think, if we wanted to refer to "the government on Taiwan," I could go for that. That is a little more general, if that would help the gentleman.

Mr. WOLFF. Mr. Chairman, will the gentleman yield further?

Mr. DERWINSKI. I yield to the gentleman from New York.

Mr. WOLFF. Mr. Chairman, in keeping with the language of the bill, we continually talk about Taiwan and the people on Taiwan, but we do not refer to it as a country. In this amendment we refer to it as a country and also as the Republic of China. Those seem to be the two objectionable parts, because the rest of the matter has already been covered in the report and is fully consistent with the language and the object the gentleman seeks to achieve.

Mr. HANSEN. Mr. Chairman, I understand, but the gentleman is talking about a collection of people, and we have to refer to them as something. My interpretation, I would think, if the gentleman does not want to refer to them as the Republic of China, is that we should refer to them as "the government on Taiwan" as a minimum. That would be my interpretation.

Mr. WOLFF. Mr. Chairman, will the gentleman yield further?

Mr. DERWINSKI. Yes, of course.

Mr. WOLFF. Mr. Chairman, throughout the bill we define what we had named as "the people on Taiwan" or "the existing authorities on Taiwan."

The CHAIRMAN. The time of the gentleman from Illinois (Mr. DERWINSKI) has again expired.

(By unanimous consent, Mr. DERWINSKI was allowed to proceed for 1 additional minute.)

Mr. DERWINSKI. Mr. Chairman, I will yield to one or the other of the gentlemen.

Mr. WOLFF. Mr. Chairman, certainly I cannot speak for the committee, I can speak only for myself, but I am asking for clarification in order to keep it consistent with the rest of the bill and so it will conform to the language of the rest of the bill, rather than present new language, which would create great problems for us.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. Yes, of course.

Mr. HANSEN. Mr. Chairman, on page 10 of the bill, as I understand it, there is reference to authorities on Taiwan. Is that correct?

Mr. WOLFF. Yes; that is correct.

Mr. HANSEN. Let me ask the gentleman, what line is it on?

Mr. DERWINSKI. Mr. Chairman, may I suggest that my time is probably running out. I would hope that the two gentlemen will take additional time and reach an agreement. I would just like to state for the record that I am not the floor manager of the bill and I am not the spokesman for the administration on this bill, but if any of the Members want free advice, I will be near the minority table all afternoon ready to give it to them.

Mr. Chairman, I yield back the balance of my time.

Mr. ZABLOCKI. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, if the Members of this body would read the bill and the report, they would know the purpose of the bill.

Now, we are not dealing here with our relations with the PRC and we are not dealing with legislation as to whether we are approving the normalization with the People's Republic of China. We are dealing with a bill to continue our relations with Taiwan.

This amendment, Mr. Chairman, I submit, would make it impossible for those relations to continue.

This amendment deals with a key aspect of the normalization which the President has negotiated with the People's Republic of China. One of the conditions of the normalization was that we do not recognize the Republic of China or Taiwan as a government. Whether this was right or wrong is not the question now. The question is whether we as a people can carry on the same activities as a government agency would or as officials would, so that our relations on Taiwan can continue in a normal fashion.

Adopt this amendment, Mr. Chairman, and we defeat the bill and defeat the very purpose that we are trying to achieve, to support the people of Taiwan. I say to the gentleman from Maryland, save the pieces.

Mr. BAUMAN. The "bits and pieces" was the gentleman's phrase.

Mr. ZABLOCKI. Bits and pieces.

Mr. Chairman, I hope the amendment will be defeated.

□ 1405

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Mr. Chairman, I want to disagree heartily with the gentleman's statement that what is at issue here is not the position in which the government on Taiwan, which is the Republic of China, finds itself. The gentleman said the issue before us is not whether the President's decision to derecognize—if that is now a word—the Republic of China, is not the issue. He says the issue of that decision is neither right nor wrong for the purpose of this debate. It was wrong. It is wrong. And this House's hands cannot be tied by Teng Hsiao-ping or Jimmy Carter. We are here to exercise our independent judgment. The gentleman does not surely mean we have no right to vote on and discuss the fundamental issue that this legislation embodies—why our Government should be throwing away an ally and embracing a Communist dictatorship.

Mr. ZABLOCKI. Mr. Chairman, I cannot quarrel with the gentleman's observation. But the question, in the final analysis, remains whether the President will veto this bill, and then there will be no vehicle to deal with the people, call it, if you wish, the Government of Taiwan, no vehicle, to have continuing relations between the United States and Taiwan.

The purpose of the bill before us is to do just that. And this is the issue here. Defeat our efforts, and you are defeating the purposes of this bill and will only harm Taiwan, not the PRC. You will not be punishing the People's Republic of China; you will be punishing the people of Taiwan. You will be punishing our own country, our own people, our business interests, our cultural exchanges and the relations we would have if we would have normal diplomatic relations. This bill is intended to provide the authority for the President to continue virtually all of the relations with Taiwan as have been going on for the last 30 years, up to January 1, of this year.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. I thank the gentleman for yielding.

Mr. Chairman, I merely rise to support the chairman of our committee. I think the question of whether we agree with normalization is not the question here. Obviously, if this language was in the bill, it would obviously bring about a veto. I think you would be doing a disservice, obviously, to the people of Taiwan, our business arrangements there, and so forth. It would not be in the best interests of our country.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. ZABLOCKI) has expired.

(By unanimous consent, Mr. ZABLOCKI was allowed to proceed for 2 additional minutes.)

Mr. ZABLOCKI. Mr. Chairman, I yield further to the gentleman from Michigan (Mr. BROOMFIELD).

Mr. BROOMFIELD. Mr. Chairman, I merely feel that this is a bad amendment and would not be in the best interests of our country.

As I say, if I had any opportunity before the normalization went into effect, I probably would have insisted on a liaison operation. But that is beside the question now. The question is: Are we going to do the best for the people on Taiwan?

This amendment, in my judgment, would work to the defeat of that.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the amendment.

This particular amendment achieves no useful objective that is not already achieved in the bill. The ostensible purpose of the amendment is to protect Taiwan under the antiboycott provisions of U.S. law. And yet, if you will look on page 4, and beginning at the bottom of page 3, the guarantee is contained in the bill that the laws of the United States shall apply with respect to Taiwan in the manner that the laws of the United States applied with respect to Taiwan prior to January 1, 1979.

Those laws, of course, include the antiboycott provision. There is utterly no need for the amendment if that is its purpose.

□ 1410

This bill is an extremely important initiative in the foreign relations of our country.

It creates the only possible mechanism by which the United States can establish diplomatic relations with that one-fourth of the human race which lives on mainland China and at the same time maintain the friendship, the respect and the integrity of our relations with our true and proven friends on the island of Taiwan.

An official "two-China policy" has been rejected by both Taiwan and mainland China. Both maintain that they are part of the same nation. For 30 years both have consistently declared a two-China policy unacceptable.

Within that framework of their mutual sensitivities, this legislation seems the only creative way in which we can cultivate the friendship of mainland China without abandoning the friendship of Taiwan.

For every practical purpose, the legal entity created by this bill possesses every attribute of an official agency of the U.S. Government. This bill insures that our relations with Taiwan will continue essentially unchanged.

We shall continue to provide such military weapons as may be necessary for that island's defense. We shall continue the economic relations between us in every mutually beneficial aspect. We shall continue in force the 55 international agreements that exist between us, including trade credits, private investment insurance and every other U.S. program for which Taiwan and its people have been eligible in the past.

The clear and unequivocal language in this bill leaves no room for doubt that it is our official policy to oppose any effort from any source whatever to subject this island state and its people to military attack.

We state in no uncertain terms that if the government on mainland China wishes to benefit from good relations with this country, there must be peace between the mainland and Taiwan.

The Congress of the United States is here asserting its full partnership in foreign policy. To do more would be to vitiate the opening door with mainland China and to forgo any prospect of friendship and peaceful relations with the largest and most populous nation on Earth.

To do less would be to commit a craven abandonment of an old and proven friend and to raise questions everywhere about our own reliability as an ally.

The representatives of Taiwan who have talked personally to me are anxious that we shall pass this bill expeditiously. Since the beginning of this month, our relations with Taiwan have been in a state of legal limbo. To allow them to remain so through our inaction would be politically irresponsible and morally indefensible.

This is not the bill which the President sent to Congress; it is our own creation. It goes further in several particulars than he would have desired. Under the circumstances, I believe it is the most that we can do; and it is the least that we can do. I trust that the House will reject any amendments which would upset the basic structure of the legislation, and will approve this bill by an overwhelming vote today.

□ 1415

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it appears to me that we are really talking about two things here. One, we are talking about whether or not we should put specific antiboycott language into the bill. I do not think there should be any argument about that. I think that since the issue has been raised, we should put it in. Furthermore, the report recognizes that that is what we should do. I do not believe there should be any argument about that.

There is an argument, however, about the language which the gentleman from Idaho (Mr. HANSEN) uses. It would seem to indicate a two-China policy. Personally, I think we should have a two-China policy; but I do not think this is the place to do it.

Mr. Chairman, I would like to yield to the gentleman from Idaho. I understand he has an idea for an amendment which might satisfy both concerns here. Therefore, I yield to the gentleman from Idaho (Mr. HANSEN).

Mr. HANSEN. Mr. Chairman, I thank the gentleman for yielding.

Since there is concern about the use of the word "country" at this point, which is in the quote from the previous law, and since there seems to be concern about the use of the words "Republic of China," and since throughout the bill reference is made to Taiwan per se, then perhaps other amending language would be in order, something to the effect that "in interpreting boycott under the provisions of this section, Taiwan shall be considered 'friendly to the United States' under the terms of title II of Public Law 95-52 (91 Stat. 244)."

Mr. Chairman, does anyone among the opposition have anything to say about that suggestion?

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I would like to ask the author of the amendment a couple of questions about it before responding to his question.

His amendment is to insert a new section at page 2, line 21; and I think that that is an erroneous reference. I think the gentleman probably intended page 3, line 5; is that correct?

Mr. HANSEN. If the gentleman will yield further so that I may respond, this has been brought to my attention, and I ask herewith unanimous consent to be permitted to amend the amendment so as to read "page 2, after line 22, insert a new section and redesignate succeeding subsections accordingly."

The CHAIRMAN. Is there objection to the request of the gentleman from Idaho?

Mr. BINGHAM. Reserving the right to object, Mr. Chairman, may I point out to the gentleman that the only reference to "boycott" in section 2 occurs in subsection (5). There is no reference to "boycott" until we reach subsection (5), so I am going to suggest that the kind of amendment the gentleman has in mind would be appropriate, if at all, in subsection (b) of section 201, where we are referring to the applicability of certain laws.

With reference to the term "boycott" in subsection (5), that has no reference to the antiboycott legislation. It is simply a statement of one of the acts that would cause us grave concern in this country. Also, title II of the Export Administration Act does not apply to subsection (5) in any way, to Taiwan or to any other country. It does apply to Taiwan under the terms of subsection (b) of section 101, so I would suggest, if I might respectfully, that the gentleman take those facts into consideration.

Mr. HANSEN. Mr. Chairman, if the gentleman from California will yield further, so that I might inquire if I should withdraw this amendment as now offered and reoffer it at the point the gentleman from New York suggests, on the next page, would it be more in order and more acceptable to him under these conditions altered as I have suggested?

Mr. BINGHAM. Speaking for myself, providing we can arrive at acceptable language to specifically refer to the antiboycott provisions of the Export Administration Act, to include that specifically in subparagraph (b) on page 4, I would see no objection to that.

Mr. HANSEN. Mr. Chairman, if I might respond, under those considerations, I ask unanimous consent to be permitted to withdraw my amendment at this point.

The CHAIRMAN. Is there objection to the request of the gentleman from Idaho?

There was no objection.

The CHAIRMAN. The gentleman's amendment is withdrawn.

Mr. HANSEN. Mr. Chairman, I do wish to offer the amendment at the appropriate time.

The CHAIRMAN. The Chair will state that it is too early at this time.

Mr. HANSEN. I thank the Chair.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page

2, line 20, immediately after "cultural," insert "defensive, political,".

□ 1420

Mr. ASHBROOK. Mr. Chairman, after being in this Body for a number of years I find that preambles, declarations of purpose, and our extensive statements of what we intend to do in legislation often are meaningless. At other times they do mean something. I would like to point out to the members of the committee that this is one of those times where I think the Declaration of Principles does mean something. I call the Members' attention to several very carefully phrased sentences in the "Declaration of Principles Governing U.S. Policy With Regard to Taiwan." If the Members will look at subparagraph (2), we are interested in peace and stability in the area. Of course, the area is defined as including "the people on the China mainland and all other peoples of the Western Pacific area." Yet when we get to Taiwan itself, if the Members will go down to subparagraph (3), we are interested only that "continued extensive, close, and friendly commercial, cultural, and other relations between the people of the United States and the people on Taiwan must be assured."

I understand we have an interest in the defense and the security of Taiwan. The gentleman from Texas (Mr. WRIGHT), our majority leader, indicated we wanted to keep those defensive concerns and commitments in place and that they would unravel if we unduly amended this bill. I think it would be a far clearer statement of what we want to do in our principles if we would have subparagraph (3) read as follows:

> * * * extensive, close, and friendly commercial, cultural, defensive, political, and other relations between the people of the United States and the people on Taiwan * * *.

Whom are we trying to fool? If we are only talking about commercial and cultural relations with Taiwan, and we specifically put that in the principles governing the U.S. policy with regard to Taiwan, that is a message about as clear as can be sent anywhere that our main interest is only commercial and cultural, ballets and balance sheets.

The Members may say that is not that important.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from New York.

Mr. WOLFF. I thank the gentleman for yielding.

Does the gentleman imply that we should become involved in the political affairs of the people on Taiwan?

Mr. ASHBROOK. To the extent that they want to maintain their freedom, I would say.

Mr. WOLFF. What about the native Taiwanese? There are a great number of native Taiwanese on the island. Does the gentleman believe that we should inject ourselves into the political machinations that might take place to provide the Taiwanese the equipment or the ability to overthrow the existing government?

Mr. ASHBROOK. I do not believe that that is a policy that I would support at all. We are talking about defensive and political.

Mr. WOLFF. The gentleman included "political" as well.

Mr. ASHBROOK. Yes. That is correct. Generally when we talk in terms of political rights we mean civil rights and human rights. It does not necessarily mean the protestations of the leaders and what they want to do. We talk about the people on Taiwan, the political rights, and the defensive rights of the people on Taiwan.

Mr. WOLFF. The defensive rights are covered in other portions of the bill. However, the one element that really disturbs me is getting involved in the internal political affairs of Taiwan. I take it the gentleman is at the present time satisfied with the present authorities on Taiwan.

Mr. ASHBROOK. Compared to what is on the mainland, I would say I am abundantly satisfied.

Mr. WOLFF. I just raise this point because this political element here raises all sorts of questions as to how we should proceed in the future.

Mr. ASHBROOK. I think the word "political" does not extend in the areas my friend, the gentleman from New York is indicating. I think all of us know when we have cultural-commercial, cultural-political relations with a country, what we are talking about. We have had political relations with the people on Taiwan. I think we should continue those, and to state in our Declaration of Principles that we are only really interested in close, friendly, commercial, and cultural relations I think belies what the gentleman is saying he wants to do in the rest of the bill. This is certainly not to throw a snare, a time bomb, or to unravel anything.

□ 1425

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent, Mr. ASHBROOK was allowed to proceed for 1 additional minute.)

Mr. ASHBROOK. Mr. Chairman, that is precisely what I am trying to inject into this amendment in the declaration of principles; but if my colleague, the gentleman from New York and others, only think we should have commercial and cultural relations and not defensive and not political contacts, then possibly they should vote against the amendment.

Mr. MARKS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the proposed amendment. I do so in light of the fact that the amendment, I believe, could be interpreted without much question to force us into a defensive treaty with Taiwan and force us, therefore, to send American troops, men and women, to defend that island, which is against, in my opinion the public policy of this country and against the feeling of the majority of the American people.

Mr. Chairman, I also call to the attention of the House, if I may very respectfully, the fact that the amendment proposed by the gentleman from Indiana (Mr. QUAYLE) some time ago, and accepted by this body, should be reconsidered to some degree as a result of these words, and I will read them:

> The United States will maintain its capacity to resist any resort to force.

I suggest very strongly that although that amendment was accepted by both sides of the aisle, and I certainly do not say this in any criticism to the chairman for whom I have great, great respect, or to Congressman BROOMFIELD on our side of the aisle, but I do suggest that there may be more to be read into that amendment than most of us would desire.

I was not on the floor at the time, but I suggest in light of what has now been offered by the gentleman from Ohio (Mr. ASHBROOK) that we may be leading ourselves into a very deadly trap.

Mr. Chairman, it is my belief that the motivation, the timing, and the method employed in normalizing relations with the People's Republic of China were and are proper and justified.

Normalization of relations with the People's Republic is in our self-interest, economically, politically, and, I suggest, strategically.

I would suggest also that this may be the first time in too many years that we have allowed, rightfully, those considerations to guide our foreign policy.

Like it or not, admit it or not, we live in an increasingly interdependent world that includes not only the free Western nations, but the Eastern Communist nations as well; and we enter this era because of our past reticence with less than an enviable world stature.

The efforts to recognize the People's Republic of China, a government representing fully one-quarter of the world's population, has my full support because it is evident to our friends and our foes that we are shedding those rose-colored glasses and are preparing to protect our interests through the best methods available.

In normalizing ties with the People's Republic, we have neither found a new friend nor befriended an old enemy. We have simply renewed our acquaintanceship which has for too long been neglected.

We do not stand to profit enormously in the short run from expanded sales of agricultural or manufactured exports, nor from cheaper imports of a new and ready source of oil.

□ 1430

We make no mistake, the Chinese are bright and tough negotiators. Our basic purpose must be, however, to keep open the international system in which the exchange of goods, capital and ideas among nations can continue to expand so that the United States can continue to expand not only around the globe but at home as well.

With such sudden attention to the so-called "super powers," it may appear to some that the Taiwanese have been lost in the aftermath, if not that they are the losers outright. I dare say they are not.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. MARKS) has expired.

(By unanimous consent, Mr. MARKS was allowed to proceed for 2 additional minutes.)

Mr. MARKS. Mr. Chairman, today's bill affirms the determination of the United States not to forget the friends that we have on that island. Their right to engage in lucrative international commerce and ability to remain secure have been insured. Our relationship with the authorities on Taiwan will continue in fact, if not in appearance, just as before recognition of the People's Republic of China. I would even venture to estimate that Taiwan stands to benefit from the markets which Sino-American trade will open up and from the enhanced security which normalization will bring to this area of Southeastern Asia.

It is the prerogative and duty of the Congress to define the new authority on Taiwan and to assert its intentions to see that the people on Taiwan are allowed to pursue their lives in peace and prosperity. Today's bill clarifies the entity with which we will have dealings with Taiwan, sets forth the mechanisms by which this country can continue to deal fairly with Taiwan, and restates a sense of commitment to the people of Taiwan.

Mr. Chairman, I not only oppose this amendment but support H.R. 2479, believing that it satisfies all of the parties affected by our new enlightenment in an age of realistic foreign policy.

Mr. Chairman, may I once again call the attention of this body to the fact that the amendment agreed to and offered earlier by the gentleman from Indiana (Mr. QUAYLE) may be a venturesome one and may be in itself a dangerous one. I hope we will have the opportunity of discussing that at some future time, perhaps in the very near future.

Mr. FINDLEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

Mr. Chairman, I will just take a moment to explain my reasons for opposing the amendment. It is obvious to anyone who has read the bill that this bill does deal with political relations between the people of the United States and the people of Taiwan. It also deals with defense relations between the people of Taiwan and the people of the United States. That is obvious. Anyone who reads the bill will see that.

But we also must recognize that the political relationship and the defense relationship are of a very unusual nature. If we want to take the room or the space required at this point in the bill to define the unusual nature of this political relationship and the unusual nature of this defense relationship, we can do it, and do it safely.

But I feel that the balance of the bill gives a sufficient elaboration of the political and defense relationships that we are by this bill establishing, and it is unwise and unnecessary to add these words at this juncture.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment and I rise because I am concerned about the direction of some of the debate up to this point.

Many of us who are not opposed to the recognition of the People's Republic of China do not necessarily agree with all of the steps that are embodied in the legislation that is now before us. While I recognize that constitutionally the President has the sole power to recognize a nation or not to recognize a nation—and he has undertaken to employ that power properly, although I would not have done it in the same way—as a separate and equal branch of government we are elected to exercise our judgment in terms of specific legislation implementing how that policy is going to be carried out, and we are not here for the purpose of merely rubber-stamping whatever comes down from the White House.

As I heard that suggested from the Democratic side of the aisle I was concerned about what seems to me to be a continuing apparent abdication of the rights of this House so as not to upset the executive branch down at the White House.

☐ 1435

I would like to have commented, if the gentleman from Pennsylvania (Mr. MARKS) had had the time to yield to me that I was surprised by one of the things the gentleman said during the argument against this amendment when he expressed the great fear, the great concern, that this amendment could lead to sending American men and women to fight on Taiwan. I do not want to see that happen either. But I would say that from everything I have heard coming out of the White House and from the other side of the aisle, I thought we were going forward here on the assumption that we had been assured that there is not going to be an invasion. We are told that constantly. We are told it is not in the best interest of the People's Republic of China or of Teng Hsiao-ping to invade Taiwan so we should relax and not worry about it.

Is the gentleman's concern not misplaced, since we have already been told—and I would assume the gentleman agrees, from the position he takes—that there is no danger of an invasion of Taiwan? So I think that is not really a valid argument at this point.

Mr. MARKS. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Pennsylvania.

Mr. MARKS. The position of this Member is that this amendment, whatever one may have perceived the White House as saying, or other person as saying, since we are talking about this amendment, I suggest that this amendment is dangerous because it states, in straightforward language, that this Nation would send its young men and women to defend Taiwan. I suggest that under no circumstances that I can envision since the Vietnam war would we have ever sent American young people, men and women, to defend Taiwan, which is one of the great, great reasons why the President's China decision was so dramatic and so outstanding. It finally told the world, that if anybody was under any illusion, that that would happen.

Mr. EDWARDS of Oklahoma. Mr. Chairman, if I may reclaim my time, I will simply say that we have apparently been operating on the assumption that everybody can relax. We have proceeded to do away with the defense treaty, the Mutual Defense Treaty of 1954, because we are told we can rest assured that there is going to be no attack against Taiwan from the PRC.

While I say I understand the gentleman's concern, we have been told it is not necessary.

Mr. MARKS. Since the gentleman referred to me again, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Pennsylvania.

Mr. MARKS. I thank the gentleman for yielding.

The gentleman from Oklahoma has suggested something that is not factual.

At no point in time has anybody ever laid down a guarantee to the gentleman from Oklahoma, or to anyone else, that Taiwan would not be invaded by anyone, including the People's Republic. And therefore, to suggest that the President, or anyone else, is guaranteeing that that won't happen, does him and us an injustice.

Mr. EDWARDS of Oklahoma. If I may reclaim my time, I thank the gentleman for saying that. I think he has made a very good point and makes the point that perhaps we ought to seriously consider some of these amendments that are being offered now, now that we are aware that there is a real possibility that we should be concerned about the possibility of an invasion of Taiwan.

The CHAIRMAN. The time of the gentleman from Oklahoma (Mr. EDWARDS) has expired.

(By unanimous consent Mr. EDWARDS of Oklahoma was allowed to proceed for 1 additional minute.)

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, if my friend, the gentleman from Pennsylvania (Mr. MARKS), will stay near the microphone, I will say to the gentleman that if he is worried about what I would do in my amendment, in subparagraph 3, look at what is in paragraph 2. It says the peace and stability in the area or in the political security or economic interest of the United States are matters of international concern and must be maintained.

My only point is that I am not adding anything that would even be that strong. My point is that we are talking about the area where peace must be maintained.

But when we talk about Taiwan, we are only saying continuing commercial and cultural interests.

My friend, the gentleman from Pennsylvania, if he is upset at what I am saying in the third paragraph, ought to hit the ceiling with what is in subparagraph 2, because that is really a Tonkin-type declaration.

Mr. MARKS. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Pennsylvania.

Mr. MARKS. Mr. Chairman, I suggest, if I may, to the gentleman from Ohio (Mr. Ashbrook) that he makes two points: One is that his amendment is unnecessary, since he has pointed out that even stronger language is already in the bill; and, two, that I am concerned about the statement that the gentleman from Ohio pointed out.

I am concerned about this entire process which, quite frankly, it seems to me, was brought about because some Members in this House seemed to feel that their turf was taken over by the responsible action of the President of the United States.

□ 1440

Therefore, I agree with the gentleman that I am concerned about what he read, but more so about his amendment.

Mr. ASHBROOK. Mr. Chairman, will my colleague yield for one last statement?

Mr. EDWARDS of Oklahoma. Certainly.

Mr. ASHBROOK. We are talking about what the people of Taiwan want. If there is anything they have made clear, it is that they do not want our troops. They do not want our men. They do not want our defensive capabilities. They want to purchase and pay for that, incidentally. They do want spare parts, but they do not want our troops.

The CHAIRMAN. The time of the gentleman from Oklahoma has again expired.

(At the request of Mr. Wolff and by unanimous consent Mr. Edwards of Oklahoma was allowed to proceed for 2 additional minutes.)

Mr. WOLFF. Mr. Chairman, will the gentleman yield.

Mr. EDWARDS of Oklahoma. I yield to the gentleman from New York.

Mr. WOLFF. Mr. Chairman, I should not like the legislative history to stand on the question that was raised by the gentleman just a moment ago with reference to unilateral action by the President in committing troops of the United States anywhere in the world.

The point has been made, and made time and again, that all the applicable laws of the United States are in force, and this in no way dissuades us from that position. The war powers resolution is the guiding principle here, and the President cannot act in committing any troops of the United States without the full consent of the Congress.

Mr. EDWARDS of Oklahoma. Let me just reiterate the point that I made earlier, because I hope that we can proceed in this debate, arguing the merits or demerits of the amendments, without constantly hearing people fall back to the fact that the President may veto this or that the President made an agreement or that the President worked this out. The President is another branch of government. He is an equal branch of government, and I do not want us to continue to proceed on the assumption that it is the responsibility of this House to abdicate its responsibilities in the international affairs of this country.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman. I would like to follow up on what Chairman Wolff was saying a moment ago. I think one thing to keep in mind is the language on page 3, in the second part of section 101(b), which says:

> The President and the Congress shall determine, in accordance with constitutional processes, appropriate action by the United States in response to any such danger.

So, no matter what we have in this bill, any action in response to that is going to be—or at least the bill says—in consideration of consultation between the President and the Congress in accordance, I assume, with the War Powers Act and all the other statutes.

The CHAIRMAN. The time of the gentleman from Oklahoma has again expired.

(At the request of Mr. Lagomarsino and by unanimous consent Mr. Edwards of Oklahoma was allowed to proceed for 2 additional minutes.)

Mr. LAGOMARSINO. I would like to point out that although perhaps only a few Members of this House would agree with the administration that it had consulted with Congress as required by the Security Assistance Act of 1978, that the administration testified before our committee and made it very plain that should there be any action that would affect the security interests of ourselves or Taiwan, that they would consult with Congress before taking any appropriate action. At least in that instance, I certainly believe they would.

Mr. KELLY. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I think that it would be extremely important to try and regain perspective regarding exactly what this legislation does and does not do. There is not one thing in this bill that guarantees the security of Taiwan or the defensive interest of the United States in the Western Pacific.

□ 1445

Mr. Chairman, if there is anything in here that does either of those things, then I would be glad to yield to any member of the committee or any Member of the House who would point out for us where anything in this bill provides for the security of Taiwan or for the defense interests of the United States in the Western Pacific.

What this bill is is merely an extension of the policy of retreat which caused this House to take up this matter at this time.

Having established clearly that that is the case so that the American public will not be deluded in any way by statements to the contrary. I would then like to point out that the amendment of the gentleman from Ohio will help to cause the bill to be somewhat more beneficial than it is; but even with the gentleman's amendment, it is still going to be a policy of retreat in continuation.

Mr. ZABLOCKI. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

I will only take a minute or two.

I rise, Mr. Chairman, to ask the sponsor of the amendment, my very distinguished, able colleague, the gentleman from Ohio (Mr. Ashbrook), who I know to be a very astute legislator, if he will advise the gentleman from Wisconsin as to what is the intent or the purpose of this amendment, including the words "defensive" and "political"?

Is my understanding correct that the amendment tries to put government-to-government provisions in the bill?

Mr. ASHBROOK. Mr. Chairman, if my colleague will yield, I think he knows that I would do that if I could; but my answer would be that I do not think those two words add that, no. I do not believe that by inserting the word "political", one could talk about government-to-government because we are talking about the people on Taiwan. I think my amendment would be considered in the context of the whole bill. It is very clear that that does not mean government-to-government.

Again, I would say that I would like to, but I do not think that language would do it.

Mr. ZABLOCKI. I am sure the gentleman from Ohio understands the purpose of the legislation before us, that is, to provide authorizaton for continuing relations between the United States and Taiwan. That is the purpose of the bill.

Would the gentleman from Ohio advise me as to what is the purpose of his amendment?

Mr. ASHBROOK. If the gentleman will yield further, I would say, as I tried to explain in my brief statement in introducing the amendment, it seems to me that the declaration of principles governing our policy with regard to Taiwan is cast in a rather negative role when we indicate that we are interested in the peace and stability of the area, but actually we are only interested in continued, close, friendly commercial and cultural relations with the people of Taiwan.

Mr. ZABLOCKI. And other relations which go far beyond political and defensive considerations.

Mr. ASHBROOK. Right.

Mr. ZABLOCKI. Very many other kinds of relations.

Mr. ASHBROOK. I would say to my colleague that that is why I inserted the word and did not cut out "and other relations."

However, I think the gentleman will

admit that standing alone, it sounds as though we are only interested in their ballets and their business, not necessarily in their political or defensive well-being. That is exactly why I worded the amendment that way.

Mr. ZABLOCKI. Mr. Chairman, for the purpose of legislative history, does the gentleman from Wisconsin understand correctly that the intent of the Ashbrook amendment in including "defensive" and "political" is in no way to mean a government-to-government relationship; is that correct?

Mr. ASHBROOK. That was not my intention. I may endeavor to offer that kind of amendment later, but it cannot be done here in the preamble.

I just merely thought that standing as it does, it sounds a little bit negative and a little bit demeaning to the people of Taiwan. For that reason, I wanted to elevate the language, so to speak.

Mr. ZABLOCKI. Mr. Chairman, I thank the gentleman from Ohio.

I wanted this on the record just in case, by any chance, his amendment should carry.

Mr. Chairman, I urge that the amendment be defeated.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from New York.

Mr. WOLFF. Mr. Chairman, I thank the gentleman for yielding.

There is one factor to be taken into consideration if the gentleman is really concerned about the defense of Taiwan. He does not want it in the preamble, necessarily, to the bill; he wants it, in fact, in the bill itself.

Mr. Chairman, I refer the gentleman to page 3 of the bill which goes beyond the Mutual Security Treaty in defending Taiwan.

The Mutual Security Treaty states as follows:

> Each Party recognizes that an armed attack in the West Pacific Area directed against the territories of either of the Parties would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional processes.

The bill itself states clearly that any armed attack against Taiwan or use of force or boycott or embargo to prevent Taiwan from engaging in trade with other nations would be a threat to the peace and stability of the Western Pacific area and of grave concern to the United States.

It goes on to say the following:

> (b) The President shall promptly inform the Congress of any danger to United States interests arising from any threat to the security of Taiwan. The President and the Congress shall determine, in accordance with constitutional processes, appropriate action by the United States in response to any such danger.

□ 1450

Mr. ASHBROOK. Mr. Chairman, will my colleague, the gentleman from Wisconsin, yield?

Mr. ZABLOCKI. I yield to the gentleman from Ohio very briefly.

Mr. ASHBROOK. I thank the gentleman for yielding.

Stipulating all that is true, stipulating, as I would, that all that is true, my only question is why would my learned friend, the gentleman from New York (Mr. WOLFF) object to upgrading slightly our Declaration of Principles?

The CHAIRMAN. The time of the gentleman has expired.

Mr. ZABLOCKI. Mr. Chairman, I ask for a "no" vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and on a division (demanded by Mr. ASHBROOK), there were—ayes 34, noes 40.

So the amendment was rejected.

The CHAIRMAN. Are there other amendments to section 2?

AMENDMENT OFFERED BY MR. HANSEN

Mr. HANSEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. HANSEN: Page 3, immediately after line 5, insert new section as follows:
>
> (6) In interpreting boycott under the provisions of this section, and in the remainder of the bill, Taiwan shall be considered "friendly to the United States" under the terms of title II of Public Law 95-52 (91 Stat. 244).

Mr. HANSEN. Mr. Chiarman, I ask unanimous consent that if this amendment is agreed to, all succeeding subsections be redesignated accordingly.

The CHAIRMAN. Is there objection to the request of the gentleman from Idaho?

There was no objection.

Mr. HANSEN. Mr. Chairman, this was pretty much aired earlier. I will read the amendment again because I think we have ironed out some of the language that seemed to bother some of the Members.

> In interpreting boycott under the provisions of this section, and in the remainder of the bill, Taiwan shall be considered friendly to the United States under the terms of title II of Public Law 95-52 (91 Stat. 244).

□ 1455

Mr. HANSEN. The purpose of this amendment is to reaffirm the commitment of the United States to the antiboycott provisions of Public Law 95–52 by applying it specifically to Taiwan and insisting on language from the law to insure clarity in reference to Taiwan.

By handling it like this, I think that we have ironed out any problems regarding the designation of the entity of Taiwan. We are now talking specifically about reassurance that Taiwan will be included under the antiboycott provisions of the law, as was stipulated already in committee language in the report.

I think it is the concern of many Members that this protection against boycotts be officially included in the language of the bill. Therefore, I submit this amendment and ask that it be approved.

Mr. ZABLOCKI. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we heard an extensive debate on the gentleman's proposal when the gentleman introduced his amendment prematurely. As I said before, I think it is absolutely unnecessary.

Mr. Chairman, does the gentleman believe, does anybody believe, that Taiwan is unfriendly to the United States? Why must we say in this legislation that it must be considered friendly to the United States?

I think it would be insulting to the Taiwanese, to the people on Taiwan, and to the government of the people on Taiwan.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. Yes. Does the gentleman believe there is any doubt in the gentleman's mind that we consider Taiwan a friendly ally?

Mr. HANSEN. Mr. Chairman, I think when a government like the United States severs diplomatic relations with another nation, it would be considered that we are committing an unfriendly act, not the Government of Taiwan. I think it hurts nothing for us to have in this legislation a reassurance to them that we consider them a friendly nation, not so much because we are concerned about their attitude; perhaps they need to know what our attitude is officially.

Mr. ZABLOCKI. Mr. Chairman, if the gentleman had read the legislation he would know that throughout the entire bill, we refer to friendly relations, to friendly people, to friendly commercial and cultural relations. The wording is replete in the legislation. I think the amendment is absolutely unnecessary.

Mr. Chairman, I submit the best way we could demonstrate to the people on Taiwan that we are concerned for them and are friendly to them is to pass this legislation unhampered with amendments.

Mr. Chairman, I hope the amendment is defeated.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. HANSEN).

The question was taken; and on a division (demanded by Mr. HANSEN) there were—ayes 37, noes 28.

So the amendment was agreed to.

The CHAIRMAN. Are there other amendments to section 2?

Mr. WON PAT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the bill at issue, H.R. 2479, and ask unanimous consent to revise and extend my remarks.

I am proud to add my support to that of many of my colleagues for H.R. 2479, a bill which seeks to redefine U.S. relations with Taiwan (formerly the Republic of China). This action is urgently needed in light of recent American actions to strip Taiwan of its legitimate political ties with this Nation in favor of political ties with mainland China.

The bill now before us declares that under the principles of our relationship with Taiwan, it is in the best long-range interests of this country that Taiwan and the United States enjoy close commercial, cultural, and other ties. Further, the measure states quite clearly, that any armed attack, boycott, or embargo against Taiwan would be an implicit threat to the peace and stability of the Western Pacific and thus of immense concern to this country.

Mr. Chairman, as the Delegate from America's most westerly territory in the Pacific, Guam, I cannot help but feel strongly about this measure. The Chairman of the House Foreign Affairs Committee, my good friend and colleague, the Honorable CLEMENT ZABLOCKI, and his colleagues are 100-percent correct when they expressed their concern over the rapidly deteriorating conditions in the Western Pacific.

Since the recent decision by the administration to forsake Taiwan in favor of a new relationship with China that is of dubious benefit to this country, thousands of Americans, including my own constituents, have become increasingly concerned about the future of Taiwan. Let it be quite clear that I share this concern.

This is not to say that the United States should not enjoy the closest possible political ties with Peking. No right thinking person wants American foreign policy to return to the days of the "cold war." It is right and proper that this Nation do all within its power to cement new and permanent ties with the world's largest body of people. Anything less would not be in the best interests of this country or the world at large.

I do protest, however, the belief that we must forsake our past ties with Taiwan. They deserve our continued support. They have time and time again proven to be our good friend and ally even when others have wavered in their support of us during times of stress.

Although I will not take the time here to recount the many key provisions of this highly crucial measure, I do believe its most salient aspect is the assurance it gives to our friends in Taiwan that we in Congress will not permit the United States to readily terminate a relationship which has proven mutually beneficial since 1949.

To those who would say that mainland China represents a new "miracle" market for American goods, I say they are fooling themselves. Peking wants to modernize, but they will not do so in a reckless manner. They want high technology and arms; not Coca-Cola, Fords, and frisbies. They will be careful on how they spend their limited foreign exchange and they will not hesitate to cancel contracts that may conflict with national policy as was shown several days ago when Peking canceled $2.5 billion worth of contracts with Japanese firms.

I and almost every single economic expert in the world believe that our economic ties with Taiwan will continue to bring more jobs to Americans than will mainland China.

In my own home island of Guam, we are fortunate to have hundreds of former residents of Taiwan living, working, and making a vital contribution to the economy and well-being of that territory. They are worried about the welfare of their families in Taiwan, and stated as much in a recent open letter to the community which was carried in the March 1, 1979, Pacific Daily News. The letter read:

AN OPEN LETTER

DEAR FRIENDS: We, members of the Chinese Community on Guam, would like to register our indignation and feeling of bewilderment over the Carter Administration breaking diplomatic relations with the Republic of China on Taiwan as the price for "normalizing" relations with Communist China.

We firmly believe that the freedom and peace loving Chinese people all over the world share the same sentiments. We are confronted by a situation where a government built upon high ideals and principles has been betrayed by her long-time friend and ally for the sake of expediency.

We recognize that it is beyond our ability to alter the course the Carter administration has been pursuing, yet we would like to take this opportunity to make clear that we love and admire the Republic of China. Furthermore, we firmly support the Government of the Republic of China simply because of the fact that what she has done in Taiwan reflects a spirit of human endeavor which must be admired by free people everywhere. The Republic of China stands as a torch of light beaming into the hearts of all our brethren on the Chinese mainland who live in the darkness of Communism.

We are also confident that the Communist hierarchy on the Chinese mainland will eventually collapse. Therefore, the future of China must be a free and united one based upon the high principles of Nationalism, Democracy, and Social Welling as set forth by our nations' Founding Father, Dr. Sun Yat-sen.

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The United Chinese Association; Chinese School of Guam USA; Guam International Travel; Guam Marine Products Inc.; First Commercial Bank of Taiwan; Hsing-Lung Investment Co. Ltd.; Tumon Bay Shopping Center; Unity Development Corp.; Winner Investment Development Corp.; Central Amusement Corps;

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Cheng's Furniture; Lin's Company; Rattan Furniture; "Q" Furniture Inc.; Pacific Furniture; Thunderbird Travel; Formosa Int.; Hwa An Corp.; A One Store; MG (Guam) Co.;

Genghis Khan Inc.; MSZ Inc.; Shining Ent. Corp; Union Corp.; China Insurance Co.; Howard Kung Co.; Four Seas Inc.; Goodwill Corp.; Genui Enterprise; and Chio's Optical.

It is clear that Congress has the responsibility to do its duty in the matter of protecting Taiwan. The image of America in the Pacific is at stake. Our friends wonder out loud if we will abandon them too when the going gets too rough or when it proves to be to our "best" interests to befriend others.

As a Guamanian, I also am deeply concerned about the implications of our actions toward Taiwan in recent months. Will Peking take our refusal to publicly defend Taiwan as a signal to seize what it regards as Communist territory?

We in Guam have suffered greatly because of a failure to keep war out of the Pacific. We do not want to see renewed armed struggle in an area that is all too ripe for war. And we do not want to see our island become another battle ground over the interests of major super powers.

I salute Chairman ZABLOCKI and his Foreign Affairs Committee colleagues for their keen understanding of the critical nature of the situation in Taiwan. I share their fear of the future and their desire to take a strong stand now for our friends in Taiwan.

Finally, I must note that I have urged the Secretary of State and this Congress to do everything within its power to have Taiwan establish an economic office in Guam. This action would greatly facilitate the maintenance of economic ties with that country.

☐ 1500

Mr. ZABLOCKI. Mr. Chairman, I move to strike the last work.

Mr. Chairman, several Members have asked me whether it is our intention to complete consideration of the bill today. Yes, it is our intention to complete the bill today, no matter what the hour is.

The CHAIRMAN. Are there other amendments to section 2?

There being none, the Clerk will read title I.

The Clerk read as follows:

TITLE I—PROMOTION OF SECURITY IN THE WESTERN PACIFIC

PROTECTION OF UNITED STATES SECURITY INTERESTS

SEC. 101. (a) In furtherance of the principles set forth in section 2 of this Act, the United States will make available to Taiwan defense articles and defense services for its defense against armed attack.

(b) The President shall promptly inform the Congress of any danger to United States interests arising from any threat to the security of Taiwan. The President and the Congress shall determine, in accordance with constitutional processes, appropriate action by the United States in response to any such danger.

☐ 1505

AMENDMENT OFFERED BY MR. LAGOMARSINO

Mr. LAGOMARSINO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LAGOMARSINO: Page 3, line 13, after of, insert the following: "threats to the peace and stability of the Western Pacific area and of".

Page 3, line 15, immediately before the period insert the following: ", including any threat resulting from actions described in paragraph (5) of section 2".

Mr. LAGOMARSINO. Mr. Chairman, this amendment requires the President to inform the Congress if specific threats, listed earlier in the bill, impinge on Taiwan's security, or the peace and stability of the Western Pacific.

Those threats are the "use of force, boycott, or embargo to prevent Taiwan from engaging in trade with other nations."

The amendment clarifies and strengthens the current language so that there is no doubt about what Congress considers a "threat to the security of Taiwan." By listing the various scenarios, Congress can also demonstrate its vital concern for the autonomy and independence of the Republic of China.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from California (Mr. LAGOMARSINO) has made his amendment available to the committee, and we had an opportunity to review it. The gentleman's amendment includes language that deals with threats to the peace and stability of the Western Pacific area, as well as to Taiwan.

Mr. LAGOMARSINO. That is correct.

Mr. ZABLOCKI. And includes any threat resulting from actions described in paragraph (5). In my opinion the amendment clearly spells out the intent of the committee when it adopted this amendment. Therefore we have no objection on our side.

Mr. LAGOMARSINO. I thank the gentleman.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the getleman from Illinois.

Mr. DERWINSKI. I thank the gentleman for yielding.

Mr. Chairman, it had been my intention to offer an amendment on page 3, line 15, which is the exact point where the gentleman is amending the bill. I would have added, after the phrase "the security of Taiwan" the phrase "or the resort to discriminatory trade practices, boycotts, embargoes, and other similar measures."

The gentleman from Wisconsin had indicated he had no objection to that. In effect, the gentleman from California (Mr. LAGOMARSINO) is covering the same point I had intended to cover. I have no particular pride in authorship and language, so I commend the gentleman for his amendment and I support him. I will not be offering my amendment.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, we, also, on the minority side, accept the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. LAGOMARSINO).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. KRAMER

Mr. KRAMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KRAMER:

TITLE I

SEC. 101(a) On page 3, line 12, after the period insert the following: "Such articles shall include, if requested by Taiwan, defense materials incorporating the highest available technology.".

Mr. KRAMER. Mr. Chairman, the intent of this amendment is to strengthen our commitment to preserve the peace and the stability of the Western Pacific area by making available to Taiwan, if necessary, the kind of equipment required to defend itself against armed attack and to protect its interests.

I offer this amendment to insure our friends on Taiwan that they will be able to purchase the best and most advanced military equipment needed for their defense.

It has been pointed out that Taiwan has already been refused much of our sophisticated military technology, such as F-4 Phantoms, F-16 and F-18 fighters, F-5G planes, and missiles.

Our refusal to sell Taiwan this equipment has been based on the contention of the State Department that such material is not purely "defensive," since these more advanced forms of aircraft are capable of striking the Chinese mainland, and other equipment is potentially adaptable to offensive uses. We must remember, however, that in the future Taiwan will face a serious problem as the PRC continues to modernize its armed forces, with the aid of our NATO allies. The F-5E, Taiwan's mainstay fighter at present, is not an all-weather aircraft, and is capable of no more than a few minutes of sustained combat over the mainland. In other words, should the PRC choose to invade Taiwan in poor weather conditions, that nation's air force, so highly touted by the administration, would be effectively grounded. At the same time, even given good weather, Taiwan's planes would be incapable of striking those same coastal airfields from which the PRC's attacks are being launched.

Moreover, Taiwan needs very badly the harpoon antiship missile and advanced antisubmarine warfare equipment. Being highly dependent on foreign trade, Taiwan needs this equipment to assure that the sea lanes into and out of the island will remain open, and to defend itself against the PRC's large submarine fleet. A similar argument can be made on behalf of Taiwan's need for new destroyers and modern radar equipment.

We should not forget that Taiwan is separated from the Chinese mainland by only 110 miles of water, and that its ability to control the Taiwan strait is the key factor which will determine that nation's future security and economic viability. We can do no less, I believe, than to assure the people of Taiwan that we in the United States will sell them the equipment they so badly need for their effective defense. This cannot be antiquated, outmoded equipment; it must be up-to-date and capable of meeting any offensive threat which might be posed against it. Our decision to sell that equipment must be made with regard to both our own interests and those of Taiwan, and must not be influenced by our fear of upsetting the sensitivities of our new so-called "allies" in Peking.

This is why I feel it is imperative that the Congress specify, here in this bill, that it is our intention that Taiwan be permitted to purchase from us the best military equipment available, sufficient to meet its defense requirements. I strongly urge, therefore, that this amendment be adopted.

☐ 1510

We are not talking about offensive weapons. We are talking about defensive weapons here.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. KRAMER. I yield to the gentleman from Missouri.

Mr. SKELTON. The gentleman is intending to insert the phrase, "the highest technology," is that correct?

Mr. KRAMER. That is correct.

Mr. SKELTON. Would the gentleman tell this body which other country, which other ally we have in this world, there is where we are required by law to share with them the highest technology?

Mr. KRAMER. Well, I cannot answer the gentleman's question.

Mr. SKELTON. As a matter of fact, there is no other such ally. There is no such other friend where we are required by law to give them the highest technology that we have available to us? Is that not correct?

Mr. KRAMER. Well, as I said before, I cannot answer the gentleman's question, but I do not think that detracts from the merits of the argument we are making. If we are sincerely interested in protecting the ability of Taiwan to defend itself under the circumstances it is presently situated in, I think we ought to have the opportunity of furnishing it with the highest technology defensive equipment, because if we are not willing to do that, what would be involved, in my judgment, is an exercise in futility.

Mr. SKELTON. Does the gentleman not think we should have the right for our Commander in Chief to make the decision of what technology is used for what ally?

Mr. KRAMER. Talking about offensive weapons, I cannot agree with the gentleman more. In defensive weapons, we are talking about an entirely different situation.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. KRAMER. I yield to the gentleman from New York.

Mr. WOLFF. Does the gentleman realize what he is saying in this amendment? Would he provide them with nuclear weapons?

Mr. KRAMER. We are talking about defensive weapons.

Mr. WOLFF. Well, there are some people who consider nuclear weapons as defensive weapons. How about the F-14, is that defensive or offensive? What about our own needs in this country? Do we furnish them to Taiwan first, before we can have them in our own supply?

Mr. KRAMER. The limitations and quantities and numbers are not specified in this amendment, but I would ask the gentleman this question: If the requirements he has written into this bill, lines 10 to 12, will make available to Taiwan defense articles and defense services for its defense against armed attack, what are we talking about there? Are we talking about horse-drawn equipment, or are we talking about an aircraft left over from World War II? I think if we are really serious about providing appropriate defense equipment, we have got to provide the best and most effective that is available.

Mr. WOLFF. I think the point the gentleman makes is a strong one against his amendment, because we do have in here the provision that we will have appropriate defense, appropriate action, and appropriate weaponry for the defense of Taiwan. I think if he is talking about the the highest technology, he is going far beyond the realm of what is possible for us to be able to, in reality, perform.

Mr. KRAMER. Would the gentleman answer one of my questions? He indicates that we have explicitly provided to the people of Taiwan appropriate defensive weaponry in light of their particular situation. Might I ask where we have done that?

Mr. WOLFF. In the area that we will take appropriate action in response to any danger.

Mr. KRAMER. Might I ask where we have talked about where we are somehow defining what constitutes appropriate defensive equipment?

The CHAIRMAN. The time of the gentleman from Colorado has expired.

(At the request of Mr. KELLY and by unanimous consent Mr. KRAMER was allowed to proceed for 2 additional minutes.)

Mr. KELLY. Would the gentleman yield?

Mr. KRAMER. I would like to get an answer to the question from the gentlemna from New York.

Mr. WOLFF. The United States is continuing in its pipeline this year alone, even though we have had a hiatus in new equipment that we are giving to them or selling to them, we have $850 million in the pipeline alone of sophisticated weaponry.

□ 1515

To establish the legislative history here, we do not mean that we will deliver to them outmoded, outdated, horse-drawn vehicles. We mean that we will deliver to them appropriate equipment which is necessary to the defense of Taiwan.

Mr. KRAMER. Does the gentleman have language that he would offer to substitute for mine to provide that?

Mr. WOLFF. I would be delighted to find it in the report, in an attempt to enlarge upon the instructions that are given in the bill itself.

Mr. KRAMER. The only point I would make to the gentleman is this, that if anyone were in the situation in which Taiwan finds itself now, and a statutory provision of this country said that we would make available to them defensive arms and defensive services, they would have to have some really serious reservations about what that meant, about what that constituted, and whether they could really assume that they could be adequately protected and be able to protect their interests based on supplies coming from this country without some definition of what that statutory provision means.

Mr. WOLFF. If the gentleman will yield further, in the language of the report, on page 6, it states the following:

> It is the committee's intent that the United States will continue to make available modern weapons for Taiwan, and not shift to a policy of supplying only obsolete weapons. In fact, the United States should make available those types of conventional weapons and equipment needed for Taiwan's defense and not upon the reaction that supplying such defense articles or defense services might stimulate.

The CHAIRMAN. The time of the gentleman from Colorado (Mr. KRAMER) has expired.

(On request of Mr. KELLY and by unanimous consent, Mr. KRAMER was allowed to proceed for 1 additional minute.)

Mr. KRAMER. Mr. Chairman, I would only make the comment to the gentleman from New York (Mr. WOLFF) that if the report provides for modern weaponry, what is modern weaponry? To me, modern weaponry is weaponry which is of the highest available technology.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. KRAMER. I yield to the gentleman from Florida.

Mr. KELLY. Mr. Chairman, I think the gentleman's amendment is well taken because we all will notice that there was nothing specific about what would be provided. For instance, are we going to get any answers to these questions? Is there air-to-ground capacity so that the defense of Taiwan could start at the embarkation points on the mainland of China, and will there be antisubmarine warfare equipment and the real means of defending a nation?

There is nothing to indicate that Taiwan has those weapons now, that they are in the pipeline, or that the United States intends to give those weapons to them. There is no assurance in this bill which indicates that, and it is a sham. As far as any reference to the security of Taiwan or of the Western Pacific defenses of the United States is concerned, that is what this bill is, a sham; and I think the gentleman's amendment has pointed that out.

Mr. KRAMER. Mr. Chairman, I thank the gentleman for his remarks.

Mr. KELLY. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I would like to pose a question to the gentleman from Colorado (Mr. KRAMER).

Does the gentleman intend by his amendment that the highest available technology has reference to conventional weapons, or is he including atomic weaponry in what he describes?

Mr. KRAMER. If the gentleman will yield, Mr. Chairman, I would say to the gentleman that I think that there are various arguments which could be made on both sides of the question of what constitutes that type of weaponry. My judgment is that what we are looking at is defensive weaponry only.

Mr. KELLY. Is the gentleman talking about conventional weapons only or is he suggesting that this language would require the United States to provide the officials on Taiwan with atomic technology?

Mr. KRAMER. I have to say to the gentleman that, in all candor, I could not really list for the gentleman what might be considered as defensive atomic weaponry. It seems to me that most nuclear weaponry is of the offensive type.

□ 1520

Mr. KELLY. All right, then the gentleman would intend this to be limited to conventional weapons?

Mr. KRAMER. That is correct. That would be my thought at this point. There may be some technology I am not aware of that in effect would make nuclear technology defensive, but I am not aware of any such at this point.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. KELLY. I yield to the gentleman from Florida.

Mr. FASCELL. I thank the gentleman for yielding. What the gentleman has done is define the amendment to have a different definition from the definition that is already in the bill, and now I am really confused here. "Highest available technology" does have a meaning or it does not have a meaning. But the proponent of the amendment in responding to the interrogator is now trying to delineate the definition.

Mr. KELLY. Mr. Chairman, I would like to regain my time.

Mr. FASCELL. The gentlemen used my time before. I am just trying to get some of mine back.

Mr. KELLY. I think the gentleman is in the right place to be confused.

Mr. FASCELL. The gentleman asked the question. I was just listening to the answer.

Mr. KELLY. It is an institutional disease, and the purpose of the remarks of the gentleman from Florida (Mr. KELLY) is to try and help straighten it out. There is not one person who is going to get up on this floor and represent to the Members of this House, or to the people of the United States, that Taiwan has the weaponry at the present time to defend itself adequately. There is not one person who is going to get up and pledge the President of the United States to provide such weapons. There is nothing in this bill that provides for it. The language in this bill is just vague generalizations that are designed to delude the American people to cause them to believe that Taiwan and the defense of the United States are secure; do not worry about anything; we will just keep retreating and we will not disturb the world or anything that is important to the United States, which is all a great piece of nonsense.

The world of freedom is shrinking. This is a reason for it. It is retreating in the face of communism. That is all it amounts to. What the House is doing by this bill is just simply closing the deal completing the surrender.

The administration by its policy of abdicating the interests of the United States in the Western Pacific just simply is having that program and policy extended by this legislation. This is the final chapter in this particular episode, and that is all it is. There is nothing in this bill that provides any protection for our interests or Taiwan's, and I just want to keep reminding everybody of that.

The CHAIRMAN. The time of the gentleman has expired.

AMENDMENT OFFERED BY MR. WHITE AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. KRAMER

Mr. WHITE. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

> Amendment offered by Mr. WHITE as a substitute for the amendment offered by Mr. KRAMER: Page 3, line 11, delete all of sentence after "Taiwan", and insert in lieu thereof the following: "conventional defense articles and services of modern technology in such quantity, and maintained by a program of continual equipment modernization, as can be effectively utilized for its defense against armed attack."

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Florida.

Mr. FASCELL. I thank the gentleman for yielding.

Did the gentleman offer an amendment to the amendment, or is he offering a substitute? I am sorry, I missed that.

Mr. WHITE. I am offering a substitute for the amendment offered by the gentleman from Colorado.

The CHAIRMAN. It is more properly a substitute. It will be considered as a substitute for the amendment offered by the gentleman from Colorado (Mr. KRAMER).

PARLIAMENTARY INQUIRY

Mr. FASCELL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his inquiry.

Mr. FASCELL. The substitute is subject to an amendment, is it not, whereas an amendment to an amendment is not; is that correct?

The CHAIRMAN. The gentleman is correct.

Mr. WHITE. The reading of the amendment itself conveys the meaning and the purpose of my amendment as a substitute for the amendment offered by the gentleman from Colorado (Mr. KRAMER). It says:

> Conventional defense articles and services of modern technology in such quantity, and maintained by a program of continual equipment modernization, as can be effectively utilized for its defense against armed attack.

This eliminates the question that has been raised as to whether or not we would give nuclear weapons to Taiwan. This is talking in terms of conventional weaponry only. I know there is a provision in the report saying that it is the intention of the committee to provide modern weapons and not go into the furnishing of obsolete weapons.

☐ 1525

I think it should be in the bill and explicitly stated. I have seen the weapons on Taiwan and I can state the weaponry on Taiwan, particularly in their aircraft, is in many instances obsolete and not adequate to modern technology, modern defense against a nation which does have modern technology.

I think this particular amendment reflects the wishes of the American public. All we are talking about is modern defensive weaponry of a conventional nature to preserve the integrity and sovereignty of Taiwan as it now stands, preserve it from attack from abroad.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding. I think the gentleman's amendment is very apt. We should address this concern. One of the things that concerns me about what has happened is that the President did not go into the aspect of nuclear armaments, the nuclear nonproliferation treaty and so on, in his negotiations and agreements with the People's Republic, nor with Taiwan.

I think one of the great dangers we face in that area of the world is that Taiwan, feeling completely isolated, might go ahead and develop atomic weapons. I, for one, do not think they will do so; they deny any such intention.

I believe they have the capacity and know-how to produce atomic devices. By assuring them we will provide them with conventional weapons of the latest technology, we can avoid that; so I support the gentleman's amendment offered as a substitute for the amendment of the gentleman from Colorado.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Chairman, the gentleman from Texas (Mr. WHITE) has introduced a substitute amendment. On this side we have an opportunity to review the substitute amendment. Truly, it spells out harmony with the provisions of the Military Arms Export Control Act. We find no objection to it. It is such an improvement over the amendment offered by the gentleman from Colorado that, on this side, we accept the substitute.

Mr. BROOMFIELD. Mr. Chairman, before I accept the amendment, I would like to yield to the gentlewoman from New Jersey for a question.

Mrs. FENWICK. Mr. Chairman, I wanted to ask if I have understood the gentleman's amendment correctly. I have not seen a copy, are we to furnish as requested "such weapons and such quantities." Suppose they just say, "send it," without paying?

Mr. WHITE. Well, the President would have discretion. This is merely assuring that whatever is furnished of a conventional nature is modern.

Mrs. FENWICK. Mr. Chairman, if the gentleman will yield further, it does not mean we have to send them if they order them?

Mr. WHITE. Oh, no.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, I am happy to accept the amendment.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Colorado.

Mr. KRAMER. Mr. Chairman, I thank the gentleman for what I think is quite good language to clarify any ambiguity I had in my amendment. I hope the gentleman's amendment will be supported.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Florida.

Mr. KELLY. Mr. Chairman, the gentleman certainly intends by this language that they would have such air-to-ground missile capacity as would be reasonable for defense; that is, for them to be able to attack embarkation points on the mainland if an invasion was in progress?

Mr. WHITE. I did not have in mind embarkation points. I do have in mind to interdict attacking troops by ships or barges or ships of that nature.

Mr. KELLY. Mr. Chairman, if the gentleman will yield further, that would include the same type of capacity, would it not?

Mr. WHITE. Ground to air and air to ground necessary in order to defend.

Mr. KELLY. The gentleman specifically intends that that be included in this amendment?

Mr. WHITE. Yes, to that extent.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. WHITE) as a substitute for the amendment offered by the gentleman from Colorado (Mr. KRAMER).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. KRAMER), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. DERWINSKI

Mr. DERWINSKI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. DERWINSKI: Page 3, immediately after line 18, insert the following new subsection:
>
> "(c) The President shall ensure that in determining the number and kinds of defense articles and defense services to be made available to Taiwan, such determination shall be made without regard to the views of the People's Republic of China with respect to the provision of such articles or services. The President and the Congress shall determine the nature and quantity of such defense articles and services based on the needs of Taiwan and determined by the military authorities of the people on Taiwan. Such determination of Taiwan's defense needs shall be reviewed by United States' military authorities for forwarding with their recommendation to the President and the Congress."

☐ 1530

Mr. DERWINSKI. Mr. Chairman, basically my amendment would provide that in assuming, as we have in the earlier amendment and in the debate, that we are speaking of defense articles and defense services for Taiwan, these sales of supplies and of these defense items from the United States, under the provisions of this bill, would be made—and now I quote specifically from my amendment—

> Without regard to the views of the People's Republic of China with respect to the provision of such articles or services.

The amendment then goes on and states that the determination of Taiwan's defense needs shall be reviewed by

United States military authorities for forwarding with their recommendation to the President and the Congress. That is standard procedure.

I think we all recognize the realities of the situation. At some point down the line, not with the pipeline but 1, 3, or 5 years from now, the authorities in Peking are well apt to come to whatever administration is in power in the United States and pointedly object to some article that we have agreed to sell to Taiwan.

All my amendment spells out is the fact that in the sale of defense articles and defense services, this determination shall be made without regard to the views of the People's Republic of China. I do not think we want to give the political or military authorities in Peking a veto power over what we decide we will provide Taiwan under this bill.

Mr. Chairman, I think this is a practical amendment. I would hope that the logic of it is obvious to the Members, and I would welcome any support I can generate.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, let me express my belief that the gentleman has come up with an excellent amendment.

We have heard so much about agreements, upsetting agreements, and negative aspects of this bill that I think the gentleman's words should be repeated because they are positive in nature. We should not give the PRC a veto power. The United States should be able to act independently if we are truly interested in the security of the Pacific area and in Taiwan. I do not know how any Member can vote against this amendment, and I thank the gentleman for offering it.

Mr. DERWINSKI. Mr. Chairman, I am grateful for the support of the gentleman from Ohio (Mr. ASHBROOK).

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, I, too, think this is a very good amendment. It is really what we want in order to give the authority to the Taiwanese people to make their own determinations as far as their defense needs, and obviously, as the gentleman from Ohio (Mr. ASHBROOK) points out, we are taking away the veto power of the People's Republic. This is a good amendment, and I support it.

Mr. DERWINSKI. Mr. Chairman, I appreciate the fact that for the people in Foggy Bottom this could be a little worrisome so I specifically provided in this amendment that the determination of Taiwan's defense needs shall be reviewed by U.S. military authorities "for forwarding with their recommendation to the President and the Congress."

In other words, we still have the normal review of the capability we think they need. The President has his judgment and the Congress has its judgment, based on the recommendation of our military authorities, the point being that the authorities, military and political in Peking, will not be calling the shots on what we agreed or disagreed to in providing supplies and services to Taiwan.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, is the gentleman stating that his amendment would preclude the President of the United States from considering whatever factors the President wants to consider when he authorized the delivery of defense equipment or services?

Mr. DERWINSKI. No, just the opposite. I am saying that my amendment provides that the President shall take into account the recommendations to him by our military authorities. But I specifically stated in making the determination this will be made without regard to the views of the People's Republic of China. In other words, our President makes his own determination.

Mr. FASCELL. In other words, the gentleman is trying by legislation to preclude that factor being considered by the President of the United States?

□ 1535

Mr. DERWINSKI. No. I am trying to preclude a situation where the People's Republic will attempt to exercise a veto.

Mr. FASCELL. The gentleman knows they do not have any veto. The President decides after considering all factors.

Mr. DERWINSKI. They would have a veto, if the alleged political or trade leverage that they might have could be considered as such.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. DERWINSKI) has expired.

(On request of Mr. WOLFF and by unanimous consent, Mr. DERWINSKI was allowed to proceed for 1 additional minute.)

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from New York.

Mr. WOLFF. Mr. Chairman, does the gentleman mean to infer that the Arms Export Control Act would not prevail in this case?

Mr. DERWINSKI. No, no.

Mr. WOLFF. It would prevail?

Mr. DERWINSKI. Yes, it would.

Mr. WOLFF. Then the amendment, basically, could not be operative except for portions of it, the portions of it with which I would agree. But certain portions of it would not actually be operative or could be operative.

Mr. DERWINSKI. Would the gentleman be specific?

Mr. WOLFF. Yes. Let me read:

> The President and the Congress shall determine the nature and quantity of such defense articles and services based on the needs of Taiwan as determined by the military authorities of the people on Taiwan.

That is in contradistinction to the Arms Export Control Act.

Mr. DERWINSKI. That is an attempt to use the language of the bill, where you keep referring to the people on Taiwan.

Mr. WOLFF. I am indicating that they would have the determination as to this, and if it came to contradistinction with the act, it would be different.

Mr. ZABLOCKI. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have carefully read the amendment offered by the gentleman from Illinois, and he provides in his amendment "that in determining the number and kinds of defense articles and defense services to be made available to Taiwan, such determination shall be made without regard to the views of the People's Republic of China."

Nowhere in the bill, Mr. Chairman, do we imply, or in any way indicate, that such views are to be our guidance in making the determination.

However, the gentleman's amendment goes on to state that the nature and quantity of defense articles and services we supply shall be "as determined by the military authorities of the people on Taiwan."

I am amazed that the gentleman from Illinois would be presenting such an amendment to the committee for consideration. I am sure that the gentleman from Illinois does not intend by his amendment to create a new mechanism for security assistance, military assistance, and defense services for Taiwan, on a basis far and beyond any other ally that we supply this military assistance under the existing law.

Indeed, if the gentleman intended or not, that is exactly what his amendment would do, Mr. Chairman.

Am I not correct on this interpretation? I will yield to the gentleman to answer that question.

Mr. DERWINSKI. The gentleman's interpretation is not correct.

Mr. ZABLOCKI. It is not correct?

Mr. DERWINSKI. Let me point out the fact that the gentleman is doing a great job under adverse circumstances, and in his zeal to help the administration in a most difficult situation I believe the gentleman is innocently reading more into my amendment than he finds there.

But let me point out that after the announcement by the President of the change of recognition of China, sometime later, if the gentleman recalls, the announcement was made by the Department of State that inadvertently information which should have been made available on December 15 was not. That information had to do with restrictions that the administration had agreed with the People's Republic as to delivery of military supplies in the pipeline for Taiwan.

So all I am saying now is that the reality is that there has already been interference by Peking authorities with arms shipments, defense arms destined for Taiwan.

The facts of life are that, years down the road, they are going to try it again. Insofar as I am concerned, this simple little amendment will protect what I know is the real intent of Congress.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Illinois (Mr. DERWINSKI) was so persuasive that when I listened to him in the well I thought he had a reasonable amendment. But as I read the amendment I am, frankly, astonished by it. It includes the following sentence:

> The President and the Congress shall determine the nature and quantity of such defense articles and services based on the needs of Taiwan as determined by the military authorities of the people on Taiwan.

☐ 1540

That is incredible.

Mr. DERWINSKI. No, it is not.

Mr. BINGHAM. As the Chairman said, we do not do that——

Mr. DERWINSKI. If the gentleman will yield further——

Mr. ZABLOCKI. I yield to the gentleman from New York.

Mr. BINGHAM. I believe the gentleman from Wisconsin has yielded to me.

Mr. DERWINSKI. OK, fine.

Mr. BINGHAM. All I want to say is that the clear implication of that sentence is that the judgment of the military authorities of the people on Taiwan would be conclusive.

Mr. ZABLOCKI. It is mandatory. It is "shall", not "may". The gentleman from Illinois says, "shall".

Mr. DERWINSKI. If the gentleman from New York would just adjust his bifocals and read the following sentence, it says:

> Determination of Taiwan defense needs shall be reviewed by United States military authorities for forwarding with their recommendation to the President and the Congress.

It covers the President properly; it covers the Congress.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield to me?

Mr. ZABLOCKI. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. DERWINSKI, I think, is pointing to a quality of the last sentence which clearly contradicts the quality of the preceding sentence. If both are allowed to stand in the amendment, one would certainly put a cloud over the effectiveness of the other. So, I am sure Mr. DERWINSKI does not want any doubt left as to the effect of that sentence.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

(By unanimous consent Mr. ZABLOCKI was allowed to proceed for 3 additional minutes.)

Mr. ZABLOCKI. Mr. Chairman, as I stated earlier, the amendment would create a new mechanism for security assistance to Taiwan. The Arms Export Control Act provides specifically that arms transfer policy is a foreign policy matter for which the Secretary of State has primary responsibility. The President's policy of arms transfer constraint is also implemented under the leadership of the Secretary of State. Excluding the civilian authorities on Taiwan and in the United States on arms transfer processes, as the amendment of the gentleman from Illinois would provide, would deprive the President and the Congress from relevant information concerning proposed transfers.

The bill as reported, as explained in the committee report, deals adequately with this subject. Therefore, Mr. Chairman, I hope the amendment is defeated.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, the chairman's analysis is absolutely correct, in my judgment. This is a most dangerous and mischievous amendment. It sets up by law a new decisionmaking process within the executive branch of Government, and is doing it under the guise of trying to protect an ally. I am not even sure that the Congress can invade the Executive jurisdiction by law, but it certainly raises a very, very serious question for the President.

Mr. ZABLOCKI. I thank the gentleman from Florida for articulating my views so adequately and so succinctly. It would set up a new system, and I hope the amendment is defeated.

Mr. FINDLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wonder if my friend from Illinois (Mr. DERWINSKI) would be agreeable to an amendment to his words:

> As determined by the military authorities of the people on Taiwan.

That would then make the second-to-the-last sentence read:

> The President and the Congress shall determine the nature and quantity of such defense articles and services based on the needs of Taiwan.

The Chairman, may I offer an amendment to the amendment which strikes the words, "As determined by the military authorities of the people on Taiwan," from the second-to-the-last sentence?

☐ 1545

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, one of the problems left if the gentleman tries to amend the amendment in that fashion is that we still leave the internal executive decisionmaking process with the United States because the amendments specifically excludes the other agencies of government.

Mr. FINDLEY. Mr. Chairman, if the gentleman will permit me, I recognize that there are other defects in the amendment. However, this would certainly correct one of the problems.

The CHAIRMAN. If the gentleman will suspend, the Chair does not believe that the debate currently is addressed to pending amendments.

Is the gentleman from Illinois (Mr. FINDLEY) offering an amendment to the amendment?

Mr. FINDLEY. Mr. Chairman, I do not have it in writing. Therefore, I will yield back the balance of my time.

Mr. BAUMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding.

I think it is important to note that not only did the administration agree with the People's Republic of China to repudiate the Defense Treaty of 1954, but then it later came out that the administration agreed not to initiate any new arms sales contracts with Taiwan during the final terminal year of the Defense Treaty. Therefore, we effectively did provide a veto. We acceded to their request not only to tear up the treaty, but not to initiate any new sales contracts, so it is this veto authority which seems to be residing in Peking which I think this amendment is addressed to.

Mr. BAUMAN. Mr. Chairman, the gentleman from Illinois (Mr. HYDE) is precisely correct. That is why some language is necessary to reinforce the pious hope expressed in this section of the bill that defense materials will be provided to Taiwan. That is all it is, and already the track record is as it has been described.

The President not only sought to terminate the 1954 treaty, as the gentleman says, but he will not even live by its terms for the last year of its existence. Then he has the gall to come before the American public and say that that was a Red Chinese concession, that he did not terminate the treaty immediately, as the Chinese had wanted but waited a year as the treaty provided.

We have already seen, in those instances, major interventions by the Red Chinese into the U.S. process of providing defensive weapons to the free Chinese. If the Red Chinese have made such demands once as part of the original negotiation, undoubtedly they will do it repeatedly in the future.

We are being told that we do not need a law to guard against what is already happening. Obviously, we do need it.

Mr. Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. FINDLEY AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. DERWINSKI

Mr. FINDLEY. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

> Amendment offered by Mr. FINDLEY as a substitute for the amendment offered by Mr. DERWINSKI: Page 3, immediately after line 18, insert the following new subsection:
>
> "(c) The President shall ensure that in determining the number and kinds of defense articles and defense services to be made available to Taiwan, such determination shall be made without regard to the views of the Peoples Republic of China with respect to the provision of such articles or services. The President and the Congress shall determine the nature and quantity of such defense articles and services based on the needs of Taiwan. Such determination of Taiwan's defense needs shall include review by United States' military authorities for forwarding with their recommendation to the President and the Congress."

Mr. FINDLEY. Mr. Chairman, I have been informed by the gentleman from Illinois (Mr. DERWINSKI) that he has no objection to this substitute language.

It deals with the two points at issue. First of all, it takes out the phrase "as determined by the military authorities of the people on Taiwan."

It strikes that phrase completely.

Then, the next sentence is changed to state as follows: "Such determination of Taiwan's defense needs shall include review by United States military authorities," and so forth, thereby not excluding other normal channels of review.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, frankly, I am flattered that the gentleman from Illinois (Mr. FINDLEY) is trying to help me by perfecting the amendment.

I accept his amendment in the constructive spirit in which it was offered.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from New York.

Mr. WOLFF. Mr. Chairman, I appreciate what the gentleman is trying to do. However, I would just like to ask one question: Which takes priority, the needs of the people on Taiwan or the needs of the people of the United States?

Mr. FINDLEY. I am sure the perception of Congress and of the President would take into account the interests of the United States as well as the weapons needs of Taiwan.

☐ 1550

I certainly would want to clarify the legislative history with this amendment.

Mr. WOLFF. I just would refer back to the language: "The President and the Congress shall determine the nature and quantity of such defense articles and services based on the needs of Taiwan." I do think we ought to clarify that the needs of the United States come first.

Mr. FINDLEY. Of course.

Mr. WOLFF. One aspect of this is the shipment out of this country of defense material that is necessary to the security interests of the United States. These interests must be considered prior to the interests of any other nation.

Mr. FINDLEY. I agree with the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. FINDLEY) as a substitute for the amendment offered by the gentleman from Illinois (Mr. DERWINSKI).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. DERWINSKI), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there other amendments to title I?

AMENDMENT OFFERED BY MR. KRAMER

Mr. KRAMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KRAMER: On page 3, line 15, strike all after the period through line 18 and insert in lieu thereof the following: "The United States hereby reaffirms the position taken in article V of the mutual defense treaty signed by the United States on December 2, 1954 and entered into force on March 3, 1955, to wit, 'that an armed attack in the West Pacific Area directed against' Taiwan 'would be dangerous to its own peace and safety' and that the United States 'would act to meet the . . . danger in accordance with its constitutional processes.' In response to any other danger to United States interest, the President and the Congress shall determine appropriate action in accordance with constitutional processes.

Mr. KRAMER. Mr. Chairman, I think, in sum, what this amendment does is really nothing more than to restate what our position would be in the event of armed attack against Taiwan compared to that which it would have been had our Mutual Defense Treaty continued in effect after January 1 next. I believe this amendment is necessary because despite this bill, or this bill notwithstanding, there is a great deal of uncertainty about our defense commitments as a result of the President's unilateral action to terminate our Mutual Defense Treaty with Taiwan. There have been doubts expressed by our allies separate and apart from Taiwan about the extent to which the United States today is willing to continue to honor its defense obligations and its commitments. There is overwhelming support among our own citizenry for continuing some of the obligations that we agreed to in our Mutual Defense Treaty with Taiwan. For example, a poll conducted by Daniel Yankelovich earlier this year indicated that a majority of Americans favor the continuation of our Mutual Defense Treaty with Taiwan by a 57 percent to 12 percent margin. A Harris survey released in September 1978 revealed similar findings by a margin of 64 percent to 19 percent, the American people favor continuing our defense treaty with Taiwan.

In light of these facts, Mr. Chairman, I believe that it is imperative that the position of the United States in terms of the security and defense interests of Taiwan be clarified. I think this amendment does nothing more than do that. I would point out that it does not in any way attempt to readopt the Mutual Defense Treaty. All it does is clarify that the obligations that the United States incurred under the terms of that treaty to act in the case of armed attack against Taiwan continue after the treaty is terminated next January 1.

I do not see how we can do any less today that we did 25 years ago in recognizing the threat represented to our own interests by an armed attack against Taiwan and declaring publicly our commitment to take appropriate action in response to such a threat. This amendment does not commit us to take any specific action. Rather, it simply puts forth clearly the position of the United States that a threat to the security of Taiwan constitutes a threat to the peace and stability of the West Pacific Area and hence to the interests of the United States.

By this clarification, it is my intention that the amendment would further preserve the peace and stability of the area by discouraging any potential aggressors against Taiwan who might otherwise suffer under an illusion that armed attack against Taiwan would be of little consequence to the United States. I hope the Members of this body will support this amendment.

☐ 1555

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. NEDZI) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

UNITED STATES-TAIWAN RELATIONS ACT

The Committee resumed its sitting.

Mr. FINDLEY. Mr Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, this amendment goes to a very fundamental point in the normalization process. The question it raises is whether the United States should continue after January 1 of next year the defense treaty obligation that is being terminated as a result of the President's decision of this past December.

The language that the gentleman from Colorado (Mr. KRAMER) would insert in the bill includes the very critical word "act". In the event that any armed attack directed against Taiwan, it would be the policy under this amendment for the United States to act to meet the danger. Now, it does not define what form the action could take. It does not say by nonmilitary means or by all measures short of war or any other such delimitation; so it must be assumed it leaves open the possibility of a military response as a form of action to meet this danger.

In fact, I assume that is what the gentleman means by putting it in the bill; so it raises this very fundamental question: Do we want to continue the defense obligation that the President seeks to terminate by his decision of last December; that is, the termination of the defense obligation under the Mutual Defense Treaty.

Now, to be sure, it has the phrase:

> In accordance with its constitutional process;

But that is the very phrase that is in the defense treaty which is in the process of termination.

Now, maybe other Members of this body want to retain this defense obligation beyond next January 1. I, for one, do not.

In fact, even in the absence of the President's decision to normalize relations with Peking, I would have favored terminating this defense obligation, because I have long felt it was outdated; it was a relic of the past. It ought to have been scrubbed from the statute books.

Mr. Chairman, I would hope my colleagues would join me in voting down this amendment.

Mr. SOLARZ. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I would like to associate myself, first of all, with the remarks of the distinguished gentleman from Illinois on this amendment. I think it is very clear that if this amendment is adopted it would scuttle the entire policy of normalization. If we were to adopt legislation with this amendment in it, Ambassador Woodcock would be given his walking papers the day after news of it arrived in Peking.

There is an old Brooklyn saying which goes as follows:

> If it looks like a duck, if it sounds like a duck, if it walks like a duck, it is a duck.

The gentleman from Colorado can argue that we are not readopting the Mutual Defense Treaty with the gentleman's amendment. But the fact of the matter is that by taking the operative paragraph of the Mutual Defense Treaty and putting it in the language of this resolution, we are doing precisely that. That is exactly how it would be interpreted by Peking. It would be completely incompatible with the policy of normalization.

Therefore, I think we ought to reject the amendment and rely instead on what are the perfectly adequate assurances to Taiwan and the very strong signals we send to Peking in this legislation, where we make it clear that any effort to resolve the problem of Taiwan by force would be a matter of grave concern to the United States and where we make it clear that any threat to the peace and stability of the Western Pacific would be a danger to the interests of the United States.

Mr. STRATTON. Mr. Chairman, will the gentleman from New York yield to me?

Mr. SOLARZ. Mr. Chairman, I am always happy to yield to my good friend from upstate.

Mr. STRATTON. Mr. Chairman, I find it a little bit hard to understand some of the differences in language. The gentleman from Illinois (Mr. FINDLEY) who spoke a moment ago said that the amendment offered by the gentleman from Colorado was dangerous because it used the word "act".

□ 1600

Yet on page 3 of the legislation we are now considering at line 17, the language is that in the event of an attack on Taiwan, "the President and the Congress shall determine, in accordance with constitutional processes, appropriate action by the United States in response to any such danger." And in fact the whip notice uses the word, "act," rather than "action."

What is the difference between this kind of action and the kind of action referred to in the pending amendment? I do not see any difference.

Mr. SOLARZ. Mr. Chairman, I was not the one who made the point about the word, "action," to which the gentleman just referred. But the fundamental difference between the word, "action," on page 3 of the pending bill and the language in the amendment offered by the gentleman from Colorado (Mr. KRAMER) is that the language in the amendment offered by the gentleman from Colorado comes explicitly and clearly right out of the text of the mutual defense treaty. It is an effort to insert into the language of this legislation the mutual defense treaty obligations which have been terminated pursuant to the terms of that treaty by the President.

Mr. STRATTON. Mr. Chairman, if the gentleman will yield further, that is exactly the language which is in this legislation. Maybe an "-i-o-n" is in there instead of just "act." In other words, this legislation is being sold to the House on the basis that if there is an attack against Taiwan we have exactly the same rights and privileges under our constitutional processes to take whatever action is necessary, and that is all that the amendment offered by the gentleman from Colorado (Mr. KRAMER) says, as I see it.

So I do not see the difference. Whether the gentleman has borrowed the word from the dictionary or from the previous treaty does not make any difference.

Mr. SOLARZ. Mr. Chairman, the language of the amendment specifically says—and I now quote—

> The United States hereby reaffirms the position taken in article V of the mutual defense treaty signed by the United States on December 2, 1954,

And

I would submit that it is perfectly obvious that if this amendment is adopted, and this language is put in the bill, thereby reaffirming obligations that existed under the terms of the treaty, it will scuttle the policy of normalization and it will obviously be unacceptable to Peking. One of the conditions of the policy of normalization was our termination of the defense treaty; and, if we redo it now, we will have reneged on our part of the bargain with the People's Republic of China.

The CHAIRMAN. The time of the gentleman from New York (Mr. SOLARZ) has expired.

(On request of Mr. STRATTON, and by unanimous consent, Mr. SOLARZ was allowed to proceed for 1 additional minute.)

Mr. STRATTON. Mr. Chairman, will the gentleman yield further?

Mr. SOLARZ. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, in other words, what the gentleman is really objecting to is any reference to the treaty itself; but as far as what we can do under the terms of either this legislation or the treaty, there seems to be no real difference. Is that not right?

Mr. SOLARZ. If the gentleman can come up with language which does not explicitly come from the text of the mutual defense treaty and which itself is not incompatible with normalization, then I would be perfectly prepared to accept it, but an explicit reference to the mutual defense treaty in this amendment, which we would be reaffirming through the adoption of the amendment, would be completely incompatible with normalization.

Mr. STRATTON. Mr. Chairman, if the gentleman will yield once again, I think we are at the guts of what is really involved in this pending legislation. We are really asserting here is the right to do exactly what we would have done under the former treaty; but we do not want to mention the treaty because we have already abrogated it. That is the only basis, as I understand it, on which this legislation is being accepted by the House.

Mr. WOLFF. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to continue the colloquy with the gentleman from New York (Mr. STRATTON).

I believe that the point that is involved here is that we have gone far beyond the mutual defense treaty in this particular bill because we consider not only an armed attack as a threat to the security but a boycott or an embargo, and, therefore, the language that is contained in the bill goes beyond actually even the mutual defense or security treaty.

The other fact involved here is that we have enlarged upon the very basis of the term, "Taiwan," itself and have included economic acts against Taiwan as a threat that we would make an act.

Now, on that basis, what is happening here is the injection of the words, "Mutual Defense Treaty," and the exact language that has been in that treaty does violence to the basic premise we are trying to achieve here, and yet the actions we are taking in order to meet those threats are fully articulated within the bill.

This language is totally unnecessary inasmuch as it has already been outlined very clearly in the bill to its fullest extent and even goes beyond that.

□ 1605

Mr. STRATTON. If the gentleman will yield, the gentleman said that he wanted a "colloquy" with we.

Mr. WOLFF. Yes.

Mr. STRATTON. I have been listening to the gentleman. I still cannot see how the references that the gentleman has made really have any application to the issue we were discussing.

The opposition to the amendment, as stated by the gentleman from Illinois (Mr. FINDLEY), was that it was going to get us into some kind of terrible military action and, therefore, we should not put it in.

The fact of the matter is still that the wording of this legislation is almost identical to the terms of the former treaty. And, in fact, the only way that you are going to get the House to support this legislation is if you convince the House and the American people that if there is an attack on Taiwan we can do under this legislation whatever we would have been able to do before. Considering the mood of this Congress, if there had been an attack on Taiwan 6 months ago we probably would not have done anything except issue a statement of some sort and let it go at that.

But we do have our constitutional processes and, under this language, we could do exactly the same thing.

Mr. WOLFF. Would the gentleman feel we would not go beyond what we would have gone a year ago?

Mr. STRATTON. I am not sure. I think the language that is being proposed is exactly the same language, and so we can do whatever we want to. To suggest that somehow putting in the word "act" is going to do terrible damage to our relationship is nonsense. Either we are going to retain our military capabilities or we are not.

Mr. WOLFF. The question is not the word "act" or "action," because that is contained in the bill already. The point that has been made in this amendment is that the United States reaffirm the Mutual Defense Treaty. If we are going to reaffirm it, we would not have terminated the treaty.

Mr. STRATTON. That is what I said to the gentleman from New York. The only thing he is referring to is killing any reference to the treaty. We want to kill the treaty but we still want the same capabilities to react that we had before.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Colorado.

Mr. KRAMER. I thank the gentleman for yielding.

Mr. Chairman, I think the arguments we have heard here illustrate exactly the reason for the necessity for this amendment.

One gentleman from New York says that this is going to impose on the United States certain obligations to act that we do not want to be responsible for, that we do not want to live with.

I would suggest that if we do not want to live with the realization that we have to take some action or to act in the event of an armed attack on Taiwan, what we are dealing with here is a sham. The bill before us, under those terms, has no significance.

The other gentleman from New York takes the contrary position. He says that what we have done in the bill is to go far beyond what we provided in the Mutual Defense Treaty by reference to economic matters, such as boycotts or embargoes.

The question in my mind, and my motivation for attempting to insert this language, is that I am not exactly sure what we are agreeing to do in this bill by way of taking action, in light of any future endangerment of Taiwan. I do not think Taiwan will know, or the people of this country will know, or anyone else will know, if we pass this bill as it is presently structured.

I am suggesting that we pass this bill not that we repass the Mutual Defense Treaty. I am not asking to do that. I am simply asking that we reaffirm to the U.S. citizenry and to the people of the world and the people of Taiwan that, in case of an armed attack against Taiwan, we are going to take the same action in accordance with our constitutional processes that we would have taken had that treaty remained in effect. If we are not willing to do that, I submit to the Members that we are not willing to do anything at all.

☐ 1610

Mr. WOLFF. In the first place, there is nothing in this act that precludes the President from taking whatever action he deems necessary in line with the constitutional process to react to any attack that exists. That is point No. 1.

The second point I should like to ask the author of the amendment is, does he consider an attack upon Quemoy a threat to the safety of the United States?

Mr. KRAMER. Yes, I do.

Mr. WOLFF. The gentleman goes far beyond what the people of the United States were willing to accept years ago.

Mr. KELLY. Mr. Chairman, I move to strike the last word, and I rise in favor of the amendment.

Mr. Chairman, I think that at this time, in light of this amendment, it is important to try and dispel another myth about this whole situation. By the action of the President, the United States has no standing at the present time to move in and out of Taiwan as they now do except by the grace of the PRC. Somehow or another, the predicate for all this discussion seems to presuppose that we are at liberty to do what we want to do with regard to Taiwan, just as we were before; but, that is not the situation.

Unless we have the understanding that the PRC can move around Hawaii and Alaska and New York Harbor with its gunboats at will. One of the things that the President of the United States did in his recognition process was recognize the PRC as the sole and legal government of China. Now, what happens in and about Taiwan at this juncture, by our own admission, by what our Government has established, is an internal matter of the People's Republic of China. We have no more right to make an appearance in the waters of Taiwan or on Taiwan than we do to interfere in the affairs of Peking itself.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. KELLY. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. I do not know how the gentleman can draw that conclusion if he will read again the top of page 3. Any armed attack against Taiwan, or by the use of boycott or embargo to prevent Taiwan from engaging in trade, and so forth, is a threat to the peace and stability of the Western Pacific. Really what this amendment is trying to do, in my judgment, is to reestablish in this legislation the obligations of the bilateral Mutual Defense Treaty we had prior to the normalization.

Mr. KELLY. If I can regain my time back, the significant language in the amendment is this, that they would act to meet the danger in accordance with the constitutional process. I think the point is that because our President has, on behalf of this Nation, recognized the sovereignty of Communist China over Taiwan, if we do anything with regard to Taiwan it will be an act of war against China, and we should follow a constitutional process. I think it is important that this language be in the bill.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. KELLY. I yield to the gentleman from New York.

Mr. WOLFF. The gentleman is making a statement regarding the President's action of establishing the sovereignty of the People's Republic of China over Taiwan. Never has the President said this. Never in any communication that has been issued, or communique that has been issued, have we acknowledged what the Chinese have said. We have not accepted that as our own principle. I do not think the legislative history should show that we have ever accepted that.

Mr. KELLY. I do not think it makes any difference what the legislative history shows. I think the fact that I referred to is established, and anything we say is not going to change that. The President of the United States has recognized the People's Republic of China as the sole and legal government of China, which includes Taiwan. The Shanghai communique established that that was the situation, and the President reversed the role of the parties. As far as we stand here right now, we have no standing to deal with Taiwan under the commitment and situation developed by the United States.

Mr. WOLFF. Would the gentleman point out to me in either the Shanghai communique or in the subsequent communique that was issued by the President where those facts are borne out?

☐ 1615

Mr. KELLY. The Shanghai communique provides that there is one China and that Taiwan and mainland China are part of it.

Mr. WOLFF. May I read to the gentleman what the Shanghai communique says?

Mr. KELLY. Will the gentleman read all of it?

Mr. WOLFF. The whole communique? If I had the time, I would be delighted to.

Mr. KELLY. Just the appropriate part.

Mr. WOLFF. Let me read the pertinent area with respect to the U.S. position.

Mr. KELLY. No. If the gentleman is going to refer to the Shanghai communique, then let us have the language of that; not what the gentleman's unilateral interpretation of it is.

Mr. WOLFF. I am not. I am giving the gentleman the language.

The CHAIRMAN. The time of the gentleman from Florida (Mr. KELLY) has expired.

The question is on the amendment offered by the gentleman from Colorado (Mr. KRAMER).

Mr. KRAMER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Eighty-six Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1620

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business before the Committee is the demand by the gentleman from Colorado (Mr. KRAMER) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 149, noes 221, not voting 62, as follows:

[Roll No. 26]

AYES—149

Abdnor
Applegate
Archer
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, R.I.
Bereuter
Bethune
Biaggi
Bouquard
Brinkley
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Campbell
Carney
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coleman
Collins, Tex.
Corcoran
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Edwards, Okla.
English
Erdahl
Evans, Del.
Gilman
Gingrich
Ginn
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Hinson
Hollenbeck
Holt
Hopkins
Howard
Hyde
Ichord
Jeffords
Jeffries
Jenkins
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Leach, La.
Leath, Tex.
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, Md.
Lott
Lujan
Lungren
McClory
McDonald
Marlenee
Marriott
Martin
Mathis
Mattox
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Nelson
Nichols
Oakar
Quayle
Quillen
Rhodes
Rinaldo
Ritter
Robinson
Roth
Rudd
Runnels
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stenholm
Stump
Symms
Taylor
Thomas
Trible
Vander Jagt
Walker
Watkins
White
Whittaker
Whitten
Wilson, Bob
Wilson, C. H.
Wyatt
Wydler
Wylie
Young, Fla.
Zeferetti

NOES—221

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
Atkinson
Bailey
Baldus
Barnes
Bedell
Beilenson
Benjamin
Bennett
Bevill
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bowen
Brademas
Brodhead
Brooks
Broomfield
Burlison
Burton, John
Burton, Phillip
Byron
Carr
Carter
Cavanaugh
Chisholm
Coelho
Collins, Ill.
Conte
Conyers
Cotter
Coughlin
D'Amours
Danielson
Daschle
Davis, S.C.
Derrick
Dicks
Diggs
Dixon
Dodd
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Emery
Erlenborn
Ertel
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Glickman
Gonzalez
Gore
Gray
Green
Guarini
Gudger
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Holtzman
Hubbard
Hughes
Jacobs
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
Latta
Leach, Iowa
Lederer
Lehman
Leland
Long, La.
Lowry
Luken
McCloskey
McCormack
McEwen
McHugh
McKay
Maguire
Markey
Marks
Matsui
Mavroules
Mazzoli
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
O'Brien
Oberstar
Ottinger
Panetta
Patten
Paul
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Rangel
Ratchford
Regula
Reuss
Richmond
Roberts
Rodino
Roe
Rosenthal
Rostenkowski
Russo
Sabo
Seiberling
Shannon
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stewart
Stratton
Studds
Synar
Tauke
Thompson
Ullman
Vanik
Vento
Volkmer
Walgren
Wampler
Waxman
Weaver
Whitehurst
Whitley
Wilson, Tex.
Wolff, N.Y.
Wolpe, Mich.
Wright
Yates
Yatron
Young, Mo.
Zablocki

NOT VOTING—62

Anderson, Ill.
Andrews, N. Dak.
AuCoin
Beard, Tenn.
Bolling
Breaux
Brown, Calif.
Conable
Corman
Crane, Philip
de la Garza
Dellums
Dingell
Edwards, Ala.
Edwards, Calif.
Evans, Ga.
Flippo
Flood
Fuqua
Hillis
Holland
Horton
Huckaby
Hutto
Ireland
Jones, N.C.
LaFalce
Lee
Lundine
McDade
McKinney
Madigan
Mica
Michel
Mitchell, N.Y.
Obey
Pashayan
Patterson
Pease
Pepper
Pursell
Rahall
Railsback
Rose
Rousselot
Roybal
Scheuer
Schroeder
Sharp
Stockman
Stokes
Swift
Traxler
Treen
Udall
Van Deerlin
Weiss
Williams, Mont.
Williams, Ohio
Winn
Wirth
Young, Alaska

☐ 1640

The Clerk announced the following pairs:

On this vote:

Mr. Breaux for, with Mr. LaFalce against.

Mr. Beard of Tennessee for, with Mr. Corman against.

Mr. Young of Alaska for, with Mr. Fuqua against.

Mr. Rousselot for, with Mr. Mica against.

Mr. Philip M. Crane for, with Mr. Rahall against.

Mr. COELHO and Mrs. BYRON changed their vote from "aye" to "no".

Messrs. HOPKINS, SNYDER, and NELSON changed their vote from "no" to "aye".

So the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 1645

Mr. ZABLOCKI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, during the rollcall several Members inquired whether it is the intention to complete this bill today. I advised them, as the Speaker at his press conference advised the press, that it was the intention of the leadership that the House complete this legislation today. The majority leader in a colloquy with the minority leader as to the calendar for next week and the business of today had advised the minority leader that we intend to finish it today.

Mr. Chairman, I again announce that it is our intention to finish this bill today. It is my understanding that we have one more amendment to title I, and several amendments to title II. There are no more than two or three major amendments, however, which could be controversial.

Mr. Chairman, I would urge our colleagues to remain on the floor, and I am positive that we can finish this bill in time for those Members who have plane reservations to make them.

The CHAIRMAN. Are there other amendments to title I?

AMENDMENT OFFERED BY MR. LAGOMARSINO

Mr. LAGOMARSINO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LAGOMARSINO: Page 3, at the end of line 18, insert the following sentence: "Among the responses to be considered to such a danger should be all appropriate actions, including the possibility of withdrawing United States diplomatic recognition of the People's Republic of China.".

Mr. LAGOMARSINO. Mr. Chairman, I will try to be brief. I think we can handle this amendment expeditiously.

Mr. Chairman, this amendment would require the President to consider the possibility of withdrawing U.S. recognition from the People's Republic of China if it threatens Taiwan's security.

The report of the committee makes it very apparent and very clear that at the very least the United States should seriously consider withdrawing recognition of the PRC if that should occur.

☐ 1650

The real effect of the amendment would be to emphasize that recognition is not necessarily permanent. It would indicate to the PRC that our recognition is dependent upon the good behavior of the Peking government. I think the recent international adventures of that government alone should be enough justification for approval of this amendment. President Carter says that, at least in part, his decision to recognize the PRC was based on his understanding that the PRC would not attack Taiwan and would not use force to liberate Taiwan. Peking should be aware that the reverse could be true also, that is, that there could be derecognition should they breach the faith that the President has in them, rightly or wrongly.

I would like to stress also that the

amendment only lists derecognition as an alternative for the President. It does not require him to take that action and it does not preclude him from taking stronger steps if he so wishes. It simply is a statement of congressional concern that our recognition be based on the behavior of the PRC. I think they are symmetrical. As I say, the agreement or the decision to recognize the PRC was based at least in part on the President's understanding that they would not use force to liberate Taiwan. I think the reverse should be considered.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. WOLFF. I thank the gentleman for yielding.

I think the gentleman is well-intentioned certainly with his amendment, but does the gentleman really want that sort of response as the prime response? That we put in the bill that as the result of an attack upon Taiwan, we would withdraw recognition of the People's Republic of China?

Mr. LAGOMARSINO. I think that ought to be one of the things that is in the bill, yes.

Mr. WOLFF. But I do believe that the gentleman is centering attention on what perhaps could be the least desirable action.

Mr. LAGOMARSINO. I would find it highly unlikely that this administration would take that action in any event, so I do not think that it would really hurt anything to have it in the bill. I think it is well worth stating.

Mr. Chairman, I yield back the remainder of my time.

Mr. ZABLOCKI. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, although in my explanation of the provisions of the bill in the debate, I would say that if the People's Republic of China were to use force to attack Taiwan, or use force in an embargo to stop Taiwan's trade, the very least that we should do in response—and it should be an adequate response—should be the consideration of severing diplomatic relations with the PRC.

Mr. Chairman, we discussed it, and the gentleman from California discussed it, in committee, and the gentleman from California proposed the amendment when we were in the markup stage. The amendment was defeated on the basis that we did not want to single that out as the only or the priority response. We would prefer to have in this particular part of the bill no mention of the proposal for the discontinuing or severing of diplomatic relations with the PRC as a response. We do mention on page 6 of our report that this should be considered as one of the options, but I hope that the amendment will be defeated because I do think it would be counterproductive for the purposes that the gentleman from California (Mr. LAGOMARSINO) intends it to be.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to my colleague, the ranking minority member, the gentleman from Michigan (Mr. BROOMFIELD), who has been helpful and so cooperative in preparing this legislation and bringing it to the stage of perfection it is so that we can now have it for consideration before the committee.

Mr. BROOMFIELD. Mr. Chairman, I reluctantly also rise in opposition to the amendment offered by my friend, the gentleman from California. I think that there is a question, a serious constitutional question, regarding this proposed amendment. The granting or withdrawing of recognition of a foreign government is a prerogative of the President of the United States as head of state and certainly does not fall in the realm of the Congress.

☐ 1655

So, therefore, I would urge the Members to oppose this amendment.

Mr. ZABLOCKI. Mr. Chairman, I yield back the balance of my time and call for a "no" vote.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, may I point out to the Members that they really should take a good look at this. Let me read just the opening phrase:

> Among the responses to be considered.

The gentleman from California is not mandating anything. The gentleman is not tying the President's hands. The gentleman is merely indicating that one of the practical responses that might be considered is the withdrawal of U.S. diplomatic recognition of the People's Republic if they wage aggression against Taiwan.

Now, let me point out, and this is where I would like to forget the politics of the day and point out something that might intrigue those Members who are historians. Members will appreciate the fact that both Chinas claim they are the one China; the People's Republic claims Taiwan is a province; the Republic of China claims they are the legitimate government for all the mainland; so if they attack each other, it is a civil war.

In our own civil war, we caused great diplomatic problems in the countries of Europe who were torn between the legal status of the Union and their need for Confederate cotton.

I think we could all agree that our Chief Executive, whether it is the present beloved Chief Executive or someone less exalted who might follow down the road, should be guided by the Congress.

All we are saying in this case is that whoever the Chief Executive is at the time, one of the responses to be considered might be the possibility of withdrawing recognition. I think this is a tool a President could use. He could use this as a weapon to convince the authorities in Peking not to invade their lost province.

Mr. Chairman, I think this is a positive amendment. I think it ought to be accepted. I think in the long run it would be welcomed by the executive branch.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding.

I think the gentleman said it very well. This does not mandate the President to do anything. It provides an alternative for him to consider. It is what he talked about when he recognized the PRC. I think it makes a lot of sense. It is symmetrical. I would hope the Committee would adopt it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. LAGOMARSINO).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. LAGOMARSINO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 169, noes 197, not voting 66, as follows:

[Roll No. 27]

AYES—169

Abdnor
Ambro
Applegate
Archer
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, R.I.
Benjamin
Bereuter
Bethune
Bouquard
Brinkley
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Edwards, Okla.
Emery
English
Erdahl
Evans, Del.
Fish
Fountain
Frost
Gibbons
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Heckler
Hollenbeck
Holt
Hopkins
Hyde
Jacobs
Jeffries
Jenkins
Jones, Okla.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lent
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lujan
Lungren
McClory
McDonald
McEwen
McKay
Marlenee
Marriott
Martin
Mathis
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Ind.
Nelson
Nowak
O'Brien
Paul
Pickle
Quayle
Quillen
Regula
Rinaldo
Ritter
Robinson
Roth
Rudd
Runnels
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stump
Symms
Synar
Tauke
Taylor
Thomas
Trible
Vander Jagt
Vento
Walker
Wampler
Watkins
White
Whittaker
Whitten
Wilson, Bob
Wyatt
Wydler
Wylie
Young, Fla.
Zeferetti

NOES—197

Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnes
Bedell
Beilenson
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bowen
Brademas
Brodhead
Brooks
Broomfield
Burlison
Burton, Phillip
Carr
Cavanaugh
Coelho
Collins, Ill.

Conyers
Cotter
Danielson
Daschle
Davis, S.C.
Derrick
Dixon
Dodd
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Erlenborn
Ertel
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Frenzel
Garcia
Gaydos
Gephardt
Ginn
Gonzalez
Gore
Gray
Green
Guarini
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hinson
Holtzman
Howard
Hubbard
Hughes
Ichord
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
Lederer
Lehman
Leland
Levitas
Lloyd
Lowry
Luken
McCloskey
McCormack
McHugh
Maguire
Markey
Marks
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Oakar
Oberstar
Ottinger
Panetta
Patten
Pease
Perkins
Peyser
Preyer
Price
Pritchard
Rangel
Ratchford
Reuss
Rhodes
Richmond
Roberts
Rodino
Roe
Rosenthal
Rostenkowski
Russo
Sabo
Seiberling
Shannon
Sharp
Simon
Skelton
Slack
Smith, Iowa
Solarz
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stratton
Studds
Swift
Thompson
Ullman
Vanik
Volkmer
Walgren
Waxman
Weaver
Whitehurst
Whitley
Wirth
Wolff, N.Y.
Wolpe, Mich.
Wright
Yates
Yatron
Young, Mo.
Zablocki

NOT VOTING—66

Anderson, Ill.
Andrews, N. Dak.
Beard, Tenn.
Bolling
Breaux
Brown, Calif.
Burton, John
Chisholm
Clay
Conable
Corman
Crane, Philip
de la Garza
Dellums
Dicks
Diggs
Dingell
Edwards, Ala.
Edwards, Calif.
Evans, Ga.
Flippo
Flood
Fuqua
Giaimo
Hillis
Holland
Horton
Huckaby
Hutto
Ireland
Jeffords
Jones, N.C.
LaFalce
Lee
Lundine
McDade
McKinney
Madigan
Mica
Michel
Mitchell, N.Y.
Obey
Pashayan
Patterson
Pepper
Pursell
Rahall
Railsback
Rose
Rousselot
Roybal
Scheuer
Schroeder
Spellman
Stokes
Traxler
Treen
Udall
Van Deerlin
Weiss
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Young, Alaska

☐ 1710

The Clerk announced the following pairs:

On this vote:

Mr. Young of Alaska for, with Mr. Pursell against.

Mr. Philip M. Crane for, with Mr. Flood against.

Mr. McDade for, with Mr. Rose against.

Mr. Mitchell of New York for, with Mr. Ireland against.

Mr. Rousselot for, with Mr. Weiss against.

Mr. Conable for, with Mr. Pepper against.

Mr. Beard of Tennessee for, with Mr. Fuqua against.

Mr. Breaux for, with Mr. LaFalce against.

Mr. JONES of Oklahoma and Mr. CONTE changed their vote from "no" to "aye."

Mr. YATES changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 1715

The CHAIRMAN. Are there other amendments to title I? If not, the Clerk will read title II.

The Clerk read as follows:

TITLE II—MAINTENANCE OF COMMERCIAL AND OTHER RELATIONS

APPLICATION OF UNITED STATES LAWS TO TAIWAN

SEC. 201. (a) No requirement, whether expressed or implied, under the laws of the United States with respect to maintenance of diplomatic relations or to recognition of a government shall apply with respect to Taiwan.

(b)(1) The absence of such relations and such recognition shall not affect the application of the laws of the United States with respect to Taiwan, and the laws of the United States (including laws relating to rights, obligations, standing to sue and be sued, legal capacity, or eligibility to participate in programs and other activities under the laws of the United States) shall apply with respect to Taiwan in the manner that the laws of the United States applied with respect to Taiwan prior to January 1, 1979.

(2) Notwithstanding paragraph (1) of this subsection, for purposes of the Act of June 27, 1952, Taiwan may be treated in the manner specified in the first sentence of section 202(b) of that Act.

(3) Pursuant to paragraph (1) of this subsection, interests in property, tangible or intangible, acquired by the Republic of China prior to January 1, 1979, shall not be affected in any way by United States recognition of the People's Republic of China.

(c) All treaties and other international agreement which were in force between the United States and the Republic of China on December 31, 1978, shall continue in force between the United States and Taiwan unless terminated in accordance with their terms or otherwise in accordance with the laws of the United States.

MAINTENANCE OF RELATIONS

SEC. 202. (a) Except as the President may otherwise provide—

(1) dealings of the United States Government with Taiwan shall be conducted by or through such nongovernmental entity as the President, after consultation with Taiwan, may designate (hereafter in this Act referred to as the "designated entity"); and

(2) dealings of Taiwan with the United States Government shall be conducted by or through such instrumentality established by Taiwan as the President and Taiwan agree is the instrumentality which is appropriate for such dealings and which has the necessary authority under the laws of Taiwan to provide assurances and take other actions on behalf of Taiwan with respect to the United States Government.

(b)(1) The laws of the United States which apply with respect to agencies of the United States Government shall, to the extent the President may specify, apply with respect to the designated entity as if the designated entity were an agency of the United States Government.

(2) Any agency of the United States Government may sell, loan, or lease property (including interests therein) to, and perform administrative and technical support functions and services for the operations of, the designated entity upon such terms and conditions as the President may direct. Reimbursements to agencies under this paragraph shall be credited to the current applicable appropriation of the agency concerned.

(3) Any agency of the United States Government may acquire and accept services from the designated entity upon such terms and conditions as the President may direct, without regard to the laws and regulations normally applicable to the acquisition of services by such agency.

(c) Upon the granting by Taiwan of comparable privileges and immunities with respect to the designated entity and its personnel, the President is authorized to extend with respect to the Taiwan instrumentality described in paragraph (2) of subsection (a), and its personnel, such privileges and immunities (subject to appropriate conditions and obligations) as may be necessary for the effective performance of their functions.

SEPARATION OF GOVERNMENT PERSONNEL FOR EMPLOYMENT WITH THE DESIGNATED ENTITY

SEC. 203. (a)(1) Under such terms and conditions as the President may direct, any agency of the United States Government may separate from Government service for a specified period any officer or employee of that agency who accepts employment with the designated entity.

(2) An officer or employee separated by an agency under paragraph (1) of this subsection for employment with the designated entity shall be entitled upon termination of such employment to reemployment or reinstatement with such agency (or a successor agency) in an appropriate position with the attendant rights, privileges, and benefits which the officer or employee would have had or acquired had he or she not been so separated, subject to such time period and other conditions as the President may prescribe.

(3) An officer or employee entitled to reemployment or reinstatement rights under paragraph (2) of this subsection shall, while continuously employed by the designated entity with no break in continuity of service, continue to participate in any benefit program in which such officer or employee was participating prior to employment by the designated entity, including programs for compensation for job-related death, injury, or illness; programs for health and life insurance; programs for annual, sick, and other statutory leave; and programs for retirement under any system established by law or regulation, except that such employment shall be the basis for participation in such programs only to the extent that employee deductions and employer contributions, as required, in payment for such participation for the period of employment with the designated entity, are currently deposited in the program's or system's fund or depository. Death or retirement of any such officer or employee during approved service with the designated entity and prior to reemployment or reinstatement shall be considered a death in service or retirement from Government service for purposes of any employee or survivor benefits acquired by reason of service with an agency of the United States Government.

(4) Any employee of an agency of the United State Government who entered into service with the designated entity on approved leave of absence without pay prior to the enactment of this Act shall receive the benefits of this section for the period of such service.

(b) Any agency of the United States Government employing alien personnel in Taiwan may transfer such personnel, with accrued allowances, benefits, and rights, to the designated entity without a break in service for purposes of retirement and other benefits, including continued participation in any system established by law or regulation for the retirement of employees in which the alien was participating prior to the transfer to the designated entity, except that employment with the designated entity shall be creditable for retirement purposes only to the extent that employee deductions and employer contributions, as required, in payment for such participation for the period of employment with the designated entity, are currently deposited in the system's fund or depository.

(c) Employees of the designated entity shall not be employees of the United States and, in representing the designated entity, shall be exempt from section 207 of title 18, United States Code.

(d) The salaries and allowances paid to employees of the designated entity shall be treated in the same way for tax purposes under the Internal Revenue Code of 1954 as salaries and equivalent allowances paid by agencies of the United States Government.

SERVICES TO UNITED STATES CITIZENS IN TAIWAN

SEC. 204. (a) The designated entity may authorize any of its employees in Taiwan—

(1) to administer to or take from any person an oath, affirmation, affidavit, or deposition, and to perform any notarial act which any notary public is required or authorized by law to perform within the United States;

(2) to act as provisional conservator of the personal estates of deceased United States citizens; and

(3) to assist and protect the interests of United States persons by performing other acts authorized to be performed outside the United States for consular purposes by such laws of the United States as the President may specify.

(b) Acts performed by authorized employees of the designated entity under this section shall be valid, and of like force and effect within the United States, as if performed by any other person authorized to perform such acts.

DEFINITIONS

SEC. 205. For purposes of this Act—

(1) the term "laws of the United States" includes any statutes, rule, regulation, ordinance, order, or judicial rule of decision of the United States or any political subdivision thereof; and

(2) the term "Taiwan" includes, as the context may require, the islands of Taiwan and the Pescadores, the inhabitants of those islands, corporations and other entities and associations created or organized under the laws applied on those islands, and the authorities exercising governmental control on those islands (including agencies and instrumentalities thereof).

IMPLEMENTING REGULATIONS

SEC. 206. The President may prescribe such regulations as he deems necessary to carry out this Act.

EFFECTIVE DATE

SEC. 207. This Act shall be effective as of January 1, 1979.

Mr. ZABLOCKI (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

Mr. BAUMAN. Reserving the right to object, Mr. Chairman, could the Chairman tell us how many amendments are at the desk?

The CHAIRMAN. The Chair will state that there are 11 amendments at the desk.

Mr. BAUMAN. There are 11 amendments at the desk, and the chairman of the committee has characterized at least 3 of those as major. Yet, he has said on several occasions that he expects to finish the bill tonight. I would hope that there would not be any attempts to restrict debate on a matter of this importance.

As a matter of fact, Mr. Chairman, we have done very little all week. This bill was scheduled for Thursday, at a time when it is most inopportune for most Members who plan to leave on Thursday. It easily could have been considered yesterday or on Tuesday or Monday.

However, if I could get some assurances about not cutting off debate, I certainly would not object to the reading.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. Yes, I yield to the distinguished gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Chairman, the gentleman from Maryland (Mr. BAUMAN) knows that the gentleman from Wisconsin is interested in saving time. For that reason and that reason alone I asked that this title be considered as read and open to amendment at any point.

Certainly the gentleman knows that the pattern I follow and my policy, as demonstrated today, is not to cut time at all. Pressure was upon the gentleman from Wisconsin by other Members because they want to go home tonight.

Mr. BAUMAN. Precisely. If it was only the gentleman from Wisconsin of whom I had to ask this question, I would not worry so much about it; but I do think this issue is too important for us to jam it through at the end of this week's consideration.

Again, if we have this many amendments, I would like some assurance that we will debate them fully without cutting off the time.

There is no business scheduled for Monday, by the way.

Mr. ZABLOCKI. If the gentleman will yield further, I might say that we have been on this bill for 6 hours. We have not jammed any part of the bill down the throats of anybody. We have fully tried to explan it and have given ample opportunity for debate, ample opportunity for Members to debate amendments

It is my understanding, Mr. Chairman—and I may be in error—that the two major controversial amendments are at the end of the bill.

Mr. BAUMAN. Will there be any attempt to cut off debate?

Mr. ZABLOCKI. I will be reasonable about it. I do not intend to cut off debate unreasonably.

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will continue the reading of title II.

(The Clerk continued the reading of title II.)

□ 1720

Mr. ZABLOCKI (during the reading). Mr. Chairman, on consultation with the gentleman from Maryland (Mr. BAUMAN), my good friend and an amicable Member of this body, I renew the unanimous-consent request that the title be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

Mr. BAUMAN. Reserving the right to object, the gentleman from Wisconsin (Mr. ZABLOCKI) has been good enough to suggest that there is a possibility we might conclude by 7 o'clock. There are two major amendments, one dealing with the Liaison Office and the other with government-to-government relations, and then there are several others, at least nine others at the desk. I am wondering whether or not we can reasonably expect to finish that many by 7 o'clock or whether it might not be better to conclude our business, rise, and come back to this on Monday.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. Yes, of course I yield.

Mr. ZABLOCKI. I thank the gentleman from Maryland for yielding.

I firmly believe that without dilatory tactics and with some cooperation by the Members of the House, and, of course, with some reasonable limitation of debate to a half hour or 45 minutes, we can finish by 7 o'clock. But if we have unlimited debate, if the gentleman is going to insist that the gentleman from Wisconsin at some point cannot reasonably limit time, and it obviously appears there will undoubtedly be full debate on the amendment, then we will not finish by 7 o'clock. But it is my hope, and I am sure that it is feasible, that we can finish by 7 o'clock.

Mr. BAUMAN. I again express my concern that debate on an issue of this magnitude in a session in which we have done virtually nothing for 2 months would be literally pushed into an hour and a half but I do not wish to discommode the gentleman and, most of all, the House.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

□ 1725

The CHAIRMAN. Are there amendments to title II?

AMENDMENTS OFFERED BY MR. QUAYLE

Mr. QUAYLE. Mr. Chairman, I offer amendments, and ask unanimous consent that the amendments be considered as read, printed in the RECORD, and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The amendments are as follows:

Amendments offered by Mr. QUAYLE: Page 5, strike out line 1 and all that follows through line 17 on page 6 and insert in lieu thereof the following:

MAINTENANCE OF RELATIONS THROUGH LIAISON OFFICES

SEC. 202. (a) Except as the President may otherwise provide with respect to those types of dealings which are not normally conducted through diplomatic or other official missions—

(1) dealings of the United States Government with Taiwan shall be conducted through a United States Liaison Office on Taiwan; and

(2) dealings of Taiwan with the United States Government shall be conducted through a Taiwan Liaison Office in the United States.

(b) Upon the granting by Taiwan of comparable privileges and immunities to the United States Liaison Office on Taiwan and its personnel, the President is authorized to extend to the Taiwan Liaison Office in the United States, and its personnel, privileges and immunities (subject to corresponding conditions and obligations) comparable to those extended by the United States to accredited diplomatic missions of foreign countries, and the members of such missions.

Page 6, strike out line 18 and all that follows through line 4 on page 10 and redesignate sections 205, 206, and 207 as sections 203, 204, and 205, respectively.

Mr. QUAYLE. Mr. Chairman, this amendment establishes a liaison office on Taiwan. It simply reverses the situation which we have had for the past 7 years where we have had full diplomatic relations with Taiwan and a liaison office on the PRC. I do not think that the issue before us is, are we going to have full diplomatic relations with the PRC? Obviously we are. The issue before us is what kind of relationship are we going to have with Taiwan.

There are a number of Members of Congress who would like to see full diplomatic relations for both Taiwan and the PRC. This amendment does not call for full diplomatic relations, it only calls for the establishment of the liaison office.

Why would we want to put at least a liaison office in Taiwan? First of all there is an ongoing government in that country. It is a government we have recognized for 30 years. There are 17 million people in that country. Taiwan has been one of our top ten trading partners and as I have said, Mr. Chairman, we have had full diplomatic relations with Taiwan. Now, we are trying to reverse the situation.

I know there will be argument saying that this is going to wreck the deal, this is going to perhaps hurt Taiwan. In the spirit of bipartisanship and in the spirit of cooperation among the branches of Government, we have always worked in concert in dealing with not only recognition of other countries but in our foreign policy endeavors.

The Shanghai Communique in 1972 established a liaison office on the PRC. Now we have decided to change our course in foreign policy. I think it should at least establish this liaison office on Taiwan.

Concerning the negotiating practice that took place between our Government and the PRC, we have been told there was never a request to not use force. We have been told there was some discussion of the liaison office but I would imagine if the President would tell the Vice Premier, or the proper person in the PRC that it is the will of Congress to have at least a liaison office, that it just may be a reality rather than just a lot of talk.

Mr. Chairman, in conclusion I would urge the adoption of this amendment. It is not full diplomatic relations, it does establish a liaison office and simply reverses the situation.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. QUAYLE. I yield to the gentleman from Missouri.

Mr. SKELTON. Is the gentleman aware of the fact Taiwan has already established its corporate agency for work with our like corporate agency? Is not the gentleman aware of that?

Mr. QUAYLE. Yes, sir, I will tell my friend from Missouri, I am aware of that. As a matter of fact, I asked Mr. Christopher in one of our committee hearings concerning the establishment of this institute. I asked him, "What if Taiwan does not establish this institute by February 28 or the March 1 deadline?"

I said, "Would it be possible for those people to be deported from that country if they did not follow instructions from our Government?"

His answer was in the affirmative.

I do not think it was a question of whether it was established but under what kind of circumstances it was established.

□ 1730

I would hasten to say it was established probably under a cloak of intimidation, if not threat, from our Government that this would have to take place.

Mr. SKELTON. Mr. Chairman, this amendment in and of itself is in all likelihood unconstitutional because there are two rights established by the Constitution that belong solely to the President of the United States. The first one is the right of pardon; the second is the right to recognize or to receive ambassadors. This comes under that category. We are invading the President's right to receive ambassadors and establish any type of diplomatic relations.

I sympathize with the gentleman's position and understand it, but I think in all sincerity the amendment is unconstitutional, because we are invading the sole right of the President of the United States.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. QUAYLE) has expired.

(By unanimous consent, Mr. QUAYLE was allowed to proceed for 1 additional minute.)

Mr. QUAYLE. Mr. Chairman, I would just say that I am not a constitutional lawyer, but I would say that we have always worked in cooperation with the executive in these particular areas. The Senate passed a resolution by a vote of 94 to 0 that there should be some sort of consultation concerning what to do with Taiwan.

There has been a discussion of a liaison office, and I think if the Congress works its will and a provision for a liaison office is put on the President's desk, it could become a reality.

Mr. SKELTON. Mr. Chairman, if the gentleman will yield further, regardless of the discussions, we cannot change the Constitution of the United States. It says what it says. We have to live by it here in Congress, as well as elsewhere.

Mr. Chairman, I thank the gentleman for yielding.

Mr. QUAYLE. Mr. Chairman, I would just say that throughout the course of debate in the committee the constitutional aspect was never raised.

Mr. ZABLOCKI. Mr. Chairman, I rise in oposition to the amendment.

Mr. Chairman, this identical amendment was introduced and considered in committee during the markup, and it was defeated by a vote of 12 to 5.

Now, I fully realize that a committee action is not necessarily an action to be followed by the full House. But the committee has studied this issue very carefully, and I must say this, Mr. Chairman, as to the amendment offered by the gentleman from Indiana (Mr. QUAYLE), with whom I would have some sympathy on his proposal:

Indeed, Mr. Chairman, if I were called for counsel by the executive branch prior to the negotiation agreement, I would have expressed my preference that we have a relationship with the Republic of China on the basis of a liaison office, while having full diplomatic relations with the PRC. We would then follow, as we did for 7 years with the PRC, and have relations with the ROC with a liaison office. But I was not consulted, and the situation has been negotiated.

Today we have just two choices: either we have the opportunity to take the steps and approve a bill which would continue our U.S. relations with Taiwan and with the people on Taiwan, as they had been prior to January 1, 1979, but on a nongovernmental basis; or we would not pass this legislation and not give the President the authority to continue these activities with Taiwan. If we did accept the gentleman's amendment, we must remember that the committee, as the gentleman well knows, was told by the executive branch that the President would veto this bill, and by this type of action, by adopting the gentleman's amendment, we would not be helping Taiwan.

I am sure, as the gentleman admitted earlier in the colloquy, that this is water over the dam. Not only have we an agreement and a commitment but this amendment would cause some problems in keeping the commitment we made with the PRC, and it would also cause difficulties with our ally, Taiwan, since they have already agreed and created an entity similar to ours called the Coordination Council for North American Affairs.

Now, this Taiwan agency is already prepared to deal with its U.S. counterpart. The proposed amendment would destroy this arrangement.

Certainly, upon further thoughtful reading of the gentleman's amendment, we can come to but only one conclusion: Even though we may not agree with what the executive branch and the President have done in normalizing, or the terms under which that normalization was agreed to, everybody or, I would say, most everybody, in this country applauded the normalization of diplomatic relations.

□ 1725

The only quarrel that we have, some concern that Members of the Congress have, is that it should not be done at the expense and should not have been done at the expense of Taiwan and the people of Taiwan. In order that it will not be done at the expense of the people of Taiwan, is why we have this legislation. This change from an entity to a liaison office is both provocative and unnecessary. The legislation as now constituted would allow us to operate through the American institute in Taiwan in an entirely acceptable manner. Taiwan has agreed to set up its counterpart organization to handle its business here. Let us not disrupt the proceedings and the arrangements as they are now and which appear to be workable.

Mr. Chairman, I hope the amendment will be defeated.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. ZABLOCKI) has expired.

(On request of Mr. BUCHANAN and by unanimous consent, Mr. ZABLOCKI was allowed to proceed for 5 additional minutes.)

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Alabama.

Mr. BUCHANAN. I thank the gentleman for yielding.

Mr. Chairman, I would like to say that the distinguished chairman of the Committee on Foreign Affairs has spoken, as usual, wisely and well. I think the Members of this committee and of this House ought to understand that there are no better friends to the Republic of China or to the people on Taiwan than the distinguished chairman of this committee and its ranking minority member, the gentleman from Michigan (Mr. BROOMFIELD). I know from long personal experience of the friendship of this committee and of its leadership to the people on Taiwan.

This is not something that all of us have received with celebration, the change in China policy. The arrangement that was made was not to our complete liking or that which a number of us would have done. Yet we are taking this action to try to protect the people on Taiwan, to offer our friends the protections they need to provide the continuation of the relationship that is in the interest of the United States and of Taiwan. I do not believe we can take any other action and still protect that interest.

Mr. Chairman, if the gentleman would be kind enough to yield further, I want to go on record personally as expressing my appreciation for the gentleman's leadership through the years in support of the people of Taiwan and for the leadership of my ranking minority member, and to say that I fully share that position of support and would not think of supporting this bill if it were other than what it is.

Mr. ZABLOCKI. I thank the gentleman for his contribution and particularly his kind remarks about my efforts.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, I would also like to add appreciation to the chairman of our committee for his leadership. I consider this one of the most controversial amendments that will be offered on this bill. I happen to believe that, had the gentleman from Wisconsin (Mr. ZABLOCKI) and myself at least been asked for our advice prior to normalization, both of us would have insisted on a liaison office for Taiwan. This was not done. I can assure all the Members that their committee has worked very, very hard, in the absence of this liaison office, to do everything we possibly could to protect the interests of the people of Taiwan, and I think that the bill, as it has been presented here with the amendments, is an excellent piece of legislation.

Again, I think that had the administration afforded some of the Members who are in support of foreign affairs an opportunity to express themselves in consultation before normalization, possibly some of these issues could have been resolved. Since I was not afforded the opportunity to insist upon a liaison office for Taiwan, due to the absence of consultation by the administration, I believe that given the circumstances at this time, in view of the fact that Taiwan has set up a council of North America to handle its affairs, it is important that we keep the committee language in the bill pertaining to the maintenance of a relationship between Taiwan and the United States.

□ 1740

I strongly urge that the Members oppose this amendment so that this bill can be passed.

Mr. ZABLOCKI. I thank my friend and colleague from Michigan (Mr. BROOMFIELD) for his contribution. I want to take, Mr. Chairman, just a moment to express my deep appreciation again for his counsel and advice as we were working on the legislation. There were no less than eight versions before it became a bill ready for introduction. I ask for a "no" vote.

Mr. BAUMAN. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, it turns my stomach to stand here and listen to the characterization of people, who are offering amendments on this floor to help the people of Taiwan, as the enemies of Taiwan. The kind of rubbish that the administration sent down here cries out for a decent amendment as proposed by the gentleman from Indiana (Mr. QUAYLE), establishing a liaison office. A liaison office was good enough for the Red butchers in Peking for 6 years, but you say it is not good enough for our allies of 50 years' standing.

Who are you kidding? Who are the enemies of Taiwan and who are its friends? With this amendment we are trying to maintain a government-to-government relationship with a strong and longtime ally. Has this House become a rerun of Alice in Wonderland? Have you turned the whole world upside down? Do we not know what we are doing today? Will we stand here and allow the President to dictate this fundamental betrayal of an ally? Are we going to follow him down the same road?

Those are the issues the gentleman from Indiana is raising. Now, this bill—this bill is a monstrosity; only slightly less monstrous than the administration bill.

This bill proposes a shameful policy for this Nation. We are told this American-Taiwan corporation will be a private entity but that it is not really a private entity; it will be run by Federal Government employees, but they are not really Government employees; it is not financed by the taxpayers; but it is financed by the taxpayers.

Not in our entire history is there anything like this; the United States sneaking around in international back alleys. At least the gentleman would substitute an official liaison office. This is absolute madness, this whole debate. I have to say to the ranking minority member and to the chairman that I am sorry that these two friends of Taiwan who over the years have, indeed, fought for a free China, who wanted to extend freedom to the mainland and not accept communism, have been placed in an unenviable position of having to support this legislation. They do not relish this dirty assignment and they have said it many times on the floor. But let us not throw out a good and decent amendment that will restore at least partially the tarnished honor of this country.

I hope Members will vote for this amendment. I cannot see how they can go home having voted that 18 million people be consigned to live under communism. There was a time when America opposed communism. Now, you embrace it, you accept it. That is what the issue is. We ought to adopt the amendment regardless of what Red China wants.

Ms. HOLTZMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am very much in favor of recognition of the People's Republic of China. I think we should have established diplomatic relations a long time ago.

But I am troubled by title II of this bill, and I am troubled not so much, because of the effect it has on the People's Republic of China or the effect it has on the Government of Taiwan, but because of the effect it has on the United States as a sovereign nation with sovereign dignity.

I am very concerned that for the first time we are going to be conducting governmental activities through subterfuge, and I am concerned that a sovereign power and a great nation like the United States cannot conduct its governmental activities in its own name.

I find it disturbing and regrettable. I am also concerned about the constitutional precedent for this, and whether the committee has examined the constitutional basis. Perhaps the chairman, in terms of resolving my doubts on this issue, can tell me whether or not the committee has studied whether or not in fact it is constitutionally permissible to conduct governmental activities of this kind through a private agency.

☐ 1745

Mr. ZABLOCKI. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I am more than happy to yield to the gentleman from Wisconsin, the distinguished chairman.

Mr. ZABLOCKI. Mr. Chairman, may I say to the gentlewoman that the committee has studied this matter and did seek counsel. Indeed, it has obtained counsel or advice from some of the most prestigious legal firms here in Washington and elsewhere, not specifically on the issue of constitutionality, but on the creation of this entity which would continue relations, exchanges, and activities between the United States and Taiwan.

However, since I am not a lawyer and certainly not a constitutional lawyer, if there are any such shortcomings in the bill, our legal advice has been in error; and then that, of course, only the courts could correct.

In answer to the gentlewoman from New York as to whether there is any precedent, the one which comes to mind most readily, although it is not identical to the creation of a nongovernmental entity, would be Comsat which could be compared in concept to what we are doing here.

Ms. HOLTZMAN. I thank the chairman for his comments.

As long as I have the time, I wonder whether I could ask the chairman a question about title I regarding the definition of the term "defense services."

Does that mean that the Government of the United States could in any way provide troops or military forces to aid Taiwan, or is this in any way an authorization for the use of force to assist Taiwan.

Mr. ZABLOCKI. If the gentlewoman will yield further, I will say no, the term "defence services or defense articles" does not authorize the use of force to aid Taiwan.

The definition, as intended in the law, would be the same as the definition of "defense articles and defense services" as contained in section 47 of the Arms Export Control Act. That definition is as follows:

> . . . "defense article", except as provided in paragraph (7) of this section, includes—
>
> (A) any weapon, weapons system, munition, aircraft, vessel, boat, or other implement of war,
>
> (B) any property, installation, commodity, material, equipment, supply, or goods used for the purposes of making military sales,
>
> (C) any machinery, facility, tool, material, supply, or other item necessary for the manufacture, production, processing, repair, servicing, storage, construction, transportation, operation, or use of any article listed in this paragraph, and
>
> (D) any component or part of any article listed in this paragraph,
>
> but does not include merchant vessels or (as defined by the Atomic Energy Act of 1954) source material, byproduct material, special nuclear material, production facilities, utilization facilities, or atomic weapons or articles involving Restricted Data;
>
> (4)[89] "defense service", except as provided in paragraph (7) of this section, includes any service, test, inspection, repair, training, publication, technical or other assistance, or defense information (as defined in section 644(e) of the Foreign Assistance Act of 1961[90]), used for the purposes of making military sales;
>
> (5)[89] "training" includes formal or informal instruction of foreign students in the United States or overseas by officers or employees of the United States, contract technicians, or contractors (including instruction at civilian institutions), or by correspondence courses, technical, educational, or information publications and media of all kinds, training aid, orientation, training exercise, and military advice to foreign military units and forces;

Nowhere is there any intention to authorize the use of force in the definition as set forth in our bill.

The CHAIRMAN. The time of the gentlewoman from New York (Ms. HOLTZMAN) has expired.

(By unanimous consent, Ms. HOLTZMAN was allowed to proceed for 2 additional minutes.)

☐ 1750

Ms. HOLTZMAN. I thank the Chairman. I would like to say I appreciate the reassurances, but I still have a reservation about the fact that title II represents a humiliation of the United States and demeans the dignity with which we conduct our governmental activities abroad. I am also concerned about the timing of this legislation, because at this very moment Chinese troops have invaded another country. We should not in any way be condoning that act of aggression.

The CHAIRMAN. The time of the gentlewoman has expired.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the Quayle amendment. I have the highest respect for the chairman of the committee, the chairman of the subcommittee, as I pointed out earlier, and, obviously, the ranking Republican member on the committee. But I must say that maybe if I were in their place, I would feel differently about this, but I am not. If they are not outraged about what happened to them—to all of us, but particularly to them—in the leadership positions they hold, I am outraged for them.

The law that was passed by this Congress last year, the International Security Assistance Act, very clearly points out what the President was supposed to do. Let me read to the Members section 26.

> The Congress finds that—
>
> (1) the continued security and stability of East Asia is a matter of major strategic interests to the United States;
>
> (2) the United States and the Republic of China have for a period of twenty-four years been linked together by the Mutual Defense Treaty of 1954;
>
> (3) the Republic of China has during that twenty-four-year period faithfully and continually carried out its duties and obligations under that treaty; and
>
> (4) it is the responsibility of the Senate to give its advice and consent to treaties entered into by the United States.
>
> (b) It is the sense of the Congress that there should be prior consultation between the Congress and the executive branch on any proposed policy changes affecting the continuation in force of the Mutual Defense Treaty of 1954.

In my opinion—and there really was not a very good defense of this bill by administration witnesses—there was no such consultation. I think one member of our committee said he had been consulted satisfactorily in his opinion. The chairman said he was not. As a matter of fact, he made the comment that the last consultation or talk about the situation was when he was told that the whole situation was on the back burner—his exact words: "On the back burner."

The gentleman from Michigan (Mr. BROOMFIELD) said the same thing. I know that I was never consulted as a member of the committee.

The question is, What are we going to do about it? We can roll over. We can say, "Oh, gee, that is too bad. If we had been consulted, we would have said so and so."

We have a duty to perform. We have our role and function as an equal branch of this Government. I think one thing we can do is to provide what we would have done had we been consulted. I think there is little doubt that had we been consulted, we would have at least recommended a liaison office. All we are doing is turning around what the situation was before December 15 when we recognized the ROC and had a liaison officer in Peking.

Let me point out one other thing. Right now we have an intersection, a formal, official Government body, Government personnel on the Government payroll—there is no question about it—in Cuba—in Cuba. Just a week ago the President reiterated his opposition to renewing normal diplomatic relations with Cuba while they had troops running all over Africa. Here we are treating our friends, our longtime friends on Taiwan, in a different sort of a way.

It has been pointed out that Taiwan has set up an institute. That is true. They have set up an institute, and my understanding is they did it, because they were told if they did not do that, if they did not go along with this bill, they would get nothing.

Mr. Chairman, are we going to be put

in a position of being blackmailed, or are we going to do what we think is right? We might not think it is right to have a liaison office, fine. Vote that way, then. But certainly if we think it is the right thing to do, we should vote that way and let the administration know.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. WOLFF. I thank the gentleman for yielding.

I would just like to add to a couple of points the gentleman has made. I was opposed to what the administration did in the timely fashion it did. However, we are faced with circumstances that are virtually unalterable.

I might say on the question of the intercession we have in Cuba, that is with a Swiss embassy, and it is not a separate entity. That is point No. 1. Second, on the question of the Mutual Defense Treaty, and the ability of the President to terminate that treaty and the statement that the gentleman from California made, this is a statement from the Georgetown Law Center:

☐ 1755

> Recognition of the People's Republic of China, as that of any other nation, is an exclusive function of the Presidency beyond the reach of the Congress.

Mr. KELLY. I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I find this is another one of those junctures where it is important to try to get some perspective on what is going on here.

There can be no doubt, Mr. Chairman, that the interests of the United States are really what is being debated here. It is oftentimes sidetracked with some reference to the fact that what we need to do is, we need to do what is in the best interest of Taiwan and we must keep our word to Taiwan.

It has been mentioned here several times that there is some question about what the United States would do in the event there was an attack on Taiwan. The groundwork is being laid here right now by what we are doing to be certain that the United States will do nothing.

As the situation exists right now the Government of the United States by its joint communique has acknowledged the Chinese position that there is but one China and that Taiwan is part of that China.

Mr. Chairman, I can hear the argument right now that really we should not do anything about the military attack on Taiwan by the Communist Chinese, we should not in any way do anything about an economic blockade to try to starve and strangle to death the free Chinese on Taiwan, because it is an internal matter, it is a matter purely to be controlled by the Chinese Government in Peking. That will come later.

Clearly we have a situation in the Western Pacific where our defenses are involved. What is at stake here is not the security of Taiwan for the sake of the people on Taiwan, it is not to try and maintain our commitment and our credibility in the world, but we are a Pacific nation. Our 50th State is 3,000 miles into the Pacific. The Aleutian Islands, a part of Alaska, extend into the Pacific for hundreds of miles. Much of our seacoast is in the Pacific.

Mr. Chairman, if we do not at this time establish that the U.S. Government has a right to deal with Taiwan as a free nation, if we do not do that right now, the time will have passed when we can ever do it. If we do not do that then clearly the argument is going to be that any altercation between mainland China and Taiwan is an internal matter.

The security of the United States depends upon a string of defenses that includes North Korea, Japan, Okinawa, Taiwan, and the Philippines. No invasion force can move into the Pacific area if it must go by that string of defenses.

☐ 1800

If we lose Taiwan, the defensive line is compromised. So what we are dealing with is the defense interest of the United States of America. We are not primarily concerned with what is in the best interests of Taiwan; we are right now trying to maintain that we have a right to have an interest and a flexibility in our foreign policy to do what is in our best interest with regard to the Taiwan question.

Mr. Chairman, by doing what the President has done, all we are going to do is give over the options to the Communists, and that is not in the interest of the people.

Mr. LIVINGSTON. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendments.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Indiana to establish an official U.S. liaison office on Taiwan.

Mr. Chairman, the decision last December by the administration to suddenly recognize mainland China came without the consultation of Congress and its accompanying action, and, in my opinion, was just a simple case of the United States giving our faithful ally, Taiwan, a good "kick in the pants."

Mr. Chairman, I realize the present and future importance of the People's Republic of China in international affairs. There is no doubt that open relations with China will result in increased economic activity in the United States which will ultimately be beneficial in reducing our present trade deficit. However, the fact of the matter remains that in reaching an agreement with China our administration simply did some bad "horse trading."

With the Soviet Union at China's front door, Russian support of Vietnam's military conquests at China's back door, and the great desire by China for American technology, the administration concluded an agreement with the People's Republic which did not guarantee Taiwan security, and, most importantly, disrupted the confidence other countries had in the American alliance system. It seems that the forsaking of bonds with our loyal allies is typical of the confusion which has beset this administration's foreign policy since it entered office in 1977.

The establishment of a liaison office on Taiwan is the least the United States can do to clearly demonstrate to Taiwan and the rest of the free world, America's commitment to a philosophy of government that insures economic and political freedom for all.

Mr. Chairman, we have heard many arguments that this bill is in effect a fait accompli, that we should take it or leave it. I understand the problems and the pressures upon the distinguished chairman of this committee and upon the ranking minority member, but it seems to me that this committee is called upon to offer constructive amendments to correct what would otherwise be a very—and it will be—regretful moment and episode in American history.

For these reasons, Mr. Chairman, I believe it is imperative that the House approve the amendment offered by the gentleman from Indiana (Mr. QUAYLE), and I urge the committee to give it its support.

Mr. MATTOX. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendments.

Mr. Chairman, let me say to the Members that I very seldom take the well to speak, but as a Democrat I rise in support of this amendment.

I would like to associate myself with the words of the gentlewoman from New York when she was speaking about the disgrace over the way the United States is about to conduct its relationships.

I have heard Members stand up today and beat their chests and tell about their friendship for Taiwan, but let me say that my mother used to tell me, "You have to test a man's friendship.

When all the cards are against you, and you know when it is really hard to fight back. Today Members have been saying, "All of us are friends, but what they are really saying is "we don't want to fight back right now."

Let me tell you this: "You are not much of friends if you don't fight back when the going gets tough". That is the test. It is a real test.

I was listening to one of the speakers awhile ago talk in terms of how we want to maintain our dignity with the people of Taiwan.

☐ 1805

Well, that is a bunch of nonsense. The people of Taiwan have great respect for this body. They are angry with the President. They have great respect for the American people.

The reason that Taiwan consented to this so-called corporation is because they have been told that the Congress will not stand up beside them. That is the reason Taiwan was coerced into accepting it. What the administration told them appears to be right. It appears to be right because we will not stand. But if we do stand, I can assure the Members that it is a long way before this battle is over. We can get the administration to change.

I guarantee that we will do a lot more good if we do it. I have listened to some of the really strong supporters of the state of Israel stand up here. And what they are doing is abandoning one of our allies, a small island of 17 million people, and they are saying the administration has to do this. What happens if the administration turns its back on Israel tomorrow and you have 3 million people who are allies and they are sitting out there on an island surrounded by hostile nations? Are you going to say, "But this administration has done it. we are not going to fight back?" You will stand here and scream and holler and fight back. I can call you by name, but that would not be proper. You know as well as I do that you should stand, and the time is now for Republic of China.

I remember the first time I went to the Chinese Embassy in 1967. I was an intern for a Congressman of this House. At that time I went in and I thought that it was the most foolish thing in the world to think that that Embassy was for Mainland China. I was then and am now in favor of two-China policy. But to go through this charade and think that the people of Taiwan and the people of the United States are for this change in policy is wrong. You ask the people in the neighborhoods. They will tell you they do not want you to foresake our allies. I would stand and ask for full diplomatic relations. But that is not possible. In the meantime, the thing we can do is to establish a government-to-government relationship with our seventh largest trading partner. They had a $2.3 billion favorable balance-of-payments last year. Are you not going to recognize them? That is foolishness. It really is. We need to recognize both of these countries and, in the meantime, we ought to have the kinds of relationships established by this amendment. You should be real friends. You know, the old saying, "when the going gets tough, the tough get going." I will tell you, I do not want any friends if they do not stand with me when I need the help. I ask you to stay with the Republic of China.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. MATTOX. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I want to congratulate the gentleman on his statement. I think that is one of the most clear and precise statements, putting this right where it ought to be, right in our lap, and if we will not stand up to the challenge we do not deserve to be here.

Mr. Chairman, I commend the gentleman.

Mr. MATTOX. I thank the gentleman for his remarks.

Mrs. HECKLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, on September 13, 1976, candidate James Earl Carter was asked by U.S. News & World Report, "Would you envisage moving quickly to normalize relations with Peking—perhaps involving recognition?" To which he replied, "No, I don't envision that." And on December 15, 1978, President Carter announced that as of January 1, 1979, 15 days later, the U.S. and PRC would formally recognize one another. This precipitous action was taken without meaningful prior consultation with Congress and without the open diplomacy to which candidate Carter committed himself. While I agree with the essence of normalization, in the process of finalizing the status of representation for Taiwan should have been discussed and advocated by the President through the forum of open diplomacy which candidate Carter advocated. That was the appropriate time to raise the issue of the liaison office in Taiwan. Therein lies the crux of the problem.

Rather in the aftermath of the finalized agreement we in Congress should realize that upgrading the status of our diplomatic relations with Taiwan, as proposed in this amendment would be a retreat from the irrefutable reality of mainland China and the People's Republic of China. Moreover, such a step would in no real way reassure the Taiwanese as to their future. Whatever that future may hold, we best guarantee its benevolence for the Taiwanese by steady and thoughtful suasion with the Chinese Government, not by a theatrical and provocative switch-play in one of the most sensitive diplomatic exercises in our recent experience.

Unless clearly understood at the time of recognition of the Chinese People's Republic, upgrading of our presence in Taiwan now to mission status would in my judgment have four undesirable effects. First, it would be a gratuitous provocation to our historically important new contacts on the mainland, whether they are perceived as acquaintances or as friends; second, it would be of no real practical benefit to the Taiwanese since alternative methods currently exist for the preservation and further development of mutually beneficial economic relationships; third, it might be directly damaging to the Taiwanese themselves, since prospects for carefully developed and adequately reinforced guarantees for their future could be compromised, and fourth, it could be dangerous for the United States itself, for falling in the wake of the Iranian debacle, this kind of broken-field running might well jeopardize further already damaged U.S. prestige and influence throughout the world. For all these reasons, Mr. Speaker, I urge the defeat of what is in essence an attempt to second guess the delicate and tentative diplomatic understandings thus far reached.

It seems to me that we are in a significant stage in world history. It will now be possible to provide support for a longtime ally, the Taiwanese, in the face of a changed world situation, and simultaneously to proceed with fostering a new friendship with the People's Republic of China. The two friendships need not be mutually exclusive.

However gropingly, Mr. Speaker, our country has taken an important step into the future.

Let us not undermine it by passing this amendment.

□ 1810

Mr. SKELTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if this were a matter of friendship, that would be one thing. If this would be a matter of expressing dignity, that would be another. However, those are not the issues before us today. The strength of our friendship and the strong feelings we have for those who live in Taiwan is not the issue before us. We have heard many moving and persuasive debates today, but I think the thing we should look at is the bill we have before us and the amendment we have before us, and the Constitution that we are sworn to uphold.

The Constitution gives the sole and exclusive right to receive Ambassadors to the President of the United States, not to the Congress. Were we, any one of us or all of us collectively, to be the President and to make that decision, it might have been a different one, but the President has chosen in his sole and exclusive right not to receive an Ambassador. The extension of that right, of course, is not to have a liaison office or an Embassy in Taiwan. Consequently, the ball game is not in that court.

□ 1815

The ball game is whether we accept the bill before us.

I say this, Mr. Chairman, that if we are truly friends of Taiwan, we should accept this bill because it is the only thing which the administration backs. It is the only thing which the administration will accept.

We are not in a position to choose whether there should be a liaison office or an Embassy. We are here to do the only thing we can under law.

If we are their friend, we defeat this amendment and pass this bill. If we are not their friend, we adopt this amendment because if we adopt this amendment, the whole bill goes down the drain. Then we have no relations with them. We have no way to give them defensive arms. We have no way to have cultural relations with them. We have no way to have any type of communications with them whatsoever.

Consequently, Mr. Chairman, our choice boils down to having to vote against this amendment.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, would the gentleman agree that it was really incumbent upon the President, if not legally binding, that he consult with Congress before this package of commitments and withdrawals was finalized with the mainland Chinese?

Mr. SKELTON. Of course, that does not say that he consult with every Member of Congress.

Mr. HYDE. Perhaps the chairman of this committee.

Mr. SKELTON. I understand he did consult with some Members of Congress. Who they were I cannot specifically say, but I do know that he did consult with some Members.

Mr. HYDE. If the gentleman will yield further, I would suggest that by passing this amendment we are providing him with advice and consent and the views of this body, which he neglected to seek in December because we were not in session, that we prefer a liaison office. That would leave him isolated then, suggesting that we have this quasi, semi, pseudo corporation represent America over there, but then the issue will be starkly drawn, and he will have the benefit of our advice and consent.

If he wishes to veto it, then we will have to consider it at that time.

Mr. SKELTON. The gentleman is saying that the bill says something other than what it does. The President does not ask us for our advice and consent.

Mr. HYDE. But he should.

Mr. SKELTON. The law says that he should consult Members of Congress, which he did.

Mr. HYDE. If the gentleman will yield further, he may accede to the wisdom of our collective judgment that we should at least give Taiwan what we gave the People's Republic of China under the Shanghai Communique.

Mr. SKELTON. Were I the President of the United States, my decisions might well be different, but I am not.

Mr. HYDE. I hope the gentleman will be some day.

Mr. SKELTON. It was the President's decision not to choose to have a liaison office there. We have nowhere to go except to defeat this amendment.

Mr. SENSENBRENNER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendments.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Indiana (Mr. QUAYLE).

Adoption of this amendment is essential if the United States is to maintain the same relationship with the government of the Republic of China on Taiwan as it did with the Peoples Republic of China before January 1.

Our country maintained a liaison office in Peking for several years before President Carter decided to normalize relations with the Peoples Republic of China. With the upgrading of the office in Peking to embassy status, the American people expect that our Government will treat the Taiwanese Government no differently under our new relationship that it treated the Peking Government under our former relationship.

Administrations of both political parties saw nothing wrong in establishing and maintaining a U.S. governmental presence in Peking through the liaison office. All the arguments in support of that office—that it was necessary to improve political, cultural and trade relations—apply with respect to opening a liaison office in Taipei.

Mr. Chairman, fair is fair. What was fair to Peking before normalization of relations with the Peoples Republic of China should also be fair to Taiwan under the present circumstances. Adoption of this amendment can prove this country's good faith to the people of Taiwan in a meaningful way.

□ 1820

Mr. HANSEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is a critical amendment, but it is tough for many of us to get up in the well of the House and discuss this matter because it puts us in awkward contradiction with some of our very esteemed and respected colleagues.

I might mention I have the deepest regard for the chairman of the Foreign Relations Committee. I think he has done an admirable job under the pressures that are on him from all sides. And I have the deepest respect for those other ranking members of the committee on both sides who are also operating under great pressure.

But, more important, I have a great deal of concern about the inadequacy of this legislation.

This legislation without the amendment, Mr. Chairman, is similar in analogy to attempting to rescue a drowning man with a rowboat that is tied to the dock. We are operating under impossible restraint and that is just about as successful as we are going to be in doing anything for the people on Taiwan with this kind of legislation. I think that their enemies know this, and they are encouraging this weak-kneed approach. We need to do something to repair this situation, and this is the time to do it.

I am convinced that a terrible tragedy is about to occur unless we act now and act decisively. The case is at hand; it is not for us to decide next year or the year after. Are we going to prevent 17 million free people, who have fled and fought communism, from being forced back into its very jaws?

Let me tell the Members, Mr. Chairman, when I was in Taiwan recently I interviewed some refugees from the mainland. If the Members of this Body do not think this is serious business, let me recite a couple of interviews.

There was one young fellow, 22 years old, who, in trying to get away from communism and the so-called blessings that some seem to extoll on the mainland, swam the Straits into Hong Kong. It is a hard 4-hour swim which only one out of ten survives. Escaping is no easy thing personally or for your family. His brother was beheaded and his mother was starved to death. That was the penalty for escaping that great haven of human rights, the Red Republic of China.

Another person related how the famous sayings of Mao were used in awesome exercises in intimidation. He told of a friend who was arrested who contested the right of the government to arrest him because he had done nothing to be arrested for. He was informed that according to Mao the Power State is absolute; "are you challenging the authority of the State?" He said, "But I have done nothing wrong." They then said, "According to Mao, no one is perfect, not even Mao; are you better than he?" They intimidate and intimidate until they break you.

Another man, who contended he was the only person among the refugees on Taiwan who had served time in a Red prison and survived, said, "Mr. Hansen, I am 63 years old. I was a schoolteacher on the mainland right across the Straits from Taiwan when the Red Chinese Government took over. They put me in a prison in Manchuria, because they apparently thought I was too much a part of the old establishment, even though I was not political. I spent 15 years there. They forced my wife to marry another. They starved my mother to death. When I was released I went back to my village, and they then paraded me before the people to show me as an example of what not to be. I could have taken this. But then they told me that because I as imperfect, my son was also imperfect, and my grandchildren would be imperfect too. For my family there was no hope. I escaped and took my son and my grandson with me."

The point I am making is we are pushing these people, by making a governmental nonentity out of them, back into the jaws of the Red Chinese. We are giving a hunting license to the Red Chinese to do whatever they want to do to conquer or absorb these people, whether it is by economic oppression, military action, or whatever. I do not think there is any way we in the Congress of the United States can justify treating people this way, people who have been our traditional and faithful friends.

The Republic of China, Mr. Chairman, is not our enemy. These people have committed no acts of hostility against the United States. They are not guilty of being anything but our faithful friends and allies in a world where faithful friends and allies are hard to find.

The least we can do is give them reciprocal status, give them a liaison office even though the big recognition of an embassy goes to the Red Chinese. At least, this way they will have some government-to-government recognition, which will provide some real and tangible reason for their enemies to believe that we are not going to stand idly by and witness international cannibalism and gangsterism where Taiwan is concerned.

□ 1825

Mr. LUNGREN. Mr. Chairman, I move to strike the requisite number of words.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr LUNGREN. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Chairman, I wonder if we could have an indication of how many more speakers there are?

It is my intention to let everybody who wants to speak on this amendment do so. It would be helpful however, if we had some idea as to how many Members want to speak. Therefore, Mr. Chairman, could we have an indication of how many Members want to speak?

The CHAIRMAN. The gentleman from California (Mr. LUNGREN) is recognized.

Mr. LUNGREN. Mr. Chairman, in 16th century England, a liveryman named Thomas Hobson required customers to take the next available horse rather than permitting them to make a choice among horses in his stable. For this, Mr. Hobson went down in history as the originator of the "Hobson's Choice." When Mr. Hobson was alive, a Hobson's Choice meant the difference between taking the horse he chose * * * or walking. Today it means a choice between two unpalatable alternatives.

President Carter has presented Congress with a Hobson's Choice in the measure before us today. Three months ago, the President exercised his inherent authority in deciding to recognize the Peoples Republic of China. In the process, he also derecognized the Republic of China. Yet there was no substantive consultation with Congress before the President made this decision. The legislation before us today, the United States-Taiwan Relations Act, implements the decision that the President made and announced last December.

If Congress passes this legislation intact, we will be acceding to a tragic political sell-out. If, on the other hand, we refuse to be party to this decision, we leave the Republic of China and her 17 million souls almost completely isolated. This bill is the ultimate example of the "just hold your nose and vote" school of legislating.

I find it difficult to support this bill because it implements a policy with which I personally disagree. In the years since World War II—when American blood and wealth brought freedom and independence to unprecedented millions we have seen a steady erosion of American repute around the world. Former allies oppose us. Former adversaries become friends and then adversaries again, meanwhile shaking their collective heads in bewilderment. Nations which would not exist without our support regularly attack us at the United Nations and other forums.

In all these years, the one nation that has been our friend and supporter without fail is the same nation we are about to turn into a political nonentity. The nation that will benefit from all this has been our most persistent opponent, even to the point of entering into armed conflict with us during the early 1950's. It is a nation with a human rights record punctuated by sheer barbarism.

Mr. Chairman, I do not believe that every nonsocialist government is entirely good or that every socialist government is entirely bad. But, at the same time, I do not believe that sending high officials over here to drink Coca-Cola, eat at bar-b-ques and wear Texas hats gives a nation absolution from a history of human rights abuse. I find it difficult to meld President Carter's statement that "human rights is the soul of our foreign policy" with the untimely actions he tooks in December and the measures he asks us to condone today.

President Carter defends his action in several ways. He correctly points out that the United States can no longer afford to ignore one-fourth of humanity. I agree; full diplomatic relations with the Peking Government is justified. But what is not justified is the not so thinly-veiled abandonment of the Republic of China. Government-to-government relations with both the PRC and the Republic of China would strike an equitable and appropriate balance. It would tell the millions around the globe who depend upon us that we are not the sort of people who dump old friends.

The time of the gentleman from California (Mr. LUNGREN) has expired.

Mr. LUNGREN. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. ZABLOCKI. Mr. Chairman, I reserve the right to object. I shall not object; but I ask unanimous consent at this time that all debate on these amendments end at 6:35 p.m.

☐ 1830

Mr. YOUNG of Florida. Mr. Chairman, reserving the right to object, under that reservation I would like to ask the chairman of the committee, the very distinguished gentleman from Wisconsin (Mr. ZABLOCKI), who at least up until now has been a good friend of mine—maybe not after this—this question: I ask the gentleman why it is that we can "goof off" around here all week long, spend 2 hours on the floor yesterday, and then come in here and spend a long evening on this bill?

There are Members who have had to change travel plans and schedules they have made back in their districts, and now, once that is all accomplished, here comes the gentleman at 6:30 and he wants to cut off debate in 5 more minutes.

What is logical about that? What is fair about that? There are a lot of Members who wanted to catch airplanes at 6:15 but who could not do it and who have now decided they want to get into the debate.

Mr. O'NEILL. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. Yes, I yield to the distinguished Speaker.

Mr. O'NEILL. Mr. Chairman, we had agreed on both sides of the aisle with the leadership and with the chairman of the committee that we would rise after this amendment. We did not appreciate the fact that the debate on the amendment would just continue and continue and continue. As soon as this amendment is finished—and the Members know this—the committee will rise at that particular time, and then we will bring the legislation up next week.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. Yes, certainly I yield to the chairman of the committee.

Mr. ZABLOCKI. Mr. Chairman, I do not know to whom the gentleman was referring when he said we "goof off" here. Maybe the gentleman knows. But I have been working Monday through Friday every week and every day since the 96th Congress convened. If the gentleman has "goofed off," I have not.

Mr. YOUNG of Florida. Mr. Chairman, may I ask the gentleman, how much time did the House spend in session yesterday?

Mr. ZABLOCKI. The gentleman knows the answer as well as I do.

Mr. YOUNG of Florida. Why, certainly. How much did the House spend in session the day before that?

Mr. O'NEILL. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. Yes, I yield to the Speaker of the House.

Mr. O'NEILL. Mr. Chairman, I feel that I have a responsibility to answer the question asked by the gentleman. I do not think the House is "goofing off" at all. The gentleman knows the way and the manner in which we have set up the scheduling.

The scheduling is so set up that the committees will be able to do their work and so that we will be able to have at some time, probably 2 or 3 weeks from now, full schedules everyday. But this has always been the case, and customarily we are just following the normal procedure in that we are trying to get as much legislative work done in the committees as we can, and when we are working in the committees, it is impossible to schedule the legislation on the floor.

I am sure the gentleman from Maryland agrees with that because I have heard him make that statement many times.

Mr. BAUMAN. Mr. Chairman, I agree with the Speaker. I always agree with the Speaker of the House.

Mr. O'NEILL. Not always, but perhaps in this respect he does.

Mr. Chairman, I hope that answers the question. I feel that I cannot let that statement go unchallenged, the remark that we are "goofing off," because we are not "goofing off." The sooner we vote on this amendment, the sooner the Members will be able to catch their planes.

The CHAIRMAN. Does the gentleman from Florida (Mr. YOUNG) object to the request of the gentleman from Wisconsin (Mr. ZABLOCKI) that all debate on these amendments end at 6:35?

Mr. YOUNG of Florida. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

There is now pending a unanimous-consent request for 1 additional minute by the gentleman from California (Mr. LUNGREN).

Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The gentleman from California (Mr. LUNGREN) is recognized for 1 additional minute.

Mr. LUNGREN. I thank the Chair.

Mr. Chairman, if President Carter's

China policy reflects some mysterious "playing of the China card," as some commentators have characterized it, Mr. Carter would be better advised to take up dominoes. That game has more to do with his foreign policy than any form of poker.

In summary, this measure, if not amended, presents us with two unpalatable paths. I, for one, reject the two paths presented to us as a fait accompli by a shallow and disorganized administration. I will support this legislation only if it is improved to provide for a continued American governmental presence in Taiwan. To do less is to delude the international community, our allies and ourselves.

Mr. YOUNG of Florida. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I really had not intended to get into this debate until we saw the direction it had started to take. I just want to get my 2 cents worth in, and there are some who think that is all it is worth—2 cents.

But I look around the world and I notice that it is changing. I think maybe we are responsible for a lot of the changes. One of the changes that we see right here in our own hemisphere, for example, is the Russian Mig-23's they are sending down to Cuba as well as the Russian troops and Russian pilots there, and we see Cuban troops all over Africa. And who knows where else the Cuban involvement is being felt in an attempt to subvert the free world to communism or to Soviet influence?

Mr. Chairman, I say to my distinguished colleagues in this House that if we do not agree to this amendment here tonight, Cuba will enjoy a higher level of recognition by the United States than the 18 million people on Taiwan who have been our friends for such a long time.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I am happy to yield to the gentleman from New York.

Mr. WOLFF. Mr. Chairman, I will ask the gentleman, does he know how many Russian troops are on the Chinese border?

Mr. YOUNG of Florida. I do not know exactly. Can the gentleman tell me?

Mr. WOLFF. Yes, I can. There are about a million troops on the Chinese border right now, and let me say that we are not playing the "Chinese card" or anything like that, but if there is anything that is going to stop the Soviets from their moves around the world, it may be the Chinese in that particular area.

□ 1835

Mr. YOUNG of Florida. I would say to my friend, the gentleman from New York, that I am not talking about the Soviet troops. I am talking about the Cubans. And what I am saying is that the Cubans have been involved as proxies for the Russians in many parts of the world. What we are fixing to do, we are preparing to recognize Cuba at a higher level than we will be recognizing our friends on Taiwan if we do not pass this amendment.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. I thank the gentleman for yielding.

Mr. Chairman, I am sure the gentleman from Florida (Mr. YOUNG) does not intend to mislead the members of the committee, our colleagues, as to the United States having diplomatic relations with Cuba. We do not have diplomatic relations with Cuba. We have an interest section in the Embassy of Switzerland in Havana and the Cubans have an interest section in the Czech Embassy here in Washington. So the gentleman is wrong when he says that.

Mr. YOUNG of Florida. Mr. Chairman, I want to reclaim my time, because I know the gentleman will not let me have an extension because I would not let him cut off debate.

I did not say that we have diplomatic relations with Cuba. I said our recognition of Cuba will be at a higher level than it will be with Taiwan if we do not pass this amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Indiana (Mr. QUAYLE).

The question was taken; and on a division (demanded by Mr. QUAYLE) there were—ayes 41, noes 66.

RECORDED VOTE

Mr. QUAYLE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 172, noes 181, not voting 79, as follows:

[Roll No. 28]

AYES—172

Akaka
Anthony
Applegate
Archer
Badham
Bafalis
Bailey
Barnard
Bauman
Beard, R.I.
Bereuter
Bethune
Biaggi
Bouquard
Brinkley
Brown, Ohio
Burgener
Butler
Byron
Campbell
Carney
Carter
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conte
Corcoran
Coughlin
Courter
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Deckard
Derwinski
Dickinson
Donnelly
Dornan
Dougherty
Duncan, Tenn.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Fish
Forsythe
Fountain
Frenzel
Frost
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Hightower
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Howard
Hyde
Ichord
Jacobs
Jeffries
Kazen
Kelly
Kemp
Kildee
Kindness
Kramer
Lagomarsino
Leach, La.
Leath, Tex.
Lederer
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Lott
Lujan
Lungren
McClory
McDonald
McEwen
Marlenee
Marriott
Martin
Mathis
Mattox
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Ind.
Myers, Pa.
Nelson
Nichols
Nowak
O'Brien
Panetta
Paul
Pickle
Quayle
Regula
Rinaldo
Ritter
Roberts
Robinson
Roe
Roth
Rudd
Runnels
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stump
Symms
Synar
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Watkins
Whittaker
Whitten
Wilson, Bob
Wyatt
Wydler
Yatron
Young, Fla.
Zeferetti

NOES—181

Addabbo
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
Atkinson
AuCoin
Barnes
Bedell
Beilenson
Benjamin
Bennett
Bevill
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bowen
Brademas
Brodhead
Brooks
Broomfield
Buchanan
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Coelho
Collins, Ill.
Cotter
D'Amours
Danielson
Davis, S.C.
Derrick
Dicks
Dixon
Dodd
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Ertel
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Garcia
Gaydos
Gephardt
Giaimo
Ginn
Gray
Green
Guarini
Gudger
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hubbard
Hughes
Ireland
Jenkins
Jenrette
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kogovsek
Kostmayer
Leach, Iowa
Lehman
Leland
Lowry
Luken
McCloskey
McHugh
Maguire
Markey
Marks
Matsui
Mavroules
Mazzoli
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Neal
Nedzi
Nolan
Oakar
Oberstar
Ottinger
Patten
Pease
Perkins
Peyser
Preyer
Price
Pritchard
Rangel
Ratchford
Reuss
Rhodes
Richmond
Rodino
Rosenthal
Russo
Sabo
Seiberling
Shannon
Sharp
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stratton
Studds
Swift
Thompson
Ullman
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Whitehurst
Whitley
Wilson, Tex.
Wirth
Wolff, N.Y.
Wolpe, Mich.
Wright
Yates
Young, Mo.
Zablocki

NOT VOTING—79

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Ashbrook
Baldus
Beard, Tenn.
Bolling
Breaux
Brown, Calif.
Broyhill
Chappell
Conable
Conyers
Corman
Crane, Daniel
Crane, Philip
de la Garza
Dellums
Devine
Diggs
Dingell
Early
Edwards, Ala.
Edwards, Calif.
Evans, Ga.
Flippo
Flood
Fuqua
Gibbons
Gonzalez
Gore
Hillis
Holland
Horton
Huckaby
Hutto
Jeffords
Johnson, Calif.
Jones, N.C.
LaFalce
Latta
Lee
Long, Md.
Lundine
McCormack
McDade
McKay
McKinney
Madigan
Mica
Michel
Mitchell, N.Y.
Obey
Pashayan
Patterson
Pepper
Pursell
Quillen
Rahall
Railsback
Rose
Rostenkowski
Rousselot
Roybal
Scheuer
Schroeder
Stokes
Traxler
Treen
Udall
Van Deerlin
Weiss
White
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Winn
Wylie
Young, Alaska

□ 1855

The Clerk announced the following pairs:

On this vote:

Mr. White for, with Mr. McCormack against.

Mr. Breaux for, with Mr. Rahall against.

Mr. Abdnor for, with Mr. Fuqua against.

Mr. Ashbrook for, with Mr. LaFalce against.

Mr. Michel for, with Mr. Pepper against.

Mr. Quillen for, with Mr. Williams of Montana against.

Mr. Rousselot for, with Mr. de la Garza against.

Mr. Wylie for, with Mr. Weiss against.

Mr. Latta for, with Mr. Charles H. Wilson of California against.

Mr. Beard of Tennessee for, with Mr. Flood against.

Mr. Conable for, with Mr. Stokes against.

Mr. Daniel B. Crane for, with Mr. Diggs against.

Mr. Philip M. Crane for, with Mr. Dellums against.

Mr. Devine for, with Mr. Early against.

Mr. Horton for, with Mr. Corman against.

Mr. McDade for, with Mr. Traxler against.

Mr. Mitchell of New York for, with Mr. Roybal against.

Mr. Young of Alaska for, with Mr. Rostenkowski against.

So the amendments were rejected.

The result of the vote was announced as above recorded.

Mr. ZABLOCKI. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. DANIELSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 2479, to help maintain peace, security, and stability in the Western Pacific and to promote continued extensive, close, and friendly relations between the people of the United States and the people on Taiwan, had come to no resolution thereon.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill and any amendments considered today to the bill, H.R. 2479, and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

FURTHER LEGISLATIVE PROGRAM

(Mr. ZABLOCKI asked and was given permission to address the House for 1 minute.)

Mr. ZABLOCKI. Mr. Speaker, I understand that this legislation will be scheduled Tuesday next as the first order of business.

The SPEAKER. There is no business scheduled for Monday, so we will take up this bill as the first item of business on Tuesday.

CREATING INTERNATIONAL DEVELOPMENT COOPERATION ADMINISTRATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96-70)

The SPEAKER laid before the House the following message from the President of the United States; which was read and referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

As required by Title III of the International Development and Food Assistance Act of 1978, I am writing to inform you of the steps I have taken and propose to take to strengthen the coordination of U.S. economic policies affecting developing countries.

I propose to create an International Development Cooperation Administration (IDCA) as an independent agency within the executive branch. The IDCA Director would report both to me and to the Secretary of State, and would serve as our principal international development advisor. The Director would receive guidance concerning the foreign policy of the U.S. from the Secretary of State. He would submit his budget to the Office of Management and Budget after consulting with the Secretary.

The principal responsibilities of the IDCA Director would be to ensure that the varied instruments by which the U.S. contributes to development abroad are utilized effectively and in concert, and that the efforts of U.S. bilateral programs and those of the multilateral development institutions are complementary. To carry out those responsibilities, the IDCA Director would establish and control the budgets and policies of IDCA's several component agencies, and make recommendations to me concerning the appointment and removal of senior officials of each component. IDCA would contain:

—The Agency for International Development.

—The Overseas Private Investment Corporation, of whose Board of Directors the IDCA Director would become Chairman.

—A new Institute for Technological Cooperation designed to promote scientific and technological research in the developing countries, which I have proposed through legislative amendment.

In addition:

—Lead responsibility for policy and budget for our voluntary contributions to the following international organizations will be transferred to IDCA: UN Development Program; UNICEF; OAS Technical Assistance Funds; UN Capital Development Fund; UN Educational and Training Program for Southern Africa; UN/FAO World Food Program; FAO Post Harvest Losses Fund; and UN Disaster Relief Organization.

—Existing arrangements with regard to the multilateral development banks (MDBs) would be modified so that the Secretary of the Treasury will consult with the IDCA Director in the selection of candidates for the U.S. Executive Director and Deputy Executive Director positions in the MDBs, and the IDCA Director will advise U.S. Executive Directors on MDB projects and program proposals.

—The IDCA Director would take part in executive branch decisionmaking concerning such matters affecting international development as trade and monetary issues; he would speak to the relative priority of development and other U.S. objectives in respect of these and other issues. He would replace the AID Administrator as Chair of the Development Coordination Committee.

—I have directed OMB to review alternative organizational arrangements respecting all ACTION programs, and will consider the possible relation of Peace Corps to IDCA in light of the conclusions of that review.

I intend to propose the creation of IDCA under the reorganization authority renewed by Congress in 1977. In addition, various administrative and program adjustments will be made by Executive order and agency delegation.

I believe these steps will substantially strengthen the coordination of U.S. policies affecting the developing world, and will lead to a more coherent strategy of development and the more effective use of the various bilateral and multilateral instruments by which the U.S. can encourage the growth of developing economies. I am pleased that these actions and proposals are similar to those proposed last year by the late Senator Hubert H. Humphrey. I look forward to joining with you to put them into operation.

JIMMY CARTER.

THE WHITE HOUSE, *March 7, 1979.*

BANK HOLDING COMPANY AMENDMENTS OF 1979

(Mr. HANLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HANLEY. Mr. Speaker, recently I filed a bill with the cosponsorship of our colleague Mr. ST GERMAIN which dealt with a legislative issue left over from the last Congress—the restriction of insurance activities by bank holding company subsidiaries. As you recall, title XIII of the FIRA bill contained such a restriction, it having received broad support and endorsement from a large majority of the House Banking Committee and a clear majority of our colleagues.

The floor activity on this issue indicated that the House was ready to begin a serious reconsideration of the dimension and nature of bank holding company activities as they relate to insurance matters specifically and as they operate in other nonbank areas as well. The sense that large centralized economic powerhouses (such as bank holding companies tend to become) are not to be left free rein in all marketplaces without there being some adverse impact upon other traditional providers of services and goods now is growing to be an apprehension needing attentive analysis.

Just as the thrust of H.R. 2255 directs attention to the impact of insurance sales and brokerage in the hope that facts and figures will show the relative position of holding company activities on that market, so the bill I introduce today continues this spirit and amplifies the context and dimension of the inquiry.

As I said earlier, this bill attempts to draw a line on large bank holding company expansionism. It sets out an array of private sector businesses which are noted for their inner competitiveness and dynamism and for serving the diverse needs of our public in a reputable, efficient, and cost-effective manner. It sets the burden of proof on the bank holding companies to demonstrate that their expansion beyond the traditional confines of banking per se into the world of commerce is beneficial to the marketplace.

I have been working with elements of the various industries and public interest groups sensitive to the issues in an effort to develop legislation likely to evoke a sincere and intense dialog on the points in contention for so long. Litigation and disputation have been characterized since the early seventies by entrenchment and some acrimony on whether certain activities do or do not enhance competition and consumer choices and do or do not infringe upon the legitimate franchise of businesses whose well-being is desirable but whose futures are clouded by imminent entry of bank holding company subsidiaries.

The issues are economic concentration, institutional stability, marketplace diversity, competitive balance, pluralistic marketing systems, linkage of services with other financial needs, and the implications—overt or latent—that public benefits will flow from an economy dominated by varigated holding companies. Such corporate big brotherism bothers me greatly because it impedes the innovation and initiative which characterizes the free market system of easy entry and rapid growth dependent upon the integrity, drive, and aggressive talent of individuals.

To allow large holding companies to bring to bear the weight of their assets and their interlocking associations in fields not closely related to banking and not clearly necessary for the prosperity of that principle entity would be to my way of thinking a disservice to the holding company and to the public.

One does not have to look far to see examples of holding company overextensions. Just recently a major money center bank had to throw in the towel on its real estate subsidiary in recognition of its failed prospects. Such a happening illustrates the danger to institutions of activities not only extraneous to their prime mission and chartered responsibility but a clue that other activities may be receiving an inner propping-up at the expense of stockholders or of disappointed loan seekers.

In any event, Mr. Speaker, this issue deserves further intense study. I think the assurances from Mr. ST GERMAIN that this bill will be the main vehicle for a comprehensive, objective, and timely inquiry through the hearing process is well received by both sides in the matters outlined above. I support that course and will look forward to the opportunity to separate the wheat from the chaff as events unfold in the next few months.

One of the principal objectives of Federal legislation designed to regulate companies which manage and control banks, was to prevent concentration in the banking business. Congress believed that adequate safeguards should be provided against undue concentration of control of banking activities because of the importance of the banking system to the economy. Therefore, Congress sought to protect and foster the growth of independent unit banks. The holding company device, whereby control of a group of banks has been acquired and the banks therefore operated in effect as branches, has been a major factor in concentrating banking control into fewer banks. It was the declared view of Congress that independent banking was being thwarted by indirect branch banking, through the holding company mechanism. Congress in enacting the Bank Holding Company Act of 1956 sought to limit the ability of bank holding companies to increase the share of commercial banking in a particular area which could be brought under a single control and management.

Because the Bank Holding Company Act of 1956 applied only to bank holding companies controlling or owning two or more banks, one-bank holding companies were exempt from regulation under the act. The Bank Holding Company Act Amendments of 1970 were enacted primarily to bring one-bank holding companies within the regulation of the 1956 act. In addition, the 1970 amendments eliminated a partnership exemption from the definition of the term "company." The 1956 standard for determining what bank-related activities a bank holding company may engage in was retained. One-bank holding companies were subjected to potential Federal Reserve Board jurisdiction under the Bank Holding Company Act regardless of when they were created. The 1970 amendments were designed to prevent concentration and to affirm the long-standing policy of separating banking from commerce. In the late 1960's, a large number of banks began converting to one-bank holding companies to avoid regulation by the Fed under the Bank Holding Company Act. In addition, many significant nonbank corporations began acquiring a single bank, thus mixing banking and nonbanking in complete contravention of the purpose of both Federal banking laws going back to the 1930's and the Bank Holding Company Act of 1956. Left unchecked, the trend toward the combining of banking and business could ultimately result in the formation of a relatively small number of power centers dominating the American economy.

The growth of bank holding companies since the Bank Holding Company Act was enacted by Congress clearly reveals its failure to restrain the growth and influence of bank holding companies. In the 17-year period 1959–76, the number of registered multibank holding companies increased almost six-fold from 48 to 298; the number of banks and branches they operated rose more than eight times, from 1,380 to 12,022, and their deposits multiplied 17 times from $17.3 billion to $287 billion. The growth of one-bank holding companies in the period 1955–76 was even more rapid. Their number increased almost 13 times from 117 to 1,504 and their bank deposits rose 20-fold from $11.6 billion to $267.1 billion.

However, most of the deposit growth of one-bank holding companies occurred in the short three-year period 1965–68 when 200 one-bank companies were organized expanding the aggregate deposits held by all one-bank holding companies from $15.1 billion in 1965 to $108.2 billion at the close of 1968, an increase of 600 percent. Enactment of the 1970 amendments to the Bank Holding Company Act slowed but did not halt the growth of one-bank holding companies. Between 1968 and 1976 the number of one-bank holding companies grew from 890 to 1,504, an increase of 72 percent, and their aggregate deposits rose 47 percent from $181 billion to $267.1 billion.

The growth of bank holding companies has been a significant factor in raising the level of concentration of commercial banking. Nationwide concentration of commercial banking reached the point in 1976 where the 50 largest banking companies controlled $535 billion of assets or 51 percent of all commercial bank assets. The share of commercial bank deposits held by multibank holding companies has risen from 18 percent in 1959 to 34 percent in 1976. When the deposits of one-bank holding companies are added to the deposits of the multibank holding companies their combined share of deposits rose to 65 percent in 1976.

However, it is the very large multibank and one-bank holding companies which exert the most influence in raising the level of concentration in commercial banking. By far, the largest number of one-bank holding companies are relatively small.

In 1976, 36 of the 1,504 one-bank holding companies had deposits in excess of one billion dollars and accounted for 63 percent of the aggregate deposits of all one-bank holding companies. Consequently, the one-bank holding companies which exert the greatest influence on the structure of banking are these very large companies with deposits over a billion dollars.

Probably the most accurate measure of bank holding company control of commercial bank deposits is the share of deposits held by the 298 multibank holding companies and the 36 largest one-bank holding companies. In 1976 these 334 bank holding companies controlled deposits of $454.8 billion, 54 percent of the Nation's commercial bank deposits.

Besides resulting in an alarming concentration of bank deposits, the regulation of nonbanking powers has also resulted the blurring of the traditional lines between banking and commercials. The determination of nonbank activities closely related to banking which bank holding companies are permitted to enter is a responsibility of the Federal Reserve Board under section 4 (c) (8) of the 1970 amendments to the Bank Holding Company Act. By late 1974, the Board had approved 21 general classes of nonbank activities as being permissible for bank holding companies but subsequently took a more cautious stance toward broadening the permissible areas. In its September 9, 1974 order declaring that the underwriting of mortgage guarantee insurance would not be an appropriate bank related activity, the Board stated that under current conditions it would be desirable for bank holding companies generally to slow their rate of expansion and to direct their energies principally toward strong and efficient operations within their existing modes, rather than toward expansion into new activities. While not representing a 180 degree turn in position, this view represents a very different philosophy than the Board expressed in its statement of principles of February 20, 1968 that bank holding companies should be allowed to enter certain nonbanking areas which would facilitate broader services for the public consistent with the continued growth and development of the economy.

The expansion of bank holding companies into nonbanking activities exposes a holding company's banks to new risks which could jeopardise the soundness of these banks. Holding companies' earnings have been adversely affected by the REIT disaster depressing their stock prices and their ability to raise sorely needed capital for their banks. Bank holding company legislation needs to provide more protection for the banks in the holding company from the risks of nonbanking affiliates; and to provide for closer supervision and regulation of the soundness of nonbank ventures entered into by bank holding companies. Indeed, the few studies of bank holding companies have demonstrated little benefit from such structures.

I include the bill in the Record at this point, Mr. Speaker, along with an explanation and remarks:

H.R. 2747

A bill to amend the Bank Holding Company Act and the Bank Merger Act to restrict the activities in which registered bank holding companies may engage and to control the acquisition of banks by bank holding companies

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Bank Holding Company Amendments of 1979."

STANDARDS FOR BANK HOLDING COMPANY ACQUISITIONS OF BANKS

Sec. 1. Section 3(c) of the Bank Holding Company Act of 1956 is amended to read as follows:

"(c) the Board shall not approve—

"(1) any acquisition, merger, or consolidation under this section which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

"(2) any proposed acquisition, merger, or consolidation under this section whose effect in any part of the United States may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in a restraint of trade, unless it finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served, or

"(3) any other proposed acquisition, merger, or consolidation transaction under this section if, either as a result of such transaction or because of the preexisting bank assets over which it has control, the acquiring or resulting company would have control over aggregate total banking assets exceeding 20 per centum of the total banking assets held by all banks and bank holding companies located in the State in which such company is located: *Provided, however,* That this paragraph shall not apply to any acquisition, merger, or consolidation transaction in which the Board finds that immediate action is necessary to prevent the probable failure of a bank and that a less anticompetitive alternative is not available, and *Provided further,* That this subparagraph shall not preempt any State law or regulation setting a lower percentage.

In every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned in relation to the competitive factors stated in this subsection (c) and the capacity of the existing and proposed institutions to serve the convenience and needs of the community. Notwithstanding the foregoing provisions of this subsection (c) the Board shall not deny any application for this formation of a one-bank holding company where the primary supervisory authority named in subsection (b) above has approved the transaction, including the character of the proposed management and adequacy of the capital of the bank involved; nor shall the Board deny such an application where a bank stock loan is involved in the transaction if such loan is made on substantially the same terms, including interest rate and collateral, as those prevailing at the time and place for commercial loans to businesses other than banks. If the Board issues an order denying an application for the formation of a one-bank holding company, the Board shall be required upon request of the applicant to conduct, by its hearing examiner, a formal hearing at the office of the District bank or branch thereof located nearest the place involved. The final decision of the Board shall be made upon a clear preponderance of the evidence in the record of such hearing.

Sec. 2. Section 11 of the Bank Holding Company Act of 1956 is amended by inserting in subsection (f) after "(the Clayton Act," the words "subsection (g) of this section", and by adding at the end thereof the following:

"(g) (1) The district courts of the United States have jurisdiction to prevent and restrain any acquisition, merger, or consolidation transaction having the effects set forth in Section (3) (c) (3), and it is the duty of the United States attorneys, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. The proceedings may be way of a petition setting forth the case and praying that the violation be enjoyed or otherwise prohibited. When the parties complained of have been duly notified of the petition, the court shall proceed, as soon as possible, to the hearing and determination of the case. While the petition is pending, and before final decree, the court may at any time make such temporary restraining order or prohibition as it deems just. Whenever it appears to the court that the ends of justice require that other parties be brought before it, the court may cause them to be summoned whether or not they reside in the district in which the court is held, and subpenas to that end may be served in any district by the marshal thereof.

"(2) In any action brought by or on behalf of the United States under paragraph (1) of this subsection, subpenas for witnesses may run into any district, but no writ or subpena may issue for witnesses living out of the district in which the court is held at a greater distance than one hundred miles from the place of holding the same without the prior permission of the trial court upon proper application and cause shown.

"(3) Nothing contained in this subsection shall be construed as affecting in any manner the right of the United States or any other party to bring an action under any other law of the United States or of any State, including any right which may exist in addition to specific statutory authority, challenging the legality of any acquisition, merger, or consolidation transactions which may be proscribed by this subsection."

STANDARDS FOR BANK HOLDING COMPANIES ENTRY INTO BANK RELATED ACTIVITIES

Sec. 3 (a). Section 4(c) (8) of the Bank Holding Company Act of 1956 is amended to read as follows:

"(8) shares of any company the activities of which the Board, on the record and after due notice and opportunity for hearing, has determined—

"(A) to be so closely and directly related to banking or managing or controlling banks as to be a proper and necessary incident thereto, provided. it is not closely and directly related to banking or managing or controlling banks to:

(i) provide insurance as a principal, agent or broker except (a) where the insurance is limited to assuring repayment of the outstanding balance due on a specific extension of credit by a bank holding company or its subsidiary in the event of the death or disability of the debtor; or (b) any insurance agency activity in a place that (1) has a population not exceeding 5,000 (as shown by the last preceding decennial census), or (2) the bank holding company, after notice and opportunity for a hearing, demonstrates that a city, town, or village has inadequate insurance agency facilities; or (c) any insurance activity engaged in by a bank holding company or any of its subsidiaries pursuant to an application which was approved prior to June 6, 1978; or (d) any insurance agency activity engaged in by a bank holding company has total assets of $50 million or less, provided, however, such bank holding company and its subsidiaries may not engage in the sale of life insurance or annuities except as provided in (a) or (b) above."

(ii) underwrite, distribute or solicit the purchase or sale of any security as defined by the Securities Act of 1933, except its own securities, securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States, or securities issued by a subsidiary bank which are either certificates of deposit or short term money market instruments.

(iii) sponsor, organize, control, serve as investment adviser to, or sell or distribute, at wholesale or retail, any interest in, a collective investment fund, including an investment company as defined in the Investment Company Act of 1940, a real estate investment trust as defined in Section 856(a) of the Internal Revenue Code of 1954, or a fund for investing in commodities or commodities contracts; unless such collective investment fund (1) is a common trust fund which is lawfully maintained and administered by such company as a fiduciary exclusively for the collective investment and reinvestment of moneys contributed by the company in its capacity as trustee (including trustee of retirement, pension, profit sharing, stock bonus or other trusts which are exempt from Federal income taxation under the Internal Revenue Code), executor, administrator, guardian or custodian under a uniform gifts to minors act and (2) is not advertised or publicized in any manner other than by making available copies of such common trust fund's annual financial report.

(iv) engage in the business of, directly or indirectly, taking deposits, issuing investment certificates, contracts, or agreements under any descriptive name, or accepting savings accounts or credit balances from the general public if such deposits, certificates or accounts bear interest rates in excess of the maximum rate payable on an account of similar maturity by a bank (other than a mutual savings bank) the deposits of which are insured by the Federal Deposit Insurance Corporation.

(v) engage in (a) real estate brokerage, (b) real property management (except for properties owned or held by a bank holding company or its subsidiaries or for trust or fiduciary activities), (c) land development, (d) real estate syndication, (e) underwriting of real estate mortgage guarantee insurance, and (f) real estate appraisal (other than for its own account or of an affiliate or subsidiary).

(vi) engage in the business of leasing motor vehicles except in the form of purchasing completed lease contracts for the use of motor vehicles from companies or individuals other than subsidiaries, and except incidental leasing of motor vehicles.

As used in this subparagraph the term "motor vehicles" means any vehicles drawn or driven by mechanical power manufactured primarily for use on the public streets, roads, or highways, and the term "incidental leasing" means leasing upon the specific request of a bank customer or prospective bank customer for a lease form of financing to suit the customer's tax or other purpose and without prior solicitation, advice, or advertisement by the bank holding company or its subsidiary.

and "(B) is likely to produce substantial benefits to the public which clearly and significantly outweight possible adverse effects. For the purpose of this subparagraph, (i) the term 'substantial benefits to the public' includes increased competition over the course of time and greater convenience or gains in efficiency of operation that will substantially benefit the public, and (ii) the term 'adverse effects' includes undue concentration of economic or financial resources, decreased competition over the course of time, unfair competition, conflicts of interest, unsafe or unsound banking or business practices, and risk to the financial soundness of a bank holding company or its banking subsidiaries.

"For the purpose of determining in specific cases whether the performance of a particular activity by an affiliate of a bank holding company is likely to produce substantial benefits to the public which clearly and significantly outweigh possible adverse effects, the Board, in addition to its other considerations, shall take into consideration the relative economic size and market power of the bank holding company and that of those with whom the affiliate would compete."

(b)(1) Notwithstanding the amendment made by subsection (a), and subject to the provisions of paragraph (2) of this subsection, a bank holding company may continue to engage in those activities (except as provided in Section 4(c)(8)(A)(1) in which it directly or through a subsidiary (A) was lawfully engaged on June 6, 1978, (or on a date subsequent thereto in the case of activities carried on as the result of the acquisition by such bank holding company or subsidiary thereof, pursuant to a binding written contract entered into on or before June 6, 1978, of another company engaged in such activities at the time of the acquisition) and (B) has been continuously engaged since June 6, 1978, (or such subsequent date), except that such a bank holding company shall not permit the scope or size (in terms of volume of business) of those activities to expand to any significant degree.

(2) The Federal Reserve Board by order or regulation, after opportunity for hearing, may terminate the authority conferred by paragraph (1) on any bank holding company to engage directly or through a subsidiary in any activity otherwise permitted by paragraph (1) if the Board determines, having due regard for the purposes of the Bank Holding Company Act of 1956, that such action is necessary to prevent undue concentration of economic or financial resources, decreased competition over the course of time, unfair competition, conflicts of interest, unsafe or unsound banking or business practices, and risk to the financial soundness of a bank holding company or its banking subsidiaries.

CLARIFYING AMENDMENT

SEC. 4. Section 3(a)(4) of the Bank Holding Company Act of 1956 is amended to read as follows:

"(a) It shall be unlawful, except with prior approval of the Board . . . (4) for any bank holding company or subsidiary thereof to acquire all or substantially all of the assets of a bank . . ."

DEFINITIONS

SEC. 5 Sec. 1(c) of the Bank Holding Company Act of 1956 is amended by adding the following new sentence at the end thereof:

"The term 'bank' does not include a savings bank, Morris Plan bank, industrial bank or loan company, or consumer finance institution or a thrift institution as defined in subsection (i) of this section."

UNIFORM APPLICATION OF STANDARDS GOVERNING ENTRY INTO BANK RELATED FIELDS

SEC. 6. Sec. 2(a) of the Bank Holding Company Act of 1956 is amended by adding the following new paragraph:

(7) "A national banking association or District bank, acting for itself or through an affiliate or subsidiary, shall be treated as a bank holding company for the limited purpose of enforcement of the prohibitions stated in clauses (ii) through (vi) of Section 4(c)(8)(A). The Comptroller of the Currency shall be responsible for the administration of this section with respect to national banking associations and District banks."

This bill seeks to address these areas of deep concern. The following is a section-by-section analysis of the bill:

Section 1 addresses the problems of indiscriminate acquisition of independent banks for the sake of expansion with the resultant concentration of economic resources. The bill would prevent such acquisition by holding companies controlling more than 20 percent of any individual state's banking assets.

Additionally, the changes are made in the language of clause 2 so as to make it clear that the relevant bank market area may be large or small including any part of a state, or several states.

Finally, language added at the end of Section 3(c) is designed to modify a recent Supreme Court decision bearing on the ability of small independent banks to form holding companies. Most importantly, the Board has imposed, by regulatory fiat, terms and conditions of bank stock loans made by one-bank holding companies for the purpose of increasing capital in the bank to support growth of deposits or to help finance the purchase of the bank. While retaining the authority of the Federal Reserve Board to scrutinize each application, reliance is placed on the primary regulatory to deny those where appropriate. At the same time the guidelines arbitrarily adopted by the Board in administering the Bank Holding Company as against small independent banks would be modified to eliminate the onerous terms placed on bank stock loans including an arbitrary amortization schedule and the requirement that the bank holding company be a source of strength to the subsidiary bank.

Section 2 of the bill would provide additional authority for the Department of Justice to prevent any acquisition, merger, or consolidation which would leave the bank holding company with an excess of 20 percent of the total banking deposits of the state. Additionally, due process provisions are added to ensure a fair and equitable proceeding.

Section 3 of the bill deals with the problem of nonbanking activities engaged in by bank holding companies. First, the bill would require that the Board hold a hearing on the record for each additional activity which it proposes to add to the list of permissible bank related activities. Second, the test for the Board to apply in determining whether an activity is proper would be strengthened so as to require that the activity be closely and directly related to banking and that the activity be likely to produce substantial benefits to the public which clearly and significantly outweigh possible adverse effects. Third, that under no circumstances would certain types of activities ever be considered closely and directly related including some which are presently permitted by the Board but would be grandfathered under the same section. These prohibited activities generally include the sale of insurance except for credit life or accident, insurance sales by a bank in a town under 5,000 and insurance activities by a bank holding company with total assets of $50 million; the underwriting, distribution, or solicitation for the purchase or sale of any security except its own securities and securities of the United States; involvement in a collective investment fund, real estate investment trust or fund for investing in commodities contract; engaging in the business of taking deposits from the general public through a subsidiary other than a commercial bank or trust company at rates above those set by reg "Q"; engaging in certain real estate related activities; and engaging in the business of automobile and truck leasing directly to the public.

Section 4 of the bill is a clarifying amendment to eliminate a conflict with Section 3 (d) of the Bank Holding Company Act which prohibits a bank holding company to make acquisitions across state lines unless the states affected permits it by statute.

Section 5 of the bill is a definition of "bank" which is necessary in order to implement certain other sections added by these amendments.

Section 6 of the bill would apply the list of prohibitions that would be prohibited for a bank holding company subsidiary, with the exception of the insurance prohibition, to national banking associations. At the same time the integrity of dual banking system is maintained by clearly leaving the responsibility for administering this revision to the Comptroller of the Currency.

STATUS OF THE CONGRESSIONAL BUDGET FOR FISCAL YEAR 1979

(Mr. GIAIMO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GIAIMO. Mr. Speaker, the House Budget Committee today is notifying the Speaker of the House of the current levels of congressional action on the budget compared to the spending ceilings and revenue floors established by the second budget resolution for fiscal year 1979, which was adopted on September 21, 1978. Under the Budget Act a point of order lies against any measure that would cause the spending ceilings or the revenue floor established by a concurrent resolution on the budget to be breached.

Today's report indicates that the following amounts are remaining to cover possible spending or revenue legislation: budget authority, $8,631 million; outlays, $476 milion; revenues, $1,286 million.

The estimate of current level included in this report covers all enacted budget authority, estimates of entitlement authority and other mandatory spending items which require further appropriations action, and the estimated effect of the continuing resolution. It also incorporates reestimates of the fiscal year 1979 budget which were submitted by the Executive in November of 1978 and reviewed by the Budget Committees and the Congressional Budget Office.

This report does not include any reestimates of the fiscal year 1979 budget which were submitted by the President in his January 22, 1979, budget submission. A complete review of these revisions is now being conducted by the Budget Committees and the Congressional Budget Office and will be concluded soon.

It may be that these reestimates will push outlays over the ceiling set in the second budget resolution, primarily due to substantial increases in activities and programs, which are directly responsive to the economy, such as interest on the debt and unemployment.

If the ceiling is breached primarily because of the impact of economic focus on the budget, and it becomes necessary for Congress to handle emergency funding situations—which Congress faces from time to time—it will be necessary to revise the second budget resolution at the same time we are considering the first budget resolution for fiscal year 1980.

In order to keep Congress advised of the effect of its spending and revenue actions compared to the overall totals set in the second budget resolution, section 308(b) of the Congressional Budget Act of 1974 requires periodic reports to be issued to the Congress. As chairman of the House Budget Committee, from time to time, I submit to Congress these parliamentarian's status reports reflecting the current level.

A copy of my letter to the Speaker and of the committee's report are attached.

COMMITTEE ON THE BUDGET,
Washington, D.C. March 7, 1979.
Hon. THOMAS P. O'NEILL, Jr.,
Washington, D.C.

DEAR MR. SPEAKER: On January 30, 1976, the Committee on the Budget outlined the procedure which it had adopted in connection with its responsibilities under Sec. 311 of the Congressional Budget Act of 1974 to provide estimates of the current level of revenues and spending. I am herewith transmitting the status report under H. Con. Res. 683, the Second Budget Resolution for FY 1979. This report reflects the resolution of September 21, 1978, and estimates of budget authority, outlays and revenues based on all completed action on spending and revenue measures as of close of legislative business February 26, 1979.

Sincerely,

ROBERT N. GIAIMO,
Chairman.

Report to the Speaker of the U.S. House of Representatives, From the Committee on the Budget on the Status of the Fiscal Year 1979 Congressional Budget Adopted in House Concurrent Resolution 683

[Reflecting completed action as of Feb. 26, 1979, in millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	555, 650	487, 500	448, 700
Current level	547, 019	487, 024	449, 986
Amount remaining	8, 631	476	1, 286

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and which exceeds $8.631 million for fiscal year 1979, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 683 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and which would result in outlays exceeding $476 million for fiscal year 1979, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 683 to be exceeded.

REVENUES

Any measure that would result in a revenue loss exceeding $1,286 million for fiscal year 1979, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 683.

FEBRUARY 27, 1979.

Hon. ROBERT N. GIAIMO,
Chairman, Committee on the Budget, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311(b) of the Congressional Budget Act, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays and estimated revenues in comparison with the appropriate levels for those items contained in the most recently agreed to concurrent resolution on the 1979 budget. This report for fiscal year 1979 is tabulated as of close of business February 26, 1979.

This report shows action clearing for the President's signature legislation authorizing the sale of silver dollars (H.R. 1902). This is the first change reported since my letter of December 15, 1978, reporting on the current level as of the end of the 95th Congress.

	Budget authority	Outlays	Revenues
1. Enacted	526, 092	470, 827	449, 986
2. Entitlement authority and other mandatory items requiring further appropriation action	5, 515	4, 957	-------
3. Continuing resolution authority	15, 432	11, 259	-------
4. Conference agreements ratified by both Houses	−20	−20	-------
Current level	547, 019	487, 024	449, 986
Second concurrent resolution	555, 650	487, 500	448, 700
Amount remaining:			
Under ceiling	8, 631	476	-------
Over floor	-------	-------	1, 286

Sincerely,

ALICE M. RIVLIN, *Director.*

Parliamentarian status report supporting detail, fiscal year 1979, as of close of business February 26, 1979

[In millions]

	Budget authority	Outlays
I. Enacted:		
Permanent appropriations and trust funds	265, 185	243, 827
Previously enacted (95th Congress, 2nd session)	327, 123	293, 216
Offsetting receipts (including amounts generated by current appropriation action)	−66, 216	−66, 216
Enacted this session	--------	--------
Total, enacted	526, 092	470, 827
II. Entitlement authority and other mandatory items requiring further appropriation action:		
Function 050:		
Civilian and military pay raises (anticipated supplemental)	2, 177	2, 120
Retired pay, Defense (P.L. 95-397) (anticipated supplemental)	17	17
Function 150: Export-Import Bank (anticipated pay supplemental)	--------	1
Function 350: Federal Crop Insurance Corporation (anticipated pay supplemental)	--------	(1)
Function 370:		
Federal Home Loan Bank Board (anticipated pay supplemental)	--------	1
Federal Savings and Loan Insurance Corporation (anticipated pay supplemental)	--------	(1)
Function 400:		
Department of Defense:		
Panama Canal (anticipated pay supplemental)	--------	1
Department of Transportation:		
Limitation on administrative expenses (anticipated pay supplemental)	--------	(1)
Function 500:		
Grants to states for social services—child day care (P.L. 95-600) (anticipated supplemental)	156	156
Function 550:		
Department of Health, Education, and Welfare: Federal hospital insurance trust fund (anticipated pay supplemental)	--------	4
Function 600:		
Department of Agriculture:		
Food stamp program (anticipated supplemental)	143	143
Child nutrition (anticipated supplemental)	96	--------
Child nutrition amendments (P.L. 95-627) (anticipated supplemental)	7	4
Department of Health, Education, and Welfare:		
Assistance payments program amendments (P.L. 95-600) (anticipated supplemental)	52	52
Supplemental security income—cash payments in lieu of food stamps (P.L. 95-458) (anticipated supplemental)	−50	--------
Supplemental security income program (P.L. 95-458) (anticipated supplemental)	60	60
Federal old-age and survivors insurance (anticipated pay supplemental)	--------	74
Civil Service Commission:		
Civil service retirement and disability (anticipated pay supplemental)	--------	1
Railroad Retirement Board:		
Payments to railroad trust fund (anticipated pay supplemental)	--------	1
Railroad retirement account (anticipated pay supplemental)	--------	1
Function 700:		
Veterans Administration:		
Compensation and pensions:		
Anticipated supplemental	267	--------
P.L. 95-588 (anticipated supplemental)	523	466
P.L. 95-479 (anticipated supplemental)	563	520
P.L. 95-476 (anticipated supplemental)	4	4
Readjustment benefits:		
Anticipated supplemental	480	330
P.L. 95-476 (anticipated supplemental)	4	4
Function 750:		
The Judiciary:		
Courts of Appeals, salaries of judges (P.L. 95-486) (anticipated supplemental)	43	43
Function 800:		
Civil Service Commission:		
Payment to civil service retirement (anticipated supplemental)	301	301
Offsetting receipts	−301	−301
Function 920:		
Allowances:		
Civilian agency pay raises (anticipated supplemental)	973	954
Total, entitlement authority	5, 515	4, 957
III. Continuing resolution authority: [2]		
Function 500:		
Department of Labor:		
Program administration	91	78
Employment and training assistance	4, 253	3, 416
Temporary employment assistance	5, 992	5,090
Community service employment for older Americans	212	8
Department of Health, Education, and Welfare:		
Elementary and secondary education	84	6
Grants to states for social services	200	200
Human Development Services:		
Elementary and secondary education	671	340
Social services	1, 556	980
ACTION	118	75
Community Services Administration	589	360
Function 550:		
Department of Health, Education, and Welfare:		
Health Services Administration	548	217
Center for Disease Control	86	63
National Institutes of Health:		
National Cancer Institute	20	8
National Heart, Lung and Blood Institute	23	9
National Institute of Dental Research	4	2
National Institute of Arthritis	17	7
National Institute of Neurological	7	3
National Institute of Allergy and Infectious Diseases	7	3
National Institute of General Medical Sciences	34	10
National Institute of Child Health	75	26
National Institute of Aging	2	1
National Eye Institute	5	2
National Institute of Environmental Health Sciences	5	3
Research resources	1	(1)
National Library of Medicine	8	5

Footnotes at end of table.

Parliamentarian status report supporting detail, fiscal year 1979, as of close of business February 26, 1979—Continued

[In millions]

	Budget authority	Outlays
Alcohol, Drug Abuse and Mental Health:		
Health care services	265	61
Health research	4	2
Education	19	3
Health Resources Administration	260	35
Assistant Secretary for Health	68	41
Function 600:		
Department of Health, Education, and Welfare:		
Federal old-age and survivors insurance trust fund (trust fund transfer)	--------	1
Department of Labor:		
Unemployment trust fund (trust fund transfer)	--------	34
Community Services Administration	200	170
Total, continuing resolution authority	15,432	11,259
IV. Conference agreements ratified by both Houses:		
Sale of silver dollars (H.R. 1902)	−20	−20
Total current level, as of February 26, 1979	547,019	487,024
Concurrent resolution of September 23, 1978	555,650	487,500
Amount remaining:		
Over ceiling	--------	--------
Under ceiling	8,631	476

Note.—Detail may not add due to rounding.

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[1] Less than $500 thousand.

[2] P.L. 95–482.

□ 1910

QUEST FOR PEACE IN THE MIDDLE EAST

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, I rise to wish President Jimmy Carter well as he pursues in Egypt today his personal quest for peace in the Middle East. I know that the hopes and prayers of all Americans are with him. The President's mission to the Middle East is fraught with peril. It is a physically dangerous mission, given the passions which still dominate the politics of the Middle East after centuries of conflict between Arabs and Jews.

Mr. Speaker, the President's mission is also hazardous for him politically. Despite the unstinting investment of President Carter's own efforts which led to the Camp David agreement of last September, final action on a peace treaty continues to elude Egypt and Israel. Now the President once again is making a major investment of his own prestige in the Middle East peace process. If that peace process fails, his prestige will suffer irreparable damage. But, Mr. Speaker, Jimmy Carter willingly takes that risk. He asks not what is prudent for Jimmy Carter politically, but, rather, what is good for this country and for peace in the world. That requires a very special kind of courage, a reflection of inner strength, and for that, Jimmy Carter deserves the gratitude and admiration of us all.

We Americans are all too familiar from past example of political leaders who have shrunk from doing what they thought was right out of fear of possible political consequences for themselves. Those politicians did not serve America well. They caused us to miss opportunities to face our national problems realistically and to address them when remedies would have been far less painful than they are at this late date.

Mr. Speaker, we Americans are familiar from the past with other political leaders who tried to do what they though was right. But, Mr. Speaker, they did not trust the American public. They tried to arrive at what they considered the right end by a roundabout path, telling the public that they were doing something else—something that the public might find more acceptable than the harsh reality.

Is that what Americans want from their public officials?

Mr. Speaker, I do not believe so. If I read the mood of the public correctly in 1976, American voters said they were tired of leaders who refused to lead if it meant political unpopularity. They were tired of leaders who could not or would not be straightforward in talking to Americans.

Jimmy Carter, in my view, has two great strengths. First, he is trying to do what he thinks is right without calculation as to what is politically expedient. Second, he talks honestly and directly to the American people. To use two cliches, he "tells it like it is." What you see is what you get with Jimmy Carter.

Mr. Speaker, I think it is extremely refreshing to have such a man in the White House. Those qualities are exactly what the country needs and, I think, what the voters said they wanted in 1976.

INTRODUCING LEGISLATION WHICH WOULD RESOLVE THE PROBLEM OF INDIAN FISHING ACTIVITIES

(Mr. DAVIS of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DAVIS of Michigan. Mr. Speaker, today I am introducing legislation which would provide a resolution to a problem which has plagued not only my district, but also many other areas of the country.

Indian fishing activities have caused great controversy, not just in my State of Michigan but in California, Washington, Wisconsin, Maine, and many other areas as well. Extended litigation, severe depletion of fish stocks, much bitterness between Indians and non-Indians and an increasing potential for violence are only a few of the problems that have been a direct result of this conflict.

By way of several treaties in the 19th century, the Ottawa, Chippewa, Pottawatami, and Menominee Indian tribes ceded much of the territory of Michigan to the United States. These tribes, however, contend that they retained the right to hunt and fish on these lands and on the waters of the Great Lakes. Although it has been argued that these tribes relinquished whatever fishing rights they might have had in a subsequent treaty, the courts have ruled otherwise.

At the time these treaties were written, there were no fish and game regulations similar to what we have today. Hunters were wiping out buffalo herds and fishermen took as much as they could catch. Since that time, circumstances have changed, the methods of fishing and hunting have changed, and we have learned that it is necessary to have organized management of our natural resources.

Accordingly, the States, including Michigan, have enacted laws for the purpose of conserving fish and wildlife populations. Besides establishing a system of licensing to regulate the amount of fishing and hunting, these laws also prohibit the use of such devices that are determined to have a negative effect on conservation goals. Thus, in 1974, the State of Michigan banned the use of gill nets for fishing, because of the massive catch these nets permit without discrimination as to species.

Unfortunately, the courts have through their interpretations, ruled that the Indian tribes, whether on or off reservation, are not bound by these State regulations. As a result, some members of the Indian communities have taken advantage of this situation to continue fishing with gill nets. Attempts to negotiate even a temporary settlement with the tribes have been frustrated due to violations by members of the tribes only days after the agreement had been reached.

The courts have left us with no alternative but to take swift and decisive legislative action to seek a desperately needed solution before fish and game stocks are completely destroyed or the situation erupts into violence.

The legislation I am introducing today seeks to avert either of these consequences. The first bill would abrogate those sections of those treaties which have been or may be interpreted to provide Indians with unlimited hunting and fishing rights. The second bill would make the Indians subject to the same State fish and wildlife regulations which apply to other citizens of the State in which they fish and hunt at either on or off reservation locations.

I am well aware of the efforts on the part of State officials, representatives of the tribes, sports fishermen, and other interested parties to reach some kind of settlement, even on a temporary basis. However, it is evident that due to the complexity of the issue, the narrowness of the court interpretations, the heated feelings which have been generated by this controversy and the unwillingness of some individuals to abide by any kind of agreement, that it would be precarious at best to rely on anything other than a permanent and binding solution to this problem.

Thus, I am introducing this legislation in an effort to prevent any future conflict which could arise out of this matter and to provide a clear resolution to a problem which has dragged on for too long. It is essential that we pass these resolutions before what is now a problem becomes an unresolvable conflict.

DEEP SEABED HARD MINERAL RESOURCES ACT

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. MURPHY) is recognized for 60 minutes.

● Mr. MURPHY of New York. Mr. Speaker, today the gentleman from Louisiana (Mr. BREAUX) and I, along with 10 of our colleagues, introduced the Deep Seabed Hard Mineral Resources Act. As you know, in the 95th Congress this legislation was favorably reported by four House committees, was approved overwhelmingly by the House of Representatives, but was stymied by procedural and parliamentary problems in the Senate in the closing days before adjournment. We thought that deep seabed mining would be law by now, and the setback in the last Congress was disappointing.

The need for this legislation, however, survives Senate procedure. To expedite consideration in our four committees, the bill we submit today is identical to that which passed the House last July except for the omission of the administering department. The chairmen of the Committees on Merchant Marine and Fisheries, Interior and Insular Affairs, Foreign Affairs, and Ways and Means, have agreed to introduce the House-passed bill, to expedite hearings and the markup process, and to move the bill through the House as quickly as possible. In approximately 10 days, the eighth session of the Law of the Sea Conference opens in Geneva and it is critically important that the legislation be making good progress by the time the conference recesses in April.

Today the United States imports large amounts of minerals essential to industrial production. The manufacture of steel requires manganese, all of which we must presently import. Similarly, we import 100 percent of our cobalt and 71 percent of our nickel, two of the minerals essential in the manufacture of critical alloys. Additionally, the United States imports 15 percent of our requirements for the multipurpose copper we use.

For several reasons, it has become clear that the United States should reduce its dependence on the mineral products of foreign countries. Most obviously, the American balance of payments shows a huge deficit. In 1976, the United States paid $1.5 billion to foreign sources for the importation of manganese, cobalt, nickel, and copper.

A serious threat resulting from our dependence on foreign suppliers is the possibility that, because of the fragility of the supplying governments, the United States may be denied access to these important minerals for weeks, months, even years. More than three-quarters of the cobalt we consume comes from a single African nation, one recently torn by civil unrest—Zaire. Disruption of the mining process could slow down or even halt U.S. industrial production. The recent events in Iran indicate, once again, that instability in a country from which we obtain an essential resource may mean the termination of that supply, albeit temporarily. Iran is also a classic example of our inability to predict accurately when a seemingly stable country will experience severe upheaval.

Furthermore, the price and availability of these four minerals can be controlled artificially. Certainly it is too soon to forget the frightening effect which the OPEC embargo of 1973 had on our country. That embargo was also not predicted and the United States should remain vigilant about the possibility of the formulation of a cartel which could abandon us with only our stockpiles of minerals. While the formation of such a cartel may seem unlikely, there is evidence that prices for these minerals are administered. The rise of prices for manganese and cobalt is notable, and far above the rise in mining costs. Since 1970, manganese prices have increased 170 percent. This compares to a 46-percent U.S. inflation rate during the same time period. Should we continue to rely on quasimonopolistic mineral producing countries for manganese. cobalt. and nickel, U.S. industries could find themselves either paying outrageous and inflationary prices or stopping production completely. We cannot allow this to occur—and, if we choose carefully, we will not be forced to accept this situation.

We have a viable alternative to dependence on foreign suppliers of minerals. Located on, or embedded in the sediment of the ocean bottom are nodules—commonly referred to as manganese nodules which contain significant amounts of manganese, cobalt, nickel, and copper. Generally found in waters beyond the national jurisdiction of any coastal state, manganese deposits are widely distributed throughout the world's oceans. A low estimate places the quantity of nodules in the ocean at 50 billion tons.

Although the presence of manganese nodules has been recognized since 1972, until a decade ago they were thought to be irrecoverable, because they are generally found in 2,000 meters of water. Recently, the U.S. ocean mining industry has developed modern technology to a point where it is feasible to mine the hard minerals of the deep seabed. Four international seabed mining consortia, with major U.S. industry participation, are now technologically prepared to undertake commercial development programs with a target date for full-scale commercial recovery in the middle of the 1980's. They have already spent approximately $200 million in research efforts.

But exploration and development costs will far exceed that figure. It is estimated that the development of just one mine site will cost between $600 and $800 million. The boards of directors of the consortia companies are willing to obtain the loans necessary for these investments. However, only if proper investment conditions can be established will the necessary capital be made available.

Much work and money has gone into research and development of deep seabed mining processes, and there is now a sense of momentum. I fear the momentum, and with it the assembled technology teams and the operational planning and investment capital, will soon be lost if the consortia are not provided a reasonable degree of security and the stability of a legal framework for deep seabed mining.

The threat to the forward movement of U.S.-operated deep seabed mining operations lies in the negotiations taking place at the United Nations Conference on the Law of the Sea (LOS). The history of LOS, formed to develop and implement international agreements on the use of oceans and ocean resources, is long and controversial. Technically, there have been three LOS conferences. The first, held in 1958, adopted international conventions on the territorial sea, the high seas, the Continental Shelf, and fishing. A second conference, which convened in 1960, failed to reach an agreement on the breadth of the territorial sea.

Soon after that, many nations extended their jurisdiction over the ocean. The United States and the Soviet Union worried that commercial and military navigation routes might be closed. As a result of this concern, both countries initiated efforts in 1967 to convene the third LOS. At the same time, a proposal was submitted to the United Nations that ocean floor resources be regarded as the "common heritage of mankind."

In 1969, a resolution calling for a moratorium on deep seabed exploitation was adopted by the United Nations although the United States and 27 other nations opposed it. The implications of the resolution—that industrial nations would have to accept any international regime on deep seabed mining, no matter how detrimental to their interests, before being able to begin mining operations, or not mine at all—are antithetical to U.S. philosophy. The United States has always held that our rights under international law cannot be modified without our consent.

In 1970, the U.N. General Assembly adopted a "declaration of legal principles" which reiterated the "common heritage of mankind" idea. The United States supported the resolution although it did not consider the "common heritage" language as legally definitive but rather a concept which would be defined in a subsequent international LOS treaty. In adopting the resolution, the several nations, split by differing understandings of the ambiguities and generalities in the document, did agree to work toward the establishment of an international regime for ocean mining.

Meanwhile, the Third United Nations Conference on the Law of the Sea was being planned. In 1968, the United Nations established a permanent committee on peaceful uses of the seabed and the ocean floor beyond the limits of national jurisdiction, known as the Seabed Committee. This committee began organizing the third conference, the first session of which met in 1973 but conducted no negotiations.

The second session, held in Caracas in 1974, divided the conference into three parts: Committee I was to develop a legal regime for deep seabed mining; committee II to resolve economic zone, continental shelf, and navigation issues; and committee III to address itself to marine scientific research and environmental protection.

It was in this second session that the "group of 77" emerged. Composed of developing countries, now totaling 119, the group of 77 (G–77) has played a major role in the conference. Although its member countries do not always agree on specific issues, the G–77 frequently voice unified positions vis-a-vis those of industrialized nations. Since the second session, some committee II and III issues have been generally resolved, but the deep seabed mining issue is still the major constraint as we prepare for the eighth session.

Over the years the G–77 has used its power, drawn from its large membership, to influence many of the negotiations and obtain a number of concessions from the industrialized nations. But many of the G–77 positions being taken within respect to committee I issues are not acceptable to the United States, for the disagreements emerge from a basic difference in ideologies.

The Third World is calling for the redistribution of the world's wealth, particularly by the unconditional transferral of resources from developed to developing countries. The G–77 nations have made no investment whatsoever in the technological development needed for the recovery of manganese nodules but do want a large portion of the wealth resulting from the development of those resources.

The industrialized countries, on the other hand, believe that one shares in the benefits of society largely to the extent that one shares in the cost of achieving those benefits. Obviously, this does not mean that the United States opposes giving aid, either economic or technological, to developing countries. It does mean, on the other hand, that we believe that the private sector should not be entirely controlled by other countries.

The G–77 favors the establishment of an international seabed authority that would have unlimited powers over the operations on the seabed. The membership of the governing unit would be based on a "one-nation, one-vote" scheme and, thus, would be controlled by the developing countries.

The United States wants to develop seabed mineral resources efficiently and safely. We want nondiscriminatory access to mining sites and we expect the private mining industry to participate. Because of the large dollar amounts invested by private industry, it is important that a climate conducive to large investments be created. We also believe that developing nations should be involved in the new deep seabed resources, both through participation and through revenue sharing.

Therefore, it has been the U.S. position at the LOS that an international seabed authority should, indeed, be established, but that it should serve as a structure for parallel mining systems. One side would comprise the mining operations of individual states or organizations sponsored by states. The other would conduct the operations of the international mining enterprise of the authority. Each operator on the state/private side would identify two sites, one of which would be reserved for the enterprise for later development. This "parallel access system" would assure the underdeveloped countries of as many opportunities to mine as developed countries would have.

A treaty formed around the G–77 position poses many threats to the U.S. mining industry and also to the probability of ever exploiting the resources of the deep seabed. The U.S.-led consortia have invested hundreds of millions of dollars in developing the technology necessary for the recovery of manganese nodules. Should the G–77 win the deep seabed struggle, these companies could be forced to hand over, unused, their labors of a decade. U.S. companies could be denied access to all mining sites, or the rules of the game established by the authority could force the consortia to operate under the most unreasonable terms and conditions. Investments and technology could be irrecoverably lost.

Elliot L. Richardson, U.S. Ambassador to LOS, stated at the closing of the sixth session of UNCLOS an even more compelling international reason why the United States cannot abandon its position on deep seabed mining:

> . . . there is no effective way in which seabed resources can be exploited for the general benefit of mankind unless there is a practical means of drawing on the technology and the capital resources of the mining consortia that have developed deep sea mining capability.

The widely disparate perceptions and goals of the developed and the developing nations are not only many and deep, they are also persistent. Despite the years of negotiations at UNCLOS on this issue, there is as yet no sign that the fundamental differences voiced there can be resolved. If the third conference is not deadlocked, it at least appears that an impasse may have been reached.

The United States is committed to a law of the sea treaty and expects the LOS negotiations to be successful—eventually. The time for deep seabed mining by U.S. mining companies, however, has come. The momentum created must not be lost.

The slow pace of the UNCLOS negotiations can no longer dictate the pace of development of deep seabed mining. The ocean mining industry, which is an infant industry, is too fragile, the international markets for the scarce minerals found on the ocean floor are too volatile, and the world's needs for these minerals are too important. The forward movement of deep seabed mining should be actively encouraged, not brought to a halt while the conference makes its slow way from negotiating session to negotiating session. Because there is no international mechanism yet in place for the development of ocean mining, the United States must act unilaterally—through domestic legislation—to provide a proper regulatory framework. This does not mean that the United States must or should turn its back on the current international efforts to create a new law of the sea.

We have devised domestic legislation which will permit ocean mining operations to commence and which, at the same time, will not prejudice the formation of a new international regime. The administration agrees with us. It is clear that even if the eighth session to be held this spring results in a mining agreement, which is highly unlikely, it will take years to write and ratify a treaty, and longer still to set up the necessary international machinery for management of the seabed.

While U.S. mining companies can now legally begin deep seabed operations, it is impossible for them to obtain the loans necessary for the operation. Because an international treaty could cancel or drastically change the conditions under which mining is begun, lending institutions will not loan any substantial part of the risk capital needed to move toward commercial operations. The industry and the lending institutions require the security of tenure which only domestic legislation would provide now.

A further need for legislation springs from the Nation's desire to protect the marine environment. Legislation must be passed to insure that the mining process is conducted in a safe and environmentally sound manner.

Finally, the third Conference on the

Law of the Sea has been proceeding with no sense of urgency, because many nations have assumed that deep sea mining would not commence until an international regime has been established. I feel that the enactment of U.S. domestic legislation would not only show the world that the mining technology exists and can be utilized efficiently and safely, but will also encourage and expedite the LOS negotiations.

The bill we introduced today contains several provisions consonant with those on the exploitation of the seabed being negotiated at the Law of the Sea Conference. The bill is interim in nature, pending a successful law of the sea convention which may come into force and effect with respect to the United States. It recognizes U.S. support for the declaration of principles and notes that the common heritage of mankind will be legally defined by a law of the sea treaty. The bill explicitly states that one of its purposes is to encourage the successful negotiation of a treaty and, pending such an agreement, it establishes a revenue-sharing fund, the proceeds of which are to be shared by the international community pursuant to a treaty.

Those who hold licenses and permits under the act cannot engage in any activities which interfere with the interests of other nations in their exercise of the freedoms of the high seas, conflict with any international obligation of the United States, or pose an unreasonable threat to the quality of the environment. The bill also contains an explicit disclaimer which states that by enacting the deep seabed mining program, the United States is not asserting sovereignty or sovereign or exclusive rights over, or the ownership of, any area of the deep seabed. Rather, we are simply exercising our proper jurisdiction to regulate U.S. citizens in the carrying out of ocean mining activities on the high seas. In an effort to facilitate the transition from this domestic program to one under an international regime, the section in the bill which stipulates the criteria on which regulations are to be promulgated is based, in large measure, on annex II of the revised single negotiating text—a part of the UNCLOS negotiations which has generally not been in dispute.

This legislation, therefore, is carefully structured to be as consistent as possible with the international negotiations and the principles of the freedom of the high seas. At the same time, it addresses the security of tenure issues by establishing a licensing and permitting process. No U.S. citizen can interfere with the activities authorized by a license or permit, and the possibility that interference from foreign nationals will also be prohibited is enhanced by the authorization to enter into reciprocal arrangements with other nations engaged in mining. With respect to the security of tenure problems associated with UNCLOS, the bill contains a statement of congressional intent that any international agreement should provide assured and nondiscriminatory access to the resources, under reasonable terms and conditions, to U.S. citizens. For those U.S. citizens who have commenced mining activities prior to an international convention, the statement calls for the continuation of those operations under similar terms as are imposed by the domestic legislation and in such a manner as to avoid unreasonable impairment of the value of the investments made in relation to such operations.

Although a statement of congressional intent is not binding on the LOS conference in general, or the U.S. negotiators in particular, it does represent the strong feeling on the part of the Congress about the type of regime which should be established by the conference and the protections which should be provided for those operations which are in existence at the time a treaty goes into force and effect. Clearly this type of statement is important to the industry with respect to its investment decisions and to all the nations participating in the UNCLOS with respect to the type of treaty for which the U.S. Senate ratification would be enhanced and full congressional support of subsequent implementation legislation would be increased.

There are numerous provisions throughout the bill designed to protect the quality of the environment with respect to activities carried out under licenses for exploration or permits for commercial recovery. Consonant with the provisions of the National Environmental Policy Act of 1969, a programmatic environmental impact statement on the areas of the oceans in which the licensee or permittee is likely to undertake development must be prepared. The establishment of environmental regulations and a site-specific environmental impact statement is also required by the bill.

This bill, then, is a measure which delicately balances many competing interests and will establish a sound and rational management program for our domestic needs while carefully fulfilling our international obligations. I am confident that this body will see the wisdom in expediting congressional consideration of the legislation, already considered in several Congresses and approved by four House committees of the 95th Congress, so that we can strengthen Ambassador Richardson's hand at the eighth session of the third United Nations Conference on the Law of the Sea.

The deep seabed mining issue has developed into a modern-day choice between scylla and charybdis. The monster on one side feeds on the industrial economy and the development of modern technology by denying the world's consumers mineral resources which will be needed in the not-too-distant future plus the economic benefits which those resources can bring. The other monster draws us down into the whirlpool created by our turbulent role as an international power and our desire to cooperate with and assist the developing nations of the world. We can find, as Odysseus did, a navigable route between the two dangers. I believe the Deep Seabed Hard Mineral Resources Act introduced today gives the United States just such a course.●

● Mr. ZABLOCKI. Mr. Speaker, the United States has participated actively in the multilateral negotiations in the Conference on the Law of the Sea for several years. Our objective is to conclude a comprehensive agreement that will codify and develop the rules governing the multiple uses of the ocean and also accommodate U.S. interests on a broad range of issues: Freedom of navigation and overflight through international straits, the rights and responsibilities of States in the economic zone on marine pollution, marine research and resource development and the competences of a seabed authority to govern the orderly development of manganese nodules beyond national jurisdiction in the international zone. A text of 400 articles referred to as the Informal Composite Negotiating Text (ICNT) reflects the substantial consensus that the president of the conference and several committee chairmen have developed in negotiations with some 150 states. A major outstanding issue, however, continues to be the proposed Seabed Authority.

The interest of the Committee on Foreign Affairs in these negotiations has been long standing. Members of the committee have participated in the Public Advisory Committee on the Law of the Sea and as congressional advisers to the Delegation. Many have been reluctant to support unilateral U.S. legislation believing that it would harm the ability of our negotiators to conclude a comprehensive treaty. However, when the deep seabed mining bill was reported out of the Committees on Merchant Marine and Fisheries and Interior and Insular Affairs in the last Congress, the Committee on Foreign Affairs sought and was granted sequential referral of the bill. In acting on the bill, the committee legislated so as to conform the provisions of the bill to the overall foreign policy interests of the country. Subsequently, negotiations took place among three major standing committees and resulted in a compromise bill that the House adopted last July. I have agreed to cosponsor the introduction of the House-passed version of this bill today. It is a compromise bill. It is not perfect. It does represent an attempt to fairly balance domestic economic considerations with overall U.S. interests in the Law of the Sea negotiations. It is imperative that we keep those interests in mind in the coming months as we have the opportunity to scrutinize the provisions of this proposed interim framework to promote the orderly development of hard minerals in the deep seabed pending an international agreement on a comprehensive treaty on the Law of the Sea.●

● Mr. BREAUX. Mr. Speaker, today, I am reintroducing, with Mr. MURPHY of New York, the Deep Seabed Hard Mineral Resources Act, a measure overwhelmingly passed by the House during the last Congress, by a vote of 312 to 80. The legislation was favorably reported by all four committees of jurisdiction, Merchant Marine and Fisheries, Interior and Insular Affairs, International Relations, and Ways and Means. The companion measure in the other body was favorably reported by all concerned committees and would have passed easily, had it not been for procedural difficulties.

Last Congress, the Committee on Merchant Marine and Fisheries deliberated with the Interior and International Relations Committees over some 19 substantive issues. The committees were successful in resolving 17 of those issues. The agreements which emerged remain largely intact in the reintroduced bill. The fundamental balance achieved by the compromises which led to House passage during the last Congress ought to be maintained. Therefore, any significant amendments proposed to this legislation must be considered with great care.

I have every reason to believe that the committees of jurisdiction in the House, as well as in the other body, will support the passage of deep ocean mining legislation in the current Congress. The administration supports deep ocean mining legislation, as does Ambassador Elliot Richardson, the special representative of the President to the Third United Nations Conference on the Law of the Sea.

The reintroduced bill provides the kind of investment climate, without investment guarantees, in which deep seabed mining may be assured of going forward. At the same time, the bill assures that deep seabed mining will be internationally and environmentally responsible.

On the international side, the legislation declares that ocean mining proceeds as a freedom of the high seas recognized by general principles of international law. The bill states that the United States exercises its jurisdiction to regulate its citizens in carrying out deep seabed mining, but does not assert sovereignty or sovereign or exclusive rights or ownership over the international deep seabed. The bill also contains provisions calculated to insure that conflicts with other ocean mining nations are avoided.

In the grandfather clause, the Congress expresses its intent that U.S. miners have under a future Law of the Sea treaty assured access to deep seabed resources and security of tenure of mine sites. This provision is complemented by a provision for sharing deep seabed mining revenues with the international community under a future international agreement. Through these provisions, the Congress asks that the international community continue to recognize our established international legal rights, and in return, the United States provides concrete recognition that deep seabed minerals are the common heritage of mankind, a concept to be legally defined by a new, widely acceptable Law of the Sea treaty.

On the environmental side, the bill reflects a complex and very delicate three-committee consensus developed during the last Congress. The bill provides very strong measures for protection of the marine environment from degradation by ocean mining activities. It would be particularly unfortunate if this compromise were to be upset in reconsideration of the legislation.

A firm foundation has, therefore, been laid for moving quickly to protect the national interest in obtaining the minerals of the deep seabed. A significant reduction of dependence on foreign sources of supply of nickel, cobalt, and manganese, a more favorable national balance of payments, a brake on the rise of the cost of these and other minerals, and new jobs are among the benefits which the United States would enjoy from an active ocean mining industry. We have the technology. We can protect the environment. Speedy enactment of this legislation will insure a stable investment climate, the essential missing component for commencement of commercial recovery.●

● Mr. BINGHAM. Mr. Speaker, I join today with several of my colleagues from various committees of the House in introducing a bill to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto.

The bill we are introducing today is virtually identical to the bill which passed the House in the last Congress. The Senate, however, failed to act.

The bill generally provides for an interim domestic licensing program, pending conclusion of a Law of the Sea treaty, for exploration and commercial recovery of hard minerals from the ocean floor. By its own terms, the bill will be superseded by a treaty. The bill requires payment by the mining companies of a small percentage of their proceeds into an escrow fund for sharing with the international community under a treaty, and it contains numerous environmental safeguards.

Undoubtedly, no sponsor of this bill is completely satisfied with it. Nevertheless, it represents an honest effort to reach an accommodation among the various interests involved in the deep seabed mining issue. It is the product of extensive efforts by four different committees in the last Congress.

I believe our introduction of this bill at this time should be interpreted as an indication of the intent of the House, which I personally share, to proceed with the enactment of deep seabed mining legislation in the 96th Congress. Few contest any longer that the time for such legislation has come.

At the same time, I must reject any suggestion that we rush this legislation through without adequate consideration. I believe we should proceed with the legislation, but in an orderly and thorough way, as Ambassador Richardson has publicly requested. We must not be stampeded into hasty action.

This bill is an expression of intent and a vehicle for hearings, not a final answer. It is my hope that the key issues which were fought out among the four committees and on the House floor last year will not be reopened unnecessarily, but that does not preclude other changes in this very complex bill which may, upon further consideration, be found to be advisable. Many aspects of the bill have not received detailed scrutiny. If further consideration of some of them appears to be necessary, hearings should be held; and if the hearings suggest necessary changes, they should be duly proposed and considered. An intent to enact legislation in this Congress is not incompatible with due consideration of outstanding issues and with an intent to perfect the bill where possible.

My own efforts in this regard will be directed, as they were last year, to ensuring that the bill, while fully protecting the legitimate interests of the United States mining industry, is as compatible as possible with the foreign policy of the United States and with the interest of this country in bringing the Law of the Sea negotiations to a successful conclusion.●

● Mr. UDALL. Mr. Speaker, I am joining with several of my colleagues today in sponsoring ocean mining legislation. I would like to review briefly for my colleagues, especially those who were not Members of the 95th Congress, some of the history of this legislation.

Past administrations did not favor any ocean mining legislation because they feared it would disrupt the Law of the Sea negotiations. The position of the administration, however, changed during the last Congress and the Committee on Interior and Insular Affairs reported out legislation similar to that being introduced today.

Ocean mining legislation involves the interests of many parties: There is jurisdiction in several House and Senate committees, and Federal agencies; we must weigh the views of the mining industry, the environmental community, and the many private organizations concerned with the program of the Law of the Sea negotiations. Finally, we are asked to judge the importance of the ocean mining portions of the treaty while considering other factors such as national security, ocean pollution, and economic zones.

I am cosponsoring this bill, which was passed by the House in the last session, to begin the process of consideration in this Congress. Most of the debate on ocean mining in the Interior Committee last year focused on the question of investment guarantees, a question that has been resolved.

I hope that our committee can work with the administration, with industry, and with environmentalists and other interested parties to develop a bill that contains a workable licensing procedure that protects the rights of those interested in mining without damaging the ocean environment—or the bargaining environment at the Law of the Sea.●

□ 1930

GENERAL LEAVE

Mr. DONNELLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today by the gentleman from New York (Mr. MURPHY).

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

REMARKS OF JACK KEMP of NEW YORK UPON INTRODUCTION OF AN AMENDMENT, ESTABLISHING A FORMAL REVIEW PROCESS FOR NUCLEAR WASTE DISPOSAL SITING

● Mr. KEMP. Mr. Speaker, it is my privilege to introduce today, along with my distinguished colleague from Ohio (Mr. SEIBERLING), a measure known as the McGovern amendment, to establish a formal review process whereby individual States along with the Federal Government can consider all aspects of a proposed nuclear waste disposal site and approve or disapprove its location in that State.

It should not be necessary for us to introduce this legislation today. With an issue as controversial and potentially dangerous as nuclear fuel waste, it seems to me that the government closest to the people, that is, the State and local governments, should best be able to determine whether the potential safety hazards outweight the economic gains of the location of a radioactive storage site in their State after careful review of all the facts. There are some areas that are ideally suited for the location of these wastes—they have suitable below-ground storage capacities and low population densities. There are other areas where factors such as population density, seismological evidence or other conditions outweigh other considerations that might favor such a site.

My constituents in western New York, however, do not have that guarantee that their interests will be represented by their State and local governments. At this very moment the U.S. Department of Energy is eyeing a shutdown of the nuclear waste reprocessing plant in West Valley, N.Y., as a future radioactive storage site for Government and commercial wastes. Although there is strong opposition to this proposal, inspired in part by increased health problems among the residents of West Valley and the surrounding areas and the site's proximity to the second largest urban area in all of New York State, persistent reports from Federal officials suggest that the opposition of my constituents in Erie County to future radioactive wastes located here will have virtually no impact on DOE's final siting decision. My research has confirmed that the Federal Government could force western New York to accept a future radioactive waste site regardless of local wishes, and my legislation today would put a halt to this kind of big brother Federal politics.

Upon enactment of this legislation, States being considered as repositories for radioactive materials as nuclear waste management or storage centers would participate with the Federal Government in a Federal and State Radioactive Materials Management Commission, along with affected Indian tribes and the Department of Energy. The Commission would examine site selection, evaluation, contracting, or construction of facilities intended for the management and storage of radioactive materials including spent-fuel reactor assemblies, high-level defense wastes, transuranic materials, and other mid- and high-level radioactive materials.

Members of the Commission would include representatives of the Nuclear Regulatory Commission, the Department of Energy, the U.S. Geological Survey, the Governor of each affected State or his designated representative, a representative of any tribal council, up to six State or local officials or interested citizens from the State, and certain other persons from the State level appointed by the Governor or the Chairman of the Commission.

The objective of the Commission is to examine all proposed actions to be taken in the State, with the objective of achieving substantial concurrence on the socioeconomic, institutional, technical, environmental, health and safety issues relevant to each individual case on both the State and the Federal level. No Federal agency or entity could proceed with any project for storage or disposal of radioactive materials unless the objections of the State have been satisfied.

Mr. Speaker, this is fair and reasonable legislation, and redirects our Federal energy policy toward true federalism, that respects States' wishes and self-government. Regardless of my colleagues' opinions on the issue of nuclear power, the health and safety of residents who live near a proposed radioactive waste site must be the primary concern of all of us here in the U.S. Congress. The legislation which I have introduced today along with Mr. SEIBERLING, and Mr. MCGOVERN and Mr. LAXALT in companion legislation in the Senate, would give first priority to that health and safety, and would insure that any nuclear waste siting would be located in a safe area with the consent of that State.●

INTERGOVERNMENTAL PRODUCTIVITY

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. CORCORAN) is recognized for 5 minutes.

● Mr. CORCORAN. Mr. Speaker, along with my colleague from Illinois, PAUL SIMON, I am today introducing legislation which would amend the Intergovernmental Personnel Act of 1970. The Intergovernmental Productivity Improvement Act of 1979 would add a new title to the IPA whose purpose would be to establish a program to assist State and local governments in strengthening their capability to improve productivity.

I have long been interested in productivity and during my first term in the Congress, I sponsored a labor-management seminar on productivity in Aurora, Ill. Especially in this era of proposition 13, productivity is of utmost importance in both the private and public sectors.

My introduction of this bill follows up on a recommendation to Congress made by the General Accounting Office in its December 6, 1978, report regarding the Federal role in State and local government productivity efforts. In that report, the GAO recommended that the Congress "* * * amend the Intergovernmental Personnel Act to authorize funding for general management improvement projects for State and local governments * * *." My bill does just that.

The importance of productivity in State and local governments vis-a-vis the Federal Government was noted by President Carter in his January state of the Union when he stated that—

> . . . We must achieve more cost-effective management of Federal resources and place greater reliance on the experience, knowledge, and ability of State and local governments.

California Governor Jerry Brown, in his second inaugural address, drew attention to this important aspect of government when he noted:

> Jobs in government, education, and health constitute a substantial part of the work done in our state. Yet, it is in these fields where productivity is declining. . . . The time has come for California to pioneer and increase productivity in these fields. It is a myth that services such as government, teaching, and curing lay fundamentally beyond those processes which have created our modern agriculture, our electronics, and aerospace. Our higher standard of living comes directly from work that uses the latest tools and the most imagination.

The importance of State and local productivity was recently emphasized by A. H. Raskin in the January/February issue of Elected Public Official when he noted that—

> The place where inventiveness will be most needed is in devising effective plans for raising productivity, so that public services can improve in quality as tighter budgets shrink the number of public employees.

And, as I pointed out previously, Mr. Speaker, the National Governors' Association is currently calling for Federal recognition of the need to stimulate State governments' productivity in implementing Federal aid programs.

Mr. Speaker, next week I will be soliciting cosponsors for this bill. In a statement which appeared in the January 18 RECORD, I outlined the conclusions and recommendations of the December 6 GAO report and I will continue to speak out on this issue.●

REVISING RULE FOR COMPUTING RETIRED AND RETAINER PAY

The SPEAKER. Under a previous order of the House, the gentleman from North Carolina (Mr. BROYHILL) is recognized for 5 minutes.

● Mr. BROYHILL. Mr. Speaker, I am again introducing into the 96th Congress, legislation that revises the rule for computing retired or retainer pay to reflect later active duty service. I have sponsored this bill since 1971, and it is desperately needed to correct an inequity that has existed for a small number of military retired Americans since 1966. The 95th Congress passed the measure late in the 2d session, and there was no time for enactment by the Senate. I am hopeful that my legislation will receive early consideration by the Armed Services Committee and that it will again receive support from the House.

Let me explain the history behind this bill. During the height of the Vietnam conflict, men experienced in combat techniques were desperately needed to train younger men being sent into combat. To accomplish this task, all branches of the armed services, particularly the Navy and the Marine Corps, issued letters inviting several thousand selected men to return on active duty. Most of the men invited had outstanding prior military combat records and were highly decorated soldiers. In return for disrupting their lives, several promises were made. One of these written promises was:

> Upon your future separation from active duty, your retainer pay will be recomputed using the current pay scales and crediting your additional active service.

By way of example, I will explain the circumstances surrounding the recall of one of my constituents. He had served in the Marine Corps from 1943 until 1962 and his record was exemplary. Four years after his retirement in 1962, he received an invitation to return on active duty. He was told that one of the advantages would be as I mentioned, a "recomputation." When this veteran retired again in 1971, he found that this promise could not be kept because this type of "recomputation" was not permitted by law. After devoting over 25 years of service to his country, my constituent found that his government could not keep its word.

I might add that this legislation only applies to a very small group of retirees who served a minimum of 2 years on active duty during the Vietnam conflict and who retired from a previous tour. This is a very simple bill and an equitable bill, and it is not a very costly one.

Because we have made a promise to this group of brave Americans when we needed their help to protect our Nation, I believe we must keep our word. These men served their country in good faith during one of the most difficult periods in our recent history. By passing this legislation, we would be restoring the faith of these men. This bill meets every test of fairness and good conscience and it corrects an injustice that has existed far too long. I ask for the support of the 96th Congress in passing this legislation early in this session.●

TWO WHO CARED

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

● Mr. PEPPER. Mr. Speaker, the Miami area recently lost two of its outstanding citizens who were aptly described in a Miami News editorial as "Two Who Cared."

Both of the public-spirited and humanitarian citizens were personal friends. Nancy Adams was a dear friend—the daughter of my wife's and my friends, Joe and Louise Adams. She was a noble lady with great humanitarian instincts. She was a civil rights worker in Alabama in 1964–65 and later worked with the American Friends Service Committee in educating black children in Virginia. In her home community of Miami she worked for the NAACP's legal defense fund to end segregation in the public schools. She gave her life to brighten and better the lives of others. My wife and I cherish her memory and extend our deepest sympathy to her parents.

Coincidentally, death claimed another great humanitarian in our community. I served with Harry Cain in the U.S. Senate where he represented the State of Washington. He was a man of outstanding ability, strong motivation, and deep dedication to whatever he believed in. His is one of the outstanding instances I have known in public life of a man who grew not only in capacity but also spiritually. As the years went by he gained in compassion for his fellow man, in dedication to the service of the needs of his community, and in courage in facing difficult public issues.

Harry Cain has left a good mark upon his generation, his country, and his time. He made things better for those who shared this Earth with him and he left an example of courage, concern, compassion, and deep dedication for all public officials, which I hope will influence all those who hold public office and therefore have the opportunity to serve the public good. Harry Cain was my wife's and my friend. We shall always honor his memory and cherish his friendship. We extend to his lovely wife our deepest sympathy.

The Miami News paid a fitting tribute to these two great Americans in its editorial of March 6. I request permission that the editorial be printed in the RECORD at this point.

TWO WHO CARED

This community and the nation itself were well served by Harry Cain and Nancy Adams, basic humanitarians who died here Saturday. In an age of noninvolvement, they were involved. Were they ever.

Cain's causes go all the way back to college, when he organized a protest against fraternity hazing. They have included bitter opposition to the detention of Japanese-Americans during World War II (when he was mayor of Tacoma, Wash.), and later the witch hunts of Sen. Joseph McCarthy, whom Cain had briefly supported.

The former World War II paratroop officer and U.S. Senator moved to Miami in 1957. Here he served as chairman of the Community Action Agency, striving to improve the lot of the poor and deprived. He helped save the Community Chest from finanical ruin.

His concerns were boundless and included sponsorship of an anti-smoking ordinance when he was a Metro commissioner. Concerned to the end, just a few days before he died Cain appeared before the Metro Commission in support of a civilian review board to investigate alleged cases of police brutality.

Like Cain, Nancy Adams charged full tilt at what she considered injustice. She was a civil rights worker in Alabama in 1964–65. From 1965 to 1967 she worked for the American Friends Service Committee in Virginia, educating black children. In Miami in 1967 she worked for the NAACP's legal defense fund, striving for integration in the public schools.

The careers of Adams and Cain crossed at least once. That was back in January of 1968 at the Dupont Plaza hotel. Adams had been one of the three or four founders of the Eugene McCarthy anti-Vietnam war movement in Florida and had helped arrange a fund-raising cocktail party at the hotel. Public figures were chary of endorsing Eugene McCarthy in those days—but Harry Cain showed up. And Nancy Adams went on to the Chicago convention as one of the four McCarthy delegates from Dade County.

Cain and Adams are gone now, but no one should ever forget they were here. They did more than good in their lives, they set an example of involvement for others to follow.●

CONSUMERS SHOULD BE CAUTIOUS OF INTEREST-FREE LOANS

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, ever since there have been salesmen, we have been offered deals we just cannot refuse. One of these is the so-called interest-free loan which some finance companies advertise to their customers. And no interest is exactly what most consumers should show in these seemingly spectacular bargains.

Sylvia Porter, whose consumer column "Your Money's Worth" appears in the Washington Star, recently described how one finance company operates its interest-free loan program. She found that people taking advantage of this irresistible offer soon found themselves paying as much as 23 percent interest on these "free" loans. Her column concludes with the warning that consumers should read the fine lines of their contract to make sure that their bargain does not end up a costly proposition.

I submit the January 17 Washington Star article for the RECORD as follows:

WHAT TO DO IF OFFERED A NO-INTEREST LOAN

(By Sylvia Porter)

If you were offered an interest-free loan of $1,500 for three months—90 days during which you easily could invest the money at well over 9 percent—would you grab it?

Dial Finance Co., a veteran consumer finance firm headquartered in Des Moines, Iowa, has been dangling this financial goodie off and on before new customers for the past six months. Dial operates in approximately 35 states, is a respectable and savvy company and it has attracted thousands with ads promising:

"Interest-free Loan! Special get-acquainted holiday offer lets you borrow up to $1,500 without interest for three months."

A free loan is tempting at any time. Today, with the cost of borrowing reaching for new highs, it is close to irresistible. (Even the nation's most creditworthy, "prime" borrowers are being officially charged almost 12 percent by banks across the country, and much stiffer interest rates unofficially (or under-the-counter).

How, then, can Dial Finance extend loans even for so short a span as 90 days, interest free? Here's the tale behind such consumer finance ad campaigns:

1. Dial's "interest-free" loan is available only to new and "qualified" customers. The company retains the right to determine who is and who is not "qualified."

Its goal is the customer who in the past has rarely even thought of visiting a finance company, much less actually using one. It is seeking professional, white-collar and managerial individuals—engineers, lawyers, accountants, teachers, the like—who earn above-average salaries, have well-established credit records and plenty of sound collateral, such as houses, cars, boats, furnishings.

2. The short-term loan is truly "free" only to the borrower who can repay it in full within the allotted three months. In general, workers in the lower-income groups cannot raise this much cash in so short a time.

Thus, the terms of the offer, which seem so appealing across-the-board at first glance, in themselves help to limit the loans to the category of borrower who usually doesn't need them.

3. If a Dial customer fails to repay the interest-free loan within the 90-day period, the finance company levies finance charges on the full amount of the loan from day one. In fact, the Dial loan program is so structured that all participants sign regular installment loan contracts when they accept the "interest-free" money. In effect, they are paying a finance charge each month along with a portion of the principal. At the end of the 90 days, when they repay the full amount of their loans, the finance charges are refunded.

A full 15 to 25 percent of the 15,000 customers who obtained interest-free loans during this past Thanksgiving-Christmas-New Year's holiday season will not repay the full amounts of the loans within three months, Dial marketing executives estimate. These borrowers then will become regular finance company customers, paying from 18 to more than 23 percent annual interest on their loans.

The rates which finance companies charge vary, depending on the state in which they conduct business.

A Californian, for instance, who borrows $1,500 from a neighborhod Dial office and discovers he needs 24 months to repay could end up turning over a total of $1,896 for his so-caled "free" loan of $1,500!

Because they customarily cater to higher-risk borrowers than banks, credit unions and other financial institutions—which is their stated function in the money markets—finance companies usually charge much higher rates than these other lenders.

They also frequently impose higher finance charges on the individual seeking a small loan than on the borrower obtaining a big sum of money.

There is no disputing the value of the consumer finance company's funds to the higher-risk, small borrower—which is the reason the companies have flourished for so long a period and grown to occupy so significant a place among our lending institutions.

But there are few, if any, free lunches in real life—especially from consumer finance companies in business to make profits from their operations.

The very offer of a loan at zero interest should arouse your skepticism. The source of such generous loans should raise your cynicism to a high notch.

Investigate every line of small print and read between the lines as well—before you even consider accepting.●

PERSONAL EXPLANATION

The SPEAKER. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 5 minutes.

● Ms. HOLTZMAN. Mr. Speaker, I was necessarily absent from the House on official business on Monday, February 26, and Tuesday, February 27.

On Monday, February 26, the House agreed to 10 resolutions proposing funding for 10 House committees. Had I been present, I would have voted "yea" on the following resolutions: House Resolution 35, Committee on Veterans' Affairs; House Resolution 45, Committee on Small Business; House Resolution 85, Committee on Banking, Finance, and Urban Affairs; House Resolution 87, Committee on House Administration; House Resolution 88, Committee on Ways and Means; House Resolution 91, Committee on Public Works and Transportation; House Resolution 92, Committee on Education and Labor; House Resolution 96, Select Committee on Intelligence; and House Resolution 98, Committee on Foreign Affairs. I would have voted "nay" on House Resolution 60, Committee on Armed Services.

On Tuesday, February 27, the House agreed to suspend the rules and pass S. 37, a bill to repeal a section of the Right to Financial Privacy Act (Public Law 95-360) to eliminate the general summary notice requirement of the legislation. I would have voted "yea" on that motion to suspend the rules.●

ONE HUNDRED AND FOUR MEMBERS JOIN PEYSER IN FOOD STAMP FIGHT

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. PEYSER) is recognized for 5 minutes.

● Mr. PEYSER. Mr. Speaker, I am pleased to announce that 104 of my colleagues have now joined my efforts to restore food stamp benefits to thousands of senior citizens and handicapped persons who found their allotments reduced or cut altogether as of March 1.

Already we know that in the State of Maine, for instance, 76 percent of those on food stamps will be adversely affected, in New Hampshire the figure is 80 percent, in New York 66 percent, and in Florida 59 percent.

While the 1977 Food Stamp Act hoped to bring many new participants to the food stamp program while minimally cutting benefits for some others, it appears instead that the act is unexpectedly cutting benefits drastically for thousands of truly needy persons.

As a New York Times editorial said earlier this week, Congress has devised an ingenious principle—feed some hungry people by taking from others. While there are always more needs than money and thus the necessity for choice—let the choice be between hunger and rail subsidies, hunger and bombers, or hunger and dams, not between hunger and hunger.

The following Members are cosponsors of my bill, H.R. 2126:

1. Joe Addabbo of New York.
2. Glenn Anderson of California.
3. Don Bailey of Pennsylvania.
4. Mike Barnes of Maryland.
5. Mario Biaggi of New York.
6. Jon Bingham of New York.
7. Marilyn Lloyd Bouquard of Tennessee.
8. John Brademas of Indiana.
9. Bill Brodhead of Michigan.
10. Wm. Broomfield of Michigan.
11. George Brown of California.
12. John Burton of California.
13. Phil Burton of California.
14. Bob Carr of Michigan.
15. Shirley Chisholm of New York.
16. Bill Clay of Missouri.
17. Cardiss Collins of Illinois.
18. Silvio Conte of Massachusetts.
19. John Conyers of Michigan.
20. Baltasar Corrada of Puerto Rico.
21. James Courter of New Jersey.
22. Ron Dellums of California.
23. Julian Dixon of California.
24. Brian Donnelly of Massachusetts.
25. Charles F. Doughtery of Pennsylvania.
26. Tom Downey of New York.
27. Robert Drinan of Massachusetts.
28. Melvin H. Evans of the Virgin Islands.
29. Vic Fazio of California.
30. Dante Fascell of Florida.
31. Millicent Fenwick of New Jersey.
32. Geraldine Ferraro of New York.
33. Hamilton Fish of New York.
34. Daniel Flood of Pennsylvania.
35. Bill Ford of Michigan.
36. Ed Forsythe of New Jersey.
37. Bob Garcia of New York.
38. Joseph Gaydos of Pennsylvania.
39. Ben Gilman of New York.
40. Bill Green of New York.
41. Frank Guarini of New Jersey.
42. James Hanley of New York.
43. Herbert Harris of Virginia.
44. Gus Hawkins of California.
45. Harold Hollenbeck of New Jersey.
46. Liz Holtzman of New York.
47. James J. Howard of New Jersey.
48. Earl Hutto of Florida.
49. John Jenrette of South Carolina.
50. Jack Kemp, New York.
51. Ray Kogovsek of Colorado.
52. Pete Kostmayer of Pennsylvania.
53. Raymond Lederer of Pennsylvania.
54. Bill Lehman of Florida.
55. Mickey Leland of Texas.
56. Norman Lent of New York.
57. Mike Lowry of Washington.
58. Marc Marks of Pennsylvania.
59. Robert Matsui of California.
60. Nicholas Mavroules of Massachusetts.
61. Barbara Mikulski of Maryland.
62. Abner Mikva of Illinois.
63. George Miller of California.
64. Norman Mineta of California.
65. Joseph Minish of New Jersey.
66. Don Mitchell of New York.
67. Parren Mitchell of Maryland.
68. Joe Moakley of Massachusetts.
69. Toby Moffett of Connecticut.
70. Austin Murphy of Pennsylvania.
71. Michael Myers of Pennsylvania.
72. Richard Nolan of Minnesota.
73. Henry Nowak of New York.
74. Richard Ottinger of New York.
75. Edward Patten of New York.
76. Claude Pepper of Florida.
77. Thomas Railsback of Illinois.
78. Charles Rangel of New York.
79. William Ratchford of Connecticut.
80. Peter Rodino of New Jersey.
81. Robert Roe of New Jersey.
82. Ben Rosenthal of New York.
83. Edward Roybal of California.
84. James Scheuer of New York.
85. Pat Schroeder of Colorado.
86. John Seiberling of Ohio.
87. James Shannon of Massachusetts.
88. Paul Simon of Illinois.
89. Stephen Solarz of New York.
90. Gladys Noon Spellman of Maryland.
91. Harley Staggers of West Virginia.
92. Pete Stark of California.
93. Louis Stokes of Ohio.
94. Frank Thompson of New Jersey.
95. Henry Waxman of California.
96. Ted Weiss of New York.
97. Lester Wolff of New York.

98. Gus Yatron of Pennsylvania.
99. Bill Young of Florida.
100. Leo Zeferetti of New York.
101. Pete McCloskey of California.
102. Robert McEwen of New York.
103. William Clinger of Pennsylvania.
104. Don Edwards.
105. Wm. H. Gray III.

LAKE GEORGE BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BENJAMIN) is recognized for 5 minutes.

● Mr. BENJAMIN. Mr. Speaker, I have the privilege to represent the community of Hobart, Ind.

Lake George, an artificial lake created in the late 1920's by the construction of a dam across Deep River, is in the center of Hobart. The lake, 282 acres in size, is used as a recreational area for boating, fishing, and swimming. It is one of the natural resources which gives northwest Indiana much of its charm.

Unfortunately, over the years, the lake's condition has deteriorated because of the sediment brought to it from outside sources. In many areas the sediment level is substantial and the bacteria count has risen to endanger the further use of the lake.

In order to resolve this problem, the Water Resources Development bill of 1978 directed the Secretary of the Army, acting through the Chief of Engineers, to carry out a demonstration project for the removal of silt, aquatic growth and other material in Lake George, and to construct silt traps or other devices to prevent and abate the deposit of sediment in Lake George and the portion of Deep River upstream from the lake.

It is anticipated that the plans and the results of the demonstration project would be coordinated with the Administrator of the Environmental Protection Agency with such recommendations as might be helpful to assist the Administrator in carrying out the programs elsewhere for freshwater lakes under section 314 of the Federal Water Pollution Control Act. As the Public Works Committee stated in 1978, "In this way, the information and experience developed at Lake George will prove valuable to other lakes with similar problems around the country."

Unfortunately, the Water Resources Development Act of 1978 did not become law because of a lack of quorum on October 15, although it did pass both Houses of Congress.

I am hopeful that we will be successful in the 96th Congress and I respectfully request your support for this measure. Thank you.●

FORMAL REVIEW PROCESS FOR NUCLEAR WASTE DISPOSAL SITING

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, today, with our colleague from New York, the Honorable JACK KEMP, I am introducing legislation which will allow States to participate in final decisions on nuclear waste storage siting within their jurisdictions. This legislation was authored by Senator GEORGE MCGOVERN, who is introducing it in the Senate today.

This legislation would amend the Atomic Energy Act of 1954 to require the Nuclear Regulatory Commission to notify a State of any proposals to explore sites within such a State for the purposes of evaluating or developing a facility for the storage or disposal of radioactive materials. Once the State has been notified of a proposed action relating to radioactive waste disposal, the Governor of the State may request the creation of a Federal and State Radioactive Materials Management Commission to study all the issues associated with waste disposal within the State. At the conclusion of the study, the Governor (in consultation with other commission members) and the State legislature, would be able to issue concurrence or nonconcurrence with the proposed action, and further action by the Department of Energy would be prohibited unless the objections of the State had been satisfied.

This bill would establish for the first time a formal cooperative relationship between the State and the Nuclear Regulatory Commission and the Department of Energy, to evaluate and develop sites for the disposal of radioactive waste. Under present law, there is no assurance that the State's objections to radioactive waste disposal siting within its jurisdiction would be respected by federal authorities in final decisions on siting. As a result, 15 State legislatures have approved procedures to give the State final authority to approve or disapprove nuclear waste storage within their jurisdiction. And other States are considering similar proposals.

According to James Schlesinger, Secretary of the Department of Energy, Department policy at present is to keep radioactive materials out of States which object to nuclear waste siting within their jurisdiction. However, according to the General Accounting Office, the Department of Energy may be exceeding its authority in establishing such a policy since it constitutes a veto power for the States. The GAO concluded that congressional action would be necessary to authorize the Department's concurrence policy. The legislation Congressman KEMP and I are introducing will clearly establish authority for the Nuclear Regulatory Commission to work with the States and require that nuclear siting within a State may not proceed without the agreement of the State.

Because of the unique dangers involved in disposing of radioactive materials, it is clear to me that the people of the State who would be affected by radioactive waste siting must have the right to participate in the planning and final decision on approving a site for radioactive waste disposal or storage. Radioactive wastes remain lethal for thousands of years. With scientists and technicians still developing methods to assess the risks of radioactive waste disposal, the people in areas under consideration as potential disposal sites must have the right to voice their objections, and to have their objections binding on the Department of Energy. This legislation would enhance the impact of citizen participation in these decisions by requiring a full examination of the issues and affirming the responsibility of the State to its citizens on matters of health and safety.

This is a States rights bill. It would give States authority to participate equally in final decisions on radioactive waste storage or disposal issues within their jurisdiction, and Federal action would have to be conditioned on the substantial concurrence of the State. However, this bill addresses a national problem. In the country today, we have 74 million gallons of radioactive waste in temporary storage. Interim and permanent facilities must be developed if we are to contain the hazards of nuclear waste in systems designed for the long term. Under the procedures set up in this bill, if a State has objections to Federal action on siting which the Department of Energy is able to satisfy, then the State may approve siting. The present system does not allow for the mediation of conflicts, even where mediation is possible. With final decisions on siting in the hands of the Federal Government, States are reluctant to make a good-faith effort to resolve disputes. The legislation I introduce today recognizes the ability and the authority of the State to work with the Federal agencies on this vital issue.

Finally, this bill would require that every issue related to a proposed siting—including environmental, health and safety, socioeconomic, and technical issues—shall be considered by the Commission in its investigation of the appropriateness of disposing radioactive material in a specific area. The full exploration of all the issues is vital to prevent the development of a radioactive material disposal site in areas where serious problems could occur in later years. And, since the primary criteria for the Department of Energy in its current selection process is the nature of the geological media, it will require the Department to examine human and environmental factors before designating an area as a potential site for radioactive waste disposal. This is vital in areas already identified by the Department of Energy as potential disposal sites—such as northeast Ohio—where population density and industry should be among the selection criteria.

We cannot be precipitous in developing radioactive waste sites without careful consideration of the specific as well as the general problems in developing storage facilities. The effects of radiation will continue for thousands of years, and the President's Interagency Review Group on Nuclear Waste Management said in their December report that "a complete risk assessment may never be possible" on the adequacy of proposed storage facilities. This legislation will provide a cautious approach to disposing of radioactive waste, and give the people directly affected the right, through their State legislators and their Governors, to make a final decision on questions which affect their lives, and those of future generations.

Mr. Speaker, I include in the RECORD

a section-by-section analysis of the legislation following these remarks.

The analysis follows:

SECTION-BY-SECTION ANALYSIS OF LEGISLATION AMENDING THE ATOMIC ENERGY ACT OF 1954, INTRODUCED BY CONGRESSMAN JOHN F. SEIBERLING

The purpose of the bill is to provide for a formal process of state participation and substantial concurrence regarding the management and storage of radioactive materials.

Section (a) requires the Chairman of the Nuclear Regulatory Commission (NRC) to publish in the Federal Register, and to notify the Governor, the presiding officers of a State legislature, and the Tribal Council of any affected Indian tribe, of any intent to explore a site within such State or within such Indian reservation for the purposes of establishing a storage or disposal facility for radioactive materials.

Section (b) authorizes the Governor, or the Tribal Council, upon notification by the NRC, to request the creation of a Federal/State Radioactive Materials Management Commission for the purposes of examining all issues related to achieving concurrence between the affected State, the affected Indian Tribe, and the Department of Energy on any proposal by the Department regarding radioactive waste management. Such radioactive material will include high-level defense waste, spent fuel reactor assemblies, transuranic materials and other mid- and high-level radioactive materials.

Section (c) sets forth the guidelines for composition of the Commission. Members will include one official from each of the following federal agencies: the Nuclear Regulatory Commission, the Department of Energy, and the U.S. Geological Survey. The Commission shall also include the Governor of the affected state (or a representative designated by the governor), a representative of any affected Tribal Council, and other state and local officials to be designated by the Governor jointly with the leadership of the State legislature.

Section (d) requires the Commission to examine all issues related to achieving substantial concurrence, including socioeconomic, institutional, technical, environmental and health and safety issues.

Section (e) provides that if the Commission can not achieve substantial concurrence with the proposed action with the affected State, the Governor, in consultation with the other Commission members, shall file a report stating the Commission's objections and identifying any acceptable alternatives.

Section (f) provides that state legislature of any affected state, pursuant to the state's laws and constitution, may concur or disagree with the Commission's decision as reported by the Governor.

Section (g) prohibits the Department of Energy from proceeding with any proposal regarding site selection or site development for radioactive waste management in the affected State, unless the objections of the State issued pursuant to sections (e) and (f) are satisfied.●

A BRIEF OVERVIEW OF THE DEFENSE BUDGET

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, national defense is clearly the major priority in the President's 1980 budget. The President succeeded in meeting his promise to NATO allies to raise military spending by 3 percent real growth, a fact which is reflected throughout the rest of the budget. Defense spending will consume 24 cents of every budget dollar.[1] Of the $132.9 billion of outlays in the budget "relatively controllable" by the President, $77.1 billion—or 58 percent—are allocated to military spending.[2]

The national defense function (050) has been allocated $138.2 billion in budget authority and $125.8 billion in outlays. These requests represent 1.7 percent real growth in budget authority and 3.6 percent real growth in budget outlays.[3]

The national defense function includes primarily funding for the Department of Defense and for atomic energy defense activities of the Department of Energy. The Defense Department is budgeted for 1.7 percent real growth in budget authority (to $135.041 billion) and 3.1 percent real growth in outlays (to $122.7 billion).[4] Defense-related activities in the Energy Department are budgeted for 9.6 percent real growth in budget authority ($3.002 billion) and 11.6 percent real growth in outlays ($2.968 billion).[5]

Despite the magnitude of these increases relative to domestic budget functions, the national defense spending nonetheless may be significantly understated in the budget. The President's budget assumes favorable congressional action on a $2.2 billion supplemental authorization bill for fiscal year 1979 submitted in conjunction with the fiscal year 1980 budget despite the fact of known congressional opposition both to the form and to the substance of the proposed supplemental.[6] If the programmatic recommendations in the supplemental either were not enacted or were included by Congress in the fiscal year 1980 budget, national defense spending real growth in budget authority would equal 3.5 percent and in the Defense Department would equal 3.35 percent. Outlays would also rise.

In addition, the budget assumes favorable congressional action to reform the wage rates of blue-collar workers in defense-related employment. However, Congress has consistently rejected such reforms in each of the past several years. This affects approximately $80 million in both budget authority and outlays.[7]

The procurement appropriation title receives the largest real growth increase in the military budget—a 7 percent real increase of $3.9 billion. Military personnel is increased by $1.5 billion to cover inflation. Operation and maintenance is increased by $2.8 billion to cover inflation plus 1.3 percent real growth. Retired pay is increased slightly above inflation while research and development is budgeted with $800 million to meet inflation. Military construction and the family housing titles each show a real decrease in funds.[8]

The NATO commitment of 3 percent real growth is most clearly reflected in the procurement account. Funding levels for European-theater conventional weapons are astounding. Outlays for Army procurement include real growth of 43 percent for aircraft, 83 percent for missiles, 29 percent for weapons and tracked combat vehicles and 3 percent for ammunition.[9]

Footnotes at end of article.

The other services also show substantial real procurement increases. Outlays for Navy aircraft will rise in real terms by 5 percent; for Air Force aircraft by 10 percent; and for Air Force missiles by 4 percent.[10]

These increases reflect both quantitative and qualitative expansion of the military force structure as the Carter administration continues the Ford administration's long-term defense plan of increasing active Army divisions from 13 to 16 and of expanding the number of active air wings from 22 to 26.

In terms of military programs, strategic forces are allocated a 19 percent real increase. Intelligence and communications will receive a 6 percent real increase. General purposes forces and the airlift and sealift forces receive funding to cover inflation while the guard and reserve forces show a slight real decline.[11]

Active military personnel strength is scheduled to remain constant at 2,050,000 while average reserve strengths will decline slightly by 12,000.

Defense Department purchases from industry will increase by $3.6 billion between fiscal year 1979 and fiscal year 1980. There will be 120,000 new jobs generated in defense-related industries over the same period. Thus, the military budget continues to be the most expensive public works program in this budget: It will cost the Government $30,000 to create a single job in a defense-related industry.[12]

The real growth which characterizes the fiscal year 1980 military budget submission is not a one-shot boost for the Defense Department. Rather, this 3 percent level of overall real growth is the bedrock of the Defense Department's long-range forecasts. These assume real growth in outlays for the next few years as well: 3 percent for fiscal year 1981, 3.2 percent for fiscal year 1982, 3 percent for fiscal year 1983, and 3 percent for fiscal year 1984.[13]

At the same time, the Department used unrealistically optimistic economic assumptions to calculate its future increases. It projects an inflation rate for procurement purchases of 3.7 percent in fiscal year 1982–83 and 2.8 percent in fiscal year 1983–84.[14]

The expectation of sustained real growth combined with unwarranted optimistic economic assumptions portends a permanent national priorities dilemma in the Federal budget between military and domestic spending in the years ahead.

FOOTNOTES

[1] Budget in brief.

[2] The Budget for fiscal year 1980, p. 561.

[3] *Ibid*, p. 98, using composite national defense inflation rate of 6.4 percent (DOD News Release No. 15–79, Chart No. 4).

[4] *Ibid*, p. 98.

[5] *Ibid*, p. 98.

[6] DOD Pres Release No. 15–79, Chart No. 11.

[7] The Budget for fiscal year 1980, p. 98.

[8] DOD News Release *supra*, Charts No. 4 and No. 5.

[9] The Budget for fiscal year 1980, p. 399, based on a 7 percent inflation rate for DOD purchases from industry (News Release *supra*, Chart No. 4).

[10] *Ibid*, p. 400.

[11] News Release *supra*, Charts No. 7 and No. 8.

[12] *Ibid*, Chart No. 9.

[13] *Ibid*, Chart No. 14.

[14] *Ibid*, Chart No. 4.●

ANTI-ARSON ACT OF 1979

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, I am today introducing legislation to combat what is perhaps the fastest growing crime in America—arson. In the past 3 years alone arson has increased 300 percent, taking 1,000 lives a year and costing an estimated $15 billion annually in properly damage. The hidden losses are great as well. Everyone's insurance rates are increased because the cost of arson losses must be passed on to homeowners and businesses. Local governments suffer because potential investors are discouraged from entering neighborhoods where arson crimes have occurred. It is clear that the arson epidemic must be stopped.

We have already begun to take steps to accomplish this goal. Last year I introduced an amendment which was enacted as part of the Department of Justice authorization, requiring the FBI to classify arson as a major crime under its crime reporting statistics. While this one effort will help to attract more serious attention to the problem, it alone cannot stop the crime.

Hearings held by Senator John Glenn who initiated the legislative efforts to combat arson during the last Congress and who authored the bill I am introducing today revealed that what is really needed to meet this problem head-on is a better coordinated Federal strategy of assistance to State and local governments in arson-fighting training and technical assistance.

Arson is one the most difficult crimes to solve because the evidence generally goes up in smoke, along with the building. Improved training programs can help teach firemen how to detect the tell-tale signs of common arson. Furthermore, such programs can offer training to law enforcement officials on how to identify what buildings are arson-prone in an effort to prevent arson fires from even happening. These are only a few of the improvements that can result from enactment of the Anti-Arson Act of 1979. It is designed to fashion a coordinated and upgraded Federal antiarson effort.

FEATURES OF THE ANTI-ARSON ACT

First, the Anti-Arson Act creates a Federal Interagency Committee on Arson Control composed of a representative of every Federal agency involved in helping combat arson. Specifically, these officials or representatives of the following nine offices are required on this committee:

The Attorney General, the FBI, the Postmaster General, the Secretary of the Treasury, the U.S. Fire Administration, the Director of the Bureau of Alcohol, Tobacco and Firearms, the Commissioner of the IRS and the Director of LEAA.

This committee's duties are to, first, develop and implement a comprehensive and coordinated Federal strategy and methodology for improving assistance to States and local governments for the prevention, detection, and control of arson; second, to coordinate Federal antiarson training and educational programs; third, to coordinate Federal research and development relating to arson prevention; and fourth to make recommendations for anticipated budget levels. So that this committee does not become yet another layer of permanent desultory bureaucracy a "sunset" provision is included, whereby the committee terminates 3 years from the date of enactment of this act. The committee's mandate is to coordinate, to establish lines of continued cooperation and to make recommendations, not to become another layer of Government.

Second, the Anti-Arson Act amends the Omnibus Crime Control and Safe Streets Act by giving specific authority to provide grants to States and localities for purposes of purchasing equipment, establishing laboratories and developing training programs for prosecutors.

Third, the Anti-Arson Act authorizes, on a permanent basis, the classification of arson as a major crime in the FBI's uniform crime reports. This provision was enacted into law as part of the fiscal year 1979 Department of Justice authorization bill. Since then, the FBI has seriously begun efforts to collect arson data.

Fourth, in the only spending provision of this bill, $5 million is authorized for the U.S. Fire Administration for a research program in developing, testing, and evaluating techniques and equipment in arson prediction, prevention and control, giving USFA a stronger, more effective role in the arson area.

Finally, the Anti-Arson Act amends the Urban Property Protection and Reinsurance Act of 1968 by providing that prior to issuance of policies pursuant to FAIR (fair access to insurance plans) that the prospective insurance owners list properties which he owns and whether destruction to any properties has been caused by arson or is arson-related. Coverage would not be automatically withheld due to previous incidents but a pattern or history of owner-related arsons would serve to disqualify the prospective policyholder.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Corman (at the request of Mr. Wright), for today, on account of official business.

Mr. Dingell (at the request of Mr. Wright), for today, on account of official business of the Committee on Merchant Marine and Fisheries.

Mr. Mica (at the request of Mr. Wright), for today, on account of official business.

Mr. Traxler (at the request of Mr. Wright), for today, on account of hospitalization.

Mr. Young of Alaska (at the request of Mr. Rhodes), on account of official business through March 8 to 12.

Mr. Dornan, for March 12, 13, 14, and 15, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Dougherty) to revise and extend their remarks and include extraneous material:)

Mr. Kemp, for 10 minutes, today.

Mr. Corcoran, for 5 minutes, today.

Mr. Broyhill, for 5 minutes, today.

(The following Members (at the request of Mr. Donnelly), to revise and extend their remarks, and to include extraneous matter to:)

Mr. Pepper, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Ms. Holtzman, for 5 minutes, today.

Mr. Peyser, for 5 minutes, today.

Mr. Benjamin, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Dougherty) and to include extraneous matter:)

Mr. Clausen.

Mr. Lagomarsino in three instances.

Mr. Dannemeyer.

Mr. Sensenbrenner.

Mr. Findley.

Mr. Spence.

Mr. Sawyer.

Mr. Myers of Indiana.

Mr. Gilman.

Mr. Frenzel in three instances.

Mr. Williams of Ohio.

Mr. Moore.

Mr. Broyhill in two instances.

Mr. Campbell.

Mrs. Smith of Nebraska.

Mr. Bob Wilson in five instances.

Mr. Goodling in two instances.

Mr. Guyer.

Mr. Snyder in two instances.

Mr. Kemp.

Mr. Derwinski in three instances.

(The following Members (at the request of Mr. Donnelly), and to include extraneous matter:)

Mr. Anderson of California in three instances.

Mr. Gonzalez in three instances.

Mr. Rodino in three instances.

Mr. Udall.

Mr. Levitas.

Mr. Kogovsek.

Mr. Zeferetti.

Mr. Thompson.

Mr. Rosenthal.

Mr. Peyser.

Mr. Nolan in two instances.

Mr. Richmond.

Ms. Holtzman.

Ms. Mikulski.

Mrs. Schroeder.

Mr. Ginn.

Mr. Russo.

Mr. Bolling.

Mr. Solarz.

Mr. Gore in two instances.
Mr. Rangel.
Mr. Mineta.
Mr. Long of Maryland.
Mr. McCormack in two instances.
Mr. Jenkins.
Mr. McDonald.
Mr. Markey.
Mr. Simon in four instances.
Mr. Mattox.

ADJOURNMENT

Mr. DONNELLY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 3 minutes p.m.), under its previous order, the House adjourned until Monday, March 12, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

882. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to provide for a Department of Defense Military Retirement and Disability Fund, and for other purposes; to the Committee on Armed Services.

883. A letter from the Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend section 4346(d) of title 10, United States Code, to permit the Secretary of the Army to prescribe the oath to be taken by appointees to the U.S. Military Academy; to the Committee on Armed Services.

884. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a copy of Presidential Determination No. 79-4, and the justification therefor, waiving the limitation on the aggregate of grant military assistance and of foreign military sales financing for African countries for fiscal year 1979, pursuant to section 33(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

885. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on the types, quantities, and value of defense articles furnished or intended to be furnished to the Republic of Korea on a nonreimbursable basis during fiscal year 1980, pursuant to section 23(c) of Public Law 95-384; to the Committee on Foreign Affairs.

886. A letter from the Senior Deputy Assistant Secretary of Commerce for Industry and Trade, transmitting two semiannual reports on boycott statistics; to the Committee on Foreign Affairs.

887. A letter from the Chairman, Federal Maritime Commission, transmitting a report on the Commission's activities under the Freedom of Information Act during calendar year 1978, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

888. A letter from the Acting Executive Director, National Capital Planning Commission, transmitting a report on the Commission's activities under the Freedom of Information Act during calendar year 1978, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

889. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

890. A letter from the Assistant Secretary of the Interior, transmitting a report and final comprehensive supplementary environmental statement of the Secretary of the Interior on modification of the Garrison Diversion Unit, Pick-Sloan Missouri Basin program, North Dakota; to the Committee on Interior and Insular Affairs.

891. A letter from the Deputy Assistant Secretary of the Interior for Land and Water Resources, transmitting a report on structural modifications needed to insure the safety of the Island Park Dam, Idaho, pursuant to section 5 of Public Law 95-578; to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means.

H.R. 2534. A bill to provide for a temporary increase in the public debt limit, and for other purposes (Rept. No. 96-31). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CORMAN:

H.R. 2724. A bill to amend title XX of the Social Security Act to increase the entitlement ceiling, and for other purposes; to the Committee on Ways and Means.

By Mr. ADDABBO:

H.R. 2725. A bill to amend the Small Business Act to restrict the authority of the Small Business Administration to deny financial assistance to small business concerns solely because the primary business operations of such concerns relate to the communication of ideas; to the Committee on Small Business.

By Mr. BEARD of Rhode Island:

H.R. 2726. A bill to establish in the Department of Labor a Federal Boxing Board to prescribe and enforce fair labor standards applicable to the conduct of professional boxing and to impose certain other requirements relating to professional boxing, and for other purposes; jointly, to the Committees on Education and Labor, and Interstate and Foreign Commerce.

By Mr. ULLMAN (for himself, Mr. Foley, Mr. Andrews of North Dakota, Mr. Archer, Mr. Bevill, Mr. Bereuter, Mr. Cheney, Mr. Coelho, Mr. Corcoran, Mr. de la Garza, Mr. Fowler, Mr. Fuqua, Mr. Guarini, Mr. Heftel, Mr. Holland, Mr. Ireland, Mr. Jacobs, Mr. Jeffords, Mr. Jenkins, Mr. Kogovsek, Mr. Leach of Iowa, Mr. Marlenee, Mr. Marriott, Mr. Mathis, Mr. McKay, Mr. Montgomery, Mr. Moore, Mr. Myers of Indiana, Mr. Nolan, Mr. Panetta, Mr. Patten, Mr. Skelton, Mr. Sebelius, Mrs. Smith of Nebraska, Mr. Stump, Mr. Symms, Mr. Williams of Montana, Mr. Vento, Mr. Pashayan, Mr. Evans of the Virgin Islands, and Mr. Watkins):

H.R. 2727. A bill to modify the method of establishing quotas on the importation of certain meat, to include within such quotas certain meat products, and for other purposes; to the Committee on Ways and Means.

By Mr. BEDELL:

H.R. 2728. A bill to amend the Agriculture Act of 1949 to require that the announcement by the Secretary of Agriculture with respect to a set-aside of cropland used in the production of feed grains be made no later than October 15, of each year for crops harvested in the next succeeding calendar year; to the Committee on Agriculture.

By Mr. BROWN of California (for himself and Mr. Hollenbeck):

H.R. 2729. A bill to authorize appropriations for activities of the National Science Foundation, and for other purposes; to the Committee on Science and Technology.

By Mr. BROYHILL:

H.R. 2730. A bill to amend section 1402 of title 10, United States Code, to revise the rule for computation of retired or retainer pay to reflect later active duty; to the Committee on Armed Services.

H.R. 2731. A bill to revise the rule for recalculation of military retired or retainer pay to reflect later active duty with respect to later active duty performed between October 1, 1963, and October 1, 1973; to the Committee on Armed Services.

By Mr. BURLISON:

H.R. 2732. A bill to require the Secretary of the Army to acquire approximately 2,500 acres of land to be used to mitigate certain adverse impacts which will result from the Saint Johns Bayou and New Madrid Floodway, Mo., flood protection project; to the Committee on Public Works and Transportation.

By Mrs. COLLINS of Illinois:

H.R. 2733. A bill to amend section 312 of the Housing Act of 1964 for the purpose of authorizing $245 million to be appropriated under such section for rehabilitation loans for fiscal year 1980; to the Committee on Banking, Finance and Urban Affairs.

H.R. 2734. A bill to prohibit involuntary terminations by electric and natural gas utilities of service for residential heating and other residential purposes between October 15, of each year and April 14, of the following year and in cases in which such terminations present special dangers to health, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. CORCORAN (for himself and Mr. Simon):

H.R. 2735. A bill to amend the Intergovernmental Personnel Act of 1970 to provide for improvement in personnel productivity, and for other purposes; jointly, to the Committees on Post Office and Civil Service, and Government Operations.

By Mr. CORRADA:

H.R. 2736. A bill to amend title I of the Elementary and Secondary Education Act of 1965 to treat Puerto Rico on the same basis as States are treated under that title; to the Committee on Education and Labor.

By Mr. D'AMOURS:

H.R. 2737. A bill to amend the Internal Revenue Code of 1954 to provide that expenditures for woodburning stoves shall be eligible for the 15-percent residential energy credit for energy conservation expenditures; to the Committee on Ways and Means.

By Mr. DAVIS of Michigan (for himself and Mr. Albosta):

H.R. 2738. A bill to provide for State regulation of hunting and fishing rights by the Ottawa, Chippewa, Pottawatamie and Menominee Indians of Michigan by terminating any hunting or fishing rights or otherwise gathering the fruits of the land such Indians may have under treaties with the United States; jointly, to the Committees on Interior and Insular Affairs, and Merchant Marine and Fisheries.

By Mr. EVANS of Indiana:

H.R. 2739. A bill to provide a penalty for the robbery or attempted robbery of any controlled substance from any pharmacy; to the Committee on the Judiciary.

By Mrs. FENWICK:

H.R. 2740. A bill to provide equitable, comprehensive, and exclusive benefits to (a) persons who are disabled as a result of employment-related diseases caused by the inhalation or ingestion of asbestos, and/or the inhalation of asbestos coupled with the inhalation of cigarette tobacco smoke, (b) members of such person's household, and (c) the surviving dependents of such persons whose death was due to such disease; to the Committee on Education and Labor.

By Mr. FINDLEY:

H.R. 2741. A bill to amend the Federal Power Act for the purpose of requiring that a determination that a utility selling electricity at wholesale is subject to Federal ratemaking regulation be based on more than the fact that such utility has electric facilities which are physically connected with electric facilities of any other utility; to the Committee on Interstate and Foreign Commerce.

By Mr. FITHIAN:

H.R. 2742. A bill relating to the Indiana Dunes National Lakeshore, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. FUQUA (for himself, Mr. Wydler, Mr. Brown of California, Mr. Hollenbeck, Mr. Ambro, Mr. Walker, and Mr. Ritter):

H.R. 2743. A bill to provide for a national policy for materials science and technology and to strengthen the materials research and development capability and performance of the United States; to the Committee on Science and Technology.

By Mr. GIBBONS:

H.R. 2744. A bill to repeal the carryover basis provisions added by the Tax Reform Act of 1976; to the Committee on Ways and Means.

By Mr. GRASSLEY:

H.R. 2745. A bill to amend title 38 of the United States Code to promote the care and treatment of veterans in State veterans' homes; to the Committee on Veterans' Affairs.

By Mr. GRISHAM (by request):

H.R. 2746. A bill to amend the Internal Revenue Code of 1954 to allow individuals a refundable tax credit for health insurance premiums; to the Committee on Ways and Means.

By Mr. HANLEY (for himself and Mr. St Germain):

H.R. 2747. A bill to amend the Bank Holding Company Act and the Bank Merger Act to restrict the activities in which registered bank holding companies may engage and to control the acquisition of banks by bank holding companies; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HARRIS:

H.R. 2748. A bill to amend title 5, United States Code, to improve the basic workweek of firefighting personnel of executive agencies, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. HARSHA:

H.R. 2749. A bill to amend title 38, United States Code, to provide for the payment of service pensions to veterans of World War I and the surviving spouses and children of such veterans; to the Committee on Veterans' Affairs.

H.R. 2750. A bill to amend the Internal Revenue Code of 1954 to provide a basic $5,000 exemption from income tax for amounts received as annuities, pensions, or other retirement benefits; to the Committee on Ways and Means.

By Mrs. HECKLER (for herself, Mr. Pepper and Mr. Applegate):

H.R. 2751. A bill to amend title 38, United States Code, to establish within the Department of Medicine and Surgery of the Veterans' Administration the position of Assistant Chief Medical Director for Geriatrics and Extended Care and to establish demonstration centers of geriatric research, education, and clinical operations within the Veterans' Administration; to the Committee on Veterans' Affairs.

By Mr. HOWARD:

H.R. 2752. A bill to amend title 38, United States Code, to require that each person insured under a Veterans' Administration life insurance policy redeclare the beneficiary of such policy every 5 years and to allow a beneficiary of such a policy to change the mode of payment under such policy after the death of the insured; to the Committee on Veterans' Affairs.

By Mr. JENKINS:

H.R. 2753. A bill to amend title 49 of the the United States Code to prohibit an organization of rail carriers from engaging in any joint action which results in a rate increase, and to require rail carriers proposing seasonal or peak-period demand rates to demonstrate that such rates will not result in overall increased freight costs to affected shippers; to the Committee on Interstate and Foreign Commerce.

By Mr. LEWIS (for himself, Mr. Brown of California, Mr. Burgener, Mr. Lloyd, and Mr. Lagomarsino):

H.R. 2754. A bill to require that statistical data and Federal benefits provided to a standard metropolitan statistical area be provided to the same extent to certain designated statistical areas under revised criteria of the Department of Commerce for designating such areas, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. LUKEN:

H.R. 2755. A bill to amend the State and Local Fiscal Assistance Act of 1972 to suspend payments to States and for other purposes; to the Committee on Government Operations.

By Mr. LUJAN:

H.R. 2756. A bill to credit certain service performed by National Guard technicians prior to January 1, 1969, as Federal employment for the purpose of civil service retirement benefits; to the Committee on Post Office and Civil Service.

By Mr. McCORMACK:

H.R. 2757. A bill to authorize the Secretary of the Interior to engage in a feasibility study; to the Committee on Interior and Insular Affairs.

By Mr. MATTOX (for himself, and Mr. Evans of Georgia):

H.R. 2758. A bill to suspend revenue sharing payments to States under the State and Local Fiscal Assistance Act of 1972; to the Committee on Government Operations.

By Mr. Murphy of New York (for himself, Mr. Breaux, Mr. Udall, Mr. Santini, Mr. Zablocki, Mr. Bingham, Mr. Bonker, Mr. Ullman, Mr. Pritchard, Mr. Young of Alaska, Mr. Derwinski, and Mr. Conable):

H.R. 2759. A bill to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto; jointly, to the Committees on Foreign Affairs, Interior and Insular Affairs, Merchant Marine and Fisheries, and Ways and Means.

By Mr. PERKINS:

H.R. 2760. A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder; to the Committee on Ways and Means.

By Mr. RUNNELS:

H.R. 2761. A bill to designate the Veterans' Administration medical center in Albuquerque, N. Mex., as the "Joseph M. Montoya Veterans' Medical Center"; to the Committee on Veterans' Affairs.

By Mr. SEIBERLING (for himself and Mr. Kemp):

H.R. 2762. A bill to provide for a formal process of State participation and concurrence regarding the management and storage of radioactive materials; jointly, to the Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce.

By Mr. SEIBERLING (for himself, Mr. Bingham, Mr. Sawyer, Mr. Green, and Mr. Murphy of Illinois):

H.R. 2763. A bill to establish an Interagency Committee on Arson Control to coordinate Federal antiarson programs, to amend various provisions of the law relating to programs for arson investigation, prevention, and detection, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs, and the Judiciary.

By Mrs. SPELLMAN:

H.R. 2764. A bill to provide for payments in lieu of real property taxes, with respect to real property owned by the Federal Government; to the Committee on Government Operations.

By Mr. STAGGERS (by request):

H.R. 2765. A bill to extend certain provisions of title XIV of the Public Health Service Act for 2 years; to the Committee on Interstate and Foreign Commerce.

By Mr. STAGGERS (for himself and Mr. Florio):

H.R. 2766. A bill to amend section 5 of the Department of Transportation Act, relating to rail service assistance; to the Committee on Interstate and Foreign Commerce.

H.R. 2767. A bill to amend title V of the Regional Rail Reorganization Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. SOLARZ (for himself, Mr. Beilenson, Mr. Bingham, Mrs. Bouquard, Mr. Downey, Mr. Drinan, Mr. Green, Mr. Mineta, Mr. Rangel, Mr. Sebelius, Mr. Seiberling, Mrs. Spellman, Mr. Udall, Mr. Waxman, and Mr. Weiss):

H.R. 2768. A bill to amend title 39 of the United States Code to reduce postal rates for small magazines, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. THOMAS:

H.R. 2769. A bill to amend the Voting Rights Act of 1965 to limit certain aspects of its coverage for other than racial groups; to the Committee on the Judiciary.

By Mr. UDALL (for himself, Mr. Luken, Mr. Forsythe, Mr. Kogovsek, Mr. Davis of Michigan, Mr. Chappell, Mr. Ambro, Mr. Baldus, Mr. Bedell, Mr. Boland, Mr. Bonior of Michigan, Mr. Corcoran, Mr. D'Amours, Mr. Derwinski, Mr. Devine, Mr. Drinan, Mr. Duncan of Tennessee, Mr. Eckhardt, Mr. Evans, of Georgia, Mr. Flood, Mr. Fowler, Mr. Gore, Mr. Guyer, Mr. Heftel, Mr. Howard, Mr. Hubbard, Mr. Ireland, Mr. Jenrette, Mr. Corrada, Mr. Andrews of North Dakota, Mr. Price, Mr. Kildee, Mr. Fuqua, Mr. Kemp, Mr. Kostmayer, Mr. LaFalce, Mr. Lehman, Mr. Lent, Mr. Lundine, Mr. McKay, Mr. Moffett, Mr. Murphy of Illinois, Mr. Nedzi, Mr. Nowak, Mr. Oberstar, Mr. Panetta, Mr. Pease, Mr. Perkins, Mr. Preyer, Mr. Burgener, Mr. Edwards of Oklahoma, Mr. Coughlin, Mr. Dan Daniel, Mr. Pritchard, Mr. Richmond, Mr. St Germain, Mr. Sebelius, Mr. Seiberling, Mr. Simon, Mrs. Spellman, Mr. Stanton, Mr. Thompson, Mr. Van Deerlin, Mr. Vento, Mr. Watkins, Mr. Weaver, Mr. Whitehurst, Mr. Charles Wilson of Texas, Mr. McHugh, Mr. Moakley, Mr. Mineta, Ms. Holtzman, Mr. Patten, Mr. Downey, and Mr. Boner of Tennessee):

H.R. 2770. A bill to amend the tax laws of the United States to encourage the preservation of independent local newspapers; to the Committee on Ways and Means.

By Mr. WYATT:

H.R. 2771. A bill to change the name of the Palmetto Bend Reservoir on the Navidad River in Texas to Lake Texana; to the Committee on Interior and Insular Affairs.

H.R. 2772. A bill to modify the project for the mouth of the Colorado River, Tex., and for other purposes; to the Committee on Public Works and Transportation.

By Mr. YOUNG of Florida:

H.R. 2773. A bill to amend the Food Stamp Act of 1977 to eliminate certain restrictions on excess shelter expense deductions with respect to households which are composed entirely of persons who are age 65 or older or who are recipients of benefits under title XVI of the Social Security Act and to allow deductions for medical and dental expenses in the computation of income for those households; to the Committee on Agriculture.

By Mr. ZABLOCKI (for himself, Mr. Broomfield, Mr. Hamilton, Mr. Wolff, Mr. Bingham, and Mr. Winn):

H.R. 2774. A bill to authorize appropriations for fiscal years 1980 and 1981 under the Arms Control and Disarmament Act, and for other purposes; to the Committee on Foreign Affairs.

By Mr. ZEFERETTI:

H.R. 2775. A bill to amend the Social Security Act to improve the operation of the aid to families with dependent children program and thereby provide fiscal relief for State and local welfare costs; to the Committee on Ways and Means.

By Mr. BENJAMIN:

H.R. 2776. A bill to authorize a demonstration project in Lake George, and a portion of Deep River, Ind.; to the Committee on Public Works and Transportation.

By Mr. KEMP:

H.R. 2777. A bill to amend the Interstate Commerce Act by including independent owner-operator truckers as an exempted class under section 203(b) of that Act, and for other purposes; to the Committee on Public Works and Transportation.

By Mrs. SPELLMAN:

H.R. 2778. A bill to amend section 703 and section 704 of the Railroad Revitalization and Regulatory Reform Act of 1976 with respect to the completion of fencing, station parking, and station access as part of the Northeast corridor railroad improvement program; to the Committee on Interstate and Foreign Commerce.

By Mr. JOHN L. BURTON (for himself, Mr. Levitas, Mr. Rousselot, Mr. Boland, Mr. Phillip Burton, Mr. Corman, Mr. Murphy of Illinois, Mr. Solarz, Mr. Alexander, Mr. Fascell, Mr. McDade, Mr. Dicks, Mr. Flood, Mr. Ginn, Mr. Mottl, Mrs. Chisholm, Mr. Mitchell of Maryland, Mr. Corrada, Mr. Patten, Mr. Hawkins, Mr. Lagomarsino, Mr. LaFalce, Mr. Horton, Mr. McDonald, Mr. Kemp, Mr. Spence, Mr. Johnson of California, Mr. Roe, Mr. Miller of California, Mr. Fazio, Mr. Murphy of Pennsylvania, Mr. Nolan, Mr. Evans of Georgia, Mr. Goodling, Mr. Forsythe, Mr. Hutto, Mr. Van Deerlin, Mr. Frenzel, and Mr. Brodhead):

H.J. Res. 244. Joint resolution to authorize and request the President to issue annually a proclamation designating the first Sunday of September following Labor Day after each year as "National Grandparents Day"; to the Committee on Post Office and Civil Service.

By Mrs. COLLINS of Illinois:

H.J. Res. 245. Joint resolution to provide for the designation of September 3, 1979, as "Working Mothers' Day"; to the Committee on Post Office and Civil Service.

By Mr. DAVIS of Michigan (for himself and Mr. Albosta):

H.J. Res. 246. Joint resolution relating to the regulation by the States of certain Indian hunting and fishing rights; jointly, to the Committees on Interior and Insular Affairs, and Merchant Marine and Fisheries.

By Mr. DICKINSON (for himself, Mr. Nichols, Mr. Bevill, and Mr. Flippo):

H.J. Res. 247. Joint resolution raising the price support levels for milk, wheat, corn, soybeans, and cotton to 90 percent of the respective parity prices therefor, and for other purposes; to the Committee on Agriculture.

By Mr. LENT:

H.J. Res. 248. Joint resolution to provide for the designation of a week as "International Hunger Project Week"; to the Committee on Post Office and Civil Service.

By Mr. MINETA (for himself and Mr. Matsui):

H.J. Res. 249. Joint resolution relating to the publication of economic and social statistics for Americans of East Asian or Pacific Island origin or descent; jointly, to the Committees on Post Office and Civil Service, and Education and Labor.

By Mr. RUSSO (for himself and Mr. Cavanaugh):

H.J. Res. 250. Joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons; to the Committee on the Judiciary.

By Mr. ROSE (for himself, Mr. Whitehurst, Mr. Lagomarsino, Mr. Horton, Mr. McDonald, Mr. Montgomery, Mr. Davis of South Carolina, Mr. Hanley, Mr. Jenrette, and Mr. Miller of California):

H. Con. Res. 69. Concurrent resolution requesting the Secretary of the Army to authorize wearing of the maroon beret by Army airborne units; to the Committee on Armed Services.

By Mr. YOUNG of Florida:

H. Con. Res. 70. Concurrent resolution expressing the sense of the Congress that the United States should seek, through diplomatic channels, the withdrawal of certain personnel of the Soviet Union from Estonia, Latvia, and Lithuania and the release by the Soviet Union of political prisoners of Estonian, Latvian, and Lithuanian descent; to the Committee on Foreign Affairs.

By Mr. PEPPER:

H. Con. Res. 71. Concurrent resolution expressing the concern of Congress regarding the harassment of Soviet Jews and other minorities; to the Committee on Foreign Affairs.

By Mr. HOWARD:

H. Res. 151. Resolution to express the sense of the House with respect to the allocation of necessary energy sources to the travel and tourism industry; to the Committee on Interstate and Foreign Commerce.

By Mr. LUJAN:

H. Res. 152. Resolution disapproving the final recommendations for the restructuring of the Southwest Limited Amtrak route as submitted by the Secretary of Transportation; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. JOHN L. BURTON:

H.R. 2779. A bill for the relief of John Fotioy Xiradakis; to the Committee on the Judiciary.

H.R. 2780. A bill for the relief of Tariq Hamid; to the Committee on the Judiciary.

H.R. 2781. A bill for the relief of Capt. John W. Leadbetter, Jr., U.S.C.G.; to the Committee on the Judiciary.

By Mr. HARKIN:

H.R. 2782. A bill for the relief of John H. R. Berg; to the Committee on the Judiciary.

By Mrs. HECKLER:

H.R. 2783. A bill for the relief of Emile N. Eid; to the Committee on the Judiciary.

By Mr. LAGOMARSINO:

H.R. 2784. A bill for the relief of LeRoy Woodrow Potter; to the Committee on the Judiciary.

By Mr. LEACH of Iowa:

H.R. 2785. A bill for the relief of Ronald W. Vance; to the Committee on Armed Services.

By Mr. SHANNON:

H.R. 2786. A bill for the relief of Hanna E. Aboufarsh; to the Committee on the Judiciary.

By Mrs. SMITH of Nebraska:

H.R. 2787. A bill to permit the importation of a leopard skin; to the Committee on Merchant Marine and Fisheries.

By Mr. STANGELAND:

H.R. 2788. A bill for the relief of Dr. Salvador S. Sambitan; to the Committee on the Judiciary.

By Mr. WRIGHT:

H.R. 2789. A bill for the relief of Ilan Silberstein; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2: Mr. Ambro, Mr. Shannon, and Mr. Derrick.

H.R. 10: Mr. Gudger, Mr. Matsui, Mr. Mikva, Mr. Butler, and Mr. Sawyer.

H.R. 276: Mr. Waxman, Mr. Ford of Tennessee, Mr. McKinney, Mrs. Schroeder, Mr. Maguire, and Mr. Simon.

H.R. 285: Mr. Richmond, Mr. Beilenson, Mr. Clay, Mr. Ottinger, Mr. Rangel, Mr. Scheuer, and Mr. Waxman.

H.R. 286: Mr. Richmond, Mr. Clay, Mr. Ottinger, Mr. Rangel, Mr. Scheuer, Mr. Green, and Mr. Waxman.

H.R. 425: Mr. Whitehurst and Mr. Collins of Texas.

H.R. 435: Mr. Lagomarsino, Mr. Collins of Texas, Mr. Solomon, and Mr. Dornan.

H.R. 601: Mr. McEwen.

H.R. 660: Mr. Patterson, Mr. Shumway, Mr. Roe, and Mr. Hollenbeck.

H.R. 1050: Mr. Bowen and Mr. Roe.

H.R. 1114: Mr. Florio, Mr. Goldwater, Mr. Johnson of California, Mr. Leach of Louisiana, Mr. Matsui, Mr. Nowak, Mr. Panetta, Mr. Pashayan, Mr. Patterson, and Mr. Smith of Iowa.

H.R. 1143: Mr. Waxman, Mr. Ottinger, Mr. Walgren, Mr. Gramm, Mr. Yates, Mr. Andrews of North Dakota, Mr. Long of Maryland, Mr. McDade, Mr. Duncan of Tennessee, Mr. Wolff, Mr. Montgomery, Mr. Anderson of California, Mr. Ginn, Mrs. Holt, Mr. Johnson of Colorado, Mr. Traxler, Mr. Ambro, Mr. Beard of Rhode Island, Mr. Bedell, Mr. D'Amours, Mr. Jeffords, Mr. Oberstar, Mr. Richmond, Mr. Fowler, Mr. Leach of Iowa, Mr. Young of Missouri, Mr. Weiss, Mr.

Green, Mr. Leach of Louisiana, and Mr. Tauke.

H.R. 1297: Mr. Derrick.

H.R. 1324: Mr. Moakley, Mr. Simon, Mr. Pritchard, Mr. LaFalce, Mr. Horton, Mr. Heftel, Mr. Nedzi, Mr. Green, Mr. Udall, Mr. D'Amours, Mr. Mavroules, Mr. Mitchell of Maryland, Mr. Diggs, Mr. Ottinger, Mr. Sabo, Mr. Walker, Mr. Miller of California, Mr. Seiberling, Mr. Rose, Mr. Downey, Mr. Wolpe, Mr. Stark, Mr. Price, Mr. Roe, Mr. Panetta, and Mr. Leach of Louisiana.

H.R. 1509: Mr. Hagedorn, Mr. Kindness, Mr. Rinaldo, Mr. Jeffries, Mr. Forsythe, Mr. Atkinson, Mr. Dan Daniel, Mr. LaFalce, Mr. Patten, Mrs. Holt, Mr. Lagomarsino, Mr. Jacobs, Mr. Hall of Texas, Mr. Rousselot, Mr. Frost, Mr. Traxler, Mr. Stangeland, Mr. Gaydos, Mr. Chappell, Mr. Grisham, Mr. Evans of Georgia, Mr. Vento, Mr. Miller of Ohio, and Mr. Mattox.

H.R. 1511: Mr. Young of Florida, Mr. Solomon, Mr. Lagomarsino, Mr. Harsha, Mr. Miller of Ohio, Mr. Whitehurst, Mr. Kindness, and Mr. Lott.

H.R. 1603: Mr. Anthony, Mr. English, and Mr. Addabbo.

H.R. 1608: Mr. Brown of California, and Mr. Gramm.

H.R. 1650: Mr. Drinan, Mr. Jones of Tennessee, Mr. Stangeland, Mr. Roe, Mr. Markey, Mr. Erdahl, Mr. Leath of Texas, Mr. Price, Mr. Bingham, Mr. Perkins, Mr. Gilman, Mr. Buchanan, Mr. Pepper, Mr. Maguire, Mr. Hagedorn, Mr. Mitchell of Maryland, Mr. Patterson, Mr. Sabo, Mr. Horton, Mr. Green, Mr. Corcoran, Mr. Madigan, and Mrs. Spellman.

H.R. 1735: Mr. Murphy of Pennsylvania.

H.R. 1855: Mr. Collins of Texas, Mr. Whitehurst, and Mr. Dornan.

H.R. 1856: Mr. Dornan.

H.R. 1906: Mr. Studds, Mr. Emery, Mr. Lott, Mr. Howard, Mr. Clausen, Mr. Roe, Mr. Hughes, Ms. Mikulski, Mr. Weaver, and Mr. Moakley.

H.R. 1910: Mr. Andrews of North Dakota, Mr. Ertel, Mr. Jeffords, Mr. McHugh, Mr. Sabo, Mr. Fithian, Mr. Wolpe, Mr. Bingham, Mr. Panetta, Mr. Traxler, and Mr. Weaver.

H.R. 1958: Mr. Marriott, Mr. Miller of Ohio, Mr. Young of Florida, Mr. Lagomarsino, Mr. Collins of Texas, Mr. Lott, and Mr. Dornan.

H.R. 2126: Mr. Addabbo, Mr. Anderson of California. Mr. Bailey, Mr. Barnes. Mr. Biaggi, Mr. Bingham, Mrs. Bouquard, Mr. Brademas, Mr. Brodhead, Mr. Broomfield, Mr. Brown of California; Mr. John L. Burton, Mr. Phillip Burton, Mr. Carr, Mrs. Chisholm, Mr. Clay, Mrs. Collins of Illinois, Mr. Conte, Mr. Conyers, Mr. Corrada, Mr. Courter, Mr. Dellums, Mr. Dixon, Mr. Donnelly, Mr. Dougherty, Mr. Downey, Mr. Drinan, Mr. Evans of the Virgin Islands, Mr. Fazio, Mr. Fascell, Mrs. Fenwick, Ms. Ferraro, Mr. Fish, Mr. Flood, Mr. Ford of Michigan, Mr. Forsythe, Mr. Garcia, Mr. Gaydos, Mr. Gilman, Mr. Green, Mr. Guarini, Mr. Hanley, Mr. Harris, Mr. Hawkins, Mr. Hollenbeck, Ms. Holtzman, Mr. Howard, Mr. Hutto, Mr. Jenrette, Mr. Kemp, Mr. Kogovsek, Mr. Kostmayer, Mr. Lederer, Mr. Lehman, Mr. Leland, Mr. Lent, Mr. Lowry, Mr. Marks, Mr. Matsui, Mr. Mavroules, Ms. Mikulski, Mr. Mikva, Mr. Miller of California, Mr. Mineta, Mr. Minish, Mr. Mitchell of New York, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Moffett, Mr. Murphy of Pennsylvania, Mr. Myers of Pennsylvania, Mr. Nolan, Mr. Nowak, Mr. Ottinger, Mr. Patten, Mr. Pepper, Mr. Railsback, Mr. Rangel, Mr. Ratchford, Mr. Rodino, Mr. Roe, Mr. Rosenthal, Mr. Roybal, Mr. Scheuer, Mrs. Schroeder, Mr. Seiberling, Mr. Shannon, Mr. Simon, Mr. Solarz, Mrs. Spellman, Mr. Staggers, Mr. Stark, Mr. Stokes, Mr. Thompson, Mr. Waxman, Mr. Weiss, Mr. Wolff, Mr. Yatron, Mr. Young of Florida, Mr. Zeferetti, Mr. McCloskey, Mr. McEwen, Mr. Clinger, Mr. Edwards of California, and Mr. Gray.

H.R. 2153: Mr. Fithian, Mr. Daschle, Mr. Winn, Mr. Miller of California, Mr. Panetta, Mr. Mineta, Mr. Kogovsek, Mr. Mikva, Mr. Bonior of Michigan, Mr. Hughes, Mr. Downey, Mr. Weaver, Mr. Van Deerlin, Mr. Scheuer, Mr. Brinkley, Mr. Udall, Mr. Moakley, Mr. Jeffords, Mr. Patterson, Mr. Evans of Georgia, Mr. LaFalce, and Mr. Vento.

H.R. 2191: Mr. Barnes, Mr. Dellums, and Mr. Russo.

H.R. 2226: Mr. Jeffords.

H.R. 2291: Mr. Brown of Ohio, Mr. Buchanan, Mr. Cleveland, Mr. Conable, Mr. Dougherty, Mr. Erdahl, Mr. Green, Mr. Horton, Mr. Lagomarsino, Mr. Lee, Mr. Lent, Mr. McEwen, Mr. Mitchell of Maryland, Mr. Murphy of Pennsylvania, Mr. Patten, Mr. Rahall, Mr. Rangel, Mr. Roe, Mr. Weiss, Mr. Whitehurst, Mr. Winn, and Mr. Zeferetti.

H.R. 2544: Mr. Kindness.

H.R. 2647: Mr. Gephardt, Mr. Jenrette, Mr. Fithian, and Mr. Daschle.

H.R. 2648: Mr. Gephardt, Mr. Jenrette, Mr. Fithian, Mr. Evans of Georgia, and Mr. Daschle.

H.J. Res. 49: Mr. Dornan.

H.J. Res. 69: Mr. Albosta, Mr. Anderson of California, Mr. Beilenson, Mr. Bevill, Mr. Brodhead, Mr. Campbell, Mr. Carter, Mr. Cheney, Mr. Coelho, Mr. Corrada, Mr. Dannemeyer, Mr. Derrick, Mr. Dixon, Mr. Downey, Mr. Duncan of Tennessee, Mr. Erdahl, Mr. Fazio, Mr. Flood, Mr. Frost, Mr. Grisham, Mr. Heftel, Mr. Holland, Mr. Horton, Mr. Levitas, Mr. Lloyd, Mr. Long of Maryland, Mr. Madigan, Mr. Mathis, Mr. Matsui, Mr. Moffett, Mr. Panetta, Mr. Pashayan, Mr. Rahall, Mr. Rodino, Mr. Thomas, Mr. Vento, Mr. Young of Missouri, and Mr. Evans of Georgia.

H.J. Res. 74: Mr. Annunzio, Mr. Ashbrook, Mr. Bowen, Mr. Robert W. Daniel, Jr., Mr. Dannemeyer, Mr. Fithian, Mr. Hinson, Mr. Jeffries, Mr. Kindness, Mr. Mollohan, Ms. Oakar, Mr. Snyder, Mr. Stump, Mr. Winn, Mr. Young of Florida, and Mr. Duncan of Tennessee.

H.J. Res. 86: Mr. Mottl, Mr. Kelly, Mrs. Holt, Mr. Corcoran, Mr. Dannemeyer, Mr. Gingrich, Mr. Buchanan, Mr. Leach of Louisiana, Mr. Duncan of Tennessee, and Mr. Dornan.

H.J. Res. 213: Mr. Collins of Texas, Mr. Davis of South Carolina, Mr. Devine, Mr. Dornan, Mr. Duncan of Tennessee, Mr. Evans of Georgia, Mr. Guyer, Mrs. Holt, Mr. Hutto, Mr. Lott, Mr. Lujan, Mr. McKay, Mr. Slack, Mr. Charles Wilson of Texas, Mr. Won Pat, and Mr. Yatron.

H.J. Res. 229; Mr. Abdnor, Mr. Archer, Mr. Bowen, Mr. Breaux, Mr. Brown of Ohio, Mr. Broyhill, Mr. Cleveland, Mr. Collins of Texas, Mr. Dan Daniel, Mr. Dornan, Mr. Erlenborn, Mr. Findley, Mr. Flood, Mr. Frenzel, Mr. Fuqua, Mr. Ginn, Mr. Gore, Mr. Gradison, Mr. Hall of Texas, Mrs. Holt, Mr. Horton, Mr. Johnson of Colorado, Mr. Lagomarsino, Mr. Lloyd, Mr. Lott, Mr. McDonald, Mr. McHugh, Mr. Montgomery, Mr. Murphy of Pennsylvania, Mr. Pepper, Mr. Rousselot, Mr. Sebelius, Mr. Stump, Mr. Van Deerlin, Mr. Vander Jagt, Mr. Wampler, Mr. Waxman, Mr. Whitehurst, Mr. Charles Wilson of Texas, and Mr. Winn.

H. Con. Res. 54: Mr. Mineta, Mrs. Holt, Mr. Mikva, and Mr. Blanchard.

H. Res. 105: Mr. Kogovsek, Mr. Cavanaugh, Mr. Mitchell of Maryland, and Mr. Jenrette.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2479

By Mr. SYMMS:

—Page 5, line 16, add the following immediately after the period: "The President shall make every effort to reach an agreement with Taiwan to assure that the facilities used by such instrumentality to conduct its affairs in the United States be at or near the locations of the consular establishments of Taiwan in the United States existing on December 31, 1978."

EXTENSIONS OF REMARKS

MEDIA OWNERSHIP

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE SENATE OF THE UNITED STATES

Thursday, March 8, 1979

● Mr. PRESSLER. Mr. President, I have been very concerned about the increasing concentration of media ownership in this country. This concentration is a potential threat to our free press rights. I have introduced legislation this year to address the entire question of media competition and I shall be introducing more.

Late last year, I wrote Attorney General Griffin Bell asking for the Justice Department's opinion on why media conglomerates have escaped antitrust enforcement under present law. I also asked the Attorney General for the antitrust intentions of the Justice Department with regard to some of the national media conglomerates. I submit the correspondence for printing in the Record.

Here follows my letter to the Justice Department and the response:

Washington, D.C., December 22, 1978.

Hon. Griffin Bell,
Attorney General of the United States,
Department of Justice,
Washington, D.C.

Dear Mr. Bell: My staff and I are drafting possible legislation to amend the anti-trust laws to include media monopolies. I request your Department's opinion on why media conglomerates have not fallen under anti-trust enforcement by the Justice Department under present law. When I do introduce legislation this spring, I would like to place in the Congressional Record the anti-trust intentions of your Department with regard to such conglomerates as CBS; Times, Inc.; Dow Jones' Knight-Ridder; Gulf and Western; Gannett; Newhouse; Scripps-Howard; and others. These are examples of media conglomerates that are nearly pure monopolies in our society. Not only do they publish huge chains of newspapers, but they also have cross-ownership of other media outlets—including polling firms, book distribution networks, pulp mills, timber land, record distribution groups, life insurance and casualty companies, and other activities that are not necessarily directly related to publishing.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

The types of monopolies these media conglomerates represent include:

(1) Territorial Monopolies. The media monopolies are a purer form of monopoly than some other business monopolies. For example, Ford and General Motors products compete directly in the same market—but we have allowed our chain newspapers a complete, pure monopoly in most of their respective cities;

(2) Horizontal and Vertical Monopolies. The First Amendment is being used to cover a huge number of activities other than the distribution of news. Indeed, news distribution—as compared to advertising distribution—has come to represent only about one-quarter to one-third of the business of many of these monopolies.

(3) Pricing Monopolies. The media monopolies have a pure pricing monopoly in that they set advertising rates and subscription rates without any restraint or review in a purely monopolistic form.

Our research indicates that your Department has great discretion over which monopolies to break up. There are many excessively profitable media conglomerates living in the basement of the church of the First Amendment. 1984 is just five years away. If the present trend continues, over 80 per cent of American newspapers will be chain-owned—and this is just the tip of the iceberg. Other communications conglomerates are allowing a very small number of people to have ultimate direction over what books are distributed, what appears on national television, and what moves over national news and financial wires. Why these conglomerates have escaped anti-trust legislation is curious.

I have great respect for First Amendment rights. Indeed, I co-sponsored Congressman Drinan's (D-Mass.) bill in the last Congress that would protect news reporters' notes and private files and government confiscation. But I believe the First Amendment is being threatened by the fact that a small handful of people have ultimate control over many of our media and publishing outlets. I consider these monopolies a threat to the First Amendment.

I look forward to your earliest response.

Sincerely,

Larry Pressler,
U.S. Senator-elect.

U.S. Department of Justice,
Washington, D.C., March 7, 1979.

Hon. Larry Pressler,
U.S. Senate,
Washington, D.C.

Dear Senator Pressler: The Attorney General has asked me to respond to your letter of December 22, 1978, requesting clarification of the Justice Department's position on the growth of media conglomerates.

I appreciate your concern about the effect on news and opinion sources of the growth of the newspaper chains and from the ownership of multiple media by a single firm. We all would prefer more news sources to fewer but, as you may appreciate, the antitrust laws do not flatly prohibit media conglomerates any more than they prohibit other kinds of conglomerates. Under present law, some measurable impact on competition in some market must be proven before a merger or acquisition will be held to violate the antitrust laws. Indeed, the courts have been generally reluctant to condemn conglomerate mergers where such an impact has not been shown, regardless of the social or other objections that have been asserted.

Accordingly, I believe that we may need new legislation covering acquisitions of very large firms, whether they are in the news and information business or in other businesses. Certainly, this nation must also give careful consideration to the social and political implications of permitting a few persons to control several media sources. Those concerns carry special weight when, as here, concentration may be reflected in a reduction in the diversity of opinion or the vigor of First Amendment expression. Such specialized considerations have been utilized in other contexts. For example, in the areas of television and radio, as well as banking, Congress has enacted statutes that restrict the degree to which a single person or entity may own large numbers of firms providing those services. I expect that these restrictions were not founded solely upon economic considerations of concentration, but reflect also the notion that single ownership of several such firms is not in the public interest. It may be appropriate for the Congress to consider these concerns with regard to single ownership of several newspapers as well.

Beyond this, I can provide some specific comments that are responsive to the observations in your letter.

There are two Antitrust Division cases pending against CBS. One case concerns its acquisition of Fawcett, a major paperback book publisher. That case probably will begin trial within a year. The other case concerns CBS' and the other two networks' ownership and control of prime time entertainment programs.

We are also presently investigating the proposed Gannett-Combined Communications merger, both in a national newspaper advertising market and in those local markets where there is competition between Gannett newspapers and Combined's other media properties—outdoor advertising, and television and radio stations. Despite the number of recent newspaper mergers, even the largest of the newspaper chains accounts for only a relatively small percentage of total daily circulation. For example, in 1977 the newspapers owned by Gannett represented approximately only 4.7 percent of total daily newspaper circulation in the United States.

In your letter, you suggest that the owner of the only daily newspaper, or newspapers, in a city has no restraint on his ability to set circulation and advertising rates. However, such newspaper, whether or not it is chain-owned, is not entirely free from competition from other media. Thus, it may be accurate to view it as operating in a broader antitrust market that includes such other media.

There has been, as you know, a definite and continuing reduction in the number of cities that support directly competing daily newspapers. Today out of a total of 1,526 cities with daily newspapers, only about 35 have commercially competing newspapers, a reduction from about 180 cities in 1940. The causes of this decline include economies of scale as well as increased competition from alternative advertising media such as suburban daily and weekly newspapers and television. Antitrust enforcement, in addition to seeking to preserve the remaining direct daily newspaper competition, is also concerned with preserving competition between daily newspapers and these other media.

The Supreme Court's decision approving the FCC's rule permitting the continuation of most existing local media cross ownership disposed of the Antitrust Division's efforts to terminate those cross ownerships through the rulemaking procedure. We are continuing to review those situations, especially where a monopoly newspaper owns a VHF television station, with the possibility of filing individual challenges to the renewal of the broadcast licenses where appropriate.

I hope the foregoing is responsive to the issues raised in your letter. Your continued interest in the enforcement of the antitrust laws is greatly appreciated.

Sincerely yours,

John H. Shenefield,
Assistant Attorney General,
Antitrust Divison.●

LET'S SCRATCH THE CAT TALKS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. FINDLEY. Mr. Speaker, the United States should immediately terminate the conventional arms transfer talks (CAT talks) it is now conducting with the Soviet Union. The CAT talks should be scratched. They serve no useful purpose, and worse, U.S. interests are getting clawed in the process.

The Carter administration initiated these talks in December 1977, seeking an agreement with the U.S.S.R. on limiting the flow of conventional arms to our respective friends and client states.

It is justifiable and indeed harmful to our interests for the administration to pursue these talks in the face of current Soviet policies. The Soviet Union consistently uses the transfer of arms to promote aggression by one state against another and to provoke regional instability. Note:

Shortly after the Soviets concluded a friendship pact with Vietnam which involved a commitment to deliver arms, Vietnam invaded Cambodia.

South Yemen with Soviet military supplies and strong Soviet military presence, involvement, and encouragement launched an attack on North Yemen.

In Africa, Soviet arms enabled Somalia to invade the Ogaden. Switching its allegiance to Ethiopia, the Soviet Union conducted the largest military buildup in African hitsory to enable the Ethiopians to retake the Ogaden and press on into Eritrea.

The Soviet Union supplied Cuba with Mig–23 ground-attack aircraft capable of delivering nuclear weapons on U.S. territory.

Despite the Soviet's blatant use of arms transfers to encourage and support aggression worldwide, the administration continues to seek out the Soviet Union in bilateral CAT talks. The United States attempts to downplay or cover the culpable Soviet role, whether it is in Cuba, Africa, or Asia in order for it to justify its pursuit, unperturbed by the outrage in Congress and elsewhere in the country.

Given the Soviet record, continuing the negotiations hurts the United States. It makes the U.S. administration look foolish or ignorant.

A recent statement by Leslie Gelb, Director of Politico-Military Affairs, Department of State, recently presented before the Foreign Affairs Committee on the status of the CAT talks, brought to light skepticism expressed by our allies. The following is an excerpt from Mr. Gelb's testimony:

> We have been discussing various restraint possibilities with the Soviets for over a year.

In general, we have moved along at a reasonable pace and have had some serious exchanges. We have discussed political/legal and military/technical criteria which would govern arms transfers globally, and we have discussed certain regions. However, we did not make much headway during the last round of talks in Mexico City in December.

In all candor I must say that the enthusiasm for restraint among our Western European Allies—major European suppliers—is restrained. The Allies are basically skeptical about the possibility of achieving multilateral restraint. They are waiting to see what progress we are able to make with the Soviets. At the same time, we are monitoring to see if they or other suppliers are taking advantage of our policy of restraint. There may be some signs of this. How these circumstances will or should affect future U.S. unilateral cuts remains to be seen.

Frankly, I applaud the skepticism of our allies who, I would argue, are much more clearheaded than our own administration in this issue. Note that in 1976 the United States exported $5.2 billion in arms or 39 percent of the worldwide total. The U.S.S.R. exported $3.75 billion (28 percent) while the three major European arms exporters—France, West Germany, and the United Kingdom—exported $840 million (6 percent), $656 million (5 percent), and $638 million (5 percent) respectively. Given these figures, it is no wonder that the Europeans prefer to hold back.

U.S. arms transfers should depend upon our own security needs and those of our allies. The Carter administration should recognize this fact and direct its eagerness to negotiate to something useful—the resolution of conflict around the world. We should press the Soviets to negotiate the withdrawal of Vietnamese forces from Cambodia and South Yemeni forces from North Yemen.

The reduction of regional conflict will reduce the need for conventional arms.●

INDIANA STATE SYCAMORES —NO. 1

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. MYERS of Indiana. Mr. Speaker, the national collegiate basketball championships begin this weekend, and I am proud to say that going into that tournament, the Indiana State University Sycamores are rated the No. 1 team in the country.

The Sycamores enter the NCAA tournament one of the top seeded teams, after compiling a perfect 29-to-0 record and winning the Missouri Valley Conference Championship. They are only the 23d major college team in the history of the NCAA to complete their regular season with a perfect record.

I take particular pride in the success of the Indiana State basketball team, not only because the Terre Haute school is located in the Seventh Congressional District, but also because it is my own alma mater.

Although the Sycamores had a successful 1977–78 season, finishing 23–9 and reaching the quarter-final round of the National Invitation Tournament, sadness struck the ISU community when Coach Bob King was taken seriously ill during the off-season. I am pleased to report that Mr. King has recovered well and is back at work at ISU, but he relinquished his head coaching duties to assistant Bill Hodges. In the face of this adversity, Coach Hodges became only the second coach in the history of the NCAA to lead his team to an undefeated record in his rookie coaching season. I not only congratulate Coach Hodges, a native of Lebanon Ind., on this great achievement, but I wish him a happy 36th birthday, which he will celebrate tomorrow.

The No. 1 Sycamores include:

All-American Larry Bird, Tom Crowder, Eric Curry, Alex Gilbert, Bob Heaton, Rod McNelly, Brad Miley, Rich Nemcek, Carl Nicks, Steve Reed, Bob Ritter, Leroy Staley, and Scott Turner.

In closing, I also extend my best wishes to Coach Bobby Knight and his Indiana University Hoosiers as they begin play this evening in the National Invitation Tournament.

It is a pleasure to have these two fine schools in the Seventh Congressional District and I wish both their basketball teams well in their post-season play.●

TESTIMONY CONCERNING TAIWAN

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. LAGOMARSINO. Mr. Speaker, Dr. Ray S. Cline testified before the House Foreign Affairs Committee when it was holding hearings on H.R. 1614, the administration's proposed legislation concerning Taiwan. Because I believe his comments provided an excellent analysis of this legislation, I am submitting his testimony for the consideration of my colleagues:

STATEMENT BY DR. RAY S. CLINE—CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES, GEORGETOWN UNIVERSITY

Mr. Chairman, distinguished Congressmen of the House Committee on Foreign Affairs:

You have been asked to approve a bill, H.R. 1614, that will retroactively implement and give legislative endorsement to the President's hasty, ill-conceived decision of 15 December 1978 to sell out Taiwan lock, stock, and barrel, territory and people to the Communist regime in Peking, the People's Republic of China (the PRC). In it the President avoids making any legal, binding, governmental commitment to Taiwan's security or permanent ties with the United States. This unprecedented, indeed bizarre bill, H.R. 1614, is a Chinese fortune cookie baked by Chinese Communist Vice Premier Teng Hsiao-p'ing. It is being handed to you by the White House and the State Department, but the message inside was written in Peking.

The message inside is what counts. What it says is: The PRC, the world's most massively oppressive Communist dictatorship, is being given by the United States, by what international authority I cannot guess, our approval of its view that it has the legal right to seize total political control of Taiwan whenever it is able to do so. The more than 17 million determinedly non-Communist Chinese of the Republic of China residing under their own legally elected government on Taiwan, the Pescadores, and the Quemoy and Matsu island groups are being transferred against their will to become part of the PRC as if they were our chattel goods.

While the Carter Administration from time to time indulges in creative ambiguity to the point of downright duplicity on what was secretly agreed with Peking, let there be no mistake about it. As the PRC Chinese language version of the 15 December 1978 agreement and Premier Hua Kuo-feng's announcement in Peking plainly state, the United States "recognizes" that Taiwan is part of the Communist People's Republic of China and hence that the future of Taiwan is entirely "an internal affair" of the PRC. Gentlemen, it is your duty to pluck this message out of the glazed cookie dough of academic and legalistic doubletalk and read it out loud and clear to the American people.

Part of the irony of the Carter Administration's willingness to sacrifice Taiwan to curry favor in Peking is that, in fact, the formal constitution of the Chinese Communist Party contains a platform that is not only anti-Soviet but also anti-American. This constitutional position was most recently approved, unanimously, on August 18, 1977, four days before the U.S. Secretary of State Cyrus Vance's arrival in China. It states the Communist Party "unites with the proletariat, the oppressed people and nations of the world and fights shoulder to shoulder with them to oppose the hegemonism of the two superpowers, the Soviet Union and the United States, to overthrow imperialism, modern revisionism and all reaction. . . ." Personally I would insist on a change of that constitutional provision of the Chinese Communist Party before proceeding to de-stabilize our relations with Taiwan and making our fortunes in Asia hostage to the goodwill of the unstable, faction-ridden regime now dominated by 74-year old Teng Hsiao-p'ing.

If, at the White House bidding, the Congress is willing to accept H.R. 1614 as drafted it will be legislating the abandonment of an open society to Communist takeover by de-legitimizing its duly constituted legal government and declaring null and void its sovereignty—and hence its inherent right of self defense. This is exactly what the President hastily and furtively agreed to over the Christmas recess, capitulating to the PRC's persistent demands and extracting no guarantees of safety for the people of Taiwan whom President Carter himself has promised again and again to protect.

What is this political entity, so cavalierly treated? Henceforth no member of the Carter Administration will call it the Republic of China. But it is called by the people of Taiwan the Republic of China. There are still in force more than 50 treaties and agreements between the government of the United States and the government of the Republic of China, including a Mutual Defense Treaty terminated unilaterally by the personal act of the President but still in force through 1979. I do not scruple, therefore, to call it the Republic of China.

The government of the Republic of China controls nearly 14,000 square miles of territory, and is in population-size larger than most of the countries of the United Nations. It is, in fact, the 40th largest country of the 160 independent sovereign states of the world. It is approaching fully representative government with elections by secret ballot at village, county, city, and provincial levels. The people of Taiwan support their government fully as is indicated by a turnout of more than 80 percent of all registered voters in a recent island-wide election.

Taiwan is an island of hope, prosperity, and human liberty in an Asian sea of poverty and turbulence. There the best of American and Asian political philosophies and economic technologies have been blended to show how to modernize Chinese society without giving up freedom. The "modernization" of mainland China is a hope, a dream, quite possibly an impossible dream. In Taiwan it is a present reality.

It is hard to believe that the United States has adopted a policy of premeditated murder of this gentle and prosperous land. I raised this question in an article published in The Asia Mail of October 1978 and carefully warned both the State Department and the White House of the disastrous consequences that would follow the plan they had even then, to make a deal with Peking and cut Taiwan adrift. It is now scheduled to happen on March 1, 1979, and the Congress is being asked to approve H.R. 1614 as a legislative fig leaf to cover the naked truth.

The National Assembly of the Republic of China, its highest constitutional authority, and President Chiang Ching-kuo have declared during the past year that the Republic of China is an "independent sovereign nation." This means it has the inherent right to self-determination and self-defense. It also has a half-million well-trained soldiers in its armed forces and, I assure you, they will fight for their freedom from rule by the Communist authorities of the PRC if they have to do so.

From official statements and testimony given before this committee, it is clear the White House and the State Department believe the Republic of China is not a sovereign state with a legal government. Yet, if 17 million Chinese people, with a free enterprise economy and trade with the United States seven times larger than American trade with mainland China, are governed effectively by a political entity with an international personality having all the normal attributes of sovereignty, then why does this bill so plainly try to imply the contrary?

The Carter Administration and its hired academics, the professional Pollyannas who tell you that Taiwan will be well off under the PRC, claim that we cannot deal with the Republic of China simply as the effective government of a sovereign state now controlling Taiwan, the Pescadores, and the Quemoy and Matsu islands. No matter what is said by my colleagues John Fairbank of Harvard, Doak Barnett of Brookings Institution, and Michel Oksenberg of the University of Michigan and—latterly—of the National Security Council Staff, an open society and free enterprise economy will not flourish if its international status is reduced to make it a subordinate province of a dictatorial Communist State with a centrally controlled economy and total police domination of its people.

The history of Tibet shows what promises of "autonomy" in the PRC are worth. Sooner or later, when they are able, at their leisure if they have received in advance American approval, the Communist leaders in Peking will try to assert the legal authority the Carter Administration proposes to give them to take over Taiwan by subversion, intrigue, assassination, economic strangulation, blockade, or outright military conquest.

When that happens the consequence will be war because the 17 million Chinese people of Taiwan do not want to put their high standard of living (four times that of the mainland) and their freedom in "blind trust" to the PRC, as if Taiwan were an American-owned peanut farm. Do not be misled by academic doubletalk about there being only one China. There is only one Chinese civilization but over history it has been divided into separate states under separate governments for many centuries. Even the venerated Sinologist from Harvard, John Fairbank, wrote in The Atlantic of September 1976 that the concept of "one China" is "not a workable fact." He said, "The one China doctrine is one of those hoary Chinese devices for manipulating the unsophisticated barbarian." He is right. The Carter Administration has been manipulated and is setting out to manipulate the Congress and the people of the United States.

The fact is there are two Chinese states and two Chinese governments, and this has been the situation for exactly 30 years. President Carter said we should recognize reality. Reality is duality. The United States needs dual relations, one relationship with Peking, one with Taipei. There is no reason under normal standards of international law and custom why these relationships should not be equal.

Since 1949 American agreements and treaties have all been cast in terms clearly specifying that we are treating the Republic of China as the government of Taiwan and the islands controlled from Taiwan. The authorities of the Republic of China on Taiwan have accepted these arrangements. These authorities are willing to be recognized legally as the government of the Republic of China on Taiwan. If you do not believe me, ask the representatives of the Republic of China. They still reside in Washington in diplomatic status, although the State Department is threatening to expel them if the Congress does not do the President's bidding by March 1. The effective rule of Taiwan by the government of the Republic of China is a fact. It is not negated by that government's theoretical claim to represent all of the Chinese people. We recognize diplomatically many nations that claim territory not actually under their control, for example Ireland which aspires to part of the United Kingdom. Such claims are not invalidating with regard to the sovereignty of the territory nations actually do control.

In other words, there is no legal reason why President Carter is obliged to break off diplomatic relations with the Republic of China simply because he decided to recognize the PRC.

Why did the President make this morally shabby deal? Surely the greatest nation in the world, the United States, has not made this extraordinary move to de-legitimize a nation with which we have had close and friendly ties for many decades just because the Communist authorities of the People's Republic demanded it! Are we a dependency of Peking or will we become one? Did Teng Hsiao-p'ing annex this country too in his recent royal procession through it? You know better and I know better. The PRC is an impoverished, backward nation hungry for our grain, our technology, and our money, Peking is not likely to reject normalization simply because we stand up for principle and maintain normal relations with the Republic of China on Taiwan.

For the record, no previous President was willing to undercut Taiwan's security with such an agreement. After issuing the Shanghai Communique of 1972 Henry Kissinger reasserted on President Nixon's behalf the flat statement in "State of the World" message sent to the Congress two weeks earlier: "With the Republic of China, we shall maintain our friendship, our diplomatic ties, and our defense commitment." No other nation that has recognized Peking has accepted such humiliatingly compliant language concerning the subordination of Taiwan as the United States used on 15 December 1978—not Canada, not Austria, not France. President Carter voluntarily gave the Chinese in Peking a promissory note on Taiwan, and unless the Congress restricts its terms, they can cash it at will. If there is a crisis over Taiwan in the future, and our relations with Taiwan are legislatively made "unofficial" and "nongovernmental," the United States will have lost any right under international law to intervene.

President Carter has made a bad bargain reflecting adversely on this nation's honor and credibility. In the bill before you the President is asking the Congress and the American people to bail him out of endorsing that bad bargain. The immediate result will be confusion and uncertainty about our strategic purposes in East Asia. The eventual outcome could be war over Taiwan. The proposed "unofficial" American relationship recommended in this bill is intended to permit this country to shirk its long-standing security guarantees to Taiwan.

H.R. 1614 as drafted is a transparent U.S. de-legitimization of the legally elected, constitutionally established government of the Republic of China.

It calls for a totally unprecedented, indeed unwarranted, and politically hazardous delegation of power over the conduct of American foreign relations with an important nation, the Republic of China, to a nongovernmental, unofficial, private nonprofit corporation registered in the District of Columbia.

You are being asked to assign total responsibility for the conduct of particularly sensitive international relationships to a group of private individuals answerable only to the whim of the President. This bill sets up a sham private institution to conduct public business, managed by foreign service and military officers arbitrarily removed from active service in a style reminiscent of the clumsier "sheep dipping" operations of the CIA paramilitary front organization in the palmiest days I can recall of secret covert action abroad.

The proposal is designed to remove from the normal Constitutional processes of political accountability in our Government an important element of our foreign policy, quite possibly a war-or-peace factor. The effrontery of this proposal is especially striking because it is precisely on this matter, our defense commitments to the Republic of China, that both Houses of Congress, and specifically the Senate in a vote of 94 to zero, last July, requested the President, in an amendment to legislation which actually became law under his signature, to consult with the Congress before making any substantial changes in our policy.

Gentlemen, this bill is a direct snub to the Congress. If that were its only shortcoming, I would assume you would know how to take care to protect your own prerogatives. The bill is also, however, the key legislative element in a drastic foreign policy reversal of traditional American positions in foreign affairs. President Carter's new China policy is geopolitically dangerous because it tends to align us with one giant Communist nation against another, the much stronger and better armed Soviet Union. It is fiscally irresponsible because it holds out promises of vast profits for American businessmen to be derived from trade with the PRC, which has nothing of consequence to trade and nothing but our loans with which to pay for its purchases. Beyond all that, however, and crucially important, the new China policy is deeply immoral in betraying a friendly nation to its mortal enemies. Such an act will undermine U.S. credibility as an ally worldwide.

The Congress should not pass HR-1614 in its present form. Instead I urge you to preserve the integrity of our international alliance system, now under siege in many quarters, by altering H.R. 1614 to give an official, governmental commitment to the security of Taiwan and establish a normal diplomatic relationship insuring friendship and commerce with its people and their government, the Republic of China on Taiwan.

I would like to conclude by suggesting the the passage of an amendment to H.R. 1614 or, alternatively, a Joint Congressional Resolution including language along the following lines: At the end of the bill H.R. 1614, add the following:

Whereas, on January 1, 1979, the United States established diplomatic relations with the People's Republic of China, and terminated official relations with the Republic of China; and

Whereas, it is the declared policy of the United States Government to "maintain commercial, cultural, and other relations with the people on Taiwan;" and

Whereas, it is the moral responsibility of the United States to continue to provide for the security of the people on Taiwan in a manner commensurate with the commitments of the Mutual Defense Treaty now being terminated; and

Whereas, the Government of the People's Republic of China exercises effective jurisdiction over 21 provinces on the mainland of Asia, but in no way exercises, nor has ever exercised, effective jurisdiction over Taiwan, the Pescadores, and the Quemoy and Matsu Islands; and

Whereas, the governing authorities on Taiwan, internationally known as the Republic of China, exercise effective jurisdiction over the island of Taiwan, the Pescadores, and Quemoy and Matsu Islands.

Now, therefore, be it resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, that:

1. Notwithstanding the establishment of diplomatic relations between the United States and the People's Republic of China, the United States acknowledges the fact that Taiwan and its adjacent islands remain separate entities apart from that territory currently controlled by the Government of the People's Republic of China, and that they remain under the political jurisdiction and effective government of the central governing authorities of the Republic of China on Taiwan;

2. Be it further resolved that, in order to facilitate the declared policy of the United States to "maintain commercial, cultural, and other relations with the people on Taiwan," and in view of the distinct political character of the Republic of China on Taiwan and its associated islands, the United States agrees to extend to the governing authorities on Taiwan, and to their representatives in the United States, the following privileges:

(a) Continuing title to all property in the United States lawfully owned by the formerly recognized Republic of China;

(b) Full access to the United States courts in pursuit and defense of the rights of the people on Taiwan;

(c) Full access to United States Government officials, and

(d) The same privileges and immunities as are enjoyed by diplomatic missions accredited to the United States.

February 8, 1979.

A DUAL CONSTITUTIONAL APPROACH TO BALANCE THE BUDGET AND LIMIT SPENDING

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. SHUSTER. Mr. Speaker, I was delighted yesterday to welcome a distinguished expert from the Hoover Institute in Stanford, Calif., as a guest before the regular weekly meeting of the Republican Policy Committee, which I have the honor to chair. Dr. Alvin Rabushka briefed committee members and others on three interrelated topics. First. A constitutional amendment to limit Federal spending. Second. A constitutional amendment to require a balanced budget. Third. Implications of a constitutional convention to require a balanced budget. Dr. Rabushka was most generous with his time and his knowledge and I would like to share that knowledge by inserting into the RECORD the full text of his remarks:

DO WE NEED A CONSTITUTIONAL AMENDMENT TO LIMIT FEDERAL SPENDING OR BALANCE THE BUDGET?

(By Alvin Rabushka)

My professional research interests have long concerned the subject of the budgetary process, of the relationship between revenue and government spending, and growing public clamor for limits to taxation and spending. My interests range across state and local government, the federal government, and several foreign countries. I have written two books about the fiscal practices of the Hong Kong Government, where balanced budgets and financial reserves—not deficit spending and public debt—are the rule, and several papers on the reduction in spending and taxing during the nineteenth century in Great Britain (see the attached *Wall Street Journal essay*). I am presently studying the impact of Proposition 13 on both the public and private sectors in California and the various tax and spending limitation measures in the several states. I am also watching with great interest the competing proposals that have been advanced to limit federal spending or taxation. I therefore welcome this opportunity to present my thoughts on the prospects of constitutional amendments that might limit spending or require a balanced budget.

What is the essence of a budgetary system? The function of any government budget, as I understand it, is to compare estimates of proposed expenditure with past spending, current appropriations, and the resources available with which to meet the proposed new spending. The essence of a budget is that the fund-raising and granting authority (e.g., Congress, a state legislature, a local government) shall be presented with a consolidated statement of estimated receipts and expenditures in order to show a net position of balance or a prospective deficit or surplus—which in turn may either permit a remission of taxation or require an increase in taxation or other funding.

Throughout most of our history, and that of many Western nations, revenue estimates were invariably dealt with before expenditure estimates. It was generally believed that public expenditure should be fit to available public revenues, and that revenues should not be extended to fit expenditure. Moreover, public debt was regarded as undesirable, a thing to be reduced and eliminated if possible. The guiding principle was that government should aim to be self-supporting—this implies a philosophy and practice of balanced budgets.

In the twentieth century, spending decisions have become increasingly divorced from constraints of revenue. The government now determines its spending priorities first, and then instructs the Treasury to get, by taxation or borrowing, whatever funds are necessary to cover the outlays. Since government is reluctant to increase taxes, borrowing has been the chief way to cover shortfalls. The result has been an accumulation of massive public debt and rising rates of inflation induced by rapid monetary growth.

That government spending has grown dramatically in this century is beyond doubt. Total spending has risen from 8.0 percent of Gross National Product in 1902 to exceed 40 percent in 1978. Federal spending alone has risen from 2.7 percent of GNP in 1902 to 22.6 percent in 1978, a more than eight-fold increase. Ironically, some of this growth is due to the income tax receipts made possible by the 16th Amendment. Indeed, current debate on the need for an amendment to limit spending is partially attributable to the 16th Amendment.

Thus, in the absence of some limitation on government spending, we can say that our political processes contain a strong systematic bias toward government overspending. It is relatively easier to accede to new demands for spending than to raise taxes or cut back on existing programs.

The growth of government spending should not be viewed as a historical inevitability. Throughout the 19th century, Great Britain enjoyed a steady reduction in the relative (sometimes even absolute) size of its government. Public spending as a share of national income fell steadily from a high of 19.0 percent in 1811 to a low of 4.9 percent in 1881 (exclusive of debt charges). During this period, the British government reduced the national debt from £800 million to £550 million pounds, a fall of over 30 percent. At times, debt redemptions comprised half of annual expenditure. Throughout this period of shrinking government, real wages of workers more than doubled, and growing tax yields financed an ambitious program of housing, education, and other social services. Controlling the size of government did not come at the expense of the less well-off members of society.

Let me turn, now, to three specific issues: first, a constitutional amendment to limit spending; second, an amendment to require a balanced budget (whether proposed by Congress or a Constitutional Convention); and, third, some implications of a Constitutional Convention. I want to address both economic issues and political considerations in the two different measures.

PROPOSED AMENDMENT TO LIMIT FEDERAL SPENDING

On January 30, 1979, the National Tax Limitation Committee released the text of a proposed constitutional amendment to limit federal spending. The amendment seeks to limit increases in total government outlays to the percentage increase in nominal gross national product of the last calendar year ending prior to the beginning of the next fiscal year. If inflation exceeds 3 percent, the permissable increase in total outlays will be reduced by one-fourth of the excess of inflation over three percent. (Inflation shall be measured by the difference between the percentage increase in nominal gross national product and the percentage increase in real gross national product.)

The amendment stipulates that fiscal surpluses be used to reduce the public debt of the United States. It also permits declarations of emergency, allows increases in total outlays if approved by a three-fourths vote of Congress and a majority of state legislatures, prevents reductions of grants to state and local governments, and contains an enforcement provision. (Time precludes extensive discussion of these provisions.)

I find myself in agreement with the intent of this proposed amendment—to stabilize, if possible to reduce, government spending as a share of GNP (in the process, increasing private spending). Since each year's maximum spending limit is tied to the previous year's outlays, a reduction in spending in any one year would further limit expenditures in future years. In the event of runaway inflation, government spending as a share of GNP would also decline.

The amendment is well designed to attain these ends. Its one omission is that it does not instantly guarantee an end to deficit spending. The amendment does not require the government to raise taxes to eliminate deficits. Its sponsors claim, instead, that coduced government spending will in the long run stimulate real economic growth that, in turn, will increase tax receipts and eliminate the deficit.

However, as a political scientist, I have several problems with this approach to control government spending. I, for one, find this amendment difficult to explain. The notion of government spending as a share of GNP, to be reduced by some fraction in excess of 3 percent inflation, is too complex to explain in a simple and direct manner to the majority of American voters. The proposal to limit spending is far less understood or supported than its rival, but simpler, notion of a balanced budget. I do not rule out the possibility of growing public comprehension and support for the spending limitation measure; however, I expect the balanced budget concept to enjoy greater popularity and understanding for the immediate future.

PROPOSED CONSTITUTIONAL AMENDMENT TO REQUIRE A BALANCED FEDERAL BUDGET

Given the goal of limiting federal spending, I regard the foregoing amendment as a near perfect solution. By contrast, against this same goal, a proposed amendment to require a balanced budget only earns the mark of good. The reason is that federal spending can continue to grow so long as Congress is willing to raise taxes to cover the costs of new spending programs. But in the effort to achieve perfection, even the good is often lost and nothing is attained.

In and of itself, balancing the federal budget has several virtues. Most telling is restoring the link between spending and revenue. It would reestablish the historically proven norm in which public officials first determined what resources were available to government and, against that constraint, chose among the many competing claims on public spending.

Thus if politicians voted new spending programs, they would have to eliminate old programs, or raise additional taxes. Resistance to the elimination of existing programs or to tax increases would discourage many new spending proposals, thereby eliminating the current bias towards overspending. It would end future deficits and eliminate the inflationary effect of new money creation which has in past years finance these deficits.

A sensible amendment would allow some budget surpluses to be retained as financial reserves, up to some authorized share of annual spending. These reserves could be drawn down to make up revenue shortfalls in any one year due to recession.

Critics note that a balanced budget need not prevent future increases in federal spending. However, the need to raise more taxes to finance more spending makes it difficult to sustain the recent high rates of growth in new spending. A balanced budget requires that tax increases be explicitly voted, rather than implicitly imposed by deficit spending and inflation. In the era of tax revolts, few politicians want to campaign on a platform of higher taxes.

This good measure, not perfect, enjoys greater political appeal than the spending limitation measures. First, and most important, it is easy to understand. Every housewife and consumer understands the need for living within one's means. Not only is the balanced budget concept widely understood, it is also widely supported. The most recent Gallup Poll shows that the public favors a balanced budget by a margin of six-to-one.

California illustrates this point. Proposition 13, often described as a meat-axe approach to tax limitation, was a simple measure. Voters could look at past assessment notices and immediately calculate their tax savings. By contrast, Governor Reagan's ill-fated Proposition 1 of 1973—a spending limitation measure—was more complicated, more difficult to understand and support. Proposition 1 lost by a 54-46 margin. Proposition 13 won by landslide 65–35 proportions.

Despite his opposition to Proposition 13, the real winner in that election now appears to be California's Governor Brown. On the first poll taken after the election, more respondents thought that Governor Brown was for Proposition 13 than was his Republican opponent, Evelle Younger. Perhaps more than any other political figure, Governor Brown champions the balanced budget amendment. Twenty-nine states have already called either for a constitutional convention, or for an amendment to be proposed by Congress. Should Governor Brown occupy the White House in 1981, it will be due in large measure to his endorsement of the balanced budget as the vehicle for controlling runaway federal spending. Having watched Governor Brown's performance this past year, I would not underestimate his prospects.

To repeat: An Amendment to limit spending will stabilize and gradually reduce government spending as a share of national income. It will, over time, eliminate deficits as well. It is, unfortunately, less politically saleable than the more simple notion of a balanced budget.

It is important to remember that the Jarvis-Gann Initiative to reduce and limit property taxes was accomplished wholly outside the state legislature and outside the established party system—indeed, over their opposition. Refusal of state leaders to grant tax relief stimulated the petition movement and its campaign overcame determined opposition from the state's political, business, labor, and intellectual establishments. Congressional reluctance to eliminate deficits and reduce spending (thus reducing inflationary pressures) is, in my opinion, the reason that many state legislatures have called upon the Congress to implement Article V of the Constitution for the purpose of an amendment to require a balanced budget.

Nor am I persuaded that an amendment to balance the budget precludes an amendment to limit spending. It is possible to seek the former proposal initially and refine it to reflect the attributes of a spending limitation measure as well. Indeed, there is nothing inherent in the concept of a balanced budget that precludes the attachment of a spending limitation as well.

This discussion is not intended to gloss over the technical difficulties in designing a workable mechanism for insuring the successful practice of a balanced budget. However, the main point of my remarks is to evaluate the relative economic and political merits of the two competing proposals.

THE IMPLICATIONS OF HOLDING A CONSTITUTIONAL CONVENTION

Why am I not distraught over the prospects for holding a convention? Opponents argue that the constitution should remain free of any amendment that represents economic policy. I believe this view is somewhat narrow. The founding fathers took limited government for granted, a fundamental principle of the American constitution. Indeed, direct taxation of income was permitted only after the 16th Amendment was ratified in 1913.

I believe that the founding fathers could never have contemplated this century's dramatic growth in government (with its accompanying budget deficits). If they had thought possible that the limited government they created two centuries ago could ever grow to its current size, with an overbearing presence in virtually every aspect of economic life, I believe they would have provided either for a spending limit or a balanced budget. They did not because they regarded today's government as inconceivable.

Although the state legislatures have explicitly limited their call for a convention to the one issue of a balanced budget, critics fear the convention could run amok and well put the bill of rights at risk. My political science sense tells me that the requirement of ratification by three-fourths of the states is not likely to jeopardize existing constitutional guarantees. Moreover, this concern strikes me as blatant distrust of the American people, which was precisely the same attitude put forward by those who opposed Proposition 13 in California. I believe the scaremongering is a mask to shield the real intent of those who oppose a constitutional convention, namely, they do not want to see limits placed on government spending.●

COMMITTEE SPENDING

HON. W. HENSON MOORE

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. MOORE. Mr. Speaker, yesterday I voted against the level of funding recommended by the House Administration Committee for operations of the Committees on the District of Columbia and Rules for fiscal reasons. The 14.5 percent increase in the first instance and ninefold increase in the second simply are not in step with the fiscal marching orders 27 States have given us by calling for a constitutional convention to balance the budget. Each exceeds amounts justified by the 9 percent inflation rate in 1978. This benchmark by which most payroll cost-of-living adjustments are tabulated is being watched closely by the American public to see if Congress will practice what it preaches on fiscal integrity.

I intend to apply the same benchmark to test other committee spending allocations as well. Not considered yesterday and failing to meet this standard is the recommendation for the House Agriculture Committee where we find a 12.6 percent increase over 1978 funding levels. I intend to oppose this increase when given the opportunity to do so on the House floor.

Other excesses are found in the creation of the select committee as a device of convenience, but certainly not necessity. These are times of necessity. It must be noted that select committees research and recommend, but have no legislative initiation authority. Both the Select Committee on Narcotics Abuse and Control and the Select Committee on Population have performed valuable work and deserve credit for their accomplishments. I strongly support legislative work in these areas, but the functions of both select committees could be performed by existing standing committees of appropriate jurisdiction and this consideration must be paramount when fiscal tests are again uniformly applied. There is a certain degree of duplication of costs with the select committees which is unnecessary and intolerable in our present economy. For this reason I intend to oppose the recreation of both select committees as well as the establishment of a new Select Committee on Committees.●

AMENDING THE RULES OF PROCEDURE FOR THE COMMITTEE ON RULES

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. BOLLING. Mr. Speaker, I submit for the RECORD the rules of procedure for the Committee on Rules which were adopted by voice vote on March 7, 1979. The amended rules are the product of the Dodd Task Force created January 30, 1979. The purpose of the Dodd Task Force was to study the existing rules and make recommendations to the full committee as to appropriate changes that became necessary with the creation of two subcommittees. The committee had adopted the Rules of Procedure from the 95th Congress as an interim measure on January 30, 1979 and had proceeded under those rules until the adoption of the recommendations of the Task Force on March 7.

The material follows:

PERMANENT RULES OF THE COMMITTEE ON RULES FOR THE 96TH CONGRESS AS RECOMMENDED BY THE RULES COMMITTEE'S TASK FORCE TO DRAFT PERMANENT COMMITTEE RULES, MARCH 1, 1979

RULE 1—APPLICABILITY OF HOUSE RULES

The Rules of the House of Representatives are the rules of the Committee on Rules (hereafter in these rules referred to as the "Committee") so far as applicable, together with the rules contained herein.

RULE 2—SCHEDULING AND NOTICE OF MEETINGS AND HEARINGS

Regular meetings

(a) (1) The Committee shall regularly meet at 10:30 a.m. on Tuesday of each week when the House is in session.

(2) A Tuesday meeting of the Committee may be dispensed with if, in the judgment of the Chairman of the Committee (hereafter in these rules referred to as the "Chair"), there is no need for the meeting.

(3) Additional regular meetings and hearings of the Committee may be called by the Chair or by the filing of a written request, signed by a majority of the members of the Committee, with the Staff Director of the Committee.

Notice for regular meetings

(b) The Chair shall notify each member of the Committee of the agenda of each regular meeting or hearing of the Committee at least 48 hours before the time of the meeting or hearing and shall provide to each such member, at least 24 hours before the time of each regular meeting or hearing—

(1) for each bill or resolution scheduled on the agenda for consideration of a rule, a copy of (A) the bill or resolution, (B) any committee reports thereon, and (C) any letter requesting a rule for the bill or resolution; and

(2) for each other bill, resolution, report, or other matter on the agenda, a copy of (A) the bill, resolution, report, or materials relating to the other matter in question, and (B) any report on the bill, resolution, report, or other matter made by any subcommittee of the Committee.

Emergency meetings and hearings

(c) (1) The Chair may call an emergency meeting or hearing of the Committee at any time on any measure or matter which the Chair determines to be of an emergency nature; provided, however, that the Chair has made an effort to consult the Ranking Minority Member.

(2) As soon as possible after calling an emergency meeting or hearing of the Committee, the Chair shall notify each member of the Committee of the time and location of the meeting or hearing and shall particularly make an effort to consult the Ranking Minority Member of the Committee or, in such Member's absence, the next ranking minority party members of the Committee.

(3) To the extent feasible, the notice provided under paragraph (2) shall include the agenda for the emergency meeting or hearing and copies of available materials which would otherwise have been provided under subsection (b) if the emergency meeting or hearing was a regular meeting or hearing.

RULE 3—MEETING PROCEDURES

In general

(a) (1) Meetings and hearings of the Committee shall be called to order and presided over by the Chair or, in the Chair's absence, by the Ranking Majority Member of the Committee present as Acting Chair.

(2) Meetings and hearings of the Committee shall be open to the public unless closed in accordance with clause 2(g) of rule XI of the Rules of the House of Representatives.

(3) The five-minute rule shall be observed in the interrogation of each witness before the Committee until each member of the Committee has had an opportunity to question the witness.

(4) When a recommendation is made as to the kind of rule which should be granted for consideration of a bill or resolution, a copy of the language recommended shall be furnished to each member of the Committee at the beginning of the Committee meeting at which the rule is to be considered or as soon thereafter as the proposed language becomes available.

Voting

(b) (1) No measure or recommendation shall be reported, deferred, or tabled by the Committee unless a majority of the members of the Committee is actually present.

(2) A rollcall vote of the Committee shall be provided on any question before the Committee upon the request of any member of the Committee.

(3) A record of the vote of each member of the Committee on each rollcall vote on any matter before the Committee shall be available for public inspection at the offices of the Committee.

(4) Notwithstanding subsection (f) (3), the members of the Committee, or one of its subcommittees, present at a meeting or hearing of the Committee or the subcommittee, respectively, may, by majority vote, limit the duration of debate, testimony, or Committee or subcommittee consideration with respect to any measure or matter before the Committee or subcommittee, respectively, or provide for such debate, testimony, or consideration to end at a time certain.

Media coverage of committee and subcommittee proceedings

(c) (1) The Committee and each of its subcommittees may permit, by majority vote for each day of an open meeting or hearing of the Committee or of that subcommittee, respectively, the coverage of that meeting or hearing, in whole or in part, by television broadcast, radio broadcast, or still photography.

(2) Any media coverage under this subsection shall be subject to all the requirements and limitations set forth in clause 3 of rule XI of the Rules of the House of Representatives, and the provisions of subparagraphs (1) through (13) of paragraph (f) of such clause are hereby incorporated as part of the rules of the Committee applicable to such coverage.

Quorum

(d) (1) For the purpose of hearing testimony on requests for rules, seven members of the Committee shall constitute a quorum.

(2) For the purpose of hearing and taking testimony on measures or matters of original jurisdiction before the Committee, three members of the Committee shall constitute a quorum.

(3) For the purpose of the Committee's ordering a measure or recommendation reported, closing any of its meetings or hearings to the public, sitting in executive session, or issuing a subpoena, a majority of the members of the Committee shall constitute a quorum.

Subpoenas and Oaths

(e) (1) Pursuant to clause 2(m) of rule XI of the Rules of the House of Representatives, a subpoena may be authorized and issued by the Committee, or by a subcommittee thereof, in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present.

(2) The Chair may authorize and issue subpoenas under such clause during any period in which the House has adjourned for a period of longer than three days.

(3) Authorized subpoenas shall be signed by the Chair or by any member designated by the Committee, and may be served by any person designated by the Chair or such member.

(4) The Chair, or any member of the Committee, may administer oaths to witnesses before the Committee.

Hearings on Rules

(f) The following procedures shall apply, as determined by the Chair, acting on behalf of the Committee, in cooperation with the Ranking Minority Member of the Committee, to Committee meetings and hearings on rules:

(1) A measure or matter before the Committee which is determined to be non-controversial as to both type of rule and substantive content may be scheduled for consideration by the Committee without any hearing.

(2) A measure or matter before the Committee which is determined non-controversial as to substantive content but controversial as to type of rule may be the subject of a Committee hearing at which the principal proponents and opponents of the rule will be provided an opportunity to testify only as to the type of rule to be granted.

(3) A measure or matter before the Committee which is determined to be controversial as to substantive content by at least six members of the Committee will be the subject of a Committee hearing at which all interested Members of Congress who are proponents or opponents of the measure or matter will be provided a reasonable opportunity to testify.

General Oversight responsibility

(g) (1) The Committee shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within its jurisdiction.

(2) Upon direction of the Chair, the Committee shall meet to discuss and formulate oversight plans for each new Congress, as described in clause 2(c) of rule X of the Rules of the House of Representatives.

RULE 4—SUBCOMMITTEES

Application of House and Committee Rules

(a) (1) As provided by clause 1(a) (2) of rule XI of the Rules of the House of Representatives, subcommittees of the committee are a part of the Committee and are subject to its authority and direction.

(2) Subcommittees of the Committee shall be subject (insofar as applicable) to the

Rules of the House of Representatives and, except as provided in this rule, to the rules of the Committee.

Establishment and Responsibilities of Subcommittees

(b) (1) There shall be two subcommittees of the Committee as follows:

(A) Subcommittee on the Legislative Process, which shall have general responsibility for measures or matters related to relations between the Congress and the Executive branch.

(B) Subcommittee on Rules of the House, which shall have general responsibility for measures or matters related to relations between the two Houses of Congress, relations between the Congress and the Judiciary, and internal operations of the House.

In addition, each such subcommittee shall have specific responsibility for such other measures or matters as the Chair refers to it.

(2) Each subcommittee of the Committee shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within its general responsibility.

Reference of measures and matters to subcommittees

(c) (1) In view of the unique procedural responsibilities of the Committee—

(A) no special order providing for the consideration of any bill or resolution shall be referred to a subcommittee of the Committee, and

(B) all other measures or matters shall be subject to consideration by the full Committee except for those measures or matters referred by the Chair to one or both subcommittees of the Committee.

(2) The Chair may refer a measure or matter, which is within the general responsibility of one of the subcommittees of the Committee, jointly or exclusively to the other subcommittee of the Committee where the Chair deems it appropriate.

(3) In referring any measure or matter to a subcommittee, the Chair may specify a date by which the subcommittee shall report thereon to the Committee.

(4) The Chair or a majority of the members of the Committee may recall for full Committee consideration any measure or matter referred to a subcommittee of the Committee.

Subcommittee membership

(d) Each subcommittee of the Committee shall be composed of—

(1) four members of the Committee from the majority party, to be selected in accordance with the Manual of the Democratic Caucus of the House of Representatives; and

(2) two members of the Committee from the minority party, to be appointed by the Chair after consultation with the Ranking Minority Member of the Committee.

Subcommittee leadership

(e) (1) The majority party members of the Committee shall have the right, in order of full Committee seniority, to bid to be the chairman (hereafter in these rules referred to as the "chair") of one of the subcommittees of the Committee. Any such bid shall be subject to approval by secret ballot of a majority of the members of the majority party caucus of the Committee. If such members reject a member's bid to be chair of a subcommittee, the next most senior majority member of the Committee may bid for the chair as in the first instance.

(2) The Ranking Minority Member of the Committee shall designate one of the minority party members appointed to each subcommittee of the Committee to serve as ranking minority member for that subcommittee.

Subcommittee meetings and hearings

(f) (1) Each subcommittee of the Committee is authorized to meet, hold hearings, receive testimony, mark up legislation, and report to the full Committee on any measure or matter referred to it.

(2) No subcommittee of the Committee may, without the Chair's approval, meet or hold a hearing at the same time as a meeting or hearing of the full Committee is being held.

(3) The chair of each subcommittee shall schedule meetings and hearings of the subcommittee only after consultation with the Chair.

(4) A member of the Committee who is not a member of a particular subcommittee of the Committee may sit with the subcommittee during any of its meetings and hearings, but shall not have authority to vote, cannot be counted for a quorum, and cannot raise a point of order at the meeting or hearing.

Quorum

(g) A quorum of each subcommittee of the Committee shall consist of a majority of the members of the subcommittee for purposes of closing a meeting or hearing of the subcommittee to the public or for ordering a measure or recommendation reported to the full Committee. For all other purposes, two members of the subcommittee shall constitute a quorum.

Records

(h) Each subcommittee of the Committee shall provide the full Committee with copies of such records of votes taken in the subcommittee and such other records with respect to the subcommittee as the Chair deems necessary for the Committee to comply with all rules and regulations of the House.

RULE 5—BUDGET AND TRAVEL

Budget

(a) The Chair, in consultation with other members of the Committee, shall prepare for each session of Congress a budget providing amounts for staff, necessary travel, investigation, and other expenses of the Committee and its subcommittees.

Travel

(b) (1) The Chair may authorize travel for any member and any staff member of the Committee in connection with activities or subject matters under the general jurisdiction of the Committee. Before such authorization is granted, there shall be submitted to the Chair in writing the following:

(A) The purpose of the travel.

(B) The dates during which the travel is to occur.

(C) The names of the States or countries to be visited and the length of time to be spent in each.

(D) The names of members and staff of the Committee for whom the authorization is sought.

(2) Members and staff of the Committee shall make a written report to the Chair on any travel they have conducted under this subsection, including a description of their itinerary, expenses, and activities, and of pertinent information gained as a result of such travel.

(3) Members and staff of the Committee performing authorized travel on official business shall be governed by applicable laws, resolutions, and regulations of the House and of the Committee on House Administration.

RULE 6—STAFF

In general

(a) (1) Except as otherwise provided in this rule, a Staff Director of the Committee, professional and clerical staff of the Committee, and investigating staff of the Committee compensated from funds provided by any expense resolution, shall be appointed, and may be removed, by the Chair and shall work under the general supervision and direction of the Chair.

(2) Except for any staff appointed by the ranking minority party member of a subcommittee (pursuant to subsection (c)) or by any other minority party member of the Committee (pursuant to subsection (b)), all professional and clerical staff provided to the minority party members of the Committee under paragraphs (a)(2) and (b)(2), respectively, of clause 6 of rule XI of the Rules of the House of Representatives, shall be appointed, and may be removed, by the Ranking Minority Member of the Committee and shall work under the general supervision and direction of such Member.

Associate staff

(b) Each member of the Committee is authorized to designate one person, whom the Chair shall appoint to the professional or clerical staff of Committee and who shall work under the general supervision and direction of the member. The type of staff to which such a person is appointed shall be determined by the Chair, in the case of a person recommended by a majority party member, and shall be determined by the Ranking Minority Member of the Committee, in the case of a person recommended by a minority party member.

Subcommittee staff

(c) (1) The chair and ranking minority member of each subcommittee of the Committee are each authorized to designate one person, whom the Chair shall appoint to the professional staff of the Committee and who shall work under the general supervision and direction of the chair or the ranking minority member, respectively, of the subcommittee.

(2) The Chair may assign investigating staff of the Committee compensated from funds provided by any expense resolution to assist in work of a subcommittee of the Committee to the extent the Chair determines it to be appropriate, and any such staff to the extent so assigned shall work under the general supervision and direction of the chair of the subcommittee.

Compensation of staff

(d) (1) Subject to paragraph (2), the Chair shall fix the compensation of all professional, clerical, and investigating staff of the Committee, as provided by clause 6(c) of rule XI of the Rules of the House of Representatives.

(2) Except upon the Chair's recommendation to the Committee, compensation paid to associate staff appointed under subsection (b) shall not exceed a maximum rate of pay per annum determined by the Committee at its organizational meeting at the start of each new Congress, except that such maximum rate of pay shall be subject to adjustment by the Chair within the term of a Congress in accordance with section 5 of the Federal Pay Comparability Act of 1970 (2 U.S.C. 60a-2).

Certification of staff

(e) (1) To the extent any staff member of the Committee or any of its subcommittees does not work under the supervision and direction of the Chair, the member of the Committee who supervises and directs the staff member's work shall file with the Staff Director of the Committee (not later than the tenth day of each month) a certification regarding the staff member's work for that member for the preceding calendar month.

(2) The certification required by paragraph (1) shall be in such form as the Chair may prescribe, shall identify each staff member by name, and shall state that the work engaged in by the staff member and the duties assigned to the staff member for the

member of the Committee with respect to the month in question met the requirements of clause 6 of rule XI of the Rules of the House of Representatives.

(3) Any certification of staff of the Committee, or any of its subcommittees, made by the Chair in compliance with any provision of law or regulation shall be made (A) on the basis of the certifications filed under paragraph (1) to the extent the staff is not under the Chair's supervision and direction, and (B) on his own responsibility to the extent the staff is under the Chair's supervision and direction.

RULE 7—COMMITTEE ADMINISTRATION

Reporting

(a) Whenever the Committee authorizes the favorable reporting of a bill or resolution from the Committee—

(1) the Chair or Acting Chair shall report it to the House or designate a member of the Committee to do so, and

(2) in the case of a bill or resolution in which the Committee has original jurisdiction, the Chair shall allow, to the extent that the anticipated floor schedule permits, any member of the Committee a reasonable amount of time to submit views for inclusion in the Committee report on the bill or resolution.

Any such report shall contain all matters required by the Rules of the House of Representatives (or by any provision of law enacted as an exercise of the rulemaking power of the House) and such other information as the Chair deems appropriate.

Records

(b) (1) There shall be a transcript made of each regular meeting and hearing of the Committee, and the transcript may be printed if the Chair decides it is appropriate or if a majority of the members of the Committee requests such printing.

(2) The minutes of each executive meeting of the Committee shall be available to all Members of the House of Representatives in compliance with clause 2(e) (2) of rule XI of the Rules of the House of Representatives.

(3) The Committee shall keep a record of all actions of the Committee and of its subcommittees. The record shall contain all information required by clause 2(e) (1) of rule XI of the Rules of the House of Representatives and shall be available for public inspection at reasonable times in the offices of the Committee.

Calendars

(c) (1) The Committee shall maintain a Committee Calendar, which shall include all bills, resolutions, and other matters referred to or reported by the Committee and all bills, resolutions, and other matters reported by any other Committee on which a rule has been granted or formally requested. The Calendar shall contain (A) the number, a brief description, and the name of the principal sponsoring Member, of each such bill or resolution, (B) the name of the committee or committees which reported such bill or resolution (in the case of measures on which a rule has been granted or formally requested), and (C) such further information as the Chair may direct. The Calendar shall be published periodically, but in no case less often than once in each session of Congress.

(2) The staff of the Committee shall furnish each member of the Commitee with a list of all bills or resolutions on which a rule has been formally requested but not yet granted. The list shall be updated each week when the House is in session and shall contain (A) the number, a brief description, and the name of the principal sponsoring Member, of each such bill or resolution, (B) the name of the committee or committees which reported such bill or resolution and the dates of such reports, (C) the date on which a rule was formally requested, and (D) a description (if any) of the rule requested by each such committee.

(3) For purposes of paragraphs (1) and (2), a rule is considered as formally requested when the chairman of a committee which has reported a bill or resolution (or a member of such committee authorized to act on the chairman's behalf) (A) has requested, in writing to the Chair, that a hearing be scheduled on a rule for the consideration of the bill or resolution, and (B) has supplied the Committee with an adequate number of copies of the bill or resolution, as reported, together with the final printed committee report thereon.

Other procedures

(d) The Chair may establish such other Committee procedures and take such actions as may be necessary to carry out these rules or to facilitate the effective operation of the Committee and its subcommittees.

RULE 8—AMENDMENTS TO COMMITTEE RULES

The rules of the Committee may be modified, amended, or repealed by a vote of a majority vote of its members, but only if written notice of the proposed change has been provided to each such member at least 48 hours before the time of the meeting at which the vote on the change occurs.●

DAVID E. OLSSON

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. MINETA. Mr. Speaker, it is with great pleasure that I rise today to honor one of Santa Clara County's outstanding health professionals, Mr. David E. Olsson. On Friday, March 2, 1979, the San Jose Health Center honored Dave with a dinner/dance as he retires as President of San Jose Hospital and from the health care profession.

Olsson came to San Jose Hospital in 1948 as an administrative resident while working on his master's degree in hospital administration from the University of Minnesota's School of Public Health.

In 1949, he became the assistant administrator for the hospital and in 1951, the administrator. He was named as the president of San Jose Hospital in 1967, and in 1974 he became the secretary to the board of trustees.

Throughout his career, Dave gave unselfishly of his time and talent to improve health care services. He has served in responsible positions on hospital conferences and associations not only in Santa Clara County, but throughout California and the western region of the country.

In 1959, Dave helped form the San Jose Hospital Auxiliary and, in 1966, the San Jose Hospital Foundation. He has also written a textbook entitled "Management by Objectives" that is used in many management courses.

In recognition of his many achievements and contributions to the health field, the California Hospital Association in 1972 awarded Dave the Walker Fellowship.

Mr. Speaker, with this in mind, I ask you and my colleagues in the House of Representatives to join me in honoring David E. Olsson who has served his community both faithfully and well.●

NUCLEAR PLANT BACKING

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. BOB WILSON. Mr. Speaker, once again this year we will be wrangling with some sort of an energy policy, with all the attendant hand wringing, charges and countercharges and volumes of words being spoken.

And once again, when alternate forms of energy are mentioned, there will be great reticence on our part as regards acceptance of that form that is so technologically and readily available—nuclear energy. We will be told on the one hand that time is of the essence, and on the other that we court some sort of gigantic disaster.

But at last, in an article from the San Diego Evening Tribune by a naval officer well acquainted with nuclear power plants, we have at hand a clear, succinct discussion of nuclear power. No words are minced, there is no demagoguery or hysteria. The argument is reasonable, the logic sound, and the essay well worth the consideration of all of us here. I only wish we would be afforded more presentations of this type.

The article follows:

NAVY OFFICER BACKS NUCLEAR PLANTS

In a complex area such as nuclear power, there are many people who know enough to say relatively smart things and yet not be accurate, and there are those who know so much about one area that they are extremely accurate but can't say smart things because they don't know the whole picture.

I mean to say that I was somewhat impressed by the great analytic ability displayed by casual reference to "the tau factor" and the "structural damping factor," and I only have a master's degree in mechanical engineering from MIT. I was impressed, however, when our two technical consultants were "magically joined" in the article by a Dick Hubbard, another anti-nuclear spokesman, if you try to follow this article Bob Dorn came up with. Hubbard provided his totally ridiculous appraisal of diesel engines, emergency pumps, computers and the instruments as similar to finely tuned watches. Even in the aggregate, these nuclear power plants are certainly as reliable as the apparatus used to deliver men to the moon and bring them back again.

Having spent almost 13 years building, operating and maintaining various nuclear power plants as an officer in the U.S. Navy, and having suffered through many cocktail party-level discussions about their safety, I have concluded that there is one and only one "go-no go" test for any plant at any location as to safety. If you can hire the highly trained people required to operate it, and they are willing to man the controls in the same building with it, or anywhere near it, for that matter, then we may properly conclude that the nuclear plant is safe enough for the rest of us.

Yes, since the average operator of a nuclear power plant knows far more about reactor design and safety than even the best of your graduate and postgraduate engineers, I'd be quite contented with a nuclear power plant in my back yard, because I would not feel threatened even if Hosgri Fault ran right under it, much less three miles away.

Nuclear power plants are designed to shut themselves down far more gracefully than a conventional plant, especially during natural disasters such as earthquakes. As I recall, there are many reactor systems which protect the reactor, many detailed examinations, audits and cross-checks to reinforce the human element, and a track record for safety that is the envy of every other technology in the country. We certainly do not have to rely on halfbaked apprehensions of every little spokesman for every little group that pops up to defend us from ourselves.

Analytic analysis of real world problems is severely limited, although the best men in the field have exhausted themselves trying to satisfy people who have never even operated a reactor plant. It is similar to trying to explain automobile safety to unlicensed drivers using calculus, differentials, elliptic integrals. You won't be very successful in avoiding accidents, even if your students have their doctorates in mathematics.

Personally, I own houses in both San Diego and in Newport News, Va. Both houses have a nuclear power plant about the same distance away. My electric bill in Virginia didn't even blink during the oil crisis a few years ago because the nuclear power plant nearby was providing power. Californians are going to wake up a little late and realize that nuclear power plants are not only good neighbors, but also vital for their budgets and basic to their way of life.

Sure, solar power is great and should be mandatory for heating purposes. High-quality, high-energy electric power depends on certain basic laws of thermodynamics which do not make it likely that much progress will be made in solar power research to keep you and me out of the energy poorhouse. Every major city will eventually require a nuclear power plant if it is to survive, and there is some hope that the current fission technology will be replaced by fusion someday, thus minimizing the fission product waste disposal problem.

It is commendable to desire to have no long lived nuclides with which to contend over the next few thousands years, however the die is cast since we already have that problem to solve, not avoid. But if I buy a couple of hundred acres of desert in my home state of Arizona, I can take care of this problem for Gov. Brown for all of our fission wastes for the next century and help alleviate some of the unemployment problem there.

In short, it's time to knock-off playing games and send the children home.●

WOMEN'S RIGHTS IN IRAN

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mrs. SCHROEDER. Mr. Speaker, I would like to take a moment to bring to my colleagues' attention that today in Iran more than 8,000 women marched through a snowstorm demanding that Iran's revolutionary government not reduce them to second-class citizens under rigid Islamic laws.

Since the Khomeini forces took over in Iran, the family protection laws—which gave women equality with men in such matters as property rights and divorce—has been abolished, women's dress has been severely restricted, and coeducation throughout the school system has been dispensed with. Not a very rosy picture, to say the least.

Today is International Women's Day and I cannot think of a better time to express our concern over the plight of the Iranian women as a human rights issue. I will soon be writing to the State Department to ask that the Iranian women not be forgotten when the administration speaks out on human rights. If you would like to join me in this effort, it would be much appreciated.●

SMUGGLING OF DRUGS

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. GINN. Mr. Speaker, one of the most alarming problems striking our Nation is the dramatic increase in the smuggling of marihuana and cocaine. Most recently, the smugglers are infiltrating into our country in the Southeast along the coastal areas or into isolated airstrips, and they are bringing with them a gold mine of profits for organized crime.

This is a problem that has been of special concern to me because of the fact that the smugglers are now turning to the Georgia coast as an entry point. As the Congressman for the entire Georgia coast, this is a matter which has top personal priority for me and my work in the Congress.

Even though the war against smugglers is one in which the smugglers most often hold the upper hand, it is not a war without its victories. Thanks largely to the courage and skill of our outnumbered narcotics agents, we are making progress.

The men and women who combat the smugglers are largely an army of unsung heroes. Their effectiveness and their safety demand that they operate in secret.

However, whenever possible, I believe we should pause to take note of and give thanks to these dedicated professionals. One of those professionals is the Honorable Harry Corsey, a special agent for the Georgia Bureau of Investigation. Mr. Corsey is one of the most effective and courageous of our Georgia agents, and he recently was instrumental in the seizure of 26 tons of marihuana. In order to explain how the fight against smugglers is being carried out, and to give some insight into Mr. Corsey's accomplishments, I insert a two-part series on this recent seizure which appeared in the Atlanta Constitution be reprinted in the RECORD at this point:

"TRUSTWORTHY" AGENT GETS 26 TONS OF POT

(By Robert Lamb)

WOODBINE.—You might not trust Mike Mason right off the bat. It's not that he looks dishonest, but that he takes his time sizing people up, looking at them sort of sideways, obviously reserving judgment. And people usually reserve judgment on people who are so clearly reserving theirs.

But you would trust Harry Walker right away. He's neither too friendly nor too reserved. He comes across as a straightshooter, capable and confident, serious but willing to smile. But the clincher is his appearance. Long wavy hair, a moustache and beard, all graying, set off his smooth, brown face, and his big, sad eyes look straight at you and seem to say, "You can tell me, I will understand." He looks, in short, like Jesus with a tan.

Byron Davant Weaver, 30, a St. Petersburg, Fla., man who owns a used-car lot in Tampa, trusted Walker—trusted Mason, too, because Walker vouched for him. That was the first of many big mistakes Weaver would make with Walker, mistakes that would find him nearly a year later languishing in a Jacksonville, Fla., jail pondering, no doubt, the vicissitudes of life, the treachery of one's fellow man, and wondering what the hell happened.

What happened, among other things, was that Harry Walker wasn't the pulpwood dealer he said he was, didn't live where he said he did, wasn't the dope smuggler he said he was. He wasn't even Harry Walker. He was Harry Corsey, a special agent for the GBI, a spy who, after 14 months, came in from the cold, in more ways than one, bringing Mason, Weaver and 26 tons of marijuana with him, the largest haul of dope ever made in Georgia.

Harry Walker *cum* Harry Corsey *cum* Superspy is understandably vague as to how he managed to infiltrate the smuggling ring that Weaver is charged with organizing and bankrolling. All that Corsey will say on that point, smiling slyly, is that he "knew somebody who knew somebody."

At any rate, Steven Jack Kelley, who is from St. Petersburg Beach but whose mail is being forwarded these days to the Camden County Jail, was Corsey's first contact with the smuggling ring. The meeting took place in Richmond Hill, where Corsey, 37, lives with his wife Connie and their 8-year-old son.

"At that time, of course, I didn't give 'em a last name or a phone number or tell 'em where I lived," Corsey said in a recent interview. "In this business, you don't give a lot of information, you don't ask a lot of questions. I simply represented myself as a person associated with pulpwood and timber companies, and with several offload sites on the coast. They were interested in Georgia landing sites because Florida was hot. Lots of activity there at the time."

That meeting led to another, this time with Weaver, in a Brunswick motel in February of 1978. "Byron hired me to get a boat and captain to meet a freighter in the Bahamas sometime in March," Corsey said.

The freighter, supposedly hauling 30,000 pounds of dope for transfer to the smaller boat and offloading near Richmond Hill, on the Georgia coast, never showed up, and Corsey, who went along on the 13-day voyage, never found out why.

But the trip, though a failure, proved important to Corsey's undercover work. "Byron was real leery of me until I went on that boat," Corsey said. "But he figured that since I went, I must be all right."

Weaver, according to Corsey, began planning another shipment, but this time he would cut the margin of error. No more hit-or-miss rendezvous with phantom freighters. He bought his own boat, authorities say, paying $165,000 cash for an 85-foot shrimper named "Mis Vicki."

Meanwhile, Corsey had selected another landing site, on Shellbine Creek, in Camden County, at a docking facility on timberland owned by Brunswick Pulp and Paper Co. In March, he also brought Narcotics Agent Mike Mason into the case when Weaver said the operation needed a truck driver. And in June, Corsey and Mason moved into a duplex apartment on Crooked River, near St. Mary's, because, said Corsey, "we needed a place where they could call us, a place to show Weaver where we lived."

Installed in the apartment was a single

sideband radio with a range of 3,000 miles. It was a duplicate of the radio aboard the "Mis Vicki" and was bought for about $4,500 by Weaver and sent up to Corsey from St. Petersburg.

Weaver, Corsey said, intended to monitor the "Mis Vicki" throughout her upcoming voyage to South America for another cargo of marijuana. But that attempt was destined to fail, too. The "Mis Vicki" sailed in December for Colombia but arrived just as government troops were raiding the load area. She and her four-man crew turned back and headed for home.

Still, Weaver did not give up. "Remember," said Tom McGreevy, director of the GBI's Investigative Division, "all you have to do to make up for three or four deals that failed is have one deal go through."

"Marijuana costs $35 a pound in Colombia, and you can sell it here for anywhere from $300 to $500 a pound," said W. J. Padgett of the GBI's Narcotics Unit.

When the "Mis Vicki" sailed again to Colombia, which she did in early January of this year, she would take on 26.1 tons of high-grade pot at a loading site near the Guajira Peninsula—a cargo worth an estimated $25 million in the United States.

She would also be tracked throughout the entire voyage, not only by undercover agents serving as her radio contact on shore but apparently in Atlanta by the Federal Communications Commission, at the request of Georgia Sen. Sam Nunn.

McGreevy was evasive about the FCC phase of the operation, saying only, "We knew where they were every step of the way. If a radio signal can reach from South America to Brunswick, it can damn sure reach Atlanta."

The "Miss Vicki," he said, left Tarpon Springs, Fla., on Jan. 2, docked in Colombia on Jan. 14 and pulled up to the dock on Shellbine Creek at 2:30 a.m. Jan. 23.

McGreevy, 51, was one of 50 federal, state and local law enforcement officials who were there to meet her. Arrested at the site and charged with possession of marijuana with intent to distribute, and conspiracy to possess marijuana were:

Rudolph Peterson Robertson, 24, of Miami; David Lee Kelley, 18, of St. Petersburg, and his brother, Steven Jack Kelley of St. Petersburg Beach; John Neil Noyes, 27, of Tampa; Vladimir Fisher, 28, and Russell Franklin Sirmons Jr., 27, both of St. Petersburg; Leonard Lee Waycaster, 33, Asheville, N.C.; James Edward McNealey, 22, Forest Hills, N.Y.; and Britt Girard, described by GBI agents as in his 20s and believed to be from South America.

Arrested and charged a short time later at a motel on U.S. 95 near the Glynn-Camden county line was John Raymond Switalski, 28, of Three Rivers, Mich.

All the suspects were indicted later in the day by a Camden County grand jury, and Superior Court Judge William R. Killian set bonds for them of $250,000 each.

Mike Mason does not feel in the least sorry for his former compatriots in crime, who if convicted face sentences of one to 10 years in prison. Slumped in a chair in the office of Camden County Sheriff Jimmy Middleton, he laughed at the suggestion that his conscience might hurt just a little.

"Not a bit," he said, "They knew what they were getting into and the consequences if they got caught."

Corsey, Mason's fellow undercover agent, said he felt "no guilt" for having lured the men into capture, "but I do feel compassion for them. That's the bad part of working undercover that long: You get to know them too well."

Both men are ready for a respite from undercover work. Mason would like to get out of it altogether. "It's gettin' kinda old," he said.

Mason, 27, who lives in Atlanta, said he got started in undercover work soon after completing high school, working first for the sheriff's department in his hometown, Cullman, Ala., and then for other sheriffs and police chiefs in the state. He joined the GBI in 1974.

"I've been in it (undercover work) since 1970," said Mason. "I need to be at home with my son. He's 5 now."

But while Mason sounds like a man who's been on the job too long, Corsey, a Waynesboro native who joined the GBI in 1971 after 5 years with the Burke County Sheriff's Department, said he looks forward to more.

"I've been undercover, off and on, since '71," he said. "I enjoy it. If you don't enjoy it, you'd better not do it."

Both men said their wives are supportive of their work, though during the past year neither Mason nor Corsey got home more frequently than every other weekend.

Mason said his wife, Lynn, was "accustomed to it." Corsey said his wife, Connie, "has been very understanding." He added, "Any police officer has to have a very dedicated wife. If he doesn't, he doesn't stay married very long."

Outslicking the Slick: Pot Raid Succeeds

(By Robert Lamb)

Woodbine.—The deal was going down two days early, and Harry Corsey was nervous. It was Monday afternoon, Jan. 22, and the "Mis Vicki," hauling 26 tons of Colombian marijuana, was approaching St. Andrews Sound, at the northern tip of Cumberland Island, and the captain said he was coming in, early or not. All he needed was a high tide, and the next one was due at 1 a.m.

It takes time and manpower to unload 26 tons of anything, and in this case, vehicles had to be brought in so the marijuana could be moved out quickly, buyers had to be notified, and security measures had to be implemented—all on short notice.

But Corsey and his fellow GBI undercover agent Mike Mason, who were responsible for the trucks and security, were not worried about their end of the smuggling operation. What worried them was that the 50 law enforcement officers planning to raid the shipment on Wednesday had to move into place hurriedly, some from as far away as Atlanta, and set their trap quickly. One slip-up and the undercover agents could kiss 14 months of hard, painstaking work goodbye, and maybe their lives too.

But by 5 p.m., the lawmen reached the landing site and soon set up a command post at Shellbine under the direction of Paul Carter, 32, head of the Major Violators Squad of the GBI's Controlled Substances Section; a monitoring station at nearby Harrietts Bluff; and a 20-man ground crew. In addition, a spotter plane and three boats as backup forces were deployed.

W. J. Padgett, 37, a former Cobb County policeman who lives in College Park, was in charge of the ground activities and sent his men, four teams of five each, into the woods to form a semi-circle around the dock. Armed with semi-automatic 30.06 rifles with scopes, 12-gauge pump shotguns, .357 magnums and .38s, they were prepared for just about anything but the weather.

"As the night grew darker, the cold came on stronger," said Padgett, who suffered in spite of his thermal underwear, two pairs of socks, boots, stocking cap, insulated flight jacket and insulated camouflage flight suit.

The temperature never reached freezing, dipping only to about 40, but the hurried preparations for the raid left many of the 50 lawmen illprepared for a January night in the woods and marshes of the Georgia coast, and the nine-hour vigil took its toll.

"Some of those people just about froze out there," said Camden County Sheriff Jimmy Middleton, to whom GBI officials gave a large measure of credit for the success of the undercover operation.

Corsey would wind up colder than most of the others. Around 8 p.m., he and Mason drove a tractor-trailer rig and a smaller truck to the landing site. Some time later, Mason walked back to close and guard the gate at the dirt road leading into the premises—"It was like sending a fox to guard the henhouse," he said, laughing—and Corsey was picked up at the dock by members of the smuggling ring who were aboard a 23-foot Mako named "Teaser Too," which then headed out to meet the "Mis Vicki" in the Intracoastal Waterway, off St. Andrews Sound.

We are checking as we went, to see if the way was clear, and we were to assist the captain into Shellbine Creek," said Corsey. "We had to creep through the fog at first, mostly ground fog, and it was cold. My damn feet like to froze, they were soaking wet."

As they groped through the night, they talked to the "Mis Vicki" by ship's radio, using shrimp boat talk as a code, Corsey said. They intercepted the ship at about 1:45 a.m. and Corsey went aboard while the "Teaser Too" fell behind the shrimp boat to watch for vessels approaching from the rear.

We ran with lights until we headed into Shellbine Creek," Corsey said. "Then we cut the lights and eased through in the dark. We docked by moonlight, what little of it there was."

Corsey's pre-arranged signal to launch the raid was to take off his cap, and as soon as the crew, using flashlights for illumination, began to unload the cargo, Corsey gave the signal. "But it was so dark, they didn't see me take it off," he said. "Besides we were all wearing hats of one kind or another, and even if they could have see us take them off, they wouldn't have know if it was me."

Finally Corsey, armed with a shotgun he was handed upon boarding the "Mis Vicki," told the other crewmen that he was going to walk into the woods to make a security check.

"I walked right up to our men, who grabbed at me until somebody said, 'Hey, that's Corsey,' and I said, pointing toward the dock, 'There they are, go arrest those people.' "

With that, the raid was on, Police fired a flare, barked into bullhorns, and it was all over in a matter of minutes. The smugglers were armed, one of them with an AR–15, the civilian version of the M–16 rifle, but they did not resist. Not a shot was fired. Two men—James E. McNealy of Forest Hills, N.Y., believed by authorities to be Byron Weaver's coordinator for the operation, and Britt C. Girard of St. Petersburg—jumped into the creek when the raid began, but they quickly rued such rashness and were glad to be pulled from the cold water, lawmen said.

"There was no escape," said Tom McGreevy, GBI director of enforcement. "We had them cut off on all sides, and we had the manpower and were well-armed. The whole idea in something like this is to discourage the notion that resistance can be successful."

Confiscated in the raid or soon after, in addition to the marijuana, an assortment of arms and two long-distance radios, were the shrimp boat, belonging to Weaver, who was not yet apprehended; "Teaser Too" and a new 27-foot cabin cruiser docked at the St. Mary's Marina for use, officials believe, as a backup off-load vessel, legal owners not yet known, a pickup truck and a 1976 Chevrolet four-wheel drive vehicle with a camper shell, both belonging to Russell Sirmons of St. Petersburg; a 10-wheel truck that had been stashed in the woods since March, legal owner unknown; the trailer, bought last week in Jacksonville by Weaver for $11,000 cash but registered in Mason's name; and the tractor, bought in November, also registered to Mason and bearing the fictitious name, "Dixie Produce," with a Peachtree Street address.

Padgett, who gave the rundown of confiscated vehicles, laughed and said, "We all got a kick out of that; you know how many produce companies are on Peachtree Street in Atlanta."

The marijuana, which was baled in burlap or cardboard, or wrapped in plastic and tied with twine, was buried Wednesday on the property on which it was seized, Sheriff Middleton said. Samples were kept, and photographs made of the haul, for use as evidence when the cases come to trial. Some of the marijuana had gotten wet, testifying to the rough return voyage of the "Mis Vicki," which ran in 30-foot seas just about all the way back, said Corsey. He and Mason believe that is why the ship's captain, identified by Corsey as John Neil Noyes of Tampa, was so adamant about coming in as soon as he reached St. Andrews Sound.

When Corsey got aboard the "Mis Vicki," he said, Noyes told him, "I'll explain later, just trust my judgment," something Corsey was more than willing to do.

"I never did get to hear his explanation," said Corsey, smiling.

Mason, who is 5-feet-9, heavy-set, with a mop of curly, disheveled hair, a moustache and a ruddy complexion, is the ideal undercover man: He simply doesn't look the part, and he is highly motivated to outslick the slick.

"It's a challenge to see if you can go out there and catch 'em," he said. "They all think they're so super-smart and can outwit the police."

Asked about the danger of detection, he said. "I get nervous in an interview, but not on the job. Don't bother me at all. These people we just caught can get one to 10; why murder me and get life or the chair? They're smart, and that doesn't add up."

Compared to Mason's uncomplicated outlook on undercover work, Corsey's sounds downright mystical. "It's like walking a tightrope," he said. "Getting to the other side is the object, but the thrill is while you're out on that rope and it is swaying."

Both men said their wives are supportive of their work, though for the past year neither Mason nor Corsey got home more frequently than every other weekend.

Mason said his wife, Lynn, was "accustomed to it." Corsey said his wife, Connie, "has been very understanding." He added, "Any police officer has to have a very dedicated wife. If he doesn't, he doesn't stay married very long."

Corsey, who has been married "12 or 13 years—I really don't know how long"—said that he was on a 13-day voyage to the Bahamas (an abortive rendezvous, set up by Weaver, Corsey said, with a freighter carrying 30 tons of port), "I spent my birthday and my anniversary on that boat, and my wife had emergency surgery—all in 13 days."

Corsey said there were countless times during the past 14 months when he was afraid his and Mason's covers might be blown. "Mike used his real name the whole time and they could have checked him out easily, but they didn't do it. Once, Mike had to testify at a trial, and his name appeared in the Brunswick paper. 'Michael G. Mason, GBI agent.' We held our breath, but nothing happened. Too, somebody who knows you can walk up to you on the street and blow the whole thing."

Asked to venture a guess as to why Weaver took him at face value and apparently did not check him out, Corsey said, "I came highly recommended. Byron's actually a really careful individual. He swept our apartment with a bug detector Monday (the day the 'Mis Vicki' captain radioed that he was coming in to dock) and checked our phones."

Weaver was being tailed that day by lawmen who say he was "all over the county." They lost him that night, but the following day, agents of the Florida Department of Criminal Law Enforcement, learning that some of the suspects were still at large, began checking the registers and license plates at Jacksonville hotels.

He was arrested shortly after noon, along with two companions who were also suspects, Carol Caronne, 27, of St. Petersburg (also known as Carol Carrone Farmer and Carol Lorraine Curry of Anna Maria, Fla.), and Philip Dwyer McAvoy, 32, of Muskegon, Mich. GBI agents said Ms. Carrone was "deeply involved" in the smuggling operation and that McAvoy is suspected of being a large marijuana distributor in the Florida area.

The three were held in the Duval County Jail, pending extradition to Georgia, but Sheriff Middleton said they were expected to post bond later in the week. They have refused to waive extradition, and the GBI said it would initiate proceedings to get them brought to Camden County, where they were indicted last Tuesday on charges of conspiracy to possess marijuana with intent to distribute.

Confiscated and being held by Sheriff Middleton were a 1973 Lincoln Continental that Miss Carrone was driving—"Registered to someone not connected with the case, or an alias," said Padgett—and a new Porsche, costing $40,404.74 and owned by Weaver, who was described as a race car buff.

Padgett said the Porsche could be sold at auction by the sheriff, but he added, "You watch: A lien that's not really a lien will show up and Weaver will get that car back."

Mason, who says he met Weaver several times and visited his home, described the alleged smuggling kingpin as "a man who is all business. He's quiet, not flashy, doesn't throw wild parties. He loves cars, otherwise he's all business."

That fits Paul Carter's description of the drug traffic in Georgia. "Smuggling is big business now," said Carter, a political science graduate of West Georgia College who "got hooked" on police work during summer jobs at the police station in Cedartown, his hometown.

All of the GBI agents interviewed said they had never smoked pot. But some of them expressed a grudging respect for pot smugglers. "They respect us and we respect them," said Padgett. "After that, it's just who can slip 'n' slide the best." ●

IN COMMEMORATION OF TARAS SHEVCHENKO'S BIRTHDAY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. DERWINSKI. Mr. Speaker, on March 10, we observe the anniversary of the birth of Taras Shevchenko, the Ukranian "poet laureate," who inspired a national spirit of independence in the people in the Ukraine and in Eastern Europe.

Shevchenko's fame began with the publication in 1840 of "Kobzar," a collection of poems extolling freedom for the Ukranian people. It was his poetry which inspired the Ukranian movement for independence. Unfortunately, this period of independence was brief, and since that time, there has been no let-up in the campaign of forced Russification in the Ukraine, a policy inaugurated by the Tsars and continued under the Communist regime.

However, Shevchenko's heroic struggle in defense of Ukranian independence will remain forever a source of inspiration and strength for new generations of Ukranians and freedom-loving peoples in their struggle to free their native land from oppressive rule. Taras Shevchenko has become a national prophet, and a symbol of the dreams and aspirations, and the ideals and hopes of the Ukranian people.●

END IDI AMIN'S REIGN OF TERROR

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. PEASE. Mr. Speaker, while much of our attention is riveted upon events in the Middle East, we ought to take time to reflect upon the on-going struggle of the Ugandan people to put an end to Idi Amin's reign of terror and to regain control over their own destiny.

To date, it has been U.S. policy to take a "hands off" approach toward the fighting going on inside Uganda between Amin's mercenaries and a force comprised of Ugandan exiles, dissident Ugandan soldiers, and Tanzanian troops seeking to topple Amin's genocidal regime. This is a wise course and I hope it will continue to be U.S. policy. While the American people no doubt identify with the struggle of the Ugandan people to free themselves from the tyranny they have endured for more than 8 years, it remains the task of the Ugandans to oust Amin. At long last, there is some hope that Amin will meet his day of reckoning.

However, just at this critical juncture when it is possible to envision the day when the world would be rid of Amin, Libya has seen fit to send troops and military equipment to rescue Amin. One can only wonder what justification Colonel Quaddafi can provide for Libya's intervention. However, this much is clear. Amin is so thoroughly discredited and hated by the Ugandan people that he must rely upon Libyan and Palestinian support to save his neck.

The role that Libya is playing in trying to sustain Amin's hold on power is despicable and deserving of universal international condemnation. Imagine my dismay to learn that at the very time that Libya is airlifting troops and military equipment into Uganda in a last-ditch effort to prop up Amin's genocidal regime, the U.S. State Department and the U.S. Commerce Department have approved the sale of Boeing aircraft to Libya.

Even if the aircraft to be delivered to Libya are for civilian use, now is hardly the time to go forward with such a commitment.

Even if we have written assurances from Colonel Quaddafi that these aircraft will be used for the purposes specified in the license application, there is some reason to doubt the inviolability of such assurances.

Even if we are striving to expand U.S. exports and to improve our balance of trade, these are not sufficient reasons for ignoring Libya's involvement in Uganda and for doing business with Idi Amin's patrons.

Accordingly, the Congress as the representative body of the American people ought to send a clear message protesting Libya's actions. Toward this end, next Monday I will introduce in this House a "sense of the Congress" resolution calling for the deferral and reconsideration of Libya's request to purchase 3 Boeing 747's pending the disengagement of Libya from its military intervention in Uganda.

We simply cannot look the other way with regard to Libya's involvement with Amin and conduct business as usual. I hope many of my colleagues will join me in protesting Libya's actions.●

ABOLISH STATUTE OF LIMITATIONS ON NAZI WAR CRIMINALS

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Ms. HOLTZMAN. Mr. Speaker, the statute of limitations governing the prosecution of war criminals in West Germany is due to expire on December 31, 1979. If the West German Government does not act, as of January 1, 1980, only Nazi war criminals against whom proceedings have already been instituted can be prosecuted. Those war criminals who thus far have escaped detection and prosecution will be able to live openly without fear of punishment.

Congress should not be silent and allow the passage of time to aid those who seek to forget, or worse, deny the atrocities committed by Nazi war criminals. Therefore, I have introduced, along with my colleague Mr. Fish from New York and over 100 cosponsors, House Resolution 106, which strongly urges the Government of the Federal Republic of Germany to abolish its statute of limitations governing the prosecution of war crimes, or to amend the present statute to allow a period of time sufficient to assure the prosecution of all those responsible for the horrors of the Holocaust.

Mr. Speaker, while this House is considering House Resolution 106, concerned individuals, organizations and governments from all over the world are petitioning West Germany to abolish or amend the statute of limitations. In particular, the Jewish Community Relations Council of New York, a coalition of 26 organizations, recently met with Acting Consul General Kurt-Arthur Schwartze of West Germany to urge the elimination or indefinite extension of the statute of limitations. I congratulate the Jewish Community Relations Council for their action, and I would like to share with my colleagues the eloquent letter which was presented to Consul General Schwartze.

JANUARY 26, 1979.

Hon. KURT-ARTHUR SCHWARTZE,
Acting Consul General, Federal Republic of Germany, New York, N.Y.

DEAR CONSUL GENERAL SCHWARTZE: We appreciate your prompt and positive response to our request for this meeting.

This delegation represents the twenty-six member organizations of the Jewish Community Relations Council of New York. The message we bring is one that is shared not only by the more than one million people affiliated with our organizations, but by the vast majority of New Yorkers and decent people everywhere.

We strongly urge that the statute of limitation, due to come into effect on December 31, 1979, be eliminated or extended indefinitely. To allow any of those responsible for the most outrageous travesties in human history to escape justice would be an unforgivable affront to the memories of their eleven million victims, a betrayal of the democratic principles espoused by your country and crushing defeat for the conscience of mankind.

At a time when manifestations of neo-Nazism are in evidence in various parts of the world, decisive action is all the more important to make clear the abhorrence and intolerance of those who generate hatred and under that guise seek the destruction of others. What lessons are this and future generations to draw, if they see those responsible for genocide allowed to emerge with impunity and without fear of prosecution? Can we allow an arbitrary time limit to abet those who would seek to forget, or worse, deny these atrocities?

The pursuit of those responsible for these heinous crimes, like the pursuit of justice, must be unending. The passage of time cannot relieve the guilt borne by mass murderers or the responsibility of those charged with bringing them to justice.

Most countries, including our own, do not recognize a statute of limitation for the crime of murder. Similarly, many international conventions specifically preclude any time restrictions on culpability for crimes against humanity. The accelerating efforts of various governments to identify and apprehend those guilty of war crimes will be dealt a severe blow.

We ask that you convey these sentiments as expeditiously as possible. Next week marks the anniversary of Hitler's accession to power. There would be no more fitting time for an announcement that the government of West Germany will support the elimination of the statute of limitation. We also urge that the maximum efforts be made to assure the prompt apprehension and trial of all war criminals.

Sincerely yours,

RICHARD RAVITCH,
President.
MALCOLM HOMLEIN,
Executive Director.●

DOMINICAN HIGH SCHOOL WINS SECOND STRAIGHT WISAA BASKETBALL TITLE

HON. F. JAMES SENSENBRENNER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. SENSENBRENNER. Mr. Speaker, last Sunday, the basketball team of Dominican High School in Whitefish Bay, Wis., won its second straight Wisconsin Independent Schools Athletic Association basketball championship, defeating Delafield St. John's Military Academy by a score of 61 to 47.

This victory extends Dominican's winning streak to 48 consecutive games, one of the longest in Wisconsin high school basketball history.

Dominican jumped to a 26 to 8 lead early in the game, but St. John's closed the gap to 45 to 40 later on in the game. Following two free throws by Dominican's Mark Moore, the game was never in question.

Dominican was led by 20 points from Greg Dandridge, 18 from Mark Moore and 10 from Nicky Johnson.

My congratulations go to Coach Don Gosz, his entire team, and the student body of Dominican High School for this outstanding accomplishment.●

BOYNTON TO BE FETED

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. CLAUSEN. Mr. Speaker, one of the marks of greatness of a nation is that it recognizes those who have made a significant contribution to its culture. An example of such recognition is the Wrangler awards made by the National Cowboy Hall of Fame and Western Heritage Center.

The award this year will go to Searles R. "Sy" Boynton of Ukiah, in Mendocino County, Calif., for his book on the work of another Ukiah resident, Grace Carpenter Hudson.

Grace Hudson's work among the Pomo Indians is now being recognized as an outstanding addition to the works of American artists. And Sy Boynton's book was highly effective in focusing attention on this achievement.

So that people across the Nation may be aware of both Grace Carpenter Hudson and Sy Boynton, I am inserting a copy of a recent article from the Ukiah Daily Journal which gives some insight and appreciation for the work they each have accomplished:

THE ARTIST'S "OSCAR"—BOYNTON TO BE FETED WITH WRANGLER AWARD

(By Fae Woodward)

The City of Ukiah and Searles R. Boynton, local dentist, are being honored by the National Cowboy Hall of Fame and Western Heritage Center with what Boynton described as the Center's equivalent of a motion picture Oscar, the Western Heritage Awards' Wrangler trophy.

The award will be presented to Boynton officially April 7, in the National Cowboy Hall of Fame in Oklahoma City, Okla. for his book on the work of Ukiah's Grace Carpenter Hudson, renown artistic historian of the Pomo Indians.

Boynton's book, "The Painter Lady," a compilation of Hudson works with a lively commentary on the artist's life and activities, was selected by the National Cowboy Hall of Fame and Western Heritage Center for recognition in the outstanding art book category for the 1979 awards program.

Co-winner is "The Living Tradition of Maria Martinez," by Susan Peterson.

The Wrangler trophies are replicas of the famed Western artist Charles M. Russell's sculpture. They will be awarded not only to the authors of the outstanding art books, but to authors of books of nonfiction novels, juvenile books, short stories, composers of music, and to several motion picture and television categories. They are selected for "artistic merit, integrity and outstanding achievement in portraying the spirit of the pioneers of the developing west."

Boynton—who spent many years gathering the information about the Potter Valley born artist before beginning his book—gives credit to many Ukiah residents who urged him to complete the book.

He likened Grace Carpenter Hudson to Ukiah as Charles M. Russell is to Kalispell, Mont.

She has been listed as the most outstanding woman artist in the 22nd volume of the Time-Life Series.

Intrigued with the Hudson work, and a native of Potter Valley himself, Boynton began his research in 1969. Research took him over 3½ years. The dentist was another 2½ years compiling photographs and written material.

The book was published in October 1977, by Interface California Corp. of Eureka, and has been distributed to major art collections.

It contains 684 paintings, photographer by Grace Hudson's father, A.O. Carpenter, Ukiah's first mayor. A photographer by trade, Carpenter catalogued each of his daughter's paintings before they left Ukiah.

In preparing his manuscript, Boynton searched for these paintings, but only was able to trace about half of the Ukiah artist's work.

He said 10 years ago, a person might have purchased a Hudson painting for $1,000. He said eight months ago, at Butterfield's in San Francisco, her 10 x 14-inch oil entitled "Trouble," sold for $25,000. It shows a Pomo child on his hands and knees reaching for a stick as a hen with ruffled feathers emerges from a pen with her chicks.

The Sun House home of the famed artist has been the subject of community news repeatedly during past months since the house became the property of The City of Ukiah. Much time and money have gone into cataloging the many artifacts in the home, including sketches and early paintings by the artist, and toys she made to help her entertain her youthful Indian models.

A team from Sonoma State University assessed 25,000 objects at the Hudson home, which have been given an estimated value of $2 million.

A guild of 250 women has been organized to help with fund-raising projects to provide the historical Sun House landmark with a museum to house the Hudson collection and the work of other local artists.

The Sun House Guild earlier this month mailed a letter to local residents requesting donations of building materials, or cash, which can be listed as assets in a request for matching funds from private foundations.●

THE ST. STANISLAUS KOSTKA HOLY NAME SOCIETY

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. RICHMOND. Mr. Speaker, the 14th Congressional District of New York is one of the most multiethnic in the United States. Each of the residents of the 14th District is justly proud of his or her ethnic and cultural heritage. Through membership in various religious, civic, and social organizations, concerned individuals demonstrate their commitment to their community.

On March 28, 1979, one such organization, the St. Stanislaus Kostka Holy Name Society, will celebrate their 25th anniversary. In recognition of this outstanding organization's 25 years of reverent and dedicated service to the community, I would like to share with my colleagues a commemorative statement issued by "St. Stan's." The statement follows:

Statement in Commemoration of the St. Stanislaus Kostka Holy Name Society

On March 28th, the St. Stanislaus Kostka Holy Name Society of Brooklyn, New York, will celebrate its 25th anniversary of community service and involvement.

Since its formulation in 1954, the Society has served as the foundation upon which its original 67 members have built an active record of involvement.

Its founders—Mr. Joseph Roman, District Chairman of the Holy Name Extension Committee; Reverend John Redzimski, C. M., First Spiritual Director; Julian Kwasniewski, First President; and Reverend Joseph Studzinski, Pastor—established the Society's basic aim: "Every Man a Holy Name Man, and Every Man Active."

Through the years, St. Stan's has demonstrated its commitment to community cohesiveness through positive action. In 1965, through the efforts of Mr. Salvatore Tortorici and Mr. Sharkey of the New York City Council, the Society was successful in establishing the first and only Holy Name Square in the United States.

In addition, Society activities include:

Participation in the Pulaski Day Parades.

Participation in District Holy Name Rallies each fall.

Special assistance at Parish functions.

Hosting a community-wide meeting of the Brooklyn Diocesan Union of Holy Name Societies.

Assistance in school and church building and renovation, as well as fund raising campaigns to promote active involvement.

Upon completion of its first 25 years, the Society reflects upon its fast-growing and active past with pride and looks to the future with the optimism that will bring further growth, further membership participation, and additional community and parish involvement.●

ST. PATRICK'S DAY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. RODINO. Mr. Speaker, I am proud to recognize the men and women of Irish heritage during this season when we honor St. Patrick, the courageous patron saint of Ireland.

On March 18 the citizens of Newark and representatives from 140 Irish-American associations in New Jersey will join together for the 44th consecutive year to march in the parade honoring St. Patrick. I am looking forward to joining the parade's grand marshal, Joe O'Hara, and all my friends who will march to salute the great people of Ireland and their proud descendants in our country and around the world.

Mr. Speaker, it is indeed a tribute to the Irish people that men and women of all backgrounds want to celebrate St. Patrick's Day. The message which St. Patrick brought to the Irish in A.D. 431 was one of spiritual growth and fulfillment. He preached dedication to Christian ideals and supported his words with action. We know that he helped to establish many schools and churches in Ireland, as he became a trusted friend and a symbol of hope for an entire country.

However, as we march in parades or just join in the joy of St. Patrick's Day, let us not forget the bitter and seemingly endless struggle disrupting Northern Ireland today. This terrible discord demands our attention and deep concern and St. Patrick's Day provides a special opportunity to apply the same commitment the Irish gave to their new faith in A.D. 431 toward ending the present tragedy of social injustice there.

Mr. Speaker, it is my fervent hope that the spirit of reconciliation and hope evoked by St. Patrick's Day—as well as the great pride of the Irish—will bring a commitment to achieve social justice and peace in Northern Ireland some day very soon.●

MELVIN R. LAIRD ARTICLE

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. CARTER. Mr. Speaker, those of us who served with Melvin Laird when he was a Congressman from Michigan and who were in Congress when he served as Secretary of Defense know him to be a man of uncommon intelligence. When Melvin Laird shares his thoughts on matters relating to our national defense in particular, I submit that it is well worth our while to consider those comments carefully. Because of this I am submitting for the Record an article by Melvin Laird from this month's edition of Reader's Digest.

I believe that we need to halt the further decline of our intelligence services, and I would ask that my esteemed colleagues heed Melvin Laird's warning about continued assaults on our espionage and counterintelligence activities.

The article follows:

Why We Need Spies

(By Melvin R. Laird)

Last November President Carter sent an extraordinary handwritten note to his National Security Adviser, to the Director of Central Intelligence and to the Secretary of State. The President expressed extreme dissatisfaction with the quality of information being provided from abroad by American intelligence. He especially was dismayed because he had been grossly misinformed about the magnitude and significance of internal strife in Iran, whose stability and friendship are essential to the West. As a consequence, we unwittingly pursued policies that worsened the problems there.[1]

Unless there is a swift reversal of present policies, the President can only expect more—and worse—intelligence failures. For, both our principal espionage service (the Central Intelligence Agency) and our primary counterintelligence service (the Federal Bureau of Investigation) have been shattered.

Since 1974 the CIA has been the target of prolonged, sometimes blunderbuss investigations by two Congressional committees and a Presidential commission. While uncovering comparatively few illegalities or "abuses," these investigations provided forums for lurid and wildly false allegations against our intelligence community. Congress and the Administration then over-reacted by subjecting the CIA and FBI to severely restrictive legislation and enfeebling edicts. Surveying the wreckage, former Secretary of State Henry Kissinger declared: "We have seriously damaged our entire intelligence capability, and I don't believe that what was discovered in the investigation warranted the wanton assault which took place."

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[1] See "Oil and Turmoil in Iran."

Obsolete Resource? Thus besieged, the CIA has also been demoralized by its own leadership policies. A good part of our foreign intelligence-gathering is centered in the clandestine service of the CIA. These men and women are the managers, the case officers, who spot, recruit, direct and communicate with the foreigners around the world who, usually out of idealistic motives, are willing to spy for the United States. Between 1971 and 1976 the number of employes in the clandestine services was reduced by half—perhaps justifiably as part of a general retrenchment after the Vietnam war.

But now, in a misguided attempt to "streamline" and eliminate what CIA Director Stansfield Turner refers to as "excess wood," another 820 people—roughly 20 percent of the remaining force—are being fired. The result, as New York *Times* columnist William Safire noted, has been "the destruction of the clandestine service; the worst leaks of national secrets in a generation; the replacement of independent analysis by the rubber stamps of fawning yes men; and a series of misjudgments in foreign policy."

Many of the attacks against U.S. intelligence suggest that espionage and the secrecy that must surround it are alien to American traditions. History demonstrates just the opposite—beginning with George Washington, who admonished his generals in 1776 "to leave no stone unturned" in collecting intelligence. Presidents Truman, Eisenhower, Kennedy and Johnson all realized that the successful conduct of government and avoidance of war could depend upon possession of knowledge hidden within the totalitarian societies arrayed against us.

The need is even more acute today. International finance, energy supplies, nuclear proliferation—all levy new demands for knowledge. Warfare or other convulsions in unstable regions of the world can choke our economy by cutting off access to resources upon which we depend. Fanatical bands of terrorists multiply, menacing society's intricate functioning. Meanwhile, the Soviet Union, spending far more on arms than we do, grows ever more powerful.

But, people ask, hasn't modern technology made spies obsolete? Can't we collect all the intelligence we require—much more reliably and efficiently—through satellite reconnaissance and electronic monitoring? The answer is no. Rep. Samuel S. Stratton (D., N.Y.), chairman of the House Armed Forces Investigations Subcommittee, explains why: "Spies in the sky can indeed perform wonders. But there is no technological substitute for the man—or woman—on the spot. Revolutions and terrorist attacks are not customarily developed by machines. In deliberately cutting our intelligence system off from coffee houses, bars and other non-technical places where indications of intentions—as distinguished from capabilities—are most apt to be picked up, we have left ourselves, as in the case of Iran, wide open to being blindsided."

Lead Time. Just how indispensable spies remain can be illustrated in a heretofore-untold spy story. In 1959 an American spy in the Soviet government slipped us a secret manual showing exactly how the Russians installed one of their missile systems. In June 1962 another U.S. spy spotted Soviet missiles being trucked away from Havana harbor. Subsequent sightings by other agents in Cuba compelled resumption of U-2 reconnaissance flights, which proved the Russians were indeed deploying missiles that could have annihilated most U.S. cities. The pressures upon President Kennedy to blow up the missile sites immediately were intense, and might have been irresistible had not the CIA possessed the manual supplied by the Moscow spy three years before.

It turned out that the missiles were being installed precisely according to the manual. By studying site photographs, CIA analysts determined that the missiles were not yet quite ready to fire.

Meanwhile, our agent in Moscow sent another critical report, on long-range missiles in the Soviet Union. He explained, accurately, that the Russians had not yet perfected an adequate guidance system for their ICBMs as they had for their shorter-range missiles being emplaced in Cuba. All this information enabled President Kennedy to postpone military action long enough to negotiate firmly with the Russians—and force the Kremlin to withdraw the threat from Cuba.

Consider the 1975 incident when two refugees claimed to have seen in the Soviet Union grain silos being built strongly enough to withstand a nearby nuclear blast. It seemed incomprehensible. Why would the Russians go to the extreme expense of bombproofing storage facilities for ordinary grain? Redirecting our reconnaissance, we began to search for such fortified silos. And photo analysts soon spotted them in numerous parts of the Soviet Union—installations previously ignored as of no significance. Then we realized what the silos meant. The Russians were deadly earnest about their nationwide civil-defense program. They were caching, at enormous cost, food for the survivors of nuclear war.

The refugees were not our agents while in the Soviet Union. But the point is the same: human sources can supply vital data that technical sources miss.

Last year, when the Russian-directed Cuban-led Ethiopian army drove Somali forces from the disputed Ogaden, there were fears that the communists would go on to invade Somalia itself. The prospect was chilling. Having gained control of Ethiopia and South Yemen, the communists, by also seizing strategically located Somalia, could further threaten Saudi Arabia and the flow of oil that is the lifeblood of the industrial democracies. Should the United States respond to such a threat?

Fortunately, in this instance we had an utterly reliable spy in the right place. I am not at liberty to say whether his nationality was Cuban, Ethiopian or Russian. But he accurately informed us that, despite appearances, the Ethiopians would not attack Somalia. The United States thus was spared the hard decision of whether or not to initiate drastic action to save that country.

Once a nation takes military action, aerial photographs and data from sensors and other intercept devices can pretty much tell us what is happening. But by then it may be too late to stop the action except by armed force. Thus we need to know *in advance* what course others intend to pursue. Only human agents can give us this kind of forewarning.

Ultimate Weapon. It is impossible to defend every government official, every utility plant, every mile of transit systems, against stealthy anonymous terrorists who strike at times and locales of their choosing. Only through spies within terrorist groups can we learn of their plans in time to thwart them.

Because of CIA and FBI infiltration of terrorist organizations, we have aborted assassination plots against American leaders, against foreign chiefs of state visiting the United States, and against a number of our ambassadors abroad. We have disrupted sophisticated schemes to blow up government buildings in Washington and kill employees working in them. We have averted the shooting down of airliners, the abduction of public officials and seizure of their families as hostages.

Yet, because it is impossible to penetrate every gang, terrorism continues and multiples in Europe and the Western Hemisphere. Although organized terrorism in this country is still in embryonic stages, in the past four years terrorist bombs have killed 17 people and injured 136 in New York City alone. A single Puerto Rican terrorist group, the FALN, has perpetrated 58 bombings in New York, Washington and Chicago. The Pacific Gas and Electric Co., principal supplier of energy to California, has been the target of 75 bombings and sabtotage attempts. In the country as a whole, 324 terrorist bombings have occurred within the last six years.

Our intelligence unmistakably reveals that foreign and domestic terrorist groups are coalescing into a loose, cooperative federation to intensify assaults upon Americans and U.S. installatons, here and abroad. To defeat them, we must have spies in their midst.

Finally, we must have spies to protect ourselves against hostile spies. The Soviet Union, its East European satellites and Cuba have mounted a clandestine campaign unprecedented in peacetime history. Its aim: to enlist spies who will betray our most vital secrets and to suborn Americans who can influence public opinion and national policies. In five years, the Soviet bloc has doubled the number of its professional intelligence officers stationed in the United States—to more than 900.

The most efficient means of combating this onslaught is to insinuate our own agents into the hostile intelligence services. Our most significant successes in countering espionage and subversion have been achieved in this way.

In the early 1960s, for example, a series of spectacular espionage cases rocked the West. The assistant chief of the counterespionage division of West German intelligence, Heinz Felfe, was discovered to be a Soviet agent placing other spies in critical positions throughout West German society. British intelligence officer George Blake also was unmasked as a Kremlin agent. Other Soviet spies were uncovered in Anglo-American laboratories engaged in sensitive anti-submarine research.

All of these disclosures resulted from the work of one spy Michael Goleniewski, and a few Americans with the capacity and courage to maintain contact with him. A colonel in Polish intelligence, Goleniewski was recruited by the Soviets to spy on his own countrymen. He ostensibly served the Russians so ably that they trusted him with details of some of their most important operations in the West. All these details Goleniewski shared with his U.S. case officers, who had earned his ultimate loyalty. Thus, one American spy nullified momentous successes of the whole Soviet intelligence apparatus.

Looser Limits. I am convinced that the Administration must halt the ongoing purge of honorable CIA employes. And it must restore their *esprit de corps* by making clear that it regards them as patriotic servants and will back them up in their missions. Congress, which now consumes an enormous share of the energies of the CIA by requiring it to answer to eight committees, should consolidate its oversight efforts. And it should concentrate its scrutiny less upon mistakes made 10 to 20 years ago, more upon what must be done now to protect the nation in the future.

The plight of the FBI is equally deplorable. In 1972 it investigated 17,600 domestic-security cases involving suspected espionage, subversion and terrorism. Last year, because of restrictive legislation and Justice Department guidelines, it investigated fewer than 200! In 1975 the FBI maintained contact with some 1100 informants cooperating in national security investigations. Last year it had only 42 informants left! Indeed, communist intelligence officers stationed in the United States now outnumbered FBI counterintelligence personnel by a wide margin. Last year the FBI asked Congress to authorize a modest personnel increase so it could assign more people to counterintelligence. Congress said no. Instead, it is drafting a charter setting forth guidelines covering all FBI activities.

Among legislators who are deeply troubled by such actions is Sen. Patrick Moynihan (D., N.Y.), a member of the Senate Select Intelligence Committee. "As a liberal," he declares, "I tell you the day will come when we will look back and ask, 'For what purposes did the men of this political generation make it impossible to resist Soviet espionage in this country, and why did they do it?' And we will have a lot to explain."

Spies, today as in the days of George Washington, constitute a weapon. As with all weapons, prudent precautions should be taken to ensure that this one is not misaimed or misused. But intelligence-gathering is a weapon we cannot afford to sheath. If we do, we will increase the chances that someday, because of ignorance, we will have to resort to much more terrible weapons in conflicts that knowledge might have prevented.●

H.R. 1; COSTLY, UNWISE, AND UNFAIR

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. FRENZEL. Mr. Speaker, I invite the attention of all Members to a thoughtful report on H.R. 1, taxpayer financing of Congressional Elections, written by one of our distinguished new colleagues, CARROLL CAMPBELL of South Carolina.

The gentleman from South Carolina has had the good sense to look beyond the propaganda of those who would finance their own reelection out of the pockets of the taxpayers. There he finds a program he describes as "costly", low priority; and "unfair."

Congressman CAMPBELL's analysis follows:

TAX MONEY FOR CONGRESSIONAL CAMPAIGNS: REFORM OR RIPOFF?

In a few weeks, my House Administration Committee will take up one of the most controversial pieces of legislation which will come before the 96th Congress. H.R. 1 would give every candidate in the 1980 House of Representative races up to $60,000 of your tax money with which to run their political campaigns.

Assuming that each of 435 House members is challenged by one contender, H.R. 1 would give $52.2 million directly to candidates. The cost to run the new bureaucracy which would be required is conservatively estimated at $2 million to $6 million. If the Senate followed suit on this raid of the public till, the eventual cost of taxpayer financing for general congressional campaigns could be monumental, up to $100 million. If primary elections were included, it would not be unreasonable to suppose government would spend a quarter to a half *billion* taxpayer dollars on political campaigns.

Everyone in Washington is talking about cutting government costs, from the President to the Speaker of the House to the Senate Majority Leader. Does it not seem strange, then, that these officials are also among those in the forefront of promoting a public financing scheme likely to cost $100 million?

I think it does. I think it does seem strange particularly in view of the fact that the American people have in no way indicated their own grass-roots support for public financing. Even though supporters have packaged their proposal in such a way to make it appear there will be no direct costs to the public, the fact is that a solid majority of taxpayers fail each year to mark the $1 checkoff provision on the income tax form which now goes into a presidential public financing program. In 1977, only 28% of Americans signed up; 72% said no!

Americans understand that public financing is really taxpayer financing. We understand that if we spend $100 million for political campaigns, we will have to save $100 million somewhere else—in national defense, perhaps? Or education? Or perhaps we will simply add the money to the Federal deficit. As far as I am concerned, those kinds of alternatives are unacceptable.

The major argument in support of public financing is that the people must be protected from Members of Congress who are somehow indebted to "special interest groups" because these groups may have contributed to their campaigns. This ignores the fact that Americans have traditionally been politically active and effective through groups, be they work-related, philosophically-oriented, or cause-related. In my view, taxpayer financing would not increase accountability to the people; it would erode that accountability by making elected officials little more than glorified civil servants.

The glaring loophole in proposals before Congress is that while direct contributions are flatly restricted and strict spending limits are imposed, there is no limit on the amount of money which can be spent indirectly on a candidate. The two most active unions, the AFL–CIO and the United Auto Workers, for instance, spent more money in 1976 on voter registration drives geared to electing their favored candidates than did the two major political parties. And it is estimated that unions spent up to $11 million on behalf of the Carter/Mondale ticket in communications with members and their families, voter registration, and getting people to the polls.

It is neither wise nor fair to burden hard-pressed taxpayers with another expensive government program, one which has no advantage that I can see other than relieving incumbent and aspiring Members of Congress from the burden of raising their own money to take their cases to the voters. Congress should reject taxpayer financing of campaigns as costly, low-priority, and potentially unfair.●

THE CRUISE MISSILE

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. BOB WILSON. Mr. Speaker, I would like to draw the attention of all the Members to the following article on the cruise missile by Comdr. Ronald D. Tucker, USN, which appeared in the January 1979 issue of the U.S. Naval Institute Proceedings.

This thoughtful article poses questions of fundamental importance to the defense of the United States, and I feel that whether or not one is in full agreement with the positions taken by the author, it will be conceded that the points made and the questions raised are deserving of the most serious deliberation.

I hope my colleagues will find this well reasoned approach to the enhancement of our naval power helpful in the consideration of defense legislation during this session of the Congress.

THE CRUISE MISSILE: AN OFFENSIVE ALTERNATIVE

(By Commander Ronald D. Tucker, U.S.N.)

A fundamental task of navies has always been to destroy opposing surface ships and facilities. Since the end of World War II, the U.S. Navy's capability to sink ships and attack bases has resided principally in carrier air wings. Carrier capabilities have been adequate in the past, but reduced force levels and the advancing Soviet threat have reduced the U.S. Navy's capability for *offensive* operations.

World War II showed the value of the aircraft carrier in terms of sinking ships and projecting power ashore. No acceptable alternative or complementary system has been identified and developed since. There are 12 deployable carriers in the Navy's inventory, and although the carrier's role is to be debated, there is no motion to decommission the existing carrier forces. The problem is that the flexibility the Navy enjoyed in 1962 (with 26 carriers) has eroded by half, while at the same time, the Soviets have achieved unprecedented maritime expansion. Thus, the questions are how best to complement the Navy's current capability and compensate for past (and future) reductions in offensive power, and how to do so in the near term.

The value of naval projection capability has been obscured by the continuing debate over the Navy's contribution in a NATO-Warsaw Pact conflict and by debates over Navy and Air Force roles and missions in sea control and power projection. The appropriateness and utility of offensive naval strike operations have been called into question.

Based on the past few years' experience, one can conclude that while the debate goes on, it is unlikely that there will be increases in carrier force levels; in fact, there may be some reductions. And, even if the debate is resolved in favor of the big deck carriers, the lead times associated with their construction rule them out as a near-term means of quantitatively increasing the Navy's offensive capability.

The need for offensive naval capability goes beyond the limits of a NATO-first strategy. Most analysts concede that a NATO-Warsaw Pact war, while clearly the most serious case, is the least likely; worldwide crises and even bilateral conflict between the U.S. and Soviets are far more probable scenarios. Whether or not the forces adequate for case one are also adequate for other cases is an unresolved issue. For example, the role of the nuclear-powered attack submarine (SSN) in a non-NATO war is not clear. But it is obvious from the past that the United States will need offensive naval systems in these situations. The problem is that the NATO debate causes delay and indecision. As a result, the U.S. Navy may fall behind the Soviet Navy in offensive capability in the 1980s and 1990s. At the very least, some new offensive capability, which would complement the carriers, appears to be desirable.

Most observers consider the Soviet surface fleet a tertiary threat. The Navy's FY 78 Net Assessment states that although the Soviet surface fleet represents a growing threat, it does not currently present the threat that either the Soviet submarine or naval aviation forces do. This evaluation of Soviet surface forces is based on the belief that these forces will not engage our forces except in places like the Mediterranean where both navies routinely intermingle. The reason the Soviet surface forces don't come out, so the argument goes, is because they know that the U.S. carriers are there and that the carriers can defeat them. Logic then leads one to conclude that if the carriers are not there, the Soviet surface fleet would be a much greater threat. In view of the uncertainties surrounding the future of the carrier, the Navy needs a hedge against the possible decline of its carrier power. Yet, there is no programmed capability (except for carriers) to attack enemy ships, bases, or facilities at standoff ranges. Meanwhile, the Soviets are steadily improving their cruise missile capability and increasing their standoff ranges.

If one assumes that advanced vertical or short takeoff and landing (V/STOL) technology is as far off in time as some experts believe, then a conventionally armed (land-attack and antiship) cruise missile may be the only credible near-term offensive system alternative.

While the Navy is studying a wide range of sea-based offensive air issues, the focus of this discussion is on cruise missile alternatives.

This overview is based on the following assumptions:

The best interests of the United States are served by maintaining a naval capability to attack and destroy enemy fleets, facilities, and bases with conventional as well as nuclear weapons.

These offensive naval capabilities will be required to some degree in short and long wars.

Similar naval capabilities are required for crisis management, unilateral involvement, non-NATO conflicts with the Soviets, and for conventional deterrence. (A 1976 Brookings Institute study demonstrates the role of the Navy in such instances: of the 215 international incidents since 1945, naval forces participated in 177—of these, carriers participated in 106.)

The adequacy of the U.S. Navy's offensive capability is uncertain.

The deterrent value of the carrier may have declined to the point where, from the Soviet point of view, it may no longer be credible in terms of ability to strike the Soviet homeland.

Carrier force levels are uncertain, but no gains in the carrier force level are expected.

The U.S. Navy has little corporate experience in cruise missile employment. The Soviet Navy does. Despite declarations about the Tomahawk cruise missile's qualitative improvements vis-à-vis Soviet counterparts, the Soviet Navy has at least a decade's head start in terms of tactical development, requisite command, control, and communications (C^3), and over-the-horizon targeting. Soviet military and cruise missile concepts may well provide a framework for developing a U.S. Navy cruise missile plan.

Traditional Soviet military concepts (massing forces and weapons, reliance on redundancy by numbers and types of systems, etc.) apply to their approach to war at sea. Soviet naval forces follow the basic principle of coordination and integration of air, surface, and submarine forces. Soviet concepts depend on coordinated naval operations—e.g., cruise missile and attack submarines and surface combatants operating together, giving heavy diverse attack options and providing mutual defense; land-based aircraft positioned to deploy at the time needed to add to the ship and/or submarine offensive groups. Operations of all units are coordinated to produce a maximum attack which is designed to strain or saturate the enemy's defenses. Extensive Soviet ocean surveillance capabilities give the naval concept its feasibility by providing early detection and target classification which permit diverse and strong forces to be brought together.

The weapon which links Soviet concepts to real offensive combat capability is the cruise missile. In addition to contributing to the fundamental concept of coordinated operations, Soviet cruise missiles have affected war at sea in four ways.

Cruise missiles provide a high airborne threat over large areas of the world's oceans; regardless of launch platform. This capability has blurred the distinctions among the U.S. Navy's fundamental warfare tasks of antisubmarine warfare (ASW), antiair warfare (AAW), and antisurface warfare (ASUW). Because of cruise missiles, the tactical problem will always include AAW. The degree to which this problem will present itself depends in large measure on the success of the U.S. Navy's ASW, ASUW, and antisurveillance efforts, and in the degree to which the Navy is successful in disrupting the interdependence of Soviet forces.

Cruise missiles place increased emphasis on the early stages of conflict through the potential of surprise or preemptive attack by many dispersed platforms against entire fleets, bases, and facilities. The long ranges, greater accuracy, and high warhead yields (particularly with nuclear weapons) of cruise missiles can jeopardize the cutting edge of U.S. seapower (the battle groups) over expanded ocean areas in the first few engagements, under reasonable assumptions regarding rules of engagement, and call into question U.S. long-term naval capabilities. In particular, the Navy's battle forces must survive any attack in sufficient numbers to enable support and amphibious forces to execute their missions.

Cruise missiles present many targets with high offensive potential. Air, surface, and submarine cruise missile launch platforms significantly expand the area of engageability, thus greatly compounding surveillance/targeting problems.

Cruise missiles complicate protection of shipping.

The Soviets, without playing catch-up ball by trying to build carriers, constructed a navy with these capabilities diversified over many platforms. In so doing, they now present a formidable threat to the U.S. Navy's carriers. Having accomplished this, they have only recently embarked on their own carrier-building program. The combination of a navy designed to be effective without carriers, yet augmented by them, presents the U.S. Navy with a threat of unprecedented scope and complexity.

The U.S. Navy has the technological vehicles to take advantage of Soviet concepts. These weapons, Tomahawk and Harpoon, can significantly increase the threat to the Soviets.

Tomahawk, with precision guidance and conventional munitions, would provide a land-attack capability against bases and facilities that would compound Soviet offensive and defensive problems. These weapons deployed in large numbers from numerous platforms would constitute a compelling threat to Soviet territory and complicate their choice of concentration and capability for achieving local superiority. Together with the carriers, numerous cruise missile platforms would present the Soviets with multiple threats of similar time urgency. The Soviets would have the problem of dividing their forces among many more targets than just 12 carriers. They would have to be concerned about surveillance of the approaches to their bases and about base defenses. They would have to consider vulnerability of their own high-value surface forces over wide areas of the oceans.

A U.S. cruise missile threat would dilute the surveillance, reconnaissance, and offensive efforts the Soviets could apply to the sea lanes in areas distant from their bases and forces.●

LEGISLATION TO PROVIDE FISCAL RELIEF TO STATES AND LOCALITIES

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. ZEFERETTI. Mr. Speaker, today I am introducing the "State and Local Welfare Reform and Fiscal Relief Act of 1979." This bill, which I introduced last year, is the House companion to legislation introduced by Senators MOYNIHAN, LONG, and CRANSTON in the last Congress. It will provide State and local governments across the Nation with direct Federal relief for aid to families with dependent children (AFDC) costs.

Effective July 1, 1979, the bill would eliminate the present AFDC funding mechanism which is based on Federal payment of a percentage of each State's AFDC costs. Instead, the bill would substitute a two-part block grant. The first part of the block grant to each State would be based on the actual Federal funding provided to that State for its AFDC costs in fiscal 1978. The second part of the block grant would be a fiscal relief element allocated among the States in proportion of their June 1978 AFDC expenditures and in proportion of their general revenue sharing allocations. Both elements of the block grant would be updated annually to reflect changes in the cost of living. For fiscal year 1980, the fiscal relief element is estimated to be $1.5 billion.

Thus, the current Federal share of AFDC costs is increased by amounts sufficient to replace local expenditures in most jurisdictions that still require them. Over time further amounts will make the Federal share equivalent to at least 75 percent of each State's AFDC outlays in the base period, thus entirely eliminating the local share in every jurisdiction.

While I think it is important to stress that I do not believe this legislation provides the answer to the concerns of many about the problems inherent in our current welfare system, it is an important and significant first step that we can and should take now.

I know many people are opposed to providing fiscal relief to States and localities in this limited fashion without broad-based welfare reform—I disagree with them. This "no frills" proposal will in no way diminish chances for other necessary welfare reforms. Unless strong action is taken now to relieve local communities, States, and individual taxpayers from the intolerable welfare burden, the mothers and children who need AFDC assistance for their basic survival will be the ones who will suffer from the results of congressional inaction. There are already signs throughout the country of widespread dissatisfaction over the cost of welfare programs for local and State governments.

Mr. Speaker, States and localities did not cause and cannot cure the poverty problem in the Nation. Nationally induced economic and demographic trends have produced concentrations of public assistance recipients in urban and, increasingly, suburban areas that erode the financial base of these governments. It costs every American taxpayer $548 to support the 25 million persons receiving public assistance. The Federal Government distributes this welfare assistance to the States according to the benefits each State offers its citizens. Thus the Federal share diminishes as the State contribution increases. Since we have at least 50 separate welfare systems in this country instead of a single nationwide program, inconsistency and inequity prevail. Under present practice, a State which is miserly in support of the poor and disabled can have the Federal Government pick up a bigger percentage of the tab than a State which is more generous. For example, Mississippi pays AFDC recipients an average of $14.35 a month and Washington pays 78 percent of that amount. But Washington assumes only 50 percent of the costs in New York, which pays higher benefits. As a result, New York winds up paying $2.2 billion more for AFDC each year than Mississippi. A further inequity forces cities like New York to pay half of the State's share of local welfare costs.

Mr. Speaker, the current system of public assistance in the United States is so poor that the words "welfare" and "mess" have become inextricably linked in our political vocabulary. The most unanimous conclusion is that the present welfare programs should be scrapped and a totally new system implemented. However, producing an efficient and responsible program of welfare reform will be a lengthy and complex task. Meanwhile, I do not believe that we can continue to hold immediate fiscal relief to this country's State and local governments hostage for more comprehensive reforms. This bill offers a real opportunity to break that logjam.●

U.F.T.: NO REASON FOR A SEPARATE EDUCATION DEPARTMENT

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. ROSENTHAL. Mr. Speaker, the House may soon be considering a bill to create a Department of Education. A number of parent and teacher organizations, including the United Federation of Teachers, oppose the legislation. I believe an article by Albert Shanker, president of the U.F.T., which appeared in the New York Times and the Daily News on March 4, presents many of the pivotal issues in the debate. I am inserting a copy of Mr. Shanker's remarks in the RECORD at this point for the benefit of my colleagues:

NO REASON FOR SEPARATE ED DEPARTMENT

(By Albert Shanker)

Some big education battles will be taking place in the Congress in the months ahead. One of these will be over the budget, a subject I'll get to in a future column. Another is the fight over whether there should be a separate Cabinet-level department of education. This would mean taking education out of the Department of Health, Education, and Welfare. Even though the President promised, during his election campaign, that he would *reduce* the number of federal departments, in this case, he is asking that another one be created.

President Carter came out in support of a separate department at a time when it seemed to be a motherhood issue. A number of education groups were in favor of it, and no one seemed to be against it, so why not please some people? Also, the supporters of the plan argued that a separate department would accomplish two major objectives. First, it would give greater prestige to education. Second, it would consolidate and coordinate various education programs which are paid for by the United States government but administered by different departments. School lunches, for example, overseas teachers for children of service men and women and manpower training are education programs managed by the Departments of Agriculture, Defense and Labor, respectively. There are other programs run by other agencies of the government.

Since the proposal was made it has been subject to severe criticism and much organized opposition. Giving "prestige" to education is not a good reason to create a department. Who can say in advance whether such a department would enjoy high or low prestige? And should we create a new department and add a member of the Cabinet to provide prestige for the "environment," for "consumer protection," for "safety" and other concerns of the American people? Unless we want government even larger than it is now, with no department head having adequate access to the President, the answer is no.

So we are left with the second argument: bring all the education programs together. But last year, when the bill was first introduced, the constituent groups in these other programs were outraged by the proposal that they be included in the new education department. Head Start demanded exclusion. So did school lunches, manpower, Indian education and other programs. It became obvious that if the programs which were to be coordinated by a separate department were included in it, there would be so much opposition from these groups that the bill would not pass Congress. So, what did the President do? He submitted a new bill which excluded most of the programs which were supposed to be coordinated. Santayana defined a fanatic as one who redoubles his efforts after he has forgotten his aims. The separate department continues to be fanatically pushed even though the major reason for it—coordination and unification of education programs—has been abandoned.

The bill should be defeated.

According to the polls, the American people do not want it.

Many fear that while a federal education department will do little to improve education, it may establish a new, unneeded bureaucracy and erode local control.

It is opposed by most civil rights groups, the AFL–CIO, higher education groups, major organizations representing private and parochial schools—and a strong plurality of public school parents.

The needs of education can be met by reorganizing HEW.

Education will be weaker when separated from the health and welfare forces which lobby for the same budget.

The separate department has been opposed editorially by the *Washington Post, The New York Times,* and the *Wall Street Journal,* among other newspapers.

The latest argument used by the Administration is that the United States is the only democratic industrial nation which does not have a separate department of education. That may be true, but is there evidence that we are worse off for it? No. In fact, the evidence seems to point the other way. In a paper on "American Education in the Perspective of Education in Other Nations," Ralph W. Tyler, director emeritus of the Center for Advanced Study in the Behaviorial Sciences, gives us some interesting statistics. In a cross-national evaluation of reading, the average of the combined scores on comprehension and interpretation for 14-year-olds was compared. The Americans scored an average of 16.5. Only New Zealand, with 18.7, and Finland, with 17.2, were higher. The average for England was 16.1, for Sweden, 15.9. The average scores of the other industrialized nations ranged from 13.8 to 16.4.

Most 14-year-olds in the industrialized world are still in school. But this is not the case with older children. When the international assessments were being made, the United States retained 78 percent of the age group through the final year of secondary school. Japan retained 70 percent, Sweden 65 percent, Australia 29 percent, Hungary 28 percent, England 20 percent, Scotland 17 percent, Italy 16 percent, and New Zealand and the Netherlands 13 percent each. But, despite the fact that American students finishing high school represent nearly 80 percent of their age group, our average literacy score—21.9—was topped only by New Zealand (26.8), England (26.4), Finland (23.8) and Sweden (23.3). Clearly, American education enables most of our youth to attain the literacy that most other nations only achieve with a very select group.

In providing educational opportunity, the United States also does very well in comparison with other countries. In 1974, 14 percent of our secondary school seniors were from families of unskilled or semi-skilled workers. In West Germany, it was only 1 percent, and in England and the Netherlands, only 5 percent of the seniors came from such families.

So much for the Administration's "international" argument for a separate department of education. Without one, we're doing pretty well—better than most countries with such a department. American schools have problems, of course, especially in educating the urban poor. But they won't be solved by a new bureaucracy in Washington.●

GOLDEN JOHNSON

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. RODINO. Mr. Speaker, I was very pleased to learn that a young woman whom I have known to be a leader in the Newark community has been named the new president of the Garden State Bar Association—the first woman ever to hold that post.

Golden Johnson has played an important role in building a sense of pride in our community and leading in the progress we have made. As a lawyer, she has worked with the Community Action Workshops, the Girls Club of Newark and has served on the municipal bench with sincere dedication to the concept of equal justice.

Mr. Speaker, the Newark Star-Ledger recognized Golden Johnson's achievements in a feature story on Sunday, March 4, 1979. I include a copy of the article in the RECORD, as follows:

STATE'S FIRST WOMAN MINORITY BAR CHIEF FINDS TIME NURTURES MATURITY

(By Charles Q. Finley)

Golden E. Johnson of Newark, the first woman president of the Garden State Bar Association is only 35 but she has mellowed with the passing of time.

"I enjoy being over 30," said the former Newark municipal judge who heads the group formed a decade ago to aid minority attorneys in New Jersey. "Things that upset me at 25 don't affect me now.

"I became more relaxed as I grew older. If I can't deal with something, I don't worry about it."

But that doesn't happen often.

"I'm well aware being a member of a minority group can be a drawback; that it can present problems in getting ahead," she said. "But my family background taught me the opportunities are there and as long as you study and work hard, you can do pretty much what you want to do.

"I've been told things were impossible for me to accomplish and I went ahead and did them anyway. But I'm not saying discrimination does not exist against women and a majority of blacks, it does.

"In fact, I have a basic feeling blacks were better off 10 years ago than they are now or will be in the '80s. In the '60s, with its riots and social conscience, there was a lot of moral feeling about the plight of blacks.

"There was a push to do something. Blacks suddenly came into positions of authority and power and there was open enrollment in institutions of higher learning.

"But now people are worrying about things other than somebody being called derogatory names or kids coming out of the schools functional illiterates. People are worrying about things that affect their daily lives, like how they can pay their bills and still get enough to eat.

"Blacks don't have access to the mainstream. And what they did gain is being curtailed."

Miss Johnson is depressed by the physical appearance of Newark.

"When I ride around in the city, I don't recognize some of the old neighborhoods. They look as if Newark had been burned out.

"It's an old city with a lot of heritage. There has been some progress—like the new medical school—but when people talk about the new Newark, the better Newark, I'm still looking for it."

Born in Newark and a graduate of East Side High School, she went on to major in bacteriology at Douglass College. She graduated in 1965.

For the next three years she worked in the Special Research Laboratory at the Veterans Administration Hospital in East Orange, a time when she did much thinking about her future.

"I was trying to sort out what I wanted to do with my life and when I looked at women in science, I didn't like what I saw," she recalled. "They weren't allowed to think, they were just being used as technicians.

"And I wanted to be somebody involved in the community. I couldn't see that kind of image in the laboratory."

She entered Rutgers Law School in Newark and held summer jobs with Newark Legal Services and as a law clerk in the U.S. Attorney's office.

She graduated in 1971 and was appointed a deputy attorney general the following year. She became project director for the Community Legal Action Workshop and was involved in a battle by parents to prevent fingerprinting children in a grammar school during a murder investigation.

Miss Johnson is an attorney for Hoffman-LaRoche Inc. in Nutley. She joined the firm in 1974, the same year she was named to the municipal court bench in Newark. She was a judge three years.

"I found it very difficult to leave the courtroom and forget about it," she said. "Sending somebody to jail is a very serious decision."

Miss Johnson's parents, Lucy and Leroy Johnson, live in Newark.

Professor Eva Hanks, who teaches at the Benjamin Cardozo School of Law of the Yeshiva Law School in Manhattan, was Miss Johnson's law professor in Rutgers.

"Golden was an absolute delight as a student," Professor Hanks said. "She had a great deal of poise, was very bright and had an enormous sense of humor. Her infectious laugh was sadly missed.

"She always took the hardest courses and was determined to be a crackerjack lawyer. I found her to be colorful and a marvelous person to be around but, most important, was her remarkable intelligence."

Belma Houston, manager of the Office of Technical Assistance in the City of Newark's Human Resource Planning Section, has known Miss Johnson since high school.

"She never has forgotten from whence she came . . . Newark," her long-time friend said. "She respects and cares about everyone and is equally at ease with a group of lawyers, social workers or grass roots people.

"And once she's committed to carrying out an idea, there is no holding her back. She can go for days with practically no sleep."

Miss Johnson has had a particular interest in young people over the years. She is a member of the board of directors of the Girls Club of Newark and is active as a public speaker at church affairs, as well as grammar and high school graduations.

A sailing buff, Miss Johnson also plays tennis and bowls and is no stranger to a violin or guitar. But most often she can be found with her nose buried in a law or a science book.

"I like to walk in the woods, especially in the spring and fall," she said. "I enjoy those quiet times most of all, when I can be alone and think."●

OBSTACLES TO INVESTMENT IN SMALL BUSINESS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following article by Bill Brock on the difficulties facing small businesses today. There are any number of obstacles which discourage investment in small businesses, which is a vital part of our national economy. Incredibly complicated tax codes, high social security and payroll taxes, strict Federal environmental requirements, and several other Government-imposed obstacles effectively stifle small business investment.

The article follows:

SMALL BUSINESSMAN ANOTHER VANISHING AMERICAN?

(By Bill Brock)

If things don't change very rapidly, it won't be very long before some columnist is writing in our national newspapers about the death of small business in America. He probably will start off with a paragraph something like the following.

"There was a time in our country not too many years ago when the owner of a small business firm was a pillar of the community. Small businesses across this land provided people with financial independence. They thrived on competition and created economic employment opportunities. Their goods and services improved the quality of our lives and gave stability to our towns and cities. The small businessman was at the heart of America, a vital part of the American Dream."

We can't put the past tense on small business yet. It's too early to write its epitaph, but the economic and political freedoms which have nurtered and sustained the world's most productive and small business community are clearly being reduced and in many cases eliminated. This community is an essential element of national strength, a symbol of how the American system works for all, and our ultimate "consumer protection."

Today, small businesses must deal with a federal tax code that discriminates against them, stifles their growth, chills competition, hinders job creation and fosters ever increasing concentration into the hands of a few conglomerate giants.

The tax code is so complex that it is difficult for the small businessman to even understand it, and he simply cannot afford to hire a tax expert to protect him from its burdens.

Futher, tax credits available to giant industrial companies for capital investment often are not open to the owner of a small firm. His company relies on people, not machinery. To use the vernacular of the economist, most large businesses are 'capital intensive,' and they receive tax benefits to further enrich those resources. Most small businesses are 'people intensive,' and they are taxed for employment, rather than motivated through tax incentives to create jobs.

The small business owners are first and hardest hit by high social security and other payroll taxes. Each increase in minimum wage threatens the survival of their business or makes it impossible for them to hire extra employees. The actions of this government today are clearly designed to motivate less employment, not more.

Despite White House rhetoric to the contrary, President Carter's tax reduction proposals would do nothing for the small businessman. Less than five percent of the tax cut that he has proposed for American business would go to small businesses, and yet they comprise 97 percent of our firms and employ well over half of all American workers. To the contrary, seventy-eight percent of his total business tax cut would go to less than one percent of America's corporations—the very largest. To make matters worse, Social Security taxes would impact greatest on those companies which are people intensive—in other words, small businesses.

One of the effects of this kind of tax policy, a policy that favors bigness and penalizes and discriminates against small business, is increased concentration of power. That is not a good sign for the American consumer, nor is it a good sign for the independent sector of the American economy where competition still works and works very well. The independent business sector is essential to the strength and vitality of our nation. It's been the well-spring of innovation and inventiveness, the creator of jobs, and the guardian of a free market. It presents the best hope for our chronically unemployed, the poor, the disadvantaged—especially in our areas where people need jobs the most, ranging from the inner city to Appalachia.

But we are in danger of losing the contributions by small businesses, as more and more of them are picked off and gobbled up by continuing wave of corporate acquisition and merger. It is ironic that government policies of a nation such as ours, founded on and committed to free competitive enterprise and initiative, would actually discourage competition by fostering economic and industrial concentration.

Instead of beleaguering small businesses with the heavy hand of a federal bureaucracy unaware of how competition workers, we should help them to stay in business and to grow and prosper by reducing their taxes and eliminating discrimination from tax codes.

Instead of forcing small businesses to sell out to larger corporations we should encourage them to hire more people by enacting a Republican proposal in Congress to provide tax credits to those who hire the structurally unemployed and to those who move their firms into areas of high joblessness. Unless we can stop the crime of urban incompetence, forcing small business out of their communities, urban dwellers are going to have to be clothed and fed from federal commissaries.

Instead of piling more and more regulations, paperwork, and controls on the shoulders of small businesses, we should reduce that burden. If present policy continues, the days of the small independent businessman are numbered, and our country and the way we live will be changed and we won't like it.●

PORTRAIT OF A PATRIOT

HON. FRANK THOMPSON, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. THOMPSON. Mr. Speaker, it is always difficult to accept the passing of a person whose life and work is part of the public scene. Bill Agin was as much a part of the daily life of my home city of Trenton as the daily newspaper. The "Portrait" by Ken Carolan shows one side of Bill Agin which epitomizes his dedication to the Nation and to his comrades.

I place "Portrait of a Patriot" before the House for I know that there are hundreds and hundreds of former servicemen throughout the Nation who will be grieved to know that Bill Agin, patriot, is dead:

PORTRAIT OF A PATRIOT

(By Ken Carolan)

I wish I could say Bill Agin was a close friend of mine. He wasn't.

We worked for the same paper. Sometimes covered the same stories. Drank together and ate together occasionally. We liked each other but we never became close friends somehow.

So there are many others here on The Trentonian who can tell you much more about Bill with greater personal knowledge. I can only describe him as I saw him.

Yes, he was a total professional in this business, with the rare ability to swing from stories on bloody murders as a police reporter to detailed accounts of complex business deals to human interest columns without missing a beat on his typewriter.

But I saw Bill Agin as a patriot. One of the few today who cherished that title.

Others remember Bill, with notebook in hand, rushing to get a story or pounding the keys as he ripped up a pompous politician.

The Bill Agin I remember best is the guy holding the flag at Greenwood Cemetery during the annual Memorial Day ceremonies at the Mercer County veterans' graves. Every year.

I particularly recall the day, a few years back, when an icy rain, propelled by winds into stinging darts, assaulted the crowd as Taps was being played. Others flinched, some headed for cover, but I can still picture Bill, his face beaten red by that rain, standing at rigid attention, steadying the flag as the wind tried to rip it from his hands. His penetrating blue eyes were straight ahead but blurred with tears. That's the picture of Bill Agin I will always carry with me.

Bill was at Pearl Harbor when the Japanese attacked and was a proud member of the survivors' organization formed after the war. It became traditional for Bill to write a Pearl Harbor piece every Dec. 7. In time he began to take some good-natured ribbing about refighting the Battle of Pearl every year.

Last year at The Trentonian Christmas party, when Steve Mervish and I put the needle in once more, Bill gave us that half-smile he used when he was about to cut you down and told us, "And I am going to keep writing about it until we win."

There was another characteristic I observed in this gentle, soft-spoken guy—an ability to generate honest anger instantly.

Last year it was rumored that the Memorial Day services at Greenwood Cemetery had been cancelled because Mike DePuglio, who had always organized the event, had retired and no one had taken over that responsibility.

I called Bill to check on the rumor. I received a one-word reaction: "WHAT?!" He slammed the phone down and went to work. As it turned out the rumor was false, but had that ceremony been called off Bill would have organized his own, and then barbecued the county officials with his typewriter, which could spit flames when he wanted it to.

That's the way Bill wore his patriotism too. Softly and gently on the outside, but with a burning intensity on the inside.

At times during his career Bill was put to a test because of his sincere patriotism. He had to cover stories about war protesters and other groups he despised personally. He had to watch them spit and stomp on the flag he loved and defended.

Somehow, with great inner discipline, Bill would write a completely objective news story of the events. Few of us in this business have that ability or that kind of integrity.

I should note, however, that Bill's comments about these people and their anti-American attitudes, when he was off-duty and off the record, could never be published in this paper without incinerating the presses.

Bill was not in the class I call the "professional veterans." The guys who say, "I wore a uniform. You owe me something." Bill served and Bill fought. But Bill never felt his country had an obligation to him. In fact it was the other way around with him. He felt obligated to his country.

He also felt obligated to other veterans—he wanted those who died to be remembered and those who lived with crippling wounds to be taken care of. He was always there to honor the dead and did his best to make sure the disabled were not forgotten either.

Bill Agin, Patriot, died Thursday night. He will be buried Monday with military honors.

Standing above his grave, I will always see a silver-haired guy with a wind-whipped flag in his hands, oblivious to the cold rain beating on his face, shedding tears for the buddies he has now re-joined.●

NAVY SEAPOWER

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. BOB WILSON. Mr. Speaker, I have long been an advocate of the Navy, seapower, and control of the seas. I have spoken numerous times before this body on the subject, but seldom have I seen the argument for a strong Navy put as succinctly as in the following editorial from the U.S. Naval Academy Alumni Association's publication "Shipmate," and I commend it to the attention of my colleagues.

"AT HER PERIL"

Sixty years ago the Allies and the Central Powers signed an armistice to end World War I—"the war to make the world safe for democracy." Unfortunately, the machinations of would-be conquerors and the stupidities of politicians long ago shredded that dream; since November of 1918 the world has known little but wars and the rumors of war.

The memory of World War I to most people is one of a long series of eviscerating land battles that killed off a generation of youth in France, Britain and Germany. In fact, like all other world wars, it was won at sea. The seaborne blockade of Germany and the Allies' ability to bring in food, weapons, supplies and, eventually, an American army were the two factors that over-rode the events on land battlefields and doomed the Central Powers to defeat.

And so it was in World War II. Germany and Japan made rapid conquests of Europe and Southeast Asia, and Germany again nearly brought Britain to her knees by submarine interdiction of her seaborne lifelines. But, without control of the sea, the Axis powers could neither bring in the overseas supplies to fuel their industrial capacities nor prevent the build-up of Allied power across the seas. Again sea power doomed the Axis to ultimate defeat.

We must remember that, in both cases, victory came only after a long period of recovery from initial defeat on land—a holding period that enabled American industry to gear up to massive production of the materials of war, and of the ships to transport that material safely to the Allies. In another war we may not have that holding period in which to prepare, and we may not have that firm control of the sea lanes.

When the German High Seas Fleet surrendered at Scapa Flow on 21 November 1918, Admiral Earl Beatty, Commander-in-Chief, Grand Fleet (Royal Navy plus the U.S. Sixth Battle Squadron), make a signal:

From: Grand Fleet.
To: British Empire.

Britain has this day witnessed a demonstration of sea power which she will forget at her peril.

BEATTY.

The Admiral's message was heeded by his countrymen and the Royal Navy was maintained for the next twenty years as the most powerful in the world. After the German *blitzkrieg* of 1940, when Western Europe was prostrate under the Nazi heel, only the grey ships of the Royal Navy stood between Hitler and total victory—and they stood firm. Perhaps Hitler remembered Nelson's "storm-battered ships upon which the French army never looked"—but which spelled out Napoleon's final defeat.

In those twenty years between the wars, the United States had not even designed to build its Navy up to treaty limits. It was not until 1940 that we undertook a crash program to build a two-ocean Navy. Consequently, for lack of escort ships we suffered terrible losses of ships and material off our Atlantic coast through the first half of 1942 and, after Pearl Harbor, were reduced to desperate holding actions in the Pacific. That they were successful was more due to brilliant intelligence work than to equality of forces.

By the end of World War II the U.S. Navy was by far the most powerful and effective fighting force the world had ever known. Five years later, when war erupted in Korea, it had been so reduced that we had to turn to another crash program of reactivating ships and personnel to meet immediate requirements. It was only the heroism of a few troops and airmen that preserved our tenuous foothold around Pusan until forces could be prepared to carry the war to the enemy at Inchon. When the Korean War ended, the U.S. Navy was again the world's largest and best—and again it was cut back to the bone.

The Vietnam years saw another expansion and contraction, but they also produced a mass revulsion against all things military—one that has taken until very recently to dissipate. And, world-wide, the free nations turned more and more to such "people programs" as national health, social services, educational benefits and welfare with comparably less expenditures on national security. The once-great Royal Navy is now a mere shadow of its former self and ours is reduced to only about 460 ships. Under present projections by the Department of Defense it appears that the fleet will not increase much beyond a total of 500 ships in the next four or five years.

Meanwhile, the Soviets have been embarked on a steady course of major ship construction, both naval and merchant. They now have a fine, "blue water" Navy capable of world-wide operations, one that is at least close to if not fully equivalent to ours. Certainly it contains the world's largest submarine force, which represents a grave threat to our ability to import the seventy-odd raw materials that are vital to American industrial production, as well as the threat of launching ballistic missiles against the continental United States. And, in their Okean exercises, the Soviets have demonstrated their ability to control widely dispersed forces for simultaneous action in different parts of the world.

Probably the best assessment of the Soviet Navy was made by its Commander-in-Chief, Admiral Sergei Gorshkov, who said:

> "The USSR today has a naval fleet and aviation equipped with nuclear rockets equal to any strategic tasks, including tasks of an offensive nature, on all the seas and oceans of the world. . . . The flag of the Soviet Navy now proudly flies over the oceans of the world. Sooner or later, the United States will have to understand that it no longer has mastery of the seas."

It does seem, indeed, that not only Britain but also the United States have forgotten Admiral Beatty's message of sixty years ago—and to their peril. Yet it is not too late to take stock of our situation, to recognize that peril we face upon the seas, and to do something about it. Let us remember Beatty's message, and also that great truth written in the Royal Navy's Articles of War during the reign of Charles II:

> "It is upon the Navy, under the good providence of God, that our wealth, prosperity and peace do chiefly depend." ●

GASOLINE SHORTAGES

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mrs. SCHROEDER. Mr. Speaker, we have been hearing with distressing regularity reports of gasoline shortages and tightening supplies of industrial and home heating fuels. The prospect of long lines at the gas pumps, curtailed production, and increasing international tension over scarce energy supplies is not a pleasant one. So when I came across a constituent letter which pinpoints many of the stumbling blocks to efficient domestic energy production and distribution, two plus two quickly added up to four.

My constituent details with great clarity many of the complicated and ambiguous Government energy policies which contribute to considerable industry uncertainty and subsequent production curtailments. I would like to share this letter with my colleagues. I think we would do well to heed his call for simplicity in energy regulation. Our continued penchant for complicated and excessively detailed energy regulation could mean that today's carefully drafted solutions will become tomorrow's problems.

The letter follows:

BROWNLIE, WALLACE,
ARMSTRONG & BANDER,
Denver, Colo., February 9, 1979.

HON. PATRICIA SCHROEDER,
Longworth House Office Building,
Washington, D.C.

DEAR CONGRESSWOMAN SCHROEDER: This year Congress will undoubtedly be confronted with the problem of how to resolve the dilemma posed by the end of statutory controls of the price of domestic crude oil. Since how you address this matter is of tremendous importance to me and to all others comprising the independent segment of our oil and gas industry, I feel compelled to write you. I would simply like to ask that your deliberations consider just one major point which has not been considered in other recent Congressional legislation, and I will try to explain it in the latter portion of this letter.

By way of introduction, I am a partner in the oil and gas exploration and producing firm as captioned in this letterhead. The four people making up our partnership have been engaged in oil exploration for more than twenty-five years and during this period of time have drilled hundreds of exploration and development wells. We are no strangers to a dry hole and know what basic ingredients are necessary to raise the necessary capital to operate as an independent oil producer.

We have seen our industry go from the time we entered in 1952, when there were over 2600 active drilling rigs operating onshore in the United States to 1971 when the rig count had been reduced to something less than 1000. Now in 1979, there are 2200 active drilling operations in this country and time will not permit me to outline the conditions responsible for these various activity levels in this letter. Most of these factors have been discussed in depth in recent years during our many energy debates.

Our partnership is presently among the most active oil and gas exploration firms in the Rocky Mountain Area, as we have something over sixty wells scheduled to drill in 1979. At this time we are developing an oil field in the Willison Basin, straddling the Montana and North Dakota state lines, in which we have 35 producing wells and where we are currently operating five drilling rigs. This oil field involves some land in which the United States Government owns mineral rights and a portion of these Federal lands fall under the jurisdiction of the U.S. Forest Service. The Department of Interior, through the Bureau of Land Management and the United States Geological Survey, also claim jurisdiction over our operations in many instances. We have often found ourselves in the circumstance where one Federal Agency asks that we pay royalty on gas produced, along with the oil, and which we are unable to market because another Federal Agency (U.S. Forest Service) will not grant us approval to lay a pipeline to our well, which would enable us to actually sell our gas.

By and large the individuals we deal with representing the Government are reasonable, high quality people and we respect their interest in a job done well. Quite simply stated however, the process of doing business is substantially more complex when it involves operations on Federal lands. Several years ago the industry found operating on Federal lands a simple task, but that is no longer the circumstance. It takes weeks and sometimes months to obtain permission to conduct seismic surveys or obtain permission to drill on a Federal lease, although the Federal lease specifically grants you the right to do these things. A significant portion of our employees address themselves to these problems on a daily basis.

With the circumstances noted above already an unproductive part of our daily business life, Congress released the 276 page text of the Natural Gas Policy Act of 1978 in the fall of last year. We are well informed with regard to the many months of debate and deliberation that preceded this legislation, but there is no way to effectively tell you the time, effort and expense Congress will have caused the oil and gas industry in their attempts to comply with these regulations. In a great many instances, we can find no one either in Congress or in the Department of Energy who can either define or explain the intent of these regulations. Consequently, total confusion now exists within our industry. One simple example of this is presently taking place where 87 percent of the applications made within the State of Texas in compliance with this Act are being rejected simply because people do not understand how to correctly address these regulations.

If you care to know my opinion on the specific inequities of this Act, I will be happy to enumerate them to you by separate letter.

Now, finally, if you haven't given up yet, I will try to tell you why I am writing to you and how this letter relates to probably Congressional legislation concerning the crude oil price structures of domestic oil.

I would like you to carefully consider this problem, and when you do write the regulations, please do not burden our industry with another document similar to the Natural Gas Policy Act of 1978. We do not need a separate price structure for wells under 50,000 feet, wells located in Idaho, pumping wells and sick wells, old wells and tired wells, wells drilled before or after a certain date, wells drilled within two and one-half miles of an existing well, wells drilled 1000 feet deeper than a nearby well, ad nauseam.

Whatever it is that is done, please give some thought to those who will have to live and operate with these regulations and do your best to eliminate the ambiguities and complexities which have been the centerpiece of nearly all Federal regulation of the oil industry in recent years.

Brownlie, Wallace, Armstrong & Bander is a small independently owned and operated business which believes in the free enterprise system, while acknowledging the need for minimal Federal regulation. It is this governmental involvement in our lives that is so distressing.

I know how terribly busy you are and very much appreciate any consideration you might give the substance of this letter.

Yours sincerely,

JAMES B. WALLACE. ●

ROCKDALE APARTMENTS—A FOLLOWUP ON THE SCANDAL

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. LEVITAS. Mr. Speaker, in the fall of 1977, I called to the Members' attention a public housing scandal of major proportions in Atlanta, Ga. This housing project, the Rockdale Apartments, was a HUD-insured project which had to be demolished less than 6 years after its construction.

In speeches to the House of September 19, 1977 (page 29902) and September 29, 1977 (page 31670), I detailed the nature of the problem and called for a Congressional investigation.

With the assistance and leadership of our colleague Congressman THOMAS "LUD" ASHLEY, chairman of the Housing Subcommittee, we were able to bring the light of full Congressional and public scrutiny to this project.

Hearings were held on February 22, 1978, and a report was issued entitled, "The Construction and Demolition of the Rockdale Apartment Project, Atlanta, Ga."

The Department of Housing and Urban Development has responded to these efforts and worked hard to institute new management procedures to keep future similar catastrophes from happening in the future. They have also checked into their ongoing housing projects to insure that problems similar to those at Rockdale are nipped in the bud.

I hope these efforts have been thorough and successful. In the light of past experience I am sure the Housing Subcommittee will be vigilant in continuing to monitor this situation.

To bring the Members up-to-date, I am inserting a follow-up letter from Lawrence B. Simons, Assistant Secretary of HUD:

DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT,
Washington, D.C., February 9, 1979.

Hon. ELLIOTT H. LEVITAS,
House of Representatives,
Washington, D.C.

DEAR MR. LEVITAS: This letter is a report on the Department's activities since our testimony before the Subcommittee on Housing and Community Development last February concerning the Rockdale Apartments in Atlanta. Since that time the Department has undertaken an on-going program of procedural changes to guarantee quality underwriting, construction supervision, and project management. The primary conclusion resulting from our continuing management efforts and our investigation of Rockdale is that it was a unique occurrence.

Our testimony covered corrective measures that had been taken, actions to be taken in the near future, and the establishment of an on-going program to avoid future situations similar to Rockdale Apartments. The following is a description of our activities in 1978.

CONSTRUCTION SUPERVISION

In order to identify other projects with possible serious construction defects, the Regional Administrators were requested to report:

(1) All projects which will have reached 50% completion by April 1, 1978.

(2) Projects in any stage of development or management which have severe construction defects (telegram February 17, 1978).

To perform the review of the projects under construction, twenty-three (23) retired HUD employees, architects and construction analysts were placed under contract. They came to Washington for a one-day orientation and to receive their first assignments.

In reviewing a project, each inspector examined the official drawings and specifications, and visited the job site. His conclusions were reported on the appropriate HUD form which reports the Contractor, the Supervising Architect, delays or special occurrences, non-compliances, and labor provisions. In addition, the inspector was asked to express his opinion as to the durability of materials and systems, and the design of the project. He was also required to comment on change orders.

The Regional Administrators listed 954 projects as having reached 50% completion as of April 1, 1978. In reviewing this list, it was found that a number of projects had been improperly included. They were eliminated from the list if: (1) less than 50% complete; (2) finally endorsed; (3) hospitals; (4) Low Rent Public Housing; (5) completed or near completion for some time without endorsement (default, assignment, etc.).

Of the projects remaining, 711 were examined. The inspectors were assigned the projects by Headquarters and the inspectors' reports were returned directly to Headquarters. They were reviewed upon receipt for compliance with the terms of the inspectors' contracts and any identified serious construction defects.

In 28 cases serious construction deficiencies were identified by the inspectors. Telegrams were sent to the Regional Administrators requesting immediate action and a full report on the action taken. Replies received in 21 cases indicated that the Field Office involved was aware of the defect and had taken corrective action or that corrective action was taken upon notification. In the other 7 cases corrective action is underway.

Copies of all inspection reports have been sent to the Regional Offices for distribution to the appropriate Field Office. Where any type of construction deficiency was identified, corrective action was required if not already accomplished.

While the inspections were being made, field monitoring reviews were conducted by Headquarters staff on 29 projects. These reviews were made to evaluate the work of the inspector.

In addition to the projects reported as having reached at least 50% completion, the Regional Administrators also reported projects in any stage of development and management with alleged severe construction defects. A detailed review is being made to determine if these projects have possible construction-related problems.

To provide for continuing review of any project which appears to have construction-related problems, we are contracting with 12 highly qualified individuals. This team will first conduct site inspection trips to selected projects with HUD Field Office employees to reinforce the inspection skills of the HUD staff. This team will then be available to make monitoring inspections of specified multifamily housing projects.

The problems that were encountered in the Rockdale project were caused by more than just construction defects. Our analysis revealed that there was clearly a need for changes to be made in procedures and for project management initiatives to be taken.

CHANGES IN PROCEDURES

The Department has made significant changes in certain procedures to assure the construction and management of quality projects:

Guidelines were established to identify possible conflicts of interest on the part of the design architect.

Instructions were issued reinforcing our requirement for an independent supervising architect when a conflict of interest is found to exist.

Instructions to the Field Offices were published which require direct HUD inspection where an identity of interest exists between the owner and the contractor.

The authority of the Field Offices to accept the design architects optional certification that plans and specifications are in accord with local codes and HUD minimum property standards in lieu of review by in-house professionals was withdrawn.

Instructions were published reaffirming the Department's requirement of complete contract drawings and specifications prior to issuance of firm commitment.

Instructions were published withdrawing the architect's authority to make field changes in plans and specifications without prior HUD approval.

Instructions were published requiring all changes to contract documents to be reviewed by supervisory personnel.

Instructions were issued reaffirming that all changes in plans and specifications must have prior HUD approval and in those instances where this requirement is violated, insured advances to cover these portions of construction were ordered withheld. Guidelines for approving construction changes were amplified.

Fee Multifamily Inspector panels have been been established across the Nation to supplement staff inspectors where the workload is excessive.

We have recently published the new "Standard Form of Agreement Between Owner and Architect for Housing Services" which we developed with the help of the American Institute of Architects. This document clearly identifies the scope of architectural services to be performed and the contractual agreements being entered into.

Instructions are being issued requiring the use of this Owner-Architect Agreement with a HUD Amendment containing the Warning against making false statements to the U.S. Government.

We have developed a comprehensive screening system in the Previous Participation Clearance for Architects. In this system, prior to approval an Architect must reveal previous participation in HUD programs as a principal, as an associate, and as an employee of other architectural firms.

We have developed improved mechanics and guidelines for expeditious removal of architects found to be performing in an unsatisfactory manner.

MANAGEMENT INITIATIVES

As a part of ongoing Departmental efforts to guarantee sound management of our projects, we have taken the following steps.

Instructions were issued establishing a requirement for an annual on-site management review of insured and assigned subsidized projects and a triennial review of unsubsidized projects. We have sent a new comprehensive management review format to the field offices to be used and tested in making the required management reviews. The review format was developed with input from several field offices, HUD contract consultants and the industry.

The two-part management review format and review questions were designed to: (1) condition loan servicers, project owners and management agents as to the type and quality of management services the Department expects; (2) collect sufficient information to document areas of nonperformance and provide documentation for removing unsatisfactory management agents; (3) standardize the reporting formats so that findings and evaluations can eventually be input into the Office of Loan Management System (OLMS) and other automated data systems; (4) facilitate preparation of a management plan for correcting the deficiencies identified in the review; and (5) identify superior management for possible incentive awards.

Work is proceeding with a contractor in making the Office of Loan Management's data system operational on the subsidized projects. The data system, which gives a detailed breakdown of project expenses for the latest three-year period, is designed to set-up warning flags and highlight trends in the operation of the project. It will provide the mortgage servicer an invaluable tool both in meeting present problems of a project and in being alerted to potential problems.

Multifamily Skills Reinforcement Training was provided to 1,018 HUD personnel in 31 sessions at 6 locations during the period April 3–June 23, 1978. Multifamily technicians and their immediate supervisors attended the two and one-half (2½) day sessions. The training emphasized the current and changed procedures as well as the technical skills and techniques necessary to avoid unacceptable projects.

In addition at a two-day meeting of the HUD Housing Directors in our 40 Area Offices, the problems encountered in the Rockdale project were described in great detail and the Housing Directors' responsibility for quality design, construction and management was emphasized.

COMPLETED OFFICE OF INSPECTOR GENERAL INVESTIGATIONS RELATED TO THE ROCKDALE APARTMENTS INVESTIGATION

In response to initiatives which arose from the Rockdale Apartments investigation, the OIG conducted exhaustive reviews and/or investigations of eight multifamily projects. These reviews and investigations are completed. Criminal prosecution and administrative considerations have been addressed.

Four of the eight projects investigated were initially identified by the Atlanta Regional Administrator as having significant problems with potential for referral to OIG for investigation. The Assistant Secretary for Housing ordered a technical team review of these projects, following which referral was made to OIG for an investigation.

The investigations disclosed contractor non-compliance with plans and specifications, poor performance by supervisory architects overseeing contractors, inadequate inspections of construction by HUD staff, deficiencies on the part of HUD staff involving the review and approval of change orders, and inadequate reviews by HUD staff of project designs. These failures on the part of contractors, supervisory architects and HUD staff resulted in the overall poor quality of construction. However, the investigations did not uncover any fraudulent transactions or criminal violations. The management initiatives undertaken by the Department, which I have previously described to you, are designed to prevent a recurrence of these failures.

Three projects referred to OIG for review were in the category of those HUD projects which had been demolished within the past 10 years. Each of the three projects were subjected to an in-depth file and document review. In two of the projects reviewed, there were no indications of improprieties which required further field investigation. In one instance further field investigation was required because of indications of possible improprieties in the development and construction of the project. The field investigation did not, however, sustain any findings of impropriety. Rather, initial failure to rent-up led to extensive vandalism and subsequently to structural failure. No administrative sanctions were found to be warranted.

Of those projects involving Secretarial approval to demolish, all were the subject of an in-depth file and document review. Only one required a field investigation. Allegedly, no rehabilitation had taken place although the LHA had claimed $1.9 million in expenditures to acquire and rehabilitate the project, and HUD staff had apparently failed to properly review rehabilitation expenditures and cost overruns.

The audit disclosed that the LHA had overstated development costs by improperly charging expenses to the development of the project, which expenses, though proper LHA expenses, should have been charged to other projects. The investigation disclosed that although there was little improper conduct on the part of the LHA, it did raise serious questions about the servicing of the project and the monitoring of the LHA's development program by HUD staff of the local area office. Although the investigation raised questions about the performance of two HUD staff in connection with their concurrence with the LHA's recommendation to demolish the entire project, it did not disclose any breakdown in the HUD management or systems.

Administrative action was taken to reassign one of the principal HUD employees at the local HUD Area Office to a non-supervisory, non-managerial position; another principal HUD employee retired. The concerns raised by the investigations were reviewed by the appropriate HUD Regional Office and addressed by that office.

In addition, we are monitoring our field offices regarding the implementation of Rockdale related instructions and procedures which have been developed during the past year.

In conclusion, we realize that no quality control system is foolproof; but, we do believe that the controls which the Department has implemented and is continuing to monitor and refine will provide a quality of underwriting, construction and management of which this Administration can be justly proud.

If you should have any questions or if we can be of further assistance in this matter, please feel free to contact me.

Sincerely,

LAWRENCE B. SIMONS,
Assistant Secretary.●

OVERREGULATION OF AMERICAN HOSPITALS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. LAGOMARSINO. Mr. Speaker, I would like to submit for the benefit of my colleagues, the following article from the Press-Courier on the overregulation of American hospitals, which appeared on Sunday, February 4, 1979:

HOSPITALS OVERREGULATED

President Carter's program to control hospital charges—he calls it "cost containment"—went sour in the 95th Congress, but the administration is reviving it in a new form this year.

Meanwhile, Gov. Brown wants to see a state program aimed at the same goal of keeping hospital bills from rising, as they have been—at twice the rate of inflation—in California, too.

This promises a continuing debate on whether government can regulate hospital charges without jeopardizing the quality of care. Perhaps it also will draw attention to the neglected flipside of the issue, which is this:

How much is government adding unnecessarily to the cost of hospital care by overregulating hospitals in the first place?

The fact that both the Congress and the California Legislature are being asked to tackle hospital "cost containment" is a symptom of the problem. Duplicating or overlapping regulations by state and federal agencies are one of the chief complaints coming from hospital administrators who are trying to eliminate paperwork, wasted motion and other unproductive expenses to hold down their overhead.

The California Hospital Association has estimated that satisfying government regulatory requirements accounts for 10 to 12 percent of hospital costs, and California gets off easy. In some states, agencies at the city and county level are deeper into regulatory activity than they are in this State.

The New York Hospital Association figures that federal, state and local regulations translate into 25 percent of hospital charges billed in that state—or about $40 a day on a patient's bill.

Most of these regulations are aimed at protecting the patient, and it is tempting to say that too much regulation is better than too little where health and safety are concerned. But that begs the question.

There is no reason to assume that hospitals are immune to the same virus of overregulation that is afflicting business and industry.

The Maryland Hospital Association in December released a study on duplication of regulations which showed that its member hospitals are complying with rules and standards laid down by 61 state agencies and 40 federal agencies. A hospital administrator in Syracuse, N.Y., claims that 164 different regulatory agencies claim jurisdiction over his institution.

That's getting a little silly.

American hospitals are probably the finest in the world, and some credit must go to the various government agencies that have been given a watchdog role over their structural safety, sanitation and other standards and procedures. But a few alert watchdogs—not a howling pack of them—ought to be enough.

Rising hospital costs are one of the most aggravating problems in the fight against inflation, and those costs are affected by a variety of forces. If federal and state lawmakers are going to consider new "containment" regulations, they should first look at the X-rays of the regulatory structure already in place.

It looks from here like a candidate for corrective surgery.●

QUESTIONNAIRE RESULTS

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. LONG of Maryland. Mr. Speaker, over 15,000 residents of the Second Congressional District of Maryland have responded to my districtwide questionnaire.

As the three most irksome aspects of inflation, 79 percent name taxes, 65 percent pick food prices, and 50 percent choose gas and oil prices.

Over 92 percent feel the President's voluntary limit on increases in wages and prices should also apply to taxes on all levels, a position I have long urged.

Comments on tax reforms—

Equalize the proportionate share for each taxpayer. The incentive to work is not there when higher income is eaten up by higher taxes.

Stop IRS from penalizing us for being married.

I agree. I have just co-sponsored an amendment to remove tax inequities between single and married taxpayers.

I have long advocated fiscal prudence.

As a senior member of the Appropriations Committee, I voted in the 95th Congress for spending cuts totaling $66.5 billion to reduce waste, fraud, and abuse. I am sponsoring a constitutional amendment to require that the budget be balanced and that appropriations not exceed revenues, except in war or other national emergency.

Over 91 percent of respondents of all ages feel that persons living on social security should be allowed to earn extra money without being penalized:

> Please do something for us senior citizens. We are human beings, too, who have contributed a lot. We worked hard for 40 years but we are still sacrificing in our old age * * *.

In the 95th Congress, I voted to continue existing service and employment programs for the elderly, ombudsman services for residents of long-term care facilities, and home delivered nutrition services; to provide new programs for legal services for the elderly; and to fund a White House Conference on Aging in 1981. I shall oppose cutting these appropriations during the 96th Congress.

Turning to foreign policy, four out of five voters think President Carter should not have broken diplomatic relations with Taiwan as a price of normalizing relations with the People's Republic of China.

Over 93 percent of my constituents agree that our foreign assistance dollars should not go to countries that waste our aid, divert it to the rich and well-to-do, or disregard human rights.

And over 96 percent oppose low-interest loans to foreign industries whose products compete with U.S. firms not eligible for domestic subsidies. I'm for free enterprise. But free enterprise means no subsidies—none. Why should we subsidize foreign competition that hurts our own workers and industry, does nothing to help development in poor nations, and may actually widen the gap between rich and poor?

In reporting my poll, I strongly remind my constituents of political reality—special interest groups exert powerful pressure on Congressmen to vote spending programs.

To offset this, a constituency is needed that makes politicians more afraid to vote for wasteful spending than for economy.

The questionnaire and results follow:

SUMMARY OF 1979 QUESTIONNAIRE

(Second Congressional District of Maryland)

1. Which of the following aspects of inflation do you find most irksome? (select three)

	In percent
a. Taxes	79
b. Food prices	65
c. Gas and oil prices	50
d. Government regulations and paper work	42
e. Medical expenses	41
f. Rents	12
g. Interest rates	10

2. Do you favor comprehensive national health care (including house calls, prescriptions and dental work)?

	In percent
a. Only if hospital costs and doctors fees are brought under control	51
b. No	40
c. Whatever the costs	8

3. To improve Baltimore's transportation, should funds be spent on:

	In percent
a. Light rail transportation along the existing five rail lines	34
b. Regular and frequent bus service on major avenues	28
c. Bus service on the beltway and major avenues	24
d. The proposed $6 billion subway system	14

4. Should President Carter's 7% voluntary limit on wage and price increases also apply to taxes, including state and local? Yes, 92%. No. 8%.

5. Should persons living on social security be allowed to earn extra money without being penalized? Yes, 9%. No, 9%.

6. Should President Carter have broken diplomatic relations with Taiwan as a price of normalizing relations with Red China? Yes, 20%. No, 80%.

7. As a result, will other allies such as Israel, Japan and Europe lose confidence in U.S. friendship? Yes, 62%. No, 38%.

8. Should the U.S. continue foreign aid to countries that disregard human rights, waste our aid, or divert it to the rich and well-to-do? Yes, 7%. No, 93%.

9. Should U.S. government agencies extend low-interest loans to foreign industries whose products compete with those of U.S. firms not eligible for domestic subsidies? Yes, 4%. No, 96%.●

RURAL AMERICA ALSO NEEDS AMTRAK

HON. RAY KOGOVSEK

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. KOGOVSEK. Mr. Speaker, the Department of Transportation's proposal to slash the current Amtrak system just does not make sense.

In the 3 months I have been in Washington, I have seen headlines that say we will be paying $1 for a gallon of gasoline, gas stations will be closed on Sundays to conserve fuel and during the rest of the week, we may have to use rationing coupons to buy gas for our cars.

Yet DOT and the Office of Management and Budget have delivered the one-two punch that will knock out Amtrak, an energy-efficient and convenient transportation system.

A perfect example of the lack of common sense in DOT's proposal is in my district. The Southwest Limited is our train. It travels from Chicago to Los Angeles, crossing seven Western States and serving more than 350,000 passengers annually.

In southern Colorado, the Southwest Limited passes through small and isolated communities whose residents are forced to drive at least 100 miles to get to a major city. Instead of driving, many of the residents use Amtrak—providing the system with $2.06 in revenue per passenger mile. That is the highest figure of any train in the national rail system.

And yet, the route is recommended for cancellation, and rural Colorado will be left with no alternative but to drive, and drive on secondary roads and minor highways. The only other transportation available is bus service, limited to only the larger towns and schedules that do not serve the needs.

Rural America needs Amtrak as much as the population centers do, and it is the Federal Government's responsibility to provide economical and energy-efficient ground transportation to them.

The Department of Transportation wants a fast route. Ours is the fastest diesel-powered train in America. The new and improved route shaped by Secretary Adams is limited to a 45-mile-an-hour maximum speed in many places and as low as 20 miles-per-hour in others.

DOT wants more riders. But the proposed route to replace the Southwest Limited is 239 miles longer, meaning an additional 5 hours of travel from Chicago to Los Angeles. You do not need a calculator to tell you ridership will decrease if the length of the trip increases.

Mr. Speaker, in my district, rerouting the Amtrak system will mean the loss of $750,000 in payroll alone, not counting the many social inconveniences that can never be measured in dollars and cents.

Finally, DOT has somehow forgotten to mention safety in its report. The present route of the Southwest Limited, maintained by Santa Fe Railroad, is already equipped with the most modern safety features, including the automatic block system, train control system, and the automatic train stop system. The proposed new route has none of these features.

The people in southern Colorado are spread across many miles of rural land. People have learned to count on Amtrak as their major source of long-distance transportation.

Two questions arise when talking about continued Amtrak service—energy and dollars.

The Department of Transportation knows that people will ride the trains during an energy crisis. In its preliminary report issued in May, DOT said:

> It is clear that during the 1973–74 period of reduced availability of gasoline, people turned to the train. It is also clear that an unexpected surge in traffic was accommodated by Amtrak.

That same report recommended retention of the Southwest Limited and even proposed an additional route through Pueblo to Denver. Mysteriously, both were dropped in the final recommendation to Congress, forcing continued use of gas-guzzling automobiles.

The second question is dollars, and the answer is simple. The objective of Amtrak is not, and never has been, to make money. The goal is to provide a necessary public service.

Mr. Speaker, the people of Colorado and the entire Southwest need the Southwest Limited. I urge my colleagues to join me in disapproving the Department of Transportation's recommendation.

The New York Times printed an editorial on February 24 which reflects my opinion of the Secretary of Transportation's decision to cripple the American railroad, and cripple rural America:

LEFT HAND VS. RIGHT

(By Tom Wicker)

> The headline above first appeared over this column on July 9, 1975, but on nu-

merous occasions before and since it could have been used to make an apparently unchanging point: In the attempt to meet the gathering energy crisis, the left hand of the Administration (any Administration) usually works against the right.

At the moment, for example, Energy Secretary James Schlesinger is pondering the effect of sharply diminished Iranian oil production and rising OPEC prices, having in mind such steps as Sunday service station closings and strict observance of the 55 m.p.h. speed limit. He has just predicted that by this summer gasoline supplies may be down 5 to 8 percent and prices up 3 to 4 cents a gallon.

But President Carter has sent Congress a budget providing for an 8 percent increase in highway construction obligations, up to a level of $8.6 billion. Yet, as his recent maunderings about the need for car pools suggest, he knows the automobile is the most proliferate energy waster in America, and nothing encourages use of automobiles like the interstate highway system.

At the same time, Secretary of Transportation Brock Adams, as if to compound confusion has proposed the amputation of 43 percent of the energy-efficient rail passenger system operated by Amtrak. His shortsighted aim is to save taxpayers $1.4 billion over five years (just under $300 million a year) in Federal subsidies; never mind the cost in scarce, high-priced gas wasted in private auto travel.

Mr. Adams's meat-ax assault on Amtrak is all the more weird because he himself said recently that future transportation decisions would be studied for their impact on energy usage. Worse, he demanded policies of Amtrak that would drive away riders from the poor bleeding stump of a system he would permit still to operate.

Notably, Mr. Adams demanded higher fares—when the record shows that after Amtrak in November 1978 tried to match cut-rate airline fares with its own discount rates, ridership rose by 16 percent over that of November 1977. Indeed, one of his own department's reports demonstrates that the largest—not the smallest—possible Amtrak system would produce the lowest deficit per passenger mile.

Mr. Adams has got the caboose before the engine. The task of America is to increase ridership and reduce the nation's energy consumption, while making intercity travel as convenient as possible. Amtrak's job is not to turn a profit, as Mr. Adams seems to think, or even to hold down its operating deficit at the expense of its real objectives. (Mr. Carter proposed an operating subsidy for next year of only $552 million, against that $8.6 billion for highway obligations.)

Rail ridership, in fact, has been increasing—up 7.5 percent in December 1978 over the same month in 1977. Traffic on the New York-to-Florida lines picked up by 38.4 percent in December, but Mr. Adams wants to cut service from three trains a day to one. Los Angeles-San Diego ridership rose 142 percent from 1973, although the frequency of service increased by only 87.5 percent. The Panama Limited, running from Chicago to News Orleans gained 7,000 passengers in 1978 after switching to a new fleet of cars.

Amtrak critics try to make two major cases—that people just won't ride trains and that trains aren't all that much more energy efficient anyway. The first point is debatable and the second nonsense.

Actually, evidence is substantial that people will be attracted to trains with modern equipment, decent on-board service, competitive fares and on-time performance. That attraction will grow as gasoline inevitably becomes scarcer, and dearer. Thus, a well-developed rail service could again become a highly useful part of a national transportation system, as it is almost everywhere else in the world.

As for energy efficiency, it's misleading to base comparisons on the few lightly patronized trains running today. It's quite another thing to calculate energy efficiency on the basis of the potential ridership of a good railroad system in an era of gasoline scarcity. Even now, however, the Department of Transportation has reported that Amtrak's Los Angeles-Seattle train, using heavy and outmoded equipment on a mountainous run, is 47 percent more fuel-efficient than an automobile making the same trip.

No one would suggest such extremes as banning automobiles or forcing people to ride trains. But surely it would be prudent for the Government to follow policies and make investments that over time—perhaps a decade—might cause a substantial shift of intercity traffic from private automobiles to energy-efficient trains. Mr. Adams' policy—cut service and raise fares—can only have the opposite effect.

Besides, despite present doubts, if the time ever comes when the need for a decent national rail network is generally conceded, the cost of replacing a vanished or irreparable system, would be astronomical. By comparison, that $200 million a year Brock Adams wants to save the taxpayers would be like something Jimmy Carter will someday have to go back to growing.●

SAN DIEGO TEST PILOT

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. BOB WILSON. Mr. Speaker, aviation has long been a part of San Diego's heritage. Glenn Curtiss, Claude Ryan, Charles Lindbergh—all at some point in their careers touched down in San Diego. These men contributed mightily to San Diego's place in the history of aviation.

But there were other pioneers, not so well known, whose courage and spirit added to the body of knowledge on this new frontier and whose exploits rank at the top in the record books.

Such a man is Lt. Cmdr. Charles Bolka, USN (Ret.) who now makes his home in San Diego, but whose earlier career helped bridge oceans by flying those experimental machines. I would commend to my colleagues the following paraphrased short look as to what it was like in those days:

In August 1935, I was assigned to the XP3Y-1 Experimental Seaplane at Norfolk, Virginia as Plane Captain and was told to get the aircraft ready for a long distance flight. We were to fly the XP3Y-1, the first plane of its kind, from Virginia to the Canal Zone and then non-stop to either San Diego or San Francisco to prove the plane's capability.

The oil valves, controlling the flow of oil to a new device called "rocker arms" had been giving us all a bit of trouble, and on arriving in the Canal Zone, the valve started to stick, possibly due to so much rain.

I was asked what would happen if the valve stuck open in the air, and I said that within an hour, we would lose all the oil.

The controls to the valves were in the plane captain's cockpit and I found that should the valves stick open, I could, by working the controls very fast, cause the valves to recede. But if that didn't work, I could also open the radio compartment hatch and, with my feet tied inside, hang outside the aircraft and push the valves shut with a long steel rod.

At about three o'clock in the morning, we were approaching Bahia California and ran into a severe storm, which we flew through. Lightning struck the plane, shook it and filled it with bright light, but we weren't hurt.

We landed in San Francisco Bay after 37 hours in the air, thereby setting two world's records of airline distance and broken line distance for the United States and proving the XP3Y-1's capability for long-range flight.

Mr. Speaker, all of us having had the good fortune to know Commander Bolka are especially proud of his accomplishments both in and out of the service and I appreciate the opportunity to call to the attention of my colleagues this distinguished gentleman.●

HOW TO ORGANIZE AN ARSON TASK FORCE

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. SAWYER. Mr. Speaker, on February 15, 1979, I introduced legislation that would permanently classify arson as a part 1 offense for purposes of the Federal Bureau of Investigation's uniform crime reports. Arson is one of America's fastest growing and least scrutinized crimes. In an effort to bring this problem statistically out in the open, this bill, H.R. 2245, will permanently require the FBI to gather statistics on arson and publish them in their annual uniform crime reports. Action to curb arson should not end with this legislation, however. Counties, cities, and even neighborhoods can join together to form arson task force organizations. These groups can form the backbone of an organized effort to see arson brought under control. For the information of my colleagues and other concerned individuals I include in the RECORD a copy of an article published in the latest issue of the Journal of American Insurance entitled, "How To Organize an Arson Task Force in Your Community." I hope that you will find it of interest.

The article follows:

HOW TO ORGANIZE AN ARSON TASK FORCE IN YOUR COMMUNITY

Arson is a sneaky, cowardly crime. Arson kills an estimated thousand people a year. Thousands more are injured. Dollar losses, both direct and indirect, are believed to be in the billions.

Concerned citizens *can* do something about it. Individuals and groups at the local level can cooperate in the formation of arson control task force organizations. Thse task forces are action coalitions of representatives from both the public and private sectors. They are springing up in many parts of the country. The time for them is both urgent and propitious.

Urgent, because arson is spreading. Arson frequently is called America's fastest growing crime.

Propitious, because both government and industry are taking important steps to help achieve more effective arson detection and control.

In November, President Carter signed legislation elevating arson to a Part I crime in the Uniform Crime Reports of the Federal Bureau of Investigation. This significant step must be extended by further legislation in 1979, a provision of the present law which expires September 30, 1979. But the result of reporting arson as a Part I crime over the long term can be more and better information about arson which presently is lacking. Information of better quality and greater quantity is essential to development of more appropriate countermeasures.

The property-liability insurance industry has been fighting arson for many years, often with the help of organizations and people at the local level. In September the industry gave birth to a new and major program for greater cooperation among public officials and private citizens and their organizations in the fight against arson (see box on page 13).

Most communities now have the capability to begin development of their own programs to stop the growth of arson. Usually the only thing lacking to get them going is a catalyst —a person or group with sufficient interest and leadership ability, or a series of crisis events precipitating attention and public demand for action. Seattle and Houston, for example, have already undertaken successful programs. San Francisco's new special arson task force for the Bay Area combines federal and municipal representatives and includes the cooperation of the insurance industry.

What are the guidelines for establishing a local area task force to control arson?

Since communities are unique, no hard and fast rule fits all of them. But there are broad principles and suggestions which serve this purpose, as the accompanying chart indicates.

Any group of concerned citizens, business organizations, or civic groups, however small, can start things going. Upon identifying this initial interest and motivation, however, it is important to pause long enough to sketch a preliminary plan, even though it will probably be modified as the movement grows. Planning at this point is the most vital ingredient.

The outline chart, along with the help of local directories and personal knowledge, can be used to match up the elements of the chart with the names of possible people, organizations an interest groups within the community which fit the different categories of the outline. At this point, formal invitations to join the activity should not be made, although task force organizers will probably have personal contact with some of these individuals.

In a separate listing, include those individuals within the community who are prominent, widely known and respected, and who are recognized as having a leadership capability sufficiently strong to function as a chairman or catalyst to stimulate coalition effort in a common cause. Perhaps the mayor, a newspaper publisher or some business personality fits this role.

Finally, a tentative timetable should be added to the plan: a time frame for contacting these people and groups; a target date for the initial coalition organization meeting; target dates for the formation of committees and development of their recommendations in their interest areas; and, target dates for subsequent coalition meetings to approve recommendations and begin implementation of the recommended action programs.

If at all possible in contracting prospective participants, someone known to the prospect should make the contact, or someone from a position of mutual interest or other relationship.

In the planning and development of the local task force, organizers should always keep in mind the basic purpose of the coalition:

(1) Public education that arson is a serious problem but something can be done about it and local groups are taking action; (2) making it known that insurers are no easy touch in arson fraud; (3) that local government is cooperating, including assistance in researching property transfers and related records to uncover potential fraud evidence; (4) that the detection and investigation resources of the State Fire Marshal, the police department, the fire department and the insurance industry are being more sharply focused on arson; (5) that enforcement and prosecution efforts are being stepped up with the prosecuting attorney responsible for coordination in specific cases to improve the prospects for conviction of offenders; and (6) that close working liaison is being maintained with other federal, state and local agencies, plus business and all concerned with control of arson.

A coalition such as an arson control task force must involve individuals who have major public responsibilities that overlap to some degree. The challenge is to bridge such potential differences, help resolve jurisdictional sensitivities, and generate a strong spirit of cooperation for the achievement of the common goal.

If the task force is a team with the chairman as catalyst or coach, the district attorney can be viewed as the quarterback, the one to give the signals for strategic plays of investigation and the gathering of evidence that will score in conviction. The district attorney should work closely with investigators from the fire and police departments, representatives from the state fire marshal's office and insurance company representatives. The advantage to this is that investigators can get answers to their questions about proper evidence as well as the appropriate legal advice in search and seizure and investigative procedures. At the same time, the district attorney's office becomes more familiar with the case being involved from the start.

The task force should be staffed with police and fire arson investigators experienced in the areas of fire science, criminal investigation, criminal law and evidence. Often, it's better for police investigators to be assigned to the arson squad of the fire department.

Insurance representatives can complement the work of local authorities, providing evidence that might be needed such as proof of loss, examination under oath, inventories and ownership plus other relevant information.

State fire marshals usually have the power to issue subpoenas for books, records and witnesses. The state fire marshal's office also usually has the power to hold investigative hearings.

No task force can succeed without the strong support and cooperation of local government and its leadership, including the city council and key departments. In addition to the fire and police departments, these would include those responsible for inspection and enforcement of building codes and ordinances, as well as those maintaining records of property ownership and transfer.

The local arson control task force should not overlook the possibilities of a reward program for information tips leading to the arrest and conviction of arsonists. The source for the money to fund a tip award program should be broadly based, not imposed upon a single industry or community segment. Arson is not merely an insurance problem; it affects all within a community, both economically and socially. Apart from the direct costs of loss of life, injury and the destruction of property, the crime of arson has a long fallout of indirect costs. This includes deterioration of neighborhoods, erosion of the tax base, loss of employment if the target structure is a commercial enterprise, and similar ripple effect consequences.

Concerned citizens can have constructive influence upon their common destiny. The local arson control task force can be organized, can function effectively as a cooperative coalition of responsible people within both the public and private sectors, and can achieve its purpose. The key is to begin.

GUIDELINES FOR ESTABLISHING AN ARSON TASK FORCE

The property-liability insurance industry is undertaking a major program to encourage cooperation within both the public and private sectors to curb the growing crime of arson. The plan seeks to marshal more effectively the arson fighting resources of business and government and includes encouragement of the formation of local community arson control task forces.

This new Insurance All-Industry Committee for Arson Control is made up of the national trade associations and companies from the property-liability insurance industry. Those desiring additional information about arson control and the formation of local task force groups, can send their inquiries to: Insurance All-Industry Committee for Arson Control, 20 North Wacker Drive, Suite 2132, Chicago, Illinois 60606.

The Arson Task Force is an effective coalition mechanism whereby communities can organize and bring about cooperation among the disciplines and resources necessary to stop arson. Each community, of course, should develop its task force in the way which will most responsively meet its specific needs. However, here are components for a task force suggested by the Alliance of American Insurers and the Property Loss Research Bureau:

[Chart not printed in RECORD.]●

"AN EXCEPTIONAL CITIZEN"

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. RODINO. Mr. Speaker, it is not often that I have the chance to tell my colleagues about a truly exceptional citizen—a person who has meant a great deal to the lives of thousands of individuals and the well-being of whole communities. Today I am especially proud that the outstanding person of whom I am speaking is from New Jersey's 10th District.

Dr. Edwin H. Albano is retiring this year at the age of 71, and he takes with him many proud memories. After graduating from medical school Ed Albano decided on a career of service to the residents of New Jersey, and his long, distinguished career eptitomize selfless devotion to bettering the human condition. Young doctors in New Jersey look on Dr. Albano as an inspiration for their professional lives.

While his official title has been "medical examiner" he has been simply an excellent doctor and a decent human being to everyone who has known him. It has been a privilege for me to have his friendship for over five decades.

Mr. Speaker, I want to take this opportunity to wish Ed Albano all best wishes as he looks back on a career filled with human compassion and understanding.

Mr. Speaker, the Newark Star-Ledger printed an editorial on February 26, 1979 describing Dr. Albano's special meaning to New Jersey's citizens. I would like to include a copy of the editorial in the RECORD, as follows:

PHYSICIAN-HUMANIST

For Edwin H. Albano, the practice of medicine has been an avocation as well as a vocation, an unremitting commitment to a profession he has served without a vacation break throughout a long and distinguished career of public service.

A pathologist virtually from the time he graduated from medical school, Dr. Albano became a respected authority in forensic medicine. It was a specialty virtually preordained for a young physician strongly influenced by a revered mentor, the late Dr. Harrison S. Martland, regarded as one of the most accomplished pathologists of his time.

It was a foregone fact that Dr. Albano would succeed his precursor as Essex County medical examiner. And it was only a matter of time before his dogged determination would result in enabling legislation to create a state office of medical examiner.

Naturally, it followed that Dr. Albano would be the most eminently qualified to fill this important post, an agency instrumental in correcting the critical flaws of an antiquated coroner system.

But beyond Dr. Albano's professional eminence, he has been a person of unfailing kindness and compassion. His availability as a friend and physician is legendary in Essex County. He is known as a "doctor's doctor" . . . a lawyer's doctor . . . a judge's doctor . . . a politician's doctor, all professions related to his public service. In actual fact, he was a general practitioner to the man on the street.

Dr. Albano reached the mandatory retirement age of 70 last year, but he was given a year's extension by the attorney general. He officially retired this month, taking with him a personal sense of fulfillment shared by few others . . . and the gratitude of those who have known him as a doctor and a friend.●

STATEMENT IN TRIBUTE TO ANTHONY B. FLASK, JR.

HON. LYLE WILLIAMS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. WILLIAMS of Ohio. Mr. Speaker, on Monday, March 5, 1979, the city of Youngstown and the State of Ohio lost a great friend, an upstanding citizen, and an outstanding public servant in Mr. Anthony B. Flask, Jr.

Mr. Flask was a man who served his country, his State, and his party with distinction. His public career began in 1947 as the third ward councilman in the city of Youngstown and he was reelected to that post four times. In 1957, Mr. Flask became the city council president and he was reelected to that post in 1959 and again in 1961. In November of 1963, Mr. Flask was elected mayor of the city of Youngstown and he served in that post until 1969.

Mr. Flask also served his party as a State central committeeman and as the vice chairman of the Democratic Party of the State of Ohio.

Mr. Flask was a strong supporter of civil rights and of the Fair Employment Practices Committee. He is considered to be one of the people most responsible for keeping Youngstown relatively peaceful during the turbulent 1960's.

We note the passing of Anthony B. Flask, Jr., with regret, but also with gratitude for his many accomplishments and years of service.●

FADING RECEPTION

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. MARKEY. Mr. Speaker, the Communications Subcommittee on which I serve is currently engaged in an overhaul of our Nation's basic communications policy. Under the able leadership of Chairman Van Deerlin, the subcommittee will bring forth a comprehensive rewrite of the Communications Act of 1934. Any undertaking of this magnitude will have an immediate effect on the communications services available to consumers. It is this result which must be paramount in our minds as we pursue this project. We now have some direct feedback from consumers to guide us in our deliberations.

The Washington Post, which incidentally owns television outlets, recently surveyed Americans nationwide to determine their views on television. The results were most revealing: 53 percent of those polled indicated that they are watching less television than 5 years ago. The reason for this appears to be a general dissatisfaction with the programing quality and viewing options available from the current broadcasting system.

I include the Washington Post articles regarding the survey at this point in the RECORD:

FADING RECEPTION—THE BLOOM IS OFF AMERICA'S LOVE AFFAIR WITH THE TUBE

(By Tom Shales)

America is tired of its television set.

It wants a new one.

The old one is wearing out. It is even wearing out its welcome in the American living room.

A nationwide Washington Post Poll published today shows that a majority of TV viewers—53 percent, the highest such figure ever recorded—say they watch less television now than they did five years ago, that they are frequently disappointed by programs they see—except for their regular favorites—and that they are in the most receptive mood they've ever been in when it comes to welcoming alternative forms of television, including pay television.

These findings will send network executives into lathers. They can be counted on to give them the royal pooh-pooh, citing Nielsen ratings that do not show any substantial viewer dropoff, except in daytime hours.

The figures corroborate what is rapidly becoming an irrefutable truism. People are growing increasingly intolerant of proliferating commercials and such similar "clutter" as station and network promos; a recent Advertising Age survey showed people are more offended and annoyed by TV commercials than ever and more irritated by ads on TV than by those in any other medium.

With the regularity of cock-a-doodle-doo's in a barnyard, network executives now make speeches warning against new technologies that threaten their profits—and offer the public something new. The latest of these speeches was made by CBS Inc. President John D. Backe in Los Angeles last month.

Backe called American television a "blessing," which it certainly has been for CBS Inc., and said, "Spokesmen for special interests can hurl all the criticisms they want, can call it chewing gum for the eyes, can damn us from dawn on Monday to dusk on Sunday, but an honest poll of our fellow residents on this planet will find that their vote is for television."

An honest poll has been taken and television doesn't get quite the hip-hip hoorah Backe imagined.

The poll shows more Americans than ever—even in a time of considerable economic uncertainty—responding favorably to the idea of paying for television rather than being limited only to the current commercial-potholed networks and stations or the only slightly less commercial "public" system.

Thirty-six percent of those polled agreed with the statement, "I'd rather pay a small amount yearly if I could, to have television without commercials." Those who said yes were then asked how much they would be annually willing to spend. The average figure from these responses was $82 a year.

Guess what the average American cable TV home pays annually for cable service. According to the National Cable Television Association (NCTA): $84.

People were about equally divided on whether television is better now or worse now than it was five years ago, but the dissatisfaction ratio is up considerably from previous surveys. People are tired of TV's monotone, though no less reliant on the medium as their chief source of news and entertainment. They just want more freedom of choice.

Yet for almost every new or enhanced technology and its promise of increased variety, there is a bastion of well-heeled opposition within the television and entertainment industry establishments. For years cable TV's growth was hampered by the broadcast lobby and its virtual lackey, the Federal Communications Commission (FCC). Enough FCC decisions against cable operators were overturned by courts to permit considerable growth in recent years, however.

THE LENGTHENING CABLE

One out of every five American TV homes is now equipped for cable, and its growth rate is projected as about 11 percent per year.

The videocassette machine, which permits recording and playing back material off the air and the viewing of prerecorded old and recent movies, is being challenged in a California court by such profit monsters as MCA Inc. and Walt Disney Enterprises, both claiming the machines will cut into their business. This suit could drag on for years on appeals.

A battle is also being waged against the "superstations" such as WCTG in Atlanta and WGN in Chicago, whose signals are now being bounced off communications satellites and imported by cable systems in faraway American cities, offering viewers there additional programs to choose from. Jack Valenti and his Motion Picture Association of America (MPAA) are spearheading the effort to nip this boon in the bud.

THE CULT OF IMITATION

Other refinements in television that permit viewers to bypass the existing fare are proceeding unopposed only if current broadcasting interests have heavily invested in their development. The test marketing of the MCA-Magnavox videodisc system in Atlanta has produced not only a mile-long waiting list of customers but also, according to Videography magazine, a black market for the $695 machine that asks as much as $20,000 each. RCA will introduce its own videodisc player next year, it is forecast, and other firms, like Japan's JVC, plan to introduce their models even sooner.

In opposing such developments as cable and pay cable television, industry spokesmen invariably plead that they will not be able to face such competition and that the new wonders pose economic threats to them. Never is it alleged that the public will suffer, because it only stands to benefit. The public is usually left out of these discussions. Also omitted are such facts as that from 1971 to 1976, according to Department of Commerce figures, network television earnings increased an outlandish 192 percent. Network revenues in 1977 were nearly $2.6 billion.

This industry crying poverty is like Warren Beatty claiming celibacy.

Meanwhile, the TV business is now beset with perhaps its greatest crisis of morale. Those who produce programs for network television, and many of those who work for the networks, find it harder and harder to defend television programming, which seems to exist within an ever constricting spectrum. Nothing is encouraged more than imitation.

The creative community, as it likes to be known, in Hollywood is escalating its protests against the cutthroat network competition that allows little time for the production of shows, little incentive for striking off in new directions and little chance for new ideas to be exposed on the air before they are yanked off for insufficient ratings.

A group called The Caucus for Producers, Writers and Directors—whose members include such top TV producers as Norman Lear, Ed Friendly, Grant Tinker, Lee Rich and Bud Yorkin—has filed with the FCC a lengthy statement calling for drastic changes in the way the networks do business. The FCC is now looking into the role of the networks in shaping or misshaping what is available to Americans on television.

Among other demands, the Caucus wants the concentration of power in the three networks diminished, production of programs by networks prohibited and a restriction in how much network programming stations in the Top 50 markets can carry. Another Caucus proposal is a sure crowd-pleaser and network-irker: "To reduce reruns to a minimum pattern of at least one original to one repeat in any given series."

The fact that the people who produce television programs share the dissatisfaction with television shown by viewers in the Washintgon Post poll indicates how severely television has failed to fulfill its promise and how widely desired crucial changes in the present system are. The question is how long the TV establishment will be able to postpone the inevitable.

It will do its darndest—of that we can be sure.

The Washington Post survey was not taken during the month of February which, like November and May, is a "sweep" month when the networks stockpile most of their big attractions so as to build maximum audiences and thereby set their ad rates as high as possible for the next fiscal quarter. If the survey had been taken this month, the complaint that there is not enough good programming on TV might have changed to the complaint that there is too much.

FAMINE TO SURPLUS

Clearly, viewers are not served by the sweeps hysteria that results in such Sunday night predicaments as the recent one-two-three punch the networks offered viewers: the new movie "Elvis" on ABC vs. the first-run film "One Flew Over the Cuckoo's Nest" on NBC vs. part one of "Gone With the Wind" on CBS.

David L. Wolper, executive producer of "Roots 2," a recent victim of sweeps madness, says of this procedure, "It's damn-the-public—that's what it is."

Sensing growing viewer disgruntlement over such policies, the three networks are now entertaining a plan that would eliminate the idea of "sweep" months and, in effect, make all 52 weeks of the year sweep weeks. The problem is, Nielsen has indicated to the networks that the bill for this may be as high as $15 million a year. Also, local stations in many markets are dead set against the proposal.

An NBC spokesman said yesterday that NBC president Fred Silverman supports the idea "in principle." CBS has indicated its support, and an ABC spokesman said yesterday that "this is something we've been looking into" but declined to commit the network one way or the other. If this does come about, it will take years.

THE SILVERMAN VIEW

To Silverman's great credit, his speech to the National Academy of TV Arts and Sciences in Los Angeles last Friday was not the standard network denunciation of new technologies nor a plea that producers knock off their bellyaching about nutty network practices.

Instead he told the SRO crowd, "If we can work together to improve our present national television service, we'll be much better off and you'll have the best of both worlds. First, you'll have three strong networks as the nucleus of your production operation. Second, you'll have unlimited opportunities—using that as a base—to expand into new businesses developing out of the new technologies."

For once a network executive was conceding that the "new technologies" are not the Big Bad Wolf. And implicitly at least, Silverman was acknowledging what the Washington Post survey shows: Americans aren't just peeved or annoyed by television, they are getting to the point of being Fed Up.

Less TV for More—Poll Uncovers a Turnaround in Viewing Habits

(By Barry Sussman)

A majority of Americans say they are watching less television than they used to, a nationwide Washington Post poll has found.

A marked decline in viewing was reported among more affluent and better educated people, among those who say the quality of TV programs is deteriorating, and among those who report the sharpest dislike for TV commercials. But a lesser decline in viewing also was reported among the bulk of the population—among blacks and whites, women and men, young and old.

In all, 53 percent of those interviewed said they are watching less TV than they did five years ago, compared to 32 percent who say they are watching more now. If those figures are correct, or even close to being correct, they represent a striking reversal in the nation's entertainment and leisure habits. From the inception of TV until the mid-1970s, viewership had been reported as increasing year after year.

It is clear, however, that Americans' love affair with TV remains a marvel unlike any in the history of communications or entertainment. According to the poll, the average person 18 years old or older watches three hours of television on weekdays and three hours, 25 minutes on Saturdays and Sundays.

Only 1 percent of those polled said they had no working television sets in their homes; more than half said they had at least two working TV sets. One indicator of how much TV has become a part of people's lives lies in that last figure: in 1970 a survey reported that only 31 percent of the nation's households had two or more television sets.

Two-thirds of the 1,693 people interviewed by The Post said they watch at least some television every day, and 95 percent reported watching at least two days a week. Only 2 percent of those polled said they never watch TV at all.

Executives at ABC, CBS and NBC, apprised of these findings, said that TV viewing may have leveled off after having reached a "saturation point" several years ago. But they questioned whether people are watching less TV than before.

Jay Eliasberg, a vice president for research at CBS, said in an interview, "I know people are not watching less television, it's that simple." Saying that Nielsen reports and other industry-sponsored gauges of viewing supported his position. Eliasberg maintained that "except for tiny squiggles, TV viewing has not changed in the last three years."

The amount of viewing is vital to the networks because their income is largely based on total number of viewers. The network that has the most viewers charges more for advertising than the other networks and still has its advertising time gobbled up first; individual programs on all three networks that are thought to have more viewers than others are able to charge higher advertising rates.

Eliasberg and other TV executives say people are not the best judges of their own television-viewing behavior: If there is a stigma attached to watching television, a natural response would be to deny watching very much. However, one of two earlier landmark polls of attitudes toward TV, conducted in 1970 by Robert Bower, also asked people whether they were watching more or less TV than they had in the past. That study, which was initiated and supported in large part by CBS, found approximately 40 percent of those interviewed saying they were watching more TV, and 31 percent saying they were watching less—evidence that people are not reluctant to say they are spending more time in front of the picture box.

The Post poll is not intended to state with finality people's reasons for watching less TV. It may be that, for some, the treat has worn off and other leisure activities are taking precedence over TV.

However, the poll does suggest that at least part of the reported decline in viewing is tied to strong feelings on the part of many who feel the quality of TV entertainment has been deteriorating. Overall, 40 percent of those interviewed said TV entertainment is better now than it was five years ago, and 41 percent said it was worse—an even split, with the rest saying it is about the same as it was or offering no opinion.

Among those who said TV entertainment is worse now, 62 percent said they watch less than they used to. Among those who said the quality is better, 46 percent said they are watching less.

Overall, 17 percent said TV entertainment is much better today than it was five years ago, and they, almost alone in the population, reported that they are watching more TV these days. Even among them, however the margin of increased viewing is slight, with 47 percent saying they watch more but 40 percent saying they watch less.

When people complain about the quality of TV, they seem to be focusing on the bulk of the medium's vast offerings their favorites. People continue to get great pleasure from their favorite shows. What seems to have happened over the years is that more and more people are finding fewer programs that they regard as favorites.

Asked to name their favorite programs—those they watch regularly or whenever they get a chance—30 percent couldn't think of any current leading show at all. Fifty-three percent could not name more than two shows as favorites.

In 1960 and 1970, half or more of those interviewed said they found at least 55 percent of the programs they watched to be "extremely enjoyable." In The Post poll, only 28 percent of those interviewed gave such high ratings.

Asked how often they were disappointed with their favorite programs, fewer than three people in 10 said they were frequently or occasionally disappointed. More than seven in 10 said they were rarely or never disappointed.

The disappointed level for the rest of TV's offerings, however, was sharply higher. More than six in 10 said they were frequently or occasionally disappointed with shows other than their favorites; only one in three said they were rarely or never disappointed with them.

These numbers, taken together, seem to draw a picture of a public that knows what it likes, and is finding less of it on TV than it used to.

THE MODUS OPERANDI

The Post poll on attitudes toward TV entertainment was conducted by telephone nationwide from Oct. 19 through Oct. 29, with a random sample of 1,693 people 18 years of age or older interviewed.

For comparison purposes, a number of questions were phrased exactly as were questions contained in two major TV studies conducted in 1960 and 1970.

Theoretically, findings of a survey of this size are subject to a margin of error of about 2.5 percent, 95 percent of the time. Findings that apply to subgroups within the sample are subject to slightly higher margins of error.

The survey was conducted by Barry Sussman. The Post's editor for survey reportings.

SPORTS LEAD THE LIST

The most popular offerings on television, by far, are sports events, according to a Washington Post national survey. Asked to list some of their favorite programs, 17 per cent of the 1,693 people interviewed mentioned one sports show or another, a far greater response than for any single ongoing television program.

On the average, men said that more than one-quarter of the time they watch television is spent watching sports. Women said that sports shows represented 15 per cent of their total viewing.

As for regular programming, the top 10; volunteered in October, when the Post poll was conducted, were:

1. Little House on the Prairie, mentioned by 12 percent.
2. 60 Minutes, 9.3 percent.
3. The Waltons, 8.6 percent.
4. M*A*S*H, 8.4 percent.
5. All in the Family, 7.1 percent.
6. Mork and Mindy, 7 percent; tied with
6. Happy Days, 7 percent.
8. Three's Company, 5.3 percent.
9. Soap, 5.1 percent.
10. Family, 4.2 percent.

GASOLINE SHORTAGES AND PRICE HIKES

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. RITTER. Mr. Speaker, as a result of the Iranian situation, the American people have been told that gasoline prices will rise and that there will be serious cutbacks in supply.

Throughout the Nation prices and supplies have varied widely. In the Lehigh Valley there is a cutback to gasoline dealers this month of around 5 percent. Some airline flights from Allentown, Bethlehem, Easton Airport have already been canceled.

Mr. Speaker, the people of the Lehigh Valley are well aware that we have serious energy problems. They are ready to make the necessary sacrifices. Many, however, have questioned whether the major oil companies are taking advantage of the confusion over Iran. I think we need to clear the air on this matter, and end any confusion about the supply and price situation.

Mr. Speaker, the public has a right to know the details behind the price increase and the announced shortages. I urge today that the Interstate and Foreign Commerce Committee hold hearings on this matter, so the American people can understand the reasons behind the gasoline price increases and the shortages we are now experiencing.●

SHALLOW-DRAFT BARGING INDUSTRY ACCOMPLISHMENT

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. SNYDER. Mr. Speaker, after walking today from the Rayburn Building to the Capitol, it seems that our winter weather has left us for another year. It will not be long before the cherry blossoms will be blooming at the basin. Though I am happy the spring breezes are blowing, I was not as exalted when our Metro subway closed down for 3 days not too long ago. It was almost impossible for people to get to work, and Government services in many cases came to a halt. So far the taxpayers have spent $3.5 billion on the Metro, and projections are that a total of $6.9 billion will be spent by the time the system becomes fully operational.

My point is not to disparage Metro. Every week, except when it snows, it is proving itself essential to the economic growth of the area and, indeed, to the efficient running of the U. S. Government and its multitude of employees who seem to grow year by year.

My point in mentioning the cost of building this limited, supposedly all-weather, system of transportation which will eventually run approximately 100 miles throughout the area, is to provide my distinguished colleagues with a little perspective on another form of transportation which serves over 25,000 miles and has cost the taxpayers in the last 150 years less than what the Metro will cost—to serve a limited area.

Mr. Speaker, I talk about the shallow-draft inland and intracoastal waterway system which presently serves 87 percent of the major U.S. cities in 41 of the States of the Union.

The domestic waterways industry has provided and is providing the Nation with a low-cost, fuel-efficient, and safe mode of freight transportation. Barges and towboats use the navigation portion of these regional water development projects we in the Congress have authorized to be built. Entire regions, in fact the whole country, has benefited from these projects for less than the cost of Metro.

Mr. Speaker, I would commend to you and our distinguished Members the record of the shallow-draft barging industry's accomplishment in the past and its promise for the future. Hopefully the Metro will someday accomplish as much.●

YAKIMA RIVER WATER ENHANCEMENT PROJECT

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. McCORMACK. Mr. Speaker, today I am introducing a bill which would authorize the Secretary of the Interior to undertake a feasibility study of the proposed Yakima River Water Enhancement Project, to be located in the Yakima River Valley in Washington State.

Mr. Speaker, the history of irrigated agriculture in the Yakima Valley began in the late 1800's when pioneer settlers first diverted stream flows to irrigate crops. As their efforts brought successes, irrigated agriculture in the valley grew to regional and national importance. The people of the valley have continued to look toward the future, and to the full development of the water and land resources of the area. Their efforts and their aspirations for the valley have resulted in a contribution to the well-being of the region and to the people of this Nation. Toward that end, the legislation I am submitting marks the culmination of years of effort on the part of the people of the valley, in cooperation with the government of the State of Washington.

In 1977, severe drought conditions in the Western States, and particularly in the Yakima Valley, focused attention on the need for further efforts to establish comprehensive management of existing water supplies, to prevent losses, and to assure that all claims to water rights are equitably resolved.

The legislation which I am introducing today will, if enacted into law, accomplish these goals.

As proposed, the measure authorizes the Secretary of the Interior to undertake a comprehensive feasibility investigation of five potential reservoir storage sites and one regulating reservoir site in the Yakima Basin. Preliminary estimates indicate that up to 30,000 acres of land could receive new water supplies and 70,000 acres presently irrigated would receive supplemental water supplies. In addition, there would be substantial benefits to water quality and fisheries habitat throughout the Yakima River system. The inclusion of flood control and hydroelectric generation as integral parts of the study make this a truly multipurpose proposal.

It is, of course, impossible to predict what the outcome of the feasibility study will be. However, the preliminary work done by the State of Washington Department of Ecology and existing studies by the Department of the Interior all point toward authorization of a comprehensive study of the additional water resource potential in the valley. It is crucial that we stop thinking of the water-related problems of the Yakima River system on a piecemeal basis, but instead that we address the entire resource base through a comprehensive plan. The proposed Yakima River Basin Water Enhancement study will provide that framework.

Mr. Speaker, a great deal of credit must be given to Gov. Dixy Lee Ray and the State of Washington; to Mr. Watson Totus, chairman of the Yakima Indian Tribal Council, and to the Yakima Indian Nation, whose cooperation and strong support have brought this proposal to achievement. I look forward to this continued effort to benefit all the people of the valley and the region.●

INTERNATIONAL CARPET AND RUG MARKET

HON. ED JENKINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. JENKINS. Mr. Speaker, it has come to my attention that a major event is being planned for 1980 to further increase the exports of American made products. Not only will this event assist in decreasing the U.S. trade deficit, it will be the first ever of its kind in the United States.

The Carpet and Rug Institute, a major national trade association, will sponsor the first annual International Carpet and Rug Market on July 13–16, 1980, in Atlanta, Ga. Foreign buyers from all over the world will be invited to attend with the prime purpose of increasing sales of carpet and rugs to foreign countries. The United States is the world leader in style, design, and in color application. I am privileged to inform you that the Carpet and Rug Institute will sponsor this annual event in my home State where over 50 percent of all U.S.-made carpet and rugs are produced each year.

Although trade shows for the carpet and rug industry have been held for many years in countries such as Germany, France, England, Spain and Italy, the International Carpet and Rug Market being sponsored by the Carpet and Rug Institute is the first ever in this country. Major support for the 1980 event will be provided by the U.S. Department of Commerce Foreign Buyer program, the Atlanta Merchandise Mart, the State of Georgia and Georgia State University. Every effort will be made to acquaint prospective buyers with the unique advantages and product opportunities available to them in the American market. In addition to a traditional Southern welcome, foreign buyers will have the opportunity to attend educational seminars and tour carpet mills of their choice.

Mr. Speaker, the Carpet and Rug Institute is to be congratulated on its grassroots effort to assist a major U.S. industry to increase exports and thus favorably affect our balance of trade. The free enterprise system is well served by such efforts and it is especially gratifying to note that it represnts a cooperative effort by individual business firms, an industry trade association, and State and Federal governments, all working together for the common good of all.

Congratulations to the Carpet and Rug Institute for conceiving and sponsoring the International Carpet and Rug Market in the United States.●

IRAN AND ISRAEL-EGYPT SETTLEMENT

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. SIMON. Mr. Speaker, prior to the change of government in Iran I was visited by Shahriar Rouhani, who now serves as the spokesman for the Ayatollah Khomeini in Washington.

Mr. Rouhani is a 20-year-old doctoral student at Yale University who is bright, dedicated and sensitive.

During the course of our conversation we discussed, among other things, the relationship of Iran to the possible Israel-Egypt settlement and because his answer is a significant one, I am taking the liberty of inserting in the RECORD a copy of the letter I have just sent to Mr. Rouhani:

HOUSE OF REPRESENTATIVES,
Washington, D.C., March 1, 1979.

Mr. SHAHRIAR ROUHANI,
Washington, D.C.

DEAR FRIEND: Just a note to say it was a pleasure visiting with you prior to the change of government in Iran.

As I told you, I was concerned about some of the statements which were quoted, allegedly from the Ayatollah Khomeini in The Washington Post and I was pleased at your assurances that they were not accurate quotes.

I was particularly pleased that while you indicated that oil would be cut off from Israel at the present time, that if Israel reached an agreement with her Arab neighbors that oil shipments then could be resumed. When I asked specifically if Egypt and Israel reach an agreement whether shipments could be resumed, you replied with a strong affirmative. I hope that will be the policy of your nation.

At this point whether Israel and Egypt reach an agreement appears to be a matter of great uncertainty but if that agreement is reached and your country would then resume oil shipments to Israel, that could have a substantial thrust in a positive way in the troubled Middle East.

Your government is going through some difficult days and we hope that the present problems can be resolved peacefully.

And I know I speak for all of my colleagues in the House and Senate in hoping that our two nations will continue a long and fruitful friendship.

Cordially,
PAUL SIMON, *U.S. Congressman.*●

WHAT REALLY CAUSES INFLATION?

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. McDONALD. Mr. Speaker, the Reader's Digest of January 1979 ran an excellent article on inflation by Mr. Ralph Kinney Bennett. The article very cogently points out that the supply of money creates inflation. If extra money is printed to cover Government deficits then inflation results. Inflation is not caused by rising prices or wages, nor will wage and price controls cure the situation, as the article points out. The budget has to be balanced and the printing of extra paper money to cover our deficits has to stop. It is just that simple. The article follows:

WHAT REALLY CAUSES INFLATION?

(By Ralph Kinney Bennett)

How did the three-bedroom house that sold for $33,000 back in 1969 become a $96,000 house today? How could a family sedan that cost $3110 a decade ago now come in a smaller size costing $6474? How is it that the man who retired in 1969 with a $9000 annual pension and maximum Social Security benefits (benefits up 118 percent over the past ten years) now has 36 percent less buying power than he had then?

Inflation is the answer, of course. But what exactly is inflation? What causes the phenomenon that silently robs us of our living, that in the past 40 years has shrunk the value of the dollar to 20 cents?

To understand inflation, one must first understand what is being "inflated." It isn't prices (although they certainly are rising) and it isn't wages (also rising). It is the supply of money—currency and bank credit. The real wealth of the nation is the goods and services produced by its people. Money—coined or printed by the government—is merely a convenient symbol of that wealth. We give part of our wealth to the government in taxes. But the government has been spending vastly more wealth than we give it—to date, over $766 billion more. In addition, it has run up future financial commitments (Social Security, pensions, loan guarantees) in excess of $7 trillion—more than $71,000 per taxpayer.

How can government spend more than we give it? Usually by "monetizing" its debts, by printing more symbols than there is real wealth. That basic law of economics—the more there is of something, the cheaper it becomes—applies to dollars, too. As former Secretary of the Treasury William E. Simon puts it, "The American dollar is being debased by its own government. The real problem with the dollar is that we're printing too many of them."

This is the root cause of inflation—more money poured into the economy than the economy is worth.

Only when we accept this basic truth can we deal intelligently as citizens with the myths about inflation put abroad daily in press, classroom and government. Here are three of the most pernicious:

Myth 1. Rising wages and prices "cause" inflation. Secretary of the Treasury W. Michael Blumenthal perpetuated this myth when he listed among the factors causing inflation "wage settlements that substantially exceed the productivity and real growth of the economy, [and] price increases that bring unjustified excess profits."

In our competitive system, prices and wages are primarily signals of the ever-changing balance of supply and demand that takes place daily in billions of transactions in the American marketplace. If there is only so much money (and credit) in the system, a business cannot ignore supply and demand by arbitrarily raising its prices or by giving in to excessive wage demands. If its prices are too high, people will buy elsewhere. If wage demands are too high, business must refuse to pay them or hire fewer workers at the new rate. Competition itself, then, is supposed to keep a rein on prices.

But this real discipline of the marketplace has been circumvented by government. To pay its bills and finance a broad list of social goals, including "full employment," government generally inflates the money supply. It thereby abets higher wages and prices by fostering the notion that it will always create enough money to pay for them.

And once the money supply has been increasing rapidly for some time, prices seem to have an upward life of their own. Instead of saving, people "buy now," hoping to beat future price raises. Unions seek contracts with cost-of-living clauses. Banks lending money to be paid back in steadily cheapening dollars insist on higher interest rates.

If rising wages, in and of themselves, were inflationary, then West Germany should have one of the most inflationary economies. German workers' wages increased 236 percent in the decade 1967–77, but the inflation rate averaged about four percent annually because the government kept the money supply in balance with the real productive wealth of the economy. U.S. workers during the same period saw their wages increase 101 percent, a rise nearly outpaced by inflation averaging over six percent a year. The fact is, wages for the most part are *reacting* (in some cases over-reacting) to government-caused inflation.

What about rising prices? It is still popular to characterize the cataclysmic rise in oil prices since the oil embargo of 1973 as a major cause of inflation. But this is simply not true. The high oil prices added to our financial burdens. But they were clearly not the author of inflation.

Consider the experience of Japan and West Germany during the embargo. Unlike the United States, both countries were almost entirely dependent on foreign oil. But during the embargo, both pursued prudent fiscal policies, holding down budget deficits and keeping a tight rein on the money supply. Result: inflation in both nations *declined*, while soaring to 12.2 percent in the United States as politicians cranked out printing-press money to finance continued deficits ($130.9 billion from 1973 through 1976). This, not an Arab hand on the oil spigot, was the reason for the rising American inflation.

Myth 2. Wage and price controls will "cure" inflation. This popular delusion feeds on the first myth. "Price controls have been imposed repeatedly for more than 2000 years," notes Nobel Prize-winning economist Milton Friedman. "They have always failed." Roman emperor Diocletian used capital punishment in a futile effort to enforce controls in A.D. 301. Thousands died, and the economy was nearly wrecked.

In 1775, the Continental Congress sought to finance our infant government's debt by authorizing the issue of an almost worthless paper money. A disastrous inflation followed. The Pennsylvania legislature sought to stem it with price controls. Many farmers and businessmen refused to sell at the controlled prices. Shortages developed. The army wintering at Valley Forge in 1777–78 could not get badly needed supplies. The army's misery, wrote John Adams, was due largely to "that improvident Act for limiting prices . . . [which] if not repealed will ruin the state and introduce a civil war."

Historical experiences like these underscore the well-known deficiencies of wage and price controls. Such controls . . .

Create shortages. Many businesses cannot or will not produce at the artificially set prices.

Result in a lowering of quality. Former "standard" features on a product become costly extras.

Are consistently circumvented. Black markets spring up.

Require a large and expensive bureaucracy to administer them. During World War II—our longest flirtation with controls—the Office of Price Administration (OPA) employed 65,000 bureaucrats who directed an additional 325,000 "price-control volunteers."

But, worst of all, while controls may create an illusion of being effective, they only temporarily hold down wages and prices, while the tremendous pressure of inflation continues to build up. Once the controls are lifted, the market spurts to find its natural level, and a more pronounced and damaging inflation is usually the result.

This country's most recent attempt at controls—the Nixon Administration's "Phase I, II, III and IV" program begun in August 1971—built up pressure for one of the worst inflationary explosions in U.S. history. The rate of growth of consumer prices had been in decline at the time the controls were instituted. This was the result of a cutback in money supply in the waning days of the Johnson Administration. But during the period of controls the Consumer Price Index began a steep climb, reaching almost 13 percent by mid-1974. The disaster was compounded by a harrowing confluence of events—a worldwide crop failure and the Arab oil embargo. Some people still entertain the idea that these factors caused the inflation of 1973–74. The fact is that the Nixon controls were a facade behind which government spending increased sharply.

Why then do governments return to wage and price controls, frequently with popular support? (A recent Gallup poll showed about half the respondents in favor of some form of controls.) The outcry for controls, contends Friedman, "is based on neither experience nor analysis but simply on the 'for God's sake let's do something' syndrome." However, controls are not the answer when they are imposed by a government that at the same time goes deeper into debt while printing more money to pay the bills.

Myth 3. Inflation is "everybody's business." According to President Carter, "It's a myth that government itself can stop inflation. Success or failure in this overall effort will largely be determined by the actions of the private sector."

While the President's assertion coincides with some theories of inflation, it contravenes the clear evidence of economic history and practical experience. As Friedman points out, "Government has an effective printing press on which it can turn out green pieces of paper, and as a result government and government alone is the source of inflation." The steady downward trend of the dollar since 1940, notes economic writer Henry Hazlitt, has been accompanied by an awesome growth of American money supply. At the beginning of 1940, U.S. currency and bank deposits totaled $52.7 billion. By January 1978, currency and bank deposits totaled $815.9 billion, an increase of 1448 percent.

Inflation in Western European countries has been routinely running high with two dramatic exceptions—West Germany and Switzerland. West Germany has kept its inflation rate around four percent; Switzerland, below two percent in recent years. Both countries have displayed the political courage and citizen discipline to keep a tight rein on their budgets and on the growth of their money supply.

In the postwar era there have been three major instances of inflation being brought under control. West Germany did it in 1948—refusing to "spend" its way to prosperity by running up huge deficits. The United States did it in 1953, under President Dwight D. Eisenhower, whose prudent fiscal policies led to an inflation rate during his Administration of 1.4 percent a year. France accomplished the feat in 1958, when Charles de Gaulle halved the government's budget deficit. In each case, control was achieved by dramatic cuts in government spending and a concomitant dialing down of the money machine.

Unfortunately, neither France nor the United States stuck to its guns. That old predilection of politicians—to give (social benefits) without taking (taxing)—asserted itself. Americans now face a $500-billion-plus budget (more than $30 billion of which the government can pay for only by turning out more phony money) and surging inflation that reached an annual rate of almost ten percent last summer.

The anti-inflation plan unveiled by President Carter last October imposes wage and price guidelines on businesses and labor as if they were the cause of the problem. "The President did recognize the role of the budget deficit," comments Hazlitt. "But he did not promise to eliminate it—he promised only to reduce it over a period of years. This was practically an assurance that our inflation will be continued."

Clear away the myths and one discovers that the way to stop inflation is to literally *stop inflation*—stop inflation of the money supply beyond the real ability of this country to produce; stop pretending that we have more money than we really do; stop running huge deficits that can be financed only with fiat dollars.

The United States cannot expect a painless extrication from the inflation in which it has found itself for almost 40 years. A broad range of programs will have to be cut back; unemployment is likely to increase temporarily. But, as economic historian and monetary expert Donald Kemmerer warns, "a nation that does not stop an inflation simply because it is politically painful to do so is essentially declaring bankruptcy."

HOW MONEY IS "CREATED" OUT OF NOTHING

On the third Tuesday of every month, the Federal Open Market Committee meets in Washington, D.C., for what may be the world's most exhaustive economic briefing.

The committee, composed of the seven members of the Federal Reserve Board and five of the presidents of the nation's 12 regional Federal Reserve Banks, sifts data on major aspects of the economy. (Federal spending, accounting for nearly a quarter of the Gross National Product, must weigh heavily in these data.) The committee then seeks to estimate how much growth of money and credit—or restraint of growth—the economy needs.

If the committee estimates that the money supply should grow, it gives the Open Market Desk of the New York Federal Reserve Bank "target ranges" for the creation of new money. Here, much simplified, is what happens.

The seeds from which this new money will grow are "bank reserves"—mere digits on the books of the New York Fed—and a stack of federal securities. The securities are not backed by gold bullion or fresh bills in a vault somewhere. They are fancy sheets of paper representing faith in the U.S. government.

The New York Fed buys, say, $100 million of these securities from a dealer in the "open market." A private purchaser would pay for such securities with real funds already in the economy. But the Fed merely credits $100 million in new "reserves" to the account of the securities dealer's bank—Bank A. The bank must leave 16 percent of this in its reserve account at the New York Fed (the percentage could be as low as seven, depending on the size of the bank). It lends out the remaining $84 million—perhaps to a business building a new plant.

The $84 million loaned out began as nothing but figures on paper. In the process of being loaned, it has become money. The $84 million finds its way into other banks, which return a required portion of it to their reserve accounts and lend out the rest. Each loan is in fact the creation of new money, and the initial $100 million grows and grows: Bank A lends out $84 million, which finds its way into . . . Bank B, which lends out $71 million, which finds its way into . . . Bank C, which lends out $60 million, which finds its way into . . . Bank D, which lends out $50 million. . . .

In the end, the initial $100 million of reserves will have been returned to the Fed as security for the commercial bank loans. But by that time, more than $600 million in new money will have been put into the economy.●

PAST PUBLIC DISCLOSURES OF RADIATION HAZARDS ARE NOT REASSURING

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. RANGEL. Mr. Speaker, for a long time I have been deeply concerned about the dangers posed by nuclear weaponry. The building of these weapons presents a tremendous threat to our survival. This threat exists because those who develops and control nuclear weaponry are capable of carelessness in the management of these weapons. The result of such mismanagement has been the exposure of people to dangerous amounts of radiation. I point to the Washington Post article of March 2, which reveals one example of the mismanagement in our use of the atom.

One of the Nation's worst atomic bomb test accidents occurred on May 19, 1953, when A-bomb "Harry" was exploded near the town of St. George, Utah. The test blast resulted in one of the greatest radioactive fallouts ever recorded. In the years following the detonation of "Harry," there was a dramatic increase in the number of thyroid cases in the area, as well as an outbreak of deformities in the offspring of local sheep herds.

One astounding fact of the blast incident is that radiation monitoring officials failed to test radiation levels of milk produced in the St. George area subsequent to the explosion. Also, the Atomic Energy Commission (AEC), concerned about future appropriations for additional weapons testing, chose to deny that there was any connection between the heavy fallout from the test and the physical damage, including deaths, to sheep.

This highly questionable conduct in Utah gives rise to apprehension about our use of the atom. If the AEC could be so cavalier in their responsibility to the health and safety of the public, one must seriously question the candidness that the profit-conscious nuclear power generating industry will exhibit if and when they encounter carelessness which results in the exposure of the public to radiation.

I encourage my colleagues to read the following article from last Friday's Washington Post. I think that they will find this account of the aftermath of the test blast incident shocking. The text of the March 2 Washington Post article follows:

AFTER A-TEST ACCIDENT, SAFETY DIDN'T COME FIRST

(By Bill Curry)

In the worst accident of the nation's atomic bomb tests, federal officials concentrated on allaying the public's fears rather than protecting people from the hazards of radioactive fallout, according to newly released federal documents.

The records show that while officials warned some Utah residents to stay indoors after an hour's exposure to heavy fallout, others were not warned and officials declined to monitor milk for radioactive contamination.

Moreover, other documents show that when grazing sheep died soon after the accident, an Atomic Energy Commission employe expressed the fear that if sheep deaths were linked to radioactive fallout, "the purse strings" for future weapons tests in the United States might be tightened.

The accident occurred on May 19, 1953, when the wind shifted at the time of test blast "Harry," one of the "dirtiest" nuclear bomb tests among the 30 or more weapons detonations between 1951 and 1962.

As a result, St. George, Utah, was exposed to more radioactive fallout than has ever been measured in any other populated area—even Japan. Officials estimate that perhaps more than half of the radiation dumped on the area in over a decade of testing came from Harry.

But exposure to radioactivity, which can cause leukemia and cancer, was not apparently confined just to local residents. Most of the milk produced in the area was shipped to Las Vegas.

In following years, Utah showed marked increases in cases of childhood leukemia, thyroid cancer and birth defects. Some residents who were exposed to radiation on the day of the blast later developed cancers.

While the precautions taken in May 19, 1953, have been publicly known for 26 years—many cars were blockaded and washed down, and children kept indoors during school recess—another dimension of government behavior emerges in the documents.

In a remarkably candid account of his activities that day, an unnamed radiation monitor described his reluctance to test and, if necessary, impound contaminated milk.

Harry was detonated in Nevada from a 300-foot tower at 5:05 a.m. By 8:45 a.m., cars were so contaminated with fallout that they were being washed down. After 30 minutes, officials gave up because so much radioactivity was still coming down.

At 9:25 a.m., after much of the exposure to fallout had occurred, instructions went out for people to take cover and for children to be kept in school. Within 15 minutes most of the population of St. George was under cover, and 35 minutes later the fallout had reached its peak and began subsiding, an official wrote.

Two days later, a second monitoring official arrived in St. George, and the account continues:

"We discussed the milk situation. I was unable to get [a complete list of milk producers], but I got the name of the president of the county dairymen's association. I explained that it was just as well that neither [the list nor the president himself] was available since I was afraid it would create a disturbance.

"In view of Tuesday's episode, everyone in St. George was a little concerned over any unusual incident connected with radioactive fallout and it would not take much to start wild rumors.

"For this reason it was agreed that the direct approach for the collection of milk samples would not be pursued further at this time. . . . That evening I purchased a quart of milk from a store in town. I located the producer and in discussing his milk supply in a general way, I learned that the milk I had purchased that evening was obtained from the St. George herd on Tuesday evening. At noon I was replaced by another [radiation] monitor [and left.]"

Soon sheep in the area began to die and developed radiation burn-like skin lesions. Lambs were born fully developed but undersize.

The AEC would later deny sheepmen's claims for damage, saying the bomb tests were not the cause. In an October 1953 meeting, one AEC official, Dr. Gordon Dunning, who for years would defend the safety of the test blasts in the face of mounting evidence to the contrary said any animal deaths might cause problems in "purse strings" being opened to finance weapons tests in Nevada.

A statement saying that the sheep problems were not related to fallout was then prepared for presentation to the AEC governing commissioners.●

W. BLAINE BEAM

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. BROYHILL. Mr. Speaker, on February 22, 1979, Mr. Blaine Beam, a respected resident of Cherryville in the 10th Congressional District of North Carolina, died at the age of 82. Mr. Beam was a unique person. His life touched the lives of many, many people in Gaston County.

I was asked to write an editorial for the Cherryville Eagle about my feelings toward Mr. Beam and the work which he accomplished. I would like to share this editorial with my colleagues.

IN MEMORY OF W. BLAINE BEAM

(By Congressman James T. Broyhill)

Few people leave as wide a mark on their community as Blaine Beam did on his. Mr. Beam continually sought ways to make his community a better one. He dedicated his life to helping others always putting them ahead of himself.

Mr. Beam loved a parade. Cherryville did not have a regular parade, so what did he do? He started one, in fact that is where I first met Blaine Beam at a parade which he had organized for the people of Cherryville. I could tell from the very beginning that he was a "doer" in the community, and I certainly found this to be true as we developed a close and warm friendship.

Active in politics and other community affairs Mr. Beam served on the school board for 18 years. His views carried a lot of weight in the community and his support was eagerly sought by those seeking office on the local, state, and national levels.

Someone once commented that Mr. Beam did so much for his community that people considered him to be their "Governor". He helped many candidates for governor get elected, but he never sought any favors for himself only for others. That is how he earned the nickname "Governor".

Mr. Beam was a great optimist. He always looked on the bright side of life. That is one of the many reasons why so many drew on his many years of wisdom and knowledge.

He could always be counted on to be fair and honest when called upon for his opinion concerning issues of the day.

Mr. Beam was patriotic. He served his country in the U.S. Army during World War I, and he was a member of Cherryville American Legion Post No. 100.

Mr. Beam was also a family man. Survived by a dedicated and loving wife, two sons, six daughters, fifteen grandchildren and four great-granddaughters.

He never neglected his family while he was so actively involved in helping others.

His qualities of leadership, loyalty, compassion and dedication were much admired. He was a person whom we can emulate in our daily lives. That is the best way we can, in a small way, repay Blaine Beam for his many contributions to his community.

We will miss Mr. Beam's wise counsel. We all share with his family a deep loss and to his family we can say: Thank you for sharing him with so many of us during his 82 years on earth.●

MORE BUCK FOR THE BANG?

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. GOODLING. Mr. Speaker, I should like to bring to my colleagues attention an important article by William Schambra (Public Opinion, January/February 1979) that notes the slow, but steady turn-around in public attitudes toward American foreign policy.

In this article, Schambra properly casts aside the simplistic and misleading polls that solicit public opinion on complicated foreign policy issues like SALT. Everyone wants arms control, but few know the difference between throw-weights and Backfires. In a survey tied to a particular technical problem or issue in foreign policy, public opinion will reflect something, but generally not much.

But survey research which tests national will, reveals meaningful figures on how our constituents feel about America's role in the world of the 1980's. In sum, as Schambra notes, "we believe we are second-best, and we are unhappy about it." The most recent data indicates a remarkable turn-around in public attitudes toward America's role as a superpower. Increasingly, Americans believe the Soviets are moving ahead of us in military strength and that this imbalance should be redressed, even if it means more "bucks for the bang." I am sure each of my colleagues has sensed this post-Vietnam resolution in their constituents, which I think stems from good old patriotism and a correct perception of the world situation.

I especially commend to my colleagues, attention Mr. Schambra's brief, but sound discussion of the difference in opinion on foreign policy that emerges when one contrasts attitudes of the college educated with the public at large.

In the hope that this trend in public opinion does not escape my friends attention I request the text of this article be printed in the RECORD.

MORE BUCKS FOR THE BANG: NEW PUBLIC ATTITUDES TOWARD FOREIGN POLICY

(By William Schambra)

Iranian students topple a statute of the shah . . . Nicaraguan troopers patrol a rubble-strewn street . . . Vietnamese soldiers dash past the Imperial Palace in Phnom Penh. TV nightly news has been livened considerably of late, with vivid footage from the world's burgeoning crisis spots.

There is a growing sense among opinion leaders that this year—with all these spontaneous crises, plus the impending battle over SALT and the possible culmination of the Camp David accords—will be a critical one for our conception of the role we should play in the world. The suggestion is now heard that foreign affairs may start vying with economic matters for the attention and concern of the public.

Other commentators urge a more sober view of the situation: yes, there's more media attention to foreign crises, but it's all one big "Sands of Iwo Jima" to the viewership: good entertainment, nothing more. We are told that, basically, the American public has little patience with the complexities of foreign affairs—what really holds public interest are the bread-and-butter issues of the domestic economy. And survey research tends to bear out this notion. Since the end of the Vietnam War, economic concerns have ranked far above foreign policy matters as the nation's "most important problem," usually by margins of five or six to one (Public Opinion, vol. 1, no. 2, p. 32). And there seems to be no evidence of a change in this situation: an NBC News/Associated Press survey taken in mid-December asked people to name the one issue on which Congress should act first. The responses:

[In percent]

Inflation	32
Cuts in federal spending	16
Crime	11
Energy	10
National health insurance	10
Tax cuts	7
U.S. military strength	5
Treaty with Russia to limit nuclear weapons	4

It is certainly clear that the popular mind will never trouble itself with the labyrinthine twists and turns of Iranian politics, or the technological problems of MIRVing warheads. Nor does it need to: presumably, that's why we have a President and a Senate. Our representative institutions supply that critical element of knowledge which goes into the making of a decent foreign policy. In view of this, we should be wary of those survey questions that allegedly probe public attitudes toward technical, complex aspects of our foreign relations. A favorite question—do you approve or disapprove of a SALT treaty?—always produces massive margins of support: the December NBC/AP survey shows approval at 75 percent, versus 17 percent disapproval and 8 percent not sure. But what can this possibly mean? Have people weighed the relative merits of U.S. technological superiority against a Russian numerical edge in delivery vehicles? Or isn't it more likely that this question simply unearths the vague sentiment that it's better to talk than fight? A Roper survey of August 1978 provides a more realistic assessment of public views of SALT:

[In percent]

Favor	41
Oppose	16
Haven't been paying too much attention	29
It depends/don't know	14

But if our leaders have to supply direction to foreign policy, only the public, over the long haul, can supply another critical element: will—the national will at least to survive, at best to prevail, in a troubled international environment. Here, surveys of mass opinion have a great deal more to tell us, and the message is fairly clear: American will is recovering nicely from the trauma of Vietnam. Let's examine some recent developments:

1. Do we have the will to be a superpower? Here, the trend is marked. We believe we are second-best, and we are unhappy about it. As shown on page 29 of "Opinion Roundup" in this issue, more and more Americans believe that the United States is weaker militarily than the Russians: a 43 percent plurality held that position in November 1978. A December Gallup survey found that 61 percent of Americans believed Soviet power would increase in 1979, versus 51 percent saying our power would increase: since 1969, the Russian "power will increase" line has consistently ridden above the American curve (see pages 30–31). And Americans are increasingly apprehensive: a June-July Harris survey found that 43 percent of respondents believed it was necessary for the United States to be stronger than the Russians; only 8 percent would accept the "second-best" situation that we were seen to be in.

2. Do we have the will to spend superpower money? Again, the trend is clear: support for defense spending has been growing steadily since our disentanglement from Vietnam. The Harris survey on page 29 of this issue shows that support for increased defense spending went from 28 percent in December 1976 to 52 percent in November 1978; a situation that Lou Harris describes as a "remarkable turn-around." It is true that Americans balk at certain kinds of domestic sacrifices to reach higher levels of defense spending—for instance, they would prefer defense cuts to education cuts by 52 percent-to-39 percent. But does anyone doubt that if the choice were between defense and welfare spending, welfare would be slashed? That may not have been true a half dozen years ago.

3. Do we have the will to support our friends? Much has been made of the surge in support for recognition of Communist China over the past quarter century: only 25 percent favored recognition in 1950, versus 66 percent in July 1979. But Americans still want to stand by Taiwan: an identical 66 percent in that July survey believed we should continue recognition of Nationalist China.

A recent Roper survey tells us that Americans are reluctant to commit troops to the defense of Taiwan, or for the defense of any other ally, for that matter: surely, this is one of the traces of the Vietnam experience that will disappear slowly, if ever, from popular consciousness. But there may be some evidence of increasing support for U.S. involvement on behalf of our allies, when concrete cases present themselves. As recently as 1975, Americans rejected by huge margins the suggestion that we send supplies to our allies in Angola (52 percent opposed, 21 percent in favor). But last summer, Americans endorsed the notion of sending supplies to our African allies by 56 percent-to-34 percent. A Harris survey in June even discovered a 53 percent-to-40 percent majority in favor of sending U.S. military advisors to African nations threatened by communism; Lou Harris remarked that this was the "first time since Vietnam" that Americans had backed the presence of military advisors in a foreign war zone.

Perhaps the trend here is a bit murky because this aspect of foreign policy reminds us most vividly of our years in Vietnam. Nonetheless, it doesn't seem too hasty to say that we are increasingly willing to come to the aid of our allies in their times of trouble, albeit with supplies only.

If the glow of health is returning to American will, it would seem to be a small matter to mix in the necessary technical knowledge and produce a muscular foreign policy. But here, we come up against a great paradox: the more knowledge, the less will. Those who are most likely to be the producers of, and the attentive audience for, our foreign policy—the college educated—are least likely to reflect the tendencies discussed above. In Public Opinion, vol. 1, no. 3, Everett Ladd showed that the college educated were most likely to support defense cuts and to take a benign view of communism as a form of government, and least likely to support the work of the CIA on behalf of pro-American elements abroad. A recent Harris survey finds that the college educated are least likely to believe that it is necessary for us to be superior militarily to the Russians. The results:

[In percent]

Education	Necessary for United States to be stronger	As strong	Not as strong
8th grade	59	26	4
High school	47	42	6
College	35	52	10

Thus, we see a radical difference between the views of the college educated and those of the public at large.

* * * * *

What accounts for this difference? We can speculate thusly: the college educated and the public have divergent views of our role in the world, because they have massively different conceptions of the world.

In the view of many college graduates, likely influenced by the foreign policy elite, the cold war is seen to be dead—strangled in a growing web of interdependences, transnational relations, MNCs, LDCs, SDRs, and North-South Dialogues, National boundaries are being eroded quietly by the United Nations, regional economic communities, and international philatelic societies. In the view, the world is now far too complicated to be discussed in terms of great-power rivalry. Thus, concepts like "being stronger than the Russians" and "spending more for defense" have simply lost their meaning: this is what poll-takers reflect when they survey the college educated.

The general public sees a very different world—one in which the cold war lives. What this public knows is that the Russians remain our adversary, and that they now have more guns and more troops—a fact made no more palatable by the elite's opinion that the Soviets won't use them in an unfriendly manner.

If the public's view is a bit too simple, perhaps the elite's view is a bit too complex. Our foreign policy elite may have lost sight of the wisdom of Winston Churchill, who surely confronted a world situation every bit as complicated and as dangerous as ours. In his dealings with a bewildering array of friends, enemies, and neutrals in theaters that spanned the globe, he insisted that Britain's foreign policy have an "overall strategic objective"—a single, simple national goal that would order Britain's relations with the rest of the world. He understood how complex and subtle international relations could be—it was precisely that complexity and subtlety that demanded a simplifying, organizing concept. The alternative was a foreign policy characterized by ad hoc responses . . . or paralysis.

In the late 1930s, Churchill's "overall strategic objective" for Britain was: meet the challenge of a Germany, "suddenly becoming again possessed of all her martial powers." In the late 1970s, aren't Americans starting to say: meet the challenge of a Soviet, suddenly possessed of superior martial powers? It might be good for our elites to heed this bit of folk wisdom being turned up in the polls.●

AMTRAK GAINING RIDERS

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. GORE. Mr. Speaker, I want to call to the attention of my colleagues three significant items of interest concerning the continuing debate about rail passenger service.

Last week, the National Railroad Passenger Corporation (Amtrak) released ridership figures for December 1978 noting a dramatic increase in volume on virtually all routes. Amtrak's long-distance trains, which have been subjected to the most intense criticism in the Department of Transportation's proposed route structure, demonstrated the greatest gains in the system.

The overall increase for Amtrak during December was 7.5 percent, but services between New York and Florida (up 38 percent) and Chicago and Florida (up 22 percent) led the increases. The Chicago-Florida service on the Floridian, an important part of the national system, is destined for elimination, in the DOT proposal, a plan which is based upon ridership projections long outdated. This is particularly true considering the critical need to reduce consumption of oil in this country.

In an effort to find new sources of revenues for our national rail passenger system, I have been working with Amtrak officials and the Federal agencies to consider the potential for increased ridership by Government employees between Washington and New York. During hearings on Government travel last year, I showed that travel time is nearly the same by rail as by air between Washington and Philadelphia, and competitive to air between Washington and New York. In both cases the cost savings to the Government is significant—between $42 and $80 for each employee trip. The cumulative excessive cost to the Federal Government for air travel along these routes is inexcusable. This practice is made even more unacceptable when we consider that air travel between these points consumes 14 times as much fuel per passenger mile as does rail travel.

I am pleased to note that Amtrak is now negotiating with the General Services Administration to place more Federal employees on Amtrak in the Northeast Corridor. GSA has appropriately recognized the wisdom of shifting from a costly, energy-inefficient mode of transportation. This policy, which I believe resulted directly from the hearings last summer, could result in an additional 2,500 Washington-New York passengers for Amtrak, or more then $1.4 million each year in revenues.

Tom Wicker's column in the New York Times of February 25, 1979 is an articulate statement in support of an energy-efficient rail passenger system. For the benefit of those who missed this article last week, Mr. Wicker's column follows:

LEFT HAND VS. RIGHT

(By Tom Wicker)

The headline above first appeared over this column on July 9, 1975, but on numerous occasions before and since it could have been used to make an apparently unchanging point: In the attempt to meet the gathering energy crisis, the left hand of the Administration (any Administration) usually works against the right.

At the moment, for example, Energy Secretary James Schlesinger is pondering the effect of sharply diminished Iranian oil production and rising OPEC prices, having in mind such steps as Sunday service station closings and strict observance of the 55 m.p.h. speed limit. He has just predicted that by this summer gasoline supplies may be down 5 to 8 percent and prices up 3 or 4 cents a gallon.

But President Carter has sent Congress a budget providing for an *8 percent increase* in highway construction obligations, up to a level of $8.6 billion. Yet, as his recent maunderings about the need for car pools suggest, he knows the automobile is the most profligate energy waster in America, and nothing encourages use of automobiles like the interstate highway system.

At the same time, Secretary of Transportation Brock Adams, as if to compound confusion, has proposed the amputation of 43 percent of the energy-efficient rail passenger system operated by Amtrak. His short-sighted aim is to save taxpayers $1.4 billion over five years (just under $300 million a year) in Federal subsidies; never mind the cost in scarce, high-priced gas wasted in private auto travel.

Mr. Adams's meat-ax assault on Amtrak is all the more weird because he himself said recently that future transportation decisions would be studied for their impact on energy usage. Worse, he demanded policies of Amtrak that would drive away riders from the poor bleeding stump of a system he would permit still to operate.

Notably, Mr. Adams demanded higher fares—when the record shows that after Amtrak in November 1978 tried to match cut-rate airline fares with its own discount rates, ridership rose by 16 percent over that of November 1977. Indeed, one of his own department's reports demonstrates that the *largest*—not the smallest—possible Amtrak system would produce the lowest deficit per passenger mile.

Mr. Adams has got the caboose before the engine. The task of Amtrak is to increase ridership and reduce the nation's energy consumption, while making intercity travel as convenient as possible. Amtrak's job is not to turn a profit, as Mr. Adams seems to think, or even to hold down its operating deficit at the expense of its real objectives. (Mr. Carter proposed an operating subsidy for next year of only $552 million, against that $8.6 billion for highway obligations.)

Rail ridership, in fact, has been increasing—up 7.5 percent in December 1978 over the same month in 1977. Traffic on the New York-to-Florida lines picked up by 38.4 percent in December, but Mr. Adams wants to cut service from three trains a day to one. Los Angeles-San Diego ridership rose 142 percent from 1973, although the frequency of service increased by only 87.5 percent. The Panama Limited, running from Chicago to New Orleans, gained 7,000 passengers in 1978 after switching to a new fleet of cars.

Amtrak critics try to make two major cases—that people just won't ride trains, and that trains aren't all that much more energy-efficient anyway. The first point is debatable and the second nonsense.

Actually, evidence is substantial that people *will* be attracted to trains with modern equipment, decent on-board service, competitive fares and on-time performance. That attraction will grow as gasoline inevitably becomes scarcer and dearer. Thus, a well-developed rail service could again become a highly useful part of a national transportation system, as it is almost everywhere else in the world.

As for energy efficiency, it's misleading to base comparisons on the few lightly patronized trains running today. It's quite another thing to calculate energy efficiency on the basis of the *potential* ridership of a good railroad system in an era of gasoline scarcity. Even now, however, the Department of Transportation has reported that Amtrak's Los Angeles-Seattle train, using heavy and outmoded equipment on a mountainous run, is 47 percent more fuel-efficient than an automobile making the same trip.

No one would suggest such extremes as banning automobiles or forcing people to ride trains. But surely it would be prudent for the Government to follow policies and make investments that over time—perhaps a decade— might cause a substantial shift of intercity traffic from private automobiles to energy-efficient trains. Mr. Adams's policy—cut service and raise fares—can only have the opposite effect.

Besides, despite present doubts, if the time ever comes when the need for a decent national rail network is generally conceded, the cost of replacing a vanished or irreparable system would be astronomical. By comparison, that $300 million a year Brock Adams wants to save the taxpayers would be like something Jimmy Carter will someday have to go back to growing.●

HOW BUSINESS CAN STIMULATE A COMPETITIVE HEALTH CARE SYSTEM

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. BROYHILL. Mr. Speaker, I am having included in the RECORD today the third in my series of five reports on ways private industry can work toward containing health care costs. Report No. 3 is entitled, "How Business Can Stimulate a Competitive Health Care System."

HOW BUSINESS CAN STIMULATE A COMPETITIVE HEALTH CARE SYSTEM

The major characteristic of our free enterprise economic system is competition. Experience has shown that competition increases quality and lowers cost. In addition, competition encourages experimentation and innovation. Competition also provides Americans with one of their essential freedoms: freedom of choice.

However, for a variety of reasons, competition as it exists in other sectors of the economy does not always seem to operate so well in the health care industry.

The traditional economic axiom of supply and demand does not always seem to apply to health care services. For example, statistics reveal that the greater the number of surgeons, the greater the number of surgeries performed in proportion to the population. Moreover, the cost of these services is higher than in areas served by fewer surgeons.

Most health care in the United States is provided by solo practitioners (individual doctors operating out of separate offices) on a fee-for-service basis. In such an arrangement, referrals to other physicians located in other areas are often necessary for additional or specialized care. Multiple records are maintained on the same patient for the same purpose. Costs tend to be duplicative (e.g., several X-rays of the same condition required by the newly diagnosing physician). Care may be excellent but not necessarily delivered cost-effectively.

Another trait of the fee-for-service, solo practice health care system is that it is oriented toward curing diseases. There is not enough emphasis on maintaining health and preventing disease, such as just making sure the kids have the shots the doctor recommends. In large part, health insurance policies perpetuate this situation.

Perhaps an improved method of delivering care is through alternative delivery systems in which health services are more organized and patient management is more controlled. When such care is provided on a prepayment basis, providers are at risk to keep patients well and not just treat them when they are ill or injured. One of the primary benefits from this arrangement is that hospitalization—the most expensive form of health care—is reduced.

The prepaid approach is the basis for the major alternative to fee-for-service, solo practice care: the health maintenance organization (HMO). This term was coined and made popular by InterStudy, the research firm which prepared the strategy reports for the National Chamber Foundation.

Although HMOs are the most prominent type of alternative delivery system, several other kinds are described briefly in the strategy report on stimulating a competitive health care system. These include: expanded industrial clinics, insurer-physician health plans (physicians share risks with insurance companies) and health care alliances (in which physicians are experience-rated by insurance companies).

As of August 1978, there were 200 HMOs in the United States providing care to more than seven million members, or about 3 percent of the population. In order to increase HMOs' competitiveness, the "HMO Assistance Act" (P.L. 93–222) was passed in 1973 requiring all employers with 25 or more employees living in the service area of a federally qualified HMO to offer the HMO as an option to conventional health insurance. The Department of Health, Education, and Welfare estimates that more than 400,000 businesses could be affected by the law. Today, approximately one-tenth of that number are involved with HMOs.

There are two broad types of HMOs: (1) the group or staff model in which several medical specialists and support personnel are housed in one facility, which may have satellite branches; and (2) the independent physician association, in which physicians provide care through their own offices. In both cases, payment is made in advance to a central source, and participating physicians are obligated to provide services for the set amount.

Recent experience has shown that the presence of HMOs can help to lower the cost of health insurance plans in a community, as well as help to develop other HMOs, thus demonstrating their ability to instill more competition into the health care market.

Your business can help promote competition in the health care system by employing one or more of the following HMO strategies:

Offer HMOs in a positive framework. Evaluate existing HMOs and provide support to HMOs when they market their services to you and your employees.

Endorse the HMO concept. Reinforce information provided by the HMO, explaining the advantages of membership in an HMO.

Provide management support to an HMO. Technical assistance on marketing, financial, and managerial matters can help an HMO realize its full potential and better serve you and your employees. Monitor and evaluate the HMO after employees enroll.

Develop an HMO in your community. This can be accomplished independently, with your firm providing the capital, ongoing financial support, and physical facilities for such an operation. Or cooperate in the development of an HMO with other businesses and organizations. This alternative might be attractive if there appears little likelihood that an HMO will be developed otherwise.

This last strategy admittedly involves a major commitment. To pursue development of an HMO, your business should:

Assess its capability to sponsor an HMO.

Review the community for potential locations of HMOs and satellite branches.

Determine which form of an HMO is most appropriate for the community.

Conduct a thorough feasibility study.

If the feasibility study indicates that an HMO could and should be developed, planning and development should proceed, keeping in mind the following elements:

Organization of the HMO's use of hospitals (e.g., gain privileges at existing hospitals or obtain own hospital).

Legal/political environment (e.g., federal and state HMO-related laws; medical society receptivity).

Management systems (e.g., who will administer the plan).

Personnel selection (e.g., who will recruit professional and support workers).

Facilities (e.g., what kind and how many buildings need to be bought or rented).

Labor relations (e.g., the nature of personnel policies and contractual sevices).

Insurer relationship (e.g., coverage of catastrophic care).●

WHY I CARE ABOUT AMERICA

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. SNYDER. Mr. Speaker, as you know, this year's Voice of Democracy Contest, sponsored by the Veterans of Foreign Wars—whose members know so well the price and the value of the many freedoms we enjoy—encouraged secondary schoolchildren around the Nation to think about and explain why they care for America.

I would like to share with my colleagues the thoughts of one young lady from Erlanger, Ky., Kimberly Jo Hamilton, who accepted the VFW challenge to put her feelings into words. Her explanation of why she cares for America was judged to be the best in Kentucky.

I think if you read her comments, you will see why:

VFW VOICE OF DEMOCRACY KENTUCKY WINNER

(By Kimberly Jo Hamilton)

When given the topic "Why I Care About America" for this speech. I remember thinking, this is going to be the easiest subject I've written on. After a great deal of thinking, I've found that this is probably the most difficult subject I've ever tried to share my feelings on with other people.

Why do I care about America? It is more than the past heroics we can all think of. America is more than the Battle of Bunker Hill, a democratic government, and policeman of the world. She is more than a defender, and the home of George Washington, Thomas Jefferson, Abraham Lincoln, John F. Kennedy, and Martin Luther King. America is the spirit of all these and more.

America is a country that fought for her independence from England when she was just a handful of colonies. And as she grew, she fought for the freedom of others.

She is the survivor of a Civil War that literally tore her in two. She has survived the turmoil of Vietnam, foul play in her highest offices, inflation, recession, depression, and world wars.

A country that can survive so much and care for so many is something to be proud of. Whatever America is, we have made it. We have progressed this far, not because of a few people, but because of a great majority.

Now, a part of a great majority can be found bickering about our nation's present and its future. We hear them complain, "Our politicians are out for themselves. They're not interested in the people." Did they ever stop to think that we the people elect our officials? They say, "No one wants to get involved." Yet, look at the hospitals, churches, and community centers that thrive on volunteers. If no one wants to get involved, then how can we have huge non-profit organizations such as the Peace Corps and Unicef? Another common complaint voiced is, "America is full of prejudice." Yet more minorities are now attending college than ever before and getting better jobs.

But the saddest complaint of all is, "America is losing its spirit." We, the people make up America's spirit. It is our country, and America can only be honorable and good as long as we are.

This bickering and doubt has been with us since the beginning. Many people did not want to make waves by demanding their independence from England, but those who were tired of oppression fought back with the desire to be free. Through persistence we have obtained freedom, reached for the moon, and cured major epidemics. Surely, the future of such a country will be equally as great with this desire to do. Whatever the future holds, we will shape it.

Recently, I wrote a poem for English Class that expresses my thoughts on America. It is called "I Am The Flag":

I am a composite of all of the people of America.
I am the Union if you are united.
I am one and indivisible if you are undivided.
I am as strong as the weakest link.
I am a sign pointing to past achievements.
I am a promise of great things for the future.
I am purity if you are pure.
I am bravery if you are brave.
I am loyalty if you are loyal.
I am honor if you are honorable.
I am goodness if you are good.
I am hope if you are hopeful.
I am truth if you are truthful.
I am the Constitution.
I am law and order.
I am tolerance or intolerance as you force me to be.
I am liberty as you understand liberty.
I am a pillar of fire by night but you must provide the fuel.
I march at the head of the column but you must carry me on.
I stand for greater and more glorious achievement than can be found in recorded history, but you must be my inspiration.
I am the flag.

Why do I care about America? How can I not love a country that is so much?●

FRANK WISWELL

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. DERWINSKI. Mr. Speaker, I would like to bring the attention of my colleagues to an outstanding public servant from my district, Frank Wiswell, chief of the Midlothian, Ill., Fire Department. Chief Wiswell has given 49 years of dedicated service to the village of Midlothian and surrounding communities.

Frank Wiswell will retire on April 30. I would like to take this time to pay tribute to him, in recognition of his lifetime of dedication and service to his fellow man. Frank is well respected for his humanitarian achievements and for his integrity. Frank is an exceptional public servant, whose first and foremost concern has been the well-being of the citizens he serves.

Frank Wiswell joined the Midlothian Fire Department on April 24, 1930. During his career, Frank distinguished himself by his hard work and amazing energy and enthusiasm. Frank moved up through the ranks, first an an engineer in 1930, and later promoted to lieutenant and then assistant chief. In January 1955, the president and board of trustees of the village of Midlothian, appointed him to the position of chief of the department.

Chief Wiswell presided over the modernization and growth of the Midlothian Fire Department. In addition he was a driving force in the cooperation that developed between neighboring fire department in suburban Cook County. His leadership extended to statewide firefighter programs. During his career, Frank Wiswell has served as vice president. president, and currently serves as treasurer and a member of the board of directors of the Illinois Firemen's Association.

On April 30, Frank will be honored for his dedicated and untiring service to the Midlothian Fire Department, the citizens of the community and the Illinois Firemen's Association. This recognition is especially fitting for Frank has demonstrated the kind of spirit and leadership that has made Midlothian the outstanding and progressive community that it is. Frank Wiswell is one of those special individuals who can truly be called a "pillar of society."

I am pleased to congratulate Chief Frank Wiswell on his outstanding career with the village of Midlothian Fire Department and to wish him many more years of a productive and fruitful life. Frank will officially retire. However, those of us who know him well, realize that he will continue to make his experience and expertise available to his associates in Midlothian, neighboring fire departments and the Illinois Firemen's Association. His dedication is such that it outpaces "Father Time." ●

MIKE DYE WINS SOUTH CAROLINA VOICE OF DEMOCRACY CONTEST

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. CAMPBELL. Mr. Speaker, it is a privilege to congratulate Michael LeMay Dye for his winning entry in the 1978–79 Voice of Democracy Contest. This year, more than 250,000 secondary school students participated in this contest, which is sponsored by the Veterans of Foreign Wars of the United States and its Ladies Auxiliary. I am proud that the winner from the State of South Carolina is one of my constituents.

A senior at Paul M. Dorman High School, Mike is active in a variety of areas, including the student body government, the Kay Club and the Drama Club. In addition, he is a leader in the South Carolina Teenage Republicans. Mike lives in Spartanburg with his parents, Mr. and Mrs. Donald William Dye, and his three brothers, Donald, Jr., Patrick, and Joseph.

Mike is contemplating a career in the public eye, perhaps politics or television. With his grasp of what is important about America, I am sure he will be a credit to whatever profession he chooses.

I commend Mike's essay to the attention of my colleagues and insert it in the RECORD at this point:

WHY I CARE ABOUT AMERICA

(By Michael LeMay Dye)

If I were canvas, a pallet with many colors on it, and an artist's brush, then I could tell you by showing you my exact reasons why I care about America. Although it is a very old cliche, it is still true that a picture is worth a thousand words. Today, someone can travel across the United States from the Atlantic to the Pacific and they will know what is so wonderful to care about here in America. It is not just the wonderful graphic works of nature such as Old Faithful, The Everglades, Niagara Falls or the Grand Canyon, it is the people. It is what you see in their faces that represents caring for America. Many people who really care for America has never been more than fifty miles away from their hometown.

Of course, today with television, one gets an instantaneous view of what this great nation of ours is like. But before television and easy modern methods of travel, one must stop to think what made people care about America? How did they know what there was to care about? Now, I must admit, I am a little bit young to remember The Saturday Evening Post as a regular weekly part of most American family lives, but an older member of my family has recalled to me her memories of The Post, and its many covers illustrated by the late painter, Norman Rockwell. She gave me a book of his illustrations and I realized in studying these detailed designs of democracy, that I could sprawl out on my family room floor with one book in my hand and know the answer to the question, why I care about America. Perhaps one of the paintings which helps tell me the answer to the question is called, "Apollo 11 Space Team."

Picture twenty five men, three of them astronauts, all looking at the moon and thinking, "Our goal, thousands of miles away, has been achieved and we as Americans should be proud of the fact that the United States is the first nation to have a flag on the moon." So that one reason, why I care about America, is because we're always up front, the first to do everything even when other nations need help; perhaps because of some disaster, an earthquake, flood or maybe even war. The United States is always first to bring aid to the ailing country. I care about America because America cares. Anyone who knows Norman Rockwell's work will recall the series he painted entitled, "The Four freedoms of America." With a single glance at each of these four pictures, thousands of descriptive phrases about America and the American way of life waved through my mind like the flag. In his first portrait entitled, "Freedom of Speech", a man stand perhaps in a town meeting in a small New England village and he speaks out. He expresses his feeling and his innermost thoughts; the others in the painting are turned and listening to him. They might not agree with him but he can speak out. In "Freedom of Worship", we see many different peoples worshipping according to the dictates of his own conscience, but not caring or worrying about what or who the other man worships. In the third picture, "Freedom From Fear", a couple is tucking their children into bed, the headlines in the newspaper the father is holding mentions bombing and Hitler. The children of America have never had to fear such a thing in over one hundred years. The fourth picture though, is my favorite. It shows why I care about America and want to care for America. The painting is entitled, "Freedom From Want". It illustrates what is obviously the beginning of a large family's Thanksgiving dinner. When I look at that picture, I think of the pilgrims, Plymouth Rock, the hardships they went through and the easy times we have today. I also reflect upon my own family and our last Thanksgiving dinner. Although I am not a great painter like Norman Rockwell, I hope I have verbally illustrated for you why I care about America.●

MEAT IMPORT ACT

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. ULLMAN. Mr. Speaker, today I am introducing the Meat Import Act of 1979.

As you may recall, meat import legislation passed both the House and Senate late last session. The bill established a countercyclical formula for determining the annual level of meat imports. Such legislation was—and is—critically necessary to help reduce the disastrous shifts in domestic meat prices.

Unfortunately, the legislation was vetoed. The principal reason for the veto was certain restrictions placed on the President's authority to deviate from the import formula. Under last year's bill, the President could suspend or increase the import quota if such action were deemed necessary during a period of national emergency. Authority was also provided to increase the quota level by up to 10 percent if—over the first two quarters of any calendar year—the cattle prices rose at least 10 percent faster than beef and veal prices.

The Meat Import Act of 1979 increases the President's authority to alter the import quota level in two important ways:

When cattle prices rise at least 10 percent faster than beef and veal prices, the President may alter the import quota in any manner he deems necessary. He will not be limited to a quota increase of 10 percent.

The President will have the authority to act if the specified increase in cattle prices occurs over any two consecutive calendar quarters. The President is not restricted to action following the first two quarters of the calendar year.

This additional authority is tempered, however, by certain notice requirements. Any increase in the import quota which is greater than 10 percent must be preceded by a 30-day notice period to Congress and to the public.

I believe that the changes described above are responsive to the President's veto message. The rest of the bill is essentially the same as the legislation which was adopted last year.

Again, I stress the importance of this legislation to producers and consumers alike and welcome any additional cosponsors.

Thank you very much.●

ELIMINATE REVENUE SHARING WITH STATES

HON. JIM MATTOX

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. MATTOX. Mr. Speaker, today I am introducing a bill which will eliminate revenue sharing to State governments. This will result in an approximate $2.3 billion savings in fiscal year 1980.

The legislation is designed to help restore commonsense to the Federal budget. We are currently operating the Federal Government at a $31 billion deficit. The State governments are operating at an aggregate surplus of $4.3 billion. Why, then, should the Federal Government share revenues with the States—revenues that, in a sense, do not exist.

Many of these States have passed resolutions calling for a Constitutional Convention to draw up a balanced budget amendment. By doing this, they have made it clear to the Congress that they want the Federal Government to operate in the black as soon as possible. That is a worthy goal. So let us begin by cutting out those programs that are most ineffective and illogical. Revenue sharing is one of them.

When President Jimmy Carter was running for office, he said revenue sharing money was "stolen from the poor people, and too much of it has been used to build dance halls, or golf courses, or jailhouses." His 1980 budget contains $2.3 billion of that "stolen" money. It is our duty to recover those funds, and in the process help reduce our deficit. Fiscal integrity must be restored in the Federal budget, and this legislation is a step in that direction.●

THE ELDERLY SHOULD NOT SUFFER FROM FOOD STAMP REFORM

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Ms. MIKULSKI. Mr. Speaker, I would like to discuss H.R. 2126, which I am cosponsoring with 100 of my colleagues. This bill would allow elderly and disabled food stamp recipients to continue to deduct all of their shelter and utility costs which exceed 50 percent of their income when applying for food stamp eligibility.

The need for this legislation arose from the passage of the 1977 Food Stamp Act. This act substantially overhauled the food stamp program, and although it was enacted more than a year ago, new statutory requirements are just now beginning to take effect. The most significant and far-reaching change, implemented on January 1 of this year, was the elimination of the purchase requirement. In the past, a poor family eligible to receive benefits was required to pay a certain amount in cash in order to receive its food stamp bonus. For example, a family would have to pay $100 to purchase a food stamp allotment of $150. Obviously, it is no easy thing for a family living below the poverty level to pay $100 in a lump sum. Now, that process has been wisely eliminated, along with much of the paperwork it entailed, and the family can be paid the $50.00 bonus directly. Because of this change, many additional persons are expected to apply for benefits.

At the same time, to hold down overall program costs Congress tightened the eligibility requirements so that the least poor would either have their benefit amounts cut or they would be eliminated entirely from the program. Great numbers of persons will be affected by the new changes. which will gradually go into effect through June of this year.

This legislation, by allowing elderly and disabled persons to deduct all of their shelter costs above 50 percent of their income, seeks to assist only one segment of the population affected by the food stamp changes. In the City of Baltimore alone, there are 8,000 people who now receive food stamps are either over 65 or disabled.

I am concerned about these people who are my friends and neighbors. I talk to them at my community speak-outs and I correspond with them through my congressional office. They are old, and they are disabled, and they are terrified of finding themselves in a desperate situation which was not of their own making. Inflation has overrun their fixed incomes and they don't know where to turn. We cannot and we must not turn our backs on these people and tell them that since we are working toward achieving a balanced budget, they will have to forego dinner three nights a week.

In viewing budget cutting this session I am determined to ask myself the question, "Is this fair?" The only answer I can come up with when I think about some of the people being thrown off of the food stamp program is "no." I urge my colleagues to unite to restore the housing deduction for elderly and disabled persons.●

VOICE OF DEMOCRACY CONTEST

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. McCORMACK. Mr. Speaker, each year the Veterans of Foreign Wars of the United States conducts a "Voice of Democracy Contest," in which high school students from across the country and from American bases overseas compete by preparing or presenting a brief address on subjects relating to citizen responsibility and patriotism in this country.

This year, the winner from the State of Washington was Mr. Carl Scott Barr, a student from Sunnyside, Wash.

I believe that Carl Barr's address is typical of many of those prepared by other students from all across the country, and can give the people of this country confidence in the dedication, academic skills, and sense of patriotism among our young citizens. Accordingly, I am inserting a copy of that speech in the RECORD at this point:

Imagine an acorn planted deep in rocky soil. It sprouts and grows upward; reaching for the sun it collides with a seemingly impregnable stone, yet it finds a crack in that stone and no matter how small, pushes through and continues upward. Many times it meets other stones, but it still pushes on knowing it must either continue or wither and die.

Once the sprout emerges from the soil, it is battered by the forces of nature. Heat, drought, cold, wind and floods. Each tries to destroy the seedling. Many times the seedling dies, but always one survives. It grows tall and sturdy, impregnable to all disasters. It endures as long as there is soil, air and sunlight.

America is one such seedling. Like the acorn yearning to become an oak, America is the seed of hope for a better world. Oppression was the first stone that confronted us. The battle was hard, but the stone was overcome. Many times the oak sprout had to search for an alternate route through which to overcome the stone. Similarly when America found its goal blocked from it, a new and better way was invented. Because of its inventions that conquered problems and improved our way of life, we continued to grow. The sprout's greatest obstacle is emerging from the layer of top soil. So did America have its greatest obstacle, the Civil War. The war could have refused to let us grow, yet the indomitable spirit within America overcame the trauma and burst into open air and flourished.

This germination lasted 100 years, until finally the sprout became a seedling. For a few years conditions were excellent. But the fire of discontent was fueled by World War I and turned to a raging inferno in the criminal years of the twenties.

Next came the long years of drought during the depression, lasting to the end of World War II. Finally American emotions began to cool, then to harden with racial prejudice. The zephyr of youthful dissatisfaction turned to a ravaging tornado which swept across our land in the sixties. This brought on the inundating deluge of the betrayed trust of Watergate.

America had survived the trials of 200 years of growing just as the seedling survived the forces of nature.

I care about America because the entire world is plagued with hunger, disease, racial prejudice, oppression and pollution, and America may be the only place where the answer can be found. America is the antibody which can overcome the diseases that infect the World.

In our past America possessed an indomitable spirit of independence, but now that spirit is disappearing like fog in the morning sun. It seems our youth have lost all pride in that magnificent thing that America is. Many times it seems we care no more than to make a profit off of others hardships.

But instilled within some of the youth are the feelings of compassion, understanding, and sincere altruism. All Americans are individuals with their own opinions and solutions. With the combination of the spirit of part of our youth and the individual opinions of all, the solutions to our problems might be found.

Right now too many of our youth are confused and misled. They don't know what to believe in. Since these people must soon take control of our destiny, will America and its ideals survive?

That's why I care about America, because of its proud past, its possibilities for the future, and the age of uncertainty that America is now experiencing. I believe America can continue its tradition of forging the way through our troubles and improving life for us all. If only the youth of our country can be persuaded to take pride in themselves and the world around them.

Presently America is in danger of being traded into the hands of foreigners. Foreign investors are buying more and more of America. This may one day evolve to the point of having to buy from foreign countries things produced in America.

America needs people who care to keep its ideals alive and I care about America.

Like the oak needing water, air and sunlight, so is it essential to the survival of America that it has the pride and enthusiasm of young Americans.●

NAVY VULNERABILITY

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. BOB WILSON. Mr. Speaker, the recent events in both Iran and Afghanistan and the response of the United States point out a grave deficiency in our forward-based military position—the inability of our Navy and Marine Corps units to be effective at a time of need in remote parts of the globe.

The military affairs editor of the San Diego Union, Kip Cooper, has written a most cogent analysis of the problem of our Navy's vulnerability in Mideast crises, and I commend it to my colleagues' attention as something to be kept foremost in our minds as we deliberate the future allocations of our defense budget:

MIDEAST CRISES SHOW NAVAL STRENGTH NEED—CURRENT FORCE TOO SMALL

(By Kip Cooper)

When Iranian rebels stormed and sacked the U.S. Embassy in Tehran on Wednesday, only a handful of lightly armed U.S. Marines stood between injury or possible death and Ambassador William Sullivan and his staff of 102 persons.

But 20 Marines were unable to defend the embassy against the scores of invaders and, after a prolonged gun battle, Sullivan and the staff, including 70 Americans, were taken prisoner.

Earlier in the week, scores of Americans in Iran were taken into custody and questioned by armed guerrillas as waves of anti-Americanism swept the country.

Gunmen also had captured the international communications agency of the embassy and ransacked it. They tore up pictures of President Carter and stole office machinery.

The embassy warned the 7,000 Americans in Iran to remain in their homes and stay off the streets for their own safety.

Then, on Wednesday, as word of the embassy seizure in Iran came through, there was bad news from Afghanistan. U.S. Ambassador to Afghanistan Adolph Dubs had been killed by Moslem gunmen when an attempt was made to rescue him from a hotel room where he was being held hostage.

Dubs had been kidnapped in what was at first described as an effort to force the Afghan government to free three Shiite Moslem clergymen.

U.S. officials had known for weeks that a critical situation with stridently anti-American overtones was developing in Iran.

Yet they had taken no action to ensure credible military protection of the embassy staff.

Sixty-nine Marines from Camp Lejeune, N.C., had been ordered to the embassy via Turkey—but were forced to stay in the Azores, hung up there because of a diplomatic hassle with Turkey over the use of Turkish soil.

The San Diego-headquartered aircraft carrier Constellation, rumored for days to be en route to the Indian Ocean, instead was in port in the Philippines, a good 10 days' steaming time away.

Two amphibious ready groups, with thousands of battle-ready Marines embarked, were on routine patrols but not in the Indian Ocean, according to officials.

This incredible situation existed for a number of reasons, a number of sources told The San Diego Union.

The Navy, with its floating airfields in the form of carriers and its at-sea Marine landing forces, was the ideal force to respond rapidly to such an emergency, military officials said.

Defense Secretary Harold Brown had told editors of The Union in a meeting in January that ground troops would be difficult to deploy to Iran because it was the farthest country of any from the United States.

However, he had said it would be relatively easy to move in naval and air forces if needed.

Military officials say on background that there are not enough ships to cover all the potential emergencies, and that political considerations sometimes prevent the use of other countries' airspace or territory.

"A lot of it (the lack of Navy response) is tied up with fleet cutbacks and fuel shortages," said one naval official. "We are kind of reluctant to keep ships in the Indian Ocean because of the small size of our Navy and because of the great distance away from their logistic support bases.

"Those are some reasons we did not have a carrier task force or amphibious force with Marines aboard in the (Persian Gulf) area."

He said the 7th Fleet did not have an aircraft carrier in the Indian Ocean when the incident occurred, and to have sent one in at that point might have created an international incident.

"So we didn't," he said.

"And the second thing that happened, the Air Force earlier was asked to send these unarmed (F-15) aircraft to Saudi Arabia, something that had been planned long before the Iranian crisis developed.

"But by that time, the Saudis were embarrassed and didn't want the planes to come. And we were embarrassed because the Spaniards would not let them land in Spain to refuel.

"And then the third thing with the current situation was that we had 69 Marines in the United States that we wanted to send to the embassy to help out and it is obvious now that they were needed.

"They got as far as the Azores and because of unfortunate publicity, the Turks found out we were going to run them through Turkey and they wanted to consult about it and the Marines were held up."

(Marine officials yesterday refused to disclose the present whereabouts of the 69 Marines, saying troop movements are secret).

"The whole message to be gotten from all this," said the naval official, "is that the Navy needs enough ships to provide mobile naval capability with aviation forces situated strategically in various places around the world.

"We can't depend on fixed bases on foreign soil, and the sooner Americans get that message the better off we all will be.

"We did not have enough naval forces to have them in place where they could do some good and these other options we hear about from the U.S. Air Force just didn't work."

This lack of numbers of ships at sea and a lack of seaborne aviation in the right place at the right time kept the Navy from responding to a crisis, he said.

"With enough ships, we should have had carriers and assault forces like the Tarawa in the Indian Ocean on a continuing basis, because anyone could have told you that something was going to happen over there.

"We had this monumental investment in military salespeople over there just begging to get into a mess, and we had no way to get our people out and no way to exert any influence."

The decline in 7th Fleet ships has just been detailed in a report by the General Accounting Office discussing Navy ship repair and logistic supply facilities in Japan, Guam, the Philippines and Singapore.

The report said the 7th Fleet had 160 warships in the Pacific at the height of the Vietnam War. An economy wave resulted in a cutback of the 7th Fleet to 50 warships, a reduction of over two-thirds of its strength.

There are now two aircraft carriers operating at a time with the 7th Fleet, instead of the eight that formerly were assigned.

The carriers now in the 7th Fleet are the Constellation and the Midway, which is forward-based in Japan.

There also are two amphibious ready groups, 20 cruisers and destroyers, two-thirds of a Marine division and a Marine aircraft wing.

At the time of the embassy crisis, the Constellation was at Subic Bay and the Midway was closer to home in Japan.

The other four active Pacific Fleet carriers were on the West Coast.

The Ranger is preparing to leave San Diego for the Western Pacific, the Enterprise is in a shipyard for repairs and the Coral Sea has just come out of a shipyard.

The Kitty Hawk is operating off the Southern California coast.

The question now before the White House and the Defense Department is: Can the Navy be held responsible for meeting four-ocean contingencies with a two-ocean Navy?

Can vital U.S. interests continue to be served and U.S. lives protected by bilateral treaties protecting the other country but not allowing U.S. use of its territory to deploy forces elsewhere?

Can the President of the United States continue to act against the advice of the Defense Department and Congress and deny funds for ships, bombers and missiles that defense officials say are vitally needed?

The sense of what has been seen in recent weeks is that as U.S. influence dissipiates abroad, anti-American sentiment can be expected to increase in many areas of the world, exposing U.S. businessmen, companies diplomats and travelers to threats of harm.●

STATUTE OF LIMITATIONS ON NAZI WAR CRIMES

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. BONER of Tennessee. Mr. Speaker, an existing statute of limitations in the Federal Republic of Germany will preclude the prosecution of Nazi war criminals after December 31, 1979. In 1965 and again in 1969, West Germany extended this statute of limitations to underscore both the serious nature of Nazi war crimes and the nation's determination not to allow such crimes to go unpunished because of an arbitrary time limit.

There are a number of reasons why the United States should urge the Federal Republic of Germany to again extend or abolish the present statute of limitations. First, as many as 100,000 war criminals, who played an active role in mass murders, may still be at large (many of them living in Germany). Both our countries, and others have recently intensified efforts to detect, expel or bring to trial these criminals who exterminated millions of people. It would be ironic and unfair if such murderers were now to find sanctuary in Germany, the country that they most terrorized and was the scene of their heinous crimes.

Second, there is normally no statute of limitations on the crime of murder. It is senseless to treat mass murder with more leniency. Further, we are not asking the German Governmet to conduct "witch hunts" in search of alleged war criminals. In recent months there have been increasing reports of new evidence facilitating the discovery of war criminals in Germany and elsewhere. We ask only that after 1979, when there is sufficient evidence to indict a person, he be accountable to German law just as those indicted before December 31, 1979 have been.

Third, the United States is striving to manifest its dedication to human rights, and is encouraging other countries to do the same. We cannot do less than urge this close ally to make clear its commitment to punishing those who have obliterated all the human rights of their victims.

Fourth, in many cases nations that discover suspected war criminals deport them to the country of origin. Immunity for these war criminals will cripple both the determination and the effectiveness of countries that wish to deny war criminals undeserved safety from prosecution. Further, the German statute of limitations may encourage independent organizations or individuals to try to kidnap suspect war criminals in Germany and transport them to countries, such as Israel, in which they may still be tried for their alleged offenses.

Finally, the Federal Republic of Germany faces a clearcut opportunity to reaffirm the fairness of its legal system, treating all who committed war crimes the same, whether their acts were discovered in 1979 or 1980. In addition, Germans can again bolster the determination of all free nations not to allow such atrocities such as those committed by Nazi war criminals to be accepted, or in any way condoned as pardonable excesses of war. They are cruel and despicable distortions of social conduct. History should not show that we, or any civilized nation, was willing to offer a blanket pardon to the perpetrators of these crimes.

I strongly support the resolution introduced by my colleagues, Representatives HOLTZMAN and FISH, to express the sense of the House that the Government of West Germany should abolish its statute of limitations governing the prosecution of war crimes.●

EXCESSIVE MAILING COSTS

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. SOLARZ. Mr. Speaker, it is my pleasure to announce that 14 of my colleagues have agreed to join with me and sponsor legislation which is virtually needed to keep small journals of opinion and information from going under because of excessive mailing costs. The legislation which I and my colleagues are introducing today would effectively extend to small magazines the same rate reduction that is now being offered to larger magazines by the Postal Service. Joining me in introducing this legislation, which is identical to H.R. 1737, a bill I submitted on January 31, are Mr. BEILENSON, Mr. BINGHAM, Mrs. BOUQUARD, Mr. DOWNEY, Mr. DRINAN, Mr. GREEN, Mr. MINETA, Mr. RANGEL, Mr. SEBELIUS, Mr. SEIBERLING, Mrs. SPELLMAN, Mr. UDALL, Mr. WAXMAN, and Mr. WEISS.

The legislation we are offering today is similar to an amendment I introduced last year to H.R. 7700, the Postal Service Reform Act of 1977, which would have limited the rate charged by the Postal Service for mailing the first 250,000 copies of a magazine which do not qualify for a presort discount to the actual attributable cost to the Postal Service of mailing those copies. Those familiar with postal legislation will remember that H.R. 7700, with my amendment included, overwhelmingly passed the House and that a similar version of my amendment was included in S. 3229, the postal reform bill which was reported out by the Senate Governmental Affairs Committee. However, unfortunately, both bills died in the rush to adjournment, leaving it to this Congress to take up the issue of relieving small magazines of the burden of excessive mailing costs.

The small magazines, which this legislation is aimed at, are in dire need of help. Since the enactment of "postal reform legislation" in 1970, their average mailing rates have risen nearly 400 percent. With the upcoming increase this July, the cost of mailing some of these magazines will have increased over 600 percent in nine short years.

Since most of these magazines operate at the smallest of margins, the entire increase of the mailing costs has been passed on to the subscribing public in the form of higher subscription rates. As a result, the number of people who subscribe or read these magazines has declined significantly. In the last decade, even though our adult population has increased by 10 percent and the number of college graduates has grown by an even greater percentage, total magazine circulation has declined by 5 percent.

Had such a decline taken place in another industry, I would not be advocating special aid to that industry. As my record in Congress indicates, I do not approve of corporate bailouts. I believe that if a company cannot sell its goods to the public it should be allowed to wither away and not be subsidized by Government funds. However, the ideas which these small magazines gives circulation to are on ordinary goods; they are the lifeblood of our democracy.

Thomas Jefferson once wrote:

> If a nation expects to be ignorant and free, . . . it expects what never was and never will be.

The small magazines, which I am trying to help through this legislation, keep us from being ignorant. They enable us to view this ever changing world from many perspectives and provide us with fresh ideas for dealing with constantly arising new problems. Without The New Republic or The National Review we would be mired in the conventional wisdom of the mass circulation magazines. I think we can all agree that if that happened, the quality of our Government and the vitality of our democracy would greatly suffer.

If we are to reverse the trend of the last few years and provide our population with a greater access to ideas, we will have to stop future increases in mailing costs which prevent those ideas from getting the circulation they deserve. This legislation would do just that, efficiently and inexpensively. By focusing the rate reduction, which will be paid for by a special revenue foregone appropriation, the cost to Treasury of this bill would be limited to $22 million in fiscal year 1980, $24 million in 1981, $26 million in fiscal year 1982 and $27 million in fiscal year 1983. These figures, which include appropriations for both second class regular rate and controlled circulation publication, are considerably less than the existing $93.4 million phasing appropriation for periodicals which is scheduled to end with this fiscal year. As a result, what my colleagues and I are proposing does not involve any increase in postal appropriations and is consistent with the President's and the Congress' desire for budgetary restraint.

Mr. Speaker, I believe this bill is an important measure which would make a significant contribution to the well-being of our democracy. Its passage would represent a commitment by the Congress to insure diversity of the press and the continued right of periodicals of all sizes and opinions to use the Postal Service as their primary means of circulation.●

A FRESH LOOK AT LATIN AMERICA

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. GONZALEZ. Mr. Speaker, the Agency for International Development has the very good fortune to have a most energetic and able Assistant Administrator for Latin America in the person of Abelardo Valdez.

Mr. Valdez perceives clearly the need for our Government to take a fresh look at Latin America and to develop policies that will realistically promote the substantial mutual interests that exist in this hemisphere. We would do well to listen to his arguments and accept his advice. Those who have heard Mr. Valdez cannot help but be impressed by the strength of his arguments; and for the benefit of those who have not had that opportunity, I offer for the RECORD a recent statement he delivered to the Texas legislature:

REMARKS BY HON. ABELARDO L. VALDEZ

Mr. Speaker, Distinguished Members: It is a singular honor, and a moment of deep personal pride, for me to be with you here today in this historic chamber.

Texas is not only a grand and sweeping country, it is a grand and sweeping idea. For so many people from Europe, Mexico, and the rest of America, for so many generations, this State has meant real opportunity and enduring hope—a rugged, indomitable hope—against weariness and want.

As a man who spent so much of his youth working in the fields around Floresville, I can tell you firsthand that the hope endures. As a Mexican-American who has had the privilege of serving two Presidents in Washington, I can tell you that the opportunity is very real.

So I want to pay tribute today, in this fitting place, to what this State has meant to millions like me, what it has meant as the flourishing home of many cultures, and a haven for free men and women given a fresh chance.

Under your leadership, Mr. Speaker, and with the dedication and commitment of the Mexican-American Caucus and the other members of this distinguished body. Texans are trying to find solutions to the problems they face together. They are talking to one another, learning, and doing. You are making real the promises of political and economic democracy for all the people of this State. As it has been for so long, this frontier is the future—and with your continued commitment, it will work.

The future is also my concern in the Agency for International Development in Washington, where we are trying to chart the prospects for our relations with Texas' many neighbors to the south in Latin America.

As you know, the prosperity of Texas is very much a part of the quickening pulse of trade and investment in this Hemisphere. To take only two brief examples, 60% of all U.S. trade with Mexico, some six billion dollars, passes through Texas. And U.S. trade with Latin America flowing through Texas amounts to some eight billion dollars, or one-fourth of all U.S.-Latin American trade.

This commerce is only part of a major interdependency that is already vital to both the United States and Latin America. Some 82% of U.S. foreign investment in the developing world is in Latin America. The continent is our third largest trading partner, bringing nearly twenty billion dollars a year, almost as much as we sell to the European Economic Community. What is more, our exports to Latin America have more than tripled over the last decade. Additionally, Latin America provides many of the vital raw materials needed for our economy, including oil and gas.

The opportunities for the future are extraordinary. By the year 2000, Latin America could be our primary foreign market, providing a flow of ever expanding trade back to us, and ever expanding opportunities for U.S. private investment in Latin America.

Moreover, sixteen million U.S. citizens of Hispanic origin will soon be our nation's largest single minority. They already give the United States the fourth largest Spanish language population in the Western Hemisphere, and they have a unique bond of identity and concern with Latin America. The strong and emerging interest of that community in our foreign policy toward Latin America, particularly the interest of Mexican-Americans here in the Southwest, is the very subject of a conference at the University of Texas which I have come to keynote. That interest will only grow in the future as the strength and political force of the Hispanic community continues to grow. So in a very real sense, this growth which is so close to us today unites its two sides much more than it divides them. It has linked them in a seamless web of economic, political, and people-to-people relationships. That web holds both sides in a shared destiny. The decisions you make here, in the Texas Legislature, the decisions that are made in Congress or in businesses or in local governments, all have a major impact on the other side of the border. Just as the same "domestic" decisions in Mexico and in Latin America can affect millions in the United States. As a result, our policy towards Mexico and Latin America is not foreign at all. It is policy towards the people who live in Texas and Colorado and California, towards Houston and Denver and San Diego. Increasingly and irrevocably, policy towards any one in this hemispheric neighborhood of ours is policy towards ourselves.

It was that sense of interdependency that took President Carter to Mexico earlier this month, a trip which expresses this Administration's abiding commitment to make the United States and Mexico not only good neighbors, but also good friends. In order to do this, we must deal with each other as equal partners, and with mutual respect.

Yet, the common stake, the common opportunity, the common future do not stop at Mexico's southern boundary. Economically, socially, and politically, the welfare of Mexico and Texas, the welfare of all of Latin America and the entire United States, are indivisible.

But no less certain than the opportunities, there are also responsibilities and dangers along with this interdependency.

For the truth is that if Latin America does not overcome the massive underlying poverty still weighing it down, if it cannot cope with new environmental and technological and energy problems breaking over it, if it cannot make its societies more economically equitable and socially just, then the cyclone of its failure will inevitably turn Northward towards us, wreaking its havoc along both sides of the border

The dark clouds of that storm are already billowing in the Southern sky. Today, in the slums and impoverished countryside of Latin America, over half of the region's 320 million people still live on average incomes of less than $200 a year. In 1977, one in every five Latin Americans earned only $85 a year, less than it can cost for a night out in Austin or San Antonio.

Today, unemployment and underemployment still soar to between 20% and 50% throughout Latin America. Everywhere, children are hungry, health care is insufficient, schools and training facilities reach far too few.

Moreover, air pollution chokes the region's great cities, wastes poison the rivers, lakes, and beaches. Forests are stripped bare, soil is washed away for lack of proper conservation.

At the same time, Latin America also lacks the development of much needed alternative energy sources, and it is missing, as well, the essential complimentary growth in science and technology.

By the year 2000, Latin America's population will have swollen to more than 600 million, more than twice as many people as the population of the United States. And more than 300 million of those Latin Americans may be desperately poor, trapped in teeming cities, thrown back on ravaged land, and living with poisoned air and water. It is a stark and awful picture, and I hope I am exaggerating it. But by any measure, the problems of mass poverty and unbalanced economic growth are enormous, and they pose an uncertain, perhaps dangerous future.

The undocumented Mexican worker who poses such a pressing issue here in Texas and elsewhere is not, of course, some historical accident. He is a flesh-and-blood emblem of the shared crisis of this hemisphere. He comes to Texas or California or New Mexico simply to escape the tyranny of being poor. The only effective and decent answer to the problem is a coherent development policy to help Mexico and other Latin nations deal themselves with the scourge of poverty and alienation that drives these people to abandon their families and homes in a desperate, often disappointing exodus to the North.

I have brought this troubling message to you in this great body here today because, as so often in history, Texas is literally and figuratively on the frontier of this challenge. It is your prosperity and peace that are going to be at stake. It is your accomplishments we seek to protect. And because, most of all, Texans have never shrunk from such a challenge, never surrendered to indifference or short-sightedness.

The ranchers and oil men, the storekeepers and school teachers who built this land knew that you could not live peaceably, could not pass on a safer, better life to your children, while leaving your neighbors in hopelessness. We cannot lead Texas and the United States into the 21st Century, and leave one-half of our Latin American neighbors in a lonely struggle against poverty and despair.

Your wisdom and energy are needed to develop national awareness of the development opportunity and challenge in Latin America. Your help is required to forge a renewed policy of development cooperation throughout the hemisphere, especially to help meet the battery of problems confronting our closest neighbor, Mexico.

Why should this Legislature care? Why should you act? Sam Houston put it well, 142 years ago he consented to run for President of the infant Texas Republic. His announcement then was the soul of brevity in politics.

He said simply, "The crisis requires it."

And so, because "the crisis requires it," I have come to this Legislature to ask for your support.

The old frontier prayer, uttered by so many in this land, said it all about the right and reason of being neighbors. I think it captures what we should be seeking for Latin America, and for ourselves.

"Give us," reads the prayer, "the peace that is no man's disadvantage. And the prosperity that is no man's suffering."

Thank you very much.●

CHINESE AMERICAN WOMEN ORGANIZE

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. SIMON. Mr. Speaker, recently I had the privilege of meeting Pauline W. Tsui, president of the recently established Organization of Chinese American Women.

She gave me a paper called "Problems and Issues Facing Chinese American Women." I found three things of particular interest in their statement. One is that according to the 1970 census, 48 percent of all Chinese women worked in 1970 while only 13 percent did in 1960.

Second, 17 percent of Chinese American women are college graduates. More than twice the proportion of women in the total U.S. population, which is 8 percent.

Third, Chinese women are underemployed in the Federal civil service.

I am inserting the statement in the RECORD for my colleagues who I believe will find their statement of interest, and for the Federal employing agencies who can help to rectify the imbalance in employment.

The statement follows:

PROBLEMS AND ISSUES FACING CHINESE AMERICAN WOMEN

Chinese American women face a variety of problems and issues. Some of these are uniquely our own; others we share with all Asian American women; all minority women; and all American women.

Chinese American women are characterized first and foremost by our diversity. We differ in where we were born, in how long we have been in America, and in what languages and dialects we speak. Our life styles, education and socio-economic backgrounds are as different as night and day depending on whether we live in the ghettos of Chinatown or in the suburbs. Among our ranks are found doctors as well as sweat shop workers, teachers as well as housekeepers. The aggregate census statistics do not and cannot tell our whole story.

Chinese American women are a hard working lot. We work proportionately in greater numbers than other women in helping to support our families. Between 1960 and 1970, the labor force participation rate of Chinese women increased to 50 percent from 44 percent, with the greatest increase occurring among married women. Forty-eight percent of all Chinese wives worked in 1970 when only 13 percent did in 1960.[1] For them as for all women, equal access to employment opportunities is a major concern.

Education is another important part of our story. The educational attainment of some Chinese American women is very high. Seventeen percent are college graduates—more than twice as many proportionally as for women in the total U.S. population (8%).[2] When presented with such statistics, it is surprising that underemployment is a major problem for Chinese American women who are college-educated. In the total U.S. population, the ratio of women who are college graduates to those who are employed in professional and managerial positions is 1 to 1. For the Chinese women, however, the proportion is only 1. 0.7.[3] The differential, it would appear, reflects that many Chinese American women have not been hired at levels commensurate with their training.

One of the areas in which Chinese American women are underemployed is in Federal Service. Findings from a Civil Service Commission study confirmed that Asian American women who are working in the U.S. government had the highest educational levels among women of all groups (21% were college graduates compared to 11% of white women in the U.S. government). The median grade levels of Asian American women with college training, however, was lower than the median grade levels of both white and black women with college training.[4]

Chinese women as a whole are conspicuous in our absence from administrative, managerial and policy-making positions. Like our male counter-parts, Chinese American women professionals concentrate in technical fields, namely health and science. We are sorely lacking in many important professions that have major impact on public policy including: public administration, law, journalism, finance and international relations. Unlike other women, we are even hard to find in the social services area.

Currently, Chinese women both in America are concentrated in two job categories: clerical and sales. More than half of the working U.S. born Chinese women are employed in clerical and other low-level white collar jobs. Again, underemployment is an important factor.

Most foreign born Chinese women tend to have a different set of employment problems. While the median schooling of Chinese American women is 12.5 years, many Chinese women living in Chinatowns have never had as much opportunity to be educated. In San Francisco and New York City, cities with the largest Chinatowns in America, the median schooling of Chinese women is less than 10 years.[5] The foreign born, many of whom are recent immigrants, generally lack English language skills and often lack relevant education. Over half (54%) of all foreign born Chinese women are working in low level blue collar jobs.[6] Typically, these women are relegated to working long hours for meager wages in garment factories or Chinese restaurants.

Older Chinese American women are likely to suffer even more serious problems. Like all Asian elderly, older Chinese American women often do not receive social services because of language, racial and cultural barriers. Health and welfare agencies have few bilingual staff and very little outreach is made to the Chinese communities about their services. Older Chinese American women are particularly poorly informed about the availability of services and fail to use existing programs to which they are entitled because of language handicaps and cultural inhibitions.

Chinese women share many common problems with other women. Where work is in-

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Footnotes at end of article.

volved, we find it difficult to break out of traditional female occupations. Too often we face the dual roles of housewife and worker without the necessary support services such as child care, household help or the sharing of duties at home. Most of us are relegated to low-paying and low status jobs without access to upward mobility.

Our problems are compounded by racial discrimination, prejudice and stereotypes. In addition, we are further bound by traditions and norms that treasure boys and undervalue girls. From infancy, Chinese girls are taught to cater to the needs and wishes of the men in their lives—father, husband and son. We must learn to deal with cultural inhibitions against self expression and assertiveness.

Chinese American women must step lightly between the confining stereotypes of the "model minority" and the exploitative stereotype projected in the media. While other women need to break out from traditional female occupations, Chinese American women must first overcome the images so often draw in fiction that we are "Dragon Ladies," submissive servant girls, or exotic ladies of the night.

Fundamentally, Chinese American women need to achieve legal and economic equality with men, equal pay for work of equal value, equal access to credit and equal opportunities to participate in the power structure.

Overall Chinese American women must forge a consciousness and a group identity. We need access to assertiveness and leadership training, means to improve our communication skills and greater visibility and representation in the political arena. Future goals must also include greater opportunities to participate in decision making forums.

FOOTNOTES

[1] U.S. DHEW, Office of Special Concerns, *A Study of Selected Socioeconomic Characteristics of Ethnic Minorities Based on the 1970 Census,* Volume II Asian Americans, (1974).

[2] *Ibid.*

[3] *Ibid.*

[4] *Civil Rights Digest,* Volume 9, Number 1, Fall, 1976).

[5] *Op. cit.,* U.S. DHEW.

[6] *Ibid.*●

THE ENERGY "PRICE CRISIS" IS WORSE THAN THE PRODUCTION SHORTFALL

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. GORE. Mr. Speaker, the underlying facts about America's energy crisis sometimes appear to change before our very eyes. Who was not surprised, for example, to be told last year that Mexico may well have more oil than Saudi Arabia? And it was only 6 months ago that a world-wide "glut" of oil was a topic of discussion.

Then came the revolution in Iran which suddenly reduced world oil production, triggering price hikes and disarray in world oil distribution. It dramatically underscored the continuing need to reduce our voracious consumption of oil. The balance of payments impact alone is devastating. Moreover, we have no certainty that our foreign suppliers will be willing or able to maintain current production rates. While oil production outside the Middle East has been increasing, we are far to dependent on countries with political axes to grind. And it should be clear to all that sooner or later steadily increasing demand must exhaust finite supplies.

In the midst of the growing sense of panic about world oil supplies, I asked the Library of Congress to help establish the magnitude and character of the current oil shortfall. The results of that now controversial study made a strong but limited point: World production of oil is virtually the same today as it was for the first 9 months of 1978.

Although the world is missing 5 million barrels per day from Iran, approximately 4 million barrels per day of increased production are coming from OPEC nations, chiefly Saudi Arabia, Iraq, and Nigeria. And another 1 million barrels per day of increased production are coming from Mexico, the North Sea, and from several less-developed countries. This leaves a cumulative production shortfall of 80,000 barrels per day.

These figures are not disputed by the Department of Energy. Rather, DOE challenges the selection of the first 3 quarters of 1978 as a base period for estimating the current shortfall. As restated in a recent Washington Post editorial, the central objection of DOE is: "Early 1978 was an abnormal period; the industry had overshot in building inventories and was holding down purchases while it worked off excessive stocks."

However, worldwide stocks in the first quarter of 1979 are estimated by DOE at 4.317 billion barrels, compared to 4.276 billion barrels in the first quarter of 1978. Similarly, unclassified CIA figures on U.S. oil stocks show 1.32 billion barrels at the beginning of 1979 compared to 1.31 billion barrels at the beginning of the base period. DOE says oil stocks were abnormally high in early 1978. But they are even higher now.

Therefore, if world production is virtually the same and stocks are larger, then the current shortfall must be attributed to first increased demand and second the oil companies' unwillingess—for whatever reason—to draw down stocks at the same rate as last year.

Clearly, demand has increased in the months since the Iranian cutoff and is responsible for part of the shortfall. Should the United States and the world experience an economic boom this year, energy demand would grow more rapidly and the supply shortfall would be increased. But most analysts do not expect the growth pattern DOE optimistically projects. Unfortunately, an economic downturn now seems more likely.

On the second point, I do not believe that "corporate conspiracies" have engineered a "fake shortage." The actions of the multinational oil companies are normal for an oligopoly. Each company is primarily interested in protecting its share of the market. However, it would be unwise to assume that their natural desire to maximize this opportunity for a windfall profit will necessarily serve the public interest. As the Post stated in its editorial, the companies "are making matters worse" by "protecting their inventories" in a "tight and rising market."

To the extent that their decisions to build inventories have enhanced the atmosphere of shortage panic, multinationals have contributed to the current high prices in the spot market, weakened consumer resistance to higher prices, and increased the probability that OPEC will move to a new price plateau at its March 26 meeting. As a result, I believe that the impending "price crisis" has become more serious than the current supply shortfall.

Secretary Schlesinger seized upon the current shortfall to build support for policies deliberately designed to produce much higher consumer prices, which he genuinely believes will help avoid more serious shortages in the future. However, the danger of raising prices too high too quickly has been seriously underestimated, and the conservation benefits overstated.

Sharply higher prices risk simultaneous recession and double-digit inflation. The poor would be devastated; those barely making it now would be pushed beyond their limits. Yet once again, as in 1973–74, the oil companies would thrive, their profits inflated in direct proportion to the crushing economic burden on the country as a whole.

In my opinion, our policy should reflect a greater concern for equity and a greater effort to avoid further drastic price increases.●

VFW VOICE OF DEMOCRACY ESSAY

HON. VIRGINIA SMITH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mrs. SMITH of Nebraska. Mr. Speaker, I would like to share with my colleagues the essay chosen best in the State of Nebraska in the annual Veterans of Foreign Wars Voice of Democracy Scholarship Program.

Timothy Woodward, son of Mr. and Mrs. Ronald Woodward of Broken Bow, Nebr., entered this essay on the topic of "Why I Care About America."

A senior at Broken Bow High School, Tim has distinguished himself by being on the honor roll, becoming a member of the National Honor Society, being chosen the 1977 Timely Topics 4–H Public Speaking State Champion, and during 1978 was a representative at Cornhusker Boys State.

Following is that essay:

1978–79 V.F.W. Voice of Democracy Scholarship Program Nebraska Winner

(By Timothy Gayle Woodward)

In the beginning, refugees and adventurers came to a nameless and hostile continent—a continent that not only didn't welcome them, it strongly resisted them. Diseases, unknown and therefore incurable, took the lives of a tenth of the newcomers. Even the land itself fought those who tried to till the soil, clear the forests, or make inhabitable the barren plains. This land was not a gift—nearly four centuries of work and bloodshed, of courage and determination created this nation. John Steinbeck said it best when he wrote, "We built America and the process made us Americans."

Why do I care about America? Because just as I am a part of America, so is America a part of me. The spirit born of our struggle has become the spirit of the American people. Who I am, what I am, and what I will be, I owe to that spirit. A spirit that is the product of centuries, descending on us from the multitudes who came from many lands to find freedom. People from every race, every belief and culture imaginable. It is these people that make the America I care about a half-brother to the world.

The same revolutionary beliefs about human rights that our forefathers fought for are still major American ideals—the belief that the rights of all humans come only from the hand of God. I care about an America committed to the preservation of those rights because I am an heir of the first revolution. A piece of the ever burning torch has been passed to me—a part of the new generation of Americans. A generation that is unwilling to watch the decay of human rights around the world. John F. Kennedy said, "The energy, faith, and devotion which we bring . . . will light our country and all who serve it . . . the glow from that fire can truly light the world." As a part of that new generation, I will have a hand in preserving and illuminating the human rights of all mankind.

Our democracy is based on the conviction that man has the moral and intellectual capacity, as well as the inalienable right to govern himself with reason and justice. Education is a part of our democracy and vitally important to a nation whose founding fathers were the most intellectual statesmen in modern history.

I care about America and it's people because we know clearly what we seek, and why. We seek peace, knowing that without peace, there can be no freedom, and without peace there can be no justice except for the small amount of pity the strong have upon the weak. There must be an ideal that is steadily employed, and respected by all nations. An ideal that comprehends the values of freedom and affirms the equality of all nations however large or small.

Because America demands the best of me, I will continue to give my best. Just as our founders cared about America, I care. And just as they labored to establish our freedoms, so will I labor to preserve those freedoms. For who I am, what I am, and what I will be, I owe to the spirit that is America.●

THE CHANGING CHARACTER AND STRUCTURE OF AMERICAN AGRICULTURE

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. NOLAN. Mr. Speaker, recently the General Accounting Office published a report entitled, "Changing Structure and Character of American Agriculture: An Overview." The current trend toward fewer and larger farms GAO says, is reducing the resilience of U.S. agriculture and its ability to produce during adverse times.

The manner in which GAO compiled its report is significant. Instead of relying on textbook theories or aggregate statistics from the Agriculture Department, GAO went deeper. GAO interviewed farmers to evaluate their problems firsthand, and analyzed the farm economy by farm size and by cropping system in order to get a better idea of the structure of U.S. agriculture.

USDA aggregate statistics mask what is really happening to farmers. The GAO approach is more informative and revealing than the typical analysis available from USDA.

In testimony prepared for the House Agriculture Committee hearings on current farm policy, GAO summarized its report.

Statement of Henry Eschwege, Director, Community and Economic Development Division, Before the House Committee on Agriculture on the Changing Character and Structure of American Agriculture

Mr. Chairman and members of the committee, I am here today at the request of the committee to discuss the changing condition of American agriculture. On September 26, 1978, we issued a study, entitled "Changing Character and Structure of American Agriculture: An Overview." My statement here today will summarize that study and I would like to submit the full report for the record.

The United States food system dependence on increasingly fewer farmers, who in turn are dependent on a series of factors beyond their control, raises a basic question of farm sector resiliency to withstand supply-demand fluctuations without increasing Government assistance.

Significant changes have occurred in our Nation's farming sector during the last three decades. While the basic trend has been one of increasing concentration of farms as well as supporting facilities; the reciprocal has been a drastic reduction in the number of family farms, people living on farms and a decline in rural vitality. A series of cost-price squeezes, specialized technology, and the targeting of Government farm programs has created a farm sector that has fewer, larger, and more powerful farms; less family labor; less diverse production patterns; and increasing dependence on purchased inputs, foreign oil, and markets outside the United States.

Farm numbers have dropped from a high of 6.8 million in 1935 to 2.34 million reported in the 1974 Census of Agriculture. The United States has been losing an average of 2,000 farmers per week since the 1940's. In the past, most farms were owned by the families who operated them. Today, it is estimated that less than one-half of all farmland is owned by the farm operator.

The continued demise of the family farmer and the reduced resiliency of our agricultural system to produce during adverse times is an important question because Americans depend upon the American Farmers' ability to produce food as well as his capacity to generate off-farm employment.

One out of every five workers is employed by the agriculture-food system. It accounts for 25% of GNP. And it exports one out of every three harvested acres, making it a major contributor to balancing our nations growing trade deficits.

The significance of the food system is such that, without adequate safeguards, the U.S. economy can be significantly affected by the uncertainty of other nations' agricultural demands.

Generally, three basic pressures have contributed to the concentration and specialization in the farm sector and the growth of new farm characteristics. These are:

1. Rising farm costs.
2. The availability of highly productive crop-specific farm technology.
3. Government policies and programs.

COST-PRICE SQUEEZE

Since World War II, general inflation and rising costs of farm inputs have continually narrowed profit margins. To maintain income, the surviving farmer increased his farm size, expanded production, and sought off-farm income. While the cost-price squeeze during the 1950s and 1960s removed many of those smaller volume farmers who did not expand or improve production, even the most aggressive farmers of the 1970s are feeling economic pressures. This is because biological productivity per acre has leveled and thereby has limited, at least temporarily, future production increases to farm expansion. This cost-price squeeze particularly inhibits the entering farmer whose land amortization costs alone can exceed over 40 percent of his gross income in an average production year. Slight variation in yield and prices can cause extreme financial difficulties.

TECHNOLOGY TREADMILL

In an attempt to maintain income through increased production, farmers made use of technological breakthroughs. However, they found themselves requiring more equipment and then more land, and still more powerful and faster equipment to stay ahead of narrowing profit margins, inflation, and competitive pressures. The result of farm product specialization over the last 2 decades was that farm worker productivity increased nearly twice as fast as that of the industrial worker. However, to maintain this productivity, the farmer became dependent upon petroleum-based inputs of fuel, fertilizer, and pesticides as well as other agro-industrial services to operate his increasingly specialized farm. As these specialized and nonrenewable inputs become more valuable, cost/price inflationary pressures on the farmer will increase.

GOVERNMENT PROGRAMS

In retrospect government policies, programs and regulations have had structural implications which were not always evident.

While vaguely aimed at helping the "family farmer," Government assistance programs have benefited the largest farms to a greater extent. Because they are geared to production, the percentage of farmers receiving Government payments rises with farm size, as does the size of the payment. Some Government assistance programs have also become capitalized into land values, thereby benefiting larger landholders (many of whom are not farmers) to the greatest extent.

Similarly, Government tax policies have promoted the trend away from smaller, family-owned and operated farms, while attempting to do the opposite. Past Federal income tax laws provided an excellent tax shelter for outside investors. Recent estate tax laws may inhibit sale of farmland outside the owning family, thus creating a "landed aristocracy," with fewer avenues for new farmers to enter.

In addition, policies to foster foreign sales have put agriculture in a precarious position. Agriculture's new role in the economy has made U.S. farmers vulnerable to the uncertainties of world market conditions and as a result has placed the United States in a position which may demand increased governmental activity to help buffer fluctuations in supply and demand.

LARGE FARMS VERSUS SMALL FARMS

While the trend is increasingly towards larger farms with the farms at the top of the size scale dominating agricultural sales. (The top 2% of our nations' farms now account for over one-third of all farm sales) this does not mean that smaller farms are less efficient. In fact expenses (as a percent of farm production) for farms marketing between $10,000 and $200,000 are less than for those farms producing more than $200,000 of agricultural products.

Small- to mid-size farmers' variable costs are generally low because they typically do not pay themselves or their families minimum wages and their equity is often high. Relative operating costs are substantially lower than those of the largest farms. Society has thereby come to depend on the smaller and medium sized farms as an ideal combination of resource control and ability to bounce back from adversity. Although a resilient agriculture does not insure economic stability, it does maintain reasonable food supply stability, which in turn, is closely tied to domestic and international economic policies.

FARM OWNERSHIP

Increased financial pressures on farms have resulted in changes in ownership patterns. The corporate form of ownership makes up a substantial portion of the larger farm classes (over 40 percent for those farms selling $500,000 and over). However, the extent to which these larger corporate farms are farm-family owned and operated, agribusiness conglomerates, or privately owned by nonfarm families remains unknown.

The changes in farm structure have had a substantial impact on the rural sector. Farm population has dropped from over 15.6 million in 1960 to just under 8.3 million in 1976, with a disproportionate number of those immigrating being young high school graduates.

Areas dominated by larger farms have been shown to provide fewer social amenities to their residents. Rural businesses have also declined since the more sophisticated needs of larger farmers, coupled with improved transportation, have carried much of farm business outside of rural business centers.

SUMMARY

I would like to conclude my remarks by summarizing four points.

1. Farmers have been going out of business at the rate of 2,000 per week since the 1940's. This has concentrated the production of agriculture in fewer and fewer people.

2. The remaining farmers have stayed in business by seeking off-farm income and/or getting larger. But the continuing cost/price squeeze suggests that getting larger is no longer a solution for staying in business.

3. Aggregate Federal government statistics masks what is happening to the individual farmer in different regions and by crops. As a result policymakers do not know the full impact of their decisions.

4. The basic question which need to be addressed: Is the U.S. losing its farm family resiliency to produce during adverse economic times?●

TRB CITES DANGER OF HISTORY RERUN

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 8, 1979

● Mr. SIMON. Mr. Speaker, one of the best columns in the Nation is the TRB column that appears in the New Republic and is syndicated to a number of newspapers.

A few weeks ago Richard Strout had a column about SALT II in which he fears that SALT II is a rerun of the 1919 Senate debate on the League of Nations.

I am not as pessimistic as he is but there are real dangers that SALT II will not be approved.

I hope my colleagues will take the time to read the TRB column:

A RERUN OF 1919?

I have had a love affair with Washington for many years, and it has broken my heart many times. I suspect that it is going to do so again this year. I cannot believe that the Senate will ratify the forthcoming SALT treaty, to restrain strategic arms. Yet if 34 senators vote "No" there will be no limit, I fear, to the consequent US-Soviet nuclear arms race. It takes only 34 senators to defeat a treaty. It has happened before.

Let me go back a bit. Years ago, in the Harding administration, a tall, gawky, self-conscious youngster came to Washington marveling at the nation's drive "back to normalcy." Since this reference is autobiographical, let me say that I had enlisted in Mr. Wilson's crusade "to make the world safe for democracy" and that it seemed to me in all innocence a goal worth giving one's life for. The Washington I came to laughed at the war I had enlisted in, and said that dream I had followed was preposterous. (I have heard recently of a veteran back from Vietnam, with the stump of an arm, taunted by stay-at-homes who said, "It serves you right"!) My feelings were not bitter in that far-off day, for I had made no great sacrifice—surely my elders knew better than I! But I pondered, and wondered, and the episode left a mark. Few in present-day Washington, I guess, have as sensitive a feeling about Section 2, Article II, of the Constitution giving the president the right to make treaties, *"provided two-thirds of the senators present concur."*

It was 60 years ago this July that Wilson returned from the peace conference to find the Senate in an ugly mood, and debate over the League of Nations and Versailles treaty already begun (as it already has begun today over the SALT treaty). That was the dream—a League of Nations, a parliament of man, and a court to settle its disputes. Wilson took his case to the country, pleading with superb eloquence that the "dear ghosts" of fallen Americans called for ratification and forecasting (accurately) a second world war if it were rejected. At all times, during the prolonged Senate debate, more than three-fourths favored some League; they could not agree on which League. They voted twice—November 19, 1919, and March 10, 1920. Ultimate vote: 49 ayes, 35 nays—so ratification failed. The world was stunned. Incidentally, 12 of the Senator's 96 did not vote; at least eight of these 12 favored ratification. World War II arrived punctually as Wilson predicted.

That still left Elihu Root's World Court. America wouldn't join, but in 1946 the idea was revived; the Senate committee approved unanimously and the Senate approved it too, 62 to two. But the emasculating "Connally Amendment" was added during floor debate: the Court couldn't hear issues involving domestic American matters, and the U.S. should be sole judge of what was "domestic." All U.S. presidents since then have opposed the Connally Amendment. Senator Hubert Humphrey tried to get it repealed in 1959, but failed. Other nations have followed America's restrictive policy and the World Court, today, is a wrath.

As another example of America's wary isolationism, cited by President Carter only last month, 83 other nations have signed the UN's genocide convention. "Despite the support of every president since 1948," Mr. Carter said, the U.S. still hasn't signed.

Take normalization of relations with China (heartily approved by this correspondent). Was the split with China ever necessary? Chou En-lai came to the Geneva Conference in June, 1954, looking for friends in the West. John Foster Dulles wouldn't shake hands, and stalked out. The China Lobby, led by Henry Luce's *Time* and *Life*, denounced fraternization: Chou was "a political thug and professional assassin," said *Life*. *Life's* correspondent, Godfrey Blunden, called Chou a saber-toothed political assassin." In 1971, reviewing those grotesque events, Harrison Salisbury called them "madness; clinical paranoia." Yet suspicion and hate are always just below the surface in contending theologies; the venom could be injected again over SALT. Said Joe McCarthy of the "loss" of China, February 9, 1950 at Wheeling, West Virginia: "This must be the product of a great conspiracy on a scale so immense as to dwarf any previous venture in the history of man!" Now partisans here are demanding, "Who lost Iran?"

(I found no reference to old Luce crusades in *Time*'s cool account last week of Teng Hsiao-p'ing as "Man of the year." In 1937, Generalissimo and Madame Chiang Kai-shek were *Time*'s "Man and Wife of the Year." The thought constantly intrudes whether, with a little more realism and understanding, or simple common sense, Korea, Vietnam and the boycott of China had to happen. As Anne O'Hare McCormick once wrote: "Nations never go out to meet destiny. It always catches up with them at an unexpected turn of the road.")

The most important single activity of world politics is the prevention of nuclear war. The two superpowers have over 13,000 strategic nuclear warheads aimed at each other, capable of destroying each other. In the meantime nuclear weaponry is proliferating; six or seven nations possess it and it can hardly be kept secret; in a few years, probably, small nations, or terrorist groups, will have blackmail weapons. Will the superpowers cooperate to meet this shared danger?

The SALT talks began in 1969. For three years Nixon and Brezhnev exchanged visits: "Upon these bridges," said Nixon in Annapolis, June 5, 1974, "we are erecting a series of tangible economic and cultural exchanges that will bind us more closely together." He called it an enduring "structure of peace." The question now, perhaps this year, is between continued detente, and a new, more venomous round in the arms race. The Kremlin leaders are old men. Brezhnev has tied his personal prestige to the forthcoming agreement. But almost every day new weapons are invented.

An hysterical woman called me up from Los Angeles the other day: she had seen the doomsday film of the American Conservative Union warning that "annihilation is 20 minutes away." They have bought time on 207 TV stations, so far, to show it. A new group of 170 retired generals and admirals are banded to rouse America to its peril.

And there *is* hazard, of course. SALT comes down to confidence in our negotiators. The details are stupefyingly technical. The public will decide on the basis of its faith in Jimmy Carter, and such faith is apt to run low in the midst of an economic recession. In a Congress of 535 members, only 34 senators (if all vote) have veto power. I can't resist the feeling that I am seeing a rerun of 1919.●

SENATE—*Monday, March 12, 1979*

(Legislative day of Thursday, February 22, 1979)

The Senate met at 12 o'clock meridian, on the expiration of the recess, and was called to order by Hon. ROBERT MORGAN, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Almighty God, endue with the spirit of wisdom those to whom, in Thy name, we entrust the authority of government, that there may be justice and peace at home, and that through obedience to Thy law, we may show forth Thy praise among the nations of the Earth. In the time of peace and prosperity, fill our hearts with thankfulness, and in the day of trouble, suffer not our trust in Thee to fail.

Hallow all our relations in this place by the vivid presence of Thy Spirit. Keep us ever mindful that whoever would find life must first lose it for others.

We pray in the name of the Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 12, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT MORGAN, a Senator from the State of North Carolina, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. MORGAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized.

Mr. BAKER. Mr. President, I thank the Chair.

SPECIAL PROSECUTOR URGED IN PEANUT WAREHOUSE ALLEGATIONS

Mr. BAKER. Mr. President, I wish to commend the distinguished Senator from Kansas, Mr. DOLE, for his excellent suggestion yesterday that a special prosecutor be appointed to investigate the allegations of impropriety which continue to hang over the financial affairs of the peanut warehouse formerly owned by President Carter.

I have read and listened to news accounts of this case with growing concern over the last several months, and I agree completely with Senator DOLE's statement that the appointment of a special prosecutor would be in everyone's best interest, including the President's.

On several occasions in the past, I have suggested we might be well advised to appoint a special prosecutor to investigate the financial affairs and banking methods of former OMB Director Bert Lance during his tenure as president of the National Bank of Georgia.

The new information reported in Sunday's edition of the Washington Post—including charges of falsified records, improper use of collateral, and concealment of a half million dollar deficit in loan payments—raises serious doubts about the propriety and even the legality of some of the financial dealings between the National Bank of Georgia under Mr. Lance's leadership and the Carter peanut warehouse.

Furthermore, the lingering suggestion that some of these funds may have found their way improperly into the 1976 Presidential campaign of President Carter brings the whole matter to the level of legitimate national concern.

These clouds of suspicion simply cannot be allowed to darken the White House again. The most judicious means of dissipating those clouds would be the appointment of an independent special prosecutor to discover and publish the truth in this matter, rather than have these charges fester in the public's imagination and cast a vague but deleterious shadow over the Carter administration.

So I commend my colleague, Mr. DOLE, for his leadership in this matter, and I hope and trust his recommendation will be received, considered, and adopted in the same constructive spirit in which it was offered.

Mr. President, I have not made this statement easily. I frankly do not wish this country to go through another time of turmoil and political strife, as we did in another and earlier time, involving another President and a Republican administration. But I also do not wish to see the view grow in the public mind that there is a double standard.

I participated in the investigation of the alleged Watergate affairs as a Republican, as the vice chairman of the Senate Select Committee. I determined to conduct that investigation as diligently and impartially as possible, and I believe Republicans comported themselves with honor and dignity in that difficult and trying time. I believe that our colleagues on the other side of the aisle owe the same obligation to pursue this inquiry with diligence and I trust that they will.

The very best next step, Mr. President, is the appointment of a special prosecutor. I remind my colleagues that this was done in a Republican administration, that it should be done now, and to fail to do so will inevitably raise the question of a political double standard in America's political life.

Mr. President, I yield whatever time I have remaining under the standing order to the distinguished assistant Republican leader.

Mr. STEVENS. I thank my friend.

SENATE INCOME AND ETHICS

Mr. STEVENS. Mr. President, I have noted with pleasure the editorial in the Washington Post concerning the action that was taken by the Senate on my resolution last week. Again, I wish to emphasize that, by postponing the effective date of the new rules change, we have continued into the future the same limitations that applied following adoption of those rules. In other words, in 1977, the Senate saw fit to adopt a new rule, but to postpone its effectiveness until 1979. We have done the same thing this time. Those who assert that the impact of that resolution, which changed the date from 1979 to 1983, brought about an increase in the compensation of Senators are misleading the American public. There has been no increase in compensation of U.S. Senators. On the contrary, the same limitations on earnings of outside income will continue for the next 5 years as were prevalent in the last 4 years.

● **This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.**

Mr. BAKER. Will the Senator yield to me before he leaves the subject?

Mr. STEVENS. I am happy to do so.

Mr. BAKER. Mr. President, I rise only to say that I commend the distinguished assistant Republican leader and the Senator from New York (Mr. MOYNIHAN) for their initiative in this respect. At the time the subject came to the floor, I was in Kansas delivering the Landon lecture at Kansas State University, which, for me, was a great honor. Had I been here, I would have supported and acted in favor of the initiative of the Senator from New York and the assistant minority leader, the Senator from Alaska.

Mr. STEVENS. I thank the distinguished minority leader. I am sure he knows that it was a matter that was discussed on at least three occasions prior to raising that issue.

Mr. President, I ask unanimous consent that the Washington Post editorial be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SENATE INCOME AND ETHICS

Senators Ted Stevens (R-Alaska) and Daniel P. Moynihan (D-N.Y.) are likely to get some flak for sponsoring the sudden move to defer, until 1983, the rule that would limit senators' outside earned income to 15 percent of their salaries ($8,250 per year). Instead, these two men and Senate Ethics Committee chairman Adlai E. Stevenson III (D-Ill.) should be commended for bringing this issue out of the cloakrooms and being willing to explain why they favor suspending a rule that they voted for two years ago.

We think they're right—and that reflects some rethinking of our own. In 1977 we too supported the 15-percent rule as part of the stringent ethics codes that the Senate and House adopted, after much turmoil, in tandem with their pay raise from $44,600 to $57,500. We saw this as a package that would give members of Congress more adequate incomes, reduce the likelihood of conflicts between official and outside activities, and promote public confidence in Congress' capacity for self-discipline.

Since then, we, like many others, have grown more and more concerned about the smothering effect of too much righteousness and rules of conduct and disclosure that require people in public service to give up too much. The 15-percent limit on legislators' earnings, which took effect this year, is near the top of that list. It is more stringent than concerns for conflicts of interest or institutional seemliness justify. It gives too little flexibility to lawmakers who need or want to augment their salaries and can do so without slighting the public's business.

We would not rush to the opposite extreme and sweep away all curbs on legislators' outside activities. Nor has the Senate done so. Last week's action leaves intact the more sensible limits on speaking fees and honoraria—$2,000 per appearance and $25,000 overall per year—in the campaign law of 1976. As Sen. Stevenson emphasized, senators are still constrained by ethics rules that require full disclosure of outside earnings and prohibit the types of professional activities, such as practicing law, that are most likely to produce conflicts of interest. Those safeguards are surely enough to protect what Sen. Stevens called "the public interest in honest senators." Moreover, if a senator does exploit the higher limit by spending too much time on the lecture circuit, he is likely to hear about it from his constituents, who are the ultimate judges of senatorial conduct in any case.

Some problems with the public may yet flow from the way the Senate's action came about. Unhappiness with the 15-percent rule is widespread. Yet the subject was thought too sensitive for normal processing through public hearings, committee action and a rollcall on the floor. Instead, the Stevens-Moynihan measure was introduced Wednesday evening and passed by voice vote Thursday noon with few senators on hand. Three spoke for it. Three were present to object; three more put statements of opposition in the Congresisonal Record later that day. Nothing has been heard from the others, including more than 40 who voted for the rule two years ago. Their shyness may feed public suspicions that the Senate is doing something sneaky and untoward. We hope the House will be more straightforward when the issue comes up there.

A SOUND SALT II TREATY

Mr. STEVENS. Mr. President, on Friday, March 9, Senator JACKSON addressed the Forum Club of Houston, Tex. I would like to take this opportunity to share with my colleagues excerpts from his speech on the prospective SALT Treaty. Since the administration has reported that this document is near completion, his remarks are most timely.

As chairman of the Senate Armed Services' Subcommittee on Arms Control, Senator JACKSON's comments are especially worthy of our thorough review. It is his judgment that—

A sound SALT II treaty must meet three central criteria:

It must be equal, not just in terms of numbers but power as well. That is, it must not limit the United States to a level of strategic forces inferior to the level provided for the Soviet Union.

It must not impair our capacity to provide for theater defenses of our forces abroad and our allies, particularly in Europe.

It must be fully verifiable so that we will be able to detect immediately any Soviet action inconsistent with the provisions of the treaty."

It is my firm belief that ratification of a SALT II Treaty must be contingent on these provisions and I ask unanimous consent that the attached excerpts from Senator JACKSON's speech be printed in the RECORD at the conclusion of my remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

EXCERPT OF REMARKS ON SALT

(By Senator HENRY M. JACKSON)

As many of you know, the Administration is close to the conclusion of a new treaty affecting the strategic arms of the United States and the Soviet Union. It is a treaty that will be met with constructive skepticism in the Senate where a two-thirds majority is necessary for its ratification. It is a treaty that represents the judgment of the Administration as to what limits and risks it is prudent to accept in attempting to provide for our security in the face of an unremitting Soviet buildup of strategic arms. As such, it embodies a point of view that is entitled to the full consideration of the Senate. At the same time, the Senate has a constitutional responsibility not only to give or withhold its consent to the Administration's proposed treaty, but to give its advice as well. I am confident that the Senate will in fact advise the Administration with respect to the SALT II treaty and that it will not hesitate to reassess the risks or introduce improvements where it is prudent to do so.

Some Senators who assess differently the risks the Administration is apparently willing to incur have been described as "opponents of SALT." In most cases, that characterization is simply foolish and wrong. Support for a treaty limiting strategic weapons does not necessarily mean uncritical support for every page, paragraph, sentence, line and comma that Mr. Paul Warnke and his colleagues have negotiated.

I believe that a sound treaty limiting strategic arms would be in our national interest. And I believe that most of my colleagues in the Senate share this view. The issue that the Senate will have to resolve is whether the treaty suggested by the Administration and the Soviets is in fact sound: whether it enhances our security or impairs or even endangers it; whether it diminishes or increases the burden of providing for the safety of our people and our allies. On this central issue men of good will may differ, even when they share the common goal of limiting strategic arms.

In my judgment, a sound SALT II treaty must meet three central criteria:

It must be equal, not just in terms of numbers but explosive power as well. That is, it must not limit the United States to a level of strategic forces inferior to the level provided for the Soviet Union.

It must not impair our capacity to provide for theater defenses of our forces abroad and our allies, particularly in Europe.

It must be fully verifiable so that we will be able to detect immediately any Soviet action inconsistent with the provisions of the treaty.

When the Administration sends to the Senate a final proposal, it is with these criteria in mind that the Senate will advise and give or withhold its consent. And I assure you that I will examine every provision of the proposed treaty with a fine-tooth comb. We will want to know with precision what is and is not permitted, how the provisions of the treaty are likely to affect the strategic balance and how we propose to verify Soviet compliance.

Among the serious consequences of the change of government in Iran has been the loss of vital installations near the Iranian-Soviet border from which we have been able to collect information relating to Soviet strategic weapons. Those installations are now closed. Indeed, they are now occupied by Iranian troops.

The loss of the facilities in Iran has done irreparable harm for years to come to our capacity to monitor Soviet strategic weapons developments, including some potential Soviet weapons developments that are constrained by the emerging SALT II treaty. However much some may seek to minimize the impact of the loss of Iranian facilities on our ability to verify Soviet compliance with SALT II, the fact is that we now find ourselves unable to learn whether crucial developments prohibited by SALT are actually taking place. That is the truth. And it will not be changed by wishful thinking or obscure references to "other methods" of intelligence collection.

Even before the recent events in Iran, the emerging SALT II treaty contained a number of provisions that we are unable to verify. Some are of great importance, some of lesser importance. But the aggregation of provisions that we cannot verify constitute, in my judgment, a risk that it is imprudent for the United States to accept.

The coming treaty will include an understanding that the Soviet Union will not upgrade the capabilities of the Backfire bomber, a new supersonic Soviet bomber now coming off the production lines. That provision cannot be verified. If the Soviets upgrade the Backfire so as to increase its range and payload or to permit it to carry cruise missiles, we are unlikely to know it. The Backfire already has a range adequate to strike targets in the United States on missions similar to those of our own strategic bombers. Yet while all our heavy bombers count against the SALT II limits, none of the Backfires count. If the Backfire is improved without our knowledge, the strategic imbalance will be even more serious.

The protocol to the treaty contains a limit of 600 kilometers—that's 375 miles in Texas—on the range of ground and sea-based cruise missiles, a limitation that the Soviets have sought as a way of impeding American plans to apply our superior cruise missile technology to the development of theater forces. The Administration argues that without the 600 kilometer range limit on ground and sea-launched cruise missiles the Soviets will not sign the SALT II treaty.

But we cannot verify the range of cruise missiles.

We cannot enforce the 600 kilometer range limit.

We would enter this treaty, if at all, on trust alone—trust that the Soviets for their part will honor the cruise missile range limitation.

The Soviets could have thousands of cruise missiles so long as they say that they are below 600 kilometers in range. In fact, they now have—as few people realize—over 400 cruise missiles deployed. We do not yet have any. If the Soviets modernize their present cruise missile force and add new ones, there is no way for us to monitor the range of their cruise missiles. And we incur the risk that they will be able to out-gun us and our allies.

Consider the situation at sea under such circumstances. One can imagine an engagement of naval vessels between U.S. ships, armed with 600 kilometer cruise missiles and Soviet ships armed with cruise missiles with a range of 1500 kilometers. The outcome is as certain as a classic Texas duel between a six shooter and a carbine.

It is ironic that the Soviets, knowing the cruise missile range limit is unverifiable, should have insisted that we include cruise missiles with non-nuclear explosives under the same 600 kilometer limit on the grounds that one cannot tell whether a warhead is nuclear or not. But the Soviets did insist. And the Administration, for reasons that I simply cannot accept, agreed. But the Soviets did not stop there. They also insisted on including unarmed cruise missiles—the sort that carry out reconnaissance missions, especially over hostile territory. And the Administration agreed. So we now find ourselves in the absurd position of having agreed to limit the deployment of conventional, non-strategic forces, that have no business being included in SALT, in order to satisfy Soviet demands about verification of an inherently unverifiable range limit placed in the agreement at Soviet insistence.

I have stressed the problems of verifying Soviet compliance with the emerging SALT II treaty because there has been so much said about the matter in the aftermath of the recent events in Iran. But the upgrading of the Backfire bomber and the cruise missile limits were unverifiable even before Iran, as were certain other provisions of the emerging treaty. Since Iran we have lost our ability to verify Soviet adherence to the ban on new types of ballistic missiles that is a central part of the treaty.

I believe that the Administration has an obligation to the people of this country to state candidly and forthrightly what we can and what we cannot detect of possible Soviet actions in violation of the pending treaty. Those of us in the Senate will have an opportunity behind closed doors to explore the issue fully. But for obvious reasons of security public discussion must be confined to the bottom line, without many of the details that must be kept secret. It is clearly not in the national interest for Administration spokesmen to hide behind secrecy while making summary claims about verification that cannot be supported by the facts.

I urge the Administration to acknowledge that a number of provisions of the emerging treaty and protocol simply cannot be verified. The Senate and the American people can then decide whether to accept the risks that the Administration is inviting us to share.

Mr. STEVENS. I thank my colleague for allowing me the time to speak on this matter.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I yield 2 minutes of my reserved time to the distinguished Senator from South Carolina.

(The remarks of Mr. HOLLINGS at this point in connection with the introduction of legislation are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

SPECIAL PROSECUTOR NOT REQUIRED NOW IN PEANUT WAREHOUSE ALLEGATIONS

Mr. ROBERT C. BYRD. Mr. President, the distinguished minority leader has spoken with reference to the possibility that a special prosecutor should be utilized to handle the investigation of Bert Lance and the Carter peanut warehouse.

Attorney General Bell has reported on the investigation to Republican Members of the House Judiciary Committee, stating that the investigation of Mr. Lance's banking practices was complete and that a decision as to whether to prosecute would be made in about 30 days.

The Department is conducting a separate inquiry of the Carter peanut warehouse. Mr. Bell said various suggestions were being considered for the investigation, including a possible review taken within the time, or the selection of a respected person in the public sphere to review the investigation.

He pointed out that a special prosecutor was not required under the law for this case and he has promised to report back to the House Republicans in 2 weeks on progress on the investigation.

Mr. President, when the Congress passed the ethics legislation last fall, it established a mandatory mechanism for the appointment of a temporary special prosecutor in cases involving high-ranking executive officials.

But the statute included a transitional exemption to permit the Justice Department to finish matters that were already under investigation when the legislation became effective.

Mr. Bell relied on this exemption to tell Republicans that the legislation did not require a special prosecutor in these matters.

I think the point should be emphasized again: Congress did etablish a mechanism for the appointment of a temporary special prosecutor in cases involving high ranking executive officials and officials on the President's campaign committee. The legislation reflects Congress belief that this kind of case should be handled in the future by a special prosecutor whose independence is unquestioned, rather than by the Justice Department.

At the same time, Congress was concerned about the implications of interrupting an investigation already in progress at the time the legislation took effect. Interrupting an ongoing investigation which is in its advanced stages does not serve the interests of justice.

Moreover, the legislation was enacted to deal with a general class of cases. It is not intended to signal disapproval of the handling of any particular case by any particular Attorney General and, for those reasons, the legislation established an exemption to handle cases under investigation at the time when the legislation took effect.

In other words, if the Lance matter or the peanut warehouse matter first surfaced today, a special prosecutor would be required. No one questions that, but that is not the case. Before the act became effective, a grand jury was considering the matter. The exemption clearly covers that kind of case.

For that reason, I agree with the Attorney General's interpretation that a special prosecutor is not required in these matters at this time.

I should note, however, my understanding of what the exemption was intended to do. In order to avoid undue disruption of an ongoing case, the Department was given 180 days to finish matters already in the pipeline, either by a decision that an indictment was warranted or that the evidence did not support such an indictment. The 6-month period will expire on April 26.

Now, Mr. President, I join the distinguished Republican leader in expressing concern about this whole matter and I urge the Department to make every effort to complete the investigation by April 26, at the time when the 6-month period will expire, and to provide the public with a detailed report concerning the disposition of all allegations.

Failure to do so will inevitably cause

pressure to build for the appointment of a special prosecutor. Prompt completion of matters concerning Mr. Lance's banking practices, which have been under investigation for 18 months, is particularly vital, and I have been glad to read that the decision as to whether or not to prosecute Mr. Lance is expected within 30 days.

If a special prosecutor is appointed in this matter, or in any other matter covered by the legislation, the public should realize that this does not signify probable guilt of the person under investigation or even a likely possibility of guilt. It would mean that the Justice Department has received nonfrivolous allegations concerning high ranking officials that warrant further investigation and that because of the position held by that person it is preferable that someone not affiliated with the Justice Department conduct the investigation.

Often precisely because of its independence, a special prosecutor can rapidly clear the air by concluding that the charges have no merit, while public doubt may linger if the Justice Department were to reach the same conclusion.

So, Mr. President, there may come a time when the 180 days have run their course, and that will be roughly, 6 weeks away, on April 26, when, if there is not expedited action and a clear indication as to whether or not an indictment is called for based on the investigation, public pressure would build for the appointment of a special prosecutor.

The investigation has been underway, as I understand it, for many months now. In view of the mechanism that was incorporated into the legislation triggering the appointment of a special prosecutor under given circumstances; because the investigation has been ongoing; and because interrupting such an investigation by the appointment of a special prosecutor at this time might not serve the ends of justice, I should think that the Justice Department ought to press ahead as rapidly at it can and be in a position as soon as possible to indicate whether indictments are to be recommended in these matters.

Then, as I say, when the 180 days have expired, if there is justification at that time for the appointment of a special prosecutor, I should think that a decision might be made then.

But at this particular time, in view of the fact that the 180 days have not run their course and that the statutory mechanism, as I understand it, exempts situations such as this, I think that the matter is best left with the grand juries and the Justice Department, for the moment.

I hope that I will not be misunderstood in what I have said. I have tried to make my comments in light of the legislation, and in the context of the stage of the investigations at this particular point in time.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Mr. President, I do not know anybody in this Chamber in whom I have more faith and confidence than the distinguished majority leader when it comes to a question of protection of the honor and the dignity of the Government of the United States, whether Republican or Democrat. The Senator from West Virginia is not only diligent but also is a champion in that cause, and I would not doubt for one moment that he would want to see that this matter is handled appropriately.

I point out—and this will be my concluding remark, because I do not want to join issue on this subject in the little time that remains in advance of our colleagues who have special orders—that the President is the constitutional officer who must appoint a special prosecutor. The statute provides certain regularized proceedings for that, but only the President can appoint the law enforcement officials of this country. I am calling on the President to do this, notwithstanding that he does not have to do it, under the statute.

I understand the point of view of the majority leader, and I respect it. He is absolutely right in his summary of the statute law. His case may prevail, and it may bear the weight of logic better than mine. But my position comes from the injury, the abuse, the embarrassment, and the humiliation that I suffered during another time when I made a determination to pursue a difficult and unhappy political course, to the embarrassment of my own party.

I recall when I called on President Nixon, at my request, before the Watergate Committee began, at a time when the White House took the position that they did not have to do anything because of the doctrine of executive privilege. I went to the White House and I told President Nixon:

> Mr. President, that won't wash. You do that, and it doesn't make any difference how right you are, it will be misperceived by the public. You have to get off Executive privilege and send those people up to testify.

I have to confess that I thought he was innocent at the time; and I later found, to my distress, that this apparently was not the case.

My advice to President Nixon was to get off the technicality, and my hope is that President Carter will not depend upon the technicality of this statute, as the majority leader correctly describes it, and that instead, in deference to the sensitivity of the moment, he will go ahead and appoint a special prosecutor and bite the bullet, as some of us had to do during Watergate.

Mr. ROBERT C. BYRD. Mr. President, I am sure that the distinguished Republican leader has stated very accurately the pain and the discomfort he suffered during the Watergate hearing and during the whole episode. All of us suffered likewise.

I feel that we are not in disagreement as to the need for expediting an investigation, getting to the bottom of the facts, laying them out, and, if indictments are warranted, pursuing them with all due haste.

However, I again say that in this instance the mechanism is there for a special prosecutor. We wrote it. We all had a hand in doing this. We also provided the exemption, giving the Justice Department time to finish certain ongoing investigations. There might come a time when I would support the appointment of a special prosecutor. But to interrupt an investigation that has been going on for months and months and months, and which is nearing its end, with the grand jury looking into the matter, it seems to me that there might be the possibility of delaying matters rather than expediting them.

So I hope that we will temper our recommendation for a special prosecutor. I do not find any fault with anyone who asks for one; but we should consider, along the way, the stage of this whole investigation and not get in the way of it by appointing a special prosecutor at a time when that might involve further delay. After April 26, there might very well be pressure to the point that a special prosecutor may have to be appointed.

I hope the Justice Department will consider what has been said today and to move with all possible speed in connection with these matters.

RECOGNITION OF SENATOR EXON

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Nebraska (Mr. EXON) is recognized for not to exceed 15 minutes.

FOOD PRODUCTION

Mr. EXON. Mr. President, I rise today to bring to the attention of the Senate a serious matter that is all too conveniently shunted and dismissed as the ever present "farm problem" that seemingly has no ending or workable solution.

The fundamental issue is much broader in scope than generally recognized and could be placed in proper perspective if we eliminated from our vocabulary the term "farm problem" and placed this in proper perspective with the more realistic descriptive term of "food problems"; or better still, place this subject in positive terms such as food production which is what the vital industry of agriculture is all about.

Mr. President, I would point out that while it has been commonplace to blame family-size farmers and ranchers for "high" food prices the first fact is that food in general is less expensive in the United States on the basis of percentage of disposable income than in any of the industrialized nations.

A second but equally important fact is that while farmers are being unfairly blamed for "high food prices" they are receiving today only 31 cents of every dollar spent by consumers on food, a near all time low while the rest of our food industry, the transporter, the processor, the packager, and the merchandiser are taking a record 69 cents.

Mr. President, I am not suggesting that we should be attempting to fix blame among the various important segments of America's great food plants for food prices. I am merely pointing out that basic producers of food are receiving a shrinking share of food expenditures while wrestling with staggering increases in costs of production.

As Governor of Nebraska, I had the opportunity to serve as chairman of the National Governors' Association Committee on Agriculture. That committee recognized that the health of the Nation's food plant depended fundamentally on the resources, ingenuity, investment, talent, and productive genius of our family farmers.

We further recognized that this sector of our society has been taken advantage of economically by this Nation's failure to adequately protect our food plant, not so much by domestic policies, as by unfair competition that we have allowed in the international marketplace. Well over 50 percent of our production has historically been sold around the world.

While there has been great fanfare about our record exports of farm products the past year of some $27.3 billion, which, incidentally, was the single largest positive contribution to our serious balance-of-trade difficulties, (which would have been a staggering $55.8 billion inflation-damaging nightmare without agricultural exports instead of the serious $28.5 billion actual deficiency) in 1978. The fact is that from the basic producer's point of view much of that export was made at below the cost of production. Expanded exports are desirable but volume sales below costs, even if doubled and then doubled again, is a sure fire prescription for financial ruin for America's food plant and/or the taxpayers who may be asked to support such international policies of food give away to many who could well afford to pay a fair place.

This Nation's international cheap food policy that has unfortunately permeated our thinking and policies for years is a tragedy.

We should recognize that our unique ability to produce food in great quantity and high quality is an economic asset—food power if you will. We must stop treating it as our unmanageable liability. With our production ability, reserve and storage capability we are the only nation that could enter into a long-term bargaining or bartering arrangement involving our grain at a fair price for foreign oil.

The Governors' Agriculture Committee has urgently appealed for constructive action to eliminate unfair trade barriers to American wheat and feed grains that exist in almost every industrialized nation in the world.

Mr. President, I have cited for years, for example, that Switzerland directly subsidizes their domestic wheat producers at $11 per bushel, the European Common Market countries subsidizes at $5.50 to $7 per bushel and the Japanese multiply by two or three times the price of their purchases of basic food stuffs from us before they enter the Japanese economy. In this climate there is no way our food producers, as efficient as they are, can have a chance to compete in the international marketplace. In this atmosphere, unfortunately, we find our wheat going begging at $3.50.

Mr. President, there would be no farm protest, no tractors in Washington, D.C., no demands for parity programs and certainly no taxpayer costs for farm programs if we could but insist on not favored, but equal treatment for our food producers from our supposed economic friends and defense allies in the international marketplace.

With this background, Mr. President, it is evident the American grain producer is in further jeopardy with the announced collapse of the Geneva negotiations with regard to the establishment of a reasonable international wheat pricing agreement between exporting and importing nations. This collapse comes as no surprise. The consuming nations of this world have such a good deal, at the expense of American farmers, that they naturally wish to maintain the unfair status quo. This internal cheap food policy of the United States continues to prevail despite what I am sure were good efforts by our negotiators.

The obvious, but seldom discussed result, will be a continuation of ever-escalating food costs at home coupled with further deterioration of our food plant. If the wheat farmer is forced to accept an international wheat price that is below the cost of production then he must look to the domestic market or the taxpayer for relief. With 60 percent of our wheat production being exported, the price pressure on the remaining 40 percent consumed in this country will be intense. I ask: Can the consumer and/or the taxpayer shoulder this burden?

With the picture as bleak as it is, Mr. President, some encouraging light of at least basic understanding is beginning to appear.

In the March 4 Washington Post an article by reporter Dan Morgan appears which brings attention to what many of us in agriculture have been attempting to explain for some time with regard to solving and ending America's international cheap food policy. The encouraging sign here is that if the Washington Post can be brought to understand the real concerns and ills of this Nation's food production plant there is a chance it could be understood by all and something more constructive accomplished. Mr. President, I ask unanimous consent that the Washington Post article referred to be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

United States Trade Negotiators Are Gratified by Progress on Agriculture Products

(By Dan Morgan)

In France, the Government guarantees wheat farmers more than $5 a bushel for their grain. Not surprisingly, French farmers produce a lot of wheat—enough to feed their own countrymen, other Europeans and some Africans and Latin Americans as well.

The guarantee in the United States is more than $1.50 below that. Anything U.S. wheat farmers make above this minimum depends mainly on how much surplus grain the country can sell abroad.

But the more the Europeans, the Japanese and some wealthier developing countries subsidize and protect their farmers, the more difficult it is for the dwindling ranks of U.S. farmers to export.

These realities define the limits of the possible for U.S. negotiators who are about to wind up five years of talks in Geneva aimed at easing agricultural trade restrictions as part of a global trade pckge.

Once again, as has been the case in every major trade negotiation since World War II, an irresistible force— America's surging exports—has been pitted against an immovable object—European and Japanese agricultural protectionism.

It is a contest in which powerful vested political interests have dug in on both sides, making movement extremely difficult.

Given the economic fact of life, American officials say they are gratified with their progress.

They cite a number of concessions to buttress their claim that, true to the promise of the President's special trade representative, Robert S. Strauss, the Carter administration has gained more for U.S. agriculture in this round of talks than any previous one.

Producers of tobacco, poultry, citrus fruit, peaches, rice and possibly almonds stand to benefit from trade concessions obtained so far.

And the talks have opened up the intriguing possibility that both Europe and Japan eventually will become major markets for choice, grainfed American beef. The Europeans, who are becoming increasingly concerned about their own high food prices, have agreed to lower tariffs on steaks, ribs and other U.S. beef delicacies hitherto little known there. Similarly, the Japanese have agreed to increase their quotas from 16,000 tons in 1978 to 31,000 tons in 1983.

U.S. officials say that if the Europeans get hooked on American-style cuts they could sharply increase their beef consumption from the present 57 pounds per person a year to something closer to America's 120 pounds.

Agricultural concessions obtained from the United States' trading partners so far apply to trade currently totaling about $3.5 billion a year. Officials estimate that the concessions could increase U.S. farm sales by as much as $700 million a year. (Trade officials say the impact on domestic food prices should be negligible. The more food exported, the less left behind. But most crops are now in surplus.)

Nevertheless, the trade concessions are a drop in the bucket compared with the nation's $27.2 billion in farm sales in 1978.

Of that amount, nearly $18 billion was from the sale of grain (wheat, corn, barley, sorghum, and rice) and oilseeds (primarily soybeans). In this sector, the negotiators have had limited success.

Japan has agreed to make permanent its present practice of not placing duties on U.S. soybeans—a concession that could be more valuable than it looks since it rules out Japan's discriminating against U.S. soybeans in favor of Brazilian beans.

U.S. negotiators also are pressing the French to go along with a subsidy code that could curb its dumping of wheat in such favorite American markets as Morocco and Brazil.

But beyond that, the fundamental obstacles that prevent a really massive increase in U.S. grain exports to Europe (and to a lesser extent to Japan) have not been budged by the last five years of talks.

These obstacles have less to do with trade policy than with the internal agricultural systems of Europe and Japan.

In the United States, where labor has been costly and capital relatively cheap, government policies have encouraged the development of big, efficient farms. Capital and technology in the postwar era fueled dramatic increases in productivity, which in turn, produced huge surpluses that had to be sold abroad.

It also encouraged a relentless concentration of farm holdings as farmers sought to take advantage of the benefits of equipment and technology. Today some 165,000 commerical farms produce about half the nation's food.

Families still operate most of these farms, but as the costs and risks of running them have increased, so have the demands for more government support.

U.S. farm policy has been underpinned by relatively low price supports, which were seen as encouraging the exportation of crops. The Kennedy administration dropped corn price supports to world market levels in 1961, and U.S. wheat prices have been the same as world prices since 1972.

Exports have been the key to U.S. agricultural prosperity. Today, the nation exports three bushels of its rice out of four, more than one bushel of wheat and soybeans out of two, and one bushel of corn out of four.

But as this system was emerging in America, the Europeans and Japanese were following diametrically opposed policies.

Their objective for most of the post-war period was self-sufficiency and massive support for small farmers regardless of the budgetary costs or the inefficiency of many of the less-productive farms.

The underpinning of the system was extremely high price supports and, in Europe, huge tariff barriers to imported wheat and corn.

Common Market officials justified their "common agriculture policy" as being in the interest of preserving family farmers and preventing social disruption caused by the massive flight of people from rural to crowded urban areas.

America has been able to market its wheat and corn in Europe only when heavily subsidized European farmers have sold their grain, and imports are needed to make up the deficit. Because of the high support prices, Europe now has a wheat surplus. And a tariff of $90.71 a ton is now being tacked onto a ton of U.S. corn valued here at $120 a ton. The effect of these two things is to make it increasingly difficult for U.S. grain to move into Europe.

The Carter administration has abandoned the unsuccessful pressure tactics used by previous administrations to get the Europeans to dismantle their agricultural system.

In effect, trade officials have acknowledged that the vested political interests in the European system are so powerful that outside pressure is futile.

Thus, the fortunes of U.S. grain farmers will be determined in Paris and Brussels as well as in Washington. This is a fact that adds to the frustration of the western grain farmers who have come to Washington to advertise their problems and demand price supports along European lines.

Fred Sanderson, a trade specialist for the Brookings Institution, describes resistance to more basic reforms of agricultural trade as "tremendous," but adds that change could come gradually.

Farm blocs in Europe are still politically powerful despite a steady decline in the number of farmers there, too. Farmers, for example, form a power base for the coalition government of French President Valery Giscard d'Estaing, and Bavarian farmers also hold a key to delicately balanced power alignments in West Germany.

However, financial pressures have begun to make more likely the policy changes that could open Europe to more U.S. grain. The subsidy systems keep European food prices high and cost the European Common Market $13.5 billion a year.

Significantly, the Common Market held the increase in farm price supports last year to 2.1 percent. And the European Commission's vice president, Finn Olav Gunderlach, has taken a firm position in favor of a price freeze in 1979 and 1980. This could bring European and American grain prices closer.

*United States farm trade 1978**

[Exports $27,298 billion]	
Grains	$11,441
Oilseed	7,451
Livestock	2,810
Fruit, Nuts, Vegetables	1,922
Cotton	1,707
Tobacco	1,132
Other	835
Imports $13,886 Billion	
Coffee	3,736
Meat	1,597
Fruit, Nuts, Vegetables	1,439
Cocoa	1,264
Sugar	1,047
Rubber	672
Wine and Beer	710
Oilseed	508
Tobacco	371
Bananas and Plantains	349
Dairy Products	324
Other	1,869

*October 77–September 78.

Mr. EXON. In closing, Mr. President, it is my firm conviction that we express to President Carter, Secretary Bergland, and the Agricultural Committees of the Senate and House that in view of the failure of the Geneva trade negotiations with regard to wheat, the United States immediately begin serious negotiations with the other major wheat exporting nations of Canada, Australia, and Argentina for the purpose of establishing an equitable and fair minimum price for wheat sold in the international marketplace.

This action is recommended in full recognition of the difficulties that such an understanding may entail but we are left with no recourse under present circumstances. To attempt to limp along under our present on-again, off-again programs or lack thereof, sentences us to further deterioration of our balance of trade, with its inherent inflationary pressures, increasing taxpayers' costs on farm programs, higher food costs at home and probably most importantly the further peril of America's No. 1 economic asset, our great food-producing plant.

Thank you, Mr. President.

Mr. BOREN. Mr. President, will the Senator yield?

Mr. EXON. I yield.

Mr. BOREN. Mr. President, I wish to compliment the Senator from Nebraska for his remarks, and I wish to associate myself with them.

I think he has very clearly delineated the nature of the problem that we face in this country. There has not been a single group in this country more left out of the economic progress enjoyed in the past 30 years than the agricultural community.

When we view the international restrictions that have been placed on the opening of markets for our agricultural products overseas, particularly the continuing problems in the grain area, I think we are talking about something that goes beyond just the problems of American agriculture and the agricultural community. We are talking about something that has great impact on the entire national economy.

When we talk about the need to work with other producing nations to assure an adequate price for our own food products, we are talking about doing something that is necessary to prop up the dollar, necessary for the survival and the improvement of our entire national economy.

I hope that the suggestions that have been made by the Senator from Nebraska will be very carefully considered, not only by Congress, but by the administration, and I associate myself with him in making that suggestion, and I compliment him on the remarks which he has made.

Mr. EXON. I thank the Senator.

The ACTING PRESIDENT pro tempore. Does the Senator from Nebraska yield back the remainder of his time?

Mr. EXON. Mr. President, I yield back the remainder of my time.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from West Virginia (Mr. ROBERT C. BYRD) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, how much time did the distinguished Senator yield back?

The ACTING PRESIDENT pro tempore. About 3 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may have control of the time that was yielded back.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I understand Mr. PROXMIRE is coming to the Chamber and wishes some time. I am glad to yield to him from my time.

At the moment, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Wisconsin as much of my time as he desires.

Mr. PROXMIRE. Mr. President, I thank my good friend, the majority leader.

THE PROBLEM OF OVER-CLASSIFICATION

Mr. PROXMIRE. Mr. President, the system of classification of information on national security grounds has been subject to abuse in the past. A new report by the General Accounting Office indicates that things are getting worse instead of better.

In December 1977, I asked the Comptroller General to investigate the problem of overclassification because of the many times information has been wrongfully withheld from Congress and the public for reasons of national security.

DOD FLIP-FLOPS OVER STRATEGIC AIRLIFT

What triggered my request was an investigation of the budgetary and economic implications of the enhanced strategic airlife proposal. The proposal includes fixing the wings of the defective C-5A aircraft at a cost of more than $1 billion.

I had asked the Defense Department to explain the rationale for increasing the strategic airlift program at a cost of about $13 billion. But efforts by my Subcommittee on Priorities and Economy in Government and by GAO were completely frustrated by the Pentagon.

The Pentagon first denied the committee and the GAO access to requested documents. Subsequently, the same kind of information concerning strategic airlift that had been discussed openly was classified on national security grounds.

Prior to 1977 Defense Department spokesman used statistics about airlift requirements in public statements. Yet, in December 1977 Defense Department spokesmen told my subcommittee that similar information was now considered classified.

OVERSIGHT SYSTEM INEFFECTIVE

Most of us thought progress was made in eliminating unnecessary classification under the oversight system put into effect in 1972. This turns out not to be the case.

Although I asked GAO to investigate the problem of overclassification, its inquiry revealed that the systems employed by the agencies that do most of the classifying is too slipshod and weak to learn anything substantive about specific classification actions.

Agencies such as the Pentagon and the CIA do not keep adequate records, do not maintain up-to-date inventories and do not report accurately about their classification actions.

EVIDENCE OF MASSIVE OVERCLASSIFICATION

There is now evidence of massive overclassification of national security documents and flagrant noncompliance by the Pentagon and other agencies with procedures set up to prevent abuses of the classification system.

According to GAO, oversight of the Government's classification program has been ineffective because the National Security Council and the Interagency Classification Review Committee did not require agencies to comply with procedures that would have provided complete information on their classification activities.

The program was established in 1972 by an Executive order of President Nixon to prevent classification of Government documents on national security grounds.

The purpose was to make information about Government affairs more readily available to the public, except for information bearing directly on defense and foreign relations.

PERVASIVE MISREPORTING

But there is more unnecessary classification and overclassification today than ever before and there is pervasive misreporting by Government agencies of the facts.

The Pentagon reported 3.6 million classifications actions in 1977. GAO estimates the correct number at from 50 to 100 million.

The CIA reported under 600,000 classification actions annually when the true number was about 5,000,000.

NONCOMPLIANCE OF GOVERNMENT AGENCIES

The Pentagon and the CIA also did not comply with the regulations concerning classification abuses.

One of the great difficulties, Mr. President, is that almost anybody who is cleared for high security matters, including secretaries and clerks, is free to take that stamp and classify material willy-nilly. Of course, it is always easier to classify material because it not only avoids any kind of possible mistake but it also makes it possible to avoid criticism.

Knowledge and understanding by the press and by the public are matters that should be debated.

The regulations prohibit unauthorized classification, unnecessary exemptions and other improper actions.

GAO found that in the 6-month period ending December 31, 1977, the CIA reported only "nothing to report."

The Pentagon's National Security Agency refused to comply with the regulations on grounds that there are no practical means to monitor all classification actions.

GAO finds the agency's failure to collect and report statistics on classification abuses unjustified.

GAO points out that most agencies do report statistics concerning abuses based on inspections and reviews.

VIRTUALLY ANYONE WITH A CLEARANCE CAN CLASSIFY

A major reason for the massive and almost controlled classification of government documents is that agencies are allowing persons other than authorized classifiers to take classification actions.

Virtually anyone in the Pentagon with a security clearance can classify information.

Relatively low level persons, including clerks and stenographers, are allowed to put security stamps on Government documents.

Overclassification and the failure to declassify promptly results in millions of dollars of increased costs for extended storage and protection of the material and for government employees who periodically review the material to see if it can be reclassified.

THE NEW SYSTEM IS LIKELY TO BE INEFFECTIVE

President Carter issued a new Executive order last year to replace the 1972 program.

But GAO concludes that the new system does not provide solutions to the oversight and monitoring problems in the earlier system. The situation is worse than it ever was before that order was issued. Congress needs to legislate a solution to the problem, and I hope we do that and do that this year.

MORE SUPPORT FOR THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, contrary to what the rest of this body may think, I am not the only person who thinks the Senate ought to wake up from its 30 years of indifference and move for the immediate ratification of the Genocide Convention. I recently received a copy of an address given by Mr. Bruno V. Bitker which goes right to the heart of the issue. Mr. Bitker is a former chairman of the Governor's Commission of the United Nations and has long been active in the crusade for human rights.

Mr. President, I commend this article to my colleagues and urge them to lend their support for the immediate ratification of this treaty. I ask unanimous consent to have Mr. Bitker's article printed in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

Report of Bruno V. Bitker

It can be said with assurance that the adage that it is an idea whose time has come now applies to international human rights. In the words of Dr. Zbiegniew Brezinski at the recent White House Observance of the 30th anniversary of the Universal Declaration of Human Rights, "human rights is the genuine historical inevitability of our times". Domestically the time had arrived with the American Revolution, although it took a civil war to more fully recognize the unique philosophy set out in the Declaration of Independence and the United States Bill of Rights.

Internationally the sanctity of the individual was recognized in the United Nations Charter and become legally binding on all the nations that have become parties to the Charter. In the United Nations this led to the adoption in 1948 of the Universal Declaration of Human Rights. That Declaration was initially deemed a mere declaration (as was our own Declaration of Independence) and not a binding treaty. But in the ensuing 30 years it has been cited frequently in international documents as well as in constitutions of newly created states and in legislation of most member nations, including the United States. It thus has become the common law of the international community.

In addition the United Nations has adopted a number of treaties on specific subjects covered in a more general way by the Universal Declaration. These include the Convention on Genocide, on Racial Discrimination, on the Political Rights of Women, on Civil and Political Rights and on Economic, Social and Cultural Rights. In every case, the United States was a leader within the United Nations in drafting and securing adoption of these treaties. Regrettably, however, when it came to signing on the dotted line, the United States has a record that borders on the disgraceful in failing to ratify these treaties.

The most egregious example of our failure to ratify various human rights treaties is that on the Genocide Convention. It was adopted by the United Nations on December 9, 1948. It was signed by the United States two days later. Eleanor Roosevelt, then our representative on the UN Human Rights Commission and Secretary of State George C. Marshall, were the most prominent among those seeking and securing unanimous UN approval of the treaty.

In June, 1949, President Truman sent the treaty to the U.S. Senate for its advice and consent to ratification. It was assumed that the Senate would act routinely. But much to everyone's surprise, the states' righters (principally southern senators) raised all sorts of objections, claiming that the treaty would breach sovereignty, and was a back door method to securing civil rights within the United States. The American Bar Association supported the southerners and opposed ratification. However, in 1976, The Bar Association reversed its position and supported ratification.

Over the years the Senate Foreign Relations Committee has conducted hearings on the treaty and each time it reported it out favorably. But whenever the Committees' recommendation reached the Senate floor, either an actual or threatened filibuster has prevented a vote being taken. And now, 30 years later, the treaty is still in the deep freeze in the Senate awaiting another chance to be voted on, up or down. It continues to be opposed by a few die-hards who are still fighting the Civil War.

Recently, at The White House observance of Human Rights Day, Dec. 6, 1978, President Carter again called for Senate approval of ratification. He said: "Eighty-three other nations have ratified the Genocide Convention. The United States—despite the support of every President since 1948—has not. In international meetings of the United Nations and elsewhere, and when I meet with foreign leaders, we are often asked why. We do not have an acceptable answer. I urge the United States Senate to observe this anniversary in the only appropriate way: by ratifying the Genocide Convention at the earliest possible date".

My information is that the Foreign Relations Committee will hold no further hearings on the Genocide Treaty. Persumably the Committee will report the treaty out favorably again, as it did previously. However, the Senate leadership has indicated it will not put it on the calendar until it is assured of the 60 votes necessary to impose cloture, thus stopping a filibuster. Because the matter has been dragging so long, most senators are indifferent to it. Accordingly, it is doubly important that members of the Senate hear from citizens around the country. Members of this Commission are here in a representative capacity. This means that you represent some organization probably having a national standing. If every member of this Commission were to request the national office of his/her organization to have members around the country write to their senators urging that the Genocide Treaty be brought on for a vote on the Senate floor, this could well produce the desired result. It is amazing what a limited number of letters from around the country can accomplish.

Our failure to ratify these treaties approaches a national disgrace, and there would be nothing gained by attempting to explain away our non-action on any credible basis. This applies with particular force to our failure to ratify the treaty against Genocide, which, unbelievable as it may be, has been pending in the United States Senate since 1948.

Mr. PROXMIRE. I thank the distinguished majority leader for his generosity, and I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 5 minutes each.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

TAIWAN ENABLING ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the pending business, S. 245, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 245) to promote the foreign policy of the United States through the maintenance of commercial, cultural, and other relations with the people of Taiwan on an unofficial basis, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. On whose time?

Mr. ROBERT C. BYRD. I thank the Chair. I ask unanimous consent that the time be charged equally to both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 80

(Purpose: To amend section 111(a) of S. 245)

Mr. BOREN addressed the Chair.

The ACTING PRESIDENT pro tempore. Who yields time? Does the Senator from Oklahoma wish to propose an amendment?

Mr. BOREN. Yes, Mr. President, I have an amendment that I have previously sent to the desk.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BOREN), for himself, Mr. DOLE, Mr. HOLLINGS, Mr. HELMS, Mr. MORGAN, and Mr. BAYH proposes an amendment numbered 80:

On page 12, strike out——

Mr. BOREN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 12, strike out lines 5 through 12, and substitute:

SEC. 111. (a) For all purposes, including actions in all courts in the United States, recognition of the People's Republic of China shall not affect the ownership of, or other rights, or interests in, properties, tangible and intangible, and other things of value, owned, acquired by, or held on or prior to December 31, 1978, or thereafter acquired or earned by the people on Taiwan.

Mr. BOREN. Mr. President, this amendment has a very simple purpose. It would allow Taiwan to keep its diplomatic real property in the United States.

The section as now written provides that Taiwan can keep its foreign exchange assets, bank deposits, and property, but it makes an exception of diplomatic real property acquired prior to October 1, 1949.

The property in question is located at Twin Oaks, the former Republic of China Embassy on Woodley Road in Northwest Washington (including 19½ acres of land); the Chancery and the military attache's office on Massachusetts Avenue. The combined value of the property is about $3 million.

The House Foreign Affairs Committee has already taken this action.

The Senate Foreign Relations Committee considered the matter and decided to let the courts decide the question of ownership of diplomatic properties.

However, with all due respect for the work of the committee, I see nothing wrong and, in fact, I see a great deal right, with leaving the property in the hands of the people who have had it for the last 30 years.

In light of the back-handed treatment received by our friends and allies on Taiwan, there is no justification for adding the indignity of summary eviction to the list.

We are not dealing with an enemy, but with a friend. Taiwan has consistently supported this Nation politically and militarily. Taiwan is also our eighth leading trading partner. We have an annual bilateral trade of $7.2 billion. Taiwan is one of the best cash customers for our agricultural products.

It may be "normal" diplomatic procedure to transfer control of such property when government's change, but there is very little normality to this whole issue.

The State Department has argued that the United States "acknowledges" but does not necessarily agree with the position that there is one China and that Taiwan is a part of China. In addition, our Government has chosen to leave ambiguous the question of the Taiwanese government's status with respect to international law. There are in force 17 treaties and other agreements still in existence which were negotiated with the then government on mainland China prior to 1949.

We are therefore not dealing with a situation here in which one government in a definite geographical area has replaced another which no longer has a defacto ability to govern any area. It is not like the recent situation in Iran, for example, where one regime has replaced another from a factual point of view. We are dealing with a friendly government which is fact remains the effective government over a geographical area known as Taiwan and 17 million people.

To allow Taiwan to retain its diplomatic property is small compensation to an old and trusted ally. The passage of this amendment would in a small way be a symbolic gesture that would indicate to the rest of the world, who are watching our handling of this matter, that we mean what we say in professing a strong desire to maintain future cultural, economic and security ties to 17 million friends.

I urge the Senate to adopt this amendment. It is in the interest of this country to do so as a gesture to our friends on Taiwan. It is in our interest to do so as a message to our allies around the world that we will not completely forsake a friend in any situation.

Mr. STEWART assumed the chair.

Mr. MORGAN. Mr. President, will the Senator yield?

Mr. BOREN. I yield to the Senator from North Carolina.

Mr. MORGAN. Mr. President, I am a cosponsor of this amendment with the distinguished Senator from Oklahoma. I hope that staff members around the Senate Office Buildings who are monitoring the debate on the floor will take the time to inform their Senators of the importance of this amendment.

I think the Senator has very ably and very well stated his position and the way many of us feel. Taiwan has been a long-time ally of this country. By the resolution which is pending before the Senate I think it is the intent of the Senate and the Congress that the United States will continue, even if it is in a quasiofficial way, to carry on relations with Taiwan.

Even common courtesy, Mr. President, requires that we accord some respect to the rights of the people of Taiwan.

I am reliably told that within just a matter of 2 or 3 days after the recognition of mainland China the Taiwanese were told they would have to vacate the premises.

I am told reliably that it was just a few days or a matter of a few days that the members of the State Department were out taking up the diplomatic passports, or whatever they have in this country, which was entirely uncalled for. Time will solve many of these problems.

I think if there is any branch of our Government which is completely removed from the people of this country it is the State Department. Maybe if we talked about requiring the Foreign Service employees to take a little time off and go back and live with the people for a while, some of the difficulties that we have might not occur.

I think it is only fair and right that as long as we intend to carry on relations with Taiwan that we allow them to hold the property that they have held prior to the time of the recognition. I am pleased to join with the Senator in the sponsorship of this amendment.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. BOREN. I yield.

Mr. HELMS. Mr. President, I commend the distinguished Senator for his amendment. As he knows, I am a cosponsor of it. Indeed, I drafted a similar amendment. I am so glad that he has stepped forward and has taken the leadership in this matter. This is just simple justice that the Senator proposes. It is nothing more and nothing less.

The amendment would bring the Senate bill into conformity with the House bill by providing that for the purposes of U.S. court actions, the normalization of relations between the United States and the PRC would have no effect upon the legal rights the ROC had in diplomatic properties.

Is that about the size of it?

Mr. BOREN. The Senator is correct. It is to let them keep the property they have had all these years.

Mr. HELMS. Section 111 provides for such protection for all other assets or properties of the ROC or its citizens in the United States. But the language specifically exempted "diplomatic real properties situated in the United States which were acquired prior to October 1, 1949."

According to State Department representatives testifying before Congress, the question of diplomatic properties should be left to court decisions. Nonetheless, they indicated their own lack of neutrality in the matter by arguing that the two buildings represent a "symbol of government" and that they thought that Peking had a "better claim" on them.

In effect, turning this particular decision over to courts will amount to an indirect manner of the PRC seizing the properties. No other interpretation can be placed on it. In other countries the PRC has taken just such actions and obviously only awaits the disposition of the Taiwan legislation before attempting to act.

Historically the properties have always been identified with the Government of the Republic of China on Taiwan. The ROC acquired the properties in 1947 while the civil war already raged in China and thus, for all but 2 years, the properties have been occupied by the Government in Taipei.

The arbitrary cutoff date of 1949 should no more apply to diplomatic real properties than to anything else acquired earlier than 1949 by the ROC or its citizens. An interjection of court action in this one instance can set a dangerous precedent for the PRC to move on other ROC rights, as Stanford law professor Victor Li testified before the Foreign Relations Committee:

> The PRC may consider the obtaining of the state of Chinas diplomatic property an important political and symbolic act. If the executive or the courts transfer the property to the PRC as the successor government, then other ROC assets, such as the several billion dollars in bank deposits may also be jeopardized.

Technically this amendment would only assert that the ROC had the legal capacity to transfer the properties to Friends of Free China last December and not that they now own them. The State Department even challenges the right of the ROC to transfer the properties before January 1, 1979, when they still had full diplomatic relations with the United States.

The two properties do have tremendous symbolic importance to the ROC as the seat of their representation in Washington for three decades. The ability of Peking, with congressional and State Department acquiescence, to take the properties would indicate a further abandonment of Taiwan at a time when ROC morale is already abysmally low.

Certainly it cannot be argued that the failure to turn those properties over to Peking will somehow endanger the normalization process. Yet it could have serious consequences to Taiwan that go beyond our domestic law.

In many other instances when one government is recognized in place of another government the new government has been able to assert the rights and take the assets of the previous government. However, in this instance, the United States is not recognizing Peking as a successor government, since the thrust of the entire bill is to protect existing rights of Taiwan and not transfer them to the PRC. One government has not displaced the other government, since in reality both continue to exist as viable international entities.

Now, Mr. President, there is a serious flaw in the attempt of the committee bill to use the date of October 1, 1949, as a cutoff for real properties, even though that is the official founding date of the PRC. Yet many of the agreements which the legislation retains in force also took place with the ROC before 1949. Thus the State Department attempted to make a distinction between the period before and after 1949, but only limit it to diplomatic real properties in the United States.

Mr. President, I ask unanimous consent that a list of agreements with Taiwan entered into before 1949 be printed at this point in the RECORD.

There being no objection, the list of agreements was ordered to be printed in the RECORD, as follows:

AGREEMENTS WITH TAIWAN ENTERED INTO BEFORE 1949

The following list of 14 agreements were all entered into between the United States and the Republic of China before 1949 when the ROC government left the mainland for Taiwan. All of these agreements still remain in force today and under the proposed legislation (Sec. 104) they will remain in force in the future.

The list indicates that the U.S. government recognizes a legal continuity of the government of the Republic of China extending before 1949. Thus, only on the matter of real diplomatic property is an attempt made to create a distinction between the period before and after 1949.

ECONOMIC AND TECHNICAL COOPERATION

1. Economic aid agreement, exchange of notes, and exchange of aide memoire. Signed at Nanking July 3, 1948 (aide memoire dated July 27 and 28, 1948); entered into force July 3, 1948.

2. Agreement concerning the United States relief assistance to the Chinese people, and exchange of notes. Signed at Nanking October 27, 1947; entered into force October 27, 1947.

3. Agreement establishing a joint commission on rural reconstruction in China. Exchange of notes at Nanking August 5, 1948; entered into force August 5, 1948.

POSTAL MATTERS

4. Parcel post convention. Signed at Peking May 29, 1916, and at Washington July 11, 1916; entered into force August 1, 1916.

RELIEF SUPPLIES AND PACKAGES

5. Agreement relating to duty-free entry of relief goods and relief packages and to the defrayment of transportation charges on such shipments. Exchange of notes at Nanking November 5 and 18, 1948; entered into force November 18, 1948.

6. Arrangement for the direct exchange of certain information regarding the traffic in narcotic drugs. Exchanges of notes at Nanking March 12, June 21, July 28, and Au-

gust 30, 1947; entered into force August 30, 1947.

CUSTOMS

7. Arrangement relating to reciprocal free-entry privileges for consular officers of articles imported for their personal use during official residence. Exchange of notes at Washington September 29 and December 16, 1930; entered into force December 16, 1930.

CLAIMS

8. Agreement relating to claims resulting from activities of United States military forces in China. Exchange of notes at Nanking October 13, 1947, and March 17, 1948; entered into force March 17, 1948.

EXTRATERRITORIALITY

9. Treaty for the relinquishment of extraterritorial rights in China and the regulation of related matters, and accompanying exchange of notes. Signed at Washington January 11, 1943; entered into force May 20, 1943.

LEND-LEASE

10. Preliminary agreement regarding principles applying to mutual aid in the prosecution of the war against aggression. Signed at Washington June 2, 1942; entered into force June 2, 1942.

11. Agreement under section 3(c) of the Lend-Lease Act. Signed at Washington June 28, 1946; entered into force June 28, 1946.

12. Agreement on the disposition of lend-lease supplies in inventory or procurement in the United States. Signed at Washington June 14, 1946; operative September 2, 1945.

13. Treaty looking to the advancement of the cause of general peace. Signed at Washington September 15, 1914; entered into force October 22, 1915. Exchange of notes signed May 11 and 19, 1916.

14. Treaty of Arbitration. Signed at Washington June 27, 1930; entered into force December 15, 1932.

Mr. HELMS. Mr. President, in conclusion, I commend my friend from Oklahoma for his amendment. I do think that regardless of any disposition by Senators on any other aspect of this legislation, his amendment is a matter of simple equity and justice. I think the Senator for yielding to me.

Mr. BOREN. Mr. President, I thank both of the Senators from North Carolina for their remarks. I think they are absolutely correct; this is a very small step that we can take to try to demonstrate to an old and trusted friend that they are not forgotten by this Congress or by the people of this country. I think, indeed, the people of this country would feel strongly that Congress should take this step. They recognize the fundamental moral commitment that we have to those people, 17 million free people. I appreciate very much the remarks that have been made.

Mr. President, I also ask unanimous consent that the Senator from Utah (Mr. HATCH) be added, at his request, as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, reserving the remainder of my time, I yield at this time.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CHURCH. Mr. President, I certainly have no objection to the people on Taiwan continuing to occupy the Twin Oaks property if, as a matter of law, it belongs to them. However, this is the first time in my experience in this body that the Senate has ever undertaken to determine the ownership of real property. I rather doubt that we have the authority to do that. I am positive we lack the competence to do it. We have courts for this purpose.

I had thought we were a Government of laws, and that the question of ownership of real property would be relegated to the forum which, under the law, has the competence to deal with it. If we adopt the amendment offered, we shall place Congress in the position of declaring that the title to certain real property in this city belongs to the people of Taiwan. If we do that it would be approved, doubtless, by the constitutents of our respective States. I am not so certain that such a determination would stand up in the courts.

The fact of the matter is that the title to this property is contested. Under international law, diplomatic real property is the property of the state. The accredited representatives of the state are entitled to control that property. If, on January 1, 1979, Twin Oaks and the chancery were owned by the Republic of China, international law would require that the People's Republic of China succeed to the ownership of the property.

We can flout international law if we choose. Yet I question the authority of Congress to displace one owner of real property for another, simply because we side with one party or the other for sentimental reasons.

The cause for the dispute, Mr. President, lies in the fact that, on January 1, 1979, the properties in question were not owned by the Republic of China, because they were transferred to a nonprofit group, the Friends of Free China, in late December of 1978, and they were transferred for a nominal consideration. So the issue is joined. It is one that Congress cannot competently pass upon. The courts alone can really determine who owns the property in question. Thus my first objection to the Senator's amendment is that it does violence to international law, which we should generally uphold and respect. It would also get our new relationship with the Peking Government off to a bad start, for Congress will be attempting to declare one party the owner of real property when the title is in dispute and may be the subject of future litigation.

I think that there is a better way that this question can be handled. It was not the intention of the committee to declare the People's Republic of China the owner of this property. It was simply the intention of the people to respect our courts, to try to observe the principle that we are a government of law, and that the proper forum for determining title to real property is the courts.

So, on behalf of Mr. JAVITS and Mr. KENNEDY, I send to the desk a substitute amendment. This substitute amendment would eliminate any ambiguity concerning the purpose of the committee by stating that the property in question, its ownership and occupancy, are matters that should be determined in accordance with our laws by the courts. I send that substitute to the desk and ask that it be stated at this time.

The PRESIDING OFFICER. The Chair reminds the Senator that an amendment is not in order under the unanimous-consent agreement until the time on the first amendment has been yielded back or used.

Mr. CHURCH. I thank the Chair. I realize the time under the first amendment has not expired. I shall not call up my substitute amendment until the time has been yielded back on both sides. I am prepared, however, to yield back my time if the Senator from Oklahoma is prepared to do likewise.

Mr. BOREN. Mr. President, there were others who wished to be heard. I think before we go to the substitute, I should like to defer for just a moment until I have determined that before yielding time back.

Mr. CHURCH. Very well. I withhold the remainder of my time, Mr. President.

Mr. BOREN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. BOREN. Mr. President, I yield such time as desired to the Senator from Utah.

Mr. HATCH. I thank the distinguished Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Utah may proceed.

Mr. HATCH. Mr. President, I would like to be added as a cosponsor to the amendment of the distinguished Senator from Oklahoma. I compliment him for bringing this amendment to the floor and pointing out to the Nation as a whole that there may be an injustice here that should not exist.

All the amendment says is that:

> For all purposes, including actions in all courts in the United States, recognition of the People's Republic of China shall not affect the ownership of, or other rights, or interests in, properties, tangible and intangible, and other things of value, owned, acquired by, or held on or prior to December 31, 1978, or thereafter acquired or earned by the people on Taiwan.

There is nothing there that says we have to recognize anything, at least the way I read it; there is nothing there that affects anything other than:

> The ownership of, or other rights, or interests in, properties, tangible and intangible, and other things of value, owned, acquired by, or held on or prior to December 31, 1978.

I think it is a reasonable amendment. I certainly join in cosponsorship thereof because I believe that not only have we kicked our friends in the teeth in this matter when we did not have to and when we could have recognized the people on mainland China, but we have added indignity on indignity in rejecting some amendments that have been brought forth here on the floor of the U.S. Senate as though the only way we can have an inviolate bill is, of course, to take whatever the Senate Foreign Relations Committee sends to the floor.

That is not precisely the way the U.S. Senate was structured to work or is supposed to work. Our job is, as Senators, to do the very best we can, not only for our constituencies, but for all the people throughout the country and, of course, for our friends throughout the areas in this world.

One of the most long-term, valued friendships we have had has been with the people on the island of Taiwan. I would like, since we probably will have to recognize fully on the final vote here the recognition of mainland China, to at least recognize some of the common courtesies to the people on Taiwan, and also not to be so afraid of amendments such as this because they are not going to do any harm and they might do a great deal of good.

As a matter of fact, I suspect that, under the circumstances, almost any gesture of friendship we make at this point will do a great deal of good.

Many of us believe that had patience and restraint been exercised, we could have recognized both mainland China and Taiwan and not have abrogated the treaty obligations that we have had for so many years.

I suspect that is true, and I have had it on good authority from some of the top people in international affairs that that is the case and that we did not have to act in this particular way. Nevertheless, we have under this administration.

What the distinguished Senator from Oklahoma would like is that we not continue to rub salt in the wounds, but that we do recognize some of the basic rights of the people on Taiwan.

I certainly respect him in this endeavor and I compliment him for it.

If I read his amendment correctly, I do not believe that the proposed substitute which will be offered at the conclusion of time restraints will add one thing to it, but will diminish much from it. Nevertheless, that substitute will be added and we will have to see what happens on the floor of the Senate.

I do, for the purposes of standing up for the people on Taiwan, without causing problems with our newfound friends on mainland China, support the amendment of our distinguished colleague from Oklahoma.

I thank the Chair.

Mr. BOREN. Mr. President, I thank the Senator from Utah. I am proud to have him as a cosponsor of this amendment.

I wish to comment, Mr. President, on some remarks made earlier by the Senator from Idaho. He has talked in terms of legal precedents. He has talked in terms of the fact that it is not usual for the country that has no longer been recognized, the government that has no longer been recognized, to hold diplomatic property. But I would say there is nothing very usual in this whole situation. We are here dealing, really, with an unprecedented situation.

We are dealing with a situation in which, in fact, if not in theory, but in fact, the government in question continues to be the effective government over a geographical area known as Taiwan. It continues to be the effective government of 17 million people, 17 million free people, who participate in their own governmental affairs.

We are not here dealing with a situation in which one regime has physically replaced another. We are dealing with a situation which our own Government has recognized as unique.

It must be unique to continue in force 17 executive agreements and treaties with a nation which in theory we no longer recognize as a full governmental entity under international law.

So the precedents that might apply in the normal situation do not apply here. It is not the normal situation to set up a commission and to give the representatives of that commission diplomatic standing, but we did that in the case of the People's Republic of China before we recognized them.

It is not the usual situation to establish a new commission to continue to deal with the people on Taiwan, with the Republic of China, but we are doing it.

So time and again, our own Government, our own State Department, has recognized this situation as unique, and it is not sufficient, as the Senator from Idaho has done, to merely point to the precedents which might apply in a normal situation, far different from the one that we are dealing with.

I also must differ with the Senator respectfully when he says that this is merely a sentimental gesture.

I think what we are dealing with here goes far beyond the bounds of the sentimental. We are dealing with the attitude of this Nation toward one of its allies, toward a friend. We are dealing with the situation where all around this world those who have been our allies in the past are carefully watching this country to see how well it keeps its commitments.

I do not need to remind the Members of this body of the serious situation in the Middle East and the number of nations there who are now watching carefully the attitude of this country toward those with whom it has been allied.

The government on Taiwan, the Republic of China, never has done anything to deserve mistreatment by the Government of the United States. They have been our friend. They have assisted us militarily in Korea and elsewhere when called upon. They have been our friend in terms of trade and close economic relationship. They have been an example in Asia of the effectiveness of free enterprise and what a free economic system can do.

We are here setting precedent, not merely a matter of legal precedents of the past. We are here setting policy. How healthy it would be for us to state, as a matter of policy, that while we are going to move ahead with a relationship with 800 million people on the mainland, that does not mean that we have to turn our backs on the people of Taiwan, who have been our friends.

It is time for this body to send a message to those around the world who are watching us that we do not forget those who have stayed with us in all situations in the past.

Mr. President, at this time I yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, the question of propriety enters into my decision to say something on this subject, because I happen to be a member—I believe I am the president—of the Friends of Free China, who acquired title to this property before the first of the year. I did not intend to enter into this discussion because of the question of propriety, and I am not certain whether I will vote on it, because it might be considered a conflict of interest. Nevertheless, I think Congress should know what brought this thing on.

The President totally disregarded the wishes of Congress, which told him last September, with four dissenting votes out of the entire Congress, that he should consult with the Senate or Congress prior to any decision to abrogate—if that is the term one wants to use—or end the defense treaty with Taiwan. He did not do this.

I was visiting at Fort Huachuca, about 170 miles to the southeast of my home in Scottsdale, Ariz.; and I was contacted by the White House and told that the President would call me when I had flown back to central Arizona around 5 o'clock in the evening. Naturally, I was kind of interested, because the present White House does not make a habit of calling me about anything.

When I returned home, I was told by my wife that the Ambassador from Taiwan was in the State capital that day, at Phoenix, to address a group of fellow Chinese. Then I began to suspect something. He called me shortly thereafter and told me, before the Secretary of Defense called me, about the breaking off of relations with Taiwan.

If international law bears on this—although I am not a lawyer, I have a strong suspicion that it does—let us see how it might apply in this case. I call the attention of the Senator from Idaho to this matter, because I feel that, regardless of what we do with this amendment or his amendment, we do not obviate the fact that the courts can decide either issue we choose to try. If international law is correct, the recognized Government of Taiwan at that time owned the land we are talking about; and, as the Government of China, they had every right to do what they wanted with that land.

Taiwan disposed of this land by title to a group of us who have long been associated with the Friends of Free China. We went to the State Department, and Assistant Secretary Christopher told us that the Red Chinese were going to move into that land and claim it. We told him in no uncertain terms that, if they did, they would have a lawsuit on their hands; and I think one lawsuit for the United States at one time over one subject is probably enough.

We had hoped that nothing would happen; and I have to say, Mr. President, that nothing has happened. The Red Chinese have retained their headquarters in the hotel they bought on Connecticut Avenue, and they have made no effort at all to go into the Twin Oaks land or other properties formerly owned by the recognized Government of China, which at that time was Taiwan.

That is the background of this whole thing. If the State Department wants to push the Red Chinese into this property, there will be a lawsuit.

All the amendment of the Senator from Oklahoma does is to recognize the status that existed when Taiwan was the Government of China. We are not arguing about that now.

If the amendment of the Senator from Idaho is adopted, it will not change the situation one bit. We will go to court. I do not care how many amendments are put on it. We have title to it, properly executed, and I think the courts will rule in favor of the Friends of Free China.

I just wanted to explain that as the background. As I say, I do not know whether I will vote on this, because I feel that I do have a conflict of interest, being one of the owners, with no intention in the world of ever doing anything with this property but seeing it used for purposes for which the former Government of China wanted it used—mostly the Taiwan people.

I yield to the Senator from Kansas, if it is all right with the Senator from Oklahoma.

Mr. DOLE. Mr. President, how much time remains?

The PRESIDING OFFICER. Two seconds remain on the proponent's amendment.

The time has expired.

[Laughter.]

Mr. HELMS. Mr. President, I ask unanimous consent that 5 minutes of my time on another amendment be granted to the Senator from Kansas.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, 2 seconds might have been enough to make the point, but they slipped away quickly.

This amendment is designed to rectify an omission in the present legislation with respect to certain properties long owned by the Republic of China and of historic and symbolic interest to the people on Taiwan. Twin Oaks and the embassy property on Massachusetts Avenue are identified in the minds of all citizens of the Republic of China and many Americans as well, as the physical personification of the relationship and friendship between our two countries. This property belonged to the Republic of China during such times of travail as World War II, when the Americans fought side by side with the Chinese against a common foe.

There is no need for the gratuitous insult of taking away this living symbol from an entity and a people with whom we plan to maintain full cultural and economic relations, with whom we plan to maintain all necessary legal and business dealings short of full, diplomatic ties, and with whose security we still believe to be of grave concern to the United States. This property has never had any legal claim by the present government in Peking nor any predecessor regimes, regardless of our present recognition of its legal authority to rule on the mainland.

The House version of this bill properly refuses to do what the current version of S. 245 allows. To attempt to take away the "diplomatic real properties" would undercut the very faith which this bill is designed to retain in our dealings with Taiwan.

It seems to me, after listening to the debate and not having been privy to some of the discussions, that inasmuch as last September we adopted an amendment, by a vote of 94 to 40, which stated that Congress should be consulted before anything was done that might affect the future of Taiwan—in effect, that is what it said—this amendment makes a great deal of sense. I am happy to be a cosponsor of this amendment with the Senator from South Carolina, the Senator from North Carolina, and the Senator from Oklahoma.

We have heard all the discussion, the debate, and the testimony as to how we are going to maintain our friendship with Taiwan. It seems to this Senator that this property never has had any legal claim by the present government in Peking or any predecessor regimes, regardless of our present recognition of its legal authority to rule on the mainland.

The Senator from Kansas understands that the House version of this bill refuses to do what S. 245 does, and it seems to be that this amendment should be adopted without any so-called perfecting amendments by the Senator from Idaho or anyone else. It is clear; it is concise. It merely states the facts, and I hope it will have the support of the majority of my colleagues.

I appreciate the distinguished Senator from North Carolina yielding time on his amendment.

Mr. CHURCH. Mr. President, I think a few more words of clarification are needed.

All of us recognize the long period of friendship and alliance between the United States and the people of Taiwan. Indeed, this bill is addressed to that very issue, and undertakes to safeguard our continuing friendship and relations with the people of Taiwan. The bill was carefully worked out in the committee so that we not only could continue to maintain our commercial and cultural ties with the people on Taiwan, but also that we would give them a broad measure of reassurance with respect to their future security. That is what this bill is all about.

Now, suddenly, the question about Twin Oaks, the embassy property which was acquired by the Government of China back in 1945, has come up.

That property was acquired before the Government of China had to flee the mainland to Taiwan, before the mainland Government at Peking replaced the Chiang Kai-shek regime as the effective Government of China.

We have recognized the Peking government as the successor government to the Chiang Kai-shek regime. Under international law this property would normally pass to the successor government.

If the amendment offered by the Senator from Oklahoma were to be adopted, Congress, in effect, would be saying that our recognition of the Peking government may not be considered as affecting the ownership of this property. In other words, the adoption of this amendment would be our declaration that Congress disregards international law with respect to this property.

The Senator from Arizona is quite right when he says the issue of ownership has now been placed in doubt because prior to our recognition of the Peking government a conveyance was made to the Friends of China. The validity of that conveyance would be an issue in a court action. I have no reason personally to believe that it is not perfectly valid, yet I am not competent to judge that point, and neither are the other Members of the Senate.

It is not the proper function of Congress to determine title to real property. That is a function for the courts.

Mr. President, there are other reasons why we should hesitate to pass this amendment. Among them is the fact that the U.S. Government has a claim to 180 buildings on 51 tracts of real property in 9 cities in China. These properties were confiscated during and after the Communist takeover in 1949.

The recent trip by our Secretary of the Treasury, Mike Blumenthal, in which an agreement was struck with the Peking government relating to outstanding American claims against China dealt with private claims, not our own governmental claims. And as we all know, a rather favorable settlement was reached with the Peking government in connection with those private claims.

But I must emphasize that our own Government still retains claims against the Peking government for the recovery of very substantial amounts of real property and buildings located thereon in China, to wit, 180 buildings on 51 separate tracts of property.

The Chinese, in their turn, have certain claims for real property acquired by the Chinese Government in the United States prior to 1949. This property that is located in many places in the United States, and is not confined to Twin Oaks.

So it is altogether reasonable to assume that the two governments are going to get together and negotiate their claims and counterclaims, and square away this question between them. We will complicate that negotiating process unnecessarily. We could indeed prejudice our own claims with respect to property located in China, the recovery of which we now desire, if we pass this amendment.

I see no good reason in connection with a rational assessment of American interests to enact this amendment. It will complicate matters for us in connection with our own claims. In any case it may prove to be a futile act.

Mr. GOLDWATER. Mr. President, will the Senator yield for a question?

Mr. CHURCH. Yes; I am happy to yield.

Mr. GOLDWATER. We would not be involved in an argument with Peking. It would actually be an argument between the present owners of the land and the State Department and probably Peking, although Peking has shown so far no desire to take the step that would initiate the action. That is a serious question, the fact that the ownership now rests in a group called the Friends of Free China. I think that any government with residents in Washington has the right to sell its property. Will the Senator not agree with that?

Mr. CHURCH. Yes; I will agree.

Mr. GOLDWATER. Even understanding the duress under which they operated, we could take any government around this world that is having pressures on it at the present time and they might sell their property here to a group of Americans or a group of other people and then if any argument came up with the government that replaced that government—we might even take the Government of Iran as an example, although they still own their property, but we could substitute Iran for Taiwan and be in the same fix—the argument would then rest or bear between the owners of the title and in this case the State Department.

As I say, I have heard nothing from Peking about wanting to move into Twin Oaks. I will repeat the purpose of our having this land is not to acquire it for our own purposes, as God knows, but to make it available for the purposes that this bill speaks so laudably of, maintaining and encouraging the cultural, academic, et cetera, relations between Taiwan and the United States. And the intent of the Friends of Free China is to develop that land into such a place. I wanted to just make it clear, and I am sure it is clear in the Senator's mind, that this is not an action any more between two countries. It is an action between a group of American citizens and the State Department or the State Department and Peking.

I thank the Senator for yielding.

Mr. CHURCH. I have no way of knowing whether the Peking government will choose to sue in our country for recovery of the Twin Oaks property. But if that happens I am certain that the Peking government, as well as the Friends of China and quite possibly the State Department, would be joined in the suit.

My only point is that determination of title properly rests with the courts, and one of the issues no doubt would be the conditions that existed at the time the transfer of the property was made. But that is a question for the courts to decide, not for Congress.

Now, one other point, Mr. President, before we proceed. I am not at all certain, as I have said before, that it is within the authority of Congress to pass judgment on the title to real property. I doubt it very much.

If the desire is, as stated by the distinguished Senator from Oklahoma, to make certain that this property remains in the hands of the Taiwanese authorities, then Congress really ought to buy it. We know we can do that. We ought to buy it and turn it over to the Taiwanese.

As a matter of fact, I am told this was the residence of Alexander Bell, the inventor of the telephone. Maybe the best way to resolve this question is to reclaim it for the United States and make it a shrine for one of our most beloved inventors.

But to attempt to say by way of statute that it belongs to the Taiwanese or to some other group, instead of to the Peking Government, not only does violence to international law, it attempts to place Congress in the status of the courts, and could complicate our future negotiations with the People's Republic of China on many claims that we will be asserting for the recovery of real property in China which we will have need for in the years to come.

For all these reasons I think this amendment should be rejected.

Mr. BOREN. Mr. President, will the Senator yield for a question?

Mr. CHURCH. Yes; I am happy to yield.

Mr. BOREN. I wonder, as I understand the argument of the Senator from Idaho, his argument is that this property would pass to the People's Republic as the successor government, which has been recognized by the United States, to the Republic of China.

Mr. CHURCH. Except for the fact that a transfer of the property was attempted prior to our recognition of the Peking government, which raises a justiciable issue.

Mr. BOREN. Yes; I understand. But the basic argument, as I understand, is this is a successor government, and under international law it is the normal way to proceed.

If that is true, why then under section 104 and section 108 of the bill, under the commentary as contained in the committee report, do we not make the government of the People's Republic of China the successor in terms of all international agreements and treaties? We specifically provide that, in fact, we continue to have these agreements and treaties in force. I can think of no other situation in which that is true. We simply do not say that we retain the treaties and agreements with the Shah's government now that we recognize the new government in Iran, for example. If they are the successor government in terms of the property, is it not true that we are recognizing them as the successor government in terms of treaties and other agreements? However, we continue these treaties with Taiwan.

Mr. CHURCH. In answer to the Senator's question, when one government replaces another in any country the successor government may or may not choose to honor the previous treaties. Furthermore, the United States, for its part, may or may not choose to honor previous treaties with a successor government.

The purpose of the bill is to furnish us with the vehicle by which we make our choice. In this case we are choosing to continue to honor the agreements we entered into with what we formerly recognized as the Republic of China on Taiwan.

Mr. BOREN. Mr. President, will the Senator yield further?

Mr. CHURCH. I yield.

Mr. BOREN. Is this not though a rather unique situation in terms of international law, where rather than say to the successor government, "Do you want to continue agreements on further," we have firm agreements with the people on Taiwan? So I am asking is this not unique? If we opted for unique treatment in terms of the agreements, why can we not here opt for unique treatment in terms of keeping the property without, as the Senator said earlier, doing violence to international law? It does not say we are concerned with doing violence to international law in terms of the agreements. It seems to me it does not do violence. It merely confirms the friendship to continue the property in this case.

Mr. CHURCH. Well, I find it difficult to follow the Senator's argument. In the first place, he is dealing with two different relationships. One is a contractual relationship. As I said earlier, we can elect in a case of this kind either to confirm our previous contracts with the governing authorities on Taiwan, or we can abrogate them by virtue of our recognition of Peking for what it is in fact, namely, the Government of China. By this bill we choose to confirm our previous contractual arrangements with the people on Taiwan.

The question of ownership of real property located in the United States, it seems to me, is quite a different matter. I see that the distinguished Senator from New York is on his feet. He is a very able lawyer, and I want to defer to him—but let me simply reiterate that my principal objection to the Senator's amendment is that I think it does not serve the best interests of our country, inasmuch as we have some plans of our own that we want to negotiate with China. This is a question, it seems to me, that should be left to the courts rather than be determined by Congress.

Mr. JAVITS. Mr. President, so that the debate may not be interrupted, as I would like to discuss this matter for 5 or 10 minutes, I ask unanimous consent that the time may be deemed expired, as only we have the time, and that the substitute amendment may now be submitted and read by the clerk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. Does that substitute amendment carry a 1-hour time limit?

The PRESIDING OFFICER. The Senator is correct.

The clerk will report.

UP AMENDMENT NO. 35

(Purpose: To describe further certain diplomatic real properties in which the people on Taiwan have interests, and for other purposes)

The legislative clerk read as follows:

The Senator from Idaho (Mr. CHURCH), for himself, Mr. KENNEDY, and Mr. JAVITS, proposes an unprinted amendment numbered 35 as a substitute for amendment No. 80 by Mr. BOREN.

In lieu of the language proposed to be inserted by the proposed amendment insert the following:

"SEC. . (a) For all purposes, including actions in all courts in the United States, recognition of the People's Republic of China shall not affect the ownership of, or other rights or interests in, properties, tangible and intangible, and other things of value, owned or held on December 31, 1978 or thereafter acquired or earned by the people on Taiwan, except, however, diplomatic real properties situated in the United States which were acquired prior to October 1, 1949: *Provided, however,* That this act shall not be deemed to affect the right of any domestic or foreign entity or government to ownership or occupancy of diplomatic real properties situated in the U.S. which were acquired prior to October 1, 1949, or the jurisdiction of the courts in the U.S. to adjudicate disputes relating thereto."

Mr. JAVITS addressed the Chair.

Mr. HELMS. Mr. President, will the Senator yield for a question?

Mr. JAVITS. Will the Chair let me know when I have used 5 minutes?

The PRESIDING OFFICER. The Chair will so advise the Senator.

Mr. HELMS. Mr. President, will the Senator yield for a question?

Mr. JAVITS. I have not started yet, but I will yield.

Mr. HELMS. Knowing the Senator from New York as I do, and being aware that he and the distinguished chairman are on the same side as concerns the amendment, I felt secure in assuring some of the opponents of the Church substitute that the Senator from New York would yield time for opposition to the substitute.

Mr. JAVITS. I certainly would. We do not have to because the opposition is entitled to a half-hour, and if Senator BOREN would like to have the opposition, I am sure we will ask unanimous consent to yield a half-hour to him.

Mr. HELMS. Does the Senator agree that the time in opposition, then, be yielded to Senator BOREN?

Mr. JAVITS. Yes.

Mr. HELMS. That answers the question. The distinguished Senator is, as always, most gracious.

Mr. JAVITS. Mr. President, I would like first to answer the Senator's question, because I think that gets us right on track. I am speaking for myself, both as a lawyer and a Senator.

This bill is a unilateral declaration by the United States, and the Institute of Taiwan in the United States may choose to reject the U.S. offer to give it the benefit of all the treaties which we had with the Republic of China when they were recognized as the Republic of China. It may reject it. That offer is unilateral. We have no contract.

If the Institute accepts it, then there is a contract. So we have a perfect right to incorporate it by reference in this bill. Without the bill, they have got nothing except an offer, which they could write us a letter and say they accept. But we chose to offer it in this bill, and that is all we are doing, in my opinion. There is no privity of contract, and therefore the argument that this should carry over to the real property does not apply, because we do not own the real property.

We have a right to make them an offer about treaties, if you want to call them treaties, but we have no right to make an offer of real property we do not own.

The second point is this: I must say that I understand and sympathize with the proponents of the original amendment. The Taiwanese are our friends, and they have performed magnificently in 30 years. They have developed the second highest standard of living in Asia. That is quite a feat for a people who did not start with the industrial techniques and knowledge of the Japanese, who have the first standard of living. They have a good, tough military force, and they believe in free institutions, even though they do not get to promote them as yet, because of the way in which that government was created and the discipline it engendered because of the dreams of Chiang Kai-shek that he could one day take the mainland.

So there is no quarrel about it. There is no doubt that they are our friends, and we want to do everything in the world we can for them.

But we have made a national decision, and let us not be kidded about it. That national decision is that notwithstanding the great things they have done for us, and notwithstanding the fact that for decades the Communist government on the mainland preached hatred of the United States of America, and that they shot our boys down in Korea, and that they undoubtedly were the backbone of a great deal of what hurt our people in terms of 50,000 dead in Vietnam, the fact is that we believe that in our national interest we now have to try to normalize relations with them by recognizing them diplomatically.

Once we make that decision, lots of things flow from it. There is no avoiding it. The Twin Oaks property is one of those things. All the proponents of the amendment are doing is looking back with regret. Well, they have an absolute right to vote against this, and to do everything they can to try to torpedo the recognition of the People's Republic of China, including this amendment, but that is all they are doing, because the fact is that it is international usage of a very established character that where, as in the United Nations, where the People's Republic steps into the seat of the Republic of China, and while Chiang Kai-shek was alive we did not do anything about it——

The PRESIDING OFFICER (Mr. JOHNSTON). The Senator's 5 minutes have expired.

Mr. JAVITS. May I have another 3 minutes?

Mr. CHURCH. I yield the Senator 3 additional minutes.

Mr. JAVITS. This was an entity which we no longer recognize, but the title was in that entity only because it was the government we did recognize. I do not know how the original title acquired in 1945 is inscribed, but probably it is inscribed in such a way that they can take, the Republic of China, and transfer from the group which is called the Friends of China. But no matter what is said here, under the Constitution of the United States, in a case we have had very recently involving India, that could easily be contested in the courts, and it may be unconstitutional to strip whatever entity owns the property of the title.

So whatever we do by passing this amendment is simply substituting a suit by the State Department, with all the exacerbation that would involve, we are substituting a suit between our Government and the Friends of China for a suit between those who represent Taiwan here, the Friends of China, and the People's Republic of China. In my judgment, we are infinitely better off leaving that litigation between the two parties in interest, and the situation will then be, if it is true—and of course it may not be true—that the People's Republic of China has the right to possession of this real property, title to which was acquired before October 1949, then has there been a valid transfer? And there are various doctrines in law and equity which relate to the validity of that transfer. You know, for example, is it made in the middle of the night, as one case says, to enable a dictator to cash in the property and run away with the money? The courts have held that invalid. That is not quite this situation, but it is a matter of a state of facts which the courts will decide.

The real analogy Senator BOREN could have made is, if it is true that this has to be decided in the courts, why is not the same thing true about the billions of dollars deposited in American banks, which stand to the credit of the Republic of China?

The reason that is not true is that we have a legitimate right to posit our legislation on the fact that after 30 years, that is——

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. JAVITS. May I have just 1 more minute? I yield myself 1 minute.

We have the right to posit our legislation on the fact that after 30 years, that kind of property is not likely to be the property of other than the entity which is the Republic of China that we have described, and that therefore it is property that belongs to it, because it was not property acquired before 1949, when this split and revolution took place.

I believe there is a chance, a fair chance, that having certified this title in the legislation respecting property which, at the best, can hardly be identified as pre- or post-1949, it will stand up. But as to this property which is real property, title to which was acquired in 1945, it seems to me there is no question as to the normal application of the rule of law.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. JAVITS. I yield myself 1 more minute. As to the normal application of the rule of law, which would be that the successor government takes the property unless there is some reason to the contrary, in this case the disposition of the title.

So for all those reasons, I think all we are doing is seeking trouble if we try to decide this question here and now in the way the original amendment proposes. The way Senator CHURCH and I have proposed is a way in which we do not prejudice the rights of our friends, just as we are protecting them in the way of security and in many other ways, just so that we do not make fools of ourselves under the law.

So I hope Senators will support Senator CHURCH and me in our proposal.

Mr. McCLURE. Mr. President, will the Senator yield for a question?

Mr. JAVITS. We have half an hour. I will gladly attempt to answer the question.

Mr. McCLURE. Will the Senator from Oklahoma yield me about 3 minutes to propound a question to the Senator from New York?

Mr. BOREN. I yield to the Senator.

Mr. McCLURE. I thank the Senator for yielding, because both the Senator from Idaho, the chairman of the committee, and the Senator from New York have indicated that it is the desire not to settle the title issue in this legislation, to leave that to the court. Yet I read the amendment proposed by the two Senators, with other cosponsors, as settling the title issue. If the Senator will look the second page of the amendment under what is section A, it says: "For all purposes, including actions in all courts in the United States, recognition of the People's Republic of China shall not affect the ownership," and then there is some other language, and the last two lines on what will be shown on that sheet as lines 11 and 12 are, "except, however, diplomatic real properties situated in the United States which were acquired prior to October 1, 1949."

It seems to me a necessary reading of that language has to be that if it is diplomatic real property acquired prior to October 1, 1949, recognition of the People's Republic of China shall affect the ownership. It may not be the intention of the authors of the amendment, but it appears to me, Mr. President, that that is the necessary construction of the language which has been employed.

Mr. JAVITS. May I reply? I will yield myself a minute to reply.

Mr. McCLURE. Mr. President, allow me to yield back to the proponents of the measure whatever time I have remaining.

Mr. JAVITS. The answer is that that is academic now because we are, ourselves, submitting an amendment which reads differently and does preserve the judicial rights.

Mr. McCLURE. Will the Senator yield? I am reading from the amendment which the Senator has offered.

Mr. JAVITS. No, the Senator is not. The Senator is reading from the original statute. The amendment we offered says:

> *Provided, however,* That this act shall not be deemed to affect the right of any foreign—

And so forth.

Mr. McCLURE. I am reading from the Senator's amendment lines 11 and 12, the last two lines on that amendment.

The PRESIDING OFFICER. Who is yielding time?

Mr. JAVITS. I yield myself 1 minute, Mr. President, from the proponents' time.

The whole clause taken together, it seems to me, makes it very clear that there will be no prejudice to any litigation. We will read it again. Certainly, what the Senator describes as our intention is obviously not our intention.

Mr. McCLURE. Will the Senator from Oklahoma yield 1 additional minute?

Mr. BOREN. I yield.

Mr. McCLURE. I thank the Senator from Oklahoma for yielding and I thank the Senator from New York for his response, but I assure the Senator I am reading from the amendment at the desk. That amendment, in its last two lines, with lines 5 and 6, says, in effect:

> For all purposes, including actions in all courts of the United States, recognition of the People's Republic of China shall not affect diplomatic real properties situated in the United States which were acquired prior to October 1, 1949.

That may not be the intention of the authors of the amendment, but that is its necessary effect and can be construed in no other manner.

Mr. JAVITS. Mr. President, I yield myself another minute.

That is not the language we submitted. The desk may have made some correction and I will have to get at that. But here it is, right here.

Mr. McCLURE. It is identical.

Mr. JAVITS. I am sorry, but this is the desk's version. We will look at it. What is the use of arguing about it? There is still time to change it.

Mr. McCLURE. You take this copy and I will take that one.

The PRESIDING OFFICER. Who yields time?

Mr. GOLDWATER. Will the Senator from Oklahoma yield me a moment for a question of the Senator from New York?

Mr. BOREN. I yield.

Mr. GOLDWATER. I would like to ask the Senator from New York——

The PRESIDING OFFICER. Does the Senator from Oklahoma yield?

Mr. BOREN. I yield to the Senator from Arizona.

Mr. GOLDWATER. I would like to ask the Senator from New York the question that I asked the Senator from Idaho. Even though the land we are talking about was acquired in 1945, prior to the establishment and recognition of the only government of China, mainly on the Island of Taiwan, and the people of Taiwan having taken over the government of Taiwan, therefore, they took over, if international law applies and I have to assume it does, they took over the property we are talking about, as a government, is it not true that that government has the right to dispose of that property at any time they want to?

Mr. JAVITS. They have the right to dispose of property in accordance with law because, and I made it clear, I say to Senator GOLDWATER, the law also provides for fraudulent transfer and other legal defenses against the transfer. That is why I feel we ought to leave it to the courts.

Mr. GOLDWATER. If it were fraudulent, I would agree 100 percent.

Mr. JAVITS. But that does not rely on the Senator from Arizona.

Mr. GOLDWATER. I know that.

Mr. JAVITS. The fact is that the Friends of China have received in the greatest good faith the deed of transfer and the courts may hold that the ones who made the transfer had no business to make it. I do not know that. But there is law which supports that kind of arguable claim. I do not know that it will stand up. I really do not know.

Mr. GOLDWATER. I admitted that the transfer was probably made under duress. But I also got the assurance from the Senator from Idaho that a government has the right, I think any government has the right, to dispose of the property of that government at any time they care to. As the Senator says, being a lawyer—and I am probably blessed because I am not—there may be some question. I would think that that should be left to the court. But I have to agree that on the language of both the Senator from Idaho and the Senator from New York I do not see how it changes the original intent of the Senator from Oklahoma. In fact, it does the very thing that the Senator from Idaho is accusing the amendment of the Senator from Oklahoma as doing, legislating something that should be decided by the courts.

Mr. JAVITS. Mr. President, if I may yield myself 2 minutes of our time, let us get it perfectly straight. This amendment now, as we sent it to the desk—and I will ask Senator CHURCH to modify it—reads as follows:

> For all purposes, including actions in all courts in the United States, recognition of the People's Republic of China shall not affect the ownership of, or other rights or interests in, properties, tangible and intangible, and other things of value, owned or held on December 31, 1978, or thereafter acquired or earned by the people on Taiwan, provided, however, that this act shall not be deemed to affect the right of any domestic or foreign entity or government to ownership or occupancy of diplomatic real properties situated in the United States which were acquired prior to October 1, 1949, or the jurisdiction of the courts in the U.S. to adjudicate disputes relating thereto.

That is the way it reads and we will see that it does read that way. Whatever the desk may have done with it, I am not bound by it.

Mr. McCLURE. Will the Senator from New York yield for a clarification?

Mr. JAVITS. Yes.

Mr. McCLURE. As I understand it now, as read by the Senator from New York, that would, in essence, strike the two lines that I made reference to earlier and substitute in lieu of them the language which appears prior to it on the page the way it is now at the desk?

Mr. JAVITS. Exactly. I am grateful to the Senator. I never realized this was the way they had it at the desk.

Mr. McCLURE. I thank the Senator.

Mr. HATCH. Will the Senator from Oklahoma yield for a few minutes?

Mr. BOREN. I yield.

Mr. HATCH. Mr. President, I am concerned about the clause in this section of the bill, that the distinguished Senator from New York just struck from the amendment, which appears to me to be aimed directly at the properties of the Republic of China here in Washington and at Twin Oaks. As I am sure my colleagues are aware, both of these properties were transferred to Friends of Free China, Inc., a nonprofit organization, on December 22, 1978. This action occurred prior to the effective date of U.S. recognition of the People's Republic of China on January 1, 1979. This transaction took place in accordance with the law of the District of Columbia.

According to international law, a legal government has the right and the power to buy or sell its property as it sees fit and such decision is not subject to the review of other states. As I have stated previously, this transaction took place on the 22d of December, at which time the Republic of China was the recognized government of China. The question that I must ask pertains to the this subject. What right or what principal of international law, or domestic law for that matter, gives the State Department the authority to question this transfer of property within the United States?

Recognition of a foreign government will not invalidate the acts done in the United States by a previously recognized government. This point is emphasized in the case of *Guaranty Trust Co.* v. *United States,* 304 U.S. 126 (1938), at which time the U.S. Supreme Court said:

> The one (i.e., recognition) operates only to validate to a limited extent acts of a de facto government which by virtue of the recognition, has become a government de jure. But it does not follow that recognition renders of no effect transactions here with a prior government. . . . If those transactions, valid when entered into, were to be disregarded after the later recognition of a successor government, recognition would be but an idle ceremony, yielding none of the advantages of established diplomatic relations in enabling business transactions to proceed, and affording no protection to our own nationals in carrying them on. So far as we are advised no court has sanctioned such a doctrine.

This is the same practice in other countries as well. In the case of *Civil Air Transport, Inc.* v. *Central Air Transport Corp.,* (1953) A.C. 70, the British court took a position similar to the U.S. court's position that I have stated before. That case dealt with airplanes flown by the Republic of China Government employees in October 1949, to Hong Kong, and sold by the ROC Government on December 12, 1949, to two Americans, who sold them to plaintiff. The British Government recognized the ROC Government at the time in question but, from January 5–6, 1950, recognized the PRC as the Government of China. Defendant PRC Government agency claimed that recognition by the British should be given retroactive effect and invalidate the purported sale of the plane by the ROC Government. In dismissing the case and the PRC's claim to the airplane, Viscount Simon said for the court, the Judicial Committee of the Privy Council, which is the supreme judicial review organ for colonial litigations:

> A government's policy in buying or selling chattels which it owns is not subject to the review of foreign tribunals, and whether its action in this regard is against the interests of those it is supposed to serve is a political quetion. British courts cannot take it on themselves to pronounce whether a foreign government, recognized by H. M. government, is acting contrary to the interests by its people, and a government is certainly not a trustee in these matters in any legal sense."

In yet another case decided by a British court, *Boguslawski* v. *Gdynia-Ameryca Linie* (1950), 1 K.B. 157, affirmed, (1952) 2 All E.R. 470, it was held that a union contract between the petitioners and the Ministry of Industries and Commerce of the Polish Government-in-exile, in its capacity as the supreme manager of shipping by the Polish law of 1939, concluded in London on July 3, 1945—that is, 3 days before British derecognition of that government—was valid and enforceable before a British court.

Bringing the current situation more into perspective, I cite the example of the Canadian Government. The Republic of China sold its Embassy property in Ottawa, Canada, before the Canadian recognition of the PRC and that transfer was considered as valid. The Canadian Foreign Ministry did not support the PRC's claim, if any, to that property.

Therefore, Mr. President, as I have stated, there is no legal basis for the Department of State to support the PRC's claim to the former ROC diplomatic estate.

For this reason, I think that the better of the two amendments is the amendment of the distinguished Senator from Oklahoma. The property that we are speaking of here is valued at a few million dollars. When I read of the large amounts of dollars that may well be involved in the trade between the United States and the PRC, I think this is rather insignificant.

What I am suggesting is that, at least in the opinion of a number of us, the amendments of the distinguished Senator from Oklahoma is the superior amendment and does recognize our friends on Taiwan to a greater degree, I think, without doing violence to international law that exists today and as have been defined by this country, England, Canada, and other international courts and tribunals, we ought to support the amendment of the distinguished Senator from Oklahoma and vote down the amendment of the distinguished Senator from Idaho.

By voting down the amendment of the distinguished Senator from Idaho—which, it seems to me, throws this thing into limbo and does not protect our friends on Taiwan and shows that we really are somewhat callous with regard to our feelings for the people on Taiwan here on the floor of the Senate—I think we will then have the opportunity to vote for the amendment of the distinguished Senator from Oklahoma. That, in my opinion, would be a greater thing to do and would create better feelings between this Nation and the people on Taiwan without doing violence to our new friends on mainland China. I hope everybody will vote down the Church amendment and vote for the amendment of the distinguished Senator from Oklahoma (Mr. BOREN).

Mr. JAVITS. Mr. President, I yield myself 3 minutes from the time of the proponents.

Mr. President, it seems to me that the Senator from Utah has just made the most eloquent argument for Senator CHURCH's amendment and mine. Certainly, this is a hotly converted legal question in the United States, Great Britain, and Canada. I shall furnish for the RECORD a whole list of cases, including the very case cited, Guaranty Trust against the United States, which indicates that there can be defenses in such cases.

That is all we are saying. If the Senator wishes to substitute the Senate of the United States for the courts of the United States, I do not know that we have any such power; I do not believe we do in a constitutional question, the ownership of property, which is clearly subject to this branch of the law. All we are seeking to do is, without in any way prejudicing the rights of any of the parties to the dispute, not to get the State Department to be the litigating party. That is the whole essence of this argument that we just heard, that the State Department is maintaining, the State Department is demanding, the State Department is contending. It does nothing of the kind. Under our amendment, the parties who are in interest, the holders of the title and those who wish them to hold that title and anyone who challenges that title, will be in court. That will not be the United States and it will not be the State Department. That is all we are seeking to provide for.

I respectfully submit that this is the most eloquent argument for the substitute amendment which we have submitted and that, if Members believe that way, they should decidedly vote for this amendment which we have submitted as a substitute.

Mr. BOREN. Mr. President, how much time remains to opponents?

The PRESIDING OFFICER. The opponents have 14 minutes, the proponents have 17 minutes.

Mr. BOREN. Mr. President, I yield myself 5 minutes.

In reply to the arguments that have just been made by the Senator from New York, I have to say with all honesty that I think the Senator from Utah earlier established a very strong case that the legal precedents are with those of us who are opposing the substitute. The transfer, when it was made, was perfectly legal under the laws of the United States and under every legal precedent in terms of the right to convey property within the boundaries of the United States. If we are talking about doing violence to the law, it would do violence to the law to set aside this transaction.

I also point out that if we are talking here about Congress and the Senate injecting itself into the question of conveying or conferring title to property, the bill as passed by the Senate Committee on Foreign Relations does that itself by confirming to the people of Taiwan the other properties, other than diplomatic properties, all of the rest of them, as being their property. It makes no exception as to whether or not these other properties were acquired prior to or after 1949.

The Senator from New York has made it a point to say that since this property was acquired prior to 1949, this diplomatic property, in the language of the bill and the amendment, that we should leave it up to the courts to decide who should own it. Yet the committee itself has conferred the other properties of the people of Taiwan which were acquired prior to 1949. No exception is made as to whether or not these properties were acquired prior to 1949.

In addition, as we have already seen under international law, it may be usual for one government to succeed to another; yet we are very clearly, intentionally treating this usual situation in an unusual way, a unique way, because it is a unique situation.

We are here dealing with a government which retains de facto, if not de jure, power to govern 17 million people located on Taiwan, and rather than to ask the People's Republic of China whether or not they want to succeed to our agreements entered into with the Republic of China, we have chosen through use of the institute to continue our past international agreements and treaties with the Republic of China, with the people on Taiwan, through the utilization of the institute.

So I would submit that the Senator from New York, quoting the other actions taken by the committee and the suggestions made to this body by the committee, has himself made it clear that it is a matter of choice when we choose to confirm certain kinds of property to the people of Taiwan, and when we choose to confirm certain kinds of international agreements, we do it, without regard to the usual situation as it affects international law or the domestic law of this country.

According to domestic law, it is right and proper for this Senate to confirm the property and the previous conveyance by the people of Taiwan—I speak of the diplomatic property.

More important, in terms of what is right and fair and just, in the broader sense, it is right and proper just to take this action as a small gesture to a longtime friend and trusted ally. In terms of what is right and in the best interests of the future relationship of the United States with other allies around this world, I submit it is in our national interest that we take this step and any other step that we can take to demonstrate that we do not turn our backs on those who have been our friends, that we do not totally abrogate previous commitments entered into.

I submit that the prestige of this Nation is plunging all around the world, and plunging in countries of strategic importance to this country, including some nations in the Middle East which have a vital role in the maintenance of our energy supplies. Our prestige is plunging because people are asking, Is the United States of America the kind of Nation that turns its back on its friends, that does not keep its commitments, that runs for cover when trouble arises, that will forget about past friendship when a short-term economic advantage, perhaps, is seen, by changing relationships with the previous allies?

That is why our prestige is plunging. That is why people cease to rely upon the United States and its protective umbrella.

I submit for all of these reasons we should reject the substitute amendment, that we should then pass the original amendment and put the Senate on record in favor of making this important gesture to a free people on Taiwan.

Mr. President, at this time I yield 2 minutes to the Senator from North Carolina.

Mr. MORGAN. Mr. President, I believe that the Senator from Oklahoma has eloquently made a case for his amendment. But just for emphasis, let me say again, as he did, that the bill itself, the present section, is exactly as the amendment that is offered by the Senator from Oklahoma with the exception of deleting the last sentence, and that section says:

> For all purposes, including actions in all courts in the United States, recognition of the People's Republic of China shall not affect the ownership of, or other rights, or interests in, properties, tangible, and intangible, and other things of value, owned, acquired by, or held on or prior to December 31, 1978, or thereafter acquired or earned by the people on Taiwan.

Then: "except, however, diplomatic real properties situated in the United States which were acquired prior to October 1, 1949."

The amendment would simply make the provisions of 111(a) applicable to all of the property.

Therefore, Mr. President, I believe that an up or down vote on the amendment of the Senator from Oklahoma would be appropriate. I, therefore, state that at the expiration of all the time, I will move to table the amendment of the Senator from Idaho.

Mr. GOLDWATER. Will the Senator yield me 1 minute to make a point that keeps coming up?

Mr. BOREN. I am happy to yield to the Senator.

Mr. GOLDWATER. Mr. President, we keep hearing reference to December 31, 1978. I would remind my colleagues, the transaction we are speaking of which moved that real property from the Republic of China to private hands occurred before that.

So we are mistaken if we believe our transaction took place after the People's Republic of China had been recognized by our President as the one China.

The property is owned by a nongovernmental agency, and that is what we are talking about.

The PRESIDING OFFICER. Who yields time?

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. How much time is left on each side?

The PRESIDING OFFICER. The proponents have 14 minutes. The opponents have 9 minutes.

Mr. GOLDWATER. Who would be the proponents on this issue?

The PRESIDING OFFICER. The proponents of the amendment in the second degree, the Senator from Ohio (Mr. GLENN).

Mr. GLENN. Proponents are those who propose the modification to Senator BOREN's amendment.

Mr. GOLDWATER. I thank the Chair.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I yield myself such time as may be required.

TWIN OAKS AND OTHER DIPLOMATIC PROPERTY

Mr. President, it would be a mistake for Congress to legislate the ownership of Twin Oaks and the chancery.

Normally, under international law, diplomatic real property is the property of the State; the recognized representatives of the State are entitled to exercise the incidents of ownership. If Twin Oaks and the chancery were today owned in the name of the Republic of China international law would require that they be given to the People's Republic of China.

In this case, however, there is a special issue. The properties are not owned in the name of the Republic of China because they were transferred to a nonprofit group, the Friends of Free China, on December 22, 1978, for $10, as Senator GOLDWATER has said, under duress. These properties were transferred after the President's announcement of December 15, 1978, and before recognition became effective on January 1, 1979. The Department of State says that these properties should belong to the People's Republic of China, but there is a unique and unprecedented legal issue here that is for the courts to decide: namely, Was the transfer to the Friends of Free China during the 2-week notice period in December a valid transfer or can it be set aside? That is not an issue for us to resolve by legislation. It is an issue for the courts to decide.

An amendment preventing the People's Republic of China from contesting its rights to Twin Oaks and the chancery could put us in violation of our international obligations, and it would certainly be a sour note on which to begin normalization.

The other property that we are dealing with—bank accounts, foreign exchange deposits, and the like—is very different.

First, it is the product of the economic activity of the people on Taiwan over the last 30 years; it would be unthinkable to take that property away and give it to the People's Republic of China.

Second, the bank deposits do not have the symbolic importance that an embassy has as the embodiment of a state in a foreign country.

The People's Republic of China has agreed that we can maintain commercial relations with the people on Taiwan. Since normal banking relations are essential to the conduct of commercial relations, it makes sense to distinguish the banking assets from the diplomatic property.

Accordingly, I cannot support any amendment which would deny the People's Republic of China a fair chance to litigate whether the transfer of the diplomatic properties to the Friends of Free China was valid. Therefore, I intend to support the amendment acknowledging the court's right to decide.

Mr. President, I yield 5 minutes to the Senator from Massachusetts.

Mr. KENNEDY. I thank the Senator from Ohio for yielding.

Mr. President, I am pleased to cosponsor the amendment proposed by Senator Church. It makes clear that this issue should be left to the courts, where it belongs. It reduces the risk of political misunderstanding. It deserves the support of this body.

This amendment provides that the ownership of Chinese diplomatic real properties, "or other rights or interests therein, may be determined by the courts." Unlike the amendment of the Senator from Oklahoma (Mr. Boren), it does not prejudge an issue that is properly left to the courts.

It does not run the risk of undermining the important relations that our Nation is developing with the People's Republic of China.

Mr. President, Congress cannot and should not abdicate its responsibility to resolve issues of public policy. But this is not such an issue: It does not involve a determination of public policy, but the settlement of a dispute—a dispute, moreover, which centers upon unsettled questions of fact and complex questions of law.

These questions, I submit, are of precisely the type that courts were intended to decide.

A few facts are clear. We know that the properties in question were purchased by the Chinese state in the 1940's—before the People's Republic came to power—and we know that they were transferred to the "Friends of Free China" after President Carter announced that the United States would recognize the People's Republic, before the United States actually did so—and for virtually no consideration.

What we do not know, however, is whether that transfer is valid. What is the organization called "the Friends of Free China"?

What was its relationship to the ROC Government? Was this really an arm's-length transaction made in good faith? Do principles of state succession apply—would not the People's Republic have succeeded to this property had it not been sold? Did the representatives of the ROC Government who conveyed it have a duty to the Chinese state to use or dispose of properties consistent with the interests of that state? If so, does that duty apply to a successor state? Was that duty breached? If it was breached, were the "Friends of Free China" on notice that the ROC sellers lacked the capacity to sell these properties? Is $10 adequate consideration for a property valued at well over a million dollars?

Were the "Friends of Free China" bona fide purchasers? How does the law of the District of Columbia affect these transactions?

Mr. President, if the Senate is to address this issue responsibly, these are some of the question—and there are many others—that require answers. Who in this Chamber is prepared to provide these answers? I am not. The Senator from Oklahoma and his cosponsors have not. The Foreign Relations Committee did not—it expressly avoided the whole issue in this bill. And it did so for good reason: Under our constitutional system, it is most emphatically the province of the judiciary to resolve disputes over the ownership of property.

That is one of the principal reasons we have courts. There are certain kinds of questions that the judicial branch, institutionally, is far better suited to answer than the legislative branch. And the reason that the courts are charged with answering those questions goes to the heart of our system. The theory is that property disputes should be settled not through a test of political influence, but through the application of legal logic—that a party should prevail, not because he is better able to muster powerful political support, but because he is better able to present powerful legal arguments—and that those arguments are best weighed and compared, not by a partisan politician, but by an impartial judge whose decision will depend upon the way similar disputes were decided previously. It is this time-honored principle of decision based upon precedent—stare decisis—that makes ours a government of laws, rather than men. If we as a legislature decide arbitrarily, because of the political influence of one of the parties, to take this dispute from the courts and to decide it ourselves, we abandon that principle and we replace the force of law with the force of lobbies.

Why should any Senator be afraid to allow the courts to decide the issue on its merits? I submit, Mr. President, that it is not fear that the issue will be decided unfairly.

And I submit that it is not fear that the people on Taiwan or the "Friends of Free China," will be discriminated against. It must be a fear that, under the law, the force of their case is not strong enough to allow them to prevail under the same legal precedents that apply to all other litigants before our courts. I do not believe that this is a proper reason for depriving the courts of their traditional role.

It is true, Mr. President, that certain questions of first impression are presented by this issue. It is also true that the bill does address the ownership of other kinds of property. But the novelty of a question, in and of itself, has never been viewed as grounds for disqualifying the courts—indeed, the courts are there to resolve the novel and the unique dispute.

This leads me to the other reason, Mr. President for urging the adoption of our substitute amendment. It is that a political move to withhold diplomatic real property would represent an insult to the Peking Government. It would complicate our efforts to reclaim United States real properties in China. I know that there are those who argue that we should not be swayed, in this body, by the reactions of foreign governments, and that may at times be true. But it is fair to ask how this Nation would react if we were in the Chinese position. How would those of us here in this Chamber feel if a foreign legislature voted to take our embassy—the highest symbol of our country—and give it to some other entity? We may not all view the current dispute in those terms, but it is certain that the Chinese do, and it is equally certain that the adoption of the Boren amendment would not add to, and could subtract from, the friendship and understanding that is just beginning to take root between our two countries.

Mr. President, I believe that this issue should be left to the courts. The Senate should not prejudice this issue. The Senate should not diminish our important new relationship with the People's Republic of China.

I believe that the Senate is willing to act as a responsible partner in shaping a policy of friendship between the United States and China, and I hope that our substitute amendment will be adopted.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, I am prepared to conclude the debate. I just want to make one final plea.

I know the appeal that this amendment has, but it could get us into a good deal of mischief.

Suppose, for example, we adopted the amendment as offered by the distinguished Senator from Oklahoma. We would thus attempt, by legislative decree, to determine the ownership of this property. This would be a most unusual procedure and one that may indeed be unique. It is also a procedure for which we lack competence and, quite possibly, authority.

Then suppose the court comes along, even after the adoption of the amendment, and decides that under the governing law, which it is not within the power of Congress to set aside, the title for this particular property belongs to the People's Republic of China.

Then what are we obliged to do? Is it then incumbent upon us to compensate Taiwan for the deprivation of the property that we attempted by this amendment to place in their hands? I think it is unwise for Congress to attempt to usurp the function of the courts.

Moreover, if this amendment is adopted it could create serious difficulties for us in our upcoming negotiations with the People's Republic of China in our own endeavor to recover more than 51 tracts of real estate in China—and an even larger number of buildings—that we wish to possess for purposes of carrying on our own business with China, now that relations have been normalized with Peking.

For these several reasons, I think the substitute amendment should be approved. It would place the question of ownership of this particular property, which now is a litigable issue, where it belongs—in the courts of this country—and would thus uphold the rule of law.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. BOREN. I yield to the Senator from North Carolina.

Mr. HELMS. I thank the Senator from Oklahoma.

Mr. President, I find myself intrigued by such tender solicitude for Red China. All the concern that we are going to preempt the courts of the United States simply will not hold water.

I think the amendment of the Senator from Oklahoma, for which the distinguished Senator from Idaho has offered a substitute amendment, is an expression by the Senate to our friends on Taiwan that "There are some of us who are not willing to sell you down the river." It is an expression that we want to extend at least some equity to the people on Taiwan.

With all due respect to my friend from Idaho, his amendment in the nature of a substitute is a gutting amendment to place us back on square one.

So, if Senators want to send a message of friendship and respect to the people on Taiwan, they will vote to table the Church amendment. But if they want to say, "We are going to continue to give everything to Red China" then they will vote for the Church amendment.

But in any case, Mr. President, this Senate is not going to resolve this matter satisfactorily because it is impossible to resolve it satisfactorily.

Simply said, the President sent a scrambled egg up to the Senate and said, "Unscramble it." It cannot be done.

I think that the unscrambling may occur with a new President, perhaps one who will take office in January 1981, who would then renew diplomatic relations with Taiwan again. But that remains to be seen.

In the meantime the amendment of the distinguished Senator from Oklahoma, unfettered by the proposed substitute amendment, is, in my judgment, a course of honor for this Senate to take and a manner of extending to our friends on Taiwan a little hope and a little comfort.

I commend the Senator from Oklahoma and I hope that the Church amendment will be defeated.

I thank the Senator.

Mr. BOREN. Mr. President, I yield myself sufficient time to complete the debate.

I thank the Senator from North Caroline for his remarks.

I think we have tried to make unduly complicated today a matter that is very, very simple and very, very straightforward.

The Senator from Massachusetts and others, who have just spoken in support of the substitute amendment, have been splitting legal hairs.

It comes down to whether or not we are going to allow the people on Taiwan to keep their other property, their bank accounts, and other forms of property. We have not been told this is a matter to be left to the courts. The committee itself speaks to the point as a matter of policy and says that this property will be conferred to the people of Taiwan.

When we raise the question of international law and the status of the people on Taiwan and the Republic of China under international law, the committee does not say we are going to follow all of the precedents of international law. In fact, on page 7 of the committee report is stated:

> The Administration has stated that it recognizes the People's Republic of China (PRC) as the sole legal government of China. It has also acknowledged the Chinese position that Taiwan is a part of China, but the United States has *not* itself agreed to this position. The bill submitted by the Administration takes no position on the status of Taiwan under international law, . . .

Then it sets up a whole series of unique relationships with the people of Taiwan, including the provision of this act as submitted by the committee to keep in force all the legal agreements and treaties that existed previously with the people of Taiwan, many of them entered into prior to 1949.

So I submit that the proponents of this substitute have talked on both sides. They have said, "We must not touch this question because it is a matter of law, it is a matter of precedents," and then time and time again they themselves have said, "No, it is a matter of policy," and they have acted as if it were a matter of policy by the decisions they themselves have written into this act.

We are certainly here dealing with a unique situation. I hope in some respects it is so unique that it is never repeated again, that a friend and an ally of this country would be treated as shabbily as they have been treated, given only a few hours advance notice in the middle of the night that they would no longer be recognized by the Government of the United States, even though they had without exception unfailingly been our international friend.

This amendment, the substitute, it is said does not take any position as to whether or not the property will remain in the hands or be placed in the hands of the people of Taiwan or the People's Republic. I suggest that it is not totally neutral because as a matter of general legal interpretation if Congress takes positive action in regard to certain categories and does not take action in regard to others there is generally a presumption raised that an exception has been made.

I think the fact that we are taking positive action in regard to certain kinds of property but then choosing not to take positive action under this substitute amendment on others will have some impact and bearing on the courts.

I again suggest, just as we have not left the question of existing international agreements made prior to 1949 or after 1949, neither one, with the people of Taiwan in doubt in this bill, just as we have not left in doubt the title of the bank deposits and other forms of property, whether acquired prior to 1949 or after 1949, there is no reason why this Senate should not admit that this is a policy question and we are here dealing with a very simple question: Shall we say to the People's Republic of China on the mainland, "We are so anxious to gain your favor on every point, even though by recognizing you and establishing relations with you we have already conferred great benefit on you in the international councils of state, potentially great benefits in an economic realm that might flow from future trade, as a matter of policy we have to please you by crossing every 't' and dotting every 'i' to your liking?"

Are we to say to the people of the world that as a matter of policy this country should not even make one small symbolic gesture to a trusted and long time friend and ally?

When we talk about injecting morality into international relations, we talk about the sensitivity of this country to human rights, I suggest to the Members of the Senate that, as a matter of policy, there could be but one decision in keeping with what all of us regard as just and fair to a long-time friend and ally, and that decision is to send a small symbolic message to the people on Taiwan and to other allies around the world whose confidence——

The PRESIDING OFFICER. All of the time of the Senator from Oklahoma has expired.

The Senator from Idaho has 1 minute remaining.

Mr. JAVITS. Mr. President, I yield myself 1 minute.

Mr. President, we have confirmed bank deposits, money, and other property which could conceivably be identified as belonging to the people on Taiwan through their earnings to the tune of billions, and now the Senator says, "Send them a small symbolic message."

We have sent them a big symbolic message. We have pledged ourselves to their security as well as these billions of dollars in cash and bank deposits, as well as establishing for them here commercial relations, as well as giving them arms sufficient for their defense.

I respectfully submit that all the Senator is asking us to do is to look back with him at the time before when we should not have recognized the People's Republic of China, and that I do not believe the Senate should go along with.

The PRESIDING OFFICER. All time has expired.

Mr. MORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. Mr. President, I move that the substitute amendment lie upon the table.

Mr. HELMS. Yeas and nays, Mr. President,

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the substitute amendment of the Senator from Idaho, as modified.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

(Mr. HARRY F. BYRD, JR., assumed the chair.)

Mr. DECONCINI (After having voted in the affirmative). Mr. President, on this vote I have a pair with the Senator from Delaware (Mr. BIDEN). If he were present and voting, he would vote, "nay." If I were at liberty to vote, I would vote, "aye." Therefore, I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Florida (Mr. CHILES), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Wisconsin (Mr. NELSON), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PELL) is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "nay."

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Oklahoma (Mr. BELLMON), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The PRESIDING OFFICER. Have all Senators voted?

The result was announced—yeas 49, nays 36, as follows:

[Rollcall Vote No. 14 Leg.]

YEAS—49

Baker
Bayh
Bentsen
Boren
Boschwitz
Bumpers
Byrd,
  Harry F., Jr.
Cochran
Cohen
Danforth
Dole
Domenici
Ford
Garn
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Jepsen
Kassebaum
Laxalt
Leahy
Long
Lugar
McClure
Morgan
Nunn
Pressler
Proxmire
Pryor
Randolph
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stewart
Stone
Talmadge
Thurmond
Tower
Wallop
Warner
Young

NAYS—36

Baucus
Bradley
Burdick
Byrd, Robert C.
Cannon
Chafee
Church
Cranston
Culver
Durenberger
Durkin
Exon
Glenn
Hart
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Levin
Magnuson
Mathias
Melcher
Metzenbaum
Moynihan
Muskie
Packwood
Percy
Riegle
Roth
Sarbanes
Stevenson
Tsongas
Williams
Zorinsky

ANSWERED "PRESENT"—1

Goldwater

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

DeConcini, for.

NOT VOTING—13

Armstrong
Bellmon
Biden
Chiles
Eagleton
Gravel
Matsunaga
McGovern
Nelson
Pell
Ribicoff
Stennis
Weicker

So the motion to lay on the table UP amendment No. 35 was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. BOREN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment offered by the Senator from Oklahoma (Mr. BOREN).

The amendment was agreed to.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President——

The PRESIDING OFFICER. The Senate is not in order. The Senator will suspend until the Senate is in order. Business cannot be transacted until the Senate is in order. Will Senators help expedite the work of the Senate by taking their seats? Will Senators take their seats so the work of the Senate can continue?

The Chair recognizes the Senator from Utah (Mr. HATCH).

AMENDMENT NO. 98

(Purpose: To protect the trade of Taiwan and the United States)

Mr. HATCH. Mr. President, I call up amendment No. 98 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an amendment numbered 98:

On page 14, line 8, after "peaceful means" insert the following: "including discriminatory trading practices, boycotts or embargoes, and other similar measures".

Mr. HATCH. Mr. President, I yield myself such time as I need.

Mr. President, I rise to offer an amendment that will clarify what may prove to be a problem in the future. The whole purpose of the amendment is to reenforce the intent of the legislation before us and to clarify its reference to a bill that was passed by the Congress last year.

Last year the Congress passed Public Law 95-52, which amended the Export Administration Act to cover the area of boycotts by foreign nations of U.S. firms in order to obtain what may be defined as political objectives. At that time the legislation was intended to cover the Arab boycott, but I find that is equally applicable in this situation. I am speaking, of course, of title II of the Export Administration Act. This legislation prohibits Americans from participating in or supporting a trade boycott initiated by a foreign country against a nation friendly to the United States.

Mr. President, I ask unanimous consent that the language of title II be printed in the RECORD at this point.

There being no objection, the language of title 2 was ordered to be printed in the RECORD, as follows:

TITLE II—FOREIGN BOYCOTTS

PROHIBITION ON COMPLIANCE WITH FOREIGN BOYCOTTS

SEC. 201. (a) The Export Administration Act of 1969 is amended by redesignating section 4A as section 4B and by inserting after section 4 the following new section:

"FOREIGN BOYCOTTS

"SEC. 4A. (a)(1) For the purpose of implementing the policies set forth in section 3(5) (A) and (B), the President shall issue rules and regulations prohibiting any United States person, with respect to his activities in the interstate or foreign commerce of the United States, from taking or knowingly agreeing to take any of the following actions with intent to comply with, further, or support any boycott fostered or imposed by a foreign country against a country which is friendly to the United States and which is not itself the object of any form of boycott pursuant to United States law or regulation:

"(A) Refusing, or requiring any other person to refuse, to do business with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, pursuant to an agreement with, a requirement of, or a request from or on behalf of the boycotting country. The mere absence of a business relationship with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, does not indicate the existence of the intent required to establish a violation of rules and regulations issued to carry out this subparagraph.

"(B) Refusing, or requiring any other person to refuse, to employ or otherwise discriminating against any United States person on the basis of race, religion, sex, or national origin of that person or of any owner, officer, director, or employee of such person.

"(C) Furnishing information with respect to the race, religion, sex, or national origin of any other United States person or of any owner, officer, director, or employee of such person.

"(D) Furnishing information about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person which is known or believed to be restricted from having any business relationship with or in the boycotted country. Nothing in this paragraph shall prohibit the furnishing of normal business information in a commercial context as defined by the Secretary of Commerce.

"(E) Furnishing information about whether any person is a member of, has made contributions to, or is otherwise associated with or involved in the activities of any charitable or fraternal organization which supports the boycotted country.

"(F) Paying, honoring, confirming, or otherwise implementing a letter of credit which contains any condition or requirement compliance with which is prohibited by rules and regulations issued pursuant to this paragraph, and no United States person shall, as a result of the application of this paragraph, be obligated to pay or otherwise honor or implement such letter of credit.

"(2) Rules and regulations issued pursuant to paragraph (1) shall provide exceptions for—

"(A) complying or agreeing to comply with requirements (i) prohibiting the import of goods or services from the boycotted country or goods produced or services provided by any business concern organized under the laws of the boycotted country or by nationals or residents of the boycotted country, or (ii) prohibiting the shipment of goods to the boycotted country, on a carrier of the boycotted country, or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

"(B) complying or agreeing to comply with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment or the name of the provider of other services, except that no information knowingly furnished or conveyed in response to such requirements may be stated in negative, blacklisting, or similar exclusionary terms after the expiration of one year following the date of enactment of the Export Administration Amendments of 1977;

"(C) complying or agreeing to comply with the unilateral selection by a boycotting country, or national or resident thereof (other than a United States person) of carriers, insurers, suppliers of services within the boycotting country or specific goods which, in the normal course of business, are identifiable by source when imported into the boycotting country;

"(D) complying or agreeing to comply with export requirements of the boycotting country relating to shipments or transshipments of exports to the boycotted country, to any business concern of or organized under the laws of the boycotted country, or to any national or resident of the boycotted country;

"(E) compliance by an individual or agreement by an individual to comply with the immigration or passport requirements of any country; and

"(F) compliance by a United States person resident in a foreign country or agreement by such person to comply with the laws of that country with respect to his activities exclusively therein, and such rules and regulations may contain exceptions for compliance with import laws of that country.

"(3) Rules and regulations issued pursuant to paragraphs (2)(C) and (2)(F) shall not provide exceptions from paragraphs (1)(B) and (1)(C).

"(4) Nothing in this subsection may be construed to supersede or limit the operation of the antitrust or civil rights laws of the United States.

"(5) Rules and regulations pursuant to this subsection shall be issued not later than 90 days after the date of enactment of this section and shall be issued in final form and become effective not later than 120 days after they are first issued, except that (A) rules and regulations prohibiting negative certification may take effect not later than one year after the date of enactment of this section, and (B) a grace period shall be provided for the application of the rules and regulations issued pursuant to this subsection to actions taken pursuant to contracts or other agreements in effect on or before March 1, 1977. Such grace period shall be two years after the date of enactment of this section and may be extended for three additional one-year periods in cases in which good faith efforts are being made to amend such contracts or agreements.

"(6) This Act shall apply to any transaction or activity undertaken with intent to evade the provisions of this Act regardless of whether such transaction or activity involves the interstate or foreign commerce of the United States.".

"(b)(1) In addition to the rules and regulations issued pursuant to subsection (a) of this section, rules and regulations issued under section 4(b) of this Act shall implement the policies set forth in section 3(5).

"(2) Such rules and regulations shall require that any United States person receiving a request for the furnishing of information, the entering into or implementing of agreements, or the taking of any other action referred to in section 3(5) shall report that fact to the Secretary of Commerce, together with such other information concerning such request as the Secretary may require for such action as he may deem appropriate for carrying out the policies of that section. Such person shall also report to the Secretary of Commerce whether he intends to comply and whether he has complied with such request. Any report filed pursuant to this paragraph after the date of enactment of this section shall be made available promptly for public inspection and copying, except that information regarding the quantity, description, and value of any articles, materials, and supplies, including technical data and other information, to which such report relates may be kept confidential if the Secretary determines that disclosure thereof would place the United States person involved at a competitive disadvantage. The Secretary of Commerce shall periodically transmit summaries of the information contained in such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary of Commerce, may deem appropriate for carrying out the policies set forth in section 3(5) of this Act.".

(b) Section 4(b)(1) of such Act is amended by striking out the next to the last sentence.

(c) Section 7(c) of such Act is amended by striking out "No" and inserting in lieu thereof "Except as otherwise provided by the third sentence of section 4A(b)(2) and by section 6(c)(2)(C) of this Act, no".

STATEMENT OF POLICY

SEC. 202. (a) Section 3(5)(A) of the Export Administration Act of 1969 is amended by inserting immediately after "United States" the following: "or against any United States person".

(b) Section 3(5)(B) of such Act is amended to read as follows: "(B) to encourage and, in specified cases, to require United States persons engaged in the export of articles, materials, supplies, or information to refuse to take actions, including furnishing information or entering into or implementing agreements, which have the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against a country friendly to the United States or against any United States person,".

ENFORCEMENT

SEC. 203. (a) Section 6(c) of the Export Administration Act of 1969 is amended—

(A) by redesignating such section as section 6(c)(1); and

(B) by adding at the end thereof the following new paragraph;

"(2)(A) The authority of this Act to suspend or revoke the authority of any United States person to export articles, materials, supplies, or technical data or other information, from the United States, its territories or possessions, may be used with respect to any violation of the rules and regulations issued pursuant to section 4A(a) of this Act.

"(B) Any administrative sanction (including any civil penalty or any suspension or revocation of authority to export) imposed under this Act for a violation of the rules and regulations issued pursuant to section 4A(a) of this Act may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.

"(C) Any charging letter or other document initiating administrative proceedings for the imposition of sanctions for violations of the rules and regulations issued pursuant to section 4A(a) of this Act shall be made available for public inspection and copying.".

(b) Section 8 of such Act is amended by striking out "The" and inserting in lieu thereof "Except as provided in section 6(c)(2), the".

DEFINITIONS

SEC. 204. Section 11 of the Export Administration Act of 1969 is amended to read as follows:

"DEFINITIONS

"SEC. 11. As used in this Act—

"(1) the term 'person' includes the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof; and

"(2) the term 'United States person' means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern) and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.".

PREEMPTION

SEC. 205. The amendments made by this title and the rules and regulations issued pursuant thereto shall preempt any law, rule, or regulation of any of the several States or the District of Columbia, and any of the territories or possessions of the United States, or of any governmental subdivision thereof, which law, rule or regulation pertains to participation in, compliance with, implementation of, or the furnishing of information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries.

Amend the title so as to read: "A bill to amend and extend the Export Administration Act of 1969."

Mr. HATCH. Mr. President, it is an acknowledged fact that the people on Taiwan are heavily dependent upon foreign trade. In 1978 Taiwan's worldwide exports comprised 48 percent of its gross national product. This was about $11 billion out of a $22 billion gross national product. This reliance upon foreign trade places the people of Taiwan in a very precarious position. With the recognition of the People's Republic of China by the United States, it raises the question of possible interference in that trade. The amount of trade between the United States and Taiwan is significant. It may well be jeopardized by Chinese attempts to place economic pressure upon American businessmen who seek to open the mainland market. This legislation before us today has as one of its major purposes to create the American Institute on Taiwan. The purpose of this Institute is to promote the trade between the two parties. In his announcement of the new China policy on December 15. 1978, President Carter stated:

> I have paid special attention to ensuring that normalization of relations between the

> United States and the Peoples Republic will not jeopardize the well-being of the people of Taiwan.
>
> The people of the United States will maintain our current commercial, cultural and other relations with Taiwan through nongovernmental means.

This language makes it very clear that the United States plans on a continuing development of trade with Taiwan. However, this may not be in the best interests of the Peoples Republic of China and they may wish to take actions that would discourage this build up of trade.

Being more specific, the fear that I have is that the potential danger of interference by the PRC in the trade and other economic relations that Taiwan now has with other countries may become a reality. If the PRC is permitted to mount an effective campaign of economic harrassment they will eventually be able to economically suffocate Taiwan.

A classic example of this type of harrassment would be the pressure placed upon Japan and Japanese businessmen. In 1973 and early 1974 the Government of Japan was under severe PRC pressure to cut off air service between Taipei and Tokyo. In 1974, while the air service was allowed to continue, Taiwan's China Airline was compelled to use a Japanese domestic airport rather than an international airport in Tokyo. At the same time subtle pressure was being applied to Japanese businessmen who hoped to do business with the PRC. It became known that the continued development of trade between Japan and Taiwan might endanger future business dealings with the PRC by those Japanese firms. It is obvious to anyone in the business community what the ramifications of such pressure would have upon decisions involving trade relations between any firm wishing to deal with both the Chinas.

Mr. President, this issue arose during the attempt by certain Arab nations to impose a boycott on the nation of Israel. At that time the problem was handled in the Banking Committee of the Senate. Legislation was passed which extended the Export Administration Act to cover problems that occur in this area. Section 3(5) of the act sets forth U.S. policy against foreign boycotts as follows:

> It is the policy of the United States (A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against countries friendly to the United States; (B) to encourage and request domestic concerns engaged in . . . export . . . to refuse to take any action, including the furnishing of information or the signing of agreements, which has the effect of furthering or supporting . . . (such) . . . restrictive trade practices or boycotts . . .

This section of the act was further strengthened last year and I have had that section entered into the record to show my colleagues its impact.

Mr. President, it is because I feel that some form of boycott might occur, be it overt or covert, that I think this language should be added to the bill to make it perfectly clear that the United States will not tolerate such intervention in our own trade matters. We are committed to the development of trade between the United States and Taiwan and encourage such trade between Taiwan and other nations. To do less would be an abandonment of the economic system that is modeled after the system that we have developed in the United States. I encourage my colleagues to support this amendment.

I encourage my colleagues to support this amendment again as a showing of support, moral, ethical, and reasonable support, for the people on Taiwan.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. Mr. President, I yield myself such time as I may require.

Mr. President, I rise to oppose the amendment by the distinguished Senator from Utah.

When the Senator says in his amendment that this would include discriminatory trade practices I would submit that practically every nation in the world has discriminatory trade practices of one type or another. We have quotas; we have tariffs. Probably a discriminatory trade practice could be defined as anything short of most-favored nation status.

To inject that into the very carefully worked out wording of this section 114, it seems to me, not only is unnecessary, but changes the intent and meaning of this section to a considerable degree.

I might ask the distinguished Senator from Utah if he will turn to page 31 of the committee report. In referring to this particular section and the intent of it, the report states:

> Subsection (b)
>
> The Committee made clear in its discussion of subsection (b)(1) that the United States was concerned with external threats or coercion rather than with internal challenges to the security or to the social or economic system of the people on Taiwan. In discussing the matter of possible coercion, the Committee indicated that the United States would maintain its capacity to resist not only direct force but indirect force as well, such as a blockade or a boycott, that would jeopardize the social or economic system of the people on Taiwan. During the hearings, several Senators emphasized the applicability of the anti-boycott provisions of the Export Administration Act to the China-Taiwan context. Those provisions make illegal compliance by U.S. citizens or corporations with economic boycotts against Taiwan.

Mr. President, I think that pretty well spells out the intent of the committee. It indicates that the section here provides for boycott application. It points out also the applicability of the antiboycott provisions of already existing law, the Export Administration Act, and that it would apply in this China-Taiwan context.

Mr. HATCH. Will the Senator yield for a question?

Mr. GLENN. I am glad to yield.

Mr. HATCH. During the debate on this question with Senator HARRY F. BYRD, the distinguished Senator from Ohio happened to be managing the bill or was on the floor at that time. The Senator from Ohio stated: "The Senator has quoted repeatedly that particular part of the report today." This was with regard to the Byrd amendment that was withdrawn last week.

Senator GLENN, at the time, said:

> The Senator has quoted repeatedly that particular part of the report today. I can only say that he is well aware that these hearings and the reports that follow do not have the force of law behind them nor are they anything but expressions of opinions. In fact, sometimes there are errors. I was surprised when I read that particular part, because I think it overstates the situation and should not have been there.

I call to the attention of the Senator from Ohio that that is precisely why I am requesting this amendment, because the reports are not law. I think it is important that we recognize through this amendment that those reports are not law and thus, through this amendment, make it law. I think it is a fair thing to do for the people on Taiwan. I hope the Senator will reply to that.

Mr. GLENN. I reply to the Senator that if he will read subsection (b)(1), he will see it applies to all the things he is trying to do. It says:

> (b) In order to achieve the objectives of this section—
>
> (1) the United States will maintain its capacity to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan;

I do not see how we can be any more explicit, any more definitive, than that language. That language was very carefully worked out in committee. We went over and over it, had much debate on that particular item, with a view toward covering exactly the situation and exactly the intent that the Senator from Utah has expressed as his reason for submitting the amendment to the bill. I think the Senator's point has already been covered.

Mr. HATCH. Where was the Senator reading from?

Mr. GLENN. The bill itself, page 14, subsection (b) and (1) under it, lines 13 through 17, page 14.

> (b) In order to achieve the objectives of this section—
>
> (1) the United States will maintain its capacity to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan;

It seems to me that that really spells out in very good and well-stated detail the fact that we would oppose any moves or boycotts or other forms of coercion, as we say, completely openly, "or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan."

Mr. HATCH. Will the Senator yield again for a comment?

Mr. GLENN. Yes.

Mr. HATCH. The reason we want to put this amendment in, and I submit, if the Senator is in agreement, the amendment is basically there. All we want to do is make it more explicit in paragraph (3), page 14, at line 8. What we would do is insert after "peaceful means" the words "including discriminatory trading practices, boycotts or embargoes and other similar measures."

The language in (b) (1) is not clear. In fact, in my opinion, it is ambiguous. We would solve the problem, I say, and I suggest that the manager of the bill ought to accept this language.

Mr. CHURCH. Mr. President, this language is addressed to the wrong section of the bill, in my judgment. Subparagraph (3), beginning on line 7 of page 14, is a statement having to do with the policy of the United States. It reads:

> To consider any effort to resolve the Taiwan issue by other than peaceful means a threat to the peace and security of the Western Pacific area and of grave concern to the United States;"

This section deals with the underlying and continuing concern of the United States that the Taiwan question not be resolved by resort to arms. It says that if mainland China were to attack Taiwan, such an action would constitute a threat to the peace and security of the Western Pacific area and be of grave concern to the United States.

Now, that is the subject matter of this particular paragraph. If we were to include the words suggested by the Senator from Utah, we would in effect be saying that any discriminatory trade practice that might be adopted by mainland China with reference to its own trade with Taiwan would constitute a threat to the peace and security of the Western Pacific area.

That goes very, very far. The language goes even farther, and I cannot imagine language so imprecise as the words "other similar measures." Other similar measures to what? If you take the previous words, you get "discriminatory trading practices, boycotts or embargoes or other similar measures." That includes a whole host of possible actions quite beyond our imagining. Are we to say that such actions, whatever they may be, are going to constitute a threat to the peace and security of the Western Pacific area? Mr. President, we engage in discriminatory trade practices. We enage in embargoes.

Mr. GLENN. Will the Senator yield?

Mr. CHURCH. I shall be happy to yield in just 1 second.

To suggest that anything mainland China might do, even if it takes the form of actions that we ourselves sometimes take, constitutes a threat to the peace of the western Pacific area goes further than anyone would want to go, bearing in mind the fundamental necessity to protect American options and to preserve American interests in that part of the world.

This amendment makes no sense.

I yield.

Mr. GLENN. I thank the Senator.

Mr. President, I was going to amplify about discriminatory trade practices.

I submit that the Senator from Utah, with all good intent, might be well advised to check with the Senator from North Carolina on his right before he wished to put this in because there are several billion dollars worth a year of textiles that come off the island of Taiwan.

If we say that there are to be no discriminatory trade practices, it means we have no quotas, no tariffs, issued against the Taiwan position, or anyone else.

I presume it would mean we dump all Taiwan's textile output on its own industry in this country, and we could not stand against that.

I would say, in August 1978, agreement was reached on curbing textile exports from Taiwan. This is an agreement that, apparently, would go down the drain.

The format was the same as earlier agreements restricting footwear and color televisions. Then, in December 1978, a bilateral trade agreement was concluded that is expected to balance Taiwan's MFN benefits. This was necessary since Taiwan does not participate in the multilateral trade negotiations.

So it seems to me this is even more hazardous to American industry and business and, in particular, those States that deal heavily with textile matters and whose livelihood depends on that than I had first thought when I read the Senator's amendment.

I thank the distinguished Senator from Idaho for yielding.

Mr. HATCH. Will the Senator yield?

Mr. CHURCH. Yes, for a question.

Mr. HATCH. Yes.

Mr. President, I would agree that this particular amendment would change those types of trade agreements. On the other hand, I think it does satisfy in this section because we are talking about the only real form of Taiwan economic existence. We are saying in this particular amendment that after "peaceful means," we would insert "including discriminatory trading practices, boycotts or embargoes, and other similar measures."

I believe the Senator from Ohio was wrong on his particular assertion. However, I think the Senator from Idaho made some telling points. I think he is correct that this may be the wrong section to put this in and, because of the threat to the peace and security of the Western Pacific area and grave concern to the United States, I can see why some people would want that in there.

But I have to admit that the amendment would be more appropriate at a different place in the particular bill.

Mr. CHURCH. Would the Senator be good enough in the light of his comment to withdraw the amendment at this time without prejudice?

Mr. HATCH. Yes.

Mr. President, I ask unanimous consent that the amendment be immediately withdrawn.

The PRESIDING OFFICER. Is there objection?

The Chair hears none.

Without objection, it is so ordered.

Who yields time?

The Senator from North Carolina (Mr. HELMS).

AMENDMENT NO. 74

(Purpose: To amend the Taiwan Enabling Act to provide further for the security of Taiwan.)

Mr. HELMS. Mr. President, I have an amendment at the desk, No. 74, which I call up and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 74.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 14, line 10, strike out "and".
>
> On page 14, line 12, strike out the period and insert in lieu thereof a semicolon and "and".
>
> On page 14, between lines 12 and 13, insert the following:
>
> "(5) to continue contacts by each military service of the Armed Forces of the United States with the corresponding military service of the Armed Forces of the people on Taiwan.".

Mr. HELMS. Mr. President, I yield myself such time as I may require.

Mr. President, in his testimony to the Committee on Foreign Relations in response to an inquiry by Senator STONE, General Jones, chairman of the Joint Chiefs, indicated that while the military could live with a relationship with the military forces of the people on Taiwan on a basis other than service to service, obviously, or it seemed obvious to the Senator from North Carolina, General Jones would prefer otherwise.

Mr. President, with this amendment all the Senator from North Carolina seeks to do is to continue service-to-service contacts between the military people of the United States and the military of the people on Taiwan.

I do not want the President to cut off that channel of communication; and that, in effect, is all this amendment is saying. In no way is the Senator from North Carolina attempting to confer an official contact so as to give the people on Taiwan a status that is not contemplated in this bill.

I would welcome any comment by the distinguished Senator from Idaho.

Mr. CHURCH. Mr. President, if I understand the Senator correctly, there is nothing in this bill that would prevent the use of American military personnel in connection with the performance of a contract relating to arms that might be negotiated between the American Institute and the Taiwanese Institute.

In other words, it would seem to me that implementing such a contract could appropriately require the use of civilian experts or military experts, as the case might be.

Mr. HELMS. Mr. Presdent, I think the legislative history based on the statement by the distinguished Senator from Idaho is satisfactory. I see no purpose pursuing the amendment. Therefore, I withdraw it.

The PRESIDING OFFICER. The amendment has been withdrawn.

Who yields time?

The Senator from North Carolina.

AMENDMENT NO. 78

Purpose: To amend the Taiwan Enabling Act to provide further for the security of Taiwan

Mr. HELMS. Mr. President, I have amendment No. 78 at the desk and I call it up and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 78:
>
> On page 14, line 20, insert after "defensive character" a comma and the following: "including all-weather fighters, antisubmarine warfare weaponry, and antiship missiles".

Mr. HELMS. Mr. President, I have again discussed with the distinguished Senator from Idaho and others the intent of this amendment.

I want to make this clear, Mr. President. I have been very encouraged with the work in committee done by the distinguished Senator from Idaho and the distinguished Senator from New York, the chairman and ranking member, in connection with the legislation now pending.

My primary concern relating to this particular amendment is to assure that Taiwan's legitimate defense needs are met, that the military status quo in the Taiwan Straits is maintained and that Taiwan has an adequate deterrent capability.

In order to assure that such needs are met, this Senator believes that the bare minimum of Taiwan's defensive weaponry needs must include advanced all-weather fighters, antiship missiles, and advanced antisubmarine warfare weaponry.

I do not purport that this is an all-inclusive list, nor does it name specific weapons systems. That should be up to the President, in consultation with the people on Taiwan.

Moreover, Mr. President, the Senator from North Carolina cannot go into a great deal of detail, because, as the able Senator from Idaho knows, this matter was discussed in executive session with General Jones. I do not want to risk, by inadvertence, appearing to state his position.

As to this amendment, I simply want to let the President and the PRC and the people on Taiwan know just what the Senate means when it says that we will assist the people on Taiwan to maintain a sufficient self-defense capability through the provision of arms of a defensive nature, and I stress the word "defensive." These are the arms of a defensive nature about which I am speaking.

No Senator wants to bear the burden of having forced an unwilling Taiwan into an act of desperation in joining the nuclear club or alinement with the Soviet Union, but that is a real risk if we make a mistake in the Senate. We all bear potential responsibility for that if we do not give Taiwan the legitimate and reasonable assurances that Taiwan needs.

This in no way implies that the Foreign Relations Committee has not gone a very long way in attempting to do just that. It is simply a matter that we need to go a little further, in the judgment of the Senator from North Carolina, and say to the President, with all due respect to him and his constitutional authority and duty, that we want the President to know that these weapons systems are the bare minimum of what we feel will allow Taiwan to provide for its own self-defense.

After all, many references have been made in this Chamber—and in the Foreign Relations Committee, for that matter—concerning the President's failure to consult adequately with Congress on the process of what is called normalization. In all candor, the President did not seek the counsel of the Senate. Thus, I think we are in the position of making, or being forced to make, some changes in the legislation submitted by the administration.

I do not want, and I do not think we really can afford, another conflict with the President on this matter. All I seek to do is to make our position clear from the outset.

I will be happy to have the comments of the distinguished Senator from Idaho.

Mr. CHURCH. First, Mr. President, I thank the distinguished Senator from North Carolina for his expression of concern relating to the future security needs of Taiwan. It is one that I share with him.

The operative words of the statute before us are as follows:

> The United States will assist the people on Taiwan to maintain a sufficient self-defense capability through the provision of arms of a defensive character.

First, during the coming year arms already in the pipeline destined for Taiwan have been characterized by the government there as adequate for its defense requirements. So under the arrangement that the President has made with Peking, there will be no further sale of arms during the coming year. It is clear that the arms already in the pipeline will suffice.

Looking beyond the coming year, the United States has reserved—the President, himself, in his arrangement with Peking has reserved—our right to reinstate the sale of defensive weapons to the people on Taiwan. The Senate committee went a step further by adding the word "sufficient." I think that the sentence I have read is not susceptible to any misinterpretation. It says:

> The United States will assist the people on Taiwan to maintain a sufficient self-defense capability through the provision of arms of a defensive character.

I am sure that the able Senator from North Carolina will agree that we must reserve to our Government the right to determine what is sufficient. But the kinds of weapons to which he has referred—all-weather fighters, antisubmarine missiles, and antiship missiles—all three of these categories include weapons that are designed to be defensive in character and therefore would be appropriate for our consideration in determining what constitutes sufficient weapons for the defense of Taiwan.

I agree with the Senator that as long as this is clear, and I think our colloquy has made it clear, it would be unwise to attempt to actually designate given weapons in the statute itself. We want to retain for ourselves the necessary latitude to make our own determination with respect to what best serves this objective—namely, a sufficient defense capability for Taiwan.

Mr. HELMS. I believe that all three of us—the Senator from New York, the Senator from Idaho, and the Senator from North Carolina—agree on this point, and I want to make it crystal clear for the record.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HELMS. I yield.

Mr. JAVITS. "A sufficient self-defense capability," it seems to me, must include all-weather fighters, antisubmarine warfare weaponry, and antiship missiles. These are defensive weapons. So I cannot see any question about that.

Mr. HELMS. Mr. President, I thank the Senator from New York and the Senator from Idaho.

I believe it is clear that the weapons I have mentioned are agreed to be a bare minimum. With that legislative history having been made, my purpose has been accomplished, and I withdraw the amendment.

The PRESIDING OFFICER. Amendment No. 78 is withdrawn by the Senator from North Carolina.

Who yields time?

AMENDMENT NO. 98 (AS MODIFIED)

(Purpose: To protect the trade of Taiwan and the United States)

Mr. HATCH. Mr. President, I send to the desk a modification of my original amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an amendment numbered 98, as modified:

> On page 14, line 8, after "peaceful means" insert the following: "including boycotts or embargoes".

The PRESIDING OFFICER. The Chair notes that inasmuch as the yeas and nays have been ordered, unanimous consent is required to modify the amendment.

Mr. HATCH. I ask unanimous consent that such modification take place.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HATCH. I also ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER. Is there

objection? The Chair hears none, and it is so ordered.

Mr. HATCH. Mr. President, it is my understanding that the managers of the bill are willing to accept this language as it has been revised, because it now will fit within the section we discussed before. I see no further reason for us to debate.

Mr. CHURCH. Mr. President, as I understand the amendment as revised, the words "discriminatory trading practices" as well as the words "and other similar measures" have been stricken.

Mr. HATCH. That is correct.

Mr. CHURCH. So that if the amendment were accepted, subsection (3), beginning on line 7 of page 14, would read as follows:

> to consider any effort to resolve the Taiwan issue by other than peaceful means, including boycotts or embargoes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States.

Mr. HATCH. That is correct.

Mr. CHURCH. Mr. President, we have no objection to inserting——

Mr. JAVITS addressed the Chair.

Mr. CHURCH. I am sorry. I spoke too soon. I first defer to the Senator from New York.

Mr. JAVITS. If the Senator from Idaho has no objection, it is all right.

Mr. CHURCH. I defer to the Senator from New York, and then I will speak my piece.

Mr. JAVITS. Mr. President, the amendment is satisfactory to me, but I wish to ask the Senator from Utah a question.

I would not wish the amendment to be construed as limiting the effect of the words of lines 15 and 16 which read "to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan;"

Mr. HATCH. I do not believe those words will limit the effect of that provision.

Mr. JAVITS. The Senator does not believe these words will limit it?

Mr. HATCH. I do not believe they will.

Mr. JAVITS. That is very important to me because there may be other forms of coercion.

Mr. HATCH. I agree.

Mr. JAVITS. All right. I thank the Senator.

That is satisfactory.

Mr. HATCH. All right.

Mr. CHURCH. Mr. President, I have no objection to the amendment as modified.

Mr. DOLE. Mr. President, the purpose of the amendment offered by the Senator from Utah and which I cosponsored is to amend section 114, which is the key section stating U.S. policies and assurances for Taiwan. It is of vital importance that threats to Taiwan of economic coercion such as boycotts or embargoes designed to harm the cultural and economic life of the people on Taiwan should also be of "grave concern" to the United States. Our own business and trading interests would be gravely affected by any attempt on the part of the PRC to organize and carry out an economic threat against Taiwan.

The matter of airline services is an example of pressures that can be placed on countries wishing to do business with Taiwan as well as the PRC. Japan encountered heavy pressure in this regard at the time of normalization of relations with the PRC. It is only too clear that the United States will have to be especially vigilant on matters of this nature and should introduce language about "boycotts or embargoes."

Another matter of relevance here is the already announced policy by Peking to try to expel Taiwan from the World Bank, the Asian Development Bank, and the International Monetary Fund. Given the size of the United States commitment to such entities, and given the degree of Taiwan's cooperation with and financial dependence on their services, such a move could prove very seriously damaging to the very well-being of the people on Taiwan which the bill is designed to protect.

Mr. HATCH. Mr. President, I ask unanimous consent that Senator Dole be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator yield back his time

Mr. HATCH. I yield back my time.

Mr. CHURCH. I yield back the remainder of my time.

Mr. HATCH. I move adoption of the amendment.

The PRESIDING OFFICER (Mr. HEFLIN). The question is on agreeing to the amendment as modified of the Senator from Utah.

The amendment was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from North Carolina.

UP AMENDMENT NO. 36

(MODIFICATION TO AMENDMENT NO. 81)

Mr. HELMS. Mr. President, I send to the desk a modified version of amendment No. 81 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 36.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 10, line 12, after "Taiwan," insert the following: "including, but not limited to, the performance of services for the United States through contracts with commercial entities in Taiwan,".

Mr. HELMS. Mr. President, the purpose of this bill is "to promote the foreign policy of the United States through the maintenance of commercial, cultural, and other relations with the people on Taiwan on an unofficial basis, and for other purposes." It is very astonishing. Mr. President, that there is very little in the bill about either commercial or cultural relations. Indeed, it is hard to imagine what the "other relations" referred to might be.

In fact, if you examine the bill carefully, it obviously was drafted by diplomats thinking only in terms of traditional diplomatic activity. The Institute was conceived strictly as an entity to function as a surrogate diplomatic mission. The phrase "commercial, cultural, and other relations" is really a kind of code-word that says one thing on the surface, but in reality denotes something quite different.

Unfortunately, the ambivalent legal status of our new relationship with the people on Taiwan has resulted in the necessity to do something rather more specific than the Department of State had in mind. The committee adopted a number of amendments pinpointing specific, practical problems involved in conducting the new relationship—problems which the State Department simply had refused to face. These amendments made the Institute more viable than it had been in the State Department version.

The State Department adopted as its vehicle the concept of a non-profit corporation, which would perform diplomatic work on contract. I am concerned, however, that the diplomats, not being familiar with the world of business and commercial contracts, were completely confused about such work-a-day matters. When you are used to Government procurement all your life, you have very little appreciation of how the real world lives. The State Department's idea of how a corporation operates has as much relationship to reality as Marie Antoinette's dairy barn.

Now the Foreign Relations Committee worked very hard on this problem, as on others. But there were so many changes in the administration bill, that it was difficult to assess the overall bill until it was reported and printed as a whole. I have, therefore, a number of perfecting amendments that are not meant as criticisms of the committee's work so much as just taking a second look at what the committee wrought. I know that the distinguished chairman will consider them in that light.

Now I first want to draw attention to section 109, which says:

> Whenever the President or any department or agency of the United States Government is authorized or required by or pursuant to United States law to render or provide to, or receive or accept from, the people on Taiwan, any performance, communication, assurance, undertaking, or other action, such action shall, in the manner and to the extent directed by the President, be rendered or provided to, or received or accepted from, an instrumentality established by the people on Taiwan.

Mr. President, what does this language say, in short? It says that whenever the U.S. Government acquires services on Taiwan, the institute has to contract with the parallel instrumentality set up by the Government of the Republic of China. I know why this was put in. The legal minds of the State Department were anxious to provide a cutout, a laundry, so to speak, to clean up any actions that might smack of government-to-government relationship. Their horror of a government-to-government relationship burned so bright in their minds that they completely forgot the real world—that is to say, there will be many times when the relationship will be directly with the real people on Taiwan, as distinct from the code word "people on Taiwan" dreamed up by the diplomats.

In other words, the Institute may have to deal directly with the people in the real world. It may want to make commercial contracts for services. It may want to paint walls, rent cars, buy food, hire plumbers. Nowhere is there any authority in this bill for the Institute to make such contracts. All it says is that when the President or a Government agency wants to make contracts for services, the contracts must be made through the institute, which, in turn, must contract through the corresponding ROC instrumentality.

This is fine if it is a question of visas or consular services; it is ridiculous if we have a question of commercial services, which bear no taint of government-to-government contacts anyway.

Moreover, section 109 must be read in conjunction with section 106. Section 106 says that programs conducted by the President with respect to the people on Taiwan shall be conducted by or through the Institute. In other words, anything that the President or a Government agency wants to do on Taiwan must be done through the Institute in 106, while in 109 any services must be procured through the Institute and through the corresponding ROC instrumentality.

I might also point out that anything that the institute does on Taiwan will be done through U.S. Government funds. Thus any action of the Institute is an action of the President or a U.S. Government agency, and it must be done through the ROC instrumentality. Even if it wants to buy a cup of coffee, it must be done through the ROC instrumentality.

Now, I will admit, there is a clause which might be construed as helping this dilemma. It says these actions shall be done "in the manner and to the extent directed by the President." According to the committee report, this is supposed to give the President "maximum flexibility." If that is so, then it gives him the flexibility to set aside the very authority the bill is supposed to be giving him.

I think that it is important, therefore, to clarify the authority that the Institute has, and through the Institute, the President, to deal directly with commercial entities in Taiwan. Such an authority would be entirely consistent with the intent and spirit of the bill. It would clarify the President's authority, and give government agencies the power to contract for services with commercial entities in Taiwan.

In order to accomplish this, I intend to offer an amendment to section 105, where the basic authority for the Institute is laid down. On page 10, line 12, after the enumeration of the actions authorized to be conducted, my amendment would add the phrase, "including but not limited to the performance of services for the United States through contracts with commercial entities in Taiwan."

Mr. President, I believe that the distinguished managers of the bill are prepared to accept this amendment as modified.

Mr. President, I suggest the absence of a quorum to be charged to my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, as I read the amendment, which has been modified by the insertion of four additional words, "But not limited to," and place that modified amendment in its intended place in the text of the bill, section 105 would read as follows. And I ask the Senator from North Carolina to attend me so there may be no misunderstanding:

> Whenever authorized or required by or pursuant to United States law to conduct or carry out programs, transactions, or other relations with respect to a foreign country, nation, state, government, or similar entity, the President or any department or agency of the U.S. Government is authorized to conduct and carry out such programs, transactions, and other relations with respect to the people on Taiwan, . . .

And then his words would follow. The words of the amendment "* * * including, but not limited to, the performance of services for the United States through contracts with commercial entities in Taiwan. * * *"

And then it would read, "* * * in accordance with applicable laws of the United States."

Is that correct?

Mr. HELMS. The distinguished Senator is correct.

Mr. CHURCH. Mr. President, I have conferred with the ranking Republican member of the committee. He has no objection to the insertion of this additional language in section 105. I have no objection to it. Therefore, the managers of the bill are willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment as modified of the Senator from North Carolina.

The amendment was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. I thank the Chair and I thank the distinguished Senator from Idaho.

UP AMENDMENT NO. 37

(Purpose: To make clear the term "people on Taiwan" includes nongovernmental commercial activities to meet the purposes of the act regarding maintenance of "commercial" relations)

Mr. HELMS. Mr. President, I send to the desk an unprinted amendment, which I understand the chairman has examined and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 37.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 8, line 24, insert the following after "it" insert "or organizations and entities subject to the laws of Taiwan.".

Mr. HELMS. Mr. President, this amendment, section 101, on page 8, line 24, grows out of my previous amendment, the grant of authority to deal with commercial entities. It would make clear that the term "people on Taiwan" includes nongovernmental commercial activities to meet the purposes of the act regarding maintenance of "commercial" relations.

It would add the phrase "or organizations and entities subject to the laws of Taiwan" to the definition of "people on Taiwan."

It is just as simple as that.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. HELMS. I am happy to yield to the distinguished Senator.

Mr. JAVITS. This, again, is simply as to form. Will the Senator and his staff direct their attention to page 9, line 9, that reads "* * * and other entities formed under the law applied on Taiwan, * * *"? It seems to me, again, to avoid legal questions as to why we used different language, it might be well to use in both places the same language. After "it" insert "or organizations and other entities formed under the law applied on Taiwan."

It simply is a question of consistent style so no one says, "Why did you say this in one place and not in another?"

Mr. HELMS. I am delighted to accept the Senator's suggestion.

Mr. JAVITS. If the Senator will revise the amendment accordingly it is quite acceptable to me.

Mr. HELMS. I thank the Senator.

Mr. President, since it will just take one stroke of the pen, I modify the amendment.

I again thank the Senator from New York.

The PRESIDING OFFICER (Mr. BAUCUS). Will the Senator please restate his modification.

Mr. JAVITS. If I may read it.

Mr. HELMS. Mr. President, on my time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask that the clerk read the amendment as modified so that I can be certain it meets the approval of the distinguished managers of the bill.

The PRESIDING OFFICER. The clerk will read the amendment.

The second assistant legislative clerk read as follows:

On page 8, line 24, insert the following after "it" insert "or the organizations and other entities formed under the law applied on Taiwan".

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HELMS. Yes.

Mr. JAVITS. That amendment is quite satisfactory to me under that wording.

Mr. CHURCH. Mr. President, the amendment is also acceptable to me. I ask its approval by the Senate.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. CHURCH. I yield back my time.

Mr. HELMS. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question now is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 91

(Purpose: To ensure that the Institute has adequate personnel and facilites to strengthen and expand commercial and cultural ties between the people of the United States and all the people of Taiwan.)

Mr. HELMS. Mr. President, I call up my amendment No. 91 which is at the desk and I ask that it be stated .

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 91:

On page 11, delete lines 4 through 8, and substitute the following:

SEC. 107. In carrying out its activities, as described in this Act, the Institute shall take all appropriate steps to ensure it has adequate personnel and facilities to accomplish such purposes, including the capability to strengthen and expand the commercial and cultural ties between the people of the United States and all the people of Taiwan and to promote full human rights for all the people of Taiwan.

Mr. HELMS. Mr. President, I am disturbed at reports I have heard that the organizers of the Institute are planning to cut back on the staff which will be available to perform the necessary services for the people on Taiwan and American citizens and entities visiting or working in Taiwan. I have heard that the staff will number no more than 50 in Taiwan and only 7, including secretarial assistance, in Washington, D.C.

Now I am not an advocate of inflated bureaucracies or of overstaffing. But I grow suspicious when the only effort to cut back bureaucracy is when there is an attempt to downgrade our relationship with Taiwan, even though our commercial and private relationship is rapidly increasing. This looks more like a political move, than an economy move, and it could seriously hamper the maintenance of commercial, cultural, and other relations with the people on Taiwan. It will also hurt American investment and Americans visiting and working on Taiwan.

Moreover, there is a serious doubt whether the State Department can supply enough retired diplomats who have the necessary experience with running a corporation to run it efficiently and prudently. It is an entirely different thing to run a corporation than it is to run a government agency. I think that it is difficult to believe that a staff of seven, including secretarial assistance, can provide the necessary accounting and fiscal control for an operation that may be spending as much as $5 million per year.

Finally, if the primary purpose of the Institute, as stated in the title of the bill, is to provide commercial relations, it is difficult to believe that the State Department can provide the necessary expertise in this vital area. The Department has not been known for aggressiveness in this area in the past.

There is doubt, therefore, that the Institute will have the necessary personnel to accomplish the purposes of this bill. I am therefore proposing to add a short clause to section 107, which would say that in carrying out its activities as described in the act, the Institute shall take all appropriate steps "to ensure it has adequate personnel and facilities to accomplish such purposes, including the capability" to strengthen and expand the ties between the people of the United States and all the people on Taiwan.

Now I realize that section 107 was originally set up to promote human rights, but since it talks about strengthening and expanding the ties between our two peoples, it appears to be an appropriate place to insert my language.

Mr. President, it is my understanding that the distinguished managers of the bill, Mr. CHURCH and Mr. JAVITS, have examined this amendment and are willing to accept it.

The PRESIDING OFFICER (Mr. HEFLIN). Who yields time?

Mr. HELMS. Mr. President, while the distinguished managers of the bill are studying it, I suggest the absence of a quorum with the time charged to me.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I wish to modify my amendment by striking the language of the amendment and inserting the following language:

On page 11, line 8, strike the period, and add a comma followed by the words "and to provide adequate personnel and facilities to accomplish the purposes of this section."

I send that modification to the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. The amendment is so modified.

The amendment, as modified, is as follows:

On page 11, line 8, strike the period and insert the following: ", and to provide adequate personnel and facilities to accomplish the purposes of this section."

Mr. HELMS. Mr. President, with the modification in place, I believe the amendment is satisfactory to the managers of the bill, and I am prepared to yield back the remainder of my time.

Mr. JAVITS. Mr. President, that modification is satisfactory to me.

Mr. CHURCH. Mr. President, I have no objection to the modification, it now being appended to the original language of section 107 as the concluding phrase. In such form, I find the amendment acceptable, and I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 91), as modified, of the Senator from North Carolina.

The amendment, as modified, was agreed to.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 85

(Purpose: To authorize the Institute to assist or protect the persons and property of citizens or entities of United States nationality in Taiwan)

Mr. HELMS. Mr. President, I call up my amendment No. 85, and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 85:

On page 20, after line 2——

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 20, after line 2, insert the following paragraph:

"(4) to perform any other duties in keeping with the purposes of this Act and otherwise authorized by law which assist or protect the persons and property of citizens or entities of United States nationality.".

Mr. HELMS. Mr. President, I note once again that the purpose of this act is to promote the foreign policy of the United States through the maintenance of commercial, cultural, and other relations with the people on Taiwan. But nowhere in the act is there any language providing assurances to Americans already in Taiwan or who have investments there that the Institute will, as is the case of U.S. embassies in other countries, serve and act to represent them. This after all, is one of the purposes of foreign representation which is sometimes ignored by the representatives of our Government who tend to forget or sometimes cannot be bothered to perform as public servants of the people, as well as the Government, of the United States.

It is clear, of course, that U.S. embassies are supposed to assist U.S. citizens and U.S. investments abroad. But the Institute is a new creation. It does not carry the obligations of custom and law usually borne by our embassies. I believe that it is necessary to add a paragraph in section 206(a)—the section listing the duties of Institute employees—"to perform any other duties in keeping with the purposes of this act and otherwise authorized by law which assist or protect the persons and property of citizens or entities of U.S. nationality."

Mr. President, that is the purpose of the amendment. I believe that the Senator from Idaho has studied this amendment, and may be willing to accept it.

Mr. CHURCH. Mr. President, I wonder if the Senator would consider modifying his amendment, simply for purposes of grammatical clarity, by adding a semicolon after the word "seamen" on line 2 of page 20, and then the word "and".

Mr. HELMS. If the Senator will withhold for a moment, until I find the appropriate line.

Mr. CHURCH. Mr. President, in order that we may execute a slight modification which will make the amendment acceptable, I suggest the absence of a quorum and ask that it be taken from my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I send a modification to the desk. I will state it so that it will appear in the RECORD. On page 19, at the end of line 25, strike "and". On page 20, line 2, after the word "seamen" strike the period, insert a semicolon, insert the word "and" and then pick up the remainder of the amendment. I send the modification to the desk.

The PRESIDING OFFICER. The Senator has the right to make the modification.

The amendment, as modified is as follows:

On page 19, at the end of line 25, strike "and".

On page 20, line 2, strike the period and insert a semi-colon and the word "and".

On page 20, after line 2, insert the following paragraph:

"(4) to perform any other duties in keeping with the purposes of this Act and otherwise authorized by law which assist or protect the persons and property of citizens or entities of United States nationality.".

Mr. CHURCH. Mr. President, I have conferred with the Senator from New York (Mr. JAVITS). He is willing to accept the amendment as modified, and I am also willing to accept it. I think it now reads properly, listing seriatim the duties to be performed by the Institute. So I am happy to accept the amendment. I think it adds to the bill, and constitutes a duty that should be performed by the Institute.

Mr. HELMS. I thank my able colleague.

Mr. CHURCH. Therefore, I am willing to relinquish the remainder of my time, and I call for a vote.

Mr. HELMS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment, as modified. (Putting the question.)

The amendment, as modified, was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 83

(Purpose: To place direct responsibility upon the Institute to carry out the purposes of this Act).

Mr. HELMS. Mr. President, I send another amendment to the desk, my final amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 83:

On page 21, line 16, at the end of the paragraph add the following sentence: "Such action shall not, however, relieve the Institute of the responsibilities placed upon it by this Act.".

Mr. HELMS. Mr. President, I note with satisfaction that section 304 provides for a certain degree of accountability to Congress for the President's directives to the Institute. However, I am concerned that a mere reporting function is insufficient, and that in the future it might be construed as relieving the Institute of the responsibility which Congress has placed upon it. The mere reporting function, it seems to the Senator from North Carolina, is not sufficient. I think it would be very helpful to have some definite language indicating that the responsibilities imposed by Congress are not relieved merely by the reporting function.

That is the purpose of the amendment. I believe once again the distinguished managers of the bill have examined it and may wish to approve it.

Mr. CHURCH. Mr. President, first of all, I commend the Senator from North Carolina for his diligence. As a new member of the committee, he attended the hearings and participated in the markup of the bill, and he has carefully scrutinized it since the markup. I believe these amendments have been helpful, and commend him for them.

As I understand this amendment now offered, it would add to section 304 in the following manner:

The President is authorized to prescribe such rules and regulations as he may deem appropriate to carry out the purposes of this act. Such rules and regulations shall be transmitted promptly to the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives. Such action shall not, however, relieve the Institute of the responsibilities placed upon it by this Act.

Mr. President, I have no objection to this amendment, and I am informed by the ranking Republican member of the committee (Mr. JAVITS) that he has no objection. I am prepared to yield back the remainder of my time.

Mr. HELMS. Mr. President, I thank the distinguished chairman of the committee. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment. (Putting the question.)

The amendment was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHURCH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Mississippi.

UP AMENDMENT NO. 38

(Subsequently numbered Amendment No. 99)

(Purpose: To permit individuals representing the people on Taiwan to be admitted to the Senate diplomatic gallery)

Mr. COCHRAN. Mr. President, I call up my amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Mississippi (Mr. COCHRAN) proposes an unprinted amendment numbered 38.

On page 13, line 15, before "The" insert "(a)".

On page 13, after line 24, insert the following:

(b) In exercising its duty under paragraph 2 of rule XXXIV of the Standing Rules of the Senate, the Committee on Rules and Administration of the Senate shall issue regulations providing that the head and first secretary of the instrumentality referred to in section 109, and their families and suites, shall be admitted to the gallery in the Senate chamber set apart for the use of the diplomatic corps. This subsection is enacted as an exercise of the rule-making power of the Senate.

Mr. COCHRAN. Mr. President, the current section 113 as it exists now relates to an authorization of the President to extend to the instrumentality established by the people on Taiwan and the appropriate members thereof such immunities and privileges as are compatible with missions of other foreign countries.

I think it is in keeping with the sentiment of section 113 and the authorization that the Senate extends to the President that the Senate itself should extend this courtesy and the opportunity to have the privileges of the diplomatic corps gallery to those who are identified in the amendment I have offered. I would hope that the distinguished chairman of the Foreign Relations Committee and the managers of the bill before us could accept the amendment.

Mr. CHURCH. Mr. President, I am informed by the Parliamentarian that inasmuch as this proposal would amend the Rules of the Senate it is subject to a point of order. If that point of order were sustained it would have to lie over for a day before the Senate could properly consider it.

This is the first time I have seen the amendment. I am not prepared to accept it at this time, pending some inquiry into the possible implications of the amendment as it relates to official recognition of representatives of this institute, and to the possible effect the amendment would have upon the American commitment to officially recognize only one Chinese Government; namely, the Peking government.

Rather than to raise a point of order at this time and force the matter to lay over until tomorrow, I wonder if the Senator would be willing to withdraw the amendment at this time so I may make these inquiries. If at the appropriate time tomorrow he wishes to call up his amendment again, I certainly would not raise a point of order.

Mr. COCHRAN. Mr. President, in view of the representation of the distinguished chairman, I will withdraw the amendment at this time with the intention of bringing it before the Senate tomorrow. I ask permission to withdraw the amendment at this time. I thank the distinguished chairman.

The PRESIDING OFFICER. The Senator has the right to withdraw the amendment.

Mr. CHURCH. I thank the Senator for his cooperation.

The PRESIDING OFFICER. The Senator from Kansas.

UP AMENDMENT NO. 39

(Subsequently numbered amendment No. 100)

(Purpose: To provide for the appointment of a Director to head the American Institute in Taiwan)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 30.

On page 11, between lines 3 and 4, insert the following:

(c) The Institute shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate and who shall hold such appointment for a period of not to exceed two years.

Mr. DOLE. Mr. President, the amendment I have sent to the desk I believe is very concise and easily understood, though perhaps controversial. I am not certain if the floor managers would be willing to accept the amendment. It concerns the question of congressional oversight.

There is no doubt about it. The American Institute on Taiwan will be carrying out U.S. foreign policy and on rare occasions the Director of the Institute may even be placed in the position of initiating policy and acts which will affect U.S. strategic interests. It seems to me that for that reason the Senate ought to have the right to confirm the person appointed as Director.

This amendment creates such an official avenue and safeguards the principles of advise and consent set forth in the Constitution.

Again, the Senator from Kansas wants to make it very clear that I do not intend to upset the balance which my distinguished colleagues on the Senate Committee on Foreign Relations have been able to work out. It is not my intent to destroy the delicate understanding upon which our normalization with the mainland rests. I feel we have much to gain potentially from a strong relationship with Peking.

The language I propose in this amendment does not raise the quality of our relations with Taiwan one iota. This is perhaps unfortunate, but let me say again it is not my intention to wreck the understanding which has been laboriously worked out. My only concern here is with the constitutional responsibility of the Senate. It seems to me that the bill as it now stands is asking the Senate to abrogate—to terminate, rather—some of that responsibility which we in the Senate now have to act as a watchdog and a safeguard for U.S. interests in the foreign policy area.

The relationship we are implementing with Taipei is unprecedented. Let us not abdicate our duty to oversee the actions of the executive department in this one, small matter, for a short term and perhaps transitory political expediency. Once the director of this institute is appointed he will be technically unfettered to act as he pleases. It is necessary for us to have an opportunity to judge the worthiness of this unofficial official, who will have such unprecedented power.

To those who say that senate confirmation of the director would destroy the non-governmental character of the institute, I ask how can the Secretary of State, acting for the President, have the sole authority to appoint this individual without giving an air of officiality to the proceedings? How can the Congress provide all the funds for this institute without making it seem that there is some small degree of government interest and involvement? The administration and the committee have satisfied themselves on this score and have written the definitions to comply with their conclusions.

There is, however, a larger definition we must satisfy also. By this I mean the primary obligation the constitution imposes on us. This amendment only addresses that one problem, the obligation for the Senate to advise and consent to certain actions by the executive department. I do not believe it is in the best interest of the United States to make this accommodation to suit the requirements of the Communist regime in Peking. I urge the Senate to reject the precedent this would cause, by giving favorable consideration to this amendment.

Let me reemphasize that I applaud the chairman and I applaud the members of the committee for working out a very delicate balance. It seems to me that if we are concerned about the nongovernmental character of the Institute, we also have to look at the appropriations and everything else that might affect the Institute. All the Senator from Kansas suggests is that we have the right to confirm the director.

I do not know any objection to the amendment, but I withhold the remainder of my time.

Mr. CHURCH. Mr. President, reluctant as I am to say so, there are serious objections to the amendment. It does great violence to the bill.

I agree with the able Senator from Kansas that Congress should continue to exercise oversight. The committee went to great pains to see to it that we would be in a position to do so. Congressional oversight over the operation and management of the Institute created by this bill is assured by other provisions of the bill. Appropriations for the Institute would have to be authorized on an annual basis, so Congress continues in effective control. The Comptroller General will have access to the books and record of the Institute, so that its proceedings will be constantly under the supervision of the executive branch. The Institute will also operate under a contract with the Department of State, whose senior officers are appointed by the President with the advice and consent of the Senate.

Mr. President, the Committee on Foreign Relations fully considered this issue in order to meet concerns expressed by members of the committee. The Secretary of State has assured the chairman that he will inform the committtee of prospective appointments of the Institute's trustees and officers, and will undertake to resolve any reservations the committee may express. A copy of the Secretary's letter to this effect, dated February 23, 1979, addressed to me as the chairman, sets forth the State Department's position. I ask unanimous consent that the text of that letter may be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
February 23, 1979.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: As you know, under the articles of incorporation and bylaws of the American Institute in Taiwan, the Secretary of State appoints and removes the trustees of the Institute.

Because the Institute is not an agency or instrumentality of the Government, and because its trustees are not officers of the United States, it would not be appropriate for the Senate to advise and consent to the appointment of trustees or officers. However, the names of prospective trustees and officers will be forwarded to the Foreign Relations Committee. If the Committee expresses reservations about a prospective trustee or officer, we will undertake to discuss and resolve the matter fully with the Committee before proceeding.

This arrangement will enable the Institute to retain its character as a private corporation and enable the Senate to participate in the selection of trustees in an appropriate manner.

Sincerely,

CYRUS VANCE.

Mr. CHURCH. Mr. President, what are the objections to the amendment offered by the Senator from Kansas? They are several and they are of prime importance.

If the Senate were to approve this amendment, it would be an act inconsistent with normalization of our relations with Peking. Our ability to have diplomatic relations with the People's Republic of China, and simultaneously to maintain commercial, cultural, and other relations with the people on Taiwan depends upon the latter relationship being conducted on an unofficial basis.

The American Institute on Taiwan, under the terms of this bill, is created under the District of Columbia nonprofit corporation law as a private organization precisely to avoid the appearance of officiality that the adoption of the pending amendment would create. Appointment of a Director of the American Institute in Taiwan through the procedures specified in the Constitution—that is to say, appointment by the President by and with the advice and consent of the Senate—would connote an official status, which is precisely what we seek to avoid in this legislation.

I do not know the purpose of the Senator in offering this amendment. He says that he acknowledges that American interests are advanced by recognizing Peking. If that is so, why offer an amendment which goes to the very heart of what we are trying to do? Why is this such a delicate matter? Not because primarily Peking insists on making it so, but because both Peking and Taipei continue to claim to be the government of China. Furthermore, Taipei acknowledges that Taiwan is part of China, and that there is but one China.

Since both governments take that position, then we can recognize one or the other, but we cannot recognize both. If it is, as the Senator from Kansas says, obviously in the American interest to recognize the government that is actually in charge, then it follows that our relations with the other government must be conducted on an unofficial basis. That is the basis of the bill.

I hope the Senate will not start to tamper with the essential purpose of the bill by adopting the amendment offered to the Senator from Kansas. If we make officials of this corporation, which is established under the laws of the District of Columbia as a private organization, making them appointable by the President subject to Senate confirmation, we lift them to official status, for this is the constitutional method by which we appoint members of the Cabinet, chiefs of our own executive agencies, ambassadors to foreign lands, and justices to the Supreme Court.

This is the constitutional formula for appointing and confirming to office officials of the Government of the United States. Therefore, the adoption of this amendment would be inconsistent with the major objective sought to be served by the bill.

I hope that when this matter comes to a vote tomorrow the Senate will reject this amendment. It could do serious injury to the bill.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. CHURCH. Mr. President, I reserve the remainder of my time.

Mr. DOLE. Mr. President, I thank my distinguished colleague.

As the Senator from Kansas has indicated, I do not want to upset the balance. I commend the chairman and the distinguished Senator from New York and others who have tried to forgo the proper balance, and who have in most areas. It seems to me that because of this delicate relationship we could perform just this one small function and preserve our constitutional right to advise and consent with reference to the director.

Mr. President, it is a very easily understood amendment. I do not want to take any other further time of the Senate. I would be willing to vote, and I ask if the Senator from Idaho might want to vote now, or——

Mr. CHURCH. Voice vote?

Mr. DOLE. I have not looked at the attendance. I might——

Mr. CHURCH. Voice vote or go over until tomorrow?

Mr. DOLE. Why not go over until tomorrow, and maybe it will be a voice vote tomorrow, but then I will have the right to ask for the yeas and nays.

I might say to the distinguished majority leader that I am perfectly willing for the vote to go over or do it now. But I think they would prefer, in the event there may be a rollcall, to have it come tomorrow. It is certainly satisfactory to this Senator.

Mr. CHURCH. A voice vote right now?

Mr. DOLE. I understand. I appreciate that.

[Laughter.]

Mr. DOLE. I did that in Indianapolis on Saturday.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendment by Mr. Dole be temporarily set aside with the understanding that it will be the pending question before the Senate on tomorrow when the Senate resumes consideration of the Taiwan Enabling Act.

Mr. DOLE. As far as the Senator from Kansas, the debate is finished, I yield back the remainder of my time.

I just want to reserve the right to ask for the yeas and nays tomorrow, if I make that request.

Mr. ROBERT C. BYRD. The Senator will have that right.

Mr. DOLE. All right.

The PRESIDING OFFICER. The Chair notes that on tomorrow—to any specific time?

Mr. ROBERT C. BYRD. It will be the pending question on tomorrow.

The PRESIDING OFFICER. It will be the pending question on tomorrow.

Mr. ROBERT C. BYRD. Yes, when the Senate resumes.

Mr. DOLE. Mr. President, I think the Senator from Kansas might just reserve 5 minutes of my time in the event the distinguished Senator from Idaho conjures up some good argument against the amendment.

Mr. CHURCH. I reserved the remainder of mine.

Mr. President, I am surprised my argument has not already persuaded the Senator from Kansas to withdraw his amendment. However, if he wants to reserve 5 more minutes I will reserve the same, and then we can proceed to a vote.

Mr. ROBERT C. BYRD. Mr. President, with the amendment set aside temporarily, if there is any other amendment which any Senator wishes to call up, it would be a good time to do it now, with the understanding that on tomorrow the pending question when the Senate resumes consideration of the Taiwan Enabling Act will be the further consideration of the amendment by Mr. Dole.

The PRESIDING OFFICER. The Senator from New Hampshire.

UP AMENDMENT NO. 40

Mr. HUMPHREY. Mr. President, I send to the desk an unprinted amendment and asked that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from New Hampshire (Mr. Humphrey) proposes an unprinted amendment numbered 40:
>
> On page 22 following line 23, insert the following new section:
>
> THE PURPOSE IS TO REQUIRE
>
> "Sec. 403. The President shall notify the Chairman of the Senate Committee on Foreign Relations and the Speaker of the House of Representatives thirty days prior to the issuance to the People's Republic of China of any license required under Section 38 of the Arms Export Control Act."

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. HUMPHREY. Yes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it may be in order to order the yeas and nays at this time on the amendment by Mr. Dole.

Mr. CHURCH. Mr. President, reserving the right to object, it had been my intention to make a motion to table the amendment, but I would not want to agree to a unanimous-consent agreement that would foreclose my motion.

Mr. ROBERT C. BYRD. That would not foreclose the Senator.

Mr. CHURCH. Very well.

Mr. DOLE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it may be in order at this time to order the yeas and nays on a motion to table the amendment by Mr. Dole in the event such a motion is made, which Mr. Church says he intends to make.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CHURCH. Mr. President, I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. I thank the Senator for yielding.

Mr. HUMPHREY. Mr. President, the

purpose of my amendment is to require the President to notify the chairman of the Senate Committee on Foreign Relations and the Speaker of the House of Representatives 30 days prior to the issuance to the People's Republic of China of any license required under section 38 of the Arms Export Control Act.

Serious thought apparently is being given in some Government and business circles to selling defense-related technology and even weapon systems to the People's Republic of China. I am heartened, however, by President Carter's statement of January 26, that he does not plan to enhance the military capability of the PRC.

Mr. President, I ask unanimous consent to have President Carter's statement printed in the Record.

There being no objection, the statement was ordered to be printed in the Record as follows:

Question. Mr. President, in regard to Mr. Brezhnev's warning to the West against the sale of sophisticated arms to China, as I understand it, the United States is not planning to make any such sales. West Germany says it will sell only to its allies, but the attitude is very different in Paris and London. Question is, what is the U.S. attitude towards sale of such weapons by its allies and, secondly, what, if anything, are we doing in support of that attitude?

The President. We have responded very clearly to President Brezhnev who contacted me directly about these sales. We will not sell weapons to either China or Russia. Secondly our allies are independent sovereign nations and they would resent any intrusion by us into their weapons sales policies. We have a very clear understanding among ourselves, particularly Germany, Great Britain and France and the United States. We discussed this at some depth at Guadeloupe. Our publicly expressed and privately expressed advice to the other nations is that the sale of any weapons should be restricted to defensive weapons, and, of course, President Giscard d'estaing, Prime Minister Callaghan, Chancellor Schmidt would decide with their advisors on what is or is not a defensive weapons sale.

The Soviets need not be concerned about this, in my opinion. They have expressed their opinion to the foreign leaders as well as to myself. And I think my response was, basically cast in the posture of reassurance to the Soviets. We certainly have no intention to sell weapons to the Soviet Union or China.

The technologically advanced equipment, computers and so forth, would have to be assessed on the basis of each individual item and whether it could contribute in a substantial way to the enhancement of the military capabilities of both the Soviet Union and China. And, in general, we will apply the same restraints of that kind of sale to both countries.

Mr. HUMPHREY. Mr. President, I remind my distinguished colleagues that Mr. Carter's statement concerning arms sales policies toward the PRC was considerably more forthright than that of William Cooper, Under Secretary of State for Economic Affairs. Mr. Cooper, in testimony before the Senate Banking Committee, would not give assurance that the administration would not sell strategic commodities or weapon systems the PRC. All he would say and I quote, "We will try to maintain a balance in our relations with China and the Soviet Union and what that means in practice at the moment is that we will not sell military equipment to either country, either China or the Soviet Union."

Whom are we to believe? Are we not planning to sell weapons to the PRC or are we not planning to sell them for the moment? Over the last decade, the United States—largely due to Congress concern and foresight—has become more sophisticated in monitoring the transfer of U.S. technology and weapon systems overseas.

The President, however, is given a great deal of flexibility in dealing with arms sales to the PRC. Loopholes in the present laws are summarized in a paper which I ask unanimous consent to have printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Loopholes in Present Legislation Governing Transfer of Goods and Technology With Possible Military Uses

1. Sec. (4) of the Export Administration Act of 1969 states that "in administering export controls for national security purposes . . . United States policy toward individual countries shall not be determined exclusively on the basis of a country's communist or non-communist status but shall take into account such factors as the country's present and potential relationship to countries friendly or hostile to the United States, its ability and willingness to control re-transfers of United States exports in accordance with United States policy and such other factors as the President may deem appropriate." Thus, under the Export Administration Act the transfer of defense related technology to the PRC is theoretically possible.

2. The Arms Export Control Act does not place absolute constraints on the transfer of weapons to communist nations. All that is said is that it is "the sense of Congress that sales and guarantees . . . shall not be approved where they would have the effect of arming military dictators who are denying the growth of fundamental rights or social progress to their own people. Provided, that the President may waive this limitation when he determines it would be important to the security of the United States, and promptly so reports to the Speaker of the House of Representatives and the Committee on Foreign Relations in the Senate."

3. The Foreign Assistance Act of 1961 prohibits military assistance "to any communist country" but even here the President is given some flexibility to waive restrictions if he finds and promptly reports to Congress that (1) "such assistance is vital to the security of the United States; (2) that the recipient country is not controlled by the international communist conspiracy and (3) such assistance will further promote its independence of the recipient country from international communism." I would have a difficult time agreeing with the President that these provisions could be met by the PRC but one finds strange arguments advanced in some academic circles at least that there is no such thing as an international communist movement, and that Peking is an independent actor and that furnishing aid would enhance Peking's independence from the Soviets.

Mr. HUMPHREY. Mr. President, many will ask why we need to make law what the President has said he will not do; that is, sell weapons to the PRC. These reasons come to mind. Not only do regulations presently in force give the President great leeway concerning possible arms sales to the PRC, the President in my opinion, at least, has proven to be anything but consistent in foreign affairs. Taiwan is a poignant case in point. The President promised not to abandon Taiwan and then proceeded to do just that without consulting with the ROC or with the U.S. Congress. Might he not change his mind abruptly about arms sales to the PRC?

Lastly, arms sales to the PRC are being discussed in the press and elsewhere.

China's shopping list for U.S. weapons promises to be a long one. According to the New York Times of March 9, China is very interested in buying U.S. warplanes, particularly the Lockheed C-130 military transport and the Lockheed P-3C antisubmarine patrol plane. Peking is also interested in some of the advanced electronic equipment produced by McDonnell Douglas. I also understand they are interested in purchasing high-technology hydrofoil turbines that now propel our U.S. Navy hydrofoil missile combatants.

Is it fair to place serious restraints on arms sales to a good and loyal ally of more than 30 years while at the same time, contemplating selling arms and defense related technology to the PRC—Taiwan's bitter and sworn enemy?

The administration, in fact, has agreed—only reluctantly—to supply Taiwan after 1979 with "selected defense weaponry on a restricted basis." Several witnesses before the Foreign Relations Committee including Vice Admiral Snyder, former head of Taiwan Defense Command, expressed concern that vital weapons that Taiwan really needs have been withheld from them for political reasons. At present, Taiwan's Navy which consists of World War II vintage destroyers would be no match for the PRC's patrol boats and modern destroyers which are armed with Styx ship-to-ship missiles or the PRC's submarines. These subs may be primitive by Western standards but the PRC has twice the number of attack subs that the United States has in the entire western Pacific. The PRC's surface and submarine force would permit China to sever Taiwan's sea lines of communication relatively quickly. I point out that Taiwan's forces were never designed to act alone but in concert with U.S. forces under the provision of the Mutual Defense Treaty.

Mr. President, if the past several weeks have proven anything, it is that Peking government is quite willing to destabilize Asia just to prove a political point; that is, it will not be pushed around by Vietnam. Not only did Peking commit thousands of troops and kill thousands of people just to give Vietnam a slap in the face; Peking's action against Vietnam endangered the peace throughout southeast Asia, and suggested that the People's Republic of China will not hang back from attacking Taiwan if it thinks it can get away with it. Yet, even after China's demonstration of contempt for world opinion, there are those in our country who would provide the People's Republic of China with military equipment.

It is time, that the United States

stopped hastily committing itself to programs or agreements just for the sake of having successful negotiations. This is basically how the administration approached Taiwan and the Senate has worked diligently over the past 2 months to pick up the pieces to insure Taiwan some measure of security and international standing. I fear, that given our zeal to be liked by the Communists, we will begin selling defense materiel to the PRC despite the obvious long-term pitfalls of doing so.

In the future, it is conceivable that the PRC and the United States may be adversaries. The Chinese Communists themselves view the new relationship with the United States as a temporary phenomenon designed in the short term to gain advantages vis-a-vis the U.S.S.R. To quote my colleague Senator HELMS, as he expressed himself in the Foreign Relations Committee report,

> The old Chinese strategy, playing the near barbarian (the USSR) off against the far barbarian (the United States) continues to hold sway in the minds of Peking's strategists. At the same time, given Communist ideology whether it be the Soviet or Chinese-brand detente or peaceful coexistence, is no more than a guise to gain the strength to tackle capitalism, i.e., the West and our way of life.

It is time that the American people exerted less effort to "being liked," less time bending over backward to insure successful negotiations with former enemies, and exerted more effort toward being respected. The administration's hasty and shameful abandonment of Taiwan cost the United States dearly in respect and credibility. Turning around and selling arms to Taiwan's enemy will further erode our worldwide respect and credibility.

This amendment will insure that we, as a Nation, that we, as a legislative body, are given clear warning that the United States may be embarking on a course of action that could have dangerous consequences 5 to 10, or even 20 years down the road. Basically, my misgivings about selling defense technology to the PRC boil down to two basic questions: Should we create another military superpower that our grandchildren may have to confront? Will they appreciate our efforts to make China even more powerful than it otherwise would have been? Absolutely not.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. HELMS. Mr. President, I commend the distinguished Senator from New Hampshire on this amendment and for the other fine work he has done with respect to this legislation. I wonder whether he would give me the privilege of cosponsoring the amendment.

Mr. HUMPHREY. Yes.

Mr. HELMS. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the amendment.

The PRESIDING OFFICER (Mr. NUNN). Without objection, it is so ordered.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. McCLURE. Mr. President, I join my friend and colleague from North Carolina, and I ask unanimous consent that my name be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I commend the Senator from New Hampshire for the very lucid statement he has made. I appreciate the constructive work he has done on this measure.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the name of the Senator from Utah (Mr. HATCH) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ZORINSKY. Mr. President, I also commend the Senator from New Hampshire for his forthrightness and his astuteness in suggesting this amendment—that the President shall notify the chairman of the Senate Committee on Foreign Relations and the Speaker of the House of Representatives 30 days prior to the issuance to the People's Republic of China any license required under section 38 of the Arms Export Control Act. The committee will accept this amendment.

In addition, I note that on January 26, 1979, the President stated that we will not sell weapons to either China or Russia; and the committee, after hearings, will consider supporting the President on this issue.

Mr. President, I again state that the Foreign Relations Committee will accept this change in the form of this amendment.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. ZORINSKY. I yield back the remainder of my time.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. GOLDWATER. Mr. President, I compliment the Senator. In his first effort on the floor, he has had a meaningful amendment adopted, one that can put a little more muscle in this piece of legislation which came to us so sadly lacking in strength. Thanks to people like this young man, we have added a little strength to it.

Mr. HUMPHREY. I thank the Senator from Arizona for his kind comments.

Mr. JAVITS. Mr. President, I join in accepting the amendment. I understand that it applies to the munitions list, as it is called.

Under the circumstances as I see them today, I see no particular prejudice to the United States or to our national interests in this required notice period.

I thank my colleague for his work, as others have, on this amendment.

Mr. HUMPHREY. I thank the Senator from New York.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HUMPHREY. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The agreement was agreed to.

Mr. ZORINSKY. I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 41

(Subsequently numbered amendment No. 101)

Mr. HUMPHREY addressed the Chair.

Mr. JAVITS. Does the Senator have another amendment?

Mr. HUMPHREY. Yes.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. HUMPHREY. Mr. President, I send to the desk an unprinted amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from New Hampshire (Mr. HUMPHREY) proposes an unprinted amendment numbered 41:
>
> On page 23 after "section 601", and before "this Act shall have taken effect on January 1, 1979" insert the following:
>
> "Contingent upon the President of the United States securing written assurances from the Peoples Republic of China that the Peoples Republic of China will not undertake military operations of any nature against the people of Taiwan."

Mr. HUMPHREY. Mr. President, the amendment I have sent to the desk is a very simple amendment. It is clear-cut. It makes the effective date of the treaty, January 1 of this year, contingent upon the President securing from the People's Republic of China written assurances that the People's Republic of China will not engage in military aggression against the Republic of China on Taiwan.

Mr. President, as we all know, the President of the United States chose to ignore the request of the U.S. Senate that he consult with this body before drastically altering the relations between this country and the Republic of China. He chose to ignore the request embodied in the International Security Assistance Act passed by this body last July by a vote of 94 to 0.

Had he consulted with this body, Mr. President, I believe that he would have been asked to obtain the assurances which this amendment seeks to obtain, but he did not consult with this body. To make matters worse, it has come out during the hearings of the Foreign Relations Committee that his people in Peking did not bother even to ask for such assurances—did not bother even to ask.

I can hardly believe that.

Mr. Woodcock when asked why he did not broach that question replied that he thought it might create a roadblock in the involvement of relations between the United States and the PRC.

So the upshot, Mr. President, is that we are terminating the mutual defense treaty as of the end of this year and we are replacing it with a vaguely worded security section of S. 245, a section which I believe was worded vaguely in a deliberate way, while we are not even providing the Republic of China assurances that the PRC has peaceful intents toward that island nation.

Mr. President, the handling of this

matter by the President is shocking. I am shocked that he failed to press the People's Republic of China for assurances of this nature and it is time to rectify it. I ask my colleagues to rectify it by voting for my amendment which will make the effective date of this treaty contingent upon the President's securing such written assurances, and that is the simple purpose of my amendment, Mr. President. It is very clear. It is very easy to understand. It is very simple.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, we have not even seen this amendment.

I suggest the absence of a quorum so we may get some copies.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, the disposition of Members tonight, and this goes for Members who may be with or may not be with the Senator, is to not have any rollcall votes on amendments. We have already put two over, and if the Senator insists on going ahead with his amendment, we will simply have to debate it for a while, which I do not think is going to promote the case for him or promote the case for the bill.

My strong suggestion to the Senator is that we agree that his amendment shall be called up after the amendment tomorrow that Senator Dole already has priority for and then, of course, the Senator can have his rollcall or whatever he wishes.

But it does not seem to work tonight for a lot of Members on both sides. So if that is agreeable I will ask unanimous consent reserving all the Senator's rights.

Mr. HUMPHREY. Yes, as long as my rights are reserved I shall be happy to work in that fashion.

Mr. JAVITS. Mr. President, I ask unanimous consent that the amendment offered by the Senator may follow for consideration the amendment which Senator Dole by unanimous consent is to bring up when this bill becomes the pending business tomorrow and all time utilized on this amendment tonight may not count against the 1 hour time limit on the amendment when it is called up.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I thank my colleague.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that I may be permitted to make a statement not in regard to the matter at hand.

The PRESIDING OFFICER. Who yields time?

Mr. BOSCHWITZ. Mr. President, last Thursday on March 8, 1979, the Senate agreed——

The PRESIDING OFFICER. The Senator must have time yielded.

Who yields time?

Mr. JAVITS. I do not know. Do we have any time on the bill?

The PRESIDING OFFICER. Five hours equally divided.

Mr. JAVITS. I yield the Senator 10 minutes.

Mr. BOSCHWITZ. It shall take me about 1 minute.

ANNOUNCEMENT OF POSITION ON VOTE—SENATE RESOLUTION 93

Mr. BOSCHWITZ. Mr. President, last Thursday, on March 8, 1979, the Senate agreed by voice vote to defer implementation on the honorarium limit in rule XLIV to January 1, 1983.

At this point, let the record show that I would have voted against Senate Resolution 93 had there been a rollcall vote.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with Senators permitted to speak therein up to 5 minutes each and that the period not extend beyond 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CLINICAL LABORATORY IMPROVEMENT ACT OF 1979

Mr. KENNEDY. Mr. President, I am pleased to join my good friend and distinguished colleague Senator Javits in sponsoring the Clinical Laboratory Improvement Act of 1979. This bill is substantially similar to the bill that unanimously passed the Senate in the 94th Congress.

The clinical laboratory industry now costs the American people over $12 billion a year. By 1980, approximately 9 billion clinical laboratory tests will be conducted annually at a cost of about $15 billion to the American people. Because the work of clinical laboratories is so integrally connected with the case of patients, without high quality laboratory services America's health care system is in jeopardy.

While the Clinical Laboratory Improvement Act of 1967 resulted in improved quality of laboratory performance, the law covered only the large interstate laboratories, less than 10 percent of all laboratories throughout the country. The American people have had to depend upon a variety of other sources including States government, individual laboratories, and individual practitioners to assure the quality and reliability of laboratory work. This patchwork system of regulation has not adequately served either the doctor or his patient.

Reports of clinical laboratory ineptitude appear much too frequently. We have learned of a distressing litany. Many laboratories, for example, have never been inspected, dirty and broken laboratory equipment is being used by inexperienced technicians, reagents are unlabeled and outdated, and patient specimens are being tested with used and unwashed pipettes.

During hearings held in the last Congress before my Health Subcommittee, we learned that although high volume laboratories may be more proficient than smaller laboratories—such as those found in doctors' offices and medicare certified laboratories—the level of quality was still undesirable. For example, 7.6 percent of the interstate laboratory determinations, 16.5 percent of laboratory tests prepared by other large laboratories, and 26 percent of the sample lab work done in medicare reimbursed labs were incorrect. Almost 1 out of 5 microbiological determinations, then, are inadequate. This is poor medical care and it is expensive medical care. It should no longer be tolerated.

The American health care consumer often finds it impossible to evaluate and judge the quality of laboratory testing which he receives. He has no influence on his physican's choice of laboratory; nor has he any indication of relative costs. Tests which cost $10 in one lab cost $45 in another. It is true that lower charges may be attributed to automation, but even among the larger, automated labs there are incredible price variations.

In addition, there is growing evidence of fraud and abuse within the clinical laboratory field particularly in connection with the medicaid program.

The Clinical Laboratory Improvement Act of 1979 is designed to improve the quality of laboratory performance by requiring all laboratories to comply with national standards designed to assure accurate and reliable testing. And the bill allows us to achieve this result without creating a new Federal bureaucracy.

The program is meshed into the existing medicare certification program which is staffed and administered by State personnel in every State. The bill also has cost savings provisions by amending medicare to discourage unwarranted markups of bills for laboratory services and to place reasonable limitations on payments to hospital-based pathologists.

This legislation will help in our continuing battle to insure quality health care and stabilize health care costs, a fact that has been recognized by the Senate twice before in passing similar legislation in the 94th and 95th Congresses. I join with Senator Javits in asking my colleagues to once again favorably consider this vital legislation when it is before you.

SENATOR MILTON YOUNG'S CONTINUOUS SERVICE IN THE SENATE FOR 34 YEARS

Mr. PRESSLER. Mr. President, I wish to pay tribute to Senator MILTON R. YOUNG who, 34 years ago today, was appointed to this body and has served continuously since. He has served with great distinction here. In our part of the country, South and North Dakota, he is certainly one of the most respected veteran leaders in our area.

I have looked to him for leadership on several occasions, particularly in matters that pertain to water, agriculture, and appropriations. The latter are committees on which he has served as ranking member.

I wanted to call the Members' attention to the fact that it was 34 years ago today that he was first appointed to this body and he has served continuously since. I certainly commend him on that.

Senator YOUNG in 1968 received the highest percentage of vote of any Republican Senator in the Nation. He has never lost an election. Coming from a farm myself, I am happy to note that he was actively engaged in farming until he became a U.S. Senator. His career is an inspiration to us younger Members. North Dakota and the Nation can be very proud and grateful for his service.

THE LATEST WORD ON IRS VERSUS PRIVATE SCHOOLS

Mr. HATCH. Mr. President, the recently republished IRS regulations regarding the tax-exempt status of private, religious schools do not correct the fundamental flaw inherent in these regulations. The IRS claims the revised version restricts the scope of the regulations. Nevertheless, they predicate their actions on the assumption that the majority of American private schools are discriminatory.

In other words, should a private or religous school fall into the category of being a "reviewable" school, it is according to the IRS, prima facie discriminatory, and subject to losing its tax exemption.

Upon examining the newly proposed regulations, one comes to the conclusion that our Internal Revenue Service has taken upon itself the responsibility for implementing an aggressive affirmative action policy. Yet, it is a policy which IRS Commissioner Jerome Kurtz has said: "We have almost no specific guidance."

In reading these regulations and considering the Commissioner's statement, one can almost hear Mr. Justice Blackmun in his dissent in *Alexander* v. *American United, Inc.*, 94 S. Ct. 2065 (1974), in which he warned of the potential for abuse of power vested in the IRS:

> There appears to be little to circumscribe the almost unfettered power of the Commissioner. This may very well be so long as one subscribes to the particular brand of social policy the Commissioner happens to be advocating at the time . . . but applications of our tax laws should not operate in so fickle a fashion. Surely, social policy in the first instance is a matter for legislative concern.

I agree with Mr. Justice Blackmun. Social policy is a matter for legislative concern and it is an affront to the Congress of the United States to have an administrative agency attempt to set social policy. Legally and politically, an agency such as the IRS is restricted in its rulemaking authority. It is restricted to making "procedural" decisions, but not "substantive" policy decisions—an area which is reserved by the Constitution's article I to Congress.

When the IRS first released its "private school" regulations, responsibilities in the Congress over such regulations were not consulted. And yet, these regulations give the individual IRS agent incredible subjective authority to determine the guilt or innocence of a private or religious school.

For example, I quote the following statement taken from the proposed regulations:

> The schools will be considered to have a racially non-discriminatory policy as to students if the school can show that it has undertaken actions or programs reasonably designed to attract minority students on a continuing basis.

I call your attention to the word "reasonably." It is a code word—the buzz word which gives the IRS broad, sweeping and open-ended power to evaluate the evidence a private or religious school may submit in its own "defense." Such a blank check goes beyond the authority granted to the Internal Revenue Service. This authority is limited to the areas of taxation and the collection of revenues, not in the admission, recruitment and employment policies of private and religious schools.

Furthermore, the numerical quotas set forth in these regulations are in direct contradiction to the Supreme Court's decision in Bakke against Board of Regents (1978). That decision struck down numerical quota systems similar to the one proposed in these regulations. These IRS regulations raise serious questions about constitutional propriety.

Since the original issuance of these regulations, the IRS has taken for granted that any school under these rules which is classified reviewable is, in fact, discriminatory. It must be inferred that the IRS believes such schools to be prima facie discriminatory solely because, subsequent to their establishment or expansion, these schools had "insignificant minority enrollments."

Given a total absence of allegations of specific discrimination, a school's insubstantial minority enrollment could be accounted for reasons other than an intent to discriminate.

For example, it could be due to factors like tuition cost, lack of special programs available in public schools, an inconvenient location, religious objections, and other factors that are not in the least related to intended discriminatory conduct.

A pivotal factor in this brief commentary on the proposed regulations is whether or not a tax-exemption is, in fact, a form of Federal subsidy. I believe that it is not, and that it was never intended to be construed as one. Rather, tax-exemptions have been the tools by which government has been prevented and restrained from taxing, refrained from destroying institutions which must be free from governmental intervention. Never has Chief Justice John Marshall's maxim been more appropriate.

> The power to tax involves the power to destroy.

Finally, there is the issue of the "open door." I have already alluded to it in my statements about the broad and sweeping power such regulations grant the IRS. But the real danger is the precedent set and the encouragement given to the IRS by these regulations to encroachment on the activities and rights of religious schools and churches. If the IRS gains control over the Nation's religious schools through its power to tax, it is presuming to make substantive policy. It is presuming to do the legislative job reserved for Congress. It is folly to assume IRS employees are capable legislators or experts in the areas of religion, sociology, and racial questions, and yet by their regulatory behavior they presume to be. And the risk this poses to the freedom of American private schools today, will become the danger jeopardizing church organizations and religious groups tomorrow. Freedom of worship and religious practice is protected by the first amendment, but this becomes meaningless when it is the Federal Government through the IRS which determines who can and who cannot practice or organize through the power to tax.

Since the beginning of this, the 96th Congress, I have introduced two bills intended to address the problems posed in IRS versus private schools, S. 103 (The Save Our Schools Act) and S. 449 (The Charitable Organizations Preservation Act). I am privileged to have the support of many colleagues who have cosponsored either or both pieces of legislation. I am especially thankful, though, to my friend, the senior Senator from Virginia (Mr. HARRY F. BYRD, JR.) who has decided to hold hearings on this subject in the Senate Finance Committee's Subcommittee on Taxation, which he chairs. These April hearings, however, will deal with more than IRS versus private schools. In the most fundamental sense, by the nature of the subject to be considered, they will deal with the restoration of the Congress role to set substantive policy. We must never again allow this legislative power to be taken from us. We must never again allow those who for the best of reasons would commit the worst of constitutional offenses, by removing the power of government from those who were elected to wield it. The power to legislate is a power of Congress. Every schoolchild learns this civic lesson early on, but now it is our responsibility to remind those who may have forgotten it.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-775. A communication from the Deputy Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that certain appropriations (listed in the enclosure) have been apportioned on a basis which indicates a necessity for supplemental appropriations for the fiscal year 1979; to the Committee on Appropriations.

EC-776. A communication from the Assistant Secretary of Defense, reporting, pursuant to law, on the value of property, supplies and commodities provided by the Berlin Magistrate, and under German Offset Agreement for the quarter October 1, 1978 through December 31, 1978; to the Committee on Appropriations.

EC-777. A communication from the Comptroller General of the United States, transmitting pursuant to law, a report on the adequacy of information contained in Congressional Data Sheets; to the Committee on Armed Services.

EC-778. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Air Force's proposed Letter of Offer to the Yemen Arab Republic for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-779. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant ot law, concerning the Department of the Army's proposed Letter of Offer to the Yemen Arab Republic for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-780. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Recent Changes in the Defense Department's Profit Policy—Intended Results Not Achieved," March 8, 1979; to the Committee on Armed Services.

EC-781. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to repeal subsection 416(a) of title 37, United States Code, relating to additional uniform allowances in the case of Reserve Officers; to the Committee on Armed Services.

EC-782. A communication from the Director, Economic Adjustment, Office of the Secretary of Defense, transmitting, pursuant to law, the final environmental impact statement (EIS) for the disposal of surplus federal military property in Rhode Island; to the Committee on Armed Services.

EC-783. A communication from the Senior Deputy Assistant Secretary for Industry and Trade, Department of Commerce, transmitting, for the information of the Senate, statistics of Restrictive Trade Practice or Boycott Reports as reported under provisions of Part 369 of the Export Administration Regulations; to the Committee on Banking, Housing, and Urban Affairs.

EC-784. A communication from the Secretary of Energy, transmitting a draft of proposed legislation to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980 and fiscal year 1981, and for other purposes; to the Committee on Energy and Natural Resources.

EC-785. A communication from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend the Land and Water Conservation Fund Act of 1965, as amended, and for other purposes; to the Committee on Energy and Natural Resources.

EC-786. A communication from the Secretary of Energy, transmitting, pursuant to law, a report on the Strategic Petroleum Reserve (SPR); to the Committee on Energy and Natural Resources.

EC-787. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on energy and economic effects of the Iranian oil shortfall; to the Committee on Energy and Natural Resources.

EC-788. A communication from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation authorizing further appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes; to the Committee on Environment and Public Works.

EC-789. A communication from the Acting Administrator, United States Environmental Protection Agency, transmitting proposed certain reprogrammings which exceed the 10 percent limitation in the Environmental Research, Development, and Demonstration Authorization Act of 1979; to the Committee on Environment and Public Works.

EC-790. A communication from the Secretary of the Army, transmitting a draft of proposed legislation to amend Section 54 of the Water Resources Development Act of 1974 to extend the time limit and increase the authorization of appropriations for the Shoreline Erosion Control Demonstration Program; to the Committee on Environment and Public Works.

EC-791. A communication from the Secretary of the Army, transmitting a draft of proposed legislation to extend the authorization of appropriations for law enforcement services at water resources development projects under the justification of the Secretary of the Army through fiscal year 1982; to the Committee on Environment and Public Works.

EC-792. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Improving the Safety of Our Nations' Dams—Progress and Issues," March 8, 1979; to the Committee on Environment and Public Works.

EC-793. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Government Can Collect Many Delinquent Debts by Keeping Federal Tax Refunds as Offsets," March 9, 1979; to the Committee on Finance.

EC-794. A communication from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting, pursuant to law, a report regarding the Sahel Development Program; to the Committee on Foreign Relations.

EC-795. A communication from the Mayor of the District of Columbia, reporting, pursuant to law, on the Comptroller General's Report (GGD 78-16) entitled "Activities of Special Police and Guard Forces in the District of Columbia Can be Improved"; to the Committee on Governmental Affairs.

EC-796. A communication from the Director of Central Intelligence, transmitting a draft of proposed legislation to authorize appropriations for fiscal year 1980 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes; to the Select Committee on Intelligence.

EC-797. A communication from the Assistant Secretary of Defense, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-798. A communication from the Director, International Communication Agency, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-799. A communication from the Chairman, Federal Energy Regulatory Commission, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-800. A communication from the Chairman, Federal Home Loan Bank Board, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-801. A communication from the Vice President, Panama Canal Company, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-802. A communication from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-803. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports covering the period of February 16 through February 28, 1979, concerning visa petitions which the Service has approved according the beneficiaries of such petitions third and sixth preference classification under the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-804. A communication from the Secretary of State, transmitting a draft of proposed legislation to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes; to the Committee on the Judiciary.

EC-805. A communication from the Secretary of Health, Education, and Welfare, reporting, pursuant to law, relating to a study of the chiropractic education programs; to the Committee on Labor and Human Resources.

EC-806. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report of rescissions and deferrals, March 1979; to the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Appropriations, the Committee on Banking, Housing, and Urban Affairs, the Committee on the Budget, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Finance, the Committee on Governmental Affairs, the Committee on the Judiciary, the Committee on Labor and Human Resources, and the Select Committee on Small Business, jointly, pursuant to order of January 30, 1975.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-81. A joint resolution adopted by the Legislature of the State of Virginia; to the Committee on Armed Services:

"SENATE JOINT RESOLUTION NO. 181

"Whereas, the Comptroller General of the United States has determined cost savings to have the overhaul and modification of four vitally needed aircraft carriers under the Navy's Service Life Extension Program (SLEP) performed at Newport News Shipbuilding and Dry Dock Company instead of at the United States Naval Shipyard at Philadelphia, will amount to $119.2 million for the first ship with substantial added savings for the three following ships; and

"Whereas, Newport News Shipbuilding is the nation's most experiened builder of aircraft carriers, having delivered not only the first ship to be designed and built as a carrier, *U.S.S. Ranger* (CV 4) in 1934, and the latest nuclear powered carrier, *U.S.S. Dwight D. Eisenhower* (CVN 69), but also two of the four carriers in the SLEP Program, *U.S.S. Forrestal* (CV 59) and U.S.S. Ranger (CV-61), as well as eighteen other carriers; and

"Whereas, Newport News Shipbuilding, now constructing its twenty-third aircraft carrier, *Vinson* (CVN 70), already has in place the extensive construction and support facilities necessary for performing the entire four ship program; and

"Whereas, Newport News Shipbuilding has the trained and experienced manpower necessary to perform SLEP, which will keep two thousand six hundred people employed for nearly ten years, while the Philadelphia Naval Shipyard will have to hire and train one thousand six hundred new persons as well as utilize more than one thousand four hundred members of the ships' crews of the carriers, thus removing them from availability for fleet duty; and

"Whereas, due to presently promulgated civilian end-strength limitations, as reported by the secretary of the Navy, which call for a reduction of twelve thousand in civil service rolls, the addition of the sixteen hundred new employees that would be required to perform SLEP in Philadelphia will necessitate an off-setting reduction of sixteen hundred jobs elsewhere in the Navy, bringing to thirteen thousand six hundred the number of civil service jobs that will have to be reduced, with many of them coming from Naval installations in Virginia; and

"Whereas, failure to award SLEP to Newport News Shipbuilding, together with the nonaward of other ship construction due to the National Administration's reduced naval shipbuilding program and the worldwide depression in new commercial ship construction, will make it necessary for Newport News Shipbuilding to reduce its employee roll significantly, thus substantially increasing the regional unemployment rate; and

"Whereas, the Navy, in comparing worker productivity at Philadelphia Naval Shipyard and at Newport News Shipbuilding, conceded to Newport News Shipbuilding a productive labor effort economic advantage of fifteen to twenty percent over the Philadelphia Naval Shipyard; and

"Whereas, the performance of the SLEP work in Newport News, near the Navy's extensive homeport and base facilities in Tidewater, Virginia, will cause less turbulence to Navy morale than if the work were to be performed in Philadelphia; and

"Whereas, the Chief of Naval Operations and the Secretary of the Navy both have recommended, on the basis of the Navy's own findings and analysis, that the carrier SLEP work be performed at Newport News instead of at Philadelphia, only to have their recommendations reversed by the Deputy Secretary of Defense without stating any justification for disregarding the decision of the Navy's senior civilian and military officials; and

"Whereas, the Congress, acting on the initiative of the Congressman from the First District and the Senior Senator from Virginia has voted to withhold award of the carrier SLEP contracts until the Navy provides the full report of a least-cost study comparison of performing SLEP and other conversions and overhaul work in private shipyards versus government shipyards and the Congress has had an opportunity to review these study findings for sixty days; now, therefore, be it

"Resolved by the Senate, the House of Delegates concurring, That Congress is hereby memorialized to stand fast against the pressures of the National Administration to award the SLEP work to Philadelphia Naval Shipyard, and to insist that, on the basis of avoiding needless waste and extraordinary added cost to the taxpayers, the SLEP work be performed at Newport News Shipbuilding."

POM-82. A joint memorial adopted by the Legislature of the State of Idaho; to the Committee on Environment and Public Works:

"JOINT MEMORIAL NO. 103

"Whereas, more strict air pollution requirements will apply to light-duty trucks and vans in the 1979 model year; and

"Whereas, such vehicles must be equipped with catalytic converters in order to economically meet these stricter emission standards; and

Whereas, many light-duty trucks and vans sold in the western states are used in locations, including grasslands, brush lands, and forest areas, which are subject to fire danger; and

"Whereas, such fire hazard represents a threat to valuable grazing and forest areas of the United States.

"Now, therefore, be it resolved by the members of the First Regular Session of the Forty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we urge the Congress of the United States to provide special exemption from such emission requirements for vehicles used predominantly in fire prone areas; and

"Be it further resolved that we find that such an exemptive action is necessary to safeguard valuable natural resources from fire danger; and

"Be it further resolved that the Secretary of the Senate be, and she is hereby authorized and directed to forward copies of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the honorable congressional delegation representing the State of Idaho in the Congress of the United States."

POM-83. A joint resolution adopted by the Legislature of the State of Virginia; to the Committee on Finance:

"SENATE JOINT RESOLUTION NO. 161

"Whereas, hearings conducted both at the federal level, by the Subcommittee on Health and Long-Term Care of the Select Committee on Aging of the House of Representatives, and at the State level, by the Joint General Laws Subcommittee Studying the Cost of Hearing Aids for the Elderly, have established the fact that many hearing-impaired citizens are unable to obtain hearing aids or hearing rehabilitation services because of the high cost thereof; and

"Whereas, hearing impairment adversely affects the lives of individuals no less severely than visual impairment or mobility impairment; and

"Whereas, the costs of hearing aids and associated services remain uncovered by any portion of the federal Medicare program, in spite of the manifest need for such coverage; now, therefore, be it

"Resolved by the Senate of Virginia, the House of Delegates concurring, That the Congress of the United States is hereby memorialized to adopt legislation including the costs of hearing aids and hearing rehabilitation services under optional Medicare Part B; and, be it

"Resolved further, That the Clerk of the Senate is hereby instructed to transmit copies of this resolution to the President of the Senate of the United States, the Speaker of the United States House of Representatives, and the members of the Virginia Delegation to the Congress in order that they may be apprised of the sense of this body.

POM-84. A joint resolution adopted by the Legislature of the State of Illinois; to the Committee on the Judiciary:

"SENATE JOINT RESOLUTION NO. 48

"Whereas, With each passing year this Nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues, so that the public debt now exceeds hundreds of billions of dollars; and

"Whereas, The annual Federal budget continually demonstrates an unwillingness or inability of both the legislative branch and the executive branch of the federal government to curtail spending to conform to available revenues; and

"Whereas, Unified budgets do not reflect actual spending because some special outlays are not included in the budget nor subject to the legal public debt limit; and

"Whereas, Knowledgeable planning, fiscal prudence, and plain good sense require that the budget reflect all federal spending and be in balance; and

"Whereas, Fiscal irresponsibility at the Federal level, with the inflation which results from this policy, is the greatest threat which faces our Nation and some action is vital now to impose constitutional restraints and bring about descipline needed to restore financial responsibility; and

"Whereas, Under Article V of the Constitution of the United States, amendments to the Federal Constitution may be proposed by the Congress whenever two-thirds of both Houses deem it necessary; therefore, be it

"Resolved, by the Senate of the Eightieth General Assembly of the State of Illinois, the House of Representatives concurring herein, that this Body makes application to the Congress of the United States that procedures be instituted in the Congress to propose and submit to the several states an amendment to the Constitution of the United States requiring, in the absence of a national emergency, that the total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated Federal revenues for the fiscal year; and be it further

"Resolved, That this Body also urges the legislatures of each of the several states comprising the United States to apply to the Congress requesting the proposing of an amendment to the Federal Constitution for the purpose set forth in this Resolution; and be it further

"Resolved, That a copy of this resolution be transmitted by the Secretary of State to the presiding officers of the Senate and the House of Representatives of Congress, to the members of the Congressional delegation from the State of Illinois, and to the presiding officers of each house of the various state legislatures."

POM-85. A resolutilon adopted by the Legislature of the State of Pennsylvania; to the Committee on the Judiciary:

"RESOLUTION NO. 236

"Whereas, Requesting appropriate action by the Congress, either acting by consent of two-thirds of both Houses or, upon the application of the Legislatures of two-thirds of the several states, calling a Constitutional Convention to propose an amendment to the Federal Constitution to require, with certain exceptions, that the total of all Federal appropriations may not exceed the total of all estimated Federal revenue in any fiscal year.

"Whereas, with each passing year this Nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues, so that the public debt now exceeds hundreds of billions of dollars; and

"Whereas, The annual Federal budget continually demonstrates an unwillingness or inability of both the legislative and executive branches of the Federal Government to curtail spending to conform to available revenues; and

"Whereas, Unified budgets do not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit; and

"Whereas, Knowledgeable planning, fiscal prudence, and plain good sense require that the budget reflect all Federal spending and be in balance; and

"Whereas, Believing that fiscal irresponsibility at the Federal level, with the inflation which results from this policy, is the greatest threat which faces our Nation, we firmly believe that constitutional restraint is necessary to bring the fiscal discipline needed to restore financial responsibility; and

"Whereas, Under Article V of the Constitution of the United States, amendments to the Federal Constitution may be proposed by the Congress whenever two-thirds of both Houses deem it necessary, or on the application of the Legislatures of two-thirds of the several states the Congress shall call a Constitutional Convention for the purpose of proposing amendments. We believe some such action vital; therefore be it

"*Resolved*, (The Senate concurring), That the General Assembly of the Commonwealth of Pennsylvania proposes to the Congress of the United States that procedures be instituted in the Congress to add a new article to the Constitution of the United States, and that the General Assembly of the Commonwealth of Pennsylvania requests the Congress to prepare and submit to the several states an amendment to the Constitution of the United States, requiring in the absence of a national emergency that the total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated Federal revenues for that fiscal year; and be it further

"*Resolved*, That, alternatively, the General Assembly of the Commonwealth of Pennsylvania makes application and requests that the Congress of the United States call a Constitutional Convention for the specific and exclusive purpose of proposing an amendment to the Federal Constitution requiring in the absence of a national emergency that the total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated Federal revenues for that fiscal year; and be it further

"*Resolved*, That the General Assembly of the Commonwealth of Pennsylvania also proposes that the Legislatures of each of the several states comprising the United States apply to the Congress requesting the enactment of an appropriate amendment to the Federal Constitution; or requiring the Congress to call a Constitutional Convention for proposing such an amendment to the Federal Constitution; and be it further

"*Resolved*, That copies of this resolution be sent to the members of the Congress from Pennsylvania; and be it further

"*Resolved*, That the Chief Clerk of the House of Representatives send copies of this joint resolution to the Secretary of State and presiding officers of both Houses of the Legislature of each of the other states in the Union, the Clerk of the United States House of Representatives, Washington, D.C. and the Secretary of the United States Senate, Washington, D.C."

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HOLLINGS (for himself, Mr. CANNON, and Mr. STEVENS):

S. 611. A bill to amend the Communications Act of 1934, as amended, to provide for improved domestic telecommunications and international telecommunications, rural telecommunications development, to establish a national Commission on Spectrum Management, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. STONE (for himself and Mr. CHILES):

S. 612. A bill to encourage broader utilization of the condominium form of homeownership, to provide minimum national standards for disclosure and consumer protection for condominium purchasers and owners and tenants in condominium conversions, to encourage States to establish similar standards, to correct abusive use of long-term leasing of recreation and other condominium-related facilities, and for other purposes; to the Committee on Banking Housing, and Urban Affairs.

By Mr. BENTSEN (for himself, Mr. LEAHY, and Mr. SASSER):

S. 613. A bill authorizing the President of the United States to present a gold medal to the widow of Hubert H. Humphrey; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LONG:

S. 614. A bill to make technical corrections related to the Revenue Act of 1978; to the Committee on Finance.

By Mr. MATHIAS (for himself, Mr. DOMENICI, and Mr. HATFIELD):

S. 615. A bill to establish a Small Business Administrative Review Court; to the Committee on the Judiciary.

By Mr. DOLE (for himself and Mr. THURMOND):

S. 616. A bill to amend the I.R.C. of 1954 to allow a deduction for contributions for the construction or maintenance of buildings housing fraternal organizations; to the Committee on Finance.

By Mr. COCHRAN:

S. 617. A bill to clarify certain rulemaking procedures of the Federal Aviation Administration; to the Committee on Commerce, Science, and Transportation.

By Mr. MELCHER:

S. 618. A bill to amend the Internal Revenue Code of 1954 to allow the payment of income tax on certain income support or deficiency payments to wheat and feed grain producers to be made in the year when the income normally received from the crops have been reported; to the Committee on Finance.

By Mr. MATHIAS:

S. 619. A bill to prohibit taxation by a State of electricity generated in that State and transmitted to and consumed in another State; to the Committee on Finance.

By Mr. DURKIN:

S. 620. A bill to amend title XVI of the Social Security Act to provide that shelter support furnished in kind shall not be included as income, but shall result in certain reductions in benefits when the value of such support exceeds the amount of shelter costs paid by the individuals; to the Committee on Finance.

By Mr. MATHIAS (for himself, Mr. BAYH, Mr. HEINZ, Mr. JACKSON, Mr. RIEGLE, Mr. RANDOLPH, Mr. LEAHY, and Mr. STAFFORD):

S. 621. A bill to provide for further research and services with regard to victims of rape; to the Committee on Labor and Human Resources.

By Mr. GOLDWATER (for himself, Mr. SCHMITT, and Mr. PRESSLER):

S. 622. A bill to amend the Communications Act of 1934 in order to encourage and develop marketplace competition in the provision of certain services and to provide certain deregulation of such services, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KENNEDY (for himself, Mr. MATHIAS, Mr. CRANSTON, Mr. STAFFORD, Mr. TSONGAS, Mr. COHEN, Mr. DECONCINI, and Mr. BIDEN):

S. 623. A bill to provide for the public financing of general elections for the U.S. Senate, and for other purposes; to the Committee on Rules and Administration.

By Mr. McCLURE (for himself, Mr. MATSUNAGA, and Mr. SCHMITT):

S. 624. A bill to lessen our dependence on foreign oil imports by advancing alternative transportation systems; to the Committee on Commerce, Science, and Transportation.

By Mr. WALLOP (for himself, Mr. BUMPERS, Mrs. KASSEBAUM, and Mr. PRYOR):

S. 625. A bill to amend the Federal Mine Safety and Health Amendments Act of 1977 to provide that the provisions of such Act shall not apply to stone mining operations or to sand and gravel mining operations; to the Committee on Labor and Human Resources.

By Mr. BOSCHWITZ:

S. 626. A bill for the relief of Suryanarayanan Sitaraman; to the Committee on the Judiciary.

S. 627. A bill for the relief of Antonio J. Marfori; to the Committee on the Judiciary.

S. 628. A bill for the relief of Anthony McCartney; to the Committee on the Judiciary.

By Mr. PROXMIRE:

S. 629. A bill for the relief of Niobe Giovannelli and Pierluigi Pacini; to the Committee on the Judiciary.

By Mr. RANDOLPH:

S. 630. A bill for the relief of Marietta Dizon Pamintuan; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HOLLINGS (for himself, Mr. CANNON, and Mr. STEVENS):

S. 611. A bill to amend the Communications Act of 1934, as amended, to provide for improved domestic telecommunications and international telecommunications, rural telecommunications development, to establish a National Commission on Spectrum Management, and for other purposes; to the Committee on Commerce, Science, and Transportation.

COMMUNICATIONS ACT AMENDMENTS OF 1979

Mr. HOLLINGS. Mr. President, I send to the desk a bill designed to modify the Communications Act of 1934. This bill is introduced on behalf of myself and the distinguished chairman of the Commerce Committee, Mr. CANNON of Nevada.

Mr. STEVENS. Will the Senator add me as a cosponsor?

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the distinguished Senator from Alaska be added as a cosponsor of our communications bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I thank the Chair.

Mr. President, we are in the midst of an explosion in telecommunications technologies and applications. As this occurs, we see the tremendous opportunities they will make available to us, and we see the increasing convergence of various technologies. We are coming to appreciate both the new and improved services, and the better, cheaper methods to deliver these services. It is much like the effect computers and calculators have had, but because communications touches a larger part of our lives—the effects of change will be that much more profound.

Times are changing and we must all change with them.

Natural monopoly and economy of scale are ideas of the past.

Competition and diversity are ideas of the future.

The basic communications policy of this country is embodied in the 1934 act, and the time has come to renovate the act to meet this new age.

The major impact of the changes are reflected in title II of the bill which deals with domestic, rural and international telecommunications policy.

Further, a number of problems have plagued us in broadcasting—such as license terms and comparative renewals and signal carriage rules. Title III of the bill would deal with these problems.

The electromagnetic spectrum is a resource owned by the public and allocated to specific private users by the Federal Communications Commission. While this allocation is predicated upon a number of varying factors, it is generally agreed that the users derive a significant personal financial benefit from its use. In commercial television broadcasting, for example, 728 licensees earned $1.4 billion in 1977 profits. It does not seem proper for such benefits to accrue to private users while the public, who owns the resource, receives nothing. Accordingly, the bill would create a public resource fee program. The nonbroadcast license fee would relate to the market value of the license received. Television licensees would pay a fee based upon a formula which takes into consideration the nature of the market and the extent of each licensee's competition within the market. Radio licensees would pay a fee calculated on their 1 minute spot rate.

In order to encourage a fresh look at spectrum allocation policies and procedures, and avoid jurisdictional jealousies and stigmas, the bill would create a Spectrum Commission to conduct an 18-month study of spectrum allocation practices and policies and to make recommendations to Congress and the administration for improvements therein.

Before I go into a more specific discussion of the bill and the theory behind it, I want to make it clear that while we believe this bill is a major step toward accomplishing a renovation of the 1934 act, it is by no means the final word. We are looking forward to the hearings which will start in a month or so to further enlighten us and to improve upon the bill as introduced.

TELECOMMUNICATIONS POLICY

The closely related worlds of telecommunications and information processing are undergoing an enormous technological revolution. This revolution has already:

First, greatly increased the variety of telecommunications and information processing services being offered and demanded;

Second, greatly increased the number and diversity of the firms entering the telecommunications and information processing area; and

Third, greatly changed the nature of a wide variety of activities in the private and public sector—banking, insurance, police, et cetera.

In so doing, events have severely undermined the rationale for a sanctioned monopoly in the provision of telecommunications services. Many telecommunications-related markets are either already well on the way to becoming competitive or could become competitive. Innovation is coming from small and medium sized firms as well as the largest, and many potential competitors are waiting to enter the field—which promises to be a major driving force of the economy during the next 100 years. Wherever competition has occurred in telecommunications and related fields, it has resulted in increased quantity and diversity of services, a downward pressure on prices and a sharp spur to technical innovation and development. We now face a structure so dynamic and fluid that it is not possible to ordain the best technological and institutional framework for future communications. Instead, public policy should create an atmosphere in which flexibility, enterprise, and innovation can flourish but within an orderly national framework.

Clearly, this requires changes to be made in the existing Communications Act which was written 45 years ago when technology appeared relatively limited and conditions of natural monopoly were believed to exist and "telecommunications" had only two meanings: radio and twisted copper wires carrying telegraph and voice telephone. To continue to maintain, unchanged, the structure of regulation created under the totally different circumstances of four and a half decades ago can only serve to retard or distort progress in an area whose importance can hardly be overstated—an area in which, it should be noted, the United States currently enjoys a substantial lead over the rest of the world.

However, while increasing the scope for competition is desirable in general, there are several important concerns which cannot and must not be overlooked:

PUBLIC INTEREST GOALS

The 1934 act set forth important public interest goals for telecommunications policy—universal basic telephone service at reasonable rates, and the creation of a nationwide network. This policy and the system created to achieve it has been so successful that universal access to cheap, reliable telephone communication has been a basic necessity of American life. These goals must be maintained under any revised scheme. Increased competition is a means to an end; it is not an end in itself. Where an important public goal is not well served by competition, regulatory tools must still be available to insure that essential public needs are met.

UNIQUE MARKET STRUCTURE

We cannot ignore the overpowering presence of integrated monopoly carriers—particularly A.T. & T., the world's largest corporation. Although full competition is ultimately feasible in most telecommunications markets, it does not currently exist. Nor, will it come into being overnight simply because Congress declares it to be national policy. Easy entry by competitors is a prerequisite for a fully competitive market. Yet if all regulation were removed, existing telephone monopolies and especially A.T. & T. could hinder entry into many if not most telecommunications markets because of their size, market presence and because they control access to the existing network. These companies are not to be criticized because of their overwhelming market power. It was in large part a deliberate result of prior policies which were appropriate at the time they were designed.

However, as the 1934 policies are modernized, this market dominance is a fact which must be faced and addressed. While some potential competitors may be able to hold their own against A.T. & T. in totally unrestrained market (e.g., IBM, Zerox, RCA), many could be crushed before they had a chance, and even the large ones might well be unable to withstand the advantages the existing telephone monopoly enjoys as a result of the peculiar history of the last 45 years.

Telecommunications is not like trucking or airlines where no carrier has ever had an overwhelmingly dominant position, let alone a sanctioned monopoly. A.T. & T. alone has nearly $100 billion in fixed plant—equal to or surpassing that of all other telecommunications and information processing companies combined. This plant not only can be used to provide both monopoly and competitive services—but access to it is essential for almost any other carrier wishing to provide these services. Business Week, dated March 19, 1979, cited A.T. & T as the top U.S. "corporate giant" in earnings for 1978 with $5,240,000,000 profits. The No. 2 "giant" was GM at $3½ billion. Thus, the situation is rather like having one airline which owned all the big city airports, or one trucking company which owned the Interstate Highway System.

On the other hand, some observers argue that A.T. & T. is handicapped rather than aided by the huge albatross of "obsolete" plant which is not fully depreciated and can only be very slowly unwound because of regulatory constraints and tariffs, construction, and depreciation rates. While there is probably some truth to this, it is doubtful that it outweighs the tremendous power which A.T. & T.'s position confers. Because of this power, the potential risks of unfettered entry by A.T. & T., and other large regulated telecommunications monopolies, into competitive markets are so huge and unforeseeable that it would be irresponsible to totally deregulate such markets on the naive belief that full and fair competition would magically appear overnight.

The goal, then, of the Communications Act of 1979 is to create a process whereby regulation can be responsibly and realistically reduced while at the same time protecting both the growth of competition and the important social considerations such as universal affordable basic service. This goal requires a transition mechanism which recognizes that, because of the unique history of telecommunications, all carriers cannot be treated alike, at least initially.

EXCEPTIONS TO THE RULE

We do not see that full competition will be possible within the foreseeable future in the international sphere, because half of all international communications is controlled by foreign government entities who are deeply opposed to competitive arrangements. Further, so long as foreign carriers are able to bargain from a monopoly position and U.S. carriers are not, the U.S. interests will be vulnerable in the negotiation and planning process.

The second sphere where full competition may never be possible is in rural areas where population density is so low that Federal assistance may continue to be needed in order to construct at least one viable system of modern facilities. Hence, full competition may not be possible, but it should not be abandoned as a goal.

The heart of the bill is the establishment of a procedure which systematically identifies major markets and submarkets within the telecommunications equipment and service industries and establishes the conditions under which carriers may participate in these markets. These conditions for participation are designed to preserve competitive market conditions where they exist, and to foster them where they are possible. The nature and scope of regulatory supervision is adjusted to suit actual market conditions and public interest concerns. This proceeding would begin with a classification by the Commission of services and carriers based on the degree of competition and the extent to which particular services are so essential to the public interest that their availability at reasonable rates must be assured.

The Commission is given the duty and the flexibility to tailer regulation to the needs of each class of carriers and is directed to use regulation to guarantee the provision of essential services and to encourage competition where it is feasible. Further, the Commission is placed under the obligation to (a) impose the minimum regulatory burden necessary to do the job in each case and (b) to regularly review and reduce regulation as competition develops in each market.

None of this flexibility exists now. Under the existing act, a carrier is either subject to full panoply of regulation—including rate regulation and facility authorization—or is subject to no regulation at all. In effect this bill creates a series of half-way houses, each with progressively less regulation, together with an orderly process for moving from one to another as competition develops.

REGULATORY JURISDICTION

Interstate and intrastate long-distance telecommunications are so completely interwined that it no longer makes sense to separate the two. Indeed, it is not really possible to do so in any rational manner. When a call from Philadelphia to Pittsburgh can be (and frequently is) routed through New York City, what sense does it make to pretend that the former is an "intrastate" call and the latter is "interstate?" For analogous reasons, the Congress last year ended similar irrational jurisdictional boundaries in the Airline Deregulation Act. Those boundaries make even less sense in the case of telecommunications where facilities are far more integrated nationally than is the case for airlines.

Under current conditions and realities, the logical distinction is between local exchange facilities and services and long distance or "intercity" facilities and services. The former serve the day-to-day social and business needs of a local community of interest, on a highly integrated basis, and they are likely to remain generally noncompetitive for some time to come.

In addition to their significance to interstate and foreign commerce, long distance, or intercity facilities and services on the other hand, are far more diverse and are rapidly becoming competitive.

This bill would define the FCC's jurisdiction to include all intercity communications. The States continue their authority over intracity matters such as the definition of exchange or franchise areas and the regulation of charges and practices for intraexchange services. This exchange definition is subject to review by the FCC only upon complaint by an interested party and evidence that the State has grossly abused the concept of an "exchange area." The FCC would have responsibility for intercity rates and charges and for the charges paid by intercity carriers to local carriers for access to local exchanges.

PURPOSES

The purposes of the Communications Act of 1934 remain as vital and appropriate today as they were 45 years ago and the "Communications Act Amendments of 1979" accordingly leaves them substantially unchanged. Instead the bill adds to them by stating that it shall also be the purpose of the act to encourage diversity of ownership of telecommunications media and to promote competition in the provisions of telecommunications equipment and services.

DEFINITIONS

Perhaps most notable is removal of the term and concept "common carrier," as testimony to the fact that this is a new era. The replacement, "category II carrier" is different in significant ways; it does not carry the connotation of an automatically sanctioned monopoly nor will it necessarily imply the full panoply of regulation.

The key sets of definition introduced in the bill are "information" and "information services" on the one hand and "telecommunications" and "telecommunications services" on the other hand. The former pair refers to the creation, manipulation, and marketing of intelligence in electronic form. The latter pair refers wholly to the electronic transfer of information from one location to another.

At first glance this appears similar to the data processing-communications distinction which has caused much concern in the past. That distinction has been contentious for two reasons. First, it has determined A.T. & T.'s ability to offer services in compliance with the 1956 consent decree. Further, there was no flexibility in the consequences. If a service was deemed to be unregulated or noncommunications, then A.T. & T. could not offer it. Where it was desirable that A.T. & T. be allowed to offer a service, the FCC was forced to manipulate the meaning of "communications." Second, the boundary of "communications" services determined the FCC's jurisdictional limits.

The bill significantly alters both of these consequences. Under this bill A.T. & T. would be allowed to enter any market it wished—including unregulated information services. However, if it chooses to enter a competitive market it would have to set up a "fully separated subsidiary." A "fully separated subsidiary" is one which is owned or controlled by another entity but does not have common directors, officers, employees or financial structure or commonly owned facilities, and which deals with its parent or affiliate on an arms length basis in the same manner as it deals with any unaffiliated entity. In other words, if A.T. & T. wished to enter the information services market they would have to set up a separate subsidiary. If the subsidiary wished to use telecommunications facilities owned by its parent, another affiliated entity, or nonaffiliated entity, it would have to do so by leasing these facilities on a basis which does not discriminate in favor of that subsidiary.

Further, unlike the 1934 act the bill clearly makes the distinction in the statute itself on both counts. Both the lack of clarity and the contentionness of the distinction between information services and telecommunications services will be much less than has been the case in the past for communication/noncommunication.

The second important set of new definitions is "exchange telecommunications area," "exchange telecommunications," and "interexchange telecommunications." An "exchange telecommunications area" is defined as a local area having a community of interest for economic, social, et cetera, purposes. In other words an "exchange" or "local exchange area" for the purposes of this act would frequently be larger than a single "exchange" as that term is sometimes used to mean the area served by a single switch and having a single three-digit prefix to the telephone numbers found within it.

CLASSIFICATION PROCESSES

In addition to these two definitional distinctions, the Commission is empowered to undertake two important classifications—of services and carriers.

TELECOMMUNICATIONS SERVICES

The Commission is required to examine the nature of telecommunications services and markets to determine:

First, the amount of competition that exists in a given market;

Second, the feasibility of developing competition in a presently uncompetitive market;

Third, the nature of the carriers in the market; and

Fourth, the importance of insuring that a particular service, which is essential, is universally available at a reasonable rate.

The amendments make the presumption that all long-distance switched telecommunications services are already competitive or are capable of becoming competitive.

The first such classification procedure must take place within 180 days of the enactment of the act, and monitoring and reconsideration are to take place regularly thereafter.

The classification of services is intended to provide an informational and analytical framework for the classification of carriers, to prevent the carrier classification from becoming purely ad hoc, and to insure that carrier classification is a planned, logical activity in which the main objective, service to the public, is kept clearly in view. As such it is extremely important.

With regard to carrier classifications, telecommunications carriers are firms (persons) who provide telecommunications services. In order to determine the extent of regulation or freedom from regulation, such carriers are grouped by the amendments into the two broad categories (category I and category II carriers) based upon: The degree of effective competition to which they are subject, their dominance in their own service market or markets, and the extent to which their service is deemed to be essential to the public.

Category I carriers are those which provide services for which the market is largely competitive or which are too small to dominate their market and which do not offer a service which has been to dominate their market and which do not offer a service which has been deemed both "essential" and incapable of being adequately provided under competitive conditions. Category II carriers are carriers which so dominate their market that they are not subject to effective competition or which provide essential services which cannot be left to competition.

Category II carriers may be further subdivided by the FCC if it sees fit, but the broad outlines of these two categories are set out in the bill as are clear criteria to guide classification of specific carriers and the extent of regulation to be applied to each category.

Together these two sets of distinctions from the nucleus of the proposed amendment to title II of the Communications Act of 1934;

First. The distinction that divides the industry between information services and telecommunications services and further divides the telecommunications industry into category I and category II telecommunications carriers, and

Second. The distinction between (local) exchange telecommunications services and interexchange telecommunications services.

APPLICATION OF THE BILL TO VARIOUS GROUPS

First. Companies which do nothing but provide information services, information equipment, software, et cetera would be completely unregulated (as they are now).

Second. Category I telecommunications carriers are subject to no restrictions other than (a) the obligation to submit to the FCC such information as is necessary for the FCC to monitor the market; (b) further, the FCC may, if necessary and after a hearing, reclassify any of them as a category II carrier. This precaution is essential because competition is very new in telecommunications, and most markets are still very "thin."

It is not possible to say whether markets or carriers which now appear to be competitive—or "proto-competitive"—will remain competitive in the new, less regulated environment or whether some carriers which, while apparently competitive now, may rapidly become monopolistic. Nor is it completely clear how well essential service will be maintained in a competitive environment. Thus the FCC must be able to step back in where it has become clear that competition is not working in the public interest or not developing at all. Apart from (a) and (b) above, category I carriers would be completely free of regulation—they would not have to get approval for tariffs, facilities, or anything else.

Third. Category II carriers would be regulated—up to and including the full array of tools now in use, such as facilities authorization, tariff regulation, and so forth. The Commission would have authority over the switching equipment of category II carriers as well as "lines." Switching equipment is not included under the existing act which has created an anomaly as technology has developed and more and more of the telecommunications investment moved into the switching and out of the "lines."

However, while the Commission would have the authority to employ the full array of regulation it would not be required to do so.

Instead, with respect to category II carriers, the Commission would have much more flexibility to reduce regulation than it now has for common carriers. The Commission would be charged with imposing the minimum burden necessary and appropriate in each case or class of carriers—and particularly with respect to those concerns which formed the basis of the carrier's classification as a category II carrier. Further the Commission must regularly review and where necessary revise, reduce or eliminate rules where the need for supervision has declined. This means that, as competition develops, the FCC is obligated to reduce regulation on category II carriers individually or as a class—moving them closer and closer to category I status and, ultimately, we hope into it.

In general, category II carriers would be allowed to offer information services, manufacture and sell telecommunications or information equipment or enter service markets where the other carriers are category I carriers, but only if (a) they do so through fully separated subsidiaries which have separate officers, employees, facilities, and finances, and which deal with the parent and any other affiliated carriers through nondiscriminatory arms-length arrangements, or (b) the Commission prescribes, after a hearing, appropriate accounting or structural safeguards to be undertaken by the category II carrier—which the Commission considers necessary to protect the competitiveness of the market in question as well as the ratepayers of the carrier's rate regulated services.

A skeptic might say that the domestic telecommunications policy contained in this proposed bill amounts to a giant handicapping scheme. To which one would reply—that is exactly what is needed. The telecommunications markets are such that one cannot simply declare "there should be competition" and expect it to occur overnight. Indeed, if one were to remove all regulation, the probable result would be a speedy end to the budding competition that has begun to emerge. An intelligent, flexible, handicapping system with built-in mechanisms for tightening or loosening the restraints as competition flourishes or flounders in each market in precisely what the telecommunications industry most needs during the next one or two decades of transition to what we hope will be full competition.

ACCESS CHARGES AND THE BASIC EXCHANGE MAINTENANCE PROGRAM

The bill provides for a transition from the current process of separations and settlements (wherein A.T. & T. collects the fees for long-distance calls and distributes funds to the local carriers which originate and terminate such calls) to a system where the local carriers charge intercity carriers directly for the cost of handling their traffic.

Under the existing system of separations and settlements, the payment by A.T. & T. from the central pool to a local carrier is made up of two parts: (a) those costs to the local carrier which can be clearly identified as being related to interstate service, and (b) an adjustment factor which includes both inallocable common costs and "subsidy." The bill provides for the identifiable costs to be paid directly to the local carrier (as an access charge) by any interexchange carrier seeking to interconnect for the origination or termination of an interexchange message.

In other words, a local telephone company would charge A.T. & T. long lines, MCI, ITT and all other interchange carriers directly if they wished to connect with the local network company. These access charges would be regulated by the FCC as an essential part of interexchange service.

That portion of separations and settlements which accounts for inallocable costs and "subsidy" would be replaced by a basic exchange maintenance program administered by a permanent Federal/State joint board. The size of the pool would be fixed at the level of 110 percent of the inallocable costs reimbursed by settlements in the year prior to the passage of the bill. The gross revenues into the pool would not increase—hence, the pool would gradually decrease in real terms. For cost-settling telephone companies, each company would receive an amount equivalent to the difference between what the company actually received in the year prior to passage and what it would have received if it had been based solely on relative use of exchange facilities between exchange and interchange traffic.

For no-cost-setting companies each company will receive an amount which is the same percentage of their prior year settlements as the amount computed above for similarly situated cost-setting companies. In addition, small companies with less than 30 subscribers per route mile (about 1,000 out of the 1,550 independents) would get a pro rata share of the money remaining in the pool after inallocable costs have been reimbursed. It is anticipated that this would amount to between $200 million and $300 million and the reason for this extra payment is to insure the viability of the small rural system.

Since all intercity carriers rely upon the existence of universal, local networks whether or not they connect with them for any particular service, the money for the basic exchange maintenance program would be collected by a surcharge on all intercity traffic handled by each in the previous year.

II. INTERCONNECTION

Every category II carrier which is not subject to effective competition is required to establish physical connections of its facilities with any other carrier upon request.

The interconnection fee is a regulated charge. In the event that the carriers are unable to reach agreement as to the amount of the charge, the Commission may, after a hearing, set a reasonable charge for the interconnection.

Pending the outcome of any such hearing the Commission may prescribe an interim charge or assist the carriers in public negotiations over the disputed sum.

III. TARIFFS

No new or revised tariff proposed by a category II carrier which is not subject to effective competition shall take effect until it has been conditionally accepted or finally approved by the FCC.

The authority of the Commission is expanded to include the ability to prescribe a fair tariff as well as the continuing authority to accept, modify, or reject the proposed tariff. Also, any tariff rejected by the Commission shall not go into effect, and any tariff previously in effect for the same or like service will remain in effect.

Category II carriers which seek to provide an interexchange service for which it is subject to effective competition will still have to file those tariffs with the Commission but the regulatory burden is considerably less than those imposed on their tariffs for noncompetitive success.

IV. SECTION 214 AUTHORITY

Section 214, which will apply to category II carriers, is expanded to allow carriers to file a long-term facilities construction plan rather than single authorization requests. Once the plan is authorized by the Commission, the carrier need not obtain separate certification for each new construction or improvement plan. The carrier is not required to file a long-range plan; he can continue to apply for individual authorization for new or extended facilities. Further, the Commission would have authority over switching as well as lines.

A.T. & T. DIVESTITURE

The bill does not change the corporate structure of A.T. & T. Rather, it attempts to mitigate abuses which might arise because of the Bell System's size and monopoly power by providing for behavioral and structural requirements (including accounting and fully separated subsidiaries, where appropriate) which must be complied with by the Bell System and other telecommunications monopoly carriers seeking to offer competitive telecommunications services.

REGULATION OF POLE ATTACHMENTS

Because of the increasing opportunities for the construction of coaxial cable facilities and the cross-ownership of cable programing by the telephone industry, their monopoly access to cable poles and conduits presents a serious opportunity for anticompetitive activities. Accordingly, the bill amends the existing act to require utility pole owners to provide reasonable access. Further, the bill includes cooperative telephone companies under the pole attachment provisions of the act in light of the expanding opportunities for the cooperatives to obtain Federal funds for the construction of cable facilities.

TREATMENT OF CABLE TELEVISION

The primary services provided by the cable television industry, as it presently exists, are either extensions of, or substitutes for, conventional radio and television broadcasting; that is, one-way distribution of entertainment or public interest programing via coaxial cable. In providing this service, however, the cable television operator also functions as a telecommunications carrier providing a transmission or retransmission service for hire.

While it is thus similar to both, cable television also exhibits certain characteristics different from conventional forms of either broadcasting or telecommunications carriage. Unlike broadcast operations, cable systems typically neither originate their own programing nor exercise the same degree of control over program content. Unlike telecommunications carriers, cable systems typically are not granted a monopoly franchise nor are they regulated as to facilities, rates, construction, universal or other service obligations, even though there seldom exists direct competition for the services they provide.

In the future, it is anticipated that the coaxial transmission facilities used by cable television systems will be capable of providing a variety of services that will more nearly resemble telecommunications carrier services, and that cable system operators will find it attractive to offer such services. On the other hand, it is anticipated that existing voice telephone telecommunications carriers may find coaxial cable, fiber optics or other high-capacity transmission systems attractive for providing both conventional telephone services and a variety of specialized information exchange and retrieval services up to and including ondemand or two-way video services, as well as retransmission of broadcast signals and other one-way video entertainment. It is apparent that the main services provided by cable television systems and telecommunications carriers will overlap to an ever-increasing extent, and that in fact many now fall, and will continue to fall, within the concept of telecommunications carriage; that is, the transmission of information for hire.

The bill recognizes this convergence trend as well as the uniqueness of the broadcast signals proposed to be carried. for the present, by incorporating within both the telecommunications and broadcast provisions of the revised 1934 act (titles II and III, respectively), guidelines and provisions for regulating, to the minimum extent necessary, the offering of cable television-type services.

Broadcasting retransmission and the underlying carriage relating to it would be regulated primarily in title III, while basic facility operation and other information or telecommunications services offered over the cable system would be regulated pursuant to the telecommunications carrier provisions of title II. The result is to move away from increasingly obsolete categories for industries based on the kind of hardware they use today, and to employ new categories based upon the services being provided.

Apart from the provision of one-way video entertainment services, any other activities of cable companies would be dealt with under title II of the bill. For instance:

Whether or not a cable company would be classed as a category II carrier would depend upon whether there were other entities within the same geographic market providing alternative or "substitutable" services. Hence, the Commission could look at locally available services from television broadcast facilities and translator facilities as well as from telephone coaxial or optional fiber facilities.

Whether an entity providing cable television services would be classified as an intraexchange or interexchange carrier with respect to its telecommunications carrier functions (transmission for hire) would depend primarily upon whether the facilities were located within one local exchange area as defined by the State. It is not necessary that the cable "local exchange area" be identical to a telephone "local exchange area"—this matter would be left to each State.

BROADCAST-LIKE ACTIVITIES

Regardless of how a cable company's telecommunications facilities are classified, the activity of carrying distant or local broadcast or other nonbroadcast entertainment programing is a special service. Regulation of this activity would remain in the exclusive province of the FCC and title III contains, for example, a provision authorizing the Commission to impose signal restrictions if a local broadcaster can demonstrate harm to local program service. The Commission's "must carry" signal carriage rule for local TV broadcast stations would not be disturbed by the bill, nor would the Commission's exemption for small systems from any signal carriage rules. Nonbroadcast programs imported into the local community by a channel programmer unaffiliated with the cable facility owner would generally be treated as an information service. Interconnection with local faciliteis by interexchange carriers would be regulated by the FCC, if at all, depending upon whether the local carrier is classified as a category II carrier for cable service.

Local matters such as basic subscriber fees, franchise fees, local access and additional service requirements that do not affect the broadcast signal retransmission rules of FCC would be regulated at the State or local level—if at all.

Facility and service ownership combinations—if not prohibited under cross-ownership rules—may exist but under arms-length subsidiaries.

CROSS OWNERSHIP

Because of the desirability of media ownership diversity, the Commission may continue or prumlgate rules relating to telephone/cable television and cable/broadcast cross-ownership combinations.

Pay TV would also be a Federal matter. Whether it would be regulated at all would depend primarily upon the relationship between the local company and the pay provider, which if arms-length and unaffiliated and billed to subscriber by local company would probably make pay an information service. Local matters, such as basic subscriber fees, franchise fees, local access and additional service requirements that do not affect the broadcast signal retransmission rules of FCC would be regulated at the State or local level.

As to the provision of cable television services by a telephone company, the current rule of the FCC preventing cross-ownership of telephone and cable interests with waivers in certain cases is not affected by the bill and could remain in force. Based on a current rulemaking, even if the FCC were to create a blanket waiver of cross-ownership in smaller communities, and continue, under relaxed filing requirements, its case-by-case review in larger communities, the telephone companies must show that the program service would not be provided without the waiver. The bill cautions the Commission to assure itself, in the interest of media diversity, that waiver is the only way to assure delivery of the services. Once a telephone company begins to provide cable television services, it becomes subject to the aforementioned regulation, particularly in title III, as to that cable television service. Likewise, if a cable television system were to offer other telecommunications services, it would be regulated in the same way as other telecommunications carriers and similar class services.

RURAL TELECOMMUNICATIONS

This bill encourages and assists growth in rural telecommunications in three ways:

First. A Federal program is established to facilitate State planning for telecommunications—what services are needed and how best to deliver them, modeled after the Coastal Zone Management Act.

Second. Amendments are offered to the REA act which broaden the REA program to include nontelephone carriers and facilities and to encourage the identification of rural requirements and the use of the most appropriate technologies to meet these requirements.

Third. The FCC is directed to review and revise any of its rules which are impeding development of rural telecommunications services (such as cross-ownership or translator origination rules).

RURAL TELECOMMUNICATIONS DEVELOPMENT ACT

A 4-year program is authorized at $10 million per year, in order to provide grants for State telecommunications planning activities. It is generally agreed that planning at the State and local level in advance of new facilities construction can make a significant contribution to the ultimate ability of the facilities to be of maximum benefit to the rural residents. Such planning will also increase the opportunity for social services to benefit from telecommunications facilities and such planning facilitates the aggregation of user needs within each area. This planning is especially timely in light of the greatly increased spending for rural telephone/cable facilities which is likely to result from the changes in REA lending rules and Commission rules proposed in the amendments.

The bill provides for each State planning project to receive Federal funds for 2 years, which is ample time for a State to undertake overall planning as well as to support local planning activities designed to identify specific local requirements. These planning activities could integrate into a complete profile of the rural areas: Their service requirements, what telecommunications facilities can meet these requirements, and their relative costs and benefits. Planning would include all rural areas within the State and would encourage local input into the process.

The Departments of Commerce and Agriculture are directed to establish a joint procedure for the implementation of this program. Thus, the valuable experience of REA and NTIA will be drawn upon.

The planning program will also provide information and experience which will be useful in administering the REA construction program. However, a State planning program is not a precondition to the receipt of REA construction assistance unless the State so requires. At the present time telephone carriers must receive State approval of proposed REA applications, and this bill similarly requires a telecommunications carrier to obtain State approval and to coordinate with any State planning activity, to the extent required by the State.

Consistent with most grant programs, a non-Federal match is required, so that the Federal share may not exceed 75 percent of the total cost. To insure geographic distribution of the funds, no State may receive more than 8½ percent of the funds appropriated in any fiscal year.

RURAL FACILITIES CONSTRUCTION

The REA telephone program would be amended to authorize REA to provide assistance in the construction of telecommunications facilities designed to provide any or all of the full range of services, including voice, video, data, and social services. REA would be authorized to provide assistance for pure voice facilities, for stand alone translator or CATV facilities, or any combination of technologies, although the existing exemption for commercial radio broadcast is retained.

To encourage implementation of information derived from planning activities generally and to encourage the maximum use of future facilities, the joint departmental planning committee is authorized to develop telecommunications policy criteria which would be used by REA along with REA's own qualification requirements in determining eligibility for REA assistance. The criteria would be applied by REA and they would be designed to insure:

First, use of the most cost effective technology or combination of technologies;

Second, universality of services and access to facilities;

Third, coordination with any State activities;

Fourth, responsiveness to identified community requirements;

Fifth, sufficient capacity to permit nonowner programing, with 10 percent of such capacity available on a priority, rotational basis; and

Sixth, that reasonable access to monopoly facilities (such as utility poles and ducts) is granted to all carriers by the carrier seeking Federal assistance.

FCC REVIEW OF ITS RULES

Many FCC rules have led to fewer telecommunications service available in rural areas—for example, TV allocation policies, crossownership rules, translator origination restrictions, and cable signal carriage rules. The bill requires the FCC, within 60 days of enactment, to initiate a review of all its rules with the objective of changing those rules which, when applied to rural areas, discourage telecommunications services.

It is not anticipated that present TV allocation rules would be changed; but recognizing that their effect has been to restrict available signals in rural areas, the Commission could look into ways to correct this situation—for example, translator origination or cable signal rule changes.

In determining whether a rule can and should be changed for rural areas, the

Commission must look at the overall public interest.

The public can best be protected from abuses in the use of telecommunications by assuring the maximum diversity in media ownership and the largest number of possible media voices within the community. This goal is often in conflict with the desire to increase rural services, since the entity most easily able to provide a new telecommunications service is often the entity already offering other services within the community. The Commission must recognize this inherent conflict and carefully weigh the tradeoffs whenever a new situation arises. In no event should the goal be dismissed. Hence, when the Commission allows telephone/cable cross-ownerships, it must insure that reasonable access to cable capacity as well as to utility poles and ducts is accorded and that adequate capacity for such access is being constructed.

INTERNATIONAL COMMUNICATIONS

End to end competition in international telecommunications is not feasible, because one half of every circuit is controlled by an overseas entity which (in every important case except Canada and Spain) is a nationalized government monopoly unsympathetic to competition. Our national interest is not well served by a system in which such foreign entities, which also are governments, can play U.S. carriers off against each other.

The bill would maintain maximum competition in the only sphere where it is feasible, the U.S. half of international communication, and the bill would create a single "telecommunications manager" which would be interposed between the competitive U.S. half of the international system and the monopoly foreign half.

The core of the proposal is an International Telecommunications Facilities Management Corporation which would be a nonprofit, nonstock U.S. corporation owned collectively by a consortium of U.S. international carriers. Its functions would be as follows:

To act on behalf of carriers and private communications systems in the planning, construction, and operations of international telecommunication facilities,

To plan for the construction and management of all international facilities necessary to meet the needs of international telecommunications,

To negotiate with foreign entities on matters related to facilities construction, operation, and use to insure that the needs and interests of end users are being met,

To act as the carriers representative with foreign entities if the carriers wish them to do so and so request of them,

To construct and operate facilities on behalf of facilities owners; namely, the consortium carriers, and

To sell circuits to carriers and private communications systems which have operating arrangements with the necessary foreign entity.

The corporation may not own any facilities in its own name or market any service to an end user. The corporation is to represent the United States in Intelsat.

The corporation is to act as a principal adviser to the Government on international communications issues, in particular as to facilities management, international marketing in services and equipment by domestic business entities, transborder data flow and other issues in which it has developed an expertise.

The corporation is to be governed by a board of directors of 15 members, representing three groups; One-third of the board would be selected by the international telecommunications carriers; one-third of the board would be elected by the top 50 end users in terms of the volume of traffic sent and received internationally; one-third of the board would be made up of public members nominated by the President and confirmed by the Senate.

HOW THE FACILITIES MANAGEMENT WOULD OPERATE

The corporation would sell utilization rights to international telecommunications carriers including private communications systems that have operating arrangements with foreign entities. The corporation must sell to any such carrier or system and must do so on an equitable rate, pro rata rate basis. Carriers will own all international facilities in relation to their use of the facilities.

Rates charged carriers for their ownership shares are not regulated by the FCC. Rates shall be computed on a pro rata basis for all costs of all facilities plus facilities under construction. Each carrier would have a pro rata investment share in the facilities cost that relates to his proportion of use of the facilities. Ongoing operating costs would be paid for by regular service fees from the carriers. This arrangement would be very much like a group of condominium owners.

Carriers with operating arrangements—but not including private communications systems—must, as a condition of their participation in international telecommunications, establishes interconnections with all domestic telecommunications carriers. This will insure competition in the U.S. half of international communications. Such operating arrangements shall not be enforceable or valid in allocating the delivery of telecommunications traffic within the United States once that traffic has been received at the U.S. international facility. Instead, the Commission shall establish a process, formula, or other procedure, for the equitable allocation of traffic coming into the United States among all carriers providing international communications services.

The 1962 Satellite Act would be superseded, and the corporation would represent the United States in Intelsat. Comsat would continue to represent the United States in Inmarsat and would be free to engage in all telecommunications carriage activities, domestically and internationally.

The corporation would act as a principal adviser to the Government on international communications issues, in particular as to facilities management, international marketing in services and equipment by domestic business entities, transborder data flow and other issues in which it has developed an expertise.

Section 222 would be repealed as soon as the corporation is operable and the facilities have been transferred to the carrier consortium. International carriers may then engage in domestic telecommunications through a fully separated subsidiary. Similarly, a domestic carrier which obtains operating agreements may engage in international telecommunications and join the consortium, through a fully separated subsidiary.

AUTHORITY OF THE COMMISSION

The Commission has authority to regulate the rates, terms and conditions of interconnection between international telecommunications carriers and all other domestic carriers including the international carriers' domestic subsidiary.

The Commission has the authority to classify carriers and services and subject them to different requirements based on their classes.

The Commission may not approve facilities construction, or plans therefor, on an individual basis. They may not involve themselves in the day-to-day operations, rates, terms, conditions by which international telecommunications facilities or services being provided, except as specifically stated above regarding the interrelationship between international record carriers and domestic carriers.

The Commission may assure that facilities and capacity that is essential to the national security and to meet emergency and disaster assistance needs are constructed and maintained.

The Commission may step back into the regulation of international facilities where there has been a pattern of serious mismanagement and imprudent business investments in facilities.

TITLE III—BROADCASTING

No comprehensive revision in the regulation of broadcasting is proposed. The bill makes those selected revisions which are generally recognized as necessary such as license terms, comparative renewals, license fees, and cable-signal importation.

LICENSE TERMS

Both radio and television stations are currently licensed for 3-year terms. The bill would extend the term for television licenses from 3 to 5 years. Radio stations would be given an indefinite license term subject to an annual random audit of 5 percent of the 8,550 radio licensees.

The audit would be a full license renewal review, with the Commission authorized to reduce the matters to be reviewed consistent with insuring fulfillment of the public trust. The indefinite license term is a major deregulatory action, and it is consistent with the maintenance of the public trusteeship. The longer terms for TV and radio will permit the Commission to review more closely those fewer licenses being renewed each year. At present the Commission annually reviews approximately 3,230 licenses (330 TV licenses and

2,900 radio licenses.) Under the bill they would review 634 licenses (198 TV licenses and 435 radio licenses.) License terms for other nonbroadcast users of the spectrum (for example, private land mobile radio would be extended from 5 to 10 years.)

COMPARATIVE RENEWAL

The initial WESH decision raised the question whether the Commission must consider other media holdings of the renewal licensee in a comparative renewal proceeding (for example, incumbent versus challenger for same license). The unfairness arises because general Commission rules prohibit newspaper TV cross-ownership and other cross and multiple ownership rules and "grandfather" certain existing ownership combinations. The WESH decision made those licensees vulnerable to attack of the 'grandfathered" cross-ownership at renewal time. The bill would bar consideration in any comparative renewal hearing of broadcast/nonbroadcast media ownership interests of the renewal applicant if the Commission has general rules in existence and it bars review of management-ownership integration at renewal time.

WESH questioned whether a licensee would receive any credit at renewal time for his conduct during the license term. The Court, however, issued a "clarification" of its initial decision saying FCC may use different procedures for renewal proceedings and could give weight to the licensee's prior performance. Arguably, the WESH case has been mooted, but, to be certain the issue does not recur, the bill contains a provision that would incorporate the Court's "clarification," and permit different procedures for renewals without statutorily defining the acceptable levels of performance. The bill does not specify the procedure or the level of performance as it would be unwise to enter the mire of "meritorious" versus "superior," "presumption" versus "plus of major significance," and equivalent legislative impounderables.

CABLE SIGNAL IMPORTATION

The bill would reverse the present burden of proof by making it incumbent on the local broadcaster to demonstrate how signal importation will harm or is harming the licensee's local programing. Upon such a showing the Commission can restrict the cable system's imported signals. The bill would allow such relief to broadcasters on the theory that local programing is in the public trust responsibilities, and if a licensee is serving the public interest that licensee should be protected. Presently, cable systems must prove that their operations will not harm local broadcasting. Since the local broadcaster has exclusive access to the records of his station, he is in the best position to carry the burden to show damage.

CONSTRUCTION PERMITS (CP)

A major modification of section 319 is made to remove an anomalous situation whereby the FCC cannot grant a permit covering construction undertaken prior to grant. In the past a CP applicant who builds a facility without prior approval was barred from ever using it for broadcasting. This situation is corrected in the bill. However, any prior construction will be at the applicant's own risk. The FCC may not be pressured into granting a CP, because of any expenditure which would be wasted without a CP grant.

Other general provisions: Public resource fees (sec. 106). The bill finds that "licenses granted by the Commission for the exclusive or shared use of the electromagnetic frequency spectrum convey benefits to licensees above and beyond those accruing to the public at large, and that the United States shall receive payment from licensees for such benefits." In both broadcast and nonbroadcast services, the fee applies only to commercial users of the spectrum. Police, public TV, ham radio, CB radio, and the like are exempt.

Fee formulas are specified for TV and radio stations. For nonbroadcast users of the spectrum, because of the wide and varying range of users, it is not desirable to present specific statutory fee schedules. Rather, the FCC is instructed to establish fee schedules for the various services based on several itemized criteria. This is similar to, and patterned after, several existing precedents of congressional and executive directives to establish fee schedules to promote the efficient use of our natural resources (for example, timber, grazing lands, and oil, gas, and mineral leasing).

A recent article in Barron's discussed the "premiums" involved in, television, and I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RADIO AND TELEVISION STATIONS COMMAND HANDSOME PREMIUMS

(By Paul Kagan)

SAN JUAN Racing Association, which owns a horse track in Puerto Rico, disclosed last month that it had received an offer from an unidentified bidder of $20 a share—nearly twice the price San Juan common had been fetching on the Big Board in November. Stockholders have yet to vote on the merger, but they know their company's allure has nothing to do with gambling fever. The appeal: nine stateside radio stations.

The very day of the San Juan announcement, Storer Broadcasting, which has its radio stations on the block, estimated that the group might go for as much as $32 million—which works out to about 20% of the price of Storer stock. That's for a division contributing perhaps 5% of its profits. (Storer has recently upped its estimate to $35 million.) The next day, Times Mirror Co., the Los Angeles-based newspaper publisher, revealed plans to buy five more TV stations (it now owns two) from the Newhouse newspaper chain for a cool $82.4 million.

And so it has gone, over the past 18 months. During this stretch, seven publicly held companies in the broadcast station business merged—five into larger corporations—for an average price more than double Wall Street's valuation. The steady parade of large and small companies disappearing via merger at premium prices has broadcast a message loud and clear. TV and radio stations boast a fundamental value quite apart from the jittery emotions of the stock market. This value, though not fully capitalized by public investors, has attached large companies and well-heeled private entrepreneurs.

LITTLE CAPITAL REQUIRED

There are more than 8,300 commercial stations in the U.S., but Federal Communications Commission rules prevent any one company from controlling more than seven TV channels, seven AM stations and seven FM outlets. Thus there are probably several thousand station companies, and the consolidations that have occurred in most other industries have not been allowed in broadcasting.

This diffused ownership, to a great extent, has obscured the financial scope of an industry that generates an estimated $6 billion in annual revenues and some $700 million a year in profits. While the public has been watching the antics of Archie Bunker and Laverne and Shirley, acquisition hunters have been keeping tabs on the advertising dollars the shows channel into corporate coffers. With large networks supplying TV programs and record companies providing radio music, stations often require relatively little capital investment to grow and prosper.

By one very rough yardstick—multiple of gross revenues—the nation's 720 TV stations may be worth some $12 billion in the aggregate (three to four times estimated 1978 revenues of $3.8 billion) and 7,600 radio stations may have a total value of over $5 billion (two to two-and-a-half times estimated 1978 revenues of $2.5 billion). The revenues multiple is merely a shortcut. A more accurate measure of station value is multiple of operating profit, one that's used by a majority of the sellers and buyers in the active station transfer market.

PITFALLS ON THE ROAD

As the chart on this page indicates, station sales soared in 1978. In the first nine months, 529 outlets changed hands for $665.4 million, compared with $425.5 million for all of 1977. (The figures are for sales actually approved by the FCC, which takes anywhere from a month or two to a year, the 1978 numbers reflect many deals initially struck in 1977.) The 700 or so stations that changed ownership in 1978 amount to 8% of all stations on the air. New ownership has taken control of nearly 2,800 stations during the past five years. In effect, one of every three stations has had some from of transfer since 1974.

To be sure, the road to broadcast riches is full of pitfalls for the unwary, and risks abound even for the shrewdest station investors. Competitive advertising media, such as newspapers and magazines, are at constant war with broadcast sales forces. Business activity, which governs advertising outlays, sends periodic cold shivers down broadcasters' backs. And there is potential rivalry from cable and pay television, videotapes and videodiscs.

Other risks in owning stations include the volatility of network TV programming. To illustrate, yesteryear's flop, ABC–TV, is now the ratings leader, leading to a number of affiliation switches by stations. But the man who took ABC to the top—program executive Fred Silverman—has switched to NBC-TV, triggering another round of affiliation changing.

In radio, the operating imponderable is competition from other stations in the same market. The audience in many cities is up for grabs, shifting periodically as talented programmers exploit listeners' changing tastes.

TWO-WAY STREET

Finally, broadcast ownership always carries the risk of new government regulations which come from out of the blue. On this score, the FCC has recently been singing an old hymn, "We giveth, and we taketh away." Avowedly to step up competition and further diversify ownership, it has discussed "dropping in" of TV stations in certain markets. A more recent proposal would widen the radio band to add as many as 800 new AM stations, an effective hike of nearly 10% in the population of all radio outlets.

Regulation, however, works both ways. Under pressure from two Congressional subcommittees planning to change the Communications Act of 1934, the FCC has begun to pay less attention to some areas of the broadcast business. Radio, in particular, appears headed for a big dose of "deregulation," with the burden of proof for license renewal shifting from the owner to the challenger. (Although licenses are good for only three years at a time, successful challenges have been rare. Owners hope new legislation will lengthen license life to at least five years.)

On the whole, station ownership has proven a boon to dozens of publicly held companies, and many more have sought to diversify into the business in the past several years. "Pure" broadcast companies—whose primary holdings are TV and radio stations—include Capital Cities, Cox, Gross, LIN, Metromedia, Mooney, Scripps-Howard, Storer and Taft. Among diversified companies with broadcast interests: Adams-Russell, John Blair, Combined Communications, Dun & Bradstreet, Fuqua Industries, General Tire, Harte-Hanks, Jefferson-Pilot, Marvin Josephson, Kansas State Network, Knight-Ridder, Lee Enterprises, Liberty Corp., McGraw-Hill, Media General, Meredith, Multimedia, New York Times, Post Corp., Reeves Telecom, Rollins, Technical Operations, Turner Communications, Washington Post and Wometco. Publishing companies have been in the vanguard of the acquisition wave, as the number of available independent daily newspapers has dwindled, with buyers paying prices even higher than those shelled out for TV and radio stations. But the trend has not been confined to companies already in communications media.

HAVEN FROM TAKEOVERS

U.S. Tobacco plans to purchase a TV station in northern Michigan and add more outlets in the future. Others with station holdings include American Family (life insurance), Charter Co. (oil), Coca-Cola of New York (bottling), Outlet Co. (retail stores) and Scherung-Plough (drugs).

Some companies are in radio and TV for the cash flow and profit, in addition to the obligatory public interest requirement. But others have sought sanctuary in broadcast ownership, at least partly as a safe harbor against unwanted takeovers. This has contributed to stations' escalating value. The theory is that a company is less vulnerable to an unfriendly tender if it owns at least one broadcasting license, and ideally more. Corporate raiders, presumably, are less prone to attack a company if the deal would be held up for some time for FCC review. Thus far, the strategy has worked well: companies with broadcast holdings have been largely immune from uninvited tenders. One exception last year, MCA tried to swallow up Coca-Cola Bottling of Los Angeles, a radio station owner. The bottler fled into the arms of Northwest Corp. at a considerable premium above MCA's tender price.

Premium over market—that's been the keynote in the seven broadcast mergers that made headlines in the past year-and-a-half. Broadcast stocks have tended to trade at a slight premium to the rest of the market, which means an average multiple of around 10 times trailing 12-month earnings. But in a merger, the acquiring company often pays the going private-market price, or close to it. Since stations are sold privately in excess of 20 times earnings, merger prices may average twice as much as prior market levels.

EASY DEAL TO SWING

The first of the big marriages—Gulf United 1977 acquisition of Rahall Communications—is a textbook study of a broadcast merger. Gulf United, a Texas-based insurance holding company listed on the Big Board, paid a whopping 24 times earnings for Rahall, which had been trading over-the-counter for less than 10 times net. Gulf United was betting on a Rahall turnaround that had already begun; in other words, it was buying a projected year-ahead earnings, a common practice in the broadcast acquisition market.

It was not difficult for Gulf United to swing the deal. Using preferred stock with a rich dividend, the Texas company made no immediate cash outlay. Indeed, it acquired $6.5 million cash by simultaneously selling Rahall's two Tampa-St. Petersburg stations; it was forced into the same to comply with FCC rules that it spin off either the radio properties or the Tampa TV station in the Rahall package.

For Rahall, the mearge meant a switch of its own, thinly traded, over-the-counter security for a preferred stock with a guaranteed redemption value and a generous dividend. At the time of the merger in 1977, Rahall was en route to earnings of about $1.2 million. Yet the annual dividend on the preferred stock issued by Gulf United totaled some $1.5 million. By the time the merger was consummated in 1978, Rahall net had improved substantially, but its stockholders nonetheless will receive far more in dividends from Gulf United than they could have collected on their own. This is in addition to the big jump in the underlying value of their shares. (Rehall common traded under $9 in 1977, but the merger price was $22.)

A rich dividend figured in two other 1978 broadcast mergers, capital gains and controlling stockholders in the others. The complete list:

Sonderling Broadcasting, which had been trading on the American Exchange for about $10 per share, plans to merge into Viacom, listed on the Big Board, for $28 in cash or preferred stock with a dividend of $2.10.

Cox Broadcasting, already on the Big Board, hopes to merge into General Electric (the Justice Department willing) for no less than $65 a share and no more than $72. Cox had been trading in the mid-40s. GE will pay 1.3 shares for each Cox share, resulting in an effective dividend jump for Cox holders from 65 cents annually to $3.38.

Combined Communications, another NYSE listing, is slated to be merged into Gannett Newspapers, the nation's largest chain, exchanging its stock for eight-tenths of a Gannett share. Combined, which owns newspapers and billboards as well as radio and TV stations, had been trading in the 20s prior to the announcement last summer, vaulted into the low 40s and traded recently at 30 after a 3-for-2 split.

Starr Broadcasting, in which columnist William F. Buckley holds the largest interest, is being sold to Roy Disney, nephew of the late Walt Disney. Starr, which trades on the Midwest Exchange, was a $6 stock in late 1977, just before the news last winter of interest in its shares by potential buyers of the Buckley block. It bounced above 9 on the news and rose steadily as Starr first turned down offers from LIN Broadcasting for 14, then 15, before finally accepting a price from Disney of 15¼.

Kingstrip Communications, a little-traded over-the-counter stock that had been quoted in April around 6½ bid, is in the process of being acquired by LIN Broadcasting for 13¾. Kingstrip's primary property is KTVV–TV, an NBC-affiliate in Austin, Texas.

The biggest stock-price gain of all meant good tidings for the holders of Rust Craft Greeting Cards, an Amex issue that had been changing hands around 11 before Ziff Publishing offered 20 in the summer of 1977. That offer has been raised four times since, under pressure from dissident stockholders in the controlling family, and now stands at 33½. Rust Craft owns a group of TV stations with profits that have been advancing while the deal was pending.

Some of these mergers involve personal considerations of stockholders, Cos. for example, says its merger with GE is designed to comply with FCC rules against owning a TV station and a newspaper in the same city.

What is significant about these deals, however is not the differences among them, but the similarities. Chief among these: size of the premium paid above market. Research into many hundreds of station sales shows that a basic value put on a station depends on cash flow, profits, the tax laws and the FCC's limitations on license awards.

Radio and TV stations when operated at peak efficiency, can convert as much as 50% of revenues to operating profit (income after overhead, but before depreciation, amortization, interest and income taxes). Typically, TV station cash flow is on the order of 30%–40% and radio cash flow falls in the 20%–30% range. Multiples paid by private owners for this cash flow, tied to the number of years the purchaser requires for return of his investment, are generally in the 7-to-10 range. These multiples, in turn, produce the aforementioned multiples of revenues. To illustrate, a business with a 25% operating ratio that is valued at eight times cash flow will value at two times revenues.

Private station buyers do not focus on bottom-line net income, as do stockholders in public companies. But cash flow multiples can be applied as easily to after-tax earnings as they can to revenues. Thus, if a station is valued at 10 times cash flow, and net earnings are half of cash flow, the price-earnings ratio will be 20. Actually, most stations sell privately for multiples well over 20, because privately owned companies tend to use shorter depreciation schedules for tax purposes than public companies.

Since many acquisitions are fueled by bank loans credit-rationing and high interest rates could arrest the heady station sales pace of the past 18 months. But the record of 1974–75 shows that many deals are closed even in the depths of a recession. Thus it is likely that would-be station buyers will continue to queue up for properties, and that we have not seen the last of the big broadcast mergers.

Mr. HOLLINGS. Mr. President, on the National Commission on Spectrum Management (title V), a National Commission on Spectrum Management is created to conduct an 18-month study and recommend appropriate administrative and legislative action to the end of improving the allocation, assignment, and authorization of use of the frequency spectrum. This is especially timely, because of the upcoming World Administrative Radio Conference (WARC) and the need for further study of the many issues raised by the rapidly increasing demand for the spectrum. The Commission would have no regulatory authority, and it would disband when the study has been completed and the recommendations have been submitted.

● Mr. CANNON. Mr. President, I am pleased to join my distinguished colleague from South Carolina, FRITZ HOLLINGS, in proposing legislation to amend and strengthen the 1934 Communications Act. The Senate Communications Subcommittee chairman has labored diligently in developing this important proposal and I commend him for undertaking this demanding task.

The last 45 years brought about new and innovative technologies which have dramatically altered the communication systems which existed in 1934. Major changes are required if the 1934 act is to reflect the domestic and international communications world we live in today.

I believe the amendments proposed by Senator HOLLINGS in this bill addresses many of the problems that have been identified under the existing act. This approach retains the solid foundation that was erected by Congress in 1934. This is not a case of throwing everything out of the window and starting from scratch again. While we are aware that the 1934 Communications Act has served this country well, we also recognize that now is the time to enact major legislative changes which will better serve the American people. The proposals in this bill are basically sound, realistic, and fair.

We will have thorough hearings in the Senate Commerce Committee in the weeks and months ahead on this proposal. There will be ample opportunity for all concerned to give this bill the closest possible scrutiny. Such an examination will assist us in reporting to the Senate the best possible bill. I welcome input and recommendations from every sector. I look forward to working with the Communications Subcommittee chairman in developing the Communications Act Amendments of 1979 and assisting with its enactment into public law.●

By Mr. STONE (for himself and Mr. CHILES):

S. 612. A bill to encourage broader utilization of the condominium form of homeownership, to provide minimum national standards for disclosure and consumer protection for condominium purchasers and owners and tenants in condominium conversions, to encourage States to establish similar standards, to correct abusive use of long-term leasing of recreation and other condominium-related facilities, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

CONDOMINIUM ACT OF 1979

Mr. STONE. Mr. President, I am pleased to join in introducing today the "Condominium Act of 1979." The bill, which would establish minimum national standards for consumer protection in the sale of new and converted condominium units was written so as to address on the national level the major problems associated with condominiums.

Condominiums, which can offer efficient use of land and energy along with tax and savings advantages not available through rental housing, have a tremendous potential for meeting future housing needs.

But there are factors which have had adverse effects on condominium ownership in recent years. As condominiums have increased in number, so have reports of serious problems and abuses concerning the development, sale, and ownership of condominiums. In some areas, condominiums have gotten a bad reputation, partly because of a few well-publicized horror stories and also because of some very sharp sales practices.

The Federal Trade Commission has thousands of letter from people all over the country complaining about shoddy condominium construction and the developers' failure to honor the warranties.

Public concern about such abuses was significant enough for Congress to mandate a study on condominiums and cooperatives. The study, completed by HUD in 1975, identified the major problems associated with condominiums:

Construction was often of poor quality and purchasers were not protected by adequate warranties on their units and the common elements.

Purchasers were unwittingly committed by some developers to long-term recreation leases with extremely high escalation clauses, often tied to cost-of-living indices.

Developers failed to pay common expense assessments on their units.

Purchasers' deposits were not escrowed and were often lost if the developer went into bankruptcy.

Condominium documents were too complicated and difficult for the average purchaser to understand.

Tenants were displaced without sufficient notice when the rental units were converted to condominiums.

Unit owners' associations had major problems because they were not prepared to operate condominum projects.

The study also showed that State laws governing the creation and operation of condominium projects vary widely. A few States have taken corrective action. But others have not and the danger of consumers being ripped off in the purchase of a home continues.

In 1975, Senator PROXMIRE introduced legislation to establish national standards for condominium sales. Hearings were held on the bill but no further action was taken on it in the 94th Congress.

In 1977, responding to the concerns of many thousands of condominium owners, President Carter asked HUD to prepare a bill which would eliminate the most abusive practices associated with the sale and ownership of condominiums and restore consumer confidence in condominiums. In the course of drafting the bill, HUD staffers consulted with experts representing developers, lenders, consumers, and State regulators in order to provide a proper balance. I followed this process carefully and consulted with the HUD task force frequently to make sure that the concerns of Florida's many condominium dwellers were properly addressed. Last April, we introduced the Condominium Act, which is essentially the same as the bill introduced today.

Now, let me highlight some of the bill's provisions.

First of all, there would be no Federal registration. This bill provides for private rights of action in Federal courts. But because we could prefer the individual States to regulate condominiums, there is a mechanism provided for HUD to certify State standards and disclosures if the State law provides substantially equivalent or greater protection for condominium buyers. States like California, Hawaii, Virginia, and Florida, which have strong condominium statutes, would be certified immediately.

States that do not have adequate condominium protection laws are encouraged to enact the new Uniform Condominium Act (UCA). The bill is designed to be consistent with the UCA wherever possible so that a State that enacts the UCA would be certified. Once certified, the State standards would be operable. But the Federal standards and disclosures would provide protection in other States, until State law can do the job.

The bill would require full disclosure to the purchaser of all documentation and information necessary to make an informed and prudent buying decision. This information includes descriptions of the condominium, statements concerning what the developer is obligated to build, completion schedules, and the purchasers' rights. Estimated budget figures for the owners' association would also be disclosed.

Special disclosures, such as outstanding building code violations with estimated correction costs, would be required in the case of condominium conversions.

Unnecessary duplication, excessive paperwork requirements, and overlapping disclosure statements are prevented. The state certification process provided for in the bill is aimed at avoiding duplicate State and Federal requirements for standards and disclosures. Disclosures made in a prospectus filed with the Securities and Exchange Commission would satisfy the disclosure requirement of the bill and, for most residential condominiums, disclosures made in connection with this bill would satisfy the requirements of the Interstate Land Sales Disclosure Act.

In order to insure that buyers have time to review all the disclosure material, the proposal provides a 15-day right to rescind after the purchaser signs the sales contract or receives the disclosure information, whichever occurs later. If the purchaser does not receive the disclosure information before conveyance of the property, he could receive an amount equal to 10 percent of the purchase price. Antifraud provisions would protect the purchaser from misstatements in the disclosure statement or in the advertising or promotional literature, or other fraudulent conduct.

The cooling-off and antifraud provisions of the bill would apply, whether or not a State's standards and disclosure sections are certified.

The bill also establishes national standards for condominiums that should alleviate the major problems disclosed by HUD's condominium study.

The proposal would require the developer to warrant the common elements of a condominium for at least 3 years and to give each purchaser a 1-year warranty on the unit.

In a condominium conversion, the developer would have to warrant the components which will be repaired or rehabilitated, but no warranties are required in cases of "as is" conversions.

The HUD study found that some developers were not paying the monthly assessment on unsold units. As a result, unit owners assumed control of projects with budget deficits and inadequate reserves. To prevent this practice, the bill requires the developer to pay assessments on all unsold units.

In order to provide the unit owners with an opportunity to participate and gain experience in the operation of the association, the unit owners would elect a minority of directors of the association prior to the transfer of control. The developer would be required, within 5 years, to relinquish any special rights to control the owners' association.

The proposed legislation would also authorize the HUD Secretary to provide technical information to help unit owner associations overcome operational and management problems which might jeopardize the economic viability of existing and future condominium projects.

Special provisions would protect the tenants in a proposed condominium conversion by affording a minimum of 120-days' notice to vacate and a 60-day exclusive right to buy the unit, and also by requiring that all existing leases be honored.

To protect against past abuses through long-term management agreements and leases, the proposed law also provides that the association can terminate certain contracts and leases which are critical to the operation of the condominium and to the unit owners' full employment of their right of ownership.

The bill also contains some provisions which will have a retroactive effect—they will apply to certain leases and contracts made before the bill is enacted. Long-term contracts which are made between the developer, or an affiliate of the developer, and the owners' association while the developer still controls the association, may be detrimental to the interests of the unit owners. The unit owners could terminate these self-dealing contracts without penalty by a two-thirds vote after they assumed control of the project.

Recreation leases are a controversial practice, especially in Florida. Long-term recreation leases between the developer and the unit owners are not always bad; leases often are a reasonable way to provide otherwise prohibitively expensive amenities. But, in some cases, a developer may have retained the ownership of the recreational facilities and leased them to the unit owners—on a noncancelable basis—for periods of as long as 99 years. The rent on the lease is indexed to the CPI or some other scale, and, in addition, the unit owners are required to pay all, or substantially all, of the operating and maintenance costs of the facilities. Since the lease payments are usually secured by a lien on the condominium apartments, owners who cannot afford the escalating lease payments on the recreation facility are exposed to the possible loss of their homes.

The proposed legislation would make automatic rent increase clauses unenforceable as to future increases when there is this kind of "net-net" lease, in which the rent increases are tied to a cost-of-living index and have no relationship to the developer's obligations under the lease. These leases had to be accepted or ratified by the purchasers as possible loss of their homes.

In addition, condominium unit owners can agree, by a two-thirds vote, to seek a judicial determination that a lease is unconscionable. The bill would allow such challenges for "gross" leases, in which developers pay the operating expenses, as well as "net-net" leases. It lists certain characteristics that the lease must have in order to qualify for this action, such as the fact that it had to be accepted by the purchaser as a condition of purchase. It also sets forth several standards for the court to consider in making a determination of unconscionability. These include any gross disparity between the obligations incurred and the value of the benefit derived.

These provisions would apply to leases in existence at the time the bill is enacted, but any action must be brought within 3 years of enactment.

They would apply in all States, including those with certified disclosures and standards.

The standards and disclosure sections of the bill would become effective 1 year after enactment to allow time for certification of eligible States. The section allowing court challenges of unconscionable leases also would become effective 1 year after enactment to allow time for out-of-court settlement of disputes.

The cooling-off, antifraud and escalation lease "freeze" sections of the bill would become effective immediately.

Mr. President, Florida is the national leader in the condominium form of homeownership. In the late 1960's and early 1970's, the wide-open market in condominiums enabled some developers to take advantage of condominium purchasers, particularly retired senior citizens, who were perhaps too eager to settle in a comfortable environment.

Based on these early and unfortunate experiences, Florida has enacted strong and effective State laws dealing with condominium abuses in the past few years. New leases containing escalator clauses are now prohibited.

Repeated attempts, however, by the State to nullify escalator clauses in leases entered into before passage of the State prohibition have been unsuccessful, because States are prohibited by article I, section 10 of the U.S. Constitution from impairing contracts. It is clear, however, that the Federal Government has the constitutional authority to deal with this most compelling problem. Also, Mr. President, I should point out that abusive condominium leases in Florida affect the citizens of many States. Most of the purchasers of Florida condominiums come from other parts of the country to spend the winter in a second home or to retire in a sunny climate. This fact, I feel, further justifies the need for Federal relief.

If abuses are prevented, condominiums can be an affordable and appealing alternative to single-family homeownership throughout the Nation. Enactment of this legislation will prevent abuses from occurring in the future and provide a remedy for the most serious problems that already exist. By increasing consumer confidence in condominiums, we will benefit buyers and builders alike.

Mr. President, I would like to acknowledge and thank the leaders of Florida condominium unit owners as well as the representatives of condominium developers who contributed greatly to the development of this legislation. I would also like to express my appreciation to the many thousands of condominium owners who have contacted me to express their support for the Condominium Act. Finally, Mr. President, I want to thank my Florida colleagues in the House of Representatives who have also worked on this legislation, and who are introducing it in the other Chamber today. I hope that Congress will act promptly to consider this bill.

Mr. President, I ask unanimous consent that the bill and a summary of its provisions be printed in the Record.

There being no objection, the bill and analysis were ordered to be printed in the Record, as follows:

S. 612

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Condominium Act of 1979".

TITLE I

FINDINGS AND PURPOSE

Sec. 101. (a) The Congress finds and declares that there is a shortage of adequate and affordable housing throughout the Nation; that utilization of the condominium form of ownership can increase the supply of housing and expand the opportunities for homeownership particularly for low- and moderate-income and elderly persons and families. The Congress further finds that consumer abuses have occurred throughout the Nation in the condominium industry which have caused economic and social hardships for consumers, which threaten the continued use and acceptability of the condominium form of ownership and which interfere with the interstate sale of condominiums and that continuation of these abuses is a national problem requiring Federal action.

(b) It is therefore the purpose of this Act to establish national standards for consumer protection and disclosure together with appropriate enforcement procedures, to encourage States to adopt statutes which will provide substantially equivalent or greater consumer protection, and to correct and prevent continuing abuses including abusive use of long-term leasing of recreation and other condominium-related facilities.

TITLE II

DEFINITIONS

Sec. 201. As used in this Act the term—

(1) "affiliate of a developer" means any person who controls, is controlled by, or is under common control with a developer. A person "controls" a developer if the person (i) is a general partner, officer, director, or employee of the developer, (ii) directly or indirectly or acting in concert with one or more persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 per centum of the voting interests of the developer, (iii) controls in any manner the election of a majority of the directors of the developer, or has contributed more than 20 per centum of the capital of the developer. A person "is controlled by" a developer if (i) the developer is a general partner, officer, director, or employee of the person, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 per centum of the voting interests of the person, (iii) controls in

any manner the election of a majority of the directors, or (iv) has contributed more than 20 per centum of the capital of the person;

(2) "agent" means any person who represents, acts for or on behalf of, or in concert with, a developer in selling or offering to sell any condominium unit in a condominium project, but such term does not include an attorney at law whose representation consists solely of rendering legal services;

(3) "association", "unit owners association" or "owners association" means the organization, whose membership consists exclusively of all the unit owners in the condominium project, which is, or will be, responsible for the operation, administration, and management of the condominium project;

(4) "automatic rent increase clause" means a provision in a lease permitting periodic increases in the fee due under the lease which is effective automatically or at the sole option of the lessor, and which provides that the fee shall increase at some percentage rate or the rate of a recognized index;

(5) "common elements" means all portions of the condominium project, other than the units;

(6) "common expenses" means expenditures made or liabilities incurred by or on behalf of the association, together with any allocations to reserves;

(7) "condominium instruments" means all documents or instruments and amendments thereto creating the condominium project;

(8) "condominium project" means real estate which (i) has portions designated as units for separate ownership and the remaining portions designated for common ownership solely by the owners of those units, each owner having an undivided interest in the common elements, and (ii) is or has been offered for sale or sold, directly or indirectly, through use of any means or instruments of transportation or communication of interstate commerce, or the mails;

(9) "conversion condominium project" means a condominium project containing any building that was, at any time before the first conveyance of a unit to a purchaser, wholly or partially occupied by persons other than purchasers and persons who occupy with the consent of purchasers;

(10) "convey" or "conveyance" means (i) a transfer to a purchaser of legal title in a unit at settlement, other than as security for an obligation or, (ii) the acquisition by a purchaser of a leasehold interest for more than five years;

(11) "developer" means any person who offers to sell or sells his interest in a unit not previously conveyed. Developer also means any successor of such person who offers to sell or sells units in the condominium project and who assumes special developer rights in the project including the right to: add, convert or withdraw real estate from the condominium project; maintain sales offices, management offices and rental units; exercise easements through the common elements for the purpose of making improvements within the condominium; or exercise control of the owners association;

(12) "executive board" means the body, regardless of name, designated in the condominium instruments to act on behalf of the association;

(13) "ground lease" means a lease, in a leasehold condominium project, of the real estate on or in which one or more of the units are located, the termination or expiration of which will terminate the condominium project or reduce the number of units in the condominium project;

(14) "interstate commerce" means trade, traffic, transportation, communication, or exchange among the States, or between any foreign country and a State, or any transaction which affects such trade, traffic, transportation, communication or exchange;

(15) "lease" includes any agreement or arrangement containing a unit owner's obligation, individually or collectively, to make payments for a leasehold interest or for other rights to use or possess real estate, not including mortgages or other such agreements for the purchase of real estate;

(16) "leasehold condominum project" means a condominium project in which all or a portion of the real estate is subject to a lease, the termination or expiration of which will terminate the condominium project or reduce the size of the condominium project;

(17) "offer" means any advertisement, inducement, solicitation, or attempt to encourage any person to acquire any interest in a unit, other than as security for an obligation;

(18) "person" means a natural person, corporation, partnership, association, trust, or entity, or any combination thereof;

(19) "purchaser" means any person, other than a developer, who by means of a voluntary transfer acquires a legal or equitable interest in a unit, other than (i) a leasehold interest (including renewal options) of less than five years, or (ii) as security for an obligation;

(20) "real estate" means any leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests which by custom, usage, or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. "Real estate" includes parcels with or without upper or lower boundaries, and spaces that may be filled with air or water;

(21) "sale of a condominium unit" means any obligation or arrangement for consideration for conveyance to a purchaser of a condominium unit, excluding options or reservations not binding on the purchaser;

(22) "Secretary" means the Secretary of Housing and Urban Development;

(23) "special developer control" means any right, arising under State law, the condominium instruments, the association's bylaws, charter or articles of association or incorporation, or power of attorney or similar agreement, through which the developer may control or direct the unit owners association or its executive board. A developer's right to exercise the voting share allocated to any unit which he owns is not deemed a right of developer control if the voting share allocated to that unit is the same voting share as would be allocated to the same unit were that unit owned by any other unit owner at that time;

(24) "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States;

(25) "termination of developer control" means the date when the developer irrevocably relinquishes all rights of developer control or that date when all rights of developer control cease by operation of law or under the provisions of this Act;

(26) "unit" or "condominium unit" means a portion of the condominium project designated for separate ownership; and

(27) "unit owner" means (i) a developer who owns a unit, (ii) a person to whom ownership of a unit has been conveyed, or (iii) a lessee of a unit in a leasehold condominium project whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the condominimum project. Unit owner does not include a person having an interest in a unit solely as security for an obligation. If title to a unit is held in a land trust, "unit owner" means the beneficiary of the trust.

EXEMPTIONS

SEC. 202. (a) The provisions of this Act shall apply to all condominium projects and units except—

(1) a condominium unit sold or offered for sale by the Federal Government, by any State or local government, or any agency thereof; or

(2) a condominium project in which all units are restricted to nonresidential purposes or uses.

(b) The Secretary may by rules and regulations exempt any condominium projects or condominium units from any of the provisions of this Act, if and to the extent that the Secretary determines it to be necessary or appropriate in the public interest and consistent with the protection of consumers and the purposes intended by the policy and provisions of the Act.

PROHIBITIONS

SEC. 203. (a) It shall be unlawful for any developer or agent in selling or offering to sell any condominium unit in any condominium project—

(1) to employ any device, scheme, or artifice to defraud; or

(2) to obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made not misleading, or

(3) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon a purchaser.

(b) Any provisions in any lease or management agreement requiring unit owners or the owners associataion in any condominium project subject to this Act to reimburse, regardless of the outcome, the developer, his successor, or affiliate of the developer for attorneys' fees and/or money judgments, in a suit between unit owners or the owners association and the developer arising under the lease or agreement, are against public policy and void. It is the express intent of Congress that the provisions of this subsection shall apply to all leases or agreements regardless of execution date.

COOLING-OFF PERIOD; RIGHTS OF PURCHASERS

SEC. 204. (a) Prior to conveyance of a condominium unit in a condominium project, the purchaser may elect to rescind any contract or agreement for the sale of the unit at any time during the period ending fifteen days after—

(1) the purchaser and developer have executed the contract, or

(2) the purchaser has been furnished with the written disclosure statement required under section 206, whichever occurs later.

(b) A purchaser may exercise the right to rescind under this section by hand-delivering notice or by mailing notice by prepaid United States mail to the developer or his agent, and the developer or his agent shall refund to the purchaser fully and promptly, without penalty, any deposit or other payment made by the purchaser.

(c) If the purchaser has not received the written disclosure statement required by section 206 by the time of conveyance, the purchaser may not elect to rescind the sale pursuant to this section but shall have the right to receive from the developer an amount equal to 10 per centum of the purchase price of the unit.

(d) Nothing in this subsection shall prevent purchasers from asserting any rights they may have under section 211. The provisions of section 211(c) shall apply in suits seeking to recover damages in excess of the amount recoverable under section 204(c).

NATIONAL STANDARDS FOR CONSUMER PROTECTION

SEC. 205. (a) In a condominium project subject to this Act, a developer—

(1) shall place any deposit made by a purchaser in connection with the reservation or sale of a condominium unit, up to an aggregate of 15 percent of the purchase price, in trust or escrow in an account designated solely for that purpose, by a licensed title insurance company, an attorney, an independent bonded escrow company, or an institution whose accounts are insured by a governmental agency or instrumentality, until delivered to the developer either at settlement or upon forfeiture by the purchaser, or returned to or otherwise credited to the purchaser;

(2) shall be liable to the owners association or unit owners for all losses suffered by the association or unit owners as a result of a tort or breach of contract committed by the developer or an affiliate of the developer during any period prior to the termination of special developer control;

(3) shall establish a unit owners association not later than the time of conveyance of the first unit to a purchaser. The developer shall terminate any special developer control of the unit owners association not later than (i) sixty days after conveyance of 75 per centum of the units to purchasers, or (ii) five years after the date of the first conveyance of a unit to a purchaser, whichever occurs first. In any event, not later than sixty days after conveyance of 25 per centum of the units to purchasers, they shall be entitled to elect not less than 25 per centum of the members of the executive board of the unit owners association, and not later than sixty days after conveyance of 50 per centum of the units to purchasers, they shall be entitled to elect not less than 33⅓ per centum of the members of the executive board of the unit owners association. In determining the percentage of units which have been conveyed, the total number of units in the condominium project is presumed to include the units the developer has reserved the right to build in the recorded condominium instruments;

(4) shall pay all expenses of the unit owners association prior to the first common expense assessment and thereafter shall pay the common expenses for each unit that he owns;

(5) shall not convey to a purchaser an interest in a unit which may be used for residential purposes, unless (i) that unit is substantially completed as evidenced by a certificate of occupancy from a governmental entity or a recorded certificate of completion executed by a registered or licensed architect or engineer who is not an affiliate of the developer; or (ii) there is an executed construction contract for completion of the project and a performance bond of not less than 100 per centum of the cost of completing that project;

(6) shall display or deliver to prospective purchasers advertising and promotional material only if that material is not inconsistent with the information required to be disclosed under section 206;

(7) shall, other than in a conversion condominium project, warrant and guarantee against defects in the plumbing, electrical, mechanical, structural, or any other components constituting any of the units or common elements. The developer shall assure that subcontractors providing such components are also liable to fulfill the warranties and guarantees under the terms and conditions of this paragraph. Such warranties and guarantees shall exist on a unit for at leaast one year from the date of conveyance of that unit by a developer to a bona fide purchaser and on all of the common elements for at least three years from the date of completion of each common element or the date of conveyance of the first unit to a purchaser other than an affiliate of the developer, whichever is later. Such warranties and guarantees by the developer shall be separated from, and in addition to, any warranties or guarantees provided by any other person, or as otherwise provided by law;

(8) shall, in a conversion condominium project, warrant and guarantee against defects any repair, addition, or improvement which the developer or an affiliate of the developer makes to the plumbing, electrical, mechanical, structural, or any other components constituting any of the unit or common elements. The developer shall assure that subcontractors providing such components are also liable to fulfill the warranties and guarantees under the terms of this paragraph. Such warranties and guarantees shall exist on a unit for at least one year from the date of conveyance of that unit by a developer to a bona fide purchaser and on all of the common elements for at least three years from the date of completion of each common element or the date of conveyance of the first unit to a purchaser other than an affiliate of the developer, whichever is later. Such warranties and guarantees by the developer shall be separate from, and in addition to, any warranties or guarantees provided by any other person, or as otherwise provided by law;

(9) shall in the case of a conversion condominium project—

(i) give each of the tenants and any subtenant notice of the conversion no later than one hundred and twenty days before the developer will require the tenants and any subtenant in possession to vacate. The notice shall set forth generally the rights of tenants and subtenants under this paragraph, and shall be hand delivered to the unit or mailed by prepaid United States mail to the tenant and subtenant at the address of the unit or any other mailing address provided by a tenant. No tenant or subtenant may be required by the developer to vacate upon less than one hundred and twenty days' notice, except by reason of nonpayment of rent, waste, or conduct which disturbs other tenants' peaceful enjoyment of the premises, and the terms of the tenancy may not be altered during that period. Failure of a developer to give notice as required by this paragraph constitutes a defense to an action for possession. Nothing in this paragraph permits termination of a lease by a developer in violation of its terms;

(ii) for sixty days after delivery or mailing of the notice described in (i) of this paragraph, offer to convey each unit or proposed unit occupied for residential use to the tenant who leases that unit. If a tenant fails to purchase the unit during that sixty-day period, the developer may not offer to convey an interest in that unit during the following one hundred and eighty days at a price or on terms more favorable to the offeree than the price or terms offered to the tenant. This clause does not apply to any unit in a conversion condominium project if that unit will be restricted exclusively to nonresidential use or if the boundaries of the converted unit do not substantially conform to the dimensions of the residential unit before conversion;

(10) shall make books and records of the association reasonably available for inspection and copying during the period of his control to unit owners and their authorized representatives, and so long as the units are being offered for sale by the developer, make available for such persons changes in disclosures previously made to purchasers; and

(11) shall not enter into contracts or leases with himself or any affiliate of the developer or enter into any management contract, employment contract, or lease of recreational facilities or parking areas on behalf of the unit owners association, unless those contracts or leases may be terminated by the owners association at any time after the termination of developer control, without penalty, upon not less than ninety days notice to the other party. This paragraph does not apply to any ground lease unless the real estate subject to that lease was submitted to the condominium for the purpose of avoiding the right of the association to terminate a lease under this paragraph.

(b) This section shall not apply to a condominium project in which the developer has conveyed, in an arms-length transaction, at least one unit to a purchaser other than an affiliate of the developer prior to the effective date of this section.

NATIONAL STANDARDS FOR DISCLOSURE

SEC. 206. (a) Not later than the time of sale, a developer of a condominium project shall provide to each purchaser of a condominium unit the following written information—

(1) the name and principal address of the developer, and of the condominium project;

(2) a brief narrative description of the condominium project, including, without limitation, (i) a precise statement of the nature of the interest which is being offered, (ii) the types and number of units presently planned to be built, and (iii) the total number of units that may be included in the condominium project by reason of action of the developer, such as by future expansion or withdrawal of real estate, and the expected effects which such future action would have on the purchasers' interest, and (iv) the nature and extent of any recreational facilities the developer has built or is obligated to build, and (v) a statement as to whether, and under what conditions, persons other than unit owners in the condominium project are entitled to use such facilities;

(3) a statement of the number of units the developer intends (i) to rent or (ii) to sell in blocks of units to persons who do not intend to occupy the units on a year-round basis;

(4) a statement disclosing whether any units or common elements in the condominium project may be used for commercial or industrial purposes, the nature and extent of such uses, and the effect of such uses, if any, on the condominium unit owners;

(5) the developer's schedule for start and completion of all buildings, units, recreation facilities, and other common elements, together with a statement of which portions of the condominium project he is obligated to build under the recorded documents and which portions need not be built;

(6) (i) copies and a brief narrative description of the significant features of the sales contract, the condominimum instruments, the bylaws, rules, and regulations, and amendments thereof, (ii) copies of any contracts and leases to be signed by purchasers, (iii) a brief narrative description of any contracts that are subject to section 205(a)(11), and (iv) a statement disclosing whether or not the developer or an affiliate of the developer has an interest in such contracts or leases, and disclosing the extent of such interest, if any;

(7) the expected significant terms of any financing the purchaser is required to use by the developer, including the name of the lender, estimated interest rate, minimum downpayment, and commission, if any, the developer may receive for arranging the financing;

(8) the terms of warranties, if any, provided by the developer and subcontractors under section 205;

(9) the annual association balance sheet, if any, and a projected budget for the association covering the period of one year from the date the first unit is conveyed to a purchaser, and thereafter the current budget of the association, a statement of who prepared the budget, and a statement of the budget's assumption concerning occupancy and infla-

tion factors. The budget shall include, without limitation: (i) a statement of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement, the items to be covered by the reserves and a statement of the basis for and the adequacy of the amount of the reserve, if any, (ii) a statement of any other reserves, (iii) the projected common expenses by category of expenditures for the association, (iv) the projected monthly common expenses assessment for each type of unit and the formula for determining each unit's share of common expenses, (v) the projected income from common expense assessments and a statement identifying any other sources of income, and (vi) any current or expected fees or charges to be paid by unit owners for the use of the common elements and other facilities related to the condominium project;

(10) a statement disclosing any services provided by the developer which are not reflected in the budget, or any expenses he pays which he expects may become, at any subsequent time, a common expense of the association, and the amount of the additional cost which would be assessed at that time for each type of unit;

(11) a statement disclosing what utilities, insurance and taxes shall be paid for by the association and an estimate of the costs of utilities, insurance, and taxes to be borne by the unit owners individually;

(12) the amount of any initial or special fee due from the purchaser at closing, together with a description of the method of calculating the fee, the purpose to which the moneys will be put, the limitations, if any, on the use of the funds, and whether or not the fee is refundable upon sale of the unit by the purchaser;

(13) a description of any liens, defects, or encumbrances on or affecting the title to all or part of the condominium project;

(14) a statement of any judgments against the association or against the developer materially affecting the condominium project and the status of any pending suits material to the condominium project of which a developer has actual knowledge or to which the association or developer is a party;

(15) a statement of all restrictions or limitations on the use, occupancy, sale, or rental of any condominium units;

(16) a statement of the purchaser's rights under section 204 of this Act;

(17) a statement that any deposit made by a purchaser in connection with the sale of any unit will be held in trust or escrow until delivered to the developer either at settlement or upon forfeiture by the purchaser, or returned or otherwise credited to the purchaser. The statement shall also contain the name and address of the trustee or escrow agent holding such escrow; and

(18) a statement of all unusual and material circumstances, features, and characteristics of the condominium project.

(b) In the case of a conversion condominium project, the developer shall provide the following information in addition to the information required in subsection (a) of this section—

(1) a report, or a statement by the developer based on such report, prepared by an independent licensed architect or engineer, describing the present condition of all structural components and mechanical and utility installations which are material to the use and enjoyment of the condominium project.

(2) a statement by the developer of the expected useful life of each item reported on in paragraph (1) or a statement that no representations are made in this regard, and a statement of which items reported on in paragraph (1) are not covered by warranties disclosed under subsection 206(a) (8); and

(3) a list of any outstanding notices of uncured violations of building codes or other municipal regulations, together with the estimated cost of curing those violations.

(c) In the case of a leasehold condominium project, the developer shall provide the following information in addition to that required in subsections (a) and, if applicable, (b) of this section—

(1) a brief narrative description of the terms and significant features of the lease including, but not limited to (i) the amount of annual rent, (ii) the method of payment, (iii) the provisions pertaining to increases in rent, (iv) the date and place of recordation of the lease, (v) the expiration date, and (vi) the real estate subject to the lease;

(2) a statement describing any rights of unit owners to redeem or renew the lease and to remove any improvements, the manner whereby such rights may be exercised, or a statement that they do not have those rights:

(3) the formula for determining allocation of ownership interests, voting rights, and common expense liability upon termination of the lease; and

(4) a statement describing any right of the lessor to terminate the leasehold interest prior to the expiration of the lease.

(d) The developer, prior to conveyance, shall disclose to all purchasers any material change in the information previously furnished as required by this section.

(e) All information required by this section shall be in writing and fully, accurately, and simply stated.

(f) If a condominium project is composed of not more than twelve units and no power is reserved to a developer to make the condominium project part of a larger condominium project, group of condominium projects, or other real estate, the disclosures need not include the disclosures otherwise required by paragraphs (2) (ii) (iii), (3) (4), (5), (11), (12), (13), and (14) of subsection (a) of this section.

(g) This section shall not apply to a condominium unit restricted to commercial or industrial purposes.

(h) This section shall not apply to the sale of a unit in a condominium project in which the developer has conveyed, in an arms length transaction, one or more units to a purchaser other than an affiliate of the developer prior to the effective date of this section.

(i) If a condominium project is currently registered with the Securities and Exchange Commission of the United States, delivery to a purchaser of a copy of the prospectus files with the Securities and Exchange Commission, under the provisions of the Securities Act of 1933, satisfies the disclosure requirements of section 206 of this Act.

STATE CONDOMINIUM JURISDICTION

SEC. 207. (a) Nothing in this Act may be construed to prevent or limit the authority of any State or local government to enact and enforce any law, ordinance, or code with regard to any condominium project or condominium unit not in conflict with this Act. It is the intent of Congress to encourage the assumption and exercise by States of the authority and responsibility for the protection of condominium purchasers and owners.

(b) The Secretary, in the Secretary's discretion, may certify that standards and disclosure requirements in a State's laws applicable to condominium units or projects, taken as a whole, provide substantially equivalent or greater consumer protection than the national standards. Upon such certification the standards under the State's laws will apply for the purposes of this Act in lieu of the standards in sections 205 and 206. The Secretary may, in the Secretary's discretion, withdraw certification upon discrimination that a State's laws do not meet the requirements for certification.

INVESTIGATIONS, AND PROSECUTION OF OFFENSES

SEC. 208. (a) Whenever it shall appear to the Secretary that any person is engaged or about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this Act, or of any rule or regulation prescribed pursuant thereto, the Secretary may, in the Secretary's discretion, transmit such evidence as may be available concerning such acts and practices to the Attorney General who shall bring an action in any district court of the United States, or the United States District Court for the District of Columbia to enjoin such acts or practices, and, upon a proper showing, a permanent or temporary injunction or restraining order shall be granted pursuant to this section, without bond. The Secretary also may transmit such evidence as may be available concerning such acts or practices to the Attorney General who may institute the appropriate criminal proceedings under this Act.

(b) The Secretary may make investigations as the Secretary deems necessary to determine whether any person has violated or is about to violate any provision of this Act or any rule or regulation prescribed pursuant thereto, and may require or permit any person to file a statement in writing, under oath or otherwise as the Secretary shall determine, as to all the facts and circumstances concerning the matter to be investigated. The Secretary is authorized to publish information concerning any such violations, and to investigate any facts, conditions, practices, or matters which the Secretary may deem necessary or proper to aid in the enforcing of the provisions of this Act, in the prescribing of rules and regulations thereunder, or in securing information to serve as a basis for recommending further legislation concerning the matters to which the Act relates.

(c) For the purpose of any such investigation, or any other proceeding under this Act, the Secretary or any officer designated by the Secretary is empowered to administer oaths and affirmations, subpena witnesses and compel their attendance, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which the Secretary deems relevant or material to the inquiry. Such attendance of witnesses and the production of any such records shall be required from any place in the United States or any State at any designated place of hearing.

(d) In case of contumacy by, or refusal to obey a subpena issued to, any person, the Secretary may, in the Secretary's discretion, transmit evidence of such act or practice to the Attorney General who shall bring an action to invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records and documents. And such court shall issue an order requiring such person to appear before the Secretary or any officer designated by the Secretary, there to produce such records and documents if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court shall be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found.

OPERATIONAL TERMINATION OF SELF-DEALING CONTRACTS

SEC. 209. (a) Any contract that—

(1) provides for operation, maintenance,

or management of a unit owners association or property serving the unit owners; and

(2) is between unit owners or the unit owners association and the developer on an affiliate of the developer; and

(3) was entered into while the owners association is controlled by the developer through special developer control or because the developer holds a majority of the votes in the owners association; and

(4) is for a period of more than two years may be terminated without penalty by the unit owners or owners association.

(b) The termination may occur at any time following termination of developer control of the unit owners.

(c) The termination shall be by a vote of owners of not less than two-thirds of the units other than the units owned by the developer or an affiliate of the developer.

(d) Following the unit owners' vote, the termination shall be effective ninety days after hand-delivering notice or mailing notice by prepaid United States mail to the parties to the contract.

(e) It is the express intent of Congress that the provisions of this section shall apply to contracts regardless of execution date.

CIVIL ACTIONS; UNCONSCIONABLE LEASES

SEC. 210. (a) Unit owners may bring an action seeking a judicial determination that a lease or leases, or portions thereof, whether or not the lease or leases are net or gross, are unconscionable if each lease has all of the following characteristics:

(1) it was made in connection with a condominium project, and

(2) it was entered into while the owners association is controlled by the developer through special developer control or because the developer holds a majority of the votes in the owners association; and

(3) it had to be accepted or ratified by purchasers or through the unit owners association as a condition of purchase of a unit in the condominium project.

Such suit must be authorized by the unit owners through a vote of the owners of not less than two-thirds of the units other than units owned by the developer, or an affiliate of the developer, and may be brought by the unit owners as a group or through the unit owners association.

(b) In making its determination of unconscionability, the court shall consider, but not be limited to—

(1) any gross disparity between the obligation incurred and the value of the benefit derived by the lessees, including consideration of (i) the obligations to pay rent, taxes, and insurance, and to maintain, repair, and replace the property, (ii) the value of the leased property, (iii) the price at which comparable property could have been acquired, and (iv) the lessor's rate of return on investment in the leased property and the condominium development as a whole;

(2) the unequal bargaining position of the parties to the lease;

(3) the adequacy of disclosure of the existence and terms of the lease to purchasers and the ability of purchasers to comprehend their rights and obligations thereunder;

(4) the identity of interest, if any, of original parties to the lease; and

(5) subsequent ratification of amendment to the lease agreed to by a majority of the unit owners other than the developer or an affiliate of the developer.

(c) If it is established that, in addition to the characteristics of subsection (a) of this section, the lease—

(1) is for a period of more than twenty-one years or is for a period of less than twenty-one years but contains automatic renewal provisions for a period of more than twenty-one years; and

(2) contains an automatic rent increase clause or creates a lien subjecting any unit to foreclosure for failure to make payments; and

(3) contains provisions requiring the lessees to assume all or substantially all obligations and liabilities associated with maintenance and use of the leased property;

then the court, in making its finding, shall consider the lease to be unconscionable, unless proven otherwise by clear and convincing evidence under the standards in subsection (b).

(d) Upon finding that any lease, or portion thereof, is unconscionable, the court may exercise its authority to grant remedial relief as necessary to avoid an unconscionable result. Such relief may include, but shall not be limited to, rescission, reformation, restitution, the award of damages and reasonable attorney fees and court costs.

(e) The remedies provided by this section are to be liberally administered to the end that the aggrieved parties are put in as good a position as if the bargaining and terms had been fair.

(f) Notwithstanding the provisions of subsections (a) through (e) of this section, exercise of any automatic rent increase clause shall be unenforceable, against unit owners or the owners association, as to future increases in rental payments occurring after the effective date of this Act in a lease having all of the following characteristics:

(1) it contains provisions requiring the lessees to assume all or substantially all obligations and liabilities associated with maintenance and use of the leased property; and

(2) it was entered into while the owners association is controlled by the developer through special developer control or because the developer holds a majority of votes in the owners association; and

(3) it had to be accepted or ratified by purchasers or through the unit owners association as a condition of purchase of a unit in the condominium project.

(g) It is the express intent of Congress that the provisions of this section shall apply to leases regardless of execution date, except that subsections (c) and (f) shall not apply to—

(1) ground leases entered into prior to the enactment of this Act; or

(2) any ground lease which the lessor has entered into in an arms-length transaction with the developer, without there being an identity of interest between the lessor and the developer. Such identity of interest includes, but is not limited to, situations where the lessor is the developer, an agent of the developer, an affiliate of the developer, or is a member of the immediate family of the developer or affiliate of the developer.

CIVIL ACTIONS; ADDITIONAL REMEDIES

SEC. 211. (a) A developer, or agent or successor thereto subject to this Act, may be sued at law or in equity by any person aggrieved by a violation of this Act.

(b) In any suit authorized by this section for violation of sections 203, 205, or 206, damages may be awarded or such other relief granted as deemed fair, just, and equitable. The court is awarding relief shall consider, but not be limited to, the contract price of the unit, the amount paid by the purchaser on the contract, the cost of any improvements or necessary repairs paid by the purchaser, the fair market value of the unit at the time of sale to the purchaser, the fair market value of the unit at the time the suit was brought, and the fair market value of the unit at the time of judgment.

(c) In any suit brought by purchasers alleging misrepresentations or omissions of disclosure requirements in violation of sections 203(a) or 206, the plaintiff must prove that the misrepresentations or omissions were material and that the defendant acted intentionally or negligently.

(d) Unless otherwise specified, suits authorized under this Act may be brought by one or more purchasers on behalf of all purchasers in a condominium project or by the owners' association in its own right or as representing all or part of the members of such association. In a class action under this Act brought by one or more unit owners as representative of other unit owners in a condominium project, the complaint shall be verified and shall allege with particularity the efforts the plaintiff has made to have the owners association bring such action on behalf of all unit owners. The class action may not be maintained if plaintiff has failed to notify the officers of the association of the intention to file the suit, or if such owners association is seeking in a pending suit to enforce the rights alleged in the plaintiff's suit.

(e) Every person who becomes liable to make any payment under this section may recover contributions from any person who, if sued separately, would have been liable to make the same payment.

(f) The amounts recoverable under this section may include interest paid, reasonable attorneys' fees, independent engineer and appraisers' fees, and court costs.

CRIMINAL PENALTIES

SEC. 212. Any person who willfully violates section 203(a), 205, or 206 of this Act shall upon conviction be fined not more than $10,000 or imprisoned not more than five years, or both.

JURISDICTION

SEC. 213. The district courts of the United States, the United States courts of any territory, and the United States District Court for the District of Columbia shall have jurisdiction of offenses and violations under this Act and under the rules and regulations prescribed by the Secretary pursuant thereto and concurrent with State courts, of suits in equity and actions at law brought to enforce a liability or duty created by this Act without regard to amount in controversy. Any such suit or action may be brought in the district wherein the defendant is found or is an inhabitant or transacts business, or in the district where the offer or sale took place and process in such cases may be served in other districts of which the defendant is an inhabitant or wherever the defendant may be found. Suits by purchasers to enforce their rights under section 205 or 206 regarding condominium projects located in States certified pursuant to section 207(b) shall be brought in State court. No case arising under this Act and brought in any State court of competent jurisdiction shall be removed to any court of the United States, except where any officer or employee of the United States in his official capacity is a party. No costs shall be assessed for or against the Secretary in any proceeding under this Act brought by or against the Secretary in the Supreme Court or such other courts.

LIMITATIONS OF ACTIONS

SEC. 214. No action shall be maintained to enforce any right or liability provided in sections 210 and 211 unless brought within six years after such cause of action accrued except that an action pursuant to section 210 involving a lease in existence at the time of enactment of this Act must be brought within three years of enactment of this Act.

ADMINISTRATION

SEC. 215. (a) The authority and responsibility for administering this Act shall be in the Secretary of Housing and Urban Development who may delegate any functions, duties, and powers to employees of the Department of Housing and Urban Development.

(b) The Secretary shall have authority, from time to time, to make, issue, amend, and rescind such rules and regulations and such orders as are necessary or appropriate to carry out the purposes of this Act. For the purpose of rules and regulations, the Secretary may classify persons and matters within the Secretary's jurisdiction and prescribe different requirements for different classes of persons or matters. In the development of these rules and regulations the Secretary shall consult with representatives of the building industry, with appropriate public officials and organizations of public officials, with representatives of the lending community and with representatives of consumer groups.

(c) Any person who violates any provisions of this Act or any rule, regulation, or order issued by the Secretary thereunder may be subjected to a civil penalty, in a determination by the Secretary after opportunity for a hearing, not to exceed $5,000 for each violation. Each separate offense shall be a violation and, in the case of a continuing offense, each day shall constitute a separate violation. The determination of the Secretary shall be subject to review only as provided in subsection (d) below.

(1) Penalties assessed pursuant to this section may be collected in an action brought by the Attorney General or, if the Attorney General directs, by the Secretary in any district court of the United States. In such action the validity and appropriateness of the final determination imposing the penalty shall not be subject to review.

(2) The amount of such penalty, when finally determined shall be payable to the United States Treasury.

(d) All hearings pursuant to subsection (c) of this section shall be public and any determination after such hearing shall be based on the record made at such hearing which shall be conducted in accordance with the provisions of the Administrative Procedures Act. A person aggrieved by a final determination of the Secretary under subsection (c) of this section may request a judicial review thereof in the United States court of appeals nearest where the person does business or United States Court of Appeals for the District of Columbia within twenty days after the Secretary's determination. Technical review of the Secretary's determination shall be in accordance with section 706 of title 5, United States Code.

CONTRARY STIPULATIONS VOID

SEC. 216. Any condition, stipulation, or provision binding any person to waive compliance with any provisions of this Act or of the rules and regulations of the Secretary shall be void.

REPORT TO CONGRESS

SEC. 217. The Secretary shall prepare and submit to Congress, a comprehensive report on the administration of this Act and the progress of States in providing consumer protection for condominium purchasers. The report shall be due thirty months after the enactment of this Act.

CONSUMER RESEARCH, EDUCATION, AND INFORMATION

SEC. 218. The Secretary is authorized, by contract or otherwise, to undertake research, education, information, and technical assistance activities designed to inform, assist, and protect consumers in the purchase of condominium units and management of condominium projects.

ADDITIONAL REMEDIES

SEC. 219. The rights and remedies provided by this Act shall be in addition to any and all other rights and remedies that may exist under Federal or State law.

APPLICABILITY OF OTHER PROVISIONS OF LAW

SEC. 220. (a) Compliance with the requirements imposed by or under this Act by a developer of a condominium project, not exempt under section 202, in which the units are in a building or buildings that are constructed or proposed to be constructed by the developer, shall be deemed to satisfy the requirements now or hereafter imposed under the Interstate Land Sales Full Disclosure Act with respect to a sale of or an offer to sell a condominium unit in a condominium project.

(b) Nothing in this Act shall affect the applicability of the Securities Act of 1933 and the Securities and Exchange Act of 1934.

(c) The provisions of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act (15 U.S.C. 2301 et seq.) shall be applicable in addition to warranty provisions of this Act, notwithstanding section 111(d) of that Act (15 U.S.C. 2311(d)).

AUTHORIZATION OF APPROPRIATIONS

SEC. 221. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEPARABILITY

SEC. 222. If any provisions of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

EFFECTIVE DATE

SEC. 223. This Act shall become effective upon enactment except sections 205, 206, 208, 209, 210 a–e, g, 212 and 220(a) shall become effective one year after enactment.

CONDOMINIUM ACT OF 1979—SECTION-BY-SECTION SUMMARY

The first section of the bill would provide that, upon enactment, it may be cited as the "Condomininum Act of 1979."

TITLE I

Findings and purpose

Sec. 101. This section, in part, would set forth Congressional findings that utiilzation of the condominium form of homeownership would expand homeownership opportunities particularly for low- and moderate-income and elderly persons and families, that abuses in the sale and operation of condominiums threaten the continued acceptability of condominiums by consumers and that these abuses interfere with interstate commerce. The section would also set forth the purpose of the Act which is to establish national standards for consumer protection and disclosure, to encourage States to adopt statutes which will provide substantially equivalent or greater consumer protection, and to correct and prevent existing and continuing abuses in the sale and operation of condominiums.

TITLE II

Definitions

Sec. 201. This section would define terms used in the Act.

Exemptions

Sec. 202. This section would exempt from the Act, condominium projects in which all units are restricted to non-residential uses and a sale of or an offer to sell condominium units by a governmental agency. This section would also give the Secretary the authority to make other exemptions.

Prohibitions

Sec. 203. This section follows the language of the Securities Act of 1933 and the Interstate Land Sales Full Disclosure Act in making a developer liable for any fraudulent acts he commits in connection with a sale of or offer to sell a condominium unit.

Additionally, the section would provide that any provision in existing or future leases or management agreements, requiring unit owners to reimburse the developer or his successors for attorneys' fees or money judgments, regardless of the outcome of the suit, are void.

Cooling-off period

Sec. 204. This section would give the purchaser the right to cancel the sales contract within 15 days after signing the contract or after receiving the disclosure material, whichever is later. If the purchaser does not receive disclosure material before conveyance, the purchaser has the right to receive an amount equal to 10 percent of the purchase price.

National standards for consumer protection

Sec. 205. This section sets forth the standards to be followed by developers. This section would, in part, require a developer to place any deposit made in connection with a sale or an offer to sell a unit, in trust or escrow; terminate any right to control the owners association within five years; not display any advertising and promotional material which is inconsistent with the information in the disclosure statement; allow the owners association to terminate without penalty all employment or management contracts, recreation leases and any contract between the developer and the owners association, made before termination of developer control; give a one-year warranty on the units and a three-year warranty on the common elements and also require subcontractors to be liable for their work; and in a conversion condominium give tenants 120 days' notice to vacate and a 60-day exclusive option to buy. This section would not apply to the sale of a unit in a condominium project in which the developer has conveyed in an arms length transaction at least one unit to a purchaser prior to the effective date of this Act.

National standards for disclosure

Sec. 206. This section would require a developer to disclose to purchasers, in a simple manner, circumstances and features of the condominium project including, in part: the name and address of the developer; the developer's schedule for starting and completing all of the facilities; a statement of all written warranties; budget and estimate of monthly assessments and other fees; a copy of all important documents; a statement of purchasers' rights; and special additional disclosures in the case of conversion and leasehold (ground rent) condominium projects. Some items of disclosure need not be given for condominium projects with 12 or fewer units. This section would not apply to the sale of a condominium unit in a condominium project where the developer had already conveyed a unit to a purchaser, in an arms length transaction, prior to the effective date of the Act, nor to a commercial or industrial condominium unit, nor to a condominium project registered with the Securities and Exchange Commission if the developer gives the purchaser an approved prospectus.

State condominium jurisdiction

Sec. 207. This section would state that the Act should not be construed to limit States and local governments from enacting or enforcing laws not in conflict with this Act. It expresses the intent of Congress to encourage the assumption and exercise by States of the authority and responsibility for the protection of condominium purchasers and owners. The section, further reflecting this intent, would allow the Secretary to certify standards and disclosures in a State's laws if the Secretary finds that such standards and disclosures, taken as a whole, provide substantially equivalent or greater consumer protection than the standards and disclosures of the Federal Act (Sections 205 and 206). Upon certification, purchasers would still have certain rights established by this Act, including right to a 15-day cooling-off period to bring actions on unconscionable leases or self-dealing contracts, as well as for fraud.

The effect of certification would be that the developer in a certified State would have to conform to the State requirements rather than the specific provisions of sections 205 and 206. The Secretary would have the power to withdraw such certification if it was later determined that the State laws do not contain substantially equivalent or greater standards.

Investigations, injunctions, and prosecution of offenses

Sec. 208. This section would provide the Secretary with powers to enforce this Act. The Secretary could make investigations and supoena documents and witnesses in such investigations. The Secretary would have authority to refer evidence of serious violations to the Attorney General for criminal prosecution or civil injunctions. The Secretary could also seek enforcement of supoenas through the Attorney General.

Optional termination of self dealing contracts

Sec. 209. This section would allow the unit owners, by two-thirds vote, to terminate certain contracts made by the association with the developer or his affiliate while he was still in control of the unit owners association.

Civil actions—Unconscionable leases

Sec. 210. This section would allow the unit owners, by two-thirds vote, to seek a judicial determination that any lease or portions of leases are unconscionable if the lease was made in connection with the condominium project, was made while the developer was in control of the association, and had to be accepted or ratified by the purchaser or the association as a condition of purchase.

If the lease is for 21 years or contains provisions for automatic renewal for a period of more than 21 years, either contains an automatic rent increase clause or subjects the unit to foreclosure for failure to make payments, and contains provisions that the lessees assume all obligations and liabilities associated with the maintenance and use of the property, then the court shall consider the lease unconscionable.

Several factors are listed for the court to consider in determining unconscionability, including any gross disparities between the obligations incurred and the benefits received, the bargaining position of the parties and the adequacy of disclosures. Upon a finding of unconscionability, the court would have the power to grant remedial relief including rescission, reformation, restitution, the award of damages, attorneys fees and court costs.

In addition, this section would provide that any automatic rent increase clause would be unenforceable, as to future increases in rental payments, in a lease which was entered into prior to termination of developer control, had to be ratified by purchasers, and contains provisions that the lessees assume all obligations and liabilities associated with the maintenance and use of the property.

Ground leases in existence at the time of enactment, made in an arms length transaction, are exempted from the provisions setting out certain of the provisions dealing with unconscionability and as well as the unenforceable automatic rent increase clause provisions. However, ground leases are subject to judicial determinations of unconscionability.

Civil actions—additional remedies

Sec. 211. This section would provide for other civil suits under the Act. A civil suit could be brought by any person aggrieved by a violation of the Act, including a purchaser or unit owners association, on its own behalf or as a class action. In any suit alleging misrepresentation or omissions in connection with the disclosures or the standards, the plaintiff would be required to prove that the misrepresentation or omissions were material and that the defendant acted intentionally or negligently. In determining damages the court would consider several factors including the contract price of the unit, the amount paid by the purchaser, the cost of any improvements or repairs made by the purchaser, and the fair market price at the time of sale, at the time the suit was brought and at the time of judgment. Relief in such actions would include damages, attorneys' fees and other costs.

Criminal penalties

Sec. 212. This section would provide criminal penalties of up to five years imprisonment and/or $10,000 fine for willful violations of certain provisions of the Act.

Jurisdiction

Sec. 213. This section would give jurisdiction to district courts for suits under the Act, concurrent with state courts. Jurisdiction would apply without regard to the amount in controversy. Suits could be brought in a district where the defendant is an inhabitant or transacts business, or in a district where the offer or sale took place. However, actions seeking to enforce State standards and disclosures will be restricted to State courts in cases where the State law has been certified, and the condominium project is located in that State.

Limitation of actions

Sec. 214. This section would establish a statute of limitations of six years from the time of a violation, unless the action is under Section 210 and involves a lease in existence at the time of enactment of the Act, in which case it must be brought within three years of enactment.

Administration

Sec. 215. This section would give the authority and responsibility for administering this Act to the Secretary of Housing and Urban Development. The Secretary would have the authority to make rules and regulations, issue orders, and delegate functions, duties and powers to employees of the agency. In carrying out this rulemaking authority, the Secretary is required to consult with representatives of the building industry, lending community, consumer groups, and public officials. The section also provides for the imposition of a civil money penalty of up to $5,000 for each violation of the Act and sets up the administrative and judicial procedures thereunder.

Contrary stipulations void

Sec. 216. This section would void contract provisions waiving any purchaser's rights under the Act.

Report to Congress

Sec. 217. This section would require the Secretary to prepare and submit a report to Congress thirty months after the enactment of the Act.

Consumer research, education and information

Sec. 218. This section would authorize HUD to carry out research, education, technical assistance and information activities such as preparation and distribution of a buyer's handbook, a sample "easy to read" disclosure statement, technical assistance on problems confronting condominium associations, lenders, and attorneys, as well as assist State and local officials wishing to adopt or amend condominium laws. HUD could also serve as a clearinghouse for consumer protection information and activities.

Additional remedies

Sec. 219. This section would make it clear that purchasers would continue to have rights to remedies which already exist under State or Federal laws.

Applicability of other provisions of law

Sec. 220. This section would limit overlap of Federal laws by providing that developers of most condominium projects, where the developer has built or plans to build the units, and who comply with this Act, would be deemed in compliance with the Interstate Land Sales Full Disclosure Act.

The section also states that nothing in the Act affects the applicability of the Securities Act of 1933, the Securities and Exchange Act of 1934, and the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act.

Authorization of appropriations

Sec. 221. This section would authorize such sums to be appropriated as may be necessary for the administration of this Act.

Separability

Sec. 222. This section would allow any provision to be held invalid without affecting the remainder of the Act.

Effective date

Sec. 223. This section would provide that the anti-fraud, cooling-off, civil action, escalation lease "freeze" and limitation of action provisions become effective upon enactment. The balance of the Act becomes effective one year after enactment.

● Mr. CHILES. Mr. President, I am extremely pleased to join Senator STONE in introducing the Condominium Act of 1979. This legislation is aimed at ensuring reasonable protection for potential condominium purchasers as well as providing the opportunity for relief to those present condominium owners who continue to suffer financial losses as a result of abusive leasing practices. The Condominium Act of 1979 is identical in purpose and similar in content to legislation offered last year in both the Senate and the House of Representatives. Unfortunately, the 95th Congress adjourned before any action was taken on condominium legislation. I hope to see and intend to work to encourage timely consideration of this proposal by the Senate Banking, Housing and Urban Affairs Committee and enactment of this important legislation this year.

Mr. President, in recent years we have seen more and more people come to recognize and appreciate the benefits associated with condominium living. As a result, the number of newly constructed as well as converted condominium developments has increased tremendously, and the popularity of condominium living, once concentrated in only a handful of States, is now spreading rapidly throughout the country.

Condominiums have been for many years a particularly attractive form of housing for retirees in Florida. Condominiums can offer older Americans the advantage of owning a home at an affordable price without requiring burdensome maintenance and repair responsibilities. In addition, condominium ownership can also provide valuable opportunities for retirees in terms of recreation, social interaction, and community involvement and self-management. Many retirees, however, who were attracted to the condominium lifestyle during Florida's peak growth years, became victims of abusive marketing schemes and leasing practices which have resulted in substantial financial losses as well as incalculable mental anguish and frustration.

Misuse of consumer deposits, low-quality construction, developer misrepresentation, abusive management contracts, long-term escalating leases for recreational facilities, and incomprehensible legal documents are examples of the many potential problems associated with sales, development, and ownership of condominium housing. As the popularity of condominium ownership continues to grow and condominium sales and developments continue to expand into new areas of the country, so, too, do opportunities for fraud and deception. The abusive marketing schemes and leasing practices that characterized the early days of condominium development in Florida clearly illustrate the kinds of deception that can take place in the absence of effective consumer protection laws and understandably reinforce the need for Federal legislation to prevent similar developer abuses from recurring elsewhere in the country.

Last November I chaired two Committee on Aging hearings in Florida on "Condominiums and the Older Purchaser" to find out more about the problems older condominium owners have confronted in the absence of adequate condominium laws. Today Florida has one of the Nation's best condominium statutes, but at one time tens of thousands of condominium purchasers, many of them retirees, were cheated, deceived, and purposely misled into insufferable condominium contract agreements. The most flagrant abuse involved those who were unwittingly committed to 99-year leases for recreational facilities with escalating clauses tied to the Consumer Price Index. While Florida law now bans these abusive escalating recreational leases, those condominium owners who purchased condominium units prior to enactment of State law remain entrapped by the terms and conditions of the leases. These unfair contractual agreements, where developers are guaranteed rising fees for facilities which they have no obligation to maintain, extend far beyond the useful life of the recreational facilities and reimburse the developer many times over the costs.

I have pointed out before the situation where a facility costing $200,000 to construct returned $300,000 in fees to the developer in the first year, and will cost owners more than $700 million over the term of the lease if inflation averages 5 percent annually. However, long before the 99-years have expired, the recreation facilities will need to be replaced, the condominium units will be unsalable, and the project will be forced into bankruptcy. I recount this particular example to re-emphasize the implication of these grossly unfair situations where long-term escalating recreation leases eat away at retirees' life savings and threaten the economic stability of the condominiums they occupy.

Testimony the committee received durring the hearings on "Condominiums and the Older Purchaser" reaffirms the seriousness of the long-term escalating recreation lease problem, and provides strong arguments for prompt action on Federal legislation that will allow owners to challenge these intolerable lease arrangements and will set uniform national standards to protect future condominium purchasers.

The Condominium Act of 1979 establishes minimum national standards for consumer protection and disclosure in both new construction and conversion condominiums. Federal standards outlined in this bill would apply in States that do not have consumer protection laws for condominium purchasers. States are encouraged to enact laws of their own, patterned after this bill and other State laws with advanced buyer protection provisions.

The bill we are introducing today contains strong enforcement provisions, setting a $10,000 maximum fine and up to 5 years imprisonment for willful violations of provisions of the act. In addition, the legislation seeks to hold paperwork burdens for developers to an absolute minimum. In States having adequate consumer protection statutes there should be no additional paperwork for developers.

And finally, the Condominium Act of 1979 provides to those condominium owners stuck with abusive long-term lease situations access to Federal courts. The bill sets forth certain conditions under which these leases should be found unconscionable and gives the condominium association the right to ask the court to revise or cancel the terms of the lease. Additionally, the legislation provides that under specified conditions, payments on leases containing an automatic rent increase clause would be unenforceable in the future.

The Condominium Act of 1979 is designed to promote the continuing expansion of condominium development by strengthening consumer confidence in this rapidly growing sector of the housing industry. This legislation will be instrumental in protecting retirees moving to other States which lack adequate consumer laws from the kinds of abusive practices far too many people in my own state have had to experience. The legislation will provide as well the opportunity for relief to those condominium owners who are presently victims of long-term escalating recreation leases and, in so doing, will enable them to continue enjoying the available benefits and opportunities associated with the condominium lifestyle.

Mr. President, present and future condominium owners deserve the protection and relief afforded by this legislation, and I urge Members of the Senate to join me in working for prompt consideration of and favorable action on this significant legislation.●

By Mr. BENTSEN (for himself,
Mr. LEAHY, and Mr. SASSER):

S. 613. A bill authorizing the President of the United States to present a gold medal to the widow of Hubert H. Humphrey; to the Committee on Banking, Housing, and Urban Affairs.

● Mr. BENTSEN. Mr. President, I rise today to honor the late Hubert H. Humphrey. Our country has been graced by the dedicated genius of Senator Humphrey, who pursued his duty for Liberty with a joyous fervor.

In the past, the United States has honored dedicated Americans with a commemorative medal, as a tribute to their public service. There is no one more deserving than the late Senator from Minnesota.

I am introducing legislation today to authorize the President to establish a commemorative gold medal in honor of our late colleague, which the President shall present to Mrs. Hubert H. Humphrey in the name of the Congress. The Secretary of Treasury shall determine suitable emblems, devices, and inscriptions, and the Secretary shall produce duplicates in bronze to be sold to the public.

I ask for unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 613

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized to present in the name of Congress, an appropriate gold medal to Mrs. Hubert H. Humphrey, in recognition of the distinguished and dedicated service which her late husband gave to the government and to the people of the United States. For such purposes, the Secretary of the Treasury shall cause to be struck a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

The Secretary of the Treasury may cause duplicates in bronze of such medal to be struck and sold at not less than the estimated cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses, plus 25 per centum of such cost of manufacture. The appropriation then current and chargeable for the cost of manufacture of such duplicate medals shall be fully reimbursed from the payment required by this section and received by the Secretary: *Provided,* That any money received in excess of the actual cost of manufacture of such duplicate medals shall from time to time be covered into the Treasury. Security satisfactory to the Director of the Mint shall be furnished to fully indemnify the United States for the payment required by this section.

The medals provided for in this section are national medals for the purpose of Section 3551 of the Revised Statutes (31 U.S.C. 368).●

By Mr. LONG:

S. 614. A bill to make technical corrections related to the Revenue Act of 1978; to the Committee on Finance.

TECHNICAL CORRECTIONS ACT OF 1979

Mr. LONG. Mr. President, as we all rections related to the Revenue Act of 1978 was passed at the end of the last Congress under considerable time pressures. Due to the short time period that we had to draft the many provisions of that act, we anticipated that a number of technical problems would have to be corrected in this Congress. Accordingly, after the bill was enacted, I instructed the staff to review the act and prepare a bill making the necessary technical and clerical amendments to correct the problems and make sure the act carries out the intentions of the Congress.

I am introducing today the bill that the staff has prepared, which is titled the Technical Corrections Act of 1979. This bill makes the necessary technical and clerical amendments to the Revenue Act of 1978, the Energy Tax Act of 1978, the Foreign Earned Income Act of 1978, and the Black Lung Benefit Act of 1977. The provisions included in the bill reflect the amendments that the staff, upon a more deliberate and closer review of the provisions, believe are necessary to carry out congressional intent, as well as some changes suggested to the staff by tax practitioners. The staff has also prepared a pamphlet which provides a short description of each of the technical amendments made by the bill. This pamphlet will be available from the Committee on Finance this week.

I should also like to take this opportunity to point out to the Members of the Senate that, in recent years, there has been much talk of tax reform to deal with the various problems, inequities, or other concerns that have been raised about our tax system. This tax reform effort has generated a lot of controversy. I am a very strong advocate of making all tax laws as equitable and as simple as may be possible, while at the same time carrying out the necessary objective of raising revenue and encouraging economic growth. However, it is also important to realize that we can make relatively uncontroversial but meaningful revisions in our tax system to make it easier to comprehend and apply. While providing simplification for taxpayers who have to fill out their own tax returns should always be a very high priority of any tax revision, it is also useful to make it easier for tax practitioners to advise their clients about the tax effects of business decisions, investments, or other activities. In addition, this approach to simplification is important for Internal Revenue Service officials in their administration and enforcement of the tax laws. This bill that I am introducing today, by correcting the technical problems in the tax legislation enacted last year, is a step in that direction. Many of the provisions clarify congressional intent so that it would be better understood by taxpayers, tax practitioners and Internal Revenue Service personnel.

I also want the Senate to know that the Finance Committee has instructed the staff to carry out an ongoing review of the Internal Revenue Code in order to provide other necessary technical changes to provide more clarity and simplicity. I intend to introduce a series of bills over the next several years to accomplish this goal. I look to this form of tax revision as a major step in dealing with the complexities and technical problems within our tax system and to complement our continued efforts for overall tax simplification. I know Chairman ULLMAN of the Committee on Ways and Means shares these same concerns, and I hope that, together, the two tax-writing committees will carry out this extremely important objective.

By Mr. MATHIAS (for himself, Mr. DOMENICI, and Mr. HATFIELD):

S. 615. A bill to establish a Small Business Administrative Review Court; to the Committee on the Judiciary.

SMALL BUSINESS ADMINISTRATIVE REVIEW COURT ACT

● Mr. MATHIAS. Mr. President, I send to the desk the Small Business Administrative Review Court Act, a measure to enable small business owners to obtain review of their rights at minimum expense to them and to the taxpayer. This bill is designed to promote due process and to rationalize the application of the many Federal regulatory controls on small business.

Various agencies, commissions and departments of the Federal Government are turning out regulations at a rate unheard of not many years ago—regulations which may significantly affect the future income and ultimately the survival of thousands of American businesses. The small and independent business owners in this country can hardly keep up with the growing number of regulation-promulgating agencies, much less the regulations themselves. It is interesting to note that even the experts cannot agree on the number of agencies in the business of regulation. For example, the Domestic Council Review Group on Regulatory Reform lists 89 agencies; the Center for the Study of American Business cities 55 agencies while the General Accounting Office includes over 100 agencies in its recent study. The regulations drafted by these agencies, although well intentioned, are written for the most part by lawyers in the language of the law. Sometimes little thought is given to the actual effect of their strict application.

In many cases, the practical effect of an order, fine or citation on a particular business is not only inequitable but, at times, borders on the ludicrous. For example, a New Jersey firm reports that as the result of an unannounced inspection by a Federal agency, it was assessed separate fines totaling over $4,000. These fines were levied by a "team" of inspectors who outnumbered the firm's employees. The firm protested a number of these fines through the agency's hearing process. Before it was over, this case became the longest running in the agency's history. One can only wonder the cost of that case, in both time and money, to the agency as well as the business. Another firm in Indiana, after being ordered to pay a $600 penalty, was told by the agency that the attorney's fees alone would make a court fight far more expensive than the fine. This is not to say that all regulations are inherently bad; many serve a necessary purpose. But, unfortunately, no matter how carefully they are drafted, cases will arise in which either the application of the regulation is inapproprate or the agents of the Federal Government will interpret them in inconsistent ways.

When confronted with a Federal order, citation or fine considered unjustified or inequitable, a business generally has two avenues of redress. It can appeal to the administering agency or it can take the matter to Federal court. Regrettably, in many of these instances, neither of these options offer an expedient resolution.

If the small business owner decides to appeal to the administering agency, he faces a difficult and burdensome task. First, if he cannot afford to send someone to Washington or to a regional office to present the case verbally, as is often done by large corporations, he must rely on a written appeal. Too often, under the written appeals procedure, important questions go unanswered or significant details are left unexplained, working to the disadvantage of the business owner.

Further, there is an organizational stumbling block one must overcome when dealing with an agency, as this method of administrative remedy pits one agency employee's decision against another's. While it would be unfair to charge a conscious bias, the frame of reference of these employees is often similar. As a result, a truly independent review is difficult, if not impossible.

If the small business owner decides to appeal to a Federal court, the cost of such an appeal would likely be greater than the fine involved. In addition, given the usual length of time between filing and decision, the prolonged frustration, let alone the costs, far outweigh the benefits. Small business owners often choose not to go to court, thereby waiving their rights to review.

Since the options currently available are either too expensive or inherently biased, small business owners have no expedient avenue of redress. It is to this problem that the Small Business Administrative Review Court is addressed.

Mr. President, the Small Business Administrative Review Court is based on the highly successful experience of the U.S. Tax Court in the conduct of "small tax cases." The Tax Court was established in 1924 as a Board of Appeals in the executive branch of Government with limited jurisdiction. It set up a forum where taxpayers could obtain independent review of their tax liability without prior payment of the deficiency. The history of the Tax Court was so marked with success that in 1969 the court became a full judiciary court under Article I of the Constitution.

The Small Business Administrative Review Court follows this example. The bill establishes a court of limited jurisdiction, under the executive branch, which will only hear cases involving Federal orders, citations and fines with a value of $2,500 or less. The court may rescind all or any part of a fine, citation or order which it feels is inappropriate to the alleged offense, is inconsistent with prior interpretations of the regulation, or is simply inequitable. Any small business, as defined in the bill, may petition the court for a hearing.

The rationale for the $2,500 limit is twofold. First, it is generally the small actions which are being foregone because of the litigation. A costly order is one which will most likely be handled by an attorney under the remedies now available. Second, this court's mandate is to act with all due speed on petitions. High dollar value actions would tend to bog down the court, creating backlogs which would only further frustrate the petitioners with small claims.

The bill has several special features, consistent with the limited jurisdiction of this type of court and the goal of preserving due process. First, a determination by the court is final and cannot be reviewed by any other agency or court. This will eliminate lengthy appeals. Second, although the determination of the court is final as regards the agency, the petitioner, if not satisfied by the ruling of the court, has the option of requesting further review of the case through normal administrative channels. Although this is unlikely, the business owner does retain the right to review under broader jurisdictional boundaries. Third, the petitioner is encouraged to represent himself, thereby keeping the form as well as the procedure of the court, simple and straightforward. And last, the normal filing fee of $10 will encourage small business owners to seek remedy when they consider they have been inequitably treated.

A brief look at the experience of the small tax case procedure before the U.S. Tax Court provides a good illustration of what the Small Business Administrative Review Court could be expected to do. Under the small tax case provisions, the time between trial and final disposition of the case is 90 days, while the time lapse between trial and disposition on regular Tax Court cases is normally a year. Ninety to ninety-five percent of these cases find the individual acting as his own counsel. Historically, the Tax Court has neither been patsy for the individual nor for the Government; small tax cases have been decided almost 50 to 50 between the two groups.

Mr. President, I am not here asking that a new bureaucracy be created to control already existing bureaucracies. Under a sunset provision I have included, this act would expire in 5 years unless Congress specifically acts to renew the court. The chief judge will be required to prepare a report to Congress which will provide an assessment of the court's performance, the amount of its use and other information which will enable Congress to determine whether or not to extend the life of the court. Thus, Congress will retain control over the court's size and duration. There is no assurance that this court will be entirely successful, just as there was no assurance that the small tax procedure of the Tax Court would be. However, if it succeeds in alleviating regulatory inequities currently faced by small business, as I believe it will, then we will have taken a significant step in achieving due process for a group of citizens whose enterprises are vital to our society and economy, but who often find their concerns neglected.

Mr. President, I ask unanimous consent that the text of the Small Business Administrative Review Court Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 615

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Business Administrative Review Court Act".

FINDINGS AND PURPOSE

SEC. 2. The Congress finds that administrative orders, citations, and fines have increased in number and widened in scope in recent years. Many of these administrative actions affect small business interests. Consequently, the small business community has become involved in administrative actions to contest certain orders that affect small business and contesting such orders can deplete the resources of a small concern. The Congress further finds that an administrative review court is needed in order to provide an alternative forum for challenges to administrative orders, citations, and fines that concern small claims.

DEFINITIONS

SEC. 3. For purposes of this Act, the term—

(1) "small business concern" means a small business concern as determined by the Administrator of the Small Business Administration under section 3 of the Small Business Act (15 U.S.C. 632; 72 Stat. 384); and

(2) "agency" means an Executive agency within the meaning of section 105 of title 5, United States Code.

ESTABLISHMENT OF COURT

SEC. 4. There is established, as an independent agency within the executive branch of the Government, the Small Business Administrative Review Court (hereinafter referred to as the "court").

JURISDICTION

SEC. 5. (a) The court shall have jurisdiction over a person who is issued a fine, citation, or order by an agency, but only if—

(1) the direct dollar value of any such fine or citation, or the effect of any such order, is $2,500 or less; and

(2) the person to whom the fine, citation, or order is issued is a small business concern;

except that in no case shall the court have jurisdiction over any matter which is within the jurisdiction of the United States Tax Court, the United States Customs Court, the United States Court of Military Appeals, or the United States Court of Claims.

(b) The court shall not have jurisdiction over any particular fine, citation, or order described in subsection (a) until such time as the small business concern affected by the fine, citation, or order files a petition with the court as provided in section 7.

ENFORCEMENT AND REVIEW

SEC. 6. (a) Upon the filing of the appropriate petition with the court by a small business concern under section 7, the contested fine, citation, or order shall not be enforceable until a decision has been rendered by, or until jurisdiction has been denied by, the court, except when, in the judgment of the court, the failure to enforce such fine, citation, or order would result in imminent danger to the health or safety of any person.

(b)(1) In any case in which a petition has been filed under section 7, and the court has jurisdiction, the court may, if it determines that the fine, citation, or order, or part thereof, is inappropriate to the alleged offense, inconsistent with previous interpretation of the pertinent regulations, or inequitable, order the agency to rescind or modify the fine, citation, or order.

(2) A determination by the court under paragraph (1), or a determination of lack of jurisdiction, may not be reviewed by any agency or court.

ELECTIONS

SEC. 7. (a)(1) Within 60 days of notice of a fine, citation, or order described in section 5(a) which is first enforceable by an agency, a small business concern may elect to have its case heard by the court by filing a petition in such form and in such manner as the court may prescribe.

(2)(A) If the small business concern elects to have its case heard by the court as provided in paragraph (1), it may not pursue agency review of the fine, citation, or order until the court has either rendered a decision, or determined that it is without jurisdiction.

(B) Upon a decision rendered by the court, or a determination of lack of jurisdiction, the small business concern issued the fine, citation, or order may pursue agency review of the fine, citation, or order in accordance with applicable procedures as if the petition had not been filed under subsection (a), and the fine, citation, or order shall, for purposes of determining the time for filing for agency review, be considered to have been issued on the date of such determination by the court.

(C) If the small business concern commences agency review as provided in subparagraph (B), the determination of the court is revoked and unenforceable.

(3) (A) If the small business concern does not elect to have its case heard by the court as provided in paragraph (1), the small business concern may pursue agency review of the fine, citation or order in accordance with applicable procedures of the agency.

(B) When a small business concern commences agency review as provided in subparagraph (A), the small business concern may not contest such fine, citation or order before the court at any other time.

COMPOSITION OF THE COURT

SEC. 8. (a) The court shall be composed of a chief judge and such judges as may be necessary to fulfill the functions of the court.

(b) Judges of the court shall be appointed by the President, by and with the advice and consent of the Senate, solely on the grounds of fitness to perform the duties of the office.

(c) (1) The chief judge shall be compensated at a rate of pay equal to the rate of pay for GS–18 of the General Schedule.

(2) The chief judge shall set the rate of pay for the other judges of the court at a rate not in excess of the highest rate for GS–17 of the General Schedule.

(d) Judges of the court shall receive all necessary traveling expenses and also a per diem allowance in lieu of actual expenses of subsistence while traveling on duty and away from their designated stations subject to the same limitations in amount as are applicable to the United States Customs Court.

(e) The term of office of a judge of the court is five years and no judge shall be eligible to serve more than one term, except that the terms of the judges shall terminate when the court is terminated.

(f) (1) Judges of the court may be removed by the President before expiration of the five-year term, after notice and opportunity for a hearing, for inefficiency, neglect of duty or malfeasance in office.

(2) A judge of the court removed from office in accordance with paragraph (1) shall not be permitted at any time to practice before the court.

ORGANIZATION

SEC. 9. (a) The court shall have a seal which shall be judicially noticed.

(b) The chief judge may from time to time divide the court into divisions of one or more judges, assign judges of the court to divisions, and in the case of a division with more than one judge, designate one judge to head the division. If a division, as result of a vacancy or the absence or inability of a judge assigned thereto to serve, is composed of less than the number of judges designated for the division, the chief judge may assign other judges to the division or direct the division to proceed with the transaction of business without awaiting any additional assignment of judges.

(c) The principal office of the court shall be in the District of Columbia, but the court or any of its divisions may sit at any place within the Fourth Judicial Circuit.

(d) The times and places of the sessions of the court and its divisions shall be prescribed by the chief judge with the intent to secure a reasonable opportunity for affected parties to appear before the court.

DECISIONS OF THE COURT

Sec. 10. (a) A division of the court shall hear and determine any matter assigned to it by the chief judge. A decision shall be rendered by the court on each matter that comes before it according to the rules of the court as determined by the chief judge.

(b) The decision of the division shall upon publication thereof become the decision of the court.

(c) If the court dismisses a proceeding for lack of jurisdiction, an order to that effect shall be entered in the record of the court and the decision of the court shall be rendered on the date of such entry.

(d) A decision of the court dismissing the proceeding shall be considered to be a decision that the respondent has acted properly.

ADMINISTRATION

Sec. 11. (a) Oaths may be administered by—

(1) a judge,

(2) the clerk of the court,

(3) a deputy of the clerk of the court, or

(4) an employee of the court designated in writing by the chief judge to administer oaths.

(b)(1) A judge may examine witnesses and may require, by subpoena ordered by the court for any division thereof and signed by the judge (or signed by the clerk of the court or by any other employee of the court when acting as deputy clerk)—

(A) the attendance and testimony of witnesses, and the production of all necessary books, papers, documents, returns, correspondence, and other evidence, at any designated place of hearing from any place in the United States; or

(B) the taking of a deposition before any designated individual competent to administer oaths.

(2) In the case of a deposition, the testimony shall be reduced to writing by the individual taking the deposition or under his direction and shall then be subscribed by the deponent.

(c) Any witness whose attendance is required or whose deposition is taken in accordance with subsection (a), shall receive the same fees and mileage as witnesses in courts of the United States.

(d) The court may appoint a clerk, and may appoint or authorize the appointment of other officers and employees as may be necessary. The clerk and all other employees shall be subject to removal by the court.

(e) The chief judge is authorized to appoint and fix the compensation of such other personnel as he deems advisable.

(f) The employees of the court shall receive necessary travel expenses and expenses for subsistence while traveling on duty and away from their designated stations.

PROCEDURES IN THE COURT

Sec. 12. (a) The court is authorized to impose a fee in an amount not in excess of $10 for the filing of a petition with the court.

(b) In proceedings before the court, the United States Government shall be represented by the Attorney General of the United States or his delegate or by the Chief Counsel of the affected agency or his delegate.

(c) The petitioner shall be represented in accordance with the rules of practice prescribed by the court, however, no qualified person shall be denied admission to practice before the court because of his failure to be a member of any profession or calling.

(d) The proceedings of the court and its divisions shall be conducted in accordance with such rules of practice and procedure as the court may prescribe, except that the rules of evidence applicable to trials without a jury in the United States District Court for the District of Columbia shall apply.

(e) The mailing by certified mail or registered mail of any pleading, decision, order, notice, or process with respect to proceedings before the court shall be sufficient service of such pleading, decision, order, notice, or process.

(f) All evidence received by the court and its divisions, including all transcripts of the stenographic reports of hearings, shall be public records. However, when a decision of the court in any proceeding becomes final, the court may—

(1) upon motion by either party, permit the withdrawal of originals of books, documents, records, models, diagrams, and other exhibits, introduced in evidence by such party; or

(2) upon the court's own motion, make such other disposition thereof as it deems advisable.

REPORT TO PRESIDENT AND CONGRESS

Sec. 13. The chief judge of the court shall submit a report to the President and the Congress, not later than four years after the date of the enactment of this Act, which shall include, but not be limited to—

(a) an assessment of the court's accomplishments in light of its stated purpose,

(b) recommendations for the court's continuation, modification, or termination,

(c) an assessment of the caseload of the court,

(d) a compilation of the agencies of the United States Government most frequently challenged in the court, and

(e) any other facts which may assist the Congress in determining the future of the court.

APPROPRIATION AND EXPENDITURES

Sec. 14. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

(b) The court is authorized to make such expenditures (including expenditures for personal services and rent, and for law books, books of reference, and periodicals), as may be necessary to execute the functions of the court. All expenditures of the court shall be paid out of any moneys appropriated for purposes of the court upon presentation of itemized vouchers signed by the certifying officer designated by the chief judge.

(c) All fees received by the court shall be received into the Treasury as miscellaneous receipts.

EFFECTIVE DATE AND EXPIRATION DATE

Sec. 15. (a) This Act shall take effect on January 1 of the year following the date of its enactment.

(b) This Act shall expire five years from the date of enactment.●

By Mr. DOLE (for himself and Mr. Thurmond):

S. 616. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for contributions for the construction or maintenance of buildings housing fraternal organizations; to the Committee on Finance.

CHARITABLE CONTRIBUTIONS

● Mr. DOLE. Mr. President, I am pleased to introduce legislation which would allow tax deductions for contributions to a section 501(c)(10) organization for the purpose of constructing or maintaining a building. This is sound legislation which is desperately needed by many organizations.

FRATERNAL ORGANIZATIONS

Mr. President, a 501(c)(10) organization is a domestic fraternal society, order, or association, operating under the lodge system—the net earnings of which are devoted exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes. These groups are already exempt from taxation because their unique status as nonprofit organizations furthers community life. They assist many worthwhile causes by raising funds for the sick, the underprivileged, and the disadvantaged. They use their energies to promote civic pride and community betterment. They are valuable local assets.

Mr. President, many of these fraternal lodges meet in buildings often in need of major repair, better maintenance, or new construction. The limited funds these groups possess are used for the projects and the activities of the organization aimed at bettering their community. In the meantime, their buildings deteriorate, making their jobs more difficult because insufficient funds exist to correct the situation.

Mr. President, over the past few years we have witnessed a drastic decline in private charitable donations in the United States. As the Federal Government extends its arm further into affairs once dominated by these private groups, while simultaneously taxing at exorbitant levels the money available for contributions, the American taxpayer is becoming less and less willing and less and less able to donate the few aftertax dollars he has.

CHARITABLE DEDUCTIONS

Mr. President, my proposal allows a charitable deduction for contributions to these organizations for the purpose of construction or maintenance of a building which houses the organization. The Senator from Kansas believes this legislation will help encourage private donations and help these groups accomplish their noble pursuits.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 616

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 170(c)(4) of the Internal Revenue Code of 1954 (relating to charitable contributions) is amended by striking out "or for the prevention of cruelty to children or animals" and inserting in lieu thereof "for the prevention of cruelty to children or animals, or, in the case of a contribution or gift to an organization described in section 501(c)(10), for the construction or maintenance of a building the principal purpose of which is to house such organization."

(b) Section 2055(a)(3) of the Internal Revenue Code of 1954 (relating to estate tax charitable contribution deductions) is amended by striking out "or for the prevention of cruelty to children or animals" and inserting in lieu thereof "for the prevention of cruelty to children or animals, or, in the case of a contribution or gift to an organization described in section 501(c)(10) for the construction or maintenance of a building the principal purpose of which is to house such organization."

(c) Section 2522(a)(3) of the Internal Revenue Code of 1954 (relating to gift tax charitable contribution deductions) is amended by striking out "art and the prevention of cruelty to children or animals" and inserting in lieu thereof "art, the prevention of cruelty to children or animals, and, in the case of a contribution or gift to an organization described in section 501(c)(10), the construction or maintenance of a building the principal purpose of which is to house such organization."

(d) The amendments made by this Act shall be effective with respect to gifts or contributions made after the date of enactment of this Act.●

By Mr. MELCHER:

S. 618. A bill to amend the Internal Revenue Code of 1954 to allow the payment of income tax on certain income support or deficiency payments to wheat and feed grain producers to be made in the year when the income normally received from the crops have been reported; to the Committee on Finance.

NEEDED MODIFICATION OF TAX ACCOUNTING FOR DEFICIENCY PAYMENTS ON WHEAT AND FEED GRAINS

● Mr. MELCHER. Mr. President, the Department of Agriculture, under the provisions of the Food and Agriculture Act of 1977, began distributing deficiency payments to the Nation's wheat producers starting with their 1977 wheat crop. The payments are 52 cents per bushel produced on allotment acres, or the difference between the average market price of $2.88 per bushel target price of $3.40 per bushel set by the Secretary of Agriculture under the authority given him in last year's Agricultural Act.

Implementation of this act resulted in a tax accounting problem. Much of any crop of wheat is marketed by the producers in the calendar year following its production. For example, many farmers will realize their income from their 1978 crop of wheat when they sell it in 1979. If they use the cash accounting tax method, they will also be required to report as income in 1979 the deficiency payment they will receive on their 1979 wheat crop, then they will have to pay 1979 taxes on income from two crops.

In recognition of the unfairness of such a concentration or doubling of income in 1 year, we have already provided that producers may report crop insurance payments and disaster payments on their crops in the year that the crop would customarily be sold. We also took action through Public Law 95-258 to permit target price payments received in 1978 on 1977 crops to be treated as 1977 income.

I supported Public Law 95-258 and was glad to see it enacted. However, it did not go far enough in solving the problem. This is a perennial problem and is not limited only to 1977 taxes and income. I have just introduced a bill which will provide the same treatment on a permanent basis for deficiency payments, allowing them to be reported in the year that the crop is marketed if that is different than receipt of the payment.●

By Mr. MATHIAS:

S. 619. A bill to prohibit taxation by a State of electricity generated in that State and transmitted to and consumed in another State; to the Committee on Finance.

GENERATED ELECTRICITY TAX EQUITY ACT OF 1979

● Mr. MATHIAS. Mr. President, many of my constituents in western Maryland, particularly the elderly and others on fixed incomes, have written to me to tell me that they have cut their food expenditures to subsistence levels and keep their homes at a chilly 60° so they have money left over at the end of the month to pay their electric bills.

This situation is unfortunate enough, but what makes it especially troublesome to me is the fact that a significant percentage of the high cost of the electricity my constituents pay is the result of unfair taxation.

Both West Virginia and Pennsylvania impose a gross receipts tax on electricity generated in their States. That in itself would be no cause for alarm. However, these taxes (title 72, section 8101(b)(2), Pa. Stat. Ann. and section 11-13-2d W. Va. Code) are structured so that the tax is effectively imposed only on electricity exported from the taxing State; domestic consumers do not bear a corresponding tax burden. Currently, Maryland consumers pay higher rates due to the West Virginia tax on electricity consumed in Maryland. In addition, Maryland consumers may soon be required to pay higher rates due to the Pennsylvania tax. Maryland rate payers have been temporarily saved from the Pennsylvania tax pending the resolution of a lawsuit brought by Maryland electric utilities to invalidate the Pennsylvania tax on Maryland consumers.

As a result of these unfair taxes, Marylanders would have to pay an extra $8 million on electric bills each year. The tax would not only create hardship for individuals, but it would also hurt Maryland commercial users and make their products relatively more costly and, therefore, less competitive in interstate and international commerce. At least three Maryland manufacturers paid more than $35,000 in higher rates as a result of the discriminatory tax, last year.

Since 1961, when I first entered Congress, I have sought to remove barriers to interstate commerce. The discriminatory tax incurred by Maryland electricity consumers is exactly the type of discrimination that must end. As a case in point, if the Pennsylvania tax is upheld, Maryland consumers of Baltimore Gas & Electric Co. could have their utility tax increased by as much as 15 percent. These additional costs would be due entirely to the unfair discriminatory tax imposed by Pennsylvania.

West Virginia and Pennsylvania have increased this tax dramatically in the recent past. In 1966 there was a 100-percent increase, and in 1977 an increase of 500 percent. The Maryland consumer is forced to pay not only high utility costs, but the added tax adds insult to injury. In effect, Maryland residents are subsidizing Pennsylvania and West Virginia.

Maryland is not the only victim of this type of discrimination. Residents of Virginia, New York, New Jersey, Arizona, and other States, also pay higher electric rates as a result of discriminatory interstate taxation.

While I am convinced, Mr. President, that these tax laws violate the commerce clause of the Constitution, I think we should not await a court decision on this issue. These cases often take years to work their way through the courts, and my constituents in western Maryland want and need relief right now.

I, therefore, introduce my bill to eliminate this tax, and I urge all of my colleagues to give it sympathetic consideration.

Mr. President, I ask unanimous consent that the text of the generated electricity tax equity bill of 1979 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 619

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Generated Electricity Tax Equity Act of 1979"; That the Congress finds that—

(1) the generation of electricity and its transmission to another State are integral parts of interstate commerce; and

(2) the imposition of a tax by a state (i) on the privilege of generating electricity in that State which is transmitted and consumed in another State, (ii) or with respect to gross receipts from the sale of such electricity in such other State, is an unreasonable burden on interstate commerce.

SEC. 2. (a) Title II of the Act entitled "An Act relating to the power of the States to impose net income taxes on income derived from interstate commerce, and authorizing studies by congressional committees of matters pertaining thereto", approved September 14, 1959 (73 Stat. 555; 15 U.S.C. 381 et seq.), as amended, is amended to read as follows:

"TITLE II—PROHIBITION OF TAX ON GENERATION OF CERTAIN ELECTRICITY

"SEC. 201. No State, or political subdivision thereof, may impose or assess a tax (i) on or with respect to the generation or transmission of electricity within that State which is transmitted to and consumed in another State, (ii) with respect to all or any part of the gross receipts from the sale of such electricity in such other State.".

(b) The amendment made by subsection (a) shall apply with respect to the generation or transmission of electricity on or after the date of the enactment of this Act.

By Mr. DURKIN:

S. 620. A bill to amend title XVI of the Social Security Act to provide that shelter support furnished in kind shall not be included as income, but shall result in certain reductions in benefits when the value of such support exceeds the amount of shelter costs paid by the individual; to the Committee on Finance.

● Mr. DURKIN. Mr. President, to help guarantee that all elderly, blind, and disabled persons in this country have a decent standard of living, the Congress in 1972 enacted the supplemental security income program. In many ways this has been a good and necessary program. But its provisions concerning in-kind income have had unintended consequences detrimental to its purpose. I am today introducing legislation to remedy this situation.

In-kind income means all material support that is not cash. A break in the rent is in-kind income, as is a coat or an apple. Under the current law an SSI benefit is reduced for all in-kind support received, The problem with this formula is that in-kind income often does not correspondingly reduce a person's necessary expenses. If a person receives in-kind support from family or friends, he may receive an SSI check so reduced that he will be unable to buy food if he pays his rent. As a result, many elderly, blind, and disabled persons are forced to refuse help from family and friends. The worst form of this problem occurs when a person must live in an institution because he cannot afford to accept a generous offer to live with another person, even if this person is a sister or a son. Here, the taxpayers lose as well as the SSI recipient, because the Federal Government must spend more to institutionalize him than it saves in cutting his SSI benefit.

The current provisions for in-kind support undermine the well-being of the elderly, the blind, and the disabled, and undermine the efforts of families and communities to help them. It is time Congress did something about this problem.

Having reviewed a number of cases in which the in-kind income provision has caused hardship, I have noted that the most acute problems involve shelter support. What a person pays for rent is often the crucial factor in whether he can live on a reduced SSI benefit. If a person pays $100 a month in rent, his payment represents more than one-half the maximum Federal SSI benefits for a single person. Surely, he needs cash equal to his full benefit to live in his current accommodations. It hardly matters that a person's rent is subsidized for $100, $200, or $500 a month since this subsidy cannot be traded to reduce his actual rent or to pay for his food or clothing. Yet, currently, if his landlord lets him a $200 apartment for $100, his SSI benefit will be so reduced that he will have virtually no money left once his rent is paid, and will thus be unable to accept his landlord's beneficence.

To remedy this problem, the bill I am introducing today will adjust the SSI benefit to a recipient's actual rent. The bill does the following: if an SSI recipient receives shelter support, his benefit will automatically be reduced by one-third, but he will receive a dollar of this third back for every dollar he must pay in rent.

The solution is easily implemented. What a person pays for rent is readily documented, far more readily than the value of in-kind support. All a person has to do is to present a rental agreement.

The bill encourages families and friends to support the elderly, the blind, and the disabled. Under the current law, a person's benefit is reduced by one-third if he lives in the home of another and receives any maintenance and support. Under my bill, the recipient receives a dollar of this reduction back for every dollar he spends for rent. Thus, the parent is better able to pay some rent to his family, and help with his own support. On the other hand, the bill does not automatically increase the benefit of a parent living in the home of a wealthy child since the parent must pay rent to benefit.

Mr. President, the expense of my bill will not be great. Money may even be saved if families and friends are encouraged to keep the elderly, the blind, and the disabled out of institutions. At any rate, only 10.5 percent of the SSI caseload reports unearned income other than social security benefits, veterans' benefits, retirement benefits, and so forth. The number of persons who receive unearned income in the form of in-kind shelter support is thus far less than this 10.5 percent figure and represents a very small percentage of those persons receiving supplemental security income.

I urge all my colleagues to join me in supporting this legislation which remedies one of the more onerous problems which elderly, blind, and disabled persons confront. I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 620

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1612(a)(2)(A) of the Social Security Act is amended—

(1) in clause (i), by inserting before the comma at the end thereof the following: ", but any such reduction in the benefit amount specified in subsection (b) of section 1611 shall be lessened by an amount equal to the amount expended by such individual and spouse for shelter costs";

(2) by striking out "and" at the end of clause (ii);

(3) in clause (iii), by striking out "the provisions of clause (i) shall not be applicable" and inserting in lieu thereof "the provisions of clauses (i) and (iv) shall not be applicable"; and

(4) by inserting before the semicolon at the end thereof the following: ", and (iv) in the case of any individual (and his eligible spouse, if any) who is not subject to the provisions of clause (i), (ii), or (iii) of this subparagraph and is receiving shelter support furnished in kind, the benefit amount otherwise applicable to such individual (and spouse) as specified in subsection (b) of section 1611 shall, in lieu of including such shelter support in the unearned income of such individual (and spouse) as otherwise required by this subparagraph, be reduced by 33⅓ percent, but this reduction shall be lessened by an amount equal to the amount expended by such individual and spouse for shelter costs;".

(b) The amendments made by this Act shall become effective on the first day of the first month beginning more than 60 days after the date of the enactment of this Act.●

By Mr. MATHIAS (for himself, Mr. BAYH, Mr. HEINZ, Mr. JACKSON, Mr. RIEGLE, Mr. RANDOLPH, Mr. LEAHY, and Mr. STAFFORD):

S. 621. A bill to provide for further research and services with regard to victims of rape; to the Committee on Labor and Human Resources.

SERVICE FUNDING FOR VICTIMS OF RAPE

● Mr. MATHIAS. Mr. President, I send to the desk a bill to authorize funding for organizations that provide help to rape victims. As many of my colleagues know, I introduced this legislation in the 95th Congress, and since that time, I have received hundreds of letters of support from around the country. I have been gratified by this broad-based support and hope that this Congress will act favorably on this bill.

We must face the sad fact that the threat of sexual assault and rape is omnipresent in our society; the incidence of rape has been increasing steadily.

This excerpt from an article in Social Work of November 1976 reveals the dimensions of the problem:

> Rape is a frequent crime. According to the Federal Bureau of Investigation, a rape is reported in the United States once every ten minutes. However, not every rape is reported; national surveys have found a ratio of 1 to 3.5 between victims who do report the crime and those who do not. Thus, with a population of over 100 million women in this country, it is reasonable to assume that at least 250,000 of them will be raped next year (1977). If this rate were to remain constant, the chances are better than 1 in 15 that a women will be raped sometime during her life!

Research on the subject of rape has contributed substantially to public understanding of the crime. In the last few years the public has finally come to comprehend the magnitude of the problem. As a consequence, there has been a great increase in services provided to the victim by the legal, medical, social service, and mental health communities, and a vast improvement in the techniques used to aid the victim and to alleviate her trauma.

In 1975, we enacted legislation that created the National Center for the Prevention and Control of Rape within the National Institute of Mental Health. I sponsored this legislation and have been impressed by the ambitious research program the Center has undertaken since then to identify the causes of rape, the situations in which it is likely to take place, and the characteristics of both offenders and victims.

The Center has done a commendable job under the able and dedicated leadership of Elizabeth Kutzke, its Director. With a staff of only six, the Center has set up a comprehensive research program. In addition, it funds demonstration programs designed to provide more effective services to rape victims, to rehabilitate offenders, and to reduce the incidence of rape. The Center has also created a broadly representative forum to advise the Secretary of HEW and the Administrator of the National Institute of Mental Health on the direction of the Center's research program.

The results of that research effort are just now beginning to be made known. I hope that the findings will reach a wide audience, for the more we understand the circumstances surrounding the crime of rape, the better able we shall be to deal with it.

These studies have convinced me that we should authorize the National Center to take on new responsibilities. My bill would enable the Center to provide contracts and grants to State and local governments and nonprofit organizations for such services as accompaniment of the victim to medical, social, and legal services; the direct provision of medical, social, and legal services; operations of a telephone "hot line" for crisis counseling and referral; counseling the victim both at the time of the assault as well as subsequently both at a crisis center and at home; transportation costs for the victim and for service providers; consultation with allied professionals; and a community education program. In addition, the bill provides funds for the training of counselors and paraprofessionals.

Currently, most victim services of accompaniment and counseling and public education programs are carried out by local rape crisis centers. These organizations vary in their organizational and funding arrangements as well as the nature and range of services which they provide. Many are totally volunteer efforts.

Both the volunteer centers and the more established centers which are part of the legal, medical and social service system lack an assured, continuing, source of funds. Many operate on shoestring budgets, depending on contributions or occasional contracts from the State or local government or the Law Enforcement Assistance Administration.

This tenuous financial support results in periodic closings of rape crisis centers which suddenly find themselves without the money to pay for office space, lights, telephones, carfare, and the like. The person who suffers most from this is the victim.

The victim of rape needs a comprehensive range of services. However, because she is in a state of shock, she is not able to go to one place for counseling, to another for medical aid, and to still another for information about her legal rights.

Gail Abarbanel, director of the Santa Monica Rape Treatment Center, stresses that

> * * * One agency must take responsibility for developing the program, and for organizing and coordinating additional support services. This primary care facility must be able to treat the victim's needs for critical care and be psychologically accessible; that is, the victim must recognize it as a safe and appropriate place to go for help.

The personnel at the care center whom a victim first encounters must be extremely sensitive to the emotional needs of the victim. I have consulted a wide range of people involved with helping rape victims and have received very thoughtful and thought-provoking suggestions on how the "ideal" rape crisis center should work. I am grateful to all of them for their conscientious work on this bill. Their comments, coming as they did from all over the country, from large cities and rural areas, from hospital-based multiservice centers and from rural telephone hotlines operated from a volunteer's home, have led me to conclude that funding provided by this legislation should be as flexible as possible.

To demonstrate the kinds of activities I see this bill making available, I would like to share with my colleagues some of the important features of some centers.

The quality of counselors, of course, is of paramount importance. It is the consensus of those most closely involved in this work that counselors should be screened prior to and after their acceptance at a crisis center. Then, if they prove to be psychologically ill-prepared or unable to develop a rapport with victims, they should receive training in counseling techniques and perhaps be assigned to victims of their own peer group.

A comprehensive service program was outlined by the Pennsylvania Coalition Against Rape to include hospital, police, and courtroom accompaniment; victim advocacy and support; outreach and public education; and training of center staff. This group pointed out that such a comprehensive program can be achieved either in a one-stop service center or through referrals and accompaniment to the proper service providers.

In proposing the funding of rape crisis centers, I would stress that existing organizations—whether public agency, crisis center, or advocacy group—should receive first consideration because of their experience with the community.

Of course, there are special population groups that may need particular kinds of services not now being met. And there are many areas of the country where no rape crisis service is available at all. This is particularly true in rural areas.

These special situations require our help not only with funding but with technical assistance in preparation of grant applications, and the training of counselors.

Lastly, my proposal contemplates a program of offender rehabilitation to get at the root of this problem—the personal and environmental circumstances that caused the rapist to commit the crime. This is an area which has been overlooked. In a study recently released by the U.S. Law Enforcement Assistance Administration (LEAA), it was found that treatment of sex offenders is often a low-budget priority.

According to the LEAA report entitled, "Treatment Programs for Sex Offenders—A Prescriptive Package," in most cases, no special attention is paid to specific sexual problems that led to past offenses and may lead to new offenses. In addition, little treatment is available for sex offenders who voluntarily seek treatment. My bill would seek to remedy these problems.

The question of offender rehabilitation is being explored in the National Center's research program. I hope that we shall see some model offender rehabilitation programs emerge from that effort.

Mr. President, much of the rape crisis counselling being done in America is the work of the volunteers. My bill would enable these volunteers to continue their invaluable work with a little long-overdue financial help from us, at least to insure that they will not have to pay their own office expenses. We will give them the tools; they will do the job.

To give you an idea of what this volunteer help means, let me read you part of a letter I received from Mary Ann Largen, former Coordinator of the National Organization for Women Rape Task Force. She writes:

> For the umpteenth time in as many years, I have recently sat in on two court cases involving victims. The first was a rape trial where the assailant was acquitted. The case was . . . lost . . . The victim was shattered beyond words. If a volunteer rape crisis center counselor had not been in the courtroom to literally hold her (the victim's) hand she would be on the potential suicide list or worse. That counselor was there, however, after having to have her husband take off from work to keep the kids and—because neither she nor her husband are wealthy—after having to bum money for gas from other RCC workers. I bought her lunch to make sure she would have something to eat. If this sounds somewhat incredible, I will be glad to introduce you to the counselor.

The help we can provide through this bill will be important to a nationwide effort to reduce the incidence of rape and to ease the anguish of the victim. I urge my colleagues to join me in this effort.

Mr. President, I ask that the text of my bill appear at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 621

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That part D of title II of the Community Mental Health Centers Act (42 U.S.C. 2681) is amended by adding at the end thereof the following new section:

"ESTABLISHMENT OF GRANT PROGRAM

"SEC. 232. (a) The Secretary of Health, Education, and Welfare acting through the National Center for the Prevention and Control of Rape, shall make grants to, and enter into contracts with, State and local government agencies, and nonprofit organizations, to carry out the provisions of this section.

"(b) Any agency or organization which desires to receive a grant or enter into a contract, under this section shall transmit an application to the Secretary. Such application shall be in such form, and shall be transmitted at such time and in accordance with such procedures as the Secretary may reasonably require. The Secretary may award a grant, or enter into a contract under this section for—

"(1) the development and establishment of training programs (including counseling techniques for both the victim and the offender) for professional, paraprofessional, and volunteer personnel in the fields of law, social service, mental health, and other related fields who are or will become primarily engaged in areas relating to the problems of rape;

"(2) direct treatment which may include—

"(A) counseling for both the victim and the offender,

"(B) medical, social, and legal services,

"(C) consultation with allied professionals, and

"(D) follow-up counseling;

"(3) the development of programs of community education and offender rehabilitation and counseling;

"(4) necessary transportation costs including accompaniment to medical, social, and legal services;

"(5) self-help programs;

"(6) the operation of telephone systems to provide assistance to the victim;

"(7) emergency shelter programs; and

"(8) the support of demonstration projects which are likely to result in the development and implementation of methods of preventing rape, treating victims of rape, and the prevention and treatment of social problems related to rape.

"(c) Each entity participating in a program under this section shall—

"(1) establish a recordkeeping system to insure the protection of the privacy of the victim, as well as other individuals involved;

"(2) establish internal procedures to measure progress and achieving the goals stated by the grantee or contractor in its application; and

"(3) establish a continuing education program for all staff members, both volunteered and paid.

"(d) The Secretary, in awarding grants or entering into contracts under this section, shall give priority to those applications which—

"(1) are designed to deal directly with specific and serious problems relating primarily to rape; and

"(2) are likely to be successful in carrying out the purposes of this section.

"(e) The Secretary shall review the effectiveness of the grant program and demonstration projects carried out pursuant to this section.

"(g) Not more than 5 per centum nor less than 4 per centum of any funds appropriated to carry out the provisions of this Act for any fiscal year may be used by the Secretary to provide technical assistance to any nonprofit organization which desires to transmit an application under this section. The Secretary may provide such assistance to a nonprofit organization, upon request for such assistance, if the Secretary determines that such organization does not possess the resources and expertise necessary to develop and transmit an application without such assistance.

"(h) The Secretary in carrying out the provisions of this section shall seek to coordinate his activities with other activities relating to rape carried out by the Secretary and the heads of other Federal agencies.

"(i) Not more than 90 per centum of the costs of any project shall be funded by a grant or contract under this section.

"(j) There are authorized to be appropriated to carry out the provisions of this section (other than subsection (k)) $45,000,000 for the fiscal year ending September 30, 1980, $50,000,000 for the fiscal year ending September 30, 1981, and $55,000,000 for the fiscal year ending September 30, 1982.

"(k) The Secretary in carrying out his functions and administering the provisions of this section and without regard to any other provision of this Act, is authorized to obtain the services of not more than fifty-five full-time staff members to assist in carrying out the functions of the National Center for the Prevention and Control of Rape. There are authorized to be appropriated to carry out the provisions of this subsection $750,000 for the fiscal year ending September 30, 1980, $750,000 for the fiscal year ending September 30, 1981, and $750,000 for the fiscal year ending September 30, 1982.".

By Mr. GOLDWATER (for himself, Mr. SCHMITT, and Mr. PRESSLER):

S. 622. A bill to amend the Communications Act of 1934 in order to encourage and develop marketplace competition in the provision of certain services and to provide certain deregulation of such services, and for other purposes; to the Committee on Commerce, Science, and Transportation.

TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT OF 1979

Mr. GOLDWATER. Mr. President, today I am introducing legislation which I hope will contribute to the resolution of important telecommunications policy issues created in recent years by rapid advances in the development of technology and the difficulties that the Federal Communications Commission and the courts have had in coping with these changes under present regulatory constraints. This has resulted in depriving the American people of the benefits of new technologies or making them more expensive.

I understand that Senator HOLLINGS, chairman of the Communications Subcommittee, is introducing similar legislation. Before I decided to introduce this bill, the subcommittee chairman and I attempted to resolve our differences and develop a bipartisan bill. Although our discussions made it apparent that we had many areas of agreement, I found it impossible to support a bill which included license fees based on the "scarcity value" of the radio frequency spectrum. I think this approach is wrong as a matter of policy, and may even be of dubious constitutionality. I was pleased though that Chairman HOLLINGS and I agreed that the proceeds of any fee should not be earmarked for public broadcasting, which I feel must remain subject to congressional scrutiny through the appropriations process.

In my view, a better approach might be to establish fees that are related to the cost of regulation; this is the approach contained in my bill. However, if testimony at the hearings produces other legitimate bases for imposing fees—short of a spectrum scarcity fee—I will give serious consideration to these alternatives.

My interest in the marvels of electronic communications has remained with me throughout my entire life. I continue to be amazed at the new and improved means of communication that technology has provided us over the last 30 years. However, I expect that 10 years from now we may look back on today's "advanced technology" and consider it rather primitive.

I am fully aware of the important, far-reaching consequences of this legislation. Obviously, I do not consider this the final word. Rather, I view it as a starting point for the comprehensive and lengthy discussions that we will be having over the next months. It may be that the communications bill that finally passes the Senate will look very different from those that have been placed before the Senate today.

Mr. President, I ask unimous consent that the text of the bill, including the names of Senators SCHMITT and PRESSLER as cosponsors, be printed in its entirety in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 622

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Telecommunications Competition and Deregulation Act of 1979".

FINDINGS

SEC. 2. (a) The Congress finds that—

(1) recent advances in technology are making possible diverse telecommunications services which were previously unavailable to the public;

(2) marketplace competition can be the most efficient regulator of the provision of telecommunications services; and

(3) judicial interpretations of certain decisions of the Federal Communications Commission have created uncertainty and instability in the telecommunications industry.

(b) It is the purpose of this Act to—

(1) clarify telecommunications policy in light of changing technologies; and

(2) eliminate and reduce certain forms of regulation which may hinder the future advancement of technology, inhibit its availability to the American people, or which are otherwise no longer necessary.

TITLE I—AMENDMENT TO TITLE I

COMMISSION FEES

SEC. 101. The Communications Act of 1934 is amended by inserting after section 5 a new section as follows:

"COMMISSION FEES

"SEC. 6. (a) The Commission shall impose a fee on any person regulated under this Act. Such fee shall include—

"(1) the costs to the Commission of processing the license, if any, or in the case of tariffs filed by common carriers, the costs incurred as a result of such filing;

"(2) the costs to the Commission directly or indirectly attributable to regulating such person including the cost of providing any service necessarily rendered to a license applicant as a result of such application.

"(b) The Commission may waive such a fee—

"(1) for governmental entities or public telecommunications entities; or

"(2) for non-commercial users of the spectrum, if the Commission determines that such waiver is in the public interest.

"(c) The Commission shall develop appropriate fee schedules not later than 1 year after the date of enactment of this section, and shall use such schedules in assessing fees under subsection (a). Before the establishment of the fee schedules required in this section, the Commission shall continue to assess fees under fee schedules that may be in effect on the date of enactment of this section.

"(d) Moneys received from fees pursuant to this section shall be placed in the general fund of the Treasury to reimburse the United States for amounts appropriated for use by the Commission in carrying out its functions under this Act.".

TITLE II—AMENDMENTS TO TITLE II

PROMOTION OF COMPETITION IN AND DEREGULATION OF TELECOMMUNICATIONS SERVICES

SEC. 201. Title II of the Communications Act of 1934 is amended by inserting at the end thereof the following:

"PROMOTION OF COMPETITION AND DEREGULATION

"SEC. 225. (a) The purposes of this section are—

"(1) to provide as soon as practicable for marketplace competition in all telecommunications services and deregulation of such services after a transition period implemented by the Commission;

"(2) to ensure that the minimum universal transmission capability necessary to provide basic voice-grade telephone service at reasonable rates continues to be available to all the people of the United States;

"(3) to maximize the availability of telecommunications services, through whatever technologies that are or may become available, and to promote the provision of such services with maximum efficiency, flexibility, and versatility;

"(4) to prevent predatory or anticompetitive practices in the provision of telecommunications services that may frustrate marketplace competition in the provision of such services; and

"(5) to promote the national defense, the domestic economy, United States foreign policy, and the safety of life and property.

"(b) In order to accomplish the purposes of subsection (a), the Congress declares that the policy of the United States is—

"(1) to allow basic-voice grade telephone service to be offered and provided as a regulated monopoly service in local telephone exchanges until appropriate State commissions determine that competition will (i) maintain reasonable rates for basic voice-grade telephone service; and (ii) promote improved service through new technologies;

"(2) to assert Federal jurisdiction over all interexchange telecommunications services provided by common carriers;

"(3) to allow common carriers to provide both the monopoly service and other telecommunications services while ensuring that the revenues from the monopoly service are not used to subsidize the provision of other telecommunications services or other business activities, and the costs of other telecommunications services or other business activities are not applied to the monopoly service;

"(4) to ensure that local telephone exchanges interconnect with facilities of common carriers that provide telephone toll service;

"(5) to ensure that common carriers have the right to interconnect their facilities with the facilities of local telephone exchanges upon reasonable request;

"(6) to ensure that common carriers providing interexchange telecommunications services compensate common carriers providing basic voice-grade telephone service for the interconnection of their facilities;

"(7) to ensure that common carriers furnish telecommunications services upon reasonable request;

"(8) to ensure that any subscriber to basic voice-grade telephone service is permitted to connect telecommunications terminal equipment to the facilities of the local telephone exchange pursuant to technical standards established by the Commission; and

"(9) to ensure that any common carrier subject to the provisions of this title, may provide any telecommunications service or engage in any other business that is not otherwise prohibited by statute except as provided by section 335(f)(4).

"(c) For the purposes of this section—

"(1) 'minimum universal transmission capability' means the transmission capacity of any technology necessary to provide basic voice-grade telephone service;

"(2) 'basic voice-grade telephone service' means two-way voice communications provided by a common carrier between subscribers within an area served by one or more local telephone exchanges, which service is covered by a single charge or a variable charge or rate, or both, based upon time but not distance;

"(3) 'local telephone exchange' means an area whose boundaries are determined by a State commission for the purpose of providing basic voice-grade telephone service;

"(4) 'telephone toll service' means two-way voice communications provided by common carriers between—

"(A) local telephone exchange subscribers in one State and local telephone exchange subscribers in another State, territory or possession of the United States or the District of Columbia, or

"(B) local telephone exchange subscribers within a single State, territory, or possession of the United States for which there is made a separate charge not included in contracts with subscribers for basic voice-grade telephone service;

"(5) 'telecommunications' means any transmission or emission by a common carrier of signs, signals, writings, images, and sound or intelligence of any nature by wire, radio, optical, or other electromagnetic systems, including the receipt, forwarding, and the delivery of telecommunications incidental to such transmission; and

"(6) 'State Commission' means the commission, board, or official (by whatever name designated) which under the laws of any State has regulatory jurisdiction over the provision of basic voice-grade telephone service.

"(d)(1) Notwithstanding any other provision of this Act, the Commission shall prescribe such regulations for the transition period as may be necessary to accomplish, not later than 6 years after the date of enactment of this section, the purposes and policies stated in this section. The Commission may exempt in whole or in part any common carrier from such regulations.

"(2) Such regulations shall contain a transition plan and the implementation thereof in appropriate steps which will result in marketplace competition in and the deregulation of the provision of telecommunications services. Such regulations shall—

"(A) classify common carriers according to the degree of regulation necessary for each carrier. In making such classification, the Commission shall consider each carrier's market share in providing telecommunications services, price leadership in such services, relative overall financial resources, relative number of customers, number of common carriers in a market and any other characteristics of a particular market that are relevant to such classification. The Commission shall review such classifications every 2 years to ensure that the purposes and policies of this section are being realized. No such classification shall prevent any common carrier from offering any telecommunications service pursuant to this section, if such carrier is reasonably financially qualified, is not owned or controlled by foreign interests and there are no anticompetitive elements in the provision of the service proposed by such carrier;

"(B) establish and implement an accounting system that will allocate costs of services provided in order to—

"(i) ensure that in any case where telecommunications products or services are provided by a carrier which also provides the monopoly service, revenues and costs attributable to the provision of the monopoly service and all other services, may be separately identified;

"(ii) furnish information necessary to determine the appropriate access charge for interconnection with the local telephone exchange; and

"(iii) provide such other information as the Commission deems necessary to carry out the purposes and policies stated in this section.

"(C) establish a procedure and determine in which cases, if any, common carriers which provide the monopoly service must form subsidiaries to offer any other telecommunications products or services or engage in other business activities in order to accomplish the policies stated in this section. The Commission shall also determine the relation of such subsidiaries to the parent company but the Commission shall not have the authority to require divestiture of any part, or parts of such carrier or any subsidiary thereof;

"(D) provide through the Joint Board mechanism established by section 410 of this Act—

"(i) for the establishment of an access compensation charge to be paid by common carriers interconnecting their facilities with the facilities of a local telephone exchange;

"(ii) that the proceeds from such charges shall be accumulated in an access compensation fund established by the Commission and an appropriate portion of the proceeds shall be paid to common carriers providing basic voice-grade telephone service, and that such fund will be administered by the participating common carriers with oversight by the Commission; and

"(iii) that in determining such charge, the Commission will take into account the provisions of any agreement on an access charge between carriers.

For the purposes of clause (iii) the access charge shall include the actual cost of providing interconnection service and a contribution, if necessary to maintain reasonable rates for basic voice-grade telephone service; and

"(iv) that 6 years after the date of enactment of this section, or sooner if marketplace competition will maintain reasonable rates for basic voice-grade telephone service and promote improved service through new technology, access compensation charges and such fund shall terminate;

"(E) provide, pursuant to the Joint Board mechanism established by section 410 of this Act and after consultation with common carriers, for acceleration in appropriate steps of existing equipment depreciation rates for assets utilized to provide telecommunications services and for appropriate Commission oversight during 6 years or a lesser period;

"(F) provide that—

"(i) during the 2-year period following the date of enactment of this section, the Commission will ensure that any rate or charge for telecommunications services, other than the monopoly service, will in any year be raised no more than 5 percent or reduced no more than 10 percent of such rate or charge for the same or essentially similar service provided on the date of enactment of this section; and

"(ii) after such 2-year period and through the 6th year after the date of enactment of this section, such rate or charge will in any year be raised no more than 10 percent or reduced no more than 20 percent of such rate or charge for the same or essentially similiar service provided on such date of enactment;

"(G) provide that any proposed rate or charge or changes therein for telecommunications services filed in accordance with subparagraph (F), shall take effect after 90 days notice to the Commission and the public, except that—

"(i) upon the filing of a sworn complaint or under an order for investigation made by the Commission on its own initiative, the Commission may order a hearing pursuant to sections 202 and 204 on a proposed rate or charge filed in accordance with subparagraph (F); and

"(ii) with respect to a proposed rate or charge that exceeds the limitations provided in this section, the Commission shall have the power to reject such proposed rate or charge because it is predatory or otherwise not in accordance with section 202;

"(H) establish a procedure which ensures the interconnection of common carriers providing telephone toll service with one another and with facilities of local telephone exchanges, and (i) in order to accomplish this, the Commission shall assist in the formation, and oversee an association of common carriers to manage the facilities providing telephone toll service and interconnection with the facilities of local exchanges, and (ii) it shall be lawful for such carriers to jointly meet, plan, and agree, with Commission oversight, on matters affecting the design, plan (including establishment of through routes), maintenance, and development of technical standards applicable to interconnection of facilities providing telephone toll service with the facilities of local telephone exchanges and the interconnection of common carriers providing telephone toll service with each other, except that this section shall not exempt any common carrier from the provisions of the antitrust laws for any act taken by such carrier which is a violation of such laws when taken by a single carrier;

"(I) provide for automatic authorization, within 90 days, by the Commission to a common carrier offering or proposing to offer telecommunications services, other than the monopoly service, to construct, expand, or extend facilities, unless the Commission determines that a substantial and material question of fact exists as to whether the investment is in the public interest;

"(J) prohibit the discontinuance, impairment, or reduction of telephone toll service by a common carrier unless the Commission determines that such discontinuance, impairment, or reduction is in the public interest;

"(K) provide a continuous review to ensure that nationwide telephone toll services exits through marketplace competition;

"(L) provide for the adjustment of the level regulation pursuant to the transition plan to remove marketplace deficiencies, anticompetitive behavior, or other practices which frustrate the purposes of this section.

"(e) The Commission shall create a separate Office of Deregulation which shall monitor the progress of the Commission in accomplishing the purposes of this section and shall make recommendations to assist the Commission in achieving those purposes.

"(f) (1) The Commission shall report annually to the Congress on the progress being made in achieving the purposes of this section. The report shall also contain any recommendations for statutory changes necessary to achieve the purposes of this section.

"(2) Six years after the date of enactment of this section, the Commission shall include in such report an evaluation of the provision of telecommunications services pursuant to the transition plan provided for in this section.".

INTERNATIONAL TELECOMMUNICATIONS FACILITIES PLANNING

SEC. 202. (a) Section 222 of the Communications Act of 1934 is amended—

(1) in subsection (a) (5) and (6) by inserting "Hawaii," after "Alaska," wherever appearing therein;

(2) in subsection (a) (5) by striking out all after "*Provided*, That" and substituting: "in determining policy and prescribing regulations with respect to the interaction of domestic carriers and carriers providing international telecommunications services pursuant to this Act, the Commission shall decide (A) whether a domestic carrier or carriers shall be excluded from providing international telecommunications services; and (B) whether it is necessary to regulate such services and to what degree a carrier seeking to provide domestic and international telecommunications services should be regulated."; and

(3) in subsection (a) (10) by striking out "States of the Union, except Hawaii" and inserting in lieu thereof "contiguous States of the Union".

(b) Title II of the Communications Act of 1934 is further amended by adding after section 225, as added by section 201 of this Act, the following new section:

"INTERNATIONAL TELECOMMUNICATIONS FACILITIES PLANNING

"SEC. 226. (a) It is the purpose of this section to make available as efficiently as possible to all the people of the United States, reliable, cost effective international telecommunications services, and to promote the foreign policy, economy and national security of the United States.

"(b) The purpose of this section shall be accomplished through the following:

"(1) reliance on existing institutional structures and regulatory mechanisms insofar as they continue to serve the public interest;

"(2) reliance on marketplace competition to the extent practicable and beneficial in the provision of international telecommunications services;

"(3) improvement of the effectiveness of United States participation in the planning and regulation of the construction and utilization of all international telecommunications facilities;

"(4) improvement in the coordination of United States international telecommunications policy with the objectives of United States foreign policy and the domestic economy; and

"(5) promotion of the free flow of information and telecommunications services across national boundaries.

"(c) Notwithstanding any other provision of this Act, the Commission shall adopt a procedure to assist in the advance planning for a particular time period of the construction and use of international telecommunications facilities. Such procedure shall include—

"(1) consultation with affected United States international and domestic common carriers and appropriate Federal agencies to—

"(A) collect and assemble information on projected international telecommunications traffic;

"(B) evaluate the need for additional international facilities to meet traffic forecasts;

"(C) develop and assess alternative proposals for fulfilling established and projected needs;

"(D) propose policy guidelines, consistent with the purposes of this section, to meet established and projected needs;

"(2) authorization for the affected international carriers to negotiate a facilities plan with appropriate foreign correspondents on the construction and use of international facilities as prescribed by the guidelines developed pursuant to paragraph (1) (D);

"(3) submission of the facilities plan agreed to by the United States international carriers and foreign correspondents pursuant to clause (2) to the Commission;

"(4) review by the Commission of such facilities plan to determine if it is consistent with the purposes of this section, including consultation with appropriate executive branch agencies to determine the foreign policy and national security implications of the facilities plan and, upon completion of such review, the promulgation of a final facilities plan which will be the United States International Telecommunications Facilities Plan for that period of time; and

"(5) action necessary to ensure that the appropriate international facilities planning forums are provided copies of the United States International Telecommunications Facilities Plan and to ensure that such forums are fully apprised of the implications of such plan.

"(d) In performing responsibilities authorized by this section under the authority of the Commission, United States international and domestic common carriers shall not be subject to the provisions of the antitrust laws, except that this section shall not exempt any common carrier from the provisions of the antitrust laws for any act taken by such carrier which is a violation of such laws when taken by a single carrier.

"(e) During consideration and implementation of facilities planning, the Commission may determine when it is in the public interest to close its meetings for discussions on international facilities planning that would disseminate information that could not be made public without adverse impact on the United States negotiating position. The Commission may also suspend provisions of chapter 5 of title 5 of the United States Code, relating to administrative procedure, that are contrary to the public interest when planning international facilities.

"(f) The President shall exercise supervision over, and provide for the issuance of instructions to, designated entities, when required in accordance with the plan developed pursuant to this section.

"(g) In order to ensure the effective representation of United States policy, the selection of delegations to international telecommunications meetings, shall be as follows:

"(1) the Secretary of State shall continue to be responsible for representation of the United States in international telecommunications meetings;

"(2) where appropriate, representatives of affected United States Government agencies shall be appointed as members of United States delegations, upon recommendation by their agency; and

"(3) because of the technical nature and consequences to the United States of many international telecommunications meetings and the shortage of qualified United States Government employees to represent the United States, notwithstanding any other provision of law, delegates from affected private industries shall be members of United States delegations to international telecommunications meetings on matters over which the United States Government has retained authority to promulgate policy and review decisions made at such conferences, and such delegates may be recommended by United States Government agencies, after consultation with affected industries with respect to such appointments.

Persons appointed under paragraph (3) shall be appointed in accordance with section 3109 of title 5, United States Code, but without regard to the limitation on the number of days or the period of such service. The provisions of section 207 of title 18, United States Code, shall not apply to any individual appointed under paragraph (3).

"(h) Because of United States dependence on international commerce, it shall be the policy of the United States to make greater efforts to assure the free flow of information and telecommunications services across national boundaries. In order to carry out such policy the President shall—

"(1) assess the international information and telecommunications needs of United States industry;

"(2) determine what actions are being taken by foreign nations to affect these needs;

"(3) develop a policy in consultation with affected industries and Government agencies to promote United States interests in international forums; and

"(4) recommend legislation necessary to protect and promote United States interests.".

TITLE III—AMENDMENTS TO TITLE III

NEW LICENSE TERMS, DEREGULATION, AND OTHER PROVISIONS

SEC. 301. Title III of the Communications Act of 1934 is amended by inserting at the end thereof the following new sections:

"NEW BROADCAST LICENSES

"SEC. 331. In the case of any frequency newly assigned to the radio or television broadcast service, or any frequency for which a television broadcast license has been revoked or denied or in the case of a radio broadcast license which has been revoked by the Commission, if there is more than one applicant qualified in accordance with section 308(b), then the Commission shall grant the license based on a system of random selection. Until the Commission establishes such a system, no new radio or television license shall be granted and in any event, the Commission shall establish such system not later than 6 months after the date of enactment of this section.

"LICENSE TERMS

"SEC. 332(a) The term of any license granted after the date of enactment of this section for the operation of any radio broadcasting station shall be for an indefinite period of time, subject only to revocation in accordance with section 312.

"(b) The term of any license granted after the date of enactment of this section for the operation of any television broadcasting station shall be as follows:

"(1) stations in the top 25 markets, as defined by the Commission, no longer than 3 years;

"(2) stations in the next 75 markets, as defined by the Commission, no longer than 4 years; and

"(3) stations in the remaining markets, as defined by the Commission, no longer than 5 years.

Any such license may be revoked or denied as provided in this title. Upon the expiration of a television broadcasting station license, the licensee may reapply to the Commission for the renewal of the license. The Commission may grant the renewal for the periods described in paragraphs (1), (2), and (3). The Commission shall conduct a periodic review of markets for the purpose of assuring that the terms of station licenses are properly coordinated with the markets.

"(c) In any case in which a television broadcasting station licensee submits an application to the Commission for the renewal of a license, the Commission shall determine (1) whether the licensee, during the preceding term of its license, substantially met the problems, needs, and interests of the residents of its service area in its program service; and (2) whether the operation of the station has not been characterized by serious deficiencies. If the Commission makes such findings, the renewal shall be granted.

"(d) In a comparative proceeding prescribed by section 309(e), if the Commission finds that the television licensee has satisfied the requirements of subsection (c), a presumption shall be established that the public interest, convenience, and necessity would be served by such renewal. The Commission may then terminate the proceeding and grant renewal.

"(e) In establishing the renewal dates for television broadcast licenses, the Commission shall, to the maximum extent feasible, provide for the expiration of licenses providing service to an area, locale, or region to be evenly distributed over the maximum license term.

"RADIO DEREGULATION

"SEC. 333. (a) Subject to any other applicable Federal law, the Commission is prohibited from requiring, by rule or otherwise, radio broadcast station licensees to—

"(1) provide news, public affairs, and locally produced programs, or to adhere to a particular programing format or to maintain program logs;

"(2) afford reasonable opportunity for the discussion of conflicting views on issues of public importance except that the Commission shall have the authority to make rules or regulations concerning attacks on the honesty, character, integrity, or personal qualities of an identified person or group;

"(3) ascertain the problems, needs, and interests of its service area; and

"(4) refuse the advertising of any product or service that is legally available.

"(b) The Commission shall not authorize any additional stations to operate in the contiguous United States on any of the Clear Channel frequencies authorized by the Commission rules as in effect on February 1, 1979; nor shall the Commission modify any existing license authorizations in a manner which would increase interference to such Clear Channel stations.

"(c) The Commission shall review all other rules, regulations, and policies directly or indirectly applicable to radio broadcast licensees and eliminate those that are not necessary to maintain an orderly allocation and use of the radio frequency spectrum, or to promote equal employment opportunity in radio broadcasting, or to prevent fraudulent practices in the operation of a radio broadcast station.

"TELEVISION STATION

"SEC. 334. (a) The Commission shall review all rules, regulations, and other policies applicable directly or indirectly to television broadcast licensees in order to—

"(1) determine if such rules, regulations, and policies continue to be necessary to protect the public interest, convenience, and necessity;

"(2) determine if the availability of new and diverse sources of video programing makes such rules and regulations and policies unnecessary.

"(b) The Commission shall report annually to the Congress on its progress in eliminating unnecessary rules, regulations, and policies. Not later than 6 years after the date of enactment of this section, the Commission shall report to the Congress—

"(1) on the extent to which diverse video programing is being made available to the public by television broadcast licensees and other electronic media;

"(2) the affect of this section on the availability to the public of diverse video programing; and

"(3) any recommendations for further statutory changes.

"(c) If the Commission determines that new rules, regulations, or policies are necessary that would increase regulation of television broadcast licensees, the Commission shall notify the Congress in writing of its intention to promulgate such rules, regulations, or policies. Either House of Congress may veto such rules, regulations, or policies by approving within 60 days after such notification a resolution of such House disapproving such rules, regulations, or policies.

"(d) The Office of Deregulation established pursuant to section 225 shall monitor the deregulation of radio and television broadcast licensees and shall be responsible for coordinating reports required by this section to the Congress.

"DEREGULATION OF CABLE SYSTEMS

"SEC. 335. (a) The Congress finds that cable systems are engaged in interstate commerce through the origination, transmission, distribution, and dissemination of broadband communication services.

"(b) The purposes of this section are to—

"(1) create a regulatory framework, which apportions the authority to regulate cable systems between the Federal Government and the States;

"(2) allow cable systems to compete in the marketplace with other means of providing broadband communications services to the public.

"(c) The provisions of this section shall apply as follows:

"(1) Any cable system shall be subject to the provisions of this section and such orders, rules, or regulations as may be adopted pursuant thereto and any Federal rule, regulation, order, or standard applicable to cable systems, shall to the extent inconsistent with the provisions of this section, be null and void.

"(2) A State, instrumentality, agency, board, commission, or authority or any political subdivision thereof, may adopt or continue in force any law, rule, regulation, order, or standard affecting cable systems, unless such law, rule, regulation, or order or standard is inconsistent with the exclusive grants of authority under this title and is not forbidden to any governmental authority under this title.

"(d) For the purpose of this section—

"(1) 'cable system' means a facility or combination of facilities under the ownership or control of any person or persons, which consists of a primary control center used to receive and retransmit, or to originate broadband communications services over one or more coaxial cables, or in other closed transmission media, from the primary control center to a point of reception at the premises of a cable subscriber, but such term does not include a facility or combination of facilities that serves only to retransmit the television signals of television broadcast stations located within the market in which such facility is located, nor shall a common carrier subject to the provisions of title II of this Act be deemed to be a cable system solely by reason of receiving or transporting broadband communications services in the ordinary course of its business as a common carrier;

"(2) 'radio or television signal' means a signal of any radio or television broadcast station, domestic or foreign, operating on a channel regularly assigned to its community, which is receivable by the general public without charge;

"(3) 'broadband communications' means any receipt or transmission of electromagnetic signals over one or more coaxial cables or other closed transmission medium;

"(4) 'cable channel' or 'channel' means that portion of the electromagnetic frequency spectrum used in a cable system for the propagation of a radio, television, or other electromagnetic signal;

"(5) 'cable operator' or 'cable system operator' means any person or persons, or an agent or employee thereof, that operates a cable system, or that directly or indirectly owns a significant interest in any cable system; or that otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system;

"(6) 'origination' or 'program origination' means the use of a cable channel by a channel programer to create and distribute programs such as news, public affairs, entertainment, sports, educational, religious. Such term does not include carriage of radio or television broadcast signals by a cable operator;

"(7) 'closed transmission media' means media having the capacity to transmit simultaneously electromagnetic signals over a common transmission path such as a coaxial cable, optical fiber, wire, waveguide or other such signal conductor or device;

"(8) 'channel programer' means any person or persons who lease, rent, or are otherwise authorized to use the facilities of a cable system for the origination of programing over a cable channel, and such term shall include a cable system operator to the extent that such operator, or person or persons under common ownership or control with such operator, are engaged in program origination;

"(9) 'cable subscriber' means any person who, for payment of a consideration, receives radio, television, or other electromagnetic signals distributed or disseminated by a cable operator or a channel programer over a cable system;

"(10) 'person' means an individual, partnership, association, joint stock company, trust, corporation, or any governmental authority.

"(e) The Commission shall have jurisdiction and exercise authority with respect to cable systems solely as specified in this section. Commission jurisdiction under this section is exclusive and no other Federal or State instrumentality or agency or any political subdivision thereof shall make or establish rules or policies regarding the matters dealt with in this section.

"(f) The Commission shall—

"(1) ensure that cable system operators conform to technical standards necessary to promote the compatibility and interoperability of cable systems, the compatibility of the receivers or other terminal equipment connected to such systems by cable subscribers, and to prevent harmful interference to radio and television communications. No person shall manufacture, import, sell, offer for sale or lease, ship, or use devices which fail to comply with regulations promulgated pursuant to this section;

"(2) establish the terms and conditions respecting the carriage of radio and television broadcast signals by cable system operators except that any restrictive terms or conditions that the Commission may impose may be waived on a case-by-case basis upon a showing by the person seeking the waiver that such restriction or restrictions are not necessary to prevent harm to the public interest in that particular case;

"(3) ensure and promote equal employment opportunities by cable system operators;

"(4) ensure that no common carrier shall be a cable system operator or channel programmer, but nothing in this section shall be construed to prohibit such a carrier from furnishing a cable channel or channels to a cable system operator or channel programmer or from offering to the public pursuant to title II of this Act broadband communications services except program originations and the carriage of radio and television broadcast signals, but the Commission may waive the prohibition described in this paragraph in rural areas (as defined in section 203 of the Rural Electrification Act of 1936), which are not otherwise being provided broadband communication services by a cable system;

"(5) ensure that the cable system operator does not prohibit the cable subscriber from attaching or connecting to the cable system, receiving or terminal equipment of any type, except upon a showing by the operator that the Commission has determined such equipment to be technically incompatible with the operation of a cable system;

"(6) ensure that whenever a cable system is the only source of video programing in the market served by that cable system, a number of channels reasonably proportionate to the total channel capacity of the cable system will be available for lease on a nondiscriminatory basis to persons having no financial interest in the cable system;

"(7) establish restrictions on the carriage by cable systems of sporting events of national interest, previously shown live and in their entirety on nationwide broadcast television;

"(8) require the maintenance of such records by cable operators and the submission of such reports to the Commission as may be necessary and relevant to the performance of its duties and responsibilities as provided in this section or under any rule, regulation, or order adopted pursuant thereto;

"(9) ensure the privacy and security of broadband communications in accordance with subsection (k); and

"(10) ensure that a legally qualified candidate for Federal elective office is allowed reasonable access to or is permitted the purchase of reasonable amounts of time on behalf of his candidacy for the use of a cable system.

"(g) Nothing in this section shall be construed to amend the provisions of section 224.

"(h) Except with respect to the matters expressly made subject to Commission regulation and those matters described in subsection (i) that are not subject to regulation by the Federal Government, State governments, or political subdivisions or agencies thereof, all other matters shall be within the exclusive jurisdiction of the States.

"(i) No executive agency of the United States, including the Commission, and no State or political subdivision or agency thereof shall—

"(1) require or prohibit program origination by a cable system operator or channel programer, or impose upon such operator or programer any restrictions or obligations affecting the content of such program originations, except to the extent that the requirements of sections 235(b)(7),(10) and 315 are applicable to such cable systems: *Provided*, That nothing herein shall be deemed to affect the criminal or civil liability of channel programers pursuant to the law of libel, slander, obscenity, incitement, invasions of privacy, false or misleading advertising, or other similar laws, except that the cable operator shall not incur such liability for any program originated by a channel programer having no ownership affiliation with the cable system operator; or

"(2) establish, fix, or otherwise restrict the rates charged channel programers by cable system operators or common carriers for the use of channels or time on such channels or the rates charged advertisers or cable subscribers by any channel programer for the sale of time or for any program origination.

"(j) Nothing in this section shall prohibit a broadcast licensee pursuant to this title, including a television network, or a publishing entity, from owning or controlling a cable system or from leasing channels on such a system.

"(k)(1)(A) No person shall intercept or receive broadband communications unless specifically authorized to do so by a cable system operator, channel programer, or originator of broadband communications or as may otherwise be specifically authorized by law.

"(B) In order to safeguard the right to privacy and security of broadband communications, such broadband communications shall be deemed to be a 'wire communication' within the meaning of section 2510(1) of title 18 of the United States Code.

"(C) In the event that there may be any difference between the provisions of this section and chapter 119 of title 18 of the United States Code, or any regulations promulgated thereunder, it is the intent of the Congress that such chapter 119 shall be controlling.

"(2) No cable operator, channel programer, or originator of broadband communications, shall disclose personally identifiable information with respect to a cable subscriber, or personally identifiable information with respect to the broadband services provided to or received by a particular cable subscriber by way of a cable system, except upon the prior written consent of the subscriber, or pursuant to a lawful court order authorizing such disclosure.

"(3) If a court shall authorize or order disclosure, the cable subscriber shall be notified of such order by the cable operator, or other person to whom such order may be directed, within a reasonable time before the disclosure is made. For the purposes of this paragraph, a reasonable period of time shall not be less than fourteen calendar days.

"(4) Any cable subscriber whose privacy is violated in contravention of this subsection, shall be entitled to recover civil damages as authorized and in the manner set forth in section 2520 of title 18 of the United States Code. This remedy shall be in addition to any other remedy available to such subscriber.

"ASSIGNMENT OF LAND MOBILE FREQUENCIES

"SEC. 336. (a) Notwithstanding sections 303(c), 307, 308, and 309, the Commission may delegate to non-Federal Government coordinating committees the function of coordinating the assignment of frequencies above 30 mHz to stations in the terrestrial private land mobile and fixed services.

"(b) In considering an application for a license, the Commission shall accept a notification from prospective licensees attesting that a specific frequency in the bands above 30 mHz allocated for fixed or land mobile use is being brought into use, that it has been coordinated and is compatible with preexisting operations in the same geographic area, that the prospective licensee is eligible for the service for which the licensee is applying, and that the notification demonstrates compliance with relevant rules that the Commission or any other Federal agency may establish.

"(c) Unless the Commission acts on such application within 60 days of receipt, the license shall automatically issue.

"(d) The term of such licensee shall be for 5 years. Renewal shall be granted for 5 years according to the same procedures under which the original license was granted.".

AMENDMENT OF SECTION 224

SEC. 302. Section 224(a)(1) of the Communications Act of 1934 is amended by striking "any person who is cooperatively organized,".

● Mr. SCHMITT. Mr. President, the technological barriers between different kinds of electronic communications that existed when the 1934 Communications Act became law have disappeared. Technological innovation has created new communications systems and a new communications environment which has made many of the 1934 act's basic premises obsolete.

In the past, we relied on regulation by the Federal Communications Commission to achieve public policy goals that could not be achieved otherwise because of the limited technology which was then available.

Today's technologies present the opportunity to meet public policy goals with less reliance on regulation and more on marketplace competition. The Government can become the referee rather than the manager of that competition.

Entrepreneurs governed by the 1934 act, have been hindered in introducing new technologies and services. FCC decisions restricting new entry in telecommunications markets have been repeatedly challenged and the courts have had to rule on these challenges.

The courts and the Federal Communications Commission, burdened by an outmoded statute have tried to fit new service offerings into the old regulatory definitions. This has resulted in increased, illogical and unnecessary regulation which has deprived consumers of the benefits of new technology and services or caused higher prices for those available.

The House Communications Subcommittee began to evaluate the need for a new statutory framework for telecommunications over 2 years ago. The Senate Communications Subcommittee held exploratory hearings during this same period. After studying the issues, I became convinced that substantial amendments to the Communications Act were necessary. The conclusions I have reached on just what amendments are required are tentative.

This bill, which Senator GOLDWATER and I have introduced, represents one way to resolve some of the major issues. There may well be other approaches that should be considered during the extensive hearings and discussions that will undoubtedly be necessary. I urge those who might have such proposals to present them to the subcommittee. Whatever changes we may eventually make must be carefully evaluated as to their synergistic impact throughout our telecommunications systems. Such changes must also provide for a gradual transition from the excessive regulation of the present to the expanded marketplace competition of the future.

Several issues, which should receive the attention of the subcommittee during our hearings, are not addressed in this bill. During the hearings we will have to consider the interaction of this bill with the copyright law passed by Congress in 1976. Another topic for discussion will be the possible need for specific provisions on improving telecommunications services in rural America by insuring that new technologies are available to rural residents as well as to those persently more easily served in urban areas.

We also have not specifically dealt with the question of minority ownership although I believe that marketplace competition will provide greater opportunity for those seeking to enter this business. If there are statutory changes that should be made to facilitate minority ownership we hope to hear of them during our hearings. I am looking forward to these hearings which I hope will bring about a early resolution of all of these important issues.●

By Mr. KENNEDY (for himself, Mr. Mathias, Mr. Cranston, Mr. Stafford, Mr. Tsongas, Mr. Cohen, Mr. DeConcini, and Mr. Biden):

S. 623. A bill to provide for the public financing of general elections for the U.S. Senate, and for other purposes; to the Committee on Rules and Administration.

SENATE ELECTION REFORM ACT OF 1979

Mr. KENNEDY. Mr. President, on behalf of Senators Mathias, Cranston, Stafford, Tsongas, Cohen, DeConcini, Biden and myself, I send to the desk a bill for the public financing of Senate general elections, and I ask that it may be appropriately referred.

The measure we are introducing today picks up where the Senate left off in the past Congress, when a similar measure was narrowly defeated in a filibuster. The present legislation for Senate elections is intended to be a companion bill to H.R. 1, which has already been introduced in the House of Representatives with strong bipartisan support and which would provide public financing for House elections.

Briefly, the principal provisions of the Senate bill are as follows:

It will apply only to Senate general elections, not Senate primaries.

It will go into effect for the 1980 elections.

To be eligible to receive public funds, a candidate will be required to raise a threshold amount in private contributions of $100 or less. The threshold amount is equal to 10 percent of the candidate's spending limit, or $100,000, whichever is lower.

Eligible candidates will receive matching grants of public funds for private contributions of $100 or less.

Candidates receiving public funds will be subject to overall spending limits in their general elections, equal to $250,000 plus 10 cents per eligible voter in the State. The limits will range from $1.8 million in California to $275,000 in Alaska, based on recent population estimates.

Candidates receiving public funds will also be limited to expenditures of $35,000 from family funds.

The overall spending limit—but not the spending limit for family funds—will be waived if it is excedeed by an opposing candidate.

The cost of the bill, estimated at $18 million in Senate election years, will be paid entirely from funds available in the current dollar check-off on tax returns. No additional Federal funds are required to be appropriated.

A major priority of the 96th Congress should be the enactment of legislation to end the problems of campaign financing that have increasingly plagued congressional elections. These problems have become especially serious since 1974, when the enactment of public financing legislation only for Presidential elections left Senate and House elections to bear the full brunt of abuses arising from unlimited campaign spending and the proliferation of political action committee contributions by special interest groups.

For more than a decade, the issue of campaign financing has been vigorously debated in Congress. We have done an effective job of eliminating the abuses in the financing of Presidential elections, as the results of the 1976 campaign clearly demonstrated. But we have failed to exercise similar responsibility in connection with our own elections. The time has come to apply the same worthwhile reforms to the financing of congressional elections that we have already applied to Presidential elections.

The very success of public financing of Presidential elections makes the public financing of congressional elections even more essential. Public financing successfully sealed off Presidential campaigns from the undue influence of large contributions from wealthy individuals and special interest groups. As a result, however, congressional elections were left even more exposed than they were before to the corrosive and corrupting influence of such contributions. The result has been to undermine public confidence in Congress and contribute to the pervasive antigovernment mood that now exists.

The most critical current problem in congressional campaign financing is the geometric growth of special interest political action committees and their campaign contributions.

In 1974, 516 political action committees contributed $12.5 million to congressional elections.

By 1976, the number of PAC's had more than doubled, to 1,150, and their contributions totaled $22.6 million.

By 1978, the number of PAC's had climbed to 1,950, and their contributions had soared to $32.0 million.

As these figures demonstrate, the ongoing PAC revolution of recent years poses an increasingly urgent challenge to the integrity of the election process in our democracy. The number of PAC's has reached the dimensions of a flood tide. Congressional elections are already awash in a sea of special interest contributions, and the tide is rising higher with each election year.

The proposed legislation adopts a reasonable solution to the worsening crisis over campaign financing. It does not amend the provisions of current law with respect to political action committees or large private campaign contributions. Any Senate candidate will be free to continue to rely on these methods of campaign financing. What the legislation seeks, instead is to provide candidates with effective alternative sources of campaign funding, free of the abuses and appearances of abuse increasingly associated with the current methods of campaign financing.

It is difficult to believe that any major governmental reform ever had a more favorable cost-benefit ratio than public financing of elections. For the extremely modest sum of $18 million every second year—an average of $9 million a year—we can reduce the excessive dependency of Senate candidates on contributions from special interest groups. We can make the Senate more genuinely representative of all the people in our democracy. For the average American taxpayer, there could be no wiser investment of his hard-earned tax dollars than a system of public financing of elections. I look forward to early action by the Senate and the House on these important reforms.

Mr. President, I ask unanimous consent that the following materials may be printed in the Record: A brief summary of the bill, two accompanying tables, a section-by-section analysis of the bill, and the text of the bill.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 623

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Senate Election Reform Act of 1979".

Sec. 2. The Federal Election Campaign Act of 1971 is amended by adding at the end thereof the following new title:

"TITLE V—PUBLIC FINANCING OF SENATE GENERAL ELECTION CAMPAIGNS

"DEFINITIONS

"Sec. 501. For purposes of this title—

"(1) the definitions set forth in section 301 of this Act apply to this title;

"(2) 'general election' means any regularly scheduled or special election held for the purpose of electing a candidate to the United States Senate;

"(3) 'eligible candidate' means a candidate who is eligible, under section 502, for payments under this title;

"(4) 'account' means the Senate General Election Campaign Account maintained by the Secretary of the Treasury in the Presidential Election Campaign Fund established by section 9006 (a) of the Internal Revenue Code of 1954; and

"(5) 'authorized committee' means, with respect to any candidate for election to the United States Senate, any political committee which is authorized in writing by such candidate to accept contributions or make expenditures on behalf of such candidate to further the election of such candidate.

"ELIGIBILITY FOR PAYMENTS

"Sec. 502. (a) To be eligible to receive payments under this title, a candidate shall agree—

"(1) to obtain and to furnish to the Commission any evidence it may request about his campaign expenditures and contributions;

"(2) to keep and to furnish to the Commission any records, books, and other information it may request; and

"(3) to an audit and examination by the Commission under section 507 and to pay any amounts required under section 507.

"(b) To be eligible to receive payments under this title, a candidate shall certify to the Commission that—

"(1) the candidate and his authorized committees will not make campaign expenditures greater than the limitations in section 320(b)(3) of this Act;

"(2) no contributions will be accepted by the candidate or his authorized committees in violation of section 320(a) of this Act;

"(3) the candidate is seeking election to the United States Senate, and he and his authorized committees have received contributions for that campaign in a total amount of not less than the smaller of—

"(A) 10 percent of the amount of expenditures the candidate may make in connection with the campaign under section 320(b)(3) of this Act, or

"(B) $100,000; and

"(4) at least two candidates have qualified for the election ballot for election to the same seat in the United States Senate under the law of the State involved.

"(c) Agreements, certifications, and declarations under this section shall be filed with the Commission at the time required by the Commission.

"ENTITLEMENT TO PAYMENTS

"SEC. 503. (a) Every candidate who meets the eligibility requirements in section 502 is entitled to payments for use in his general election campaign in an amount equal to the amount of contributions he and his authorized committees receive for that campaign.

"(b) A candidate entitled to payments under subsection (a) shall be entitled to—

"(1) an initial payment in an amount equal to the contributions certified under section 502(b)(3); and

"(2) additional payments to be paid in—

"(A) multiples of $10,000 under section 506, if, with respect to each such payment, the eligible candidate and his authorized committees have received contributions aggregating $10,000; and

"(B) a final payment under section 506 (designated as such by the candidate involved) of the balance of the entitlement of the candidate under this section.

"(C) In determining the amount of contributions received by a candidate and his authorized committees for the purposes of subsection (a) of this section and section 502(b)(3)—

"(1) no contribution received by the candidate or any of his authorized committees as a subscription, loan, advance, deposit, or as a contribution of products or services, shall be taken into account;

"(2) no contribution receive from a political committee or any other organization shall be taken into account;

"(3) no contribution received from any individual shall be taken into account to the extent that such contribution exceeds $100 when added to the amount of all other contributions made by that individual to or for the benefit of such candidate in connection with his general election campaign;

"(4) no contribution received from any individual who resides in a State other than the State in which the election is held shall be taken into account to the extent that such contribution when added to all other contributions received from such individuals exceeds 20 percent of the aggregate of contributions otherwise taken into account;

"(5) no contribution (A) which is received before September 1 of the year immediately preceding the year in which any general election is held and (B) which is not maintained in a separate account until the date on which such candidate qualifies under the law of the appropriate State for election, shall be taken into account; and no contribution maintained in such a separate account shall be used to make any expenditure until the date on which the candidate qualifies under the law of the appropriate State for election to the Senate; and

"(6) no contribution received after the date on which the election is held shall be taken into account.

"(d) Notwithstanding the provisions of subsection (a), no candidate is entitled to the payment of any amount under this section which, when added to the total amount of contributions received by him and his authorized committees and any other payments made to him under this title for his general election campaign, exceeds the amount of the expenditures limitation applicable to such candidate for that campaign under section 320(b)(3)(A) of this Act.

"WAIVER OF OVERALL EXPENDITURE LIMITATION; ADDITIONAL PUBLIC FINANCING FOR CERTAIN CANDIDATES

"SEC. 504. (a)(1) Not later than the date on which a candidate qualifies under the law of the appropriate State for election to the Senate of the United States or ninety days before the date of any general election, whichever is earlier, each candidate for election to the Senate of the United States shall file with the Commission a declaration of whether he intends to make expenditures in excess of the limitations on expenditures under section 320(b)(3) of this Act.

"(2) Not later than sixty days before the date of such general election, each candidate who has reason to believe that he may make expenditures in excess of such limitations shall notify the Commission to that effect, unless such candidate filed with the Commission a timely declaration that he intended to exceed such limitations, as provided in paragraph (1).

"(3) Each candidate for election to the Senate of the United States shall notify the Commission and each other candidate for the same election within forty-eight hours after he, or any of his authorized committees—

"(A) makes any expenditure, or incurs any obligation to make an expenditure, in excess of the limitation on expenditures contained in section 320(b)(3) of this Act; or

"(B) receives any contribution which, when added to the total amount of contributions received by him and his authorized committees, exceeds the amount of the limitation on expenditures contained in section 320(b)(3)(A) of this Act.

"(4) The Commission is authorized to determine, upon its own initiative or upon the request of any candidate for election to the Senate of the United States, whether any candidate has made expenditures or incurred obligations to make expenditures in excess of the limitations contained in section 320(b)(3) of th Act, or has received contributions in excess of the limitation contained in section 320(b)(3)(A) of this Act.

"(b) The limitation on expenditures contained in section 320(b)(3)(A) of this Act shall not apply to any candidate for election to the Senate of the United States if any other candidate in the same election—

"(1) fails to file with the Commission a timely declaration as provided in subsection (a)(1); or

"(2) files with the Commission a notice as provided in subsection (a)(2); or

"(3) is required to notify the Commission in connection with the making of expenditures or the receipt of contributions as provided in subsection (a)(3).

"(c)(1) Any person who makes independent expenditures, as defined in section 301 (p) of this Act, or incurs costs of communication, required to be reported under section 301(f)(4)(C) of this Act, shall notify the Commission not later than 48 hours after such person first makes such independent expenditures or incurs such costs of communication aggregataing more than $5,000, and thereafter shall so notify the Commission each time such person makes any additional independent expenditure, or incurs any additional such cost of communication, aggregating $5,000 or more.

"(2) If, with respect to an election, independent expenditures, as defined in section 301(p) of this Act are made, or costs of communication, required to be reported under section 301(f)(4)(C) of this Act are incurred, aggregating more than one-third of the limitation on expenditures in section 320(b)(3)(A) of this Act, the Commission shall, with respect to such election, suspend the limitation on expenditures established in such section 320(b)(3)(A) at the request of any candidate in such election who is eligible to receive payments under section 502, and who has received the benefit of no more than one-third of such independent expenditures or costs of communication.

"(d)(1) The provisions of section 503(d) shall not apply in the case of a candidate who elects to receive payments under this title with respect to whom the expenditure limitation contained in section 320(b)(3)(A) of this Act is made inapplicable under subsection (a), (b), or (c).

"(2) The additional amount to which a candidate is entitled under this subsection shall be based only upon the amount of contributions received after the date on which such expenditure limitation is made inapplicable, except that any contribution which is received from an individual after the date on which the limitation on expenditures is made inapplicable shall be considered as a contribution from an individual who has not previously made a contribution to such candidate.

"(3) The additional amount to which a candidate is entitled under this subsection shall not exceed 50 percent of the amount of the expenditure limitation under section 320(b)(3)(A) of this Act which would otherwise apply to such candidate.

"CERTIFICATIONS BY COMMISSION

"SEC. 505. (a) No later than 48 hours after a candidate files a request with the Commission to receive payments under section 506, the Commission shall certify the eligibility of such candidate to the Secretary of the Treasury for payment in full of the amount to which such candidate is entitled. The request referred to in the preceding sentence shall contain—

"(1) such information and be made in accordance with such procedures as the Commission may provide by regulation; and

"(2) a verification signed by the candidate and the treasurer of the principal campaign committee of such candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.

"(b) Initial certifications by the Commission under subsection (a), and all determinations made by it under this title, shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 507 and judicial review under section 511.

"(c) Any candidate who knowingly and willfully submits false information to the Commission under this section shall be punished as provided in section 512.

"PAYMENTS TO ELIGIBLE CANDIDATES

"SEC. 506. (a) The Secretary of the Treasury shall maintain in the Presidential Election Campaign Fund established by section 9006 (a) of the Internal Revenue Code of 1954, in addition to any other accounts he maintains under such section, a separate account to be known as the Senate General Election Campaign Account. The Secretary shall deposit into the account, for use by candidates eligible for payments under this title, the amount available after the Secretary determines that amounts in the fund necessary for payments under subtitle H of the Internal Revenue Code of 1954 are adequate. The moneys in the account shall remain available without fiscal year limitation.

"(b) Upon receipt of a certification from the Commission under section 505, the Secretary of the Treasury shall pay out of the account the amount certified by the Commission to the candidate to whom the certification relates.

"(c) Payments received under this section shall be used only to defray election campaign expenses incurred with respect to the period beginning on the day after the date on which the candidate qualifies for the election ballot under the law of the State involved and ending on the date of the election, or the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election, whichever occurs first. Such payments shall not be used (1) to repay any loan to any person, or (2) to make any payments, directly or indirectly, to such candidate or to any member of the immediate family (as defined in section 320 (b) (3)) of such candidate.

"(d) (1) If the Secretary of the Treasury determines that the moneys in the account are not, or may not be, sufficient to pay the full amount of entitlement to all candidates eligible to receive payments, he shall reduce the amount to which each candidate is entitled under section 503 by a percentage equal to the percentage obtained by dividing (A) the amount of money remaining in the account at the time of such determination by (B) the total amount which all candidates eligible to receive payments are entitled to receive under section 503. If additional candidates become eligible under section 502 after the Secretary determines there are insufficient moneys in the account, he shall make any further reductions in the amounts payable to all eligible candidates necessary to carry out the purposes of this subsection. The Secretary shall notify the Commission and each eligible candidate by registered mail of the reduction in the amount to which that candidate is entitled under section 503.

"(2) If, as a result of a reduction under this subsection in the amount to which an eligible candidate is entitled under section 503, payments have been made under this section in excess of the amount to which such candidate is entitled, that candidate is liable for repayment to the accounts of the excess under procedures the Commission shall prescribed by regulation.

"EXAMINATION AND AUDITS; REPAYMENTS

"SEC. 507. (a) After each Federal election, the Commission shall conduct a thorough examination and audit of the campaign expenditures of all candidates for Federal office who received payments under this title for use in campaigns relating to that election.

"(b) (1) If the Commission determines that any portion of the payments made to an eligible candidate under section 506 was in excess of the aggregate amount of the payments to which the candidate was entitled, it shall so notify that candidate, and he shall pay to the Secretary of the Treasury an amount equal to the excess amount. If the Commission determines that any portion of the payments made to a candidate under section 506 for use in his general election campaign was not used to make expenditures in connection with that campaign, the Commission shall so notify the candidate and he shall pay an amount equal to the amount of the unexpended portion to the Secretary. In making its determination under the preceding sentence, the Commission shall consider all amounts received as contributions to have been expended before any amounts received under this title are expended.

"(2) If the Commission determines that any amount of any payment made to a candidate under section 506 was used for any purpose other than to defray campaign expenditures, it shall notify the candidate of the amount so used, and the candidate shall pay to the Secretary of the Treasury an amount equal to such amount.

"(3) No payment shall be required from a candidate under this subsection in excess of the total amount of all payments received by the candidate under section 506 in connection with the campaign with respect to which the event occurred which caused the candidate to have to make a payment under this subsection.

"(c) No notification shall be made by the Commission under subsection (b) with respect to a campaign more than eighteen months after the day of the election to which the campaign related.

"(d) All payments received by the Secretary under subsection (b) shall be deposited by him in the account.

"OTHER POWERS AND DUTIES OF THE COMMISSION

"SEC. 508. (a) The Commission is authorized to conduct examinations and audits (in addition to the examinations and audits under sections 505 and 507), to conduct investigations, and to require the keeping and submission of any books, records, or other information necessary to carry out the functions and duties imposed on it by this title.

"(b) The Commission shall consult from time to time with the Secretary of the Senate, the Clerk of the House of Representatives, the Federal Communications Commission, and other Federal officers charged with the administration of laws relating to Federal elections, in order to develop as much consistency and coordination with the administration of those other laws as the provisions of this title permit. The Commission shall use the same or comparable data as that used in the administration of such other election laws whenever possible.

"REPORTS TO CONGRESS

"SEC. 509. (a) The Commission shall, as soon as practicable after the close of each calendar year, submit a full report to the Senate setting forth—

"(1) the expenditures incurred by each candidate, and his authorized committees, who received any payment under section 506 in connection with an election;

"(2) the amounts certified by it under section 505 for payment to that candidate; and

"(3) the amount of payments, if any, required from that candidate under section 507, and the reasons for each payment required.

Each report submitted pursuant to this section shall be printed as a Senate document.

"(b) The Commission shall submit, not later than March 1 of each year immediately following a year in which any Federal election is held, a special report to the Senate setting forth—

"(1) the amounts certified by it under section 505 of this title and sections 9005, 9008, and 9036 of the Internal Revenue Code of 1954 for payments from the Presidential Election Campaign Fund;

"(2) the amount of money remaining in the fund at the end of the calendar year in which any Federal election is held;

"(3) an estimate of the amount of money which will be transferred to such fund during each of the four calendar years immediately following the year in which any Federal election is held; and

"(4) an estimate, to the extent practicable, of the amount of money necessary to make all payments to which eligible candidates and the national committees of each political party will be entitled with respect to the next two Federal elections to be held.

"PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS

"SEC. 510. (a) The Commission is authorized to appear in and defend against any action filed under section 511, either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation is may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) The Commission is authorized to appear, through attorneys and counsel described in subsection (a), in the district courts and other appropriate courts of the United States to seek recovery of any amounts determined to be payable to the Secretary of the Treasury as a result of examination and audit made pursuant to section 507.

"(c) The Commission is authorized to petition, through attorneys and counsel described in subsection (a), the courts of the United States for declaratory or injunctive relief concerning any civil matter arising under this title. Upon application of the Commission, an action brought pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal from the determination of such court shall lie to the Supreme Court of the United States. Judges designated to hear the case shall assign the case for hearing at the earliest practicable date, participate in the hearing and determination thereof, and cause the case to be in every way expedited.

"(d) The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court of the United States for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

"JUDICIAL REVIEW

"SEC. 511. (a) Any certification, determination, or other action by the Commission made or taken pursuant to the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court by any interested person. Any petition filed pursuant to this section shall be filed within thirty days after such certification, determination, or other action by the Commission.

"(b) (1) The Commission, the national committee of any political party, and any individual eligible to vote for Senator of the United States are authorized to institute an action under this section, including an action for declaratory judgment or injunctive relief, as may be appropriate to implement or construe any provision of this title.

"(2) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this subsection and shall exercise such jurisdiction without regard to whether a person asserting rights under the provisions of this subsection shall have exhausted administrative or other remedies provided at law. Such proceedings shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal shall lie to the Supreme Court of the United States. Judges designated to hear the case shall assign the case for hearing at the earliest practicable date, participate in the hearing and determination thereof and cause the case to be in every way expedited.

"PENALTY FOR VIOLATIONS

"SEC. 512. Violation of any provision of this title is punishable by a fine of not more than $10,000, or imprisonment for not more than five years, or both.".

LIMITATIONS ON EXPENDITURES IN SENATE GENERAL ELECTION CAMPAIGNS

SEC. 3. (a) Section 320 (b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a (b)) is amended—

(1) by striking out "and" at the end of paragraph (2)(A);

(2) by striking out the period at the end of paragraph (2)(B) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end of paragraph (2) the following:

"(C) expenditures made on behalf of any candidate (as determined under subparagraph (B)) for the office of Senator of the United States shall be considered to be expenditures made by such candidate.

"(3)(A) Except as otherwise provided in section 504 of this Act, a candidate who receives payments under section 506 of this Act for use in his general election campaign for the office of Senator of the United States may not make expenditures in such campaign in excess of $250,000, plus 10 cents multiplied by the voting age population (as certified under subsection (e) of the State in which the election is held.

"(B) For purposes of the limitation on expenditures contained in subparagraph (A) only that percentage of an expenditure by a candidate or his authorized political committees for broadcasting time which represents the cost to such candidate for committees of transmitting the material broadcast to the State in which such candidate is seeking election shall be taken into account.

"(C) A candidate who receives payments under section 506 of this Act for use in his general election campaign for the office of Senator of the United States may not make expenditures in such campaign in excess of $35,000 from his personal funds or from the personal funds of his immediate family. For the purposes of this subsection, the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.".

(b) Section 320(c)(2)(B) of such Act (2 U.S.C. 441a(c)(2)(B) is amended by inserting immediately before the period a comma and "except that with respect to the limitation established by subsection (b) (3) the term 'base period' means the calendar year 1979".

EFFECTIVE DATE

SEC. 4. The amendments made by this Act apply to any campaign for election to the United States Senate for which the election is held after December 31, 1979.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. There is authorized to be appropriated to the Federal Election Commission the sum of $900,000 for purposes of carrying out the provisions of this Act during the fiscal year ending September 30, 1980.

TABLE I.—*Public financing of Senate general elections*

State	Voting age population[1]	Spending limit[2]	Threshold for matching grants[3]	State	Voting age population[1]	Spending limit[2]	Threshold for matching grants[3]
Alabama	2,543,000	$504,300	$50,430	Montana	523,000	302,300	30,230
Alaska	258,000	275,800	27,580	Nebraska	1,095,000	359,500	35,950
Arizona	1,562,000	406,200	40,620	Nevada	439,000	293,900	29,390
Arkansas	1,494,000	399,400	39,940	New Hampshire	594,000	309,400	30,940
California	15,627,000	1,812,700	100,000	New Jersey	5,224,000	772,400	77,240
Colorado	1,828,000	432,800	43,280	New Mexico	783,000	328,300	32,830
Connecticut	2,238,000	473,800	47,380	New York	12,879,000	1,537,900	100,000
Delaware	407,000	290,700	29,070	North Carolina	3,864,000	636,400	63,640
Florida	6,219,000	871,900	87,190	North Dakota	450,000	295,000	29,500
Georgia	3,450,000	595,000	59,500	Ohio	7,484,000	998,400	99,840
Hawaii	615,000	311,500	31,150	Oklahoma	1,994,000	449,400	44,940
Idaho	574,000	307,400	30,740	Oregon	1,695,000	419,500	41,950
Illinois	7,873,000	1,037,300	100,000	Pennsylvania	8,508,000	1,100,800	100,000
Indiana	3,690,000	619,000	61,900	Rhode Island	673,000	317,300	31,730
Iowa	2,025,000	452,500	45,250	South Carolina	1,953,000	445,300	44,530
Kansas	1,664,000	416,400	41,640	South Dakota	475,000	297,500	29,750
Kentucky	2,402,000	490,200	49,020	Tennessee	3,028,000	552,800	55,280
Louisiana	2,609,000	510,900	51,090	Texas	8,773,000	1,127,300	100,000
Maine	756,000	325,600	32,560	Utah	797,000	329,700	32,970
Maryland	2,921,000	542,100	54,210	Vermont	336,000	283,600	28,360
Massachusetts	4,166,000	666,600	66,660	Virginia	3,631,000	613,100	61,310
Michigan	6,284,000	878,400	87,840	Washington	2,589,000	508,900	50,890
Minnesota	2,765,000	526,500	52,650	West Virginia	1,313,000	381,300	38,130
Mississippi	1,575,000	407,500	40,750	Wisconsin	3,244,000	574,400	57,440
Missouri	3,417,000	591,700	59,170	Wyoming	278,000	277,800	27,780

[1] Bureau of the Census; estimates for July 1, 1977. Total voting age population in the U.S. is 152,089,000.

[2] The spending limit for each state is equal to $250,000, plus 10¢ X voting age population.

[3] The threshold for matching grants in each state is equal to 10 percent of the spending limit or $100,000, whichever is lower.

TABLE II.—*Statistics on the Presidential election campaign fund*

Tax year	Participation (in percent)	Amount
RECEIPTS		
1972	[1]3; 7	$12,894,000
1973	14	17,310,000
1974	24	31,937,000
1975	26	33,722,000
1976	27	36,606,000
1977	29	39,267,000
Total		171,736,000
Disbursements for 1976 Presidential elections:		
Primary elections (15 candidates)		[2]23,595,000
Party conventions		4,150,000
General election		43,640,000
Total		71,384,000
Balance on hand at end of 1977 tax year		100,352,000
Estimated additional receipts for current tax years:		
1978		40,000,000
1979		40,000,000
Estimated funds available for 1980 elections		180,000,000
Estimated disbursements for 1980 elections:		
Presidential elections		[4]100,000,000
House general elections		[5]30,000,000
Senate general elections		[6]18,000,000
Total		148,000,000
Estimated balance after 1980 elections		32,000,000

[1] A designation for 1972 could be made with tax returns for 1972 or 1973. The participation rates for 1972 designations were 3 percent on 1972 returns and 7 percent on 1973 returns.

[2] Includes $552,000 in repayments to the general Treasury, rather than to the Fund.

[3] Includes $33,000 in repayments to to the general Treasury, rather than to the Fund.

[4] Estimates based on 40 percent cost-of-living increases over 1976 elections; includes Presidential primary elections, nominating conventions and general elections.

[5] Estimate based on enactment of H.R. 1 (96th Congress).

[6] Estimate based on enactment of proposed legislation for public financing of Senate general elections.

Summary of Legislation on Public Financing for Senate General Elections

1. *Coverage:* Senate general elections, not primary elections.

2. *Effective Date:* Senate general elections in 1980.

3. *Matching Grants:* Candidates will be entitled to receive grants of matching public funds for private contributions of $100 or less.

Candidates must qualify for public funds by raising a threshold amount of private contributions equal to 10 percent of their spending limit for the election, or $100,000 whichever is lower; only contributions of $100 or less are counted toward the threshold.

Once the threshold is reached, a candidate will receive an amount of public funds equal to the threshold, and will be entitled to additional matching funds for each additional contribution of $100 or less.

To reduce administrative burdens on the Federal Election Commission, matching public funds will be disbursed in increments of $10,000, except for the final accounting before the election.

A candidate who qualifies for the maximum amount of public financing will receive 50 percent of the spending limit in public funds.

4. *Limit on Campaign Spending*—A limit on a candidate's overall campaign spending in each state will be set at an amount equal to $250,000 plus 10 cents per voter; costs allocated to the out-of-state portion of broadcasts would not count against the spending limit. In accord with the Supreme Court's ruling in *Buckley* v. *Valeo* in 1975, the spending limits will apply only to candidates receiving public funds.

5. *Limit on Candidate's Personal Funds*—Candidates receiving public funds may not spend more than $35,000 in a general election from their own funds or funds of their immediate family.

6. *Waiver of Spending Limits*—If a candidate *not* receiving public funds exceeds *either* the overall spending limit *or* the limit on the use of personal funds, the overall spending limit on candidates using public funds is waived. The spending limit is also waived in cases where an opposing candidate receives contributions in excess of the spending limit, or where, under certain conditions, "independent expenditures" in excess of one-third of the spending limit are made in the campaign. The waivers do not apply to the limit on personal funds applicable to candidates receiving public financing.

In cases where the spending limit is waived, a candidate receiving public financing may continue to receive matching funds beyond the spending limit.

7. *Administration*—Public financing of Senate elections will be implemented by the Federal Election Commission, which now implements the Presidential public financing system. To become eligible for public funds, candidates must agree to abide by the applicable spending and contribution limits file required reports, and open their books for audit as required by the Federal Election Commission.

8. Cost: Approximately $18 million in each federal election year, or an average of $9 million a year. The estimate assumes that two candidates in each Senate general election receive 50 percent of their spending limits in public funds.

9. *Source of Public Funds:* Public funds will be made available through the current dollar checkoff on income tax returns. No public funds will be available for Senate elections until the requirements of Presidential elections have been met.

Senate Election Reform Act of 1979

section-by-section analysis

Sec. 2. The bill amends the Federal Election Campaign Act of 1971 (as amended in 1974 and 1976) (2 U.S.C. 431ff) by adding a new Title V, consisting of sections 501–512, which deal with public financing of Senate general election campaigns. These twelve sections are summarized as follows:

Sec. 501 incorporates by reference the definitions of the existing election laws, and defines additional terms relevant to Title V, including:

"General election," which includes both regularly scheduled and special elections for the office of United States Senator. Public funds will be available only for the financing of Senate general elections, no primary elections.

"Account," which refers to a new Senate General Election Campaign Account set up by the bill in the Treasury as part of the Presidential Election Campaign Fund. Other accounts in the Fund under current law provide public financing for Presidential general elections, Presidential nominating conventions, and Presidential primary elections.

Sec. 502. specifies the conditions under which Senate candidates become eligible for public funds.

Subscription (a) requires candidates to agree to provide data to the Federal Election Commission (FEC) on their expenditures and contributions, to agree to maintain records and undergo FEC audits, and to agree to make any repayments of public funds required by the FEC.

Subsection (b)(1) and (b)(2) require candidates to certify to the FEC that they will not exceed the limits in the bill on overall campaign spending and on spending from their personal or family funds, and that they will abide by the contribution limits in existing law.

Subsecton (b)(3) establishes a threshold of small contributions that must be received by a candidate to qualify for public funds. The threshold is equal to 10 percent of the candidate's spending limit or $100,000, whichever is less.

Subsection (b)(4) provides that public funds will not be available for uncontested elections. At least two candidates must qualify as candidates for the same seat on the ballot before any candidate may receive public funds.

Subsection (c) authorizes the FEC to establish the times within which the agreements of subsection (a) and the certifications of subsection (b) must be filed.

Sec. 503 establishes the entitlement of eligible candidates to matching public funds for their election campaigns.

Subsection (a) states the general rule that eligible candidates are entitled to matching public funds for the private contributions they receive.

Subsection (b) specifies that the candidate is to receive an initial lump sum payment equal to the threshold amount he has received in private contributions. Thereafter, he will receive additional payments in units of $10,000 and a final payment of the balance of the entitlement.

Subsection (c) establishes six requirements for determining a candidate's entitlement to public funds.

Paragraph (1) specifies that only unrestricted cash contributions qualify for matching. Subscriptions, loans, advances, deposits, or contributions of products or services do not qualify.

Paragraph (2) specifies that only contributions from individuals qualify for matching. Contributions from political committees, political action committees, or other organizations do not qualify.

Paragraph (3) specifies that only the first $100 of contributions from the same individual qualifies for matching.

Paragraph (4) provides that out-of-state contributions will not qualify for matching to the extent that they exceed 20% of the total contributions eligible for matching.

Paragraph (5) specifies that contributions received before September 1 of the year before the election will not qualify for matching. The paragraph also states that contributions eligible for matching must be placed in a separate account and may not be spent until the date the candidate qualifies for the general election.

Paragraph (6) specifies that contributions received after the date of the general election do not qualify for matching.

Subsection (d) places an overall limit on the amount of public funds a candidate may receive. The sum of the private contributions and public funds received by the candidate may not exceed the candidate's spending limit for the election. A candidate who receives all his contributions in amounts of $100 or less would qualify for the maximum amount of public funds, equal to 50 percent of his overall spending limit.

Sec. 504 specifies a series of conditions in which a candidate's spending limit may be waived. In general, the limit is waived in cases where an opposing candidate not receiving public funds exceeds the spending limits, or where substantial other types of spending are made.

Subsection (a) places three requirements on candidates to file declarations or notices with the FEC.

Under paragraph (1), a candidate must file a declaration with the FEC stating whether he intends to abide by the overall and personal spending limits in the bill. The declaration must be filed by the date the candidate qualifies for the general election, or 90 days before the election, whichever is earlier. The declaration must be filed by each candidate, whether or not he intends to qualify for public funds for his campaign.

Under paragraph (2), any candidate who has filed a notice of compliance with the spending limits under paragraph (1) but who changes his mind must notify the FEC at least 60 days before the election if he believes that he will exceed the spending limit.

Under paragraph (3), a candidate who actually exceeds the spending limits or who receives contributions in excess of the spending limit must notify the FEC and each opposing candidate of that fact within 48 hours.

Paragraph (4) authorizes the FEC to determine on its own initiative, or at the request of a candidate, whether a candidate has exceeded the spending limits or has received contributions in excess of the overall spending limit.

Subsection (b) provides that a candidate's overall spending limit is waived if any other candidate fails to file the 90-day notice specified in subsection(a)(1), files the 60-day notice in subsection (a)(2), or makes expenditures or receives contributions in excess of the appropriate limits. Only a candidate's overall spending limit is waived in these cases. The limit on the candidate's spending from personal or family funds is retained.

Subsection (c) provides for the waiver of a candidate's overall spending limit in certain cases involving campaigns where substantial amounts of spending independent of any candidate take place or where substantial costs are incurred by organizations communicating with their members about the election.

Paragraph (1) requires that persons making such independent expenditures or incurring such communication costs must notify the FEC within 48 hours after the expenditures or costs exceed $5,000. A similar notice must be filed for each succeeding $5,000 in expenditures or costs.

Paragraph (2) states that, if such expenditures and costs exceed one-third of the overall spending limit for the election, the FEC must waive the limit at the request of a candidate who is eligible for public funds and who has received the benefit of no more than one-third of the independent expenditures or communication costs.

Subsection (d) authorizes a candidate whose overall spending limit is waived to receive public funds in addition to the amounts for which he would otherwise be eligible.

Paragraph (1) removes the ceiling on public funds established by section 502(d), which provides that a candidate may not receive public funds and private contributions totaling more than his overall spending limit.

Paragraph (2) states that any additional public funds available under this section are to be based only on contributions received after the date on which the spending limit is waived. It also states that a contribution received from an individual after this date may be eligible for matching public funds, without regard to any prior contributions by the individual. Thus, a $100 contribution from an individual after the waiver is eligible for matching funds, even if $100 in contributions from the same individual before the waiver had already been matched.

Paragraph (3) places a ceiling on the amount of additional public funds which a candidate may receive in cases where the candidate's spending limit is waived. The ceiling is equal to half the candidate's overall spending limit. Thus, a candidate whose spending limit is waived could theoretically receive an amount of public funds equal to his overall spending limit—his normal entitlement of 50 percent of the limit, and a further entitlement of 50 percent of the limit as a result of the waiver.

SEC. 505 deals with the procedures by which the FEC certifies to the Treasury that candidates are eligible for public funds.

Subsection (a) requires the FEC to act expeditiously on requests by candidates for public funds. Within 48 hours of receipt of a request from a candidate, the FEC must certify the candidate's eligibility for public financing to the Secretary of the Treasury, stating the amount of public funds to which the candidate is entitled.

Paragraph (1) requires that requests filed by candidates must be in accord with procedures established by FEC regulations.

Paragraph (2) requires the candidate's request to include a statement of verification, signed by the candidate and the treasurer of the candidate's principal campaign committee, that information provided is accurate and complies with the Act, to the best of their knowledge.

Subsection (b) provides that certificates by the FEC under this section and other FEC determinations under this title are final, unless modified by FEC examination or audit or by court action.

Subsection (c) provides that a candidate who knowingly and willfully submits false information to the FEC under this section will be subject to the general penalty provision of the title in section 512, which states that violations may be punished by a fine of not more than $10,000, or imprisonment for not more than five years, or both.

Sec. 506 establishes the procedures for the payment of public funds. Subsection (a) requires the Secretary of the Treasury to maintain a separate Senate General Election Campaign Account in the Presidential Election Campaign Fund, in addition to the other accounts maintained under existing law for Presidential general elections, Presidential nominating conventions and Presidential primary elections. Funds may not be deposited in the Senate account unless the Secretary of the Treasury determines that amounts in the overall fund are adequate to meet the requirements of the other three accounts.

Subsection (b) requires the Secretary of the Treasury to pay to candidates the amounts certified by the FEC.

Subsection (c) provides that public funds must be used only for expenses incurred during the period beginning on the date the candidate qualifies for the general election, and ending on the date of the election or the date the candidate withdraws from the campaign or ceases actively to seek election, whichever is earlier. The subsection also specifies that public funds may not be used to repay loans, or to make payments to the candidate or his immediate family.

Subsection (d) deals with cases in which public funds in the account may not be sufficient to pay the full entitlements of all candidates. Paragraph (1) provides that in such cases, the Secretary of the Treasury must make pro rata reductions in the entitlements of candidates. If additional candidates become eligible for public funds, the Secretary must make additional pro rata reductions. The Secretary must notify the FEC and each eligible candidate of any adjustments in the amounts.

Paragraph (2) provides that in cases where such reductions are made, a candidate who has already received public funds may be required to repay any excess amount he received before his entitlement was reduced.

Section 507 provides for examinations and audits by the FEC. Subsection (a) requires the FEC to audit the campaign expenditures of all candidates who received public funds.

Paragraph (1) of subsection (b) requires a candidate to repay to the Secretary of the Treasury any amounts of public funds determined by the FEC to be in excess of his entitlement. The candidate must also repay any unused amounts of public funds. The paragraph also establishes the "stacking" rule that in determining the amount of unused public funds, amounts received as private contributions, are to be considered as spent before public funds are spent.

Paragraph (2) requires candidates to repay amounts of public funds used for purposes other than defraying campaign expenditures.

Paragraph (3) states that any repayments required of a candidate may not exceed the total amount of public funds received by the candidate.

Subsection (c) provides that the FEC may not act later than 18 months after an election to require any repayment under this section.

Subsection (d) requires any repayments to be deposited by the Secretary of the Treasury in the Senate account.

Section 508 specifies certain other powers and duties of the FEC. Subsection (a) authorizes the FEC to conduct whatever examinations, audits and investigations may be necessary to carry out its duties under the title. It also authorizes the FEC to require the keeping and submission of any books, records, or other information necessary to carry out its duties.

Subsection (b) requires the FEC to consult with other federal officers and agencies involved in the administration of the federal elections laws, in order to coordinate the administration of these laws. The FEC is required to use data comparable to that used by other agencies wherever possible.

Section 509 provides for reports to Congress on the operation of the public financing provisions.

Subsection (a) requires the FEC to submit a report annually to the Senate as soon as practicable after the end of each calendar year. The report must list the expenditures of each candidate receiving public funds, the amount of public funds certified to each candidate, and the amount of any repayments required of a candidate and the reasons for the repayments. The annual report is to be printed as a Senate document.

Subsection (b) requires the FEC to submit a special, more comprehensive biennial report by March 1 after each Congressional election. The report must be set forth (1) the amount of public funds certified for Presidential and Senate candidates and Presidential nominating conventions; (2) the amout remaining in the overall Presidential Election Campaign Fund at the end of the election year; (3) an estimate of the amount likely to be placed in the overall fund by operation of the dollar checkoff over each of the next four years; and (4) an estimate of the amount of public funds likely to be required to meet the needs of public financing for Presidential and Senate elections over the next four years.

Section 510 deals with the participation by the FEC in judicial proceedings. Subsection (a) authorizes the FEC to apear in and defend itself against any court action challenging its determinations. The FEC may be represented by its own attorneys or may retain outside counsel.

Subsection (b) authorizes the FEC to appear in the federal district courts to secure repayments required as a result of audits under this title.

Subsection (c) authorizes the FEC to seek declaratory judgments or injunctions with respect to any matter under the title. Such actions are to be heard by a three-judge federal district court, with direct appeal to the Supreme Court. The judicial review is to be expedited.

Subsection (d) authorizes the FEC on behalf of the United States to seek Supreme Court review of any lower court decision in which it appears under this section.

SEC. 511 provides for judicial review of FEC actions. Subsection (a) allows any interested person to petition the United States Court of Appeals for the District of Columbia Circuit for review of any FEC action. Petitions for review must be filed within 30 days of the FEC action.

Paragraph (1) of subsection (b) authorizes the FEC, the national committee of a political party, or any person eligible to vote in Senate elections to bring an action to implement or construe any provision of the title.

Paragraph (2) provides that such actions shall be instituted in the federal district courts. The courts are required to exercise jurisdiction whether or not the parties have exhausted their administrative or other remedies. Such actions are to be heard by a three-judge federal district court, with direct appeal to the Supreme Court. The judicial review is to be expedited.

SEC. 512 provides a general criminal penalty for violation of any provision of the title. The penalty is a fine of not more than $10,000, or imprisonment for not more than five years, or both.

Section 3 of the bill establishes spending limits for candidates receiving public funds for Senate elections. Subsection (a) amends the expenditure limitation section of the Federal Election Campaign Act (Section 320 (b); 2 U.S.C. 441a(b)) by adding a new paragraph (3) on Senate elections at the end of the current subsection (b)). The new paragraph (3) contains three subparagraphs:

Subparagraph (A) establishes an overall spending limit equal to $250,000 plus 10 cents times the number of eligible voters in the State. The limit may be waived in accord with the provisions of section 504 in the proposed title V of the Act, described earlier.

Subparagraph (B) provides that the out-of-state portions of a candidate's broadcasting expenditures do not count against the spending limit.

Subparagraph (C) establishes a limit of $35,000 on the amount a candidate may spend from his personal funds of from the funds of his immediate family. "Immediate family" is defined as including the candidate's spouse, as well as the candidate's children, parents, grandparents, grandchildren, brothers, sisters, half-brothers or half-sisters, or their spouses.

Subsection (b) of section 3 indexes the candidate spending limits for inflation. The base year for the calculation is 1979, so that no inflation adjustment would be made for 1980.

Section 4 of the bill provides that the bill is to apply to Senate elections held after December 31, 1979.

Section 5 of the bill authorizes the appropriations of $900,000 to the FEC to carry out the purposes of the bill in fiscal year 1980.

● Mr. TSONGAS. Mr. President, I am pleased to join with my distinguished colleague from the Commonwealth of Massachusetts and Senators CRANSTON, MATHIAS, STAFFORD, BIDEN, DECONCINI, and COHEN as a cosponsor of legislation to provide for the public financing of Senate general elections. Enactment of this legislation will provide some incentive for candidates to put a cap on the excessive spending we have witnessed in the recent elections.

It has been estimated that in 1978, the average Senate seat cost more than $1 million to win, compared to $550,000 in 1974, the last non-Presidential year. A few candidates spent several million dollars to become elected to the U.S. Senate.

If one combines these figures with the nearly $35 million total contributed by special interest groups through the vehicle of political action committees, I believe you have sufficient evidence of a serious threat to American democracy. Such trends in spending endanger our representative government.

A fundamental principle of our democracy is that elected representatives are accountable to all of their constituency, not just a select few that may have contributed to a successful campaign. This democracy cannot survive as a government of the people if candidates have to "buy" their seats using their personal wealth or the contributions of special interests to win.

Mr. President, this bill represents a necessary and important step forward to protect the proper operation of our democracy. It provides for public financing of Senate general elections using matching grants of $100 or less up to a maximum of 50 percent of the spending limit. Thus, the bill encourages local support of political candidates rather than support by special interests.

The chosen spending limits reflect a realistic approach to public financing legislation by recognizing that fairness to both incumbents and challengers requires a high cost limit. The bill restricts, however, a candidates personal spending to $35,000, reducing the chance that a candidate will be elected having utilized his or her personal wealth.

Together these key provisions go a long way toward accomplishing the task of reducing the influence of special interests, a task begun by the public financing of Presidential elections. I commend Senator KENNEDY's and the other cosponsor's leadership in this important area and urge Senate passage of this bill.●

By Mr. McCLURE (for himself, Mr. MATSUNAGA, and Mr. SCHMITT):

S. 624. A bill to lessen our dependence on foreign oil imports by advancing alternative transportation systems; to the Committee on Commerce, Science, and Transportation.

Mr. McCLURE. Mr. President, in an effort to decrease dependence on petroleum imports by reducing gasoline usage, I am reintroducing legislation which is designed to encourage production and sale of electric vehicles (EV's) by including them in the computation of the corporate average fuel economy standards. These CAFE standards are defined within Public Law 94-163, the Energy Policy and Conservation Act (EPCA) and mandate fuel economy standards for automobiles produced in, or imported into, the United States. The CAFE standards only apply to gasoline and diesel-fueled passenger automobiles and light-duty trucks whose primary use is on public roads, streets, and highways.

There are four major arguments for encouraging electric vehicle production and commercialization. The first of these is that current electric vehicles meet perhaps 80 percent of the average driving missions in the United States, which is less than 20 miles per trip. Second, only about 15 percent of the electricity generated in the United States is produced from oil. The introduction of electric vehicles into our automotive fleet would begin to shift our transportation energy base away from oil and toward coal, nuclear, hydropower, and ultimately, solar energy and fusion. Third, electric vehicles are of unquestionable value in our urban areas, because they do not emit pollutants, are of smaller size, and are quiet. Fourth, a strong argument can be made that there is a need to develop alternatives to petroleum-based transportation systems in the event that an abrupt shortage of petroleum-based fuels occurs in the future.

The United States now uses about 18.5 million barrels of petroleum products daily. Almost half of that is imported. Domestic reserves of petroleum have not been increasing. Furthermore, the high expectations which were held out for the offshore Baltimore Canyon area are not being fulfilled. Thus, there are indications that the United States will maintain a comparable or greater reliance on imported oil. The latter prospect is not an attractive one, due to the uncertainties involving the supply of the imports. Even with a guaranteed supply, however, the unrelenting increases in OPEC prices have increased the Nation's annual petroleum import bill to over $35 billion. This increases inflation at home by reducing the value of the dollar abroad.

About 7 million barrels of petroleum are used every day to power our ground vehicles while the remainder is used primarily to heat homes, fire industrial boilers, fire electric utility boilers, and fire turbines. Our automobiles are becoming more efficient users of fuel due to the passage of mandatory fuel economy legislation in 1975. That legislation required all vehicle manufacturers to attain a fleet average fuel economy of 27.5 miles per gallon by 1985. Between 1975 and 1985 interim fuel economy standards are to be promulgated by the National Highway Traffic Administration (NHTSA, an agency of DOT). Unfortunately, even with the average vehicle consuming 40 percent less fuel in 1985 than in 1975, the total amount of petroleum actually consumed will be about the same due to an approximate annual 3 percent compounded growth in vehicle miles traveled (VMT). We can do no better in 1985 than to maintain the same vehicle petroleum use of 7 million barrels per day as we had in 1975. Furthermore, without some very new technological breakthroughs, this situation will actually deteriorate after 1985, because while 27.5 miles per gallon remains as the standard, VMT growth will continue unabated.

The options to improve upon this forecast includes reducing the growth in VMT and developing a new era of automotive technology, to paraphrase a recent phrase used by the Secretary of Transportation, Brock Adams. VMT growth reduction requires the development of improved mass transit systems and other major institutional changes. Although some limited near-term VMT reduction is expected to occur, it is mostly a long-term proposition.

On the other hand, new vehicle technology can be brought to bear on the problem in a considerably shorter time frame. Most of the new engine technologies, which may be available for improving fuel economy, require a liquid hydrocarbon fuel. Such engines include the diesel, the stratified charge, the turbine and Stirling cycle. On the other hand, electric vehicles run on stored electricity which may be generated from a wide variety of nonpetroleum sources, such as coal, wind, photovoltaic, fission, fusion, hydroelectric, and tidal energy.

Although presently available electric vehicles can now meet the range needs for over 80 percent of all automobile trips taken daily in the United States, very few are currently utilized commercially. There are four principal reasons for this, including: First, EV capability to accelerate in traffic is limited; second, the maximum range is still too limited for some individuals; three, EV's are more expensive to purchase (but not to operate or maintain) than conventional vehicles; and fourth, the availability of maintenance facilities in the field is limited. The Department of Energy's electric vehicle program (authorized under the Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976; Public Law 94-4133) is addressing many of these obstacles through its battery and vehicle systems research and development effort and through its field-oriented demonstration program. Realistically, the cost problem can only be resolved through mass production. Adequate field maintenance facilities will only come into being if the potential service market is large enough to warrant the training of mechanics and the purchase of equipment. This brings us back to mass production.

Although there are many small entrepreneurial companies presently involved in EV development and production, few if any will be able to afford the massive capital expenditures involved in mass producing the hundreds of thousands or millions of electric vehicles which will be needed to reduce our national consumption of transportation-related petroleum. Such large-scale vehicle production can only be brought to fruition by the major existing vehicle manufacturers. In the United States, American Motors Corp., Chrysler, Ford, General Motors, and Volkswagen of America, have been, or are now, involved in either EV system or EV-related battery development efforts.

What are the obstacles which confront the United States and foreign manufacturers in their efforts to mass produce EV's? A major problem is the very large cost of converting assembly lines to the production of a very new and largely untried technology. This type of capital investment is extremely risky. An additional problem is that, under the current fuel economy law, only petroleum fueled vehicles are currently allowed to be used in a manufacturer's fleet average fuel economy calculation. The legislation which I am introducing today will address both of these obstacles, with no cost to U.S. taxpayers and with no compromise of the existing regulatory structure involving the fuel economy standards.

This legislation will require the Secretary of Energy to develop a methodology for calculating an equivalent petroleum based fuel economy value for electric vehicles (a discussion of the methodological approach is appended to this statement). By allowing manufacturers to include "high fuel economy" valued electric vehicles, a manufacturer can probably sell more higher profit conventional vehicles. This additional profit should act as an incentive to provide the risk capital for electric vehicle production.

Once electric vehicles are produced and have proven their commercial viability, the United States will be better able to react effectively to severe petroleum supply dislocations and can move more rapidly toward a nonpetroleum based transportation fleet.

In addition to the fuel economy advantages of electric vehicles there are also a large number of environmental benefits.

ELECTRIC VEHICLE IMPACT ON ENVIRONMENTAL QUALITY

The introduction of EV's in the early 1980's will provide urban areas with a nonemitting automobile to replace some gasoline vehicles. The latter vehicles will still be emitting considerable amounts of hydrocarbon, carbon monoxide, and nitrogen oxide pollutants even when they are attaining the toughest legislatively mandated emission standards of 0.41, 3.4, and 1.0 grams per mile, respectively, for the above pollutants. In actual practice, however, gasoline vehicles tend to exceed the emission standards due to a combination of factors including inadequate carburetor adjustment, fouled spark plugs, and poisoned catalytic converters.

At this time about 80 metropolitan areas in the United States are in violation of the air quality standard for ozone. Under the Clean Air Act Amendments of 1977, those areas have until no later than 1987 in order to attain that standard. In many of those regions, the substitution of new vehicles (emitting less hydrocarbons than the older vehicles which are replaced) will not be sufficient by itself to allow the region to be in compliance with the ozone standard. Those regions will have to resort to additional programs which could be costly to implement. For example, vehicle emission inspection and maintenance programs are likely as are controls on the use of vehicles. Such controls might include parking taxes (or prohibitions), freeway lanes restricted only to buses or carpools, reduced activities of taxicabs, vehicle free zones, and so forth. It is obvious that a technological expedient, such as the use of electric vehicles, would go far to alleviate many of the potential costs and personal mobility restrictions which are possible when a metropolitan area must use transportation controls in order to attain the air quality standard for ozone by 1987.

TRANSPORTATION NOISE REDUCTION

In addition to the pollutant emissions advantages of EV's, another very important environmental aspect of EV's is their low noise emission rate. Transportation related noise has been found to be one of the most undesirable environmental problems in American cities. The absence of a combustion process in EV's means that the noise of gasoline or diesel engine operation is not present. Thus, the electric vehicle can operate quietly at all times, whereas the gasoline or diesel vehicle is much noisier even under muffled conditions and can become enormously noisier when the muffler or exhaust system is defective.

CALCULATION OF CAFE STANDARDS

Mr. President, under EPCA, the fleet fuel economy average is calculated using a "harmonic" average. That is nothing more than using the inverse of fuel economy to reflect the consumption of petroleum. The equation for computing the harmonic average is as follows:

$$M=\frac{Q_t}{\sum_{i=1}^{n}\frac{Q_i}{m_i}}$$

where:

M=corporate average fuel economy (CAFE)

Q_1=the number of model i vehicles produced

m_i=the fuel economy of the model i vehicle

n=the number of different models in the corporate line

and

$$Q_t=\sum_{i=1}^{n}Q_i$$

$\square$=the total number of vehicles produced by the firm in the particular model year.

To better understand the use of this equation, lets plug in some numbers. Assume that a manufacturer produces two different models (that is, $n=2$) with 500,000 vehicles produced in each model class (that is, $Q=500,000$; $Q_2=500,000$; $Q_t=1,000,000$). Also assume that the first model has a fuel economy of 20 miles per gallon and the second model has a fuel economy of 30 miles per gallon (that is, $M_1=20mi/g$ and $M_2=30mi/g$). Using the harmonic average formula, the fleet average fuel economy is 23.98 miles per gallon:

$$M=\frac{1,000,000}{(500,000\div20)+(500,000\div30)}$$

$$M=\frac{1,000,000}{41,700}$$

$$M=23.98\ \text{MPG}$$

The harmonic average is not the same as a simple average of fuel economies (that is, $(20+30)\div2=25$ mi/g). The harmonic average is dominated by the lower fuel economy models (that is, the higher fuel consumption models).

In this amendment, the Secretary of Energy is directed to calculate petroleum-base fuel economy values for different model classes of electric vehicles. For purposes of illustration, let us take an example of how such a determination might be made. In order to do this, the the first step is to determine the electrical energy efficiency of an electric vehicle.

The electrical energy efficiency is the electrical energy required to propel the vehicle over a predetermined driving cycle. Electrical energy efficiency is expressed in terms of kilowatt-hours (kWh) per mile. In the case of a subcompact electric vehicle, this value (for the Society of Automotive Engineers Urban Driving Cycle, schedule D) is approximately 0.5 kilowatt-hour per mile. This number reflects the electrical energy efficiency of the vehicle without considering the actual energy input required to generate the electricity and the energy losses incurred during the transmission of electrical energy.

The national average energy efficiency for converting fossil and nuclear fuel to electrical energy is approximately 33 percent and the average transmission efficiency is approximately 90 percent. Therefore, the overall electric vehicle energy efficiency is approximately 1.67 kilowatt-hours per mile:

$$(0.5)\times\left[\frac{1}{(0.33)\times(0.9)}\right]=1.67\ \text{kWh/mi}$$

Given that 1 gallon of gasoline is the equivalent of 36.3 kWh of energy, then the energy efficiency of an electric vehicle has a fuel economy of 21.7 miles per gallon:

$$\frac{36.3\ \text{kWh}}{1\ \text{gal}}\times\frac{1\ \text{mi}}{1.67\ \text{kWh}}=21.7\ \text{mi}$$

The above fuel economy value represents the fossil or nuclear energy required to generate the electricity which is required to propel an electric vehicle. Because transportation energy conservation is a means of reducing petroleum consumption it is appropriate to convert the above fuel economy value to one which is based exclusively on petroleum energy. The average percentage use of petroleum energy for electricity generation is currently 15 percent. Therefore, the petroleum based fuel economy of an electric vehicle is 145 miles per gallon:

$$21.7\ \text{MPG}\times\frac{1}{0.15}=145\ \text{MPG}$$

If an electric vehicle is used to replace a petroleum fueled vehicle for all driving missions, then 145 mpg is a reasonable estimate for the electric vehicle fuel economy.

Given the state-of-the-art of current technology, an electric vehicle will probably be used less than a petroleum fueled vehicle. This difference in miles traveled will probably be fulfilled in a gasoline or diesel powered vehicle. As an example, consider the following scenarios, which describe hypothetical gas consumption of a two-car family:

2 GASOLINE AUTOMOBILES

	Car 1	Car 2
Vehicle miles traveled (VMT)	10,000	1,000
Miles per gallon (MPG)	15	30
Fuel consumption (gallons per year)[1]	667	333

[1] Gallons per year equals vehicle miles traveled times 1 divided by miles per gallon.

Note: Total fuel consumption equals 667 plus 333 divided by 1,000 gal per year.

1 GASOLINE CAR AND 1 ELECTRIC VEHICLE

	Car 1 (gasoline)	Car 2 (electric vehicle)
Vehicle miles traveled	10,000	10,000
Miles per gallon	15	145
Gallons per year	667	69

Note: Total fuel consumption equals 736 gal per year.

1 GASOLINE CAR AND 1 ELECTRIC VEHICLE (LIMITED RANGE)

	CAR 1 (Gasoline)	CAR 2 (Electric vehicle)
Vehicle miles traveled	[1]12,000	8,000
Miles per gallon	15	145
Gallons per year	800	55

[1] Electric vehicle makeup plus 2,000.

Note: Total fuel consumption equals 855 gal per year.

After considering these projections, it is obvious that a limited range electric vehicle will not provide the same petroleum conservation as an electric vehicle which can provide all mission needs of a two-car family. One way to compensate for this is to revise downward the miles per gallon value given for an electric vehicle. At this time, however, there is insufficient data to provide a reasonable "corrective factor." My bill provides that the Secretary of Energy will determine a correction factor when appropriate information is developed.

As a last example, let us consider the effect of introducing 100,000 electric vehicles into the CAFE harmonic average assuming the following:

1. Electric Vehicle MPG=145.

2. Petroleum based vehicle fleet average MPG=24 (i.e., the 1982 CAFE standard).

3. A manufacturer's fleet has 900,000 gasoline vehicles and 100,000 electric vehicles.

$$\text{Fleet average fuel economy} = \frac{900{,}000 + 100{,}000}{\frac{900{,}000}{24} + \frac{100{,}000}{145}}$$

$$= \frac{1{,}000{,}000}{38{,}190}$$

$$= 26.18 \text{ MPG}$$

Mr. President, inclusion of electric vehicles into the CAFE standards would provide a strong incentive for their production at little or no cost to the Government. Overcoming the barriers to the commercialization of electric vehicles can increase their proportion in the national fleet and can, therefore, lead to fleet fuel economies greater than that which will be reached under CAFE. This bill provides a cost effective means for auto manufacturers to achieve the CAFE standards. At the same time this will provide the public with an alternative transportation mode in the early 1980's, which could significantly mitigate the effects of a disruption in petroleum supplies. Nearly 54 percent of the more than 18 million barrels of oil consumed domestically each day is used to move people and goods. Over 26 percent of the energy consumed in the United States is within the transportation sector. If this consumption of petroleum energy by the transportation sector is to be reduced, alternatives such as the electric vehicle must be developed.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 624

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2003 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003) is amended to provide a new section 2003(a)(3) which reads as follows:

"(3) In the event that a manufacturer includes electric vehicles in its fleet, the average fuel economy will be calculated in the following manner:

"(A) The Secretary of the Department of Energy will determine equivalent petroleum based fuel economy values for various classes of electric vehicles. Determination of these fuel economy values will take into account the following parameters:

"(i) the approximate electrical energy efficiency of the vehicles considering the vehicle type, mission, and weight;

"(ii) the national average electricity generation and transmission efficiencies;

"(iii) the national average percentage use of petroleum in electricity generation; and

"(iv) the specific driving patterns of electrical vehicles as compared with those of petroleum fuel vehicles.

"(B) These equivalent petroleum fuel economy values will be used in the determination of Corporate Average Fuel Economy standards as required in section 2002.

"(C) The Secretary of Energy will propose equivalent fuel economy values within 4 months of enactment of this Act. Final promulgation of the values is required no later than 6 months after the proposal of the values.

"(D) The Secretary of Energy will review these values on an annual basis and will propose revisions, if necessary.

By Mr. WALLOP (for himself, Mr. Bumpers, Mrs. Kassebaum, and Mr. Pryor):

S. 625. A bill to amend the Federal Mine Safety and Health Amendments Act of 1977 to provide that the provisions of such act shall not apply to stone mining operations or to sand and gravel mining operations; to the Committee on Labor and Human Resources.

Mr. WALLOP. Mr. President, today, with Senator Bumpers, Senator Kassebaum, and Senator Pryor, I am introducing a bill to free sand, gravel, and stone surface mining operators from the jurisdiction of an overzealous Mine Safety and Health Administration. This legislation will continue to regulate these industries through the Occupational Safety and Health Administration alone rather than jointly with the Mine Safety and Health Administration. Our bill revises the 1977 act which equated these businesses with all other mines.

America's mining industries have been regulated by the Federal Government for more than 70 years. Congress has taken an active legislative role in controlling the health and safety of this Nation's miners. Since 1910 and the passage of the act which created the Bureau of Mines within the Department of the Interior, eight legislative efforts have been made to monitor the mining industry. They include the enactment of the Federal Coal Mine Health and Safety Act in 1941, the Federal Metal and Nonmetallic Mine Safety Act of 1966, the Federal Coal Mine Health and Safety Act of 1969, and the establishment of the Mining Enforcement Safety Administration in the Department of the Interior in 1973. In 1977 the passage of the Federal Mine Safety and Health Amendments Act repealed the Metals Act of 1966 and amended the Coal Act to encompass all types of mining operations with no variances regardless of type of mine involved. This change was made by merely adding "other mines" after each section in the 69 Coal Act.

The mining laws have grown in complexity with each amending process and it is easy to perceive the confusion and havoc the Congress has inflicted upon the mining industry. This year is no exception to this established trend.

On August 7, 1978, my office received its first complaint concerning the new Mine Safety and Health Administration regulations from a small sand and gravel operator in Casper, Wyo. Since that date, the letters have continued to come, each one individually expressing confusion, anger and fear as to what the new regulations will do to business and how much they will ultimately cost.

Specifically, the regulations in question relate to section 115 of the act which require that new "miners" having no surface mining experience shall receive no less than 24 hours of training if they work on the surface. The law continues by saying all "miners" shall receive not less than 8 hours of refresher training no less frequently than once each 12 months and all training called for under this law shall be provided during normal working hours, with miners being paid their normal rate of compensation plus expenses for any cost they may incur in attending such training sessions.

Mr. President, it is not difficult to see the burden that this would place on a small sand and gravel operation which has maybe three employees and nobody qualified to conduct these training sessions.

In addition, each operator must provide a program of health and safety training approved by the Secretary of Labor and upon completion of the training program each operator shall certify that the "miner" has received the specified training in each subject area of the approved health and safety training plan.

These regulations may make sense for certain mining operations, and those we do not intend to touch with this amendment. Our argument today is based upon the contention that 8-foot gravel pits are not and should not be considered mines with the employees known as miners. There is considerable difference between underground coal mine operations and a surface sand pit where employees work under the open sky and drive their vehicle along an 8-foot embankment. We are not asking that these industries be excluded from safety regulations. With this legislative change, sand, gravel and stone surface mining operations would still be regulated by OSHA, an agency which most know does not have a reputation for impeccable good will. When industries ask to be placed under the jurisdiction of the Occupational Safety and Health Administration, one must know the alternative is unbearable.

The cost to the industry of implementing these new Mine Safety and Health Administration regulations is another major consideration in introducing this bill. Recently, Congress and the President have been taking an increasingly skeptical look at the effects of government regulations on the ultimate cost of a product to a consumer. In Wyoming as in other States the majority of sand, gravel and stone companies are locally owned and operated and are considered small businesses. Regardless of the size operation involved, the ultimate effect of these new regulations will be to raise the cost of a ton of sand, gravel and stone with no increase in safety.

To point out the real cost of the new MSHA regulations on the sand, stone and gravel industries, surveys were sent out to the 40 Wyoming sand, stone and gravel companies seeking the approximate costs of training their workers and certifying an instructor within one company. They were also asked to estimate the total costs of training, loss of production time and administration.

Over half of the surveys have been completed and the results to date are as follows:

First. Estimated number of new employees to be trained—24-hour requirements—869.

Second. Estimated number of experienced employees to be trained—8 hours—733.

Third. Estimated number of instructors to be certified—48.

Fourth. Estimated administrative costs to implement MSHA's new health and safety training regulations, $220,486.

Fifth. Estimated cost of production time lost due to MSHA's training requirements, $479,816.00.

Sixth. Total estimated cost to these businesses in fulfilling all requirements of the health and safety training requirements mandated by section 115 of the 1977 Mine Safety Amendments. $1,181,317.

Seventh. Percentage increase in finished product costs resulting solely from above costs, 10 percent.

From these figures it is easy to recognize the impact the regulations will have on thousands of small business operators throughout the United States. This tremendous cost might be justified if the industry in question has demonstrated the need for additional enforcement of health and safety rules. This is not the case with sand, gravel, and stone companies. These surface operations are separate and distinct from any underground mine and should be recognized as such. It is not our intent to interfere with the regulatory process or to jeopardize the safety of "miners" but to point out that one particular group under the jurisdiction of MSHA is suffering as a result of changes made without considering their effects, and without any demonstrated benefit to job safety.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 625

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(h)(1) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 802(h)(1)), as amended by the Federal Mine Safety and Health Amendments Act of 1977, is amended by inserting after "preparation facilities." the following new sentence: "'Such term shall not include any stone mine or any sand and gravel mine.".

● Mr. BUMPERS. Mr. President, when Congress passed the Mine Safety and Health Act of 1977, it was responding to public alarm over the continued incidence of coal mining disasters. Fresh in the minds of many Congressmen and Senators was the tragedy that occurred at the Scotia mine, where 23 miners and 3 Federal inspectors lost their lives.

Congress reacted by combining all coal, metal, and nonmetal mining operations under one authority—the Federal Coal Mine Safety and Health Act of 1969. It created the Mine Safety and Health Administration (MSHA)—a new office under the Department of Labor—to coordinate the safety, training and enforcement functions and it equipped the new agency with an impressive array of powers with which to execute the act. For the 5,452 coal mines which had previously been regulated under the Coal Act of 1969, the changes incorporated in the 1977 act are important, though not drastic. However, for the 15,847 metal and nonmetal operations which had been under the authority of the Metal and Non-Metal Act of 1966, the changes are indeed overwhelming.

In all fairness, the Mine Safety and Health Act of 1977 has, in some ways, represented a valuable step forward. Unfortunately, in other respects, it signifies the epitome of poorly conceived policy.

Mr. President, today I am joining in sponsoring legislation that modifies the jurisdiction of MSHA so that the agency can embark upon the constructive mission Congress envisioned 2 years ago. Under the bill the responsibility to oversee the safety of workers in the stone, sand, and gravel extraction industries would be shifted from MSHA to the Occupational Safety and Health Administration (OSHA). By so doing, we will atone for a legislative blunder which, though benign in intent, threatens to undermine the fiscal integrity of the thousands of stone, sand, and gravel mining companies scattered throughout the country.

It may sound ironic that a proposal to expand the jurisdiction of perhaps the most vilified Federal agency would come from one of its most persistent critics. I am sure many of you are thinking that I need a vacation. Quite frankly, my initial reaction to this approach was negative. I realized that OSHA's reputation had improved somewhat, but the very idea that the industries would be willing to trade MSHA for OSHA was incomprehensible. Yet when I looked at the tremendous burdens MSHA was forcing industries to bear and evaluated OSHA's capability to supervise worker safety, I became convinced that OSHA is the logical home for the stone, sand, and gravel mining industries.

Mr. President, when Congress attempted to upgrade our mine safety programs in 1977, it failed to recognize the magnitude of the problems it would cause for certain sectors of the metal and nonmetal mining industry. By consolidating all mining activities under one authority we have grossly oversimplified the regulatory process. More importantly, we have spawned a new hyperregulatory agency that threatens to transcend even the lofty reputation reached by OSHA in its heyday. In short, we have created an administrative nightmare for thousands of small-scale mining operations.

The stone mining and sand and gravel mining industries are a case in point. These mining operations share neither the same methods of extraction, nor the same dangers with the coal mining industry. Nevertheless, by virtue of their inclusion under the 1977 Mine Health and Safety Act, they face the same mandatory fines, the same paperwork requirements, the same compliance costs, and nearly the same mandatory training requirements as those mandated for underground coal mining operations. I can tell you innumerable horror stories about how this situation is destroying the stone mining and sand and gravel mining operators in my State. For example, one of our stone miners has been forced to retain legal counsel and request an administrative hearing to correct a computer error committed by MSHA. In a second situation, the same operator received 14 identically worded citations for 14 electrical motor violations occurring within a 50-foot radius of his rock crushing plant. Rather than fine him $100 for the violations, MSHA has assessed him a total of $1,400 in fines. In a third case, one unfortunate sand and gravel operator who has had one barge in use for the last decade has watched helplessly as the barge has been cited for violations on each visit by an MSHA official. As that businessman wrote in a letter to me "it seems that all discrepancies should have been found and listed years ago, but apparently they need to find something each time to justify their trip."

Obviously, for these and many other miners, the effects of MSHA's overregulation have been far less than salutary. One must ask, then, why were the 1969 Coal Act's standards extended to the noncoal mining industry?

A brief review of the legislative history of the Federal Government's role in promoting mine safety is instructive. Until 1977, mine safety was regulated under two acts, the Coal Act of 1969 and the Metal and Non-Metal Act of 1966. Under this procedure, Congress recognized the disparities between coal and noncoal mining operations. When Congress undertook a revision of mine safety laws in 1977, it simply combined the two acts. Two points are worthy of mention. First, according to the minority views presented in the Education and Labor Committee's report on the House's version of the 1977 act, not one witness addressed the issue of incorporating metal and nonmetal mining under the 1969 Coal Act. Apparently, the committee chose to disregard the admonitions of Congressman Morris Udall, chairman of the Interior and Insular Affairs Committee, who noted—

> We started out 4 years ago to write a surface mining bill that would cover all minerals, and we soon discovered that the problems were quite different and that you can't include the same kind of provisions for both kinds of mining.

The second point I wish to make about the consolidation of the Coal Act of 1969 with the Metal and Non-Metal Act of 1966 is that instead of including provisions from both acts, the authors of the Mine Safety and Health Act of 1977 merely added "coal or other mine" wherever the words "coal mine" had appeared in the 1969 Coal Act. As a result of this legislative drafting technique, today all mining operations fall under an act that was written to address problems peculiar to coal mining.

We are not proposing to transfer authority over all metal and nonmetal mines from MSHA to OSHA. I am simply suggesting that there are certain industries having safety conditions that bear no close relationship to the dangers involved in underground coal mining. The stone mining and sand and gravel mining industries are two prime examples. It is therefore ludicrous for us to subject them to the same standards and enforcement mechanisms mandated for the coal mining industry.

The transfer we are proposing is based upon two fundamental notions. First, for the reasons I have indicated previously, the stone and sand and gravel extraction industries do not belong under the jurisdiction of the Coal Act of 1969.

Second, the very nature of these two industries makes OSHA a much more suitable home for them. In most cases, stone mining or sand and gravel operations are ancillary to construction activities. Typically, a construction company will periodically operate a small dredge, gravel pit, or stone mining site in order to insure a continuous supply of material for use in residential and highway construction. Under current law, many of the workers in these companies fall under MSHA's set of regulations while working at the mining site, then fall under OSHA's regulation's upon returning to the construction activities. It is entirely conceivable that one worker could alternate between the two sets of regulations every hour of the day. Can you imagine the headaches this can cause for any conscientious foreman? Moreover, the costs—both in terms of the confusion and overlap, as well as those associated with the onerous paperwork requirements from both MSHA and OSHA—could be overwhelming to any small or medium-sized company.

It is interesting to note that both House and Senate committee reports on the 1977 act drastically underestimated the cost implications of the then-proposed legislation. The House report concluded that any costs would be offset by "savings * * * from workers' compensation premiums and other costs resulting from death and injury of miners."

The Senate Human Resources Committee report was more specific, though no less incorrect, in projecting a cost of $69.15 million per year. It is indeed unfortunate that we relied on these impact analyses.

Now MSHA projects first-year cost of $125 million. If we had known the costs then, many of my colleagues would have had second thoughts about the 1977 Mine Safety and Health Act. I daresay that many of them would have recommended placing stone mining and sand and gravel mining under the purview of OSHA then, had they been aware that MSHA's regulations would have cost those two industries up to $45 million in the first year of implementation.

Unfortunately, none of us had this information when we voted on this legislation. We must therefore conclude either that Congress' actions were based on inadequate information, or that MSHA has transformed the congressional mandate into a much higher-priced mission. In this regard, MSHA's internal changes are enlightening. Although, MSHA's need for penalty assessment personnel was originally estimated by the Congressional Budget Office to be 130, MSHA has inflated this number by more than 50 percent. At the same time, in its fiscal year 1980 budget request, MSHA cut the number of its personnel involved in education and training. Thus, MSHA is expanding its fine-levying capability, while it is simultaneously moving away from the consultative and cooperative orientation Congress had envisioned.

Admittedly our bill will not take care of all mine regulation problems. The best I can hope for is that the severely-impacted stone mining and sand and gravel mining industries will obtain some relief. But even this modest proposal deserves the close consideration of every Member of this body. MSHA's statutory authority—derived from the Coal Act of 1969—clearly is best suited for overseeing underground mining operations, not for overseeing the dredging of sand from a river bed. By allowing the existing punitive regulatory approach to continue for the stone mining and sand and gravel mining industries, we will further undermine the cooperative Federal-business relationship that is a precondition for any successful workers safety program. Clearly, such a counterproductive situation is not what Congress intended. I hope my colleagues will join the Senator from Wyoming, the Senator from Kansas, the Senator from Arkansas, and me in rectifying this problem before MSHA regulates the stone, sand and gravel mining industries out of existence.●

ADDITIONAL COSPONSORS

S. 10

At the request of Mr. BAYH, the Senator from New Hampshire (Mr. HUMPHREY) was withdrawn as a cosponsor of S. 10, a bill to authorize actions for redress in cases involving deprivations of rights of institutionalized persons secured or protected by the Constitution of the United States.

S. 91

At the request of Mr. THURMOND, the Senator from Nevada (Mr. LAXALT) and the Senator from Colorado (Mr. HART) were added as cosponsors of S. 91, a bill to amend title 10, United States Code, to remove certain inequities in the survivor benefit plan provided for under chapter 73 of such title, and for other purposes.

S. 100

At the request of Mr. PACKWOOD, the Senator from Montana (Mr. BAUCUS), the Senator from New York (Mr. MOYNIHAN), and the Senator from Pennsylvania (Mr. HEINZ) were added as cosponsors of S. 100, a bill to amend the Internal Revenue Code of 1954 to provide a deduction for expenses incurred for reforestation, and for other purposes.

S. 112

At the request of Mr. DOLE, the Senator from Kansas (Mrs. KASSEBAUM) was added as a cosponsor of S. 112, a bill to repeal the carryover basis provisions added by the Tax Reform Act.

S. 219

At the request of Mr. PACKWOOD, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 219, a bill to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions.

S. 230

At the request of Mr. JAVITS, the Senator from Montana (Mr. MELCHER) and the Senator from Massachusetts (Mr. TSONGAS) were added as cosponsors of S. 230, the Nurse Training Amendments of 1979.

S. 268

At the request of Mr. DURKIN, the Senator from Georgia (Mr. TALMADGE) was added as a cosponsor of S. 268, the

Soft Drink Bottlers' Protection Act of 1979.

S. 299

At the request of Mr. CULVER, the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 299, a bill to amend sections 551 and 553 of title 5, United States Code, to improve Federal rulemaking by creating procedures for regulatory issuance in two or more parts.

S. 336

At the request of Mr. MATHIAS, the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of S. 336, a bill to amend the Internal Revenue Code of 1954 to provide that married individuals who file separate returns may be taxed at the same rate as an unmarried individual.

S. 400

At the request of Mr. SCHWEIKER, the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 400, a bill to relieve the liability for the repayment of certain erroneously made contributions by the United States.

S. 427

At the request of Mr. THURMOND, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 427, a bill to amend section 5(e) of the Federal Alcohol Administration Act (49 Stat. 982, as amended; 27 U.S.C. 205(e)) to require a health warning label on bottles containing certain alcoholic beverages.

S. 449

At the request of Mr. HATCH, the Senator from Utah (Mr. GARN) was added as a cosponsor of S. 449, the Charitable Organizations Preservation Act of 1979.

S. 508

At the request of Mr. DOLE, the Senator from North Dakota (Mr. YOUNG) was added as a cosponsor of S. 508, a bill to amend the Social Security Act to provide that the Administrator of Health Care Financing will be appointed with advice and consent of the Senate.

S. 535

At the request of Mr. SCHMITT, the Senator from Illinois (Mr. STEVENSON) was added as a cosponsor of S. 535, the Nuclear Waste Transportation Safety Act of 1979.

S. 555

At the request of Mr. MORGAN, the Senator from Washington (Mr. MAGNUSON) was added as a cosponsor of S. 555, a bill to amend the tax laws of the United States to encourage the preservation of independent local newspapers.

SENATE RESOLUTION 49

At the request of Mr. SCHMITT, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of Senate Resolution 49, a resolution to disapprove certain Amtrak route terminations.

SENATE RESOLUTION 96—SUBMISSION OF A RESOLUTION TO PAY CERTAIN LEGAL EXPENSES

Mr. MORGAN submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. RES. 96

Whereas, in the case of Zenith Radio Corportation against Matsushita Electric Industrial Company, Limited and others, now pending in the United States District Court for the Eastern District of Pennsylvania (civil action numbered 74-2451), subpenas duces tecum have been served on Bernard Nash for the production of certain papers and documents, including correspondence with the Senator from North Carolina (Mr. Morgan);

Whereas the purpose of the correspondence demanded by the subpenas was to provide information to assist Senator Morgan in determining what action he should take with regard to legislation in the Senate;

Whereas Bernard Nash has petitioned to intervene in order to move to quash these subpenas; and

Whereas compulsory production of correspondence with a Senator infringes upon a Senator's right to receive information and assistance from his constituents and could lead to infringement of his constituents' rights under the first amendment to the Constitution: Now, therefore, be it

Resolved, That the expenses, including attorneys' fees, in an amount subject to the approval of the Committee on Rules and Administration, incurred by the Senator from North Carolina (Mr. Morgan) in supporting the motion to quash subpenas for the production of correspondence between him and Bernard Nash shall be paid from the contingent fund of the Senate on vouchers signed by Senator Morgan and approved by the Committee on Rules and Administration.

● Mr. MORGAN. Mr. President, my colleagues will recall my statement on August 25, 1978, wherein I reported a most disturbing infringement of a Senator's right to investigate coterminous with his legislative activity. I had requested an attorney to inform me fully regarding the effects of the then proposed Customs Procedural Reform Act on possible violations of current law by Japanese producers of television sets. The bill as then drafted would have possibly allowed those responsible for dumping Japanese television sets on the American market to escape all penalty. Disturbed by this fact, Senator Curtis and I drafted an amendment to make sure that the law on the books would continue to apply to any dumping violations which has occurred. I was pleased that the conference retained the Curtis-Morgan amendment.

Although I was not surprised by the highly active lobbying campaign to drop the Curtis-Morgan amendment, I was appalled to learn that attorneys representing the Japanese has subpenaed all the documents sent to me by the attorney from whom I had requested information. Mind you, they did not subpena my own files. They subpenaed from the attorney copies of everything he had sent me. They subpenaed every communication between him and any Member of the Senate or House. They subpenaed his correspondence with his client. They subpenaed his communications with public officials in the executive branch.

These subpenas, which appear at the end of my remarks in the CONGRESSIONAL RECORD of August 25, were issued in an antitrust suit pending in the eastern district of Pennsylvania. The attorney subpenaed is not a party to that suit and there is no direct connection between the suit and the Customs Procedural Reform Act, except for a similar cast of characters.

Today I am submitting a resolution which would authorize payment of my expenses out of the Senate contingent fund to intervene in that lawsuit to quash the subpenas as violative of my privileges pursuant to the speech or debate clause of the U.S. Constitution. I have decided that intervention is necessary in this case because if subpenas of this kind become a successful tactic, then American citizens might be penalized for cooperation with the Congress in its investigations.

Two points need to be made loud and clear. First, I have a privilege as does every Member of the Senate, to investigate coterminous with my legislative activity. Unless we are going to start issuing congressional subpenas every whipstitch, we must be able to depend on the willingness of interested parties to supply information to us. Second, every citizen has the absolute right under the first amendment to petition Members of the Senate for redress of grievances. A citizen ought to be able to exercise this right without the threat of having lobbyists on the other side of a question haul him into court.

I ask my colleagues in the Senate to consider the relationship between these two facts. How can we obtain information voluntarily from those who have it, if giving that information might subject a citizen to harrassment including the subpenaing of his files wholesale? Who would want to cooperate if he knew he might have to defend himself in a court in a distant city? What attorney would want to risk his attorney-client relationship by having companies, in direct competition with his clients in the marketplace and in court have access to his files? This use of the American legal process to undermine communication between legislators and informed outside sources can only have a chilling effect both on the exercise of the first amendment and on congressional investigations. We cannot allow our ability to investigate and legislate to be so infringed.●

SENATE RESOLUTION 97—SUBMISSION OF A RESOLUTION RELATING TO THE EFFECTIVE DATE OF RULE XLIV OF THE STANDING RULES OF THE SENATE

Mr. HART submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. RES. 97

Resolved, That notwithstanding section 313(c) of Senate Resolution 110, 95th Congress, rule XLIV of the Standing Rules of the Senate, as amended by section 101 of that resolution, shall take effect on January 2, 1979.

● Mr. HART. Mr. President, 2 years ago the Senate passed Senate Resolution 110 limiting a Senator's outside income to $8,625 a year or 15 percent of a Senator's annual salary. This provision was the subject of extensive debate and national publicity, and became a key feature of the Senate Code of Ethics adopted in the last Congress.

On March 8, 1979, the Senate passed by voice vote a resolution to defer for 4 years the implementation of this rule. The effect of the Senate's action will be to leave in place a previously legislated $25,000 limt on outside income.

I regret the Senate acted last week with no committee consideration, little floor debate, and no rollcall vote. If a rollcall vote had been conducted, I would have voted against the change in the rule.

In exchange for a salary increase 2 years ago, the Senate was willing to forgo a certain amount of outside income.

The resolution I am submitting today provides for the 15 percent annual outside income limitation, embodied in Senate rule XLIV, to take effect at once. My resolution, upon which I urge a rollcall vote, offers every Senator the opportunity to be on record on this important matter of Senate procedure.●

AMENDMENTS SUBMITTED FOR PRINTING

TAIWAN ENABLING ACT—S. 245

AMENDMENT NO. 99

(Ordered to be printed.)

Mr. COCHRAN proposed an amendment to S. 245, a bill to promote the foreign policy of the United States through the maintenance of commercial, cultural, and other relations with the people on Taiwan on an unofficial basis and for other purposes.

AMENDMENT NO. 100

(Ordered to be printed.)

Mr. DOLE proposed an amendment to S. 245, supra.

AMENDMENT NO. 101

(Ordered to be printed.)

Mr. HUMPHREY proposed an amendment to S. 245, supra.

RESCISSION OF CERTAIN BUDGET AUTHORITY—H.R. 2439

AMENDMENT NO. 102

(Ordered to be printed and to lie on the table.)

Mr. JOHNSTON submitted an amendment intended to be proposed by him to H.R. 2439, an Act to rescind certain budget authority contained in the message of the President of January 31, 1979 (H. Doc. 96-46), transmitted pursuant to the Impoundment Control Act of 1974.

NOTICES OF HEARINGS

HEARINGS ON THE COMPETITION IN THE RETAIL GASOLINE MARKET

● Mr. JOHNSTON. Mr. President, on Monday, March 26, the Subcommittee on Energy Regulation of the Committee on Energy and Natural Resources will hold an oversight hearing on the competitive situation in the retail gasoline market. This hearing will commenc 9:30 a.m. in room 3302 of the Dirksen Senate Office Building.

The purpose of this hearing is to examine the role which Federal energy regulation has played and is playing ir the retail gasoline market and to investigate the impact of the current situatio in the world petroleum market on retail sales of gasoline.

Questions about this hearing should be addressed to Benjamin S. Cooper o James T. Bruce of the Subcommittee staff at 224-9894.●

SUBCOMMITTEE ON ENERGY RESOURCES AND RESOURCES MATERIALS PRODUCTION

● Mr. FORD. Mr. President, I would like to announce for the information of the Senate and the public that the Subcommittee on Energy Resources and Materials Production of the Committee on Energy and Natural Resources will hold a hearing on the current status of the Strategic Petroleum Reserve program. The principal focus of the hearing will be directed to the long-standing issue of whether storage components should be established in regions and noncontiguous areas of the United States.

The hearing will be held on March 26, 1979, at 10 a.m. in room 3302 of the Dirksen Senate Office Building.

The committee would be pleased to receive written testimony from those persons or organizations who wish to submit statements for the RECORD. Statements submitted for inclusion in the RECORD should be typewritten, not more than 25 double-spaced pages in length and mailed with five copies by April 9, 1979, to George Dowd, counsel, Committee on Energy and Natural Resources, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be permitted to meet during the session of the Senate today at 2:30 p.m. to hold its hearing on the 1980 foreign aid request.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

GERMAN AMERICAN PATRIOT HONORED

● Mr. MATHIAS. Mr. President, last week the Library of Congress opened a remarkable exhibit of the papers of Carl Schurz to mark the 150th anniversary of the birth of this extraordinary German American patriot.

The exhibit, which includes letters to a number of U.S. Presidents, was opened by Dr. Daniel Boorstin, the Librarian of Congress, and Mrs. Boorstin; His Excellency the Ambassador of the Federal Republic of Germany, Berndt von Staden, and Mrs. von Staden; Dr. Haide Russell, Cultural Counselor of the Federal Republic of Germany; and Deputy Librarian of Congress William J. Welsh.

During our Bicentennial commemoration, the Smithsonian Institution opened a dramatic exhibit entitled "A Nation of Immigrants." Its purpose was to portray not only the fact of the massive immigrations that have formed the American people, but also the enormous contribution of talent and energy that immigrants have brought to America.

Carl Schurz is an outstanding example of an immigrant whose contribution to his adopted country vastly outweighed the price of his passage. Driven from his homeland by his conscience, he was driven by his conscience in his new home to strive for the highest levels of public service. And he attained them. His life's motto is worth recalling today. It was a variation on the famous toast:

> My country, may she always be right. But, my country right or wrong.

Carl Schurz guided his public service by these lines:

> My country, right or wrong. When right, to be kept right. When wrong, to be put right.

Those truly are words to live by and we would all do well to keep them at hand in these difficult days of uncertainty at home and abroad.

I ask that a description of the scope of the Carl Schurz exhibit be printed in the RECORD.

The material follows:

PAPERS OF SCHURZ PUT ON VIEW AT THE LIBRARY OF CONGRESS

To mark the 150th anniversary of the birth of Carl Schurz, the Manuscript Division of the Library of Congress has mounted a display of his papers, on view through June 30. Schurz, the German-American statesman, soldier, and author was born on March 2, 1829, in the small German town of Liblar, near Cologne. In 1847, after attending a preparatory school at Cologne, he became a doctoral candidate at the University of Bonn, where he joined the German revolutionary movement of 1838–49. To avoid arrest when the movement collapsed he fled to Switzerland. He subsequently returned to Germany, risking his own safety, to rescue his friend and teacher, Gottfried Kinkel, a leader of the revolution who had been captured and sentenced to life imprisonment. The portion of Schurz' autobiography describing this exploit, which is still regarded as perhaps the most heroic event of the revolution, is exhibited. In 1852, Schurz emigrated to the United States.

Schurz mastered the English language rapidly and soon became known as a brilliant anti-slavery orator. In 1860, he campaigned for Lincoln for president, and in 1861, Lincoln appointed him minister to Spain. In 1862, because of his eagnerness to be involved directly in the struggle to eliminate slavery, Lincoln commissioned him brigadier general. He commanded a division at Bull Run (second battle), Chancellorsville, and Gettysburg and in 1863 was promoted to major general.

Following the war, Schurz served as correspondent and editor for a number of newspapers and assumed a position of national leadership in the Republican Party. From 1869 to 1875, he represented Missouri in the U.S. Senate, where he introduced a bill to create a permanent civil service merit system and attacked corruption in government. He served as Secretary of the Interior from 1877 to 1881.

The display includes Schurz' correspondence with a number of Presidents. Even as a general, he advised President Lincoln on political matters. In a letter, dated January 2, 1881, he cautioned President-elect James A. Garfield that the members of his Cabinet "should also have the necessary moral courage to say no on all proper occasions whatever pressure be brought upon them . . . and even to oppose your own grand nature when necessity requires it." Other letters, exchanged with Presidents William McKinley, Grover Cleveland, Rutherford B. Hayes, and Theodore Roosevelt, are on view, as well as manuscripts of speeches illustrating Schurz' interest in integrating Indians into American society and his concern for the preservation of the nation's forests. His prolific writings are represented by his biography of Henry Clay, an article in which he traced the course of race relations in the South after 1865, and an essay on Abraham Lincoln. Also shown is President Theodore Roosevelt's letter to Schurz describing the Lincoln essay as "by far the best thing that has ever been published about him."

The papers of Carl Schurz have been in the Library of Congress since 1907 and over the years have provided valuable source material for students of American political history from the election of Lincoln through the early years of the Progressive movement. Issues which occupied the national attention in these years such as civil service reform, race equality, Indian policy, conservation, liberal Republicanism, the tariff, and imperialism, are fully documented in the papers. The collection is especially valuable for information on the administration of President Hayes, in which Schurz served as Secretary of the Interior.

The Library of Congress' collection, which is now available in a microfilm edition, constitutes the largest body of Schurz papers extant.●

DR. JOHN H. KNOWLES

● Mr. CULVER. Mr. President, last week the Nation sustained an uncommonly heavy loss in the death of Dr. John H. Knowles while he was at the peak of his career and influence. The life of John Knowles was synonymous with intellectual vitality, physical energy, humor, and a rare ability to blend professional distinction with an exceptionally broad range of human concerns. He had a clarity of judgment and an independence of mind which served our Nation to the highest degree—even though he never held public office. I had the pleasure of serving with him over the past 4 years as a colleague on the Harvard Board of Overseers and appreciated directly his effectiveness both as a man of action and a man of thought.

Mr. President, I submit for printing in the Record an editorial from the Washington Post reflecting on his career and an appreciation of him published in the Boston Globe.

The material follows:

John Hilton Knowles

It is a sad fact of our times that 1) professionals and specialists are increasingly called upon to deal with the public/political/managerial aspects of their fields and that 2) often as not they tend to end up double losers—diminished in professional stature as popularizers and dropouts, and revealed to have been no great shakes as public managers. We bring this up by way of noting the great contrary distinction of the physician-writes-public man John Hilton Knowles, who died of cancer on Tuesday at the age of 52. Dr. Knowles, whose brilliant career in medicine led him to a keen interest in medical care as a national (and international) issue, somehow managed to remain always the intensely concerned and knowledgeable doctor, even as he was going on to become head of the Rockefeller Foundation and a man deeply engaged in public affairs.

We don't use the word "brilliant" loosely. John Knowles' career took off like a spaceshot in the Harvard-Boston medical world of the 1950s and early 1960s. By 1962, at the age of 35, he was made the youngest-ever director of the highly respected Massachusetts General Hospital. He remained there for 10 years, in the course of which he became a full professor of medicine at Harvard and, most notably, introduced a variety of improved medical techniques and systems at Mass General, which were widely emulated elsewhere. During the same period, his concern with the non-clinical aspects of his profession—making adequate medical care at once more available and less intimidating to people—intensified.

None of this made him very popular in those trade-group redoubts of the profession where acknowledgement of any failings of American health care is regarded as betrayal of the cause. And as a consequence there was the protracted several-months long dispute within the Nixon administration, in its early years, over whether or not to make Dr. Knowles assistant secretary for health and scientific affairs in HEW. The antis, led by the late senator Everett M. Dirksen, prevailed in this vaguely comic-opera dispute, which, in retrospect, looks much more marginal and ridiculous than it did then. But what has lent it this aspect of triviality is not so much the passing of time as the subsequent career of Dr. Knowles. For a smaller man, the episode would have been big enough to dominate and distinguish any obituary. For John Knowles, who went on from there, it became a minor skirmish in the past.

There is of course a paradox in the biography of John Knowles. His insistence on the public obligations of the medical profession, his refusal to swallow any easy left or right political line on the subject, his crafting of his own distinct approach (as heavy on individual responsibility as on society's duty), his inability ever to forget that the medical profession was meant to help people and not the other way around—all this made him anathema to considerable numbers of his colleagues. They felt he was doing their profession, well-being and good name some unspecified harm. That, we judge, is only a measure of how badly out of touch some people can be. John Knowles and doctors like him are what redeems and distinguishes the practice of medicine.

An Appreciation—Dr. Knowles: He Excelled

(By Herbert Black and Loretta McLaughlin)

The death of Dr. John H. Knowles yesterday of cancer of the age of 52 is a loss for all people.

This versatile, energetic, cheerful, intelligent and irreverent man was moving into an ever-greater sphere of public influence, backed by his experiences as general director of Massachusetts General Hospital for 10 years and as president of the Rockefeller Foundation since 1972.

Part of his great charm was that he always thought life was fun, something to be enjoyed and to be met with a laugh, a joke and a twinkle in the eye no matter how serious the problem.

He was a physician, a hospital administrator, a foundation president, but he might have been an athlete, actor, musician, politician or publicist. In fact, he was all these and excelled in all.

Many people could think of words and phrases to describe John Knowles. Some would say cocky, tough, aggressive, "shoot-from-the-hip." Others would say courageous, loyal, honest, forthright.

As medical reporters who covered his doings for 17 years, we would testify that only once did he ever back down from a public statement—and that was to prevent a break between City Hall and the MGH in the days of John Collins' Administration as mayor of Boston.

Knowles never took refuge by saying he was misquoted. He told us the truth. He was never afraid to say what he thought and he challenged some of the most cherished ideas of conservative medicine.

Lithe and trim, it was a shock to everyone who heard he was admitted to Massachusetts General Hospital on Jan. 11, fatally ill.

The hospital was deluged with calls from friends who wanted to see John Knowles once more. Exceptions were made by his physician Dr. George Baker for very few—Secretary of State Cyrus Vance and Notre Dame University president Theodore Hesburgh and associates of Knowles at the Rockefeller Foundation among them.

Despite his own grave illness, John Knowles was greatly saddened by the sudden death of his friend, Nelson Rockefeller.

Knowles fought the state Legislature on its own turf to combat discounted welfare rates for indigent patients. Fair payment, he maintained, was the only way to make sure the poor got the same quality of care as the self-paying patients. And that quality should only be first rate.

"A hospital ought to be a place fit to be sick in," he would exhort the members of the state health committee. And waving his stethoscope beneath their faces, he would remind them: "The day any one of you is sick, you'll be right down there to that old medical luxury liner, the MGH, expecting us to be able to take care of you. So you better not shortchange us.

One of the high points of Knowles' life occurred on Christmas Eve, 1971, the date of his leaving the MGH for the last time as general director. More than 4000 people, ranging from chief surgeons to janitors, staged a farewell party for him. It took from 6 a.m. until 7 p.m. for everybody to shake his hand and exchange reminiscences.

Knowles went home to Brookline that night with tears in his eyes, completely silent. "I was staggered," he later said. "One of my greatest pleasures is that I always have been able to get along with every type of person in every walk of life. I like human beings and I am interested in them. I feel blessed that they in turn expressed interest in me."

John Knowles was one of those rare persons with many talents. At Belmont Hill School and at Harvard in the 1940s he was a left-handed pitcher, a hockey goalie and a top-rated squash player. He played piano well enough to audition for the Pops orchestra, an event which led to a lifelong friendship with Arthur Fiedler.

While at Harvard, Knowles played piano in a six-piece band at the Hotel Imperial, then across the alley from the Old Howard in Scollay Square. "That's where I learned to talk and talk fast," he used to say. "That's where I first saw life in the raw. It was a hell of a lot of fun."

Knowles and his classmate Jack Lemmon wrote the words and music for the Hasty Pudding Show in 1946, in which Lemmon starred. It was called "Speak for Yourself, John." Friends say Knowles was a better actor, singer and dancer than Lemmon.

A Harvard friend, Richard S. "Rick" Humphrey, said that Lemmon and Knowles used to go to Humphrey's house on the North Shore for weekends, drink his father's best liquor and play the piano all night. "My father predicted no one of them would ever amount to anything," Humphrey said.

Knowles was rejected by Harvard Medical School and 10 others before Washington University in St. Louis took a chance on him. There he began to see some sense in his courses, caught fire as a student and graduated at the top of his class. He was one of the "few outsiders" selected to intern at Massachusetts General Hospital.

John Knowles had a distinguished career at MGH as a heart and lung specialist and was chief of the cardiopulmonary unit when, at age 35, he was named general director of the hospital.

One of the accomplishments at MGH which pleased him most was the raising of salaries and improvements of working conditions for employees. He knew if raised hospital costs, but he didn't believe the lowest paid segment of the population-hospital workers—should subsidize the rest.

His political battles included the famous six-month effort in 1969 to become assistant secretary of Health, Education and Welfare under President Richard M. Nixon. He admitted afterward that he probably wouldn't have lasted six months in the job if he had gotten it. He would have been trying to shake up too many areas in American medicine.

Dr. Mitchell Rabkin, head of Beth Israel Hospital, was so disturbed by failure of Nixon to appoint Knowles that Rabkin resigned from the American Medical Assn., which had led the opposition. Rabkin said: "It is a resounding defeat for the average citizen and for public confidence in the Nixon Administration."

Dr. Howard Hiatt, current dean of Harvard School of Public Health, also resigned from the AMA and said: "Because I believe that Dr. John Knowles would have done much to help American medicine put its badly disordered house in order, I consider the President's decision a defeat for all Americans."

Dr. Robert H. Ebert, then dean of the Harvard Medical School, said: "John Knowles has been critical of American medicine for what it has left undone, but constructive in his ideas for the future of medicine in this country.

John Knowles' relations with the press were the envy of politicians and other hospital officials alike. He gained the confidence of reporters by being honest and telling them all he could about hospital affairs.

He had a "good press" because he was colorful, daring, used hard-hitting language and knew precisely what he wanted to say. People who accused him of "shooting from the hip" failed to realize that his were not random shots, but carefully designed, provocative statements. There was exaggeration at times, to make a point, but he always hit close to the target.

Knowles was not a radical in the sense that he wanted socialized medicine. He wanted some form of national health insurance, but he wanted to keep alive what he considered the good parts of private medicine. He did not believe government alone could fulfill America's medical needs. He urged a melding of government and private sectors.

But what he wanted often was far removed from what the conservative American Medical Assn. wanted.

When John Knowles went to the Rockefeller Foundation in 1972, there was some speculation he would use it as a stepping stone to a political career. Knowles told the Rockefellers he would stay seven to 10 years and do the best job he could.

He kept his promise despite repeated efforts to interest him in running for governor of Massachusetts or U.S. senator. His period of promised tenure would have been up soon.

It is interesting to speculate what this dynamic man, only 52 years old, might have gone on to do had his life not been cut so short.●

SALT AND SOVIET STRATEGIC ADVANTAGE

● Mr. GARN. Mr. President, several weeks ago an article by Walter Pincus, "The Soviet Strategic 'Advantage,'" appeared in the Washington Post, and caused quite a stir among the proponents of the now nearly-completed SALT II Treaty. It was felt that Mr. Pincus had undermined the case made by the critics of SALT, and had demonstrated that the talked about Soviet strategic advantage was a myth created to sink SALT.

I am pleased, therefore, to call to the attention of my colleagues an incisive and thoughtful refutation of Mr. Pincus' article by Representative Robin Beard, a member of the House Committee on Armed Services and a congressional delegate to the SALT negotiations. Representative Beard takes careful note of the inaccuracies of fact regarding Soviet nuclear capabilities which Mr. Pincus propounded. As Representative Beard points out, the year 1979 marks a turning point in the Soviet's strategic position. If the United States fails to redress the shifting nuclear balance of power, the Soviets will use their strategic advantage and will be in the position to exercise effectively nuclear blackmail against the United States. The development of U.S. land-based ICBM vulnerability is antithetical to successful crisis management, and will usher in a period of more aggressive Soviet foreign policy adventurism.

It is almost beyond comprehension that there are still those who think that Soviet military spending is motivated in large part by the attempt to keep pace with the United States. John Lehman, in a recent article published in the Washington Quarterly, takes note of the lack of evidence to support such a contention. In fact, as Mr. Lehman states, "In the United States-Soviet case, the most telling observation is that various salient measures of U.S. offensive nuclear force destructiveness declined in the years after 1960 while Soviet forces steadily increased: the total yield of nuclear weapons in United States long-range and defensive forces, average overhead yields, equivalent megatonnage * * * and budgets peaked in the late 1950's and declined from then to the early 1970s. (Albert Wohlstetter, "Rivals, But No Race." Foreign Policy, fall 1974) * * * During the long period of decline on the United States side, the Soviet indices in each of these categories steadily increased." If there is an arms race, the Soviets are sprinting at full stride while the United States is jogging along at a leisurely pace.

SALT must no longer serve as a sedative—one which allows the United States to go on ignoring or finding comforting explanations for aggressive Soviet behavior. Arms controls has a useful role to play in United States-Soviet relations and in reducing the danger of nuclear holocaust. It does not, however, automatically assure strategic stability. Representative Beard puts the problem very well when he says that the SALT II "agreement is advanced as obviating the need for U.S. strategic programs that are necessary to maintain a United States-Soviet strategic balance and stability."

Mr. President, I ask that Representative Beard's fine article be printed in the Record.

1979: A TURNING POINT IN SOVIET STRATEGIC ADVANTAGE

Walter Pincus' recent article, "The Soviet Strategic 'Advantage,'" (op-ed, Feb. 5) raises several points with which I would like to take issue.

Let me first make some factual corrections. The Soviet Union does not have 100 SS18s deployed, but almost 200. Moreover, the Soviets have only recently perfected the SS18 MIRV program and can be expected to deploy the 308 (and possibly 326) SS18s—each with 10 warheads—as permitted under the terms of SALT II.

The fourth generation Soviet ICBM forces (the SS17, SS18, SS19) are capable of achieving, and have virtually achieved, the missile accuracy of the U.S. Minuteman III force with the INS-20 guidance system—an accuracy on the order of .1 nautical miles. Thus, under the terms of SALT II, the Soviets will be able to deploy over 6,000 MIRVed ICBM warheads, with each warhead having the capability to destroy one of the slightly more than 1,000 U.S. ICBM silos, and the other two or three hundred U.S. military targets (including bomber fields and submarine facilities) that the Soviets might want to attack. The Soviets would also retain a significant post-attack superiority. The United States has no similar capability.

The emergence of this Soviet capability is contrary to what is called "crisis stability"—that is, we should not threaten or have threatened a large portion of our strategic force which could be destroyed in a surprise attack. We also do not want to be placed in a position where the survival of our ICBMs is dependent on launching them from under attack (and we would not necessarily have two hours, as alleged by Mr. Pincus, to make that decision—20 minutes is much more likely). Such a response would lead to an all-out spasm nuclear war and we would lose not six million American lives, but 100 million. We thus want to be able to control the escalation of any nuclear conflict and terminate any possible hostilities at the lowest threshold level possible. Whether this is possible we don't know, but we must retain that option, given the alternative.

It is true that the United States, after absorbing a surprise Soviet attack, would still retain a significant capability in surviving submarines and bombers and cruise missiles. But our bombers and cruise missiles would still be subject to penetration problems, while our submarines would be limited to attacking so-called Soviet "countervalue" (economic) targets. Such a response would inevitably lead to a Soviet response in kind. Would we dare risk such an attack in the face of overwhelming Soviet strategic superiority; would such a U.S. capability provide sufficiently a deterrent to prevent an attack on U.S. forces from occurring; should we be limited in a response capability that would lead to an all-out nuclear war? Our present policy guidance says we should not be so limited.

In this context, let me also point out that contrary to the "assured destruction" myth, the recent PDM18 directed studies on nuclear weapons targeting illustrate very clearly that the retaliatory capability of the United States could not significantly retard or prolong the reconstruction of the Soviet economic structure, let alone destroy Soviet society.

The primary purpose of our nuclear forces is, of course, to provide deterrence and a stable strategic environment. Until the latter part of the last decade we never really had to focus on what constitutes deterrence because we had substantial superiority. The year 1979, however, represents a turning point.

As revealed in the current Department of Defense posture statement, the strategic capabilities of the Soviet Union have begun to surpass those of the United States, and this Soviet advantage will grow through much of the 1980s.

Mr. Pincus is correct that the United States has options to redress the growing strategic imbalance and restore stability. That is the purpose of the so-called Multiple Aim Point (MAP) ICBM basing system—a proliferation of vertical shelters wherein U.S. ICBMs would be randomly moved around. A MAP basing system would restore stability because for the Soviets to successfully destroy U.S. ICBMs, they would have to attack all of the shelters. They would then be forced to expend more warheads than they would destroy, thus theoretically ending up in a post-attack inferior position. Such a situation would be stable because it would reduce any incentive to strike first.

It is clear that despite what political benefits SALT II may or may not entail, the agreement in and of itself will not enhance stability. U.S. strategic programs will be necessary to do that. The prospective SALT II agreements, in my view, has several serious deficiencies; but what concerns me most is that the agreement is advanced as obviating the need for U.S. strategic programs that are necessary to maintain a U.S.-Soviet strategic balance and stability.

Finally, on the issue of whether U.S. restraint has been matched by the Soviets, I think it is important to note Defense Secretary Harold Brown's comment on that subject:

"What concerns me most about the continuing Soviet military buildup is its persistence and how that continues regardless of what the United States does. . . . We build up our forces, they build up theirs. We reduce our forces, they build up theirs . . . if the present trends continue for another five years, I believe the relative military positions [of Russia and the United States] would be a cause of real difficulty for the United States.

That, in my view, sums up very adequately the situation we face today as a nation. But I believe there is hope. The Soviet leadership is composed of rational, cautious men. If we show them we are serious, we will contribute substantially to a peaceful and stable geopolitical environment.●

MAJOR CONSERVATION ORGANIZATIONS SAY "NO" TO A DEPARTMENT OF NATURAL RESOURCES

● Mr. TALMADGE. Mr. President, during the 2 years that the administration has been studying the reorganization of the natural resource functions of the Government, the Committee on Agriculture, Nutrition, and Forestry has kept in routine touch with conservation organizations as they worked and negotiated with the staff of the President's reorganization project.

The American Forestry Association and the National Association of Conservation Districts are two of America's most prestigious and influential conservation organizations. Our committee has relied on their wise and nonpartisan advice many times in the past.

I have asked the directors of these organizations to advise the committee on the quality of the reorganization effort, and on the worth of the final proposal.

Last week, President Carter announced that he intends to ask Congress to help him create a Department of Natural Resources. This department would include the U.S. Forest Service from the Department of Agriculture, and the National Oceanographic and Atmospheric Administration from the Commerce Department. These two agencies would be added to a renamed Department of Interior. Further, there are unspecified plans to reorganize agencies presently within the Interior Department.

Mr. President, I ask that a letter by the executive vice president of the National Association of Conservation Districts to the Vice President, and a letter from the executive vice president of the American Forestry Association to the committee, and an editorial from American Forests magazine be printed in the RECORD.

The material follows:

FEBRUARY 9, 1979.

The VICE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. MONDALE: We are aware that you and your staff are currently studying the various options open to the President for reorganization of the natural resource functions of the federal government. It is our privilege to give you our views. We have previously made them known to the President, Mr. Wellford, and Mr. Harsch. On the assumption that such correspondence is not widely circulated in the White House, we have enclosed copies for your reference.

Conservation district officials across the Nation are sincerely concerned about the future of the soil and water conservation programs on the non-federal lands. These lands—some two-thirds of the country—produce nearly all our food, most of our forest produce, and provide much of the basis for the daily quality of life enjoyed by Americans. Private lands are under particularly heavy stress right now, for many reasons, and need a vigorous national conservation program more than ever before.

The President's Natural Resources Reorganization staff did not give private lands—or the programs that serve them—any real study. Their focus was on the federal lands, the federal water-development programs, and similar federal functions. They started with the idea of expanding Interior, and worked to that end.

We have talked at length with Mr. Harsch and his staff. Our points were as follows:

1. Soil and water conservation programs need decentralized management in order to meet the multiplicity of social and environmental conditions in a vast and complex nation. This argues for a USDA-style organizational approach, rather than the more centralized USDI style. NACD's first choice—and current policy—favors leaving the natural resource functions of USDA intact and, preferably, strengthening them by the addition of such agencies as the new Office of Surface Mining, the Bureau of Land Management, and the Geological Survey—all of which could be improved in both efficiency and effectiveness if they were operated in a decentralized, field-based organization with close ties to state and local government.

2. NACD's second choice—and one not supported by current NACD policy—would be to move the entire conservation program into a new DNR. This would involve moving not only SCS, but also the conservation cost-sharing programs of ASCS, the soil and water conservation research of SEA, and others. There are terrific problems with this, including the maintenance of agreements and ties with Land Grant Universities and the basic relationship of the conservation programs to farmers, ranchers and foresters. The point here, however, is that if you are going to move part of the soil and water conservation program, and still have a functioning program, you must move it all.

3. Our last choice—and the only one that is clearly unacceptable to our members under any circumstance—is the partial movement of the USDA natural resource functions to DNR. This would weaken the remaining natural resource programs in USDA to the point where they could not survive, without creating anything in DNR to replace them. This is the proposal of the PRP staff, and it is unthinkable.

We have expressed this policy consistently. We hear now that the PRP staff is saying that NACD supports the move of Forest Service and SCS to DNR. They know—and you should know—that we only see that as a better alternative than the one they now propose. It is not our preference, nor is it supported by current NACD policy.

If the current DNR proposal goes forward, we will join with other groups to fight it as vigorously as possible. At this point, we feel we have 70+ votes against it in the Senate. We will not negotiate minor points with the PRP staff once a proposal goes to the Hill. We have seen, for two years, our suggestions being put off and finally ignored. If a proposal goes to the Hill, we will respond to its original merits.

We would like to make one final point, if we might. The natural resource programs of the federal government are suffering considerably because of the reorganization effort. Not for what has been done or not done to change agency alignments, but because of the uncertainty that has characterized the past two years.

Consider the costs. The PRP staff has worked for two years, yet not developed anything that is conceptually or analytically different from what was produced by the Ash Commission or, for that matter, the Hoover Commission. I was working with Don Price at Harvard on this same set of ideas in 1973–74. In other words, two staff people and one rewrite editor could have done the entire job in three weeks.

In the agencies, the amount of staff scurrying, paper-writing, and wall-building has been fantastic. How much time has been diverted from the agency missions? No one knows, of course, but considerable.

The public interest groups, like our own, have been treading water as well. We have held back badly needed constructive criticism of some programs simply because we did not wish it to be misconstrued and fuel the reorganization arguments. Other organizations have done the same.

As a result, government is not getting the benefit of knowledgeable critical review that it might. Mr. Carter's attempt to improve this aspect of government has, because of delay and uncertainty, backfired.

We appreciate the difficulty in the choices the President now faces. If he sends the DNR proposal to Congress, it will precipitate a tough political fight. Its chances for success are slim. For the duration of the battle—and through the settling period thereafter—the programs will continue to suffer.

The PRP staff looked at large national issues, and the big program or agency boxes. They made a big proposal—one that has been rejected several times in the past, and for good reason. If Mr. Carter is serious about improving the natural resource programs of the Federal Government, we recommend that he consider:

1. Clearly rejecting the DNR study, in order to allow the agencies to go back to doing what they are supposed to do;

2. Completely re-starting the reorganization study by ordering it to look not at the national boxes to be moved, but at the actual effectiveness of limited-objective efforts within the big boxes. It is here that the reorganization authority can be used to make small but significant improvements that would not be politically possible any other way. The only way this will work, however, is to get staff on board that concentrate on how programs work rather than how "manageable" they are in Washington.

3. Proposing "small" reorganizations to improve one spectrum of programs at a time.

We are convinced that such a strategy—although radically different from the one utilized to date—would achieve substantive improvement in federal programs rather than the depressing effect we now see. It would also, we are convinced, save Mr. Carter from some bitter political fights.

The President is implementing a new Water Policy, bringing major improvements in that aspect of natural resources action. The Resources Conservation Act study currently underway in USDA will provide insights into the needs of the conservation program. Mr. Carter can claim real progress on natural resources policy without reorganization.

Thank you for this opportunity to present our views. We wish you well as you deal with the difficult decisions before you.

Sincerely,

NEIL SAMPSON,
Executive Vice President.

AMERICAN FORESTRY ASSOCIATION,
Washington, D.C., March 7, 1979.

This is in response to your request for the comments of The American Forestry Association on the Staff Analyses for Natural Resources Reorganization dated December 16, 1978 and the announcement of the President's decision on March 1, 1979.

It should be understood that the Board of Directors of The American Forestry Association has supported in principle the concept of consolidating natural resource functions into one new department by a comprehensive reorganization of all natural resource functions to form one truly new department. AFA has strongly opposed the transfer of the Forest Service and/or portions of the Soil Conservation Service to the Department of the Interior with or without a change in name of the new department. Attached is a copy of the views of AFA's President, Dr. Carl H. Reidel, as expressed in the February issue of *American Forests*. AFA has also worked closely with the President's reorganization project personnel in an effort to aid in developing an effective reorganization plan that would bring about improvements in efficiency, in coordination of programs, in the delivery systems of the several agencies having responsibility for conducting the federal responsibility in research, in cooperative forestry programs, and in managing public lands. We see no indication in the staff proposal or the final decision that our recommendations were persuasive. We have concluded that we cannot support the plan that is now being prepared for transmission to Congress. Therefore, we appreciate the opportunity to present our views of the proposal to create a Department of Natural Resources.

The basic premises seems to be that the federal responsibility in managing natural resources on lands held in public trust, for protecting the environment, and for wise use of all resources including lands, oceans, inland waters and the atmosphere, should be neatly structured so that one cabinet officer can effectively control both the development and preservation of all natural resources. It is an historical fact that complex and often conflicting responsibilities of the Executive Branch have evolved with the passage of many different legislative authorities. But it is a fact that the apparent untidiness evolved from a felt-need of the time and with the aid of constituency. It is also true that coordination at the cabinet level is often more difficult because conflicting views develop among different departments and agencies on how best to balance competing claims for the use of public lands and differing assessments of economic and social consequences of federal policies and decisions on the private sector. We believe, however, that it is not proper for any executive department to be in a position to make those judgments unilaterally or to stifle different viewpoints within the Administration. We believe that what is depicted as an untidy organization, tends to assure that competing demands and differing perceptions of long-range needs are surfaced within the Executive Branch of government. Furthermore, the responsibility of the department lies in efficiently executing legislative mandates rather than choosing which laws meet the program criteria of any sitting administration. A strong case can be made, therefore, for some untidiness in department and agency structure. The test of governmental effectiveness ought to relate to the efficiency of the delivery system from the bottom up and its responsiveness to legislative mandates rather than the apparent tidiness of organizational charts viewed from the top down. Cabinet officers should be expected to manage conflict rather than to suppress it.

Of special concern is the proposal to create within the Office of the Secretary of the Department of Natural Resources four operating administrations with responsibility for executing "discrete portions" of the Department's responsibilities. These administrations would be "primary operating units" responsible for ocean and atmospheric resources; land resources; resource science and data monitoring; parks, recreation, heritage and wildlife. Each administration would therefore have a functional orientation. The administrations' purpose would presumably be to analyze policy and program direction for the individual functional areas. The advantage of the administration concept is reported to be one of freeing up subordinate levels, we assume at the agency level, for programatic activities. We are concerned that with this proposal, the agencies would cease being advocates for their specific areas of responsibility under existing laws and become functionaries executing programs as approved by the four administrations and would receive funding via pass-through procedures from the administrations. The proposal also makes reference to the possibility of establishing "new subordinate frameworks" when realignment is clearly required or to build on excellence of a particular existing entity. We assume this means that the agency structure may be realigned in arrangements parallel to the functional administrations. Thus, research, data collection and monitoring might be segregated from an agency such as the Forest Service, Fish and Wildlife Service, and others. Similarly, the Parks, Recreation, Heritage and Wildlife administration might conclude that greater efficiencies were possible by consolidating portions of the National Parks, National Recreation Areas, Wild and Scenic Rivers, developed recreation areas, wildlife management functions of the several land managing agencies into a super entity. We oppose the concept of separating research from the action agencies or segregating resource uses from the land managing agencies. Previously, proposals have been offered to assign to the National Park Service the parks and recreation activities, wildlife activities to the Fish and Wildlife Service, timber management activities to the Forest Service, range management activities to the BLM, etc. Those proposals have been repeatedly rejected because they would produce chaotic overlaps of responsibility and be extremely wasteful of both monetary and natural resources.

An especially disturbing aspect of the study is that the proposal was developed without fully considering the impact of reorganization on the actual delivery system, namely the field structure of the several agencies. Those decisions are to be deferred until the many policies, method, and procedures are developed. This is a critical weakness that has been identified to the study team repeatedly and its uncertain treatment in the proposal highlights the shallow nature of the analysis. Too many vital questions affecting the lives of every citizen are left unanswered.

One of the benefits attributed to the reorganization is the savings of approximately $100 million dollars and the reduction of 2,000 positions. We have no basis for judging the adequacy of this estimate because the assumptions and data are not presented. But, we are highly skeptical. The uncertainty created by this reorganization study has already been a disruptive influence on the morale of several agencies, not to mention the cost and manpower impact on each agency providing information to the Task Force. We believe the reorganization plan, if implemented, would result in a serious disruption of programs for a period of three to five years during the transition and would cost much more than the estimated savings in terms of disrupted programs, changes in operating procedures, movement of personnel and administrative headquarters, drafting regulations to accommodate changes in policy and procedure, not to mention the fact that every sign on all public lands, one-third of the land base of the United States, would have to be replaced to recognize the new Department's name and symbol.

The staff analysis contains a number of apparent ambiguities. For instance, the Forest Service would be transferred intact and melded with the Bureau of Land Management. The Forest Service is recognized as a "center of excellence." The two agencies would be consolidated in a new, unified public land management component in the DNR. What does this mean in terms of closures of regional, state, National Forest or district offices? And, what is the cost and local impact? Through departmental level leadership, the staff and service functions within the four land managing agencies, BLM, FS, Fish and Wildlife Service, and the National Park Service, would be shared. The idea of sharing staff services is attractive on the surface, but it has limited potential, in our view, beyond the level of cooperation that is currently being accomplished among the agencies. Each agency has its assigned mission and has developed staff competence in areas of spacial scientific disciplines to accomplish their mission. Because the agencies have been sharply constrained from hiring for the last decade, the land managing agencies are poorly staffed to meet their individual needs and are unable to share any significant number of staff resources. While the study plan states that the Forest Service would be moved intact, it is clear that the basic objective is to consolidate into one department the administration of federal lands held in public trust. There is no clear indication that the responsibility for cooperative forestry programs for which the Secretary of Agriculture is responsible through the Forest Service has any serious role to play in the new Department. Leadership of the Natural Resources Task Force has stated that in the event of opposition to the proposal by the Agriculture Committees in Congress, the state and private forestry and research functions of the Forest Service would be forfeited. In that event, to consolidate the administration of federally-owned lands, the federal responsibility for programs affecting two-thirds of the forest lands in the United States would be segregated, presumably to be absorbed by some departmental restructuring in Agriculture. The Fiscal Year 1980 budget proposal reinforces the notion that newly enacted legislation in the last session of Congress for state and private forestry, forest research, and extension activities may suffer from neglect and/or eventual termination.

Having studied the benefits attributed to a new department, we believe that the experience with the Department of the Interior (and one could identify other departments, as well) clearly demonstrates that the benefits are more theoretical than real. Agencies, such as the Park Service, the Fish and Wildlife Service, and the Bureau of Land Management, have quite different missions. While the Secretary of the Interior has responsibility for the coordination of those agencies, there have been bitter internecine struggles between those agencies, as is fully to be expected. We believe the public interest is best served by strong advocacy within a department by the agencies having different perceptions of the natural resource world and different areas of expertise. While it may complicate the role of the cabinet officer, diversity of opinion is a fundamental to sound, long-range resource decisions. We do not believe that those intellectual, competitive forces should be suppressed. One of the strange anomalies in the analysis is that the diversity and integrity of natural ecosystems can best be protected by the elimination of diversity of opinion among the agencies responsible for those changing needs and has demonstrated that, with the proper leadership, it can continue to serve the American public well.

The American Forestry Association believes that the Department of Agriculture has a long history of effectively managing and protecting natural resources in both the public and private sectors. It has the dominant role in the federal system for renewable natural resources. Over time it has developed a research organization and extension capability that is essential to the wise and efficient management of all renewable natural resources. It has demonstrated a capability and a willingness to balance the protection of the environment with the production requirements of our changing economic and social values.

In our judgment, all of the benefits attributable to a Department of Natural Resources could be achieved by the consolidation of renewable natural resources with the Department of Agriculture, and we strongly recommended to the study team that the option of creating a Department of Agriculture and Natural Resources be given serious consideration. The Study Team brushed aside that option with very cursory treatment. We trust that Congress will insist on a careful evaluation of all of the options if major changes in structure of the federal responsibility for natural resources to move forward.

Finally, we are concerned that advocates within the Administration for the Department of Natural Resources are implying that there is no serious opposition to the plan except by the timber interests. That simply is not true. We include for your perusal a partial listing of organizations and individuals, including members of Congress, who are on record in opposition to the Department of Natural Resources plan.

We appreciate this opportunity to present our general views on the natural resources proposal.

Sincerely,

REXFORD A. RESLER,
Executive Vice President.

REORGANIZATION RECONSIDERED

Once again the nation is being asked to consider plans for major reorganization of federal natural-resource agencies. Anticipating such an initiative from the Carter Administration, the AFA Board of Directors reconsidered its position on reorganization at the October meeting in Hot Springs, and voted to reaffirm our long-standing resolution in support of truly comprehensive organizational reform:

The Board of Directors of The American Forestry Association supports in principle a Department of Natural Resources, combining into one new Department existing functions of the Department of the Interior, major components of the Department of Agriculture including the Forest Service and the Soil Conservation Service, and the civil-works functions of the Corps of Engineers. The Board voices strong opposition, however, to the transfer of the Forest Service to the Department of the Interior with or without a change in name. The American Forestry Association opposes reorganization unless the new Department of Natural Resources is made wholly comprehensive by combining all related natural resources into one new department.

It is imperative, however, that there are no doubts about what is meant in the resolution by a wholly comprehensive and new Department of Natural Resources. These are the standards by which any reorganization proposal will be tested before gaining the support of The American Forestry Association.

To be comprehensive, a new department must encompass the full spectrum of federal conservation programs. Sound natural-resource management requires balanced and coordinated programs of research, public-lands management, state and private cooperation, and extension education. Unless a new department includes all of these essential components, it will fail to serve the needs of a nation in which resource management is a shared responsibility of government, industry, and individual landowners working together.

In keeping with this principle, we will insist that the integrity of the present Forest Service mission be kept fully intact within any new department. This agency's integrated organization of management, research, and state and private cooperation provides a proven model for other bureau programs in any new department—for water, parks and heritage preservation, minerals, and wildlife management. In addition, conservation education must be a central mission of any new department. This will require establishment of a new natural-resources extension education program if a new department does not include the present Cooperative Extension Service.

To be comprehensive, a new department must be organized on the principle of multiple-resource land management—not on the basis of functional single-use agencies.

Organization must reflect our nation's complex mosaic of ecological patterns and resource uses, sensitive to the needs of people and the natural limits of the land. Simplistic schemes suggesting separate agencies for water, timber management, grazing, recreation, and wildlife ignore the reality of a nation composed of diverse regions with unique land-use patterns and distinctive social and environmental problems.

Centralized, functional bureaus may seem "efficient" in theory but have never proven effective in practice. The challenge of reorganization is to devise enlightened ways to coordinate diverse land and water management programs—not to further isolate functional resource agencies.

To be comprehensive, a new department must be genuinely new—not a renamed Department of the Interior. A new department will need the broadest possible public support and confidence. Gaining such confidence will require an honest commitment to resource development and environment protection, a balanced program of land use and preservation. Such balance, we believe, will require a wholly new department encompassing all of the resource programs of the present departments of Agriculture and Interior, as well as components of Commerce and Defense. If an existing department is to be the core of a new department, it seems logical that the Department of Agriculture is most appropriate. Forestry and water management policy is inseparable from overall rural land policy, requiring coordinated administration at the federal level. Merely shifting a few functional agencies to a renamed Department of the Interior would fall far short of genuine reform.

The benefits of reorganization must be clearly identified in terms of more effective and efficient resource management and weighed against the significant costs of restructuring government. It is doubtful that existing Presidential reorganization authority is adequate to achieve the kind of comprehensive reforms needed. It surely does not provide sufficient time for careful Congressional review of broad public discussion.

As affirmed in our Resolution, AFA is prepared to support and to participate in a comprehensive reorganization effort. We will insist on the principles outlined in this editorial. We will consider all proposals with an open mind, but we will not compromise on these standards.

The "staff analysis for natural-resources reorganization" issued by the administration's study team in December falls far short of these standards, offering only piecemeal reorganization. We hope that the President will offer the nation a broader vision for future reform.

History is on our side in demanding high standards and true reform. Too many plans for reorganization have failed in the past because they served political expediency and the whims of a few power brokers. We cannot afford to divert time and attention from the critical environmental problems facing the nation to play that game again.

This time we must set our standards high and have the courage and commitment to do the job right!

Mr. TALMADGE. Even a casual reader of this material will see that these organizations are not putting up mere mindless opposition to the reorganization proposal. Their concerns are substantive. They offer alternatives. Their advice should be heeded.●

A TRIBUTE TO DEWEY F. BARTLETT, A CHRISTIAN GENTLEMAN

● Mr. LUGAR. Mr. President, Dewey Bartlett was a remarkable public servant. He recognized the good which could come from successful public policy. He possessed remarkable intelligence and physical strength and devoted his energies to the discovery of better ways and means in which the citizens of the United States of America might enjoy the great potential of their country and learn how to cope with domestic and foreign hazards to our country.

Dewey Bartlett was an able legislator and a most successful chief executive in Oklahoma.

He understood the important relationships of local, State, and Federal Governments and the remarkable opportunities which our system of federalism provides. He was a champion of strong national defense and recognized the preeminent position which the Federal Government must play in matters of defense. At the same time, he knew that the vital energy resources on which the economic and military strength of the United States depends could be unleashed only through individual decisionmaking and private enterprises. He was a champion of market economics and the strong incentives which free markets present to citizens exercising political and economic freedom.

His advocacy of freedom was sophisticated. He illustrated in his statements on the floor of the Senate and in the committees which he served that he understood the necessary relationships of freedom and regulation and the movement along a spectrum which is bounded by those poles.

I found his arguments to be persuasive because his preparation was sound. Even more to the heart of the matter, I knew that when Dewey Bartlett spoke to me, he was attempting to tell the truth as completely as he could find words and illustrations to do so.

Because I shared tens of Wednesday Senate Prayer Breakfast meetings with Dewey Bartlett and knew something of the evolution of his faith and of his priorities for living well, I trusted Dewey Bartlett and that trust was well founded.

Each one of us who counted Dewey Bartlett as a friend has been moved very deeply during the past 2 years as he fought the spread of cancer. We know much about his pain and his suffering. Because Dewey was able to share many of his most intimate thoughts and reflections with us, we are stronger men and women for having known him and having prayed for him.

In return, he prayed for each of us as dear friends, as servants of the best interests of the United States, and for the strength and vitality of the future of the United States of America.

Dewey Bartlett was a Christian gentleman who meant much to the first Congress in which I was privileged to serve. I miss his friendship and his encouragement very deeply.

I admire Dewey's wife, Ann, and his three children, Dewey Jr., Joan, and Michael because they have great talents as individual human beings and have demonstrated a great capacity for love and for service. The Bartlett family will continue to make a significant difference in the life of this country.●

SALT II

Mr. GLENN. Mr. President, we face an imminent and important debate in this Chamber regarding the SALT II Treaty. Much press speculation centers on that future debate and deals in cliches regarding ideological battlelines. I reject that oversimplification. Moreover, recent Roper, CBS, and New York Times polls show relatively small public differences between liberals and conservatives on SALT. I think most Members will ultimately determine their vote on the SALT II Treaty by whether that treaty advances or endangers U.S. security, with particular emphasis on the verification aspects thereof. That, in my judgment, is the correct criteria.

One of the themes we hear repeated endlessly is the strong public support for a SALT agreement. Currently, 81 percent of the public favors a SALT Treaty and the ratio has been about 3-to-1 since 1975. Overwhelming as that 81 percent appears, the same poll shows that only 20 some percent of the American people, as I recall, have any degree of trust in the Soviet Union.

Comparable polls, however, confirm a perception of declining American military strength. Therefore, the crucial issue is whether the Soviet Union can be trusted to honestly keep the agreement negotiated. This is the reason, as my colleagues know, that I have been closely examining our ability to verify the terms of the treaty. When the SALT debate begins, I expect to discuss at length the problems of verification. At the moment, verification seems severely handicapped by the loss of monitoring stations in Iran. Our ability to verify Soviet compliance has been eroded and there is simply no easy way to fully regain the "intelligence take" loss in Iran.

Another issue of major importance in Soviet international behavior: There are tacit "rules of the game" that the Soviets are pushing to the limit in various global trouble spots. I have repeatedly told administration officials, including the President, that most Senators share my concern over Soviet use of Cuban and East German proxies in Africa, subversion and the emergence of Soviet-leaning governments in the Middle East, the unabated massive buildup of Soviet conventional military power in Europe that has altered the NATO military balance while we fought in Vietnam, and steady growth in Soviet strategic weapons delivery systems—now in a fifth generation. Linkage is a fact of real politics, despite administration disclaimers. Are we to ratify a SALT Treaty while U.S. power and influence erodes worldwide? If we do, we must insure that every provision enhances our security. Such a treaty, accompanied by adequate verification, can lead to the building of mutual trust. Conversely, Senate approval of an unequal and unverifiable treaty will sound an alarm bell that will reverberate around the world.

Most citizens do not have access to classified information, and given the complexity of weighing the strategic balance, it is incumbent upon Members of the Senate to scrutinize this upcoming treaty carefully and put the issues in public perspective. In light of our obligation to the public, I would like to commend an article by Senator William Cohen. Although Bill Cohen is a new Member of the Senate, his incisive comments on SALT and his diligent and penetrating work during our trip to East Asia in January, convince me that he will be a valuable Member.

In his commentary, Senator Cohen places the expected SALT Treaty in a broader context, thereby explaining the seeming paradox of a possible Senate defeat of the Treaty despite massive public support for a strategic arms limitation agreement. Significantly, he recognizes the important reality of perceptions in international politics.

Finally, he raises serious questions that we shall have to analyze if a SALT Treaty is sent to the Senate. Following his own advice, he avoids generalities and focuses on specific issues. It is this type of critical analysis that deserves commendation. I am confident that such searching inquiry will contribute to the Senate's consideration of any SALT Treaty submitted to us. I, therefore, ask that Senator Cohen's essay be printed in the Record.

The essay follows:

SALT Debate: Those Missing Signals of Strength

(By William S. Cohen)

The public-opinion polls declare that the overwhelming majority of the American people support a strategic arms limitation agreement. Our allies, we are told, support the proposed treaty "as they understand it." Why, then, is there a possibility that the Senate might reject the treaty?

The short, but not the only answer is that there is a deep-rooted belief that our pursuit of peace and world stability—call it détente or SALT I—has been a unilateral exercise in self-deception and that a continuation of our present policies will place us on the irreversible curve of decline—the ultimate consequence of which will be to stand in the shadow of a Soviet Union first-strike capability and capitulate rather than risk the instant liquidation of more than 100 million Americans.

This fear may be unfounded. But it exists and will not be removed by earnest declarations that we are strategically equal or by waving public opinion polls in the Senate's face.

In my judgment, the arms-control treaty will not and should not be considered splendid isolation, without regard to the current state of world events. In the harsh realities of geopolitical strategy, the perceptions of power is as important as its possession.

Currently, the United States appears to be a country wracked by indecision, paralyzed by self-doubt and unable to reach a consensus on any of the major domestic or international problems that confront it. We seem to be making policy decisions on a daily basis, back pedaling, accommodating the exigencies of the moment. While we engage in the process of adjusting to shifting world realities, the Soviet Union, whose nature it it is to abhor a vacuum in policy or willpower, is aggressively and arrogantly exploiting, if not, inciting, turmoil throughout the world. As a result, major political realignments are now either under consideration or under way.

The response to the centrifugal force of events is not to blindly reject a proposed treaty and pound our nuclear chest. However, the debate needs some direct answers to nagging doubts instead of a public-relations campaign and a presidential roadshow filled with glittering and deceptive generalities. President Carter's declaration that the United States and the Soviet Union will have the same number of strategic weapons and, therefore, are equal is, to be charitable, simplistic at best and misleading at worst. The notion that we have taken a major step toward reducing the arms race by securing the destruction of 250 Soviet launchers should be of comfort only to the hopelessly naive.

Initially, the administration will have the burden of dispelling the appearance that we have been placed at a present or future disadvantage by a series of unilateral concessions. It will have to be explained why we would agree to a protocol that in practical effect places limits only on the United States; why the Backfire bomber is not included within the treaty limits; and why the Soviets are permitted to maintain their large ballistic missiles while we are precluded from producing any.

But more important, either the administration should clarify the course of our strategic plans for the future *before* the debate on ratification takes place or the Senate should delay the debate until a clarification and irreversible commitment to a plan is produced. It is not enough, for example, to declare that we need a mobile-missile system (MX) and then delay a decision on the appropriate launching mode, thereby leaving open the possibility that the Soviets could object to a future decision as a violation of SALT. This decision must be made before the ratification process begins, not after.

Once Congress is satisfied that we do have a program that will provide true strategic equivalence, it should then appropriate the money necessary and not tolerate any delays or deferments in the production and deployment of those systems to which we are clearly committed.

This may not remove all of the objections to SALT II, but it will send a strong signal to the American people and to our allies that we no longer intend to listen to the siren song of Soviet good intentions, that we are serious in reversing the course of strategic decline that we have been following and that we are committed to pursuing world peace through a program of strength.

THE WORLD'S HOMELESS PEOPLE

● Mr. MATHIAS. Mr. President, earlier today I spoke of America as being a nation of immigrants. We often forget that to a remarkable degree we are also a nation of refugees. We have a proud heritage of holding our doors open to the victims of oppression.

Through our refugee assistance and resettlement programs, we have been able to assist not only the oppressed and homeless Indochinese who are desperately trying to escape the pressures of a totalitarian system, but also Soviet and South African refugees alike.

Senator Edward M. Kennedy, the distinguished chairman of the Senate Judiciary Committee, has written an important article on this issue which appeared in the March 4 issue of Newsday. It is entitled "The World's Homeless People." Mr. Kennedy reminds us that—

> Our society really ignores the far more important benefit that refugees and all migrants contribute to our country—the richness in culture and diversity that continues one of the oldest traditions in our nation's history.

Mr. Kennedy also reminds us that our current policy toward refugee assistance has been inconsistent in the past and is in need of careful examination and review.

The Senate Judiciary Committee will hold hearings this week on world refugee issues. Mr. Kennedy's article is a timely contribution to our deliberations. I ask that it be printed in the Record. The article follows:

The World's Homeless People

(By Edward M. Kennedy)

Few human dramas are more compelling, or more revealing of the troubled times in which we live than the plight of millions of refugees around the world. The recent exodus of ethnic Chinese refugees from Vietnam, which has contributed to today's raging conflict between China and Vietnam, is but one frightening example of how massive refugee movements can unbalance peace and stability in the world.

There are few greater tests of the democratic and humanitarian ideals for which we stand than how we respond to the needs of the world's displaced people. And there is no more basic human rights issue than the protection of refugees.

Refugees have become a worldwide phenomenon—of countless men, women and children forced to leave their homes for as many reasons as there are behind the violence and conflict among people and nations. Yet today this drama is of greater and more pressing dimension than at anytime in recent years—and we may hope, in years to come.

There are now more refugees needing homes in new countries than since the worst days after World War II.

We know this because we see their tired, sad, weary images on our televisions and in our newspaper. Whether they be the "boat refugees" fleeing the upheavals in Indochina, refugees in southern Africa fleeing racism or guerrilla war; or Soviet Jews and Eastern Europeans seeking the promise of the Helsinki accords, their plight is known to us.

What is less understood is what we are doing and could do to help, how other countries are responding, and what more needs to be done.

To review some of these issues, I will conduct a hearing before the Senate Judiciary Committee next week on world refugee problems to reform American refugee assistance and resettlement programs, and to receive the first testimony of former Sen. Dick Clark (D-Iowa), recently appointed U.S. coordinator for refugee affairs. Who is responding to the refugee problem? Take the case of the current flow of Indochinese refugees. The United States has not and is not expected to accept an unlimited number of refugees from Indochina, even though we clearly have a special obligation after years of involvement with, and close ties to, the people of Vietnam, Laos and Cambodia.

Excluding the 135,000 people we unilaterally evacuated from Indochina in 1975, the United States today is third in the per capita number of refugees and boat people we have resettled since the problem became an international responsibility of the United Nations High Commissioner for Refugees (UNHCR).

Both Australia and France are far ahead of us in accepting Indochinese refugees. Since June, 1975, Australia has resettled 104 refugees and France 61 refugees per 100,000 of their population. The United States has resettled only 25 refugees per 100,000 population, or just ahead of the number Norway, Belgium and New Zealand have taken.

Many countries have been doing their share in meeting the resettlement needs of Indochinese refugees—even as we all recognize that much more still needs to be done. Also, we must acknowledge the special refugee burdens some countries are carrying in assisting or accepting refugees, other than those from Indochina.

For even as we stress that we accept thousands of refugees from other areas, many countries are resettling or providing safehaven for large numbers of refugees—such as the 200,000 African refugees accepted in recent years by Tanzania, one of the 25 poorest countries in the world, which nonetheless has a remarkable record of hospitality toward refugees.

Countries such as Israel, Germany and Britain have responded to the resettlement needs of thousands of certain ethnic refugees for whom they feel they have a special responsibility.

So the United States is one of many countries accepting refugees, although we do have a proud record of permanently accepting the largest number of the world's refugees over the past several decades.

The cost of resettling refugees is not as great as sometimes imagined. Official figures, for example, on Indochinese refugees suggested that it costs the United States approximately $2,000 to $3,000 per Indochinese refugee for transportation to the United States, voluntary agency support, and initial settlement costs incurred by state and local governments.

And experience shows that in short order they repay in taxes and contributions to our society far more than ever spent on their behalf. As refugees begin to lead normal lives and become productive citizens, they also have a record of enriching our society and economy—as in the case of the Cuban refugees in the 1960s, who revitalized the economy of Florida and have contributed to our nation in countless other ways, or the European Jews who came here to flee the Nazis or, more recently, refugees from the Soviet Union.

The recent experience of the Indochinese refugees largely parallels the record of most refugees who have come to our shores. Despite the many hurdles they have faced—linguistic, cultural and economic—these refugees have done remarkably well. Their employment rate since 1975 has been consistently above the national average. By the end of last year, the Indochinese refugee employment rate was 94.9 per cent, compared to the national average of 94.5 per cent. This high employment rate is a tribute to their energies and their persistent efforts to find work, even "entry level" jobs or several jobs.

Only 11 per cent of the Indochinese refugees are on general welfare. Most receive supplemental support just for a short period as they find jobs and attempt to adjust to the complexities of American society.

Of course this record of economic accomplishment and cost-benefit to our society really ignores the far more important benefit that refugees, and all migrants, contribute to our country—the richness in culture and diversity that continues one of the oldest traditions in our nation's history.

We are able to continue this tradition without opening the "floodgates" as sometimes feared, because their relative numbers are small. Refugees who have come to the United States over the past three decades—about 40,000 a year—represent only about 10 per cent of our annual legal immigration, and not even a drop in the bucket compared to undocumentated migration to the United States each year.

The numbers are small also in comparison to their importance to our international responsibilities and national interests. For example, the 10,000 or so Soviet Jews we have resettled in the United States each year reflects our strong diplomacy in support of human rights, and our policy to encourage the freer movement of people throughout the world. For us to do less than we have would not only seriously compromise the Helsinki agreement with the Soviets, but also be a betrayal of our deep concern for the desperate plight of many Soviet Jews and their families in the United States.

In fact, it is inexcusable today that we are in serious default of this commitment. Immigration numbers for Soviet Jews have become totally inadequate, and there is a backlog of some 8,000 Soviet refugees in transit centers in Rome, causing needless personal hardship for thousands of families and vastly increased costs.

Given the small numbers involved, it would be tragic if we failed to live up to our commitment to human rights for refugees; to the Helsinki accords; and to the reunion of families.

The flow of refugees to the United States has never been a seriously disruptive population factor, even during periods of occasional emergencies when larger numbers have been resettled. The total impact has been minor compared to the total migration into our country. The United States can clearly do more.

By far the greater part of U.S. assistance to refugees is in the form of relief to refugees overseas—such as today's refugees from Zimbabawe in southern Africa, or Cypriot refugees, or displaced persons in Lebanon. These are programs of humanitarian assistance and do not require resettlement to a third country. They help assure that refugees will be granted temporary asylum until they can return to their homes or until conditions stabilize.

Of the millions of refugees across the globe, relatively few need resettlement outside their region. For example, of the close to 1 million refugees in Africa—from 250,000 Ethiopian refugees in the Sudan, or 150,000 Burundi refugees in Tanzania, or 400,000 Angolan refugees in Ziare—they basically require assistance until conditions permit their return to their homelands, or until they are permitted to find local settlement.

Our dollar support of refugee programs overseas amounts to about $500 million in recent years. And while this support is generous and crucial to many refugee programs, the United States is only one among many contributors. We contribute about one third of the total budget of the UN High Commissioner for Refugees.

Also, the costs incurred by host governments generally far outpace whatever international support we or others may offer. Israel, for example, has always received contributions from abroad to help it cope with the steady influx of Soviet and Eastern European refugees, but the greatest resettlement cost is inevitably borne by the Israeli government.

Another example is Thailand, where the presence of some 135,000 Indochinese refugees pose heavy economy, social and political burdens. Although Thailand is not a signatory to the UN Convention and Protocol Relating to the Status of Refugees, it has nonetheless lived up to the spirit of this international humanitarian agreement—despite some understandable grumbling.

The Thais have received international and American support, since the temporary care and maintenance of the refugees falls under the mandate of the UNHCR. But Thailand ultimately will bear the burden of settling many—perhaps about 70,000 Laotian and Cambodian refugees—within Thailand, at an estimated cost of $100 million over three years.

The UNHCR, the United States and Japan have offered rural development assistance to help the Thais integrate these refugees into the rural economy of northeast Thailand, while also benefiting local Thais as well. But Thailand, like most developing countries that receive refugees, will nonetheless carry a cost proportionately greater than if we or Western European countries were to resettle refugees.

Again, this reinforces a point sometimes forgotten by many Americans, that many countries have jointed the effort, in differing ways, to assist refugees—including some developing countries which can afford it least.

It also underscores the fact that we cannot expect other countries to respond to the needs of refugees unless we also prove we are willing to provide assistance and homes, when necessary.

The United States has a record of accomplishment in offering a helping hand to refugees. We can be proud of this record. Over many years, we have responded generously and compassionately to the needs of homeless people, and our national policy of welcome has served our country and our traditions well.

But for too long our policy toward refugee assistance had been ad hoc and has lacked effective planning and efficient programing. We have admitted refugees in fits and starts, because our immigration law has been inadequate, discriminatory and totally out of touch with today's needs.

The need for this immigration reform is now widely recognized, and there is every prospect that Congress will favorably consider legislation this year to amend the refugee provisions of the Immigration and Nationality Act of 1952, and establish a clearly understood policy governing the admission and assistance of refugees.

The agenda for action is clear and, I believe, long overdue.

First, we must update our laws governing the resettlement of refugees in the United States, to help insure greater equity in our treatment of refugees and to establish a more orderly procedure for their admission and resettlement in our country in reasonable numbers. A bill I have introduced in Congress repeatedly since 1969 would accomplish this goal, and it will soon be pending before the Senate Judiciary Committee, of which I serve as chairman.

Second, we must recognize the mechanisms within our government responsible for assisting refugees—both at home and overseas. Again, legislation pending before the judiciary Committee will accomplish this goal, and save tax dollars for refugees by streamlining and centralizing control of programs within the State Department and other agencies.

Also, the prospects for rationalizing our nation's policy toward refugee assistance and resettlement has been given a strong boost with the recent appointment of former Sen. Clark to be the President's special U.S. Coordinator for Refugee Affairs. The creation of this office, with the rank of ambassador-at-large within the State Department, will provide a focal point for all refugee concerns at a high level of government.

Finally, we must state again that America will always keep our door open to refugees. For the dispossessed and homeless of the world, the Statute of Liberty means more than just a symbol of a new life, it may mean life itself.

Just ask Doan Vinh Dang, age 24, one of only four survivors out of a family of 14. Now living in a Washington suburb, Dang recently recounted the grim story of his boat trip from Vietnam—a journey that took the lives of 10 family members.

On the 10th day of their trip a baby was born. By the 17th day the baby was dead. On the 21st day, the next youngest son died and was buried, like the others, at sea.

By the 25th day the fourth son and his three children, ages 2, 4, and 6, also died from exposure and the lack of food and water. Dang was so weak it was almost impossible to push the bodies over the side of the boat.

Dang's story is only a graphic reminder of the great risks and desperate needs of all refugees, and their strong claim upon the attention and concern of the American people. We must, and we can, be generous in our response.

As President John Kennedy wrote in "A Nation of Immigrants," our immigration policy "should be generous; it should be fair; it should be flexible. With such a policy we can turn to the world, and to our own past, with clean hands and a clear conscience." ●

WHEAT EXPORTING COUNTRIES MUST COOPERATE TO GET PRODUCERS A FAIR PRICE

● Mr. MELCHER. Mr. President, several months ago, Senator McGovern, Senator Bellmon, and I went to Canada to consult with Members of their Parliament and grain officials on the need for an agreement among wheat exporting countries to get our producers a fair price in the world market for their product. A second meeting was held here in the United States, and the American members of the group have economists at work on just how the exporting countries might accomplish that end.

It was our belief that the negotiations for an international wheat agreement would not succeed, and they have not.

Interestingly, the Deputy Secretary of Agriculture of Argentina, Mr. Jorge Zorreguieta, in a recent press conference, explained the failure of the multilateral negotiations at Geneva to the people of his country and announced that "with or without an agreement, a strong cooperaation between the four exporter countries (the United States, Canada, Australia, and Argentina) is necessary."

The Argentina official urged that the exporting countries meet at least twice a year to plan their planting policy, analyze the world market and prospective world production and to attempt to develop joint actions to stabilize the world market and to obtain remunerative prices for producers.

"I understand there is a consensus among the producers of the four countries to carry on such meetings at an official level which will be shared by the producers' organizations of the four countries," he told his countrymen.

Senators McGovern, Bellmon, and I have found the Canadian officials involved in marketing their wheat eager to cooperate in arrangements to improve world wheat prices, including setting a minimum price, and have been advised that Australia will be happy to join us.

Mr. Zorreguieta's assurance that Argentina wants to cooperate is welcome word. I hope that his indication that the four countries have agreed to meet for the purpose he outlined is correct. The sooner the better. Our wheat producers in the United States are not getting cost of production for their product. Many of them cannot continue in production at current price levels. They need relief this year.

I ask to include in the Record Mr. Zorreguieta's remarks as released by the Argentina Embassy here in Washington.

The remarks follow:

Statement by Mr. Jorge Zorreguieta

During this conference many of the problems that up to the present had prevented us from reaching an agreement, were solved. They were fundamentally exposed among the four exporting countries: Argentina, Canada, Australia and the U.S.A., on one side, and the EEC, Japan and the developed importing countries, on the other side.

The parties' disagreements lied on the buying and releasing prices of the reserves and the volume of the stocks, of each one of the countries. The final draft of the discussions of the three conventions that were carried out simultaneously on Wheat, other Cereals and Food Aid, were completed.

Concerning the prices, they were agreed upon by the exporters, the EEC, etc. at u$s 140 dollars for the purchase of reserves and u$s 200 dollars for their release, in accordance with a scale and composed by a basket of seven different varieties of wheat.

With regard to the reserve stocks, the total amount of the contributions of Argentina, Australia, Canada, USA, EEC, Japan and other developed countries amount to approximately 15 to 16 million tons. The contributions of the rest of the countries, included the Soviet Union and the importing developing countries, is still unknown.

However, the importing developing countries made it impossible to reach an agreement, due to the unrealistic position they took in proposing u$s 125 dollars for the purchase of reserves and u$s 160 dollars for the release of them.

We must keep in mind that the maximum and minimum prices were laid aside and that the purchasing and the releasing prices for reserves make up the price range by which the market will be established due to the effect of those stocks.

Therefore, the importing developing countries made it impossible that the producers of the exporting countries could get a reasonable income. Furthermore, neither one of them stated what their contributions to the reserve stocks would be. They also asked for special provisions, such as the creation of a fund to finance their stocks. This demand was considered by the rest of the countries to be unacceptable.

The importing developing countries' position has driven this conference to a deadlock which has obstructed at least, for the time being, the possibilities of coming up with an International Wheat Agreement.

I believe that this fact has been unfortunate for the developed countries, since one of the objectives of this agreement was to achieve a more secure world food supply, through a reasonable and stable retribution to the producers.

Furthermore, the draft of the agreement had provisons which favored those countries' obligations and would also lead to build up reserve stocks of at least 20 million tons, which during times of scarcity would be an important contribution to avoid hunger in the world.

I must point out that the delegations from Australia, Canada, USA and Argentina worked on this agreement in close cooperation and mutual consultation.

I would also like to emphasize the excellent relationship between Argentina and the EEC throughout the negotiations. The mutual understanding made possible the elaboration of a joint draft.

After having been on the verge of signing the three agreements, it seems difficult to predict what will happen in the future.

I think that the International Wheat Council after renewing the agreements now in force, will take some time to make a decision and that the conference will not be summoned before October, 1979.

I must point out that what this conference showed was the need for a close collaboration between the wheat exporter countries. Argentina is ready to maintain and make this relationship even closer. We believe that with or without an international agreement a strong cooperation between the four exporter countries is necessary.

I believe that it is important to hold two annual meetings in July and January, one in the Northern Hemisphere (Washington and Ottawa) and another in the Southern Hemisphere (Camberra and Buenos Aires) respectively.

The tasks of these meetings would be to plan adequately our planting policy, analyze the evolution of the world market and production and to attempt developing joint actions to stabilize the world market and to obtain remunerative prices for our producers.

I think that the mutual understanding developed during a year and a half in meetings, provisional committees, preparatory groups and conferences regarding our different problems and systems, must not be disregarded.

I understand there is a consensus among the producers of the four countries to carry on such meetings at an official level which will be shared by the producer's organizations of the four countries.

I must also state that a good understanding and coordination with the EEC on matters related with cereals, specifically wheat, can be achieved which would lead to the stabilization of the world market. In this case as well, the experience obtained must not be wasted.●

HOOSIER HYSTERIA

● Mr. LUGAR. Mr. President, last Wednesday, March 7, my distinguished colleague from Utah, Senator HATCH, addressed the Senate on an issue which is close to the heart of every citizen in Indiana. The subject was basketball—known in Indiana as "Hoosier Hysteria." With great respect for my good friend from Utah, let me just say that it is very difficult for me to imagine a place in the world where basketball is more popular than in Indiana.

In any case, I decided to take up the challenge offered by Senator HATCH, and set out to prove Indiana fans more avid than Utahans. Now, I must report that comparing this year's attendance figures of the four universities cited by Senator HATCH with four universities in my State, Indiana is the clear winner.

At Notre Dame, where every home game this year was sold out, the average attendance was 11,345 per game. At Indiana State, where thousands have witnessed the undefeated. No. 1 ranked Sycamores and first team All-American Larry Bird, this year's average home attendance was 9,399 per game. At Purdue, the Big 10 cochampion Boilermakers averaged 13,735 per game. And at Indiana University, where 17,357-seat Assembly Hall is home to the 1976 undefeated NCAA champion Hurrying Hoosiers, this year's average home attendance was 14,286 per game.

The combined average for these four Indiana schools is 12,191 fans per game. This compares with an average of 12,064 per game for the Utah schools, as reported by the ticket offices at the University of Utah, Utah State, Brigham Young, and Weber State.

Mr. President, given the great support which is indicated by Utah and Indiana basketball fans alike, it is only fitting that following this year's NCAA championship game at Salt Lake City, the site of the tournament finale will move next year to Indianapolis.

Mr. President, as long as we are on the subject, let me take just another minute to comment on the quality of basketball in Indiana. Indiana is the only State in the Nation which is home to two different teams which have been ranked No. 1 in the wire service polls during this season. These teams are, of course, Notre Dame and Indiana State. I commend both the Sycamores and the Fighting Irish for their first round victories in the NCAA Tournament, and join all Hoosiers in looking forward to these two teams meeting on March 26 to play the final game of the tournament to decide the national championship.

Indiana is also well-represented in the National Invitational Tournament. Having finished the regular season tied with Michigan State and Iowa for the Big 10 championship. Purdue is favorite to finish well in the NIT. Despite this top finish in the toughest conference in the Nation this year, the 14th ranked Boilermakers were denied a berth in the NCAA Tournament by a rule which prohibits more than two teams per conference from participating.

Joining Purdue in the NIT is a young Indiana University squad which has played one of the toughest schedules in college basketball. As one of the Nation's leading defensive teams, we look forward to a similarly strong finish from the Hurrying Hoosiers.

As these four fine basketball teams continue postseason competition in the NCAA and NIT Tournaments, I join basketball fans throughout Indiana in wishing them success.●

PREPARATION FOR SELF-EMPLOYMENT

● Mr. JAVITS. Mr. President, the National Advisory Committee for Vocational Education has recently prepared a document illustrating how the Federal vocational education program might be improved by expanding its potential in the area of job stimulation and job creation.

In a document entitled "Preparation for Self-Employment—A New Dimension In Vocational Education," the council presents an exciting comment on how federally assisted vocational education programs can result in the creation of new jobs by imparting the skills of entrepreneurships. The 1978 Economic Report of the President points out that a large number of new jobs are generated by entrepreneurial activity and self-employment. The combination of technical skills earned in vocational institutions and the U.S. tradition of entrepreneurship can be a powerful force in reducing unemployment, particularly among our young people who traditionally have the greatest difficulty in obtaining permanent force attachment.

The principal author of this document is Dr. Marvin Feldman, a longtime NACVE member and the president of the Fashion Institute of Technology in New York City. FIT, under Dr. Feldman's leadership, has had an extraordinary record of training young people for successful employment. Each year, many young people have to be denied admission to FIT simply because the number of highly qualified applicants greatly exceeds available spaces. The placement record of the Fashion Institute is extraordinary, with virtually every graduate able to find gainful employment in his field of study immediately upon graduation. The Fashion Institute of Technology, a unit of the State University of New York is a remarkably successful example of a vocational education institution working cooperatively with industry and labor leaders to produce qualified young people for successful careers. I am pleased that my own State of New York continues to produce the kind of leadership demonstrated by the Fashion Institute and that Dr. Feldman continues to lend his assistance to national policy debates in this critically important field.

Mr. President, I ask that the complete text of this document be printed in the RECORD.

The material follows:

PREPARATION FOR SELF-EMPLOYMENT

A NEW DIMENSION IN VOCATIONAL EDUCATION

Vocational education has been extraordinarily successful in fulfilling its traditional role of providing skill training to students at all levels to prepare them for existing jobs.

Since passage of the Vocational Education Amendments of 1968 and 1976, vocational education expenditures and enrollments have burgeoned. Today, more than one-third of the nation's high school students take vocational subjects, and more than fifty percent of the nation's community college enrollment is in occupational programs. Total enrollments have more than doubled since 1968, from 7.3 million to over 15 million. Federal expenditures under the Vocational Education Act have increased from $262 million in 1968 to $674 million forward funded for 1980. By 1976 (most recent published figures), state and local dollars were matching the federal dollar nearly 10 to 1, for a total federal/state/local expenditures of $5.1 billion.

Vocational Education is also, with increasing effectiveness, dealing with the special problems of the handicapped, the disadvantaged, sex stereotyping and persons of limited English-speaking ability. It has also been especially successful in working with the private sector to provide work experience through cooperative education programs. Each year, nearly 700,000 students participate in cooperative education/work programs.

Obviously, vocational education has made, and continues to make, an enormous impact in providing job skills. What it has done, it has done well.

Due in part to the constraints of the legislation, however, vocational education has done little to reach out and explore new concepts beyond the traditional role of preparing students for available jobs. It has not realized its full potential in the whole area of job stimulation and job creation.

The task of vocational educators has been to prepare people—particularly young people—*accurately* for known employment opportunities.

But we cannot work in a vacuum. We cannot prepare people for jobs that don't exist. So vocational educators must be concerned about the adequacy of employment opportunities.

There is gathering evidence that the American economy is losing its legendary ability to provide employment opportunities. We see chronically high levels of unemployment persisting even in periods of economic expansion. And the burden is selective; it falls heaviest on those least able to bear it—the young and the disadvantaged.

There can be few more serious shortcomings in a society than a failure to provide a reasonable supply of suitable employment opportunities. Yet the last time our youth unemployment rate was less than 10% was twenty years ago. More and more, our young people's first exposure to the real weather of a free society is failure to find a job they feel is suitable. No wonder fewer than fifteen percent of America's young people feel they are part of the free enterprise system, according to a recent survey.

Elsewhere in the world, rising levels of youth unemployment are producing terrible results in countries where this alienation has reached a certain critical mass and intensity. (The International Labor Organization estimates that, worldwide, 50 million young people—as many as England's whole population—come of age every year—120,000 every day.)

The problem here and abroad is already critical and getting worse. It is clearly beyond the reach of present public policy. Education cannot create employment—nor can a manpower policy built on training or even on so-called public service job "creation."

Because public service jobs are not self-financing and require tax support, they can only be considered a high-cost palliative until a solution can be found. Clearly we need to find some new directions.

At the center of the problem is an apparent anomaly: there is a mounting agenda of work to do—but not enough jobs. We need better houses, better clothes; we need to rebuild our cities; we need better, more durable products which meet higher esthetic standards. We need to develop whole new sources of energy. We need to conquer the unconquered diseases. There is surely no shortage of work.

Clearly then, there is growing friction at the point where work translates into jobs. It is time for policymakers to consider the advantages of preparing people not for jobs—which will always be scarce, but for work—which will always be abundant.

The vocational system has paid far too little attention to the people who discover work on their own, who create their own employment, the people we call self-employed.

These entrepreneurs are absolutely essential to economic vitality. What we call economic growth is at bottom a process of continuous economic renewal through change. Small businesses are the principal pioneers of change and growth. Big businesses are not the source of economic growth; they are one of the results of growth. Large businesses tend to perfect and refine conventional methodologies, but the major changes are usually introduced by upstart outsiders.

Society is coming to a new appreciation of the essential role of the individual entrepreneur. Study after study shows that smaller businesses are the primary source of new ideas, new economic growth and new work. Yet education pays little deliberate attention to preparation for self-employment. And the rate of formation of new businesses has plummeted in the last five years.

There is a parallel need to create more entrepreneurial work opportunities inside existing organizations.

Management once saw its task as directing the activities of large numbers of jobholders. The role of education to some extent derived from that concept—educators trained people to hold jobs.

Now we are beginning to see some corporations move to re-shape themselves into entrepreneurial conclaves in which employees are more and more self-directing. The problem of management is perceived less as getting people to do what they are told to do, but to inspire them to do what they cannot be told to do—to undertake imaginative new work instead of merely performing closely-supervised jobs.

Education has neglected a responsibility to help prepare people to entrepreneurial employment—either on their own or inside larger organizations.

The time has come to focus national attention on education for self-employment and to re-study education and manpower programs in the light of its decisive importance.

We need to reduce to actionable specifics the vision of a society in which the work that needs to be done is more automatically and efficiently translated into employment opportunities.

More specifically:

We should immediately re-examine public policy to find out how government at all levels may be discouraging the formation of small business, and then propose reforms.

We should enlarge our conception of manpower policy to include and emphasize suitable incentives for self-employment.

We need to encourage business to accelerate its search for ways to re-define employment in more entrepreneurial terms.

We need to know how educational programs can be modified to prepare people for entrepreneurially-defined work. We know surprisingly little about where entrepreneurs come from, what they are like and how education might better nourish and instruct the entrepreneurial impulse.

That impulse has enormous potential. Over 4 million new jobs were generated in 1977. According to the Economic Report of the President (1978), self-employed workers accounted for a relatively large number of those jobs. After growing at a fairly steady 1.1 percent per year from 1967 to 1976, the number of self-employed workers in the non-agricultural sector increased by 5.6 percent in 1977, accounting for over 10 percent of the net employment growth for the year.

Each self-employed individual who succeeds and prospers, if properly directed, is the potential nucleus of a new small business enterprise which could generate five to ten or more additional jobs.

We know there is movement out there in this area of entrepreneurship activity. We are aware that many diverse organizations and groups are looking at this phenomenon. We know about business management courses in the agribusiness field. We know of some of the activities of the vocational student organizations, and of individual schools. We have heard the anecdotal success stories.

But we have little in the way of hard facts and data.

We enlist the leader's support and assistance in helping the Council gather additional information. If you are aware of data, studies, instructional programs, research projects, program operations, or individual examples related to entrepreneurship activity on a national, regional, state, or local basis, please contact the Council staff.

The Council believes that the job creation potential of vocational education has not been realized and acknowledged. It is a new dimension in vocational education which must be discussed, explored, and developed. We urge the public's participation in that process.●

AMERICAN PUBLIC OPINION AND U.S. FOREIGN POLICY—1979

● Mr. **MATHIAS**. Mr. President, the Chicago Council on Foreign Relations today issued an important report entitled "American Public Opinion and U.S. Foreign Policy—1979."

This is the second such survey of public opinion on U.S. foreign policy issues to be sponsored by the Chicago Council. It follows exactly 4 years after the first.

The Chicago Council on Foreign Relations has again made a valuable contribution to our understanding of how Americans view foreign policy issues.

I commend this report to my colleagues attention and I ask that the summary statement issued by the Chicago Council be printed in the RECORD.

The statement follows:

AMERICAN PUBLIC OPINION AND U.S. FOREIGN POLICY, 1979

U.S. DECLINE IN POWER AND INFLUENCE ATTRIBUTED TO SHRINKING DOLLAR AND GROWING SOVIET MILITARY POWER

A total of 56 percent of the American public and 39 percent of American leaders believe that the United States is falling behind the Soviet Union in power and influence a new national survey revealed. When asked why the United States is declining in influence in the world, 36 percent of the public attributed this to the declining value of the U.S. dollar, compared to only 18 percent to the "growing military power of the Soviet Union."

Americans continue to regard economic problems as the most significant facing the country, with 78 percent of the public and 90 percent of the leaders regarding economic difficulties as the most pressing facing the country that could be addressed by government action. Concern about inflation was mentioned by 67 percent of the public and 85 of the leaders.

SUPPORT FOR DEFENSE SPENDING UP

The survey showed that in the four years since the Council's last report on American Public Opinion and U.S. Foreign Policy, preoccupation has shifted from Vietnam to the growing power of the Soviet Union. Reflecting this was a sharp 20 percent increase in support for a larger defense budget. Thirty-two percent of the public thought defense spending was too high in 1974; only 16 percent did in 1978. The overall support for greater defense spending among the public was slightly higher in 1978 than it was even in 1960, a year of comparatively high levels of support.

MILITARY SUPPORT FOR U.S. ALLIES FAVORED

The general reluctance to commit U.S. troops overseas revealed in 1974 has been replaced by an increased willingness to commit troops in such high priority areas as Western Europe and Japan. In 1978, 92 percent of American leaders favored a U.S. troop commitment if Soviet Union Armies invaded Western Europe, 77 percent favored such action if the Soviet Union invaded West Berlin and 81 percent if Japan were invaded by the Soviet Union. Among the public, support has increased in the case of Soviet troops invading Western Europe from 39 percent in 1974 to 54 percent in 1978, and in support for West Berlin from 34 percent to 48 percent. Yet only 22 percent of the public and 21 percent of the leaders would favor a troop commitment if "Arabs invaded Israel," and 20 percent and 18 percent if "China invaded Taiwan," 21 percent and 45 percent if "North Korea invaded South Korea," and 18 percent and 15 percent if the "Soviet Union invaded "Yugoslavia."

These are some of the conclusion of a survey conducted by the Gallup Organization for the Chicago Council on Foreign Relations included in a report released today titled "American Public Opinion and U.S. Foreign Policy, 1979." The editor of the report, John E. Reilly, President of the Chicago Council on Foreign Relations, said that one of the most important general conclusions from the survey is that "there is a reluctance to make commitments everywhere, but at the same time a growing willingness to honor selective commitments somewhere."

A summary of the report appears in an article in the Spring issue of Foreign Policy, also released today, titled "The American Mood: A Foreign Policy of Self-Interest." The field work for the survey was done between mid-November and mid-January and included a nationwide sample of 1546 members of the public and 366 opinion leaders.

INCREASED SUPPORT FOR NATO COMMITMENT

A shift in opinion occurred on support for NATO both by the public and by the leaders. Among leaders there was a 16 percent increase among those who favored the United States "increasing its commitment," and a 17 percent drop (from 29 percent in 1974 to 12 percent in 1978) among those who would decrease U.S. commitment. Among the public there was a 5 percent increase among those who wanted to increase the NATO commitment and a 4 percent drop among those who wanted to decrease the commitment.

INCREASED AWARENESS OF THE EUROPEAN COMMUNITY

There has also been growth in awareness of and support for the European Community. Europe and the European Community are seen as important to the U.S. by the public and to a greater degree by the leaders. There has been a significant increase in knowledge of the European Community, from 45 to 63 percent, since the Gallup organization last put this question to the public in 1973. Among leaders, 86 percent felt that the Community has been very helpful to the United States.

CUT GOVERNMENT SPENDING TO STRENGTHEN THE DOLLAR

To strengthen the dollar, 51 percent of the public favored cutting government spending even if it entailed a cut in government services. Leaders also favored cuts in government spending and 51 percent would raise the price of gasoline 25 percent while 44 percent would risk higher unemployment to arrest the dollar's decline. In contrast, 50 percent of the public would oppose actions that would raise the price of gasoline by 25 percent.

INTERNATIONALISM SUPPORTED BY SEEING VITAL INTERESTS FOR U.S.

There was clear support for United States international involvement, with large majorities seeing "vital interests" in many different countries. Among the leaders, over 94 percent saw vital interests for the U.S. in Japan, West Germany, Saudi Arabia, the Soviet Union, Canada and Great Britain. The six countries rated highest in vital interest by the public were Saudi Arabia, Japan, Israel, Panama, Egypt and the Soviet Union.

PRESIDENTIAL INFLUENCE ON FOREIGN POLICY INCREASES

In 1978 the President emerged as a more important foreign policy actor than before, with 72 percent of the public thinking he was "a very important actor" compared to 49 percent in 1974. Ninety-four percent of the leaders agreed. The President also was considered the most reliable source of foreign policy information and was the only one to increase in support since 1974 (32 percent of the public considered him "very reliable").

CONCERN ABOUT COMMUNISM DECLINES: COOPERATION WITH SOVIETS FAVORED

Both the public and the leaders displayed an ambivalent attitude toward the role of Communism and communist governments in the world today.

Though fearful of the consequences of increasing Soviet military power, both groups were less concerned about the role of a communist government in China or the possibility of communist governments coming to power through elections in Western Europe. On a list of five friendly countries (Chile, France, Iran, Italy and Mexico) the majority of the public would regard the coming to power of a Communist government through peaceful elections as a "great threat" only in the case of Mexico.

Despite the growing concern about Soviet military power, there was strong backing for particular kinds of cooperation with the Soviet Union. There was especially strong support for cooperation on energy problems (68 percent of the public and 90 percent of the leaders) and limiting some nuclear weapons (71 percent of the public and 92 percent of the leaders).

INCREASED SUPPORT FOR CIA

The report also noted an increase in support for a more active role for the CIA with 59 percent of the public and leaders favoring the view that "the CIA should work inside other countries to strengthen the elements that serve the interests of the United States," compared to 43 percent and 35 percent in 1974).●

CANCER RESEARCH

● Mr. SCHWEIKER. Mr. President, there has been considerable public discussion about the effectiveness of the Federal Government's "War on Cancer." The pros and cons aside, I believe we all can agree that the battle against this terrible disease must continue. But, we should ask ourselves, what levels of funding for cancer and for other health programs are justified in light of the current state of the economy and the need to make substantial cuts in Federal spending to reduce the President's budget deficit?

As ranking minority member of the Labor-HEW Appropriation Subcommittee, I am giving careful thought to this question and examining all points of view. Our subcommittee's hearings on the health budget are still ahead of us and I will want to hear all sides before reaching any conclusions.

But in my search for answers, I recently heard an address given by my distinguished colleague, Senator CHARLES McC. MATHIAS of Maryland, to the Association of American Cancer Institutes meeting here in Washington last month. In his statement, Senator MATHIAS suggests that we can come up with a tighter budget than the President's and still manage to find extra funds for programs such as cancer research.

Senator MATHIAS' approach is an interesting one and deserves serious consideration. I believe my colleagues in the Senate and the public at large should have the fullest understanding of Senator MATHIAS' views and I ask that the text of his speech to AACI be printed in the RECORD.

The speech follows:

PROSPECTS FOR CANCER RESEARCH: A VIEW FROM CAPITOL HILL

(By Senator CHARLES McC. MATHIAS, JR.)

Exactly a week ago, President Carter sent his 1980 Budget to Capitol Hill. The next evening he came up in person to deliver his State of the Union message. But here on Capitol Hill some of us are still wondering what it all adds up to. We're still trying to reconcile what the Budget is telling us with what the President, himself, is telling us.

There are perplexing contradictions between the President's fiscal priorities and the hopes he expressed for the country in his State of the Union message. These contradictions are particularly clear in the area of your concern—federal support for cancer research.

In the State of the Union message, the President spoke again and again of building "better foundations". It was the leitmotif of his talk—the essential core of his message. He actually used that phrase 12 times in six pages and he used it again in closing.

"Tonight," he said, "I ask you to join me in building that new foundation—a better foundation—for our country and the world."

I gladly accept the President's invitation. I want to build new, better foundations wherever they are needed. But, I also want to preserve the important foundations we have already built. I want to use them. And one of the most important foundations we have built—for our country and the world—is in cancer research.

We have been building that foundation since 1937, when the National Cancer Institute was founded. For a long time we built slowly. In fact, more than two-thirds of the $7 billion we have spent on cancer research in the past 40 years was spent in just six years—between 1972 and 1978.

The National Cancer Act of 1971 (P.L. 92–218) and the inauguration of the National Cancer Program quickened the pace of research dramatically—and with significant results.

In the early 1900's, the long-term survival chances of a person with cancer were almost nil. In the 1930's, fewer than one-in-five cancer patients was alive five years after treatment. Today—thanks to you here in this room and to your associates—that ratio is one-in-three. That is a tremendous accomplishment. It is proof positive that cancer researchers have built a sound foundation.

But, as Noel Weiss—(Associate Professor of Epidemiology, University of Washington, Seattle)—said at a meeting that marked the sixth anniversary of the U.S.-Soviet Health Accords:

"It's very tempting when you read in the newspaper of cancer cures, to think there is going to be a solution just around the corner. The fact is that it's going to take a lot of hard work just building up progressive layers of information before physicians can really do a lot about the incidence of certain kinds of cancer."

Those progressive layers of information are the foundation I have been talking about. Unfortunately, there are forces working to undermine that foundation. There has been criticism in the Congress about how cancer research funds are spent—how research priorities are established. The same criticisms have been made by the Administration. And there is some disappointment among the people that the "war on cancer" has not brought an unconditional surrender—that no cure for cancer has been found.

Last summer, when the budget for FY 1979 was under review by Congress and cuts for basic research were being threatened, Daniel S. Martin—(Research Associate, Columbia University Institute of Cancer Research; Associate Scientist, Memorial Sloan-Kettering Cancer Center)—wrote in the New York Times:

"The political climate in which discussions are being conducted over the funding of the search for a cancer cure grows more and more frustrating and antagonistic . . .

"Members of Congress are restless over the lack of cancer cure and are questioning the investment of federal funds in cancer studies."

That's a pretty good picture of the temper of the Congress during the annual budget wrangle. But, although some may have been "restless" and "frustrated", it didn't go much further than that. When the chips were down, Congress upped the ante for cancer research and increased the President's FY 1979 budget by 6.6 percent, which in dollar terms meant close to $60 million in additional funds.

That kind of Congressional rescue operation for cancer research is nothing new. Congress increased funds for cancer research in fiscal year 1976 by 25 percent; in fiscal year 1977 by 18 percent, and in fiscal year 1978 by 6.5 percent. We did that because most of us realize that battles must be fought before a war can be won.

A month ago rumors were flying around Capitol Hill that the Administration wanted an across-the-board recission on all National Institutes of Health programs, by as much as ten percent. I guess we can breathe a sigh of relief that nothing quite that drastic was proposed.

But our relief is short-lived when, for example, we view the prospects for the National Cancer Institute. The $936,958,000 earmarked for NCI won't begin to keep pace with inflation. It's an increase of less than $300,000 over the fiscal year 1979 budget.

As you know, however, that's a lot better than you would have done if OMB had prevailed in the Administration's budget process. At one point, OMB recommended a $30 million cut in funds for cancer research. But, let's not waste any time congratulating ourselves that the worst didn't happen. What happened was bad enough.

It's obvious that you'll need another Congressional rescue operation in fiscal year 1980. As a member of the HEW Subcommittee of the Senate Appropriations Committee, I'm in a pretty good position to help and I intend to try.

A lot of people think that, in the aftermath of Proposition 13 and in the throes of inflation, the Congress will be even more tight-fisted than the President this year. That may well be true. As former Senator Norris Cotton used to say:

"The boys are in such a mood that if someone introduced the Ten Commandments, they'd cut them down to eight."

But what people don't know, or have forgotten, is that Congress was a lot more tight-fisted than the President last year and still managed to find extra funds for essential programs like cancer research. I'll bet very few of you even know that the Congress—that scapegoat for all the country's ills—actually pared $10 billion off the President's budget last year. That's news to most people, but it's absolutely true.

I think we'll do even better this year. I think well come up with a tighter budget than the President's and a lower deficit. In the process, I expect we'll reorder some priorities.

I only had to read the President's budget message once to know where to start cutting. Straight off you abolish the Renegotiation Board. I probably should say you "re-abolish" the Renegotiation Board because on March 31, 1978, Congress actually legislated this boon-doogle agency out of existence, or so thought. But, lo and behold, the President now wants a supplemental FY '79 appropriation of $1.1 million to resuscitate the board and another $7.1 million for FY '80 to expand its activities. I am appalled that anyone would want to breathe life into this bureaucratic fossil. And I am determined that the effort shall not succeed.

I am just as determined that the effort to secure more funding for cancer research shall succeed. And, in this, I think I would have the support of the vast majority of the American people.

It has always intrigued me that, although heart disease is the number one killer in this country, cancer heads the list of the most feared disease or affliction. In answer to the Gallup poll question, "What's the worst thing that can happen to you?", 62 percent of respondents in 1965 and 58 percent in 1976 listed "cancer". As long as the public feels this way, increased funding for cancer research should not be too hard to achieve.

But, in my previous efforts to do sensible things about cancer research, I have encountered the most infuriating lethargy and bureaucratic footdragging. So I never like to sound too optimistic.

I cut my teeth on this back in 1969 when I first tried to have Fort Detrick in Western Maryland converted to a cancer research center. From November 1969, when President Nixon announced that he was terminating the program of chemical and biological research being conducted at Fort Detrick, I worked to have those magnificently specialized laboratories transformed into a bastion in the fight against cancer.

But despite the logic of the proposal, despite the fact that it had the unanimous support of the scientific community, and despite the fact that it made economic sense, I couldn't get any action. I simply couldn't budget the bureaucracy.

I testified before any committee that would listen to me. I bombarded the President with letters. I made speeches. I introduced legislation. I met with the Secretary of the Army and the Secretary of Defense and with everyone else I thought might help. I harangued. I hollered. And I waited. For almost two years nothing happened.

Then, finally, on October 18, 1971, all my nagging paid off. President Nixon gave the go-ahead for the conversion of Fort Detrick. And you all know the happy ending. Fort Detrick became the Frederick Cancer Research Center which is a member of this organization and has become one of the nation's finest oncology laboratories.

All the dramas that begin on Capitol Hill don't have such happy endings, of course. But usually, when something makes sense, people see that it makes sense and do something about it.

It makes sense to support cancer research when you know that 395,000 Americans will die of cancer this year. It makes sense to support cancer research when you know that 765,000 Americans this year will be diagnosed as having cancer. It makes sense to support cancer research when you know that 255,000 Americans, who are treated for cancer this year, will be alive at least five years from now.

Like everyone else, I pray that you will find a cure for cancer. But I am not going to pull the federal purse strings tight because you haven't found one yet. You have built a strong foundation. You have made great discoveries and I believe you are on the threshold of even greater discoveries.

Winston Churchill spoke of modern science "standing on tiptoe, ready to open the doors of a golden age." I believe that is where cancer research stands today. And I believe the 96th Congress will do all it can to help you open that door.●

SENATOR DEWEY F. BARTLETT

● Mr. YOUNG. Mr. President, the Senate is saddened by the passing of Dewey Bartlett, one of the most respected and loved Members in the U.S. Senate.

Dewey was a wonderful person and a truly great public servant. His compassion and kindness reflected his deep religious beliefs. He was a most effective legislator and loved by all who were fortunate enough to know him. Dewey's whole life was dedicated to the service of mankind and to his beloved State and Nation, as a Marine dive bomber pilot in World War II, his years as Governor of his State, and as a member of the U.S. Senate.

Even though afflicted with a fatal illness, Dewey never gave up and he worked as hard his last day in the Senate as he did his first day. He was always dedicated to the principles he believed in so strongly. His entire life reflected his deep religious convictions in everything he did.

Pat and I share the grief of his beloved Ann and all of the family. Our prayers are with them.●

NEW NAVY STUDY SHOWS V/STOL POSSIBLE BY 1985

● Mr. HART. Mr. President, I would like to bring to the attention of my colleagues a most important new study, produced by Naval Air Systems Command, which shows that the Navy can have V/STOL aircraft in service by 1985, at least 10 years sooner than previously predicted.

The study is a result of an amendment which I offered to the fiscal year 1979 defense authorization bill, to provide $5.5 million for a Naval version of the Marines' Advanced Harrier—the "AV–8B+."

The study conclusively shows that the AV–8B+ is an effective and useful multi-mission naval aircraft. As a result, the Navy can begin receiving V/STOL aircraft in the fall of 1985. Previously, the Navy had said that the AV–8B+ would not be mission capable, and that adequate V/STOL aircraft could not enter service until around 1997. This change of view by the Navy means that we can and should begin now to build small aircraft carriers for V/STOL aircraft—not the 60,000-ton carrier requested by the administration, but 25,000-ton carriers which we can afford in larger numbers.

The conclusions of the study are clear. The executive summary states:

> The AV–8B+ carries conventional and smart bombs, special naval weapons, standoff missiles, and can accurately deliver a weapon load of over 9,000 pounds. The AV–8B+ is capable of performing a variety of missions for the U.S. Navy, including:
>
> Anti-ship; Air Defense; Land Strike; Cooperative ASW (Anti-submarine Warfare); Surveillance.
>
> The AV–8B+ can meet these mission requirements while operating from small air-capable ships either as an element of an independent V/STOL task force or as part of a conventional carrier task force.
>
> The AV–8B+ has greater combat effectiveness than any other tactical aircraft, conventional or V/STOL, of its size and weight class.
>
> The AV–8B+ has a more precise weapons delivery system, carries a greater weapons load, has better flying qualities, increased performance, improved cockpit, reduced pilot workload, and improved flight safety compared to its V/STOL predecessor, the AV–8A. . . . technology advances, along with the utilization of weight-saving composite materials essentially double the mission-performance capability of the AV–8B+ when compared to the AV–8A using the Navy mission ground rules.
>
> The AV–8B+ with self-start capability, provides quick response against both surface and air targets. . . . The tactic of basing the AV–8B+ on smaller ships improves the ability of the naval force to successfully contend with attacks on shipping as well as to protect task forces. Armament versatility permits the aircraft to be configured to counter a variety of air and surface threats.
>
> V/STOL provides force dispersion, faster reaction to threats, independence from deck cycle and sea-based air power when CTOL are not operational.
>
> Nearly 161 air-capable ships will be operated by the USN in the late 1980 to 1990 time frame. In a national emergency, additional flight operations could be conducted from nearly 100 modern U.S. Merchant Marine container ships which could be rapidly equipped with a flight deck constructed from portable bridging elements.
>
> Antisubmarine—the AV–8B+ and the SH–3A helicopter conduct antisubmarine warfare (ASW) as a team operation. The SH–3A has sonar dunking and detection capability and the AV–8B+ the capability for quick delivery of air torpedoes or depth bombs. Once a contact has been made and designated, the AV–8B+ has both the attack weaponry to detect the submarine threat or the endurance to loiter until another AV–8B+ arrives for attack and continuation of the contact. As the AV–8B+ provides the more rapid antisubmarine attack capability, it relieves the SH–3 helicopter of the need to carry these weapons, thus permitting it extended search and detection time on station. In addition, sonobuoy replenishment can be accomplished quickly by the AV–8B+. For example, within four minutes from take-off, the AV–8B+ can begin dropping sonobuoys at a point 30 nm distant from its air-capable ship base.

Mr. President, these findings are of great importance. They open a new door for the Navy—a door leading toward a more flexible, more survivable fleet in the 1980's. I hope my colleagues will join me again this year in insuring that the door stays open—that we continue the AV–8B program and its naval derivative, the AV–8B+.

Mr. President, I ask unanimous consent that the entire executive summary of the AV–8B+ study be printed in the RECORD.

The study with the exception of illustrations that cannot be reproduced in the RECORD follows:

AV–8B: EXECUTIVE SUMMARY

OVERVIEW

The AV–8B+ is a multi-mission naval variant of the Marine Corps AV–8B light attack vectored thrust V/STOL aircraft currently being validated by flight demonstrations with two YAV–8B prototype aircraft. This V/STOL aircraft, like the AV–8B, has twice the payload-radius capability of the AV–8A, improved weapon delivery accuracy, and increased operational readiness resulting from improved Reliability and Maintainability. Seven weapon stations (four of which are also fuel tank stations) and a fuselage-mounted 25 mm gun are provided. The AV–8B+ carries conventional and smart bombs, special naval weapons, standoff missiles, and can accurately deliver a weapon load of over 9,000 pounds. The AV–8B+ is capable of performing a variety of missions for the U.S. Navy, including:

Anti-Ship, Air Defense, Land Strike, Cooperative ASW (Anti-submarine Warfare), Surveillance.

The AV–8B+ can meet these mission requirements while operating from small air-capable ships either as an element of an independent V/STOL task force or as part of a conventional carrier task force. The aircraft incorporates mission enhancing features including an inertial navigation system, a multi-mission radar, navy avionics suite, full autopilot, increased electrical power, and expanded weapons capability. It has the capability to carry:

Advanced Medium Range Air-to-Air Missiles (AMRAAM), Sparrows (AIM–7F), Sidewinders (AIM–9L), Harpoons (AGM–84), Mavericks (AGM–65), Tomahawks (AGM–109), Walleye's (Extended Range).

Mines (MK–50 Series).

Torpedoes (MK–56).

Cluster Bombs (APAM CBU–59/B, CBU–72/B FAE) and Rockeye's).

General purpose bombs (MK–80 Series).

Sonobuoy pods (AN/ARQ–41–ASW).

Special weapons (B–57, B–61).

The design improvements result in an increase of 725 pounds in operating weight empty over the baseline AB–8B aircraft. This weight increase has been offset by the upgrading of the Pegasus 11 engine, as documented in Volume 2, to an uninstalled thrust rating of 23,000 pounds. The resulting aircraft performance of the AV–8B+ is essentially equivalent to that of the AV–8B Marine Corps aircraft. The operational capability of the weapons system can be further enhanced by Ski Jump and Rocket Assisted Launch (RAL) techniques.

V/STOL MISSION RATIONALE

Numerous studies during the 1970's have identified the ability of V/STOL aircraft to enhance the effectiveness of Naval forces in both force projection and sea control scenarios. These studies, including the Sea Based Air Master Plan Study, have been conducted by various government and industry organizations including the Naval Air Systems Command and the Center of Naval Analysis. While all of these studies considered various V/STOL mission capabilities, they all show the advantages of the same fundamental elements for exploitation of V/STOL in either land based or sea based applications; quick reaction, forward deployment, dispersion, and especially for the sea based applications, new basing flexibility from existing ships. These advantages are obvious for U.S. Marine Corps applications and their military viability has been dramatically demonstrated by the USMC deployment of the AV–8A.

Application to Navy missions involves the same fundamental forward basing and dispersal concepts to counter the projected Soviet surface and air threat.

Navy application of V/STOL aircraft was addressed in the 1977 "CNO Report on the Posture of the U.S. Navy" . . . "V/STOL will provide new options in both ship design and fleet deployment. In addition to aircraft carriers, other air capable ships with V/STOL will enable the Navy to improve flexibility by taking aviation to sea in increasing numbers to perform a varety of functions. The U.S. will be able to extend the influence of naval air power to widely separated trouble spots and efficiently tailor numerically constrained forces to achieve a desired result. When manned aircraft are properly tied into a tactical network of ships and submarines, total fleet effectiveness is markedly improved. . . . The Navy's basic plan is to ensure that it continues to provide the air power at sea which enables the U.S. to maintain maritime superiority over the Soviets. . . . The subsequent addition of manned tactical aircraft to other types of ships and areas of warfare has enormously expanded their individual and therefore the Navy's capabilities for carrying out its missions. . . . The Navy's future plans are to continue the exploitation of sea-based air by adding air capability to more ships and improving the existing capablity aboard others. The Navy must be innovative and in the forefront of technology in order to cope with the ever increasing threat. The exploitation of V/STOL technology is a means of satisfying these needs. . . . The feasibility of V/STOL has been proven with the Harrier and other aircraft."

The AV–8B+ provides the Navy with its only near-term V/STOL tactical aircraft option. When introduced, it can give the Navy an immediate tactical air capability on 87 ships plus a potential use on another 174 ships, including about 100 Merchant Marine Container ships.

The Navy is responsible for providing a continuous flow of supplies to combat theaters in wartime for protecting Merchant shipping on which U.S. dependence is increasing. In recent years the threat from Soviet Naval strength has undergone a steady, dramatic increase in quantity, quality, and sea-keeping capability leading to significant Soviet global naval presence. Long range missiles launched from air, surface or submerged platforms have greatly expanded the required defense area for U.S. naval units. Soviet carriers are deployed with first-generation VTOL aircraft which increase the threat area. These threats accentuate the need for dispersed formations. The deployment of air assets to dispersed platforms provides the close-in quick-reaction that exploits the fundamental advantages of V/STOL aircraft. Disperson enhances aircraft survival via distribution of aircraft among separated multiple launch platforms rather than a few concentrated launch platforms.

The capabilities of V/STOL aircraft are compatible with the need for dispersed task force elements to provide coverage of the expanded threat area. Forward basing and dispersion of V/STOL aircraft provide increased defense-in-depth and quick concentration without creating high value targets for enemy strike.

The timely development of V/STOL aircraft for USMC and USN applications also provides an opportunity to place V/STOL fighter-attack aircraft on air capable ships and modified mecrhant ships for convoy protection when other aircraft carriers are not available.

AIRCRAFT HIGHLIGHTS

AV–8B+ aircraft vital statistics

Wing Area 230 ft^2.

Spotting Factor 0.99 (A–7=1.00).

Pegasus 11F–35 Engine (23,000 lb. Thrust).

Operating Weight Empty 13,475 lb.

Basic Flight Design Weight 22,950 lb at 7.0 g.

Thrust Vectoring Design Weight 20,400 lb at 8.0 g.

Maximum Useful Load 17.525 lb.

Maximum Design Gross Weight 31,000 lb.

Internal Fuel 7,850 lb.

External Fuel 8,078 lb.

Vertical Takeoff 20,700 lb.

Short Takeoff (600 ft, 20 kts WOD, 2 ft of sink) 29,200 lb.

Ski Jump STO (31,000 lb, 20 kt WOD, 390 ft Roll).

Rocket Assisted Launch (0 Roll) 30,100 lb.

M_{max} Level Flight 0.91.

7 Pylon Stations+1 Gun (25 mm).

Common features

7 Store Stations (4 Wet).

Multiple Weapon Carriage.

Special Stores.

Inertial Navigation System.

Head Up Display.

Defensive Electronic Countermeasures.

Stores Management.

Onboard Oxygen Generating System.

Larger Vertical Fin.

Higher Capacity Environmental Control System.

Enlarged Aft Equipment Bay.

Removable Retractable Refuel Probe.

AV–8B+ Navy mission improvements

Multimission F–18 Radar and Navy Avionic Suite.

Full Autopilot.

Additional Armament Capability.

Increased Electrical Power.

25 mm Cannon.

Increased Internal Fuel Capacity.

Strengthened Landing Gear.

Upgraded Pegasus Engine.

CREW STATION HIGHLIGHTS

Operational capability

Versatile One-Man-Operable System: Hands on Throttle and Stick (HOTAS), Advanced Multi-Mode Radar (Target Tracking and Discrimination), Stores Management.

Flight Safety Through Ease of Operation: Full Autopilot, Excellent Visibility from Cockpit.

Survivability: Radar Warning, Active Jamming, Flare, Chaff, Minijammers.

Terminal and Enroute Navigation: Inertial Navigation, All Weather Landing System, TACAN, Radar Altimeter.

Growth Flexibility: Mission Computer, MIL–STD–1553A Type Multiplex.

ARMAMENT HIGHLIGHTS

Sea based air power with flexible mission capability

690 nm Air Defense Mission (4) AMRAAM.

570 nm Strike Mission (2) Tomahawk and (2) AMRAAM.

700 nm Anti-Ship Mission (2) Harpoon and (2) AMRAAM.

500 nm Attack Mission (4) MK–83, Gun and Ammo.

BASIC PERFORMANCE HIGHLIGHTS

The AV–8B+ has greater combat effectiveness than any other tactical aircraft, conventional or V/STOL, of its size and weight class.

Ths AV–8B+ has a more precise weapons delivery system, carries a greater weapons load, has better flying qualities, increased performance, improved cockpit, reduced pilot workload, and improved flight safety compared to its V/STOL predecessor the AV–8A.

The AV–8B+ has all weather, air-to-air, and air-to-surface weapons capability not present in the Marines AV–8B.

The AV–8B+, like the AV–8B, incorporates Lift Improvement Devices (LIDs) for improved VTO performance. It also has an upgraded engine as well as the AV–8B's larger auxiliary inlet system for increased propulsive lift. The supercritical wing, currently being flown on the YAV–8B, utilizes positive flap circulation for high lift during STO. These technology advances, along with the utilization of weight-saving composite materials essentially double the mission performance capability of the AV–8B+ when compared to the AV–8A using the Navy mission ground rules.

PERFORMANCE GROUND RULES

The Navy mission performance ground rules for analyzing AV–8B+ aircraft performance are conservative and represent worst case conditions. The mission configurations are such that the AV–8B+ can be directly compared to CTOL aircraft for each type mission. The ground rules are:

Minimum engine performance (thrust and SFC).

Tropic day temperatures (90°F) for takeoff and landing.

Internal water for augmented thrust vertical landing required.

Gun and ammo carried on all STO missions.

External tanks retained when empty.

All pylons carried on all attack missions.

Return-to-ship with all air-to-air missiles retained.

ALQ–126 DECM pod carried on all attack missions.

In actual fleet operations, the performance of each individual aircraft is obtained from the NATOPS Manual according to the condition of the individual engine. The actual engine condition will be no worse than minimum and could be better. Mission configuration as specified by the fleet commander would also affect aircraft performance.

Because of the Navy mission performance ground rules, the evaluation of the AV–8B+ has been more conservative than the evaluation of the Marine Corps AV–8B.

FLEXIBLE AIR POWER AT SEA

The AV–8B+, with self start capability, provides quick response against both surface and air targets. Air defense, attack and anti-ship missions are illustrated below. The tactic of basing the AV–8B+ on smaller ships improves the ability of the naval force to successfully contend with attacks on shipping as well as to protect task forces. Armament versatility permits the aircraft to be configured to counter a variety of air and surface threats. Use of ski jump or Rocket Assisted Launch (RAL) techniques dramatically increase range/payload capability when operating from progressively smaller ships. Ski jump requires installation of a takeoff ramp aboard ship. RAL requires fitting the aircraft with either two or four solid propellant rocket units which are mounted on the fuselage gun pod attach points. Ski jump takeoff is especially applicable to V/STOL aircraft because of their high-thrust-to-weight ratio which provides very high acceleraton and inherent aircraft controllability at lower than wingborn flying speeds. The ski jump allows operation from shorter decks in the STO modes. It also increases mission performance and improves flight safety in heavy seas which induce significant deck pitching moton since the aircraft trajectory is up and away from the sea surface even if the deck is pitching down at the moment of takeoff. Rocket Assisted Launch (RAL) provides a payload/radius capability when operating from a small platform ship with zero takeoff roll, equaling or exceeding that of a STO takeoff with a 600 ft deck roll with 20 knots wind over-the-deck (WOD).

STABILITY, CONTROL AND FLYING QUALITIES

AV–8B+ stability, control and flying qualities are essentially the same as those of the AV–8B. However dynamic flying qualities are improved as a result of flight control system improvements. This system provides stability augmentation (SAS) operational over the entire flight envelope, a powered rudder, and improved modes for heading hold, pitch and roll attitude hold, and altitude hold at cruise airspeeds.

The handling qualities of the AV–8B+ are being flight verified in all flight regimes by the YAV–8B prototype. Pilot evaluations of the aircraft's handling qualities are summarized below.

Pilot evaluation of YAV–8 prototype

Vertical Flight

Significantly more stable in ground effect than AV–8B—pilot workload reduced by 65 percent.

Throttle reduction in ground effect during Vertical Landing (LIDs effect) rather than throttle advance as in AV–8A.

Handling qualities good for both 25° and full flap conditions.

Vertical landing comfortable in 25 kt wind gusting and veering.

Hover

Very stable in roll.

Maneuvering is smooth, positive and precise.

Height control is easy and precise.

Semi-jetborne

Handling qualities are comfortable.

Lateral control is quick and positive.

Longitudinal trim margins better than AV–8A.

Slow Approach and Short Landing

Slow approaches are comfortable with low workload.

Ground effect on longitudinal trim hardly noticeable.

Good control on runway after touchdown.

Crosswind landings quite comfortable.

SAS-off simulated slow approach showed very good control.

Wingborne (To 470 kts)

Excellent handling characteristics.

Good lateral control—sensitive but precise.

Lateral damping following stick raps is good.

Longitudinal damping following stick raps is good.

SAFETY AND SURVIVABILITY

Safety

Flight safety features incorporated in the AV–8B will be included in the AV–8B+. Principal flight features are:

Low pilot workload (autopilot and improved cockpit arrangement).

Excellent pilot visibility (bubble canopy).

Low altitude warning.

Outrigger failsafe design.

Information displays.

Asymmetric load warning.

High crosswind allowable in STO and transition.

Inflight refueling probe (no adverse yaw).

Shrouded low pressure turbine.

Improved electrical power system with dual generators

Flight director displays.

All weather landing system.

Good stability, control, and handling qualities.

Survivability

Significant survivability features incorporated in the AV–8B will be included in the AV–8B+ together with additional features. The principal features are:

Small size.

Agility.

Smokeless engine.

High thrust-to-weight ratio.

Multispar composite wing structure.

On-board oxygen generating system, eliminating the LOX container.

Thrust vectoring.

Electronic warfare suite consisting of flare chaff dispenser, radar warning system and DECM pod

Standoff attack capability with:

Harpoon and Tomahawk missiles (AV-8B+).

Walleye and Maverick missiles.

High first pass kill probability.

Radar which aids in threat detection and identification.

V/STOL capability which includes ability to operate from air capable ships, sea platforms, and unprepared shore positions.

Flight operations not limited by deck cycle, ship damage, underway replenishment operation, etc.

OPERATIONAL CONCEPTS HIGHLIGHTS

Operational concept features

The AV-8B+ will increase the Navy's capability to perform its mission by providing:

Quick responsiveness.

Self-Starting.

Basing flexibility providing dispersal of ships/aircraft for survival.

Independently deployable unit detachments.

Compatibility with both USN and USMC air command and control systems.

Compatibility with USMC AV-8B and USN/USMC F/A-18.

Capability to base on modified merchant ships.

Armament/mission flexibility

Since the AV-8B+ carries a wide variety of standard and special weapons, it is capable of attacking airborne, surface, and subsurface threats. Thus the AV-8B+ is well suited for several tasks within the Navy's overall mission responsibility. These tasks include:

Search and attack.

Surface strike.

Intercept.

Air escort.

Anti-submarine.

Interdiction.

Deep strike.

Mining operations.

Air support of amphibious operations.

Surveillance.

Basing options

The AV-8B+ is capable of operating from an assortment of sea bases (CV, LHA and LPH). Requiring an operating pad of only 60′ x 60′ in order to perform many missions, the AV-8B+ can also be accommodated on sea platform ships (LPA, LPD, LSD, LKA, etc.). Nearly 161 air-capable ships will be operated by the USN in the late 1980 to 1990 time frame. In a national emergency, additional flight operations could be conducted from nearly 100 modern U.S. Merchant Marine container ships which could be rapidly equipped with a flight deck constructed from portable bridging elements. This would offer the capability to conduct V/STOL, STOVL, Ski Jump and RAL operations depending on the ship configuration.

Operational advantages of V/STOL capability

The AV-8B+ V/STOL capabilities provide operational advantages when deployed on CV type ships including:

Ease in deck handling/recovery.

Reduction in support gear for aircraft operations.

Rapid launch/recovery.

Launch/recovery without catapult, in restricted waters, at anchorage, and during along-side replenishment operations.

Rough weather launch and recovery.

POTENTIAL V/STOL APPLICATION TO NAVY MISSIONS

In the last ten years the size of the USN fleet has diminished from close to 1000 ships to less than 500 warships, primarily by retiring old and obsolete ships faster than construction of replacement ships. Great numbers of ships are needed for worldwide sea control. The importance of sea control is illustrated by the large number of merchant ships which crisscross the oceans to sustain world trade. The west is dependent on shipping for its standard of living and the efficient functioning of its economies. The world's shipping is largely made up of the merchant fleets of the NATO countries, Japan, and Liberia (most of the Liberian ships are owned by Western nations).

The U.S. is presently importing roughly three billion barrels of petroleum each year which amounts to about 40% of our consumption. This equates to 8 million barrels of petroleum daily, requiring about 24 tankers to make port each day. A portion of our petroleum imports does come from Venezuela, but a larger percentage of oil imports now come from Saudi Arabia and the imports from the Middle East are increasing. The route from the Middle East involves a long voyage around the African Cape. The task of protecting this shipping lane alone is enormous.

Tankers are currently carrying Alaskan oil from the port of Valdez to terminals on the west coast. This essential flow could be denied air protection during hostilities requiring deployment of the Pacific Fleet CVs.

The oil from Alaska will not eliminate the necessity for importing oil from foreign sources. The protection of the merchant fleets during periods of armed conflict will require sea based aircraft services in excess of those which can be supplied by the 13 large aircraft carriers in the present inventory.

POTENTIAL APPLICATION TO NAVY MISSIONS

Our commitment to protect friendly country shipping, our dependence on that shipping, the essential role that sea based air power must play in protecting the merchant fleet, the limited number of large aircraft carriers we have and the extensive resources required to build large carriers all coincide in support of Navy application of V/STOL. V-8B+ capabilities allow utilization of many classes of air capable ships including LHA, LPH, LPD and various platform equipped vessels as well as large aircraft carriers. In times of national emergency, it is feasible to utilize commercial container ships configured as air platforms to permit operation of V/STOL aircraft. V/STOL capability provides over a sixfold increase in the number of ships from which sea based aircraft can operate. In addition, there are potentially hundreds of merchant ships on which these aircraft can be deployed, providing a formidable force for protecting our Merchant Marine.

Admiral James L. Holloway III has stated to the Senate Appropriations Committee that "the most dramatic development in the past fifteen years in overall Soviet strategy has been the evolution of the role of its Navy." Soviet ships are generally new, with the latest technologies incorporated. They combine firepower with speed and mobility.

The latest addition to the threat picture are YAK-36 Forger VTOL aircraft launched from helicopter carriers or VTOL carriers. This threat is building up and cannot be ignored.

POTENTIAL APPLICATION TO NAVY MISSIONS

Given limited dependence on her merchant shipping and a capability for accurate control and knowledge of the locations of her ships, the Soviets could give their aircraft, ships, and submarines free fire zones which would not include Soviet ships. This explains the massive Soviet commitment to anti-ship missile systems.

The array of Soviet weapon systems, pose a substantial threat to Western World shipping. The most formidable threat comes from the huge fleet of Soviet submarines (some 400 units), which is larger than the combination of all other countries in the world. The number of nuclear powered submarines in the Soviet fleet is also increasing.

In addition, the submarine threat to shipping is changing from torpedo attack to anti-ship missile attack. This dramatically increases the range of submarine weapons from a few to almost 400 miles. Free fire zones, modern day satellite reconnaissance and long range underwater acoustical detection systems permit the Soviet anti-ship missile carriers to use their missiles from the maximum standoff range.

There are also several kinds of surface ships with anti-ship missile capabilities, with ship size ranging from the big Kiev class carriers and the Kynda/Kresta class destroyers to small coastal patrol boats. The threat from the air includes almost all aircraft types, however in places far away from Soviet bases, the air threat consists primarily of land based long range bombers and patrol planes.

V/STOL SEA CONTROL AND POWER PROJECTION MISSIONS

Hypothetical scenarios.—Hypothetical scenarios have been postulated involving convoy protection in remote areas, area constraint to protect shipping, and enemy denial by maintaining a barrier in a high threat area. The AV-8B+ provides the V/STOL mission flexibility required by these scenarios.

Search and attack.—The AV-8B+ ability to perform this mission capitalizes on its combined electronic and visual surveillance capabilities coupled with its range and endurance. With its radar, the AV-8B+ has advanced search capabilities. It is capable of detecting targets as small as patrol boats. Once a threat is detected, visually identified and reported, the AV-8B+ is fully capable of attack with on-board air-to-surface weaponry.

Surface strike.—Once a surface threat has been identified, immediate strike action against ships at sea, ships in port or port facilities is required. The AV-8B+ is highly responsivle due to its basing flexibility and self-start capability. Mobile targets may be struck quickly with minimum time to position themselves for defense against attack and with less time to escape. The ship and AV-8B+Harpoon combination illustrated should outrange the Soviet Cruiser/Carrier Forger combination by a considerable margin.

Intercept.—Based upon detection by airborne or surface surveillance radar, the AV-8B+ may be directed to the attack from either a deck or airborne position. The AV-8B+ can then use its radar in the all weather air-to-air mode to complete the intercept. For close-in air-to-air combat the AB-8B+, with thrust vectoring, is highly maneuverable and combat capable. The pilot has a choice of air-to-air missiles or gun for air combat. The AV-8B+ pilot has the choice of returning to his primary sea base or recovering on a nearby platform of some smaller or alternative air-capable ship for immediate refueling and rearming if necessary. He could then be combat ready loaded for a follow-on directed air defense type mission. Finally, the AV-8B+ has the capability to conduct air intercepts from a variety of air capable ships while in port, dockside or at an anchorage.

V/STOL SEA CONTROL AND POWER PROJECTION MISSIONS

Air escort.—The AV–8B+ operates in concert with helicopters. The fighter attack AV–8B+ is capable of providing protective air escort service for helicopter forces by disrupting attacks from air threats. Air-to-air capabilities of the AV–8B+ combine with the surveillance capabilities of the SH–3 helicopters to form a protective team operation for helicopter forces in transit. If disruption of helicopter operations originates with surface threats, the AV–8B+ is capable of suppressing or destroying these threats with air-to-surface weapons. Escort of attack forces on preplanned strike missions can be accomplished from air-capable ships dispersed in a manner which will permit efficient rendezvous. The endurance, maneuverability and variety of air-to-air armament suit the AV–8B+ to this escort mission, overcoming either V/STOL or CTOL attack force.

Antisubmarine.—The AV–8B+ and the SH–3A helicopter conduct antisubmarine warfare (ASW) as a team operation. The SH–3A has sonar dunking and detection capability and the AV–8B+ the capability for quick delivery of air torpedoes or depth bombs. Once a contact has been made and designated, the AV–8B+ has both the attack weaponry to defeat the submarine threat or the endurance to loiter until another AV–8B+ arrives for attack and continuation of the contact. As the AV–8B+ provides the more rapid antisubmarine attack capability, it relieves the SH–3 helicopter of the need to carry these weapons, thus permitting it extended search and detection time on station. In addition, sonobuoy replenishment can be accomplished quickly by the AV–8B+. For example, within four minutes from takeoff, the AV–8B+ can begin dropping sonobuoys at a point 30 nm distant from its air-capable ship base.

Ferry.—The AV–8B+ can respond quickly to the need for fighter attack support in the event of distant global disturbances. Employing four 300 gallon external tanks the aircraft has an unrefueled range of 2,300 nm. Its range can be further extended when air refueling is employed.

Amphibious operations.—During amphibious operations, basing the AV–8B+ on associated amphibious air-capable ships places the aircraft in the optimum position to provide coordinated pre-planned strikes and to respond to immediate requests for assistance from Army and Marine Corps commanders on the beach. The aircraft is equipped so that it operates in a compatible manner with the Tactical Air Control System, the USMC Command and Control System, and the Naval Air Tactical Data System. Although close air support is an important task for the AV–8B+, equally important tasks are to protect the beachhead from surface flank attacks by sea and to augment fighter forces in providing air superiority over the beachhead.

The AV–8B+ will be compatible with the USMC light attack force in the objective area, with attendant operational and logistic benefits.

Interdiction.—In the event reinforcements or supplies are being moved in by opposing forces on the beachhead, the AV–8B+ has the speed, delivery techniques, weapon selection and delivery accuracy to interrupt and destroy these opposing land forces.

Deep strike.—Deep penetration of large land masses to strike specific targets can be accomplished using the inertial navigation system and smart weapons.

Mining operations.—Seeding of naval mines in harbors and estuaries can be accomplished quickly and accurately by the AV–8B+. Delivery speeds are compatible with sea mine delivery. Basing of the aircraft on selected smaller ships permits flight from those locations either in shore or relatively close to the target area.

V/STOL BASING OPTIONS ABOARD CONTAINER SHIPS

Implementation of the ARAPAHO concept would increase by at least 100 the number of available AV–8B+ sea basing platforms. This concept utilizes modern Merchant Marine container ships which incorporate a portable self-contained modular aircraft facility. The ships all have similar characteristics:

Size—30,000 to 60,000 tons.

Speed—22 to 34 kts.

Unencumbered top deck.

Large capacity—1,100 to 2,000 containers.

In addition, they are reliable, stable in heavy weather and possess the most modern electronic navigation and communications equipment and facilities.

The ARAPAHO containers are standard 8 ft × 8 ft × 40 ft (or 20 ft) modules which are configured according to their function (maintenance, storage, berthing, messing, medical, etc.). The prototype ARAPAHO facility consists of a 200 ft × 64 ft open grid flight deck; a hangar structure made up of 18 container modules; personnel accommodation (hotel) modules provided with electricity, communications, and water; and support modules housing airframe and avionics shops, engine shops and maintenance control functions.

Also included is a fuel system comprised of a self-contained pump van plus tank storage capacity for 25,000 to 50,000 gallons of jet fuel. All necessary equipment to fuel and defuel embarked aircraft is provided. Resupply of consumables is easily accomplished by vertical replenishment as needed.

A limited operations capability would exist under this concept with the embarked AV–8B+ aircraft placed in a deck alert status to combat air, surface, or, in conjunction with ASW helicopters, subsurface threats for the duration of a convoy ocean crossing.

V/STOL BASING OPTIONS ABOARD CONTAINER SHIPS

Variations of the baseline ARAPAHO concept can be installed which further increase the mission capabilities of the aircraft. The key to the design flexibility is the fully mobile, modular nature of the installation. With only a few changes, a STO deck of up to 400 feet could be installed on many of the hulls. Benefits of a STO run are impressive for the AV–8B+—increasing gross takeoff weight from 20,700 lb for VTO to 27,200 lb for 400 ft STO (20 knots WOD).

To further increase performance, the addition of a ski jump ramp at the end of the deck would be possible on most ships. This provides additional payload, shorter deck run, and increased flight safety.

If a requirement exists to operate more than the 4 to 6 AV–8B+'s that could be based aboard the installations described above, it is possible to provide separate flight and hangar decks allowing basing of up to 12 AV–8B+'s and 4 SH–3 helicopters.

A preliminary design of such an installation is based on utilizing medium girder bridge components for the flight and hangar decks. The hangar deck is created by removing the center rows of containers under the flight deck and installing one or more modular hydraulic elevators for aircraft and equipment movement between decks.

With sufficient dedicated fuel and ordnance storage available on such a ship and limited maintenance capability to support the aircraft, a number of mission options are available:

Deck alert/airborne CAP.

Surface search/attack.

ASW.

CAS.

In essence, the container ship could support CV-type missions in transit or in the operating area for up to five days with approximately 200,000 gallons of fuel (in forty 20 ft container tanks) and sufficient ordnance (in fifty-six 20 ft containers) without resupply. If underway replenishment were utilized, the onboard fuel and ordnance requirements could be greatly reduced and operations could be carried on indefinitely.

RELIABILITY AND MAINTAINABILITY BY DESIGN

The AV–8B+ Reliability and Maintainability (R&M) effort will be dedicated to the objectives of NAVAIR's "New Look Program".

Cost effective R&M improvements will be incorporated in the AV–8B+ during design and development through management emphasis on this important design discipline.

SHIP SUITABILITY

Numerous shipboard trials with AV–8A aircraft over the last 15 years have demonstrated the basic ship suitability of light attack V/STOL aircraft. They have shown that light attack V/STOL aircraft integrate easily into the conventional operation of a Sea Based Air Group.

In addition, V/STOL aircraft have important inherent advantages over conventional aircraft:

Takeoff and landing intervals are more uniform, due to independence from catapults and arresting gear.

Waveoffs and bolters are essentially eliminated, saving time for recovery, spotting and turnaround.

Self-starting and backward taxiing capability simplify deck operations.

No arresting or catapulting gear is required resulting in simplified ship and aircraft operation.

Dispersion to smaller ships is possible.

The AV–8B+ incorporates numerous improvements that enhance its ship suitability over that of the AV–8A. These include:

Improved pilot visibility.

Decreased pilot workload.

Improved armament safety.

All Weather Landing System (AWLS).

Improved reliability/maintainability.

Improved corrosion resistance.

Narrower landing gear track.

Improved landing sink rate capability.

Improved handling qualities.

Retractable inflight refueling probe.

Elimination of LOX container.

The USMC AV–8A and RAF Harrier have proven the operational flexibility of V/STOL aircraft at sea from a variety of existing ships where such capability does not otherwise exist. The AV–8B+ provides this V/STOL air strike, air defense, and long range surveillance capability at minimum cost and development risk. A significant international sales potential is projected for the AV–8B and the AV–8B+.

The AV–8B+ aircraft's V/STOL capability provides the U.S. Navy the air power flexibility to operate from up to 261 naval vessels. This and the AV–8B+ multimission capability coupled with its wide spectrum of armament will extend the U.S. Navy sea control and power projection potential when and where it is required to protect our world-wide national interests.

AV–8B+ operations may be conducted from three types of ships:

Aviation Ships (CVs)

Amphibious Aviation Ships (LHAs and LPHs)

Air Capable Ships

A total of 25 ships (CVs, LHAs and LPHs) with flight decks of 590 feet or longer for STO operations will be available for AV–8B+ V/STOL operations.

The Vertical takeoff capability of the AV–8B+ allows operations from the 62 air capable ships that have helicopter flight decks.

Since the AV–8B+ can operate from flight decks of smaller vessels an additional 174 air-capable ships are available for VTOL operations. This includes about 100 container ships that are potential V/STOL platforms with the installation of ARAPAHO conversion kits. (This could be increased by adding 100 NATO merchant container ships.)

NATO STANDARDIZATION/INTEROPERABILITY

AV–8B+ is suitable for NATO interoperability operational capability includes:

Enroute Turnaround: Routine Flight-Line Servicing

Combat Turnaround: Flight-Line Servicing, Rearming (Gun, Missiles, Bombs, etc.).

Temporary Deployment (Forward Basing): Deployment for Several Days or Weeks, U.S. or Allied Base or Ship, Routing Maintenance, Repair Support, Flight-Line Servicing, Rearming (Gun, Missiles, Bombs, etc).

AV–8B+ can operate from all NATO bases:

AV–8B+ can operate from NATO and other allied V/STOL ships:

AV–8B+ Can be Serviced and Maintained at NATO Bases Other Than Home Base.●

CHRONOLOGY OF VARIOUS DEALINGS BETWEEN THE CARTER FAMILY WAREHOUSE AND THE NATIONAL BANK OF GEORGIA (NBG)

● Mr. DOLE. Mr. President, I am submitting for the RECORD "a paper trail" which led me to the conclusion that the Attorney General must act to name a special prosecutor to look into the loan relationship between the National Bank of Georgia and the Carter family warehouse.

I have sent a letter to the Attorney General requesting the appointment of a special prosecutor, and herewith submit a 9-page document to the Senate outlining the activities of the Carter peanut warehouse and the National Bank of Georgia.

This chronological account, coupled with new information contained in yesterday and today's Washington Post, have led me to the inevitable conclusion that it would be in the best interest of the Nation if a special prosecutor were to be named as soon as possible. To do so would avoid the sometimes ugly, and often damaging, partisanship which surrounded the Watergate investigation.

Even prior to the revelations of the past 2 days, there was strong evidence to suggest that a special prosecutor should be named. But certainly the Washington Post story yesterday, alleging that a former warehouseman and Billy Carter repeatedly altered records and pledged the same collateral twice in 1976 in an effort to conceal a $500,000 deficit in payments on a National Bank of Georgia loan confirms this. And today, the Post reported that the bonded warehouseman, Jimmy Hayes, was interviewed last night by two FBI agents. Clearly the Justice Department must see that this is a serious matter warranting attention.

The document follows:

THE PAPER TRAIL OF VARIOUS DEALINGS WITH THE CARTER PEANUT WAREHOUSE AND THE NATIONAL BANK OF GEORGIA (NBG)

MISCELLANEOUS FACTS

A. The transactions and activities took place between 1975 and 1978. Some of the loans are still outstanding.

B. Transactions and activities are between the NBG and the Carter peanut warehouse.

The Carter peanut warehouse operation is composed of three partners:

1. Jimmy Carter—63% (His partnership share was placed in a blind trust on January 20, 1977, which is being administered by Charles Kirbo.)

2. Billy Carter and Lillian Carter own the remaining partnership interest.

C. Bert Lance was chief executive officer of the NBG from 1975 through his appointment as Director of OMB in January of 1977.

BACKGROUND

The controversy surrounding Bert Lance's activities in 1975–1977 prompted the SEC, the Office of Comptroller of the Currency (OCC), and the House and Senate Banking Committees to investigate to determine whether any civil or criminal violations of any laws or regulations occurred.

In April 1977, the OCC and the SEC filed a joint suit in the Federal District in Atlanta. The suit charged that Lance had employed devices, schemes, and artifices to defraud, engaged in transactions and followed courses of business that operated as a "fraud and deceit" upon the shareholders of NBG and that Lance engaged in "unsafe and unsound banking practices". The report stated that Lance, while chief executive officer at NBG filed incomplete personal finance statements, which are required by federal law. (Wall Street Journal, April 27, 1978 and New York Times, April 27, 1978.)

Lance also understimated his personal liabilities to the Senate Government Affairs Committee (which was then considering his nomination) by $1.2 million. (Wall Street Journal, April 27, 1978 and New York Times, April 28, 1978.)

As part of the joint suit filed by the SEC and OCC, the NBG was required to appoint a special committee to investigate any possible legal recourse by shareholders. (Wall Street Journal, April 27, 1978 and New York Times April 28, 1978.)

At approximately the same time the joint suit was filed by the SEC and the OCC, a Federal District Court Judge ordered Bert Lance and a group of investors to cease and desist in their efforts to take over a bank holding company—Financial General Bankshares. (Washington Post, editorial, April 28, 1978.)

Additionally there came in existence a federal grand jury to review any possible violations of any criminal or banking or other laws. (New York Times, April 28, 1978.) There was still a grand jury in existence in January, 1978, as Billy Carter was subpoenaed as a witness. (Wall Street Journal, February 28, 1978.)

The report which was required to be filed by the special committee of NBG was completed in the middle of January, 1979, and disclosed revealing information regarding loans between NGB and the Carter Peanut Warehouse.

The activities of the Carter Peanut Warehouse and NBF can be divided into four parts.

I. Loans for warehouse and equipment

A. On June 12, 1975, NBG extended a loan for $600,000 that the Carter Peanut Warehouse had made to purchase and build a peanut shelling facility. (Washington Post, January 18, 1979.)

B. On December 18, 1975, the NBG loaned the Carter Peanut Warehouse $300,000 for construction of a new warehouse. (Washington Post, January 18, 1979.)

Mr. Flynn, former NBG vice-president, stated that Jimmy Carter was directly involved in negotiating this loan. The NBG was criticized in this report for being unable to perfect any lien on the shelter until the Citizens Bank of Americus had released a lien on the warehouse a year and a half later. (New York Times, November 19, 1978.)

These loans were later consolidated into a single loan of approximately $1 million.

Charles Carter (no relation), owner of the construction firm that made the above improvements stated the total cost to be $705,000. (Newsweek, November 6, 1978.) This leaves $300,000 of unaccounted money. Did this money find its way into President Carter's primary campaign? If the statement by Mr. Charles Carter is correct, then the loans were not backed by adequate collateral, a situation which was made worse by the fact that the lien was not perfected on a million dollar loan until a considerable time period had elapsed.

It is also possible that these were the documents mentioned in a preliminary FBI investigation that was alleged to have been falsified by bank officials. A Washington Post account stated that NBG documents relating to loans to the Carter Peanut Warehouse were falsified. The result of this alleged falsification was that loans did not have sufficient collateral. (Washington Post, February 27, 1979.) It should also be noted that Billy Carter took the 5th Amendment in response to questions regarding both the consolidated loan and a revolving line of credit except when questioned for periods of time for which he was subpoenaed. (Newsweek, November 6, 1978.) Was Billy, or the Carter Peanut Warehouse, or bank officials, involved in any violation of any banking or election laws? Why did Billy Carter take the 5th? What does he have to hide?

II. Line of credit (commodity loans)

The report made by the special committee of NBG in January 1978, also stated that the NBG extended a commodity loan (line of credit) to the Carter Peanut Warehouse. This was one of the largest commodity loans ever granted by the NGB, and was initially for $3 million. This line of credit was to purchase peanuts and process them before reselling them to industrial users. (Newsweek, November 6, 1978.)

This revolving line of credit was extended to $9 million in 1976, although the largest amount of credit extended was $3.9 million. (Newsweek, November 6, 1978.) The loans from the line of credit were repaid by March 1978.

The report by the NBG special committee also stated that there was a continuing overdraft problem between the NBG and the Carter Peanut Warehouse. These overdrafts were sometimes as high as $500,000. The Carter Peanut Warehouse was to pay the bank within 30 days of a sale. But in many cases payments for released peanuts were drawn on insufficient funds.

Instead of returning the back checks and warning the Carters not to release any more peanuts, the loan officer held the checks until funds were available to them. "This practice apparently resulted from pressure by Lance to avoid overdrafts and may have been known to some of the loan officer's supervisors. At one point, the committee (NBG Special Committee Report) said, the bank had only accounted in warehouse receipts for $357,000 of $833,000 in loans. That amounted to an overdraft." (New York Times, January 18, 1979.)

Mr. Charles Kirbo attempted to explain that a cash flow problem was the reason for the overdraft. He said that Billy Carter got into trouble when he took I.O.U.'s from farmers who bought seed and other supplies from the Carter Peanut Warehouse. These farmers promised to deliver their peanut crop to the Carter firm.

Kirbo said these accounts receivables (I.O.U.s) were pledged as collateral on the NBG loans. Bad weather precluded their repayment. Kirbo used the example of one South Georgia farmer still owing the Carter Peanut Warehouse $13,000.

Mr. Kirbo's account presents a difference as to what exactly was collateral for the line of credit. Was it the peanuts as reported by the Special Committee of NBG or was the collateral as stated by Mr. Kirbo, I.O.U.s from farmers? (Washington Post, February 14, 1979.)

Warehouse records appear to indicate that the Carter Peanut Warehouse could have complied with the 30 hour rule because 80 percent of the business was with commercial customers such as candy manufacturers.

At the time that the Carter Peanut Warehouse was in disrepair, NBG, in early September 1977, offered Billy Carter a personal line of credit of up to $130,000. Billy Carter says that he had borrowed only $52,000 and to secure the $52,000 note, three lots had to be secured.

From Court records in Americus, Georgia, it appears that in late September 1977, Billy Carter signed over to Carter Farms, Inc. (President Carter's blind trust) a property deed for the same three lots used to secure the NBG loan. The amount of the note from Carter Farms, Inc. was $148,000, the total amount of money that Billy Carter had said was "owed to him". (Wall Street Journal, February 9, 1979, and New York Times, February 8, 1979.)

It should be mentioned that the line of credit from NBG to the Carter peanut warehouse was also a target of investigation by a grand jury before which Billy Carter took the 5th Amendment because he said that the questions were not for the time period for which he was subpoenaed—Sept.-Dec. 1976. This revolving line of credit and overdrafts resulting from insufficient collateral could have also been the falsified bank document mentioned in the preliminary FBI investigation which appeared in the Washington Post last week.

III. Interest rates relating to the consolidated equipment and building loans, and the commodity line of credit

It appears that the Carter peanut warehouse received preferential treatment on their interest rates on the loans and line of credit.

The rate for the $600,000 loan for the peanut shelling device which was extended on June 12, 1975, was approximately 10.5 percent.

The second loan of $300,000 for the warehouse which was taken out December 18, 1975, carried a rate of prime plus 3 percentage points. In January 18, 1976, NBG at the request of Lance reduced the rate to prime plus 2½ percent.

In July 1976, these two loans were consolidated. Somewhere between June 30, 1976, and August 1976, there was an undocumented reduction in the rate to prime plus 2 percent. In August 1976, the loan committee reduced the loan so that it was only 1.5 percent over prime. (New York Times, January 18, 1979.)

It should be mentioned that in a hearing before the Subcommittee on Financial Institutions Supervision, Regulation and Insurance; Mr. Cleveland of the NBG testified that "with a $1,000,000 capitalization (a business could expect a loan of) probably $600,000, $700,000. Congressman Leach asked if a $4.5 million loan (which was the consolidated equipment loan plus the $3.7 million line of credit) would need to reflect a capitalization of $6 to $7 million. Mr. Cleveland then stated, "No sir, that is a short term line of credit secured by warehouse receipts, fully secured and policed by specialists in policing warehouse receipts."

As was mentioned earlier, the Carter Peanut Warehouse line of credit was not fully collateralized because of the overdraft problem. Additionally, Congressman Leach's figure also included not just the line of credit by the $1,000,000 consolidated loan which was not protected by a lien for one and a half years.

If the bank had an expert in warehouse receipts, etc., why was there a continued scaling down of the interest rate when there was an unsecured lien on the peanut sheller and warehouse?

There is also evidence that the special committee appointed by regulators to investigate the NBG while Lance was Chief Executive Officer were misled about loans to the Carter peanut partnership. The directors relied heavily on information given to them by a former loan officer at NBG. They did not have access to Carter warehouse records and the bank's own files were incomplete.

IV. TAX DISCREPANCY ON THE VALUATION OF WAREHOUSE EQUIPMENT

As mentioned earlier, the Carter partnership purchased a peanut sheller facility for $600,000, and a warehouse storage facility for $300,000. These two were later consolidated into a million dollar loan.

An ABC news report said Carter valued the sheller at $695,000 when he claimed it as an investment tax credit on his 1975 income tax return. However, Billy Carter, the warehouse administrator, submitted invoices showing the warehouse paid $375,000. Billy Carter's invoices were submitted to the local Sumpter County Board of Tax Assessors for property tax purposes.

In a 1976 tax return, the local tax appraiser set $50,000 as the assessed value of a truck bin and elevator installed in 1976. An ABC news report said Carter valued the equipment at $67,000.

The local Sumpter County tax authorities stated their assessment is based on FMV and not actual cost. This does not appear to explain the discrepancy between the cost of the sheller and what President Carter claimed as an investment tax credit. It is estimated that Carter saved $36,000 by valuing the Sheller at $695,000. (Newsweek, November 6, 1978).●

INTERVIEW OF PRESIDENT JULIUS NYERERE OF TANZANIA

● Mr. TSONGAS. Mr. President, President Julius Nyerere of Tanzania is one of the most respected statesmen in Africa, indeed, in the world. He is the leader of one of the poorest nations in Africa, but his intelligence and judgment have brought him renown far out of proportion to the size of the state he leads.

This approach to economic development is uniquely Tanzanian. One of the first architects of African socialism, his aim has been to involve impoverished peasants in the developmental process using the village as the primary economic unit. But when this process produced mixed results, Mr. Nyerere reexamined his development plans and concluded that price incentives and Western investment were appropriate avenues for strengthening Tanzania's economy. For Julius Nyerere, this was a major philosophical concession, but we Americans sometimes fail to realize that African socialists are far less rigid than we imagine them to be. Their first duty is the development of their countries. not the slavish adherence to alien ideologies.

The Washington Post recently published an interview with Mr. Nyerere. In that interview, Mr. Nyerere discusses primarily the Rhodesian War, and reminds us that the prospects for a negotiated peace are not good. This pessimistic assessment confused an editor who mistakenly titled the article "Next: Race War in Africa." The war, as we all know, is over 7 years old. Despite the sensationalistic title, the interview is an important statement. Mr. Nyerere is especially candid about Cuban intervention in Rhodesia. He does not want the Cubans there; nor does the Patriotic Front, "These people want to feel they have liberated themselves," he declares. If we lift the economic sanctions against Rhodesia, then Mr. Nyerere says "the United States will have joined the enemy."

The guerrilla war in Rhodesia, as Mr. Nyerere so cogently explains, is part of a larger nationalistic struggle of continental dimensions. The guerrillas have received military support from Commuist nations, but their objective is a black-ruled state independent of any foreign domination, whether it be Soviet, Chinese, British, or American. Any outside power seeking a role in Rhodesia should remember this fundamental characteristic of African nationalism.

I request that the interview with Mr. Nyerere be printed in the Record.

The interview follows:

Next: Race War in Africa

(By Jonathan Power)

Tanzania is one of the poorest 25 countries in the world. But in political weight it may well be in the top 25. This extraordinary accomplishment is the work of its first and only president, 57-year-old Julius Nyerere, who has been ruling now for 18 years, longer than any other post-colonial African leader. To the outside world, it is his pivotal role in Southern African diplomacy that has won him attention.

Ever since Henry Kissinger, in a rushed last minute effort at the tail end of his tenure as secretary of state, tried to find a formula for ending white rule in Rhodesia, Nyerere has been courted by the West as the most important influence for accommodation on the African side. At first sight it is odd that this should be so. After all, Tanzania's border is not contiguous with Rhodesia or South Africa. Its economic and military strength is slight.

The answer is rooted principally in Nyerere's personality, the fact that he has never shied away from helping the liberation movements in Southern Africa, whatever his own difficulties at home. It was from its bases in Tanzania that Frelimo toppled Portugese colonialism in Mozambique. And Dar es Salaam has long been the headquarters of the Organization of African States' liberation committee.

We talked for over four hours in his small seaside house where he now conducts most of his business. In 1972 he moved out of the magnificent British-built State House, which he found more like "a hotel than a home." We sat on the veranda, his shoeless feet tucked under him, his manner as unpretentious as his lifestyle. (He lives on a salary of $500 a month, less than his senior civil servants.) Even in his most forceful moments, when he was for the first time publicly damning the American and British diplomatic effort in Rhodesia, his voice never became harsh. There was always a laugh or a gesture to mellow the attack.

Nonetheless this interview, calling for all-out war in Rhodesia could mark the end of the era of diplomacy in southern Africa.

Let's talk about Rhodesia. With the majority of voters in the Jan. 30 white referendum voting for black majority rule on the lines worked out by [Prime Minister] Ian Smith and his black supporters, isn't it time to reconsider your support for the guerrillas of the Patriotic Front who are trying to undermine this "internal settlement"?

No! Smith has not changed. What has happened is that the Patriotic Front has been fighting and Smith now realizes that he will lose that war. He has to see what he can salvage. I know what that "internal settlement" constitution is. It is a kind of constitution which secures power for a white minority for the next I don't-know-how-many years.

Whatever you say, Rhodesia will have an election on April 20. The international press will be there in force. If they see that the election is reasonably free and as fair as one can expect in a war zone, it is likely that there will be a move in Congress to lift U.S. economic sanctions against Rhodesia. And maybe in Britain there will by then be a new Conservative government led by Mrs. [Margaret] Thatcher. Are you worried about this possible turn of events?

Yes. It would be dishonest to say that I am not worried. I have always worked to try and get western pressure on the side of liberation forces. We have got to maintain this support because it is useful. However, if things go as you say they might, then Britain and the United States would have joined the enemy. We'll have to live with it. We shall fight them. If the Patriotic Front is still willing to fight them and the Russians and the Chinese and the communist countries are willing to give us the arms, we'll fight them.

Is it possible to bring peace and democracy to Rhodesia?

My answer is yes, of course. That war is going to end. It will come to an end and the guerrillas will win. Can one hope that there is an alternative to war? I think not.

Less than a month ago you told an American reporter that you wanted a "short, sharp military action" by the British and the Americans in Rhodesia. You were still arguing for it only a month ago.

I've given up.

So this change of mind is fairly recent.

I've been talking like this for years, mostly privately. I began to talk like this publicly only recently. "Go in. Go in." I said. There was no sign—none. None at all. And now I've got to concentrate on the only alternative, which is the war.

When I believed there was some hope of ending this war on the basis of the Anglo-American proposals I spoke in their favor to my Patriotic Front colleagues without any inhibition. I was very firm. There came the time that I was almost the only one that held to them. Washington was shy about the Anglo-American proposals. London was even more shy about the Anglo-American proposals.

Now I know there is no hope at all of moving Washington or moving London on the Anglo-American proposals or trying to implement them. They play around with them as a kind of phrase. "The Anglo-American proposals remain the best basis of a solution," but you don't have to do anything about it. So realistically the Patriotic Front must concentrate on the only alternative, which is to win the war.

In this fight to the finish which you foresee you have mentioned that you will go to the communist powers for help. How deep is that involvement likely to be? Are we likely to see Cuban troops brought this far south?

No. What for? These people are winning that war without Cubans. So what do they want the Cuban for? The Cubans can't liberate these people. These people want to feel they have liberated themselves.

You don't see the South African government at a point of crisis being driven by its own public opinion to get involved and that producing a Cuban involvement?

Oh, yes, there can be a repetition of Angola. But it will come from South Africa and the West. It will not come from here. Why? Because the Patriotic Front is winning that war. Left to themselves, they are winning. Smith says so.

So when you talk of increased communist support for the Patriotic Front what were you thinking?

Remember, we were talking about the possibility that after the so-called elections in April, the West would decide to back up the resulting government. The West at present, whatever their sympathies, are not backing up that government of Smith. But if they decided to back up the government which results after the 20th of April, this will change the situation and then we may need a lot of support from the communist countries.

Even Cuban troops?

It depends upon what they do.

So you won't rule it out?

The Patriotic Front will have to decide the kind of support they want from their own allies. I hope we don't need them.

But if the U.S. Congress did lift sanctions and Mrs. Thatcher attempted to be accommodating to that April 20 election and the South Africans continued to give whoever become the black prime minister arms supplies and maybe other forms of military support, wouldn't there then be enormous pressure within the Patriotic Front to ask for Cuban help?

If that happened I hope the Patriotic Front would still say thing has changed except that the enemy has been propped up. I hope that at least it would help them to solder their unity. Whether the Patriotic Front will decide to involve their allies in anything more than suplying them with arms will depend upon the real situation in Zimbabwe.

This supply of arms in itself poses real problems, because the Soviet Union is the principal supplier of Joshua Nkoma and China is the principal supplier of Robert Mugabe. We have already seen with Vietnam and Cambodia these two superpowers using smaller nations as proxies. Do you see a basis for further divisiveness in the source of the arms supplies?

Yes. I see that danger. We are very frank with both the Chinese and the Russians. We hope they will not join the enemy by working for the disunity of the Patriotic Front. We are very frank.

During the last 12 months there have been reports of savage killings of innocent civilians, even missionaries, by the Patriotic Front. What do you make of these reports?

I have no reason to believe them. I know the leaders of the Patriotic Front—they are not insane. They are very shrewd. They understand the value of world opinion. They are not the ones defying world opinion. The support they get from church people and missionaries is quite clear. It is obvious. It is Smith, not they, who have expelled missionaries from Rhodesia. It would be amazing that in the face of all these considerations the Patriotic Front would go out killing missionaries. What would they gain now? I know Smith has expelled missionaries. He has expelled nuns—he has locked them up. We know he has done this. Yet he is the one who says the Patriotic Front is killing them. Why should I believe lies?

Let us now talk about South Africa. I believe you have accepted that the Afrikaaners are a white tribe of Africa. Don't you think there would be more chance of reaching some solution in South Africa if one argued for a federation of states within South Africa, with the whites having their own tribal area?

The issue is not what constitution there should be for an otherwise democratic South Africa. If that was the issue, frankly I would leave it to the South Africans. The issue is this: Here are people with a religion. Their religion requires that they must govern the blacks. There are governments in the world we criticize, including a government like Idi Amin's, because he is killing people. He is a murderer, he is a tyrant. But he doesn't have a religion which requires that he kill people. This superiority based on the Bible is really nonsense, and therefore the people will have to fight.

Is there a way of bringing majority rule to South Africa without the kind of fighting and killing we see unfolding before us in Rhodesia?

Yes, the choice is there. The South African whites could say, "Look, we have been on this course now for more than 30 years. We don't appear to be converting the world at all to our course. Perhaps we have lost. Perhaps we need to change. We need to treat the majority of our people as human beings. So let us begin the process of change."

In 1966 you said that the United States, "instead of taking the revolutionary side as its history suggests it should, has always taken the side of European colonialism." Do you still think that?

I wish I could say I am wrong now. I think the failure in Rhodesia was basically because the Americans decided that they must listen to the British. They will only do as much as the British are willing to do. I thought for a time that Carter was going to try to use American power much more vigorously in helping to end some of these anachronisms in Southern Africa and especially those anachronisms which are not in the interest of the United States. But not now.

Don't you feel that if Soviet political and military strength advances as it is now doing, through the Horn of Africa up through the Middle East and down to Afghanistan, maybe in five or six years' time you may wish with hindsight you hadn't discounted Soviet influence quite as much as you are now doing?

Yes, it is possible. But at the present, if Africa feels dependent, feels unfree, it is because of Western Europe. We are to Western Europe what Latin America is to the United States. So for those Africans who feel they need to enlarge their area of freedom, their problem is not the Soviet Union. Their problem is Western Europe. For Western Europe to tell me, "Julius, don't you worry about us, worry about the Soviet Union because you never know"—well, I can't talk about "I never know." I talk about what I know. And what I know is the fact that we are dependent on Western Europe and I know that I don't want to be dependent upon anyone else, the Soviet Union included.

You don't get anxious when you see so many Communist troops in Ethiopia and Angola who are seemingly digging in for a long stay?

I know why they are there. The Cubans are in Angola because the West decided to back up South Africa in its attempt to prevent the MPLA taking over the government of Angola—a cause they had been fighting for 10 years. I still approve the reasons why the Cubans are there. The South Africans are even now still menacing Angola. As long as [Angolan President Agostinho] Neto feels menaced by South Africa there is no reason why they should not keep Cubans there.

[Ethiopian leader Lt. Col.] Mengistu had a third of his country occupied by Somalia. What was his alternative? If it had been Haile Selassie and not Mengitsu, he may have asked for help from the United States. I would have said he had every right to.

In 1961 you said that you felt one contribution Africa could make to the present history of the world is to refuse to arm. You have certainly changed your views since then. You must have gone through a tortuous period as a committed Christian when you moved from this position to where you now see only armed struggle as the answer to Rhodesia.

No. Frankly, to arm or not to arm has never been a problem for me at all. For me, it has been a political question rather than a Christian one. Violence is a political instrument. I have never seen it as a moral issue. I wish I could. I did try. I took Gandhi very seriously. He believed if India were attacked, they should not fight back. I said I am a Christian, let me see if as a Christian I could reach the same conclusion. I tried to. The New Testament says turn the other cheek. Or the Decalogue: "Thou shalt not kill"—it is straightforward. There is no "except in certain circumstances." But I can't convince myself at all. And so there I am. It is a shame, but I am not the only one. There are many other Christians who have not reached Gandhi's conclusion.

What do you do when two morally right courses clash? You support the liberation forces in Rhodesia. But then the guerrillas come up against a white family and the father sees his duty to defend his family. For him to kill the guerrillas is morally right. There you have the clash of perhaps two equally valid moral forces. Do you ever worry about that?

I suppose people do worry. But once you have made the major decision to go to war, you have agreed to take all the risks of war, including the killing of innocents. Even if it were just the guilty on one side it would still be a problem, because it is still human beings being killed. Whether you like them or not, it is better that they live rather than they die.●

LARRY SPARKS

● Mr. HART. Mr. President, on April 30, 1979, Larry Sparks will retire as director of the Colorado Water Conservation Board after nearly 21 years. I would like to take this opportunity to recognize the important contribution Mr. Sparks has made to the State of Colorado during the more than two decades he has served as the water conservation board's director.

Reclamation projects have played an essential role in the development of Colorado's diverse economy. The existence of many of our water projects, and the success of these projects, is due in large part to the perseverance of Larry and his staff.

Those of us who have worked with Larry on the management of Colorado's water resources will miss his superior knowledge of this subject, his drive, and his refreshing candor. The job of securing new water projects is going to be much more difficult and not nearly so enjoyable without Larry leading the way.

Understandably, Larry is looking forward to spending more time with his family and concentrating on matters other than water. After more than 20 years in this position, he deserves this opportunity. I sincerely wish Larry, and his wife, Mary, all the best in the years to come.●

MAJ. GEN. WILLIAM CRAWFORD GORGAS AND THE PANAMA CANAL

● Mr. HELMS. Mr. President, among the various scientific organizations in the District of Columbia is the Gorgas Memorial Institute of Tropical and Preventive Medicine, a private, nonprofit enterprise, incorporated in the State of Delaware and registered as such in the Republic of Panama. It is a living memorial to the prestigious U.S. sanitarian and medical scientist—Maj. Gen. William Crawford Gorgas, former chief health officer of the U.S. Canal Zone, 1904 to 1913.

The pioneer works of Gorgas, first at Havana, 1898 to 1902, in close collaboration with Walter Reed, and later in the Canal Zone, 1904 to 1913, are unique in history. They won that great leader lasting fame for his elimination of yellow fever and malaria.

The work of Gorgas in the Canal Zone, by transforming the isthmus from a charnel house of tropical diseases into a model of tropical health and sanitation, made possible the construction, by the United States, of the Panama Canal.

The Gorgas Institute, from its headquarters in Washington, supervises the work of the Gorgas Memorial Laboratory, a biomedical research facility in Panama City, Republic of Panama, as regards research and training essential to the discovery of the causes and the prevention of tropical diseases. It is a rampart for protecting the health of the entire Western Hemisphere against devastating tropical disease epidemics of which there have been many, including some in large seaports of the United States. For example, there were major epidemics through eight States in 1878; seven in New Orleans, 1820 to 1905; and one in Norfolk, 1795. Of all the epidemics, the worst was at Memphis where 60 percent of its people fled and 30 percent of those who remained died of yellow fever.

On September 26, 1978, in an impressive program before a distinguished gathering of scientific and other leaders at the Pan American Union in Washington, D.C., the Gorgas Memorial Institute, of which Dr. Jack W. Millar is president, honored the memory of General Gorgas and celebrated the 50th anniversary of the establishment of the Gorgas Memorial Laboratory.

The participants included the Very Reverend Francis B. Sayre, Jr., associate director of the Woodrow Wilson International Center for scholars, who gave the invocation; the Honorable DANIEL J. FLOOD of Pennsylvania, who, in an eloquent address, examined the highlights of Gorgas' pioneer achievements and paid high tribute to him; and Nobel Laureate, Thomas H. Weller, M.D., professor of tropical health, Harvard School of Public Health, who gave the first of the Fred L. Soper lecture series on "The Field of Tropical Medicine and Research in the Field: Perfection at the End of the Line." The address by Dr. Weller will be published in the American Journal of Tropical Medicine and Hygiene at an early date and copies will be available upon application to the Gorgas Memorial Institute, at 2007 I Street, N.W., Washington, D.C.

An intresting feature of the program was the distribution by the Gorgas Institute of an article on "William Crawford Gorgas—An Appreciation" by Capt. Miles P. DuVal, Jr., U.S. Navy retired, the eminent Naval historian of the Panama Canal and authority on interoceanic canal problems. Published by the celebrated Cosmos Club as part of its centennial, 1878 to 1978, in honor of one of its most illustrious former members, 1914 to 1920, it summarizes the life and major achievements of Gorgas.

Since the opening of the Panama Canal in 1914, the United States has borne the enormous burden of its maintenance, operation, sanitation and protection. Of these tasks that of sanitation has been, and will continue to be, of the gravest importance to the health and well-being of all canal employees, U.S. military and naval personnel on the isthmus as well as personnel on ships that transit the canal. Such facts invite the query of who is going to perform the vital function of sanitation with the same degree of efficiency if the United States surrenders its control over the Canal Zone. This crucial angle did not receive its due consideration in the Senate during the 1978 debates on the two Panama Canal giveaway treaties.

Mr. President, because both the indicated address by Congressman FLOOD and the paper by Captain DuVal are illuminating and should be helpful to the Congress and the Nation at large, I ask that both documents be printed in the RECORD.

The material follows:

ADDRESS BY REPRESENTATIVE DANIEL J. FLOOD

President Millar, Members of the Board of Directors and Advisory Scientific Board of the Gorgas Memorial Institute, Distinguished Guests, Ladies and Gentlemen:

As one whose interest in the problems of the Isthmus of Panama was inspired in early youth as the result of occasional visits in my grandfather's home in Hazleton, Pennsylvania, by former President Theodore Roosevelt, I deem it both an honor and privilege to be a special guest of the scientific organization named in honor of the great medical leader whose contributions to health and sanitation are matters of internal fame—General William Crawford Gorgas.

It was my fortune to have spent many hours listening to the former President telling about some of his problems in acquiring the U.S. Canal Zone and launching the Panama Canal. The great American leader naturally became my youthful ideal and inspired in me an enduring interest in the canal subject that has increased over the years.

To paraphrase the late Dr. Franklin Martin, a close associate of General Gorgas and a former president of this institute, I may say that to try to describe the distinguished career of General Gorgas and its consequences is to attempt the infinite. I shall not make that effort for the details of his brilliant achievements are historic and are carried in the principal libraries of the world.

The Gorgas Memorial Laboratory in Panama City, R.P., is located in one of the most oppressive climates as well as highly strategic areas of the Western Hemisphere. Its contributions in scientific knowledge under the direction of the Gorgas Memorial Institute have made it an indispensable rampart for protecting the countries north of the Panama Canal, including the United States, against the deadly perils of tropical disease epidemics of which there have been a number of tragic examples in the largest seaports of the United States.

The widely disseminated scientific reports of the institute and laboratory concerning the transmission of tropical diseases were key factors in safeguarding the health and lives of the members of our Armed Forces serving in the tropical islands of the Southwest Pacific during World War II. Thus, they were vital contributions to victory in that hard fought struggle.

Today, this splendid organization with its laboratory is spreading the benefits of their scientific endeavors far and wide, attaining universal acclaim. Its expanding library at the Gorgas Memorial Laboratory has become a key Central American medical reference center, specializing on the diseases of the tropics, their control and prevention. Its visiting scientists and trainees obtain knowledge and disciplined judgment that can only be developed from experience in a tropical setting such as that at Panama.

Were General Gorgas to return to Earth today what would he find?

He would see that the lessons he learned at Havana and applied so efficiently on the Isthmus have not been forgotten but have been greatly augmented.

He would encounter increased recognition of the fact that it was his work in health and sanitation in the Canal Zone that made construction of the Panama Canal possible.

He would see in Panama City a laboratory the work of which has made it one of world importance, especially for the Western Hemisphere.

He would find a great hospital in the Canal Zone at Ancon named in his honor still following along the scientific paths that he laid out.

He would see his name permanently enshrined in the Hall of Fame for great Americans.

He would find in the Congress a strong support for this vital organization—a support that traces back to former Congressman Maurice H. Thatcher, an associate of General Gorgas on the Isthmian Canal Commission that supervised the construction of the Panama Canal and Governor of the Canal Zone, 1910–13, and, finally, the Honorary President of the Gorgas Memorial Institute to which he devoted so much of his time and talents.

No better tribute has been paid to General Gorgas than this poem by Governor Thatcher:

GORGAS

God's own samaritan, intrepid, true;
With Christly sympathy and love for all,
And wisely skilled, he wrote health's page anew,
And lifted from the Earth its foulest pall.

Where pestilence and plague took direst toll,
His magic touch brought life and strength and joy;
In Isthmian realms, where rival oceans roll,
His blessed arts for good he did employ;
And lo! The link that joins the waters twain
(The way to Ind, thru all the ages hid!)

Grew into form, and stretched from main to main,
By reason of the deathless work he did.
And more than this—the wondrous deeds he wrought,
The texts became whereby the world is taught!

WILLIAM CRAWFORD GORGAS—AN APPRECIATION

(By Miles P. DuVal (1947))

To write of Gorgas is to attempt to write of the infinite—Franklin Martin, M.D.

In his essay on "Self-reliance," Ralph Waldo Emerson made this significant statement: "An institution is the lengthened shadow of one man . . . and all history resolves itself very easily into the biography of a few stout and earnest persons." The truth of these words was demonstrated in the life and achievements of William Crawford Gorgas. What are some of their major highlights?

Born on October 3, 1854, in Mobile, Alabama, he was the first child of General Josiah Gorgas, an 1841 graduate of West Point, who, after distinguished service in the U.S. Army, went with the South upon its secession from the Union to serve as the Chief of Ordnance for the Confederate Army; and later became president of the University of the South at Sewanee, Tennessee. His mother was Amelia (Gayle) Gorgas, daughter of former Governor John Gayle of Alabama.

Having lived through the war-time excitement in Richmond, young Gorgas looked forward to a military career. Unable to obtain an appointment to West Point after graduating from the University of the South in 1875 with an A.B. degree, he decided to win a commission in the U.S. Army by the way of its Medical Corps, and in 1876 enrolled in the Bellevue Medical College in New York City, where he made an excellent record. After receiving his M.D. in 1879 and serving as an intern at Bellevue Hospital, he entered the Medical Department of the Army on June 16, 1880, as a surgeon.

In that year, yellow fever, the cause of which was not then understood, was rampant on the Mexican border in Brownsville, Texas. Although Gorgas was not immune to it, he was ordered to Fort Brown for duty with the advance commendation from the Army's Chief Surgeon to the post surgeon: "I am sending you the most progressive young surgeon under my command."

While at Fort Brown, he contracted yellow fever and recovered, thus becoming immune. It was there that he met Marie Cook Doughty, who was seriously ill with yellow fever but also recovered, and likewise became immune. These two immunes were married on September 15, 1885.

Until the Spanish American War, Gorgas led the normal life of an Army medical officer in various posts—in Texas, North Dakota and Florida. This was at a time when the germ theory of disease was a subject of debate among scientists and physicians.

In 1898, he accompanied the military expedition against Santiago, Cuba, and, because of his experience with yellow fever, was designated as Chief Sanitary Officer of Havana, a position he held from 1898 to 1902.

Yellow fever and malaria had been endemic in Havana for many generations. The prevailing view in 1898 of how to meet the danger was to clean up filth, and Gorgas started his work in Havana with great energy. In spite of all his efforts in sanitation, yellow fever increased. So serious did the situation become that the Surgeon General of the Army appointed a board of physicians to visit Cuba and investigate the cause of the disease.

This body, headed by Major Walter Reed, during 1900 and 1901 made extensive experiments at Havana and conclusively established that the female stegomyia mosquito was the vector of yellow fever, confirming the theory of Dr. Carlos Finlay, the Cuban physician, who had urged it as early as 1881. Gorgas followed the work of the immortal Reed board closely with frequent visits and consultations. As a consequence, he conducted his historic campaign to rid Havana of the stegomyia, which was a house mosquito, by removing its breeding places. The result was dramatic, attracting world attention: a reduction of deaths from yellow fever in Havana from 310 in 1900 to 18 in 1901.

At the same time under his general direction there was a vigorous campaign to eradicate malaria. This involved the elimination from the suburbs of Havana of the anopheles mosquito, the female of which was the vector. The results were similarly effective with reductions in deaths from malaria in Havana from 909 in 1899 to 77 in 1902.

Meantime, the movement for the construction by the United States of an interoceanic canal across the Central American Isthmus was advancing rapidly. Early in 1902, Gorgas wrote the Surgeon General of the Army about the enormous loss of life caused by yellow fever and malaria suffered by the French during their tremendous effort to construct the Panama Canal, and stressed the necessity for protecting non-immune North Americans working on the Isthmus as had been done at Havana.

The Surgeon General approved the idea and recommended that Gorgas be placed in charge of Isthmian sanitation.

Relieved of duty in Havana in the fall of 1902, Gorgas was ordered to Washington so that he could be in close touch with canal planning. In preparation for his coming assignment, he visited the Suez Canal, which was an entirely different and far simpler problem than that of the Panama Canal. He soon afterward visited Paris to examine information on sanitation in possession of the French Panama Canal Company and collected a great deal of valuable data.

In April, 1904, Gorgas was ordered to report to the U.S. Isthmian Canal Commission as Chief Sanitary Officer and reached the Isthmus in June, following the U.S. acquisition of the French property on May 4, 1904, a day subsequently celebrated in the Canal Zone annually as Acquisition Day.

Then 50 years old, Gorgas was at the height of his physical and mental powers. A southern aristocrat, he was always courteous, kind, and understanding to his subordinates and patients as well as to his superiors. So deeply did he impress those associated with him in Canal construction that, many years later during World War II, some of them, then much older, would recall their observations with the pride of having participated in great achievement.

Because North Americans arriving on the Isthmus were susceptible to infection, the number of yellow fever cases increased so rapidly that in January, 1905, the first Isthmian Canal Commission was forced to resign. Because of the difficulty in securing the approval of requisitions for needed sanitational supplies submitted to Washington, Gorgas was severely frustrated in his efforts.

In fact, in June 1905 an attempt was made by high Canal Commission officials, who did not believe in the mosquito explanation, to remove Gorgas. It was fortunate that President Theodore Roosevelt, of Rough Rider fame, knew about the work of Reed and Gorgas in Cuba. He not only declined to approve the removal of Gorgas but directed that he be supported.

Following the arrival on the Isthmus on July 25, 1905, of John F. Stevens, the great railroad builder, who as Chief Engineer of the Isthmian Canal Commission was to attain great fame as the basic architect of the Panama Canal, the way for Gorgas was cleared. Stevens, who was widely read on canal history and problems, as well as vastly experienced in engineering work in undeveloped Rocky Mountain areas, had accepted the theory of mosquitoes being the vectors for yellow fever and malaria and promptly placed the full force of his high office behind Gorgas, giving sanitation an impetus that lasted throughout the construction era. Moreover, it still lasts and should continue indefinitely.

The last case of yellow fever in the Canal Zone during construction was in May, 1906, and the Isthmus was rapidly transformed from being the pesthole of the world into a model for tropical health and sanitation.

Gorgas never failed to give full credit to Stevens for his support at a crucial time. He later described the tenure of Stevens (1905-07) as the "high-water mark of sanitary efficiency on the Isthmus," with "more sanitation" accomplished than at any time during the construction era. Besides, it was Chief Engineer Stevens who, by his strong support, placed Gorgas on the path to great fame as the one who "made the construction of the Canal possible."

In the reorganization of the Isthmian Canal Commission following the resignation in 1907 of Stevens, Gorgas was made a member of that body in addition to his position as Chief of Sanitation.

Long before Gorgas left the Isthmus, he was widely recognized as the foremost sanitary expert in the world, and honors started being bestowed upon him. The most significant ones were his appointment on January 16, 1914, as the Surgeon General of the Army with promotion to Brigadier General and his election that year as a member of the Cosmos Club.

The non-military work of Gorgas included visits and consultations in South America, the Caribbean and southern Africa, all aimed at the elimination of tropical diseases.

His appointment as Surgeon General was at a crucial period of U.S. history. Promoted to Major General on March 4, 1915, he started preparations for possible U.S. involvement in World War I. The story of those activities is a major chapter in the career of Gorgas.

How were his life's works evaluated by Dr. Franklin Martin, a close World War I associate of Gorgas?

First, in less than eight months, he eliminated yellow fever from Havana where it had been endemic for more than 150 years.

Second, in less than two years he transformed the Isthmus of Panama from a charnel house of death and disease to one of the healthiest spots on earth.

Third, in two years, as Surgeon General of the Army, he organized the greatest medical corps for the largest army in our history from a few hundred to 35,000 officers and 250,000 enlisted.

Fourth, from a few small hospitals, he developed the great base and cantonment hospitals for 4,000,000 men on two continents.

Fifth, he increased his administration headquarters from a suite of three rooms in the old State, War and Navy building to a group of buildings covering two square blocks.

Gorgas retired from active Army service on December 1, 1918, soon after the end of World War I, but did not rest on his laurels. He continued his work in yellow fever research and sanitation on a far wider scale with the International Health Board.

His last undertaking in 1920 was a proposed study of the yellow fever situation on the western coast of Africa but he got no further than Belgium and England. In London in June, Gorgas had what he himself described as a "slight paralytic stroke" and was taken to Queen Alexandra Military Hospital where he received many visitors. Among them was King George V who presented Gorgas the insignia of Knight Commander of the Most Distinguished Order of St. Michael and St. George and expressed his appreciation of his great work for humanity. Soon afterward, on July 4, 1920, Gorgas died. After a state funeral in St. Paul's Cathedral in London, he was buried in Arlington Cemetery, Virginia.

Although Gorgas received many honors during his life time, the most enduring ones came later. They were the creation of the Gorgas Memorial Institute of Tropical and Preventive Medicine that supervises the work of the Gorgas Memorial Laboratory in Panama; and the renaming of the Ancon Hospital in the Canal Zone as the Gorgas Hospital. His last significant posthumous honor was election in 1950 to the Hall of Fame for Great Americans—a movement in which one of its key leaders was his former close associate on the Isthmus—former Governor Maurice H. Thatcher of the Canal Zone, the last suriving member of the Isthmian Canal Commission under the direction of which the Canal was constructed.

His sanitation work in the Canal Zone and in Panama were natural sequels to the lessons learned in Havana of finding practical applications for the discoveries of Walter Reed and his associates in Cuba. No better description of their significance in eliminating yellow fever and malaria exists than that of Gorgas himself:

> The discovery of the Americas was a great epoch in the history of the white man and threw large areas of fertile and healthy country open to his settlement. The demonstration made at Panama that he can live a healthy life in the tropics will be an equally important milestone in the history of the race, and will throw just as large an area of the earth's surface open to man's settlement, and a very much more productive area.

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SENATOR WEICKER'S PRESIDENTIAL CANDIDACY STATEMENT

● Mr. DOLE. Mr. President, today my friend, Lowell Weicker, announced his candidacy for the Republican Presidential nomination. It is a statement worthy of serious consideration. I submit his statement for the Record.

Statement by Senator Lowell Weicker, Jr.

Almost sixteen years ago to the date, I climbed the steps of the present State House in Hartford as a newly elected representative from Greenwich—feeling tremendous pride in being a part of Government—feeling there was no limit as to what our State could accomplish.

Now it is a 1979 where Democrats and Republicans alike in a cheap quest for votes spit on the word Government and tell a Nation used to dreaming and accomplishing the impossible that the future of America is no more than a good day today.

My words this afternoon—my campaign in the year ahead—will be a hardnosed refutation of that kind of expediency.

I want to be President because ours is the finest Government the world has ever known. Yes our Government—the finest. Whether Washington, Hartford or wherever the geographic symbol of representative democracy, I'm proud of it. I love that which I seek to lead.

Equally important I want us off each others back and once again into the business of looking for those among us who need our special care.

Despite present day wisdom, no one in this country made it on their own. Compassion has not just been public housing, public education, job training, health care, food stamps. It has been the tax deductibility of interest on home mortgages, it has been business loans, and guarantees, it has been Government contracts.

We've all done well by America because until yesterday there was no limit on hope. Today, there is a national amnesia as to when it was that each of us knocked on and someone opened the door of opportunity.

Now, my friends, I'm told that all this talk of investment for a future during times of economic difficulty runs against a tide of conservatism. That's right. That's what I'm going to be all about. I don't want the United States to snuggle up with its past or get comfortable with its present. Just as with this candidacy I want the Nation up, out and looking for trouble—not running away from it. How better to leave difficult times behind?

Finally, a special thought for my fellow Republicans. My words in times ahead, as in times past, may not feel good in Republican caucus rooms and at Republican fundraisers. But there can't be two campaigns—one for nomination, one for election. What is said now had better sell on November 4, 1980. That is the intellectual integrity sought after by the voter. It has also been my style over the years.

Now I ask for help from Republican, Democrat and Independent alike. Idealism, courage and compassion are not unique to any one candidate. They have always comprised the soul of America. What is unique is that today these traits so desperately need reaffirmation and expression. I run in the hope that it will be my party that speaks and acts first.●

SPECIAL ORDERS

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the recognition of Senators on tomorrow?

The PRESIDING OFFICER. The Chair is informed there are none.

Mr. ROBERT C. BYRD. I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order, Mr. Leahy be recognized for not to exceed 15 minutes, and that I then be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there then be a period for the transaction of routine morning business of not to exceed 15 minutes with Senators allowed to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO RESUME CONSIDERATION OF S. 245 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that thereafter the Senate then resume consideration of S. 245.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that morning business now be closed.

The PRESIDING OFFICER. If there be no further morning business, morning business is closed.

TAIWAN ENABLING ACT

The Senate continued with the consideration of S. 245.

UP AMENDMENT NO. 42

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Massachusetts (Mr. KENNEDY), for himself and Mr. CRANSTON proposes an unprinted amendment numbered 42:
>
> On page 14, line 22, insert ", or the social or economic system" after "the security".

Mr. KENNEDY. Mr. President, is there a time limitation for amendments?

The PRESIDING OFFICER. One hour equally divided.

Mr. KENNEDY. I yield myself whatever time I shall need.

Mr. President, I welcome and support the committee's careful and thorough work on S. 245, the Taiwan Enabling Act. It is a tribute to the leadership of Senator CHURCH and Senator JAVITS and to their colleagues on the committee.

In particular, I welcome the incorporation by the committee of section 114, designed to help insure the future security of the people on Taiwan. This section reflects the full substance of the Taiwan security resolution (S.J. Res. 31) introduced by 30 Senators, including Senator CRANSTON and myself, as well as by Congressman WOLFF and 106 Members of the House. We welcome its incorporation in the bill.

I would ask the chairman, my distinguished friend from Idaho, whether a small, perfecting change would be acceptable in paragraph b(3) of section 114. This paragraph is based on section 2 of the joint resolution introduced by Senator CRANSTON and myself, to wit: On page 14, line 22, we would direct the President to inform the Congress promptly of any threat not only to the "security" of Taiwan, but also to the "social or economic system of Taiwan."

This change would require the President to report on the same military, economic, and social factors in which we have stated the interest of the United States in paragraph b(1). Senator CRANSTON and I believe, and hope Senator CHURCH and the committee would agree, that the reporting requirement should encompass the full scope of our future interests in Taiwan.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. JAVITS. Mr. President, this is an excellent suggestion. I was consulted about it and advised this approach, and I am pleased that Senator Kennedy has chosen to go that way. The amendment is entirely acceptable to me.

Mr. CHURCH. Well, Mr. President, while I do not claim to be a Leonardo da Vinci, I had thought that the committee's diligence had enabled us to bring to the floor the legislative equivalent of a Mona Lisa. I am startled to find so many artists with paintbrush in hand who have come to the floor to alter this little coloration or that.

Now, I have no objection to adding these two or three words to the final paragraph, if the Senator feels compelled to offer them. Section 114 of the bill presently reads, in subparagraph (3) on page 14:

> The President is directed to inform the Congress promptly of any threat to the security of Taiwan and any danger to the interests of the United States arising therefrom;

I understand the Senator would like to add, after the word "security" on line 22, two additional words?

Mr. KENNEDY. The Senator is correct. On line 22 on page 14, to add the words "or the social or economic system" of Taiwan, in conformance with the same words on lines 16 and 17, which state our opposition to jeopardizing "the security, for the social and economic system, of the people on Taiwan." Then, paragraph (3) says, "The President is directed to inform the Congress promptly of any threat to the security of Taiwan," and there is no mention of the social and economic factors.

The reason I bring it up, Mr. President, is that at many points section 114 basically tracks the language of our original resolution (S.J. Res. 31). I agree that it is not a matter of grave importance, but I think we should, in directing the President to report to Congress, use the same words as those used in the statement of our policy. It seems to me that this would be both a conforming amendment and of some value and use.

Mr. CHURCH. Mr. President, the Senator makes a good case, and I have no objection to the amendment. Therefore, I am prepared to yield back the remainder of my time, and urge the Senate to adopt the amendment.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield back his time?

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Massachusetts (Mr. KENNEDY).

The amendment was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business of not to exceed 10 minutes, with Senators permitted to speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

NUCLEAR REPROCESSING

Mr. THURMOND. Mr. President, an interesting article on the merits or demerits of nuclear reprocessing appeared in the December 1978 issue of the Electric Power Research Institute Journal. It is authored by Carolyn Heising, presently engaged in postdoctoral research at the Massachusetts Institute of Technology who carefully examines the pros and cons of nuclear reprocessing.

The conclusion is most interesting. Dr. Heising finds, after comparing nine currently available routes to weapons material, that the commercial reprocessing route is relatively unattractive. She estimates there is only a 3-percent likelihood that a nonweapons state would choose this route over some other.

Mr. President, I have been urging the administration to pursue a more progressive policy in the nuclear energy field. We cannot afford to bypass the opportunities offered in this area. The President needs to lead the Nation in a commitment to nuclear energy and, at the very least, to the light water reactor. To do otherwise will greatly weaken us in the energy scarce days ahead.

Mr. President, I ask unanimous consent that this article by Dr. Heising be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE REPROCESSING DECISION

(By Carolyn D. Heising)

Decision makers charged with formulating energy policy are confronted with some of the most complex, uncertain, and controversial issues of our times, particularly in the nuclear power area. In the United States, legislators must decide whether or not to permit the nuclear power industry to commercialize reprocessing technology that would separate out and recycle plutonium and unused uranium from the spent fuel. The decision makers must weigh not only the economic implications of closing the fuel cycle but also the risks to society that attend the introduction of such a technology. These risks must be compared with those associated with leaving the fuel cycle open.

The reprocessing decision is difficult for legislators because the potential consequences could be very positive or very negative and because the decision is not easily resolved in the customary legislative process. The charged atmosphere of the adversary political process leads only to greater confusion as advocates present ever more heated arguments. Therefore, an analysis that treats the decision from a logical, quantative perspective could be of considerable value to the interested decision maker.

Bayehian decision analysis was used to examine reprocessing costs associated with risks and economic benefits. This method is well established and has been used to analyze many uncertain decision situations (1). Examples include applications in the NASA space program and in personal decisions, such as deciding whether or not to undergo a medical operation. The method is unique because it permits a probabilistic description of important events that must be taken into account in coming to policy conclusions on reprocessing spent fuel, such as uranium supply and price, electricity demand, and the number of nuclear power plants needed to meet demand.

In decision analysis, important policy questions are modeled as event trees, each branch of which represents a future possible path the United States might follow. Smaller tributaries branching off from the main paths indicate possible futures with respect to economic prices, supply availabilities, and other uncertain parameters. Once the event tree is constructed, it becomes the analyst's task to assign probabilities to each branch. When probabilities have been estimated, the tree is folded back into a smaller tree with fewer branches until the expected values for each principal option have been completed. This done, the best decision becomes clear: the option exhibiting the largest positive expected value. Finally, the sensitivity of the outcome to the probability estimates is tested by using new sets of estimates to recalculate the expected values.

THREE PATHS

With respect to the reprocessing decision, three options or paths are available for the United States to follow. These include the permit, delay, and prohibit paths. If the United States follows the permit path, the nuclear fuel cycle can be closed in the near future, which would allow uranium and plutonium to be recycled and help to conserve precious resources. To follow the delay path means the next administration will face the same decision at a later date, while spent fuel continues to mount at reactor sites across the country. The prohibit path would outlaw reprocessing and plutonium as a reactor fuel and would leave the country with no recourse but to throw away its spent fuel without the benefit of recycle. This would be accomplished by building temporary repositories for spent fuel assemblies, followed by permanent disposal in geologic formations.

The choice of which path the United States should follow depends on which can be expected to produce the greatest benefit to society. These benefits need not be only economic; they can also be measured in terms of risk reduction, cleaner air, or improved public health. To assess differences in benefits between options, it is necessary to identify the potential benefits of each option along with its risks. Once identified, these can be quantified and compared.

QUANTIFYING BENEFITS

The major economic benefit associated with reprocessing is the potential reduction in the consumer's electricity bill. The reprocessing decision can have an effect on electricity bills in two ways: by affecting fuel costs in the current generation of nuclear power plants (LWRs) and by affecting the future of advanced nuclear power systems, principally the breeder reactor (LMFBR). Engineering-economic computer models were designed to compute the potential differences in these effects implied by the three decision options of permit, delay, and prohibit. Because prohibition of reprocessing effectively eliminates the breeder, this option exhibited the largest cost penalty. The delay option was found to be the second most costly since delays in breeder commercialization result, and more expensive fuel must be used in the current generation of reactors. The permit option was found to be most economic because recycling and use of the breeder could start sooner, thereby conserving the more accessible (thus cheaper) uranium ore. It was found that the permit path would save the American consumer over $2.5 billion a year (at a 6% discount rate) in reduced electricity bills compared with the delay alternative.

TECHNOLOGICAL RISKS

Technological risks are associated with all three decision options. Basically, there are three distinct categories of risk that are important in the nuclear fuel cycle:

Health, environmental, and safety risks

Nuclear theft and sabotage

Nuclear weapons proliferation risks

Examples of the first category include occupational exposure to routine radiation emission and public consequences of accidents in fuel-cycle facilities. Safeguard risks, the second category, refer to acts that hypothetically might be directed against the fuel cycle by disgruntled employees and/or terrorist groups. These include disturbances at site locations, initiation of accidents by explosives, or theft of nuclear material. The third category, nuclear proliferation risk, refers to an illegal diversion of nuclear material from a facility by a national government bent on building crude nuclear explosives. Each of these categories of risk was examined and quantified for the decision options of permit (closed cycle), delay, and prohibit (open cycle).

HEALTH, ENVIRONMENT, AND SAFETY RISKS

The nuclear fuel cycle poses some measure of risk to the environment and to the health and safety of persons employed at or living near fuel cycle facilities. A review of recent studies indicated that while all three risks are small, the health risks outweigh the risks associated with safety. The major component of the health risk was routine occupational exposure to low-level radiation. It was found that the health risk to society was on the order of $6,000 to $80,000 a gigawatt-year and that the difference between open and closed cycles was negligible. In fact, closing the fuel cycle would lead to improvements in public health as a result of reduced uranium mining and milling (2).

NUCLEAR SAFEGUARDS RISK

A safeguards assessment method was developed to compare the differences in social costs between the open and closed cycles for nuclear theft and sabotage. Facilities representing both cycles were examined for three categories of events: those that precede the act (e.g., access to technical information, organizing the attack), those that constitute the act (e.g., entry, overcoming security), and those that follow the act (e.g., dispersal of toxins, processing materials for explosives). Using the best available information on safeguard system reliability, facility layout, and the requirements for a successful intrusion, these events were assigned probabilities and arrayed sequentially into event trees to determine expected values.

It was found that the closed cycle represents the greater risk. However, the increase in the cost to society was found to be only on the order of $250,000 a year (at a 6% discount rate), or about half a cent per family. Comparing this figure with the calculated benefits of a closed cycle ($2.5 billion per year) yields a benefit-cost ratio of 10,000 to 1.

NUCLEAR PROLIFERATION RISK

The third major area of social concern for which the open and closed cycles should be compared is the risk of nuclear proliferation. The analysis presumed that if the value to society from closing the nuclear fuel cycle ($2.5 billion a year) exceeded the expected cost of increased nuclear proliferation under closed-cycle conditions, then it would be in the best interests of the United States to permit reprocessing. Getting to the expected cost required many assumptions, but mathematically it was obtained by multiplying the amount the United States would be willing to spend to thwart proliferation (v_p) by the increased likelihood of proliferation under closed-cycle conditions (Δ).

To elaborate, the value of nonproliferation (v_p) is interpreted as the dollar amount the United States would be willing to pay per year to prevent a future event of proliferation from occurring. In short, the value v_p can be interpreted as an annual premium for insurance against the spread of nuclear weapons. And this value, in turn, depends on how society views the effects of proliferation, since they can be construed as either good or bad.

Some experts claim the probability of nuclear war decreases as the number of countries with atom bombs increases and point to such potential good effects as global equalization of wealth and a more lasting peace. Other experts think proliferation will have little effect on the world one way or the other. They believe nations will have adequate time to adjust to the emergence of new weapons states and point to past events of proliferation as evidence of such accommodation (e.g., reaction to India's emergence as a weapons state). However, the predominant opinion is that proliferation will result in regional nuclear war, possibly leading to an all-out nuclear confrontation between the superpowers. Therefore, from this viewpoint, the United States should be willing to pay substantial sums of money to help prevent future proliferation events.

Adopting this perspective and examining United States response to past events of proliferation, a nominal value of nonproliferation of $12 billion a year was considered an accurate reflection of how much the United States would be willing to pay. This figure corresponds to an annual 10 percent increase in the U.S. defense budget, or roughly $240 a year for a family of four.

Turning to the likelihood of proliferation, or more specifically, the difference in proliferation, likelihood between closed and open fuel cycles (Δ), several questions must be asked. First, what influence does the United States have on decisions of nonweapons states to deploy reprocessing? And second, if a nonweapons state decides to proceed, does the existence of commercial reprocessing plants in that country affect the likelihood that it will be successful in constructing its first nuclear bomb? To answer these questions, alternative routes to nuclear material by a nonweapons state must be rated and compared with the commercial power plant reprocessor (3–6).

A nonweapons state's decision on which route to take will depend on several considerations, including weapons attainable from the material flow, the cost of each route, the number of technical people required to operate the technology, the level of support industry required, and the capability for clandestine operation to prevent other countries from applying sanctions. The quality of the material is also very important. All these considerations must be weighed by decision makers in the nonweapons state.

After comparing some nine currently available routes to weapons material, it was found that the commercial power reactor-commercial reprocessor route is comparatively unattractive to a nonweapons state. Specifically, given access to such a route, it is estimated that there is only a 3 percent likelihood that a nonweapons state would choose this route over some other (7). Therefore, by closing the nuclear fuel cycle, the United States would incur, at most, only a 3 percent greater chance of proliferation than if it decides to prohibit or delay reprocessing.

In summary, allowing nuclear fuel reprocessing to go forward in the United States can be expected to increase the costs to society by a maximum $360 million a year [$\Delta \times v_p = (0.03)(\$12 \times 10^9) = \$360 \times 10^6$/yr.]. This is approximately one-seventh of the expected benefit (reduced electricity bills) to be derived by society from closing the fuel cycle. Thus, on the basis of this analysis, it appears that permitting reprocessing now is logically preferable to delaying or prohibiting the technology.

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THE POSTPONEMENT OF THE EFFECTIVE DATE OF RULE XLIV

Mr. THURMOND. Mr. President, last Thursday, March 8, 1979, the Senate acted on a matter that disappoints me greatly. By voice vote, not a rollcall, the Senate agreed to delay the effective date of a Senate rule limiting outside earned income to 15 percent of a Senator's salary.

As the former vice chairman of the Special Committee on Official Conduct in the 95th Congress, I was closely involved in the background and process of changing the Senate rules to encourage higher ethical standards. One of the most hotly contested and debated issues was that dealing with limitation on outside earned income.

Mr. President, this was not a matter taken lightly by the Special Committee. A number of witnesses were called to testify that honoraria paid for speeches by Senators and other public appearances were getting out of hand. Special interest groups were more than willing to schedule Senators to speak for a $2,000 fee realizing that there may be more to the intent of the honoraria than meets the eye.

Appearances do mean a lot. My father, who practiced law in South Carolina, always told me, "Strom, you must not only be right, but you must appear right."

Mr. President, the American public takes notice of these things. Senators are paid to represent the people and enact the laws of our land. How does it look when they use that high, appointive office to supplement, on a large scale, their own personal incomes? Most people, and I know most people in South Carolina, do not believe that is right. A Senator should not appear to be using his office for his own personal financial gain and take undue time away from his job, even though his speeches and public appearances may serve a public good.

Mr. President, I will not go on to argue the point that I and other Senators made on the Senate floor when the Ethics Code was debated. The Senate agreed in 1977 by a vote of 62 to 35 to limit outside earned income to 15 percent of their annual salary. Last Thursday, the Senate quietly undid that result.

There were only a handful of Senators on the floor when this matter was brought up. There was no prior notice that came to my attention. No rollcall vote was taken. I was busy in an important antitrust hearing in the Judiciary Committee which required my presence. Other Senators were equally unaware of the action being taken on the Senate floor. That was most unfortunate, because I feel that a change in the rules could have been defeated if the issue had been properly and openly aired prior to a vote.

Mr. President, although a rollcall vote was not held on this matter, if one had been, I would have voted against the resolution.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10:15 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the executive calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the first nomination.

DEPARTMENT OF THE INTERIOR

The assistant legislative clerk read the nomination of Larry E. Meierotto, of the District of Columbia, to be an Assistant Secretary of the Interior.

Mr. BAKER. Mr. President, I have no remarks to make about this nominee. However, I would take this opportunity to advise the majority leader that my Executive Calendar is clear on this side for all of the items on the first page and on the second page through nominations placed on the Secretary's desk in the Army, Navy, and Marine Corps.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the remaining nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S. AIR FORCE, U.S. NAVY, AND U.S. MARINE CORPS

The assistant legislative clerk proceeded to read sundry nominations in the U.S. Air Force, the U.S. Navy, and the U.S. Marine Corps.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The assistant legislative clerk proceeded to read sundry nominations in the Army, Navy, and Marine Corps placed on the Secretary's desk.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Now, Mr. President, all nominations on pages 1 and 2 have been considered and confirmed en bloc, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. Mr. President, I move that the vote by which the nominees were confirmed en bloc be reconsidered.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be notified of the confirmation of the nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

(All nominations confirmed today are printed at the end of the Senate proceedings.)

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO VITIATE ORDER FOR RECOGNITION OF SENATOR LEAHY TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the recognition of Mr. LEAHY tomorrow morning be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come to order at 10:15 a.m. tomorrow. After the two leaders have been recognized under the standing order, I shall have one order for not to exceed 15 minutes; after which there will be a brief period for the transaction of routine morning business of not to exceed 15 minutes, with Senators permitted to speak therein for 5 minutes each; after which the Senate will resume the consideration of the Taiwan Enabling Act, S. 245.

The pending question at that time will be with reference to the amendment by Mr. DOLE. Mr. CHURCH has indicated his intention to move to table the amendment by Mr. DOLE. Rollcall votes have been ordered on the tabling motion and on the amendment itself in the event the tabling motion fails.

Other amendments will be called up. Motions may be made during the afternoon. There will be rollcall votes with respect to motions and amendments in relation to the Taiwan Enabling Act, with a final vote to occur no later than 5 o'clock p.m. tomorrow on passage of the bill.

The PRESIDING OFFICER. If the Senator from West Virginia will suspend for a moment, the Chair is informed that the Senator from New Hampshire has an amendment which it has been agreed to call up immediately following the Dole amendment.

Mr. ROBERT C. BYRD. Yes. I thank the Chair.

So there will be, I assume, several rollcall votes during the afternoon of tomorrow.

ORDER OF PROCEDURE TOMORROW

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Based on that, I judge, then, that it may be late in the afternoon before we reach a vote on passage of the resolution. As I understand, the existing order calls for that vote at not later than 5 o'clock.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Will the majority leader indicate to me whether he thinks we shall take all of that time or not?

Mr. ROBERT C. BYRD. I expect there will be—I know of a rollcall vote on the tabling motion on the amendment by Mr. DOLE. There will undoubtedly be rollcall votes on other amendments. With each rollcall consuming 15 minutes, I should think that at the minimum—I am just guessing. Let us say four rollcall votes. I have no reason to say four, except for the fact that four consume an hour.

Mr. BAKER. It seems to me that the way things are shaping up, anyone who is trying to make arrangements and plans for tomorrow—and I know certain Senators are—should assume it will be at or near 5 o'clock before we get to a final vote.

Mr. ROBERT C. BYRD. If I were a Senator making plans for tomorrow, I would take the unanimous-consent order and make the worst case out of it. The worst case is no later than 5 p.m.

Mr. BAKER. The reason I asked is that there have been some Senators on this side who have inquired during the course of the day about the likelihood of an earlier disposition. I take this opportunity to say that it is my judgment, at least, that it is unlikely that we shall finish before 5 o'clock.

Mr. ROBERT C. BYRD. I always like to count on the outside limit. Being a conservative in this regard, I should not want to venture to say anything that would encourage Senators to have any reason to believe that the vote would occur before 5 o'clock.

Mr. BAKER. I thank the majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

RECESS UNTIL 10:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 10:15 a.m. tomorrow.

The motion was agreed to; and, at 5:55 p.m., the Senate recessed until tomorrow, March 13, 1979, at 10:15 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 12, 1979:

DEPARTMENT OF THE INTERIOR

Larry E. Meierotto, of the District of Columbia, to be an Assistant Secretary of the Interior.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE AIR FORCE

Lt. Gen. Howard M. Fish, U.S. Air Force, (age 55), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

Lt. Gen. John R. Kelly, U.S. Air Force, (age 54), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

IN THE NAVY

Vice Adm. William R. St. George, U.S. Navy, (age 54) for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

The following-named captains of the Navy for temporary promotion to the grade of rear admiral in the staff corps, as indicated, pursuant to title 10, United States Code, sections 5772 and 5791, subject to qualification therefor as provided by law:

MEDICAL CORPS

To be rear admiral

Clinton Hershey Lowery

SUPPLY CORPS

Duncan Philip McGillivary
Richard Earl Curtis

CHAPLAIN CORPS

Ross Henry Trower

CIVIL ENGINEER CORPS

James Theodore Taylor

DENTAL CORPS

James Duncan Enoch

IN THE MARINE CORPS

The following-named officers of the Marine Corps for permanent appointment to the grade of brigadier general under the provisions of title 10, U.S. Code, sections 5769 and 5780:

Richard M. Cooke
Mannon A. Johnson, Jr.
James J. McMonagle
Jerome T. Hagen
Richard T. Trundy
Clyde D. Dean
Americo A. Sardo
Frank E. Petersen, Jr.
Dennis J. Murphy

IN THE ARMY

Army nominations beginning Stanley E. Reinhart, Jr., to be permanent professor of the United States Military Academy, and ending Terree L. S. Wonzy, to be first lieutenant, which nominations were received by the Senate on February 23, 1979, and appeared in the CONGRESSIONAL RECORD on February 26, 1979.

Army nominations beginning Henry H. Adair, Jr., to be second lieutenant, and ending Damian J. Zolik, to be second lieutenant, which nominations were received by the Senate on February 23, 1979, and appeared in the CONGRESSIONAL RECORD on February 26, 1979.

IN THE NAVY

Navy nominations beginning James S. Apelquist, to be lieutenant, and ending Belinda A. Meyer, to be lieutenant, which nominations were received by the Senate on February 23, and appeared in the CONGRESSIONAL RECORD on February 26, 1979.

Navy nominations beginning Adrienne M. Baker, to be ensign, and ending James C. Yeargin, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 26, 1979.

IN THE MARINE CORPS

Marine Corps nominations beginning Bernard V. Burchette, to be lieutenant colonel, and ending Bernard W. Ziobro, Jr., to be captain, which nominations were received by the Senate on February 23, 1979, and appeared in the CONGRESSIONAL RECORD on February 26, 1979.

HOUSE OF REPRESENTATIVES—*Monday, March 12, 1979*

The House met at 12 o'clock noon.

Father George R. Sullivan, S.J., Omaha, Nebr., offered the following prayer:

Infinite and all-loving Father, we ask You to shine Your blessings upon the men and women gathered here to pursue the business of the land and of its people. We ask that You give the Members of this House the courage to fight off the temptations of weariness and distress and discouragement which can accompany consideration of so many grave challenges and crises which come their way. We ask You to help them to draw strength and enlightenment from each other, from the people they serve, and from You.

Make them be ever poised especially to help in effective ways the needy and the powerless both here and around the world for You have from oldest days looked with special concern on the poor, the widow, and the orphan. And make them willing and able to lead our own people to do that which may involve sacrifice and selflessness.

And so we ask again that the pressures not overwhelm them and that Your will may ever be a part of their decisions. We make our prayer in the name of the Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 233. An act to amend the International Travel Act of 1961 to authorize additional appropriations, and for other purposes.

The message also announced that the President pro tempore, pursuant to Public Law 93–568, appointed Ms. Marian G. Gallagher, of Seattle, Wash., from private life, to the Advisory Committee to the White House Conference on Library and Information Services, in lieu of Mr. J. C. Redd, of Jackson, Miss.

FATHER GEORGE SULLIVAN, S.J.

(Mr. CAVANAUGH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAVANAUGH. Mr. Speaker, it is both an honor and a personal pleasure to introduce my friend, Father George Sullivan, S.J. of Omaha, Nebr., to the House of Representatives. Father Sullivan and I have been friends since childhood. We attended Creighton Preparatory High School together and Father Sullivan is currently enrolled as a student at my alma mater, the Creighton University School of Law.

Father Sullivan is a person of honest devotion to both his church and his society who serves God by serving man. My respect for Father Sullivan has been deepened and enriched by having also known his parents. His father was a major political figure in Omaha for more than 30 years and served in the Nebraska Legislature and the Douglas County attorney's office. In fact, George Sullivan gave me the first political contribution I ever received when I announced my candidacy for the Nebraska Legislature in 1972. I have never known a wittier or kinder gentleman in all my life. His generosity and kindness are best explained by his roots. He grew up in Boston next door to Speaker John McCormack.

Father Sullivan has been a constant friend and needed adviser to me and I am proud and happy to have him bless this House today.

WHEAT AND FEED GRAIN FARMERS SHOULD NOT BE PERMITTED TO PLANT SOYBEANS ON SET-ASIDE ACREAGE

(Mr. BURLISON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BURLISON. Mr. Speaker, it appears that the Department of Agriculture is contemplating permitting our wheat and feed grain farmers to plant soybeans on their set-aside acreage. This would be a bad decision for the Department of Agriculture, and I have written the Secretary of Agriculture a letter this date, setting out some of the arguments why I hope that he will not promulgate such a regulation.

☐ 1205

In the first place, it would alienate soybean farmers, an important segment of the agricultural community.

Second, it would alienate taxpayers in general. If we who represent agriculture think we catch a lot of flak for "paying farmers not to grow," I guarantee you that we will catch more for "paying farmers not to grow wheat and corn so they can grow soybeans."

Finally, it will be a further discrimination against soybean producers. As the Speaker knows, over the years I have been an advocate of greater equity for soybean farmers vis-a-vis our other important segments of agriculture. Approval of the proposal will be movement in the wrong direction.

The letter to the Secretary is as follows:

MARCH 12, 1978.

Hon. BOB BERGLAND,
Secretary, Department of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: Upon hearing rumors of proposals to permit wheat and feed grains farmers to plant set aside acreage to soybeans, my office made inquiry of the department. We were told that it is "being considered."

It is difficult to see how this could be considered seriously.

This would be a slap at the soybean producer in order to present a plum to food and feed grains farmers. It would be an unfair and perverted incentive to entice farmers into the farm program. As I suggested to you at our hearings, the proper way to get farmers into the program is to offer more realistic target and loan levels. If the soybean market looks lucrative to wheat and corn farmers, they will not need payments under their programs to get them into soybeans. Approval of this proposal will alienate an important segment of the agriculture community.

Perhaps more importantly, Mr. Secretary, taxpayers in general will be outraged. If you think we catch flak now for what the city-suburban resident sees as "paying farmers not to grow," just wait until he proclaims "paying farmers not to grow wheat and corn so they can grow soybeans."

Mr. Secretary, as you know from your service in the Congress and as Secretary of Agriculture, I have been perhaps the most outspoken critic of farm program discrimination against grass roots soybean farmers. Processors and others always seem to generate more influence than the genuine producer. Soybeans have never been included in farm programs except for the loan which is always kept at inordinately low levels.

The farm law gives the Secretary considerable discretion. You will recall that at our recent appropriations hearing you received my view that you could exercise that discretion to benefit wheat and corn growers. If you move to carry out this proposal it will constitute an abuse of that discretion which Congress might undo by legislation.

Please let me hear from you at your early convenience. Conveying best wishes and warm personal regards, I remain

Respectfully yours,
BILL D. BURLISON, M.C.

MISS MERLA SUE HANSEL OF TROY, ILL., WINS "VOICE OF DEMOCRACY" NATIONAL AWARD

(Mr. PRICE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PRICE. Mr. Speaker, I am proud to announce to my colleagues today that Miss Merla Sue Hansel, a resident of my congressional district, is the winner of the top national prize in the annual "Voice of Democracy" contest sponsored by the Veterans of Foreign Wars.

I am honored to be able to say that

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

I represent in Congress such an outstanding young individual. Merla is the winner of a contest that included more than 250,000 students from 8,000 high schools across the United States. She is recognized as a leader at Triad High School in Troy, Ill., where she is a senior. With the $10,000 scholarship she has won from her speech, she plans to attend college in Illinois and work toward a degree in nursing.

Merla's parents, Mr. and Mrs. Merle Hansel, have good reason to be proud of their daughter. I want to join her family and the entire community in congratulating her and wishing her the best of luck in her endeavors. I am sure she will be a success.

At this time, I insert into the RECORD a copy of Merla's winning speech:

1978–79 V.F.W. VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM—ILLINOIS WINNER, MERLA SUE HANSEL, TROY ILL.

While I was preparing for this speech, I started to wonder why the question was phrased the way it was. Why it was, "Why I care about America" and not "Why I care about the United States" or "Why I care about the Northern Hemisphere?" It was then that I realized that the name "America" stands for much more than a country. The "United States" was worth fighting for in the Revolutionary War and the Civil War, but "America" is why we fought the World Wars, the Korean War, the Vietnam War.

America is *not* a group of states united by one central government. America is *not* a geographic location. No—it is much, much more. For America, people die. America is a name, a word with almost a sacred ring to it. It stands for people, for freedom, for blood and sweat and for victory. It is for America we sing of praise, for those ideals that we pledge our allegiance, and it is for those same ideals that people have given their lives in service.

People who have traveled in this world say that we live in the most wonderful country in it. I haven't been anywhere—but I say that, too.

You know, I didn't choose to be an American. I didn't ask, I didn't tell anybody to put me here. My citizenship was granted me before I was even able to realize what I was getting into. I had no idea what an honor I had been entrusted with until I started school. Here, I was learning of people who fought, escaped, who risked their lives, took special classes and tests to legalize something I had taken for granted. I assumed it was one of my inalienable rights.

Our forefathers have been credited with doing an excellent job as far as writing our American Bill of Rights. Oh—it has needed amending from time to time but on the whole it has served its purpose quite well for 187 years. I think, though, they shouldn't have stopped with that Bill of Rights, but instead, gone on and written a "Bill of Responsibilities," for you can hardly have one without the other.

Had they, the number one responsibility would have probably been, that we as Americans, must care. We must take enough pride in this country, enough concern to be willing to serve truly as citizens. Then—and only then, are we entitled to the rights secured to us by the Constitution. And by this we can be awarded our title as an "American."

Where else in the world can a person find a country so rich, so diversified, so bountifully blessed with everything? For in America we have mountains, canyons, we have farmlands and cities. We have forests and deserts, we have lakes, oceans, rivers. We have snow and rain and drought, and sunshine, we have schools and churches. We have freedom—and love, and hope, and the future, and people—citizens—Americans—these are why I care.

Small though my role in this country is, I have been given a title. I am an "American." I was thinking about this fact and I realized: America ends with I-C-A-N. And I can. It is my right and responsibility. I can, I do, I always will. I care.

PRESIDENT CARTER SHOULD BE COMMENDED FOR HIS EFFORTS

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, In recent weeks, there has been criticism of President Carter from various quarters. We have heard words such as "ineffective" or "misdirected." But I say to those critics that all of us should step back and take an objective look at his endeavors. If we do so, it is obvious that there is present a wholesome determination and a daring to achieve that which is honorable and decent both for our country and for the world.

Our President has neither been timid nor afraid to dare, whether it be to seek the cure for economic ills or to seek peace where it has been illusive to others. Even now, the President is in the Mideast giving leadership toward a peace treaty that could bring a stability in an area of the world that has not had stability or tranquillity for decades.

Rather than faultfinding, there should be an admiration for his daring and for his efforts to achieve mighty things. Our President's audacity and efforts remind me of the words of the late President Theodore Roosevelt when he said:

> Far better it is to dare mighty things, to win glorious triumphs, even though checkered with failure, than to take rank with those poor spirits who neither enjoy much nor suffer much, because they live in the gray twilight that knows not victory nor defeat.

SPEAKER COMMENDED FOR CONTROLLING IMMEDIATE CONSIDERATION OF LEGISLATION

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute.)

Mr. GLICKMAN. Mr. Speaker, the manner in which the Senate recently changed its restrictions on outside earned income has sparked considerable criticism and rightly so. Regardless of the merits of the question involved, the sneaky procedure by which it was brought to the floor and passed apparently without advance notice to a sizable number of Senators is one that should not be used in matters involving the financial well-being of Members of the Senate.

The fact that this situation has developed in the Senate reminds me that I should commend you, Mr. Speaker, for agreeing in the Democratic Caucus to adopt a policy not to recognize House Members for unanimous consent for immediate consideration or consideration on the same legislative day of legislation affecting the salaries or financial benefits of Members of Congress. Your policy will wisely protect the Members of this House from finding themselves in the awkward situation of trying to explain to their constituents why legislation which could easily be viewed as self-serving passed the House without their knowledge. I would think our colleagues in the Senate might want to see if a similar agreement can be reached there so these kinds of changes will be subject to full and thorough debate there as they would be here. That would serve to protect the interests of the American taxpayers as well as their own political interests.

Again, let me stress my personal appreciation for your decision to adopt the new policy of not recognizing unanimous-consent agreements which could lead to this kind of situation occurring in the House again.

THE 82D AIRBORNE DIVISION BERETS BANNED

(Mr. ROSE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROSE. Mr. Speaker, my district includes Fort Bragg, N.C., the home of the 82d Airborne Division. These forces are ready to jump into any world battlefield and—if necessary—to give their lives for their country. But they are not ready to give up their symbolic badge of honor—the maroon beret—they have so proudly worn. Hold up a maroon beret and show it.

I am deeply troubled that at a time when too many citizens have an indifferent or even negative view of our volunteer army, the Army itself would strip from the heroic Airborne the right to wear the distinctive beret they have come to treasure.

This decision has caused an outcry from our airborne forces and their many admirers. I have thoroughly investigated their complaint. My finding is that the Army's generalized order banishing the beret, along with many other uniform items, is too sweeping and general.

Accordingly, I today urge my colleagues to support a resolution that would express the sense of the House, the Senate concurring, that we strongly oppose the ban on the U.S. Army Airborne wearing the maroon beret and urge the Secretary of the Army to reinstate it as an official symbol of Airborne forces.

The aim of this resolution is to support Airborne morale at a time when the effectiveness of our military forces is being seriously questioned.

This arbitrary ban takes away a privilege the Airborne members have earned through their special training, unique missions, and outstanding patriotism.

I am determined that our elite Airborne not be capriciously stripped of the honor it has won at such great sacrifice.

The Army permits the Rangers to wear

black berets. Our Special Forces wear green berets. But when it comes to the Airborne, the Army contends that "the proliferation of nonstandard items has gotten out of hand."

I ask my colleagues to vote for this resolution which, in effect, is a vote of confidence in our Airborne soldiers. I know you will agree that it is a distinction that we can certainly allow in these unpredictable times when courageous Airborne troops are prepared, if need be, to lay down their lives for their country.

Let us join in asking the Army to reconsider.

□ 1210

PERMISSION FOR COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO FILE REPORT ON H.R. 2283, COUNCIL ON WAGE AND PRICE STABILITY REAUTHORIZATION

Mr. **MOORHEAD** of Pennsylvania. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs may have until 5 p.m. today to file a report on H.R. 2283, to extend the Council on Wage and Price Stability Act. The minority concurs in this request.

The **SPEAKER**. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ANDREI SAKHAROV GIVES TOP PRIORITY TO SALT

(Mr. CARR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. **CARR**. Mr. Speaker, in the history of the drive for liberty in the Soviet Union, of resistance to political and intellectual oppression, certainly Andrei Sakharov is the preeminent figure. Beyond a doubt he towers above Alexandr Solzhenitsyn who, for all his understanding of the villainies of Soviet tyranny, seems to have no better solution than to change the label on the tyranny.

Recently, Dr. Sakharov has come out for giving top priority to SALT II, and in opposition to linking strategic arms control to anything else.

Why has he done this, in contradiction to the views of many of his fellow dissidents? I believe the answer is clear.

Dr. Sakharov, unlike most of the rest of us, is a nuclear physicist with intimate knowledge of nuclear weapons. He understands that once they are used most of the questions which now preoccupy us, including the difference betweeen communism and capitalism, will become trivial in comparison. So I suggest we listen very carefully to Dr. Sarkharov when he tells us:

> The problem of lessening the danger of annihilating humanity in a nuclear war carries an absolute priority over all other consideration.●

GROSS INTELLIGENCE NEGLIGENCE ENDANGERS U.S. SECURITY

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. **RUDD**. Mr. Speaker, news reports from Iran now indicate that at least one top secret U.S. electronic listening station has fallen—totally intact—into Iranian, and potentially Soviet hands.

These stations, scattered along the Soviet-Iran border, had been critical to the U.S. ability to monitor Soviet missile launches and other Soviet intelligence information.

We now face the specter that Soviet intelligence agents will inspect and analyze our abandoned facilities. The Soviets will thus be able to know our capacity for surveillance and gain invaluable electronic technology in the process.

One simply must ask how long such inept administration of our intelligence effort can continue. The security of our Nation is at stake.

I submit for the Record the following editorial from the Arizona Republic which outlines the situation concerning our intelligence shortcomings in Iran. There is a need for a complete and thorough investigation of the situation.

I insert the editorial "Gross Negligence" at this point in the Record:

GROSS NEGLIGENCE

(Note.—"If the Russians were ever able to find out the nature and whereabouts of this equipment, their engineers could make a fair guess at what signals were being intercepted and with what degree of reliability."—The Economist.)

The equipment The Economist was talking about are the electronic listening devices the United States installed along Iran's border with Soviet Russia to monitor Soviet missile launches and eavesdrop on Soviet military radio conversations.

It was these devices that enabled the United States to determine, among other things, that Russia was test-firing airborne cruise missiles in the Astrakhan area between the Black and Caspian seas.

After the shah fled Iran, the Defense Department assured the nation that it had started destroying the equipment to keep it from falling into the hands of Soviet espionage agents late last year.

Either the Defense Department didn't know what was happening in Iran, a distinct possibility considering the disruption of communications, or else it was just plain lying to cover up a horrible breach of security.

For a group of U.S. newsmen, who visited the listening post at Beshar this week, found that it had been abandoned without any of the equipment being destroyed. In fact, the crew had left without even turning it off. It still was humming, pulsing and clicking—as though waiting for a Soviet engineer to examine it.

The Iranians at the post said they hadn't turned it off because they didn't know how to.

"Besides," said Hussein Ahmadian, the Iranian logistics supervisor at the base, "we don't know who will get the equipment. Maybe Iran will sell it to someone."

There's no certainty that any Soviet engineer will get a chance to examine the equipment, but, considering the anti-Americanism that flourishes in Iran today, and the huge number of avowed Marxists in the country, the Defense Department can hardly afford to bet on that.

It's also possible that other listening posts were left intact.

According to Ahmadian, the American in charge of the crew at Beshar was known to him only as GS–14, a civil service rating.

"The GS–14 said they were leaving, but temporarily. I asked about my men, 60 Iranian civilian workers, who hadn't been paid for January. He said, 'Don't worry, we'll be back.' "

This calls for an investigation. Someone is guilty of gross negligence and gross stupidity. The United States can count itself lucky if a top military secret doesn't fall into Soviet hands.

STATE INSURANCE REGULATION

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. **COLLINS** of Texas. Mr. Speaker, many Americans are disturbed by the overextended arm of the Federal Government. Our State of Texas takes particular exception to the latest moves by the FTC to put the Federal Government into control of the Nation's insurance.

We all recognize that private life insurance is funded with full reserves and 100 percent safe and secure. We also know that all of the Federal insurance programs are complete and total financial failures including social security, military pensions, railroad retirement, and civil service.

House Resolution No. 40 of the State of Texas was transmitted to the Texas Delegation. I concur completely with Gov. Bill Clements and Speaker Bill Clayton. The House of Texas speaks with clarity and commonsense.

Here is Resolution No. 40 of the Texas House of Representatives:

RESOLUTION NO. 40

Whereas, In the McCarran-Ferguson Act enacted in 1945 (15 U.S.C. Sections 1011–1015), Congress determined "that the continued regulation and taxation by the several States of the business of insurance is in the public interest"; and

Whereas, Federal government officials have publicly, although unofficially, recommended amending the McCarran-Ferguson Act to limit state regulation of the insurance industry; and

Whereas, It is becoming increasingly clear that the establishment of federal regulation is not a panacea but increases the cost of government, adds confusion and delay, and often increases the cost of products and services without providing any offsetting benefits to the consumer; and

Whereas, It is often necessary, subject to state regulations, to combine the resources of several insurance companies in order to provide effective insurance coverage in an efficient manner at a reasonable cost and to promote innovation whereby new products and services are made available; and

Whereas, There has been no evidence that individual states cannot continue to effectively regulate the insurance industry or that federal regulation of the industry and application of federal anti-trust laws will have a favorable effect upon the insurance industry or benefit the public; now, therefore, be it

Resolved, That the House of Representatives of the 66th Legislature of the State of Texas hereby memorialize the Congress of the United States to reject any legislation amending the McCarran-Ferguson Act (15 U.S.C. Sections 1011–1015) which would limit state regulation or increase federal regulation of the business of insurance; and, be it further

Resolved, That official copies of this resolution be prepared and forwarded to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the United States Congress, and to all members of the Texas delegation to the Congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.

COMMUNICATION FROM CHAIRMAN ON APPROPRIATIONS—SUBPENA DUCES TECUM IN UNITED STATES AGAINST OTTO E. PASSMAN

The SPEAKER laid before the House the following communication from the chairman of the Committee on Appropriations:

House of Representatives,
Washington, D.C., March 6, 1979.
Hon. Thomas P. O'Neill, Jr.
The Speaker, House of Representatives, Washington, D.C.

Dear Mr. Speaker: Pursuant to the provisions of House Resolution 10 of the 96th Congress, I advise you that Donald E. Richbourg, an employee of the Committee on Appropriations, has received the attached subpoena duces tecum requesting him to testify in the case of the United States versus Otto E. Passman (78–30013–91).

The subpoena commands Mr. Richbourg to appear and to testify in the United States District Court for the Western District of Louisiana and requires him to bring his informal notes regarding trips he made with Mr. Passman during the years 1972, 1973, 1974 and 1975. Upon further contact with the United States Attorney's office, the Committee has been informed that the above-mentioned notes will not be introduced in the case as evidence. The subpoena does not require Mr. Richbourg to testify on any matters discussed in executive sessions.

Pursuant to House Resolution 10, Mr. Richbourg is authorized to testify in this case upon notification to the Speaker.

Sincerely,
Jamie Whitten, *Chairman.*

The SPEAKER. Pursuant to the provisions of House Resolution 10, the subpena and statement will be printed in the Record at this point.

The subpena and statement follow:

U.S. District Court for the Western District of Louisiana, No. 78–30013–01

United States of America v. Otto E. Passman

(To Donald Richbourg, Staff Assistant, House Appropriations Committee, U.S. House of Representatives, Room H307, Capitol Building, Washington, D.C. 20515.

You are hereby commanded to appear in the United States District Court for the Western District of Louisiana at 2nd Floor, Post Office Building, Jackson Street, in the city of Monroe, Louisiana on the 5th day of March 1979 at 9:30 o'clock A.M. to testify in the case of United States v. Otto E. Passman and bring with you: 1. Notes regarding trips made with Otto E. Passman during the years 1972, 1973, 1974 and 1975.

This subpoena is issued upon application of the[1] United States, February 2, 1979, David R. Scott, Attorney for Federal Triangle Bldg., Wash., D.C.

Robert H. Shemwell,
By Sandra G. Dean,
Deputy Clerk.

Attachment to Subpoena dated February, 1979.

The attached subpoena calls for your appearance on March 5, 1979, the first day of the trial of Otto E. Passman. It is not necessary to appear in Monroe, Louisiana, on that date. Instead, you will be placed on a standby basis in anticipation of your required appearance at some time after March 5. Standby basis means that you are under a duty to appear any time from March 5 until the end of the trial and that you will be notified as to when that time will be. We will telephone you as soon as we know a more specific date for your appearance to testify. Accordingly, please give the United States Marshall who served this subpoena the telephone number(s) where you can be reached on or after March 5, 1979. In the event you will not be at a definite telephone number, please leave the phone number and name of whoever will know how to contact you.

If you have any questions you may call either Government trial attorneys, Michael Cannon (tel. 202–724–7091) or David Scott (tel. 202–724–6974) until February 27, 1979. After February 27, call either William Goode of the United States Attorney's office in Shreveport (tel. 318–226–5282) or Michael Cannon or David Scott at the United States Attorney's office in Monroe (tel. 318–322–0766). We appreciate your cooperation in this matter.

OUR POLICE—THEIR RIGHTS NEED PROTECTION TOO

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. Annunzio) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, today I would like to speak on behalf of a minority group that is well known but little understood—our police. Even though our law enforcement forces are made up of men and women from all races, creeds, and all walks of life, our police are second-class citizens in another sense. They are called upon almost continuously to defend an individual's rights against the criminal elements of society, but they themselves are rarely offered the same defense and protection—the same civil rights—that they offer others through the performance of their duties. Often our police are the objects of intense harassment, abuse, assault, and even death from the very people they seek to protect.

Our policemen uphold the laws and are very often the only visible symbol of authority that the average citizen constantly sees. Perhaps this is why, when a policeman has looked for support from his community, he has frequently been met with a cool attitude from the very people he seeks to protect. People do tend to fear and resent authority—it is part of human nature; that is why our policemen are so often the tragic victims of a frustrated individual's plot to revenge himself upon society.

For these critical reasons and more, I am again sponsoring the policeman's bill of rights, legislation that I know is familiar to many of my colleagues in this Chamber, because they introduced similar legislation in the last Congress.

This bill, H.R. 101, would provide law enforcement officers with certain basic rights that other citizens take for granted. This bill would insure the right of a police officer to engage in political activity during his off-duty time, as well as guaranteeing specific rights to police officers under investigation. Moreover, it would set up a grievance panel to hear the grievances of police officers who claim their rights under this legislation have been violated, and finally, it would deny Law Enforcement Assistance Administration funds to any community that did not conform to the provisions of this bill.

I believe all would agree that these are not unfair requests for a policeman to ask from society, yet these very rights are often denied our policemen throughout the country. Our law enforcement officers need the help of this Congress. The vocal abuse and criticism a police officer often receives when something goes wrong can be deafening, not only from the public but from his department superiors who are sensitive to public criticism. But when the streets stay safe at night, when police catch the bandits, they are just doing their job.

The passage of this bill of rights would serve to draw deserved attention to the plight, and the rights of our law enforcement officers. We in the Congress should be the first to support the outstanding job our policemen do across the Nation. The fundamental rights that the policeman's bill of rights would insure can serve as a further bridge of understanding between our law enforcement officers and the countrymen they try to protect. I urge the support of my colleagues for H.R. 101.●

NOT FINISHED AT 65

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. Pepper) is recognized for 5 minutes.

● Mr. PEPPER. Mr. Speaker, a leading columnist of the Miami Herald, Charles Whited, recently wrote an outstanding article pointing out that individual vigor is more important than age in judging capacty.

A vigorous 71, Mr. Whited is abundant proof that one is not finished at age 65. I include his column of March 7, 1979, entitled "We're Not All Ready To Cross Finish at 65", in the Record at this point:

We're Not All Ready To Cross Finish at 65

(By Charles Whited)

We read in our schoolbooks about Ponce de Leon and his quest for Florida's fountain of youth. Thanks to modern advertising, we now know that it poured an endless stream of Geritol.

Some Doubting Thomases still contend that the fountain and its wonderful, rejuvenating powers never really existed at all, and that we believers are fools. What the heck, maybe they're right.

One thing is certain, however. Aging is relative. No two people, I've learned, decline at the same rate. Some, indeed, never decline at all. With or without fountains of youth.

I've known people who were falling apart at 40. A good friend of mine, on the other hand, just celebrated her 51st birthday by running five miles. That was my wife, Dorothy. It was no big deal, though, considering that there are now so many marathon runners, speed cyclists and tennis jocks around in their 70s and 80s.

All of which, in this new era of fitness and health mania, renders even more ridiculous the notion of mandatory retirement at age 65. Or, for some people, even 75.

A lot of us suspected all along that most people, given a choice, would rather not quit the grind just because they've hit a day on a calendar, like crossing some invisible line marked, "Finish."

Let's face it, the golden years really aren't all that great for many retirees. This is not merely because inflation picks their pockets. It's not even the idea of being, as pollster Lou Harris termed it the other day, "relegated to the dump heap of inactivity." Work, for Americans, is also a form of identity.

This is something that apparently escaped the notice of bigwigs in the U.S. Department of Labor who, prior to the latest Harris survey, assumed that most people would rather retire.

Our own Rep. Claude Pepper, 78, the guru of Gray Power, has been kicking the stuffings out of such notions, of course. His overturning of many forced retirement practices at 65 is a coup for us all.

We suffer, in this country, from a paranoia about aging.

One who gets very steamed up about this is my esteemed acquaintance of a decade or more, Dr. Edith Lord. At 72, Dr. Lord is a reluctant retiree from the University of Miami, where she was a professor of psychology. Her word for forced retirement: "Humiliating."

As she spoke, I recalled some of the little retirement get-togethers I've attended in various places, where co-workers hand the dear departing a fishing rod and stand around sipping fruit punch and making nervous jokes. It's a grisly rite, not unlike an early funeral.

"During their entire lives," Dr. Lord was saying, "people are identified in this society by what they do. What's the first thing strangers ask each other at a cocktail party? 'What do you do?' No wonder early retirement sometimes causes early death. Some people simply get sick and die a couple of years later."

There are, of course, economic realities involved. Many of these are muted. But the aged worker, going out, makes way for the young. Employers can use retirement to skim off older workers getting higher salaries and benefits. Health and absenteeism can be factors.

Our bugaboo about aging is not universally shared. Dr. Lord, who also spent many years as a human resources development officer for the U.S. State Department in tropical Africa, has this observation on the phenomenon:

"When Americans lie about their age, they lie downward. In Africa, where age is respected for its wisdom and experience, the tendency is to lie upward."

Some of our prejudices are changing, perhaps because the society is growing older. Gov. Bob Graham predicts that one in four Floridians will be over 65 by the year 2000 A.D. Including yours truly.

I'll be a youthful, hell-raising 71.●

BANKING COMMITTEE REPORT ON MONETARY POLICY

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. Reuss) is recognized for 5 minutes.

● Mr. REUSS. Mr. Speaker, today the House Committee on Banking, Finance and Urban Affairs makes its first report to the House on monetary policy under the requirements of the Full Employment and Balanced Growth Act of 1978, the so-called Humphrey-Hawkins Act.

The committee is required to report its "views and recommendations with respect to the Federal Reserve's intended policies" as presented to the Congress by February 20 and July 20 each year.

I am pleased to report that members of the committee are widely in agreement as to the course of monetary policy that should be followed, not only this year but over the next 5 years, to reduce inflation and promote stable growth through "moderation and consistency in monetary policy."

The report is available at the committee's office, 2129 Rayburn House Office Building, for anyone desiring a copy. I have requested a special order on Thursday, March 15, during which I will discuss this report. I urge my colleagues to participate in this important debate.●

DEPENDENCE ON FOREIGN OIL THREATENS OUR NATIONAL SECURITY

The SPEAKER. Under a previous order of the House, the gentleman from Oregon (Mr. Weaver) is recognized for 10 minutes.

(Mr. WEAVER asked and was given permission to revise and extend his remarks.)

Mr. WEAVER. Mr. Speaker, dependence on foreign oil supply is a threat to our national security. At any moment this supply of foreign oil can be disrupted. We must act. Yet the United States remains paralyzed, in a daze. We must gird ourselves so as to be able to do without Mideast oil.

The only solution is to stop squandering and use less oil. The solution offered by some is to develop more oil here as fast as we can. But what of our future if we burn up all our oil in the next few decades? What happens when we run out? What of our national security when we have no more oil?

Those who say, develop now, are condemning this country to a third-rate status in the years to come. Now we grovel before the Arab States. This is intolerable. In the future if we use up all our oil now, we will grovel before every oil nation.

I, for one, refuse to condemn my children and future grandchildren to such an intolerable fate. The squandering of oil now, driving useless, careless trips in our huge cars, burning oil for wasteful electrical use, condemns future Americans to a life of peril from foreign adversaries. We will run out of gas before we run out of bombs.

Mr. Speaker, we must resolve here, now, to stop squandering our energy, both for the immediate threat of Mideast disruption and the future threat of no oil at all.

Should we not save some oil, just some oil for America's future? Why must we develop all our oil as fast as we can just to burn it up as fast as we can in a wasteful way? We need the discipline and resolve to ordain tough, hard, careful mandatory oil savings, and we need to reserve some oil far into the future.

The Elk Hills Naval Reserve should be put back into our defense reserve. It was a tragic mistake to release it, and we should put other such oil deposits into national security reserves.

America must always remain strong. We cannot be strong so long as we waste and squander our oil resurces. Our present national security is at stake. We cannot tolerate dependence on foreign oil states or risk war to retrieve oil supplies we only waste here at home.

□ 1220

Our future national security is at stake if we develop and burn up the last of our national oil resources. We must save now. We must reserve now for the future. Do we have the resolve and the discipline to act now to protect ourselves now? God grant we do.

REMOVAL OF MEMBER AS COSPONSOR OF H.R. 167

Mr. STUMP. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill, H.R. 167, as my name appeared on February 28 without my knowledge and consent.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Erdahl), to revise and extend their remarks, and to include extraneous matter to:)

Mr. Kemp, for 10 minutes, today.

(The following Members (at the request of Mr. Weaver), to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Pepper, for 5 minutes, today.

Mr. Reuss, for 5 minutes, today.

Mr. Diggs, for 10 minutes, today.

Mr. Reuss, for 60 minutes on March 15, 1979.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. ERDAHL), and to include extraneous matter:)

Mr. MICHEL in two instances.

Mr. CHENEY.

Mr. BROYHILL.

Mr. DERWINSKI in two instances.

(The following Members (at the request of Mr. WEAVER), and to include extraneous matter:)

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Ms. HOLTZMAN in 10 instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. DUNCAN of Oregon in five instances.

Mr. MAZZOLI.

Mr. EDWARDS of California.

Mr. MONTGOMERY.

Mr. ASPIN.

Mr. HAMILTON.

Mr. BARNES in two instances.

Mr. ERTEL.

Mr. JONES of Oklahoma.

Mr. STUMP.

Mr. WIRTH in two instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 223. An act to amend the International Travel Act of 1961 to authorize additional appropriations, and for other purposes, to the Committee on Interstate and Foreign Commerce.

ADJOURNMENT

Mr. WEAVER. Mr. Speaker, I move the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 20 minutes p.m.), the House adjourned until Tuesday, March 13, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

892. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a cumulative report on rescissions and deferrals of budget authority as of March 1, 1979, pursuant to section 1014(e) of Public Law 93–344 (H. Doc. No. 96–71); to the Committee on Appropriations and ordered to be printed.

893. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a report on the value of property, supplies, and commodities provided by the Berlin Magistrate and under the German Offset Agreements for the quarter ended December 31, 1978, pursuant to section 819 of Public Law 95–457; to the Committee on Appropriations.

894. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to repeal subsection 416(a) of title 37, United States Code, relating to additional uniform allowances in the case of Reserve officers; to the Committee on Armed Services.

895. A letter from the Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend section 4349(a) of the title 10, United States Code, to provide that the companies of the Corps of Cadets at the U.S. Military Academy may be commanded by commissioned officers of the Army, Navy, Air Force, or Marine Corps; to the Committee on Armed Services.

896. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of certain defense articles and services to the Yemen Arab Republic (transmittal No. 79–14), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

897. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense articles to the Yemen Arab Republic (transmittal No. 79–16), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

898. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to authorize appropriations for the international affairs functions of the Department of the Treasury for fiscal years 1980 and 1981; to the Committee on Banking, Finance and Urban Affairs.

899. A letter from the Under Secretary of State for Security Assistance, Science and Technology, transmitting notice of the Department's intention to consent to a request by the Government of Jordan for permission to transfer certain U.S.-origin training to the Government of the Yemen Arab Republic, pursuant to section 3(d) of the Arms Export Control Act; to the Committee on Foreign Affairs.

900. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting the annual report on the Sahel Development Fund, pursuant to section 121(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

901. A letter from the Assistant Secretary of Defense (Public Affairs), transmitting a report on the Department's activities under the Freedom of Information Act during calendar year 1978, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

902. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting a report on the Agency's activities under the Freedom of Information Act during calendar year 1978, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

903. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting a report on the Corporation's activities under the Freedom of Information Act during calendar year 1978, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

904. A letter from the Chairman, National Endowment for the Arts, transmitting a report on the organization's activities under the Freedom of Information Act during calendar year 1978, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

905. A letter from the Freedom of Information Officer, Pennsylvania Avenue Development Corporation, transmitting a report on the Corporation's activities under the Freedom of Information Act during calendar year 1978, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

906. A letter from the Administrator of Veterans' Affairs, transmitting a report on the Veterans' Administration's activities under the Freedom of Information Act during calendar year 1978, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

907. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting a report on the Corporation's activities under the Government in the Sunshine Act during calendar year 1978, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

908. A letter from the Executive Secretary, Board of Regents, Uniformed Services University of the Health Sciences, transmitting a report on the Board's activities under the Government in the Sunshine Act during the year ended March 11, 1979, pursuant to 5 U.S.C. (552b(j); to the Committee on Government Operations.

909. A letter from the Secretary of the Interior, transmitting notice of his determinations that certain lands in Colorado, Nevada, Oregon, and Utah are not suitable for disposal under the provisions of the Unintentional Trespass Act, pursuant to section 214(b) of the Federal Land Policy and Management Act; to the Committee on Interior and Insular Affairs.

910. A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend the Land and Water Conservation Fund Act of 1965, as amended, and for other purposes; to the Committee on Interior and Insular Affairs.

911. A letter from the Secretary of Health, Education, and Welfare, transmitting the fourth annual report on Health Maintenance Organizations covering fiscal year 1978, pursuant to section 1315 of the Public Health Service Act, as amended; to the Committee on Interstate and Foreign Commerce.

912. A letter from the vice president for Government affairs, National Railroad Passenger Corporation, transmitting the Corporation's financial report for the months of October and November 1978, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended to the Committee on Interstate and Foreign Commerce.

913. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

914. A letter from the Secretary of the Army, transmitting a Corps of Engineers report on the East Fork of the East Branch of the Rahway River, N.J., in response to resolutions of the Senate and House Committees on Public Works adopted November 25 and December 11, 1969, respectively; to the Committee on Public Works and Transportation.

915. A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation authorizing appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes; to the Committee on Public Works and Transportation.

916. A letter from the Acting Administrator, U.S. Environmental Protection Agency, transmitting notice of the proposed reprograming of funds between various categories of Agency appropriations for fiscal year 1979, pursuant to section 2(c) of Public Law 95–477; to the Committee on Science and Technology.

917. A letter from the Secretary of Housing and Urban Development, transmitting the fourth semiannual report on energy conservation standards for new buildings, pursuant

to section 311(4) of the Energy Conservation and Production Act; jointly, to the Committees on Banking, Finance and Urban Affairs and Interstate and Foreign Commerce.

918. A letter from the Assistant Secretary of Energy for Conservation and Solar Applications, transmitting notice of a delay until April 26, in the submission of a preliminary report on the potential for U.S. export of solar photovoltaic power systems, required by section 208(a)(3) of Public Law 95–238; jointly, to the Committees on Foreign Affairs and Science and Technology.

919. A letter from the Comptroller General of the United States, transmitting a report on the implementation of the Defense Department's new profit policy (PSAD–79–38, March 8, 1979); jointly, to the Committees on Government Operations and Armed Services.

920. A letter from the Comptroller General of the United States, transmitting a report on the energy and economic effects of the Iranian oil shortfall (EMD–79–38, March 5, 1979); jointly, to the Committees on Government Operations, Foreign Affairs and Interstate and Foreign Commerce.

921. A letter from the Comptroller General of the United States, transmitting a report on the need for a new conservation policy for helium resources (EMD–78–98, March 7, 1979); jointly, to the Committees on Government Operations, Interior and Insular Affairs, Interstate and Foreign Commerce, and Ways and Means.

922. Comptroller General of the United States, transmitting a report on needed improvements in the Government's debt collection procedures; jointly, to the Committee on Government Operations and Ways and Means.

923. Secretary of State, transmitting a draft of proposed legislation to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes; jointly to the Committees on the Judiciary and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. REUSS: Committee on Banking, Finance and Urban Affairs. Report on monetary policy for 1979 (Rept. No. 96–32). Referred to the Committee of the Whole House on the State of the Union.

Mr. REUSS: Committee on Banking, Finance and Urban Affairs. H.R. 2283. A bill to amend the Council on Wage and Price Stability Act to extend the authority granted by such act to September 30, 1981, and for other purposes; with amendment (Rept. No. 96–33). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 or rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GRAMM:

H.R. 2790. A bill to exempt crude oil produced from deep stripper wells from price and allocation regulations under the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. HORTON:

H.R. 2791. A bill to modify the navigation project at Irondequoit Bay, N.Y.; to the Committee on Public Works and Transportation.

By Mr. LEHMAN (for himself, Mr. Fascell, Mr. Rosenthal, Mr. Pepper, Mr. Mica, and Mr. Stack):

H.R. 2792. A bill to encourage broader utilization of the condominium form of homeownership, to provide minimum national standards for disclosure and consumer protection for condominium purchasers and owners and tenants in condominium conversions, to encourage States to establish similar standards, to correct abusive use of long-term leasing of recreation and other condominium-related facilities, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PRICE (for himself and Mr. Bob Wilson) (by request):

H.R. 2793. A bill to amend title 10 of the United States Code by repealing the provision limiting compensation for members of the Naval Research Advisory Committee to $50 per day; to the Committee on Armed Services.

By Mr. STAGGERS (by request):

H.R. 2794. A bill to authorize appropriations to the Department of Energy for national security programs for fiscal year 198 and fiscal year 1981, and for other purposes; to the Committee on Armed Services.

By Mr. STAGGERS (for himself, Mr. Florio, and Mr. Santini):

H.R. 2795. A bill to amend the International Travel Act of 1961 to authorize additional appropriations, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. STUMP:

H.R. 2796. A bill to repeal the Metric Conversion Act of 1975 (89 Stat. 1007); to the Committee on Science and Technology.

By Mr. ULLMAN:

H.R. 2797. A bill to make technical corrections related to the Revenue Act of 1978; to the Committee on Ways and Means.

By Mr. VENTO:

H.R. 2798. A bill to prohibit electric and gas utilities from charging higher rates to residential customers who conserve energy or utilize alternative energy sources, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WEAVER:

H.R. 2799. A bill to assign full responsibility for the sale of timber from Federal lands to the Secretary of Agriculture and the Secretary of the Interior; to assure a fair proportion of total sales of timber from Federal lands to small wood products concerns; and for other purposes; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

58. By the SPEAKER: A memorial of the Legislature of the Commonwealth of Virginia, relative to the return of certain portions of Fort Story to the Commonwealth of Virginia; to the Committee on Armed Services.

59. Also, memorial of the Legislature of the State of California, relative to Armenian oppression; to the Committee on Foreign Affairs.

60. Also, memorial of the Legislature of the State of Tennessee, relative to proposed rule changes before the Federal Communications Commission to permit duplication of radio broadcasting station assignments on Class I–A Clear Channels; to the Committee on Interstate and Foreign Commerce.

61. Also, memorial of the Legislature of the State of Arkansas, relative to proposed amendments to the McCarran-Ferguson Act; to the Committee on the Judiciary.

62. Also, memorial of the House of Representatives of the State of Texas, relative to proposed amendments to the McCarran-Ferguson Act; to the Committee on the Judiciary.

63. Also, memorial of the House of Representatives of the State of Georgia, requesting that Congress call a convention for the sole purposes of proposing an amendment to the Constitution of the United States relative to human life; to the Committee on the Judiciary.

64. Also, memorial of the Legislature of the State of Nebraska, requesting that Congress propose, or call a convention for the specific and exclusive purpose of proposing, an amendment to the Constitution of the United States to require a balanced Federal budget in the absence of a national emergency; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FORSYTHE:

H.R. 2800. A bill for the relief of Harold N. Holt; to the Committee on the Judiciary.

By Mr. REUSS:

H.R. 2801. A bill for the relief of Irene Waring; to the Committee on the Judiciary.

By Mr. FORSYTHE:

H. Res. 153. Resolution to refer the bill (H.R. 2800) for the relief of Harold N. Holt to the Chief Commissioner of the Court of Claims; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 160: Mr. Huckaby, Mr. Kemp, and Mr. Lagomarsino.

H.R. 214: Mr. Roth and Mr. Stangeland.

H.R. 1048: Mr. Bingham, Mr. Bonior of Michigan, Mr. Brown of California, Mr. Corcoran, Mr. Corrada, Mr. Downey, Mr. Edgar, Mr. Gradison, Mr. Gudger, Mr. Hughes, Mr. Jeffords, Mr. Jenrette, Mr. Long of Maryland, Mr. McHugh, Mr. Mitchell of Maryland, Mr. Neal, Mr. Nowak, Mr. Peyser, Mr. Richmond, Mr. Roe, Mr. Seiberling, Mrs. Spellman, Mr. Weiss, Mr. Wolff, and Mr. Wolpe.

H.R. 1259: Mr. Albosta, Mr. Baldus, Mr. Blanchard, Mr. Boland, Mr. Broyhill, Mr. Clinger, Mr. Conte, Mr. Davis of Michigan, Mr. Horton, Mr. Lee, Mr. Madigan, Mr. Mc Ewen, Ms. Mikulski, Mr. Mitchell of New York, Mr. Patten, Mr. Pease, Mr. Rangel, Mr. Richmond, Mr. Scheuer, Mrs. Snowe, Mrs. Spellman, Mr. Weaver, Mr. Wolff, Mr. Williams of Montana, Mr. Young of Alaska, Mr. Oberstar, Mr. Nolan, Mr. Buchanan, Mr. Grassley, and Mr. Robinson.

H.R. 2250: Mr. Davis of Michigan.

H.R. 2727: Mr. Gore, Mr. Fazio, Mr. Downey, Mr. Nichols, Mr. Ashley, Mr. Evans of Georgia, Mr. Flood, Mr. Whitten, Mr. Cavanaugh, Mr. Edgar, and Mr. Burgener.

H.J. Res. 170: Mr. Maguire.

H. Con. Res. 54: Mr. Moorhead of Pennsylvania and Mr. Nolan.

H. Con. Res. 59: Mr. Dornan, Mr. Emery, Mr. Corrada, Mr. Thompson, Mr. Rodino, Mr. Weiss, Mr. St Germain, Mr. Florio, Mr. Dellums, Mr. Mitchell of Maryland, Mr. Archer, Mr. Drinan, Mr. Beilenson, Mr. Lagomarsino, Mr. Long of Maryland, Mr. Hughes, Mr. Corcoran, Mr. Richmond, Mr. McCloskey, Mr. Kostmayer, Mr. Roe, Mr. D'Amours, Mr. Brodhead, Mr. Mathis, Mr. Walker, Mr.

Quillen, Mr. Leach of Iowa, Mr. Moorhead of Pennsylvania, Mr. Lloyd, Mr. Jacobs, Mr. McHugh, Mr. Downey, Mr. Pepper, Mr. Mineta, Mr. Evans of Georgia, Mr. Charles Wilson of Texas, Mr. Frenzel, Mr. Coleman, Mr. AuCoin, Mr. Hinson, Mrs. Fenwick, Mr. Badham, and Mr. Cavanaugh.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 167. Mr. Stump.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

76. By the SPEAKER: Petition of State Representative David M. Hagino, and others, Honolulu, Hawaii, relative to national service and the Selective Service System; to the Committee on Armed Services.

77. Also, petition of the city council, New York, N.Y., relative to the need for Federal assistance to alleviate the cost of asbestos repair projects in New York City schools; to the Committee on Education and Labor.

78. Also, petition of the city council, Elizabeth, N.J., relative to the settlement of tax delinquencies owed as a result of bankruptcy, insolvency, and the reorganization of railroads; to the Committee on Interstate and Foreign Commerce.

79. Also, petition of Marjorie Childs, Brigham City, Utah, relative to the equal rights amendment; to the Committee on the Judiciary.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X.

H.R. 1. January 15, 1979. Administration. Directs the Secretary of the Treasury to maintain in the Presidential Election Campaign Fund, the House of Representatives Election Campaign Account. Sets forth a procedure for the payment of matching funds from the Account to candidates for election to the House of Representatives who meet certain eligibility requirements. Limits expenditures from personal funds which may be made by such eligible candidates.

H.R. 2. January 15, 1979. Government Operations; Rules. Sets forth a ten-year schedule for the reauthorization of all Federal programs as identified by budget function and subfunction categories.

Establishes the Citizen's Commission on the organization and operation of Government to study and recommend ways to improve the efficiency and effectiveness of Government agencies.

Requires the President to submit: (1) at least once in each Congress a comprehensive review of 16 specified regulatory agencies; and (2) every second year, a legislative plan to improve the efficiency of specified regulatory agencies.

Provides for the preparation of a reauthorization schedule for tax expenditure provisions.

H.R. 3. January 15, 1979. Interior and Insular Affairs. Changes the boundaries of the Golden Gate National Recreation Area.

H.R. 4. January 15, 1979. Education and Labor. Defines the term "age" for purposes of equal employment opportunities under the Civil Rights Act of 1964, to mean a person's being considered too old, but only if such person has attained the age of 40 years.

Prohibits employment discrimination because of age, under such Act.

Repeals the Age Discrimination in Employment Act of 1967.

H.R. 5. January 15, 1979. Judiciary. Reduces multiple state taxation of interstate commerce by limiting the jurisdiction of a State to tax corporate net income or capital stock, to impose or require to be collected a sales or use tax, or to impose a gross receipts tax. Limits the maximum percentage of corporate income or capital attributable to a taxing jurisdiction. Restricts the power of a State to tax the earned income of an individual where his domicile and his income are of different States.

H.R. 6. January 15, 1979. Interior and Insular Affairs. Authorizes the Secretary of the Interior to take specified actions in order to preserve and promote natural, cultural, recreational, and other values of the Connecticut River Valley. Establishes the Connecticut Historic Riverway and the Mount Holyoke Riverway Committee.

H.R. 7. January 15, 1979. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to establish reserve requirements for specified deposits and accounts of federally-insured banks and other depository institutions. Directs the Board of Governors of the Board of Governors of the Federal Reserve System to implement a fee schedule for Federal Reserve services.

H.R. 8. January 15, 1979. Interior and Insular Affairs. Amends the Mineral Leasing Act of 1920 to prohibit major oil companies from directly or indircetly acquiring any coal lease or locating and recording any claim for uranium or other fissionable materials. Allows any holder of a mineral lease to modify or revise a lease to include a limited amount of contiguous lands.

H.R. 9. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to allow individual taxpayers an income tax credit for a portion of the tuition paid for the elementary or secondary education of the taxpayer, his spouse, or any of his dependents.

H.R. 10. January 15, 1979. Judiciary. Authorizes the Attorney General to institute a civil suit for or in the name of the United States whenever there is reasonable cause to believe that a person confined in a State correctional or health facility is being deprived of Federal constitutional or statutory rights.

Requires persons confined in correctional institutions to exhaust State administrative remedies which meet the minimum standards developed by the Attorney General before bringing a Federal action under the Civil Rights Act.

H.R. 11. January 15, 1979. Interstate and Foreign Commerce. Amends the Saccharin Study and Labeling Act to extend the period during which the Secretary of Health, Education, and Welfare may not take specified actions to restrict the continued use of saccharin or of any food, drug, or cosmetic containing saccharin.

H.R. 12. January 15, 1979. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to repeal the blanket prohibition against regulations deeming safe any cancer-inducing food additives or color additives in food, drugs, or cosmetics. Abolishes the advisory committee of experts established to review regulations disapproving color additives as cancer-inducing.

H.R. 13. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to repeal the estate tax carryover provisions enacted by the Tax Reform Act of 1976. Restores prior law relating to the basis of property passed by a decedent.

H.R. 14. January 15, 1979. Ways and Means; Interstate and Foreign Commerce. Repeals the increases in the contribution and benefit base enacted by the Social Security Amendments of 1977.

Amends the Internal Revenue Code tax rates for employers, employees, and self-employed individuals to: (1) increase the tax rate for coverage under title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act; and (2) reduce the rates for hospital insurance benefits under title XVIII (Medicare) of the Social Security Act.

Amends title II to: (1) include Federal employees within the coverage of such title; and (2) establish a working spouse's benefit.

H.R. 15. January 15, 1979. Post Office and Civil Service. Designates the birthday of Martin Luther King, Junior, as a legal public holiday.

H.R. 16. January 15, 1979. Interstate and Foreign Commerce. Creates a national health insurance system to cover personal health services including medical, dental, podiatric, home-nursing, hospital, and auxiliary services. Directs that the system shall be administered by the States wherever possible.

H.R. 17. January 15, 1979. Agriculture; Ways and Means. Directs the Secretary of Agriculture to annually determine the amount of sugar needed to meet consumer requirements and to attain the price objective for sugar. Requires the Secretary to establish sugar quotas for domestic and foreign producers of sugar.

Authorizes the Secretary to make payments to farmers who have not marketed sugar in excess of their proportionate share and to processors who have paid fair and reasonable prices. Establishes the base rate of payment for raw value sugar. Provides for fines or forfeitures for violations of this Act.

H.R. 18. January 15, 1979. Interior and Insular Affairs. Entitles any local government to payments by the Secretary of the Interior based on the amount of land located within its jurisdiction which is utilized as a bombing range primarily by aircraft stationed out of State.

H.R. 19. January 15, 1979. Interior and Insulars Affairs. Ratifies contracts between water users and the Secretary of the Interior which acknowledge that upon repayment of allocated construction costs the acreage limitations and cultivation requirements of the Reclamation Act of 1902 shall cease to apply to such water users.

H.R. 20. January 15, 1979. Merchant Marine and Fisheries. Directs the Secretary of Commerce to establish a National Aquaculture Development Plan to identify aquatic species which can be cultured on a commercial or other basis and develop programs to increase production of such species.

Authorizes the Secretary to enter into contracts, make grants and disaster loans, provide insurance, and guarantee obligations in furtherance of the purposes of this Act.

Establishes a Federal Aquaculture Assistance Fund.

H.R. 21. January 15, 1979. Interstate and Foreign Commerce; Ways and Means. Creates a comprehensive system of national health insurance. Entitles eligible persons to have payments made for covered services. Specifies coverage of services and eligibility requirements for participating providers.

Establishes a Health Security Board in the Department of Health, Education, and Welfare to administer such program.

Repeals the Medicare provisions of the Social Security Act, and creates new Health Security taxes for financing the program.

H.R. 22. January 15, 1979. Armed Services. Amends the Strategic and Critical Materials Stock Piling Act to grant the President the authority to determine which materials are strategic and critical and the quality and quantity of each such material to be stockpiled.

Requires that appropriations for the acquisition of such materials be authorized by law. Requires that stockpile dispositions be specifically authorized by law except under specified circumstances.

Establishes the National Defense Stockpile Transaction Fund within the Treasury to fund the acquisition of stockpile materials.

H.R. 23. January 15, 1979. Armed Services. Directs the President to report to the Congress on plans for military selective service registration and to commence such registration by October 1, 1979.

Amends the Military Selective Service Act of 1967 to transfer the personnel and funds of the Selective Service System to the Department of Defense.

H.R. 24. January 15, 1979. Government Operations. Authorizes the Comptroller General, under the Accounting and Auditing Act of 1950, to have access to any information needed to audit all Federal expenditures. Amends the Budget and Accounting Act, 1921 to require the President to appoint the Comptroller General from a list of at least three names submitted by a commission of congressional leadership representatives established for the purpose of compiling such list.

H.R. 25. January 15, 1979. Public Works and Transportation. Authorizes the Secretary of the Army, through the Chief of Engineers, to design, construct, and undertake flood control measures on portions of the Cumberland River, Kentucky, and the Big Sandy River in Kentucky, Virginia, and West Virginia.

H.R. 26. January 15, 1979. Education and Labor. Establishes an additional position of Assistant Secretary of Labor.

H.R. 27. January 15, 1979. Education and Labor. Amends the National School Lunch Act to extend the appropriations authorizations for the summer food program for children and the Secretary of Agriculture's commodity purchasing authority.

Amends the Child Nutrition Act of 1966 to extend the appropriations authorizations for: (1) special payments to schools without food service programs or hot meal facilities; (2) State administrative expenses, including unused fund availability; (3) special supplemental food programs for pregnant women, infants, and young children; and (4) nutrition education and training.

H.R. 28. January 15, 1979. Education and Labor. Amends the Domestic Volunteer Service Act of 1973 to extend authorizations of appropriations for National Volunteer Antipoverty Programs, National Volunteer Programs to Assist Small Businesses, and for administration of Domestic Volunteer Services.

H.R. 29. January 15, 1979. Merchant Marine and Fisheries; Public Works and Transportation. Establishes a fund for the purpose of paying for otherwise uncompensated losses resulting from oil pollution.

Imposes, within certain monetary limits, joint, several, and strict liability on the owners and operators of each pollution source. Requires petroleum facilities and certain vessels to maintain evidence of financial responsibility in an amount equal to applicable liability limits.

Sets forth procedures for identifying and publicizing pollution sources.

H.R. 30. January 15, 1979. Judiciary; Intelligence. Repeals the Foreign Intelligence Act of 1978. Reenacts law existing prior to such Act, relating to authorized interception and disclosure of wire or oral communications.

H.R. 31. January 15, 1979. Ways and Means. Amends title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that any individual who is entitled to a monthly benefit under such title for the month preceding the month in which such eligible individual dies shall be entitled for the month in which he dies to a prorated benefit.

H.R. 32. January 15, 1979. Interstate and Foreign Comerce; Ways and Means. Amends title XVIII (Medicare) of the Social Security Act to provide for hearings on disputed Medicare claims by an impartial person other than the carrier designated by the Secretary of Health, Education, and Welfare to administer benefits under such title.

H.R. 33. January 15, 1979. Ways and Means. Amends title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act and the Internal Revenue Code to reduce tax rates on employment and self-employment income below the level established by the Social Security Financing Amendments of 1977. to increase Federal participation in the funding of benefits under such title and under the Medicare program, and to raise the ceiling on the amount of income that is subject to the tax.

H.R. 34. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to allow individual taxpayers a limited income tax credit for the tuition paid for the elementary or secondary education of the taxpayer or any of his dependents.

H.R. 35. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to allow individual taxpayers an income tax credit for 25 percent of the tuition paid for the college or post-secondary vocational education of the taxpayer, his spouse, or any of his dependents.

H.R. 36. January 15, 1979. Banking. Finance and Urban Affairs. Amends the Council on Wage and Price Stability Act to authorize additional positions, to increase authorization of appropriations for fiscal year 1979, and to extend authorizations and the authority of the Act.

H.R. 37. January 15, 1979. Banking, Finance and Urban Affairs. Amends the Defense Production Act of 1950 to extend the authority granted by such Act.

H.R. 38. January 15, 1979. Banking, Finance and Urban Affairs. Amends the Home Owners' Loan Act of 1933 to authorize the Home Loan Bank Board to permit Federal savings and loan associations to offer graduated payment and revenue-annuity mortgages. Prohibits such associations from making variable-rate and rollover mortgages.

H.R. 39. January 15, 1979. Interior and Insular Affairs; Merchant Marine and Fisheries. Designates specified public lands and waters in the State of Alaska for inclusion in the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, National Forest, and National Wilderness Preservation Systems. Makes provisions for the management of subsistence uses of fish and wildlife on national lands. Amends the Alaska Native Claims Settlement Act.

H.R. 40. January 15, 1979. Judiciary. Makes it unlawful for any person to import, manufacture, sell, buy, transfer, receive, transport, own, or possess any handgun or handgun ammunition. Specifies exemptions, procedures for the operation of licensed pistol clubs, and penalties for violation of this prohibition.

H.R. 41. January 15, 1979. Public Workers and Transportation. Authorizes the Secretary of the Army, through the Chief of Engineers, to design, construct, and undertake flood control measures on portions of the Cumberland River, Kentucky, and the Big Sandy River in Kentucky, Virginia, and West Virginia.

H.R. 42. January 15, 1979. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act to require full disclosure of pertinent data on labels of foods and food products. Prohibits misleading brand names under the Federal Trade Commission Act.

H.R. 43. January 15, 1979. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to require retailers of prescription drugs to post the prices of certain commonly prescribed drugs for the general public.

H.R. 44. January 15, 1979. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to require that in the labeling and advertising of drugs sold by prescription the established name of such drug must appear each time the drug's proprietary name is used.

Allows a pharmacist to fill or refill a prescription for a drug identified by its proprietary name with a substitute drug of the same established name or the same qualitative composition, unless the prescription requires the proprietary name drug exclusively.

H.R. 45. January 15, 1979. Interstate and Foreign Commerce. Requires the prominent labeling of prescription and over-the-counter drugs and pharmaceuticals, whose effectiveness or potency become diminished after storage, as to the date beyond which the product shall not be used.

Authorizes the Food and Drug Administration to establish the "beyond use" dates for all applicable products, and the manner in which they shall be labeled.

H.R. 46. January 15, 1979. Judiciary. Requires that whenever, upon complaint by a qualified applicant for a license under a drug patent, the Federal Trade Commission determines that such license application was not granted and that the price quoted to druggists by the patentee is more than 500 percent of the total cost of production, the Commission shall order the patentee to grant an unrestricted license to any qualified applicant to make use, and sell such drug.

H.R. 47. January 15, 1979. Veterans' Affairs. Increases the rates of veterans' compensation for (1) wartime disability compensation; (2) additional compensation for dependents; and (3) clothing allowances paid to certain disabled veterans.

Increases the rates of veterans' dependency and indemnity compensation for (1) a surviving spouse; (2) surviving children; and (3) supplemental children's benefits.

H.R. 48. January 15, 1979. Agriculture. Prohibits the Secretary of Agriculture from taking any action under the Wholesome Meat Act or any other law to prohibit the sale, distribution, or use of nitrites as a food preservative solely on the basis of any carcinogenic effect in humans that nitrites may be represented to have, unless validated evidence is made available to the Secretary which proves beyond a reasonable doubt that nitrites as a food preservative have a significant carcinogenic effect on humans, or until a substitute preservative is available.

H.R. 49. January 15, 1979. Education and Labor. Repeals the Davis-Bacon Act, relating to the rate of wages for workers employed on Federal public buildings by contractors and subcontractors.

H.R. 50. January 15, 1979. Education and Labor. Amends the Fair Labor Standards Act of 1938 to prohibit as a basis for a differential wage rate between employees of the opposite sex the economic profitability to the employer of goods produced, handled, sold, or otherwise worked on.

H.R. 51. January 15, 1979. Interstate and Foreign Commerce. Amends the Natural Gas Pipeline Act to provide safety standards for the operation of pipelines transporting natural gas and liquefied petroleum gas. Sets safety standards for the construction, siting, and operation of liquefied natural gas facilities.

H.R. 52. January 15, 1979. Judiciary. Grants a Federal charter to United States Submarine Veterans of World War II.

H.R. 53. January 15, 1979. Education and Labor. Repeals the Davis-Bacon Act, relating to the rate of wages for workers employed on Federal public buildings by contractors and subcontractors.

H.R. 54. January 15, 1979. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to eliminate the testing of new drugs and new animal drugs for effectiveness. Establishes drug advisory committees to review new drug and new animal drug applications promptly. Reqiures assistance to small businesses engaged in drug manufacturer to insure their compliance with such Act.

H.R. 55. January 15, 1979. Rules. Amends the Congressional Budget and Impoundment Control Act of 1974 to implement a two-step budget process which requires the House of Representatives to consider the total level of Federal revenues, expenditures, and indebtedness before considering new budget authority separated into functional categories.

H.R. 56. January 15, 1979. Rules. Amends the Congressional Budget Act of 1974 to require Congress to review each Federal program at least every six years as though it were being proposed to be enacted for the first time. Prohibits the extension of budget authority for any such program beyond such period until the reviews are conducted.

H.R. 57. January 15, 1979. Veterans' Affairs. Defines those members who served in the Armed Forces between November 12, 1918, and July 2, 1921, as World War I veterans and reinstates their veterans status.

H.R. 58. January 15, 1979. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (Medicare) of the Social Security Act to establish a Long-Term Care Services program to provide home health, homemakers, nutrition, long-term institutional care, day care, foster home, and outpatient mental health services. Specifies that these services shall be delivered by community long-term care centers under the direction and control of a State long-term care agency.

H.R. 59. January 15, 1979. Interstate and Foreign Commerce. Directs the President to restore competition to the domestic crude oil market by removing from any regulation, ruling, or interpretation thereof, under the specified provision of the Emergency Petroleum Allocation Act of 1973 any provision regarding the supplier/purchaser relationship which restricts competition.

H.R. 60. January 15, 1979. Public Works and Transportation. Stipulates that, with respect to the withdrawal of approval of any route or portion of the Interstate Highway System on or after November 6, 1978, the State concerned shall refund to the Highway Trust Fund all sums received by the State for the withdrawn route or portion of such route.

H.R. 61. January 15, 1979. Judiciary; Rules. Authorizes the President to delay for up to one year the statutory deadline for promulgating rules by an agency to permit more time for data collection and conferring with affected parties. Makes such delay subject to Congressional disapproval. Requires wider publication of proposed rules, inclusion of a paperwork impact statement in such publication, a rule promugation period of at least 30-days, and a 45-day period between publication of a substantive rule and its effective date.

H.R. 62. January 15, 1979. Government Operations. Establishes, within the Office of Management and Budget, the Office of Federal Information Management Policy to establish Government-wide policies and procedures regarding Federal information management activities and the costs imposed on the public by such activities.

Establishes the Federal Information Locator Office within the General Services Administration. Directs the Office to prepare a data profile for each public-use report and register all approved new reports in the Federal Information Locator System.

H.R. 63. January 15, 1979. Post Office and Civil Service. Maintains the classes of mail, rates of postage, and fees for postal service in effect on June 1, 1978, until modified by Congress.

Repeals the authority of the Postal Service to: (1) establish temporary changes in rates; and (2) establish uniform rates for books, films, and educational materials based solely on weight. Repeals the prohibition against reimbursing a mailer for payment of a fee determined to be unlawful or superceded by a lower fee.

Repeals provisions which prohibit undue or unreasonable discrimination among users of the mails in services and rates and undue or unreasonable preferences to a user.

H.R. 64. January 15, 1979. Education and Labor; Ways and Means. Directs the Secretary of Labor to enter into contracts with national community-based organizations for the provision of employment services, career education, and job opportunities to unemployed persons, particularly youths.

Directs the head of each agency exercising authority under specified programs to give preference to community-based organizations in providing employment services.

Amends the Comprehensive Employment and Training Act to provide year-round work experience to urban and rural youths.

Amends the Internal Revenue Code to allow a tax credit for part of the wages paid to previously unemployed persons during the first 12 months of employment.

H.R. 65. January 15, 1979. Government Operations; Rules. Requires that legislation considered by Congress be accompanied by statements assessing the economic and social costs and the expected accomplishments of programs established or authorized by such legislation. Requires that duplicative programs be identified. Requires Federal agencies to annually report to Congress on the extent to which such programs meet their objectives. Prohibits the funding of any program for more than five years. Requires Congress to consider the extent to which any program has met its objectives in the past before considering refunds of such program.

H.R. 66. January 15, 1979. Education and Labor. Amends the Vocational Education Act of 1963 to extend specified authorizations of appropriations under such Act.

H.R. 67. January 15, 1979. Education and Labor. Authorizes the Commissioner of Education to provide Federal aid to those State teacher retirement system which allow retirement credit to teachers for out-of-State teaching service.

H.R. 68. January 15, 1979. Armed Services. Amends the Uniform Code of Military Justice to establish an independent Courts-Martial Command within the Office of the Judge Advocate General of each armed force. Revises the classification and jurisdiction of courts-martial. Establishes procedures with respect to pre-court-martial proceedings. Sets forth specified rights of the accused during investigations and courts-martial. Increases the number of judges on the Court of Military Appeals. Authorizes the court to divide itself into three separate panels of three judges each when necessary to expedite the business of the court.

H.R. 69. January 15, 1979. Administration. Amends the Federal Election Campaign Act of 1971 to prohibit expenditures by any candidate or political committee unless there are sufficient funds in the checking account maintained by such committee.

H.R. 70. January 15, 1979. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to extend the prohibitions of such Act to all individuals at least 40 years of age.

Repeals restrictions on the employment or compensation of individuals in specified Federal Government positions because of age or receipt of a retirement annuity.

Repeals automatic separation requirements based on age and length of service which relate to employees of the Alaska Railroad, the Panama Canal Company, the Canal Zone Government, and to air traffic controllers and Federal law enforcement officers and firefighters.

H.R. 71. January 15, 1979. Judiciary. Requires Federal agencies to: (1) assess the costs of private information collection and compliance which are or would be imposed by existing or proposed agency rules; (2) compare such impositions with the importance of the public policy achieved or to be achieved by such rules; and (3) determine whether such rules should apply to the same extent to individuals, and organizations of various sizes and resources.

Directs that the reporting and performance requirements of proposed rules be varied depending on the resources of the organizations or individuals affected by such rules.

H.R. 72. January 15, 1979. Administration. Directs the Attorney General, in consultation with the Secretary for Health, Education, and Welfare, to prescribe standards for polling and registration facilities which will insure ready access by the handicapped and the elderly.

H.R. 73. January 15, 1979. Post Office and Civil Service. Requires the Civil Service Commission to establish a Special Cost-of-Living Pay Schedules for Federal employees located in any city or metropolitan area having a population of 500,000 or more, such schedule to contain special rates of basic pay representing increases in comparable rates provided by the General Schedule, for the purposes of offsetting the increased cost-of-living of such employees.

H.R. 74. January 15, 1979. Education and Labor. Requires the Secretary of Labor to establish and administer an employment and training program which makes grants to State agencies for distribution to qualifying employers who employ previously unemployed individuals.

H.R. 75. January 15, 1979. Judiciary. Requires each head of an executive agency to use the most cost-effective method of achieving a regulatory goal whenever alternative methods exist.

Requires each agency head to prepare a regulatory impact analysis of proposed and existing rules which includes the paperwork requirements, economic impact, conflicting rules, and a cost-benefit analysis of each rule.

H.R. 76. January 15, 1979. Rules. Amends the Congressional Budget Act of 1974 to require Congress to establish annually a regulatory budget for each Federal agency, setting the maximum costs of compliance with all rules and regulations declared by the agency. Requires Congress to utilize reports from agency heads and the Comptroller General, and recommendations from the President, in developing the regulatory budget for each agency. Directs the President to establish a Business Advisory Council which includes representatives of each major industrial and commercial sector, and each geographic region, to provide such information, advise and consultation as he may require to develop and carry out regulatory costs analysis procedures.

H.R. 77. January 15, 1979. Judiciary. Directs the head of each independent regulatory agency to: (1) revise agency rulemaking procedures to provide for public participation in such procedures; (2) publish in the Federal Register an agenda of the significant rules to be reviewed or developed by such agency; and (3) prepare a regulatory analysis of rules which may have a major economic impact on government, industry, or the general economy.

Directs the Comptroller General to oversee the implementation and the effectiveness of this Act.

H.R. 78. January 15, 1979. Judiciary. Directs the President to formulate criteria for use in determining the cost of compliance with Federal rules and regulations.

Requires the Director of the Office of Management and Budget to submit to Congress, the President, and the head of each independent agency a report identifying duplicative or conflicting rules promulgated by executive departments and agencies. Directs each department or agency and the President to modify or eliminate such rules in accord with certain procedures.

H.R. 79. January 15, 1979. Post Office and Civil Service. Eliminates two positions of the Board of Governors of the Postal Service. Provides for the designation of the Chairman of the Board by the President. Establishes the position of Director of the Board.

Makes the Postmaster General the chief executive of the Postal Service only with respect to the daily operations. Gives responsibility for policy determination to the Chairman.

Requires the Postal Rate Commission to study methods of apportioning costs and to prepare a system for identifying the costs of each class of mail.

H.R. 80. January 15, 1979. Agriculture. Amends the Agriculture Act of 1949 to extend the price support of milk at not less than 80 percent of parity.

H.R. 81. January 15, 1979. Judiciary. Requires specified organizations which employ lobbyists to register and file quarterly expense reports with the Comptroller General. Makes such reports available to the public. Establishes civil and criminal sanctions to enforce this Act.

H.R. 82. January 15, 1979. Ways and Means. Amends the Social Security Act to extend Federal assistance to Puerto Rico, the Virgin Islands, and Guam under the Aid to Families with Dependent Children, Child Welfare, Medicaid, and Social Services programs on the same basis as in the case of other States. Amends Title II (Old-Age, Survivors, and Disability Insurance Benefits) to extend to such territories the program of special benefits at age 72 for certain uninsured individuals.

H.R. 83. January 15, 1979. Ways and Means. Amends Title XVI (Supplemental Security Income Program) of the Social Security Act to extend benefits to Puerto Rico, the Virgin Islands, and Guam on the same basis as the States.

H.R. 84. January 15, 1979. Judiciary. Sets forth procedures for Federal consitutional conventions with respect to: (1) applications, (2) calling, (3) delegates, (4) convening, (5) operation, (6) congressional approval, and (7) ratification.

H.R. 85. January 15, 1979. Merchant Marine and Fisheries; Public Works and Transportation. Establishes a fund for the purpose of paying for otherwise uncompensated losses resulting from oil pollution.

Imposes, within certain monetary limits, joint, several, and strict liability on the owners and operators of each pollution source. Requires petroleum facilities and certain vessels to maintain evidence of financial responsibility in an amount equal to applicable liability limits.

Sets forth procedures for identifying and publicizing pollution sources.

H.R. 86. January 15, 1979. Armed Services. Revises the pay and allowance structure of enlisted members of the uniformed services who are appointed as officers.

H.R. 87. January 15, 1979. Public Works and Transportation; Agriculture. Establishes a National Land Resources Protection Commission to protect the quality of existing topsoil in all federally assisted projects. Establishes minimum requirements governing the stockpiling and replacement of soil of all such projects.

H.R. 88. January 15, 1979. Agriculture; Small Business. Establishes limitations on the slaughter, sale, and purchase of livestock by meatpackers and meat marketers whose annual sales exceed a specified level. Provides for criminal and civil enforcement of this Act under the antitrust laws.

H.R. 89. January 15, 1979. Agriculture. Amends the Commodity Exchange Act to require any person selling for export certain quantities of wheat, corn, or soybeans to report such sale to the Commodity Futures Trading Commission.

H.R. 90. January 15, 1979. Small Business. Authorizes appropriations for specified programs and expenses of the Small Business Administration. Authorizes a matching grant program for the establishment of Small Business Development Centers. Establishes a National Small Business Development Center Advisory Board. Directs the President to convene a White House Conference on Small Business.

H.R. 91. January 15, 1979. Agriculture. Directs the Secretary of Agriculture to appoint a Meat Industry Marketing Standards Board to recommend standards for meat commodities on a centralized national market and to develop proposals relating to market price reporting services.

Requires the licensing of market price reporting services for meat commodities.

H.R. 92. January 15, 1979. Ways and Means. Limits the maximum aggregate quantity of specified meat articles which may be entered or withdrawn from warehouses for consumption in the customs territory of the United States.

Directs the President to limit by proclamation the total quantity of meat imports in specified circumstances.

Requires the Secretary of Agriculture to allocate meat imports among supplying countries according to their shares of the U.S. market. Directs the Secretary to report to Congress.

H.R. 93. January 15, 1979. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 and the Impacted Areas Aid Act to provide for educational grant programs for Native Hawaiian children. Directs the Commissioner of Education to establish grant programs for teachers of Native Hawaiian children, and to award fellowships for Native Hawaiians to study at institutions of higher education.

Amends the Adult Education Act to provide for grants for Native Hawaiian adult education.

Establishes the Advisory Council on Native Hawaiian Education.

H.R. 94. January 15, 1979. Agriculture; Interstate and Foreign Commerce. Prohibits the Secretary of Agriculture and the Secretary of Health, Education, and Welfare, from taking any action under the Wholesome Meat Act, the Federal Food, Drug, and Cosmetic Act, or any other law to prohibit the sale, distribution, or use of nitrites as a food preservative solely on the basis of any carcinogenic effect in humans that nitrites may be represented to have, unless validated evidence is made available to the Secretaries which proves beyond a reasonable doubt that nitrites as a food preservative have a significant carcinogenic effect on humans, or until a substitute preservative is available.

H.R. 95. January 15, 1979. Interior and Insular Affairs. Redesignates the "Indian Dunes National Lakeshore" as the "Paul H. Douglas Indian Dunes National Lakeshore."

H.R. 96. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to prohibit the Internal Revenue Service from terminating the tax-exempt status of an educational institution for reasons of racial discrimination unless such organization has been adjudicated as racially discriminatory by a State or Federal court.

H.R. 97. January 15, 1979. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (Medicare) of the Social Security Act to provide administrative and judicial review of claims which arise under the supplementary medical insurance program.

H.R. 98. January 15, 1979. Veterans' Affairs. Defines and includes "limited campaign period" within the definition of period of war for veterans' purposes.

H.R. 99. January 15, 1979. Judiciary. Directs the Attorney General to make grants to qualifying State programs for the compensation of victims of crime. Sets forth requirements for program qualification and grant formulas. Establishes an Advisory Committee on Victims of Crime to advise the Attorney General with respect to the administration of the compensation program.

H.R. 100. January 15, 1979. Interstate and Foreign Commerce. Prohibits any discrimination on the basis of race, color, religion, sex, or national origin regarding contracts for, or terms of, insurance policies.

Authorizes the Federal Trade Commission to administer and enforce this Act. Sets forth the procedures to be followed by aggrieved persons.

Requires insurers to keep records and make reports as prescribed by the Commission.

Authorizes civil actions in U.S. district courts for violations of this Act.

H.R. 101. January 15, 1979. Judiciary. Amends the Omnibus Crime Control and Safe Streets Act of 1968 to condition certain assistance to States, local governments, and agencies on the adoption of a law enforcement officers' bill of rights which includes specified provisions.

H.R. 102. January 15, 1979. Judiciary. Amends the Gun Control Act of 1968 to specify additional prison sentences and procedural restrictions for anyone using or carrying a firearm, destructive device, or other dangerous weapon during the commission of a felony which is prosecutable in the United States court.

H.R. 103. January 15, 1979. Education and Labor. Amends the Labor-Management Reporting and Disclosure Act of 1959 to require every local labor organization to elect its officers not less often than once every five years.

H.R. 104. January 15, 1979. Interstate and Foreign Commerce; Public Works and Transportation. Authorizes and directs the Secretary of Transportation to prescribe uniform standards for trucks carrying freight in interstate commerce and to prescribe standards for State taxation and regulation of such trucks.

Reduces Federal-aid highway funding for States which do not comply with such standards.

H.R. 105. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to increase the individual income tax credit for the elderly and to increase the adjusted gross income limitation on such credit.

H.R. 106. January 15, 1979. Judiciary. Requires additional prison sentences for anyone using or carrying a firearm during the commission of a felony over which Federal courts have jurisdiction, and for anyone using or carrying a firearm in interstate commerce, who is convicted in a State court of any crime punishable by imprisonment for a term over one year.

H.R. 107. January 15, 1979. Judiciary. Provides for additional immigrant visas and permanent resident status adjustments to be made available to specified categories of immigrants from certain countries.

H.R. 108. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to provide identical income tax rates for single persons and married couples filing joint returns. Limits the earned income that must be reported by a married person filing a separate return to the amount actually earned by that individual.

H.R. 109. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to allow individuals or married couples a $5,000 exclusion from gross income for any amount received as an annuity, pension, or other retirement benefit.

H.R. 110. January 15, 1979. Ways and Means. Amends title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to make benefits under such title payable to a resident alien only if such alien has continuously resided in the United States for at least five years.

H.R. 111. January 15, 1979. Merchant Marine and Fisheries; Judiciary; Post Office and Civil Service; Foreign Affairs. Establishes the Panama Canal Commission to operate and maintain the Panama Canal. Makes provisions for employees, funds and accounts, claims for injuries, transfer of public property, regulation of shipping and navigation, laws, courts, and cemeteries pursuant to the rights and duties specified for the United States in the Panama Canal Treaty of 1977 and related agreements.

H.R. 112. January 15, 1979. Education and Labor. Repeals the Davis-Bacon Act, relating to the rate of wages for workers employed on Federal public buildings by contractors and subcontractors.

H.R. 113. January 15, 1979. Ways and Means. Amends title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to remove the limitation on the amount of outside income which an individual may earn while receiving benefits.

H.R. 114. January 15, 1979. Small Business. Amends the Small Business Act to make specified low-interest disaster loans available to small business concerns until October 1, 1982.

H.R. 115. January 15, 1979. Post Office and Civil Service. Designates the birthday of Martin Luther King, Junior, as a legal public holiday.

H.R. 116. January 15, 1979. Ways and Means. Amends the Agricultural Adjustment Act of 1933, as amended by the Agricultural Marketing Agreement Act of 1937, to subject imported tomatoes to restrictions comparable to those applicable to domestic tomatoes.

H.R. 117. January 15, 1979. Education and Labor. Amends the Fair Labor Standards Act of 1939 to postpone increases in the minimum wage.

Amends the Fair Labor Standards Amendments of 1977 to postpone modification of the formula for determining the amount of wages which an employer is deemed to have paid to a tipped employee.

H.R. 118. January 15, 1979. Agriculture. Amends the Agriculture Act of 1949 to require the Secretary of Agriculture to proclaim a national program acreage for feed grains no later than October 15 (currently November 15) of each year for crops harvested in the next succeeding calendar year.

H.R. 119. January 15, 1979. Government Operations. Requires a biennial justification for the continued use of any form used to solicit information from private sources and State and local government agencies.

H.R. 120. January 15, 1979. Ways and Means. Limits the maximum aggregate quantity of specified meat articles which may be entered or withdrawn from warehouses for consumption in the customs territory of the United States.

Directs the President to limit by proclamation the total quantity of meat imports in specified circumstances.

Requires the Secretary of Agriculture to allocate meat imports among supplying countries according to their shares of the U.S. market. Directs the Secretary to report to Congress.

H.R. 121. January 15, 1979. Armed Services. Sets forth regulations regarding the discharge of members from the armed forces. Sets forth procedures and regulations regarding separation with a Discharge from Service.

H.R. 122. January 15, 1979. Armed Services. Makes individuals who became widowed during the 18-month period after the enactment of the Armed Forces Survivor Benefit plan eligible for annuities under such plan.

H.R. 123. January 15, 1979. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to establish a program of grants to instruct public elementary and secondary school students in the principles of citizenship and ethics.

H.R. 124. January 15, 1979. Government Operations. Requires the Office of Management and Budget to study the efficiency and effectiveness of each Federal agency every ten years and to recommend to the President and Congress reorganization or abolition of each such agency as may be necessary to improve such efficiency and effectiveness. Abolishes each such agency upon the due date of such report unless during the ten-year period since the last report Congress has passed legislation continuing such agency.

H.R. 125. January 15, 1979. Administration. Establishes six regional Presidential primary election districts and sets dates for primary elections to be held in such districts for the purpose of electing delegates to the national political conventions. Prohibits any State from conducting a Presidential primary election except in accordance with this Act.

H.R. 126. January 15, 1979. Interior and Insular Affairs. Permits the National Park Service to accept private donations for the purpose of expending such donations on property on the National Register of Historic Places, under specified conditions.

H.R. 127. January 15, 1979. Foreign Affairs. Establishes a United States Agency for World Peace within the Department of State to research problems relating to achieving peace. Requires the Director of the Agency to establish a Laboratory for Peace to administer and develop its research programs. Requires the Director to make recommendations to the President and government agencies concerning United States efforts for peace.

H.R. 128. January 15, 1979. Judiciary. Requires lobbyists and other legislative agents to file with the Comptroller General: (1) a notice of representation; and (2) activity reports.

Repeals the Federal Regulation of Lobbying Act.

H.R. 129. January 15, 1979. Judiciary. Subjects nationals or citizens of the United States who are employed by, or are members of, the Armed Forces to the jurisdiction of the United States district courts for their crimes committed outside the United States. Provides for the apprehension, restraint, removal and delivery of such persons.

H.R. 130. January 15, 1979. Judiciary. Abolishes diversity of citizenship as a basis of jurisdiction of Federal district courts and the amount in controversy requirement in Federal question cases. Amends the venue provisions for civil actions in Federal courts.

H.R. 131. January 15, 1979. Judiciary. Makes it unlawful for a parent to kidnap his or her minor child.

H.R. 132. January 15, 1979. Judiciary. Designates 30 days as the maximum period which an individual accused of a Federal crime may be held for examination in order to determine whether such person is insane or otherwise so mentally incompetent as to be unable to stand for trial.

Revises the procedures to be taken upon a finding of mental incompetency, to direct where possible, commitment of the accused to State or local authorities for hospitalization according to State or local law.

H.R. 133. January 15, 1979. Judiciary. Makes unlawful any act of violence, threat of violence, or conspiracy to accomplish such act in a labor dispute by any person or organization.

H.R. 134. January 15, 1979. Post Office and Civil Service. Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to specify when an adjustment in the rate of pay for Members of Congress proposed during any Congress shall take effect.

H.R. 135. January 15, 1979. Post Office and Civil Service. Authorizes the inclusion of military service performed by an individual after December 1956 in the aggregate period of service on which a civil service annuity is based.

H.R. 136. January 15, 1979. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to direct the Civil Aeronautics Board to promulgate regulations prohibiting air carriers from dispensing onboard alcoholic beverages or tobacco to passengers without charge.

H.R. 137. January 15, 1979. Science and Technology. Requires that all Federal agencies submit to the appropriate Congressional committees a prospectus concerning certain proposed research grants.

H.R. 138. January 15, 1979. Veterans' Affairs. Authorizes and directs the Administrator of Veterans' Affairs to construct a general medical and surgical Veterans' Administration hospital at Jacksonville, Florida, and to secure the cooperation of the University of Florida College of Medicine in training medical students at Jacksonville.

H.R. 139. January 15, 1979. Veterans' Affairs. Authorizes and directs the Administrator of Veterans' Affairs to acquire the necessary land and establish a national cemetery in Duval County, Florida.

H.R. 140. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to provide identical income tax rates for single persons and married couples filing joint returns. Limits the earned income that must be reported by a married person filing a separate return to the amount actually earned by that individual.

H.R. 141. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to impose a minimum ten percent tax on personal net income which exceeds $30,000 for any taxable years.

H.R. 142. January 15, 1979. Ways and Means. Amends title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to make benefits under such title payable to a resident alien only if such alien has continuously resided in the United States for at least five years.

H.R. 143. January 15, 1979. Armed Services; Interstate and Foreign Commerce. Increases the stipend for individuals participating in the Armed Forces Health Professions Scholarship Program.

Amends the Public Health Service Act to to make former members of such program who have completed all obligated service in one of the military departments eligible for special grants under such Act to engage in private practice in a health manpower shortage area.

H.R. 144. January 15, 1979. Ways and Means. Requires that expenditure by the Federal Government shall not exceed its revenues except in time of grave national emergency declared by Congress.

Establishes a schedule for systematic reduction of the public debt.

H.R. 145. January 15, 1979. Armed Services; Post Office and Civil Service. Stipulates that beginning with fiscal year 1981 military retired pay shall be made by the Civil Service Commission and that appropriations for such payments shall be made to the Commission. Directs the Secretary of Defense and the Chairman of the Civil Service Commission to jointly issue such regulations as may be required to effectuate the provisions of this Act.

H.R. 146. January 15, 1979. Armed Services; Intelligence. Amends the National Security Act of 1947 to declare specifically that the jurisdiction of the Central Intelligence Agency encompasses only foreign, as opposed to domestic, intelligence activities. Makes the Agency responsible for protecting sources of foreign intelligence under the guidance of the National Security Council. States that such responsibility shall be limited to lawful means to protect disclosure.

H.R. 147. January 15, 1979. Armed Services; Intelligence. Abolishes the National Security Council and establishes the Central Intelligence Agency directly under the President.

H.R. 148. January 15, 1979. Armed Services; Post Office and Civil Service; Banking, Finance and Urban Affairs; Government Operations. Amends the Defense Production Act of 1950 to prohibit any Government acquisitions officer from accepting compensation from any contractor with whom such officer has dealt for two years following the officer's last day of Federal employment.

Makes the Office of Personnel Management (OPM) responsible for implementing this Act. Directs such Office, when requested by an acquisitions officer and a contractor, to issue an advisory opinion concerning the legality of proposed compensation.

H.R. 149. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to deny an income tax deduction for any expenses paid or incurred to advertise products which are sold with health warnings.

H.R. 150. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to allow individual taxpayers a limited income tax credit for their college or vocational education expenses.

H.R. 151. January 15, 1979. Armed Services. Amends the Federal Civil Defense Act of 1950 to allow Federal civil defense funds to be used by State and local civil defense agencies for natural disaster and civil disturbance relief.

Authorizes the Administrator of the Federal Civil Defense Administration to make financial contributions to States to cover 100 percent of the costs of procuring, constructing, leasing, and renovating civil defense materials and facilities.

Extends the emergency authority of the President contained in such Act.

H.R. 152. January 15, 1979. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize appropriations through fiscal year 1982 for the activities of the National Cancer Institute.

H.R. 153. January 15, 1979. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize appropriations through fiscal year 1984 for the activities of the National Cancer Institute.

H.R. 154. January 15, 1979. Judiciary. Grants a Federal charter to the Gold Star Wives of America.

H.R. 155. January 15, 1979. Veterans' Affairs. Directs the Administrator of Veterans' Affairs to establish a direct loan program to veterans for residential solar energy systems and other energy conservation improvements.

Establishes the Veterans' Administration Solar Energy Revolving Fund in the U.S. Treasury.

H.R. 156. January 15, 1979. Government Operations; Armed Services. Directs any agency of the Department of Defense to make excess property available to the Federal Emergency Management Agency (FEMA) on a priority, non-reimbursable basis.

Amends the Federal Civil Defense Act of 1950 to authorize the Administrator of the FEMA to loan property to State and local governments for civil defense purposes.

H.R. 157. January 15, 1979. Banking, Finance and Urban Affairs. Amends the Equal Credit Opportunity Act to prohibit any credit card issuer from discriminating against any applicant on the basis of the applicant's place of residence or occupation.

H.R. 158. January 15, 1979. Interstate and Foreign Commerce. Amends the Securities Exchange Act of 1954: (1) to require the filing of certain information regarding purchasers of equity securities with the Securities and Exchange Commission; and (2) to make unlawful certain acquisitions by a foreign investor of the equity securities in a United States company. Authorizes the President to prohibit such acquisition. Authorizes civil actions to enjoin such acquisitions made in violation of the requirements of this Act. Authorizes revocation of voting rights or creation of a trusteeship for acquisitions made in violation of this Act. Imposes a penalty for violation of the filing requirements of this Act.

H.R. 159. January 15, 1979. Judiciary. Establishes Federal court jurisdiction to review decisions of the Administrator of Veterans' Affairs on any question of law or fact under any law administered by the Veterans' Administration providing benefits for Veterans and their survivors.

H.R. 160. January 15, 1979. Interior and Insular Affairs. Removes the residency requirements and acreage limitations on landholdings subject to Federal reclamation law.

H.R. 161. January 15, 1979. Veterans' Affairs. Repeals certain veterans' education provisions requiring such benefits to be used within ten years of eligibility.

H.R. 162. January 15, 1979. Veterans' Affairs Provides for judicial review of decisions of the Administrator of Veterans' Affairs concerning a claim for benefits or payments under any law administered by the Veterans' Administration.

Repeals the law requiring the Administrator of Veterans' Affairs to determine and pay fees to agents or attorneys in allowed claims for monetary benefits under such laws.

H.R. 163. January 15, 1979. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (Medicare) of the Social Security Act to provide payment for dental care including dentures, eye examinations including eyeglasses, and hearing aids including examination under the supplementary medical insurance program.

H.R. 164. January 15, 1979. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (Medicare) of the Social Security Act to provide payment for orthopedic shoes if prescribed by a practitioner licensed to prescribe such items.

H.R. 165. January 15, 1979. Ways and Means; Interstate and Foreign Commerce. Directs each State to submit to the Secretary of Health, Education, and Welfare a plan specifying certain minimum standards applicable for the sale of health insurance to the elderly.

Amends Title XVIII (Medicare) of the Social Security Act to direct the Secretary to conduct studies for the purpose of making recommendations to Congress concerning (1) a uniform approach for regulating all private health insurance offered to the aged and disabled; and (2) the feasibility of health insurance coverage under title XVIII in addition to the coverage now provided under parts A (Hospital Insurance) and B (Supplementary Medical Insurance) of such title.

H.R. 166. January 15, 1979. Post Office and Civil Service. Designates the Director of the Office of Management and Budget a Cabinet official.

H.R. 167. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to deny an income tax deduction for any expenses paid or incurred to advertise alcoholic beverages.

H.R. 168. January 15, 1979. Rules. Amends the Congressional Budget and Impoundment Control Act of 1974 to limit the level of total Federal outlays set forth in the second or any further concurrent resolution on the budget to a specified percentage of the gross national product, unless such limitation is waived by the Congress.

H.R. 169. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to allow a tax credit for certain amounts of savings accumulated by a taxpayer during a taxable year.

H.R. 170. January 15, 1979. Public Works and Transportation. Establishes an Airport Noise Curfew Commission to study and make recommendations to the Congress regarding the establishment of curfew on nonmilitary aircraft operations over populated areas during normal sleeping hours.

H.R. 171. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to: (1) reduce corporate tax rates; (2) repeal the investment tax credit; (3) disallow exclusions from gross income for interest earned on government securities and for amounts used for shipping industry construction; (4) disallow deductions for certain depreciation expenses, for intangible drilling costs of oil and gas wells, and for certain income of Domestic International Sales Corporations (DISC) and Western Hemisphere Trade Corporations; (5) repeal percentage depletion allowances and special capital gains treatment for certain mining production activities; and (6) establish a tax credit for contributions to employee stock ownership plans.

H.R. 172. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to require an annual cost-of-living adjustment, based on the Consumer Price Index, to the individual income tax rates and the personal exemption.

H.R. 173. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to require annual inflation adjustments (based on gross national product deflator adjustments) to corporate income tax rates.

H.R. 174. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to require a cost-of-living adjustment, based on the Consumer Price Index, to the adjusted basis of a capital asset at the time of its sale or exchange, for purposes of determining gain or loss on such asset.

H.R. 175. January 15, 1979. Ways and Means. Amends the Social Security Act to provide that an individual who would be fully qualified at age 62 for benefits under the Old-Age, Survivors, and Disability Insurance program may qualify for disability benefits under such program if such individual has 40 quarters of coverage, regardless of when such quarters were earned.

H.R. 176. January 15, 1979. Interstate and Foreign Commerce; Public Works and Transportation. Amends the Clean Air Act and the Federal Water Pollution Control Act to require that compliance orders include a cost-benefit analysis of such compliance.

H.R. 177. January 15, 1979. Judiciary. Authorizes the Attorney General to: (1) construct and transfer to appropriate States specified types of correctional centers; and (2) prescribe minimum standards for certain State and local correctional facilities.

Replaces the Advisory Corrections Council with a Federal Corrections Coordinating Council. Directs the Council to issue guidelines for specified Federal criminal justice agencies.

Establishes a Federal Corrections Institute to train criminal justice personnel.

Amends certain Federal laws, including the Federal Youth Corrections Act, relative to the confinement and release of adults, youth offenders, and juvenile delinquents.

Sets forth standards and procedures for the confinement of persons found not guilty due to insanity.

H.R. 178. January 15, 1979. Merchant Marine and Fisheries, Directs the Secretary of the

Interior to classify and inventory wetland resources, to measure wetlands degradation, and to evaluate the contribution of natural wetlands to conservation and the quality of the human environment.

H.R. 179. January 15, 1979. Veterans' Affairs. Authorizes and directs the Administrator of Veterans' Affairs to construct a general medical, surgical, and psychiatric Veterans' Administration hospital in the Halifax area of Volusia County, Florida.

H.R. 180. January 15, 1979. Science and Technology. Requires the Board of the National Science Foundation to establish the Mineral Conservation Research and Development Commission for the purposes of: (1) keeping a current inventory of major nonfuel raw materials; (2) monitoring and reporting on United States vulnerability and import dependence on such materials; and (3) developing substitutes for these materials.

H.R. 181. January 15, 1979. Ways and Means. Amends titles II (Old-Age, Survivors, and Disability Insurance) and XVIII (Medicare) of the Social Security Act and the Railroad Retirement Act to eliminate the requirement that an individual be entitled to disability benefits for at least 24 consecutive months in order to qualify for hospital insurance benefits under the Medicare program.

H.R. 182. January 15, 1979. Ways and Means. Amends title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to eliminate the five month waiting period which is presently a prerequisite of eligibility for disability insurance benefits.

H.R. 183. January 15, 1979. Public Works and Transportation. Amends an Act authorizing Federal participation in the cost of protecting the shores of publicly owned property to increase the maximum Federal contribution of the cost of the project.

H.R. 184. January 15, 1979. Interior and Insular Affairs. Requires the study of a segment of the Oklawaha River for its potential additional to the National Wild and Scenic Rivers System.

H.R. 185. January 15, 1979. Ways and Means. Removes the limitation on the amount of outside income which an individual may earn while receiving benefits under title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act.

H.R. 186. January 15, 1979. Education and Labor. Directs the Secretary of Health, Education, and Welfare to establish a program to assist States in providing day care services for children from low-income families.

H.R. 187. January 15, 1979. Education and Labor. Amends the Occupational Safety and Health Act of 1970 by requiring the Secretary of Labor to publish financial impact statements regarding proposed occupational health and safety standards in the Federal Register prior to promulgating such standards as rules. Amends the Act with respect to existing facilities and equipment, inspections, promulgation of emergency standards, citations and penalties, and on-site inspections by the Secretary of places of employment.

H.R. 188. January 15, 1979. Armed Services. Establishes a new position of Assistant Secretary of Defense for Reserve Affairs. Changes the existing position of Assistant Secretary of Defense for Manpower and Reserve Affairs to Assistant Secretary of Defense for Manpower.

H.R. 189. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to allow individuals to designate $1 of their income tax liability to be used for reducing the public debt of the United States.

H.R. 190. January 15, 1979. Veterans' Affairs. Authorizes and directs the Secretary of the Army to acquire the necessary land and establish a national cemetery in Florida.

H.R. 191. January 15, 1979. Judiciary. Grants access to criminal records in the custody of the Attorney General to non-law enforcement officials and agencies of any State or city if the laws or regulations of such jurisdiction authorize or require such official or agency to acquire criminal record information in the performance of duty.

Directs the Attorney General to establish standards and procedures for the acquisition and exchange of identification records.

H.R. 192. January 15, 1979. Veterans' Affairs. Provides that certain veterans receiving pharmaceutical supplies from the Veterans' Administration shall have the choice in determining how such pharmaceuticals will be supplied.

H.R. 193. January 15, 1979. Judiciary. Expands Federal Government liability for the acts of its agents to include tort claims arising under the Constitution or statutes of the United States.

States that Federal liability for injury, loss of property or death caused by wrongful acts or omissions of government employees is exclusive and precludes any remedy against agents individually.

Provides for liability insurance for certain employees when their employment circumstances may preclude remedies against the United States.

H.R. 194. January 15, 1979. Government Operations. Amends the Freedom of Information Act to exempt naval nuclear propulsion information from disclosure unless the Secretary of Defense and the Administrator of the Energy Research and Development Administration determine that such disclosure would not be inimical to the interests of the United States.

H.R. 195. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from gross income compensation received by a volunteer fire fighter for service as a member of a State or local fire department.

H.R. 196. January 15, 1979. Banking, Finance and Urban Affairs. Amends the Export-Import Bank Act of 1945 to authorize the President to suspend export credits to any country restricting exports or maintaining increased prices for exports to the United States.

H.R. 197. January 15, 1979. Interstate and Foreign Commerce. Amends title XIX (Medicaid) of the Social Security Act to require that States include standards for determining need for continued skilled nursing services or intermediate care services in their plan for medical insurance.

Directs the Secretary of Health, Education, and Welfare to review State Medicaid plans to insure that such plans continue to conform to the minimum requirements.

H.R. 198. January 15, 1979. Banking, Finance and Urban Affairs. Repeals the authority to print and issue the two-dollar United States note after September 30, 1979.

H.R. 199. January 15, 1979. Education and Labor. Amends the National Labor Relations Act to provide that any employee, rather than any employee of a health care institution, who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so.

H.R. 200. January 15, 1979. Education and Labor. Amends the Employee Retirement Income Security Act of 1974 with respect to certain reporting and disclosure requirements.

H.R. 201. January 15, 1979. Post Office and Civil Service. Limits the number of District of Columbia area residents which may be employed by Executive agencies in the area of the District of Columbia.

H.R. 202. January 15, 1979. Public Works and Transportation. Prohibits Federal agencies from building, altering, acquiring, or leasing any building for office or storage space within a 50-mile radius of the Capitol Building.

H.R. 203. January 15, 1979. Rules. Amends the Congressional Budget Act of 1974 to prohibit outlays of the Federal Government from exceeding revenues except in time of war or national emergency declared by Congress.

H.R. 204. January 15, 1979. Ways and Means. Establishes within the Internal Revenue Service an Office of Taxpayer Services to provide taxpayers with information and to receive and evaluate complaints of improper, abusive, or inefficient service by IRS personnel.

Establishes civil and criminal penalties for investigations of matters unrelated to the tax laws, and for the violation of other constitutional and legal rights guaranteed to taxpayers.

Requires the Secretary of the Treasury to prepare and distribute pamphlets advising taxpayers of their rights and of appeal procedures.

Requires a continuing audit of the administration of Federal revenue laws by the Comptroller General of the United States.

H.R. 205. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to require annual cost-of-living adjustments to: (1) individual income tax brackets; (2) the corporate surtax exemption; (3) the $1,000 personal exemption; (4) depreciation deductions; and (5) the adjusted basis of property for purposes of determining capital gains.

Amends the Second Liberty Bond Act to require cost-of-living adjustments to interest rates on certain Government bonds and obligations.

H.R. 206. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to allow individual taxpayers a limited income tax credit for their college or vocational education expenses.

H.R. 207. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to provide identical income tax rates for single persons and married couples filing joint returns. Limits the earned income that must be reported by a married person filing a separate return to the amount actually earned by that individual.

H.R. 208. January 15, 1979. Ways and Means. Prohibits the enactment of any increase in Federal taxes during the four-year period following the enactment of this Act.

H.R. 209. January 15, 1979. Judiciary; Education and Labor. Prohibits affirmative action programs' authorized pursuant to Federal laws or regulations, from requiring quotas. Requires a finding that an act of discrimination has been committed before relief can be granted. Prohibits requiring the collection of data regarding the composition of the work force, except pursuant to discovery procedures.

H.R. 210. January 15, 1979. Ways and Means. Amends the Internal Revenue Code of 1954 and title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to authorize inividuals who are enrolled in a private retirement plan to voluntarily exempt themselves from the Old-Age, Survivors, and Disability Insurance program.

H.R. 211. January 15, 1979. Interstate and Foreign Commerce; Ways and Means. Amends titles XI, part A (General Provisions) and XIX (Medicaid) of the Social Security Act to increase the dollar limitations on Medicaid payments to Puerto Rico, Guam, and the Virgin Islands, and to eliminate the 50 percent limitation on the Federal medical assistance percentages applicable to the Medicaid programs of such territories.

H.R. 212. January 15, 1979. Education and Labor. Amends National Labor Relations Act standards relative to severance of members of a particular craft from a broader collective bargaining unit for the purpose of establishing a separate craft unit.

H.R. 213. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to require annual cost-of-living adjustments to: (1) individual income tax brackets; (2) the corporate surtax exemption; (3) the $1,000 personal exemption; (4) depreciation deductions; and (5) the adjusted basis of property for purposes of determining capital gains.

Amends the Second Liberty Bond Act to require cost-of-living adjustments to interest rates on certain Government bonds and obligations.

H.R. 214. January 15, 1979. Ways and Means. Prohibits the Secretary of the Treasury from implementing any guidelines for determining whether private tax-exempt schools have forfeited their tax-exempt status through the adoption of racially discriminatory policies until December 31, 1980.

H.R. 215. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to allow individual taxpayers a limited income tax credit for the college or vocational school educational expenses paid by the taxpayer for his education or that of his spouse or dependents.

H.R. 216. January 15, 1979. Public Works and Transportation. Modifies the navigation project on the Southern Branch of the Elizabeth River, Virginia, to delete the requirement for a local interest cash contribution.

H.R. 217. January 15, 1979. Public Works and Transportation. Repeals the authorization for a portion of the Nansemond River project, Virginia.

H.R. 218. January 15, 1979. Judiciary. Exempts ratemaking proceedings from certain procedural requirements which previously pertained to both rulemaking and ratemaking.

States that matter pertaining to a military or foreign affairs function of the United States shall not be exempt from public rulemaking requirements unless the matter is specifically authorized to be kept secret in the interest of national defense or foreign policy and is in fact so properly classified. Makes rulemaking proceedings concerning matters of public property, loans, grants, benefits or contracts subject to public participation requirements of other rulemaking proceedings.

H.R. 219. January 15, 1979. Judiciary. Provides for the issuance of an initial Federal agency decision pursuant to an agency hearing in the event the employee presiding at the reception of evidence becomes unavailable to render such decision. Prohibits an employee who performs investigative or prosecuting functions for an agency in a case from participating in the agency's decision concerning such case.

H.R. 220. January 15, 1979. Judiciary. Provides for the issuance of an initial Federal agency decision pursuant to an agency hearing in the event the employee presiding at the reception of evidence becomes unavailable to render such decision. Prohibits an employee who performs investigative or prosecuting functions for an agency in a case from participating in the agency's decision concerning such case.

H.R. 221. January 15, 1979. Judiciary. Provides for the issuance of an initial Federal agency decision pursuant to an agency hearing in the event the presiding employee is not available to render such decision. Prohibits agency employees from participating in investigative or litigating functions in connection with a case in which such employee must render a decision. Authorizes agencies to issue subpenas without any other specific statutory authority and requires such agencies to authorize officers to issue such subpenas.

H.R. 222. January 15, 1979. Judiciary. Authorizes each Federal agency to establish one or more agency appeal boards for review of decisions of presiding employees. Authorizes agencies to issue subpenas without any other specific statutory authority and requires such agencies to authorize officers to issue such subpenas.

H.R. 223. January 15, 1979. Judiciary. Permits Federal agencies to conduct abbreviated administrative proceedings in specified circumstances. Authorizes the Administrative Conference of the United States to establish a committee to draft uniform procedural rules which would be binding on all agencies.

Prohibits the publication of information by Federal agencies which is prejudicial to, or may otherwise cause damage to, an individual's business or reputation.

H.R. 224. January 15, 1979. Judiciary. Removes the present $500 ceiling for the equitable waiver of claims by the United States against Federal employees, members of the uniformed services, and members of the National Guard for overpayment of pay. Authorizes the Comptroller General to establish such a ceiling.

H.R. 225. January 15, 1979. Judiciary. Amends the Immigration and Nationality Act to provide that any person who knowingly pays any compensation to an illegal alien shall be subject to a criminal fine.

H.R. 226. January 15, 1979. Judiciary. Amends the Indochina Migration and Refugee Assistance Act of 1975 to limit funds authorizations, for fiscal year 1979 and any subsequent fiscal year, to assistance to Indochinese refugees under 18 years of age.

H.R. 227. January 15, 1979. Judiciary. Authorizes the Secretaries of the various military departments and the Secretary of Transportation with respect to the Coast Guard to settle and pay up to $2,500 (previously $1,000) with respect to claims against the United States not cognizable under any other provision of law for property damage, personal injury, or death caused by a civilian official or employee of a military department or Coast Guard or a member of the armed forces incident to the use of property of the United States on a Government installation.

H.R. 228. January 15, 1979. Judiciary. Specifies additional penalties for anyone using or carrying a firearm, or a cutting or stabbing weapon, during the commission of a felony which is prosecutable in a United States court.

H.R. 229. January 15, 1979. Judiciary. Requires a court of the United States in certain circumstances to issue a declaratory judgment in a case of actual controversy between a public utility and either the Secretary of the Treasury or a ratemaking body, with respect to specified provisions of the Internal Revenue Code of 1954 dealing with either the computation of credit for investment in depreciable property or depreciation deductions.

H.R. 230. January 15, 1979. Judiciary. Bars suits alleging personal liability of any Federal employee engaged in health care for a negligent or wrongful act or omission occurring within the scope of employment.

Repeals, with respect to health care functions, the prohibition against government liability for certain intentional torts.

Grants under certain circumstances a 30-day grace period for filing an administrative claim to a plaintiff whose suit arising out of medical malpractice or negligent operation of a motor vehicle by a Federal employee is removed to Federal court.

H.R. 231. January 15, 1979. Judiciary. Establishes a uniform body of law governing liability for damages arising from the takeoff, flight, or landing of aircraft, such law to supersede State, territorial, District of Columbia, admiralty, maritime, or other law.

Details the substantive provisions of aviation liability law. Sets forth, among other procedural rules, separate, exclusive Federal court jurisdiction guidelines.

H.R. 232. January 15, 1979. Judiciary. Increases to $50,000 the amount of an award which the head of a Federal agency may make to settle a claim without the approval of the Attorney General.

H.R. 233. January 15, 1979. Judiciary. Repeals the provisions of Federal law requiring persons prosecuting claims, either as attorneys or on their own account, before any department or agency of the United States, to take the oath of allegiance and to support the Constitution of the United States.

H.R. 234. January 15, 1979. Judiciary. Authorizes the Secretary of Commerce to determine and settle claims for damages of less than $2,500 arising by reason of acts for which the National Oceanic and Atmospheric Administration shall be found to be responsible.

H.R. 235. January 15, 1979. Judiciary. Amends the Act requiring bonds of contractors for public buildings or public works to require bonds in an amount satisfactory to the Federal officer awarding the contract to protect all persons supplying labor and materials.

H.R. 236. January 15, 1979. Judiciary. Amends the Act providing for suppliers of labor or material for a public building or work to receive a copy of the payment bond to authorize the appropriate department secretary or agency head to furnish such copy.

H.R. 237. January 15, 1979. Judiciary. Amends the General Revision of Copyright Law to limit performance rights in sound recordings, to impose a compulsory licensing procedure on the public performance of sound recordings, to establish royalty rates for broadcast stations, and to outline the procedure for the distribution of royalties to claimants.

H.R. 238. January 15, 1979. Post Office and Civil Service. Directs that specified annuity payments made pursuant to the Civil Service Retirement Act shall be fixed at the nearest cent.

H.R. 239. January 15, 1979. Public Works and Transportation. Amends the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to prohibit payments under such act to persons unlawfully in the United States.

H.R. 240. January 15, 1979. Veterans' Affairs. Transfers all jurisdiction over, and responsibility for, Arlington National Cemetery from the Secretary of the Army to the Administrator of Veterans' Affairs.

H.R. 241. January 15, 1979. Veterans' Affairs. Removes the requirement that a veteran die in the service in order to be entitled to a memorial headstone or marker when the veteran's remains have not been recovered or identified or have been buried at sea.

H.R. 242. January 15, 1979. Veterans' Affairs. Provides for a burial allowance to be paid by the Veterans' Administration: (1) to any State or political subdivision for burying a veteran in any cemetery owned by the State or subdivision if such cemetery or section thereof is used solely for the interment of veterans; or (2) to a person prescribed by the deceased veteran if burial is in a cemetery other than the kind described.

H.R. 243. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to allow as an individual income tax deduction a reasonable allowance for salaries or other compensation paid to any individual during the taxable year for personal services actually rendered but not otherwise deductible.

H.R. 244. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to deny an income tax deduction to employers for wages paid to aliens whom the employer knows to be in the United States in violation of the immigration laws.

H.R. 245. January 15, 1979. Judiciary. Amends the Gun Control Act of 1968 to specify mandatory prison sentences for anyone using a firearm which has been transported in interstate or foreign commerce during the commission of certain violent crimes.

H.R. 246. January 15, 1979. Judiciary. Directs the Attorney General to establish Special Drug Forces in the Department of Justice composed of law enforcement personnel and special United States attorneys.

H.R. 247. January 15, 1979. Judiciary. Requires Federal departments and agencies to submit all proposed regulations to the appropriate Congressional committees, prior to publication in the Federal Register.

H.R. 248. January 15, 1979. Armed Services. Establishes an office of the Assistant Secretary of Defense for Equal Opportunity within the Department of Defense to develop and supervise policies and programs to eliminate discrimination, to promote affirmative action, and to insure equal opportunity and treatment within the Department of Defense and within the work forces of contractors for the Department.

H.R. 249. January 15, 1979. Armed Services. Excludes civilian personnel engaged in industrially funded activities from the computation of the authorized end strength for civilian personnel within the Department of Defense.

H.R. 250. January 15, 1979. Armed Services. Directs the Secretaries of the military departments and the Secretary of Defense to periodically review each position in their respective jurisdictions to determine whether such positions could be filled by civilian employees. Prohibits the assignment of active-duty military personnel to such positions unless the member meets certain minimal professional qualifications and no civilian employee with equivalent or superior qualifications is available.

H.R. 251. January 15, 1979. Education and Labor. Amends title VII of the Civil Rights Act of 1964 to include as an unlawful employment practice by an employer, labor organization, employment agency, or joint labor-management committee, discrimination on the basis of an individual's military discharge status.

H.R. 252. January 15, 1979. Government Operations. Requires the Comptroller General to conduct a continuing investigation of all matters relating to the receipt, disbursement and application of public funds and to submit to Congress and the President a report of his findings and to recommend such legislation as is deemed necessary.

H.R. 253. January 15, 1979. Judiciary. Permits Congress to compel any person in the Executive Branch to testify or give Congress information pertinent to matters of legislative concern. Requires that any person providing such information certify that such information is complete to the best of his or her knowledge. Permits the Comptroller General to withhold funds for the operation of the agency, officer, or employee who refuses to comply with this Act. Exempts specified advice and recommendations given to the President from the requirements of this Act.

H.R. 254. January 15, 1979. Judiciary. Requires formal public rulemaking with respect to procedures and policies concerning public property, loans, grants or benefits. Requires agencies to reimburse specified individuals participating in agency rulemaking proceedings. Waives the sovereign immunity of the United States in suits where relief other than money damages is sought. Requires the establishment of enforcement procedures for grant-in-aid programs.

H.R. 255. January 15, 1979. Judiciary. Sets forth requirements for the registration of firearms, issuance of gun permits, and the control of firearms. Specifies procedures and penalties with respect to such requirements.

H.R. 256. January 15, 1979. Judiciary. Establishes a National Prison Standards Administration.

Specifies standards relative to prison conditions and prisoner rights.

Revises provisions relative to: (1) assignment and transfer of prisoners to and between institutions; (2) eligibility for parole; and (3) modification and revocation of parole.

Grants the right to vote in Federal elections to ex-convicts. Assures such right to persons confined pending trial.

Establishes the Board of Parole as an independent agency.

Amends the Omnibus Crime Control and Safe Streets Act of 1968 to require that comprehensive State plans contain assurances that the State parole system include specified elements.

H.R. 257. January 15, 1979. Judiciary. Requires Federal judges to conduct bilingual court proceedings, in criminal and civil actions, where it is determined that a party to, or witness in, such proceedings does not understand the English language.

Directs the Director of the Administrative Office of the United States courts to determine and supply the personnel and facilities necessary to conduct such proceedings.

H.R. 258. January 15, 1979. Judiciary. Grants general amnesty to persons who committed specified military or selective service offenses between August 4, 1964, and the enactment of this Act.

Establishes an Amnesty Commission which is to grant amnesty upon making specified findings to persons who, during such period, committed crimes other than those enumerated in this Act.

H.R. 259. January 15, 1979. Veterans' Affairs. Provides war veterans' and dependents and survivors' benefits eligibility for Americans who fought in the Abraham Lincoln Brigade during the Spanish Civil War.

H.R. 260. January 15, 1979. Rules; Foreign Affairs. Requires the President, through the Secretary of State, to transmit executive agreements to Congress or the appropriate congressional committees. Stipulates that any such agreement shall come into force only upon approval of both Houses. Sets forth the procedure for consideration in both Houses of Congress of the agreement.

H.R. 261. January 15, 1979. Armed Services; Judiciary; Intelligence; Ways and Means. Reorganizes the intelligence agencies of the United States. Restricts the collection of information on any American. Limits the use of specified persons and specified methods to collect foreign intelligence. Creates civil remedies for persons whose rights have been abridged by a Federal officer acting under color of law.

H.R. 262. January 15, 1979. Administration. Directs the Secretary of the Interior to permit the National Committee of American Airmen Rescued by General Mihailovich to construct a monument to General Mihailovich on Federal public land within the District of Columbia or its environs.

H.R. 263. January 15, 1979. Ways and Means. Prohibits the Secretary of the Treasury from implementing any guidelines for determining whether private tax-exempt schools have forfeited their tax-exempt status through the adoption of racially discriminatory policies until December 31, 1980.

H.R. 264. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to permit an individual income tax credit for qualified energy conservation expenditures with respect to a home which is owned by the taxpayer and is used by an individual other than the taxpayer as his principal residence.

H.R. 265. January 15, 1979. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to allow the President to appoint to the Federal Reserve Board of Governors an individual who is from the same Federal Reserve district as a current Board member if he intends to designate such appointee as chairman.

H.R. 266. January 15, 1979. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to shorten the term of members of the Board of Governors of the Federal Reserve System. Empowers the President to remove any member of such Board for cause.

H.R. 267. January 15, 1979. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act and the Federal Deposit Insurance Act to extend the two year prohibition on employment of bank regulators by insured banks and member banks to include bank holding companies.

H.R. 268. January 15, 1979. Banking, Finance and Urban Affairs. Amends the Truth in Lending Act to require each appropriate regulatory agency to conduct biennial examinations of every creditor subject to the requirements of this Act. Calls for public disclosure of specified information obtained in such examinations and for disclosure to consumers of the discovery of apparent substantial violations.

Sets forth a limited exemption from civil liability for creditors in error.

H.R. 269. January 15, 1979. Banking, Finance and Urban Affairs. Requires banks, savings and loan associations, and insured credit unions to disclose, upon request and in all advertising, specified information on computation and payment of the earnings on savings deposits.

Directs the Board of Governors of the Federal Reserve System to prescribe regulations to enforce the provisions of this Act.

H.R. 270. January 15, 1979. Education and Labor. Amends the Wagner-Peyser Act to direct the Secretary of Labor to provide technical and management assistance to State public employment offices, and to establish a national clearinghouse for employment service information in the United States employment office job placement projects.

Directs the Secretary to study the merits of a nationwide job bank system and of replacing the State employment office system with a Federal office system.

H.R. 271. January 15, 1979. Education and Labor. Amends the Civil Rights Act of 1964 to prohibit employment discrimination on the basis of religon, unless the employer can demonstrate that accommodaton of an employees' religious practices is not possible without severe pecuniary or other material loss.

H.R. 272. January 15, 1979. Education and Labor. Amends the Higher Education Act of 1965 to exclude the value of a family's residence in calculating family contribution for purposes of basic educational opportunity grant eligibility.

H.R. 273. January 15, 1979. Education and Labor. Establishes within the Office of Education a Council on the Conservation and Nonuse of Energy Materials.

Authorizes the Secretary to establish a program of grants and contracts with educational institutions and other public or private nonprofit agencies or organizations to support educational, research, demonstration, and pilot projects designed to achieve conservation and nonuse of energy materials.

H.R. 274. January 15, 1979. Government Operations. Limits congressional members of the Advisory Commission on Intergovernmental Relations to single two-year terms.

H.R. 275. January 15, 1979. Foreign Affairs. Amends the Export Administration Act of 1969 to prohibit the export of any agricultural commodity pursuant to an agricultural commodity export agreement unless the exporter has obtained an agricultural export license from the Secretary of Commerce. Prohibits approval of such license unless the Secretary of Commerce determines that: (1) there will be a sufficient domestic supply of the commodity for a 12-month period; (2) the proposed transaction will not increase consumer prices; and (3) the proposed transaction will not increase domestic unemployment. Exempts from this Act exports in a quantity for which the price is less than $10,000,000.

H.R. 276. January 15, 1979. Foreign Affairs. Amends the Arms Export Control Act to extend the period of time during which Congress can adopt a concurrent resolution objecting to a proposed arms sale.

H.R. 277. January 15, 1979. Interstate and Foreign Commerce. Prescribes criteria for Federal, State, and local agencies regulating electric utilities which require that rate schedules accurately reflect long-run incremental costs of service and that price differentials for customer classes reflect actual documented differentials in cost of service.

Prohibits any allowance for recoupment of advertising costs except if such advertising is designed to discourage energy consumption during peak load periods or to encourage conservation of electricity in general.

Establishes standards for the treatment of fuel adjustment clauses and for the determination of effective dates for proposed changes in rates and schedules.

H.R. 278. January 15, 1979. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Administrator of the Environmental Protection Agency to make grants under the Safe Drinking Water Act to public water systems to clean and update water lines for purposes of meeting requirements under such Act.

H.R. 279. January 15, 1979. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to authorize the regulation of tobacco products in the same manner as food is regulated.

H.R. 280. January 15, 1979. Interstate and Foreign Commerce. Amends the Federal Cigarette Labeling and Advertising Act to require the Secretary of Health, Education, and Welfare to include in his annual report to Congress on the health consequences of smoking, information concerning the effects on nonsmokers of involuntary inhalation of cigarette smoke.

H.R. 281. January 15, 1979. Interstate and Foreign Commerce. Revises the warning label on cigarette packages and requires the inclusion on such packages of a label bearing a statement of the tar and nicotine content.

H.R. 282. January 15, 1979. Interstate and Foreign Commerce; Science and Technology. Authorizes the Secretary of Health, Education, and Welfare to make grants for research and development of new methods of research, experimentation, and testing which minimize the use of, and the pain inflicted upon, live animals.

H.R. 283. January 15, 1979. Judiciary. Prohibits any person acting under color of law, without a prior adversary court proceeding, from searching any place or seizing any things in the possession, custody, or control of any person engaged in the gathering or dissemination of news for the print or broadcast media, unless with a warrant issued by a court upon probable cause that such person has committed or is committing a criminal offense.

H.R. 284. January 15, 1979. Judiciary. Establishes the Office of Public Participation within the Department of Justice to award attorney's fees and other costs of participation in any agency proceeding if the participant applying for such award contributes to the determination of issues and would be financially unable to participate but for such award.

Provides for the award of participation costs in any court proceeding challenging any Federal agency action if the participant substantially prevails.

H.R. 285. January 15, 1979. Judiciary. Makes it unlawful for any person to import, manufacture, sell, buy, transfer, receive, transport, own, or possess any handgun or handgun ammunition. Specifies exemptions, procedures for the operation of licensed pistol clubs, and penalties for violation of this prohibition.

H.R. 286. January 15, 1979. Judiciary. Sets forth requirements for the registration of firearms, issuance of gun permits, and specifications for handguns which must be met before the Secretary of the Treasury may approve such handguns for sale. Specifies procedures and penalties with respect to these requirements.

H.R. 287. January 15, 1979. Judiciary. Amends the Immigration and Nationality Act to eliminate certain aliens from the classes of excludable and deportable aliens.

Amends the Subversive Activities Control Act of 1950 to remove the prohibition against the application by a member of a Communist organization for a U.S. passport, and the issuance of a passport to such a member.

H.R. 288. January 15, 1979. Judiciary. Gives the author of a pictorial, graphic, or sculptural work the right to claim authorship of such work and to object to any distribution or alteration thereof, and to enforce any other limitation recorded in the Copyright Office that would prevent prejudice to the author's honor or reputation during the copyright term.

H.R. 289. January 15, 1979. Post Office and Civil Service. Repeals the prohibition of the use of recording clocks to record the time of an employee of an executive department in the District of Columbia.

H.R. 290. January 15, 1979. Public Works and Transportation. Directs the Administrator of the Environmental protection Agency to establish research and demonstration programs for the control of sludge. Authorizes financial assistance for sludge removal programs.

H.R. 291. January 15, 1979. Small Business. Sets forth requirements for Federal procurement contracts concerning: (1) the length of time such contracts must be held open for bids; (2) the degree of small business participation in such contracts; and (3) the information which must be supplied to small business contractors.

Establishes Government contract arbitration panels within the Small Business Administration. Establishes the Small Business Procurement Advisory Committee.

H.R. 292. January 15, 1979. Ways and Means. Establishes the Internal Revenue Administration as an independent agency in the executive branch of the Federal Government for the purpose of administering and enforcing the Internal Revenue Code.

H.R. 293. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to substitute a health protection tax on cigarettes manufactured in or imported into the United States for the present tax. Sets forth graduated tax rates based on the tar and narcotine content of each cigarette. Directs the Federal Trade Commission to determine the tar and nicotine content of each brand of cigarettes manufactured in or imported into the United States.

H.R. 294. January 15, 1979. Ways and Means. Amends title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that the automatic cost-of-living increases in benefits be made on a semiannual basis (rather than only on an annual basis as at present).

H.R. 295. January 15, 1979. Ways and Means. Amends title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act and the Railroad Retirement Act to qualify an individual for disability insurance if such individual has the required number of quarters regardless of when such quarters were attained.

H.R. 296. January 15, 1979. Ways and Means. Amends the Trade Act of 1974 to require the International Trade Commission, upon finding that an increase in customs duties is necessary to provide relief from import competition, to examine the impact of such increase on domestic retail prices and to report to the President.

H.R. 297. January 15, 1979. Ways and Means. Amends the Tariff Schedules of the United States to suspend for two years the customs duty on wood excelsior imported from Canada.

H.R. 298. January 15, 1979. Banking, Finance and Urban Affairs; Small Business. Amends the National Housing Act and the Small Business Act to authorize Federal financial assistance to individuals, families, nonprofit groups, and small businesses for the purchase of solar, renewable source, or other energy conserving measures and equipment.

H.R. 299. January 15, 1979. Government Operations; Small Business. Amends the Office of Federal Procurement Policy Act to require the payment of interest on contract payments which are overdue under Federal contracts with small businesses.

H.R. 300. January 15, 1979. Interstate and Foreign Commerce; Public Works and Transportation. Prohibits smoking in specified areas of Federal facilities and in interstate passenger carrier facilities. Requires the separation of smokers from nonsmokers in certain areas of such facilities.

H.R. 301. January 15, 1979. Ways and Means; Judiciary. Amends the Internal Revenue Code to permit certain individuals to file a petition for a declaratory judgment to determine whether a tax ruling of the Secretary of the Treasury is in accordance with existing law.

H.R. 302. January 15, 1979. Judiciary. Directs the United States to pay reasonable litigation costs, including attorney fees, to prevailing defendants in civil actions in which the United States is a plaintiff.

H.R. 303. January 15, 1979. Judiciary. Declares that exclusive territorial arrangements made as a part of a licensing agreement for the manufacture, distribution, or sale of a trademarked soft drink product are lawful under the antitrust laws provided such product is in substantial and effective competition with other products of the same general class.

H.R. 304. January 15, 1979. Public Works and Transportation. Amends the Tennessee Valley Authority Act to allow credits against required power investment return payments for expenditures for certified pollution control facilities.

H.R. 305. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to require the Internal Revenue Service to pay costs incurred by a taxpayer for professional assistance during a tax audit if the audit does not result in additional tax liability.

H.R. 306. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to exempt light farming and livestock trailers from the highway motor vehicle excise tax.

H.R. 307. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to exempt taxpayers from the payment of interest or a penalty on tax deficiencies attributable to erroneous advice obtained in writing from an Internal Revenue Service officer or employee acting in an official capacity.

H.R. 308. January 15, 1979. Education and Labor. Amends the National Labor Relations Act to provide that the duty to bargain collectively includes bargaining with respect to retirement benefits for retired employees.

H.R. 309. January 15, 1979. Rules. Prohibits the enactment of legislation which would increase new Federal budget authority beyond specified levels.

H.R. 310. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to allow individual taxpayers an income tax credit for the private, nonprofit elementary or secondary school tuition of the taxpayer or his dependents.

Forbids the construction of this Act as granting the Government additional authority to examine the records of any church school except to determine that such school is a private, nonprofit school.

Grants the U.S. District Court for the District of Columbia jurisdiction to issue declaratory relief with respect to the constitutionality of any part of this Act.

H.R. 311. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to allow individual taxpayers an income tax credit for a portion of the expenses such taxpayers pay to attend an institution of higher education.

H.R. 312. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to allow individuals a $5,000 exclusion from gross income for any amount received as an annuity, pension, or other retirement benefit.

H.R. 313. January 15, 1979. Judiciary; Rules. Requires all rules proposed by any Federal agency, except emergency rules, to be submitted to Congress before becoming effective. Permits such rules to become effective 60 days after submission to Congress if not disapproved by either House within such period.

Exempts from publication requirements notice of rulemaking proceedings for agency rules dealing with emergency or routine matters or which have an insignificant impact. Sets other maximum and minimum time limits during which public comment is to be accepted regarding proposed agency rules.

H.R. 314. January 15, 1979. Education and Labor. Amends the Service Contract Act of 1965 to include in the definition of "service employee" any person employed in a professional capacity.

H.R. 315. January 15, 1979. Judiciary. Requires each Federal agency which conducts proceedings regarding the regulation of financial institutions to keep a public record of any proceeding on an application for a bank or savings and loan charter, branch, or insurance for a State-chartered savings and loan association or branch.

Prohibits ex parte communications between persons outside such agency and persons involved in the decisional process of such proceeding.

H.R. 316. January 15, 1979. Government Operations. Amends the Federal Property and Administrative Services Act of 1949 to require Federal agencies which are about to dispose of surplus real property to first offer such property for sale to the person or entity from which such property was acquired by the Federal Government.

H.R. 317. January 15, 1979. Judiciary. Modifies the patent laws concerning energy conserving technology.

H.R. 318. January 15, 1979. Education and Labor. Authorizes the Secretary of Health, Education, and Welfare to establish a national adoption information exchange system.

H.R. 319. January 15, 1979. Administration. Directs the Attorney General, in consultation with the Secretary for Health, Education, and Welfare, to prescribe standards for polling and registration facilities which will insure ready access by the handicapped and the elderly.

H.R. 320. January 15, 1979. Interstate and Foreign Commerce. Directs that all utility rate schedules which provide for the sale of electric power shall do so at price levels which have been subject to and ordered into effect after prior public notice and full hearing. Prohibits the sale of electric energy except in accordance with rate schedules fixed, approved or allowed to go into effect by a regulatory authority. Prohibits such regulatory authority from instituting a rate schedule without prior public notice and full hearing.

H.R. 321. January 15, 1979. Interstate and Foreign Commerce. Authorizes the Federal Energy Administration to establish an energy stamp program to assist low-income households in meeting monthly fuel costs.

H.R. 322. January 15, 1979. Judiciary. Prohibits any person acting under color of Federal, State, or local law from searching any place or seizing any thing in the possession or control of any person who is not suspected of committing an act that is a criminal offense under Federal, State, or local law and who does not consent to such search or seizure.

H.R. 323. January 15, 1979. Judiciary. Prohibits any person acting under color of law, without a prior adversary court proceeding, from searching any place or seizing any things in the possession, custody, or control of any person engaged in the gathering or dissemination of news for the print or broadcast media, unless with a warrant issued by a court upon probable cause that such person has committed or is committing a criminal offense.

H.R. 324. January 15, 1979. Judiciary. Permits the transportation, mailing, and broadcasting, of advertising, information, and materials concerning lotteries conducted by a nonprofit organization and authorized by State law.

H.R. 325. January 15, 1979. Judiciary. Grants jurisdiction to the district courts, irrespective of the amount in controversy, to enforce any custody order of a State court against a parent, who, in violation of such order, takes a child to another State.

H.R. 326. January 15, 1979. Judiciary. Amends the Immigration and Nationality Act to exclude from the definition of the term "immigrant" those persons entering the United States for a period of not more than one year to perform temporary services or labor if the Secretary of Labor has determined and certified to the Attorney General that there are not sufficient workers available at the aliens destination who are able to perform such services or labor.

H.R. 327. January 15, 1979. Merchant Marine and Fisheries. Directs the Secretary of the department in which the Coast Guard is operating to establish an inspection program for towing vessels.

Authorizes the Secretary to prescribe regulations regarding the design, construction, repair, operation, and manning of such vessels.

H.R. 328. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to allow pensioners under a public retirement system and other retirees aged 65 or over a $5,000 exclusion from gross income for any amount received as an annuity, pension, or other retirement benefit.

H.R. 329. January 15, 1979. Ways and Means. Amends title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that the automatic cost-of-living increases in benefits be made on a semiannual basis (rather than only on an annual basis as at present).

H.R. 330. January 15, 1979. Ways and Means. Directs the Secretary of Labor, through the Bureau of Labor Statistics, to prepare a "Consumer Price Index for the Aged" to be used in providing cost-of-living benefit increases authorized under title II (Old Age, Survivors and Disability Insurance) of the Social Security Act.

H.R. 331. January 15, 1979. Armed Services; Merchant Marine and Fisheries. Terminates the authority of Members of Congress and Delegates to Congress from the various territories to make appointments to the service academies. Amends the Merchant Marine Act, 1936, to accomplish such purpose with respect to the Merchant Marine Academy.

H.R. 332. January 15, 1979. Ways and Means; Interstate and Foreign Commerce. Amends title IV (Aid to Families with Dependent Children) and title XIX (Medicaid) of the Social Security Act to provide that the Federal matching rate for purposes of reimbursement to States under the programs of aid to needy families with children and medical assistance shall be set at 75 percent.

H.R. 333. January 15, 1979. Ways and Means. Amends title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to disregard renewal commissions received by an insurance salesman from life insurance policies which such salesman sold before reaching age 65, for purposes of determining eligibity based on income for social security benefits.

H.R. 334. January 15, 1979. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, for physical examinations, and for related routine laboratory tests.

H.R. 335. January 15, 1979. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (Medicare) of the Social Security Act to provide payment for nutritional counseling as part of the home health services provided under the supplementary medical insurance program.

H.R. 336. January 15, 1979. Interior and Insular Affairs; Interstate and Foreign Commerce; Foreign Affairs. Directs the Nuclear Regulatory Commission to cease the granting of licenses or construction authorizations for certain nuclear power plants pending the outcome of a comprehensive study by the Office of Technology Assessment of the nuclear fuel cycle with final reports and recommendations to be made to the Congress.

Requires the expenditure of funds for employment programs in areas where unemployment has been caused by the implementation of this Act.

H.R. 337. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to permit an income tax deduction for agency fees, court costs, attorneys' fees, and other necessary expenses incurred in the adoption of a child.

H.R. 338. January 15, 1978. Interstate and Foreign Commerce. Amends title XIX (Medicaid) of the Social Security Act to disregard cost-of-living benefit increases in computing income for the purpose of determining eligibility for the Medcaid program for individuals receiving such benefit increases under: (1) title II (Old Age, Survivors, and Disability Insurance) of the Social Security Act; (2) the Railroad Retirement Act of 1974; or (3) certain pension plans relating to veterans.

H.R. 339. January 15, 1979. Foreign Affairs. Establishes a Deputy Secretary for the Americas in the Department of State.

H.R. 340. January 15, 1979. Agriculture. Directs the Secretary of Agriculture to establish price supports for crops of feed grains, cotton, peanuts, rice, tobacco, wheat, soybeans, sugar, wool, mohair, milk and honey, unless a majority of the producers of any such commodity, in a referendum, vote to exempt such commodity from such support price.

H.R. 341. January 15, 1979. Government Operations. Requires the Office of Management and Budget to study the efficiency and effectiveness of each Federal agency every ten years and to recommend to the President and Congress reorganization or abolition of each such agency as may be necessary to improve such efficiency and effectiveness. Abolishes each such agency upon the due date of such report unless during the ten-year period since the last report Congress has passed legislation continuing such agency.

H.R. 342. January 15, 1979. Judiciary. Requires additional prison sentences for anyone using or carrying a firearm during the commission of a felony over which Federal courts have jurisdiction, and for anyone using or carrying a firearm in interstate commerce, who is convicted in a State court of any crime punishable by imprisonment for a term over one year.

H.R. 343. January 15, 1979. Judiciary; Rules. Requires that the public be given an opportunity to participate in the rulemaking proceedings of a Federal agency.

Requires that proposed rules be submitted to Congress for disapproval before they become effective.

H.R. 344. January 15, 1979. Banking, Finance and Urban Affairs. Amends the Fair Credit Reporting Act to set standards for depository institutions with respect to the gathering and disclosure of any information concerning a consumer. Requires the destruction of individually identifiable account information in an electronic funds transfer service.

H.R. 345. January 15, 1979. Banking, Finance and Urban Affairs. Amends the Fair Credit Reporting Act to make specified restrictions on disclosures by credit reporting agencies applicable to independent authorization services who regularly engage in the practice of providing consumer credit information.

Requires credit card issuers to maintain reasonable procedures to prevent disclosures of inaccurate information.

H.R. 346. January 15, 1979. Banking, Finance and Urban Affairs. Amends the Fair Credit Reporting Act to establish safeguards for holders of insurance policies against errors of the insurance institution and violation of the privacy of such holders.

Directs the Federal Trade Commission to promulgate regulations requiring specified institutions to make disclosures to policyholders. Specifies the information to be disclosed.

H.R. 347. January 15, 1979. Education and Labor. Amends the General Education Provision Act to require education agencies or institutions to adopt a written policy providing for protection of the privacy of personal information, including guidelines regarding (1) access to student records; (2) the right to challenge such records and include clarifying material; (3) kinds of information that may be released with or without consent; (4) student and parental participation in formulating such privacy policies; and (5) enforcement.

H.R. 348. January 15, 1979. Education and Labor. Amends the Farm Labor Contractor Registration Act of 1963 to designate as a "farm labor contractor" any labor organization which establishes and maintains an employment referral procedure or service which refers, furnishes, assigns, or recruits migrant workers for agricultural employment.

H.R. 349. January 15, 1979. Government Operations. Amends the Privacy Act of 1974 to revise the provisions concerning the disclosure of Federal records on individuals. Revises: (1) the limitations on disclosure; (2) the collection and maintenance of information; (3) the procedures for correction of records; and (4) the liability of the United States for any violations.

H.R. 350. January 15, 1979. Government Operations. Establishes the Federal Information Practice Board to conduct continuing oversight of the effect of private and governmental data collection activities on the rights and privileges of individuals. Directs the Board to investigate compliance with Federal laws affecting information practices, including laws pertaining to: (1) privacy; (2) freedom of information; (3) fair credit reporting and billing; and (4) government in the sunshine.

H.R. 351. January 15, 1979. Public Works and Transportation. Establishes an independent Federal Aviation Agency. Transfers to the Administrator of the newly created Agency the functions, powers, duties, personnel, assets, liabilities, contracts, property, records, and unexpended funds of the Secretary of Transportation and the Administrator of the Federal Aviation Administration under legislation with respect to air transportation.

H.R. 352. January 15, 1979. Public Works and Transportation. Amends the Airport and Airway Development Act of 1970 to make privately owned public use airports eligible for funding under such Act.

H.R. 353. January 15, 1979. Veterans' Affairs. Allows the waiver of the payment of premiums for National Service Life Insurance by certain eligible insured individuals.

H.R. 354. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to restrict or prohibit the disclosure of taxpayer return information in matters pertaining to prospective jurors, State tax enforcement, investigations of prospective Federal appointees, child support enforcement efforts, and Federal enforcement of nontax laws.

H.R. 355. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to permit corporate employers to establish a qualified trust or annuity plan for their employees by complying with a plan which prescribes minimum participation standards, minimum vesting standards, and minimum funding standards different from those presently applicable to qualifying trusts under the Internal Revenue Code.

H.R. 356. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction for the use of a passenger automobile in a car pool.

H.R. 357. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to exempt government chartered air museums operated exclusively for the care or use of antique, custom built, racing, military or other special types of aircraft from the excise taxes on special fuels and the use of civil aircraft.

H.R. 358. January 15, 1979. Ways and Means. Limits Federal departments, establishments or agencies in their use of social security account numbers to identify accounts pertaining to individuals.

H.R. 359. January 15, 1979. Agriculture; Interstate and Foreign Commerce; Ways and Means. Requires each State, as a condition for the receipt of Federal moneys for public assistance or social services programs, to provide for the privacy of records used in the administering of such programs. Subjects such State privacy laws to the certification of the Secretary of Health, Education, and Welfare as meeting the principles specified in this Act. Requires in accordance with such principles, the provision of access to information by the person subject of such information, the correction and accuracy of such information, and the establishment of appropriate remedies and penalties for the enforcement of such statute.

H.R. 360. January 15, 1979. Interstate and Foreign Commerce; Ways and Means. Amends title XI of the Social Security Act to direct the Secretary of Health, Education, and Welfare to require each medical care institution participating in the Medicaid or Medicare program to implement procedures for the maintenance and disclosure of personal medical information.

Prohibits the disclosure of personal medical information by such institutions except for specifically delineated purposes. Allows Federal officials or employees to obtain such information through proper judicial or administrative subpenas.

Includes within the definition of mail fraud the false or fraudulent procurement of personal medical information through the mails.

H.R. 361. January 15, 1979. Ways and Means; Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to require each medical care institution participating in the Medicaid or Medicare program to implement procedures for the maintenance and disclosure of personal medical information.

Prohibits the disclosure of personal medical information by such institutions except for specifically delineated purposes.

H.R. 362. January 15, 1979. Ways and Means. Limits the tax liability of taxpayers with an adjusted gross income of $30,000 or less to ten percent of such income.

H.R. 363. January 15, 1979. Judiciary. Specifies additional penalties for anyone using or carrying a firearm during the commission of a felony which is prosecutable in a United States court.

H.R. 364. January 15, 1979. Post Office and Civil Service. Extends to 120 days the period before any general election involving a Member of, or Member-elect to, Congress within which such Member or Member-elect is prohibited from sending mass mailings as franked mail.

H.R. 365. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to require an annual cost-of-living adjustment, based on the Consumer Price Index, to the individual income tax rates and the personal exemption.

H.R. 366. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to allow individual taxpayers an income tax credit for a portion of the tuition paid for the elementary, secondary, college, or postsecondary vocational education of the taxpayer, his spouse, or any of his dependents.

H.R. 367. January 15, 1979. Ways and Means. Limits the maximum aggregate quantity of specified meat articles which may be entered or withdrawn from warehouses for consumption in the customs territory of the United States.

Directs the President to limit by proclamation the total quantity of meat imports in specified circumstances.

Requires the Secretary of Agriculture to allocate meat imports among supplying countries according to their shares of the U.S. market. Directs the Secretary to report to Congress.

H.R. 368. January 15, 1979. Interstate and Foreign Commerce; Judiciary. Prohibits courts, grand juries, State or Federal administrative bodies, State legislatures, or Congress from requiring journalists, newscasters, or print or broadcast organizations to disclose news or the source of any news gathered for publication or broadcast.

Provides penalties for seeking evidence of a crime without first obtaining a supoena. Authorizes aggrieved individuals to commence civil actions in U.S. district courts.

Permits States to enact laws giving increased protection to the gathering or dissemination of news.

H.R. 369. January 15, 1979. Agriculture. Amends the Food Stamp Act of 1977 to deny eligibility for food stamps to any household including a person participating in a strike or labor dispute which the President determines is causing or substantially contributes to: (1) a critical shortage of any essential energy resource or strategic material; or (2) unemployment in an industry not directly involved in such strike or labor dispute.

H.R. 370. January 15, 1979. Banking, Finance and Urban Affairs. Amends the Truth in Lending Act to requires that contracts and agreements respecting any consumer credit transactions subject to such Act be written in clear and understandable language.

H.R. 371. January 15, 1979. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to require States and local agencies applying for assistance under such Act to establish and implement standards of educational proficiency applicable to public school students.

Establishes the National Commission on Basic Education to establish such standards, and review and approve or disapprove plans implementing such standards.

Authorizes the Commissioner of Education to financially assist such agencies in preparing such educational standards plans.

Directs the Commissioner to make such proficiency examinations directly available to public school students in districts where such proficiency plans are not in effect.

H.R. 372. January 15, 1979. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to include the Occupational Safety and Health Administration of the Department of Labor within the definitions of employer and employee for purposes of coverage under such Act.

H.R. 373. January 15, 1979. Education and Labor. Amends the Civil Rights Act of 1964 to include discrimination of the physically handicapped as an unlawful employment practice.

H.R. 374. January 15, 1979. Education and Labor. Amends the Civil Rights Act of 1964 to prohibit employment discrimination on the basis of religion, unless the employer can demonstrate that accommodation of an employee's religious practices is not possible without severe pecuniary or other material loss.

H.R. 375. January 15, 1979. Government Operations. Requires each Federal agency to take steps which will improve the uniformity, speed, and comprehensiveness of such agency's response to citizen complaints and inquiries.

H.R. 376. January 15, 1979. Government Operations. Amends the Buy American Act to require the heads of departments or independent establishments, before determining whether the bid or offered price of a foreign product is reasonable, to adjust such price in accordance with the instructions set forth in this Act. Sets such adjusted prices at specified levels.

H.R. 377. January 15, 1979. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to prohibit unsolicited commercial telephone calls to a telephone subscriber who has notified the telephone company that he does not wish to receive such calls.

H.R. 378. January 15, 1979. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to provide that new drugs for human or animal use will be regulated under such Act solely to assure their safety, and not their effectiveness.

H.R. 379. January 15, 1979. Judiciary. Limits the power of any United States court to issue school transportation orders based on race, color, or national origin.

Stipulates that only a three-judge district court may issue a school assignment order based on race, color, or national origin.

Requires the holding of a special hearing where specific findings in relation to such a constitutional violation must be made before a school assignment order may issue.

Stays such school assignment orders until all appeals have been exhausted.

H.R. 380. January 15, 1979. Judiciary. Requires a subpena duces tecum for the search for and seizure of evidence when anyone acting under color of law has probable cause to believe evidence of a crime is located on or about premises in which the person in possession of the evidence has a reasonable expectation of privacy.

H.R. 381. January 15, 1979. Judiciary. Makes unlawful any act of violence, threat of violence, or conspiracy to accomplish such act in a labor dispute by any person or organization.

H.R. 382. January 15, 1979. Judiciary. Declares that any physician, registered nurse, or aircraft employee who, in good faith and with a reasonable belief that immediate medical attention is necessary, renders emergency care to an injured or ill person aboard an aircraft within the special aircraft jurisdiction of the United States shall not be liable for any civil damages as a result of any act or omission by such individual in rendering such care, except for any act or omission amounting to gross negligence or willful or wanton misconduct.

H.R. 383. January 15, 1979. Judiciary. Amends the Administrative Procedure Act to require Federal agencies to prepare and publish in the Federal Register an economic impact analysis of all proposed and final rules subject to the provisions of the Act.

H.R. 384. January 1, 1979. Post Office and Civil Service. Denies pension and survivor's annuity benefits in the case of any Federal employee who is convicted of any felony committed in connection with his or her Federal employment or who has fled the United States to avoid prosecution for any such felony.

H.R. 385. January 1, 1979. Post Office and Civil Service. Sets the postal rate for personal domestic letter mail of individuals sealed against inspection. Requires the Postal Service to maintain the rate for the class of mail established by this Act at a certain percentage of the rate for the transmission of ordinary letters sealed against inspection.

H.R. 386. January 15, 1979. Public Works and Transportation. Prohibits the expenditure of Federal funds for the conversion of highway signs to the metric system without a specific authorization of such expenditure by Congress.

H.R. 387. January 15, 1979. Science and Technology. Amends the Metric Conversion Act of 1975 to abolish the United States Metric Board established by that Act and to eliminate the Board's responsibilities in the area of metric conversion.

Directs the Secretary of Commerce to carry out a program of coordination and education with respect to the metric system, and the Comptroller General to analyze and publish any adverse effects from increasing metric conversion.

H.R. 388. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to increase the individual income tax credit for the elderly and to eliminate the adjusted gross income limitation on such credit.

H.R. 389. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for expenses paid or incurred by a speech- or hearing-impaired individual for the use of toll telephone service by means of teletypewriters.

H.R. 390. January 15 1979. Ways and means. Amends the Internal Revenue Code to allow an income tax deduction for expenses paid or incurred by a sight-, speech-, or hearing-impaired individual for the purchase or installation of a teletypewriter.

H.R. 391. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to deny an income tax deduction for any expense paid or incurred to advertise alcoholic beverages.

H.R. 392. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to perimt inclusion of employment-related expenses incurred for the care of the spouse and handicapped dependents of the taxpayer, as well as dependents under age 15, in determining the credit for expenses for household and dependent care services rendered outside the taxpayer's household.

H.R. 393. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to allow certain individuals to compute the amount of the income tax deduction for retirement savings on the basis of the earned income of their spouses.

H.R. 394. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to qualify trusts established for the payment of product liability claims as tax-exempt organizations. Allows an income tax deduction for contributions to such trusts only to the extent they exceed the reasonable costs to the taxpayer for product liability insurance protection for the year.

H.R. 395. January 15, 1979. Ways and Means. Permits a private foundation which acquired at least 50 percent of the voting stock of a qualified public utility on or before May 26, 1969, to hold such stock for a 20 year period from such date without being subject to the excise tax on excess business holdings.

H.R. 396. January 15, 1979. Ways and Means. Amends title II (Old-Age, Survivors and Disability Insurance) of the Social Security Act and the Internal Revenue Code of 1954 to exclude from self-employment income, rental income derived by the owner or tenant of land under an arrangement between the owner or tenant and another individual which provides that the owner or tenant shall participate in the production and management of commodities on such land.

H.R. 397. January 15, 1979. Ways and Means. Amends title II (Old Age, Survivors, and Disability Insurance) of the Social Security Act to exclude income earned by self-employed farmers from being charged as excess earnings for the purposes of receiving OASDI benefits if the income is from the sale of crops produced in the first year in which the farmer is entitled to OASDI benefits but not sold until a succeeding year.

H.R. 398. January 15, 1979. Ways and Means. Repeals the requirement, under the Social Security Amendments of 1977, that the amount of monthly benefits payable to a spouse or surviving spouse under title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act be reduced by the amount such spouse or surviving spouse receives in monthly payments from a Federal or State pension fund.

H.R. 399. January 15, 1979. Ways and Means. Amends the Internal Revenue Code of 1954 and title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to authorize individuals who are enrolled in a private retirement plan to voluntary exempt themselves from the Old-Age, Survivors, and Disability Insurance program.

H.R. 400. January 15, 1979. Government Operations; Rules. Requires each Federal agency to reduce the paperwork burden such agency places upon the private sector and State and local governments by a specified amount each year until fiscal year 1983.

Amends the Legislative Reorganization Act of 1970 to require all public legislation reported by any congressional committee to be accompanied by a Paperwork Impact Statement detailing the paperwork burden which would be imposed upon business, the private sector, and State and local governments by such legislation.

H.R. 401. January 15, 1979. Judiciary; Education and Labor. Prohibits any Federal agency, instrumentality, officer, or employee from requiring or enforcing any quota related to race, creed, color, national origin, or sex, with respect to hiring, promotion, or admission policies.

H.R. 402. January 15, 1979. Judiciary; Education and Labor. Prohibits affirmative action programs, authorized pursuant to Federal laws or regulations, from requiring quotas. Requires a finding that an act of discrimination has been committed before relief can be granted. Prohibition requiring the collection of data regarding the composition of the work force, except pursuant to discovery procedures.

H.R. 403. January 15, 1979. Judiciary; Rules. Requires all rules proposed by any Federal agency, except emergency rules, to be submitted to Congress before becoming effective. Permits such rules to become effective 60 days after submission to Congress if not disapproved by either House within such period.

Exempts from publication requirements notice of rulemaking proceedings for agency rules dealing with emergency or routine matters or which have an insignificant impact. Sets other maximum and minimum time limits during which public comment is to be accepted regarding proposed agency rules.

H.R. 404. January 15, 1979. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (Medicare) of the Social Security Act to provide payment for dental care including dentures, eye examinations including eyeglasses, and hearing aids including examination under the supplementary medical insurance program. Sets forth measures to safeguard against consumer abuse in the provision of these items and services.

H.R. 405. January 15, 1979. Judiciary; Education and Labor; Ways and Means. Amends the Immigration and Nationality Act, the Comprehensive Employment and Training Act of 1973, the Internal Revenue Code of 1954, and the Social Security Act: (1) to restrict the illegal entry and prohibit the employment of aliens in the United States; (2) to facilitate the admission of aliens for temporary employment; and (3) to regulate the issuance and use of social security account cards.

H.R. 406. January 15, 1979. Judiciary; Public Works and Transportation; Foreign Affairs. Establishes agencies to combat terrorism in the Executive Office of the President, the Department of State, and the Department of Justice.

Specifies penalties for violations of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation. Sets forth penalties for certain other acts which endanger aircraft.

Requires Presidential approval of sales of defense articles to groups and individuals. Requires that all explosives contain identification and detection taggants.

Directs the President to impose sanctions against dangerous foreign airports and countries which aid terrorists.

H.R. 407. January 15, 1979. Veterans' Affairs. Increases the rates of veterans' compensation for: (1) wartime disability compensation; and (2) additional compensation for dependents.

Increases the rates of veterans' dependency and indemnity compensation for: (1) surviving spouses; (2) surviving children; and (3) supplemental children's benefits.

H.R. 408. January 15, 1979. Veterans' Affairs. Provides that progressive muscular atrophy developing a ten percent or more degree of disability within seven years after separation from active wartime service shall be presumed to be service connected for purposes of veterans' disability compensation.

H.R. 409. January 15, 1979. Veterans' Affairs. Increases the rates of specified educational benefits for eligible veterans and their survivors and dependents.

H.R. 410. January 15, 1979. Veterans' Affairs. Authorizes the Administrator of Veterans' Affairs to provide mortgage protection life insurance to certain veterans unable to obtain commercial life insurance at a standard rate because of service-connected disabilities.

H.R. 411. January 15, 1979. Veterans' Affairs. Exempts veterans applying for federally guaranteed loans or mortgages for homes, condominiums, or mobile homes from the application of State usury laws.

H.R. 412. January 15, 1979. Veterans' Affairs. Revises specified provisions regarding the appropriation of funds for the construction, alteration, or acquisition of certain Veterans' Administration medical facilities, including notification to Congress.

H.R. 413. January 15, 1979. Agriculture. Amends the Agricultural Act of 1949 to set the price support of the 1979 through 1981 crops of sugar beets and sugarcane.

H.R. 414. January 15, 1979. Agriculture. Repeals the Agricultural Fair Practices Act of 1967 and establishes an agricultural bargaining policy substantially identical. Enumerates the unfair practices a handler of agricultural products is forbidden to commit under existing law, and adds a list of unfair practices an association of producers may not commit, including: (1) refusal to bargain in good faith with a handler; (2) coercing or intimidating a handler to breach or terminate marketing contracts and association membership agreements; (3) circulating false reports about an association's or handler's finances, management, or activities; and (4) conspiracy to commit an unfair practice.

H.R. 415. January 15, 1979. Agriculture. Amends the Food Stamp Act of 1964 to exclude from eligibility for food stamps any household whose principal wage earner is on strike for the duration of such strike.

H.R. 416. January 15, 1979. Armed Services. Makes it unlawful to enroll any member of the Armed Forces in, or to solicit or otherwise encourage any member of the Armed Forces to join, any labor organization.

H.R. 417. January 15, 1979. Armed Services. Prohibits the transfer or disposal of any military real property located in the Panama Canal Zone without the specific authorization of Congress.

H.R. 418. January 15, 1979. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to authorize the Board of Governors to require specified depository institutions to submit periodic reports to the Board on their assets and liabilities.

Makes the maintenance of reserves by member banks in the Federal Reserve Banks optional.

Repeals the penalty rate on advances on time demand notes to member banks.

Directs the Board to implement a fee schedule for Federal Reserve services.

H.R. 419. January 15, 1979. Banking, Finance and Urban Affairs. Repeals the authority of specific financial institution regulatory agencies to regulate the interest rate on deposits and accounts. Permits member banks of the Federal Reserve System to pay interest on demand deposits. Removes restrictions on the reduction of interest rate differentials between the deposits of specified federally insured institutions.

H.R. 420. January 15, 1979. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to require that purchases and sales of paper eligible for open-market operations be conducted to provide for a steady, noninflationary growth in the money supply.

H.R. 421. January 15, 1979. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to authorize the Federal Reserve banks to lend bonds, notes, and other obligations of Federal, State, and local governments to the Secretary of the Treasury under the direction and regulations of the Federal Open Market Committee. Authorizes the Secretary of the Treasury to sell such obligations in the open market.

H.R. 422. January 15, 1979. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to provide that the the boards of directors of Federal Reserve banks. Increases the term of office for such directors.

H.R. 423. January 15, 1979. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to provide that the chairman and the vice chairman of the Federal Reserve Board shall continue to serve after the expiration of their terms until their successors are designated and have qualified.

H.R. 424. January 15, 1979. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to provide for public release of detailed minutes of Federal Open Market Committee meetings.

H.R. 425. January 15, 1979. Education and Labor. Amends the Occupational Safety and Health Act of 1970.

H.R. 426. January 15, 1979. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to require the Secretary of Labor to obtain a search warrant in order to enter and inspect an employer's workplace.

H.R. 427. January 15, 1979. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to stipulate that nothing in such Act shall be construed to authorize any regulation designed to restrict hunting, sport fishing, or shooting sports or to establish safety or health standards for work performed in any location which is customarily used for such activities.

H.R. 428. January 15, 1979. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to exclude from the definition of employer any person with no more than ten full-time employees and with an occupational injury incidence rate not exceeding seven percent.

Directs the Secretary of Labor to publish annually in the Federal Register the occupational injury incidence rate for such employer category.

H.R. 429. January 15, 1979. Education and Labor. Amends the Davis-Bacon Act which requires the rate of wages for workers employed on Federal public buildings by contractors and subcontractors to be based upon the prevailing wages for corresponding classes of workers employed on similar projects in the same area.

Specifies the coverage of such Act, and methods which the Secretary of Labor shall use in determining such wages.

Establishes a Federal Construction Appeals Board.

H.R. 430. January 15, 1979. Government Operations. Requires all Federal regulatory agencies to prepare with respect to each rule promulgated by such agencies: (1) a statement comparing the private costs of such rule with the benefit such rule would have on the environment; and (2) an environmental impact statement. Establishes standing task forces in each community affected by proposed agency rules to assess the economic and employment impact of each such rule.

Requires Congressional approval of any such rule which will cause an increase in unemployment.

H.R. 431. January 15, 1979. Interior and Insular Affairs. States that for a specified period the Secretary of the Interior nor the Attorney General shall withhold water delivery from any beneficiary of a Federal reclamation project for the purposes of achieving conformity with acreage limitations or residency requirements of reclamation law.

H.R. 432. January 15, 1979. Interior and Insular Affairs. Replaces the existing acreage limitation of 160 acres of reclaimed land per individual with a limitation of 320 acres.

Abolishes the residency requirements for qualified recipients of project water.

H.R. 433. January 15, 1979. Interstate and Foreign Commerce. Prohibits any Federal employee or agency from inspecting medical or dental records of patients not receiving medical or dental assistance from the Federal Government, unless authorized by the patient.

H.R. 434. January 15, 1979. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to provide that new drugs for human or animal use will be regulated under such Act solely to assure their safety, and not their effectiveness.

H.R. 435. January 15, 1979. Judiciary. Permits any State legislature to rescind its ratification of a Constitutional amendment at any time prior to the ratification of such amendment by three-fourths of the State legislatures.

H.R. 436. January 15, 1979. Judiciary. Directs the United States to pay reasonable litigation costs, including attorney fees, to prevailing defendants in civil actions in which the United States is a plaintiff.

H.R. 437. January 15, 1979. Judiciary. Repeals the Gun Control Act of 1968.

H.R. 438. January 15, 1979. Judiciary. Amends the Sherman Act by declaring unlawful any agreement between a labor organization and an employer whereby such employer agrees to boycott any product which is distributed in interstate or foreign commerce.

H.R. 439. January 15, 1979. Judiciary. Declares that exclusive territorial arrangements made as a part of a licensing agreement for the manufacture, distribution, or sale of a trademarked soft drink product are lawful under the antitrust laws provided such product is in substantial and effective competition with other products of the same general class.

H.R. 440. January 15, 1979. Public Works and Transportation. Amends the Federal Water Pollution Control Act to add to the scope of Federal permit authority with respect to discharges of dredged or fill material in navigable waters by requiring permits for such discharges into wetlands adjacent to navigable waters.

Exempts farming, ranching, construction, and related activities from such permit requirements.

H.R. 441. January 15, 1979. Veterans' Affairs. Prohibits the transfer or disposal of any U.S. interest in certain cemeteries located in the Canal Zone without the specific authorization of Congress.

H.R. 442. January 15, 1979. Veterans' Affairs. Denies veterans' benefits to certain individuals whose discharges from active military service under less than honorable conditions are administratively upgraded under the revised standards for review as implemented April 5, 1977, by the Department of Defense's Special Discharge Review Program.

H.R. 443. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to: (1) reduce individual, corporate, and estate and trust income taxes; (2) reduce capital gains taxes; (3) eliminate the age requirement for the one-time $100,000 exclusion of gain from the sale of a principal residence; (4) index tax rates to reflect inflation of income and property values; and (5) place limits on Federal spending.

H.R. 444. January 15, 1979. Ways and Means. Establishes a program for the distribution of certain income tax revenues to the registered voters of each State in the form of dividend payments.

Establishes the National Dividend Payment Trust Fund and the National Dividend Review Board to review the manner in which payments are made from the Trust Fund and to make investments of trust funds.

Amends the Internal Revenue Code to exclude from gross income all dividend income. Allows an income tax deduction to corporations for certain public utility preferred stock dividends.

Places limits on the taxation of corporate income and on Federal spending.

H.R. 445. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to repeal the estate and gift taxes.

H.R. 446. January 15, 1979. Ways and Means Provides for the tax treatment of property damaged as a result of the Teton Dam disaster in Idaho.

H.R. 447. January 15, 1979. Ways and Means. Amends title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to remove the limitation on the amount of outside income which an individual may earn while receiving benefits.

H.R. 448. January 15, 1979. Ways and Means. Amends the Internal Revenue Code of 1954 and title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to authorize individuals who are enrolled in a private retirement plan to voluntarily exempt themselves from the Old-Age, Survivors, and Disability Insurance program.

H.R. 449. January 15, 1979. Ways and Means. Subjects specified kinds of preserved beef and veal products to the Congressional policy relating to the restriction of beef imports. Revises the formula for determination of beef and veal import quotas. Repeals the authority of the President to suspend a proclamation limiting beef imports. Directs the President to limit beef imports at any one port of entry in order to insure the geographical distribution of such imports. Declares the policy of Congress that a quota should be imposed upon the importation of cattle. Directs the President to impose such limitation and to limit such imports at any one port of entry.

H.R. 450. January 15 1979. Ways and Means. Prohibits the importation of Ugandan products into the United States.

H.R. 451. January 15, 1979. Ways and Means. Amends the Tariff Schedules of the United States to prohibit the importation of Cuban agricultural articles.

H.R. 452. January 15, 1979. Judiciary; Education and Labor. Prohibits affirmative action programs, authorized pursuant to Federal laws or regulations, from requiring quotas. Requires a finding that an act of discrimination has been committed before relief can be granted. Prohibits requiring the collection of data regarding the composition of the work force, except pursuant to discovery procedures.

H.R. 453. January 15, 1979. Judiciary; Rules. Requires all rules proposed by any Federal agency, except emergency rules, to be submitted to Congress before becoming effective. Permits such rules to become effective 60 days after submission to Congress if not disapproved by either House within such period.

Exempts from publication requirements notice of rulemaking proceedings for agency rules dealing with emergency or routine matters or which have an insignificant impact. Sets other maximum and minimum time limits during which public comment is to be accepted regarding proposed agency rules.

H.R. 454. January 15, 1979. Merchant Marine and Fisheries; Judiciary; Post Office and Civil Service; Foreign Affairs. Authorizes the transfer of United States property to Panama under the Panama Canal Treaty of 1977. Implements such transfer with respect to property, employees, courts, and postal service.

Establishes the Panama Canal Commission to operate the Canal.

H.R. 455. January 15, 1979. Agriculture. Amends the Agricultural Act of 1949: (1) to provide for the 1979 through 1981 crops of wheat, feed grains, and upland cotton a sliding-scale of established prices keyed to voluntary increments above the required level of acreage set-aside; (2) to prohibit the Secretary of Agriculture from providing for the redemption of stored wheat and feed grains loans unless the market price for such commodities is not less than parity; and (3) to prohibit the Commodity Credit Corporation from selling its stocks of wheat and feed grains for less than the parity price.

H.R. 456. January 15, 1979. Armed Services. Amends the Federal Civil Defense Act of 1950 to authorize the use of Federal civil defense funds by local civil defense agencies for natural disaster or civil disturbance relief. Increases the Federal contribution for travel expenses and per diem allowances for students in civil defense training programs and increases the Federal financial contributions to States for civil defense personnel and administrative expenses. Increases the authorization for appropriations under such Act for travel expenses, personal equipment for State and local workers, and for personnel and administrative expenses.

H.R. 457. January 15, 1979. Judiciary. Requires additional prison sentences for anyone using or carrying a firearm during the commission of a felony over which Federal courts have jurisdiction, and for anyone using or carrying a firearm in interstate commerce, who is convicted in a State court of any crime punishable by imprisonment for a term over one year.

Modifies the age requirement with respect to purchasing certain firearms and the recordkeeping requirements with respect to ammunition.

H.R. 458. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to allow taxpayers to take a current income tax deduction for nonproductive capital expenditures which are required by Federal law.

H.R. 459. January 15, 1979. Ways and Means; Interstate and Foreign Commerce. Amends title XVII (Medicare) of the Social Security Act to permit payment for eye care, eyeglasses, hearing aids and related examinations, and dental care and dentures under the supplementary medical insurance program.

H.R. 460. January 15, 1979. Ways and Means. Amends the Trade Act of 1974 to reserve textiles and textile products from trade negotiations to reduce duties or import restrictions.

H.R. 461. January 15, 1979. Agriculture. Amends the Food Stamp Act of 1964 to prohibit from receiving food stamps any individual 18 years of age or older who receives at least one-half of his income from any other individual who belongs to another household which is ineligible for food stamps.

H.R. 462. January 15, 1979. Armed Services. Authorizes the recomputation at age 60 of the retired or retainer pay for members or former members of the uniformed services whose retired or retainer pay was computed on the basis of pay scales in effect prior to January 1, 1972, in order to reflect any retired or retainer pay increases for other members which was based on changes in the Consumer Price Index since that date.

H.R. 463. January 15, 1979. Government Operations. Requires the Administrator of General Services, where a specified amount of land within a State or local governmental unit is Federal real property, to pay to such unit amounts equivalent to the property taxes which would have been collected had the property been privately owned.

H.R. 464. January 15, 1979. Interstate and Foreign Commerce. Amends the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 to require research into the need for education, counseling, and treatment of the families of alcohol abusers and alcoholics.

H.R. 465. January 15, 1979. Interstate and Foreign Commerce. Prohibits discrimination on the basis of sex in contracts for, or terms of, insurance policies.

H.R. 466. January 15, 1979. Judiciary. Removes the jurisdiction of the Supreme Court of the United States and the Federal district courts over any case arising out of any State statute, ordinance, rule or regulation, which relates to voluntary prayers in public schools and public buildings.

H.R. 467. January 15, 1979. Judiciary. Requires additional prison sentences for anyone using or carrying a firearm during the commission of a felony over which Federal courts have jurisdiction, and for anyone using or carrying a firearm in interstate commerce, who is convicted in a State court of any crime punishable by imprisonment for a term over one year.

H.R. 468. January 15, 1979. Judiciary. Amends the Civil Rights Act of 1964 to prohibit any court of the United States or any Federal official from compelling the school assignment of teachers or students on the basis of race, religion, sex, or national origin.

Prohibits Federal educational funds from being made conditional upon such assignments.

H.R. 469. January 15, 1979. Post Office and Civil Service. Repeals provisions of Federal law prohibiting individuals employed by private detective agencies from being employed by the United States or the District of Columbia.

H.R. 470. January 15, 1979. Veterans' Affairs. Authorizes the Administrator of Veterans' Affairs to make grants to States, upon approval of their applications, to assist them in establishing, expanding, or improving veterans cemeteries owned by the State; to pay a portion of the cost of interment for each eligible person and the cost of perpetual care maintenance; and to pay the cost of transporation of a deceased veteran's body for burial in a national cemetery.

H.R. 471. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction for the expenses paid for the higher education of the taxpayer or a dependent.

H.R. 472. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to allow individuals who rent their principal residence an income tax deduction for a portion of the real property taxes paid or accrued by their landlord.

H.R. 473. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from gross income a certain amount of the interest earned on savings accounts in banks, savings and loan associations, or credit unions.

H.R. 474. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to deny an income tax deduction for any expenses paid or incurred to advertise alcoholic beverages.

H.R. 475. January 15, 1979. Judiciary; Education and Labor. Eliminates the jurisdiction of Federal courts to make any decision, enter any judgment, or issue any order with regard to the assignment of pupils to a particular school on the basis of their race, color, religion, or national origin.

Prohibits the withholding of Federal financial assistance by any Federal department, agency, officer or employee to achieve such student assignment.

H.R. 476. January 15, 1979. Banking, Finance and Urban Affairs. Prohibits any creditor from discriminating against any applicant on the basis of the geographical location of the applicant's residence.

H.R. 477. January 15, 1979. Banking, Finance and Urban Affairs. Amends the Housing and Community Development Act of 1974 to authorize the Secretary of Housing and Urban Development to make grants to local governments for the purpose of funding qualified nonprofit neighborhood organizations engaged in activities designed to improve housing and prevent neighborhood deterioration.

H.R. 478. January 15, 1979. Government Operations. Amends the Public Works Employment Act of 1976 to establish a supplementary antirecession fiscal assistance program to aid local governments which have an average unemployment rate during a calendar quarter above six percent.

H.R. 479. January 15, 1970. Judiciary. Requires that a witness who refuses to testify be given a hearing before being found in contempt of court and confined.

Prohibits the fining or imprisonment of a witness for refusing to testify about any transaction or event if such witness has been fined or imprisoned for a previous refusal to testify about the same transaction or event.

H.R. 480. January 15, 1979. Judiciary. Amends the Rules Enabling Act to empower the Supreme Court of the United States to prescribe general rules of pleading, practice, and procedure for Federal courts upon the recommendation of the Judicial Conference of the United States. Requires the Judicial Conference to publish proposed rules and a list of issues raised by such proposals in the Federal Register, and to accept and consider, before making its final recommendations, timely written comments of such proposals.

H.R. 481. January 15, 1979. Judiciary. Amends the Rules Enabling Act to empower the Judicial Conference of the United States, rather than the Supreme Court, to prescribe, contingent upon Congressional approval, rules of pleading, practice, and procedure for Federal courts.

H.R. 482. January 15, 1979. Judiciary. Details examination, treatment, and release procedures for persons acquitted of violent crimes due to insanity at the time of the offense.

Establishes within each judicial district a Commitment Review Committee to: (1) review treatment of persons committed pursuant to this Act; and (2) recommend treatment for such persons where they lack capacity to consent to treatment and any of specified treatments, including electroconvulsive therapy and behavior modification, which have been prescribed by the treatment facility.

H.R. 483. January 15, 1979. Judiciary. Amends the Immigration and Nationality Act to include the relationship of an illegitimate child and its natural father within the definition of child for purposes of status, benefit, or privilege under such Act.

H.R. 484. January 15, 1979. Ways and Means. Amends title II (Old-Age, Survivors and Disability Insurance) of the Social Security Act to allow individuals to simultaneously receive both old-age or disability insurance benefits and widow's or widower's benefits without any reduction or offset.

H.R. 485. January 15, 1979. Ways and Means. Provides that the Federal matching rate to States beginning October 1 1979, shall be 75 percent under title IV (Aid to Families with Dependent Children) of the Social Security Act.

H.R. 486. January 15, 1979. Ways and Means. Stipulates that income received from post-1974 Social Security cost-of-living increases shall be excluded in determining the eligibility of an individual for benefits under: (1) title XVI (Supplemental Security Income) of the Social Security Act; (2) title XI (Aid to Families with Dependent Children) of such Act; (3) dependency and indemnity compensation plans for veterans service connected deaths; (4) veterans' pension plans; (5) the Food Stamp Act of 1964; (6) the United States Housing Relief Act of 1937; or (7) any other Federal assistance program which conditions eligibility upon the income or resources of the applicant. .

H.R. 487. January 15, 1979. Ways and Means. Directs the Secretary of Health, Education, and Welfare to provide a supplementary housing allowance to eligible individuals under title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act whose annual housing expenses exceed 33⅓ percent of their annual income.

H.R. 488. January 15, 1979. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (Medicare) of the Social Security Act to provide payment for diagnostic tests and examinations given for the detection of breast cancer under the supplementary medical insurance program.

H.R. 489. January 15, 1979. Ways and Means. Amends the Social Security Act to allow Federal officers and employees to elect coverage under the Old-Age, Survivors and Disability Insurance program.

H.R. 490. January 15, 1979. Government Operations; Rules. Requires that certain information concerning unobligated balances of budget authority and steps to reduce it be included in the report accompanying the first concurrent resolution on the budget each year, in the annual budget reports submitted by other committees, and in the President's annual budget.

H.R. 491. January 15, 1979. Foreign Affairs. Amends the Export Administration Act of 1969 to prohibit the export to Uganda of articles, materials, or supplies controlled pursuant to such Act.

H.R. 492. January 15, 1979. Ways and Means. Prohibits the importation of Ugandan products into the United States.

H.R. 493. January 15, 1979. Ways and Means. Amends the Tariff Schedules of the United States to prohibit the importation of Ugandan coffee or coffee products.

H.R. 494. January 15, 1979. Judiciary. Declares that exclusive territorial arrangements made as a part of a licensing agreement for the manufacture, distribution, or sale of a trademarked soft drink product are lawful under the antitrust laws provided such product is in substantial and effective competition with other products of the same general class.

H.R. 495. January 15, 1979. Education and Labor. Establishes the Congressional Award Program in the United States and its territories to recognize and promote youth leadership and excellence in the areas of expedition fitness, personal creative development, and public service.

Creates a Congressional Award Board with a Director to supervise such program.

Authorizes the appointment of State award directors under this Act.

Creates three Congressional Award Medals to be awarded under this Act.

H.R. 496. January 15, 1979. Administration. Entitles congressional candidates meeting certain criteria and agreeing to comply with specified spending limits and reporting requirements to campaign payments on a matching basis.

Directs the Secretary of the Treasury to establish a separate House of Representatives Election Payment Account in the Presidential Election Campaign Fund to finance such payments.

H.R. 497. January 15, 1979. Interstate and Foreign Commerce. Amends the Clean Air Act to authorize the Environmental Protection Agency to make grants to States and local school systems for the reduction of asbestos levels in the interior air of school buildings.

H.R. 498. January 15, 1979. Education and Labor. Establishes the Congressional Award Program in the United States and its territories to recognize and promote youth leadership and excellence in the areas of expedition fitness, personal creative development, and public service.

Creates a Congressional Award Board with a Director to supervise such program.

Authorizes the appointment of State award directors under this Act.

Creates three Congressional Award Medals to be awarded under this Act.

H.R. 499. January 15, 1979. Ways and Means. Amends the Internal Revenue Code to allow a limited income tax credit to persons age 65 and over or to handicapped, disabled or blind individuals for real property taxes or rent paid or incurred by such individuals on property used as a principal residence.

H.R. 500. January 15, 1979. Judiciary. Sets forth procedures for Federal constitutional conventions with respect to: (1) applications, (2) calling, (3) delegates, (4) convening, (5) operation, (6) congressional approval, (7) ratification, (8) rescission, and (9) proclamation.

H.J. Res. 1. January 15, 1979. Extends the time limit for filing the President's Economic Report.

H.J. Res. 2. January 15, 1979. Judiciary. Constitutional Amendment—Prohibits deficit spending and increases in the national debt. Provides for the suspension of such prohibition in time of war or national emergency.

Sets forth a schedule for repayment of the national debt.

H.J. Res. 3. January 15, 1979. Post Office and Civil Service. Authorizes and requests 1979, as "Will Rogers Day."

H.J. Res. 4. January 15, 1979. Judiciary. Constitutional Amendment—Requires the President and the Speaker of the House of Representatives to review Government revenues and expenditures at specified times and to determine a surtax rate when expenditures exceed revenues to ensure that receipts will equal outlays.

Authorizes the suspension of such measures in the case of a grave national emergency declared by Congress.

H.J. Res. 5. January 15, 1979. Judiciary. Constitutional Amendment—Limits any increase in Federal spending from the previous fiscal year to the average annual percentage increase in the gross national product for the preceding three years. Permits the suspension of such limitation in time of war or national emergency.

H.J. Res. 6. January 15, 1979. Judiciary. Constitutional Amendment—Prohibits total Federal expenditures from exceeding total receipts. Authorizes suspension of such prohibition in time of war or national emergency.

H.J. Res. 7. January 15, 1979. Judiciary. Constitutional Amendment—Provides for the direct popular election of the President and Vice President of the United States.

H.J. Res. 8. January 15, 1979. Judiciary. Constitutional Amendment—Directs the Congress to estimate the total Federal revenues and outlays at the beginning of each fiscal year and then limit authorizations for such year to insure a balanced budget. Requires any deficit to be made up within the following two fiscal years.

H.J. Res. 9. January 15, 1979. Judiciary. Constitutional Amendment—Declares the term "person," with respect to due process and equal protection, applicable to human beings irrespective of age, health, function or condition of dependency, including the unborn. Prohibits the deprivation of life of an unborn person, except under laws permitting medical procedures required to prevent the death of the mother.

H.J. Res. 10. January 15, 1979. Judiciary. Constitutional Amendment—Amends the Constitution to require Congress to assure that the total expenditures of the Government, during any fiscal year, do not exceed the total receipts of the Government during such fiscal year. Permits an exception to such requirement in time of national emergency, but states that expenditures shall never exceed receipts by more than ten percent. Provides a schedule for the institution of such requirement.

Sets forth a schedule for the elimination of the Federal indebtedness.

H.J. Res. 11. January 15, 1979. Judiciary. Constitutional Amendment—Provides that total expenditures in any fiscal year shall not exceed the net amount of revenue received by the Government in that year. Authorizes the suspension of such prohibition in time of war or by a concurrent resolution passed by the Senate and the House stating that a national economic emergency requires suspension.

H.J. Res. 12. January 15, 1979. Judiciary. Constitutional Amendment—Prohibits compelling a student to attend a public school other than the one nearest his residence.

Grants Congress the power to enforce by appropriate legislation the provisions of this amendment, and to insure equal educational opportunities for all students wherever located.

H.J. Res. 13. January 15, 1979. Judiciary. Constitutional Amendment—Allows an item veto by the President of appropriations bills. Requires the President, in signing the bill, to designate the provisions disapproved and return the bill to the House in which it originated. Provides that such bills shall be subjected to the same proceeding as other bills disapproved by the President.

H.J. Res. 14. January 15, 1979. Judiciary. Constitutional Amendment—Prohibits deficit spending and increases in the national debt. Provides for the suspension of such prohibition in time of war or national emergency.

Sets forth a schedule for repayment of the national debt.

H.J. Res. 15. January 15, 1979. Judiciary. Constitutional Amendment—Provides that total expenditures in any fiscal year shall not exceed the net amount of revenue received by the Government in that year. Authorizes the suspension of such prohibition in time of war declared by Congress or by a concurrent resolution passed by a two-thirds vote of both Houses of Congress. Provides for the disposition of unanticipated deficits.

H.J. Res. 16. January 15, 1979. Judiciary. Constitutional Amendment—Prohibits deficit spending and increases in the national debt. Provides for the suspension of such prohibition in time of war or national emergency.

Sets forth a schedule for repayment of the national debt.

H.J. Res. 17. January 15, 1979. Judiciary. Constitutional Amendment—Declares the term "person," with respect to due process and equal protection, applicable to human beings irrespective of age, health, function or condition of dependency, including the unborn. Prohibits the deprivation of life of an unborn person, except when it is a medical certainty that termination is required to prevent the death of the mother.

H.J. Res. 18. January 15, 1979. Judiciary. Constitutional Amendment—Amends the Constitution to require Congress to assure that the total expenditures of the Government, during any fiscal year, do not exceed the total receipts of the Government during such fiscal year. Permits an exception to such requirement in time of national emergency, but states that expenditures shall never exceed receipts by more than ten percent. Provides a schedule for the institution of such requirement.

Sets forth a schedule for the elimination of the Federal indebtedness.

H.J. Res. 19. January 15, 1979. Post Office and Civil Service. Authorizes and requests the President to designate the week of September 16 through 22, 1979, as "National Lupus Week."

H.J. Res. 20. January 15, 1979. Judiciary. Constitutional Amendment—Prohibits compelling a student to attend a public school other than the one nearest his residence.

Grants Congress the power to enforce by appropriate legislation the provisions of this amendment, and to insure equal educational opportunities for all students wherever located.

H.J. Res. 21. January 15, 1979. Judiciary. Constitutional Amendment—Requires the President to submit a balanced budget to Congress and requires that Congress act to provide revenues to offset Federal funds deficits.

Provides for the suspension of such requirement during times of war or national emergency.

H.J. Res. 22. January 15, 1979. Judiciary. Constitutional Amendment—Increases the term of office of Members of the House of Representatives.

Limits the number of years a Representative or Senator may be elected to office.

Directs that in order for a Representative with more than 1 year remaining in his or her term to be elected as a Senator such person must have submitted a resignation as Representative.

H.J. Res. 23. January 15, 1979. Judiciary. Constitutional Amendment—Prohibits the Federal Government's participation in any commercial or financial activity not specifically provided for in the Constitution. Repeals the Sixteenth Amendment (income tax) Prohibits taxes on personal income, gifts and estates.

H.J. Res. 24. January 15, 1979. Judiciary. Constitutional Amendment—Provides for the direct election of the President and Vice President and authorizes Congress to establish procedures relating to the nomination of Presidential and Vice Presidential candidates.

H.J. Res. 25. January 15, 1979. Post Office and Civil Service. Authorizes and requests the President to designate the week of June 29 through July 5 of each year as "Why I Love America Week."

H.J. Res. 26. January 15, 1979. Judiciary. Constitutional Amendment—Requires the President to submit a balanced budget to Congress and requires that Congress act to provide revenues to offset Federal funds deficits.

Provides for the suspension of such requirement during times of war or national emergency.

H.J. Res. 27. January 15, 1979. Judiciary. Constitutional Amendment—Prohibits the Federal Government's participation in any commercial or financial activity not specifically provided for in the Constitution. Repeals the Sixteenth Amendment (income tax). Prohibits taxes on personal income, gifts and estates.

H.J. Res. 28. January 15, 1979. Post Office and Civil Service. Authorizes and requests the President to designate October 7, 1979, as "Children's Day."

H.J. Res. 29. January 15, 1979. Judiciary. Constitutional Amendment—Provides that total appropriations shall not exceed estimated revenues. Authorizes the suspension of such prohibition in time of war or by a concurrent resolution passed by the Senate and the House that a grave national emergency so requires.

H.J. Res. 30. January 15, 1979. Interior and Insular Affairs. Relinquishes all powers and authority of the United States over the territory of Puerto Rico unconditionally and without reservations.

H.J. Res. 31. January 15, 1979. Judiciary. Constitutional Amendment—Lowers the age requirements for membership in the House of Representatives and the Senate.

H.J. Res. 32. January 15, 1979. Judiciary.

Constitutional Amendment—Provides that total expenditures in any fiscal year shall not exceed the net amount of revenue received by the Government in that year. Authorizes the suspension of such prohibition in time of war or by a concurrent resolution passed by the Senate and the House stating that a national economic emergency requires suspension.

H.J. Res. 33. January 15, 1979. Judiciary. Constitutional Amendment—Amends the Constitution to require Congress to assure that the total expenditures of the Government, during any fiscal year, do not exceed the total receipts of the Government during such fiscal year. Permits an exception to such requirement in time of national emergency, but states that expenditures shall never exceed receipts by more than ten percent. Provides a schedule for the institution of such requirement.

Sets forth a schedule for the elimination of the Federal indebtedness.

H.J. Res. 34. January 15, 1979. Judiciary. Constitutional Amendment—Prohibits deficit spending and increases in the national debt. Provides for the suspension of such prohibition in time of war or national emergency.

Sets forth a schedule for replayment of the national debt.

H.J. Res. 35. January 15, 1979. Judiciary. Constitutional Amendment—Provides that total expenditures in any fiscal year shall not exceed the net amount of revenue received by the Government in that year. Authorizes the suspension of such prohibition in time of war or by a concurrent resolution passed by the Senate and the House stating that a national economic emergency requires suspension.

H.J. Res. 36. January 15, 1979. Foreign Affairs. Directs the President to convene an International Conference on Communication and Information.

H.J. Res. 37. January 15, 1979. Judiciary. Constitutional Amendment—Allows for enactment and repeal of laws, with certain exceptions, by popular vote. Prescribes the petition procedures and requirements for enactment of such laws.

H.J. Res. 38. January 15, 1979. Judiciary. Constitutional Amendment—Requires the President and the Speaker of the House of Representatives to review Government revenues and expenditures at specified times and to determine a surtax rate when expenditures exceed revenues to ensure that receipts will equal outlays.

Authorizes the suspension of such measures in the case of a grave national emergency declared by Congress.

H.J. Res. 39. January 15, 1979. Judiciary. Constitutional Amendment—Prohibits total Federal expenditures from exceeding total receipts. Authorizes suspension of such prohibition in time of war or national emergency.

H.J. Res. 40. January 15, 1979. Judiciary. Constitutional Amendment—Provides for enactment and repeal of laws by popular vote. Prescribes the petition procedures and requirements for enactment of such laws.

H.J. Res. 41. January 15, 1979. Judiciary. Constitutional Amendment—Prohibits deficit spending and increases in the national debt. Provides for the suspension of such prohibition in time of war national emergency.

Sets forth a schedule for repayment of the national debt.

H.J. Res. 42. January 15, 1979. Judiciary. Constitutional Amendment—Limits any increase in Federal spending from the previous fiscal year to the average annual percentage increase in the gross national product for the preceding three years. Permits the suspension of such limitation in time of war or national emergency.

H.J. Res. 43. January 15, 1979. Judiciary. Constitutional Amendment—Prohibits Congress from enacting legislation which will cause Federal taxation to exceed 15 percent of the gross national product.

Prohibits the making of appropriations in excess of the total estimated revenues of the United States in any fiscal year except in time of war or national emergency.

H.J. Res. 44. January 15, 1979. Judiciary. Constitutional Amendment—Requires any change in the U.S. tax law to increase Federal revenue to be approved by not less than two-thirds of all Members of Congress.

H.J. Res. 45. January 15, 1979. Judiciary. Constitutional Amendment—Deems every human being to be a person from the moment of fertilization.

H.J. Res. 46. January 15, 1979. Judiciary. Constitutional Amendment—Permits the offering of prayers or Biblical scriptures, as long as participation is voluntary, in any governmental or public school, institution, or place.

Permits references to God or a Supreme Being in public documents, proceedings, schools, or upon U.S. currency.

H.J. Res. 47. January 15, 1979. Judiciary. Constitutional Amendment—Prohibits deficit spending and increases in the national debt. Provides for the suspension of such prohibition in time of war or national emergency.

Sets forth a schedule for repayment of the national debt.

H.J. Res. 48. January 15, 1979. Judiciary. Constitutional Amendment—Prohibits Congress from enacting legislation which will cause Federal taxation to exceed 15 percent of the gross national product.

Prohibits the making of appropriations in excess of the total estimated revenues of the United States in any fiscal year except in time of war or national emergency.

H.J. Res. 49. January 15, 1979. Judiciary. Constitutional Amendment—Declares the term "person," with respect to due process and equal protection, applicable to human being irrespective of age, health, function or condition of dependency, including the unborn. Prohibits the deprivation of life of an unborn person, except when it is a medical certainty that termination is required to prevent the death of the mother.

H.J. Res. 50. January 15, 1979. Judiciary. Constitutional Amendment—Declares that the President and Vice President shall serve a term of six years, and that no person shall be elected to the office of President more than twice. Declares that Members of the House of Representatives shall serve three-year terms. Limits the number of years a person may serve as a Senator or Representative.

H.J. Res. 51. January 15, 1979. Judiciary. Constitutional Amendment—Declares the term "person," with respect to due process and equal protection, applicable to human beings irrespective of age, health, function or condition of dependency, including the unborn. Prohibits the deprivation of life of an unborn person, except when it is a medical certainty that termination is required to prevent the death of the mother.

H.J. Res. 52. January 15, 1979. Judiciary. Constitutional Amendment—Requires any change in the U.S. tax law to increase Federal revenue to be approved by not less than two-thirds of all Members of Congress.

H.J. Res. 53. January 15, 1979. Judiciary. Constitutional Amendment—Requires the President to review Government revenues and expenditures at specified times and to determine a surtax rate when expenditures exceed revenues to insure that receipts will equal outlays.

Authorizes the suspension of such measures in the case of a grave national emergency declared by Congress.

H.J. Res. 54. January 15, 1979. Judiciary Constitutional Amendment—Prohibits a student from being required to attend a particular school because of his race, creed, or color.

Grants Congress the power to enforce provisions of this amendment by appropriate legislation.

H.J. Res. 55. January 15, 1979. Judiciary. Constitutional Amendment—Allows an item veto by the President of appropriations bills. Requires the President, in signing the bill, to designate the provisions disapproved and return the bill to the House in which it originated. Provides that such bills shall be subjected to the same proceedings as other bills disapproved by the President.

H.J. Res. 56. January 15, 1979. Judiciary. Constitutional Amendment—Deems every human being to be a person from the moment of fertilization.

H.J. Res. 57. January 15, 1979. Judiciary. Constitutional Amendment—Provides for the direct popular election of the President and Vice President of the United States.

H.J. Res. 58. January 15, 1979. Judiciary. Constitutional Amendment—Prohibits deficit spending and increases in the national debt. Provides for the suspension of such prohibition in time of war or national emergency.

Sets forth a schedule for repayment of the national debt.

H.J. Res. 59. January 15, 1979. Judiciary. Constitutional Amendment—Provides that appropriations made by the Congress for any fiscal year shall not exceed the total revenues of the United States for such year, and prohibits spending by, or on behalf of, the United States which exceeds the total revenue for that year.

Authorizes the suspension of such prohibition in time of war or national emergency.

H.J. Res. 60. January 15, 1979. Judiciary. Constitutional Amendment—Prohibits any law increasing the compensation of Senators and Representatives from taking effect earlier than the following Congress.

H.J. Res. 61. January 15, 1979. Judiciary. Constitutional Amendment—Prohibits any Member of Congress sentenced during any Congress for conviction of a felony from continuing to serve as a Member of such Congress after the date of sentencing.

H.J. Res. 62. January 15, 1979. Judiciary. Constitutional Amendment—Limits any increase in Federal spending from the previous fiscal year to the average annual percentage increase in the gross national product for the preceding three years. Permits the suspension of such limitation in time of war or national emergency.

H.J. Res. 63. January 15, 1979. Judiciary. Constitutional Amendment—Requires any change in the U.S. tax law to increase Federal revenue to be approved by not less than two-thirds of all Members of Congress.

H.J. Res. 64. January 15, 1979. Judiciary. Constitutional Amendment—Declares the term "person," with respect to due process and equal protection, applicable to human beings irrespective of age, health, function or condition of dependency, including the unborn. Prohibits the deprivation of life of an unborn person, except under laws permitting medical procedures required to prevent the death of the mother.

H.J. Res. 65. January 15, 1979. Judiciary. Constitutional Amendment—Increases the term of office of a Representative of Congress to four years. Sets forth the procedures applicable when a Representative becomes a candidate for the Senate.

H.J. Res. 66. January 15, 1979. Judiciary. Constitutional Amendment—Prohibits deficit spending and increases in the national debt. Provides for the suspension of such prohibition in time of war or national emergency.

Sets forth a schedule for repayment of the national debt.

H.J. Res. 67. January 15, 1979. Judiciary. Constitutional Amendment—Allows the enactment and repeal of laws, with certain exceptions, by popular vote. Prescribes the petition procedures and requirements for enactment of such laws.

H.J. Res. 68. January 15, 1979. Post Office and Civil Service. Authorizes and requests the President to designate the week beginning on November 18, 1978, as "National Family Week."

H.J. Res. 69. January 15, 1979. Post Office and Civil Service. Designates the square dance as the national folk dance of the United States.

H.J. Res. 70. January 15, 1979. Judiciary. Constitutional Amendment—Permits prayer in public places or institutions. Permits religious instruction in publc places or institutions if provided under private auspices. Prohibits any infringement of the right to pray or to receive religious instruction.

H.J. Res. 71. January 15, 1979. Post Office and Civil Service. Authorizes and requests the President to designate the second week in April of each year as "National Medical Laboratory Week."

H.J. Res. 72. January 15, 1979. Post Office and Civil Service. Authorizes and requests the President to designate May 7 of each year as the "National Day of Prayer."

H.J. Res. 73. January 15, 1979. Judiciary. Constitutional Amendment—States that Congress shall make no appropriations for any fiscal year which exceed the total revenues of the United States for such year. Authorizes the Congress to suspend such requirement by concurrent resolution if the Congress declares war, or the President declares a national emergency.

H.J. Res. 74. January 15, 1979. Judiciary. Constitutional Amendment—Prohibits compelling a student to attend a public school other than the one nearest his residence. Grants Congress the power to enforce by appropriate legislation the provisions of this amendment, and to insure equal educational opportunities for all students wherever located.

H.J. Res. 75. January 15, 1979. Judiciary. Constitutional Amendment—Requires the President to annually compute the gross national product of the United States. Limits the expenditures of the United States to a specified percentage of the gross national product. Requires a balanced Federal budget, except in time of war or national emergency.

H.J. Res. 76. January 15, 1979. Judiciary. Constitutional Amendment—Prohibits deficit spending and increases in the national debt. Provides for the suspension of such prohibition in time of war or national emergency.

Sets forth a schedule for repayment of the national debt.

H.J. Res. 77. January 15, 1979. Judiciary. Constitutional Amendment—Prohibits a justice of the Supreme Court or a judge of any inferior court established by Congress from holding office for more than ten years after: (1) taking office; (2) the Senate last consented to his continuance in office; or (3) the ratification of this amendment, whichever last occurs, unless the President nominates and the Senate consents to a continuance in office.

H.J. Res. 78. January 15, 1979. Judiciary. Constitutional Amendment—Declares vacant the office of any Senator or Representative who fails to be recorded in person on 60 percent of the rollcall votes during any regular session of Congress unless such rollcall votes were missed due to hospitalization required by illness or accident.

H.J. Res. 79. January 15, 1979. Post Office and Civil Service. Authorizes and requests the President to designate May 13 of each year as "American Business Day."

H.J. Res. 80. January 15, 1979. Ways and Means; Interstate and Foreign Commerce. Authorizes the President to call a White House Conference on Long-Term Care to be planned and conducted by the Secretary of Health, Education, and Welfare.

H.J. Res. 81. January 15, 1979. Judiciary. Constitutional Amendment—Requires official Presidential candidates of political parties to be nominated in a closed primary election by direct popular vote.

Designates the person receiving the greatest number of votes in such a primary as the official candidate if such votes equal at least 40 percent of those cast. Requires a runoff election between the two persons receiving the greatest number of votes in the event that no candidate receives such a plurality.

Directs each party to nominate a Vice Presidential candidate within a specified period following the selection of that party's Presidential candidate.

H.J. Res. 82. January 15, 1979. Judiciary. Constitutional Amendment—Prohibits deficit spending and increases in the national debt. Provides for the suspension of such prohibition in time of war or national emergency. Sets forth a schedule for repayment of the national debt.

H.J. Res. 83. January 15, 1979. Judiciary. Constitutional Amendment—Requires the President and the Speaker of the House of Representatives to review Government revenues and expenditures at specified times and to determine a surtax rate when expenditures exceed revenues to ensure that receipts will equal outlays. Authorizes the suspension of such measures in the case of a grave national emergency declared by Congress.

H.J. Res. 84. January 15, 1979. Judiciary. Constitutional Amendment—Prohibits deficit spending and increases in the national debt. Provides for the suspension of such prohibition in time of war or national emergency. Sets forth a schedule for repayment of the national debt.

H.J. Res. 85. January 15, 1979. Judiciary. Constitutional Amendment—Eliminates the force and effect of any treaty provision which denies or abridges any constitutionally enumerated right relating to United States citizens or matters essentially within the domestic jurisdiction of the United States. Predicates the effectiveness of a treaty as internal law of the United States upon the passage of appropriate legislation. Requires executive agreements with foreign powers or international organizations to be made in the manner and to the extent prescribed by law.

H.J. Res. 86. January 15, 1979. Judiciary. Constitutional Amendment—Provides that appropriations made by the Congress for any fiscal year shall not exceed the total revenues of the United States for such year, and prohibits spending by, or on behalf of, the United States which exceeds the total revenue for that year.

Authorizes the suspension of such prohibition in time of war or national emergency.

H.J. Res. 87. January 15, 1979. Judiciary. Constitutional Amendment—Prohibits deficit spending and increases in the national debt. Provides for the suspension of such prohibition in time of war or national emergency.

Sets forth a schedule for repayment of the national debt.

H.J. Res. 88. January 15, 1979. Judiciary. Constitutional Amendment—Establishes a new procedure for the election of President and Vice President, based upon a proportional assignment of electoral votes.

H.J. Res. 89. January 15, 1979. Judiciary. Constitutional Amendment—Prohibits total appropriations from exceeding total estimated revenues for any fiscal year. Authorizes suspension of such prohibition in time of war or national emergency.

H.J. Res. 90. January 15, 1979. Judiciary. Constitutional Amendment—Declares the term "person," with respect to due process and equal protection, applicable to human beings irrespective of age, health, function or condition of dependency, including the unborn. Prohibits the deprivation of life of an unborn person, except under laws permitting medical procedures required to prevent the death of the mother.

H.J. Res. 91. January 15, 1979. Judiciary. Constitutional Amendment—Forbids: (1) any executive agency from issuing a regulation or committing an act not directly authorized by the Congress, under its delegated powers including anything regarding busing; and (2) any United States court from taking any action legislating a new program or type of affirmative action, including busing, not specifically provided for by the Congress.

H.J. Res. 92. January 15, 1979. Foreign Affairs. Directs the President to seek a treaty or international agreement establishing a wildlife preserve for humpback whales in the West Indies.

H.J. Res. 93. January 15, 1979. Judiciary. Constitutional Amendment—Provides for the direct popular election of President and Vice President of the United States.

H.J. Res. 94. January 15, 1979. Judiciary. Constitutional Amendment—Directs the Congress to assure that total Federal outlays during any fiscal year do not exceed a specified percentage of the gross national product for such year. Authorizes suspension of such limitation in time of war or national emergency.

H.J. Res. 95. January 15, 1979. Judiciary. Constitutional Amendment—Directs the Congress to assure that total Federal outlays during any fiscal year do not exceed a specified percentage of the gross national product for such year. Authorizes suspension of such limitation in time of war or national emergency.

H.J. Res. 96. January 15, 1979. Judiciary. Constitutional Amendment—Directs the Congress to assure that total Federal outlays during any fiscal year do not exceed a specified percentage of the gross national product for such year. Authorizes suspension of such limitation in time of war or national emergency.

H.J. Res. 97. January 15, 1979. Judiciary. Constitutional Amendment—Directs Congress to assure that total Federal outlays do not exceed total revenues during any fiscal year. Suspends such prohibition in time of war or national emergency.

H.J. Res. 98. January 15, 1979. Judiciary. Constitutional Amendment—Directs the Congress to assure that total Federal outlays during any fiscal year do not exceed a specified percentage of the gross national product for such year. Authorizes suspension of such limitation in time of war or national emergency.

H.J. Res. 99. January 15, 1979. Judiciary. Constitutional Amendment—Prohibits deficit spending and increases in the national debt. Provides for the suspension of such prohibition in time of war or national emergency.

Sets forth a schedule for repayment of the national debt.

H.J. Res. 100. January 15, 1979. Post Office and Civil Service. Authorizes and requests the President to designate the month of March, 1979, as "Youth Art Month."

H.J. Res. 101. January 15, 1979. Judiciary. Constitutional Amendment—Declares the term "person," with respect to due process and equal protection, applicable to human beings irrespective of age, health, function or condition of dependency, including the unborn. Prohibits the deprivation of life of an unborn person, except when physically verifiable facts establish that termination is required to prevent the death of the mother.

H.J. Res. 102. January 18, 1979. Post Office and Civil Service. Authorizes and requests the President to designate the month of September as "National Sickle Cell Month."

H.J. Res. 103. January 18, 1979. Judiciary. Constitutional Amendment—Directs Congress to assure that the total outlays of the Government during any fiscal year (except for repayment of debt) do not exceed a certain percentage of the average national income for the three prior calendar years.

H.J. Res. 104. January 18, 1979. Judiciary. Constitutional Amendment—Permits the offering of prayers or Biblical scriptures, as long as participation is voluntary, in any governmental or public school, institution, or place.

Permits references to God or a Supreme Being in public documents, proceedings, schools, or upon U.S. currency.

H.J. Res. 105. January 18, 1979. Judiciary. Constitutional Amendment—Prohibits deficit spending and increases in the national debt. Sets forth a schedule for repayment of the national debt.

H.J. Res. 106. January 18, 1979. Judiciary. Constitutional Amendment—Establishes a new procedure for the election of President and Vice President, based upon a proportional assignment of electoral votes.

H.J. Res. 107. January 18, 1979. Post Office and Civil Service. Authorizes and requests the President to designate the period of July 16 through July 24 of each year as "United States Space Observance."

H.J. Res. 108. January 18, 1979. Judiciary. Constitutional Amendment—Prohibits depriving any human being, from the moment of conception, of life without due process of law or denying equal protection of the laws. Prohibits depriving any human being of life on account of illness, age, or incapacity.

H.J. Res. 109. January 18, 1979. Judiciary. Constitutional Amendment—Requires Congress to assure that total Federal outlays do not exceed total receipts during any fiscal year. Provides for an exemption from such requirement in time of national emergency. Sets forth a schedule for the institution of such requirement. Directs the President to make recommendations to the Congress for the discharge of the Federal debt.

H.J. Res. 110. January 18, 1979. Post Office and Civil Service. Authorizes and requests the President to designate May 1, 1979, as "National Bicycling Day."

H.J. Res. 111. January 18, 1979. Judiciary. Constitutional Amendment—Provides that appropriations made by the Congress for any fiscal year shall not exceed the total revenues of the United States for such year, and prohibits spending by, or on behalf of, the United States which exceeds the total revenue for that year.

Authorizes the suspension of such prohibition in time of war or national emergency.

H.J. Res. 112. January 18, 1979. Post Office and Civil Service. Authorizes and requests the President to commend the United States Jaycees, the Saint Albans Jaycees, and Deere and Company, for their part in recognizing the outstanding contributions of the young American farmer to the greatness of the United States through the young farmer program.

H.J. Res. 113. January 18, 1979. Judiciary. Constitutional Amendment—Provides for enactment and repeal of laws by popular vote. Prescribes the petition procedures and requirements for enactment of such laws.

H.J. Res. 114. January 18, 1979. Judiciary. Constitutional Amendment—Limits the consecutive Congresses a person may serve as a Senator or Member of the House of Representatives.

H.J. Res. 115. January 18, 1979. Judiciary. Constitutional Amendment—Permits voluntary prayer in public buildings.

H.J. Res. 116. January 18, 1979. Judiciary. Constitutional Amendment—Declares the term "person," with respect to due process and equal protection, applicable to human beings irrespective of age, health, function or condition of dependency, including the unborn. Prohibits the deprivation of life of an unborn person, except under laws permitting medical procedures required to prevent the death of the mother.

H.J. Res. 117. January 18, 1979. Post Office and Civil Service. Designated "The Stars and Stripes Forever" as the National march of the United States.

H.J. Res. 118. January 18, 1979. Post Office and Civil Service. Authorizes and requests the President to designate the week beginning on the Sunday preceding the fourth Thursday in November of each year as "National Family Week."

H.J. Res. 119. January 18, 1979. Foreign Affairs. Expresses the United States determinations (1) to prevent the aggressive activities of the Soviet Union and Cuba in the Western Hemisphere, (2) to prevent the creation of externally supported Cuban military capability, and (3) to work with the Organization of American States for hemisphere security.

H.J. Res. 120. January 18, 1979. Foreign Affairs. Declares the objective of the United States to commend the Cuban "Declaration of Freedom" to Cuban exiles.

H.J. Res. 121. January 28, 1979. Post Office and Civil Service. Authorizes and requests the President to designate January 28, 1980, as "Day of Marti, Apostle of Liberty."

H.J. Res. 122. January 18, 1979. Foreign Affairs. Directs the United States to work within the third United Nations Conference on the Law of the Sea to establish an international organization for the conservation and protection of whales.

Directs the Department of State to undertake a series of bilateral and multilateral initiatives with nations having an interest in whales in order to achieve whale conservation as soon as possible.

H.J. Res. 123. January 18, 1979. Judiciary. Constitutional Amendment—Prohibits deficit spending and increases in the national debt. Sets forth a schedule for repayment of the national debt.

H. Con. Res. 1. January 15, 1979. Calls for a joint session of Congress to receive communications of the President.

H. Con. Res. 2. January 15, 1979. Judiciary. Establishes a Commission on Legislative-Judicial Relations in the Congress to conduct a study of Article III, section 2, of the Constitution relating to the authority of Congress to limit the appellate jurisdiction of the Supreme and inferior courts and other related issues.

H. Con. Res. 3. January 15, 1979. Merchant Marine and Fisheries. Declares it the sense of Congress that "Our American Merchant Marine March" as written and composed by Earl W. Clark shall be recognized as the official march of the American merchant marine.

H. Con. Res. 4. January 15, 1979. Interstate and Foreign Commerce. Expresses the sense of Congress that standards should be developed in the motion picture and broadcasting industries to prevent the defamation of ethnic, racial, and religious groups in films and programs which portray such groups.

H. Con. Res. 5. January 15, 1979. Armed Services; Foreign Affairs. Declares it the sense of the Congress that the President shall establish a Presidential Commission or designate an already existing body to focus on the need for, and the appropriateness of, certain proposed changes in the United States land-based leg of the Triad.

H. Con. Res. 6. January 15, 1979. Administration. Authorizes the Joint Committee on the Library to procure a bust or statue of Martin Luther King, Jr., to be placed in a suitable location in the Capitol.

H. Con. Res. 7. January 1, 1979. Rules. Directs that the House of Representatives may meet only on calendar days during certain periods of time, with exceptions.

H. Con. Res. 8. January 15, 1979. Foreign Affairs. Expresses the sense of Congress that the United States continue to provide world leadership in working for modernization and reform of the United Nations.

Requests the President to direct the Department of State and the Ambassador to the United Nations to formulate proposals for the more effective functioning of the United Nations and to report to Congress.

H. Con. Res. 9. January 15, 1979. Ways and Means. Expresses Congressional disapproval of the proposed Internal Revenue Service procedure relating to private tax-exempt schools.

H. Con. Res. 10. January 15, 1979. Foreign Affairs. Declares it the sense of the Congress that the Secretary of State should seek the good offices of the Secretary General of the United Nations for the purpose of establishing a special investigatory commission charged with the responsibility of securing a full accounting of Americans listed as missing in Southeast Asia.

H. Con. Res. 11. January 15, 1979. Ways and Means. Expresses the sense of Congress that the Internal Revenue Service should not adopt a proposed revenue procedure on private tax-exempt schools.

H. Con. Res. 12. January 15, 1979. Foreign Affairs. Prohibits the President from taking any action that would affect the validity of certain post-World War II treaties, without the approval of Congress.

H. Con. Res. 13. January 15, 1979. Interstate and Foreign Commerce. Expresses the disapproval of the Congress with respect to the Federal motor vehicle safety standard transmitted to Congress on June 30, 1977.

H. Con. Res. 14. January 15, 1979. Post Office and Civil Service. Expresses the sense of Congress that the Postal Service should not reduce the frequency of mail service for any user below the frequency of service in effect on June 1, 1977.

H. Con. Res. 15. January 15, 1979. Administration. Establishes the Claude Pepper Senior Citizen Congressional Intern program which authorizes each Member of Congress to hire each year one senior citizen intern to serve within the District of Columbia for one of two two-week periods.

H. Con. Res. 16. January 15, 1979. Foreign Affairs. Declares it the sense of Congress that it shall be the policy of the United States to require repayment of delinquent debts of foreign nations. Declares it the sense of Congress that the Department of the Treasury shall submit a list of such debts to the Congress and make arrangements with foreign nations for such repayment.

H. Con. Res. 17. January 15, 1979. Education and Labor. Expresses the sense of Congress that there shall be a national policy to recognize the inherent right of all citizens, regardless of physical disability, to free use of the man-made environment.

H. Con. Res. 18. January 15, 1979. Administration. Directs the Joint Committee of Congress on the Library to consult with the Architect of the Capitol for the purpose of procuring a bronze facsimile of the original documents of the Constitution of the United States which are deposited with the National Archives.

States that these items are to be displayed in an appropriate place in the Capitol.

H. Con. Res. 19. January 15, 1979. Foreign Affairs. Declares the sense of Congress that the President shall take steps to secure freedom of worship in the Soviet Union and Eastern Europe, and to raise the question of Stalin's liquidation of such churches in the United Nations.

H. Con. Res. 20. January 15, 1979. Foreign Affairs. Declares it the sense of Congress that it shall be the policy of the United States to require repayment of delinquent debts of foreign nations. Declares it the sense of Congress that the Department of the Treasury shall submit a list of such debts to the Congress and make arrangements with foreign nations for such repayment.

H. Con. Res. 21. January 15, 1979. Rules. Invites the Chief Justice of the United States to appear before a joint session of Congress to report on the state of the judiciary.

H. Con. Res. 22. January 18, 1979. Education and Labor. Expresses the sense of Congress that the new Department of Labor health and safety training regulations for miners places an undue burden on small store, sand, and gravel surface mining operations and should not apply to operations with 35 or fewer employees.

H. Con. Res. 23. January 18, 1979. Foreign Affairs. Declares it the sense of Congress that it shall be the policy of the United States to require repayment of delinquent debts of foreign nations. Declares it the sense of Congress that the Department of the Treasury shall submit a list of such debts to the Congress and make arrangements with foreign nations for such repayment.

H. Con. Res. 24. January 18, 1979. Government Operations. Requests the President to submit a balanced budget to the Congress for the first fiscal year following the adoption of this resolution.

H. Con. Res. 25. January 18, 1979. Foreign Affairs. Prohibits the President from taking any action that would affect the validity of certain post-World War II treaties, without the advice and consent of the Senate or approval of Congress.

H. Res. 1. January 15, 1979. Chooses the Clerk, Sergeant at Arms, Doorkeeper, Postmaster, and Chaplain of the House of Representatives.

H. Res. 2. January 15, 1979. Informs the Senate that a quorum of the House of Representatives has assembled, and that the Speaker and Clerk of the House of Representatives for the 96th Congress have been elected.

H. Res. 3. January 15, 1979. Requires the Speaker of the House to appoint a committee of three Members of the House of Representatives to join with a committee on the part of the Senate to notify the President that a quorum of each House has been assembled and that Congress is ready to receive any communication that he may be pleased to make.

H. Res. 4. January 15, 1979. Instructs the Clerk to inform the President that the House of Representatives has elected the Speaker and Clerk of the House of Representatives of the 96th Congress.

H. Res. 5. January 15, 1979. Amends the Rules of the House of Representatives to allow: (1) postponement of proceedings; (2) audio and video broadcasting of House proceedings; (3) a vote on public disclosure of committee information; (4) certain appointments to select or conference committees; (5) a committeee to close a hearing in certain cases; and (6) the Speaker to reduce the period in which a rollcall vote may be taken without intervening business. Requires: (1) copies of any measure reported by a committee to be available for at least three days before consideration; and (2) mathematically consistent amendments to concurrent resolutions on the budget.

H. Res. 6. January 15, 1979. Authorizes the gross yearly compensation of five named minority party employees of the House of Representatives pursuant to the Legislative Pay Act of 1929.

H. Res. 7. January 15, 1979. Sets forth the rate of pay of the Chaplain of the House of Representatives.

H. Res. 8. January 15, 1979. Authorizes the administration of the oath of office to the Honorable Stewart B. McKinney at Fairfield, Connecticut.

H. Res. 9. January 15, 1979. Sets forth the daily hour of meeting in the House of Representatives for the 96th Congress.

H. Res. 10. January 15, 1979. Sets forth the conditions under which the House of Representatives will release to any court in the United States papers and documents of the House which have been subpoenaed as evidence by such a court, and the procedure to be followed by a Member, officer, or employee of the House who has been subpoenaed to appeal before a court.

H. Res. 11. January 15, 1979. Expresses the sorrow of the House of Representatives on the death of Representative Leo J. Ryan.

H. Res. 12. January 15, 1979. Expresses the sorrow of the House of Representatives on the death of Representative William A. Steiger.

H. Res. 13. January 15, 1979. Rules. Establishes in the House of Representatives a Select Committee on Narcotics Abuse and Control to review problems of narcotics abuse, including enforcement, international trafficking, organized crime, and the criminal justice system with respect to narcotic law violations.

H. Res. 14. January 15, 1979. Rules. Amends the Rules of the House of Representatives to require that each introduced bill and resolution contain a statement of the constitutional basis of authority.

H. Res. 15. January 15, 1979. Rules. Amends the Rules of the House of Representatives to require that reports accompanying public bills or joint resolutions which authorize or appropriate specific sums for a fiscal year contain a computation of the effects of such legislation on the taxes of the individual taxpayer.

H. Res. 16. January 15, 1979. Rules. Creates within the House of Representatives a special committee to investigate the legal, political, and diplomatic status of lands which were subject to grants from the King of Spain and the Government of Mexico prior to the acquisition of the American Southwest as a result of the Treaty of Guadalupe-Hidalgo.

H. Res. 17. January 15, 1979. Foreign Affairs. Expresses the sense of the House of Representatives that the United States Olympic Committee take the necessary measures to have the International Olympic Committee transfer the 1980 summer Olympics to a site outside the Soviet Union, and that the United States should consider withdrawal from such Olympics and establishing an alternate competition if such transfer does not occur.

H. Res. 18. January 15, 1979. Foreign Affairs. Expresses the sense of the House of Representatives that: (1) the United States should continue to work for a law of the sea treaty; (2) such treaty should assure certain traditional freedoms of the sea and also provide protection for the marine environment; (3) an international authority should be created to regulate the exploitation of deep ocean minerals; and (4) a Common Heritage Fund to help developing nations fight pollution should be established from such ocean mineral revenues.

H. Res. 19. January 15, 1979. Banking, Finance and Urban Affairs. Declares it the sense of the House that the national motto, "In God We Trust," shall be reaffirmed and shall continue to be engraved and printed on currency.

H. Res. 20. January 15, 1979. Rules. Amends the Rules of the House of Representatives to require that reports accompanying public bills or joint resolutions which authorize or appropriate specific sums for a fiscal year contain a computation of the effects of such legislation on the taxes of the individual taxpayer.

H. Res. 21. January 15, 1979. Rules. Amends the Rules of the House of Representatives to establish a standing Committee on Internal Security to investigate and report on Communist and other subversive activities affecting the internal security of the United States.

H. Res. 22. January 15, 1979. Merchant Marine and Fisheries. Expresses the sense of the House of Representatives that any right to, title to, or interest in property of the United States Government agencies in the Panama Canal Zone or any real property and improvements thereon located in the zone should not be conveyed, relinquished, or otherwise disposed of to any foreign government without specific authorization of such conveyance, relinquishment, or other disposition by an Act of Congress.

H. Res. 23. January 15, 1979. Rules. Amends the Rules of the House of Representatives to establish a standing Committee on Internal Security to investigate and report on Communist and other subversive activities affecting the internal security of the United States.

H. Res. 24. January 15, 1979. Rules. Amends the Rules of the House of Representatives to require that reports accompanying each public bill or joint resolution, except revenue measure, contain estimates of the costs, to both the public and private sectors, of enacting into law the measure reported.

H. Res. 25. January 15, 1979. Rules. Amends the Rules of the House of Representatives to require that reports accompanying each public bill or joint resolution contain an evaluation of the paperwork incurred in enacting the measure and an estimate of the costs involved in carrying out such paperwork and recordkeeping.

H. Res. 26. January 15, 1979. Rules. Amends the Rules of House of Representatives to require that the Committee on Standards of Official Conduct report a resolution calling for a vote on the expulsion of any Member who has been convicted of a crime for which a sentence of two years or more imprisonment may be imposed, if such conviction has become final.

H. Res. 27. January 15, 1979. Standards of Official Conduct. Amends the Rules of the House of Representatives to require that any Member who has been convicted of a crime and sentenced to two or more years in prison and whose conviction is final shall refrain from participation in any business of the House until after the completion of all prison terms and payment of all fines resulting from such conviction.

H. Res. 28. January 15, 1979. Rules. Amends the Rules of the House of Representatives to eliminate proxy voting in committees.

H. Res. 29. January 15, 1979. Rules. Establishes within the House of Representatives a Select Committee on the Committee System to study the establishment, jurisdiction, and operation of House committees.

H. Res. 30. January 15, 1979. Rules. Establishes within the House of Representatives a Select Committee to Investigate Illegal or Unethical Practices of the Internal Revenue Service.

H. Res. 31. January 15, 1979. Foreign Affairs. Requests the President to express U.S. concern for Valentyn Moroz to the Soviet Union.

H. Res. 32. January 15, 1979. Rules. Establishes in the House of Representatives a Select Committee on Inflation to investigate the major causes of inflation and methods which have been and can be effective in controlling inflation.

H. Res. 33. January 15, 1979. Rules. Establishes in the House of Representatives a permanent Select Committee on Handicapped Individuals to study means and methods of encouraging the development of public and private programs that will assist handicapped persons, and to develop policies to encourage coordination of governmental and private programs designed to deal with problems of the handicapped.

H. Res. 34. January 15, 1979. Rules. Requests the Speaker of the House of Representatives to establish a bipartisan Task Force on Federal Regulatory Practices to investigate and evaluate the success and effect of Federal regulations.

H. Res. 35. January 15, 1979, Administration. Authorizes the expenditure of funds for investigations and studies to be conducted by the House Committee on Veterans' Affairs.

H. Res. 36. January 15, 1979. Rules. Amends the Rules of the House of Representatives to establish a standing Committee on Internal Security to investigate and report on Communist and other subversive activities affecting the internal security of the United States.

H. Res. 37. January 15, 1979. Administration. Authorizes each Member of the House of Representatives, including the Resident Commissioner from Puerto Rico and the Delegates from Guam, the Virgin Islands, and the District of Columbia, to hire for two weeks of each year two senior citizen interns to serve within the District of Columbia.

H. Res. 38. January 15, 1979. Rules. Establishes a Select Committee on Population to investigate and study various regional, national and international population-related issues and to develop the means by which the United States can cooperate with nations and international agencies in addressing such issues.

H. Res. 39. January 15, 1979. Rules. Establishes in the House of Representatives a Select Committee on Inflation to investigate and study the causes of inflation in the United States, particularly the effect of wages and prices on the cost of goods and services.

H. Res. 40. January 15, 1979. Rules. Amends the Rules of the House of Representatives to require that all bills and resolutions have titles which accurately reflect their contents.

H. Res. 41. January 15, 1979. Administration. Declares that in any case in which two or more Members of the House of Representatives pay the basic pay of any individual through disbursements from the clerk-hire fund, such individual shall be considered to be on the payroll of only one Member.

H. Res. 42. January 15, 1979. Banking, Finance and Urban Affairs. Declares it the sense of the Congress that the national motto, "In God We Trust," shall be reaffirmed and shall continue to be engraved and printed on coins and currency.

H. Res. 43. January 15, 1979. Post Office and Civil Service. Declares it the sense of Congress that the phrase "Under God," shall be reaffirmed and shall continue to be part of the Pledge of Allegiance.

H. Res. 44. January 15, 1979. Judiciary. Refers H.R. 897 to the Chief Commissioner of the United States Court of Claims for further proceedings.

H. Res. 45. January 18, 1979. Administration. Authorizes funds for the further expenses of the investigations and studies to be conducted by the Committee on Small Business.

H. Res. 46. January 18, 1979. Directs that a specified sum be paid from the contingent fund of the House of Representatives as a gratuity to the widow of a dceased Representative.

H. Res. 47. January 18, 1979. Directs that a specified sum be paid from the contingent fund of the House of Representatives as a gratuity to the children of a deceased Representative.

H. Res. 48. January 18, 1979. Rules. Amends the Rules of the House of Representatives to establish a standing Committee on Internal Security to investigate and report on Communist and other subversive activities affecting the internal security of the United States.

H. Res. 49. January 18, 1979. Sets forth the procedure for the allocation of funds for the continuation of necessary projects, activities, operations, services, and salaries of House standing and select committees.

H. Res. 50. January 18, 1979. Administration. Authorizes the printing of the publication entitled "History of the Committee on the District of Columbia: The Planning, Development, Government, and Institutions of the Nation's Capital (1808–1978)" as a House document.

H. Res. 51. January 18, 1979. Administration to provide for the management and operation of the House of Representatives beauty and barber shops on a contract basis beginning with the 97th Congress.

H. Res. 52. January 18, 1979. Administration. Authorizes the printing of the volume entitled "History of the Committee on Science and Technology, 1959–1979" as a House document.

H. Res. 53. January 18, 1979. Rules. Establishes in the House of Representatives a Select Committee on the Outer Continental Shelf to conduct a continuing study and review of problems, policies, and programs related to the management and exploitation of energy resources in the Outer Continental Shelf.

EXTENSIONS OF REMARKS

WYOMING FINALIST, VOICE OF DEMOCRACY CONTEST

HON. RICHARD BRUCE CHENEY

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Monday, March 12, 1979

● Mr. CHENEY. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and their ladies auxiliary conduct a Voice of Democracy Contest. This year more than 250,000 secondary school students throughout the Nation participated in the contest, competing for five national scholarships. The theme for this year's contest was "Why I Care About America."

I am honored to announce that Pamela Alane Olson from Saratoga was chosen as Wyoming's winner. Pam is a junior at Platte Valley High School and hopes to attend the University of Wyoming to study political science and law. Pamela's winning speech exemplifies her outstanding character and I am proud to be able to share it with my colleagues.

WHY I CARE ABOUT AMERICA

(By Pamela Alane Olson)

America, the beautiful, the home of the free and the brave. We pay tribute to America many times each week by saying the Pledge of Allegiance or singing "The Star Spangled Banner." But how often do we consider why we care about America? Everyone finds it easy to complain about this nation, ignoring the fact that America's advantages far outweigh any of her fallibilities.

First, our country is no longer divided by geography or culture. America has surmounted the physical barriers and the obstacles of language, religion, and race that today, still impede other nations. This is a reason for me to care about America. I can be proud of my country because of her strong beliefs and position.

Then I must consider the freedoms every citizen receives from the Bill of Rights. Everyone recognizes the freedoms of religion, of speech, of the press, and the right of petition. These freedoms are responsible for the other freedoms we forget to think about—freedom to obtain as much education as our minds demand, freedom to choose the job we desire, freedom to create what our souls dictate, and the freedom to be an individual.

Education is compulsory in America, and as a result we have one of the highest literacy rates in the world. But education doesn't stop after we've learned to read, write, and do arithmetic; each of us has the freedom to push his mind to its fullest capacity. Our job selection is a matter of our judgment; we are not forced into a government assigned job "for the good of our country." This freedom is the basis, not only for the free enterprise system, but our nation as well.

Creativity is admired and encouraged in the United States. We can see what an advantage this has been by looking at our achievements in the arts and sciences. We Americans are not restricted in what we can create, resulting in the healthiest climate in the world for technological and artistic accomplishments.

Perhaps the freedom we most take for granted is our freedom of individuality. America gives us the alternatives of following tradition or of choosing a different path. Tradition is the foundation of human life, and yet, in our country, the individual, the man who thinks for himself, is admired. Independence in thought is one of the reasons we are a strong, liberated nation. This beneficial environment for learning, creating and free thinking is another reason I care about America.

The United States is a leader in world affairs. With all of her power and prestige, this country could easily turn its back on other nations. America won't. Our nation strives to share the liberty and prosperity it enjoys. America has rushed to the aid of defenseless and underdeveloped countries time and time again. Our nation's stand on human rights has hurt our trade and diplomatic relations, but America refuses to compromise on this matter of conscience. I appreciate my country's generosity and her conviction.

I have so many reasons to love and be proud of America. We all must realize, though, that along with the pleasures come the responsibilities of being an American. No one can ever forget his duty to be involved in the government and to vote. Our country's strength depends upon its citizens' participation.

My one enduring responsibility is to stand up for America, to show I care. Instead of cutting our nation down, let's build it up! Let everyone know why you care about America. Maybe it will open their eyes to the joys of living in the United States.

We Americans have the inventiveness, the love of country, and the spirit to look to the future and smile. Every one of us needs to realize the reasons we care about America. We also need to prove our affection.

Next time I say the Pledge of Allegiance or sing a hymn honoring my country, I'll do it like I mean it, so everyone will know I do care about America.●

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

TAIWAN LEGISLATION AND THE CHINA POLICY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 12, 1979

● Mr. DERWINSKI. Mr. Speaker, the House debated the Taiwan legislation and the broader aspects of the China policy last Thursday. We will conclude our debate on this subject tomorrow.

Therefore, I believe it is appropriate to call the attention of the Members to an editorial in the Chicago Tribune of March 6, discussing the defects of the financial agreements between the Carter administration and the rules of the People's Republic of China.

$100 MILLION WORTH OF REALITY

The Carter administration's China policy which purports to recognize "reality," is beginning to look like a magic act. First, 17 million Taiwaneese vanished from the official American memory. Now nearly $100 million has been similarly vaporized.

The money is the amount written off by Treasury Secretary Michael Blumenthal in his trade talks in Peking. A key issue in the talks was the return by both sides of frozen assets held since the Korean War—the Communist Chinese government froze $196.8 million in private American property ranging from missionaries' belongings to a huge power plant, while the United States impounded $80.5 million of Chinese assets. But instead of insisting on a 100 per cent release on both sides, Mr. Blumenthal negotiated a deal in which the U.S. returns all of China's $80.5 million while receiving in return only 40 per cent of our $196.8 million.

Mr. Blumenthal—who is accustomed to dealing in billions—probably considered the $100 million a fairly small price to pay for normalizing trade with one fourth of the world's population on the assumption that we might earn far more than that in the future. At the same time, the Americans who will be getting 40 cents on the dollar are probably overjoyed to see any money at all after all these years.

Still, it seems an inauspicious beginning to confirm what the Chinese undoubtedly already believe—that we are a passel of suckers, ripe for the picking.

And, too, it may take more years than Mr. Blumenthal thinks to recoup that $100 million loss. As Japanese firms are discovering, China is not a particularly wealthy nation in terms of ready cash—a number of major Japanese development projects are being delayed apparently because the Chinese are having difficulties coming up with around $2 billion in hard currency to pay for them. China is a largely agrarian country lacking either the cash or the industrial products to pay for the foreign technology it so sorely needs. About the only manufactured goods the Chinese have in abundance are secondhand Mao buttons.

This means that any U.S. company planning to enter the China market will have to make an enormous capital commitment at the beginning and hope for a return later when Chinese industries begin turning out goods and bringing in profits. That will involve sinking not millions, but billions into China—money that could be frozen in the future just as in the past if relations turn sour. So the U.S. businessmen who have been rubbing their hands over the world's most populous market might pause and consider the price of Chinese reality.●

AID RESPONDS TO CHARGES ON MISUSED FUNDS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 12, 1979

● Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues a letter I have received from John J. Gilligan, Administrator of the Agency for International Development, in response to an inquiry from me regarding a Jack Anderson column of February 9, 1979, which detailed instances of misuse of AID funds.

It seems to me that it is important to know that the instances of misuse cited in Jack Anderson's column were discovered by an internal AID audit initiated by Administrator Gilligan and that some corrective actions have been taken.

A copy of the Jack Anderson column and my correspondence with Administrator Gilligan follows:

[From the Washington Post, Feb. 9, 1979]

AID'S SPENDTHRIFT HABITS UNCOVERED

(By Jack Anderson)

Just about every nation in real or apparent need has received aid from the United States. The handouts have been channeled through the Agency for International Development (AID), which has carefully disbursed the biggest bucks to friendly governments. The cash, theoretically, has helped improve U.S. influence abroad.

This hardheaded approach has always been the selling point that got AID appropriations through Congress—$38 billion since 1961. Any suggestion of simpleminded, do-good extravagance is enough to arouse the wrath of conservative budgetcutters on Capitol Hill.

Accordingly, AID officials usually have maintained close supervision over the way recipients spend their funds. But there is disturbing evidence that they are far less tightfisted when it comes to the money they spend on themselves.

Recent internal audits turned up shocking examples of high living, sloppy recordkeeping, disregard of agency guidelines and just plain waste in the handling of administrative funds. AID's operating expenses are now about $250 million a year.

Some of the agency's 71 missions overseas are run efficiently, but certain abuses are widespread. Telephones and travel funds are used for personal and unofficial purposes. Lavish improvements are made to mission offices without authorization from headquarters. The luxurious, servant-master lifestyle of some mission directors makes a mockery of the poverty programs they are supervising.

Here are some of the cases the auditors uncovered:

Top officials of the Pakistan mission have treated their administrative budgets like personal slush funds. Richard Cashin, who took over as mission director in 1977, put the official AID car and chauffeur at his family's beck and call; auditors found records of daily trips to "food markets, jewelry shops, a handicraft center, the American Women's Club sales outlet, rug dealers, beauty shops and similar establishments." The deputy mission director also took the opportunity to cash in on public funds by employing two full-time gardeners at his home.

Reflecting their bosses' cavalier attitude toward the taxpayers' money, single employes and childless couples at the Pakistan mission occupy four-bedroom houses with five or six air conditioners. The auditors, however, were able to keep the mission from spending $60,000 for 100 clothes dryers, pointing out that "for most of the year the air is bone-dry." The mission reason for requesting the appliances was that staff morale would suffer if AID employes couldn't keep up with the Joneses at the American embassy, which issues dryers to its personnel.

When Irving Tragen took over the Panama AID mission in 1975, he added $6,668 worth of security devices to the official residence, rented an alarm system and hired a full-time guard. He used AID funds to buy a stereo set and color television, and small items such as a shower head and bathroom scale. The deputy director also purchased a bar, an ice-making machine and a barbecue with public money.

General Accounting Office (GAO) investigators found that the Honduras mission had owned an airplane since 1965; the plane's operating and maintenance expenses ran $32,000 a year. Mission officials explained they needed a plane to inspect AID projects at rugged Honduran outposts. They sold the plane after GAO's audit, and now rent aircraft as needed.

In violation of agency regulations the Kenya mission relocated its offices to the top eight floors of a new office building without getting clearance from Washington. The move cost $151,000. Nor was authorization obtained for $28,000 worth of improvements to the mission director's residence, including landscaping, remodeling the kitchen and constructing a laundry room.

The only AID official to be relieved of his position as a result of the audits was Charles J. Nelson, director of the Kenya mission. The other profligate officials were reprimanded at most, although the agency now is trying to get back some of the improperly spent funds.

Auditors told our associate Peter Grant that the pattern of waste in a particular AID mission usually reflects the mission director's attitude.

If a director is "on the cocktail circuit," one auditor said, the mission's administrative expenditures are likely to be carelessly handled.

Foonote: AID officials in Washington assured us that accounting and bookkeeping procedures are being tightened to prevent future abuses. But one GAO accountant said, "They've still got a long way to go."

FEBRUARY 12, 1979.

Hon. JOHN J. GILLIGAN,
Administrator, Agency for International Development, Washington, D.C.

DEAR MR. ADMINISTRATOR: On Friday, February 9, 1979, the Jack Anderson column in the Washington Post carried a story about AID funds spent on AID personnel overseas.

I would like to know whether the cases mentioned, including Pakistan, Panama and Kenya, are accurate and whether you feel that any wrongdoing or poor discretion was committed in the instances recounted.

I would appreciate an early reply to this letter.

With best regards.

Sincerely yours,
LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

AGENCY FOR INTERNATIONAL DEVELOPMENT,
Washington, D.C. March 6, 1979.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of February 12, 1979.

The Anderson column of February 9, 1979, on A.I.D. selectively draws accurately from a series of reports of the Auditor General of this Agency. These reports were transmitted on a monthly basis, as published, to the House International Relations Committee. Additionally, these monthly transmittals included reports of many of the corrective actions as they occurred. Thus the Anderson column is a selective extraction of items aired many months after the reports themselves had been regularly provided to the Congress. Mr. Anderson chose not to mention a series of corrective actions resulting from these reports, many of which had also been regularly reported to the Congress.

For your information these corrective steps included a number of disciplinary actions which have not been included in our routine reports provided to the Congress. Specifically, these have ranged from outright dismissal of one Mission Director from his post to letters of reprimand to three others, to bills of collection against a number of individuals for recovery of public funds improperly or incorrectly disbursed by them or under their authority.

It may be of interest to you to know that the reports themselves are the result of my directive of December, 1977, to the Auditor General to undertake as a matter of priority a review of the administration of A.I.D. overseas offices and missions with strict emphasis upon efficiency, accountability and adherence to Agency rules, regulations and policies. I took this action against a background of a number of indications reaching me from various sources that such a detailed review was necessary.

You ask if the Anderson column is accurate, if I believe wrongdoing or indiscretion was committed in the instances cited in the column. In one instance I believe I was dealing with a clear-cut case of wrongdoing. In the others, I believe the violations uncovered by the Auditor General can be variously described as stemming from poor judgment, indiscipline in an administrative sense, to simple negligence.

While I do not welcome something like the Anderson column itself, I do welcome the chance to make clear to you, Mr. Chairman, the fact that, however incomplete and unbalanced, it was a report on A.I.D.'s own internal efforts to detect, report fully upon and correct its administrative deficiencies.

If I may be of any further assistance, please do not hesitate to call on me.

Sincerely yours,

JOHN J. GILLIGAN.●

DISCOVERING THE ELDERLY

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 12, 1979

● Mr. PEPPER. Mr. Speaker, as chairman of the Select Committee on Aging, I am pleased that the Congress is gaining increased recognition for being aware of the problems and needs of our older citizens.

Recently, Tom Fiedler, the Washington reporter of the Miami Herald, noted in his weekly column that congressional awareness of older Americans is reflected in the large number of requests that you receive for appointments to the House Select Committee on Aging. I would like to share this article which appeared in the Miami Herald on March 4, 1979, under the title "Congress Is Discovering the Elderly":

CONGRESS IS DISCOVERING THE ELDERLY

Some wag once said that the most common characteristic of a successful politician is the ability to sense which way the wind is blowing just before it knocks him over.

That's actually not a bad characteristic to nurture. It's virtually certain that a politician who is ideologically too far out in front of his constituents is in real danger of being rejected as a radical or a dreamer.

The attics of history are cluttered with recent examples: politicians like J. William Fulbright, Paul Douglas, or, perhaps, Clifford Case.

Likewise, the politician who lags too far behind will be blown over (to complete my metaphor) in favor of someone more tuned to the attitudes of the majority. George Wallace comes immediately to mind; perhaps Chicago's ousted Mayor Bilandic, heir to the Daley machine, is another example.

The survivors are those who can trim their attitudes to the prevailing political winds.

I mention all this as predicate to my theory that an observer can learn a lot about what the public's mood is by watching a politician go through this "trimming" process.

The process may include speeches, votes, and press releases. But one of the best indicators is the biennial scramble for committee assignments in the House of Representatives.

New and old members—at a time when they are presumably in close touch with The People—pull whatever strings they can to snare seats on "in" committees that will almost guarantee re-election.

My theory is that an observer can accurately infer the issues that are of major concern to American voters by seeing which committees are most keenly sought. No politician in his right mind would want to be caught laboring away on a committee that considered issues his constituents cared nothing about.

The interesting thing is that as public moods change, a committee that is "in" one year could be "out" the next.

For example, only four years ago congressmen showed keen interest in snaring seats on either the Judiciary Committee or the Ethics Committee. The reason: Government reform was high on the public's agenda in the wake of Watergate and Spiro Agnew's resignation.

But the mood has shifted. This year, in contrast, not a single member of Congress requested a seat on the Ethics Committee. Many of those on it tried to get off. And, for the first time ever, the House Judiciary Committee—which gained national exposure when considering impeachment articles against Richard Nixon—had to draft members to fill its quota.

What, then, is the "in" issue for the 1979–80 Congress?

Aging.

That's right. Those issues affecting the elderly, such as retirement, discrimination, health care, and crime. As proof of that I offer the House Select Committee on Aging.

Since its creation on a shoe-string budget four years ago, the Aging Committee has almost matched Resorts International as a boom industry. Its membership has soared from 20 in 1975 to 45 today—making it among the three biggest committees in the House.

That only tells part of the story. The Aging Committee is easily the fastest growing in House history. In the last year alone, the committee leaped from 34 to 45 members despite written appeals from House Speaker Thomas P. "Tip" O'Neill to his leadership circle to hold committee sizes and budgets to last year's levels.

O'Neill personally, however, ordered an exception for the Aging Committee. His aide, Linda Melconian, said O'Neill was compelled to expand the panel because of "overwhelming interest" on the part of congressmen.

And even with the additional 11 members, she said O'Neill had to turn down about 100 others who requested a seat. Why the boom?

"Most people gave two reasons," she said. "First they would stress expertise in some related issue. Then they'd give a political reason—such as having a lot of senior citizens in their districts."

Miami congressman Claude Pepper, 78, the man who presides over this burgeoning empire, agrees. Just as people became absorbed in women's suffrage 60 years ago and in removing racial barriers a generation ago, Pepper says there is a mood sweeping the country that age discrimination should also be stopped.

The Select Committee on Aging, with its widely publicized effort to end mandatory retirement last Congress, is the focal point of that battle.

"This committee is an exciting place to be right now," said staff director Robert Weiner in explaining the sudden growth. "Nobody would want to be on this committee if it was boring."

Weiner, perhaps predictably, attributes the committee's "excitement" to Pepper's "flashy" personality and ability to attract media attention.

There is some truth to that. The House committee's counterpart in the Senate, headed by Florida's Lawton Chiles, hasn't experienced a similar growth. Nor, try as it might, has the Senate Aging Committee garnered as much media attention—much to Chiles' chagrin.

Clearly, however, the real reason for the House panel's growth is that it reflects the growth of senior citizen power in the nation.

"When I was young," Pepper says, "we had county 'poorhouses' where many of the elderly went after they couldn't work anymore. They would sit around, idly smoking a pipe, waiting to die.

"Today, when a person retires, they get involved in many other activities including politics. You've seen the buttons they wear saying 'Gray Power,'" Pepper said.

That power is felt at the ballot box far beyond its proportion to the total population. What's more, it will increase in influence as the "baby boom" generation ages.

The issues that concern these people fall under the Aging Committee's charter. In the 95th Congress, the panel published 92 volumes of hearings and reports, held 84 days of hearings—half of them outside Washington—and had a mailing list of 3,765 organizations.

Those figures, in light of the panel's growth, can only go up this year.

And that is enough to knock anybody over.●

HOW BUSINESS CAN PROMOTE GOOD HEALTH FOR EMPLOYEES AND THEIR FAMILIES

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 12, 1979

● Mr. BROYHILL. Mr. Speaker, "How Business Can Promote Good Health for Employees and Their Families" is report No. 4 of the Health/Action kits prepared by the U.S. Chamber of Commerce to assist the business community in promoting better health among employees. The following is a brief summary of this report for the benefit of my colleagues:

How Business Can Promote Good Health for Employees and Their Families

Americans are spending money on health care at record-setting levels. Yet, according to reliable statistics, the health of Americans has not improved commensurately. In fact, most of the improvements in health—such as longer life and the decline of acute diseases—are related to nonmedical factors, such as improved housing, sanitation, and nutrition.

It has also been fairly well established that the leading causes of death—cancer, heart and lung diseases, and obesity—are in many ways directly related to self-indulgent lifestyles. These include overeating, overdrinking, and smoking, coupled with lack of adequate physical exercise. Less than half of all adults engage in physical activity for exercise purposes. In short, we are responsible for our health, and a total reliance on doctors and hospitals, despite their pain-relieving and life-saving efforts, does not guarantee a long or healthy life.

Although evidence has existed for some time about the hazards of self-indulgent lifestyles, as well as the virtues of physical fitness programs, most people tend to be crisis-oriented. They are not motivated to take more responsibility for maintaining their own health until a major problem arises. The fact that health insurance pays for for curing than preventing disease compounds the problem. Other kinds of rewards or incentives are necessary to promote a health conscious atmosphere.

The workplace offers an ideal setting for encouraging employees to take better care of themselves and to seek treatment early when they suspect a problem. Most Americans spend almost half of their waking hours on the job. Attitudes and behavior are influenced or reinforced by experiences at the workplace. Employers who set a good health example can be a major determinant of the health awareness of their employees.

The main elements of a program of health promotion—also called "health education" or "health activation"—include the establishment of more healthful lifestyles and consumer education aimed at teaching self-care (as a substitute for professional care, in some instances) and wiser buying of health care services.

Other cost containment strategies mentioned in these reports—enrollment in HMO's, service on health planning agencies, cost-effective health benefits—are undermined if the employee's responsibility for maintaining good health is not reinforced. Indeed, health promotion makes employees more active participants in a total health care program.

Some of the benefits to employers and employees of an effective health promotion program are increased productivity, higher morale, reduced absenteeism and disability, and lower health care costs, reflected in lower health insurance premiums—all in addition to better health.

Specific short-term results include fewer smokers and overweight people, and more joggers and other types of exercisers, plus an increased awareness of individual responsibility for maintaining good health. Long-term results include decreases in death and illness rates, manifested in longer lives and fewer doctor visits and hospitalizations.

Because of the relative newness of health promotion programs, substantial proof of their cause-and-effect success is still lacking. However, the case histories cited in this report—which only represent examples, not the total number of health promotion programs in existence—strongly indicate that a physically fit employee is a mentally fit employee and, as a result, is a more productive employee. Moreover, there is almost a universal agreement that people usually feel and look better after participating in health promotion programs.

To aid employers in establishing a health promotion program, the action plan of the strategy report includes several "scorecards," which, when completed, provide information on the company's health care experience, an index of available programs, and the planning details of your health promotion program.

In assessing your firm's health care experience, your insurance company will be the prime source of information. However, in collecting data on employee health experience, you and your carrier must be aware of the confidentiality of medical records. Accordingly, some information may not be available at all, while other types can be provided only for large groups. Even with these obstacles, existing data should provide you with a fairly good picture of the health of your company's employees.

Next, you should check with other firms which have instituted health promotion programs and/or with organizations (e.g., United Way, Red Cross, hospitals, health-related associations, and public health departments) to learn of their experience and/or receive technical assistance in establishing your own program. Additional information can be obtained from the Bureau of Health Education in Atlanta, Georgia, and the Office of Health Information and Health Promotion in Washington, D.C., two federal agencies. Also, the National Health Education Center, a private organization, can be helpful in establishing health education programs in the workplace.

Finally, some of the things you will want to consider when planning and implementing your own programs are: the existing level of health of your employees, the extent and type of help you can expect from local health resources, expectations and consequences of the program, and the need to focus on one health area rather than several at the start.

Two rules of thumb in establishing health promotion programs in workplaces are: employ the help of others and set a schedule for expected short-term and long-term results.●

CAPTIVE NATIONS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 12, 1979

● Mr. DERWINSKI. Mr. Speaker, on the eve of the 20th anniversary of Captive Nations Week, the National Captive Nations Committee (NCNC) here in Washington, has appropriately released its annual honor roll of leading participants in the observance of the 1978 Captive Nations Week. The list is an impressive one, covering our officials, national organizations, the media and outstanding individuals who contributed markedly to the success of the 1978 Week. To be sure, it is not a thoroughly complete one in view of the usual lags and omissions in the reporting of activities to NCNC's clearing house. However, it does present an accurate profile of reported participation in the Week.

This July 15–21 will be the 20th anniversary of Captive Nations Week. In the months ahead much will be said about it. For the principles and content of Public Law 86–90, which Congress passed in July 1959, apply equally and as strongly today as they did in 1959. Indeed, with Soviet Russian adventures in Asia, the Mideast, Africa, and Latin America, the truths contained in the Captive Nations Week Resolution are more illuminating than 20 years before. More of our fellow citizens will see this as developments further unfold. In the meantime, those who grace this list are to be commended for upholding the traditions of these truths. It is with the greatest pleasure that I introduce the honor roll into the RECORD:

CAPTIVE NATIONS WEEK—1978 HONOR ROLL

PRESIDENT OF THE UNITED STATES

Jimmy Carter.

UNITED STATES SENATE

Edward W. Brooke, Clifford P. Case, Robert Dole, Pete. V. Domenici, E. J. (Jake) Garn, Robert P. Griffin, S. I. Hayakawa, Jesse A. Helms, Daniel P. Moynihan, Claiborne Pell, Charles H. Percy.

HOUSE OF REPRESENTATIVES

Joseph P. Addabbo, Glenn M. Anderson, Frank Annunzio, Robert E. Bauman, Mario Biaggi, James J. Blanchard, William S. Broomfield, John Buchanan, Delwin Clawson, James C. Cleveland, Barber B. Conable, Jr.

Silvio O. Conte, R. Lawrence Coughlin, Philip M. Crane, Edward J. Derwinski, John D. Dingell, Robert K. Dornan, Joshua Eilberg, Daniel J. Flood, Benjamin Gilman, William F. Goodling, James M. Hanley.

Marjorie Holt, Frank Horton, Henry J. Hyde, Jack Kemp, Peter H. Kostmayer, Robert J. Lagomarsino, Norman F. Lent, Robert McClory, Joseph M. McDade, Matthew F. McHugh, Robert H. Michel.

Henry J. Nowak, Richard L. Ottinger, John J. Rhodes, Matthew J. Rinaldo, Peter W. Rodino, Jr., Robert A. Roe, Ronald A. Sarasin, Samuel Stratton, Lester L. Wolff, C. W. (Bill) Young, Clement J. Zablocki.

GOVERNORS

Arizona, Bruce E. Babbitt; Connecticut, Ella Grasso; Delaware, Pierre S. DuPont; Illinois, James R. Thompson; Kansas, Robert F. Bennett; Maryland, Blair Lee, III; Massachusetts, Michael S. Dukakis; Michigan, William G. Milliken.

Missouri, Joseph P. Teasdale; New Jersey, Brendan Byrne; New Mexico, Jerry Apodaca; New York, Hugh L. Carey; North Carolina, James B. Hunt, Jr.; Ohio, James A. Rhodes; South Carolina, James B. Edwards; Vermont, Richard A. Snelling; Virgin Islands, Juan Luis; Virginia, John N. Dalton; Washington, Dixie Lee Ray; West Virginia, John D. Rockefeller, IV.

MAYORS

Anaheim (Cal.), John Seymour; Binghamton (N.Y.), Alfred J. Libous; Buffalo (N.Y.), James D. Griffin; Chicago (Ill.), Michael A. Bilandic; Des Moines (Iowa), Richard E. Olson; Endicott (N.Y.), Wendall C. Soltis; Flint (Mich.), James W. Rutherford; Hialeah (Fla.), Dale G. Bennett; Independence (Mo.), E. Lee Comer, Jr.; Irving (Tex.), Marvin Randle.

Johnson City (N.Y.), Thomas E. Williams; Kansas City (Kans.), John E. Reardon; Lansing (Mich.), Gerald W. Graves; Los Angeles (Cal.), Tom Bradley; Rochester (N.Y.), Thomas P. Ryan, Jr.; Sacramento (Cal.), Phillip L. Isenberg; Springfield (Mo.), Theodore E. Dimauro; Sunnyvale (Cal.), Gilbert R. Gunn; Worcester (Mass.), Thomas J. Early.

OTHER GOVERNMENT UNITS

Erie County, Edward V. Regan (County Executive); New York State, Mario M. Cuomo (Secretary of State); San Diego City Council.

NEWSPAPERS/MAGAZINES/JOURNALS/REPORTS/ EDITORIALS/ARTICLES/COMMENTARIES/TV

America, America Ukrainian Catholic Daily (Phila., Pa.), AFL–CIO News (Washington, D.C.), Asian Bulletin (Taipei, Taiwan, ROC), Binghamton (N.Y.) Press, Binghamton (N.Y.), Sun Bulletin, Boston (Mass. Herald American, Brattleboro (Vt.), Reformer, Breeze-Courier (Taylorville, Ill.), Burlington (Vt.) Free Press, Capital Spotlight (Washington, D.C.), Central Daily News (Taipei, Taiwan, ROC).

Chicago (Ill.) Sun-Times, Chicago (Ill.) Tribune, China Post (Taipei, Taiwan, ROC), Christian Science Monitor (Boston, Mass.), Denver (Colo.) Post, Detroit (Mich.) Free Press, Dover (N.H.) Foster's Democrat, Free China Review (Taipei, Taiwan, ROC), Free China Weekly (Taipei, Taiwan, ROC), Hartford (Conn.) Courant, Honolulu (Hawaii) Star-Bulletin, Human Events (Washington, D.C.).

Louisville (Ky.) Courier Journal, Manchester (N.H.) Union-Leader, Monterey (Cal.) Peninsula-Herald, Murray (Ky.) Ledger & Times, Nashua (N.H.) Telegraph, New Haven (Conn.) Journal-Courier, New Haven (Conn.) Register, New Orleans (La.) Times Picayune, New York Daily News (NYC), The Newark (N.J.) Star-Ledger, News World (NYC).

Oakland (Cal.) Tribune, Ocean City (N.J.) Citizen, Pacific Cultural Foundation Newsletter (Seoul, ROK), Paso Robles (Cal.) Press, Philadelphia (Pa.) Inquirer, Phoenix (Ariz.) Gazette, Rappahannock Record (Kilmarnock, Va.), The Right Side (Lee Edwards Column, Washington, D.C.), Rising Tide (Washington, D.C.), Rochester (N.Y.) Democrat and Chronicle, St. Louis (Mo.) Globe Democrat, St. Louis (Mo.) Post Dispatch.

San Diego (Cal.) Tribune, San Diego (Cal.), Union, Phyllis Schlafly Report (Alton, Ill.), South Pasadena (Cal.) Review, Syracuse (N.Y.) Post-Standard, Tacoma (Wash.) News Tribune, Ukrainian Weekly (Jersey City, N.J.), VFW's The Stars and Stripes—The National Tribune (Washington, D.C.), Washington Post (Washington, D.C.), WCAU-TV (Phila., Pa.), World Outlook (Washington, D.C.).

ORGANIZATIONS

AFL-CIO President George Meany, Honorary Chairman, National Captive Nations Committee (Washington, D.C.).

American Council for World Freedom (Washington, D.C.).

American Legion (National Convention, New Orleans, La.—Texas, Virginia, Massachusetts Resolutions).

Boston (Mass.) Captive Nations Committee.

California Captive Nations Committee.

Captive Nations Committee (Western, New York).

Chicago (Ill.) Captive Nations Committee.

Ladies' Auxiliary, Catholic War Veterans (Washington, D.C.).

Manion Forum (South Bend, Ind.).

National Captive Nations Committee (Washington, D.C.).

New York Captive Nations Committee.

Republic of China Captive Nations Week Rally.

Ukrainian Congress Committee of America (New Haven, Conn. Branch).

ACTIVE INDIVIDUALS

Ivan Brucky (Detroit, Mich.).

Michael Ciapka (Irvington, N.J.).

Dr. Lev E. Dobriansky, Chairman, National Captive Nations Committee/Georgetown University (Washington, D.C.).

Vera A. Dowhan (Washington, D.C.).

Sal Giarratani (Charlestown, Mass.).

Dr. Henry Lane Hull (University of Alabama at Huntsville).

Dr. Ku Cheng-kang (Taipei, Taiwan, ROC).

Liu K'ang-sheng (Taipei, Taiwan, ROC).

Most Rev. Bishop Basil H. Losten (Stamford, Conn.).

Margaret Luckert (Binghamton, N.Y.).

Robert Morris (Mantalocking, N.J.).

Hon. Bertrand Motte (France).

Rev. John R. Nakonachny (Maplewood, N.J.).

Capt. Henry E. Phelps, USN (ret.) (San Diego, Cal.).

Joseph Sheftick (Washington, D.C.).

John M. Sochor (Binghamton, N.Y.).

Premier Sun Yun-suan (Taipei, Taiwan, ROC).

Orest Szczudluk (Boston, Mass.).

Joseph Trainor (Boston, Mass.).

Horst Uhlrich (New York City).

Maj. John E. van Buren, USA (Ret.) (San Diego, Cal.).

Viktors Viksnins (Chicago, Ill.).●

REASONED APPROACH TO SELECTIVE SERVICE SYSTEM

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, March 12, 1979

● Mr. MONTGOMERY. Mr. Speaker, the Washington Post recently carried an article by William Greider concerning the Selective Service System. The article was most notable for its lack of factual information and convoluted reasoning.

I would like to share with my colleagues a letter of rebuttal to Mr. Greider's article by the Association of the United States Army. This response points out in an objective and factual way the reasons we are having a national debate on the future of the Selective Service System and why some of us have suggested a return to a limited draft. The letter is as follows:

ASSOCIATION OF THE
UNITED STATES ARMY,
Arlington, Va., February 26, 1979.

LETTERS EDITOR,
The Washington Post,
Washington, D.C.

DEAR SIR: William Greider, the editor of the POST's *Outlook* section, says, "The draft is a terrible idea being promoted by a strange coalition of conservatives and liberals." It seems that Mr. Greider might have served the purpose of his argument better by first finding out just what is being "promoted" and by whom.

There are at least three broad approaches being pressed. Within each of those general categories there are several variations but for the sake of simplicity, and to provide Mr. Greider with a starting point for his education on the issue, the basic ideas are: Universal/National Service, in which everyone within prescribed age limits would be obliged to perform some sort of service; an active Selective Service System to supplement or replace, as necessary, the volunteer concept; and, a revitalized Selective Service System capable of responding quickly to emergency demands for manpower. The latter entails, as a minimum, renewed registration of potential selectees. All, to be sure, assume the rightness of the notion that responsibility for preservation of the Republic rests on the shoulders of its citizens.

And yet, in response to a proposal by another journalist, Mr. Greider cries that to force *his* children to serve in one of these ways is a disproportionate price for them to pay. Has Mr. Greider asked himself what a fair price might be for his children to continue living under our system? It is inconceivable that a man of Mr. Greider's obvious intelligence and perception has failed to see the economic, social and political perils that surround the nation—and only a few of them are the product of the "government bureaucrat, civilian or military . . ." who might control the destiny of his children. Who else, in a time of peril, should be called on to defend the Republic but Mr. Greider's children, the son of the other journalist or the children of the civilian and military bureaucrats?

Mr. Greider wants to be given a practical, homely reason connected to America's real interests, not something extruded from a think tank, before he will concede that his children should be drafted. If he had been reading the news pages of the Washington Post he would have been exposed to some very good reasons, the most recent of which, but not the only, is the escalating turmoil in the Persian Gulf area. Whether we like it or not, that rocky, sandy, oily corner of the world is of crushing importance to America.

Perhaps, in Mr. Greider's mind, the warnings of the Secretary of Defense and the Secretary of Energy that it might become necessary to commit forces in that area to protect those interests are nothing more than the rantings of civilian bureaucrats. He may even perceive them as part of a conspiracy to justify the sacrifice of his children. If so, he might be well advised to rename the section of the paper he edits. He has lost the ability to look outward.

It is distressing, to say the least, to read Mr. Greider's revival of the idiotic idea that the old men who make the policies should be the only ones to defend them. Carried to its logical extension that would mean that only lawmakers and chief executives would have to pay the taxes they levy and obey the statutes they promulgate.

The very hard fact is that the United States today does not have the capability to mobilize manpower in defense of its national objectives. Our reserve forces are desperately short of people. The Individual Ready Reserve, the only immediate source of trained personnel, is almost non-existent. The Selective Service skeleton cannot do its job. The correction of these shortcomings is the immediate problem, far surpassing the need to move toward national service or to write off the All Volunteer Force as a complete failure.

We believe any thinking citizens, and particularly those parents who hope their children will see nothing but peace, understand the need to have the military deterrence and the strength of will that tells the rest of the world we intend to survive.

Hopefully Mr. Greider believes this, too. If he does not, his problem goes far deeper than justifiable parental concern for the welfare of his children.

Yours truly,
ROBERT F. COCKLIN,
Major General, AUS Retired,
Executive Vice President.●

LOBBY DISCLOSURE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 12, 1979

● Mr. EDWARDS of California. Mr. Speaker, the subject of lobby disclosure is an important issue to me not only as a Member of Congress who is frequently contacted by lobbyists, but also, as chairman of the Judiciary Committee's Subcommittee on Civil and Constitutional Rights. I am especially concerned with the freedom of speech implications of any lobby reform legislation.

I would like to share with my colleagues a Washington Post editorial of March 8 which I think expresses very responsible concern about lobby reform legislation:

LIBERTY FOR LOBBIES

"Casting more light on lobbying" sounds like a fine good-government goal. But it's the kind of formulation that members of Congress should be wary of as they try once more to rewrite the lobby-disclosure law. This is one of the fields in which openness—

meaning broad, detailed, compulsory disclosure—is not at all synonymous with free, healthy political activity. Congress cannot push lobby-reporting laws very far without intruding on realms of private association and expression that are beyond the proper reach of government.

A good example is the burgeoning field of so-called grass-roots or indirect lobbying—attempts to influence senators and representatives by stirring up mail, phone calls and visits from people back home. Such campaigns have become so commonplace that lawmakers are constantly being bombarded from many sides. They find it quite discomfiting. They are not always sure how much real political force a barrage of postcards represents. And the recent surge in sophisticated grass-roots campaigns by business and single-issue groups has fed suspicions that lobbies with large bankrolls and extensive mailing lists are gaining undue influence on Capitol Hill.

Should groups that organize indirect lobbying have to report on their financing and activities? That would certainly help citizens and officials find out who is behind these campaigns. But consider what such a sweeping law would mean. Every active group with legislative concerns—including trade associations, unions, universities, charitable societies and citizens' groups—would have to report to a federal agency on its meetings, mailings, advertisements and other issue-oriented activities. Anyone suspected of noncompliance would be subject to federal audits, investigations and penalties.

Talk about overregulation! The paperwork would be incredible. Much more ominous is the whole idea that private groups should be compelled to report on perfectly legitimate communications with their own members, supporters and the public at large. The chief advocates of full disclosure say they don't want to interfere with any group. Last year's House debate suggested, however, that some congressmen do see disclosure as a way of embarrassing or burdening interest groups whose lobbying they find bothersome.

So far, enough lawmakers have recognized these and other problems so that no overreaching bill has gotten through. A House judiciary subcommittee is now tackling the subject again. The White House has been seeking compromises, but a coalition of interest groups—ranging across the spectrum from business associations to the Sierra Club—is insisting on a carefully limited bill. Their position may sound self-serving, but it really serves the national interest in free discussion of public affairs.●

DAY CARE: WHY FEDERALIZE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 12, 1979

● Mr. MICHEL. Mr. Speaker, the bills currently introduced in the House and Senate calling for $2.3 billion for Federal aid to States funding child care facilities are highly controversial. The Washington Star recently published an editorial which examines that controversy. The Star rejects the idea of federalized day care while admitting that changing patterns of family life in our Nation make some form of day care necessary for many families. I commend this editorial to you since it speaks with commonsense and logic about a subject that all too often is the victim of ideological slogans and emotionalism.

At this point I wish to include in the RECORD "Day Care: Why Federalize?" from the Washington Star, March 6, 1979:

DAY CARE: WHY FEDERALIZE?

Day care, that hardy perennial of the feminist agenda, is up for national consideration again. The cause, defeated by the Nixon veto of the Child and Family Services Act in 1972, showed its continuing vitality when Jimmy Carter endorsed it during his presidential campaign. And now, here it is before Congress in the form of identical new bills, each bearing the name of a California Democrat: Alan Cranston in the Senate, Edward R. Roybal in the House.

What the bills call for is a $2.3 billion program of federal aid to the states for funding child care facilities. There could be a certain amount of grass roots differentiation among the facilities, but, as in any distribution of federal largesse, there would be the Washington standards to meet.

That reads "strings" to a lot of people who have noticed what has happened with federal aid to education, to name only one manifestation of the federal presence in local affairs. Many fear it as a regimenting influence in American life and a further weakening of family influence.

The sequence foreseen and feared is familiar enough. First, there are licensing standards scarcely anybody could object to: a minimum amount of space per child, for example. No firetraps. Then, pretty soon, the health and safety regulations have pushed a lot of people out of informal versions of the day care business and there are new guidelines to meet about qualifications for caretakers.

About this time, it becomes illegal to leave the baby with Grandma while Mother goes to work unless Grandma has a degree in child psychology and can prove the wood work in her house is covered with lead-free paint. About this time, too, early childhood education outside the home becomes mandatory for two-year-olds.

So run the premonitions of a loose alliance against federalized day care. It includes, along with the so-called Pro-Family coalition of anti-abortion and anti-ERA people, many kinds of skeptics about bureaucracy, big government and the professional education establishment.

On the other side, there's an almost equally mixed line-up. The women's movement is all for it—as long ago as when Bella Abzug was in Congress, she was calling for a $10-billion-a-year program of round-the-clock day care facilities. Albert Shanker, of the American Federation of Teachers, has been similarly outspoken in favor of it; many teachers displaced by a dwindling school-age population have been finding jobs in the day care field. And there also the conservative advocates of "workfare" who see federalized day care as a way of getting poor mothers off Aid to Families with Dependent Children and onto payrolls.

The new money-consciousness has given day care surprising new enemies, however. Arabella Martinez, HEW Assistant Secertary for Human Development Services, has testified at Senator Cranston's hearings that there is no need for further federal underwriting of this particular service.

Besides reluctance to add further billions to already threatened budgets, there are new arguments to support this position. One is that working parents seem to prefer informal, generally familial child-care arrangements to the kind of facilities federalized day care promises.

For example, the Seattle-Denver income-maintenance study of the way money affects work motivation and family decision-making showed child-care subsidies going into such arrangements no matter what alternatives were available. Only three percent of mothers who did not work gave the absence of day care as reason.

All the evidence suggests, further, that the cost of federalized day care would be astronomical. As long ago as 1971, when Edward Zigler's Office of Child Development at HEW studied the situation, it was accepted that "desirable" institutionalized day care would cost about the same as tuition at an Ivy League university—the figure then was between $3,000 and $5,000 a year per child.

The fact that more and more women are working outside the home makes it axiomatic that some kind of day care is and will be part of American life. But there are alternatives to the federalizing provided by the Cranston and Roybal bills. Tax credits and allowances, to name only two, would leave families to make the decisions, which is to say it would leave scope for more cultural diversity than federal underwriting. That, plus probable costs of federalizing, plus the evidence of parent preference, plus the claims of freedom from bureaucratic benevolence make a strong case against further federal intervention.●

THE UNITED STATES AND YEMEN

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 12, 1979

● Mr. ASPIN. Mr. Speaker, in an attempt to break away from one dangerous course of foreign policy, the administration appears ready to plunge into still another, possibly more dangerous course. I refer to the growing body of evidence that the administration may attempt to use active, direct American military force to settle the current fighting between North and South Yemen.

When President Carter first took office, he and his administration resolved themselves to putting the "lessons of Vietnam" into practice. No longer would the world be seen as a "zero-sum game" in which any apparent Soviet gain would equal an American loss. No longer would the affairs of some small country in some distant corner of the globe constitute grounds for military intervention or even grave diplomatic concern. We would pay more attention to our European and Japanese allies, and to solving in an equitable manner the problems of the Third World. We would stress human rights as part of our foreign policy—an issue that would have great potential for stirring American citizens to support foreign policy, for forging a consensus.

In short, our traditional cold war preoccupation with the Soviet Union would be downplayed.

Much about this new policy was salutary. Previous administrations did overlook the local, regional, and economic aspects of Third World problems. Previous administrations did tend to look at all the world's problems through bipolar lenses, to see every conflict as dominated by the United States-Soviet conflict. Previous administrations did ignore human rights in its dealings with the Third World, a shortcoming that did little to promote domestic consensus for a foreign policy no longer predominated by stark black-and-white cold war concerns.

It is becoming increasingly apparent, however, that the Carter administration probably went too far in underplaying the factor of East-West rivalry in its outlook on Third World politics. While there has been active, often notorious, dispute within the administration on this matter, the upshot of the administration's foreign policy has been a failure to deal with the issue straightforwardly. The problem has not so much been a failure to flex muscles and send in the Marines or the CIA, as some critics would have it, as it has been a failure to confront the issue of what to do about our vital interests when they are threatened—and when the Soviet Union may have some role in threatening them—in the Third World.

In the past year, many people have expressed great concern over this failure. Many commentators have chastised our unwillingness to exercise any leverage while the Soviets exploited the conflict between Ethiopia and Somalia, the Afghanistan coup and the change of governments in South Yemen. Our extremely awkward behavior during the overthrow of the Shah of Iran, and the nearly simultaneous killing of our ambassador in Afghanistan, an act in which the Soviets may have had a hand, compounded the problem. Add to this the general concern about the Soviets and Cubans in Africa, plus worries about our strategic nuclear posture, and we have a highly anxiety-ridden political situation.

There are, as we are now witnessing, dangers in underplaying the East-West component of international politics, dangers both psychological and real, both domestic and international.

If the United States is seen as too feckless or too unwilling to wield its influence, this has worrisome implications. It lessens the likelihood that we could maneuver a Middle East peace settlement. It reduces our leverage with countries such as Saudi Arabia that have served as moderate counterpoints to the desires of more radical OPEC nations to raise oil prices even more exorbitantly than those already agreed upon.

The dangers are not limited to the Middle East. It reduces the chance that we can persuade the South Koreans to relax their oppressive grip over their own suspected dissidents, because the political leaders there find it difficult to trust fully our power and commitments. Domestically, several crucial members of the U.S. Senate are reluctant to ratify a SALT II treaty not because they object to the treaty's provisions, but because, given our unwillingness to exert leverage on behalf of our interests elsewhere in the world, the treaty might be perceived as just another act of "caving in to the Soviets."

But the most direct danger involves oil—its assured supply and the maintenance of a price that is not utterly unacceptable to economic stability. Whereas just a few years ago, it was widely recognized that the United States held "90 percent of the cards" in the Middle East, there are now concerns, voiced here and abroad, that we may not even be able to hold sway over the moderate oil countries to maintain existing levels of supply in the face of an increasingly tight oil market. If we fail in this effort, our influence with the more central allies of Western Europe may also falter.

The administration is just beginning to realize the pitfalls of its early foreign policy, and has told several countries, most emphatically Saudi Arabia, that we now intend to play a more active role in protecting our vital interests abroad.

However, the administration is on the verge of falling into another danger—a danger that may be even more serious. The administration is about to change its foreign policy from relatively passive to intensely active, yet in a highly arbitrary fashion.

The test case for this new foreign policy appears to be the conflict in Yemen, and we seem to be jumping in without looking. The President now feels that it is time we looked concerned and tough, and he is simply picking the first bet to come along.

Yemen may be a particularly bad bet on which to wager our prestige.

First, there is very little knowledge of what is going on militarily. It is unknown whether the Soviet-based South Yemeni forces are just causing trouble along the border, whether they are carrying out the first steps of a full-scale invasion against Saudi-backed North Yemen, whether they are probing and taking advantage of targets of opportunity—we simply do not know.

Second, we do not know much about Yemen, period. North and South Yemen are divided by age-old tribal wars and confllicts that have little correspondence to the rather messily defined national borders. Many of these tribes shift alliances regularly or randomly, defecting from North to South Yemen and back again, often depending on which side is offering the more attractive bribes.

North Yemen has had two presidents assassinated in the past 18 months, and the current one has been faced with several coup attempts. His official North Yemeni army is not even fighting against South Yemen at this moment, because the tribal members who are acting as mercenaries for the Saudis—and who are doing the fighting—get higher wages than the regular army. Under these circumstances, the army simply refuses to do its job. Furthermore, it is alleged that many of the tribal members would like to see South Yemen win because they would then be put on the Saudi payrolls indefinitely, acting as insurgents conducting covert operations against the ruling Marxist government.

In short, there are serious questions about the degree to which the United States should commit itself and its prestige to this chaotic fracas. Once again, we seem to be putting our prestige on the line in a situation over which we may have little control, in an area where we may become more committed than the people we are ostensibly defending. This is the major danger of the new direction in policy.

The sending of an aircraft carrier task force and the rapid and heavy delivery of weapons to Yemen only intensifies our involvement and potential commitment. Particularly noteworthy is the sophistication of some of the military equipment we are sending in—armored personnel carriers, jet fighters, M-60 tanks, antiarmor weaponry, and hosts of others. Much of the equipment can be manned or supervised by the Saudis. Some of it—such as the M-60 tanks, of which the Saudis have none—may require American technical advisory group, the emplacement of which will only further heighten our direct involvement and, potentially, activate more direct Soviet involvement on the other side.

As a result, this little country may not be so easy to "get in fast and get out fast" as some advocates of direct force seem to believe. It could be a long haul, in which case the whole purpose of the event—to bolster foreign and domestic confidence in U.S. foreign policy—may backfire.

Of course, the effort might be a success. We could go in, or help the Saudis go in, bloody the South Yemeni' noses, make them withdraw from the border, secure national boundaries, and go out, flags waving and allies smiling. But it might not be.

There are things that worry me about the whole affair:

Says one State Department official, "The Saudis are screaming for war and screaming that they want our help in eradicating South Yemen's existence."

There is talk that the Saudis want our MAAG (Military Assistance Advisory Group) commander to help direct the Saudi war campaign, and talk that we have agreed.

People in the State Department are saying that the atmosphere is "reminiscent of Vietnam in 1963."

Some officials are using the conflict as an occasion for venting their pent-up frustrations over not being able to use military force in the past. "An adrenilin-speeding, head-spinning, gung-ho excitement" is said to be emanating from several corners of the national security bureaucracy.

Contingency plans drawn up by high-level Government officials, are said to include the option of sending in the U.S. Marines.

A Defense Department official casually boasted "how easy this whole thing would be. There would be no problem in just going in, teaching the Reds a lesson, and getting out."

The Wall Street Journal approvingly editorialized last week that Mr. Carter has now decided where to draw the line and that "North Yemen is as good a place as any."

But is North Yemen as good a place as any? The administration's measures seem to be based not on any rational or carefully studied calculation of risks and possibilities, but simply on the rather irrational and ill-calculated idea of jumping into Yemen because it is the first thing that has come along since the decision to change our foreign policy outlook.

This is the exact opposite of what we should be doing. Perceptions of power in the international arena are not very different in nature from perceptions of power in other political arenas. A politician acquires power, at least in part, by taking on goals and succeeding. If he has been on the defensive, if he has just suffered several damaging losses, bet on several losing candidates, that is when he has to be the most careful. He should make sure that the next step taken is carefully considered, that the dynamics of the situation be closely examined, that the side picked is a winner and reliable. The question of where next to gamble on political prestige should not be hastily determined.

So it is for nations as well, particularly for great powers. Or, more concretely, to change from a policy of opposition nowhere to opposition anywhere is as foolish as no change at all, and may, in the final analysis, make us look worse than before.

Indeed, the entire problem of our foreign policy right now stems from a lack of careful and systematic thinking. It was laudable that the administration heeded some "lessons of Vietnam." However, its officials substituted nothing in its place. Rejection of universal containment of Communism alone, with no new strategic rationale to guide policy, leads inevitably to malaise, uncertainty, and—because the United States is a superpower—anxiety and potential danger. After finally rejecting cold warriorism, we failed to figure out just what our vital interests were, just what we would defend if necessary, what we thought was important, how far the Soviets would be allowed to go before a local or regional Third World issue was to be perceived as having important East-West ramifications.

A foreign policy without perspective leads to ad-hocism and oscillation between extremes. In the absence of coherence or consensus, and in the face of accusations—by liberals and conservatives—that the President is too bland and noncommittal in his foreign policy, much pressure builds to make his policy very determined in appearance. Because of some coincidence in timing and sequence—Afghanistan, Iran, and now Yemen all happening almost at once—the pressure becomes stronger to do something very forceful, very determinedly. The fact that the President is now taking a major political risk in pursuing a Middle East peace settlement, that the Saudis are demanding much of the United States and may not be able to hold back the wishes of other OPEC nations to reduce oil production and raise oil prices, and that many in this country want to reject an arms control treaty with the Russians because it might make us appear weak—all reinforce this pressure.

And so we are building up North Yemen for, at very least, a strong American role in a Saudi military campaign against South Yemen—and possibly for a direct American role, as well—all without a great deal of thought. This we do not need. If it turns out that the situation in Yemen is more complicated than we thought, if we put our prestige on the line in another losing cause, if we get bogged down in an unwinnable war then what have we gained? An action taken to boost our standing in the world will instead damage us even more.

We need more cool thinking. If haste dominates policy, then the true "lessons of Vietnam" may not have been learned after all.●

COMMENTS ON THE RESULTS OF RARE II

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 12, 1979

● Mr. STUMP. Mr. Speaker, nearly 2 million acres of national forest lands in my State, Arizona, have been in limbo as de facto wilderness for more than a decade because RARE I and RARE II. The people of Arizona have been anxiously awaiting the outcome of RARE II and its proposals for the disposition of these public lands.

On January 4, 1979, the Forest Service and the Department of Agriculture submitted a final environmental impact statement on the results and recommendations proposed under RARE II.

The people of Arizona had expressed their opposition to the creation of any more wilderness within the State by a margin of 3 to 1. Thus a great majority in Arizona will be as disappointed as I am to see so much more public lands in the State proposed for permanent lockup as wilderness, and the fate of so much left to the uncertainties of further planning. They will also be disappointed to learn that the future of those lands categorized as nonwilderness and proposed to be reopened to multiple use is clouded with the uncertainty of the management planning process and the possibility that these lands may someday still be designated as wilderness.

RARE II ambitiously inventoried 62 million acres of national forest lands in this country as roadless and worthy of evaluation for wilderness potential. This is enough public land to encompass an area the size of the States of Maine, New Hampshire, Vermont, Massachusetts and New York combined. Unfortunately, however, all but a small amount of these forest lands are located in 12 western States.

After 2 years and $6 million worth of inventorying, studying and evaluating, RARE II has resulted in proposals to lockup another 15 million acres of national forest lands as wilderness—doubling the amount of national forest land already placed in wilderness—and 10 million more acres left to the uncertain fate of further planning, which could very well be the beginnings of RARE III since the Department of Agriculture and the Forest Service have through 1985 to perform further plannnig.

The RARE II proposals for national forest lands in Arizona are 400,312 acres for wilderness, and 545,828 acres for further planning. In the Third Congressional District of Arizona which I represent, 221,102 acres are proposed for wilderness and 230,399 acres are proposed for further planning.

I am opposed to any recommendation for more public lands to be designated as wilderness. With specific regard to the forest lands in Arizona, especially those within the Third Congressional District, I have urged the Secretary of Agriculture to recommend that all of the lands considered under RARE II be reopened to multiple use.

The designation of public lands as wilderness excludes any opportunity to manage them for any purpose. It means that only a very few people in this country, perhaps the smallest and most elite minority group ever, will realize any use, enjoyment or benefit from such public lands. The vast majority of American people simply do not have, and will never have, the time, resources or physical ability to exercise their rights to the extremely limited uses permitted of wilderness lands, let alone have access to them.

There are already 19 million acres of wilderness legally designated by Congress under the 1964 Wilderness Act. Of this, 15.2 million acres are national forest lands. Plus, there are 3.3 million acres of forest lands not covered by RARE II, but already recommended to Congress for designation as wilderness. lands, encompassing 547,000 square miles, of national forests, national parks, national wildlife refuges and Bureau of Land Management lands are either already designated as wilderness, are being considered by Congress for designation as wilderness, or are being studied by Federal agencies for wilderness.

It is a myth that the creation of a wilderness conserves natural resources for future generations. In the case of minerals and energy resources, we cannot consciously or intelligently conserve if we have no idea as to what resources the lands really contain. With timber, wilderness results in the rotting waste of otherwise usable trees, allows no protective steps against blight, disease or erosion, and means added burdens to those lands which are available for sustained timbering.

The wholesale creation of wilderness areas out of our public lands that had heretofore been available for use, impacts on our economy and national security. In recent times we have been made acutely aware of the adversities of our overdependence on foreign sources of energy. Few people realize that we are in the same precarious position with regard to our mineral raw material needs. In some cases, we are now 100 percent dependent on foreign sources for minerals. Locking up public lands and the vast potential mineral and energy resources within them impacts severely on a dependable supply of natural resources for our Nation, its balance of payments and domestic inflation rates.

Further wilderness withdrawals of national forest lands will result in even greater reductions in national timber sales. In the face of rising demand for wood products, which is expected to double by the year 2000, this means that the American consumer will have more price and supply problems to bear, especially with housing.

As for recreation, wilderness represents only a minute portion of the projected public recreational needs. For one thing, lands for recreational purposes are needed near populated areas. Vast wilderness tracts in remote and inaccessible areas of the West will furnish very little toward meeting the recreational land use needs and goals of our country.

The implications of RARE II for Arizona are straightforward. It means that the Federal Government wants to take another sizeable part of the State permanently away from any productive use whatsoever.

This includes 95,000 acres of commercial forest lands. These lands are estimated to have a potential yield of 8.3 million board feet of wood annually, or enough to support 206 jobs and build hundreds of homes.

Of particular concern in the Third Congressional District of Arizona are RARE II units 3-049, 3-050, and 3-053 in the Coconino and Kaibab National Forests which have been proposed for wilderness, and unit 3-040 in the Coconino which is in the further planning category. These units contain more than 31,000 acres of commercial forest lands which an inventory of approximately 329 million board feet of growing timber stock, which is enough to provide an estimated 6.4 million board feet to a lumber mill in Flagstaff, Ariz., each year. Although some of this timber is not now easily accessible, it is important to keep in mind that what may be difficult today will become increasingly desirable and economical harvest in the future as the demand for wood continues its steady rise. Moreover, the loss of this timber reduces the total potential annual yield of the national forest commercial timber land remaining available for use.

The Department of Energy has determined that all 945,000 acres of national forest lands in Arizona proposed under RARE II for wilderness or further planning are in some way important as to potential energy resources. Particularly important are the commercial potentials of these lands for oil and gas, and, in many cases, they possess some of the best potential sources of uranium in the country.

The Atlantic Richfield Co. conducted its own survey and study of Arizona RARE II lands as to potential mineral and energy resource importance and found that the following areas should remain available for exploration and resource extraction:

AREAS AVAILABLE FOR EXPLORATION AND RESOURCE EXTRACTION

Area number, area name, and reason:

3019, Sierra Ancha Wld. Contig., critical uranium potential.

3021, Hells Gate, critical uranium potential.

3022, Salome, critical uranium potential.

3023, Cherry Creek, critical uranium potential.

3055, Walker Mtn., moderate geothermal potential.

3058, Boulder Canyon, critical base metals potential.

3060, Kanab Creek, moderate uranium potential.

3062, Saddle Mtn., moderate geothermal potential.

3080, Juniper Mesa, critical base metals potential.

3081, Apache Creek, critical base metals potential.

3082, Connell Mtns., critical base metals potential.

3083, Sheridan Mtn., critical base metals potential.

3084, Granite Mtn., critical base metals potential.

3085, Castle Creek, critical base metals potential.

3088, Woodchute, critical base metals potential.

3089, Black Canyon, critical base metals potential.

3090, Ash Creek, critical base metals potential.

3091, Grief Hill—I17, critical base metals potential.

3095, Blind Indian Creek, critical base metals potential.

3113, Mt. Wrightson, critical base metals potential.

3114, Tumacacori, critical base metals potential.

3115, Pajarita No. 1, critical base metals potential.

3116, Pajarita No. 2, critical base metals potential.

3117, Miller Peak, critical base metals potential.

3118, Busny Peak, critical base metals potential.

3119, Canelo Hills, critical base metals potential.

3120, Whetstone, Critical Base Metals Potential.

3122, Winchester, Critical Base Metals Potential.

3122, Winchester, Moderate Geothermal Potential.

3124, Galivru Wild Contig., Critical Base Metals Potential.

3125, Little Rincon, Critical Base Metals Potential.

3126, Rincon Mtns., Moderate Geothermal Potential.

3135, Painted Bluffs, Critical Base Metals Potential.

3135, Painted Bluffs, Moderate Geothermal Potential.

3136, Mitchell Peak, Critical Base Metals Potential.

3137, Pipestem, Critical Base Metals Potential.

3138, Hell Hole, Critical Base Metals Potential.

3139, Lower San Francisco, Critical Base Metals Potential.

3142, Sunset, Critical Base Metals Potential.

3142, Sunset, Moderate Geothermal Potential.

3901, Galivru Additions, Critical Base Metals Potential.

3901, Galivru Additions, Moderate Uranium Potential.

The conflicts between these determinations of mineral and energy resource potentials and the results of RARE II are clearly demonstrated in a table prepared by the company and which I would like to include in the RECORD at this point.

An additional energy consideration for these lands is hydroelectric generation. A major Arizona utility has identified two sites, units 3-046 and 3-054 in the Coconino National Forest which have been proposed for further planning, as preferred locations for hydroelectric pumped storage facilities.

Arizona is one of the fastest growing States in the Union. The impacts of RARE II's wilderness proposals are readily shown as a severe impediment to the State's ability to manage its existing resources and to develop its untapped resource potential which are essential to planning and providing the water, raw materials, jobs, revenues, taxes, and recreation necessary to accommodate the inflow of people.

Rather than recommending any more wilderness, public lands need to be freed for multiple use as soon as possible. Intelligent, responsive multiple-use management policies, combined with money and manpower, are required if the people of the United States and Arizona are to have any hope of planning and providing for the needs of future generations.

Multiple-use management of national forest lands, as well as all public lands, can best accommodate the desires and needs of all of the people. The intelligent and careful application of the wide range of management tools available today, along with those that will become available in the future, will provide increasing opportunities for varied uses of national forest lands and the development of the natural resources that they possess, while at the same time protect ecological balances and environmental qualities.

RARE I and RARE II have already delayed for over a decade badly needed investments on millions of acres of national forest lands. Even now, those forest lands that are proposed for restoration to multiple-use purposes on April 15, 1979, will still remain subject to delays under the management planning process which requires a separate plan for each invidiual area before any use can actually take place. In this regard, the Department of Agriculture and the Forest Service must immediately establish procedures for the uniform and expeditious completion of management plans if their proposals for nonwilderness areas are to have any meaning.

In the final analysis, of course, it will be up to Congress to decide the fate of all 62 million acres of national forest lands covered by RARE II. Only Congress can designate public lands as wilderness, and, as it has now developed, only Congress can really free any of the 62 million acres for multiple use.

FINAL ENVIRONMENTAL STATEMENT—RARE II—CONFLICT AREAS BY STATE

Tract No. and area name	Designation	(thousands)	Conflicts			
			Base metals	Uranium	Oil/gas	Geothermal
Arizona						
3021—Hells Gate	FP	30		Critical		
A3060—Kanab Creek	W	64		Moderate		
B3060—Kanab Creek	FP	9		do		
A3062—Saddle Mountain	W	38				Moderate.
B3062—Saddle Mountain	FP	1				Do.
3080—Juniper Mesa	W	10	Critical			
3084—Granite Mountain	W	9	do			
3085—Castle Creek	W	29	do			
Arizona—Continued						
3113—Mount Wrightson	W	25	Critical			
3117—Miller Peak	W	23	do			
3120—Whetstone	FP	37	do			
3122—Winchester	FP	14	do			Moderate.
A3126—Rincon Mountains	FP	14				Do.
3138—Hell Hole	FP	15	Critical			
3901—Galivru Additions	FP	62	do	Moderate		

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THE PRICING OF DOMESTIC CRUDE OIL

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 12, 1979

● Mr. WIRTH. Mr. Speaker, as my colleagues know, mandatory controls on domestic crude oil prices end in June of this year, and President Carter faces the decision as to whether to continue controls until 1981, phase them out over the next 2 years, or end controls immediately.

It will be a difficult decision because the questions that are raised by the oil pricing issue impinge not only on our domestic policy and our national fight against inflation, but also on our foreign political and economic policy as our European allies and nations around the world wait for the resolution of this issue.

As my colleagues remember from the 2-year fight over natural gas pricing, a great deal of emotion is created by this question, a fact which has not always led to productive debate on the merits of control versus decontrol. I firmly believe that, no matter which side of the issue one is on, we must move to a frank logical debate of oil pricing.

We do not have much time. Our Nation has been struggling with difficult energy issues since the Arab oil embargo, but we are not yet at the point where we can plan our future without the constant threat of interruptions of oil imports, such as we have seen in the Iranian situation. The President's impending decision on crude oil pricing cannot by itself resolve our energy problems, but it can be a major step toward a rational, strong energy policy.

I recommend for my colleagues' attention a recent article from the Washington Post, written by John M. Berry, which lays out clearly, concisely, and, I think, accurately, the arguments in favor of decontrol of domestic crude oil, and does so with a full explanation of the negative consequences of such a policy.

I hope that my colleagues will take the time to read this article and will communicate their opinions to the President so that he may have a sense of the feeling of the House as he makes this vital decision.

The article follows:

ENDING CONTROLS ON DOMESTIC OIL

(By John M. Berry)

June will be a magic month this year, a month in which many of our past mistakes on energy can be redeemed—if only President Carter has the political courage.

Jerry Ford had a similar moment in 1975. But his advisers whispered in his ear, "What about the risk? What about the election?" Ford faltered, losing his chance and the nation's.

As a consequence, we are still stuck with an absurd, penny-wise, pound-foolish energy policy—all because Washington has been unable to decide how to divvy up a $13 billion windfall that would result from ending government price controls over domestic oil.

For those who have forgotten, when the OPEC oil cartel quadrupled foreign oil prices back in 1973–74, American oil continued to be held down by the Nixon price controls. Though domestic oil prices have risen gradually over the past five years, there is still a gap—the difference between U.S. prices and the world price—totaling $13 billion. If Washington were to abandon price controls, who should get the $13 billion? The oil companies? The U.S. Treasury? The consumer in the form of tax rebates?

The impasse over this question led directly to unnecessarily high oil consumption, subsidization of oil imports and loss of up to 500,000 barrels a day of U.S. oil output. As a result, world oil prices today are higher than they need have been and the dollar is weaker.

Meanwhile, oil price controls have served as a giant income transfer system, the true effect of which is only dimly known. "Small" refiners, New England oil users, producers of heavy California crudes—all are getting some of the billions of dollars in benefits at the expense of someone else.

Consumers, as a group, probably are getting no more than two-thirds of the $13 billion in the form of lower prices, perhaps much less. This savings, when spread among 220 million Americans, doesn't mean big bucks to the average auto owner—but in terms of U.S. energy policy, it has meant considerable damage to common sense.

The actual regulations controlling prices were so awkwardly drawn that they encouraged many producers to let their wells' output drop, in the certain knowledge that when it fell below 10 barrels a day and reached "stripper" status, controls no longer applied.

If any true accounting of who is getting what, by law and regulation, were ever toted up, the system would probably fall in an avalanche of outrage.

WHITE HOUSE MEETINGS

All this could have been avoided had President Ford not blinked in 1975 when, in the maneuvering over extending controls, the Democratic congressional leadership told him that if he vetoed a bill continuing them, there would be no attempt to override.

Even though an end to controls was what he had been trying to force on Congress earlier that year when he imposed a $1-a-barrel import fee on crude oil, Ford decided he could not chance it politically. Controls were extended for nearly four years.

Now President Carter is preparing a speech on how we should respond to the new concerns about future Iranian oil production. He is expected to call again for "voluntary" steps to cut oil use, and perhaps mandatory conservation measures as well.

But for much of the last two weeks, there has been a series of meetings at the White House and elsewhere on a vastly more important long-run energy issue that Carter will address: what to do about oil price controls.

Some White House officials are now saying the same things Ford heard in the summer of 1975. How can we afford to push crude oil prices to world levels right away? Jimmy will be plowing through the snow of New Hampshire a year from now, and those people will be furious about their oil bills, argued one Carter aide.

All this is over a measly $13 billion. That may sound large, but it's roughly the size of the modest income-tax cut that took effect Jan. 1, a cut that has hardly made a big difference in any family's finances.

Of course it was not just the White House that has had trouble facing this issue. Congress refused, too, in 1977 and 1978 when it scuttled Carter's crude oil equalization tax, which would have brought U.S. crude oil prices close to world levels after three years, but which also would have taxed away most of the oil industry's windfall.

The need to get domestic oil prices to world levels—as Carter, at last year's Bonn economic summit, promised we would do by 1980—hasn't changed. Nor has the need to end the distortions and windfalls created by the controls program. If anything it's more imperative than ever.

Less than three months from now, Carter has a chance to do the job. On June 1, mandatory controls end on U.S. crude oil prices. From then until Sept. 30, 1981, the president has sole discretion on whether to continue controls and, if so, in what form. The authority to have them at all expires in 1981.

Moreover, Congress will have no automatic right to veto any step the president might take, as it has now, for instance, over decontrol of retail gasoline prices.

A SMALLER IMPACT

The impact of decontrol would be smaller now than in 1975. Then the windfall—and the potential for price increases—amounted to nearly 1 percent of GNP. Now the gap is only about half that. Politically, however, there remains a fear that the impact would be every bit as great.

The average cost to refiners of domestic crude oil would rise from about $11.20 now to about the $15.75 of imported crude landed in this country—a 40 percent hike. That might translate eventually into as much as a 1 percentage-point rise in consumer prices if the jump in the retail cost of oil products also causes wages to go up faster.

But such a rise in average crude oil prices, if passed through dollar-for-dollar into higher prices for all petroleum products, would mean only a 6-cent to 7-cent-a-gallon rise in gasoline and home heating oil prices.

Consumers, however, might not be hit that hard.

Many economists think that a hefty portion of that $13 billion annual windfall has ended up in oil industry pockets anyway—in the form of higher profit margins for refiners. The reasoning is that U.S. refiners' ultimate competition is from imports of refined products, and that in several cases, U.S. prices are essentially as high as world prices for the finished product despite the lower cost of U.S. crude.

While estimates of what the refiners have recaptured vary all the way from 100 percent down to 20 percent, nearly everyone agrees the refiners have gained to some extent. The administration believes refiners' profits are fatter by at least $4 billion, or about a third of the windfall. If the administration is right, decontrol might mean only about a 4-cent jump in retail gasoline and heating oil prices.

What would those increases buy? A lot:

Up to a 500,000-barrel-a-day increase in production from older U.S. wells whose output of so-called lower-tier oil sells for only $5.80 a barrel.

A 300,000-to-400,000-barrel-a-day cut in oil use because of higher prices.

A $4 billion rise in tax revenues from higher oil company profits.

An end to the implicit subsidy of all oil imports from the so-called entitlements program, under which refiners with access to lower-cost U.S. crude must buy an "entitlement" to process that cheap crude, with the proceeds—now about $2 a barrel—going to refiners using higher-cost foreign crude.

New investments in U.S. refineries, particularly on the West Coast, to enable them to use heavier, more "sour" crudes—such as from Alaska—once we drop the perverse prohibition barring refiners from earning a profit on such investment.

A halt to the spectacle of an oil company having to allocate supplies among its dealers when it cannot cope with a surge of customer demand—a surge that hit Shell at one point last year solely because controls forced it to sell gasoline more cheaply than its rivals no matter what the demand.

Finally, an end to the cumbersome and costly bureaucracy running the controls program.

Those are just the *domestic* benefits. The impact of the United States, the world's largest oil consumer, finally tackling its energy problem could sufficiently stun the OPEC nations so that OPEC prices will not rise as fast this year as they seem destined to do.

That same impact could give the still-troubled dollar a major boost. "If we were to swallow the whole thing at once," says an administration official, "the foreign exchange reaction might be phenomenal."

THE INFLATION EFFECT

What is measured against these benefits? The possible damage to the administration's anti-inflation drive and to its reelection chances.

The inflation danger, at least, is real.

When Alfred Kahn was named chief of the anti-inflation campaign last fall, he carefully excluded oil from his price targets. Oil prices would have to rise, he said.

Then, a few weeks ago, after some disaster inflation reports for January and with more on the way, Kahn flatly and publicly declared, "This is not the time to raise oil prices."

"Gee, *now* is never the time to decontrol," exclaims another administration economist angrily. "Sometimes you have to eat something. We should have done it in 1977 or last year. Fighting inflation does not mean you will not allow any price increases."

The danger is there, since no matter how you slice it, decontrol will add to inflation. But there is at least an even chance that decontrol might stave off yet more OPEC increases this year as the oil exporters chase spiraling spot market prices with ever higher "official" prices.

For one thing, even with the world shortage of oil caused by the virtual halt in Iranian production, companies like Ashland Oil would probably be much less willing to shell out $18 to $20 a barrel if the entitlements part of the controls program did not exist. That willingness may help prod OPEC into raising "official" prices at its March 26 meeting in Geneva.

Ashland, which bought an unspecified amount of Iranian oil two weeks ago despite opposition from top Carter officials, was relying upon that $2-a-barrel entitlement payment it will get for using imported oil.

The whole point on inflation is that the choice is not just whether to incur that extra percentage point of pain associated with decontrol. That pain may be inflicted in any event.

But with decontrol, at least the higher oil industry income will be going to Houston instead of Tehran or Riyadh, and a large chunk siphoned off into the U.S. Treasury.

Still, as a top Carter adviser laments about the Iranian impact on the decontrol struggle, "I can't remember another incident that so strengthened both sides of an argument."

SUPPORT FOR DECONTROL

As late as two months ago, presidential assistant Stuart Eizenstat was so concerned about political fallout of decontrol that he suggested the administration again offer to free prices only if Congress approves a companion windfall tax on oil companies.

That, of course, is precisely the package Congress was unable to handle in either of the last two years, and there is no sign that the level of political courage has since risen much higher on Capitol Hill.

In the debates that ultimately produced a long memo on decontrol and other energy issues, sent to Carter on Jan. 3, it was argued that Carter, not Congress, would be hurt if decontrol were begun and Congress still refused to pass a tax to capture the windfall.

Since then, the tax question has receded a bit, with most officials from the Energy, Treasury and State departments, plus those from the Council of Economic Advisers and the White House, divided over whether to push for a phased decontrol or an extension of controls past Sept. 30, 1981. It's mostly the White House troops who want the extension.

Energy Secretary James Schlesinger wants decontrol. So does Treasury Secretary W. Michael Blumenthal. CEA Chairman Charles Schultze does, too, but perhaps with a slower phase-in that would leave a gap in the fall of 1981 that could be closed all at once.

Despite his public statement, Kahn might go along with phased decontrol, White House sources say. And, while he is not directly part of the current decisionmaking process, Federal Reserve Chairman G. William Miller backs decontrol despite its "inflation component." That component is "modest compared to the [inflation] threat from a weak dollar" that could result if U.S. oil prices don't go up to world levels, Miller said last month.

With that kind of support, why is there any question about what Carter will do? Because Stuart Eizenstat and the White House political advisers haven't agreed to go along yet, and their advice will carry a lot of weight.

OIL COMPANY ADVANTAGE

There are also all those folks in the oil business who are doing better under controls than they would be in a free market. Some oil company representatives are already muddying the waters by asking for protection from international competition once controls are lifted.

Refiners today do not want to lose their vast cost advantage over foreign rivals. *Their* preferred solution: decontrol U.S. crude prices—but put a new import fee on refined products.

Also, small refiners will fight to keep their own windfall under the so-called small refiner bias built into the control regulations at congressional insistence.

At the moment, the best bet for Carter action looks like immediate decontrol of newly discovered oil and freeing of the $12.75 price for so-called upper-tier oil between now and 1981. Lower-tier oil, the $5.80 variety, will be allowed to rise, too, but by how much is unclear.

The Jan. 3 memo included options to keep lower-tier oil controlled until 1985, or to let its price rise slowly until the fall of 1981, when the remaining gap would be closed.

Another variation in the memo would change the definition of stripper oil to relate production volume to the well depth. Sen. Lloyd Bentsen (D-Texas) has introduced a bill to require this, and it may stand a good chance of passage. A House subcommittee will mark up such a bill, and Carter may well decide to go along.

In fact, the administration might decide just to eliminate lower-tier oil gradually by creating more and more exemptions.

Chances are good, too, that Carter will ask Congress to hit oil producers with a "windfall profits" tax that will be, in reality, an excise tax keyed to the amount of price-controlled oil produced. Carter tax experts want nothing to do with a genuine excess profits tax because of the difficult job of trying to determine what a "normal" profit would be.

If Carter, unlike his predecessor, decided to decontrol oil prices, even if he were to do it immediately, it would not break OPEC or otherwise mean an end of the U.S. energy dilemma. Problems will remain so long as the nation uses so much more energy than it produces.

But decontrol would reduce oil consumption and stimulate production. That would help hold down future OPEC price hikes and lower the need for U.S. oil imports. It also would enable us to keep our Bonn pledge to allow prices to rise to world levels, a pledge that seems to count for little with some officials.

This is a game that is worth the candle, whatever the political anxieties at the White House.●

JUSTIFIES ENERGY DECONTROL

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 12, 1979

● Mr. JONES of Oklahoma. Mr. Speaker, the time has come to admit that vast Government bureaucracy, price controls, allocation controls, and production controls have not solved our national energy problems. Even the most vocal anti-oil-industry spokesmen admit that the oil control program has not spurred development and production of new domestic energy supplies.

Sunday's Washington Post contained an article by John M. Berry which sets forth the options facing the President and Congress this year as the mandatory oil control program expires on May 31. The clear conclusion of Mr. Berry's article is that the oil control program has not advanced our national energy posture and he argues that decontrol is the option which should be followed by the President.

Decontrol of domestic oil is not exactly a new or untried idea. We have had a decontrolled energy industry from the discovery of oil in America until the mid-1970's. Compare the actual track record of today's brief oil control program to the entire history of decontrolled oil which spanned almost a century.

When exploration, production, pricing, refining, and distribution of oil was left to the marketplace rather than to the bureaucrats, America enjoyed consistently lower prices for oil products, consistently more plentiful supplies, and consistently better distribution.

Now one can argue that times are different. I agree. However, the clear and convincing evidence is that bureaucratic control of oil over the past 4 years has been a miserable failure. Why not at least try a policy that has had decades of success for our Nation. This Washington Post article comes to the same conclusion. However, I think it is worthy of my colleagues' attention to see how that conclusion was reached. The article follows:

ENDING CONTROLS ON DOMESTIC OIL

(By John M. Berry)

June will be a magic month this year, a month in which many of our past mistakes on energy can be redeemed—if only President Carter has the political courage.

Jerry Ford had a similar moment in 1975. But his advisers whispered in his ear, "What about the risk? What about the election?" Ford faltered, losing his chance and the nation's.

As a consequence, we are still stuck with an absurd, penny-wise, pound-foolish energy policy—all because Washington has been unable to decide how to divvy up a $13 billion windfall that would result from ending government price controls over domestic oil.

For those who have forgotten, when the OPEC oil cartel quadrupled foreign oil prices back in 1973–74, American oil continued to be held down by the Nixon price controls. Though domestic oil prices have risen gradually over the past five years, there is still a gap—the difference between U.S. prices and the world price—totaling $13 billion. If Washington were to abandon price controls, who should get the $13 billion? The oil companies? The U.S. Treasury? The consumer in the form of tax rebates?

The impasse over this question led directly to unnecessarily high oil consumption, subsidization of oil imports and loss of up to 500,000 barrels a day of U.S. oil output. As a result, world oil prices today are higher than they need have been, and the dollar is weaker.

Meanwhile, oil price controls have served as a giant income transfer system, the true effect of which is only dimly known. "Small" refiners, New England oil users, producers of heavy California crudes—all are getting some of the billions of dollars in benefits at the expense of someone else.

Consumers, as a group, probably are getting no more than two-thirds of the $13 billion in the form of lower prices, perhaps much less. This savings, when spread among 220 million Americans, doesn't mean big bucks to the average auto-owner—but in terms of U.S. energy policy, it has meant considerable damage to common sense.

The actual regulations controlling prices were so awkwardly drawn that they encouraged many producers to let their wells' output drop, in the certain knowledge that when it fell below 10 barrels a day and reached "stripper" status, controls no longer applied.

If any true accounting of who is getting what, by law and regulation, were ever toted up, the system would probably fall in an avalanche of outrage.

WHITE HOUSE MEETINGS

All this could have been avoided had President Ford not blinked in 1975 when, in the manevering over extending controls, the Democratic congressional leadership told him that if he vetoed a bill continuing them, there would be no attempt to override.

Even though an end to controls was what he had been trying to force on Congress earlier that year when he imposed a $1-a-barrel import fee on crude oil, Ford decided he could not chance it politically. Controls were extended for nearly four years.

Now President Carter is preparing a speech on how we should respond to the new concerns about future Iranian oil production. He is expected to call again for "voluntary" steps to cut oil use, and perhaps mandatory conservation measures as well.

But for much of the last two weeks, there has been a series of meetings at the White House and elsewhere on a vastly more important long-run energy issue that Carter will address: what to do about oil price controls.

Some White House officials are now saying the same things Ford heard in the summer of 1975. How can we afford to push crude oil prices to world levels right away? Jimmy will be plowing through the snow of New Hampshire a year from now, and those people will be furious about their oil bills, argued one Carter aide.

All this is over a measly $13 billion: That may sound large, but it's roughly the size of the modest income-tax cut that took effect Jan. 1, a cut that has hardly made a big difference in any family's finances.

Of course it was not just the White House that has had trouble facing this issue. Congress refused, too, in 1977 and 1978 when it scuttled Carter's crude oil equalization tax, which would have brought U.S. crude oil prices close to world levels after three years, but which also would have taxed away most of the oil industry's windfall.

The need to get domestic oil prices to world levels—as Carter, at last year's Bonn economic summit, promised we would do by 1980—hasn't changed. Nor has the need to end the distortions and windfalls created by the controls program. If any thing, it's more imperative than ever.

Less than three months from now Carter has a chance to do the job. On June 1, mandatory controls end on U.S. crude oil prices. From then until Sept. 30, 1981, the president has sole discretion on whether to continue controls and, if so, in what form. The authority to have them at all expires in 1981.

Moreover, Congress will have no automatic right to veto any step the president might take, as it has now, for instance, over decontrol of retail gasoline prices.

A SMALLER IMPACT

The impact of decontrol would be smaller now than in 1975. Then the windfall—and the potential for price increases—amounted to nearly 1 percent of GNP. Now the gap is only about half of that. Politically, however, there remains a fear that the impact would be every bit as great.

The average cost to refiners of domestic crude oil would rise from about $11.20 now to about the $15.75 of imported crude landed in this country—a 40 percent hike. That might translate eventually into as much as a 1 percentage point rise in consumer prices if the jump in the retail cost of oil products also causes wages to go up faster.

But such a rise in average crude oil prices, if passed through dollar-for-dollar into higher prices for all petroleum products, would mean only a 6-cent to 7-cent a gallon rise in gasoline and home heating oil prices.

Consumers, however, might not be hit that hard.

Many economists think that a hefty portion of that $13 billion annual windfall has ended up in oil industry pockets anyway—in the form of higher profit margins for refiners. The reasoning is that U.S. refiners' ultimate competition is from imports of refined products, and that in several cases, U.S. prices are essentially as high as world prices for the finished product despite the lower cost of U.S. crude.

While estimates of what the refiners have recaptured vary all the way from 100 percent down to 20 percent, nearly everyone agrees the refiners have gained to some extent. The administration believes refiners' profits are fatter by at least $4 billion, or about a third of the windfall. If the administration is right, decontrol might mean only about a 4-cent jump in retail gasoline and heating oil prices.

What would those increases buy? A lot:

Up to a 500,000-barrel-a-day increase in production from older U.S. wells whose output of so-called lower-tier oil sells for only $5.80 a barrel.

A 300,000- to 400,000-barrel-a-day cut in oil use because of higher prices.

A $4 billion rise in tax revenues from higher oil company profits.

An end to the implicit subsidy of all oil imports arising from the so-called entitlements program, under which refiners with access to lower-cost U.S. crude must buy an "entilement" to process that cheap crude, with the proceeds—now about $2 a barrel—going to refiners using higher-cost foreign crude.

New investments in U.S. refineries, particularly on the West Coast, to enable them to use heavier, more "sour" crudes—such as from Alaska—once we drop the perverse prohibition barring refiners from earning a profit on such investment.

A halt to the spectacle of an oil company having to allocate supplies among its dealers when it cannot cope with a surge of customer demand—a surge that hit Shell at one point last year solely because controls forced it to sell gasoline more cheaply than its rivals no matter what the demand.

Finally, an end to the cumbersome and costly bureaucracy running the controls program.

Those are just the *domestic* benefits. The impact of the United States, the world's largest oil consumer, finally tackling its energy problem could sufficiently stun the OPEC nations so that OPEC prices will not rise as fast this year as they seem destined to do.

That same impact could give the still-troubled dollar a major boost. "If we were to swallow the whole thing at once," says an administration official, "the foreign exchange reaction might be phenomenal."

THE INFLATION EFFECT

What is measured against these benefits? The possible damage to the administration's anti-inflation drive and to its reelection chances.

The inflation danger, at least, is real.

When Alfred Kahn was named chief of the anti-inflation campaign last fall, he carefully excluded oil from his price targets. Oil prices would have to rise, he said.

Then, a few weeks ago, after some disaster inflation reports for January and with more on the way, Kahn flatly and publicly declared, "This is not the time to raise oil prices."

"Gee, *now* is never the time to decontrol," exclaims another administration economist angrily. "Sometimes you have to eat something. We should have done it in 1977 or last year. Fighting inflation does not mean you will not allow any price increases."

The danger is there, since no matter how you slice it, decontrol will add to inflation. But there is at least an even chance that decontrol might stave off yet more OPEC increases this year as the oil exporters chase spiraling spot market prices with ever higher "official" prices.

For one thing, even with the world shortage of oil caused by the virtual halt in Iranian production, companies like Ashland Oil would probably be much less willing to shell out $18 to $20 a barrel if the entitlements part of the controls program did not exist. That willingness may help prod OPEC into raising "official" prices at its March 26 meeting in Geneva.

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COMMITTEE FUNDING ANALYSIS

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 12, 1979

● Mr. DANNEMEYER. Mr. Speaker, on Tuesday, March 13, we will be asked to vote on three spending resolutions for committees of the House.

Because of the proposed percentage increases for two of the three which are substantially in excess of the rate of inflation which our President has asked the American people to observe (7 percent, some of us plan to ask for a rollcall vote so that the people of this country will have an indication if we in the Congress are attempting to put a handle on public spending.

The committees, the House resolutions, the spending for last year, and the recommended budget for next year are as follows:

COMMITTEE FUNDING ANALYSIS

[In thousands]

Resolution No.: Committee	Spent 1978	House Administration recommendation, 1979	Percentage change from 1978 spending
H. Res. 114: Pension task force, Education Labor.[1]	$218.1 (2 yr), est. $109.5 per year $774.2.	[2] $167.5	53.0
H. Res. 117: Agriculture.	$774.2	1,025.0	32.4
H. Res. 129: House Information System.	$10,037	9,889.0	−1.5

[1] 1978 figures represent spending for 1977 and 1978. The recommendation represents funds for 1979 only.

[2] 1 yr.

It is sad to say that on Wednesday, March 7, 1979, the House approved spending resolutions for three commitmittees. The budgets for these committees are as follows: Standards of Official Conduct $500,000, District of Columbia $315,000 and Rules $519,000.

Two of the three had substantial votes in opposition. It is hoped that the Members will exhibit more respect for the fact that there is no way any of us can justify percentage increases of the magnitude that were presented by these resolutions.

There is a tendency to observe that just because a committee is authorized to spend money does not necessarily mean that the money will be spent. Therefore, a claimed fairer way to evaluate a budget proposal for a committee is to compare authorizations for 1979 with authorizations for prior years. To accommodate this desired perspective the following is a comparison of authorizations for the committees in question 1974–79:

COMMITTEE INQUIRIES AND INVESTIGATIONS FUNDING AUTHORIZATIONS, 1974–79

[In thousands of dollars]

	1974	1975	1976	1977	1978	[1] 1979
H. Res. 111, Standards of Official Conduct		$35.0	$235.0	$530.0	$500.0	$500.0
H. Res. 112, District of Columbia	$275	375.4	407.8	275.0	275.0	315.0
H. Res. 114, Pension Task Force (Education/Labor)	(2)	(2)	(2)	(2)	226.0	167.5
H. Res. 117, Agriculture	$150	$788.0	$797.5	$1,070.2	$910.0	$1,025.0
H. Res. 129, House Information System	2,400	3,700.0 +80.0	6,626.0 +100.0	7,980.0	10,955.0	9,889.0
H. Res. 130, Rules	2	30.0	37.7	42.0	49.5	519.0

[1] Represents Administration Committee recommendation.

[2] Information not available.

It is obvious that the expansion of staff in the Congress in at least the last 4 years has been nothing less than explosive. If committees on a year-to-year analysis do not spend all they are authorized, over a 4–5 year span spending has gone only one way—up-and-up astronomically.

The House staff budget for 1968 was $44,700,000. In 1978 it was $167,700,000. Ten years ago there were 4,489 personal and committee staff members in Congress. This number rose to 13,276 in 1978.

Enclosed is a copy of a portion of an official publication of the House designated table III House committee staff totals. The amount of staff in 1978 was penciled in based on the latest information available.

Congress can make an example for the people of this country by cutting the proposed authorization increases to no more than 7 percent over the spending of the preceding year. Until this principle is adopted, we should not support two of the three spending resolutions.

The table follows:

TABLE 3.—HOUSE COMMITTEE STAFF TOTALS, 1947–77 (COMBINED STATUTORY AND INVESTIGATIVE STAFF)

[X—Not a standing committee for year in question]

	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978
Agriculture	13	14	18	16	14	15	16	17	18	17	20	22	48	58	56	64
Appropriations	55	53	65	59	67	70	75	71	61	75	75	85	98	118	125	129
Armed Services	15	17	20	27	30	31	34	37	33	33	29	30	38	39	41	50
Banking	36	42	35	41	49	47	47	50	49	48	51	59	85	112	107	121
Budget	X	X	X	X	X	X	X	X	X	X	X	X	67	65	76	81

	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978
District of Columbia	10	11	10	10	16	18	14	15	15	20	34	37	43	54	58	40
Education and Labor	44	42	57	31	56	71	74	77	32	94	95	108	114	129	102	111
Governmental Operations	63	54	61	55	61	55	58	60	57	55	58	64	68	73	80	82
House Administration[1]	3	4	6	8	8	9	23	25	31	70	122	163	217	243	268	....
Interior	10	10	13	14	14	14	14	14	19	26	28	31	57	58	64	73
Internal Security	52	55	57	52	51	48	49	51	55	51	42	42	27	X	X	....
International Relations	16	17	17	17	18	20	20	21	32	35	36	41	54	64	93	105
Interstate and Foreign Commerce	29	37	31	32	36	32	39	42	46	44	56	8	112	138	130	65
Judiciary	48	45	37	34	30	27	35	35	36	36	44	172	69	84	24	88
Merchant Marine and Fisheries	9	9	9	10	19	19	22	21	23	27	22	22	28	34	62	73
Post Office and Civil Service	10	10	32	35	34	37	45	45	44	48	44	45	61	64	61	63
Public Works	55	54	33	36	37	35	36	40	47	54	64	72	88	101	23	82
Rules	4	4	3	5	5	6	6	7	6	6	9	18	26	24	24	26
Science and Technology	16	20	20	21	21	24	28	26	25	26	27	29	47	53	77	82
Small Business	X	X	X	X	X	X	X	X	X	X	X	X	27	31	39	43
Standards of Official Conduct	X	X	X	X	X	5	5	5	5	6	5	5	5	14	31	35
Veterans' Affairs	15	17	18	22	17	16	19	18	18	18	18	18	26	31	31	39
Ways and Means	22	23	23	19	23	22	22	24	23	28	31	32	63	86	92	92
Total, standing committees	515	539	571	594	608	671	681	702	729	817	918	1,143	1,460	1,630	1,776	....
Total, select committees	18	49	26	22	26	20	48	70	47	61	68	35	31	54	238	....
Total, all committees	533	586	597	616	634	641	729	772	776	878	946	1,178	1,491	1,734	2,014	....

[1] For 1972 to present, figure includes employees of House Information Systems, the House of Representative's central computer facility and its predecessor organizations.

Sources: Committee staff employment lists from Congressional Record for years 1947–70; for succeeding years, Report of the Clerk of the House. Figures show employment as of June 30 of each year, except for 1977 for which the reporting date was Sept. 30. ●

THE 100TH ANNIVERSARY OF 28TH INFANTRY (KEYSTONE) DIVISION

HON. ALLEN E. ERTEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 12, 1979

● Mr. ERTEL. Mr. Speaker, today commemorates the 100th anniversary of the formation of the 28th Infantry (Keystone) Division of the Pennsylvania Army National Guard.

The 28th Infantry Division has served our Nation and our Commonwealth in times of war and peace continuously for 100 years, the longest period of service of any division in the U.S. Army. Units of the 28th Infantry Division served in the Spanish-American War, the Mexican border in 1916, fought in World War I suffering 14,000 casualties, served in many memorable campaigns in World War II including the Battle of the Bulge, and answered the call to duty in the Korean conflict. The 28th Infantry Division has served just as proudly in peacetime during times of natural disaster, including the floods of 1936, 1972, 1975, and 1977, and also in times of civil strife and disorder by maintaining calm and order. The soldiers of this great division have made great sacrifices in demonstrating their patriotism and dedication to duty, both to our country and to the Commonweath of Pennsylvania.

Mr. Speaker, on this proud day for the 28th Infantry Division, I would like to join with people throughout the world in saying congratulations and thanks to its members.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an astrisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, March 13, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 14

8:00 a.m.

Armed Services

Research and Development Subcommittee

To hold closed hearings on proposed authorizations for fiscal year 1980 for the research and development overview program of the Department of Defense.

224 Russell Building

9:00 a.m.

Finance

Health Subcommittee

To resume hearings on S. 505 to control increases in hospital revenues (Hospital Cost Containment).

2221 Dirksen Building

9:30 a.m.

Appropriations

Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1980 for the Department of Agriculture.

1114 Dirksen Building

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on S. 354, proposed supplemental authorizations for FY 79 for NASA, and S. 357, proposed authorizations for FY 80 for NASA.

235 Russell Building

Energy and Natural Resources

Energy Research and Development Subcommittee

To resume hearings on proposed authorizations for fiscal year 1980 for environment, basic research, naval reactors, and safeguards and security programs.

3110 Dirksen Building

Foreign Relations

To resume hearings on proposed fiscal year 1980 authorizations for foreign programs.

4221 Dirksen Building

Judiciary

To hold hearings on proposed legislation to reform the refugee admission provisions of the Immigration and Nationality Act.

2228 Dirksen Building

Judiciary

Antitrust, Monopoly and Business Rights Subcommittee

To resume hearings on S. 300, proposed Antitrust Enforcement Act.

4200 Dirksen Building

10:00 a.m.

Appropriations

To consider those items in the President's budget for fiscal year 1980 which fall within its legislative jurisdiction and consider recommendations which it will make thereon to the Budget Committee.

5302 Dirksen Building

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1980 for the defense establishment.

1223 Dirksen Building

Appropriations

Interior Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1980 for the U.S. Forest Service, Department of Agriculture.

1224 Dirksen Building

Appropriations

Labor-HEW Subcommittee

To estimate hearings on proposed budget estimates for fiscal year 1980 for the Department of HEW.

S-128, Capitol

Banking, Housing, and Urban Affairs

To consider those items in the President's budget for fiscal year 1980 which fall within its legislative jurisdiction and consider recommendations which it will make thereon to the Budget Committee.

5302 Dirksen Building

Budget

To resume hearings in preparation for reporting the first concurrent resolution on the fiscal year 1980 congressional budget.

6202 Dirksen Building

Finance

International Trade Subcommittee

To hold hearings on H.R. 1147, to extend temporarily the authority of the Secretary of the Treasury to waive the imposition of countervailing duties, to insure completion of congressional consideration of the Multilateral Trade Negotiations in terms of their agreements and implementing legislation.

3302 Dirksen Building

Governmental Affairs
To mark up S. 210, to establish a Department of Education in the Executive Branch of the Government.
3302 Dirksen Building

Governmental Affairs
Energy, Nuclear Proliferation and Federal Services Subcommittee
To continue hearings on nuclear waste management.
5110 Dirksen Building

2:00 p.m.

Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of HEW.
S-128, Capitol

Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To continue hearings on proposed budget estimates for FY 1980, and on supplemental appropriations for FY 1979, both for the Department of Commerce.
S-146, Capitol

Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1980 congressional budget.
6202 Dirksen Building

Select on Intelligence
Budget Authorization Subcommittee
To resume closed hearings on proposed fiscal year 1980 authorization requests for intelligence operations of the Federal Government.
S-407, Capitol

2:30 p.m.

Appropriations
Military Construction Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for military construction programs.
1318 Dirksen Building

MARCH 15

8:00 a.m.

Armed Services
Research and Development Subcommittee
To hold closed hearings on proposed authorizations for fiscal year 1980 for Technology Base and Defense Advanced Research Projects Agency (DARPA) of the Department of Defense.
224 Russell Building

9:30 a.m.

Appropriations
Agriculture and Related Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Agriculture.
S-126, Capitol

Armed Services
To resume closed hearings on proposed fiscal year 1980 authorizations for military procurement for Navy and Marine Corps tactical aircraft and missile programs.
212 Russell Building

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold closed hearings on S. 354, proposed supplemental authorizations for FY 1979 for NASA, and S. 357, proposed authorizations for FY 1980 for NASA.
235 Russell Building

Foreign Relations
To continue hearings on proposed fiscal year 1980 authorizations for foreign assistance programs.
4221 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To resume hearings to explore the areas of basic learning skills used in elementary and secondary schools.
6226 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To hold hearings on S. 570, to control increases in hospital revenues (hospital cost containment).
4232 Dirksen Building

10:00 a.m.

Appropriations
Defense Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the defense establishment.
1223 Dirksen Building

Appropriations
Foreign Operations Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for International programs, Department of State.
1114 Dirksen Building

Appropriations
HUD-Independent Agencies Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Veterans' Administration.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Indian Health Service.
1224 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for FY 1980 for the Department of HEW.
S-128, Capitol

Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
S-146, Capitol

Budget
To continue hearings in preparation for reporting the first concurrent resolution on the FY 1980 congressional budget.
6202 Dirksen Building

Finance
To resume consideration of those issues relating to the implementation of the Multilateral Trade Negotiations.
2221 Dirksen Building

2:00 p.m.

Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for FY 1980 for the Department of HEW.
S-128 Capitol

Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To continue hearings on proposed budget estimates for FY 1980 for the Department of Commerce.
S-146, Capitol

Select on Ethics
To hold an open, followed by a closed business meeting to hear arguments on motions relating to the investigation of Senator Talmadge.
S-206, Capitol

3:30 p.m.

Foreign Relations
To receive a briefing, in closed session, on the impending SALT treaty.
S-116, Capitol

MARCH 16

9:30 a.m.

Appropriations
Agriculture and Related Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Agriculture.
1114 Dirksen Building

Energy and Natural Resources
Energy Research and Development Subcommittee
To resume hearings on proposed authorizations for fiscal year 1980 for nuclear programs.
3110 Dirksen Building

Foreign Relations
To continue hearings on proposed fiscal year 1980 authorizations for foreign assistance programs.
4221 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To hold hearings on S. 230, proposed Nurse Training Amendments Act.
4232 Dirksen Building

Judiciary
Antitrust, Monopoly and Business Rights
To resume hearings on the practice and procedures used by the life insurance industry's industrial and monthly debit ordinary life insurance policies.
2228 Dirksen Building

10:00 a.m.

Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Veterans' Administration, the American Battle Monuments Commission, and the U.S. Army cemeterial expenses.
1318 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for FY 1980 for the Office of Human Development Services, Department of HEW.
S-128, Capitol

Budget
To continue hearings in preparation for reporting the first concurrent resolution on the FY 1980 congressional budget.
6202 Dirksen Building

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on the Northeast corridor improvement project.
235 Russell Building

2:00 p.m.

Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1980 congressional budget.
6202 Dirksen Building

MARCH 19

9:30 a.m.

Judiciary
To resume hearings on S. 300, proposed Antitrust Enforcement Act.
1114 Dirksen Building

10:00 a.m.

Energy and Natural Resources
Energy Regulation Subcommittee
To resume hearings on the Department of Energy's proposals for emergency energy conservation and gasoline rationing.
3110 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To hold hearings on proposed legislation authorizing funds for programs of the Safe Drinking Water Act (P.L. 95-190), the Toxic Substances Control Act (P.L. 94-469), and the Ocean Dumping Act (P.L. 95-153).
4200 Dirksen Building

Finance
Taxation and Debt Management Subcommittee
To resume hearings on the carryover basis provisions of the estate tax law.
2227 Dirksen Buildir

2:00 p.m.

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for FY 1980 for the Department of HEW.

S-128, Capitol

Appropriations

State, Justice, Commerce, the Judiciary Subcommittee

To hold hearings on proposed budget estimates for FY 1980 for the Equal Employment Opportunity Commission, U.S. Metric Board, and the Legal Services Corporation.

S-146, Capitol

Select on Intelligence

Budget Authorization Subcommittee

To resume closed hearings on proposed FY 1980 authorization requests for intelligence operations of the Federal Government.

S-407, Capitol

MARCH 20

9:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Production, Marketing, and Stabilization of Prices

To hold hearings on proposed legislation to revise the Federal Crop Insurance program.

324 Russell Building

9:30 a.m.

Human Resources

Child and Human Development Subcommittee.

To resume hearings on S. 4, proposed Child Care Act.

4232 Dirksen Building

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1980 for International Financial Institutions, Department of the Treasury.

1114 Dirksen Building

Appropriations

Interior Subcommittee

To resume hearings on proposed budget estimates for FY 1980 for the Office of Territorial Affairs.

1224 Dirksen Building

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for FY 1980 for the Social Security Administration, Department of HEW.

S-128, Capitol

Energy and Natural Resources

Energy Regulations Subcommittee

To continue hearings on the Department of Energy's proposals for emergency energy conservation and gasoline rationing.

3110 Dirksen Building

Finance

Taxation and Debt Management Subcommittee

To continue hearings on the carryover basis provisions of the estate tax law.

2227 Dirksen Building

2:00 p.m.

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for FY 1980 for the Department of HEW.

S-128, Capitol

Appropriations

State, Justice, Commerce, the Judiciary Subcommittee

To hold hearings on proposed budget estimates for FY 1980 for the Federal Communications Commission and the Small Business Administration.

S-146, Capitol

MARCH 21

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee.

To resume oversight hearings on the implementation of P.L. 94-282, establishing the Office of Science and Technology Policy.

235 Russell Building

10:00 a.m.

Appropriations

Interior Subcommittee

To resume hearings on proposed budget estimates for FY 1980 for the Office of Territorial Affairs.

1224 Dirksen Building

Appropriations

Military Construction Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1980 for military construction programs.

1114 Dirksen Building

Finance

Tourism and Sugar Subcommittee

To hold hearings on S. 463, to implement the International Sugar Agreement and to insure stable domestic sugar prices.

2221 Dirksen Building

Rules and Administration

To receive testimony on and consider budget requests for fiscal year 1980 for the Federal Elections Commission, and on other administrative matters.

301 Russell Building

2:00 p.m.

Appropriations

State, Justice, Commerce, the Judiciary Subcommittee

To hold hearings on proposed budget estimates for FY 1980 for the Commission on Security and Cooperation in Europe, Federal Maritime Commission, Marine Mammal Commission, and on supplemental appropriations for FY 79 for the Board of International Broadcasting.

S-146, Capitol

Select on Intelligence

Budget Authorization Subcommittee

To resume closed hearings on proposed fiscal year 1980 authorization requests for intelligence operations of the Federal Government.

S-407, Capitol

MARCH 22

9:30 a.m.

Environment and Public Works

Resource Protection Subcommittee

To hold hearings on proposed legislation authorizing funds for programs of the Resource Conservation Recovery Act of 1976 (P.L. 94-580).

4200 Dirksen Building

Veterans' Affairs

To resume hearings on S. 330, to provide for a judicial review of the administrative actions of the VA, and for veterans' attorney fees before the VA or the courts.

6226 Dirksen Building

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To continue hearings on proposed budget estimates for fiscal year 1980 for the Environmental Protection Agency.

1318 Dirksen Building

Appropriations

Interior Subcommittee

To resume hearings on proposed budget estimates for FY 1980 for the U.S. Geological Surevy.

1318 Dirksen Building

Appropriations

Transportation Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.

S-126, Capitol

Banking, Housing, and Urban Affairs

Economic Stabilization Subcommittee

To hold oversight hearings on the administration's anti-inflation program, and to review the nature and causes of inflation.

5302 Dirksen Building

Energy and Natural Resources

Energy Research and Development Subcommittee

To hold hearings on S. 14, proposed Reclamation Reform Act.

3110 Dirksen Building

Finance

Health Subcommittee

To markup proposed legislation to control increases in hospital revenues (Hospital Cost Containment).

2221 Dirksen Building

2:00 p.m.

Appropriations

State, Justice, Commerce, the Judiciary Subcommittee

To hold hearings on proposed budget estimates for FY 1980 for the Commission on Civil Rights and the Federal Trade Commission.

S-146, Capitol

Appropriations

Military Construction Subcommittee

To continue hearings on proposed budget estimates for fiscal year 1980 for military construction programs.

1223 Dirksen Building

Energy and Natural Resources

Energy Research and Development Subcommittee

To continue hearings on S. 14, the Reclamation Reform Act.

3110 Dirksen Building

Select on Intelligence

Budget Authorization Subcommittee

To continue closed hearings on proposed fiscal year 1980 authorization requests for intelligence operations of the Federal Government.

S-407, Capitol

MARCH 23

9:00 a.m.

Commerce, Science, and Transportation

To hold hearings on a proposed joint government/industry program of advanced automotive technology development.

235 Russell Building

9:30 a.m.

Energy and Natural Resources

Energy Research and Development Subcommittee

To resume hearings on proposed fiscal year 1980 authorizations for the Department of Energy.

3110 Dirksen Building

Environment and Public Works

Resource Protection Subcommittee

To continue hearings on proposed legislation authorizing funds for programs of the Resource Conservation Recovery Act of 1976 (P.L. 94-580).

4200 Dirksen Building

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1980 for the Environmental Protection Agency, and the Consumer Information Center.

1318 Dirksen Building

Banking, Housing, and Urban Affairs

Economic Stabilization Subcommittee

To continue oversight hearings on the administration's anti-inflation program, and to review the nature and causes of inflation.

5302 Dirksen Building

Finance

Health Subcommittee

To continue markup on proposed legislation to control increases in hospital revenues (Hospital Cost Containment).

2221 Dirksen Building

MARCH 26

9:30 a.m.

Energy and Natural Resources
Energy Regulation Subcommittee
To hold oversight hearings on the competitive situation in the retail gasoline market.
3110 Dirksen Building

Labor and Human Resources
Health and Scientific Research Subcommittee
To hold hearings on preclinical and clinical drug testing by the pharmaceutical industry.
4232 Dirksen Building

10:00 a.m.

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for FY 1980 for the Department of Labor, and related agencies.
S-128 Capitol

Banking, Housing, and Urban Affairs
To resume hearings on S. 85, to strengthen the ability of the Federal Reserve Board to conduct monetary policy, promote greater competitive equality, enhance the safety and soundness of the banking system, and improve the efficiency of the Federal Reserve payments system.
5302 Dirksen Building

Energy and Natural Resources
Energy Resources and Materials Production Subcommittee
To hold hearings to examine strategic petroleum reserve regional storage.
3302 Dirksen Building

Finance
Tourism and Sugar Subcommittee
To resume hearings on S. 463, to implement the International Sugar Agreement and to insure stable domestic sugar prices.
2221 Dirksen Building

MARCH 27

9:00 a.m.

Commerce, Science, and Transportation
Consumer Subcommittee
To hold oversight hearings on the activities of the National Highway Traffic Safety Administration and on proposed legislation authorizing funds for fiscal year 1980 for the National Traffic and Motor Vehicle Safety Act (P.L. 89-563), and the Motor Vehicle Information and Cost Savings Act (P.L. 92-513).
5110 Dirksen Building

9:30 a.m.

Energy and Natural Resources
Energy Research and Development Subcommittee
To resume hearings on proposed fiscal year 1980 authorizations for the Department of Energy.
3110 Dirksen Building

Labor and Human Resources
To hold hearings on S. 420, to strengthen State workers' compensation programs.
4232 Dirksen Building

Labor and Human Resources
Child and Human Development
To mark up S. 239, authorizing funds for programs administered by Domestic Volunteer Service Act (ACTION).
6226 Dirksen Building

10:00 a.m.

Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Bureau of Indian Affairs.
1224 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for FY 1980 for the Department of HEW.
S-128, Capitol

Appropriations
Military Construction Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for military construction programs.
S-126, Capitol

Banking, Housing, and Urban Affairs
To continue hearings on S. 85, to strengthen the ability of the Federal Reserve Board to conduct monetary policy, promote greater competitive equality, enhance the safety and soundness of the banking system, and improve the efficiency of the Federal Reserve payments system.
5302 Dirksen Building

Finance
To hold hearings on S. 350 and S. 351, to encourage and facilitate the availability, through private insurance carriers, of basic health insurance at reasonable premium charges.
9221 Dirksen Building

2:00 p.m.

Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for FY 1980 for the Department of HEW.
S-128, Capitol

Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To receive testimony from Members of Congress on proposed budget estimates for FY 1980 for the Departments of State, Justice, Commerce, and the Judiciary.
S-146, Capitol

MARCH 28

9:00 a.m.

Commerce, Science, and Transportation
Consumer Subcommittee
To continue oversight hearings on the activities of the National Highway Traffic Safety Administration and on proposed legislation authorizing funds for fiscal year 1980 for the National Traffic and Motor Vehicle Safety Act (P.L. 89-563), and the Motor Vehicle Information and Cost Savings Act (P.L. 92-513).
5110 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To hold hearings on proposed legislation on biomedical research programs.
Room to be announced

9:30 a.m.

Commerce, Science, and Transportation
To hold oversight hearings on the trucking industry economic regulation by the Federal Government.
235 Russell Building

Human Resources
To continue hearings on S. 420, to strengthen State workers' compensation programs.
4332 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To resume hearings to explore the areas of basic learning skills used in elementary and secondary schools.
457 Russell Building

Judiciary
Constitution Subcommittee
To resume hearings on S. 10, authorizing the Department of Justice to initiate suit to enforce constitutional rights to institutionalized persons.
1114 Dirksen Building

10:00 a.m.

Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for FY 1980 for the Department of HEW.
S-128, Capitol

Banking, Housing, and Urban Affairs
To continue hearings on S. 85, to strengthen the ability of the Federal Reserve Board to conduct monetary policy, promote greater competitive equality, enhance the safety and soundness of the banking system, and improve the efficiency of the Federal Reserve payments system.
5302 Dirksen Building

Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To hold hearings on proposed fiscal year 1980 authorizations for the Department of Energy.
3110 Dirksen Building

Finance
To continue hearings on S. 350 and S. 351, to encourage and facilitate the availability, through private insurance carriers, of basic health insurance at reasonable premium charges.
2221 Dirksen Building

2:00 p.m.

Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for FY 1980 for the Department of HEW.
S-128, Capitol

MARCH 29

9:00 a.m.

Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices
To resume hearings on proposed legislation to revise the Federal Crop Insurance Program.
324 Russell Building

9:30 a.m.

Human Resources
Health and Scientific Research Subcommittee
To continue oversight hearings on health programs administered by the National Institutes of Health.
4232 Dirksen Building

Judiciary
Constitution Subcommittee
To continue hearings on S. 10, authorizing the Department of Justice to initiate suit to enforce constitutional rights to institutionalized persons.
1202 Dirksen Building

Veterans' Affairs
To hold hearings to receive legislative recommendations for FY 1980 from AMVETS, Paralyzed Veterans of America, Veterans of World War I, blinded veterans, and Purple Heart.
6226 Dirksen Building

10:00 a.m.

Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1980 for ACTION—International Program.
1114 Dirksen Building

Appropriations
HUD-Independent Agencies Subcommittee
To resume hearings on proposed budgets estimates for FY 1980 for the National Aeronautics and Space Administration.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the National Endowment for the Humanities.
1224 Dirksen Building

Energy and Natural Resources
Energy Resources and Materials Production Subcommittee
To hold hearings on S. 493, proposed Deep Seabed Mineral Resources Act.
3110 Dirksen Building

Energy and Natural Resources
Parks Recreation, and Renewable Resources Subcommittee
To hold oversight hearings on the Na-

tional Park Service's concession policy.
3110 Dirksen Building

10:30 a.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for FY 1980 for the Departments of Labor and HEW.
S-128, Capitol

2:00 p.m.
Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
S-146, Capitol

MARCH 30

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To resume hearings on proposed fiscal year 1980 authorizations for the Department of Energy.
3110 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the National Aeronautics and Space Administration.
1318 Dirksen Building

APRIL 2

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To resume hearings on proposed fiscal year 1980 authorizations for the Department of Energy.
3110 Dirksen Building

Human Resources
To resume hearings on S. 420, to strengthen State workers' compensation programs.
4232 Dirksen Building

10:30 a.m.
Commerce, Science, and Transportation
To hold hearings on proposed legislation to authorize funds through fiscal year 1985 for the Fishery Conservation Management Act (P.L. 94-265), and the Anadromous Fish Conservation Act (P.L. 93-362).
235 Russell Building

APRIL 3

9:30 a.m.
Human Resources
To continue hearings on S. 420, to strengthen State workers' compensation programs.
4232 Dirksen Building

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for programs administered by the Department of State.
1114 Dirksen Building

Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Office of the Secretary and the Office of the Solicitor.
1224 Dirksen Building

Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To resume hearings on proposed fiscal year 1980 authorizations for the Department of Energy.
3110 Dirksen Building

2:00 p.m.
Energy and Natural Resources
Parks, Recreation, and Renewable Reources Subcommittee
To resume oversight hearings on the National Parks Service's concession policy.
3110 Dirksen Building

APRIL 4

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the National Science Foundation.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Heritage Conservation and Recreation Service.
1224 Dirksen Building

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings on the implications of the proposed multilateral trade agreements for U.S. exports.
5302 Dirksen Building

Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To continue hearings on proposed fiscal year 1980 authorizations for the Department of Energy.
3110 Dirksen Building

APRIL 5

9:00 a.m.
Veterans' Affairs
To hold hearings on proposed legislation extending certain veterans' health benefits programs through FY 1980.
5110 Dirksen Building

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1980 for foreign assistance programs.
1114 Dirksen Building

Appropriations
HUD-Independent Agencies Subcommittee policy.
To resume hearings on proposed budget estimates for fiscal year 1980 for the National Science Foundation, and the Office of Science and Technology policy
1318 Dirksen Building

Appropriations
Interior Subcommittee
To continue hearings on proposed budget estimates for FY 1980 for the Heritage Conservation and Recreation Service.
1224 Dirksen Building

Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
318 Russell Building

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To resume hearings on the implications of the proposed multilateral trade agreements for U.S. exports.
5302 Dirksen Building

2:00 p.m.
Appropriations
Transportation Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
318 Russell Building

APRIL 6

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To mark up 357, proposed budget estimates for fiscal year 1980, S. 354 and proposed supplemental appropriations for fiscal year 1979, both for NASA.
235 Russell Building

Energy and Natural Resources
Energy Research and Development Subcommittee
To resume hearings on proposed fiscal year 1980 authorizations for the Department of Energy.
3110 Dirksen Building

10:00 a.m.
Appropriations
Transportation Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

11:00 a.m.
Appropriations
Transportation Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

2:00 p.m.
Appropriations
Transportation Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

APRIL 9

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on proposed legislation to establish an Earth Data and Information Service which would supply data on the Earth's resources and environment.
457 Russell Building

10:00 a.m.
Energy and Natural Resources
Energy Resources and Materials Production Subcommittee
To resume hearings on S. 493, proposed Deep Seabed Mineral Resources Act.
3110 Dirksen Building

APRIL 10

9:30 a.m.
Veterans' Affairs
To hold oversight hearings on the role of the Federal Government in providing educational employment.
6226 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Fish and Wildlife Service.
1223 Dirksen Building

Finance
To markup S. 350 and S. 351, to encourage and facilitate the availability, through private insurance carriers, of basic health insurance at reasonable premium charges.
2221 Dirksen Building

APRIL 11

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings on proposed legislation to establish an Earth Data and Information Service which would supply data on the Earth's resources and environment.
457 Russell Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Federal Emergency Management Administration.
1318 Dirksen Building

Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To hold hearings on S. Res. 59, proposed Small Savers Equity Resolution.
5302 Dirksen Building

Energy and Natural Resources
Parks, Recreation, and Renewable Resources Subcommittee
To resume oversight hearings on the National Park Service's concession policy.
3110 Dirksen Building

Finance
To continue markup on S. 350 and S. 351, to encourage and facilitate the availability, through private insurance carriers, of basic health insurance at reasonable premium charges.
2221 Dirksen Building

APRIL 12

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of the Treasury.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Bureau of Mines.
1223 Dirksen Building

Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue hearings on S. Res. 59, proposed Small Savers Equity Resolution.
5302 Dirksen Building

2:00 p.m.
Appropriations
Transportation Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

APRIL 24

10:00 a.m.
Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Bureau of Land Management.
1223 Dirksen Building

APRIL 25

9:30 a.m.
Human Resources
To hold oversight hearings on the conditions, trends, and new approaches to linking education, health, and work in the coming decade.
4232 Dirksen Building

Veterans Affairs
To mark up S. 330, to provide for a judicial review of the administrative actions of the VA, and for veterans' attorneys fees before the VA or the courts, and on proposed legislation extending certain veterans' health benefits programs through FY 1980.
412 Russell Building

10:00 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold oversight hearings on the Civil Aeronautics Board plan to implement the Airline Deregulation Act (P.L. 95-504).
235 Russell Building

Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Department of the Interior, to hear congressional witnesses.
1223 Dirksen Building

Banking, Housing, and Urban Affairs
Economic Stabilization Subcommittee
To resume oversight hearings on the administration's anti-inflation program, and to review the nature and causes of inflation.
5302 Dirksen Building

APRIL 26

9:30 a.m.
Human Resources
To continue oversight hearings on the conditions, trends, and new approaches to linking education, health, and work in the coming decade.
4232 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Housing and Urban Development.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To continue hearings on proposed budget estimates for FY 1980 for the Office of Surface Mining Reclamation and Enforcement, Office of Water Research and Technology.
1223 Dirksen Building

Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

Banking, Housing, and Urban Affairs
Economic Stabilization Subcommittee
To continue oversight hearings on the administration's anti-inflation program, and to review the nature and causes of inflation.
5302 Dirksen Building

2:00 p.m.
Appropriations
Transportation Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

APRIL 27

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Housing and Urban Development, and the Neighborhood Reinvestment Corporation
1318 Dirksen Building

Appropriations
Transportation Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

MAY 1

9:30 a.m.
Human Resources
Child and Human Development Subcommittee
To hold oversight hearings on the implementation of the Older American Volunteer Program Act (P.L. 93-113).
4232 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the National Park Service.
1223 Dirksen Building

MAY 2

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for HUD and independent agencies.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Smithsonian Institution.
1223 Dirksen Building

MAY 3

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for HUD and independent agencies.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Energy.
1223 Dirksen Building

Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

MAY 7

10:00 a.m.
Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

2:00 p.m.
Appropriations
Transportation Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

MAY 8

10:00 a.m.
Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Energy.
1223 Dirksen Building

MAY 9

10:00 a.m.
Appropriations
Interior Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Energy.
1223 Dirksen Building

MAY 10

10:00 a.m.
Appropriations
Interior Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Energy.
1223 Dirksen Building

Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

MAY 17

10:00 a.m.
Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

2:00 p.m.
Appropriations
Transportation Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

HOUSE OF REPRESENTATIVES—*Tuesday, March 13, 1979*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, B.D., offered the following prayer:

O Father, as we look to the future and the needs of our Nation, grant us wisdom to discern the transient demands that come and go from the lasting values of every day.

Anticipating the worries of tomorrow often makes us weak and uncertain, yet, as the prophet reminds, "Behold, God is our salvation; we will trust and will not be afraid."

O Lord God, give us as individuals and as a nation the confidence to believe and to do what is just and right and necessary, that we may serve You and all the people in the days to come.

We pray in Your holy name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MEMBERS INVITED TO WELCOME PRESIDENT UPON HIS RETURN FROM MIDDLE EAST

(Mr. EDGAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDGAR. Mr. Speaker, the President of the United States last Wednesday left the United States in hopes of bringing about a peaceful settlement between Egypt and Israel. As of just a few moments ago, the situation in the Middle East looked a bit brighter. But over the last 24 hours there had been a sense of depression and a little bit of gloom that the peace that was hoped for had quickly disappeared.

A few of us feel very strongly that the President has been courageous in his attempts to secure a settlement. I believe that any President of the United States should risk himself wherever possible to insure peace. Therefore, this evening, at 12 o'clock midnight, when the President's plane arrives back in the United States, I have invited Republicans and Democrats alike to join all of us in greeting the President at Andrews Air Force Base; and I hope, as a spontaneous move on the part of all of us, we can go and say "thank you" to the President in a symbolic gesture for risking himself in a very courageous way.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. EDGAR. I yield to the majority leader.

Mr. WRIGHT. Mr. Speaker, I should like to commend the gentleman from Pennsylvania for his initiative in this effort. I believe it is courageous and proper on his part. I believe it expresses the desires and thoughts of all of us on both sides of the aisle. It was begun at a time when it appeared that the effort of the President might have been in vain in spite of his best endeavors. Now, happily, it appears at least possible that we shall have something to celebrate. I commend the gentleman and urge all of our colleagues to join with him in welcoming the President, as I intend to do.

Mr. EDGAR. I thank the gentleman for his comments, and I would invite Members of both parties to join us at midnight tonight at Andrews Air Force Base to welcome the President back to the United States.

PRESIDENT CARTER SHOULD BE COMMENDED FOR HIS EFFORTS

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, in recent weeks, there has been criticism of President Carter from various quarters. We have heard words such as "ineffective" or "misdirected." But I say to those critics that all of us should step back and take an objective look at his endeavors. If we do so, it is obvious that there is present a wholesome determination and a daring to achieve that which is honorable and decent both for our country and for the world.

Our President has neither been timid nor afraid to dare, whether it be to seek the cure for economic ills or to seek peace where it has been illusive to others. Even now, the President is in the Mideast giving leadership toward a peace treaty that could bring a stability in an area of the world that has not had stability or tranquility for decades.

Rather than faultfinding, there should be an admiration for his daring and for his efforts to achieve mighty things. Our President's audacity and efforts remind me of the words of the late President Theodore Roosevelt when he said:

> Far better it is to dare mighty things, to win glorious triumphs, even though checkered with failure, than to take rank with those poor spirits who neither enjoy much, nor suffer much, because they live in the gray twilight that knows not victory nor defeat.

OSHA'S CONTRIBUTIONS

(Mr. GAYDOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GAYDOS. Mr. Speaker, as chairman of the Subcommittee on Health and Safety of the Education and Labor Committee, I am exceedingly interested in the accomplishments and improvements of the Labor Department's Occupational Safety and Health Administration. In the past, OSHA has suffered in part from a bad press. But recently, I have come across articles commenting favorably on the activities of OSHA. For instance, an article in the January 11, 1979, edition of the Idaho Statesman, entitled, "OSHA's Contribution," credits OSHA, along with other parties involved, for the dramatic decline in the number of industrial accidents in Idaho as displayed in recently released statistics.

Mr. Speaker, at this time I submit this article for printing in the RECORD:

[From the Idaho Statesman, Jan. 11, 1979]

OSHA'S CONTRIBUTIONS

Enemies of the Occupational Safety and Health Administration took note, we hope, of the statistics released recently showing a dramatic decline in the number of industrial accidents in Idaho.

According to figures released by OSHA, Idaho has done better than any other state in reducing the number of occupational injuries. Since 1972, such injuries have declined 37 percent, relieving Idaho of the dubious distinction of the second worst state for occupational safety.

In the logging industry, for example, 18 persons died in Idaho in 1972. In 1978, the number was four. OSHA's successes, fortunately, are invisible. They are accidents that didn't happen, lives that weren't lost. Statistically, though, we can guess that approximately 14 persons in logging alone were saved from death in 1978 through improved occupational safety.

We know not all the credit for this ex-

ANNOUNCEMENT PERTAINING TO EULOGIES TO THE LATE HONORABLE LEO J. RYAN, OF CALIFORNIA, AND THE HONORABLE WILLIAM A. STEIGER, OF WISCONSIN

This announcement is to advise the membership that the closing date for printing the eulogies and encomiums to the late Representative Leo J. Ryan, of California, and Representative William A. Steiger, of Wisconsin, has been set for March 23, 1979.

All copy for insertion must be submitted before this cutoff date so as to be included in the compendium of eulogies.

traordinary improvement does to OSHA. Obviously Idaho businesses have taken better care of their own to ensure the safety of their workers. But we would be remiss not to note that this decline began shortly after OSHA was established. This much-maligned agency at least deserves equal credit with business and industry for saving the lives and limbs of a significant number of Idahoans.

☐ 1215

COMMITTEE ON FOREIGN AFFAIRS SHOULD INVESTIGATE COMMITTING 70 OR MORE MILITARY ADVISERS TO YEMEN

Mr. PANETTA. Mr. Speaker, there are press reports this morning which indicate that the United States will be committing to North Yemen some 70 military advisers, with the possibility that an additional 200 to 300 military advisers will be provided in the future.

It appears to me that this represents a significant new commitment by the United States in this area, not only in terms of arms, but now in terms of men as well. This is a combat situation in Yemen, and there is clearly the risk that U.S. lives could be directly jeopardized in such a move.

Mr. Speaker, at this point I am not prepared to say whether this commitment is right or wrong or whether it is necessary or not. Considering the situation in that part of the world, it may well be justified. However, I do believe that it is absolutely essential, if we have learned anything from the lessons of the Vietnam experience, that the Congress not only be advised, but that it also be called on to support or not support such a significant new move of U.S. soldiers in this area.

Therefore, Mr. Speaker, I would strongly urge the House Committee on Foreign Affairs to fully investigate this matter to determine the basis for such action and to report its findings to the House as soon as possible. This Congress must exercise its necessary role as a full partner with the Executive in approving or disapproving this kind of significant new foreign policy move.

POTTSTOWN FLOOD PROJECT

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, I am today introducing a bill to provide for the construction of a badly needed flood control project for the borough of Pottstown located in Montgomery County, Pa.

Pottstown is a community of 25,000 people who are suffering a slow economic death because of periodic floods which are washing away not only the structural but the economic foundations of this once viable community.

In June 1972, industrial and residential sections of Pottstown were devastated by a flood reaching 27 feet above the flood stage. Virtually everyone living in this community was touched in some way by this disaster. Hundreds of families were left homeless and personal and economic losses were staggering. Although floods are an annual threat along the Schuylkill River Basin, the June 1972 disaster was by far the worst but not last on record.

The residents of Pottstown have with characteristic strength and courage rebuilt their homes and businesses out of this devastation. They have made every effort at the local level to improve protection for their homes and businesses and have pieced together their lives again with remarkable determination. They feel, however, that some action needs to be taken to minimize in years to come the threat of the floods that they have bravely faced in the past.

I feel that we should do our part by helping them to accomplish what they are unable to do by themselves. My bill shows a recognition of this severe problem and it enables the Corps of Engineers to provide some of the assistance that is so desperately needed.

It is my hope that this Congress will provide them with the badly needed funds and allow Pottstown an opportunity to revitalize the economy of this area.

Thank you, Mr. Speaker.

INTRODUCTION OF ANTIDUMPING LEGISLATION

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, of primary concern to me and to the people that I represent in the Lehigh Valley of Pennsylvania is job creation, the need to stimulate our economy, and to give American products a fair shake.

A strong disadvantage to stimulation of these needs is the economic damage that is caused by foreign "dumping." We want to compete, we can compete. But foreign industries subsidized by their governments are not competing. Because of the "dumping" of foreign-made products the health of our vitally important steel and certain of our textile industries are put at a big disadvantage.

It is for this reason that I am joining other colleagues today in introducing legislation which will strengthen present laws against "dumping" by subsidized industries, and which will once again create an atmosphere whereby the American-made product is competitive in its own domestic market.

TAX CONTROL ACT OF 1979

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, where taxes are concerned, the Congressional Budget Act has backfired.

The congressional budget process was designed with a revenue floor because we mistakenly thought we needed to guard against an overexuberant cutting of taxes.

We could not have been more wrong. The problem has been runaway tax increases, not tax cuts. Even the tax "cuts" we have legislated have not been enough to prevent revenues from reaching post-Korean war record levels by 1981.

These tax increases are automatic. Every year the Federal Government gets a multibillion-dollar revenue windfall by just sitting back and watching the tax money roll in.

The House may soon get a chance to vote on balancing the Federal budget by 1981. But unless we stop the automatic, runaway tax increases, any budget balancing will come from simply letting taxes rise sky high to pay for spending as usual.

Some of my colleagues and I think these automatic tax increases must be stopped and that future increases should occur only as a result of decisions made by the Congress and the President. We are introducing the "Tax Control Act of 1979" today to accomplish this goal.

I would like to note that this measure builds on the Alternative Budget Act, H.R. 2446, which I introduced with Senator PACKWOOD. In the Extensions of Remarks, I will elaborate on the details of this bill and the thinking behind it.

☐ 1220

THE TWO-STEP FISCAL POLICY

(Mrs. HOLT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. HOLT. Mr. Speaker, the balanced budget caucus organized this morning under the leadership of the gentleman from Missouri and the gentleman from Indiana, and so the support for the concept is mounting.

Mr. Speaker, we are nearing the stage at which we will be considering the first budget resolution for the 1980 fiscal year, but the process for exercising this extremely important responsibility is woefully deficient.

We have a system which forces us to debate and act on specific spending decisions before we adopt aggregate fiscal policy. We will be haggling over priorities before we decide how much to spend in total, and the effect will be to drive total spending upward. The system we are using reinforces the normal political instinct to accommodate everybody's special interest.

Instead, we should be establishing fiscal policy first, and only then should we proceed to debate our specific spending priorities within that policy. It was under this procedure that we were able to get the large number of votes last year on the Holt amendment which would have reduced the rate of growth of Government.

I have introduced H.R. 55, which would force us to establish how much we can afford to spend before we wrestle with how much to spend on this program or that. I hope you will join me in cosponsoring this legislation.

THE DOLLAR MUST BE BACKED WITH INTRINSIC VALUE

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, "The first panacea for a mismanaged nation," wrote Ernest Hemingway, "is inflation of the currency."

This has been true in civilizations ancient and modern. And it is true in the United States today.

The dollar that bought 100 cents worth of goods in 1967 buys only 49 cents worth today. A year from now it will probably purchase less than 44 cents worth.

The Government is considering killing off the $1 bill, now that we will have an appropriately small $1 coin. In the future, will we carry $5 and $10 coins instead of nickels and dimes?

Unless the Government stops its deliberate policy of inflating the money supply, in order to stimulate the economy and pay for more spending, that is exactly the way we will end up. Only a dollar backed with something of intrinsic value, instead of political promises, can stem inflation once and for all.

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, due to the fact there obviously is not a quorum present, I move a call of the House.

The SPEAKER pro tempore (Mr. MURTHA). Without objection, a call of the House is ordered.

There was no objection.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 29]

Addabbo
Albosta
Alexander
Ambro
Anderson, Ill.
Andrews, N.C.
Archer
Ashley
Barnes
Beard, Tenn.
Bevill
Broyhill
Burton, John
Cheney
Conyers
Crane, Philip
Davis, S.C.
Deckard
Derrick
Dicks
Diggs
Dingell
Dodd
Dornan
Downey
Drinan
Eckhardt
Fenwick
Flood
Frenzel
Garcia
Goldwater
Hall, Ohio
Hance
Harsha
Horton
Hutto
Jeffries
Kemp
McCloskey
McDonald
McKinney
Mathis
Moffett
Murphy, N.Y.
Patterson
Pursell
Ritter
Rosenthal
Runnels
Simon
Smith, Iowa
Steed
Udall
Van Deerlin
Vento
Williams, Ohio
Young, Alaska

☐ 1240

The SPEAKER pro tempore. On this rollcall 374 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

UNITED STATES-TAIWAN RELATIONS ACT

Mr. ZABLOCKI. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2479) to help maintain peace, security, and stability in the Western Pacific and to promote continued extensive, close, and friendly relations between the people of the United States and the people on Taiwan.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. ZABLOCKI).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 2479, with Mr. DANIELSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Thursday, March 8, 1979, title II had been considered as having been read and open to amendment at any point.

Are there further amendments to title II?

AMENDMENT OFFERED BY MR. SYMMS

Mr. SYMMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SYMMS: Page 5, line 16, add the following immediately after the period. "The President shall make every effort to reach an agreement with Taiwan to assure that the facilities used by such instrumentality to conduct its affairs in the United States be at or near the locations of the consular establishments of Taiwan in the United States existing on December 31, 1978."

☐ 1245

Mr. SYMMS. Mr. Chairman, when the administration broke diplomatic relations with the Republic of China to establish full diplomatic relations with the People's Republic of China, the President said that even though political relationships between the United States and the Republic of China had changed, the trade and cultural ties would grow.

Now the administration is indicating that they want to close the number of consular offices by five so as to bring the total down to eight. It makes no sense to me to close the primary vehicles of trade and cultural relations, the consular offices, when we are attempting to expand those ties. I am particularly concerned about closing the offices which are close to agricultural trading zones such as Portland, Oreg.; Kansas City, Mo.; and others.

It seems to me that the President's statements are contradictory concerning our continued trade and cultural ties with Taiwan, and I would urge support of the Members for this amendment, which will coincide with the promised intent of the administration.

Mr. Chairman. I would just like to point out to the Members of the body that for fiscal year 1978, ending September 30, 1978, the Republic of China on Taiwan purchased $729 million worth of agricultural products from the United States. Out of that number, there was $219 million for soybeans, $117 million for feed grains, $146 million for cotton, and $77 million worth of wheat.

Mr. Chairman, I think that it is worthy to mention that of the offices which are now open, the following offices will be closed: On American Samoa, the office in Pago Pago: the office in Calexico, Calif.; and the office in Agana, Guam. I know the Delegate from Guam is interested in this matter.

Also scheduled for closing, Mr. Chairman, is the office in Kansas City, Mo., which is in the heart of the grain belt; and the Portland, Oreg., office, which handles much of the white wheat which goes to the Pacific Northwest; also I understand Boston, Mass., is closed.

Therefore, Mr. Chairman, I think this amendment should not be greeted with anything but enthusiasm by most Members of the body.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I am happy to yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding.

Last week I had the occasion to meet with the newly elected Governor of American Samoa, Mr. Peter Coleman. He expressed to me his very great interest in and his concern about the question of whether or not the Taiwan consulate in Pago Pago will be continued. He pointed out, for example, that there are some 2,000 Taiwanese fishermen who are based in American Samoa, who are in and out. He said that the consulate officer which the Taiwanese Government has had there has been invaluable to his government in solving problems which those fishermen have from time to time.

He expressed a very strong wish that we would provide, in some way or other, that that service be continued.

Mr. Chairman, I very strongly support the gentleman's amendment and hope it will be adopted.

Mr. SYMMS. Mr. Chairman, I thank the gentleman from California (Mr. LAGOMARSINO) very much.

Mr. Chairman, I would only ask again for support for this amendment which I believe will be helpful in continuing the agricultural and other types of trade and other relations with the government on Taiwan which we have had in the past.

Mrs. SMITH of Nebraska. Mr. Chairman, I rise in support of the amendment offered by my good friend and colleague from the great State of Idaho. In fiscal 1978 the Taiwanese purchased $729 million worth of agricultural products from the United States. The consular offices that the President wants to eliminate played an important role in facilitating these purchases. These consular offices are especially important to my State of Nebraska. And let me add at this point that I enthusiastically support this bill as a whole.

I find it disappointing and saddening, however, that we here in the Congress must endeavor in this fashion to patch up foreign-policy disasters caused by the administration.

I say we should return to our tried and true bipartisan system of making American foreign policy. The tattered and torn system, such as we have now, seems to be conducted either at a snail's pace or with such impetuous speed as to defy understanding. Impetuosity marked the break with Taiwan.

Of course, there is no question but that we are going to have full diplomatic relations with the People's Republic of China.

And, there is no question but that Taiwan needs more protection than the administration was willing to guarantee.

There is a real question, however, about what our relationship with Taiwan will become. That is the work we are today engaged in. Taiwan has a viable government for its 17 million people, with whom we have had full diplomatic relations for 30 years. Taiwan is one of our top 10 trading partners.

Taiwan has been our ally in war and in peace. We need all the allies we can get in today's world. This bill will help maintain and support our friends, the people and the Government of Taiwan. This is a simple forthright measure: It clearly states that Taiwan's safety is paramount and that any threat to it would call forth appropriate action by the President and the Congress, acting through and within our constitutional processes.

Mr. SYMMS' amendment opens up avenues for trade and I urge my colleagues to support both his amendment and the bill.

□ 1250

Mr. ZABLOCKI. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this may be a well-intentioned amendment, but it is unnecessary.

Mr. Chairman, as many of my colleagues know, the establishment of consulates on the part of a foreign government is within the discretion of that foreign government, in cooperation and in consultation with the host government, in this case of Taiwan with the United States. Many of us are concerned about the 14 consulates or more—that the United States is closing throughout all parts of the world. It is our decision whether we want to open or close a consulate, and we then negotiate with the host government.

In this instance I think the gentleman's amendment is unnecessary because the Coordination Council for North American Affairs has already been created by the Government in Taiwan.

On March 1 that Coordination Council for North American Affairs began operations in Washington, D.C., and eight other cities: New York, Chicago, Seattle, San Francisco, Los Angeles, Honolulu, Houston, and Atlanta.

This seems, Mr. Chairman, fully adequate to conduct necessary business, and the choice of cities was made by them.

Under the legislation, if they choose to keep an office in Guam or wherever, it is their choice, in agreement with the host government. I do not think that this body, this committee, should advise the Taiwan Government, as it is now called, the Coordination Council for North American Affairs, where they should establish consulates.

Mr. Chairman, I again repeat, the legislation does not bar them from establishing offices throughout the United States. If they decide to close them in some of the cities that the gentleman from Idaho (Mr. SYMMS) had mentioned, it is their decision. I do not think we should resist.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

I would have to say, Mr. Chairman, that everything the chairman says I certainly agree with, and it is true, except there is one more part of the equation you are leaving out and that is that our Government is putting pressure on them to close the consulate offices—or the new name that they have for them—to close the number down from 14 to 8. So we are finding out that the Taiwanese are being pressured to close them out of their fear of whether or not the United States will support them in the future in other endeavors. They are sitting over there, a small country of 16 million people, facing the Reds of 1 billion people, wondering what is going to happen. So the United States is in the position and we are putting pressure on them to close them.

The reason that I think it is not only unwise but foolish for us to put this pressure on them, as I mentioned before, is we sold nearly $1 billion worth of agriculture products through those quotas with those consulate offices. Here we are encouraging them to close one in Kansas City, Mo., right in the heart of where the breadbasket can be to export wheat and grain; in Portland, Oreg., where all the soft wheat of the Pacific Northwest goes out, where there have been long and lasting good relationships with our friendly allies and our trusted friends on Taiwan.

□ 1255

So why should it be a Government policy? All I am trying to do with this amendment is to say that the President does what it was he said he was going to do, so that we do not encourage them to close their American offices. If they choose to do it, that is fine; but if we put this language in the bill, it says the President shall make every effort to reach an agreement with Taiwan to be sure that the facilities used by such instrumentality to conduct its affairs in the United States, be at or near the locations of the consular establishments of Taiwan in the United States existing on December 31.

So we are saying as our policy with this resolution passing the Congress today that we want to encourage them to keep everything the way it was, instead of saying we want to cut it down, because we are going to start looking for a bigger market over on the mainland. That is what we are talking about here. That is what I really think.

Mr. ZABLOCKI. If the gentleman from Wisconsin, Mr. Chairman, can retrieve his time, I will merely state that this is the very purpose of this bill, that we can have continuing relations with the people of Taiwan and their instrumentalities.

Now, these will not be consular offices. The Government of Taiwan, the Republic of China, and the present Government on Taiwan, has agreed to this.

Mr. SYMMS. Under duress.

Mr. ZABLOCKI. I mentioned to the gentleman from Idaho, we have repeatedly heard there has been supposedly pressure made allegedly on the part of our Government on the Taiwan representatives here as to their consulates.

Let me tell the gentleman, if the gentleman from Wisconsin does, indeed, find evidence of that type, we will certainly correct that; but let me point out that in some of our consulates that our Government is closing, for instance, one in Austria, it is desired on the part of the Government of Austria that we do not close that particular consulate and some of the other consulates; but it was our decision, for whatever purposes, that we close them.

I think in this instance, as far as the Government of Taiwan is concerned, it should be within their determination whether they want to retain offices for the purpose of promoting consular-type duties, and it is their decision to close them.

I do not think we should in this amendment tell them where to go.

The CHAIRMAN. The time of the gentleman from Wisconsin has again expired.

(By unanimous consent, Mr. ZABLOCKI was allowed to proceed for 1 additional minute.)

Mr. ZABLOCKI. Mr. Chairman, in the final analysis, let me again reassure the gentleman that the Government on Taiwan, if it so desires to have offices under the coordination council, whether it is on Guam, Kansas, or in other places, if they want to remain and keep them open, this legislation does not preclude them, or does not insist that they be closed, no way.

Therefore, I think it would be an insult to Taiwan. The gentleman's amendment, instead of being helpful as we try to assure that there will be a continuation of the relationships between the United States and Taiwan, the gentleman risks insulting the Taiwanese in telling them where they must keep their offices for consular-type purposes.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I am glad to yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, I would like to ask the chairman of our committee, for his comments on this matter because I have mixed emotions about this amendment. I just want to get the gentleman's reaction to this amendment.

The CHAIRMAN. The time of the gentleman from Wisconsin has again expired.

(At the request of Mr. BROOMFIELD, and by unanimous consent, Mr. ZABLOCKI was allowed to proceed for 1 additional minute.)

Mr. BROOMFIELD. Mr. Chairman, if the gentleman will yield further. I am deeply concerned about this matter. My original feeling was that the amendment was not necessary and then as I further listened to the debate, which touched upon the closing of Taiwanese consulates in Kansas City and Portland as well as other consulates which may be closed, I now see some need for this amendment. I have one question. What is the gentleman's feeling with regard to our State Department placing pressure on the new council. In other words, the closing or establishment of consulates should be based on Taiwan's judgment. Certainly it should not be the State Department which dictates to the new coordinating council as to what Taiwanese consulates should be open in the United States.

Mr. ZABLOCKI. Mr. Chairman, if I may be permitted to answer, let me assure the gentleman it is my position, furthermore, if we learned that the State Department would be doing that, we would object.

□ 1300

Mr. BROOMFIELD. Mr. Chairman, in view of the statements and the assurances the chairman of the committee has made, and since that is my understanding, I would say that the amendment is not necessary. I would, therefore, ask for a no vote on the amendment.

Mr. de la GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I also had the same feelings as the gentleman who preceded me and spoke concerning the amendment offered by the gentleman from Idaho (Mr. Symms).

The chairman of the committee has to a certain extent satisfied some of my objections, but I would like to make one thing very emphatic. I would hope that the distinguished committee chairman, the gentleman from Wisconsin (Mr. Zablocki), would as emphatically state to us here that the legislative intent inherent in this legislation is that there shall be no pressure as to by what extent we can control the administration or instrumentality of the Government on Taiwan in the United States of America to reduce in any way their presence in whatever that office might be called in any part of the United States.

I say that because I would find it not only disastrous but insulting to this House if we were to understand one thing here and the administration, unbeknown to us, would be exerting pressure to reduce their presence. The love, admiration and respect which I have for all the Chinese people, regardless of on which side of the straits they might live, should be passed on to the Government of Taiwan, whatever instrumentality they have to represent them in this country, should not be abridged or in any way pressured by the administration or anyone else if they desire to have an office in Houston or Dallas or wherever.

Would the distinguished gentleman from Wisconsin agree that that basically is the intent of this legislation?

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. de la GARZA. I am happy to yield to the committee chairman.

Mr. ZABLOCKI. Mr. Chairman, that is indeed within the intent of this legislation.

On page 5 of the bill, section 202(a), subparagraph (2) clearly states—

> Dealings of Taiwan with the United States Government shall be conducted by or through such instrumentality * * *

And in this case that would be the Coordination Council for North American Affairs. And then it states that this instrumentality would be appropriate for such dealings—

> And which has the necessary authority under the laws of Taiwan to provide assurances and take other actions on behalf of Taiwan with respect to the United States Government.

It is the intent, with this legislation, that if Taiwan wanted to retain any office it had—it would be a consular type office in this instance—in any part of the country, they should have that right to retain them as they had them prior to January 1, 1979, provided of course this is done with agreement of the host government, which is the normal practice.

Mr. de la GARZA. And is the gentleman aware of any attempt to quote numbers to them, that is, how many they can have in the United States of America?

Mr. ZABLOCKI. No, I am not aware of that, and if I find out that is true, on behalf of the concerned Members of Congress, we will protest it. I have heard that they were limited to eight, but I have no such knowledge.

Mr. de la GARZA. Mr. Chairman, with that information and assurance from the chairman of the committee, I also feel that possibly the amendment might be superfluous, as long as we have the clear legislative intent as enunciated by the committee chairman.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. de la GARZA. I yield to the gentleman from New York.

Mr. WOLFF. Mr. Chairman, I think a clarification is necessary. The State Department has requested that the number of offices that the Taiwan entity, The Coordinating Council for North American Affairs can have here is limited to eight. There have existed more than that number, so, therefore, there is a requirement that they close several of their offices. I do not think that is the intent of the Congress, however. The intent of the Congress is to maintain the relationship on the same basis that exists today.

□ 1305

The number of offices can be dependent upon the Coordinating Council.

Mr. de la GARZA. If the gentleman from New York is correct, then we are back to where we need the gentleman's amendment.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. de la GARZA. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, I agree with the gentleman.

The CHAIRMAN. The time of the gentleman from Texas (Mr de la Garza) has expired.

(On the request of Mr. Broomfield and by unanimous consent, Mr. de la Garza was allowed to proceed for 2 additional minutes.)

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. de la GARZA. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, I merely would like to add that the gentleman is absolutely correct. If the gentleman from New York says that the State Department has given instructions that the new Coordination Council can only have eight councils, then I think it is absolutely clear that the amendment the gentleman is offering should be considered favorably by us, because that is certainly the intent of the minority side.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. de la GARZA. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. I have just been informed by the subcommittee chairman that a witness from the State Department did indeed give information concerning this matter.

Mr. WOLFF. Mr. Chairman, if the gentleman will yield; the information was received from Mr. Harvey Feldman of the State Department.

Mr. ZABLOCKI. Mr. Chairman, we accept the gentleman's amendment.

Mr. WON PAT. Mr. Chairman, several days ago I rose to give my wholehearted support for continued close ties between this country and our friends in Taiwan as proposed in H.R. 2479.

I wish to support an amendment to this measure offered by the gentleman from Idaho (Mr. Symms), asking that the President permit the Government of Taiwan to retain its offices in Guam and elsewhere in this country.

As many of my colleagues know, the Carter administration has proposed that Taiwan close some of its commercial offices in this country. It has also imposed an agreement that would limit the number of commercial offices to 8, as opposed to the 14 commercial and consular offices the Republic of China had in various parts of the United States.

I believe that the restrictions we seek to impose on Taiwan in this instance would create significant hardships for many American business firms and thousands of former residents of Taiwan who now reside in the United States.

This is particularly true of my own Congressional District of Guam, where the residents of that island enjoy extremely close commercial and cultural ties with Taiwan. Several weeks ago, the official Taiwan office in Guam was closed. This has created a tremendous problem for the hundreds of individuals and firms who want to continue their relations with Taiwan.

The Guam-Taiwan office was heavily utilized. It was far more than a mere outpost of the Government of Taiwan. The President's proposal that Taiwan restrict its U.S. offices to a few locations is detrimental to the best interest of both this country and Taiwan. I am confident that Taiwan would welcome the opportunity to keep its Guam offices intact.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. Symms).

The amendment was agreed to.

The CHAIRMAN. Are there other amendments to title II?

AMENDMENT OFFERED BY MR. DERWINSKI

Mr. DERWINSKI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Derwinski: Page 4, line 21, following "on December 31, 1978," add: "including multilateral conventions to which both the United States and Taiwan, known at the time as the Republic of China, are contracting parties."

Mr. DERWINSKI. Mr. Chairman, after listening to the debate on the amendment offered by the gentleman from Idaho, I do not know whether I should quote the State Department in favor or opposed to my amendment. Actually this is a rather noncontroversial amendment, as I see it. The purpose frankly is this: There are in existence several important multilateral conventions to which both the United States and the Republic of China are contracting parties. For example, the 1963 Partial Nuclear Test Ban Treaty, the Convention on Narcotic Drugs, the Treaty on Nonproliferation of Nuclear Weapons, and so on.

It seems to me necessary and practical and appropriate, in light of this legislation, that we make it clear that these multilateral conventions would remain in force between the United States and Taiwan after January 1, 1979. I presume that is the administration's intent. I presume that this would be consistent with the President's statement that only the Mutual Defense Treaty was abrogated and, therefore, my amendment is intended to specifically spell out what I believe is understood and would just fill out a possible gap in the legislation before us.

I would hope that in that spirit the amendment would be analyzed, and I would hope it would be accepted.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield for a question?

Mr. DERWINSKI. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Chairman, the gentleman's amendment deals with multilateral agreements.

Mr. DERWINSKI. That is right.

Mr. ZABLOCKI. The gentleman's amendment, in the interpretation of the gentleman from Wisconsin, is that the amendment would, in a way, authorize the United States to determine unilaterally whether multilateral agreements will continue in force, and what will their membership be. Is that a correct interpretation?

Mr. DERWINSKI. No. It is the intent of the amendment to state that the multilateral conventions to which both United States and Taiwan, formerly known as the Republic of China, which were in force at the time of the change of status between the two countries, January 1, 1979, remain in effect as previously contracted, which was my understanding of the statement made by the President and further amplified by other officers in the executive branch since that time.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield further?

Mr. DERWINSKI. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Chairman, I know that the gentleman is an excellent legislative draftsman, but in reading the gentleman's amendment, and folding it into the language of the bill, it would read as follows:

□ 1310

On page 4, beginning on line 19, the bill before us reads:

> (c) All treaties and other international agreements which were in force between the United States and the Republic of China on December 31, 1978——

And the gentleman adds his language—

> including multilateral conventions to which both the United States and Taiwan, known at the time as the Republic of China, are contracting parties, shall continue in force between the United States and Taiwan unless terminated in accordance with their terms or otherwise in accordance with the laws of the United States.

I see no real harm in the gentleman's amendment, but will the gentleman further accept a suggestion. I am rather sensitive about repeating "Republic of China" twice in one sentence. That is not serious, but I am sure the gentleman from Illinois will agree that his language as I read it is kind of clumsy.

Mr. DERWINSKI. I admit that sometimes when one is motivated by purity of heart, it does not necessarily follow that his language structure is perfect, so in that sense I accept the gentleman's constructive comments.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(At the request of Mr. SOLARZ and by unanimous consent Mr. DERWINSKI was allowed to proceed for 2 additional minutes.)

Mr. SOLARZ. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from New York.

Mr. SOLARZ. Mr. Chairman, I do not want to panic the gentleman or undermine the obviously broad-based support for his amendment by letting him know that I think he has a remarkably good idea here, which I can comfortably support, but anytime DERWINSNI and SOLARZ can agree on an amendment, it is either prima facie evidence that it is unassailable in its virtue or there is something fishy going on. I would, however, like to suggest to the gentleman one very small grammatical correction in his amendment which I think is necessary in order to clarify its intent.

The gentleman proposes to insert his amendment on page 4, line 21, following the phrase, "On December 31, 1978."

But, at the end of his amendment, after the word "parties" he has a period rather than a comma. I think, in order for the amendment to make grammatical sense as part of the paragraph in which it is proposed to be included, that period should be a comma.

So, I would ask unanimous consent, without objection certainly from the gentleman in the well, to amend the Derwinski amendment by changing the period after the word "parties" at the end of his amendment to a comma. It would then read:

> All treaties and other international agreements which were in force between the United States and the Republic of China on December 31, 1978——

And here we pick up the Derwinski amendment—

> including multilateral conventions to which both the United States and Taiwan, known at the time as the Republic of China, are contracting parties——

And here the period becomes a comma, and it goes on—

> shall continue in force——

And so forth.

The CHAIRMAN. Is there objection to the request of the gentleman from New York (Mr. SOLARZ)?

There was no objection.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield further?

Mr. DERWINSKI. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Chairman, with the perfections that have been accepted by the gentleman from Illinois, the sense of the amendment is nothing more than the bill before us intends. We accept the amendment on this side.

Mr. RUDD. Mr. Chairman, I would like to speak in support of the amendment proposed by my good friend from Illinois (Mr. DERWINSKI).

I believe that it is important to protect the status of the Republic of China in all international organizations and institutions. It is wise that the Congress exert its prerogatives and provide a degree of international security for our friends on Taiwan.

FREE CHINA AND INTERNATIONAL ORGANIZATIONS

This amendment would require the U.S. representative in such organizations to use our Nation's voice and vote on behalf of protecting the status of Taiwan as a member of all international organizations and institutions of which it was a member as of December 31, 1978.

It would also require the United States to support the status of Taiwan in all international agreements to which Taiwan was a party at the end of 1978, and to urge other nations to do likewise.

Similarly, it would require U.S. opposition to any sanctions, especially in the form of a trade boycott, which might be attempted against the Republic of China by the People's Republic of China.

The primary need for these protections, Mr. Speaker, is to insure that the international rights and status of the people and Government on Taiwan are not endangered by the absence of full diplomatic relations with the United States.

We in the Congress should exert our influence through this legislation to make the best of what I consider a deplorable situation.

We should indicate forcefully our sincere desire to protect our friends on Taiwan by strengthening this legislation.

In this way, Congress can demonstrate its intention to avoid complicity in the President's unilateral decision to recognize the People's Republic of China at the expense of our friend and long-time ally, the Republic of China.

PROTECT FREE CHINA'S ECONOMIC SECURITY

The continuation of Taiwan's international economic relationships is crucial to their continued prosperity, and, indeed, to stability in that part of the world.

Additionally, it should be remembered that Taiwan's prosperity is not unrelated to our own economic prosperity. Taiwan is our eighth largest trading partner. Difficulties for them would undoubtedly have ripple effects which would disturb the U.S. economy as well.

It is important that Taiwan's economic security not be threatened, even indirectly, by President Carter's unilateral and unexpected move. Stability is crucial, and this can be encouraged by U.S. insistence that Taiwan remain a member of the international organizations of which she was a member prior to January 1, 1979, at which time the President's recognition of the People's Republic of China took effect.

The rumors have already begun that the People's Republic will move to oust Taiwan from the "China seat" in a number of international organizations. A successful challenge in that direction might also endanger the long-term loans which Taiwan has previously secured, particularly from some of the international financial institutions of which she is presently a member in good standing.

The potential economic disruption which would follow such loan cancellations would be disastrous for the free Chinese economy and for our economic relations and trade with Taiwan.

This amendment will serve to protect the economic interests of Taiwan and the United States.

CONGRESSIONAL ROLE IGNORED

Mr. Chairman, the amendments which we are working to incorporate into the bill today are designed to overcome the obvious shortcomings of the President's shortsighted policymaking decisions. Proper discussion would have allowed the development of better United States-Taiwan relations.

While it is true that, under our constitutional processes, the President has primary responsibility for the conduct of our foreign policy, the Constitution also provides for full consultation with the Congress.

No such consultation with the Congress was attempted by the administration prior to the decision to derecognize the Republic of China and to establish full diplomatic ties with the People's Republic of China.

It should be understood that any clarification of U.S. relations with Taiwan enacted by the Congress is aimed at correcting this glaring omission, and in establishing the kind of relationship with the Republic of China which the Congress would have urged upon the President had he conferred with Congress prior to his decision.

I have previously indicated my complete disagreement with the President's decision to end our relationship with the Republic of China and the defense commitments our Nation had with Taiwan.

I am pleased to have joined with my distinguished colleague from Arizona, Senator BARRY GOLDWATER, and other past and present Members of Congress who have entered suit to challenge the President's single-handed abrogation of this important commitment.

Needless to say, I would prefer a return to the situation with regard to the Republic of China as it existed prior to the President's December 15th announcement, regardless of whatever U.S. relations we adopted with the Peking Government.

I think that it is important for the world to know the value which the American people, if not their President, place on our friendship and continued relationship with the people of Taiwan.

For this reason, it is absolutely imperative that the Representatives of the American people here assembled express with a clear and unmistakable voice that the people of the United States earnestly desire to protect the international economic security of the people of Taiwan.

I urge the adoption of the Derwinski amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. DERWINSKI), as modified.

The amendment, as modified, was agreed to.

☐ 1315

Mr. PRICE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I visited Taiwan last November and was impressed with their realistic evaluation of the energy problem they face which, incidentally, is similar to ours. Taiwan though, is doing more to solve their energy problem than we are to solve ours. They have faced the reality that nuclear energy is the only alternative they have toward a goal of reasonable independence of petroleum.

They have, accordingly, proceeded with a nuclear powerplant construction program which is dependent on our continued supply of enriched uranium fuel. They are paying full costs for this fuel. They have now reached the point where an increase in the ceiling for our supply of such fuel under their Agreement for Cooperation with us is necessary. Present legislation requires submission of a request by the administration to the Congress to increase this ceiling. As I understand it, Taiwan is in need of an increase in the ceiling for the supply of enriched uranium from 7,500 megawatts of electrical generating capacity to approximately 15,000 megawatts. I would hope that the Foreign Affairs Committee would encourage and support the administration in increasing this ceiling since it is so vital to the future welfare and security of Taiwan. It would certainly be a positive indication of our interest in the future of Taiwan. Support of Taiwan in their efforts would also assist other nations in contending with their energy supply problems. An indication of the views of the chairman on the support of such a change in the ceiling for enriched uranium under our Agreement for Cooperation with Taiwan would provide an important incentive for such a change. Would the chairman like to provide his views and intentions on this matter?

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. PRICE. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the committee understands that conversations have already begun dealing with the renegotiation of the Taiwanese Nuclear Agreement for Cooperation, to which my friend and colleague, Chairman PRICE has just referred. These negotiations, which are unrelated to the change in United States-Taiwanese relations, aim at updating and streamlining the agreement under terms consistent with those set forth in the Nuclear Non-Proliferation Act. These negotiations further demonstrate the willingness of both the United States and the Taiwanese to continue to expand and improve their cooperation in the nuclear area; they also provide the basis for renewing and perfecting the various assurances and guarantees necessary for the effective safeguarding of U.S. nuclear materials and technologies.

I understand that U.S. officials involved in these talks have already indicated their willingness to look favorably upon an increase in the nuclear fuel ceiling for Taiwan. I can assure the gentleman that I, too, would favor such an increase and would recommend support for it once the agreement comes before the Committee on Foreign Affairs. I am confident these discussions will be concluded in the relatively near future.

I hope these reassurances are helpful.

BACKGROUND NOTE

The current ceiling will not affect or prevent the export of the two reactors now pending before the U.S. Nuclear Regulatory Commission; that is, units 5 and 6. Nor would it constrain the import or fueling of a subsequent seventh unit. Taiwan would not actually begin to bump against the existing ceiling until the late 1980's in connection with securing the last portion of fuel required for their proposed reactor unit No. 8.

Taiwan is amenable to renegotiating the agreement, is not nervous about the current ceiling, and is satisfied to have it raised within the context of the ongoing negotiations.

Mr. PRICE. Mr. Chairman, I thank the Chairman of the Committee on Foreign Affairs for his comments, and I am certainly in accord with the views he has expressed.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. PRICE. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, I certainly support both Chairman PRICE and Chairman ZABLOCKI in their expressed intent to stand by our commitments to Taiwan under our agreement for cooperation in the peaceful uses of nuclear energy. In addition to contributing to the welfare and security of Taiwan, the increased ceiling of uranium fuel will further our trade efforts with Taiwan by opening up the option of additional power-generating equipment from the United States. Taiwan has, in the past, relied heavily on the technology and equipment of the United States for the generation of electricity. At the present time, when our purchases of nuclear powerplants are depressed because of a vacillating national policy on the production of energy, additional international business will provide a vital contribution to keeping our industrial capability viable as I have reason to know will apply in my own district, where an important electrical industry is located. We then will be able to move ahead with our own meaningful energy program when our national policy catches up with the facts of the dilemma we face.

☐ 1320

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ashbrook: Page 9, strike out lines 1 through 9 and insert in lieu thereof the following:

"(c) Employees of the designated entity shall be employees of the United States. Employees who are separated or transferred under this section shall be subject to the same laws of the United States relating to employees of the United States as they were immediately prior to their separation or transfer. Any other employees of the designated entity shall be employees of an Executive agency within the meaning of part III of title 5, United States Code."

Mr. ASHBROOK. Mr. Chairman, if we look at the bill, the current section (c) has a very strong odor to it. We are told that this is going to be a straightforward dealing with our friends on Taiwan. We are told that we want to continue in normal ways and yet, for some reason or other, mysteriously all these people dealing with our friends in Taiwan are supposed to be out there somewhere in never-never land. They are not going to be employees of the United States. Listen to what the bill says:

(c) Employees of the designated entity shall not be employees of the United States and, in representing the designated entity, shall be exempt from section 207 of title 18, United States Code.

I would ask my friend, the chairman of this committee, the gentleman from Wisconsin (Mr. Zablocki) to explain to the House just what it means to be exempt from section 207 of title 18, United States Code, and why the employees of this agency, entity, designated entity or whatever one wants to call it, are going to be out there somewhere in an unofficial never-never land, not being employees of the U.S. Government?

Are we so afraid of having any vestige of government-to-government relations that we are even going out of our way to say these people will not be employees of the United States?

I will ask my friend, the chairman, the gentleman from Wisconsin, to respond to that question and tell the committee just what it means to be exempt from section 207 of title 18.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I certainly yield to the gentleman.

Mr. ZABLOCKI. I thank the gentleman for yielding.

As I understand, the gentleman is trying to clarify and confirm what my understanding of section 207, title 18, of the United States Code is. It is my understanding that section 207 of title 18 of the United States Code prohibits for 2 years any Government employees from appearing before a Government agency, for which he worked. This exemption is necessary because it does not make sense not to prohibit the people who were formally in the U.S. Government who would be now employed by the designated entity from appearing before a Government agency in order to bring about the relationship that would be continued under the authorities of the entity. That is all it does.

Mr. ASHBROOK. It seems as though it is a rather strange pattern.

Mr. ZABLOCKI. It is necessary for the entity to be workable.

Mr. ASHBROOK. Why is it necessary? It is necessary because the gentleman is trying to create a group of employees who are really in never-never land. They will be former Government employees who will be acting in the capacity of representing the Government, but they will not be representing the Government, so, therefore, the gentleman has to exempt them from the provisions that we apply to those who used to work for the Government but who now represent private agencies before the Government. It is a rather complicated process. Would it not be simpler to just say honestly, outright, and forthwith that this entity shall be comprised of employees who work for the U.S. Government? Are they not in effect, if everything we have said is true and heard up to now, working for the U.S. Government? Why do we need to create this section? Could my colleague tell me that?

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I certainly will yield to the gentleman.

Mr. ZABLOCKI. I thank the gentleman for yielding.

I will attempt again to try to explain it. We are faced with a fait accompli as to a decision on the part of the President to establish a nongovernmental agency called the U.S. Institute in Taiwan. The name we did not choose. We deleted it in our legislation. We leave it up to the President as to what he calls it and what he wants it to be in consultation with the authorities on Taiwan.

☐ 1325

Furthermore, it is necessary to protect these former governmental employees, whether they are in the State Department, foreign service, former Ambassadors or formerly with the Department of Defense or the Department of Energy. It is also essential that there be authority to assign former governmental personnel to work for this entity without jeopardizing their long-range employment, retirement and other rights.

What this legislation does, and I hope the gentleman from Ohio will agree with me, is to protect these U.S. employees.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(At the request of Mr. Zablocki, and by unanimous consent, Mr. Ashbrook was allowed to proceed for 3 additional minutes.)

Mr. ZABLOCKI. Mr. Chairman, if the gentleman will yield further, protect some of the benefits that would be theirs had they remained in government during the period of their tenure with the designated entity.

Mr. ASHBROOK. My mind goes back and my memory goes back to the very first year I was in Congress. I remember the very first relationship I had with the war in Vietnam. A former serviceman from Ashland, Ohio, died. He was killed in Vietnam. He had $60,000 worth of insurance coming, because he really was a serviceman in Vietnam who was not a serviceman in Vietnam. We created the fiction that he was no longer working for the Government, but he was over there as an adviser, as a civilian, retaining all his military rights, all his pensions and insurance.

All of a sudden, the minute he died, he was again a serviceman, but while he was over there he was not a serviceman. You know, the more we get into this type of illusions, this type of fiction the more cloudy our actions and intentions become. The chairman has referred to them as U.S. Government employees three times, as I have heard in the gentleman's response. Yet the gentleman is saying in the bill they will no longer be U.S. Government employees. Here we go and we are on the same fiction, creating the same shell game. Why not flat out say they are Government employees?

The gentleman also said something to which I would take umbrage, too, that we are dealing with a fait accompli. If it is a fait accompli, we do not need this bill. The fact we need this bill is the best indication that it is not a fait accompli, that the Congress does have some say, we do have some imput.

I am saying to my chairman, to my friend, in all fairness, here we go again, creating a fiction, and it is this type of fiction that gets us into trouble across the world, whether it is the CIA, the double agent, the fiction we had in Vietnam, or the fiction we are now creating that we are now going to have nongovernment employees. I have in my hand the articles of incorporation of the American Institute in Taiwan which were filed here in the District of Columbia. As I read that, I wish all Members had it, a certificate of the Office of the Recorder of Deeds, a fait accompli, it is kind of like the guy who is so busy selling stock that he forgot to go ahead and form the company. They have incorporated. They have gone ahead with all this. They have the Institute of Taiwan already in place. That is a part of the fait accompli; but do we in the Congress have to underwrite everything that has been done down there if we do not agree with it?

I say let us make them official Government employees. Let us not create the fiction. That is all my amendment would do. I hope the gentleman from Wisconsin will agree and I would hope we not pull all the pieces apart that have been put together; but again let's be honest and adopt my amendment. Do we want to live by a fiction in this House, or will we once in a while deal with reality?

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from New York.

Mr. WOLFF. The gentleman keeps referring to fiction. Actually, what we are talking about are facts. These are basically what the facts are. These are not going to be Government employees at this time. They are so specifically set up.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

(By unanimous consent, Mr. ASHBROOK was allowed to proceed for 1 additional minute.)

Mr. ASHBROOK. May I say, we are not dealing with a fact. They are not employees. They are nothing until this bill is passed. We are not dealing with a fact. There is no legal entity in place which we have to recognize here in Congress.

Mr. WOLFF. Mr. Speaker, will the gentleman yield further?

Mr. ASHBROOK. I yield to the gentleman from New York.

Mr. WOLFF. The entity is in place today. The Taiwan Government has already designated their entity. We have designated our entity. What we are doing here in this particular section is trying to protect the people of the United States so that these people who are serving their connection on a temporary basis will be subject to the same rules and regulations as if they had stayed in the employ of the United States.

Mr. ASHBROOK. They are severed on a temporary basis. That is not a fiction. They are severing their relationship on a temporary basis so they can join an entity that is out there in never-never land, and that is not a fiction. That is a fact.

□ 1330

Mr. WOLFF. They are not in a never-never land. They are in another office set up to deal with the problems between our Government and the people on Taiwan. That is all. We are trying to facilitate something that could not exist under any other circumstances.

Mr. ZABLOCKI. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I certainly must admire the gentleman from Ohio (Mr. ASHBROOK). He is not in a never-never land, as far as his intentions are concerned. The gentleman's amendment would require that employees of the entity be employees of the United States.

In one respect, because they will be working for a governmentally-designated entity, they might be regarded in a way as employees of the United States. But where the gentleman really spells out his true intent is when he says that they shall be employees of an executive agency within the meaning of part 3 of title V of the United States Code, which means Government employees.

Now, it may be a never-never land or whatever, but the President has normalized relations with the PRC under certain conditions, and one of the conditions was that our governmental relations with Taiwan would have to be severed. We indeed had derecognized, so to speak, Taiwan on a formal basis. We have closed the Embassy in Taipei.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. Yes, I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, let me ask the gentleman this question: If this amendment were adopted, it would be exactly the same as if we were to establish a liaison office on Taiwan, because would we not then be putting Government employees or Government representatives there, in complete contradistinction or contradiction to what the President has so stated?

Mr. Chairman, let me ask, has not the President the full right to recognize or derecognize governments?

Mr. ZABLOCKI. Mr. Chairman, the gentleman is absolutely correct. Under our Constitution it is the President who makes the decision.

Mr. SKELTON. So is this amendment not in essence offered to try to get the so-called Quayle amendment through the backdoor or by subterfuge?

Mr. ZABLOCKI. Mr. Chairman, the gentleman is correct. He has stated exactly what I had intended to state later in my remarks, that indeed what this amendment would do would not help Taiwan.

This amendment is similar to the amendment that was defeated last Thursday; that is the amendment to establish a liaison office in Taipei.

If this amendment were adopted, it would fly in the face of the agreement made and negotiated with the PRC, and, therefore, there would be no recourse or there would be no relationship available by the United States and no activities with Taiwan.

There is not at the present time an embassy there. We do not have any established governmental relations. They have been severed. But we do have this nongovernmental entity, and we are in this legislation providing for staffing the personnel for this entity and giving it all the protection the gentleman was concerned about in our colloquy earlier.

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Texas.

Mr. WHITE. Mr. Chairman, I would like to clarify for the record the status of this particular presence in Taiwan in the event the amendment offered by the gentleman from Ohio (Mr. ASHBROOK) is not agreed to.

Let us suppose someone is at the entity and should develop a tort claim. In other words, under the present law, if there were a government present, they would have a tort claim against the U.S. Government. Now, how is that addressed in this bill, under the present language of the bill?

Mr. ZABLOCKI. Mr. Chairman, under section 201, subparagraph (b)(1), the bill has specific provision to continue unchanged the application of the United States with respect to Taiwan. Both Taiwan and this country could sue and be sued likewise.

Mr. WHITE. Mr. Chairman, if the gentleman will yield further, I am not talking about that. I am talking about American citizens. Could an American citizen sue in the U.S. courts for an action taken by a member of this entity insofar as they are not government employees?

Mr. ZABLOCKI. Yes, just as he was in a position to sue prior to this time, it is intended that it would be possible for an injured party to sue the U.S. Government under the Tort Claims Act for injuries resulting from actions of employees of the designated entity.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. ZABLOCKI) has expired.

(By unanimous consent, Mr. ZABLOCKI was allowed to proceed for 2 additional minutes.)

Mr. WHITE. Mr. Chairman, will the gentleman yield further?

Mr. ZABLOCKI. I yield to the gentleman from Texas.

□ 1335

Mr. WHITE. Where does it say this in the bill or in the report?

Mr. ZABLOCKI. In the report on page 11, and in the bill on page 5, is language pertaining to section 202, subparagraph (b)(1), on line 17. If I may read it:

> (b)(1) The laws of the United States which apply with respect to agencies of the United States Government shall, to the extent the President may specify, apply with respect to the designated entity as if the designated entity were an agency of the United States Government.

Mr. WHITE. But suppose the President does not specify the tort claim. It says:

> . . . to the extent the President may specify . . .

Mr. ZABLOCKI. The legislation before the committee provides:

> (b)(1) The absence of such relations and such recognition shall not affect the application of the laws of the United States with respect to Taiwan, and the laws of the United States (including laws relating to rights, obligations, standing to sue and be sued, legal capacity, or eligibility to participate in programs and other activities under the laws of the United States) shall apply with respect to Taiwan in the manner that the laws of the United States applied with respect to Taiwan prior to January 1, 1979.

We provide that whatever the situation was concerning the rights of American citizens in any country, particularly, in this case, in Taiwan, prior to January 1, 1979, shall continue.

Mr. WHITE. I want to say to the chairman that I merely want to point out that in every instance the gentleman talked about that I want to make sure we have an understanding that this language deals with Taiwan, and I want to make sure that we are dealing with American citizens and we are dealing with the intent. I want to make sure the tort claim would apply to those specified.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. ZABLOCKI) has expired.

(On request of Mr. ASHBROOK and by unanimous consent, Mr. ZABLOCKI was allowed to proceed for 2 additional minutes.)

Mr. ZABLOCKI. In response to the gentleman from Texas, the protection of the American citizen is intended to be as it is now under existing laws of the United States.

Mr. WHITE. I know. But even though the President does not specify?

Mr. ZABLOCKI. The President would have to specify in some way so that the rights of a citizen in tort cases would continue as before.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, are

not the operating words, in response to the gentleman from Texas, the words "to the extent the President may specify"? It very clearly reads:

> The laws of the United States which apply with respect to agencies of the United States Government shall, to the extent the President may specify . . .

In any other area, this Congress would be up on its heels about giving the President that much authority. We have talked about the rights he has under the Constitution. Here we are talking about the laws that are passed by the Congress, and we are letting the President waive them as he might see fit.

Mr. ZABLOCKI. The gentleman from Wisconsin would like to clarify or correct a prior response. In referring to page 5, line 17, that was with respect to the entity that was authorized.

Mr. ASHBROOK. Mr. Chairman, if my colleague will yield, we have the Government's ability to decide whether the Government should be sued or not sued. That is something that is disputed. That is not an automatic right of the citizen. The President can specify that the Tort Liability Act would not be applicable to the new entity.

Mr. ZABLOCKI. Again, I want to make it very clear, and I hope this legislative history will make it even more clear, as to what the intent of Congress is. Using section 201(b)(1) as that section applies, the President has no waiver authority. Under section 202(b)(1), he has the authority to make laws applicable to U.S. agencies apply to the designated entity to the extent necessary for efficient functioning of the entity in carrying out its duties and for the protection of U.S. citizens.

☐ 1340

The CHAIRMAN. The time of the gentleman from Wisconsin has again expired.

(By unanimous consent Mr. ZABLOCKI was allowed to proceed for 1 additional minute.)

Mr. ZABLOCKI. Further as to the authority that the President has on page 5, section 202(b)(1), that is in reference to the agencies of the U.S. Government. In this case, it would also be the designated entity.

Mr. ASHBROOK. I thank my colleague for his answer.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think that the gentleman's amendment needs more discussion in areas really not addressed by him, because I feel under the legislation before us that the employee would be taken care of nonetheless either under the bill, or as the gentleman suggests.

My concern is to what I deem to be inconsistencies in the legislation. This is so important, Mr. Chairman, that we must have legislative history because I have not been privy, unfortunately, to the hearings held by this prestigious committee and by the gentleman from Wisconsin. Last year, when I temporarily was serving on this committee, I was privy to no information at all, and I heard on the television the great announcement of what we were about to do. So, having not been consulted then, I doubt that I will be consulted now or in the future.

My question is, page 5, section 202(b)(1) says that the President can make anything he wants, specifying as if it were an agency of the U.S. Government. But, over here where we were talking previously, it says, "All treaties and international agreements * * *" and so forth, on page 4, "* * * or otherwise in accordance with the laws of the United States." That is at the bottom of page 4.

Now, on (b)(1), lines 17 to 21, page 5, it seems that here we give the President authority to go back and undo some of what I read heretofore. Also, why have we given the President the authority here with regards to laws of the United States related to agencies, why then do we prohibit him on page 9 by saying that the employee shall not be deemed the employee of the United States? Some people are saying that this is a deal struck with the PRC. Well, I was not privy to that, and it may well be, but to what extent are we going to allow the PRC to conduct the affairs of this House and of this country?

Some of us need some satisfaction that we know or will have reasonable knowledge of what is going to happen, because as I see it here, we let the President do or undo whatever he wants as far as specifying or not specifying.

Then, how do we handle this? This is very important. How do we handle any activity of the Secretary of State related to the designated agency? How do we handle any activity on any given day by the Assistant Secretary for Far Eastern Affairs relating to the designated agency? How do we handle any individual spending one minute of time related to the designated agency? Does he for that 1 minute lose his employment with the U.S. Government?

☐ 1345

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. Let me yield to the chairman of the Committee on Foreign Affairs first, the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Chairman, I thank the gentleman for yielding. However, I would prefer that the gentleman yield to the gentleman from New York because I understand that this question has been clarified in hearings. The gentleman from New York (Mr. WOLFF) is in a better position to deal with this matter since he chaired the Subcommittee on Asian and Pacific Affairs.

Mr. DE LA GARZA. Mr. Chairman, I thank the distinguished gentleman of the Committee on Foreign Affairs, and I yield to my colleague, the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. Mr. Chairman, first of all, in response to the latter part of the question, does the gentleman really believe that we have any control over the Secretary of State now, regardless of whatever place in the world he deals with?

Mr. DE LA GARZA. We should have.

Mr. WOLFF. We should have, but, in reality, we do not, so that actually there is very little or nothing which we can do to control the activities of the Secretary of State.

We do have within the aegis of this committee oversight responsibilities. These oversight responsibilities are taken up by the chairman of the Subcommittee on International Operations.

The CHAIRMAN. The time of the gentleman from Texas (Mr. DE LA GARZA) has expired.

(By unanimous consent Mr. DE LA GARZA was allowed to proceed for 2 additional minutes.)

Mr. WOLFF. Mr. Chairman, will the gentleman yield further?

Mr. DE LA GARZA. I yield to the gentleman from New York

Mr. WOLFF. Mr. Chairman, only this morning in a hearing before the Committee on International Operations, the ranking member of the committee and the chairman of that committee told the full committee that they would exercise the oversight responsibility over the American Institute on Taiwan. Really what is happening here, with all due respect to the gentleman from Texas (Mr. DE LA GARZA), is a determination as to whether or not we should have government-to-government relations. That is basically what is involved in this amendment which the gentleman has just offered, and it is basically what is involved in most amendments and subsequent ones which will be coming up.

Mr. DE LA GARZA. Mr. Chairman, I appreciate the gentleman's comments.

However, that is not my immediate concern. I have great confidence in the gentleman from Florida as far as oversight is concerned.

My immediate concern is, nonetheless, that we go back and forth here; and I as one Member of this House do not want to yield 1 ounce of legislative jurisdiction which we might have. I say again that I am not clear as to what area or what agreements were made with the PRC. I do not know. I am dealing from a very inadequate position.

What I would like to do is to affirm here what our legislative intent is, if we could.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Chairman, I understand fully the gentleman's concern. However, let me make it indelibly clear that page 4, section 201, is a very important section which states that all U.S. laws will continue to apply with respect to Taiwan notwithstanding the withdrawal of U.S. diplomatic relations.

The Presidential flexibility of waiver which is included in section 202 does not apply.

The CHAIRMAN. The time of the gentleman from Texas (Mr. DE LA GARZA) has expired.

(By unanimous consent, Mr. DE LA GARZA was allowed to proceed for 2 additional minutes.)

Mr. ZABLOCKI. If the gentleman will yield further, Mr. Chairman, the purpose for the waiver of authority in section 202 (b)(1) is that the waiver of authority is only given to the President to the extent that it deals with the entity. The present flexibility in section 202, as far as the gentleman from Wisconsin is concerned and as far as the sponsors of the legislation, the Committee on Foreign Affairs, are concerned, is to express the intent that we allow the President to move closer on a government-to-government relations basis with the authorities on Taiwan if he chooses, but it does not mean that he must be limited. In other words, he does not have to limit U.S. dealings with Taiwan to those conducted to the nongovernmental entity, although he is given that authority to do so.

Mr. Chairman, I submit that this is necessary to deal with this matter at this time in a nongovernmental basis in order to continue our activities and our relationships with Taiwan.

I would prefer to call this bill the Taiwan Protective Act because it is going to protect the interests which we have and the interests which Taiwan has in continuing relations with the United States.

The CHAIRMAN. The time of the gentleman from Texas (Mr. DE LA GARZA) has again expired.

(By unanimous consent, Mr. DE LA GARZA was allowed to proceed for 2 additional minutes.)

Mr. ASHBROOK. Mr. Chairman, will my colleague, the gentleman from Texas, yield?

Mr. DE LA GARZA. Let me just make this statement, and then I will be happy to yield.

Nonetheless, if I read English correctly, we say in one section—and this language is on page 4 of the bill—"otherwise in accordance with laws of the United States."

Then on page 5, section 202(b)(1) this language appears:

> The laws of the United States which apply with respect to agencies of the United States Government shall, to the extent the President may specify, apply with respect to the designated entity as if the designated entity were an agency of the United States Government.

☐ 1350

These are the sections of this bill which shall apply to the entity, and as I read them we revert to any action the President takes.

My concern is let us say Taiwan is a member of a fisheries agreement among five countries. We say we do not abrogate that agreement. We cannot. That is up to that entity to abrogate it. But, nevertheless, who is going to participate with the United States with the daily activities of that agreement, or the annual activities—the designated entity, or the Secretary of State, or the Department of Commerce? Who participates in those matters?

Mr. Chairman, this deals with far too important a matter to be here having it dealt with a minute at a time. Some of us need some assurances. Again repeating, not being a member of this distinguished committee, I am asking the chairman, the gentleman from Wisconsin, for assurance.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. I thank the gentleman for yielding.

I can give the gentleman that assurance. Section 202(b)(1) says:

> The laws of the United States which apply with respect to agencies of the United States Government shall, to the extent the President may specify, apply with respect to the designated entity . . ."

The gentleman's concern is unwarranted.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. ASHBROOK, and by unanimous consent, Mr. DE LA GARZA was allowed to proceed for 2 additional minutes.)

Mr. ASHBROOK. Mr. Chairman, will my colleague yield?

Mr. DE LA GARZA. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

With all honesty, my good friend, the gentleman from Wisconsin (Mr. ZABLOCKI) cannot make an assurance of that type. Read section 202. We are talking about the President of the United States. In one section the gentleman says "to the extent the President may specify, * * *." That is the law. Later on the section says, "upon such terms and conditions as the President may direct." Down at the bottom another operative phrase says: "The President is authorized to extend * * * such privileges and immunities * * * as may be necessary for the effective performance of their functions."

Add those three up. "To the extent the President may specify," "such terms and conditions as the President may direct," and he can add "such privileges and immunities" as he finds necessary.

No one can make assurances as to what this President or a subsequent President will do with that broad authority, which now comes not under the Constitution, not under the powers of dealing with foreign nations, but under what we are extending to him as a Congress, as a governing part of law. So there is no way my friend, the gentleman from Wisconsin (Mr. ZABLOCKI) can make the assurances he just made to my friend, the gentleman from Texas (Mr. DE LA GARZA).

The CHAIRMAN. The time of the gentleman has expired.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, this has been a subject that could well have provoked an emotional atmosphere. It has not. I commend all the Members for maintaining an objective, calm, practical—I would call it diplomatic—attitude toward this measure. But I want the Members on my side of the aisle to understand that it bothers me a bit when they use any statement in debate to criticize our President. I happen to have the highest regard for our President notwithstanding his tendency toward imperfection. I think that we should debate this bill without using it as a vehicle to criticize the President.

May I say to the Members on the majority side that, keeping in mind this great respect I have for our President, it pains me when I hear some of them discuss the virtues of the senior Senator from Massachusetts, or the Governor of California. I do not think either of those gentlemen could fill the shoes of our beloved President. Now having said that, I am about to get to the point of supporting the gentleman's amendment.

☐ 1355

Mr. ASHBROOK. Will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Before we get too far, I very carefully said: This President or a subsequent President. I would add that my response would be the same if this whole charade had been in existence during the administration of a previous President. We are not talking about any President who would have wide latitude and authority.

Mr. DERWINSKI. Mr. Chairman, I accept that as the gentleman's joining me in the acceptance of our President's good character.

The gentleman from Ohio in proposing his amendment should have labeled it "An amendment to end double talk."

I refer the gentleman to section 203, page 7 of the bill. I call his attention to the fact that subparagraph 3 reads:

> (3) An officer or employee entitled to reinstatement rights under paragraph (2) of this subsection shall, while continuously employed by the designated entity with no break in continuity of service, continue to participate in any benefit program in which such officer or employee was participating prior to employment.

This means as you read further a Federal employee will continue to receive his health insurance, his retirement coverage, his life insurance, all the benefits of Federal employment. When he returns from this entity, returns to employment within the Federal structure, he keeps all of his seniority, he transfers to whatever position he is entitled to or promoted to and, here is the key point, that while in the service of this entity, if by death or retirement his service is interrupted, he shall be considered a Federal employee. So all the gentleman from Ohio is doing is saying the obvious, that for everything but terminology, these people will be Federal employees.

I predict to the gentleman that 6 months from now whoever heads this entity will be affectionately known in Taiwan as the Ambassador of the United States. That is a fact of life. It is just as natural as night following day.

The gentleman from Ohio is just asking that our employees who will be Federal employees, who will not accept this assignment unless they are told their Federal employee rights will be guaranteed, that they shall in fact be designated as Federal employees.

I think it is a good amendment, I think it is a practical amendment, I think it is in the interests of the employees. I also suggest that you are setting a dangerous precedent through this legislation if you do not in fact acknowledge that a Federal employee is nothing but that. You should want him to be known as a Federal employee and I would urge support of the amendment.

Mr. BAUMAN. Will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Maryland.

Mr. BAUMAN. Is it not true this designated agency or entity or whatever they finally call it in fact be using appropriated funds which will come from this Congress and if we do not adopt an amendment of this nature it will not be at all clear that we have control over the taxpayers' money or the people that are spending it?

It is virtually unprecedented that Congress would hand out millions of dollars of tax moneys to an entity to be spent when it is not under our control.

Mr. DERWINSKI. We will be appropriating money from the taxpayers.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the Chairman being in doubt, the committee divided, and there were—ayes 28, noes 37.

RECORDED VOTE

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 171, noes 239, not voting 22, as follows:

[Roll No. 30]

AYES—171

Abdnor
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Badham
Bafalis
Bailey
Barnard
Bauman
Bereuter
Bethune
Breaux
Brinkley
Broyhill
Burgener
Butler
Byron
Campbell
Carney
Carter
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dougherty
Duncan, Tenn.
Edwards, Okla.
Emery
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Findley
Fish
Forsythe
Fountain
Frenzel
Fuqua
Gaydos
Gilman
Gingrich
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hammerschmidt
Hance
Hansen
Harsha
Hillis
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Hyde
Ireland
Jeffries
Jenkins
Kelly
Kemp
Kildee
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
McClory
McDonald
McEwen
Marlenee
Marriott
Mathis
Mattox
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Nelson
Nichols
O'Brien
Pashayan
Paul
Quayle
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roe
Roth
Rousselot
Rudd
Runnels
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Treen
Trible
Vander Jagt
Walker
Wampler
Watkins
White
Whittaker
Williams, Ohio
Wilson, Bob
Winn
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.

NOES—239

Addabbo
Akaka
Albosta
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Aspin
Atkinson
AuCoin
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brodhead
Brooks
Broomfield
Brown, Calif.
Buchanan
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chappell
Chisholm
Clay
Coelho
Conyers
Corman
Cotter
D'Amours
Danielson
Daschle
Davis, S.C.
de la Garza
Dellums
Derrick
Dingell
Dixon
Donnelly
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
English
Ertel
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Gonzalez
Gore
Gray
Green
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Holland
Howard
Hubbard
Huckaby
Hughes
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kogovsek
Kostmayer
LaFalce
Lederer
Lehman
Leland
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McDade
McHugh
McKay
Madigan
Maguire
Markey
Marks
Martin
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Rahall
Rangel
Ratchford
Reuss
Richmond
Roberts
Rodino
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Skelton
Slack
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Whitehurst
Whitley
Whitten
Williams, Mont.
Wilson, Tex.
Wirth
Wolff, N.Y.
Wolpe, Mich.
Wright
Wyatt
Yates
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—22

Alexander
Ambro
Anderson, Ill.
Ashley
Beard, Tenn.
Bevill
Brown, Ohio
Collins, Ill.
Crane, Philip
Dicks
Diggs
Dodd
Dornan
Downey
Flood
Garcia
Hutto
McCloskey
McKinney
Pursell
Smith, Iowa
Wilson, C. H.

☐ 1415

Mr. DANIEL B. CRANE changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there other amendments to title II?

AMENDMENT OFFERED BY MR. EDWARDS OF OKLAHOMA

Mr. EDWARDS of Oklahoma. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EDWARDS of Of Oklahoma: On page 10, line 12, strike out "and the Pescadores" and insert in lieu thereof "the Pescadores, Quemoy, and Matsu".

Mr. EDWARDS of Oklahoma. Mr. Chairman, the amendment which I have offered is very simple and uncomplicated. It merely broadens the definition of the term "Taiwan" to include not only the island of Taiwan and the islands of the Pescadores chain, but also those two islands which mean so much to the defense of Taiwan, the islands of Quemoy and Matsu.

On these two islands live 76,000 free Chinese. Moreover, these two islands contain a substantial of Taiwan's armed forces.

☐ 1420

Mr. Chairman, to exclude the two islands of Quemoy and Matsu from this act is an open invitation to Peking to attack these islands without so much as a suggestion from us that it might be of some concern to the United States.

Some people, knowing that this amendment was going to be offered, have argued that the Mutual Defense Treaty of 1954 did not extend to these islands, and that to include them in this act goes beyond what we were willing to do previously. But what was our previous commitment? To furnish military equipment. To furnish our Air Force, our Navy, our fighting men and women, if necessary, to defend the freedom of the Republic of China. But what are our responsibilities to Taiwan under this act now before us? Only to express our grave concern.

I must say that I do not know, Mr. Chairman, whether having grave concern is more or less than to deplore or to condemn, since rhetoric is relative. But all this is a statement of concern. Is the United States so afraid to be an international power that it fears extending even its concern for the freedom and safety of the 76,000 Chinese on Quemoy and Matsu? Who here seriously believes that this administration would be willing to do anything more than to deplore a Communist attack on these islands? But if Peking sees that the Congress of the United States is willing to extend its concern at least to Quemoy and Matsu, perhaps that would be some deterrent to any attack on those islands.

In the last Congress we expressed our outrage over the treatment of Jews in the Soviet Union and blacks in South Africa. Today will we extend that same concern for the very freedom and safety of the 76,000 Chinese on Quemoy and Matsu? This act incorporates a new relationship between the people on Taiwan and the people of the United States. The President has requested an end to the government-to-government relationship. We in the House now have the responsibility to speak for the people of the United States in this new relationship. There is no precedent for this corporate-to-corporate format, but the President, constitutionally entrusted with the conduct of our foreign policy, has chosen to have a corporation represent our interests in Taiwan. I do not believe the President can have it both ways, as some of my colleagues have suggested. We in the House must exercise our constitutional responsibility to protect American interests and to shape our future policy toward the people of Taiwan.

Hermann Hesse, in his book, "Demian," wrote that Europe had conquered the whole world only to lose her own soul. Mr. Chairman, a nation is like a man. It must keep its soul. It must do what is right. I submit that this amendment—this amendment which does no more than express our national concern for the safety of the Chinese on Quemoy and Matsu, and which recognizes the danger to all of Taiwan if those islands fall—will help this Nation, this great Nation of ours, to do the right thing and keep its soul.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from New York.

Mr. WOLFF. I thank the gentleman for yielding.

Is the gentleman aware that there are a number of other islands which are under the control now of the present Government on Taiwan? Those islands would not be covered. In other words, what we would do, then, is exclude those islands. Or does the gentleman mean that this resolution would apply to all of the islands that are now under the control of Taiwan.

Mr. EDWARDS of Oklahoma. This amendment applies only to covering under the definition of Taiwan the island of Taiwan itself, the Pescadores chain, Quemoy, and Matsu.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. WOLFF, and by unanimous consent, Mr. EDWARDS of Oklahoma was allowed to proceed for 2 additional minutes.)

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from New York.

Mr. WOLFF. I thank the gentleman for yielding.

On page 16 of the report we specifically refer to Quemoy and Matsu. The indications are that the above definitions are illustrative but not limiting the term "laws of the United States" and "Taiwan" are to be construed expansively to carry out the purposes of this act. "Thus, for example, the term 'Taiwan' may in some contexts appropriately encompass the islands of Quemoy and Matsu, as well as other islands governed by authorities exercising government control on Taiwan."

Basically, this issue was fought back in 1954 when the Mutual Defense Treaty, was passed and entered into by this Government. At that time it was felt that we should exclude both Quemoy and Matsu from the agreement. In fact, the Formosa Act was repealed in 1974 again on that basis of Quemoy and Matsu.

Mr. EDWARDS of Oklahoma. If I may reclaim my time to respond to the gentleman, first of all I acknowledge what is in the report. Unfortunately, we will not be voting on the report. The report is not what is before us. We are voting on the bill, and the bill does not include Quemoy and Matsu in the definition.

□ 1425

Secondly, I will repeat the point I made earlier that the decision that was made in 1954 referred to a defense treaty which called for the commitment of American military force. What we have before us here is merely an expression of our "grave concern" and I would suggest to the gentleman that it is not asking too much that this great body, representing this great and powerful country of ours, be willing to say that we consider that an attack on Taiwan, Quemoy, or Matsu would be a threat to the peace and stability of the Western area and of grave concern to the United States. This is all we are talking about.

Mr. WOLFF. Will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from New York.

Mr. WOLFF. It is the Spratly Islands today.

The CHAIRMAN. The time of the gentleman from Oklahoma has again expired.

(At the request of Mr. LAGOMARSINO, and by unanimous consent, Mr. EDWARDS of Oklahoma was allowed to proceed for 2 additional minutes.)

Mr. LAGOMARSINO. Will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from California.

Mr. LAGOMARSINO. I offered the same amendment in committee and many of the same arguments we are hearing this afternon were used against it at that time.

I think the gentleman made a good point as to whether or not language in a report would be helpful here. I submit that we are partly in the problem that we are in today because the President and his administration not only does not particularly pay attention to language in reports but sometimes language in legislation itself does not get proper attention, as with the language in the Security Assistance Act of last year, which mandated the President to consult with Congress before taking any action in this field.

It seems to me the other point the gentleman made; namely, that the reactions that would occur should there be an attack on or threat to Quemoy and Matsu would be determined by the administration in consultation with Congress and there are certainly no requirements that that action would be the same as if the Island of Taiwan itself were attacked. It is ambiguous now; to clear up that ambiguity the amendment should not be adopted.

Mr. WOLFF. Would the gentleman yield further?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from New York.

Mr. WOLFF. The point I was trying to make before is the fact that while the Spratly Islands are very highly contested islands, and very valuable resources to Taiwan, you do not cover them. The reason we did not cover specifically the territories that Taiwan exercises control over is to be all-encompassing so that the areas that are now governed by the present Government on Taiwan would be all-inclusive in this bill.

Mr. EDWARDS of Oklahoma. May I say to the gentleman that the difference is the location of Quemoy and Matsu and the fact that a very sizable portion of the armed forces of Taiwan is located on Quemoy and Matsu and that therefore a threat or an attack against Quemoy and Matsu would pose a grave peril to the safety of Taiwan itself.

Mr. WOLFF. Will the gentleman yield further?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from New York.

Mr. WOLFF. However the territories of Quemoy and Matsu are considered part of this.

The CHAIRMAN. The time of the gentleman from Oklahoma has again expired.

(At the request of Mr. SKELTON, and by unanimous consent, Mr. EDWARDS of Oklahoma was allowed to proceed for 1 additional minute.)

Mr. SKELTON. Will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, actually talking about the Islands of Quemoy and Matsu, as it was referred to by the subcommittee chairman, the gentleman from New York (Mr. WOLFF) that the battle was fought back in 1954. There was a subsequent battle over these islands and I think it was debated all over the Nation and decided at that time in the elections of 1960 between the contenders for the Presidency, President Kennedy and then Vice President Nixon, it was settled then. Does the gentleman not agree?

Mr. EDWARDS of Oklahoma. If I may respond to the gentleman, no, I do not agree. That was the point I was making to the gentleman from New York. In 1954 and then in 1960 were referring to a defense treaty, we were talking about a commitment by this country to provide servicemen to defend these islands. Now we are only talking about whether or not we as a people would express our "grave concern" in the case of an attack against those islands. That is not hardly the same point.

□ 1430

Mr. ZABLOCKI. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have taken the well rather than speaking from the mike at the table because I can hear myself better here, and I do not get such an overtone as I do at the mike at the table.

Adoption of this amendment, Mr. Chairman, would be unwise. The proposed amendment offered by the gentleman from Oklahoma (Mr. EDWARDS) has, indeed been, considered in the Foreign Affairs Committee and rejected. As the chairman of the Subcommittee on Asian and Pacific Affairs has stated, in referring to the language on page 16 of the report, the term, "Taiwan," may in some context appropriately encompass the islands of Quemoy and Matsu, as well as other islands governed by authorities exercising government control on Taiwan.

Quemoy and Matsu, Mr. Chairman, were deliberately left out of the mutual defense treaty, and I am sure my colleagues will agree with the members of the committee that we should not be expanding the U.S. security commitment beyond what was in the treaty. Quemoy and Matsu are considered by both Taipei and by Peking to be part of mainland China. They are in the province of Fukien. Quemoy is only 7 miles offshore, and Matsu is 12 off the mainland coast. They have been the repeated targets of shellfire, including propaganda shelling. Any shelling of the islands in the future would be of grave concern to the United States. We should consider this.

Does the United States want to regard the shelling of the islands as of "grave concern" to our country? In 1974 the Congress repealed the Formosa resolution in part because it implied a possible U.S. security commitment to these islands.

As I stated earlier, the reference in the committee report deals with a different context. It applies to a situation in which there could be commercial, cultural, and other exchange programs, which already extends to the people on these islands because they are under the Taiwan Government's control and which we want to continue to apply.

Yes, Mr. Chairman, it would be unwise for this bill to specify that the offshore islands of Quemoy and Matsu are within the definition of "Taiwan." We should recall, as I said earlier, that these islands are on the outskirts of the mainland. They are not a part of Taiwan per se. They were not included in the mutual security treaty, and both the administration and Congress have recognized the danger of any implication of a U.S. security commitment to these islands, and we, therefore, as I said, repealed the Formosa resolution.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield to me?

Mr. ZABLOCKI. I will yield in just a few seconds.

Mr. Chairman, as far as the participation of people from Quemoy and Matsu are concerned in commercial or exchange programs, again I must point out the report of the Committee on Foreign Affairs makes it clear that no bar is intended, and thus, as an example, the term "Taiwan," as I said earlier, in our definition and in the report may in some contexts appropriately encompass the islands of Quemoy and Matsu. And we might even include certain other small islands which the gentleman's amendment does not include.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. ZABLOCKI) has expired.

(On request of Mr. EDWARDS of Oklahoma, and by unanimous consent, Mr. ZABLOCKI was allowed to proceed for 1 additional minute.)

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I have asked the chairman of the committee to yield only that I might make two points.

The first point is this: The chairman of the committee refers to the fact that the report states that in some contexts Quemoy and Matsu might be included in the definition of "Taiwan." But the chairman of the committee cannot tell us, and the report does not tell us, who will determine in what context Quemoy and Matsu will be included.

My second point is this, if I may repeat a point that I made earlier: This is not a security commitment. The committee chairman referred to a security commitment but this is merely a statement that a threat to Quemoy and Matsu would be of grave concern to us. I submit that to specifically exclude Quemoy and Matsu from this bill is to say in effect to Peking that a threat to Quemoy and Matsu would not be of concern to us.

Mr. Chairman, I thank the gentleman for yielding.

□ 1435

Mr. ZABLOCKI. As far as the reference in the committee report is concerned, it does not extend our security commitment in its referral to Quemoy and Matsu.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. EDWARDS).

The question was taken; and on a division (demanded by Mr. EDWARDS of Oklahoma) there were—ayes 30, noes 45.

RECORDED VOTE

Mr. EDWARDS of Oklahoma. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 146, noes 256, not voting 30, as follows:

[Roll No. 31]

AYES—146

Abdnor
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Badham
Bafalis
Bailey
Barnard
Bauman
Beard, R.I.
Bouquard
Breaux
Brinkley
Burgener
Campbell
Carney
Chappell
Clausen
Cleveland
Collins, Tex.
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Donnelly
Dougherty
Duncan, Tenn.
Edwards, Okla.
Evans, Del.
Evans, Ga.
Gaydos
Gilman
Gingrich
Goldwater
Goodling
Grassley
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Heckler
Hightower
Hinson
Holt
Hopkins
Howard
Hubbard
Huckaby
Hyde
Jeffries
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lent
Livingston
Loeffler
Lott
Lujan
Lungren
McClory
McDade
McDonald
McEwen
Marlenee
Marriott
Martin
Mathis
Mattox
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Nelson
Perkins
Quayle
Quillen
Regula
Rhodes
Ritter
Robinson
Roe
Roth
Rousselot
Rudd
Runnels
Santini
Satterfield
Sawyer
Schulze
Sebelius
Shelby
Shumway
Shuster
Snowe
Snyder
Solomon
Spence
Stangeland
Stenholm
Stockman
Stratton
Stump
Symms
Taylor
Thomas
Treen
Trible
Walker
Wampler
Watkins
White
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Winn
Wyatt
Wydler
Yatron
Young, Alaska

NOES—256

Addabbo
Akaka
Albosta
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Baldus
Barnes
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bowen
Brademas
Brodhead
Brooks
Broomfield
Broyhill
Buchanan
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Carr
Carter
Cavanaugh
Cheney
Chisholm
Clay
Clinger
Coelho
Coleman
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Danielson
Daschle
Davis, S.C.
Dellums
Derrick
Diggs
Dingell
Dixon
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Gray
Green
Guarini
Gudger
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Hillis
Holland
Hollenbeck
Holtzman
Horton
Hughes
Ichord
Ireland
Jacobs
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
Leach, Iowa
Lederer
Lehman
Leland
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McHugh
McKay
Maguire
Markey
Marks
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa
Murphy, Ill.
Murphy, N.Y.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Peyser
Pickle
Preyer
Price
Pritchard
Rahall
Railsback
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Roberts
Rodino
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Schroeder
Seiberling
Sensenbrenner
Shannon

Sharp
Simon
Skelton
Slack
Smith, Nebr.
Solarz
Spellman
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stewart
Stokes
Studds
Swift
Synar
Tauke
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Weaver
Weiss
Whitehurst
Whitley
Williams, Mont.
Wilson, Tex.
Wirth
Wolff, N.Y.
Wolpe, Mich.
Wright
Wylie
Yates
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—30

Alexander
Ambro
Anderson, Ill.
Beard, Tenn.
Bevill
Bonker
Brown, Calif.
Brown, Ohio
Collins, Ill.
Crane, Philip
Dicks
Dodd
Dornan
Downey
Flood
Garcia
Hutto
Jeffords
Jenrette
LaFalce
Lee
Lewis
McCloskey
McKinney
Madigan
Pepper
Pursell
Smith, Iowa
Vander Jagt
Waxman

□ 1450

Mr. DERRICK changed his vote from "aye" to "no."

Mr. STRATTON changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1455

The CHAIRMAN. Are there further amendments to title II?

Mr. FINDLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it is very important, I think, that we have the fullest possible clarification of the language in this resolution. In the light of some of the comments made last week in consideration of this bill by the gentleman from New York (Mr. STRATTON) I reexamined section 101 and I would appreciate it if the distinguished chairman of the House Foreign Affairs Committee would help me clarify the effect of section 101.

It is my understanding, Mr. Chairman, that nothing in this legislation should be construed or can properly be construed as giving the President any authority or direction in respect to the use of U.S. military forces which he would not already have in the absence of this legislation. Is that the gentleman's interpretation of the resolution?

Mr. ZABLOCKI. Will the gentleman yield?

Mr. FINDLEY. I do yield.

Mr. ZABLOCKI. Mr. Chairman, I thank the gentleman for yielding.

The gentleman has interpreted the intent of this legislation very accurately. In no way does this legislation give the President any more authority in the use of military forces employed in the areas of combat than he already has, and the provisions of the War Powers Act will continue to apply.

Mr. FINDLEY. Mr. Chairman, may I further ask the gentleman if he would agree with this statement that it cannot properly be construed, the resolution cannot properly be construed as authorizing or suggesting the use of U.S. military forces in any particular circumstance or in response to any threat or danger. Am I correct?

Mr. ZABLOCKI. Will the gentleman yield?

Mr. FINDLEY. Yes.

Mr. ZABLOCKI. Yes, the gentleman is correct.

Mr. STRATTON. Will the gentleman yield to me since he mentioned my name?

Mr. FINDLEY. I will be glad to yield to the gentleman from New York.

Mr. STRATTON. The gentleman said his query of the chairman came from the colloquy that I had on this floor last week. Now, that colloquy simply went to the point that the language in the resolution which you have before you specifically spelled out precisely the same capability to do the things that the gentleman is referring to that were also contained in the Mutual Defense Treaty; namely, to take such action as was deemed proper by the President and Congress under our constitutional procedures.

The gentleman's colloquy just now with the gentleman from Wisconsin, however, suggests that in some way this particular section degrades the capability of the United States to respond from what it would have prevailed under the still existing defense treaty.

Mr. FINDLEY. Mr. Chairman, if the gentleman would permit me to respond, there were similarities in the language of the Mutual Defense Treaty and section 101 of this resolution. It was not identical language. In fact, my examination after the gentleman very thoughtfully called my attention to dissimilarities led me to conclude that the differences were substantial but in order to eliminate any possible question as to the effect of this legislation, in authorizing or not authorizing the use of military forces, I welcomed the clarification by the gentleman from Wisconsin, the chairman of the Committee on Foreign Affairs.

Mr. STRATTON. If the gentleman will yield further, it is hard for me to see how the gentleman can get that out of the relatively minor differences in the language unless we are beginning to interpret English in some different way. Nobody suggested that under the treaty that the President could go to war except through appropriate procedures established by the Congress. That is also precisely what the resolution at hand does. I think that a simple statement by the gentleman from Wisconsin is adequate to support the conclusion that there are profound differences in meaning between the language of the resolution and the language of the defense treaty. The gentleman from Illinois ought to set forth the reason for his belief rather than simply suggest that a statement by the gentleman from Wisconsin establishes a legislative history when that interpretation is not backed up by the words that are in print.

Mr. FINDLEY. If the gentleman will permit me to respond, the gentleman from Wisconsin is the author of the legislation, he presided over all the hearings, directed a very intensive staff scrutiny and, in fact, the staff he directed entered very heavily into the construction of the legislation itself.

□ 1550

So his word does, of course, add enormous weight to legislative history. The differences between the language in the mutual defense treaty and the language in section 101 are, of course, very important, and the differences are substantial.

The CHAIRMAN. The time of the gentleman from New York (Mr. STRATTON) has expired.

(On request of Mr. FINDLEY, and by unanimous consent, Mr. STRATTON was allowed to proceed for 2 additional minutes.)

Mr. FINDLEY. But to me, Mr. Chairman, the important thing is not the effect of mutual defense treaty language but the effect of the language now before us, and I think the gentleman from Wisconsin (Mr. ZABLOCKI) has rendered a great service in helping to clarify the effect and the parameters of this language.

Mr. STRATTON. Mr. Chairman, let me ask the gentleman what are the differences that the gentleman bases this conclusion on, if he would be so good as to spell them out?

Mr. FINDLEY. The differences between what and what?

Mr. STRATTON. Between the language that is before us and the language of the defense treaty.

Mr. FINDLEY. If the gentleman could supply me with the language of the treaty, I could respond better. I do not, frankly, happen to have it right before me.

Mr. STRATTON. In other words, the gentleman admits that he does not know what he is talking about.

Mr. FINDLEY. The gentleman from New York (Mr. STRATTON) is, of course, entitled to his own interpretation of my position, but if he would examine the language of the treaty and the language of the legislation before us, he would see very distinct differences.

In fact, any reasonable interpretation of the treaty language would show that it calls upon the President, of course, through constitutional procedures, to act to meet any danger. That is the critical difference. I do not have the precise language, but I think I may very well have used the exact words in what I have just stated.

Mr. BAUMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time in response to the gentleman from Illinois (Mr. FINDLEY) and the gentleman from Wisconsin (Mr. ZABLOCKI). During the hearings before the Committee on Rules on this legislation, I raised this same question with the gentleman from Wisconsin, because I read the provisions of the legislation. I call the attention of the committee to page 5, section 202(b)(1), that reads:

> The laws of the United States . . . shall . . . apply to the extent the President may specify . . .

And then section 202(b)(2) says:

> Any agency of the United States Government may sell, loan, or lease property . . .

Taken together that language allows the President to use this designated agency as a conduit which could allow defense materials and all sorts of weapons to be transferred to the counterpart entity on Taiwan.

It seems to me that a future President who is not so sanguine in defending the interests of Taiwan might decide the War Powers Act should be waived. It seems to me the language is plain here that it gives him that authority. These provisions point up the broad nature of the authority contained in this legislation. I do not think any of my liberal colleagues who were so concerned about the actions of a Lyndon Johnson or others in regard to the Vietnam war should be so placid in their acceptance of particular language.

There it is. It is right there before us. All the legislative history the courts have held is not worth a tinkers dam, as opposed to what the law says as it is written on the books.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I am curious to know the gentleman's interpretation as to the effect of section 101. I think it is the (b) section, the paragraph that contains the word, "action."

Mr. BAUMAN. Yes, but the gentleman from Illinois (Mr. FINDLEY) fully knows the history of the Vietnam conflict. It was not a declaration of war that got us into the situation there, it was a piecemeal approach.

Mr. FINDLEY. That is true.

Mr. BAUMAN. The problem came after years and years of attrition by Presidents of both parties, sending troops and sending weapons, and so on. That was the genesis of the problem.

Here in this bill there is the possibility of the same kind of arrangement, but sanctioned by law.

On the President's own authority, he can waive the War Powers Act, and he may specifically waive it with respect to the designated entity and turn that entity into a conduit for arms to be sent to Taiwan. If the gentleman is concerned about this as it regards one part of Asia, it seems to me he should be consistent and be concerned as it pertains to Taiwan.

Mr. FINDLEY. Mr. Chairman, I wonder if the gentleman would comment on the effect of this sentence:

> The President and the Congress shall determine, in accordance with constitutional processes, appropriate action by the United States in response to any such danger.

□ 1505

Mr. BAUMAN. Mr. Chairman, the constitutional process requires an act of war to have the approval of Congress. But the history of the imperial Presidency indicates an assumption of power short of war can be the same as war.

Mr. FINDLEY. That is right.

Mr. BAUMAN. What I am pointing to is that here lies the possibility of a President in the future, even this President, if he should so desire, to escalate appreciably the military situation as pertains to Taiwan.

Mr. FINDLEY. Would the gentleman read that sentence in a way that should be construed as authorizing military action by an adventuresome President in the future?

Mr. BAUMAN. It is not up to the gentleman from Maryland to judge what might be an adventuresome President in the future. Some think we have had too many of them in the past.

Mr. FINDLEY. Of course, it is a possibility. But would the gentleman construe it as giving the President that power?

Mr. BAUMAN. I think the potential proves exists, in the very broad draftsmanship in this legislation. But the world will little note, nor long remember what we say here.

Mr. FINDLEY. The Gulf of Tonkin resolution, which many of us—in fact, all of us then in the House—very unwisely supported in 1964 was often cited by President Johnson as legitimative authority to carry on a very wide-scale military operation in Vietnam. I think the gentleman from Maryland was here in another capacity at that time, and he certainly has been an observer of the American scene. I wonder if he would interpret this language as having within it the same mischief as was contained in the Gulf of Tonkin resolution?

Mr. BAUMAN. It is in the nature of a blank check for any President, including the incumbent or any future President, to do as he pleases so far as using this entity, so far as transferring arms or any military equipment, and that could be an act short of war, but certainly one that could have a great deal of consequences.

The CHAIRMAN. Are there further amendments to title II?

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. SOLOMON: On page 5, strike out line 1 and all that follows through line 16, and insert in lieu thereof the following:
>
> "ESTABLISHMENT OF CONSULAR RELATIONS
>
> Section 202(a) Except as the President may otherwise provide with respect to those types of dealings which are not normally conducted through diplomatic or other official missions,
>
> (1) dealings of the United States Government with Taiwan shall be conducted through a United States Consulate on Taiwan; and
>
> (2) dealings of Taiwan with the United States Government shall be conducted through a Taiwan Consulate in the United States.
>
> (b) Upon the granting to Taiwan of comparable privileges and immunities to the United States Consulate on Taiwan and its personnel, the President is authorized to extend to the Taiwan Consulate in the United States, and its personnel, privileges and immunities (subject to corresponding conditions and obligations) comparable to those extended by the United States to other accredited consular offices of foreign countries, with which the United States does not maintain diplomatic relations, and members of such consulates."
>
> On page 6, strike out line 18 and all that follows through line 4 on page 10 and redesignate sections 205, 206, and 207 as sections 203, 204 and 205 respectively.

Mr. SOLOMON. Mr. Chairman, out of consideration of my colleagues, I would just like to announce that the failure of this by voice vote will draw out a request from me to ask for the yeas and nays. I would also like to call the attention of some of my colleagues from New York, particularly those from New York City, who have been voting consistently against many of the amendments that so many of us are concerned about, that these Members, particularly those whose names might appear on this bill before us, that I detect a certain amount of resentment among my colleagues from around the country because of some of these votes.

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I would like to point out to them and to myself that may have constituencies that may be interested in Israel, that in the not too distant future we may be faced with legislation that is going to be very similar to what we have here.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to my colleague from New York.

Mr. WOLFF. Does the gentleman equate Israel and Taiwan? Is that what he is saying?

Mr. SOLOMON. As far as our future policy is concerned; yes, sir.

Mr. WOLFF. In other words, the gentleman now equates all the votes that we are taking with votes that subsequently we will take on Israel. Is that right?

Mr. SOLOMON. No, I say to my colleague from New York, I simply call this to your attention because I am very much concerned about it.

Mr. WOLFF. We thank the gentleman very much, if the gentleman will yield further, for calling our attention to it.

Mr. SOLOMON. I thank the gentleman.

Mr. Chairman, the reason I rise is to offer this amendment which does establish consular relations with Taiwan similar to those consular relations that we now have with other countries which we do not recognize diplomatically. The basic question throughout the debate over the legislation dealing with Taiwan has focused on what kind of relations we should continue to have that deal with both historical and political realities. The contention is made that we cannot have diplomatic relations with Taiwan because this would interfere with normalization of relations with the PRC.

Another argument raised against this proposal was that liaison relations meant, nonetheless, a two-China policy. Thus, a proposal to have liaison relations—which is a form of diplomatic relations—was narrowly voted down in the House last Thursday. Those were some of the votes I referred to.

Having said all that, it is also true that if there are no established relations with the people on Taiwan, there is a failure to recognize the reality of Taiwan's existence as a political entity with "international personality", as that term is used by Victor Li in his testimony before the Senate committee. I have a copy of that testimony which I would like to insert at this point in the RECORD.

PREPARED STATEMENT OF PROFESSOR VICTOR LI

I am delighted that normalization of relations with the People's Republic of China has finally taken place. But normalization still leaves many political and legal problems to be resolved, including the status of Taiwan.

After January 1, 1979, we know what Taiwan is not: it is not the de jure government of the state of China. Much less clear, however, is the question of what Taiwan is.

We also know that U.S.-Republic of China (ROC) treaties do not automatically lapse upon withdrawal of recognition. The Mutual Defense Treaty continues in effect for one more year. In a December 30, 1978 memorandum for all departments and agencies, President Carter declared:

> Existing international agreements and arrangements in force between the United States and Taiwan shall continue in force and shall be performed and enforced by departments and their agencies beginning January 1, 1979, in accordance with their terms.[1]

But the United States has not explained the legal rationale for preserving treaties and maintaining commercial, cultural, and other relations with an unrecognized entity.

I. TWO POSSIBLE CHOICES

1. Successor Government

One possible rationale is that the United States has treaty and other relations with the state of China. Prior to January 1, that state was represented by the ROC government. After the switch of recognition, the United States regards the People's Republic of China (PRC) as the successor government to the ROC. As such, the PRC assumes the rights and obligations of its predecessor.

The successor government theory is well known. For example, in 1971, the PRC was recognized by the United Nations as the only legitimate representative of China, and took over the seat belonging to that state.

Applying the above theory to the present situation, the PRC has succeeded to the Mutual Defense Treaty and other agreements with the United States. These treaties remain in force because the PRC has agreed, in an implied manner, that they should continue to serve as the bases of American relations with the Chinese territory of Taiwan.

In addition, since the PRC is the government of all of China including Taiwan, the United States can have no direct relations with the authorities on Taiwan, unless the PRC consents. Taiwan would have no capacity to conduct foreign affairs, except insofar as the PRC consents, even if only in an implied manner.

2. De facto entity with international personality

A second possible description of the legal status of Taiwan after withdrawal of recognition is that it is a "de facto entity with international personality." That is, while no longer regarded by the United States as a de jure government or state, nevertheless Taiwan continues to control a population and territory and to carry out the usual functions of government. Sec. 4 of the *Restatement, Second, Foreign Relations Law of the United States* (hereafter *Restatement*) provides:

> Except as otherwise indicated, "state" as used in the Restatement of this Subject means an entity that has a defined territory and population under the control of a government and that engages in foreign relations.

Similarly, the Convention on Rights and Duties of States, 49 Stat. 3097, T.S. 881 (1933) says:

> Art. 1. The state as a person of international law should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with the other states.

In other words, whether Taiwan is regarded as a "state" or juridical person in international law depends on whether it carries out the usual functions of a state, and not whether it is recognized *de jure* by other states.

If Taiwan is a *de facto* entity with international personality, it may carry out the full range of foreign relations, including entering into international agreements and sending and receiving of official missions. With respect to pre-existing treaties and agreements, international law does not require that treaties entered into with a once recognized government, the terms of which are limited to the territory actually controlled by that government, must lapse after that government loses *de jure* recognition while still exerting *de facto* control.[2] In such an unprecedented situation, the United States could make a political decision to maintain these treaties on the ground that it may continue to deal with the authorities in actual control of Taiwan.

II. THE UNITED STATES POSITION

The PRC obviously views the switch of recognition as a successor government situation. The position of the United States is not clear. In the Joint Communique of December 15, 1978, the United States "acknowledges the Chinese position that there is but one China and Taiwan is part of China," and "recognizes the People's Republic of China as the sole legal Government of China. Within this context, the people of the United States will maintain cultural, commercial, and other unofficial relations with the people of Taiwan."

One possible interpretation of these statements is that the PRC is the successor government to the ROC: there is one state of China which includes Taiwan, and the PRC is the sole legal government of this state. Moreover, since the United States can deal with Taiwan only "within this context," the United States acknowledges the PRC's ultimate legal authority over Taiwan, including the right to approve future U.S.-Taiwan relations.

A second interpretation is that acknowledgement of the Chinese position is not tantamount to agreeing with it.[3] Thus the status of Taiwan remains "undetermined." Moreover, the United States also has said that:

> Whenever any law, regulation, or order of the United States refers to a foreign country, nation, state, government, or similar entity, departments and agencies shall construe those terms and apply those laws, regulations, or orders to include Taiwan.[4]

This statement might be read as an indication that Taiwan is a *de facto* entity having the attributes of a state or government.

In selecting between the successor government theory and the *de facto* entity theory, I believe that the former is not workable and does not serve American interests. First, the need to obtain the PRC's consent, even if only implied, for continued dealings with Taiwan constantly places the United States on the defensive. Serious difficulties would arise if, at a later time, the PRC objects to some aspect of U.S.-Taiwan relations.

Secondly, the successor government theory lends to problems in areas other than treaties or official relations. For example, the ROC has deposited in American banks over $4 billion of its foreign exchange reserves. If the PRC is the successor government, it could assert that this money belongs to the "state of China" and should be handed over to the proper representative of that state, the PRC. The transfer of such a vast sum would undercut any policy to ensure that the people of Taiwan "face a peaceful and prosperous future."

Finally, one of the reasons for moving ahead with normalization is to bring American policy into accord with reality, a laudable goal. Structuring our dealings with Taiwan as though it were a subordinate unit of the PRC would be a departure from reality.

I believe that the United States should make clear that it regards Taiwan as a *de facto* entity with international personality. Such a stand accurately reflects reality: derecognition has not affected the manner in which the authorities and 17 million inhabitants of Taiwan conduct their affairs. The United States simply is acknowledging the fact that Taiwan continues to manage its affairs in an autonomous manner.

I should note that the above suggestion does not violate the principle of one China. The *de facto* entity concept deals with present political realities, and Vice-Premier Teng's recent indication that Taiwan may retain its own political and economic systems as well as maintain separate armed forces acknowledges the same realities.

The United States may derive some short term benefits from refusing to clarify the legal rationale for continued dealings with Taiwan. After all, explicitly calling it a *de facto* entity would aggravate the PRC, while adopting the successor government theory would damage Taiwan. This policy of intentional ambiguity may be difficult to maintain for an indeterminate time. In the years to come I suspect that we will see many situations where the PRC would attempt to assert its position as the successor. Each instance would set a precedent for future dealings.

One of the first possible cases is likely to involve the ownership of the former ROC embassy at Twin Oaks.[5] The PRC may consider the obtaining of the state of China's diplomatic property an important political and symbolic act. If the Executive or the courts transfer the property to the PRC as the successor government, then other ROC assets, such as the several billion dollars in bank deposits may also be jeopardized. Allowing the PRC to succeed only to property acquired before 1949 removes many of the difficulties, but still leaves unresolved problems such as the $550 million contribution made to the International Monetary Fund by the ROC in 1947.

III. ATTRIBUTION OF A DE FACTO ENTITY WITH INTERNATIONAL PERSONALITY

This section discusses the capabilities and disabilities of a *de facto* entity, comparing them with the attributes of a *de jure* recognized state. It should be pointed out at the outset that the *de facto* entity concept is not new or unfamiliar. Prior to January 1, 1979, the United States dealt with the PRC on exactly such a basis. Although we did not extend *de jure* recognition, official missions were exchanged, agreements were reached, American presidents visited the PRC, and a considerable amount of trade and travel was carried out. No one seriously questioned the capacity of the PRC to engage in such relations.

1. International law perspective

A *de facto* entity has the capacity to have treaty and other foreign relations, even with countries not extending it *de jure* recognition. Sec. 107 of the *Restatement* provides:

> An entity not recognized as a state but meeting the requirements for recognition [of controlling a territory and population and engaging in foreign affairs], or an entity recognized as a state whose regime is not recognized as its government, has the rights of a state under international law in relation to a non-recognizing state, although it can be precluded from exercising such a right if:
>
> (*a*) The right is of such a nature that it can only be exercised by the government of a state, and
>
> (*b*) The non-recognizing state refuses to treat the purported exercise of the right as action taken by the government of the other state.[6]

In recent years, the United States has entered into agreements regarding a wide vari-

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ety of subjects with *de facto* entities such as the Democratic People's Republic of Vietnam, the German Democratic Republic, and the PRC.

The American decision to conduct future relations with Taiwan through a quasi-governmental corporation rather than through formal official channels does not affect the status of Taiwan in international law. This decision reflects political factors in U.S.-PRC-Taiwan relations, and is not the result of some inherent disability of *de facto* entities.

2. Existing legislation

There are very few provisions in American legislation which provide that *de jure* and *de facto* entities should be treated differently.[7] In general, the legislative approach has been to treat them similarly, unless there is a specific provision to the contrary. Some semantic confusion exists, since terms such as "foreign country" or "foreign government" are often used in an undefined and even inconsistent manner. President Carter's memorandum of December 30, cited earlier, and the proposed legislation resolve this confusion by making all such terms applicable to Taiwan.

The proposed legislation resolves most the legal problems which may arise after withdrawal of recognition. However, two potential difficulties remain. A number of statutes place various restrictions on dealings with "Communist countries."

For example, the Export-Import Bank may not take part in transactions involving sales to or products from "a Communist country," unless the President determines that the transaction is in the national interest.[8] The Foreign Assistance Act bars assistance to countries that are "dominated or controlled by the international Communist movement," as well as to "any Communist country" unless the President finds that such assistance is "vital to the security of the United States."[9] Similarly, Communist countries are not eligible for purchase of surplus agricultural products on credit or for foreign currencies,[10] cannot be designated a beneficiary developing country for purposes of the generalized system of preference,[11] and are charged a higher tariff rate.[12]

As discussed earlier, the December 15 Communique states that the United States "acknowledges the Chinese position that there is but one China and Taiwan is part of China." This sentence might be read to mean that Taiwan is part of a Communist country, the PRC. Such an interpretation appears to be contrary to the President's position, but neither earlier official statements nor the proposed legislation directly addresses this problem.

In addition, other statutory programs are applicable only to "friendly countries." These include military sales and assistance,[13] the Overseas Private Investment Corporation,[14] sale of American agricultural surplus on credit terms or for foreign currency by the Commodity Credit Corporation,[15] loans to small farmers of predominately rural countries,[16] and expenditures of funds received pursuant to the Agricultural Trade Development and Assistance Act of 1954.[17] Interestingly, nowhere in these statutes is the term "friendly" defined.

The proposed legislation does not explicitly affirm Taiwan's "friendly" status, although testimony by Administration officials makes clear that the intention of the legislation is to leave unchanged Taiwan's eligibility for the above mentioned programs.

3. Judicially developed rules

Even without the proposed legislation, judicially developed rules impose few serious disabilities on *de facto* entities. They are entitled to claim sovereign immunity to the same extent as *de jure* recognized states. In *Wulfson* v. *Russian Socialist Federated Soviet Republic*, 23 N.Y. 372, 138 N.E. 24 (1923) the R.S.F.S.R. was "an existing government sovereign within its own territory," but unrecognized by the United States. Immunity was granted on the ground that a foreign sovereign, even if unrecognized, cannot be sued in an American court without his consent. The Foreign Sovereign Immunities Act of 1976, 90 Stat 2891, makes no explicit mention of unrecognized entities, but instead refers generally to "foreign states". The absence of a specific provision implies that pre-existing rules established by case law remain valid. Moreover, President Carter's directive of December 30 and the proposed legislation directing that laws regarding "foreign states" should apply to Taiwan also would support the granting of Immunity.

The act of state doctrine provides:

> Every sovereign state is bound to respect the independence of every other sovereign state, and the courts of one country will not sit in judgment on the acts of the government of another, done within its own territory. *Underhill* v. *Hernandez*, 168 U.S. 250, 18 S. Ct. 83 (1897).

In *Salminoff & Co.* v. *Standard Oil Co. of New York*, 262 N.Y. 220 186 N.E. 679 (1933) (refusal to examine the validity of a law confiscating property located in the Soviet Union), the court applied this doctrine to acts of the Soviet government, which was unrecognized but in actual control.

The "constitutional underpinning" for the act of state doctrine is the separation of powers. The Judiciary is reluctant to interfere with the conduct of foreign affairs by the Executive. *Banco Nacional de Cuba* v. *Sabbatino*, 376 U.S. 398, 84 S. Ct. 923 (1964). Applying this rationale to the politically delicate situation in United States-PRC-Taiwan relations, courts should be especially wary of making pronouncements about the validity or invalidity of Taiwanese governmental actions. The act of state doctrine should be applied, leaving such determinations to the Executive.

The only disability imposed by the courts on *de facto* entities is that they may not have standing to bring suit in an American court. In *Russian Socialist Federated Soviet Republic* v. *Cibrario*, 25 N.Y. 255, 139 N.E. 259 (1923), the court held that allowing an unrecognized government to sue would undermine the Executive decision not to extend *de jure* recognition.

Yet even this position has eroded substantially over time. A Soviet-owned corporation organized under the laws of New York was allowed to bring suit. *Amtorg Trading Corp* v. *United States*, 71 F. 2d 324 (1934). In *Upright* v. *Mercury Business Machines*, 13 A.D. 2d 36, 213 N.Y.S. 2d 417 (1961) an American assignee of a corporation controlled by the unrecognized German Democratic Republic also was permitted to sue.

More recently, in *Federal Republic of Germany* v. *Elicofon*, 358 F. Supp. 747 (E.D.N.Y.) (1972), *aff'd*, 478 F. 2d 231, 415 U.S. 1931 (1974), *reh denied*, 416 U.S. 952 (1974), the court did not allow the Weimer Art Collection, an East German museum which was an arm of the East German government, to bring suit. However, the court added in a footnote:

> It is unclear whether this reasoning supports a rule invariably denying standing to unrecognized governments. There may be special circumstances in which action by the President can be interpreted as creating an exception to the rule. For example, it may be argued that the act of the Executive in permitting American nationals to engage in commercial relations with unrecognized governments or their instrumentalities carries with it a grant to those governments or instrumentalities of standing to litigate claims arising out of those transactions in United States courts.

The same reasoning could be applied to the Taiwan situation where the United States is allowing, and indeed encouraging, continued economic, cultural, and other relations.

The *Upright* case actually deals with both the act of state doctrine and the question of standing to sue. The starting point for the court is that a "foreign government, although not recognized by the political arm of the United States government, may nevertheless have *de facto* existence which is juridicially cognizable." The court looked to "the realities of life" and noted that an unrecognized government carriers on many routine activities and that trade between the two countries is not forbidden. The legal consequences of non-recognition should be narrowly construed, unless they "can be properly related as infinical to the aims and purposes of our public and national policy." Assuring the continued prosperity of Taiwan appears to be part of the American national policy. This policy would be hindered by denying Taiwan the standing to bring suit in American courts.

Thus, judicial doctrine may be evolving to a position where unrecognized entities have standing to sue, at least in cases involving economic and cultural relations. Be that as it may, the proposed legislation removes whatever legal disabilities may exist because of a lack of recognition.

In summary, pre-existing legislation does not make major distinctions between *de jure* and *de facto* entities. Judicial practice also imposes few, if any, additional disabilities. The proposed legislation would remove the remaining obstacles to continuing all economic and cultural relations with Taiwan. However, the inclusion of an affirmation of Taiwan's "friendly" status, and a reference to the fact that Taiwan is not part of a Communist country would add to clarity.

It should be noted that the act of extending *de jure* recognition to the PRC, in and of itself, grants the PRC few rights and privileges. At this point, we should at least ask why we continue to use the concept of recognition, if the extending or withdrawing of recognition indeed produces few or no legal consequences of importance. Could it be that this concept, which has so shaped the United States-China relations debate, has only symbolic content? If so, perhaps we should consider whether it would be simpler and better for countries to merely "deal" with each other, without being tied to the ritual of recognition.

IV. A PERSPECTIVE ON TAIWAN

The formulation "*de facto* entity with international personality" is awkward, both semantically and substantively. But since both the PRC and Taiwan agree on the principle of one China, it is hardly appropriate for the United States, as an outsider, to propose any other question. Having to operate within this principle, the United States must use the *de facto entity* concept if it is to maintain economic, cultural, and other ties with Taiwan into the indefinite future.

While we may hope that Taiwan will adopt a more flexible stance in due course, the central authorities there must resolve some fundamental difficulties before any major policy shifts can occur. Despite the slogans and political speeches, I believe that few responsible people on Taiwan think that they will recover the Mainland from the Communists, or that they rule anything more than the territory of Taiwan. At the same time, over 1,500 persons in the National Assembly and Legislative Yuan hold office by virtue of elections held on the Mainland in 1947. If Taiwan forsakes its claim to the government of all of China, then the legal basis for these 1,500 persons as well as others retaining their positions also would vanish. Moreover, considerable political debate must take place, some of which may be acrimoni-

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ous, to decide the form and personnel of the new government.

In making a national decision about the future of Taiwan, the views of all of the people of Taiwan should be considered. In recent years, the electoral process was beginning to bring new people representing a broad range of views into the political system. Although Taiwan is essentially a single party state, "non-party" (i.e., opposition) candidates won 38% of the popular vote in the 1977 election for local offices. In the 1978 national elections, since only 38 seats (out of 400) in the Legislative Yuan and 56 seats (out of about 1,200) in the National Assembly were up for election, the makeup of these bodies would hardly change even if opposition candidates won a sizeable number of contests. Nevertheless, the elections provided the public an opportunity to express its views. More importantly, the winners, who would likely have included a number of opposition leaders, would have obtained legitimate standing to participate in the national debate about the future of Taiwan.

The normalization announcement was made in the middle of the Taiwan elections, and led to their indefinite suspension. Opposition candidates cannot use their campaign speeches and literature as means of voicing their opinions. Censorship and restrictions on political activity limit the means by which other persons may express dissenting views. Decision making falls back into the exclusive hands of the Nationalist party. I am concerned that the lack of a legitimate and adequate forum for national debate may lead to internal problems on Taiwan.

Finally, I want to make some comments about American normal obligations to Taiwan. Over twenty-five years ago, in a world that was very different, the United States provided massive military and other assistance to Taiwan when such assistance was sorely needed. In subsequent years, the United States contributed greatly to the remarkable growth of that island.

At some point, the original American commitments to Taiwan for military protection and economic assistance would have been fulfilled. Taiwan is not the 51st state which must be defended and assisted under any circumstances and for all time. In the course of helping to build a new society on Taiwan, however, I believe the United States has incurred new obligations to give that society an opportunity to survive and grow.

Taiwan is going through a transition from being the Republic of China representing all of China to some new and still undefined status. What that new status should be must be decided by the people on Taiwan. They must consider the offers being tendered by the PRC. If they feel the offers to be unsatisfactory, they must seek better terms or search for new solutions.

I believe the responsibility of the United States is to give the people on Taiwan a fair opportunity to make decisions about its own future. The use of the de facto entity approach which I have urged provides the smoothest means of making a transition. It is time for Taiwan to take its own problems in hand. If it wishes to continue the fiction of being all of China, then it has had ample notice that it must stand alone and face the consequences. If it wishes to reunify with the PRC or adopt some other status, then it must begin the process.

Thank you very much.

FOOTNOTES

[1] "Memorandum on Relations with the People of Taiwan," *Federal Register*, vol. 44, no. 3, p. 1075 (January 4, 1979).

[2] For a more detailed explanation of this position, see Victor H. Li and John W. Lewis, "Resolving the China Dilemma: Advancing Normalization, Preserving Security," *International Security*, vol. 2 no. 1, p. 11 (Summer 1977): statement of Victor H. Li in Subcommittee on Asian and Pacific Affairs of the Subcommittee on International Relations, House of Representatives, *Normalization of Relations with the People's Republic of China: Practical Implications* (1977), p. 87.

[3] There is a potentially serious linguistic discrepancy between the English and Chinese texts. The Chinese text uses *ch'eng-jen* for "acknowledges." In this context, the Chinese term carries a strong connotation of acceptance or agreement. Moreover, the Shanghai Communique states: "The United States acknowledges that Chinese on both sides of the Strait agree that there is but one China and Taiwan is part of China. We do not challenge this position." The Chinese text uses a correct equivalent, *jen-shih*, for acknowledges. Reading the Chinese texts of the two communiques together, the United States has increased the degree of its acquiescence in the Chinese position from *jen-shih* (acknowledges to takes note) to *ch'eng-jen* (recognizes or accepts).

[4] "Memorandum on Relations with the People of Taiwan."

[5] The ROC attempted to "sell" the property to a group of persons prior to January 1, reportedly for a token amount. This transaction would not appear to be legally effective.

[6] See also sec. 108 of the *Restatement* which discusses the obligations of an unrecognized entity. Similarly, art. 6 of the Vienna Convention on the Law of Treaties says: "Every state possesses capacity to conclude treaties." However, the Convention does not define "state."

[7] For a detailed discussion of the legal effects on U.S.-Taiwan relations if the United States withdraws *de jure* recognition, although the Taiwan authorities continue to maintain *de facto* control, see Victor H. Li, *De recognizing Taiwan: The Legal Problems* (Carnegie Endowment for International Peace, 1977).

[8] 12 U.S.C. 635(b)(2).

[9] 22 U.S.C. 2370(b), (f). For purposes of sec. (f), the PRC is specifically listed as a "Communist country."

[10] 7 U.S.C. 1703(d) excludes Communist countries from being "friendly," but does not define which non-Communist countries are friendly.

[11] 19 U.S.C. 2462(b).

[12] 19 U.S.C. 1202(e).

[13] 22 U.S.C. 2311, 2751.

[14] 22 U.S.C. 2191.

[15] 7 U.S.C. 1701. Up until the mid-1960s, Taiwan had received considerable economic aid under this and related programs. Such aid has since ceased.

[16] 22 U.S.C. 2175.

[17] 22 U.S.C. 1922. Other examples are: 22 U.S.C. 2102 (health research and training); 22 U.S.C. 2219 (family planning); 50 U.S.C. App. 1878(e) (loan of military vessels); 10 U.S.C. 7227, 31 U.S.C. 529(j) (routine disbursement of funds and services to military forces of a friendly country); 39 U.S.C. 407 (postal agreements).

In order to accommodate both the problems of the so-called two-China dilemma and the reality of Taiwan, we should set up consulate offices with Taiwan, and we should do it in this legislation. This would mean contact with Taiwan without at the same time taking any position on the basic question of the international legal status of Taiwan. Nor would it constitute diplomatic recognition of Taiwan by the United States, which is what the President seems to want.

We currently have consulate relations—and I wish the Members would listen to this, because I think this is the most important part of the entire argument on this amendment—we currently have consulate relations, not diplomatic relations, with other international political entities, as is Taiwan, such as Estonia, Monaco, Lithuania, Latvia, many of which are beyond the Iron Curtain, and in many of which we do have consulate offices even though we recognize Russia and not these countries diplomatically. We also have the same kind of arrangement with Jerusalem, of all places.

With other countries we have diplomatic relations with embassies in the capital city and consulate offices in other cities. We have the gentleman from Minnesota (Mr. ERDAHL), who is former Secretary of State of Minnesota, which has consulate offices from foreign countries in his State; yet, that foreign country does not recognize the State of Minnesota as a national sovereignty.

In the situation of China, we can easily have an embassy in Peking that represents formal diplomatic relations in China, and our consulate in Taiwan as well.

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The CHAIRMAN. The time of the gentleman from New York (Mr. SOLOMON) has expired.

(By unanimous consent, Mr. SOLOMON was allowed to proceed for 2 additional minutes.)

Mr. SOLOMON. To continue, Mr. Chairman, such an arrangement is perfectly logical because both Taipei and Peking insist that there is a province of China, both countries do. The reality is that the Government of Taipei controls and governs that particular part of China. Thus, without prejudicing any further the position of the PRC or of Taiwan, we will continue to have a presence with the people of Taiwan, under this amendment, through the establishment of a consulate office in Taipei as the mode of continued contact. By this action we make it clear that we are simply dealing in the reality of who runs Taiwan.

Mr. Chairman, I ask, Who does run Taiwan? A consular relationship with Taiwan will not jeopardize a peaceful settlement of the Taiwan-PRC dispute, and it will not interfere with the normalization of relations between the United States and the PRC.

A consulate does not mean formal diplomatic relations with a country, according to the Geneva Convention revisions which this country and this body have recognized.

I would like to quote from "Law Among Nations"—and perhaps some of the older Members have read it—but I would ask all Members to read it. I have a copy of it here. It is very interesting. It says the following:

> . . . a severance of diplomatic relations does not, *ipso facto*, mean a breaking off of consular relations. It is also possible to establish consular relations between states that do not have diplomatic relations with one another. In this situation, the consular relations represent the only official relations of permanent character between the states in question.

Thus, just because we have begun diplomatic relations with Taiwan does not mean that we cannot have consular relations. By all standards, consular relations are lower relations than a formal status. Actually, there is just mean contact between the two international political entities.

In this case, Mr. Chairman, we can make it clear that the unusual situation with China makes creation of these kinds of relations absolutely necessary.

The CHAIRMAN. The time of the gentleman from New York (Mr. Solomon) has again expired.

(By unanimous consent, Mr. Solomon was allowed to proceed for 1 additional minute.)

To continue, Mr. Chairman, we must deal with Taiwan because it does exist. It is a reality at present around the world.

Many of our State governments have what can be termed consulate offices in foreign countries, and that does not mean a compromise of the relations between Washington and that foreign capital or that the foreign government recognizes the State's government as a separate foreign nation, as I referred to when I mentioned the gentleman from Minnesota (Mr. Erdahl).

If anything, it reinforces the notion—and I think the Members should listen to this—that both Peking and Taipei have what they want, that Taiwan is a part of China and that this is the only way in which we can have contact with the people of the province of China. Any other method of dealing with the problem short of diplomatic recognition evades the basic reality and cannot work, in the long run.

Mr. Chairman, the bill says over and over again that Taiwan exists and that we must recognize that reality by having contact with the authorities in Taipei.

In substance, Mr. Chairman, this amendment simply establishes a consulate office in Taiwan identical to those which exist in other foreign countries with which we do not have diplomatic relations today, again, such as Latvia, Lithuania, Estonia, Monaco, San Marino, and even Jerusalem.

In allowing the President of the United States to establish to whatever degree, greater or lesser, as he may choose, a consulate office, he does have a responsibility to establish just what authority that consulate would have.

Therefore, Mr. Chairman, we should adopt this amendment today.

□ 1520

It would uncloud all of the problems that the gentleman and I and everyone else have as far as international law and the Vienna Convention—all the problems that we have.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Skelton, and by unanimous consent, Mr. Solomon was allowed to proceed for 2 additional minutes.)

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Missouri.

Mr. SKELTON. I thank the gentleman for yielding.

As I understand it, the gentleman wants to establish a consulate office, is that not correct, in Taiwan?

Mr. SOLOMON. That is absolutely correct. That is what the amendment says.

Mr. SKELTON. And the consulate office is, of course, under the Department of State; is that not correct?

Mr. SOLOMON. Either fortunately or unfortunately, yes.

Mr. SKELTON. The answer is, yes, is that right?

Mr. SOLOMON. I believe it is, yes.

Mr. SKELTON. And the Department of State is part of the executive branch; is that correct?

Mr. SOLOMON. Yes, it is.

Mr. SKELTON. And the executive branch is controlled by the President of the United States; is that right?

Mr. SOLOMON. Yes.

Mr. SKELTON. As the gentleman knows, according to the Constitution the President has two exclusive powers that no one, especially Congress, may invade. One is the right of pardon, and the other is the power to receive ambassadors, which includes the right of recognition and derecognition. Does the gentleman understand that? If we were to pass this amendment and subsequently pass this bill, does the gentleman not agree it would be invading the prerogative of the President and the sole and exclusive rights afforded to him by the Constitution?

Mr. SOLOMON. I do not agree with that because this is not a body that comes under diplomatic relations. We do not have diplomatic relations with Estonia right now.

Mr. SKELTON. If the gentleman will excuse me, I thought the gentleman said this was done by the Department of State.

Mr. SOLOMON. It is.

Mr. SKELTON. Is the gentleman saying that the Department of State does not deal in foreign relations? It does not act under the President? Does not extending ourselves into another country by establishing a consulate there constitute an extension of the executive branch into a foreign country, whether we do it by liaison office or by consulate or any other way? That is the truth of the matter. The gentleman is invading the prerogative of the President.

I would have done it differently, but I am not the President. We are not the President, but we have to go by what is in the Constitution; do we not?

Mr. SOLOMON. Let me answer the gentleman's question. It seems to me the gentleman voted for Public Law 95-393 on September 3, 1978, which gave the authority to extend most favorable or less favorable treatment to foreign countries. That is exactly what we are doing here. We put the power in the hands of the President.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Lagomarsino, and by unanimous consent, Mr. Solomon was allowed to proceed for 2 additional minutes.)

Mr. SOLOMON. As I read that favored nation treatment that the gentleman from Missouri voted for, it seems to me that we had invaded at that time both the Department of State and the Presidency. That is exactly what I am saying here. I will read to the gentleman from the Vienna Convention revising the authority of a consulate, and it talks about nine items here which I will be glad to give to the gentleman. It talks about protecting in the receiving state the interests of exports and imports. It talks about promoting trade, which is what we are interested in in this country. It talks about issuing passports, which we are interested in in this country; about acting as notary and civil registrar, and representing nationals of the sending state in cases of succession in the territory of the receiving state. It talks about representing nationals of the sending state before the courts; serving judicial documents or executing commissions; and exercising rights of supervision and inspection, et cetera, et cetera.

It lets the President to a greater or lesser degree decide what he wants to do. I think the President would accept this.

I recall the honorable majority leader on this floor saying that the free Chinese government on Taiwan had agreed to this legislation because, and I quote the majority leader, "We are blackmailing them into accepting this bill." I can assure you that the President would accept this because it gives him the power, but it does away with the laundering of money which the gentleman from Maryland, (Mr. Bauman) or whoever it was a few minutes ago who was talking about it said, whether government employees are legal or illegal. It does solve all those problems. It does exactly what we want. We ought to adopt this amendment and end this debate and pass the bill.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BINGHAM. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this is just another effort to upset the arrangement that has been so carefully worked out by making the relationships between the United States and Taiwan official relationships.

We have now had two votes in which the Members resoundingly defeated other such efforts. This is a similar effort.

I asked for the floor because I wanted to discuss the examples that the gentleman from New York mentioned where there have been consulates without diplomatic relations. I was interested in his statement that there were such cases, and then I listened carefully to his examples. The examples were first, Latvia, Lithuania, and Estonia. Obviously, the consulates that we retain in those areas are there with the consent of the Soviet Government. Does the gentleman think for one moment that we could maintain consulates in those areas if we did not have the consent of the government in Moscow?

□ 1525

Mr. SOLOMON. Will the gentleman from New York yield?

Mr. BINGHAM. I yield to the gentleman from New York.

Mr. SOLOMON. The gentleman asked if I thought for a moment if we had a strong President; yes, sir, they would yield.

Mr. BINGHAM. Mr. Chairman, if the gentleman wanted to add to his amendment that the consulate would be established when and if the government in Peking agreed to it, that would be one thing, but that is certainly not the case now.

Two other examples he mentioned were Monaco and San Marino. Obviously the reason is those are such small territories they do not want to have the expense of maintaining embassies or exchanging full relations with the United States. The situation is clearly not comparable.

The final example the gentleman mentioned is truly an extraordinary one. He mentioned the consulate in Jerusalem. Jerusalem is clearly a part of the State of Israel. We maintain a consulate there not only with the consent of the Government of Israel, but because the Government of Israel is located in Jerusalem. Many of us feel that we should have moved our Embassy from Tel Aviv to Jerusalem long ago, but the fact of the matter is that the administration is content now merely to have a consulate in Jerusalem. So there is not even a remote parallel in that case.

So the examples mentioned, I would submit to the members of the committee, are not parallels at all. There is no case where a consulate has been established without diplomatic relations except for these unusual circumstances.

I would ask the gentleman, would he favor establishing a consulate in South Vietnam or in North Korea or in Cuba, countries with whom we have no diplomatic relations? I am sure he would not.

I yield back the balance of my time.

Mr. WRIGHT. Mr. Chairman, I move to strike the requisite number of words.

ANNOUNCEMENT BY THE MAJORITY LEADER

Mr. Chairman, I take this time to make an announcement in the nature of an invitation, and also to say a few words with respect to the amendment now pending.

First the announcement and invitation:

All Members are invited to join in greeting President Carter upon his arrival at Andrews Air Force Base this evening as a gesture of respect for his courage and his persistent personal endeavors in seeking peace in the Middle East.

The President will be arriving at approximately 12:45 a.m. Members should arrive at Andrews at midnight and those desiring bus transportation from the Capitol should call the Sergeant at Arms office at extension 52456. Wives are invited to accompany their husbands.

Mr. Chairman, let me say something now with regard to the amendment presently before us. I think it suffers two deficiencies.

First, it is unnecessary. It would accomplish nothing beyond what is accomplished in the bill. Secondly, it probably would subject the bill to a veto on the grounds of an unwarranted invasion of Executive power.

Let me point out to those who have not focused carefully upon the strong language already contained in this legislation. First, looking to section 204 as it appears at page 9 of the bill, we see that the designated entity is fully empowered to perform those services normally performed by a consulate of the United States.

Let me attract our attention next to the language appearing on page 5 beginning on line 17. This is language which would be stricken from the bill by adoption of the amendment.

> The laws of the United States which apply with respect to agencies of the United States Government shall, to the extent the President may specify, apply with respect to the designated entity as if the designated entity were an agency of the United States Government.

Finally on page 10 in definitions of what is meant in our reference to the laws of the United States, we find the definition:

> (1) the term "laws of the United States" includes any statute, rule, regulation, ordinance, order, or judicial rule of decision of the United States or any political subdivision thereof:

The definition could hardly be broader.

□ 1530

So what we have for all practical intents and purposes is a consulate. It serves every conceivable purpose a consulate could serve. We have arranged a unique entity in the exercise of the congressional prerogative. The bill creates a continuing relationship with our friends in Taiwan. We are empowered to deal with them, for every practical purpose precisely as we have dealt with them in the past.

Now, the language which is contained in this bill is strong language. It asserts the emphatic desire of the United States to protect our friendship with Taiwan. It asserts that the future of Taiwan must be determined through peaceful means without prejudice to the well-being of the people on Taiwan.

It declares that any armed attack against Taiwan or any use of force, boycott, or embargo to prevent Taiwan from engaging in trade with other nations would be a threat to the peace and stability of the Western Pacific area and of grave concern to the United States.

It declares that the United States will make available to Taiwan defense articles and defense services for its defense against armed attack.

I do not know what more the gentleman wishes. Those representatives of the Government of Taiwan who have discussed the matter with me have declared that they desire for this bill to be passed, for this entity to be created, and for it to be done as soon as possible. That purpose, I think, will not be served by creating a direct conflict which would provoke a confrontation with the executive branch of Government, invite a veto, and delay and leave further in limbo the important relations which we as a people desire to maintain with the people of Taiwan.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WRIGHT) has expired.

(On request of Mr. McDONALD, and by unanimous consent, Mr. WRIGHT was allowed to proceed for 1 additional minute.)

Mr. McDONALD. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Georgia.

Mr. McDONALD. Mr. Chairman, the distinguished majority leader in his presentation just now stated that he was referring to the Republic of Taiwan and the island of Taiwan. Is it the distinguished majority leader's view that indeed the Government of the Republic of China is an independent republic or just simply an island area?

Mr. WRIGHT. Mr. Chairman, as the gentleman from Georgia fully knows, the idea of a two-China policy has been rejected by both the people of Taiwan and the people of mainland China. Many of us instinctively think of them as two separate entities, but this is satisfactory to neither of them. For 30 years both of them have rejected that concept, and it goes to the roots of their heritage. Both those on Taiwan and those on the mainland prefer to contend that it is one nation, and their argument has been over who is entitled to run the government.

We could bring up a similar quarrel with respect to what is Hong Kong. Much of the world maintains that it is a British Crown Colony. Those in Hong Kong itself hold to that position. The government in Peking maintains that it is a part of China. Now, that semantic disagreement as to just what it is has gone on for a long time. Yet it has not provoked any armed conflict nor disrupted the affairs, commercially or otherwise, that are conducted in Hong Kong and by Hong Kong with other nations of the world.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WRIGHT) has again expired.

(On request of Mr. McDONALD, and by unanimous consent, Mr. WRIGHT was allowed to proceed for 3 additional minutes.)

Mr. McDONALD. Mr. Chairman, if the gentleman will yield further and continuing on that point, is the majority leader saying that the people on Taiwan believe they are part of the mainland Chinese Government, or that they themselves are an independent republic?

Mr. WRIGHT. Mr. Chairman, I will let the gentleman define for himself what he believes the people may conceive to be their case. The people on Taiwan for 30 years have maintained that theirs was and should be the proper government for all of China, including mainland China. Those on mainland China have maintained that theirs was and of right ought to be the government for all of China, including Taiwan.

Now, the only way we can break apart from these two separate interpretations would be to establish a two-China policy. Both Taiwan and mainland China have rejected that conclusion.

☐ 1535

It is not an option available to us. So whatever the gentleman desires to use by way of reference may be his. We in the Congress, and members on the committee on Foreign Affairs, have very carefully drafted language which permits us to do those things which we desire to do as a nation: To maintain our rather special relationship with Taiwan and its people. The gentleman may call them what he wishes.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. I thank the gentleman for yielding.

Mr. Chairman, the gentleman mentioned, in his discussions with those representatives from the Republic of China about this legislation, that they were in agreement with the legislation. Would it be appropriate for the gentleman to mention the names of those people from the Republic of China with whom he has discussed this?

Mr. WRIGHT. I would be happy to do so were I certain of my memory. I am sorry to say that I am not just sure that I can recall. The names are available in my office. I would prefer not to make an effort and give an inaccurate or only partially accurate response. I hope the gentleman will not insist on an answer at this time. I will supply it for the RECORD.

Mr. CHARLES H. WILSON of California. No. I understand this completely.

Mr. WRIGHT. I have not the ability to recall with sufficient confidence in my memory at the moment.

Mr. CHARLES H. WILSON of California. Did the gentleman, by chance, discuss this with Minister S. K. Hu, who is now replacing Ambassador Chen who is representing the Republic of China here? Does the gentleman recall any discussions with Minister Hu on this subject?

Mr. WRIGHT. I do not believe that he was one of those with whom I talked. I would appreciate it very much if the gentleman would not further contribute to my temporary embarrassment over my inability to recall with clarity the names of those with whom I discussed this matter. Two of them came to my office a month or 6 weeks ago, and we had a rather lengthy discussion. I shall supply their names later today.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WRIGHT) has expired.

(On request of Mr. HANSEN and by unanimous consent, Mr. WRIGHT was allowed to proceed for 1 additional minute.)

Mr. HANSEN. Mr. Chairman, will the distinguished majority leader yield for a question?

Mr. WRIGHT. I yield to my friend, the gentleman from Idaho (Mr. HANSEN).

Mr. HANSEN. Mr. Chairman, it seems that there has been some information that passes through here, and I notice it was used in the dialog a moment ago, about the fact that there is not a two-China policy, there has not been a two-China policy, and I guess I am wondering what we had for 7 years when we had a consulate office in the People's Republic of China and an Embassy in Taipei. It seems to me that there was, in actuality, a two-China policy for 7 years, until our current President decided to abdicate that one entity, the People's Republic of China, and sever relations with the Republic of China.

How can the gentleman say there has not been a two-China policy when it was there, in reality?

Mr. WRIGHT. The gentleman is entitled to his own interpretation. I think perhaps it amounted to something less than a two-China policy. The people, both in Peking and in Taipei, reject officially the concept of a two-China policy.

Mr. HANSEN. Would the gentleman concede that perhaps there was a one and one-half China policy? There is more than a one-China policy, with the recognition of the two nations.

Mr. WRIGHT. If that were the case in the past, it may be so described by some in the future, in the bill which the committee has drafted. The gentleman is entitled to his interpretation. I merely suggest to the committee that this is a strong bill. This is not a bill dictated by the President. It is a bill created by the Congress to express our intense desire to maintain our friendly relations with Taiwan and to assert our continued interest in the safety and security of Taiwan. I believe the committee wisely has gone as far as it can go and should go. I believe this is the most that we can successfully enact into law. I would appeal on that ground with my friend to support this legislation rather than find fault with it.

☐ 1540

Mr. BUCHANAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I join the distinguished majority leader in applauding the efforts of the President in the Middle East, but I want to make plain, as one proponent of this legislation produced with some reluctance and with considerable thought by the Committee on Foreign Affairs, that I do not endorse the President's China policy, nor do I feel that we should not have a two-China policy. It is the only rational policy to have. Had I personally been the President of the United States—God forbid—but had I been, we neither would have negotiated the Panama Canal treaties as they are, nor would we have come to this agreement with China.

Now, what we are setting up may appear to be a very phony operation, but it is the only means under the agreement the President has made by which we can restore and sustain vital relationships between the United States and Taiwan. I believe the President had the constitutional authority and the prerogatives to do what he did, although I disagree with him. I am quite certain the majority leader is right, that if we in this bill in any way include provisions that provide for government-to-government relations, the President will proclaim that to be an invasion of his constitutional prerogatives. He will veto the bill, and we will not be helping the people on Taiwan or the Republic of China which, yes, does exist and is an entity and, yes, is in control of Taiwan—and in my judgment ought to be.

Now, I believe the only thing we can do here is either decide by voting for one of these series of amendments that we will, yes, have a confrontation with the President, go through the exercise of a veto, and then come back on another day to try to pass legislation to restore and sustain those vital relationships, or decide to pass it now. The fact is that, however much I may disagree with what the President has done, however different what I would have done would have been, he has done it. I believe it is within his constitutional prerogative to do so. Under these circumstances, I see no alternative but to pass the strongest legislation we can pass other than one which includes elements pertaining to government-to-government relations between the United States and Taiwan.

I personally hope and pray and shall work for the day when what ought to happen does happen, and that is that Taiwan declares itself to be an independent entity from the mainland, declares its independence, exercises its self-determination, and the day in which the United States recognizes as the Government of Taiwan with full diplomatic relations that government which the Taiwanese themselves shall choose.

Let me say one further thing on that subject. Long ago, Taiwan should have declared its independence and we should have had a two-China policy. I hope and pray we——

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield?

Mr. BUCHANAN. Yes.

Mr. CHARLES H. WILSON of California. Mr. Chairman, I am disturbed when the gentleman says he would not have done what the President did, but we have no choice but to follow what the President has decided that we should do. Now, we have several important issues coming up here that I hope that this philosophy is not going to prevail. We are going to have some very important votes on implementation of the Panama Canal treaties, and I hope we are not going to be told, "Well, the treaty is law and we have to pass it; we have no choice."

Mr. BUCHANAN. Our only choice, I believe, I say to the gentleman, is action by the Congress. Otherwise it is Taiwan that suffers—it is Taiwan that suffers—not the People's Republic of China, not the government I would not have recognized.

We must restore the relationship to Taiwan, because the diplomatic recognition has been transferred, but I am saying that this committee, the House Foreign Affairs Committee, and this Committee of the Whole House sooner or later must act to restore our relations to Taiwan on whatever basis we can.

I am not saying we have no choice. If we want to have a confrontation with the President, we can. If we want to have a veto, we can. If we want to string this out for a period in which we do not restore the relationship, we do not change the law so that we can continue to have those vital relations with Taiwan, we can string it out forever.

☐ 1545

Certainly, that is our prerogative, but we cannot change the basic situation which the President has created by the exercise, I believe unwisely, of constitutional prerogatives which he does, in fact, have.

The fact of the matter is that through the provisions of this legislation, we are maintaining relations—trade relations, cultural relations, and defense commitments to the people on Taiwan. However, were we to adopt some of these provisions which would establish more formal relations, we would be likely to end these relations, because the President would, first, veto the legislation, or second, refuse to acknowledge the formal representatives of the Republic of China. In either instance we would have no vehicle through which to maintain our relationships with the Republic of China, the Government of Taiwan. While I do have serious reservations with regard to our relations with the People's Republic of China, I feel it is more important to maintain our relationship with the people of Taiwan than to try to do what we do not have the power to do, and that is to unrecognize the People's Republic.

The President has made his decision. It is up to us to frame the strongest ties with people on Taiwan possible without risking the total halt to those ties.

Mr. ZABLOCKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is an amendment not identical but similar to three others which the committee has defeated. We defeated similar amendments last week, and three of them today.

Therefore, Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto conclude in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was agreed to will be recognized for 30 seconds each.

The Chair recognizes the gentleman from Michigan (Mr. BROOMFIELD).

Mr. BROOMFIELD. Mr. Chairman, I rise in opposition to the amendment.

I just want to associate myself with the remarks of the chairman of our committee, the gentleman from Wisconsin (Mr. ZABLOCKI).

We have had numerous amendments which affect the government-to-government relationship.

In my judgment, if this amendment passes, all we are going to do is to jeopardize the legislation. We are going to have to have new legislation again. The President has indicated that he is opposed to this kind of arrangement because of the agreement he has made with the PRC.

I therefore oppose the amendment, Mr. Chairman.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield to me briefly?

Mr. BROOMFIELD. Yes, I am happy to yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Chairman, I thank the gentleman for yielding. I should like to respond now to the question asked earlier by the gentleman from California (Mr. CHARLES H. WILSON).

He asked for the names of the two Taiwanese who came to visit me. On February 2 I was visited by C. T. Chang and H. K. Yang. The latter is represented to me to be the official designee handling the transition for the Government on Taiwan.

(By unanimous consent, Mr. HOPKINS and Mr. EDWARDS of Oklahoma yielded their time to Mr. SOLOMON.)

The Chair recognizes the gentleman from Pennsylvania (Mr. MARKS).

Mr. MARKS. Mr. Chairman, I rise in opposition to this amendment.

(By unanimous consent, Mr. MARKS yielded his time to Mr. SKELTON.)

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, the gentleman from New York (Mr. BINGHAM) mentioned Cuba in his remarks.

I would point out that Cuba is not recognized by the United States. However, we do have an official interest section in Havana, staffed by official State Department personnel. There are only 4 million people there; we take the position that that government is an enemy. Yet there are 17 million people on Taiwan who are and have been our friends for over the last 30 years.

It seems to me that inasmuch as establishing a consular office does not constitute diplomatic recognition; it would not hurt the basic purposes of this act to adopt this amendment. If the President feels it would, then, of course, he will have to do what he feels it is his duty to do, just as we have to do what we feel it is our duty to do.

☐ 1550

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, the majority leader just said he was visited by two Taiwanese officials on February 2 and that they endorsed this legislation. This legislation did not exist on February 2. It was not written or reported until February 28. The implication in his remarks is that officials of the Republic of China want no change in the bill, that they will swallow anything under duress. I think this statement deserves some clarification. I doubt that the free Chinese would endorse this legislation. I think they would support this consular amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Chairman, we have before us a legal issue that I think we should face up to and discuss very briefly. I would like to refer, Mr. Chairman, to the Supreme Court case of ex parte Garland which deals with one of the two exclusive powers of the President regarding the power of pardon, stating that the power of the Presidential pardon is unlimited and that this power is not subject to legislative control, in a very comparable situation; and also the Supreme Court case of the United States against Curtis-Wright Corp., which says the President is the sole organ of the Nation in its external relations, and it is the sole representative with foreign nations.

Thus, this decision not to have a diplomatic office of any kind in Taiwan is one that can, under our Constitution, be made by the Chief Executive alone. It is constitutionally his sole decision. Thus, I think we have no choice but to defeat this amendment under the terms of the U.S. Constitution.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from New York (Mr. SOLOMON).

Mr. SOLOMON. Mr. Chairman, I would just like to point out to the honorable majority leader that my predecessor once removed, the Honorable Carleton J. King, who I know was a good friend of his, always spoke very flatteringly of the majority leader. During my tenure here, I have come to accept that flattery as truth.

I would just like to say this, that when the majority leader started off by saying that my amendment was not necessary because it was really already contained in the bill, and then went on to tear this amendment apart bit by bit, he totally confused me and many Members of this House. Many Members of this House today are completely confused about this whole issue, as is the Department of State of this country.

In my conversations with them, I got the distinct impression that they were afraid that this amendment will work. They really, I believe, in their own hearts, as I believe truly the majority leader believes, believe that this is what we really need—a consulate office in Taiwan. I believe if we are going to pass this amendment and send it on to the conference with the Senate, because of all the other amendments that we have to have considered by this joint body, I believe that we ought to do it in order to clarify all of these serious issues that many of us have brought up over the last 2 days in the debate on this most important issue.

I would really urge the passage of this amendment so that we can go to the conference to see if it passes there.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. Mr. Chairman, the author of this amendment says he is confused, and I guess that is a very true statement. There are some people in this body who would like to be more Taiwanese than the Taiwanese themselves. I have a letter here from former President Nixon which clearly delineates the position we find ourselves today. I quote:

> Any one of us might have handled this situation differently, but now that the decision has been made, we should look to the future and not to the past.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI), the chairman of the committee, to close the debate.

Mr. ZABLOCKI. Mr. Chairman, this amendment, as I pointed out earlier, is similar to amendments that would provide for government-to-government relations that the committee has defeated resoundingly several times today. I might say to my colleague and a member of the committee, my good friend, the gentleman from California (Mr. LAGOMARSINO), that the creation or establishment of consular relations is certainly, as the gentleman knows, a government-to-government act. The consulate is the business arm of the Embassy; the Embassy is the arm of the President. Mr. Chairman, I hope the amendment will be defeated.

☐ 1555

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. SOLOMON).

The question was taken; and on a division (demanded by Mr. SOLOMON) there was—ayes 25, noes 49.

Mr. SOLOMON. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. One hundread and thirteen Members are present, a quorum.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from New York (Mr. SOLOMON) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 179, noes 225, not voting 28, as follows:

[Roll No. 32]

AYES—179

Abdnor
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Badham
Bafalis
Bailey
Bauman
Beard, R.I.
Bereuter
Bethune
Breaux
Brinkley
Brown, Ohio
Broyhill
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dougherty
Duncan, Tenn.
Edwards, Okla.
Emery
Erdahl
Evans, Del.
Evans, Ga.
Fish
Flippo
Fountain
Frenzel
Frost
Fuqua
Gaydos
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Howard
Hubbard
Hyde
Jacobs
Jeffries
Kazen
Kelly
Kemp
Kildee
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lent
Lewis
Livingston
Loeffler
Long, Md.
Lott
Lujan
Lungren
McClory
McDade
McDonald
McEwen
McKay
Marlenee
Marriott
Martin
Mathis
Mattox
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, N.Y.
Murphy, Pa.
Myers, Ind.
Myers, Pa.
Nelson
Nichols
O'Brien
Oakar
Panetta
Pashayan
Paul
Quayle
Quillen
Railsback
Rinaldo
Ritter
Roberts
Robinson
Roe
Roth
Rousselot
Rudd
Runnels
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stenholm
Stump
Tauke
Taylor
Thomas
Treen
Trible
Vander Jagt
Walker
Watkins
White
Whittaker
Whitten
Wilson, Bob
Wilson, C. H.
Winn
Wyatt
Wydler
Wylie
Yatron
Young, Fla.

NOES—225

Addabbo
Akaka
Albosta
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Baldus
Barnard
Barnes
Bedell
Beilenson
Benjamin
Bennett
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brodhead
Brooks
Broomfield
Brown, Calif.
Buchanan
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Coelho
Conable
Conte
Conyers
Corman
Cotter
D'Amours
Danielson
Davis, S.C.
de la Garza
Dellums
Derrick
Diggs
Dingell
Dixon
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
English
Erlenborn
Ertel
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Gephardt
Giaimo
Gibbons
Ginn
Gonzalez
Gore
Gray
Green
Guarini
Gudger
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Holland
Holtzman
Horton
Huckaby
Hughes
Ichord
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kogovsek
Kostmayer
Lederer
Lehman
Leland
Levitas
Lloyd
Long, La.
Lowry
Luken
Lundine
McCormack
McHugh
Madigan
Maguire
Markey
Marks
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Murphy, Ill.
Murtha
Natcher
Neal
Nedzi
Nowak
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rodino
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Skelton
Slack
Solarz
Spellman
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Whitehurst
Whitley
Williams, Mont.
Wilson, Tex.
Wirth
Wolff, N.Y.
Wolpe, Mich.
Wright
Yates
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—28

Alexander
Ambro
Anderson, Ill.
Beard, Tenn.
Bevill
Collins, Ill.
Crane, Philip
Dicks
Dodd
Donnelly
Dornan
Downey
Flood
Garcia
Hutto
Ireland
Jeffords
LaFalce
McCloskey
McKinney
Mollohan
Nolan
Pursell
Smith, Iowa
Stockman
Symms
Wampler
Williams, Ohio

☐ 1610

So the amendment was rejected.

The results of the vote was announced as above recorded·

The CHAIRMAN. Are there further amendments to title II?

AMENDMENT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. DANNEMEYER: On page 5, strike out lines 1 through 5 and insert in lieu thereof the following: "dealings of the United States Government with Taiwan shall be conducted through a quasi-governmental entity, to be designated "The United States Commission in Taiwan" (hereinafter referred to as the "designated entity".)".

☐ 1615

Mr. DANNEMEYER. Mr. Chairman, I supported early amendments calling for more direct relations between the United States and Taiwan. However, the House has not approved those. Therefore, I am offering an amendment which, because of its ambiguity, allows the United States to continue more direct relations with the government and people of Taiwan, while still allowing the administration and the State Department latitude in our relations with the People's Republic of China.

Mr. Chairman, my amendment offers at least a minimum of recognition of reality to 17 million people and their government, while not directly granting full government-to-government relations.

I urge the Members to support this amendment in the interest of fair play and in the interest of recognizing reality.

Mr. Chairman, there is an old saying which goes: "When you get to the end of a rope, you tie a knot and hold on."

I think that is where we are to keep from falling off. We should understand that this bill, if it is adopted in the form in which it is before us, will, in effect, create a monster for any American businessman wanting to do business in Taiwan. Those of us who have been involved in business know that it is tough enough when one has to deal through two governments to get where he wants to go. However, now, in our wisdom, we are preparing to add an entity in the United

States and an entity in Taiwan, saying, in effect, that if a businessman in the United States wants to do business with a company in Taiwan, he has to go through four offices to get something done.

Mr. Chairman, that judgment of the House, I think, is where we are; and I do not seek to change that, although the last amendment did. This amendment, however, accepts the concept of the private entity.

Mr. Chairman, if the Members will read the language on page 5 of the proposed bill, they will see that we seek by legislation to create a new entity. In the bill before us it is called a "nongovernmental entity."

All this amendment does is to change the word "nongovernmental" to "quasi-governmental."

Immediately someone may ask, "Why in the world are you trying to do that?"

The gentleman from Wisconsin (Mr. ZABLOCKI), the learned chairman of the committee, several times in the debate today made reference himself to the fact that this entity is a quasi-governmental entity.

Since I am one who tries to deal in reality and since I always pursue that purpose in legislation, it strikes me that it is only appropriate that the legislation which we adopt reflect what we are doing; and if we are, in fact, establishing quasi-governmental relations, why do we not say it in this bill?

That is what this amendment is all about. Let us make no mistake about it, some day an appelate court someplace is going to decide what we are doing with this new entity. I submit that if we have the courage to say that this entity has the status of a quasi-governmental entity, we are giving it a leg up in terms of its respectability and an enhanced chance of some businessman having his rights protected.

□ 1620

That is what this is all about. I think it will give some encouragement to our friends on Taiwan that we are concerned about their continued viability as an economic unit. I ask for the Members' support.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

I want to compliment the gentleman on his amendment. As he knows, I supported the other amendments that spoke to this same section of the law that attempted to create something more official, but I think that with the amendment the gentleman is proposing what we are really doing is calling it what it is. Throughout the discussion today and last week, numerous speakers have referred to the entity that is created in the bill as it came out of the committee in terms such as quasi-governmental. It really is quasi-governmental. It is paid by the Government. It is under the direction of the Department of State. I do not think there is anybody on this floor who thinks for a moment that if the President or the Department of State directs those gentlemen in that particular entity to do something that they would not do it.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ZABLOCKI. Mr. Chairman, I rise in opposition to the amendment. This is another amendment attempting by the side door or back door to try to establish a government-to-government relationship. The gentleman has stated that the gentleman from Wisconsin referred to the entity as a quasigovernmental institution, and that is very true.

Mr. Chairman, in view of the fact that we have had this repetitious array of amendments that have been introduced by Members—and I am basically very patient—time is really of the essence. I think we have had an opportunity to discuss this legislation and the amendments.

Mr. Chairman, I ask unanimous consent that debate on all amendments pending and all amendments thereto end at 4:45 o'clock.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

Mr. BAUMAN. Reserving the right to object, could the Chair tell us how many amendments are at the desk?

The CHAIRMAN. There are eight amendments at the desk.

Mr. BAUMAN. Further reserving the right to object, the gentleman from Ohio (Mr. ASHBROOK) has two amendments that he has been waiting to offer since last Thursday. I am sure they are superior, knowing the quality of his amendments. It seems to me that that is a somewhat arbitrary restriction on the time. The President is not arriving at Andrews until 12:45 tomorrow morning. The gentleman can still make it to the airport in plenty of time.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. I thank the gentleman for yielding.

As far as the gentleman from Wisconsin is concerned, I am willing to stay here until midnight, and I asked the gentleman from Maryland if he would stay with me on the floor, and he failed to respond.

Mr. BAUMAN. I will not only stay with the gentleman, but I will hold his hand if he begins to feel faint.

Mr. ZABLOCKI. And right from here we could go to Andrews Air Base.

Mr. BAUMAN. No. I will not go that far.

Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. ZABLOCKI. Mr. Chairman, I move that debate on the bill and all amendments thereto end at 5 o'clock.

The CHAIRMAN. The question is on the motion offered by the gentleman from Wisconsin (Mr. ZABLOCKI).

□ 1625

The question was taken; and on a division (demanded by Mr. ASHBROOK) there were—ayes 53, noes 40.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. One hundred and thirteen Members are present, a quorum.

RECORDED VOTE

Mr. ASHBROOK. Mr. Chairman, I renew my demand for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 204, noes 193, not voting 35, as follows:

[Roll No. 33]

AYES—204

Addabbo
Akaka
Albosta
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Baldus
Barnard
Barnes
Beard, R.I.
Beilenson
Benjamin
Bennett
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Burlison
Burton, Phillip
Byron
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clay
Coelho
Conyers
Corman
Cotter
Courter
Danielson
Daschle
Davis, S.C.
Derrick
Dixon
Drinan
Duncan, Tenn.
Eckhardt
Edwards, Ala.
English
Erlenborn
Ertel
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fithian
Flippo
Florio
Foley
Ford, Mich.
Fountain
Fowler
Frost
Fuqua
Gaydos
Gephardt
Gibbons
Ginn
Gore
Gray
Guarini
Gudger
Hall, Ohio
Hamilton
Hance
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Holland
Hollenbeck
Holtzman
Horton
Ichord
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kogovsek
Lehman
Leland
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McDade
McHugh
McKay
Maguire
Markey
Matsui
Mavroules
Mica
Mikulski
Mikva
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Montgomery
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Nedzi
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Preyer
Price
Quillen
Rahall
Rangel
Ratchford
Reuss
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Runnels
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Stratton
Swift
Synar
Thompson
Udall
Ullman
Vanik
Vento
Weaver
Whitley
Wilson, Tex.
Wirth
Wolff, N.Y.
Wolpe, Mich.
Wright
Wyatt
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NOES—193

Abdnor
Anderson, Calif.
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Badham
Bafalis
Bailey
Bauman
Beard, Tenn.
Bedell
Bereuter
Bethune
Biaggi
Bolling
Breaux
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Campbell
Carney
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Cocoran
Coughlin
Crane, Daniel
D'Amours
Daniel, Dan

Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Dellums
Derwinski
Devine
Dickinson
Donnelly
Dougherty
Early
Edgar
Edwards, Calif.
Edwards, Okla.
Emery
Erdahl
Evans, Del.
Evans, Ga.
Evans, Ind.
Fish
Fisher
Forsythe
Giaimo
Gilman
Gingrich
Glickman
Goldwater
Gonzalez
Goodling
Gradison
Gramm
Grassley
Green
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hanley
Hansen
Heckler
Hightower
Hillis
Hinson
Holt
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hyde
Jacobs
Jeffries
Johnson, Colo.
Kazen
Kelly
Kemp
Kildee
Kindness
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Lott
Lujan
Lungren
McClory
McDonald
McEwen
Madigan
Marlenee
Marriott
Martin
Mattox
Mazzoli
Michel
Miller, Calif.
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Myers, Ind.
Neal
Nelson
O'Brien
Panetta
Pashayan
Paul
Pickle
Pritchard
Quayle
Railsback
Regula
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Roth
Rousselot
Roybal
Rudd
Satterfield
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Studds
Stump
Symms
Tauke
Taylor
Thomas
Treen
Trible
Van Deerlin
Vander Jagt
Volkmer
Walgren
Walker
Wampler
Watkins
Weiss
White
Whitehurst
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—35

Alexander
Ambro
Anderson, Ill.
Andrews, N.C.
Bevill
Brown, Calif.
Burton, John
Collins, Ill.
Crane, Philip
Dicks
Diggs
Dingell
Dodd
Dornan
Downey
Duncan, Oreg.
Flood
Ford, Tenn.
Frenzel
Garcia
Hutto
Ireland
Jeffords
LaFalce
Lee
McCloskey
McKinney
Marks
Mathis
Mollohan
Pursell
Smith, Iowa
Traxler
Waxman
Williams, Ohio

□ 1640

Messrs. JACOBS, DICKINSON, FISH, WHITE, GONZALEZ, and WHITEHURST changed their vote from "aye" to "no."

So the motion was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Accordingly, all debate on this bill and all amendments to the bill will cease at 5 p.m.

□ 1645

PREFERENTIAL MOTION OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. BAUMAN moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

Mr. BAUMAN. Mr. Chairman, I regret that I have to take the time of the committee by this parliamentary device. But this is the only way to obtain the time to discuss this bill in what I assume are its final moments before the House. However it seems to me that we, as a representative body sent here by the American people, at least have the right on a foreign policy matter of this magnitude to discuss at length, if necessary, the provisions of this legislation, which is unparalleled in our history.

Mr. Chairman, I frankly do not understand the need for the motion of the gentleman from Wisconsin (Mr. ZABLOCKI) to cut off debate. It is uncharacteristic of the gentleman, who has served with great distinction as chairman of this committee, to try to limit the rights of Members. There are eight amendments pending at the desk and other amendments still to be offered from the floor. It is not even 5 p.m. I do not know of any major cocktail party or any lobbying groups holding dinners tonight. The President will not be back from Israel until tomorrow morning. Yet we are told that we have to condense the future of 18 million free Taiwanese and Chinese into 10 minutes' debate. That is a shameful situation.

Mr. Chairman, this situation is not to the credit of this great body or the committee which presented this legislation to the House.

I can only say, Mr. Chairman, that as one Member of the House who has read this legislation, unparalleled as it is in our history, I would urge the Members to vote against it. There is no validity to the argument that this legislation helps the Taiwanese. It is, as I suggested the other day, rendering the same service as the corpse receives from the gravedigger.

This bill eventually is going to nail shut the coffin of a free Taiwan, I hope that everyone will oppose it.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Ohio (Mr. ASHBROOK), who was precluded by the motion of the gentleman from Wisconsin from offering his amendments.

Mr. ASHBROOK. Mr. Chairman, I thank my colleague for yielding.

I hope the American people develop some understanding of just what is happening here. We are getting into the middle of March. This body has done next to nothing. We have had little legislative output. We have had token sessions, and now when the first major bill of any importance comes up, the majority has gagged the minority.

□ 1650

Let me repeat that. The majority on a rollcall vote has gagged the minority. Not necessarily a party majority, I might add. It is going to be a long session, and it will ill behoove anyone who wants cooperation later in the session to preclude those of us who have serious amendments from offering them at this time in this forum. This House has not done itself a service, and those of us in the philosophical minority who wanted open debate ought to realize precisely what is being done to us. There will come a time and place when they want some cooperation. We will serve notice right now that we will return it in kind.

Mr. BAUMAN. The gentleman is correct. I will add it saddens me to know that some of the votes that produced the gag rule in this House were provided by our side of the aisle, the minority side. That does not speak very well, I think, for the manner in which the House is to conduct its business. I would suggest if the motion now pending before the House is adopted and the enacting clause is stricken, we might very well come back with legislation that is better in its final form than this is. It would not take much to be better than this legislation.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Texas.

Mr. GONZALEZ. I thank the gentleman for yielding.

The gentleman said awhile ago that the majority throttles the minority. I want to point out that some of us on the majority are with the minority in this case, and we voted against throttling anybody.

Mr. BAUMAN. The gentleman from Texas deserves the thanks of the committee for making that statement. I just wish there were more like him.

Mr. DICKINSON. Mr. Chairman, the people of the United States and the 17 million free people of the Republic of China (ROC) who live on Taiwan have been friends for a long time. We are similar peoples in many ways. We both believe in human freedom and democratic, representative government; we both believe in and practice the free enterprise economic system; we both believe in and practice freedom of religion (millions on Taiwan practice some of the same faiths that millions of Americans practice); and for years we have been partners in resisting the spread of Communism in Asia. I go to Taiwan to take a message from the American people that the great majority of Americans are very much concerned with the continued security of Taiwan as a nation.

Now the people of Taiwan and the millions of Americans who disagree with it are faced with an ill-founded policy by the Carter administration that violates our longstanding commitment to the freedom of the ROC. This new policy, which betrays the ROC, is unacceptable to me, and I believe to the great majority of Americans. We have always served the role of "Freedom's" guardian in the world. Certainly we would never have dealt away, directly or indirectly, the liberty of another free people. And yet that will be the result of administration plans to abrogate the ROC—U.S. Mutual Defense Treaty. I have no objections to developing our relations with Red China, but not at the expense of Taiwan's freedom.

United States security relationships with Taiwan have not been a one-way street. The ROC has served as a valuable outpost of freedom and an ally to the United States through both the Korean and Vietnam wars, while the Red Chinese provided manpower, weapons, and money to kill Americans and to thwart U.S. efforts to help free nations in that part of the world. And I believe there can be future requirements for a United States-Taiwan military relationship. How can we be assured the Red Chinese will always want to be our friends? We should not make that assumption.

The administration "hints" that it has private understandings that Red China will not destroy free China. Who can believe such "dreams" when the mainland leadership asserts publicly that they "will not wait long for reunification," and that it will be brought about by "force if necessary."

Actually, the mainland Red Chinese may be able to legally destroy Taiwan without firing a shot. The President's statement that there is only "one China" and that Taiwan is a part of the mainland establishes the PRC's legal claim under international law to all land, sea, and air territorial rights presently exercised by Taiwan.

In the future, after Jimmy Carter is gone from the scene, what will the United States and other nations do when the PRC blockades Taiwan and announces to the world that all sea and air traffic to the island is forbidden? In such an event the free people of Taiwan will be cut off from the world and at the mercy of Red China. Would the United States use force of arms to keep the air and sea lanes to Taiwan open? When the Red Chinese announce in the U.N. that this is an "internal matter and of no concern to the United States, the U.N., or the outside world," what can the free world say then?

The thing that bothers me most about the President's new China policy—and our so-called diplomats at the White House and the State Department who concocted it—is that they act like they are playing some impersonal game like chess. But we are talking about the freedom and lives of real "flesh and blood" people—millions of innocent children, women, and men who live on Taiwan. We are not playing with plastic toys.

I hope that our Nation, acting through this great deliberative body, will act responsibly and morally and give the free people on Taiwan the security guarantees that the administrations' "sham" proposal will not do. We should, at least, give Taiwan the same diplomatic status that we have given the People's Republic of China for the last several years. We have recognized two Chinas with an embassy on Taiwan and a liaison mission in Peking. We should do at least the same thing for Taiwan—that is, establish official diplomatic contacts between Taiwan and Washington with a liaison mission.

I hope this body will not formalize the administration's action of "abandoning" the people of Taiwan.

Mr. ZABLOCKI. Mr. Chairman, I rise in opposition to the preferential motion.

It is not the intent of the gentleman from Wisconsin to cut off debate without due consideration of the amendments that were pending and the amendments that were offered. We have debated this 10-page bill for 2 days. Many of the amendments that were offered were similar. At one point we had four similar amendments, and it appeared to the gentleman from Wisconsin that some Members in this body were resorting to dilatory tactics. I think everybody understands what this bill is intended to do. I see no reason to debate it any further. There are some who just do not intend to listen to the explanations of the purposes of this legislation.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield for a question?

Mr. ZABLOCKI. I yield to the gentleman from Texas.

Mr. GONZALEZ. I thank the gentleman for yielding.

During this debate I have been intrigued by reference to the various entities here discussed, and I have here a copy of a Department of State memorandum to all assistant secretaries and office heads. It says:

> With the recognition of the People's Republic of China as the sole legitimate government of China and with the severance of diplomatic relations with the authorities on Taiwan, guidelines are necessary to insure that all U.S. Government official statements and publications concerning Taiwan conform to our policy.

It goes on and says, among other things—

> The adjectival form is "Taiwan," not "Taiwanese." People should be referred to as "from Taiwan," "on Taiwan," "of Taiwan," etc., rather than as Taiwanese.

I just think we ought to be informed on this.

Mr. ZABLOCKI. I am happy that the gentleman from Texas has informed the others. I do not necessarily agree with the Department of State's definitions or interpretations or orders.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Did I hear the gentleman say that in connection with this legislation he did not agree with the Department of State on some aspect of this bill?

Mr. ZABLOCKI. Not in all aspects. That is very clear.

Mr. BAUMAN. I thought I heard that. Amazing.

Mr. ZABLOCKI. As I advised the gentleman from Maryland time and time again, if he had only seen the legislation the executive branch had sent to the Congress, he would fully realize to what extent we perfected it and brought forth legislation that I think is worthy of support.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Maryland (Mr. BAUMAN).

□ 1655

The question was taken; and on a division (demanded by Mr. ASHBROOK) there were—ayes 53, noes 134.

RECORDED VOTE

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 110, noes 295, not voting 27, as follows:

[Roll No. 34]

AYES—110

Abdnor
Applegate
Archer
Ashbrook
Badham
Bafalis
Bailey
Bauman
Bereuter
Bethune
Brown, Ohio
Burgener
Campbell
Carney
Carter
Clinger
Coleman
Collins, Tex.
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Derwinski
Devine
Dickinson
Dougherty
Edwards, Okla.
Erdahl
Evans, Del.
Evans, Ga.
Gilman
Gingrich
Goldwater
Goodling
Grassley
Grisham
Guyer
Hammerschmidt
Hansen
Hinson
Holt
Hopkins
Hubbard
Hyde
Jeffries
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Leach, La.
Lee
Lent
Lewis
Livingston
Loeffler
Long, La.
Lott
Lungren
McClory
McDonald
McEwen
Marlenee
Marriott
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Murphy, Pa.
Myers, Ind.
O'Brien
Pashayan
Paul
Quayle
Regula
Ritter
Robinson
Roth
Rousselot
Rudd
Schulze
Sensenbrenner
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Treen
Trible
Walker
Watkins
Whittaker
Wilson, Bob
Wilson, C. H.
Wylie
Young, Alaska
Young, Fla.

NOES—295

Addabbo
Akaka
Albosta
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burlison
Burton, Phillip
Butler
Byron
Carr
Cavanaugh
Chappell
Cheney
Chisholm
Clay
Cleveland
Coelho
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
D'Amours
Danielson
Daschle
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Diggs
Dingell
Dixon
Donnelly
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erlenborn
Ertel
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Gray
Green
Guarini
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holtzman
Horton
Howard
Huckaby
Hughes
Ichord
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lehman
Leland
Levitas
Lloyd
Long, Md.
Lowry
Lujan
Luken
Lundine
McCormack
McDade
McHugh
McKay
Madigan
Maguire
Markey
Marks
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Mikva
Miller, Calif.
Mineta

Minish
Mitchell, Md.
Moakley
Moffett
Montgomery
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Quillen
Rahall
Railsback
Rangel

Ratchford
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Solarz
Spellman
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stenholm

Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff, N.Y.
Wolpe, Mich.
Wright
Wyatt
Wydler
Yates
Yatron
Young, Mo.
Zablocki

NOT VOTING—27

Alexander
Ambro
Anderson, Ill.
Andrews, N.C.
Bevill
Breaux
Burton, John
Clausen
Collins, Ill.

Crane, Philip
Dicks
Dodd
Dornan
Downey
Flood
Garcia
Hutto
Jeffords

LaFalce
McCloskey
McKinney
Mathis
Mollohan
Pursell
Smith, Iowa
Waxman
Zeferetti

□ 1710

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DANNEMEYER).

The question was taken; and on a division (demanded by Mr. DANNEMEYER) there were—ayes 68, noes 153.

□ 1715

RECORDED VOTE

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 182, noes 221, not voting 29, as follows:

[Roll No. 35]

AYES—182

Abdnor
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Badham
Bafalis
Bailey
Barnard
Bauman
Beard, Tenn.
Bereuter
Bethune
Breaux
Brinkley
Brown, Ohio
Broyhill
Burgener
Butler
Byron
Campbell
Carney
Carter
Cheney
Clausen
Cleveland

Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Donnelly
Dougherty
Duncan, Tenn.
Edwards, Okla.
Emery
Erdahl
Evans, Del.
Evans, Ga.

Fish
Frenzel
Frost
Gaydos
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins

Hubbard
Hyde
Ichord
Jacobs
Jeffries
Kazen
Kelly
Kemp
Kildee
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lent
Lewis
Livingston
Loeffler
Long, La.
Lott
Lujan
Lungren
McClory
McDonald
McEwen
McKay
Marlenee
Marriott
Martin
Mattox
Michel
Miller, Ohio

Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Ind.
Nelson
Nichols
Nowak
O'Brien
Oakar
Pashayan
Paul
Perkins
Pickle
Quayle
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roth
Rousselot
Rudd
Runnels
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner

Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Treen
Trible
Vander Jagt
Walker
Wampler
Watkins
White
Whittaker
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Winn
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.

NOES—221

Addabbo
Akaka
Anderson, Calif.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bouquard
Bowen
Brademas
Brodhead
Brooks
Broomfield
Brown, Calif.
Buchanan
Burlison
Burton, Phillip
Carr
Cavanaugh
Chappell
Chisholm
Clay
Coelho
Conyers
Corman
Cotter
D'Amours
Danielson
Dellums
Derrick
Diggs
Dingell
Dixon
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
English
Erlenborn
Ertel
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro

Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Fuqua
Gephardt
Giaimo
Gibbons
Ginn
Gonzalez
Gore
Gray
Green
Guarini
Gudger
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Holland
Holtzman
Horton
Howard
Huckaby
Hughes
Ireland
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kogovsek
Kostmayer
Lederer
Lehman
Leland
Levitas
Lloyd
Long, Md.
Lowry
Luken
Lundine
McCormack
McDade
McHugh
Madigan
Maguire
Markey
Marks
Matsui
Mavroules
Mazzoli
Mica

Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Peyser
Preyer
Price
Pritchard
Rahall
Rangel
Ratchford
Reuss
Richmond
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Skelton
Slack
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman

Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver

Weiss
Whitehurst
Whitley
Whitten
Williams, Mont.
Wilson, Tex.
Wirth

Wolff, N.Y.
Wolpe, Mich.
Wright
Wyatt
Yates
Young, Mo.
Zablocki

NOT VOTING—29

Albosta
Alexander
Ambro
Anderson, Ill.
Andrews, N.C.
Bevill
Bonker
Burton, John
Collins, Ill.
Crane, Philip

Davis, S.C.
Dicks
Dodd
Dornan
Downey
Flood
Fountain
Garcia
Hutto
Jeffords

LaFalce
McCloskey
McKinney
Mathis
Mollohan
Pepper
Pursell
Smith, Iowa
Zeferetti

□ 1730

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. LAGOMARSINO

Mr. LAGOMARSINO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LAGOMARSINO: Page 10, immediately after line 23, insert the following new title:

TITLE III—JOINT COMMISSION ON SECURITY AND COOPERATION IN EAST ASIA

SEC. 301. (a) There is established a joint congressional commission to be known as the Joint Commission on Security and Cooperation in East Asia (hereafter in this title referred to as the "Joint Commission") to exist for a period of four years, beginning on the date of enactment of this Act.

(b) The Joint Commission shall monitor—

(1) the implementation of the provisions of this Act;

(2) the operation and procedures of the designated entity;

(3) the legal and technical aspects of the continuing relationship between the United States and Taiwan; and

(4) the implementation of the policies of the United States concerning security and cooperation in East Asia.

(c)(1) The Joint Commission shall be composed of twelve members. Of the members provided for under the preceding sentence—

(A) six shall be Members of the House of Representatives appointed by the Speaker of the House of Representatives, four of whom shall be selected from the majority party and two of whom shall be selected, upon the recommendation of the Minority Leader of the House of Representatives, from the minority party; and

(B) six shall be Members of the Senate appointed by the President pro tempore of the Senate, four of whom shall be selected, upon the recommendation of the Majority Leader of the Senate, from the majority party and two of whom shall be selected, upon the recommendation of the Minority Leader of the Senate, from the minority party.

Of the members appointed under subparagraph (A), three shall be selected from among members of the Committee on Foreign Affairs of the House of Representatives, and of the members appointed under subparagraph (B), three shall be selected from among members of the Committee on Foreign Relations of the Senate.

(2) For the Ninety-sixth Congress, the President pro tempore of the Senate shall designate one of the Members of the Senate selected under paragraph (1)(B) as Chairman of the Joint Commission, and the Speaker of the House of Representatives shall designate one of the Members of the House of Representatives selected under paragraph (1)(A) as Vice Chairman of the Joint Commission. For the Ninety-seventh

Congress, the Speaker of the House of Representatives shall designate one of the Members of the House of Representatives selected under paragraph (1)(A) as Chairman of the Joint Commission, and the President pro tempore of the Senate shall designate one of the Members of the Senate selected under paragraph (1)(B) as Vice Chairman of the Joint Commission.

Mr. LAGOMARSINO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. ASHBROOK. Mr. Chairman, reserving the right to object, it is my position that we cannot understand the amendment unless we hear it read. We at least ought to hear what it says.

Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will read.

(The Clerk concluded the reading of the amendment.)

(d)(1) Members of the Joint Commission shall serve without compensation but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Joint Commission.

(2) The Joint Commission may appoint and fix the pay of such staff personnel as it deems desirable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates.

(e) The Joint Commission may, in carrying out its duties under this title, sit and act at such times and places, hold such hearings, take such testimony, and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as it deems necessary. Subpenas may be issued over the signature of the Chairman of the Joint Commission or any member designated by him, and may be served by any person designated by the Chairman or such member. The Chairman of the Joint Commission, or any member designated by him, may administer oaths to any witness.

(f)(1) The Joint Commission shall prepare and transmit a semiannual report to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the President on—

(A) the progress achieved by the United States in maintaining full and unimpeded cultural, commercial, and other relations with Taiwan; and

(B) the legal and technical problems arising from the maintenance of such relations, together with recommendations for legislation to resolve such problems and recommendations for strengthening such relations and for carrying out the commitment of the United States to human rights in East Asia.

(2) The Joint Commission shall from time to time consult with and provide information to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, and the Joint Commission shall provide information to Members of the House of Representatives and the Senate as requested.

(g)(1) There are authorized to be appropriated to the Joint Commission for each fiscal year and to remain available until expended, $550,000 to assist in meeting the expenses of the Joint Commission in carrying out the provisions of this title. Such appropriations shall be disbursed by the Secretary of the Senate on vouchers approved by the Chairman of the Joint Commission, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

(2) For each fiscal year for which an appropriation is made, the Joint Commission shall submit to the Congress a report on its expenditures under such appropriation.

(3) For purposes of section 502(b) of the Mutual Security Act of 1954, the Joint Commission shall be deemed to be a joint committee of the Congress and shall be entitled to the use of funds in accordance with the provisions of such section.

□ 1740

Mr. LAGOMARSINO. Mr. Chairman, this amendment would establish a joint congressional commission which would monitor implementation of this act, and U.S. policy concerning security and cooperation in East Asia.

The commission would also oversee the operation of the U.S. entity which was approved earlier today. It is specifically charged with seeing that free cultural, economic, and other exchanges with Taiwan are maintained. In addition, it would review the human rights of the Chinese on Taiwan.

The commission would have a 4-year lifespan, and would be composed of six Members from each Chamber. The House Foreign Affairs Committee and the Senate Foreign Relations Committee would each have three Members serving on the committee.

The need for an oversight commission is obvious to those who have followed the course of this legislation. The need was also obvious to the U.S. Senate, which has already agreed to a similar amendment. The need stems from the inability of the administration's proposed "institution" to guard the freedom of the people on Taiwan.

This commission would supplement the fine work already being done by the chairman of the Foreign Affairs Committee. Besides requiring that three members from the Foreign Affairs Committee serve on the commission, the amendment requires consultation between the commission and the committee.

These provisions are not included in the amendment adopted by the other body.

I would expect that the commission also will work closely with the chairman and the ranking member of the Subcommittee on Asian and Pacific Affairs.

Let me briefly summarize the need for such a commission that will be established by this amendment.

First, the new relationship with Taiwan is unprecedented. The only distant connection would be the oversight commission which was established for the Helsinki agreements. I doubt if any of my colleagues question the value of that commission. Similarly, an oversight commission to monitor the events in East Asia would have the same effect. It would demonstrate the concern of Congress for Taiwan in a dramatic fashion. If human rights is the cornerstone of our foreign policy, as the administration claims, such a commission is an absolute requirement.

Second, the new relationship with China is untested. Who is going to guarantee the freedom of Taiwan in the absence of the security treaty? Peking has publicly stated that it has not changed its "reunification" plans. With this commission Congress will have a formal instrument which could closely monitor these possible developments. It seems to me that this is the least the Congress could do to demonstrate its concern for our ally of 30 years.

Third, we have $7.2 billion of trade with Taiwan; she is our ninth largest trading partner. Peking could easily strangulate this vital economic link—through blockade, embargo, or some other form of economic squeeze. The proposed "institute" would be unable to prevent such actions, any more than it would be able to promote our trade with Taiwan in a normal pattern. A congressional body, as proposed in this amendment will have the authority and intent of purpose to monitor this important aspect of our relations with Taiwan.

I think that my colleagues would welcome this commission in light of the ambiguity which runs throughout this legislation.

In summary, Mr. Chairman, the oversight commission is needed for several reasons: It dramatically shows that Taiwan has not been forgotten by Congress; that an official body of ongoing contact has been set up, that we will formally monitor and report on the continuing status and freedom of Taiwan, and that this process will formally involve the Congress of the United States in the oversight function.

AMENDMENT OFFERED BY MR. BROOMFIELD AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. LAGOMARSINO

Mr. BROOMFIELD. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. BROOMFIELD as a substitute for the amendment offered by Mr. LAGOMARSINO: Page 10, immediately after line 23, insert the following new title:

TITLE III—CONGRESSIONAL OVERSIGHT

MONITORING AND REPORTING REQUIREMENTS

SEC. 301. (a) The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate shall monitor—

(1) the implementation of the provisions of this Act;

(2) the operation and procedures of the designated entity;

(3) the legal and technical aspects of the continuing relationship between the United States and Taiwan; and

(4) the implementation of the policies of the United States concerning security and cooperation in East Asia.

(b) Such Committees shall report, as appropriate, to their respective Houses on the results of their monitoring.

Mr. ZABLOCKI. Mr. Chairman, I rise to advise the committee that we have had an opportunity on this side to review the substitute amendment, and we accept the substitute amendment offered by the gentleman from Michigan (Mr. BROOMFIELD).

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. BROOMFIELD) as a substitute for the amendment offered by the gentleman from California (Mr. LAGOMARSINO).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. LAGOMARSINO), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there other amendments to title II?

AMENDMENT OFFERED BY MR. EDWARDS OF OKLAHOMA

Mr. EDWARDS of Oklahoma. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EDWARDS of Oklahoma: On page 10, after Section 206, insert the following Section and renumber all subsequent Sections accordingly:

"SEC. 207. "No notice of intention to terminate any treaty or other international agreement in force between the United States and the Republic of China on December 31, 1978, shall be given by the United States directly or through the designated entity without the approval of both Houses of Congress."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. EDWARDS).

The question was taken; and on a division (demanded by Mr. EDWARDS of Oklahoma) there were—ayes 66, noes 147.

☐ 1745

RECORDED VOTE

Mr. EDWARDS of Oklahoma. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 141, noes 264, not voting 27, as follows:

[Roll No. 36]

AYES—141

Abdnor
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Ashley
Badham
Bafalis
Bailey
Bauman
Bereuter
Bethune
Breaux
Broyhill
Burgener
Byron
Campbell
Carney
Carter
Cheney
Clausen
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dougherty
Duncan, Tenn.
Edwards, Okla.
Emery
Erdahl
Evans, Del.
Evans, Ga.
Fountain
Gilman
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hammerschmidt
Hance
Hansen
Harsha
Hillis
Hinson
Holt
Hopkins
Hyde
Ireland
Jeffries
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lent
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
McClory
McDade
McDonald
McEwen
Marlenee
Marriott
Martin
Mattox
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Nelson
Quayle
Quillen
Regula
Rhodes
Ritter
Robinson
Roth
Rousselot
Rudd
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stockman
Stratton
Stump
Symms
Taylor
Thomas
Treen
Trible
Vander Jagt
Walker
Wampler
Watkins
Whittaker
Williams, Ohio
Wilson, Bob
Winn
Wydler
Wylie
Young, Alaska

NOES—264

Addabbo
Akaka
Albosta
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Aspin
Atkinson
AuCoin
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burlison
Burton, Phillip
Butler
Carr
Cavanaugh
Chappell
Chisholm
Clay
Cleveland
Clinger
Coelho
Conte
Conyers
Corman
Cotter
D'Amours
Danielson
Daschle
de la Garza
Dellums
Derrick
Diggs
Dingell
Dixon
Donnelly
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
English
Erlenborn
Ertel
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gibbons
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gray
Green
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Holland
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Ichord
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
Lederer
Lehman
Leland
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McHugh
McKay
Madigan
Maguire
Markey
Marks
Matsui
Mavroules
Mazzoli
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Montgomery
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Rahall
Railsback
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Runnels
Russo
Sabo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Skelton
Slack
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stenholm
Stewart
Stokes
Studds
Swift
Synar
Tauke
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff, N.Y.
Wolpe, Mich.
Wright
Wyatt
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki

NOT VOTING—27

Alexander
Ambro
Anderson, Ill.
Bevill
Burton, John
Collins, Ill.
Crane, Philip
Davis, S.C.
Dicks
Dodd
Dornan
Downey
Flood
Garcia
Giaimo
Hutto
Jeffords
LaFalce
McCloskey
McKinney
Mathis
Mollohan
Pepper
Pursell
Smith, Iowa
Williams, Mont.
Zeferetti

☐ 1800

Mr. BROWN of Ohio changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. For what purpose does the gentleman from New York (Mr. PEYSER) rise?

Mr. PEYSER. Mr. Chairman, due to the fact that all time for debate on the amendments at the desk has expired, I ask unanimous consent that these amendments be considered and voted on in 5 minutes instead of 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, do I understand the gentleman's request is to reduce the voting time?

Mr. PEYSER. Mr. Chairman, if the gentleman will yield, I am asking unanimous consent that the voting time be reduced to 5 minutes, and the amendments can be voted on in that order. There is no debate on these amendments.

Mr. BAUMAN. Mr. Chairman, when we start fooling around with the rules of the House, I must object.

The CHAIRMAN. Objection is heard.

Are there other amendments to title II?

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 10, strike out lines 11 through 17 and insert in lieu thereof the following:

(2) the term "Taiwan" includes, as the context may require, the Government of the Republic of China (including its agencies and instrumentalities thereof), the islands of Taiwan and the Pescadores, the inhabitants of those islands, and corporations and other entities and associations created or organized under the laws of the Republic of China.

☐ 1805

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The amendment was rejected.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 6, immediately after line 9, insert the following new paragraph:

(4) No agency of the United States Government may pay or otherwise make available to the designated entity, by contract or otherwise, any funds unless the Congress has expressly authorized and appropriated those funds to be made available to and used by the designated entity.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and on a division (demanded by Mr. ASHBROOK) there were—ayes 58, noes 109.

RECORDED VOTE

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 226, noes 174, not voting 32, as follows:

[Roll No. 37]

AYES—226

Abdnor
Albosta
Anderson, Calif.
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Badham
Bafalis
Bailey
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Biaggi
Boggs
Breaux
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Donnelly
Dougherty
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Ga.
Fish
Flippo
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gradison
Gramm
Grassley
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Heckler
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Long, Md.
Lott
Lujan
Luken
Lungren
McClory
McDade
McDonald
McEwen
McKay
Madigan
Marks
Marlenee
Marriott
Martin
Mattox
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Natcher
Nichols
O'Brien
Pashayan
Paul
Perkins
Pickle
Quayle
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roth
Rousselot
Rudd
Runnels
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
Stangeland
Stanton
Stenholm
Stockman
Stump
Symms
Synar
Tauke
Taylor
Thomas
Treen
Trible
Vander Jagt
Walker
Wampler
Watkins
White
Whittaker
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolff, N.Y.
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.

NOES—174

Addabbo
Akaka
Andrews, N.C.
Annunzio
Ashley
Aspin
Atkinson
AuCoin
Baldus
Barnes
Bedell
Beilenson
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Coelho
Corman
Cotter
Danielson
Dellums
Derrick
Diggs
Dingell
Dixon
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Evans, Ind
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Gaydos
Gibbons
Gore
Gray
Guarini
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Hefner
Holland
Holtzman
Howard
Huckaby
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kildee
Kogovsek
Kostmayer
Lehman
Leland
Lloyd
Long, La.
Lowry
Lundine
McCormack
McHugh
Maguire
Markey
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Mikva
Miller, Calif.
Mineta
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Neal
Nedzi
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pease
Peyser
Preyer
Price
Pritchard
Rahall
Ratchford
Reuss
Richmond
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Solarz
St Germain
Stack
Staggers
Stark
Stewart
Stokes
Stratton
Studds
Swift
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Whitehurst
Whitley
Williams, Mont.
Wirth
Wolpe, Mich.
Wright
Yates
Zablocki

NOT VOTING—32

Alexander
Ambro
Anderson, Ill.
Bevill
Burton, John
Collins, Ill.
Conyers
Crane, Philip
Davis, S.C.
Dicks
Dodd
Dornan
Downey
Evans, Del.
Flood
Garcia
Hutto
Jeffords
LaFalce
McCloskey
McKinney
Mathis
Mollohan
Patterson
Pepper
Pursell
Rangel
Smith, Iowa
Steed
Whitten
Williams, Ohio
Zeferetti

□ 1825

Messrs. SYNAR, LONG of Maryland, and GIAIMO changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there other amendments to title II?

AMENDMENT OFFERED BY MR. HANSEN

Mr. HANSEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HANSEN: Page 5, line 6, strike nongovernmental.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. HANSEN).

The question was taken; and on a division (demanded by Mr. HANSEN) there were—ayes 37, noes 106.

So the amendment was rejected.

● Mr. GOLDWATER. Mr. Chairman, I feel, as do so many of my colleagues, that this bill is much like being placed between a rock and a hard place. It has been described—accurately I think—as a congressional effort to "pick up the pieces."

I am far from being satisfied with this piece of legislation, and I am deeply disappointed that the House chose to go along with the administration and thus, the Red Chinese, on several amendments which would have materially strengthened U.S. support for the Republic of China. Included in those amendments were one which reaffirmed the U.S. position of 30 years and was contained in the Mutual Defense Treaty which requires the United States to act in accordance with constitutional processes to meet the danger of an armed attack against the Republic of China; an amendment which sought to require the President to consider the possibility of withdrawing diplomatic recognition of Red China in the event of a threat to the security of the Republic of China; and an amendment that sought to require that relations between the United States and the Republic of China be conducted through a liaison office rather than the so-called "nongovernmental, independent entity."

Regardless of the foregoing, I would like to state for the record that I found Mr. Carter's actions toward the Republic of China so incredible that they defy description by socially acceptable expletives. If December 8, 1941 was a "day of infamy" then December 15, 1978 ranks right up there in international betrayal.

In this regard, I know that in some quarters it is simply not polite to remember or mention the extermination of between 32 and 61 million people in Red China, but ignoring history has never erased the facts.

In pragmatic terms, I do not agree that recognition of Red China is a "simple reality" when that reality is achieved by discounting the simple reality of 18 million people in the Republic of China and the simple reality of the President unilaterally abrogating a Mutual Defense Treaty. A two-China policy would have been the obvious goal and the one most reasonable persons would agree on. Why then did the United States come out of the negotiations with nothing and the People's Republic of China with everything? There has not been such a "shutout" since the Giants beat the Redskins 52 to 0.

Red China wanted us to remove our troops—they got it. They wanted us to break diplomatic ties—they got it. They wanted us to break the 1954 Defense Treaty—they got it. What did we get? They promised not to "object" to continued interest in the future of Taiwan. (By the way, what does that mean exactly? Does that mean they promise not to send us a nasty telegram or not to declare war?) They allowed us to uphold the stipulation in the Defense Treaty that said the signators had to give 1 year's notification to break the treaty. Now, I consider that a mighty big concession—allowing us to uphold the terms of a contract.

Finally, they "tacitly" agreed not to object to arms sales to the Republic of China. I take that to mean that this is a gentleman's agreement, and I certainly do not want to muddy the waters by questioning the gentlemanliness of the boys in Taipei.

It is rather like saying that we all had a chicken dinner. We got the wings and the feathers; they got the rest of the bird—but we all got chicken. This deal will certainly go down in history as a diplomatic coup—for Red China, that is.

The pathetic thing about this whole mess, however, is that it is typical of this administration's conduct of foreign affairs, which could be kindly described as being riddled by ineptitude and hypocrisy. We have had to watch a U.S. President receive a tongue lashing from the President of Mexico while our President fumbles around with an embarrassing joke of questionable taste. We have had to put up with a U.S. Ambassador to the U.N. who is about as diplomatic as a bull in a china shop and even though he insults with impunity our strongest and closest allies, he is still on the job. We have had to watch a revolution in Iran, for which we were totally unprepared and to which we had no official warning. And, finally, we have had to watch the one bright spot in the administration's foreign policy, the Camp David accords, turn into yet another dismal failure.

I am not going to go so far as to question the administration's sanity, but I do seriously question its commonsense and the credibility of its much-flaunted human rights policy.

In closing, I would like to reiterate that I am not pleased with this bill or the betrayal which forces its passage. It is rather like taking bitter medicine for the treatment of a terminal illness, and at this point, my greatest hope is that Mr. Carter's stamp on America's foreign policy does not become so irrevocable that we cannot recoup some of the failures after 1980.●

● Mr. **ROUSSELOT**. Mr. Chairman, the December 15th announcement by President Carter that the United States and the People's Republic of China had reached an agreement to "normalize" relations conditional upon: One, breaking diplomatic relations with the Republic of China on Taiwan; two, the termination of the U.S.-Taiwan Mutual Defense Treaty; and three, the withdrawal of U.S. troops from Taiwan, is a disgrace to U.S. foreign policy. This action, taken alone by President Carter, has injured the virtue of the United States of America and has placed America in the wretched situation of broken trust with the free Chinese on Taiwan. What free nation will again put confidence in a government that abrogates its treaties?

The bill that this House is considering today reaches new plateaus in political rhetoric. H.R. 2479 is written in dramatic language to profess friendship between the "people of the United States" and the "people of Taiwan" and it purports to "help maintain peace, security, and stability in the Western Pacific and to promote extensive and close relations" with Taiwan, but the members of the committee who are presenting this bill today are not playing the flip side of the record which, in fact, carries the explicit message that the United States intends to terminate its Defense Treaty and diplomatic ties with the Republic of China—a drastic change from the intention of the United States-Taiwan Mutual Defense Treaty. A government-to-government treaty is a far stronger document than a people-to-people agreement.

It is understandable that the administration wishes to "enhance consultative relations on matters of common international concern and expand bilateral relations" with the People's Republic of China. Improving relations has positive advantages for America, but certainly this could have been achieved without such a radical change in the U.S. policy toward the Republic of China on Taiwan.

President Carter agreed to the terms of the People's Republic of China in the agreement to establish full diplomatic relations and in so doing he blatantly ignored congressional legislation that required advance consultation with Congress prior to abrogation of any of the Mutual Defense Treaties with the Republic of China. May I remind this House that in July of 1978 the Senate unanimously (94 to 0) adopted an amendment offered to the International Security Assistance Act by Senators STONE and DOLE which called on the President to consult with the Senate before making any policy changes affecting the continuation of the United States-Republic of China Mutual Security Treaty. The amendment was later approved in a House-Senate conference, making it a resolution of the full Congress. Further, the United States (via President Carter) agreed to a moratorium on new U.S. arms sales to the Republic of China on Taiwan during 1979 in return for an "implied" commitment from the People's Republic of China not to threaten the security of the Chinese people on Taiwan. Who is kidding whom? To "imply" is not to make a direct statement regarding rights and obligations. Can this administration be so naive as to conclude that the smooth, ingratiatingly tactful, and well-mannered utterances of Communist diplomats could be relied on as a commitment? When Vice Premier Teng visited our country, President Carter, it is said, was supposed to obtain a firm commitment on Taiwan's security, but this subject was not discussed and agreement was never reached, probably because President Carter knew Teng's position and that it was firm.

What have we gained from normalization of relations with the People's Republic of China? Have we not endangered the economic stability of Korea and Japan who will find it very difficult to resist Peiping's pressure? The World Anti-Communist League, China chapter has stated that to effect the economic isolation of the Republic of China:

> The combined political, economic and military pressure exercised by Communist China around Taiwan will increase armament buildup and cause other destabilizing changes in all countries in the area.

In the Philippines, Papua New Guinea, Australia, Singapore, Malaysia, Thailand, and in the Mideast there is increasing anxiety over weakening U.S. relations.

What have we gained from normalization of relations with the People's Republic of China? The loss of a friend. In February 1972, when Richard M. Nixon and Chou En-lai issued their joint communique in Shanghai, I voiced an objection. The meaning of the communique was ambiguous but the United States certainly made no commitment to sever diplomatic relations with the Republic of China and to abrogate the mutual defense treaty. The Republic of China has faithfully fulfilled its obligations under the treaty and the treaty is essential to the security of the Republic of China. Nullifying this treaty will surely encourage the Chinese Communists to improve their armed forces to challenge the Republic of China. They will surely use political pressure to isolate Taiwan economically.

It is with shame and disgust that I listen to the Members of this House seriously consider passage of H.R. 2479 without the amendment offered by Mr. QUAYLE to provide that the dealings of the United States with Taiwan be conducted through an official U.S. liaison office on Taiwan and that a similar Taiwanese liaison office be established in the United States thus granting privileges and immunities similar to those extended to diplomatic missions and personnel of accredited foreign governments. And without accepting Mr. QUAYLE's amendment to the declaration of principles stating that any armed attack or use of force, boycott, or embargo to prevent Taiwan from engaging in trade with other nations would be a threat to the peace and stability of the Western Pacific and to the security interest of the United States—and without accepting Mr. DERWINSKI's amendment that the United States shall use its voice and vote in international institutions and organizations to protect the status of Taiwan as a member of all international organizations and institutions of which it was a member as of December 31, 1978 and all international agreements to which it was a party as of the same date, and to oppose any sanctions, especially a trade boycott by the People's Republic of China against Taiwan and to procure privileges and immunities for U.S. personnel on Taiwan on a reciprocal basis to those enjoyed by Taiwanese personnel in the United States.

What have we gained from normalization of relations with the People's Republic of China? A loss of prestige and credibility in the free world. The United States has hastily agreed to normalize relations with the People's Republic of China without considering the full consequences this will have on our relations with Taiwan and without proving that there will be real benefits to offset the feeling that we have deserted a loyal ally.●

● Mr. **DUNCAN** of Oregon. Mr. Chairman, on December 15, at the time the relationship of this country with the Republic of China was changed, I issued a statement in which I said:

> I believe myself to be a pragmatic politician, but I am not a cynic.
>
> I believe political abandonment of Taiwan can be justified only for geopolitical considerations of the highest magnitude. While I have not been briefed, I see no such.
>
> Certainly increased trade with China would come without this step because China needs trade and if not, I would not sell my

> loyalty to our friends and allies of many years—allies who were fighting fascism in Asia years before Pearl Harbor for a mess of pottage.
>
> I believe recognition on these terms could have been achieved long ago. I see no express protection against the use of force by China against Taiwan. I see only the termination of the U.S. Taiwanese treaty. What did we get out of the deal that our present relationship doesn't give us?
>
> To say we can't ignore the presence of the most populous nation on earth is beside the point. We don't. We haven't. We couldn't. We couldn't ignore the civil war they fought during the war against Japan. We couldn't ignore their armies attacking us in Korea and the threat they posed to our forces in Vietnam. While Taiwan was supporting the United States and steadily moving their people to greater political freedom and participation, expanding their economy and raising their standard of living and human rights of their people, the People's Republic has swung violently through repression and banishment and only now is permitting or encouraging questioning posters which come and go as if on command. While there may be greater human rights than those of individuals involved here, it is not apparent to me what those are. They may be to those more cynical, or pragmatic than I.
>
> It isn't formal recognition that I object to, but the high price we are forced to pay.

Nothing has occurred in the interim to substantially change my initial reaction to this policy decision. It is true that the Vice Premier has visited this country. It is also true that the Chinese army invaded Vietnam immediately upon his return.

On December 15, my reaction was one of dismay. It was, and is, my belief that the controversy which has ensued over the President's decision arises not so much because of the extension of full diplomatic relations to Peking, but from the manner and the terms on which the decision was made—that is, the failure to advise and consult with the Congress and the failure to adequately provide for a continued American commitment to the people on Taiwan.

I have reservations concerning the "rationality" and "realism" said to underlie the President's action. Honor, credibility, and morality (unfashionable words these days) may be intangible qualities, but they have real effects in the real world. Granted the basic rationality of having regular diplomatic relations with a nation comprising one-quarter of the human race, there is no certainty that Chinese-American friendship is here to stay. In accepting Peking's three prime conditions, the normalization of relations was acknowledgement, said President Carter, of "simple reality." Yet the past history of Chinese-American relations has been far from simple, and it is my hope that the present euphoria which persists after Teng Tsiaoping's visit will not keep us from seeing some of the problems which lie ahead.

It is true, furthermore, that treaty-breaking carried to extremes can destroy the legal basis upon which sovereign states must deal with each other. Many have raised the critical concern that this decision has eroded and undermined our credibility with the people of Taiwan and amongst our allies in other parts of the globe.

But the question here today is not what should have been done. We must cope with the world as it exists—with the fact of a dramatic change in our relations in the Western Pacific which has already occurred. Our job is to salvage what we can of our relationship with Taiwan and to do so without creating other and more dangerous problems in the process—and to pass a bill which will not be vetoed.

Under these circumstances I think the committee has done a workmanlike job. It would be better to have retained diplomatic relations. It would have been better to have a liaison office, but not at the expense of further compounding our problems. I, therefore, support and will vote for the bill.

I must say, however, that I do not understand the administration's initial handling of even this low-grade unofficial relationship with Taiwan. Prior to the President's action, the Republic of China had 13 consulates. They were useful, not just to Taiwan but to this country and our citizens. The administration has imposed a limit of eight offices of the Coordinating Committee for North American Affairs—the unofficial entity through which we will deal with Taiwan. I believe this to be arbitrary and unwise.

Taiwan represents one of the most advanced economies in Asia, and an important trading partner for the United States. Fortunately, Taiwan's leaders have already demonstrated the ability to sustain and restructure the island's economic, cultural, and educational relations with many nations, notably Japan, in the absence of formal diplomatic ties.

Much of the necessary liaison work and documentation which makes this trade possible has been carried on through consular offices. The maintenance of consulates is now impossible, but I cannot accept the administration's position of objecting to the reestablishment of an equal number of nongovernment bodies—including an important one in Portland. It is my belief that we should encourage the people on Taiwan to promote, rather than curtail their trading with the United States, and I will continue to seek a replacement for the office in Portland.

One of every nine employment opportunities in the State of Oregon is directly or indirectly the result of our trade. Oregon is one of the few States in this Nation which can boast an export surplus. Traditionally, Taiwan has been one of Oregon's top 10 trading partners. The trade between us in wheat, electronics, electrical switching gear, and a host of other merchandise was facilitated by the existence of a consular office in the city of Portland.

Therefore, the loss of this office would present more than just an inconvenience to Oregon business. Trade patterns—both within this country and in international markets—tends to follow the path of least resistance. It seems to me that the existing patterns are fragile enough without unilaterally taking an action which would endanger this relationship. I see no reason for any limitation on the number of offices which should be maintained on this unofficial basis.

Therefore, I was pleased to support the amendment offered by my colleagues from Idaho, Mr. SYMMS, which directed the President to reach an agreement with Taiwan to assure that the facilities used to conduct its affairs in the United States be at or near the locations of the consular establishments of Taiwan existing prior to December 31, 1978. This amendment, while it does not guarantee that the Taiwanese will reopen the Portland office, does give them—and us—that opportunity. I hope the conference retains this provision.●

● Mr. DANNEMEYER. Mr. Chairman, very soon the Members of this House will be voting on final passage of a bill which will establish a new framework for relations between the United States and Taiwan. In so doing, we will bear a tremendous responsibility for the continued freedom and well-being of a nation which over many years has been tied to the United States by bonds of friendship, commerce, and philosophy.

It is disturbing to me, and to many other Members of this body, that our Government should have conceded so much to the government in Peking, and yet has received so little in return. It is disturbing that we should have recognized the "reality" of Communist rule on mainland China, but now totally refuse to recognize the reality of an efficient, productive, and well-ruled state which has existed on Taiwan for over 30 years. It is even more disturbing that we have chosen, in a flight of wishful thinking, to unquestioningly assume that Peking will not use force or coercion against Taiwan in the future, when even Peking's leadership insists that force remains an option. The current Chinese invasion of Vietnam should give us all pause in this respect. It now appears clear that Peking wished to have the United States at its back before launching its Vietnam adventure. And now that we have developed such a close relationship with Peking, what influence have we gained with our new quasi-allies? If China's Vietnam gambit is any indication, the answer clearly is none. In any event, the Chinese invasion of Vietnam, coming as it does so closely on the heels of normalization, must raise doubts among serious observers about the wisdom of blindly assuming the People's Republic's peaceful intentions toward Taiwan. This suggests to me the need for a strong security commitment to Taiwan in our pending bill on China.

A recent article in the Washington Post by a distinguished scholar and practitioner of U.S. China policy, Eugene K. Lawson, helps to clarify many of the outstanding issues regarding Taiwan, our negotiations with the People's Republic, and our future responsibilities in the area of China. I urge it to the Members' attention, and include it in the RECORD:

TAIWAN: WE FORGOT WHO HELD THE TRUMP CARDS

(By Eugene K. Lawson)

> 1979 is the year of the Ram, and Taiwan just got gored—needlessly.

It didn't have to be that way. It has been six years since the Shanghai communiqué was drafted, which laid the basis for an agreement on normalization of ties with the People's Republic of China, with the details to be worked out. On the issue of Taiwan, the United States gave nothing away. The operative language said we acknowledge that "all Chinese on either side of the Taiwan Strait maintain there is but one China and that Taiwan is a part of China. The U.S. government does not challenge that position." The statement, written by weary U.S. negotiators in the middle of the night in Shanghai, was not bad. It was sufficiently ambiguous to satisfy the U.S. desire to keep the ultimate resolution of Taiwan's status still open, and it satisfied Peking's need for a face-saving gesture from us on that issue.

But the key passages in the Shanghai communiqué were the anti-hegemony clauses aimed at the Soviet, Peking was willing to lay aside Taiwan with almost no concession by us in return for our help against Moscow. Peking saw Taiwan as a minor irritant compared with the Soviet danger. Subsequently, U.S.-P.R.C. ties developed quickly despite the Taiwan issue. Taiwan was the "Panama Canal" of Chinese policies, "forgotten except as a banner with which to rally the factional faithful during leadership contests." A year later the lessening importance of Taiwan was underscored when Peking agreed to open a liaison office a few blocks from the Republic of China's embassy.

In retrospect, our China policy after 1973 was probably flawed. We were so sure that we could make a deal with Peking that would preserve Taiwan's security that we began to cover our domestic flank from a right-wing attack by *strengthening* our ties with Taiwan, thus making it more agonizing than necessary when the inevitable break came. We increased the number of Taipei's consulates, sold more sophisticated weaponry than ever before, appointed a senior diplomat as ambassador and promised prior consultation before making any future major moves. Instead, we should have smoothed the road to normalization by systematically reducing our ties to Taiwan and giving it time to adjust. We should have reduced our embassy to the charge level, withdrawn all our troops (this would have psychologically prepared Taiwan better than anything else we could have done) and discussed with the Congress the most effective means of replacing the mutual defense treaty.

The defense treaty was, of course, the bottom line, and of Peking's three demands (break diplomatic relations with Taiwan, withdraw our military and end the treaty), that is the one we should have worked on. And, in fact, the Nixon administration did have a package of minimum conditions in its mind to implement.

The most important element in the Nixon plan included the ways and means to find a plausible substitute for the treaty. First, the United States would cite only those People's Republic statements that spoke of resolving the situation peacefully and ignore the more belligerent ones. Second, the president would issue with the Congress a statement *after* normalization with Peking was achieved that any use of force by anyone in the Taiwan Straits would cause the United States to consider whatever military actions appeared necessary to preserve peace.

Moreover, we would continue to ensure that the international waters existing between the mainland and Taiwan would be open to all countries, and, finally, we would continue to sell defensive equipment to Taiwan. Our assumption was that we were in the driver's seat, and Peking needed us more than we needed it. While Peking had its conditions for normalization, we had ours. As for the future of Taiwan, we would follow the Shanghai communique by keeping the door open on its ultimate status, in the same way Japan, Canada, the United Kingdom and others have done.

The rest of the story is well known. Watergate drove Richard Nixon from office, and Ronald Reagan's challenge to Gerald Ford prevented the latter from normalizing relations. Then the proponents of a born-again foreign policy came in. The first policy actions about East Asia and China were not reassuring: a proposed rapid withdrawal from South Korea, a plan to give up U.S. bases in the Philippines, a disastrous visit to Peking by the secretary of state, which was denounced immediately after by Vice Premier Teng Hsiao-ping. The lack of effective consultation with Congress was apparent early on, and a new harder line by Peking began.

Instead of limiting itself to its original three conditions, Peking sensed the weakness in our leadership and very shrewdly began to escalate its demands. First, Teng would tell visiting congressmen that Peking could not accept a unilateral U.S. declaration about Taiwan's security. Next, Chairman Hua Kuo-feng would inform a U.S. trade delegation that continued U.S. arms sales to Taiwan after normalization would not be allowed.

Somehow, somewhere, the corporate memory about our China policy failed. We forgot that we held most of the trump cards and that we could obtain both the kind of agreement needed to preserve Taiwan's security and yet proceed in a more important relationship with Peking. When we overcome one of Peking's new demands (that we end arms sales to Taiwan), we took that for a great concession, again forgetting that Peking at first had only three conditions. In spite of the fact that we enjoy more leverage and influence over Peking now than in 1972, we obtained no concessions from Peking and gave Taiwan precious little security. The president's statement that the United States "continues to have an interest in the peaceful resolution of the Taiwan issue" is woefully inadequate. The failure to consult with key members of Congress about the conditions of normalization leaves that body of individuals in a rebellious mood when both branches should be united in their views. Failure to give early warning to Taiwan and the Congress leaves us scurrying around to find a solution to (among many others) our nuclear sharing agreement with Taipei.

And most unaccountably of all, the administration tried hard to close the door on Taiwan's ultimate status by stating that Taiwan is part of China. The enormous difference between President Carter's statement and the language contained in the Shanghai communique seems lost to National Security Adviser Zbigniew Brzezinski. In his press backgrounders, he cited the Shanghai communique as the foundation for this agreement. He simply has misread it. None of our major allies had to make that concession. Taiwan is obviously not under the de facto control of the mainland, and to say that it is part of China, de jure or otherwise, is a gratuitous concession to Peking, and deprives us of leverage we might need later.

The statement by Secretary of State Cyrus Vance that it "doesn't make any sense" for the People's Republic to opt for a violent solution is, unfortunately, just an opinion. This group of leaders in Peking may put Taiwan on the back burner, but a different group might not. The leadership coalition is hardly stable (Teng is 74), and the costs of a Western style modernization to China may create a domestic, xenophobic backlash, as it has so often in the past, and produce a more reactionary leadership. We obviously cannot rely on good sense in Peking for Taiwan's security.

As happened so often in the past two years, the professionals are yet again picking up the pieces. Taiwan will no doubt forgive us our clumsiness and inexcusable speed if we quickly get Congress to maintain some 59 treaties we have with the island and issue a strong statement about its security. But the whole exercise is depressing. Once again, this administration has proved itself inept, taking a problem already mostly solved and turning a small success into a small fiasco.●

● Mr. ANDERSON of California. Mr. Chairman, I rise in support of H.R. 2479, a bill assuring the continuation of U.S. relations with Taiwan. New relations with the People's Republic of China have already been established. This legislation we are considering today does not address that. For really, there is little this body is empowered to do with respect to the Executive actions revising United States-China policy.

What we must do now, those of us concerned with the future of Taiwan, is act to guarantee the viability of an independent people there. H.R. 2479 does assure that this viability will be maintained.

The legislation states that continued close and friendly relations between the people of the United States and Taiwan must be assured. And it recognizes the fact that an armed attack against Taiwan would constitute a threat to the peace and stability of the Western Pacific. This continued peace and stability, according to logic and H.R. 2479, is in the political, security, and economic interests of the United States.

The legislation before us today states clearly that the United States will make available to Taiwan articles and services necessary for its defense against armed attack.

H.R. 2479 assures that all agreements entered into between the nations of Taiwan and the United States will be continued as if the derecognition had not occurred. Taiwan will still be a most-favored-nation for trade purposes, and will continue to be eligible for Export-Import Bank loans and other U.S. Government programs and forms of aid.

Finally, this legislation allows the establishment of a nongovernmental entity for the continuation of relations with Taiwan in the future.

Clearly, the primary theme of H.R. 2479 can be seen as one of continuity in a time of change. It was Executive policy that altered the structure of our past relationships. The House today must act to minimize any negative effect these new relationships might have on the longstanding friendship that exists between the United States and Taiwan. The mutual interests of the people of these two lands have not been changed by derecognition. It is these mutual interests that must serve as the basis of our continued friendship. The passage of H.R. 2479 will help assure the maintenance of commercial, cultural, and touristic relations between us. With these continued relations, and with the sale of defense weapons, we can work to see that the basic situation in Taiwan will go unchanged. This situation is one of freedom for the people who live there, and the security of American interests in the Western Pacific.●

● Mr. BARNES. Mr. Chairman, on January 1, 1979, the President, through his constitutional authority, recognized the reality of the existence of the People's Republic of China. This action, and the exchange of ambassadors which occurred on March 1, are the culmination of a decade-long process of rapprochement between the world's most powerful nation and the world's most populous. It is also clearly in line with the objectives of the majority of this Congress.

Now we are concerned with one aspect of this historic transition—assuring that, as we move toward cooperation and friendship with over 800 million people, we do not neglect the welfare of 18 million—the people who reside on Taiwan.

Unfortunately, due to the flow of events, for several days now there have been no channels at all for relations between the people of the United States and the people of Taiwan. That lapse must be swiftly bridged, and that is the purpose of H.R. 2479, the United States-Taiwan Relations Act.

This bill reaffirms a basic tenet of U.S. foreign policy—that the fate and governance of any people should be determined through peaceful process, and the United States will look with great concern at any violation of this principle. I believe that the Government of the People's Republic of China understands the depth of this country's friendship and concern for the people on Taiwan, and understands that any attempt by the PRC to coerce Taiwan—either by force of arms or economics—would disrupt the development of the cooperative relationship between our countries which Peking so anxiously desires.

Under the provisions of H.R. 2479, our commitment to the people on Taiwan is underscored by our pledge of modern defense weaponry, as well as continuing and strong ties of economic and cultural interchange.

Mr. Chairman, those who seek to amend this legislation seek, in reality, to undermine the rapprochement of the United States and the People's Republic. I understand their concerns, but I also understand the realities of modern international politics. The strategic interests of the United States of America rest in an orderly world, a world governed by a spirit of understanding and cooperation between all the major powers. To pretend to deny the reality of China is not to exclude the PRC from world politics, it is simply to turn our backs and close our eyes. And it is in those circumstances that we—and our national security—are most vulnerable.

If we are truly concerned with the security of the people on Taiwan, we shall move swiftly to build a relationship of cooperation and balance with the People's Republic; if we do not, we forfeit our opportunity to influence the PRC, and we place Taiwan in real jeopardy.

Therefore, let us get about our business. Let us take the actions which truly do—as this bill declares—"help maintain peace, security and stability in the Western Pacific" and promote "continued, close, and friendly relations between the people of the United States and the people on Taiwan." Let us pass H.R. 2479.●

☐ 1830

The CHAIRMAN. Are there other amendments to title II?

There being none, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. DANIELSON, Chairman of the Committee of the Whole on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 2479) to help maintain peace, security, and stability in the western Pacific and to promote continued extensive, close, and friendly relations between the people of the United States and the people on Taiwan, pursuant to House Resolution 148, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. DERWINSKI

Mr. DERWINSKI. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. DERWINSKI. I am, in its present form, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. DERWINSKI moves to recommit the bill, H.R. 2479, to the Committee on Foreign Affairs with instructions to report the bill back to the House forthwith with the following amendment: On page 10, immediately after line 4, insert the following new section, and redesignate the succeeding sections accordingly:

"REAFFIRMATION OF HUMAN RIGHTS

"SEC. 205. Nothing contained in this Act shall contravene the President's stated policies and positive interest in human rights, especially with respect to those human rights of the approximately 18 million inhabitants of Taiwan. The preservation of the human rights of the people of Taiwan is hereby reaffirmed as a commitment of the United States."

The SPEAKER. The gentleman from Illinois (Mr. DERWINSKI) is recognized for 5 minutes in support of his motion to recommit.

Mr. DERWINSKI. Mr. Speaker, due to the lateness of the hour, I will not take 5 minutes; I hope to confine my remarks to 1 minute.

I will point out, Mr. Speaker, that at least since the era just preceding World War II, bipartisanship has been a great American factor in the conduct of foreign affairs. I, for one, have great respect for the President's emphasis on human rights. I sometimes wonder if the advice he receives from subordinates in the executive branch is as sound and accurate as it should be, but the President himself is a man of great character and strength, and his human rights policy comes from the heart.

It is in support of that, recognizing that it is the fundamental conviction of the American people that nothing contained in our readjusted China policy should deprive the people on Taiwan of their human rights, that I offer this motion to recommit, realizing it is a reaffirmation of public policy and governmental policy, as well as the strong convictions of the Members of this body.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER. The gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 5 minutes.

Mr. ZABLOCKI. Mr. Speaker, I rise not in opposition to the motion to recommit with instructions, but I do want to point out that the gentleman from Illinois (Mr. DERWINSKI), with his repeated support and love for the President, will have some problems and will have some real explanations to offer Governor Reagan in the very near future. I do hope that the gentlemen's support for the President will continue through the next year.

As far as the motion to recommit is concerned, the amendment is very artfully and very cutely drawn. Who can be against motherhood, against human rights, against apple pie, or against the American flag?

So, Mr. Speaker, I hope the amendment will be agreed to, but I cannot accept it at this point.

Mr. DERWINSKI. Mr. Speaker, if the gentleman will yield, I thank the chairman of the committee for his comments. I wish to state, in the spirit in which he offered the suggestion, that I intend to support the President this year, as well as in the next year, the political year, on any occasion when he is correct.

Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was agreed to.

The SPEAKER. The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, pursuant to the instructions of the House, I report the bill, H.R. 2479, back to the House with an amendment.

☐ 1835

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amendment: On page 10, immediately after line 4, insert the following new section, and redesignate the succeeding sections accordingly:

"REAFFIRMATION OF HUMAN RIGHTS

SEC. 205. Nothing contained in this Act shall contravene the President's stated policies and positive interest in human rights, especially with respect to those human rights of the approximately 18 million inhabitants of Taiwan. The preservation of the human rights of the people of Taiwan is hereby reaffirmed as a commitment of the United States."

The SPEAKER. The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 345, nays 55, answered "present" 2, not voting 30, as follows:

[Roll No. 38]

YEAS—345

Abdnor
Addabbo
Akaka
Albosta
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashley
Aspin
Atkinson
AuCoin
Baldus
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Danielson
Daschle
Davis, Mich.
de la Garza
Dellums
Derrick
Derwinski
Diggs
Dingell
Dixon
Donnelly
Dougherty
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lloyd
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
McCormack
McDade
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Runnels
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shuster
Simon
Skelton
Slack
Smith, Nebr.
Snowe
Snyder
Solarz
Spellman
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff, N.Y.
Wolpe, Mich.
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Mo.
Zablocki

NAYS—55

Applegate
Ashbrook
Badham
Bafalis
Bailey
Barnard
Bauman
Burgener
Carney
Collins, Tex.
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Devine
Dickinson
Edwards, Okla.
Forsythe
Gaydos
Goldwater
Goodling
Grisham
Hance
Hansen
Jeffries
Kelly
Kramer
Lagomarsino
Latta
Leath, Tex.
Lewis
Livingston
Loeffler
Lungren
McClory
McDonald
Marriott
Miller, Ohio
Moorhead, Calif.
Murphy, Pa.
Paul
Robinson
Roth
Rousselot
Rudd
Satterfield
Shumway
Solomon
Spence
Stenholm
Stump
Symms
Watkins
Wyatt
Young, Fla.

ANSWERED "PRESENT"—2

Burton, John
Kindness

NOT VOTING—30

Alexander
Ambro
Anderson, Ill.
Andrews, N.C.
Bevill
Collins, Ill.
Conyers
Crane, Philip
Davis, S.C.
Deckard
Dicks
Dodd
Dornan
Downey
Evans, Del.
Flood
Garcia
Hutto
Jeffords
LaFalce
McCloskey
McKinney
Mathis
Mollohan
Pepper
Pursell
Smith, Iowa
Trible
Williams, Ohio
Zeferetti

☐ 1850

The Clerk announced the following pairs:

Mr. Ambro with Mr. Anderson of Illinois.

Mr. Flood with Mr. Williams of Ohio.

Mr. Garcia with Mr. Philip M. Crane.

Mr. LaFalce with Mr. Trible.

Mr. Zeferetti with Mr. Deckard.

Mr. Pepper with Mr. Pursell.

Mr. Mollohan with Mr. Dornan.

Mr. Dodd with Mr. Evans of Delaware.

Mr. Downey with Mr. McKinney.

Mr. Bevill with Mr. Jeffords.

Mr. Conyers with Mr. McCloskey.

Mr. Mathis with Mr. Dicks.

Mr. Davis of South Carolina with Mr. Hutto.

Mr. Smith of Iowa with Mrs. Collins of Illinois.

Mr. Alexander with Mr. Andrews of North Carolina.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING CLERK TO CORRECT SECTION NUMBERS, PUNCTUATION, AND CROSS REFERENCES IN ENGROSSMENT OF H.R. 2479

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill, the Clerk be authorized to correct section numbers, punctuation, and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill H.R. 2479.

The SPEAKER pro tempore (Mr. Danielson). Is there objection to the request of the gentleman from Wisconsin?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, can the gentleman assure us that in the so-called technical amendments there is no major change?

Mr. ZABLOCKI. If the gentleman will yield, I can assure the gentleman from California, referring to the technical amendments, that it involves only a wrong phrase, or lack of a comma, or punctuation. No substantive changes will be permitted.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the bill just passed, H.R. 2479.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

INTRODUCTION OF CONSTITUTIONAL AMENDMENT TO CORRECT DEFICIENCIES IN ELECTORAL SYSTEM

(Mr. BURLISON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURLISON. Mr. Speaker, an "archaic, undemocratic, complex, indirect, and dangerous" procedure for electing a President and Vice President is how the Special Commission on Electoral Reform of the American Bar Association describes the electoral college system. This analysis was once again borne out in the 1976 Presidential election. A shift of a few thousand votes would have given President Ford a majority of the electoral vote while Governor Carter won the popular vote. Indeed, on three occasions, the elections of 1824, 1876, and 1888, our election system has frustrated the popular will. The candidate who won the popular vote lost the electoral vote and the Presidency.

Our present election system can be capricious as well as undemocratic. In a close election, it is possible that no candidate will win an electoral vote majority. A slight shift, for example, in the 1948, 1960, and 1968 elections would have sent the decision to the House where, for political reasons, the popular will could have been canceled. Also, in a close three-way contest that denies an electoral majority to any candidate, and with electors free to disregard their pledges to candidates, the Presidency is subject to being bartered to the highest bidder.

I believe that these intrinsic defects in our electoral system should be changed. Accordingly, today I am introducing my constitutional amendment for the direct election of the President and Vice President. I have introduced similar legislation in each of the previous five Congresses. The House, in 1969, by a vote of 399 to 70, passed the amendment. Because of a filibuster, the Senate was unable to vote on this amendment, though the Senate has acted favorably on other occasions. This resolution has over the years had the broad national support of the American public and various national organizations including the AFL–CIO, the American Bar Association, the chamber of commerce and the League of Women Voters. Senator BAYH, chairman of the Constitutional Amendments Subcommittee in the other body, is committed to the resolution in the 96th Congress. The President has publicly endorsed it.

I urge you to support and cosponsor with me this important resolution.

A PLEA FOR SUPPORT OF BILL TO ROLL BACK NATURAL GAS PRICES

(Mr. FORD of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FORD of Tennessee. Mr. Speaker, today I rise to ask my colleagues to join me by supporting a bill to roll back the high prices of natural gas. In an American system founded on justice, I ask you how we can justify the increasing costs of natural gas especially since, for the first time in recent history, natural gas is in a surplus? In an American system founded on justice, is it not a violation of the natural laws of supply and demand to allow this situation to continue? And, most importantly, in an American system founded on justice, I speak with neither reservation nor hesitation in appealing to your sense of fairness to rectify these inequities.

I make this appeal, moreover, because we must recognize that something is wrong with a system which allows prices to increase in spite of surplus. Something is terribly wrong when the cost of natural gas in 1970 averaged 17.1 cents and now, gas averages more than 800 percent of that figure and threatens to go even higher.

Something is mighty wrong when gas producers received about $60 billion in total revenues between 1970 and 1978; yet, for the next 8 years—for substantially less gas—total revenues will probably exceed $254.2 billion as a result of last year's Natural Gas Policy Act.

Something is mighty, mighty, mighty wrong when a housewife in Washington must pay $80 per month for gas, alone, when a Memphis family, which takes home only $500 per month pays $200 to heat a five-room home.

And, something must be done when Government asks workers to keep their pay within 7 percent of last year's, although they are told by the same Government that natural gas prices will rise a minimum of 14 percent.

You and I, not only have an obligation, but we also have a legislative duty to look carefully into this grossly unfair and economically debilitating situation. That is why I have proposed the Natural Gas Pricing Amendments Act of 1979.

Specifically, the Natural Gas Pricing Amendments Act of 1979 would roll back the price of various classes of natural gas to levels near or at previous levels. It would delete the so-called kicker clauses which automatically adjust the price of natural gas over and beyond inflation. The bill would, however, allow for upward adjustments equal to the annual inflation factor applicable for a respective month.

The amendments would repeal the authority of the Federal Energy Regulatory Commission to increase ceiling prices of natural gas and would extend Federal controls on natural gas ceilings by 2 years.

If we support measures to reduce inflation; if we support economic solvency of the American family; and if we want to prevent the creation of another Government welfare-energy stamp program, we must support the objectives of the Natural Gas Pricing Amendments Act of 1979.

□ 1205

OUTSIDE EARNED INCOME LIMITATIONS

(Mr. KOSTMAYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. KOSTMAYER. Mr. Speaker, last week the Senate without committee hearings, floor debate, or a recorded vote, suspended their limitations on outside earned income.

As you recall from the heated debate on this matter in the House 2 years ago, there are valid arguments on both sides of the issue.

To your credit, Mr. Speaker, you and the Democratic leadership wisely and successfully argued then, that in return for a generous pay increase, the House should impose the limitations.

While I donated my pay raise in the last Congress to charity, nevertheless, I still support the idea of such restrictions.

But whether one agrees with me or not on the merits of the limitations, I hope all concur that it would be totally unacceptable and intolerable to the American people for the House to any way alter our current ethical standards without full discussion and accountability.

Today, I am asking my colleagues to join with me in publicly stating that conviction. The form is a letter to the Speaker I am circulating for their signatures.

I invite my colleagues to go on the record expressing our hope that a change in our ethics code be treated with the same seriousness as any major legislation would receive, namely a rollcall vote.

The letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., March 13, 1979.

DEAR COLLEAGUES: In all likelihood your constituents have contacted you with their reaction to the Senate action last week suspending limitations on outside earned income.

Obviously, a case can be made both for and against outside earned income for the Senate or House.

But whatever your position, I do hope you agree with me that the issue should not be resolved without adequate floor debate and a recorded vote.

The attached letter to the Speaker allows members of the House to go on the record favoring such thorough consideration in advance of any efforts to alter the ethics package.

I know of no scheduled move to suspend or revoke the House's outside income limitations but I think after the way action was taken by the Senate it would be prudent for the House to state its position as soon as possible.

This letter is neither for or against outside income limitations. It is for accountability. We would not consider any other major legislation without full discussion and we should recognize our own ethical standards are as important as any law we act upon, and we should go on the record if we choose to change them.

If you wish to join me in registering your opinion with the House leadership, please call my office 5–4276 by noon Friday, March 16th.

Sincerely,

——— ———.

HOUSE OF REPRESENTATIVES,
Washington, D.C., March 13, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House,
Washington, D.C.

DEAR MR. SPEAKER: Comments from our constituents and a review of editorial opinion confirm that whether or not one agrees with the outside earned income limitation Congress accepted two years ago, there is little disagreement that the American people would find it intolerable for the House to take action which would suspend or revoke the limits without a recorded roll-call vote.

While there remain valid arguments on both sides of this question, there is no argument in our view to justify altering the 1977 ethics package for which you fought so diligently without full discussion and a recorded vote.

Mr. Speaker, we request that you and the House leadership do all in your considerable power to insure that a recorded vote occurs should there be an attempt to suspend or revoke the limitations on outside earnings which we imposed upon ourselves in the last Congress at least partly in exchange for a generous pay raise.

We feel reasonably sure the leadership would not allow any major piece of legislation, such as a Social Security increase or the President's Hospital Cost Containment Bill, to be passed or scuttled by back-door procedures. Let the record show: we consider the trust we made with the nation to commit this House to strong ethical reform to be every bit as important as other well recognized, major legislative efforts. And we expect the House to deal with ethical questions in the same forthright way we would deal with other significant legislation.

Thank you for recognizing our concerns. You can count on our support should a conflict involving this matter arise.

Sincerely,

——— ———.

CONSTITUENT FRUSTRATED ON ENERGY SITUATION

(Mr. KILDEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. KILDEE. Mr. Speaker, I want to draw the attention of my colleagues in the Congress to a letter I received from a constituent on the energy issues facing our Nation. The letter by Mr. Carl Cavalier of Flushing, Mich., is an example of the frustration being experienced by many citizens over the inadequacies of the Department of Energy and Secretary James R. Schlesinger. I received the letter only a day before a press conference in my district March 9, in which I released my letter to President Carter urging that the President ask for Dr. Schlesinger's resignation. Mr. Cavalier's viewpoint is shared by many citizens, who are baffled and angered by what I described in my letter as the "drift and confusion, contradictory statements and reversals of position" by Dr. Schlesinger and the Department on our Nation's energy policy. Mr. Cavalier wrote to me:

CONGRESSMAN KILDEE: Since the Iranian Crises, I have heard nothing but gas shortages and higher prices. Gas has risen at the rate of one cent per week and is still climbing. January 1, 1979 thru March 1, 1979, gas has gone up ten cents for regular gas in the Flint area. Each time I read the newspaper or watch television news, I am informed by Schlesinger, some Senator, or Congressman that gas will be one-dollar per gallon by the end of this year. The oil companies must love it—An open invitation that they keep raising their prices. Schlesinger has got to go! He has proven to be an oil company man all the way back to the Nixon Administration.

It makes me sick to think that my government will take the word of Oil Companies as to how we stand where "our" country's oil and gas is concerned. I will not believe this type of information unless the government will force the oil companies to show their yearly profits with proof of research and what has been reinvested into the United States for more oil. I am not referring to the multi-million dollar office buildings being built to offset high profits and supply some nice tax shelters.

I think we are being ripped off by the oil companies. If we really have a shortage, why hasn't the Government "seriously" gotten into the act and tried to come up with an alternative source of energy? We have the technology—the best in the world, and we're not putting it to use.

The biggest wasters of energy are the Government and large corporations and the average American citizen is paying for it. Let's put the blame where it belongs. There are a lot of ways without rationing or sky high prices. If you don't already know or hold some interest in what the people who voted you into office think, please contact me. . . .

Mr. Speaker, while in this House there will be disagreement on one point or another in this letter, I believe Mr. Cavalier's viewpoint is important because it is shared by so many others. New leadership is needed in the Department of Energy which will command the confidence of the American people and work more effectively to meet our energy problems and needs.

□ 1210

REMARKS BY REPRESENTATIVE LINDY BOGGS REGARDING THE CONTRIBUTIONS OF THE GIRL SCOUTS ON THE OCCASION OF THE REPORT TO CONGRESS

Mrs. BOGGS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. The Chair is happy to recognize the lady from Louisiana who we understand is celebrating her birthday.

Mrs. BOGGS. Mr. Speaker, I rise today to ask my colleagues to join me in saluting the Girl Scouts of the United States as they file their report this year with the Congress.

For decades the Girl Scouts have played a vital role in the formation of citizenship and education among girls and young women. It has been a special privilege to be associated with the Girl Scouts in Louisiana, where many exciting programs are being organized and run by these fine young women.

I would like to take a moment to share with you some highlights among the programs operated by Girl Scouts in my State since similar projects are underway in every congressional district throughout the country.

On the Louisiana State University campus, Girl Scouts and Camp Fire cosponsored "Hand-in-Hand," an international day at LSU for cultural awareness. Seven different countries were represented with programs presented by persons of that particular nationality. A total of 650 Girl Scouts from 40 troops and 177 Camp Fire Girls participated.

In Shreveport Senior Troop No. 47 meets once a week at the Council on the Aging to conduct a folk dance workshop. Troops of Girl Scouts volunteer at the Shrine Hospital for Crippled Children, and at the Caddo School for Exceptional Children who are orthopedically handicapped.

In Baton Rouge the Girl Scouts Energy Watch will distribute energy-saving ideas to consumers. Girl Scouts are taking field trips to utility companies, observe energy wastes around their own homes, and seek ways to make corrections.

In southeast Louisiana I have been privileged to serve on our area's council and I have seen firsthand some wonderful projects that teach young girls and young women a wide variety of skills that will be useful throughout their lives as citizens of society.

Last summer Jefferson Parish, La., had its first daycamp for retarded children, courtesy of Girl Scout volunteers. Cadet—junior high-aged–scouts planned the camp and served as volunteer counselors, working one to one with the children. The girls made an important contribution to the education of these youngsters and are hoping to receive some assistance from the parish for another camp this year.

In the city of New Orleans, Girl Scouts are extending a helping hand to lower income girls through a special career development program, supported in part by title XX funds. This year groups of young Scouts took field trips to learn about a variety of industries and spent the day with a successful black woman. Thus the program not only exposes the girls to available opportunities, but also enables them to meet appropriate role models whom they can imitate.

As women are moving into increasingly responsible management positions, the Girl Scouts are ahead of the times. In New Orleans a group of senior-age Girl Scouts planned and volunteered for a "management workshop" for younger Scouts, in grades 4 through 6. Topics for the workshops included troop government, planning programs, budgeting for the troop, and communication. This kind of training in leadership enables Girl Scouts to be successful managers later in their lives.

Needless to say, I am very proud of Louisiana Girl Scouts and of Scouts everywhere, and I know my colleagues will share my personal gratitude for the dedication and time they volunteer so willingly to help others—and to develop their own potential. These young women are the leaders of tomorrow, and I would not be one bit surprised if some of today's Girl Scouts join us here in Congress in the next few years.

CONGRESSIONAL CAMPAIGN FINANCING ACT OF 1979

(Mr. McHUGH asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. McHUGH. Mr. Speaker, I am pleased to join with Mr. MAGUIRE today in introducing legislation that would provide for partial public financing of congressional primary and general elections beginning in 1980.

As you know, both of us are cosponsors of H.R. 1 and hope to see that bill enacted during this session. However, H.R. 1 would extend this much-needed reform to House general elections only. Although we appreciate the strategic reasons for excluding primaries from the bill, we also believe it is important to maintain the principle that public financing should cover primaries as well.

That is why we are introducing the Congressional Campaign Financing Act of 1979 this afternoon.

THE NEED FOR PUBLIC FINANCING OF CONGRESSIONAL ELECTIONS

Mr. Speaker, the 1976 Presidential election proved that public financing works and that it works for both primary and general elections. Events since then suggest that it is imperative that we extend this basic reform of our political process to elections for the Senate and House of Representatives.

In fact, the very success of public financing of Presidential elections has made the need for public financing of congressional campaigns all the more urgent. As most of us know from personal experience, closing the Presidential arena to private contributions has substantially increased the flow of special interest contributions into House and Senate election races.

For example, special interests contributed $12.5 million to congressional campaigns in 1974. However, that figure increased to $22.6 million in 1976 and to $35 million in 1978. Where will it end, Mr. Speaker? And what will we have gained by closing off the Presidency to the influence of big money if the only result is to open up Congress to a heavier influx of special interest funds and influence?

The American people have come to understand that the present system of financing congressional campaigns is neither democratic nor fair. Unless a candidate is personally wealthy, they know that he must look to private contributors to finance the cost of running for public office.

Recent studies indicate that it cost approximately $920,000 to run a Senate campaign in 1978 compared to $600,000 in 1976. They also reveal that the typical House campaign cost approximately $108,000 in 1978, up from $71,000 only 2 years before.

In 1978 we also witnessed the first million dollar campaigns for House seats and, in another six races for the House, candidates spent over $500,000. To be sure, some of the increased cost of campaigning can be attributed to inflation. However, those costs also reflect our understanding that the biggest spender usually wins. In 1978 the biggest spender won 82 percent of the time in House campaigns and 85 percent of the time in Senate elections.

Given the rapidly escalating cost of campaigning and the belief that one cannot afford to be outspent, few candidates have any choice but to turn to special interest for the needed funds. And the evidence suggests that those interests are often not representative of the nation as a whole.

In the very recent past, for example, 90 percent of all campaign contributions came from less than 1 percent of the population. That 1 percent represented individuals and groups that often had a substantial interest in the decisions to be made by public officials.

The potential for abuse is clear, Mr. Speaker. We are not talking primarily about bribes or the purchase of votes, although we know that votes have been bought and Members have on occasion been bribed in the past. What we are talking about is a widespread perception that money can buy a favorable climate, or a willingness to listen. And we know that it can.

The needed reform is both simple and obvious. We must extend public financing to congressional campaigns, and we must do so in the 96th Congress.

PROVISIONS OF THE BILL

To achieve this goal, the legislation Mr. MAGUIRE and I are introducing today would establish a matching system of partial public financing for House and Senate primary and general elections. I would like to briefly summarize some of the major provisions of the bill at this point, Mr. Speaker. A more detailed explanation of its provisions is contained in the fact sheet that I am including in the RECORD at the conclusion of my remarks.

Clearly, one of the most important provisions of this legislation is that it would reestablish campaign spending limitations for primary and general elections for those candidates who choose to accept public financing.

For the House of Representatives, a general spending limitation of $125,000 per campaign is established for primary and general elections beginning in 1980. These general limitations are tied to the Consumer Price Index and would be adjusted upward on an annual basis thereafter.

For the Senate, no specific spending limitations are established although the bill itself is written in such a way as to cover both Senate primaries and general elections. We believe that Senate elections should be covered, but we also recognize that it is more appropriate for the Senate to establish specific spending limitations for itself.

Candidates who accept public financing would be able to exceed these general spending limitations in three ways:

First. A candidate would be allowed to raise and spend up to an additional 20 percent of his or her general limitation to cover the actual expenses of fundraising in both primary and general elections.

Second. A candidate for election to the House would be allowed to accept and spend up to $10,000 in additional funds contributed by a State or national party organization in the general election only. A candidate for election to the Senate, and House Members representing States with only one Member of the House, would be allowed to accept and spend up to 2 cents multiplied by the voting age population of the State, or $20,000, whichever is greater, in additional funds contributed by a State or national party organization in the general election only.

Third. Expenditure limitations would be waived for a candidate who accepted public financing if his or her opponent did not accept public financing and exceeded the expenditure limitations contained in our bill. The candidate who had accepted public funds would still be entitled to them, but only up to the levels stipulated in the bill.

To be eligible for Treasury matching, a candidate would have to raise at least $7,500 in amounts of $100 or less from private contributors. After this threshold was reached, the qualifying amount and each additional contribution of $100 or less would be matched by the Treasury on a 1-for-1 basis up to 50 percent of the general limitation applicable. Cash contributions could be matched provided they were properly accounted for. Only contributions of $100 or less from residents of the State in which the election was being held would be eligible for Treasury matching. The qualifying amount would have to be raised only once.

For the House of Representatives, this would mean a maximum allowable Treasury match of $62,500 in 1980 primary and $62,500 in 1980 general election races.

Candidates of minor parties, and independent candidates, would be eligible for matching payments in both primary and general elections. Our bill makes no distinction between types of candidates or parties. No candidate would automatically be eligible for public funding. Rather, the ability of a candidate to qualify for matching payments is based solely upon demonstrated support in raising the threshold qualifying amount and additional contributions of $100 or less.

We realize, Mr. Speaker, that some have expressed concern that public financing could lead to a proliferation of minor party and independent candidates, and we share that concern. On the other hand, we do not believe that public financing should artificially prop up the existing two-party system. Nor should it put obstacles in the way of a candidate who does have broad support among the general public but is not seeking election as a major party candidate.

In short, public funding should be related to public support, and I believe that our bill adheres to this principle.

Funds for congressional public financing would come from the existing $1 voluntary checkoff on Federal income tax returns, and the program would be administered by the Federal Election Commision. If sufficient funds were not available, the Secretary of the Treasury would be authorized to reduce the entitlements of candidates proportionately. Alternatively, the $1 checkoff could be increased by law.

The estimated cost of our bill is $87.1 million every 2 years for House primary and general elections. I do not believe this is an unreasonable sum, Mr. Speaker. And I do think that we need to keep two points in mind when we consider this figure. First, the assumptions that we have used in estimating the cost to the Treasury probably overstate the real cost of this legislation. Second, large sums of money will be spent on campaigning regardless of whether this legislation passes. Thus, the real question is whether we want to continue to rely upon special interests to finance our campaigns or whether we are prepared to adopt a system of partial public financing that reduces our dependence upon those special interests.

In defense of our proposal, I would argue that a matching system preserves and encourages the role of the small contributor, the citizen who wants to do more than simply vote for a candidate. At a time when too many Americans feel alienated from our political system, when they feel there is little they can do that has an impact on their Government, we should be looking for ways to involve more individuals in our political process. Our bill encourages candidates to show some initiative in seeking out such citizens and encouraging them to become more involved.

PRIMARY COVERAGE

Mr. Speaker, for those who support public financing of congressional campaigns a key point of controversy is whether primaries should be covered. As mentioned previously, we have cosponsored H.R. 1 and will work for its enactment. However, we also believe that H.R. 1 is deficient insofar as it excludes primaries.

If one accepts the wisdom and efficacy of public financing, how can primaries logically be excluded from its application? The American people are aware that most seats in Congress are considered safe, that is, occupied by individuals who represent the same political party as the majority of their constituents. The public realizes that many of these individuals can be meaningfully challenged only in primaries.

If public financing is extended only to general elections, I fear that the American people will conclude that we are attempting to have it both ways. Claiming to have extended this important reform to our own general election races, we will be perceived as having protected ourselves from serious challenges in the only elections that often matter, namely, the primaries. This will only increase public cynicism regarding the political process and Congress.

Moreover, covering general elections while excluding primaries will merely result in a diversion of special interest money to primaries. We have seen what happened when public financing was extended to Presidential campaigns. The special interest money was funneled into congressional races. To close off congressional general elections to that money will inevitably result in its being channeled in ever increasing amounts to congressional primaries.

Sophisticated observers do not believe that we can overcome our own political interests on this question, Mr. Speaker. They believe that we are not serious enough about this reform to extend it to our most important elections, the primaries. Two years ago David Broder made this point:

> There is little risk for most incumbents in voting themselves and their opponents a modest subsidy of taxpayer funds for the general election campaign. But primaries are another question. At best, they tend to be nasty and divisive; at worst, they pose real peril for the veteran Washington politician who faces an ambitious young state legislator or mayor of his own party. Few in Congress want to subsidize an intra-party challenge.

Both Congressman MAGUIRE and I believe that it is important to face up to this challenge, and to keep the principle of primary coverage alive. That is why we have introduced this legislation today, and that is why we hope our colleagues will cosponsor the bill.

CONCLUSION

Mr. Speaker, public financing of congressional elections is supported by different individuals for different reasons. Some view it as a way of limiting the escalating costs of congressional campaigns without placing incumbents at an advantage. Others view it as a way of eliminating the influence of big money from our political system while at the same time encouraging the role of the smaller contributor. Some support public financing but wish to avoid excessive costs to the Treasury. Still others believe that it should be used to support major party candidates without unduly inhibiting minor party and independent candidates.

The proposal that Mr. MAGUIRE and I are introducing tries to develop a workable compromise among these diverse goals. It is a deliberate and incremental approach that builds upon the existing system. If confidence in our system of government is to be restored and maintained in the coming years, some action must clearly be taken on this critical issue. We believe that the legislation we are introducing today represents a promising approach for resolving an issue that troubles many thoughtful citizens.

RISING FOOD PRICES AFFECT ALL AMERICANS

(Mr. RICHMOND asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RICHMOND. Mr. Speaker, no topic affects Americans more this year than rising food prices. Each week, consumers see their paychecks disappear in their food baskets as Government efforts to halt skyrocketing food prices prove ineffective.

Yesterday, I had the opportunity to cohost a forum on food prices in New York City, along with my colleague, GERALDINE FERRARO, and City Consumer Affairs Commissioner Bruce Ratner. This session was held to assess the effectiveness of the administration's recently announced wage and price program as it affects food prices.

Witness after witness—including wholesalers, retailers, and consumers—told us that the guidelines are unworkable, restricting consumers to a stringent standard of wage control, while at the same time providing a complicated price program which allows food corporations to realize high profits and tax writeoffs.

For example, we find that large conglomerates—strictly adhering to the Federal guidelines—can average losses from nonfood items into the prices of food items. This lack of economic scrutiny on an item-by-item basis presents a distorted perception of actual food price increases.

Mr. Speaker, I would like to share with my colleagues the full text of my remarks at yesterday's forum:

INTRODUCTORY REMARKS BY REPRESENTATIVE FRED RICHMOND, NEW YORK CITY FOOD PRICE HEARING, MARCH 12, 1979

Good morning. I would like to take this opportunity to thank Queens Representative Geraldine Ferraro, New York City Consumer Affairs Commissioner Bruce Ratner and, in particular, the Commissioner's excellent staff for its commitment to a comprehensive, continuing public debate of the important issue of rising food prices.

Today, we are inaugurating the first in a series of monthly, in-depth hearings and field trips into the multi-billion dollar New York Food Industry. Our probe will take us from the supermarket shelf to Hunts Point Terminal Market to the restaurant counter, to the advertising agency, into the Food Stamp bodega in Williamsburg and, finally, to the kitchen table.

Commissioner Ratner, Congresswoman Ferraro and I are determined to channel consumer curiosity, outrage and action towards those segments of the food industry and public sector which may be unduly profiteering from the high prices or are negligent in serving the American Consumer.

No topic is on the minds and affects the pocketbooks of Americans more this year than rising food prices. Each week, consumers across the Nation see their paychecks disappear in their weekly food basket as government efforts to halt skyrocketing food prices are being proven totally ineffective.

Last year, food prices in the United States increased by 11.7%, while food consumed at home, according to the Bureau of Labor Statistics for the year ending January 31st, is up 13.3%. A February 5th Business Week economic analysis strongly suggests that food inflation in 1979 may well remain in double digits, perhaps going as high as 15%. Last Friday, the Department of Labor issued another inflationary warning that wholesale food prices continued to soar in February by 1.6% in just one single month.

Finally, the Daily News reported that the President's Council on Wage and Price Stability is ominously projecting a 21% increase in food prices in 1979. Later this morning, Commissioner Ratner will explain the sorrowful state of New York City consumer prices.

This hearing is being held to determine the effectiveness of the Carter Administration's wage and price program as announced on October 24, 1978, and as detailed in the Federal Register on December 28, 1978, and January 4, 1979.

Before we proceed, let us understand the President's wage and price program as it relates to the food sector.

First of all, it is voluntary. All agricultural raw commodities are exempt from the specific price guidelines. Food, once it leaves the farm, changes hands many times. However, the price program does not monitor the change or the additional costs added on as the product approaches the retail level. Instead, the government has chosen to monitor total corporate profits or margins, establishing a 9.5% ceiling, depending upon which criteria the corporation itself choses. According to the Congressional Research Service, the price standard adopted by the Administration calls upon individual firms to limit their cumulative price increases over the next year to one-half a percentage point below the firm's average annual rate of price increase over the past two year period, 1976–1977, or to 9.5%, whichever is less.

By this method, a food company could increase its price of a single item above the Carter limit if its total profits or margins for other foods were below the Carter figure, balancing out the corporate score.

For example, one multi-billion dollar conglomerate owns, among its subsidiaries, both a food division and a cosmetic line. The latter promotes an unprofitable perfume. According to the price guidelines, the conglomerate can raise the profit margin on its food division to offset the loss on its cosmetic line because the plan does not call for individual economic scrutiny on a division-by-division basis. Yet, the conglomerate can still appear to be in compliance with the 9.5% profit ceiling.

We have been told that beef prices are higher because herds have been cut, that fewer cattle are being born, and that American consumers have an insatiable desire for fresh beef.

We have been told that fresh fruits and vegetable prices are higher because of the farm workers' strike in California and higher transportation costs.

We have been told that trucking regulations foster inefficient delivery of food at exorbitant costs by encouraging empty back hauling from urban areas to farms.

Finally, we have been told that corporate concentration in the food industry, where 100 of the largest firms represent 53% of total sales, is a major factor in maintaining artificially high prices for processed foods. These issues must be addressed by the Administration and by the Congress as we grapple with food prices this year.

Nowhere in the Wage and Price Program is the food industry forced to strictly adhere to any guidelines or price controls on its individual products, while consumers are continuously forced to pay higher and higher prices for their food. Once again, the poor and indigent, who are forced to spend more than 40% of their disposable income on food, are the hardest hit. Furthermore, it is a known fact that 70% of the American public, representing present, future, and past wage earners are forced to disproportionately bear the burden of inflation on necessities, the most essential of which is food.

The Carter Program is unrealistic. Consumers living on limited income can no longer maintain pace with soaring food prices, which in fact exceed their own salary rate increases, forcing average American—Working People—to go further and further into debt, just to feed their families.

We New Yorkers are well aware of the strains and pressures created by indebtedness, since our city is still teetering on the brink of bankruptcy. If food corporations and businesses are permitted to continue to hide their profits and increased margins, then it will not be New York City which goes bankrupt, but the Senior Citizens of Flatbush, the Working Poor of Greenpoint, the Food Stamp Family of the Southside and the policeman on the beat in Brownsville. They will be forced into bankruptcy.

We must not forget that each worker in the Carter Plan is limited to a 7.5% wage increase. But the corporations, could—by manipulative bookkeeping—escape their limits, keeping to the letter of the Wage and Price Law but actually evading the spirit of the law.

Once again, our working citizens are exposed to a simple and stringent standard of wage control while we have a complicated, deceptive price program which allows the food corporations to continue to enjoy high profits and tax write-offs.

This morning, I would like to announce that on Wednesday, April 4th, Mr. Alfred Kahn, Chairman of the President's Council on Wage and Price Stability, will testify before the House Subcommittee on Domestic Marketing, Consumer Relations and Nutrition in Washington. I will request that the Nation's Chief Inflation Fighter outline the Administration's strategy for combating increases in specific food commodities, on an item-by-item basis. Mr. Kahn will be asked to provide the Subcommittee with an analysis of how many food corporations are in legitimate compliance with the President's Price programs. We will ask Mr. Kahn which corporations and conglomerates have chosen to combine their food and non-food producing entities in their financial submissions to the Council.

We will further develop, through today's hearings, a more specific and detailed probe of the President's price plan. Later this month, Commissioner Ratner and I will join with other Members of Congress in taking this important, fact-finding session to the Hunts Point Terminal Market, so that the vegetable merchants and fresh produce merchants, who would have liked to have been here this morning, will be given the opportunity to tell their side of the food price crisis story.

Furthermore, I would like to invite the general public, as well as the food processing and manufacturing industries, to return here on Monday, April 2nd, to present their opinions on the President's Food Price Inflation program. This session will be held prior to Mr. Kahn's appearance before the Congress so that we can better focus the debate on what direction government and consumers should be taking to lower and stabilize food prices. Today's witnesses, representing the wholesale, consumer, and retail segment of the New York Food Industry, will present a wide-ranging spectrum analysis of the current food price situation."

CONDOMINIUM ACT OF 1979

(Mr. LEHMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LEHMAN. Mr. Speaker, one of the top priorities of the people of south Florida in recent years has been relief for condominium owners who have been victimized by unfair developer practices. Yesterday, I reintroduced a bill, H.R. 2792, the Condominium Act of 1979, which will help those condominium owners and any prospective condominium buyers as well.

This legislation was originally prepared by the U.S. Department of Housing and Urban Development in cooperation with south Florida's Congressmen and Senators. It provides for minimum national standards for disclosure and consumer protection. State laws which are certified as having met or exceeded these standards will take precedence over the standards prescribed in this legislation. Indeed, one of the aims of this bill is to encourage States to act to protect condominium purchasers and owners.

The features in this legislation which are of greatest importance to south Florida's condominium owners pertain to common area and recreation leases and long-term maintenance contracts which were a condition of sale.

The problem of the 99-year recreation lease is addressed in a provision which allows condominium unit owners, by a two-thirds vote, to bring a court case to have a lease declared unconscionable. Once this determination is made, relief to the unit owners could be granted by the court. Such relief could include rescission of the lease as well as the award of damages.

Many of these long-term leases contain automatic escalator clauses. To meet this problem, the bill declares that future automatic rent increases under such leases would be unenforceable.

"Sweetheart" maintenance contracts, where the unit owners entered into a contract with the developer while the developer still controlled the condominium association, could be terminated 90 days after two-thirds of the unit owners vote to do so.

Additionally, this legislation would void existing lease provisions which require unit owners to pay all attorneys' fees or judgments incurred by the developer in suits between the owners and the developer.

Abuses such as these have gone on for too long without adequate help being given to the victims, many of whom in south Florida are retirees. Although the problems have become especially clear in Florida, where condominiums first achieved widespread popularity, the condominium boom is nationwide. Present owners and future buyers throughout the country deserve protection from unscrupulous developers.

Some critics have charged that Federal legislation such as this would be unconstitutional because it would interfere with existing contractual relationships. As the Condominium Act was being prepared, however, the opinion of the Attorney General was sought concerning its constitutionality. After reviewing the legislation's provisions, it was the judgment of the Justice Department "that the bill has no serious constitutional impediments." In addition, the Department noted:

> Where Congress is legislating in an area within its appropriate function, the Supreme Court has repeatedly upheld laws which have had retrospective consequences.

Following the introduction of this legislation last year, many of my constituents requested that similar relief from unconscionable leases be granted to residents of cooperatives as well as condominiums. Within a few days, I intend to introduce another piece of legislation to extend certain provisions contained in the Condominium Act of 1979 to cooperatives as well. It is my intent to have this second bill considered simultaneously with the Condominium Act.

Florida's Senator **Richard Stone** has introduced indentical legislation in the Senate, and I am delighted to have as initial cosponsors of the House bill four of my south Florida colleagues. Another cosponsor is Congressman **Ben Rosenthal**, chairman of the Commerce, Consumer, and Monetary Affairs Subcommittee, who has long been very active in seeking to eliminate the abuses commonly found in condominium transactions.

I am also pleased that Congressman **Thomas Ashley**, chairman of the Housing and Community Development Subcommittee, has assured me that hearings on this legislation will be held as soon as possible.

Passage of such condominium reform legislation is long overdue, but with the support and cooperation of my congressional colleagues and the administration, I am convinced that the Condominium Act of 1979 can become law during the 96th Congress.

The bill follows:

H.R. 2792

A bill to encourage broader utilization of the condominium form of homeownership, to provide minimum national standards for disclosure and consumer protection for condominium purchasers and owners and tenants in condominium conversions, to encourage States to establish similar standards, to correct abusive use of long-term leasing of recreation and other condominium-related facilities, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Condominium Act of 1979".

TITLE I

FINDINGS AND PURPOSE

Sec. 101. (a) The Congress finds and declares that there is a shortage of adequate and affordable housing throughout the Nation; that utilization of the condominium form of ownership can increase the supply of housing and expand the opportunities for homeownership particularly for low- and moderate-income and elderly persons and families. The Congress further finds that consumer abuses have occurred throughout the Nation in the condominium industry which have caused economic and social hardships for consumers, which threaten the continued use and acceptability of the condominium form of ownership and which interfere with the interstate sale of condominiums and that continuation of these abuses is a national problem requiring Federal action.

(b) It is therefore the purpose of this Act to establish national standards for consumer protection and disclosure together with appropriate enforcement procedures, to encourage States to adopt statutes which will provide substantially equivalent or greater consumer protection, and to correct and prevent continuing abuses including abusive use of long-term leasing of recreation and other condominium-related facilities.

TITLE II

DEFINITIONS

SEC. 201. As used in this Act the term—

(1) "affiliate of a developer" means any person who controls, is controlled by, or is under common control with a developer. A person "controls" a developed if the person (i) is a general partner, officer, director, or employee of the developer, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 per centum of the voting interests of the developer, (iii) controls in any manner the election of a majority of the directors of the developer, or has contributed more than 20 per centum of the capital of the developer. A person "is controlled by" a developer if (i) the developer is a general partner, officer, director, or employee of the person, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 per centum of the voting interests of the persons, (iii) controls in any manner the election of a majority of the directors, or (iv) has contributed more than 20 per centum of the capital of the person;

(2) "agent" means any person who represents, acts for or on behalf of, or in concert with, a developer in selling of offering to sell any condominium unit in a condominium project, but such term does not include an attorney at law whose representation consists solely of rendering legal services;

(3) "association", "unit owners association" or "owners association" means the organization, whose membership consists exclusively of all the unit owners in the condominium project, which is, or will be, responsible for the operation, administration, and management of the condominium project;

(4) "automatic rent increase clause" means a provision in a lease permitting periodic increases in the fee due under the lease which is effective automatically or at the sole option of the lessor, and which provides that the fee shall increase at some percentage rate or the rate of a recognized index;

(5) "common elements" means all portions of the condominium project, other than the units;

(6) "common expenses" means expenditures made or liabilities incurred by or on behalf of the association, together with any allocations to reserves;

(7) "condominium instruments" means all documents or instruments and amendments thereto creating the condominium project;

(8) "condominium project" means real estate which (i) has portions designated as units for separate ownership and the remaining portions designated for common ownership solely by the owners of those units, each owner having an undivided interest in the common elements, and (ii) is or has been offered for sale or sold, directly or indirectly, through use of any means or instruments of transportation or communication of interstate commerce, or the mails;

(9) "conversion condominium project" means a condominium project containing any building that was, at any time before the first conveyance of a unit to a purchaser, wholly or partially occupied by persons other than purchasers and persons who occupy with the consent of purchasers;

(10) "convey" or "conveyance" means (i) a transfer to a purchaser of legal title in a unit at settlement, other than as security for an obligation or, (ii) the acquisition by a purchaser of a leasehold interest for more than five years;

(11) "developer" means any person who offers to sell or sells his interest in a unit not previously conveyed. Developer also means any successor of such person who offers to sell or sells units in the condominium project and who assumes special developer rights in the project including the right to: add, convert or withdraw real estate from the condominium project; maintain sales offices, management offices and rental units; exercise easements through the common elements for the purpose of making improvements within the condominium; or exercise control of the owners association;

(12) "executive board" means the body, regardless of name, designated in the condominium instruments to act on behalf of the association;

(13) "ground lease" means a lease, in a leasehold condominium project, of the real estate on or in which one or more of the units are located, the termination or expiration of which will terminate the condominium project or reduce the number of units in the condominium project;

(14) "interstate commerce" means trade, traffic, transportation, communication, or exchange among the States, or between any foreign country and a State, or any transaction which affects such trade, traffic, transportation, communication or exchange;

(15) "lease" includes any agreement or arrangement containing a unit owner's obligation, individually or collectively, to make payments for a leasehold interest or for other rights to use or possess real estate, not including mortgages or other such agreements for the purchase of real estate;

(16) "leasehold condominium project" means a condominium project in which all or a portion of the real estate is subject to a lease, the termination or expiration of which will terminate the condominium project or reduce the size of the condominium project;

(17) "offer" means any advertisement, inducement, solicitation, or attempt to encourage any person to acquire any interest in a unit, other than as security for an obligation;

(18) "person" means a natural person, corporation, partnership, association, trust, or other entity, or any combination thereof;

(19) "purchaser" means any person, other than a developer, who by means of a voluntary transfer acquires a legal or equitable interest in a unit, other than (i) a leasehold interest (including renewal options) of less than five years, or (ii) as security for an obligation;

(20) "real estate" means any leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests which by custom, usage, or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. "Real estate" includes parcels with or without upper or lower boundaries, and spaces that may be filled with air or water;

(21) "sale of a condominium unit" means any obligation or arrangement for consideration for conveyance to a purchaser of a condominium unit, excluding options or reservations not binding on the purchaser;

(22) "Secretary" means the Secretary of Housing and Urban Development;

(23) "special developer control" means any right, arising under State law, the condominium instruments, the association's bylaws, charter or articles of association or incorporation, or power of attorney or similar agreement, through which the developer may control or direct the unit owners association or its executive board. A developer's right to exercise the voting share allocated to any unit which he owns is not deemed a right of developer control if the voting share allocated to that unit is the same voting share as would be allocated to the same unit were that unit owned by any other unit owner at that time;

(24) "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States;

(25) "termination of developer control" means the date when the developer irrevocably relinquishes all rights of developer control or that date when all rights of developer control cease by operation of law or under the provisions of this Act;

(26) "unit" or "condominium unit" means a portion of the condominium project designated for separate ownership; and

(27) "unit owner" means (i) a developer who owns a unit, (ii) a person to whom ownership of a unit has been conveyed, or (iii) a lessee of a unit in a leasehold condominium project whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the condominium project. Unit owner does not include a person having an interest in a unit solely as security for an obligation. If title to a unit is held in a land trust, "unit owner" means the beneficiary of the trust.

EXEMPTIONS

SEC. 202. (a) The provisions of this Act shall apply to all condominium projects and units except—

(1) a condominium unit sold or offered for sale by the Federal Government, by any State or local government, or any agency thereof; or

(2) a condominium project in which all units are restricted to nonresidential purposes or uses.

(b) The Secretary may by rules and regulations exempt any condominium projects or condominium units from any of the provisions of this Act, if and to the extent that the Secretary determines it to be necessary or appropriate in the public interest and consistent with the protection of consumers and the purposes intended by the policy and provisions of the Act.

PROHIBITIONS

SEC. 203. (a) It shall be unlawful for any developer or agent in selling or offering to sell any condominium unit in any condominium project—

(1) to employ any device, scheme, or artifice to defraud; or

(2) to obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made not misleading, or

(3) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon a purchaser.

(b) Any provisions in any lease or management agreement requiring unit owners or the owners association in any condominium project subject to this Act to reimburse, regardless of the outcome, the developer, his successsor, or affiliate of the developer for attorneys' fees and/or money judgments, in a suit between unit owners,' or the owners association and the developer arising under the lease or agreement, are against public policy and void. It is the express intent of Congress that the provisions of this subsection shall apply to all leases or agreements regardless of execution date.

COOLING-OFF PERIOD; RIGHTS OF PURCHASERS

SEC. 204. (a) Prior to conveyance of a condominium unit in a condominium project, the purchaser may elect to rescind any contract or agreement for the sale of the unit at any time during the period ending fifteen days after—

(1) the purchaser and developer have executed the contract, or

(2) the purchaser has been furnished with the written disclosure statement required under section 206,

whichever occurs later.

(b) A purchaser may exercise the right to rescind under this section by hand-delivering notice or by mailing notice by prepaid United States mail to the developer or his agent, and the developer or his agent shall refund to the purchaser fully and promptly, without penalty, any deposit or other payment made by the purchaser.

(c) If the purchaser has not received the written disclosure statement required by section 206 by the time of conveyance, the purchaser may not elect to rescind the sale pursuant to this section but shall have the right to receive from the developer an amount equal to 10 per centum of the purchase price of the unit.

(d) Nothing in this subsection shall prevent purchasers from asserting any rights they may have under section 211. The provisions of section 211(c) shall apply in suits seeking to recover damages in excess of the amount recoverable under section 204(c).

NATIONAL STANDARDS FOR CONSUMER PROTECTION

SEC. 205. (a) In a condominium project subject to this Act, a developer—

(1) shall place any deposit made by a purchaser in connection with the reservation or sale of a condominium unit, up to an aggregate of 15% of the purchase price, in trust or escrow in an account designated solely for that purpose, by a licensed title insurance company, an attorney, an independent bonded escrow company, or an institution whose accounts are insured by a governmental agency or instrumentality, until delivered to the developer either at settlement or upon forfeiture by the purchaser, or returned to or otherwise credited to the purchaser;

(2) shall be liable to the owners association or unit owners for all losses suffered by the association or unit owners as a result of a tort or breach of contract committed by the developer or an affiliate of the developer during any period prior to the termination of special developer control;

(3) shall establish a unit owners association not later than the time of conveyance of the first unit to a purchaser. The developer shall terminate any special developer control of the unit owners association not later than (i) sitxy days after conveyance of 75 per centum of the units to purchasers, or (ii) five years after the date of the first conveyance of a unit to a purchaser, whichever occurs first. In any event, not later than sixty days after conveyance of 25 per centum of the units to purchasers, they shall be entitled to elect not less than 25 per centum of the members of the executive board of the unit owners association, and not later than sixty days after conveyance of 50 per centum of the units to purchasers, they shall be entitled to elect not less than 33⅓ per centum of the members of the executive board of the unit owners association. In determining the percentage of units which have been conveyed, the total number of units in the condominium project is presumed to include the units the developer has reserved the right to build in the recorded condominium instruments;

(4) shall pay all expenses of the unit owners association prior to the first common expense assessment and thereafter shall pay the common expenses for each unit that he owns;

(5) shall not convey to a purchaser an interest in a unit which may be used for residential purposes, unless (i) that unit is substantially completed as evidenced by a certificate of occupancy from a governmental entity or a recorded certificate of completion executed by a registered or licensed architect or engineer who is not an affiliate of the developer; or (ii) there is an executed construction contract for completion of the project and a performance bond of not less than 100 per centum of the cost of completing that project;

(6) shall display or deliver to prospective purchasers advertising and promotional material only if that material is not inconsistent with the information required to be disclosed under section 206;

(7) shall, other than in a conversion condominium project, warrant and guarantee against defects in the plumbing, electrical, mechanical, structural, or any other components constituting any of the units or common elements. The developer shall assure that subcontractors providing such components are also liable to fulfill the warranties and guarantees under the terms and conditions of this paragraph. Such warranties and guarantees shall exist on a unit for at least one year from the date of conveyance of that unit by a developer to a bona fide purchaser and on all of the common elements for at least three years from the date of completion of each common element or the date of conveyance of the first unit to a purchaser other than an affiliate of the developer, whichever is later. Such warranties and guarantees by the developer shall be separate from, and in addition to, any warranties or guarantees provided by any other person, or as otherwise provided by law;

(8) shall, in a conversion condominium project, warrant and guarantee against defects any repair, addition, or improvement which the developer or an affiliate of the developer makes to the plumbing, electrical, mechanical, structural, or any other components constituting any of the unit or common elements. The developer shall assure that subcontractors providing such components are also liable to fulfill the warranties and guarantees under the terms of this paragraph. Such warranties and guarantees shall exist on a unit for at least one year from the date of conveyance of that unit by a developer to a bona fide purchaser and on all of the common elements for at least three years from the date of completion of each common element or the date of conveyance of the first unit to a purchaser other than an affiliate of the developer, whichever is later. Such warranties and guarantees by the developer shall be separate from, and in addition to, any warranties or guarantees provided by any other person, or as otherwise provided by law;

(9) shall in the case of a conversion condominium project—

(i) give each of the tenants and any subtenant notice of the conversion no later than one hundred and twenty days before the developer will require the tenants and any subtenant in possession to vacate. The notice shall set forth generally the rights of tenants and subtenants under this paragraph, and shall be hand delivered to the unit or mailed by prepaid United States mail to the tenant and subtenant at the address of the unit or any other mailing address provided by a tenant. No tenant or subtenant may be required by the developer to vacate upon less than one hundred and twenty days' notice, except by reason of nonpayment of rent, waste, or conduct which disturbs other tenants' peaceful enjoyment of the premises, and the terms of the tenancy may not be altered during that period. Failure of a developer to give notice as required by this paragraph constitutes a defense to an action for possession. Nothing in this paragraph permits termination of a lease by a developer in violation of its terms;

(ii) for sixty days after delivery or mailing of the notice described in (i) of this paragraph, offer to convey such unit or proposed unit occupied for residential use to the tenant who leases that unit. If a tenant fails to purchase the unit during that sixty-day period, the developer may not offer to convey an interest in that unit during the following one hundred and eighty days at a price or on terms more favorable to the offeree than the price or terms offered to the tenant. This clause does not apply to any unit in a conversion condominium project if that unit will be restricted exclusively to nonresidential use or if the boundaries of the converted unit do not substantially conform to the dimensions of the residential unit before conversion;

(10) shall make books and records of the association reasonably available for inspection and copying during the period of his control to unit owners and their authorized representatives, and so long as the units are being offered for sale by the developer, make available for such persons changes in disclosures previously made to purchasers; and

(11) shall not enter into contracts or leases with himself or any affiliate of the developer or enter into any management contract, employment contract, or lease of recreational facilities or parking areas on behalf of the unit owners association, unless those contracts or leases may be terminated by the owners association at any time after the termination of developer control, without penalty, upon not less than ninety days notice to the other party. This paragraph does not apply to any ground lease unless the real estate subject to that lease was submitted to the condominium for the purpose of avoiding the right of the association to terminate a lease under this paragraph.

(b) This section shall not apply to a condominium project in which the developer has conveyed, in an arms-length transaction, at least one unit to a purchaser other than an affiliate of the developer prior to the effective date of this section.

NATIONAL STANDARDS FOR DISCLOSURE

SEC. 206. (a) No later than the time of sale, a developer of a condominium project shall provide to each purchaser of a condominium unit the following written information—

(1) the name and principal address of the developer, and of the condominium project;

(2) a brief narrative description of the condominium project, including, without limitation, (i) a precise statement of the nature of the interest which is being offered, (ii) the types and number of units presently planned to be built, and (iii) the total number of units that may be included in the condominium project by reason of action of the developer, such as by future expansion or withdrawal of real estate, and the expected effects which such future action would have on the purchaser's interest, and (iv) the nature and extent of any recreational facilities the developer has built or is obligated to build, and (v) a statement as to whether, and under what conditions, persons other than unit owners in the condominium project are entitled to use such facilities;

(3) a statement of the number of units the developer intends (i) to rent or (ii) to sell in blocks of units to persons who do not intend to occupy the units on a year-round basis;

(4) a statement disclosing whether any units or common elements in the condominium project may be used for commercial or industrial purposes, the nature and extent of such uses, and the effect of such uses, if any, on the condominium unit owners;

(5) the developer's schedule for start and completion of all buildings, units, recreation facilities, and other common elements, together with a statement of which portions of the condominium project he is obligated to build under the recorded documents and which portions need not be built;

(6)(i) copies and a brief narrative description of the significant features of the sales contract, the condominium instruments, the bylaws, rules, and regulations, and amendments thereof, (ii) copies of any contracts and leases to be signed by purchasers, (iii) a brief narrative description of any contracts that are subject to section 205(a)(11), and (iv) a statement disclosing whether or not the developer or an affiliate of the developer has an interest in such contracts or leases, and disclosing the extent of such interests, if any;

(7) the expected significant terms of any financing the purchaser is required to use by the developer, including the name of the lender, estimated interest rate, minimum downpayment, and commissions, if any, the developer may receive for arranging the financing;

(8) the terms of warranties, if any, provided by the developer and subcontractors under section 205:

(9) the annual association balance sheet if any, and a projected budget for the association covering the period of one year from the date the first unit is conveyed to a purchaser, and thereafter the current budget of the association, a statement of who prepared the budget, and a statement of the budget's assumption concerning occupancy and inflation factors. The budget shall include, without limitation: (i) a statement of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement, the items to be covered by the reserves and a statement of the basis for and the adequacy of the amount of the reserve, if any, (ii) a statement of any other reserves, (iii) the projected common expenses by category of expenditures for the association, (iv) the projected monthly common expense assessment for each type of unit and the formula for determining each unit's share of common expenses, (v) the projected income from common expense assessments and a statement identifying any other sources of income, and (vi) any current or expected fees or charges to be paid by unit owners for the use of the common elements and other facilities related to the condominium project;

(10) a statement disclosing any services provided by the developer which are not reflected in the budget, or any expenses he pays which he expects may become, at any subsequent time, a common expense of the association, and the amount of the additional cost which would be assessed at that time for each type of unit;

(11) a statement disclosing what utilities, insurance and taxes shall be paid for by the association and an estimate of the costs of utilities, insurance, and taxes to be borne by the unit owners individually;

(12) the amount of any initial or special fee due from the purchaser at closing, together with a description of the method of calculating the fee, the purpose to which the moneys will be put, the limitations, if any, on the use of the funds, and whether or not the fee is refundable upon sale of the unit by the purchaser;

(13) a description of any liens, defects, or encumbrances on or affecting the title to all or part of the condominium project;

(14) a statement of any judgments against the association or against the developer materially affecting the condominium project and the status of any pending suits material to the condominium project of which a developer has actual knowledge or to which the association or developer is a party;

(15) a statement of all restrictions or limitations on the use, occupancy, sale, or rental of any condominium unit;

(16) a statement of the purchaser's rights under section 204 of this Act;

(17) a statement that any deposit made by a purchaser in connection with the sale of any unit will be held in trust or escrow until delivered to the developer either at settlement or upon forfeiture by the purchaser, or returned or otherwise credited to the purchaser. The statement shall also contain the name and address of the trustee or escrow agent holding such escrow; and

(18) a statement of all unusual and material circumstances, features, and characteristics of the condominium project.

(b) In the case of a conversion condominium project, the developer shall provide the following information in addition to the information required in subsection (a) of this section—

(1) a report, or a statement by the developer based on such report, prepared by an independent licensed architect or engineer, describing the present condition of all structural components and mechanical and utility installations which are material to the use and enjoyment of the condominium project;

(2) a statement by the developer of the expected useful life of each item reported on in paragraph (1) or a statement that no representations are made in this regard, and a statement of which items reported on in paragraph (1) are not covered by warranties disclosed under subsection 206(a) (8); and

(3) a list of any outstanding notices of uncured violations of building codes or other municipal regulations, together with the estimated cost of curing those violations.

(c) In the case of a leasehold condominium project, the developer shall provide the following information in addition to that required in subsections (a) and, if applicable, (b) of this section—

(1) a brief narrative description of the terms and significant features of the lease including, but not limited to (i) the amount of annual rent, (ii) the method of payment, (iii) the provisions pertaining to increases in rent, (iv) the date and place of recordation of the lease, (v) the expiration date, and (vi) the real estate subject to the lease;

(2) a statement describing any rights of unit owners to redeem or renew the lease and to remove any improvements, the manner whereby such rights may be exercised, or a statement that they do not have those rights;

(3) the formula for determining allocation of ownership interests, voting rights, and common expense liability upon termination of the lease; and

(4) a statement describing any right of the lessor to terminate the leasehold interest prior to the expiration of the lease.

(d) The developer, prior to conveyance, shall disclose to all purchasers any material change in the information previously furnished as required by this section.

(e) All information required by this section shall be in writing and fully, accurately, and simply stated.

(f) If a condominium project is composed of not more than twelve units and no power is reserved to a developer to make the condominium project part of a larger condominium project, group of condominium projects, or other real estate, the disclosures need not include the disclosures otherwise required by paragraph (2)(ii)(iii), (3), (4), (5), (11), (12), (13), and (14) of subsection (a) of this section.

(g) This section shall not apply to a condominium unit restricted to commercial or industrial purposes.

(h) This section shall not apply to the sale of a unit in a condominium project in which the developer has conveyed, in an arms length transaction, one or more units to a purchaser other than an affiliate of the developer prior to the effective date of this section.

(i) If a condominium project is currently registered with the Securities and Exchange Commission of the United States, delivery to a purchaser of a copy of the prospectus files with the Securities and Exchange Commission, under the provisions of the Securities Act of 1933, satisfies the disclosure requirements of section 206 of this Act.

STATE CONDOMINIUM JURISDICTION

SEC. 207. (a) Nothing in this Act may be construed to prevent or limit the authority of any State or local government to enact and enforce any law, ordinance, or code with regard to any condominium project or condominium unit not in conflict with this Act. It is the intent of Congress to encourage the assumption and exercise by States of the authority and responsibility for the protection of condominium purchasers and owners.

(b) The Secretary, in the Secretary's discretion, may certify that standards and disclosure requirements in a State's laws applicable to condominium units or projects, taken as a whole, provide substantially equivalent or greater consumer protection than the national standards. Upon such certification the standards under the State's laws will apply for the purposes of this Act in lieu of the standards in sections 205 and 206. The Secretary may, in the Secretary's discretion, withdraw certification upon determination that a State's laws do not meet the requirements for certification.

INVESTIGATIONS, AND PROSECUTION OF OFFENSES

SEC. 208. (a) Whenever it shall appear to the Secretary that any person is engaged or about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this Act, or of any rule or regulation prescribed pursuant thereto, the Secretary may, in the Secretary's discretion, transmit such evidence as may be available concerning such acts and practices to the Attorney General who shall bring an action in any district court of the United States, or the United States District Court for the District of Columbia to enjoin such acts or practices, and, upon a proper showing, a permanent or temporary injunction or restraining order shall be granted pursuant to this section, without bond. The Secretary also may transmit such evidence as may be available concerning such acts or practices to the Attorney General who may institute the appropriate criminal proceedings under this Act.

(b) The Secretary may make investigations as the Secretary deems necessary to determine whether any person has violated or is about to violate any provision of this Act or any rule or regulation prescribed pursuant thereto, and may require or permit any person to file a statement in writing, under oath or otherwise as the Secretary shall determine, as to all the facts and circumstances concerning the matter to be investigated. The Secretary is authorized to publish information concerning any such violations, and to investigate any facts, conditions, practices, or matters which the Secretary may deem necessary or proper to aid in the enforcing of the provisions of this Act, in the prescribing of rules and regulations thereunder, or in securing information to serve as a basis for recommending further legislation concerning the matters to which the Act relates.

(c) For the purpose of any such investigation, or any other proceeding under this Act, the Secretary or any officer designated by the Secretary is empowered to administer oaths and affirmations, subpena witnesses and compel their attendance, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which the Secretary deems relevant or material to the inquiry. Such attendance of witnesses and the production of any such records shall be required from any place in the United States or any State at any designated place of hearing.

(d) In case of contumacy by, or refusal to obey a subpena issued to, any person, the Secretary may, in the Secretary's discretion, transmit evidence of such act or practice to the Attorney General who shall bring an action to invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records and documents. And such court shall issue an order requiring such person to appear before the Secretary or any officer designated by the Secretary, there to produce such records and documents if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court shall be punished by such court as contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found.

OPERATIONAL TERMINATION OF SELF-DEALING CONTRACTS

SEC. 209. (a) Any contract that—

(1) provides for operation, maintenance, or management of a unit owners association or property serving the unit owners; and

(2) is between unit owners or the unit owners association and the developer on an affiliate of the developer; and

(3) was entered into while the owners association is controlled by the developer through special developer control or because the developer holds a majority of the votes in the owners association; and

(4) is for a period of more than two years may be terminated without penalty by the unit owners or owners association.

(b) The termination may occur at any time following termination of developer control of the unit owners.

(c) The termination shall be by a vote of owners of not less than two-thirds of the units other than the units owned by the developer or an affiliate of the developer.

(d) Following the unit owners' vote, the termination shall be effective ninety days after hand-delivering notice or mailing notice by prepaid United States mail to the parties to the contract.

(e) It is the express intent of Congress that the provisions of this section shall apply to contracts regardless of execution date.

CIVIL ACTIONS; UNCONSCIONABLE LEASES

SEC. 210. (a) Unit owners may bring an action seeking a judicial determination that a lease or leases, or portions thereof, whether or not the lease or leases are net or gross, are unconscionable if each lease has all of the following characteristics:

(1) it was made in connection with a condominium project; and

(2) it was entered into while the owners association is controlled by the developer through special developer control or because the developer holds a majority of the votes in the owners association; and

(3) it had to be accepted or ratified by purchasers or through the unit owners association as a condition of purchase of a unit in the condominium project.

Such suit must be authorized by the unit owners through a vote of the owners of not less than two-thirds of the units other than units owned by the developer, or an affiliate of the developer, and may be brought by the unit owners as a group or through the unit owners association.

(b) In making its determination of unconscionability, the court shall consider, but not be limited to—

(1) any gross disparity between obligation incurred and the value of the benefit derived by the lessees, including consideration of (i) the obligations to pay rent, taxes, and insurance, and to maintain, repair, and replace the property, (ii) the value of the leased property, (iii) the price at which comparable property could have been acquired, and (iv) the lessor's rate of return on investment in the leased property and the condominium development as a whole;

(2) the unequal bargaining position of the parties to the lease;

(3) the adequacy of disclosure of the existence and terms of the lease to purchasers and the ability of purchasers to comprehend their rights and obligations thereunder;

(4) identity of interest, if any, of original parties to the lease; and

(5) subsequent ratification of amendment to the lease agreed to by a majority of the unit owners other than the developer or an affiliate of the developer.

(c) If it is established that, in addition to the characteristics of subsection (a) of this section, the lease—

(1) is for a period of more than twenty-one years or is for a period of less than twenty-one years but contains automatic renewal provisions for a period of more than twenty-one years; and

(2) contains an automatic rent increase clause or creates a lien subjecting any unit to foreclosure for failure to make payments; and

(3) contains provisions requiring the lessees to assume all or substantially all obligations and liabilities associated with maintenance and use of the leased property;

then the court, in making its finding, shall consider the lease to be unconscionable, unless proven otherwise by clear and convincing evidence under the standards in subsection (b).

(d) Upon finding that any lease, or portion thereof, is unconscionable, the court may exercise its authority to grant remedial relief as necessary to avoid an unconscionable result. Such relief may include, but shall not be limited to, rescission, reformation, restitution, the award of damages and reasonable attorney fees and court costs.

(e) The remedies provided by this section are to be liberally administered to the end that the aggrieved parties are put in as good a position as if the bargaining and terms had been fair.

(f) Notwithstanding the provisions of subsections (a) through (e) of this section, exercise of any automatic rent increase clause shall be unenforceable, against unit owners or the owners association, as to future increases in rental payments occurring after the effective date of this Act in a lease having all of the following characteristics:

(1) it contains provisions requiring the lessees to assume all or substantially all obligations and liabilities associated with maintenance and use of the leased property; and

(2) it was entered into while the owners association is controlled by the developer through special developer control or because the developer holds a majority of votes in the owners association; and

(3) it had to be accepted or ratified by purchasers or through the unit owners association as a condition of purchase of a unit in the condominium project.

(g) It is the express intent of Congress that the provisions of this section shall apply to leases regardless of execution date, except that subsections (c) and (f) shall not apply to—

(1) ground leases entered into prior to the enactment of this Act; or

(2) any ground lease which the lessor has entered into in an arms-length transaction with the developer, without there being an identity of interest between the lessor and the developer. Such identity of interest includes, but is not limited to, situations where the lessor is the developer, an agent of the developer, an affiliate of the developer, or is a member of the immediate family of the developer or affiliate of the developer.

CIVIL ACTIONS; ADDITIONAL REMEDIES

SEC. 211. (a) A developer, or agent or successor thereto subject to this Act, may be sued at law or in equity by any person aggrieved by a violation of this Act.

(b) In any suit authorized by this section for violation of sections 203, 205, or 206, damages may be awarded or such other relief granted as deemed fair, just, and equitable. The court in awarding relief shall consider, but not be limited to, the contract price of the unit, the amount paid by the purchaser on the contract, the cost of any improvements or necessary repairs paid by the purchaser, the fair market value of the unit at the time of sale to the purchaser, the fair market value of the unit at the time the suit was brought, and the fair market value of the unit at the time of judgment.

(c) In any suit brought by purchasers alleging misrepresentations or omissions of disclosure requirements in violation of sections 203(a) or 206, the plaintiff must prove that the misrepresentations or omissions were material and that the defendant acted intentionally or negligently.

(d) Unless otherwise specified, suits authorized under this Act may be brought by one or more purchasers on behalf of all purchasers in a condominium project or by the owners' association in its own right or as representing all or part of the members of such association. In a class action under this Act brought by one or more unit owners as representative of other unit owners in a condominium project, the complaint shall be verified and shall allege with particularity the efforts the plaintiff has made to have the owners association bring such action on behalf of all unit owners. The class action may not be maintained if plaintiff has failed to notify the officers of the association of the intention to file the suit, or if such owners association is seeking in a pending suit to enforce the rights alleged in the plaintiff's suit.

(e) Every person who becomes liable to make any payment under this section may recover contributions from any person who, if sued separately, would have been liable to make the same payment.

(f) The amounts recoverable under this section may include interest paid, reasonable attorneys' fees, independent engineer and appraisers' fees, and court costs.

CRIMINAL PENALTIES

SEC. 212. Any person who willfully violates section 203(a), 205, or 206 of this Act shall upon conviction be fined not more than

$10,000 or imprisoned not more than five years or both.

JURISDICTION

SEC. 213. The district courts of the United States, the United States courts of any territory, and the United States District Court for the District of Columbia shall have jurisdiction of offenses and violations under this Act and under the rules and regulations prescribed by the Secretary pursuant thereto and concurrent with State courts, of suits in equity and actions at law brought to enforce a liability or duty created by this Act without regard to amount in controversy. Any such suit or action may be brought in the district wherein the defendant is found or is an inhabitant or transacts business, or in the district where the offer or sale took place and process in such cases may be served in other districts of which the defendant is an inhabitant or wherever the defendant may be found Suits by purchasers to enforce their rights under section 205 or 206 regarding condominium projects located in States certified pursuant to section 207(b) shall be brought in State court. No case arising under this Act and brought in any State court of competent jurisdiction shall be removed to any court of the United States, except where any officer or employee of the United States in his official capacity is a party. No costs shall be assessed for or against the Secretary in any proceeding under this Act brought by or against the Secretary in the Supreme Court or such other courts.

LIMITATIONS OF ACTIONS

SEC. 214. No action shall be maintained to enforce any right or liability provided in sections 210 and 211 unless brought within six years after such cause of action accrued except that an action pursuant to section 210 involving a lease in existence at the time of enactment of this Act must be brought within three years of enactment of this Act.

ADMINISTRATION

SEC. 215. (a) The authority and responsibility for administering this Act shall be in the Secretary of Housing and Urban Development who may delegate any functions, duties, and powers to employees of the Department of Housing and Urban Development.

(b) The Secretary shall have authority, from time to time, to make, issue, amend, and rescind such rules and regulations and such orders as are necessary or appropriate to carry out the purposes of this Act. For the purpose of rules and regulations, the Secretary may classify persons and matters within the Secretary's jurisdiction and prescribe different requirements for different classes of persons or matters. In the development of these rules and regulations the Secretary shall consult with representatives of the building industry, with appropriate public officials and organizations of public officials, with representatives of the lending community and with representatives of consumer groups.

(c) Any person who violates any provisions of this Act or any rule, regulation, or order issued by the Secretary thereunder may be subjected to a civil penalty, in a determination by the Secretary after opportunity for a hearing, not to exceed $5,000 for each violation. Each separate offense shall be a violation and, in the case of a continuing offense, each day shall constitute a separate violation. The determination of the Secretary shall be subject to review only as provided in subsection (d) below.

(1) Penalties assessed pursuant to this section may be collected in any action brought by the Attorney General or, if the Attorney General directs, by the Secretary in any district court of the United States. In such action the validity and appropriateness of the final determination imposing the penalty shall not be subject to review.

(2) The amount of such penalty, when finally determined shall be payable to the United States Treasury.

(d) All hearings pursuant to subsection (c) of this section shall be public and any determination after such hearing shall be based on the record made at such hearing which shall be conducted in accordance with the provisions of the Administrative Procedures Act. A person aggrieved by a final determination of the Secretary under subsection (c) of this section may request a judicial review thereof in the United States court of appeals nearest where the person does business or United States Court of Appeals for the District of Columbia within twenty days after the Secretary's determination. Technical review of the Secretary's determination shall be in accordance with section 706 of title 5, United States Code.

CONTRARY STIPULATIONS VOID

SEC. 216. Any condition, stipulation, or provision binding any person to waive compliance with any provisions of this Act or of the rules and regulations of the Secretary shall be void.

REPORT TO CONGRESS

SEC. 217. The Secretary shall prepare and submit to Congress, a comprehensive report on the administration of this Act and the progress of States in providing consumer protection for condominium purchasers. The report shall be due thirty months after the enactment of this Act.

CONSUMER RESEARCH, EDUCATION, AND INFORMATION

SEC. 218. The Secretary is authorized, by contract or otherwise, to undertake research, education, information, and technical assistance activities designed to inform, assist, and protect consumers in the purchase of condominium units and management of condominium projects.

ADDITIONAL REMEDIES

SEC. 219. The rights and remedies provided by this Act shall be in addition to any and all other rights and remedies that may exist under Federal or State law.

APPLICABILITY OF OTHER PROVISIONS OF LAW

SEC. 220. (a) Compliance with the requirements imposed by or under this Act by a developer of a condominium project, not exempt under section 202, in which the units are in a building or buildings that are constructed or proposed to be constructed by the developer, shall be deemed to satisfy the requirements now or hereafter imposed under the Interstate Land Sales Full Disclosure Act with respect to a sale of or an offer to sell a condominium unit in a condominium project.

(b) Nothing in this Act shall affect the applicability of the Securities Act of 1933 and the Securities and Exchange Act of 1934.

(c) The provisions of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act (15 U.S.C. 2301 et seq.) shall be applicable in addition to warranty provisions of this Act, notwithstanding section 111 (d) of that Act (15 U.S.C. 2311(d)).

AUTHORIZATION OF APPROPRIATIONS

SEC. 221. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEPARABILITY

SEC. 222. If any provisions of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

EFFECTIVE DATE

SEC. 223. This Act shall become effective upon enactment except sections 205, 206, 208, 209, 210 a–e, g, 212 and 220(a) shall become effective one year after enactment.

LEGISLATION TO INCREASE GIFT TAX EXCLUSION

(Mr. SHUMWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUMWAY. Mr. Speaker, today I am introducing legislation which increases the annual per donee gift tax exclusion from $3,000 to $6,000. This is a much needed correction of a tax provision which has remained unchanged since 1942, and will serve to ease slightly the tax burden now borne by many Americans.

Currently, a gift from one individual to another is not taxed unless it exceeds $3,000 in value during any given year. The per donee exclusion is unlimited, in that a donor may make any number of gifts of $3,000 or less to different donees without incurring gift tax liability.

The Federal gift tax was enacted as part of the Revenue Act of 1932 "to assist in the collection of the income and estate taxes, and prevent their avoidance through the splitting up of estates during the lifetime of a taxpayer." This rationale, I believe, remains valid today.

However, in order "to obviate the necessity of keeping an account of and reporting numerous small gifts, and * * * to fix the amount sufficiently large to cover in most cases wedding and Christmas gifts and occasional gifts of relatively small amounts," the Ways and Means Committee at that time provided for a $3,000 per donee exclusion. Asserting that this was "insufficient," the Senate Finance Committee recommended that the exclusion be raised to $5,000—the figure accepted by the conference committee.

In 1938, this amount was reduced to $4,000 and, in 1942, reduced again to the present level of $3,000. This action was taken because, according to the Ways and Means Committee, "it is possible to distribute property of large aggregate value over a period of years, free not only of gift tax, but of estate tax as well."

This may well have been the case in 1942, but today the dollar is worth only one quarter of what it was then. What might have been purchased for $3,000 in 1942 would, if all else remained equal, cost $12,000 today. Conversely, $3,000 today is worth only $750 in 1942 dollars.

Because of inflation, it is clear that the per donee gift tax exclusion no longer fulfills the criteria of its adoption in 1932: The exclusion of gifts of "relatively small amounts" from taxation. As inflation has increased, the Treasury has reaped windfall benefits, as is the case with regard to a number of other sections of the tax code. Unlike some other areas, however, Congress has not seen fit so far to help obviate this effective increase in gift tax liability through periodic rate reductions.

Mr. Speaker, I am not proposing that

we adjust for the entire decline in the value of the dollar since 1942. Rather, I am suggesting that we raise the current $3,000 per donee exclusion to $6,000—a figure, in real terms, only half as large as that adopted in 1942.

The American people are demanding tax relief; they expect to be protected from the impact of inflation on their taxes. During the coming months, we will undoubtedly debate at great length the issues of taxation and inflation—a debate that is badly needed. Major proposals for personal and corporate rate reduction, for indexation, and measures requiring that the Federal budget be balanced have already been introduced; more may be expected.

These are all worthwhile efforts, and they enjoy my strong support. Today I am not proposing a measure that requires lengthy debate, nor one that can, in and of itself, bring about the kind of total tax relief that is needed. My proposal is simple and straightforward. It belatedly attempts to make one much needed correction in the tax code—correction in an area that has no doubt been overlooked for many years—in order to bring the code into conformance with the intent of Congress as affirmed when the gift tax was originally enacted. It is a modest effort, providing in real terms a much lower per donee exclusion than provided for by the Revenue Act of 1932. However, I believe it is a step in the right direction.

I urge my colleagues to support this legislation.

BILINGUAL BALLOT

(Mr. THOMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. THOMAS. Mr. Speaker, I recently introduced legislation which will correct a grievous error made by the Congress when it enacted the 1975 amendments to the Voting Rights Act of 1965. The intent of this legislation is the elimination of the mandatory requirement that language minority groups be offered a ballot in that language.

The 94th Congress included in the legislation it passed, a provision which required counties to provide special election materials if 5 percent or more of the population was of a single language minority group and the group as a whole had an illiteracy rate higher than the national average.

Mr. Speaker, while I am sure the Congress thought it was acting in the best interests of our language minorities, the practical experience with this provision has shown it to be a very expensive and little used item.

In my home, Kern County, Calif., the cost of implementing this provision was awesome. In the June 6, 1978, primary, 67,430 Spanish ballots were printed while only 174 were actually used. This led to an average cost per Spanish ballot used of $167.67, compared with an average cost of $2.32 per English ballot used.

Additionally, Mr. Speaker, I am certain that many of those people in a language minority find it insulting to be given a ballot which reflects their previous language rather than the language of their new citizenship. Since the naturalization test requires a proficiency in English for citizenship, why then do we ask our new citizens to vote in their previous language? It is my belief that the funds spent in implementing this provision of the Voting Rights Act could be better spent in other ways such as encouraging higher voting participation by language minority groups.

As a State legislator, I was often annoyed by programs which were mandated by the Federal Government yet offered no funds for implementation of the mandated programs and this is one such program.

Therefore, I am introducing legislation repealing the provisions of the 1975 amendments to the Voting Rights Act of 1965, which mandates the bilingual ballot.

□ 1225

NATIONAL CEMETERY LEGISLATION

(Mr. HAMMERSCHMIDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. HAMMERSCHMIDT. Mr. Speaker, I have been apprised of an unusual situation with respect to the burial of the spouse of a deceased veteran in a national cemetery.

Under existing law and regulations, the widow of a deceased veteran may be buried in or adjacent to the grave of her deceased husband. If she remarries, this burial eligibility is terminated until such time as the remarriage terminates.

The eligibility for burial with her veteran husband is reinstated when the widow's second marriage is terminated by annulment, divorce, or the death of her second husband. If the widow predeceases her second husband, she is not eligible for burial with her veteran husband in a national cemetery.

Both the gentleman from Missouri, the Honorable Gene Taylor and I have similar cases wherein the widow of a veteran has remarried and the second husband has planned to be buried with the deceased wife of his prior marriage.

The veteran's widow cannot make plans for burial with her deceased veteran first husband because she is not eligible if she dies before her second husband.

This unfortunate situation will be corrected by a bill I am today introducing with the cosponsorship of the Honorable Gene Taylor. This bill, Mr. Speaker, will permit the election by a widow of burial with her veteran deceased husband in a national cemetery despite the fact that her remarriage has not terminated.

H.R. 2810

A bill to amend title 38, United States Code, to allow a surviving spouse of a deceased veteran to be buried in a national cemetery with such veteran even if the surviving spouse has remarried

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1002(5) of title 38, United States Code, relating to persons eligible for interment in national cemeteries, is amended to read as follows:

"(5) The wife, husband, or surviving spouse of any of the persons listed in paragraph (1) through (4), any minor child, and, in the discretion of the Administrator, any unmarried adult child, of any person listed in paragraphs (1) through (4), and any person who would be a surviving spouse of a person listed in paragraphs (1) through (4) but for the fact that such person has remarried, but any such person may be buried in a national cemetery under this paragraph only at such person's election and if such person's grave is adjacent to the grave of the person described in paragraphs (1) through (4)."●

JOINT RESOLUTION INTRODUCED TO IMPROVE AND EXPAND INFORMATION CONCERNING WORKING WOMEN

(Mr. AKAKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. AKAKA. Mr. Speaker, I am introducing a joint resolution today with the Honorable Cec Heftel which would require the specified executive departments to improve and expand collection, analysis, and publication of labor force characteristics relating to working women. This measure is needed to promote better administration of existing equal opportunity and equal pay laws and to insure proper planning for women employed in Federal programs.

With 56 percent of all the American women over the age of 16 gainfully employed, working women presently constitute 48 percent of the total national work force. More than one-half of the Nation's children have working mothers. Yet working women earn only 58 cents for every dollar earned by working men. This inequity results in part from the fact that women are still denied entry into the higher paying professional, technical, and managerial positions.

Unfortunately, the lack of adequate statistical data has made it difficult for Government officials and planners on the State and local level to implement new programs designed to meet the dynamic needs of working women and their families. The increasing number of women seeking employment will have an even more profound impact on our society in the years to come. Government must become more responsive to this important segment of the national work force.

The resolution we are proposing calls on the Department of Commerce, in conjunction with the Department of Labor and the Department of Health, Education, and Welfare, to develop better methods for collecting, analyzing, and publishing labor force characteristics relating to working women. It would also require the Bureau of the Census to provide a statistical breakdown of the data which is equivalent to that provided for working men. This occupational data would include cross tabulations on the basis of race and sex for women employed in Federal programs.

Passage of this resolution would not only benefit working women, but equally important, it would assist government officials and planners on the State and local level. Therefore, I strongly urge that early consideration be given to this measure and I include the text of the resolution in the RECORD:.

H.J. RES. 251

A joint resolution to require improvement and expansion of the collection, analysis, and publication of statistical data relating to working women

Whereas 56 per centum of adult women in America are presently engaged in gainful employment, as compared to only 20 per centum in 1900, and working women constitute 48 per centum of the total national workforce;

Whereas the increasing numbers of women seeking employment will have a profound impact on population planning, family-oriented policies of the Federal, State, and local governments, national economic planning, and national employment policies;

Whereas the available evidence indicates that working women are victims of economic discrimination and earn only 58 cents for every dollar earned by working men, and women are still denied entry into the higher paying professional, technical, and managerial positions; and

Whereas proper planning and improved administration and enforcement of existing equal employment opportunity and equal pay laws have been stymied by the lack of adequate statistical data relating to working women. Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Department of Commerce, in cooperation with the Department of Labor, and the Department of Health, Education, and Welfare, shall adopt methods for improving and expanding the collection, analysis, and publication of labor force characteristics relating to women in all occupations with special attention paid to women in professional, technical and managerial positions.

SEC. 2. The Secretary of Commerce shall insure that the Bureau of the Census, in its data-collection activities and in the publication of statistical tables relating to the employment of women in all occupations with special attention paid to women in professional, technical, and managerial positions, provides a statistical breakdown of the data equal to that provided in the case of men employed in all occupations especially men in professional, technical, and managerial positions with cross tabulations on the basis of race and sex.

SEC. 3. The Secretary of Labor, Secretary of Commerce, and the Secretary of Health, Education, and Welfare shall insure that the Bureau of the Census, in its data-collection activities and in the publication of statistical tables shall provide statistical breakdowns of data relating to the employment of women under Federal Government programs with cross tabulations on the basis of sex and race.

□ 1855

TRIBUTE TO JOE PATERNO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. CLINGER) is recognized for 5 minutes.

● Mr. CLINGER. Mr. Speaker, I rise in tribute to a good friend, a dynamic leader of young men, an exemplary teacher, and a most distinguished constituent—Head Football Coach Joe Paterno of the Penn State University Nittany Lions.

In 1978, Penn State football enjoyed perhaps the most extraordinary year in its extraordinary history. For the first time in its 92-year football history, the school earned the "No. 1" regular season ranking in both wire service polls. No fewer than six of Coach Paterno's changes—quarterback Chuck Fusina, offensive tackle Keith Dorney, defensive tackles Bruce Clark and Matt Millen, defensive safety Pete Harris, and kicker Matt Bahr—were honored as first-team All-American selections.

Coach Paterno won his share of much-deserved accolades as well. Joe was named Coach of the Year by the American Football Coach's Association and the Football Writer's Association of America. Moreover, the ABC television network—which contributed $2,500 to Penn State's general scholarship fund in Coach Paterno's name—recognized Joe as its 1978 NCAA Division I Coach of the Year. And just to sweeten the ante, for the fourth time in 11 years, the New York Football Writer's Association named him the most outstanding major college coach in the East. No other coach has earned this particular plaudit more than once.

Mr. Speaker, after serving as Rip Engle's chief assistant for a number of years, Joe Paterno became head coach at Penn State 13 years ago. In those 13 years, Joe has compiled one of the most impressive winning records in the history of collegiate football—123–25–1. His winning percentage (.829) is the fifth best of all time thus earning Joe Paterno a spot alongside Amos Alonzo Stagg, Frank Leahy, and Bud Wilkinson in the pantheon of American football legends.

On Wednesday of this week, I have the privilege of attending the Nittany Lion Club dinner honoring Joe and his lovely wife Sue here in the Nation's Capital. Coach Paterno will rightfully become the first recipient of the Washington-area Penn State Alumni Association's Man of the Year Award. The Paternos, incidentally, are the proud parents of five children back home in State College, Pa.

Mr. Speaker, as impressive and precedent setting as Joe Paterno's coaching accomplishments are, they really do not tell the whole story. Joe Paterno is revered in Pennsylvania and has become a household name throughout this country because of his marvelous personality and infectious wit. And also because unlike many coaches, Joe Paterno keeps football in its proper perspective.

In 1971, this man with the refreshingly unorthodox approach to coaching football told Life magazine:

> I do not think a licking is the worst thing in the world. Look, think back when you were 19 or 20 with all the frustrations and doubts about the future you had then. You can't tell these kids a football loss is a great tragedy. It's not.

Joe takes those words very seriously. He justifiably takes great pride in the fact that, during his reign as head coach, Penn State has graduated a greater percentage of its scholar-athletes than virtually every major college in the country. It is no accident that the Penn State players who go on to play professionally are praised as often for their intelligence and leadership qualities as they are for their physical attributes. Jack Ham, Franco Harris, Lydell Mitchell, and my personal favorite, Ed O'Neil from my hometown of Warren, Pa., are all imbued with Paterno's desire for all-around excellence.

The one thing that separates Joe Paterno from the rest of us in Pennsylvania's heartland—and it is one of the things we like best about him—is his distinctive accent. His asphalt-laden lexicon instantly betrays his Brooklyn upbringing. Joe and his brother George, who now does the "color" commentary for the Penn State highlights show, were high school standouts at Brooklyn Prep. Joe later quarterbacked a very successful Brown University team. His coach at Brown once said of Joe:

> He can't pass and he can't run. All he can do is think—and win.

After graduating from Brown with a degree in English literature, Joe turned down an opportunity to attend law school to enter the coaching profession.

Perhaps it is appropriate that this street-wise humanist with the gravelly voice incongruously plies his trade in one of the loveliest and most bucolic settings in North America—Pennsylvania's Nittany Valley. Mr. Speaker, we are proud that Joe Paterno has become part of rural Pennsylvania's landscape and heritage. And, Mr. Speaker, I consider it a privilege to praise this warm and gentle man—a great coach, and a greater human being.●

PANAMA CANAL TREATIES; A CASE STUDY IN DECEPTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. BAUMAN) is recognized for 30 minutes.

Mr. BAUMAN. Mr. Speaker, the Subcommittee on Panama Canal of the Merchant Marine and Fisheries Committee has now been holding hearings for the past month regarding implementation legislation required by the Panama Canal Treaty. Though it is not generally known by the public or, I suspect, by a great many Members of Congress, the treaty was written in such broad terms that many specifics and details were left to later action by the Congress itself.

During the course of these hearings we have heard numerous witnesses as well as conducting 3 days of hearings in the Republic of Panama on February 22–25. While the major portion of this legislation is assigned to the Merchant Marine and Fisheries Committee, several bills have also been assigned to the Committee on Foreign Affairs, the Committee on Post Office and Civil Service and the Committee on Armed Services, all of which have joint referral on this legislation. Each committee is under a mandate from the Speaker to report back this legislation to the House by April 15.

The need for action is apparent because under the terms of the Brook reservation to the Panama Canal treaties the treaties will not take effect until October 1, 1979. Prior to that time, implementing legislation will have to be enacted into law in order to carry out the terms of the treaties themselves.

Mr. Speaker, I firmly believe that the Panama Canal treaties are not only against the best interests of the United States, but the full truth now coming to light regarding these treaties requires a complete reexamination of this important issue. Both from an economic standpoint and a military and strategic standpoint, the canal is of inestimable value to the United States and the free world.

It is apparent, based on the findings of our hearings, not only that many issues thought to be settled are still open, but that the Government of the Republic of Panama is raising serious questions as to the interpretation and meanings of the treaties which could seriously impair the rights of the United States and our citizens.

WHAT WILL IT REALLY COST?

First let me discuss one point that is of great importance to all American taxpayers.

Throughout the discussions of the Panama Canal treaties during 1977 and 1978, repeated Carter administration assurances were given to the Congress and to the public that there would be no cost to the American taxpayers involved in carrying out the terms of the treaties. When the signing of the treaties was first announced in 1977, the Honorable John M. Murphy, the chairman of the Merchant Marine and Fisheries Committee, was good enough to call a full day of hearings in which our committee heard testimony from Ambassadors Sol Linowitz and Ellsworth Bunker, the chief negotiators for the United States. I well remember the response of Ambassador Linowitz to a question which I asked him at that time. He said, and I quote,

> It (the treaties) will not involve any additional burden to the American taxpayer since it can be financed from Canal revenue.

Subsequently, numerous officials of the administration made similar statements, including the President himself. Typical of these statements was that of Deputy Secretary of State Warren Christopher who said in hearings before the other body on the treaties,

> We insisted during the negotiations that payments to Panama for its contribution to the Canal enterprise be drawn from the Canal's earnings, but the treaties will not require any appropriations from the American taxpayer.

Similarly, Secretary of State Cyrus Vance, in the same hearings, made the statement,

> The treaties require no new appropriations, nor will they add to the burden of the American taxpayer.

President Carter, in a statement which was typical of many he made during this period, said on December 28, 1977,

> We wanted a treaty that did not put a financial burden on the American taxpayer, and we got it.

Mr. Speaker, I submit to you that, based on the findings of our committee so far, it is possible that the American taxpayer will have to pay direct subsidies and other costs resulting from the treaties in excess of $4 billion. It is also obvious from our findings that this was known to the administration at the time these statements were made by officials and therefore they were either totally derelict in their duty or they in fact deliberately lied to the American people.

Let me describe to you some of the costs which have become obvious as a result of our hearings.

First of all, we should start with the understanding that on October 1, 1979, American control and sovereignty over the Panama Canal Zone is transferred to the Republic of Panama, a nation created as a result of our own actions shortly after the beginning of this century. Although it is impossible to place a replacement or actual value on the entire canal, its real estate and capital improvements, its estimated value has been given as at least $20 billion. Thus the Carter administration is giving to the Government of Panama, as a result of these treaties, a possible $20 billion investment.

It is true that under article 13 of the Panama Canal treaty that certain annual payments are to be made out of the tolls to the Republic of Panama. Some of these payments are fixed. For instance, article 13, paragraph 4(a) requires that an annual amount, based on a payment of 30 cents per Panama Canal ton, be paid to Panama by the operator of the canal, which will be the new Panama Canal Commission. Originally estimated to be $45 million a year, this amount has been revised upward based on increased traffic in the canal in the last year and a half, and may reach as much as $60–65 million a year.

Second, the same article of the treaty requires that a fixed annuity of $10 million be paid out of canal operating revenues each year.

Third, there is another $10 million amount to be paid each year out of the operating revenues of the canal, "to the extent that such revenues exceed expenditures." It has been the understanding throughout that this would be a contingent payment only in situations where the canal made "a profit".

Lastly, article 3 of the treaties requires that the Panama Canal Commission pay to the Republic of Panama, out of toll revenues, an additional sum of $10 million for the police and fire protection, street maintenance, lighting, cleaning, traffic management and garbage collection and other sanitary services which the Republic of Panama will provide and which is now provided by the canal company itself.

Taken together, these figures mean that the Government of Panama, beginning on October 1, will receive payments coming from the tolls of the canal in the amount of at least $75 million and possibly as much as $85 to $90 million. This should be compared with the present annual payment to Panama of a little over $2 million being paid out of the tolls.

Because these large payments to Panama will suddenly become an annual claim upon the toll revenues, it is necessary to have an immediate increase in tolls which has been projected by Governor Parfitt of the Canal Zone to be as much as 22 percent. Depending on the form of the implementing legislation passed by the Congress, tolls could rise by as much as 45 percent. Bear in mind that whatever the amount of money required to be paid by the shippers using the canal, at least one third of that amount will be paid directly by American consumers because the goods that are shipped through the canal are purchased in that amount by Americans. It takes very little figuring to see that these toll increases will directly affect the consumers of the United States with price increases for many goods, including bulk commodities such as petroleum shipped from Alaska and also finished products that are shipped by sea.

So, Mr. Speaker, we were told by the President and others that there would be no additional cost to the American taxpayer.

Putting aside the costs of the increased tolls, let me now turn to specific items which our hearings have documented both through testimony of officials of the Administration and estimates provided by the General Accounting Office and the Comptroller General, Mr. Staats.

First, the Administration is proposing that the Panama Canal Commission no longer pay interest on the original American investment of building the canal. This means that over the life of the treaties which end on December 31, 1999, the American taxpayers will lose at least $400 million in interest payments—a direct cost attributable to the treaties.

In addition, the General Accounting Office has estimated that the direct costs of transferring the canal to Panama, moving fixed installations from the present Panama Canal Zone to a reduced area of the new Canal Zone on October 1 and afterward, will cost at least $399 million over the life of the treaty. This figure could be increased appreciably depending on inflation and other factors. Of this amount, $70 million has been requested in military construction costs, and more than $10 million has already been spent despite the fact that the Congress refused to authorize it. This was done when the President authorized it as an "emergency" expenditure, as he apparently has the right to do.

In addition, there are numerous functions now performed by the Panama Canal Company which will be transferred to the U.S. Department of Defense, and administered by them after October 1. This includes such things as commissaries, various other services rendered to the canal company employees including the education of their children, certain types of housing and medical care, and other assistance. Previously this had all been paid for from canal revenues, and will now be a direct claim upon the American taxpayers, provided for in the Defense appropriations bill each year. The original estimated cost annually for such services was $65 million. In a briefing with members of our subcommittee, General MacAuliffe, who commands the Southern Command for the U.S. Army, estimated that the cost will rise in 5 years to $80 million annually. This means that over the life of the treaties the American taxpayers will have to pay a direct subsidy for just this one area of services rendered through the Department of Defense, that will cost at least $1.3 billion and could rise to close to $2 billion.

Mr. Speaker, in recent months, various other claims have been made by the Government of Panama which have entailed costs to the U.S. Government. For instance, an agreement was signed between the United States and Panama a few months ago that transferred without any cost to the Panamanian Government a $5 million FAA aviation facility at the airport in Panama City. Claims have been made by the Panamanians that all movable property now in place in the area of the Canal Zone that will be ceded to them on October 1 must remain there. In one instance this has meant that the Navy, which had issued an order in February to move an estimated $150 million of equipment out of this area of the Canal Zone, with much of it going back to the United States. The Navy later countermanded that order and at present the material is to remain in place. This means an additional cost, if indeed this material is not returned to the United States, as is our right under the treaty.

Here are a few other estimated costs that have been described to us by the General Accounting Office; early optional retirement payments for Canal Company employees—$270 million; severance pay liabilities estimated for employees losing their jobs—$3.5 million; certain liabilities for accrued annual leave and repatriation of employees scheduled for transfer to DOD—estimated at at least $11 million; loss on retail store inventories—estimated at $2 million; cost of disinterment and reinterment of American citizens remains—estimated at $1.7 million; general and administrative expenses for the U.S. Government associated with a reduction in force of employees—$1.8 million; added retirement outlays as estimated by the Office of Personnel Management for a period of 30 years—at least $270 million.

Mr. Speaker, the picture that I paint with these statistics, all of which can be documented, is clear. There has been a deliberate effort to deceive the American people regarding the costs of these treaties, and on this basis alone it seems to me that we should seriously consider whether or not Congress should seek every legal means to prevent the implementation of these treaties until the full truth is known.

Mr. Speaker, if the costs of implementation of the Panama Canal Treaties alone are not enough to give serious concern, then other equally distressing political developments uncovered by our hearings certainly are.

ASTOUNDING CLAIMS BY PANAMA

Although it has been virtually ignored by the American news media, there have been repeated instances of misinterpretation of the treaty terms by the Government of Panama that have met with little or no resistance on the part of our Embassy in Panama City or the Department of State. Almost by himself Gov. Harold Parfitt, the President and chief executive officer of the Panama Canal Company, has been fighting a battle to vindicate the terms of the treaties and protect American interests during the transition period.

Let me cite a number of instances of what I mean.

Earlier I referred to the requirements of article 13 of the Panama Canal Treaty which provide for certain annual payments to the Government of Panama. Interestingly enough, a letter was sent to the U.S. Government by an official of the Government of Panama within a matter of days after the treaties' ratification last fall. In it, and in just a few brief paragraphs, the Panamanian Government told the United States that it wanted its payments made annually, in advance. Then, citing article 13's provision for a 30 cents per canal ton payment, Panama said it would take that money every 2 weeks, presumably in cash. But this still does not address the question of the $10 million contingency payment authorized in article 13. As I noted, this is to be paid only in years in which the Canal Company makes a profit.

While in Panama, I directly questioned Fernando Manfredo, advisor to the director general of the Panama Canal Authority, the Panamanian liaison group which is working directly with the U.S. officials during the transition. Mr. Manfrado was asked by me, during a 2-hour official briefing given our subcommittee in Panama City, what the Panamanian interpretation of this contingency $10 million annual payment was. Sr. Manfredo made it plain that the position of the Panamanian Government is that canal tolls must be raised in advance so that each year, in addition to the other payments required by article 13, the $10 million contingency payment would also be paid. In other words, as Panama sees it, it is not a contingency at all but a required payment that the Panamanians demand under the terms of the treaty. Our State Department privately has insisted that this is an incorrect interpretation, but it has said nothing publicly, despite repeated attempts by myself and other members of the committee to receive a clarification.

Even more important to the future operation of the canal, and the people who work for the canal company who will remain after the treaty takes effect, is the question of their future and what their lives under Panamanian jurisdiction will be like. We have already received an indication of the problems that will result. For example, there are literally hundreds of private organizations, churches, benevolent societies, American Legions, VFW's, and other private groups located within the Panama Canal Zone, that are chartered under American law which now applies to the Canal Zone. We have been told under the terms of the treaty that all of the property now made available to these organizations, including the churches, will go to the Government of Panama.

No clear policy of licensing, no clear policy regarding the purchase of such facilities or their use has been set forth by the Government of Panama. It is entirely possible that these groups and churches may be subject to taxation. Panama license fees, and greatly increased utility bills so that they may be in fact put out of business.

Equally disturbing is the claim made by Ambassador Gabriel Lewis Galindez, who heads the Panama Canal Authority, the liaison group to which I just referred. During briefings which we attended, Ambassador Lewis made it plain, as did a number of his aides, that the Panamanian Government claims retroactive jurisidiction over the more than 140 corporations now existing under American law in the Canal Zone.

This means that there will be an attempt to collect back taxes which the Panamanians claim are owed for at least a period of 7 years and possibly longer. In practical terms, a number of these businesses would be wiped out and in the instance of the Canal Zone's only bus company, a $2 million judgment has already been leveled by the Panamanian Supreme Court which the Government informed us would be executed on October 1, when the Panamanians take control. The net result is likely to be that there will be no bus service in the Canal Zone.

The implications of such retroactive jurisdiction are even more severe. We heard testimony from U.S. police officials who now work for the Canal Company that they may be subjected to prosecution for past acts which they took in inforcing American law in the Canal Zone. Again, despite assurances from State Department legal advisers that there is no retroactive aspect granted under the treaties, the Panamanians have clearly and definitely made such a claim and no effort is being made to dissuade them or deal with this serious problem. In terms of operational difficulties for the canal, it means that thousands of employees could be driven out of their jobs rather than stay on under the police and retroactive tax jurisdiction of the Panamanian Government.

In perhaps one of the most insulting and demeaning claims made against the U.S. Government, Ambassador Lewis Galindez told members of our subcommittee that in his view and the view of the Panamanian Government, the United States must bring up to usable condition all the buildings that will be turned over to the Panamanian Government on October 1. There are numerous facilities in the Canal Zone that have not been used for many years. Chief among these is the Coco Solo Naval Air Station on the Atlantic side, adjacent to France Field.

This particular facility has not been in use since the early 1950's and would cost millions of dollars to refurbish for current use. Ambassador Lewis made it plain that, as he put it, "a great nation like the United States" has an obligation to help a "smaller country like Panama" by expending these funds and rebuilding these facilities.

Nowhere in the treaties is such a requirement imposed upon the United States, but certainly this is typical of the spirit of the dealings that the Panamanian Government is now trying to impose on us.

One of the most outlandish claims, since it is clearly contrary to the terms of the treaty in article 13, is that all moveable property now in the U.S. Canal Zone area that will go to Panama on October 1 must be left where it is. This issue was brought to a head by the decision of Governor Parfitt of the Canal Company to transfer old Engine No. 299 from the Canal Zone back to Paterson, N.J., where it was constructed in the early part of this century.

This transfer was requested by the mayor of Paterson and other New Jersey officials several years ago and predates the treaties by some time. Nevertheless, the Panamanian Government and President Royo himself personally complained that the United States had no right to move this or any other property, and that to do so was an insult to the Government of Panama. The controlled Panamanian press mounted a vicious campaign against Governor Parfitt.

Further claims have been made against other movable property, and in one instance this would entail the cost of nearly $150 million to the American taxpayer. I am speaking of numerous pieces of equipment belonging to the U.S. Navy, and located in the Naval dockyard area in Balboa on the Pacific side. As I mentioned earlier, orders were issued to transfer equipment back to the United States, and they were later countermanded.

The General Accounting Office has been requested by our subcommittee to give us a full report on this matter and as yet we do not have the facts. It would appear however, that the Carter administration officials are pressuring the U.S. military to leave material of this nature on the spot as an additional bribe to the Panamanians to purchase their good will, a Panamanian emotion which, in fact does not exist.

In discussions at an hour long meeting with President Royo, members of our Subcommittee were told that the President considered all of the invaluable photographic files and historical documents pertaining to the U.S. building of the Canal, and now located in an area that will go to Panama on October 1, as Panamanian property that must remain in place. This issue is now being negotiated between our two governments, but if unresolved would mean that the United States would be denied forever historical records of one of the greatest accomplishments of our 2 century history. Instead, these materials may go into Panamanian hands for whatever use the Government might make of it.

NOT A PARTISAN ISSUE

Mr. Speaker, lest anyone think that as an original opponent of the treaties, my remarks here today reflect only my own views, I point out that other members of our subcommittee in both parties reached similar conclusions during and after our visit to Panama. The distinguished chairman of the full Merchant Marine and Fisheries Committee, the Honorable JOHN MURPHY of New York, pointed out in a statement made upon our departure from Panama, and again when we resumed our hearings in Washington, that, in his view, there are such fundamental differences between the two governments in their interpretation of what the treaties mean that in fact there may not be any treaties at all.

I certainly concur in that view. We expressed these concerns to Panamanian officials and officials of the State Department, both privately and in our hearings held in Washington upon our return. We were given guarantees by the U.S. Ambassador to Panama, Ambler Moss, who assured us that clarifications from the Panamanian Government and our own Government would be forthcoming. Repeated requests from my office have produced no such guarantees.

Instead, the Subcommittee on the Panama Canal has been subjected to insulting editorials in the controlled press of Panama, one of which I insert at this point in the RECORD. It comes from the Spanish language newspaper in Panama City, La Republica, and appeared on the first of March 1979, and is entitled "They shall gain nothing." Mr. Speaker, you will notice from reading the editorial that the members of the subcommittee, because we have dared to raise these questions, have become, in the mind of the Panamanian controlled press, "power crazed" and "racist".

The editorial follows:

[From La Republica, in Spanish, Mar. 1, 1979]

"THEY SHALL GAIN NOTHING"

Again the country is invaded by U.S. legislators who return with the same domineering attitude, who again express the imperialist intent to defend, protect and even increase the interests of the empire to the north which signed with Panama the treaties that will enter into effect on 1 October.

This time they are members of the U.S. Congress, some of whom were never able to disguise their opposition to the Panamanian liberation cause or to the decision by President Carter, the U.S. Senate and the majority of the U.S. people to put an end to a situation intolerable not only to Panama but also to Latin America and the entire world.

These legislators have been holding what they call "hearings" on territory illegally occupied by their country's armed forces. In fact they were nothing but the second chapter of racist trials in which the attendants jumped on Panama and its people with charges, insinuations and even threats merely for purposes well known to Panamanians. It is another attempt to frighten us, to dissuade us into meekly accepting all the impositions the Potomac legislators may conceive in their power-crazed minds.

They certainly will not achieve their purposes. We Panamanians will uphold our national unity and dignity as a nation.

For three-fourths of a century we have struggled, as we continue to struggle, against the injustices imposed on us, against racist doctrine brought to Panamanian territory and against all sorts of aggression.

We approved the Torrijos-Carter treaties in good faith, although they failed to represent all our aspirations since, in order to progress in our fight for sovereignty, we had to endure additional sacrifices.

These treaties were endorsed by many Latin American rulers, by the secretaries general of the United Nations and the OAS, and by all nations and peoples of the world. On 1 October Panama and its people will demand respect for their rights without fear of threats and without accepting additional impositions from the northern legislators in their evil maneuvers.

Mr. Speaker, at this point I also include in my remarks an editorial broadcast by the Panama City Domestic TV Service on February 28, 1979 and an additional editorial broadcast February 20, 1979;

STATION CALLS FOR VIGILANCE ON TREATY IMPLEMENTATION

In keeping with the campaign aimed at hindering implementation of the Torrijos-Carter treaties, several members of the U.S. House of Representatives have stated that Panamanian officials are trying to modify the canal treaties. Everything seems to indicate that strict implementation of the texts of the treaties, as demanded by our country, its interpreted by the U.S. congressmen as a modification of those documents.

According to Representative Robert Bauman, a member of the Republican Party on the Panama Canal Subcommittee, the new demands might become causes to restrict or prevent reversion of the canal to Panama in the year 2000. John Murphy, a Democratic representative and chairman of the subcommittee, said that these demands mean that we have not really reached agreement on everything.

Both Bauman and Murphy said that Canal Authority officials told the subcommittee here in Panama on Saturday that they interpreted the treaty as a means of requesting a $10-million increase in Panama's budget, thus raising its canal income from $70 million to $80 million per year. This sum would have to be paid by U.S. taxpayers if not covered by revenues. The subcommittee was also told that several of the 140 U.S. companies established here in Panama will have to pay retroactive taxes for the past 7 years, that the abandoned U.S. Coco Solo Naval Base must be totally reconditioned before returning it to Panama and that the locomotive formerly used in the canal that was sent to the United States must be preserved for exhibit here in Panama.

The subcommittee is holding hearings in both Washington and Panama to propose legislation to implement the treaties and return the canal's administration to Panama on October 1 and return all canal property by the end of the century.

According to the U.S. congressmen, the demands were submitted by Canal Authority adviser Fernando Manfredo and Canal Authority Director Gabriel Lewis Galindo.

Our country must remain alert at this stage of the implementation of the Torrijos-Carter treaties in order not to let the conquests achieved be mocked or lost. President Dr. Aristides Royo said recently that we will enter the Panama Canal Zone on 1 October whether or not the Torrijos-Carter agreements are implemented.

CANAL AUTHORITY PROTESTS TRANSFER OF LOCOMOTIVE

Gabriel Lewis Galindo, director of the Canal Authority, today sent a letter of protest to [Canal Zone] Governor Harold Parfitt rejecting as unacceptable and contrary to the spirit of the treaty the unilateral decision by Canal Zone authorities to transfer Locomotive No. 299 to Colon for shipment to a museum in New Jersey. The 3-page letter, signed by Gabriel Lewis Galindo, said that it is neither advantageous nor timely, nor within the spirit of the treaty, for Harold Parfitt to have reached this decision unilaterally, without consulting Panamanian authorities regarding the wisdom of this decision and its consequences in the task of preparing for the implementation of the Panama Canal treaty and the new relationship which the two countries are trying to establish.

The issue of Locomotive No. 299 began over 1 year ago when Dr. Reina Torres de Arauz, director of historical patrimony, wrote the Canal Zone authorities explaining the value of this locomotive, which played a historic role on Panamanian territory, by contributing to the realization of the Panama Canal. Subsequently, architect Edwin Fabrega, then director of the Canal Authority, wrote a letter explaining the national and international motives which made the plans for dismantling the locomotive unjustified.

Engine No. 299 has been on permanent exhibition at the Balboa railroad station for many years. In his vigorous letter of protest Gabriel Lewis Galindo said that actions such as that of taking Engine No. 299 away leave room for critics and opponents to interpret this attitude as part of a U.S. plan to carry out a systematic dismantling of various installations and equipment in the Canal Zone. While warning of the adverse current of opinion that will be generated by this unilateral decision, Gabriel Lewis Galindo questions U.S. good will as regards the respect due the sovereignty of the Panamanian nation.

COMMUNIST INFLUENCE IN PANAMA

Mr. Speaker, I have described in detail only some of the many problems confronting the subcommittee on the Panama Canal as we approach the markup stage of our deliberations. Quite obviously it would seem that the implementing legislation which we are charged with drafting must give control over the Canal during the remainder of the life of the treaties to the Congress with appropriate powers of oversight and annual appropriations. These issues will be decided shortly.

But I would be remiss if I did not also inform the House of the political situation which now exists in Panama. As accurately reported in the Washington Post and a few other American newspapers, the real power in the government of Panama remains firmly in the hands of Gen. Omar Torrijos although he has retired from the formal post of Chief of State of Panama. He once again heads the Guardia Nacional, the combined military and police force which effectively controls Panama and its citizens. Many persons with whom I talked confirmed that Torrijos remains the undisputed power in government without whom no major decisions are made or published.

Last summer General Torrijos voluntarily relinquished his civilian post as head of state and had his hand-picked National Assembly elect as President of the Republic of Panama, Aristides Royo who was then Minister of Education. Despite Royo's lack of previous political experience in elective office he was chosen without opposition.

I am bound to tell the House that a year ago when I visited Panama for more than a week, I repeatedly asked everyone I came in contact with what evidence existed of Communist influence in the government, a charge I had heard often. Two people named as definitely being Communists, based on their past statements and membership in various Communists groups were Romulo Escobar Bethancourt, one of the chief negotiators of the treaties, and the other was Aristides Royo who has now become the President of Panama.

Mr. Speaker, it has long been recognized that there is considerably Communist influence within Panama. Only recently Panama permitted arms shipments to the Sandanista guerrillas in Nicaraugua to travel through Panama. The Cuban Embassy in Panama City has more than a hundred staff members, far in excess of any other nation's embassy and their influence on Panama's government is well known. In recent months President Royo and his government have signed a number of trade and other agreements with Castro's Cuba.

Recently a trade mission from Panama to Eastern European Communist bloc nations returned and while our subcommittee was in Panama, three members of the Soviet politboro were in Panama City meeting with President Royo. These top Russian officials were Stanislav Pilotovich, Karen Brutents and Alexi Mineyev. Their announced purpose for being in Panama was to "explore the possibility that the Soviet Union may provide technical assistance to the Government of Panama" as announced on the Panamanian national television on February 24.

Mr. Speaker, the Congress has been left the task of trying to salvage the irresponsible treaties concluded by the Carter administration. From my remarks today it is clear that there are many serious problems connected with the legislation. On February 16 President Royo of Panama said publicly, "With implementation or without implementation, the Panamanians will enter the Canal Zone on October 1," hardly a veiled threat.

Mr. Speaker I ask my fellow Members of this House whether or not we will do a service to this Nation if we fail to face the realities of the Panama Canal situation as it is today. At the very least the President should seriously consider withdrawing the formal instruments of ratification which were exchanged last fall, a legal power which he has under both domestic and international law.

Until these issues are addressed by both the Carter administration and the Government of the Republic of Panama, I cannot in good conscience vote for any legislation which will affirm the Panama Canal treaties and I suspect that a majority of this House may have the same difficulty.

COSPONSORS ADDED TO THE MEDIA AND INDIVIDUAL PRIVACY PROTECTION ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GREEN) is recognized for 10 minutes.

● Mr. GREEN. Mr. Speaker, today I am pleased to add Mr. AUCOIN, Mr. CONTE, Mr. EDGAR, Mr. HAMILTON, Mr. HOLLENBECK, Mr. LEACH of Iowa, Mr. MITCHELL of Maryland, Mr. PRITCHARD, Mr. SCHEUER, Mr. SENSENBRENNER, Mrs. SNOWE, and Mr. STOKES as cosponsors of H.R. 368, the Media and Individual Privacy Protection Act of 1979. This bill, which I introduced on January 15, is a legislative response to the Farber and Stanford Daily court decisions.

Last year, New Jersey Judge William Arnold cited the New York Times and its reporter, Myron Farber, for contempt in refusing to turn over unspecified notes and materials subpenaed by defense attorneys in a murder trial. The subpena called for the production of more than 5,000 documents, based on the belief of the defense that something in the files would be helpful to the defendant. In challenging the subpena, the New York Times and Farber invoked both the first amendment to the U.S. Constitution and the New Jersey "shield law," which was designed to protect confidential news sources. The New Jersey court brushed aside both defenses, and the U.S. Supreme Court refused to stay the contempt citations.

The Farber case follows in the footsteps of the U.S. Supreme Court's decision in Branzburg against Hayes in 1972. The Supreme Court, in upholding appellate court decisions in Kentucky, Massachusetts, and California, ruled that reporters could be forced to testify before grand juries because the "public interest in law enforcement" must "override" any journalistic claim under the first amendment. Thus, the Farber controversy has served to reiterate that the media cannot rely for protection upon the free press clause of the first amendment.

Nevertheless, as Justice Byron White noted in the Branzburg decision, "Congress has freedom to determine whether a statutory newsman's privilege is necessary and desirable." Title I of the Media and Individual Privacy Protection Act of 1979 is intended to answer Justice White's invitation. It would protect individual journalists and newscasters and the news media from forced disclosure of news sources. The guarantee of confidentiality would extend to actions before courts, grand juries, and Federal and State administrative and legislative bodies.

The following 26 States and Guam have enacted shield laws to protect the confidentiality of news sources:

Alabama, Alaska, Arizona, Arkansas, California, Delaware, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, and Guam.

However, as the Farber case has underscored, local and State judges have succeeded both in circumventing State shield laws and in refusing to recognize a reporter's privilege based on the first amendment. Moreover, unlike the other testimonial privileges; that is, husband-wife, doctor-patient, priest-penitent, the protection afforded by shield laws is not descended from the common law.

The Federal shield law set forth in title I of H.R. 368 seeks to place the journalistic privilege on a par with recognized traditional testimonial privileges while, at the same time, developing and extending the protection afforded the press by the first amendment. The trend of court decisions at all levels clearly indicates that, absent a Federal shield law, no newspersons can successfully combat a contempt citation for refusing to disclose a news source. As Clayton Fritchey wrote in the Washington Post of November 4, 1978:

> Happily, there is now at least a growing consensus in media circles for an unthwartable Federal shield statute, preempting and superseding the vulnerable State shield laws. Since the legislative course is the one suggested by Justice White, it is difficult to see how the Supreme Court could, in good conscience, nullify it.

Certainly, Congress should respond to Justice White's overture by deciding that a statutory newsperson's privilege is "necessary and desirable." A free and unencumbered press is essential to the viability of the American experiment in democracy.

Title II of the Media and Individual Privacy Protection Act of 1979 addresses the search and seizure issues raised in Zurcher against Stanford Daily. In this decision, the U.S. Supreme Court held constitutional a police search pursuant to a judicial warrant of a newspaper office for photographic evidence of persons involved in a violent confrontation with the police during a demonstration in 1971. The Court rejected the Stanford Daily's contention that since it was a third party not suspected of the crime, a warrant was not reasonable under the fourth amendment and a subpena duces tecum was the only proper way to obtain the evidence. The Court also found that the issuance of the warrant did not infringe on the freedom of the press under the first amendment. In a editorial of June 8, 1978, the New York Times said of this decision:

> The privacy rights of the law-abiding were shabbily treated by the Supreme Court the other day when it held that police may search for evidence of crime on the premises of persons who are not themselves suspected of any crime. . . . Judicial warrants may now be obtained for unannounced, wide-ranging searches through files, drawers—even waste baskets—without proof that such methods are needed to guard against destruction of the evidence. This decision strikes a double blow, at individual privacy and press freedom."

Title II of H.R. 368 is based upon H.R. 14288, which I cosponsored with former Congressman Charles W. Whalen, Jr., in the 95th Congress. As a Member of Congress, Chuck Whalen was a champion of freedom of the press and the author of "Your Right To Know," a book on the press shield issue.

This second part of the Media and Individual Privacy Protection Act would require that the subject of a search be permitted an adversary court proceeding beforehand in cases where the search is not being carried out in connection with a lawful arrest. A search warrant could be issued without an adversary proceeding only if there is probable cause to suspect that the person whose premises are to be searched either has committed or is committing a crime, or that the evidence sought would be destroyed, concealed, or altered.

The search and seizure provisions of the bill would apply to State and local officials, as well as those at the Federal level. Most importantly, it should be noted that the measure covers all third party searches, not just those involving the media. The broad sweep of the bill in this regard is the basis for the "Individual Privacy Protection" portion of the measure's title.

Several bills have been introduced thus far in the 96th Congress to protect the media from the kind of search approved by the Supreme Court in the Stanford Daily decision. State legislatures also are considering bills to protect the media. On February 28, for example, the Connecticut House of Representatives passed a bill to require law enforcement authorities to obtain a subpena for documents or photographs held by individual journalists, newspapers, magazines, and television and radio stations.

While this limited approach is a step in the right direction and has my support as such, I believe that all third party searches should be covered. With the exceptions I have mentioned, the "subpena first" approach ought to apply to all innocent third party searches, whether they involve the press or ordinary citizens.

The Media and Individual Privacy Protection Act of 1979 is designed to guarantee the confidentiality of sources of information of the news media and to protect innocent third parties from surprise searches. It is an acknowledgement that Congress must fill the breach in our civil liberties that the judicial branch has created in Farber and in Stanford Daily.

I urge the Committee on the Judiciary and the Committee on Interstate and Foreign Commerce to hold early hearings on H.R. 368 and on the other media and privacy bills so that legislation to remedy these court decisions can be enacted in the 96th Congress. In the interest of furthering discussion on these issues, the text of the Media and Individual Privacy Protection Act of 1979 follows:

H.R. 368

A bill to guarantee the confidentiality of sources of information of the news media and to protect certain rights of privacy of individuals

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Media and Individual Privacy Protection Act of 1979".

TITLE I—MEDIA SOURCE PROTECTION

SEC. 101. For purposes of this title—

(1) the term "magazine" means any publication containing news which is published and distributed periodically, has a paid circulation, and has been entered at the United States post office as second-class matter;

(2) the term "news" means any written, oral, or pictorial information or communication concerning local, national, or international events or other matters of public concern, public interest, or affecting the public welfare;

(3) the term "news agency" means any commercial organization that collects and supplies news to subscribing newspapers, magazines, periodicals, and news broadcasters;

(4) the term "newscaster" means any person who, for gain or livelihood, is engaged in analyzing, commenting on, or broadcasting news by radio or television transmission;

(5) the term "newspaper" means any publication that is printed and distributed ordinarily no less than once a week, has a paid circulation, has been entered at the United States post office as second-class matter, and contains news, articles of opinion in the form of editorials, features, advertising, or other matter regarded as of current interest;

(6) the term "press association" means any association of newspapers, magazines, or newspapers and maagzines which is organized for the purposes of gathering and distributing news to the members of such association;

(7) the term "professional journalist" means any person who, for gain or livelihood, is engaged in the gathering, preparing, or editing of news for a newspaper, magazine, news agency, press association, or wire service; and

(8) the term "wire service" means any news agency that sends out syndicated news copy by wire to subscribing newspapers, magazines, periodicals, or other news broadcasters.

SEC. 102. (a) No court, grand jury, or administrative body of the United States or of any State, legislature of any State, House of Congress or any committee or subcommittee thereof, or any other body having power to hold any person in contempt, shall—

(1) require any professional journalist or newscaster employed or otherwise associated with any newspaper, magazine, news agency, press association, wire service, radio, or television transmission station or network to disclose any news, or the source of any news, which came into the possession of such journalist or newscaster in the course of gathering or obtaining news for publication in a newspaper or magazine, transmission or distribution by a news agency, press association, or wire service, or for broadcast by a radio or television transmission station or network, by which such journalist or newscaster is professionally employed or otherwise associated in a news gathering capacity; or

(2) hold any such professional journalist or newscaster in contempt for failing or refusing to disclose any such news or source of such news.

(b) No court, grand jury, or administrative body of the United States or of any State, legislature of any State, House of Congress or any committee or subcommittee thereof, or any other body having power to hold any person in contempt shall—

(1) require any newspaper, magazine, news agency, press association, wire service, radio, or television transmission station or network to disclose any news, or the source of any news, coming into the possession of such newspaper, magazine, news agency, press association, wire service, radio, or television transmission station or network in the course of gathering or obtaining news for publication, distribution, transmission, or broadcast by such newspaper, magazine, news agency, press association, wire service, radio, or television transmission station or network; or

(2) hold any such newspaper, magazine, news agency, press association, wire service, radio, or television transmission station or network in contempt for failing or refusing to disclose any such news or source of such news.

TITLE II—SEARCHES AND SEIZURES INVOLVING THE MEDIA AND INDIVIDUALS

SEC. 201. The Congress finds that searches and seizures involving persons not reasonably believed to be implicated in the commission of crime are novel in the United States. In order to prevent such searches and seizures and effectuate the objectives of the first, fourth, and fourteenth amendments to the Constitution, the Congress declares that legislation limiting such searches and seizures by local, State, and Federal officers, and by anyone acting under color of law is necessary and appropriate.

SEC. 202. Except as provided in section 203, whoever, acting under color of law and not incident to a lawful arrest, seeks evidence of a crime in the possession, custody, or control of any person other than through a subpena duces tecum which the target of the subpena has the opportunity to contest in a prior adversary court proceeding, shall be fined not more than $10,000 or imprisoned not more than two years, or both.

SEC. 203. Notwithstanding section 202, a search warrant may issue if a court finds, based upon evidence presented at a hearing transcribed by a court reporter, that—

(1) there is probable cause to believe that the person having possession, custody, or control of the evidence has committed or is commiting the crime to which the evidence relates; or

(2) there is probable cause to believe that the evidence sought to be seized would be destroyed, concealed, or altered if the procedure described in section 202 were followed.

SEC. 204. No search or seizure in violation of section 202 shall be lawful without valid consent, and the fruits of such unlawful search or seizure shall not be admissible in any criminal proceeding.

SEC. 205. (a) Any person aggrieved by a violation of section 202, whether or not such violation is willful, may commence a civil action in an appropriate United States district court, without regard to diversity of citizenship or the amount in controversy.

(b) In any action brought under this section, the court may award the aggrieved person such relief as may be appropriate, including general damages, equitable or declaratory relief, punitive damages not to exceed $100,000, the costs of the action, and reasonable attorney's fees.

(c) Jurisdiction is hereby conferred upon the United States district courts to hear and determine actions commenced under this section at any time within three years after the violation occurred or terminated, or one year after the discovery of the alleged violation whichever is later.

SEC. 206. Nothing in this title shall be deemed to—

(1) render valid any search or seizure that is not otherwise in accordance with the requirements of law;

(2) create or imply any limitation upon rights secured by the first, fourth, and fourteenth amendments to the Constitution; or

(3) prevent any State from enacting or enforcing any law designed to create a testimonial or other evidentiary privilege for journalists, or any law designed to protect the gathering and dissemination of news, if such State does not afford journalists less protection than that accorded by this title.●

AMERICANS' ATTITUDES TOWARD RETIREMENT AND PENSIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. GRASSLEY) is recognized for 5 minutes.

● Mr. GRASSLEY. Mr. Speaker, in a recent hearing conducted by the Select Committee on Aging, Lou Harris presented the findings of his poll on the attitudes of workers and retirees regarding pensions and retirement. This in-depth survey has many facets which were not entirely brought out at the hearing due to time constraints and consequently in press accounts. In the next few weeks I will be inserting portions of the study in the RECORD which I think will be of great interest to present and future retirees as well as those responsible for supplying retirement income. In addition, it will provide input for policymakers faced with keeping America's retirement system in "working" order.

The poll, entitled "1979 Study of American Attitudes Toward Pensions and Retirement" emerged with major findings having far-reaching implications in there areas:

Inflation and the quality of retired life;

Mandatory retirement changes;

Attitudes toward private pensions; and

Attitudes toward social security.

Today's statement will highlight those results concerning "inflation and the quality of retired life." To begin with, inflation is clearly the number one problem facing retirees and the providers of retirement income today.

Eight out of ten retired employees say that inflation has reduced their standard of living at least to some degree, four of whom say it reduces their standard of living seriously.

Sixty-one percent of the Nation's leaders cite increasing costs in an inflationary, economy as the main disadvantage of providing pensions plans to their companies' employees.

With regards to the quality of retired life, a majority of retirees are satisfied, but for many, retirement is a time of financial hardship:

Sixty-five percent of retirees feel the quality of retired life is at least as good as the quality of working life, however, 34 percent feel that retired life is worse than the quality of working life, primarily due to financial problems.

Over half (58 percent) of those retired from full-time jobs feel that their current standard of living is at least adequate, but a sizable 42 percent feel that their income provides a standard of living which is less than adequate.

Many retirees are not able to afford some of life's basic necessities. In response to a question in which retirees were asked what they would do if they had an additional $100 a month, small but significant percentages report that they would buy food (18 percent), buy clothes (12 percent), pay off old debts (14 percent), or go to a doctor or dentist (7 percent).

Spurred by inflation, retirement income expectations are rising, and the providers of retirement income are likely to feel increasing pressure for larger benefits in the years ahead:

To current and retired employees, the most important characteristics of a pension plan is that the plan have benefits that go up with the cost of living. A significant 66 percent list is as extremely important and another 27 percent call it very important.

Overwhelming majorities of employees and business leaders feel the standard of living during retirement should be about the same as it was before retirement: 81 percent of current employees and 84 percent of retirees feel that the standard of living during retirement should be about the same as before retirement; 82 percent of the business leaders think that retirement income should be about the same as before retirement.●

BEVERAGE CONTAINER REUSE AND RECYCLING ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Vermont (Mr. JEFFORDS) is recognized for 10 minutes.

● Mr. JEFFORDS. Mr. Speaker, today I am introducing with my colleague, the gentleman from Virginia, JOE FISHER, the Beverage Container Reuse and Recycling Act of 1979. Beverage container deposit legislation has enjoyed considerable success in several States throughout the Nation. Presently, Vermont, Oregon, Maine, Michigan, Iowa, Connecticut, and Delaware have all passed bills. Others that have adopted systems include three municipalities in Minnesota, one in Ohio, several counties in New York, Virginia, and Maryland.

It is possible that 15 additional States will vote on beverage container legislation this year or next, with some very probable successes expected this fall or sometime next year.

Mr. Speaker, at the outset, I would like to point out to my colleagues that deposit legislation is not a wild, unworkable scheme. Nor is it a panacea for all our wasteful ways. Rather, it is a tried and tested proposal that will constructively address some of our problems. It was a part of our way of life in the not-too-distant past. Deposit legislation has enjoyed success, and more importantly, it has engendered tremendous public support in those jurisdictions where it has been in effect.

In Vermont, the deposit law which was passed in 1972, has instilled a great deal of pride among the citizenry. They feel they are doing their part and making a valuable contribution toward the effort to curb waste. The development of a new "conservation ethic," in Vermont is replacing the blantantly wasteful "throw-away mentality" that has prevaded American society for too long.

The Vermont law did not "Ban" any containers, nor was it structured so that one container type was given advantage over another. I think the basis for this approach is very sound—the Vermont Legislature wanted a system that simply provided a basic structure for industry to work within, with a minimal amount of interference in the market place. I think the State legislature succeeded quite well in attaining its goals, as evidence by the results to date.

I should note here that my proposed national beverage container legislation was modeled after the Vermont experience, and would not supersede State and local deposit laws, as long as they are adequate in addressing the problem. While a uniform deposit system is preferable to a tiered system, I think it would be counter-productive for the Federal Government to come along several years after a State has paved the way and impose a new system, when the people of that State have adjusted.

As a nation, the beverage container share of litter—20 to 30 percent by number—according to the Library of Congress, yields $200 to $300 million for cleanup in all places. The U.S. Environmental Protection Agency estimated that if a national deposit system were in effect, by 1980 there would be a 70-percent decline in container litter. Additionally, studies by the Environmental Protection Agency, the Federal Energy Administration, the Resource Conservation Committee, and the General Accounting Office, all estimate considerable inflation fighting consumer savings with enactment of national beverage container deposit legislation. By 1980, such savings, by the most favorable of the studies—the FEA report—could be as high as $2.6 billion nationally.

Another attractive feature of deposit systems is their energy conservation potential. Admittedly, Vermont is a small State, but the energy savings made possible by its own deposit law are substantial. Using the formula for computing energy impact from the Federal Energy Administration report, we have computed the potential savings in Vermont at the equivalent of 708 billion Btu's per year. That is the energy equivalent of over 5 million gallons of the No. 2 fuel oil, or enough to provide for the home heating of over 15,000 Vermonters—that is more than the population of the States third largest city.

According to the Oregon Environmental Council, energy savings attributable to their deposit law are estimated to amount to 1.4 billion Btu's annually, enough to supply the home heating needs of 50,000 Oregonians or to generate 130 million kilowatts of electricity.

An Alcoa County executive recently stated when questioned about Michigan's newly enacted deposit law, that his company had saved $7.5 million last year in energy costs through recycling and thus felt the Alcoa system made it easy to conform to the law.

If national beverage container legislation became a reality, it has been estimated by the Resource Conservation Committee that there would be savings of between 70 trillion and 130 trillion Btu's annually, or the equivalent of about 12 to 13 million barrels of oil per year. The General Accounting Office in its study on national legislation predicts a reduction in industry usage of about 155 trillion Btu's annually.

With regard to jobs and the impact on the economy implementation of a national beverage container deposit system would have, all we need do is look at results from around the country. In Vermont, beverage sales have risen to record levels and the law has created hundreds of new jobs. In fiscal years 1975, 1976, and 1977, Vermont beer sales were up 6.2 percent, 5.8 percent and 6 percent respectively. These figures represent much greater increases than experienced by neighboring New Hampshire and they are almost twice the rate of growth of national beer sales.

In Maine, a Freeport store owner reveals that with the high rate of returns of cans and bottles to his establishment and with the 1 cent handling charge he receives on each item, he "makes" about $400 per month. Additionally, with the high volume of customer traffic in his store returning beverage containers for refund, he has enjoyed increased sales of products other than carbonated beverages.

In Vermont, in terms of man hours, distributors and retailers have hired the equivalent of some 150 full-time employees since enactment of the law. Additionally, since the law was passed over 100 redemption centers for containers have opened in Vermont, translating into an estimated 200 to 300 new jobs.

Nancy Baerwaldt of the Michigan Department of Commerce recently stated that she is expecting job increases totaling 4,000 tabulated from a study the department completed prior to the 1976 initiative campaign. Though hard figures are not yet available, it appears that in Michigan jobs have been created in the handling sectors of the system where containers must be sorted and stored.

The press in Maine indicates that one of the major accomplishments of the container deposit law is the growth of the recycling industry.

Oregon has reported that employment has increased by approximately 300 jobs since enactment of their law.

Nationally, the Environmental Protection Agency has predicted in a report on beverage container legislation that continued expansion of the "throwaway" system eventually leads to further losses in jobs. In contrast, Barbara Blum, Deputy Administrator of EPA has publicly stated that national beverage container deposit legislation would create between 80,000 and 100,000 new jobs, primarily in the distribution and retail sectors.

Perhaps the most compelling experience with deposit legislation has been its reception by the public. By all measures, public support of the deposit system is extremely strong, and is growing with experience. In early 1975, a professional poll conducted by the Decision Research Corp. for the Burlington Free Press showed that nearly 70 percent of Vermonters supported the law as it existed or thought it should be strengthened, while 25 percent opposed it. Later that same year, I mailed a questionaire to all Vermont households seeking public opinion on a variety of national issues. While I did not address Vermont's deposit law "per se", the questionaire asked whether Congress should pass national legislation similar to Vermont's. About 10,000 Vermonters responded, with 78.1 percent saying "yes", 14.2 percent saying "no", and the remainder not expressing an opinion. The question was repeated in a similar questionaire and the results indicate that support has grown substantially. Approximately 11,000 adults responded with 93 percent saying national law should be passed.

In Michigan, though $1.3 million was expended by the Committee Against Forced Deposits to defeat that State's deposit law, the measure passed by 68 percent. Additionally, the Detroit News, the Grand Rapids Press and the Detroit Free Press have all endorsed to one degree or another the Michigan measure as a workable law.

In Maine new polls show that 63.5 percent of the population now favors the law—an increase from the 58 percent that voted it in. The law in all these States could not have obtained its widespread popularity if it had been causing the problems opponents insist would be brought on by deposit legislation, or if the benefits were not visible, tangible, and significant.

Beverage container deposit legislation is not a cure-all, but it is a strategy that should be an integral part of our attack on the growing problems of litter and solid waste. Deposit legislation is totally consistent and compatible with any of the other approaches suggested by opponents. I often hear members of the industry say that we should be pursuing a more comprehensive approach through aggressive development of resource recovery. Mr. Speaker, a very basic problem common to existing resource recovery facilities is that aluminum and glass in the waste stream actually detracts from their efficient operation. The abrasiveness of these container materials causes a great deal of wear and tear on the facility. Additionally, container materials separated from the waste stream through resource recovery are often contaminated with small waste fragements and elements such as zinc and copper, making it unfit for reuse in container manufacturing. It seems to me that a sensible step toward alleviating these problems is to separate aluminum and glass from the waste stream before it reaches the resource recovery facility and, in part, this could be accomplished through a deposit system for beverage containers. Of course, there are those who would argue that by removing beverage containers from the waste stream we remove a great portion of the potential revenue source that these plants depend upon. I have a difficult time understanding that argument, as my understanding is that energy and ferrous metals recovery are the most important factors relating to a plant's economic viability. Under a beverage container deposit law, a resource recovery facility could easily be designated as a redemption center for the purposes of returning empty containers of nonrefillable glass, steel, or aluminum.

Mr. Speaker, based upon experience, the beverage container deposit approach comes as close as any practical policy could toward providing a general solution to the waste disposal, energy and material conservation, and environmental problems associated with beverage containers. There are perhaps other alternatives to these problems, but of all the ones raised during the years of debate over deposit legislation, there is not one that a deposit system would not be compatible with.

One major element that should not be overlooked in the passage of national beverage container deposit legislation, is the anti-inflationary nature of the measure. Of significant importance, it should be noted that Barry Bosworth, Director of the Council on Wage and Price Stability recently stated publicly that he felt passage and implementation of such legislation would not be inflationary. Our evidence, backed by Government studies, indicates that it would, in fact, be counter inflationary.

Mr. Speaker, we as a Nation have, for far too long, viewed the supply of natural resources as inexhaustible. This view has become a painfully obvious misconception we all can no longer tolerate as our limited petroleum reserves are depleted further. It simply makes common sense to look at all those legislative remedies that help conserve our natural resources, besides providing a counter-inflationary process for consumers to save on the purchase of products they are accustomed to using. The bill I have introduced with my esteemed colleague Joe Fisher, represents a legislative initiative that will succeed at these points.

Mr. Speaker, I appreciate the indulgence of my colleagues on this very important issue.●

CONGRATULATIONS TO PRESIDENT CARTER FOR MAJOR BREAKTHROUGHS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Lewis) is recognized for 10 minutes.

● Mr. LEWIS. Mr. Speaker, today I rise to extend high praise and congratulations to President Carter, Israeli Prime Minister Menachem Begin, and Egyptian President Anwar Sadat for the major breakthroughs made today that could very likely lead to a treaty of peace between Israel and Egypt.

I urge citizens throughout America to express their positive support for the progress made thus far. I further encourage all Americans to communicate to the citizens of Israel and Egypt in every possible way, their expressions of hope for a lasting peace.

In response to Sadat's acceptance of new compromise proposals presented by President Carter today, Prime Minister Begin said, and I quote for the record * * * "Great progress has been made * * *" Further—he said his Cabinet and Israel's Parliament will have to debate the new American proposals and if the Parliament were to reject his recommendations to accept the proposals, "it would be the duty of the government to resign."

Prime Minister Begin's strong position of support for the new proposals which address virtually every remaining issue—and President Sadat's acceptance of them, brings us to the verge of the first treaty between Israel and Egypt since the days of the Pharaohs and lights the hope of lasting peace.

Although the shape of the compromise is not yet available, the following issues remain to be worked out: The Israel desire for Sinai oil, Egypt's desire for liaison officials to supervise Palestinian self-rule in the Gaza strip, and the Israeli desire for a quick exchange of ambassadors to show the level of normalized relations that are to be achieved.

In view of the recent developments in Iran, the Soviet and Cuban presence in the People's Democratic Republic of Yemen (South Yemen); the assassination of the American ambassador in Afghanistan and the movement of Saudi Arabia away from its close ties with the United States, today's developments could not be more welcome or timely.

In closing, I urge my colleagues to join me in a biapartisan show of respect for the office of the Presidency by going to Andrews Air Force Base this evening to be present for President Carter's return to America.

I could not disagree more with the President's general handling of foreign affairs. But, his success today deserves our praise. Indeed, at a time of credibility crisis for the Nation among friend and foe alike, our unified expression of support for the office of the President is desperately needed.●

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LEGISLATION TO ESTABLISH A COMPREHENSIVE U.S. REFUGEE POLICY

The SPEAKER. Under a previous order of the House the gentleman from New Jersey (Mr. Rodino) is recognized for 5 minutes.

● Mr. RODINO. Mr. Speaker, I am cosponsoring today legislation submitted by the administration providing for a comprehensive statutory procedure for the admission of refugees to our country.

Ever since the close of World War II, we have had to face emergent and unforseen refugee situations in all parts of the world. For some of these emergencies we were able to respond by special legislation. For others, we have acquiesced in having the Attorney General use his "parole" authority under the Immigration and Nationality Act. The Attorney General is not comfortable with utilizing this authority and we, who have been closely associated with immigration and refugee matters, are also not comfortable with it.

The legislation I am introducing, along with the chairwoman of the Subcommittee On Immigration, Refugees, and International Law, Elizabeth Holtzman, is designed to replace this current, haphazard approach with an orderly system for responding to foreseen refugee situations, as well as to unforeseen emergencies. It also establishes a statutory mechanism for congressional participation as a substitute for the unsatisfactory consultation procedure that is now followed. It also provides funds for the movement and transportation of refugees—a subject which is now only considered after a parole program has been finalized by the executive branch and agreed to by the Congress.

This legislation, in addition, removes the geographical and ideological restriction of the definition of a refugee contained in the act, bringing us closer to conforming to the definition we subscribed to in the U.N. protocol.

We must accept as a fact of life that refugee situations will be with us for years to come. We need only to consider refugee movements since World War II—the displaced persons in Europe as a result of a world conflict, the Hungarian revolt in 1958, the Cuban refugees created by a radical political change in that country, the Czechoslovakian attempt to overthrow Soviet dominance, the expulsions ordered by the Ugandan Government, the Kurd problem, the Chilean problem, the ever present Soviet and Eastern European refugee exodus, and the Indochinese situation. In every one of these refugee emergencies the United States has responded in a humanitarian fashion, both by accepting refugees for resettlement in our country and by providing financial assistance to them.

The House Committee on the Judiciary, and especially the Subcommittee on Immigration, Refugees and International Law which I had the honor of chairing for one Congress, has worked diligently over the years with different administrations to eliminate ad hoc, piecemeal responses to emergency refugee situations. Our history in refugee crises has been one of reaction rather than one of anticipation, preparation and long-range planning.

This was brought forcefully to our attention in the spring of 1975 when in the wake of our withdrawal from Vietnam we were faced with having to care for and resettle immediately more than 135,000 refugees who had been associated with our presence in that area. The committee and the House acted promptly and positively in enacting special legislation to respond to that emergency. This experience demonstrated, in a dramatic way, the necessity for enacting coherent legislation to meet future and continuing refugee emergencies. Since that time, we have constantly urged the administration to present to the Congress a comprehensive refugee bill which would respond to the immediate humanitarian needs, as well as the long-term resettlement needs, of the refugees.

Another laudable objective of this bill is the linking of the issues of "admissions" and "resettlement assistance." Too often, we have agreed to the parole of substantial numbers of refugees, only to find that no funds existed to process, move, and resettle them. In fact, there has been little, if any, coordination in the past between the State Department, HEW, the voluntary agencies, and State and local governments in the development and implementation of parole programs. By joining the subjects of numbers to be admitted and funds for transportation and resettlement, hopefully this bill will facilitate cooperation between, and long-range planning by, the various governmental entities involved in the U.S. refugee program.

Mr. Speaker, I certainly welcome the submission of this long overdue legislation and I can assure my colleagues that it will be considered, on a priority basis, by the full committee. I wholeheartedly support the primary purpose of this draft bill and endorse most of the major provisions contained in the legislation. On the other hand, I am hopeful and confident that each provision in this bill will be carefully reviewed and refined by the Subcommittee on Immigration, Refugees, and International Law as this bill works its way through the legislative process.

CONGRESSMAN ANNUNZIO URGES PASSAGE OF H.R. 65, THE LEGISLATIVE OVERSIGHT ACT OF 1979

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, the 96th Congress has already been called the "Oversight Congress," in recognition of the increased importance of congressional control of the bureaucracy and of economy in Government. However, in order to say we are paying more than mere lipservice to the objective of furthering oversight, we must improve and institutionalize the basic authority and mechanisms under which it operates.

The idea of legislative oversight of the executive branch is as ancient as the separation of powers doctrine, yet is as recent as contemporary techniques of program evaluation and the comprehensive audit. The objectives or goals of oversight are basic to democratic governance—to control capricious and arbitrary behavior of bureaucrats; to insure efficiency and economy of governmental operations; to investigate charges of fraud and waste in governmental programs; to guarantee administrative adherence to legislative intent; and to determine executive compliance with legal, constitutional, and ethical standards. Such high ideals prompted President Woodrow Wilson to write:

> Quite as important as legislation is vigilant oversight of administration.

At present, the effectiveness of congressional oversight mechanisms and authority leaves much to be desired because these procedures lack regularity, comprehensiveness, and coordination. To correct some of these deficiencies, I have joined with 41 other House Members to introduce H.R. 65, the Legislative Oversight Act of 1979. The 42 sponsors are a bipartisan group, representing virtually every House committee.

H.R. 65 has three basic objectives which should be emphasized:

(A) REQUIRING GREATER SPECIFICITY IN ESTABLISHING THE OBJECTIVES OF FEDERAL PROGRAMS AND ACTIVITIES

Section 101(1) provides that any bill establishing new budget authority or new or increased tax expenditures must be accompanied by a statement of the specific objectives and planned annual accomplishments of each program being authorized.

Only in this way can programs be fairly and realistically evaluated; otherwise, future Congresses would be unable to determine whether the program is meeting its objectives and the administering agency would be unable to determine reliably and clearly the legislative intent. This provision is in line with suggestions from the General Accounting Office which emphasize that reliable program evaluation requires clarity and consistency of objectives and expected accomplishments.

Section 201 elaborates on the general provision by requiring that the report accompanying such proposed legislation contain five basic items: First, specific objectives and planned annual accomplishments, along with certain economic and social impact statements and the relationship between expected costs and annual accomplishments of the program; second, potentially or actually conflicting, overlapping, or duplicative programs and activities (governmental and nongovernmental) and their interrelationships; third, previous efforts to accomplish the same objectives and costs comparisons of such efforts with the new program; fourth, recommendations for eliminating conflicting or obsolete laws or provisions thereof; and fifth, when a new authorization, an assessment of the degree to which such existing program has met previously stated objectives.

In order to assist the Congress in preparing the statements of objectives, the Comptroller General in consultation with the Director of the Office of Management and Budget (OMB) "shall publish a descriptive catalog of interrelated Federal activities," including comparisons of costs and accomplishments of related programs, descriptions of program interrelationships, and descriptions of State and local government programs and private activities having similar or related objectives. The Comptroller General is to update the catalog periodically and provide such assistance "to the committees of the Congress as may be necessary" for developing its statements of objectives, impacts, and costs as well as for determining what information it requires from administering agencies to evaluate such programs.

(B) PROVIDING FOR CONTINUING INFORMATION ON THE EXTENT TO WHICH PROGRAMS AND ACTIVITIES ARE ACHIEVING THEIR SPECIFIED OBJECTIVES

This goal is met primarily through required annual reports submitted by the administering agency, containing information "which the Congress determines will best assist it in evaluating the extent to which the program is meeting the objectives and accomplishment plans * * * (sec. 101(2)).

Section 102 expands on this theme, setting October 15 of each year as the submission date and requiring transmission of agency reports through the Director of OMB. These required reports are to include statements of compliance with the specified objectives and "shall emphasize, to the extent practicable, quantitative measures of all program costs and accomplishments * * *."

Moreover, in order to assist Congress in determining whether a program should be reauthorized, modified, or discontinued, the agency report submitted in the year preceding the expiration of a multiyear authorization is to summarize the significant findings contained in each of the previous annual reports since the last authorization.

Finally, the President's annual budget is to describe briefly the "relationship between his recommendations on program budgets and the program accomplishments" reported by the agencies.

(C) REQUIRING PERIODIC REVIEW OF PROGRAMS AND ACTIVITIES TO ASSURE THAT BUDGET RESOURCES ARE USED EFFICIENTLY IN MEETING NATIONAL NEEDS

Section 401 provides that bills or resolutions (with certain exceptions) which authorize new budget authority or provide for new or increased tax expenditures shall be limited for a period not to exceed 5 years.

This "sunset" provision still permits more frequent reauthorizations in establishing this maximum duration before reauthorization is mandated. As with other similar proposals, the time limitation is designed to terminate permanent and extremely lengthy authorization periods. In so doing, the limitation, accompanied by the other requirements of H.R. 65, is intended to compel periodic and regular program review and evaluation by authorizing committees.

A related goal would be to standardize more frequent and regular authorizations and program evaluations for all appropriate programs, which presently may be permanently authorized or subject to lengthier authorization periods.

By way of summary, H.R. 65 includes not only a statement of purpose to improve congressional oversight of the executive but also action forcing mechanisms and explicit directives such as "sunset" provisions, required annual reports, budget message comparisons, and Comptroller General and OMB Director cataloging of programs. The main purpose is to increase and improve oversight but there are important additional benefits of the bill: expanded information from administering agencies through congressionally determined annual reports; increased mandated General Accounting Office assistance to authorizing committees; and Presidential awareness of the annual budgets' relationship with specific agency program accomplishments.

I urge the support of my colleagues for H.R. 65.●

LEGISLATION TO REFORM U.S. REFUGEE POLICY

The SPEAKER. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 30 minutes.

● Ms. HOLTZMAN. Mr. Speaker, I am today introducing with the distinguished chairman of the Judiciary Committee, Mr. RODINO, comprehensive legislation to revise and rationalize laws relating to the admission of refugees to the United States and to provide domestic resettlement assistance after their arrival in this country. This legislation, drafted by the administration in consultation with the Congress, is an important first step in responding to an international problem of staggering proportions. It is also a humanitarian gesture which is long overdue.

The United States up to this time has had no overall policy to respond to emergency refugee situations. Instead, we have had to enact special legislation, as we did after World War II, or use a combination of the limited conditional entry provisions of the Immigration and Nationality Act and the Attorney General's discretionary parole authority under section 212(d)(5) of the act, as we have done for the past 20 years. This haphazard, ad hoc policy has been further constrained by the antiquated definition of "refugee" in our present law which limits admissions to those fleeing Communist countries and the Middle East.

The Attorney General's parole authority, through which, for example, hundreds of thousands of Hungarian, Cuban, Eastern European, and Indochinese refugees have been admitted to the United States, was never intended to be utilized for wholesale admissions of groups of people; it was included in our law to provide the Attorney General with the discretion to admit individuals on a case-by-case basis. More importantly, the use of parole has not provided the Congress with a sufficient role in decisionmaking on refugee admissions. Although the Attorney General has routinely consulted with Members of Congress prior to exercising his parole authority, this mechanism has generally proved unsatisfactory, and both the Attorney General and members of the Judiciary Committee have expressed the view that a more systematic process should be developed.

The bill we are introducing today seeks to respond to these problems regarding refugee admissions and additionally to rationalize domestic assistance for all refugees in the United States.

Briefly, the bill does the following:

First, it removes the geographical and ideological restrictions in the current law's definition of refugees. The new definition essentially conforms to that used under the United Nation's Convention and Protocol Relating to the Status of Refugees.

Second, it provides for the regular admission to the United States of 50,000 refugees annually. Presently, the number of refugees admitted under the conditional entry provisions of the Immigration Act is limited to 17,400.

Third, it creates a flexible procedure to meet emergency refugee situations and other problems of special concern to the United States if they cannot be handled within the regular 50,000 ceiling. In such unforeseen emergency situations, when admission is "justified by grave humanitarian concerns or is otherwise in the national interest," the President, after consultation with the Congress, can allow an additional number of refugees to be admitted.

Fourth, the legislation provides for Federal assistance for the refugee resettlement process, and extends coverage to all refugees entering the United States. In general, the Federal Government will bear assistance costs for 2 years.

Mr. Speaker, the bill we are introducing today is a valuable starting point for developing a more consistent and equitable refugee policy. It is based, in large part, on the diligent work over the last several years of the House Judiciary Committee in trying to eliminate the piecemeal approaches of past administrations. As with any comprehensive piece of legislation, however, there are areas which will require careful study and analysis by the Congress. My Subcommittee on Immigration, Refugees and International Law has already begun hearings on the refugee problem and will begin promptly to focus on the specifics of the administration's legislation.

In particular, the subcommittee must consider ways to encourage other countries to share the burden of refugee resettlement and assistance. We must consider how to assure that domestic assistance programs are cost effective, coordinated, and accountable. And, given the plenary power of Congress over immigration, we must make certain that the Congress has a substantial role in responding to the admission of large numbers of refugees in emergency situations.

Mr. Speaker, in February I spent 2 weeks in Indochina with the ranking minority member of my subcommittee, Mr. Fish, and my colleague from Georgia, Mr. Evans. During our visit, we inspected some 16 refugee facilities housing over 130,000 refugees. That trip confirmed my strong belief that as a nation we must act immediately and compassionately to address the refugee problem. The bill Chairman Rodino and I are introducing today finally provides a humane and coherent framework within which to do so.

The text of the bill follows:

H.R. 2816

A bill to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That this Act may be cited as the "Refugee Act of 1979."

TITLE I—PURPOSE

The Congress declares that it is the historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands, including, where appropriate, humanitarian assistance for their care and maintenance in asylum areas, efforts to promote opportunities for resettlement or voluntary repatriation, aid for necessary transportation and processing, admission to this country of refugees of special concern to the United States, and transitional assistance to refugees in the United States. The Congress further declares that it is the policy of the United States to encourage all nations to provide assistance and resettlement opportunities to refugees to the fullest extent possible.

The objectives of this Act is to provide a permanent and systematic procedure for the adminission to this country of refugees of special concern to the United States, and to provide comprehensive and uniform provisions for temporary transitional assistance to those refugees who are admitted.

TITLE II—ADMISSIONS OF REFUGEES

Sec. 201. (a) Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101 (a)) is amended by adding after paragraph (41) the following new paragraph:

"(42) The term 'refugee' means any person who is outside any country of his nationality or, in the case of a person having no nationality, is outside any country in which he last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership of a particular social group, or political opinion."

(b) Chapter I of Title II of the Immigration and Nationality Act is amended by adding after section 206 (8 U.S.C. 1156) the following new sections:

"ANNUAL ADMISSION OF REFUGEES

"Sec. 207. (a)(1) Subject to the provisions of paragraph (2), the number of refugee admissions granted in any fiscal year shall not exceed 50,000, to be made available in accordance with a determination made by the President regarding the number of admissions to be allocated to each group or class of refugees the President determines to be of special concern to the United States. Prior to the start of the fiscal year, the President shall report to the Committees on the Judiciary of the Senate and the House of Representatives regarding the foreseeable number of refugees who will be in need of resettlement during the fiscal year and the anticipated allocation of refugee admissions during the fiscal year.

"(2) The number of refugees who may be admitted under this section may exceed 50,000 in any fiscal year if the President determines, prior to the beginning of the fiscal year and after consultation by the designated representatives of the President with the Committees on the Judiciary of the Senate and the House of Representatives, that admission of a specific number of refugees in excess of 50,000 is justified by humanitarian concerns or is otherwise in the national interest, based upon the foreseeable number of refugees of special concern to the United States who will be in need of resettlement. These additional admissions shall be allocated among groups or classes of refugees of special concern to the United States in accordance with a determination made by the President. In the course of the consultation provided for in this paragraph, the designated representatives of the President shall furnish the Committees on the Judiciary a description of foreseeable numbers of refugees who will be in need of resettlement during the coming fiscal year and an explanation of the reasons for believing that the admission of more than 50,000 refugees of special concern to the United States is in the national interest.

"(3) Subject to the numerical limitation established pursuant to paragraph (1) or (2), the Attorney General may, in his discretion and pursuant to such regulations as he may prescribe, admit for lawful permanent residence any refugee who is not firmly resettled in any foreign country, is within a group or class of refugees determined to be of special concern to the United States, and is admissible as an immigrant under this Act, except for the fact that he does not meet the requirements of paragraphs (14), (15), (20), (21), (25), or (32) of section 212(a).

"(b)(1) Not more than five thousand of the refugee admissions authorized under subsection (a) in any fiscal year may be made available by the Attorney General, in his discretion and under such regulations as he may prescribe, to adjust to that of a lawful permanent resident the status of any alien who—

"(A) makes application for such adjustment;

"(B) has been physically present in the United States for a period of at least two years prior to application for such adjustment; and

"(C) is a refugee, is not firmly resettled in any foreign country, and is admissible as an immigrant under this Act at the time of his examination under this paragraph, except for the requirements of paragraphs (14), (15), (20), (21), (25), or (32) of section 212(a).

"(2) When an alien has been granted adjustment of status to that of a lawful permanent resident under paragraph (1), his spouse and child may also be granted such status, in the discretion of the Attorney General and under such regulations as he may prescribe, if such spouse or child makes application for such status and is admissible as an immigrant except for the fact that he does not satisfy the requirements of paragraphs (14), (15), (20), (21), (25), or (32) of section 212(a).

"(3)(A) Upon approval of an application pursuant to paragraph (1), the Attorney General shall record the alien's admission to the United States for lawful permanent residence as of the date, as established by the alien to the satisfaction of the Attorney General, that he become a refugee in the United States: *Provided*, that such date shall not be more than two years prior to the date of approval of such application.

"(B) Upon approval of an application pursuant to paragraph (2), the admission of the spouse or child of a refugee shall be recorded as of the same date as that of the refugee.

"ADMISSION OF EMERGENCY SITUATION REFUGEES

"Sec. 208. (a) If the President determines, after consultation by the President's designated representatives with the Committees on the Judiciary of the Senate and the House of Representatives, that (1) an unforeseen emergency refugee situation exists; (2) the admission of certain refugees in response to the emergency refugee situation is justified by grave humanitarian concerns or is otherwise in the national interest; and (3) that the admission into the United States of these refugees cannot be accomplished under section 207, the President may fix a number of refugees to be admitted into the United States in response to the emergency refugee situation. In the course of the consultation provided for in this subsection, the designated representatives of the President shall furnish the Committees a description of the unforeseen emergency refugee situation, an estimate of the number of refugees to be admitted under this section, and an estimate of the cost of their resettlement.

"(b) The admissions authorized by subsection (a) shall be allocated among groups or classes of refugees of special concern to the United States in accordance with a determination made by the President.

"(c) Subject to the numerical limitation established pursuant to subsection (a), the Attorney General may conditionally admit into the United States, pursuant to such regulations as he may prescribe, any alien who is a refugee within a group or class designated pursuant to subsection (b) and who is not firmly resettled in any foreign country.

"SPOUSES AND CHILDREN OF REFUGEES

"Sec. 209. A spouse or child (as defined in section 101(b)(1)(A), (B), (C), (D), or (E) of any alien who qualifies for admission under section 207 or 208 shall, if not otherwise entitled to admission under such section, be entitled to the same admission status as such alien if accompanying, or following to join, such alien, and upon the spouse's or child's admission into the United States, such admission shall be charged against the numerical limitation established in accordance with the section under which the alien qualifies for admission. A spouse or child who is admitted for lawful permanent residence in accordance with this section shall be required to establish admissibility to the United States as an immigrant except for the requirements of paragraphs (14), (15), (20), (25), or (32) of section 212(a).

"GRANTING OF IMMIGRANT STATUS TO EMERGENCY SITUATION REFUGEES

"Sec. 210. (a) Notwithstanding any numerical limitation specified in this Act, any alien who has been admitted into the United States conditionally under section 208 or 209:

"(1) whose admission has not been terminated by the Attorney General pursuant to such regulations as he may prescribe;

"(2) who has not acquired permanent resident status; and

"(3) who has been physically present in the United States for at least two years,

shall, at the end of such two years, return or be returned to the custody of the Service for inspection and examination for admission into the United States as an immigrant in accordance with the provisions of sections 235, 236, and 237.

"(b) Any alien who, pursuant to subsection (a), is found, upon inspection by an immigration officer or after a hearing before a special inquiry officer, to be admissible as an immigrant under this Act at the time of his inspection and examination except for the fact that the alien does not meet the requirements of paragraphs (14), (15), (20), (21), (25), or (32) of section 212(a) shall be regarded as lawfully admitted to the United States for permanent residence as of the date of his arrival."

Sec. 202. Section 211 of the Immigration and Nationality Act (8 U.S.C. 1181 is amended—

(a) by inserting in subsection (a) after the words "Except as provided in subsection (b)" the following: "and subsection (c)"; and

(b) by adding a new subsection (c) at the end thereof to read as follows:

"(c) The provisions of subsection (a) shall not apply to an alien whom the Attorney General admits to the United States for lawful permanent residence under Section 207.".

Sec. 203. (a) Section 201(a) of the Immigration and Nationality Act (8 U.S.C. 1151 (a)) is amended to read as follows:

"Sec. 201. (a) Exclusive of special immigrants defined in section 101(a)(27), immediate relatives specified in subsection (b) of this section, and aliens who come within the provisions of sections 207, 208, and 209, the number of aliens born in any foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence, shall not in any of the first three quarters of any fiscal year exceed a total of seventy-two thousand and shall not in any fiscal year exceed two hundred and seventy thousand.".

(b) Section 202 of the Immigration and Nationality Act (8 U.S.C. 1152) is amended—

(1) by striking out "and the number of conditional entries" in subsection (a);

(2) by striking out "(8)" in subsection (a) and inserting in lieu thereof "(7)";

(3) by striking out "or conditional entries" and "and conditional entries" in subsection (e);

(4) by striking out "20 per centum" in subsection (e)(2) and inserting in lieu thereof "26 per centum";

(5) by striking out paragraph (7) of subsection (e);

(6) by striking out "(7)" in paragraph (8) of subsection (e) and inserting in lieu thereof "(6)"; and

(7) by redesignating paragraph (8) of subsection (e) as paragraph (7).

(c) Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended—

(1) by striking out "or their conditional entry authorized, as the case may be," in subsection (a);

(2) by striking out "20 per centum" in subsection (a)(2) and inserting in lieu thereof "26 per centum";

(3) by striking out paragraph (7) of subsection (a);

(4) by striking out "and less the number of conditional entries and visas available pursuant to paragraph (7)" in subsection (a)(8);

(5) by striking out "or to conditional entry under paragraphs (1) through (8)" in subsection (a)(9) and inserting in lieu thereof "under paragraphs (1) through (7)";

(6) by redesignating paragraphs (8) and (9) of subsection (a) as paragraphs (7) and (8);

(7) by striking out "(7)" in subsection (d) and inserting in lieu thereof "(6); and

(8) by striking out subsections (f), (g), and (d) Sections 212(a)(14), 212(a)(32), and 244(d) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(14), 1182, (a)(32), 1254 (d)) are amended by striking out "section 203(a)(8)" and inserting in lieu thereof "section 203(a)(7)".

(e) Subsection (h) of section 243 of the Immigration and Nationality Act (8 U.S.C. 1253) is amended to read as follows:

"(h) The Attorney General is authorized to withhold the deportation or return of any alien (other than an alien described in section 241(a)(19)), subject to such terms and conditions as he may prescribe, to any country where such alien's life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group of political opinion."

(f) Section 5 of the Act of October 5, 1978 (P.L. 95–412) is amended by striking out "September 30, 1980" and inserting in lieu thereof "the effective date of the Refugee Act of 1979."

(g) Any reference in any law to section 203(a)(7) of the Immigration and Nationality Act shall be deemed a reference to section 207.

Sec. 204. Any alien determined to be eligible for admission for lawful permanent residence under section 207(b)(1) of the Immigration and Nationality Act who acquired that status under the provisions of the Immigration and Nationality Act prior to the effective date of this Act may, upon application, have his admission for permanent residence recorded as of the date, as established by the alien to the satisfaction of the Attorney General, that he become a refugee in the United States: *Provided*, That such date shall not be more than two years prior to the date of approval of such application. Upon application, the admission for lawful permanent residence of the spouse or child of such refugee, if eligible for lawful permanent residence under section 207(b)(2) of the Immigration and Nationality Act, may be recorded as of the same date as the date recorded for the refugee.

TITLE III—TEMPORARY AND TRANSITIONAL ASSISTANCE TO REFUGEES

Sec. 301. (a) Section 2(b) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(b)) is amended to read as follows:

"(b)(1) There are hereby authorized to be appropriated such amounts as may be necessary from time to time—

"(A) for contributions to the activities of the United Nations High Commissioner for Refugees for assistance to refugees under his mandate or persons in behalf of whom he is exercising his good offices;

"(B) for assistance to or in behalf of refugees designated by the President (by class, group, or designation of their respective countries of origin or areas of residence) when the President determines that such assistance will contribute to the foreign policy interests of the United States;

"(C) for payments to appropriate public or nonprofit, private agencies to aid in the placement, resettlement, and care of refugees;

"(D) for projects and programs to assist adult refugees in gaining skills and education necessary to become employed or otherwise self-reliant, including facility in English, vocational and technical training, professional refresher training and other recertification services, and social and employment services;

"(E) for payments to state and local agencies for projects to provide special educational services (including facility in English) to refugee children in elementary and secondary schools;

"(F) for child welfare services, including foster care maintenance payments and services and health care, furnished in any of the first twenty-four months during any part of which the refugee is in the United States or, in the case of a child who enters the United States unaccompanied by a parent or other close adult relative (as defined by the President), until the month after such child attains age eighteen (or such higher age as the State's child-welfare services plan prescribes for the availability of such services to any other child in that State), if later; and

"(G) for income maintenance and medical assistance, except that if a refugee is eligible for aid or assistance under a State plan approved under part A of title IV or under title XIX of the Social Security Act, or for supplementary security income benefits (including State supplementary payments) under the program established under title XVI of that Act, funds authorized under this subsection shall only be used for the non-Federal share of such aid or assistance, or for such supplementary payments.

"No payment shall be made under paragraph (C), (D), (E), or (G) with respect to aid or services, furnished directly or through a project or program, to a refugee who entered the United States more than twenty-four months prior to receiving such aid or services, other than a Cuban refugee who entered the United States before October 1, 1978.

"(2) As used in this section, the term 'refugee' has the same meaning as that prescribed by paragraph (42) of section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(42))."

(b) Subsection (a) of this section shall not be considered a law enacted on or after February 7, 1972, for purposes of section 15(a)(1)(A) of the Act of August 1, 1956, as amended (22 U.S.C. 2680(a)(A)).

SEC. 302. Section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)) is amended by striking out "25,000,000" in paragraph (2) and inserting in lieu thereof "$50,000,000".

TITLE IV—EFFECTIVE DATE

SEC. 401. (a) Except as provided in subsection (b), this Act shall become effective on October 1, 1979.

(b) The repeal of subsections (g) and (h) of section 203 of the Immigration and Nationality Act, made by section 203(c)(8) of this Act, shall not apply with respect to any individual who before the effective date of this Act was granted a conditional entry under section 203(a)(7) of the Immigration and Nationality Act (and under section 202(e)(7) of the Immigration and Nationality Act, if applicable), as in effect immediately before such date, nor shall it apply to any alien paroled into the United States before the effective date of this Act who is eligible for the benefits of section 5 of the Act of October 5, 1978 (Public Law 95–412).●

CRIME SUBCOMMITTEE TO CONTINUE ITS CONSIDERATION OF LEAA REAUTHORIZATION LEGISLATION

The SPEAKER. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

● Mr. CONYERS. Mr. Speaker, the Subcommittee on Crime, which I chair, will continue its hearings on H.R. 2061 and H.R. 2108, bills to reauthorize and reorganize the Law Enforcement Assistance Administration, on March 22, 1979. This hearing will begin at 9:30 a.m. in room 2237 Rayburn House Office Building and will examine juvenile crime problems and LEAA's role in efforts to prevent and reduce juvenile delinquency.

Witnesses expected to appear include the Honorable Baltasar Corrada, Resident Commissioner of Puerto Rico; Commissioner John A. Calhoun of the Department of Youth Services, Boston, Mass.; Mr. Hunter Hurst, director, National Center for Juvenile Justice, Pittsburgh, Pa.; Mr. William Traenor, executive director, National Youth Work Alliance, Washington, D.C.; and Prof. Simon Dinitz of the Dangerous Offender Project, Academy for Contemporary Problems, Columbus, Ohio.

Individuals wishing to testify or submit a statement for the record should address their requests to the Subcommittee on Crime, House Committee on the Judiciary, 207E Cannon House Office Building, Washington, D.C. 20515.●

RECOMMENDATIONS FOR LEGISLATION IMPLEMENTING THE MULTILATERAL TRADE NEGOTIATIONS

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

● Mr. VANIK. Mr. Speaker, I include in the RECORD the following press release from the Subcommittee on Trade, Committee on Ways and Means, regarding meetings on recommendations for legislation implementing the multilateral trade negotiations:

Chairman CHARLES A. VANIK, Subcommittee on Trade, Committee on Ways and Means, today announced that the Subcommittee on Trade held its first formal consultation with Ambassador Robert S. Strauss, the President's Special Trade Representative and other officials in the executive branch on the multilateral trade negotiations and legislation necessary to implement those negotiations.

In addition to the Members of the Subcommittee on Trade, Committee on Ways and Means, Chairman VANIK indicated that there was widespread participation from committees with jurisdictional interest in the implementation of the negotiations and other committees with a direct interest in the results, including the Committee on Government Operations; Committee on Foreign Affairs; Committee on Interstate and Foreign Commerce; Committee on Agriculture; and Subcommittee on International Trade, Investment and Monetary Policy, Committee on Banking, Finance and Urban Affairs.

Chairman VANIK indicated that there is an intention that the subcommittee and representatives of other committees meet on Tuesday and Wednesday, March 13 and 14, and on Monday, Tuesday and Wednesday of the following week (March 19–21). Chairman VANIK stated that the discussions thus far had been general and that the committee would be reaching a decision on concepts of the necessary elements of the implementing legislation and that a further press release would be issued tomorrow indicating those decisions which the Members of the Subcommittee on Trade have taken.

Because the subject matter which we have been discussing is sensitive, it is necessary to hold these consultations in executive (closed) session.●

SALT II: AN INTERIM ASSESSMENT REVIEWED

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. CHARLES H. WILSON) is recognized for 5 minutes.

● Mr. CHARLES H. WILSON of California. Mr. Speaker, I am placing today in the RECORD a response to the views of my good friend and colleague, Congressman BOB CARR of Michigan. Mr. CARR and I had the privilege to serve on the House Armed Services Committee's panel on the strategic arms limitation talks (SALT). After extensive hearings, the panel published its official report critical of the proposed agreement along with Mr. CARR's dissenting views.

While I do not in any way wish to discredit my colleague, I feel as chairman of that panel, some of the criticisms he raised should be answered. I, therefore, respectfully submit my comments:

SALT II: AN INTERIM ASSESSMENT REVIEWED BY REPRESENTATIVE CHARLES H. WILSON

The House Armed Services Committee's panel on the Strategic Arms Limitation Talks (SALT), for which I had the privilege to serve as Chairman, recently concluded a report entitled "SALT II: An Interim Assessment." This report has been criticized as being based on false assumptions and erroneous conclusions by my good friend and colleague, Congressman Bob Carr also a panel member.

I would like to briefly address some of the criticisms.

A central criticism is the panel's conclusion that the Soviets are acquiring strategic superiority and that SALT II will not ameliorate the challenge we face. Two charts from the FY 1979 defense posture statement by the Secretary of Defense are used to support the criticism by showing a "realistic and vigorous scenario" of U.S.-Soviet strategic capabilities.

The charts, however, do not show a "realistic and vigorous scenario." They simply show what the U.S. could achieve by attacking Soviet targets and what the Soviets could theoretically achieve by attacking Soviet targets. Unfortunately, the U.S. must be concerned with what Soviet forces could do against this country.

There are several reasons why the Soviets would have a large residual force than is actually depicted. First, the collocation of U.S. targets, the Soviet advantage in megatonnage, and the fact the U.S. has only 1,054 ICBM silos as compared to 1,500 generally much harder Soviet silos indicates they would have to expend less of their forces by attacking U.S. targets. The chart is therefore misleading.

Second, the comparison does not include the 400 or so Soviet Backfire bombers which they could deploy by 1985 under the provisions of SALT II. The inclusion of these Backfires could mean a 35 percent increase in deliverable Soviet megatonnage.

Third, the chart does not include the Soviet SS–20 missile that could with one warhead (more than twice the size of a Minuteman III warhead) attack the U.S. Under SALT II, the SS–20 can be built in unlimited numbers.

Last, there is no assessment of Soviet ICBM reload capabilities. Since they can build as many missiles as they want, they could use these missiles for their reloadable (SS–17 and SS–18) silos; or they could simply launch the extra missiles from cannisters. The Soviets are known to have several hundred older missiles which have been removed from silos, but which are believed to be stored. This as well, increases residual Soviet capability and shows a more extensive disparity than what usually is illustrated in U.S.–Soviet strategic force comparisons.

There is also a technical error in Congressman Carr's critique. He states the charts illustrate a fully generated Soviet strategic force preemptively attacking. However, as indicated in those same charts, the preemptive attack is based on a day-to-day alert Soviet force posture.

The point is made that the Defense Secretary's charts illustrate the U.S. will maintain a balance with the Soviets by deploying cruise missiles and the Trident I SLBM, "but does not assume MX, Trident II, or a new penetrating bomber." This conclusion is incorrect based on the latest intelligence assessments. Let me cite the FY 1980 defense posture statement.

The first chart (from page 115) shows that beginning in 1979, the strategic capabilities of the Soviet Union will surpass those of the U.S. The U.S. begins to redress the imbalance by 1988 through the deployment of the MX missile in a survivable basing mode, Trident submarines with the C–4 missile, and cruise missiles on the B–52Gs. The second chart shows the Soviets, in 1979, would have a superior reserve force after an attack. This advantage will increase until 1985. In 1987 there could be parity and by 1988, the Soviet Union could put itself in an inferior position by preemptively attacking. The improved U.S. posture in the late 1980s results primarily from the deployment of mobile MX missile. Chart three again shows Soviet superiority beyond 1985 even if the U.S. responds to a Soviet counterforce attack.

A period of serious instability will exist and will be corrected unless the U.S. redresses the vulnerability of its ICBMs. SALT will not correct this problem; it merely legalizes it.

After absorbing an attack on U.S. ICBMs, bombers and SLBMs, we might well be deterred from retaliating given Soviet post-attack superiority. As William J. Perry, the Under Secretary of Defense, Research and Engineering testified, in the 1980s, the Soviets could attack U.S. strategic forces and "destroy virtually all of the U.S. Minuteman forces and still have a residual ICBM force larger than our Minuteman force was before the strike."

In a Soviet counterforce attack on U.S. strategic forces, according to DOD, we could lose possibly as many as twenty-million American lives—serious and unthinkable by any measure. But, if significantly limited in our capability to respond, would we retaliate against Soviet economic and urban targets when faced with a superior Soviet reserve force and risk the destruction of our nation? And, what impact would such an asymmetry have on deterrence and stability—the foremost requirements for our strategic forces.

In short, the conclusions derived from these charts—the Defense Department's best assessment—is similar to those of the SALT panel. To maintain stability and equivalence, even with a SALT II agreement, the U.S. must improve the survivability of its strategic forces and overall posture. I might add, and let me emphasize, the imbalance in the charts would be even more severe—by 65 to 70 percent—if a U.S.-Soviet exchange was depicted against each other's targets not Soviet strategic forces theoretically attacking Soviet targets.

Finally, it is the policy of the U.S. to be able to absorb a Soviet first strike and still be able to complete all essential strategic missions with surviving forces. We have unilaterally refrained from deploying a disarming first-strike capability against Soviet ICBMs; the Soviets have not shown similar restraint.

The Soviets could use only one-third of their ICBM forces to destroy almost our entire ICBM force, a significant number of our SLBMs and our bombers, and still retain superiority. This offensive capability, along with an active and passive defense program that minimizes U.S. retaliatory capability, poses a serious threat to strategic stability. Whether we agree or disagree with this observation is less important than present U.S. policy which considers such a condition inimical to our deterrence and defense objectives. In fact, footnote five to the foregoing charts states that even after a U.S.-Soviet counterforce exchange:

"Both sides would remain capable of attacking a comprehensive set of 'soft' military and non-military targets at this point. For this reason, the hypothetical differences between these forces might or might not be meaningful."

It is uncertain, however, whether U.S. capability to destroy five to thirty-five percent of the Soviet population or some fifty percent of Soviet industry (depending on how many of our weapons survive) would constitute a credible deterrence against lower-level Soviet aggression given the total destruction we would risk. Regardless of personal beliefs on the credibility of a single-response U.S. assured destruction posture, let me quote our policy as stated by Defense Secretary Harold Brown:

"But if deterrence of nuclear war is our most fundamental defense objective—and it surely is—what counts is what Soviet civilian and military leaders believe. On that score, we face another uncertainty. What we see as sufficient may appear as something else to them. What would deter us might not deter them. What some consider credible as a deterrent, they may dismiss as a bluff.

"Great caution and careful hedging are essential in the face of these uncertainties. Basically, they require us to insist on essential equivalence with the Soviet Union in strategic nuclear forces. Because of the stakes, no lesser standard will do."

In response to the question of whether "assured destruction only" capability, advocated by certain members of the arms control community, would be sufficient to maintain deterrence, Secretary Brown told the Committee:

"That criterion would not be sufficient. It dates to the mid-60's and was originally predicated on the ability to destroy one-fourth to one-third of the Soviet population and two-thirds of their industrial capacity. It was described as the assured destruction capability, and the term continues in use today although the definition is somewhat different.

"It is essential that we retain the capability at all times to inflict an unacceptable level of damage on the Soviet Union including destruction of a (deleted) major Soviet cities. However, assured destruction cannot be the only response available to the President. We must have the flexibility to respond at a level appropriate to the type and scale of our adversary's attack. As a part of that flexibility, we must be able to launch controlled counter-attacks against a wide range of targets, both civil and military. These requirements cannot be met adequately with (deleted) equivalent megatons."

Mr. Carr's rebuttal criticizes a study by the Defense Nuclear Agency (DNA), prepared for them by the Santa Fe Corporation, entitled "Measures and Trends: U.S. and U.S.S.R. Strategic Force Effectiveness." The rebuttal states the study is "notoriously incompetent and has been thoroughly discredited." This is a serious misrepresentation of the study's conclusions and I personally do not know who has discredited it.

This study includes all measures which have ever been used to measure relative strength, including those which favor the U.S. Further, it included both static and dynamic measures. It is clearly more "rigorous and realistic" than a chart depicting "theoretical idealized targets"—namely Soviet forces attacking Soviet targets. Moreover, the conclusions of the Santa Fe study are essentially confirmed in the charts from the FY '80 defense posture statement.

The panel's assertion that existing U.S. Minuteman III ICBMs will be limited to the 3 RVs under SALT II is also disputed. I know Article IV Section II of the proposed SALT II agreement—the section dealing with prohibitions on new types of ICBMs—includes a prohibition on the deployment of a new dispensing or release mechanism on existing operational ICBMs. The U.S. might or might not be able to deploy its seven so-called "pave pepper" RVs on MM III. Each RV would be under one hundred kilotons and in effect would become only a soft target weapon. By contrast, Soviet ICBM RVs are one megaton or more in size. There is little comparison between the capabilities of the two.

The SALT panel is criticized for alleging, "Within the provisions of SALT, the Soviet Union will be able to deploy ICBM systems with a seven to one throwweight advantage." This statement is derived by comparing the U.S. Minuteman to the Soviet SS–18 system. The Minuteman is the smallest U.S. ICBM but it is also the mainstay of our force. We have 1,000 MM IIs and IIIs and 54 Titans. Soviet SS–17s and SS–19s have three to four times the throwweight of the Minuteman force. We could compare the 54 vintage Titans with the SS–19 (as inferred in the critique), but the SS–18 throwweight advantage over the Titan would still be two to one. The 308 or 326 SS–18s the Soviets can deploy under SALT II are modern large MIRVed ballistic missiles each carrying ten warheads. The 54 Titans are limited to a single warhead. The U.S. could somewhat redress this advantage by deploying the MX missile (it would have the throwweight of the SS–17 and SS–19 or one-half that of the SS–18), but we do not have that system. Even with it, Soviet ICBM throwweight advantages would remain substantial—about three to one, with a seven to one advantage in ICBM megatonnage.

We also can no longer argue that our ICBM accuracy compensates for Soviet throwweight advantages. The existing Soviet ICBMs have achieved CEPs (missile accuracies) of .1 to .15 nautical miles. The Soviets could theoretically target only one warhead against each U.S. ICBM silo with a high-single-shot kill probability. A second warhead would primarily be required for reliability purposes and not to compound damage. While fratricide might otherwise be an issue, it is no longer relevant to the real U.S. ICBM survivability problem.

It is alleged that the U.S. is responsible for our ICBM vulnerability because we failed to negotiate a MIRV limit with the Soviets at SALT I. Unfortunately, it takes two to make an agreement. The Soviets at SALT I were unwilling to accept verifiable restrictions on MIRVs. Moreover, there are many indications, including the report of former CIA analyst Dave Sullivan, which illustrate the Soviet military has always dictated Soviet positions on SALT. The arms control process has not been allowed to infringe on their planned strategic force developments and deployments. At best it can be said SALT has rechanneled and redirected Soviet resources into other defense areas; it has not reduced Soviet defense efforts.

As quoted in the SALT panel report, the CIA does not expect Soviet defense expenditures to be appreciably affected by either SALT or Soviet economic problems. It is interesting to note the disparity in U.S.-Soviet defense spending since 1973. In terms of investment and equipment, the Soviets have outspent us by $100 billion. With those funds over the same period of time, the U.S. could have bought the entire B–1 program; the entire MX program complete with missiles and shelters; all of the planned Trident submarines and missiles; the 7,000 XM-1 tanks; a similar number of infantry fighting vehicles and the AMSTs; in addition to all of the F-14s, F-15s, F-16s, F-18s, and A-10s. In effect, we would have modernized our entire amount Soviet defense expenditures exceeded those of the U.S. since 1973.

The proposed U.S. March 1977 Comprehensive SALT Proposal that was rejected by the Soviets, was intended to diminish Soviet confidence in their ICBM accuracy through flight test limitations and modernization restrictions. This is an excellent example of how technological expertise and acquisition cannot be restricted through the present parameters of the arms control process. As Mr. Paul Warnke in testimony before the Committee indicated, there is simply no way to verifiably ban software improvements on existing strategic systems. Further, as a study by the DOD Office of Research and Engineering last year pointed out, even with restrictions on missile flight tests or a prohibition, the U.S. could not have prevented the Soviets from making significant ICBM accuracy or have meaningfully reduced Soviet confidence. More relevant is that fourth generation Soviet ICBM systems are qualitatively equal to our present ICBM generation with INS-20 guidance and missile CEP well below .2 nautical miles. Such a missile CEP under SALT II goes beyond any reasonable military requirements. Thus precluding Soviet deployment of a fifth generation ICBM force has lost its primary military significance.

The panel report is criticized for expressing concern about the possibility of a Soviet "breakout" threat. This threat, it is alleged, "has never occurred in the history of U.S.-Soviet relations."

I would point out the Soviets did indeed abrogate the 1958-61 atmospheric test ban moratorium, and we were taken by surprise. It is also clear the Soviets readied themselves for the abrogation by preparing for elaborate and extensive tests. The U.S. response was a hastily thrown together counter-program that was unable to duplicate Soviet achievements in possible breakthroughs in high-yield warhead design. But, the issue is not whether the Soviets have ever broken out, but rather what the consequences in the future would be? The possibility of breakout threats do exist and they could be ingenious as they are sudden. Long lead times would be required for the U.S. to accelerate strategic programs to offset potential threats. This could be in response to a Soviet ABM deployment, a significant increase in offensive Soviet strategic capabilities, or whatever.

I would note that despite the ABM treaty, the Soviets have continued a massive ABM development program that DOD officials say is "rapidly deployable." The U.S. is also extremely hampered in its ability to move ahead on any defense programs—because of limitations in our industrial base, the authorization and appropriation process, and problems associated with our special materials. The Soviets, however, are in a position to initiate major defense program surges because they have a fully prepared and tooled-up industrial base.

The panel report was criticized for citing the Soviet Backfire bomber as a breakout problem. While some may discount the importance of the Backfire in the strategic balance, it is worth noting that the residual U.S. hard-target kill capability (after absorbing a Soviet first strike) would rest predominantly in the air-breathing leg of the triad. By contrast, the preponderant Soviet capability rests in secure and time-responsive ICBM forces that would not suffer from the prelaunch survivability and penetration of our air-breathing forces. If the U.S. air-breathing deterrent is so overwhelming, it follows that a significant Soviet bomber capability can also not be ignored, particularly since we have no air defenses and the Soviets have the most extensive in the world.

The Backfire Bomber payload of 20,000 pounds is not "meager." A fleet of 400 Backfires would constitute, as mentioned earlier, an increase of 35 percent in deliverable Soviet megatonnage, and an even greater increase in the radioactive contamination the Soviets could inflict on the U.S.

Even without refueling, the Backfire could cover significant areas of this country. This capability is substantially improved with the new (1,500 kilometer) long-range cruise missile the Soviets have developed for the bomber. Backfire-B models can also be air-refueled. One would expect that Backfire pilots could be quickly trained in the refueling operation which is no more difficult to master than ordinary flying exercises.

The Soviets could move their Backfires to Arctic bases—under cover of dark or inclement weather—without U.S. detection. More likely, however, is that the 400 Soviet Backfires would serve as residual weapons, bolstering Soviet strategic reserve capability.

Finally, crises are not measured in hours but in days and possibly even weeks. If they were measured in hours, we would not even be able to fully generate our strategic forces.

In terms of "gray area" systems, it is the panel's view that all such systems be discussed jointly with full European allied participation or not at all. The exclusion of Soviet "gray area" systems, while making concessions on similar U.S. systems (like cruise missiles), will be difficult to remedy in future arms control efforts. The many forward-based systems which are cited as offsetting Soviet "gray area" systems, like the some "3,000 high-performance nuclear capable jet aircraft," require aerial tanker support. But, using our tankers for such a mission would have to be offset by reducing other SIOP related forces. The U.S. simply does not have enough tankers to satisfy such forces in addition to those assigned to SIOP missions. Thus, the aircraft mentioned are not an additional capability.

Further, in nuclear systems not constrained by SALT (such as the Soviet SS-20 which can destroy U.S. targets by reducing the number of RVs it carries), the Soviets have at least a 2 to 1 advantage over the U.S. and its allies.

The U.S. could build FB-111Hs and additional tankers, but there is no value in comparing existing Soviet programs with U.S. options. Drawing board options are of little use for military planners who must deal with today's forces.

In terms of the GLCM and SLCM range limitation it has been observed there are no expressions of European concern. Indeed, it is stated, that the Europeans "uniformly and strongly support SALT II in its entirety."

I have had several sessions with many European parliamentarians and government officials—most recently with members of the North Atlantic Assembly. There is a great deal of concern about how SALT II might restrict European options necessary to offset Soviet "gray area" systems. Indeed, the French government has come out publicly and stated it will not allow itself to be restricted by the terms of SALT. Members of the North Atlantic Assembly told me, and other members of the House Armed Services Committee, that the recent endorsement of SALT II by European leaders was an "endorsement in principle" that "elements of doubt, reservations, and concern exist, with specific terms of the agreement," and that, for example, the cruise missile is considered "potentially immensely important."

The dissenting views to the panel's report point out the transfer of long-range cruise missile technology by the U.S. to the Europeans "would constitute circumvention and be prohibited" by SALT II. This is precisely the concern raised by our panel—we cannot transfer cruise missile technology to our European allies because the range could not be limited to 600 kilometers.

The panel's proposal that the U.S. proceed immediately into full-scale development and deployment of a survivable ICBM basing system—the Multiple Aim Point (MAP) system—is also criticized. This recommendation is challenged because it is not necessary for U.S. ICBM's to withstand a surprise attack. Conversely, many believe it would be destabilizing for the U.S. to deploy a capability that threatens Soviet ICBMs in a first-strike. Why it is destabilizing for the U.S. to have such a capability but not the Soviets is never addressed. In my opinion, it is no less destabilizing.

The issue is less than I or others believe, but rather what U.S. policy prescribes. A central element of our deterrence policy is that it is destabilizing (what is referred to as "crisis stability") to have a major element of our strategic forces vulnerable to a surprise Soviet attack. That is why DOD officials have stated that correcting U.S. ICBM vulnerability is the most urgent strategic problem confronting us today. This position has also been endorsed by Congress.

Opponents of a MAP system are concerned the U.S. could not adequately verify compliance if the Soviets proceeded with a similar MAP deployment system. In effect, they are concerned the Soviets might not deploy only 5,000 holes but 5,000 missiles as well. Would cheating be "worth the risk of exposure," if the Soviets can confront the U.S. with an ICBM breakout threat independent of a MAP deployment—of course not. It is also doubtful whether Soviet cheating over the necessary time would escape U.S. national means of detection. In any event, it would certainly be easier for the Soviets to just store their extra missiles and use them when they felt it necessary and when it is permitted and legal under SALT II.

Cooperative verification requirements pervade the SALT II agreement. There is, therefore, no reason why such procedures could not be adopted for MAP deployments. Further, as my colleague notes, "unless MAP can be demonstrated to offer a cost-exchange ratio favorable by several hundred percent, we must assume the Soviets will counter it." If that is true and the Soviets insist on being able to threaten the survivability of U.S. strategic forces then we have no strategic system which can stop that threat. And, I submit, little if any value in the SALT process.

By contrast, if the Soviets are interested in meaningful arms control and a stable strategic environment then a MAP system is conducive for that purpose. Over a period of time, it may be possible to achieve significant reductions in strategic nuclear delivery vehicles. If our ICBM systems are housed in redundant MAP shelters, we would be much less sensitive to possible Soviet cheating.

While I disagree that a MAP cost exchange ratio (U.S. MAP shelters vs. Soviet RVs) must favor the U.S., I believe such a ratio will do so. To credibly threaten our silos, the Soviets simply cannot continue to fraction their ICBM payload. This option is prohibited by SALT II in any event. At some point both missile accuracy and reliability worsen with the increased numbers of warheads. Weight to yield (or payload) also diminishes. In a cost race between our MAP shelters and Soviet missiles, the benefit would accrue to the U.S. Without a U.S. MAP deployment, the cost would be less for a Soviet attempt to threaten U.S. ICBMs. Is it alright then for the Soviets to threaten our ICBMs as long as they do not have to cheat or spend a lot of money, but not alright if they must do both?

The panel's assessment concerning the history of strategic arms development is also questioned. Reference is made to the nonexistent "missile gap" of earlier history—

the inference being we have somehow consistently exaggerated Soviet strategic developments. In fact, we have systematically underestimated their achievements and deployment levels. The Director of the CIA readily admits this.

The accuracy of a statement made by Committee Chairman Melvin Price is questioned. Our colleague states in his rebuttal, 'While I hesitate to dispute the distinguished Chairman of the full Committee, for whom I have the greatest respect, I am bewildered by his quoted statement that Paul Warnke has described the B–1 cancellation as an act of restraint the Soviets should reciprocate. Mr. Warnke tells me he cannot recall describing the B–1 cancellation in these terms, and that he emphatically does not regard it as an act of restraint." Mr. Warnke did, in fact, make such a statement. Specifically, he said:

"I think we have demonstrated a willingness to exercise restraints (by cancelling the B–1), and I would hope that they (the Soviets) would recognize it as such and respond appropriately."

The Soviets have never reciprocated U.S. restraint. Let me quote Defense Secretary Brown:

"What concerns me most about the continuing Soviet military buildup is its persistence and how that continues regardless of what the United States does. We build up our forces, they build up theirs . . . if the present trends continue for another five years, I believe the relative military positions (of Russia and the United States) would be a cause of real difficulty for the United States."

In the conclusion of the dissenting views, it is stated that SALT II will, "Contribute to an ongoing relaxation of East-West tension." I would repeat only what our subcommittee panel report stated. U.S.-Soviet strategic capabilities are not the cause of poor U.S.-Soviet relations. In this era of what is popularly called détente we have seen a positive shift in Soviet behavior. The Soviets continue to build up their threat against NATO, and they are guilty of agitation and subversion throughout the globe's regions. So I fail to see how SALT will contribute to a relaxation of tension, and indeed it could contribute to dangerous situations if it lulls us into a false sense of security.

SALT II, we are told, will "constrain Soviet capabilities to a significant degree." The same argument was advanced in favor of SALT I. Yet as General David Jones, Chairman of the Joint Chiefs of Staff, has pointed out, the "greatest increase" in Soviet strategic forces and capabilities and defense investment has "occurred since the signing of SALT I." Indeed, he continues, "We don't see any evidence of slackening effort on their part."

As the panel report noted, several important weapons systems are excluded from SALT II; SALT, for example, does not stop Soviet missile building, only Soviet missile deployment. Since the panel report was first drafted, restrictions on new SLBMs have been dropped. The Soviets are free to develop any new such systems. While we hope to restrain the deployment of a fifth generation of Soviet missiles, the present fourth generation is of such quality (and improvements, particularly in guidance, continue to be made) that the military significance for such action has been lost. The so-called "gray area" systems also allow the Soviets to increase their strategic capabilities significantly because they are not limited by the SALT II provisions.

Finally, it is observed that SALT must stand or fall on the question: "Will national security be improved or degraded by its implementation?"

That is indeed the critical question. There are very real and serious problems associated with the terms of the proposed agreement. Can the agreement be made acceptable? I believe that this might be possible through appropriate Congressional action. But, the most important issue we must understand, in my view, is that SALT II is not a substitute for U.S. strategic programs which will be necessary to provide a stable strategic balance.

The Soviets are not interested in a stable strategic balance as we understand it. As Secretary Brown has pointed out, the Soviet strategic posture has as its basis what appears to be an interest in a "war-fighting" capability. The Soviets are attempting to acquire the capability to deter and undermine the U.S. ability to meet its national security and foreign policy objectives. Should deterrence fail, the Soviets want to be in a position to defeat the United States militarily—hence their acquisition of a capability to destroy U.S. ICBMs in a surprise attack. If we are to have a peaceful political and military environment, we must deny them that objective.

No task we face is more urgent—and it is a task that SALT II will not obviate.●

FLOOD CONTROL PROBLEMS OF THE SKAGIT VALLEY

The SPEAKER. Under a previous order of the House, the gentleman from Washington (Mr. SWIFT) is recognized for 5 minutes.

● Mr. SWIFT. Mr. Speaker, today I address a potentially disastrous flood control problem of the Skagit Valley in my congressional district in Washington State. As many Members of this body will recall, the flooding of the Skagit Valley in 1975 and 1977 was of such a nature that it received nationwide attention.

Skagit County suffered $6 million in damages in the 1975 floods. It would have suffered far more had it not been for unusual and quite unrelated circumstances that required lowering the level of water storage behind the dam at upper Baker Lake. The lower level allowed the increased runoff to accumulate in the lake behind the dam rather than flood the lower areas as it would have normally. Even so, flood damage was very extensive. Yet, that disastrous flood in 1975 was only a 12-year flood.

Recently, my congressional district has been undergoing very rapid development. This development has had a heavy impact on Skagit County, substantially increasing population and property values in the cities of Sedro Woolley, Burlington, and Mount Vernon and the surrounding areas. Hence the concern about flood damage grows.

As a result of this growing concern, the Skagit Regional Council (representing all local agencies of government, including the Skagit County commissioners) as well as other local groups, has been working with the Army Corps of Engineers in seeking the best method of improving flood protection. Many alternatives have been considered. Upriver storage was carefully examined as a means of flood control. However, the inclusion of one of the major tributaries of the Skagit River, the Sauk River, in the Wild and Scenic Rivers Act, eliminated this alternative. A by-pass has been considered for years, but its impact on farmland and its cost has prevented broad public support.

The regional council has not settled on a combination of levee and channel improvements designed to increase channel capacity. This is a sound plan and has the full support of the Corps of Engineers. The corps has completed advanced engineering and design studies of this proposed improvement, and the Skagit County Commissioners, on behalf of the county and the Skagit Regional Council, have requested that I introduce authorizing legislation. I am happy to accede to that request today.

Mr. Speaker, the legislation which I introduce today extends the original Skagit River levee and channel improvement project that was authorized in 1966, under section 203 of Public Law 89–789, to include the following items:

First. Authorization for the Skagit River levee and channel improvement project to be extended from the vicinity of Mount Vernon, Wash., upstream to the city of Sedro Woolley.

Second. Authorization for the higher degree of protection now indicated to be cost effective by the U.S. Army Corps of Engineers. The benefits, in fact, have been increasing rapidly in recent years with the growth of the area itself.

Third. Authorization for the entire project, including the levee extension to Sedro Woolley, to incorporate recreation as an additional project purpose.

Fourth. Authorization for the Federal Government to finance the local cost of the project, with repayment by Skagit County over a 50-year period with appropriate interest.

The U.S. Army Corps of Engineers has estimated the cost of this project to be $38,000,000. Such expense is justified with a benefit-to-cost ratio of over 2.5 to 1.

Mr. Speaker, the local community is to be congratulated for the excellent manner of coordinating its efforts and for working so effectively with the corps and myself. Special appreciation should be conveyed to the Skagit Regional Council, the central working organization which produced this project. The local community has done its work and stands ready to meet its future obligations regarding this project. Now we should act to help them provide the citizens of the Skagit Valley with reliable protection from the ravages of floods.

Mr. Speaker, this project is justified. It is an investment, and I urge serious and favorable consideration by this body.●

POTENTIAL ENERGY RESERVES IN DEVELOPING COUNTRIES

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. PEASE) is recognized for 5 minutes.

● Mr. PEASE. Mr. Speaker, there is mounting evidence suggesting that the world's petroleum outlook may not be as bleak as the U.S. Department of Energy would have us believe. Consider the following:

Bernardo F. Grossling, a geologist with the U.S. Geological Survey has completed a study for the World Bank estimating total world petroleum reserves as high as 6,000 billion barrels, three times the estimate of potential reserves given by Secretary Schlesinger.

The result of an important conference held at the International Institute for Applied Systems in Vienna in 1976 indicated a world petroleum resource base of up to 6,000 billion barrels.

In 1977, the French Petroleum Institute presented work at the World Energy Conference in Istanbul suggesting that the world's petroleum resource base ranged from a minimum of 4,300 billion barrels to 6,400 billion barrels.

Views expressed by the chairman of the appropriate committee of the Soviet Academy of Sciences in a recent United Nations publication reflect a Soviet view that the world petroleum resource base is on the order of 11,000 billion barrels.

I am not calling these findings to my colleagues' attention to downplay the seriousness of our energy problems and the need for conservation. We all know about the economic problems that have beset our country and the non-OPEC developing countries since the dramatic rise in world oil prices in 1973. What all of my colleagues may not know is that the U.S. Government has done little to facilitate the production of additional supplies of fossil fuel in the developing countries that are not OPEC members.

In fiscal year 1979, the Agency for International Development (AID) plans to spend a total of $45 million for energy-related work. Of that total, 75 percent of the funds are to be spent on renewable and unconventional energy projects. Only $10 million of AID funds will be spent on work related to fossil fuel production in developing countries.

There is a consensus among industry analysts, financiers, academics, and policy analysts at GAO, CRS, and CBO that there is good potential for at least a moderate increase in fossil fuel production by 1990 in the non-OPEC developing countries. Unfortunately, many developing countries lack the investment capital as well as access to the necessary technology to locate, explore, and develop indigenous sources of fossil fuel. That is where the U.S. Government can and ought to do more to help.

Clearly there is a compelling need for vigorous efforts to improve the available data on the location, scale and commercial exploitability of potential oil, natural gas and coal reserves in developing countries, especially the non-OPEC countries. Accordingly, I am today introducing a bill designed to help meet this need and to correct a glaring oversight in our current energy programing. My bill amends the Foreign Assistance Act of 1961 to establish a new functional account for energy programs. AID will be authorized to provide loans and grants primarily to non-OPEC developing countries to facilitate the location and development of potential sources of fossil fuel within their borders. The bill will specifically require that part of the loans and grants be spent to promote geological and geophysical survey work to locate oil, gas and coal reserves in developing countries especially those that are not OPEC members.

No new outlays will be called for in the bill. Instead, it requires that more of the funds asked for by the Carter administration for the fiscal year 1980 bilateral assistance program be spent on locating and exploring potential sources of fossil fuel in developing countries.

You also need not be concerned that the bill creates a situation where the U.S. Government is competing with private American companies. It will help finance much-needed geological survey work and exploration in developing countries, not production. In fact, the private companies should welcome such legislation. It will minimize their risk-taking and will help them determine where best to invest their resources to find new fossil fuel supplies.

Among the benefits to be gained by the developing countries and by the United States through this legislation are the following. First, the world's fossil fuel supply would be increased and the fear of abrupt depletion would be lessened with new fossil fuel production. This could have a moderating influence on fossil fuel prices in international markets as well as a positive effect on the balance-of-payments problems of many developing countries.

Second, the diversification of the world's fossil fuel supply would make all countries less vulnerable to supply interruptions and arbitrary production and pricing policies.

Third, even a moderate increase in production in the developing countries would stimulate an expansion of commercial trade and foreign investment between the United States and many of the developing countries.

Fourth, if the United States could associate energy imports from potentially new non-OPEC producers with exports of U.S. machinery and technology, our balance-of-trade deficits due to energy imports would be minimized.

Fifth, prospects for cooperation between the governments of developing countries and American companies will be enhanced since the U.S. Government will have helped the developing countries locate and explore potential sources of fossil fuel.

I hope my colleagues will support the bill as a necessary first step toward the creation of an international energy policy that will help developing countries cope with the effects of skyrocketing energy prices dictated by OPEC and help our country broaden and diversify our supplies of imported oil and natural gas.●

THE DOMESTIC VIOLENCE PREVENTION AND SERVICES ACT OF 1979

The SPEAKER. Under a previous order of the House, the gentleman from California, Mr. MILLER is recognized for 5 minutes.

● Mr. MILLER of California. Mr. Speaker, I am introducing today, with nearly 60 cosponsors, the Domestic Violence Prevention and Services Act of 1979. The extraordinary number of cosponsors of this legislation is due, I believe, to the severity and frequency with which a terrible problem afflicts millions of Americans—violence within families.

During extensive hearings in the House and Senate last year, a substantive record was developed documenting the widespread nature of domestic violence. In 1975, one-fourth of all murders in the United States occurred within families, and half of those by a spouse. An estimated 2 million American couples have, at one time or another, used a lethal weapon on one another. Some experts told our subcommittee that spousal violence may affect as many as 50 to 70 percent of all marriages.

Nor are family members the only victims. In preparation for this legislation last year, I rode with two Fairfax County policemen who have had extensive experience in intervening in family disputes. They told me that such intervention is extremely common, regardless of the social or economic community in which they worked. They also told me that this type of intervention is among the most dangerous types of police work, a comment which is supported by statistical evidence. Nearly one-fifth of all police deaths, and 40 percent of injuries occur during interventions in family disputes. This is one reason that the bill I introduced last year received the strong support of several national police organizations.

Mr. Speaker, when related legislation came before the House last year, it drew attacks because of certain provisions which have been eliminated from this version of the bill. We have made a determined effort to limit any additional Federal administrative costs or bureaucracy, to cut costs—by over 50 percent—and to streamline the administrative procedure.

Most importantly, we have retained that intent of the original legislation which targets three-quarters of all the money appropriated under this act for direct grants to community-based service programs. That is the goal of the legislation: short term, limited funding to help these struggling programs establish themselves in the community. We have made it very clear, throughout the work on this legislation, that we do not intend to involve the Federal Government in long term funding of these programs. Ultimately, they, like other service programs, must turn to other funding sources, including their own local communities. But we believe that the widespread problem of domestic violence, and the great efforts of community people to create projects to aid its victims, deserve this small amount of Federal support.

Under this bill, an applicant would have to demonstrate community support. Moreover, Federal funds could not be used for more than one-quarter of its annual budget, to a maximum of $50,000 a year. Nor could any applicant receive funds for more than 3 years. No funds, in any event, could be used as direct payments to any individual.

Let me address one other issue which

was raised in objection to this legislation last year, that is, the fatuous argument that this legislation represents an unwarranted Federal intrusion into the family. I want to point out that there is absolutely nothing compulsory about this legislation: no one need establish a single service program, no State must apply for funds, and most certainly, no one need participate in the shelter program. This legislation does not expand by a single word the legal authority of the Federal Government with reference to family law, nor should it.

This legislation is a limited effort to help people who frequently have nowhere else to turn but to the kind of unique shelter programs offered to victims of domestic abuse. We have seen, through demonstration programs, that these types of programs are instantly flooded with requests for assistance whenever and wherever they are established. I have visited some of these projects, and have heard personally from the victims that before the creation of the shelter, they had lived for years in violence and abuse because they had nowhere to turn for assistance.

Let me address one final important point. Some might argue that there is no need for a Federal role in this program. As I pointed out, the design of this legislation is that the Federal contribution remain minimal. But there is, nevertheless, a great Federal interest, because we know that, down the road, the fiscal burden of picking up the pieces left by domestic violence is going to be a Federal expense, in such programs as child abuse, the judicial and penal system, mental illness, institutionalization, hospitalization and foster care. Once again, we have the choice of providing some limited funding up front, as a preventive device, or of expending far greater amounts of money later on, which we do, when the family falls to pieces and a bevy of costly services are mandated.

I think that this is a reasonable, cost-effective piece of legislation. I know that there is a mood against spending money on almost everything this year, but I think it would be very wrong to ignore such a widespread and severe problem as domestic violence. I am very gratified that 60 of my colleagues share that belief, and I especially note that these Members come from all ends of the political spectrum. I am hopeful, as a result, that we can soon have hearings on "the Domestic Violence Prevention and Services Act" and expedite action on this important piece of legislation.

ADDITIONAL COSPONSORS FOR H.R. ——
(DOMESTIC VIOLENCE)

1. Mr. Addabbo.
2. Mr. Barnes.
3. Mr. Brademas.
4. Mr. Bonior of Michigan.
5. Mr. Clay.
6. Mr. Conyers.
7. Mr. Edgar.
8. Mr. Edwards of California.
9. Mr. Evans of Georgia.
10. Mr. Flood.
11. Mr. Ford of Tennessee.
12. Mr. Forsythe.
13. Mr. Frenzel.
14. Mr. Gonzalez.
15. Mr. Green.
16. Mr. Hawkins.
17. Mrs. Heckler.
18. Ms. Holtzman.
19. Mr. Hyde.
20. Mr. LaFalce.
21. Mr. Lederer.
22. Mr. Lehman.
23. Mr. Long of Maryland.
24. Mr. Mathis.
25. Mr. McClory.
26. Mr. McHugh
27. Mr. Mikva.
28. Mr. Mitchell of Maryland.
29. Mr. Moorhead of Pennsylvania.
30. Mr. Murphy of Pennsylvania.
31. Ms. Oakar.
32. Mr. Ottinger.
33. Mr. Patten.
34. Mr. Pepper.
35. Mr. Pritchard.
36. Mrs. Schroeder.
37. Mr. Simon.
38. Mrs. Spellman.
39. Mr. Thompson.
40. Mr. Traxler.
41. Mr. Vento.
42. Mr. Walgren.
43. Mr. Weiss.
44. Mr. Winn.
45. Ms. Ferraro.
46. Mrs. Chisholm.
47. Mr. Marks.
48. Mr. Lent.
49. Mr. Downey.
50. Mr. Scheuer.
51. Mr. Diggs.
52. Mr. Richmond.
53. Mr. Lundine.
54. Mr. Bonker.
55. Mr. Leach of Louisiana.
56. Mr. Brodhead.

H.R. —

A bill to provide for Federal support and stimulation of State, local, and community activities to prevent domestic violence and assist victims of domestic violence, for coordination of Federal programs and activities pertaining to domestic violence, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Domestic Violence Prevention and Service Act".

FINDINGS AND PURPOSE

SECTION 1. (a) The Congress hereby finds that—

(1) a significant number of homicides, aggravated assaults, and assaults and batteries occur within the home between adult members of families;

(2) the reported incidence of domestic violence represents only a portion of the total number of incidents of domestic violence;

(3) a large percentage of police officer deaths in the line of duty result from police intervention in domestic violence situations;

(4) domestic violence is a complex problem affecting families from all social and economic backgrounds; and

(5) the effectiveness of State laws and State and local community programs in reporting and preventing domestic violence and assisting victims and dependents of victims of domestic violence is not readily ascertainable.

(b) It is the purpose of this Act to increase the participation by States, local communities, nonprofit private organizations, and individual citizens in efforts to prevent domestic violence and assist victims and dependents of victims of domestic violence to provide technical assistance and training to domestic violence programs to interested States, local communities, nonprofit private organizations, and other interested groups, officials, and persons; to establish an interagency council to seek to coordinate Federal programs with respect to domestic violence; and to provide for information gathering and reporting programs relating to domestic violence.

ADMINISTRATION

SEC. 2. The Secretary of Health, Education and Welfare shall designate an individual with expertise in the area of the prevention and treatment of domestic violence to serve as the Co-ordinator of programs established pursuant to this Act, including—

(a) the operation of a national clearinghouse on domestic violence for the purposes of collecting and disseminating information, reviewing federal, state and local programs, and compiling and actively distributing information on programs for the prevention and treatment of domestic violence;

(b) the development of a national media campaign to increase public awareness of the problem of domestic violence and the availability of services for its victims, including, if he deems desirable, a national toll-free hot-line;

(c) make recommendations to the Congress concerning the need for the modification of federal programs which may affect victims of domestic violence; and

(d) the acquisition of information regarding research projects relating to domestic violence.

GRANTS AUTHORIZED

SEC. 3. (a)(1) In order to assist in supporting the establishment, maintenance, and expansion of programs and projects to prevent incidents of domestic violence and to assist victims and dependents of victims of domestic violence, the Secretary is authorized, in accordance with the provisions of this Act, to make grants to States that meet the requirements of this subsection.

(2) No grant may be made under this subsection unless the chief executive of the State submits an application to the Secretary at such time and in such manner as the Secretary may reasonably require. Each such application shall—

(A) provide that all funds under this subsection will be distributed in grants to local public agencies and nonprofit private organizations for programs and projects within such State to prevent incidents of domestic violence and to assist victims and dependents of victims of domestic violence;

(B) provide, with respect to funds paid to a State under this subsection for any fiscal year, that not less than three-quarters of such funds will be distributed in grants to private nonprofit organizations within the State; and that, in the distribution of grants under this subsection, the State will give special emphasis to the support of community-based projects of demonstrated effectiveness, particularly those operating shelters;

(C) provide that, whenever feasible, in making grants pursuant to this subsection, reasonable assurances will be provided to grantees of the level of future support which each such grantee is likely to receive from the State, assuming continuation of an adequate level of Federal assistance under this Act;

(D) set forth procedures designed to assure an equitable distribution of grant funds within the State;

(E) set forth procedures for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid in the grant, including such funds distributed by the State to local public agencies and nonprofit private organizations, under this Act;

(F) specify the State agency to be designated as responsible for the administration of the State domestic violence program under this Act:

(G) provide for making such reasonable reports in such form, at such times, and containing such additional information as the Secretary may deem essential to carry out the purposes and provisions of this Act, and for keeping such records and affording such access thereto as the Secretary may deem essential to assure the correctness and verification of such reports;

(H) provide assurances of, and procedures for, compliance with the provisions of section 8, relating to confidentiality and provide assurances that the address or location of a shelter in receipt of a grant under this subsection will, at the request of such shelter, not be made public;

(I) set forth procedures to assure active citizen participation within the State with respect to—

(i) overseeing within the State the development and implementation of Federal, State, and local programs and projects under this Act, including consideration of the extent to which the geographic distribution of grants by the State is equitable, taking into account the distribution of population within the State, and, to the extent feasible, examining and evaluating other Federal, State, and local programs providing services in the State that are or could be used in relation to the prevention of domestic violence or the provision of assistance to victims and dependents of victims of domestic violence, and

(ii) the distribution of funds to be made through grants to local public agencies and non-profit private organizations, and plans for effectively meeting statewide needs;

(J) provide such other assurances and include such other information as the Secretary deems essential to carry out the purposes and provisions of this Act; and

(K) provide assurances that any project for which a grant is made will be administered and operated by personnel with appropriate skills and that, where a substantial number of individuals with limited English-speaking proficiency will be served, particular attention will be given to the provision of services which respect cultural sensitivities and bridge linguistic and cultural differences.

(3) The Secretary shall approve any application that meets the requirements of this subsection, and the Secretary shall not disapprove an application for a grant under this subsection except after reasonable notice, opportunity for correction of any deficiencies, and notice of an opportunity for a hearing.

(b)(1) The Secretary, through the Coordinator designated in section 2 of this Act, is authorized to make grants to local public agencies and nonprofit private organization for projects designed to prevent incidents of domestic violence and to assist victims and dependents of victims of domestic violence. In no event may the Secretary make a grant under this subsection to a local public agency unless such agency has been approved for funding for such a project by the State in which the local public agency is located.

(2) No grant may be made under this subsection unless an application is made to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems essential to carry out the purposes and provisions of this Act.

(c) No grant may be made under this section in any fiscal year to any single entity (other than to a State) in excess of $50,000, and the total amount of such grants to any single entity may not exceed $150,000, or be awarded in excess of three fiscal years or for more than 25 per centum of the annual budget of such entity, whichever is the lesser: *Provided,* That a grant awarded to an entity which has not been in operation for more than one year may equal up to 50 per centum of such entity's annual budget (but in no event more than $50,000) if, as appropriate the Secretary or the State agency designated under this section has received reasonable assurances of support for the entity within the community to be served.

(d) No funds provided through grants made under this section may be used as direct payment to any victim or any dependent of a victim of domestic violence.

(e) No income eligibility standard may be imposed with respect to any individual seeking assistance or services from an entity in receipt of a grant under this Act.

SUPPLEMENTAL GRANTS AUTHORIZED

SEC. 4. The Secretary is authorized, in accordance with the provisions of this Act, to make grants under this section to any applying State that has met the requirements for a grant under section 3(a) in order to pay the costs of administering any such State's domestic violence program under this Act, developing and implementing any such State's application required to be submitted under such section, and assuring active citizen participation as required under section 3(a)(2)(I).

ALLOTMENT OF FUNDS

SEC. 5. (a) From the sums appropriated under section 12 for grants to States for any fiscal year, each State shall be allotted for payment in a grant authorized under sections 3 and 4 an amount which bears the same ratio to such sums as the population of such State bears to the population of all States, except that—

(1) each State shall be allotted not less than whichever is the greater of the following amounts: one-half of 1 per centum of the amounts available for grants under sections 3(a) and 4 for the fiscal year for which the allotment is made, or $50,000 (or $7,000 for the purposes of section 4); and

(2) Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands shall each be allotted not less than one-eighth of 1 per centum of the amounts available for grants under sections 3(a) and 4 for the fiscal year for which the allotment is made.

For the purpose of the exception contained in clause (1) of this subsection only, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands.

(b)(1) If, by the end of the sixth month of the fiscal year for which sums have been appropriated under section 12 the amount allotted to a State has not been paid to such State in grants under sections 3(a) and 4 because of such State's failure to qualify, in accordance with the provisions of this Act, for such grants, the Secretary shall make reallotment of the total amounts not so paid, as follows:

(A) not less than 50 per centum in grants to States so qualifying, each State to be paid an amount which bears the same ratio to the total amount to be reallotted as the population of such qualifying State bears to the population of all qualifying States; and

(B) the remaining 50 per centum in grants under section 3(b), unless the Secretary determines that a lesser per centum would more effectively carry out the purposes and provisions of this Act.

Not less than thirty days prior to making a determination pursuant to clause (B) of this paragraph that less than such 50 per centum would be used for grants under sections 3(a) and 4, the Secretary shall advise the appropriate committees of the Congress and publish in the Federal Register a statement, with supporting reasons, of the Secretary's intention to make such determination.

(2) The Secretary may make available for reallotment, in accordance with the provisions of paragraph (1) of this subsection, such amounts paid in any fiscal year in a grant to a State under sections 3(a) and 4 as the Secretary determines, after consultation with such State, will not be used by such State during such fiscal year for carrying out the provisions of this Act.

(3) For the purposes of paragraphs (1) and (2) of this subsection, a State which the Secretary, pursuant to paragraph (2) of this subsection, has determined will not use any of the amounts paid in a grant pursuant to sections 3(a) and 4 shall not be eligible for a reallotment of funds under either such paragraph.

(4) Funds made available by the Secretary through reallotment pursuant to paragraph (1) or (2) of this subsection shall remain available for expenditure until the end of the fiscal year following the fiscal year in which such funds become available for reallotment.

STATE REPORTS

SEC. 6. (a) For the purpose of furnishing information to the Congress to aid in its oversight activities, each State receiving a grant under section 3(a) shall submit to the Secretary, on or before December 1 of each year, a concise report providing specific information on the implementation of programs and projects under this Act. Each such report shall include (both with respect to funds paid under section 3(a) and 4) information for the preceding fiscal year as to—

(1) the amount used to administer the State program;

(2) the amount used for programs and projects to provide training and technical assistance with respect to domestic violence, and the amount used for assuring active citizen participation;

(3) the amount used for services provided and activities conducted, or caused to be provided or conducted, by the State, broken down by agency and by types of services and activities conducted or caused to be conducted by such agency;

(4) the number, nature, recipients, and amounts of grants made to local public agencies and the number, nature, recipients and amounts of grants made to nonprofit private organizations;

(5) the number of persons estimated to have been assisted in projects described in clauses (2), (3), and (4) respectively of this subsection; and

(6) such other specific information as the Secretary may deem essential to carry out the purposes and provisions of this Act.

FEDERAL REPORTS AND EVALUATIONS

SEC. 7(a). For the purpose of furnishing information to aid the Congress in its oversight activities, the Secretary shall prepare and submit to the Congress on or before February 1 of each year a concise report providing specific information on the programs authorized by this Act. Each such report shall include for the preceding fiscal year—

(1) the name of each State receiving a grant under section 3(a) and the amounts of funds paid in such a grant by way of allotment and reallotment and the name of each State receiving a grant under section 4 and the amount of such grant;

(2) the total amounts of funds reallotted pursuant to section 5 and distributed pursuant to section 3(b);

(3) with respect to grants made under section 3(b)—

(A) the number of such grants;

(B) a listing, by State, of the grants made to local public agencies;

(C) a listing, by State, of the number of grants made, and the amounts of funds paid thereunder, for projects in States not receiving or not utilizing in full such State's allotments of funds for grants under section 3(a);

(D) the number of grants made, and the percentage of funds paid in grants to projects conducted in rural areas; and

(E) the percentage of funds paid in grants to nonprofit private organizations and the names, locations, and the amounts of all funds paid in such grants; and

(4) any recommendation which the Secretary determines to be appropriate for improving the programs authorized by this Act.

(b) The Secretary shall review, evaluate, and report to Congress, not later than three years after the date funds are obligated for grants under section 3(a) for the first time after the date of enactment of this Act, as to the effectiveness of the programs administered and operated pursuant to this Act. Such review, evaluation, and report shall be conducted and prepared by persons not directly involved in the administration or operation of such programs. Such review and evaluation shall include examination of—

(1) the extent to which public awareness of the problem of domestic violence has been increased;

(2) the extent to which the availability and the effectiveness of services with respect to domestic violence has been increased;

(3) the extent to which assistance made available under this Act has served as a catalyst for State and local community involvement and support (financial and otherwise) for projects with respect to domestic violence;

(4) whether limiting the dollar amount of grants which may be awarded in any one fiscal year or over a four-year period has provided more opportunities for communities and nonprofit private organizations to establish, maintain, and expand projects under this Act;

(5) whether such dollars limitations have resulted in stimulating State, local governmental, and community financial support for projects with respect to domestic violence;

(6) the extent to which projects assisted under this Act have continued, without assistance under this Act, to provide services with respect to domestic violence;

(7) the extent to which the interagency domestic violence council established by section 10(a)(1) of this Act has assisted the Director in coordinating at the Federal level programs for the prevention of domestic violence and the provision of assistance to victims and dependents of victims of domestic violence;

(8) the extent to which the Center has provided the necessary relevant information and assistance with respect to domestic violence to participating and interested States, local public agencies and communities, and nonprofit private organizations.

CONFIDENTIALITY

SEC. 8. The provisions of section 40 relating to confidentiality (including the penalty in subsection (e)) thereof, of the Drug Abuse Office and Treatment Act of 1972 (Public Law 92-255; 21 U.S.C. 1175) shall be applied to the records of any individuals subject to any program, project, or activity assisted under the provisions of this Act.

AUDIT PROVISIONS

SEC. 9. The Secretary and the Comptroller General of the United States, or any of their duly authorized representa-

* * * * *

pletion of the program, project, or activity authorized or assisted under this Act, have access, consistent with the provisions of section 8 for the purpose of audit and examination, to any books, documents, papers, and records of recipients which, in the opinion of the Comptroller General, after consultation with the Secretary, may be related, or pertinent to, the grants or contracts authorized to be made under this Act.

COORDINATION OF FEDERAL PROGRAMS

SEC. 10. (a)(1) In order to assist the Director in coordinating at the Federal level programs for the prevention of domestic violence and the provision of immediate shelter and other assistance to victims and dependents of victims of domestic violence, a Federal interagency domestic violence council is established. Such council shall be chaired by the Director and shall include representatives of the Department of Agriculture (with respect to the food stamp program), Department of Defense, Department of Housing and Urban Development, Department of Justice (including the Law Enforcement Assistance Administration), the ACTION Agency, the Community Services Administration, the Legal Services Corporation, the appropriate Institutes within the Alcohol, Drug Abuse, and Mental Health Administration, and representatives of such other agencies as the President shall designate, and shall include not less than five members of the general public to be appointed by the Secretary who are individuals who have been victims of domestic violence or have experience in the provision of shelter and other services to victims of domestic violence. The Coordinator designated in section 2 of this Act shall serve as chairman of the council.

(2) The council shall identify, assess, and facilitate the coordination of all Federal programs, projects, and plans for programs and projects providing immediate shelter and other services or research support relating to domestic violence, and shall make such recommendations as it deems appropriate to the President and the Congress with respect to coordination of policy and development of objectives and priorities for all Federal programs relating to domestic violence.

(3) The council shall meet at the call of the Chairman.

(4) Members of the council, other than those regularly employed by the Federal Government, shall be appointed by the Secretary, and, while serving on business of the council, shall be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently.

(b) In seeking to coordinate programs with respect to domestic violence, provide information, otherwise carry out clearinghouse functions, and make grants and contracts under this Act, the Director shall give particular attention to the availability for assignment of VISTA volunteers serving under part A of title I of the Domestic Volunteer Service Act of 1973, as amended (Public Law 93-113), and of assistance through the conduct of or grants to special volunteer or demonstration programs under part C of title I and through grants and contracts made under title II of such Act.

DEFINITIONS

SEC. 11. As used in this Act, the term—

(1) "domestic violence" means any act or threatened act of violence, including any forceful detention of an individual, which—

(A) results or threatens to result in physical injury; and

(B) is committed by a person eighteen years of age or older against another such person to whom such person is or was related, or by a person of any age against another person with whom such person is or was residing in a relationship of husband and wife;

(2) "Secretary" means the Secretary of Health, Education, and Welfare; and

(3) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and, except as otherwise provided, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands.

AUTHORIZATION OF APPROPRIATIONS

SEC. 12. There are authorized to be appropriated $15,000,000 for fiscal year 1980, $20,000,000 for fiscal year 1981, and $30,000,000 for fiscal year 1982, to carry out the provisions of this Act. Of the sums so appropriated for any fiscal year, 50 per centum shall be used for making grants by the Secretary to states under section 3(a), relating to state grants; 25 per centum shall be used for making grants by the Secretary to private nonprofit organizations and local public agencies under section 3(b), relating to direct Federal grants; 15 per centum shall be used for making grants to states under section 4, relating to supplemental state grants; and 10 per centum shall be used by the Secretary for the development, operation and coordination of programs and policies under section 2, relating to administration and coordination.●

TO AMEND TITLE XVIII OF THE SOCIAL SECURITY ACT WITH RESPECT TO THE INPATIENT HOSPITAL DEDUCTIBLE

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. STOKES) is recognized for 5 minutes.

● Mr. STOKES. Mr. Speaker, rapidly escalating prices for health care services have special implications for the Nation's elderly. As required by the statutory provision that raises the inpatient hospital deductible and the monthly premium under medicare, senior citizens will now have to provide increased cost sharing to receive medicare coverage.

The legislation I am introducing today will give relief to senior citizens. My bill will amend title XVIII of the Social Security Act by freezing the inpatient hospital deductible at its current level of $160 until January 1, 1981, and further provides that after that date, the deductible will remain at $160 unless the Secretary of HEW promulgates a new inpatient hospital deductible which is approved by a resolution of each House of Congress within 60 days.

Medicare is a two-part health insurance plan available to persons who are 65 years of age or older, and many severely disabled persons under 65. Part A of medicare helps pay the cost of hospitalization and skilled nursing care. It pays for the first 60 days of hospital care except for the first $144 of the hospital bill—which will now be the first $160 of the hospital bill. The vast majority of persons who reach 65 are automatically entitled to protection. Part A also provides that if hospitalization is necessary for an additional 30 days, medicare will pay for all covered services except for $36 per day—which will go up to $40 per day.

Additionally medicare assists in paying the cost of up to 100 days of care in a participating skilled nursing facility. It pays for all covered services for the first

20 days of nursing home care. Under certain conditions, it will also pay all but $18—which will now be $20 per day—a day for an additional 80 days. Within specified requirements medicare will assist in paying for up to 100 home health visits from a home health agency, providing those visits occur within 12 months after discharge from a hospital or a participating skilled nursing facility.

Coverage under part B of the supplementary medical insurance program is voluntary and allows all persons 65 or older—whether or not they are entitled to hospital insurance—and all others entitled to hospital insurance—the disabled, et cetera—to enroll in the supplementary medical insurance program. This medical insurance plan was intended to provide protection against the costs of physicians' services, home health services, and numerous other medical and health services in and out of medical institutions.

Despite the fact that medicare has assisted the elderly in meeting their health needs, the inclusion of deductibles, coinsurance, and copayments has diminished its value to participants. Today, medicare, on the average pays for only 38 percent of the health bill, even though, in quoting a report entitled "Our Future Selves" which was issued by the Department of Health, Education, and Welfare:

> Medicare, . . . , has obviously helped our older citizens, but increasingly it pays less of the older persons health bill . . .

This is true despite the proven fact that the Nation's elderly have a greater need of medical care than any other age group. The elderly are sick more frequently and for more prolonged periods than the rest of the population. The President summarized some of these problems in his special message on the elderly citizens of our Nation in February of 1963:

> The elderly are sick more frequently and for more prolonged periods than the rest of the population. Of every 100 persons age 65 and over, 80 suffer some kind of chronic ailment, 10 impaired vision, and 17 have hearing impairments. Sixteen are hospitalized one or more times annually. The elderly require three times as many days of hospital care every year as persons under the age of 65 . . .

In 1975, persons aged 65 and over were only about one-fifth as numerous as those aged 19 to 64, but their total personal health care expenditures were more than half as large as those of persons aged 19 to 64. The aged are hospitalized at two and a half times the rate for persons under age 65, and their average length of stay is almost twice that of other persons. Personal health care expenditures per capita for the population as a whole climbed to $476 in fiscal year 1975. The average health bill for persons aged 65 or older was $1,360 or more than six times the average expenditure for those under 19—$212—and almost three times the average expense for those aged 19 to 65—$472. Per capita expenses for the aged were 15 percent higher than they were in 1974.

These statistics reflect the more frequent illnesses of the aged and the greater expenses involved in their care. Though the medicare has assisted the elderly in meeting their health needs, I believe that it has become a program which sets limits on protection instead of limiting the financial burden of older people.

Under the Social Security Act, the Secretary of the Department of Health, Education, and Welfare is required to make an annual review of hospital insurance costs under medicare and if necessary, to adjust the deductible and related coinsurance amounts for the following calendar year. Section 1813(b)(2) of title XVIII—Health Insurance for the Aged Act—provides that—

> (2) The Secretary shall, between July and October 1 of 1968, and of each year thereafter, determine and promulgate the inpatient hospital deductible . . .

The Secretary is also required by law to review the costs of the supplementary medical insurance program each December.

By this authority, Secretary Califano has announced that the hospital deductible under part A—hospital insurance—of medicare will be increased from $144 to $160 for benefit periods beginning in 1979. He has also announced that the monthly premium under part B—the medical insurance program—will increase from $8.20 a month to $8.70 a month starting July 1, 1979.

My bill will provide financial relief to the vast majority of senior citizens, whose fixed incomes have not inflated at the rate of hospital costs, by freezing the deductible at its present level until January 1, 1981. Additionally it will guard our senior citizens from further increases that are not commensurate with their fixed incomes by providing for congressional approval of any new deductible that may be proposed by the Secretary of HEW after the 1981 date.●

STATEMENT ON THE MERITS OF THE ELECTORAL COLLEGE

The SPEAKER. Under a previous order of the House the gentleman from Missouri (Mr. CLAY) is recognized for 5 minutes.

● Mr. CLAY. Mr. Speaker, as the debate continues over the merits of the electoral college, I would like to share with my colleagues the following statement by Mr. Will Maslow of the American Jewish Congress. I call this article to your attention as it raises some very critical issues and presents some highly insightful comments:

STATEMENT ON THE ELECTORAL COLLEGE

The American Jewish Congress, a national association in existence since 1918, has given deep and repeated consideration since 1967 to the proposals to revise or eliminate the Electoral College. In brief, we believe we should retain the present system which has served our country well for almost 200 years. We believe, however, that by statute or constitutional amendment we can dispose of the problem of the "faithless elector."

The extent to which electoral reform will affect the Jewish community's position and influence in the national political scene is an important factor in the formulation of Jewish communal policy on this issue but it should not be and is not the only criterion by which we evaluate the Electoral College and proposals to abolish it. Jews have a stake in the political system beyond its impact upon their own influence. We cannot therefore support any electoral proposal, no matter how alluring, that threatens to unravel the basic political fabric of our country.

We oppose the direct election of the President for the following reasons.

1. It will drastically reduce the political influence not only of Jews but of blacks and other minority groups and indeed of the residents in metropolitan areas. The political influence of Jews and blacks in presidential elections is derived from several factors: They make up a significant proportion of the electorate in the key states with large electoral votes and they tend at least in presidential elections to vote in a bloc. Hence the political parties are sensitive to the interests of Jews and blacks both in their selection of candidates and in the adoption of party platforms. In a system of direct election, however, where a vote in one state is equal to a vote in another, that influence will be lost. We are gratified to note that the Black Leadership Forum, a coalition of the sixteen most important black organizations in the country including the Urban League and the NAACP, as recently as February 12, voted to retain the Electoral College system.

As Eddie Williams, the president of the Joint Center for Political studies, a Washington-based black research institute put it:

"As a newcomer on the political block, blacks have too much at stake to gamble on the unknown. Support for such a change should be based on nothing less than conclusive evidence that the advantages of the proposed reform far outweigh its disadvantages."

A report sponsored by the Brookings Institution in 1970 entitled *Voting For President* declared: "Again, because Negroes, Puerto Ricans, Mexican-Americans, Jews, Poles, Italians, Irishmen, and so on have comprised important voting blocs, presidential candidates have had to give attention to issues that concern them." The net result is a desirable one, summarized as follows in the Brookings Report:

"The importance of populous states, their major metropolitan areas, and their large blocs of ethnic groups has tended to make presidential candidates 'liberal' in domestic policy, sensitive to urban ethnic group concerns in both domestic and foreign policy, and 'internationalists' in foreign policy—or at least more so than they otherwise would be."

2. It will lead to the proliferation of ideological or single-issue parties which undermine the two party system. These single issue groups count for almost nothing under the present electoral system but if every vote in the nation must be reckoned with and counted, they will be encouraged to mount campaigns for public relations rather than electoral purposes. We recoil at the prospect that in a presidential election there may be candidates from anti- or pro-abortions, budget balancers, black separatists, feminists, anti-gun controllers and even homosexuals. Indeed these separate groupings may frequently prevent a major party candidate from achieving the 40 percent presently required by Senator Bayh's resolution.

3. It will reduce the moderating and compromising now accomplished by our national convention. Our major parties by and large are centrists in their orientation. When the candidate of an ideological group won his party's nomination (Goldwater in 1964 and McGovern in 1972), the other side won by the largest popular majorities in our history. The direct election of the President, however, may induce a convention to select a charismatic candidate relying on

his demagogic television techniques to win the election.

4. In the event of a close election we would face the horrors of a national recount, i.e,, in every state, never before required in our history. Such a recount would take weeks, perhaps months, delayed inevitably by court challenges, which would disrupt the political machinery and paralyze the country.

5. The problem of the faithless elector is a hobgoblin that should scare no one. Of the 17,000 electors chosen since 1789, no more than ten have betrayed their pledge and have voted for their own choice, but they did so only when it was known that their votes would not affect the outcome. Sixteen states now have laws forbidding such defection. We believe that this minor abberation can be handled by state laws or if necessary by a constitutional amendment which would win unviersal support.

6. Similarly, the possibility of an election being decided by the House of Representatives where the members vote by states has not occurred in modern times. While we favor the proposal that in such a contingency the election be decided by a joint session of the Senate and the House with each member casting one vote, we hardly think that the cumbersome procedure of constitutional amendment should be sought for this point.

7. We do not regard the remote possibility that a candidate who wins the popular vote but nevertheless loses in the Electoral College as sufficient reason for upsetting a system that has so many other sound reasons for supporting it. As the *New York Times* put it in a 1977 editorial, "There are risks in abolishing the Electoral College and subverting the two-party system. The risks are as serious as the remote contingency that the popular vote loser might squeeze out an Electoral College and subverting the two-party system. This has happened only once, in the election of 1888. (Grover Cleveland won the popular vote by 90,000 votes only to lose in the Electoral College to Benjamin Harrison). But the ordinary statistical error in a national vote count would be greater than any minute discrepancy between the majority and the minority, so we can never be certain in close elections who really won.

We conclude with the homely adage "If it ain't broke, don't fix it." ●

INTRODUCTION OF DOMESTIC VIOLENCE PREVENTION AND SERVICES ACT

The SPEAKER. Under a previous order of the House, the gentlewoman from Louisiana (Mrs. Boggs) is recognized for 5 minutes.

● Mrs. BOGGS. Mr. Speaker, I rise today to ask my colleagues to support the Domestic Violence Prevention and Services Act, which Representatives George Miller, Barbara Mikulski, and I are introducing today. A total of 60 Members of this House have already cosponsored this bill to assist victims of domestic violence, the serious physical battering of persons by a member of his or her own family.

In 1978, hearings before the House and the Senate established the extensive impacts of domestic violence—including child abuse, spouse assault, the abuse and neglect of elderly grandparents and other elderly family members, police deaths, and other homicides. Intervention in domestic disputes is a leading cause of police deaths nationwide.

Throughout the Nation—in nearly every congressional district—small, community-based volunteer groups have been trying to help the women, men, and children caught in the web of domestic violence. As the attached explanation shows, our legislation will help these local efforts and will also encourage the State governments to get involved. Small program grants will help local organizations or agencies without encouraging dependence on Federal assistance. Federal involvement will be limited to coordination and clearinghouse activities to make certain that information and research generated by other agencies will be available to people working on family violence throughout the country.

Violence in the homes does not exist in a vacuum. It is related to all community problems, such as drug and alcohol abuse, housing, crime, and health care. The purpose of our legislation is to coordinate existing national, State, county and local governmental and private capabilities aimed at long-range solutions as well as emergency help.

To assist my colleagues in carefully considering the proposed bill and the issue of family violence, I would like to include in the Record a summary of the provisions of the bill and an article from U.S. News & World Report which documents the serious national problem of domestic violence.

The material follows:

Domestic Violence Prevention and Services Act—A Short and Long Term Approach

SHORT-RUN

75 percent of the money appropriated would go to local programs that directly aid the victims of domestic violence. Shelters, hotlines and other community programs have evolved in response to domestic violence, but these services need technical and financial assistance to become self-sustaining entities.

LONG-RUN

State and local governments must become involved. This legislation encourages states to develop long term plans to combat domestic violence, including changes in the criminal justice system, social service delivery and public education.

NEED FOR LEGISLATION

According to FBI statistics, 22.2 percent of all police officers killed in the line of duty in 1976 were killed on "disturbance calls" (family quarrels, man with gun category) and 12 percent of all murders occur between spouses.

A 1976 study funded by the National Institute of Mental Health estimates that 1.8 million wives a year are severely assaulted. By "severely", the study refers to being hit with objects, stabbed or shot. Child abuse is estimated to occur in one-half of these families.

PROVISIONS OF THE DOMESTIC VIOLENCE PREVENTION AND SERVICES ACT

Of the money appropriated:

75 percent would be distributed in grants to the community based programs and local public agencies—50 percent through the States and 25 percent by the Federal government.

15 percent would be allocated to states to develop a long term State plan assuring active citizen participation in the program.

10 percent would be retained by the Secretary to establish an advocacy clearinghouse, provide technical assistance to community programs, develop a national media campaign and coordinate all federal programs.

Authorization is 15 million dollars for FY 1980, 20 million dollars for FY 1981 and 30 million dollars for FY 1982.

Battered Families: A Growing Nightmare

Tired of child-rearing chores, Alice, 26, threw her 3-month-old daughter out the window of her apartment.

On Thanksgiving Day, Janice, 42, was badly beaten by her husband, her face too disfigured for her to leave the house.

Perry, 16, hits his sick and elderly father—something he has been doing for the last four years.

Ugly as these incidents are, they are by no means rare. So widespread is the problem of family violence—abuse in some form occurs in more than half of all U.S. households—that some analysts are calling it a national nightmare.

In all, about 50 million people fall victim annually to physical harm at the hands of another family member. No class of family is spared.

Sociologist Murray Straus of the University of New Hampshire asserts: "Physical violence develops between family members more often than it does between any other individuals or in any other setting except for wars and riots."

Statistics from a study funded by the National Institute of Mental Health bear him out—

Each year, as many as 6.5 million children are harmed by parents or other family members.

Spouse abuse occurs among 16 percent of American married couples.

Annually, 8 million children—18 of every 100—assault their parents.

THE CAUSES

At the root of many of these incidents, say authorities, are money and job worries and the inability to cope with an increasingly complicated world. Recent studies also trace part of the violence to the resentment some men feel toward new advances made by women both at work and in society at large.

Whatever the reason, the rising tide of abuse in the family is prompting increased scrutiny of what goes on in the home. Springing up, too, are new programs to curb the violence and help the victims.

Most of the attention today is focused on child abuse. Thousands of children each year are so seriously battered by their parents as to require medical treatment. Another 700,000 are deprived of food, clothing and shelter, and between 60,000 and 100,000 are sexually abused, according to the National Center on Child Abuse and Neglect of the Department of Health, Education and Welfare. An estimated 5,000 children die from abuse or neglect each year.

The reasons that parents hurt their children are as varied as the methods used, notes Douglas Besharov, director of the national center. Economic stress and unemployment are prime factors. Another contributor: growing drug abuse among parents.

Says Besharov: "Parents who were abused become abusive. Violence in families is cyclical, passed on from generation to generation."

To cope with the problem, some 20 million dollars is being spent annually on child-abuse programs around the country. The national center alone has trained more than 30,000 people since 1975 to work with victims and abusers. It also has helped fund special treatment centers on Indian reservations, military bases and in rural areas.

One of the most effective programs is Parents Anonymous, which gets $750,000 annually from the center and from state and local governments. A self-help organization, it has grown to 900 chapters in the U.S. and abroad.

Parents who abuse their children can call a local Parents Anonymous hot line or a nationwide toll-free number, manned 24 hours a day by trained volunteers and counselors.

At the organization's local chapters, troubled parents meet weekly to discuss problems and seek mutual help. Counselors work with the abuser and the child to strengthen the relationship between them. Transportation and baby-sitting are provided, too, and fees are pegged to people's ability to pay.

SUPPORT THEY NEED

Some parents who come to the centers have not hit a child, but fear that they might, says Joann Sullivan, a counselor in Virginia. She adds: "Many of our clients are young working mothers who are raising a child alone. They're frustrated with their plight, and the group gives them the support they need."

Experts worry, however, that there are not enough good programs for all the people who need help. Another problem is distinguishing abuse from ordinary corporal punishment that parents may use in disciplining children.

In the only nationwide survey into domestic violence, Professor Straus and sociologists Richard Gelles of the University of Rhode Island and Suzanne Steinmetz of the University of Delaware found that more than 98 percent of parents use some form of physical punishment on their children.

Gelles sees the problem this way: "No parent who raises his hand in anger can guarantee that he will not seriously harm the child. Spanking really is potentially abusive."

Federal and local officials complain that their efforts are hampered by private hospitals and clinics that do not report all cases, especially when middle-class people are involved.

Some new laws that protect the identity of informers are encouraging neighbors, friends and relatives to report abusers. In addition, nearly every state now requires teachers, social workers and other professionals to report suspected cases.

PREVENTION PROBLEMS

Critics insist, however, that too little of the money for child-abuse programs is for prevention. Brian Fraser, director of the Chicago-based National Committee for Prevention of Child Abuse, says almost all the funds go to treatment. "That's like attacking polio with an iron lung instead of polio shots," he adds.

Public-service messages on television and radio and in the printed media are beginning to make the public more aware of the problem, Fraser says. Also aiding prevention are the parent-education courses taught by hospitals, volunteer groups and churches. In addition, tests are being developed to identify high-risk couples even before they decide to have children.

Many of the programs aimed at reducing child abuse are shedding light on the problem of battered wives and, more recently, on abused husbands. Studies show that in 20 percent of child-abuse cases, a spouse is hurt, too. It's not just women who are harmed. Sociologist Steinmetz says that husbands are slapped or shoved with about the same frequency as are wives.

Still, the greatest physical harm is to women. Studies show that men not only cause more serious injuries but are more prone to use weapons. Nearly 11 percent of all murder victims are killed by their spouses. Women also tend to endure abuse and cruelty much longer, often feeling trapped because of unemployment and financial insecurity.

The recent introduction of shelter homes for battered women has given many an opportunity to flee hostile and hopeless situations. Observes Elizabeth Fischer, director of a shelter program in Prince George's County, Md.: "Because women are now better informed about abuse, many call for help before a crisis. They say: 'My husband slapped me; I want to get out before he does something worse.' "

More than 170 shelter homes for abused women and their children have opened in the U.S. since 1975. One kind of shelter, called a "safe house," offers immediate and secret hiding to the victim. The address and telephone number of the facility are known only to a few policemen and social workers.

In the Prince George's County shelter, typical of many nationwide women and children may stay no longer than a month. During that period, the mother receives counseling and aid in finding a job, a home or legal help.

Few states—among them Texas, California and Hawaii—regard wife beating as a crime.

Since 1976, however, spouse-abuse laws have been adopted or rewritten in more than a dozen states. In Illinois, for example, the offender may be expelled from the home for 30 days. California provides emergency transportation for victims of domestic violence. Some states have laws acknowledging that a person can be raped by a spouse and allow a conviction on the charge.

Abusers also are beginning to get help. A county program in Hauppauge, N.Y., counsels husbands if the wife chooses to remain in the marriage. Husbands are instructed to call the 24-hour hot line when they are angry.

A project run by the Baltimore police concentrates almost entirely on the abusive husband. Kenneth Corell, the community-relations officer for the program, says that, although convictions are sought in cases of serious abuse, sentencing often involves a 10-week counseling program.

Says Corell: "Battering somebody when your're angry is all many of these men know. What we try to do is teach them alternatives to violence."

While strides are being made against abuse of children and spouses, authorities are only beginning to scratch the surface in other areas of domestic violence, such as the harm brothers and sisters inflict on each other or assaults by older children on their parents.

In a recent Virginia case, a 15-year-old boy has been charged with involuntary manslaughter in the killing of his 12-year-old brother. The younger boy reportedly died of a head injury.

EXPECT . . . DECISIONS

One major study shows that in one recent year 138,000 children age 3 to 17 used a weapon on a brother or sister. Parents are victimized, too, and it is not just those who are weak from age or sickness. Denis J. Madden, a University of Maryland psychologist who has studied the parent-abuse problem, says that children can feel oppressed by too much discipline or abandoned by too much leniency.

"Children expect parents to make decisions," he explains. "When they don't, the child questions whether he can depend on his parents. And if the child takes over, he can become the disciplinarian."

Other experts say that the key to solving these problems may be more emphasis on counseling that serves the whole family rather than its parts. That is the aim of a new Law Enforcement Assistance Administration program that earmarks nearly 3 million dollars annually for programs to prevent family violence.

Representative Lindy Boggs (D-La.) plans to submit a bill next year to provide funds to family-shelter and counseling programs. Says Boggs: "The federal government should provide leadership, training and coordination. The problem demands commitment. It will not go away by itself."

VIOLENCE IN THE HOME

Studies funded by the National Institute of Mental Health give this gauge of abusive behavior in U.S. households—

PARENTAL ABUSE OF CHILDREN

	Percentage of all parents who have ever taken action
Used some form of physical punishment, however mild	98%
Hit a child with some object	20%
"Beat up" a child	4%
Used a lethal weapon	3%

VIOLENCE BETWEEN BROTHERS AND SISTERS

	Percentage of all children who have ever taken action
Pushed a brother or sister	78%
Struck another with an object	47%
"Beat up" a brother or sister	20%
Used a lethal weapon	5%

SPOUSE ABUSE

	Percentage of married couples who have ever taken action
Hit or shoved a mate	50%
Struck another with an object	10%
Beat a spouse severely	5%
Used a lethal weapon	4%

ABUSE OF PARENTS

	Percentage of U.S. children who took action during 1977
Hit or shoved a parent	10%
Struck with an object	7%
Beat a parent severely	1%
Used a lethal weapon	1%

Source: Murray Straus, University of New Hampshire.●

BANKING CONCENTRATION (BANK HOLDING COMPANY AMENDMENTS OF 1979)

The SPEAKER. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.

● Mr. ST GERMAIN. Mr. Speaker, today I am introducing legislation which addresses two issues left unresolved by the 95th Congress—the prohibition of insurance underwriting as a permissible nonbank activity for bank holding companies and the revision of standards for acquisitions of banks and nonbank entities by bank holding companies. The Safe Banking Act of 1977, introduced on September 13, 1977 contained provisions to limit the size of bank holding companies both in the banking and nonbanking areas. During committee consideration it became increasingly clear that committee members were, indeed, concerned about the competitive questions raised by bank holding company expansion but that the complexity of other provisions in the legislation precluded members from a full review of the holding company questions and hence precluded thorough consideration of legislative responses to this complex subject area. Thus, the bill reported from committee contained a prohibition on insurance underwriting as a permissible nonbanking activity but failed to deal with the more fundamental issues involved. Time constraints at the end of the Congress ultimately left even the insurance underwriting question unresolved.

The questions before the Banking Committee are complex. Is there an upper limit in size beyond which a bank or bank holding company should not go because the size alone is clearly anticompetitive? Should this limit apply to mergers as well as bank holding company acquisitions? Are present antitrust laws sufficient to meet the competitive challenge of large banking firms? Do suggested revisions of the antitrust laws provide a clear response to the competitive impact of large banking firms? Are there specific nonbanking activities which banks and bank holding companies should be precluded from entering because the long-run competitive impact of such entry will be to reduce competition? Should the issue of nonbanking activities be addressed by providing a "laundry list of precluded activities" or should the response be limited to a tightening of nonbank statutory language with one or two specific prohibitions? Is the present regulatory scheme for bank holding companies adequate to insure that holding company operations are conducted in the public interest and with the interest of depositors in mind? Should the Federal Reserve continue as the primary statutory regulator of holding companies or should the FDIC and the Comptroller be given more authority? Is there a difference between small one bank holding companies and large one bank or multibank operations? If so, should small one bank holding companies be treated differently under the holding company statute?

This list of questions is by no means complete. It does, however, indicate the magnitude of the issue of concentration on banking. The committee will build upon the effort began in the last Congress by holding full and complete hearings so that all interested parties and the public can be heard on the issue. To date two other holding company bills have been introduced—H.R. 2255 which prohibits insurance as a permissible nonbanking activity and H.R. 2747 which would place a size limit on bank holding company acquisitions of banks and which would provide a "laundry list" of prohibited nonbank activities. The bill I am introducing today contains the language which was in title XIII of the original Safe Banking Act with the addition of insurance as a prohibited nonbank activity and with a provision applying the asset test to bank mergers as well as bank holding company acquisitions. It is up to the members of the committee and the Congress to resolve the differences in these approaches in the public interest. The questions are before us. Suggested solutions to the problems of concentration in banking have been proposed. Now we must begin the process of open public consideration of the issue.●

INTRODUCTORY STATEMENT: MOBILE TEACHERS' RETIREMENT ACT

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, today I am introducing a measure to correct a longstanding inequity affecting the retirement benefits of teachers throughout the Nation. I do so with the hope that this body will bring our Nation's resources to bear to eliminate this injustice and to enhance the security of teachers' retirement benefits. My legislation which has more than 30 cosponsors, is entitled "the Mobile Teachers' Retirement Act of 1979."

This bill would protect the retirement benefits of teachers who move across State lines to teach. Current law in effect prevents teachers from moving across State lines, because such a move denies them hard-earned retirement benefits. At a time when there is severe unemployment in the teaching profession and when there is a growing need for experienced teachers in our rural areas, it is essential that Congress pass legislation which will encourage mobility for teachers so that they can relocate to areas where employment opportunities and the demand for their skills is the greatest.

In my State of California alone, over 100,000 elementary, secondary, and community college teachers have taught in other States. Those teachers, who spent an average of 8 years working in other States, lost their retirement benefits when they moved.

The bill I am introducing today would establish a Federal-State program to assist in the funding of these benefits for public school teachers. It would enable teachers who have taught in two or more States to retire at the end of their careers with benefits substantially the same as they would have received by teaching in a single State for their entire careers. In addition, the bill would extend Federal funds to aid in the financing of recognized out-of-State services credit for those States who wish to participate.

Many of our State retirement systems have made attempts to rectify this prohibition of teacher mobility, but because of limitations on State funds the interstate nature of this problem makes Federal legislation a necessity. Passage of this measure is one essential step down the long road toward full recognition by the Federal Government of its obligation to aid in the support of our Nation's public school system. And it will provide the respect and the remuneration that are so richly deserved by the individuals who play such a crucial role in developing our children's minds.

It is an awesome responsibility we place on the shoulders of our public school teachers. There are few callings in life that demand so much for so little. I believe it would be instructive for the Members of this body to reflect upon the works of our greatest Founding Father, Thomas Jefferson, a man whose intellect, compassion, and capacity for action combined to help create our beloved Nation. While contemplating our future Government, he wrote:

> The tax which will be paid for the purpose of education is not more than the thousandth part of what will be paid to kings * * * and nobles who will rise up among us if we leave the people in ignorance.

We cannot afford to keep our people in ignorance. We must let the teachers of our children have the security and respect that rightfully go along with the tremendous responsibility they bear.●

DRAFT REGISTRATION AND THE PRIVACY ACT

The SPEAKER. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

● Mr. PREYER. Mr. Speaker, a recent General Accounting Office report recommended that the Selective Service System seek a statutory exemption from the Privacy Act of 1974 in order to obtain names of draft eligible Americans from tax, social security, school and other records. The GAO recommendation is flawed in several respects, and I think that a word of explanation, and caution, may be in order.

Last December, the General Accounting Office issued its report entitled, "What Are the Capabilities of the Selective Service System?" Since 1973 the Department of Defense has relied on an All-Volunteer Army. The report pointed out, however, that the Selective Service is still responsible for maintaining a system designed to meet military manpower needs in a national emergency. From its examination, the GAO concluded that the Selective Service could not mobilize sufficient numbers of potential draftees in a timely manner.

That conclusion is a troubling one, and the GAO correctly noted that the success of the All-Volunteer Army concept and a possible return to some form of national registration are currently the focus of much debate. The GAO's answer, at least on its face, appeared a simple one: the Selective Service should seek a statutory exemption from the Privacy Act in order to fulfill its obligation to plan for mobilization.

Rather than return to the previous system of direct registration by draft eligible males, the General Accounting Office urged the use of secondary information sources from which to cull names. The Privacy Act of 1974, with its restrictions on dissemination of federally held personal data without individual consent, was considered by GAO to be an impediment to the quick compilation of lists of draft eligible citizens. The GAO auditors recommended the adoption of legislation to bypass the Privacy Act's requirements, to give the Selective Service unrestricted access to social security, Internal Revenue Service, motor vehicle, and school records.

The GAO's finding about the difficulty of early mobilization in time of crisis, and the readiness of our military forces, deserves our full attention. Certainly the concern over personal privacy must be balanced against Selective Service's access to needed records and the Nation's military requirements. What I find troubling, though, is that adoption of the proposed privacy exemption will in effect reestablish a national draft registration, through use of secondary lists, but may sidestep a thorough debate about a return to the peacetime draft. The GAO recommendation may obscure consideration of the basic issues.

Neither the administration nor the Department of Defense has taken an official position on GAO's proposal. Perhaps when they do they can examine what the GAO and Selective Service appear to have failed to address—the possible management shortcomings and inequities in reliance on secondary records of schools, employers, and tax systems, in place of seeking information directly from draft-age individuals. A number of potential draftees may, for a variety of reasons, not be included in these records, and will thus escape registration. For example, if high school and college records are relied on, how many young people would be missed because they have dropped out of school, and will this system encourage additional drop-outs? How many young people work but under existing law do not file tax returns? In addition, does legislation aimed at gathering lists of students attending private religious schools infringe on the constitutional separation of church and state? The GAO report is silent on these questions.

Relying on the GAO suggestion, however, several pieces of legislation have been introduced this session to amend current law. Unfortunately, the use of the "notwithstanding any other provision of law" phraseology in these bills is sweeping, and would overturn access restrictions contained not only in the Privacy Act, but in the Tax Reform Act of 1976, the Family Educational Rights and Federal and State statutes as well. Most of the proposals recognize the need to protect personal privacy and would limit the use of files obtained by the Service to the specific Selective Service purpose. Nonetheless, the "notwithstanding any other provision of law" language modifies much more than appears intended. My colleagues should appreciate that future use of this wording in other contexts may needlessly undo carefully considered procedural and other protections. Use of this wording should be approached with great circumspection.

However flawed, the GAO report does present us with difficult issues. In coming months we should address these in a thorough and direct fashion.●

SOHIO ACTION UNDERSTANDABLE

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. CLAUSEN) is recognized for 10 minutes.

● Mr. CLAUSEN. Mr. Speaker, as many of my colleagues are aware, the Standard Oil Co. of Ohio has withdrawn its project to construct an oil terminal in Long Beach, Calif., and to utilize a pipeline from California to Midland, Tex. This pipeline would have helped distribute Alaska North Slope crude oil off the west coast to other regions of the United States.

Last Congress the Interior Committee's Subcommittee on Special Investigations conducted a series of hearings reviewing the various transportation alternatives for distributing Alaska North Slope crude oil. In my estimation the proposed Sohio project had equitably met proper air quality standards. I was a part of the congressional delegation from California that was involved in the Clean Air Act amending process which permitted California to have higher than the national standards because of the uniqueness of the existing meteorological conditions in the Long Beach area and the entire Los Angeles basin. It was always my opinion that only equitable tradeoffs would be required. In some people's minds it appears certain sectors of the California State government were adhering to a stricter code and for that reason Sohio threw in the towel.

After 4 years of negotiations and $60 million in expenditures Sohio apparently felt it had had enough. The California State Supreme Court has yet to rule on various environmental suits surrounding the proposed project and recently the California State assembly indicated it would not comment on the project until the high court issued an opinion.

Mr. Speaker, I am sincere in saying this action while understandable, nevertheless comes as a severe disappointment. Our Nation desperately needs a domestic energy distribution network and the Sohio project would have provided a vital link.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. DODD (at the request of Mr. GIAIMO), for this week, on account of attending a meeting of the Simon Wiesenthal Center for Holocaust Studies in West Germany to petition the West German Government to extend or remove the statute of limitations governing Nazi war crimes which is due to expire at the end of this year.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ERDAHL) to revise and extend their remarks and include extraneous material:)

Mr. CLINGER, for 5 minutes, today.
Mr. BAUMAN, for 30 minutes, today.
Mr. GREEN, for 10 minutes, today.
Mr. GRASSLEY, for 5 minutes, today.
Mr. JEFFORDS, for 10 minutes, today.
Mr. LEWIS, for 10 minutes, today.
Mr. ASHBROOK, for 10 minutes, today.
Mr. CLAUSEN, for 10 minutes, today.

(The following Members (at the request of Mr. LEACH of Louisiana) to revise and extend their remarks and include extraneous material:)

Mr. WEAVER, for 10 minutes, today.
Mr. RODINO, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Ms. HOLTZMAN, for 30 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. CONYERS, for 5 minutes, today.
Mr. VANIK, for 5 minutes, today.
Mr. CHARLES H. WILSON of California, for 5 minutes, today.
Mr. SWIFT, for 5 minutes, today.
Mr. PEASE, for 5 minutes, today.
Mr. MILLER of California, for 5 minutes, today.
Mr. STOKES, for 5 minutes, today.
Mr. CLAY, for 5 minutes, today.
Mrs. BOGGS, for 5 minutes, today.
Mr. ST GERMAIN, for 5 minutes, today.
Mr. PANETTA, for 5 minutes, today.
Mr. BINGHAM, for 30 minutes, today.
Mr. PREYER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. LEHMAN, and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,026.50.

Mr. RUDD, to revise and extend his remarks in support of the Derwinski amendment prior to the vote on the amendment.

Mr. WON PAT, prior to the vote on the Symms amendment.

Mr. DICKINSON, to revise and extend his remarks following those of Mr. BAUMAN.

Mr. LAGOMARSINO, to revise and extend his remarks immediately following the reading of his amendment relating to a joint commission.

(The following Members (at the request of Mr. ERDAHL) and to include extraneous matter:)

Mr. MOORHEAD of California.
Mr. FINDLEY in two instances.
Mr. MCCLOSKEY.
Mr. SYMMS.
Mr. PHILIP M. CRANE.
Mr. GREEN.
Mr. DANNEMEYER.
Mr. CONABLE.
Mr. GILMAN in two instances.
Mr. MCCLORY in two instances.
Mr. KINDNESS.
Mr. DERWINSKI in two instances.
Mr. ABDNOR in two instances.
Mr. BROYHILL.
Mrs. HOLT.
Mr. RHODES.
Mr. SAWYER.
Mr. LAGOMARSINO in two instances.
Mr. ASHBROOK in two instances.
Mr. DEVINE.
Mr. QUAYLE.
Mr. BOB WILSON.

(The following Members (at the request of Mr. LEACH of Louisiana, and to include extraneous material:)

Mr. FISHER in 10 instances.
Mr. BRODHEAD.
Mr. MAZZOLI.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. MCDONALD in five instances.
Mrs. SCHROEDER.
Mr. LUNDINE.
Mr. EDGAR.
Mr. MOAKLEY.
Mr. WIRTH.
Mr. MILLER of California.
Mr. BEILENSON.
Mr. WEISS.
Mr. HARRIS.
Mr. VANIK.

Mr. Young of Missouri.
Mr. Bonker.
Mr. Mica.
Mr. Johnson of California.
Mr. Barnard.
Mr. Maguire.
Mr. AuCoin.
Mr. Scheuer.
Mr. Drinan.

ADJOURNMENT

Mr. LEACH of Louisiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 2 minutes p.m.), the House adjourned until tomorrow, Wednesday, March 14, 1979, at 3 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

924. A letter from the Comptroller General of the United States, transmitting a report on his review of the rescissions, deferrals, and revised deferrals of budget authority contained in the message from the President dated January 31, 1979 (H. Doc. No. 96-46), pursuant to section 1014(b) and (c) of Public Law 93-344 (H. Doc. No. 96-72); to the Committee on Appropriations and ordered to be printed.

925. A letter from the Director of Economic Adjustment, Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), transmitting the final environmental impact statement on the closing of the Naval Auxiliary Landing Field, Charleston, R.I., pursuant to section 610 of Public Law 94-431; to the Committee on Armed Services.

926. A letter from the Administrator of General Services, transmitting a draft of proposed legislation to authorize the disposal of industrial diamond stones from the national stockpile and the supplemental stockpile; to the Committee on Armed Services.

927. A letter from the Administrator of General Services, transmitting a draft of proposed legislation to authorize the disposal of tin from the national stockpile and the supplemental stockpile; to the Committee on Armed Services.

928. A letter from the Administrator of General Services, transmitting a draft of proposed legislation to authorize the disposal of silver from the national stockpile; to the Committee on Armed Services.

929. A letter from the vice president, Chesapeake and Potomac Telephone Co., transmitting a statement of receipts and expenditures of the company for calendar year 1978, and a comparative general balance sheet for 1978, pursuant to chapter 1628, Acts of Congress 1904, and paragraph 14 of the act of March 4, 1913, respectively; to the Committee on the District of Columbia.

930. A letter from the Under Secretary of State for Security Assistance, Science and Technology, transmitting notice of the State Department's intention to consent to a request by the Government of Jordan for permission to transfer certain U.S.-origin military training to the Government of the Yemen Arab Republic, pursuant to section 3(d) of the Arms Export Control Act; to the Committee on Foreign Affairs..

931. A letter from the Under Secretary of State for Security Assistance, Science and Technology, transmitting notice of the State Department's intention to consent to a request by the Government of Saudi Arabia for permission to transfer certain U.S.-origin military equipment to the Government of the Yemen Arab Republic, pursuant to section 3(d) of the Arms Export Control Act; to the Committee on Foreign Affairs.

932. A letter from the Under Secretary of State for Security Assistance, Science and Technology, transmitting notice of the State Department's intention to consent to a request by the Government of Saudi Arabia for permission to transfer certain U.S.-origin military equipment to the Government of the Yemen Arab Republic, pursuant to section 3(d) of the Arms Export Control Act; to the Committee on Foreign Affairs.

933. A letter from the Under Secretary of State for Security Assistance, Science and Technology, transmitting notice of the State Department's intention to consent to a request by the Government of Saudi Arabia for permission to transfer certain U.S.-origin military equipment to the Government of the Yemen Arab Republic, pursuant to section 3(d) of the Arms Export Control Act; to the Committee on Foreign Affairs.

934. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a copy of Presidential Determination No. 79-5, finding that the sale of defense articles and services to the Government of Botswana will strengthen the security of the United States and promote world peace, pursuant to section 3(a)(1) of the Arms Export Control Act; to the Committee on Foreign Affairs.

935. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the proposed issuance of an export license for major defense equipment sold commercially to Jordan (transmittal No. MC-14-19), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

936. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the proposed issuance of an export license for major defense equipment sold commercially to Niger (transmittal No. MC-18-79), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

937. A letter from the Acting Deputy Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense services to Germany (transmittal No. 79-12), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

938. A letter from the Acting Deputy Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense services to Denmark (transmittal No. 79-13), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

939. A letter from the Assistant Secretary of Energy for Resource Applications, transmitting notice of a delay until June 10, 1979, of the report on a study to determine the need for additional uranium enrichment capacity to meet domestic and foreign requirements and to promote U.S. nonproliferation objectives abroad, required by section 103 of Public Law 95-242; to the Committee on Foreign Affairs.

940. A letter from the Director, ACTION, transmitting a report on the Agency's activities under the Freedom of Information Act during calendar year 1978, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

941. A letter from the Director, International Communication Agency, transmitting a report on the Agency's activities under the Freedom of Information Act during calendar year 1978, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

942. A letter from the Acting Assistant Secretary of the Treasury for Administration, transmitting notice of proposed changes in existing records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

943. A letter from the Deputy Assistant Secretary of the Interior, transmitting a report on the Department's disposal of foreign excess property during fiscal year 1978, pursuant to section 404(d) of the Federal Property and Administrative Services Act of 1949, as amended; to the Committee on Government Operations.

944. A letter from the Comptroller General of the United States, transmitting a report on the deficiencies in the implementation of uniform cost principles by Federal agencies to grants and contracts with State and local governments (GGD-78-111, March 12, 1979); to the Committee on Government Operations.

945. A letter from the Director, Community Relations Service, Department of Justice, transmitting a report on the activities of the Service for fiscal year 1978, pursuant to section 1004 of the Civil Rights Act of 1964; to the Committee on the Judiciary.

946. A letter from the president and the national executive director, Girl Scouts of the United States of America, transmitting the 29th annual report of the organization, covering the fiscal year ended September 30, 1978, pursuant to section 7 of the act of March 16, 1950, as amended, and section 3 of Public Law 88-405 (H. Doc. No. 96-73); to the Committee on the Judiciary and ordered to be printed.

947. A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to revise and clarify eligibility for certain health care benefits; to revise and clarify the Department of Medicine and Surgery personnel system; to revise medical resources utilization; and for other purposes; to the Committee on Veterans' Affairs.

948. A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to authorize a pilot program for the treatment and rehabilitation of veterans with alcohol or drug-dependent disabilities, and for other purposes; to the Committee on Veterans' Affairs.

949. A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to provide readjustment professional counseling to Vietnam-era veterans and their families, and for other purposes; to the Committee on Veterans' Affairs.

950. A letter from the Director, Central Intelligence Agency, transmitting a draft of proposed legislation to authorize appropriations for fiscal year 1980 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes; to the Permanent Select Committee on Intelligence.

951. A letter from the Comptroller General of the United States, transmitting a report on the need for a national dam safety program (CED-79-30, March 8, 1979); jointly, to the Committees on Government Operations, Agriculture, Interior and Insular Affairs, and Public Works and Transportation.

952. A letter from the Comptroller General of the United States, transmitting a report on NATO's new long-term defense program (ID-79-4, March 13, 1979); jointly, to the Committees on Government Operations and Armed Services.

953. A letter from the Comptroller General of the United States, transmitting a report on the need for improved oversight for the Government's National Security Information Classification Program (LCD-78-125, March 9, 1979); jointly, to the Committees on Government Operations, Armed Services, and the Permanent Select Committee on Intelligence.

954. A letter from the Secretary of Health,

Education, and Welfare, transmitting a draft of proposed legislation to amend the Social Security Act to target expenditures for disability insurance benefits in a manner more specifically directed to achieve the purposes of the program and to remove certain disincentives for disabled beneficiaries to engage in gainful activity, and for other purposes; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ABDNOR:

H.R. 2802. A bill to direct the Secretary of the Army to relocate the water supply intake facility at Springfield, S. Dak.; to the Committee on Public Works and Transportation.

H.R. 2803. A bill to authorize construction of the Gregory pumped-storage hydroelectric dam and reservoir; to the Committee on Public Works and Transportation.

By Mr. CONABLE (for himself, Mr. Gibbons, Mr. Duncan of Tennessee, Mr. Archer, Mr. Frenzel, Mr. Bafalis, Mr. Schulze, Mr. Gradison, Mr. Rousselot, and Mr. Moore):

H.R. 2804. A bill to require Congress to establish for each fiscal year a ceiling on Federal revenues prior to adoption of the first concurrent resolution on the budget, and for other purposes; jointly, to the Committees on Government Operations and Rules.

By Mr. DANIELSON (for himself and Mr. Moorhead of California):

H.R 2805. A bill to make technical and conforming changes to the financial disclosure provisions in the Ethics in Government Act of 1978; jointly, to the Committees on the Judiciary, Post Office and Civil Service, and Rules.

By Mr. DANNEMEYER (for himself, Mr. Brown of California, Mr. Badham, and Mr. Lloyd of California):

H.R. 2806. A bill to establish an additional U.S. District Court in the State of California; to the Committee on the Judiciary.

By Mr. EDWARDS of California:

H.R. 2807. A bill to amend the Bankruptcy Act to provide for the nondischargeability of certain student loan debts guaranteed or insured by the United States; to the Committee on the Judiciary.

By Mr. GONZALEZ:

H.R. 2808. A bill to establish a program of drug benefits for the aged; to establish a Drug Benefits Council and other appropriate management controls to provide for the efficient administration of such programs; and to require the conducting of certain studies and experiments, to enhance the capability of the Secretary of Health, Education, and Welfare to administer such program, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HAMMERSCHMIDT:

H.R. 2809. A bill to amend the Bank Holding Company Act of 1956 to limit the property and casualty and life insurance activities of bank holding companies and their subsidiaries; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HAMMERSCHMIDT (for himself and Mr. Taylor):

H.R. 2810. A bill to amend title 38, United States Code, to allow a surviving spouse of a deceased veteran to be buried in a national cemetery with such veteran even if the surviving spouse has remarried; to the Committee on Veterans' Affairs.

By Mr. ICHORD:

H.R. 2811. A bill to terminate authorization of the Meramec Park Lake portion of the Missouri River Basin project; to the Committee on Public Works and Transportation.

By Mr. JEFFORDS (for himself and Mr. Fisher):

H.R. 2812. A bill to require a refund value for certain beverage containers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. LEDERER:

H.R. 2813. A bill to amend the Internal Revenue Code of 1954 to provide a $7,000 exemption from income tax for retirement benefits attributable to service performed as a police officer or firefighter; to the Committee on Ways and Means.

By Mr. NICHOLS (for himself and Mr. Dickinson):

H.R. 2814. A bill to authorize the Secretary of the Army to correct certain slope failures and erosion problems along the banks of the Coosa River; to the Committee on Public Works and Transportation.

By Mr. PEASE (for himself, Mr. Barnes, Mr. Hyde, Mr. Danielson, Mr. Fascell, Mr. Hughes, Mr. Vento, Mr. Evans of Georgia, Mr. Lagomarsino, Mr. Corcoran, Mr. Gingrich, Mrs. Fenwick, and Mr. Wolpe):

H.R. 2815. A bill to amend the Foreign Assistance Act of 1961 to authorize assistance for developing countries to increase their production, using indigenous energy resources, of the energy which their economic development requires; to the Committee on Foreign Affairs.

By Mr. RODINO (for himself and Ms. Holtzman):

H.R. 2816. A bill to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes; to the Committee on the Judiciary.

By Mrs. SCHROEDER:

H.R. 2817. A bill to amend chapter 73 of title 10, United States Code, to provide that a former spouse of a member of the uniformed services who is married to such member for 10 years or more shall be entitled to a portion of such member's retired pay and to a portion of the annuity of a surviving spouse of such member, and that such member may not elect not to provide such an annuity without the consent of the spouse and any former spouse of the member, and for other purposes; to the Committee on Armed Services.

H.R. 2818. A bill to provide that a former spouse of a Federal employee who is married to such employee for 10 years or more shall be entitled to a portion of such employee's annuity and to a portion of the annuity of any surviving spouse of such employee, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. SCHULZE:

H.R. 2819. A bill to provide for the construction of a project for flood control and other purposes for Pottstown and vicinity, Schuylkill River Basin, Pa.; to the Committee on Public Works and Transportation.

By Mr. SHUMWAY (for himself, Mr. Archer, Mr. Badham, Mr. Burgener, Mr. Collins of Texas, Mr. Dan Daniel, Mr. Lott, Mr. Derwinski, Mr. Horton, Mr. Lagomarsino, Mr. Roe, Mr. Whitehurst, Mr. Young of Alaska, Mr. Grisham, Mr. Dornan, and Mr. Gilman):

H.R. 2820. A bill to amend the Internal Revenue Code of 1954 to increase the amount of the annual gift tax exclusion from $3,000 to $6,000; to the Committee on Ways and Means.

By Mr. SWIFT:

H.R. 2821. A bill to modify the Skagit River Basin, Wash., flood control project; to the Committee on Public Works and Transportation.

By Mr. WEAVER:

H.R. 2822. A bill to permit the Cow Creek Band of the Umpqua Tribe of Indians to file with the U.S. Court of Claims any claim such band could have filed with the Indian Claims Commission under the act of August 13, 1946 (60 Stat. 1049); to the Committee on Interior and Insular Affairs.

By Mr. WHITTEN:

H.R. 2823. A bill to authorize the Secretary of the Army, acting through the Chief of Engineers, pay claims for damage to a water well, spring, or artesian well used or susceptible for use as a water supply, if construction or operation of any segment of the Tennessee-Tombigbee Waterway project is the cause of said damage; to the Committee on Public Works and Transportation.

By Mr. ALBOSTA:

H.R. 2824. A bill to modify the project for flood protection on the Saginaw River, Mich.; to the Committee on Public Works and Transportation.

By Mr. AuCOIN (for himself, Mr. Dicks, Mr. Akaka, and Mr. Heftel):

H.R. 2825. A bill to amend the Internal Revenue Code of 1954 to provide, for purposes of determining proper cellar treatment for natural wine, that wines made exclusively from cranberries or other highly acidic berries and fruit other than grapes shall be entitled to a volume of ameliorating material not in excess of 60 percent; to the Committee on Ways and Means.

By Mr. BEILENSON (for himself, Mr. Ambro, Mr. Anderson of California, Mr. AuCoin, Mr. Bedell, Mr. Bennett, Mr. Bingham, Mr. Blanchard, Mr. Brodhead, Mr. Brown of California, Mr. Burgener, Mr. Corman, Mr. Corrada, Mr. Dellums, Mr. Derwinski, Mr. Diggs, Mr. Downey, Mr. Drinan, Mr. Edgar, Mr. Edwards of California, Mr. Emery, Mr. Ertel, Mr. Fazio, Mr. Forsythe, Mr. Fowler, Mr. Gephardt, Mrs. Holt, Mr. Horton, Mr. Hughes, Mr. Hyde, Mr. Jacobs, Mr. Kildee, Mr. Kostmayer, Mr. Lagomarsino, Mr. Lloyd, Mr. Long of Maryland, Mr. McCloskey, Mr. McCormack, Mr. McHugh, Mr. Mikva, Ms. Mikulski, Mr. Moakley, Mr. Mottl, Mr. Ottinger, Mr. Panetta, Mr. Pease, Mr. Pritchard, Mr. Richmond, Mr. Rodino, Mr. Roe, Mr. Roth, Mr. Rousselot, Mr. Sabo, Mr. Scheuer, Mrs. Schroeder, Mr. Seiberling, Mr. Solarz, Mr. Thompson, Mr. Van Deerlin, Mr. Vento, Mr. Waxman, Mr. Weaver, Mr. Weiss, Mr. Whitehurst, Mr. Charles Wilson of Texas, Mr. Wolpe, and Mr. Yates):

H.R. 2826. A bill to prohibit the importation or exportation and certain other transactions involving elephant products, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. BOLAND:

H.R. 2827. A bill to authorize appropriations for fiscal year 1980 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes; to the Permanent Select Committee on Intelligence.

By Mr. BONER of Tennessee:

H.R. 2828. A bill to increase from $15,000 to $30,000 the maximum amount that may be allowed by the head of a Federal agency in settlement of claims for loss of personal property incident to the service of an individual who is a member of the uniformed services or a civilian employee of the Federal Government; to the Committee on the Judiciary.

By Mrs. BOUQUARD:

H.R. 2829. A bill to prohibit any change in the status of any member of the uniformed services who is in a missing status under chapter 10 of title 37, United States Code, until the provisions of the Paris Peace Accord of January 27, 1973, have been fully complied with, and for other purposes; to the Committee on Armed Services.

H.R. 2830. A bill to amend the Buy American Act to increase the incentives for the purchase of domestic articles, materials, and supplies with regard to Federal and federally funded procurements; to the Committee on Government Operations.

H.R. 2831. A bill to provide for the regular review of certain Federal agencies and for the abolition of such agencies after such review unless Congress specifically provides for their continued existence; to the Committee on Government Operations.

H.R. 2832. A bill to amend the Administrative Procedure Act to require the performance and publication of economic impact analyses in the Federal Register for all proposed and final rules which are subject to the provisions of that act; to the Committee on the Judiciary.

H.R. 2833. A bill to amend title 39 of the United States Code to prohibit the Postal Service from limiting regular daily mail delivery to fewer than 6 days each week, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 2834. A bill to amend title 39, United States Code, to prevent deceptive business solicitations by providing that any such solicitation which is designed to resemble a bill or statement of account shall be nonmailable matter; to the Committee on Post Office and Civil Service.

H.R. 2835. A bill to amend the Small Business Act to establish in the Small Business Administration a Small Business Extension Service; to the Committee on Small Business.

H.R. 2836. A bill to provide additional assistance to small business concerns in acquiring procurement information and contracts from the United States; to the Committee on Small Business.

H.R. 2837. A bill to require the preparation of small business impact statements in connection with Federal agency rules, and for other purposes; to the Committee on Small Business.

H.R. 2838. A bill to permit either House of Congress to disapprove certain rules proposed by executive agencies; jointly, to the Committees on the Judiciary and Rules.

H.R. 2839. A bill to require authorizations of new budget authority for Government programs at least every 5 years, to establish a procedure for zero-base review of Government programs every 5 years, and for other purposes; jointly, to the Committees on Government Operations and Rules.

H.R. 2840. A bill to amend part B of title XI of the Social Security Act to assure appropriate participation by professional registered nurses in the peer review, and related activities authorized thereunder; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

H.R. 2841. A bill to amend title XVIII of the Social Security Act with respect to the types of transportaion for patients which may be included in the definition of medical and other health services under such title; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. JOHN L. BURTON:

H.R. 2842. A bill to amend the Congressional Budget Act of 1974 to prevent the shifting of fiscal burdens to State and local governments; to the Committee on Rules.

By Mr. DANIELSON (for himself and Mr. Moorhead of California):

H.R. 2843. A bill to amend section 207 of title 18, United States Code, and for other purposes; to the Committee on the Judiciary.

By Mr. de la GARZA (for himself, Mr. Akaka, Mr. AuCoin, Mr. Bowen, Mr. Brown of California, Mr. Brown of Ohio, Mr. Buchanan, Mr. Flippo, Mr. Gonzalez, Mr. Gramm, Mr. Hance, Mr. Heftel, Mr. Jones of Tennessee, Mr. McCloskey, Mr. Pepper, Mr. Pickle, Mr. Richmond, Mr. Shumway, Mr. Stenholm, and Mr. Symms):

H.R. 2844. A bill to amend the Plant Variety Protection Act (7 U.S.C. 2321 et. seq.) to clarify its provisions, and for other purposes; to the Committee on Agriculture.

By Mr. DOWNEY:

H.R. 2845. A bill entitled "Sugar Act of 1979"; jointly, to the Committees on Ways and Means and Agriculture.

By Mr. ERTEL:

H.R. 2846. A bill entitled "Equal Access to Justice Act"; to the Committee on the Judiciary.

By Mr. HARRIS:

H.R. 2847. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide that disability insurance benefits and the medicare program shall be financed from general revenues rather than through the imposition of employment and self-employment taxes as at present, and to adjust the rates of such taxes (for purposes of financing the old-age and survivors insurance program) accordingly; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. KASTENMEIER:

H.R. 2848. A bill to provide for improvements in the administration of justice and greater efficiency in the Federal appellate courts, and for other purposes; to the Committee on the Judiciary.

By Mr. MAGUIRE (for himself and Mr. McHugh):

H.R. 2849. A bill to provide for limitations on congressional campaign expenditures and for partial public financing of congressional primary and general elections; to the Committee on House Administration.

By Mr. MITCHELL of New York:

H.R. 2850. A bill to amend title 5, United States Code, to extend certain benefits to former employees of county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. MURPHY of Illinois:

H.R. 2851. A bill to amend Uniform Time Act of 1966 to extend the period of daylight savings time in each year by one week; to the Committee on Interstate and Foreign Commerce.

By Mr. PANETTA:

H.R. 2852. A bill to permit teachers to change employment across State lines without substantial loss of retirement benefits; to the Committee on Education and Labor.

By Mr. PATTERSON:

H.R. 2853. A bill to eliminate the reduction in social security benefits for spouses and surviving spouses receiving certain Government pensions, as recently added to title II of the Social Security Act by section 334 of the Social Security Amendments of 1977; to the Committee on Ways and Means.

By Mr. PICKLE (for himself and Mr. Archer) (by request):

H.R. 2854. A bill to amend the Social Security Act to target expenditures for disability insurance benefits in a manner more specifically directed to achieve the purposes of the program and to remove certain disincentives for disabled beneficiaries to engage in gainful activity, and for other purposes; to the Committee on Ways and Means.

By Mr. QUILLEN:

H.R. 2855. A bill to amend title 10, United States Code, to allow supplies under the control of departments and agencies within the Department of Defense to be transferred to the Federal Emergency Management Agency as if it were within the Department of Defense and to amend the Federal Civil Defense Act of 1950 to authorize the Federal Emergency Management Agency to loan to State and local governments property transferred to such agency from other Federal agencies as excess property; jointly, to the Committees on Government Operations and Armed Services.

By Mr. ST GERMAIN:

H.R. 2856. A bill to amend the Bank Holding Company Act and the Bank Merger Act to restrict the activities in which registered bank holding companies may engage and to control the acquisition of banks by bank holding companies and other banks; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. SCHROEDER:

H.R. 2857. A bill to amend the Foreign Service Act of 1946 to provide for annuities to former spouses and surviving former spouses of Foreign Service Officers, if such former spouses were married to such officers during the period of creditable service; jointly, to the Committees on Foreign Affairs and Post Office and Civil Service.

By Mr. SIMON:

H.R. 2858. A bill to amend the Comprehensive Employment and Training Act of 1973 to direct the Secretary of Labor to conduct projects for purposes of providing jobs to unemployed persons in the rehabilitation and improvement of railroad rights-of-way, to provide for the purchase by the Federal for other purposes; jointly to the Commit- Government of railroad rights-of-way, and tees on Education and Labor and Interstate and Foreign Commerce.

By Mr. SIMON (for himself and Mr. Perkins).

H.R. 2859. A bill to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such Act to facilitate the improvement of programs carried out thereunder, to authorize Urban Volunteer Programs and for other purposes jointly; to the Committee on Education and Labor.

By Mr. SOLARZ:

H.R. 2860. A bill to amend title 39, United States Code, relating to adjustment of work schedules for religious observances; to the Committee on Post Office and Civil Service.

By Mr. STOKES:

H.R. 2861. A bill to amend title XVIII of the Social Security Act with respect to the amount of the inpatient hospital deductible applicable to the medicare program; to the Committee on Ways and Means.

By Mr. VOLKMER:

H.R. 2862. A bill to amend section 221 of the Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5b) relating to items of local cooperation imposed upon water resources development projects; to the Committee on Public Works and Transportation.

By Mr. KASTENMEIER (for himself, Mr. Rodino, Mr. Edwards of California, Mr. Conyers, Mr. Seiberling, Mr. Danielson, Mr. Drinan, Ms. Holtzman, Mr. Mazzoli, Mr. Harris, Mr. Matsui, Mr. Mikva, Mr. Fazio, Mr. Railsback, and Mr. Sawyer):

H.R. 2863. A bill to provide financial assistance for the development and maintenance of effective, fair, inexpensive, and expeditious mechanisms for the resolution of minor disputes; to the Committee on the Judiciary.

By Mr. AKAKA (for himself and Mr. Heftel):

H.J. Res. 251. Joint resolution to require improvement and expansion of the collection, analysis, and publication of statistical data relating to working women; jointly, to the Committees on Education and Labor and Post Office and Civil Service.

By Mr. BONER of Tennessee:

H.J. Res. 252. Joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States; to the Committee on the Judiciary.

By Mrs. BOUQUARD:

H.J. Res. 253. Joint resolution proposing an amendment to the Constitution of the United States to prohibit compelling attendance in schools other than the one nearest the residence and to insure equal educational opportunities for all students wherever located; to the Committee on the Judiciary.

By Mr. BURLISON:

H.J. Res. 254. Joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States; to the Committee on the Judiciary.

By Mr. COELHO (for himself, Mr. Mineta, Mr. Addabbo, Mr. Akaka, Mr. Anderson of California, Mr. AuCoin, Mr. Bailey, Mr. Beilenson, Mr. Bevill, Mrs. Bouquard, Mr. Brodhead, Mr. Brown of Ohio, Mr. John L. Burton, Mr. Carr, Mr. Carter, Mr. Conte, Mr. Corman, Mr. Corrada, Mr. Danielson, Mr. Daschle, Mr. Dixon, Mr. Dornan, Mr. Dougherty, Mr. Downey, Mr. Duncan of Oregon, Mr. Evans of Delaware, Mr. Fazio, Mrs. Fenwick, Ms. Ferraro, Mr. Flood, Mr. Florio, Mr. Frost, Mr. Gephardt, Mr. Gilman, Mr. Gingrich, Mr. Goldwater, Mr. Gradison, Mr. Grisham, Mr. Guarini, Mr. Gudger, Mr. Guyer, Mr. Harris, Mr. Heftel, Mr. Holland, Mr. Hopkins, Mr. Hutto, Mr. Jacobs, Mr. Jenkins, Mr. Jenrette, Mr. Johnson of California, Mr. Jones of Tennessee, Mr. LaFalce, Mr. Lagomarsino, Mr. Lent, Mr. Lewis, Mr. Luken, Mr. Lundine, Mr. Lungren, Mr. McCloskey, Mr. McHugh, Mr. Madigan, Mr. Matsui, Mr. Mavroules, Mr. Mazzoli, Mr. Miller of California, Mr. Mitchell of Maryland, Mr. Moorhead of Pennsylvania, Mr. Murphy of Pennsylvania, Mr. Murphy of New York, Mr. Neal, Mr. Nolan, Mr. Nowak, Mr. Panetta, Mr. Patten, Mr. Pepper, Mr. Price, Mr. Richmond, Mr. Roe, Mr. Russo, Mr. Santini, Mr. Scheuer, Mr. Simon, Mr. Stenholm, Mr. Stokes, Mr. Thomas, Mr. Van Deerlin, Mr. Waxman, Mr. Weiss, Mr. Whitehurst, Mr. Whittaker, Mr. Wolff, Mr. Wolpe, Mr. Wyatt, Mr. Yatron, and Mr. Young of Missouri):

H.J. Res. 255. Joint resolution to authorize and request the President to issue a proclamation designating April 6 through 12, 1980, "National Medic Alert Week"; to the Committee on Post Office and Civil Service.

By Mr. DANNEMEYER:

H.J. Res. 256. Joint resolution designating the week of May 1, 1979, through May 7, 1979, as "National Photography Week"; to the Committee on Post Office and Civil Service.

By Mr. FLOOD (for himself, Mr. Annunzio, Mr. Conte, Mr. Philip M. Crane, Mr. Derwinski, Mr. Dornan, Mr. McDonald, and Mr. Moakley):

H. Con. Res. 72. Concurrent resolution relative to rights of Ukrainian citizens; to the Committee on Foreign Affairs.

By Mr. ICHORD (for himself, Mr. Findley, Mr. Derwinski, Mr. Bauman, Mr. Fountain, Mr. Butler, Mr. Collins of Texas, Mr. Devine, Mr. Young of Florida, Mr. Montgomery, Mr. Mollohan, Mr. Dornan, Mr. Stratton, Mr. Hagedorn, Mr. Hyde, Mr. McDonald, Mr. Emery, Mrs. Holt, Mr. Whitehurst, Mr. Nichols, Mr. Lagomarsino, Mr. Dickinson, Mr. Badham, Mr. Evans of Delaware, Mr. Burgener, Mr. Bevill, Mr. Runnels, Mr. Goldwater, Mr. Bob Wilson, Mr. Evans of Georgia, Mr. Charles Wilson of Texas, Mr. White, Mr. Philip M. Crane, Mr. Chappell, Mr. Cleveland, Mr. Taylor, Mr. Dan Daniel, Mr. Kemp, Mr. Stangeland, Mr. Lott, and Mr. Robinson):

H. Con. Res. 73. Concurrent resolution expressing the sense of the Congress on the nonenforcement of sanctions against Zimbabwe Rhodesia; to the Committee on Foreign Affairs.

By Mr. PHILIP M. CRANE:

H. Res. 154. Resolution prohibiting the transfer of any property of the United States to the Republic of Panama; jointly, to the Committees on Foreign Affairs, and Merchant Marine and Fisheries.

By Mrs. SPELLMAN:

H. Res. 155. Resolution expressing the sense of the House of Representatives with respect to the need for a balanced budget and the steps which must be taken to achieve such a budget by 1982; jointly, to the Committees on Government Operations, and Ways and Means.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

Under clause 4 of rule XXII, memorials were presented and referred as follows:

65. By the SPEAKER: Memorial of the Senate of the Commonwealth of Massachusetts, relative to securing an oil and natural gas pact with Mexico; to the Committee on Foreign Affairs.

66. Also, memorial of the Senate of the Commonwealth of Puerto Rico, relative to Cuba; to the Committee on Foreign Affairs.

67. Also, memorial of the Legislature of the State of South Dakota, relative to withdrawing its ratification of the proposed Equal Rights Amendment; to the Committee on the Judiciary.

68. Also, memorial of the House of Representatives of the State of Hawaii, relative to wind laser technology research; to the Committee on Science and Technology.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ABDNOR:

H.R. 2864. A bill for the relief of the Black Hills Area Council of the Boy Scouts of America; to the Committee on the Judiciary.

By Mr. AuCOIN:

H.R. 2865. A bill for the relief of Ernest C. Brace; to the Committee on the Judiciary.

H.R. 2866. A bill for the relief of Ernest C. Brace; to the Committee on the Judiciary.

H.R. 2867. A bill for the relief of Theresa Flowers; to the Committee on the Judiciary.

By Mr. FITHIAN:

H.R. 2868. A bill for the relief of Janis Zalcmanis, Gertrude Jansons, Lorena Jansons Murphy, and Asja Jansons Liders; to the Committee on the Judiciary.

By Mr. FISHER:

H.R. 2869. A bill for the relief of Raymond W. Quillin; to the Committee on the Judiciary.

By Mr. NOLAN:

H.R. 2870. A bill for the relief of Gumersindo A. Alvero; to the Committee on the Judiciary.

By Mr. QUAYLE:

H.R. 2871. A bill for the relief of Sylvester G. Schneider; to the Committee on the Judiciary.

By Mr. WAXMAN:

H.R. 2872. A bill for the relief of Olivia Manaois Abrasaldo; to the Committee on the Judiciary.

By Mr. BOB WILSON:

H.R. 2873. A bill for the relief of John Fox; to the Committee on the Judiciary.

H.R. 2874. A bill for the relief of Evelynne Pahl; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 10: Mr. Moorhead of California and Mr. Hyde.

H.R. 13: Mr. Johnson of Colorado, Mr. Barnard, Mr. Symms, Mr. Loeffler, Mr. Sebelius, Mr. Ireland, Mr. Bereuter, Mr. Railsback, Mr. Pickle, Mr. Hance, and Mr. Andrews of North Dakota.

H.R. 67: Mr. Fisher.

H.R. 70: Mr. AuCoin, Mr. Biaggi, Mrs. Bouquard, Mr. Carr, Mr. Clinger, Mr. Coelho, Mrs. Collins of Illinois, Mr. Evans of Georgia, Mr. Fazio, Mr. Flood, Mr. Garcia, Mr. Gilman, Mr. Hillis, Mr. Hughes, Mr. Jenrette, Mr. Kastenmeier, Mr. McClory, Mr. Madigan, Mr. Rahall, Mr. Roybal, Mr. Scheuer, Mr. Solarz, Mr. Solomon, Mrs. Spellman, Mr. Stark, Mr. Stangeland, Mr. Stokes, Mr. Stump, Mr. Vento, Mr. Walker, Mr. Wolpe, and Mr. Zeferetti.

H.R. 271: Mr. AuCoin, Mr. Buchanan, Mr. Corrada, Mr. Edwards of California, Mrs. Fenwick, Mr. Gilman, Mr. Gradison, Mr. Gray, Mr. Kildee, Mr. Kindness, Mr. Long of Maryland, Mr. Mikva, Mr. Mineta, Mr. Mitchell of Maryland, Mr. Ottinger, Mr. Rangel, Mr. Roe, Mr. Scheuer, Mr. Simon, Mr. Solarz, Mr. Stump, Mr. Traxler, and Mr. Waxman.

H.R. 368: Mr. AuCoin, Mr. Conte, Mr. Edgar, Mr. Hamilton, Mr. Hollenbeck, Mr. Leach of Iowa, Mr. Mitchell of Maryland, Mr. Pritchard, Mr. Scheuer, Mr. Sensenbrenner, Mrs. Snowe, and Mr. Stokes.

H.R. 396: Mr. Madigan, and Mr. Railsback.

H.R. 397: Mr. Corcoran, Mr. Madigan, and Mr. Railsback.

H.R. 398: Mr. Brown of Ohio.

H.R. 512: Mr. Murphy of Pennsylvania, Mr. Forsythe, Mr. McDonald, Mr. Dan Daniel, Mr. Burgener, Mr. Buchanan, Mr. Hinson, Mr. Mitchell of New York, Mr. Hillis, Mr. Latta, Mr. Goldwater, Mr. Dornan, Mr. Guyer, Mr. Hagedorn, Mr. Kramer, Mr. Dougherty, Mr. Collins of Texas, Mr. Hyde, Mr. Solomon, and Mr. Symms.

H.R. 571: Mr. Evans of Georgia, Mr. Davis of South Carolina, Mr. Lagomarsino, Mr. Lott, Mr. McDonald, Mr. Spence, Mr. Whitehurst, and Mr. Bob Wilson.

H.R. 605: Mr. Reuss, Mr. D'Amours, Mr. Mineta, Mr. Blanchard, Mr. Weiss, Mr. Jeffords, Mr. Rodino, Mr. Florio, Mr. Lederer, Mr. Whitehurst, Mr. Mitchell of New York, Mr. Edwards of California, Mr. Drinan, Mr. Wolpe, Mr. Donnelly, Mr. Mottl, Mr. Jenrette, Mr. Lehman, Mr. Brown of California, Mr. Barnes, Mr. Fazio, Mr. Richmond, Mr. Ertel, Mr. Gibbons, Mr. Wolff, Mr. Winn, Mr. Moakley, Mr. Wirth, Mr. Grisham, Mr. Akaka, Mr. Kildee, Mr. Studds, Mr. Erdahl, Mr. McHugh, Mr. Young of Alaska, Mr. Vento, Mr. Bonior of Michigan, Mr. Walgren, Mr. Gudger, Mr. Downey, Mr. Lundine, and Mrs. Spellman.

H.R. 808: Mr. Dornan, and Mr. Solomon.

H.R. 809: Mr. Burgener, Mr. Davis of Michigan, Mr. Dellums, Mr. Dornan, Mr. Downey, Mr. Florio, Mr. Hollenbeck, Mr. Kemp, Mr.

Leach of Iowa, Mr. Roe, Mrs. Spellman, and Mr. Williams of Montana.

H.R. 810: Mr. Abdnor, Mr. Edgar, Mr. Gingrich, Mrs. Holt, Mr. Hyde, Mr. Lagomarsino, and Mr. Mottl.

H.R. 813: Mr. Solomon.

H.R. 1045: Mr. Bedell, Mr. Kogovsek, Mr. Weaver, and Mr. Price.

H.R. 1071: Mr. Jenrette.

H.R. 1081: Mr. Evans of the Virgin Islands.

H.R. 1141: Mr. Howard, Mr. Chappell, Mr. Whitten, Mr. Gudger, and Mr. Ritter.

H.R. 1308: Mr. Evans of the Virgin Islands.

H.R. 1309: Mr. Davis of Michigan, Mr. Downey, Mr. Evans of Georgia, Mr. Hollenbeck, and Mr. Roe.

H.R. 1507: Mr. Kemp.

H.R. 1539: Mr. Ginn, Mr. Huckaby, Mr. Leland, Mr. Lundine, Mr. Martin, Mr. Moffett, Mr. Spence, and Mr. Cotter.

H.R. 1734: Mr. Evans of Georgia, Mr. Ottinger, and Mr. Roe.

H.R. 1856: Mr. Kindness, Mr. Montgomery, Mr. McDonald, Mr. Solomon, Mr. Goldwater, and Mr. Grisham.

H.R. 1878: Mr. Leach of Louisiana, Mr. Murphy of Illinois, Mr. Jones of North Carolina, Mr. Lederer, Mr. Moakley, Mr. Winn, Mr. Walgren, Mr. Guyer, Mr. Lott, Mr. Erdahl, Mr. Scheuer, Mr. Downey, Mr. Hyde, Mr. Mineta, Mr. Gilman, Mr. Wolpe, and Mr. Skelton.

H.R. 1913: Mr. Jones of Tennessee, Mr. Evans of Georgia, Mr. Gudger, and Mr. Chappell.

H.R. 1958: Mr. Walker, Mr. Goldwater, Mr. McDonald, Mr. Quillen, Mr. Badham, Mr. Latta, Mr. Philip M. Crane, Mr. Kindness, Mr. Kelly, Mr. Dan Daniel, Mr. Bob Wilson, Mr. Spence, Mr. Bafalis, Mr. Mottl, Mr. Shuster, Mr. Grisham, Mr. Symms, Mr. Guyer, Mr. Edwards of Oklahoma, Mr. Solomon, Mr. Grassley, and Mr. Carney.

H.R. 1969: Mr. Martin.

H.R. 1979: Mr. Nelson, Mr. Marlenee, Mr. Corrada, Mr. Fascell, Mr. Bedell, Mr. Jacobs, Mr. Vento, Mr. Ottinger, Mr. Mazzoli, Mr Miller of California, Mrs. Fenwick, Mr. Wolpe, Mr. Simon, Mr. Carr, Mr. Price, Mr. Frenzel, Mr. Mineta, Mr. Wolff, Mr. Bonior of Michigan, Mr. Charles Wilson of Texas, Mr. Downey, Mr. Studds, Mr. Maguire, Mr. Weaver, Mr. Edgar, Mr. Blanchard, Mr. Kildee, Mr. Cleveland, Mr. Neal, Mr. Ratchford, and Mr. Wirth.

H.R. 2075: Mr. Buchanan, Mr. Cleveland, Mr Edgar, Mr. Gingrich, Mr. Grisham, Mr. Hyde, Mr. Luken, Mr. Mottl, and Mr. Yatron.

H.R. 2076: Mr. Young of Florida.

H.R. 2126: Mr. Boland, Mr. Diggs, Mr. Edgar, Mr. Johnson of California, Mr. Mica, Mr. Moorhead of Pennsylvania, Ms. Oakar, Mr. Oberstar, and Mr. Sabo.

H.R. 2447: Mr. AuCoin, Mr. Baldus, Mr. Cavanaugh, Mr. Corrada, Mr. Daschle, Mr. Dellums, Mr. Edwards of California, Mr. Garcia, Mr. Lederer, Mr. Lloyd, Mr. Mitchell of Maryland, Mr. Neal, Mr. Ottinger, Mr. Pepper, Mr. Pritchard, Mr. Rangel, Mr. Roe, Mr. Sawyer, Mr. Solarz, Mr. Vento, Mr. Watkins, and Mr. Young of Missouri.

H.R. 2538: Mr. Trible.

H.J. Res. 2: Mr. Evans of Delaware, and Mr. Leach of Lousiana.

H.J. Res. 110: Mr. Bowen, Mr. McCloskey, Mr. Nolan, Mr. Yatron, and Mr. Young of Alaska.

H.J. Res. 186: Mr. Murphy of Pennslyvania, and Mr. Maguire.

H.J. Res. 243: Mr. Lagomarsino.

H. Con. Res. 15: Mr. Hammerschmidt, Mr. Garcia, Mr. Simon, Mr. Daschle, Mr. Jenrette, Mr. Sawyer, Mr. Goodling, Mr. Fisher, Mr. Diggs, Mrs. Collins of Illinois, and Mr. Skelton.

H. Con. Res. 64: Mr. Lederer, Mr. Derwinski, Mr. Beard of Tennessee, Mr. Blanchard, Mr. Goldwater, Mr. Grisham, Mr. Dornan, Mr. Lagomarsino, Mr. Benjamin, Mr. Lewis, Mr. Lent, Mr. Florio, Mr. Dougherty, Mr. Burgener, Mr. Roe, Mr. Addabbo, Mr. Quayle, Mr. Brown of Ohio, Mr. Frenzel, Mr. Lloyd, and Mr. Davis of Michigan.

H. Res. 131: Mr. Corrada, Mr. Dornan, Mr. Duncan of Tennessee, Mr. Evans of Georgia, Mr. Roe, Mr. Wolpe, Mr. Murtha, Mr. Murphy of Pennsylvania, and Mr. Gudger.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

80. By the SPEAKER: Petition of the Concord Home Builders Association, Concord, N.H., relative to interest rates; to the Committee on Banking, Finance and Urban Affairs.

81. Also, petition of the National Indian Conference on Aging, Albuquerque, N. Mex., relative to amendments to the Older Americans Act and the Comprehensive Employment and Training Act; to the Committee on Education and Labor.

82. Also, petition of the National Indian Conference on Aging, Inc. Albuquerque, N. Mex., relative to the administration of programs for Indians; to the Committee on Interior and Insular Affairs.

83. Also, petition of the National Indian Conference on Aging, Inc. Albuquerque, N. Mex., relative to health care for elderly Indians; to the Committee on Interstate and Foreign Commerce.

84. Also, petition of the National Indian N. Mex., relative to general assistance programs for Indians; to the Committee on Ways and Means.

85. Also, petition of the National Indian Conference on Aging, Inc. Albuquerque, N. Mex., relative to traveling discounts for the elderly; jointly, to the Committees on Public Works and Transportation, and Interstate and Foreign Commerce.

86. Also, petition of the National Indian Conference on Aging, Inc. Albuquerque, N. Mex., relative to the use of medicare and medicaid entitlements in Indian Health Service facilities, jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2534

By Mr. GRAMM:

On the first page, strike out lines 3 through 7 and insert:

That the public debt limit set forth in the first sentence of section 21 of the Second Liberty Bond Act (31 U.S.C. 757b) shall be temporarily increased—

(1) by $430,000,000,000 during the period beginning on the date of the enactment of this Act and ending on September 30, 1979, and

(2) by $497,000,000,000 during the period beginning on October 1, 1979, and ending on September 30, 1980.

On page 2, after line 16, insert the following:

Sec. 5. (a) It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution (or amendment thereto) which would provide for a statutory limit on the amount of the public debt greater than $897,000,000,000 for any period during any fiscal year beginning after September 30, 1980—

(1) until the second required concurrent resolution on the budget for such fiscal year has been agreed to pursuant to section 310 of the Congressional Budget Act of 1974, and

(2) unless—

(A) the appropriate level of the total budget outlays for such fiscal year as set forth in such concurrent resolution is equal to or less than the recommended level of Federal revenues for such fiscal year as set forth in such concurrent resolution, or

(B) such concurrent resolution is agreed to in both the House of Representatives and the Senate by a vote of more than two-thirds of the Members voting (a quorum being present).

(b) The provisions of this section shall take effect on the date of the enactment of this Act.

SENATE—*Tuesday, March 13, 1979*

(Legislative day of Thursday, February 22, 1979)

The Senate met at 10:15 a.m., on the expiration of the recess, and was called to order by Hon. Robert C. Byrd, a Senator from the State of West Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

O Lord our God, in whom we live and move and have our being, we know not what any day may bring. Only this, we know that every day is judgment day. Thou dost judge us in the moment of action and in the grand climax of history. Thou dost judge us for what we are and what we do. Thou dost judge the way we work, the way we think, the way we speak, the way we vote, the way we play, the way we pray. Thou dost judge us according to the love we show and the help we bring. Judge us then according to Thy loving kindness for "Thy judgments are true and righteous altogether."

Let the words of our mouths and the meditations of our hearts be acceptable in Thy sight, O Lord our strength and our Redeemer. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Magnuson).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 13, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT C. BYRD, a Senator from the State of West Virginia, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. ROBERT C. BYRD thereupon resumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The minority leader, the Senator from Tennessee (Mr. BAKER) is recognized.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate to date be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized under the standing order.

Mr. BAKER. Mr. President, I thank the Chair.

I have no immediate need for my time under the standing order and I yield 5 minutes to the distinguished Senator from Arizona.

The ACTING PRESIDENT pro tempore. The Senator from Arizona (Mr. GOLDWATER) is recognized for up to 5 minutes.

Mr. GOLDWATER. I thank my friend from Tennessee for his usual courtesy.

(The remarks of Mr. GOLDWATER at this point in connection with the introduction of legislation are printed under Statements on Introduced Bills and Joint Resolutions.)

Mr. STEWART assumed the chair.

PRESIDENT CARTER'S PEACEMAKING EFFORTS IN THE MIDDLE EAST

Mr. GOLDWATER. Mr. President, I doubt that there is any one person in this country, or maybe the world, who has been more critical of President Carter in the field of foreign policy than have I.

I do not want anyone to think for one moment that by what I am going to say this morning I have suddenly changed my spots and will wake up on the other side of the bed.

I think that with the news we all read and heard and saw last night, with the news we all read and heard and saw this morning, it is rather evident that the peace President Carter went to the Middle East to try to achieve is not going to be achieved.

I am not one American, nor particularly one Republican, who is going to chastise President Carter for making this effort. I believe it took a great deal of courage. I think his performance over there was in keeping with his style of being forthright, even though we do not agree with him.

I would like to see him receive the accolade in this field that I think he deserves, and I urge my friends who are running for office at any level not to make of this Mideastern trip a political subject but, rather, to recognize that in this effort he has joined other Americans who served us as President, who showed courage in acting even though their actions were not fruitful.

So, Mr. President, I merely am offering these words as a man who is highly critical of this administration but as one who feels that the President does deserve a pat on the back for this trip, because we all have to admire a little guts.

Mr. BAKER. Mr. President, I join the distinguished Senator from Arizona in his remarks.

I think it would not be unseemly of me to remind our colleagues that before the President went, I said from this place on this floor that I thought it was a risk worth taking, and I still think so.

I do not know what the final result of the President's efforts will be or what will happen in the remaining hours before he returns to the United States, but it was a risk worth taking. From the appearances that generate from newspaper and television accounts that we have seen, I believe that some progress has been made.

I admire the President for his efforts in this matter, and I join the distinguished Senator from Arizona in his remarks and in his evaluation.

PRESIDENT CARTER'S LATEST EFFORTS ON BEHALF OF PEACE

Mr. ROBERT C. BYRD. Mr. President, President Carter flew to Cairo and Jerusalem last week in the latest phase of his ongoing efforts to achieve a permanent peace between Egypt and Israel. In spite of the fact that advisers closest to the President warned prior to this mission that Mr. Carter did not expect to return with a treaty, some observers are already pronouncing that this most recent effort is a failure, and they are predicting the direst consequences for the hopes of peace in the Middle East.

I share with the distinguished Senator from Arizona (Mr. GOLDWATER) and with Mr. BAKER, the distinguished minority leader, the compliments they have stated here publicly for the President's efforts. To have done nothing would have justified criticism.

As I view it, the President's efforts may have brought the parties closer together. I have no way of knowing yet what the results are or what has been achieved. In any event, they have kept the negotiations moving forward; and even though a treaty may not be achieved immediately, I am not about to say that the President's efforts have been in vain.

Both of the parties in the Middle East—these are the people who would be the victims of failure—will pay the immediate price of failure, if and when there is failure. But as long as there is flexibility and as long as leaders on both sides of the question are willing to talk and continue to negotiate, then there has not been failure.

The President has kept the negotiations moving. While we all would like to see an immediate treaty, I have not labored under any illusions, and I hope that most Americans have not suffered illusions in this regard. It is a long process. We should realize, from the years of pain and suffering and strife and bloodshed, that it is a thorny, difficult, profoundly complex matter, and that it will take time.

During my own conversations with Middle Eastern leaders last year, I learned first hand how infinitely complex and difficult diplomatic negotiations on the conflicts in that area are, and how imperative it is that such negotiations be pursued with patience and tenacity. President Carter could well have departed from his meetings with President Sadat and Prime Minister Begin with some kind of instant limited agreements on peripheral issues, and the impression would have been imparted that great success had been realized. However, the mettle of such agreements would have become evident to all when the pressures of the real conflict began to build once again.

President Carter understands the nature and the complexity of the challenge that he has accepted in the Middle East, I believe, and I commend him.

I appreciate the fine spirit that has been exemplified on the floor just now by the minority leader and by the distinguished Senator from Arizona, as they, too, have commented on the dedication that President Carter has demonstrated in his efforts for peace.

The tragic and chronic confrontation in the Middle East has lasted for more than three decades. Moreover, it has consumed the careers of dozens of diplomates from many nations, and the lives of thousands of soldiers and civilians, Arab and Israeli alike. Already, in just a little more than 2 years in office, President Carter has accomplished more toward bringing peace to the Middle East than any of his predecessors, in spite of all their commendable efforts.

I congratulate President Carter on his efforts as he returns from Egypt and Israel today, and I encourage him to continue to exert his efforts and use his influence to achieve the peace that all men of good will around the world hope will come eventually to the Middle East. Not only will our generation give him its thanks, but all future generations will be indebted to him for this effort.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, does any Senator wish me to yield time from the time allotted to me?

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia (Mr. ROBERT C. BYRD) is recognized for not to exceed 15 minutes, under the previous order.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, on my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 15 minutes with statements therein limited to 5 minutes each.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

TAIWAN ENABLING ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, S. 245, which the clerk will report.

The legislative clerk read as follows:

> A bill (S. 245) to promote the foreign policy of the United States through the maintenance of commercial, cultural, and other relations with the people of Taiwan on an unofficial basis, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 100

Mr. DOLE. Mr. President, I understand the parliamentary situation to be that each side has 5 minutes, the yeas and nays have been ordered, and a motion to lay on the table has been made; is that correct?

The PRESIDING OFFICER. If the Senator's preceding question is on amendment 100 of the Senator from Kansas, on which there is a limitation of 5 minutes of debate for each side, the Senator is correct. The yeas and nays have been ordered on the motion to lay on the table.

Mr. DOLE. Mr. President, I would just say very quickly that I think the issue is not particularly complicated. It may be controversial, but it is certainly not complicated. It is just a question of whether or not we want the Senate to have any voice in confirming, advising, and consenting on the director of the institute. We have simply provided that our American Institute—

> shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate and who shall hold such appointment for a period of not to exceed two years.

Mr. President, my amendment concerns the question of Senate responsibility and the Senate's obligation to the American people and to the Constitution. I believe it is vital that the Senate have a provision for passing on the qualifications of the director of the American Institute on Taiwan. This amendment creates such an official avenue and safeguards the principles of advise and consent set forth in the Constitution.

I am not asking for official recognition of Taiwan by this amendment. I am only urging the Senate to have the opportunity to pass on the worthiness and judgment and ability of the person who will be the instrument of the United States. The institute will be carrying out U.S. foreign policy. On some occasions the director of the institute may even be placed in the position of initiating policy and actions that will affect U.S. strategic interests.

Again, let me state that it is not my intention to upset the balance my distinguished colleagues on the Foreign Relations Committee have carefully worked out, nor to destroy the delicate understanding upon which our normalization with the mainland rests. I am in favor of the normalization process when properly carried out. We have much to gain, in a closer relationship with Peking.

My concern here, however, is with the constitutional responsibility of the Senate. It seems to me that this bill, as it stands now, is asking the Senate to ignore some of that responsibility which we in the Senate now have to advise and consent to certain actions by the executive department.

As my distinguished colleague on the Foreign Relations Committee remarked yesterday, various elements of the executive department will be performing oversight functions in regard to the Institute, including the Comptroller-General. U.S. taxes are going to be channeled into the Institute to provide its operating funds. These facts only further indicate, the legitimate need for the Senate also to fulfill its oversight responsibilities.

Now it is certainly true that the relationship we are implementing in this legislation with Taipei is unprecedented. We cannot, therefore, lightly address the manner in which this relationship will be carried out. We are setting a precedent here today. And we should not make an ill-advised precedent for a short-term and purely political expediency. Once the director of this nongovernmental institute is appointed, he will not be subject to our direct control. It is necessary for us to have an opportunity to judge the worthiness of this unofficial official, before he is granted such unconditional scope for action.

Mr. President, that is the issue. I understand the questions being raised. One question raised is that Senate confirmation would destroy the nongovernmental character of the Institute. I believe it does not. If the Secretary of State, acting for the President, has the authority to appoint this individual without giving an air of officiality to the proceeding, then surely the Senate can merely inspect the candidate for merit without doing the same. It is my understanding that the Senate must advise and consent to the directors of the corporation for public broadcasting, yet that body remains a nongovernmental corporation.

We have all the questions raised as to why Congress does not pay more heed to what goes on in our so-called foreign policy. It seems to me that this is an opportunity to know one little thing. It does not shake the balance, or destroy that delicate balance worked out by the committee.

I would like to say again that I support closer ties with Peking in the hope that they will lead to a better understanding between our countries. Normalization may lead to greater chances for peace and economic prosperity. The United States under the Carter administration has gone a long way, has bent over backwards—perhaps too far—to accommodate the People's Republic on the issue of Taiwan.

I just left a meeting with Secretary Bergland, where we discussed an increase in agricultural trade with the People's Republic of China. It is a growing market, and with more chance for communication, it seems to me we will not offend the People's Republic of China and we will not give a cloak of officiality to the institute; we will simply preserve the right we should have in the Senate to pass on the qualifications of the director.

The question of congressional oversight is a greater responsibility for us than this transitory problem of Taiwan. I do not believe it is in the best interest of the United States to make this temporary accommodation to suit the requirements of the current regime in Peking.

It is as simple as that. On that basis, I hope the amendment will be supported by my colleagues. I reserve the remainder of my time.

Mr. BIDEN. Mr. President, our distinguished colleague from Kansas indicated it was not his intention to upset the delicate balance arrived at in the Foreign Relations Committee; but I would respectfully suggest that is what this amendment would do.

As the Senator from Kansas knows, the nuances in this legislation are probably more important than in most actions we have taken on the floor of the Senate.

(Mr. TSONGAS assumed the chair.)

Mr. BIDEN. I have just a few brief comments I would like to make. The Senator from Kansas indicates that he is merely asking that the Institute be headed by a director appointed by the President with the advice and consent of the U.S. Senate. I suggest that that does complicate this Institute and raise it to a level that is not contemplated in the initial agreement with the People's Republic.

The amendment is, I believe, also inconsistent with normalization. Our ability to have diplomatic relations with PRC and simultaneously maintain commercial, cultural, and other relations with the people on Taiwan depends on the latter relations being conducted on an unofficial basis. The American Institute in Taiwan was established under District of Columbia nonprofit corporation law as a private corporation precisely to avoid the appearance of officiality that this amendment, I believe, would create.

The appointment of a director of the AIT through the procedures specified in the Constitution for appointing officers of the United States would, I think, be disruptive to the delicate set of relationships this legislation is intended to promote.

Second, Mr. President, I think this amendment is unnecessary. Congressional oversight over the operation and management of the Institute is assured, I believe, in the present bill. In reflection of this amendment, I hope the Senator will turn to page 20 of the bill, title III. He will see that the committee spent a good deal of time dealing with that particular aspect of relationship.

We also have, and I would like to submit it for the Record, a letter to the chairman of the Foreign Relations Committee from the Secretary of State. I will not trouble the Senate with reading the entire submission. I ask unanimous consent that it be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

THE SECRETARY OF STATE,
Washington, D.C., February 23, 1979.
Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN. As you know, under the articles of incorporation and bylaws of the American Institute in Taiwan, the Secretary of State appoints and removes the trustees of the institute.

Because the Institute is not an agency or instrumentality of the Government, and because its trustees are not officers of the United States, it would not be appropriate for the Senate to advise and consent to the appointment of trustees or officers. However, the names of prospective trustees and officers will be forwarded to the Foreign Relations Committee. If the Committee expresses reservations about a prospective trustee or officer, we will undertake to discuss and resolve the matter fully with the Committee before proceeding.

This arrangement will enable the Institute to retain its character as a private corporation and enable the Senate to participate in the selection of trustees in an appropriate manner.

Sincerely,

CYRUS VANCE.

Mr. BIDEN: It says in part:

> However, the names of prospective trustees and officers will be forwarded to the Foreign Relations Committee. If the Committee expresses reservations about a prospective trustee or officer, we will undertake to discuss and resolve the matter fully with the Committee before proceeding.

Mr. President, I think the proposed amendment is unnecessary to accomplish the goals for which it was ostensibly introduced in the first instance, and I think it would run serious risk of upsetting the delicate balance which we are attempting to achieve here through our legislation.

I fully concur with the Senator from Kansas when he says that the normalization process is useful and in our own self-interest for many of the reasons that he cited. I again respectfully suggest that passage of this amendment will put in jeopardy the very end that the Senator from Kansas is seeking.

I would also conclude by saying that if the Senator from Kansas is successful in his quest, he may find that he, in practice, prefers the arrangement proposed by the committee.

So for a number of reasons, both personal, practical, and official, I suggest that the Senator from Kansas is ill-advised in moving the amendment.

Assuming the Senator from Kansas is willing to yield back the remainder of his time, I am willing to yield back the remainder of my time. I move at this time to table the amendment, if that is agreeable to the Senator.

Mr. DOLE. That is not what I have in mind.

Mr. BIDEN. I yield to the Senator from West Virginia, the distinguished majority leader.

The PRESIDING OFFICER. The Chair will advise the Senator from Delaware that he has 20 seconds remaining and and the Senator from Kansas has a minute-and-a-half remaining.

Mr. BIDEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. Under the precedents, the Senator does not have enough time to suggest the absence of a quorum.

Mr. BIDEN. Then I suggest I keep speaking so the Senate is not out of order. Then I will yield for the minute-and-a-half to the Senator from Kansas. I do not really have much more to say, especially in 20 seconds. I have difficulty saying my name in 20 seconds. [Laughter.]

The PRESIDING OFFICER. The Senator's time has just expired. The Senator from Kansas has a minute-and-a-half.

Mr. DOLE. I have no desire to use that time, Mr. President. I would be happy to yield to the distinguished majority and minority leaders.

MIDEAST PEACE NEGOTIATIONS

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator. The President of the United States just called me from Air Force 1 to say that he had talked again with President Sadat, and President Sadat has agreed to the proposals that have been discussed. The President did not go into any details as to what the proposals are or have been. But he said that Mr. Sadat has agreed to them; that Mr. Begin is going to submit those to his cabinet shortly and to the Knesset; that hopefully the Israeli Cabinet and the Knesset will agree to the remaining issues, and that a treaty may result.

That was the sum and substance of what the President had to say to me.

The distinguished minority leader received a call. I yield at this point to the minority leader for any comment he may have.

Mr. BAKER. I thank the distinguished majority leader.

Mr. President, the Vice President of the United States called me a little while ago to say that the President had requested that I be notified. It appeared that an agreement had been reached for submission, as I understood it, to the Parliament of Egypt and to the Knesset in Israel. My information coincides exactly with that described by the distinguished majority lead.

I would only add that I am pleased and relieved. I think the President took a risk that was worth taking. I am hopeful now that these other negotiations and considerations by the governing authorities of each country will result in a peace treaty.

Early on I commended the President of the United States for his initiative in undertaking this trip. I think the indications are now that the result may be favorable. I join with him and with the majority leader in our statement of pleasure at that result.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

Mr. President, it is hoped, following what the minority leader has stated, that impending developments will result in a favorable action. My understanding is that President Sadat has agreed with all of the matters at issue. Again, I am not aware of all the details.

I can see, I think, the difference in the positions of Mr. Begin and Mr. Sadat. I have had the impression that Mr. Sadat, is in a little better position within his country to authorize and to give approval to proposals which Mr. Begin alone might not be equally able to do within his country.

I am hopeful that the Israeli Cabinet and the Knesset will add their stamps of approval.

It seems, Mr. President, based on these conversations that the distinguished minority leader and I have had with the Vice President and the President respectively, that things are looking up and that the hoped-for agreement may yet be achieved. Let us hope this will be the result.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROBERT C. BYRD. I thank the distinguished Presiding Officer. I ask that the time that he has so graciously allowed us to proceed to use be charged against both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAIWAN ENABLING ACT

The Senate continued with the consideration of S. 245.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I move to table the Dole amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask that the time be charged equally against both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question now is on agreeing to the motion by the Senator from Delaware to lay on the table the amendment of the Senator from Kansas. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. Boren), the Senator from Florida (Mr. Chiles), the Senator from New Hampshire (Mr Durkin), the Senator from Alaska (Mr. Gravel), the Senator from Hawaii (Mr. Matsunaga), and the Senator from Connecticut (Mr. Ribicoff) are necessarily absent.

Mr. BAKER. I announce that the Senator from Alaska (Mr. Stevens), and the Senator from South Carolina (Mr. Thurmond) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. Thurmond) would vote "nay."

The PRESIDING OFFICER. Has every Senator had a chance to vote?

The result was announced—yeas 54, nays 38, as follows:

[Rollcall Vote No. 15 Leg.]

YEAS—54

Baucus
Bayh
Bentsen
Biden
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Church
Cranston
Culver
Danforth
Eagleton
Ford
Glenn
Hart
Heflin
Huddleston
Inouye
Jackson
Javits
Johnston
Kassebaum
Kennedy
Leahy
Levin
Long
Magnuson
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Pell
Percy
Pryor
Randolph
Riegle
Sarbanes
Sasser
Stafford
Stennis
Stevenson
Stewart
Talmadge
Tsongas
Weicker
Williams
Zorinsky

NAYS—38

Armstrong
Baker
Bellmon
Boschwitz
Byrd,
Harry F., Jr.
Cochran
Cohen
DeConcini
Dole
Domenici
Durenberger
Exon
Garn
Goldwater
Hatch
Hatfield
Hayakawa
Heinz
Helms
Hollings
Humphrey
Jepsen
Laxalt
Lugar
Mathias
McClure
Packwood
Pressler
Proxmire
Roth
Schmitt
Schweiker
Simpson
Stone
Tower
Wallop
Warner
Young

NOT VOTING—8

Boren
Chiles
Durkin
Gravel
Matsunaga
Ribicoff
Stevens
Thurmond

So the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 101 (AS MODIFIED)

The PRESIDING OFFICER (Mr. Pryor). Under the previous order, the Senate will now proceed to the consideration of amendment No. 101, offered by the Senator from New Hampshire, with 1 hour of debate.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. Humphrey) proposes an amendment numbered 101.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from New Hampshire is recognized.

Mr. HUMPHREY. Mr. President, I have a technical correction to my amendment which I send to the desk, and I ask unanimous consent that it be accepted.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The modified amendment is as follows:

On page 23 after "Sec. 501", and before "This Act shall have taken effect on January 1, 1979" insert the following: "Contingent upon the President of the United States securing written assurances from the People's Republic of China that the People's Republic of China will not undertake military operations of any nature against the people of Taiwan.".

Mr. HUMPHREY. Mr. President, I believe that S. 245 will be vastly improved by my amendment. It would make the effective date of this law January 1, 1979, if approved by Congress, contingent upon the President's securing from the People's Republic of China written assurances that the People's Republic of China will not engage in military activities against the Republic of Taiwan. I believe that the bill would be improved vastly; and I think it goes without saying that the security of the Republic of Taiwan, the security of the people of Taiwan, would be improved vastly.

I believe it is quite possible that the People's Republic of China would agree to give those concessions. I think the People's Republic of China has a great deal more to gain from improved and formal relations with the United States than the United States has.

It is highly unfortunate that in his negotiations with the People's Republic of China, President Carter and his people failed to press for such an assurance. In fact, it came out during the hearings of the Foreign Relations Committee not only that the President did not press for such assurances, but also, that he never even bothered to ask for them, which is a shocking revelation, in my opinion.

There are those who will say that my amendment works against the best interests of the people on Taiwan. I point out that today, at this moment, we have neither an ambassador nor an embassy in Taiwan; at the same time, neither do we have the so-called American Institute. We are in a hiatus. Yet, the people on Taiwan remain free, they remain prosperous, our American investments in Taiwan remain secure, and the mutual agreements between this country and the ROC remain in force. So, should the Senate decide, in its wisdom, to approve this amendment, we would not be creating any further vacuum than exists at this moment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CHURCH. Mr. President, it would be ruinous to adopt this amendment.

The whole purpose of this bill is to establish a basis whereby the United States can continue to maintain its relations with the people on Taiwan. The whole purpose of this bill is to serve the needs of that relationship. The commercial aspects, the cultural aspects, and our concern for the future security of the people on Taiwan are embraced in this bill.

Why is it necessary to bring this bill to the Senate in the first place? The answer to that question is known to Senators. We are faced with a unique condition. There are two Governments that continue to maintain that each is the Government of China. Both Governments agree that there is but one China, and that Taiwan is a part of it. That is not only an assertion of Peking; that is also an assertion of Taipei. The choice before the United States is, which of these Governments shall we recognize officially?

Obviously, the circumstances do not permit that we recognize both. The President of the United States has found the resolution to put aside 30 years of self-deception and to acknowledge that the People's Republic of China does in fact constitute the Government of China and the seat of that government is in Peking. It exercises effective jurisdiction over a billion human beings, who comprise one-fourth of the human race.

If this amendment were to be adopted we would be saying that everything contained in this bill that benefits Taiwan is made contingent upon some future written guarantee furnished us by the government in Peking that there never will be an armed attack upon the island of Taiwan.

Mr. President, Senators appreciate that when both the Chinese on Taiwan and the Chinese on the mainland regard the resolution of the Taiwan issue as an internal question, a Chinese question, there is no possibility of ever obtaining such written assurance. Thus, the adoption of this amendment effectively kills the bill through which we will otherwise be able to maintain all of our existing relations with the people on Taiwan on an unofficial basis. If Senators want to kill the bill, this is the way to do it.

I certainly have confidence that the Senate will show more mature judgment than to act favorably upon this amendment.

Mr. STONE. Mr. President, will the Senator yield?

Mr. CHURCH. I am happy to yield to the distinguished Senator from Florida.

Mr. STONE. As a vigorous supporter of the Republic of China on Taiwan and one who in the committee worked as hard as possible to strengthen our relationships with the Republic of China on Taiwan, I believe that to adopt this amendment would not be in the interests of the Republic of China on Taiwan. We have a gap. We have a hiatus which we are now engaged in and we are doing our best to live through it. If this bill becomes law in the next few days, as it can, then our tremendous trade relations with the Republic of China on Taiwan, which exceeds $7 billion a year, can and will go on and even improve. And I think there could come a day in which stronger, more governmentally based relations with the Republic of China on Taiwan, could again take place.

At this moment, though, the best we can do for our relationship with them is to pass this bill which is far different than the bill initially presented to the Foreign Relations Committee. This bill has been strengthened in so many ways that it really does the job.

And I think that we should oppose this amendment as well-meaning as I am sure the Senator from New Hampshire is in this regard. He does want to help the Republic of China on Taiwan, as does the Senator from Florida. But I think that it is very, very important now to get on with this bill, which has strong definitions, strong property rights, and strong standing in court for our friends on Taiwan, and let us get on with it and pass this bill very quickly, because otherwise our friends could suffer substantially and that is not appropriate.

I think I should also say one other thing. This bill also has not merely a commitment to supply appropriate defensive weapons to Taiwan, but at my suggestion the Senator from Idaho and the Senator from New York incorporated the concept of a sufficiency of weapons, enough weapons so that they can defend themselves successfully.

Under those circumstances, and with what this bill now represents, and particularly after the amendment of yesterday, what this bill represents in every way, I really believe that it is time for us rapidly to pass this bill, send it to the President, and let us get on with our very good and we hope steady and improving relations with our friends on Taiwan.

Mr. CHURCH. I thank the Senator very much for his statement. I wish to add to it that the hiatus he refers to is one that should be of concern to us. It is one that should spur us on not only to enact this bill, but to reject any amendment that would put the effective date into the indefinite future, because there is nervousness right now about the hiatus to which the Senator from Florida has referred. I am informed that some Taiwanese banks and business firms have already withdrawn several hundred million dollars in funds because of the uncertainties about when this bill will take effect.

To prolong those uncertainties would, of course, simply aggravate the problem and doubtlessly result in massive withdrawals of Taiwanese funds from American banks.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. CHURCH. I am happy to yield to the distinguished Senator from California.

Mr. CRANSTON. Mr. President, I join in opposition to the amendment for all the reasons spelled out so succinctly by the distinguished Senator from Idaho and the distinguished Senator from Florida.

I add that I applaud the work that they and Senator JAVITS, Senator STONE, Senator GLENN, and others have done in the Chamber in handling this measure so very, very effectively.

An amendment like this one, like several others that have been proposed, would destroy our efforts to develop a meaningful substantive relationship with the People's Republic of China.

I make plain that I support the Taiwan Enabling Act as reported by the Foreign Relations Committee and with the perfecting amendments that have been adopted to date. I have long been a proponent for U.S. diplomatic recognition of the People's Republic of China. It is in the interest of the United States, the most powerful country in the world, to establish a viable working relationship with the People's Republic of China, the most populous country in the world.

I do not see how we can be expected to deal with many worldwide problems of vast importance that are of vast significance to the people of our country if we are unable to talk in any direct and meaningful fashion with the People's Republic of China when we take into account how many people on the face of this world that Government represents.

Our two countries have very different systems and values. Yet, we also have many common interests. Our mutual concerns can now be discussed in an atmosphere conducive for resolution of our common problems. The recent agreement for the settlement of frozen assets is an example. But more important, the cooperation and participation of China are crucial in our search for solutions to such global issues as food, population, energy, and arms control.

At the same time, I am an advocate of continuing our commercial, educational, cultural, and scientific relations with the people of Taiwan. The United States and Taiwan have enjoyed a long and valued friendship and it is in our mutual interest to continue these good relations. While we nurture a new friendship, we cannot and should not forget our old ones.

I believe the Senate Foreign Relations Committee should be commended for the excellent job it has done in putting together the Taiwan Enabling Act, S. 245. This bill clarifies much of that which the administration implied but left ambiguous. Further, the committee has added an appropriate and necessary component to the framework of our future relations with the people of Taiwan. That essential component is the security clause asserting the continuing American concern and interest in the security of Taiwan and the western Pacific area. This provision in section 114 of the act is particularly necessary in the absence of an express pledge by Peking not to use force against Taiwan.

On several occasions I have spelled out the many reasons why I believe Peking will not use force against Taiwan, and I will not repeat them here for the record again. But since Peking would not renounce expressly the use of force against Taiwan, the United States must keep open its options to respond in the unlikely event there is a use of force by Peking. Therefore, I am pleased that the committee has incorporated the essential thrust of the resolution Senator KENNEDY and I introduced with the broad bipartisan support of 28 other Senators regarding the peace, prosperity, and welfare of Taiwan. And I am pleased that the Senate yesterday adopted a perfecting amendment by voice vote to section 114(b)(3) reflecting this substance.

The committee, in its thorough deliberations, has tackled a difficult and unprecedented situation. And the resulting committee language demonstrates the committee members' understanding of, and sensitivity and commitment to our future relations with the people of Taiwan.

As we preserve the substance of our commercial, cultural, and other relations with the people to Taiwan, it is important that we maintain these bonds on an unofficial—though no less substantive—basis. It would be inconsistent to maintain official relations with both Peking and Taipei.

The Taiwan Enabling Act establishes the necessary balance in our relations with the people of Taiwan and the Peking Government. And it is a balance that must be maintained. The administration can live with this bill. I believe the Chinese on both sides of the Taiwan Strait can also live with it—as it is without further changes. This bill will establish the balance which is in the interests of all parties. To upset the balance serves no one.

I am convinced that S. 245 is adequate and appropriate in governing our future unofficial relations with the people of Taiwan. I ask my colleagues to join me in this support, and I urge them to oppose amendment like the pending proposal that would destroy our opportunity to develop appropriate relations with the People's Republic of China.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. CHURCH. I thank the Senator very much for his intervention, and I yield now to the distinguished Senator from Maine.

Mr. MUSKIE. Mr. President, I am sure that any comments by me at this point following the clear and lucid analysis of this amendment by the distinguished manager and the chairman of the Foreign Relations Committee and my colleagues, Senators STONE and CRANSTON, is not necessary. However, it seems to me as an opportune time for me to indicate my support for the pending legislation as well as my opposition to this amendment.

On December 15, 1978, President Carter announced that effective January 1, 1979, the United States would recognize the People's Republic of China. At the same time he asserted that the American people and Taiwan "would maintain commercial, cultural and other relations without official basis."

Since President Nixon signed the Shanghai Communique in 1972, a U.S. policy goal has been to work toward normalization of ties with mainland China. This was difficult to achieve due to our recognition of a strong alliance with the Republic of China. Both Taiwan and mainland China take the position that there is only one China, but that each considers itself the sole legitimate government of the Chinese people.

Recent U.S. recognition of the People's Republic of China as the sole legitimate Government of China now precludes our Government from dealing with Taiwan on an official basis.

The legislation before us assures the continuation of full commercial, cultural, and other relations between the United States and the people of Taiwan, on an unofficial basis. U.S. relations and interests with Taiwan will be handled by the American Institute of Taiwan, a private organization funded by the U.S. Government, established expressly for this purpose. The institute will be the channel through which most U.S. agencies and departments will carry out programs, transactions, and other relations with Taiwan. The institute will conduct its business with Taiwan through a similar private institution established by the people of Taiwan which will represent their interests.

Mr. President, let me emphasize that this legislation is independent of the President's decision to recognize the People's Republic of China. This legislation cannot affect that decision and no amendments to it or rhetoric about it can change that fact.

This legislation is important to Taiwan. It is important to American interests in Taiwan. It is the only vehicle available to legally assure a continuing commercial, social, and military relationship with Taiwan.

I know that some of my colleagues who disagree with the recognition of the PRC are frustrated by the fact that there is no legislative vehicle available to overturn the President's decision to culminate the policy initiated by President Nixon to normalize relations with China. I know, too, that some of my colleagues would like to amend this legislation so as to create a political issue—though obviously not a partisan issue.

But, Mr. President, the fact is that this effort and this amendment smacks of biting off one's nose to spite one's face. Taiwan needs this bill. America's interests in Taiwan need this bill. Conversely, I suggest the People's Republic of China might be pleased to see this bill die.

This amendment would have as its sole effect the denial of all of the benefits which S. 245 would confer upon the people of Taiwan. The entire thrust of this bill is the protection of the relationship with the United States and the people on Taiwan, their eligibility for programs and relationships, the standing of Taiwan's authorities and people in the U.S. courts, the applicability of Taiwan's laws in U.S. courts, the continuation in force of treaties and agreements with Taiwan, the protection of Taiwan's assets, the security amendment, and so on.

The administration has not made the continued relationship with the United States and the people on Taiwan contingent upon the PRC's conduct.

For Congress to do so would be completely inconsistent with its desire to protect the people on Taiwan.

We may wish the Chinese would issue a statement formally renouncing the use of force. There is no reason to believe they will do so.

To make our continued relationship with the people on Taiwan contingent upon the PRC taking an action that clearly it has no intention of taking will simply punish the people on Taiwan.

I would hope that each of my colleagues would bear this in mind as they consider amendments to and final passage of this legislation. With this in mind, Mr. President, I would like to address the bill in specific terms.

For purposes of U.S. domestic law, this legislation views Taiwan as a country, absent the official sovereign status. It extends to those representing Taiwan interests, all privileges and immunities necessary in conducting business with our country. Thus Taiwan will continue to be eligible under such statutes as the Arms Export Act, the Export-Import Bank Act, and the Atomic Energy Act. All existing international agreements, with the exception of the Mutual Defense Treaty, made between the United States and the People's Republic of China will continue in force notwithstanding the changed status of Taiwan.

This legislation also details the close relations between the American Institute of Taiwan and the U.S. Government. The Institute is authorized to enter into new agreements as necessary. Such agreements will continue to be subject to congressional approval and consultation, pursuant to U.S. law.

The basic structure of the bill as submitted by the administration remains intact. However, the committee has clarified and specified some of the provisions to guard against legal loopholes or questionable application of U.S. domestic laws which would have the effect of undermining American-Taiwan relations.

TAIWAN AND THE SECURITY QUESTION

One of the most discussed issues of the bill has been the nature of our defense ties with Taiwan. The committee decided to add a section to S. 245 under which the United States would continue providing defensive arms to Taiwan and would assist the people of Taiwan to maintain a sufficient self-defense capability, whether through the provision of arms or other means. This section also directs the President to immediately inform Congress of any threat to Taiwan's security or to U.S. interests related to Taiwan. Any U.S. reaction to such threats would be carried out within the confines of U.S. law and constitutional processes. These confines include the provisions of the war powers resolution which insures congressional consultation by the President before any U.S. Armed Forces are committed to hostilities. U.S. law and constitutional procedures precludes any absolute security guarantee for Taiwan or any country.

IMPACT OF U.S.-PRC NORMALIZATION ON TAIWAN AND THE ASIA REGION

Normalization of relations between the United States and the People's Republic of China provides for a more cooperative relationship between our Government and their Government and enhances the prospects for a peaceful resolution of the Taiwan issue. The Mutual Defense Treaty which will be terminated in January 1980 has not and cannot in itself guarantee a peaceful future for Taiwan. This in no way diminishes our continued concern for the welfare of Taiwan. We have made it very clear to the People's Republic of China that our relations with them rests on the expectation that the Taiwan question be peacefully resolved.

During my trip to the People's Republic of China in the latter part of November 1978, the Chinese made clear to the congressional delegation their commitment to the "four moderizations," China's plan for large-scale economic development. They frankly stated that China's access to U.S. credit, agricultural commodities, and technology is a key to their country's development priorities. Furthermore the People's Republic of China seems far more preoccupied with Soviet influence in many parts of the world than with a forced takeover of Taiwan. Their trade interests with the United States coupled with their concern over Soviet expansionism are incentives for the People's Republic of China to seek a peaceful coexistence with the people of Taiwan.

Likewise U.S. normalization of ties with the People's Republic of China reduces the likelihood of a confrontation between China and the United States in the Asia region. This is especially significant for our Asia allies. Our coinciding interests in the Soviet role in Asia will also diminish possibilities of China precipitating political and economic upheaval in the region.

This bill is vital to our future relations with Taiwan, as it lays the groundwork upon which commercial, cultural, and other relations between our country and Taiwan will continue on an official basis. There is no reason to believe that this new basis will hamper our bilateral relations. On the contrary, there is every reason to believe that our relations will flourish and expand. Under a similar arrangement between Taiwan and Japan, established a few years ago, trade between them has actually increased.

I am sure my colleagues here share the same deep concern that the members of the Senate Foreign Relations Committee felt during their deliberations on S. 245: That the United States will not abandon Taiwan. With this concern very much in mind, the committee held extensive hearings on this bill, carefully considering wide-ranging views including those of the State Department, legal experts, business interests, congressional members, and defense experts. At the same time the committee was careful to avoid including language in the bill which would risk undermining or disrupting relations between the United States and the People's Republic of China. Such provisions would not safeguard Taiwan's future or our relations with them. Rather such provisions could only jeopardize Taiwan's future. I appeal to my colleague's to not be misled by amendments that may seem to strengthen our ties with Taiwan, but which actually undermine them and thus place in jeopardy the entire purpose of this bill.

Quite simply if this legislation is not passed, our relations with Taiwan go down the drain. We should waste little time in passing S. 245.

There are risks involved in this new policy toward the People's Republic of China and Taiwan, but I believe that this new policy is of such mutual interest to the People's Republic of China and to the United States and other countries whose future is of concern to us in the Western Pacific that the end result will be stabilization of the situation in the Western Pacific. Such a stabilization will work to achieve what this amendment seeks to achieve explicitly, but which it cannot, given the realities, achieve today on the Senate floor.

For that reason, Mr. President, I support the position taken by Senator CHURCH and others of my colleagues in opposing this amendment and supporting the pending legislation.

May I say I particularly appreciated the observations of my good friend from Florida (Mr. STONE) with whom I had the privilege of visiting and touring through the People's Republic of China last November.

We returned just 3 weeks before the President's historic decision, and I think, at least so far as I am concerned, that I am assured the Chinese at this point view it as in their interest to begin and continue an open relationship with the West, and that that objective would be inconsistent with the use of force directed toward Taiwan.

In the pending legislation, as Senator STONE has so articulately said, we have made it eminently clear to the People's Republic of China that we would regard it as against our interest for them to use force against the people of Taiwan. So I am delighted to have followed, and am prepared to follow, Senator STONE's comments on the pending amendment here this morning.

Mr. CHURCH. Mr. President, I yield to the Senator from New York such time as he requires.

Mr. JAVITS. Mr. President, I think Members have already put their fingers on the critical points here, but I would like to sum them up, as one of the authors of this bill.

This measure we are passing, as Senator MUSKIE so very properly said, is for the benefit of Taiwan. The People's Republic of China would probably be delighted if we did not pass this, because then all we do is exchange ambassadors. Everything is normalized, everything is regularized, and they have a free hand in respect of Taiwan, and we leave the Taiwanese up in the air as to whether they are going to be backed, defended, or traded with respect to what unilateral commitment we are making to them. That is all left up for grabs.

I could not think of anything that would be more satisfying to Teng than the collapse of the relations between the United States and Taiwan, which would result in leaving them totally alone. Where else are they going to go? They are orphans, at the mercy of 900 million people, who can certainly overwhelm them sooner or later.

So the passage of this bill is our way of giving them the assurance which they need and, for a change, in American policy—which has been bedeviled by the idea that the President cannot deliver has begun to stand out in the world, so that nations now doubt that we are resolute and are going to come through—here is a situation in which we are joining with the President, and we say as a totally united United States "We are going to see that you are not overrun, that you are not prejudiced, that you are not coerced either by force or by the implication of force or by boycott or blockade."

It seems to me that is a critical point, and there is no question about the fact that this will kill this whole proposition, because can you conceive of Teng, who is the inventor of this policy, swallowing this one?

He was just here, he just debated this proposition, and just told that they have got lots of time; they can wait forever. They do not intend to use force or change the social conditions, and so forth, on Taiwan. They value what is now their American connection. They do not want to jeopardize it, and in the face of that we say, "We want it in writing, or else."

The second point, which I think is exceedingly important, is this: What alternative do we offer to this way of approaching this problem? The alternative now is one of complete uncertainty for the people on Taiwan, and for this reason: let us assume, for the sake of argument, that we obtained this written promise, which is inconceivable under the circumstances. It seems to me anybody can see that, that the Chinese cannot do it, and if we should do this and incorporate it in this law it would simply mean the collapse of all the negotiations with respect to where we are today.

But let us assume we can get it. What is the sequel to that? We now have a written agreement with the Chinese. We do not have to do anything further. We do not have to assure them of arms, assure them of trade, assure them of backing down the road, and a solemn promise by the United States. The Chinese have written it and have said they are not going to use force, and we are out of it, and that is all this amendment says. It says:

> Contingent upon the President securing written assurances from the People's Republic that they will not undertake military operations.

What about boycott? What about blockade? What about telling every nation in the world "If you do any business with Taiwan, don't you show your nose in the People's Republic of China?

They have no promise from us, because we will have done all that you wished us to do by proposing this amendment. We get a written statement which just says that China will not use any military operations. Well, they can strangle them about 50 ways from the middle without any military operations.

So with all respect to our colleague, and I respect and appreciate the opposition to this measure, I really think it is better to kill it in open combat and fair duel than by stealth, and that is all this would do. Instead of knifing him in the front you are going to knife him in the back, and I do not believe that this is what our country wants.

Now, as to the differences between Teng and ourselves on the question of force, I think that is a very important question, and I wish to point out again, as one of the conceptualists in respect of this legislation, that it was my purpose, and I can only account for myself and I think it is carried out in the legislation, to make a unilateral promise by the United States which was not dependent or contingent upon anybody else's promise. We know that people forget, and we know that notwithstanding that this is a highly interdependent world, Taiwan is far away, so are the people of the People's Republic of China, and it is very hard for our people to get accustomed to the idea that that is where our frontiers are. If there is a war, that is where it is going to start, whether it is on that frontier, the European frontier, the Middle East frontier; it certainly is not going to start in Los Angeles, San Francisco, or New York.

So we felt this had to be enshrined in some way in American policy, like any other major declaration, that our people for generations would not forget what we have promised the Taiwanese in terms of their survival and their ability to exist under whatever system they decide to adopt.

So, it seems to me that we can understand Teng's statement, that they cannot give up the right of the use of force. "Maybe these people someday will deny their motherland," as he put it; they cannot denigrate their own concept that there is one China, including Taiwan, by agreeing to anything which denigrates that idea.

And we say, "All right, that was incorporated in the Shanghai communique, which we accepted, and you can feel that way, and even the people on Taiwan can feel that way. Although we doubt that they do; we really think it is the people who came over from the mainland who have those strong feelings. But be that as it may, we are telling you now we will not stand still for it, and will react with everything we have according to the constitutional processes of this country—and you do not have to agree to this, we are saying it unilaterally—if you use force, direct or indirect, or coercion against these people, not only to suppress them but to suppress their social or governmental system." It seems to me that when a great nation makes that kind of a condition, not based on something those people say or do or do not do, that is the strongest kind of commitment we can give the people on Taiwan.

And the proof of that is that whereas there was consternation on Taiwan when this policy was announced, everything has calmed down and the people there now have a sense of assurance that, with the people of this country unilaterally in back of them—not just industry or business—based upon what people may do, they can now feel secure in developing their society and their economy. I think that was the intent of the people of this country, which will be expressed by this bill.

So, while I deeply appreciate the fact that our colleague who proposes this amendment believes it will give more assurance to the people of Taiwan, I respectfully submit that it will give them much less than they have by this bill. That would appear from the impracticality of dreaming for a moment that we can get such a thing as this amendment proposes, or that there will be any other result than the total collapse of what we are trying to accomplish, if we should accept the amendment and it should be incorporated in the law.

So I hope very much that the Senate will reject it.

Mr. HUMPHREY. Mr. President, there have been several references in this discussion to the security of Taiwan, and how wonderful S. 245 is in that respect.

It is not wonderful at all. It represents a step backward when you compare it with the Mutual Defense Treaty which is in force today between the United States and the Republic of China.

The section dealing with military aggression in S. 245 is section 114. Let me read what it says. It says it is the policy of the United States——

> to consider any effort to resolve the Taiwan issue—

I would like to know what that issue is, by the way.

> by other than peaceful means a threat to the peace and security of the Western Pacific area and of grave concern to the United States;

What entity is the Western Pacific area? And what military forces does that entity of the Western Pacific area have at its disposal? Will this entity, the Western Pacific area, come to the defense of Taiwan?

That is vague, deliberately vague language, and it means nothing.

The very least we could do for our friends on Taiwan, whose only sin was that they trusted us, would be to obtain assurances from the PRC that it will not resort to force against the Republic of China. We should have done that months ago. I believe such assurances could have been obtained; I believe they can still be obtained, because the PRC has far more to gain by improved relationships between our two countries than the United States does.

Our colleague from Idaho has spoken of the need for speedy action on this legislation. I believe our country suffers from undue haste in bowing to the demands of the Communists. Who made all the concessions? Did the PRC make one major concession? No, they did not. It was the United States which made all the major concessions. It bowed to the Chinese demand that we derecognize Taiwan, which is a sovereign country supported by its people. We bowed to their demands that we derecognize Taiwan, that we terminate our Mutual Defense Treaty, and that we withdraw our military presence. That is underway today; it is in fact virtually completed.

Who made all the concessions? We did. I suggest that haste has botched up this thing. President Carter made a very poor deal, which stinks to high heaven and begs for rectification. That is what my amendment aims to do, Mr. President.

Mr. President, if there is no further debate on this issue from the other side of the question, then I am prepared to relinquish the remainder of my time.

Mr. CHURCH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHURCH. How much time remains to the opponents of the amendment?

The PRESIDING OFFICER. The opponents of the amendment have 5 minutes remaining.

Mr. CHURCH. First of all, let me say there is a fine irony—I am sorry; has the Senator from New Hampshire yielded the floor?

The PRESIDING OFFICER. He has yielded the floor.

Mr. CHURCH. There is a fine irony in this amendment. If it were sponsored by a Senator who carries a liberal label, I am quite certain that it would be opposed by the very Senators who may vote for it. The argument then would be how on earth can you trust the word of Peking? What good is a written assurance from Peking? What value does that have to the people on Taiwan? Conservatives would be in here en masse, criticizing and ridiculing the amendment, suggesting that there is no basis whatever for depending upon any assurance from Peking, written or verbal, and that the guarantee contained in the amendment is worthless.

I submit, Mr. President, that if we put the proposition to the people on Taiwan and asked them, "Which would you prefer, a written statement from the

Peking Government that they never will attack you in the future, or a unilateral statement by the Government of the United States that we base our whole new relationship with Peking upon the expectation that they will never resort to force in the settlement of the Taiwan issue; that furthermore, we pledge ourselves to furnishing Taiwan, in the future, whatever weapons it may need for its own defense; and that furthermore, we would regard any attack upon Taiwan, including a boycott or blockade, to be a threat to the peace and security of the Western Pacific and of grave concern to the United States." Mr. President, I know what they would say. They would say, "Give us that unilateral declaration of support from the United States. Do not force us to rely upon written assurances from Peking."

What a fine irony to have this amendment proposed by the very Senators who would ridicule it and vote against it if it were sponsored by some liberal Senator.

I find no good reason for the support of this amendment and its adoption by the Senate. Every Member should know that the amendment would kill the bill and suspend indefinitely everything within the bill that would enable us to proceed with our normal relationships and our peaceful ties with the people of Taiwan.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. CHURCH. I am happy to yield.

Mr. ROBERT C. BYRD. Mr. President, I will be very brief. I support the manager of the bill, Mr CHURCH, and the ranking minority member, Mr. JAVITS, in opposing this amendment. I do not for a moment speak in derogation of the author of the amendment or any of its supporters, but I think it would be a serious mistake if the Senate were to adopt this amendment. It would, in my judgment, effectively negate all that we are seeking to do in the bill. Let me say it this way: It would operate ultimately to the detriment of the very people about whom we are concerned here, in regard to our continuing relationships.

The effect of this amendment would be to injure the status of the people of Taiwan. It would have the realistic effect of killing the bill. I am sure the President would not sign the bill. He would veto the bill, if this amendment were included. He would have no alternative.

The People's Republic of China does not want to injure the relations which it is developing with the United States. It does not want to jeopardize those relations. The PRC is in no position to militarily attack Taiwan or to take Taiwan by military force at this time. And, at any time in the future that military action might be taken, the United States always has the option of acting within its constitutional processes in its own best national and security interests.

Mr. President, this amendment does not say anything about blockades. It says nothing about boycotts. It talks about military operations. I do not think there is a Member of this body who thinks for one moment that the People's Republic of China is going to give any written assurance that it will not undertake military operations of any nature against the people of Taiwan at any time. Premier Teng was in this country and he stated very clearly that the PRC has no intention of taking such action, but he would not completely close the door. He would not completely forgo the option of taking action at some future point. I can see from his standpoint why he would not do that. He is not going to give any written assurances.

For us now to demand that there be written assurances would be to jeopardize the very legislation that is in the best interests of the people of Taiwan.

If this amendment passed, I have an idea where some other happiness would prevail, and that would be the Soviet Union.

Just for once, Mr. President, let us think about the interests of our own country. We are all interested in Taiwan. We are all interested in cultural relations, and in continuing educational, scientific, and trade relations with Taiwan. That is what this legislation is all about. I think, and I hope most of us believe, that this legislation is in the interest not only of the people of Taiwan, but of the people of the United States.

So let us think once in a while of what is in the best interests of the United States.

Let the Senate adopt this amendment and the leader of the Soviet Union will say, "Amen." They will say, "Hurrah." Perhaps "amen" is not in their lexicon.

But they would be happy, they would be deliriously happy to see this amendment adopted, because they do not want to see the normalization of relations between the United States and the People's Republic of China go forward.

The PRESIDING OFFICER (Mr. NELSON). All time has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask for 2 minutes on the bill.

Mr. CHURCH. Mr. President, I grant 2 more minutes on the bill.

Mr. ROBERT C. BYRD. Mr. President, the Soviet leaders do not want to see our relations with the People's Republic go forward. Normalization was bad news in Moscow.

I do not want to go out of my way to offend anybody. We want to continue to cooperate with the Soviet Union where we can, to be friendly with the Soviet leaders. But the interests of the United States of America should come first. Where do those interests lie? They lie in passing this legislation without this amendment.

So let us be concerned about the interests of the United States. Let us not for a minute, not for 1 minute, be deluded. This would not be to the benefit of the people of Taiwan. But the leaders of the Soviet Government would be delighted to see this, because it would be a roadblock in the path of normalization of relationships between the United States and the People's Republic of China. I am not for 1 minute about to support this amendment, and I hope the Senate will reject it shortly.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I must say I am delighted at the high-powered opposition which floor managers have mustered against this amendment. I certainly was entertained by the statements prepared overnight which shows they are worried about this amendment. Well, they ought to be.

I am not opposed to realistic relations with the People's Republic of China, Mr. President. That has been implied. I am not. Neither are a great many of us who are opposed to the weaknesses in S. 245.

I am, however, adamantly opposed to knifing our friends, either in the front, the back, or the side, and that is what President Carter proposes to do.

My colleagues in this room have automatically dismissed the possibility that the PRC might be willing to grant in writing those assurances which I seek. I think they might. I point out again that the PRC needs us far more badly than we need the PRC. Why do we need them? I am not against having realistic relations with them, but we have gotten along beautifully now for decades without a close connection with the PRC. We can get along nicely for a few more months without those connections. I say there is a good possibility that we could receive those assurances if we demand them. They ought to have been demanded. We ought now to demand them in the President's place.

There seems to be worry expressed about a Presidential veto. Well, what is the worry about that? Are we a rubber stamp? Must we rubber stamp a bad, stinking deal the President has made in notifying our friends? I say no. I say let us pass this amendment. Let us, in effect, require the President to go out and deal again with the PRC and come back with a deal that is better for our friends.

Mr. President, if those who oppose me in this amendment wish to have no further discussion, I am prepared at this time to relinquish the remainder of my time.

Mr. CHURCH. Mr. President, I am prepared to yield back my time. I believe it has expired anyway.

The PRESIDING OFFICER. Is all time yielded back? All time has been yielded back.

Mr. CHURCH Mr. President. I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Idaho. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida (Mr. CHILES), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Hawaii (Mr. MATSUNAGA) are necessarily absent.

Mr. STEVENS. I announce that the Senator from South Carolina (Mr. THURMOND) is necessarily absent.

I further announce that, if present and

voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

The PRESIDING OFFICER. Have all the Senators present voted?

The result was announced—yeas 74, nays 21, as follows:

[Rollcall Vote No. 16 Leg.]

YEAS—74

Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Glenn
Hart
Heflin
Heinz
Inouye
Jackson
Javits
Jepsen
Johnston
Kennedy
Leahy
Levin
Long
Magnuson
Mathias
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Tsongas
Warner
Weicker
Williams
Young
Zorinsky

NAYS—21

Armstrong
Baker
Byrd,
  Harry F., Jr.
Dole
Garn
Goldwater
Hatch
Hatfield
Hayakawa
Helms
Hollings
Humphrey
Kassebaum
Laxalt
Lugar
McClure
Proxmire
Schmitt
Schweiker
Tower
Wallop

NOT VOTING—5

Chiles
Gravel
Huddleston
Matsunaga
Thurmond

So the motion to lay on the table Amendment No. 101, as modified, was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 99

(Purpose: To permit individuals representing the people on Taiwan to be admitted to the Senate diplomatic gallery)

Mr. COCHRAN. Mr. President, I have an amendment at the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Mississippi (Mr. COCHRAN) proposes amendment No. 99.

Mr. COCHRAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 15, before "The" insert "(a)".

On page 13, after line 24, insert the following:

"(b) In exercising its duty under paragraph 2 of rule XXXIV of the Standing Rules of the Senate, the Committee on Rules and Administration of the Senate shall issue regulations providing that the head and first secretary of the instrumentality referred to in section 109, and their families and suites, shall be admitted to the gallery in the Senate Chamber set apart for the use of the diplomatic corps. This subsection is enacted as an exercise of the rulemaking power of the Senate.".

Mr. COCHRAN. Mr. President, the purpose of this amendment, which is to section 113 of the bill before the Senate, is to require that there be extended to the first Secretary, and others designated in the amendment, the privileges of the diplomatic gallery for those who are in that capacity representing the instrumentality of Taiwan which is created to carry on relations here in the United States.

It is in keeping, in my judgment, Mr. President, with the intentment of the section as it now reads.

I hope that through discussions here on the floor with the distinguished chairman of the Committee on Foreign Relations and the distinguished chairman of the Committee on Rules and Administration that we may establish that this can, in fact, be done under the existing rules of the Senate. If it cannot, then we would pursue the amendment.

With that hope in mind, Mr. President, I reserve the remainder of my time, to permit the distinguished charman of the Committee on Foreign Relations to respond to this hope.

Mr. CHURCH. Mr. President, it is my understanding that the objective of the amendment lies within the discretion of the Committee on Rules and Administration of the Senate. Therefore, it would not be necessary nor advisable to write this language into the statute.

I note that the able chairman of the Senate Committee on Rules and Administration is present; and with the Senator's permission, I will ask him, as the chairman, to respond to the Senator's question.

Mr. PELL. I am glad to do so.

Mr. President, as we know, the diplomatic gallery—the gallery on the south side, behind the clock—very often is empty. It is entirely for diplomats, except the first and second rows on the east side. The first one on the east side is for guests of the President, and the second one is for guests of the Vice President. All the other rows are for diplomats. The original rule said that it was open only to the Secretary of State, foreign ministers, and so forth. Through usage, this has been expanded to include all members of the diplomatic corps.

From my point of view, I would think that, by the same custom of usage, the representatives of Taiwan, or Formosa—whatever we call it—should continue to have the same access to that gallery as long as they are being treated as they are, in a diplomatic manner, by the Government of the United States. That is my thought, and the thought which I would convey to the doorkeepers there. If there is any questioning of this thought, it can be raised in the Rules Committee at a later date, to see if the committee will sustain this recommendation or suggestion of mine. That would be my intention.

Mr. COCHRAN. Mr. President, I thank the distinguished manager of the bill. I believe that under the provisions of the rule, the chairman of the Committeee on Rules and Administration clearly has authority to issue, to such persons who are entitled to its privileges, cards which will permit them access to that gallery.

With that assurance, I will withdraw my amendment. I ask permission to withdraw my amendment.

The PRESIDING OFFICER. The Senator has a right to withdraw it.

Mr. CHURCH. Mr. President, I thank the Senator for withdrawing the amendment in the light of the assurances he has received. I appreciate his cooperation.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. HELMS. To be divided equally.

Mr. JAVITS. Mr. President, reserving the right to object—and I shall not object—I say to the Senator that——

The PRESIDING OFFICER. The Chair cannot hear the Senator.

Mr. HELMS. I withdraw it, then. The time is still running.

Mr. JAVITS. Mr. President, there is plenty of time on the bill. There are 5 hours on the bill. So I suggest that the Senator suggest the absence of a quorum, with the time chargeable to the time on the bill.

Mr. HELMS. All right. I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I yield to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I am concerned about a particular provision of S. 245; namely, section 113 on page 13 of the printed document which states:

> The President is authorized and requested, under such terms and conditions as he determines, to extend to the instrumentality established by the people on Taiwan and the appropriate members thereof, referred to in section 109, privileges and immunities comparable to those provided to missions of foreign countries, . . .

And so forth.

Mr. President, it has been alleged in some quarters, and I do not know whether it is true or not, that pressure was brought to bear on the Republic of China to accept the institute concept, pressure along the lines of threats to expell their personnel from this country, and I am concerned that in the future that kind of pressure could be exerted against the representatives of the people on Taiwan.

I am informed by counsel that the Senate cannot compel or direct the President to grant such privileges and immunities, but I wish to solicit the opinion of the floor managers relative to this section.

Is it their feeling that the threat of

withdrawal of diplomatic privileges and immunities by a President in order to sway the representatives of the people on Taiwan to a particular point of view be inappropriate behavior on the part of the President?

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. JAVITS. Mr. President, in my judgment that would run counter to the purpose and intent of this section.

The purpose and intent of this section is that the appropriate members, that means in my definition, the senior people in this Taiwan Institute shall have privileges and immunities comparable to those provided to missions of foreign countries.

When the President signs this bill into law, in my judgment, he is at the same time to follow the intent of Congress undertaking a moral obligation to extend these comparable privileges and immunities, and the word "comparable" is the word used in the bill, as well as the word "appropriate," to the appropriate members of the Institute, to wit, the senior people.

When he signs the bill, he undertakes that moral obligation as a result of the intent of Congress in this provision.

Mr. HUMPHREY. I thank the Senator.

Mr. CHURCH. I concur in the remarks made by the distinguished ranking member of the committee.

Mr. HUMPHREY. I thank the Senator very much.

I understand it is the opinion of the Senator that the threat of withdrawal of privileges and immunities by a President would be counter to the intent of this section.

Mr. JAVITS. Based on differences of opinion in trying to make him do something he does not want to do, yes.

Mr. HUMPHREY. Yes.

Mr. ROBERT C. BYRD. Mr. President, does the Senator from North Carolina wish to be heard?

Mr. HELMS. No.

RECESS FOR 1 HOUR

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate stand in recess for 1 hour, and that the time be charged equally against both sides.

The PRESIDING OFFICER (Mr. BAUCUS). Without objection, it is so ordered.

Thereupon, at 1:12 p.m., the Senate took a recess for 1 hour.

The Senate reassembled at 2:12 p.m., when called to order by the Presiding Officer (Mr. HEFLIN).

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. Does the unanimous-consent agreement automatically bestow time upon the Senator from North Carolina?

The PRESIDING OFFICER. If the Senator offers an amendment, he will have time on his amendment.

Mr. HELMS. Mr. President, I ask unanimous consent before we begin with my amendment that the distinguished Senator from New Mexico be heard briefly.

Mr. JAVITS. Mr. President, we will yield 2 minutes to the Senator. I yield 2 minutes to the Senator.

Mr. DOMENICI. I thank my friend from New York. I do not believe I will need 2 minutes.

Mr. President, the Senate will soon complete its work on S. 245, legislation designed to outline the framework of our future relations with Taiwan. This legislation is a unique exercise in diplomacy because we are seeking to establish quasi-official relations with a nation we no longer recognize. A special burden is placed upon us, and our colleagues in the House, because the decisions we make could well determine the fate of 17 million people. If we act wisely and firmly we will enhance the future security and freedom of these people.

I, along with many of my colleagues, are greatly troubled that the executive branch yielded to all the major demands made by the People's Republic of China without receiving any appreciable concessions in return. By acting as it did, the administration did little to insure the future freedom and security of the people of Taiwan. It must not be forgotten that since before the turn of the century, Taiwan has fallen under the control of the Chinese Government for less than 5 years. Fifty years of Japanese rule and 30 years of separate "nationhood" since 1949, have enabled the people on Taiwan to create a distinctly different socioeconomic-political and cultural system from the one that exists in mainland China.

In his December 15 speech President Carter spoke of the existence of the People's Republic of China as a "simple reality." I do not differ with the President's judgment—as far as it goes. There may be only one China, as acknowledged by Chinese officials in both Taipei and Peking, but there are two sovereign governments exercising effective control over portions of China's territory. For 30 years we refused to recognize the existence of the People's Republic of China. Now, however, we are refusing to recognize the existence of the 40th largest nation in the world by population, and our eighth largest trading partner. The true Asian reality is that there are two Chinas.

The Foreign Relations Committee has gone a long way to compensate for the deficiencies that existed in the original legislation transmitted to the Congress. I commend the members of the Senate Foreign Relations Committee for the diligent effort made to strengthen this legislation. It is my intention to vote for final passage of S. 245.

Having said that, however, I do not want to leave the impression that I believe we have done enough to secure the future right of self-determination for the people of the Republic of China. That is why I supported those amendments that were designed to upgrade future U.S. relations with Taipei, and strengthen the degree of our commitment to the security, freedom, and right of self determination for our friends and former allies on Taiwan. In particular, I deeply regret the Senate refused to accept Senator PERCY's effort to send a clear signal to Peking that an attack on Taiwan would be a "threat to the security interests of the United States." That seemed to me to be a modest assertion of our moral commitment to 17 million people who have—over the years—come to depend upon us for their security.

Mr. President, throughout this debate we have seen the new Sino-American relationship from several different points of view. The President outlined his views on December 15. Vice Premier Teng took full advantage of his recent visit to the United States to insure that "normalization" would further China's goals and objectives. The Soviets have reacted coldly to this development, and it appears to have delayed a Carter/Brezhnev summit and slowed progress toward a SALT II agreement. But, except for news coverage of demonstrations in Taipei, little effort has been made to fully comprehend the concerns of the people most directly involved.

To better understand the feelings of the government and the people of Taiwan we must put ourselves in their position. A television news commentary by Bruce Herschensohn, which was broadcast over KABC-TV in Los Angeles, Calif., just 4 days after the President's announcement, approaches this problem from an entirely different perspective. The text of this commentary, which has just recently come to my attention, transfers the Chinese experiences over the last 30 years to the United States. It expresses in terms which are readily understandable to us the feelings we would have if our Government were overthrown by a totalitarian regime, but many of our citizens and the top leadership of our Government were able to flee to Hawaii where they would carry on the traditions and the governmental procedures which we as Americans had come to cherish.

The commentary goes on to explain how a major power—Great Britain—came to our aid and strongly supported the security of the United States of America on Hawaii. Many years later, a new and inexperienced Prime Minister pulled the rug out from under the people of Hawaii in much the same way that President Carter undermined the long-range position and security of the Republic of China on Taiwan. This commentary is, in my opinion, especially useful because it enables us to view the free Chinese experience from a perspective we can better understand.

Mr. President, I would like very much to share this commentary, which was broadcast over KABC-TV, Los Angeles, on December 19, 1978, with my colleagues, and I therefore ask unanimous consent that it be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit No. 1.)

Mr. DOMENICI. In closing, Mr. President, let me stress that the long-range future of the Republic of China will continue to depend, in large part, on the actions of our Government. This bill does not end our involvement with or our commitment to Taiwan; it just embarks us on a new phase in our relations with the people and the government we have, until recently recognized as the Republic of China. Many questions remain to be answered:

Can and will the United States, over the long run, act forcefully to deter military action against Taiwan?

Does the United States consider the Taiwan Strait to be international water? If so, are we prepared to assert ourselves to establish and maintain this principle?

Will the Carter administration and succeeding administrations have the will and the courage to resist Peking's protests and sell Taiwan the up-to-date weapons they will need to maintain a modern defense capability?

Will the United States, in concert with our allies, seek to limit the transfer of advanced military technology to the PRC so as to reduce the danger of aggression against Taiwan and China's other neighboring states?

If we do sell armaments to the PRC in the future, will we insist upon the usual restrictions against the use of American-supplied weapons for offensive purposes? Will we make it clear to Peking that we will not tolerate the use of American-supplied weapons in any attack upon the territory controlled by the Republic of China on December 31, 1978?

If future Presidents and Congresses act with firmness and courage, the future of Taiwan can be secure, peaceful, and prosperous. That is my hope, as we conclude our consideration of S. 245.

EXHIBIT 1

CHINA

Imagine that 30 years ago there was a tremendous uprising in the United States among military elements that backed a totalitarian regime; and imagine further, that the uprising won and took over our country. We fought and lost; but before the takeover, you and I and millions of Americans including the President, managed to escape onto the Hawaiian Islands.

Our friends stood by us. Great Britain was particularly horrified over the events and the Parliament of Great Britain voted unanimously for a mutual defense pact with us.

The new dictatorship on the Mainland of North America called itself the People's Republic of America. We, on Hawaii, retained our flag and name of the United States of America because it's what we represented, not simply representing Hawaii alone.

As time passed, new refugees escaped the Mainland of America and told us of millions who were being tortured and executed in California . . . people we knew . . . friends . . . relatives . . . and millions upon millions of others in the country. We learned that all civil liberties had been taken away . . . that all churches and synagogues had been closed . . . that all private property had been confiscated . . . no free press . . . and that in Washington, the statues of Lincoln and Jefferson had been removed from their memorials and destroyed . . . with the shells of the shrines re-dedicated to the conquerors . . . and we learned that American children were taken from their parents and educated in political schools with their main course being the future takeover of Hawaii. The new generation was being brainwashed into being political, atheistic robots.

During the ensuing years, Great Britain became engaged in its own foreign conflicts; and to keep our side of the Mutual Defense Treaty, we sent troops to fight beside the British for their cause, and we supplied them bases while the People's Republic of America killed English soldiers and killed our soldiers with them.

Then, one night, little more than a week before Christmas, while Parliament was out of session, the new Prime Minister of England, who was unschooled in foreign affairs, and a self-proclaimed moralist, went on television, smiled, and said, "In this season of peace, I take special pride in announcing that as of Jan. 1, 1979, Great Britain will recognize the People's Republic of America as the sole legal government of America. And we acknowledge the People's Republic position that there is but one America and Hawaii is part of it. And these decisions and actions open a new and important chapter in world affairs."

The story I told you is true. Only the names have been changed to protect the identity of those who are bringing about a new world order, without morality, loyalty or liberty. Some day, the names we used here may be accurate.

UP AMENDMENT NO. 43

(Purpose: To declare that the people on Taiwan, as defined in this Act, constitute an international personality)

Mr. HELMS. Mr. President, I send to the desk an unprinted amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 43:

On page 14, after line 12, insert the following paragraph:

"(5) to declare that the people on Taiwan, as defined in section 101(b) of this Act, constitute an international personality with the right to maintain its territorial integrity and sovereignty, notwithstanding the withdrawal of diplomatic relations with the entity recognized by the United States prior to January 1, 1979 as the Republic of China."

Mr. HELMS. Mr. President, as I have noted in my additional views in the committee report, the legislation before us, S. 245, is based upon a fatal contradiction. At one time or another, to one degree or another, and in one way or another, I think most Senators agree with that statement because, on the one hand, this legislation assumes that the United States can continue a normal relationship with the people on Taiwan but, on the other hand, it dismisses all the attributes of sovereignty upon which such a relationship could be based.

The committee report itself attempts to draw a distinction between domestic law and international law. The report says on page 7:

> The Administration has stated that it recognizes the People's Republic of China (PRC) as the sole legal government of China. It has also acknowledged the Chinese position that Taiwan is a part of China, but the United States has *not* itself agreed to this position. The bill submitted by the Administration takes no position on the status of Taiwan under international law, but does regard Taiwan as a country for purposes of U.S. *domestic* law. The bill assumes that any benefits to be conferred on Taiwan by statute may be conferred without regard to Taiwan's international legal identity.

I note also that our official policy toward Taiwan is referred to on page 6 as "derecognition," a term, I believe, which has no basis in international law. And further on, on page 6, the committee report correctly summarizes the administration testimony:

> The Administration did not press the PRC for a pledge not to use force against Taiwan during the negotiations preceding normalization, on the ground that no Chinese government would renounce the use of force against what it regarded as a province of China—a position repeatedly stated by the PRC. However, the Administration states that it made clear to the PRC that normalization rested upon the expectation that the Taiwan issue would be resolved peacefully.

Thus, Mr. President, the report makes this clear that the United States is seeking to avoid any action in international law which would prejudice the PRC claim, the Red Chinese claim, to exercise sovereignty over Taiwan, our friend, our ally, and anti-Communist government. This in itself is an action that obviously supports the claim of the People's Republic of China.

But is it really possible to take one position in our domestic law, and another in our conduct of international relations? In the judgment of the Senator from North Carolina, it is an impossibility. So the question that we must really settle before we act upon this legislation, is whether the arrangement is one that is expected to continue indefinitely, or whether it is a framework for the so-called peaceful transition of the people of Taiwan into domination under the Communist yoke.

That is the essential question. Much as I regret to raise this question this afternoon, it is one that in good conscience the Senator from North Carolina cannot avoid or ignore.

Although the committee report seems to say that we can ignore Taiwan's international status while concentrating on our domestic law, let us look at that status for a moment. For, if the United States does not make clear its position on the international status of Taiwan, we will not be able to challenge successfully any threatening PRC moves against Taiwan. Moreover, Taiwan's status does not depend objectively upon what the President of the United States does or says. Its status is independent of what we say. Yet in the long run Taiwan must be able to defend its status, either alone, or with the help of allies. By withdrawing our support of what Taiwan believes to be its status, we, as Taiwan's major ally, are actually contributing to the demise of that status.

So we cannot escape the consequences of our actions. As testimony presented to the committee by Professor Hungdah Chiu has pointed out, the Government of the Republic of China has had effective control of Taiwan for more than 30 years. The Republic of China possesses all four essential elements of statehood in international law, namely: First, a defined territory; second, a permanent population; third, a government; and fourth, the capacity to enter into international relations. There is nothing in international law to prevent the United States from recognizing the Republic of China, even if the United States at the same time recognizes the People's Republic of China.

As Professor Chiu stated:

> How can the United States maintain its existing close relations, including treaty relations, with Taiwan without recognizing the Republic of China in Taiwan's international personality? According to international law, "the existence in fact of a new state or a new government is not dependent on its recognition by other states." (Hackworth, Digest of International Law, Vol. 1, 1940, p. 161). This principle also finds support in the 1933 Inter-American Covention on Rights and Duties of States which provided in Article 3 that "The political existence of the state is independent of recognition by other states." While the United States may not want to formally recognize the ROC even as a state and government within the territory under its control, it may take a position somewhere in between recognition and nonrecognition with respect to the international legal status of the Republic of China in Taiwan.

The point is, Mr. President, that we cannot "derecognize" Taiwan. We can recognize Peking as the "sole government of China" if we wish; but once we have recognized Taiwan and Taiwan continues to control its territory, we cannot take back that recognition. We can break relations, or withdraw our Ambassador. We did that to our enemies in World War II. But it is impossible to withdraw recognition. Not even the President has claimed to withdraw recognition. He has made no statement to that effect at all. Nor have administration spokesmen made any such statement. Rather, they have asserted that the United States takes no position on the PRC's claim to Taiwan. All that we have done is to withdraw diplomatic representation from Taiwan.

But I ask, Mr. President, is it possible to revise our domestic law, as the pending bill would do, without taking a position in international law? I submit that it is not. If we do not admit that the Republic of China Government is the legal governing authority on Taiwan, how can we have any relationship at all that is legal in international law? Can we have any relationship with the people of any nation that is not sanctioned first by the governing authorities in that territory? And if the authorities in Peking are the legitimate authorities—the "sole government," in the President's term—then how can we continue a relationship with a rival entity that claims to be the governing authority on Taiwan?

How can we sell military equipment and arms to the people on Taiwan when we have recognized Peking as the "sole government" of China? Are we not, then, selling arms to a rebellious province? And more to the point, how can the United States itself defend Taiwan against any economic or military pressure from the government that we have declared to be the sole government of China?

Mr. President, I think that it is clear in international law that we have no right to do any of these things under the circumstances. This bill says that the President can conduct relations with the people on Taiwan; but the President has recognized another government as the sole government of China. This bill says that we can maintain commercial, cultural, and other relations with the people on Taiwan; but under international law, such relations cannot be conducted with "a people." This bill says that the United States will assist the people on Taiwan to maintain a sufficient self-defense capability through the provision of arms of a defensive character; but how can we provide arms to the people on Taiwan when we refuse to take a clear position on the international status of the people to whom we are supplying the arms?

It should be plain, Mr. President, that we cannot accept the sophistry that our domestic law can authorize something that is in conflict with our position in international law. We must resolve that conflict before we approve this legislation.

Mr. President, I think that a middle position can be found that would recognize the realities of the situation without invading the President's prerogatives or powers. The basic principles would be as follows:

First. A middle way would not contradict the President's statement that Peking is the sole government of China.

Second. A middle way would not insist upon diplomatic relations, government-to-government relations, or any comment upon the legality of the governing authorities of the people on Taiwan.

Third. A middle way would confirm that the people on Taiwan had the right to act to maintain their independence from the mainland regardless of whether peaceful or military pressures were imposed.

Now we get down to the difficult questions Mr. President. That is why I am proposing that a fifth paragraph be added in section 114 in the declaration of the policy of the United States. This paragraph would say that it is the policy of the United States "to declare that the people on Taiwan, as defined in section 101(b) of this act. constitute an international personality with the right to maintain its territorial integrity and sovereignty, notwithstanding the withdrawal of diplomatic relations with the entity recognized by the United States prior to January 1, 1979 as the Republic of China."

Now what about this language—what does it do? First of all it is a declaration of U.S. policy. Taiwan's rights do not derive from what the United States says about those rights; but a declaration of policy with the force of law makes it clear where we stand, and enables us to defend Taiwan against the protests of tne PRC.

Second, it states that the people on Taiwan constitute an international personality; that is to say, they are a distinct entity that can be treated in a way distinct from the mainland.

Third, it provides the basis for the defense of the territorial integrity of that personality.

Fourth, it declares that the people on Taiwan are not in violation of international law in conducting international relations and defensive actions.

Fifth, it would solve an anomalous problem that has not yet been addressed; namely, the legal status of the Mutual Defense Treaty.

We have walked all around the periphery on this issue, but we have not come to a confrontation with it.

As we all know, the President on December 15 announced that he would give 1 year's notice of termination of the Mutual Defense Treaty on January 1, 1979, and did so. Yet on the same date, he recognized Peking as the "sole government" of China. That being the case, it would appear that for one more year we have a treaty with an entity which we do not recognize as a state.

Now it should be recognized that the Mutual Defense Treaty is not with the so-called people on Taiwan. The treaty is with the Republic of China. Perhaps we can can somehow change our domestic law to enable us to have relations with the people on Taiwan, but we cannot unilaterally change the terms of an international treaty. Whether we like it or not, for one more year we have a Mutual Defense Treaty with the Republic of China, even though we have withdrawn diplomatic representation. Therefore, in order to abide by our international obligations, we must take action that takes note of Taiwan's status as an international personality, capable of defending its territorial integrity and sovereignty. If that is not the policy of the United States, then we have no right to be furnishing arms to the people on Taiwan.

Alternatively, if that is not the policy of the United States, then the proper 1 year's notice, required under the treaty, was not given. If we ceased to recognize Taiwan as an entity with an international personality on January 1, then the President gave only 15 days' notice, not 1 year's notice.

The logic of it is very simple. We cannot continue defending an entity that has no right of self-defense, not even for 1 year. Either the President gave 1 year's notice, or he did not. If this legislation before us is to have any consistency whatsoever, it has to take a stand on whether or not it is proper under international law to extend military assistance to the people on Taiwan as an entity with international personality and the right of self-defense. If we do not take such a stand, then we are declaring that the President acted improperly in only giving 2 week's notice, instead of 1 year's notice, of termination of the treaty. A vote against this amendment, then, is a vote against the President.

Mr. President, this amendment does not invade the President's perogatives. It is only a declaration of policy, like the other four paragraphs of this section, and just as valid as the other four paragraphs. It does not insist upon diplomatic relations with the people on Taiwan. It is not incompatible with the concept of the American Institute on Taiwan. And finally, it does not contradict any of the publicly expressed agreements with Peking.

If we really believe that the people on Taiwan have the right to resist unification, have the right to resist coming under Communist domination, even by peaceful means, then it is urgent that this declaration of policy become a part of this legislation.

Mr. CHURCH. Mr. President, I do hope that the Senate will reject the pending amendment offered by the distinguished Senator from North Carolina. The amendment serves no useful purpose.

Yesterday, this body undertook to determine the title to real property in this city, property that is the subject of possible court action, property which involves a justiciable question. I do not remember a time when the Senate has ever undertaken to substitute itself in the place of the court and, by vote of the Senators, to decide who owns a given piece of property. I doubt our jurisdiction to make such a determination.

I have no doubt that we are not competent to make such a determination. Today, if the Senate adopts this amendment, we shall make a great leap farther and undertake to define the status of Taiwan under international law. Mr. President, we have no competence to make such a determination.

Furthermore, by adopting this language, we accomplish nothing of value for the people on Taiwan. The fact is that the island exists. The fact is that there are 17 million people living on the island, working in factories and on farms and in various businesses, engaging in a voluminous international trade. The fact is that a government exists on that island, and nothing that we can say in an amendment of this kind affects or alters in any way the facts of life as they relate to Taiwan.

So, my first question is, Why do we persist in hanging ornaments on this tree? It is necessary for us to come to the Senate with a bill that will enable us to continue our relationship with the people on Taiwan through an institute that is created by the bill and on an unofficial basis.

That is the tree we need to plant and, indeed, it is the tree that will be planted when the Senate and the House of Representatives, later in the day, come to a firm vote on this measure. But, Mr. President, we do not have to hang ornaments on every branch of this tree—ornaments that only detract from its pristine beauty. I suggest that this is such an ornament.

If it were not for the fact that I believe it might impair the health of the tree, I would, out of a spirit of comity, say to my good friend from North Carolina, "If you want to hang this ornament on the branch, be my guest." But, unfortunately, Mr. President, I do believe it would impair the health of the tree, because it unnecessarily raises the very questions that we seek to avoid in establishing an unofficial basis for our future relationship with the people on Taiwan.

It unnecessarily attempts to define their status under international law with such imprecise terminology as "international personality"—whatever that means—and with the additional words, "the right to maintain its territorial integrity and sovereignty."

We have been over this point so many times that I am somewhat embarrassed to bring it up again. But if there is one proposition upon which the Government in Taiwan located in Taipei and the Government of the mainland located in Peking agree upon, it is the proposition that there is but one China and that Taiwan is part of China.

So when we introduce words like "sovereignty" in an amendment that attempts to define the status of the people on Taiwan, we interject an unnecessary problem into this argument.

This amendment tends to contradict the agreement we reached with the People's Republic of China. It tends to confer a status on Taiwan that suggests a different character than either the Government in Taipei or the Government in Peking extends to it.

Why do that? What useful purpose does it serve? Why complicate things when it is unnecessary?

If this amendment were adopted, Mr. President, it could set a precedent for other groups that would like to receive recognition by an official body of their international personality. No one knows how far such a precedent might carry us. No one voting for this amendment could know its limits.

So, for all of these reasons, it seems to me imprudent for the Senate to adopt the amendment offered by the distinguished Senator from North Carolina, even though it pains me not to accept it owing to the fact that he is a fellow member of the committee. I would like to oblige him, as I understook to oblige him yesterday in connection with half a dozen amendments that he offered at that time.

But the issues involved in this particular case are well set forth on page 7 of the committee report, where it reads:

> The Administration has stated that it recognizes the People's Republic of China (PRC) as the sole legal government of China. It has also acknowledged the Chinese position that Taiwan is a part of China, but the United States has *not* itself agreed to this position. The bill submitted by the Administration takes no position on the status of Taiwan under international law, but does regard Taiwan as a country for purposes of U.S. *domestic* law. The bill assumes that any benefits to be conferred on Taiwan by statute may be conferred without regard to Taiwan's international legal identity. The legal scholars consulted by the Committee agreed with this view. Most of these scholars thought it would be unwise to try to define Taiwan's international legal status. They said that the best approach would be to spell out the specific manner in which relations with Taiwan will be maintained by the United States. The proposed changes and amendments to S. 245 basically follow this approach.

There is little question but what this was the predominant position of the best legal scholars the committee could consult.

I hope that for these various reasons the Senate will see fit to reject the amendment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, as I listened to my distinguished colleague from Idaho, it occurred to me at several points that we are not really in disagreement and perhaps we can work this thing out so that I will agree further with him or he with me.

But I notice that he said that legal scholars appearing before the committee failed to make any such suggestion as contained in this amendment.

I will have to differ with him.

Mr. CHURCH. Mr. President, will the Senator yield on that point?

Mr. HELMS. Yes.

Mr. CHURCH. What I said, actually, was that legal scholars consulted by the committee——

Mr. HELMS. I see.

Mr. CHURCH. The Senator will remember that after we heard from one such witness, the committee suggested to me that other prominent scholars be consulted. I had reference to the opinions of those scholars.

Mr. HELMS. I appreciate the Senator's clarification. I imagine he was referring to the Honorable Victor Li of Stanford University who appeared before the committee, and the Honorable Hungdan Chiu, of Maryland Law School, whom I quoted a few minutes ago.

Just so the record will show Dr. Li's position, I ask unanimous consent that his testimony, or a part of it, be printed in the RECORD at this point, in which he begins by saying:

> I believe the United States should make explicit that it regards Taiwan as a de facto entity with an international personality.

I might add, that is where I got the word "personality."

I have marked, Mr. President, the portion which I wish to have printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF VICTOR LI, STANFORD UNIVERSITY SCHOOL OF LAW, PALO ALTO, CALIF.

I believe the United States should make explicit that it regards Taiwan as a de facto entity with an international personality. Such a stand accurately reflects the reality. Derecognition has not affected the autonomous manner in which the authorities of 17 million inhabitants of Taiwan manage their affairs.

I should note that this approach does not violate the principle of one China. The de facto entity concept deals with present political realities, and does not require, or preclude, eventual reunification, or any other outcome. Indeed, Vice Premier Teng's recent indication that Taiwan may retain its political and economic systems as well as maintaining separate armed forces acknowledges the same realities.

As a de facto entity with international personality, Taiwan can do virtually anything a de jure recognized state or government can do. American legislation does not make major distinctions between the de jure and the de facto entities. Judicial practice also holds few, if any, additional disabilities.

Finally, one of the reasons for moving ahead with normalization is to bring American policy into accord with reality, a laudable goal. Structuring our dealings with Taiwan as though it were a subordinate unit of the PRC would be a departure from reality.

I believe that the United States should make clear that it regards Taiwan as a *de facto* entity with international personality. Such a stand accurately reflects reality: derecognition has not affected the manner in which the authorities and 17 million inhabitants of Taiwan conduct their affairs. The United States simply is acknowledging the fact that Taiwan continues to manage its affairs in an autonomous manner.

I should note that the above suggestion does not violate the principle of one China. The *de facto* entity concept deals with present political realities, and does not require or preclude eventual reunification or any other outcome. Indeed, Vice-Premier Teng's recent indication that Taiwan may retain its own political and economic systems as well as maintain separate armed forces acknowledges the same realities.

The United States may derive some short term benefits from refusing to clarify the legal rationale for continued dealings with Taiwan. After all, explicitly calling it a *de facto* entity would aggravate the PRC, while adopting the successor government theory would damage Taiwan. This policy of intentional ambiguity may be difficult to maintain for an indeterminate time. In the years to come I suspect that we will see many situations where the PRC would attempt to assert its position as the successor. Each instance would set a precedent for future dealings.

Mr. HELMS. Mr. President, if my friend from Idaho would not object, I would like to raise a few questions with him and perhaps we can come to an understanding on this question.

Does the Senator believe the People's Republic of China has de jure sovereignty over Taiwan?

Mr. CHURCH. I think that the existing Government on Taiwan, the one we formerly recognized as the Republic of China, has the de facto jurisdiction over the people of Taiwan. It is the de facto government.

Mr. HELMS. So the answer to my question is "Yes"?

Mr. CHURCH. I would prefer to state the answer in my own words, if the Senator does not mind.

Mr. HELMS. I am not trying to——

Mr. CHURCH. Rather than say "Yes" I rely instead upon the answer that I gave the Senator to his question.

Mr. HELMS. Will the Senator repeat it?

Mr. CHURCH. My answer to the Senator's question was that the government in Taipei is the de facto government of Taipei. It is in charge and presently exercises jurisdiction over the people living on Taiwan.

Mr. HELMS. If it is a de facto government over Taiwan, then it obviously would have sovereignty. I understand what the Senator is saying.

As the Senator said earlier——

Mr. CHURCH. If the Senator would not mind my intervention at that point——

Mr. HELMS. Not at all.

Mr. CHURCH. I think that the subject of sovereignty is a broader subject, inasmuch as the government in Taipei as well as the government in Peking hold to the proposition that there is but one China and that Taiwan is part of that China.

So the argument having to do with the exact legal status of Taiwan under those conditions is one we prudently could leave to the Chinese.

It is a problem for them to resolve in the fullness of time. I believe it would be unwise for us to attempt to define the exact legal status of the Government in Taipei for purposes of this legislation.

Mr. HELMS. What we are doing with this legislation is understanding our position for ourselves here in the Senate. I take it that we are not attempting to dictate either to Peking or to Taiwan.

Mr. CHURCH. The Senator is correct. We are not.

Mr. HELMS. Let me ask the Senator this: Does Peking have the right to defend the people on Taiwan?

Mr. CHURCH. I believe that is a question that can be answered only by the Government in Peking. But the fact is that the Government in Taipei possesses the means to defend the island and its people, and it has expressed the determination to do so.

Mr. HELMS. That was my next question: Does the Government in Taipei have the right to defend the people of Taiwan?

Mr. CHURCH. The Government in Taipei asserts that right, and we do not quarrel with it. In fact, as the Senator knows, we have expressly included in this bill, as a part of the stated policy of the United States, that we will assist the people on Taiwan to maintain a sufficient self-defense capability through the provision of arms of a defensive character.

Mr. HELMS. I take it that the Senator will not seriously object to this Senator's assertion earlier that the people of Taiwan occupy a defined territory. Is that right?

Mr. CHURCH. I agree.

Mr. HELMS. And he would not object to my assertion that the people on Taiwan have effectively controlled that territory for 30 years.

Mr. CHURCH. I agree.

Mr. HELMS. And I take it that he would not dispute my assertion that the people on Taiwan have governing authority at this time.

Mr. CHURCH. I agree.

Mr. HELMS. I take it that he would not dispute that the people on Taiwan have carried on international relations for more than 30 years and are continuing to carry on international relations.

Mr. CHURCH. I agree.

Mr. HELMS. The Senator was good enough to say earlier that a government exists on Taiwan.

Mr. CHURCH. I agree. And is not that enough?

Mr. HELMS. No, sir.

Mr. CHURCH. Do we have to go further and attempt to define its exact status in international law, when that would complicate matters for us?

The purpose of this bill, as the Senator knows, is to serve the interests of the United States by continuing to maintain commercial and cultural relations with the people on Taiwan. It is not necessary that we define their legal status with precision.

Mr. HELMS. The Senator, I am sure, would acknowledge that the Senator from North Carolina is not trying to confuse the issue. My purpose is to try to make clear the status of Taiwan for the purposes of enacting this legislation.

Mr. CHURCH. And we do that, I say to the Senator.

Mr. HELMS. That is the purpose of this amendment.

Mr. CHURCH. We do that exceedingly well I think. My compliments to the committee and, indeed, to the Senator, himself. I think he contributed to the definition that we set forth on line 19, page 8, under title 1 of the bill, section 101(b), which reads:

> Except as provided in section 205(d) of this Act, the term "people on Taiwan", as used in this Act, shall mean and include the governing authority on Taiwan, recognized by the United States prior to January 1, 1979 as the Republic of China; its agencies, instrumentalities, and political subdivisions; and the people governed by it in the islands of Taiwan and the Pescadores.

I do not know how we could better define the people on Taiwan than in the words chosen by the committee.

Mr. HELMS. As the able Senator knows, the difficulty is not in what he and I may want. We are trying to obtain a piece of legislation that will escape being regarded as a sham.

I ask the Senator this: Does the withdrawal of diplomatic representation constitute withdrawal of recognition that the governing authorities of the people of Taiwan constitute an international entity?

Mr. CHURCH. I am unable to answer the Senator's question, because I do not believe it is within our power to define an entity for purposes of international law.

Mr. JAVITS. Mr. President, who has the floor?

Mr. CHURCH. I believe the Senator from North Carolina has.

Mr. JAVITS. I believe we should yield on our time.

Mr. HELMS. We can work that out.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. CHURCH. I yield.

Mr. JAVITS. Mr. President, I rise because this is the particular point which it seems to me is critical. I ask the Senator from North Carolina to follow me carefully.

Mr. HELMS. I am delighted to do so.

Mr. JAVITS. It is a legal argument. We have proceeded on the theory that we are drawing a statute which will determine our action unilaterally.

Mr. HELMS. Precisely.

Mr. JAVITS. Whether we will give them arms, whether we will come to their defense, whether we will trade with them, whether we will give their people the right to sit in the gallery, whether we will give them a house and home here, like Twin Oaks, and so on. We have dealt with all that. Those are things we can do.

The thing that troubles me about this amendment——

The PRESIDING OFFICER (Mr. PRYOR). The time of the Senator from North Carolina has expired.

Mr. JAVITS. The Senator has yielded on our time. I yield myself 5 minutes on our time.

The PRESIDING OFFICER. The Senator may proceed.

Mr. HELMS. I say to the Senator that I have no intention of calling up another amendment, so perhaps we can have latitude in the disposition of time.

Mr. JAVITS. The thing that troubles me about this amendment is that the Senator from North Carolina wants us to say something we cannot say but which only they can say. That is the real sticking point.

We have defined the people on Taiwan as including the governing authorities on Taiwan. We say that in section 101 (b), page 8, line 21: "the term 'people on Taiwan,' as used in this act, shall mean and include the governing authority on Taiwan."

The Senator from North Carolina wants to say that this governing authority on Taiwan has the right to maintain its territorial integrity and sovereignty. We say, "We are sorry, Senator HELMS. We don't have to say that in order to do all the things we want to do for them in this act unilaterally."

So let them say that, if they wish; and if they want to fight with the People's Republic of China about that concept, that is their problem. We may or may not come to their defense if they do that. We said here that we have to go through our constitutional processes, and so forth, and we did not contemplate that kind of quarrel between them; because in the Shanghai communique they, too, said they were part of China. But if they want to do this, that is their pigeon, not ours.

That is the real sticking point in this thing. The Senator from North Carolina wants to do something which we cannot make or unmake; only they can do that. That defeats the whole concept of this legislation. That is why I cannot accept the amendment.

All the law we had cited to us says that the authorities on Taiwan, the people on Taiwan, are whatever we make it, whatever we say it is. If we say it can sue in the United States, it can sue. If we say it can own property, can trade, can have agents, can have an office, that is it. But we cannot say that these authorities on Taiwan have "the right to maintain its territorial integrity and sovereignity." That is not in our power; that is in their power, if they want to do it.

Mr. HELMS. Obviously, it is within their power.

Mr. JAVITS. Therefore, this amendment defeats the concept of what we are trying to deal with here, and that is why I would have to oppose it.

Mr. HELMS. I just do not see how it does defeat anything of interest to the United States; it merely makes explicit the implicit rationale of the bill.

I presume that I may ask a few more questions, even though the time situation is tight.

Mr. CHURCH. On our time.

Mr. JAVITS. There is no problem with that. Do not worry about that.

Mr. HELMS. Can the United States supply arms to an entity which we do not recognize?

Mr. JAVITS. Of course. Why not? There is no law of the United States that I know of, and we are making this one preempt everything, so even if there is one that I do not know about this preempts it. We have a full preemption clause in here which I wrote myself precisely for that reason, so there could be no question about it. Notwithstanding any other law, we say "was given sufficient arms." We can do it. That is something we control.

Mr. CHURCH. Besides we have on many occasions in the past furnished arms to groups that we did not officially recognize as governmental entities.

Mr. HELMS. Such as?

Mr. CHURCH. Such as the guerrilla forces during World War II in various countries, including Yugoslavia. The United States is not limited to dealing only with governments that it officially recognizes.

As the Senator from New York has pointed out, the very purpose of this bill is to establish an unofficial basis for continuing to do business with the people on Taiwan.

Mr. HELMS. I thank the Senator for his statement that the United States is not limited to dealing only with governments that it officially recognizes. If I could ask the Senator from New York, does he feel that with this legislation we are saying that Taiwan is subject to the sovereignty of Peking?

Mr. JAVITS. No. We are taking no position on that except whatever may be implied from the fact that we have recognized Peking. I do not know what that is. It is going to be very arguable. Nonetheless, that is something that in this world we cannot settle everything.

Mr. CHURCH. It is, after all, a Chinese question to be settled among the Chinese themselves.

Mr. JAVITS. That is right.

Mr. HELMS. The Senator understands that. I do not purport that we have the right to settle that question for China, either one of them, and I am pleased with the distinguished Senator's clarification that with this legislation we are not saying that Taiwan is subject to the sovereignty of Peking. I am just saying for our own purposes that this legislation should be clear as to the position of the United States, and it has not been sufficiently clear to me. That is my problem.

Mr. JAVITS. Let me restate my proposition, I say to Senator HELMS. My proposition is that there is an entity, a people, and a structure which satisfies the definition of 101(b), to wit, there are people and there are governing authorities on Taiwan.

Mr. HELMS. Therefore, a government.

Mr. JAVITS. Pardon?

Mr. HELMS. Therefore, a government.

Mr. JAVITS. I cannot say that. There are governing authorities. That is what we said here. There are governing authorities.

Now, then, whatever we wish to do with them we can do under our domestic law. We can say they can buy, they can sell, they can own, they can sue, they can sit in the gallery, and so on. That is complete as far as we are concerned.

But when the Senator is going to ask us to say that they have the right to maintain their territorial integrity and sovereignty, I say we do not.

Mr. CHURCH. That is an international issue.

Mr. JAVITS. This is not within our power or authority or the whole concept of this legislation. If they feel that way, they will do what they can about it, if anything. But we cannot give it to them. We cannot confer it on them, and we should not. And it is unnecessary to the purpose of this particular piece of legislation.

Mr. HELMS. It is not the intention of my amendment to confer status upon Taiwan—only to provide the rationale for this unique legislation. Will the Senator say that it is U.S. policy insofar as we are concerned to allow Taiwan to resist unification if it desires to do so?

Mr. JAVITS. I am not going to pass on that because it is unnecessary to the decision of this case, I say to the Senator from North Carolina. All that I say is that we will give them sufficient moneys to resist any effort to suffocate, suppress, or coerce them, and that is what we say and that is what we mean and we will do it. But as to their decision as to how they will deal with the People's Republic of China, no. We will give them the means, but they make the decision.

Mr. HELMS. The Senator from Idaho had some problem with the word "personality." Would he feel more secure if I inserted "entity" there instead of "personality"?

Mr. CHURCH. I do not think so. This amendment, I say with all due deference to the distinguished Senator, is fundamentally flawed.

Mr. HELMS. Just like this bill is.

Mr. CHURCH. Well——

Mr. HELMS. And that is the problem. It is going to be a lawyer's paradise, I will tell the Senator that.

Mr. CHURCH. The Senator may vote for or against the bill. I think the Senator is going to vote for it. I do not predict the Senator's vote, but I will be surprised if he does not vote for it, because it does many of the things that he and I both want to see done for Taiwan.

Mr. HELMS. It is the only game in town as the Senator knows.

Mr. CHURCH. And it is a bill that the committee has strengthened and improved. We bring to the Chamber with pride, and I commend the Senator for his part. He was a fellow architect of this bill. He joined with us in improving, strengthening, and perfecting this bill.

Mr. HELMS. I did the best I could.

Mr. CHURCH. Yes, the Senator did.

Mr. JAVITS. He did mighty well.

Mr. CHURCH. Now, the Senator goes too far with this amendment, because all we can do in this bill is to determine how as a matter of our domestic law we are going to deal with the people and governing authorities and other entities that exist in Taiwan. That is all the Senate has the authority to do. But the amendment offered by the Senator from North Carolina goes further and attempts to define the status of Taiwan under international law, which is beyond the province of the Senate of the United States.

Mr. HELMS. This Senator has not done anything except state what international law is. I went down the four points generally accepted in international law and the Senator said yes to each one of them. So, in effect, what the Senator says was that the people on Taiwan have sovereignty. But we have made a pretty good legislative history here.

Is there no way that we could modify this amendment so that it would be more appealing to my friend? I will be willing to strike the word "sovereignty" and insert the word "security" if that will help.

Mr. CHURCH. Yesterday the Senator had more amendments accepted to this bill than any other Member of this body.

Mr. HELMS. I appreciated the distinguished chairman's cooperation and comity.

Mr. CHURCH. And I would appreciate it very much if as a reciprocal gesture the Senator would withdraw this amendment.

The PRESIDING OFFICER. All the time on the amendment has expired.

Mr. JAVITS. I yield him time on the bill.

Mr. HELMS. As I said earlier, Mr. President, there was a total period of 3 hours set aside for three amendments by the Senator from North Carolina, and I am willing to dispense with two of them provided we can ventilate this one a little bit.

Mr. GOLDWATER. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. I do not have any time, but I am sure the Senator from New York will yield time.

Mr. JAVITS. I yield time.

Mr. GOLDWATER. I have been listening to this debate, and I have read the Senator's amendment. I might say for the edification of my friend from North Carolina that I discussed this with the Taiwan people. In fact, I first discussed it when they were summarily tossed out of the United Nations.

You can very well call yourself another nation. You do not have to be a part of China.

And I took this matter up again in a friendly way with Ambassador Shen, and he did not make any comments about it.

I hate to find myself in the position of disagreeing with my friend, but I do believe that if Taiwan is to become a separate nation it is up to the people living on Taiwan to make that decision. I really do not think that we have the power. As I say, I have agreed with my two friends from the Foreign Relations Committee before but damn seldom, but I find myself in agreement with them this time.

Mr. HELMS. I say to the Senator, if the able chairman will yield to me, I do not propose nor does this amendment propose to stipulate what either China may do or be. This amendment is simply for the purposes of the U.S. Senate understanding the role of the U.S. Government in this thing.

I am perfectly willing to strike the word "sovereignty" and substitute therefor the word "security." I am not trying to take over any responsibility of either Peking or Taiwan.

This amendment does not declare Taiwan a nation. It only stipulates that it is an entity, which it is, and which has been admitted, acknowledged, on this floor. It is an entity with which we can legitimately deal.

I say to my friend from Arizona there is no disagreement between him and me. I shall always be distressed when there is.

But I say again that while the distinguished Senator from New York, the distinguished Senator from Idaho and some of the rest of us have worked hard on this thing, it is still going to be a lawyer's paradise. It could be described as the Lawyers' Relief Act of 1979.

The PRESIDING OFFICER. The question before the Senate, as the Chair sees it, is the Senator from North Carolina has requested that 2 hours on the other two amendments be transferred to the pending amendment before the Senate. Is there objection?

Mr. HELMS. Mr. President, we do not need that. I thought we could abandon the time, and we are just about through.

Mr. CHURCH. There are some other amendments we need to take up at some other time.

The PRESIDING OFFICER. The request is withdrawn.

Who yields time?

Mr. HELMS. I wish to speak frankly with the chairman and ranking Republican of the committee, and I ask that it be in order for me to suggest the absence of a quorum, with the time charged to no one.

Mr. GOLDWATER. Mr. President, can I make a parliamentary inquiry?

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. Do I understand that we vote on this matter by 5 o'clock regardless?

The PRESIDING OFFICER. The Senator is correct.

Mr. GOLDWATER. I thank the Chair.

Mr. HELMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I have been very pleased with the legislative history that has been made here in discussing this amendment. I think nothing more can be accomplished by a rollcall vote, whether it went with me or against me.

I want to say to my friend from Idaho and my friend from New York that I appreciate their candor in their effort to clarify certain issues, and I think they have.

With that in mind and with my gratitude to them, Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. CHURCH. Mr. President, I want to thank the distinguished Senator from North Carolina for his cooperation. I am grateful to him for withdrawing the amendment.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. CHURCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 44

(Purpose: To provide for the maintenance of the appropriate number of offices for the Taiwan Institute)

Mr. HATCH. Mr. President, I offer an amendment to permit the people on Taiwan to maintain the present number of offices they have in the United States. I take this action to promote what I see as one of the goals of the piece of legislation before us today. So I call up an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an unprinted amendment numbered 44:

On page 13, line 25, insert the following new section:

SEC. 113. (b) The President is authorized to extend to the instrumentality established by the people on Taiwan—

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 25, insert the following new section:

SEC. 113. (b) The President is authorized to extend to the instrumentality established by the people on Taiwan, that in order to continue the present range of commercial, cultural, economic, and other relations with the people of Taiwan, the representatives of the people of Taiwan should be allowed to maintain the same number of offices and complement of personnel as previously operated in the United States by the government recognized as the Republic of China prior to January 1, 1979 upon the condition that the American Institute in Taiwan is reciprocally allowed such offices and personnel.

Mr. HATCH. I offer this amendment to permit the people of Taiwan to maintain the present number of offices they have in the United States. I take this action to promote what I see as one of the goals of the current piece of legislation before us today. The administration has been outspoken in its intent that all existing agreements with Taiwan, commercial, cultural and others, will continue in effect except for termination of the defense treaty. I point out to my colleagues that aside from the defense and mutual security agreements between the two parties, there are accords in the following fields: Agricultural commodities, atomic energy, aviation, claims, customs, economic and technical cooperation, education, finance, health and sanitation, investment guarantees, a language and area study school, maritime matters, narcotic drugs, postal matters, relief supplies and packages, scientific cooperation, surplus property, taxation, trade and commerce, and visas. In order to maintain all of these agreements, it would become necessary for both the United States and the people of Taiwan to maintain a large staff in each locality.

Mr. President, all of the agreements which I mentioned previously have led to a substantial investment by the U.S. business community in Taiwan. It is estimated that the total U.S. financial commitment in Taiwan is nearly $3 billion, including both government and private investments and loans. It is an acknowledged fact that the trade between the two nations has reached a significantly large amount. For these reasons I feel it becomes imperative that the people of Taiwan be able to maintain an adequate number of offices in this country to maintain the business and commercial as well as cultural and social ties that they have with the American community.

This issue came up in the hearings before the Foreign Relations Committee and I would like to relay a part of that debate to my colleagues here today. During these hearings, Senator Stone questioned Mr. Roger Sullivan of the State Department concerning the issue of the number of offices and their staffing that would be allowed the Republic of China. The dialog went as follows:

> Senator Stone. Can I turn briefly, then, to Mr. Thomas? Mr. Thomas do you or Mr. Sullivan have any idea as to whether we are going to require a reduction in the number of staffing of offices that the Republic of China now maintains when and if they establish other relations with us? Are we telling them that they cannot have the same offices and the same number of personnel?
>
> Mr. Thomas. May I defer to Mr. Sullivan, please?
>
> Senator Stone. Yes.
>
> Mr. Sullivan. Yes, Senator. We have told them that they can keep four offices other than the main offices.
>
> Senator Stone. How many do they have now?
>
> Mr. Sullivan. I think they have 14.
>
> Senator Stone. How can we continue to do $7 billion worth of business for which they have 14 offices by telling them they can have only 4?
>
> Mr. Sullivan. We think 14 offices is excessive to their needs.
>
> Senator Stone. But they think that 14 offices takes care of their needs.
>
> Mr. Sullivan. They have specifically said, Senator, that one of the reasons why they need many of those offices is to maintain their relationship with the Chinese communities in those cities and we think it would be inappropriate to have a Chinese civil war imported into our cities.
>
> Senator Stone. Is that what their offices are doing, maintaining a Chinese civil war?
>
> Mr. Sullivan. Well, they have told me the purpose of some of their offices is to maintain contacts with the Chinese community, and we do not think it appropriate to allow them to have more offices than they need to maintain the practical relationships between us.
>
> Senator Stone. Do you mean they can only have those offices which deal with American citizens, not with American citizens of Chinese origin?
>
> Mr. Sullivan. American citizens. We do not make a decision between Americans of Chinese origin or any other origin.
>
> Senator Stone. You just did.

Mr. President, I do not think that 14 offices is excessive in view of the large amount of trade between the two parties. The business community of the United States is widespread, and the headquarters of many large corporations are in various cities. In order to expedite matters of business it makes it simple to have offices and representatives in regionally located offices. Fourteen offices would be about the right number to achieve this goal.

The economic aspect of this problem is only one part of the issue. The administration has also stressed the continued culture and social relationship with Taiwan. A large number of the American-Chinese communities have ties in Taiwan. They look to the offices of Taiwan to nurture the Chinese culture they hold so dear. I would dare say they would find little assistance from the offices of the People's Republic of China, a Communist nation. Yet Mr. Sullivan of the State Department spoke of a Chinese civil war. I find this quite contradictory. We are writing safeguards for Taiwan's security into this legislation and refusing to allow them offices in this country on the grounds it will bring a Chinese civil war to American cities. What I think the real issue is, concerns more economic matters than those of a civil war. The People's Republic of China would like to eradicate all Taiwanese presence in this Nation. To them, the 14 offices might be a loss of the so-called oriental "face." It matters not that there might be a need for these offices. It matters not that both the American and Taiwanese business communities desire them. All it appears the administration is interested in doing is appeasing the Red Chinese. I think it is time we look at what we need from this agreement. Let us save our "American face."

Mr. President, as I understand it, the managers of the bill have agreed to take this amendment, as modified, and it will read as follows:

> Section 113(b) the President is authorized to extend to the instrumentality established by the people on Taiwan, the same number of offices and complement of personnel as previously operated in the United States by the government recognized as the Republic of China prior to January 1, 1979, upon the condition that the American Institute in Taiwan is reciprocally allowed such offices and personnel.

I am very grateful to the managers of the bill for being willing to take this amendment in this form, and I would like to express that appreciation at this time.

Mr. CHURCH. Mr. President, the amendment in its modified form is acceptable to the managers of the bill. It was worked out in collaboration with the distinguished Senator from New York, the ranking Republican committee member. I therefore assume that I can speak for him as well as for myself in indicating the amendment is acceptable.

Therefore, I am prepared to yield back to the remainder from my time, if the Senator from Utah will do likewise.

Mr. HATCH. I yield back the remainder of my time and move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. I thank the managers of the bill for their cooperation.

Mr. JAVITS. Mr. President, I yield 10 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, the Senate will soon be voting on final passage of S. 245 after 6 weeks of consideration in committee and on the floor. It has made some minor improvements in a bill which, in its original form, largely disavowed the Republic of China and left it to its own fate. In committee, it is important to note that a security section was included, as was a definition of the "people on Taiwan" that specifically cites the country's government. Similarly, a handful of constructive amendments were adopted on the floor. The Senate voted to create a Joint Commission on Security and Cooperation in East Asia, and to include a reference to Taiwan's membership in international organizations. It passed language that will secure to the ROC a steady supply of nuclear fuel from the United States. Reporting requirements were added under which the President will have to report to the Congress on prospective arm sales both to the Republic of China and to Peking.

So the legislation is slightly better. But it is still not good. In essence, the Senate made slight improvements within the framework sent to it by the President, but unfortunately stopped short of making any real changes in that framework itself.

There are two main aspects to the President's basic policy, both of which have emerged largely unscathed. One is the absence of any recognition of the legitimacy of the Republic of China's Government. The other is the absence of a specific commitment to the security of Taiwan either from a military or from an economic point of view.

Mr. President, the announcement by President Carter which established the fundamental policy we have been elaborating was described by Dr. Ray Cline of the Georgetown Institute on Strategic and International Studies as a "hasty, ill-conceived decision * * * to sell out Taiwan lock, stock and barrel, territory and people to the Communist regime in Peking, the People's Republic of China."

Clearly, the Congress has no power to recognize or derecognize a country. That is strictly the prerogative of the President. Still, options were open to Congress which it unfortunately did not choose to pursue. It could have passed sense of Congress language urging the President to renew diplomatic relations, with the Republic of China. At the very least, it could have established that United States-Republic of China relations would be conducted on a government-to-government level.

The most eloquent reason arguing in favor of the exchange of liaison offices is simple fairness. At the time that we did not recognize Peking, our relations with that country were conducted through liaison offices. Why not do so now with Taiwan? It is, moreover, the height of absurdity to suddenly adopt the legal position that there is no Republic of China; that the government which effectively controls the 17 million free Chinese on Taiwan has suddenly vanished into thin air.

I am similarly concerned about the absence of adequate language on the question of Taiwan's future security. We have had at least one opportunity to make a commitment to the survival of Taiwan in the context of a military threat. Last week, the distinguished Senator from Illinois (Mr. PERCY) introduced an amendment establishing as our policy that the use of force to settle the Taiwan issue was a "threat to the security interests of" the United States. In my view and that of others this was the very least we should have been prepared to approve. As the amendment's own sponsor asserted, it in no way even pledged us to defend Taiwan with our own military force.

But the administration opposed even this slight change in the wording. During consideration of the amendment we heard much rhetoric on this floor about the need to have a vote in support of the President, given the crucial negotiations he was engaged in in the Middle East. It is amusing that, as the distinguished Senator from North Carolina (Mr. HELMS) noted on the floor, that very morning a constituent had observed to him that this would be the very argument used to sway votes. In the end, the amendment of the distinguished Senator from Illinois was defeated.

Nor has Taiwan, in my opinion, been properly protected against the threat of embargoes by the PRC. This, Mr. President, is a very real threat. According to Robert B. Parker, president of the American Chamber of Commerce in Taiwan, it is already happening. The PRC, for example, refuses to honor American Express travelers checks because that company operates in Taiwan. At the same time, Pan American World Airways suddenly dropped its scheduled service to Taipei—and a few weeks later made a major hotel deal with Peking. According to Mr. Parker, Ambassador Leonard Woodcock has "inadvertently confirmed the existence of such a boycott when he said that Pan American is now the favored U.S. carrier in China and that no U.S. airlines will be granted landing rights on the mainland as long as it serves Taiwan."

So the problem exists. It has serious implications—and, although it is against the Export Administration Act for American companies to be parties to such boycotts, there has not been a single investigation of the matter that I am aware of by the U.S. Government. It is a positive contribution that, in the course of the colloquy on this floor, the Senate made legislative history that such economic boycotts be interpreted by the United States as a threat to the survival of Taiwan. Nevertheless, I regret that it was impossible to include language explicitly expressing that feeling, such as has been done by the other Chamber.

In summary, Mr. President, we have made some improvements in what has been described as the "unprecedented, indeed bizarre"—and certainly inadequate—proposal submitted to us by the President. We cannot measure our success, however, on the basis of relative improvement. The only significant yardstick is whether or not we have provided security for Taiwan's future territorial integrity. Sadly, in my opinion, we have not.

Mr. President, the decision, in effect, to disavow Taiwan will have serious repercussions throughout the world. At the very least, it will strengthen the already substantial concerns of many of our allies, encouraging them to give still more serious thought to political realinement. It is safe to say that, at this moment, leaders of many small countries which have heretofore been U.S. allies are asking themselves, "Will we be next?" We already know that the President's decision sent a tremor through Israel, making many of its leaders relutant to trust any U.S. guarantee of protection. Our new Taiwan policy has seriously affected the integrity of our international alliance system and our credibility worldwide as an ally.

The President's decision and its execution are as inept an exercise in foreign policy as we have witnessed for a long time. In the first place, all but the staunchest supporters of President Carter agree that he did little more than cave in to Chinese demands without making any real attempt to negotiate conditions favorable to Taiwan. It has been pointed out repeatedly that the terms which he accepted—and which he has been seeking to portray to us as constituting a diplomatic coup—are exactly the same as could have been accepted by Presidents Nixon or Ford some years ago, but which both rejected as being tantamount to a sellout. The White House affirms that we were involved in intense negotiations—but who, in fact, made all the concessions? The answer is obvious: We did. I challenge anyone to point out to me a single substantive concession we received from Peking. In every case, the side to cave in was the United States; and the victim in every instance will be Taiwan.

The White House aggravated its diplomatic mistake by the cavalier manner it adopted toward Taiwan immediately after the decision was reached. Both the President of the Republic of China and its ambassador to this country were given notice of only several hours of the December 15 announcement which has so radically altered the position of their country. During subsequent negotiations, it put increasing pressure on the ROC Government to accept all its terms, including the concept of strictly unofficial relations. Taiwan reluctantly accepted this arrangement, incidentally, only days before the old relations were to lapse altogether, and it is safe to assume that the fear of having no relations at all played a major role in its final acquiescence. Finally, in what can only be described as a petty gesture, the administration sought, through a legal maneuver, to hand the diplomatic real property of the Republic of China to the PRC.

Mr. President, I have been to Taiwan, and I have been impressed and inspired by the dedication and achievements of its people. As Dr. Ray Cline has stated,

> Taiwan is an island of hope, prosperity, and human liberty in an Asian sea of poverty and turbulence. There the best of American and Asian political philosophies and economic technologies have been blended to show how to modernize Chinese society without giving up freedom. The "modernization" of mainland China is a hope, a dream, quite possibly an impossible dream. In Taiwan it is a present reality.

I share Dr. Cline's grief that the United States has adopted a policy of premeditated murder of this gentle and prosperous land to use his words.

Mr. President, Senate consideration of the future of Taiwan will soon be history. Our new relationship with Taiwan will be inadequate regarding many fundamentals. The President made what has been described as a "morally shabby" deal with Peking, and, in many ways, our vote will serve to ratify that agreement. I can only hope that all of us will work diligently to protect Taiwan from the harrassment, large and small, it will inevitably suffer from the PRC in years to come, and that our actions in the face of real threat to the survival of the ROC will be in keeping with the spirit of commitment to its future which has been expressed so often on this floor.

Mr. President, the President of the United States and the Senate are about to present the ROC an empty box. It is a box which is gaily wrapped, a box festooned with ribbons of vague phraseology. But it is an empty box, Mr. President, because it is empty of sovereignty.

The Senate, apparently is about to endorse President Carter's giveaway of Taiwan to the Communists. Implict in the passage of this bill is the tacit acknowledgement of the Communists' contention that they own Taiwan.

Mr. President, I do not wonder that the world has fallen into chaos—that communism is everywhere on the advance. American leadership has lost its nerve—not her people, but her leadership.

Mr. President, I passed the statue of President Harry Truman as I entered the Chamber a few minutes ago. There was a man who called a spade a spade. There was a man who would have called President Carter's proposals just what they are: a shameless, cowardly sellout of a valuable ally.

I shall not assist now in papering over President Carter's mistake with the impressive but essentially meaningless phrases of S. 245. I shall vote against it in the hopes the Senate will cause the President to return to the bargaining table to secure better terms for our good friends in the Republic of China, that we should have secured in the first place, and cause the President to reverse his decision to conduct relations between our nations on less than a government-to-government basis.

UP AMENDMENT NO. 45

Mr. McCLURE. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McClure) proposes an unprinted amendment numbered 45, as follows:

On page 9, line 10, following the word Taiwan, insert the following: "by the people on Taiwan."

On page 12, line 3, following the word Taiwan, insert the following; "by the people on Taiwan."

Mr. McCLURE. Mr. President, this amendment merely states more explicitly what I believe is the obvious intention of this section of the bill. By making the bill clear, we shall prevent trouble that possibly could occur if the State Department claimed that the term "the law applied to Taiwan" means the law of the Communist regime on the mainland. Since the Carter administration wants the Chinese Communists to be viewed as the sole legal government of all China, including Taiwan—at least that is the legal framework for the agreement—it is important that the law which we pass be precise in saying that the law on Taiwan is the law which is recognized by the people on Taiwan. I think that that preserves and follows the format of the bill as presented to us.

I understand that the managers of the bill have the opportunity to look at this amendment and, while they do not necessarily embrace it with enthusiasm, they do not think it does violence to the bill. I hope that, if that is true, they can accept the amendment.

Mr. CHURCH. Mr. President, first of all, I think the record should be clear regarding the position of the United States. It is true that we have agreed in the Shanghai Communique entered into by President Nixon some years ago, and again at the time that President Carter normalized relations with the People's Republic of China, that the Peking government, as well as the Taipei government, both agreed that there is but one China, and Taiwan is part of that China.

The position of the Government of the United States is to acknowledge that the Chinese take this view. But the U.S. Government itself has not adopted this view, or any particular view regarding that matter.

As for the amendment offered by my able colleague from Idaho, I think that it bears out what the committee intended in the report on page 27 in the section-by-section analysis of the bill; namely, section 110.

The committee says:

This section provides that when the application of United States law depends upon foreign law, the law actually applied by the people on Taiwan shall be looked to for that purpose. The provision does not affect the enforceability of judgments rendered by the courts on Taiwan.

So it is clear that the law to which the language of the statute itself refers on line 3, page 12, of the printed text is meant to be the law actually applied on Taiwan.

I think that the amendment suggested by the Senator would eliminate any possible doubt on that score, and bring the text of the bill into full conformity with the intention of the committee and the explanations contained in the committee report.

For that reason, I have no objection to the amendment. I would like to hear from Senator Javits, the ranking Republican Member, before we proceed to a vote.

Mr. McCLURE. Mr. President, while we are awaiting the expression of the minority floor manager of the bill, I might just remark in passing that I appreciate the comment that has been made. I appreciate also the chairman's pointing out that the report does, in effect, say precisely the same thing that this amendment says.

Oftentimes, there is a gap between the enforcement of a statute when, after the passage of some time, people forget what was in the report and read only what is in the statute. It would seem to me, to preclude that possibility as far as it is humanly possible, the statute should conform to the intention that is expressed in the report. I do not think this does vary from that intention.

I appreciate what my colleague from Idaho has said. I hope that the Senator from New York will come to the same conclusion and that perhaps this amendment will then be accepted.

Mr. CHURCH. Mr. President, while the Senator from New York is studying the matter, I would suggest to the Senator from Idaho that the best way to settle this is for him to trade this amendment for the other amendment, in which case we have everything settled.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. JAVITS. On the time of the bill.

The PRESIDING OFFICER. On the time of the bill.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, the able Senator from New York has suggested a slight modification of the amendment. I believe that the sponsor of the amendment (Mr. McClure) wishes to address that point.

The PRESIDING OFFICER. (Mr. Metzenbaum). The Senator from Idaho.

UP AMENDMENT NO. 45 (AS MODIFIED)

Mr. McCLURE. Mr. President, I ask unanimous consent that the wording of the amendment be changed to read "by the people on Taiwan." So that the wording on line 3 of page 12 with the change would be "The law applied by the people on Taiwan."

I would ask that a similar change be made in the second place that is referred to in my amendment, and that the amendment be modified accordingly.

Mr. JAVITS. That is the second page?

The PRESIDING OFFICER. The Senator has a right to modify his amendment. Would the Senator be good enough to send his amendment to the desk?

Mr. McCLURE. Yes.

Mr. President, the amendment would then read as follows, and I will send it to the desk, that on page 9, line 10, following the word "applied" insert the following: "by the people".

On page 12, line 3, following the word "applied" insert the following: "by the people".

It has the same effect and is consistent with the words of art that are used throughout the bill and in the report.

Mr. JAVITS. Would the clerk state the amendment as modified?

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 9, line 10, following the word "applied" insert the following: "by the people".

On page 12, line 3, following the word "applied" insert the following; "by the people".

Mr. JAVITS. Mr. President, the amendment is acceptable to me.

Mr. CHURCH. Mr. President, as I already have indicated, the amendment is acceptable to me. If the Senator from Idaho will yield back the remainder of his time, we will yield back ours.

Mr. McCLURE. I yield back the remainder of my time on this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

UP AMENDMENT NO. 46

Mr. McCLURE. Mr. President, I have a second amendment, which I send to the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McClure) proposes an unprinted amendment numbered 46:

On page 14, line 6, following the word "peaceful", insert the following: "and voluntary".

Mr. McCLURE. Mr. President, section 114 of the bill expresses our grave concern for the military security of Taiwan. We should also point out that attempts to destroy the freedom and prosperity of free China which do not involve military invasion are also of concern to us. I think that throughout the debate we have said so, in a variety of ways, in the bill and in the report. We have said that is what our concern is.

Economic strangulation could be attempted through political blackmail, boycotts, attempts to interfere with international trade of Taiwan or claim its foreign assets. These efforts will not succeed if major trading partners such as the United States and Japan refuse to go along. However, complicity on our part would put our longtime friend, the Republic of China, in the untenable position of having to submit to the Communists' demands or face economic collapse.

Therefore, I believe it is necessary for us to state clearly at the outset of our formal relations with Red China, that any such act, whether unilateral or through international organizations, will be opposed by the United States. By adding the word "voluntary" to this section, we put on notice the Communist rulers of the mainland and our friends in the State Department that any attempt to place the people of Taiwan under a Communist subjugation by military conquest or economic strangulation is of grave concern to the United States.

Mr. President, it is my understanding that there is some concern about this language. I hope that concern is expressed not in terms of the objective of this language, but I am perfectly willing to discuss with the managers of the bill the effects or the proposed effects of the terms that say that this should be voluntary.

It seems to me that that is really our intention as we go through the entire discussion of this bill over the last 2 or 3 days in the Senate. It will be my hope that it is not our intention, conversely, to say that the reunification or the joinder together of these two parts of China, as properly has been stated—both the government in Taipei and the government in Peking have indicated that is their view—will not be accomplished by means that are other than voluntary, according to the procedures in effect under the rubric used in this bill of "the people on Taiwan."

The question of whether or not the people on Taiwan may agree or disagree certainly should not detract from the basic premise upon which we proceed, that the people on Taiwan have an existence that is somewhat different from that of just another province of China. We certainly are not setting up a parallel procedure for dealing with other provinces of the People's Republic. Therefore, we do have a special relationship with the people on Taiwan; and without calling them a government, we have carefully called them, throughout, the people on Taiwan.

I am not trying to indicate by this that we establish that voluntarism by any means other than that which is acceptable and usual to the forms and the laws in effect, under the rest of the theory of the bill, with respect to the people on Taiwan.

Mr. President, I reserve the remainder of my time.

Mr. CHURCH. Mr. President, the objection we have to this amendment is that it again interjects us into a Chinese question.

The interest of the United States has nothing to do with whether the mainland and Taiwan are reunified as long as the Chinese decide that question peacefully. We have an interest in the peaceful resolution of that question. We recognize that it is a Chinese question, not an American question. Our only interest is that, when and if it is possible for the Chinese themselves to settle the question, it be settled peacefully.

That is what was said in the Shanghai Communique entered into by President Nixon in his much-praised opening to China. The same interest was reiterated by President Carter when he decided to consummate what Nixon began, with the recent normalization of relations between the United States and the government in Peking. The same terminology is used in the pending bill.

If this amendment were adopted, we would be interjecting for the first time a new word. I suggest that it is difficult, if not impossible, to know what that word means in the context of this particular question.

For example, the bill defines the people on Taiwan as, first, the governing authority on Taiwan, which was recognized by the United States prior to January 1, 1979, as the Republic of China, and also as its agencies, instrumentalities, and political subdivisions, and finally as the people governed by it in the islands of Taiwan and the Pescadores. So in the definition of "the people on Taiwan," we include both the governing authorities and the people. If we interject the word "voluntary" as the Senator from Idaho proposes, many questions would immediately arise.

How does the United States determine whether or not some future agreement between the Chinese has been voluntary? What, indeed, does "voluntary" mean when we are dealing with two authoritarian governments, neither of which rests upon the consent of the governed in the sense that our Government does?

Does "voluntary" refer to some future pact between the Taiwan authorities and their counterparts in Peking? Is it adequate if the authorities at the top voluntarily agree? Or is it necessary, before this standard is satisfied, that some kind of referendum be held and that the people give their consent in national elections? If one would go that far, then how could we ascertain whether those elections were in fact free?

It is obvious that this amendment is fraught with problems. I suggest that it would be unwise to adopt it, particularly in view of the assurance we give the people on Taiwan contained in subsection 1 of part (b) of section 114 of the bill, which reads:

> The United States will maintain its capacity to resist any resort to force or other forms of coercion that would jeopardize the security or the social or economic system of the people on Taiwan.

What more can we do than that?

The committee has gone very far to give all the necessary assurances to the people on Taiwan, mindful as we have been all along of the alliance that has existed between those people and ourselves. This amendment would not clarify our intention; it would cloud our intentions with ambiguity.

Therefore, it is the feeling of the committee, insofar as I can speak for the committee as manager of this bill, that the amendment offered by the Senator from Idaho—though I am sure it is well intended—should not be approved.

Mr. JAVITS. I yield myself 5 minutes.

Mr. President, this amendment raises very much the same issue which we found so troublesome with the amendment of Senator HELMS, in the sense that it seeks to take us out of the area of unilateral declaration as to what we will do in given circumstances and makes us dictate or prescribe what the people on Taiwan will do.

And, the difference is the difference between a state of facts and a state of mind. A state of facts, which we can find out ourselves and objectively ascertain, is we believe there has been coercion or we believe there has been force or blockade or boycott. That is a state of facts which is perceptible by factual proof. On the other hand, the word "voluntary" is a state of mind of the people on Taiwan. God knows what secret, clandestine, Byzantine propositions may have influenced them so that it is involuntary and how much argument, almost theological, there can be as to whether it is voluntary or involuntary.

As Senator CHURCH, and I associate myself with everything he said, has properly outlined, what indicia are we going to have of voluntarism. a vote, a constitution, a plebiscite, a Harris poll? It simply puts us, in my judgment, in the untenable situation of trying to penetrate the mind of the Taiwanese, instead of allowing us to make our decisions based upon factual evidence, and those factual evidences are now fully incorporated in the bill. Therefore, in my judgment to add this additional qualification relating to the state of mind of 17 million people would make it impossible and would be cause for all kinds of controversy, mischief, claims, and counterclaims.

Hence, I really do not see how we can find our way out of this except by the Senate voting it up or down. I hope very much the Senate—having labored now through the process. and we have taken many amendments which have fortified, locked in, insured everything that we can do unilaterally to preserve the economic and social system on Taiwan—will not now undo everything it has done by adding this new test which depends upon the state of mind of the people on Taiwan and, therefore, would completely change and make impossible the administration of the concept upon which this bill is based.

Mr. McCLURE. Mr. President, I am not sure whether I thank my friends from Idaho and New York for their commentaries on the amendment, because I am not sure whether I understand what it is they have been trying to say, and that perhaps is my lack of understanding or perhaps the artfulness of their argument.

As I understand what they have tried

to say it is that everyone understands the words "force" and "coercion," but they do not understand the term "voluntary," and I can proceed to a dictionary and look up the term "force." I could raise some issues about what is force and what is not force and say there is all kinds of ambiguity in that term, but that is not so ambiguous that we cannot use it. I could get the definition of the term "coercion," and supply it for the Senate, and I could raise some questions about whether or not that term is precise or ambiguous, and apparently it is precise enough for some and too ambiguous for others.

And similarly the term "voluntary," and I understand what my friend from New York has said with respect to a state of mind, but certainly the actions that are taken tell what the state of mind of the legal authorities is. We do recognize legal authorities on Taiwan. We do that throughout. If they took actions pursuant to their laws that were set in conformance with their laws, to say that this reunification was what they desired to do, in accordance with their laws, not ours, their understanding, not ours, their state of mind, not ours, their judgment of their state of mind, not ours, it would satisfy the requirements of this amendment.

But I guess beyond that what concerns me is the unspoken, the other side of this issue. What happens if as a matter of fact the People's Republic of China attempts to enforce some action against the people on Taiwan and attempts to exert pressure to force them to give up their demand for independence? Would we then say that that was coercion?

Is my friend from New York prepared to say that the U.S. representatives to multinational organizations will resist the efforts made by the People's Republic of China to force the people on Taiwan to give up their claim of independence?

My understanding from the earlier debate is that no, we would not, that apparently the term "force or coercion" is ambiguous enough to permit them to use that kind of force and coercion. I might ask my friend from New York if that is correct.

Mr. JAVITS. Give me a minute and I will comment on it.

Mr. McCLURE. All right.

Perhaps my friend from Idaho would like to answer the question as to whether or not the U.S. representatives in international organizations will be instructed by this statute to resist the attempts to use membership in or activities of multinational organizations to protect the people on Taiwan against the attempts by the People's Republic of China to exert pressures on them toward their relinquishment of their independence.

Mr. CHURCH. I am sorry but I think I only heard part of the question and, therefore, I am not in position to respond.

Mr. McCLURE. I will try to rephrase the question, because it has been argued that the term "voluntary" is ambiguous but that the terms "force" and "coercion" are well understood and unambiguous. If, indeed, the terms "force" and "coercion" are so unambiguous that they do not need any further definition by the term "voluntary," then I would like to ask whether or not it is the understanding of the managers of the bill that the U.S. representatives being directed by the congressional expression in this statute, this bill before us today, S. 245, as amended, will resist the attempts if made by the People's Republic of China to exert pressures upon the people on Taiwan through multinational organizations, their memberships in those organizations, or their rights to be represented there.

Mr. CHURCH. As the Senator knows, the instructions given to our representatives in multilateral institutions are given by the executive branch of the Government. Therefore, I am not in a position to respond to the Senator's question.

However, I would draw his attention to the fact that on page 14, beginning on line 14, the phrase in question is:

> The United States will maintain its capacity to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan.

In other words, the term "coercion" as used in the bill does not exist in a vacuum. It is related to the other words in the phrase, and those other words are directed toward the security of the people on Taiwan and toward their social or economic system.

The forms of coercion referred to are forms of coercion that would jeopardize their security, or the social or economic system that exists on the island.

Mr. McCLURE. Might I say to my friend, first of all, that indicates the term "coercion" is ambiguous and requires some understanding, and that it also would require a judgment on our part as to whether or not it would jeopardize the security or the social or the economic system of the people on Taiwan. That is a matter of judgment equally as grave and equally as difficult as the judgment of whether or not the action take is voluntary.

But let me point out beyond that that the section to which he refers is subsection (b), a subsection under that, in order to achieve the objectives of this section.

The section that I seek to amend is on the same page, line 6, in that expectation upon which this whole thing is premised. It has nothing to do with whether, a test of whether or not, we will recognize the action. As the Senator from New York has suggested, it has only to do with what is our expectation at this time of the matter by which the dissolution of the independence of the people on Taiwan might be effected in the future.

It seems to me that since that is our expectation we ought to be able to say that we think that whatever the process may be it will seek the voluntary action of the people on Taiwan, however, that may be expressed, pursuant to their own forms and their own laws.

If that is not our expectation—and certainly that must be read into the rejection of it—then we are saying, in effect, that there are some circumstances under which we would expect perhaps that the People's Republic of China would force the people on Taiwan to accept a change by means other than voluntary. That is one of the things that a number of us have been very concerned about and, as I had understood my colleague from Idaho to be concerned about, whether or not this could be a peaceful and voluntary evolution or whether or not it would be effected by other means.

Mr. President, I reserve the remainder of my time.

Mr. CHURCH. Mr. President, I made the argument against this amendment. I think the argument still stands. It is much easier to legislate against such actions as may be coercive or forceful than it is to either define or enforce affirmative standards.

I have tried to explain the difficulties involved in knowing what is meant by "voluntary," given the circumstances of the case, and there is no need for me to reiterate those arguments at this time.

My colleague from Idaho has asked what American policy might be relative to membership by the Taiwanese in certain international organizations.

Earlier in the debate, either yesterday or late last week, an amendment by Senator Hollings from South Carolina was approved making clear that nothing in this bill affects in any way American policy relating to Taiwan representation or Taiwanese representation in international organizations. The bill does affect this one way or another.

I think I came to a period, I am not quite certain, but I believe it was a complete sentence. [Laughter.]

Mr. McCLURE. If it is not I am sure the Record will be corrected to reflect it.

Mr. CHURCH. In any case, Mr. President, we are about out of time and I think we have made the argument against the amendment.

I believe it will be unwise of the Senate to adopt this amendment. It would add confusion and not clarification, and it would be at variance with the stated policy of this country under two administrations, one Republican, the other Democratic.

So, for these reasons I hope the Senate will reject the amendment.

Mr. JAVITS. Mr. President, I yield myself 3 minutes merely to point out that I state, as the draftsman, that the legislative intention, as I understand it, is that the words "by peaceful means" on page 14, line 6, exclude the facts or the situation referred to on page 14, lines 15 to 17, inclusive, to wit, "any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan." There will be no argument or question as to our construction of the words "will be by peaceful means," and the reason I say that is because I think this is, with all respect, a very bad amendment, because it depends on the state of mind of the people on Taiwan. We cannot go into that.

We can, and it is an absolutely normal and commonsense experience, make an assessment as to the use of force or other forms of coercion that would jeopardize the security or the social or economic system of the people on Taiwan. Those are acts not states of mind. So I oppose the amendment.

Mr. McCLURE. Mr. President, I do not want to get this dialog locked into the framework of pride of authorship, pride of authorship on behalf of the committee that thinks they have considered every eventuality and take pride in their work product, or the pride of authorship of the Senator who offered this amendment who believes this is a constructive addition to the meaning by offering the word "voluntary," and I think that is where we have got ourselves locked in now.

The Senator from New York says he thinks it is a bad amendment, because he thinks it would be difficult to determine whether or not the actions are voluntary but, at the same time, we can assess the factor that there has been force or coercion.

To me, if you can assess the facts to determine whether it was voluntary you can assess the fact of whether there has been force or coercion. I do not want to get locked into that impasse of difference of approach to an identical problem, to an identical objective.

If I read correctly or hear correctly what the Senator from New York said in terms of what the word "peaceful" means, what it is to actually expect, and whether we use the term "peaceful" or whether we use the term "voluntary" our expectation is that whatever may be be done to resolve the issue of Taiwan—and that is the context of the language in this section—will be done as the result of the will of the peoples involved and not by force or coercion brought upon the people of Taiwan by any other force.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. McCLURE. I am happy to yield to Senator from New York.

Mr. JAVITS. I cannot accept that. The words stated mean to me the will of the people on Taiwan. That is the toughest thing in the world to define. But let me state what I am saying. Any resolution of the Taiwan issue will be by peaceful means, and that includes any resort to force or other forms of coercion that would jeopardize the security or the social or economic system of Taiwan. That is out.

In other words, we incorporate that concept as the negative of the words previously mentioned.

Mr. McCLURE. I see.

Mr. JAVITS. If we stay with that, I am all with you, and that is the legislative intent.

Mr. McCLURE. I understand what the Senator is saying. He has repeated again the language of subsection (2).

Mr. JAVITS. Right.

Mr. McCLURE. And again the language of subsection (b)(1).

Mr. JAVITS. Right.

Mr. McCLURE. But he has done so in the context of a discussion of whether or not it is voluntary. If we can set aside for a moment—I used the term "the will of the people of Taiwan." I certainly would not want the record to indicate the Senator from New York is suggesting that this action be taken against the will of the people of Taiwan.

Mr. JAVITS. Of course not. And I did not say that.

Mr. McCLURE. All right. Second, I would like to point out that that same curious lack of a positive is apparent in the amendment to which my colleague from Idaho referred earlier, of Senator HOLLINGS. I read:

> Nothing in this Act may be construed as a basis for supporting the exclusion or expulsion of the people on Taiwan from continued membership in any international financial institution or any other international organization.

But it does not say that we will resist that exclusion.

I would think that in the context of this discussion, and again not to complicate the discussion, we are again saying that our expectation is that the resolution of the issue on Taiwan will be done without force or coercion, and I will not use the term "voluntary," I will not use the term "according to the will of the people on Taiwan," but express it in the opposite way, that says our expectation is that coercion and force will not be used. If that is our understanding of the terms that are meant, in the context of my having offered the word "voluntary," and that having caused some difficulty, I would be prepared to withdraw the amendment.

Mr. JAVITS. There is only one qualification, and that is coercion of the size, character, and quality that would jeopardize the security or the social or economic system of the people on Taiwan.

Mr. McCLURE. I understand what the Senator is saying, but again recognize that that requires a judgment, a judgment difficult to make, and perhaps just as subjective as what is in the state of mind of the people on Taiwan.

Mr. JAVITS. That is our criterion. Sure, it calls for a judgment, but at least a judgment based on acts. That is all I say, and that is what we are saying.

Mr. McCLURE. Again I would say to my friend from New York whether or not it is voluntary, you say, is in the minds of the people on Taiwan. That could be a judgment we make, based upon our evaluation of the way in which it has been expressed. The Senator rejects that. I have just as great difficulty with accepting the question of whether or not coercion is sufficient to threaten——

Mr. JAVITS. To jeopardize.

Mr. McCLURE. To jeopardize the security or the social or economic system of the people on Taiwan. That is still to be judged on the basis of the future facts. I hope that the record is clear that the United States is in a position not only to reject the attempts to coerce, but to resist the attempts to coerce. We have entered into a mutual defense treaty with a government that does not exist any more. We have given notice of the abrogation of that treaty, although I suppose under that treaty we are still bound to defend a government that does not exist for the year in which the treaty does exist, as I understand the legal figments under which we are operating here.

But, again, with the assurances of my colleague from Idaho and my friend from New York, I will withdraw the amendment.

Mr. CHURCH. Mr. President, I thank my colleague for withdrawing the amendment and engaging in the colloquy.

Mr. JAVITS. I thank the Senator also.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. GOLDWATER. Mr. President, will the Senator from Idaho yield me a minute or two, so that I may explain my position on this measure?

Mr. CHURCH. Surely; I am happy to yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, at the outset of these several days of debate on this matter, I said I would support the legislation. I rise to say, Mr. President, that I have changed my mind. I cannot support this, as much as I would like to support it.

We had several chances during the course of the debate to have cleared some things up that need clearing up badly, chief of which is the position of the Senate in future treaty negotiations, should they be created, on abrogating.

Because of the failure of several amendments to pass which I think would have added some muscle and strength and meaning to this measure, Mr. President, I very reluctantly have to say that I will vote against it.

That does not take away for one moment from my appreciation for the very hard work done by the managers of the bill. They have come up with something that was better than nothing; but it is not good enough.

I thank the Senator for yielding.

Mr. THURMOND. Mr. President, I rise in support of S. 245, the Taiwan Enabling Act. My support, however, is not without reservations. The issues involved are complex and the implications of this legislation are enormous. In the final analysis, however, I concur in the opinion of the Senate Foreign Relations Committee that this "bill as amended and approved will, if implemented properly, enable the United States to continue to have a close and friendly relationship with the people on Taiwan while simultaneously developing a mutually beneficial relationship with the People's Republic of China."

Mr. President, let me make clear at the outset that I emphatically do not condone President Carter's withdrawal of diplomatic recognition from a longtime ally and friend, the Republic of China (Taiwan). As pointed out in the additional views of Senator HELMS of North Carolina to the report of the Senate Foreign Relations Committee on the Taiwan Enabling Act—

> This precipitant action not only was unnecessary, it came at the worse possible time. As the world looked to the United States for a demonstration of resolve and fidelity after a period of growing setbacks for American interests, the world saw instead vacillation, weakness and betrayal of friendship in the derecognition of the

> Republic of China. It is not up to the Congress to change that action. The President may choose the Nations he wishes to recognize, and which he does not. The issue of derecognition may well be a matter to be dealt with in the 1980 Presidential Elections. That is a more proper form of settlement of that issue.

The essence of this legislation, S. 245, is to preserve existing commercial, cultural and other unofficial relations by authorizing the continuation of existing agreements, statutory programs and other relevant sections of U.S. laws.

This legislation creates an American Institute in Taiwan, a private nonprofit corporation which is the entity through which future relations between the United States and the people on Taiwan are to be primarily conducted. The activities of the Institute will be governed and controlled by a contract executed between the Institute and the Department of State. Although I would prefer that relations be handled through official channels; namely, liaison officers. I think the Institute is workable and therefore not a serious impediment to enactment of this legislation.

Mr. President, I feel that it is significant that this legislation provides for the continued security of Taiwan, both in an economic sense, and a military sense. Among other things, this legislation provides that all treaties and other international agreements in existence between the United States and the Republic of China (Taiwan) will remain in force. Thus, we may be assured that the strong cultural and financial ties between the People on Taiwan and the United States will continue.

Mr. President, the continued security of Taiwan is of grave concern to me. I am disappointed that the negotiations did not obtain firm assurances by the People's Republic of China that they would not try to reunite Taiwan with mainland China by use of force. Chinese leaders have recently made statements on a number of occasions indicating a desire for peaceful reunification, such as the statement made by Vice Premier Teng Hsiao-P'ing to the Senate Foreign Relations Committee during his recent visit to Washington that "so long as Taiwan is returned to the mother land, and there is only one China, we will fully respect the realities on Taiwan."

Other reports, however, are not so reassuring. The National Chinese News Agency recently reported that Teng stated on January 5 that "we cannot commit ourselves to use no other than peaceful means to achieve reunification of the mother land * * * we cannot tie our hands in this matter." The inherent instability of the present system of government in the People's Republic of China must be considered in dealing with that country. The instability of the present system is evident in the fact that Teng Hsiao-P'ing has been purged twice in the past and rehabilitated three times.

Caution must be exercised to avoid any policy that hinges on the personality of any individual who happens to be in power at this time. Moreover, there is no established mechanism for the transfer of power within the framework of the present Government of the People's Republic of China.

It is in this context that legislation is critically important to reaffirm the U.S. commitment to the freedom and security of the people on Taiwan so that future changes in the Government of the People's Republic of China will not have an adverse effect on Taiwan.

A military invasion of Taiwan seems unlikely given the present military strength of Taiwan and U.S. commitments to continue arms sales to Taiwan. However, I am concerned that the People's Republic of China may use other pressure tactics to force reunification, such as an economic boycott, a military blockade, seizure of the offshore islands, or nuclear blackmail. For these reasons, I view section 114 of the proposed legislation, which was added by the Senate Foreign Relations Committee, to be essential to this legislation. The importance of this section cannot be overemphasized:

> SEC. 114. (a) It is the policy of the United States—
>
> (1) to maintain extensive, close, and friendly relations with the people on Taiwan;
>
> (2) to make clear that the United States' decision to establish diplomatic relations with the People's Republic of China rests on the expectation that any resolution of the Taiwan issue will be by peaceful means;
>
> (3) to consider any effort to resolve the Taiwan issue by other than peaceful means a threat to the peace and security of the Western Pacific area and of grave concern to the United States; and
>
> (4) to provide the people on Taiwan with arms of a defensive character.
>
> (b) In order to achieve the objectives of this section—
>
> (1) the United States will maintain its capacity to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan;
>
> (2) the United States will assist the people on Taiwan to maintain a sufficient self-defense capability through the provision of arms of a defensive character;
>
> (3) the President is directed to inform the Congress promptly of any threat to the security of Taiwan and any danger to the interests of the United States arising therefrom; and
>
> (4) the United States will act to meet any danger described in paragraph (3) of this subsection in accordance with constitutional processes and procedures established by law.

The language of the committee report explaining this section is of great significance, and therefore, Mr. President, I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1.]

Mr. THURMOND. Mr. President, the language of the report makes it unequivocal that the United States will maintain its capacity to resist not only direct force, but indirect force as well, such as a blockade or boycott that would jeopardize the social or economic system of the people on Taiwan. The report also emphasizes the importance and necessity of assisting the people on Taiwan to maintain a sufficient defense capability through the provision of arms to that country. It is made clear that in assisting the people on Taiwan, the United States will not be limited solely to the supply of arms, but could assist in other appropriate ways. Thus, actions taken by the United States may be military if such actions would be in compliance with the war powers resolution. This does not, however, restrict the United States from using whatever means would be most effective to aid the people on Taiwan, whether such action be diplomatic, economic or in some other form.

Mr. President, I find this "New China Policy" objectionable not because of the recognition of the People's Republic of China, but rather because of the abandonment and sudden nature of the derecognition of a longtime friend and ally, the Republic of China (Taiwan). My foremost consideration here today is, therefore, the continuing interest of the United States in the security and the defense of the people on Taiwan.

The social, cultural, economic, and financial ties between our two countries should be preserved and to that end, I find this legislation to be necessary.

Congress must, however, keep a close oversight on the Institute to insure that it is used to preserve the freedom and independence of the people of Taiwan and not to destroy it. Section 402 of the Taiwan Enabling Act was adopted by the Foreign Relations Committee to aid Congress in fulfilling this mandate.

This provision requires that every 6 months, a report describing and reviewing economic relations between the United States and the people on Taiwan shall be transmitted to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, noting any interference with normal commercial relations. This requirement must be utilized by Congress not as a merely perfunctory exercise, but rather as a tool to enable Congress to insure the continuance of normal commercial relations between our countries.

The announcement made by President Carter of normalization of relations between the People's Republic of China and the United States on December 15 came as a surprise to the American people and to Congress. There was no meaningful prior consultations with Congress despite section 36 of the International Security Assistance Act of 1978 which called for prior consultation on any proposed policy changes affecting the continuation in force of the mutual defense treaty with Taiwan.

The additional views of Senator HELMS of North Carolina succinctly state the issues raised and the consequences of this precipitous action by the President as:

> First, the perceptions of the world community, particularly among our allies is that the United States lacks any cohesive or comprehensive foreign policy, and abandons its friends and allies whenever the United States views it expedient to do so.
>
> Second, the actions of the President are of doubtful legality and constitutional validity both because of the President's

failure to consult with Congress and for assuming authority to unilaterally terminate the 1954 mutual defense treaty with the Republic of China.

Senator HELMS' words on these issues were:

> Needless to say, this unprecedented action has not gone without notice by allies and opponents alike around the world. Despite Administration protestations to the contrary, many of our allies rightfully question the value of the United States' mutual security commitments. Newspaper reports that the Ambassador to the United States from one nation bordering the Indian Ocean littoral has sought to be moved to Moscow because "that is where the power is" cannot be brushed aside as reportage of a mere diplomatic aberration. How much the Presidential decision to abandon the people on Taiwan affected the Ambassador's decision one only can speculate; but it is difficult to believe that it had no effect.
>
> The Congress may not be the proper forum to deal with the specific issue of termination of the treaty, *per se*, although Congress certainly must deal with the broader issue of the defense of the people on Taiwan. Already, a court suit has been undertaken to deal with the particulars of the treaty termination matter. Its outcome will say much about the scope of the President's power to terminate a treaty with an ally, unilaterally and without prior consultation with and approval by the Congress. At a time when the American public is wary of overextension of Executive power, a proper resolution of the issues raised in the suit will do much to define the limits of Executive power.

Mr. President, I am gravely concerned about the President's actions. I supported the amendment offered by the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) that would have stated that,

> It is the sense of the Senate that approval by the Senate of the United States is required to terminate any mutual defense treaty between the United States and another nation.

Although this amendment was withdrawn, I am pleased that the Foreign Relations Committee has agreed to hold hearings on this matter and report back to the Senate by May 1, 1979. It is my understanding that this resolution will then be made the pending business of the Senate.

In sum, Mr. President, even though diplomatic ties with the People's Republic of China may be advisable, the price we paid, the abandonment of a longtime friend and ally, Taiwan, was too great. It is hoped that this legislation that we today consider will reaffirm the U.S. commitment to the continued independence, freedom and security of the people of Taiwan. Therefore, Mr. President, with the qualifications other Senators and I have outlined, during debate on this measure, I support S. 245, the Taiwan Enabling Act, and urge its enactment.

EXHIBIT 1

SECTION 114

This section was proposed and adopted unanimously as an amendment to the Administration's original bill by Senators Church, Pell, Glenn, Javits and Baker. Its purpose is to express the strong and continuing interest of the United States in a peaceful solution to the Taiwan issue. This is done through a unilateral statement of United States policy objectives in subsection (a), which is supplemented by subsection (b), which sets forth what the United States will do to achieve the policy objectives set forth in subsection (a). The Committee made clear that each part of both subsections must be read and interpreted in the context of all the other parts and of the entire section. Thus subsection (b)(1), providing that the "United States will assist the people on Taiwan to maintain a sufficient self-defense capability through the provision of arms of a defensive character", relates not only to the objective of subsection (a)(4), "to provide the people on Taiwan with arms of a defensive character," but also to the objective spelled out in subsection (a)(1), "to maintain extensive, close, and friendly relations with the people on Taiwan."

Subsection (a)

The Committee discussed extensively the language in 114(a)(3) in connection with an amendment offered to it by Senator Percy. He proposed that the words "of grave concern to the" be replaced by the words "to the security interests of" on the ground that this would provide a stronger and clearer statement of United States policy toward Taiwan. This view received support from some Members of the Committee. Other Members argued that the phrase "of grave concern to the" United States adequately conveyed the importance that the United States should attach to a peaceful settlement of the Taiwan issue, especially when taken together with the other provisions of the section, while at the same time allowing the United States to respond in a flexible manner to any effort to resolve the Taiwan issue by other than peaceful means. The amendment proposed by Senator Percy was defeated by a vote of 10–4. Senator Percy had earlier reserved the right to discuss his amendment on the floor of the Senate and possibly to offer it there if it were rejected by the Committee.

Subsection (b)

The Committee made clear in its discussion of subsection (b)(1) that the United States was concerned with external threats or coercion rather than with internal challenges to the security or to the social or economic system of the people on Taiwan. In discussing the matter of possible coercion, the Committee indicated that the United States would maintain its capacity to resist not only direct force but indirect force as well, such as a blockade or a boycott, that would jeopardize the social or economic system of the people on Taiwan. During the hearings, several Senators emphasized the applicability of the anti-boycott provisions of the Export Administration Act to the China-Taiwan context. Those provisions make illegal compliance by U.S. citizens or corporations with economic boycotts against Taiwan.

The Committee also stressed the importance of assisting the people of Taiwan to maintain a sufficient defense capability through the provision of arms of a defensive character. The Committee indicated, in discussing (b)(2), that in assisting the people on Taiwan to maintain a sufficient self-defense capability, the United States was not limited solely to the supply of arms, but could assist in other appropriate ways. The Committee also indicated that the United States retained the right to determine what was "sufficient".

Paragraph (3) of subsection (b) directs the President to inform the Congress promptly of any threat to the security of Taiwan and any danger to the interests of the United States arising from such a threat. The language comprehends threats both military and non-military in nature, deriving from any source external to Taiwan. It should not be construed to derogate from the provisions of section 3 of the War Powers Resolution, which requires the President in every possible instance to consult with the Congress before introducing the United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances.

Paragraph (4) of subsection (b), added by the Committee as proposed by Senator Glenn and modified by Senator Javits, requires that any action taken by the United States to meet any danger described in paragraph (3) comply with all applicable constitutional and statutory requirements.

No mutual security treaty to which the United States currently is a party authorizes the President to introduce the armed forces into hostilities or requires the United States to do so, automatically, if another party to any such treaty is attacked. Each of the treaties provides that it will be carried out by the United States in accordance with its "constitutional processes" or contains other language to make clear that the United States' commitment is a qualified one—that the distribution of power within the United States Government is precisely what it would be in the absence of the treaty, and that the United States reserves the right to determine for itself what military action, if any, is appropriate.

Thus, an "absolute" security guarantee for Taiwan would go further than any current mutual defense treaty to which the United States is a party. In addition, it is questionable whether, as a matter of constitutional law, an absolute security guarantee can be made—either by treaty or by statute. Because the Constitution vests the power to declare war in the Congress rather than in the President, it is doubtful whether the authority to make that decision can constitutionally be delegated to the President—i.e., whether he can be empowered prospectively to determine under what conditions the United States armed forces will be introduced into hostilities. Under the separation of powers doctrine, one branch of the government cannot, even willingly, transfer to another branch powers and responsibilities assigned to it by the Constitution.

Turning to the provision at hand, paragraph (4) of subsection (b), the Committee notes that the United States is not required or committed, under this provision, to take any action. The United States, and only the United States will determine the existence of any danger described in paragraph (3). If the United States determines that such a danger exists, it and only it will determine what response, if any, is appropriate. While action taken by the United States may be military—provided that that action is in compliance with the War Powers Resolution—it may also be diplomatic, economic, or of some other form—and, indeed, it may be the judgment of the United States that the most effective action, from the standpoint of the United States or the people on Taiwan or both, is no action. This broad discretion is reserved for the United States through incorporation of the reference to the United States' "constitutional processes"; by requiring that any action taken by the United States be in accordance therewith, this provision makes clear that no automatic response of any kind is required, since those processes may result in a decision to do nothing. The net effect is thus to make clear that the allocation of war-making power within the United States Government is precisely what it would have been in the absence of the provision—that the President has no greater authority to introduce the armed forces into hostilities than he would have had had the provision not been enacted.

This conclusion is bolstered by section 8 (a)(1) of the War Powers Resolution, which provides as follows:

"Sec. 8. (a) Authority to introduce United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances shall not be inferred—

"(1) from any provision of law (whether or not in effect before the date of the enactment of this joint resolution), including any provision contained in any appropriation Act, unless such provision specifically authorizes the introduction of United States Armed Forces into hostilities or into such situations and states that it is intended to constitute specific statutory authorization within the meaning of this joint resolution. . . ."

The consequence of this provision is twofold: (1) it precludes the President from inferring authority from paragraph (4) to introduce the armed forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances; and (2) it reinforces the non-automaticity of the United States' undertakings, since, unless the President were authorized to introduce the armed forces into hostilities, the United States could not be considered to have undertaken to respond, automatically, in the event of danger.

While the Committee inserted the reference to "procedures established by law" primarily to make clear that the War Powers Resolution is fully applicable to all actions taken in connection with this section, it would note that the reference is not legally necessary since all provisions of the Resolution are applicable under their own terms. Accordingly, the inclusion of this reference in this bill should not be construed, in the case of some other, similar statute enacted in the future, as suggesting in any way that the absence of any such reference in that statute has rendered the Resolution inapplicable. The provisions of the Resolution will continue to apply *ex proprio vigore*.

● Mr. WEICKER. Mr. President, this Nation's diplomatic recognition of the People's Republic of China is a welcome event which I wholeheartedly support. But the manner in which the Carter administration has handled that decision and the legislation before us falls short of the standards we should expect of American diplomacy.

On December 15 President Carter stated that we were establishing full relations with the PRC in recognition of "simple reality." It is certainly true that we are rectifying a diplomatic mistake dating back 30 years and realizing that there are nearly 1 billion Chinese people with whom we should have full relations.

But to glibly derecognize 17 million people of Taiwan in the process is not my idea of "simple reality." We as a people and as a government should do everything in our power to realize and recognize that we have two entities here, not one China.

The security arrangements of this agreement are clouded by reports that the Carter administration did not seek a guarantee from the mainland Chinese against military action against Taiwan. Based on that frank and forceful display of American dealings with our new friend, provisions in this bill which express our "grave concern" for the security of Taiwan do not amount to much. We know it and the Chinese know it.

In terms of the integrity of our word and system of government, the President's hastily engineered recognition reflects poorly on us and how we conduct ourselves in this democracy.

On the matter of the "American Institute in Taiwan," we are asked in this bill to enact a falsehood. The Carter administration tells us in one breath that first governmental relations with Taiwan must cease and second that the Congress must authorize and appropriate funds for an Institute to carry out those functions.

Mr. President, it is a hoax to call an institute which is conceived, authorized, funded by the U.S. Government "nongovernmental." I will have no part in devaluing our moral currency just to close this particular deal.

The integrity of our democratic system is challenged, Mr. President, when our Chief Executive Officer ignores the expressed intent of Congress. President Carter's failure to respect the unanimous vote of this body requesting prior consultation on any change in status in the Mutual Defense Treaty, damages the constitutional dynamics of our foreign policy decisionmaking, now and for the future.

Mr. President, by passing this bill in its present form, the Senate would certify a logic and morality which have no place in our foreign policy. When we deal realistically, forcefully and honestly with our own people and the people of the world we earn their respect. When we settle for expediency, compromise and gimmickry we cheapen everything the United States stands for and hopes to be.●

● Mr. BAYH. Mr. President, I will vote for passage of the Taiwan enabling legislation which we are considering today because it provides the best possible means for maintaining and assuring the the continued prosperity and security for the people of Taiwan. This is in our vital national interests to do.

I believe that the Senate Committee on Foreign Relations has produced a finely crafted bill which will enable both the United States and the Government of the Republic of China on Taiwan to continue to derive mutual economic, cultural and political benefit from a strong and stable relationship. The fact that Taiwan is the second most successful economic power in all of Asia after Japan and that our trade turnover with that island last year was over $7 billion indicates the significant role Taiwan plays in the stability and progress of the region.

The Government of Taiwan has also been a longtime ally and friend of the United States. We therefore have a moral responsibility to provide Taiwan with the defensive weapons it needs to maintain its own security and discourage the People's Republic of China for settling the final status of Taiwan unilaterally and by other than peaceful means.

The security section of the bill is very clear on this point. What is equally as clear is the strong support which the people of Taiwan enjoy in this country. If the PRC Vice Premier Deng Xiaoping learned anything from his trip to the United States, it was the continuing concern which Americans feel for the future of Taiwan. I believe the security section of S. 245 is appropriately worded so as to leave no doubt in the mind of any present or future PRC leader that to use military force against Taiwan puts China's relationship with the United States at great risk. While I do not believe that the PRC has either the military capability or political intentions to attempt an armed takeover of Taiwan now or in the foreseeable future, we must firmly state our expectations as to this regard. President Carter himself recently commented that nothing in the agreement to establish diplomatic relations with the PRC would prevent him or some future President from direct military support of Taiwan if attacked by the PRC or threatened from some other source.

Last Thursday, I voted with my colleagues to defeat an amendment to substitute language in section 114 which states specifically that any effort to resolve the Taiwan issue by other than peaceful means would be considered a threat to the peace and security of the Western Pacific area and of grave concern to the United States. The amendment which was defeated sought to state specifically that such efforts would not only be considered a threat to the peace and security of the Western Pacific area but also to the security interests of the United States. While I appreciate and share the concern of my colleagues who voted for this change, I concluded that this change in language was unnecessary since the security interests of the United States extend to the Western Pacific area. Despite the value of such a redundant statement for domestic political purposes, this small change in the wording of a paragraph in section 114 of the bill could not be decisive in terms of whether the United States would act if the time ever came when Taiwan came under attack from mainland China. Nothing in the legislation restricts the President from taking any action he deems appropriate to meet such a contingency. Everything in section 114 is an affirmative message to the people of Taiwan and the People's Republic of China that the United States will uphold our moral obligation to help assure their safety and security and protect our vital interests in the area.

Mr. President, I think the complexity of the issue S. 245 addresses should also impress upon us that the security of Taiwan means more than the ability to beat back an armed invasion attempt. Therefore, it is especially important that part of the security section of this bill specifically states that—

> The United States will maintain its capacity to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people of Taiwan.

The fact that Taiwan's economic system is so highly developed also makes it vulnerable to economic boycott and blackmail. While the prevailing economic conditions in the East and Southeast Asian area where Taiwan has extensive commercial relationships owning to its high level of technology intensive industries certainly make it hard to imagine what non-Communist countries would abet such an effort, it is important that the United States state clearly its concern and retain our capacity to help our friends on Taiwan resist such coercion. Because of my own concern, I cosponsored an amendment which was accepted by the Senate to go further by adding a new section which provides that nothing in S. 245 shall be construed as a basis for supporting the expulsion or exclusion of the people of Taiwan from continued membership in international financial and other international organizations.

The importance of the Asian Development Bank, the World Bank, the International Monetary Fund, and other multilateral economic institutions cannot be stressed too strongly in a world growing increasingly dependent upon financial cooperation in undertaking development projects. How tragic it would be if one of the foremost examples of an underdeveloped nation becoming a highly developed one and good customer for American products were to be systematically excluded from participation in these important enterprises.

Because the legislation we are considering seeks to assist the President in doing something literally without precedent in our diplomatic history, I believe it is also only right that Congress be a full partner in this process. Accordingly, I also cosponsored and the Senate accepted an amendment establishing a Joint Commission for Security and Cooperation in East Asia. Again, the importance of this oversight when I refer to our considerable mutual economic interests with Taiwan and when we realize that the instrumentality to carry forward this relationship—the American Institute in Taiwan—is untested.

The commission will have 12 members, 6 from the House and 6 from the Senate and would monitor and report on the full range of policy concerns expressed in the bill, including the operation and procedures of the instrumentality responsible for our relations with Taiwan, the degree of success in maintaining free and unfettered cultural, commercial, and other relations between Taiwan and the United States; and human rights.

Finally, Mr. President, the normalization of our relations with the People's Republic of China has required a "derecognition" that the Government of the Republic of China on Taiwan is the sole and legitimate government for all of China. To insist that we could succeed or devise a plan under the present circumstances where we could impose upon the PRC acceptance of the political fiction of the Government of the Republic of China's claim is wholly inconsistent with the Shanghai Communique of 1972. But it is more than that. It is an unhelpful impulse to see the world as we would wish it to be and not as it truly is. While some critics of this course would dismiss such a realization as a retreat by the United States, I would strongly disagree. On the contrary, the decision to establish formal ties with the PRC signals a renewed U.S. commitment to participate in the process of peace and stability in Asia and the Pacific basin. It enhances our influence in the area and helps us assure the security of Japan, our principal ally in the region and the real anchor of our security interests in East Asia. I say this to point out that a peaceful settlement of the Taiwan issue is not just in the interest of the United States but important to the other nations committed to peace, progress, and stability in the region.

In short, the "derecognition" of the Government of the Republic of China on Taiwan is not and, as long as I am in the Senate, will not be an abandonment of the people of Taiwan. I cannot tell my colleagues in this Chamber what the precise future of the people on Taiwan will be in terms of their final political status. But I can say a determination of that status will come about through the process of negotiation rather than through force of arms, because of the dedication and concern for the future of these brave people shared by my colleagues and the American people whom we represent.●

● Mr. SCHMITT. Mr. President, after a great deal of consideration, I have reluctantly decided to vote for final passage of S. 245, the Taiwan Enabling Act. I shall vote for S. 245 because there is no realistic alternative at this time. This issue has been handled poorly from the beginning.

The failure of the President to consult with the Congress prior to his surprise December 15 announcement can only indicate that the President does not recognize the constitutional and political role of Congress in the formulation of foreign policy which has evolved over the years. His decision to terminate the Mutual Defense Pact is particularly troubling. I am certain, Mr. President, that many nations are now reconsidering the value of a treaty with the United States. It is of grave concern to me that if the President's decision on this treaty is allowed to stand, this President or any future President can unilaterally terminate any treaty such as the NATO Treaty, the SALT Treaty, or the Mutual Defense Pact with the Republic of Korea.

Mr. President, while I support the recognition of the People's Republic of China, there is absolutely no reason why that recognition was contingent on the derecognition of the Republic of China and the abrogation of the Mutual Defense Pact. The normalization of relations with Peking is of greater benefit to the PRC than to the United States. It is absurd that the United States made the greater concessions in the negotiations.

Be that as it may, the legislation to provide for relations with the people and Government on Taiwan which was submitted by the President did not even adequately provide for the security of the island. Only after extensive reworking by the Senate Foreign Relations Committee has the legislation become somewhat acceptable. It has, however, been obvious that only certain changes in the bill will be tolerated. Efforts to strengthen the security guarantees to our allies on Taiwan have been defeated. The argument has been that these amendments "would weaken the office of the President." Since when, Mr. President, do guarantees for the security of our friends weaken the Presidency? If the improving of this legislation does, in fact, weaken the Presidency, then we certainly do not need this bill.

Mr. President, I supported the amendment to establish a liaison office in Taipei since one existed in Peking for a number of years. This amendment was defeated. I supported the amendment to more clearly define the term "people on Taiwan." This amendment was defeated. I supported the amendment to send a loud and clear message to Peking that no threat to the security of Taiwan will be tolerated at any time in the future. This amendment was also defeated. At that point, it was obvious that the Senate failed to write the type of bill which was beneficial to the long-term interests of both the United States and Taiwan and of our allies everywhere.

The reality of the situation, however, is that we must establish some type of relationship with the people and Government on Taiwan. Due to the poor handling of the situation by the administration and due to the hurried timetable which the administration arbitrarily imposed, Taiwan is today left without any type of formal or informal relations with the United States. In an effort to resolve this embarrassing situation, I shall reluctantly support S. 245.●

SINO-AMERICAN RELATIONS

● Mr. PERCY. Mr. President, we have been fortunate in the foresight of the leaders and diplomats who have made possible the dramatic breakthrough in diplomatic relations between China and the United States.

First there was Chairman Mao and Premier Zhou on the Chinese side and President Richard Nixon and Secretary of State Henry Kissinger for the United States who succeeded in negotiating the Shanghai Communique of 1972.

Ambassador Huang Zhen, who later became the first Chinese Ambassador to be stationed in Washington, was Ambassador to France in 1972 and promoted relations between the two countries through his contacts with his counterpart, U.S. Ambassador to France Arthur K. Watson.

These important initial meetings were followed by meetings with President Ford and Henry Kissinger, President Jimmy Carter, Secretary Cyrus Vance, and Assistant to the President for National Security Zbigniew Brzezinski, together with such congressional leaders as Mike Mansfield, Hugh Scott, TED KENNEDY, and many others who have traveled to Beijing to speak directly to Chinese leaders. U.S. Ambassador Leonard Woodcock, an established expert in labor negotiations, played a key role in the final weeks of progress. Both Chairman Hua Guofeng and Vice Chairman Deng Xiaoping have provided the leadership necessary on their side to see our negotiations culminate in full diplomatic relations. And former Ambassador Huang Chen, former Deputy of the PRC liaison office Han Xu, as well as His Excellency Chai Zemin, China's new Ambassador to the United States, have all played important roles in establishing our new relations.

We owe a great deal to these distinguished leaders on both sides of the Pacific and to many others, both Republicans and Democrats, who have continued to work toward normalization of relations between our two nations. Normalization is in the best interest of the United States.●

Mr. KENNEDY. Mr. President, the Congress is now completing a historic process begun last December 15. On that date, President Carter announced our Nation's recognition of the People's Republic of China. Since then, we have demonstrated our ability to adopt a realistic policy toward the nearly 1 billion people on the Chinese mainland. We have recognized the fact that Peking has governed these people for nearly three decades. We have made it possible to move forward, at long last, toward normal and enduring relations between our two countries.

At the same time, we are behaving with responsibility to the people of Taiwan. Through the Taiwan Enabling Act (S. 245), the Congress will demonstrate our ability and our readiness to maintain a full range of unofficial relations with Taiwan. Our ties with its people should remain unimpaired, because they should remain the same in substance even though they change in form. The Taiwan Enabling Act will maintain "commercial, cultural, and other relations with the people on Taiwan," on unofficial instead of official terms.

This achievement is due in no small part to the careful and thorough work of the Committee on Foreign Relations and its chairman, Senator CHURCH.

I was pleased to be able to testify before the committee and contribute to its work. I welcome particularly its subsequent incorporation of section 114, designed to help insure the future security of the people on Taiwan.

This section reflects the full substance of the Taiwan Security Resolution (S.J. Res. 31) introduced by 30 Senators, including Senator CRANSTON and myself, as well as by Congressman WOLFF and 106 Members of the House. As a result of its incorporation in the Taiwan Enabling Act, we have made legislative provision for substantive continuity in our relations with the people on Taiwan in the vital security sphere—also on unofficial terms, in a manner consistent with our new diplomatic relationship with the People's Republic of China.

Mr. President, I am confident that our ties with the people on Taiwan will not only remain unimpaired, but will actually be enhanced in the months and years ahead. We have finally removed Taiwan as a diplomatic issue between China and the United States. No longer do the Chinese feel dutybound to object to official relations based on our past pretense that the government of 17 million controls a nation of almost 1 billion. In turn, the Chinese have agreed to continue unofficial ties between us and Taiwan—ties which should expand and strengthen just as Japan's did after it normalized relations on the same basis in 1972. It is no accident that Japanese trade with Taiwan as well as with the mainland has quintupled since normalization, from roughly $1 billion each in 1971 to over $5 billion each in 1978.

The senior Senators from Virginia and Arizona (Senators BYRD and GOLDWATER) and others resurrected their argument last week that the President lacked authority to give 1 year's notice of termination of our Mutual Defense Treaty with Taiwan—in spite of that treaty's explicit provision for such termination under its article X, which states that—

> Either party may terminate it 1 year after notice has been given to the other party.

They argue, furthermore, that the consent of two-thirds of the Senate or a majority of both Houses of Congress is required for the termination of any mutual defense treaty concluded by the United States. These arguments are of great interest to members of the Committee on the Judiciary, which I have the privilege of chairing.

I have carefully examined the constitutional and historical basis of these objections, and I am personally convinced that the President had full authority to take the actions he did to normalize relations with Peking, including termination of the defense treaty with Taipei. I am confident that the President's decision will not be reversed, either by the courts or by the Congress, and I look forward to the debate on this issue in committee and on the floor later this spring.

While focusing on the exact terms of normalization for both Taiwan and the Chinese mainland, I believe that we should all bear in mind the broader context in which these terms have become possible.

There are some who say that normalization was a reflection of American weakness. I say the opposite. Normalization is a reflection of American strength: Our strength to recognize the reality of nearly 1 billion people controlled not by Taipei but by Peking. Our strength to act with responsibility to the 17 million people on Taiwan, with whom we have enjoyed close ties for over three decades. Our strength to consolidate and strengthen relations with the creative, industrious and rapidly modernizing Chinese people, and thus to contribute to the peace and stability not only of Asia but of the world.

Mr. President, last week I received very thoughtful statements on the implications of normalization from academic, business, civic, religious, and other community leaders throughout the United States. I would like to share some of these statements with my colleagues, who I believe will find them as helpful as I have in assessing the broader implications of our China policies now and in the future. I request that the statements be printed at this point in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENTS

Prof. Harlan Cleveland, Director, Program in International Affairs, Aspen Institute for Humanistic Studies, Austin, Tex.

"Normalization of relations with the PRC was overdue. But our debate about it risks making this move look a lot more than it is. Let's be clear about three things that normalization is not:

"1. It is not the dawn of a nice, easy, comfortable relationship. Diplomatic relations don't protect us against unpleasant surprises—not on China's southern border and not in the Middle East or Africa or the Persian Gulf either.

"2. It is not the end of Taiwan's chance to live its own life. The Japanese have already shown how to conduct business as usual without an embassy in Taipei.

"3. It is not an anti-Soviet move. The rift between Moscow and Peking was not made in Washington. Our cue is to get along with both the Soviet Union and China, even if they elect not to get along with each other."

Prof. Okira Iriye, Department of History, University of Chicago, Chicago, Ill.

"I am in favor US–PRC normalization as it facilitates greater commercial and cultural interactions between the two countries. They have a great deal to offer to each other. I do hope, however, that normalization will not lead to any kind of military alliance which will unnecessarily create tensions among the countries of the Far East, especially between the US and the Soviet Union. I favor normalization in the hope that it will lead to lessening of tensions and eventual arms reduction in Asia, rather than to increased chances of war."

Prof. Victor H. Li, Stanford University, U.S.-China Relations Program, Stanford, California.

"I am delighted that normalization of relations with the People's Republic of China has finally taken place. The announcement of December 15, 1978 marks a fundamental point in developing cooperative ties with that major country.

"But it should be stressed that normalization, in and of itself, does not lead to full friendly relations. Many political and legal issues must still be resolved. For example, in the short term we must consider the means by which normal dealings with China could be enhanced—including how to cope with the unrealistically high expectations for trade and investments held by some persons. More importantly, we must examine the long-term strategic effects that improving US-China relations would have on our relations with the Soviet Union, Japan, and other areas. In addition, the normalization process has successfully avoided confronting the Taiwan problem. Yet that problem must be dealt with eventually. As the people on Taiwan go about the difficult and potentially disruptive business of deciding their future course, the US will likely face a series of politically and morally troublesome decisions concerning our dealings with China and with Taiwan."

Mr. Winston Lord, President, Council on Foreign Relations, New York, N.Y.

"As one who has been directly involved from the outset in the opening to China, I strongly favor improved relations with that country. I believe this process can lessen tensions and strengthen stability in Asia and the world, improve our overall international position, and bring cultural, economic and other bilateral benefits. Normalization of relations with Peking is a significant step in that process which I support, although the crucial factor in our relationship will remain the vision and steadiness of our world role. We also have a deep obligation to the people on Taiwan, who have been loyal friends and have behaved with great decency and restraint through troubled times. Thus I welcome firm Congressional expressions of concern for the future security and prosperity of the people on Taiwan. These add an important element of reassurance to the series of actions announced by the Administration since December."

Mr. Richard A. Melville, President, and Chief Executive Officer, Allied Bank International, New York, New York.

"I believe that normalization between the U.S. and the People's Republic of China, the country with the largest population on earth and both countries situated with long coast lines on the periphery of the Pacific Ocean (the U.S. with its 50th State and other possessions, such as Guam, Samoa, almost in the middle of the Pacific) is essential for the peaceful development within the Pacific basin and this normalization has been held off for too long.

"Only by being able to communicate directly with the Chinese government will we be able to influence China's movements and developments of which perhaps hydrogen power and weaponry may be the most important.

"China, I believe, is clearly afraid of now being encircled by Russia also from the south, in addition to their long mutual border in the north. This may well be at least part of their quick agreement to normalization of their relations with the U.S.

"For this reason, I do not believe that they would undertake any drastic measures to incorporate Taiwan politically and economically into China anywhere in the near future. I believe militarily they could not handle it and they know it would be a devastating blow to their new relationship with the U.S. With the history of thousands of years behind them another few years are of little significance.

"With the new leadership in Peking, the old traditional ideology of self-development and self-reliance appears to have been put aside for the time being and new development plans seem to be surfacing almost everyday. Within the next two or three decades, this huge country is to catch up with the industrial world, and the old American businessman's dream of eyeing the hundreds of millions of Chinese as potential customers may still become reality. From the technological point of view, they need just about everything, and with the United States growing interest in expanding its exports it is of the utmost importance for us to establish as quickly as possible economic, political and cultural relations to build up our trade. If we do not act now, we will find that we have lost this enormous market to aggressive Japanese and European competition."

Dr. Shirley Sun, Executive Director, Chinese Cultural Foundation, San Francisco, California.

"As an Asian American and an Asian art historian, I fully support President Carter's enlightened and sensible policy in the normalization of relations between the US and the PRC.

"This policy, so late in coming, is finally dealing with global reality. At the same time, it will open up avenues of profitable exchange between the US and China that we cannot afford to ignore—in the areas of science, culture and trade that will greatly benefit the lives of all Americans, not to mention the importance it will bring to the maintenance of world peace."

Dr. James C. Thomsen, Curator, Nieman Foundation for Journalism, Harvard University, Cambridge, Massachusetts.

"The Carter Administration, with deft skill and fine timing, has successfully concluded the overdue process of normalization of relations between the United States and China that Presidents Nixon and Ford made possible. It has done so in a way that assures the security and well being of the people of Taiwan while averting the creation of a self-styled second "China" whose status would be constantly under threat. The people of Taiwan will now be as well protected as before; and Chinese-American relations can at last proceed on a rational and peaceful basis after nearly thirty years of largely unnecessary hostility."

Dr. Franklin J. Woo, China Program Director, Division of Overseas Ministries, National Council of Churches of Christ in the USA, New York, N.Y.

"Generally speaking constituent members of the National Council of the Churches of Christ in the USA welcome the normalization of diplomatic relations between the PRC and USA. There does not seem to be objection to the abrogation of the Mutual Defense Treaty of 1954, which was based on cold war assumptions. Obligation is not to a treaty or to a government which purports to be the sole legitimate government for all of China, but to the people of Taiwan, whose life and destiny is a concern of all people of good will. The Churches of the National Council are concerned about the right of the people of Taiwan to have a say in their life and destiny."

League of Women Voters of the United States.

"League of Women Voters President Ruth J. Hinerfeld has heralded the establishment of the U.S. diplomatic relations with the People's Republic of China as a bold and historic step. She disclaims any direct connection between President Carter's dramatic announcement on December 15 and her early December trip to the People's Republic of China with a prestigious delegation of civic and world affairs leaders. What is 'right on target', the League's president readily admits, is the credit frequently given the LWV for its vanguard role over a decade ago in paving the way for normalization of U.S. relations with the PRC.

"In early 1969, three years before the Shanghai Communique, the League's member study culminated in a forward looking position. In that position, the League called for U.S. initiatives to facilitate PRC participation in the world community and to relax tensions between the U.S. and China. The League recommended a range of policies to encourage normalization of relations—through travel, cultural exchanges and unrestricted trade in nonstrategic goods. The League also urged the U.S. to withdraw its opposition to PRC representation in the UN and to move toward establishing diplomatic relations with the PRC.

"Ms. Hinerfeld stresses that the League was aware from the outset of the need for political astuteness and careful timing, and its actions during the late 60s and early 70s were carefully calculated to support various Presidential and Congressional initiatives at the most propitious times. She also emphasizes the pride League members take in their role in helping to open the diplomatic doors between the most populous and the most powerful nations.

"The League stands ready to support such legislative proposals as most-favored-nation treatment of the PRC."

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, I am not aware of any other Senator who wishes to offer an amendment.

Mr. JAVITS. Nor am I.

Mr. CHURCH. I believe the Senate is prepared to move now to a final vote on the bill. I make the following parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHURCH. Under the unanimous-consent agreement, was the vote to come at or before 5 o'clock this afternoon?

The PRESIDING OFFICER. No later than 5 o'clock.

Mr. CHURCH. Is it in order, then, to begin the vote at this time?

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, it might be appropriate at this time for me to express my very deep appreciation to the members of the staff of the Foreign Relations Committee who worked so very hard to organize the hearings and to draft for the committee various amendments that, in my judgment, greatly improved this bill.

When the legislation first came to us from the administration, it was inadequate. I said at that time that it was woefully inadequate, and I do not believe that I overstated the case. But in the course of the committee's deliberations the bill was amended. It now gives fully adequate protection to the property holdings of the authorities on Taiwan and the people of Taiwan, and to the corporate entities in Taiwan that may be located here in the United States. It was also amended to give the people an access to the courts of this country, and to sue or to be sued.

The question of extending appropriate privileges and immunities to those who will represent Taiwan in the institution which they are expected to establish was dealt with through committee action.

Finally, and most importantly, a very strong unilateral statement was included in the bill giving full recognition to the continuing responsibility that the committee felt this country owed the people on Taiwan by virtue of our long alliance with them. Thus we removed any basis for the charge that has previously been made that the United States has walked away from an old ally in order to do business with mainland China.

The various weaknesses which were apparent in the administration's bill have been corrected, and I think the posture of the United States is honorable and strong.

Throughout this debate I have said, as have others who support this legislation, that we commend the President of the United States for having at last faced up to the realities in Asia, for having had the political courage and conviction necessary to consummate the opening of mainland China that President Nixon initiated in 1972.

Finally, Mr. President, we are on course again in Asia. The old policy of self-deception, which created for us a posture of endemic weakness respecting Asia, which contributed to our involvement in two indecisive wars and cost us very dearly, is over. Even though we are late coming to the recognition that it is in our national interest to have direct dealings with China, in a government that exercises jurisdiction over one-quarter of the human race, it has, in fact, occurred at long last. For this I commend the President of the United States.

Mr. President, the various changes in this bill to which I have referred, made by the committee and made by the Senate as a whole in the past few days in the amendments that we have adopted, present, when taken together, a good bill in which we can take justifiable pride.

I want to pay my respects to those

members of the committee staff who assisted us throughout our deliberations: Mr. William Bader, the director of the staff; Patrick Shea and William Barnds, who have been with me here on the floor of the Senate throughout the debate; Mr. Michael Glennon, our counsel; Mr. Peter Lakeland, the special assistant to our ranking member, Senator JAVITS, along with Ray Werner and Hans Binnedijk, who worked extensively on preparing the briefing books for the hearings.

Mr. JAVITS. Will the Senator yield?

Mr. CHURCH. I am happy to yield.

Mr. JAVITS. I would like to add the name of Fred Tipson, who has been working on this legislation.

Mr. CHURCH. Yes. He definitely should be included. I thank the Senator for mentioning his name.

Mr. JAVITS. Mr. President, may I say that I consider this piece of legislation to be statesmanlike, just, and well within the compass of our implementation, with every promise that it can work. What we have done is to base the legislation on what we are able to do and what we are able to judge and perceive. We have, I feel, avoided all of those amendments which would have sought to substitute us for the authorities on Taiwan. That is why I think this can work and work effectively, giving deep assurance and safeguards to the people on Taiwan. Just as we are having normal relations with the People's Republic of China, so within the limits of that policy we can have normal relations and express the morality as well as the practicality of our solicitude for the security and, very importantly, the social and economic system of the people on Taiwan as they design it as time goes on.

I thank my colleague for his cooperation and for the magnificent work which he has done in the management of this bill.

Mr. CHURCH. Mr. President, may I say to the ranking minority member (Mr. JAVITS) that had it not been for his own initiatives it would never have been possible for the committee to finally reach a unanimous vote on this bill, recommending it favorably to the Senate, nor would it have been possible to have achieved so commanding a majority in connection with the language dealing with the future security of the people on Taiwan. To him I am especially indebted, as well as to all the other members of the committee who have participated so actively in bringing this matter to a final vote.

It was once predicted that this would be extraordinarily divisive, that the committee itself would be unable to reach a consensus, and that the Senate would be deeply divided. I think all of those pitfalls have been successfully avoided and that the Senate will, in fact, endorse this measure by an overwhelming vote.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. CHURCH. I yield.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I believe this request has been cleared on the other side of the aisle:

I ask unanimous consent that when H.R. 2479 is received from the House it be considered as having been read twice, that the Senate proceed to its immediate consideration, and, without any intervening debate or motion, that all after the enacting clause be stricken, that the text of S. 245 as passed by the Senate, as we expect it to be passed shortly, be substituted in lieu thereof, that without any further amendment or intervening motion or debate the bill be read a third time and passed, that that action be deemed as having been reconsidered and laid on the table, that the Senate insist upon its amendments, request a conference with the House and that the Chair be authorized to appoint the conferees.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McCLURE. Will the Senator from Idaho yield to his colleague 1 minute on the bill before the vote?

Mr. CHURCH. Yes, but before I do that, may I express my thanks to the majority leader for the extremely helpful way in which he intervened on more than one occasion in the course of this debate to assist us when we needed his help, and for the effectiveness with which he did so. I appreciate it.

Mr. JAVITS. And my thanks, as well, as the minority manager.

Mr. BAKER. Mr. President, as we conclude the debate on this difficult and important legislation which establishes the foundation on which to build a new relationship with Taiwan, I would like to take this opportunity to commend the distinguished ranking member of the Foreign Relations Committee for the role that he has played in its passage. In both the committee, and then on the floor, he has managed to blend widely divergent points-of-view, and he has protected well the rights of those on this side of the aisle who desired to contribute to this legislation. It was a demanding responsibility performed extraordinarily well, as I am certain it will be performed during the difficult issues ahead.

Mr. ROBERT C. BYRD. Mr. President, the establishment of full diplomatic relations with the People's Republic of China is a step that is both realistic and in the national interest of the United States. In addition to meeting these basic criteria for American foreign policy, this action—opening official relations with the largest and one of the most important nations in the world—enhances U.S. credibility in the international arena. Relations between the United States and China are also an important counterbalance in the triangular relationship involving our two countries and the Soviet Union.

Normalization of relations was the logical extension of a policy which was set in motion by President Nixon during his visit to China in 1971. That policy, expressed in the Shanghai Communique, was subsequently carried forward by President Ford and then by President Carter, who reached agreement with the Peking Government on normalization.

While I have strongly supported this continuum in our foreign policy, I also have been concerned about assuring the continuing prosperity and security of the people of Taiwan.

We want to maintain commercial, cultural, and other relations with Taiwan, and that is the purpose of the legislation which has been before the Senate in recent days. This bill, the Taiwan Enabling Act, provides the mechanism by which those relations will be administered and carried out.

This mechanism, the American Institute in Taiwan, will, I believe, prove to be a workable instrument for administering United States-Taiwan relations. The Committee on Foreign Relations added important provisions to the legislation in order to assure appropriate congressional oversight of the Institute.

In addition to our cultural and commercial relations with Taiwan, the future security of the people of Taiwan is a matter of particular concern to us. This was reflected in the extensive discussion within the Committee on Foreign Relations as well as within the Senate.

The committee's amendment to the bill submitted by the administration makes absolutely clear to the People's Republic that its new relationship with the United States would be severely jeopardized if there is any use of force or other coercion against Taiwan.

The assurances provided by Vice Premier Deng Xiaoping during his visit here earlier this year considerably allayed my concern for Taiwan's security. Deng said Taiwan would retain its autonomy as a governmental unit, its armed forces and the management of those forces, and its trade and commerce.

In my discussion with him, Deng said that the People's Republic would not impose leaders on Taiwan and that the people living on Taiwan could select their own leaders. The one point upon which Deng insisted very strongly is that there is one China, and that Taiwan is part of China. This, of course, is something the United States acknowledged in the Shanghai Communique in 1972.

I believe that the leaders of the People's Republic recognize that any attempt to resolve the reunification question by other than peaceful means would be both extremely costly and counterproductive.

Mr. President, the amendment by the Committee on Foreign Relations, and other Senate actions during our consideration of this bill, have left no room for doubt as to our continuing concern about the well-being of the people of Taiwan, notwithstanding our recognition of the People's Republic.

The committee, under the leadership of its chairman, Mr. CHURCH, has made a significant contribution to this legislation. I want to commend the chairman, along with Senator JAVITS, the ranking minority member, and Senator GLENN, who helped manage this bill, for their efforts. A number of other Senators have taken active roles in the lengthy debate which has occurred here. The result is a bill which is deserving of our support and which will serve U.S. foreign policy interests.

Mr. CHURCH. I thank the Senator very much. I yield to the Senator from Idaho.

Mr. McCLURE. Mr. President, I first of all want to state my concern that the bill may not have accomplished what we set out to accomplish. I think it is very clear that if the United State's is committed to resist economic pressure against Taiwan, that that economic pressure would not succeed. If, however, we fall short of that commitment it is only a question of time, and that may only be a short period of time. That would be my concern and the reason why I will not support the legislation. I thank the managers of the bill for the courtesy which they have extended to me throughout the debate. I do not mean to imply any personal criticism in my criticism of the result.

ORDER FOR CONSIDERATION OF SENATE RESOLUTION 50

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, upon the disposition of S. 245 in accordance with the order of the Senate, the agreement that has just been entered into, the Senate proceed to the consideration of Calendar Order No. 39, Senate Resolution 50.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Mr. President, reserving the right to object, what is it?

Mr. ROBERT C. BYRD. It is a resolution disapproving the proposed deferral of budget authority to promote and develop fishery products and research pertaining to American fisheries.

Mr. HELMS. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question before the Senate is on agreeing to the committee amendment in the nature of a substitute, as amended.

Has the Senator from New York asked for a rollcall only on passage?

Mr. JAVITS. Only on passage.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL) and the Senator from Hawaii (Mr. MATSUNAGA) are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL) would vote "yea."

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA) and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mr. HAYAKAWA) would vote "yea."

The PRESIDING OFFICER (Mr. LEVIN). Are there any Senators wishing to vote who have not voted?

The result was announced—yeas 90, nays 6, as follows:

[Rollcall Vote No. 17 Leg.]

YEAS—90

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Glenn
Hart
Hatch
Hatfield
Heflin
Heinz
Helms
Hollings
Huddleston
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Leahy
Levin
Long
Lugar
Magnuson
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—6

DeConcini
Garn
Goldwater
Humphrey
Laxalt
McClure

NOT VOTING—4

Gravel
Hayakawa
Mathias
Matsunaga

So the bill (S. 245) was passed, as follows:

S. 245

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Taiwan Enabling Act".

TITLE I

Sec. 101. (a) Whenever any law, regulation, or order of the United States refers or relates to a foreign country, nation, state, government, or similar entity, such terms shall include, and such law, regulation, or order shall apply with respect to, the people on Taiwan.

(b) Except as provided in section 205(d) of this Act, the term "people on Taiwan", as used in this Act, shall mean and include the governing authority on Taiwan, recognized by the United States prior to January 1, 1979, as the Republic of China; its agencies, instrumentalities, and political subdivisions; and the people governed by it or the organizations and other entities formed under the law applied on Taiwan in the islands of Taiwan and the Pescadores.

Sec. 102. (a) No requirement for maintenance of diplomatic relations with the United States, or for recognition of a government by the United States as a condition of eligibility for participation in programs, transactions, or other relations authorized by or pursuant to United States law, shall apply with respect to the people on Taiwan.

(b) The rights and obligations under the laws of the United States of natural persons on Taiwan and the Pescadores, and of the organizations and other entities formed under the lw applied by the people on Taiwan, shall not be affected by the absence of diplomatic relations between the people on Taiwan and the United States or by lack of recognition of the United States.

Sec. 103. The instrumentality referred to in section 108 of this Act and the authorities on Taiwan shall have access to the courts of the United States: *Provided*, That the United States and the American Institute in Taiwan have access to the courts on Taiwan. In the case of any action brought in any court of the United States on behalf of or against the people on Taiwan prior to the effective date of this Act, the authorities on Taiwan shall continue to represent the people on Taiwan.

Sec. 104. For all purposes, including actions in all courts in the United States, the Congress approves the continuation in force of all treaties and other international agreements entered into between the United States and the Government recognized as the Republic of China prior to January 1, 1979, and in force until December 31, 1978, unless and until terminated in accordance with law.

Sec. 105. Whenever authorized or required by or pursuant to United States law to conduct or carry out programs, transactions, or other relations with respect to a foreign country, nation, state, government, or similar entity, the President or any department or agency of the United States Government is authorized to conduct and carry out such programs, transactions, and other relations with respect to the people of Taiwan, including, but not limited to, the performance of services for the United States through contracts with commercial entities in Taiwan, in accordance with applicable laws of the United States.

Sec. 106. (a) Programs, transactions, and other relations conducted or carried out by the President or any department or agency of the United States Government with respect to the people on Taiwan shall, in the manner and to the extent directed by the President, be conducted and carried out by or through the American Institute in Taiwan, a nonprofit corporation incorporated under the laws of the District of Columbia (hereinafter "the Institute").

(b) To the extent that any law, rule, regulation, or ordinance of the District of Columbia or of any State or political subdivision thereof in which the Institute is incorporated or doing business impedes or otherwise interferes with the performance of the functions of the Institute pursuant to this Act, such law, rule, regulation, or ordinance shall be deemed to be preempted by this Act.

(c) In carrying out its activities, the Institute shall take all appropriate steps to strengthen and expand the ties between the people of the United States and all the people on Taiwan and to promote full human rights for all the people of Taiwan, and to provide adequate personnel and facilities to accomplish the purposes of this section.

Sec. 107. Whenever the President or any department or agency of the United States Government is authorized or required by or pursuant to United States law to enter into, perform, enforce, or have in force an agreement or arrangement relative to the people of Taiwan, such agreement or arrangement shall be entered into, or performed and enforced, in the manner and to the extent directed by the President, by or through the Institute.

Sec. 108. Whenever the President or any department or agency of the United States Government is authorized or required by or pursuant to United States law to render or provide to, or to receive or accept from, the people of Taiwan, any performance, communication, assurance, undertaking, or other action, such action shall, in the manner and to the extent directed by the President, be rendered or provided to, or received or accepted from, an instrumentality established by the people on Taiwan.

SEC. 109. Whenever the application of a rule of law of the United States depends upon the law applied on Taiwan or compliance therewith, the law applied by the people on Taiwan shall be considered the applicable law for that purpose.

SEC. 110. (a) For all purposes, including actions in all courts in the United States, recognition of the People's Republic of China shall not affect the ownership of, or other rights, or interests in, properties, tangible and intangible, and other things of value, owned, acquired by, or held on or prior to December 31, 1978, or thereafter acquired or earned by the people on Taiwan. For the purposes of this section 110, the term "people on Taiwan" includes organizations and other entities formed under the law applied on Taiwan.

(b) Any contract or property right or interest, obligation or debt of, or with respect to, the people on Taiwan heretofore or hereafter acquired by United States persons, and the capacity of the people on Taiwan to sue or be sued in courts in the United States, shall not be abrogated, infringed, modified, or denied because of the absence of diplomatic relations between the people on Taiwan and the United States or the lack of recognition of a government by the United States.

SEC. 111. (a) Notwithstanding the $1,000 per capita income restriction in clause (2) of the second undesignated paragraph of section 231 of the Foreign Assistance Act of 1961, the Overseas Private Investment Corporation ("the Corporation") in determining whether to provide any insurance, reinsurance, loans or guaranties for a project, shall not restrict its activities with respect to investment projects in Taiwan.

(b) Except as provided in subsection (a) of this section, in issuing insurance, reinsurance, loans or guaranties with respect to investment projects on Taiwan, the Corporation shall apply the same criteria as those applicable in other parts of the world.

(c) Not later than five years after the date of enactment of this Act, the President shall report in writing to the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives concerning the desirability of continuing this section in force in light of economic conditions prevailing on Taiwan on the date of such report.

SEC. 112. (a) The President is authorized and requested, under such terms and conditions as he determines, to extend to the instrumentality established by the people on Taiwan and the appropriate members thereof, referred to in section 108, privileges and immunities comparable to those provided to missions of foreign countries, upon the condition that privileges and immunities are extended on a reciprocal basis to the American Institute on Taiwan at not less than the level authorized herein with respect to the instrumentality referred to in section 108.

(b) The President is authorized to extend to the instrumentality established by the people on Taiwan the same number of offices and complement of personnel as previously operated in the United States by the government recognized as the Republic of China prior to January 1, 1979, upon the condition that the American Institue in Taiwan is reciprocally allowed such offices and personnel.

SEC. 113. (a) It is the policy of the United States—

(1) to maintain extensive, close, and friendly relations with the people on Taiwan;

(2) to make clear that the United States decision to establish diplomatic relations with the People's Republic of China rests on the expectation that any resolution of the Taiwan issue will be by peaceful means;

(3) to consider any effort to resolve the Taiwan issue by other than peaceful means, including boycotts or embargoes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States; and

(4) to provide the people on Taiwan with arms of a defensive character.

(b) In order to achieve the objectives of this section—

(1) the United States will maintain its capacity to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan;

(2) the United States will assist the people on Taiwan to maintain a sufficient self-defense capability through the provision of arms of a defensive character;

(3) the President is directed to inform the Congress promptly of any threat to the security or the social or economic system of Taiwan and any danger to the interests of the United States arising therefrom; and

(4) the United States will act to meet any danger described in paragraph (3) of this subsection in accordance with constitutional processes and procedures established by law.

SEC. 114. The President shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate on or before November 15 of each year a report on the status of arms sales of major defense equipment of $7,000,000 or more or of any other defense articles or defense services for $25,000,000 or more, which are considered eligible for approval during the fiscal year beginning on October 1 of such year and which are proposed for or requested by the people on Taiwan.

SEC. 115. Nothing in this Act may be construed as a basis for supporting the exclusion or expulsion of the people on Taiwan from continued membership in any international financial institution or any other international organization.

SEC. 116. Nothing in this Act, nor the facts of the President's action in extending diplomatic recognition to the People's Republic of China, the absence of diplomatic relations between the people on Taiwan and the United States or the lack of recognition by the United States, and attendant circumstances thereto, shall be construed in any administrative or judicial proceeding as a basis for any United States Government agency, commission or department to make a finding of fact or determination of law under the Atomic Energy Act of 1954, as amended, and the Nuclear Nonproliferation Act of 1978, to deny an export license application or to revoke an existing export license or nuclear exports to the people on Taiwan.

TITLE II

SEC. 201. Any department or agency of the United States Government is authorized to sell, loan, or lease property, including interests therein, to, and to perform administrative and technical support functions and services for the operations of, the Institute upon such terms and conditions as the President may direct. Reimbursements to departments and agencies under this section shall be credited to the current applicable appropriation of the department or agency concerned.

S53. 202. Any department or agency of the United States Government is authorized to acquire and accept services from the Institute upon such terms and conditions as the President may direct. Whenever the President determines it to be in furtherance of the purposes of this Act, the procurement of services by such departments and agencies from the Institute may be effected without regard to such laws and regulations normally applicable to the acquisition of services by such departments and agencies as the President may specify by Executive order.

SEC. 203. Any department or agency of the United States Government employing alien personnel in Taiwan is authorized to transfer such personnel, with accrued allowances, benefits, and rights, to the Institute without a break in service for purposes of retirement and other benefits, including continued participation in any system established by law or regulation for the retirement of employees, under which such personnel were covered prior to the transfer to the Institute: *Provided*, That employee deductions and employer contributions, as required, in payment for such participation for the period of employment with the Institute, shall be currently deposited in the system's fund or depository.

SEC. 204. (a) Under such terms and conditions as the President may direct, any department or agency of the United States Government is authorized to separate from Government service for a specified period any officer or employee of that department or agency who accepts employment with the Institute.

(b) An officer or employee separated under subsection (a) of this section shall be eligible upon termination of such employment with the Institute to reemployment or reinstatement in accordance with existing law with that department or agency or a successor agency in an appropriate position with attendant rights, privileges, and benefits which the officer or employee would have had or acquired had he or she not been so separated, subject to such time period and other conditions as the President may prescribe.

(c) An officer or employee eligible for reemployment or reinstatement rights under subsection (b) of this section shall, while continuously employed by the Institute with no break in continuity of service, continue to be eligible to participate in any benefit program in which such officer or employee was covered prior to employment by the Institute, including programs for compensation for job-related death, injury or illness; for health and life insurance; for annual, sick and other statutory leave; and for retirement under any system established by law or regulation: *Provided*, That employee deductions and employer contributions, as required, in payment for such participation for the period of employment with the Institute, shall be currently deposited in the program's or system's fund or depository. Death or retirement of any such officer or employee during approved service with the Institute and prior to reemployment or reinstatement shall be considered a death in service or retirement from the service for the purposes of any employee or survivor benefits acquired by reason of service with a department or agency of the United States Government.

(d) Any employee of a department or agency of the United States Government who entered into service with the Institute on approved leave of absence without pay prior to the enactment of this Act shall receive the benefits of this title for the period of such service.

SEC. 205. (a) The Institute, its property, and its income are exempt from all taxation now or hereafter imposed by the United States (except to the extent that section 204(c) of this Act requires the imposition of taxes imposed under chapter 21 of the Internal Revenue Code of 1954, relating to the Federal Insurance Contributions Act) or by any State or local taxing authority of the United States.

(b) For purposes of the Internal Revenue

Code of 1954, the Institute shall be treated as an organization described in sections 170 (b)(1)(A), 170(c), 2055(a), 2106(a)(2)(A), 2522(a), and 2522(b).

(c)(1) For purposes of sections 911 and 913 of the Internal Revenue Code of 1954, amounts paid by the Institute to its employees shall not be treated as earned income. Amounts received by employees of the Institute shall not be included in gross income, and shall be exempt from taxation, to the extent that they are equivalent to amounts received by civilian officers and employees of the Government of the United States as allowances and benefits which are exempt from taxation under section 912 of such Code.

(2) Except to the extent required by section 204(c) of this Act, service performed in the employ of the Institute shall not constitute employment for purposes of chapter 21 of such Code and title II of the Social Security Act.

(d) For the purpose of applying section 102 of this Act to the Internal Revenue Code of 1954, and to any regulation, ruling, decision, or other determination under such Code, the term "people on Taiwan" shall mean the governing authority on Taiwan recognized by the United States prior to January 1, 1979, as the Republic of China and its agencies, instrumentalities, and political subdivisions; except that when such term is used in a geographical sense it shall mean the islands of Taiwan and the Pescadores.

(e) The Institute shall not be an agency or instrumentality of the United States. Employees of the Institute shall not be employees of the United States and, in representing the Institute, shall be exempt from section 207 of title 18, United States Code.

SEC. 206. (a) The Institute may authorize any of its employees in Taiwan—

(1) to administer to or take from any person an oath, affirmation, affidavit, or deposition, and to perform any notarial act which any notary public is required or authorized by law to perform within the United States;

(2) to act as provisional conservator of the personal estates of deceased United States citizens;

(3) to render assistance to American vessels and seamen; and

(4) to perform any other duties in keeping with the purposes of this Act and otherwise authorized by law which assist or protect the persons and property of citizens or entities of United States nationality.

(b) Acts performed by authorized employees of the Institute under this section shall be valid, and of like force and effect within the United States, as if performed by any other person authorized to perform such acts.

TITLE III

SEC. 301. In addition to funds otherwise available for the provisions of this Act, there are authorized to be appropriated to the Secretary of State for the fiscal year 1980 such funds as may be necessary to carry out such provisions. Such funds are authorized to remain available until expended.

SEC. 302. The Secretary of State is authorized to use funds made available to carry out the provisions of this Act to further the maintenance of commercial, cultural, and other relations with the people on Taiwan on an unofficial basis. The Secretary may provide such funds to the Institute for expenses directly related to the provisions of this Act, including—

(1) payment of salaries and benefits to Institute employees;

(2) acquisition and maintenance of buildings and facilities necessary to the conduct of Institute business;

(3) maintenance of adequate security for Institute employees and facilities; and

(4) such other expenses as may be necessary for the effective functioning of the Institute.

SEC. 303. Any department or agency of the United States Government making funds available to the Institute in accordance with this Act shall make arrangements with the Institute for the Comptroller General of the United States to have access to the books and records of the Institute and the opportunity to audit the operations of the Institute.

SEC. 304. The President is authorized to prescribe such rules and regulations as he may deem appropriate to carry out the purposes of this Act. Such rules and regulations shall be transmitted promptly to the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives. Such action shall not, however, relieve the Institute of the responsibilities placed upon it by this Act.

TITLE IV

SEC. 401. (a) The Secretary of State shall transmit to the Congress the text of any agreement to which the Institute is a party. However, any such agreement the immediate public disclosure of which would, in the opinion of the President, be prejudical to the national security of the United States shall not be so transmitted to the Congress but shall be transmitted to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives under an appropriate injunction of secrecy to be removed only upon due notice from the President.

(b) For purposes of subsection (a), the term "agreement" includes—

(1) any agreement entered into between the Institute and the Taiwan authorities or the instrumentality established by the Taiwan authorities; and

(2) any agreement entered into between the Institute and departments and agencies of the United States.

(c) Agreements and transactions made or to be made by or through the Institute shall be subject to the same congressional notification, review, and approval requirements and procedures as if such agreements were made by or through the department or agency of the United States on behalf of which the Institute is acting.

SEC. 402. During the two-year period beginning on the effective date of this Act, the Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, every six months, a report describing and reviewing economic relations between the United States and the people on Taiwan, noting any interference with normal commercial relations.

SEC. 403. The President shall notify the chairman of the Senate Committee on Foreign Relations and the Speaker of the House of Representatives thirty days prior to the issuance to the People's Republic of China of any license required under section 38 of the Arms Export Control Act.

TITLE V—JOINT COMMISSION ON SECURITY AND COOPERATION IN EAST ASIA

SEC. 501. (a) There is established a joint congressional commission known as the Joint Commission on Security and Cooperation in East Asia (hereinafter in this title referred to as the "Joint Commission") to exist for a period of three years, which period shall begin upon the date of enactment of this Act.

(b) The Joint Commission shall monitor—

(1) the implementation of the provisions of this Act;

(2) the operation and procedures of the Institute;

(3) the legal and technical aspects of the continuing relationship between the United States and the people on Taiwan; and

(4) the implementation of the policies of the United States concerning security and cooperation in East Asia.

(c)(1) The Joint Commission shall be composed of twelve members. Of the members provided for under the preceding sentence—

(A) six shall be Members of the House of Representatives to be appointed by the Speaker of the House of Representatives, four of whom shall be selected from the majority party, and two of whom shall be selected, upon the recommendation of the Minority Leader of the House of Representatives, from the minority party; and

(B) six shall be Members of the Senate to be appointed by the President pro tempore of the Senate, four of whom shall be selected, upon the recommendation of the Majority Leader of the Senate, from the majority party, and two of whom shall be selected, upon the recommendation of the Minority Leader of the Senate, from the minority party.

(2) In each odd-numbered Congress, the Speaker of the House of Representatives shall designate one of the Members of the House of Representatives selected under paragraph (1)(A) as Chairman of the Joint Commission, and the President pro tempore of the Senate shall designate one of the Members of the Senate selected under paragraph (1) (B) as Vice Chairman of the Joint Commission. In each even-numbered Congress, the President pro tempore of the Senate shall designate one of the Members of the Senate selected under paragraph (1)(B) as Chairman of the Joint Commission, and the Speaker of the House of Representatives shall designate one of the Members of the House of Representatives selected under paragraph (1)(A) as Vice Chairman of the Joint Commission.

(d)(1) Members of the Joint Commission shall serve without compensation but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Joint Commission.

(2) The Joint Commission may appoint and fix the pay of such staff personnel as it deems desirable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates.

(e) The Joint Commission may, in carrying out its duties under this title, sit and act at such times and places, hold such hearings, take such testimony, and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as it deems necessary. Subpenas may be issued over the signature of the Chairman of the Joint Commission or any member designated by him, and may be served by any person designated by the Chairman or such member. The Chairman of the Joint Commission, or any member designated by him, may administer oaths to any witness.

(f)(1) The Joint Commission shall prepare and transmit a semiannual report to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the President on—

(A) the progress achieved by the United States in maintaining full and unimpeded cultural, commercial, and other relations with the people on Taiwan, and

(B) the legal and technical problems arising from the maintenance of such relations, together with recommendations for legislation to resolve such problems and recommendations for strengthening such relations and for carrying out the commitment of the United States to human rights in East Asia.

(2) The Joint Commission shall provide information to Members of the House of Representatives and the Senate as requested.

(g)(1) There are authorized to be appropriated to the Joint Commission for each fiscal year and to remain available until expended, $550,000 to assist in meeting the expenses of the Joint Commission for the purpose of carrying out the provisions of this title. Such appropriations shall be disbursed by the Secretary of the Senate on vouchers approved by the Chairman of the Joint Commission, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

(2) For each fiscal year for which an appropriation is made the Joint Commission shall submit to the Congress a report on its expenditures under such appropriation.

(3) For purposes of section 502(b) of the Mutual Security Act of 1954, the Joint Commission shall be deemed to be a joint committee of the Congress and shall be entitled to the use of funds in accordance with the provisions of such section.

TITLE VI

SEC. 601. This Act shall have taken effect on January 1, 1979.

SEC. 602. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to any other person or circumstance shall not be affected thereby.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Subsequently on the next calendar day, March 14, 1979, in accordance with the foregoing order, the passage of S. 245 by the above Rollcall Vote No. 17 Leg. was vitiated, and H.R. 2479, as amended by the substitution of the text of S. 245, was considered to have been passed by Rollcall Vote No. 17 Leg.)

Mr. CHURCH. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 245.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, I ask that the clerk report the amendment to the title that was reported by the committee.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Amend the title to read as follows:

A bill to promote the foreign policy of the United States by authorizing the maintenance of commercial, cultural, and other relations with the people on Taiwan on an unofficial basis, and for other purposes.

The PRESIDING OFFICER. Without objection, the title is so amended.

Mr. CHURCH. Mr. President, I ask unanimous consent that, consistent with the previous order, the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. Without objection, it is so ordered.

The conferees will be appointed at the appropriate time, after the House bill is received.

Mr. CHURCH. I thank the Chair.

Mr. STEVENS. Mr. President, would it be possible to have a succinct explanation of the amendments that were made during the consideration of the bill, to be prepared by the staff?

Mr. CHURCH. Mr. President, in response to the question of the distinguished minority whip, I will be glad to request that the staff prepare an explanation of the amendments adopted by the Senate during the consideration of S. 245. As soon as that explanation is prepared, I will see that it is included in the Record.

Mr. JAVITS. It will be prepared, I assume, in concert with us on the minority side.

Mr. CHURCH. Of course.

Mr. STEVENS. I thank the Senator from New York and the Senator from Idaho.

ARRIVAL OF THE PRESIDENT AT ANDREWS AIR FORCE BASE

Mr. ROBERT C. BYRD. Mr. President, buses will depart the Senate steps at 11:30 p.m. this evening to go to Andrews Air Force Base. The President is scheduled to arrive at Andrews at 12:45 a.m. tomorrow. Buses will depart Andrews immediately after the President departs by helicopter for the White House. The buses will return to the Senate steps.

DISAPPROVAL OF PROPOSED BUDGET DEFERRAL

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of Calendar No. 39, Senate Resolution 50, which will be stated by title.

The legislative clerk read as follows:

Resolution (S. Res. 50) disapproving the proposed deferral of budget authority to promote and develop fishery products and research pertaining to American fisheries.

The Senate proceeded to consider the bill.

Mr. MAGNUSON. Mr. President, may we have order in the Senate? The Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MAGNUSON. Mr. President, I ask the majority leader if he has asked unanimous consent that the Senate proceed to the consideration of the bill.

Mr. ROBERT C. BYRD. That has been done, and the matter is before the Senate.

I ask the distinguished chairman of the Appropriations Committee, for the benefit of other Senators, if he anticipates any rollcall vote on this measure tonight.

Mr. MAGNUSON. No, I do not.

Mr. ROBERT C. BYRD. Does anyone else?

I see no indication of such, so I will state, Mr. President, that there will be no further rollcall votes today.

Mr. MAGNUSON. Mr. President, Senate Resolution 50 deals with a deferral of the budget authority relating to NOAA, the National Oceanographic and Atmospheric Administration.

The Appropriations Committee voted unanimously to reject the deferral of Saltonstall-Kennedy funds for American fisheries development research. This is money that is collected under the Saltonstall-Kennedy Act of 1954, which I believe is familiar to most Senators.

Under the Budget Act, one House can reject the deferral and add the money. In this case, it is $12 million that must be released. This promotes and develops fishery products and research in the United States.

I strongly recommend the adoption of the resolution.

● Mr. HOLLINGS. Mr. President, in October 1978, OMB deferred $12,060,000 from the Saltonstall-Kennedy reserve fund for fiscal year 1979. Presently, $6,579,000 of Saltonstall-Kennedy funds are still being deferred. Approximately 21 fisheries development projects across the Nation are not being funded, because of the deferral. These programs are designed to help American fishermen develop new techniques for harvesting and processing, and to develop new and underutilized fisheries.

American fishermen need our assistance if they are to compete effectively with foreign fishermen in our 200-mile fishing zone. As a cosponsor of Senate Resolution 50, I urge the Senate to vote favorably on it.●

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. KENNEDY. Mr. President, I commend the chairman, Mr. Magnuson, for the strong support he gave to our resolution in the committee and for the strong support we received from all the members of the committee. I understand that there was a unanimous vote in committee. I believe this was as a result of the knowledge and understanding of the importance of these limited, but very important, resources to the development of our fisheries.

Even though it is a small amount of money, it has had an enormous impact in assisting fisheries in the East—in my own State of Massachusetts as well as all of New England—and on the west coast. it relates to legislation that was originally sponsored by then Senators John Kennedy and Leverett Saltonstall.

It has been a small but vital resource to help our fishing industry. I think the results from these limited resources will be benefits many times over in terms of budget, in terms of tax revenues, and in terms of supporting an extremely important and vital industry.

I congratulate the Senator from Washington and thank him for the strong leadership he has shown in this matter.

Mr. MAGNUSON. I point out to the Senator from Massachusetts that these are funds that are collected from custom duties on imported fishery products, and they are supposed to be used for research and development of the American fishing industry. I do not know why the administration made this deferral. I cannot understand it. These are funds that are supposed to be expended. It has nothing to do with taxation or the budget or things of that kind. The funds are supposed to be expended. The deferral of this money has held up many important development projects across the country, including projects to utilize domestic species in Puget Sound and to develop underutilized species in Alaskan waters.

Mr. KENNEDY. Mr. President, I would like to address one brief inquiry to my friend and colleague from the State of Washington.

I understand the administration intends to abolish this fund for the next fiscal year. I hope with this unanimous vote in the Senate it will be a very clear indication of the strong sense of support of not only the chairman but of the distinguished Senator from Alaska, Senator STEVENS, and my colleagues, my junior colleague in the Senate, Senator TSONGAS, and others. This vote should be a very clear indication of the sense of the Senate on this matter. I hope that it will encourage the administration to reconsider any attempt to abolish the Saltonstall-Kennedy fund.

Mr. MAGNUSON. Mr. President, it should be. It is my understanding that they are attempting to take this out of the trust fund category and put it in the general fund. It was never intended for that. It was intended for a specific purpose: To promote and develop American fisheries resources. It should be continued to be used that way.

It is small enough as it is. The fishing industry deserves double and triple this amount of support.

Mr. KENNEDY. I thank the chairman.

Mr. PELL. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. PELL. Mr. President, I should like to echo the words of the senior Senator from Massachusetts, and I commend the Senator from Washington for his leadership and initiative with respect to this measure.

It is important at this time, when the 200-mile economic zone has just gone into effect. This is the time when our fishermen need all the help they can get from various techniques in order to exploit and develop properly the new resources that are available to us. This is the time the money should be spent, not next year or the year after that.

Mr. MAGNUSON. With the passage of the 200-mile limit legislation, these funds are more important than ever. Despite the establishment of the 200-mile limit, there is still a $2 billion negative balance of payments for fish products.

Mr. PELL. Exactly.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. YOUNG. Mr. President, I fully approve this. It was approved by the committee by unanimous vote.

Mr. CHAFEE. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. CHAFEE. Mr. President, I commend the chairman and the ranking minority member of the Appropriations Committee for the action they have taken.

As the Senator from Massachusetts and the senior Senator from Rhode Island pointed out, this is extremely important to the entire fisheries industry. This is the time to use the money. There are plenty of problems associated with it, as we have discovered with respect to the extension of the 200-mile limit.

With this money, which wisely was included—I believe it started in 1954—I think we can make some very substantial steps forward, and I thank the chairman for this action.

Mr. MAGNUSON. I remember well when we started. We started with small amounts. We have not gotten as much as we like. But the small amount surely is well deserved.

Mr. STEVENS. Mr. President, will the Senator yield to me?

Mr. MAGNUSON. I yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, there has been no one in the Senate who has shown the leadership in terms of protecting American fishermen as much as my good friend and neighbor from Washington, Senator MAGNUSON.

The 200-mile bill that is mentioned several times in the Senate Appropriations Committee report on this deferral was Senator MAGNUSON's bill.

That bill, in fact, has led to a process by which we are easing out of our 200-mile limit foreign fishermen who are fishing for stocks that our American fishermen are capable of harvesting.

The Saltonstall-Kennedy Act fund was created to promote the development of the American fishing industry. It is the new techniques for harvesting and processing and marketing new and underutilized fisheries that are most important in terms of the use of this fund.

I, too, congratulate the chairman of the Appropriations Committee for his action and on behalf of all my Alaska fishermen I say God bless you and thank you very much.

Mr. MAGNUSON. I thank the Senator from Alaska.

Mr. President, I move the Senate adopt the resolution.

Mr. WARNER. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield to the Senator from Virginia.

Mr. WARNER. Mr. President, the State of Virginia, speaking through its junior Senator, wishes to associate herself with his remarks and commend him for speaking out on behalf of the fishermen of the United States.

The Saltonstall-Kennedy fund was established in 1954 for the purpose of promoting the free flow of domestically produced fishery products. Congress intended that the Saltonstall-Kennedy funds to be used for many purposes among which have been market development, research, and education dealing with fish products.

The proper use of the Saltonstall-Kennedy fund would provide manifold benefits to America's economic system. Principal benefit would be to increase new fishery development which would go a long way toward reducing America's annual trade deficit which is attributable to fisheries import alone. Currently this deficit stands at $2.1 billion.

Senate Resolution 50 would also create new jobs in the fishing industry and stimulate America's economy. For these reasons and more I support Senate Resolution 50.

I thank the chairman and I wholeheartedly endorse the resolution.

Mr. MAGNUSON. I renew my motion to adopt the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to as follows:

Resolved, That the Senate disapproves the proposed deferral of budget authority (Deferral D79-6) to promote and develop fishery products and research pertaining to American fisheries set forth in the special message transmitted by the President to the Congress on October 2, 1978, under section 1013 of the Impoundment Control Act of 1974.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. MAGNUSON. I yield.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business of not to exceed 30 minutes with Senators permitted to speak therein up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

DIRECT ELECTION

Mr. KENNEDY. Mr. President, I am pleased to join with Senator BAYH in urging favorable Senate action on Senate Joint Resolution 1. This proposed amendment to the Constitution will provide for the direct popular election of the President and Vice President of the United States. By eliminating the electorial college, Senate Joint Resolution 1 finally will place the crucial decision of selecting the leaders of our Nation where that decision belongs—directly in the hands of the American people.

The supporters of the Senate resolution comprise a long and prestigious list, including the ABA, the U.S. Chamber of Commerce, the United Auto Workers, Common Cause, League of Women Voters, National Federation of Independent Business, and the National Small Business Association. And there are over 37 cosponsors for this bill.

The views of the American people are strongly supportive of this constitutional amendment, and while I ordinarily do not place great weight in opinion polls, it seems to me that the manner in which Americans want their votes to be counted cannot go ignored. Immediately after the 1976 Presidential elections a Gallup poll was taken. Over 80 percent of the American people who expressed their opinion approved of the direct election amendment.

The poll showed that support for direct election was not confined by geographical, philosophical, or political boundaries; 82 percent of the people in the East, 81 percent in the Midwest, 76 percent in the South, and 81 percent in the West think direct popular election is both desirable and necessary. The survey also showed that 78 percent of those identifying themselves as liberals favor direct election while 71 percent among the self-identified conservatives endorsed it. Finally, 74 percent of those who voted for Ford and 79 percent of those who voted for Carter supported direct election.

Other approaches to dealing with the archaic electoral college system do not address the basic injustice perpetuated by that system. Direct election is clearly the fairest and most democratic alternative proposed. Adoption of Senate Joint Resolution 1 would be the final step in the constitutional evolution which began with the declaration that all men are created equal, and continued with the assertion that no citizen may be denied the right to vote for arbitrary reasons.

Since 1826 there have been repeated efforts to end the electoral college. Some reasons have been highlighted in recent findings of a special American Bar Association commission assigned to conduct an exhaustive yearlong study of the present system:

First. The winner of the most popular votes in a State, regardless of his percentage of the votes cast, receives all of that States electoral votes. All votes for the losing candidate are not refuted in any electoral votes, while those for the winner are multiplied in value.

Second. Success in 12 key States will give a candidate an electoral majority, regardless of his margin of victory in those States and regardless of whether he has received any votes in the other 38 States.

Third. Three times in our history—1824, 1976, and 1888—the popular vote loser was elected President.

Fourth. In another 15 elections a shift of less than 1 percent of the national vote cast would have made the popular vote loser the President.

In 1976, had there been a shift of 3,687 popular votes in Hawaii and 5,559 in Ohio, or 2.1 percent of the votes cast in these States (0.0113 percent of the total in the Nation), Gerald Ford would have had 269 electoral votes, Jimmy Carter 268, and Ronald Reagan 1, and the election would have gone to the House of Representatives.

Fortunately, such a crisis was narrowly avoided, but 1976 was our third close call in the last 20 years. In 1960 John Kennedy was the winner with 100,000 popular votes. Yet a shift of less than two-hundredths of a percent would have given the electoral college victory to Richard Nixon. In 1968, only a seven-hundredths of a percent switch was needed to deprive the popular vote winner of an electoral college majority.

Fifth. The 1976 figures also dispute any general theory that the present electoral system favors the small States, because each State receives two electoral votes regardless of size. If one looks at States with eight or fewer electoral votes, it becomes clear that not every small State is favored by its two bonus votes. The ratio of electoral votes to the State winner's popular vote in 1976, for example, ranges from 1 to 23,851 in Alaska, to 1 to 36,843 in Hawaii, to 1 to 84,477 in Utah.

But the impact of the system's unfairness hits hardest on the middle population States, since the ratio in Minnesota was 1 electoral vote per 107,044 popular votes, in Wisconsin 1 per 94,566, and in Massachusetts 1 per 102,105.

Also, in 1976 nearly twice as many people voted in Utah as in Hawaii, yet each State cast the same number of electoral votes. Approximately a half million more people voted in Minnesota than in Georgia, yet Georgia cast almost 50 percent more electoral votes.

Finally, in the last three Presidential elections in 1968, 1972, and 1976, electors have cast their vote for a candidate other than the one selected with the most popular vote in the elector's State. In the State of Washington, during the last Presidential election, an elector cast his ballot for Ronald Reagan—with every legal right to do so when a majority of those he was elected to represent had cast their popular vote for Gerald Ford.

These findings show that our Presidential elections have almost become a game of chance. We are gambling with the integrity of our country, and the stakes are high. That we have survived Vietnam, Watergate, and other various scandals in recent years can be attributed to the strength of our institutions. That we have not elected a President in recent years who was not the majority of the people's choice can be attributed only to luck.

This country cannot afford a Presidential election fiasco. Our national pride and respect would be severely undermined if a President was elected without a popular majority. This country's highly valued ideals of fairness and equality would plummet.

Mr. President, we have a responsibility to insure that this does not happen. The effects of an election of a President who did not receive a majority vote would not only challenge America's confidence in its institutions, but would also lead other countries throughout the world to do the same.

As long ago as 1953, the late Hubert H. Humphrey well understood this important point:

> It is our duty to the world as well as to our citizens to perfect our form of democracy until it is beyond criticism of principle without execution. We must be the example to the free world—not only in our words and ideals, but in our actions and our conduct. We must mean what we say when we dedicate ourselves to a government in which its strength, integrity, and sovereignty are those of its people as expressed in free untrammeled elections.

Those who oppose the direct election amendment claim that there has been insufficient consideration of the various alternative proposals. A cursory history of this resolution shows that this would be futile; direct election is the most fully debated and most carefully studied proposed amendment in our Nation's history.

The Subcommittee on Constitutional Amendments began the first hearings on February 28, 1966. During 18 days of hearings more than 50 witnesses testified concerning all of the various plans for reform of the electoral system. The hearing record totaled nearly 1,000 pages.

Following the election of 1968, the subcommittee heard 49 witnesses and compiled a second hearing record of more than 1,000 pages. Once again, the subcommittee heard testimony on all the various plans for reform. In the 93d Congress the subcommittee conducted 2 more days of hearings on September 26 and 27, 1973.

Even with this substantial history of study and debate, 9 more days of hearings on the abolition of the electoral college were held in 1977. Senator BAYH personally conducted 5 days of hearings in January and February with more than 40 witnesses offering testimony on Senate Joint Resolutions 1, 8, and 18.

The subcommittee has had a total of 43 days of hearings, 179 witnesses, and 3,735 pages of testimony, surely enough to make a judgment on this matter. In addition to subcommittee consideration of electoral college reform, the full Judiciary Committee has debated the issue on numerous occasions over a 13-year period.

In 1970 the proposal reached the Senate after receiving an overwhelming 339–70 (or 80 percent) favorable vote in the House of Representatives. It was reported favorably by the Judiciary Committee during the last Congress, but a vote by the full Senate on the issue has never even been allowed.

Mr. President, just last August we approved a constitutional amendment to grant congressional representation for the District of Columbia. Senator THURMOND, on August 22, 1978, eloquently stated the case:

> Mr. President, I support the amendment. In the first place I think it is a fair thing to do. We are advocating one-man, one-vote. We are advocating democratic processes in this country. We are advocating democratic processes all over the world. We are holding ourselves up as the exemplary Nation that others may emulate in ideals of democracy.
>
> If we propose this amendment, and that is what we are doing, it still has to be ratified by the States. If the people in the States do not like the amendment, they will not ratify it. If they like the amendment, they will ratify it. If they do ratify it, then that is what the people want. So we leave it to the States, after we act here. The States will have the power to make the final decision.

The ideals of one-man, one-vote, of holding ourselves up as an exemplary nation, and of giving the States the final consideration of the amendment underlie the direct election amendment as well. The consistency of our basic principles of equality and democracy should be firmly and finally established for all of our elections.

Some who question the wisdom of this resolution also claim that direct election would destroy the two-party system. But this argument does not withstand close analysis. Election of legislators and executives by plurality votes from single-member districts is the chief cause of any two-party system. Almost every country in the world using this type of system has only two major parties, while countries that use multimember districts and proportional representation have a multitude of parties. And, because Senate Joint Resolution 1 contains a contingency for a runoff election between only the two strongest national tickets in the event that a candidate fails to capture a 40-percent plurality, encouragement of third-party candidates is extremely slight.

Direct election of the President would no more necessarily lead to the destruction of our two-party system or to the spawning of splinter parties than the direct election of U.S. Senators and Governors. In fact, the present electoral college system sometimes encourages regionally based third parties, because of the possibility that capturing small pluralities in a few States may give a party the balance of power in the electoral college. Gov. George Wallace's 1968 Presidential campaign is a very good example of this kind of strategy.

Elimination of the electoral college may actually serve to strengthen our two-party system in States historically subject to one-party dominance. Under the current system there are few incentives for either party in such States trying to increase their percentage of the vote, or the voter turnout, because the size of their victory or defeat is irrelevant. The proposed amendment would give all votes an equal weight—no matter where they are cast—making increased part activity likely in what are now essentially one-party States.

Senate Joint Resolution 1 eliminates the problems caused by the electoral college, and provides safeguards to prevent candidates with less than a plurality of popular votes from being elected President. Implementation of direct elections would give every Presidential ballot equal weight in deciding the outcome of our most important national election. Votes would not be divided by State. The archaic unit rule would not prevail. No longer would the "losers" votes in each State be discarded. No voters, no States, no regions would be written off. For the first time, the votes of every American citizen would count fully and equally—in the election of the President of the United States.

NATIONAL GIRL SCOUT WEEK

Mr. BAYH. Mr. President, this week we are celebrating National Girl Scout Week.

More than 3 million Girl Scouts will mark their organization's 67th anniversary during Girl Scout Week.

Mrs. Jane C. Freeman, who presented the organization's 1978 annual report to Congress today—and who is well known to all of us—is the newly elected national president of this splendid youth serving organization. We all know her for the significant contributions she has made as a citizen in many ways. We all join in heartfelt congratulations to a wonderful woman, and wish her endeavors every success.

Since it was founded, March 12, 1912, in Savannah, Ga., by Juliette Gordon Low, Girl Scouts of the U.S.A. have been dedicated to helping improve the quality of our community life by giving valuable self-development opportunities to our young people.

I am personally familiar with many of the endeavors that are going on continuously.

In my home State of Indiana, for example, Girl Scouts and their leaders are doing many things. For example:

We know that social drinking is very much a part of our society, and alcoholism has become a problem among our Nation's teenagers. Alcoholism is probably the No. 1 social problem confronting us today. The Girl Scouts of Singing Sands Council in Indiana, in cooperation with St. Joseph County Council on Alcoholism, have developed a program for teenagers to inform them on the use and abuse of alcohol. Through a brochure for parents, a guide for leaders, background information and other materials, they are helping girls and adults to become familiar with facts concerning the nature and effects of alcohol on the body and to recognize the warning signs of alcoholism. They are involving girls in appropriate projects related to the use and misuse of alcohol in our society.

Another Girl Scout council—Tulip Trace in Bloomington, Ind.—has emphasized physical fitness by holding a "mini-Olympics" event. Here, 800 participants—Girl Scouts and their families—enjoy a day of competitive events, such as basketball, volleyball, swimming, gymnastics, and track and field, with ribbons awarded to those who "placed." Recreation also included crafts and other noncompetitive activities. The day opened and closed with ceremonies patterned after the world Olympics.

Another event, in another council—Wapehani in Daleville, Ind.—was the annual "snow-blast"—planned for family fun. More than 800 persons enjoyed old-fashioned sledding, ice skating, snow sculpture, scavenger hunts, bonfires, and topped it all off with hot chocolate. Held at four campsites on January 14, this was an outstanding experience for members of Girl Scout families. We need more such families, in my judgment.

Children of migrant workers in Scott County had the experience of attending day camp activities sponsored by Tulip Trace Girl Scout Council. Formal education programs, provided by State-licensed teachers, were conducted during the morning. Lunch was served, and afternoons were spent in informal recreation.

This type of program affords an opportunity for these girls, who are virtually homeless and rootless, to find a place in the community where they can "belong." Girl Scouting in fact, across the board, helps those young people and others find friends and become a part of the community wherever they go.

I think it is incumbent upon all of us in the Senate to say "thank you" to the Girl Scouts. Indeed, I think the Nation owes the Girl Scouts a deep debt of gratitude. The Girl Scouts themselves perform a tremendous function. They depend upon enthusiastic, self-sacrificing leadership and adult counsel. Without this fine adult leadership, Scouting would not be what it is today. So to the Girl Scouts and to the Girl Scouts who are just a little bit older but provide the leadership, we say:

> Thank you. Thank you not only for providing this opportunity for the young girls and youth of today to have a meaningful experience, but thank you also for the long-range contribution you make by developing character which turns the young Girl Scouts of today into the leadership we so desperately need tomorrow; leadership in all walks of life, not the least of which will provide leadership for the next generation of Girl Scouts, which will make America an even better place to live.

Mr. CHURCH. Mr. President, I want to join with the distinguished Senator from Indiana in extending congratulations and good wishes to the leaders of the Girl Scouts who are present in the Chamber this afternoon. We are all aware of the wonderful work that they do and the contribution they make to the well-being of some hundreds of thousands of young girls here in this country—young women who will be better citizens for the experience that they have had in the Girl Scout movement.

PRINTING "ENACTMENT OF A LAW" AS A SENATE DOCUMENT

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a Senate resolution, which is being sponsored on behalf of myself and Messrs. PELL, BAKER, and HATFIELD, and I ask that it be stated by the clerk.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

> Resolution (S. Res. 100) to print "Enactment of a Law" as a Senate document.
>
> *Resolved*, That Senate Document Numbered 152, Ninety-fourth Congress, second session, entitled "Enactment of a Law" relative to the procedural steps in the legislative process, be revised by the Parliamentarian of the Senate, under the direction of the Secretary of the Senate, and be reprinted as a Senate document.
>
> SEC. 2. There shall be printed eleven thousand additional copies for the use of the Committee on Rules and Administration.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of that resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the resolution (S. Res. 100) was considered and agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT OF PARAGRAPH 3(b) OF RULE XXV OF THE STANDING RULES OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a Senate resolution and ask it be stated by the clerk. I also ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

S. Res. 101

Resolved, That paragraph 3(b) of Rule XXV of the Standing Rules of the Senate is amended by striking out of the item relating to Aging, the number "10" and inserting in lieu thereof "12".

The PRESIDING OFFICER. Without objection, the Senate will move to its immediate consideration.

Mr. STEVENS. There is no objection.

There being no objection, the resolution (S. Res. 101) was considered and agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MAJORITY PARTY APPOINTMENTS TO SPECIAL COMMITTEE ON AGING, 96TH CONGRESS

Mr. ROBERT C. BYRD. Now, Mr. President, I send to the desk another Senate resolution and ask it be stated by the clerk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

S. Res. 102

Resolved, That Senator Burdick of North Dakota be, and he is hereby, assigned to service on the Special Committee on Aging to fill a Democratic vacancy on that committee.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the resolution.

The PRESIDING OFFICER. Without objection, the Senate will move to its immediate consideration.

There being no objection, the resolution (S. Res. 102) was considered and agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MINORITY MEMBER APPOINTMENTS TO THE SPECIAL COMMITTEE ON AGING

Mr. STEVENS. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

S. Res. 103

Resolved, That the following minority Members are appointed to the Special Committee on Aging for the 96th Congress: Domenici, Percy, Heinz, Kassebaum, and Cohen.

The PRESIDING OFFICER. Without objection, the Senate will move to its immediate consideration.

There being no objection, the resolution (S. Res. 103) was considered and agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ALASKA LANDS LEGISLATION

Mr. STEVENS. Mr. President, as you know, one of the most important issues facing the State of Alaska during this session of Congress is the final disposition of Alaska's d–2 lands. The decisions made in the next year or so will have a tremendous impact, not only on Alaskans, but on all Americans.

A recent article concerning this issue appeared in the Willamette Collegian. The author of "Alaska 'd–2' Significant Legislation" is Mr. Larry Houle. As a former intern in my office, Larry gained an excellent grasp of the subject and I recommend his story most highly.

Mr. President, I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

ALASKA "d–2" SIGNIFICANT LEGISLATION

(By Larry J. Houle)

Of the literally thousands of bills introduced in our national Congress each session, very few are of any real substance.

With regard to "legislation of substance," this student of political science proposes that ten or twenty years from now we will, in retrospect, label the Alaska Lands Act the most significant legislation of the 96th Congress.

As a result of the 95th Congress' inaction on a compromise d–2 bill (the Alaska Lands bill or "d–2" comes from Section 17(d)(2) of the 1971 Alaska Native Claims Settlement Act). Secretary of the Interior Cecil Andrus, citing emergency conditions, used the Federal Land Policy Management Act of 1976 to close development of 121 million acres in Alaska for three years. This is the first emergency withdrawal under the act; if this is an indication of things to come, just how long will it take to lock up the entire west? Why were emergency conditions cited? Surely the most distinguished Interior Secretary knows that these lands were already protected under Section 17(d)(1) of the Alaska Native Claims Settlement Act.

About the same time, President Carter also invoked the Historic Sites and Antiquities Act to set aside 56 million acres for national monuments. It is worth mentioning here that since the Act was passed in 1906 only about 9.5 million acres have been set aside for this purpose.

Many people cannot visualize 56 million acres. It is roughly the size of Oregon. The 121 million acre withdrawal is approximately 20 million acres larger than the state of California.

How can legislation pertaining to the ice and tundra of Alaska possibly be labeled the most significant legislation of the 96th Congress? Alaska Land legislation, if passed, will set the precedent. This bill alone will be the norm for western land and natural resource policy for generations to come.

A recent Wall Street Journal editorial very clearly recognized the thrust of today's lock-up land policies. "The lock-up of public and private lands in the western states is a result of intense lobbying pressure, and we doubt that the public understands the consequences. The Independent Petroleum Association says that as a result of law or administrative procedures, about 500 million acres, roughly one-fourth of the U.S., are off limits to oil and gas development. At a time when we are growing increasingly dependent on unstable foreign sources of energy, the most rapidly growing aspect of the American economy is the land and resources that are being removed from development."

Lock-up land policies do much more than prevent oil and gas development, as stated in the Wall Street Journal article. In many cases they also prohibit effective and essential development activities such as resource inventories, fisheries rehabilitation, agricultural enhancement, public access, and public recreational facilities, to name a few.

To take public land away from a nation's resource base is a role proper for Congress. I am uncomfortable with the thought that one man—even the President—can make such a unilateral decision, when it is best left to the people's elected representatives.

BANK CHARTERING

Mr. PROXMIRE. Mr. President, I want to commend John Heimann, the Comptroller of the Currency, for his efforts to bring a greater measure of free enterprise to the banking system. This is a move that I have long recommended.

Today, Mr. Heimann told the Independent Bankers Association of America that he favors greater freedom of entry into banking. This is one industry where in order to get in you have to be able to prove that the community needs your presence. If you want to start a garage, a haberdashery, a steel mill, you just go out and do it if you have the ability, and so forth, to do it, and that is it. But this has not been true of banking. Banking has a very strong restriction on entry and, to some extent, I think it is unwarranted, and I think Mr. Heimann has stated it exactly the right way. He said that he has directed his staff to consider ways of easing the barriers to entry. Hopefully, that means that the Comptroller's Office is prepared to jettison the vague and inconsistent "convenience and needs test" that it currently applies in deciding charter applications. That test challenges the business judgment of those honest individuals who wish to establish a new bank and insulates existing banks from competition.

Mr. Heimann's announcement comes as the staff of the Committee on Banking, Housing, and Urban Affairs is completing a thorough review of the chartering policies and practices of the Comptroller's Office. The staff, which undertook the study at my direction last year, will soon issue a report. The committee will hold hearings this spring on a new policy to reduce the obstacles to granting new national bank charters.

Under that policy, charter applications will be considered on objective criteria such as adequacy of capital and management. Congressional action is required to formalize a freer chartering policy. For under current law, any change in policy by the Comptroller can be reversed by the next Comptroller.

A new approach to bank chartering is long overdue. Chartering policy for the past 50 years has restricted entry into banking and protected established banks. It has been, in a word, anticompetitive. The bank chartering process has been a classic case of Government overregulation where investors willing to risk their money on a new banking venture have frequently been prevented from taking that risk.

The word "risk" should no longer send shudders through the banking world. Today, Federal deposit insurance protects the depositor if a bank should fail and guarantees the integrity of the banking system. The bank regulatory agencies should make it their established policy to encourage greater competition in banking and place the burden of risk where it rightly belongs—on the investor. This will bring new growth and vitality to the banking industry and the communities banks serve.

CHAD: A NEW NEED FOR THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, last Wednesday, a New York Times article reported that more than 800 Moslems were killed by rioting groups of black youths in southern Chad. The violence against the Moslem minority had been going on for 3 days with neither government nor foreign intervention. In the city where the main rioting was, and possibly still is, taking place, scarcely 2 percent of the inhabitants are Moslem Arabs, the rest being Christians or animists.

Mr. President, these killings are a serious violation of human rights and may well constitute genocide. The numbers are hardly insignificant. Yet the State Department voice for our Government said only that we are "greatly saddened at the loss of life in Chad." Greatly saddened. Where are our convictions? Is it not the duty of our country to speak out with strength when hundreds of innocent people are murdered?

It is no wonder that our country does not always speak with authority in the realm of human rights. We are yet to ratify an international treaty which would protect the most basic human right of every human being—whether it is in the United States or in Chad: The Genocide Convention.

I ask unanimous consent that the text of the New York Times article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MORE THAN 800 REPORTED KILLED IN NEW STRIFE IN CHAD

PARIS, March 6—More than 800 Moslems were killed in the sub-Saharan country of Chad over the weekend by groups of black youths, Government officials reported today in Ndjamena, the capital.

The killings were said to have taken place in the southern city of Moundou, some 300 miles from the capital of the African nation. Of the 45,000 people living there, 1,000 were Arabic-speaking Moslems, and almost all the city's traders, storekeepers and moneylenders belonged to the Moslem minority, most of whom are Arabs. Most of the Moundou's inhabitants are Christian or animist blacks.

French authorities in Moundou said that the violence, lasting for three days, had been exclusively directed against the Moslem minority. No Europeans were molested, according to these accounts, but some 250 French and other European residents, virtually the entire non-African population of the town, were evacuated to Ndjamena today.

Chad's 4.5 million people are divided almost equally between the Moslem north and the Christian or animist South. The landlocked former French colony has long been plagued by the ancient antagonism between the two communities, and has never been fully at peace since French rule ended in 1960. The violence has paralyzed all normal activity, with communications between Ndjamena and outlying areas being poor except in the few northern areas where French soldiers are stationed.

Diplomatic sources and refugees from Moundou said in Ndjamena that the violence in the southern city had been caused by the deaths in recent weeks of about 100 black southerners and by a rumor that the Moslems were plotting to turn Chad into a militant Islamic republic.

The sources said that the groups of black youths surged through Moundou and neighboring settlements, killing any Moslems they could find, looting the victims' property and destroying their mud-brick homes.

The Government made no official announcement or comment on the Moundou massacre. For weeks it has been paralyzed by fighting between Chad's Christian President, Felix Malloum, and the Moslem Prime Minister, Hassen Habré. In the capital, more than 2,000 French soldiers are maintaining an uneasy cease-fire between the hostile forces there.

Mr. Malloum, Mr. Habré and leaders of various rebel factions are to meet in Kano, in neighboring Nigeria, tomorrow in an attempt to settle their disputes that is being arranged by the Nigerian Government. Nigerian troops were expected to arrive in Ndjamena later in the week to help police the cease-fire.

The sources in Ndjamena reported that troops and policemen loyal to President Malloum had stood by without intervening to halt the violence. Refugees said that the troops, nearly all southerners, sympathized with the rioters but did not participate in the killing.

Chadian officials said the army could not stop the killings because it was hopelessly outnumbered by the rioters. Most of Mr. Malloum's army is deployed in and around Ndjamena, facing Mr. Habré's Moslem forces.

Meanwhile, in the northern part of the country, French troops and forces loyal to President Malloum today repulsed a strong attack by a Libyan-backed rebel group of Islamic tribesmen, French sources said.

Mr. PROXMIRE. Mr. President, I yield the floor.

FIRST AMENDMENT RIGHTS FOR ELECTRONIC MEDIA

Mr. PRESSLER. Mr. President, as a member of the U.S. Senate Committee on Communications, I rise to say I am becoming a cosponsor of Senator PROXMIRE's bill (S. 22) to deregulate the equal time rule and fairness doctrine and other regulations on our radio and television stations.

I do this with the hope that such legislation will move forward, be open to amendment, and pass this Congress. I have been very concerned about media monopolies in the United States. I will offer that amendment to limit this deregulation to markets where there is competition. In South Dakota we have a particularly competitive radio market. Regulations are chilling and stiffling our small radio stations. In fact excessive regulations probably cause monopolies by driving out small independent stations.

I think if we had sufficient competition we would not need the level of Government regulation we have, Government regulation forces out many small entrepreneurs who might express competing viewpoints.

Let me say if we do have an informational conglomerate or media monopoly that monopolizes an area, it would be very difficult to totally deregulate. But, indeed, as I study and look into many of our small radio stations in South Dakota they are being forced out of business by the cost of Government regulation. We are all for fairness and equal time but, in fact, these doctrines have chilled the first amendment expression in many cases where a small station just cannot afford a lawyer on the staff.

I have great confidence in our press and great confidence in the ability of our media to report. I am increasingly concerned at the level of Government regulation, and I think this would be a step forward.

I am happy to cosponsor that bill and I look forward to having hearings on it. As a member of the Communications Committee of the Senate, let me say I shall be advocating this approach, greater competition, more players in the act, diversity of reporters, and less regulation. I have a great regard for the first amendment, having cosponsored the Drinan bill in the House. And I believe that if we have competition, we should eliminate as much Government redtape as possible.

Mr. PROXMIRE. Mr. President, will the Senator from South Dakota yield?

Mr. PRESSLER. Yes, I yield the floor.

Mr. PROXMIRE. I am delighted to have the Senator's support for the bill, S. 22. I introduced a similar bill last year.

What this bill really does is provide that the electronic media—radio and television—have the same first amendments rights we now give to the printed media.

Think of it: Here we have a most sacred provision of the Constitution, freedom of the press, and freedom of the press does not work three quarters of the time in this country. Polls indicate that most of the people get their reports of the news from radio and television, and radio and television are subject to control by the Government that cannot, under any reasonable interpretation, be justified.

There was once some justification for such controls, perhaps, due to a limitation of the number of frequencies available for radio and television, but that is rapidly disappearing. We now have a situation in which there are more television and radio stations than newspapers in virtually every city of the country. Think of that. Yet the newspapers are uncontrolled, and television stations are controlled. Moreover, Mr. President, we now have cable television, FM radio, and many frequencies available that people are not asking for, because there are so many available.

Mr. President, in New York City there are something like 50 radio stations, 10 television stations, and only three or four newspapers, and yet the newspapers are safeguarded by the first amendment from the heavy hand of the Government coming in and interfering with them.

Mr. President, this is not just an academic theory. It is a fact that the Nixon administration and the Johnson administration repeatedly—and I can document it; I have done so in the past and can do it again—interfered with radio and television stations, and threatened to withdraw licensing; and we know that the freedom of television to engage in the kind of investigation that has been featured in the newspapers in recent years is greatly inhibited by the fact that they have to be concerned about equal time and the fairness doctrine, which makes it extremely expensive for them to do it.

So I welcome the support of the Senator from South Dakota, and I am especially delighted because he is not only an able Senator, but a member of the Communications Subcommittee of the Committee on Commerce, Science, and Transportation, ably manned by the Senator from South Carolina (Mr. HOLLINGS). In the past he has not been sympathetic to our proposal, and it is great to have a member of the committee supporting it. So I say to Senator PRESSLER, we are delighted with his support and very grateful for his fine statement.

Mr. President, I yield the floor.

COMMUNICATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication, transmitted by the Assistant Secretary for Resource Applications, Department of Energy, relative to the Nuclear Non-Proliferation Act of 1978, be jointly referred to the Committee on Foreign Relations, the Committee on Governmental Affairs, and the Committee on Energy and Natural Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

EC-807. A communication from the Assistant Secretary, Resource Applications, Department of Energy, reporting, pursuant to law, a delay in submittal of the report by the President to the Congress in response to requirements of the Nuclear Non-Proliferation Act of 1978 (NNPA); to the Committee on Foreign Relations, the Committee on Governmental Affairs, and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-808. A communication from the Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend section 4349(a) of title 10, United States Code, to provide that the companies of the Corps of Cadets at the United States Military Academy may be commanded by commissioned officers of the Army, Navy, Air Force, or Marine Corps; to the Committee on Armed Services.

EC-809. A communication from the Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend section 4346(d) of title 10, United States Code, to permit the Secretary of the Army to prescribe the oath to be taken by appointees to the United States Military Academy; to the Committee on Armed Services.

EC-810. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Improved Executive Branch Oversight Needed for the Government's National Security Information Classification Program," March 9, 1979; to the Committee on Armed Services.

EC-811. A communication from the President and Chairman, Export-Import Bank of the United States, reporting, pursuant to law, on loan, guarantee and insurance transactions supported by Eximbank during January 1979 to Communist countries (as defined in Section 620(f) of the Foreign Assistance Act of 1961, as amended); to the Committee on Banking, Housing, and Urban Affairs.

EC-812. A communication from the Vice President, Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report for the month of November 1978 on (1) the average number of passengers per day on board each train operated, and (2) the on-time performance at the final destination of each train operated, by route and by railroad; to the Committee on Commerce, Science, and Transportation.

EC-813. A communication from the Secretary, Interstate Commerce Commission, reporting, pursuant to law, that the Commission is unable to render a final decision in Docket No. 36746 (Sub-No. 75), Freight, All Kinds, Savannah, Georgia to Shenandoah, Georgia, within the initially-specified 7-month period; to the Committee on Commerce, Science, and Transportation.

EC-814. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report entitled "Summary of Rental Refunds and Credits, Baltimore Canyon, Mid-Atlantic Oil and Gas Leases"; to the Committee on Energy and Natural Resources.

EC-815. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on lands determined not suitable for disposal under the Federal Land Policy and Management Act; to the Committee on Energy and Natural Resources.

EC-816. A communication from the Director, Office of Congressional Affairs, United States Nuclear Regulatory Commission, transmitting, pursuant to law, its fourth annual report, covering its activities from October 1, 1977 through September 30, 1978; to the Committee on Environment and Public Works.

EC-817. A communication from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Social Security Act to target expenditures for disability insurance benefits in a manner more specifically directed to achieve the purposes of the program and to remove certain disincentives for disabled beneficiaries to engage in gainful activity, to make certain administrative improvements, and for other purposes; to the Committee on Finance.

EC-818. A communication from the Chairman, National Advisory Council on International Monetary and Financial Policies, transmitting, pursuant to law, a report on the proposed increase in the resources of the Inter-American Development Bank (IDB); to the Committee on Foreign Relations.

EC-819. A communication from the Chairman, Federal Energy Regulation Commission, transmitting, pursuant to law, a report of proposed new system of records; to the Committee on Governmental Affairs.

EC-820. A communication from the Director, Office of Administration, United States Nuclear Regulatory Commission, transmitting, pursuant to law, a report on a proposed new system of records; to the Committee on Governmental Affairs.

EC-821. A communication from the Chairman, Federal Deposit Insurance Corporation, reporting, pursuant to law, on the administration of the Government in the Sunshine Act; to the Committee on Governmental Affairs.

EC-822. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Federal Cost Principles Are Often Not Applied in Grants and Contracts With State and Local Governments," March 12, 1979; to the Committee on Governmental Affairs.

EC-823. A communication from the Vice President, Chesapeake and Potomac Telephone Company, transmitting, pursuant to law, a report of receipts and expenditures for the year 1978; to the Committee on Governmental Affairs.

EC-824. A communication from the Executive Director, Committee for Purchase From the Blind and Other Severely Handicapped, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-825. A communication from the Acting Executive Director, National Capital Planning Commission, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-826. A communication from the Chairman, Federal Maritime Commission, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-827. A communication from the Supervisory Copyright Information Specialist, Copyright Office, Library of Congress, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-828. A communication from the Executive Director and Deputy Executive Director, Federal Labor Relations Authority, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-829. A communication from the Chairman, National Endowment for the Arts, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-830. A communication from the Chairman, Federal Deposit Insurance Corporation, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-831. A communication from the Director, Community Relations Service, Department of Justice, transmitting, pursuant to law, a report of its activities for fiscal year 1978; to the Committee on the Judiciary.

EC-832. A communication from the Freedom of Information Officer, Pennsylvania Avenue Development Corporation, reporting, pursuant to law, relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-833. A communication from the Administrator, Veterans Administration, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-834. A communication from the Chairman, National Commission for Manpower Policy, transmitting, pursuant to law, a report entitled "An Enlarged Role for the Private Sector in Federal Employment and Training Programs," Report No. 8; to the Committee on Labor and Human Resources.

EC-835. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report of the National Heart, Lung, and Blood Advisory Council; to the Committee on Labor and Human Resources.

EC-836. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on programs of assistance authorized by the Health Maintenance Organization Act; to the Committee on Labor and Human Resources.

EC-837. A communication from the Administrator, Veterans Administration, transmitting a draft of proposed legislation to amend title 38, United States Code, to provide readjustment professional counseling to Vietnam-era veterans and their families and for other purposes; to the Committee on Veterans' Affairs.

EC-838. A communication from the Administrator, Veterans Administration, transmitting a draft of proposed legislation to amend title 38, United States Code, to authorize a pilot program for the treatment and rehabilitation of veterans with alcohol or drug-dependent disabilities, and for other purposes; to the Committee on Veterans' Affairs.

EC-839. A communication from the Administrator, Veterans Administration, transmitting a draft of proposed legislation to amend title 38, United States Code, to revise and clarify eligibility for certain health care benefits; to revise and clarify the Department of Medicine and Surgery personnel system; to revise medical resources utilization, and for other purposes; to the Committee on Veterans' Affairs.

EC-840. A communication from the Comptroller General of the United States, reporting, pursuant to law, on the President's fifth special message for fiscal year 1979 transmitted to the Congress pursuant to the Impoundment Control Act of 1974; to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Finance, the Committee on Foreign Relations, the Committee on the Judiciary, the Committee on Labor and Human Resources, the Committee on Banking, Housing, and Urban Affairs, and the Select Committee on Small Business, jointly, pursuant to order of January 30, 1975.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-86. A joint resolution adopted by the Legislature of the State of Virginia; to the Committee on Armed Services:

"SENATE JOINT RESOLUTION No. 136

"Whereas, the Joint Legislative Audit and Review Commission and a legislative study committee found in their review of the State Military Reservation at Camp Pendleton and of adjacent communities that beachfront facilities are a major recreational need in the Commonwealth, especially in the vicinity of Virginia Beach; and

"Whereas, in the City of Virginia Beach, the federal government owns fourteen miles of beachfront property, most of which is closed to public use; and

"Whereas, Fort Story Military Reservation, a U.S. Army base located on Cape Henry in Virginia Beach, contains 1,451 acres; and

"Whereas, 727 acres of the Fort Story property, including 3,440 feet of beachfront on the Chesapeake Bay, was formerly part of Seashore State Park and was condemned in 1943 for an expansion of Fort Story; and

"Whereas, the United States paid the Commonwealth $131,350 which was significantly less than the appraised value of the property; and

"Whereas, the Virginia General Assembly objected to the condemnation action and in 1944 stipulated that the proceeds of the condemnation be used to repurchase the acreage of Seashore State Park taken by the United States; and

"Whereas, the Department of Defense has indicated that it will not transfer to the Commonwealth any portion of Fort Story for public purposes despite infrequent use of the beachfront for military purposes; now, therefore, be it

"Resolved by the Senate of Virginia, the House of Delegates concurring, That the General Assembly does hereby memorialize the Virginia delegation to the Congress of the United States to initiate legislative action to return that portion of Seashore State Park, including 3,440 feet of Chesapeake Bay beach, which was condemned and taken by the government of the United States in 1943; and, be it

"Resolved further, That the Governor is requested to work to secure the return of the portion of Seashore Park which was condemned and taken by the United States in 1943; and, be it

"Resolved finally, That the Clerk of the Senate is directed to prepare and send a copy of this resolution to the Governor and to each member of the Virginia delegation to the Congress of the United States in order that they may be apprised of the sense of this body."

POM-87. A resolution adopted by the Legislature of the State of Hawaii; to the Committee on Energy and Natural Resources:

"HOUSE RESOLUTION No. 220

"Whereas, the State of Hawaii currently depends on imported foreign petroleum to supply over 92 per cent of the State's energy requirements and is therefore particularly vulnerable to dislocations in the world oil supplies; and

"Whereas, in view of this dependence Hawaii has instituted a comprehensive program to develop the State's abundant renewable alternate energy resources; and

"Whereas, in addition to geothermal energy, Hawaii's wind energy potential appears to be one of the most promising renewable alternative energy resources; and

"Whereas, various studies and assessments have shown that Northeast tradewinds blow almost continuously across the Hawaiian Islands, that approximately 10 per cent of Hawaii's 6,000 square miles of land areas is considered prime for wind power conversion, and Hawaii's wind currents represent the most consistent and reliable wind pattern in the United States; and

"Whereas, during a recent wind energy symposium at the University of Hawaii, the renowned scientist, Dr. Edward Teller, noted that if wind energy is successful anywhere in the United States, it will be proven successful in Hawaii; and

"Whereas, Kahuku, on the island of Oahu, has recently been selected as the location for the best long term potential for a "wind machine farm" which could generate an estimated 20 to 25 per cent of the electrical power needed for Oahu; and

"Whereas, however, research, in particular laser beam research, for sophisticated wind analyses, is needed to exactly pinpoint locations for the wind machines; and

"Whereas, it has been recently reported that the federal government has reduced the funding for wind laser technology research; and

"Whereas, wind laser technology research is not only desirable for Hawaii's wind energy development program, but would also contribute to national and world efforts to develop renewable alternate energy resources; now, therefore,

"Be it resolved by the House of Representatives of the Tenth Legislature of the State of Hawaii, Regular Session of 1979, that the United States Congress and the President of the United States are respectfully requested to restore funding of the wind laser technology research program to its previously designated level; and

"Be it further resolved that certified copies of this Resolution be transmitted to the President of the United States, President of the United States Senate, Speaker of the United States House of Representatives, Secretary of Energy, and to each member of Hawaii's delegation to the United States Congress."

POM-88. A resolution adopted by the Legislature of the State of Texas; to the Committee on the Judiciary:

"HOUSE RESOLUTION No. 40

"Whereas, In the McCarran-Ferguson Act acted in 1945 (15 U.S.C. Sections 1011-1015), Congress determined 'that the continued regulation and taxation by the several States of the business of insurance is in the public interest'; and

"Whereas, Federal government officials have publicly, although unofficially, recommended amending the McCarran-Ferguson Act to limit State regulation of the insurance industry; and

"Whereas, It is becoming increasngly clear that the establishment of federal regulation is not a panacea but increases the cost of government, adds confusion and delay, and often increases the cost of products and services without providing any offsetting benefits to the consumer; and

"Whereas, It is often necessary, subject to State regulations, to combine the resources of several insurance companies in order to provide effective insurance coverage in an efficient manner at a reasonable cost and to promote innovation whereby new products and services are made available; and

"Whereas, There has been no evidence that individual States cannot continue to effectively regulate the insurance industry or that federal regulation of the industry and application of Federal anti-trust laws will have a favorable effect upon the insurance industry or benefit the public; now, therefore, be it

"Resolved, That the House of Representatives of the 66th Legislature of the State of Texas hereby memorialize the Congress of the United States to reject any legislation amending the McCarran-Ferguson Act (15 U.S.C. Sections 1011-1015) which would limit State regulation or increase Federal regulation of the business of insurance; and, be it further

"Resolved, That official copies of this resolution be prepared and forwarded to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the United States Congress, and to all members of the Texas delegation to the Congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America."

POM-89. A resolution adopted by the legislature of the State of Hawaii; to the Committee on Armed Services:

"HOUSE RESOLUTION NO. 433

"Whereas, proposals to institute a system of national service or to resume compulsory military registration and conscription for both sexes have been discussed and introduced in the Congress of the United States; and

"Whereas, present military requirements are being met by an all-volunteer system initiated in January, 1973, when induction of draftees ceased; and

"Whereas, President Ford by proclamation suspended military registration on March 29, 1975; and

"Whereas, President Carter has proposed a substantial increase in funds for the Selective Service System in the fiscal 1980 budget which he has recently sent Congress; and

"Whereas, Acting Director Robert Shuck of the Selective Service System recently recommended that registration of 18 year olds be resumed to meet new mobilization requirements; and

"Whereas, Acting Director Shuck has contacted the Internal Revenue Service and the Social Security Administration to explore the possibility of using their data for military conscription purposes; and

"Whereas, the use of federal data for compiling a data bank or list of names for conscription purposes would, according to American Civil Liberties spokesman John Shattuck, violate the federal Privacy Act of 1974; and

"Whereas, President Carter presently retains the power to proclaim the rules and regulations for registering for the draft; and

"Whereas, proposals to institute a program of national service or to resume compulsory military registration are premature in peacetime and may be interpreted by the international community as indicative of an aggressive political or military stance on the part of the United States; and

"Whereas, alternatives to compulsory military registration or compulsory national service have not been thoroughly explored or tested, and the all-volunteer draft has not been found to be completely deficient in meeting present military needs; now, therefore,

"Be it resolved by the House of Representatives of the Tenth Legislature of the State of Hawaii, Regular Session of 1979, that the United States Congress and the President of the United States are respectfully requested to cease and desist any present attempts to institute a compulsory national service plan or to re-institute compulsory military registration and conscription; and

"Be it further resolved that certified copies of this Resolution be transmitted to the President of the United States, President of the U.S. Senate, Speaker of the U.S. House of Representatives, Acting Director of the Selective Service System, and to each member of Hawaii's delegation to the United States Congress."

POM-90. A resolution adopted by the Legislature of the State of North Carolina; to the Committee on Finance:

"SENATE JOINT RESOLUTION 146

"Whereas, Congress created the Medicare program as a federal system of providing for the health care of our older citizens; and

"Whereas, Congress later created the Medicaid program as a joint federal and state system of providing for the health care of our citizens in need; and

"Whereas, having two separate systems leads to duplication, confusion, and administrative inefficiency; and

"Whereas, the General Assembly would like a health care program where the maximum amount is spent on services;

"Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

"Section 1. The Congress is urged to merge the payment system of the Medicare Program (Title XVII of the Social Security Act) with the payment system of the Medicaid Program (Title XIX of the Social Security Act), so as to better facilitate coordination, cooperation, and better administrative and legislative control.

"Sec. 2. The Congress is urged to provide a mechanism for the merger of the payment system in the individual states in advance of the implementation of Section 1 nationwide, when requested by the individual state legislatures. This resolution shall constitute such a request.

"Sec. 3. Copies of this resolution shall be sent to each member of the North Carolina Congressional Delegation, to the Clerk of the United States House of Representatives, to the Secretary of the United States Senate, and to the Secretary of the Department of Health, Education, and Welfare.

"Sec. 4. This resolution is effective upon ratification."

POM-91. A joint resolution adopted by the Legislature of the State of Alabama; to the Committee on the Judiciary:

"HOUSE JOINT RESOLUTION 227

"Whereas, with each passing year this Nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues, so that the public debt now exceeds hundreds of billions of dollars; and

"Whereas, the annual federal budget continually demonstrates an unwillingness or inability of both the legislative and executive branches of the federal government to curtail spending to conform to available revenues; and

"Whereas, unified budgets do not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit; and

"Whereas, knowledgeable planning, fiscal prudence, and plain good sense require that the budget reflect all federal spending and be in balance; and

"Whereas, believing that fiscal irresponsibility at the federal level, with the inflation which results from this policy, is the greatest threat which faces our Nation, we firmly believe that constitutional restraint is vital to bring the fiscal discipline needed to restore financial responsibility; and

"Whereas, there is provision in Article V of the Constitution of the United States for amending the Constitution by the Congress, on the application of the legislatures of two-thirds ($\frac{2}{3}$) of the several states, calling a convention for proposing amendments which shall be valid to all intents and purposes when ratified by the legislatures of three-fourths ($\frac{3}{4}$) of the several states, or by conventions in three-fourth ($\frac{3}{4}$) thereof, as the one or the other mode of ratification may be proposed by the Congress; now therefore,

"Be it resolved by the Legislature of Alabama, both houses thereof concurring, That the Legislature of Alabama hereby petitions the Congress of the United States that procedures be instituted in the Congress to add a new Article to the Constitution of the United States, and that the Alabama Legislature requests the Congress to prepare and submit to the several states an amendment to the Constitution of the United States, requiring in the absence of a national emergency that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year.

"Be it further resolved, That, alternatively the Alabama Legislature makes application and requests that the Congress of the United States call a constitutional convention, pursuant to Article V of the Constitution of the United States, for the specific and exclusive purpose of proposing an amendment to the Federal Constitution requiring in the absence of a national emergency that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year.

"Further resolved, That the legislatures of of each of the several states comprising the United States are urged to apply to the Congress requesting the enactment of an appropriate amendment to the Federal Constitution; or requiring the Congress to call a constitutional convention for proposing such amendment to the Federal Constitution.

"Further resolved, That the Clerk of the House is directed to send copies of this Joint Resolution, to the Secretary of State and presiding officers of both Houses of the Legislatures of each of the other States in the Union, the Clerk of the United States House of Representatives, Washington, D.C., and the Secretary of the United States Senate, Washington, D.C., and to each member of the Alabama Congressional Delegation."

POM-92. A joint resolution adopted by the Legislature of the State of Virginia; to the Committee on the Judiciary:

"SENATE JOINT RESOLUTION NO. 151

"Whereas, the Commonwealth of Virginia has always held in belief and practiced responsible fiscal management of public funds as a foremost principle of good government; and

"Whereas, the government of the United States has consistently appropriated an increasing share of the national income and overexpended its revenues; and

"Whereas, the annual federal deficit has grown from less than five billion in nineteen hundred fifty to over sixty billion in recent years; and

"Whereas, continuing deliberate inflation constitutes a covert form of taxation which may be nearly confiscatory over prolonged periods and this taxation strikes unevenly and places an onerous burden on groups who are least able to afford it, such as those living on savings and fixed incomes; and

"Whereas, the record of the past twenty years shows that despite public promises, it seems practically impossible for the federal executive or legislative branches to produce voluntarily a balanced budget; and

Whereas, excessive government involvement in regulating the various aspects of our lives hampers our ability to develop into self-reliant, productive citizens; and

"Whereas, the share of national income appropriated by governments has more than doubled in the last forty years; now, therefore, be it

"Resolved by the Senate, the House concurring, That the General Assembly does hereby memorialize the Congress of the United States to take steps immediately to amend the Constitution to provide that total federal government revenues as a percent of national income be reduced and that in no year shall total federal government expenditures exceed revenues."

POM-93. A joint resolution adopted by the Legislature of the State of South Dakota; to the Committee on the Judiciary:

"A JOINT RESOLUTION

"Whereas, the Ninety-second Congress of the United States of America, at its second session, in both houses, by a constitutional majority of two-thirds thereof, adopted the following proposition to amend the Constitution of the United States of America, in the following words, to-wit:

"JOINT RESOLUTION

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), that the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

ARTICLE—

" 'Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

" 'Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

" 'Section 3. This amendment shall take effect two years after the date of ratification.'; and

"Whereas, the Forty-eighth Legislature of the state of South Dakota ratified the proposed amendment relating to equal rights for men and women as submitted by the Ninety-second Congress and under the terms and conditions developed by the Ninety-second Congress as shown on pages 212 and 213 of the Senate Journal for 1973 of the state of South Dakota and pages 1047 and 1048 of the House Journal for 1973 of the state of South Dakota; and

"Whereas, the Ninety-fifth Congress ex post facto has sought unilaterally to alter the terms and conditions in such a way as to materially affect the congressionally established time period for ratification which extended from March 22, 1972 to March 22, 1979; and

"Whereas, the purpose for establishing a clear time period for consideration of ratification by the states is to permit consideration of the substantive amendment by a reasonably contemporaneous group of legislatures in the several states in the absence of a clear determination of the ability of a state legislature to rescind a ratification of a proposed amendment which has not been ratified by the constitutionally required three-fourths of the several states; and

"Whereas, if the Congress of the United States ex post facto can unilaterally alter the terms and conditions under which a proposed amendment to the Constitution of the United States is submitted to the several states for ratification, in the absence of a clear determination of the ability of a state legislature to rescind a previous ratification, the effect will be to inhibit state legislatures from acting promptly on any proposed amendment for fear of transferring the power to amend the Constitution of the United States to a small minority of the several states, and, perhaps, even a small minority of several generations, and

"Whereas, the opinion that the Congress of the United States ex post facto has the power to unilaterally alter the terms and conditions under which it submits proposed amendments to the Constitution of the United States would necessarily inhibit debate on the merits of the proposed amendments and force each legislature to consider the probability and timing of the possible ratification of other state legislatures because of the uncertainty caused by the perpetual possibility of a sudden change in the Constitution of the United States due to a shift of opinion in a small number of states:

"Now, therefore, be it resolved by the Senate of the State of South Dakota, the House of Representatives concurring therein:

"Section 1. In the event that the amendment proposed by the Ninety-second Congress of the United States relative to equal rights for men and women as ratified by the Forty-eighth Legislature of the state of South Dakota is not ratified by the constitutionally required three-fourths of the several states under the terms and conditions shown on pages 212 and 213 of the Senate Journal of 1973 of the state of South Dakota and pages 1047 and 1048 of the House Journal for 1973 of the state of South Dakota, including the condition that the constitutionally required majority be obtained on or before March 22, 1979, the Legislature of South Dakota hereby withdraws its ratification of such proposed constitutional amendment as of March 23, 1979, which action renders any previous ratification null and void and without any force or effect whatsoever without further resolution or act of the Legislature of the state of South Dakota.

"Section 2. That certified copies of this preamble and joint resolution be forwarded by the secretary of state, to the Secretary of State of the United States, to the presiding officers of both houses of the Congress of the United States, and to the administrator of the United States General Services Administration."

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. CHURCH, from the Committee on Foreign Relations:

Francis J. Meehan, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Czechoslovak Socialist Republic.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Francis J. Meehan.
Post: Ambassador to Czechoslovakia.
Contributions, amount, date, and donee:
1. Self: None.
2. Spouse: Margaret K. Meehan, none.
3. Children and spouses names: Anne Werthmann (Robert), Catherine Doehner (Sven), Frances Meehan, James Meehan, none.
4. Parents names: Deceased, none.
5. Grandparents names: Deceased, none.
6. Brothers and spouses names: none.
7. Sisters and spouses names: none.

By Mr. CHURCH, from the Committee on Foreign Relations:

Joan Margaret Clark, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Malta.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Joan Margaret Clark.
Post: Malta.
Contributions, amount, date, and donee: (if none, write none)
1. Self, none.
2. Spouse, single.
3. Children and spouses names, none.
4. Parents names: deceased (father 1960; mother 1975, none).
5. Grandparents names: Deceased.
6. Brothers and spouses names: None.
7. Sisters and spouses names: None.

By Mr. CHURCH, from the Committee on Foreign Relations:

Loren E. Lawrence, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States to Jamaica.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Loren E. Lawrence.
Post: U.S. Ambassador to Jamaica.
Contributions, (if none, write none) amount, date, and donee:
1. Self: Loren E. Lawrence, none.
2. Spouse: Barbara L. Lawrence, none.
3. Children and spouses names—Christopher W., Timothy E. and Kevin A. Lawrence, none.
4. Parents names: Thelma D. Lawrence, none.
5. Grandparents names: deceased.
6. Brothers and spouses names: none.
7. Sisters and spouses names: Phylis A. Francke (Mr. and Mrs. Fred Francke), none.

By Mr. CHURCH, from the Committee on Foreign Relations:

Dick Clark, of Iowa, to be Ambassador at Large and U.S. Coordinator for Refugee Affairs.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Richard C. Clark.
Post: Ambassador-at-Large.
Contributions, amount, date, and donee:
1. Self: None.
2. Spouse: None.
3. Children and spouses names: None.
4. Parents names: None.
5. Grandparents names: None.
6. Brothers and spouses names: None.
7. Sisters and spouses names: None.

By Mr. CHURCH, from the Committee on Foreign Relations:

Richard Elliott Benedick, of California, Coordinator for Population Affairs, for the rank of Ambassador.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Richard E. Benedick.
Post: Ambassador.
Contributions, amount, date, and donee:
1. Self: None.
2. Spouse: None.
3. Children and spouses names: None.
4. Parents names: None.
5. Grandparents names: None.
6. Brothers and spouses names: None.
7. Sisters and spouses names: None.

Mr. CHURCH. Mr. President, as in executive session, I also report favorably sundry nominations in the Foreign Service which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the Record on February 9, 1979, at the end of the Senate proceedings.)

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation:

Gordon Vickery, of Washington, to be Administrator of the U.S. Fire Administration.

S. Lee Kling, of Missouri, to be a member of the Board of Directors of the National Railroad Passenger Corporation.

Thomas P. Salmon, of Vermont, to be a member of the Board of Directors of the U.S. Railway Association.

(The above nominations from the Committee on Commerce, Science, and Transportation were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. CANNON. Mr. President, as in executive session, I also report favorably sundry nominations in the National Oceanic and Atmospheric Administration and the Coast Guard which have previously appeared in the Congressional Record and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk appeared in the Record on January 23, February 9, and March 5, 1979, at the end of the Senate proceedings.)

By Mr. KENNEDY, from the Committee on the Judiciary:

Richard W. Yarborough, of Texas, to be a Member of the Foreign Claims Settlement Commission of the United States.

Gary Louis Betz, of Florida, to be U.S. attorney for the middle district of Florida.

Sidney A. Diamond, of Arizona, to be an Assistant Commissioner of Patents and Trademarks.

Henry S. Dogin, of New York, to be Administrator of Law Enforcement Assistance.

Louis Nunez, of Maryland, to be Staff Director for the Commission on Civil Rights.

Carlon M. O'Malley, Jr., of Pennsylvania, to be U.S. attorney for the middle district of Pennsylvania.

(The above nominations from the Committee on the Judiciary were reported with the recommendation that they be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. KENNEDY, from the Committee on the Judiciary:

Abraham D. Sofaer, of New York, to be U.S. district judge for the southern district of New York.

Robert E. Keeton, of Massachusetts, to be U.S. district judge for the district of Massachusetts.

Phyllis A. Kravitch, of Georgia, to be U.S. circuit judge for the Fifth Circuit.

John Joseph McNaught, of Massachusetts, to be U.S. district judge for the district of Massachusetts.

David Sutherland Nelson, of Massachusetts, to be U.S. district judge for the district of Massachusetts.

John G. Penn, of Maryland, to be U.S. district judge for the District of Columbia.

ORDER FOR STAR PRINT OF S. 90

Mr. CHURCH. Mr. President, I ask unanimous consent that a star print of my bill S. 90 be printed in accordance with the corrected language. This is necessary to correct several printing errors that were made in the first printing.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR JOINT REFERRAL OF S. 252

Mr. GLENN. Mr. President, I ask unanimous consent that S. 252, the Anti-arson Act of 1979, which has been referred to the Committee on the Judiciary, be referred jointly to the Committee on the Judiciary and the Committee on Government Affairs.

This has been cleared with both committee chairmen and with the majority and minority leaders.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GOLDWATER (for himself, Mr. Bayh, Mr. Eagleton, Mr. Garn, Mr. Hatch, Mr. Hayakawa, Mr. Helms, Mr. Jepsen, Mr. Moynihan, Mr. Roth, and Mr. Simpson):

S. 631. A bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to John Wayne; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MOYNIHAN:

S. 632. A bill to amend the Food Stamp Act of 1977 to eliminate certain restrictions on excess shelter expense deductions with respect to households which are composed entirely of persons who are age 65 or older or who are recipients of benefits under title XVI of the Social Security Act; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. McCLURE (for himself, Mr. McGovern, Mr. Simpson, Mr. Wallop, Mr. DeConcini, Mr. Baucus, and Mr. Hayakawa):

S. 633. A bill to amend and supplement the acreage limitation and residency provisions of the Federal reclamation laws, as amended and supplemented, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MATHIAS:

S. 634. A bill to amend the Internal Revenue Code of 1954 to provide for a deduction paid into a reserve for product liability losses and expenses, to provide a deduction for certain amounts paid to captive insurers, and for other purposes; to the Committee on Finance.

By Mr. DOMENICI:

S. 635. A bill to amend the Railroad Retirement Act of 1974 with respect to benefits payable to certain individuals who on December 31, 1974 had at least 10 years of railroad service and also were fully insured under the Social Security Act; to the Committee on Labor and Human Resources.

By Mr. PRESSLER:

S. 636. A bill to authorize and direct the Secretary of the Army to undertake, through the Chief of Engineers, certain engineering work for a water pipeline in South Dakota, and for other purposes; to the Committee on Environment and Public Works.

By Mr. McGOVERN:

S. 637. A bill entitled the "Marginal Railroad Main Line Service Assurance Act of 1979"; to the Committee on Commerce, Science, and Transportation.

By Mr. EAGLETON (for himself and Mr. Danforth):

S. 638. A bill to terminate authorization of the Meramec Park Lake portion of the Missouri River basin project; to the Committee on Environment and Public Works.

By Mr. HEINZ (for himself and Mr. Schmitt):

S. 639. A bill to amend the Internal Revenue Code of 1954 to permit small businesses to elect to depreciate not more than $100,000 annually on a 3-year straight line basis; to the Committee on Finance.

By Mr. CANNON (for himself and Mr. Inouye) (by request):

S. 640. A bill to authorize appropriations for the fiscal year 1980 for certain maritime programs of the Department of Commerce, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. STEVENS:

S. 641. A bill to amend the National Forest Management Act of 1976 to classify the State of Alaska as all other States are classified with respect to the building of certain roads by the Secretary of Agriculture for purchasers of timber qualifying as "small business concerns"; to the Committee on Agriculture, Nutrition, and Forestry.

S. 642. A bill to amend title 39 of the United States Code to provide reduced rates for certain mail matter sent by the U.S. Olympic Committee and its affiliated organizations; to the Committee on Governmental Affairs.

By Mr. KENNEDY:

S. 643. A bill to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes; to the Committee on the Judiciary.

By Mr. HUDDLESTON:

S. 644. A bill to establish a voluntary program to provide farmers protection against loss of farm production when natural or noncontrollable conditions adversely affect such production; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HEINZ (for himself and Mr. Bayh):

S. 645. A bill to prohibit purchases with Federal funds of articles or materials originating in countries which are not parties to or which are violators of a multilateral international agreement prescribing a code of Government procurement; to the Committee on Governmental Affairs.

By Mr. HUDDLESTON:

S. 646. A bill to amend the Federal Crop Insurance Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

S. 647. A bill to amend the Federal Crop Insurance Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PROXMIRE (for himself, Mr. Nelson, and Mr. Helms):

S. 648. A bill for the relief of Marlin Toy Products,, Inc.; to the Committee on the Judiciary.

By Mr. TSONGAS:

S. 649. A bill for the relief of Elizabeth Cheng; to the Committee on the Judiciary.

By Mr. MOYNIHAN:

S. 650. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of certain employee's trusts organized to invest in real estate; to the Committee on Finance.

By Mr. MATHIAS (by request):

S. 651. A bill for the relief of Sara Padilla Guerrero; to the Committee on the Judiciary.

By Mr. HELMS:

S. 652. A bill for the relief of Gerardo Madrazo and Rosemelia Madrazo; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GOLDWATER (for himself, Mr. Bayh, Mr. Eagleton, Mr. Garn, Mr. Hatch, Mr. Hayakawa, Mr. Helms, Mr. Jepsen, Mr. Moynihan, Mr. Roth, and Mr. Simpson):

S. 631. A bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to John Wayne; to the Committee on Banking, Housing, and Urban Affairs.

JOHN WAYNE GOLD MEDAL

Mr. GOLDWATER. Mr. President, I send to the desk a bill which would authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to John Wayne.

I send this to the desk on behalf of myself and 10 other Senators and ask that Senators interested in joining as cosponsors might add their names at the desk.

Mr. President, this action is not suggested, because John Wayne has been an eminent actor. In fact, we have recognized other people of that profession by similar action in this body. But I would point out that he has been honorary chairman, or chairman of so many worthwhile endeavors in this country that they cannot be enumerated. One that comes to mind immediately is the American Cancer Society.

I believe his service to his country in the production of and acting in films that relate to our country, to history, and its place in the world, makes him deserve one of these medals.

He has encouraged Americanism. He makes us understand America. He makes us understand patriotism. He makes us understand courage.

Mr. President, I hope that the committee will expedite hearings on the bill so it might be acted upon without delay.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 631

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President of the United States is authorized to present, on behalf of the Congress, to John Wayne, a gold medal of appropriate design in recognition of his distinguished career as an actor and his service to the Nation. For such purpose, the Secretary of the Treasury is authorized and directed to cause to be struck a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury. There are authorized to be appropriated not to exceed $5,000 to carry out the provisions of this subsection.

(b) The Secretary of the Treasury may cause duplicates in bronze of such medal to be struck and sold at not less than the estimated cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses, plus 25 per centum of such cost of manufacture. The appropriation than current and chargeable for the cost of manufacture of such duplicate medals shall be fully reimbursed from the payment required by this section and received by the Secretary, except that any money received in excess of the actual cost of manufacture of such duplicate medals shall from time to time be covered into the Treasury. Security satisfactory to the Director of the Mint shall be furnished to indemnify the United States fully for the payment required by this section.

(c) The medals provided for in this Act are national medals for the purpose of section 3551 of the Revised Statutes (31 U.S.C. 368).

By Mr. MOYNIHAN:

S. 632. A bill to amend the Food Stamp Act of 1977 to eliminate certain restrictions on excess shelter expense deductions with respect to households which are composed entirely of persons who are age 65 or older or who are recipients of benefits under title XVI of the Social Security Act; to the Committee on Agriculture, Nutrition, and Forestry.

● Mr. MOYNIHAN. Mr. President, on March 1, the food stamp reforms that are a part of the 1977 farm bill took effect across the country. While those reforms accomplish must that is good, it seems to me that they have failed in certain respects to take into account the diversity of human needs in the United States. In particular they appear not to account adequately for the distinctive situation of people on low incomes who happen to live in high rent cities such as New York. Today I am introducing a bill that would move toward more equitable treatment of needy food stamp recipients, beginning with the blind, the disabled, and the elderly. My good friend and colleague Peter Peyser has already introduced it in the House, and I am most pleased to join him.

The 1977 farm bill put an $80 cap on the shelter allowance deduction for the purpose of calculating food stamp eligibility. My bill would set aside that cap and effectively hold harmless the blind, disabled, and elderly. Now I recognize that other needy persons are today facing cuts in their food stamp allotments that they can ill afford. It is my hope that in time we would also be able to recognize and accommodate these regional differences for them, too, especially for families with dependent children.

This bill represents a much needed first step toward practicing a principle that I have enunciated in numerous ways for many years: Poverty is a national problem which manifests itself in different ways in different places. To highlight this point I ask unanimous consent that an article from the New York Times describing the effects of the food stamp reforms on poor families in my own State be printed in the Record.

Now I know that few of us in the Senate are eager to reopen the complexities of the food stamp program, which we comprehensively revised in the last Congress. But this institutional reluctance should be no excuse for turning an indifferent shoulder to the unquestioned needs of the poor and less fortunate.

There being no objection, the article was ordered to be printed in the Record, as follows:

New Federal Rules Curb Meting Out Food Stamps

(By Peter Kihss)

New Federal regulations will cause a typical four-person welfare family in New York City to lose about $10 a month in food-stamp benefits starting today, with similar losses upstate, according to state and city officials.

Throughout the state, 15,000 welfare and other poor families will lose food stamps entirely, Barbara Blum, the state's Commissioner of Social Services, reported. She said the state had opposed the changes, pending since 1977, "because of their harm to New York State's neediest residents."

The cut in food stamps comes at a time that Mayor Koch and some state legislative leaders have been urging an increase in basic welfare benefits because of inflation. Such benefits have been unchanged since 1974.

Statewide, two-thirds of a total of 570,000 households—about 1.4 million people—in the current food-stamp program will be hurt by the new rules imposing new limits on eligibility, Mrs. Blum said.

In New York City, 436,167 families were participating in January, of whom 289,876 were welfare cases, 94,561 were aged, blind and disabled poor enrolled for Supplementary Security Income, and 51,730 were low-income working families. (There were 345,852 cases on welfare, including 887,695 individuals, but many did not sign up for food stamps).

Blanche Bernstein, the city's Human Resources Administrator, said more than 8,200 welfare families—about 25,000 people—would lose food stamps entirely in the city. Two-thirds of other welfare families may average a $10 monthly reduction, she said, and one-third may get increased benefits.

A welfare family of four with maximum rent allowances, utilities and telephones could have gotten $103 in food stamps here during February, but would be cut to $92 a month starting in March.

In addition to hardship on clients, Commissioner Blum said the changes had "fiscal implications, since each dollar of Federal food stamp benefits generates $4 in food industry jobs and wages." Last year, New Yorkers received $400 million in federally subsidized food stamps.

Mrs. Blum said tightening of deductions for rent in calculating food-stamp eligibility meant clients in high-rent areas faced greater losses in benefits. In Westchester County, 14 percent of the food-stamp cases will be closed.

Dr. Bernstein said those hit hardest here would be welfare mothers who were working and who under an incentive program can keep the first $30 a month they earn plus one-third of the remainder.

Under former rules for calculating income eligibility, such a family could deduct all work-related expenses, such as taxes, pension contributions and child care, according to Herb Rosenzweig, deputy Human Resources administrator for income maintenance.

The family also formerly could deduct medical expenses in excess of $10 a month and could deduct tuition and other fees for school attendance. It could also deduct rent and utility expenses that exceeded 30 percent of net income.

Under new rules, there is a standard earned-income deduction of 20 percent of gross income, and there is a standard deduction of $65 a month for all cases. There is no deduction for medical expenses, and rent and utility costs may be deducted only if they exceed 50 percent of net income, with an $80 limit on deductions for child care and excess rent and utility costs combined.

Commissioner Blum said food-stamp recipients with questions can telephone a toll-free statewide number—(800) 342-3710.●

By Mr. McCLURE (for himself, Mr. McGOVERN, Mr. SIMPSON, Mr. WALLOP, Mr. DECONCINI, Mr. BAUCUS, and Mr. HAYAKAWA):

S. 633. A bill to amend and supplement the acreage limitation and residency provisions of the Federal reclamation laws, as amended and supplemented, and for other purposes; to the Committee on Energy and Natural Resources.

FARM WATER ACT OF 1979

● Mr. McCLURE. Mr. President, Senator McGOVERN and I are today joining together in introduction of the Farm Water Act of 1979 which we believe provides for a reasonable approach for revision of the Reclamation Act of 1902.

This legislation is a direct outgrowth from the regulations proposed by Secretary of the Interior Cecil Andrus in August 1977—proposed regulations which touched off widespread concern in the 17 Western States served by Bureau of Reclamation water diversion projects. Those proposed regulations were the administration's interpretation of the principles established in the 1902 act, but they caused us to reassess those principles and consider revisions. We believe this legislation deserves careful review by Congress, because it is legislation that presents a West-wide consensus in all of its basic principles. These principles reflect the evolution of reclamation law in the 77 years since inception of the original act.

This bill was developed in cooperation with the Farm/Water Alliance. It has support, in principle, from the Western States Water Council; the National Association of State Departments of Agriculture; the National Water Resources Association; the Water Resources Congress; the Upper Missouri Water Users Association comprised of water users in North and South Dakota, Montana, and Wyoming; the Idaho Water Users Association; the Oregon Water Users Association; the Montana Water Development Association; the American Bankers Association; the National Association of Realtors; American Agriwomen; and other organizations.

In sponsoring the Farm Water Act of 1979 we recognize that were we each to introduce a bill tailor-made for our own constituency and the problems experienced in our State, it would probably be a somewhat different piece of legislation than what we have here. However, at the same time we recognize that in an area as large and as varied as the 17 reclamation States, a consensus supported by all concerned would be extremely difficult to achieve.

We sincerely believe that this particular bill goes further toward striking this kind of consensus than any other. This does not mean it is the "final word" on this subject. The Congress, through our committee hearing process and floor debate, will refine it. We will be considering this bill's provisions alongside provisions in other legislation addressing the same subject.

We are particularly mindful of the legislation introduced by the distinguished chairman of the Senate Subcommittee on Energy and Development, Senator FRANK CHURCH. We find much of his bill, S. 14, which we can support. But, we think it fair to say that S. 14 does not address all the issues requiring resolution at this time. Senator CHURCH recognizes this.

What we are doing with this Farm Water Act proposal is providing a basic format for consideration of some practices of reclamation which we believe need to be considered and we will be working very closely with Senator CHURCH on this.

We feel there is a spirit of conciliation at work in the Western States today—a spirit which will make it possible for us to develop a bill to bring peace to the West without sacrificing the basic principles of reclamation law.

Each of us would now like to set forth the principles we see "at work" in this legislation so that our colleagues might more clearly understand what this legislative initiative is about. We invite other Members of the Senate to join with us in becoming cosponsors of this legislation.

Mr. President, I ask unanimous consent that the summary of the bill and its text be printed in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 633

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be a supplement to the Act of June 17, 1902, and Acts supplementary thereof and amendatory thereto (47 U.S.C. 371) hereinafter referred to as the Federal reclamation laws, and this Act may be cited as the "Farm Water Act of 1979".

PREAMBLE

SEC. 2. The purpose of this Act is to—

(1) encourage and preserve the pattern of viable family farm operations within Federal reclamation projects;

(2) permit a wide distribution and enjoyment of the benefits of farmlands within said projects and recognize that all taxpayers of the Nation contribute to project costs and that none of those who so contribute should be disqualified from sharing the benefits thereof;

(3) provide for recognition of variations in climate and soil classification in Federal reclamation project service areas; and

(4) aid in the maintenance and enhancement of the fiscal integrity of Federal water projects which provide irrigation benefits and encourage payment of water charges and construction costs, where feasible, without subsidy.

DEFINITIONS

SEC. 3. As used throughout this Act, the following terms are defined as, and shall mean:

(a) "All written representations" shall mean all written representations, opinions, and administrative interpretations and rulings which relate to a "contract" as hereafter defined or other implementation of Federal reclamation laws.

(b) "Contract" shall mean a contract with the United States of America concerning a project or a division or unit thereof, constructed or operated pursuant to Federal reclamation laws, as amended and supplemented or executed pursuant thereto, whether or not repayment is involved including, without limitation, construction, irrigation, drainage or storage contracts.

(c) "Contracting entity" shall mean any irrigation district, water users, or water user entity, individual or other entity that contracts with the United States of America concerning a project or a division or unit thereof, constructed or operated pursuant to Federal reclamation laws, as amended and supplemented, whether or not repayment is involved.

(d) "Landowner" shall mean any person that is a United States citizen or any entity, public or private, that is owned by a United States citizen, or combination of one or more such persons or entities, that owns land within a contracting entity.

(e) "Project" shall mean a project constructed or operated for the production, storage, impoundment, release, or delivery of irrigation water under the authority of or pursuant to the Federal reclamation laws, as amended and supplemented.

(f) "Project water" shall mean water which, but for the construction of the project facilities, would not have been available for irrigation of land within a project service area, which exceeds the amount of water available for irrigating land within said service area prior to construction of the project's facilities and is the subject of a contract with a contracting entity. All other water shall be deemed to be nonproject water.

VALIDATION

SEC. 4. Except to the extent that they are inconsistent with the provisions of this Act, all provisions of contracts relating to the acreage limitation provisions of Federal reclamation law and all written representations relating thereto, which were in effect or made prior to the effective date of this Act by the Secretary of Interior, Commissioner or contracting officer of the Bureau of Reclamation (formerly Reclamation Service) or their authorized agents on behalf of the United States with or for the benefit of a contracting entity, or a landowner, are hereby verified, ratified and confirmed as of the date of execution of the contract or the making of said representation.

ACREAGE LIMITATIONS AND EQUIVALENCY

SEC. 5. (a) Notwithstanding any other provisions of the law to the contrary, the amount of nonexcess land held in private ownership by any one landowner which is eligible to receive project water from each contracting entity shall be three hundred and twenty acres of class I irrigable land or the equivalent thereof in other lands of less productive potential, as determined by the Secretary of Interior, taking into account all factors which significantly affect productivity, including but not limited to topography, soil characteristics, adequacy of water supply, crop adaptability, costs of crop production, and length of growing season. The Secretary shall establish an acreage equivalency formula for each project service area, including those cases where preproject land classification surveys already exist. The Secretary shall hold public hearings in the area affected before establishing an equivalency formula and making an equivalency determination. There shall be no enforcement of the acreage limitation in a particular project or unit thereof, by way of withholding water deliveries, increase in water rates or otherwise, until an equivalency classification shall have been made for the affected service area.

(b) If excess land is acquired by foreclosure or other process of law, by conveyance in satisfaction of mortgages, by inheritance, or by devise, or become excess by reason thereof, project water therefor may be furnished temporarily for a period not exceeding five years from the effective date of such acquisition, delivery of water thereafter ceasing unless, or until, the transfer thereof is completed to a landowner duly qualified to secure project water therefor. The sale price thereof shall be without regard to the provisions of section 9 or 10 of this Act.

(c) A landowner which is a corporate or other trustee may collectively hold land eligible to receive project water in a fiduciary capacity, notwithstanding the acreage limitation of this section 5: *Provided*, That with respect to such holding, the beneficiary or beneficiaries thereof are in compliance with the acreage limitation provisions of the Federal reclamation laws.

(d) A landowner which is other than a natural person may hold up to three hundred and twenty acres of land eligible to receive project water: *Provided*, That the owner, or owners, of such entity are in compliance with the acreage limitation provisions of Federal reclamation law in the same manner and with substantially the same rights as a landowner.

APPLICATION OF ACREAGE LIMITATIONS

SEC. 6. In the case of any project, or unit or division thereof including those which were authorized before the effective date of this Act:

(a) The acreage limitation provisions of the Federal reclamation law shall not apply to—

(1) land within a contracting entity with respect to which the contracting entity makes the lump-sum payment of, or has otherwise paid, the balance remaining due on a contractual construction obligation incurred for project water;

(2) excess land within a contracting entity, with respect to which such contracting entity has agreed to pay interest periodically in accordance with subparagraph (b) of this section, on the balance remaining due on a contractual construction obligation incurred for project water;

(3) land within a contracting entity receiving project water on a temporary basis and pursuant to a contract which provides for recapture of such water for municipal or industrial purposes at a later time;

(4) land receiving water made available by project facilities which does not exceed the amount of water that was diverted and used for irrigating land within a contracting entity service area prior to construction of the project facilities, or water which is merely regulated by the project facilities;

(5) land utilizing project water which occurs as a result of unavoidable seepage or deep percolation from the irrigation or from the drainage of lands within a service area of a contracting entity;

(6) land utilizing water which, after having been used for some other project purpose, is used for groundwater recharge;

(7) land receiving project water for which nonproject water has been exchanged or substituted or receiving project water as a substitute supply for water otherwise available to the project area;

(8) land receiving project water, whether commingled with other water or not, which is used to supply less than 25 per centum of the irrigation water necessary for that land as computed in a year of average precipitation or other supply of nonproject water; or

(9) land owned by any state or political subdivisions or agencies thereof.

(b) The interest rate applicable for purposes of this section shall be computed on a project-by-project basis in accordance with the specified project interest rate or, if none exists, such rate shall be equal to the average rate paid by the United States on its marketable long-term securities issued during the construction period of each project. For the purpose of this section, the determination of the construction costs and rates to be charged for water, if not otherwise provided by law for a specified project, shall be in accordance with generally accepted utility rate making standards.

CERTIFICATION

SEC. 7. Within ninety days of the effective date of this Act if repayment has previously occurred, or within ninety days following payment, the Secretary of Interior shall issue a certificate in recordable form to the contracting entity or landowner acknowledging that the land is free of the limitations of section 5 of the Reclamation Act of 1902, as amended or supplemented, and the acreage limitations of the Federal reclamation laws.

WATER EQUIVALENCY

SEC. 8. For the purpose of determining whether a landowner holds 320 acres of class I land or its equivalent as provided in Section 5 of this Act, the number of irrigable acres of each tract supplied with project water shall be divided by a percentage which equals the percentage that project water would constitute of the total irrigation water supply to the tract in a year of average precipitation or other supply of nonproject water: *Provided*, That, if less than 25 per centum of the total irrigation supply of water is supplemental project water, as computed in a year of average precipitation, such acres shall not be counted at all.

EXCESS LAND CONTRACTS

SEC. 9. (a) No irrigable land held in private ownership by any one landowner in excess of three hundred and twenty acres of class I land or its equivalent as provided in Section 5 or modified in Section 8 of this Act, shall receive project water if the landowner thereof shall refuse to execute a valid recordable contract for the sale of such land within a period of ten years of execution thereof at a price which does not reflect project benefits.

(b) An excess landowner may designate which land shall receive project water as nonexcess land.

(c) No recordable contract need be signed until project water is delivered to the land with respect to which such contract is required.

(d) If excess land is sold by a landowner or pursuant to a recordable contract, the landowner shall be entitled to transfer the land to a landowner of his choice duly qualified to receive project water therefor and receive the fair market value of the land sold at a price which does not reflect project benefits.

(e) Excess land subject to a recordable contract, which is not sold within the ten-year period, shall continue to be eligible to receive project water until said land is sold by the landowner or otherwise disposed of under the terms of the recordable contract.

(f) Upon sale or other disposition of excess land under recordable contract or otherwise pursuant to the Federal reclamation laws, in addition to such sale or other disposition being subject to then existing easements and rights-of-way, the seller shall not retain any interest in the land other than (1) the right to explore for and produce minerals therefrom, including geothermal water, coal, oil, gas, associated hydrocarbons, and other fossil fuels, (2) the right to use the surface for purposes other than agricultural crop production, and (3) a purchase money mortgage or other purchase money security interest.

(g) Other provisions of this Act notwithstanding, and only with respect to excess lands subject to recordable contracts between the United States and owners of such lands as had been entered into prior to the effective date of this Act, the period of time during which such owners may dispose of the lands thereby encumbered shall remain as specified in such contracts; provided however, that the period of time during which the Secretary of Interior has suspended, or in fact not generally processed approvals of dispositions of excess lands, whether by virtue of court order or otherwise, shall be added to the period provided by such contracts, together with such additional period of time as may reasonably be required to complete such disposition.

ANTISPECULATION

SEC. 10. (a) Excess land sold after the effective date of this Act, shall be eligible to receive project water only if title to the land is subject to a condition that the land shall not be sold at a price greater than the landowner's cost for the land, plus the value of any crops or improvements, increased only by the rate of increase of the Consumer Price Index for the period between the date of that landowner's purchase and his sale of the land: *Provided*, That if a landowner, or any subsequent landowner taking title by gift or devise from such landowner, has continuously owned the land as nonexcess land for a period of ten or more years prior to sale, the sale price of the land may thereafter be, at the fair market value thereof without reference to this section.

(b) The Secretary of the Interior is authorized to effect compliance with this section by approving or disapproving the price of land sold subject to this section.

RESIDENCY NOT REQUIRED

SEC. 11. Section 5 of the Act of June 17, 1902 (32 Stat. 389), is hereby amended by substituting in the second sentence "320 acres" for "160 acres" and deleting from the second sentence the words: "and no such sale shall be made to any landowner unless he shall be an actual bona fide resident on such land, or occupant thereof residing in the neighborhood of said land.".

APPLICATION

SEC. 12. (a) This Act shall apply both to existing Federal reclamation projects and to projects or units thereof constructed in the future, except where the contrary is expressly indicated by this Act or by contract.

(b) Nothing in this Act shall repeal or amend other statutory exemptions from any acreage limitation of the Federal reclamation laws. Any contracting entity which has heretofore been afforded exemption from or modified application of acreage limitation provisions heretofore in effect may elect to continue to be governed by such provisions: *Provided, however*, That no such election shall preclude the options available to a landowner by section 6 of this Act.

(c) The Secretary of the Interior shall, upon the request of a contracting entity or of a landowner as to any land of such landowner within a contracting entity, amend any contract to conform to the provisions of this Act.

(d) Upon proof of fraudulent representation as to the true consideration or ownership involved in sales subject to the acreage limitations of Federal reclamation laws, a court of competent jurisdiction, upon application by the Secretary of the Interior, is authorized to cancel the right to receive project water or any water right attaching to the land involved in such fraudulent sales.

(e) Except to the extent that they are inconsistent with the provisions of this Act, the other Federal reclamation laws, including those provisions relating to the implementation of the acreage limitations, shall remain in full force and effect.

(f) Nothing contained in this Act shall be construed to impair the ability of any state government or contracting entity to administer the development and delivery of water (whether or not defined herein as project water) within their respective jurisdictions or to recover the cost of such administration or delivery.

CONSENT TO SUE

SEC. 13. Consent is given to join the United States as a necessary party defendant in any suit to adjudicate, confirm, validate, or decree the contractual rights of a contracting entity and the United States. The United States, when a party to any suit, shall be deemed to have waived any right to plead that the State laws are inapplicable or that the United States is not amenable thereto by reason of its sovereignty, and shall be subject to the judgments, orders, and decree of the court having jurisdiction, and may obtain review thereof, in the same manner and to the same extent as a private individual under like circumstances.

CONSTRUCTION CONTRACT

SEC. 14. Section 46 of the Act of May 25, 1926 (44 Stat. 636), is hereby amended to read as follows: "No water shall be delivered upon the completion of any new project or new division of a project until a contract or contracts in form approved by the Secretary of the Interior shall have been made with an irrigation district or irrigation districts organized under State law providing for payment by the district or districts of the cost of constructing, operating, and maintaining the works during the time they are in control of the United States, such cost of constructing to be repaid within such terms of years as the Secretary may find to be necessary, in any event not more than fifty years from the date of public notice hereinafter referred to, and the execution of said contract or contracts shall have been confirmed by a decree of a court of competent jurisdiction which shall be binding upon the parties thereto including the United States: *Provided*, That the operation and maintenance charges on account of lands in said projects and divisions shall be paid annually in advance not later than March 1. It shall be the duty of the Secretary of the Interior to give public notice when water is actually available, and the operation and maintenance charges payable to the United States for the first year after such public notice shall be transferred to and paid as a part of the construction payments.".

Mr. McCLURE. Mr. President, I have sponsored the Farm Water Act of 1979 for a number of reasons. This legislation addressess all the developed practices of reclamation law that must be considered if we are to pass a responsible bill. As a cosponsor of Senator CHURCH's bill, S. 14, I have already committed myself to working toward a solution to the 160-acre problem and by introducing the Farm Water Act today, I am making certain we have all the concepts before us as we begin the task of developing an updated version of the 1902 Reclamation Act.

I am a strong supporter of our reclamation program. Its benefits are visible throughout our Western agricultural States and the ever widening economic circles it affects. Reclamation has proven a wise investment for our country and I believe we can continue to gain from it if we can change its practical implementation to better meet today's farming needs.

In recognizing the overall perspective of the reclamation program, we should all be reminded that no other Federal programs undergo the kind of cost-benefit scrutiny as water projects. This test has always been one of measuring direct benefits against cost, that cost being repaid by the direct beneficiaries. There are many indirect benefits derived from such projects that are never calculated but have provided much in terms of recreation, flood control, and wildlife enhancement. In the history of our reclamation program to date, we have expended only $7.5 billion since 1902. HEW lost that much of their 1978 budget due to waste, fraud, and abuse. The return on that $7 billion investment is great, but even more significant when you realize the loss of $7 billion in 1 year with no hope of any recovery or return at all.

Idaho has over a million acres under irrigated agriculture. Idahoans have developed a pattern of family farming through the reclamation program that should be protected and continued into the future. The basic purposes of the reclamation program are embodied in Idaho's agriculture communities. But those farmers, in trying to keep up with today's inflation and market demands, must be given flexibility in which to manage their operations. The Farm Water Act provides for this kind of flexibility while assuring that the benefits of these Federal projects reach as many farmers as possible.

The basic concepts that I support and that I believe carry out the purposes of the reclamation program are covered in the Farm Water Act and S. 14. My goal will be to work at a bill that encompasses a combination of the following principles:

First, a farmer must have the opportunity to expand and have some flexibility in his ability to operate his farm. The Farm Water Act limits a farmer to 320 acres ownership with unlimited leasing. This acreage limitation can only be acceptable with no limit on leasing. Any kind of ceiling on leasing must be considered with an increased ownership figure. I am not against a 1,600 limit if we place an overall ceiling on the operational farm size. This allows for any kind of ownership combination to occur. Family partnerships, small businesses and family corporations should all be possible under the reclamation program as they are tools from which the modern family farmer can best operate. The 1974 Bureau of Census report shows that in all farming today, less than 3 percent of our production is from publicly traded corporations yet family corporations are increasing and account for 10 percent of our food production. The rest of our agriculture production comes from individual farmers.

Second, I strongly believe that the contracts between the Secretary of the Interior and the individual water districts should be honored as well as other written representations of the Federal Government. There are over 50 contracts in the State of Idaho alone, that guarantee at payout, the project is no longer subject to on acreage limitation. This concept should be honored in existing contracts and be an option in all future irrigation projects. I also believe that a gradual payout of the project cost with interest should be possible. This allows the farmer the ability to increase his farm size in relation to the amount of repayment he makes. If recouping the Federal subsidy is the primary goal of the administration, then by allowing the farmer the ability to pay that subsidy back, the Government would be recovering their investment without endangering the validity of irrigated farming.

Third, commingled waters, water available before the project was built mixed with conserved water as a result of the project, should be carefully defined in reclamation law. No farmer should pay for water that he had a valid right to use before a project was built. The Farm Water Act defines project water with respect to nonproject water and presents a solution to the commingled problem by exempting from acreage limitations lands that receive 25 percent or less of their irrigation needs from project water.

Fourth, residency is no longer a practical application of reclamation law and should be eliminated. There are too many families today who, for a number of personal reasons, do not live on their farms but depend on the income of that operation. There is no reason to require a disruptive residency requirement in reclamation law today as the purpose of perpetuating the family farm is being met in other provision in the Farm Water Act.

Fifth, an equivalency formula is necessary if areas of lower productive potential, due to such factors as geology, crop economics and climate, can receive water on more than 320 owned acres. The bill allows this equivalency to be applied to a project by project service area as well as on the existing reclamation-wide basis.

Sixth, it is my belief that a farmer should have the right to sell his property at fair market value. There have, however, been concerns that a buyer can purchase a farm at a lower, Government-approved price and immediately sell at a higher market value. This act would prevent such a windfall by requiring the landowner to retain the property for 10 years before selling it for more than the cost-plus inflation value.

Seventh, there are several exemptions from reclamation law that should be clearly spelled out before we pass any legislation on this subject. This bill addresses many concerns of present day farmers by exempting the following kinds of water sources from applying to reclamation law; water from temporary projects, water only regulated by project facilities and water made available by seepage and ground water recharges. I also support an exemption for lands receiving water from Corps of Engineers projects as their purpose is entirely different than that established under reclamation law.

Lastly, this bill covers other areas of reclamation practice that should be considered as we discuss reclamation law. It has a section allowing non-federal entities, the right to sue the Federal Government for purposes of resolving conflicts in law. It allows the seller of excess lands to retain rights to the property for nonagricultural purposes and the sellers right to select the buyer of excess property.

Again, these are solutions to problems that have surfaced as a result of the threat of restrictive regulations proposed by the Secretary of the Interior. They should be seriously considered by the Congress as they have evolved directly from the very farming communities that we propose to protect and perpetuate in readdressing reclamation law.

I am proud to be a sponsor of this comprehensive piece of legislation that attempts to practically solve the problems we face. I understand there have been discussions underway with the Department of the Interior on provisions in this legislation that the administration is willing to consider. I am looking forward to working with them, with Senator CHURCH and the other Members of the Congress in coming to grips with the direction future reclamation programs should take through the enactment of a new reclamation law.

FARM WATER ACT OF 1979

A BILL

The enacting clause of the Farm Water Bill of 1979, specifies that the Act would amend and supplement the acreage limitation and residency provisions of the federal reclamation laws, which are comprised primarily of the Reclamation Act of 1902 and the Omnibus Adjustment Act of 1926.

Preamble

Section 2 states the purpose of the Act: to encourage and preserve viable farm operations in reclamation project areas. The Act places reasonable restrictions on federal project water recipients in return for the use of the public investment. This section recognizes that all taxpayers contribute to project costs and that none should be barred from the opportunity to share the benefits.

Definitions

Section 3 defines certain terms used throughout the Act.

Validation

Section 4 stipulates that all federal written representations, rulings, opinions relating to the acreage limitation provisions upon which districts and land owners have previously relied, will remain in effect—providing for consistency and fairness in government.

Acreage limitation and equivalency

Section 5 increases the ownership limit on land eligible to receive project water to 320 acres in each water district—acknowledging the economic and technological changes that have occurred since the 160 acreage limit was set in 1902. A second major thrust of this section introduces an equivalency concept allowing areas with lower productivity potential, due to such factors as geology, crop economics and climate, to receive water on more than the 320 owned acres. This provision emphasizes fair application of the federal benefits to the users. A third aspect of this section preserves present law by allowing lenders that acquire property by foreclosure to sell within a five-year period without government price approval.

Application of acreage limitation

Section 6 defines certain exemptions from federal reclamation law. Introduces a payout plan that gives reclamation districts the opportunity to repay the public investment in full or in periodic payments with interest, thereby relieving the land within the district from acreage limitations. Exempts from acreage limitations land that receives 25 percent or less of its irrigation needs from project water.

Also exempts from acreage limitations, depending on water sources, certain lands including: those receiving water from temporary projects; those within U.S. Army Corps of Engineers projects constructed primarily for flood control purposes; lands on which water is merely diverted or regulated by project facilities; and lands receiving project water unavoidably through seepage, deep percolation or ground water recharges.

The water rates and contract costs would be determined in accordance with generally accepted utility rate-making standards.

Certification

Section 7 concerns projects for which the public investment has been repaid, and provides for a certificate that can be recorded for lands within those projects, declaring that they are free of the acreage limitations.

Water equivalency

Section 8 provides that if less than 25 percent of the total irrigation supply of water to a tract is supplemental project water, the basic entitlement of 320 acres can be increased in proportion of the decreasing supply of project water. It allows more acres if less than 25 percent of project water is needed to complete a farm supply.

Excess land contracts

Section 9 stipulates provisions under which owners of land in excess of the 320 acreage limitation can receive project water, and provision under which excess lands can be sold. Those provisions include the private property owner's right to select the buyer and to sell the excess land at its fair market value, without reference to project water. Also, this section provides that for lands held in excess of 320 acres, project water can be delivered if a recordable contract for the sale of the land has been executed under reclamation law. Upon disposition of excess lands, the Act further stipulates that the seller can retain rights to the property for non-agricultural purposes; and provides an extension of the ten-year recordable contract in which excess land must be sold, for the period that sales are not permitted either administratively or by court order.

Anti-speculation

Section 10 prevents land speculation in reclamation areas by removing the opportunity, under present law, for a buyer to purchase at the low, government approved price and resell immediately at the higher market value. This section prevents windfall profits to speculators and abuses of the federal benefit by requiring that landowners retain the property within a family for ten years before selling it for anything more than cost plus an inflation allowance. Lack of compliance makes the land ineligible to receive project water.

Residency not required

Section 11 amends the acreage limitation and repeals the outdated requirement of the 1902 Act (which was ignored in the 1926 Act) that required homes to be located in the neighborhood of the farm receiving project water. This section frees the private property owner from a government edict as to where the owner must reside.

Application

Section 12 specifies that the Act applies both to existing and future federal reclamation projects and stipulates that any exemptions or modifications of acreage limitations previously afforded will be honored by this Act.

Consent to sue

Section 13 grants landowners and other entities contracting with the federal government for project water the right to bring the United States of America into court for purposes of resolving conflicts in reclamation law—thereby helping to insure the integrity of government action.

Construction contract

Section 14 restates certain language existing in federal reclamation law that is consistent with the Act concerning the maintenance and enhancement of the fiscal integrity of federal water projects.●

● Mr. McGOVERN. Mr. President, Senators McCLURE, BAUCUS, DECONCINI, SIMPSON, WALLOP, and I are today introducing legislation we call the Farm Water Act of 1979. At issue is what is commonly referred to as the 160-acre limitation upon land ownership within irrigation projects constructed with Federal assistance through the U.S. Bureau of Reclamation in the 17 Western States.

This issue has heated up slowly in the 77 years since passage of the 1902 Reclamation Act. That act set forth various principles to be used in applying Federal assistance toward settlement of the West through encouragement of irrigated agriculture in the arid Western States. I think it is fair to say that the boiling point on this issue has been reached within the last few years. Right now it simmers on the Department of Interior's back-burner while they assess the impact of their strict enforcement of the 1902 act and its amendments based upon their recent interpretation of what is required.

The problem, at least as I view it, is that the Department is attempting to solve acknowledged problems where abuses of the act have occurred in some specific sections of the West. But in pursuing their goal, they are creating a "stew" which will be unpalatable to the diverse irrigation interests elsewhere throughout the Western States. Because what is actually involved are the principles endemic to the Reclamation Act, my colleagues and I feel the time has come to reassess those principles in light of present realities and see whether or not an adjustment can be made to meet the needs the Department sees to reassert the role Federal assistance is to play while at the same time remaining flexible enough to meet the needs of irrigators and waterusers on reclamation projects everywhere.

The philosophic root of this issue is the amount of Federal subsidy which is provided reclamation irrigators through Government assistance in the financing and construction of their projects.

Before explaining how the Farm Water Act addresses this fundamental issue let me make one thing clear to those of my colleagues who are not overly familiar with the reclamation program. While we are talking about a subsidy it must be remembered that it is eventually repaid by the beneficiaries, with interest. This feature makes reclamation irrigators unique among beneficiaries of Federal assistance. The subsidy, if that is what you insist it be called, is best thought of as seed money. It gets the irrigators started in business, but once they become self-sufficient, they repay our investment in their operations.

If any individual Senator were to attempt to meet this issue with narrow parochial interests in mind, we would repeat the spectre of so many bills being introduced that we would be unable to cope with them through our normal hearing process. That is why this year I see an effort to arrive at an equitable balance of interests in addressing this question. While there is no magic formula available to resolve this issue once and for all, I believe we are moving very close to settling this matter. The Energy and Natural Resources Committee's Subcommittee on Energy and Development, ably chaired by our distinguished colleague Senator CHURCH, is about to consider legislation introduced by him on this matter. I personally find much in his bill which I can support, yet at the same time my colleagues and I feel the need to at least attempt surfacing other facets of this issue which are not addressed in his proposed legislation. In this way I feel our effort complements his and I want to stress that we are vowed to work very closely with him in this regard.

Whereas in most cases the points of disagreement among different pieces of legislation become all important in resolving an issue, in this instance the fact that there are points of agreement become as, if not more so. On the following principles we are agreed.

First, there should be a limit on the amount of land owned by an individual receiving federally subsidized irrigation water. While the Farm Water Act sets that limit at 320 acres instead of the present 160 acres, there is nothing particularly magic about this figure. It is best not viewed alone. Instead, it should be viewed in the context of all the other principles embodied in this legislation. Yet it is important for two reasons: It says, in effect, 160 acres is not a realistic limitation in most cases today, and second, by setting a low figure some adjustments upward can be made as circumstance warrants.

Second, there should be an acreage equivalency formula in judging excess ownership which recognizes differences in climate and soil conditions among States and projects. In this way the higher productivity, longer growing season and annual multiple crop harvests on California and Southwestern projects is recognized and in effect separated away from the other Western States.

Third, speculation of reclamation projects should not be allowed. This is a Federal program for farmers, not realtors and land speculators out for profits from land sales. They should look for them in other markets, not on Federal irrigation projects.

Fourth, foreign ownerships should not be allowed on Federal irrigation projects. I do not think this point needs elaboration.

Fifth, all prior written representations and contracts made by and between the United States and irrigation or water-user districts and individuals should be honored. This will be viewed by some as sanctioning past abuses. In response to that I have to say there is simply too much diversity in this question to provide a better formula for its resolution. This issue must be resolved on a case-by-case, district-by-district, contract-by-contract basis as circumstance warrants and in compliance with reclamation law at the time. I feel this legislation will give the Department the handle they need to deal with flagrant abuses.

Sixth, reclamation law should not be applied to Corps of Engineers projects. We do not believe there is sufficient justification for linking the Corps' program with the reclamation program. Their missions are clearly different. On those few occasions where justification for linkage can be found, provisions for application of the principles of the one program to the other must be made on a case-specific basis. Many of us feel that universal linkage of these two programs will set unfortunate, far-reaching precedent affecting too wide a range of circumstances elsewhere in the Western States.

Seventh, public corporations and conglomerates should not be allowed to acquire or lease land on reclamation projects in excess of what can be owned or leased by individual farmers. If there is a single issue which has contributed to national attention being focused on this matter, this is the one. There are varying analyses as to how significant this concern really is, but this principle should be clear: Reclamation projects are to benefit family farmers and to stabilize American agriculture through support of this basic unit of farming. There can be no denying a corporate presence in American agriculture and one can think what one will as to the benefits or dangers of that fact, but in the case of reclamation projects it should be clearly understood that the Federal Government does not intend to subsidize corporate entry into agriculture.

Eighth, the residency requirement should be eliminated as a test of compliance with Reclamation Act requirements. The concept of requiring residency within certain geographic limits is an approach toward eliminating the presence of paper irrigators on reclamation projects, which relates to the principle stated above. While this may presently be the only means the Department sees available today to fight a corporate presence on reclamation projects, we feel that the Farm Water Act approaches this problem from a better perspective. We believe that as soon as a geographic formula is proposed to remedy this problem in a particular section or project in the West, it will create new problems in other areas where geographic presence is more relative and not an indication of abuse of reclamation law.

Finally, farmers, including family farming corporations, should be allowed to own or lease land in excess of the land receiving the original subsidized water price—provided they are willing to pay more than the basic subsidized cost of the water to be used on those additional lands.

While there is no such formula in the Farm Water Act, it is something which concerns me personally and I wanted my colleagues to know I am working on a method of accomplishing this. I feel a sliding scale can be used to accommodate the growth of some irrigation operations, but at the same time insure that the Federal Government is not subsidizing that growth in the same manner it is subsidizing the original irrigation.

What is at issue is again the amount of subsidy an individual irrigator receives. There are those who to my mind rightfully contend the Government should not continually subsidize growth of irrigation operations—that there should be a cutoff point—the idea being one or two operations should not make up an entire project. Yet, there are those who also rightfully contend that economies of scale should prevail—that some operations need some growing room in order to make most efficient use of the irrigation opportunity. To me, setting a high ceiling on the acreage limitation to meet this latter argument works some injustice upon the smaller operator. Setting a low ceiling is unjust to others. Neither approach seems satisfactory.

As I view it, we are best advised to set a low ceiling at the outset where the full subsidy is received. This will allow entry to anyone able to put the necessary capital together. It would make some subsidy available to an irrigator wanting to adjust his operation upwards a little, but the larger he would get the less subsidy he would receive until such time as he is paying the full cost of water service. To me this meets the philosophic premise of Federal subsidy head on, but allows some necessary flexibilitiy.

In closing, I want to emphasize that I am sponsoring this legislation with an eye toward the future of reclamation irrigation. That is where South Dakota's irrigation future lies. I am not sponsoring it because it helps reclamation irrigators in South Dakota per se because they are presently in compliance with the original act. My interest is the national interest and the continued viability of reclamation irrigation development in the West. I would hope my colleagues are similarly motivated in considering this legislation.●

● Mr. WALLOP. Mr. President, I am pleased to join Senator McCLURE in introducing the Farm Water Act of 1979. It is a responsible and comprehensive approach to modernization of the acreage limitation provision of reclamation law. Moreover, its passage will invalidate the Department of Interior's proposed regulations, which, if implemented, would ignore the realities of modern agriculture, and go far beyond the intent of Congress when it enacted the law over 75 years ago.

In cosponsoring this bill, I am mindful of S. 14, the Reclamation Reform Act of 1979, which has been introduced by Senator CHURCH. That bill embodies many fine principles which I support, and in several respects parallels the thrust of the Farm Water Act of 1979.

The principles upon which we agree are

more significant than those upon which we disagree. While each of us could fashion and staunchly support bills which perfectly suit the problems of our individual States, to do so would play into the hands of those who would rejoice in seeing our reform measures fail. As this matter is considered by the Senate, I am confident that we can work with Senator CHURCH and the cosponsors of S. 14 to fashion a reclamation reform measure which fairly treats the needs and problems of all reclamation projects.

HISTORY OF THE PROBLEM

The Reclamation Act of 1902 was designed to make the arid West bloom and settle as many family farmers as possible on productive, irrigated land. To that end, it provides that water from Federal reclamation projects will only be delivered to 160-acres per land owner, with additional lands being declared excess.

This 160-acre, or excess lands provision, as it is sometimes called, has been enforced by the Department of Interior through a series of Solicitor's Opinions which served to interpret the law. However, in August, 1976, a group known as National Land for People Incorporated, sued the Department of Interior and obtained a court order requiring the Department to formally issue regulations to enforce the acreage limitation requirements of the 1902 act. A year later, in August, 1977, the Department issued proposed regulations. However, in addition to limiting acreage, the regulations proposed that strict residency requirements be imposed, leasing be limited, sale of excess lands by lottery be required, and the qualifications of excess land purchasers be limited. None of these provisions are expressly required by the Federal reclamation laws upon which the regulations were based.

The proposed regulations caused serious concern to many of us who believe them to be an unauthorized extension of the acreage limitation requirements of the 1902 act. I consider them to be inequitable, beyond the scope of the court order which prompted their publication, and in the long run a formula for agricultural disaster in America.

However, in December 1977, still another court determined that the regulations would constitute a "major Federal action significantly affecting the quality of the human environment." Therefore, the National Environmental Policy Act requires that an environmental impact statement be prepared before they become final. This insures that the regulations will not go into effect until early 1980, and not at all if Congress acts first to amend the reclamation laws.

THE NEED FOR REFORM

Proponents of strict acreage limitations and residency requirements contend that they are necessary to promote family farming, prevent windfall profits and unintended subsidies, and are not contrary to economic realities. I totally disagree, and believe it is evident that in most areas the present limitation is contrary to good sense and the economics of modern agriculture. Several studies support that opinion.

The U.S. Department of Agriculture has prepared an economic impact analysis of the Department of Interior's proposed acreage limitation regulations. It concludes that if implemented, they would lead to higher average production costs and loss of economic efficiency. The Department of Agriculture's analysis found that a 160-acre irrigated farm in the Columbia River Basin could possibly provide annual returns exceeding the median family income, but in both the Imperial Valley in California and along the North Platte River in Nebraska and Wyoming, a farm size of at least 32 acres would be needed to give a return equal to the median family income. The report also included that because of price variability, rising production costs, and other risks, "larger operating units may be necessary to maintain a viable farming operation over time," and that in all regions, "larger farm operations were more efficient."

In the Columbia Basin, it has been shown that average production costs decreased by 8 to 12 percent as farm size increased from 160 to 320 acres. Costs decreased by an additional 6 percent as farm size increased from 320 to 640 acres. In the Imperial Valley, a 640-acre farm was found to be 14 to 16 percent more efficient than a 160-acre farm. An increase in acreage from 640 to 2,500 acres resulted in a further decline in costs. Average production costs for sugar beets, corn alfalfa, malting barley, and dry beans along the North Platte River in Wyoming and Nebraska were 15 to 20 percent higher on a 160-acre than on a 480-acre farm. The analysis shows that efficient farm size is considerably greater than 160 acres in most regions, including Wyoming.

A Montana State University study conducted in 1977 indicates that economies of scale also exist on irrigated farms in Montana. In the Helena Valley and Milk River Valley, researchers found that only farms in excess of 600 and 450 acres respectively were economically feasible or capable of supporting a family.

Calculation of production costs for farms in the Huntley Valley in Montana showed that if a 320-acre farm was divided into two 160-acre irrigable units, there would be a net loss in profit of around $12,000 per year. The report concluded that the 160-acre limitation encourages economic inefficiency in agriculture.

A California State Governor's task force also concluded that the 160-acre farm was usually unprofitable, and that the break-even point was from 300 to 400 acres for various crops. Their report recommends an increase in the acreage limitation from 160 to 640 acres per owner with provision for a further increase in the limitation every 10 years, if economic or technological changes indicate that it would be appropriate.

Related studies have been done by Douglass Agee at the University of Wyoming. These studies have determined the average production costs for various crops in different areas of Wyoming. The average size farm is used in these studies, since without Government interference, the farmer will usually operate at the size which is more profitable and efficient. The average size farms for growing sugar beets, malting barley, alfalfa, dry beans and corn in Worland, Torrington-Wheatland, Riverton, and Powell areas are 480, 400, 320, and 400 acres, respectively. These sizes of irrigated farms represent the economically feasible unit to the farms and attempts to restrict farm size in Wyoming would reduce efficiency.

No uniform acreage limitation can be applied equally to broadly differing reclamation projects. One hundred and sixty acres of California land may be equivalent in productive potential to a much greater acreage in the State of Wyoming. Differences in climate, geology, and crop economics must be taken into account on a project-by-project basis in determining total acreage which is eligible to receive project water.

The Bureau of Reclamation has estimated that the average gross crop value per irrigated acre on all reclamation projects is $458. However, in Wyoming, where the growing season is shorter and the altitudes are relatively high, that average is only $199 per acre. In Utah, South Dakota, and Montana, gross crop values per irrigated acre are even less. The same standard cannot be equitably applied to lands in these States and to reclamation lands in California where gross crop values are in excess of $750 per acre.

THE FARM WATER ACT OF 1979

The Farm Water Act of 1979 attempts to modernize our reclamation law in a comprehensive fashion. It is the only bill yet introduced which addresses the varied circumstances which farmers face in the Western United States. It recognizes the realities of modern agriculture and insures that farmers will at least have the opportunity to earn an adequate living for their families. At the same time, it prevents speculation and windfall profits at the expense of the American taxpayer.

This is not a perfect bill, but it is a good one. It fairly considers the majority of diverse circumstances found in our 18 reclamation States, and deals with the differing problems which enforcement of the current law and proposed regulations would only serve to exacerbate.

There are eight points in this bill which I believe are of critical importance to Wyoming.

First, the acreage limitation is increased to reflect the economic and technical changes which have occurred since 1902. Under the Farm Water Act of 1902, 320 acres of class I land per owner may receive project water.

Equivalency for lands of lower productive potential is provided on a project-by project basis. Where climate, crop economics, and geology warrant, more than the 320 owned acres, as determined by the project's equivalency formula, would be eligible to receive project water.

Consistent with the Reclamation Act of 1902, leasing of additional lands would not be restricted by the Farm Water Act of 1979.

Fourth, it removes residency requirements by repealing the 1902 provision that the landowner must reside in the neighborhood of the land.

The use of commingled irrigation water suppy is taken into consideration in determining what portion of a landowner's irrigated land is subject to the acreage limitation. The ratio of total irrigated land to land subject to the acreage limitation is the same as the ratio of total water supply to project supplied water.

Lands would be released from the excess lands limitations upon payment of a lump-sum equal to the balance on contractual construction obligations due the Federal Government for project water. Excess lands would also be exempted if interest on the balance due on the lands is paid.

Land speculation is discouraged within reclamation areas by removing the opportunity for a buyer to purchase at a low Government approved price, and resell immediately at a higher market price. Windfall profits are prevented by requiring that landowners retain the property within a family for 10 years before selling it for anything more than cost, plus an inflation allowance.

And finally, the act waives the sovereign immunity of the United States in matters relating to this act. Landowners and other entities contracting with the Federal Government for irrigation water supply may force the United States into court to resolve conflicts in reclamation law.

Mr. President, I urge all of my colleagues to consider the complicated nature of the reclamation program, and the impact irrigated agriculture has upon the entire Nation. The Farm Water Act of 1979 is important not only to the West, but the Nation as a whole. Almost 9.5 million acres were irrigated in 1976 on reclamation projects, producing enough to meet the annual food requirements of 37.7 million people. The total crop value of $4.3 billion, or an average of $458 per acre, was produced by over 146,000 farms. The national effects of disruptions of these agricultural production units cannot be taken lightly.

Many of my colleagues believe that the best answer would be to abolish all acreage limitations on existing projects. The primary purpose of the 1902 law, to promote the settlement of the arid West, has been achieved. The overriding public purpose now should be to foster productive agricultural units upon which families will be able to make a reasonable living. I tend to believe such an approach would most likely be in vain. The Farm Water Act of 1979 represents an approach which is both viable and equitable.

While fraud, windfalls, and unintended subsidies must be guarded against, both the administration's proposed regulations and suggested amendments to protect against these abuses of the 1902 act, unnecessarily overregulate and are inequitable. We must be no less concerned that residency and lottery sale requirements may force the breakup of some family held farms, cloud farmers' titles to their property, and restrict parents' ability to transfer their farms to their children. Commingled water and previously existing direct flow water rights must be considered, and previously relied upon contracts ratified. Most important of all, the future growth potential of the capable farmer must be assured, while the bad husbandman must be allowed to fail.

Mr. President, the Farm Water Act of 1979 would implement a reclamation policy which is both just and economically sound. I am pleased to cosponsor this measure, and encourage my colleagues to examine it and support it.●

By Mr. MATHIAS:

S. 634. A bill to amend the Internal Revenue Code of 1954 to provide for a deduction paid into a reserve for product liability losses and expenses, to provide a deduction for certain amounts paid to captive insurers, and for other purposes; to the Committee on Finance.

PRODUCT LIABILITY PARTIAL SELF-INSURANCE ACT OF 1979

● Mr. MATHIAS. Mr. President, I am introducing the Product Liability Partial Self-Insurance Act today. The purpose of this bill is to change the Internal Revenue Code to enable small business owners to set up partial self-insurance funds to cover product liability. The bill would also allow certain professional people—architects and other design engineers—to set up similar tax-free funds. This limited class of professionals has been included in this bill because, like manufacturers, architects and engineers have a tangible product that is in the stream of commerce, be it a building, a road, or a bridge.

Some progress was made in this direction with the tax code amendments enacted late last year, but much remains to be done. Today, the tax code gives substantial tax advantages to the purchasers of commercial insurance but penalizes those who must self-insure against product or professional liability risk.

The bill I introduce today is a refinement of the Product and Professional Liability Insurance Tax Equity Act, S. 2864, which I introduced on April 10, 1978. I developed the current text after consultation with Representatives PRITCHARD and PEASE, and it grows out of a merger of S. 2864 and Senator CULVER'S Product Liability Self-Insurance Act, S. 3049, introduced on May 9, 1978, and reintroduced March 5, 1979, as S. 542.

In the last Congress, a special ad hoc panel, chaired by former Representative Whalen, studied the product liability insurance problem and presented its findings to the House Small Business Committee in April 1977. The study found that small manufacturers were suffering from dramatic increases in product liability insurance costs. There was an average cost increase of 944.6 percent over a 6-year period, while the increase in sales volume was 162 percent. That means that the premiums grew at a rate almost 6 times that of sales.

The panel also found that 21.6 percent of the companies surveyed said they were involuntarily operating without any commercial insurance coverage for product liability. And other companies told us they were forced to buy policies with very high deductibles, paying exorbitant premiums for only partial coverage of their risk.

Mr. President, it has become obvious that many small businesses are operating either wholly or partially outside the product liability insurance market. Congressman Whalen's study concluded that one of every three companies surveyed said it had been forced to increase the price of at least one product line as a direct result of increased product liability premiums. His study also showed that one of every six firms surveyed has been forced to abandon at least one product line as a direct result of product liability problems.

Now, while many large companies have the resources to deal with the liability insurance problem, including simply buying or beginning their own captive insurance companies, the small business owner or the privately practicing professional cannot afford these high-priced options. And increasingly, because of IRS rulings, even captive insurance companies are being pressured to enter the competitive insurance market, with the result that larger companies, too, are starting to look into self-insurance.

Of course, there is nothing in current law that stops anyone from starting the type of trust fund our bill envisions. However, the small business owners and professionals have a hard time putting aside enough money to cover themselves because of the Federal tax bite. This bill will allow them to deduct from gross income all money they put into a self-insurance fund. In addition, to counter inflation, it would allow interest to accumulate in the trust fund tax free. In other words, they could deduct the money paid into the fund as a cost of doing business, just as an insurance premium can be.

The object, then, of the Product Liability Insurance Tax Equity Act was to put the self-insurer on equal tax footing with the commercial insurance purchaser. The various bills to this end were discussed throughout the 95th Congress, and hearings were held in the House Ways and Means Committee and before the Senate Finance Subcommittee on Taxation and Debt Management.

The measures met with some success—with the invaluable assistance of my distinguished colleague from Iowa, Mr. CULVER—and we amended the tax code last year. It is now lawful for a corporation to build up a loss reserve account for product liability. But it still must be done with after-tax dollars, and use of the option is limited to corporations with severe product liability problems.

A second change made in the tax law last year was to extend from 3 to 10 years the carryback of losses attributable to product liability. However, as Congressman Whalen explained in the CONGRESSIONAL RECORD of July 21, 1978, this feature, which was proposed by the Carter administration, is of very little help to the small companies with the most severe problems.

Mr. President, I have read and reflected on the mass of testimony received by the Ways and Means Committee and the Subcommittee on Taxation, and I have reviewed the likely impact of the recent changes in the Internal Revenue Code. I have also met with representatives of industry and the design profession, and I think that the time has come to eliminate this inequity in the tax laws. In our increasingly complex society, it is more and more often the case that disputes must be resolved by litigation. We must protect businesses and certain professionals from the damaging and possibly destructive liability suits they may from time to time encounter.

We must realize that in the end we all suffer if they are forced to curtail their activity or even go out of business because of their inability to get adequate protection for themselves, their businesses, and their families.

I urge the Senate to act quickly and decisively on this important issue.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 634

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled, That this Act may be cited as the "Product Liability Partial Self-Insurance Act of 1979".

SEC. 2. (a) Section 165 of the Internal Revenue Code of 1954 (relating to losses) is amended by redesignating subsection (i) as subsection (j) and by inserting immediately after subsection (h) the following new subsection:

"(i) SELF-INSURANCE FOR PRODUCT LOSSES AND EXPENSES.—

"(1) GENERAL RULE.—In the case of a taxpayer engaged during the taxable year in a trade or business which involves the manufacture, importation, distribution, lease, or sale of a product or products with respect to which the taxpayer may incur any product liability, at the election of the taxpayer, there shall be allowed as a deduction under subsection (a) the sum of—

"(A) any amounts transferred by the taxpayer for such taxable year to his product liability trusts, including net income earned on the corpus of that trust and net gains realized from the sale or exchange of trust assets so transferred, and

"(B) any amounts paid by the taxpayer for such taxable year to a captive insurer with respect to the product liability of the taxpayer.

"(2) DETERMINATION OF AMOUNT.—

"(A) TAXPAYER WITH SEVERE PRODUCT LIABILITY INSURANCE PROBLEM.—In the case of a taxpayer who has a severe product liability insurance problem (as defined in paragraph (11)) for the taxable year, the maximum amount for such taxpayer determined under paragraph (1) shall not exceed the smallest of—

"(i) 5 percent of the gross receipts of the taxpayer for such taxable year from the manufacture, importation, distribution, lease, or sale of such product or products with respect to which the taxpayer may incur any product liability,

"(ii) the amount which when added to the sum of—

"(I) the balance of the taxpayer's product liability trust, and

"(II) the net contributions of the taxpayer to his captive insurer, if any,

equals 15 percent of the taxpayer's average yearly gross receipts from the manufacture, importation, distribution, or sale of such product or products during the base period, or

"(iii) $100,000.

"(B) OTHER TAXPAYERS.—In the case of a taxpayer who does not have a severe product liability insurance problem for the taxable year, the amount determined under paragraph (1) shall not exceed the smallest of—

"(i) 2 percent of the gross receipts of the taxpayer for such taxable year from the manufacture, importation, distribution, lease, or sale of such product or products with respect to which the taxpayer may incur any product liability,

"(ii) the amount which, when added to the sum of—

"(I) the balance of the product liability trust, and

"(II) the net contributions of the taxpayer to his captive insurer, if any,

equals 10 percent of the taxpayer's average yearly gross receipts from the manufacture, importation, distribution, lease, or sale of such product or products during the base period, or

"(iii) $25,000.

"(C) BASE PERIOD.—For the purpose of this paragraph, the term 'base period' means the shorter of—

"(i) the period beginning with the most recent preceding taxable year for which the taxpayer elected to have this subsection apply which is immediately preceded by a taxable year for which the taxpayer did not so elect and ending with the current taxable year, or

"(ii) the 5-fiscal-year period of the taxpayer which ends with or within the taxable year.

"(3) DISALLOWANCE OF DEDUCTION FOR CERTAIN LOSSES.—In determining the amount of the deduction allowable for the taxable year under subsection (a) to a taxpayer who has elected to have this subsection apply, no deduction shall be allowed for any product liability loss sustained by the taxpayer during the taxable year except to the extent that the aggregate amount of such losses during such year exceeds the sum of—

"(A) the amount in the product liability trust of the taxpayer at the beginning of such taxable year, plus

"(B) the aggregate amount of payments by the taxpayer to such trusts within the taxable year which are allowable as a deduction under paragraph (1).

"(4) USE OF FUNDS OF TRUST FOR INAPPROPRIATE PURPOSE.—

"(A) IN GENERAL.—If any amount in a product liability trust is, during a taxable year, used for any other purpose other than purpose set forth in paragraph (9)(D)(iii)—

"(i) an amount equal to the amount so used shall be included in the taxable income of the taxpayer for the taxable year, and

"(ii) the liability of the taxpayer for the tax imposed by this chapter for such taxable year shall be increased by an amount equal to 10 percent of the amount so used.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to amounts paid out of any product liability trust not later than the last day prescribed by law (including extensions thereof) for filing the taxpayer's return with respect to the tax imposed by this chapter for the taxable year to the extent the amount of such payment is not more than the excess of—

"(i) the aggregate amount of payments by the taxpayer to such account for the taxable year, over

"(ii) the maximum amount of such payments which may be deducted under paragraph (2).

"(5) TIME WHEN PAYMENTS TO ACCOUNT DEEMED MADE.—For the purposes of this subsection, a taxpayer shall be deemed to have made a payment to his product liability trust on the last day of the preceding taxable year if the payment is made on account of such taxable year and not later than the last day prescribed by law (including extensions thereof) for filing the taxpayer's return with respect to the tax imposed by this chapter for such taxable year.

"(6) PAYMENTS TO TRUST TO BE IN CASH OR CERTAIN OTHER ITEMS.—No deduction shall be allowed under paragraph (1) with respect to any payment to a taxpayer's product liability loss reserve account other than a payment in cash or in items in which the assets in said account may be invested under paragraph (10).

"(7) SPECIAL RULE FOR CONTROLLED GROUPS.—

"(A) IN GENERAL.—For the purpose of paragraph (2)—

"(i) in the case of any taxpayer who, during a calendar year, is a member of a controlled group of corporations, only gross receipts properly attributable under section 482 to such taxpayer for such year shall be taken into account; and

"(ii) the aggregate deductions under this subsection taken by all of the members of a controlled group of corporations for each taxable year shall be limited to the amount that would be permitted under paragraph (2) if all the component members of such group were considered to be a single taxpayer.

"(B) DEFINITION OF CONTROLLED GROUP.—For the purpose of subparagraph (A), the term 'controlled group of corporations' has the meaning given such term by paragraphs (1), (2), and (3) of subsection (a) of section 1563, except that the determination of whether a taxpayer is a component member of a controlled group of corporations at any time during a calendar year shall be made on December 31 of such year.

"(C) CONTROLLED GROUPS CONTAINING PERSONS OTHER THAN CORPORATIONS.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraphs (A) and (B) shall be applied to groups of taxpayers under common control where one or more of such taxpayers is not a corporation.

"(8) ELECTION, TERMINATION, AND WITHDRAWAL OF FUNDS.—

"(A) MAKING ELECTION; TERMINATING ACCOUNT.—The Secretary shall prescribe by regulations—

"(i) the time, manner, and conditions under which the election under paragraph (1) shall be made by a taxpayer;

"(ii) the time, manner, and conditions under which a taxpayer may terminate his product liability trust, and the funds accumulated therein, if any, may be distributed to the taxpayer without being subject to the penalty under paragraph (4); and

"(iii) the time, manner, and conditions under which a taxpayer may withdraw all, or any portion of, the funds from his product liability trust without penalty under paragraph (4).

"(B) SPECIAL REQUIREMENTS.—The regulations prescribed by the Secretary regarding the election under paragraph (1) shall require the taxpayer to indicate whether he is electing to transfer all, or any portion, of (i) the net income earned on amounts previously transferred to his product liability trust and (ii) the net gains realized on the sale or exchange of trust assets to that trust. Such amounts which the taxpayer does not elect to transfer to his product liability trust may be withdrawn from the trust without penalty under paragraph (4).

"(C) Withdrawal of funds.—The regulations prescribed by the Secretary regarding the withdrawal of funds from a taxpayer's product liability trust without penalty under paragraph (4) shall permit such withdrawal when the taxpayer has no outstanding product liability claims or lawsuits asserted against him and no reasonable expectation that any product liability claims and lawsuits will be asserted against him.

"(D) Inclusion in income.—Amounts distributed to a taxpayer from his product liability trust without penalty under this paragraph shall be included in the net income of the taxpayer in the taxable year in which the distribution is made.

"(E) Transfers to another trust.—In the case of a transfer of an amount from a product liability trust to another product liability trust, the maximum amount of deduction allowable to the taxpayer under paragraph (2) shall, for the taxable year of the transfer, be increased by an amount equal to the amount included in the income of the taxpayer for such year under subparagraph (D).

"(F) Other regulations.—The Secretary shall prescribe such other regulations as may be necessary to carry out the purposes of this subsection.

"(9) Definitions.—For purposes of this subsection—

"(A) Product.—The term 'product' includes any service provided by the taxpayer in the professional design, planning, evaluation, preparation of specifications, or administration of a contract, for the construction or modification of any building or structure on real property.

"(B) Product liability.—The term 'product liability' includes—

"(i) liability of the taxpayer for damages on account of physical injury or emotional harm to individuals, or damage to or loss of the use of property, attributable to negligence in, breach of warranty regarding, or defects in any product manufactured, imported, distributed, leased, or sold by the taxpayer, but only if

"(ii) such injury, harm, or damage arises after the taxpayer has completed or terminated operations with respect to, and has relinquished possession of, such product.

"(C) Product liability loss.—The term 'product liability loss' means any loss attributable to the product liability of the taxpayer.

"(D) Product liability trust.—The term 'product liability trust' means any trust—

"(i) established in writing which is created or organized under the laws of the United States or of any State (including the District of Columbia) by the taxpayer;

"(ii) the trustee of which is a bank (as defined in section 581) or another person (other than the taxpayer or any component member of a controlled group of corporations, within the meaning of paragraph (7), of which the taxpayer is a member) who demonstrates to the satisfaction of the Secretary that the manner in which that other person will administer the trust will be consistent with the purposes for which the trust is established;

"(iii) the exclusive purpose of which is to satisfy, in whole or in part, the product liability losses sustained by the taxpayer and the expenses incurred in the investigation, settlement, and opposition of any claims for compensation against the taxpayer with respect to his product liability, and to pay the administrative and other incidental expenses of such trust in connection with the operation of the trust and the processing of claims against the taxpayer;

"(iv) the assets of which will not be commingled with any other property other than in a common trust fund (as defined in section 584) and will only be invested as permitted in paragraph (10); and

"(v) the assets of which may not be borrowed, used as security for a loan, or otherwise used by the taxpayer for any purpose other than those described in clause (iii).

"(E) Captive insurer.—The term 'captive insurer' means any insurer—

"(i) which is directly or indirectly—

"(I) wholly or partially owned or controlled by the taxpayer, or

"(II) wholly owned or controlled by an association of which the taxpayer is a member, and

"(ii) which is licensed to provide product liability insurance to the taxpayer under the laws of a State of the United States, including the District of Columbia.

"(F) Net contributions of taxpayer to captive insurer.—The term 'net contributions of taxpayer to his captive insurer' means the sum of all premiums paid by the taxpayer to his captive insurer for product liability insurance, less all amounts paid by his captive insurer for claims against the taxpayer for compensation with respect to the product liability of the taxpayer.

"(10) Restrictions on investment of assets.—The assets of a product liability trust may not be invested in anything other than—

"(A) public debt securities of the United States,

"(B) obligations of a State or local government which are not in default as to principal or interest, or

"(C) time or demand deposits in a bank (as defined in section 581) insured by the Federal Deposit Insurance Corporation, a savings and loan association insured by the Federal Savings and Loan Insurance Corporation, or an insured credit union (as defined in section 101(6) of the Federal Credit Union Act) located in the United States.

"(11) Severe product liability insurance problem.—A taxpayer has a severe product liability insurance problem for a taxable year if, for such taxable year—

"(A) the taxpayer is unable to obtain a premium quotation for product liability insurance, with coverage of up to $1,000,000, from any insurer other than a captive insurer; or

"(B) the lowest insurance premium quotation for product liability insurance, with coverage of up to $1,000,000, obtained by the taxpayer was equal to more than 2 percent of the gross receipts of the taxpayer for such taxable year.

"(12) Deductibility of amounts paid to captive insurer as an ordinary and necessary business expense.—The deductibility, in whole or in part, of amounts paid by a taxpayer to a captive insurer for product liability insurance coverage under this subsection shall not affect the deductibility of such amounts under section 162 (relating to ordinary and necessary business expenses), except that such amounts shall not be deducted more than once.

"(13) Dicharge of indebtedness of taxpayer by product liability trust.—For the purpose of section 61 (relating to gross income), the payment by the trustee of a taxpayer's product liability trust of product liability losses sustained by the taxpayer, expenses incurred in the investigation, settlement, and opposition of any claims for compensation against the taxpayer with respect to his product liability, or other expenses permitted to be paid by the trustee of such trust under paragraph (9), shall not be included in the gross income of the taxpayer.".

(b) Accumulated Earnings Tax.—Paragraph (4) of section 537(b) of the Internal Revenue Code of 1954 (relating to the accumulated earnings tax) is amended to read as follows:

"(4) Product liability loss reserves or insurance.—Amounts accumulated in a taxpayer's product liability trust and amounts paid by a taxpayer to his captive insurer for liability insurance shall be treated as amounts accumulated for the reasonably anticipated needs of the business of the taxpayer to the extent those amounts are deductible under the rules of section 165(i). The accumulation of reasonable amounts, in addition to amounts deductible under section 165(i), for the payment of reasonably anticipated product liability losses (as defined in section 165(i)(9)(C)), as determined under regulations prescribed by the Secretary, shall be treated as accumulated for the reasonably anticipated needs of the business."

(c) Effective Date.—The provisions of this Act apply to taxable years beginning after September 30, 1979.

By Mr. DOMENICI:

S. 635. A bill to amend the Railroad Retirement Act of 1974 with respect to benefits payable to certain individuals who on December 31, 1974 had at least 10 years of railroad service and also were fully insured under the Social Security Act; to the Committee on Labor and Human Resources.

● Mr. DOMENICI. Mr. President, today I have introduced S. 635 which addresses a serious inequity created by Congress in the passage of the Railroad Retirement Act of 1974.

The principal purpose of the Railroad Retirement Act Amendments of 1974 was to restore the program to a sound financial posture. However, in the process we have deprived many former railroad employees of the benefits they had come to expect under the prior law.

Under the provisions of the 1937 act, former railroad employees and their dependents were eligible for railroad retirement benefits as well as social security annuities if they worked the minimal 10 years for the railroad industry. Usually these employees, with at least 10 years of railroad experience, later worked many years accruing social security benefits. The 1974 amendments, however, require at least 25 years railroad service to be eligible for the dual benefit program.

The bill I am proposing today would allow those employees who worked less than 25 years, but more than 10 years, for the railroads prior to the 1974 amendments to be eligible for full benefits under the railroad retirement program and the Social Security Act. In addition, this change would be made retroactive to January 1, 1975, the effective date of the 1974 amendments.

Mr. President, we in Congress cannot change laws adversely affecting thousands of Americans and expect their continued faith and support in government. Surely changes in laws are necessary, but we should also be mindful of those overlooked in the process.

I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 635

Be it enacted by the Senate and House of Representatives of the United States of Amer-

ica in Congress assembled, That (a) section 3(b)(1) of the Railroad Retirement Act of 1974 is amended by striking out "clause (C)" and inserting in lieu thereof "clause (A)", and by striking out "or (h)(2)" each time it appears therein.

(b) Section 3(h) of such Act is amended—

(1) by striking out "(A)" and all that follows through "and (B)" from subdivision (1) and by redesignating clauses (C) and (D) of such subdivision (1) as clauses (A) and (B), respectively;

(2) by striking out subdivision (2) and all that appears therein;

(3) by striking out "(A)" and all that follows through "and (B)" from subdivision (3), by redesignating clauses (C) and (D) of such subdivision (3) as clauses (A) and (B), respectively, and by redesignating such subdivision (3) as subdivision (2);

(4) by striking out subdivision (4) and all that appears therein; and

(5) by striking out "subdivision (1), (2), (3), or (4)" from subdivision (5) and inserting in lieu thereof "subdivision (1) or (2)" and by redesignating such subdivision (5) as subdivision (3).

(c) Section 4(b) of such Act is amended by striking out "clause (C)" each time it appears in the first proviso and inserting in lieu thereof "clause (A)" and by striking out "or (e)(2)" each time it appears in the first proviso.

(d) Section 4(e) of such Act is amended—

(1) by striking out "(A)" and all that follows through "and (B)" from subdivision (1), by redesignating clauses (C) and (D) of such subdivision (1) as clauses (A) and (B), respectively, and by striking out "section 3 (h)(5)" from the proviso to such subdivision (1) and inserting in lieu thereof "section 3 (h)(3)";

(2) by striking out subdivision (2) and all that appears therein;

(3) by striking out "or 3(h)(2)" and "or (2)" each time they appear in subdivision (3), by striking out "section 3(h)(5)" from each subdivision (3) and inserting in lieu thereof "section 3(a)(3)", and by redesignating such subdivision (3) as subdivision (2); and

(4) by striking out "subdivision (1), (2), or (3)" from subdivision (4) and inserting in lieu thereof "subdivision (1) or (2)" and by redesignating such subdivision (4) as subdivision (3).

(e) Section 4(g) of such Act is amended by striking out "(e)(3)" each time it appears therein and inserting in lieu thereof "(e) (2)".

(f) Section 4(h) of such Act is amended by striking out "or (2)" from the proviso thereof.

(g) Section 6(d)(1) of such Act is amended by striking out "or 3(h)(2)".

(h) Section 204(a) of Public Law 93–445 is amended by striking out "section 3(a)(3)" from paragraph (4) and inserting in lieu thereof "section 3(h)(2)".

(i) Section 206 of such Public Law is amended by striking out "4(e)(2)" from paragraph (3) and inserting in lieu thereof "4(e)(2)".

(j) The amendments made by the preceding subsections of this section shall be effective as of January 1, 1975.●

By Mr. PRESSLER:

S. 636. A bill to authorize and direct the Secretary of the Army to undertake, through the Chief of Engineers, certain engineering work for a water pipeline in South Dakota, and for other purposes; to the Committee on Environment and Public Works.

● Mr. PRESSLER. Mr. President, I am today introducing legislation to direct the Army Corps of Engineers to design and engineer a pipeline to carry water from the Missouri River in South Dakota eastward to the James River Valley in South Dakota.

This bill does not authorize the full construction of such a pipeline. Rather it directs the engineering, requires that the Corps submit a fully defined project to Congress for our consideration, and allows some additional work to proceed after engineering during that period when Congress is making its judgment.

This bill will enable us to begin to find a solution to the long unresolved issues involving the transfer of Pick-Sloan waters from the Missouri to areas of need, areas where the water can be put to beneficial use.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 636

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) the Pick-Sloan Project, as authorized by the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (58 Stat. 887), is modified to direct the Secretary of the Army, acting through the Chief of Engineers, to undertake the Phase I advanced engineering and design of a pipeline that would transmit necessary quantities of municipal and industrial water from the Missouri River eastward to the James River Valley, South Dakota. Such project shall be undertaken under the terms of the Water Supply Act of 1958 (72 Stat. 297).

(2) There are authorized to be appropriated to the Secretary of the Army $1,000,000 to carry out the provisions of this subsection.

(b)(1) The Secretary of the Army is authorized to undertake further work to complete all design activities and to initiate construction on the project described in subsection (3) upon completion of the Phase I design memorandum stage of such project, if the Secretary of the Army finds, and transmits to the Committee on Environment and Public Works of the Senate and to the Committee on Public Works and Transportation of the House of Representatives a report setting forth the finding, that such project would be without substantial controversy and would be undertaken substantially in accordance with the conditions recommended for such project, and that such further work would be compatible with any project modifications that may be under consideration.

(2) There are authorized to be appropriated to the Secretary of the Army $2,000,000 to carry out the provisions of this subsection.●

By Mr. McGOVERN:

S. 637. A bill entitled the "Marginal Railroad Main Line Service Assurance Act of 1979"; to the Committee on Commerce, Science, and Transportation.

● Mr. McGOVERN. Mr. President, I am pleased to introduce today the Marginal Railroad Mainline Service Assurance Act of 1979.

NATIONAL RAIL CRISIS

Mr. President, our Nation is in the throes of an immense rail transportation crisis. The industry's overall rate of return on investment has hit rock-bottom and the reliability and quality of rail service in many regions of this country continues to decline at staggering rates. The harsh weather of this past winter has taken a great toll on the railroads in the Upper Plains States and in the Northwest causing, at times, traffic to come to a total halt. Given that the railroads hold the greatest promise for energy efficient and low cost transportation, the present situation is indeed a great tragedy.

The crisis we are facing varies considerably from region to region. Some observers have called it a disease creeping from the Northeast on the heels of the Penn Central bankruptcy and the formation of ConRail to the Midwest where, to date, two carriers have already filed for bankruptcy. Those observers also believe that this crippling illness will reach the comparatively health Sun Belt railroads, who are currently riding the wave of the expanding economic and industrial development of the South and West.

Mr. President, the administration recently announced that the railroads' situation has become so critical that the industry will experience a capital needs shortfall as high as $16 billion over the next few years. The administration has also gone on record stating that the Federal Government will not be able or willing to step in and bail out the industry with this level of Federal assistance. In point of fact, the President has developed a plan that he believes will allow the industry to largely resolve its own problems. This plan calls for significant deregulation of the rail industry, in hopes that rate freedom, fewer merger constraints and relaxed regulations for exit will provide the necessary revenues to restore some degree of health to this century-old industry.

Although I contend this program will not provide the hoped for miracle cure, we must allow the railroads to the extent possible, without creating hardships for captive shippers or allowing rate freedom where market dominance is evident, to achieve the necessary flexibility to compete head to head with other transportation modes. I certainly hope that the administration's plans will be able to halt further serious deterioration of our Nation's railroads.

THE MIDWEST DILEMMA

Unfortunately, there is nothing in the administration's proposals to remedy the situation with which we are faced in the Midwest. Two of our major carriers are already bankrupt and many observers have called other midwestern railroads likely candidates for bankruptcy. Our bankrupt railroads are faced with the awesome task of trying to reorganize their plant and operations in order to emerge as viable carriers. It has become increasingly evident that a midwestern ConRail is completely unacceptable not only to the Federal Government which has so heavily subsidized the Northeast with little success, but also to the rail users in the Midwest who have heard the grim tales of ConRail's declining ability to provide adequate service.

The Department of Transportation has on many occasions stated that in order for the midwestern railroads to survive as we know them, considerable elimination of excess plant must occur, in order that a leaner system may profitably take advantage of the declining traffic levels. Accordingly, the Department has undertaken a number of restructuring programs in this region through titles 4 and 5 of the Railroad Revitalization and Regulatory Reform Act of 1976. And, in order that States may preserve branchline service which they deem to be necessary and in the public interest, the Department has provided such assistance.

While the Department's efforts in these programs have been admirable, critical gaps exist which could result in the elimination of essential, although marginal, lines, which could result in tremendous economic hardships in several Midwestern States—and indeed, deny those regions access to vital domestic and international markets for their products and for their needs.

A prime example of this inequity is readily apparent in the bankrupt Milwaukee Railroad's efforts to reorganize.

THE MILWAUKEE RAILROAD

The Milwaukee Railroad filed for a chapter 8 bankruptcy in December of 1977. This is the third bankruptcy and reorganization faced by this carrier. Vast portions of the Milwaukee's system consists of duplicative trackage, uneconomic light density rail. Its entire system stretches from Indiana to the west coast.

In August of 1978, the court appointed trustee of the Milwaukee made a preliminary determination that if the railroad was able to reorganize at all, it would not be able to reorganize as a transcontinental carrier. Consequently, it was entering into negotiations with other railroads for the sale of portions of its transcontinental line in the Pacific Northwest. The trustee further stated that it did not seem possible to successfully complete reorganization without eliminating all service west of Minneapolis, Minn.

By the end of the following month the trustee provided further confirmation in issuing a system map that portrayed a massive part of their rail system as lines that the carrier would seek to discontinue or that were under study for abandonment.

Mr. President, many of my colleagues and I understand the Milwaukee's and other bankrupt carriers needs to liquidate sizable segments of their system, to consolidate their plant in order to have access to the funds necessary to begin operations once again in the private sector.

At present the Milwaukee is receiving considerable assistance from the Federal Railroad Administration to restructure its most viable corridors while eligible States are receiving the maximum assistance allowable to salvage essential branchline operations. However, the Milwaukee contains a marginal main line corridor which is not eligible for either kind of assistance. This mainline corridor extends from Minneapolis, Minn., to the west coast. Although the Milwaukee is presently negotiating with other carriers for the sale of lines between the western edge of Montana and the west coast, the remaining stretch of their transcontinental line—nearly 1,000 miles—stands to be eliminated through their reorganization process.

IRREVERSIBLE ECONOMIC IMPACT

This is not some decrepit, light density branchline, Mr. President. This is a mainline corridor, a line that provides the the backbone for all rail service in my State of South Dakota. This line provides our sole rail access to the west coast, to crucial domestic centers and export markets. It is a fact that the economy of South Dakota could suffer an irreversible economic spiral if portions of this line were lost.

Beyond my own State's borders however, are equally serious dilemmas. Three utilities representing several States 2 years ago constructed one of the largest coal fired generating plants in the entire region along this mainline. This 425 megawatt plant, which was constructed at a cost even greater than the Milwaukee Railroad's total debt of $40 million, is solely dependent on this line for its coal supply. Without unit train coal service on this line, the plant would be closed. And, according to congressional testimony provided by the owning utilities it could cause their bankruptcy as well. This plant directly serves almost 200,000 customers in the States of North Dakota, Minnesota, and South Dakota. The utilities have testified that it may well be impossible to purchase the additional power necessary from another source to fill the needs of its customers.

The States of Minnesota and Montana face additional problems. Both States have an undeniable need for efficient rail access to the west coast for important export markets. The efficiencies of shipping to the Orient and East Asia through west coast ports as opposed to using the Mississippi and gulf ports and the Panama Canal are easily evident in the rate differences. In addition the many export ports for grain are at or are rapidly reaching their capacity. During every major grain sale that I can recall, we have experienced substantial bottlenecks at east and gulf coast ports.

Mr. President, the necessary determinations by the Milwaukee regarding their reorganization plans have placed us in a situation in which there is no applicable Federal statute to assist us and where assistance is mandated by the economic ramifications of total loss of this line.

In point of fact, there has been no other case in the history of railroading in this Nation, in which a coal mainline has been abandoned.

And yet, I am well aware and generally supportive of the mandate the administration has handed this Congress to cut Federal spending levels and to trim the Federal budget. With this in mind I have prepared legislation which will provide a minimally acceptable alternative to the elimination of this line, at the lowest possible cost to the Federal Government and which places a major burden on the affected States.

Mr. President, the Marginal Railroad Main Line Service Assurance Act cuts to the heart of a dilemma which occurs when a truly essential, and potentially viable main line must continue to provide service because there is no alternative to the elimination of service. Its applications are very limited in order that it does not become a panacea for numerous railroads desiring assistance. This bill could only be implemented in cases where the public interest is paramount and where loss of service would generate irreversible economic damage.

More importantly, under the provisions of this bill, the level of assistance would decline as the line becomes stronger and self-sustaining. With the announced coal development in States served by the Milwaukee main line and the anticipated major increases in the volume of grain moving to west coast ports and imports arriving at west coast ports there is little doubt in my mind that with a few years of assistance this line in particular would not require further Federal or State assistance.

Above all, this could never be described as a Federal handout program; it requires an enormous commitment on behalf of the affected States in order to be implemented.

SECTION-BY-SECTION ANALYSIS

The Marginal Railroad Main Line Service Assurance Act amends the Railroad Revitalization and Regulatory Reform Act by adding a new title to that act.

Section 1003 authorizes the Secretary of Transportation to make assistance available under certain conditions to the trustee of a bankrupt railroad for the continuation of service on a main line that would not otherwise be included as part of a plan for reorganization. Federal assistance for this purpose cannot exceed 70 percent of the cost of maintaining the line's operations. The remainder of the cost would be shared by the affected States.

Section 1003 establishes the criteria which must be met in order that the Secretary may authorize assistance for a given line. Lines cannot be eligible unless:

The line is presently operated by a bankrupt carrier and has been designated by the trustee of that carrier as not likely to survive reorganization, and has been certified by the Trustee as not likely to be salable to any qualified carrier or qualified organization.

The region served by the applicant line is without reasonable rail alternatives as determined by the Secretary in consultation with the affected States.

The Secretary has determined that the applicant line is unlikely to be approved for abandonment before the Interstate Commerce Commission under the Commissions' present abandonment criteria.

The Secretary, after consultation with the Governors and the shippers of the affected States has determined that continuation of service on that line is essential.

The Secretary has determined that loss of the line would deny or substantially limit those States access to national and international markets for their products and their needs.

The Secretary after consultation with the Trustee and the affected States determined that the applicant line is potentially viable in the private sector.

The provisions of section 1003(e) provide the notification procedure to the affected States of what their proportionate share in the cost of providing service will be based on a formula that takes into account: first, the amount of mileage of the affected line in each State; second, the amount of revenue generated by such line in each affected State, and third, the number of shippers in each affected State who are dependent upon the line for service.

Section 1003(g) requires that the railroad furnish all appropriate information in order to assist the Secretary in making the determination of the amount of assistance needed in order that cash outlays equal cash input attributable to the line.

Under the terms of sections 1003(h), the applicant carrier is notified and begins to drawdown the amounts necessary to sustain operations on a quarterly basis.

Section 1004 establishes the guidelines for Federal assistance after the first year of operation. This provision does not require the carrier to submit additional applications but does require the Secretary to assure that the line continues to be eligible under previous sections in the bill. If the line continues to be eligible, the carrier submits the necessary information to the Secretary in order that it may begin to draw down additional funds. In the event that the Secretary determines that the line does not meet eligibility criteria, the assistance is terminated.

Section 1006 establishes the terms of payback for both the Federal and State assistance. In any year that the line for which assistance is being provided returns to the carrier cash in excess of cash outlays, 30 percent of the surplus shall be applied as a partial repayment of the assistance received, with 10 percent of the surplus to be made payable to each affected State proportionate to each State's share, and the remaining 20 percent to be paid to the Federal Government. At such time when the line returns cash to the carrier in excess of cash outlays for four consecutive quarters, the Secretary shall determine the line to be self-sustaining and the assistance shall be terminated. Upon termination of assistance the carrier will begin to make regular payments to both the Federal Government and the affected States in a manner satisfactory to both parties.

Section 1007 of the bill establishes various reporting requirements in order that the carrier supplies ongoing necessary information to the Secretary and to the affected States.

Section 1008 authorizes that $30 million be authorized to carry out the provisions of the act in fiscal year 1980, that $25 million be authorized for fiscal year 1981, and $22 million in fiscal year 1982.

Mr. President, I request unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 637

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Marginal Railroad Main Line Service Assurance Act of 1979".

SEC. 2. That the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801) is amended by adding at the end thereof the following new title:

"TITLE X—MARGINAL RAILROAD MAIN LINE SERVICE ASSURANCE ACT OF 1979

"FINDINGS

"SEC. 1001. The Congress hereby finds and declares—

"(1) that many regions of the United States are experiencing a critical rail transportation crisis which has resulted in the bankruptcy of some rail carriers and may result in future rail bankruptcies;

"(2) that such bankruptcies and bankruptcy reorganization proceedings may necessarily result in the elimination of marginal, interstate main rail lines in order that the carrier may successfully achieve reorganization.

"(3) that such marginal interstate main rail lines which may be potentially viable and which may be eliminated through reorganization may deny the affected regions the services of efficient and reasonable access to national and international markets, creating serious and unacceptable economic hardships throughout the region; and

"(4) that the public interest and potential economic hardship dictate that service must be continued on the line through a combination of State and Federal assistance.

"DEFINITIONS

"SEC. 1002. As used in this title the term—

"(1) 'Secretary' means the Secretary of Transporation;

"(2) 'Department' means the Department of Transportation;

"(3) 'Trustee' means the court appointed Trustee of a bankrupt rail carrier;

"(4) 'Main Line' means an interstate rail line which carries over 5 million gross ton miles annually, and which generates less than 50 percent of the revenue necessary for line revenues to equal line costs;

"(5) 'owning carrier' means the rail carrier that owns the line eligible for or receiving assistance;

"(6) 'affected State' means any State in which the eligible line provides service; and

"(7) 'cash outlay' means the carrier's operating expenses less depreciation attributed to the eligible line.

"ASSISTANCE PROGRAM

"SEC. 1003. (a) The Secretary is authorized, pursuant to the provisions of this title, to provide assistance to any railroad or railroads for the purpose of maintaining marginal main line railroad operations which would not be otherwise included by a bankrupt railroad as part of a plan for reorganization, and where the Secretary has determined that the need for assistance is warranted pursuant to subsection (c).

"(b) Federal assistance under this title shall not exceed 70 percent of the cost of maintaining operations on a marginal main line.

"(c) Margin rail main lines shall not be eligible for Federal assistance as provided under this title unless the Secretary has determined—

"(1) that the line is presently operated by a rail carrier which is presently under bankruptcy reorganization proceedings, has been designated by the Trustee as not likely to survive as a part of the carrier when reorganization has been completed and has been certified by the Trustee as not likely to be saleable to any other qualified carrier or qualified organization based on the Trustee's attempts to initiate sale negotiations;

"(2) that in consultation with the affected States the region served by the applicant line is without reasonable rail alternatives;

"(3) that the applicant line is unlikely to be approved for abandonment before the Interstate Commerce Commission under the present abandonment criteria of such Commission, were the Trustee to seek abandonment;

"(4) after consultation with the Governors and designated rail agencies of the affected States, that continuation of service on the line is essential to those States;

"(5) after consultation with present and prospective shippers and users of the applicant line, that continuation of service over such line is essential in absence of a reasonable rail alternative;

"(6) after consultation with the affected States served by the applicant line that the States served would be denied or experience substantially limited access to national and international markets for their products and their needs, if such line were to be eliminated;

"(7) after consultation with the Trustee and the affected States, that the applicant line may be potentially viable;

"(8) that the carrier will undertake operation of the eligible line in a cost-efficient manner; and

"(9) after consultation with the affected States, that loss of service on the affected line would result in more than a 15 percent increase in Federal-State highway expenditures annually.

"(d) Not later than 180 days after receipt of a request for assistance from the Trustee of an eligible carrier, the Secretary shall make the determinations required by subsection (c) and issue a determination regarding the eligibility of the application.

"(e) Upon a determination by the Secretary that the application meets the requirements of subsection (c), the Secretary shall notify the Governors of any affected States. The Secretary shall include with such notification the estimated cost of providing such assistance for each State.

"(f)(1) The Secretary shall determine the share each State must pay in accordance with a formula to be developed by the Secretary which shall take into consideration the amount of mileage of the eligible line in each State, the amount of revenue generated by such line within each State, and the number of shippers who are dependent on such line for service in each State.

"(2) Upon receipt of the information as provided for in subsection (g) and any other information deemed necessary for the Secretary in order to provide assistance to the owning carrier, the Secretary shall immediately notify the affected States regarding the specific amount of each State's share.

"(3) If the revenue cash outlay and input attributable to the eligible line indicate a continuing serious erosion of such line's revenue base the Secretary may request the affected States to increase their share by an amount not to exceed 5 percent.

"(4) In the event that any affected State cannot obtain the necessary resources to provide the first payment of their share in a timely fashion, but has provided the Secretary with assurances that the State is making a good faith effort to establish the needed resources, the Secretary may make available loans or loan guarantees to those States for such purpose and for the purpose of covering the State share of a nonparticipating State. The Secretary shall establish the necessary guidelines for repayment of such assistance.

"(5) At the time assistance is made available to the owning carrier of the eligible line, each State shall become liable to pay its share on a quarterly basis directly to the owning railroad.

"(g) Upon notification that the applicant line is eligible for assistance, the Trustee of the owning carrier shall submit to the Secretary—

"(1) the appropriate records indicating the cash outlays and cash inputs attributable to the eligible line for the calendar year preceding the application;

"(2) current forecasts of projected cash outlays and cash inputs attributable to the eligible line's operation for the first year in which assistance shall be provided;

"(3) any and all studies and forecasts conducted by or for the owning carrier indicating the short and long term cash outlays and cash inputs necessary to provide service on the eligible line; and

"(4) a report indicating that the owning carrier will actively solicit new business for the years in which assistance may be made.

In the event that quarterly cash forecasts provided by the carrier for the preceding quarter are inaccurate or insufficient the carrier shall so notify the Secretary and amend future forecasts accordingly.

"(h) where the Secretary achieves agreement with each of the affected States regarding the terms of payment for each State's share, the Secretary shall advance to the owning carrier the first quarter of the first year's assistance as determined by the Secretary and as according to the cash shortfall forecast provided by the carrier pursuant to subsection (g). The amount of the assistance shall be the difference between cash outlay and cash input for the eligible line. The Secretary shall advance all remaining assistance for the remainder of the first year on a quarterly basis and according to quarterly cash forecasts to be provided by the owning carrier.

"CONTINUING ASSISTANCE

"Sec. 1004. In order to receive assistance beyond the first year, the Secretary must find that the eligible line continues to meet all requirements for assistance pursuant to this title. If the Secretary determines that the requirements of section 1003 (c) and (g) have been met, the owning carrier need not submit a new application for continuing assistance. The owning carrier shall submit for each year of assistance the information required under section 1003 (f)(2), (g), and (h).

"TERMINATION

"Sec. 1005. If the Secretary determines that the requirements pursuant to section 1003(c) cannot be met or if the affected States do not elect to provide their proportionate share, the Trustee may proceed as necessary, to protect the interest of the creditors including the elimination of the applicant line through bankruptcy reorganization proceedings, or through proceedings before the Interstate Commerce Commission.

"REPAYMENT

"Sec. 1006. (a) In any year that the line for which assistance is being received, such line returns profits to the carrier a minimum of 30 percent of the surplus shall be applied as a partial repayment of the assistance received, with 10 percent of the surplus to be made payable to each affected State in proportion to each State's share, and the remainder to be paid to the Federal Government. At such time when the line for which assistance is being received returns profits for 4 consecutive calendar quarters, the Secretary shall determine the line to be self-sustaining and the assistance shall be terminated.

"(b) At the time of termination of assistance, the aggregate unpaid principal amount of all obligations to the Federal Government and to the affected States:

"(1) shall have maturity dates satisfactory to the Secretary and the affected States, but not to exceed 30 years;

"(2) shall provide for payments by the obligor satisfactory to the Secretary and the affected States and shall begin immediately upon the Secretary's determination that the line has become self-sustaining;

"(3) shall bear interest (exclusive of charges for the guarantee and services charges if any) at rates not to exceed such percentage per annum on the unpaid principal as the Secretary determines to be reasonable.

"(c) No interest charges on any assistance shall accrue until such assistance is paid to the applicant.

"REPORTS

"Sec. 1007. At the end of each year for which assistance was made available, the owning carrier shall submit a report to the Secretary detailing—

"(1) how any assistance received by the carrier was applied to the eligible line;

"(2) the ways in which the owning carrier solicited new business for such line and the result of the carrier's efforts; and

"(3) any service disruptions or other factors that caused the carrier to operate at a loss.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 1008. There are authorized to be appropriated to carry out the provisions of this title $30,000,000 for the fiscal year ending September 30, 1980, $25,000,000 for fiscal year ending September 30, 1981, $22,000,000 for the fiscal year ending September 30, 1982.

"REGULATIONS

"Sec. 1009. The Secretary shall promulgate such rules and regulations as may be deemed necessary or appropriate to carry out the purposes and provisions of this title.".●

By Mr. EAGLETON (for himself and Mr. Danforth):

S. 638. A bill to terminate authorization of the Meramec Park Lake portion of the Missouri River Basin project; to the Committee on Environment and Public Works.

● Mr. EAGLETON. Mr. President, Missouri voters disapproved by a 2 to 1 margin continuing construction of the Meramec Park Lake project in a referendum on August 8, 1978. In response to that overwhelming disapproval, I am introducing, along with Senator Danforth, this bill to deauthorize the Meramec Dam project. The referendum ended the heated controversy over the fate of the dam; but we must now face the question of what to do with approximately 28,000 acres of land acquired for the project.

Ordinarily, the disposition of such property would be determined in a deauthorization process extending over a decade. I do not believe such a protracted process would be either fair or beneficial in the case of the Meramec project. The fate of the dam is sealed; there is no chance that it will be revived during the next several years, and therefore no reason to wait for deauthorization. On the contrary, there are very good reasons to move ahead quickly with this special deauthorization bill. The withdrawal of 28,000 acres of land from local tax roll has had a major adverse impact on local governments in the Meramec Basin, and the uncertainty over disposition of the lands continue to hamper planning and development.

Furthermore, I do not think the normal deauthorization process, whereby various government agencies get first opportunity to claim the land on a catch-as-catch-can basis is equitable in this instance. This land was taken from local control with the promise that a dam and reservoir would be built. If these are not to be built, I think it is only fair that local people pay a primary role in determining the land's final disposition.

To accomplish these ends, the bill I have introduced also directs the Corps of Engineers to coordinate a 1-year study of possible disposition of the project lands. The corps will consult with a broad range of public and private interest groups, including but not limited to the local and county governments; the State government of Missouri; appropriate Federal departments such as Agriculture and Interior; private groups which have demonstrated an interest in the project; and local business and agribusiness leaders. Input from these groups will be solicited at public hearings to be held in the area. All views of those consulted will be incorporated into the corps' report to Congress along with an assessment of the options. Once we have all of the necessary facts compiled in this manner, it will be possible to reach a decision on the final disposition of the Meramec property. I hope my colleagues will support this bill as a first step in a process designed to bring about a resolute conclusion of the Meramec Dam controversy.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill be printed in the Record.

There being no objection, the analysis was ordered to be printed in the Record, as follows:

Section-by-Section Analysis

Section 1. Provides for the deauthorization of the Meramec Park Lake project in Missouri, a Corps of Engineers reservoir and dam project, originally authorized in 1938. The deauthorization of Meramec Park Lake is effective immediately upon enactment of this bill into public law.

Section 2. Provides for interim management and maintenance by the Corps of Engineers of the deauthorized project until such time as a statute enacted by Congress provides for the further disposition of the works, structures and interests in the lands acquired for the Meramec Park Lake project following the submission to Congress of the study provided for in Section 3. The "works, structures and interests in lands related to the project" are to be understood to give the Corps of Engineers maximum flexibility in the interim management and maintenance of the project lands. This will not preclude the Corps from taking acceptable and ordinary management actions in the public interest which involve the property of the United States (both real property and incidental personal property) owned in connection with th Meramec Park Lake project. The Corps would be precluded, however, from taking any management actions which would significantly alter the character of the project area.

Section 3. Provides for a one year investigation and study and assessment by the Corps of Engineers of alternative uses of the lands acquired for the Meramec Park Lake project. Provides further that the Corps shall consult with interested and affected individuals, groups and entities both directly and through area public meetings. The recommendations of those consulted shall be included in the study. The study shall be submitted to Congress for review and action.

Section 4. Provides that the obligations which are necessarily incurred on civil works projects will be honored by the Corps. This covers not only relocation assistance benefits which may be outstanding, but also covers such other contingencies that may arise, such as a deficiency judgment and an award in a condemnation proceeding.

Section 5. Provides authorization for appropriations in such amounts as are needed to carry out the provision of this bill. It makes clear that the activities authorized by this bill can be undertaken immediately with available funds.●

● Mr. DANFORTH. Mr. President, I am pleased to cosponsor with my colleague, Senator EAGLETON, legislation to deauthorize the Meramec Park Lake project in our State. As I stated in my campaign for the U.S. Senate, the Meramec Dam is an idea that has outlived its usefulness. In 1977 and 1978 I succeeded in having appropriations for the dam project struck from the Corps of Engineers budget.

On August 9, 1978, two out of three Missouri voters in a special referendum said no to continued construction of the $130 million dam project. As a result Senator EAGLETON and I introduced legislation to deauthorize the park lake project. Again, this year, we are introducing similar legislation. There is one major addition. Congressman ICHORD intends to submit similar legislation in the House of Representatives.

No longer do Missourians have to worry about the construction of a dam project that will flood 12,600 acres to save 11,800 acres. No longer will Missourians have to worry about the destruction of one of Missouri's most valuable free-flowing rivers. On August 8, 1978, the verdict of Missourians was clear: The project's costs far exceeded its benefits. Meramec Dam should be stopped. This legislation accomplishes what Missourians by their referendum asked for. I anticipate early hearings and look for early passage of the legislation.●

By Mr. HEINZ (for himself and Mr. SCHMITT):

S. 639. A bill to amend the Internal Revenue Code of 1954 to permit small businesses to elect to depreciate not more than $100,000 annually on a 3 year straight line basis; to the Committee on Finance.

JOB CREATION ACT OF 1979

● Mr. HEINZ. Mr. President, the small business community has enjoyed a partnership with the American people and our Government that has made our economy the world's strongest, and it is this strength which provides the viability of the private enterprise system. To preserve that strength it is crucial that the Government adopt policies which encourage the expansion of the private sector, particularly the small business community, which has served us all so well.

Today, the small business community faces a very real crisis, a crisis precipitated by the fact that small businesses cannot raise sufficient capital to modernize and expand. Allowing this capital formation problem to erode the economic viability of the small business community would have a profound impact on the national economy because of the tremendous role that small business plays in every dimension of the economy. Over 97 percent of the 14 million businesses in the United States can be classified as small businesses.

Small business accounts for over 43 percent of the gross national product. Almost one half of the American work force, over 40 million people, are employed by small businesses. Clearly, the small business community plays a substantial, vital role in moving the national economy forward, but it can play a greater role. It can participate in the solution of many of our national problems.

For example, if each small business in the United States would hire only one additional employee, the unemployment problem which has plagued us for so long could be solved. But, jobs, permanent jobs in the private sector which give the unemployed the skills necessary to achieve the standard of living they deserve, can only be created through capital investments.

Today, America's small businesses must invest on an average over $20,000 in order to create a single job. This statistic, a $20,000 investment per job, dramatically underlines the severity and impact of the capital formation problem.

In sum, expansion of private sector employment opportunities can only be undertaken through capital formation incentives which means new tax policies which will strengthen the small business community and allow it to grow.

Through such tax policies we can further the entrepreneurial spirit which is the essence of our economy. Through such tax policies we can provide more jobs for American workers, and we can enable millions of small businesses to compete and to thrive. The legislation I introduce today, the Small Business Revitalization Act of 1979, is a positive step forward toward a stronger, more competitive small business community.

The Small Business Revitalization Act of 1979 would provide well-focused tax relief for the small business community. It would simplify the tax provisions applicable to depreciation by providing that any business may depreciate the first $100,000 of machinery or equipment purchased each year over the following 3 years using the straight-line method.

The bill further provides that electing the 3-year depreciation will not influence the scope of the investment tax credit. That credit will be available based on the useful life of the property. Thus, if the 3-year depreciation is taken on property with a normal useful life of 8 years, the full investment tax credit would be available.

The Joint Committee on Taxation has estimated that this bill would reduce tax revenues as follows:

[In billions of dollars]

	1980	1981	1982	1983	1984	1985	1986
Calendar year ---	−0.9	−3.0	−5.8	−6.8	−5.9	−5.1	−4.3
Fiscal year ------	−0.2	−1.5	−4.1	−6.5	−6.5	−5.6	−4.8

There is a pressing need for the simplification of the depreciation provisions of the code because the existing asset depreciation range system, while helpful to certain important segments of American industry, is simply too complex for the majority of small businesses. The Small Business Revitalization Act would not eliminate the ADR or other depreciation schemes; it would simply allow taxpayers to elect a less complicated depreciation method. Statistics on the usage of the ADR schedules clearly establish that the system is used primarily by large businesses and minimally by small businesses.

According to the Treasury Department, ADR is used by 63 percent of the corporations with $1 billion in assets, 33.5 percent of the firms with over $100 million in assets, and only 1.2 percent of the corporations with under $5 million in assets. The simplified depreciation schedule embodied in the Small Business Revitalization Act would enable small businesses to take better advantage of the provisions of the Internal Revenue Code which are intended to stimulate investment and economic growth.

Through its positive effects on investment and, therefore, on the growth of productivity, this bill could be an important element in our total efforts to bring inflation under control. The slow growth of the productivity of American industry, that is, output per work hour, has contributed to the inflationary spiral of ever-increasing prices and wages. Increasing productivity growth rates will reduce relative labor costs and the consequent upward pressures on prices and help to bring inflation under control. The following comparative statistics make the severity of this problem clear:

	(1)	(2)	(3)
Japan -----------	32.0	8.4	8.3
France ----------	22.8	5.7	4.8
Netherlands ------	23.7	6.9	4.6
Belgium ---------	21.8	6.9	4.0
Germany --------	24.8	5.5	4.0
United States ----	17.5	2.7	3.5

[1] Average annual business investment as a percent of GNP.

[2] Average annual percent increase in productivity.

[3] Average annual percent increase in real GNP.

Statistics recently released by the Department of Labor reconfirmed the necessity of increasing the productivity of American industry. The Department reported that productivity only grew four-tenths of 1 percent in 1978. The President's Council of Economic Advisers estimated in its most recent annual report that productivity will grow only 1.5 percent annually in the near future. In order to effect an increase in productivity, American industry must invest more capital in the modernization of plants and equipment. This bill will encourage such investments by extending to millions of small businesses the advantages of simplified, accelerated depreciation.

The "Small Business Revitalization Act" would be an important step forward toward providing small business with the capital needed for expansion and modernization. It would enable small business to continue to play a crucial role in the national economy, to provide jobs for millions of Americans, and to maintain the delicate competitive balance in the marketplace which results in lower prices for consumers. This legislation is needed. It is well-focused. It will help small business to remain strong and through that strength will help all of us.●

By Mr. CANNON (for himself and Mr. Inouye) (by request):

S. 640. A bill to authorize appropriations for the fiscal year 1980 for certain maritime programs of the Department of Commerce, and for other purposes; to the Committee on Commerce, Science, and Transportation.

● Mr. CANNON. Mr. President, the legislation I am introducing today at the administration's request would authorize appropriations for the fiscal year 1980 for the maritime programs of the Department of Commerce.

Section 209 of the Merchant Marine Act of 1936, provides that there are authorized to be appropriated for the maritime activities of the Department of Commerce only such sums as the Congress may specifically authorize by law. The bill, therefore, contains specific authorizations for the following programs: Construction-differential subsidy, $101,000,000; operating-differential subsidy, $256,208,000; research and development, $16,360,000; maritime education and training, $25,874,000; and operations, $35,598,000. The authorization levels for these programs are those recommended by the administration.

Mr. President, these programs are necessary to assure that our merchant marine remains a strong link in our chain of national security. They also help assure that our merchant marine will continue to make a substantial contribution to the national economy.

A major study prepared last year for the Maritime Administration, entitled "Economic Impact of the U.S. Merchant Marine and Shipbuilding Industries," found that domestic maritime operations accounted for: 480,000 American jobs; $16.6 billion in sales in the economy; $6.8 billion input to the gross national product; $4.8 billion in personal income; $1.6 billion in corporate income; and another $1.6 billion in Federal, State, and local tax revenues.

Significantly, the study revealed that each dollar of sales by our merchant marine produces a total output of $1.80 in sales throughout the economy. Each dollar of sales by the shipyard industry produces a total output of $2.10 in the economy. It was further concluded that up to one-half of the subsidy outlays are returned to the U.S. Treasury in the form of tax accruals.

Mr. President, these economic benefits to the Nation far outweigh the average annual $550 million Federal ship construction and operation subsidy outlays of recent years.

Mr. President, I ask unanimous consent that the letter of transmittal from the Secretary of Commerce and the bill be printed in the Record at the conclusion of these remarks.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 640

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Maritime Appropriation Authorization Act for Fiscal Year 1980".

Sec. 2. Funds are authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Commerce, for the fiscal year 1980, as follows:

(1) For acquisition, construction, or reconstruction of vessels and construction-differential subsidy and cost of national defense features incident to the construction, reconstruction, or reconditioning of ships, not to exceed $101,000,000;

(2) For payment of obligations incurred for operating differential subsidy, not to exceed $256,208,000;

(3) For expenses necessary for research and development activities, not to exceed $16,360,000;

(4) For maritime education and training expenses, not to exceed $25,874,000, including not to exceed $17,132,000 for maritime training at the Merchant Marine Academy at Kings Point, New York, not to exceed $6,785,000 for financial assistance to State marine schools, and not to exceed $1,957,000 for supplementary training courses authorized under section 216(c) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1126(c)); and

(5) For operating expenses, not to exceed $35,598,000, including: not to exceed $6,377,000 for reserve fleet expenses, and not to exceed $29,221,000 for other operating expenses.

Sec. 3. There are authorized to be appropriated for the fiscal year 1980, in addition to the amounts authorized by section 2 of this Act, such additional supplemental amounts for the activities for which appropriations are authorized under section 2 of this Act, as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law, and for increased costs for public utilities, food service, and other expenses of the Merchant Marine Academy at Kings Point, New York.

The Secretary of Commerce,
Washington, D.C., February 28, 1979.

Hon. Walter F. Mondale,
President of the Senate,
Washington, D.C.

Dear Mr. President: Enclosed are six copies of a bill "To authorize appropriations for the fiscal years 1980 and 1981 for certain maritime programs of the Department of Commerce, and for other purposes.", together with a statement of purpose and need in support thereof.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of this legislation to the Congress and further that enactment would be in accord with the program of the President.

Sincerely,

Juanita M. Kreps,
Secretary of Commerce.

Enclosures.

Statement of Purpose and Need of the Draft Bill

Section 209 of the Merchant Marine Act, 1936, provides that after December 31, 1967, there are authorized to be appropriated for certain maritime activities of the Department of Commerce only such sums as the Congress may specifically authorize by law. This draft bill authorizes appropriations for those activities listed in Section 209 for which the Department of Commerce proposes to seek appropriations for fiscal years 1980 and 1981.

"(1) For acquisition, construction, or reconstruction of vessels and construction-differential subsidy and cost of national defense features incident to the construction, reconstruction, or reconditioning of ships not to exceed $101,000,000 for fiscal year 1980 and such sums as may be necessary for fiscal year 1981."

Construction subsidies are based on the difference between United States and foreign shipbuilding prices. These sums are paid to shipyards so that U.S. operators can purchase American-built vessels at prices equivalent to prices for similar foreign-built vessels.

The request for construction subsidies for fiscal year 1980 is $101,000,000. This, when added to $23,000,000 of carry-over funds, will provide for a program level of $124,000,000, which will fund four ships: one LASH (lighter aboard ship) and three dry bulk carriers. The dry bulk ships represent anticipated requirements in conjunction with the Dry Bulk Vessel Legislative Initiative which the Administration currently has under review.

"(2) For payment of obligations incurred for operating-differential subsidy, not to exceed $256,208,000 for fiscal year 1980, and such sums as may be necessary for fiscal year 1981."

Operating subsidies are based upon the difference between United States and foreign vessel operating costs and are paid to promote the maintenance of a U.S.-flag merchant fleet capable of providing essential shipping services. Essential services are defined as those ocean services, routes and lines, and bulk carrying services essential for the promotion, developemnt, expansion, and maintenance of the foreign commerce of the United States. Operators receiving subsidies for the provision of such services must operate American-built vessels manned by American crews. The fiscal years 1980 and 1981 authorization request will finance operating subsidies to qualified U.S.-flag operators in order to support the continuation of essential American merchant marine services.

An estimated $306,714,000 in subsidy will be paid to U.S.-flag operators in 1980. Approximately $50,506,000 of this amount is projected to become available from 1979 balances brought forward to 1980. Estimated payments during 1980 include $243,071,000 for 147.4 ship years of liner ship operations, $28,383,000 for 19.2 ship years of bulk carrier ship operations, and $35,260,000 for balances of subsidy estimated to be due for ship operations through 1979.

"(3) For expenses necessary for research and development activities, not to exceed $16,360,000 for fiscal year 1980, and such sums as may be necessary for fiscal year 1981."

The purpose of the research and development program is to advance technological development to enable U.S. shipyards and ship operators to become more competitive.

The program level for 1980 includes projects for the development of improved and more efficient shipboard machinery, improved ship design and construction methods, and the improvement of shipboard operations and shipping systems for greater productivity and safer operations. These activities will assist U.S. shipping and shipbuilding companies in competing in world trade. Cost-sharing and participation by industry in research and development projects assure that projects have practical and meaningful objectives, increase potential for industry implementation, and enhance the research effort by obtaining a larger return for the Federal investment.

"(4) For maritime education and training expenses, not to exceed $25,874,000 for fiscal year 1980, including not to exceed $17,132,000 for maritime training at the Merchant Marine Academy at Kings Point, New York, $6,785,000 for financial assistance to State marine schools, and $1,957,000 for supplementary training courses authorized under Section 216(c) of the Merchant Marine Act, 1936, and such sums as may be necessary for fiscal year 1981."

The 1980 maritime education and training program includes operation of the United States Merchant Marine Academy, continuing assistance to the six State marine schools, and supplementary training for eligible merchant marine personnel. Funding requested for the Merchant Marine Academy will provide for the purchase of equipment now leased for use in the upgraded diesel engine curriculum, increased maintenance and operating requirements, and continuation of the modernization program. The State marine school program, established by the Maritime Academy Act of 1958, assists States in the operation and maintenance of maritime academies for the training of merchant marine officers. Assistance is provided to participating States (California, Massachusetts, Maine, New York, Michigan, and Texas) in the form of annual grants, allowances to cadets, and maintenance and repair of ships on loan for use as training ships.

Funding in 1980 provides for increased allowances due to reduced attrition, reduction of the backlog of work on State marine school schoolships, and the installation of improved habitability and training features on the schoolships. Supplementary training provided under Section 216(c) of the Merchant Marine Act, 1936, as amended, provides training courses in the use of shipboard collision avoidance radar, gyro compass operation and maintenance, use of LORAN C, field exercise training in shipboard firefighting, and operation and maintenance of medium and slow speed marine main propulsion diesel engines. The 1980 budget includes an increase to fund increased demand by industry for attendance at marine diesel engine propulsion training courses at the Federal academy.

"(5) For operating expenses, not to exceed $35,598,000 for fiscal year 1980, including not to exceed $6,377,000 for reserve fleet expenses, and $29,221,000 for other operating expenses, and such sums as may be necessary for fiscal year 1981."

The reserve fleet program provides for preservation maintenance and security of ships in the National Defense Reserve Fleet and for administration of the ship transfer and scrap ship sales programs. The National Defense Reserve Fleet provides a viable inventory of ships preserved in such manner as to facilitate activation to meet requirements for additional shipping capacity in times of national emergency. The 1980 budget requests additional funding for Maritime Administration expenses in the joint Navy-Maritime Administration Ready Reserve Fleet program.

Funding authorized under the category "other operating expenses" provides for the direction and administration of all Agency programs other than the Merchant Marine Academy, supplementary training and reserve fleet programs and for all program costs not separately authorized above. In 1980, additional resources are requested for study of foreign maritime aids and for radar training schools. An overall decrease in requirements for other operating expenses results from reductions consistent with the President's objective of reducing Federal employment.

Section 3 of the draft bill would authorize to be appropriated for 1980 and 1981, additional supplemental amounts for the activities for which appropriations are authorized under section 2 of the bill to the extent necessary for increases in salary, pay, retirement, or other employee benefits authorized by law. The purpose of this section is to provide authorization for supplemental appropriations for these purposes.

Also requested is necessary authority for supplemental appropriations, should they be needed, for uncontrollable cost increases in public utilities, food services and other expenses at the Merchant Marine Academy at Kings Point, New York.●

By Mr. STEVENS:

S. 641. A bill to amend the National Forest Management Act of 1976 to classify the State of Alaska as all other States are classified with respect to the building of certain roads by the Secretary of Agriculture for purchasers of timber qualifying as "small business concerns"; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. STEVENS. Mr. President, today I am introducing a bill which would amend the National Forest Management Act, Public Law 94–588, to allow lumber companies in Alaska which qualify as small business concerns to request that the U.S. Forest Service construct logging roads.

This bill simply classifies Alaska in the same category as the rest of the States in the Union. When the National Forest Management Act passed in the 94th Congress, the act allowed in section 14(i)(1) timber companies, which qualify as small businesses in the rest of the United States, to request that the Forest Service construct logging access roads for them. However, Alaska was excluded during the conference committee which was held on this bill. No explanation was given in the bill or its report for this exclusion and there is no justification for this exclusion. Therefore, I am introducing this bill to correct the matter.

Congress will be faced with legislation that would impact all the forest-producing States. The U.S. Forest Service roadless area review and evaluation II (RARE II) recommendation will soon be before this body. The Forest Service has recommended that 15 million acres be put into wilderness—5 million of those acres are in Alaska. Much of the 11 million acres in the further planning category is also located in Alaska. On the Tongass National Forest this may mean a drop in the annual allowable cut from the current levels of around 500 million board feet to below 300 million board feet.

These figures only relate to the RARE II areas and do not take into full consideration the Alaska land legislation that is now before the Senate. It is important to note that the proposed wilderness will push the existing timber harvesting into more environmentally sensitive areas and into economically marginal areas to harvest. The legislation that I propose today would address these problems.

Assistant Secretary of Agriculture Rupert Cutler told the House Interior Committee on February 13 of this year during his testimony on the Alaska land legislation that the administration budget officials have agreed to provide increased funding for timber development in southeast Alaska to compensate for land that would be withdrawn as wilderness. Additional funds will be needed to put into place the road system that will be needed to provide for augmented timber output, according to the Assistant Secretary. I want to point out to my colleagues that the administration has testified that these funds will not come at the expense of other national forests throughout the country.

The testimony by Assistant Secretary Cutler illustrates the need for Congress to consider and act on the legislation that I am now introducing. Alaskan timber companies must be put on the same footing as the rest of the country. My legislation would not grant Alaska special compensation but simply eliminate an exclusion that was put onto my State without proper consideration of the issues.

Loggers in Alaska need the benefits of this provision as much, if not more, than other States, since our cost of living is much higher. Also it costs Alaska loggers much more than their competitors to ship to markets.

It is extremely important to Alaska to give our developing timber industry the same advantages as the rest of the United States. In order for Alaskan industry to compete in the national market we must not hinder their access to the resources. Allowing the Forest Service to construct logging roads for small timber companies in Alaska will not only allow them to compete economically, it will also insure that the roads are built in the most ecologically sound manner possible.

I hope to see quick consideration for this bill during this session.

I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 641

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 14(1)(1) of the National Forest Management Act of 1976 (P.L. 94-588; 90 Stat. 2949) is amended by striking out the colon and all remaining material in paragraph (1) and substituting in lieu thereof a period.

By Mr. STEVENS:

S. 642. A bill to amend title 39 of the United States Code to provide reduced rates for certain mail matter sent by the U.S. Olympic Committee and its affiliated organizations; to the Committee on Governmental Affairs.

Mr. STEVENS. Mr. President, I am introducing a bill which would allow inclusion of the U.S. Olympic Committee, its national governing bodies, its affiliated multisport organizations, and the Lake Placid Olympic Committee in the category of nonprofit organizations entitled to the special postal rate. This consists of less than 50 organizations, some of which already have the special rate and would, we believe, cost of Postal Service no more than $500,000 per annum. A few of the organizations entitled to the special rate under my bill have interests in areas unrelated to Olympic sports. Such organizations will be entitled to use the preferred rate only where their mail matter involves amateur sports.

Promotion of high standards in athletic competition is a worthy goal and enjoys widespread support as evidenced by the enactment of the Amateur Sports Act into law in the 95th Congress. The national and international sports organizations deserve our commendation and support for their efforts in bringing more and more young people into competitive sports and training them to be world class athletes.

The President's Commission of Olympic Sports, on which I was privileged to serve, identified lack of funding as one of the key impediments to a fully developed amateur sports program. The competition our athletes face from other countries is often heavily financed by those governments. A savings on postage costs for our sports organizations would free funds for those groups to use in developing a better U.S. Olympic team and assisting young athletes in their training.

The special rate would constitute a significant savings. For instance, under the present system ineligible organizations are charged 8.4 cents per piece of mail sent third class as compared to 2.7 cents per piece under the special rate. For books and catalogs, they are charged 36 cents per pound as compared to 14 cents per pound under the special rate. For bulk third class other than books, they are charged 41 cents per pound as compared to the special rate of 17 cents per pound. As you can see, savings would be significant in each category.

Considering that educational organizations are already eligible for the special rate, it would be wise to extend this rate to organizations which perform a valuable educational function—training and assisting amateur athletes.

Finally, Mr. President, to dispel fears that this provision sets a precedent for an onslaught of organizations clamoring for the preferred rate, amateur sports organizations were recently considered nonprofit, tax-exempt organizations by the Internal Revenue Service. Although the Postal Service is not bound by IRS rulings, as a general rule the preferred postage rate is given to such nonprofit, tax-exempt organizations.

It does not make any sense to allow tax-exempt organizations. organizations if we turn around and take that advantage away by requiring that the organizations pay full postage costs which are not required by similar organizations.

Mr. President, our Olympic teams continually need help. I ask that the Senate recognize this need by voting for my bill.

By Mr. KENNEDY:

S. 643. A bill to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes; to the Committee on the Judiciary.

REFUGEE ACT OF 1979

Mr. KENNEDY. Mr. President, I am pleased to introduce today a bill that establishes for the first time a comprehensive U.S. refugee resettlement and assistance program, which concludes a personal goal of mine for many years—reforming the discriminatory and outdated refugee provisions of the Immigration and Nationality Act of 1952.

I am introducing this bill—as jointly submitted by the Secretary of State, the Attorney General, and the Secretary of HEW—not simply by request but with enthusiasm and strong support. It reflects the close working relationship I and others in Congress have had with administration officials in drafting this important legislation. It also reflects the essential elements of a bill (S. 2751) I introduced in the 95th Congress—and in nearly every Congress since 1969—reforming our Nation's refugee policies and practices.

Mr. President, the Immigration Act of 1965, for which I served as floor manager in the Senate, repealed the discriminatory national origins quota system and commenced needed steps to reform basic policy governing one of the oldest themes in our Nation's history.

Since then, while some additional reform measures have been enacted, much more needs to be done. The bill I am introducing today accomplishes one of the most important reforms of our immigration law that has long been needed—the law governing the admission and resettlement of refugees in the United States.

The bill accomplishes four basic objectives:

First, it repeals the current law's discriminatory treatment of refugees by providing a new definition of a refugee that both recognizes the plight of homeless people all over the world, and accords refugee admissions the same immigration status given all other immigrants.

Second, it raises the annual limitation on regular refugee admissions from 17,400 to 50,000. This is accomplished without really increasing overall annual immigration to the United States in recent years.

Third, the bill provides an orderly but flexible procedure to meet emergency refugee situations and any other situations of special concern to the United States, if the resettlement needs of the homeless people involved cannot be met within the regular 50,000 ceiling.

Fourth, it provides for Federal support of the refugee resettlement process—and extends coverage to all refugees entering the United States.

Mr. President, there are several other features of the bill that are important, and which are outlined in the section-by-section analysis I shall ask to be printed in the RECORD.

Hearings on this bill are scheduled to begin tomorrow, March 14, by the Committee on the Judiciary in room 2228, Dirksen Senate Office Building. We will hear testimony from the executive branch, led by former Senator Dick Clark, who is now the President's Coordinator for Refugee Affairs. We will also receive testimony from representatives of the American Council of Voluntary Agencies, representatives of State and local agencies, and others.

Mr. President, over many years, the American people have responded generously and compassionately to the needs of homeless people, and I share the view of many that our national policy of welcome to refugees has served our country and traditions well. The basic purpose of the bill I introduce today is to update the law—and to help insure greater equity in our treatment of refugees and displaced persons and to establish a more orderly procedure for their admission into the United States in reasonable numbers.

Mr. President, I ask unanimous consent that the text of the bill and the section-by-section analysis be printed at this point in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 643

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That this Act may be cited as the "Refugee Act of 1979."

TITLE I—PURPOSE

The Congress declares that it is the historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands, including, where appropriate, humanitarian assistance for their care and maintenance in asylum areas, efforts to promote opportunities for resettlement or voluntary repatriation, aid for necessary transportation and processing, admission to this country of refugees of special concern to the United States, and transitional assistance to refugees in the United States. The Congress further declares that it is the policy of the United States to encourage all nations to provide assistance and resettlement opportunities to refugees to the fullest extent possible.

The objective of this Act is to provide a permanent and systematic procedure for the admission to this country of refugees of special concern to the United States, and to provide comprehensive and uniform provisions for temporary and transitional assistance to those refugees who are admitted.

TITLE II—ADMISSION OF REFUGEES

SEC. 201. (a) Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101 (a)) is amended by adding after paragraph (41) the following new paragraph:

"(42) The term 'refugee' means any person who is outside any country of his nationality or, in the case of a person having no nationality, is outside any country in which he last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership of a particular social group, or political opinion."

(b) Chapter I of Title II of the Immigration and Nationality Act is amended by adding after section 206 (8 U.S.C. 1156) the following new sections:

"ANNUAL ADMISSION OF REFUGEES

"SEC. 207. (a) (1) Subject to the provisions of paragraph (2), the number of refugee admissions granted in any fiscal year shall not exceed 50,000, to be made available in accordance with a determination made by the President regarding the number of admissions to be allocated to each group or class of refugees the President determines to be of special concern to the United States. Prior to the start of the fiscal year, the President shall report to the Committees on the Judiciary of the Senate and the House of Representatives regarding the foreseeable number of refugees who will be in need of resettlement during the fiscal year and the anticipated allocation of refugee admissions during the fiscal year.

"(2) The number of refugees who may be admitted under this section may exceed 50,000 in any fiscal year if the President determines, prior to the beginning of the fiscal year and after consultation by the designated representatives of the President with the Committees on the Judiciary of the Senate and the House of Representatives, that admission of a specific number of refugees in excess of 50,000 is justified by humanitarian concerns or is otherwise in the national interest, based upon the foreseeable number of refugees of special concern to the United States who will be in need of resettlement. These additional admissions shall be allocated among groups or classes of refugees of special concern to the United States in accordance with a determination made by the President. In the course of the consultation provided for in this paragraph, the designated representatives of the President shall furnish the Committees on the Judiciary a description of foreseeable numbers of refugees who will be in need of resettlement during the coming fiscal year and an explanation of the reasons for believing that the admission of more than 50,000 refugees of special concern to the United States is in the national interest.

"(3) Subject to the numerical limitation established pursuant to paragraph (1) or (2), the Attorney General may, in his discretion and pursuant to such regulations as he may prescribe, admit for lawful permanent residence any refugee who is not firmly resettled in any foreign country, is within a group or class of refugees determined to be of special concern to the United States, and is admissible as an immigrant under this Act, except for the fact that he does not meet the requirements of paragraphs (14), (15), (20), (21), (25), or (32) of section 212(a).

"(b) (1) Not more than five thousand of the refugee admissions authorized under subsection (a) in any fiscal year may be made available by the Attorney General, in his discretion and under such regulations as he may prescribe, to adjust to that of a lawful permanent resident the status of any alien who—

"(A) makes application for such adjustment;

"(B) has been physically present in the United States for a period of at least two years prior to application for such adjustment; and

"(C) is a refugee, is not firmly resettled in any foreign country, and is admissible as an immigrant under this Act at the time of his examination under this paragraph, except for the requirements of paragraphs (14), (15), (20), (21), (25), or (32) of section 212(a).

"(2) When an alien has been granted adjustment of status to that of a lawful permanent resident under paragraph (1), his spouse and child may also be granted such status, in the discretion of the Attorney General and under such regulations as he may prescribe, if such spouse or child makes application for such status and is admissible as an immigrant except for the fact that he does not satisfy the requirements of paragraphs (14), (15), (20), (21), (25), or (32) of section 212(a).

"(3) (A) Upon approval of an application pursuant to paragraph (1), the Attorney General shall record the alien's admission to the United States for lawful permanent residence as of the date, as established by the alien to the satisfaction of the Attorney General, that he became a refugee in the United States: *Provided*, that such date shall not be more than two years prior to the date of approval of such application.

"(B) Upon approval of an application pursuant to paragraph (2), the admission of the spouse or child of a refugee shall be recorded as of the same date as that of the refugee.

"ADMISSION OF EMERGENCY SITUATION REFUGEES

"SEC. 208. (a) If the President determines, after consultation by the President's designated representatives with the Committees on the Judiciary of the Senate and the House of Representatives, that (1) an unforeseen emergency refugee situation exists; (2) the admission of certain refugees in response to the emergency refugee situation is justified by grave humanitarian concerns or is otherwise in the national interest; and (3) that the admission into the United States of these refugees cannot be accomplished under section 207, the President may fix a number of refugees to be admitted into the United States in response to the emergency refugee situation. In the course of the consultation provided for in this subsection, the designated representatives of the President shall furnish the Committees a description of the unforeseen emergency refugee situation, an estimate of the number of refugees to be admitted under this section, and an estimate of the cost of their resettlement.

"(b) The admissions authorized by subsection (a) shall be allocated among groups or classes of refugees of special concern to the United States in accordance with a determination made by the President.

"(c) Subject to the numerical limitation established pursuant to subsection (a), the Attorney General may conditionally admit into the United States, pursuant to such regulations as he may prescribe, any alien who is a refugee within a group or class designated pursuant to subsection (b) and who is not firmly resettled in any foreign country.

"SPOUSES AND CHILDREN OF REFUGEES

"SEC. 209. A spouse or child (as defined in section 101(b) (1) (A), (B), (C), (D), or (E) of any alien who qualifies for admission under section 207 or 208 shall, if not otherwise entitled to admission under such section, be entitled to the same admission status as such alien if accompanying, or following to join, such alien, and upon the spouse's or child's admission into the United States, such admission shall be charged against the numerical limitation established in accordance with the section under which the alien qualifies for admission. A spouse or child who is admitted for lawful permanent residence in accordance with this section shall be required to establish admissibility to the United States as an immigrant except for the requirements of paragraphs (14), (15), (20), (25), or (32) of section 212(a).

"GRANTING OF IMMIGRANT STATUS TO EMERGENCY SITUATION REFUGEES

"SEC. 210. (a) Notwithstanding any numerical limitation specified in this Act, any alien who has been admitted into the United States conditionally under section 208 or 209:

"(1) whose admission has not been terminated by the Attorney General pursuant to such regulations as he may prescribe;

"(2) who has not acquired permanent resident status; and

"(3) who has been physically present in the United States for at least two years.

shall, at the end of such two years, return or be returned to the custody of the Service for inspection and examination for admission into the United States as an immigrant in accordance with the provisions of sections 235, 236, and 237.

"(b) Any alien who, pursuant to subsection (a), is found, upon inspection by an immigration officer or after a hearing before a special inquiry officer, to be admissible as an immigrant under this Act at the time of his inspection and examination except for the fact that the alien does not meet the requirements of paragraphs (14), (15), (20), (21), (25), or (32) of section 212(a) shall be regarded as lawfully admitted to the United States for permanent residence as of the date of his arrival."

SEC. 202. Section 211 of the Immigration and Nationality Act (8 U.S.C. 1181) is amended—

(a) by inserting in subsection (a) after the words "Except as provided in subsection (b)" the following: "and subsection (c)"; and

(b) by adding a new subsection (c) at the end thereof to read as follows:

"(c) The provisions of subsection (a) shall not apply to an alien whom the Attorney General admits to the United States for lawful permanent residence under Section 207.".

SEC. 203. (a) Section 201(a) of the Immigration and Nationality Act (8 U.S.C. 1151 (a)) is amended to read as follows:

"SEC. 201. (a) Exclusive of special immigrants defined in section 101(a) (27), immediate relatives specified in subsection (b) of this section, and aliens who come within the provisions of sections 207, 208, and 209, the number of aliens born in any foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence, shall not in any of the first three quarters of any fiscal year exceed a total of seventy-two thousand and shall not in any fiscal year exceed two hundred and seventy thousand.".

(b) Section 202 of the Immigration and Nationality Act (8 U.S.C. 1152) is amended—

(1) by striking out "and the number of conditional entries" in subsection (a);

(2) by striking out "(8)" in subsection (a) and inserting in lieu thereof "(7)";

(3) by striking out "or conditional en-

tries" and "and conditional entries" in subsection (e);

(4) by striking out "20 per centum in subsection (e) (2) and inserting in lieu thereof "26 per centum";

(5) by striking out paragraph (7) of subsection (e);

(6) by striking out "(7)" in paragraph (8) of subsection (e) and inserting in lieu thereof "(6)"; and

(7) by redesignating paragraph (8) of subsection (c) as paragraph (7).

(c) Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended—

(1) by striking out "or their conditional entry authorized, as the case may be," in subsection (a);

(2) by striking out "20 per centum" in subsection (a) (2) and inserting in lieu thereof "26 per centum";

(3) by striking out paragraph (7) of subsection (a);

(4) by striking out "and less the number of conditional entries and visas available pursuant to paragraph (7)" in subsection (a)(8);

(5) by striking out "or to conditional entry under paragraphs (1) through (8)" in subsection (a)(9) and inserting in lieu thereof "under paragraphs (1) through (7)";

(6) by redesignating paragraphs (8) and (9) of subsection (a) as paragraphs (7) and (8);

(7) by striking out "(7)" in subsection (d) and inserting in lieu thereof "(6)"; and

(8) by striking out subsections (f), (g), and (h).

(d) Sections 212(a)(14), 212(a)(32), and 244(d) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(14), 1182(a)(32), 1254 (d)) are amended by striking out "section 203(a)(8)" and inserting in lieu thereof "section 203(a)(7)".

(e) Subsection (h) of section 243 of the Immigration and Nationality Act (8 U.S.C. 1253) is amended to read as follows:

"(h) The Attorney General is authorized to withhold the deportation or return of any alien (other than an alien described in section 241(a)(19)), subject to such terms and conditions as he may prescribe, to any country where such alien's life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group of political opinion."

(f) Section 5 of the Act of October 5, 1978 (P.L. 95-412) is amended by striking out "September 30, 1980" and inserting in lieu thereof "the effective date of the Refugee Act of 1979."

(g) Any reference in any law to section 203(a)(7) of the Immigration and Nationality Act shall be deemed a reference to section 207.

SEC. 204. Any alien determined to be eligible for admission for lawful permanent residence under section 207(b)(1) of the Immigration and Nationality Act who acquired that status under the provisions of the Immigration and Nationality Act prior to the effective date of this Act may, upon application, have his admission for permanent residence recorded as of the date, as established by the alien to the satisfaction of the Attorney General, that he became a refugee in the United States: *Provided*, That such date shall not be more than two years prior to the date of approval of such application. Upon application, the admission for lawful permanent residence of the spouse or child of such refugee, if eligible for the lawful permanent residence under section 207(b)(2) of the Immigration and Nationality Act, may be recorded as of the same date as the date recorded for the refugee.

TITLE III—TEMPORARY AND TRANSITIONAL ASSISTANCE TO REFUGEES

SEC. 301. (a) Section 2(b) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(b)) is amended to read as follows:

"(b)(1) There are hereby authorized to be appropriated such amounts as may be necessary from time to time—

"(A) for contributions to the activities of the United Nations High Commissioner for Refugees for assistance to refugees under his mandate or persons in behalf of whom he is exercising his good offices;

"(B) for assistance to or in behalf of refugees designated by the President (by class, group, or designation of their respective countries of origin or areas of residence) when the President determines that such assistance will contribute to the foreign policy interests of the United States;

"(C) for payments to appropriate public or nonprofit, private agencies to aid in the placement, resettlement, and care of refugees;

"(D) for projects and programs to assist adult refugees in gaining skills and education necessary to become employed or otherwise self-reliant, including facility in English, vocational and technical training, professional refresher training and other recertification services, and social and employment services;

"(E) for payments to state and local agencies for projects to provide special educational services (including facility in English) to refugee children in elementary and secondary schools;

"(F) for child welfare services, including foster care maintenance payments and services and health care, furnished in any of the first twenty-four months during any part of which the refugee is in the United States or, in the case of a child who enters the United States unaccompanied by a parent or other close adult relative (as defined by the President), until the month after such child attains age eighteen (or such higher age as the State's child-welfare services plan prescribes for the availability of such services to any other child in that State), if later; and

"(G) for income maintenance and medical assistance, except that if a refugee is eligible for aid or assistance under a State plan approved under part A of title IV or under title XIX of the Social Security Act, or for supplementary security income benefits (including State supplementary payments) under the program established under title XVI of that Act, funds authorized under this subsection shall only be used for the non-Federal share of such aid or assistance, or for such supplementary payments.

"No payment shall be made under paragraph (C), (D), (E), or (G) with respect to aid or services, furnished directly or through a project or program, to a refugee who entered the United States more than twenty-four months prior to receiving such aid or services, other than a Cuban refugee who entered the United States before October 1, 1978.

"(2) As used in this section, the term 'refugee' has the same meaning as that prescribed by paragraph (42) of section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(42))."

(b) Subsection (a) of this section shall not be considered a law enacted on or after February 7, 1972, for purposes of section 15(a) (1)(A) of the Act of August 1, 1956, as amended (22 U.S.C. 2680(a)(1)(A)).

SEC. 302. Section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)) is amended by striking out "25,000,000" in paragraph (2) and inserting in lieu thereof "$50,000,000".

TITLE IV—EFFECTIVE DATE

SEC. 401. (a) Except as provided in subsection (b), this Act shall become effective on October 1, 1979.

(b) The repeal of subsections (g) and (h) of section 203 of the Immigration and Nationality Act, made by section 203(c)(8) of this Act, shall not apply with respect to any individual who before the effective date of this Act was granted a conditional entry under section 203(a)(7) of the Immigration and Nationality Act (and under section 202 (e)(7) of the Immigration and Nationality Act, if applicable), as in effect immediately before such date, nor shall it apply to any alien paroled into the United States before the effective date of this Act who is eligible for the benefits of section 5 of the Act of October 5, 1978 (P.L. 95-412).

THE PROPOSED REFUGEE ACT OF 1979—MEETING THE NEED FOR A COMPREHENSIVE LONG-TERM POLICY ON REFUGEES

(Prepared by the Department of State)

The basic provisions of the proposed Refugee Act of 1979 and the need for its prompt enactment into law can best be understood by first reviewing the current state of the law and the problems that have arisen under existing statutory provisions.

Under the present law there are two ways refugees may enter the United States. The first is under section 203(a)(7) of the Immigration and Nationality Act, which provides for the conditional entry of 17,400 persons. These people must be examined by an Immigration Officer in a non-Communist or non-Communist dominated country. They must show that they have fled from a Communist or Communist-dominated country, or a country in the Middle East, and that they fear to return to that country because they have been, or fear they will be, persecuted there on account of race, religion, or political opinion.

The second way refugees may currently enter the United States is under section 212(d)(5) of the Act, which gives the Attorney General discretionary authority to parole, for emergent reasons or reasons deemed strictly in the public interest, any alien applying for admission into the United States. Through a legal fiction, an alien who has been paroled into the United States is deemed to be in the same legal position as an alien who is still at the border seeking admission.

The law as it stands does not work well in many circumstances. The 17,400 conditional entry numbers are always oversubscribed. At the same time, because of the ideological and geographical limitations, many refugees from countries in the Western Hemisphere are precluded from using the conditional entry provision. As a result, the section 212(d)(5) parole authority must be and has been resorted to repeatedly over the past 23 years.

Although portions of the legislative history suggest that the parole power was originally intended for individual cases, it has been used to admit sizeable refugee groups over the years, including the well-known Hungarian, Cuban and Indochinese refugee groups. Though not required by law, a procedure for the exercise of the parole power has developed. This procedure usually is initiated by a recommendation of the Secretary of State, after which the Attorney General consults with appropriate members of the House and Senate Judiciary Committees. Such consultations have been repeated and frequent, most recently with regard to refugees from Indochina, the Soviet Union and South America. In recent years both the Congress and the Executive Branch have become increasingly dissatisfied with this use of the parole power as a sporadic short-term reaction to impending disasters. Thus, the Administration and Congress have seen a need for a comprehensive long-term policy on the admission and resettlement of refugees. Building on Congressional initiatives last session, the proposed Refugee Act of 1979 represents the Administration's views on the most appropriate way to provide such a policy.

The proposed Act defines the term "refugee" in substantial conformity with the definition contained in the United Nations Convention and Protocol Relating to the Status of Refugees, thereby removing the ideological and geographical limitations of the present conditional entry provision. However, because the total number of refugees far exceeds the capacity of the United States to provide resettlement opportunities, the bill provides that refugee admission numbers will be allocated by Presidential determination among groups of refugees who are of special concern to the United States.

The proposed Act has two distinct procedures for the admission of regugees: one for what has become the more or less predictable "normal flow" of refugees each year, another for unforeseen emergency group admissions. The normal flow provision allows the admission of up to 50,000 of special concern annually, with the President to decide on the allocation of the numbers. There is also authority for the President, before the beginning of the fiscal year, to adjust the normal flow limit to a fixed higher number, after consultation with the Congress, should he determine that the higher number is necessary in the national interest based on his review of foreseeable resettlement needs. The authority to use the emergency group admission procedure is also vested in the President. However, the use of this second procedure is limited to unforeseen refugee emergencies, again following consultations with the Congress. Under the group admission provision the President must determine that admission of the refugees is not possible under the normal flow of provisions and is justified by grave humanitarian concerns or is otherwise in the national interest.

The advantages of the two admission procedures in the proposed Act can be readily perceived when compared with existing law. The normal flow provisions will in effect replace the conditional entry procedure. The antiquated ideological and geographical limitations of the conditional entry provision will be eliminated. The unrealistically low 17,400 anual limitation will be replaced by a 50,000 figure which is more in accord with the nation's recent experience. However, the Administration proposal will provide additional, but carefully structured, flexibility by enabling the President to exceed the figure of 50,000 if he specifies the extra numbers needed prior to the beginning of the fiscal year, after consulting with Congress regarding the need for the additional admissions. This latter provision will avoid any situation in which the Executive Branch foresees a need to admit more than 50,000 refugees in the next fiscal year, but because of a rigid numerical limitation must strain the statutory framework by declaring an "emergency" in order to justify admitting the number in excess of 50,000 under the group admission procedures.

The emergency group admission provisions will essentially replace the use of the Attorney General's parole authority to admit large groups of refugees. However, it might be more accurate and descriptive to say that the group admission provisions will be filling a void which the repeated stretching of the parole authority never successfully filled. Under the Administration proposal the United States, for the first time, will have clearly stated statutory procedures and criteria for the emergency group admission of refugees. For the first time the important role of the Congress will be recognized by statute, in that consultation with the cognizant congressional committees will be required before a group admission is authorized. Moreover, the type of information to be furnished the committees is specified in the draft bill in order to ensure that such consultations are productive. Finally, the use of the group admission procedures will be limited to unforeseen emergencies, as compared to the previous practice of a dire emergency, but simply because they could not be accommodated under the unrealistically low ceiling on conditional entry numbers.

This legislative proposal has a special urgency attached to it because the current parole program for Indochinese refugees expires on May 1, 1979. Without new legislation the continued stopgap use of the parole authority will be required to cope with the increasing flow of refugees of special concern to the United States.[1]

Another significant feature of the proposed legislation is elimination of the two-year conditional status for normal flow refugees. The conditional provision has not effectively served its original purposes of allowing additional time to screen admitted refugees and avoid permanent admission of ineligible aliens. In fact, we have in most instances been able to perform thorough screening before a refugee enters, and virtually no refugees have been returned because they were found ineligible during the two-year review.

At the same time, the conditional status has in many instances impeded a refugee's ability to secure a desired job or otherwise to become a full member of his new community. And the two-year review has generated paperwork far out of proportion to the benefits of the added screening. For these reasons, under the proposed legislation, normal flow refugees enter as lawful permanent residents from the day of their admission.

In keeping with the Administration's comprehensive approach to refugee policy the proposed Refugee Act of 1979 also contains provisions aimed at establishing a more uniform basis for the provision of assistance to refugees coming to and already in the United States. These provisions are set forth as amendments to the Migration and Refugee Assistance Act of 1962. That Act contains the basic authority under which assistance is furnished to Cuban and Indochinese refugees coming to and already in the United States. Besides broadening the provisions so that they apply equally to all refugees, the amendments made by this portion of the draft bill make few substantive changes from current administrative practice under the Act. These amendments reflect the experience gained by the departments and agencies involved in the administration of refugee assistance since the original enactment of the Migration and Refugee Assistance Act of 1962. One major substantive addition, however, is the establishment of express limitations on the period for which the Federal government will pay the full cost (rather than applying the generally applicable Federal-State cost sharing rules) of cash and medical assistance under programs authorized by the Social Security Act. The draft bill will specify that, except for unaccompanied refugee children, the Federal government will bear the full cost of new refugees for only the first two years after their arrival in the United States. After that, States will be expected to provide whatever assistance would be available to any other of its residents, with the same allocation of cost between the Federal and State governments.

Specific assistance programs authorized under the draft bill are as follows:

Payments to public or to private voluntary agencies for their work in the placement and resettlement of refugees;

Funding for projects to aid refugees in securing employment;

Support for special educational services, particularly training in English, through the elementary and secondary education system;

Use of funds for child welfare services; and

Funding for cash and medical assistance.

The Administration and Congress are very much concerned both with the nation's immediate refugee needs and with the need for a sensible and sound long-term solution, weighing the role of the legislative and executive branches. The prompt enactment of the Refugee Act of 1979 will help provide that long-term solution and ease immediate refugee needs. Prompt action is required because the refugee problem shows no signs of simply fading away. The fact is that the problem is growing at an alarming rate and, notwithstanding some success in our extensive diplomatic efforts to persuade other nations to accept larger numbers of refugees, the United States will soon be called upon to accept more refugees. At present our response must be that we are limited to the conditional entry process and a fully subscribed parole program which expires on May 1, 1979.

SECTION-BY-SECTION ANALYSIS OF THE "REFUGEE ACT OF 1979"

Title I sets forth the purpose of the bill, which is to provide a permanent and systematic procedure for the admission to this country of refugees of special concern to the United States, and to provide comprehensive and uniform provisions for assistance to those refugees who are admitted.

Section 201(a) of the bill provides a new refugee definition which will be added to the Immigration and Nationality Act. This definition basically conforms to that used under the United Nations Convention and Protocol Relating to the Status of Refugees, and eliminates the geographical and ideological restrictions now applicable to conditional entrant refugees under section 203(a)(7) of the Immigration and Nationality Act.

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[1] A good illustration of what the practical effect of the proposed Act would be may be drawn from the unfolding history of the Indochinese refugees. Following the fall of South Vietnam in the spring of 1975, 133,000 Indochinese were paroled into the United States within a few months. In 1976, 11,000 Indochinese were paroled in the United States, followed by 15,000 in 1977 and 7,000 in the first half of 1978. We are now in the final stages of the most recent parole program which authorized the entry of an additional 25,000 Indochinese refugees between June of 1978 and May 1, 1979, augmented by an additional parole of 21,875 announced in December, 1978. Even though it became apparent soon after the initial 1975 parole program that a steady, fairly predictable stream of refugees would be leaving Indochina for the foreseeable future, the Executive Branch was forced to wait repeatedly until the number of refugees in the countries of first asylum reached crisis proportions and then declare an "emergency" which required yet another special parole program. If the proposed Act had been in effect since 1975, the emergency group admission provisions would have been employed only for the initial mass exodus of 1975. The succeeding periodic "emergencies" would have been handled under the normal flow provisions without the need for repeated ad hoc consultations with Congress in an atmosphere of crisis. Upon enactment of the Administration's proposal, our future efforts to deal with the Indochina refugee situation will be greatly rationalized and facilitated. The President will have the authority to set the number of normal flow admissions for Indochinese refugees in advance of each fiscal year. If our estimates indicate a high flow of Indochinese and other refugees of special concern to the United States, such that the national interest requires admission of more than 50,000 in a given year, the President may, after consultation with the Congress, adjust admissions to a fixed higher number. Should an unforeseen emergency create the need for more admissions than provided for under the annual normal flow estimate, the group admission procedures will be available.

Section 201(b) of the bill adds new sections 207, 208, 209, and 210 to the Immigration and Nationality Act. These sections deal with admission procedures for refugees.

Proposed section 207(a)(1) provides for a normal flow not to exceed 50,000 refugees per year except as provided in section 207(a)(2). The admission numbers will be allocated to groups of refugees of special concern to the United States, as determined by the President. (In recent years, the refugees who have been of special concern to the United States have included Cubans, Soviets, Eastern Europeans, and Indochinese.)

The President will report annually to the Judiciary Committees of the Congress regarding the foreseeable numbers of refugees in need of resettlement during the coming fiscal year and regarding the estimated allocation of refugee admission numbers.

Section 207(a)(2) provides for the 50,000 admission level to be raised if the President determines that a specified higher number is justified by humanitarian concerns or is otherwise in the national interest based upon the foreseeable numbers of refugees of special concern to the United States who will be in need of resettlement during the coming fiscal year. This determination must be made before the beginning of the fiscal year and only after consultation by the President's designees with the House and Senate Judiciary Committees. Allocation of these additional numbers by group or class will be made by the President in the same manner as described in section 207(a)(1) for the 50,000.

The 50,000 annual numbers will be obtained by reallocating to refugees 20,000 numbers from the worldwide limitation of 290,000. (17,400 of these numbers are currently allocated to conditional entrants under section 203(a)(7), which the bill eliminates.) In addition, 30,000 numbers will be added over and above the current worldwide limitation. As a result, total immigration subject to numerical limitation will be 320,000 annually, except in those years when refugee admissions are increased by Presidential determination.

Under proposed section 207(a)(3), normal flow refugees will be admitted as lawful permanent residents; the present two-year conditional period will be eliminated. Applicants for refugee admission would be required to establish that they meet the refugee definition, that they have not become firmly resettled in any foreign country, and that they are admissible as immigrants under the Act except for the labor certification requirements of section 212(a)(14) of the Immigration and Nationality Act, the public charge provisions of section 212(a)(15) of the Act, the immigrant visa requirements of section 212(a) (20) and (21) of the Act, the literacy requirements of section 212(a) (25) of the Act, or the provisions of section 212(a)(32) of the Act pertaining to alien physicians.

Proposed section 207(b) provides that up to 5,000 of the 50,000 normal flow refugee admission numbers may be used to adjust the status of refugees present in the United States under provisions other than section 207, 208, or 209 (such as asylees or visitors whose home government has changed during their absence and who would be subject to persecution if they are returned). Applicants must establish that they have been here for two years, that they meet the refugee definition and that they are not firmly resettled in any foreign country. Such adjustment of status would be without regard to the labor certification requirements of section 212(a)(14) of the Immigration and Nationality Act, the public charge provisions of section 212(a)(15) of the Act, the immigrant visa requirements of section 212(a) (20) and (21) of the Act, the literacy requirements of Section 212(a)(25) of the Act, or the provisions of section 212(a) (32) of the Act pertaining to alien physicians. Aliens would have the opportunity to establish that their adjustment of status should operate retroactively to the date, not more than two years prior to approval of the application, upon which they became refugees within the United States. Spouses and children of refugees adjusted under this provision would also qualify for adjustment.

Proposed section 208 provides procedures for the admission of refugees in unforeseen emergency situations. If the President determines, following consultation with the Judiciary Committees, that an emergency refugee situation exists, that admission of refugees in response to the situation is justified by grave humanitarian concerns or is otherwise in the national interest, and that admission cannot be accomplished under section 207, he may fix a number of refugees to be admitted. Allocation of those admissions will be in accordance with a Presidential determination. Thereafter, the Attorney General will admit to the United States conditionally emergency situation refugees who establish that they meet the refugee definition and that they are not firmly resettled in any foreign country.

Proposed section 209 allows the spouse and children of a refugee admitted for lawful permanent residence or admitted conditionally under the bill to qualify for the same admission status as the principal alien if not so entitled in their own right. Such spouse or child would be charged against the appropriate refugee numerical limitation.

Proposed section 210(a) provides lawful permanent resident status for any conditionally admitted refugee who has been physically present in the United States at least two years, who has not otherwise acquired lawful permanent resident status, and whose conditional entry has not been terminated by the Attorney General. Under proposed section 210(b) the conferring of such lawful permanent resident status shall be without regard to the labor certification requirement of section 212(a)(14) of the Immigration and Nationality Act, the public charge provisions of section 212(a)(15) of the Act, the immigrant visa requirements of section 212(a)(20) and (21) of the Act, the literacy requirements of section 212(a)(25), or the provisions of section 212(a)(32) of the Act pertaining to alien physicians. Aliens who are found inadmissible to the United States will be dealt with in exclusion proceedings in accordance with the provisions of sections 235, 236, and 237 of the Immigration and Nationality Act. The foregoing procedures are basically a completion of the inspection process which was begun at the time of the alien's conditional admission into the United States. They require no application on the part of the alien and no fee. Once granted, the lawful permanent resident status operates retroactively to the date of the alien's arrival in the Untied States. Therefore, in terms of eligibility for naturalization the conditional entrant refugee is not disadvantaged by the waiting period.

In connection with its administration of the benefits to be provided under Title III of this bill, the Department of Health, Education, and Welfare has asked that aliens admitted as refugees carry documentation that provides evidence of their refugee status and shows their date of admission to this country. The INS will work with HEW to provide the necessary identification administratively, for both normal flow and emergency situation refugees; it is not necessary to include such provisions in the legislation itself.

Sections 202 and 203 of the bill provide various conforming amendments to the Immigration and Nationality Act. In addition, section 213(e) revises the provisions of section 243(h) of the Act, relating to withholding of deportation based on fear of persecution, to allow the Attorney General to withhold the deportation of aliens who are in exclusion, as well as deportation, proceedings.

The Attorney General's parole authority under section 212(d)(5) of the Immigration and Nationality Act would remain unchanged. Once the bill takes effect, however, the Attorney General will not use his authority with respect to refugees unless he determines that compelling reasons in the public interest related to the individual refugee require that that refugee be paroled into the United States, rather than be admitted in accordance with proposed sections 207 or 208.

Section 204 of the bill contains a "rollback" provision. This allows any alien who is eligible for retroactive lawful permanent resident status under proposed section 207 (b) of the Act, but who has already obtained lawful permanent resident status under other sections of the law that do not provide for retroactivity, to have his admission for lawful permanent resident status recorded as of the date when he became a refugee in the United States.

Title III of the bill contains amendments to the Migration and Refugee Assistance Act of 1962, the underlying source of authority for funding special activities and assistance for Cuban and Indochinese refugees in the United States, as well as for assistance provided overseas.

Section 301 of the bill would amend section 2(b) of the Act. Subparagraphs (A) and (B) preserve, with minor technical changes, the authorities for overseas assistance now appearing in sections 2(b)(1) and 2(b)(2) of the Act.

Subparagraphs (C) through (G) authorize funding for various kinds of assistance and services to refugees in the United States. While these are generally within the scope of the existing law and would not affect our continuing commitment with respect to Soviet refugees, the amendments would serve to clarify the activities intended to be funded, and the limits on that funding.

More specifically:

Subparagraph (C) would authorize payments to public or to private voluntary agencies with respect to their work in connection with the placement, resettlement, and care of refugees;

Subparagraph (D) would provide funding authority for projects to aid refugees in securing employment and other short-term projects to increase their self-reliance—English as a second language, vocational training, refresher training for professionals, services to assist refugees in attending recertification within the United States, and other such employment and social services;

Subparagraph (E) would authorize support for special educational services, including particularly training in English, and other educational services, through the elementary and secondary education system;

Subparagraph (F) would allow the use of funds for child welfare services for two years after the arrival of the refugee child, or, in the case of a child who enters the United States unaccompanied by a parent or other close relative, until the child reaches age 18 (or whatever higher age may be specified in the State's child welfare services plan);

Subparagraph (G) would authorize funding for cash and medical assistance during the first two years following the refugee's arrival in the United States. If the refugee's family were eligible for assistance under the State's program of Aid to Families with Dependent Children (part A of title IV of the Social Security Act) or for medical assistance under the State's Medicaid program (title XIX of the Social Security Act), funds under this authority would only be used for the non-Federal share of those programs.

Funding under this title for refugees within the United States (other than unaccompanied children) would be limited to the first two years after the refugee's entry into the country. That limitation would not apply to Cuban refugees who entered the United States prior to October 1, 1978; they are subject to the currently effective 6-year phase-down. All Cuban refugees entering after that date, however, would be subject to the provisions of this draft bill and treated in the same way as all other refugees.

Paragraph (2) specifies that the term "refugee" will have the same meaning as in paragraph (42) of section 101(a) of the Immigration and Nationality Act, added by section 201 of this bill—the definition derived from the Protocol and Convention Relating to the Status of Refugees.

Section 301(b) is a technical provision making it clear that this legislation does not disturb the requirement for annual authorizing legislation established by the act that furnishes basic authority for the Department of State.

Section 302 amends section 2(c) of the 1962 Act, which establishes the Emergency Refugee and Migration Assistance Fund. It raises the authorized funding level from $25,000,000 to $50,000,000, in order to assure that adequate amounts would be available from the Emergency Fund if needed for an admission of refugees in response to an emergency refugee situation, under section 208 of the Immigration and Nationality Act.

Section 401 provides that the Act will take effect on October 1, 1979. It also contains a savings clause that preserves the rights of those aliens who had been admitted conditionally under section 203(a)(7) of the Immigration and Nationality Act, or paroled into the United States under section 212(d)(5) of the Act, before the effective date.

By Mr. HEINZ (for himself and Mr. Bayh):

S. 645. A bill to prohibit purchases with Federal funds of articles or materials originating in countries which are not parties to or which are violators of a multilateral international agreement prescribing a code of government procurement; to the Committee on Governmental Affairs.

● Mr. HEINZ. Mr. President, soon the President will send to the Congress for its approval a package of international trade agreements which he has been negotiating in Geneva. One of the agreements expected to be submitted is an International Government Procurement Code.

This Code, which will specify international rules for government procurement, was negotiated in response to the restrictive practices of most nations to limit competition for government procurement to each country's domestic firms. Such practices include the U.S. Buy American Act which establishes a preference for American companies in competition for U.S. Federal procurement. Other nations generally use closed bidding systems and bureaucratic bias to exclude foreign firms from competition for government purchases.

The result of these practices is that governments rarely award contracts to firms other than to their own domestic companies. To many, these restrictions are a nontariff barrier to international trade; and a reduction of these barriers will result in the long-range economic benefit of all nations.

This is the purpose and objective of the International Government Procurement Code. By prescribing rules which, if followed, will allow maximum worldwide competition, the Code is expected to open up government procurement to the many benefits of international trade.

Last year, I held 4 days of hearings on our own domestic preference statute—the Buy American Act of 1933. Testimony presented at those hearings revealed that while our Buy American Act and its implementation allows significant foreign competition for procurement with U.S. Federal funds, other nations' practices tend to completely exclude competition from American firms.

Our negotiators have worked long and hard to reduce these barriers and write a code which will provide significant opportunities for American competition for other countries' government purchases.

In its coverage, however, that code is expected to be quite specific. It will cover only the purchases of signatory countries and only the purchases by specified governmental agencies of those signatories. Therefore American companies can expect to benefit only from purchases by the governments who subscribe to the code and not to benefit from purchases by nonsignatories.

It follows, Mr. President, that fairness would dictate that firms of countries who do not sign the code should not benefit from U.S. Government purchases. But under the present Buy American Act, this is not assured as our hearings document.

Therefore, I am today, introducing a bill which would prohibit Federal funds from being used to purchase goods originating in countries which are not parties to the International Government Procurement Code.

This code will also contain enforcement provisions which are expected to insure that all obligations of signatory nations will be honored and maximum international competition for government procurement will be obtained. If these enforcement provisions are to have any real effect, it is extremely important that they carry strong sanctions. The bill I am introducing requires that violators of the code as well as nonsignatories, also be prohibited from benefiting from U.S. Government procurement.

I believe this bill is essential if the hard-won objectives of our international trade negotiators are to be achieved. I offer it therefore as a strong suggestion to be included in the implementing legislation that will accompany the International Government Procurement Code.

I ask unanimous consent that the text of the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 645

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, except as provided in Section 2, whenever the United States is a party to a multilateral international agreement prescribing a code for procurement by governments which are parties thereto—

(a) no material produced or mined in a foreign country which is not a party to such agreement or which is in violation of such code, and no article manufactured in such a foreign country, may be procured by a Federal agency or with Federal funds: and

(b) no such material or article may be used for the construction of any public building or public work under any contract entered into by a Federal agency, or by any person or government if federal funds are to be paid under the contract.

(c) For purposes of subsection (a), materials or articles shall be considered to be procured with Federal funds only if 50 per centum or more of all sums paid for such materials or articles are derived, directly or indirectly, from Federal funds. For purposes of subsection (b), Federal funds shall be considered to be paid under a contract only if 50 percent or more of all sums to be paid under such contract are derived, directly or indirectly, from Federal funds. For purposes of this section, Federal funds means funds appropriated out of the Treasury of the United States.

Sec. 2. Section 1 shall not apply to—

(a) any material which is not mined or produced in the United States in sufficient quantity or of satisfactory quality or to any component item not manufactured in the United States in sufficient quantity or of satisfactory quality; or

(b) contracts for the procurement of materials and articles for use outside the United States, contracts for the construction of public buildings or public works outside the United States, or subcontracts under such contracts.●

ADDITIONAL COSPONSORS

S. 76

At the request of Mr. Stone, the Senator from Oregon (Mr. Hatfield) was added as a cosponsor of S. 76, a bill to amend title XVIII of the Social Security Act to authorize payment under medicare for certain services performed by chiropractors.

S. 79

At the request of Mr. Helms, the Senator from Kentucky (Mr. Ford) and the Senator from Alaska (Mr. Stevens) were added as cosponsors of S. 79, a bill to amend the Internal Revenue Code of 1954 to reinstate the nonbusiness deduction for State and local taxes on gasoline and other motor fuels.

S. 100

At the request of Mr. Packwood, the Senator from Georgia (Mr. Talmadge), the Senator from Rhode Island (Mr. Chafee), the Senator from Alaska (Mr. Stevens), and the Senator from Wyoming (Mr. Simpson) were added as cosponsors of S. 100, to amend the Internal Revenue Code of 1954 to provide for a deduction for reforestation and for other purposes.

S. 104

At the request of Mr. Schmitt, the Senator from Louisiana (Mr. Johnston) was added as a cosponsor of S. 104, the Regulatory Reduction and Congressional Control Act.

S. 112

At the request of Mr. Dole, the Senator from Iowa (Mr. Jepsen) was added as a cosponsor of S. 112, a bill to repeal certain provisions regarding carryover basis.

S. 219

At the request of Mr. MOYNIHAN, the Senator from Maryland (Mr. MATHIAS), the Senator from Montana (Mr. MELCHER), the Senator from New York (Mr. JAVITS), and the Senator from New Mexico (Mr. SCHMITT) were added as cosponsors of S. 219, a bill to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions.

S. 219

At the request of Mr. PACKWOOD, the Senator from Pennsylvania (Mr. SCHWEIKER) and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of S. 219, to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions.

S. 377

At the request of Mr. RIBICOFF, the Senator from New York (Mr. MOYNIHAN) and the Senator from Texas (Mr. BENTSEN) were added as cosponsors of S. 377, to establish as an executive department of the Government of the United States a Department of International Trade and Investment, and for other purposes.

S. 388

At the request of Mr. STEWART, the Senator from Montana (Mr. BAUCUS), the Senator from Alaska (Mr. GRAVEL), the Senator from Texas (Mr. BENTSEN), the Senator from Oregon (Mr. HATFIELD), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Vermont (Mr. LEAHY), the Senator from Michigan (Mr. LEVIN), the Senator from Hawaii (Mr. INOUYE), the Senator from California (Mr. HAYAKAWA), the Senator from North Carolina (Mr. MORGAN), the Senator from Michigan (Mr. RIEGLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of S. 388, the Small Business Employee Ownership Act.

S. 414

At the request of Mr. BAYH, the Senator from Nebraska, (Mr. ZORINSKY), and the Senator from Vermont, (Mr. LEAHY), were added as cosponsors of S. 414, the University and Small Business Patent Procedures Act.

S. 460

At the request of Mr. STAFFORD, the Senator from Tennessee (Mr. SASSER) was added as a cosponsor of S. 460, a bill to encourage bicycling and physical fitness by assuring greater safety for bicylces parked at Federal Office Buildings.

S. 484

At the request of Mr. RIEGLE, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 484, a bill for the relief of Antoinette Slovik.

S. 598

At the request of Mr. BAYH, the Senator from Louisiana (Mr. LONG), the Senator from Nebraska (Mr. EXON), and the Senator from Minnesota (Mr. DURENBERGER), were added as cosponsors of S. 598, the Soft Drink Interbrand Competition Act.

S. 621

At the request of Mr. MATHIAS, the Senator from Massachusetts (Mr. TSONGAS) was added as a cosponsor of S. 621, a bill to provide for further research and services with regard to victims of rape.

S. 622

At the request of Mr. GOLDWATER, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 622, the Telecommunications Competition and Deregulation Act of 1979.

SENATE JOINT RESOLUTION 22

At the request of Mr. GARN, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of Senate Joint Resolution 22, proposing an amendment to the Constitution of the United States for the protection of unborn children and for other purposes.

SENATE CONCURRENT RESOLUTION 2

At the request of Mr. GOLDWATER, the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Tennessee (Mr. BAKER), and the Senator from North Carolina (Mr. MORGAN) were added as cosponsors of Senate Concurrent Resolution 2, to uphold the separation of powers between the executive and the legislative branches of Government in the termination of treaties.

SENATE RESOLUTION 83

At the request of Mr. WALLOP, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of Senate Resolution 83, relating to national water resources policies.

SENATE RESOLUTION 98—SUBMISSION OF A RESOLUTION RELATING TO THE STANDBY GASOLINE RATIONING PROGRAM

Mr. BENTSEN submitted the following resolution, which was referred to the Committee on Energy and Natural Resources:

S. RES. 98

Whereas, any Stand-by Gasoline Rationing Plan should reduce gasoline consumption equally for all consumers to the extent administratively possible;

Whereas, the Stand-by Gasoline Rationing Plan submitted to the Congress on March 1, 1979, would result in an unnecessarily inequitable reduction in gasoline consumption by residents of the various States;

Whereas, this inequitable reduction in gasoline consumption would create a substantial and unwarranted redistribution of income between States;

Whereas, adequate data and administrative mechanisms are available to equalize gasoline curtailments from rationing on a state-by-state basis; and

Whereas, the Congress desires that gasoline curtailments be imposed to the extent possible in an equitable and fair manner on each State should gasoline rationing be necessary: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President withdraw the Standby Rationing Gasoline Plan submitted to the Congress on March 1, 1979 and resubmit such plan amended to remedy the interstate inequities with regard to the distribution of gasoline rationing coupons.

Mr. BENTSEN. Mr. President, today I am submitting a resolution expressing the sense of the Senate that the President should withdraw and amend the standby gasoline rationing program which he submitted to the Congress earlier this month. The plan as it is currently drafted is an outrage and blatently unfair to many States and regions of the country, and would result in a monumental transfer of income among the States through a legalized "white market" in gasoline rationing coupons.

The President's plan does not ask each State to share equally in the hardships that would occur under gasoline rationing conditions.

It would allocate rationing coupons among the States according to national average gasoline consumption rates rather than according to average consumption figures for the individual States. The net result of this approach would be major inequities in the distribution of coupons.

For example, assuming a rationing based on a 25-percent reduction in gasoline supplies, the States of Hawaii, Pennsylvania, North Dakota, and Rhode Island would receive coupons for 97.9 percent, 94.6 percent, 92.2 percent and 90.8 percent respectively of their normal supplies while the States of Missouri, South Carolina, West Virginia and Texas would receive only 63.6 percent, 64.6 percent, 65.6 percent, and 65.9 percent respectively of their normal supplies. States with historically high per capita gasoline use would receive punitive treatment under the proposed plan.

I would like to assure my colleagues that the citizens of Missouri, South Carolina, West Virginia and Texas are no more wasteful of gasoline than other American consumers. They pay the same high prices, and they feel the same desires and incentives to conserve. But the physical differences of their surroundings, the greater distances they must travel to and from work, the needs of farming and rural communities, and the lack of alternative means of transit all contribute to their greater daily requirements for gasoline. It makes no more sense to allocate gasoline without considering local use patterns in those States than it would to allocate residential fuel oil without considering the special needs of the North and Northeast.

This fact has been recognized by a number of experts who have studied gasoline rationing programs. A 1978 study by Oak Ridge National Laboratory concluded:

> It does not appear that differences in state consumption rates can be attributed to extravagant or frivolous gasoline use by residents of certain high consumption states such as Wyoming, New Mexico, and Texas. Instead, it appears that state consumption rates are the result of the complex interaction of environmental, demographic and economic factors. These state-to-state differences should be considered in developing any national conservation policy, such as gasoline rationing, which will have differential impacts on the states.

Although the so-called "white market" envisioned by DOE would permit drivers in under-allocated States to purchase additional coupons from drivers in over-allocated States, the net effect of the proposed plan would be to create a Government sanctioned system of income transfer from one state to another and one region to another. According to DOE's own estimates, the income losses in some States would be staggering. Texas consumers, for example, stand to forfeit $116 million per month, or more than $1.3 billion if the program is operated for a year. This assumes rationing under a 20-percent shortfall, and an estimated value of $1.22 per coupon. If the shortfall is greater, or if the rationing coupons assume a higher white market, Texas consumers would lose even more.

Similar fates would befall 24 other States and the District of Columbia. Furthermore, it appears that those States hardest hit by the inequities of this plan are among the Nation's lowest in per capita income. For example, seven States alone—Texas, Mississippi, Georgia, Tennesee, Arkansas, South Carolina, and Louisiana—will account for more than 70 percent of the income lost to the white market while an almost equal amount will be gained by California, Ohio, Pennsylvania, New York, Connecticut and Washington. The average per capita income for these seven big losers is $5,816, while the average income for the big winners is $7,522. Under this plan the white market would become a Robin Hood in reverse, taking from the poor and giving to the rich.

There should not be winners and losers in gasoline rationing. It is a simple enough matter to develop a plan which is free of interstate bias; a plan in which all States are asked to share equally in the hardships of gasoline shortages. I, therefore, urge the President to withdraw his support of this ill founded plan and to send to Congress an amended version that treats each State in a fair and evenhanded manner.

I am aware that my colleagues on the Senate Energy Committee have waited a long time for this plan to reach their hands, but unless the President offers significant improvement I am prepared to send it right back marked rejected. The plan is an outrage, and I will do everything I can to defeat it. I am sure that many Members of this body share my feelings, and I urge them to join as cosponsors of my resolution expressing the Senate's disapproval of the gasoline rationing plan as submitted by the President.

SENATE RESOLUTION 99—SUBMISSION OF A RESOLUTION RELATING TO THE STATUTE OF LIMITATIONS APPLICABLE TO WAR CRIMES

Mr. CRANSTON (for himself, Mr. Stafford, Mr. Mathias, Mr. Levin, Mr. Cohen, Mr. Heinz, Mr. Moynihan, Mr. Proxmire, Mr. Nelson, Mr. Dole, Mr. Sarbanes, Mr. Metzenbaum, Mr. Johnston, Mr. Durkin, Mr. Williams, Mr. Pell, Mr. Zorinsky, Mr. Stevenson, Mr. Boschwitz, Mr. McGovern, Mr. Bayh, Mr. Pressler, Mr. Ribicoff, Mr. Warner, Mr. Chiles, Mr. Bradley, Mr. Stone, Mr. Tsongas, Mr. DeConcini, Mr. Exon, Mr. Leahy, Mr. Baucus, and Mr. Humphrey) submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. Res. 99

Whereas in the 20th century there took place the most horrendous mass slaughter in the history of civilization wherein millions of human beings were systematically murdered on the basis of their political, racial, or religious backgrounds;

Whereas the identification and the prosecution of Nazi war criminals would serve to bring to justice those individuals personally responsible for such crimes and also serve to remind the world of the enormity of those crimes and of the need to prevent any reptition of such crimes;

Whereas worldwide efforts to locate and bring Nazi war criminals to justice recently have been intensified and could lead to the discovery of important new evidence against many suspected war criminals;

Whereas the Government of the Federal Republic of Germany has recognized its responsibility in bringing all war criminals to justice by amending its statute of limitations in 1965 and 1969;

Whereas the Federal Republic of Germany's statute of limitations applicable to war crimes will expire on December 31, 1979, and will prevent thereafter the prosecution of those people who committed war crimes prior to May 8, 1945, against whom proceedings have not already been initiated: Now therefore, be it

Resolved, That the Senate urges the Government of the Federal Republic of Germany to abolish its statute of limitations relating to the prosecution of war crimes or to amend such statute of limitations to allow a period of time sufficient for the prosecution of war criminals.

Sec. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to the Government of the Federal Republic of Germany.

Mr. CRANSTON. Mr. President, I am submitting a resolution today—joined by 32 of my colleagues—which calls on West Germany to abolish or extend its statute of limitations applicable to the prosecution of war crimes. Unless the West German Parliament acts, the statute of limitations will expire on December 31, 1979. Only those Nazi criminals or other war criminals against whom proceedings were instituted before the end of this year can be prosecuted.

West Germany has extended its statute of limitations on murder—which also applies to war crimes—twice before, in 1965 and 1969. In so doing, the West German Government has recognized its responsibility to see that all those who participated in the Holocaust against the Jews or in other heinous war crimes should be brought to justice. War criminals should not be permitted to go unpunished merely because a statute of limitations has expired. Because of the enormity of their crimes, I believe there should be no limit on the time in which they may be apprehended and brought to justice.

The West German statute is running out at a time when worldwide efforts to locate and bring to justice those who participated in war crimes have intensified. Our own Government is stepping up its efforts against suspected war criminals living in the United States, and a special litigation unit in the Justice Department has been established to direct investigations and prosecutions. Failure to extend the statute of limitations could not only lessen these recent efforts but make useless newly discovered evidence. War criminals who have escaped detection and prosecution thus far would be able to find a haven in West Germany and live openly without fear of punishment.

The decision to abolish or extend the statute of limitations involves important moral and legal questions. I am aware that opinion in West Germany is deeply divided. Responsible and respected leaders in West Germany have come down on opposite sides of this issue. Since the showing of "Holocaust" in West Germany, however, public opinion has been moving toward the abolition of the statute of limitations. And I am very encouraged that last week West German Chancellor Helmut Schmidt publicly expressed for the first time his support of the SPD initiative in the German Bundestag to lift the statute of limitations for murder—and thus for Nazi crimes. In fact, Chancellor Schmidt also announced that he had signed the draft bill now under consideration in his capacity as a Bundestag deputy.

Mr. President, Chancellor Schmidt has said that he and others in the West German Parliament will listen to the advice and comments offered by Germany's friends in Israel and in other countries. Poland and Israel have already expressed strongly their views that the statute should be extended once more or abolished entirely. The California State Assembly adopted a resolution in January urging the repeal of the statute of limitations. In the House of Representatives, Congresswoman Holtzman has taken the lead and introduced a resolution making recommendations similar to those in the resolution we are introducing today.

In closing Mr. President, I urge the U.S. Senate to make its voice heard in this call for justice, and I hope that our resolution will be adopted.

Mr. PRESSLER. Mr. President, I would like to take this opportunity to speak on behalf of Senate Resolution 99, a sense of the Senate resolution asking that the Federal Republic of Germany abolish or extend its statute of limitations applicable to war crimes. I am an original cosponsor of that legislation.

On December 31, 1979, the Federal Republic of Germany's statute of limitations applicable to Nazi war criminals will expire. This provision has been extended on two previous occasions. If the West German Government does not act, war criminals not prosecuted before January 1, 1980, will be allowed to go free.

This century has seen a most horrendous mass slaughter in the history of civilization—the Holocaust—wherein millions of human beings were systematically murdered on the basis of their political, racial, and religious backgrounds. Worldwide efforts to locate and bring to trial the perpetrators of this heinous crime, have intensified in recent years. The possibility for new discoveries and indictments are significant and worthy of continued efforts. But these efforts will be in vain should the statute of limitations expire on December 31 of this year.

There are many people who have banded together behind the effort to extend the statute of limitations, particularly as it relates to war crimes and crimes against humanity. I would like to personally congratulate West German Chancellor Helmut Schmidt for his recent statments indicating support for such a movement.

Chancellor Schmidt should be particularly commended for his actions in light of significant opposition among West German politicians and his electorate. These forces should not be automatically condemned. The West German people have experienced a great deal of worldwide embarrassment and emotional pain. However, it is my hope that the West German people will once again act forthrightly and support a third extension.

I would like to join today with several of my colleagues from both sides of the aisle, in asking the Senate to act decisively and positively in supporting Senate Resolution 99.

AMENDMENTS SUBMITTED FOR PRINTING

AVIATION SAFETY AND NOISE ABATEMENT ACT OF 1979—S. 413

AMENDMENTS NOS. 103 THROUGH 105

(Ordered to be printed and referred to the Committee on Commerce, Science, and Transportation.)

Mr. JAVITS submitted three amendments intended to be proposed by him to S. 413, a bill to provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to assure continued safety in aviation, to provide assistance to air- with noise standards, and for other purposes.

● Mr. JAVITS. Mr. President, I am submitting today three amendments to S. 413, the Aviation Safety and Noise Abatement Act of 1979, reported today by the Commerce Committee. The first would strike the additional authority given to the Secretary of Transportation to waive the FAR-36 noise standards. The second would provide additional funds for grants to implement noise compatibility programs. And the third would require that the standards for measuring aircraft noise be compatible with those for measuring and rating the impact of environmental noises in general.

I have long been deeply concerned about the adverse impact of aircraft noise on the more than 6 million Americans affected, one-quarter of whom live around the major New York airports. In the past two Congresses I have introduced legislation to assist the airline industry in financing the substantial cost to bring their aircraft into compliance with the Federal Aviation Administration's fleet noise rules, the so-called FAR-36 noise standards. With the airlines in a period of prosperity, such assistance is not at present necessary. Therefore, I believe Congress should turn its efforts to ensuring strict compliance with the fleet noise rule and to assisting communities in implementing noise compatibility programs.

My amendments today would work toward these ends. The first amendment I am introducing would strike sections 303 and 304 of the bill, giving the Secretary of Transportation additional authority to waive compliance dates. Under FAR-36, one-half the two- and three-engine fleet would have to meet the noise standards by the beginning of 1981; the other one-half by 1983. Four-engine planes have 2 additional years: one-half the fleet must be in compliance by 1983 and the other half by 1985. Airline operators have been on notice since 1976 of these compliance dates. And as early as 1969 the airline industry was on notice that retrofit would be required when the technology became available.

The bill reported by the Commerce Committee would provide two types of waivers—for "good cause" and for "new technology." The "good cause" waiver sets no standards to protect the public interest. Rather, it requires only that the Secretary find that the operator made a "good faith effort" to comply and that "good cause" exists for a waiver. And how does the committee bill define "good cause"—inability to obtain supplies, burdens on the operator that are unreasonable compared to burdens imposed on other operators, and "any other circumstances the Secretary deems appropriate."

Nowhere is the public interest mentioned as a test.

Striking the "good cause" waiver will not leave the Secretary of Transportation helpless to meet unusual circumstances. The FAA already has the power to waive any and all of their regulations; but they may do so only where such a waiver is in the public interest. And if a waiver is to be made of the noise rule, it may be made only if the Administrator of the Environmental Protection Agency concurs.

I submit that the public interest should be the test, not any reason that the Secretary might deem a "good cause," and the Environmental Protection Agency, charged with protection of our environmental health, should assist in being the judge. Therefore, my amendment would strike the "good cause" waiver clause.

The second waiver section my amendment would strike—the new technology waiver—directs the Secretary to provide a waiver to any operator who meets three requirements: First, has a replacement schedule approved by the Secretary; second, has a contract for an aircraft meeting FAR 36-Stage 3 noise standards signed by the compliance date (1983 for 2 and 3 engine planes, 1985 for 4 engine craft); and third, has delivery scheduled within a reasonable period of time.

At first blush this seems like an acceptable provision. By giving the airlines a few extra years, they will have an incentive to purchase Stage 3 aircraft, which are quieter and more fuel efficient than those aircraft that meet the fleet noise rules of the 1983 and 1985 deadlines. But with sharply rising fuel costs and even fuel shortages coupled with the need for additional seating capacity caused by the large increase in air travel today, the airlines already have great economic incentives to order the latest technology planes.

The possible crunch at the production end of the process can be alleviated under the 1976 FAA regulations. Airlines that have compliance plans approved by FAA will receive waivers for new technology aircraft provided delivery is scheduled by January 1, 1985. The committee bill has no similar 1985 deadline, only a "reasonable time," which could be 3 or 4 years after the 1983 deadline.

Four engine aircraft with a 1985 deadline date do not present the same logistical difficulties as 2 and 3 engine craft and therefore airlines do not need extensions of time. Sufficient retrofit kits and replacement engines can be built by 1985 to bring the craft into compliance. For airlines desiring to replace older 4 engine craft, the new technology planes will be available in sufficient numbers by 1985 if planning is not delayed. And should unforeseen circumstances arise that delayed the new technology, the FAA has the power to waive the 1985 deadline if they and EPA determine that it is in the public interest to do so.

I urge my colleagues to stand firm in support of the fleet noise rule and reject the unnecessary and perhaps even harmful waivers permitted by the committee bill. The FAA already has a new technology incentive with a deadline set at 1985. If the bill were enacted with its "new technology" waiver, the deadline for compliance would be set at only a reasonable time. The people of New York have waited long enough for relief. We can ill afford further extension of these important deadlines.

Quieter planes will not eliminate the noise problems for those living under the flight paths of our Nation's airports. We must also work to mitigate the impact through noise compatibility programs for affected property. Therefore, my second amendment would authorize the expenditure of $500 million in each of fiscal years 1981 through 1984 from the Airport and Airways Development Trust Fund for noise compatibility activities.

The committee bill gives the Secretary of Transportation the authority to award grants to airport operators and local governments for implementation of noise compatibility programs. Grants could be made not only for implementation of systems such as preferential runways that would reduce the noise over the most densely populated areas, but also for soundproofing of buildings and acquisition of land and interests in land for conversion to uses more appropriate to a noisy area. For example, schools and homes could be soundproofed so that lessons and homework would not be constantly disrupted by the din of planes overhead. Labor-intensive businesses might be converted to less labor intensive purposes such as conversion to warehouse use. The creative genius of the American people working cooperatively in neighborhoods severely affected by noise will, I am sure, result in many worthwhile uses for the funds.

Because the trust fund authorization expires at the end of 1980, the authorization made by my amendment is contingent on the reauthorization of the trust fund. But I feel Congress should declare now its intention to make the noise compatibility program a major effort in the years ahead by dedicating the $2 billion of the $3 billion surplus in the ADAP Trust Fund to this program.

My third amendment would require that the Secretary of Transportation consult with the Administrator of the Environmental Protection Agency in establishing a single noise measuring standard. It would also require that the single standard be compatible with EPA's standards for measuring the impact of environmental noises generally except where the Secretary determines that safety or other special characteristics of aircraft noise require a different measurement.

I feel it is important to use the EPA standard absent overriding factors. The Environmental Protection Agency, as a result of a 1972 congressional directive, has established a standard system for measuring and rating environmental noise. Such a uniform standard is particularly useful in measuring noise where it arises from several sources such as at an airport. If a separate standard were to be developed for aircraft noise, data obtained from the field would be much more difficult to analyze. We do not need such additional obstacles in the way of managing the noise problem.

I urge my colleagues to give every consideration to these amendments when S. 413 is considered by the Senate.●

DIRECT POPULAR ELECTION OF THE PRESIDENT AND VICE PRESIDENT—SENATE JOINT RESOLUTION 28

AMENDMENT NO. 106

(Ordered to be printed and to lie on the table.)

Mr. THURMOND submitted an amendment intended to be proposed by him to Senate Joint Resolution 28, a joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States.

NOTICES OF HEARINGS

HEARINGS ON REGULATORY REFORM LEGISLATION

● Mr. RIBICOFF. Mr. President, on Tuesday, March 20, the Governmental Affairs Committee will begin its hearings on major regulatory reform bills pending before the committee. The focus of the March 20 hearings will be S. 262, the Reform of Federal Regulation Act. This far-reaching regulatory reform measure now has the support of 25 Members of the Senate, including six committee chairmen.

The hearing will commence at 10 a.m., in room 3302 of the Dirksen Senate Office Building.

I am pleased to announce that our first witness will be Frank T. Cary, chairman of the board, International Business Roundtable's task force on government regulation, will testify on behalf of the business roundtable. In addition, he will present the major findings and conclusions of the roundtable's recent completed cost of regulation study. Assisting Mr. Cary in that regard will be Vic Millar from Arthur Andersen & Co. Mr. Millar provided overall direction for the roundtable cost study.

The second witness will be Mr. William Ross, who is head of the administrative law section of the American Bar Association. Mr. Ross will testify on the proposals contained in S. 262 to amend the Administrative Procedure Act. I am also hopeful that a representative of the ABA commission on law and the economy will also provide testimony at this hearing.

This will be the beginning of what will be a careful and deliberate consideration not only of S. 262, but of the other regulatory reform bills which have been or will be referred to our committee.

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION, MARKETING, AND STABILIZATION OF PRICES

● Mr. HUDDLESTON. Mr. President, I wish to announce that the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices of the Committee on Agriculture, Nutrition, and Forestry has scheduled hearings to consider possible legislative reforms in the Federal crop insurance program.

The U.S. Department of Agriculture has submitted draft legislation to the Congress on this subject, and Senator DOLE has introduced S. 399. In addition, I plan to introduce several other bills prior to the hearings, and testimony on these bills will be welcome.

The hearings will be held on March 20 and 29 beginning at 9 a.m. in room 324, Russell Building. Due to time constraints, a limited number of witnesses will be heard at this set of hearings, but additional public hearings will be scheduled at a later date.

It is requested that witnesses summarize their oral statements in 10 minutes, but written statements may be of any length and will be inserted in the hearing record in their entirety.

Submission of written statements from all interested parties is encouraged and should be addressed to Denise Alexander, hearing clerk, Agriculture Committee, room 324, Russell Building.

Anyone wishing further information should contact the committee staff at 224–2035.●

SELECT COMMITTEE ON ETHICS

● Mr. STEVENSON. Mr. President, the Select Committee on Ethics will meet Thursday, March 15, 1979, at 2 p.m. in room S–206 of the Capitol to hear motions argued relating to the Senator HERMAN E. TALMADGE investigation.●

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENVIRONMENT, SOIL CONSERVATION, AND FORESTRY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Environment, Soil Conservation, and Forestry Subcommittee of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Tuesday, March 20, 1979, beginning at 2:30 p.m. to hold a hearing on USDA's plans to abolish the Great Plains program and the resource conservation and development program. This request has been cleared with the other side of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MANPOWER AND PERSONNEL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Manpower and Personnel Subcommittee of the Committee on Armed Services be authorized to meet during the session of the Senate today beginning at 2 p.m. to hold a hearing on the reinstitution of procedures for registration under the Military Selective Service Act. This request has been cleared on the other side of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON REVENUE SHARING, INTERGOVERNMENTAL REVENUE IMPACT AND ECONOMIC PROBLEMS SUBCOMMITTEE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Revenue Sharing, Intergovernmental Revenue Impact and Economic Problems Subcommittee of the Committee on Finance be authorized to meet during the Session of the Senate today beginning at 2 p.m. to hold a hearing on the administration's proposal for targeted fiscal assistance to State and local governments.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HEALTH

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Health of the Committee on Finance be authorized to meet during the session of the Senate today to consider hospital cost containment legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE SOUTH DAKOTA LEGISLATURE SAYS "NO" TO A DEPARTMENT OF NATURAL RESOURCES

● Mr. McGOVERN. Mr. President, I rise to call attention to the growing number of organizations and individuals who are joining to oppose the proposed transfer of the U.S. Forest Service to a renamed Department of Interior.

Twenty-one members of the South Dakota legislature have joined in sponsoring a resolution that would oppose this transfer, and I shall submit that resolution for the RECORD.

Further, Congressmen AL ULLMAN and ROBERT DUNCAN have informed President Carter that they intend to oppose the reorganization scheme. I submit their letter for printing in the RECORD.

The material follows:

HOUSE CONCURRENT RESOLUTION NO. 1005

Whereas, President Carter has approved a plan to study whether federal responsibilities for natural and environmental programs are effectively organized and to consider possible improvements; and

Whereas, the scope of the study includes a proposal to transfer the United States Forest Service and the United States Soil Conservation Service from the United States Department of Agriculture to the United States Department of the Interior; and

Whereas, the United States Department of Agriculture has a long history of land management with resource capabilities for carrying out land programs and related activities and has the expertise and facilities for carrying out such programs and related activities on a cooperative basis with ranchers and farmers; and

Whereas, there is a close relationship between land resources and the production of food and fiber which has been historically administered by the United States Department of Agriculture; and

Whereas, when land and water resource management is viewed as the mutual responsibility of government and the private sector, the United States Department of Agriculture is centrally involved, in that ninety percent of the land area of this nation is affected by its programs and policies for conservation and its use of renewable resources; and

Whereas, it is in the interest of all of the residents of South Dakota to consider the impact of legislation concerning federally owned land and privately owned land contiguous thereto; and

Whereas, the United States Department of Agriculture has historically managed to balance the demands on public lands and has more experience in the multiple use concept of public land than any other Federal department or agency; and

Whereas, such actions as are being proposed which concern the transfer of certain functions of the United States Department of Agriculture to other departments will relegate said department to less than a cabinet-level department of the Federal Government and leave it without a voice concerning the economic growth of this Nation:

Now, therefore, be it resolved, by the House of Representatives of the Fifty-fourth session of the State of South Dakota, the Senate concurring therein, that the South Dakota Legislature hereby opposes the transfer of the United States Forest Service and the United States Soil Conservation Service from the United States Department of Agriculture to the United States Department of the Interior and requests that the Federal Government move cautiously in its deliberations regarding any change in the organization for management of the Nation's renewable resources.

HOUSE OF REPRESENTATIVES,
Washington, D.C., February 1, 1979.

Hon. JIMMY CARTER,
The President,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We are writing to express our concern about the possible impact on Oregon of a reorganization of the Federal Government's natural resource management agencies. Specifically, we have grave doubts about the advisability of placing the government's two major land resource managers in one new Federal department.

As you may know, Mr. President, 52 percent of the land in Oregon—more than 32 million acres—is owned by the federal government. The vast majority of this total is managed by the U.S. Forest Service and the Bureau of Land Management, with each agency responsible for more than 15 million acres. Located on these lands are some of the most productive softwood forests in the world, along with some of the most spectacular scenery. Forests and scenery are bases for two of our state's most important industries—forest products and tourism. Needless to say, the outcome of the natural resources reorganization effort will be critical to the state.

We have supported most of your efforts to achieve efficiencies in federal operations, and we expect to continue to do so. We are not convinced, however, that combining the Forest Service with Interior Department agencies would produce the desired result.

In our judgment, Oregon has derived significant benefits from the division of federal land management responsibilities between two separate agencies. First, the management practices of the Forest Service and Interior agencies can be and are compared and contrasted. This results in improved management practices as well as healthy competition among agency managers.

Second, and more important, the existence of management agencies in two separate cabinet-level departments provides a measure of insulation against political winds and whims which, in a brief period, can have adverse, long-term impacts on lands and resources. Management of federal lands in Oregon has been prudent over the years, despite wide variance in the inclinations of various cabinet secretaries.

Finally, we believe that the U.S. Forest Service, while consistently underfunded, has been a uniquely effective agency of the Federal government since it was created in 1905. Its personnel display professionalism that is seldom matched in the federal establishment. This is due, in no small measure, to the relative independence of the agency within the Department of Agriculture and to the singular nature of the congressional mandate to this agency.

While there are many improvements that can be made in Forest Service operations—as well as those of Interior Department agencies—we believe that improvements can best be achieved by dealing with major federal land managers separately.

We are grateful for your attention to these matters, and thank you for your courtesy.

Sincerely,

AL ULLMAN, M.C.●

RELATIONS WITH MEXICO

● Mr. GOLDWATER. Mr. President, concern for U.S. relations with Mexico is growing in almost direct proportion to our concern with threatened shortages of energy supply.

Recently, President Carter made a trip to Mexico for the specific purpose of improving relations. And although it cannot be said the President's trip was crowned with significant success, I must say that the mere fact that an American President finally went to the trouble of visiting our sister nation had some good effect.

The people of my State of Arizona which borders on Mexico are especially concerned over the development of better relations with the Mexican people and the Mexican Government. Because of this concern, the State Senate of Arizona has adopted a memorial resolution urging President Carter to review our relations with Mexico in the light of Mexico's petroleum reserves and to establish mutually beneficial arrangements for the purchase of Mexican petroleum products.

Mr. President, I ask that the following memorial resolution be printed in the RECORD:

SENATE MEMORIAL 1002

Whereas, evidence indicates that Mexican petroleum reserves range from one hundred fifty billion to over two hundred billion barrels; and

Whereas, currently the United States is too dependent on receiving petroleum products from an unstable Middle East; and

Whereas, sale of Mexico's petroleum products to the United States will reduce this country's dependence on Middle Eastern petroleum products; and

Whereas, Mexican petroleum could be an important factor in holding down world energy prices; and

Whereas, the United States is the natural market for Mexico's petroleum products; and

Whereas, a significant percentage of American money spent for Mexican petroleum products would, in turn, be used for purchases in this country; and

Whereas, development of Mexican petroleum reserves would serve to reduce poverty in Mexico and so reduce illegal immigration into this country.

Wherefore your memorialist, the Senate of the State of Arizona, prays:

1. That the President consider the importance of Mexican petroleum reserves during his review of United States-Mexico relations.

2. That the President offer further assistance to Mexico for the development of Mexico's petroleum reserves.

3. That the President work to establish mutually beneficial arrangements for the purchase of Mexican petroleum products by the United States.

4. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States and to each Member of the Arizona Congressional Delegation.●

GSA BUILDING PROJECTS

● Mr. STAFFORD. Mr. President, on the motion made by Senator MOYNIHAN—in which I joined—the Committee on Environment and Public Works yesterday morning voted to place a moratorium on approvals by the committee of all nonemergency projects of the Public Buildings Service of the General Services Administration. The moratorium will extend for the duration of this session of this Congress.

Under statute, approval by the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation is required for GSA proposals for construction, alteration and repair, leasing and lease renewals that exceed $500,000 in cost.

Mr. President, this action is one among several taken by the committee in recent months to get to the bottom of the grievous problems at GSA. While not enumerating them all at this time I do want to call to the attention of the Senate the additional views of Senators RANDOLPH, MOYNIHAN, CHAFEE, and myself—and my own supplemental views—which were printed last August in the committee's first report to the Senate on Public Building Proposals.

Mr. President, I ask that these views be printed in the RECORD.

The views are as follows:

ADDITIONAL VIEWS OF SENATORS RANDOLPH, MOYNIHAN, STAFFORD, AND CHAFEE

Our committee has long discussed and intends to pursue its objective of improving the Federal building approval process under its jurisdiction. This includes, renting, or renovation of workspace housing Federal officeworkers. The procedures adopted by the committee when it approved the building prospectuses discussed in this report are only the most recent effort by the Senate Committee on Environment and Public Works to responsibly exercise its jurisdiction over Federal buildings (rule XXV(1)(h)(12)). They extend the existing procedures previously adopted by the committee.

There have been recent disclosures in the press of management failures, waste, and improprieties within the General Services Administration, which have been reviewed in hearings before a subcommittee of the Governmental Affairs Committee subsequent to the action discussed in this report. These disclosures are but one symptom of the need for clear policy direction and competent execution of defined programs—a need long evident to those who must deal with the agency. They expose, however, the urgency of attacking the fundamental problems which plague the agency—ranging from a coherent buildings policy to possible reorganization.

The committee acknowledges its responsibility in this area. It expects to address those problems which fall within its jurisdiction, and seeks the cooperation of the agency and the executive branch in this effort.

Jennings Randolph.
Robert Stafford.
Daniel P. Moynihan.
John H. Chafee.

Supplemental Views of Mr. Stafford

I was glad to sponsor, with Senator Moynihan, the two new committee procedures described in this report. Following discussion by the committee, the first part of our proposal was adopted unanimously and the second part by a vote of 9–3. These first two steps should be viewed, however, as only the constructive beginning of the measures which must be taken.

As the ranking minority member of the committee, I have long believed that the prospectus process may no longer be adequate or appropriate. I have been equally concerned over the proper congressional role in building projects.

Our committee should carefully review not only the Nation's buildings policy, but specifically GSA management procedures and controls over building construction, leasing, alteration, and repair. I believe and expect the committee will pursue its concerns in these areas—areas that have been neglected by both the Executive and the Congress. To this end, I expect to introduce legislation which I hope will serve as a focal point for discussion, and a point of departure for full oversight of the agency's buildings, program, its management controls and procedures, and the Nation's building policy.

There has not been, so far as I have observed, a coherent Federal policy on buildings. The policies that do exist appear to be in a state of continual change, if not increasing disarray and advanced deterioration. This lack of direction, and of defined policy, may be a failure of successive administrations and Congresses, as well as of the agency itself. It is painfully clear, however, that a policy must now be developed and adopted, logically defined and clearly enunciated. To protect its integrity, safeguards must be provided to assure that the chosen policy and program is then carried out, and firmly adhered to.

Before a coherent buildings policy can emerge, a number of issues must be addressed. I hope they may receive the prompt and close attention not only of the committee but also of the executive branch. Among the questions that may have a profound effect on the management of GSA and the buildings program are these:

Is the Federal buildings fund functioning in the manner intended when established by the Congress in 1972? If not, why, and what should be done?

What is the first purpose of a building policy, and which are the ancillary purposes, or compatible subsidiary goals? For example, how should functional efficiency, work effectiveness, urban policy, and "consideration" rank in prority?

Is the prospectus process satisfactory, or the best choice as a management tool, for the executive branch? If it is useful to the Congress, does it provide controls and safeguards commensurate with the responsibility it imposes? What should be the congressional role in this or an alternate approval process?

What are the consequences of the proliferating construction authorities among numerous agencies?

Should not the Congress and the executive branch establish some common ground with respect to financing space acquisition—which involves budgetary impacts as well as comparative costs?

These questions are not exhaustive of the subjects that should be examined, or that may arise during oversight hearings. I believe they are instructive, however, of the task before the Congress and the administration.

The recent disclosures of improprieties and management failures, even if not at levels directly responsible to the Committee on Environment and Public Works, illustrate also the need to assure safeguards, proper procedures, and competent management in the very important field of building construction, leasing, alteration, and repair—where the committee is asked to assume initial approval responsibiltiy for projects exceeding $500,000 in cost.

In the long run, only a coherent policy, clearly defined programs, and firm execution of those decisions backed by consistent authority, will fill the policy vacuum which otherwise attracts confusion and influence, if not exorbitant waste, favoritism, and scandal.

RHODESIAN ELECTION OBSERVERS

● Mr. TSONGAS. Mr. President, it is my understanding that within a week's time the Senate will consider Senate Concurrent Resolution 8 sponsored by Senators McGovern and Hayakawa. The resolution provides for a congressionally appointed and funded team of observers which would go to Rhodesia and observe the election to be held by April 20. The observer team would prepare a report on the election and submit it to the Congress soon after their return from Rhodesia. It is understood that Congress would transmit the report to the President who would consult the report during his deliberations on the question of lifting the economic sanctions against Rhodesia. The sponsors of the revolution state that the observer team will be impartial and provide factual information on whether the Rhodesian election is free and fair.

At first glance, this resolution appears to be a well-intentioned, useful initiative. It is difficult to imagine that the sending of an "impartial observer team" would launch the United States on a dangerous and ultimately disastrous course in Rhodesia and southern Africa. But, if this resolution is enacted, that will be precisely the outcome. I will speak in more detail on this resolution later this week. I think it is appropriate at the present time to make available the views of others on the resolution. Mr. Frank Ballance has written a thoughtful criticism of the resolution in the Washington Post. The New York Times published a challenging editorial on the issue on March 12. I ask that both be printed in the Record.

The material follows:

[From the Washington Post, Mar. 10, 1979]

Observing Elections in Rhodesia

The Post has consistently displayed an inadequate understanding of the situation in Rhodesia, as its simplistic editorials demonstrate. Your March 3 editorial ["Observation on Rhodesia"] criticizes the administration for failing to accept the congressional challenge to observe the Rhodesian election. It slides too easily over the fact that observation is an issue because Congress unwisely injected itself into a complex issue that it knew little about.

The Case-Javits amendment, setting conditions under which sanctions might be lifted later, was a compromise designed to prevent the passage of legislation to lift sanctions immediately. It was clearly not a response to a Rhodesian request to monitor their elections. The Rhodesian regime has no such mandate from its people, 97 percent of whom have had no chance to vote on the constitution, which was written by white Rhodesians and endorsed in a white-only referendum.

The Case-Javits language sought to ensure that the internal settlement could not be validated solely by the acts of an illegal government, and that impartial, internationally recognized observation was an essential component in any election. However, there is an enormous difference between an internationally supervised election under U.N. auspices and a unilateral effort by the Congress to select its own observer team, one finely balanced to meet U.S. political realities but certainly not reflective of the dynamics of Zimbabwe.

The problems with the Rhodesian elections run far deeper than potential ballot stuffing or graveyard voting. There is likely to be little need for such activity, since the election has already been rigged. Observers will be faced with such sensitive political issues as what percentage participation by eligible black voters will be deemed sufficient to validate the elections, whether the political process has in fact been open to all parties and groups, and what opportunity for campaigning or voter education there has been under conditions of martial law, guerrilla warfare, censorship and manipulation by the Salisbury government.

The fundamental test of elections must be whether they permit a genuine expression of the political will of a people. What possible value is an election that presents a choice between the Rev. Ndabaningi Sithole and Bishop Abel Muzorewa? Any real differences are buried under the terms of the constitution to which both agreed; the potential for meaningful change is so circumscribed as to reduce the choice to one between Tweedledum and Tweedledee.

Neither Joshua Nkomo nor Robert Mugabe has shown any inclination to contest an election under such conditions, especially after repeated attacks by Ian Smith's army on their followers in Mozambique and Zambia. Observers are unlikely to see their supporters turned away from the polls. Well over 100,000 Africans have fled Rhodesia, and the rate of flight is growing. They are not waiting for congressional observers to tell them it is safe to vote. Congressional intrusion in the Rhodesian elections is unlikely to alter political perceptions of the results. But it will reinforce the widely held African view, which this administration has done much to dispel, that U.S. sympathies in the crunch will be with the whites and their black clients and against the forces of African nationalism.

[From the New York Times, Mar. 12, 1979]

Facing Up to Failure in Rhodesia

There is to be an election of sorts in Rhodesia next month by which the white minority regime hopes to make itself appear a black regime, thus finding acceptance in the West but running things pretty much as before. This cozy arrangement between Prime Minister Ian Smith and some cooperative black leaders is being challenged by two separate guerrilla forces. With the help of neighboring African states and Soviet-bloc arms, the guerrillas have undermined the Government's control over much of the land and people.

It looks now as if the Smith regime's cosmetic transformation will not be prevented by the civil war. But neither will more bitter warfare be prevented by the transformation. The long-shot American policy for avoiding both these developments—by negotiation among all the Rhodesian factions—is therefore close to failure. If the Carter Administration does not acknowledge this failure in time, Congress may choose the worst possible response.

Many Americans look with sympathy on Mr. Smith's belated formula for "majority rule." Put off by the revolutionary rhetoric and guerrilla terror, they think the United States should support an arrangement that appears biracial and constitutional and is ratified by elections. Impressed by these arguments, Congress will send observers to report on the fairness of the vote. If the report is favorable, Congress may demand an end of United States sanctions against Rhodesia and insist on supporting the new government against the guerrilla challenge.

But there is no persuasive evidence that this would contain the violence. The "internal agreement" between Mr. Smith and his black collaborators reserves far too much power for the white minority. It was ratified by a referendum in which only the 90,000 white voters were allowed to participate. Two and a half million eligible blacks will be urged and cajoled to vote in next month's parliamentary election but that will hardly make it a test of their support for the new structure. The guerrilla leaders, Joshua Nkomo and Robert Mugabe, reject the new constitution and are running no candidates. The neighboring "front line" black states support the guerrillas mainly because they see no hope for stability until the regime formed by Mr. Smith is either displaced or forced to yield real power to blacks.

The Americans bid for compromise was noble so long as there remained the slightest chance of heading off civil war. There is little hope for compromise now and the Administration should admit that as it weighs the unappealing choices that remain.

Backing Mr. Smith's scheme would be a serious mistake. That would only undo the credit the United States has thus far earned in Black Africa without resolving anything. It would tie the United States to an ally that offers neither majority rule nor the prospect of peace. Backing the guerrillas is inconceivable as long as they refuse to assure a fair division of power and to protect white minority rights. Yet standing aside could permit the Soviet Union and its Cuban allies to gain the benefits of yet another successful African insurgency.

While Rhodesia reaps the violence that is Mr. Smith's true legacy, the United States can only wait for a new opportunity to bring it fairly to an end. That opportunity will not arise if Mr. Smith is led to believe that the West will ride to the rescue.●

HELIUM

● Mr. DOMENICI. Mr. President, the action to eliminate funds from the annual budget authority for the helium fund gives the Senate another opportunity to discuss the confused Government policy on helium conservation. I have been an advocate for conserving helium resources for many years now, and in 1976 the Senate passed my sense of the Senate resolution recommending that the President direct the Secretary of the Interior to conserve the helium which is now being extracted from natural gas and then wasted into the atmosphere.

While I will not oppose this rescission, this action adds to the confusion of the helium program. The Senate Energy and Natural Resources Committee plans to pursue this matter and to develop a program to reestablish a conservation program for this Nation's helium resources.

Helium is a rare natural resource with the unique property of maintaining liquid to the lowest temperature yet achieved. This makes it invaluable as a superconductive agent in power transmission. At Los Alamos Scientific Laboratories, new energy technologies are being developed and large-scale commercialization in advanced energy producing and distributing technologies are anticipated to occur in the post-2000-year period. These technologies will be dependent upon an adequate supply of helium at a reasonable cost.

Mr. President, it is unwise for this Nation to continue to allow helium to escape into the atmosphere. This is a matter of immediate concern because as we develop our natural gas supplies helium is being wasted.

The Congress must discuss the necessity of conserving helium. It is shortsighted to waste a valuable resource needed in developing technologies which are bound to determine the extent the United States can meet its future energy requirements.

The confused state of this Nation's helium program must be the subject of hearings during this session of Congress.●

HERMAN TALMADGE, A CHAMPION OF SCHOOL LUNCH

● Mr. McGOVERN. Mr. President, Senator Herman Talmadge, the chairman of the Agriculture, Nutrition, and Forestry Committee has been a strong national leader in the area of child nutrition for many years. His championing of the school lunch program deserves recognition. He has spoken out over and over again on behalf of the importance of improving the nutritional health of young people.

Under his leadership, school lunch participation has grown steadily and currently serves 26 million children every school day.

Last week Senator Talmadge addressed the Georgia School Food Service Association and again demonstrated his commitment to the school lunch programs.

In his remarks, he articulately explains why he will oppose the administration's proposals with regard to school lunch. I strongly support his position, and urge my colleagues to give his statement every consideration.

I ask that Senator Talmadge's remarks be printed in the Record.

The remarks follow:

Remarks by Senator Herman E. Talmadge

I am delighted to be back home in Georgia among good friends here tonight.

This grand old State and its strong, sturdy people have always been a wellspring of strength to me. Never was this more true than it is today.

I am particularly pleased to be among the people who are responsible for the operation of the school lunch program in Georgia. This long has been one of my favorite Government programs. It is certainly one of the most successful and constructive Government activities that has come along in my lifetime.

My first exposure to the primitive forerunner of the national school lunch program was as a boy in Telfair County in the 1930s when surplus farm commodities, such as dried milk, were distributed by the federal government to school children. While this experience did not do much for my taste for dried milk, it did give me an early and lasting insight into the tremendous potential of a national school lunch system for providing hungry children with nutritious meals and farmers with a ready and worthwhile outlet for their agricultural commodities.

This happy melding of two of the nation's priority needs was formalized early in the post war era under the National School Lunch Act of 1946.

A great Georgian, the late Sentaor Richard B. Russell, played a leading role in that legislation. It laid the foundation for the school lunch program as we know it today.

During my 23 years in the Senate—the last eight as chairman of the Committee on Agriculture, Nutrition, and Forestry—I have had the privilege to participate in the development and passage of some dozen major school lunch bills, including the act of 1970 that modernized the program, provided adequate funding and extended its benefits nationwide.

Nothing that I have been able to accomplish during my years in Washington has given me any greater satisfaction than the school lunch and child nutrition laws that have originated in my committee and have been placed on the nation's statute books.

But the success of any legislative program, in the final analysis, rests with the people who administer it and who carry out its provisions. It is they who must translate ideas into action and objectives into results.

The school food administrators of the nation—and especially here in Georgia—have performed this vital role with brilliance, ingenuity, and dedication.

You have made this program a model in Federal-State-local cooperation. You have helped to make federalism work in a manner envisioned by the founding fathers when they fashioned our dual system of government.

The school lunch program here in Georgia deserves special praise and tribute. I consider it the foremost example in the nation of efficient yet compassionate administration of the program. This is due in large measure to the efforts of those of you here tonight and to the inspired leadership over the years of my good friend and the good friend of every school child and every parent in this state, Josephine Martin. I congratulate each and every one of you.

In carrying out the legislative goals established by Congress in the school lunch and child nutrition programs, you and your counterparts in other states have achieved much more than an administrative success story. You have contributed in a meaningful way to the nation's educational process by providing nutritional meals to school children without regard to their means, circumstances or background.

You not only have provided the nation with an instructive model of good nutrition, you have put food in hungry stomachs and thereby made young minds more receptive to learning.

You not only have enhanced the nutritional health and well-being of the nation's children, you have enhanced the nation's strength and security as well. All Americans are in your debt.

I know that President Carter is among those who share your and my dedication to the school lunch and the child nutrition programs. I am certain he would not knowingly or conscientiously do anything to weaken these programs or impair their effectiveness. Like you and I, he has seen first-hand the good results of these programs.

Unfortunately, the changes that his administration has proposed that Congress make in the school lunch program would, I fear, adversely affect the program and deny its benefits to many children. These changes, if they should become law, would reverse the long and unbroken record of improvements that have been made in the program over a period of many years.

As you probably know, the changes that the administration is proposing would provide for a five cents reduction in the Federal reimbursement for paid school lunches and for more stringent family income requirements for children to qualify for free or reduced price lunches.

These changes are proposed as part of the laudable effort of President Carter and his administration to reduce Federal expenditures. I, for one, certainly applaud the end the President seeks. But in this instance I strongly question the means to that end.

The reductions in the Federal school lunch spending that these proposed changes would achieve amount to $262 million—or about eight percent from the current spending level. But these savings would be achieved at the cost of driving at least a million children and perhaps a great many more—no one really knows—out of the school lunch program.

Here in Georgia, I am told by Miss Martin that the increased price of paid lunches that would result from the reduced Federal reimbursement, plus normal inflation, could drive as many as 59,000 students from the program. At the same time, the tightened requirements for free and reduced-price lunches could drive away another 20,000—and these would be the children who benefit most from the program.

This prospective loss of 79,000 Georgia children from the school lunch program each day would have major adverse economic repercussions—including the loss of 790 jobs, $8 million in payroll, and $7 million in food purchases.

But a much greater loss—one that would be impossible to place a price tag on—would be the 79,000 youngsters who would be denied the nutritional benefits of a school lunch—whether by choice or otherwise.

These are some of the reasons that I am deeply troubled by the administration's proposed changes in the school lunch program. But most of all I am troubled because no one in the administration—neither the office of management and budget, the Department of Agriculture, nor the Food and Nutrition Service—and no one in the Congress really knows what the impact of the proposed changes would be.

We simply do not have sufficient program information or evaluation material to assess with sufficient accuracy what the end results would be if the proposed changes were put into effect.

Even the General Accounting Office—an investigative and analysis arm of the Congress that is not particularly known for dealing in human terms—has urged a go-slow approach to the administration's proposed modifications in the school lunch program. In testimony presented to our nutrition subcommittee last week, GAO said of the proposed changes:

"Unquestionably, the department's proposed cuts will save money.

"They will also remove many children from these programs. Unfortunately, we are unable to measure the tradeoff between budget cuts—some or all of which could be well taken—and cutting children off from program benefits."

Because of the uncertainties and unknowns—and because I feel strongly we should be expanding and not restricting participation in the school lunch program—I will oppose the changes requested by the administration in their present form.

The Senate Committee on Agriculture, Nutrition, and Forestry already has indicated its position on these changes.

On Tuesday of this week, we recommended that the 1980 budget continue funding of the school lunch program on its current basis without the changes proposed by the administration.

This would provide for a Federal subsidy of 32.3 cents in cash and commodities for each paid lunch served. It would also leave the eligibility standards for free and reduced lunches exactly as they are at the present time.

I will urge my committee to maintain this position when the administration sends up the legislation containing the proposed changes.

The people of Georgia did not send me to Washington to waste and squander their tax dollars.

But neither did they send me to Washington to preside over the demise or diminution of tested and proven activities such as the school lunch program. I do not intend to do so.

I do not wish this to mean that we should not seek to effect economies whenever and wherever possible in the school lunch and child nutrition programs. Costs must be contained.

The people of this country, while willing to support worthwhile programs, are saying in no uncertain terms that they want all Government costs controlled. They are fed up with waste and inefficiency.

They are sick and tired of run-away Federal spending and irresponsible Federal deficits that are fueling the fires of inflation.

I am certain—and I expect that you are even more certain—that economies can be made in the school lunch program, economies that won't discourage student participation in the program. Indeed, the people here tonight and your counterparts in other States are the very ones that the Secretary of Agriculture should be looking to for guidance and suggestions for the right kind of cost-cutting.

I hope the Secretary will avail himself of your expertise and your ideas and that he will send Congress a new set of proposed changes that we can consider with confidence.

I would like now to touch briefly on another development in Washington that I believe is a matter of interest and concern to food service administrations, even though it does not directly affect the school lunch or the child nutrition programs.

It does very much affect the Department of Agriculture and its future.

And on down the road, it could very well affect you and the program that is near and dear to your hearts and in mine.

Many of you will recall that about a year ago the Carter Administration asked Congress to create a new U.S. Department of Education. This new cabinet-level department would be carved largely out of the Department of Health, Education and Welfare. But the administration last year also proposed to transfer the child nutrition programs—including school lunch—from USDA to the new education department.

Your national association, along with many other child nutrition and child-feeding interest groups, joined with members of my committee and other members of Congress in vigorous opposition to the school lunch transfer. We also had the active support of many other groups outside the child nutrition area who shared our desire to keep the Department of Agriculture intact.

We won the fight last year because of the many diverse friends of USDA who joined forces in a solid front to thwart the effort to dismember the department.

This year, the administration has again asked Congress to establish a U.S. Department of Education—but without the school lunch and child nutrition programs.

But the effort to dismantle the Department of Agriculture is still very much alive. This year the attack has been mounted from a different quarter.

President Carter last week sent Congress a proposal to transfer the U.S. Forest Service—the largest component agency of USDA—to an expanded Department of Interior to be re-named the Department of Natural Resources. The President also proposed to chop off the rural development business and industrial loan program of the Farmers Home Administration and transfer it to the Department of Commerce.

I am just as vigorously opposed to these new reorganization plans as I was to the unsuccessful attempt last year to transfer the child nutrition functions out of USDA.

I also believe it is in the interest of the friends of the school lunch program to oppose the current effort to carve up the Department of Agriculture.

It is imperative that we maintain a strong Department of Agriculture worthy of full Cabinet status. This makes our task on Capitol Hill easier in writing sound child nutrition programs as well as sound farm programs.

I might also point out that while there is no present attempt to tamper with the child nutrition programs, there is nothing to prevent a future President from reviving the notion that this vital USDA activity ought to be placed elsewhere in the Government.

Therefore, I invite an urge your help in defeating this latest raid on the functions of the Department of Agriculture.

Let me thank you again for the opportunity to be here tonight. I hope you will permit me a personal word in conclusion.

On six occasions, the people of Georgia have honored me with the two highest offices within their gift—twice as Governor and four times as U.S. Senator.

For this expression of confidence and trust, I am humbly and eternally grateful.

Throughout the years, I have strived to represent the people of this State without fear or favor, as God has given me the light to see my duty.

Next year, I will again ask the people of Georgia to give me their endorsement and support for the United States Senate. I pledge to them and I pledge to you that I will give the best that I have . . . and the best that I am capable of attaining . . . in the discharge of my highest obligation—to serve all of the people of this State to the full extent of my ability.●

SOFT DRINK INTERBRAND COMPETITION ACT (S. 598)

● Mr. HELMS. Mr. President, I am pleased to be one of the cosponsors of legislation designed to preserve a unique and competitive industry practice—the manufacture, bottling, and distribution of trademarked soft drinks by local companies operating under territorial licenses. The Soft Drink Interbrand Competition Act, introduced on March 8, 1979, allows local manufacturers to maintain their territorial licenses as long as there is substantial and effective interbrand competition.

The soft drink industry is composed of thousands of small companies and plants built to serve local communities. Typically, the bottler employs less than 50 persons. A 1977 profile of the North Carolina soft drink industry is illustrative of the small size and competitive nature of this business:

North Carolina soft drink manufacturers

Number of plants	87
Domestic owned plants	70
Number of firms	59
Domestic owned firms	52
Single-plant firms	41
Multi-plant firms	18
Plants by number of employees:	
1–49	61
50–99	14
over 100	12
Number of cities with plants	49

The Federal Trade Commission's decision to bar as unlawful territorial restrictions in soft drink trademark licensing—like most misguided bureaucratic actions—creates more harm than good. In the long run, the FTC decision would prove to be anticompetitive. If territorial licenses are prohibited, it is most likely that many of the small bottlers will be absorbed by larger ones. Such a restructuring of the industry would be inconsistent with the purposes of the antitrust laws.

This legislation will encourage the industry to continue operating in small units effectively competing with each other. This is good for both the industry and the consumer. I urge my colleagues to join in supporting this worthwhile legislation.●

COMMITTEE ON GOVERNMENTAL AFFAIRS—REPORT PURSUANT TO SECTION 302(b) OF THE CONGRESSIONAL BUDGET ACT

● Mr. RIBICOFF. Mr. President, pursuant to section 302(b) of the Congressional Budget Act, I herewith submit the report of the Committee on Governmental Affairs concerning the budget authority allocated to it in the joint explanatory statement of managers accompanying the conference report on the first concurrent resolution on the budget:

COMMITTEE ON GOVERNMENTAL AFFAIRS, U.S. SENATE—2D REPORT TO THE SENATE PURSUANT TO SEC. 302(b) OF THE CONGRESSIONAL BUDGET ACT

[In millions of dollars]

	Fiscal year 1979 direct spending jurisdiction	
	Budget authority	Outlays
AMOUNTS FOR PROGRAMS IN DIRECT SPENDING JURISDICTION		
Controllable programs:		
Department of Commerce, Bureau of the Census: Special studies, services, projects (Function 370)	5 (+1)	5 (+1)
District of Columbia: Advances to stadium sinking fund, Armory Board (Function 850)	1	1
General Services Administration (Function 800):		
Real property activities, expenses, disposal of surplus real property (Special fund)	1	1
Records activities, National Archives gift fund	(1)	(1)
National Archives trust fund	0	(1)
Advisory Commission on Intergovernmental Relations (Function 800)	(1)	(1)
Controllable subtotal	7 (+1)	7 (+1)
Other programs:		
Civil Service benefit funds:		
Retirement and disability fund (Function 600)	19, 855(−52)	12, 196(+16)
Employees life insurance fund (trust revolving) (Function 600)	0	−485
Employees health benefits fund (trust revolving) (Function 550)	0	−43
Retired employees health benefits fund (trust revolving) (Function 550)	0	(1)
Federal payment to civil service retirement and disability fund (Function 800)	6, 247(+76)	6, 247(+76)
Department of the Treasury: Secret Service contribution for annuity benefits (Function 750)	8	8
Other subtotal**	26, 110(+24)	17, 923(+92)
Total, direct spending jurisdiction	26, 117(+25)	17, 930(+93)

[1] Represents amounts less than $500,000.

Amounts for entitlements funded in annual appropriation acts:

The only such entitlement program under the jurisdiction of the Governmental Affairs Committee is Compensation of the President, in the amount of $200,000 (budget authority and outlays).●

CONSTITUTIONAL AMENDMENTS RELATING TO ABORTION

● Mr. MATHIAS. Mr. President, one of the compelling precepts of religion is that God has imposed the duty and privilege of moral decision upon each individual human being. Government should not invade this very personal province and experience teaches that it is futile for Government to try to impose a collective moral decision upon the conscience of a single citizen.

It is my personal belief that life does begin with conception and that creation of life simultaneously creates responsibility. A proper concern for life extends, however, to a mother's right to life when pregnancy endangers her survival and health. Between these two positions lies a wide area for moral decision. What are the circumstances in a given case when abortion is being considered? What jeopardizes the mother's health and to what degree? What weights should be placed on each side of the scale by the persons most intimately concerned?

I do not believe that Government will ever be so finely tuned that it can answer these questions. Only those who bear a burden of decision that cannot be lifted from their shoulders can finally make the determination and then only after searching the facts and their own souls. Even if Government attempted to decide for them, it would not be able to guarantee them a quiet conscience nor to confirm to society a universal principle of faith and practice.

There are ways in which society can help individuals who are faced with this supreme moral dilemma. Families must be encouraged to come together to make such decisions with love and understanding by restraining hasty or furtive solutions. The best and most comprehensive counselnig must be made available. But our moral responsibility mandates that the decision is private and personal and must remain so.●

S. 356—ESTABLISHMENT OF AN INTERNATIONAL GRAIN EXPORTING STABILIZATION COMMISSION

● Mr. DOMENICI. Mr. President, my distinguished colleague, Senator BELLMON, has introduced a bill to encourage the establishment of an International Grain Exporting Stabilization Commission.

As a cosponsor of S. 356, I would like to add my comments concerning this legislation.

The International Grain Exporting Commission Act of 1979 would request the President to establish an international grain exporting commission to be composed of the major wheat exporting countries. That commission would then establish a minimum world price for wheat.

Mr. President, nothing amazes me more about this Nation's farmers than their ability to stay in business and keep American agriculture flourishing when:

First. A bushel of wheat that our farmers receive $3 for is taxed $6 by Japan before that country delivers the wheat to its millers.

That translates into a 200 percent profit for Japan over our own farmers, on wheat that country does not even have to grow, so their own farmers can receive an economic umbrella.

Second. There is a widespread misconception as to the amount of wheat in a loaf of bread. Consumers embrace the misconception that bread prices rise in direct proportion to wheat prices, when in truth the wrapper on that loaf of bread costs more in many cases than the bread inside.

Under the Bellmon bill, with a $4.50 per bushel f.o.b. export price, the consumer would not be penalized.

To reiterate Senator BELLMON's words:

> The price of a 1-pound loaf of bread increases about 1½ cents for each $1 per bushel increase in the price of wheat. Thus, if the price of wheat increases to $5 per bushel f.o.b. at the ports, bread would only increase about 2 cents per loaf since the current export price for wheat has been fluctuating around $3.50 per bushel f.o.b. at the ports.

How can we truly expect our grain farmers to survive by selling products below the cost of production?

How can we continue to justify export prices that make other countries rich while our own people are going bankrupt?

I can offer no simple answers to these complex dilemmas, Mr. President.

But I can support wholeheartedly S. 356, a bill that will improve farm income, reduce Government expenditures, improve our balance of trade, encourage developing countries to increase production, and not significantly increase the cost of bread.

And I am pleased to join Senator BELLMON in his efforts to accomplish those goals.●

TRIBUTE TO FORMER SENATOR DEWEY BARTLETT

● Mr. WEICKER. Mr. President, I join my colleagues in paying grateful tribute to our late friend and colleague, Dewey Bartlett of Oklahoma. He was a great human being and an exemplary public servant.

Among Senator Bartlett's many admirable qualities, his perseverance in defense of his convictions stands out. His tireless advocacy of decontrol of energy supplies made an outstanding contribution to the Senate's consideration of the administration's energy proposals last year. He continued to press and attempt to clarify the administration's position long after the TV lights had been turned out and the Nation's attention had turned elsewhere. In addition, his conscientious service on the Senate Armed Services Committee bolstered our efforts to provide for the national defense.

In all has dealings, Senator Bartlett was a man of warmth and humor. This made him the friend of many in the Senate, staff and Senators alike.

The courage of his final days in Washington, as he battled the cancer which would take his life, will stand as a vivid reminder and testament to the values on which Senator Bartlett built his life.●

THE MAINE FISHING INDUSTRY

● Mr. COHEN. Mr. President, Maine's once-thriving fishing industry believed until recently that the Fisheries Management and Conservation Act of 1976 would reverse the downward trend the industry has experienced over the last decade.

Unfortunately, this has not been the case. Indeed, the industry has encountered crisis after crisis in the past few months, events which have effectively prevented this traditionally important segment of Maine's economy from achieving the prosperity which it once knew.

When I am in Maine, I often visit fishermen on their piers. I am pleased to report that no longer do the fishermen complain about the size of their catches; the 200-mile limit law did help them in this regard. What they do protest—and in a vehement and straightforward way that only Maine's fishermen can—is that once they land their fish, they often lack purchasers willing to pay a decent price for it.

We hear much about the problem of hunger these days. Many concerned Americans are facing up to the fact that a severe food shortage exists in the world and that protein rich foods are in high demand. Should not we be asking ourselves why—in light of global nutritional needs—the market for fish caught by New Englanders is so poor?

Maine fishermen, unlike western farmers, have not asked their Federal Government to guarantee that they will receive a minimum amount when they market their product. I doubt seriously that they would avail themselves of such a guarantee if offered by the Government.

They are an independent lot, and are as proud of their self-sufficient nature and reputation as they are of their calling. They do not want handouts, and usually would not accept government help in instances when other groups would demand it. I respect them for this aspect of their character.

Maine fishermen do, however, insist on one thing: being treated fairly in all their dealings. And this is precisely what the Federal Government is refusing to do by not reforming the existing trade laws and regulations which are primarily responsible for the marketing difficulties I have mentioned.

A clear and current example of the Federal Government's acute insensitivity to the plight of our fishermen is the Treasury Department's refusal to recognize the need for countervailing duties on Canadian fish imported into the United States.

Despite repeated findings that the Canadian Government has provided many indirect subsidies to its fishing industry, the administration has declined to use its power to offset this unfair advantage. Despite bipartisan appeals from Maine and New England representatives, it has refused to impose the countervailing duties that would place our domestic industry on an equal footing with the Canadians.

Mr. President, this problem demands the attention of all the Members of this body, not just those of us from coastal States. This is a matter of simple justice for thousands of American working people who wish only a fair chance to earn a livelihood.

I ask to print here in the RECORD a newspaper article from the Portland Press Herald of March 8, which summarizes the difficulties faced by our North Atlantic fishermen. I also ask to print a study of the remedies available to our fishermen to offset this unfair competition. The study was prepared by Prof. Joel D. Dirlam of the University of Rhode Island, an expert in the field.

I hope all my colleagues will give this serious matter the study and consideration it warrants.

The article and study follow:

U.S. DATA TO JUSTIFY WAIVER OF FISH DUTIES CALLED IN ERROR

(By Bob Niss)

A university of Rhode Island economist who has studied the Canadian fishing industry said Wednesday that data used by the U.S. Treasury Department to justify its waiver of duties on imported Canadian fish was inaccurate and "unrealistic."

Prof. Joel D. Dirlam told a City Hall press conference arranged by the Maine Fishermen's Cooperative Association that the Treasury "should be more accountable for its decisions" rather than issue "terse memorandums" that lack solid, supportive evidence.

Dirlam strongly questioned the Treasury's use of Canadawide industry statstics to support a policy decision directed primarily at New England fishermen.

The Treasury last June 13 waived a 1.2 percent duty on Canadian fish shipped into the U.S., explaining that government subsidies to Canadian fishermen had ended, leaving them to compete more evenly with their American counterparts.

Dirlam said not only that subsidies have continued—in an indirect fashion—but that the Treasury decision relied on data encompassing all of Canada's fishing industry, including the West Coast "where subsidies are virtually non-existent."

He said Treasury investigators looked only for evidence of direct financial aid to Canadian fishermen from the federal government, ignoring both low-interest bank loans and, at first, a substantial grant program for boat builders and fish processors.

"The Treasury at first wouldn't consider construction grants as subsidies," he commented. "The Canadian government itself has abolished direct subsidies. Nevertheless, there remains the effect of subsidies that had been paid for shipbuilding and processing plants."

He said a substantial portion of the existing Canadian fleet operating in the Atlantic "was built with subsidy money" and that Canadian fishermen can still have new boats built "with a very low down payment," thanks to low-interest loans and grants to the boat builders.

Precise figures on grants and loans, he conceded, are difficult to come by because "the larger subsidies go to shipyards and are differently administered" than loans or smaller grants. He did say, however, that fishermen in Canada can secure loans through provincial governments at 6.5 to 7 percent, compared to 11 to 12 percent from commercial banks.

"The Treasury said the loans were at regular, commercial rates," he claimed. "Apparently, the Treasury mixed up loans available from some individual loan corporations with fishery loans."

Dirlam said it is possible for New England fishermen to appeal to the International Trade Commission to reinstitute duties on Canadian imports on the grounds that their fishery has been "injured."

He indicated, however, that proving injury to the New England industry would be difficult because 1978 was "a very good year."

"But that raises the question of how well they might have done without Canadian imports. Were they making enough before?"

Dirlam questioned the value of reinstituting a duty on Canadian fish imports, saying there may be more productive avenues to explore.

A return to a simple duty, likely to be based on the extent of Canadian subsidies to its fishing industry, "might just lower the income of some Canadian fishermen," he said, without improving the lot of New England fishermen.

He suggested that duties "don't represent a solution" but should perhaps be reinstituted as a message to "convince" Canadian officials that the U.S. fishing industry wants its fair share of the fishing dollar.

"It might be better to ally ourselves with people in Canada—and I think they're there—who'd like to remove the subsidies there and let the industry ride on its own. Some there feel the subsidies are a drain on their economy."

He described the low-interest loans to fishermen for boat construction "a subsidy the taxpayer is making available."

Dirlam offered little hope for a Treasury Department reversal or other form of help: Realistically, I don't see that you can do much through them. The Treasury made the duty decision without any kind of public hearing."

Dirlam was also pessimistic about how the International Trade Commission would entertain an industry plea for help. He said the ITC has already said there appeared to have been no injury done to U.S. fishermen from Canadian competition in 1978 "because the number of boats and the amount of the catch (in the U.S.) increased."

"But that just brings us back to the question of how well they would have done without the imports" and the subsidies that support them.

He also questioned the validity of the ITC assessment, noting that a report issued by the ITC itself listed the price paid for Canadian fish sold in the U.S. at nearly 10 cents higher, per pound, than what is paid for domestic fish.

"You find that (data) right in the commission report . . . on which you assume they base their decisions."

Remedies Available to New England Fishermen for Protection Against Subsidized or Unfair Competition

STATEMENT OF THE PROBLEM

New England fishermen engaged in groundfishing and New England processing plants producing fresh fillets and frozen fillets face direct and indirect competition from harvesting and production that have been subsidized by foreign governments. Although the imports may not compete directly with some domestic fish products because the import may not be at the same processing stage, nevertheless the possibility of substituting imported frozen for domestic fresh fillets, or imported whole fish for domestic fillets tends indirectly to depress domestic prices. The impact of the imports may not always be immediately apparent. As far as blocks are concerned, there is little domestic production, and their ultimate consumption as fish portions or sticks may seem to pose a minimum threat to sales of domestic fresh or frozen fillets. Nevertheless, to the extent that blocks are imported, the sticks and portions may preempt a potential market for blocks produced from an expanded groundfish harvest landed under the 200-mile jurisdiction. Moreover, if the consumption of fish in all forms is highly inelastic, satisfaction of the demand for variety by sticks and portions will certainly check an expansion of the market for fresh or frozen domestic steaks and fillets. Given the magnitude of the groundfish supply that may eventually become available to U.S. fishermen under the Fish Conservation and Management Act of 1976, it is important that domestic fishermen and processors be aware of available procedures to insure that competition is conducted fairly and efficiently.

To be sure, not all processors have identical interests, nor are processors' interests in every case the same as those of the fishermen. A processor producing fish portions or sticks may be an agent of the fishermen in other countries, such as Norway or Iceland, whose main concern is to find an outlet for their groundfish in the United States. At least two New England processors are owned by Canadian companies that are vertically integrated through harvesting to production of portions. Conversely, U.S. firms control at least seven Canadian processors themselves owning fleets of trawlers. Any action that would tend to raise the cost or limit the import of blocks or fillets from Canada would be harmful to their interests, assuming that the demand for their product is elastic.[1]

Our purpose here is not to try to suggest in what circumstances New England fishermen or processors should attempt to restrict or additionally burden imports of fish or fish products, but rather to provide a review of the procedures established by federal law for challenging imports. In addition, the statutes provide for assistance of different forms to firms, workers and communities that have suffered from import competition. The requirements and prerequisites for obtaining assistance, and the amounts and types available are summarized below.

STATUTORY PROVISIONS FOR RESTRICTING IMPORT COMPETITION

a. Imposition of countervailing duties

In terms of requirements for submission by a domestic industry, Section 33(a)(1) of the Tariff Act of 1930, as amended by Section 331 of the Trade Act of 1974, appears to be the simplest of all methods of checking imports. The Secretary of the Treasury is required to impose a countervailing duty on imports receiving a bounty or grant in the country of origin. The countervailing, or additional, duty is to be equivalent to the subsidy. For instance, if a foreign country pays fishing vessels the equivalent of 2¢ per pound of landed fish (live weight) and these fish are exported to the U.S., then an equivalent duty would be added to that already provided for in the U.S. Tariff Schedules. Although the Act does not enter into details, the amount of the duty would presumably be determined by the stage of production. That is, if the fish were imported as fillets, a countervailing duty per pound should be equivalent to the bounty or grant paid on the amount of landed fish required to produce a pound of fillets, in the illustration just given. For whole fish, the countervailing duty per pound would simply equal the subsidy.

If the foreign subsidy were to apply at a later stage of production (if, for example, fish processors are paid a subsidy per pound of frozen fillet shipped) then the duty on fillets would be augmented by the same amount.

In requesting that a countervailing duty be imposed, it is necessary only for the domestic industry to specify the tariff schedules which are applicable, and to allege, with supporting facts, the existence of a subsidy. A full investigation into the circumstances of payment and the amount of the subsidy is then carried out by the Treasury Department. In the course of the investigation the foreign country is asked to supply information on the subsidy, including its amount, and the requirements of eligibility for receiving it.

Within six months, the Treasury is required to issue a preliminary finding. If it concludes that subsidies are being paid, another six-month period may elapse during which, presumably, negotiations may be carried on with the country engaging in subsidization to persuade it to abandon the practice. Should it fail to do so, the countervailing duty is automatically added to the prevailing tariff rate.

It should be noted that the Treasury is not required to entend an inquiry to products listed in tariff schedules other than those listed in the petition, even if similar products are subsidized. Moreover, it appears that the Treasury has sometimes interpreted "subsidy"—or, as phrased by law "bounty or grant"—rather narrowly. That is, the payment must be made directly and proportionately to units of output to be classified as a subsidy. Until recently for instance, the Treasury has not been willing to regard construction subsidies for fishing vessels as subsidies for the production of fish, even though such subsidies reduce the cost incurred by the fisherman, and though the statute refers to a bounty or grant paid "directly or indirectly." Nevertheless, in the *Michelin* decision, handed down in 1974, Canadian federal and provincial assistance in the construction of a tire plant in the Atlantic provinces was held to be a subsidy on tires exported to the U.S. within the meaning of Section 303 of the statute. Accordingly, a countervailing duty was imposed on the import of radial steel-belted tires from Canada.[2]

The *Michelin* precedent seems to have been followed in the Canadian Fish decision in 1977, where after a preliminary negative finding[3] the Treasury held that vessel assistance programs constituted bounties or grants within the meaning of the Act. The persuasive aspect was the fact that 75% at least of Canada's fish production was exported.[4]

The procedure just outlined applies only to products subject to a duty.

As for items that are free of duty, a proceeding asking for imposition of a countervailing duty may be initiated also by simply petitioning the Treasury, under Section 303 (a)(3). Before the Secretary can impose the countervailing duty, however, Section 303 (g)(1) requires that the International Trade Commission must find that an "industry in the United States is being, or is likely to be, injured, or prevented from being established because of the importation." This means that in order to obtain the protection of a countervailing duty on articles which have hitherto entered free, the domestic industry must not only show that a foreign country is paying bounty, but that injury because of imports has occurred or is likely to occur. Nevertheless, there is no requirement that imports be an important cause of injury.

In determining that there has been an injury in other types of investigations, the Trade Commission customarily examines trends in employment, output, use of capacity, inventories, prices, and profits, and their relation with changes in imports. Such has been the Commission's practice in investigating complaints of injury under the escape clause and antidumping statutes. Whether it will be necessary to show a quantitative, precise relation between the amount of the subsidy and the injury cannot be determined from Section 303(G)(1) of the Tariff Act of 1930. The Commission's practice in cases under other sections of the Trade Act has generally been simply to compare changes in various indicators of industry activity and profitability with changes in rates of import penetration.

Should the Secretary of the Treasury decide that a bounty is not being paid, the domestic industry can appeal his finding to the Customers Court (Section 321 of the Trade Act). Prior to appeal, the Secretary must furnish the petitioner with his grounds for refusal to assess the countervailing duty (Section 516 of the Tariff Act).[5]

Footnotes at end of article.

As a complication, Section 303(d)(2) provides that if the U.S. is engaged in trade agreement negotiations, the Secretary of the Treasury need not in some circumstances impose a countervailing duty that would otherwise be called for. He is relieved of the obligation first, if imposition of the duty would be likely to jeopardize the completion of the negotiations, and secondly when steps have been taken to reduce substantially the "adverse effects" of a bounty or grant.[6]

To recapitulate, anyone who believes a bounty or grant is being paid on an article imported in the U.S. can request the Secretary of the Treasury for a finding that the bounty is in fact being paid. Thereupon, if the article is not admitted into the U.S. dutyfree, a countervailing duty must be imposed, equal to the grant. If there is no duty on the product, the Trade Commission must find a U.S. industry injured by imports. The duty need not be imposed, either on otherwise dutiable or dutyfree products, however, where negotiations are in progress to reduce non-tariff barriers to trade, and when certain other conditions are satisfied.

b. Direct Presidential action

Should U.S. fishermen or the fish processing industry believe that the imposition of a countervailing duty equal to a foreign bounty is insufficient to erase the inequitable effects of the bounty, the Act provides for a direct appeal to the President to impose additional or substitute protective measures. Under Section 301 of the Trade Act of 1974, the President can take action against exports of a country giving a "subsidy," if the countervailing duty imposition is "inadequate to deter" the granting of the subsidy. Before taking such action, however, the President must first have a finding from the Secretary of the Treasury that the foreign country is subsidizing its exports to the U.S. Then, the International Trade Commission must decide that "exports . . . have the effect of substantially reducing sales of the competitive United States produce or products . . ." Even if the Trade Commission reaches such a conclusion the President cannot take action without holding a hearing, if one is requested by an interested party. And he "may" request the Trade Commission's "views" on the "probable impact on the economy" of taking action against the subsidized exports. The provision allows the Trade Commission to take into account the effect on consumers of any price rises that might result from increasing the duty above the countervailing level or imposing a quota. To be sure, the President is not required to ask the Commission's opinion, nor is he bound by its conclusions. Moreover, the President is required to find that neither the composition of countervailing duties under Section 303, nor the Anti-dumping Act, are adequate to deter the foreign country from subsidizing its exports to the U.S.

Should the President conclude that special remedies are necessary, he may suspend, or refrain from proclaiming, a trade agreement with the offending country, and impose such duties and quantitative trade restrictions as he deems appropriate.

Section 745h of the Fish and Wildlife Act of 1956 provides that fishermen or fish processors may request the Secretary of Commerce to make a report to the President and to Congress on the effects of imports on domestic production, employment and prices in competitive products. This procedure is not likely to be fruitful. Under this Act, the Secretary makes no recommendations and the report is not keyed to any statute that would lead to Presidential action.

In 1969 the Secretary of the Interior (now replaced by the Secretary of Commerce) made a report under this section of Act on the request of various groundfish organizations, including the Atlantic Fishermen's Union, and the New Bedford Fishermen's Union: Report of the Secretary of the Interior to the President and to the Congress on the Effects of Imports on the Groundfish Industry, May 1969.

c. Import relief

Under Section 201 of the Trade Act of 1974, any industry, including fish harvesting or processing, can petition the International Trade Commission for the "purpose of facilitating orderly adjustment to import competition." Workers, firms, trade associations or unions can file. Within six months, the Commission must make a finding as to whether the "increased quantities" of imports are a substantial cause of serious injury to the domestic industry, or a threat thereof. In making its findings, the Commission may take into consideration profit levels, unutilized capacity, growing inventories, unemployment, or underemployment, and downward trends in those key indicators. An increase in imports may be relative, rather than absolute, and a "substantial cause" is important, and "not less than any other cause." The exact meaning of this sentence is hard to determine: literally, it would seem to define a substantial cause as one that is a *large*, or important, as any other cause—so that if one cause exceeded it in significance, imports could not be a substantial cause. The Trade Commission has not interpreted the condition in precisely this fashion, insisting that quantitative ranking of causes is well-nigh impossible. Yet, in some cases it has found that other factors, such as recession, were more important than imports in causing injury. In the fishing industry, it is possible the Trade Commission would regard a decline in catch as the most important cause of injury.

A finding by the International Trade Commission of injury caused by imports, together with proposed relief, such as quotas, higher tariffs, is not conclusive, since the report is merely advisory. Where the Commission finds imports to be a substantial cause of serious injury, the President has to take action either to enforce the Commission's recommendations or substitute his own. In only three instances under the Trade Act of 1974 has the President done more than find the industry eligible for adjustment assistance. The likelihood of obtaining relief of any consequence is therefore slim, under Section 201.

Nevertheless, if the President fails to approve the remedy chosen by a majority or a plurality of three members of the Trade Commission, he must transmit his decision to Congress. Within a period of 60 days, there is an opportunity for Congress to reinstate the Commission's remedy, by a majority vote of both the House of Representatives and the Senate.

d. Unfair competition

Still another section of the Trade Act could be employed by the U.S. fish processing or harvesting industry to try to prevent subsidized fish from adding to the U.S. supply. Under Section 341, amending Section 337 of the Tariff Act of 1930, "unfair methods of competition in the importation of articles which have a tendency to destroy or substantially injure a U.S. industry are unlawful. Any investigation must be concluded within a year or 18 months for complicated cases. If the International Trade Commission finds there is a violation of this section, it may require a total embargo of the product, or issue an order to importers to cease and desist from their unfair competition. Importers may appeal from embargo orders, but not from cease and desist orders, to the U.S. Court of Customs and Patent Appeals. Any decision of the Commission finding violation can be reviewed by the President, who must act within 60 days if he wishes to reverse the Commission's decision. He may reverse for "policy reasons."

Under this section, U.S. producers of television sets and of welded stainless steel tubing have charged Japanese importers with unfair competition, alleging that the imports are being subsidized and are sold below cost.

An advantage of using Section 337 is that it could result in total exclusion of the imported product. Apart from the lengthy investigation, it has the disadvantage, from the standpoint of the U.S. producer, of requiring a finding that imports have a tendency to "substantially injure" a U.S. industry. Moreover—and this might be an important obstacle should the Trade Commission choose to emphasize it—to benefit from the protection of Section 337, the U.S. industry must be "economically and efficiently operated." Proof of these qualities might require the fish processing or harvesting industry to submit an economic brief.

e. Antidumping statute

Under Section 201 of the Antidumping Act of 1930, as revised by Section 321 of the Trade Act of 1974, an industry may complain to the Secretary of the Treasury about the import of a product sold in the United States at less than "fair value." Fair value is defined to be less than the prevailing price in foreign countries, plus transportation to the United States. If the Secretary of the Treasury believes that sales in the home market are at less than cost, he must use "constructed" value, equal to normal costs, expenses and profits to determine whether sales in the United States are at less than fair value. Nevertheless, only if there is injury to a domestic industry will the Secretary take action against dumping. The International Trade Commission makes the investigation of injury. The remedy is ordinarily the imposition of an additional duty.

If the Secretary finds that an article is not being sold at less than fair value, the domestic industry can appeal his decision to the United States Customs Court, just as in the case of an appeal from a finding that a foreign country has not paid a bounty on exports. A transcript of the record has to be filed with the Customs Court by the Secretary of the Treasury under Section 516(g) of the Tariff Act of 1930.

In an effort to speed up antidumping proceedings, the Secretary of the Treasury under Section 321 of the Trade Act of 1974 may forward to the International Trade Commission his reasons for believing that there is substantial doubt whether a U.S. indsutry is being injured by dumping imports. The Commission must make a determination within 30 days whether there is no "reasonable" indication that the domestic industry is injured. The proceeding is terminated at this point if the Commission makes the finding—that is, sustains the Secretary's doubts. If, however, it is unable to find that there is *no* reasonable indication of lack of injury, the proceedings continue. In a recent case involving imports of automobiles, the Commission could not find that there was no reasonable indication of injury, and the Treasury suspended the anti-dumping proceedings only after the foreign countries agreed to raise their U.S. prices.

To show that fish is being sold at less than fair value in the U.S., it would be necessary to compare wholesale prices in, say, eastern Canada and Boston for frozen fillets. Since the U.S. takes about 90% of the Canadian output, it would be unlikely that one could buy fillets in Canada at less than the U.S. price less transport costs, so it is equally improbable that Canada is engaged in dumping fish products in the U.S.

ADJUSTMENT ASSISTANCE

As an alternative or supplement to preventing or diminishing the flow of imports, the law provides that workers, firms and

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Footnotes at end of article.

committees may obtain assistance to offset losses resulting from a rise in imports. The assistance differs as among the type of beneficiary, but the conditions for its availability are about the same. Actually there are three routes by which the machinery for assistance may be put in motion. First, a petition may be filed with the appropriate agency by potential beneficiaries. Secondly, the initiative may be taken by the Secretary of Labor to encourage workers to file petitions, after being notified of a 201 investigation by the ITC. Finally, the President, after receiving an ITC report, may request the Secretary of Labor and the Secretary of Commerce to give "expeditious consideration" petitions for assistance, Section 202(a)(1)(B).

a. Workers

Workers' assistance requires a decision by the Secretary of Labor, under Sections 221–224 of the Trade Act. To be eligible for adjustment assistance, a group of workers must petition the Secretary of Labor and show that imports have "contributed importantly" to a significant number of workers being totally or partially separated, and that sales, or production, or both, of the employing firm have decreased. Adjustment assistance is to equal 70% of average weekly wage, less unemployment insurance benefits. The assistance is payable for 52 weeks, plus a 26-week extension to complete training.

In addition, workers may receive job search and relocation allowances to cover expenses and not to exceed $500, when they are totally separated from their former job. Workers being retrained for other jobs may receive subsistence and transportation allowances. Regulations issues by the Secretary of Labor and definitions in the Act embody the details under which the benefits will be available.[7] Normally, the states take over the administration of the adjustment assistance. Workers can appeal from negative determinations directly to a Circuit Court of Appeals. Section 250.

In determining eligibility under the adjustment assistance provisions, the Secretary of Labor has applied less rigorous standards than the International Trade Commission in finding injury. In practice, the workers need merely show an increase in imports accompanied by a decline in production and layoffs to become eligible. Although about 40 petitions have been filed from shrimpers, there was one negative finding, on the grounds that imports did not contribute to worker separations.[8]

b. Firms

Business firms apply for assistance to the Secretary of Commerce. Under Section 251, a firm may be certified as eligible for adjustment assistance under exactly the same standards that apply to a group of workers. The Economic Development Administration comes out of the program. Firms are defined to include partnerships, joint ventures, and cooperatives, as well as corporations and proprietorships. Once found eligible, a firm may receive technical assistance to prepare and implement a proposal for "economic adjustment." Financial assistance to any one firm in the form of direct loans may not exceed $1,000,000. Direct loans and guarantees may aggregate as much as $3,000,000. Once a firm has been found to be eligible, the assistance is administered by the Small Business Administration, if the business is "small" under the SBA Act and regulations. Vessel owners would undoubtedly qualify as "small," but this would not be true of all processors (such as Gorton's). No fishing vessels or processors had applied for assistance in 1976 even though the ITC had found that imports were a substantial cause of injury to the shrimp industry.[9]

c. Communities

A political subdivision of a State, under Sections 271–273, may apply for adjustment assistance to the Secretary of Commerce under exactly the same standards, as far as the statutory language goes, that are to be used to determine whether workers or firms qualify for assistance. This program, too, is administered by EDA. Benefits are those that can be provided under the Public Works and Development Act of 1965. In addition, private loans can be guaranteed by the Secretary of Commerce for working capital and for the acquisition or construction of productive facilities under the same terms and conditions as found in Section 202 of the Public Works and Economic Development Act of 1965.

d. Conclusion on adjustment assistance

While the law provides for help to those injured by imports, experience to date has not been sufficiently extensive to justify generalizations with respect to the application of the law to groundfishermen, or indeed any fishermen. After a finding by the International Trade Commission that imports have been an important cause of injury, as in the case of the shrimp industry, it would seem to be almost a foregone conclusion that fishermen on shrimp boats would be able to collect assistance. Yet the case of the "Brant" shows that the Secretary will examine each application to make sure that imports, and not other causes, have been responsible for unemployment. While the issue has not been resolved, the attempt of one groundfishing boat from Gloucester to obtain assistance seems to have been regarded unfavorably in the Department of Labor because very little fresh fish is imported.[10]

FOOTNOTES

[1] We do not have sufficient details on the destination of each type of product from Canada to know whether whole fish or fillets are further processed or packaged here by firms associated with the exporting firm.

[2] X-Radial Steel Belted Tires from Canada, T.D. 73–10, Cust. Bull. 11 (Jan. 10, 1973), 38 Fed. Reg. (1018, 1973).

[3] 41 Federal Register 44196, October 7, 1976.

[4] 42 Federal Register 19326, April 13, 1977.

[5] Whether the appeal can be made where an International Trade Commission finding is also required is not clear. The statute provides for petitioners setting forth belief that bounties are paid in two Sections, 303 and 516, of the Tariff Act of 1930. Only Section 516 provides for contesting the Secretary's decision.

[6] Even if the Treasury issues a waiver suspending the application of countervailing duties, there is a possibility of overruling its decision. Under Section 303(e) when a waiver issues, a report must be made to Congress, giving the reasons for failing to impose the countervailing duty. Then, at any time, either one of the houses of Congress, by majority vote, can eliminate the waiver and provide for the imposition of the duty originally found justified by the Treasury.

[7] See Parts 90–91, Subtitle A, Title 29, Code of Federal Regulations, reversed April 3, 1975.

[8] The Dragger "Brant," 42 Federal Register 876 (January 4, 1977). The Brant's sales of shrimp had fallen because the Atlantic State's Maine Fisheries Commission had voted a closed season. The disposition of the other petitions remains to be determined.

[9] Draft of the President's 21st Annual Report on the Trade Agreements Program, Calendar year 1976, pp. 3 and 9 (Processed).

[10] Telephone conversation with Gutchess, February 8, 1977. Possibly if the examiners at the Department of Labor were more familiar with the nature of import competition in the groundfish industry, it might be easier for workers to petition successfully.●

DEATH OF ARCHIE M. JONES

● Mr. MATHIAS. Mr. President, the Republican Party in the State of Maryland sustained a bitter blow last Thursday with the death of Archie M. Jones, head of the Baltimore City GOP for the past 10 years.

Yesterday at the funeral service, the Rev. Marion C. Bascom of the Douglas Memorial Community Church put into words the very special spirit that animated Archie Jones. I am very grateful that he served as Baltimore cochairman in my last campaign and that we had that personal association. It was an association I valued and will miss.

Mrs. Mathias joins me in expressing our deepest sympathy to his widow.

So that my colleagues may take the measure of this remarkable man, I submit for the Record Dr. Bascom's eulogy to Archie M. Jones and the Sunday Sun article about Mr. Jones.

The material follows:

A Word About Mr. Republican

Baltimore places to rest today "Mr. Republican"—Archie M. Jones. He was as proud of the Republican Party as he was of his name, Archie "M" Jones. He wanted all to know about the "M" (Maxiel). He actually felt and knew that he owned "principal stock" in the Party as did "Mrs. Republican" the late Helen G. Woodland.

He was equally as avid about the Supreme Liberty Life Insurance Company and was "Theologian in Residence" in the Company's weekly meetings as he "preached" to them about getting out, selling insurance, and having their "debits" precisely correct.

He was a member of this church—corner philosopher to all who listened and a reminder to all that he was from Kansas City.

Farewell on the Journey!

M.C.B.

[From the Baltimore Sunday Sun, Mar. 11, 1979]

Jones, Head of City GOP, Dies at 70

Archie M. Jones, an insurance company manager, head of the city Republican party for the last 10 years and a member of the City Planning Commission, died Friday following surgery at the Johns Hopkins Hospital. He was 70.

Funeral services will be held at noon tomorrow at the church Mr. Jones attended for many years, Douglas Memorial Community Church, Lafayette and Madison Avenues.

Mr. Jones was treasurer of the Republican State Central Committee, starting in the late 1960's, and was the only black member at that time of the state party's highest policymaking body.

State Senator Edward P. Thomas (R., Frederick), the state GOP chairman during part of Mr. Jones's tenure as treasurer, last night called the death of his colleague "a great loss to the party and the city of Baltimore."

Mr. Jones was able to hold the party structure in the city together during some bad years for the GOP, according to Senator Thomas.

He accomplished this by tireless personal effort and his ability to work with and gain the respect of fellow Republicans, even those with whom he had philosophical differences, Mr. Thomas added.

"His death saddened many of us and came as a great shock," the senator said.

As a member of the City Planning Commission for about three years, Mr. Jones had proved to be "truly a man of principle and a real asset" to that body, according to Larry Reich, the director of the city Department of Planning.

A determined opponent of spot zoning, for example, Mr. Jones was "very firm, stuck to his guns and I admired him for it," said Mr. Reich, adding, "We will miss him sorely."

Mr. Jones held the state party treasurer's post until 1974, relinquishing it about the time he became Baltimore co-chairman of the successful re-election campaign of Senator Charles McC. Mathias. Jr. (R., Md.).

Mr. Jones had been ill about a month. With his wife of 34 years, the former Emma Robinson, a retired teacher in the city public schools, he lived in the 1600 block North Dukeland Street.

He was a delegate to the last three Republican national conventions.

A native of Weir City, Kan., Mr. Jones came to the Baltimore area in 1942 while serving as a World War II enlisted man and non-commissioned officer.

He was a master sergeant when he returned to civilian life in 1947 and became a salesman for the Supreme Life Insurance Company, with offices in the 1500 block of Pennsylvania Avenue.

For the last 25 years he had been the firm's district manager in Baltimore.

Samuel Hopkins, one of Mr. Jones's predecessors as head of the city GOP, said last night that "politics came as naturally [to Mr. Jones] as living or breathing."

Mr. Jones was a "superb manager" who was able to devote "a lot of time to politics and enjoy it" without detracting from his success as a businessman, said Mr. Hopkins, a partner in the investment firm of Alex. Brown & Sons and a former president of the city Board of Parks and Recreation.

"He was a warm person. He loved life and he loved people and working with them. Nothing was too much trouble for him to do," Mr. Hopkins added.

Although unsuccessful in his only campaigns for Congress, the state Senate and the Baltimore City Council over a period of about 15 years, Mr. Jones's political judgment often turned out to be prophetic.

As a delegate who strongly supported Nelson A. Rockefeller at the 1968 Republican National Convention, he said Richard M. Nixon would be swamped in the Baltimore city voting and therefore could not win Maryland's electoral votes.

"You can't win national elections unless you win the states, and you can't win the states without taking the metropolitan areas," Mr. Jones declared at the time. "I'm tired of nominating people in August that we can't elect in November," he said.

Although Mr. Nixon won the national election over Hubert H. Humphrey in a closely contested race that year, Mr. Jones's local and state predictions proved correct.

Senator Humphrey's majority of about 98,000 votes over Mr. Nixon in Baltimore more than offset Mr. Humphrey's loss by about 78,000 elsewhere in the state, giving him the Maryland electors by a 20,000-vote margin.

Active in community politics and civic affairs, Mr. Jones received one of his first appointive posts in 1965 when the then mayor, the late Theodore R. McKeldin, named him to the city Minimum Wage Commission.

The following year, Mr. Jones ran unsuccessfully for the state Senate against then-Delegate Clarence M. Mitchell 3d. Although praising Mr. Mitchell generally, Mr. Jones said his opponent was too young and contended he would take orders in the Senate from older members of the politically powerful Mitchell family.

About three years later, Mr. Jones became chairman of the city Republican Central Committee, the top party post in Baltimore that he retained until his death.

As a youth Mr. Jones lived in Kansas City, Kan., and graduated from Sumner High School there before attending Howard University for three years. He owned and operated a tavern in Kansas City before he joined the Army and was assigned to duty in this area early in World War II.

Mr. Jones had been active in the Urban League and the National Association for the Advancement of Colored People and was a Mason.

Besides his wife, he is survived by four sisters and two brothers: Florence Walker, of Kansas City, Thelma Harriford, of Atlanta; Doris Caymack, of Detroit; Opal Carpenter, of Chicago, Frank R. Jones, of Kansas City, and E. Trent Jones, of Chicago.●

U.S. HIGHWAY BEAUTIFICATION PROGRAM IS IN TROUBLE

● **Mr. STAFFORD.** Mr. President, earlier in this session, I introduced S. 344. This is a bill that recognizes the fact that the present Highway Beautification law is a failure. From a worthy and effective concept to beautify our highways, the law has been so weakened that it is now merely a tool to protect the billboard companies.

S. 344, I believe, provides a method to enable the States to have a choice: they can continue in the existing regulatory program or they can drop out of it, obtaining a freedom from Federal regulations to permit billboards or to take them.

Since I introduced S. 344, the New York Times and Newsweek magazine have carried interesting articles pointing out exactly what I have been saying—that the Federal program is a shambles. Mr. President, I ask that the two following articles be printed in the Record.

[From the New York Times, Mar. 8, 1979]

U.S. Highway Beatification Program Is in Trouble

Washington, March 7 (AP)—Along the nation's interstate and primary highways there are 197,791 signs and billboards that the Government would like to get rid of and 10,608 junkyards it would like to see screened. But some states are not cooperating and, even if they did, the Federal Government does not have the money to pay for the removal.

As a result, the nation's highway beautification program, started with fanfare in 1965 by President Johnson and his wife, Lady Bird, is in trouble.

President Carter did not include a penny for the program in his budget for the fiscal year 1980 after earmarking $13.1 million for it this year.

Richard W. Moeller of the Federal Highway Administration said that the Office of Management and Budget had decided not to seek funds in 1980 because it wanted a complete reassessment of the program.

"We're contemplating a series of public hearings on the program, and we hope soon to appoint an advisory committee to analyze and give direction," said Mr. Moeller, chief of the agency's junkyard and outdoor advertising branch. "The committee would include industry representatives, environmentalists, highway users, consumers and others."

He said the lack of 1980 budget money did not mean that the project would come to an immediate halt.

"We have about $65 million in the pipeline in some form or another, mostly funds that have been allocated to states for the removal of outdoor advertising signs and the screening of junkyards," he said. "Some states could operate for five years with money already allotted to them; others don't have much."

Mr. Moeller said that in 1978 states asked for $52 million for highway beautification, "but I had only $9.5 million to give out."

The concept started in 1958 as a voluntary program, with states receiving an incentive of 0.05 percent of their Federal highway funds if they controlled advertising signs within 660 feet of interstate highways.

But only about half the states participated, and in 1965 prodded by Mr. Johnson and his wife and over the objection of the outdoor ad industry, Congress passed the Highway Beautification Act.

The act extended billboard control to other primary Federal highways and to junkyards and offered incentives for landscaping around highways. States not complying could lose 10 percent of Federal highway money.

Signs along the designated highways were allowed only in areas zoned commercial or industrial and junkyards only in industrial areas.

The act also said that "just compensation" must be paid to those whose signs were removed and those who screened junkyards. However, many local governments assumed authority in this area and did not offer compensation. A 1976 amendment to the act required local governments to make such payments, which are provided by the Federal Government.

So far only four states have had Federal highway money withheld because of noncompliance, and three—New York, Alabama, and Oklahoma—had the funds restored when they quickly came into compliance.

The Government withheld $4.08 million from South Dakota in the 1978 fiscal year and $4.298 million in 1979. Last November, Transportation Secretary Brock Adams ruled that South Dakota could not recover the 1978 funds but that the 1979 money would be restored if the South Dakota Legislature acted to put the state in compliance by March 31.

Under the just compensation plan, 98,215 signs have been removed from beside highways nationwide, but 197,791 remain. Only 1,413 of 12,953 junkyards have been shielded.

How much Federal money would it take to remove all noncomplying signs and screen all junkyards? "At least $52 million a year," Mr. Moeller replied.

Senator Robert T. Stafford, Republican of Vermont, has proposed legislation to let states decide if they want to be involved in highway beautification, and Mr. Moeller said that this would be discussed as part of the reassessment.

"It would help us in one way," he said. "States that did not want to cooperate could get out. That would leave more money to spend on states interested in highway esthetics. I feel a substantial number would get out."

[From Newsweek Magazine, Mar. 5, 1979]

Lady Bird's Bill

When the late President Lyndon Johnson signed the Highway Beautification Act in 1965, he said that it would "bring the wonders of nature back into our daily lives." Today, the program is widely considered a failure, and may soon be abolished.

The act, which LBJ once referred to as "Lady Bird's bill" because it was one of her pet projects, was designed in part to eliminate unsightly billboards along 43,000 miles of federally funded interstate highways. It prohibited "outdoor advertising signs" within 660 feet of the road and restricted them to land zoned for commercial use; existing signs that didn't comply with the new law were to be pulled down. So far, 88,000 offending road signs have been removed—but 208,000 others remain.

One reason why so many signs are still standing is that the Highway Beautification Act left enforcement of their removal to the states. While some complied with the new law, others virtually ignored it. A Transportation Department report shows that Missouri and New Jersey have zero per cent compliance, and that Georgia has actually put up 573 new, nonconforming signs since the act took effect. According to the report, the Northwest has the best compliance record (85 per cent) and the Southeast the worst (14 per cent).

JUNKYARDS

The program has also suffered from erratic funding; annual appropriations have ranged from $75.5 million in 1967 to $10 million in 1971. The current budget provides for only $13 million, and that must go toward landscaping highways, screening roadside junkyards—and sign removal. At that rate, says Richard Moeller, the Federal Highway Administration's overseer of the act, "it will take 110 years" to tear down all the billboards.

The program was dealt a major blow late last year when Congress passed an amendment requiring states to compensate advertisers for every sign taken down (at a cost of $2,000 to $15,000 per sign), even if the signs are removed under local ordinances and have been up long enough to repay the owners' initial investment. A spokeswoman for the Garden Club of America charges that this has created "a bonanza for the billboard industry." Many garden-clubbers and environmentalists who backed the 1965 legislation have withdrawn their support, while billboard-trade organizations are now in favor of the program.

TROUGHS

Its time we admit the Highway Beautification Act is a failure and seek its repeal," says Vermont Sen. Robert F. Stafford, who introduced a bill last month that would let states and cities enforce their own beautification policies. And President Carter has eliminated all funds for sign removal from his proposed 1980 budget, pending the outcome of a Transportation Department study of whether the program is worth maintaining. One person who thinks so is Lady Bird Johnson. "In my experience, I have found there are troughs and crests in the establishment of many programs," says the former First Lady. "If the majority of citizens want the beauty of landscaped highways where scenery is not obscured by billboards or blight, I firmly believe we can continue toward that goal." ●

A REVITALIZED SELECTIVE SERVICE SYSTEM

● Mr. **GOLDWATER**. Mr. President, there has been a great deal in the press and in congressional testimony in recent months about problems the Armed Forces have been encountering in meeting their manpower goals. As a result, new interest and increasing support have been developing for reactivating the Selective Service System or, at a minimum, reinstituting draft registration. To say the least, matters dealing with draft registration in the United States are both complex and emotional. Because of this, the Association of the United States Army has prepared a detailed discussion of the issue to provide a more complete understanding of the nature and impact of proposals to revitalize the Selective Service System.

Mr. President, I ask that the Association's special report entitled "The Fatigue of Supporting the Blessings of Freedom" be printed in the RECORD.

The report follows:

THE FATIGUE OF SUPPORTING THE BLESSINGS OF FREEDOM

(Those who expect to reap the blessings of freedom must, like men, undergo the fatigue of supporting it.—Thomas Paine, The American Crisis.)

HOW IT STARTED

The concept of selective service as it exists in the United States of America today is the lineal descendant of a tradition brought to the New World by English settlers: That every man has an obligation to defend the common welfare by service in the militia. As organized in the frontier settlements of the English colonies the militia was anything but selective. Able bodied or not, every man was assigned a duty and expected to perform it. With this tradition still fresh in their minds, it is not surprisng that the framers of the Constitution gave Congress the power: "To provide for calling forth the militia . . ."

President Washington, with the experience of seven years of war during which men flowed in and out of the regular and militia units of the Continental Army, recommended a selective service system very much like that used in World Wars I and II. Presidents Jefferson and Madison recommended similar legislation but in each case Congress refused to act. In 1792, the Congress did pass the Militia Law but it only served to perpetuate the most notable manpower problem of the Revolution—a maximum period of three months' service which often left commanders with no troops on the eve of battle.

This inability to raise an army for an extended period of service plagued the United States through the War of 1812, the Mexican War and into the Civil War. Militia units called to serve had to be sent home at the end of three months and reliance on volunteers simply could not keep the ranks filled. In the Civil War, both the North and the South resorted to conscription but both administered it poorly and unfairly. In the North, the draft was applied only in districts that had not povided a set quota of volunteers. In the South, the draft was used largely as a means to keep experienced soldiers in the ranks after their militia term expired. Both North and South permitted draftees to buy replacement for themselves, giving rise to complaints that *"the rich man's money and the poor man's blood"* were fighting the war.

In World War I and II popular support was squarely behind the war efforts and reasonably equitable selective service systems brought millions of men into the armed forces of the United States with scant evidence of manipulation or abuse. The Selective Service System continued in operation throughout most of the Cold War period and efficiently provided a steady flow of replacements for U.S. troops in Korea from 1950 to 1953.

It took an unpopular war and politically motivated manipulation of the system to give the Selective Service concept the bad reputation from which it is now beginning to recover. As public clamor over the United States' involvement in Vietnam became more strident, President Johnson tried to soften opposition by instituting exemptions for college students, for parents and for agricultural workers. A rush toward colleges began and did not slow down until the draft ended. Jokes about the speed with which some young men became fathers were part of the repertoire of every stand-up comic in Las Vegas. The man who made no effort to avoid selection or to be excused from service was often looked upon as *"strange."*

Fortunately, the readily apparent weakness and unfairness of this approach to citizen service forced changes. By the time the United States pulled out of Vietnam, the Selective Service System had been operating for two years with:

A random sequence lottery.

No occupational, student or paternity deferments (95 percent of any age group were exposed to the possibility of induction).

Permission for registrants to appear in person before local boards.

But by then the damage to the image of Selective Service was so severe that the system was allowed to go down the drain of administration apathy and congressional disdain. Hopes were pinned on the success of All Volunteer armed forces and all concerned claimed they were ready to pay the price in dollars and the tarnishment of an American tradition of service.

It is alarming to note that after years of opportunity to look at the way the Selective Service System was operating when draft calls stopped in 1972, some otherwise well-informed people perceive it as unfair. Even as he called for revival of the system in February, 1979, Senator John Stennis (D. Miss), Chairman of the Senate Armed Service Committee, demanded, ". . . a new type of selective service equitable to all," and ". . . a fair and impartial—a truly selective service." And yet, despite misapprehensions like this, the system has repeatedly proved that, left to the management of people who had no axe to grind except to provide personnel for the armed force, it could properly and fairly select citizens to serve.

While nothing on the horizon indicates an impending need to use the "militia" in putting down an insurrection or repelling an invasion, as it envisioned in the Constitution, we see on every side that there is no shortage of threats to our national objectives that could impel the Congress to ". . . call forth the militia." And if we examine the militia in its totality—active forces, reserve forces and the capability to mobilize—the rush to answer the call of Congress would be of extremely short duration. The active forces would rally quickly but with large gaps in places that should be filled by reserve units. The reserves would struggle toward readiness, trying to compensate for a grievous lack of people and equipment, but most could not respond to the call for several months. American industry would gradually convert to volume production of weaponry. But the flow of people, everyday citizens, needed to fill the ranks of active and reserve units alike, would be a mere trickle until the almost non-existent Selective Service machinery could be rebuilt and brought into operation. By that time active units in combat could be decimated and reserve units either gutted to provide replacements or flung into action shorthanded.

Without question, the most commonly overlooked value of a working Selective Service System is its contribution to deterrence. Our potential adversaries today can easily see the lack of depth in our military readiness and our inability to overcome that shallowness in a hurry. We and our NATO allies are extremely vulnerable to an all-out Warsaw Pact blitzkrieg, not just because the Soviet Union and its partners have built such overwhelming preponderance in conventional combat power but more fundamentally because we lack the ability to mobilize in time to adequately reinforce the troops who would meet the initial attack. The absence of a rapidly responsive source of manpower is probably our greatest vulnerability.

WHERE WE ARE

A succession of events over the past six years has served to bring the U.S. Armed Forces to the brink of a manpower catastrophe and the decision by President Nixon to suspend the use of Selective Service started the chain of dominos falling.

On July 1, 1973 the President's induction authority lapsed without any effort on the part of the Administration to renew it.

In Fiscal Year 1974 pre-induction physicals were stopped, classification was limited to 500,000 men per year and the Selective Service budget that had been $96 million the year before was shrunk to $61 million.

In Fiscal Year 1976 President Ford opted to stop continuous registration (a plan for annual registration was devised but never implemented). All classification was stopped and the budget for Selective Service was pared to $37.5 million.

By Fiscal Year 1977 the budget had shrunk to $6 million, all local boards were eliminated and an organization that had included 8,000 people in 1972 had been trimmed to a mere 100.

This decimation was accomplished in direct contravention of the Military Selective Service Act which is still the law of the land. An amendment made to the law in 1971 seems almost prophetic in its applicability to what has happened since.

". . . if at any time calls under this section for the inductions of persons for training and service in the Armed Forces are discontinued the Armed Forces are placed on an all-volunteer basis for meeting their active duty manpower needs, the Selective Service System, as it is constituted on the date of the enactment of the subsection, shall nevertheless, be maintained as an active standby organization, with (1) a complete registration and classification structure capable of immediate operation in the event of a national emergency and (2) personnel adequate to reinstitute immediately the full operation of that System, including military reservists who are trained to operate such System and who can be ordered to active duty for such purpose in the event of a national emergency."

The Selective Service skeleton, pressed by concerned members of Congress for an assessment of its capability, admits it cannot meet the Department of Defense timetable for the delivery of the first 100,000 selectees within 60 days of a mobilization order or provide the far greater numbers that are needed in successive delivery increments. The skeleton has no reliable way to even find the potential draftees who should have been registering during the past four years. Various schemes have been proposed, including screening birth or voting records at county court houses across the country, but none has produced the kind of quick response that would be needed in a mobilization. Even if some magic device were found to reveal the names and addresses of eligible selectees, the total absence of the local boards and state headquarters needed to carry out the rest of the steps of selection and classification would bring the process to a halt.

Lurking very large in the background of this predicament is the question of how well the Volunteer Armed Forces have been doing while the draft machinery has been rusting away. The Army, which would be the largest customer of the Selective Service System in a mobilization, has dropped from a strength of 811,000 in the year draft calls stopped to a programmed strength of 774,000 in Fiscal Year 1979. The reasons for the shrinkage have been various. To some extent the Army was still getting out of Vietnam in 1972 but there has been a continuing reduction of the United States military presence overseas in every area except Western Europe. Higher pay scales needed to attract volunteers and to make military compensation comparable to that in the civilian sector have driven personnel costs to capture more than 50 percent of the defense budget. As the services (particularly the Army) have failed year-by-year to meet recruiting goals in spite of the higher emoluments it has been fiscally expedient to cut end strengths to levels the recruiters might be able to achieve. A cut in personnel strength, after all, pays immediate dividends in cost-saving while the savings associated with cutbacks in hardware procurement and base closures have to be stretched out over several years and have negative impact on the constituencies of the Congressmen considering them.

In a recent statement on the sad state of military personnel readiness, Rep. Robin Beard (R-Tenn.) cut through several layers of obfuscation about the predicament. He said:

"I do not blame the Army for the state of its readiness. I do blame the OMB (Office of Management and Budget) and DOD analysts who have operated silently, like an invisible colony of termites, slowly boring away at our defense budget and seriously compromising the readiness of our armed forces in exchange for cost efficiency."

Many of the cuts in Active Army strength were supported by plans to shift to a Total Army concept in which much of the support and reinforcement capability was assigned to the reserve components. High priority Army Reserve and Army National Guard units were designated to be called up quickly to balance the forces that might have to be committed in an emergency. It is a concept that has a great deal of merit but it has never really gotten off the ground. To be sure the reserve units are designated and are supposed to be getting the best of everything in the way of equipment and training. Unfortunately, shifting priorities have forced the Army's leaders to allocate equipment elsewhere and, most telling, most of these reserve units have not been able to recruit sufficient people to make them a real mobilization asset. The most commonly reported reason for the lack of interest in reserve service is the absence of any pressure from an operating draft system.

Reserve commanders have bent their backs to the recruiting wheel, often at the expense of training and leadership, and the Active Army recruiting mechanism has been turned in the direction of help for the reserves. Congress has only recently been convinced to appropriate a modest amount of money for reserve enlistment and reenlistment incentives but at this moment the Army National Guard and the Army Reserve are at least 150,000 below their desired strength.

The Individual Ready Reserve is composed of people who have either been drafted or enlisted, who have completed their active service and are placed in the IRR until their statutory six years of obligated service is completed. It is the Army's only source of trained manpower to be used to fill up active and reserve units being mobilized and to provide replacements for early combat casualties while something is being done about rebuilding a Selective Service System. Now the last of the prior draftees have completed their obligated service. Volunteers are required to serve three years on active duty (although Congress has recently directed a return to a limited number of two-year enlistments) and a substantial number of them reenlist. Thus, when they leave active duty they have either completed their total period of obligated service or have a relatively short time left to serve in the IRR. This vital mobilization asset is now 500,000—a half-million—short of needed strength!

There have also been some significant reversals in the recruiting picture for the active forces. After years of easy recruiting the Air Force has begun to fall short of its monthly goals by significant amounts. The Army, Navy and Marines continue to miss recruiting goals for non-prior service men and, for the first time in several years, the Army has been unable to attract sufficient non-prior service women. While the shortfalls in the active services have not yet reached the alarming level, considering that they have occurred in months that are habitually tough for recruiters, they reflect the ever-shrinking population of military age and an identifiable disinclination to serve. The conclusion is inescapable that the All-volunteer System has not provided the manpower our forces need.

Whether the active forces have been getting the quality of recruits they need is a question tangential to the problem of pure numbers. Are our recruits smart enough? Can they read well enough to keep up with the pace of training? Are they representative of our society? Does it really matter whether they are representative or not? These are all important questions but they tend to bounce off the really big one—do we have enough people and, if we don't, can we get them fast enough?

WHAT MUST BE DONE

There are some hopeful signs on this bleak horizon, reflecting the results of an all-out educational effort on the part of the Association of the United States Army and other concerned organizations. The effort by AUSA to raise the level of awareness concerning the damage being done by the absence of a viable Selective Service System began immediately after draft calls were ended and has continued ever since. It has not been an easy process. Press and public attitudes reflected their disenchantment with all things associated with Vietnam. The Congress was convinced that any mention of a return to the draft was fraught with political booby traps.

But in mid-1978 signs began to appear indicating the success of the education campaign. Newspaper editorials began to echo the views that AUSA has advanced. (See attached spread sheet "Nationwide Support for a Viable Selective Service System.") Members of Congress sought AUSA out for discussions of the problem and possible solutions. The Chairman of the Joint Chiefs of Staff publicly floated a recommendation to reinstitute registration and rebuild the Selective Service machinery and was not chastised by the White House. The Chairman of the House Armed Services Committee released a study identifying a number of problems associated with getting enough people into the armed forces, including the absence of a workable draft system.

Finally, early in 1979, the Secretary of the Army and the Secretary of Defense, both ardent advocates of the All-Volunteer concept, voiced concern that the existing manpower base was insufficient and recommended improvements to the standby draft system. Obviously they reflected a major shift in the attitude of the Carter Administration.

Three months behind a Harris Poll indicating overwhelming public desires in the matter, the Congress is backing into the serious consideration of advancing the deterrent military credibility of the country by reviving the long-dormant Selective Service System. In the face of manpower shortages, which make a mockery of our ability to mobilize even briefly, military forces approaching our minimal needs, the Congress is now considering a variety of bills which could call upon our 18-year-olds to exercise their citizenship.

Members of Congress who had previously limited their action to talking about the problem have begun to turn the cranks of their bill-writing machines. Senator Sam Nunn, (D-Ga.) one of the first to express his concern about present shortcomings, joined with Senator Harry Byrd (Ind-Va.) to file a bill that would direct resumption of registration and forbid that it ever again be suspended for more than 90 consecutive days.

The next member to attack the problem was Rep. Charles Bennett (D-Fla.) ranking majority member of the House Armed Services Committee. Rep. Bennett would direct the President to report plans for a "modern and efficient" system of registration no later than June 30, 1979 along with recommendations to "improve the fairness and efficiency of the Selective Service System." Bennett calls for the transfer of the selective service function to the Department of Defense, a move AUSA believes would be unwise, and provides for selection of individuals to serve three months of active duty to be followed by three years of duty in the reserves. He does not address the question of whether women should be registered and subject to selection.

Senator Robert Morgan (D-N.C.) repeated the language of the Bennett bill directing a report from the President and called for an assessment of the nation's ability to mobilize but did not include selection for service in the reserves. The Morgan bill would direct the President to begin registration no later than October 1, 1979.

Rep. G. V. "Sonny" Montgomery (D-Miss.) next submitted a more comprehensive bill that meets most of the criteria adopted in AUSA Resolutions on Selective Service over the past several years. It would assure the continued independence of the Selective Service System from the pressure of other bureaucracies. It would clarify existing language in the Military Selective Service Act that makes resumption and continuation of registration mandatory. It deals with the issue of drafting women by directing that every person of the appropriate age register and be available to serve if needed. It would direct that the Selective Service System be exercised every year in the conduct of a random sequence lottery and associated classification of registrants. It would provide a means for that exercise by authorizing the selection of up to 200,000 individuals each year for training and service in the Individual Ready Reserve.

The most recent at the time of this writing, and certainly most ambitious bill, put in the legislative hopper to date is one authored by Rep. Paul McCloskey (R-Ca.). Called the National Youth Service Act, the bill would do the following:

Replace the Selective Service System with a National Service System which would require all persons to register within 10 days of their 17th birthday.

Permit registrants to volunteer for two years of military service, during which they would earn four years of educational and training benefits, or:

Volunteer for six months of active duty, followed by five and one half years of reserve obligation, or:

Volunteer for one year of service in a civilian capacity.

Provide that those who do not volunteer for one of the options above would be placed in a lottery pool for six years of draft liability. Those who might be called to fill military ranks would serve for two years, incur an additional four-year reserve obligation and earn two years of education benefits.

Establish a quasi-public organization to be called the National Youth Service Foundation to make policy.

The authors of all these proposals seem to sense the nature of the problem but some of the bills nibble at its edges while one—the McCloskey bill—wraps the need for immediate correction of an ongoing military problem into a plan burdened with overwhelming social ramifications. Every sensing the Association of the United States Army has been able to make, supports our conclusion that the nation is ready for an enlivened Selective Service System and some sort of effort to bring more people into the reserve forces. There has been no parallel sensing that we, as a nation, are ready to undertake universal service in its broadest meaning and there probably is no need for it except as a possible source of employment. The bureaucracy that it would generate is awesome to contemplate. It is an idea whose time has not yet come.

The features of the Montgomery Bill (HR-1901) make a studied and effective attack on the immediate problems. By keeping the Selective Service System out of the hands of another executive department, particularly those of its sole customer, the Department of Defense, the bill preserves the independent *"friends and neighbors"* atmosphere so successful since World War I. By strengthening the language about maintaining an operative system the bill would assure that no future Administration or Congress could send it back into mothballs without exposing the process to public discussion and open votes on Capitol Hill. By using Selective Service to fill the ranks of the Individual Ready Reserves it would annually exercise the system and emphasize the active role it plays in maintaining a realistic deterrent.

AUSA agrees wholeheartedly with those who point out every citizen owes a debt of service to the Nation. We also acknowledge the fact that not everyone will be needed to serve in the Armed Forces. So the choice must be made as to those who will wear a uniform and those who will not. The immediate problem is to have a reliable way to choose them quickly and fairly. Only after that problem is solved should we commit ourselves to answering the secondary questions of the propriety and methodology of other forms of obligatory service.

With the added deterrence provided by a working Selective Service System and well-prepared reserve forces we should have the luxury of time to consider the profundities of universal service. But until that deterrence is assured let us keep our focus directly on what must be done first.

The battle, if that is what it must be, has been joined. The first congressional hearings have been held, with testimony supporting the need for revitalized selective service countered by a statement from the American Civil Liberties Union that to draft young people under today's conditions would be a "severe infringement of individual liberties." Another, by the Church of Christ, demanded proof that we would ever again have time to mobilize.

Both statements miss the point entirely. Unless we are able to counter threats to our national freedom, the freedom of individuals is only academic. If we are unable to mobilize for a war that lasts less than six months, as postulated in the hearings, we have lost one of our most effective deterrents against an adventure on the part of adversaries who already possess heavy numerical superiority in weapons and combat forces.

Congress will see the error in this sort of divergent argument. Hopefully, they will be able to quickly cut through to the most basic consideration—national survival. The enactment of legislation to put our Selective Service System back in our inventory of definable assets is an act of statesmanship that is already overdue.●

NEWS FROM JERUSALEM AND CAIRO

● Mr. METZENBAUM. Mr. President, the news from Jerusalem and Cairo is a happy reminder of how much men of goodwill can accomplish if they have some courage and imagination. President Carter, Prime Minister Begin, and President Sadat deserve more than our thanks. They need our continuing determination to counter the bullies of the world with our own tough humanitarianism.

PRESERVE RELIGIOUS HERITAGE

● Mr. GARN. Mr. President, the United States of America is a religious nation. That fact is so self-evident that it hardly needs expression. It has been so from the beginning. The earliest explorers of this continent were moved by religious motives, as well as by economic pressures. America was, early and late, a haven from religious oppression, and a fertile field for the preaching of the gospel of God. The earliest settlers were religious communities, beginning a tradition which continues today.

At the same time, America has been a nation of religious freedom. Our basic political documents clearly state that there is not to be an "established" church, in the sense of a single church, State-approved, which should be supported by the national government and to which all men must give some sort of allegiance. Originally, the nonestablishment of a single church applied only to the national government. At the time of the adoption of the first amendment to the Constitution, many of the individual States did support churches. Eventually, that practice was discontinued, as impartiality of Government became more generally accepted.

But the fact that there were established churches within the individual States at the time of the founding of the Nation makes a mockery of the idea that the first amendment was designed to erect a wall of neutrality between the Government and the idea of organized religion. It is social and historical folly to think that government can be "neutral" as between religion and irreligion. In recent years, we have seen irreligion follow upon attempts to enforce neutrality upon our Government. In my view, some of these attempts have been ludicrous.

These attempts continue, as we see repeated calls for the elimination of religious mottoes and symbols from our coinage, from our public buildings, from our flags, and from the anthems we sing as a part of our public life. Our educational institutions are driven not by conflict between religious factions, but by those who attempt to force upon the vast majority an official religion of atheism.

Because that is the end result "neutrality" is not possible. If the State is not to affirm the existence of God, it must end by denying it, and so promoting the religion of atheism.

For atheism itself is a religion, relying, as it does, on faith in the nonexistence of God.

These points have profound implications for the conduct of public policy in our Nation. Last year, during debate over the tuition tax credit provisions of the tax reform bill, we saw the reemergence of religious conflicts, and conflicts between religion and irreligion. In such a debate, I feel strongly that the State must be neutral as between religions, but that it cannot be neutral on the question of religion or irreligion. To do so is to award the victory to the forces of irreligion, and I cannot believe that that is what our citizens want.

These questions have recently been addressed by the First Presidency of the Church of Jesus Christ of Latter-day Saints. Their message on our religious heritage reminds us of some basic truths about ourselves that we ought to all keep in mind as we address these important topics in the months ahead. I ask that the message referred to be printed in the RECORD.

The article referred to follows:

Preserve Religious Heritage, First Presidency Urges

The First Presidency of The Church of Jesus Christ of Latter-day Saints today issued a statement urging "people of good will everywhere to unite to protect and honor the spiritual and religious heritage of our nation and to resist the forces that would transform the public position of the United States from the constitutional position of neutrality to a position of hostility toward religion."

The chief governing body of the Church, the First Presidency includes Church President Spencer W. Kimball and two counselors, President N. Eldon Tanner, first counselor, and Marion G. Romney, second counselor.

The text of the First Presidency's statement follows:

AMERICA'S RELIGIOUS HERITAGE

The Church of Jesus Christ of Latter-day Saints recognizes that a vital cornerstone of a free society is the principle of religious liberty. The First Amendment to the United States Constitution forbids any "law respecting an establishment of religion or prohibiting the free exercise thereof." Ours has been a society which encourages religious liberty and toleration. The result, as pointed out by Mr. Justice Robert H. Jackson of the United States Supreme Court, has been that ". . . nearly everything in our culture worth transmitting, everything which gives meaning to life, is saturated with religious influences."[1]

We, thus, deplore the growing efforts to establish irreligion, such as atheism or secularism, as the official position of the United States of America, thus obscuring and eroding the rich and diverse religious heritage of our nation. We refer here to attacks on time-honored religious symbols in our public life. Such symbols include:

1. The reference to "One nation under God" in our Pledge of Allegiance;
2. The motto "In God We Trust" on our coins and public buildings;
3. "Praise (for) the power that hath made and preserved us a nation" in our National Anthem;
4. Use of the Bible to administer official oaths;
5. The words "God Save the United States and this Honorable Court," spoken at the convening of the United States Supreme Court;
6. Prayers at the beginning of legislative sessions and other public meetings;
7. The performance of music with a religious origin or message in public programs;
8. The singing of Christmas carols and the location of nativity scenes or other seasonal decorations on public property during the Christmas holidays; and
9. References to God in public proclamations, such as at Thanksgiving.

From its beginning The Church of Jesus Christ of Latter-day Saints has accepted the constitutional principle that government will neither establish a state religion nor prohibit the free exercise of religion. Our formal statements of belief include these principles:

"We claim the privilege of worshiping Almighty God according to the dictates of our own conscience, and allow all men the same privilege, let them worship how, where, or what they may." (The Articles of Faith)

"We believe that religion is instituted of God; and that men are amenable to him, and to him only, for the exercise of it, unless their religious opinions prompt them to infringe upon the rights and liberties of others; but we do not believe that human law has a right to interfere in prescribing rules of worship to bind the consciences of men, nor dictate forms for public or private devotion; for the civil magistrate should restrain crime, but never control conscience; should punish guilt, but never suppress the freedom of the soul." (D&C 134:4)

"We believe that rulers, states, and governments have a right, and are bound to enact laws for the protection of all citizens in the free exercise of their religious belief; but we do not believe that they have a right in justice to deprive citizens of this privilege, or proscribe them in their opinions, so long as a regard and reverence are shown to the laws and such religious opinions do not justify sedition nor conspiracy." (D&C 134:7)

"We believe that all religious societies have a right to deal with their members for disorderly conduct according to the rules and regulations of such societies; provided that such dealings be for fellowship and good standing; but we do not believe that any religious society has authority to try men on the right of property or life, to take from them this world's goods, or to put them in jeopardy of either life or limb, or to inflict any physical punishment upon them. They can only excommunicate them from their society, and withdraw from them their fellowship." (D&C 134:10)

During the course of our history members of our Church have been the victims of official persecution motivated by religious intolerance. We are, therefore, committed by experience as well as by precept to the wisdom of a constitutional principle that government and public officials should maintain a position of respectful neutrality in the matter of religion. If any of our members holding public office have failed to observe that position in any of their official responsibilities we counsel them to remember the principles quoted above.

But the constitutional principle of neutrality toward religion does not call for our nation to ignore its religious heritage, including the religious motivations of its founders and the powerful religious beliefs of generations of its people and its leaders. The basic documents of our land, from the Mayflower Compact through the Declaration of Independence and the writings of the Founding Fathers to the inaugural addresses of presidents early and modern, are replete with reverent expressions of reliance on Almighty God and gratitude for His blessings. The reference to God and Divine Providence in our historic state documents and the other religious symbols summarized above are time-honored and appropriate expressions of the religious heritage of this nation. As the Supreme Court noted in a leading case, "There are many manifestations in our public life of belief in God," and these "ceremonial occasions bear no true resemblance to the kind of unquestioned religious exercise" that the government is forbidden from sponsoring.[2]

Those who oppose all references to God in our public life have set themselves the task of rooting out historical facts and ceremonial tributes and symbols so ingrained in our national consciousness that their elimination could only be interpreted as an official act of hostility toward religion. Our constitutional law forbids that. As the Supreme Court said in another leading case:

"The place of religion in our society is an exalted one, achieved through a long tradition of reliance on the home, the church and the inviolable citadel of the individual heart and mind. We have come to recognize through bitter experience that it is not within the power of government to invade that citadel, whether its purpose or effect be to aid or oppose, to advance or retard. In the relationship between man and religion, the State is firmly committed to a position of neutrality.[3]

As the ruling principle of conduct in the lives of many millions of our citizens, religion should have an honorable place in the public life of our nation, and the name of Almighty God should have sacred use in its public expressions. We urge our members and people of good will everywhere to unite to protect and honor the spiritual and religious heritage of our nation and to resist the forces that would transform the public position of the United States from the constitutional position of neutrality to a position of hostility toward religion.●

WHY OUR FOREIGN POLICIES FAIL

● Mr. McGOVERN. Mr. President, American foreign policy operates in a complex and challenging international environment today. Our power faces new limitations. The number of factors has increased. Resources are becoming more scarce. Dangerous armaments are proliferating. Peoples throughout the world are demanding more control over their lives, their economies, and their cultures.

Yet the recent setbacks to our foreign policy—most recently in Iran—raise the question whether our policymakers have adjusted to this new world and shed the simplistic attitudes and practices developed in the cold war era of the 1950's. Whatever else may be said about our policy in Iran, above all it was unrealistic because it did not respond to the actual conditions in Iran itself. We apparently knew as little about Iran as we did about Vietnam.

Why is this the case? What is the root of our seeming inability to preceive many of the new forces in the world today? One of the most perceptive analyses of this question I have seen recently is Lewis Lapham's allegorical interpretation on "American Foreign Policy: A Rake's Progress" in the March issue of Harper's. His examination of the beliefs of our national security managers is a good starting point for understanding why many of our policies fail and what should be changed to ally ourselves "with the evolving future of man's mind, with those forces in the world (ideas, nations, movements, political parties, institutions) that encourage human beings to walk on two feet."

I ask that the article to which I have referred be printed in the RECORD.

The article referred to follows:

America's Foreign Policy: A Rake's Progress

(By Lewis H. Lapham)

PREAMBLE

The increasingly dissolute course of American foreign policy makes it difficult to characterize the spectacle of the United States in the world as anything other than a rake's progress. The country exhibits itself in the persona of a profligate heir, squandering his fortune in gambling hells and on speculations in organic farming and utopian politics. Bearing this portrait in mind, I can make sense of the accounts in the newspapers. Otherwise I'm at a loss to know what people mean when they talk about mutual-defense treaties, hegemonies, the China card, and arcs of crisis in Asia Minor and the Persian Gulf. On reading the communiqués from Washington, Peking, and Teheran (together with the supporting sophistry on the editorial pages of the *New York Times*), I see a soft-faced man in a nightclub at three A.M., earnestly seeking to persuade a bored demimondaine that he still worries about the higher things in life and that his inheritance has failed to bring him true peace and happiness. Through the dance music I can hear him saying, in a blurred but concerned voice, that he means to do what's right, but that this is a much harder thing to do than perhaps the young lady knows. He would have preferred to become a poet or a Protestant minister, or possibly a guitar player hitchhiking across Arkansas with a girl who sings country songs. But his lawyers keep talking to him about the Russians (the boring, tedious Russians, who never laugh at his jokes), and his trust officers keep talking to him about money—about the goddamn price of oil and the second-rate Shah who let him down in Iran, about the Chinese and the Japanese and the Taiwanese and the Vietnamese (all of whom look so much alike that it's hard to remember which ones are floating around in boats), and about the misserable Jews who failed him in the Middle East.

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[1] *McCollum* v. *Board of Education*, 333 U.S. 335–38 (1948).

[2] *Engle* v. *Vitale*, 370 U.S. 421, 435 n. 21 (1962).

[3] *School District of Abington* v. *Schempp*, 374 U.S. 203, 226 (1963).

The persona of the spendthrift heir seems to be fitting because in 1945 the United States inherited the earth. During the first half of the twentieth century, the European powers twice attempted suicide, and at the end of World War II what was left of Western civilization passed into the American accounts.* The war also had prompted the country to invent a miraculous economic machine that seemed to grant as many wishes as were asked of it. The continental United States had escaped the plague of war, and so it was easy enough for the heirs to believe that they had been anointed by God. In their eager innocence, they made of foreign policy a game of transcendental poker, in which the ruthless self-interest of a commercial democracy (cf., the American policy toward the Plains Indians and the Mexicans) got mixed up with dreams, sermons, and the transmigration of souls. In Europe people may not know very much about foreign policy; as often as not they have no idea what to do about any particular crisis, but at least they can recognize the subjects under discussion. They know enough to know that the dealing between nations is a dull and sluggish business, unyielding in the financial details and encumbered with the usual displays of pride, greed, nastiness, and spite. The Americans, who have little interest in tiresome details, prefer to imagine themselves playing cards with the Devil.

The wealth of the United States in comparison to other nations of the world makes the figure of the rich man representative of the country's gargantuan extravagance. As the inheritors became increasingly profligate (cf., the rising levels of consumption, inflation, and debt through the 1960s), so also the assumptions of pecuniary privilege became habitual among larger segments of the population. I first encountered the prevailing attitude of mind in the fall of 1957, when, having studied history for a year in England, I returned to the United States with the notion of working for either the *Washington Post* or the CIA. My interest in foreign affairs had been awakened by the Suez and Hungarian incidents of 1956 and by my inability to understand, much less explain to a crowd of indignant Englishmen, the policy of John Foster Dulles.

In 1957 the *Washington Post* and the CIA could be mistaken for different departments of the same corporation. Newspapermen traded rumors with intelligence agents, and although the gilding on the Pax Americana was beginning to wear a little thin, anybody who had been to Yale in the early 1950s couldn't help thinking the totalitarian hordes had to be prevented from sacking the holy cities of Christendom. Failing to find a job with the *Post*, I took the examinations for the CIA. These lasted a week, and afterward I was summoned to a preliminary interview with four or five young men introduced to me as "some of the junior guys." The interview took place in one of the temporary buildings put up during World War II in the vicinity of the Lincoln Memorial. The feeling of understated grandeur, of a building hastily assembled for an urgent, imperial purpose, was further exaggerated by the studied carelessness of the young men who asked the questions.

All of them seemed to have graduated from Yale, and so they questioned me about whom I had known at New Haven and where I went in the summer. I had expected to discuss military history and the risings of the Danube; instead I found myself trying to remember the names of the girls who sailed boats off Fishers Island, or who had won the summer tennis tournaments in Southampton and Bedford Hills. As the conversation drifted through the ritual of polite inanity (about "personal goals" and "one's sense of achievement in life"), the young men every now and then exchanged an enigmatic reference to "that damn thing in Laos." Trying very hard not to be too obvious about it, they gave me to understanding that they were playing the big varsity game of the Cold War. Before I got up to leave, apologizing for having applied to the wrong office, I understood that I had been invited to drop around to the common room of the best fraternity in the world so that the admissions committee could find out if I was "the right sort."

From that day forward I have never been surprised by the news of the CIA's vindictiveness and inattention. Good, clean-cut American boys, with all the best intentions in the world and convinced of their moral and social primogeniture, must be expected to make a few good-natured mistakes. If their innocent enthusiasm sometimes degenerates into sadism, well, that also must be expected. Nobody becomes more spiteful than the boy next door jilted by the beautiful Asian girl, especially after he has given her the beach house at Camranh Bay, $100 million in helicopters, and God knows how much in ideological support. It is a bitter thing to lose to Princeton and to find out that not even Dink Stover can make the world safe from Communism.

This same undergraduate insouciance has remained characteristic of American foreign policy for the past thirty years. Administrations have come and gone, and so have enemies and allies, but the attitude of mind remains constant, and so does the tone of voice. It is the voice of Henry Kissinger explaining to a lady at a dinner that a nation, like an ambitious Georgetown hostess, cannot afford to invite unsuccessful people to its parties. It is the voice of McGeorge Bundy, who told an audience of scholars in the early 1960s that he was getting out of Latin American studies because Latin America was such a second-rate place. It is the voice of James Reston finding something pleasant to say about this year's congenial dictator, or the State Department announcing its solidarity with Cambodia and expressing only mild regret about the regime's program of genocide.

After 1968 the inflection of the voice became slightly more irritable and petulant. During the early years of the decade the heir to the estate flattered himself with the gestures and exuberant rhetoric appropriate to an opulent idealism. He had access to unlimited resources (of moral authority as well as cash), and he stood willing to invest in anybody's scheme of political liberty. Nothing was too difficult or too expensive; no war or rural electrification was too small or inconsequential. The young heir undertook to invade Asia and to provide guns and wheat and computer technology to any beggar who stopped him in the street and asked him for a coin. After 1968, when the bills came due and things turned a little sour, the heir began muttering about scarcity and debts, about the damage done to the environment and the lack of first-class accommodation on spaceship earth. Nobody becomes more obsessive on the subject of money than the rich man who has suffered a financial loss. The fellow feels himself impoverished because he has to sell the yacht. President Nixon closed the gold window, and associate professors of social criticism dutifully taught their students that sometimes money weighs more heavily in the balance of human affairs than the romance of the zeitgeist.

Even so, the assumptions of entitlement remain intact. Although feeling himself somewhat diminished (as witness the success of the philosopher-merchants on the neoconservative Right) and somewhat older (as witness the dependence on sexual and spiritual rubber goods), the still-prodigal son continues to believe himself possessed of unlimited credit. He is still the heir to the fortune, no matter what anybody says about his horses and dogs, and he can damn well play his game of policy in any way that he damn well chooses. This assumption of grace begets a number of corollary attitudes, all of them as characteristic of a rich man going about his toys and pleasures as of the manner in which the United States conducts its foreign affairs. As follows:

I. The world as theater

Children encouraged to imagine themselves either rich or beautiful assume that nothing else will be required of them. What is important is the appearance of things, and if these can be properly maintained, then the heirs can look forward to a sequence of pleasant invitations. They will be entitled to a view from the box seats, and from the box seats, as every fortunate child knows, the world arranges itself into a decorous panorama. The point of view assumes that Australians will play tennis, that Italians will sing or kill one another, that Negroes will dance or riot (always at a safe distance), and that the holders of the season tickets will live happily ever after, or, if they are very, very rich, maybe forever. The complacence of this view implies a refusal to see anything that doesn't appear on the program. Nobody imagines that he can be dislodged by a social upheaval of no matter what force or velocity, and it is taken for granted that the embarrassments of death or failure will be visited upon people to whom one has never been properly introduced.

Since the end of World War II the people who make American foreign policy have assumed that the world is so much painted scenery. The impresarios in Washington assign all the parts and write all the last acts. Other people make exits and entrances. Thus President Carter, on the last night of 1977, offered a toast to the Shah of Iran in which he described the Shah as his "great friend" and Iran as an "island of stability" in the Middle East.[1] A year later Iran was in the midst of revolt and Washington was advising the Shah to abdicate in favor of any government, civil or military, that could restore production in the southern oil fields. In 1941 the Soviet Union appeared on the stage in the role of brave friend and courageous ally; six years later, the script was rewritten and the Soviet Union appeared as the villainous éminence grise, subverting the free world with the drug of Communism. China remained an implacable enemy of human freedom for the better part of thirty years, but in 1972 President Nixon announced the advent of democracy, and in 1978 President Carter proclaimed the miracle of redemption. Following the example set by the wall posters in Peking, the American press blossomed with praise for a regime previously celebrated for its brutality. The stagehands of the media took down the sets left over from the production of Darkness at Noon and replaced them with tableaux of happy Chinese workers eager to buy farm implements, military aircraft, and Coca-Cola.

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*The United States came so suddenly into its inheritance that the fortune bears more of a resemblance to a family estate than to the wealth of a nation accumulated over centuries. It is no more than eighty-nine years from the closing of the frontier to the walk on the moon; the same span of time measures the building of Chartres Cathedral and the period between John D. Rockefeller's entry into business and his death amid incalculable riches. The alarms and excursions of the 1960s can best be understood as a family quarrel about the distribution of the estate.

In war, Napoleon once said, the greatest sin is to make pictures. But the man who has inherited a great fortune does nothing else except make pictures. Unlike the poor man, who must study other people's motives and desires if he hopes to gain something from them, the rich man can afford to look only at what amuses or comforts him. He believes what he is told because he has no reason not to do so. What difference does it make? If everything is make-believe, then everything is as plausible as everything else. Asian dictators can promise to go among their peasants and instruct them in the mechanics of constitutional self-government; the Shah of Iran can say he means to make a democratic state among people who believe that they have won the blessing of Allah by burning to death 400 schoolchildren in a movie theater. The rich man applauds, admires the native costumes, and sends a gift of weapons. He believes that, once inspired by the American example, the repentant Asian despot will feel himself inwardly changed and seek to imitate the model of behavior established by Henry Cabot Lodge. Dictators don't really want to be dictators; they were raised in an unhealthy social environment, and if given enough tractors and a little moral encouragement, they will renounce the pleasures of sodomy and murder. The absurd political presentations that have found favor in Washington over the past thirty years resemble the farfetched rationalizations with which New York art dealers sell the latest school of modern painting to the nouveau riche. Like the visitors from abroad, the dealers retain a serene and justified confidence in the customer's willingness to be deceived.

II. The habit of inattention

The press and the politicians sometimes blame the CIA for being so poorly informed, not only about the events in Iran but also events in China, Russia, Africa, and Vietnam. The recriminations seem to me unfair. The inattention of the CIA reflects and embodies the carelessness of the society for which it acts as agent. On leaving his club the rich man never looks behind him to see if the waiter is holding his coat; in much the same way the United States doesn't take the trouble to notice much of what goes on in the world's servants' quarters. The American press reports news from Africa that deals with disputes between whites and blacks; only large-scale civil wars between armies of blacks deserve mention in the dispatches, and then only if the Russians agree to sponsor one of the contenders. The rich man never knows why other people do what they do because it never occurs to him that they have obligations to anybody other than himself. Few among the nation's more prominent journalists speak or read French. It would exceed the bounds of all decent patriotism to expect more than two or three of them to read or speak Russian, Chinese, or Arabic. The same thing can be said for members of Congress, for Presidents, Secretaries of State, ministers of defense, and almost the entire cadre of people who give shape and form to the discussion of foreign policy. Whenever I remark too loudly on the magnificent displays of American ignorance, somebody who has published an article in Foreign Affairs reminds me that the United States is the last, best hope of earth. This is undoubtedly true, but it has nothing to do with subjects under discussion.

III. Wastefulness

When President Carter announced the Christmas demarche to Communist China, various mean-spirited critics observed that the United States had failed to gain any specific advantage from the deal. The United States ceased to recognize Taiwan as a sovereign state, abrogated the defense treaty, and agreed to withdraw its troops from the island. In return for these concessions, the Communist Chinese promised to be as friendly as possible and to do what they thought best for the Taiwanese.

The people who object to the slackness of this bargain overlook the rich man's unwillingness to set a vulgar price on metaphysics. The United States habitually makes poor bargains because it feels that it already owns everything worth owning, and so why haggle with the poor little fellows in Asia and the Middle East? Why make unreasonable demands on the Soviets in the SALT negotiations? It is the proof of a rich man's freedom that he can afford to pay an excessive price. It never occurs to him that political economy might be a form of destruction as ruthless although not quite so obvious as war, or that the world is full of hungry people still scrabbling around for anything they can get. The rich man considers it the height of fashion and good breeding to affect an aristocratic disdain for commerce.

Thus a rich nation's portfolio of treaties resembles a rich man's stock portfolio. It is full of issues that he inherited from his grandfather or his mother's uncles, and he has trouble remembering the assets and liabilities represented by NATO, SEATO, CENTO, and God knows how many other shares and securities for which he can't even recall the names. This explains his careless disregard for those countries denominated as allies. To the extent that none of them take precedence over any of the others, they can be bought and sold as the heir feels himself pressed by the need for cash or funds with which to stage an extravagant fireworks display."[2]

The habit of mind remains firmly ingrained despite the depleted value of the heir's investments. At the end of 1972 foreign banking interests controlled American assets of $26.8 billion; in 1978 the same interests controlled American assets worth $98 billion. During the first five months of 1978 the United States imported machinery and manufactured goods in the amount of $37 billion, as opposed to only $16 billion for foreign oil. The dollar continues to depreciate in the world markets, and American multinational corporations have begun to find themselves surpassed by their competitors in France, Germany, and Japan.

But the rich man intent upon his game of policy impatiently dismisses the accountants niggling at his sleeve. He feels compelled to place another bet in Indochina, this time backing the Cambodians (i.e., the friends of his new partners, the Communist Chinese) against the malevolent croupiers in Vietnam. He wants to make a grand and humanistic gesture in southern Africa, to do something visible and significant in Turkey, to effect a rapprochement in Central America. As recently as last summer, while listening to people with impeccable credentials discuss the prospects of American diplomacy, I heard a man say that nothing could happen in the world that could affect, in any serious way, the United States. Excepting only a nuclear miscalculation, he was happy to report that the country could consider itself invulnerable.

IV. Immunity

In American military circles, I'm told, it is considered poor form to discuss fortification and the strategies of attrition and civil defense. The whole notion of fortification is seen as stodgy, corrupting, somehow un-American. It brings to mind the depressing memory of stuffy French generals on the Maginot Line in the early weeks of World War II. The United States owes it to itself to cut a more dashing figure in the world. Where is the fun in fighting dreary rearguard actions? The young men in the Pentagon and the military academies speak of forward thrusts, of broad-gauged advances, of assaults and landings and insertions.

All the fine talk conceals an ironic paradox. When it comes down to a question of how to go about these romantic maneuvers, the United States relies less on the daring and intelligence of its commanders than on the superiority of its expensive equipment. It is assumed that the wars will be won by the avalanche of American resources, materiel, production, logistics, and assembly lines—i.e., by the bureaucrats who need be neither impetous nor brave. The faith in gadgetry and the "tech fix" accounts for the incalculable investment in missiles, bombs, airplanes, and anything else that can be bought in the finest sporting-goods stores. Nobody has the bad manners to insist that strategic bombing has yet to be proved a decisive factor in any of the country's wars. The rich man depends on his technology in the same way that he depends on his trust fund. Even if he makes no effort to think about the great bulk of his capital, it goes about the business of gathering its daily ransom of interest and dividends. The miraculous nature of this contrivance persuades the heir to believe in the the divinity of machines.

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[1] It is instructive to quote Mr. Carter's toast at some length because it so nicely illustrates the somnambulism of American statesmen content to see whatever they wish to see. Mr. Carter explained that he decided to celebrate New Year's Eve with the Shah because he had asked his wife, Rosalynn, whom she wanted to be with on that occasion, and Rosalynn had said. "Above all others, I think, with the Shah and the empress Farah." The President then went on to say: "Iran, because of the great leadership of the Shah, is an island of stability in one of the more troubled areas of the world. This is a great tribute to you, Your Majesty, and to your leadership, and to the respect and the admiration and love which your people give to you. . . . We have no other nation on earth who is closer to us in planning for our mutual military security. We have no other with whom we have closer consultations on regional problems that concern us both. And there is no leader with whom I have a deeper sense of personal gratitude and personal friendship."

[2] Thus, the Carter Administration didn't take the trouble to consult the NATO allies about its decision to postpone the deployment of the neutron bomb. In much the same spirit, the Nixon Administration didn't bother to consult with the Japanese in 1971 about the overtures to China, the shift in the monetary system, or the imposition of tariffs.

His lack of acquaintance with the domesticity of war gives him further reason to think that he may have been granted an exemption from the scourges by which less fortunate men sometimes find themselves humiliated. The world is object, and the United States is subject, the fighting always takes place on somebody else's field. The politicians who currently hold office in England suffered the terror of the German bombing; in Moscow the present members of the Politburo watched German tank commanders sight their guns on the spires of the Kremlin. Their peers in Germany, China, Japan, and Italy all carry with them the memory of wives, fathers, brothers, and children killed by the armies of liberation. But in the United States these are tales that are told. Perhaps this is why the Americans were obliged to push the Vietnamese off the helicopters rising from the roof of the American embassy in Saigon. They hadn't been taught that defeats were as plausible as victories, and so they didn't know how to manage a courageous retreat.

V. Hypochondria

The disease is popular with the rich because only the rich can afford it and because, being incurable, it gives them a constant occasion to talk about themselves. Never before in its history has the United States been so heavily armed a nation, and yet the newspapers and the literary gazettes ceaselessly bring reports of helplessness and alienation, of malignancies in the body politic and the encroaching shadow of Soviet hegemony. The fear of death provides a further excuse for the feverish rates of spending and the extravagant consumption of the estate's assets. Eat, drink, and be merry, for tomorrow we may have to pay one dollar for a gallon of gasoline and give up our chalets in Aspen. Like the society physicians who prey upon the anxieties of dowager heiresses, the learned doctors of foreign policy subtly remind the trembling patient of the illnesses that can befall the unwary traveler in the Third World who strays too far from supplies of safe drinking water.

The symptoms of hypochondria have been chronic since the early 1950s. The moods of euphoria and exultation ("How dare they defy us, those scrawny little peasants in Vietnam?") periodically give way to seizures of doubt and self-reproach. For no apparent reason, the stewards of the American empire suddenly become preoccupied with the phantoms of the missile gap or the energy crisis. Every now and then the consensus of alarmed opinion declares a "year of maximum danger." I have heard this moment in time variously given as 1954, 1962, 1968, 1974, and now—with President Carter's casting around for a credible portrait of himself as statesman and world leader—1979.

The obsession with security corresponds to the desire of the American rich to live in protected enclaves and to escape the filth and nuisance of the world. Howard Hughes ascends to the roof of a Las Vegas hotel, there to keep himself safe from bacteria; Hugh Hefner revolves on a round bed in a darkened room, arranging and rearranging pictures of paradise; David Rockefeller sits drinking milk among reports of poverty and overpopulation; Richard Nixon composes his memoirs in the brooding silence of San Clemente; and President Carter retires to the little study next to the Oval Office, listening to Wagnerian opera, checking off his list of things to say and do, communing with his God.

This inward gaze, and the delight in the chimpanzee's examination of the American self, contributes to the poor quality of the reporting from abroad. The diplomats and newspaper correspondents compose pictures that accord with their presuppositions when they signed up for the package tour. They see what they have been told to see (otherwise they wouldn't have been sent), and for the most part they notice that the world is a very poor and undeveloped place, not at all like Greenwich, Connecticut, or Far Hills, New Jersey. They assume that happiness cannot be separated from its natural setting amidst suburban lawns, and this leads them to suspect that the natives are dissatisfied and therefore angry. What man in his right mind would not want to drive a station wagon and ride in triumph through Grosse Pointe? The abyss looms on all sides, at all points of latitude and longitude. By confusing his money with his life, the rich heir imagines himself threatened by enemies of infinite number and variety—by thieves, dictators, IRS agents, hijackers, unscrupulous women, kings, radicals, kidnappers, and nationalist sentiment in South Yemen.

VI. Impatience

Fortune's child doesn't like to be bothered with details. He never has time to listen to the whole story or to read through the statistical memoranda and the volumes of supporting analysis. He has planes to catch and meetings to attend, and so he expects his advisers to provide him with summaries and conclusions. Unfortunately, this is a habit of mind that obliges him to conceive of foreign policy in extremely simple categories. A nation is slave or free, North or South, in the First World or the Third.

A man who must earn his own fortune learns to make subtle distinctions, and he knows that in all human undertakings, in diplomacy as well as in art or commerce, it is in the details that the issue is decided. So also the man who depends for his livelihood on the animals that he hunts and kills. He studies them with the fondness of a lover, watching them in all weathers, guessing their moods, admiring their grace, following their tracks.

The heir to the fortune doesn't have the patience for this sort of thing. He hires gunbearers and assumes that all wars will be short. Because he wants to do everything in a hurry and with the minimum loss to his own troops, he relies on the most brutal and undiscriminating means of warfare. In Vietnam the United States couldn't distinguish very clearly between friends and enemies, and so it had no choice but to send the bombers. The soldiers followed the rich man's simple rule of "shooting everything that moves," and the Eighty-second Airborne Division resolved the political difficulties by defining a Vietcong as any dead Vietnamese.

VII. Family retainers

It is both customary and correct to say that when President Carter arrived in office he knew very little about diplomatic history, political economy, or geography. Had he been asked, prior to his election and without benefit of public-relations counsel, to give the approximate location of Namibia or Romania, I doubt whether he could have come within several hundred miles of a convincing answer. But among American Presidents, at least during their first year in office, the lack of sophistication in these matters is the rule rather than the exception. Who can expect a red-blooded American boy to bother himself with a lot of foreign names? After two years in office, President Ford still had trouble remembering the whereabouts of the Red Army in relation to Poland. Even President Kennedy, who had traveled in Europe and the South Pacific, remained charmingly vague about Asia and Latin America.

Although some schools take more trouble with geography than others, the heirs of the American fortune ordinarily have no occasion to learn much more than the broad outlines of the civilization in which they happen to be spending money. The better schools also insist that the young men have the good manners to know the difference between a sonata and a logarithm table, but for the most part an American education (at Harvard as well as at the universities of Michigan or California) constitutes a social rather than an intellectual enterprise. It is also a means of acquiring a cash value, comparable to buying a seat on the stock exchange, and it qualifies the recipient for a place in the corporations and the bureaucracies. If the need arises for more refined intellectual goods and services, the heirs to the estate can always hire a Wall Street law firm or a Jew.

Thus do the tribunes of the people fall like sparrows into the nets of the foreign-policy establishment. For the past thirty years, the trustees of this establishment have been recruited from the banking and legal hierarchies in New York and Washington as well as from the prestigious universities deemed to be sufficiently sound in their distrust of the artistic or political imagination. Although innumerable critics and newspaper columnists have remarked on the primacy of this establishment (cf., President Carter's weaning at the dugs of the Trilateral Commission), the term itself causes confusion. The establishment does not define itself in terms of specific institutions, publications, or club memberships. Rather it can be understood as organizational support, of both a financial and an intellectual nature, for the belief in the redeeming and transfiguring power of money. Sums in excess of $100 million have the properties of fairy gold: they can transform apes into men and frogs into princes. It is this doctrine, enforced with the rigor of an ecclesiastical court, that binds together counselors of such otherwise disparate views as Dean Rusk, John J. McCloy, Cyrus Vance, William Rogers, Henry Kissinger, Clark Clifford, Arthur Schlesinger, Jr., McGeorge Bundy, and Zbigniew Brzezinski. These men do not constitute a cabal; it is even probable that they have no wish to form or join an establishment, but because most of the people in the country prefer to avoid the company of foreigners they achieve their eminence by default. Perhaps this explains the shoddiness and the timidity of their policies. It is their submission to the rule of money that gives their advice, no matter what the partisan politics of the moment, its consistency of tone and emphasis.[3]

In periods of relative optimism and extravagance, when the world is young and all things seem possible, the family retainers permit the heir an occasional indulgence or youthful folly. President Kennedy's advisers made no objection to the assassination of Diem, and allowed him to toy with the hope of assassinating Fidel Castro. But the heir always likes to think well of himself, and so when going about these Machiavellian adventures of state, the family retainers perform the service of doing things in the heir's name but not in his sight. In this respect they resemble New York divorce lawyers, who for the sake of the children, find it prudent to blackmail the showgirl wife with photographs of her debut in a New Orleans brothel. During periods of reaction and constraint the family retainers warn the heir against doing anything that might injure the integrity of the trust fund. Thus Mr. Carter's advisers recommend that the United States curry favor with any nation, slave or free, that can guarantee commodities, raw materials, and markets.

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[3] Mrs. Cornelius Vanderbilt in 1906 expressed this principle of American foreign policy when instructing her niece in the fine points of social politics. "One never meets Jews," Mrs. Vanderbilt said. The niece reminded Mrs. Vanderbilt that she took tea on Friday afternoons with Mrs. August Belmont. "Of course," Mrs. Vanderbilt said, "one chooses who a Jew is." Thus the Carter Administration can decide that the Nigerian generals have enough oil to exempt them from the status of dictators and that Mr. Marcos in the Philippines deserves to be paid $1 billion for the use of his facilities at Subic Bay.

The more desperate the circumstances of the heir, the more likely that he will be attended by retainers who are themselves consumed with avarice and ambition. It is the habit of the rich to have enemies for friends, and so they surround themselves with gossips and hairdressers whose sexual sterility presents no obvious claim against the fortune and who take pleasure in contributing to the dissolution of the estate. Similarly, President Nixon employed Henry Kissinger, who seldom bothered to disguise his contempt not only for the Western democracies but also for Mr. Nixon. He told people whatever secret and fantastic truths they most urgently wanted to hear, tapped his associates' telephones with the discrimination of a man making a guest list, and betrayed his nominal friends as blithely as he brought ruin to his enemies. He entered the Nixon Administration in the persona of the faithful squire and left it in the persona of the resourceful manservant, condescending to sell his court memoirs for $2 million. During the televised proceedings of the Republican National Convention in Kansas City in 1976 the camera paused briefly on Mr. Kissinger sitting in the balcony, listening to the speeches with an expression of unconcealed disgust. It was the expression of a fashion designer who has just been told that somebody else will receive the commission to make the dress for the Inaugural Ball.

VIII. Jeu d'esprit

From time to time the rich man dreams sentimental dreams. He wonders what it would have been like to have wandered as a pilgrim in India or to have composed verses worthy of Lord Byron. Under the influence of this soft and elegiac humor he sometimes builds on his property the equivalent of what the eighteenth-century English nobility described as a folly. Traditionally this was a little gazebo or pavilion with a view of a river or meadow. The heir to the fortune could lean against a marble column, staring into the blue distance and thinking thoughts of the ineffable.

In much the same spirit the United States erected its policy toward Israel. The Middle East wasn't a particularly important place in 1948, and the Jews had been through some pretty rough times at Buchenwald and Auschwitz. Why not, as Nelson Rockefeller might say, do something nice for the fellas? What did it cost anybody? The United States could admire the pleasing prospect of its conscience stretching into the ennobling spaces of the Palestinian desert.

Besides, Zionist sentiment in the United States was both affluent and politically well-connected. The supporters of Israel could be counted upon for generous campaign contributions and vigorous arguments in the intellectual debates. Everything went well enough for many years, until, in circumstances much reduced, the geologists found oil in a neighboring pasture. Unhappily, the heir needed the money, and his advisers informed him that he would have to tear down his folly and shift the mise-en-scene of his musings to some other pavilion. The heir objected to this, protesting that he had become fond of looking at the little river. But the lawyers were firm and unrelenting. The Arab money from the desert weighed more heavily in the balance than the Jewish money from the sown. Or, as it was explained to me about a year ago by a director of one of the American oil corporations, "Over here at Z——, we get down every morning and pray to Mecca; if necessary we would kiss the — of every Arab in Riyadh."

IX. Spitefulness and rage

Nothing so angers the rich man as the discovery that his money cannot buy him the world's love and admiration. Being impatient of ambiguity and doubt, he wonders why his fortune doesn't emancipate him from the slings and arrows of outrageous suffering or why, like Shakespeare's Richard II, he must "live with bread like you, feel want, taste grief, need friends." If he gives even $10,000 to a philanthropic charity, he counts upon receiving at least $1 million in services and flattery. President Carter anticipated sustained applause upon the announcement of his opening to China, and when this was not forthcoming he became petulant and sullen. Mr. Warren Christopher, the Deputy Secretary of State, traveled to Taipei only a few days after the United States had declared inoperative its treaty with Taiwan. He proceeded from the airport in a cavalcade of limousines, never for a moment thinking that his progress could be anything out of the ordinary. An angry crowd stopped Mr. Christopher's car and smeared it with insults. Mr. Christopher was lucky to escape with his life. The bad manners exhibited by the Taiwanese surprised and offended Mr. Christopher, and the State Department sent a note of reproval.

When things go wrong in the world (i.e., when the painted scenery shifts and moves and comes to life) the rich man casts around for somebody to blame. Characteristically he blames his lawyers and investment managers. Why else does he employ Dean Rusk and Cyrus Vance if they can't straighten out his affairs? How is it possible that all the king's horses and all the king's men cannot put the Shah of Iran back together again? The lawyers and managers in their turn blame one another, as well as inflation, unemployment, and the rising cost of labor. Throughout Washington the bureaucracies ooze whispered recriminations. The White House blames the CIA for the poor quality of the intelligence from Teheran, and the CIA blames the White House for not listening to the early reports of discontent, possibly because Mr. Brzezinski couldn't hear anyone speak ill of his strategic hopes for the Persian Gulf or because he didn't want to think Iran couldn't accept delivery on $18 billion in arms shipments.

The rich man becomes particularly annoyed when he is forced to perceive that he is not behaving decently in the world, that he has associated himself with tyrants and criminals. More than anything else he expects his money to buy him the illusion of innocence. He resents being told that he might be soliciting the odd $1 billion here and there from people who stand willing to burn and mutilate Jews, or that weapons sold in the world markets fall into the hands of thugs who use them to commit murder. Reports or rumors of these unhappy accidents wound the rich man's self-esteem and cloud the flattering image that he expects to see in the mirrors held up to him by his retainers, his servants, and the press. In the paroxysm of his rage he comes upon the great truth that only the rich and the powerful have rights.[4]

He concludes that other people have failed him, that he has been betrayed by people in whom he placed so much of his trust, and it occurs to him that perhaps other people deserve whatever fate befalls them. The family retainers assemble in comfortably furnished conference rooms to prepare exquisite phrases of regret. They can't quite say that the Jews deserve what they get because Jews are pushy, or that the English lost the empire because they are selfish, or that the French are corrupt and the Latin Americans shiftless and greedy. This is what they mean, but the words don't make a good impression in the newspapers.

The lawyers talk instead about treaties, trade balances, and the Arabian oil fields as the wellsprings of the democratic alliance. If there isn't time for the polite hypocrisies, or if the nations in question haven't shown a decent respect for the opinions of mankind, then the rich man simply sends the bombers over Hanoi on Christmas Eve.

ENVOI

In the great game of diplomacy, I don't count myself a professional, or even a particularly well-informed amateur. No doubt I do injustice to some of the American statesmen of the 1950s, and I'm sure that in various aspects of the preceding argument I have oversimplified the matter to the point of parody. Those apologies and qualifications having been duly made, I think it fair to say that the people who formulate the present American policies in the world misunderstand the strength of the American idea.

The United States remains the most powerful country in the world not because of its wealth or its arsenal but because the Constitution and the Bill of Rights give practical meaning to the possibilities of human aspiration. The society raised up on those foundations allowed men to free themselves from the tyranny of kings and priests. Joined with a democratic form of government, this freedom of initiative gave rise to the enormous expansions, in all spheres of human thought and endeavor, that have both created and defined the United States.

The present generation of would be statesmen apparently labors under the delusion that the price of liberty, once paid (preferably by a man's ancestors), can be written off as a nonrecurring debt. Unfortunately the price of liberty must be paid every day. It requires people to renounce the pleasures of sadistic exploitation and self-aggrandizement and to work instead for the gradual process of evolutionary change. This is never easy, but it becomes all but impossible if people confuse the power of money with the power of the mind and the imagination.

The interests of the United States as a nation do not always correspond to its virtues as a democratic republic; in an increasingly dangerous world, the country sometimes has no choice but to deal with people who couldn't qualify for membership in the Century Club. Dealing with such people is a different thing from enthusing about them with the adulation of gossip columnists. No matter how expensive the barbarian gifts and tributes, and no matter how magnificent the silks and furs, the worship of money binds the worshiper to the past as surely as if he had been buried with the gold in Tutankhamen's tomb. Whenever possible, the United States should ally itself with the evolving future of man's mind, with those forces in the world (ideas, nations, movements, political parties, institutions) that encourage human beings to walk on two feet. Conversely, the country would stand against the forces in the world that require human beings to crawl on the ground like so many humiliated apes. The simplicity of this distinction would oblige the makers of American policy to ask of their allies a different set of questions. The health of a nation's people and the stability of its institutions might come to weigh more heavily in the balance than a Shah's capacity to give emeralds to the wives of magazine publishers and oil-company presidents. The more people who become fully human in the world, the more they can do for themselves; the fewer the number of apes, the less seductive the voices prophesying war.●

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[4] Justice Felix Frankfurter admirably stated the principle in question when in 1914, as a young lawyer in the War Department, he was asked to research the question as to whether the American occupation of Vera Cruz constituted an act of war. He explained that he didn't need to look up the relevant law. "It's an act of war against a great power," he said; "it's not an act of war against a small power."

CHILDREN'S TV PROGRAMING

● Mr. HEINZ. Mr. President, in the last session of the Congress, I introduced S. 1960, a bill to create a National Endowment for Children's Television. At that time, I expressed my chagrin over the lack of quality children's programing available on television, while acknowledging that children at age 5 have spent the same amount of time watching television as it would take to earn a 4-year college degree. And their TV watching is not restricted to children's programs, but spans the spectrum from game shows, to gamey soap operas, to war and detective "games" and beyond.

There is no doubt that TV has become the modern-day babysitter, a substitute parent. But TV can never adequately replace the warmth, love, and caring of a real parent. In his article, "It May Seem That Way, but TV Isn't a Surrogate Parent," Bob Keeshan, better known as Captain Kangaroo, makes the point that television should not be filling the void which exists because of parental neglect. I believe this message should be shared with as many as possible, and I ask that the article be printed in its entirety in the Record.

The article referred to follows:

IT MAY SEEM THAT WAY, BUT TV ISN'T A SURROGATE PARENT

(By Captain Kangaroo)

Back in the old days, when I was a child, we sat around the family roundtable at dinnertime and exchanged our daily experiences. It wasn't very organized, but everyone was recognized and all the news that had to be told was told by each family member.

We listened to each other and the interest was not put on; it was real. Our family was a unit and we supported each other, and nurtured each other, and liked each other, and—we were even willing to admit—we loved each other.

Today, the family roundtable has moved to Burger King and talk is not easy, much less encouraged.

Grandma, who used to live upstairs, is now the voice on long distance, and the working parent is far too beaten down each day to spend evening relation time listening to the sandbox experience of an eager four-year-old.

So family conversation is as extinct as my old knickers, and parental questions such as "What have you been doing, Bobby?" have been replaced by "I'm busy, go watch television."

And watch TV they do; count them by the millions.

But it's usually not children's television that children watch. Saturday morning, the children's hour, amounts to only about 8 percent of their weekly viewing. Mister Rogers, The Electric Company and Sesame Street nurture many, but not nearly so many as are exploited by the theatrical releases of a quarter-century ago—still found on local television—with their foolish stereotypes and inane behavior models.

But wait! I've saved the largest children's audiences for last. Where are they to be found? Watching adult television, of course, from the Match Game in the morning to the afternoon at General Hospital, from the muggings and battles on the evening news right through the family hour and past into Starsky and Hutch. That's where you find our kids, over five million of them, at 10 P.M., not fewer than a million until after midnight! All of this is done with parental permission, albeit implicit.

Television, used well, can provide enriching experiences for our young people, but we must use it with some discretion. When the carpet is clean, we turn off the vacuum cleaner. When the dishes are clean, the dishwasher turns itself off.

Not so the television, which is on from the sun in the morning to the moon at night and beyond!

Parents must exercise some control and show some concern about the cultural influence on the child when a program not intended for that child is viewed. Parents need to intervene. Nonintervention may be a laudable policy in international affairs, but the results of parental nonintervention will not be applauded at the United Nations or anywhere else.

A child's television viewing should not be filling the vacuum created by a parent's neglect.

A child needs to be listened to and talked to at 3 and 4 and 5 years of age. Parents should not wait for the sophisticated conversation of a teen-ager. By then, communication will be impossible because love will have passed both parent and child by. An hour or two of high-quality time, given consistently, will be a daily bouquet of love—and a message well received by a real human being.●

HUMANE SOCIETY RESOLUTION ON ANIMAL RIGHTS

● Mr. WILLIAMS. Mr. President, I would like to bring to the attention of my colleagues a resolution passed by the 1978 Annual Conference of the Humane Society of the United States.

This resolution recognizes that animals have certain rights and that people have certain obligations toward animals. In remarks before the conference, Mr. Robert Welborn, vice chairman of the board of HSUS, and Mr. Murdaugh Stuart Madden, general counsel of HSUS, explained the background and the need for such a resolution.

I ask that the remarks of Mr. Welborn and Mr. Madden, and the resolution itself be printed at this point in the Record.

The articles referred to follows:

ANIMAL RIGHTS: THE SEARCH FOR A LEGAL DEFINITION

REMARKS BY MR. WELBORN

Over 200 years ago Thomas Jefferson proclaimed the inalienable rights—life, liberty, and the pursuit of happiness. These, he said, are endowment of the Creator and represent a station to which men are entitled by the Laws of Nature and Nature's God. Did Jefferson contemplate that only man is or should be under the aegis of the Laws of Nature and Nature's God? Possibly this question did not occur to him, but how ironical it would be if Nature's creatures could not claim the rights that are the endowment of creation.

Laws dealing with the protection of animals and prohibiting certain cruelties to them are premised to a large extent on the concept that cruelty to animlas is immoral rather than on the concept of inherent rights of animals.

There is a fundamental difference between an approach to animal welfare in terms of the inherent rights of animals and an approach in terms of humane moral obligations. The difference is spiritual, philosophical, and practical. If animals by virtue of life itself do have inherent rights, then it is not just bad for man's morals to deny these rights, it is an offense against life itself. Possessing inherent rights, animals have a status, or station as Jefferson called it, which is entitled to respect by virtue of itself and quite apart from man. Finally, as a practical legal matter, rights may be enforced in behalf of the possessor if the possessor is not capable, as in the case of a guardian in behalf of minor children.

These rights are not without restriction and limitation, of course, even as applied to man. A man's life may be called upon as in war; liberty is limited in many ways in the interest of others in the society; happiness in the physical sense may not be pursued without inhibition. These concepts, therefore, are more profound than the outward manifestations. They mean an *appropriate* right to life, liberty, and the pursuit of happiness in relation to the rights of others.

Thus, if we say that animals are endowed by their Creator with these inalienable rights, it does not mean that no animal may be killed, that animals may roam without restriction, and that animals may not be restrained in gratifying their physical appetites. Nature itself brings about limitations on these rights. One animals kills another by instinct; life feeds upon life; the liberty of one animal to roam freely is naturally limited by its fear of other animals.

Since man dominates this earth and all other living things, it may seem academic to distinguish between animal rights and human obligations. It may be said that in either case the animal will receive only such respect and humane treatment as man is willing to give. This may be true in a limited sense, but the declaration of animal rights standing by itself because it reflects the fundamental truth will be an important weapon in the spiritual, philosophical, and legal battle that must be waged. It will give animals standing in our society to claim through a representative their own posititon and station under the laws of Nature and Nature's God. The recognition of animal rights can dispose of the rationale advanced by some superficial writers that the only reason man should avoid cruelty to animals is because the practice of cruelty is not good for man and that animals have no inherent dignity and no inherent rights.

What greater inherent dignity than in the mother cow with her calf, the community of wolves, the colony of ants building and rebuilding, the chimpanzee free in the jungle, the bird guarding its nest, and the dog mourning its lost friend. It is an affront to the laws of Nature and a sacrilege under Nature's God to say that only one species of God's creation has inherent dignity and inherent rights.

We need a declaration of independence for animals confirming these inalienable rights of life, liberty, and the pursuit of happiness in a reasonable degree; we need the laws delineating more specific rights that derive from such a declaration; and we need the method of protecting and enforcing such rights. The following general statements of rights, as adopted with HSUS Resolution (see box) could be the basis for the delineation.

The declaration and establishment of animal rights in detail and with force and effect is the only hope for success in the achievement of animal welfare. Otherwise, we will continue just to treat the illness of cruelty with bandages but without the cure which can only be found in the assertion of rights to which all life is entitled. We will continue to operate under laws which say that men should not mistreat animals unless such is necessary, should not cause unnecessary pain and suffering, with the sanction for violating these laws being a slap on the wrist. Progress has been made through voluntary effort, through the awakening of sensitivities and consciences, but these are tenuous threads on which to rely for building a sure and certain foundation for animal welfare.

If, however, animals through their representatives are enforcing their own rights, the approach to animal welfare is different in the most fundamental kind rather than in degree. Not only is it the difference between the status of the American colonists before and after the Revolution; more profoundly it is the difference between the true nature of things under the laws of Nature and Nature's God and the pathetic conceit of one species which ignores these Laws and that God in its dominion over this earth.

Truly the belief in the understanding of, and the dedication of our efforts to the sanctity of all life is the only hope for any meaningful survival of any life on this earth.

REMARKS BY MR. MADDEN

I accept and adopt everything that our distinguished Vice Chairman, Bob Welborn, a prominent Denver attorney by profession, has just set forth—except that I want to add on and implant within it an element which I feel is an integral part of any consideration of the legal definition of animal rights.

Before we get to that, perhaps a few historical observations are in order. Many of us have heard that animals should be treated, insofar as legal rights are concerned, exactly like man. Do we really mean this? Do we really want animals to be thrust into the mainstream of our legal and judicial process? A brief historical glance would suggest otherwise. In the Middle Ages animals were the subject of many laws and had both legal rights *and* obligations. They were both protected—and punished—in the same manner as human beings.

As far as protection goes, the Old Testament contains a number of clear provisions for the protection of animals—rest on the Sabbath for cattle as well as man, animals of unequal strength were not to be made to work together, and the ox, when working, was not to be deprived of his food.

But for this discussion it is more important to note that animals were widely *prosecuted* in courts in Europe between the 13th and 17th centuries. When they caused injuries to humans or private property, they were subjected in due form to trial, judgment, and sentencing, often to death in a very cruel manner. This mode of punishment, pronounced by the Court, was death by burning, hanging, mutilation or maiming, and varied widely according to the offense committed. All of this may seem almost impossible to believe today, but it went further, and in many cases, elaborate, exacting pleadings or court papers were filed and counsel was appointed by the Court to defend the alleged wrongdoer sow, ox, or pack of rats.

Where physically possible, the offending animal was cited, summoned into court, jailed pending trial, tried, and, as noted above, often executed. In my research, I saw few or no cases of acquittals, but there are several reported trials that reflect more lenient sentences when the animal was more docile during the judicial proceedings.

Accordingly, I now say, so much for the movement to have animals treated *exactly* like humans before the law.

The next phase in history had animals treated like "property"—like cabbages and carriages. We tend to say "terrible, terrible," but I submit that there are worse things under the law, and one of them is and was to have animals treated as though they were not even property. The property concept ties into a human's involvement, and it was long ago a crime to damage or injure the property of another, or in the case of wildlife, the property of the Crown. Therefore, being "property" of another gave a measure of protection to the animal—from cruelty and brutality by third persons. However, it did not protect the animal from the owner's own mistreatment and neglect, and, of course, if it were a stray or a varmint with no owner, anyone could mistreat it, starve it, or abandon it with impunity. This created a very serious problem historically within the animal welfare movement in the Anglo Saxon world, because the so-called "non productive" dogs and cats were not treated like property as were horses, cows, sheep, swine, etc., and this left these pets out completely as far as protection and prohibited conduct toward them was concerned.

Today there are literally thousands of animal related laws on the books—city, state, and national here and throughout the world. While admittedly many of these are really for man's benefit, i.e., the hunting laws, and the ever-prevalent prohibition against injuring the animal of another, there is an increasing number of statutes being passed that surely appear to be solely for the benefit of the animals themselves, i.e., the statutes prohibiting dogfighting and bullfighting, the ban on the export of live horses enroute to slaughter, etc.

Of course, there are those who suggest that the only legal right being recognized in the recent wild horse and burro protective legislation is the human right to have a pleasing and civilized environment free of so much misuse and cruelty to animals. I, for one, disagree, and feel that we are increasingly recognizing and articulating the, if you will, "legal rights" of animals.

The missing ingredient in the earlier discussion is the role of man in all of this. I feel that this is man's problem; he created it—he continues it—and only man can solve it. It is man's sole obligation and duty to do so.

My theorem is one of rights *and* obligations. We have so often heard that with rights go obligations. Yet here, the equation is entirely different—entirely one-sided, if you will.

The animals surely do have rights—call them legal, inalienable, whatever you like. Proclaim them, pronounce them, promulgate them, bestow them, grant them, or recognize them—again, whatever you like. What are those rights? I think that it can be very simply put as follows:

Animals have the legal right not to be abused and mistreated by man.

As far as obligations go, man has the legal obligation not to abuse animals.

That is it, in a nutshell. We then ask whether the animal has any obligations that generally are equated with the rights. The answer is no; no more than an infant child who also has only one basic legal right, i.e., the right not to be abused by adults, has any obligations.

We then ask "is this fair?" Of course it is, if you review most of the reasons why animals need protection today (or as I have used the term, to be free of abuse). It is because they have been disrupted and dislocated by man. For example, there is a clear right of a deer not to be maimed by a hunter, but there exists no right of a deer not to be ravaged in its natural state by a wolf. Man's involvement has been almost entirely negative vis-a-vis animal life, and therefore, he today does have a tremendous obligation to meet.

To restate my proposition in a single sentence, clarifying the interrelationship between the rights and obligations, I suggest that: "An animal has an inalienable right to have man fully and in every respect live up to his obligations and duties toward that animal."

I am convinced that we *must* speak of rights and duties together, and I would urge this Conference to adopt a Resolution stating that all animals have the inalienable and protected rights discussed above, and that all people, because of the stewardship and the trusteeship which they carry have certain inalienable duties with respect to animals.

An earlier recitation of the "obligation" theory was set down many years ago by the distinguished Netherlands Professor Hofstra when he served as President of the World Federation for the Protection of Animals. It was presented in the form of a *Charter of Man's Duties Toward Animals* (see inside cover of *HSUS News*, Summer 1978), and I have drawn almost verbatim from its preamble for the language which I feel will clearly establish and restate the concept of man's duties and obligations vis-a-vis animal rights—I now propose that it be grafted onto Mr. Welborn's four paragraphs of Rights—and that the combined language be presented to this Conference for adoption as a Resolution of The HSUS entitled Animal Rights and Human Obligations.

ANIMAL RIGHTS AND HUMAN OBLIGATIONS

Members and constituents of The Humane Society of the United States, assembled in Annual Conference in Dearborn, Michigan, on this 14th day of October, 1978, do hereby proclaim, by resolution, with reference to animal rights and human obligations, that animals possess certain inalienable and legally protectable rights, and mankind and his governments possess certain inalienable and enforceable obligations and duties with respect thereto, as follows:

1. Animals have the rights to live and grow under conditions that are comfortable and reasonably natural;
2. Animals that are used by man in any way have the right to be free from abuse, pain and torment caused or permitted by man, other than pain necessarily resulting from treatment for the welfare of the animal;
3. Animals that are domesticated or whose natural environment is altered by man have the right to receive from man adequate food, shelter, and care;
4. Animals that are or should be under the control and protection of man have the right to receive such control and medical treatment as will prevent propagation to an extent that causes overpopulation and suffering; and

The Humane Society of the United States recognizes further that it is a duty common to all mankind of whatever religion or philosophical conceptions, of whatever people or culture, to protect animals against cruelty and avoidable pain and to treat them well, to cultivate an attitude of compassion and of kindness towards them, and to respect their dignity, their life, their liberty and their own sphere of existence.●

JUDGE WEBSTER'S SUCCESS AS FBI DIRECTOR

● **Mr. PERCY.** Mr. President, over 1 year ago President Carter swore in Judge William Webster as the new FBI Director for a 10-year term.

It was an admirable decision by the administration to select a man with such a high degree of integrity and intelligence, who also possesses an outstanding legal background. This includes experience as a prosecutor as well as a trial and appellate judge.

Many of us have been privileged to personally know of Judge Webster over the years for his outstanding work as a Federal judge in St. Louis and now as Director of the FBI.

I believe that the Washington Post accurately depicted Judge Webster's qualities and the tremendous job he is doing as the head of our Nation's chief Federal law enforcement agency in a story by Charles Babcock March 5.

I ask that this article be printed in the RECORD.

The article referred to follows:

[From the Washington Post, Mar. 5, 1979]

FBI CHIEF AFTER 12 MONTHS: LOW PROFILE, FIRM CONTROL

(By Charles R. Babcock)

On Friday afternoon a week ago, William H. Webster, the FBI director nobody knows, walked into the old U.S. courthouse in Columbus, Ohio, to give a little pep talk to some of his troops.

After half an hour of their first personal contact with the boss, several of the 25 or so special agents assembled said they were impressed. "I was afraid he might be just a 'yes man' for [Attorney General] Griffin Bell," said one. "But he seems to be in command and has an amazing grasp of the bureau for only having been around for a year."

It was on the same afternoon, Feb. 23, one year earlier, that President Carter went to FBI headquarters to swear in Webster for a 10-year term as head of the chief federal law enforcement agency.

On the way to Columbus, Webster recalled that moment with Carter. "Everyone there seemed to sense it was a watershed time for the bureau . . . a time for people to take a new, neutral look . . . to recognize the importance of the institution," he said.

During the ceremony, Webster got his marching orders from the chief executive: no organization in American life has more to do with how the people feel about their government than the FBI. Carter wanted Amercians to feel comfortable with the bureau.

That was no small order, of course, for an agency that had been rocked by years of investigations and revelations about spying on citizens. But a review of Webster's first year in office shows that the low profile ex-judge from Missouri seems to have firmly taken control of the FBI.

The anniversary trip to Columbus itself was symbolic. Webster was selling the FBI—in a news conference, a luncheon with newspaper executives, a speech to an exclusive club of attorneys and professors.

He also was selling himself to a small number of the 8,000 special agents and 12,000 support people he leads.

The 54-year-old Republican judge from St. Louis is the most low-key salesman imaginable. A lot of people in Washington, a most personality-conscious city, still say "William H. Who?"

Webster's style is deliberately understated. In dress—white or striped button-down shirts and striped ties and herringbone or dark suits with cuffs—and in conservation and background, he's conservative.

His confirmation hearings revealed that he was nearly a millionaire, and his personal friends include influential lawyers and corporate executives.

Bell agrees that the director is low key. "I read all five of his FBI files and there's not a bad line in any of them. I've never read such files. He's just a straight arrow," the attorney general said.

Webster also is a "super appointment," Bell said, because of his intelligence and background as a prosecutor and trial and appellate judge.

Those traits were evident during the director's visit to the Columbus FBI office. He adroitly fielded questions about pensions and retirement and terrorism and new limits on agents' use of private bank and phone records.

Among the listeners was Joe Yablonski, a soft-spoken, cigar-chomping veteran street agent whom Webster had just named "special agent in charge" (SAC) of the Cincinnati field office. Yablonski was one of the bureau's first undercover agents and is its first Jewish SAC.

The "senior resident agent" in Columbus, a 6-foot-8 former Baptist preacher named Tom Mitchell, was there, as were Tom Decker, an agent whose son is a quarterback at West Point, and Howard Linscott, one of 68 agents whom Webster decided not to discipline for their role in allegedly illegal 1970 breakins while searching for radical fugitives from the Weather Underground in New York City.

Webster is not shy about reciting the accomplishments of the men and women he leads, as his after-dinner speech that night showed. He expanded on his text enough to go on for 51 minutes.

Webster talked about his intent to carry on the shift in FBI priorities that started under Director Clarence Kelley's tenure in the mid-1970s. Kelley led the switch from chasing bank robbers and car thieves toward the pursuit of harder-to-catch white-collar criminals—including politicians—and organized-crime figures. Because Kelley was not articulate in public appearances, he has not received the credit some FBI officials think he deserves.

Webster is an articulate, if undramatic speaker. He spent part of his anniversary speech telling his audience that today's bureau is "accountable."

During the glory years of J. Edgar Hoover, who died in 1972, the FBI prided itself on being autonomous and beyond politics. But it also was unaccountable, and the misdeeds that Webster tries now to dismiss as "archeology" were an almost inevitable result.

Webster says the "residuals" from digging into the unsavory parts of FBI history "are still slowing us down."

For example, civil liberties groups trying to ensure against repetition of FBI spying on political dissidents want strict guidelines written into the proposed FBI charter now being considered in Congress.

Webster said he doesn't want the charter to be just a series of "thou shalt nots."

"I strongly resist calling it a 'curb-the-FBI' piece of legislation," he said. He expects it to be all-inclusive: "If we can't find a basis for acting in the charter, we can't do it."

Jerry Berman, an American Civil Liberties Union lobbyist, gives Webster high marks for discussing his group's concerns.

"We disagree on some basic issues, but at least there's a dialogue going on," Berman said.

The most difficult "residual" from the FBI past that Webster had to face in his first year was whether to discipline agents involved in allegedly illegal surveillance in pursuit of the Weather Underground.

Former acting director L. Patrick Gray III and two former top aides were indicted for approving the break-ins, but their trial has been delayed because of complications over defense access to classified data.

In December, Webster announced he was taking no action against the street agents who actually carried out the breakins, "black-bag jobs," but was firing two supervisors, demoting another and suspending a forth.

The suspended supervisor, J. Gerard Hogan, who was SAC in Milwaukee, wrote fellow agents in late December to discuss his case. He had written the director, he said, to express regret at having brought criticism on the bureau and a "problem of such magnitude" to Webster. "Mr. Webster has a reputation as a man of principle and integrity, and I don't think his decision was influenced by trying to placate our critics," Hogan wrote.

Webster still faces a nagging leftover from the breakins investigation: the possible coverup by high FBI officials of the extent of the surveillance. General Accounting Office probers and investigators for two congressional committees were given inaccurate data about the number of breakins, and Jim Adams, whom Webster quickly picked last spring as the bureau's No. 2 man, was the official who signed off on the material sent to Capitol Hill.

Adams told the Washington Post last year that he expects to be interviewed in the internal inquiry, but insisted he did nothing wrong.

Webster said in the interview that he has complete confidence in Adams—a protege of old Hoover aides—and no concerns about his honesty. "If I doubted his integrity I wouldn't want him around at all," the director said.

In other appointments, notably that of Neil Welch to head the bureau's largest field office, in New York City, Webster has reached beyond the Hoover-stamped elite at headquarters. Welch is known for his dislike for bureaucrats in Washington and was one of the first SACs to push investigations of public officials.

Webster also has kept his distance from the Hoover-era crowd by relying less than Kelly did on the "executive conference" of top headquarters officials. He recalls that some top officials complained about possible security problems and litter when he started opening the FBI courtyard for noontime concerts last summer.

But once he made that or any other decision, "I didn't find anyone out there in the woodwork trying to undercut me," he said.

During his first year, Webster said, he set out to make every policy decision personally, unfiltered by his top executives, though this buried him under what he calls "buckets" of black folders marked "Immediate," "Expedite" and "Secret."

For example, he said he has moved to take ambiguous terms used to disguise techniques out of investigative reports, and to shift disciplinary sanctions away from an agent's conduct in private life to what he does professionally.

So far, Webster said, he hasn't run into any political interference from Bell's Justice Department or the Carter White House.

The latter has been "singularly circumspect," Webster said. "It's been an ideal relationship, a cordial one, but one in which no favors were asked."

The new job leaves Webster with a lot less time than he'd like for his family, the farm with the four horses in Missouri, and reading about favorite subjects such as Great Plains Indian art.

His wife, Drusilla, (Dru), carried his tennis racket on the trip to Columbus. "Everyone in the bureau knows I like tennis so I get in games when I can on trips," he said.

A favorite Washington pastime is escorting house guests, like the Korean War Navy shipmate in town over the weekend, to the Lincoln Memorial at night, the director said.

And yes, he told a questioner Saturday, he still cuts his own grass.

During confirmation hearings a year ago, Webster was asked if he might succumb to the perquisites of power as both Hoover and, to a much lesser extent, Kelley did in using bureau employes and supplies for personal favors. "I've cut my own grass for 25 years and I see no reason to stop," Webster said then.

When called Saturday, he chuckled at the question and said he had just returned home from the hardware store with a load of fertilizer and grass seed. His yard is too small to use the riding mower he brought from St. Louis, he said: "Know anybody who needs one?"●

GOVERNMENT REGULATION AND AMERICAN INDUSTRY

● Mr. HEINZ. Mr. President, as we all know, Federal regulation of the marketplace has often caused severe problems for American businesses. We sometimes hear of businesses which have been forced to close their doors because they cannot afford the cost of compliance with the myriad of Federal regulations concerning polution control, employee health and safety, and labor practices. The loss of jobs caused by these closings are a very visible cost of regulation to the American economy.

But at the same time, regulation is costing jobs, whole industries have sprung up to provide the equipment and services that Federal regulatory agencies have mandated. In the area of the environment, for example, a whole industry has been created by Government fiat. Someone has to produce the equipment needed to clean up our air and water, so thousands of jobs have been created to meet this need. The result is that Federal regulation often destroys and creates jobs at the same time.

Only very little research, however, has been performed on this phenomenon. There are a number of questions which have yet to be answered as to whether the quantity or quality of jobs created are worth the cost of jobs lost, what are the costs of relocating employment from one economic sector to another, and whether regulation is the most effective and efficient means to obtain the desired social goals.

I was especially intrigued by an article in the March 12 issue of Fortune magazine which deals with this same issue. This article, entitled "Why Eaton Got Out of the Air-Bag Business," concerns the safety devices for automobiles mandated by the Department of Transportation. According to this article, Government indecision, policy changes and the political process were primarily responsible for the loss of $20 million in research costs on airbags by the Cleveland-based Eaton Corp. This article is worthy testimony to the inefficiency of the Federal regulatory process and the waste of resources that can result from regulation. In this article, we can plainly see the carrot held out to a company which, when it takes a huge bite, gets the rug pulled out from under it.

I commend this article to my colleagues and ask that it be printed in the RECORD.

The article referred to follows:

[From Fortune magazine, Mar. 2, 1979]

WHY EATON GOT OUT OF THE AIR-BAG BUSINESS

(By Donald D. Holt)

From a distance, it seems like a businessman's dream—a market established by government decree. And in fact, since Washington began regulating the auto industry a dozen years ago, captive markets have sprung up like used-car lots along a main drag. Over the years, members of Detroit's anonymous army of suppliers, companies that motorists hardly associate with the automobile, have made steady profits selling the industry everything from catalytic converters to seatbelt buckles. "It's a free ride," says Joan Claybrook, head of the National Highway Traffic Safety Administration. "The only marketing strategy you need is, folks got to buy them, we're going to make them."

But it's not really as easy as all that. There are tollbooths on the government freeway, and for some companies the dream turned into a bad trip. The trouble is, a mandated market becomes part of the political process. It gets tangled up in the untidiness of the democratic system. Courts overturn rules with the bang of a gavel, and what the Department of Transportation does, Congress or the White House can undo.

In California, a device to remove oxides from exhausts was mandated by the Air Resources Board for all cars built from 1966 to 1970. But the potential market collapsed when the legislature permitted exceptions that included almost everybody. A number of companies are suing the state, arguing that the mandate was an implied contract. Echlin Manufacturing Co. wants $5 million in damages for losses on the device, and Dana Corp. is trying to recover $13 million it says it spent on development, manufacture, and inventory.

Nobody has yet brought that kind of suit against the federal government. Companies bloodied by start-stop federal programs have tended to take their losses and limp away. The most prominent dropout so far is Cleveland-based Eaton Corp., pioneer developer of the air bag. After spending thirteen years and more than $20 million on research, Eaton notified the Department of Transportation last year that it was getting out of the business, even though it appeared that air bags were finally about to go into production. Furthermore, Chairman E. Mandell de Windt said that while the company would continue making automotive equipment to improve mileage and cut down engine pollutants, he would "take a good hard look" before committing Eaton to any more big investments in mandated markets. "We have nothing but bruises to show for our efforts," he said. "We're better off taking our chances in the free market."

Last November Eaton was joined on the air-bag sidelines by Allied Chemical Corp., which had spent years developing inflation systems. (Allied worked with General Motors in the early Seventies, while Eaton hooked up with Ford.) Allied's reasoning was that the market for air bags might turn out to be much smaller than was once expected. Under the current rulings, automakers can use either bags or automatic seat belts to meet federal passive-restraint standards, which phase in on different-sized cars each year, starting with the 1982 model year, until all are covered by 1984.

Allied is convinced that Detroit will go with the cheaper and less controversial belts whenever possible, offering the air bag as an option. Big cars with three-passenger front seats will need air bags to meet the standards, since no one has yet figured out how to cover the middle position with a self-buckling belt, but the trend is away from such cars.

TOO MUCH TIME IN A SMALL CORNER

Eaton was worried about a shrinking market too. But the company also had a more fundamental concern—would the mandate really stick this time? "The government has a way of being fickle," says de Windt. In the closing days of the Ford Administration, outgoing Secretary of Transportation William Coleman rammed through an agreement with the auto industry that called for production of up to 500,000 air-bag cars as a kind of test of public acceptance. Then Coleman's successor, Brock Adams, decided that instead of a test, he would give the industry the long lead time it wanted and simply mandate passive restraints once and for all. It was not an illogical step, but to the men who run Eaton it seemed like just the same sort of reversal they had seen before. Says de Windt: "You've got to wonder what happens when Brock Adams goes out."

Eaton gets some sympathy from an unlikely source, NHTSA's Claybrook, an ex-Naderite who isn't known as a friend of business. "I understand Eaton's concern and irritation," she says. "It was quite unfair. Eaton makes an investment, the rug is pulled out from under them. Then a new crew comes in and says, hey, we're enthusiastic about this." But she also thinks the current plan is a good one, with its "enormous lead time and great flexibility," and insists that it won't change again.

Eaton, however, decided it had better ways to use its resources. Air bags were really a very small corner of its business anyway, and dealing with the government was taking too much management time. With 1978 sales of $2.8 billion (and earnings of $131 million), Eaton is a major supplier of transmissions and other parts for heavy trucks. It also makes several lines of lift trucks and off-road vehicles. Though the company is often assumed to be part of the legacy of Cleveland industrialist Cyrus Eaton, it never had any connection with him. It grew out of a mix of small axle-and-gear companies that sprouted in northern Ohio to serve the auto industry after the turn of the century.

By the mid-Sixties, Eaton had its own research center spinning out ideas for new automotive products. The air bag was one of them. The concept had been around for years, but Eaton engineers were the first to tailor it for cars. It looked like a great business. "We were talking about astronomical sales, after a normal growth period," says Carleton H. Swanson, president of Eaton's automotive-components group. Eaton set up a separate air-bag division, wtih its own general manager, and managed to get Ford Motor Co. interested.

In 1968, the two companies presented a joint paper to the Society of Automotive Engineers in Detroit and demonstrated how an air bag would work in a car. Allstate Insurance Co. joined up next, helping with the testing and mounting a probag ad campaign. "Allstate saw a benefit in air bags that nobody else had noticed," says Swanson. "Bags do save lives. But in the total insurance payoff for auto accidents, the greatest dollar cost is not the death benefit—it's plastic surgery for the girl who hits the windshield."

THE DETROIT COUNTERATTACK

The early enthusiasm of Eaton and Allstate soon spread to Washington and, as far as Eaton is concerned, that's when the trouble started. In what the bureaucracy calls "advance notice of proposed rulemaking," Richard Nixon's new Secretary of Transportation, John Volpe, called in 1969 for "inflatable occupant-restraint systems" in all new cars. This was the closest the government came to specifically requiring air bags. By the time the mandate was actually issued two years later, Valkswagen had demonstrated an automatic seat belt, so the rule required only passive restraints starting in 1974, without spelling out what kind they should be.

The automakers were horrified. The 1974 deadline seemed too soon, and they already had their hands full coping with emissions rules. Detroit, led by Chrysler and Ford, counterattacked. Because the Volkswagen system was still experimental and not then adaptable to larger cars, the air bag was the issue. It became, over the next few years, a highly controversial piece of equipment. Editorialists called it the "hot-air bag." The American Automobile Association attacked the mandate on grounds that bags had not been sufficiently tested. Some critics seemed to suggest that since the system was "passive" to the point of being beyond the motorist's control—it couldn't be disconnected or ignored like a seat belt—the air bag was somehow a violation of basic American freedoms. Proponents of the air bag, in turn, tended to exaggerate its effectiveness.

THERE IS NO SECOND CHANCE

The air-bag concept is simple enough. When a car crashes into something, a sensor up front triggers an inflating mechanism that, with rifle-shot swiftness, blows up a big nylon bag hidden in the dash or steering wheel. The occupant bumps the bag instead of the windshield. An instant later, the bag deflates, having absorbed much of the impact.

But making all that happen at precisely the right moment requires a higher degree of technology than almost anything else in a car. The air bag has to sit in its container out of sight for as long as eight or ten years, then work perfectly. As with a parachute, there is no second chance. So the air bag has to be an expensive piece of equipment. Throughout the development, Eaton was constantly at odds with the Department of Transportation about how much the bags would add to the price of a car. At first Eaton thought the device could be priced at around $200 a car. Washington set the figure at less than $75. The two sides never could agree, especially since nobody knew what product liability insurance would cost.

The liability question never was solved, and the companies still in the business do not yet know the extent of their exposure or how it will be covered. Eaton's insurance carriers initially estimated liability insurance at about $10 per unit, then upped the figure to as much as $50, and finally declined to give any quotation.

Obviously, in America's current litigious mood any automotive product is likely to draw a lawsuit if its failure seems to be the cause of injury or death. But the air bag seems especially vulnerable. Air bags are designed for frontal collisions. If a car is hit from the side or if it rolls over, the bag will not inflate. An impact from a forward direction but a little off center might not inflate it, and it might fail even in frontal collisions with freakish characteristics. A car buyer who pays for an air bag expects protection under all circumstances, and trying to figure out whether the bag should have inflated could become an endless matter for lawsuits.

"A BUNCH OF BALONEY"

The bottom line on air bags seems to be that they are not as effective as the three-point shoulder belt you buckle yourself. They work best when the occupant is also wearing a lap belt to keep him from slipping under the bag. So the vision of an out-of-sight, out-of-mind device that will protect people without making any demands on them is not quite accurate. Bags are better than nothing, but can a relatively expensive, highly technical device be justified on that basis? And might there be a better way to do the job?

The carmakers used all the arguments. They ran ads stressing the possible risk of bags ("Imagine driving along at sixty miles per hours and suddenly having an enormous pillow thrust in your face"). They also sought review of the mandate in the Federal Court of Appeals on grounds that the test dummies used to simulate car occupants had serious flaws, and that the Department of Transportation had exceeded its authority. Henry Ford II called air bags "a bunch of baloney," and tried through private persuasion to get the Nixon Administration to ease up.

Ford's message got through, resulting in the next big shift in the air bag's fortunes. Nixon aides pressured Volpe to postpone the passive-restraint order and instead require Detroit to install ignition interlocks—cars couldn't start until seat belts were fastened. The interlock was a fiasco. Car owners hated the quirky system, and within thirteen months, Congress legislated it out of existence.

The air bag also went into retreat. The court ruled in favor of the automakers on the issue of the test dummies (they had to be redesigned), though it did uphold the government's right to make such rules. Research continued at a low level. General Motors was the most active company—President Edward N. Cole was an air-bag believer and personally held one of the patents. G.M. offered bags as an option on several lines of cars through the 1976 model year, and ultimately sold about 10,000. Eaton stayed in, with a reduced staff, until the Coleman test program was superseded by the new mandate from Brock Adams.

Looking back, Eaton executives think that if Volpe had not mandated passive restraints in 1971, air bags would by now be widely used. "It's what we call the natural law of product development," says Marshall Wright, Eaton's vice president for public affairs. "Every technical development in the auto industry, from automatic transmission to cruise control, has had a long lead time. The industry gets a chance to work out the problems and people can learn to appreciate the new product." By pushing so hard, Wright believes, the government produced an industry backlash that confused the consumers.

BAD-MOUTH OVER THE CB NETWORK

Eaton's decision to drop out of air bags was heavily influenced by its experience with another safety product it had developed, the anti-skid truck brake. This device used a minicomputer to apply air brakes in a rapidly pulsating manner—much like a motorist pumping his brakes on ice, only a lot faster—so the wheels wouldn't lock and throw a trailer truck into a jackknife. Truck drivers, convinced that the pulses lengthened a truck's stopping distance, immediately turned against it. Recalls Wright: "Drivers told us, sure the truck will skid when the wheels lock in a panic stop, but we know how to handle that. At least when that trailer starts to jackknife, we know where it's going."

The bad-mouth went out over the CB network. Every accident was blamed on the anti-skid brake, whether or not the truck involved had one. Eventually one truck manufacturer, PACCAR, a major buyer of Eaton's version of the brake, sued in federal appellate court to get the mandate lifted. Once again Eaton found itself in the middle, this time actually selling to a big customer who was in effect trying to eliminate the product. PACCAR won; the court voided the mandate.

Again, Eaton blames the government decision to force the device upon users prematurely. That attracted a swarm of competitors who, according to de Windt, had not done "the evaluation and testing that we spent five years on." The brakes got a quick reputation for unreliability. Had the government not required it so hurriedly after its development, Eaton officials believe, the bugs would have been worked out and in time truckers would have accepted the brakes after gradually learning of its virtues. The competition also squeezed prices so much, Eaton says, that it had no hope of covering costs of manufacture, let alone development. Eventually, the company took a 12-cents-a-share write-off for the whole brake project.

For Eaton, the brake episode showed yet another way a mandated market could go awry. The air bag had been delayed by backtracking at the Department of Transportation. The ignition interlock had been struck down by act of Congress. Now a promising market Eaton had developed itself suddenly evaporated with a ruling in a federal courtroom.

The companies still in the air-bag business have accepted such risks, though with the exception of Talley Industries' which has spent about $8 million on development, they do not have the heavy investment to recover that Eaton had. The others are Thiokol Corp. and the Hamill division of Firestone, which is using, under license, Rocket Research. The auto companies, apparently trying to keep as many suppliers as possible in the business, have split the market up between the three. Talley will make steering-wheel units for G.M., Ford, and Chrysler. Hamill will make passenger-side units for all three. Thiokol has contracts to supply both types of units to G.M. American Motors has yet to move, but its purchases wouldn't be big enough to upset the balance among the three suppliers.

The situation looks better for air bags than at any time in the past. The automakers are going all-out to meet the standards. They are pushing research and feel that the second- and third-generation air bags that finally appear in cars toward the mid-Eighties will solve most of the system's shortcomings.

UNCERTAINTY LINGERS ON

There are still a few potholes in the road ahead, however. Aside from the nagging matter of liability, environmentalists have raised questions about what happens to the air-bag propellant, highly toxic sodium azide, when a car is junked. Joan Claybrook thinks it will be possible to solve this problem by requiring that the air bags be triggered, releasing harmless nitrogen, before a car is put into a crusher.

But two longtime air-bag opponents in Congress watchers in Joan Claybrook's of-Pennsylvania and Representative George Hansen of Idaho, have sponsored resolutions that would have the effect of overturning the passive-restraint mandate. Congress watchers in Joan Claybrook's office don't think either resolution has much of a chance. But Shuster, who is the ranking minority member of the House Surface Transportation Subcommittee, did get an amendment tacked on last year's Department of Transportation appropriations bill prohibiting the spending of any money for mandate enforcement, and presumably he could do that again. If that happened, the departemnt would certainly be hobbled in pushing passive restraints. Such wisps of uncertainty still surrounding the air-bag market are just the kind of problem Del de Windt decided he didn't want to deal with anymore.●

THE DEATH OF AN ABLE JURIST

● Mr. WILLIAMS. Mr. President, the death of a most able jurist and fine gentleman is cause for mourning and so it is with particular sorrow that I call my colleagues' attention to the death of the Honorable George A. Barlow, Chief U.S. District Court Judge for New Jersey.

Judge Barlow had a great deal more than a scrupulously objective view of the law—he also had a sense of compassion and fairness that helped make our Nation's legal system a symbol of justice and enlightenment.

All of us in this Chamber know what an important role the district court plays in defining the scope and authority of the laws we pass. In many cases over many years, the district courts of the Nation have helped develop the boundaries of legal decisions which touch the lives of millions of Americans.

For this reason, we are blessed indeed to have had the service of someone with the credentials, ability, and knowledge of Judge Barlow.

He was named the chief of the Federal bench in New Jersey last May following a career that was marked with difficult decisions in many controversial matters. A graduate of Dartmouth College and Rutgers University Law School, George Barlow was appointed to a Federal judgeship in 1970. Prior to being named to the bench, he served as a State superior court judge for 4 years and as Mercer County, N.J., district court judge from 1963 to 1966. In his 9 years on the Federal bench, only two of his decisions were ever overturned by the Third Circuit Court of Appeals, a record which reflects his zealous protection of fairness and his astute reckoning with the complexities of law.

Judge Barlow was born in Trenton, N.J., and resided with his wife and son in Ewing, N.J. I am pleased to note that the fine legal tradition of Judge Barlow helped sustain will be carried on in his own family through one of his two daughters, Lisa, who is an assistant U.S. attorney in Newark.

Judge Barlow's sudden passing is one we mark with great sadness and the sympathy we feel for his fine family runs most deep.●

TRIBUTE TO DEWEY BARTLETT

● Mr. PERCY. Mr. President, the Bartlett family, the people of Oklahoma and the citizens of this great Nation have suffered a great loss in the death of Senator Dewey Bartlett. The strength of America is personified in such individuals.

Few Americans serve their country to the extent and devotion that Dewey Bartlett did. He did it because he truly believed in our country. As a U.S. Marine Corp captain, he was rewarded for his leadership and courage. After a successful career in farming and business he was elected to the State legislature in Oklahoma. Subsequently, he was elected Governor of Oklahoma as only the second Republican to hold this office in the State's history.

I first met him when he came to the U.S. Senate in 1972. He always worked hard and made significant contributions especially in the fields of energy and national defense. Even in the final days of his debilitating illness, he was always present during the long hours the Senate spent at the close of last year's session. This fact alone exemplifies his perseverance and dedication to serving the people he cared most about.

Although Dewey Bartlett and I were sometimes on opposing sides of issues, we became very close friends. We agreed to disagree. I always found our candid discussions on issues which represented differing viewpoints, very enlightening. And I will miss that perspective he provided me.

I shared with Dewey Bartlett another bond that many of us in the Senate hold dear—the weekly Senate prayer breakfast meeting. It is a remarkable group in which we share our great faith that man is very limited in what he can contribute if he does not seek guidance and power from his Creator. Even though many of us have differences in approach to religion, we hold in common our trust in God and live and serve in a Nation under God.

In the prayer breakfast meetings, we had the opportunity to better know his qualities and characteristics, which his close personal friends back home had always known. And his spirit will endure in the Senators' prayer breakfast group in an unforgettable way.

Dewey Bartlett had strong beliefs and strong convictions he applied to his work in the Senate. He possessed an indefatigable zest for life and sense of humor that never failed him. He carried those rare qualities with him as he faced his personal health crisis.

We all take note today of the passing of a truly distinguished colleague who served his State well, who served his Nation well, and who was one of the most loyal friends that we will be privileged to have in our lifetimes.

He will be sorely missed.

SPECIAL ORDERS FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, the following Senators be recognized each for not to exceed 15 minutes, not necessarily in the order that they are named, but leaving them some flexibility at that time:

Messrs. Metzenbaum, DeConcini, Bumpers, McGovern, Durkin, Riegle, Tsongas, Jackson, Nunn, Ford, Hatfield, Stevens, Moynihan, Levin, Baker, and myself, provided, further, that the first order after the leaders are recognized under the standing order be Mr. Morgan for 15 minutes, because I believe he will be probably speaking on a subject different than that which will occupy the attention of the aforementioned list of names.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—H.R. 2439

Mr. ROBERT C. BYRD. Mr. President, with respect to Calendar Order No. 40, an act to rescind certain budget authority obtained in the message of the President of January 31, there is a time agreement on that by law, but I ask unanimous consent that the time on the bill under the built-in time agreement provided in the act be reduced to 2 hours for debate and that the time on any amendment be reduced to 1 hour.

Mr. STEVENS. There is no objection, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, is there time set for that to commence now?

Mr. ROBERT C. BYRD. Yes. I am glad the distinguished acting Republican lader raised that question.

Mr. STEVENS. Is it to follow the special orders?

Mr. ROBERT C. BYRD. Mr. President, the order has already been entered that it will follow the special orders. My guess is that that would be around somewhere between 1:30 and 2 o'clock p.m.

Mr. STEVENS. I thank the Senator.

ORDER FOR PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that in the event the orders are completed prior to the hour of 2 p.m. tomorrow there be a period for morning business between that point in time and the hour of 2 p.m., and that Senators may be permitted to speak during that period for not to exceed 2 minutes and that at 2 o'clock p.m. then in that event the Senate proceed to Calendar Order No. 40.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 11 o'clock tomorrow morning.

The motion was agreed to, and at 5:55 p.m. the Senate recessed until tomorrow, Wednesday, March 14, 1979, at 11 a.m.

EXTENSIONS OF REMARKS

TRIBUTE TO RABBI MANUEL LADERMAN

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. WIRTH. Mr. Speaker, in confronting the enormous demands of this job, all of us depend to a large degree on the great expertise and wisdom in our constituencies.

Over the years, I have come to look toward one such person, Rabbi Manuel Laderman, for the kind of human advice that one cannot quantify.

For 47 years, Rabbi Laderman has led the Hebrew Educational Alliance in the Denver portion of my district, teaching his congregation the principles upon which Judaism is built and opening the eyes of the community as a whole to the deep values and moral guideposts which bind all of us in common faith. His humor, wisdom, and concern are known throughout Denver and he is widely sought out as a speaker, thinker, and counselor.

This August, Rabbi Laderman will retire from the Hebrew Educational Alliance, the only rabbi the congregation has ever known, and the only congregation he has ever had. Although all of us will feel a deep sense of loss, we also know that Rabbi Laderman will continue to speak out on the issues of the day and on the values that transcend any period or situation.

Mr. Speaker, I have here an article about Rabbi Laderman which recently ran in the Denver Post. I hope that my colleagues will take time to read about this extraordinary man and that they will join with me in wishing the rabbi a happy, healthy, and productive retirement.

The article follows:

[From the Denver Post, Mar. 9, 1979]

RABBI STARTED EARLY ON PREACHING PATH

(By Virginia Culver)

Rabbi Manuel Laderman was only 11 when he realized how much he liked to talk.

That was his age when he began preaching on the street corners of Chicago, Ill., repeating over and over his elementary school graduation speech. He thought he wanted to be a lawyer.

The rabbi, one of the best known and best-loved religious leaders in Denver, said his first speech was about patriotism. He was given $1 for each performance and bus fare by a local patriotic organization.

He said later he worried about being on the college debating team because he had been paid for those early speeches and therefore might be considered a professional. The laugh comes easily when he tells such stories on himself.

Laderman will retire at the end of August, after almost 47 years as spiritual leader of Hebrew Educational Alliance, 1555 Stuart St. He is the only rabbi the congregation has ever had and it's the only congregation he's ever had.

In 1971 Laderman wrote an open letter to his congregation, called "A Love Letter to My Congregation," for a national magazine, called Judaism, published by the American Jewish Congress.

In the article, he wrote "You took me as an Orthodox rabbi without a beard, a relatively unheard of phenomenon in the America of the 1930's, and one, which in our Denver community was looked on as something of a scandal. You accepted an English-speaking rabbi for an Orthodox congregation, when Yiddish was the usually accepted tongue of preaching and teaching." Remembering those early days, Laderman smiles and says, "It was a new congregation. I guess they didn't know any better, so they hired me."

Laderman started with the Alliance Oct. 25, 1932, when the congregation met at West Colfax Avenue and Meade Street. In 1952 the congregation moved to its present building.

In those days, the neighborhood was almost entirely Jewish and many questioned the idea of building a synagogue there because Jews were beginning to "scatter" to other parts of the city.

The Alliance, one of three Orthodox synagogues still in west Denver, is the only one with a rabbi. It reached its peak of members with 750 in 1969 and now has about 650, Laderman said. Part of the loss was due to the changing neighborhood.

Many of those who have moved, however, still come back to the Alliance for high holiday services, and they try to reconcile the problem of getting to the Sabbath services. Orthodox Jews believe they shouldn't ride on the Sabbath, so several hundred rent rooms at nearby hotels and then walk to the synagogue for holiday services. The rabbi lets members make their own decisions about the walking-riding rule.

Laderman has always felt his congregation came first. Asked by a census taker some years ago how many hours a day he worked, Laderman replied "How many hours a day are there?"

And he recalls the time a member of the congregation awakened him at 3 a.m. to tell the rabbi of a death in the family. The rabbi asked the man if he had called the undertaker.

"Oh, I couldn't call him at this hour," the man replied.

Laderman said he studied a lot as a child and was "religious child in a religious home." When he was 18 he decided he'd rather be a rabbi than a lawyer, though there were no rabbis in his family.

"I wanted the chance to convey some of the abiding values of Judaism and impress others with the beauty of the tradition," he said.

It was a decision he never regretted, though he admits he's had downs as well as ups.

On the down days he's prone to tell his synagogue staff, "Don't raise your sons to be rabbis." They remind him that his own son is a rabbi.

The Ladermans, who will continue to live at their home a few doors from the synagogue, have a son Paul, who lives in Israel, and a daughter, Mierle Ukeles, who is an artist and lives in New York. The Ladermans have six grandchildren.

Laderman, active in many civic affairs in Denver, counts as one of his accomplishments the religious school at the Alliance, where he has "taught them the love for Judaism. I love teaching," he said, adding that he still teaches in the school.

He likes counseling, too, and has found he does more and more of it. But his first love always has been preaching.

"I used to be a great thunderer about observance of the dietary laws, but I guess lately I've preached more about Israel."

His sermons are always text-oriented, based on the Bible or rabbinical writings.

He limits sermons to 20 minutes. "That's the American standard," he said, with a laugh. "Europeans are much more long-winded. I once heard the Sephardic chief rabbi of Israel speak an hour and 20 minutes. Then he told the congregation, 'I guess you're tired now.'

"The people said, politely, 'Oh no, we aren't tired.' The rabbi went on to speak for another hour and a half," recalled Laderman.

One thing concerning the rabbi about the future is surviving a non-speaking role. "I've been a good listener, too, but whether I can do that over the long stretch I don't know. I've always viewed everything as a possible speech idea."

In his letter to the congregation, Laderman thanked the members for their continuing support.

"Every clergyman sometimes goes off the deep end," he wrote. "He gets himself into a trap of thinking that all the wisdom in the world is his and, despite every kind of friendly caution and counsel, insists on making a public pronouncement for which a public pronouncement for which later he would, as the phrase has it, have bitten his tongue.

"I am no exception, I have said things from the pulpit which drew large attention from a wide audience, far beyond the walls of the synagogue in which they were uttered, because of their sensational nature. There have been a number of occasions in which the wrath of many was poured out on me. People were outraged and the demands for my scalp were many," he wrote.

Laderman said he was referring to a speech he made at the beginning of World War II. "I had some hesitation that Poland never was friendly to Jews. It was picked up by a Denver newspaper and the rabbi was heavily criticized by many persons. But, as he wrote in the letter to his members, 'you refused to countenance any of the suggestions that were universally made that I had overstayed my welcome'."

Though Orthodox, Laderman has made some waves with what some considered too many and too liberal changes in synagogue life.

The absence of the beard was the first notice of that. Another early confrontation was whether to allow fraternizing between the sexes at social functions.

As with all Orthodox synagogues, at Alliance, men and women still sit separately in services, but Laderman thought they should be allowed to be together during synagogue social functions and even to dance together. Many Orthodox "would still frown on that," he said.

He has allowed women to speak from the pulpit "which the pious or more right-wing members haven't liked." A woman is a vice president of the synagogue, also unusual in Orthodoxy.

Laderman, a native of New York City, earned his bachelor's degree from the Lewis Institute of Technology, Chicago, did graduate study at the Divinity School of the University of Chicago and earned his doctorate

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

in Old Testament from Iliff School of Theology, Denver.

As far as he knows, he is only one of two Jews ever to get a degree from Iliff, a United Methodist-related school, and the only doctoral graduate in Iliff's history.

He has served as president of the Adult Education Council, on the board of the Denver Symphony Society, chairman of the Denver Board of Health and Hospitals, regional vice president of the Religious Zionist Organization of America, on the board of American Medical Center, lecturer at Hebrew Theological College, European director of religious activities for the American Jewish Joint Distribution Committee from 1948–1949; member of Society of Biblical Literature, on the Colorado advisory committee of the Federal Civil Rights Commission, on the rabbinical Advisory committee of the United Jewish Appeal, vice president of Federated Council of Israel Institutions and visiting professor of religion at the University of Denver.

He has won numerous civic and religious awards including the 1970 Brotherhood Award for the Rocky Mountain region, National Conference of Christians and Jews.

Laderman is often called "the dean of Denver rabbis," but he laughs at that, saying, "They only say that because I'm the oldest."

But religious leaders of different faiths believe he is the dean.

The Most Rev. George R. Evans, auxiliary bishop of the Denver Roman Catholic Archdiocese, called Laderman "Mr. Rabbi in Denver. He has the respect and reverence of the total community, and he's beloved by his people. He's just a super man."

Rabbi Stanley Wagner, leader of B. M. H. Synagogue, said Laderman "has made a significant contribution in preserving the traditional spiritual tone of the Denver Jewish community. He has represented Orthodoxy vigorously and wholesomely, imbuing generations with a love of Torah ideals."

Rabbi Earl Stone, leader of Temple Emanuel, a Reform temple at 51 Grape St., said Laderman's "eloquence and learning have inspired all of us. His gracious spirit and ecumenism have brought all religious groups closer together in a community of mutual respect and reverence for each other's beliefs. It has been my personal privilege to have worked with him as a friend and colleague for 23 years."

The rabbi is pleased with improved ecumenical relations in Denver during his stay here. "There is a certain ease with the participants. It's not stiff and formal."

Such ease was shown when Archbishop James V. Casey moved to Denver just over 10 years ago.

A golfer, Laderman decided to ask the archbishop to join him and some friends in a game.

The friends were Harold Cook, deputy mayor, and the late Judge Charles Rosenbaum.

"I guess my friends expected the archbishop to show up on the golf course in his mitre and cross," recalled Laderman.

"I had the feeling all the way through the game that they didn't believe he was really the archbishop because he showed up in a kind of disreputable-looking sweater."

Laderman, who will retire just after his 70th birthday, plans to go with his wife to Israel for the Rosh Hashanah holiday, believing the new rabbi at the Alliance "won't need me hanging over his neck."

He also plans to finish his book, "Letters of Faith," a series of essays to imaginary people.

He hopes to continue work on a translation of a 13th century middrash, or commentary on the Bible. He's been working on the monumental task for 20 years.

And he will always keep a keen eye on Jewish activities and progression in Denver, as well as its problems.

As he said in the letter to members, "Every life I have been privileged to touch, every mind that I have been allowed to enter, every experience of Jewish beauty which I have been permitted to enhance, every area of comfort which I have been privileged to assist, has brought me experiences more enriching than any that I have conferred. I am grateful that it was given to me to serve, to lead, to be helped, and to be loved by so many of you."●

ACT TO COMBAT INTERNATIONAL TERRORISM

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. MOAKLEY. Mr. Speaker, I wish to express my concern over the serious threat international terrorism poses to Americans around the world. Pending before Congress is legislation H.R. 2441 of which I am a cosponsor, which attempts to resolve this problem.

This bill provides the President with the necessary power to deal with international terrorism and to work toward closer international cooperation to combat terrorism.

Terrorists have repeatedly shown their ruthlessness and willingness to kill innocent individuals. This problem most assuredly will continue to escalate due to the current political unrest and turmoil around the world in industrialized, developing, and Third World nations. Due to the easy accessability of weapons, a communications network that broadcasts terrorist actions and causes, and the willingness of some nations to harbor these terrorists, terrorism has become a serious threat to the existing international order.

Some steps have to be taken to prevent the frequent occurrence of terrorist acts. One way is to take punitive action against those countries which grant asylum to these terrorists. H.R. 2411 provides for economic sanctions against nations that shield terrorists from prosecution.

First, the President can halt all assistance under the Foreign Assistance Act of 1961 to any of these countries. Second, the President can stop sale of defense articles, services, or extend credit under the Arms Export Control Act. Once these nations have ceased supporting these terrorists, the President may suspend these economic sanctions.

Air piracy and sabotage have become common terrorist acts in many countries. Thousands of American tourists and businessmen travel through these countries in which these terrorist attacks occur frequently. The United States must somehow assure the safety of these Americans traveling abroad. But how can this be done when some foreign airports are ill equipped to prevent terrorist acts?

Under the provisions of this bill, the Secretary of Transportation shall assess the security measures taken at foreign airports used for air service to the United States. If an airport does not meet the specified requirements established by the Convention on International Civil Aviation, the Secretary shall notify the foreign government of the problem in their security systems and make recommendations to eliminate these problems. If required, the Secretary can provide the technical assistance needed to alleviate any problems in the security system.

Mr. Speaker, this is the strong legislation we need to combat international terrorism. I fully support this bill and will do my best to see it enacted.●

A NEW INITIATIVE TO COMBAT DOMESTIC VIOLENCE

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. BARNES. Mr. Speaker, I am proud to join as an original cosponsor of the Domestic Violence Prevention and Services Act introduced today by my distinguished colleagues, George Miller of California, Barbara Mikulski of Maryland and Lindy Boggs of Louisiana. Their bold initiative in sponsoring related legislation during the 95th Congress helped focus public attention on a major problem that has often been considered too embarrassing or too personal to receive the national scrutiny it deserves. Serious consideration of the scope of domestic violence in this country and planning to help both the victims and the perpetrators are long overdue.

The Domestic Violence Prevention and Services Act would authorize $15 million in fiscal 1980, $20 million in fiscal 1981, and $30 million in fiscal 1982 to establish grants to local communities and foster national and State planning and coordination of domestic violence assistance programs. The bulk of the funding—75 percent—would be distributed in grants to community-based programs and local public agencies. The emphasis on individual communities is a key strength of the bill, since it focuses funding where it can do the most good and where there is the greatest opportunity for participation by the general public. In many communities—including my own constituency in Montgomery County, Md.—shelters, hotlines and related programs already exist. These services need help in order to become self-sustaining.

The remaining funding would accomplish two purposes. First, States would be encouraged to develop long-term plans to combat domestic violence, including changes in the criminal justice system, social service delivery and public education. I believe it is essential that local programs not operate in a vacuum. They should have support and coordination from other levels of government. Second, a national clearinghouse of information and technical assistance on domestic violence would be established in the Department of Health, Education, and Welfare to help focus continuing national attention on this problem.

Mr. Speaker, this bill will be one of my major legislative concerns in this Congress. The cost of the bill is modest compared to the serious human suffering it would alleviate, and I urge all of my colleagues to give it their support.●

UNDERCUTTING FOREIGN POLICY INITIATIVES

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. FINDLEY. Mr. Speaker, recent off-the-record statements to the media by administration, Department of Defense, and Department of State officials are undercutting U.S. foreign policy initiatives. In these statements, the United States is often portrayed as ineffective, weak, and vacillating. Often, this "gut-spilling" to the press contradicts official U.S statements and undermines our foreign policy.

I have expressed my concern regarding this matter in a letter to the Secretary of State. I am introducing this letter into the RECORD for the information of my colleagues who might also share my concerns.

HOUSE OF REPRESENTATIVES,
Washington, D.C., February 28, 1979.

Hon. CYRUS VANCE,
Secretary of State,
U.S. Department of State,
Washington, D.C.

DEAR MR. SECRETARY: In a January 17, 1979 hearing held by the Subcommittee on Europe and the Middle East, I strongly protested to the witness, Assistant Secretary of State Harold Saunders, the nature and tone of comments by State Department officials to the U.S. news media on the situation in Iran. These comments, I felt, undercut U.S. policy in Iran.

One quotation to which I referred was contained in a January 12, 1979 New York Times article by Bernard Gwertzman. The article covered a statement made by you, Mr. Secretary, outlining U.S. policy. You stated that the Shah would soon leave Iran for a vacation, that the United States endorsed this decision, and that the United States would continue to work with the Shah in his capacity as head of state. Mr. Gwertzman noted that privately, however, U.S. officials acknowledged that if the Shah left the country, it would be very difficult for him to return given the widespread opposition to his rule. According to Mr. Gwertzman, U.S. officials were reluctant to be viewed as describing the Shah's departure as permanent for fear that he would not leave if he felt he had no chance to return. Thus, while you were giving one signal, State Department officials were giving out contrary signals that directly undercut you and U.S. foreign policy. These quotes and others had a detrimental effect on the U.S. ability to achieve its foreign policy objectives.

Unfortunately, off-the-record comments given by State Department officials which undercut U.S. foreign policy have continued to appear in the U.S. press over the past month.

In a Richard Burt article appearing in the January 29, 1979 edition of the New York Times, a high-ranking intelligence aide in the State Department is quoted as saying: "The United States 'can no longer just bludgeon its way into situations.'

"'As our relative power declines,' the aide said, 'we must learn, like the British did years ago, to become more discriminating, alert, and skilled in political intelligence.'"

Painting a picture of a United States in decline and bludgeoning its way into situations is not likely to generate respect where we need it or support for U.S. policies. It gives notice to potential adversaries that we consider ourselves weak and unable to influence events wherever. It, thus, cedes in advance options and policies the United States might otherwise pursue.

Mr. Secretary, I hope that you will take immediate steps to convince State Department officials that they should not undercut U.S. policy through injudicious statements to the media nor should they portray this country as a floundering giant lest they and others come to believe it.

Sincerely,

PAUL FINDLEY,
Representative in Congress.●

HEALTH INITIATIVES

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. BROYHILL. Mr. Speaker, the fifth and final report of my series of summaries on the U.S. Chamber of Commerce's Health/Action kits is entitled, "How Businesses Can Improve Health Planning and Regulation." I hope that these report summaries will be useful to my colleagues as they consider the numerous health initiatives in the Congress. I would encourage my colleagues to obtain the complete set of the Health/Action kits and to carefully review the contents. I believe the information contained in these reports will be extremely valuable to you in your consideration of legislation involving hospital cost control, national health insurance, health planning, or any of the health bills expected for consideration in the 96th Congress:

HOW BUSINESS CAN IMPROVE HEALTH PLANNING AND REGULATION

The other four reports in the National Health Care Strategy series primarily identify health cost problems and recommend solutions that employers can implement to help them contain their own health-related costs and improve the health of their employees and dependents. This report examines ways employers can participate in, or influence methods of, containing overall health costs in their communities.

"How Business Interacts with the Health Care System" shows that there are three options for improving America's health care system: (1) allow free market forces to operate within the health care system without any government intervention; (2) heavily regulate the health industry with price controls and supply restrictions; or (3) develop a combination of the two—market incentives with complementary regulations. The third option appears to be the most realistic approach, both as a practical and political matter. The report recommends how business can achieve this objective.

"How Business Can Stimulate a Competitive Health Care System" reveals that competition is not so effective in the health care industry as it is in other parts of the economy. Federal and (in some cases) state government reaction to this situation has been to impose extensive controls on the health system. For example, the health industry was the last sector of the economy to be released from the Economic Stabilization Act of the early 1970s. In addition, the American Hospital Association reports that some 600 regulations issued by HEW in 1977 were aimed at the health industry.

These types of regulations were designed to improve the integrity of the health system and lower costs. However, fraud and abuse remain and costs continue to rise. For example, HEW has admitted that as much as $2 billion is spent annually by Medicaid on unnecessary surgery; and, in New York State, as much as 25 percent of annual hospital operating expenses go toward complying with government regulations—more than $1 billion, which adds $40 to every patient's bill.

Until the recent formation of the Voluntary Hospital Cost Containment Program (Voluntary Effort)—an organization of medical, hospital, and insurance associations—the absence of successful voluntary attempts to contain costs through more competition and self-imposed restraints has been used to justify increased regulation of the health industry. But alternatives exist which can be implemented through private action. One of these alternatives is local health planning, an activity which, ideally, analyzes the health care situation and recommends methods for improvement.

Yet, one of the major controversies surrounding planning and regulations is: Where does one end and the other begin? For example, the 1974 Health Planning and Resources Development Act (P.L. 93–641) provides funds to health planning agencies to conduct health resource assessments and prepare short and long-range plans for system improvement. However, the law also mandates that each state establish a Certificate-of-Need process, conduct a project (capital expenditure) review, and experiment with rate-setting programs—all regulatory activities.

This strategy report includes a special section which debates the pros and cons of planning and regulation in the health care field.

HEALTH PLANNING

Perhaps the major significance of health planning to business is that it concentrates on improving health and containing costs throughout the community, not just through the workplace. With this larger perspective and constituency, employers serving on planning bodies need to be sensitive to health needs which may not apply to their operation alone. Thus, employers participating in health planning can provide a service both to their company and the public.

Public Planning includes service on one of over 200 Health Systems Agencies and 50 State Health Coordinating Councils located throughout the country. These federally funded bodies are staffed and guided by representatives who, for the most part, recommend solutions to health problems, primarily by analyzing the health status of the community and recommending methods of developing resources to improve the system.

Private Planning includes service on local study groups which examine the community's health status and recommend solutions to these problems, often with a major role for business. The activities and members of public and private groups may overlap, which is desirable since their goals should be similar: improved health at reasonable cost.

Another example of private health planning includes service on the boards of hospitals, nursing homes, and health maintenance organizations. The American Hospital Association reports that over 42 percent of all members of hospital governing boards are classified as business persons. Clearly, employers are well represented on these bodies. But, are they making the same types of management decisions for hospitals as they are for their own firms?

HEALTH REGULATION

General. Health providers, such as doctors, hospitals, and nursing homes, must deal with a variety of regulations affecting employment-related laws (e.g., ERISA and OSHA), tax laws, and laws protecting the public safety and well-being. Also, health regulations encompass federal and state drug laws, licensure, accreditation, and medical practice acts. Health insurance companies are regulated by state commissions which approve their rates.

Cost Containment. Regulatory activities which deal specifically with cost containment include capital expenditure review, utilization review, and reimbursement control. These activities appear to be saving money. But money saved in one area may be spent in another activity, so that total costs may not necessarily have been contained.

A two-phased approach is recommended for implementing an action plan concerned with health planning and regulation. In both phases, local and state chambers of commerce can be helpful in identifying the key persons involved in these activities and recommending the best ways to establish contact and work with them.

Phase I: Information gathering

Identify specific opportunities for involvement that exist in your area and the status of current regulation. The first phase would also allow you to consider the extent and effectiveness of your current health involvement.

A checklist is provided to help you implement Phase I of the action plan.

Phase II: Active participation

After Phase I, decide if you wish to:

Participate in public health planning agencies, such as Health Systems Agencies and State Health Coordinating Councils. (A directory of these bodies is provided in the strategy report.)

Improve private health planning by serving on health-related boards,* voluntary committees, or commissions, or forming a coalition of providers and consumers of health care.

Influence (or even help prepare) legislation which promotes competition in the health care area to contain costs but maintain quality care.

Again, a checklist is provided to assist you in implementing Phase II.

Public Planning. Participating in public planning should be motivated both by self-interest, since health-related benefits are becoming so costly, and by community interest, since many planning decisions affect the local public.

Gaining membership on HSA boards may be difficult, but your voice of experience can still be heard at the HSA's public meetings. In any event, perhaps the best representative on these boards or at these meetings is your employee benefits director or someone with a similar title or responsibilities.

Private Planning. Private planning can best be initiated through a consortium of leaders representing business, labor, health insurers, doctors, and hospitals. Again, your local chamber of commerce can be helpful in organizing these groups and providing a forum for discussion.

Legislation. As the major private purchaser of health care in the country, business assumes the role of consumer in the health care community. As such, it should express its views on health legislation, especially on bills establishing programs that it will be required to finance through direct contributions to private health plans or through taxes for public health programs. In short, business should monitor, comment on, and evaluate health legislation so that it promotes competition, contains costs, and maintains quality care.

Legislative action can be taken at the local, state, regional, or national level by an individual, a single company, a group of companies, or through your chambers of commerce and other business or community organizations.

Moreover, if your legislature is not passing laws you consider effective, work with other businesses and interested parties to develop your own proposals for containing costs and improving health and have them introduced into your state legislatures by lawmakers who support your positions. The Michigan Cost Containment Coalition is a good example of this activity.

The strategy report says that "there appears to be a general agreement . . . that HSA membership (public health planning) is worthwhile for companies and that some of the problems of participation (e.g., visible return on investment) would be eased if there were more business representation on HSA boards."

However, "your business should not view HSA board membership as a quick way to bring down health care costs, but as a way to improve the quality and hold down the long-range costs in your community's health care system. Effective involvement on the boards also has the potential to help contain your firm's health care costs."

Regulations should only be imposed as a last resort, because most regulation tends to reward inefficiency and penalize efficiency, inhibit competition, and distort the supply of and demand for health services.●

FAULTY AMENDMENT

HON. DAN QUAYLE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. QUAYLE. Mr. Speaker, soon the Senate will be considering an amendment to provide for election of President by direct vote. The Fort Wayne News-Sentinel published an editorial March 2, 1979 concerning this matter which I would like to bring to the attention of my colleagues:

FAULTY AMENDMENT

Another Birch Bayh Amendment—this one to elect presidents by direct vote—is expected to come up for Senate passage next month.

The issue is hardly new. For more than 100 years various political groups have been trying to do away with the state-based electoral college. Senator Bayh has been trying to get some action on his amendment to the Constitution for more than 10 years. Finally, this year, he has managed to get Majority Leader Robert Byrd of West Virginia to commit himself to the bringing out of Bayh's amendment for a floor vote in the Senate.

Ever since Abraham Lincoln was elected president with some 39 percent of the popular vote (but an electoral college majority), Democrats particularly have periodically sought to change the constitution regarding the presidential election process. Lincoln, of course, was a Republican. Others have been elected without clear majorities, including Rutherford B. Hayes, Benjamin Harrison, Woodrow Wilson and additional members of both parties.

As for the general public, polls consistently show a majority of people favor the direct vote for president. But the question tends to be over simplified. Even Bayh's amendment would require only a 40 percent margin of the total vote in order to elect. And in the event no candidate received at least 40 percent, the top two nominees would engage in a run-off election to see who received the most. The Bayh amendment has a hidden fault in that it leaves it up to Congress to decide the date of the run-off election—meaning U.S. presidential elections could drag on in political manipulations and uncertainty.

Presidential nominees would still be chosen by the political parties at national conventions. Many people will remember 1972 when the Democratic voters had George McGovern forced on them as a choice, even though he wasn't the top Democratic choice in the primaries. It sounds great to have every vote count the same in the presidential election; but if the real popular candidates are lost in conventions, the choice in the November election may be an empty one.

Some constitutionalists say the president is president of the United States, not the president of the people. The idea being the people in each state choose their favorite, and through electors cast all their vote for him. That state-based political power was what the framers had in mind at the beginning. It has worked fairly well for 200 years. But Birch Bayh knows better.●

TAXPAYER FINANCING OF GENERAL ELECTION CAMPAIGNS FOR THE HOUSE OF REPRESENTATIVES

HON. SAMUEL L. DEVINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. DEVINE. Mr. Speaker, this week the Committee on House Administration will begin hearings on H.R. 1, Taxpayer Financing of General Election Campaigns for the House of Representatives.

I would like to share with my colleagues an article from the Columbus Dispatch which expresses some of the concerns the American taxpayers have with this legislation:

ELECTION SUBSIDY PLAN SETS POOR EXAMPLE

In his State of the Union message President Carter prescribed using federal funds to help finance congressional elections. This approach, he said, would revive public faith in the electoral process.

Although we applauded the president's determination to battle inflation, we do not share his enthusiasm for taxpayer subsidies to politicians. This is the wrong idea at the wrong time.

Diverting federal revenue to campaign financing sets a bad example and contradicts the president's call for austerity in national government.

There are more fundamental objections to the proposed system of limited federal financing. For one thing the scheme further alters the American political system in a way that authors of the Constitution did not intend.

Former U.S. Sen. Eugene McCarthy asserts that the concept of public financing violates the tradition of voters deciding whom they will support and thus limits the right to organize for political purposes. It creates a "closed political system" in which Democratic and Republican candidates qualify for federal support, and candidates of smaller parties do not.

Mr. McCarthy's criticisms deserve some attention. He was an early victim of public financing. During the 1976 election, when taxpayer subsidies went to President Gerald Ford and former Governor Jimmy Carter, the major party nominees, Mr. McCarthy could not qualify for federal funds. He was unable to wage a national campaign.

At the congresisonal level there are other dangers in public financing. For one thing it would help insulate members of Congress from the need to raise local contributions and gain party support. The likely result a further deterioration of responsible party government in Congress.

Finally, the plan for limited public financing is actually a job-insurance program for current officeholders. They would limit both the income and expenditures of potential challengers as well as themselves. To defeat an incumbent, it is often necessary for a challenger to spend considerably more to establish name recognition. Any plan restricting expenditures is inherently weighted in favor of officeholders.

The way to improve public confidence in government is not to shelter incumbents with federal subsidies and government red tape. Rather, it is to keep the system open to all candidates and ideas.●

TECHNOLOGICAL INNOVATIONS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. LAGOMARSINO. Mr. Speaker, the contribution which the United States has made to the advancement of technological developments is unsurpassed in world history. The following article by John W. Hanley warns, however, that the climate for such technological innovations is quickly changing. Mr. Hanley serves as the chairman of the board and president of Monsanto Co.

The article follows:

THE CAN-DO SPIRIT

(By John W. Hanley)

I wonder where this country got the idea that scientific triumphs happen on command.

Perhaps the notion started with the Manhattan Project's remarkable success under pressure. Or maybe it was the live television broadcast of man's first step on the moon, as promised by an American President a few years earlier. From then on, the nation's attitude toward scientific progress was a matter of completing this statement: "Any society that can put a man on the moon can certainly . . ."

How do such striking successes occur? Obviously, it takes money, motivation and topnotch minds not easily discouraged and willing to work hard. But more than that, it takes a climate where scientific experimentation can flourish.

There's no doubt that innovation has an enormous impact on our life-style and standards. Edward Denison of the Brookings Institution has estimated that "advances in knowledge" were the biggest single source of national economic growth from 1929 to 1969. Data Resources, Inc., a respected economic consulting firm, has found that companies that invest heavily in research and development increase employee productivity 75 per cent faster than all manufacturers. They also create jobs 120 per cent faster while raising prices only one-fifth at fast. If innovation could be commanded, then, we would have a ready-made solution for all economic problems.

SHORT-TERM PROJECTS

In reality, industrial innovation in the U.S. has been moving in quite the opposite direction. Industry's technical resources are being moved away from long-term basic research—the kind most likely to produce innovative new knowledge—toward short-term projects to improve existing products.

This decline has allowed other nations to chip away at America's worldwide technological leadership. Technology has been a leading American export for several decades now; it helps offset imports of low-technology manufactured items, oil and other raw materials. Yet the nation's trade surplus in R&D-intensive goods has been eroding steadily for several years.

Where does all this evidence lead? To the conclusion that industrial managers are less willing today to take on the risks associated with the long-term research that brings about new products, new processes and economic strength.

Although we cannot command innovation, we can check on the prerequisites—money, motivation, minds and hard work. Above all, we should make sure the right climate is present—the right climate being one that encourages private risk-taking. Because, although the benefits of successful innovation accrue broadly to society, the risks of failure are borne privately by the innovator.

AN UNHEALTHY CLIMATE

Unfortunately, the climate for private risk-taking is not at all healthy today. The growing unwillingness to take the risks of innovation is only one indication of this. Business investment in productive new plants and equipment has been abnormally low during the past three years when compared to earlier economic recoveries. A philosophy that growth through acquisition is preferable to growth through innovation seems to prevail. Those corporations capable of generating cash tends to hold it, fearful of new investments. Small companies with innovative ideas find it difficult to find investors willing to risk their capital to bring these ideas to market.

The Federal regulatory process also chills the climate for private risk-taking. Compliance has become a staggering drain on the financial resources that might otherwise support innovation and productive investment. Economist Murray Weidenbaum, director of Washington University's Center for the Study of American Business, calculates that this compliance will cost the nation almost $100 billion in 1979 alone.

Of course, it costs money to attain our national goals of environmental, worker and consumer protection. We all know that, and we're willing to pay for purer water, cleaner air, safer products and jobs. But do the American people want to achieve 100 percent if it costs many times as much as achieving 99 percent? Unfortunately, the regulators too rarely ask that question.

Furthermore, regulation injects new uncertainties into the already risky business of innovation. Approvals can take so long that millions in sales and the competitive lead may be lost. The process can cost so much that a useful innovation meant to serve a small market can never be profitable. Worst of all, a product can be banned entirely on flimsy evidence, wiping out the fruits of innovation for both the innovator and the consumer.

Take the pharmaceutical industry. Almost everyone will agree that we must proceed with proper caution on new drugs. Yet approval in the U.S. lags so far behind other developed countries that American drug companies establish manufacturing units abroad so as not to lose out on foreign sales.

A similar situation exists in the agricultural-chemical industry. Monsanto's own Roundup herbicide was developed in 1970 after fifteen years of research. It was 1975 before the product received U.S. approval for use with any major grain crops. The company has waited three more years for approval for use with other crops. The irony is that regulation has slowed the introduction of a pesticide that is environmentally more attractive than many of those now on the market.

WHO NEEDS PESTICIDES?

Who needs agricultural chemicals anyway? Only those people around the world who would go hungry except for U.S. food exports. And those people in this country who would suffer if crops declined 30 percent and food prices went up 75 percent, which the U.S. Department of Agriculture says would happen if farmers quit using modern pesticides.

Nonetheless, it has become popular—at least within a vocal minority—to refuse to recognize the benefits that technology has bestowed on us. However, I cannot believe that the vast majority of Americans accept the notion that living safely within the means of this planet requires us to relinquish the fruits of our intelligence. We are better problem-solvers than that.

Or at least we have been throughout our history as a nation. But if we're to remain the greatest problem-solving society ever, it's high time we set about restoring the kind of climate where innovation can flourish.●

BURDENSOME "CARRYOVER BASIS" PROVISIONS OF ESTATE TAX LAWS

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. ABDNOR. Mr. Speaker, recently I brought to the attention of my colleagues the need for Congress to repeal the burdensome "carryover basis" provisions of estate tax laws which are contained in the Tax Reform Act of 1976.

As noted in my statement for the RECORD of March 7, the carryover basis is an inequitable method of taxing estate transfers of property from generation to generation. The essence of the law requires heirs to pay capital gains on false profits and on paper appreciation occurring because of inflation and before the property even came into the heir's hands.

The carryover basis provisions add even further costs and complexity to estate transfers because of the extensive recordkeeping and calculations required to arrive at the basis for every piece of property.

It was for these reasons that I have sponsored legislation, H.R. 2100, which would repeal section 2005 of the Tax Reform Act of 1976. This measure would eliminate the carryover basis provisions in favor of the taxing methods which existed prior to the adoption of the 1976 act.

With the difficult task of repealing the carryover basis looming ahead, I am extremely pleased to have received a resolution from the State Bar of South Dakota supporting H.R. 2100. I call this resolution to the attention of my colleagues and again ask their support for the repeal of this unworkable concept.

THE STATE BAR OF SOUTH DAKOTA RESOLUTION FOR REPEAL OF THE CARRYOVER BASIS PROVISIONS OF THE TAX REFORM ACT OF 1976

Whereas, the members of the South Dakota Bar have had an opportunity to analyze the provisions of the Internal Revenue Service Code dealing with the carryover basis of certain property acquired from a decedent dying after December 31, 1976, and the members of the Bar being of the opinion that these particular provisions of the Tax Reform Act of 1976 would not benefit the residents of the State of South Dakota and particularly the agricultural industry.

Now therefore, be it resolved by The State Bar of South Dakota that this organization is for the complete repeal of carryover basis and in support of HR 2100.

Be it further resolved, that the secretary of this body be directed to send a copy of this resolution to the South Dakota Legislative Delegation in Washington, D.C. and to all members of the House of Representatives and the United States Senate.●

TRIBUTE TO DAVE DAVI

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. MILLER of California. Mr. Speaker, it is with great pleasure that I rise to call the attention of the House to honor the very distinguished career of a longtime personal and family friend, Dave Davi. I have the pleasure, like so many of his close friends, of calling him "Uncle Dave," which points out the type of relationship he has with so many.

Dave Davi is a friend to all, a man who has become destined to serve his many friends and family in any way that he can, and gladly.

Born in Pittsburg, Calif., on January 20, 1920, of Italian immigrant parents, his family became well established in the then small city of Pittsburg, where so many other Italian immigrants made their home, as fishermen, carpenters, and the like. He attended local schools, and was well-known throughout the city, for his antics as much as anything else.

During World War II, Dave joined the Marine Corps, serving from July 1941 until mid-1942. He then joined the U.S. Army, and served until December 13, 1944. During this time, Dave was stationed at several bases throughout the United States.

On March 17, 1951, Dave married Helen Mercurio of a well-known Pittsburg family, and began to start his family. His oldest son, Anthony, was born on April 7, 1952, with his next son, Harry, arriving on August 28, 1954. Another son, David, was born in 1956, but died in infancy.

In 1954, Dave started working with the city of Pittsburg, at the Corporation Yard as a laborer, and worked himself up with extra courses and study, throughout the next 25 years, until he attained the position he now holds, that of senior engineering inspector.

Dave Davi is well-known through the city of Pittsburg he jokingly calls his "constituency," but this has more meaning than just being a joke. Dave is truly a person who helps all people, whether he knows them or not. It is not uncommon for Dave, while on a specific inspection project, to note some work being done improperly by a homeowner, so Dave merely knocks on the door, and explains city regulations, and gives advice. He really cares about people, and people care back.

Dave has been involved with almost every aspect of the community. He is very involved with the Italian-American community and remembers fondly the early days when Columbus Day was celebrated with gusto, with a community parade that rivaled anything in the area; the days of fishing, when so many of the Italian-Americans were fishermen by trade, and later, the days of Camp Stoneman, when the city was a bustling community helping the war effort, with their men.

As a result of Dave's interest with Italian-Americans, he was largely responsible for the revitalization of the Italian-American Club in Pittsburg. This club proudly boasts its own clubhouse, and sponsors many events for their members and the public. They also have yearly college scholarships for students of Italian-American descent. Dave has truly seen that the Italian-American is, indeed, a proud citizen.

Not only is Dave involved with the Italian-American activities, he is a stalwart in the Democratic Party in the East County, and works diligently and tirelessly in supporting those Democratic candidates that he supports. He is well-known for a hard-nose, soft-line approach, and is a joy to work with, because of his historical knowledge in the activities of the East County.

Dave is truly one who is respected by his community, his family and friends, and I personally have the highest regard for him. Throughout all his activities and interests, however, Dave is best known for not taking anything for himself, for doing for others no matter what their needs. For over 35 years, he has provided leadership and advocacy and is recognized as a person who can be counted on, regardless the job or request.

Uncle Dave is retiring from the city of Pittsburg this year, after 25 years. His achievements in developing the heritage of the Italian-American are outstanding and far reaching. He has helped his community develop and grow toward its potential, and it is our duty to honor this man, my friend, for his work and tireless effort.●

PARTICIPATION IN THE POLITICAL SYSTEM

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. BRODHEAD. Mr. Speaker, I would like to call to the attention of all Members an excerpt from an article in the Ann Arbor News of January 31, 1979. The article was written by Walt Scheider, chairman of the Washtenaw County Democratic Committee. It gives some excellent reasons why people should participate in the political system:

Our political system isn't every popular these days, at least as a participation sport. Ordinary people are nonparticipating in droves. Recently a University of Michigan psychologist told us that students these days think it's impossible to change society.

Polls say people think politicians are working for themselves and could care less about the rest of us. Watergate, Fannie Fox, payroll padding, junkets paid by lobbyists, pardon selling—these are things that are blamed.

I tend to think that these abuses, bad as they are, are drafted by the inability of our country to come out on top of our big problems—unemployment, inflation, energy crunches, nuclear terror—or to defend ourselves against the big powerful interests that take us for a ride, whether that be at the gas pump, or the pharmacy, or the hospital, or in the million public decisions made under duress in the private interest of those with more than a credit card for clout.

Never before have ordinary people been so turned off by the political system. Even in the fifties, McCarthyism was thought to be an aberration. In the seventies, though they cheered when Nixon quit, many are buying his contention that Watergate is the kind of thing that "they all do," even though only a few are caught. In the fifties, we never ceased to believe in the ultimate recovery of the system. Now, too many treat politics as a terminal case.

It's that bad. And it is very dangerous, especially because the professional participators, the lobbyists who get paid to get payoffs, are definitely not turned off to the system. They know there's nothing wrong with the system; it continues to work very well for them, and they are too often delighted to have the rest of us look the other way while we mumble that, "politics is disgusting."

My message isn't subtle. There is someone who wants you to feel hopeless and disgusted about our political institutions. And it's not anyone who has your interest in mind.

That someone is not an individual. Nor do I suggest it's an organized conspiracy. It's just the free enterprise of the political marketplace. If you say, "I don't want any part of it," rest assured someone will take you very literally.

I'm inviting you to come work with us, or with the other party; truth to tell, they need you worse than we do. If you suspect my motives, that's good, because I need watching too, and I welcome it.

If you don't feel great loyalty to any party, that's all right, too. After all, would you recommend that the political parties be left in the hands of the politically blind who are willing to leave conscience and judgment at the caucus door and work for the party right or wrong?

Because political partisanship occasionally becomes petty and self-serving, the political parties themselves have received more than their fair share of the blame for the failure of our institutions. Before you go scampering off to find some pure and untarnished nonpartisan organizations through which to do your public service, let me tell you a secret. When these pure and untarnished organizations want to do anything effective in the realm of government, they come right back to the impure and tarnished political societies.

I believe in political parties. They are the means by which we can hold accountable our many public servants whom we cannot evaluate individually. Political parties are the built-in watchdogs of majority government.

Local political party organizations are important for far more than sponsoring local campaigns and passing resolutions. They provide a screening process for new leaders. Our state and national leaders are all graduates of village, city, and county politics somewhere, sometime. If we have weak and selfish people up there, it's because some local citizens somewhere let them succeed and move on up.

And where we have good, strong, honest public officials—and we have many such—they are there also because some local constituency was sharp enough to recognize and encourage them.

I sometimes describe the political party organizations as the labor union of the average citizen who cares about the world around him or her, in which you and I by joining together can multiply our individual voices until they can be heard above the din of the demagogue and his unthinking followers, and through the thick walls of the politicians' buddy club.

If you're a person who cares, a political party needs you.●

PUBLICLY FINANCING CONGRESSIONAL ELECTIONS

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. MAGUIRE. Mr. Speaker, today I am introducing legislation, with my distinguished colleague from New York (Mr. McHugh), which will build upon the important steps Congress took in 1974 to further democratize our national election process. Five years ago, we instituted a system of financing Presidential elections which provided for a voluntary $1 tax checkoff. Under that system, spending during the Presidential election was reduced dramatically in comparison to the flood of expenditures in 1972. But more importantly the role of special interest group contributors were reduced dramatically. We must now act to deflate the role which big money plays in congressional election campaigns.

In introducing the Congressional Campaign Financing Act of 1979, we are convinced that a comprehensive public financing bill must include the following important elements.

A general spending limitation of $125,000 must be established for primary and general elections. This cap would be flexibly tied to increases in the consumer price index, and would be adjusted annually. Nevertheless, this cap will restraint the dangerous surge in campaign expenditures which has had two unfortunate and vitally important effects:

First, it has made it more and more difficult for challengers to unseat incumbents, since incumbents generally have far easier access to money than their less well-known opponents.

Second, it has tended to make the ability of a congressional candidate to raise money a primary qualification to seek office.

For any bill to effectively limit spending, there must be provisions for handling the diverse sources of campaign funding. In addition to allowing one-to-one Treasury matching, up to 50 percent of the $125,000 general limitations, candidates are permitted to raise up to 20 percent of the spending limitations for fund raising in both the primary and general elections. A $10,000 limitation is placed on the amount of support candidates can receive from national or State party organizations in the general election only, and these funds will not be publicly matched.

The inclusion of challengers of incumbents is a provision that is especially important in carrying out the intent of this act and on the basis of simple equity. It is terribly difficult for challengers to raise sufficient funds to wage competitive campaigns. Challengers can be susceptible to the limitless resources that special interest committees and individuals can offer. By electing coverage under public financing, these candidates signal to the public that meaningful debate on the issues—not cash—will decide the outcome of the election. And the public will realize that we have not attempted to "grandfather" our seats by only providing funds for ourselves.

For those candidates for election whose opponents do not accept the public's help, these spending limitations will not apply. However, these candidates will remain eligible for public financing up to the limitations in the law. Thus, the Congressional Campaign Financing Act will work to restrain spending even in those campaigns in which only one candidate accepts the public's funds.

Although these details are important, the basic issue is whether primary elections should be covered by public financing. H.R. 1, a bill which we have cosponsored, is an excellent beginning. But general elections should be the final reckoning for candidates who persevered in a free and meaningful debate, unencumbered by their accessibility to funds during primaries. If you agree that primaries and general elections must be won and not bought, I hope you will give this legislation your support.●

TRIBUTE TO LT. CDR. ROBERT GARFIELD HUGHES

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. FISHER. Mr. Speaker, I would like to pay tribute to one of this Nation's heroes, Lt. Cmdr. Robert Garfield Hughes, who died January 30 while piloting a Navy jet aircraft in a training mission off the southern California coast.

Lieutenant Commander Hughes was the son of retired Rear Adm. and Mrs. William Hughes and lived for many years on Lexington Road in Falls Church, Va. He attended Bishop O'Connell High School in Arlington and graduated in 1967 from the U.S. Military Academy. In 1968, he became a naval aviator and served with distinction in a number of aviation squadrons. He was a veteran of combat in Southeast Asia. He was awarded the Silver Star Medal for leading an attack against a large formation of enemy fighters in 1972. One of the enemy planes were destroyed, and the others driven off.

Our Nation is indebted to Lieutenant Commander Hughes and to all the men and women who risk their lives every day to maintain our combat readiness and military strength.●

POST-GOVERNMENT EMPLOYMENT LIMITS: OFFICIAL EXODUS?

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. MOORHEAD of California. Mr. Speaker, the adverse implications of the post-Government employment provisions imposed by the Ethics in Government Act are beginning to be fully understood. Last Thursday, March 8, the New York Times carried a front-page article discussing the possibility that mass resignations of certain high-level Government officials may well result from the new law. At the very least, the controversy over the "wisdom" of these provisions promises to intensify as the July 1, 1979, effective date draws near.

Earlier in this session, I introduced H.R. 2119 to amend these restrictions so as to make them more reasonable. First, by bill would repeal the 1-year blanket, "no-contact" prohibition. Second, it would modify the terms and scope of the 2-year hiatus imposed on former officials with respect to issues that generally fell under their responsibility. This is truly an important issue, impacting on the quality of Government, and one that deserves the immediate attention of the Judiciary Committee. I am hopeful that hearings will soon be undertaken by the Subcommittee on Administrative Law and that H.R. 2119 will be given active consideration.

The text of the New York Times article is inserted for the convenience of my colleagues:

SCORES MAY QUIT HIGH U.S. POSTS OVER ETHICS LAW

(By Richard D. Lyons)

WASHINGTON, March 7.—Scores of top-level Federal executives are considering resigning within the next four months to escape provisions of a new law that forbids former employees to do business with the Government for two years after leaving their public jobs.

The exact number that might take part in such an exodus is not known, but Joseph A. Califano Jr., the Secretary of Health, Education and Welfare, said today that it could be "the greatest brain drain of talent in the history of Federal service."

He said that in his department alone a dozen top people were considering resigning, including the Under Secretary and the heads of the Office of Education, the National Institute of Education, the National Institutes of Health, the National Cancer Institute and the Food and Drug Administration.

PROBLEM CALLED SERIOUS

Officials at the Departments of Defense, Energy, Transportation and Commerce, the Federal Communications Commission and the Securities and Exchange Commission said, in response to inquiries, that they considered the problem to be "serious."

However, the president of Common Cause, the public affairs lobby that supported the ethics bill, said that objections to it were being overstated and that similar laws had been found to work "very well at the state level."

The problem involves the fine print of the Federal Ethics in Government Act, which President Carter signed into law Oct. 26.

Among other things, the act states that after next July 1 supervisory and administrative personnel who leave the Government will be forbidden for two years to "aid, assist, counsel, advise or aid in representing" future employers in dealing with Federal agencies.

"The wording is so strict that I couldn't even engage in character assassination back at the Harvard faculty club," said Hale Champion, the Under Secretary of H.E.W. who joined the department from an administrative position at Harvard.

Mr. Champion said that much of his work at Harvard entailed dealings with the Federal Government in research grants, student assistance and educational support, and that it would be virtually impossible for him to divorce Federal from non-Federal affairs.

"You could live the rest of your years in the slammer if people wanted to attribute wrong motivations to what you were doing," he added.

David Cohen, president of Common Cause, took issue with this position and accused Mr. Califano and Mr. Champion of engaging in "irresponsible scare tactics."

"The whole focus is to make sure that abuses against conflict of interest don't occur," he said, but added, "I think there are a lot of people who are going to quit."

LOS ANGELES LAWYER QUITS

One who has already quit is Gerald Boltz, a lawyer in Los Angeles, who recently resigned a position with the Security and Exchange Commission in part because of the act.

"I'm not a divorce lawyer or a labor lawyer," he said. "I'm a securities lawyer and anyone who has problems in this area has problems with the Federal Government."

Mr. Boltz said that he believed the act would deter people "from going back into Government," and Mr. Califano said that he felt it would keep some professional people "from ever getting involved in Federal service at all."

Speaking at a breakfast meeting with reporters, Mr. Califano said that "the problem is so serious that it has come up at the last two Cabinet meetings." Mr. Califano, who has been in and out of Federal service himself, said that he had no plans to resign because of the new law.

He said that Harold Brown and James R. Schlesinger, the Secretaries of Defense and Energy, were "seriously concerned" about the implications of the new law because many scientists and administrators in their departments shuttled back and forth between the Federal Government and private industry and the universities, which rely heavily on Government research and development funds.

"There are a lot of rumblings around the people in the Pentagon," said one lawyer on the staff of the Defense Department's general counsel.

He and other Federal lawyers said that many people were "waiting on the sidelines" to find out the wording of the regulations that are to carry out the intent of the new law. These are being drafted by the Office of Personnel Management.

AMENDMENT IS CONSIDERED

Yet Mr. Califano insisted that regulations were insufficient in dealing with the problems posed by the new law, and that White House aides and several Congressmen were seeking to determine how the problems might be modified by an amendment.

The new law covers 15,000 people, including senior officials making more than $42,500 a year; judges, Congressmen and political appointees. Included in the new act are provisions that call for disclosure of personal assets and income.●

WATCH OUT FOR INSTANT MINORITIES

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. ASHBROOK. Mr. Speaker, 1 year from now we will be conducting the 1980 census. The upcoming census will include a new expanded set of questions regarding minorities. For some time now the Federal Government has been attempting to expand defined minority groups in a effort to justify the large array of programs it has created for them. This last weekend it was reported that a local government worker in Maryland has finally taken Federal policy to its logical extreme by changing his name to become a member of the "Spanish surname" minority group. I provide this news item to my colleagues as a cautionary note on what we may be setting in motion when our census takers fan out across the Nation:

ROBERTO LEON, INSTANT HISPANIC—ELIGIBLE FOR JOB PREFERENCE

(By Stephanie Mansfield)

A former Naval Academy classmate of President Carter recently changed his name from Robert Earl Lee to the Spanish-sounding Roberto Eduardo Leon and now is eligible—as a minority—for preferential treatment under Montgomery County's affirmative action program.

Leon, 56, a retired Navy captain who works in the county Environmental Protection Department's Pollution Control Division, legally changed his name Feb. 21 and immediately requested that he be reclassified as a member of a minority group, a change granted last week. Under county guidelines Leon's Spanish surname makes him eligible for promotion over other white males.

"He has a knack of figuring out loopholes in things," said Eric Mendelsohn, Leon's boss, "Bob, I mean Roberto, is a highly regarded professional, a little eccentric in some ways. It's nice to have a Hispanic on our staff."

Leon, a $27,857-a-year engineer, surprised the County personnel office by filing out a form requesting that his race be changed from 01, white, to 03, Hispanic.

"It's confusing, I know," he said yesterday, adding that he had been considering the name change "*de vez en cuando*" (from time to time).

Although he denied achieving minority status for job-related reasons, Leon is clearly aware of the ramifications.

"I've already applied for several jobs. I feel at ease with it as long as everyone else does," he said.

But the prospect of Leon being promoted over other white males has "raised some eyebrows" in the office, according to Mendelsohn. Says Leon, "If that's the law, that's the law. You've got to go along with it."

Mendelsohn said Leon "is the type that would probably push it"—even to the Supreme Court if necessary. "To my knowledge, he's the only one that has tried this. Now, of course, there may be more doing it if they think it's an advantage," said Mendelsohn.

The supervisor said he was not aware that Bob Lee had become Roberto Leon until he returned from a recent vacation and heard his employe "saying hello in Spanish."

Of the 35 employes in the Rockville office, two belong to minority categories—one black woman and Leon, who joined the county government in 1975.

"I was brought up in the Southwest," he explained yesterday," with lots of Spanish influence. I took Spanish in high school. And my grandfather was of Spanish origin."

Leon also said that he wants to retire in Chile and "when you live in a particular culture, you should adapt. It would be easier for me to blend in" with a Spanish surname.

The divorced father of two tells the story of Chilean folk hero Bernardo O'Higgins. "Now if he came to America, he couldn't be Hispanic. It's all very curious."

Leon's story surfaced last week in a Montgomery Journal article by staff writer Ruth Hepner.

Under the county's affirmative action program, each department must employ a certain number of members of minority groups in each job classification. As an acoustical engineer, Leon would be competing against others in the classification listed as "other professionals."

If the department is found to be underrepresented by blacks, women or other minorities, they would take precedence over equally qualified white males.

Leon's department currently is not underrepresented so he would not have an advantage over other employes. However, Mendelsohn said yesterday that Leon would not seek a promotion in his current job "because he's just about at the top" but would definitely have an advantage in seeking another appointment in some county office that does not have the required percentage of minorities.

Although the federal and some county governments have given up the "Spanish surname" designation in favor of the word "Hispanic," Montgomery County's affirmative action program defines minorities as "black, Asian-Americans, American Indian, Spanish-surnamed and other [Aleuts, Eskimo, Malaysans]."

"I haven't thought about it much," said Leon. "But I guess other people are pretty concerned about it. I've applied for jobs just like anybody else would. I'd like a new challenge."

Leon's paycheck and personnel records already reflect his new name, but he said "It takes time" to complete the formal process, including changing credit cards and identification papers.

"Fortunately, I still have the same initials. So the monogrammed towels—if I had them—wouldn't have to be changed."

Born in San Diego, Leon said his grandmother—whose maiden name was Lee—told him that his grandfather was Spanish.

Leon said he does not know Jimmy Carter "personally" but remembered him from the Naval Academy and has seen Carter "at a couple of class reunions."

Leon said his friends have taken the surprise Spanish surname in stride. "Some call me Roberto, some call me Bob. I'm very flexible." ●

FLORIDA'S VOICE OF DEMOCRACY WINNER

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. MICA. Mr. Speaker, I am very proud that this year's Florida winner of the VFW's outstanding "Voice of Democracy" competition is Miss Leslie Elizabeth Smith of Delray Beach in my district.

More than 250,000 students participated in this year's "Voice of Democracy" competition which was built around the theme, "Why I Care About America." Miss Smith's essay eloquently touched on some of the basic principles that make all Americans proud of our country and I commend her comments to my colleagues and to everyone who is concerned about the future of our participatory form of government.

The article follows:

WHY I CARE ABOUT AMERICA

(By Leslie E. Smith)

America? That's me and that's you—it's people, but it's even so much more than that. And those other elements that go to make up this nation are the same things that make me care about her as deeply as I do.

I care about America because of the principle she stands for. As George Bernard Shaw put it, "A man's country is not a certain area of land, of mountains, rivers and woods, but it is a principle; and patriotism is loyalty to that principle."

She stands for freedom. Our country is one striving for high goals. We are not looking for uniformity (where everyone is made to think the same) but for unity (where we can strive for those high goals though we differ as individuals). And I don't think freedom means, "I can do whatever I want". The way I look at freedom is as Galatians 5:13 says it: "You were not given freedom to do wrong but freedom to serve."

I care about America because of the privileges she has offered me. She gave me the liberty of being able to go to school and educate myself; she allows me to use that education to work out the destiny I choose. And it's her that gives me the right to worship God freely. In a sense I guess I could say that America has allowed me to grow—by allowing me not only the opportunity for experience, but the security of knowing I can't be punished for them.

I care, because we are not just a place on the map, not just a major world power; we have something intangible. As Woodrow Wilson said, "America is not a mere body of traders, it is a body of free men. Our greatness is built upon freedom—is moral, not material. We have a great ardor for gain, but we have a deep passion for the rights of man."

Why should I care? Well, when I think of the many men and women before me, who cared enough to give far beyond their calling in order to insure us these freedoms, rights and privileges, I feel, I have a responsibility to care; a responsibility to pass on these same liberties to those coming after me.

But, just saying I care isn't enough. With it comes the responsibility of showing I care. Being active in community affairs, voting, staying up on current events and over all striving to be the best citizen and person I can so that I may better that which is around me. It's easy to say we care, but it doesn't mean a thing without action.

Yes, I care about our nation because of the freedom she stands for; because of the opportunities she offers me and every individual; and for her deep passion for the rights of man. That is her principle.

I care because I realize "The tyranny of a prince in an oligarchy is not so dangerous to the public welfare as the apathy of a citizen in a democracy." (Montesquieu)

Only by caring can we continue to Let Freedom Ring. Only by sincerely caring ourselves, do we have the rights to say . . . God Bless America.●

AUBURN DAM PROJECT

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. JOHNSON of California. Mr. Speaker, for some time now the U.S. Bureau of Reclamation has been heading up a reexamination of plans and designs for the Auburn Dam project in northern California. After this project was started and a substantial Federal investment had already been made, an earthquake occurred not too far away in the Sierra Mountains which indicated the possibility of greater seismic activity than there had previously been reason to expect. It was decided that new seismic studies of the Auburn site should be made and that designs for the Auburn Dam should be reexamined in light of any new data, to make sure that we would be building a safe dam.

The State of California has played an important role in these studies, primarily through its department of natural resources. There have been independent analyses made by both the Federal and State agencies and consulting teams working with each.

While this exercise has produced differing analyses and differing judgments, with a certain amount of disagreement and dispute, it has recently come to my attention that there has also been "an unprecedented demonstration of State and Federal coordination."

This fact is attested in a resolution recently passed by the Seismic Safety Commission of the State of California which commends the U.S. Bureau of Reclamation for a job well-done.

So that my colleagues may know of this effort and cooperation, I respectfully request that the resolution be reprinted in the RECORD at this time.

The resolution follows:

RESOLUTION

Whereas, The United States Bureau of Reclamation was requested by the Seismic Safety Commission to cooperate and participate with agencies of the State of California in an arduous review of the seismic safety of the Auburn Dam project; and

Whereas, During the past three years, the Bureau of Reclamation has complied with that request with competence, energy, expertise, and resources; and

Whereas, The Bureau of Reclamation has provided a unique and cooperative flow of information essential to the adequate review of the Auburn Dam project; and

Whereas, As a result of the cooperative spirit displayed by the Bureau of Reclamation, the State of California's Consulting Board for Earthquake Analysis for Auburn Dam has been able to render its opinions on the earthquake safety of the dam to the Bureau of Reclamation in an unprecedented demonstration of State and Federal coordination of dam safety; now, therefore be it

Resolved, That the Seismic Safety Commission, for itself and each of its members, hereby expresses to the United States Bureau of Reclamation its sincere appreciation for a job well done; and be it further

Resolved, That a suitably inscribed copy of this Resolution be presented to the Bureau of Reclamation.●

DON FRASER ON KOREA

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. FINDLEY. Mr. Speaker, our friend and former colleague, Don Fraser, recently gave a full account of his stewardship as chairman of the Subcommittee on International Organizations during the period when he undertook an investigation of the complex relations between the United States and South Korea.

In a speech to the Korean Congress for Democracy and Unification, former Congressman Fraser explained how the investigations of his subcommittee began, the significance of the report which resulted, and how he views future relations between our two countries.

One thing that must impress even the most casual observer is the immense patriotism and the concern for humanity which motivates Don Fraser. Despite the extraordinary sacrifice which the Korean investigation required, Don Fraser undertook it willingly. At a time when political survival called him to be campaigning in Minnesota, he stayed in Washington to chair the subcommittee and insure the integrity of its work. In so doing, he sacrificed a lifetime ambition to serve in the Senate, and as a result also sacrificed a safe seat in the House. Without question, we are all poorer for his absence.

Despite his fervent concern for human rights in other countries, Don Fraser is committed to American interests above all else, a patriot of the highest order. Although he has criticized the Korean Government for some of its tactics, he has always been one of the strongest supporters of the U.S. commitment to Korea. As he states in the following piece, he is opposed to President Carter's decision to withdraw U.S. troops from Korea, for he thinks that both our countries have common interests that cannot be separated.

Text of statement follows:

REMARKS BY REP. DONALD M. FRASER, CHAIRMAN, SUBCOMMITTEE ON INTERNATIONAL ORGANIZATIONS AT A TESTIMONIAL DINNER BY THE KOREAN CONGRESS FOR DEMOCRACY AND UNIFICATION, MAYFLOWER HOTEL, WASHINGTON, D.C., DECEMBER 5, 1978

I appreciate the opportunity to be with you and share some thoughts about recent events affecting Korean-American relations. I want to keep my talk informal this evening. I will attempt to answer five questions:

1. How did I get interested in Korea?
2. Why did we start our investigation? Was it for my own political benefit?
3. What is the significance of the report of our investigations?
4. What justification is there for a member of the U.S. Congress to be concerned about domestic events in Korea?
5. What is the future of Korean American relations?

After responding to these questions I would like to respond to any questions you may have.

HOW DID I GET INTERESTED IN KOREA?

My interest arose initially out of a series of human rights hearings which I began in 1973. I decided that the time had come for a systematic inquiry into human rights and American foreign policy. In 1973 my subcommittee held fifteen hearings on human rights problems in places including Burundi, Southern Africa, Brazil, Northern Ireland, the Soviet Union, Bangladesh, and Chile. We also looked at the UN machinery for enforcing human rights standards, and we examined the status of U.S. ratifications of international conventions on human rights. We also considered human rights in armed conflicts, and the status of women. In March 1974, the subcommittee issued a report calling for increased emphasis on human rights in American foreign policy. During the balance of 1974, we continued to hold hearings on human rights problems in a number of countries. These included Chile, Israeli POW's in Syria, Africa, the Soviet Union, Brazil and South Korea.

My interest in Korea was deepened as a result of a trip which I made to Seoul early in 1975. There we spoke with a number of people who had been the subjects of repression by the government, or who were deeply concerned about it, including Kim Dae Jung, former President Yun Po Sun, former Foreign Minister Chung Il Hyung, Ms. Lee Tae Young, Rev. Kim Kwan Suk, and Ham Suk Hon. We asked to see Kim Chi Ha who was in jail but were not permitted to meet him.

Two things happened on that trip which I found especially disturbing. First, we had hoped to speak to some of the students who claimed that they had been tortured while in detention. We found that all these students were out of town, having been invited by the KCIA for a mandatory tour of the countryside while we were in Korea. Second, we scheduled a meeting at the home of one of the officers of the U.S. Embassy with some former members of the Korean Assembly who claimed they had been tortured. Upon arriving at that American official's home we were told that the KCIA was physically restraining the former assemblymen in their homes so that they could not attend. Wanting to see for ourselves, we want to the home of one of them, a former Army general who had fought in the Korean War. Sure enough, there were three or four men standing outside his front door. They apparently hadn't expected visitors and so we walked right past them into the home. I still recall the first words of that general, when he said, "This isn't the same Korea that fought together with the United States in the Korean War."

These heavy-handed efforts to prevent contact with Korean citizens bothered me. As a member of Congress, I was being asked to support sending many millions of dollars in arms to Korea, but I was not supposed to talk to people who claimed they had been tortured by the Korean Government.

So we decided to hold some additional hearings on human rights in Korea along with the hearings on the Philippines, the other country we visited during that trip.

WHY DID WE START OUR INVESTIGATION INTO KOREAN-AMERICAN RELATIONS?

In the course of the hearings on Korea, in June, 1975, Jai Hyon Lee testified. A former Korean embassy official, he outlined a nine-point plan much of it illegal which the embassy was implementing to influence U.S. policy. He said he had seen the Ambassador stuffing money into envelopes in a briefcase and then heading for Capitol Hill, presumably to make payments to members of Congress. I wrote a letter to the Attorney General requesting that the Department of Justice investigate.

At the same time, we began hearing reports about KCIA activity in the United States directed against Korean-Americans who were critical of Park Chung Hee. If these reports were true, it indicated that President Park was beginning to export his authoritarian rule to the United States.

So my subcommittee began an investigation into these allegations and held five hearings in 1976 on KCIA activity in the United States.

Then, as you recall, the newspapers began to report on the Department of Justice investigation into Tong Sun Park which apparently began early in 1976. As the allegations mushroomed and the House Ethics committee began to look into these matters, it seemed appropriate that a comprehensive examination be made of the entire range of alleged questionable activities in Korean–American relations. Early in 1977, we obtained authorization for a much larger investigation. By this time, of course, our investigation was no longer aimed at human rights issues, but at special problems growing out of the close relations between our two countries.

I make these points to show that there was no intent to single out Korea. Events led that way.

I especially want to emphasize that the investigation was not undertaken for any political benefit. At the time it began, I had no plans to run for the U.S. Senate. My decision to seek the Senate in 1978 was not made until the fall of 1977. In fact, it would have been advantageous for me had I not been involved in the investigation because it required that I come back to Washington frequently and it got the Moonies after me.

WHAT IS THE SIGNIFICANCE OF THE REPORT OF OUR INVESTIGATION?

First, the report has value because it traces the history of U.S.-Korean relations over the last several decades. It puts into context the various allegations of improper activities in the United States over the last six years. It clearly demonstrates that there was an organized ROK government effort to influence U.S. opinion in many fields.

What does it all add up to?

It is the story of an ally—one that the United States has invested more in than any other nation in both lives and money—becoming nervous about the American commitment to assist her, and later becoming even more nervous about American reaction to the dismantling of democratic institutions. This led to efforts to influence Congress, the Korean community, and the academic community partly by illegal or improper means.

It is a story about corruption.

It is a story about economic successes.

It is a story about the Moon Organization's interest in forming a world government and about the easy flow of large sums of cash and personnel across national borders and between non-profit and business ventures.

It is a story about Korea's interest in becoming a new arms supplier for other nations.

It is also a story about bureaucratic rigidity and ineptness in our own government in dealing with the first concrete proof of illegal Korean government activities.

It adds up to the need for increased vigilance in dealing with authoritarian governments which have a vested interest in U.S. policies.

It adds up to the need for increased vigor in looking at the violations of law by persons and organizations which may be serving the interests of such a nation.

It also adds up to the need to examine the consequences which may flow from adding another arms supplier in the world community.

We have referred many of these issues to the appropriate committees of Congress and the appropriate departments of the Executive Branch. It is our hope that they will vigorously follow up on the matters raised by our report.

WHAT JUSTIFICATION IS THERE FOR A MEMBER OF THE U.S. CONGRESS TO BE CONCERNED ABOUT DOMESTIC EVENTS IN KOREA?

Let me phrase the question another way. Are human rights violations in South Korea a matter of domestic concern only, so that for the United States to become concerned constitutes interference in the internal affairs of South Korea?

A few weeks ago while I was at the University of Minnesota, I met a student from Korea who is now an American citizen. He made clear his belief that I was trying, as a member of Congress concerned about Korea, to tell the Korean government how it had to run its business. It was obvious that he found this distasteful even though he said that as a student in Korea he had been opposed to the government. So this is a very real question.

One can begin to respond by pointing out that if there were no international law on the subject, the United States would have the inherent right to define its relations with another country in any way it pleases. That would include commenting upon events in other countries, and conditioning bilateral relations upon those events.

However, there are international rules, and one of them is that you do not interfere in the internal affairs of other nations. That rule is set forth in the UN Charter itself. However, if you look further at the Charter, it spells out specific rules with respect to human rights.

Article 55 says that the United Nations shall promote universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion. Then the next Article goes on to say that, "All members pledge themselves to take joint and separate action in cooperation with the organization for the achievement of the purposes set forth in Article 55."

As a legal opinion from the Department of State puts it in a memorandum submitted to our 1973 hearings: "Reflective of the recent growth of international human rights law is general agreement within the international legal community that transgressions of human rights are not matters within a state's exclusive domestic jurisdiction and accordingly, that the principle of non-intervention in internal affairs does not bar one state from taking action designed to promote respect for human rights in another."

For myself, however, the fact that the United States as a member of the international community has a right to promote universal respect for human rights does not answer the question as to how best to go about this effort, and how it's to be done so as not to injure other interests of the United States.

There can be no doubt that the government of South Korea dislikes criticism of its human rights record. Probably many of the citizens of South Korea also resent this criticism.

I believe that the principle enunciated by President Carter in his inaugural speech is the most practical way to proceed. He said that the United States should give preference to those nations which share with us an abiding respect for individual human rights. In other words, we give our most active help and support to nations which share common values with us.

This rule, if applied to South Korea, would mean a lessening of support, absent other considerations. But there are important security interests involved, so the question is much more complicated. But, I do believe that the United States has a right to be concerned about political developments in a nation we have given so much support to and with whom we have had such close relations over these many years.

WHAT IS THE FUTURE OF KOREAN-AMERICAN RELATIONS?

I do not believe that the recent investigations have seriously undermined the basic relationships between our two nations. We each have interests which compel us to work together. These interests are both economic and security. However, popular support in the U.S. for a continued commitment to the defense of South Korea with its present government may have declined. The government of South Korea is widely admired for its economic progress, but it is not admired for the authoritarian rule which it has imposed upon the people of South Korea.

I did not favor President Carter's decision to withdraw U.S. troops from South Korea at this time. I had hoped that by leaving the troops there and by vigorous, but quiet diplomacy, some progress could be made with respect to human rights. But with the withdrawal decision I fear we will only see sustained, even intensified authoritarian rule in South Korea and little leverage to encourage change.

Ultimately, of course, the big risk is to the people of South Korea. It is their country, and it is for them to determine the kind of government they want. Under present procedures they cannot express their will freely, and that could lead someday to uncontrolled events which might encourage North Korea to invade the South. That would be the ultimate tragedy for everyone.

I am especially concerned about Kim Dae Jung. His only crime was to come close to defeating President Park in the 1971 election. At the time he was kidnaped in Tokyo, he was about to begin a fellowship at Harvard University. The failure of U.S. human rights policy in Korea is dramatized by his continued detention five years later as we continue to send more arms. It would not be enough for him alone to be released, but so long as he remains a prisoner he remains an important symbol in the struggle for democracy.

Both my visit to Korea and my opportunity to work with many Koreans in the course of our investigation have left me with great admiration for the people of Korea. I want Korea to succeed both economically and politically. And, the hope for the future, as we said in our report, is "that the conflicts of today and tomorrow will give way over time to the kind of mature relationships the United States enjoys with the industrial democracies."

Thank you.●

MEDICARE SHOULD PROVIDE DRUGS

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. GONZALEZ. Mr. Speaker, in 1965, under President Lyndon Johnson, Congress enacted a medical care program for the aged under the Social Security System. It took 20 long years to have this program enacted, since it was first considered in 1945 under the Roosevelt administration. This program is known as medicare and thousands of our elderly constituents are presently enrolled in this program which has helped them pay for their hospital and doctor bills.

I strongly supported this program in 1965 and hear from many of my constituents who are grateful that they have this protection. However, in the last few years I have been receiving letters from the elderly who are having a difficult time surviving on their retirement incomes due to inflation and these elderly are asking for help to purchase the drugs that they need. Some of the elderly who contact me are living on a fixed income of between $200 and $300 a month and some have indicated that they pay as much as $100 a month for medication and doctor bills.

Unfortunately, even though these elderly are under the medicare program the program has fallen short in the area of providing drugs. Medicare does not provide coverage for drugs needed for the treatment of chronic illnesses such as hypertension, diabetes, arteriosclerosis, and others; the elderly must purchase the drugs needed to treat these illnesses out of their own pockets. In order to have medicare cover the cost of drugs the drug must be given in a hospital or administered by a physician, but the drugs needed by the elderly do not always meet that criteria. Statistics show that those over 65 purchase 25 percent of the drugs used in the United States while they constitute only 10.7 percent of the population. This age group, in fiscal 1976 expended $2.78 billion for drugs and drug sundries. Of this total 86 percent came out of the pockets of the elderly.

Because of my concern for the elderly and the fact that I know many of these senior citizens are having to dig deeper and deeper into their meager fixed incomes to pay for the medications that they need. I am reintroducing a measure that I proposed in 1977 calling for a program that would provide free drug benefits for all persons over 65, regardless of whether they qualify for medicare, medicaid or social security.

For over 10 years there has been continual support for outpatient prescription drug coverage by many national, State, and local organizations which represent the elderly, and the Senate has included such a provision in medicare legislation on several occasions but it has never prevailed through a House-Senate conference meeting.

Briefly, my measure would cover all residents of the United States over 65, and would be administered by a separate unit to be established under the Department of Health, Education, and Welfare, as the Prescription Drug Benefits Council. The Council would advise and assist the Secretary with administrative policy and long-term plans, would recommend drugs for the approved benefits list, as well as the allowable reimbursement cost for these drugs.

The measure allows for a workable timetable in order to provide enough leadtime to have the drug benefit program established, so no benefits would be available until 2 years after the bill becomes law.

The program would be financed by general revenues through the appropriations process and rational cost controls have been built into the bill.

Mr. Speaker, since I came to Congress 17 years ago I have continually supported proposals that aid the elderly including housing, nutrition, and health, but if these elderly cannot afford to purchase the medication they need to remain healthy, none of the other programs will be of any use to them.

I would hope that the House will take a serious look at the drug benefits proposal that I am offering and perhaps before this Congress is complete we will truly have a health care program that cares for all of the health needs for our senior citizens to enable them to enjoy their golden years.●

THE SOCIAL SECURITY REDUCTION ACT OF 1979

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. HARRIS. Mr. Speaker, today I am introducing the Social Security Tax Reduction Act of 1979 which is designed to reduce the burdensome social security tax on workers' salaries by approximately one-third. This bill would relieve the current tax burden on the middle-income wage earner that was imposed by the Social Security Amendments of 1977, and guarantee the solvency of the system for current and future beneficiaries.

Currently, both the employee and employer pay 6.13 percent on the first $22,900 in salary, up from 6.05 percent on the first $17,700 of income last year. In 1980, the wage base will rise to $25,900. In 1981, the law prescribes a steep increase in the tax rate to 6.65 percent, as well as another increase in the base salary to $29,700. Future increases are scheduled throughout the remainder of the century.

For 1979, 1.05 percent of the social security tax is for the medicare hospital insurance program and 0.750 percent is for the disability insurance program. My bill would remove both of these programs from the social security tax. They would be financed out of general revenues, instead of from taxes on employee's salaries and employer's budgets. Funding the disability and hospitalization programs from general revenues, derived in part from a progressive taxation system, makes more sense to me than funding them by levying a flat tax on all workers. In addition, this change is consistent with the original purpose of the social security system as established in the 1930's. Future benefits would have a clearer relationship to worker's earnings, that is, the wage earner would not be paying through social security taxes for those "nonretirement" programs from which he or she might not benefit in the future.

The Harris bill would also remove the administrative costs of the social security program from the tax rate and they would be supported by general revenues as well. Currently, the taxpayer's contribution is used to pay for all expenses of administering the program, from the paper the checks are printed on to the heating bills for HEW buildings. These costs totaled $935 million in 1976. I believe such costs should be borne by general revenues.

The Social Security Amendments of 1977 helped put the system on sounder financial ground, saving it from imminent collapse. But those amendments did not remove the regressive nature of the tax or create a fair taxing method. It particularly hurt the middle-income taxpayer and small businesses. My bill will move us closer to the goal of just taxation and relief for the average family.

COMPARISON OF THE TAX RATES IN THE HARRIS BILL WITH CURRENT LAW FOR WAGE EARNERS

Year	Wage base	Tax rates		$10,000 earner		$15,000 earner		$20,000 earner		$25,000 earner	
		Current law	Social Security Tax Reduction Act of 1979	Current law	Social Security Tax Reduction Act of 1979	Current law	Social Security Tax Reduction Act of 1979	Current law	Social Security Tax Reduction Act of 1979	Current law	Social Security Tax Reduction Act of 1979
1980	$25,900	6.13	4.30	$613	$430	$920	$645	$1,226	$860	$1,533	$1,075
1981	29,700	6.65	4.30	665	430	998	645	1,330	860	1,663	1,075
1982	31,800	6.70	4.35	670	435	1,005	653	1,340	870	1,675	1,088
1983	33,900	6.70	4.35	670	435	1,005	653	1,340	870	1,675	1,087
1984	36,000	6.70	4.35	670	435	1,005	653	1,340	870	1,675	1,087
1985	38,100	7.05	4.35	705	435	1,058	653	1,410	870	1,763	1,087
1986	40,200	7.15	4.35	715	435	1,073	653	1,430	870	1,788	1,087
1987	42,600	7.15	4.35	715	435	1,073	653	1,430	870	1,786	1,087

POSITIVE ACTION NEEDED

HON. JAMES ABDNOR

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. ABDNOR. Mr. Speaker, today I have reintroduced a bill for the relief of the Black Hills Area Council of the Boy Scouts of America.

Congressmen CHENEY and DASCHLE joined me in cosponsorship, and Senator PRESSLER is preparing an identical bill in the other Chamber.

While this measure, H.R. 9228 was tabled by the House Judiciary Committee in the 95th Congress, I believe the following correspondence and report of the Department of Agriculture will clearly establish the basis for positive action:

WASHINGTON, D.C., *September 14, 1978.*
Hon. GEORGE E. DANIELSON,
Chairman, Subcommittee on Administrative Law and Governmental Relations, Committee on the Judiciary, Cannon House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: On March 31, 1977, Chief McGuire's office informed me of their intent to reimburse the Black Hills Area Council of the Boy Scouts of America for costs incurred in upgrading a Forest Service road. The Forest Service is the dominant user of the road and had planned to upgrade it themselves, but the Scouts wished to expedite the work so that it would be completed in time for their Bicentennial jamboree in conjunction with the grand opening of their camp.

On August 25, 1977, Chief McGuire expressed to me his sincere regrets that the Forest Service had erred in that they lacked authority to reimburse the Scouts. He suggested, however, that a private relief bill be introduced and said he would recommend its enactment. On September 20, 1977, I introduced H.R. 9228 for this purpose; and on July 11, 1978, Secretary Bergland, with the concurrence of OMB, submitted to the Judiciary Committee his Department's report in support of enactment. I was, therefore, shocked and dismayed to learn the Subcommittee on Adminstrative Law and Governmental Relations has recommended that the bill be tabled.

The Subcommittee was apparently concerned that a bad precedent could be set with respect to reimbursement for roads constructed on public lands. I submit that the facts do not support this fear. First, it's true Boy Scouts—not some private profiteer—who need the reimbursement. Second, the Forest Service was going to do the work anyway, and it was done to its specifications. Third, the Boy Scouts have been led to believe they would be reimbursed. Fourth, Secretary Bergland and Chief McGuire feel reimbursement is justified and OMB agrees. Fifth, the approval of Congress is required, and there is little prospect less meritorious claims will clear all of these channels in the future.

Please do not let the interests of the Scouts fall by the wayside in the turmoil of the closing days of the session.

With best personal regards,

Sincerely,

JAMES ABDNOR,
Member of Congress.

AUGUST 1, 1978.
Hon. GEORGE E. DANIELSON,
Chairman, Subcommittee on Administration Law and Governmental Relations, House Committee on the Judiciary, Cannon House Office Building, Washington, D.C.

DEAR CHAIRMAN DANIELSON: It is my understanding H.R. 9228, to reimburse the Black Hills Area Council of the Boy Scouts, is on the Subcommittee's agenda but no specific date for action has been scheduled. As you know, the Department of Agriculture has recommended enactment, with an amendment dealing with the amount of reimbursement.

We have spoken with a representative of the Scouts and are informed USDA's report is technically correct as to the amount expended directly on the road. The work contributed by the National Guard was diverted from other tasks at the Scouts' camp, however, when the road project arose. Consequently, the Scouts incurred added indirect expenses in conjunction with these other tasks when the Guard's donated labor was diverted from its previously intended purposes.

Of course, the Scouts would appreciate the Subcommittee's consideration in providing the full $18,831.00 contained in H.R. 9228. In lieu of no action or further delays, however, the Scouts will gladly accept the $12,531.00 recommended by USDA.

I will be discussing this matter with you and hope the Subcommittee will find it possible to act on H.R. 9228 soon.

With warm personal regards,

Sincerely,

JAMES ABDNOR,
Member of Congress.

WASHINGTON, D.C., *July 11, 1978.*
Hon. PETER W. RODINO, JR.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: As you requested, here is the report of the Department of Agriculture on H.R. 9228, a bill "For the relief of the Black Hills Area Council of the Boy Scouts of America."

The Department of Agriculture would have no objection to enactment of H.R. 9228, if amended as suggested herein.

H.R. 9228 would authorize Secretary of the Treasury to reimburse the Black Hills Area Council of the Boy Scouts of America for expenses incurred in reconstructing a portion of a Forest development road on the Black Hills National Forest out of any money in the Treasury not otherwise appropriated. The road provides access to the Medicine Mountain Boy Scout Camp, Hill City, South Dakota.

The Scout Council asked the Forest Service to reconstruct the Forest development road which provides access to the Medicine Mountain Boy Scout Camp. They wanted this done by a certain date to coincide with the grand opening of the camp.

The Forest Service planned to reconstruct the road but the timing was unacceptable to the Scout Council. The Scout Council, therefore, was given permission to reconstruct the road.

Following reconstruction of the road by the Scout Council, the Forest Service indicated the Council could be reimbursed up to $10,000. The Scout Council submitted a claim for $10,000. Upon closer review of the claim the Forest Service found it was legally bound to the terms of a Special Use Permit issued to the Scouts on June 27, 1975. There was nothing in the permit that would permit the Forest Service to reimburse the Scouts for work they willingly did.

We understand that costs in the amount of $12,531 were incurred by the Scouts and contributed work by the National Guard for hauling gravel amounted to $6,300. Since the Scount Council incurred costs in the amount of $12,531, we recommend that the bill be amended by deleting the amount of $18,831 and entering the amount of $12,531.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

BOB BERGLAND,
Secretary.

AUGUST 25, 1977.

Hon. JAMES ABDNOR,
House of Representatives,
Washington, D.C.

DEAR MR. ABDNOR: Our letter to you dated March 31, 1977, regarding the access road to the Medicine Mountain Boy Scout Camp stated we would reimburse the Boy Scouts $10,000 for their work on the road.

We sincerely regret that closer examination of this claim reveals that we cannot pay it. We are legally bound to the terms of the special use permit issued to the Scouts on June 27, 1975.

We have written to William D. Cook, Chairman of the Council Properties Committee, explaining the situation. It appears now that the only way to reimburse the Scouts would be through a private relief bill. We would recommend to the Department that we not oppose such a bill.

Sincerely,

JOHN R. MCGUIRE,
Chief.

APRIL 6, 1977.

Mr. WILLIAM D. COOK,
President, Brady Consultants, Inc.,
Spearfish, S. Dak.

DEAR BILL: Enclosed is the March 31st letter I have received from Chief McGuire of the Forest Service with regard to reimbursement for expenses incurred by the Scouts in upgrading the Forest Development road which provides access to Medicine Mountain Boy Scout Camp.

I am pleased they have agreed that the Scouts should be reimbursed; but, unfortunately, the Chief maintains such reimbursement cannot exceed $10,000. Please let me know if you have further suggestions as to how I may be of assistance.

Sincerely,

JAMES ABDNOR,
Member of Congress.

WASHINGTON, D.C.,
March 31, 1977.

Hon. JAMES ABDNOR,
House of Representatives.

DEAR MR. ABDNOR: This is in response to our discussion on February 28 concerning the access road to the Medicine Mountain Boy Scout Camp in the Black Hills National Forest.

After reviewing the information available to us, we find that:

1. The Boy Scouts own a tract of land surrounded by National Forest land. A Forest Development road is the only access road to their land.

2. The access road was a very low standard road and it was in poor condition.

3. The Scouts asked the Forest Service to upgrade the road.

4. The Forest Service was unable to immediately grant the request due to a lack of funds.

5. The Forest Service, however, explained to the Scouts that we intended to reconstruct this road in conjunction with timber sales in the near future.

6. The Scouts wanted to improve the road in 1976 in time to meet their grand opening in the summer of 1976.

7. The Forest Service proposed a cooperative agreement whereby we would furnish the engineering services, survey, design and staking, culverts, gravel, and construction inspection and the Scouts would construct the road. This was agreeable to the Scouts.

8. The Forest Service issued a Class E permit (free permit) to the Scouts. This allowed them to reconstruct the existing Forest Development road.

Under the terms of the permit the Government retained the right to use and permit general use by others of the road reconstructed under the permit provided such use does not unreasonably interfere with the permittee's use.

9. Both the Scouts and the Forest Service fulfilled their commitments. The road is now complete and it serves the interests of both parties.

10. The Scouts recently asked the Forest Service to reimburse them for their share of the road costs, approximately $18,000.

In discussing this request with the Scouts it was pointed out that we will be the dominant road users during the upcoming timber sales and that our long range plans did call for reconstruction of this road. In fact, we had prepared the road plans before the Scouts contacted us. Therefore, we believe it is in the best interest of the Government to reimburse the Scouts the $18,000 requested.

However, our authority to reimburse for goods and services outside the competitive bidding process is limited to $10,000. We, therefore, are unable to reimburse the Scouts the full amount. They should submit a formal claim to the Forest Supervisor, P.O. Box 792, Custer, South Dakota, 57730. The claim will then be processed through normal channels.

Sincerely,

THOMAS C. NELSON,
(For John R. McGuire, Chief).●

NATIONAL SERVICE

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. EDGAR. Mr. Speaker, recently distributed to congressional offices were copies of the report of the Committee for the Study of National Service. "Youth and the Needs of the Nation." This report has provided an excellent base for discussion of the issues of universal service which I hope can continue in our public forums. I would like to draw my colleagues' attention to the following articles and statements regarding "Youth and the Needs of the Nation," as well as the idea of national service in general:

REMARKS OF HARRIS WOFFORD AT NEWS CONFERENCE, FEBRUARY 6, 1979

Our Committee has studied the idea of National Service for a year and a half and unanimously recommends the development of a new system that would give every young American the opportunity for full-time service to society after leaving high school or college.

But as a believer in the value of negative insights, let me start by saying what our Committee and report are not.

First, we are not recommending an additional public jobs program targeted to unemployed youth. Instead, we think National Service should be designed to be a true cross-section of America.

Second, our Committee is not about to become a permanent proseletyzing single-interest group—there are enough of them around. But in order to complete what we started, we intend to do our best in the next nine months to stir the serious nationwide public debate that an idea so fundamental as National Service requires.

Third, we are not asking the administration or Congress to press for or to enact legislation. That may be an unusual self-restraint in this city, but we think this idea must percolate and be pondered by people all over the country. We are asking Senators and Members of Congress to help get this report circulated among their constituents, including getting it to high schools and to young people in every part of the country. Senator Paul Tsongas, for example—the first former Peace Corps Volunteer elected to the Senate—is sending the report to student leaders in every high school in Massachusetts and convening a student conference on the issue. With the help of the director of The National Governors' Association, Steve Farber, we are asking Governors in every state to initiate citizen studies of the idea, including particularly young people themselves. From contact with the first several Governors, who have agreed to undertake such studies, I believe most of them will do so, in various interesting ways.

The executive director of The National League of Cities, Alan Beals, is asking Mayors to undertake similar studies with their citizens, looking at the needs and priorities of their communities, and the work that National Service Volunteers could do.

However, we are not just turning to state and local government officials for initiative: at lunch today with representatives of some 35 non-governmental organizations we will start presenting our findings and recommendations to the private sector of our society, which we think should play a key part in any National Service system. We will talk over with them our plans to promote nationwide debate—including their participation in the national conference we are convening in Washington this coming May 30-31.

Our findings and recommendations are in the first pages of the report that you have. Roger Landrum, who is the author of the study that follows the committee's consensus statement, is here—as are ten members of the committee.

Before going to questions, I want to introduce my first colleague in this venture, Jacqueline Grennan Wexler, the president of Hunter College.

(Jacqueline Wexler)

(Wofford:)

There is one question already in the air these days that we want to clarify—the issue of a return to a military draft and our report's relation to that. Here is another negative: we are not part of a back-to-the-draft movement. We want to go forward toward universal voluntary national service. We think voluntary service for a million or more young people is good on its own merits. If that idea of a year of full-time service to our society, as part of growing up in America, becomes a common expectation for young poeple, then a military draft may not be needed again in peacetime. We point out that finishing high school is not required but it is expected of most young people.

(Father Theodore Hesburgh, president of Notre Dame, was also on the President's Commission proposing the all-volunteer armed forces. He has a comment on this point.)

(Father Hesburgh.)

ADDRESS OF THE HONORABLE GRIFFIN B. BELL, ATTORNEY GENERAL OF THE UNITED STATES, BEFORE THE PALM BEACH ROUND TABLE, MARCH 1, 1979

This brings me to my third agenda item for action: The public must become more involved. Being a complainer without participation is nearly as bad as being merely passive. The Founding Fathers may have provided the inspiration for the creation of our country, but it was the work and sacrifice of common citizens that brought it into being and preserved it.

The genius of our form of government is

that all men and women may participate in it. But this genius is thwarted when they do not participate. A citizen of this country is like St. Paul. He had dual citizenship: He was a citizen of Rome and also of Galilee. We are U.S. citizens, but we are also citizens of our respective states and communities. We have responsibilities as local citizens for problems that can be solved only on the local level. We can make our system of government work if we dedicate ourselves to service in those areas of life where great deficiencies exist.

We live in the greatest country on earth. Our people have more liberty and more opportunity than people anywhere else. America has been known through its history and is still known today as the country of the fair chance, where all persons can make of their lives what they will.

But the bounties of our system are not free. To maintain them requires that each of us be willing to contribute our time and our talents to making the system work.

One of the most challenging ideas on this subject was put forward recently by the Committee for the Study of National Service.

The Committee's work was underwritten by a number of private foundations and organizations. It focused on two major matters:

The first was what to do to help large numbers of young people in this country—some impoverished, some from affluent backgrounds—who are adrift with no real focus for their lives.

The second concern was what to do about a wide range of unsolved problems—from caring for the sick and elderly to environmental matters to the rehabilitation of blighted areas.

In its report issued in early February, the Committee called for the country to move toward a concept of universal National Service without compulsion for young people—after either secondary school or college.

This is obviously a complex area and I can do no more today than mention a few of the Committee's many recommendations. Without taking a position now on them, let me simply say that the report deserves careful study by government and civic leaders.

The basic idea is what strikes me as so appealing—the concept of universal service for the public good. As the Committee pointed out, among the major beneficiaries would be the young people themselves. The alternative would be service in the armed forces and thus our volunteer program would be ensured. The Nation would gain from such a universal national service. Many would receive rather than give. The sick would be healed; the illiterate made literate; a chance out of the ghetto would thus be afforded; the work ethic enhanced.

We must remember that democracy is the opposite of the "Me-ism." Living in a democracy means we sometimes have to sacrifice.

It was said of General Lee that a woman with a son in her arms asked him: "What can I do to make my son great?" He replied: "Teach him to deny himself."

This principle of self-denial is especially called for today on the part of all citizens. Self-denial, I believe, will go a long way toward solving our Nation's problems.

[From the Los Angeles Times, Feb. 28, 1979]

YOUNG MEN SHOULD SERVE, BROWN SAYS

(By George Skelton)

WASHINGTON.—Gov. Brown declared Tuesday that every young American male should be required to do a hitch for his country—either in the military or some alternative service.

"We talk about civil rights, but the correlative would be civil obligations," he asserted.

In an address at Georgetown University, the presidential aspirant also advocated "a progressive scaling" in defense spending.

And he called for a national recommitment to the space program.

"It's pretty easy to see that space in the 21st century will occupy the same position in history as the oceans did in the 19th," he told the 750 applauding students. "The universe is there to be explored."

He was interrupted several times by applause in the picturesque, century-old hall, dominated by stained-glass windows, polished wood, murals, coats of arms and a circular balcony.

Some students hung a large sign over the balcony asking "How's Linda?" referring to Brown's girl friend, singer Linda Ronstadt.

After a long pause by Brown and laughing by the students, the governor replied: "She's in Australia working. Beyond that I don't comment."

The question of compulsory service for young men was raised when Brown was asked whether he favored a return to the military draft.

There were some boos aimed at the questioner, but Brown said: "Now wait a minute.

"We ought to seriously consider some form of service to the country that would allow alternatives—whether it be Peace Corps, a civilian conservation corps or urban corps—as well as the traditional service in the military," Brown said as the students cheered.

"We really do have an obligation to our country," he continued.

"The concept of service—not to the 'me' generation or to the 'now' generation—but service to the country and the future is essential. Now we serve the country not just by marching around with a rifle, but by bringing hope back to the cities, by comforting the sick, by renewing the forests and the rivers and by bringing friendships to other countries.

"If we combine all that into some form of national service, I think that is very high on the political agenda."

[From the Philadelphia Bulletin, Feb 13, 1979]

PICKING THE BEST WAY TO SERVE

"Today, little is asked of young people except that they be consumers of goods and services. A vast industry serves youth with schooling, entertainment and goods of all kinds, but there are limited opportunities for the young themselves to produce goods and serve others."—Report of the Committee for the Study of National Service.

So saying, this non-governmental committee sets out a proposal for a universal National Service for youth to restore the spirit of service in the nation and, hopefully, sweep away the cobwebs of Vietnam and Watergate.

It is an idea whose time may finally have come. A desire by so many young people to do something constructive coincides, as luck would have it, with the growing doubts about relying upon voluntarism to man our military forces. Some form of national service, combining military and nonmilitary options, may be just the answer to both.

We have tried many approaches to the plan in the past: Civilian Conservation Corps in the Depression, the Peace Corps and Volunteers in Service to America (VISTA), begun in the Kennedy years. But none ever approached the scale of a national service program now being considered.

This advisory committee, co-chaired by Harris Wofford, former Bryn Mawr College president, and Jacqueline Wexler, Hunter College president, does not go into great detail in its report. Its main intent is to stimulate debate.

It proposes at least a year of voluntary service—some on the committee wanted it mandatory—for both sexes to be performed in home communities or elsewhere in teams at modest pay but with post-service education and job benefits. It is a good beginning point for the debate.

Considerably more specific is a bill to be introduced this week by Representative Paul McCloskey, a California Republican. It calls for mandatory registration of all 17-year-olds, counseling, and then between ages 18 and 23 a choice of one of four options:

Volunteer for two years' military service with 36 months of education or training benefits to follow; volunteer for six months' active military duty with five-and-a-half years in the reserves and no education benefits; volunteer for a year's civilian service in many kinds of work at assistants' wages; be placed in a military lottery pool, eligible to be drafted for two years' service if needed and receive 18 months' education benefits.

It is impossible to tell how young people would split up in choosing among those options. Depending on the needs of the time, however, the plan could be tinkered with.

But we believe there will have to be some element of compulsion to any youth service plan. And we like the way Congressman McCloskey has combined the compulsion with voluntary openings and benefit carrots to aid both civilian and military parts of society and—just as important—turn what has sometimes wrongly been labeled the "me generation" into the "you generation."

[From the U.S. News & World Report, Feb. 19, 1979]

NATIONAL SERVICE FOR ALL YOUNG AMERICANS?

Millions of young Americans serving their country by spending a year or two working as civilians in a "national service" corps—

That idea, first proposed nearly 70 years ago, was revived in Washington, D.C., on February 6 by a group calling itself the Committee for the Study of National Service, headed by Harris Wofford, former president of Bryn Mawr College, and Jacqueline Grennan Wexler, head of Hunter College.

They envision young Americans tutoring laggard students, aiding the elderly and infirm, rehabilitating neighborhoods, helping in hospitals and assisting community centers. Existing government-service programs such as VISTA, the Peace Corps and the Young Adult Conservation Corps would be part of the new system.

As a start, the sponsors recommend that the service be voluntary. But later, they say, it might be made compulsory, especially if the military draft is revived. Civilian public service, say the project's backers, could be offered as a useful alternative to military service—for both sexes.

A bill to offer just such an alternative has been drafted for introduction this month in Congress. Its author, Representative Paul N. McCloskey, Jr., (R-Calif.), contends that the all-volunteer system of military service is not working. He proposes that at age 17 "everyone, man and woman," be required to register.

Then each individual would have the option of volunteering for military service or giving one year's "civilian service in a community or environmental capacity."

Those who did neither would be put in a lottery pool for military draft. Benefits for military duty would be higher than for civilian service.

Such a plan, McCloskey suggests, "might remove the need" for a renewal of military conscription.●

ADMINISTRATION DISABILITY INSURANCE PROPOSALS

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. PICKLE. Mr. Speaker, Congressman BILL ARCHER and I are happy to introduce today, by request, the administration proposals for reforms in the social security disability insurance program.

Earlier this year we introduced H.R. 2054, which represents an accumulation of 4 years work by the Social Security Subcommittee in seeking ways to make the disability insurance program more equitable and more effective.

We are pleased that the administration proposals parallel those of the subcommittee in many respects.

The subcommittee hopes to complete action on disability legislation in the near future; perhaps before Easter.

Following is a section-by-section summary of the administration proposal:

SECTION-BY-SECTION SUMMARY—DISABILITY INSURANCE REFORM ACT OF 1979

TITLE I—ENTITLEMENT AND BENEFIT AMOUNT

Reduction of family maximum benefit with respect to an individual entitled to a disability insurance benefit

Section 101 would establish, in the case of an individual who becomes entitled to a disability insurance benefit after August 1979, a limit of 80 percent of the individual's average indexed monthly earnings as the maximum amount of total benefits that may be paid for any month (*i.e.*, to the individual and his dependents) on the basis of his earnings record. This maximum would not reduce that individual's monthly benefit, however, but only that of his dependents. Current law, which would remain unchanged for those who become entitled to old-age insurance benefits, has no such limit. For example, at present, (without regard to any cost-of-living increase for 1979) if a fully insured individual dies in 1979 with average indexed monthly earnings of $750, his survivors may receive up to $639.10 in monthly benefits. Under the proposal, if an individual with the same monthly earnings becomes entitled, in September 1979, to a disability insurance benefit, the maximum benefit for the family would be reduced by $39.10 so as not to exceed $600.000 (*i.e.*, 80 percent of his average indexed monthly earnings of $750). The net program savings (excluding any effects from interactions with other provisions) are expected to be $21, $56, $93, $134, and $174 million in the five fiscal years beginning with FY 1980.

Reduced drop-out years for younger disabled workers

Section 102 of the proposed legislation would amend section 215(b) of the Social Security Act to modify the provision allowing 5 years of low earnings to be dropped in computing an individual's average indexed monthly earnings (AIME). Specifically, a disabled worker would be allowed to drop out only one year for every five elapsed years (years elapsing after 1950, or if later, after he attained age 21), but never more than 5 years. It would apply to workers becoming eligible for benefits after 1978, and entitled for months after August 1979. The proposal would bring the benefits of young disabled workers more into line with those provided to older workers; this result is achieved by making the number of drop-out years, in the case of all workers, roughly proportional to the number of years used in computing the worker's AIME. Under present law, a worker becoming disabled at age 29 averages only his highest 2 years of earnings in computing his benefits and excludes the unfavorable 5 years of his earnings record (70 percent of his work history). A worker who retired at age 62 in 1978, however, can exclude only the unfavorable 20 percent (5 years out of 27) of his record. This section of the draft bill would remove that disparity. It is estimated that this proposal would reduce costs under title II, while increasing them, albeit to a lesser extent, in the SSI program. The net program savings are expected to be $14, $43, $84, $125, and $166 million in the five fiscal years beginning with FY 1980.

TITLE II—ELIMINATION OF DISINCENTIVES TO ENGAGE IN SUBSTANTIAL GAINFUL ACTIVITY

Elimination of requirement that months in medicare waiting period be consecutive

The Social Security Amendments of 1972 extended Medicare coverage to disability beneficiaries but only after the 24th consecutive month of entitlement to cash benefits. Therefore, if entitlement is interrupted, the waiting period must begin anew. Section 201 of the draft bill would amend section 226 of the Act to remove the requirement that the 24 months be consecutive in the case of the waiting period which a disabled beneficiary must undergo for entitlement to Medicare. The effect of this change would be to shorten, or in some cases completely eliminate, the (second) waiting period for individuals who become reentitled to disability benefits.

The removal of the second waiting period after completion of the first waiting period of 24 months would be dovetailed with the requirements for reentitlement to cash benefits without a second waiting period. Thus, the waiting period would be satisfied by months that are not consecutive if an individual becomes reentitled within 60 months of the close of his prior period of entitlement to disability insurance benefits (or within 84 months in the case of an adult disabled since childhood, or a disabled widow or widower). By making this change (together with others described below), one disincentive that discourages a disability beneficiary from attempting to engage in substantial gainful activity (with the resultant loss of his Medicare coverage for 24 months should he subsequently become reentitled) would be removed.

It is estimated that this proposal would reduce or eliminate the waiting period for approximately 25,000 reentitled disabled individuals annually, with an increased cost under title XVIII (Medicare) of the Social Security Act of $27 million in FY 1980, and $32, $37, $42, and $49 million, respectively, in each of the 4 fiscal years thereafter.

Provision of trial work period for disabled widows

Section 202 of the draft bill would amend sections 222(c)(1) and (3) of the Act to provide a trial work period to disabled widows and widowers in the same manner as provided for disabled workers. They would therefore have the same incentives for returning to productive activity as other disabled beneficiaries. In this way, the proposal would eliminate the inequity that presently exists in the law. It is estimated that this proposal would have negligible cost effects.

Extension of entitlement to disability insurance, SSI and related benefits

Section 203(a) of the proposed legislation amends section 223(a) of the Social Security Act. It would extend an individual's status as a disabled individual for twelve months after the month in which disability benefits are terminated if that termination occured only because of the individual's having engaged in substantial gainful activity (and not because he has medically recovered). Subsection (b) provides, however, that no benefits are payable during this 12 month period as long as the individual is engaging in Substantial Gainful Activity. The effect of this amendment will be to allow an individual to return to benefit status without going through the process of reestablishing the fact that he is disabled. The removal of this potential obstacle will make disabled beneficiaries more willing to try to leave the disability program, knowing that should they fail, they have not endangered what is often their primary source of support.

Subsection (c) of section 203 extends Medicare coverage for the same disabled population that is able to engage in substantial gainful activity, but has not medically recovered. Medicare would continue to be available for 36 months after termination of disability insurance benefits, or if earlier, until he ceases to be physically or mentally impaired.

Subsection (d) amends section 1614(a)(3) of the Social Security Act, the definition of disability for purposes of the SSI program, in a manner that corresponds to the amendments made by subsections (a) and (b) to the disability insurance program. Thus, while no benefit is payable, an individual who had received SSI on the basis of disability but was no longer eligible for benefits because of the level of earnings at the close of his trial work period, would still retain his status as disabled for 12 months following the termination of SSI, or, if sooner until his disability ceases. Should he thereafter prove unable to continue to earn at a significant level, he could return to the SSI program without having to establish his disability as an initial applicant.

Finally subsection (e) amends title XIX of the Act, the Medicaid program, to extend the coverage available to an individual who had received SSI on the basis of disability but has been terminated because of his return to work. Eligibility for Medicaid would continue for three years after the termination of SSI (the one year of suspended SSI eligibility and two years thereafter). In the same way that the fear of losing economic independence has been minimized, medical assistance remains available to the (medically) disabled individual who has left the SSI rolls because of his ability to earn. Comparable extensions of Medicaid coverage would also be made for blind individuals (who are treated as a group separate from the disabled under SSI) whose SSI has terminated because of increased earned income.

It is expected that the costs of suspension (rather than termination) of status as a disabled individual under both titles II and XVI, will be negligible. The cost in fiscal year 1980 of extending Medicare for three years after termination of cash benefits is estimated to be $7 million and $4 million for the corresponding extension of Medicaid, and $26, $52, $60, and $68 million for each of the next four fiscal years, respectively under Medicare, and $13, $25, $32, and $37 million for the corresponding years under Medicaid.

Deductions from earnings for determining substantial gainful activity and amount of supplemental security income benefits

Section 204 of the draft bill makes a series of related amendments to titles II and XVI of the Social Security Act, all of which relate to the dollar test that establishes when an individual's earnings from engaging in gainful activity are substantial enough to demonstrate that he is no longer disabled.

Subsection (a) amends section 223(d)(4) of the Act to require that, when the Secretary exercises his authority to specify amounts of earnings that demonstrate an individual's ability to engage in substantial gainful activity (SGA), he must exclude from earnings counted for that purpose amounts spent by the individual for attendant care, or other items or services that he needs, because of his impairment, to engage in gainful activity. If care or services necessary to enable him to work are furnished without cost to him, for example by a public or nonprofit and private agency, the Secretary will specify the amount of the deduction with respect to that care or service that is to be made for purposes of determining ability to engage in SGA. Finally, this subsection provides that if the title II beneficiary is also a concurrent SSI recipient, the same amount of these employment-related costs are to be excluded under both title II and title XVI for the same purpose.

Subsection (b) contains the parallel amendment to title XVI. Since the amount of the individual's earnings affect the amount of his benefits in the SSI program, as well as his status as a disabled individual, this amendment provides for the exclusion from the earnings of a disabled (or blind) individual of costs borne by him, for employment related expenses necessitated by his handicap. These amounts are to be excluded even though the care or service may also be necessary to enable the individual to carry out his normal daily functions.

The subsection also directs the Secretary to prescribe the types of work related expenses that may be deducted, and to set limits on the amount of the deductions. Also, the Secretary is to determine the usual monthly amount of an individual's deductions under this authority. That determination will control for purposes of his benefit calculation until it is changed upon a showing of a significant change in the amount of allowable expenses. Thus, small variations from month to month need not be reflected in repeatedly changing benefit amounts.

Subsection (c) amends section 1614(a)(3) of the Act. It provides for the same deduction from earnings when determining whether an SSI disability recipient can engage in SGA as subsection (a) of this section adds to the definition of disability under title II of the Social Security Act.

It is estimated that the amendments made by this section will increase program costs by $1 million in fiscal year 1980, and by $2, $5, $8, and $12 million in the four fiscal years thereafter.

Termination of deeming when child attains age 18

Section 205 would amend section 1614(f)(2) of the Act to reduce, from 21 to 18, the age of a child receiving SSI whose income and resources are deemed to include those of his parents. Since an individual over age 18 is considered to be a child under the SSI program only if he is in school, this amendment eliminates the different treatment for students and non-students and thereby encourages disabled individuals to remain in school after reaching age 18. The cost of this amendment is negligible.

Report to Congress

Section 206 would require the Secretary to review the operation of the amendments made by this title of the bill, and after 5 years, report to the Congress (within 6 months) concerning the effectiveness of these work incentive amendments in achieving their purpose and encouraging disabled individuals to return to substantial gainful activity.

TITLE III—ADMINISTRATIVE IMPROVEMENTS

State option to make disability determinations

Section 301 of the bill makes a series of related amendments to section 221 of the Social Security Act, the statutory provision for administrative relationships between the Secretary and those States interested in making disability determinations under the disability insurance program.

Subsection (a) would amend the law to delete references to "an agreement" between the State and the Secretary for the making of disability determinations and substitute a written notice by the State that it wishes to make determinations. Unless the State has previously been found to have failed to make determinations in accordance with the law and the Secretary's regulations, or unless the State has previously declined to administer under this section, it may make the determinations for the Secretary.

Subsection (b) adds a new paragraph to section 221, describing the Secretary's regulatory authority in this area, and specifying, by way of example, some of the areas in which the Secretary will be making rules governing the State's disability determination process. In particular, he will specify performance standards and administrative procedures, and provide for Federal review of State determinations at various stages of the process.

Subsection (c) amends section 221(b) of the Act to provide for notice to a State and opportunity for a hearing if the Secretary determines that the State is failing to make determinations in a manner consistent with the law and regulations. If the Secretary makes such a determination, he thereafter will take over the making of the disability determinations in that State after the expiration of 180 days.

Subsection (d) amends section 221(c) to allow the Secretary to review and revise State determinations to make the State's findings either more or less favorable to the disability insurance claimant, as the situation may require. Under present law, the Secretary's authority is limited to narrowing (i.e., making less favorable to the claimant) the decision of the State agency.

The amendments made by subsections (e) and (f) (other than subsection (f)(2)) and (g) are technical, conforming amendments. Subsection (f)(2) provides that reimbursement to the States will be determined by the Secretary, rather than mutually agreed upon, as under current law.

Limitation on prospective effect of application

Section 302 would amend section 202(j)(2) of the Social Security Act (with parallel amendments to sections 216(i)(2)(G) and 223(b)) to shorten the prospective effect of an application for benefits under title II. In its present form, section 202(j)(2) provides that if an applicant satisfies the requirements for benefits at any time before a final decision of the Secretary is made, the application is deemed to be filed in the first month for which the requirements are met. One consequence of this provision is that the claimant must be afforded a continuing opportunity to establish eligibility, including doing so through the introduction of evidence, until all levels of administrative review have been exhausted, i.e., until there is a final decision. The amendment made by this section would allow the issuance of regulations to foreclose the introduction of new evidence with respect to a previously filed application after the decision is made at the administrative hearing. This amendment has no cost implications.

Research and demonstration projects pertaining to disability insurance, old-age and survivors insurance, supplemental security income, and Medicare

Section 303 of the bill would amend section 1110 of the Social Security Act to allow the Secretary to waive requirements or limitations under title II (OASDI), XVI (SSI), or XVIII (Medicare) in order to carry out an experimental or demonstration project. Costs (beyond program costs that would have been incurred in any event) may be met from the usual funding source of the program to which the experiment or demonstration is most closely related. All such costs will be subject to annual appropriations through the regular budget process. If the project pertains to more than one program (i.e., DI and SSI), the Secretary will allocate costs among the relevant programs. Also, the Secretary is authorized to reimburse States for the non-federal share of increased costs they must incur because of the conduct of a project under this section (if, for example, State supplementation or Medicaid is furnished by a State beyond what would have otherwise been due).

Effective dates

Section 304 contains the effective dates of the amendments made by title III. Those contained in section 301 would be effective twelve months after enactment; any State that was making disability determinations under the Social Security Act prior to its amendment, would be presumed to intend to continue. This would allow the State sufficient time to give 180 days' advance notice of its desire to cease making disability determinations.

The amendments made by section 302 would apply to applications filed after the month in which this Act is enacted. The expanded experiment and demonstration authority added by section 303 is effective upon enactment.

TITLE IV—JUDICIAL REVIEW

Judicial review of disability and other determinations under titles II and XVI

Section 401 amends section 205(g) of the Social Security Act, the provision for judicial review of decisions by the Secretary under title II and, by cross reference in section 1631(c)(3) of the Act, under title XVI (SSI). The amendments make the changes necessary to make final the Secretary's determinations with respect to facts, and limit the court's review to questions of statutory and constitutional interpretation. Since judicial review under title XVI is in accord with the section 205(g) rules, the same result would apply to decisions under that title. A new section would be added to title XVIII, containing the text of section 205(g) prior to its amendment, so that the status quo would be maintained, with respect to decisions under the Medicare program. The amendments made by this section would apply to decisions with respect to applications filed after enactment of the bill.●

WASHINGTON, D.C., COMMUNITY CONFERENCE ON ENERGY CONSERVATION

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. WEISS. Mr. Speaker, I would like to call to the attention of the Members an innovative conference on energy conservation that will shortly be held in Washington. This conference is sponsored by the Department of Housing and Urban Development and the Council of Jewish Federations in cooperation with a number of voluntary, neighborhood, and consumer groups and the Department of Energy. The purpose of the conference is to inform community leaders of the latest techniques of energy conservation for homes and public buildings and of the potential sources of Federal financial assistance.

The conference will be held on Tuesday, March 20, 1979, at the Tifereth

Israel Synagogue, 7701 16th Street NW., (at Juniper Street), Washington, D.C. The conference will consist of workships in which Federal, State, and local officials and community leaders will discuss their experiences, as well as exhibits and practical demonstrations of specific conservation techniques. I am making available a copy of the full schedule of events which I am confident will be of great interest.

In light of the seriousness of the energy problem, it is gratifying to see a cooperative effort between voluntary and Government agencies to carry out practical efforts to save energy. This conference is intended to serve as a model for similar conferences throughout the country. I would like to commend the sponsors of the conference and hope that it will be replicated in many areas.●

A PRISTINE ENVIRONMENT: BLUEPRINT TO ECONOMIC DISASTER?

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mrs. HOLT. Mr. Speaker, clean air and clean water are necessary ingredients for our citizens to be healthy and happy. Gainful employment and a tax structure that permits the workers to keep some of their gains are also necessary for our citizens to be healthy and happy. One sometimes gets the feeling that while the EPA standards setters and enforcers claim they have the interests of all the American people at heart, this may not be the case. Let me cite an example of what has happened at a Federal installation.

The Savannah River plant occupies an approximately circular area of 300 square miles in South Carolina, 25 miles southeast of Augusta, Ga. The site borders the Savannah River for approximately 17 miles. The plantsite is closed to the public except for guided tours, controlled deer hunts, controlled throughtraffic along South Carolina Highway 125 and along the Seaboard Coastline Railroad, traffic on U.S. Highway 278 along the north edge of the site, and authorized environmental studies. No one lives on the Savannah River plantsite. Nevertheless, EPA decided that two powerplants, about in the middle of the Federal reservation, were exceeding established standards for flyash, although almost 100 percent of the flyash was deposited onsite. EPA was apprised of this fact and the fact that the sulfur in the ash was good for the pine trees, which are marketed by the Forest Service for the Government. EPA threatened to bring suit if the ash amount was not reduced.

Your taxes and mine were used to provide almost $14 million in precipitators, ash retention pits, and added annual expenses to accomplish what must be among the most arbitrary decisions made by EPA. Can you believe that the Government forced the Government to abate a "nuisance" that was not a nuisance but was helping the forests to grow. An article in the Washington Post of Sunday, March 11, 1979, points out that the sulfur from the flyash is a must if the forests are to flourish. The article follows my remarks.

I bring this matter to your attention, because I am for clean air, but I am against a mindless bureaucracy that cannot recognize good from bad. There have been many reports recently about EPA driving up the costs of doing business to the point where productivity ceases. If the United States is to survive as the international supplier of the goods and services necessary to pay for the oil we need to provide a high standard of living for the people of the world we had better assure that the regulators do not regulate us out of contention.

The article follows:

AIR POLLUTION JUNKIES—FARM CROPS AGAIN NEED SULFUR IN FERTILIZER TO COMPENSATE FOR ATMOSPHERE'S CLEANUP

(By James Branscome)

MUSCLE SHOALS, ALA.—The turnip, it turns out, is a dope addict. Other plants in the suspected ring of air-pollution junkies range from cotton to corn to pine trees.

That's the word from the Tennessee Valley Authority's world-renowned fertilizer research facility here, which reports that man's efforts to keep noxious sulfur dioxide gases out of your lungs is giving the plant addicts withdrawal symptoms that show up chiefly as declines in crop yields.

J. C. Noggle, a TVA soil chemist, said in an interview he has proved that plants are compensating for losses of sulfur nutrients in the soil by absorbing sulfur dioxide and hydrogen sulfide gases directly from the garbage can that coal-fired power plants, and other polluters, which TVA has a lot of, have created in the atmosphere.

Air cleanup, which Noggle says he supports, will make it necessary to put sulfur back into farm fertilizers so they will give plants the vital nutrients they need for photosynthesis—the process by which plants use light to grow.

Noggle estimated the consequence of not alerting farmers to the problem is a 10 percent decline in the yields of cotton, corn and soybeans costing $306.8 million a year in the seven-state TVA region for those three crops alone.

Using an elaborate test that involved charcoal-filtered air in a greenhouse and radioactive sulfur 31 as a tracer, Noggle said he proved that the turnip was right in there with cabbage, wheat, alfalfa and the other crops in a pollution culture dependent on a kind of "sulfur connection" in the heavens.

The decline in the use of manure and fertilizers containing sulfur would already have resulted in serious soil sulfur deficiencies all across the country, Noggle said, except that "we began burning more fossil fuels that result in atmospheric sulfur at about the same time we began decreasing the amount of sulfur we were returning to the soil in fertilizers."

With the cleanup of TVA's coal-fired boilers, which the Environmental Protection Agency estimates supplies the South with 52 percent of its utility-generated sulfur gases and the nation with about 8 percent of its supply, Noggle has projected a need for 10 to 40 pounds of sulfur per acre to keep plants busy synthesizing high-quality proteins and generally carrying on with photosynthesis.

"When most people think of fertilizers, they think of only the big three—nitrogen, phosphorus and potassium," the scientist said, "but sulfur ranks fourth in importance."

Noggle said he did not want his research to be used as a part of TVA's old argument against air cleanup. He just does not want some of his favorite plants to suffer needlessly.

A spokesman for TVA's National Fertilizer Development Center, which controls patents on more than 75 percent of the world's chemical fertilizers, said the laboratory is already busily working on new fertilizers containing sulfur.●

POST URGES "LIMITED" LOBBYING BILL

HON. THOMAS N. KINDNESS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. KINDNESS. Mr. Speaker, currently the Subcommittee on Administrative Law and Governmental Relations of The House Judiciary Committee is proceeding with hearings of proposed lobbying disclosure legislation. Last Thursday, March 8, the Washington Post carried an editorial emphasizing the potential adverse impact that certain provisions in the various lobbying bills could have on basic civil liberties. They argue for a "carefully limited bill" and I strongly concur. Since it is so rare that I agree with an editorial opinion expressed in the Post. I am taking this unusual opportunity to share their thoughts with my colleagues:

[From the Washington Post, Mar. 8, 1979]

LIBERTY FOR LOBBIES

"Casting more light on lobbying" sounds like a fine good-government goal. But it's the kind of formulation that members of Congress should be wary of as they try once more to rewrite the lobby-disclosure law. This is one of the fields in which openness—meaning broad, detailed, compulsory disclosure—is not at all synonymous with free, healthy political activity. Congress cannot push lobby-reporting laws very far without intruding on realms of private association and expression that are beyond the proper reach of government.

A good example is the burgeoning field of so-called grass-roots or indirect lobbying—attempts to influence Senators and representatives by stirring up mail, phone calls and visits from people back home. Such campaigns have become so commonplace that lawmakers are constantly being bombarded from many sides. They find it quite discomfiting. They are not always sure how much real political force a barrage of postcards represents. And the recent surge in sophisticated gross-roots campaigns by business and single-issue groups has fed suspicion that lobbies with large bankrolls and extensive mailing lists are gaining undue influence on Capitol Hill.

Should groups that organize indirect lobbying have to report on their financing and activities? That would certainly help citizens and officials find out who is behind these campaigns. But consider what such a sweeping law would mean. Every active group with legislative concerns—including trade associations, unions, universities, charitable societies and citizens' groups—would have to report to a federal agency on its meetings, mailing, advertisements and other issue-oriented activities. Anyone suspected of non-compliance would be subject to federal audits, investigations and penalties.

Talk about overregulation! The paperwork would be incredible. Much more ominous is the whole idea that private groups should be compelled to report on perfectly legitimate communications with their own members, supporters and the public at large. The chief advocates of full disclosure say they don't want to interfere with any group. Last year's House debate suggested, however, that some congressmen do see disclosure as a way of embarrassing or burdening interest groups whose lobbying they find bothersome.

So far, enough lawmakers have recognized these and other problems so that no overreaching bill has gotten through. A House judiciary subcommittee is now tackling the subject again. The White House has been seeking compromises, but a coalition of interest groups—ranging across the spectrum from business associations to the Sierra Club—is insisting on a carefully limited bill. Their position may sound self-serving, but it really serves the national interest in free discussion of public affairs.●

DOROTHY FROOKS SPEAKS ON THE FUTURE OF THE UNITED NATIONS

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. GREEN. Mr. Speaker, I wanted to share with Members of the House the thoughts of Dorothy Frooks, a member of my constituency in Manhattan. Ms. Frooks is a noted attorney, author, and founder, editor and publisher of the weekly Murray Hill News in New York City. The title of her paper which I present to you today is "The Future of the United Nations."

THE FUTURE OF THE UNITED NATIONS

(By Dorothy Frooks)

As a participant at the State Department and the United States Arms Control and Dis-Armament Agency Conference for Women on the SALT–II Agreement, recently,[1] one of the questions in my mind is, "What is the United Nations, as a world body, doing along these lines?"

Ambassador Marshal Shulman, the Special Advisor to Secretary Cyrus Vance, outlined the United States-Soviet relations as did Paul C. Warnke, Former Chief SALT Negotiator.

I made known my reaction to the detailed outline and presented a statement. "Instead of Strategic Arms Limitation Treaty known as SALT, let the letters stand for Strategic Almighty Loving Trust. Instead of S-A-L-T, make it S-A-E-T, Strategic Arms Elimination Treaty.

To limit is to admit existence. Existence would indicate probable use. No matter how limited the arms may be, there is still a danger of some destruction. Unlimited armament could, if used, destroy the world and mankind. If that is what must be—and we have no alternatives, expect chaos.

We should get nations to agree to change its manpower energy. Reverse the—manufacture of arms into steel equipment for peace efforts. Use employment, not for arms to destroy but for machinery to construct. Employ people to build roads . . . double-deck highways if necessary. If armament factories are kept busy manufacturing equipment for peacetime activities, such employment would close armament factories.

For nations' agricultural pursuits . . . equipment such as tractors, harvesters, loaders require steel, as well as housing with kitchens, bathtubs, swimming pools, high-rise buildings and recreational construction.

Convert war products into peace products. New frontiers in all lands can be opened up for employment. Use up the steel for useful living purposes.

Take the profit out of arms. Prevent American and Russian companies from selling guns and war equipment to both Arabs and Israelis.

My point of view as a Veteran of World War I and II is . . . let nations reverse employment from war equipment requiring steel to live-and-let-live equipment. "Limited" production serves no purpose. Space activities and scientific exploration for knowledge deserve coordination and will enhance peaceful competition between nations.

Do away with SALT altogether . . . but promote world safety through human rights in each nation. A "Little United Nations" made up of representatives from every nation in every national capitol, should listen to the people without reprisals from heads of nations. This would be a first and direct step for the people to make known their grievances. Their criticisms and suggestions to keep the peace should be reported to the General Assembly by the fact-finding "Little United Nations."

If any nation deceitfully signs the agreement and does not permit an on-site inspection, the United States should secure and maintain superiority in military strength for protection of all nations."

At the Manila, Philippines International Law Association Conference, from August 27th to September 2nd, 1978, a resolution that I had presented to the Association had been enthusiastically received and unanimously passed by the Human Rights Section which consisted of delegates from various countries in the world, including three members from the USSR.

The Resolution is as follows:—

Whereas, every nation wants its own sovereignty, dignity, peace, law and order, and

Whereas, the United Nations is the instrument through which peace and understanding can be promoted and accomplished, and

Whereas, through the United Nations Charter, Chapter IV, Article 22, the necessary machinery is provided, and

Whereas, since the creation of the United Nations, it was proved that individuals, traveling committees, conferences with heads of nations, mandates from the General Assembly to nations, were not effective, and

Whereas, nations' economy would be improved—requiring more food, housing, transportation, language schools, entertainment, etc.

Resolved, That the United Nations widen its scope under Chapter IV, Article 22 in the Charter, to establish, subsidiaries, a "Little Assembly" composed of a representative or representatives from every member nation *to* every member nation, to serve as factfinders, listening to the people themselves in airing their grievances, and be it further

Resolved, That the "Little Assembly" acquiring the "grass roots" information, determine the best policy locally, and recommend to General Assembly their findings to include studied recommendations for embargo, boycott, further hearings on the part of the people, and be it further

Resolved, That every member country permit a "Little Assembly" within its territory, and if a member nation does not permit this "Little Assembly" within its borders, then that member country should be excluded from sending representatives to the other member nations, and be it further

Resolved, That the "Little Assembly" should not interfere directly or indirectly with the local government policies, ideology, politics, or try to influence or infiltrate its beliefs and customs upon that other member nation in any form or manner, and be mindful that such an act would be considered an aggression against that nation in which they are visitors, and be it further

Resolved, That each nation would be active participants in this United Nations set-up to hear people air their grievances before explosive warfare and bloodshed, and these "Little Assemblies" even if they do nothing but fraternize in nations, will serve the real purpose for a United Nations by listening to the people instead of the heads of governments, and report their findings to the General United Nations, and be it further

Resolved, That the International Law Association sponsor legislation for enactment of "Little Assemblies" provided for under Chapter IV, Article 22, to the United Nations Charter.

The Human Rights acceptance would eventually find every nation dominated by the majority of the peoples' wishes instead of being ruled and governed only by the leaders of nations. Systems of government vary but can provide through the United Nations the freedom of speech without reprisals or becoming political prisoners. Self-expression would be a first step in establishing human rights. Eventually, the people themselves would vote for their delegates to the United Nations instead of having the heads or leaders of nations make the appointments.

This long range view would be the answer to what is the United Nations doing? If we are to be a united people, the people themselves should have the right of expression. The future of the United Nations would help mankind with the establishment of human rights and the right to live. In countries where the people have the right of vote to select their government heads, nations would be healthier countries by periodical change. In earlier days, countries more or less considered national interests first, as opposed to those of the world at large. They were successful in economic terms, so there was no problem.

Today, the economies of all the nations of the world are to closely interrelated and interfused that it is virtually impossible for any one country to consider its own interests apart from the broader interests of the whole world.

The views of the past must be reshaped. Politicians may campaign for policies to be made; they can lead the way. But most nations have free, democratic societies. They have leaders. These leaders cannot order people to do what is best for them, or what they may think is best for the people. The people must give their leaders support. Politicians must appeal strongly to citizens to obtain understanding and support even though at times the citizens may think their country's interests are being unduly compromised. But in the long run, the citizens will benefit. Each country can do a lot on its own.●

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[1] At the invitation of Secretary of State, Cyrus Vance.

GENERAL DuBOIS' DEDICATED SERVICE

HON. ROBERT A. YOUNG

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. YOUNG of Missouri. Mr. Speaker, Maj. Gen. Charles H. DuBois, Jr., a dominant force in the Missouri Air National Guard for the past 20 years, will retire later this month after receiving the Distinguished Service Medal, one of the Nation's highest military decorations.

General DuBois was the subject of a lengthy article last week in the St. Louis Globe-Democrat that accurately portrays this great American. I would like to share this article by a prize-winning reporter, Les Pearson, with my colleagues. Excerpts of the article follow:

> Some people call him "the old man" or "the boss." Others call him "the general" or "sir". A few have been known to irreverently refer to him as "Charlie two stars" but there's been no doubt for nearly 20 years that Maj. Gen. Charles H. DuBois, Jr., is the head man of the Missouri Air National Guard.
>
> And when he retires later this month as the dominant force in the Missouri Air National Guard the organization is not going to be the same.
>
> Gen. DuBois is ending a 38-year-old military career when he reaches his 60th birthday with a formal retirement ceremony and uniformed formation of his command at the Air Guard base at Lambert-St. Louis International Airport at 2 p.m. on Mar. 16.
>
> Among other honors, he'll be awarded at that ceremony the Distinguished Service Medal, the nation's fourth highest military decoration, for what Gen. Lew Allen, Jr., Air Force Chief of Staff, describes as "exceptionally meritorious service to the United States in a duty of great responsibility from Sept. 5, 1956, to Mar. 18, 1979.
>
> Gen. DuBois is the senior major general in the U.S. Air Force on either reserve or active duty, having held that rank since 1960, when he was named chief of staff, Missouri Air National Guard. No other general has been in grade that long, official records show.
>
> One of the few World War II "aces" left in the St. Louis area, Gen. DuBois was commissioned a second lieutenant in 1941 after completing flight training and will retire on flying status as a command pilot qualified in both jet and conventional aircraft.
>
> He is credited with downing five Japanese aircraft and with probable destruction of two others in the China-Burma-India theater during World War II and has never ended his love affair with military aviation.
>
> But statistics don't tell the whole story of the man. They don't reveal that he is regarded by his associates and subordinates as an exacting leader, a commander who both demanded and received excellence but also as a man of compassion, fairness, high moral principles and integrity. . .
>
> Gen. DuBois, himself, looking back over his long career, said "a lot of people deserve credit for what has been good about the Guard and I guess I have had some part in it as well as being to blame for what has been bad."
>
> "I've really enjoyed it all," he said. "I've been able to be with the people at the action level, the people who are going to fight a war if there is one, but I've also had a chance to be on the higher level and to learn a lot there."
>
> On that higher level, Gen. DuBois perhaps made his most significant contribution nationally as chairman of a subcommittee of the Reserve Forces Policy Board between 1967 and 1971 during which many decisions were made which were later to lead to a total force concept—the melding of the regular Air Force and reserve and National Guard forces into one whole . . .
>
> Gen. DuBois played a leading role in bringing the Air National Guard into a state of readiness. He developed a series of large-scale exercises in the 1960s and early 1970s in which the Air National Guard and the Army National Guard learned how to work with each other and active forces in a realistic war theater environment.
>
> When the Vietnam war widened and enveloped more and more active forces, Gen. DuBois and others initiated a series of guard strike exercises to provide realistic training under theater of war conditions.
>
> The 131st Tactical Fighter Wing, the major Air Guard flying unit in the St. Louis area under the command of Brig. Gen. Robert C. McDonald, has consistently had one of the highest operational readiness ratings in the nation. It was regarded so highly by Air Force brass that Gen. McDonald was placed in command in 1976 of an entire exercise involving active Air Force, Guard, reserve, Army and Navy forces in training at Nellis Air Force Base at Las Vegas, Nev. . . .
>
> Gen. DuBois' retirement coincides with a milestone in "Lindbergh's Own" Air Guard flying units at Lambert Field. The unit in which the late Col. Charles A. Lindbergh once served as a pilot is in the process of moving into F–4 Phantom jet fighters from the aging F–100 Super Sabre aircraft it has flown for years . . .
>
> Although the leadership and motivation will pass into other hands after Gen. DuBois steps down from the Guard, that doesn't mean that he will spend his time sitting on the patio with his wife at their home at 113 Del Monte Ct. in Chesterfield.
>
> He says he intends to spend a month or so tending to some personal affairs, but after that he intends to take up a second career.
>
> "I'm keeping my options open," he said. "I want to do something if anybody's interested in having me, although I haven't decided just what I want to do.
>
> "I am certainly not going to sit around," he said with the firmness he is noted for." ●

WESTERN NEW YORK NUCLEAR FUEL SERVICE CENTER, WEST VALLEY, N.Y.

HON. STANLEY N. LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. LUNDINE. Mr. Speaker, located about 30 miles south of Buffalo in my congressional district is the Western New York Nuclear Fuel Service Center. This undertaken was the earliest attempt in the United States to commercially reprocess spent fuel rods from our nuclear light water reactors. This undertaken was conceptualized and encouraged by the Atomic Energy Commission as the next step toward closing the back end of the nuclear fuel cycle.

Land for the site operations was obtained from productive farmers who were forced to relocate their families and businesses. Nuclear Fuel Services, Inc., and the State of New York are colicensees of the facility. Nuclear Fuel Services, Inc., leases the site from the State of New York, the present owner of the site.

During plant operations from 1966 to 1972, 625 metric tons of spent nuclear fuel were reprocessed at the site with about 75 percent of this spent nuclear fuel being supplied under contract by the Atomic Energy Commission from the Federal site at Hanford, Wash. The plant operations were shut down in 1972 because of upgraded regulations by the Nuclear Regulatory Commission and will never reopen.

Located on the site are approximately 600,000 gallons of high level liquid nuclear waste, a spent fuel reprocessing plant, two solid waste nuclear burial grounds, and a spent fuel receiving pool. There are a number of complex technical, managerial, and financial uncertainties which surround the future of the site which must be addressed by the Congress. I am pleased with favorable action taken last week by the Energy Research and Production Subcommittee of the House Science and Technology Committee on which I serve on my amendment to authorize $5 million in the fiscal year 1980 Department of Energy budget to move forward to begin work on a Federal demonstration solidification project of the high level waste at the West Valley site. It is clearly within our best national interest to move forward to demonstrate our ability to safely dispose of high level nuclear waste without further delay.

Recently, I received an insightful letter from one of my constituents, Ms. Linda Nagel, of Fredonia, N.Y., concerning the West Valley site. I commend this to your attention and for consideration by you in the future as the Congress debates West Valley and other nuclear waste management issues:

> FREDONIA, N.Y., *January 19, 1979.*
>
> U.S. Representative STANLEY N. LUNDINE,
> *Room 430, Cannon House Office Building*
> *Washington, D.C.*
>
> REPRESENTATIVE LUNDINE: The need for a viable, immediate and responsible solution to the situation at West Valley, New York should be one of the primary concerns this year of those involved in our legislative processes. But that solution should not come at the expense of the residents of the Town of Ashford.
>
> For far too long the needs and desires of any other group have taken precedence over the injustices dealt to the residents of the area. Having grown up a mile and a half from the site, I remember well the bitterness and hurt of the families forced to move—a bitterness only slightly offset for the rest of the community by implications promising an influx of jobs, people, and money spawned by the NFS plant. Such feelings would surely have been overcome in time had the grand dream materialized, but the fact remains that the site is now—for all intents and purposes—abandoned. The wanton waste of over 3000 acres of land only serves as a tangible reminder of the injustices delivered over the years. And the possibility of lost tax revenues is a much more real threat to most people in the area than the invisible hazard posed by radiation.
>
> I applaud the efforts of the Sierra Club and other environmental groups currently involved in the debate over West Valley, but their involvement comes very late. Despite their efforts, the general public is still far too ill-informed about the threat to life and safety posed by facilities of this kind unless stringent precautions are put into operation from their very inception. West Valley and its 'buried treasure' are the fashionable cause right now, but the primary concern is over alternative uses for the site—not concern for the residents of the area.
>
> The need to find an effective and safe method for storing radioactive wastes is of the utmost importance—to the residents of West Valley and to the nation as well. There seems to be an obvious reluctance on the part of all those involved to admit that the time for finding a solution to this current dilemma should have been before the plant was allowed to operate and generate the wastes now at issue.

I urge you to support any legislation that will hasten the implementation of measures to safely contain those radioactive wastes already at the West Valley site or their removal to a federal repository elsewhere; and I urge you not to allow the site to become the repository for any more nuclear wastes of any kind.

Respectfully,

LINDA K. NAGEL.●

AMERICA'S ENERGY FUTURE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. PHILIP M. CRANE, Mr. Speaker, every American understands that in 1973 the price of oil and gas began to soar. Every American knows that at the same time more and more of his monthly paycheck began to go into filling his gas tank and heating his home. Every American began to hear that he must reduce his energy consumption to forestall the inevitable exhaustion of fuel supplies. Every American was counseled to observe an energy limit on our highways of 55 miles per hour and to turn our thermostats to 65 in winter up north and 75 for air-conditioning in the south.

But Americans are not the victims of their own energy gluttony, or dwindling energy supplies. Instead they are suffering from a seesawing policy of Government intervention in the energy marketplace.

To briefly trace our recent energy history, the Government in the 1950's caused huge domestic petroleum surpluses, heavy consumer costs, and production inefficiencies with such unwise mechanisms as market-demand prorationing and import quotas. Then in the 1960's and 1970's, the Government changed surpluses for shortages by gradually imposing price controls. Energy prices were artificially held below competitive market levels. Consumption was stimulated. Available domestic supplies dried up. At this point the OPEC nations exploited our antiproduction policy with impeccable timing. The embargo succeeded in raising prices—far more than it should have.

Realizing that only by asserting U.S. production could we escape the trap we built for ourselves, candidate Carter pledged in 1976 to deregulate oil and gas prices. President Carter proposed price controls for previously unregulated intrastate markets. We are hearing that we must cut back our energy consumption and our growth, that it is somehow wrong and immoral to take your family car on a well-earned vacation or to decorate for Christmas with exterior lights.

There are two devastating aspects of our current energy production crisis. First, America cannot continue to grow without energy production. Consequently, our Federal energy policy should be to enhance production—both production domestically and production in friendly neighboring nations.

Instead our Federal energy policy has discouraged domestic production with price ceilings and led to reliance on distant undependable countries. This policy is founded on the same no-growth philosophy that has arrested the growth of our national economy.

This no-growth philosophy is at the heart of our economic woes. The poor can no longer improve their life style because the only way to get ahead in a no-growth economy is to take it away from someone else. Making poor people rich is the genius of America. We have not lost the knack, but the faith of many has run cold. The middle class is also on a treadmill. They too feel an anxiety. All because the economy is not growing. One of the reasons it is not growing is because we are not producing the energy we should. If we do not produce, we can not consume.

Under the present energy policy, the Government is taking resources away from the energy producers in the form of price controls, leaving them with less to spend on plant expansion, modern machinery, research and development, new technology, and growth. The result: Lower productivity and no-growth, by which I mean that the economy is producing less than it is capable of or even less than it has in the past.

And what does the Government do with this money it has taken? It creates a $12 billion Department of Energy to write more regulations, without creating 1 btu of energy. Oklahomans can do the job of producing energy better than James Schlesinger and his 20,000 wiz kids. Individuals in the private sector are better able to produce energy than the Federal Government. Let us not turn the crucial energy production battle over to an unschooled army. Let us put our professionals, the private producers, on the front line.

Conservation has its place in our production strategy. Everyone is for conservation. We should do all we can to produce the same amount with less energy.

Conserving energy is essential, but conservation alone cannot solve our energy regulation crisis. It is ludicrous to insinuate that we can "save our way out." We must produce our way out. We must decontrol oil and gas prices.

I have yet to understand why an Arab, Nigerian, or a Venezuelan, can charge $15 a barrel for his oil, but an Oklahoman can only charge $6 per barrel.

The United States is one of the most important markets in the world. We must exert our leverage. We need not feebly wring our hands and pitifully plead for favors. OPEC depends on us. They must sell us oil to get our dollars. They must sell us oil to buy our products. They must sell us oil to get our technology. In fact, they must sell us oil to buy oil rigs to pump more oil. And they must sell us oil to get our American engineers to teach them how to produce more oil. Without our market, they flounder. We are no more dependent on them than they are on us. Yet we quiver and obey when Iran sets conditions on the sale of its product and begins to influence the world military balance by cutting off oil to our allies. If our weak attitude persists, excessive reliance on unfriendly oil sources could gravely jeopardize our security. I am inclined to ask along with Alexandr Solzhenitsyn after the Taiwan, Iran, and Afghanistan crises, "How many more countries are there for the West to abandon?"

Is this an energy policy? Is this seizing the initiative and advancing toward the solution of our problems?

We must use the leverage we have or accept the role of a toothless tiger.

We can advance toward strong growth and reassert the strength of America in the international energy marketplace by:

First, decontrolling prices;

Second, putting expert producers back in control of production, and cutting regulations policed by massive bureaucracy;

Third, streamlining the licensing process for all powerplants, especially nuclear plants; and

Fourth, with an awareness of environmental goals, opening unexplored and potentially energy-rich public lands.

Fifth, shifting import emphasis away from distant, unfriendly nations to neighboring friends. We need to look into establishing a free trade zone in the North Americas.

Sixth, getting tougher with OPEC by using our market power. Many of the OPEC nations are also militarily dependent on us. Saudi Arabia, for instance, has hostile nations on her northern and southern borders. We need to pull together our assets and use them aggressively.

Seventh, finally, the time has come for a change of leadership in Washington. Energy Secretary James Schlesinger has not proven effective in dealing with Congress and important energy-rich allies. The potential has long existed for closer relations between the United States and the Republic of Mexico. Secretary Schlesinger is responsible for the administration decision which blocked a proposed agreement for American companies to purchase Mexican natural gas. To be sure, Secretary Schlesinger may be correct in his assertion that the price involved exceeds current market levels. Certainly one option would be to spread the price increases over an extended period of time. In any event, the result of the decision was to alienate our good neighbors in Mexico, where national leaders took a politically risky posture in favor of the arrangement.

At a minimum, steps should have been taken to reach a mutual satisfactory deal. The gas arrangement was a first step toward future increased purchases of Mexican oil. Mexican oil has the advantage over other foreign sources of removing the danger of environmentally costly spills on the world's waterways. President Carter's recent state visit to Mexico not only failed to resolve our differences, but actually resulted in a further deterioration of American-Mexican relations.

I call upon President Carter to immediately replace James Schlesinger.

As President of the United States, I will have an Energy Secretary who is effective in dealing with the Congress and

American allies abroad; an Energy Secretary who shares my commitment to increased energy production and economic growth. We must have an Energy Secretary who understands the workings of our free market.

In conclusion, we all need to realize that there really is no energy shortage from natural causes, but rather, a misallocation of energy resulting from years of Government intervention in the marketplace. We are today spinning in the whirlwind created by federal policies which have existed for decades. It is criminal that a nation which has one of the world's most generous energy endowments should find itself faced with energy shortages. We have the oil, the natural gas, the coal and the uranium to provide for our needs. What we need is the policy which allows us to utilize them. A policy that lets the American economic system function without restraint.●

POPULATION AND PUBLIC POLICY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. LAGOMARSINO. Mr. Speaker, I would like to call the attention of my colleagues to an article written by my constituent, Mr. John Lippis, of Santa Barbara, concerning the population issue and its ramifications for public policy. I insert the article in the RECORD:

OVERPOPULATION: MYTHS AND REALITY

(By John Lippis)

In the past few years it has become fashionable to believe that the world is being over-populated, and that problems of hunger, poverty, and pollution result from this over-population. We have accepted the contention that there are "simply too many people" and often excused ourselves from addressing these human problems and needs more seriously.

Many figures are offered to support these claims, but seldom do they promote an overall understanding of national and world population. For instance, the fear that we are running out of room is easily put into perspective by realizing that each person in the world (approximately 4 billion) could be given nearly 2,000 square feet of space (the size of an average home) and all of us would still fit into the state of Texas. This "world city" Texas, would only have half the population density (people per square mile) of San Francisco, which devotes ⅓ of its area to parks and another third to industrial activity.

As to food producing capabilities, even Paul Ehrlich, the father of population control, admits that only ⅓ of the world's agricultural land is presently being used. The countries so often used to exemplify starvation, such as Africa and South America, cultivate less than ⅙ of their available farmland and suffer from a lack of labor, which hardly supports a view of 'over-population' in these areas. Likewise, most of the world's operating farmland is presently used infrequently and inefficiently. Even so, India has been self-sufficient since 1971 and has had surplus food to export.

The UN Food and Agriculture Organization (FAO) shows that today the world produces two pounds of grain per day (3000 calories; what the average American consumes) for every man, woman, and child on earth. This does not include the world's production of range-fed cattle, vegetables and other staples such as beans and potatoes. Different demographers tell us, that depending on the type of diet, we could feed 10 to 30 times the present world population if we would only use existing farmlands efficiently. If this weren't enough, we haven't even begun to harvest the sea. One acre of ocean will grow enough chlorella algae for cattle feeding to produce 13 times as much beef as an acre of corn grown for the same purposes.

There are real problems in food distribution; ironically, these often result from too much space between people, not too little. But these and other problems are subject to the economic and political policies of individual countries which reflect attitudes and priorities of their governments and people. We who live in a culture that attempts to care for its poor through welfare systems may not understand the full effects of these policies. For instance, Bangladesh, like other "basket case" countries, already produces enough food to feed all its people—if they only had access to it. Following the 1974 floods, millions of people in Bangladesh went hungry while four million tons of rice stacked up because most people had no means to buy it. Sadly, the root of all starvation is only man's willingness to tolerate it.

As for energy, a 1977 United Nations study shows present known supplies of oil and gas to last 100 years. Substantiating this, a recent CIA sponsored (Rand Corporation) study shows a 60 to 90 year supply at current consumption levels, not including the vast supplies that can be recovered from tar sands and shale, or converted from coal. Long before that time, however, petroleum energy will be obsolete with the development of nuclear fusion (not fission), solar (which could supply 75 percent of world power needs in 50 years) and other sources. The possibilities are endless. This is the flaw in arguments to limit population; for they are based on the premise that man will not learn or progress, but will only "breed," consume and despoil.

As to birth rates, most Western countries are far below replacement levels; a fact that should enlist concern because in a few years we will be seriously short of the younger generations who comprise our labor forces, support our old, and continue our culture. In underdeveloped countries, the birth rate goes down as the standard of living goes up. Though often not understood by those of us who live with assurances of old age pensions and social security, in many third world countries, the children's ability to provide for their parents in later life is the only social "security" available. Because of poor health care and high infant mortalities, many families may have four to nine children born so that only two will survive to carry on. In these and other ways, we do not understand the problems and cultures of these peoples, yet comfortably blame their poverty and starvation on their "excessive numbers".

The problems of mankind will not be solved by limiting our numbers, especially through the inherent cohersions of population control. As with pollution and metropolitan congestions, the answers will only be found through public awareness to change current policies, responsible laws, and application of creative and proper technologies. Fears of over-population stifle affirmative actions to address the causes of our human dilemmas by misdirecting our attentions and fostering attitudes of hopelessness. We should be fearful, however, of our prevalent lack of moral conviction and energy; man's apathy for his neighbor is his greatest threat to himself.●

CONVENTIONAL WISDOM?

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. BONKER. Mr. Speaker, a constitutional convention to require a balanced Federal budget now has the backing of 28 State legislatures—just 6 short of the 34 required—and must be viewed as a real possibility.

I would like to bring to the attention of my colleagues and their State representatives two articles from the State of Washington, which is currently debating the issue, that point out some of the dangers inherent in tampering with the Constitution.

[The Daily News, Feb. 20, 1979]

THE SIMPLE WAY

Suppose a national constitutional convention were called, as the legislatures of several states are asking, to approve an amendment requiring that Congress balance expenditures with income. What would be the consequences?

They could be good and bad. The good would be a final and effective rapping of congressional knuckles. No more deficit spending. The basic cause of inflation brought under control at last.

The bad would be the passage of other amendments besides this one, once a convention were held.

It is this very possibility that has prevented the state of Washington from holding a convention to update its constitution. Who would be the delegates to such a convention? What rules would they follow? What would be their constraints, if any? There has never been such a convention so there are no precedents and no guidelines.

The problem of language that many consider so formidable could be overcome. It could be a simple statement, such as this:

The national debt shall not be increased except in time of national emergency, declared by the President and confirmed by the Congress.

Such an amendment would be a great experiment. It could have such appeal that it would be difficult to defeat. (The same legislatures that called a constitutional convention would act on the results.)

But the hazardous convention route need not be taken. This amendment, like all others before it, could be submitted by Congress to the 50 states for ratification or rejection. The trouble is, Congress doesn't want such an amendment. The present members of Congress have never known anything but deficit spending. They can't imagine being required, as the legislature in Washington is, to match outgo with income. It is so easy and convenient to create money by issuing ever more bonds and it is painful for old guard lawmakers to think of being restricted.

Of course such practices are basically responsible for inflation. But so what? The country is prospering, isn't it? Why rock the boat?

The people rocked the boat in California with Proposition 13 and sent out waves that are still lapping around every capitol in the country including the big one in Washington, D.C. That led to a large number of similar tax restraining measures around the country, nearly all of which have been approved when submitted to the voters.

Leaders in Congress, and the president, are not saying they don't want a balanced budget. They simply say that this is the wrong way to achieve it. The right way, they say, is to elect representatives pledged to do what an amendment would do. But that is not entirely practical. Any incompetent can run for Congress on the pledge that he will vote to balance the budget. Voters want more in the man or woman who is to represent them than a promise to perform well on one issue.

Another argument against a constitutional convention expresses the fear that it would have adverse worldwide repercussions. The United States is an island of stability in a generally unstable world. The foundation of this stability is the Constitution. To tamper with it, in a free-for-all convention, would erode faith in the strength of this stable nation's foundation.

Congress can avoid a convention, and do the people's will, by doing what would be in effect an act of penance. Admit that the monstrous public debt is the result of 40 years of fiscal mismanagement, and agree to submit to the people an amendment that would safeguard future generations against more of the same.

[From the Seattle Post-Intelligencer, Feb. 25, 1979]

SAVE ME A SEAT AT THAT CONVENTION

If a convention is called to amend the U.S. Constitution, I intend to go. The half of me that's Irish impells me toward good fights, and a convention promises to be the political and rhetorical equivalent of the Civil War.

There will be folks there wanting to merge church and state and put God back into the classrooms. Folks who want to outlaw abortion. Folks who want to stop drink on Sundays. Folks who want to make the income tax fair, and folks who want to get rid of the income tax altogether. Folks who would outlaw busing, not to work but to school if it has something to do with mixing up kids of all colors and conditions. Vegetarians will be there. And beef tariff advocates. So will people who think oil-company tax breaks should be enshrined in the constitution. And environmentalists who want to make saving whales the 27th Amendment.

People who want to revive the U.S. bank. Gold standard proponents. Faith healers. Technocrats. Libertarians and Republicans and Democrats and white, black, red and yellow. States' righters. Communists. Name a category. They'll all be there.

Nobody knows exactly where yet. Maybe Omaha or Kansas City or someplace else in the middle of the country, or maybe even Washington, D.C. If the new convention lasts four months like the first convention, then there's bound to be lousy weather and frayed tempers.

The Founding Fathers got along with 55 delegates from 12 of the original 13 states, but modern America won't stand for that. More states now, too many more people, and geometric multiplication of special and narrow interests.

No, I figure that if a new convention comes to pass, something like 500 delegates and 50,000 lobbyists will do the trick. Since what the convention comes up with will be a lot more lasting than an act of Congress or lawmaking by a mere legislature, the inflow of booze, parties, bribe money and willing companions will make rich whatever lucky city gets the action. That's one good argument for keeping the convention out of Washington, D.C., and for putting it in the provinces. Washington gets too much largesse now.

The original 55 delegates were white males, well educated, generally well off and capable of parsing a decent English sentence.

There's no chance of repeating that. The new constitutional convention will look something like a tossed salad made up of delegates to the Republican and Democratic conventions. Anyone who has read a national party's platform knows that plain, clear English will not mar whatever amendments we weld into the old document.

The ostensible purpose for calling a convention is to pass an amendment forcing the federal government to have a balanced budget. The fighting won't be over that. Such an amendment will never pass, because it's unAmerican. Few families in the land could survive on a balanced budget. No states do. They issue bonds all the time for special purposes.

Worse, balancing the federal budget would hurt millions of us. Not just people on welfare, who probably won't go off the dole anyway. But people who work for the national and state and local governments, for companies that get subsidies, or huge government contracts; or people who get direct federal payments for their work, like some farmers. Balancing the budget could mean some of us would have to pay all the taxes we should.

But these are minor matters. The national economy—some say the national welfare—has fattened for decades now on money poured into it by the federal government in excess of the money taken out (by taxes) by the same government. Even conservative economists wince about strictly balancing the budget, saying in effect that if we can't borrow from ourselves and mortgage future productivity to pay for it, we could slambang into a dilly of a depression.

Nope, I figure the real fights will be over the first 10 amendments, the Bill of Rights. Good, bloody battles over free speech, freedom of religion, the right not to testify against yourself, and so forth. In my lifetime, some of the populace has suspected, for one reason or another at one time or another, that the rights in the Bill of Rights are subversive to the wellbeing of the Republic. So, why not get rid of the Bill of Rights? Oh, the rhetoric will flow and lobbying will be intense.

And imagine the uproar when someone moves to attach the Equal Rights Amendment to the Constitution. Dire predictions, threats, counterthrusts, franic vote counting, parliamentary skirmishes for delay, shouts, screams.

Nothing that the Founding Fathers would have countenanced, but a battle unroyal, an leashing of the currents and tensions building up these 100 and some years since the Civil War.

I want to be in the press box. It will be the American event of the century.●

VICTIMS OF DOMESTIC VIOLENCE

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Ms. MIKULSKI. Mr. Speaker, today I am proud to join my two distinguished colleagues, Representatives LINDY BOGGS, and GEORGE MILLER in introducing legislation to aid victims of domestic violence. Sixty of our colleagues have cosponsored the Domestic Violence Prevention and Services Act; the supporters come from both political parties and from all points on the philosophical spectrum. Senator CRANSTON is introducing similar legislation in the other body today.

It was 1 year ago this week that the first hearings on the issue of domestic violence were held in the House of Representatives chaired by Representative Miller. The National Institute of Mental Health told us that their research showed the problem had reached epidemic proportions; yet HEW had no strategy for action last year and to the best of my knowledge, there is none this year.

We heard from a district attorney from Milwaukee, a police officer from the District of Columbia; a woman who ran a shelter in California and an attorney who was trying to piece together some support services for women in the hills of Appalachia. The message throughout the country was the same. Citizens at the community level were trying to cope with the problem; they had discovered some successful and innovative techniques, but they were desperate for some financial and technical assistance. They did not want grand Federal intervention—just some help for their local efforts.

Our goal is to provide the necessary support so that community based programs can become economically self-sufficient. Federal financial support will provide the seed money, but will be limited to $50,000 per year and grants will be given for a maximum of 3 years. Technical assistance, both in the areas of fundraising and good management techniques, is provided. This legislation also encourages State and local government to develop long-term plans to combat domestic violence, including changes in the criminal justice system, social service delivery and public education.

Unfortunately, the 95th Congress adjourned before this legislation could be passed. It had received strong bipartisan support in the subcommittee and full committee. Similar legislation had passed the other body. The Rules Committee had given its OK, but the logjam of legislation in the final days of Congress prevented final action. It was a bitter disappointment to me, my colleagues, and all the people throughout the country who had worked so hard to get the bill passed. Now we have begun a new session of Congress. The need for this legislation remains—has if anything increased. The support continues to grow. I am convinced that bill will achieve passage during the 96th Congress.

DOMESTIC VIOLENCE PREVENTION AND SERVICES ACT—A SHORT AND LONG TERM APPROACH

SHORT-RUN

Seventy-five percent of the money appropriated would go to local programs that directly aid the victims of domestic violence. Shelters, hotlines and other community programs have evolved in response to domestic violence, but these services need technical and financial assistance to become self-sustaining entities.

LONG-RUN

State and local governments must become involved. This legislation encourages states to develop long term plans to combat domestic violence, including changes in the criminal justice system, social service delivery and public education.

PROVISIONS OF THE DOMESTIC VIOLENCE PREVENTION AND SERVICES ACT

Of the money appropriated 75 percent would be distributed in grants to the community based programs and local public agencies—50 percent through the States and 25 percent by the Federal government; 15 percent would be allocated to states to develop a long term State plan assuring active citizen participation in the program; 10 percent would be retained by the Secretary to establish an advocacy clearinghouse, provide technical assistance to community programs, develop a national media campaign and coordinate all federal programs.

Authorization is $15 million for fiscal year 1980, $20 million for fiscal year 1981, $30 million for fiscal year 1982.

As evidence of the growing recognition of this problem, I would like to include a newspaper article which appeared in the Washington Post reporting the finding of the Maryland State Police. The police were directed by the Maryland General Assembly to keep these records. The data reveals that 13,500 women reported assaults by their spouses or the men with whom they live during the past year. Since most women do not report assaults the first, the second or even the third time, but only when they fear serious bodily harm, these figures represent the tip of the iceberg. I find this data compelling and note that the FBI stated that no similar data is available nationwide. I want to commend Delegate Pauline Menes, a member of the Maryland General Assembly, for devising a way to collect this information at little or no expense to the Maryland taxpayer.

I hope that a year from today, I will be able to report to my colleagues that the Domestic Violence Prevention and Services Act has become law. If it has, I promise my colleagues that I will do vigorous oversight to insure that the intent of Congress is carried out. The money will go to community programs who are actually helping victims of domestic violence; will not be used to study the victim or establish a large, self-perpetuating bureaucracy. I ask the support of my colleagues for this legislation.

[From The Washington Post, Feb. 27, 1979]

DOMESTIC VIOLENCE SURVEYED . . .

(By Judith Valente)

More than 13,500 assaults on Maryland women were committed or attempted last year by their husbands or other men they were living with, according to the first authoritative survey to document the extent of so-called spousal violence in the state.

The survey, compiled by the state police at the direction of the Maryland General Assembly, gives the number of assaults and attempts rather than the number of individuals involved. Nevertheless, it represents only "the absolute minimum number" of such assaults, according to State Del. Pauline Menes (D-Prince George's), who sponsored the legislation that authorized the survey.

Most instances of wife beating are never reported to police, Menes said.

The FBI said there are no comparable nationwide figures for spousal assaults.

According to the survey, 1,715, or 11.2 percent of the 15,312 instances of spousal violence last year involved assaults or attempted assaults on men. Most of the assaults occurred while couples were living together and resulted from arguments. Most of the victims were white and in the 25 to 29 age bracket.

Typically, spousal violence transcends all economic and educational levels, according to Betty Pike, who chairs the crisis shelter committee of the Maryland Commission for Women.

But generally, the battered wife is someone who is highly dependent economically and psychologically on her husband and feels incapable of leaving her home, Pike said.

"A lot of times, these women have seen abuse of their mothers. They accept violence," Pike said.

"Some women think maybe they deserve it . . . they are not sado-masochistic, but they feel it's perhaps God's will," she added.

Many men who beat their wives have also seen their mothers abused, according to Pike. The survey says that alcohol was a factor in over 14 percent of the assaults.

In many cases, there are extreme economic pressures on the husband, Pike said.

Of the total 15,312 assaults reported to police, 2,999 were classified as aggravated assaults in which the victim either receives or is threatened with severe bodily harm. Knives or other cutting instruments were used in 29.8 percent of the aggravated assaults, while firearms were used in 12.9 percent.

Menes said the survey will be used to promote legislation designed to aid and protect battered women.

"We were trying to provide assistance to battered spouses by way of legislation . . . And we were constantly being challenged as to how many women were affected," Menes said.

In the last 18 months, the number of shelter facilities for battered wives in Maryland increased from two to 14, Pike said.

There are several bills before the legislature this year dealing with the problem of spousal violence, Menes said.

One bill would make it legal for a husband and wife to sue one another for damages, currently prohibited under common law. Another would require police officers to accompany women back to their homes where their estranged husbands are living to retrieve their belongings, if necessary.

The testimony from those senators—some of whom concluded, without talking directly to Mandel, that the governor wanted his own veto overridden—should not have been allowed to go to the jury, according to the majority opinion, because it was hearsay testimony and because the statements came from "long-time political enemies of the governor."

A strong dissent was filed by 4th Circuit Judge John D. Butzner Jr., who said that the disputed testimony was properly admitted into evidence according to earlier appellate rulings by other federal courts.

Agreeing with the dissenting judge, prosecutors said the majority opinion is "wildly at odds" with other appellate court treatment of hearsay evidence and unfairly disregarded Taylor's judgment that the testimony was "trustworthy."●

AN EGYPTIAN-ISRAELI TREATY AND OUR TASK AHEAD

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. HAMILTON. Mr. Speaker, it is my understanding that a peace agreement between Egypt and Israel is close at hand and that a treaty between those states can soon be initialed.

This is a momentous occasion for the people of Egypt and Israel and also a time for congratulations for President Carter, President Sadat and Prime Minister Begin. Despite many difficulties and several complicating events throughout the region over the last several months, patience, persistence, and reason have triumphed.

It is critical for all of us to remember at this time of success and reflection over what has been achieved that this historic treaty should be viewed as an important beginning on the road toward a comprehensive settlement of the Arab-Israeli conflict.

There are throughout the Middle East many critics of the Camp David process. U.S. actions over the coming months will be carefully scrutinized in the Arab world. Palestinians, Jordanians, Syrians, and Saudis may be initially reacting cautiously, if not negatively, to this agreement. It is our job to convey to them the importance of this beginning and pursuade them of our desire to move beyond this treaty to address the rights of Palestinians and the framework for an interim period of full autonomy on the West Bank and in Gaza of our willingness to talk with all who want to move toward a comprehensive peace.

We must plead with our many friends in the Arab world to give the peaceful intentions and resolves of others a chance for positive expressions. Let the process this treaty starts be tested over the coming months when negotiations for an interim period for the occupied territories of the West Bank and Gaza will commence between Israel and Egypt.

Mr. Speaker, our duty today is both to commend Israel and Egypt for the enormous achievement they have made and to rededicate ourselves to the important tasks that lay ahead on the road to a full peace in the Middle East. I trust this body is united in our praise of the constructive role of President Carter and in our desire to see the peace process proceed.●

IN DEFENSE OF HATCH ACT REFORM

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. CLAY. Mr. Speaker, as many know, the lines of battle have been formed on reforming or keeping the Hatch Act as is over the past few years. I have been among those in Congress who have been leading the fight for modification of the Hatch Act, an act which over the past 40 years has silenced and tied the hands of Federal civilian and postal employees from becoming involved voluntarily in the political process of this Nation. I have been fighting this battle in the past two Congresses—the first time (H.R. 8617) coming up against a Presidential veto by President Ford and the second time (H.R. 10) seeing it pass the House only to become bogged down in the Senate—even though it had the full backing of President Carter. Once again I am in the forefront on this issue, again we have the backing of our President. This time I have introduced two separate bills—one pertaining to postal employees and one for Federal civilian employees. The background on this legislation appeared in the RECORD on February 26 when I introduced both bills.

One of the staunchest supporters and an expert on the Hatch Act and the need to bring it up to date with the realities of the 1970's is Mr. Patrick Nilan who is legislative director of the American Postal Workers Union. In the March 12 edition of the Federal Times, Mr. Nilan presents a clear and careful analysis of Hatch Act reform legislation. Mr. Nilan presents his view in rebuttal to a column which appeared in an earlier edition of the same publication where the writer supported the existing Hatch Act restrictions. Mr. Nilan effectively points up the fallacies and errors which were prevalent throughout the first article. I commend Pat Nilan's well thought out comments to the attention of my colleagues who I believe will be able to get a full picture of the need to modify this antiquated law which should have been done years ago.

The article follows:

Hatch Act "Overkill" Not Necessary or Tolerable

(By Patrick Nilan)

In the *Federal Times* "Forum" column on January 22, David Denholm offered us an analysis of HR 10, the union-backed, draft legislation to modernize the Hatch Act, which made about as little sense as anything I've read in a long time.

It's a shame to dignify this kind of trivia by resurrecting it from its early and well-deserved resting place in the archives of trash and nonsense but I feel obliged to say something. There is enough misinformation and ill will and poisonous venom already circulating on the subject of Hatch Act amendment and I see no reason to allow Denholm's scurrilous little piece to go unchallenged.

As we all know, Denholm and his Public Service Research Council are union-baiting crusaders whose principal purpose is to create the impression that organized labor is a threat to every basic American institution from motherhood to the Alcan highway, not because laboring America is unpatriotic or evil—they wouldn't want to suggest that (at least not on record)—but because the "union bosses" are greedy, grasping and ruthless. And this, of course, is the thrust of his January 22 article, that union leadership in the fight to liberalize the Hatch Act is nothing less than a power grab by the public service unions and their leadership.

For example, he says that only the union bosses support and advocate adoption of Hatch Act legislation such as HR 10 and their reason for doing so is their expectation that in restoring the political civil rights of postal and federal employees, the unions will be the main beneficiaries because they will be able to convert this enhanced political clout into greater leverage in the political processes of the nation.

Now before I go any further, let me confess that there is a grain of truth in what Denholm says, if not in what he implies. It is true that liberalization of the Hatch Act would enhance the power of postal workers and their unions because it would enable them to put some teeth into their political activities; they would become a meaningful force in local and national politics.

That's why HR 10 makes sense and the reason why the unions are leading the fight to support it! We want to increase the political effectiveness of all government workers across the land and, as a direct consequence, we want to increase the power of their unions. Denholm is certainly right about that.

But where he is wrong is in his inference that this is somehow wrong. Denholm builds this suggestion into his article right from the beginning by informing us that public concern about corruption and abuse of federal employees is as old as the Republic itself and then he quotes President Thomas Jefferson to prove it.

But Denholm left out some important information so he could make his point—he neglected to say that Thomas Jefferson, perhaps more than any other framer of the Constitution, would have been appalled, as I am, by the infringements of constitutional rights that are embodied in the restrictive provisions of the Hatch Act.

Denholm goes on to say that the Hatch Act has survived three challenges before the Supreme Court but again he neglects the fundamental consideration that the Hatch Act survived these challenges, in spite of its weaknesses, because the Supreme Court found that Congress, in its judgment, may abridge constitutional guarantees of individual rights when required and necessary in the public interest. However, the court did not rule on the paramount question, i.e., could the public interest have been preserved in 1939 with a less restrictive act; and, can the public interest in 1979 be maintained with fewer restrictions than those contained in the Hatch Act as presently written?

This is the crux of the issue. Denholm, and those for whom he speaks, maintains that the Supreme Court's endorsement of the Hatch Act means that it is set in concrete, that it is so nearly perfect that it should not be changed indeed, must not be changed because it is sacrosanct.

To suggest how ridiculous this is, I might ask if Denholm would feel the same way about re-examining the Sherman Anti-Trust Act, which also has been repeatedly upheld by the Supreme Court, or the Taft-Hartley Act of 1947 or the Fourteenth Amendment likewise reaffirmed, many times, as a milestone in U.S. constitutional development. I can imagine that Denholm and his associates would be delighted to support a reexamination of these keystones in the American social structure and could recommend any number of "needed" changes.

Our view of the Hatch Act is that in the absence of court rulings to the contrary, it is a legislative responsibility to examine the public interest and make a determination of the needs of the public in relation to individual rights; but because of this nation's dedication to the principles of individual rights before the law and under the constitution, Congress is obliged to make this determination periodically to ensure a harmonious balance under changing conditions. While not perfect, the Hatch Act served a useful purpose in 1939 because there was a serious need to protect the public and its employees from abuses that characterized the federal system for 150 years or so, but we are living in a different world and it is time for a legislative re-examination.

The Supreme Court's endorsement of the Hatch Act does not imply perfection or even that it embodies the best or most equitable balance of individual rights versus the public interest. To the contrary, the Supreme Court has only said that the act is a tolerable (not ideal) infringement on First Amendment and other constitutional rights.

We believe it is time to readjust and to fine-tune this balance. We believe that Hatch Act restrictions were excessive in 1939 and that they are much more so today. It is time to restore the public employee's right to become a partner in the political processes of the nation—not a pariah. We believe that the Hatch Act's overkill is no longer necessary or tolerable.

Denholm attempts to create the impression that the advocates of change in Hatch Act restrictions are not supported by the general public or by the rank and file of the unions. He cites a so-called "scientific survey" to support his thesis, although he fails to disclose the identity of his survey or the precise questions asked, and his evidence could hardly be more tenuous or less convincing.

However, let us suppose, for the sake of argument, that he is right; that there is a widespread apathy in the general public and among public employees regarding legislation as HR 10, and that the unions are well out front of public opinion in the matter. My question, then, is: are we any less right in attempting to exercise constructive leadership on so vital an issue? Are we any less obliged to help show the way, to help clarify the issues before the public and for our membership? Are we any less responsible for speaking out?

Certainly not. It is our duty to press for change whether or not we speak for the public. Samuel Gompers and John L. Lewis didn't wait for public acclaim or the support of the masses. If they had, we would still be in the sweatshop era.

It is an old muckraking technique to reduce controversial issues to extremes, to black and white terms, as if there were no middle ground. Denholm seems to admire this technique and he uses it by suggesting that any reform of the Hatch Act, any change at all, will automatically open the floodgates and bring back those abuses of yesteryear, the spoils system, the corruption, the intimidation of public employees, the subordination of the public interest, that so characterized the public service before the Hatch Act.

Then he suggests that we, the postal and federal employee unions, would favor and support such a deterioration in the condition of government in order to enjoy the benefits of reduced prohibitions on the political activities of our members.

Such arguments are sheer nonsense! Congress is perfectly capable of correctly assessing and protecting the public interest in a re-examination of the Hatch Act and did precisely that when considering HR 10 in 1977–1978. Further, I believe it is clearly demonstrable that there is no stronger advocate of full and complete protection of the public employee, his rights as well as his integrity, and independence, than our unions. We want to protect the public and its employees and would not support legislation that fails on either count. HR 10 would have protected both the public and the employee in a proper and constructive balance between public and individual rights. That is why we support and call for passage of legislation similar to HR 10 in the new 96th Congress which would contain the following provisions and protections:

Federal employees are encouraged to exercise their right of voluntary political participation.

Hatch Act restrictions on certain employees who exercise decision-making authority, who hold designated "restricted" positions, those in national security positions and, in some cases, those who audit, investigate or inspect, are retained.

Prohibits the use of official authority, influence or coercion to affect the right to vote, not to vote or otherwise to engage in political activity by public employees.

Prohibits the use of funds to influence votes, solicitation of political contributions by superior officials, and making political contributions in government rooms or buildings.

Prohibits political activity while on official duty, in federal buildings, or in uniform except for certain employees of the White House office.

Prohibits the extortion of money for political purposes from employees.

Requires that employees who seek elective office do so on their own time. Employees shall, upon request, be granted accrued annual leave and/or leave without pay to seek elective office.

Designates the general counsel of the Office of Personnel Management as investigatory authority and the commission as adjudicatory authority, provides for judicial review of adverse decisions, and limits investigations of prohibited activities to 90 days.

Subjects violators of law to removal, suspension, or lesser penalties at the discretion of the board. Requires 30-day suspension without pay for any employee found guilty of violating prohibitions against use of official authority or influence.

Requires that the Office of Personnel Management conduct a program for informing employees of their rights of political participation, receive complaints in confidence and report annually to Congress on implementation of the law.

Denholm's suggestion that public employees will become vulnerable to pressures and exploitation by their own unions is a deliberate misrepresentation and an insult to public employees. To suggest that union management would try to pressure a union member to use his official position in illegal or unethical ways is to suggest that the unions could ignore the law and that employees would have no alternative but yield to illegal pressures. Obviously, neither of these would be the case under Hatch Act Reform. Coercive action by the unions would be prohibited, as would compliance by the employees.

If our critics are suggesting that the unions will attempt to encourage political action, to stimulate participation and leadership on the part of its members, then they are perfectly correct. We do that now and we shall continue to do so.

But we function on behalf of our membership and in response to their interests and needs. Our struggle is first and foremost a political struggle, an unrelenting political struggle and our members join us because they want to become part of that struggle. No coercion is involved; none is required.

Membership in our unions does not diminish one's freedom of choice. Consequently, it is misleading and malicious to claim, as Denholm and his supporters do, that a liberalized Hatch Act (i.e., HR 10) will encourage or enable the unions to terrorize or intimidate their membership into political submission. Nothing could be farther from the truth.●

REFUNDABLE DEPOSIT LEGISLATION

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. FISHER. Mr. Speaker, today, I join once again with Congressman JEFFORDS in introducing legislation to require a national system of refundable deposits on beverage containers. This bill is entitled, "The Beverage Container Reuse and Recycling Act."

The principle behind the refundable deposit system is simple enough. A distributor of carbonated beverages, both soft drink and malt, would charge the retailer at least an extra 5 cents on each can or bottle delivered. The retailer would then pass this charge along to the consumer. When the container is returned, the retailer would refund the deposit to the consumer. The retailer would, in turn, receive a refund from the distributor for each can or bottle returned.

Some complain that returning bottles and cans is a bother. Why, then, enact such a deposit system? Because, as I see it, any minor inconvenience caused by the program is far outweighed by the environmental and social benefits and by the expected savings in energy and materials.

We all have driven along roads strewn with bottles and cans or followed a trail of these containers along the beach. By volume, these containers can represent as much as 60 percent of our litter problem. Inasmuch as beverage containers are highly visible and degrade slowly, we should address this problem first. Environmental Protection Agency (EPA) staff studies predict that enactment of a national mandatory deposit law could, within 5 to 7 years, reduce total litter volume by 40 percent. A General Accounting Office study estimates that a mandatory deposit system could reduce beverage container litter by as much as 80 percent.

In addition, the program will encourage community service groups and youth organizations to collect, for profit, the containers that continue to blight our countryside. Finally, a deposit law will help to reduce the number of litter-related accidents caused by broken bottles and cans.

We have developed a throwaway mentality. It is inexcusable to me that we continue to discard precious materials such as steel, aluminum, and glass for mere convenience sake, when recycling and refilling of containers will conserve these resources. When we thoughtlessly discard containers, we also aggravate an already alarming solid waste problem faced by virtually all State and local governments. The deposit program will help to reduce this problem by providing a consumer incentive, a refund, to return containers and a financial penalty to those who do not.

Consider, also, the energy savings. During a period when this Nation is dangerously dependent on other countries to help fulfill our energy requirements, it is essential that we do whatever we can to conserve energy. There is little doubt that energy savings will be realized when many containers are recycled or refilled. The actual savings will depend upon such factors as the resulting return rate for bottles—the number of times a refillable bottle is returned for a refund—the recycling rate for cans, the container mix—the number of cans versus bottles in the markets—and, of course, the amount of energy used in manufacturing cans and bottles compared to the much smaller amount used in collecting and reprocessing. EPA estimates of annual savings with enactment of a deposit law range from 70 to 130 trillion BTU's which is equivalent to a daily savings of between 33,000 to 61,000 barrels of oil.

To date, seven States have enacted refundable deposit laws and similar initiatives are pending before other State legislatures. In Virginia, State Senators Waddell, DuVal, and Canada have led efforts in the general assembly to enact a statewide bill which, unfortunately, was recently defeated in committee by one vote. However, I am pleased that Loudoun and Fairfax Counties, both located in my congressional district, are among a handful of progressive localities across the country that have enacted refundable deposit ordinances. While these approaches are commendable, they are not without their problems. In Virginia, since the State controls the sale of beer and malt liquors, both local ordinances are limited only to soft drink containers. This situation is not only unfair to soft drink distributors, but also confusing to the consumer. These fragmented approaches, both State and local, lead to consumers entering other localities, where there is no similar law, to purchase their beverages. This drains money from jurisdictions with deposit laws and defeats the purpose of the program. Our national proposal will attempt to correct this problem by establishing a uniform system which will permit only consistent State and local laws.

In terms of employment, job losses are expected in both the glass container and can manufacturing industries. However, employment gains are anticipated in the distribution, beverage filling, and retail sectors. While many studies predict a net increase in jobs, the skill levels of the new positions may not be equivalent to those of jobs lost. In an effort to deal with this problem, the legislation we are introducing today contains a provision authorizing the Secretary of Labor to identify and provide assistance to individuals whose employment might be adversely affected by the act.

Debate has also focused on the question of whether the deposit program will result in higher prices to the consumer. Some industry representatives claim that prices will increase due to new capital and labor costs. Others suggest that savings will be realized due to the shift toward recycling. There is no clearcut evidence to date that conclusively supports either side. In my view, a possible small increase in consumer costs would be outweighed by the substantial social and environmental benefits.

I applaud and would like to share with you the enlightened position taken by the industry's own Beverage Industry magazine some time ago:

> It's time for the industry to move with greater foresight on the issue of packaging legislation and to start listening seriously to what all those involved in the dialogue on mandatory deposits are saying.

I urge my colleagues to cosponsor and support the Beverage Container Reuse and Recycling Act of 1979.●

TOM SULLIVAN—A MAN OF HONOR

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. RHODES. Mr. Speaker, one of Arizona's truly great public servants is

Tom Sullivan of Phoenix, a man who has served our State in and out of government for more than 25 years.

He is a man of great integrity, whose word is his bond. Tom Sullivan can size up a person almost instantly, and it is his hallmark to befriend and support those who share his great principles of personal honor and patriotic commitment.

A good news article about this greatly admired Arizonian recently appeared in the Arizona Republic. I would like to include the article at this point in the RECORD:

[From the Arizona Republic, Mar. 13, 1979]

IRISH AYES—TOM SULLIVAN STILL FEELING PULSE OF POLITICS

(By Maggie Wilson)

When Tom M. Sullivan was a boy he rounded up stray cows at the intersection of Central and Camelback during recess "out in the sticks" at Brophy Prep.

"Changes? Good Lord. Who could have dreamed what the next 50 years would bring?" he asked, shaking his head in disbelief that the pastoral dairy herds of yore have been replaced by Uptown Plaza, Chris-Town, Park Central and Town and Country shopping centers . . . and hundreds of thousands of people.

Nonetheless, Sullivan, a 65-year-old Phoenix native, has contributed his share to those changes on the face of Phoenix, the governmental entity of Maricopa County and the political climate of the state of Arizona.

Politics has been his game and he has played it as well as any lifelong Arizona Democrat ever has. He resigned his post with the city administration in 1952 to become county manager (Maricopa's first) until 1960, when he "decided to make me some money," by becoming a private governmental consultant, lobbyist, political speechwriter and all-around, bipartisan kingmaker.

"I learned politics from a bunch of old pros who always had time to answer a dumb kid's questions," he said, grinning his disarming Irish grin and waiving his ever-present cigar in expansive arcs around his Luhrs Tower office.

"You know . . . office holders like John L. Sullivan (no relation), Joe Conway, Thad Moore, Jim Kirby and Evo DeConcini. And lobbyists like O. L. McDaniel, Sam Morris, Tex Neal, Bumps Crawford and Andy Gibbons.

"They were all Democrats, of course. Arizona didn't have any other kind of pols in the 1920s, '30s and '40s" he said.

But as the state became bipartisan politically, so did Sullivan's wheeling and dealing. Enough so, he admits, that he was behind-the-scenes "helper" in last year's elections of Bob Stump, a Democrat, and Eldon Rudd, a Republican, to the U.S. House of Representatives.

"I've known every Arizona governor since George W. P. Hunt served his last term in the early 1930s," he said, "I've always been just full of machinations and I've been responsible for a lot of political appointments and recommendations. But I've never been responsible for a scandal or created any embarrassment.

"But to be completely candid," he added, as his grin turned a tad devious, "maybe I'da been tempted to buy some land along a roadway I knew would become a thoroughfare if I hadn't been smart enough to know there'd be hell to pay on down the line. Conflict of interest and all that.

"But I'd be a lying SOB if I told you the thought never crossed my mind."

Oh, sure, he said, there were many times, especially as county manager, when he was called a liar anyway, "and in some circles I was regarded as the most hated SOB that ever came down the pike."

He left city politics to become Maricopa's first county manager, he said, when the Better Government Association elected its first bipartisan ticket composed of "the three Jims—Hart, O'Neil and Lindsay."

Just as the city had formed the Charter Government Committee and a bipartisan slate to combat a series of scandals and outmoded administration techniques, the Better Government Association did likewise in 1952.

"BGA played hell with the old-time patronage," Sullivan said. "Hiring department heads on merits instead of by cronyism didn't set too well with a lot of folks. I was the guy doing the hiring, so I took a lot of heat and produced a lot of sweat.

"Those were the days of the tremendous post-World War II boom. Military personnel who had trained here were returning in droves to live here.

"When I set up such much-needed departments as purchasing, parks, health, highway, the county morgue, planning and zoning—well, detractors didn't call me the Better Government Association boy. They called me the Better-Grab-All boy.

"But every department head I appointed, with one exception, was retained under succeeding administrations," he said.

The accomplishments of that administration, Sullivan said, included a plethora of county parks, "where only vacant lots had been," and miles of paved roads "where none or dirt ones had been."

"We put McDowell Road through Papago Park to Scottsdale Road," he said. "It had dead ended at 52nd Street before. Eventually we extended it across the Salt River Indian Reservation to Country Club Drive in Mesa."

But perhaps, he said, the two most notable accomplishments of that administration were:

—Buying a block of downtown Phoenix at Central and Jefferson for a county government complex, which encouraged the city government to keep City Hall downtown instead of moving out north, and discouraged the state government from erecting a complex in Papago Park.

—Getting a bill through the 1959 Legislature in the unprecedented record time of four hours and 37 minutes that has "influenced the county political picture ever since."

The first, he said, "saved downtown, Phoenix" by centralizing city, county, state and federal offices downtown, rather than their "being disbursed all the hell over the place."

The second saved the Board of Supervisors-county manager form of government, when "detractors" were trying to return county government "to the patronage trough and cronyism."

When he retired from county politics in 1960, Sullivan said, our county manager post, paid $15,000 per year, compared to today's more than $50,000. Since then, the number of supervisors has been increased from three to five.

"After I left to set up this office on my own. I made a little money, bought a little ranch in Chino Valley and a home that's a historic site in Prescott.

"Retire? Gosh, no. But in November, I will quit as lobbyist for Salt River Project and become simply a consultant to SRP on its governmental matters."●

THE SITUATION IN RHODESIA AND SOUTH AFRICA

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. DERWINSKI. Mr. Speaker, it would be accurate to state that the administration's policy as it applies to Rhodesia and South Africa has been marked by a lack of success. Basically, the administration's policy is misguided, misdirected, and has failed to take into account the "realities" of the situation in Africa.

Allan C. Brownfeld is a regularly featured columnist in Human Events, a Washington-based conservative publication. In his column appearing in the March 17 edition, he writes from a firsthand look at the situation in Rhodesia. I wish to insert his report at this point:

U.S. INDIFFERENT TO RHODESIAN TERRORISM

(By Allan C. Brownfeld)

Terrorism in Rhodesia on the part of the Marxist guerrillas of the Patriotic Front has become so widespread that we tend to overlook the human tragedies involved. Hitler said long ago that if you kill one man it is murder, while if you kill millions it simply becomes a statistic. To official Washington, the dead, both black and white, at the hands of terrorists in Rhodesia have simply become statistics.

The shocking barbarism of such terrorist activity becomes apparent, however, when one listens to the firsthand report of a survivor as this writer recently did.

That survivor is Hans Hansen who was one of eight who lived through the crash of a Rhodesian airliner which was shot down by terrorists on Sept. 3, 1978. After the aircraft was brought down by Soviet-made surface-to-air missiles, the terrorists murdered 10 survivors, including women and children, in cold blood. Hansen, a native of Denmark, and his Rhodesian-born wife, managed to crawl away to safety.

When the Hansens were invited to the U.S. by the American Security Council to tell their story, the U.S. Department of State refused to give Mrs. Hansen a visa because she is a Rhodesian citizen and, according to the Department, "we do not recognize Rhodesia." This, of course, has not kept the State Department from giving visas to the terrorist leaders of the Patriotic Front, Joshua Nkomo and Robert Mugabe.

The double standard is clear and obvious. Mr. Hansen, traveling on a Danish passport, could not be legally prevented from coming to the U.S. and, after prodding from the American Security Council, he decided to leave his wife behind in the interest of letting Americans know about the terrorist groups their own government, the World Council of Churches, and others in the West continue to support.

After those passengers who were still alive managed to move away from the aircraft, Hansen reports that the terrorists commanded that everyone stand up. He and his wife were away from the others, having returned to the plane in search of warm clothing for those who were seriously hurt. Hansen asked his wife, "Should we follow their orders and stand?" She replied, "No way." Having worked for Salisbury lawyers who had represented terrorists, Mrs. Hansen knew that their orders were to kill all whites and any blacks who in any way resisted them.

They collected jewelry and other valuables from those passengers who stood at their order. Then they said, "You have taken our land—we are going to give you a lesson." They proceeded to shoot each one and then bayoneted them as well. "Why they didn't notice us and kill us I will never know," Hansen said. "I just held my wife's hand and we prayed."

Since arriving in the U.S. Hansen expressed surprise that the views of most Americans and that of the State Department were radically different. "I came here," he said, because my wife insisted that if I told the American people the truth about terrorism in Rhodesia they would cease their support for the Patriotic Front." He states that "Most Americans I speak with oppose terrorism totally. They, too, cannot understand why their government seems to embrace it."

Yet, the press has shown little interest in Hans Hansen's story. Phil Clark of the American Security Council reports that "We held a press conference but not one story has appeared in the Washington *Post*, the New York *Times*, or any other major paper. The West German television was there, but not NBC, CBS or ABC. The Associated Press sent a reporter, but I have seen no published story about the press conference."

The refusal of the Carter Administration to reject the barbaric terrorism which has seen inflicted upon Rhodesia by the Soviet-supported Patriotic Front is shocking. The terrorists themselves do not hesitate to proclaim that their goal is an all-black. Marxist dictatorship for the future Zimbabwe. It is Ian Smith, Bishop Muzorewa, Chief Chirau and other moderate black leaders who together are bringing Rhodesia to the "majority rule" demanded by U.S. policy. Yet, the U.S. rejects those who believe in democracy and a multi-racial society and embraces the terrorists instead.

Typical of the views of Rhodesian terrorists is the statement made by an Angolan-trained Patriotic Front member who admitted killing 21 black civilians—including women and children. He told a conference of war correspondents in Salisbury that. "I am a ZIPRA forces guerrilla. I was trained to kill and I enjoy killing. It was my job and I did it well."

Reuben Donga, need 22, gave himself up the day after he and a companion had massacred 17 civilians in Zwimba Tribal Trust Land. He said that he had been abducted by ZIPRA terrorists loyal to Joshua Nkoma during a visit to his sick mother in Plumtree, near the Rhodesia-Botswana border. He was marched at gunpoint across the frontier, then sent to a camp near Francistown. After a three-week indoctrination course he was taken to Angola where Cuban and Soviet "military advisers" led an intensive six-month course in terrorist and urban warfare. He was told by Nkomo personally to enter Rhodesia and "kill-kill-kill" in order to "liberate Zimbabwe through the barrel of a gun."

From what are these terrorists going to "liberate" Rhodesia? Only, it seems, from the new democratic, multi-racial government which will emerge from the April elections. Even after all he has been through, Hans Hansen remains an optimist. He says that "I believe there is a great future in Rhodesia under majority rule. Blacks and whites will be able to work together if only the terrorists are prevented from destroying what we have built."

Why was the U.S. State Department afraid to let Mrs. Hansen accompany her husband and tell her story? Perhaps those who have supported the Patriotic Front for so long do not want the American people to know the nature of the murderers who have received such encouragement from Washington. Hans Hansen laments that if U.S. policy reflected the views of the many Americans with whom he has spoken it would be entirely different. In this he is surely correct. But encouraging our enemies has, somehow, become an axiom with many in this Administration and Rhodesia, sadly, is only one example of that disastrous approach.●

LEAA LEADS THE WAY IN NEIGHBORHOOD CRIME CONTROL

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. McCLORY. Mr. Speaker, the value of LEAA's leadership in inspiring local crime-fighting efforts cannot be overstated. Some of LEAA's most notable efforts have been in the area of crime prevention through teaching civilian volunteers to train neighborhood watches as well as helping low-income homeowners—many of them senior citizens living alone—make their residences more secure. I am in strong support of such neighborhood anticrime programs.

Examples of these successful programs all over the United States are set forth in the following article which appeared in Parade magazine on March 11, 1979 entitled "Watchout! There's a Thief About," authored by David Lampe:

WATCHOUT! THERE'S A THIEF ABOUT

(By David Lampe)

Two years ago a tidal wave of crime crashed over Whispering Oaks, a middle-class subdivision in Austin, Tex. "There were as many as 35 class-1 offenses a month," recalls policeman George Vanderhule. "Mostly burglaries and vandalism, but also sexual assaults on adults and kids."

Some Whispering Oaks residents were selling their months-old homes out of fear. Yet surrounding neighborhoods were almost free of crime. What was wrong in Whispering Oaks?

Officer Vanderhule saw too many bushy trees and high privacy fences, too many access roads. Far more serious, he found a neighborhood of strangers. "Nobody knew anybody else," he told Parade. "So anybody could amble in, pick out hiding places, vulnerable properties, escape routes."

Vanderhule got at least one person from every Whispering Oaks block into a "Neighborhood Watch." His object was to teach crime awareness not to vigilantes but to concerned people. In five meetings he explained how neighborhood criminals can usually be repelled with things residents have in their garages and workshops. "You're buying time," he explained. "If your neighborhood criminal can't enter your home in four minutes, he'll try somebody else's." Lights and noise can be cheap, effective weapons, Vanderhule said, while costly alarm systems are not always necessary.

Vanderhule lent engravers to mark valuables—"with quickly traceable drivers' license numbers, not Social Security ones that take months to run down." He detailed ways to defeat muggers, rapists, con artists. Most important, he urged Whispering Oaks people to meet and to look out for each other. To recognize and report anything suspicious.

As crime awareness grew, the subdivision's crime rate fell. In just one month it dropped 50 percent, halved again the following month. Very soon Whispering Oaks was both crime free and a lot more neighborly. Now its homes sell for more than comparable ones nearby—sometimes $6,000 to $8,000 more.

The police responsible for the turnabout—Austin's crime prevention officers—got no medals. Nor do thousands of other such officers elsewhere get enough notice. Yet a top official in the Justice Department's Law Enforcement Assistance Administration (LEAA) says: "Theirs is the way of the future. Not only to restore law and order in our communities and make policing more efficent, less expensive, but a way to give our whole lives a new quality."

Crime prevention is an old idea. The world's first modern police force was formed 200 years ago in London just to prevent crimes. But over the years efficient, low-key prevention gave way to costlier, flashier detection. Yet it costs as much to prosecute one criminal—if you can catch him—as it does to prevent 80 crimes.

Early in the 1960's, when a crime wave coincided with a falloff in police recruiting. Britain reintroduced crime prevention. Many of the Queen's top cops called it a waste of money and manpower, but its successes soon silenced criticism, and today every British force has crime prevention officers. Britain's per-capita burglary rate is only a seventh of the U.S. rate, and its overall crime rate is also much lower.

In 1971 the U.S. Department of Justice began funding local crime prevention units. Police weren't surprised that suddenly more crimes were reported—for studies in places like Whispering Oaks confirmed that while fewer crimes were being committed, a much higher percentage were being reported. This happens whenever public confidence in law enforcement strengthens. It's estimated that we still probably suffer twice as many burglaries nationwide annually as the roughly 3 million reported. As few as one rape in 10 is reported, one homosexual rape in 100.

In the last three years, the Justice Department has invested about $109 million in some 1350 crime prevention programs across the nation, everywhere getting results.

The program in Portland, Oreg., for example, not only offers free security surveys to low-income homeowners, 85 percent of them senior citizens living alone, but gets high shrubbery around their homes trimmed, keeps five carpenters busy fitting better locks on doors, pinning or putting grills on windows. More than 4000 residences so far have been secured at an average $200 cost. For the first time in their lives, many are enjoying freedom from fear for less than the cost of minimal neighborhood policing.

Street lighting was improved and every home secured in Portland's low-income, high-crime Union Ave. area free of charge—and burglaries immediately dropped by 36 percent.

Federal funds also helped Portland to teach civilian volunteers to train Neighborhood Watches. "This gives us many more groups than we could possibly train ourselves," says Crime Prevention Sgt. Roy Kindrick. Overall, the city's annual crime rate is falling at the same rate it's rising in cities without crime prevention.

The LEAA is helping the Los Angeles Police Crime Prevention Unit provide material for a multimedia, public service advertising campaign. Federal money is also being channeled through the unit to elderly crime victims.

The crime prevent unit in Fort Lauderdale, Fla., sent an officer to Britain' crime prevention school. He returned with a lot of ideas, including photos of a mobile display unit the Florida force has reproduced. Fort Lauderdale's advertising federation is getting the Crime Watch (different in name only from other cities' Neighborhood Watches) free advertising in local editions of some national magazines. Crime Watch billboards, T-shirts and bumper stickers are highly visible. Watch members, recruited in door-to-door campaigns, are bused to meetings free. "Warning," says signs in their neighborhoods. "This neighborhood is protected by Crime Watch. Criminals beware." A member who notices anything suspicious telephones three others, so that soon the whole community is alert. Now these once-anxious neighborhoods suffer few crimes.

Another significant result, says Fort Lauderdale Crime Prevention's Gordon Schofield, "has been 'displacement.' Crime rates in surrounding neighborhoods have risen significantly." When colleagues say this isn't inevitable, he questions their reporting procedures. "Actualy juvenile crime may fall off, but the kids will vent their anxieties elsewhere. They trash their schools, break streetlights. Your more serious burglar simply moves on."

Schofield says that Crime Watches have proliferated across Florida "like wildfire." His Watches are tutored by young "police aides," members of a "Law Enforcement Tomorrow" program. This allows uniformed officers more time for security surveys of homes. Some homeowners' insurance premiums have been cut by as much as 30 percent.

So far, however, only a handful of insurers are participating. Most companies apparently would rather pay claims. Unlike British insurers, they don't send adjusters to the crime prevention institutes. In El Paso, Tex., where officers not only certify secure existing homes but also new ones that have security specially built into them—at a per dwelling average of $200—nobody gets premium reductions.

How good are such certifications? Chances of your home being burglarized this year are one in 60. But of more than 1000 homes and businesses certified secure in Arlington, Va., in the last two years, only two have been burglarized—one after the owner's son lost the keys to the dead bolt locks, the other hit by a determined professional who took silver and jewelry worth $18,000.

All building permits in Arlington—for everything from screened porches to 20-story high-rises—now must be checked by crime prevention officers. This is also the rule in Montgomery County, Md., another bedroom suburb of the nation's capital, where only one insurance company offers reduced premiums on secured buildings.

In less than eight years, crime prevention efforts have become a part of American life, but a lot more people need to know about it, and its full impact hasn't yet been felt. "We started in 1971 with an unrealistic goal—to cut crime nationally by 15 percent a year," admits Al Scheigg, an instructor at the Texas Crime Prevention Institute, which trains officers from forces all over America. "For years crime has been increasing about 10 percent a year, so we were really trying for a 25 percent cut.

"Well, since we've been active, the increase has slowed. And in 1977, the last year fully reported, things actually began to turn around. The nation suffered 1 percent fewer burglaries than in 1976. That's more than 45,000 serious offenses that didn't occur.

"Today all the major civic, trade and fraternal associations are actively with us. So is the General Federation of Women's Clubs— with massive programs, some LEAA assisted, all over the country.

"Particularly active are the people most vulnerable to crime, the over-60's. They have the time and persistence to recruit, train and run some Crime Watch programs—not only neighborhood programs but, especially in the high-rise communities in the Northeast, where crime prevention has been slowest catching on, single-building and single-block watches.

"On the negative side, only one person in 100 who reports stolen property tells us it was marked. And only 18 percent of burglary cases are solved. Crime prevention is like medicine. Having the bottle on the shelf isn't enough. You have to take what's in it."

SUBCOMMITTEE ON TRADE ANNOUNCES INTENTION TO HOLD MAJOR HEARINGS ON MULTILATERAL TRADE NEGOTIATIONS

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. VANIK. Mr. Speaker, I include in the RECORD the following press release from the Subcommittee on Trade, Committee on Ways and Means, announcing intention to hold major hearings on the multilateral trade negotiations now being concluded in Geneva:

Chairman Charles A. Vanik of the Subcommittee on Trade, Committee on Ways and Means today announced the intention of the Subcommittee on Trade to hold major hearings on the Multilateral Trade Negotiations now being concluded in Geneva. Chairman Vanik said he hopes these hearings can be held during the first two weeks in April, but the schedule and exact dates will be subject to the agenda and schedule of the full Committee on Ways and Means. A further announcement will be issued when the schedule is firm.

In announcing the hearings Chairman Vanik indicated that the Subcommittee is inviting public testimony on all aspects of the agreements that the President notified to the Congress in his message of January 5, 1979, and on the domestic implementation of those agreements under section 102 and 151 of the Trade Act of 1974.

Chairman Vanik stated that the hearings will be organized to the extent possible on the basis of subject matter and the primary interest of the witnesses.

Specifically, to the extent possible, witnesses are requested to address themselves to the following:

1. The advantages and disadvantages, overall and by agreement, of U.S. acceptance of the international codes, and of the other agreements contemplated, which obtain benefits for the United States and grant U.S. concessions (tariff and non-tariff).

2. The treatment of the agreements will accord developing countries as signatories and nonsignatories to the codes, the significance of special and differential treatment for developing countries, and the implications of conditional, nondiscriminatory (MFN) treatment for the trading system.

3. The legal implications of Congressional approval of the agreements for future national, state and local legislative action.

4. The necessary and appropriate statutory criteria which should be included in domestic law relating to United States rights and obligations under the international codes and other agreements.

5. The necessary and appropriate statutory procedures for implementing the multilateral trade negotiations, in terms of agency responsibility, timing requirements, burden of proof, judicial review, etc.

6. The need for further statutory guidance respecting international dispute settlement procedures under the General Agreement on Tariffs and Trade and the international codes to assure effective pursuit of U.S. rights and to strengthen such international procedures.

7. The extent to which the results of the negotiations respond to the Congressional directives in the Trade Act of 1974, including those specified in: section 103, overall negotiating objectives; section 104, sector negotiating objectives; and section 121, steps to be taken toward GATT revision.

Chairman Vanik indicated that he was inviting the participation in the hearing of members of other committees which have direct jurisdictional interest or which have indicated an interest in the results of the multilateral trade negotiations and the implementing legislation.

It is requested that persons scheduled to appear and testify submit 30 copies of their prepared statement to the Committee office, Room 1102 Longworth House Office Building by the close of the day prior to the hearing. These copies are for the use of the Subcommittee Members and staff. Persons who wish their statement distributed to the press should bring 70 additional copies to the hearing.

Persons submitting a written statement in lieu of a personal appearance should submit at least (3) copies of their statement by the close of business of the day of the hearing. If those filing written statements for the RECORD of the printed hearing wish to have their statements distributed to the press and the interested public, they may submit at least 70 additional copies for this purpose if provided to the Committee during the course of the public hearing.

Each statement to be presented to the Subcommittee or any written statement submitted for the RECORD must contain the following information: (1) The name, full address and capacity in which the witness will appear; (2) The list of persons or organizations the witness represents and in the case of associations and organizations their address or addresses, their total membership and where possible, a membership list; and (3) Topical outline or summary of the comments and recommendations in the full statement.●

NUREYEV REUNION BLOCKED BY MOSCOW

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. SCHEUER. Mr. Speaker, Rudolph Nureyev, the brilliant Russian ballet star, and his 75-year-old mother desperately want to see each other once again. This is a modest request for a mother and son.

For nearly two decades the Soviet authorities have consistently denied the visa which is necessary to make this reunion possible.

A letter appearing in today's New York Times persuasively urges President Brezhnev to honor the Helsinki Agreement and allow this family reunion. I commend it to your attention:

A NUREYEV REUNION BLOCKED BY MOSCOW

To the Editor:

We appeal through your columns to President Leonid Brezhnev to allow the mother of

Rudolph Nureyev to visit her son in the West. For nearly two decades they have been denied the necessary visa to make this reunion possible.

Mrs. Nureyev, now 75 years old, is rapidly losing her eyesight, and her only wish is to see her son once more. The Soviet authorities have continued to refuse all visa requests, despite the signing of the Helsinki Agreement, which contained provision for the facilitation of family reunions especially in urgent cases. Interventions at government levels, including the presentation of an international petition of over 107,000 signatures at the 1977 Belgrade Conference, have brought little attention to this case of injustice.

Rudolph Nureyev came to the West to fulfill an artistic talent, and through his art he has greatly honored the country of his birth. To document world concern for basic human rights, we ask that this long-overdue family visit be made possible before it is too late.

CONSTANCE CUMMINGS, ANNE JACKSON,
ELI WALLACH, ZUBIN MEHTA, RICHARD
RODGERS, YUL BRYNNER, TENNESSEE
WILLIAMS.

NEW YORK, *March 6, 1979.*●

INSTITUTE FOR POLICY STUDIES AND COUNTER SPY REVIVAL

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. McDONALD. Mr. Speaker, as many of my colleagues will recall, during the period 1972 to 1976 a malevolent group of Marxist revolutionaries who called themselves the Organizing Committee for a Fifth Estate (OC-5) produced Counter-spy magazine in which they slandered various high level U.S. intelligence officers, attacked U.S. foreign and domestic intelligence agencies, and published the names of many alleged Central Intelligence Agency officers operating under diplomatic cover overseas.

Foreign revolutionary publications republished the Counter-spy magazine allegations. As a result of these activities, in December 1975, the CIA station chief in Athens, Richard Welch, was murdered by a radical group.

The magazine and the group that assembled it received a great deal of assistance from Washington's Marxist think-tank, the Institute for Policy Studies (IPS), whose members had been active in attacks on the U.S. intelligence agencies even before they helped Daniel Ellsberg disseminate the Pentagon papers documents that exposed U.S. code systems as well as intelligence sources and methods. IPS members and associates helped raise money for the magazine, provided it with materials for articles, and participated in its speakers bureau.

In 1974, when members of the IPS group working to terminate all U.S. covert intelligence operations set up a separate entity, the Center for National Security Studies (CNSS), to specialize on this, it too worked with Counter-spy. And in January 1977, CNSS codirector Morton Halperin went to London to aid Counter-spy's long-distance celebrity, Philip Agee. And when Agee, despite Halperin's efforts to help, was deported from England, IPS's Amsterdam subsidiary, the Transnational Institute, arranged Dutch residency for Agee.

After a faction fight between undisciplined political elements in the Counter Spy group and more disciplined Havanna-oriented radicals, the magazine ceased publication in 1976. A number of Counter Spy staffers when to work for Morton Halperin's grassroots lobbying group against the intelligence agencies, the campaign to stop Government spying, which also took over the former Counter Spy speakers bureau. But obviously at least the Cuban DGI, whose agents Agee continually meets with in Europe, believed that the disruption of CIA covert intelligence operations by propaganda, exposés, and alleged disclosure of identities should continue. And so in July 1978, at an anti-CIA kangaroo court "tribunal" in Havana which was the featured entertainment at the 11th World Youth Festival, Agee and other Counter Spy veterans launched the Covert Action Information Bulletin.

In December, the rump group from Counter Spy produced a sleazy newsprint edition, the first in more than 18 months, which was devoted to a rambling, incoherent article by one John Kelly of Washington, D.C. Kelly listed the names of several hundred foreign nationals who were in contact with the AFL-CIO's American Institute for Free Labor Development (AIFLD) or who may have taken police training courses in the United States. All of these men were labeled "assets of the CIA posed (sic) to strike as mercenaries against their own people" and as having been inculated "with CIA/corporate political and social values and objectives."

In plain English, Kelly and Counter Spy had compiled yet another "hit list" of targets for foreign revolutionary terrorist groups. And just to make sure their readers got the message, Counter Spy editorially recommended "that the identity and whereabouts of these individuals be widely publicized and that local representatives openly confront these individuals" and force them to prove themselves innocent of the charge of being a "CIA asset" or adhering to "political and social values" of which the revolutionaries disapproved. One might wonder how one would prove one's self innocent of a "thought crime" at a revolutionary kangaroo court of the type Khomeini's thugs have been running in Iran.

Now, John Kelly of Counter-Spy and long-time Institute for Policy Studies and Transnational Institute activist Eqbal Ahmed are scheduled to be the principal speakers tomorrow in a New York press conference at the Church Center for the United Nations. There they say they will expose ongoing CIA activities in Iran and disclose the identities of CIA personnel in Iran.

Kelly had already disclosed the identities of nine alleged CIA officers working with diplomatic cover in Iran in a speech at Princeton University on February 7. That meeting, attended by only a handful of activists, was sponsored by the Princeton University Iran Committee, a group composed predominently of Iranian students whose faculty adviser is Richard Falk, a man who praised the Vietnamese Communists for holding tens of thousands of political prisoners when there were millions of "Saigon collaborationists" he felt they could "legitimately" imprison.

The scant publicity for Counter-Spy's allegations prompted the ploy of the "international press conference" across the street from the United Nations.

This is precisely the sort of activity that would be controlled under H.R. 1068, the Foreign Intelligence Information Protection Act, introduced the honorable gentleman from Illinois, Mr. McCLORY. I most strongly urge my colleagues to join in supporting H.R. 1068 and taking action on it quickly.

And as for the details of this latest attack on our foreign intelligence capability, I urge my colleagues to consider this article from the current issue of the Information Digest, a newsletter published by John Rees that has for 11 years reported on the political underworld inhabited by Counter-Spy and its allies.

The article follows.

COUNTER SPY AND IPS

With the heading, "CIA Now in Iran," announcements that an "international press conference" will be held on March 14, 1979, at the Church Center for the United Nations, 777 U.N. Plaza, were distributed in the United Nations on 3/9/79. According to the press call, John Kelly [also "Kelley"] of Counter-Spy magazine and Eqmal Ahmed of the Institute for Policy Studies (IPS) would be speakers at the press conference jointly sponsored by Counter Spy and the Princeton University Iran Committee. Press contacts were listed as Kelly [202/332-8585] and a Don Will [212/682-3633] of the Church Center.

Kelly, of 1708 19th Street, NW, Washington, DC 20009, was the author of a rambling disjointed article, "The CIA in the Middle East," in the December 1978 issue of Counter Spy, in which he provided the names of twelve State Department employees at the U.S. Embassy in Lebanon whom he alleged were CIA officers.

Kelly continued in his article by listing more than two hundred persons with whom the AFL-CIO's American Institute for Free Labor Development (AIFLD) was in contact (names culled from the AIFLD's 1977 Trustee's Report). Asserting that the AIFLD is "labor's own version of the CIA," Kelly wrote, "A key phase of the CIA assault is the programming of coopted union officials in order to inculcate them with CIA/corporate political and social values and objectives.*** It is vital to know who these officials are, particularly those brought to the United States."

Kelly went on to list the names of another 248 men who, from the context of the article, may have taken courses at the International Police Academy, at International Police Services, Inc., or at the Border Patrol Academy in Los Fresnos, TX. Kelly termed these men "CIA assets," and wrote, "it is absolutely essential for the peoples of the Middle East to know who are these assets of the CIA posed [sic] to strike as mercenaries against their own people."

Counter Spy provided an editorial introduction to Kelly's article that was a blatant call to Third World revolutionaries to take action against all persons named in the article. Wrote Counter Spy:

"Obviously the human race cannot afford to wait until after new atrocities to know the identities of these latent criminals of the CIA.***

"Counterspy recommends that the identity and whereabouts of these individuals be widely publicized and that local representatives openly confront these individuals***."

Counter Spy then added the disclaimer that "some of these named individuals may be unwitting agents of the CIA or not agents at all. *** we do not know who these individuals are." Counter Spy then blandly asserted that their accusation made it the responsibility of each of the men named to disprove that he was working for the CIA. The editorial concluded, "Documentation of the atrocities committed by the graduates of these programs will be provided upon request," again implying that they could prove that each of the several hundred men named could be proved to have committed an "atrocity."

NOTE: After an 18-month absence, Counter Spy, P.O. Box 647, Ben Franklin Station, Washington, DC 20044, reappeared in January 1979. The publication attempts to disrupt U.S. foreign and domestic intelligence operations by disclosing alleged details of covert operations, the supposed identities of intelligence officers and sources, and by propaganda.

Describing the upcoming "CIA Now in Iran" press conference, Kelly said, "We will be exposing CIA personnel who right now are active in Iran, and we will detail two major operations that have taken place in Iran since Khomeini was installed. We will also tell about the concentrated propaganda campaign, controlled by the CIA, that is trying to create [reasons for] U.S. intervention."

Asked if there would be an expose of CIA "assets," Kelly replied, "We will tell about the CIA infiltration of the police and labor." It is noted that the Daily World has been running a number of stories implying that Iranian revolutionary groups opposed to the Khomeini regime (which is being backed by the Soviet-controlled Tudeh Party) are "anti-working class, anti-Communist and anti-Soviet intellectuals" who are the brainchildren of "CIA-trained SAVAK political warfare" experts. The Communist Party, U.S.A. (CPUSA) press has cited the Soviet news agency, TASS, stating that the CIA and SAVAK "have long been organizing various provocations to create a pretext for open military interference by the U.S. in Iran. * * * one can see in this the familiar hand of the Western secret services, using their usual methods." TASS and the Daily World have charged that in reporting on these "provocations," the "news media in the U.S." are "following a familiar CIA line."

Characterizing IPS as "an academic research center that supports liberation movements," and his co-speaker, Eqbal Ahmed, as "an IPS fellow and editor of Race and Class" [a publication of IPS's "an Transnational Institute (TNI) and the London Institute of Race Relations (IRR)] who would provide insights into the CIA's entire counter-insurgency program in Third World countries, Kelly went on to provide a description of the Princeton University Iran Committee (PUIC).

"The PUIC was formed last fall," said Kelly. "It's membership is almost all Iranian students at Princeton who probably take the most progressive position. They see serious problems in Iran, but as they are not in the country, they avoid making public comments." Kelly said the PUIC's faculty adviser is Richard Falk of the U.S. People's Committee on Iran (USPCI) [I.D., 1/26/79, pp. 19–21 refers].

Eqbal Ahmed, 215 W. 92nd Street, New York, NY 10025 [212/877–9111], said he knew very little about the upcoming "CIA Now in Iran" press conference, the subject matter to be discussed, or even that he had been listed as a speaker.

Ahmed hastened to emphasize that organizationally there was "no relationship" between the Institute for Policy Studies and Counter Spy. However, he then admitted, "I know Jack Kelly as an individual; others at IPS know other individuals involved with Counter Spy, but these are personal contacts." Ahmed then exclaimed, "They should not have been using my name."

NOTE: Eqbal Ahmed, a long time IPS staffer, achieved notoriety as one of the Harrisberg 8 accused of conspiring to kidnap Secretary of State Henry Kissinger. After his acquittal, he became the IPS "expert" on CIA counter-insurgency programs in the Third World and took an active role in the formation of the TNI. A member of the Editorial Working Committee of Race and Class, the journal of the TNI and IRR published from 247–9 Pentonville Road, London N1 9NG, Ahmed stated he was one of those who arranged the recent visit of Ramsey Clark (accompanied by Richard Falk and Don Luce) to Iran and France.

A second listed press contact for the Counter Spy press conference, Donald S. Will, 525 E. 88th Street, New York NY 10028 [212/682–3633–0; 737–1264–h], who said he was an employee of the Church Center for the U.N., told a reporter that he knew no details of the content of the press conference.

However, Will admitted that John Kelly of Counter Spy had sent him "several documents which I have not yet read." Asked if he expected many reporters to cover the press conference, Will said:

"Yes, we expect a lot of people. Journalists are interested in Iran and Counter Spy was the magazine that a while ago got the CIA agent assassinated in Athens." ●

RETIREMENT INCOME FOR SPOUSES

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mrs. SCHROEDER. Mr. Speaker, today I am introducing three bills to amend the civil service, Foreign Service and military retirement systems. The aim of these bills is to provide retirement income to spouses and former spouses of Federal employees, since current policy frequently denies them retirement benefits after the end of a long marriage.

Under present law, survivors' benefits are optional and may be rejected by the employee at the time of retirement. As a result, it is often not until after the death of the retiree that the spouse discovers that she is not eligible for survivors' benefits.

Similarly, under current law, a divorced spouse is prohibited from receipt of retirement or survivors' benefits, even when a marriage lasted 20 or 30 years. This policy ignores the economic contribution of former spouses of Federal employees, the majority of whom are homemakers.

Recent social changes make it necessary to revamp our retirement policies. First, the divorce rate has doubled in the last 10 years, including long-term marriages. Second, all but three States have moved to some form of no-fault divorce since 1974, with limited, if any, spousal support or alimony provided. Third, alimony is no substitute for a vested property right, since alimony ceases with the death of the wagearner.

In view of these changes, Congress amended the Social Security Act to provide benefits for divorced spouses married for 20 years or more, while the 1977 social security refinancing amendments reduced the marriage requirement to 10 years.

However, Federal employees are not automatically covered by social security and therefore are not protected by these provisions.

Older women are among the most disadvantaged of our poverty groups. Fifty percent live on under $1,800 per year. Forty-two percent of elderly women received less than $120 per month, compared with 19 percent of elderly men. Most of these women have not always been poor, but their circumstances have deteriorated with advancing age. What happens to them is not inevitable, but rather the result of discrimination throughout their lives which strikes its cruelest blow at the end. It is my view that our retirement systems contribute to the economic impact of sex discrimination and punishes women for their traditional roles in society.

We are a society which places value on home and family, encouraging women to stay at home and take care of their children. Yet one of the most severe forms of economic discrimination is that we fail to attach an economic value to this service. The feature of pension portability and earned rights for the homemaker is essential if spouses are to have a choice whether to work inside or outside the home.

The major policy question before us is whether pension plans should continue to emphasize benefits for retired workers solely, or should they significantly expand protection for workers' spouses. This question and the way we answer it forces us to reevaluate the traditional role of wife, mother, and homemaker and to determine its value in our society. If it is valueless, we must take appropriate steps to educate young women to prepare for a full-time, life-long, participation in the paid workforce. However, if we determine that there is some benefit to society from the traditional homemaking role, we must change those aspects of our legal and social systems which penalize women for choosing that role.

It is time that we scrutinize our public retirement systems to determine to what extent the spouses of Federal employees should also be entitled to retirement income in their later years. While changes were made in social security to provide benefits to divorced spouses, no such changes have been undertaken for the Federal retirement systems. The reason most frequently cited for not providing such benefits is that the federal retirement system is a staff retirement plan with annuities for retirees based on time spent working for the Federal Government and on peak earning years, with a limited obligation to contribute to the support of dependents.

According to this argument, benefits to former spouses would interfere with the rights of the employee and, furthermore, it would be inappropriate to consider such things as social factors in terms of the Federal retirement system. A final argument is that such changes would be administratively difficult and costly for Federal retirement plans. However, it is interesting to note that James B. Cardwell, Commissioner of Social Security, indicated in written testimony in 1977 that the Social Security Administration had experienced no major problems in administering the divorced wife or surviving divorced wife provisions of the Social Security Act. Moreover, he indicated that as of March 30, 1977, that the divorced spouse beneficiaries nationwide totaled 49,000, less than 0.2 of 1 percent of the total beneficiary population.

These bills are based upon the premise that marriage is an economic partnership and the income earned is joint marital property. It is my contention that the spouse makes a significant contribution toward the employee's ability to earn the wage and consequently receive the pension. Therefore, a spouse married during the working years should be entitled to a portion of the retirement benefits payable at retirement.

The legislation would make survivors' benefits mandatory unless the retiree, spouse, and former spouse (if any) elect out of the survivorship plan. While this step may be controversial, it appears to be necessary. First, many retirees are not fully aware of the consequences of their irrevocable decision at the time of retirement, but when they later discover that they have made a mistake, it is too late to rectify it. Second, widows, who discover after the death of a spouse that they have no survivors' benefits, write frantic letters to their Members of Congress, only to be informed that under the law they are entitled to no benefits if their spouse opted out of survivors' benefits at the time of retirement.

The civil service retirement system provided annuities to 1,380,337 retired Federal employees as of June 30, 1974. Of that number 938,654 had opted out of survivors' benefits, while 393,681 had provided this protection for their spouses.

As of September 1977, there were 1,155,000 military retirees drawing retired or retainer pay, and of that number only 55,446 provided survivors' benefits for their spouses. While more retirees have opted for survivors' benefits in recent years, the magnitude of the problem is evident when we look at the record in fiscal year 1976 when there were 64,000 military retirees, of which only 50 percent chose to participate in the survivors' benefit plan.

As a result, approximately 30,000 surviving spouses found themselves ineligible for survivors' benefits. While there is an actuarial reduction of retired pay during the retiree's lifetime to pay for survivors' benefits, the amount of the reduction is minimal compared with the cost to the survivors of no benefits following the death of the retiree. For example, for the average enlisted man whose retirement pay equals $423 per month, the reduction for the survivors' benefit would be only $20 per month. For the average officer who receives $841 per month, the reduction would be only $62 per month.

Unlike civil service and Foreign Service members, military personnel do not pay into the military retirement system, although since 1957 members of the armed services have made mandatory contributions for social security coverage. While this gives military spouses and former spouses more protection than is available to spouses in other Federal retirement programs, it is still not adequate protection. First, the former spouse cannot draw social security benefits, regardless of her age, until the military spouse retires and begins collecting social security benefits. Since military personnel frequently retire at an early age and begin another career at midlife, many work well beyond age 65, thus preventing a former spouse from receiving social security benefits.

Second, even if a spouse or former spouse is entitled to both social security and benefits through the survivors' benefits plan (SBP), dual benefits are not paid since the amount of social security attributable to the husband's military service is offset from the SBP payments. Third, social security was never intended to provide the sole retirement income to a retiree or spouse, but to supplement other retirement income. In fact, those women who depend solely on social security subsist well below the poverty level of $2,900 for single older women, since the average payment for women is $2,676 annually or $223 per month.

The legislation would also award a pro rata share of the retirement benefits to a divorced spouse, male or female, married for at least 10 years. The exact amount of the former spouse annuity would depend upon the number of years of marriage that overlap with the credited years of service toward retirement. At a maximum, the former spouse annuity would amount to 50 percent of the retirement benefits, if married during the entire period of creditable work years.

Furthermore, the former spouse would be entitled to a pro rata share of the survivors' benefits, which would amount to the maximum 55 percent of the lifetime annuity if married during the entire period of creditable service. A surviving spouse would be entitled to benefits based on the number of years of marriage during creditable service, as well as the remainder of the survivorship benefit not claimed by the first spouse, including credit for any years during which the employee was not married.

Foreign Service spouses traditionally contributed to the undertakings of the State Department, sharing the hardships of living abroad, with limited opportunity to maintain separate careers. Moreover, State Department policy has had a tradition of husband and wife teams, which encouraged wives' participation in the representational activities of the post. In fact, up until 1972, annual efficiency ratings of Foreign Service officers included a rating of the performance of their wives in such activities as entertaining, relationship with the ambassador's wife, and involvement in the service projects of the American wives. Spouses of military personnel likewise have been subject to the frequent uprooting that accompanies changes of duty station, irregular hours, and long periods of separation peculiar to military life.

There are those who argue that these needs should be dealt with by the courts through the divorce decree or settlement—which would make provision for the divorced spouse on the basis of need and merit. However, even those courts which consider the pension part of the marital kitty award the spouse a portion of the retirement benefits during the lifetime of the retiree only. Therefore, payments cease after the death of the retired Federal employee and the spouse is deprived of any survivors' benefits.

Congress must determine who is responsible for these spouses—whether they are entitled to a share of the retirement and survivors' benefits or whether they will be relegated to the poverty rolls, dependent upon food stamps, medicaid, and welfare, which ultimately means the American taxpayer. It would seem incongruous for Congress to make provisions for former spouses of social security recipients and ignore the needs of former spouses of Federal employees.●

CHIEF PAUL SCHNEIDER—A FIREFIGHTER AND A FRIEND TO THE COMMUNITY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. ANDERSON of California. Mr. Speaker, on March 16, 1979, the friends and associates of Fire Chief Paul Schneider will gather to honor him for his 32 years of service to the Los Angeles County Fire Department. With a few words today, I would like to join in saluting this man who has won respect not only for his abilities as a firefighter but also for his constant and valuable involvement in community affairs.

Chief Schneider comes from a family of firefighters. His father, Ted Schneider worked for the same fire department which Paul will soon retire from. His brother, Larry, is a battalion chief with the city of Los Angeles Fire Department and another brother, Howard, is a captain with the city of Torrance Fire Department. Even two of his nephews are now firefighters.

After graduating from Washington High School in Los Angeles, Paul enlisted in the armed services in November of 1942. As a staff sergeant, Paul's duties included some fire safety work.

His long career with the Los Angeles County Fire Department started after he left the military in January of 1946. After passing the firefighters examination, he was hired by the county as a fireman in October of that same year. He moved up the ranks with a promotion to engineer in January of 1954, then to the position of captain the following year. In 1959 he became a battalion chief, then later in 1971 he was promoted to his current position of assistant fire chief.

Even though the county fire department has grown to be one of the largest in the Nation, to the communities which Pauls' stations serve, it is looked to as a friendly and dependable source of assistance regardless of the situation. Local fire stations, their equipment and personnel are always lending a helping hand in support of various community programs. To give just one example, each year Christmas toy deliveries to children are made possible by Chief Schneider's active involvement.

Paul Schneider's association with the local communities in the south bay area goes far beyond that of a public safety officer. His contributions to civic affairs in the city of Carson are especially noteworthy. Even though he resides in the city of Torrance, Carson officials have appointed him to serve on their economic development committee, citywide advisory committee, community development block grant committee, public safety committee, and the disaster preparedness committee.

In addition to his work for Carson, he holds many officer positions with local Chamber of Commerce organizations, the Rotary Club, and many youth groups.

The dedication of this man to the assurance of public safety will certainly be missed. The Los Angeles County Fire Department will suffer a loss but it will be one balanced by the benefit certain to come from his continued involvement in community betterment efforts.

My wife, Lee, joins me in thanking Paul for all his good work at the county fire department. We hope the future brings to him, his wife, Eleanor, their children Jane, Mari Ann, Tom, and Robert, many returns for the friendship and concern he has shown by his commendable career as a firefighter.●

NATIONAL YOUTH SERVICE SYSTEM

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. McCLOSKEY. Mr. Speaker, yesterday it was my privilege to testify before the Military Personnel Subcommittee of the House Armed Services Committee on H.R. 2206, a bill to create a National Youth Service System as an alternative to the draft.

The concept of H.R. 2206, thus far joined in by 14 colleagues who have studied it, is not new; it was developed by Donald J. Eberly and the National Service Secretariat in the late 1960's, and a bill very similar to H.R. 2206 was introduced by our colleague JONATHAN BINGHAM of New York in 1970, when the Vietnam war was in full force. The bill is designed to join the abilities and idealism of our young people with our need for combat-ready Armed Forces and the fulfillment of a number of other goals of all levels of government and charitable enterprises. The bill does not provide universal conscription for military service, and hopefully it might serve to remove the need for any conscription.

The bill is predicated on several basic premises.

First, the All-Volunteer Force concept is too expensive. We cannot afford to increase our manpower share of the Defense budget above the present 55 percent in order to attract more volunteers. To do so, against the Soviet manpower percentage of only 23 percent, would be to court disaster over the next two decades. Any additional manpower expenditures should be at the staff NCO levels and to attract reenlistments, not new recruits. Note that the key to H.R. 2206 is the reduction of pay for junior enlisted personnel with less than 2 years of service back to subsistence levels.

Second, the All-Volunteer Force concept is not providing a combat-ready Army. The Reserve and National Guard forces are not combat-ready. No one, even in the Defense Department, denies this admitted failure of the All-Volunteer Force concept.

In the event of a major war, the Selective Service System could not be reactivated quickly enough to deliver the additional 650,000 personnel required.

In December, for the first time, the Air Force was unable to meet its enlistment quotas with reasonably qualified applicants, a problem which has plagued the Army and Marine Corps for some time. For the last quarter of 1978, the percentage of qualified recruits for all of the four armed services dropped below established goals. The Air Force met only 95 percent of their quota, the Army 93 percent, the Marines 86 percent, and the Navy 85 percent.

The Army has just asked for standby reinstitution of the Selective Service System, and a recent GAO report recommends this action as well.

These problems threaten our constitutional responsibility for the national defense. We are sorely in need of a system of military recruitment that can provide essential manpower. At the same time, we are failing to utilize a vast reservoir of the Nation's youth to meet social, economic, and environmental needs.

Combat-readiness in 1979 means the readiness to go into combat on 24 hours' notice. It requires the physical fitness to run 10 miles at a stretch, training in the desert and jungles in the summer, and in arctic areas in the winter. How many reasonable young men and women today are going to volunteer to be combat-ready, given the pursuit of happiness options otherwise available on all sides?

The whole purpose of the armed services of the next 20 years is hopefully not to fight, but to constantly be ready to fight. Combat-readiness is a deterrent to foreign adventurism; noncombat-readiness is an invitation to such adventurism.

I want to add a note here from my own experience . . . in response to the oft-repeated arguments that today's young people will be happy to serve the Nation if the United States is ever attacked, but they do not want to serve in an armed force that might thereby be likely to attack others, as in the case of Vietnam.

The problem lies in the fact that if we are attacked in the future, our young people would not have the chance to serve.

Combat service requires a minimum of 6-months basic combat training; it requires a minimum of 6 months hard physical preparation. We are not in the situation, as in World War I and II, where oceans protected our ability to organize and train expeditionary forces, or, as in Vietnam, where circumstances permitted a gradual build-up against a poorly equipped indigenous force, essentially without airpower, tanks, or naval support.

The early days of the Korean war provide a much more pertinent lesson. There, the sudden attack of the North Koreans forced President Truman to commit troops into combat who were neither physically in shape nor trained for the terrain and weather they encountered. Four U.S. divisions, fat and comfortable from garrison duty in Japan, were originally no match for hard, tough North Korean soldiers. Many young U.S. soldiers were killed or captured as a direct result of their nonreadiness. The crack 1st Marine Division was not ready for the weather conditions it encountered at the Chosen Reservoir. I was one of the first Reserve officers to finally reach the battlefront, 7 months after the initial attack, when we finally began to turn the tide. It was the Reserves who turned the tide, but I stress again that it took 6 months at the very least to prepare those Reserves to have even a minimum chance of survival.

To be combat-ready, the training must come very close to combat conditions. It must sometimes be even more arduous than combat.

It is this disparity between the pleasures of present civilian life and the nature of combat training which should convince all of us, Mr. Speaker, that we are not going to get enough reasonable young men and women to volunteer to be combat-ready.

A combat-ready army is perhaps the first responsibility of the Congress. We should never forget that the primary purpose behind our own Constitution was to give the power to the Congress to raise an Army and provide for a Navy. We were not at war in 1787 when the Constitutional Convention convened, but it was clear that the independence earned in 8 years of war against Great Britain was about to be lost unless the Congress were given power to protect the national security, a power lacking under the original articles of Confederation. And that power was not one to be trusted to the executive branch. I trust the Defense Department's current statements that "the All-Volunteer Army is working" about as much as I trusted their 7 years of statements that we were "winning" in Vietnam.

Remember Alexander Hamilton's famous argument in the 26th Federalist Paper:

> The legislature of the United States . . . are not at liberty to vest in the executive department permanent funds for the support of an army, if they were even incautious enough to be willing to repose in it so improper a confidence.

Third, if for the above reasons, a draft of U.S. citizens is inevitable, it is best that the Armed Forces of the United States represent a cross-section of the Nation, from every walk of life and from every economic and intelligence level.

Onerous service to the Nation is not something that the United States should ask only of its poorest and least-educated citizens. One of the tragedies of Vietnam was the heavy burden placed on minorities as a result of the congressionally imposed exemption for college students. With perhaps 21 percent of the U.S. population either black or Mexican-American, some 44 percent of the combat casualties were borne by these two minorities.

The same would be true today, since the Army's combat units contain even a more disproportionate share of minorities than they did during the Vietnam war. Recent recruiting scandals give credence to the suggestion that the poor and poorly educated are much more subject to the blandishments of a recruiting team than are the white, well-educated and well-to-do.

Fourth, if the draft is indeed inevitable, at a time when perhaps only 1 out of 6 is needed—4.3 million young people turn 18 each year; 700,000 are needed—would it not be fair to ask all young people to accept the concept of a duty to the country?

It is my feeling that today's youth are not opposed to national service; they may well oppose the use of conscription to support undeclared wars such as Vietnam, but the young idealists who opposed Vietnam in 1969 were the same type of individuals who volunteered to service in the Canadian Armed Forces in 1939, before the United States entered the war against Germany.

Duty, honor, country, and a sense of obligation to serve the Nation and mankind are very much a part of the ethic of today's youth.

I appreciate the fact that this committee may feel that its responsibility and action should go no further than to insure perhaps 700,000 men and women for the regular forces and a similar number for the reserve—taking only 1 out of 3 young Americans for this national necessity. But this also involves a division of burden.

The active combat forces require at least 2 years of service; the Ready Reserve can well do with 6 months of full-time service and 5½ years of Active Reserve duty.

Why not also recognize a sense of duty for national service for everyone?

It is on this premise that a spirit of idealistic service has always characterized the best of our young people, that the national youth service concept is based.

At this point, let me briefly outline the basic principles of H.R. 2206:

BASIC PRINCIPLES OF H.R. 2206

1. The Selective Service System will be replaced by the National Service System and all persons, men and women, will be required to register within 10 days after their 17th birthday.

2. Information on service opportunities will be made available to all persons between their 17th and 18th birthdays.

3. All registrants will have the option of serving in a civilian capacity for one year or in the military service for two years or more, and will be allowed to defer such service until the age of 23.

4. At the age of 18, persons will have the right to elect:

(a) Two years of military service, which will entitle them to four years of educational and training benefits paid at the base monthly rate provided to Viet Nam-era veterans (those enlisting prior to January 1, 1977; 38 U.S.C. 1651), but adjusted to account for cost-of-living increases since that time;

(b) Six months of active duty, followed by five and one-half years of Reserve obligation;

(c) One year of service in a civilian capacity; or

(d) None of the above, in which case they will be placed in a military lottery pool for six years of draft liability. If military manpower requirements are not filled during this period, these individuals might be required to serve two years of active duty and would also incur a four-year Reserve obligation. They would be entitled to two years of educational and training benefits.

5. If voluntary enlistments are not adequate, then and then only would one be subject to possible conscription.

6. The Civilian Services Corps will be operated by a National Youth Service Foundation as outlined below:

(a) A National Youth Service Foundation will be established by law. This will be a quai-public organization and will receive appropriations from Congress.

(b) The Foundation will be operated by a 19-member Board of Trustees with 12 of its members to be appointed by the President, with the advice and consent of the Senate, and the following persons to serve as ex-officio members: The U.S. Commissioner of Education, the Administrator of the Office of Youth Development, the Assistant Secretary of Labor for Employment and Training, the Director of ACTION, the Chief of the U.S. Forest Service, the Director of the National Youth Service Foundation, who will also be appointed by the President.

(c) An Advisory Council will be created to advise the Board of Trustees on broad policy matters. It will have 24 members with at least eight under 27 years of age at the time of appointment.

(d) Present federal programs providing opportunities for youth service will remain in effect. These include the Peace Corps, VISTA, Teacher Corps, College Work Study Program, Job Corps, and the various youth programs funded by CETA.

(e) The Foundation will invite units of state, regional, and local governments to submit applications, outlining plans for the employment of individuals in National Youth Service activities within specified guidelines. The Foundation will support such applications on the basis of merit.

(f) The Civilian Service Corps will have two major options: Community service applicants will interview for a wide range of local community service projects sponsored by public agencies or private non-profit organizations. Those who wish to travel in search of community service projects will do so at their own expense and will register with the local National Service System agency, and no special provisions will be made for them.

(g) Most sponsors of the environmental service option will be federal, state or local agencies. Most environmental projects will require travel costs as well as expenditures for supplies and equipment. Such costs will be the responsibility of the sponsor, not of the Foundation. When lodging and food are provided by the sponsor, it will be entitled to reimbursement by the grantee from whose jurisdiction the participant was recruited.

(h) Military pay for junior enlisted personnel (those with less than two years of service) will be reduced to a subsistence level.

(i) The Civilian Service Program will ideally be phased in gradually over a three-year period.

Present cosponsors of the bill are DAVE BONIOR, Democrat of Michigan; PAUL SIMON, Democrat of Illinois; TRENT LOTT, Republican of Mississippi; JONATHAN BINGHAM, Democrat of New York; MILLICENT FENWICK, Republican of New Jersey; PAT SCHROEDER, Democrat of Colorado; CHARLES WILSON, Democrat of Texas; JOSEPH ADDABBO, Democrat of New York; TONY COELHO, Democrat of California; ROBIN BEARD, Republican of Tennessee; BERKLEY BEDELL, Democrat of Iowa; LARRY COUGHLIN, Republican of Pennsylvania; ROBERT MCCLORY, Republican of Illinois, and JAMES SCHEUER, Democrat of New York.●

CECIL MORRIS MAKES FEDERALLY SUBSIDIZED HOUSING—HOME

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. SAWYER. Mr. Speaker, on a recent trip home to the Fifth District of Michigan, I paid a visit to Millcreek Meadows, a federally financed and subsidized multifamily housing project in Saranac, Mich.

I make a practice of stopping regularly at the many senior citizen homes and housing projects in my district. Some of these visits, quite frankly, can be depressing. Millcreek Meadows is a shining exception—due to the efforts of its founder, Cecil Morris.

Cecil Morris retired from his profession several years ago and decided that he needed a project to keep him busy. He tackled the problem of housing for the elderly and low-income families with an excitement and enthusiasm found lacking in many 20-year-olds, much less a man of 65.

Mr. Morris traveled through much of the upper Midwest observing firsthand similar kinds of housing. When he returned home to Saranac he knew what he wanted, had scouted the workings of HUD to know where the money was, and went to work.

From his first 40 units built in 1971, Cecil Morris has expanded his complex to 101 units. A new building was opened just prior to my visit. Millcreek Meadows now has 20 family units and 81 units for senior citizens. This, in a town of just over 1,500 people.

What makes Millcreek Meadows unique is Cecil Morris. He loves his tenants and they genuinely love him. The entire housing facility exudes the warmth of a close family.

Cecil Morris is a shopper, a friendly persuader, and a scrounger for his family of tenants. He shops the furniture manufacturers in the fifth district for donations, seconds, or just a good price to help furnish his buildings. He farms a one-half acre garden each spring to help cut his tenants food bills. He holds an annual pig roast, Thanksgiving dinner, pot luck dinners, and periodic coffee and birthday parties, all funded through donations from area civic groups; which he cultivates just like his garden.

On each of my visits to Millcreek Meadows Cecil Morris has told me that he is retiring. This year his words have just a bit more conviction and it looks like, at 74, Cecil Morris will retire. He has hired and tutored an assistant manager who he tells me cares as much about his "family" as he does and she will take over some time this fall.

If Cecil Morris does retire, he will undoubtedly be looking for a new project to occupy his time by Christmas. If that does come to pass, I will make sure that you all have a copy of his address and phone number because Cecil Morris is an expert in the field of public housing. When your constituents ask how to build, fund, and operate public housing facilities, you will be able to do what I am presently doing, tell them to contact Cecil Morris at Millcreek Meadows in Saranac, Mich.●

INTRODUCTION OF ELEPHANT PROTECTION ACT

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. BEILENSON. Mr. Speaker, I am introducing a bill today with 65 cosponsors to protect the world's largest living land mammals. Elephants, after surviving as a species for over 300,000 years, are new severely threatened with extinction. More than 100,000 elephants are slaughtered annually in developing African nations to cater to the frivolous desires of people in wealthier nations for ivory jewelry, ivory carvings, and ivory chess pieces. Were it not for this thoughtless indulgence, the African nations would not be induced to allow the destruction of their great elephant herds.

This bill is identical to one I introduced last year which also attracted the support of many other Members of Congress. It bans all U.S. trade in elephant ivory and other elephant products. The bill also requires the President to formally propose an international suspension of trade in all elephant products to the Convention on International Trade in Endangered Species (CITES). Many of the 38 member nations of CITES are also ivory importers.

The rapid decline in African elephants follows the near extinction of the Asian elephant, which has already been given protection as an endangered species by CITES. India banned the export of elephant ivory in 1976, and the United States then prohibited the import of Asian elephant products. Now Africa is the sole source of elephant ivory, and the number of elephants killed there annually has risen dramatically.

Drought, deforestation, urbanization, and competition with the rapidly increasing human population for habitat have also contributed to the fast decline in elephant populations, but the deliberate slaughter of elephants for their valuable ivory tusks is the greatest present threat to Africa's remaining elephant herds. This can and should be prevented.

The population of elephants in Kenya has been cut in half in the last 7 years with as many as 15,000 elephants a year being killed by poachers with guns, fire, poison darts, and rockets dropped from helicopters. In Uganda, in 1976, the elephant population was reportedly cut in half in less than 1 year.

While accurate figures are difficult to obtain, the data on world trade in ivory confirm the dire reports from Tanzania, Chad, the Sudan, Zambia, Uganda, Kenya, and other nations. In South Africa, which once had tens of thousands of elephants, only 7,000 remain. According to the Fund for Animals organization, there has been an 80-percent reduction in the population of elephants on the continent of Africa since the early 1900's. One-third of the elephant population has been slaughtered in the past 10 years, and only 5 of Africa's 21 nations have stable elephant populations at the present time.

Moreover, the decreasing size of the tusks being exported from Africa is an early warning sign that the species is diminishing faster than it can sustain itself. While the tusks of a large bull elephant may weigh 50 pounds, the average weight of tusks now being sold is less than 20 pounds, which indicates that most of the larger and older elephants have already been eliminated.

We cannot expect the overexploitation of elephants to cease when a poacher can make the equivalent of a year's wages on the sale of one set of tusks. The United States promotes this senseless slaughter by contributing heavily to the world's demand for ivory; in 1976, we received over one-quarter of the carved and uncarved ivory exported from Hong Hong, by far the greatest supplier of ivory products to the ivory consuming nations.

Following the introduction of last year's bill, the Department of the Interior finally began to investigate the elephant predicament. After considering a number of options, the Department imposed a partial ban on ivory imports—allowing imports only from countries that are parties to CITES.

Unfortunately, the facts indicate that these partial regulations have not been effective. Most ivory entering this country still comes from elephants which are killed illegally, and is shipped through a vast worldwide trade in smuggled elephant products. The great bulk of articles of ivory are carved in, and shipped from, Hong Kong. The shipments must be accompanied by a "reexportation document" stating that the ivory was legally taken in the country of origin. However, it is impossible for U.S. Customs agents to verify documents which could have been falsified in another country by attributing ivory origin to CITES member countries when the ivory was actually taken in nonmember countries.

But even more frustrating than the falsification of documents is the U.S. Department of the Interior's inability to enforce its own regulations. Entry forms from the port of New York for the month of December 1978, for example, show that the Department has allowed ivory imports to enter the United States even when the listed country of origin is clearly illegal.

Only a total ban on trade in elephant products will stop the imports and alert customers to the wanton waste of a magnificent species. Partial prohibitions on trade are ineffective against sophisticated smugglers and traders. Hence, the bill I am proposing today would prohibit all import and export of elephant ivory, as well as all commercial trade across State lines. Ivory dealers would be allowed to continue to sell their current inventories of elephant ivory only within the State where the ivory is located at the time the bill becomes law.

I am not opposed to wildlife management programs required in conjunction with planned economic development, but the African nations should not make the mistake of sacrificing their wildlife in haste to make quick profits. Much land unsuitable for human settlement can be saved for wildlife habitat, and large and healthy elephant populations can be reestablished and become biologically stable without impeding economic growth. As long as the elephant herds flourish, tourists, for whom the elephant herds are a prime attraction, will continue to supply a substantial flow of foreign currency to the developing African nations where the benefits may be felt for many years to come.

Other countries have already taken action to protect the elephant. The Netherlands has passed an endangered species act which bans the import of ivory into that nation. The Kenyan Government recently banned the sale of all wildlife tropies, including ivory. The United States must act immediately. If not, the magnificent African elephants may soon be relegated to a few protected parks and metropolitan zoos.

To quote Henry David Thoreau:

> Can he who has discovered some of the values of whalebone and whale oil be said to have discovered the true sense of the whale? Can he who slays the elephant for his ivory be said to have seen the elephant? These are petty and accidental uses; just as if a stronger race were to kill us in order to make buttons and flageolets of our bones.●

NEAR AIR COLLISIONS CAUSING DEEP CONCERN

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. BIAGGI. Mr. Speaker, I would like to bring to the attention of my colleagues an article written by Richard Witkin of the New York Times, documenting a very serious problem currently facing our Nation and especially the New

York metropolitan area—near air collisions.

It is imperative that prompt and effective action be taken to better regulate our Nation's air space, and I urge my colleagues to join me in coordination of efforts in this regard.

As described in Mr. Witkin's article, aviation officials are very concerned that despite an exhaustive investigation of this perilous situation following the midair collision in San Diego last September, it is obvious that an adequate solution to this problem has not been identified. Based on FAA evidence, it appears that the most recent troubles have resulted from air controller error. According to Mr. Witkin—

> What frustrates some F.A.A. experts is that they see no pattern of error and no obvious remedies.

Various reasons have been cited for the frequency of close calls around New York, including the absence of altitude data on radar scopes used by controllers handling landings and takeoffs. heavy concentration of traffic at LaGuardia because of its relative closeness to the downtown area and the vulnerability of less experienced controllers to the stresses of congestion.

Hopefully, through our concerted efforts, we can help to correct these deficiencies before the near misses of yesterday become the disasters of tomorrow.

I believe that my colleagues and other readers of the Record will be able to more fully appreciate the severity of this problem and the need for prompt corrective measures after reading Mr. Witkin's article:

[From the New York Times, Mar. 2, 1979]

Concern Over Plane Collision Peril Heightened by Series of Close Calls

(By Richard Witkin)

Deep anxiety about the danger of plane collisions among aviation officials in this country has been aggravated by an inexplicable three-week run of accidents and close calls involving airliners.

The incidents include three hitherto undisclosed near-collisions in the New York area, millions in damage to a Boeing 747 that veered off a Chicago runway and a collision at the Memphis airport.

No one was killed in any of the cases and there was only one minor injury. But air-traffic specialists agree that only great good luck prevented serious casualties.

The most serious of the New York incidents occurred on Feb. 11. An American Airlines 727 and an Empire Airlines 19-passenger commuter craft missed colliding by an estimated 300 feet horizontally and just 50 feet vertically.

SAN DIEGO CRASH IMPACT

The surge in traffic conflicts has set off an intense new round of system analysis by officials who had hoped the main shortcomings had been identified in exhaustive inquiries following the midair collision in San Diego last September. The San Diego death toll of 144 was the largest ever in this country.

It is acknowledged that the sweeping changes in procedures proposed after San Diego would have had little or no effect in the recent incidents. "We're in very deep trouble," commented a key Federal Aviation Administration official, who did not want to be identified.

On the basis of evidence from the F.A.A. so far, the primary cause of the recent troubles apparently has been air-controller error. Unfortunately, air-controller error comes in all shapes. And what frustrates some F.A.A. experts is that they see no pattern of error and no obvious remedies.

On the other hand, a number of specialists think the frequency of close calls around New York may be significant. Among the possible reasons advanced for this frequency are absence of altitude data on radar scopes used by controllers handling landings and takeoffs, heavy concentration of traffic at LaGuardia because of its relative closeness to the downtown area and the vulnerability of less experienced controllers to the stresses of congestion here.

LAGUARDIA NEAR-COLLISION

The first of the recent incidents was the Feb. 11 near-collision, which occurred after dark five miles southeast of LaGuardia Airport. The commuter plane, a twin-engine turboprop, had taken off from Kennedy International Airport's runway 31, headed 310 degrees to the northwest. The crew had been cleared to turn east on the way to Utica, N.Y., the commuter line's headquarters.

Meantime, the American 727, inbound to LaGuardia, had been cleared to turn right into that airport's runway 31.

According to the F.A.A., the commuter plane did not turn east right after takeoff but flew generally north, penetrating the buffer zone between the two airports. The Kennedy controller eventually saw the radar blip closing on the American blip, though he did not know relative altitudes. He alerted the commuter crew to the presence of the jet.

The American crew, whose traffic instruction may also have taken them into the buffer zone, spotted the Empire plane about the same time. Evasive action by both crews narrowly averted a collision.

RESPONSIBILITY OF CONTROLLER

An F.A.A. air-traffic supervisor said it was the responsibility of the Kennedy controller to follow the commuter craft on radar. That raised the question why the controller did not act sooner to alleviate the danger.

Empire's president, Paul Quackenbush, said in an interview: "Our plane was exactly where it was supposed to be." He said his crew had not felt that there was a "cause for alarm." The American crew, by contrast, filed an official near-collision report with the F.A.A.

In the second incident, on Feb. 15, a Flying Tiger Line 747 cargo jet that had just landed at Chicago's O'Hare International Airport swerved off the runway to avoid hitting a Delta Airlines 727 that had been cleared to cross the strip. The obvious issue was why a controller had cleared the Delta plane across the runway while the 747 was landing.

The third incident, on Feb. 20, was not quite so startling as the others. But it still worried officials because an apparent controller error brought two 747's, a cargo plane inbound to Kennedy and a passenger craft outbound to Europe, uncomfortably close. The miss was estimated at 500 to 700 feet horizontally and 300 to 500 vertically.

TWO INCIDENTS SATURDAY

The last two incidents occurred last Saturday. Shortly after midnight in Memphis, a Falcon business jet operated by Federal Express was in its landing roll when its right wing smashed into the left wing of a twin-engine Beechcraft taxiing across the strip. Both planes were substantially damaged. There was one minor injury on the Beechcraft.

Again, the issue was how the control system could have given out conflicting instructions.

Shortly after noon, the last of the five incidents occurred at LaGuardia. An American 727 had just landed on runway 4, headed 40 degrees to the northeast, when a controller radioed: "Traffic rolling on 31. Looks like he's going through the intersection." The traffic on 31 was a Delta 727 that had been cleared for takeoff and later was told to abort the takeoff when the conflict was discovered.

The American plane was about 1,700 feet from the intersection of the runways when the Delta plane rolled past in front of it, and the American crew was able to stop before the intersection. Still, with different timing, it could have been a disaster.●

MEXICO TODAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. GILMAN. Mr. Speaker, I wish to bring to the attention of my colleagues an important symposium which took place during a 6-week period last fall. "Mexico Today," an event made possible through the cosponsorship of Meridian House International and through grants from the National Endowments for the Arts and Humanities, was, in its entirety, one of the most significant exchanges presentations which Mexico ever offered to the American people.

Meridian House International is a nonprofit international relations organization, specializing in services to international visitors to the United States. The president of Meridian House is our former Ambassador to Mexico, Joseph John Jova, who happens to be a former constituent of mine from Newburgh, N.Y.

As the ranking minority member of the House Foreign Affairs Subcommittee on Inter-American Affairs, I found Ambassador Jova enlightening. The Meridian House president stresses the need for the peoples of the Americas to know more about each other.

Mr. Speaker, in order to share his thoughts with my colleagues, I respectfully request that Ambassador Jova's timely statement which keynoted the "Mexico Today" symposium be inserted at this point in our proceedings:

"Mexico Today" Symposium—Opening Remarks by Ambassador Joseph John Jova, President, Meridian House International, September 29, 1978

It is an honor to declare open the Symposium, "Mexico Today."

Our speaker, Octavio Paz, who will be introduced presently, has made the observation that in relations between neighboring countries, the unforgivable sin is ignorance and lack of understanding. Such a lack exists on both sides of the border, in Mexico in regard to the United States and in the United States in regard to Mexico.

A main purpose of the Symposium is to help improve understanding in our own country in regard to Mexico by presenting the largest and most comprehensive view of Mexico to be organized in this country. The discussion panels, the art exhibits, the poetry readings, the music and dance, the film series, the courses, the galaxy of events which you will find listed in your program booklets are all designed to give Mexicans themselves the opportunity to tell the Mexican story in all its richness and its dynamism.

Our intent is to provide a learning experience for our own people; an opportunity for cultural enrichment, a frank exchange of views, an opportunity to increase understanding and to dispel the myths and stereotypes that exist in regard to a neighbor nation. Mexico is a country long important to the United States, a powerful force in the hemisphere, and one destined, I know, to be an ever more important force on the world scene. Understanding does not necessarily imply agreement. Obviously, there will always be differences of opinion between us, as both sides have valid view points, but this forum should help clarify the issues and should promote better comprehension of the factors that underlie each side's position.

I believe it was the great Nicaraguan poet, Ruben Dario, who observed that the Rio Grande was not merely the boundary between Mexico and the United States, but it was also the border between two continental cultures: The Spanish-speaking Spanish-Indian, Roman Catholic culture of Latin America to the south and the English-speaking, Anglo-Saxon, protestant culture to the north.

In knowing Mexico better we will take a step towards knowing Latin America better. It is fitting that we meet today in this Hall of the Americas, of the Organization of American States. Our thanks for having made this possible go to the Permanent Council of the OAS and to His Excellency Alejandro Orfila, the Secretary General of the OAS.

Jose Cecilio del Valle, who was the first Foreign Minister of Mexico after it gained its independence, and himself an American in the broadest hemispheric sense, wrote:

"El mejor estudio de un americano es America."

"The best subject for an American to study is America itself;"

And he goes on; "America during the day, when I write; America in the evening, when I think; America at night, when I dream."

So it is fitting that, with this Symposium all of us, Americans in the broadest hemispheric sense, should be taking a step—one of many steps, I hope—to study, to write, to think, to dream of our greater America.

Now, with your permission, I would like to introduce my fellow Sponsors and Organizers of the Symposium: Janet Solinger, Director of the Smithsonian Resident Associate Program; Roger Stone, President of the Center for Inter-American Relations.

As you know, the Symposium is a joint effort mounted by our three private, nonprofit institutions. We have had an immediate and positive response from many other organizations in Washington, New York, Atlanta and other parts of the country who have joined their efforts with ours to make this a truly national undertaking. Businesses and Foundations, both here and in Mexico have lent their support. Our Symposium Director, Mark Lewis, has worked untiringly to bring all these efforts together into a cohesive whole.

All this would not have been possible without the very generous support from the two National Endowments. A special word of recognition is due to Jim Kraft of the Humanities Endowment, who has been a sparkplug, and to Kathleen Bannon of the Arts, both of whom have unstintingly given their cooperation. I would like to express the appreciation of the Sponsors and Organizers to the Chairman of the National Endowment for the Humanities, our good friend, Joe Duffey, who is represented here by his Deputy Chairman, Patricia McFate; to the Chairman of the National Endowment for the Arts, Livingston Biddle, who is represented by Deputy Chairman James Edgy.

Our special gratitude to the Government of Mexico for its great cooperation and to the Ambassador of Mexico, His Excellency Hugo Margain.

All of us doubly appreciate the effort that Ambassador Margain has made to be with us tonight.

Ambassador Margain has preferred not to speak this evening. We are fortunate, however, that Ambassador Rafael de la Colina, the Mexican Ambassador to the OAS, will make the presentation of our speaker. Ambassador de la Colina is the Dean of the Mexican Diplomatic Service. He has had an impressive career having been Ambassador to the United States, Ambassador to the United Nations, Ambassador to Japan, and now he is Ambassador to the OAS. He is a dear friend to me and during my own time as Ambassador to the OAS, Ambassador de la Colina was not only my colleague, my friend, but also my teacher—he is indeed the Maestro of the OAS Permanent Council. Ladies and Gentlemen, I give you Ambassador de la Colina.●

WINE FROM HIGH-ACID FRUIT

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. AuCOIN. Mr. Speaker, today I am introducing legislation which would allow all high-acid fruits to be ameliorated up to 60 percent for the purpose of winemaking. The degree of amelioration allowed would be determined on a sliding scale according to the acid level in the fruit.

This legislation was prompted by a request from one of my constituents who owns a winery in Oregon. This gentleman would like to make wine from cranberries. Unfortunately, current law makes this difficult. The law says fruit and berry wines may be ameliorated up to 35 percent—with the exception of loganberries, currants, and gooseberries which, because of their high acidity, are specifically allowed an amelioration of up to 60 percent. High-acid fruits other than these three must be labeled "substandard." Obviously, the marketability of any wine labeled "substandard" will be difficult if not impossible.

Grape wines, in contrast to berry wines, do not need to be ameliorated because they have a natural acid-sugar balance. A greater degree—above 35 percent—of amelioration in high-acid fruits for winemaking purposes enhances the taste of the wine. The amelioration consists of adding water to cut the natural acidity and adding sugar which is converted to alcohol by yeast.

This legislation could mean a new industry in wines made from high-acid fruit. In Oregon alone, there are 20 to 30 producers of cranberries. According to the Oregon State Department of Agriculture, some 900 acres of cranberries are harvested annually in Oregon with each acre yielding an average of 100 barrels. Similarly, there is an interest in Hawaii of producing wine from passion fruit, but this interest cannot be realized because passion fruit is also a high-acid fruit.

Winemaking is a new and growing industry in Oregon as it is in many other States. A change in the existing law is urgently needed if the industry is to realize its full potential.

Mr. Speaker, I would like to ask unanimous consent that the bill be inserted in the RECORD at this point.

H.R. —

A bill to amend the Revenue Code of 1954 to provide, for purposes of determining proper cellar treatment for natural wine, that wines made exclusively from cranberries or other highly acidic berries and fruit other than grapes shall be entitled to a volume of ameliorating material not in excess of 60 percent

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subparagraph (D) of section 5384(b)(2) of the Internal Revenue Code of 1954 (relating to amelioration and sweetening limitations for natural fruit and berry wines) is amended to read as follows:

"(D) Wines which are made exclusively from berries or fruit other than grapes and which contain not less than 12.5 grams of acid for each liter in juice shall be entitled to a volume of ameliorating material not in excess of 60 percent (in lieu of 35 percent)."

SEC. 2. The amendment made by the first section of this Act shall take effect on the date of the enactment of this Act.●

HUMAN RIGHTS VIOLATIONS IN IRELAND AGAIN SPOTLIGHTED

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. BIAGGI. Mr. Speaker, a major story appeared in the Sunday, March 11, Washington Post, which once again spotlighted another documented example of human rights violations in Northern Ireland. As chairman of the 121-member Ad Hoc Congressional Committee for Irish Affairs, I wish to place this article in the RECORD as I have done when similar reports by the European Commission and Court of Human Rights as well as Amnesty International were relaxed.

The findings of Dr. Robert Irwin, a Northern Ireland police surgeon were perhaps the most shocking cases to date in what is becoming a tragic human rights record in the North. Dr. Irwin indicated that between 150 and 160 suspects that he personally examined were beaten and ill treated by police authorities. The scene of these travesties was the Castlereagh Interrogation Center. The recent Amnesty International report on Northern Ireland focused on some 78 cases of prisoner maltreatment at the same Castlereagh Prison.

Concurrent with these findings is the ongoing human rights horror of Long Kesh's H Block compound. Here we find prisoners, some 300 in number, living in the most squalid and inhumane conditions imaginable. I am deeply concerned about the rapidly deteriorating physical condition of these prisoners and feel the Government of Great Britain has a moral responsibility to insure that no prisoner dies in Long Kesh.

As many Members know we are about to celebrate St. Patrick's Day. Yet the existence of past and ongoing human rights violations make for a muted celebration for millions of Irish Americans. They see a divided nation where peace and justice for all is a myth. They see bloodshed and oppression continuing.

We the members of the ad hoc committee are also deeply concerned about Ireland today. Our response is to present the Irish situation with a dramatic new initiative whose sole purpose is to advance the cause of peace and justice in Ireland. I refer to the upcoming congressional Irish Peace Forum which this committee has agreed to sponsor beginning the week of May 14. It is designed to serve as a catalyst for peace and a restoration of human and civil rights for Ireland.

Despite the noninvolvement of our administration it is most obvious that human rights are not fully respected in Northern Ireland. We have been most outspoken in other instances where abuses have been revealed. On the occasion of St. Patrick's Day I renew my plea to the administration to work for the respect for human rights in Ireland.

At this point in the RECORD I wish to insert the article from the Washington Post entitled "Ulster Doctor Says IRA Suspects Maimed in Police Custody."

ULSTER DOCTOR SAYS IRA SUSPECTS MAIMED IN POLICE CUSTODY

(By Leonard Downie, Jr.)

London, March 10.—A Northern Ireland police surgeon has revealed that 150 to 160 suspected IRA terrorists he examined in police custody during the past three years were beaten and otherwise "physically ill-treated" while being interrogated by police in Belfast.

In a taped interview to be broadcast Sunday on Weekend World, a popular television news magazine program here, Dr. Robert Irwin said he was disturbed by the injuries he found prisoners to be suffering after they had been questioned by the Royal Ulster Constabulary at its Castlereagh interrogation center in Belfast.

"I've seen five ruptured eardrums," Irwin said "I have seen two injuries to bones of the forearm . . . I have seen joint injuries in both the wrist and to the little joints in the fingers, which have been caused by squeezing the hand or by twisting the fingers."

Irwin said these are not injuries that could be self-inflicted, as the authorities in Northern Ireland have sometimes claimed.

"Ruptured eardrums, I would say, being one of the most serious injuries, could not possibly be self-inflicted," he said. "There is not enough leverage in one person's arm to rupture their own eardrums, and falling about does not produce a ruptured ear. It can only be produced by a blow with force from somebody else.

"Also, some of the sites of some of the injuries would defy even a contortionist to produce the injuries, and the extent of the bruising that has been seen on occasions indicates that considerable force had been used from some other source."

Irwin said such mistreatment, which he attributed to "probably twenty" Ulster police officers at Castlereagh, is "destroying" the Ulster police force's reputation and undermining the "magnificent" work of the majority of its officers, who he said have helped the British army reduce violence in Northern Ireland in recent years.

His public statements corroborate an Amnesty International report of last summer, which described 78 cases of brutality allegedly suffered by suspected terrorists in police custody in Ulster. Amnesty International complained repeatedly in the report that Ulster police authorities would not allow access to police surgeons or their records.

The report prompted the British government to set up a committee, headed by a noted judge, to investigate these allegations and report on interrogation methods in Northern Ireland.

The committee's inquiry is finished and its report is now being reviewed by Britain's Northern Ireland secretary, Roy Mason, before being made public later this month. A spokesman for the Northern Ireland office said today he could not comment on Irwin's statements or on reports here that the investigating committee has found that Ulster police interrogation methods "leave a lot to be desired."

Irwin, an official of the Association of Police Surgeons of Great Britain, said he will resign if the committee's report does not acknowledge the mistreatment he has found. He said he also would urge the other 600 police surgeons in Britain to "walk out in protest."

A Protestant lawyer recently resigned from the complaints committee of Northern Ireland's police authority because, he said, it took no action on a number of specific complaints of "alleged torture" he had presented. "They don't want to know," attorney Jack Hassard said.

More than 1,000 formal allegations of police brutality during interrogations of suspected IRA terrorists in Ulster have been made in the last three years. Some police officers have been prosecuted, but none has been convicted.

British security forces have killed 10 persons in Northern Ireland in the past year. Authorities have acknowledged that some innocent people may have been killed mistakenly in these incidents, and there have been disputes about whether some suspected terrorists were shot by British soldiers although they offered no resistance.

British officials, who point out that sectarian killing has decreased dramatically in the recent years of direct British rule, nevertheless have become increasingly sensitive about allegations that the British Army and the predominantly Protestant Ulster police have been brutal in their treatment of Catholic terrorist suspects.

The European Commission of Human Rights, which previously found the Ulster police guilty of brutality in their treatment of IRA suspects interned without trials—a practice later abandoned—is now investigating allegations that convicted terrorists are being mistreated in prison.

For the past year, about 300 IRA terrorists imprisoned in the Maze prison outside Belfast for robbery and other crimes have been refusing to wear clothes, wash or use the prison's toilet facilities, in an IRA-orchestrated campaign to have them recognized as political rather than criminal prisoners.●

PUBLIC DEMANDS AND DESERVES FEDERAL SPENDING CONTROLS

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. McCLORY. Mr. Speaker, a very distinguished and respected former Cabinet member, Caspar W. Weinberger, who served as Secretary of the Department of Health, Education, and Welfare, as well as the Director of the Office of Management and Budget, has articulated in clear and unmistakable language the basis for the public demand for a constitutional amendment to require the balancing of the Federal budget—or appropriate limit on Federal spending.

Those who misinterpret the public demand for the responsible management of the fiscal business of Government—underestimate the determination of the American public to preserve and perpetuate our free enterprise economic system. "Cap" Weinberger has correctly analyzed the situation when he states that "a new phase in America's history is about to begin." Mr. Weinberger's individual views which seem to prefer a constitutional limitation on Federal spending are set forth in the following article which appeared in the February 22 issue of the Chicago Tribune:

NEEDED: AMENDMENT TO SHOW CONGRESS WHOM IT WORKS FOR

Twenty-seven states have acted favorably on a resolution that Congress call a new constitutional convention or pass its own constitutional amendment imposing some fiscal sanity on the federal government. The number of states still required to act is down to seven. It seems clear that a new phase in America's history is about to begin.

Attention has been focused on the mechanics of the problem; that is, whether or not Congress will have to call a constitutional convention, whether or not the agenda could be limited to a budget-balancing amendment, and so on. We have tended to overlook what it is that has brought us to the point of using a mechanism that was made a part of our Constitution in 1789, but has never had to be used before.

The simple fact seems to be that Congress has become unrepresentative of the people who elect it. Congress is receptive to pressures of special interests for more spending on their projects, but has failed to realize that what the people want is not more spending and more government but far less of each.

It is amusing and instructive to note the alarm expressed by the same types of groups who opposed Proposition 13 in California. The warnings are coming in thick and fast: from lobby groups who have what they want now (except that they always want more), from full-time legislators who win by responding to special interest groups, from editorial writers and columnists who see the end of the world, or at least the end of the Constitution.

The gist of the argument is that the people should not be allowed to reduce government or reduce government spending.

After all, there is nothing really revolutionary in the 1789 provision to permit two-thirds of the states to demand that Congress do something. Then, any amendment produced by the convention would also require ratification by three-quarters of the states to become effective. So the arguments that the convention might run wild and pass along a lot of undesirable amendments also seems a bit premature.

What is it that the people want so badly, that Congress will not give them? Essentially, it is a requirement that the federal government stop responding to all the special interests and consider instead the general welfare, which urgently requires the government to stop producing inflation.

There is not yet any agreement on precisely what measure the constitutional convention would take up.

First, there is a simple measure requiring that the federal budget be balanced each year except for certain emergency escape hatches, such as a declaration of war. But merely balancing the budget, while highly desirable most years, is not enough to halt the drastic increase in governmental activity and spending. You can always balance a budget by raising your revenues high enough.

Public sentiment might be appeased by a simple budget-balancing amendment—but that would leave Congress free to return to its old ways.

A more sophisticated proposal would tie the rate of permitted government spending increases to some objective figure, such as the increase in the gross national product, and then would permit those spending limits to be increased if there was a two-thirds vote of approval by both houses of Congress and approval by 46 state legislatures.

This would be some improvement, but it still would allow a very considerable growth in federal governmental activity, particularly if the inflation caused by government spending pushed the gross national product up to a rate that permitted more spending, and thus the cycle would continue.

Long-time observers believe the only real way to achieve overall reductions of governmental activity and governmental spending is to limit the amount of revenue that can be collected, and at the same time to require a balanced budget. Then you would truly force Congress to make some of the hard decisions as to which programs would be funded, and which would not, and to choose priorities rather than simply saying yes to all the special interests and then adding up the cost.

Certainly there should be provisions that permit the people to change their minds and decide they might indeed want something enough to require an increase in revenues. But at least the choice would be clear-cut and not imposed on them by a Congress which has been much more attentive to special interests than to the general welfare.●

NEW PERSPECTIVES FOR CONGRESSIONAL SPOUSES

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. BROOKS. Mr. Speaker, the orientation programs provided for new Members of the 96th Congress, their staffs, and their spouses during the months of November, December, and January were undoubtedly the most comprehensive ever available to an incoming congressional class.

The programs were as varied in format and subject matter as they were in location and sponsorship. Some were sponsored by private organizations, others by political party organizations, and several were official functions of the House of Representatives. They ranged in length from several hours to several days; in location from Cambridge, Mass. to Williamsburg, Va.; and in scope from major public policy issues, to the administrative and legislative procedures of the House. The Select Committee on Congressional Operations was pleased to be able to serve as a sponsor of two of the major programs—the week-long public policy seminars at Harvard University and the series of bipartisan orientation sessions in the House Chamber—to provide administrative and financial support for others, and to function, overall, in a coordinating role.

One of the most interesting, innovative, and valuable of these programs, Mr. Speaker, was the conference on December 4 entitled, "New Perspectives for Political Spouses." Held at the campus of Georgetown University, the conference was cosponsored by the 95th Congressional Wives Club and the university's School for Summer and Continuing Education. Inasmuch as this program has not received the attention given to other orientation activities, our colleagues may find it useful to know more about this conference, which hopefully will serve as a model for the future.

The fundamental purpose of the program, Mr. Speaker, was to introduce spouses of newly elected Members of Congress to the special problems and opportunities for themselves and their families in the new and official environment of the Nation's Capital, and to suggest some of the options available to spouses in making positive and constructive adjustments to new lifestyles.

The conference assembled an impressive array of talent to deal with these important matters, not only competent staff persons from the university and other professionals, but in particular a number of congressional wives whose personal experience in adapting successfully to the unique demands of Washington living contributed special relevance to the discussions. From all reports, participants and attendees alike found the program to be positive and rewarding.

The planning and programing of the conference were directed by officers of the 95th Congressional Wives Club: Susie Skelton (Mrs. Ike Skelton, Missouri), president, Dolores Beilenson (Mrs. Anthony Beilenson, California), vice president and orientation chairperson, and Marilyn Quayle (Mrs. Dan Quayle, Indiana), secretary, in cooperation with the university's continuing education staff: Betty Beall, Julie Buffington, and Marybeth Robb.

Following the welcoming remarks of Timothy S. Healy, S.J., president of Georgetown University, the conference heard from keynote speaker Dr. Margie Reuss (Mrs. Henry Reuss, Wisconsin), chairperson of the department of economics at the University of the District of Columbia. Dr. Reuss addressed the role of political wives by citing actual examples of the many different lifestyles represented by women she has known and by describing the choices she herself has made.

This was followed by a panel discussion of the same subject which was moderated by Dolores Beilenson and which employed as panelists a politically and geographically balanced group of congressional wives who discussed the adjustments and challenges of Washington life in terms of their own unique and varied experiences. Panelists included: Diana Cohen (Mrs. William Cohen, Maine), Kay-Kay Sharp (Mrs. Philip Sharp, Indiana), Elinor Bedell (Mrs. Berkley Bedell, Iowa), Kate Cavanaugh (Mrs. John Cavanaugh, Nebraska), and Carolyn Moore (Mrs. Henson Moore, Louisiana).

The afternoon portion of the conference consisted of a series of small group workshops in which group leaders and resource people led discussions, in a less formal atmosphere, in four subject areas: "Successful Partnership Roles—Managing Stress," "Personal Identity," "Managing Independently," and "Personal Growth and Development."

Congressional wives who led these workshop sessions included: Susan DeConcini (Mrs. Dennis DeConcini, Arizona), Rhoda Glickman (Mrs. Dan Glickman, Kansas), Tricia Lott (Mrs. Trent Lott, Mississippi), and Marilyn Quayle and Susie Skelton.

Mr. Speaker, this was a most successful, organized, and systematic effort to provide a professional quality orientation program for the spouses of newly elected Members of Congress. The 95th Congressional Wives Club deserves great credit for the imagination and skill with which they translated a good idea into an even better reality.●

CRUISE MISSILE IN OUR NAVY'S ARSENAL

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. BOB WILSON. Mr. Speaker. I would like to call to my colleagues' attention the following discussion of the place of the cruise missile in our Navy's arsenal which appeared in the January 1979 issue of the U.S. Naval Institute proceedings:

CRUISE MISSILE IN OUR NAVY'S ARSENAL

Carrier air attacks, combined with surface and subsurface land attacks from cruise missile platforms, could strike Soviet installations in the Central Front and elsewhere. (A principal requirement in having a viable cruise missile threat is to ensure that the cruise missile platforms carry enough Tomahawks to maintain the offensive threat as Soviet AAW improves through the next decade.) Additionally, land-attack cruise missiles would off set reduced strike power in carrier air wings optimized for sea control or in reduced CVV (a medium-sized carrier which would operate both conventional and V/STOL aircraft) air wings.

Tomahawk and Harpoon also could provide the necessary stand-off range to destroy Soviet surface ships. This capability, combined with the potential to deny air bases, could support U.S. submarines by reducing the ASW threat by disrupting Soviet data link concepts, thence putting their submarines on their own where they could be more vulnerable to U.S. ASW forces.

The synergistic effect of carrier air and cruise missiles could reduce aircraft attrition in attacks against heavily armed targets, permit heavier initial attacks, and lead to earlier achievement of air superiority.

Based on Soviet cruise missile concepts and the manner in which the U.S. Navy has reacted to this threat, it seems reasonable that U.S. cruise missiles could make a major contribution to accomplishing the functions of both sea control and power projection, and could enhance the conventional and theater deterrent posture of the United States. Cruise missiles can contribute substantially in virtually all Navy scenarios: long or short global wars, regional confrontations or crises, and as a peacetime tool of diplomacy.

U.S. cruise missile ships and submarines might provide a hedge against a no warning attack or significantly influence the outcome of such an engagement. Harpoon and Tomahawk can quickly engage enemy surface-to-surface missile (SSM) platforms when hostilities are iitiated nregardles of who shoots first. In areas where the Soviets can operate under land-based air cover, Tomahawk could be a cost-effective antiship weapon. The defensive capability of the Soviets in forward areas necessitates a U.S. weapon which can be delivered from outside the enemy's reactive air envelope in order to increase the launch platform's survivability. Even in open-ocean engagements where neither side has air superiority. Tomahawk can increase U.S. force survivability because it permits the delivery of early hits on Soviet antishipping missile ships.

The most difficult problem facing antiship Tomahawk is in the area of over-the-horizon detection classification and targeting (OTH/DCT). Apparently, the uncertainties in this area have resulted in some delays in the deployment of the weapon. On the other hand, by deploying numerous classes of long-range antiship cruise missiles, the Soviets have forced the U.S. Navy into a reactive posture even though Soviet OTH/DCT at extended ranges may be equally uncertain. (The U.S. Navy has dedicated millions of dollars to area and point defense systems, surveillance, soft kill systems, etc., to defend against this threat.) There is nothing in the U.S. inventory which applies the same pressure on the Soviet Navy other than carrier air and Harpoon. Delaying the deployment of Tomahawk until the OTH/DCT problem is solved plays into Soviet hands and permits them to keep the advantage.

In terms of seizing the initiative in the constant give-and-take of weapon system development, the Navy should deploy Tomahawk at the earliest possible date. Among other things, this might force the Soviets to consider reallocation of resources away from antisubmarine and anticarrier warfare and into defensive systems. Additionally, since the OTH/DCT problem does not apply to land-attack systems, the Navy should move to resolve land-attack issues independent of antiship delays.

While apparently understanding the need for other projection systems, the Navy has not moved ahead on the conventional land-attack cruise missile option for two principal reasons. First, a conventional cruise missile capability is viewed in some quarters as an outright competitor with carrier air; and second, the perception that the cost of such a weapon would be exorbitant while its payoff uncertain.

Yet, the Navy has apparently not fully studied the cost-effectiveness of conventional land-attack cruise missiles in comparison with other land-attack systems, or determined the complementarity of cruise missiles to sea-based tactical air. There is evidence to indicate that the strength of area air defenses determines whether the cruise missile is the preferred system over manned aircraft The stronger the area defense, the more one prefers the cruise missile. The same cruise missile penetrability against area defense systems applies regardless of the type of warhead used. Thus, in some cases, a Tomahawk with precise guidance and a conventional warhead might provide a credible and cost-effective complement to existing projection capability.

All the Navy's platforms should be candidates for offensive improvement. Obviously, the most visible is the carrier. Possible improvements include new classes of carriers and vertical or short takeoff and landing (V/STOL) aircraft. However, a new carrier would not be available until the late 1980s at the earliest and advanced V/STOL probably would enter the fleet even later. Thus, neither option provides the near-term solution. Employing cruise missiles from current sea-based tactical aircraft would permit extended ranges and greater penetrability, but it could also involve losses in respect to other missions the aircraft might perform, and it would add more eggs to what may be an already overloaded basket. For example, cruise missiles employed from either carriers or their aircraft will not help complicate the Soviet targeting system, which now focuses its resources on 12 carriers.

The Navy's nuclear attack submarines, slated to receive Harpoon and Tomahawk, have low vulnerability, particularly in the highest risk areas. However, SSNs are constrained in the numbers of cruise missiles they can carry without compromising other missions which must be considered in an overall limited force level context. Although SSNs cannot carry enough conventional land-attack, submarine-launched cruise missiles (SLCMs) to provide high firepower concentrations (and it is unclear how their attendant C^3 problems would be solved), SSNs armed with conventional land-attack SLCMs could conduct limited one-time raids against Soviet targets ashore.

Surface combatants comprise the only platforms with the capability of carrying large numbers of missiles, and therefore providing a concentrated visible threat which might dilute Soviet surveillance and targeting of the carriers.

Although some strategists may oppose arming surface ships with cruise missiles on the grounds that these ships are vulnerable to three-dimensional attacks, operating these ships in concert with a balanced force (land- or sea-based air and sophisticated defense systems such as Aegis ships) should reduce this vulnerability to acceptable levels. Moreover, the threat should be spread among more platforms.

Land-based aircraft are attractive antiship platforms because of their low cost and long range. They can launch cruise missiles from beyond an enemy's SAM range. Land-based aircraft can cover most sea areas of high U.S. interest, including the approaches to Soviet territory. However, their forward bases are vulnerable, and the emergence of Soviet tactical aircraft at sea may call their survivability into question. Moreover, their magazine capacities are limited.

There are many uncertainties. The effect of strike diversification on the U.S. Navy's total capability is unknown. Internal biases in the U.S. Navy will tend to produce "either-or" arguments between warfare areas when it seems that a navy which employs multi-platform launched cruise missiles *and* sea-based tactical air in concert is going to be more effective in offensive roles than a navy which employs one or the other. Lastly, will the presence of strike capability in more platforms tend to put the Soviets in the reactive vice initiative role? In view of the Administration's recent decision regarding the future of the carrier, the Navy should move quickly to answer these questions and restore a flexible, well-diversified offensive capability to the fleet.●

AVITAL SHCHARANSKY'S ORDEAL

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. DRINAN. Mr. Speaker, I would like to call to the attention of my colleagues the following article about the ordeal facing Anatoly Shcharansky's wife, Avital. Since her husband's harsh sentencing and imprisonment last July, she has persisted in calling out for justice.

Avital is winding up a nationwide tour of the United States this week to commemorate the second anniversary of the arrest of her husband. I commend her for her tremendous strength over these past 2 years. The article follows:

[From the Jerusalem Post International Edition, Mar. 4, 1979]

AVITAL'S ORDEAL

Seven months after Anatoly Shcharansky was sentenced in Moscow to 13 years' imprisonment for treason and anti-Soviet slander, his wife, Avital, retains an almost mystical belief that he will soon be released and allowed to join her in Jerusalem.

"If he remains in prison," she says, "it would be a great injustice. And I do not believe there is such injustice in the world."

Avital continues to write to her husband four or five times a week, knowing that he has not received any of her letters since he was arrested in March 1977. Nor is Shcharansky permitted to write to her. The last time he was able to communicate with his wife was through his final address to the Supreme Court in Moscow on July 14, 1978, the day he was sentenced.

"For more than 2,000 years," he told the court, "the Jewish people, my people, have been dispersed. But wherever they are, wherever Jews are found, each year they have repeated, 'Next year in Jerusalem.' Now, when I am further than ever from my people, from Avital, facing many arduous years of imprisonment, I say, turning to my people, my Avital: 'Next year in Jerusalem.' And I turn to you, the court, who were required to confirm my predetermined sentence: to you I have nothing to say."

Avital left for Israel on July 5, 1974. On that day, her exit visa, issued 10 days earlier, was due to expire.

"We really believed that we would see each other again very soon" she said. "It seemed impossible to imagine anything else. When they gave me my exit visa they said, 'If you don't give us any trouble, Shcharansky will be allowed to go very soon.' And I believed it. Now that we were married it seemed so natural that they should allow a husband to join his wife."

Avital Shcharansky became involved in the Soviet Jewish emigration movement with her brother, Michael, in 1973. Their best friends had left Moscow and had sent them an "invitation" to emigrate to Israel. Michael applied for a visa, but was refused.

"He started going to demonstrations then, although I didn't know about it. He didn't tell me because he was worried that I would follow him and get into trouble. But he could see I was afraid for him—he was my whole world—so he gave me a piece of paper with a telephone number and said that if anything happened to him, I should call the number and people would help me.

"At that time I was studying at an art institute in Moscow near the Tass News Agency building. One day, I was in a bus on my way to the institute when we passed the Tass building. I looked out of the window and saw many people standing there. Suddenly they all held up placards which said things like, 'Visas for Israel,' 'Give us visas.' One of the demonstrators was Michael. I was so shocked. Then soldiers appeared and I saw one of them taking him away and I knew he was in great danger.

"I tried to get off the bus immediately, but I couldn't. By the time it stopped and I got back to the Tass building, everyone was gone. I went home and didn't know what to do. Then I remembered the piece of paper my brother had given to me.

"I called the number and spoke to a man—Arye Lederman—who is now in Israel. He came right away. I was crying and he said to me, 'What are you worrying about? Don't worry.' He explained that my brother was in prison, that it was not the first time he had been arrested, and that he would be all right.

"He looked like Moses—you know, a big beard and a very strong spirit. It was the first time I had seen someone who looked so Jewish and who was so unafraid. He said I should come to synagogue on Shabbat and he would introduce me to others who had been in prison.

"When I arrived at the synagogue, I saw many people standing outside in the street talking openly about Israel. It was during the Yom Kippur War and they were saying things like, 'We're almost in Damascus now.' They were not afraid.

"Arye Lederman introduced me as Michael's sister and he asked the people to reassure me about my brother. One man said, 'It is nothing. I myself was released from prison today after 15 days.' That was Anatoly.

"He could see that I was afraid and he tried to comfort me. He asked me all about myself, my work, my plans to go to Israel. He talked of all sorts of things other than prison and my brother. He told me that if I wanted to go to Israel I must start studying Hebrew. I said, 'Yes, I want to study Hebrew.'

"It was the first time I had made such a decision without Michael. He had always protected me and told me what to do and what not to do—like a Jewish mother. When he was released from prison and found that I insisted on going to demonstrations he was angry. 'I don't know what has happened to you,' he said."

Michael was only detained for a short time, and not long afterwards was granted a visa for Israel, leaving the Soviet Union in December 1973. Shcharansky was now working as secretary to a scientist, having lost his job as a computer programmer at the Oil and Gas Research Institute when he applied for an exit visa. He was earning 100 rubles a month, half of which went for rent for his apartment. Avital had by now left the art institute, because after her brother's arrest, the atmosphere became very bad for her.

At her first demonstration, Avital was given the task of getting into a meeting of the Central Committee of the Communist Party and delivering a letter asking that Soviet Jews be allowed to emigrate to Israel.

"I was told, 'You are new. Perhaps the KGB will not recognize your face and you will be able to get through and deliver the letter.' Quite a few people took copies of the letter, but I thought I would be lucky.

"As I got off the underground train at a station near the praesidium building, I saw a man looking closely at me and then muttering into what must have been a microphone in the lapel of his coat. I knew then that something was wrong. As I got to the top of the escalator I saw some men waiting. And when I got there one of them said, 'Yes, it's her,' and two policemen came over and took me by the arms.

"It's so funny, you know, I wasn't frightened. I said to the policemen, 'Who are you? I don't want to go with you.' But they wouldn't speak to me. So I started calling out to people around, 'Help me, help me.' The policemen held my arms very tight. It was impossible to get away.

"I didn't know what to do. Anatoly hadn't told me what I should do if I got arrested. The policemen walked me past the praesidium building towards some buses which were parked nearby. Inside the buses were my friends. They had also been arrested. I was so happy to see them.

"We were driven to a building which is a place for alcoholics to dry out, and the men were taken to one room and the women to another. After a few hours the police began taking people for interrogation, one at a time. I didn't know what to say so I decided to say nothing. It was the first time I had been arrested and I wanted to do everything right.

"I was the last to be taken for interrogation. They asked me my name. I replied, 'I don't want to speak to you. I want to know who you are.' The the interrogator asked, 'Why are you here?' and I said, 'That's what I must ask you: why am I here?' Then I was taken back to the room.

"By this time everyone else had been allowed to leave, and after a few hours a guard told me that if I didn't tell them my name I would be taken to prison. So that night I told them my name. Then I said, 'Now are you going to put me on trial?' The interrogator just said, 'Get out.'

"It was dark outside and I didn't know where I was. Then I discovered that Anatoly was there. He came to me and said, 'I've been waiting for you. Tell me, what happened?' I was shaking and kept being sick. He took me home and made sure I was all right.

(Avital was detained by the police a second time when she took part in a demonstration after the Palestinian terrorist massacre at Ma'alot in May 1974. She then applied for a visa to leave the Soviet Union.)

"I didn't want to apply because I was afraid of what would happen to Anatoly. But after the second arrest, he told me I must apply. He also asked me to stop going to demonstrations, so instead I had to watch him at demonstrations. It was harder to stand and watch than being with the demonstrators. It was terrible to see him being beaten and arrested.

"Even though I was afraid for Anatoly, I was sure he would be given permission to leave at any time—the following day or week. Many of our friends were given permission to leave at that time. I actually thought he would go to Israel first and that I would follow later. What could they do to me? I was a woman alone. So I asked permission.

"We had decided to get married very soon after we met, but the authorities refused to give us permission. Perhaps because we were Jewish, because Anatoly was a refusenik. We went to them every day. Each time the clerk would say he had to speak to his boss. Then one day he told us, 'It's impossible. Anatoly is too old for you.' It was absurd [the age difference is three years].

"But we were happy, so happy just to be together. We didn't worry about it too much. After a while we decided that if it was impossible to get married in the Soviet Union, we would just wait until we arrived in Israel and get married there.

"Then a friend said to me, "Why don't you ask the synagogue to marry you?" So we went to the synagogue. The rabbi there was afraid. He said no, he could not help. It would be a danger for the synagogue. He suggested we go to a smaller one.

"I started going to synagogue, and one day I met an old man—Manevich—a very religious man who was very active there. We arranged to have a meeting with him, but before the meeting Anatoly was arrested again."

This was in June 1974, when Shcharansky was kept in detention for two weeks during President Nixon's visit to Moscow.

"While Anatoly was in prison I received a postcard telling me to go to the visa office. And there they told me that I had been given a visa and that I had to leave within 10 days.

"I said 'No, it is impossible, because I do not know where my fiancé is. Please help me find him.' I discussed this with them for two days and finally they said, 'If you do not take this visa you will stay in Russia for the rest of your life, and you will have many problems.' I did not know what to do. Then Anatoly's mother came to see me and she said I must take the visa.

"I told Manevich that I had a visa to leave but that my fiancé was in prison. At first he said he could not arrange it. My fiancé was an activist, I wanted to go to Israel, and it would be dangerous for the Jewish community and the synagogue if they married us. I said, 'OK, no is no.'

"Then Manevich said, 'Maybe you have a picture of your fiancé?' And when he saw the picture he said, 'Oh, its Anatoly. I know him. He is such a brilliant man and I like him very much. Such a good Jew. I will try to do everything possible to help you.' And he added, 'You are very lucky. You will have a good husband.'

"Manevich worked very hard. We decided to arrange the marriage for July 4—I was to leave the following day. We met every day so Manevich could teach me about the *huppa* ceremony and Jewish things. He was determined to arrange everything.

"I still didn't know whether Anatoly would be released in time for the wedding, but we went ahead with the plans. On July 3, Anatoly's mother came to help me make everything nice in our flat for the wedding. By that time, many of our friends had heard that I had received a visa and came to my flat to say 'Shalom.' They found it very strange that when I should have been preparing to leave I was sewing a new dress for myself.

"I was not at all nervous. I felt very strong. People asked me, 'Where is Anatoly?' and I told them he was in prison. They said, 'What are you doing? How can you leave?' I just said, 'It's all right. Don't worry. I know what I'm doing.'

"The next day was my wedding day. Anatoly was still in prison and I didn't know yet whether he would be released that day. Early in the morning, Manevich and a rabbi came to the flat to make sure everything was in order. Then I went out to phone friends to invite them to the wedding. When I got back, Anatoly was there.

"At 10 that morning, the KGB had told him he could go. But he did not want to let them have the last word so he said, 'No I haven't finished my book.' And he stayed in prison another two hours until he had finished the book. Of course, he didn't know that we were to be married that day or that I had received a visa and was leaving the following day.

"So when he got home and found out about it he had a shower and went off to the synagogue to complete the arrangements for the wedding. Friends who had been released that day also came, and at four in the afternoon the wedding started.

"'It was such a happy wedding. Afterwards, Manevich made a wonderful speech about the miracle of Jewish survival, about how miracles can happen if you really want them, if you really believe. And the rabbi—who didn't know Anatoly was a refusenik—understood what was happening, because after the *huppa* we all started to sing Hebrew songs.

"There were many people at the wedding. And the KGB outside. We had a party that went on until the middle of the night, singing and dancing the *hora*. It was a great celebration. I had learned about the *huppa* ceremony and because I knew a little about the religious part of the wedding it was like, you know, a window on Israel. We could feel Jewish *life*.

"I left Moscow for the airport at six the next morning.

"I saw Anatoly again after I left the Soviet Union—in the two British television documentaries *A Calculated Risk* and *The Man Who Went Too Far*. I was very upset—not about the films, they were excellent, but because I couldn't understand why the authorities continued to refuse to allow him to come to me. I didn't want to see him on television. I wanted to see him here, in Israel. I expressed this to him in a letter before his final arrest and he wrote back and said, 'Why are you so upset? I would be so happy to see you on television.' "

Avital was in Geneva when she heard that, after 16 months in detention, her husband was to be charged.

"I remember thinking, 'Now it begins and I must work very hard to help him. I must do the right things. I must be strong.' "●

STATEMENT IN SUPPORT OF A SEPARATE DEPARTMENT OF EDUCATION

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1979

● Mr. BONER of Tennessee. Mr. Speaker, I rise today to cosponsor legislation designed to establish a separate Department of Education. In his state of the Union address, the President reaffirmed the administration's strong support for the creation of such a Department. President Carter declared that,

> * * * (the new Department) will enable the Federal Government to be a more responsible and reliable partner with the States, localities, and private institutions that have primary responsibility for education.

He speaks from experience as Jimmy Carter's first elective office was membership on a local school board.

The idea of creating a separate Department of Education is not new. During each of the past seven sessions a bill calling for a new Department has been introduced. During the 95th Congress 41 pieces of legislation were introduced relative to the creation of a separate Department of Education. The Senate Committee on Government Operations, and the House Committee on Government Operations considered Department of Education bills but the Congress did not consider any final action on the issue last session.

American education is the foundation for our society. Today, more than 60 million people in the United States are directly involved in this profession. Total education expenses exceed $180 billion per year.

The need to provide equal access to education for all Americans, declining school enrollments, falling confidence in public education, high dropout rates, increasing numbers of older citizens interested in lifelong careers and displaced homemakers all present new challenges to our educational institutions.

How can we best meet our present and future educational needs? The challenge we face today at the Federal level is to determine the most efficient way we can manage our existing Federal educational programs, as well as supplement and complement the efforts of the States and localities in their educational efforts. A Department of Education will provide us with the best vehicle to meet these challenges.

Let us now look at the existing situation in education today. In our Government the single largest concentration of educational programs is located in the Division of Education, Department of Health, Education, and Welfare. HEW's responsibilities are already so immense as to be near ungovernable. Its budget is the third largest of all governmental units in the world, exceeded only by the total budgets of the United States and the Soviet Union. The Secretary of HEW is already concerned with health insurance, hospital cost containment, welfare reform, social security, medicare, medical research, food and drug regulation, and education. Last year the Inspector General found over $7 billion of waste, inefficiency, fraud, and abuse in the Department of Health, Education, and Welfare. This amount alone is greater than the budgets of five other existing Cabinet level departments of our Federal Government.

A separate Department of Education can actually reduce the administrative costs and waste by streamlining the bureaucracy and consolidating existing programs. This bill consolidates the many diverse educational programs of the Federal Government into one separate Department. Placing these under one umbrella will reduce the paperwork and conflicting rules and regulations. This bill also contains a provision mandating a stiff ceiling on the number of employees of the new Deprtment. Taking the "E" out of HEW is a serious attempt to break the Department down to manageable proportions.

Secretary Califano is quoted in the National Journal as saying "Size itself can create a measure of confusion. Large numbers create mistakes." This bill would allow the Secretary to devote more of his time to the massive welfare and health programs. Good management cuts waste and costs. Creation of a Department of Education will represent better management of an educational program, and also better management of health and welfare programs.

The Department of Health, Education, and Welfare's budget for educational purposes during fiscal year 1980 is expected to be approximately $11 billion. This amount alone is larger than six other Cabinet departments and yet the Commissioner of Education is three times removed from the President's Cabinet. There appears to be little accountability for education within the present Federal structure. There is no one of sufficient rank to insure that education programs are administered effectively, no one to speak solely for education within the President's Cabinet, no one for the States, localities, parents, teachers, and students to look to in the Federal Government for educational assistance.

I am amazed at the high turnover of Education Commissioners in HEW. We have had 13 Commissioners of Education in the past 12 years. There is no opportunity for an Education Commissioner to grasp the serious challenges of the Office of Education. Our present Commissioner (number 14), Ernest Boyer, has announced his intentions of leaving late this year. When asked, the former Commissioners all tell the same story: It is impossible for the Commissioner of Education to have any meaningful impact given the low level of attention education is given within the huge HEW bureaucracy.

A separate Department of Education is supported by State and local groups who say they fear more Federal intrusion will be caused by the existing fragmented, uncoordinated, unaccountable, and low level of bureaucracy. In testimony before the Senate the National PTA executive director said:

> Far from being an obstacle to the local control of education, the National P.T.A. feels that the establishment of a Department of Education would produce successful cooperation among Federal, State, and Local Education Agencies in their appropriate roles. The establishment of a Department of Education would make clear the lines of federal responsibility and authority in the educational effort * * *

Structurally, the bill creating the new Department goes to great lengths to balance all educational interests and give adequate recognition to each. The Department of Education will be concerned with all aspects of the educational process from nutrition, elementary-secondary education, postsecondary education, training of the disabled and more. No one interest will dominate another.

Other features of the bill include:

An Office of Elementary and Secondary Education which will administer programs in which 48 million students currently participate. Included in this Department will be a new Office of Nonpublic Education.

An Office of Postsecondary Education which will coordinate the educational opportunities of continuing education.

Occupational, Adult, and Community Education. This office will provide needed visibility for education assistance to States and localities in delivering effective education and training and adult community services.

Handicapped. An Office of Special Education and Rehabilitive Services will combine present functions into a comprehensive program of education and rehabilitative services for the handicapped.

I hope that the Congress will act expeditiously on this needed legislation this year. I urge my colleagues to join with me in supporting the creation of a new Department of Education.●

SENATE—*Wednesday, March 14, 1979*

(Legislative day of Thursday, February 22, 1979)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. DAVID L. BOREN, a Senator from the State of Oklahoma.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God our help in ages past, our hope for years to come, we thank Thee this day for the fresh promise of peace. Thanks be to Thee for the guidance, the wisdom and the courage accorded the President and the leaders with whom he conferred. Grant to all of us grateful hearts, spiritual grace, and resolute determination to consummate the long-sought peace in the land of the Prince of Peace. As the star of peace once illuminated the skyline of Bethlehem may the same divine light be the beacon to universal peace and good will. And may peace and security be found, not in force of arms, but in the perfect love that casteth out fear, and in the fellowship of those redeemed by divine grace.

We pray in the name of Him who is the light of the world. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, D.C., March 14, 1979.*
>
> *To the Senate:*
>
> Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID L. BOREN, a Senator from the State of Oklahoma, to perform the duties of the Chair.
>
> WARREN G. MAGNUSON,
> *President pro tempore.*

Mr. BOREN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NEARING THE END OF A TRUTHFUL SEARCH

Mr. ROBERT C. BYRD. Mr. President, for more than three decades, the Middle East and the entire world have suffered the consequences of the Arab-Israel conflict. War, international terrorism, economic disruption, assassinations, civil unrest and social turmoil, an oil embargo, and chronic anxiety have been but a few of the costs of that conflict.

Now, President Carter appears to have achieved success in his efforts to forge a treaty between Egypt and Israel. This achievement comes at the end of long months of patient effort and meticulous negotiation, and no man deserves more credit for the impending peace treaty than does President Carter. He made a deep commitment to the search for peace in the Middle East; he spared no personal or Presidential resource in pursuit of his goal. Men of wisdom and good will around the world owe President Carter a debt of gratitude.

I also want to commend the leaders of Egypt and Israel, President Sadat and Prime Minister Begin, for their untiring efforts on behalf of the peace that is so much desired by their peoples. I would hope that the breakthrough for peace between Israel and Egypt will be a prelude to a comprehensive settlement of issues on all fronts in the Middle East. The lives and well-being of millions of men and women in that area, the destiny of many nations, and, indeed, the peace of the world, are the stakes in the confrontations that beset this vital region. We must, therefore, continue the pursuit of peace in the Middle East as an international imperative.

But, for the present, I extend my heartiest and most sincere congratulations and thanks to President Carter for the success of his efforts in Cairo and Jerusalem. He has earned a permanent place in the ranks of the peacemakers in human history.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

PEACE IN THE MIDDLE EAST

Mr. BAKER. Mr. President, on several occasions in recent months I have felt it my duty—in this forum and others—to express a rather strong disagreement with President Carter on several major issues of foreign policy and on the manner in which that policy has been conducted.

I feel it my duty today, and it is also my great pleasure as an American citizen, to commend my President for the extraordinary efforts he has made in the last few days to bring to a successful conclusion the negotiations for peace between Israel and Egypt.

Like all of my colleagues here, I am anxiously awaiting word from Israel on the decision of the Israel Cabinet to accept the American formula for the resolution of those issues still outstanding, and I am very hopeful that the Knesset will follow with its consent to these accords, as well.

But even without these final acts, even with the success of this mission still not fully assured, the enormous courage and determination demonstrated by President Carter over the past week are worthy of praise from every American.

Courage of a special order has also been displayed by Prime Minister Begin of Israel and President Sadat of Egypt, and the reward for that courage may soon be a welcomed and lasting peace between their two great nations.

The untiring work of their colleagues—particularly Secretary of State Vance—also merits our admiration and appreciation.

The commitments made on behalf of the United States to secure these agreements are only vaguely known today, and the Congress will have its own responsibility to consider the wisdom, the extent, and the ultimate cost of these various commitments very carefully.

But it is my hope and my expectation that we in the Senate and in the Congress will be true to the spirit of these last momentous days, and that we will be as faithful and as forthcoming as we can to the great goal of peace among nations.

UNITED STATES-TAIWAN RELATIONS ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now consider the bill H.R. 2479, which the clerk will state by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 2479) to help maintain peace, security, and stability in the Western Pacific and to promote continued extensive, close, and friendly relations between the people of the United States and the people on Taiwan.

The ACTING PRESIDENT pro tempore. Under the order of yesterday, the bill is considered to have been read twice, and the Senate will proceed to its immediate consideration, without any intervening debate or motion; all after the enacting clause is stricken and the text of S. 245 as passed by the Senate is substituted in lieu thereof; without intervening motion or debate the bill is considered to have been read a third time and passed; that action is deemed as having been reconsidered and laid on the table; the Senate insists upon its amendments and requests a conference with the House, and the Chair appoints the following conferees: Messrs. CHURCH, PELL, GLENN, BIDEN, STONE, JAVITS, PERCY, and HELMS conferees on the part of the Senate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the action of the Senate on yesterday passing S. 245 be vitiated; that the bill be indefinitely postponed; and that the RECORD and the Journal show the vote on final passage of S. 245 as being the vote on passage of H.R. 2479, as amended.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

(Set forth below is rollcall vote No. 17 legislative, being the vote by which S. 245 was passed on yesterday, March 13, 1979. In accordance with the foregoing order passage of S. 245 has been vitiated, and H.R. 2479, as amended, is considered to have been passed by rollcall vote No. 17 legislative, as follows:)

[Rollcall Vote No. 17 Leg.]

YEAS—90

Armstrong, Baker, Baucus, Bayh, Bellmon, Bentsen, Biden, Boren, Boschwitz, Bradley, Bumpers. Burdick, Byrd, Harry F., Jr., and Byrd, Robert C.

Cannon, Chafee, Chiles, Church, Cochran, Cohen, Cranston, Culver, Danforth, and Dole.

Domenici, Durenberger, Durkin, Eagleton, Exon, and Ford.

Glenn, Hart, Hatch, Hatfield, Heflin, Heinz, Helms, Hollings, Huddleston, Inouye, Jackson, Javits, Jepsen, Johnston, Kassebaum, and Kennedy.

Leahy, Levin, Long, Lugar, Magnuson, McGovern, Melcher, Metzenbaum, Morgan, Moynihan, Muskie, Nelson, Nunn, Packwood, and Pell.

Percy, Pressler, Proxmire, Pryor, Randolph, Ribicoff, Riegle, Roth, Sarbanes, Sasser, Schmidt, Schweiker, Simpson, Stafford, and Stennis.

Stevens, Stevenson, Stewart, Stone, Talmadge, Thurmond, Tower, Tsongas, Wallop, Warner, Weicker, Williams, Young, and Zorinsky.

NAYS—6

DeConcini, Garn, Goldwater, Humphrey, Laxalt, and McClure.

NOT VOTING—4

Gravel, Hayakawa, Mathias, and Matsunaga.

So the bill (H.R. 2479) as amended, was passed.

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11 a.m. tomorrow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Does any Senator wish me to yield from my time? If not, Mr. President, I yield back my remaining time.

Mr. BAKER. Mr. President, I yield back any time I have remaining under the standing order.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from North Carolina is recognized for not to exceed 15 minutes.

BEGGARS AT THE AIRPORT

Mr. MORGAN. Mr. President, I want to take just a few minutes today to inform my Senate colleagues about the management and operation of a Federal facility which is heavily used by the traveling public, the Washington National Airport.

I regret the necessity of taking the time of my colleagues to speak on this matter but, for some period of time, now, I have been interested in trying to arrive at a satisfactory solution to the problem. Quite frankly, Mr. President, we have found no spirit of cooperation on the part of the National Airport Authority or the airport manager, Mr. Hugh Riddle, Jr., or the director of the National and Dulles Airports, Mr. James Murphy. Because of either their lack of interest or their unwillingness to recognize a very real problem there, I want to bring it to my colleagues' attention with the hope that maybe some additional public exposure might move someone in authority to correct a very bad situation that exists at these airports.

It is estimated that 60,000 people pass through National's two terminals every day. These people are from all over our country, and from all parts of the world. They are traveling for education or pleasure, or other private reasons. They are traveling for business, or they are traveling for governmental purposes. Many are arriving in Washington for the first time and receiving their first impression of the Nation's Capital. They include students, military servicemen, senior citizens—undoubtedly some who, perhaps, are only marginally able to afford air travel.

In passing through the terminals, arriving or departing or perhaps accompanying someone else who is traveling, the public has a right to freedom of movement. These multitudes of airport users expect to be protected by their government against interference with their movement, against physical or verbal assault, against harassment, and against clever and devious schemes to separate them from their money.

The present management of the airport—as I mentioned, under Mr. Hugh Riddle, Jr., is not safeguarding these rights and interests of the public. Thousands of people have become victims of a host of airport beggars. The Washington Star reported last December that "National Airport has become a beggar's mecca in the last 4 years with sometimes as many as half-a-dozen different organizations vigorously soliciting donations there in a single day. Millions of dollars have passed hands * * *". Some of the beggars use cleverness and guile; some use threats and insults. The Star editorialized on December 28, 1978:

> Our objection is not just to the bother of fending off repeated requests for money every time we go to the airport. We are more concerned that unwary people may be victimized by the solicitation. They are surprised or maneuvered or cleverly intimidated into parting with their dollar bills. They are verbally abused or embarrassed if they resist.

An outstanding public service was rendered by the Star by reviewing this problem in a four-part series in December. And channel 7 had nightly TV coverage for a week in January, exposing deceit in claims that money collected was being used for underprivileged children.

On numerous occasions I have personally witnessed the harassment techniques of one of the groups of beggars known as Ours, Inc. I, too, have personally experienced their verbal abuse, and no policeman could be found to stop it. The Ours, Inc., people use taunts, insults, demands, and accusations of racism. They are deliberately loud (even shouting) so as to draw attention, humiliation and embarrassment to their prey. They occasionally push, shove, or grab them.

Even since these remarks were prepared, they have grabbed my secretary by her arm as she tried to go through the airport.

Their language is abrasive and obnoxious. Hare Krishnas chart the course of movement of their victim and maneuver themselves directly in the pathway. If the victim tries a diversionary route, they readjust their position so as to continue the blockade. The Krishna, customarily a young woman at National Airport, will then stand very close, attempt to place some object in the victim's lapel—without permission or otherwise touch the victim with her hands. All of this precedes the pitch for a donation.

The situation at the airport has become intolerable. It is time for prompt and effective action by the airport management and if the bureaucratic lethargy cannot be overcome, then new management is necessary. I do not know whether the source of the problem is in the airport manager's office or in the supervisory apparatus of the Federal Aviation Administration—or whether they are both at fault. But the problem is legally and constitutionally correctable despite claims to the contrary. Sporadic arrests, something on the order of a dozen in 18 months, of the beggars have occurred when citizens—not the police—took the initiative to report abusive conduct. The penalties have customarily ranged from $10 to $50, an amount which the beggars could recover within hours after returning to duty. The management does not seem to understand that reliance on arrests when specific complaints are made is not an effective method for discouraging this conduct. Some of the beggars use more subtle means. An airport spokesman has acknowledged that far more people are irritated by the soliciting than the number who take the trouble to file a complaint.

The airport's ostensible reason for permitting this conduct is that it is protected by the first amendment—the free exercise of speech and religion. These are indeed cherished freedoms. They must be maintained, even at the expense of discomfort and displeasure on the part of those to whom the exercise is directed. But the Supreme Court has never held that first amendment freedoms are without limitation. It has rather pointed out numerous instances where countervailing rights of society or of other individuals are paramount.

Several weeks ago, after receiving no assistance or encouragement from the airport authorities, I asked the Congressional Research Service of the Library of Congress to prepare a legal brief on the issues which arise from this problem. Mr. David M. Ackerman, legislative attorney for the American Law Division, has written a most scholarly treatise on the subject. I recommend it to all who seek further enlightenment. Mr. Ackerman should be commended for an outstanding contribution in this field of law. His analysis makes it "clear that the first amendment does not bar all regulation: Reasonable time, place, and manner regulations are permissible when justified by countervailing interests, as are reasonable permit fees to defray the costs of a system of registration and supervision."

The language of the Supreme Court in Cox against Louisiana is instructive.

> The rights of free speech and assembly, while fundamental in our democratic society, still do not mean that everyone with opinions or beliefs to express may address a group at any public place and at any time. The constitutional guarantee of liberty implies the existence of an organized society maintaining public order, without which liberty itself would be lost in the excesses of anarchy. The control of travel on the streets is a clear example of governmental responsibility to insure this necessary order. A restriction in that relation, designed to promote the public convenience in the interest of all, and not susceptible to abuses of discriminatory application, cannot be disregarded by the attempted exercise of some civil right which, in other circumstances, would be entitled to protection.
>
> One would not be justified in ignoring the familiar red light because this was thought to be a means of social protest. Nor could one, contrary to traffic regulations, insist upon a street meeting in the middle of Times Square at the rush hour as a form of freedom of speech or assembly. Governmental authorities have the duty and responsibility to keep their streets open and available for movement. A group of demonstrators could not insist upon the right to cordon off a street, or entrance to a public or private building, and allow no one to pass who did not agree to listen to their exhortations. 379 U.S. 536, 554–55 (1965).

And in Grayned against City of Rockford, the Court concluded:

> Our cases make equally clear . . . that reasonable "time, place, and manner" regulations may be necessary to further significant governmental interests, and are permitted. . . . The nature of a place, "the pattern of its normal activities, dictate the kinds of regulations of time, place, and manner that are reasonable." Although a silent vigil may not unduly interfere with a public library, making a speech in the reading room almost certainly would. That same speech should be perfectly appropriate in a park. The crucial question is whether the manner of expression is basically incompatible with the normal activity of a particular place at a particular time. 408 U.S. 104 (1972).

Hare Krishna, one of the groups soliciting at National Airport, has litigated numerous attempts to control its activities in public places. The rulings repeatedly affirm the constitutionality of regulations on the time, place and manner of religious solicitation. (*International Society for Krishna Consciousness, Inc.* v. *Evans*, 440 F. Supp. 414 (D. Ohio, 1977); *Liberman* v. *Schesventer*, 447 F. Supp. 1355 (D. Fla.); *International Society for Krishna Consciousness* v. *McAvey*, 450 F. Supp. 1265 (S.D.N.Y., 1978); *International Society for Krishna Consciousness of Western Pa., Inc.* v. *Griffin*, 437 F. Supp. 666 (1977).) The Washington Airport authorities have placed excessive reliance on one local case, the facts of which are not similar. It was a case in which the right to distribute consumer information was upheld—but at the same time the district court said the FAA may reasonably limit such distribution to the extent actually necessary to remove any substantial interference in the actual operation of the airport. One FAA regulation was found unconstitutional as unreasonably vague, and another seems in jeopardy. New regulations, conforming to judicial guidance and relevant to our experience, are urgently needed. The FAA has not demonstrated any willingness to take affirmative action. Its reaction is more foot-dragging.

On January 18, 1979, I wrote to the FAA Administrator, Mr. Langhorne Bond, and asked a number of questions.

I might mention that this was after a number of months of oral discussions and conferences with people from the airport.

Despite repeated inquiries about the status of the correspondence, I had no answer until February 27 when I was given a Xerox of a letter said to have been sent to me on February 16.

Mr. President, I ask unanimous consent that my letter and the FAA response be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MORGAN. Mr. President, the FAA letter is singularly unresponsive. While the begging problem has been festering for more than 2 years, Mr. Bond said:

> We are currently determining if there is a need for a detailed regulation . . .

This is astonishing. He continues:

> If a regulation is needed to preserve the essential functioning of National Airport terminals and to protect the users of the terminals from abuses, then rulemaking procedures will be instituted by the FAA.

One must wonder how he is being shielded from considerable evidence of need.

All he has to do is go out and observe for one afternoon.

The FAA acknowledges:

> The airport police do not have special instructions regarding solicitors.

As matters now stand, any citizen (or masses of citizens) may go to our airport lobby and approach travelers with a cup or basket to beg for money. The FAA has no system for determining who this person is or whether he represents a legitimate charity or religious entity. The numbers of such persons is unregulated as is the time, place, and manner of their activity. Furthermore, no police officer is kept on station in the main lobby, one of the busiest in the Nation. Thus, a citizen in need of prompt assistance is put to the task of searching for an officer in one of numerous corridors where he might be on patrol.

I might mention, Mr. President, that as early as last October I brought the question of Ours group to the security officers and other National Airport authorities. At that time, no one had determined whether Ours was incorporated as a charity, or not, or what happened to the money.

We determined on our own investigation that some of these people were living in motel rooms here in Washington, a Quality Inn, at the cost of $85 a day.

Since that time, I have observed these same people, this same group, harass people time and time again.

About 2 or 3 weeks ago, I personally sought a police officer for about 15 minutes and could not find one. Finally, I went to the south side of the terminal, walked to the North Terminal and back down through the corridors in order to get to a gate.

I have observed it on the part of other travelers.

I especially invite comment on this subject from my colleagues. I would also be pleased to receive comments from any citizen who holds views concerning this problem, including those who have been victimized.

I might mention, Mr. President, that other airports in the country have seen fit to prescribe regulations which give such solicitors designated areas from which to solicit, and prescribe certain times and places for them.

The editorial of the Washington Star remarked:

> Having such a place (airport) overrun with solicitors obviously detracts from its primary purpose. The exercise of reasonable police powers to assure the orderly operation of public facilities, and protect the legitimate users, does not appear to us to endanger First Amendment rights of free speech or religion.

It also observed:

> We hope the administrators of public buildings, and the relevant legislative bodies if necessary, find constitutionally acceptable ways to shield the people from the fund-raising excesses.

On November 23, 1978, the Washington Post also editorialized in favor of controls which had been suggested by U.S. District Court Judge Oliver H. Gasch in a suit wherein Hare Krishna asserted a right to sell religious literature in the foyer of the Kennedy Center.

If the FAA is incapable of devising reasonable controls, then legislation might be necessary, and I will urge that hearings be held by the Senate Commerce Committee. I have spoken to the chairman of that committee. I hope, Mr. President, that we can see some kind of reasonable regulations prescribed for the protection of the traveling public.

Mr. President, I thank the Chair and I yield back the remainder of my time.

EXHIBIT 1

WASHINGTON, D.C., *January 18, 1979.*

Hon. LANGHORNE BOND,
Administrator, Federal Aviation Administration, Washington, D.C.

DEAR MR. BOND: While leaving Washington National Airport on the night of October 29, 1978, I was harassed by two males who are associated with the group known as OURS, Inc. A friend who happened to be passing by attempted unsuccessfully to locate an airport police officer for assistance. My analysis since then of the Airport's regulation of the solicitation of money and distribution of literature on its premises discloses what seems to be a deplorable situation.

The OURS group is patently not religious. While the validity of its charitable objectives are widely questioned, Airport personnel have not been able to disprove its claims. I understand that 14 CFR 159.93 was invalidated in 1974 on petition of the Aviation Consumer Action Project, and that Hare Krishna has vigorously litigated its right to operate in numerous airports across the country. But I am of the opinion that the Federal Aviation Administration has been derelict in failing to enact new rules which would close the loopholes created by recent decisions. Section 159.91 would still seem to have some applicability, and the FAA has neglected to act upon judicial suggestions that the time, place and manner of solicitation and distribution could be controlled. Moreover, without a system of permits such as has been tried in other airports, the management has no orderly procedure for ascertaining who it is that is soliciting or distributing at any given time, their organizational affiliation, the nature and purpose of the group and whether the activity is permissible under existing regulations. Without a permit system, the police cannot know if the activity violates the rules. In a recent news account, the U.S. Attorney for the Eastern District of Virginia was quoted as saying the FAA regulations need updating, and the Airport Director said he would like regulations enacted to control solicitation. (Washington Star, December 27, 1978.)

It is my understanding that the airport police at present exercise no initiative to prevent solicitation or distribution; that they are merely reactive to citizens' complaints of abuse or harassment. I have been astounded to learn that no police officer is stationed on duty in the airport lobby where so many thousands of persons pass each day.

I would be grateful for your explanation of what is being done by the FAA to place some measure of control upon the use of the Airport for solicitation and distribution. Are new rules pending enactment, or under consideration? Have you taken the position that judicial decisions have foreclosed any regulation of activity? Why has there been no administrative response to the judicial suggestions that some degree of control might be permissible? What is the specific legal basis for permitting OURS, Inc. to operate within the Airport? What is the specific legal basis for permitting Hare Krishna to operate within the Airport? What guidance has been given to the Airport police concerning the permissibility of soliciting funds in the abscence of a complaint? In view of the extensive solicitation and distribution activity at the Airport, and the complaints which have been received about it, why has the Airport Director not urged the enactment of corrective measures? Why are Airport police not kept on station in the main lobby?

It seems to me that the Airport Director and the FAA have a responsibility to protect the traveling public against harassment and interruption of free movement through their public facilities. Some affirmative initiatives seem warranted to improve the conditions existing at Washington National Airport.

Sincerely,

ROBERT MORGAN.

Hon. ROBERT MORGAN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MORGAN: Thank you for your letter of January 18 regarding the soliciting activity in the Washington National Airport terminal. The airport terminal is a public building designed to accommodate air travelers in transition to or from surface transportation in a convenient, expeditious manner. Forty thousand passengers pass through the terminal on an average day. Therefore, it is, not unlike many other airport terminals, bus terminals and train stations in cities across the country, attractive to persons seeking to communicate a political or religious message to the general public and to solicit money in support of their beliefs.

In doing so, they are exercising the rights of freedom of religion, assembly and speech as guaranteed us under the First Amendment to the Constitution. It is, however, extremely unfortunate that some persons would act upon their legitimate beliefs in a manner that is calculated to deceive the public or to abuse those who do not share their views. Such conduct is not protected by the Constitution and may be regulated and even made subject to criminal penalty. Even the conduct that is protected is not protected absolutely. Regulation of the time, place and manner of exercising First Amendment rights can be imposed if necessitated by a compelling Government interest. The test is whether the regulation achieves a permissible end in such a way that it does not unduly infringe upon the protected freedoms.

As you indicated in your letter, vigorous litigation has proceeded over the validity of regulations at numerous airports across the country. The Federal Aviation Administration's (FAA) own regulation which required the permission of the Airport Manager in order to distribute literature at Washington National or Dulles International Airports was determined by a Federal court to be an unconstitutional prior restraint on the exercise of First Amendment rights. FAA's present regulation on solicitation was not at issue in that case; however, its language is virtually identical to the voided regulation and our Counsel advises that it is not enforceable in its present form.

We are currently determining if there is a need for a detailed regulation covering solicitation activities at National and Dulles Airports. We are, for example, determining if it would be appropriate to differentiate between religious organizations such as Hare Krishna and non-religious organizations such as OURS, Inc., to which you refer. The law is clear that the solicitation of contributions to promote a religious purpose, particularly solicitation which accompanies dissemination of religious literature or a message, is protected by the First Amendment. We are seeking to determine the extent that solicitation for non-religious purposes enjoys the same protection.

We are also reviewing the practice and experience of other airports that have pursued such regulations. A permit system, such as suggested by your letter, and other restrictions on time, place and manner will be examined as appropriate. If a regulation is needed to preserve the essential functioning of National Airport terminals and to protect the users of the terminals from abuses, then rulemaking procedures will be instituted by the FAA.

You also inquired about instructions to FAA police and about stationing police on full-time duty in the lobby of the main terminal. The airport police do not have special instructions regarding solicitors. As with any person, when a solicitor's conduct on the airport is in violation of the law, he is subject to arrest. FAA police, in cooperation with the United States Attorney for the Eastern District of Virginia, have successfully prosecuted solicitors whose conduct on the airport constituted a violation of Federal law or regulation. With regard to stationing, we are confident that the current assignment of airport police is both efficient and adequate to protect the users of the airport, including those passing through the terminal buildings. Our police regularly and frequently patrol the terminals and, generally, their record for being available when needed is excellent. However, we will determine if there is a need for greater police presence in the terminals. If we find that there is, we will take prompt action to provide the necessary coverage.

I sincerely regret that you had an unpleasant experience at National Airport. We will take all reasonable precautions to prevent such incidents from occurring in the future.

Sincerely,

LANGHOME BOND.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I believe there are about 14 or 15 Senators who are going to speak on a particular subject, some pro and some con. I ask unanimous consent that in this instance those Senators may be able to yield their time as they wish, and that they may be able to make second and third speeches within their allotted time, if they want to reserve their time, so that the colloquy can be as flexible as possible.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Ohio is recognized for not to exceed 15 minutes.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that I be permitted to yield the floor to the Senator who has the second speaking order, that the time of the two of us be combined, and that may be allocated between us.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Arizona is recognized.

SENATOR DECONCINI URGES THAT SECRETARY SCHLESINGER RESIGN

Mr. DECONCINI. Mr. President, I would like to read into the RECORD a letter I recently sent to President Carter concerning the performance of Secretary Schlesinger and requesting Mr. Schlesinger's resignation:

MARCH 12, 1979.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Your statement that our national energy policy must be the "moral equivalent of war" is truer today than it ever was. Yet, as I am sure you recognize, the Administration has been unable to convince large segments of Congress and the American public of the imperative nature of this policy. As a consequence, our energy problems have worsened.

It is my opinion, Mr. President, that a major cause of the Administration's inability to convince the Nation that we need a true energy policy and to develop such a policy is Secretary of Energy, James Schlesinger. Unquestionably, Mr. Schlesinger is a fine man and a dedicated public official. However, he is, quite simply, the wrong man for the job. I believe that an effective Secretary of Energy must enjoy the confidence of the Congress and the public. Mr. Schlesinger appears to enjoy neither.

Under Secretary Schlesinger's leadership, the new Department of Energy has failed to meet a number of mandates that had previously been met. For example, the agencies that are presently part of DOE were, in earlier years, able to submit their annual report on research and development priorities—the 1978 report has yet to be received. A major task of DOE under the law has been to establish a national strategic petroleum reserve of 250 million barrels. At present, the reserve is already 180 million barrels short of that goal. Incredibly, the Department has not even installed pumps in the reserve fields, making much of the oil useless in the short run.

As late as November of 1978 (eighteen months after the Department's creation), DOE had failed to accomplish minimal organizational tasks, such as written job classification policies, guidelines, review, and completion of the organizational structure—according to the Civil Service Commission. The Commission further found a high degree of overclassification of employees.

Another example of questionable management practices was the hiring of two former members of the task force that recruited staff to conduct a management evaluation into allegations of mismanagement. The Department has also been criticized for improprieties to the petroleum and nuclear industries. An example is the recently disclosed contract between DOE and Stone & Weber to draft guidelines for utility rate reform hearings under the National Energy Act. Stone & Weber is a management consultant firm that has many utility companies for clients, posing serious conflict of interest questions and possible violations of federal law.

The same lack of effective and responsive management has been evident in the Department's responsiveness (or lack of it) to requests for information under the Freedom of Information Act. The Department has the highest rate of refusals of requests of any government agency (60%) and also the highest rate of reversals by its own administrative law section (75%).

Within the Congress, the Department is characterized as indecisive and prone to reversing itself because its positions are ill-conceived to begin with. Recent statements by Secretary Schlesinger on the price of Mexican natural gas first seemed to indicate that the price was too high, then objection was made that the price was too low. Without question, the Secretary's handling of the negotiations with Mexico was inept and offensive to our Mexican friends. Continued good relations with our southern neighbor required sensitivity and mutual respect, not antagonism and disrespect.

In short, Mr. President, I believe that the Administration and the Nation would be best served if Mr. Schlesinger resigned his present position in favor of an individual better suited by temperament and background to take command of this most crucial of policy areas.

Sincerely,
DENNIS DECONCINI, *U.S. Senator.*

Mr. President, the specific instances I mention in this letter were only the most obvious examples of the administrative mismanagement and the fickle, incoherent policy decisions that have characterized the Department of Energy under the guidance of Secretary Schlesinger. My colleagues are all familiar with the constant shift of ground by the administration during the natural gas deregulation debate in the 95th Congress. Secretary Schlesinger's use of production and supply statistics have more than once been called in to question. His continue refusal to consider negotiation for Mexican natural gas, his undiplomatic handling of Mexican officials, the disenchantment of the American public with his policies and his performance, all indicate that the Department and the Nation would be better served under a new Secretary.

Mr. President, since that letter was drafted my staff has received further reports that the Stone and Webster contract question goes much deeper than a mere conflict of interests. I believe a full investigation of this matter is necessary to determine whether anything beyond poor judgment by Department officials was involved. In a letter to the National Consumer Law Center, the Department states that both the Office of General Counsel and the Office of Procurement Operations have reviewed and cleared the Stone and Webter contracts for any conflict of interests. However, I have been informed that the Office of Inspector General was in disagreement with this opinion. If this is correct, I believe it is the duty of the Inspector General's office and of Secretary Schlesinger to make this dissenting opinion public.

Mr. President, the question of Secretary Schlesinger's performance is much broader than the specific instances I have mentioned. The Secretary has failed to deal in a straightforward manner with either the public, Congress, or even the President.

I do not accuse Secretary Schlesinger of failing to make an effort to deal with the energy problems of this Nation, nor do I question his history of dedicated Government service. However, I believe a nonpartisan, unbiased review of Mr. Schlesinger's record leads to only one conclusion: He has proved incapable of either effectively organizing the Department of Energy or of articulating and presenting to the American people an acceptable and effective energy plan. Mr. Schlesinger should resign.

Mr. President, I say this reluctantly, because I supported Mr. Schlesinger for this position and voted for the energy package on commitments and guarantees, in Mr. Schlesinger's effort to get that passed, including additional reserves of oil and natural gas, for the State of Arizona and the rest of the Nation. It is with relutcance that I stand here today and respectfully suggest that the President replace the Secretary.

Mr. METZENBAUM. Mr. President, I commend the distinguished Senator from Arizona for his remarks and the position he has taken. I feel that he has zeroed in on the very problem about which I shall speak today.

PRESIDENT CARTER'S PEACE MISSION IN THE MIDDLE EAST

Mr. METZENBAUM. Mr. President, this is a day of enthusiasm and excitement for all of us with respect to developments in the Middle East.

Yesterday, I placed in the RECORD a statement indicating my support for the President and his courageous endeavor, for which I salute him. Today, I commend him in the strongest possible terms for his success and his willingness to take the gamble to go to the Middle East.

I went to greet the President at the airport last night, and I was proud to be a part of the welcoming group.

THE PERFORMANCE OF THE DEPARTMENT OF ENERGY

Mr. METZENBAUM. Mr. President, today I shall discuss the matter of the leadership of the Department of Energy. I do so not as a criticism of this administration, an administration I have supported almost entirely, with the exception of the area of energy. I think it is a fact that my record in support of the President of the United States is one of the highest of any Member of the Senate. So when I take issue with the leadership of the Department of Energy, it is not because I am opposed to the general direction and the leadership of the administration, but it is in this particular area that I have concerns.

Mr. President, in testimony earlier this week before the Committee on Energy and Natural Resources, Secretary of Energy Schlesinger stated that he has on several occasions offered his resignation to the President.

I am pleased to learn that the Secretary has made that offer.

I am pleased to learn that he has renewed it.

And I rise today to urge the President in the strongest terms to immediately accept Dr. Schlesinger's resignation. And as I have been doing for more than a year, I call upon the President to replace Dr. Schlesinger with a Secretary of Energy who can command the confidence of the Congress and of the American people.

"Confidence," is the key word.

If we in this country are ever to have a national energy policy worthy of the name—and we do not have one now—then the American people must be convinced that we face an urgent situation. And even more importantly, the people must know that we are moving urgently to deal with it.

Under Dr. Schlesinger's leadership, the Department of Energy has failed to persuade the public of either of those things.

Under Dr. Schlesinger's leadership, we see no meaningful action to initiate tough, mandatory conservation measures that other nations have adopted to reduce their energy consumption.

Last year, we saw no meaningful support from the Department of Energy for the limited mandatory conservation measures that some of us advocated in committee. Nor did we see any meaningful support in conference for the even more limited mandatory measures that the Senate included in its version of the National Energy Act.

And as recently as Monday of this week, we saw and the Nation saw the Secretary of Energy tell a Senate committee that yes, mandatory conservation measures may be necessary by the summer. If voluntary efforts to conserve fuel do not show better results, the Secretary told us, we may have to require temperature controls in public buildings.

I have nothing against turning down the thermostats at the post office or in the Senate Office Buildings.

I will certainly support any Secretary of Energy who decides to take that step.

But I would rather support a Secretary of Energy who is ready to go a lot further.

I am prepared to support hard, tough, mandatory measures to conserve energy.

I am prepared to support measures that call upon our people to make real sacrifices.

I am prepared to do so because I believe that the future welfare and security of this Nation demands such action.

But I see no sense of urgency at the Department of Energy about conservation.

And I see no sense of urgency at DOE about developing alternative sources of energy.

There is a negative attitude at the Department of Energy toward the promising area of small-scale energy technology.

There is a curious reluctance at the Department to move energetically to develop the vast potential of solar energy, and I am informed that there is not even at this time an appointee to head up that effort in the Department of Energy.

We see at DOE a shift in priorities away from full development of our enormous coal deposits and toward increased use of the very natural gas reserves that we were told a few short months ago were running out.

We see under DOE auspices little or no major progress in liquifying or gasifying coal—something the Germans were able to do on a massive scale in the 1940's.

And although the Department of Energy has been talking about this subject for almost 2 years, when the deputy secretary was in my office the other day he indicated that not until some time in 1980 would they be prepared actually to go forward with some kind of a prototype, not an actual plant, but a prototype of a plant to gasify coal.

We see very little being done by the Energy Department to bring this Nation's oil shale and heavy oil into production.

And we hear no objection from the Department of Energy to the growing control by the oil and gas industry of virtually all the potentially competing future sources of energy.

The Department may not be as active as many of us think it should be in promoting conservation.

The Department may not be pursuing new technologies with the vigor that most Americans would desire.

But there is one area in which there can be no doubt about the intensity of the Department's efforts. That area is, of course, Dr. Schlesinger's single-minded devotion to promoting by any means available a strategy based on the highest possible prices for all forms of energy.

In an article that appeared in the March 5, 1979, edition of the New York Times, Steven Rattner pointed to one of the techniques now being used by the Department of Energy to produce higher prices for the oil industry.

> Although the Iranian crisis has at least temporarily ended plans to seek gasoline and crude oil decontrol—

Rattner wrote:

> the energy officials are engaged in what one called surreptitious decontrol. That means arcane changes in regulations on gasoline to increase incentives for refiners and higher prices for various types of crude oil that will bring the price of a quickly increasing percentage of oil to world levels.

And recently, we saw in the decision by the Energy Department to decontrol jet aircraft fuel another example of just what the Schlesinger approach to energy prices means for the fight against inflation.

The Department of Energy told us that decontrol would have a minimal effect on the price of jet fuel—at the most, they said, the jet fuel prices would increase by a penny or so per gallon.

The airlines accepted that estimate and lobbied in favor of decontrol.

On February 22, a majority of the Senate accepted the Department's assurances and chose not to disapprove decontrol.

And now, 2 weeks later, the price of jet fuel in the spot market has risen from 60 cents per gallon to $1.07.

And now, 2 weeks later, we see airline after airline requesting fare increases to compensate for the rise in fuel prices.

Once again, the Department of Energy made a decision translated almost immediately into more inflation.

And once again, the data presented by the Department to justify its position had little to do with reality.

Under Secretary Schlesinger, juggling the facts has become a way of life at the Department of Energy—so much so that the Department's analyses and projections have for many of us become automatically suspect.

Just yesterday the New York Times in a story on March 13, another article by Mr. Steven Rattner, stated as follows:

> All told, Mr. Schlesinger projected savings ranging from 465,000 barrels to 1,250,000 barrels a day.

And this is the significant language:

> But those numbers reflected the continuing recalculation that has become a part of the Energy Department's operating style.

Recently, for example, a study by the Library of Congress disputed DOE's estimate of the impact on world oil supplies of the Iranian crisis.

Spokesmen for the Department vehemently attacked that report and its author.

But in an article that appeared in the March 6 edition of the Oil Daily, anonymous DOE officials suggest that the Library of Congress researcher may not, in fact, have been so far off the mark.

"If we told about all the production we know about," one official said, "then that production might stop. Our official position is that there is a 500,000 barrel a day shortfall in the United States. If we did not say that, then there really would be a 500,000 barrel a day shortfall."

"Actually, on any given day, the shortfall might be much less," the source said. "In fact, the average shortfall may turn out to be much less than 500,000 barrels a day."

And in that same connection, I am sure that all of us can remember the certainty with which Secretary Schlesinger addressed the natural gas debate during the 95th Congress.

I am sure that we all recall the graphs and the charts and the seemingly hard information about new gas supplies that decontrol was supposed to produce.

I am sure that we can all recall the argument that it is better to pay more for gas and be assured of having enough than to retain regulation and risk serious shortages.

And I am sure as well that many of those who at the time supported Dr. Schlesinger's point of view will be surprised to learn that last year's natural gas bill was and remains nothing more than a high stakes wager.

Yet according to Charles Curtis, Chairman of the Federal Energy Regulatory Commission, that is precisely what it is, a wager.

According to Chairman Curtis, natural gas prices have risen sharply since the legislation was enacted. Already, prices for some types of gas are up by 40 percent. For consumers, the price tag this year will be in the vicinity of $2 billion. And that, of course, is only the beginning.

But, Chairman Curtis said, there is still no gaurantee that deregulation will produce the additional gas that Secretary Schlesinger so forcefully predicted.

"This," Chairman Curtis told a Governmental Affairs Subcommittee, "remains to be seen."

The natural gas bill, he said was "a wager" on the part of the American public. It remains to be seen if that wager will pay off."

So much for the credibility of the DOE.

And so much for the confidence that the Congress and the public can have in the quality of its leadership.

The President has said that our energy situation is "the moral equivalent of war."

I have never challenged that assertion by the President.

I have never for one moment questioned that our Nation's energy situation compares in seriousness with a wartime crisis.

But I believe that we are losing the energy war.

We are losing it through inaction.

We are losing it through lack of vision, lack of credible and imaginative leadership at the Energy Department.

If we expect the American people to accept the sacrifices that will be necessary to break our dependence on foreign oil, then we must give the people reason to be confident that the burden is being equally shared by all.

Yet under Dr. Schlesinger's leadership, the Department of Energy has actively promoted a massive and wholly unprecedented transfer of wealth from the consumers of this country to the worlds largest and most powerful oil and gas companies.

Restraint, belt-tightening, lowered expectations—all of these are terms that in the Schlesinger lexicon apply only to the public.

They are terms that apply to Federal programs designed to aid the weakest and most vulnerable members of our society.

Those terms apply to wage settlements for working men and women of this country and to the profits of those industries that do not enjoy special favor.

But at James Schlesinger's Department of Energy, words like "restraint" and "belt tightening" have no meaning.

At James Schlesinger's DOE, no one in authority seems to have received the message that inflation is this administration's No. 1 priority.

And at James Schlesinger's DOE, no one seems concerned that the oil industry is now using the Iranian crisis as an excuse to move oil prices to a new and sharply higher plateau.

The process by which that is done is not difficult to understand. A Library of Congress study summarized that process as follows:

> In basic economic terms, sudden large dislocations in the price of oil create two conflicting situations. First, those who stand to gain from price speculation and have the suitable financial and physical ability will usually hoard oil. This aggravates the immediate supply and enlarges the shortfall real or contrived. Second, those who consume oil have little choice in the matter at the retail level in the absence of governmental controls or at least protection from profiteering. This second situation tends to reduce the shortfall as some buyers simply disappear from the market or reduce their consumption.
>
> Within such a framework of events the first group has the upper hand and the hoarders success usually translates into broad increases of corporate profits.
>
> What such situations have historically brought about in the past is that after the emergency has subsided the forces that have pushed prices upwards have never allowed prices to recede to their previous levels. Thus the world oil price structure has assumed after each "emergency" a higher permanent plateau.

This analysis is not just theoretical. The process it describes corresponds directly with what we see happening to oil industry profits today.

Exxon, for example, had profits of $680 million on sales of $15.3 billion in the first quarter of 1978.

This year, analysts expect the company's first quarter profits to increase by 25 percent—a figure that even oil company executives admit is embarrassing. "When those numbers come out," said one oil executive quoted in a recent Washington Star story, "there could be real trouble."

There could be real trouble, Mr. President, and there should be real trouble.

Other reports indicate that some oil companies will have profits up as much as 100 percent.

There should be trouble for the speculators and trouble for the companies that use crises to extract windfall profits from the consumer.

But, above all, there should be trouble for the officials of this Government who look the other way while the price gouge takes place.

Mr. President, I do not believe that this Nation can afford James Schlesinger.

I do not believe that we can afford continued drift, continued lethargy and continued reliance on price and price alone to reduce our energy consumption.

I do not believe that this Nation can afford to have a Secretary of Energy who is not prepared to admit that consumers have an interest in energy policy.

My disagreement with Mr. Schlesinger is not on a personal basis. My disagreement with Mr. Schlesinger has to do with the issues respecting the way the energy policies of this Nation are being run.

And above all, this Nation cannot afford to have a Secretary of Energy who cannot or will not see that the fight against inflation is incompatible with uncontrolled and uncontrollable energy price increases.

More than anyone else, Dr. Schlesinger is responsible for that glaring contradiction in our national policy.

More than anyone else, Dr. Schlesinger is perceived by the American people as the apostle of limitless profit for the oil companies and merciless squeeze on the consumer. "Customers get upset," said a Mobil station manager quoted on gasoline prices in this week's issue of Time, "but they pay anyway. They grumble, but what can they do?"

And more than anyone else, James Schlesinger is the symbol of what angers the American people. More than anyone else, he stands in the public mind for what is wrong with this Nation's energy policy.

I know that there are very distinguished Members of this body for whom I have great respect who do not share my assessment of Dr. Schlesinger's performance in office.

I know that there are those who believe that he has done as well as could be expected in an extremely difficult position.

I do not agree. But be that as it may I believe that Dr. Schlesinger represents for the people of this country energy policies than cannot and will not work.

I believe that he is perceived as biased toward the industry and against the consumer.

And I believe that if we are to make the new start in energy policy that this Nation so urgently needs, Secretary Schlesinger must step down.

I stand ready now, as I have all along, to support the President in his efforts to secure for this country a tough, workable and equitable national energy policy.

I am sorry that so many concerns about our Nation's energy policies have come to focus upon the person of Secretary Schlesinger.

But I believe that this country needs strong leadership in energy. And I do not believe that Dr. Schlesinger can provide it.

I believe that this Nation needs to deal urgently with inflation. And I do not believe that we can do so as long as Dr. Schlesinger's policies remain in effect.

The issue, Mr. President, is clear.

Dr. Schlesinger is the spokesman for the wrong policies at the wrong time.

Dr. Schlesinger has little credibility with the public.

Dr. Schlesinger is not in a position to give us the leadership we need at the Department of Energy.

And for these reasons, President Carter should accept his resignation.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from the Dayton Daily News calling for Mr. Schlesinger's resignation, and also an article in the National Journal of February 3, 1979, entitled "Let's Get It Straight, Fellas."

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

SCHLESINGER'S NOT THE ONE

There may be a bit of the scapegoat-hunt to the campaign by Sen. Howard Metzenbaum, D-Ohio, against Energy Secretary James Schlesinger, but even so Mr. Schlesinger has become incredible in the job. If he does not quit on his own, the President ought to make him.

Several things can be stipulated—that energy is a hideously complex field involving subtle trade-offs, that there is natural tension between the consumer's interest in low prices and the need for conservation, that policy development is complicated by such formerly extraneous concerns as environmental potection.

No Secretary of Energy ever will threaten Santa Claus in the polls. The duties virtually guarantee the secretary will be saying "no" to popular wishes more often than saying "yes." But Mr. Schlesinger does not say "no" agreeably or even, sometimes, sensibly.

Especially distressing is his apparently bottomless reserve of · understanding for whatever the oil companies are up to at any moment. This is not to say oil companies should be opposed just because of who they are—though, as in the case of Idi Amin, there is something to be said for that—but it does seem that the law of averages ought to have tumbled them into error once in a while.

Recently the companies said they would have to raise the price of gasoline because they had not produced enough. Mr. Schlesinger understood. Do they now say they must raise it again in order to produce more? They do, and Mr. Schlesinger understands. Do they say they won't open new supplies unless they are allowed still higher prices? Yes. And do they say the Iranian unpleasantness and the suspicion that Saudi Arabia may have less oil than once thought also mean the price must go up?

They say all that, and Mr. Schlesinger may look ruminative and pensive sometimes, but he understands.

Matters are reaching the point, however, where the public—silly public—is not quite so understanding and would like to feel its Secretary of Energy was sometimes on the side of the consumer, even if only on, oh, alternate Thursdays, like an indifferent lover.

Mr. Schlesinger has never been such a Secretary. Someone should be.

Let's Get It Straight, Fellas

Not for the first time, some of us are having trouble keeping up with the Administration's thinking on natural gas.

That sinking feeling of utter bewilderment has struck again. The latest onset was caused by a letter to state utility commissioners from Energy Secretary James R. Schlesinger.

In his letter, released on Jan. 24, Schlesinger advised the commissioners that the Energy Department favors state actions to encourage the use of gas in new homes.

That in itself was not too unsettling, since the Administration lately has been saying that there is a gas glut in the country. It was the attachment to the letter that really puzzled.

Looking back, some of us thought we heard President Carter say, on April 18, 1977, that "we must conserve the fuels that are scarcest and make the most of those that are plentiful. We can't continue to use oil and gas for 75 per cent of our consumption as we do now when they only make up 7 per cent of our domestic reserves."

When we read the Administration's energy plan, issued on April 29, 1977, we thought it said: "By 1985, gas from existing reservoirs will be able to satisfy only 55 per cent of natural gas demand. It is doubtful that even substantial price increases could do much more than arrest the decline in gas production. The gap between demand and production in the lower 48 states will have to be filled from new sources."

And when Schlesinger appeared before the House Interstate and Foreign Commerce Committee on May 12, 1977, to explain the Administration's gas pricing bill, we could have sworn that he said: "The natural gas policy had to be one that would not reduce the use of natural gas at the expense of driving up [oil] imports."

All told, we somehow got the notion that the Administration considered natural gas an endangered resource, did not want utilities and industries to burn it any longer than they had to, but certainly did not want them to switch from gas to oil either. It sounded keen about coal, we thought.

We must have misunderstood. Enactment of the Administration-backed gas bill last fall has brought about a surplus of some one trillion cubic feet of gas, according to the latest government line. As Schlesinger explained in a speech in New York on Jan. 9, the use of this surplus gas will allow a reduction of oil imports of up to half a million barrels a day.

"So long as the surplus exists," he said, the department intends that gas be used in industrial boilers instead of oil "whenever and wherever possible." The surplus might last only a few years, he said, but on the other hand, production of gas in the lower 48 states "may by itself be able to maintain or enhance present usage." He worried aloud that "chronic surpluses" might even have a "dampening effect" on exploratory drilling.

The department has grown so enthusiastic about gas that it has told industries that if they can switch from oil to gas right now, they need not fear that the department will badger them anytime soon to convert to coal.

Just as we were managing to swallow all this, along came Schlesinger's letter to the state commissioners. Attached to the letter was a 65-page "technical study" that he commended to them. It was this report that set off a recurrence of that sinking sensation.

The report noted that in the early 1970s, many state commissions ordered a moratorium on new gas connections because there didn't seem to be much gas left, but that lately these clamps have been relaxed as more gas became available.

The report welcomed this trend, saying that "substantial net benefits can be obtained" by allowing gas to be piped into new homes. Consumers would be better off with gas, it said, because otherwise they would have to heat their homes with electricity—which is generated in part by oil—or with oil, and either way, that would cost them more money. This would be an inefficient allocation of resources, as the department put it.

If the use of gas were allowed in new homes, the report said, demand for gas probably would rise by about 400 billion cubic feet a year by 1990. The net economic gain of using gas would be $480 million annually, or $140 per new customer, the report estimated.

So far, so good. The jarring note came when the report said that new connections should be encouraged even if the result would be a net national gain in oil imports.

Oil imports would be likely to rise, the report said, because if the residential market snaps up the new gas, industrial users would have to switch to something else—namely oil. At most, it said, imports could rise by 250,000 barrels a day by 1990—but even then the economic benefits were said to make the hookups worthwhile.

Nine out of ten industrial gas consumers could use oil instead of gas, the report said. "This suggests that it is easily possible to meet the demand for new natural gas and [from] existing residential, commercial and premium industrial users by reallocating gas from low-premum industrial use . . . by conversion from gas to oil."

Those who listened to the debates over the gas legislation during 1977–78 came away with the impression that industrial customers would pay the higher price for new gas, while residential customers would be billed for cheaper old gas. The report seems to say, instead, that the new gas should be aimed at new homes, while industrial users could switch to oil.

It might be a terrific idea to promote more hookups for gas. It just upsets the mental equilibrium to see the Energy Department come up with still another policy—to burn more gas even if it means importing more oil. That's what the department was trying to stop, the way we heard it before.

The report said that additional supplies of gas might be developed, which would provide enough gas for all customers, but conceded that there might not be enough gas to go around. If the amount of gas available stays the same, it said, "any gas allocated to new high-premium users can only be made available from low-priority gas users who must replace gas with oil."

The consoling thought in all this is that the state utility commissioners, who don't have to take Schlesinger's advice, might not read the report anyway.

Mr. METZENBAUM. Mr. President, I reserve the remainder of my time.

PRESIDENT CARTER'S PEACE MISSION TO THE MIDDLE EAST

Mr. McGOVERN. Mr. President, first of all, before I comment on the statement by the Senator from Ohio, with which I am in full agreement, I would like to commend the President of the United States on the initiative he took in the Middle East that, from all indications, has moved us closer to an important settlement involving Egypt and Israel.

I had some anxiety about the President's mission to the Middle East, thinking it was a high risk for him personally, if not for the country. But I think, based on all the evidence we have, the President has achieved a very substantial breakthrough in terms of a Middle East settlement, and for that I want to commend him both for his courage and for his tenacity in staying with this very difficult foreign policy question.

I think it is clear to all of us that if a settlement is achieved in the Middle East it is going to cost this country some money in terms of economic and military assistance to both Israel and Egypt, but those costs are far overshadowed by possible costs of another conflict in the Middle East, including the cutting off of oil supplies that are so crucial to the industrial West.

So I join with what I believe to be the prevailing view here in the Senate, across the country, and around the world in expressing my appreciation and admiration for what the President has achieved in this latest effort.

A COMMONSENSE ENERGY POLICY WITH A NEW ENERGY HEAD

Mr. McGOVERN. Now, Mr. President, with regard to the subject under discussion to which Senator METZENBAUM has directed his remarks, on last Sunday on the CBS program "Face the Nation," I called for a workable energy policy and stated my own conclusion that this is going to involve, to begin with, the replacement of Energy Secretary, Mr. Schlesinger. I do not make that observation out of any personal animosity toward Mr. Schlesinger. There is no question that he is an able and conscientious public servant, but I think it is quite clear that his handling of the energy policy of the Nation has been a failure.

Since calling for the Secretary to step down on Sunday, I have been surprised at the number of calls that have come into my office from respect people in all walks of life, who are more familiar than I am with the Nation's energy policy, fully endorsing this suggestion that a new energy head is needed.

We have even had several calls, I might say, from members of the staff in the Energy Department supplying information not heretofore known to me about misleading data that have been supplied to Congress by the Department of Energy during the time Mr. Schlesinger has served as the head of that agency.

There is no question that since he has taken over as head of the Department, public confidence in the Government's energy policy has virtually collapsed and, I think, justifiably.

Mr. President, in all fairness, one has to recognize that the chaos in our present energy policy is not Mr. Schlesinger's doing alone.

There have been failures all down the line, both in the executive branch and, I think, in Congress in the development of a comprehensive, commonsense energy policy. Nevertheless, when a program goes wrong, as this program clearly has, one has to look at the head of the Department for some accounting.

What I find in looking back over the record is that Mr. Schlesinger has become a master of the art of providing misleading data in support of ill-conceived policies.

Immediately after his appointment, for example, he was responsible for a CIA report that was leaked at the time he brought out the 1977 energy plan. That report, which warned of a dire impending oil shortage, proved to be based on misleading assumptions, and an embarrassed CIA privately denied the report.

Later, in order to persuade the President to invoke the Taft-Hartley Act to stop striking coal miners, Mr. Schlesinger announced that 3.5 million people would be thrown out of work, although the estimate that had produced this figure indicated that the most likely case would be 27,000 out of work. The 3½ million represented the absolute maximum possible upward limit. At the same time the Bureau of Labor statistics put the unemployment effect of the strike at around 25,000, and a General Accounting Office study made after the strike confirmed that figure.

In 1978, the Secretary advised President Carter to support a natural gas bill which abandoned all the principles of fairness which should have been central to a Carter administration. Schlesinger ignored reports from within his own agency that the legislation would be impossible to administer. He ignored data from the energy information administration which clearly indicated the bill's perverse impacts, in favor of information from discredited industry sources which supported the secretary's claims.

In order to force Congress to accept this natural gas bill, which has created chaos in the Federal Energy Regulatory Administration, Schlesinger told Members of Congres that the fate of the dollar rested on passage of this legislation. He blackmailed an increasingly skeptical Congress into voting for a bad bill by inventing a connection between the bill and our Nation's prestige in the world. In short, he abused his official status and the confidence of the American people.

Schlesinger's claims regarding the role of the Iranian crisis in the current oil supply situation are cut from the same fabric. Demand has been less during the past 3 months compared to demand levels at this time a year ago—not higher as the Secretary claims. From November of last year, to the first week in March, our demand has been down by something like 1 percent per month over the same period in 1977 to 1978. At the same time, imports during that period have been consistently above the level a year ago. Domestic production has also been slightly higher for the 1978 to 1979 period compared to that of a year ago. I shall submit Department of Energy figures showing this for the RECORD. Obviously, the Secretary's placing blame for the current shortages on Iran is part of his attempt to mislead the public.

Mr. President, I ask unanimous consent that tables showing the domestic crude oil production, the total domestic demand, and the total imports be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. McGOVERN. Department of Energy officials are quoted in the March 6 issue of Oil Daily as saying that they do not know whether interruption of production in Iran had any impact on the U.S. supply situation. Mismanagement by the Department of Energy and withholding by the energy companies must be considered as an explanation of the current disarray.

If there is a real threat to the wellbeing of the Nation, where is the strategic petroleum reserve that Congress mandated as the protection against just such supply interruptions as Schlesinger claims we face?

Is it possible that Secretary Schlesinger has exaggerated the Iranian problem—deliberately misleading the public—in order to eliminate opposition to price increases and rationing programs?

It is far more likely that current shortages and possible Sunday closings come from withholding by refiners who anticipate inventory profits from new gas pricing regulations Mr. Schlesinger has mandated. Other sellers are so confused by new gasoline regulations put forward with no advance notice that they have the incentive to withhold until they understand what the new treatment means. Add to this the behavior of people panicked into hoarding gas and "topping off" their tanks and you will have chaos in the market—despite generally lower demand, higher imports and higher domestic production.

Mr. Schlesinger's past record indicates that he feels only a panicked public will accept further price increases in the face of inflated corporate oil profits.

Perhaps this chaos will also divert attention from the inequities of Mr. Schlesinger's new rationing plan. This plan is billed as something which will ensure that "the hardships generated by a major shortfall in supply may be equitably distributed." Unfortunately, the Secretary's interpretation of "equitable distribution" is displayed in his plan which allows the well-to-do and those with access to public transit to receive far more than their share at the expense of millions of Americans who live on fixed incomes, who live in rural America, and who are transportation dependent. We can all be sure that those with the ability to buy additional ration rights will hardly notice that rationing is in effect.

Mr. Schlesinger has also proposed legislation to speed up the licensing of nuclear power plants in the midst of a complex and heated public debate over the wisdom of expanding nuclear capacity. Mr. Schlesinger recently testified that legislation I have introduced giving States a long-awaited partnership role in nuclear waste facility siting is unnecessary. He stated that the Department will pursue a similar policy but that legislation would inhibit "policy flexibility." The fact that the GAO reported several months ago that the Department cannot pursue such a policy without explicit legislative authorization is another illustration of the Secretary's substitution of fiction for fact.

Mr. President, Mr. Schlesinger's tenure at the Department of Energy has served only to confuse and not to clarify. Oil is the lifeblood of this country. We are now threatened with disruptive shortages. Gas station owners are only getting a trickle of their allocation. Yet we have no idea what is happening or why. Mr. President, we needed a leader who would be able to distinguish fact from fiction and set a clear path toward a new energy policy.

Based on sound principles of conservation, reliability, and equity, unless the people of this country can see what is happening and understand why, we will never achieve any energy goals.

I yield back the remainder of my time.

EXHIBIT 1

Domestic crude oil production

4 Weeks ending 78–79 / 77–78	1978–1979	1977–1978	Percent change
11/24 / 11/25	8,750	8,598	+1.0
12/ 1 / 12/ 2	8,739	8,581	+1.8
12/ 8 / 12/ 9	8,738	8,562	+2.0
12/15 / 12/16	8,730	8,534	+2.3
12/22 / 12/23	8,714	8,527	+2.2
12/29 / 12/30	8,699	8,519	+2.1
1/ 5 / 1/ 6	8,690	8,514	
1/12 / 1/13	8,687	8,507	+2.1
1/19 / 1/20	8,693	8,507	+2.1
1/26 / 1/27	8,693	8,496	
2/ 2 / 2/ 3	8,701	8,482	+2.6
2/ 9 / 2/10	8,666	8,481	+2.2
2/23 / 2/24	8,597	8,485	+1.3
3/ 2 / 3/ 3	8,569	8,491	+0.9

SOURCE.—American Petroleum Institute, Oil and Gas Journal.

Total domestic demand

4 Weeks ending 78–79 / 77–78	1978–1979	1977–1978	Percent change
11/24 / 11/25	18,794	18,216	+2.4
12/ 1 / 12/ 2	18,231	18,497	−1.4
12/ 8 / 12/ 9	18,225	18,899	−3.6
12/15 / 12/16	18,949	19,300	−1.8
12/22 / 12/23	18,969	19,702	−3.7
12/29 / 12/30	19,059	20,046	−4.9
1/ 5 / 1/ 6	19,216	19,970	−3.8
1/12 / 1/13	19,440	19,881	−2.2
1/19 / 1/20	19,844	19,792	+0.3
1/26 / 1/27	20,049	19,704	+1.8
2/ 2 / 2/ 3	20,466	19,818	+3.3
2/ 9 / 2/10	20,070	20,114	−0.2
2/16 / 2/17	20,408	20,409	0.0
2/23 / 2/24	20,842	20,705	+0.7
3/ 2 / 3/ 3	21,008	20,740	+1.3

SOURCE.—Excerpted from DOE's weekly publication "DOE Petroleum Demand Watch:".

Total imports

4 Weeks ending 78–79 / 77–78	1978–1979	1977–1978	Percent change
11/24 / 11/25	8,692	8,057	+7.9
12/ 1 / 12/ 2	9,073	8,051	+12.7
12/ 8 / 12/ 9	9,138	8,098	+12.8
12/15 / 12/16	8,920	8,145	+9.5
12/22 / 12/23	8,893	8,192	+8.6
12/29 / 12/30	8,935	8,232	+8.5
1/ 5 / 1/ 6	8,860	8,727	+1.5
1/12 / 1/13	9,094	8,544	+6.4
1/19 / 1/20	9,223	8,362	+10.3
1/26 / 1/27	8,750	8,180	+7.0
2/ 2 / 2/ 3	8,835	8,137	+8.6
2/ 9 / 2/10	8,814	8,098	+8.8
2/16 / 2/17	8,815	8,059	+9.4
2/23 / 2/24	8,817	7,909	+11.5
3/ 2 / 3/ 3	8,708	7,932	+9.8

[1] Excludes strategic petroleum reserve imports.

SOURCE.—Excerpted from DOE's weekly publication "DOE Petroleum Demand Watch:".

Mr. RIEGLE. Mr. President, I seek recognition in my own right for the time I had set aside this morning on this issue.

The PRESIDING OFFICER (Mr. HEFLIN). The Senator from Michigan is recognized for not to exceed 15 minutes.

Mr. RIEGLE. I shall not take that amount of time. Let me say I wish to be associated with the remarks of the Senator from South Dakota, who has just spoken. I am essentially in agreement with what he has said. I will not try to cover point by point the same arguments he has presented, and that the Senator from Ohio (Mr. METZENBAUM) and others are presenting today.

I think the bottom line with respect to the energy situation today and Mr. Schlesinger is that there is a profound problem of a lack of public confidence on this subject. Everywhere anyone goes, in his home State or across the country, we find there is literally no public confidence in terms of what is being said or done with respect to national energy strategy. There is no coordinated body of national fact-finding on the energy issue and there is no comprehensive policy on energy strategy.

We see rapidly rising gasoline prices at the pump. Are they justified? I see no proof that they are. Do these prices reflect higher profits? I suspect that they do. If so, are the profits being invested in finding new supplies? I have great doubts that they are, at least in any comprehensive way.

But we cannot get these answers. The answers have not been supplied by the Energy Department, despite the fact that it has had nearly 2 years to get on top of its responsibilities, and the Secretary himself has had more than 2 years to do it.

What about the massive cutbacks we have been having in air flights? Are they necessary and justified? I want to know what the reasons are, but I do not see this problem being investigated, nor any effort to supply the public with answers, within the Energy Administration. So how is the public or, for that matter, Congress to get factual information or truthful information from the Energy Department?

I do not see any comprehensive short-term energy policy, intermediate term policy, nor a long-term policy.

It is no secret that the Secretary has what I think can be described as a poisonous relationship with Congress. He may have a friend or two here and there, but the Congress as a whole does not enjoy a good relationship with the Secretary. This is a matter of long standing and is well known here in Washington.

We have vacancies in the Energy Department in key jobs that have not been filled, not for weeks but for months. Why is that? You do not find good administrative practices in the Energy Department, nor the well coordinated policy that ought to be the end result of its efforts. It is so bad that Governors of States across the Nation are devising their own energy policies, because we do not have a national energy policy, at least not one that anybody can understand.

I must confess that I am very distressed about it. It has something to do, obviously, from the fact that I happen to come from a State that is most energy sensitive. The automobile industry continues to be the largest industry in my State and obviously is directly affected by what might take place in terms of industry supply interruption.

The second largest industry in our State is tourism, also greatly affected by energy.

Like virtually every other State, the transportation system that most Michigan people use in the absence of any broad public transportation system is automobiles. That is a fact of life. Some critics may not like it, but that is the way it is going to be for some time. The question of whether people can get to work, do their shopping, see their relatives, all the other things they have to do, also hangs on whether we can get on top of this energy supply problem.

I do not see any evidence that we are on top of the problem nor am I able to even find a coherent set of case facts.

When a Cabinet officer, after 2 years' time has not earned the faith of the American people or, for that matter, the faith of the Congress—but more importantly the faith of the American people—that person ought to be out of a job. Frankly, they ought not be fired, they ought to resign. They ought to step out of the job voluntarily, because the failure is so obvious in terms of a pervasive absence of public faith.

After all the other national shocks we have had for a period of years, from Vietnam to Watergate, and all the other difficulties we are struggling to deal with, we cannot afford incompetence in this critical area. At least, at a minimum, we ought to have straight talk and coherent facts. We ought to be able to think clearly and honestly about what our policy choices are. We do not have that today.

We can take all the different policy areas that were talked about by the Senator from South Dakota, or anybody else speaking in this same vein today, and I cannot find a single area of effective policy development, whether it is in terms of alternative energy development for the longer run future or emergency plans in terms of what we are going to do in the next weeks and months. That is not adequate. It is not adequate.

I might say to the administration, while I applaud their efforts and initiatives in the foreign policy sphere, and especially in the last few hours, it has been tremendous, I think it is great, that is not enough. We have domestic problems in this country that also have to be dealt with. I do not lay that responsibility at the doorstep of the President himself because it is not a one-person job. It is a group effort. That is why the person in charge of domestic energy strategy and policy has to be somebody who is competent, who can earn and keep the faith of the American people, and get this job done.

Clearly, the bottom line by anybody who looks at it is that that job has not been done and is not being done. It will not be done, in my judgment, until somebody else has that job. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for not to exceed 15 minutes.

CONGRESS AND THE ENERGY PROBLEM

Mr. BUMPERS. Mr. President, I have come neither to praise Caesar nor to condemn him. I often disagree with Secretary Schlesinger on the policies of the Department of Energy. I disagreed with him when we deregulated home heating oil 2 years ago. The Department of Energy assured this body and the country then that price was the only solution to an adequate supply of home heating oil, and that the price could not possibly rise more than a couple of cents per gallon.

At that time, home heating oil was selling in New England for 40 cents a gallon. Today most of it is selling for over 70 cents a gallon.

Two weeks ago this past Thursday this body debated a proposal which was sent here by the Department of Energy to deregulate the price of jet fuel.

The distinguished Senator from Washington, the chairman of the Energy Committee (Mr. JACKSON) and I, along with the Senator from Ohio and a few others, reminded this body that we had been taken 2 years ago on the deregulation of home heating oil. We pointed out that in 1974 jet fuel was selling for 12 and 13 cents a gallon and it rose to 40 cents a gallon in 1978. However, this body went ahead by almost a two-third majority of those present and voting to accept the Department of Energy's proposal to deregulate the price of jet fuel. The price of jet fuel in the country right now is at the world market level, and at least three major airlines have already asked for a fare increase to take care of the increases in the cost of fuel. It has only been 2 weeks since we deregulated the price of jet fuel.

The Secretary, and I assume he speaks for the administration, says that he wants to deregulate the price of crude oil. I spoke on the floor last week about the potentially disastrous inflationary impact of decontrolling the price of gasoline. If the price of crude oil is deregulated, the price of all oil products will rise dramatically.

I get so tired of that old argument—price is the solution to everything. Every year this body acts like Charlie Brown when Lucy holds the football for him. We always fall for it despite the fact that statistics show the disastrous impact of deregulation.

Nobody has told this body how deregulation is going to produce more. The trends of production in this country have been steadily downward. Alaskan oil provided the only recent increase in production in this country. Even though upper tier crude is bringing three and four times as much as it brought in 1973, the production trend continues inexorably downward when Alaskan oil is not included.

Mr. President, there is another culprit—the U.S. Congress. We turn over every tough decision to the executive branch, and when they make it, we scream like a banshee. The Department of Energy is sending the proposals over here, but Congress is approving them. We are equally responsible for high gasoline prices, home heating oil prices, higher airline fares. We have failed to heed all warnings and admonitions.

It is the oldest game in town. Duck the issue and berate those who must face it. It is not surprising that people say the committee staffs and the executive branch are running the country. Congress is abdicating its responsibility.

In 1975, my first year in the Senate, I served on the Space Committee, and it was a "spacy" committee. [Laughter.] Fortunately the chairman of that committee asked, "Dale, how about chairing hearings on the effects the halocarbons are having on the ozone layer?"

The subject did not sound terribly appealing to me, but I was willing to accept the responsibility. The distinguished Senator from New Mexico (Mr. DOMENICI), on the minority side, and I heard from the best atmospheric scientists in the country for 9 days, over a 2-month period. Dow and Du Pont's chemists testified that there was no deleterious effects to the ozone layer from halocarbons because these companies sold a couple of billion dollars of aerosols a year. Every other atmospheric scientist in the United States including Professor McElroy from Harvard testified, "This is a disastrous situation. If you don't stop it, you are going to see the incidence of skin cancer increase tremendously in this country." It was almost uncontradicted testimony.

Several of us offered an amendment to force manufacturers to quit making aerosols, but the amendment received only 33 votes. Three months later, the Food and Drug Administration, the Environmental Protection Agency, and the Consumer Products Safety Commission issued an administrative order banning the manufacture of aerosols. God bless them. We did not have the courage to do it. The day we voted on the amendment, the lobby was so full of Dow and Du Pont lobbyists, you could not get into the Chamber.

In 1977, I offered an amendment to ration gasoline. I said: "The time to act is now while the supplies are adequate." We debated it. I thought it was the best argument I ever made, and 14 other Senators agreed with me. Fifteen Senators supported the gas rationing amendment.

You could probably get 25 today. Mr. President, this country is not going to deal with the energy crisis on a voluntary basis. You are not and I am not.

The Senator from Michigan barely alluded to the fact that he comes from an automobile State. Last year, some of us tried desperately to include a section in the conservation portion of the Energy Act, that would prohibit the automobile industry from making a car after 1980 that did not get 21 miles per gallon. You know the rest of the story. We did not get to first base with it.

Nobody in the U.S. Congress wants to tell the American people something they do not want to hear. Nobody wants to say: "You are going to have to change your lifestyle ever so slightly, drive a smaller car or turn the thermostats down or drive less."

We remember the messenger that brought the bad news to the king got assassinated. We are scared we are going to get politically assassinated if we tell the American people something unpleasant.

This body may not be responsible for everything that has happened in the energy area in this country, but we have to accept our share of the responsibility.

I just made a quick calculation. We are producing 9 million barrels of oil a day domestically. Thirty-five percent of this production is bringing the upper tier price of oil—$13.

Thirty-five percent is classified old oil and selling for $5.50. If the Secretary has his way—and I am quite sure he will—I can tell you right now what this body is going to do when he sends an oil price decontrol proposal over here. We are going to approve it because the oil companies have a lot more clout in this body than a few of us who disagree with them, just like Dow and Du Pont had on aerosol and just like the automobile industry had on the mileage efficiency standards. We are going to decontrol the price of crude oil when the Secretary sends it over here, and at that very minute, old oil in this country is going to cost the American people about $10 billion more because oil will then bring the OPEC price up. If that translates into a threefold price increase at the pump, the American people are going to be paying $30 billion more for gasoline.

Mr. President, $30 billion in increases at the gas pump is going to be wildly inflationary. A State like Arkansas, that does not have any form of mass transit, is going to get wiped out.

Who is going to benefit from it? The oil companies are going to benefit from it. The American people are not even going to get any more oil out of it. We have not in the past. This age-old argument has been going on now for 4 years and nothing has happened. I get so tired of hearing price, price, price, being the solution to every energy problem.

As for Secretary Schlesinger, I heard the same calls for the scalp of John Love. The Senator may remember when John Love was Director of the National Energy Administration. Everybody said: "That man is a totally incompetent—he has to go." He finally got tired and quit.

He was succeeded by Frank Zarb. He hardly had warmed his seat when everybody said, "He has to go." After Secretary Schlesinger leaves, the same cries will be made for his successor's scalp. "He does not have a chance, whoever he is."

We have always been a Nation of heroes and a Nation of scapegoats. We have a severe shortage of heroes right now, but we never lack for scapegoats around here. We are still effectively conspiring with the executive branch not to do anything very dramatic to deal with this problem. We are still acceding to everything they send over here, for a simple reason: The oil industry, the top 20 oil companies, last year had sales of $250 billion. That is half the Federal budget. That is a tremendous concentration of economic and political power in this country. And that political power it manifests itself every day, right in the U.S. Senate and the U.S. House of Representatives.

Mr. President, from my standpoint, and I am ashamed to say it, we have met the enemy, and he is us.

I yield the floor.

Mr. JOHNSTON and Mr. JACKSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mr. JACKSON. Mr. President, I yield briefly for a statement or comment by the Senator from Georgia (Mr. NUNN).

A PLEA FOR OBJECTIVITY

Mr. NUNN. Mr. President, I shall just take a moment. I know there are others who have much more experience in dealing in the energy field than I do. I am not on the committee dealing with it. But I do know Secretary Schlesinger, both as a public servant and on a personal basis.

I have not agreed with every position the administration has had on energy. I think my record reflects that. I do not agree with much of what my good friend from Arkansas has just said about the nature of the problem. But I do agree with his conclusions and the reasons for his conclusions regarding Secretary Schlesinger and regarding the effort of many of his critics to find a scapegoat for everything that has gone wrong in the Government, whether it was caused by Congress or the executive branch or by the inevitability of fate relating to our energy supplies.

The fact is that we do face a chronic energy crisis in this country. We have inadequate, insecure sources of supply. We have high prices and they are going to get higher, no matter what we do in this body. We have obstacles of diversification, we have opposition to nuclear energy. I just heard this morning that four or five nuclear energy plants are being closed. We have all of these problems and we look to the Department of Energy and we say: "You solve them and if you do not, Mr. Secretary, we are going to demand your scalp."

I do not think that is fair; I do not think it is equitable; I do not think it is logical. I happen to believe that Secretary Schlesinger is a man of great honesty, a man of integrity, and a man of intellectual honesty as well as wisdom. I have disagreed on many occasions with him. I disagree with the official Department of Energy position. I suspect that, on many occasions, he himself disagrees on many of the positions arrived at by the administration. I think it is very important, as we face our energy problems in this country, that we learn to be able to disagree on the substance of the matter without attacking people personally in regard to their capabilities, their integrity, and their dedication to this country. I believe that is exactly what we are witnessing now, personal attacks that are not, in any way, justified.

I should like to associate myself with the remarks that the Senator from Washington will make. I have read a copy of those remarks. I agree with them and I commend those who are here trying to bring some degree of fairplay, balance, and objectivity to the discussion relating to the Energy Secretary.

I thank the Senator from Washington for yielding.

The PRESIDING OFFICER. Does the Senator from Georgia therefore relinquish his time of 15 minutes that was reserved?

Mr. NUNN. I shall be glad to yield it to the Senator from Washington if unanimous consent can be given for that.

The PRESIDING OFFICER. Unanimous consent has already been given.

Mr. JACKSON. I yield 2 minutes to the Senator from Louisiana, and then I will yield to the Senator from Oregon.

Mr. JOHNSTON. How much time does the Senator from Oregon wish? I did not want to get before him, but I can finish in 2 minutes.

Mr. HATFIELD. About 5 minutes.

The PRESIDING OFFICER. The Senator from Oregon has a special order in his own right, if he wishes to use it.

Mr. JOHNSTON. I do not want to try to get in front of the Senator from Oregon. If he will yield to me after, I will be glad——

Mr. HATFIELD. I yield.

THE NEED FOR ENERGY

Mr. JOHNSTON. Mr. President, I hesitate to speak on behalf of Secretary Schlesinger because I, frankly, am afraid it might hurt him a great deal.

The Senator from Arkansas and I, based on what he said, disagree almost totally on the approach to energy except on the one question of who is really at fault. The parties really at fault are the Congress of the United States because we cannot get together on what we want to do.

Mr. President, I think we can divide the Congress down the middle into two main parts, those who want to produce energy and those who do not, those who want to blame it on the oil companies and those who do not, those who are antigrowth and those who are not, those who are for nuclear energy and those who are not, those who are for coal production and those who are not, those who are for drilling off our shores and those who are not.

I do not mean to suggest, Mr. President, we can neatly put all Senators in one category or another, or all Congressmen in one category or another. But until the Congress gets together on what we want to do, Mr. President, we cannot blame it on the Secretary of Energy.

The fact of the matter is that Congress has not made up its mind, and to blame it on the Secretary of Energy when we cannot get together and the administration cannot get together, I think is putting the blame in the wrong place.

Mr. President, if I were going to impeach the Secretary of Energy for doing his job badly, I would do it for precisely the opposite reasons to those articulated here early today.

Some say he is going too fast on trying to speed up the licensing of nuclear plants. I think the fact is that it is just exactly opposite.

Indeed, Mr. President, the NRC is issuing an order to shut down five nuclear plants just today, unnecessarily so, that is going to deprive us of 200,000 barrels of oil a day, or about the same amount we would save by closing all service stations across the Nation on Saturday.

Mr. President, we need more energy. The fact that we do not have more energy is not exclusively the fault of the Secretary of Energy, I hope that the RECORD will so indicate and that we can get together in the Congress on a policy that makes sense.

I thank the Senator.

Mr. JACKSON. I yield time under the common allowance here to the Senator from Oregon.

Mr. HATFIELD. I might as well take it out of my own time.

Mr. JACKSON. Yes; and then the Senator will yield it back.

Mr. HATFIELD. Yes.

The PRESIDING OFFICER. The Senator from Oregon is recognized for not to exceed 15 minutes.

Mr. HATFIELD. Mr. President, I ask unanimous consent that Steve Hickok and Dave Swanson of the Energy Committee be granted the privilege of the floor during the balance of special orders this morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

WHITE HOUSE BLAMED FOR ENERGY DILEMMA

Mr. HATFIELD. Mr. President, I did not come here this morning to eulogize the Secretary of Energy. He still is, Mr. President, in the land of the living. It would be rather premature to engage in that kind of discussion.

By the same token, I did not come here to be critical of the Secretary of Energy because of the task, the magnitude of the responsibilities, which he bears.

I think it is well to keep in mind that the Department of Energy is a rather unique Department. It was created very recently during the late stages of the congressional effort to reassert its authority and power in the three-branch system of government. After the experience of the Nixon administration, and other traumatic experiences.

I would observe that the Department of Energy operates under more congressional oversight than any other department of the executive branch of Government.

If one only observes the number of times the Secretary of Energy is on the Hill to testify before one congressional committee or another, and compares that to other Cabinet officials, I think one would conclude that his record of being here on the Hill, accessible and under interrogation by various and sundry congressional committees, is rather extraordinary.

Another unique characteristic of the Department of Energy is this: Not only does the Department of Energy appear annually before the Appropriations Committee for line item scrutiny, but, let me remind my colleagues this morning, the Department of Energy also appears each year before the authorizing committees of the House and the Senate for annual programmatic line-for-line authorization of appropriations.

Another example of the Department of Energy's unique situation is the fact that that Department is replete with requirements for coming back to Congress for implementation approvals.

I know of no other department of the executive branch that has so many requirements for one- or two-House approval or, conversely, one- or two-House veto, of action taken by the Department of Energy.

The congressional response to the Arab embargo in 1973–74 left the energy agencies, now consolidated under the Department of Energy with very heavy regulatory baggage, packed in great haste.

The Department of Energy has been trying to sort it out since Secretary Schlesinger came on board, and he, apparently, has been able to maintain White House support for his actions and recommendations to change these regulations, despite their highly controversial nature.

The crude oil entitlement program, for example, has been a regulatory nightmare, and it does constitute a subsidy of imports by our domestic producers. Secretary Schlesinger would like to dump it, but the congressional two-tier pricing system makes something like it necessary.

I think it is also important for us to observe that Secretary Schlesinger appears to be operating within a strict set of White House constraints.

During the unfolding of the Iranian situation, let us remind ourselves that Secretary Schlesinger clearly had the best handle on the situation. His appraisal was continually corroborated by other sources, including the CIA.

Yet, elsewhere in the administration, Secretary Schlesinger was severely criticized for his stern warnings to the committees and to the American people of what we were facing in world oil supply.

He has been more than responsive to the committee's needs for data, analysis, and opinion than any of his counterparts, and I might say that includes other people in his own department, which may not be to his credit.

Our country's delay in responding to this situation is clearly not due to Secretary Schlesinger's leadership. But if we were to place the blame anywhere, it should be placed at the White House.

The tug of war that is going on in the Congress over the highly visible and very costly energy research and development program is having the effect of angering, even alienating, Senators and Congressmen, who each have their own agenda for reaching energy Valhalla.

Secretary Schlesinger is in the middle of this tugging, to be sure. But if any criticism can be surely laid at the Department, it is that they make too many decisions down there, change their mind too often, are perhaps too susceptible to individual sources of pressure, rather than the reverse, as has been some of the criticism this morning.

Let me cite an example, Mr. President, of where the White House must bear some of this blame today.

The Committee on Energy and Natural Resources, on which I serve, as the ranking minority member, with Chairman JACKSON, has expected to have a time-phased plan from the administration to respond to the world oil problem. That was well in hand at the Energy Department, and it was sent to the White House for approval; and so far as I know, it is still at the White House.

Another example is with respect to the law we passed in 1975 that required to be brought to the Hill, by June 22, 1976, a mandatory energy conservation program and a standby gasoline rationing system. That was brought to the Hill by Secretary Schlesinger on March 1, 1979, almost 2½ years late. Much of the blame for that delay must be at the White House bureaucracy level, because, again, Secretary Schlesinger could not bring that to the Hill for the last 2 years without White House approval.

There have been some very specific issues laid at Secretary Schlesinger's feet today, including the Alaska natural gas pipeline, the strategic petroleum reserve, energy prices, and Mexican gas.

Mr. President, I ask unanimous consent that clarifying information on each of these four issues be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ALASKAN NATURAL GAS PIPELINE

U.S. cannot, in a national energy shortage, afford to flare 1 trillion cubic feet of natural gas per year on the North Slope.

Not being able to transport natural gas off the North Slope will be an enormous disincentive to further exploration both on the North Slope and in the rest of Alaska, one of the very few areas of the country where significant finds of oil and gas can be expected.

The construction of the natural gas pipeline can stimulate further drilling for oil and can make investment in new oil pipeline capacity more attractive.

The President has made his decision to build the line and very high level coordination has been under way for some time with Canada. All is proceeding relatively smoothly. If anything, the U.S. is holding up the process and the resolve of the Congress is probably more in question than that of the Administration. That uncertainty in the Congress is fueled by the rhetoric heard here today.

The President is currently considering a reorganization plan which could and should expedite, in the maximum way consistent with all federal statutes, the building of the pipeline to minimize delays and costs.

All of the procedures that the Administration has operated under have been approved by the Congress.

STRATEGIC PETROLEUM RESERVE

The original plan for the SPRO was to purchase oil at the cheapest possible prices, as soon as possible in light of rising oil prices on the world market, and get it in the ground. Extraction was planned for installation at the completed filling of most reservoirs.

The Congress can share some of the blame for early mistakes in the program. The Congress may have pushed too hard and the Congress clearly did not properly exercise its oversight function to see that the plan was in trouble prior to the time Schlesinger took over.

The plan currently seems to be on schedule, although it is far behind the schedule set by the Congress, and a withdrawal capability of about 600–700 thousand barrels per day should be in place before the end of this year.

ENERGY PRICES

Gasoline prices are under federal price controls. Gasoline at most pumps is still selling somewhat below the DOE ceiling prices.

The Congress decontrolled home heating oil and the price and availability of heating oil is now determined by the marketplace and the availability of crude oil. Allocations are carried out completely by the suppliers of heating oil.

The largest contributor to the short supply of crude oil in the country is the restrictive pricing policy of the very people who are on the floor today. Domestic prices lag the world price by 30% and this price lag subsidizes the purchase of imported oil. There will clearly be no production response in this country until these misguided and destructive policies are changed.

There will be even more severe pressure on energy prices later this year unless strong measures are taken to reduce demand for energy early in the year. The efforts by the Energy and Natural Resources Committee to call this to the attention of our colleagues and the American people have been continuous and have been assisted by the Secretary. Higher level of efforts are clearly warranted by the continuing political and energy problems in the Middle East.

MEXICAN GAS

No gas purchased from Mexico can circulate in interstate commerce until the Federal Energy Regulatory Commission issues certificates of public convenience and necessity. Part of that certification process is an assessment of the price of the gas and whether such gas could be produced or obtained from other sources at competitive prices.

The price contemplated for Mexican gas was substantially in excess of the price permitted to domestic producers for gas produced in the same time period.

The purchase of Mexican Gas without assessing the total gas picture in the nation could trigger much higher prices for Canadian gas that is now critical to the Northwest and Midwest. The price effects in these areas could be substantial and are clearly relevant to the negotiation of price with Mexico.

There is no question that Mexican gas could be used by the United States to the mutual benefit of both nations if the negotiations can be worked out properly.

Mr. HATFIELD. Mr. President, on the subject of the Department's administrative problems, anyone familiar with bureaucracy knows that the surest way to paralyze Federal programs is to reorganize the agencies of jurisdiction. Energy jurisdiction has undergone two massive reorganizations in the last 5 years. For extended periods of time after such upheavals, program managers report to Administrators who do not understand the programs; operations once lumped with others in one functional grouping suddenly are lumped in another, compete with different programs, are compared, contrasted, and evaluated in a different way; and the new administrative superstructure tries to understand what is going on under them, what they are responsible for, to whom they are responsible.

Any Secretary who would walk into such a situation under the heat of the klieg lights that are now on energy deserves a great measure of understanding and support; and it would do us well to reconsider the effort to bring this kind of criticism upon the Secretary at this moment in history, when he is doing his best and has been most candid with us. In fact, he is one of the most intellectually honest men I have known in Government.

So I speak today in support of Secretary Schlesinger and speak on his behalf at a time when he is under this kind of fire. I urge my colleagues to reconsider this untimely, and what I think to be unfounded, effort to remove Secretary Schlesinger from his office.

Mr. DOMENICI. Mr. President, I ask the Senator from Oregon if he has remaining time.

Mr. HATFIELD. Two minutes.

Mr. DOMENICI. Will the Senator yield me 2 minutes? I do not want to delay others who have been waiting.

Mr. HATFIELD. I yield 2 minutes to the Senator from New Mexico.

SUPPORT FOR SECRETARY SCHLESINGER

Mr. DOMENICI. I thank my friend, Senator HATFIELD, the ranking Republican member of the Energy Committee, and I support what he has indicated here this morning.

Mr. President, since the embargo, when the American people finally were confronted with the fact that we had an energy crisis, it appears to me that there have been those in high places, political offices, who continually have sought a scapegoat. All we have done, basically, is to try to find someone or some institution to blame for a situation that has brought America to a state of utter dependence on foreign countries for its basic energy supply.

I believe that those who have taken to the floor of the Senate today are doing that all over again. They have not succeeded with scapegoats in the past, whether they were scapegoats of big oil, all the way to Presidents—present and past—so we have a new scapegoat.

I think this is real evidence of cowardice. We are not ready to face up to the solutions to our energy crisis, and we continue to seek out those we can blame and try to tell the American people that if we could just get rid of those, the energy crisis will be solved.

I believe that those who are working on this problem know that that is utter and absolute folly. It is utterly ridiculous for anyone to assume that we will solve the American energy crisis by following the recommendations of those who have taken to the floor of the Senate today and who indicate that the crisis lodges upon the shoulders of the present Secretary of Energy.

It appears to me that that is one of the most difficult jobs in America today. When that man tells it like it is, people do not want to hear it, so they would like to get rid of him.

I basically support Secretary Schlesinger's approach. Obviously, he is in a position of having to manage an almost unmanageable effort. The regulatory maze that we ask him to enforce is beyond enforcement; and when it does not work, we blame him. I think we should look back and see who is the real culprit. Perhaps some of us—and perhaps this institution, to some extent—are more to blame than he is.

I thank the ranking Republican member of the committee for the courage he has shown this morning in coming here and expressing his views, and I thank him for yielding to me.

I say to the President of the United States that the energy crisis will not be solved by the admonition of those—if he needs admonition—who would try to make it something as simple as getting rid of Dr. Schlesinger as Secretary of Energy.

It is going to take some hard decisions, and I think the American people are ready to listen to them and face up to them. If he will give the sign and signal, this Secretary will follow, and I think the American people will.

Mr. JACKSON. Mr. President, I yield to the Senator from New York on the time which has been allocated to him.

EXOGENOUS EVENTS OF THE ENERGY CRISES

Mr. MOYNIHAN. I thank the chairman.

Mr. President, I congratulate the Senator from New Mexico for his succinct and important statement, and I especially express my admiration for the remarks which have been made by the ranking minority member of the committee, the Senator from Oregon, who knows of the great regard in which he is held in this Chamber for his thoughtful approach to complexities in the world.

Mr. President, if I am not mistaken, there is only one man in the history of the American Republic who has served in the Cabinets of three successive Presidents. This is not a brief history. We are the oldest Republic in the world, the oldest constitutional government, save possibly that of Iceland.

In all this time, one man only has served three successive Presidents, and it is truly a mark of distinction. It is the more so because these were Presidents of two different parties, and it was at a time of tumult and turmoil and something approaching a crisis of the regime. Each President, in turn, had turned to him. Such a person commands, on the very surface of things, a certain regard; and to have known him personally, as I have done, through this period is to admire him almost incontinently.

It is so that we are summoned to this duty of witness for one of the most distinguished public servants of his time. Yet, is it not gratifying that so many persons come forward and speak as they do?

In his closing remarks, the Senator from Oregon said of Dr. Schlesinger—Jim Schlesinger—that he was one of the most intellectually honest men in our Government. I wonder whether the Senator from Oregon would agree—I am sure he would—that to be intellectually honest is something that requires more than a simple trustfulness about the world. I am sure the terms was intended to imply an intellectual capacity to see complexity for complexity and to try to respond truthfully to the ambiguities and the dilemmas and the inconsistencies of public policy in this most extraordinarily complex area. And that does describe Jim Schlesinger.

To expand that theme for a moment, in 1975 it fell to me to give the commencement address at Stanford University, which is not a small honor. I was thinking about what might be said in the compass of those few moments for one final lecture, and it came to me overwhelmingly that there was one large statement to be made about American society at that moment which is simply that the Arab oil embargo of 1973–74, the quadrupling and quintupling of OPEC prices, would have one irrevocable consequence to American society of the very largest magnitude. I said it would mean an expansion of Government regulation of the private economy of an order of magnitude only equaled and perhaps not equaled with the whole range of legislation which is associated with the New Deal of the 1930's, but that in contrast to the events of the 1930's we would not be acting on our own initiative in response to judgments we had made about what we ought best to do to manage our own affairs. To the contrary, the experience of the 1970's would be one imposed upon us from without.

If I could use a term that Dr. Jim Schlesinger would have used in his days as an academic economist, these were exogenous events. For the first time ever we would find ourselves embarked upon a massive intrusion of government into the internal workings of the private sector of the economy, not because anyone wanted it but because it had been forced upon us. It was characteristic that this process should have commenced under the administration of a President, President Ford, who was least likely of our Chief Executives in the postwar period to have espoused such a move on his own. He never on his own would have dreamed of doing these things. Yet this, in that sense, the most conservative of men, acting as he always acted in what he judged to be the responsible behavior for a President, brought about the beginnings of this era of regulations, of what the Senator from Oregon called a regulatory nightmare, the subsidizing of imports of OPEC oil, the entitlement program, and the whole sort of widening, deepening, hastening flow of intervention that has come since.

Mr. President, there was no way to avoid this. It was easy to foresee. Such was the magnitude of the event that there was no difficulty seeing it coming. There has been, however, a reluctance to recognize that it has happened. It is the greatest blow to an unregulated economic system that has ever been forced upon this country by external events, and it will have consequences into the third generation. It is no small thing.

I see the Senator from Illinois is on his feet.

Mr. PERCY. Mr. President, I wonder if the distinguished Senator will yield for just a question and a brief comment.

Mr. MOYNIHAN. I am happy to yield for a question and a brief comment.

Mr. PERCY. The Senator from New York has mentioned that Secretary Schlesinger has had a good deal of faith in the private sector and has tried to place some relatively important responsibilities in the private sector.

Mr. MOYNIHAN. Exactly.

Mr. PERCY. The Senator from Illinois would like to know the extent to which the Senator from New York feels that Dr. Schlesinger has supported the work of the Alliance to Save Energy. I knew he applauded the efforts of the junior Senator and the senior Senator from New York who then took the initiative and founded the New York Alliance to Save Energy.

Let me note that the New York Alliance to Save Energy is a voluntary organization financed by foundations and private gifts, with no Federal financial support that the Senator knows of. Instead it is a private sector initiative which is trying to accomplish a job which in many, many other countries is done entirely by government. For instance, in Great Britain the Minister of Energy is envious when he sees the way the United States is undertaking, through these private organizations, the job of encouraging and admonishing the American public to save energy. The energy saved by this effort is in fact the best, cheapest, and most ecologically benign new source of energy available.

Has Secretary Schlesinger, in the judgment of the Senator from New York, encouraged and supported that effort?

Mr. MOYNIHAN. The Secretary has been altogether supportive, and I know the Senator from Illinois will not object to my observing that the initial idea for this private sector enterprise came from him. It has been adopted elsewhere in my State, with my senior colleague taking the lead and from the first we had Jim Schlesinger behind us and that fact has got us going and has kept us going.

And the point I was about to make would be I think particularly important here. I was trying to say of this protracted crisis which we have in energy, it is to be characterized, first, as one imposed upon us from abroad in consequence of our interdependence with the economy of the rest of the world and of the foreign policies of other countries, including some that would certainly be considered our adversaries, and it has had at home the consequence of a great intrusion into the private sector, more than anyone wanted, more than anyone yet perhaps comprehends, and is not finished at all at this point.

Who would be better equipped to deal with this than a man whose basic formation and previous service in Government was in international affairs, military affairs, and energy affairs, and whose basic commitments as an economist was to the maximizing the private sector of the economy? What he does he does because he knows is forced upon us. What he seeks to do is as little as can be in the way of restricting the normal workings of the market, and the first and obvious judgment he would make is that if you do not use energy you have certainly saved the full cost of it; in the sense that you conserved it, you have for practical purposes created it, a point that the Senator from Illinois made.

Mr. PERCY. I thank my distinguished colleague for that comment because I can well remember several years ago when I walked into Hubert Humphrey's office to discuss the founding of the Alliance to Save Energy. The idea was to create an alliance of labor and business, civic organizations, conservationists, and ordinary Americans, joined by Members of Congress and members of the administration, to address this critical problem of America's wasteful use of energy. I asked Hubert Humphrey to be a founding cochairman of the alliance. He thought about it, and in 30 seconds he came to his decision. I said to him, "No one should ask you to do anything more in life. You have given so much already." He replied, "This could be the most important single thing I have undertaken."

And with the enthusiasm which was so characteristic of Hubert Humphrey, we moved forward.

From the beginning, Secretary Schlesinger was our strongest supporter. He felt that it would make his job easier by giving our Nation time to develop renewable resources and to make new discoveries of oil and gas. The alliance could buy important time by alerting the American people to the need for creating a new source of energy, conservation energy, by simply conserving and saving. We have gone a long way in that effort.

Secretary Schlesinger became the honorary adviser. He sat down with the President of the United States and discussed the idea with him. As a result President Carter issued a strong statement in support of the alliance. Gerry Ford and Vice President MONDALE have become honorary chairmen of it, as have five members of the Cabinet.

Within the Department of Energy, Omi Walden has been given responsibility for energy conservation, and we have found her extraordinarily cooperative in working with the private sector. She is always trying to encourage private sector initiative in this area, and is willing to back it up and support it whenever necessary.

Just this week the annual board meeting of the Alliance To Save Energy was held here in the Capitol Building. Secretary Schlesinger and Stewart Eizenstat attended that meeting, which was devoted to the question of determining where to go in looking toward the future.

Secretary Schlesinger and Mr. Eizenstat are looking ahead. They face a difficult task, as we know, but with the backup and support and knowledge of Senator SCOOP JACKSON, as chairman of the Energy Committee, and my distinguished colleague MARK HATFIELD as the ranking minority member, no two men know more about what is needed and what is necessary to lead this Nation in a massive effort now to save itself economically by becoming sound in the field of energy.

We have to overcome wasteful energy habits and lack of initiative that have been caused by many, many factors. I will not discuss all of those now, but I want to commend my distinguished colleague, Senator MOYNIHAN, for his observations. I also express deep gratitude for the initiative he and Senator JAVITS have taken in New York to carry forward the idea of energy conservation.

Mr. MOYNIHAN. The Senator from Illinois is more than generous, as he always is, not only with his phrases but with his energy and with his ideas.

He has made the last point I intended to make, and so I can make it in the briefest form.

I have spoken to the training of this man, I have spoken to his record as he comes to the task, and nothing I could say could add any greater attestation of his performance than the fact that he has the full confidence of HENRY JACKSON, of Washington, and MARK HATFIELD, of Oregon. Anyone who knows this Chamber and knows these men will know that nothing more need be said about the performance under pressure of this extraordinary American public servant.

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. MOYNIHAN. I thank the Chair. I inform the Chair that so have my remarks on this occasion.

The PRESIDING OFFICER. I am glad they coincide.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mr. FORD. Mr. President, I have 15 minutes of my own.

Mr. JACKSON. I yield such time as he may require in addition to his own order to the distinguished Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

SECRETARY SCHLESINGER SHOULD NOT BE MADE SCAPEGOAT

Mr. FORD. I thank the Chair.

Mr. President, these last several weeks and months have been ones of international instability, turmoil, and near chaos. A central factor in all of this has been, and will continue to be, energy.

Until last evening when I became aware of the concerted effort to force Secretary Schlesinger out of office, I had felt that this just might be a pretty good week. The President was returning from the Near East with the promise of a chance to achieve the beginning of peace and stability in that region.

On Monday, Secretary Schlesinger presented the Energy and Natural Resources Committee with a step-by-step set of priorities for establishing stability in our energy supply and demand system. It had been long in coming, too long. And I have been one of the more pointed critics of this delay.

Up until Monday, our energy priorities had changed from year to year and, in some instances, from month to month. And I have been one of the more pointed critics of this instability.

Positive steps finally were to be taken. New fuels and old fuels were to be accelerated. Conservation measures were to be intensified. All of these are necessary for the preservation of America's role in the free world and necessary for the preservation of the American society itself.

What has been the response from some quarters?—Schlesinger must resign.

This is a passing strange approach to our energy problems. This approach would seek to punish the administration and the secretary for finally taking positive actions.

This approach would make the Secretary the scapegoat for all of our collective failures over the last three decades—an easy, and historical, way to absolve ourselves of all our sins.

This approach would answer instability in foreign leadership by injecting instability in our leadership.

I, for one, will not be a party to this approach.

I, for one, will not be a party to returning to square one and starting our energy policy all over again.

I, for one, will not be a party to any steps leading to zero economic growth for our children and our children's children.

Jim Schlesinger and I have had our differences over the past months and years. But he has tried, he has always been honest with me and with my constituents.

Were our positions reversed, I would think a little less of him if he was standing here demanding my resignation.

Mr. President, I yield back the remainder of my time to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Massachusetts is yielded time by the Senator from Washington.

Mr. JACKSON. No, it is on the Senator's own time.

The PRESIDING OFFICER. The Senator from Massachusetts has 15 minutes in his own right under a special order.

THE ENERGY CRISIS—GREATEST THREAT TO AMERICA'S FUTURE

Mr. TSONGAS. Mr. President, I have said for some time that the greatest threat to America's future is the energy crisis, greater indeed than the oft-heard scenario in these Chambers as to a first-strike nuclear attack by the Soviet Union, and also more serious than again the oft-heard scenario of Warsaw troop attacks on our NATO allies.

But this greatest threat is not being addressed, and let me suggest who is not addressing the issue. First, the administration, and that is what we hear talk about today. This administration, which has shown a capacity for initiative and boldness in the Middle East, has not shown the same initiative in terms of energy.

The President 2 years ago referred to energy as the moral equivalent of war, yet it has only been a skirmish so far as they are concerned.

Congress has not faced up to the issue. This Congress received the President's energy plan and proceeded to cut the guts out of it 2 years ago, and in many cases one can look at programs that will have to come back that could have been initiated at that time.

The media has not accepted its responsibility to inform the American public as to the seriousness of the issue. I can remember watching a television commercial of Bob Hope—I assume he is revered in this country as he is in this U.S. Senate—showing him swinging a golf club off a rig in the Gulf of Mexico, suggesting in the Texaco commercial that we can get out of this dilemma by exploring for oil in the Gulf of Mexico. Since we are talking about finite resources, this is absurd. It is lamentable that one can lend his support to that kind of impression.

The educational system has also fallen down in its responsibilities. Where are the colleges, the high schools, and the grammar schools in their efforts to educate the student body as to the impact of the energy crisis, because if we do not meet our responsibilities it is that generation that will pay the price? Where is the private sector? When we had the auto efficiency bills before us 2 years ago, the major automobile companies and the UAW came before these bodies and lobbied against engine efficiency. I had an amendment to the energy bill that would have prohibited the manufacture of nonefficient automobiles. That was ruled nongermane. Four years ago, when we tried to do it in terms of putting a tax on fuel-inefficient automobiles, and giving a rebate to those that were efficient, both the UAW and the major automobile companies came before these bodies and lobbied effectively and watered down that bill.

Finally, the American public. I once had a town meeting in my State, when I was a Congressman. I talked about the problem of energy, and one of my constituents stood up and said, "Congressman, God would not have put us on this Earth if he wanted us to run out of energy."

That, unfortunately, is where we were in this country at the time. But now I think the people of this country, four crises later, are more ready to join in the effort to develop a program.

The problem is simple. We live in a fossil-fuel economy. Those fossil fuels are finite and diminishing. We are coming to a time when we must rely more on renewable resources. Hopefully the time will come when we can place maximum reliance upon nuclear processes. But to make the transition, we need time. The only way we are going to get that time is to rely increasingly upon renewables.

I have before me 23 examples of where this administration, the Department of Energy, has fallen down in terms of both promoting conservation and maximum reliance upon renewable sources of energy. I ask unanimous consent that this list of items be printed in the RECORD.

The PRESIDING OFFICER (Mr. ZORINSKY). Without objection, it is so ordered.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

DOE FAILURES

The Congress authorized $98 million for the Federal Photovoltaic Utilization Program over three years. Yet DOE has requested no funds for FY80. The Administration says that the current funds will last through next year. It is no wonder, when OMB holds up funds for 5 months and only one person is assigned to the program.

With 29 applicants for Photovoltaic demonstration grants, the amount of money requested is $12.5, down from this year's funding and only enough for 4 to 6 projects.

In the Wind program there still is no MOD 3 and 4, no plans for parallel designs, no sense of urgency.

The Solar Heating and Cooling demonstration program funds have been cut back $40 million. Yet there is no comprehensive strategy to promote commercialization.

There is insufficient recognition of government policies that place solar energy at a competitive disadvantage through subsidies of conventional sources, price controls and average pricing, and unaccounted for externalities.

Funding for Market Development, Training, and Commercialization is totally inadequate and demonstrates DOE's lack of understanding of the commercialization process and the absence of industry input in program design.

The Regional Solar Energy Centers were created to act as catalysts in the commercialization of solar energy. Today they still lack the assured funding that would provide the foundation for effective commercialization activity.

One of the major barriers to solar commercialization is the high initial cost. Where is the Administration's proposal for a Solar Energy Development Bank?

DOE, largely as a result of its structure, follows sequential pattern of development which supports R & D until cost goals are met and then funds demonstrations and commercialization. Why not parallel development so that when cost goals are met markets are ready.

DOE programs in the renewables are grossly understaffed. One person handles the entire Photovoltaic procurement program, for example. Where is the sense of urgency when there are insufficient personnel to effectively spend funds and administer programs.

DOE procurement practices are a nightmare, especially for small businesses who cannot absorb the front end costs of maintaining staff while waiting for over a year for funds. There is no effective program to involve small business in the search for new approaches.

There is no aggressive program to develop low lead hydro and biomass—two near term highly attractive sources. Congress authorized $100 million for a low lead hydro loan program. The Administration has asked for no funds to carry it out.

There just is no sense of urgency or commitment to renewable resources.

Little progress has been made to implement a program to eliminate energy waste and where appropriate to use solar energy in Federal buildings. There is a failure to set an example and save tax money.

Where is a comprehensive conservation program? There is no recognition of anything resembling a serious conservation policy, nothing is visible, no one seems to be responsible for it.

We haven't moved forward aggressively to cogeneration, industrial conservation, and community energy systems.

The Building Energy Performance Standards currently being prepared were supposed to be the maximum feasible. It is reported that they are more like the minimal possible.

Where are the strict efficiency standards commensurate with the seriousness of the situation. How can we continue to let products be sold, whether they be large cars, homes, refrigerators, or industrial equipment, that do not incorporate maximum practical conservation measures which our energy future continues to rest with the Persian Gulf.

Where is a program to effect institutional change to anticipate an expensive and scarce energy economy instead of waiting to react to it as we are doing today.

The worst failure of U.S. energy policy has been the inability to convince the public that the crisis is real. And yet the public affairs budget in DOE is less than $4 million and is being cut.

Where is the sense of urgency? Where is a major public education program explaining the crisis, describing the severity of the long term situation, what the individual can do, and where the government is headed?

The public asks these questions when they hear about gas rationing. They want to know what we've been doing for 6 years so that we're now left with only 3 clumsy mandatory conservation programs.

The administration has not brought forth a workable energy program. That is a failure of leadership.

Mr. TSONGAS. But let me go into two or three of them. Solar energy is clearly a long-term development that we should be excited about. But with 29 applicants for photovoltaic demonstration grants, the amount of monev requested is $12.5 million, down from this year's funding, and only enough for 4 to 6 projects.

The solar heating and cooling demonstration program funds have been cut back to $40 million. Yet there is no comprehensive strategy to promote commercialization.

This is also true in terms of hydro, biomass, and the whole range of affinitive sources of energy. Do we solve the problem in terms of conservation, or do we solve the problem in terms of commitment to strong business, bv calling for the resignation of the Secretary of Energy?

If I thought the resignation of Secretary Schlesinger would solve these problems and give backbone to Congress, to the administration, and to the country, I would join the call. My problem is that I believe we must make a commitment to solve the problems of this country collectively. The administration, the Congress, the media, the educational system, the private sector, and the people as a whole, the failure of those various groups to come to grips with the problem is manifest. It seems to me we have a joint responsibility, and those of us who have young children should have some concern, in committing ourselves to a better future for them, not only to point the finger to the areas we have criticized, but also to take a hard look at ourselves. I believe in the final analysis we shall have to conclude, in the immortal words of Pogo, "we have met the enemy, and he is us."

I yield back the remainder of my time.

SECRETARY OF ENERGY SCHLESINGER

Mr. STEVENS. Mr. President, I am pleased to join with others today in commending Secretary Jim Schlesinger for the fine job he has done in the area of energy.

We in the State of Alaska first became familiar with Dr. Schlesinger in 1971, when he held the position of Chairman of the Atomic Energy Commission. He came to Alaska where he showed bold leadership as well as personal courage by taking his wife and children to Amchitka Island during the detonation of an atomic test. He did this to demonstrate his confidence that the atomic energy program was indeed safe. This left quite an impression on me.

The Arab oil embargo of 1973–74 brought the need for a comprehensive national energy plan quickly into focus. This need was amplified in 1977 when an unprecedented cold wave caused rapid depletion of our natural gas supplies resulting in schools and factories being closed and many people losing their jobs. It was at this point that Dr. Schlesinger stepped in and with his leadership the Department of Energy was established to consolidate what had heretofore been a myriad of often disorganized, often conflicting Federal energy programs.

Secretary Schlesinger has worked extremely hard to pull together a comprehensive, sound energy plan as quickly as possible under often trying circumstances. He has made every effort to steer our country firmly on the path of increasing self-reliance—that is, powering its own economy—and away from dependence on foreign sources. He has displayed an understanding and appreciation of our Nation's problems, particularly the energy problems of Alaska. As he has often pointed out, Alaska has a great deal to offer the rest of the Nation as a domestic source of oil and gas. He has encouraged measures to see that the oil reaches the eastern markets where it is desperately needed. I join with him in his displeasure over the abandonment of Sohio's proposed Long Beach line which would have helped to transport Alaskan oil east. As he recognized, this made much better sense than the more expensive, and more complicated alternative of shipping the oil through the Panama Canal or exchanging it.

Dr. Schlesinger has indicated that getting the Alaskan natural gas pipeline built and getting the gas moving through the line to the lower 48 States is a top priority item. While we may be presently experiencing a gas "bubble" (or oversupply), this is only temporary. Although buying gas from foreign sources might appear tempting, it is far better to develop our own sources at hand; and Alaska, at Prudhoe Bay, has 10 percent of the Nation's known supply. As was so recently demonstrated with the Iranian situation, it is a mistake to rely on foreign sources regardless of how stable they might appear to be at any one time.

We are going into this summer facing some shortages. While conditions have not reached crisis proportions, we are told that the energy supply situation is extremely tight and that at the very least, mandatory conservation procedures will probably be in effect. This is a time that calls for unity to deal with the problem we face. I would like to publicly express my support for Dr. Schlesinger and for the President as they call upon the country for the sacrifices necessary to conserve our energy, and my appreciation of their fair bipartisan dealings when it comes to the best interests of our country.

It requires a bipartisan approach to deal with a solution to the energy problem. This comes at a time when it is absolutely necessary for this Senate to stand up and be counted to support the conservation measures if necessary, to enact the legislation necessary to make them mandatory to insure that we conserve the supplies that we have available.

I hope that the Senate in particular, the Congress as a whole, and the Nation in general will support the efforts we are being called upon to make, and that we will not have to enter into a mandatory conservation program.

How much time have I remaining, Mr. President?

The PRESIDING OFFICER. The Senator from Alaska has 8 minutes remaining.

Mr. STEVENS. Mr. President, I yield such time as the Senator from Kansas requires and if there is any time remaining, when he completes, I ask that the remainder be yielded to the Senator from Washington.

The PRESIDING OFFICER. The Senator has that right. The Senator from Kansas is recognized.

A REAL ENERGY PACKAGE

● Mr. DOLE. Mr. President, I thank my colleague for yielding. I will only take a moment to suggest that I do not intend to engage in the debate on the merits or demerits of Secretary Schlesinger. I would hope the administration would use the deteriorating energy supply in this country, the problems around the world, as an opportunity to present to the Congress a real energy package.

I believe that Dr. Schlesinger is certainly capable of presenting Congress the proper legislation. With some leadership from the President of the United States, I believe we can have an energy package that deals with production. It is counterproductive to always try to find fault and try to suggest that one person or a group of persons may be responsible for the dilemma in which now we find ourselves today.

The answer from President Carter, so far as energy, was to impose another tax. It was called the crude oil equilization tax. It would raise $12 to $15 billion. Some estimates on the cost reached as high as $20 billion in new revenue. It did not produce any more oil or gas, but it raised taxes.

Fortunately, the Congress, in its wisdom, rejected this response from the White House as an answer to the energy problem. The administration's bill last year was not an energy program. It was a tax program.

When the energy tax program was in imminent danger, it was suggested by the administration that—

> Well, we ought to impose an import fee on oil of $5 a barrel. We ought to have another tax, a higher tax, on imports.

Import fees would drive up the cost in certain parts of the country.

Efforts were made in the Senate to repeal authority the President had to impose import fees. We were partially successful.

This Senator comes from a oil and gas producing State. I might hasten to add it is a very small producing State. I believe the average well in the State of Kansas produces about 3 barrels per day, so I do not come from a big oil producing State. We are very proud of the role that the oil and gas industry plays in the State of Kansas. We are very thankful we have the oil and gas industry in our State. In addition Kansas has some coal production.

We spent a great deal of time in the Senate last year talking about energy. We did the year before and the year before and the year before. However, our policies did not do anything to produce energy. We finally passed a measure which provided certain tax incentives for conservation. Everyone is for conservation. Everyone wants to save energy.

It seems now we ought to address the production side. We ought to take a look at the production possibilities. This is where the President of the United States, President Carter, has an almost unparalleled opportunity to tell the Congress and the American people:

> We are going to send you an energy program this year. It is going to be a real energy program this year. It is going to be premised on more production and finding alternate sources of energy.

For those who suggest that by this creating production incentives and by June 1 decisions will have to be made on oil pricing and by turning the industry loose, that somehow we commit the industry to some ripoff of the American consumer. I would suggest there are members on the Finance Committee who are prepared, if we cannot encourage the industry to plow back their profits into more exploration, to impose a windfall profits tax or an excess profits tax. It is not the intent of anyone in this Congress that I know of to permit any group or any industry to reap a windfall profit.

We have wasted a lot of time looking for scapegoats. We have wasted a lot of time, whether we like or dislike Secretary Schlesinger, whether we believe or disbelieve that he is the molder of the energy policy. We have wasted time whether we are frustrated or not with the new Department of Energy, which costs about $11 billion, and does not do a great deal that we have been able to determine. In all fairness I am sure it must have some very heavy responsibilities.

It seems to me, and certainly there are other Members of this body who are experts in the area who have major responsibilities that instead of wringing our hands about how much oil we have lost from Iran, and the threats from Saudi Arabia—and they are real and should be addressed—at the same time we ought to talk about more production and what we are going to do about it. So far as this Senator knows we are more dependent every day on foreign sources of energy—every day.

We have had studies done in the Senate Finance Committee on how much oil might be available with proper incentives, for shale oil what we could do, with the proper incentives, to develop solar energy, geothermal energy, nuclear energy.

Though I certainly can understand the frustration that some in this body have with the Secretary of Energy, and which some have expressed earlier today, I would hope that we would gear up our efforts to finding some way to satisfy the American consumer rather than talk about Sunday gas closings and gas rationing. Hopefully those may be necessary in the interim time.

We have a larger responsibility. That responsibility is finding another source of energy, or sources of energy. There is oil out there and there is gas out there. It can be discovered. We still have the profit motive system in this country. It is not illegal to make a profit. But if, in fact, there are some who exceed the bounds of what we consider to be a reasonable profit, then we do have a tax system and that can be used to tax away windfall profits or excess profits.

Again, it seems to many of us, the industry ought to take that profit, and plow it back into more exploration, more research, more development, in an effort to find a new source of energy at a reasonable cost.

Mr. President, I again thank the distinguished Senator from Alaska for yielding and yield back any time remaining.

LET US BE FAIR

Mr. JACKSON. Mr. President, I rise to address the Senate in the interest of fairness.

Several of my colleagues have decided to take the floor today to deliver a concerted personal attack upon the Secretary of Energy, Dr. James Schlesinger. They appear to be contending that the critical energy situation facing the United States today is largely the result of his performance as Secretary.

Mr. President, let us review some of the history of Dr. Schlesinger's tenure fairly. He joined the Carter administration barely 2 years ago. At that time, most of the fundamental sources of our national energy crisis had been evident for years—in some cases for decades. I think all of my colleagues will agree to that.

Other "energy czars" and this Congress had been struggling with these problems for years without a great deal of success.

From the outset of his service as energy adviser to President Carter, Jim Schlesinger used his position to urge upon the administration, the Congress, and the American people the realization that the energy situation portended grave problems for the country. Indeed, for most of the past 2 years, he was criticized as a "hard liner" on energy, advocating excessively harsh policies to reduce U.S. dependence upon imported oil.

Some of my colleagues, in fact, have come to share his sense of urgency only since the Iranian upheaval.

Within his first year as energy adviser, and later as Secretary, he assisted with the presentation to the Congress, and the legislative creation of the Department of Energy. Simultaneously he oversaw the preparation of the President's national energy plan.

For nearly 2 years, he worked tirelessly to achieve a compromise which would give this country a program to control energy use. I can attest, from personal experience, to the incredible costs in terms of time, energy, and personal sacrifice that achievement required.

Now, my colleagues appear to contend that nothing was done in those 2 years, that the Department of Energy does not function, that the national energy plan is inadequate, and that, somehow, this is all Jim Schlesinger's fault.

Well, Mr. President, let me speak to that. I was as deeply involved in these matters as any Member of the Senate.

I do not recall very many speeches praising the predecessor agencies of the Department of Energy.

I do not recall my colleagues congratulating the Federal Energy Administration upon its fair and effective regulation of petroleum allocations.

I do not recall speeches lauding the Federal Power Commission for its dispatch, and I do not remember any overwhelming enthusiasm for the accomplishments of ERDA.

But I do recall that we in Congress did not give the President the Department of Energy he asked for. I recall some of my colleagues here today expressing grave concern lest the Secretary of Energy have too much power—that he might pursue energy-related objectives to the detriment of other considerations.

So we hamstrung the Secretary. We retained a totally independent FERC within the Department which can ignore or defy the Secretary at will.

And what about the national energy plan? We certainly did not endorse that in the form of the President's proposal.

Mr. President, I do not contend that the Congress should have endorsed everything the President proposed. Indeed, I vigorously opposed some of the proposals.

The point I hope to make is that it is hypocritical to seek a scapegoat for the present energy situation. We are all involved. We have all made our marks upon the history and not one of us—certainly not Jim Schlesinger—has been given the latitude to take his own course to deal with the problem.

Jim Schlesinger has given more of himself to solving these problems than most of us, and events have shown him to be right in his evaluation of the situation.

It is not remarkable that he has not created a perfect Department of several very imperfect agencies within a year. It is not remarkable that he has not corrected the errors of decades in 2 years.

Neither have we.

Mr. President, I hope that this body will not engage in the futile and demeaning exercise of blaming individuals for the problems of Government.

Constructive criticism of specific policies is appropriate. Disagreements over proposals are useful. Criticism of the executive branch is an important congressional duty.

But, Mr. President, let us be fair.

Mr. President, I yield briefly to the Senator from Mississippi.

JAMES SCHLESINGER AND THE ENERGY PROBLEM

Mr. **STENNIS**. Mr. President, I appreciate the Senator's yielding some time to me. I came here to the floor for this purpose. I have not had a chance to hear what has been said regarding Mr. Schlesinger and, of course, the right kind of challenge here is always in effect.

I am thinking of this matter now in terms of the energy problem. I have no solution. I do not think anyone does. But, for 4 consecutive years, I did hear testimony from highly competent witnesses regarding the research program necessary in this field of energy—new sources of energy, as well as the better utilization of present sources of energy. We started with coal, then over to nuclear power and covered the matter of oil and natural gas and on up to solar energy and then back to the so-called lowly wood, the burning of wood.

I can tell you right now, Mr. President, it is the biggest problem, by far, that has been before this body since I have been here. It does not defy solution, but we are going to have to search and work and cooperate a long time before we solve this matter, in my opinion; and then, only a part at a time. We must evolve a program, I have decided, for a remedy. We can do that and we will do it in time. My point is that there are going to be a lot of soldiers required to work in the ranks and in command and there will be some left on the field of battle as well as some with distinction, perhaps. But all along the line, where intelligence and learning and intestinal fortitude are required, we have this man, Schlesinger, to take the blame and carry on the program and do the hard work and advise and counsel with all of us the best he can.

I have seen him tested on many fields. I knew him as Secretary of Defense, as head of the CIA, and in the former positions that he filled. First I knew him, I think, when he was Chairman of the Atomic Energy Commission, which has been abolished on paper, but a lot of its problems are here. I found the man to be a giant. I do not owe him anything; he does not owe me anything. I have never done anything for him and he does not do anything for me. But he is a giant in his field. With all the ups and downs, I have not heard his integrity questioned. He is a man of character and judgment.

That does not mean he always has the right answer.

We do not take this problem lightly. We do not say it is the oil companies' fault. We do not say it is anyone's fault. We just say it is coming into a new era. It is going to tilt a lot of stops and starts.

We want strong men. We want strong men that can stand there and take the licks.

So I hope that we have patience now that we have this matter. We had patience in our committees, led unmistakably by the man to do it here in our body, the Senator from Washington. We did not vote together on all matters, but I knew he was doing his best, and the best turned out to be pretty good and it will be better next time, under the law as it applies to Mr. Schlesinger.

I would be derelict and feel guilty if I did not come here and say these things I have said.

I thank the Senator again for giving me a chance. I thank him for what he is doing. I am not giving praise for him, and I disagree on things in the Armed Services Committee, but I thank him for what he is doing.

Mr. **JACKSON**. Mr. President, I thank the distinguished Senator from Mississippi for his very generous remarks here today.

Mr. President, we are in this situation. I have 24 minutes remaining, but what I think would be the fair thing to do, speaking of fairness, is to yield 2 minutes to the Senator from Montana, then 2 minutes to the Senator from Oklahoma, so that the Senator from Ohio may have an opportunity to use his time sufficient to cover any comments he wishes to make, inasmuch as we will be going to other business at 2 o'clock under the unanimous consent.

Is that not correct?

The **PRESIDING OFFICER**. The Senator from Washington is correct.

Mr. **METZENBAUM**. I appreciate the courtesy of the Senator from Washington. I do not intend to speak further. I intend to yield 5 minutes of my time to the junior Senator from Oklahoma.

Mr. **JACKSON**. I yield 2 minutes to the Senator from Montana, then I will yield to the Senator from Oklahoma.

Mr. **MELCHER**. I thank my distinguished friend, the chairman of the Senate Energy and Natural Resources Committee, for yielding to me.

Mr. President, the problems we have with energy are a series of very important, complex problems. If we are ever to have a successful national energy policy, it is going to require all of our best efforts here in Congress, in the administration, in the private sector, and the public at large.

I believe it is entirely an oversimplification to blame the failures we have had in developing energy policies on the Secretary of Energy. Indeed, there is plenty of blame to go around, and we in the Congress can share that blame.

But we do not have time to carp and to divide ourselves on these issues at this particular time. Time is very much of the essence.

We need to work, to work very hard in any cooperative manner, exerting our best efforts to get to energy solutions.

The Secretary of Energy is in the form of a leader of the administration's efforts. We, here in Congress, must cooperate with the administration in those efforts.

The Secretary of Energy has outlined some programs that I find very acceptable, and some other points of view, policies that I find I have to object to on occasion.

But that is the way it is supposed to be in a democracy, and to single the Secretary of Energy out as the culprit, or as the distinguished chairman used the term, "a scapegoat," simply ignores the points, ignores the seriousness of our situation, and is not at all constructive.

I commend the efforts that the administration has made toward an energy policy. While not endorsing all those efforts to date, I want to work as diligently as I can to be constructive in developing that policy in a cooperative way with them.

I thank the chairman for yielding.

Mr. JACKSON. Mr. President, I now yield to the senior Senator from Oklahoma (Mr. Bellmon).

The PRESIDING OFFICER. The senior Senator from Oklahoma is recognized.

Mr. BELLMON. Mr. President, I thank my friend from Washington, the chairman of the Energy Committee, of which I am pleased to be a member.

Mr. President, this debate should not revolve around the criticism of the Secretary of Energy, or anyone else. The fact of it is, there is enough blame to go around; there is enough blame, going back to President Ford who, for reasons I could never understand, signed the Energy Production Conservation Act, which is largely responsible for the problems we have now; also, for President Carter, who failed completely in his campaign promise to decontrol natural gas prices.

There is blame enough for Congress, going clear back to 1969, when Senate Resolution 45 was introduced by the distinguished Senator from West Virginia (Mr. Randolph), when we had an opportunity then, before we had a crisis, to write meaningful and workable national energy policy. We failed to do so.

There is blame enough for the Congress, because we have literally wasted the 6 years since the 1973 Arab oil embargo by failing to write meaningful and workable energy legislation.

There is also a practical problem, Mr. President, and that is that if Secretary Schlesinger leaves, for whatever reason, it is going to be many months before a new Secretary of Energy can be installed in his place.

The fact is that if Congress repeats the pattern of the past, we will refuse to confirm any official who has in his past any experience in the oil business, or the gas business, or the coal business, and will insist on bringing in some novice.

It will take much to get that process resolved. It will take additional months to educate a new Secretary. It will take additional months for that Secretary to gain the mastery of his agency, learn to administer the departments that are under him, and also to learn the content of the energy laws we have passed. This simply means we would slow down the process by many months, or perhaps even 2 or 3 or more years.

At the present time, in light of the Iranian oil crisis, I am convinced the country is ready for some meaningful changes in our energy laws.

I understand that in a matter of days, President Carter will go on national television and lay before the country some new initiatives on energy. To do this, he is going to need the strong support of a Secretary of Energy who is knowledgeable in his field and who has the advantage of having dealt with the energy crisis and energy laws already on the books.

To me, it is remarkable that those who are now demanding Secretary Schlesinger's removal are the same Members who in the past have supported a lot of the legislation which is on the books and which is impossible for anyone to administer.

I challenge them to point out how Secretary Schlesinger could be improved simply by changing the name of the person in office when, rather, we should change our laws.

Mr. METZENBAUM. Mr. President, is the Senator from Oklahoma through?

The PRESIDING OFFICER. The 2 minutes yielded to the senior Senator from Oklahoma have expired.

Mr. JACKSON. I yield another minute.

Mr. METZENBAUM. I did not mean to interrupt. Go ahead.

Mr. JACKSON. As I understand it, the junior Senator from Oklahoma would like 5 minutes. I yield 2 additional minutes——

Mr. BELLMON. One additional minute.

Mr. JACKSON. Two minutes.

Mr. BELLMON. Mr. President, what I was about to say is that the problem is that Congress has put on the books a whole series of energy laws that defy the administration of any person.

It would take a superhuman to administer some of the laws that are on the books, such as the election laws. The fact is that no matter who holds this position, enormous criticism is going to be aimed at that Department. Making a change down there right now, when we finally have the attitudes developing not only in the country but also in Congress so that we can pass some realistic laws, would be a step in the wrong direction. The problem is that the laws need to be changed, not the Secretary of Energy.

Mr. METZENBAUM. Mr. President, I yield 5 minutes to the junior Senator from Oklahoma.

Mr. BOREN. Mr. President, it is rare, indeed, to find myself in agreement with my colleague the Senator from Ohio or the Senator from South Dakota who has spoken earlier on the question of energy policy.

For example, I very strongly support the decontrol of domestic crude oil prices. It makes absolutely no sense to pay our producers here at home, less to produce a product than we pay people in other nations. No other nation in the history of the world has followed such a fallacious policy. It contributes to the export of American capital and jobs to other countries. It helps to further undermine the value of the American dollar. It threatens our national security by encouraging continued and increasing reliance upon the Middle East and other overseas nations for the energy supplies necessary to keep this Nation moving ahead.

Nor can I support some of the other proposals made by the administration such as the standby rationing plan which blatantly discriminates against certain regions of the country. I have inserted into the Record elsewhere additional comments on the subject of rationing.

However, while some of my colleagues who have spoken today and I disagree on several fundamental matters of policy, I do find myself in agreement with them on the subject under discussion. The best interests of this Nation would be served by the immediate acceptance by the President of the resignation of James Schlesinger as Secretary of Energy. The Secretary has vacillated seeking to be all things to all people. He has failed to give clear direction to establish an energy policy for this country. Today more than 5 years after the Arab embargo, we are twice as dependent upon foreign sources of oil as we were in 1973, with 47 percent of our oil being imported today versus 23 percent in 1973, costing the trade balance more than $40 billion, further undermining the value of our dollar.

We have not moved forward to develop our vast coal resources, and many coal miners are unemployed today, because Government controls have prevented private industry from using coal. Totally unworkable bureaucratic controls in the natural gas bill so fervently supported by Secretary Schlesinger have contributed to a decline in the past 3 months of approximately 100 in the number of active exploratory rigs for oil and gas down from 2,385 to 2,263. Because of bureaucratic delays a badly needed pipeline to bring Alaskan oil to mideastern refineries bearing the brunt of current shortages has been canceled, costing our Nation 500,000 barrels of urgently needed oil each day. Nothing has been done to establish mechanisms for delivering badly needed and available natural gas from Mexico and Canada, energy sources which are much more consistent with our national security interests than the Middle East. In fact, Secretary Schlesinger's personal arrogance in dealing with our neighbors in Mexico set back the cause of joint use of these resources. It is well-known that the Secretary has failed to provide proper management of the strategic oil reserve. The building of reserves is far behind schedule and what is worse, we do not even have a capacity to pump and use the oil we now have in reserve. Temporary pumps which hopefully will be in place by July will only allow us to withdraw 200,000 barrels per day. There are even rumors of an internal investigation into the procedures used to construct the access system to the reserve.

The Secretary has failed to push for adequate development of alternative energy sources. He has failed to adequately encourage the development of oil reserves in old wells that could be recovered if the Secretary would change existing regulations or lend his support to measures like S. 316 and S. 477, by Senator Bentsen, which I have cosponsored and which through secondary and tertiary recovery methods and the prolonging of the life of old wells which are only marginally economic, could add 2.5 million barrels of oil to domestic production by 1990, more than four times as much as the shortfall due to the strife in Iran.

To be sure, Secretary Schlesinger cannot be solely blamed for the current lack of an energy policy for this country. There is plenty of blame to be passed around including blame to be shared by Congress and the administration. However, in order to get a fresh start, our Nation must have a Secretary of Energy who has credibility with producers and consumers alike. We must have a Secretary who can set production targets for all forms of energy and gain cooperation in meeting them. We must have a Secretary who can draft a comprehensive conservation plan and who will be able to gain the confidence of all consumers that one group is not being asked to bear more than its fair share of the sacrifice. Regrettably, because of his past performance, Secretary Schlesinger has lost the confidence of our people all across the political and geographical spectrum. In the interest of the Nation, he should step down.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, for not to extend beyond 2 p.m., with statements therein limited to 2 minutes each.

Is there morning business?

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

RESCISSION OF CERTAIN BUDGET AUTHORITY

Mr. ROBERT C. BYRD. Mr. President, is it not accurate to say that there is a 2-hour overall cap on this measure, that time on any amendment comes out of that 2-hour cap, and that there is a maximum of 1 hour for any amendment?

The PRESIDING OFFICER. The Senator from West Virginia is correct.

Mr. ROBERT C. BYRD. I merely say that so that the cloakrooms and the Senators' offices may be aware of the fact that we are now on the measure and the time is running, being taken out of the 2 hours; that if there should happen to be two amendments, with 1 hour each, that would consume the 2 hours. Also, rollcall votes are charged against the 2 hours.

Am I not correct?

The PRESIDING OFFICER. The Senator from West Virginia is correct.

Mr. ROBERT C. BYRD. So I hope that Senators who have amendments will come to the floor very soon, because time is running.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. I agree with the majority leader. I hope the parties involved will come to the floor so that we can get started.

However, I was looking at the RECORD for March 13, page 4914, where the following appears:

> Mr. ROBERT C. BYRD. Mr. President, with respect to Calendar Order No. 40, an act to rescind certain budget authority obtained in the message of the President of January 31, there is a time agreement on that by law, but I ask unanimous consent that the time on the bill under the built-in time agreement provided in the act be reduced to 2 hours for debate and that the time on any amendment be reduced to 1 hour.

I read that only to ask the majority leader if it is his interpretation of that request that there be 2 hours on the bill and 1 hour on each amendment or 2 hours all together.

Mr. ROBERT C. BYRD. Two hours all together, because under the law, there is a 10-hour cap, and I reduced that 10-hour cap to 2 hours. Under the law, all time on amendments and so forth comes out of that 10-hour cap.

If Senators want me to attempt to change that, I will do it. But here is the problem. If we reduce the time for the cap to 2 hours and do not provide for time on amendments, and so forth, coming out of that cap, then there really is no cap, and the purpose of the language in the Budget Reform Act was to provide an overall cap. If we say 2 hours on the bill and 1 hour on any amendment, we can go on for 100 hours. But if there needs to be a change, I am willing to work together with the minority leader.

Mr. BAKER. I appreciate that.

Mr. President, if the majority leader will yield further, I am afraid we have a little problem on our side. I need a little time to check our Members. I think that at least two Senators on this side think the agreement reduced from 10 hours is on the basis of 2 hours on the bill and an hour each on two amendments for a total of 4 hours.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. So if the majority leader will permit me, I wish to inquire a little further about that, and I may be in a position to ask him to modify that somewhat.

Mr. ROBERT C. BYRD. I can understand the distinguished minority leader's request. I can understand the interpretation placed on it by Senators.

I merely say that if that interpretation were to be followed, we then would in reality have no cap.

Mr. BAKER. Instead of 1 hour on each amendment, then we have 4 hours, 2 hours on the bill and 1 hour each on two amendments.

Mr. MAGNUSON. I do not think we will take 2 hours on the bill. I think we can get through with the bill in a half-hour.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. McCLURE. I will not offer any amendment myself, but I do know that when the matter was being cleared on this side of the aisle it was represented to me, and I can only assume it was to other Members, that it would be, as Senator BAKER has indicated, an understanding that there would be 2 hours of general debate and two amendments of not more than 1 hour on each.

Mr. ROBERT C. BYRD. Why do we then not, if it is agreeable to the distinguished manager—and this will be fair to Senators all around—make the overall cap 4 hours with the time on amendments clearly understood to come out of the cap because that is the intention of the language in the law.

Mr. BAKER. I think that would cover any representation we made on this side in order to get the agreement on March 13. I would appreciate that if the majority leader would consider it.

Mr. MAGNUSON. I think the Members should be notified that we may take very little time on the bill.

Mr. BAKER. I hope the Senator does it quicker than that.

Mr. MAGNUSON. And that the amendments should be here to be presented at this time.

Mr. ROBERT C. BYRD. Yes.

Mr. President, I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there are several Senators who must go down to the White House at 5 p.m. today to visit with the President with respect to his recent trip to the Middle East.

Let me again express the hope, and the distinguished minority leader joins me in this, that Senators who have amendments will come to the floor and call them up. The manager of the bill, Mr. MAGNUSON, is here at his post and duty and has been here. I hope Senators will come to the floor and call up their amendments, so that action may be expedited and the Senate can complete action on this bill before 5 p.m.

I yield the floor.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

> A bill (H.R. 2439) to rescind certain budget authority contained in the message of the President of January 31, 1979 (H. Doc. 96–46), transmitted pursuant to the Impoundment Control Act of 1974.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with amendments.

Mr. MAGNUSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask

unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I have a short statement on the bill before the Senate.

H.R. 2439, the Senate budget rescission bill for fiscal year 1979, rescinds $723,609,000 in budget authority. The President requested rescissions totaling $914,617,000, while the House recommends $705,869,000 be rescinded. These amounts involve five chapters in the bill under the jurisdiction of four subcommittees of the Senate Appropriations Committee. Two of the subcommittees are in complete agreement with both the House and the President.

Chapter III (State, Justice, Commerce) recommends $14,065,000 while the President proposed $23,665,000 and the House recommended $17,925,000.

So you can see there is not much difference between the House and the Senate.

Chapter II, the HEW chapter, recommends that $96 million be rescinded. The President had proposed that $227 million be rescinded while the House recommended $74 million.

Our figures are a fair compromise. A reduction of only one-fifth in capitation and all schools are treated the same—nurses, doctors, veterinarians.

That concludes my statement. The distinguished ranking minority Member, Senator Young, could not be here until later. He is unavoidably detained at another meeting, but I will leave the record open in case he has a statement, and I am sure his general statement will agree with mine.

I also want to place in the Record at this point, and I ask unanimous consent to do so, a statement by Senator Hollings, from South Carolina, regarding these amendments proposed in the State, Justice, Commerce, the Judiciary, and Related Agencies Subcommittee.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. HOLLINGS. Mr. President, there are amendments proposed for both items under the jurisdiction of the State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee.

For the Foreign Claims Settlement Commission the committee recommends reducing the rescission by $1,000,000 in order to retain that amount for the Commission's 1980 expenses. Similar action was taken with respect to the Commission's budget in 1979 and this action is consistent with the committee's recommendations to the Budget Committee.

The committee also recommends rescinding $6,065,000 of the $14,665,000 rescission proposed for the Small Business Administration. We have worked with the Small Business Committee on this and would really rescind $12,065,000 of the amounts proposed by the President for rescission; or all but the $2,000,000 for additional contracted management assistance to minority firms, and the $600,000 for the Small Business Institute. However, we recommend retaining $6,000,000 for the administrative expenses of the $620,000,000 disaster loan fund supplement that was submitted by the President on March 5. This was not in the rescission proposal, but the committee believes it makes little sense to rescind funds one day and restore them a week later.●

Mr. MAGNUSON. Now, Mr. President, I make the usual motion. I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be considered as original text for the purpose of further amendment and that no points of order be considered as waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments agreed to en bloc are as follows:

On page 3, line 14, strike "$24,750,000" and insert "$46,350,000";

On page 3, line 25, strike "$9,000,000" and insert "$8,000,000";

On page 4, line 5, strike "$8,925,000" and insert "$6,065,000";

Mr. MAGNUSON. Mr. President, I yield to the Senator from Louisiana who proposes an amendment to the bill.

AMENDMENT NO. 102

(Purpose: To rescind $167,893,000 in budget authority of the funds provided for "Health Resources" for fiscal year 1979)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. Johnston) proposes an amendment numbered 102:

On page 3, line 14, after the comma strike "$46,350,000" and insert in lieu thereof "$167,893,000".

Mr. JOHNSTON. Mr. President, the President of the United States sent to Congress a rescission totaling $167.9 million in four categories: Capitation grants for medical schools, dental schools, et cetera; health professional student loans; emergency medical training; and nurse training programs.

Mr. President, the House of Representatives disapproved most of the President's rescission, and out of $167.9 million went along with $24 million of that rescission.

The Senate went along with only $46 million or about 27 percent of the rescission.

(Mr. BRADLEY assumed the Chair.)

Mr. JOHNSTON. What my amendment does is to restore the full amount of the President's rescission.

If there is one sentiment that is firmly fixed in the minds of the American people it is the desire to cut out excessive wasteful spending. I am afraid that people across this land believe that the budget can be balanced easily without pain at all and without the shoe pinching. The fact of the matter is, Mr. President, that if we are going to make real progress toward a balanced budget, the shoe must pinch, and if we cannot cut in these categories, in categories that are plainly and clearly not needed, then we cannot cut anywhere, and we might as well wake up to that fact in this Senate.

This amendment, Mr. President, is of enormous symbolic significance because it is the first test in this Congress as to whether we are going to go along with some fiscal sanity, with some budget cutting, with some tight-fisted spending practices or whether we are going to do like we have always done here, and that is give a lot of rhetoric in favor of balanced budgets and fiscal sanity, and give a lot of votes toward a lot of spending.

Twenty-eight of 34 States necessary for a constitutional convention on an amendment for a balanced budget have in one form or another sent up an approval of a balanced budget by constitutional amendment.

Inflation is going at 9 percent, the prime rate over 12 percent. The cost-of-living has almost doubled in over 12 years. Every poll shows inflation and Government spending are the top concerns of the American people. We have a sustained inflation rate now over the last 5 years of over 8 percent, higher than it has ever been in American history in a sustained way. It was only 5 percent in the last decade. It was less than that in the fifties.

We have energy bills that are going out at the rate of $50 billion a year. We have drags on our economy that make things fundamentally different now than they have been. We are going to have continued inflation unless we do everything in every field that we can to cut down. One area where we can cut down, Mr. President, is in the area of Government spending.

When we look at Government spending it is very difficult to make cuts because most is uncontrollable in that Federal budget. Out of a Federal budget of a little over $500 billion, roughly $525 billion, if you take the President's figures, almost $375 billion is totally uncontrollable. Over $100 billion for social security; $90 billion for prior-year contracts, contracts already entered into in prior years, and which must be paid off now; over $50 billion for interest on the national debt; over $5 billion for SSI; $10 billion for military retirement; $12 billion for civil service retirement; $12.6 billion for veterans' benefits; $30 billion for medicare; $11.6 billion for medicaid, and so on, until you get $375 billion.

In addition to that, you have the uncontrollable part of the defense budget, which is in the neighborhood of something like $75 billion. So you end up with about $450 billion out of $525 billion that is uncontrollable.

We are dealing in this rescission area with part of the controllables, so the question arises: Is this absolutely essential that we spend this money or should we not go along with the President?

I think it is absolutely clear that this money is not only possible to cut out but falls in that category of frills, and unnecessary frills at that. There are four categories here, Mr. President. The first is the category of capitation grants to medical schools. I think we ought to ask ourselves the fundamental question: Do we need more doctors in this country?

Mr. President, the Congress of the United States has answered that question in Public Law 94–484, which is the Health Profession Educational Assistance Act of 1976. The Congress of the United States made this finding:

> Congress further finds and declares that there is no longer an insufficent number of physicians and surgeons in the United States.

We made that finding back in 1976.

The fact of the matter is, Mr. President, there are two and one-half times as many applicants for every spot in medical school as there are spots to fill.

The number of medical school graduates has doubled in the last 10 years from 8,000 to 15,000. That is according to an HEW report. The number of active physicians, Mr. President, has gone up from 323,000 in 1970 projected to be 400,000 in 1980, and projected to be 600,000 in 1990. It is going up much faster than the population.

According to HEW, by 1990 we are expected to have an oversupply of doctors, an oversupply of somewhere between 23,000 and 51,000 physicians.

Here we are, Mr. President, in a situation where Congress has made the finding that we have enough doctors, where HEW says we are going to have an oversupply, and yet what are we doing? We are subsidizing the education of doctors at medical schools. Here we are in a situation where the country is going broke and we are subsidizing poor doctors.

Do you know what doctors make? HEW tells us that doctors make $67,000 a year, that is in 1977—excuse me, that is the Council of Economic Advisers which says they make $67,000 a year in 1977. What do they make in 1979? I am sure it is over $70,000.

So we in the Congress, not needing doctors, project an oversupply, but are continuing to subsidize the doctors.

Mr. President, if this were the only way that doctors could get their tuition, if these poor doctors, who have to get by on something over $70,000 a year, could not get their tuition in any other way, I would say maybe we ought to go along with it. But, Mr. President, there are other programs. There are other programs that provide money for training doctors. The HEW loan guarantee program provides up to $10,000 a year, and 10 to 15 years to pay back. It covers this kind of situation.

The average medical school tuition, Mr. President, is $3,000 a year, and actually two-thirds of the students pay less than $1,600 a year. If this rescission goes in, it would raise tuition on an average of something between $200 and $270 a year. I say it would raise tuition; it would take away that much per capita from medical students, depending on the kind of specialty they are in—a very manageable increase when you consider the average income of doctors.

Mr. President, if we could say that we needed the doctors, it would be a different situation. But we do not need doctors. There are other programs that cover the tuition; and more than that, Mr. President, HEW says that an oversupply of doctors is not neutral, but is an absolute evil to the economy. Why? Because HEW has found that the oversupply of doctors will generate what they call physician-generated demand, which is a phenomenon that takes place when you have too many doctors who are trying to make a living in a town and so they are generating extra tests, extra procedures, extra laboratory tests, and they run up the costs of medical care unnecessarily.

According to HEW, the oversupply of doctors by 1990, which they predict will be in the neighborhood of 23,000 to 51,000, will cost the American public, in terms of unneeded medical care, between $6 billion and $13 billion.

Mr. President, when the President of the United States sends up a rescission to cut capitation grants for a service that is not needed, for people who can afford to pay the tuition, and when they turn out unnecessary doctors, who, in turn, would cost the American taxpayer money, I say, Mr. President, it is time for this Congress to support the President.

The same thing is true in the other categories of unnecessary spending. Emergency medical training, for example, trains paramedics and nurses—an admirable kind of activity to be engaged in, Mr. President, but it is unneeded. We have already trained 80,000 people under the program. It is time for the States to take over some of this responsibility.

Nurses' training programs. According to CBO, we now have a balance between supply and demand in the total supply of nurses. They say that as of 1972, the supply of nurses was 795,000 and the demand for nurses was 795,000, or the supply and demand balanced. Now, to be sure, Mr. President, it is not balanced nationally. There are many rural areas in this country—and in my State—where we do not have enough nurses. But just increasing the number of nurses coming out of school is not going to solve the problem. We have to make it more attractive to be out in the country. We have to have programs designed to put nurses either in the rural areas, the low-income areas, or the inner city areas, where it is not so desirable to be. That is the problem. It is the same problem as with the doctors.

According to HEW, Mr. President, in the year 1990 it is estimated that the number of nurses will go up from 795,000 to 1,241,000, or almost double—growing at a rate much faster than the population as a whole. Again, Mr. President, the problem is maldistribution, and capitation grants do not solve the problem of maldistribution. They have nothing to do with it.

There are other programs that do solve the problem of maldistribution. The National Service Corps scholarships, for example, Mr. President, are granted to doctors based upon the place where they will practice and the area of the profession they go into. It is a program calculated to solve the problem, not simply a program to spend the taxpayers' dollars without getting any benefit from the expenditure.

So there you have it, Mr. President: A demonstrable non-need. A situation where Congress has found we do not need more doctors; we have found there are already enough. HEW predicts we are going to get too many doctors, which will cost the taxpayers money, and here we are, the first crack out of the box on budget restraint for this year, for this Congress, that the first vote will come up on the question of whether or not we are going to subsidize an unneeded service for a group who do not need the help—the most affluent group in America, the physicians.

Mr. President, I think it is time we made our first declaration, in this highly symbolic vote, to uphold the President on a very reasonable rescission.

At this point, Mr. President, I yield to the distinguished Senator from Oklahoma (Mr. BELLMON). Is the Senator from Oklahoma on the floor?

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, will the Senator from Massachusetts yield me some time?

Mr. KENNEDY. The Senator from Washington has the time.

The PRESIDING OFFICER. The Senator from Washington has control of the time.

Mr. MAGNUSON. I will do so as soon as I make a statement.

Mr. President, the committee considered this matter very thoroughly. I am in general agreement with the Senator from Louisiana that we ought to cut where we can cut. The Appropriations Committees in the House and the Senate have always cut the President's budget. Last year, we cut it by $8 billion. This year the budget is a little more austere, and we will probably cut it by a smaller amount; but I am sure we will end up cutting the President's 1980 budget.

This is a matter of rescission. The House did a pretty good job, cutting it from the $900 million asked by the President to approximately $700 million.

It is a question of priorities within the total amount. We looked at this item very carefully.

The real problem here is not the number of health professionals, but their geographical maldistribution. Capitation does not do much to help that. Scholarship programs like the Health Service Corps directly impacts on getting people to the area suggested by the Senator from Louisiana.

We have increased this program by about $50 million in the last 3 years. The emphasis has been placed upon student loans and scholarships. But I think the committee felt that the reduction proposed by the President and passed on by the House of Representatives, who did not agree to the rescission at all, was too much. We proposed a cut of one-fifth.

This is a fair and reasonable compromise between those who want to fully fund capitation and those who want to eliminate it. All schools are treated equally.

As a matter of fact, there is authorizing legislation proposed now to phase out the entire program.

Capitation grants were added to the health manpower bill in 1971 as one of the components of a broad Federal response to the national shortage in health manpower.

Our capitation rescission proposes a reduction of approximately 20 percent. We think that is fair.

The argument will be made here that some of the students are in school and this might interfere with what they were going to get. But that is not true. This year there is sufficient money down there to take care of these people. These programs are often over a year in taking effect, since there is a lot of forward funding in here. We think that 20 percent is correct.

I do not disagree with some of the figures the Senator from Louisiana had. HEW estimates a possible oversupply of physicians in 1990, between 23,000 and 51,000, but that is an estimate. We want to keep some of the capitation grant going, particularly this year. We are going to meet and review the full matter of capitation grants in these schools next year and in the present budget, too.

So I am hopeful that we will not agree with the drastic position submitted by the Senator from Louisiana, but that we will agree with a great majority of the Appropriations Committee, that we agree to a rescission of 20 percent.

Those who propose full funding of this matter realize that if we go to the House with 20 percent we are apt to end up with 10 percent. So I think this is a reasonable compromise for everyone in the Senate to consider. Therefore, I oppose the drastic position of the Senator from Louisiana.

I yield to the Senator from Massachusetts such time as he may require.

Mr. KENNEDY. Mr. President, I thank the Senator from Washington.

Mr. President, I hope the amendment of my good friend and colleague, the Senator from Louisiana, will be rejected here on the floor of the Senate.

According to an article in the Monroe, La., World, dated December 17, 1978, there is a shortage of registered nurses throughout Louisiana. The State Times in Baton Rouge, La., for Thursday, March 24, 1977, also has an extensive article about the nurse shortages in that State. The Louisiana Hospital Association reports a statewide shortage of 1,200 registered nurses in hospitals alone.

Yet when the Secretary of Health, Education, and Welfare testified before the Health Subcommittee about nursing shortages, he indicated that there was not any shortage in this country.

I have in my hand, Mr. President, newspaper articles published during the last several months that refer to small communities all over this country which are advertising for nurses. I have also read the statistics from HEW and OMB.

I think the advertisements from the small towns and communities all over this Nation are important. Their importance is neglected by the Senator from Louisiana.

Mr. President, the Senator from Louisiana has acknowledged the shortage of doctors in underserved areas. We understand that in our Senate Health Committee. One of the primary reasons for the shortages in underserved areas, Mr. President, has been that we have been graduating from our medical schools an insufficient number of doctors—up to about 7 years ago when we doubled the number of doctors, second, for the shortage has been that the doctors we were graduating are highly specialized doctors.

In response to this physician shortage, the Federal Government made a contract with the medical schools. That contract was, first, that we would double the number of doctors, and, second, that we would move to 50 percent the primary care functions in our medical schools.

The medical schools responded by doubling the number of doctors and they are responding in primary care.

But the young students who go to medical schools have great financial needs. If we accept the amendment of the Senator from Louisiana and cut back on the support for the medical schools, one thing will clearly happen: tuition will go up. The indebtedness of medical students will go up. If Senators think that will help medical school graduates go back into the rural areas, go back into the small communities, and go back into the inner-cities, Senators fail to understand the history of trends and flows among young medical graduates over the period of the last 20 years.

Mr. President, it must be understood that what we are talking about is not just capitation. We are also talking about cuts in the National Institutes of Health. Where does the NIH spend a good percentage of its resources? The NIH devotes a significant percent of its resources to the medical schools. The proposed budget for NIH is virtually the same as last year, which is a real reduction of from 9 to 10 percent. Medical schools are going to feel that cut.

In addition to the reductions in capitation and the reductions resulting from the NIH budget, you have, at the same time, the Office of Management and Budget issuing entirely new guidelines to the medical schools of this country which will increase their accounting costs and reduce the overhead they now claim from Federal agencies.

Ask any medical school dean what the practical implication of these changes mean. They mean a significant reduction in the amount of resources the medical schools are going to be able to receive.

Finally, the section 227 restrictions under medicare, which apply to the teaching hospitals of this country, will reduce the reimbursement those hospitals receive for services provided.

All four of these changes—the capitation cut, the NIH reduction, OMB's overhead regulations, and section 227—affect the medical schools.

The Appropriations Committee has approved a reduction, in terms of capitation grants to the medical schools, of 20 percent. I am hopeful we can restore that and other reductions.

With the acceptance of the amendment that I shall offer—after the defeat, I hope, of the Johnston amendment—there will still be a rescission of $50 million in the medical budget. What there would not be is, in effect, a violation of a Federal agreement with the medical schools.

Mr. President, the medical schools read last year that the President of the United States signed the Labor/HEW appropriation bill. Not one word was said at that time—not one word—that the President was going to rescind money.

The authorizing committees had authorized funds for capitation, the appropriating committee appropriated the money, and the President of the United States signed the bill. And the medical schools believed that money was going to be available to them over the period of the next year. They have made decisions on faculty, they have made decisions on tuition, they have made decisions on school size. The flow chart for medical registration starts on July 1 of this year.

Until the rescission was proposed, there was no suggestion of any cut in fundings.

Mr. President, these capitation rescissions represent a serious violation of an agreement—a contract—among the Congress of the United States, the administration of this country, and the medical, nursing, and other schools of this country.

One can ask questions about the merits of capitation. Our Committee on Health is reviewing that issue. HEW appointed one of the most distinguished groups of medical educators that has ever been developed to review the whole issue of capitation, and to determine whether this was the most effective way to meet the health profession needs of this Nation. They are reporting back, and our authorizing committees and we, are waiting for that report.

We welcome the participation of any Member of this body in that discussion and debate. But while that debate is taking place, we should stand by our agreement and reject the rescission. We should not abandon this country's contract with medical education. The Johnston amendment would do that, Mr. President, and I hope it will be defeated.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. KENNEDY. I yield.

Mr. JOHNSTON. I ask the Senator, did Public Law 94–484, the Health Professions Educational Assistance Act of 1976, not matriculate through the Senator's subcommittee?

Mr. KENNEDY. The Senator is correct.

Mr. JOHNSTON. Did not that act of Congress state as follows: "Congress further finds and declares that there is no longer an insufficient number of physicians and surgeons in the United States"?

Mr. KENNEDY. The Senator is quite correct. If the Senator will permit me to amplify on that: We are hoping that, eventually, we can develop a cost-flow analysis for every professionally and medically trained person in this country. They do that in most industrialized nations. They do that in Canada. They can figure out that, for every surgeon that graduates, it is going to mean $900,000 in terms of services and payments; for every family physician, it is about $350,000. We talk about the budget process; that is the kind of evaluation that should be done.

It is my position, and I daresay the position of the overwhelming majority of the members of the Health Committee, that we do not need more doctors.

It is, second, my position that there is a critical shortage of trained medical personnel in underserved areas.

It is, third, my position that dealing with that issue is enormously complicated. There are no simple answers.

When the Senator from Louisiana talks about the Health Service Corps, there is no one who supported it more than I did. Basically, that program developed as a result of the debate that took place on the floor of the Senate of the United States after the U.S. Senate rejected proposals from the Senate Committee on Human Resources that made service in underserved areas an obligation of medical school graduates. We decided to do it through a voluntary program.

I am familiar with that program. It is an excellent program. I was out talking to Health Service doctors from the eastern part of the country 8 weeks ago in Virginia. I am a strong supporter of the program. We ought to continue it.

But what we are trying to do, Mr. President, is look at all this from a multidimensional point of view. What the Senator's amendment would do is, basically, bring absolute havoc to medical education in this country.

There is a most difficult and complicated relationship between the medical schools and the Congress. Medical schools say, Let us graduate whomever we want, and we do not want the Federal Government telling us what to do.

We say, in Congress—or at least, I say, Look, 60 percent of the funding of medical education is from the American taxpayers. The American taxpayers need what? They need primary-care physicians. We understand the importance of academic freedom and intellectual independence, but we also have a responsibility and we need the doctors in those underserved areas.

There are two basic and fundamental American traditions which must be continued: On the one hand, academic freedom, and, on the other, our responsibility to try to provide adequate medical professional service in underserved areas.

We did work this kind of arrangement out for a limited period of time, and it includes capitation at this particular time. Capitation may not continue in the future. But I do think that the HEW committee on it, composed of distinguished medical educators with different philosophies and views about this problem should have an opportunity to make a representation to the Congress.

The Senator's amendment effectively violates one of the most fundamental kinds of agreement. It does so in an area where the medical schools have counted on the agreement.

Mr. MAGNUSON. Mr. President, I oppose this amendment and I think we ought to get some of our figures correct.

The Senator from Massachusetts mentioned primary care as one of the reasons why we should have the full amount and not take the 20-percent reductions recommended by the committee. Primary care is up from $17 to $31 million in this budget.

Capitation grants would not necessarily help the underserved areas. As a matter of fact, the number of medically underserved areas has grown since capitation started. The problem of medically underserved areas is best resolved by supporting scholarship prorgams like the Public Health Service Hospital Corps. The Senator from Massachusetts and I have been strongly for National Health Service Corps scholarships. In fact, I introduced the Health Service Corps bill.

Mr. KENNEDY. That is right.

Mr. MAGNUSON. I think we ought to put capitation in the role where it belongs. The committee has recommended a modest reduction in capitation and it will not hurt any of the students now in the colleges—that is true. There is plenty of money to take care of them.

This is forward funding for next year.

Mr. BUMPERS. Will the Senator yield me 5 minutes?

Mr. MAGNUSON. I yield 5 minutes to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I want to speak against the amendment.

Mr. MAGNUSON. May I also point out that we have put emphasis on student loans and scholarships, particularly scholarships—these programs have grown to over $140 million to provide support for 76,000 health students. So we are providing for the periphery of health manpower.

Mr. BUMPERS. Mr. President, I have asked that a list of 35 States be placed on every Senator's desk.

These 35 States, including Oklahoma, have fewer patient care physicians per 100,000 people than the national average of 135. When HEW says we are approaching a 25,000-doctor surplus in this country, I do not believe it.

Mr. MAGNUSON. Will the Senator yield to me?

Mr. BUMPERS. Yes.

Mr. MAGNUSON. That is the point I was making, that capitation does not have too much to do with aiding medically underserved areas. Capitation has helped increase the number of medical professionals and we want it to continue in a modest way. But the shortages of doctors and nurses in underserved areas has continued to grow since capitation started.

Mr. BUMPERS. I consider this recision a breach of faith with the States.

In 1972, when I was Governor of my State and HEW and the U.S. Government, particularly the Department of Defense, were saying, "Produce more doctors," we were beginning plans for monumental increases in the number of doctors in our State. I got the legislature to appropriate almost $40 million—which is a lot of money in Arkansas—to build another wing on the medical school.

During my first year as Governor, we produced 80 doctors. During my last year in office, we produced 121.

Mr. President, we are a medically underserved State. We rank 48th in the number of patient-care physicians per 100,000. That is a grave problem. Admittedly, we do not have a doctor shortage in certain areas of my State. Thirty-five percent of the doctors work in one county. Sixty-nine percent of the doctors in my State work in 10 counties, but they serve only 29 percent of the people.

That just simply means we have 31 percent of the doctors in our State serving the remaining 61 percent of the population.

It is a question of maldistribution.

Mr. President, you say, "What has this got to do with capitation?" I will tell you what. No. 1, we spend $28,000 a year for every medical student in our medical school—$28,000 a year—and what did our medical school's grant amount to last year?—$1,392 per student a year, or just over 5 percent of the cost of educating a medical student at the University of Arkansas.

And where does the biggest exodus of doctors to my State go? Where? To the U.S. military.

The Government wants to take away a measly 5-percent capitation grant, and what will we do? I can tell you what. Because our legislature is going home next week, we will have to double tuition in our State, because that is all we can do to make up for this deficit.

It is a breach of faith. State legislatures across the country are going to be going home before they can do anything about these cuts. The medical schools will have to fend for themselves.

What will they do? They do not have any choice.

We are using money now to establish area health education centers to keep doctors in the rural areas. We have student loan programs that "forgive" the student's liability if he or she agrees to practice in a medically underserved area. They agree, but the minute they get out of school they pay off that loan. It is the same old story.

We are unable to get people to go into the medically underserved areas.

As Senator KENNEDY points out, not one word was heard from HEW, or the White House, or any place else, when we passed this appropriation last year. The States relied on it, and they had that right.

Mr. President, I am cosponsoring an amendment by the Senator from Massachusetts which would remove the 20-percent rescission. I do that with some reluctance, because I favor reducing our Federal budget.

The PRESIDING OFFICER. The 5 minutes have expired.

Mr. BUMPERS. One minute.

Mr. President, I want everybody in

this body to know that this is just the embryo. The President seeks a 20-percent cut in capitation grants this year. Look and see what the President has budgeted for 1980—zip, nothing.

So when we rescind today, we send a message saying:

> Well, it's all right, let's cut 20 percent out now, and next year, let's eliminate capitation grants entirely.

So this is just the beginning. We are saying that in the future those 68 percent of the students in my State who need financial assistance in order to go to medical school will have to come up with another $1,370 or $1,380 next year.

I yield to no man in this body when it comes to trying to cut spending. I voted for every rescission the distinguished chairman offered in the Appropriations Committee the other day except the doctor capitation grant. I even had reservations about supporting a continuation of nurse capitation grants, despite the fact that we suffer from an inadequate supply of nurses in my State.

The President asks us to spend $1.6 billion for an aircraft carrier that hardly anybody outside of the Navy wants, and then asks us to cut out $30 million in capitation to train doctors in this country. It is a breach of faith.

Mr. President, I yield the floor.

Mr. JOHNSTON. Mr. President, how much time is left?

The PRESIDING OFFICER. The Senator from Louisiana has 13 minutes and 41 seconds.

Mr. JOHNSTON. Out of how much?

The PRESIDING OFFICER. Out of 30.

Mr. JOHNSTON. Whose time was charged to me, Mr. President?

The PRESIDING OFFICER. The Senator, according to the time sheet, used 16 minutes.

Mr. JOHNSTON. Very well.

Mr. President, let me clear up just a couple of points.

First of all, the distinguished Senator from Massachusetts talked about NIH cuts in my amendment. There are no NIH cuts in my amendment.

Let us see where we really are in this argument, Mr. President, because it is so simple. We are agreed, I think all parties to this argument, the Senator from Massachusetts (Mr. KENNEDY), the distinguished chairman, the distinguished Senator from Arkansas, that there is no need for additional doctors in the United States. The problem is maldistribution. Everybody agrees to that.

Yet the problem of capitation grants does not address itself to that problem of maldistribution. Indeed, Mr. President, we could increase the amount of capitation grants and we still would not get more doctors.

We have every slot in every medical school in the country filled now, every slot, 2½ applicants for every slot waiting to get in.

The amount of capitation grants for that is not going to increase the number of doctors. It is not going to solve the maldistribution problem. We have programs that will, like the National Health Service Corps scholarships. But this does not do it. This is simply giving money to medical students who can expect to make, on the average, over $70,000 a year when they get out of school.

Mr. President, we talk about budget cutting. Let me say, Mr. President, the spending ceiling on the second concurrent resolution from last year, under which we are now operating, the estimated outlays thus far are $3 billion higher than the second concurrent resolution.

We are heading for busting last year's budget by $3 billion. Yet, we come along here to use more money to get more doctors, when it will not get more doctors; nor do doctors need it; nor will it solve the problem of maldistribution, and we cannot restrain the temptation to give it to doctors.

Mr. President, if we cannot sustain this rescission for doctors, where can we sustain it? The Senator from Arkansas says in national defense and aircraft carriers. I think there are some Senators who would vote that way. I submit that the majority of Senators are not going to vote to cut the defense budget.

Where else is it going to be done? Cancer research? Social security? I do not think so. We have to cut where it is possible to cut, and it is possible to cut here because we do not need the money. Doctors are going to make more than $70,000 a year.

It is not going to result in additional doctors, and it is not going to help the maldistribution problem. I am aware of the maldistribution of doctors and nurses. We have that in my State. The Senator from Massachusetts was correct when he pointed out that there are areas in my State and every other State where we need more nurses and doctors. But just cranking them out of medical schools is not going to help. They will go to New York City, Boston, or New Orleans, where there is going to be an oversupply.

What does an oversupply do? It increases the competition among doctors, and they order medical tests, laboratory tests, and medical procedures that are not necessary, and they run up the cost to the customer. That is precisely what HEW has found. HEW has found that the oversupply of doctors, if not restrained, is going to cost $6 to $13 billion by 1990.

Mr. President, medical schools can afford to take a cut. As a member of the State legislature, I was the author of a bill creating one. Do Senators know how many staff members there are per student in medical schools? There are 1.3 staff members for every student. Do Senators think that is necessary? There is almost one staff man for every doctor. Do you know what they are doing? They are spending Federal bucks: Research moneys, capitation grants. They are spending it like there is no tomorrow.

I love the medical schools, I love the people who run them, and I love doctors. But if anybody can afford to take a cut, it is in medical schools that have 1.3 faculty members for every student.

If we do not cut here, we are not going to cut anywhere, and we might as well face the music. I think we can cut here.

Mr. STEVENS. I yield myself 5 minutes from the time on the bill.

Mr. President, I have great respect for the comments that have been made by the Senator from Massachusetts. I believe that, at some time in the future, we should set down some guidelines as to how we are going to handle items such as this; because, to a great extent, this is much like what President Nixon did in terms of impounding money.

On the other hand, I am convinced that the work the Appropriations Committee has done on this proposal is fair, and I intend to support it as it came from the committee.

It seems to me that we need some guidelines. In the future, I shall oppose any rescission or deferral on moneys that were destined to go from the Federal Government to a State or local government or an organization such as a university. They make their plans on the basis of our decisions. They look at what we do after we pass our appropriation bills and our authorization bills, and they make their plans.

When, a year later, an administration comes along and says: "No, we're going to cut that, and the money you thought you had coming, you don't have coming," fiscal planning is thrown out of whack.

If we want to use the rescission and deferral process, I urge strongly that it be limited solely to the functions of Government, where we control the functions of Government; and the President, if he wishes to do so, can tell the Secretary of HEW that certain money is not going to be approved for spending because he is going to submit a deferral and he does not agree with what Congress did. But when we lead the rest of the country to believe that a portion of the Federal revenues is to be made available to assist in programs that are not Federal in nature, I think we should not entertain a rescission or deferral.

In this instance, we are faced with a tough question: What is to be done with the total proposed rescission? We had a proposed rescission of $167,893,000 out of $263,100,000. That is a tremendous rescission, applied across the total area of the Health Resources Administration, including health profession student loans, capitation grants, and emergency medical training.

What we have come out of the committee with is a request that the Senate approve a rescission of $46,350,000. In other words, we have met the President's desire partially, and I understand from what the chairman says that on capitation programs we have recommended a cut of one-fifth of the amount they have suggested be cut.

In this circumstance, this year, I am prepared to agree with that. However, we should have some rules; because what the Senator from Massachusetts says is correct on one hand, and what the Senator from Louisiana says is correct on the other. We do not have the money to be guaranteeing things to these people in the future, but those decisions ought to be made in the first instance.

My good friend, the ranking minority member of the Budget Committee, is sitting behind me, and he has warned us time and again about this, and it is time we started thinking in advance about making money available. I basically do not believe in telling students who already are in school that their grants are not to be funded. If universities are already conducting training, how can we tell them that it is not to be conducted?

I am told that I am in error about one thing in terms of the funding for the classes. It is forward funding. I apologize for that. The point still is the same. They are making their plans for the coming school year based upon what we did last year.

Is that correct?

Mr. MAGNUSON. Yes.

Mr. STEVENS. I certainly do not believe in making moneys available to non-Federal institutions and State and local governments on the basis that we are likely to change our mind later.

Mr. MAGNUSON. We still believe they can do it adequately with the 80 percent.

Mr. STEVENS. I agree with the Senator. It is my understanding that that is the position of those who have supported the chairman of the Appropriations Committee on this side of the aisle. We support the compromise report of the Appropriations Committee.

With due respect to my good friend from Loiusiana, I hope his amendment is defeated, and I hope the amendment of the Senator from Massachusetts is defeated, and that the Senate will concur in the very difficult decision that has been made by the Appropriations Committee.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

The PRESIDING OFFICER (Mr. TSONGAS). The time of the Senator has expired.

Mr. JOHNSTON. I yield 1 minute on my time.

I ask this of the distinguished Senator from Alaska: I think he alluded to the fact that this is forward funding, so that those in school this year would not be affected at all. It is for a school year which has not begun. The Senator understands that, does he not?

Mr. STEVENS. I stand corrected. It is forward funding. But plans have been made; the applications of the students have been received. The whole concept of planning for the next school year has taken place, as I understand it. It is forward funding, but it is forward funding in the sense that it goes into effect in September of this year, 1979.

Mr. JOHNSTON. Mr. President, I yield 5 minutes to the distinguished Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 5 minutes.

Mr. BELLMON. I thank my friend from Louisiana.

Mr. President, coming as I do from a small State and a rural State, I understand fully the problems of maldistribution.

If I felt for 1 minute that providing money for capitation was going to help solve that problem, I would be in here offering to increase this above the Kennedy amendment.

It already has been pointed out that the problems of maldistribution have become worse and worse over the years. I have in my hand a table published by the Congressional Budget Office. It shows that in 1980, the percent of U.S. national average of doctors for New England will be 135 percent and that the percentage of the national average of doctors in the West-South Central area, where I live, will be 84 percent. So the New England area has roughly—not quite, but almost—twice as many doctors per capita as does the rural Southwestern section, in which the State of Oklahoma is located. This is a result, I submit, of ongoing funding. As long as we keep those policies in place, this problem is going to become worse, not better.

I believe we could take the same dollars and redirect the funds, target the funds, to produce medical services in the area where those services are needed. We should do that, rather than keep to this folly, a policy that obviously is failing.

For that reason, I support the amendment offered by Senator JOHNSTON, and I congratulate him for the courageous stand he has taken here today. It is not easy to oppose the medical schools and the pressure they have brought on Members to support the restoration of these funds.

I have another reason for supporting Senator JOHNSTON, and I think this is something we should consider. We know that inflation is a major concern of most Americans.

The results of the fall elections, support for proposition 13-type amendments and recent widespread support for budget-balancing amendments all indicate that the people want limits on Federal spending. They want us to get our fiscal house in order. The administration now has made reduction of inflation its No. 1 priority, but I doubt that the electorate at this time is convinced that either the President or Congress has the necessary resolve to make the tough decisions that will be required to keep the budget in balance, certainly not this year but in 1981 or 1982. This probably accounts largely for the fact that public confidence in elected officials is about as low as it ever has been in the history of this Nation.

This rescission bill represents the first test of the ability of the Members of the Senate to make the kind of tough decisions which are essential if we are going to restrain Federal spending, reduce inflation, and get the budget in balance.

Failure to take a firm stand here will signal to the Nation that Congress will continue its free-spending practices of the past when we are faced with the responsibility for cutting programs that are popular and, of course, we know every program we have is popular with some group.

I understand the views of those who argue that fiscal restraint should not be achieved at the expense of the Nation's medical and nursing schools. Unfortunately, the same arguments will be made by the proponents of every Federal program that is on the books.

The fight against inflation is going to require sacrifices by everyone, and it is the responsibility of the Members of Congress to take a leadership role in this fight and follow the President's lead when he takes a similar role.

We certainly cannot expect industry and labor to show restraint unless Congress can demonstrate it has the will to cut spending and reduce inflationary pressure in that way.

Mr. President, the country has demanded that Congress exercise leadership in the development of sound, responsible fiscal policies. A vote to support this rescission bill will send a clear signal to the people that their demand for responsible spending is being met.

If we do not take this stand today, then exactly the opposite message will go out and people all across the country will feel that Congress is not serious in trying to balance the budget and to hold the line against inflation.

So I strongly urge the support of the Johnston amendment both on its merit and because of the broader issue of demonstrating that Congress is serious about getting a handle on excessive Federal spending.

Mr. MAGNUSON. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Washington has 1 minute and 31 seconds and the Senator from Louisiana has 3 minutes and 41 seconds.

Mr. JOHNSTON. Mr. President, I shall take 30 seconds.

Mr. President, not long ago I asked one of my colleagues whether he was for cutting the budget. He said, "Yes, in principle," and he smiled. I said, "What does that mean, 'yes, in principle?' " He said, "Well that means I am for it when I am speaking about it and I am against it when I am voting."

The classic case is here today, Mr. President, a rescission which can save money badly needed. We are already running $3 billion over last year's second concurrent resolution. We do not need it for the supply of doctors. It will not help the problem of maldistribution. It is to the least needy class in America, that is, doctors, or should I say future doctors. And if we cannot cut here we cannot cut anywhere.

Mr. President, what I am asking this Senate to do is to support fiscal sanity, support a move toward a balanced budget, not just in principle, but where it hurts, and that is with our votes.

If we cannot do it here, we cannot do it anywhere, and I hope the Senate will support it.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. MAGNUSON. Mr. President, the Senator from Maine has a question he wishes to ask me.

Mr. COHEN. Yes.

Mr. President, I have a question or two I wish to direct to the Senator from Washington.

The State of Maine had not been in this program until the past year and the Senator from Washington was rather instrumental in securing one for the State of Maine, St. Francis College in Biddeford, Maine.

I am concerned about the effects that cutbacks in capitation will have upon this school. I am wondering if the Senator from Washington could perhaps elaborate on that.

Mr. MAGNUSON. In the first place, it will have minimal impact on the Senator's situation.

Mr. COHEN. The other question I had to the chairman was whether or not we have any obligation to those medical students already enrolled and whether or not the cutbacks would come at the expense of these students in the medical schools and seek to pass on the increased costs to the students already enrolled in schools or whether or not they could be targeted to future students as opposed to those already in school.

Mr. MAGNUSON. For the Senator's information, it would not affect those in school now and it would have very little impact, especially after the conference. The Senator knows, being a former Member of the House of Representatives, how tough they are over there. We are apt to end up with a modest cut of 10 percent, when the trend is to take a good long look at all these capitation grants, all of them.

Mr. COHEN. I thank the Chair.

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MAGNUSON. Mr. President, I yield back the remainder of my time.

Mr. JOHNSTON. I yield back the remainder of my time.

UP AMENDMENT NO. 47

(Purpose: To adjust the amount rescinded for health resources)

Mr. KENNEDY. Mr. President, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. Kennedy) (for himself and Messrs. Schweiker, Hatch, Bumpers, Randolph, Stafford, Javits, Zorinsky, Weicker, Tsongas, and McGovern) proposes UP amendment No. 47.

In lieu of the figure proposed to be inserted, insert the following: $12,750,000."

The PRESIDING OFFICER. The Senator from Massachusetts has 30 minutes and the Senator from Washington has 30 minutes.

Mr. KENNEDY. Mr. President, this amendment is offered in behalf of myself; Senator Schweiker, who is the ranking member of the Health Committee; Senator Hatch, who is a member of our Health Committee; Senators Bumpers, Randolph, Stafford, Javits, Zorinsky, Weicker, Tsongas, and McGovern.

It effectively restores the funding for medical schools to what was actually appropriated and signed into law last year through the appropriations process.

I wish to point out to the membership that the amount which was actually appropriated last year under capitation was the exact same figure as was appropriated the year before, even though we were facing a 7-percent increase in the rate of inflation. So there was basically a cut in the amounts which were actually appropriated compared to the prior year.

We are now asking for a hold on that funding level, which is basically a cut in the support for medical, nursing, and other schools which are affected.

Mr. President, we cannot examine medical education and look only at this particular issue of capitation.

I have just been amazed at listening to my colleagues talk about the development of capitation and what it has meant to medical education over the period of recent years.

We effectively adopted capitation in 1970 for the purpose of increasing the numbers of medical students. We increased from 8,000 to 16,000 through the process of capitation. It worked very successfully.

In 1976, we imposed conditions on capitation.

I wish my colleagues would read what the conditions for capitation are for medical schools today. They include not to decrease the numbers. They include a move away from the specialization of medical practice. The fact is, Mr. President, that our medical schools were graduating specialists. Now we made an agreement with the medical schools in 1976. We said: "As a condition for capitation, teach primary care, and we will graduate what we need in this country, in primary care, and then we will work with the Area Health Education Centers and others to try to get doctors into underserved areas."

I sponsored the program that would have required medical school graduates to serve in underserved areas. There was no one in the Chamber who took a stronger position to bring about such a change. But the Senate rejected that and said, "We will not do by mandatory methods; we will do it through enticing medical students financially." OK. We were trying in 1976 to entice them financially, and we have seen a dramatic change in the medical schools from specialty areas to primary care. This change in the capitation program has only been in effect for 2 years.

But, Mr. President, we are not just talking about the impact of capitation rescissions on medical schools. We are talking about other steps that have been taken in the 1980 budget which are going to have an important impact on medical schools at the present time.

There has been no word from those who sponsored the earlier amendment or those who have even spoken briefly in opposition to it about the National Institutes of Health. The 1980 budget puts a ceiling on NIH. This means a significant reduction in medical school funding.

Are we now going to turn our backs on one of the greatest resources that any nation has in the world: Our research program. That is what we are talking about, Senator. We are talking about the quality of research, much of which is conducted in the medical schools and which is tied into the teaching process in those schools.

So we have the NIH held level, which will mean a reduction in the support of medical schools.

We also have OMB accounting regulation, and other Government restrictions that have an adverse impact on our medical schools.

Most of these negative impacts would occur this year. As the AAMC points out in a letter sent to me, and that has been made available to all my colleagues, the medical school flow charts start in July of this year. As the Senator from Arkansas has stated, some of the legislatures have gone home, so they will be unable to help out.

Mr. President, the proposed rescissions amount to a violation of contracts made with the States, and with the private institutions. As the Senator from Alaska pointed out very clearly, the capitation programs basically create a contract between the Federal Government and States and private institutions. That is what we are talking about. Breaching such contracts is, I think, intolerable.

Mr. President, as the Senator from Louisiana stated, it is true that medical education is open to a relatively small group in our society. I doubt whether there is an entry barrier to a professional education that is higher than the barrier to a medical education. But the result of the amendment offered by the Senator from Louisiana or that offered by the Appropriations Committee is going to be to raise the barrier higher—make no mistake about it. We are barring access to every medical school, including the ones that serve blacks and lower middle income groups. We are basically taking a sign and saying "Closed." That is going to be the effect of this rescission.

A final point I want to make is just to commend my colleague and good friend from Washington (Mr. Magnuson). We differ on this particular issue, but he has been the giant in the Senate in his attention to health for the people of this country. I think all of us who have had an opportunity to work here with him know of his strong commitment to a decent quality of health. I welcome the opportunity to join him in about 95 percent of the time, if he will permit us to differ on this one.

Mr. MAGNUSON. I thank the Senator for his kind remarks.

Mr. KENNEDY. I withhold the remainder of my time.

Mr. MAGNUSON. I again want to put the Record straight. The Senator did make a statement that only the rich can go to medical school, if I understood him correctly. Well, we attack that not by capitation grants but by scholarships, which we upped. We denied the rescission on special projects and for health professional student loans. We denied all of the programs relating to the high priority advanced nurse training programs as well.

I just want to point out that all this talk about this 10 or 20 percent of the money, you would think this was cutting out everything, but there is still in the bill over $100 million for capitation grants, and those are still in the bill even with the 20 percent cut.

So I do not think the Kennedy amendment ought to be adopted. I think we made a wise decision. We came somewhere in between. The administration wanted to cut it in half or more than that. We just decided that this was enough money to take care of the situation as it is now. With the background that the Senator from Massachusetts well points out, I think this whole matter of capitation grants will have to be looked at next year.

So we do not think the Senator's amendment is a particularly good one. I generally agree with him on all these matters, but I think this is a reasonable approach, particularly when we rejected the rescission on scholarships, we rejected the rescission on nursing, and on most capitation grants for nursing. We have attacked this problem with respect to health manpower on all sides, except when we come down to the specifics of capitation grants for doctors. So I hope the amendment will be defeated here.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts has 20 minutes, and the Senator from Washington has 27 minutes.

Mr. MAGNUSON. I yield to the Senator from Maine.

Mr. MUSKIE. Mr. President, I thank my good friend from Washington for yielding to me. I have listened with great interest to this debate. The distinguished Senator from Massachusetts, my good friend, is capable of impassioned support for the cause in which he believes. I think he and I and the Senator from Washington find ourselves more often than not on the same side in many cases, but I do have the responsibility of presenting this issue from the point of view of the Second Concurrent Budget Resolution which we adopted last fall, and it is for that purpose that I rise, Mr. President.

The rescissions in this bill, H.R. 2439, which total $723.6 million in fiscal year 1979 budget authority, and $29.9 million in outlays represent a meaningful reduction in appropriations for programs whose funding requirements are not as great as they seemed when we originally considered them.

This bill represents responsible fiscal management, Mr. President. It proves that the Congress does have the capacity to cut back on spending which is no longer as necessary as it once was.

This bill was jointly referred to the Appropriations Committee, the Budget Committee, and the relevant authorizing committees pursuant to the unanimous-consent agreement of January 30, 1975. The Budget Committee reported favorably on H.R. 2349, as passed by the House, because it found that the bill did not adversely affect national priorities, and because enactment of the rescissions would help reduce pressure on the budget authority ceiling in the fiscal year 1979 second budget resolution.

The Budget Committee further recommended that the Appropriations Committee scrutinize the President's proposals for further savings, especially in light of the pressure on the second budget resolution spending ceilings resulting from supplemental requests, inflation, and high interest rates. I repeat that, Mr. President. Since we locked up the second budget resolution last September, there have been changes in the spending ceilings, forced by supplemental requests, inflation, and high interest rates. The Appropriations Committee took a close look, with the result that the bill before us today contains rescissions totaling $17.7 million more in budget authority and $8.0 million more in outlays than the House-passed bill.

Mr. President, the spending ceilings of the fiscal year 1979 second budget resolution, particularly the ceiling on outlays, as pointed out by Senator JOHNSTON, are under very severe pressure.

The Congressional Budget Office is still in the process of updating its estimate of the current status of the fiscal year 1979 budget. However, it now appears likely that spending enacted to date plus remaining mandatory supplementals will cause the outlay ceiling to be exceeded by as much as $3 billion.

On the same basis, budget authority would remain below the budget resolution ceiling. However, if all the discretionary supplementals requested by the President are enacted, both the budget authority and the outlay ceilings would be exceeded by large amounts. And at least some of these so-called discretionary supplementals may be difficult to avoid.

While the pending rescission bill would not provide much help on the outlay problem, it would improve the budget authority situation—and frankly, we need all the help we can get.

The current tight budget situation is not attributable to any congressional action. In fact, it developed while Congress was not even in session.

When we put together the second budget resolution, inflation in 1979 was forecast to be 6.7 percent and the average interest rate on the 3-month Treasury bills was forecast at 7.4 percent. Since then, the outlook for inflation has deteriorated and the administration and the Federal Reserve has taken several actions to strengthen the dollar abroad. We now expect inflation to be 8.2 percent and the interest rate on 3-month Treasury bills to be 9.1 percent.

Mr. President, I wish especially to commend the Appropriations Committee and its distinguished chairman, Senator MAGNUSON, for standing up to pressures from various interest groups opposing the rescissions in this bill—including educators, community developers, and health professionals.

There is one issue involved in this bill which disturbs me—that dealing with reductions in funding for health professions education. On balance, however, I must conclude that the minimal reduction proposed by the Appropriations Committee is justified, and I support it.

Last fall, the Congress appropriated $263.1 million for various programs providing assistance to medical and nursing schools and students. These programs provide capitation grants to schools, as well as scholarships, fellowships, and various other forms of assistance.

The President proposed cutting the fiscal year 1979 funding for health professions education from $263.1 million to $95.2 million—a cut of $167.9 million, or 64 percent.

The House only took $24.8 million of the President's proposed rescission—for a reduction of 9 percent.

The Senate Appropriations Committee agreed to $46.4 million of the President's proposed cut—for an 18-percent reduction.

Moreover, the Appropriations Committee is proposing a smaller reduction in funding for nurses' capitation grants than was recommended by either the President or the House. While the President wanted to cut funding for this program by $30 million, and the House recommended a $10 million reduction, our Appropriations Committee supports only a $6 million cutback.

Mr. President, the purpose of health professions education programs is to produce more doctors and nurses—a goal deemed wise at the time of the programs' enactment.

However, it now appears that these programs have largely achieved their goal. Most health manpower analysts agree that existing and projected supplies of health practitioners, when considered in the aggregate, will be more than adequate to meet the Nation's needs.

For example, it is estimated that the number of practitioners in the major health professions categories will increase by 70 percent between 1975 and 1990. In every case, the supply increase will far exceed population growths, raising practitioner-to-population ratios well above current levels.

One study, cited by CBO in its analysis of this rescission, suggests that even if this rescission is adopted, the ratio of nurses to the general population would still increase by 23 percent over the 1976 level.

My own State of Maine enjoys a relatively high proportion of nurses—464 per 100,000 population, as compared to a national ratio of 385 nurses per 100,000 population.

Mr. President, I ask unanimous consent that the President's rescission request and the CBO analysis be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER (Mr. EXON). Without objection, it is so ordered.

(See exhibit 1.)

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. MUSKIE. I will in a moment. I have just a few more words to complete my statement.

Rather than being a problem of aggregate supplies of health professionals, the problem now is one of distribution of these professionals. There are geographical areas with too many health professionals, and areas with too few. There are certain specialties with more practitioners than needed, others with too few.

So today's need is not to supply more total health professionals—rather, it is to fill the existing gaps.

Therefore, while I support health professions education programs, I must support the small rescission recommended by the Appropriations Committee. These reductions will help to free up resources to meet today's problem of maldistribution of health manpower.

We must respond flexibly to these changing needs. We must face up to the fact that existing programs may no longer fill the bill, and try to find new programs to meet new needs.

Mr. President, what is at issue here is a very basic fact which is at the heart of the budget process—the necessity for choice.

It was a fact we confronted in the last Congress when the issue before us was whether to continue funding for the B-1 bomber. At that time I spoke in favor of rescinding the B-1 bomber funding, saying:

> The simple fact is that we cannot afford to commit the Federal budget in every direction at once. In defense and in domestic affairs, we must make choices among attractive alternatives. Otherwise, we will become bankrupt as a Nation.

Clearly, we must make choices. If we are to demonstrate to the American public that we have the will to control spending at all, we must reduce expenditures in both defense and domestic programs wherever we can in order to conserve sufficient resources to meet the most pressing needs of our society.

Mr. President, the American public—and the State legislatures—are watching our actions here today. They have virtually given up on our ability to manage the Nation's affairs. So we must take that into account, as never before during the life of our budget process, as we make budget decisions. If we really want to avoid precipitating constitutional amendments and proposals for constitutional conventions, which could precipitate constitutional crises, we must put on a demonstration of fiscal responsibility and the ability to make choices. I think the time is here. I think Congress demonstrated those characteristics last year.

We must continue to do so. I am against the constitutional formulas which have been proposed. I am for men who are thoughtful, who are passionate, for men who are making intelligent choices here in the Senate. That is not to say that each of us knows what is right all of the time. It is only after such debate as this that we can hope to make the wise decision.

I rise as chairman of the Budget Committee to remind myself and my colleagues that a very high priority today in our budget process is how we are perceived by our people in the careful use of the resources they make available to us.

EXHIBIT 1

PROPOSED RESCISSION OF BUDGET AUTHORITY

Agency: Department of Health, Education and Welfare.

Bureau: Health Resources Administration.

Appropriation title and symbol: Health Resources 7590712; 756/90712.

OMB identification code: 75-0712-0-1-550.

Grant program [1]; Yes; No.

Type of account or fund: Annual; Multiple-year September 30, 1979.

New budget authority (P.L. 95-480; 95-482; 95-355)	$759,912,000
Other budgetary resources	2,281,000
Total budgetary resources	762,193,000
Amount proposed for rescission	167,893,000

Type of budget authority: Appropriation.

Justification: During the 1960's and 1970's, there was a major increase in the supply of health manpower, partly as a result of increased Federal institutional and student assistance to support expanded numbers of health professions students and training programs. It is estimated that the number of practitioners in the major health professions categories will increase by another 70% between 1975 and 1990. In every case, the supply increase will far exceed population growth, raising the practitioner-to-population ratios well above current levels.

The ratio of physicians to population is projected to rise from about 177 per 100,000 in 1975 to 241 per 100,000 in 1990, a 37% increase. Moreover, the number of active nurses has more than doubled since 1957 to over 1,000,000 in 1978. The outlook is also good for adequate growth in the supply of nurses during the coming decade. The current adequate supply and projected increases in the numbers of health professionals underscore the fact that special Federal subsidies are no longer required merely to increase the supply of particular categories of health professionals.

Federal support for health professions training is being redirected as part of a national health plan strategy to address the needs of the poor and underserved. The President's 1979 Budget emphasized support for service commitment scholarships rather than continued funding for institutional subsidies or non-service-related student assistance. Moreover, increased emphasis is being placed on the needs-based student assistance grant and loan programs of the Office of Education and undergraduate health professions training, e.g., nurse training.

The $167,893,000 in health professions training funds proposed for rescission in 1979 includes funding for capitation grants, nursing student and institutional assistance, health professions non-service student loans, and emergency medical training grants. These funds have been identified as unnecessary to program needs for meeting the goal of providing health services to the medically underserved. This is in keeping with the strategy further articulated in the President's 1980 Budget to terminate capitation grants and initiate a phaseout of other institutional subsidies and student assistance programs that in the past have served to increase the supply of health professionals without regard to specialty or geographic shortages. There are more efficient and effective means for addressing health manpower needs in shortage areas than the programs supported by the training funds proposed for rescission. The Administration supports numerous approaches, including service commitment scholarships and family medicine and primary care residency training grants.

Estimated effects: Federal support for health professions training will continue at a level of nearly $375 million in 1979, including $77 million for service commitment scholarships. These scholarships will support health professions training in return for service in medically underserved areas. The proposed rescission of $168 million in institutional subsidies and non-service-related student assistance would not affect the goal of providing services to the medically underserved.

Outlay effect: (estimated in millions of dollars);

Comparison with President's FY 1980 Budget:

1. Budget outlay estimate for FY 1979	$630.4
2. Outlay savings, included in the budget oultay estimate	30.0
Current outlay estimates for FY 1979:	
3. Without rescission	660.4
4. With rescission	630.4
5. Current outlay savings	30.0
Outlay savings for FY 1980	109.1
Outlay savings for FY 1981	28.8

HEALTH RESOURCES ADMINISTRATION

HEALTH RESOURCES

Of the funds provided for "Health resources" for fiscal year 1979 in the Departments of Labor and Health, Education, and Welfare Appropriations Act, 1979, and in P.L. 95-482, $167,893,000 are rescinded.

CONGRESSIONAL BUDGET OFFICE—RESCISSION MEMORANDUM

Rescission Number: R79-4.

Agency and Bureau Affected:

U.S. Department of Health, Education, and Welfare., Health Resources Administration, Bureau of Health Manpower.

Appropriation Title and Symbol (program): Health Resources, 7590712, 756/90712.

Amount Proposed for Rescission: $167,893,000.

Budget Function and Subfunction: Health (550)/Education and Training of the Health Care Work Force (553).

Appropriation Account: 75-0712-0-1-550.

Type of Accounts: Annual, Multiple-year.

PROGRAM BACKGROUND

The Health Professions Educational Assistance Act of 1976 (HPEA) and the Nurse Training Act of 1975 (NTA) authorize a variety of programs to assist schools that train students in medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy—sometimes abbreviated as MODVOPP—and in registered nursing.[1] Only those programs that would be affected by the proposed rescission are described in this memorandum.[2] Table 1 lists these programs, their current funding levels and their funding levels under the proposed rescission.

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[1] These funds support both grant and non-grant programs.

[1] Institutions that train students in allied and public health also receive some federal support.

[2] Health manpower education and training programs that would not be affected by the proposed rescission include financial distress and start-up grants for MODVOPP schools; grants for family medicine, primary care residency, general dentistry, physician assistant, and nurse practitioner programs; for the National Health Service Corps and exceptional need scholarships; and for programs that provide assistance to disadvantaged students. Also unaffected by the proposed rescission are special projects and traineeship grants for dental, allied and public health education, for interdisciplinary curriculum development, and for area health education centers.

TABLE 1.—THE ADMINISTRATION'S PROPOSED RESCISSION OF FISCAL YEAR 1979 HEALTH MANPOWER EDUCATION AND TRAINING FUNDS

[In millions of dollars]

	Fiscal year 1979 appropriation	Proposed rescission	Fiscal year 1979 appropriation, as amended by the proposed rescission
Health professions—MODVOPP	148.1	77.8	70.3
Institutional assistance:			
Capitation	138.1	67.8	61.4
MOD	(120.1)	(58.7)	(61.4)
VOPP	(18.0)	[1] (9.1)	(8.9)
Student assistance: Loans	10.0	10.0	0
Nursing	109.0	84.1	25.0
Institutional assistance:			
Capitation	30.0	30.0	0
Special projects	15.0	7.5	7.5
Advanced nurse training	12.0	10.3	1.7
Research	5.0	3.9	1.1
Student assistance:			
Loans	22.5	9.0	13.5
Scholarships	9.0	9.0	0
Traineeships	13.0	13.0	0
Loan repayment	1.5	.8	.8
Fellowships	1.0	.6	.4
Emergency medical training	6.0	6.0	0
Total	263.1	[1] 167.9	95.3
All health manpower education and training programs	557.2		389.3

[1] HEW has also proposed that an additional $8,900,000 in VOPP capitation grants be used to support staff pay increases, resulting in a 100 percent reduction in VOPP capitation funds.

The major federal program of institutional assistance to eligible MODVOPP and nursing schools provides formula grants that are awarded on the basis of student enrollment; these are referred to as capitation grants. The amounts of the capitation awards are varied to reflect differences in educational costs among types of schools. In fiscal year 1979, MOD schools are authorized to receive as much as $2,050 for each full-time student. For each full-time student enrolled, as much as $1,450 may be received by veterinary medicine schools, $765 by optometry schools, $965 by podiatry schools, and $695 by pharmacy school. Nursing schools receive somewhat less: $400 for each third- or fourth-year baccalaureate student, $275 for each second-year associate student, and $138 for each first-year associate student, and $250 for each diploma student.

In addition to capitation grants, other types of federal support are provided to MODVOPP and nursing schools and students. Nursing schools receive grants for special projects that may improve nursing education and practice, for the operation of advanced (graduate) nursing programs, and for research. Both MODVOPP and nursing schools receive federal funds so that they may award low-interest loans to students. The federal government also pays the outstanding loans of eligible nursing students who agree to practice in designated underserved areas, and provides graduate traineeships and research fellowships for advanced nursing students.

Finally, the Administration has proposed that grants for programs that train health personnel to provide emergency medical services be rescinded.

ADMINISTRATION JUSTIFICATION

The President has proposed that $176.8 million be rescinded from fiscal year 1979 appropriations for health manpower education and training programs.

The Administration justification for a phaseout or termination of capitation grants, other types of institutional assistance, and student assistance is based on the belief that the current supply and projected increases in the supply of health manpower will be adequate to meet future needs. As a result, special federal subsidies are no longer necessary to encourage increases in the supply of particular categories of health professionals. Further, the Administration contends that there are more effective means to address the more pressing problems of specialty and geographic shortages and that programs that address the needs of the poor and underserved are stressed rather than continued funding for institutional subsidies and nonservice-related student assistance.

CBO ANALYSIS

As a result of the proposed rescission, MODVOPP schools would lose approximately 30 percent of the institutional assistance for health manpower education that would otherwise be provided to them under the HPEA in fiscal year 1979. Nursing schools would lose about 70 percent of the funds that would otherwise be provided to them under the NTA for both institutional and student assistance.[3]

The Administration estimates that the proposed rescission would reduce fiscal year 1979 budget outlays by $30 million. This estimate appears reasonably low since awards made to health professions schools would normally be made late in the 1979 fiscal year and, for the most part, spent in fiscal year 1980.

Important issues with respect to this rescission proposal are its effects on: The financial stability of health professions schools that now receive federal aid; the future adequacy of the health manpower supply, and health professions students.

TABLE 2.—*Estimated Federal contribution to training expenditures, fiscal year 1979*[1]

Type of school:	
Medicine	8
Osteopathy	11
Dental	11
Veterinary Medicine	7
Optometry	7
Podiatry	6
Pharmacy	6
Nursing	6

[1] Dollar Value of Capitation Grants as a Percent of Per Student Training Expenditures, fiscal year 1979.

SOURCE.—Derived from data in National Academy of Sciences, Institute of Medicine, *Costs of Education in the Health Professions, Summary*, January 1974. Net institutional per student training expenditures for each type of school in the 1972–1973 academic year were inflated to obtain 1979–1980 expenditures. Per student capitation grants received in fiscal year 1979 were divided by the derived training expenditures to obtain the estimated federal contribution in fiscal year 1979.

An abrupt discontinuation of institutional assistance may disrupt the operation of a significant number of health professions schools since these schools believed that fiscal year 1979 funds would be available for their use (as a result of the passage of the HEW-Labor fiscal year 1979 appropriation act and the fiscal year 1979 continuing resolution by the 95th Congress). Furthermore, many, if not all, of these schools have come to view capitation grants as entitlements and may question whether it is fair for the federal government to discontinue funding when it encouraged them to build up the capacity to train more students.

There is evidence that at least a few health professions schools are currently having financial difficulty and would be disadvantaged by a loss of federal support. Some schools may be able to compensate, however, by obtaining additional support from parent universities or colleges, state governments, or private sources. Schools would probably respond by raising tuition charges in order to gain additional revenues, laying off some faculty or discontinuing less than essential activities until other sources of support could be obtained. A dilution of the quality of some training programs might therefore result. Nursing schools are likely to cut back sharply on graduate nursing programs.

Supply adequacy

The effects of cutbacks in capitation grants and other sources of institutional support on the adequacy of the future supply of MODVOPP and nursing professionals is uncertain and depends, in part, on how successful schools are at obtaining other sources of aid. If they are unsuccessful, enrollments in health professions schools might be lower than they would otherwise be, but the future supply of providers is likely to increase above current levels. The adequacy of the supply of dentists and optometrists would be most vulnerable if these schools were to substantially reduce their enrollments (see Table 3). The supply of these provider types as well as primary care physicians and podiatrists might also be somewhat less than desirable if a comprehensive national health insurance plan were implemented. Nevertheless, the health provider to population ratio has increased dramatically in the last decade and will probably continue to do so through 1990. For example, in one study, the long run impact of a discontinuation of capitation grants on the supply and demand for registered nurses was analyzed. The results of one simulation, assuming that the survival of a number of nursing schools were endangered due to the loss of federal support, suggested that the number of registered nurses employed in 1990 might be 7 percent below what it might otherwise be.[4] The nurse to population ratio, however, was still 23 percent above the 1976 level. If this were the experience of MODVOPP schools as well, MODVOPP per population ratios would still be well above current levels.

Given that a loss of federal dollars would likely mean substantial tuition increases, a major determinant of future enrollment levels in health professions schools, however, may be the availability of financial aid for students.

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[3] For a discussion of issues concerning federal support of nursing education, see *Nursing Education and Training: Alternative Federal Approaches*, a CBO fiscal year 1979 budget issue paper (May 1978).

[4] Tom Bergen and Gary Hirsh, Pugh-Roberts, Inc., *Effects of Changes in Nursing Licensure and Assistance to Nursing Education: A Policy Paper*, (unpublished, September 27, 1976).

TABLE 3.—THE PROJECTED SUPPLY OF AND ESTIMATED DEMAND FOR HEALTH MANPOWER, 1990

[Expressed as health providers per 100,000 persons]

	1975 actual supply	1990 projected supply	1990 estimated demand	1990 supply/demand ratio
Physicians:				
Medicine	170.3	229.4	212.1–223.4	1.1–1.0
Osteopathy	6.5	12.1	8.4–8.8	1.4
Dentists	[1] 53.8	62.8	79.2–70.0	.9
Veterinarians	14.9	22.3	20.9	1.1
Optometrists	9.3	10.9	10.5	1.0
Podiatrists	3.4	5.2	6.5	.8
Pharmacists	57.3	75.3	77.4	1.0
Registered nurses [2]	[1] 382.5	507.1–557.4	461.3–558.6	.9–1.2

[1] 1976.

[2] Supply and demand estimates are in full-time equivalents since a substantial proportion of registered nurses work part time.

Sources: MODVOPP supply and demand estimates from HEW, HRA, BHM, "A Report to the President and Congress on the Status of Health Professions Personnel in the United States" (August 1978). Nursing supply and demand estimates from "Nursing Education and Training: Alternative Federal Approaches," a CBO fiscal year 1979 budget issue paper (May 1978).

Student assistance

MODVOPP and nursing students would likely have higher educational costs as a result of the proposed rescission. For example, if medical schools increased tuition charges by the full amount they would lose as a result of the proposed rescission, average 1979–1980 academic year tuition charges in public medical schools could increase by roughly 45 percent and in private medical schools by roughly 12 percent. There are several federal student assistance programs, however, from which MODVOPP and nursing students may obtain aid. The health professions graduate student insured loan program (HPGSLs) provides insured loans to MODVOPP students, while nursing students are eligible for guaranteed student loans (GSLs) and basic educational opportunity grants (BEOGs). Some financially needy students who currently receive aid from a variety of federal sources might be disadvantaged, however, by rising tuitions. A major reason is that current federal assistance programs have limits on the amount of assistance that a student may obtain. These students would likely be prevented from attending the more expensive schools. This is particularly true for nursing students who are ineligible for HPGSLs that provide the highest borrowing limits of the federal student assistance programs.

Mr. MUSKIE. I am happy to yield to my good friend from Louisiana.

Mr. JOHNSTON. I thank the distinguished Senator from Maine for yielding for a question.

The PRESIDING OFFICER. Does the Senator from Washington yield time?

Mr. MAGNUSON. Yes, I yield time.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. I ask my distinguished colleague, the chairman of the Budget Committee, on what does he base the statement, with which I agree, that the spending in outlays is likely to exceed the second concurrent resolution by some $3 billion.

Mr. MUSKIE. That figure has several elements. First, there is a one-time increase attributable to higher interest rates on the national debt resulting from the Federal Reserve Board's action in its monetary policy to strengthen the dollar. The Congress was out of session. The effect of that action was to increase the cost of interest on the Federal debt by roughly $5 billion over the cost in the second budget resolution.

Mr. JOHNSTON. So as of this point, would the Senator say that there is no doubt that we have exceeded the second concurrent resolution by this interest rate increase?

Mr. MUSKIE. That appears to be true. But, I would point out that the Congressional Budget Office, which provides technical support to the Congress on all budget estimates, is still in the process of reviewing all of the fiscal year 1979 estimates and has not yet formally given the Budget Committee its final opinion on the bottom line for fiscal year 1979.

Mr. JOHNSTON. I ask the Senator, if that is so then would it be equally true that the amendment of the Senator from Massachusetts increasing spending as it does would further increase or further pierce the second budget resolution?

Mr. MUSKIE. Let me finish my earlier answer first. The second element in the potential $3 billion overage is the increased cost of indexed accounts. As the Senator knows, many accounts are indexed by law against inflation. So when inflation goes up, then the cost of those entitlement programs also goes up. So the $3 billion preliminary estimate covers both higher interest rates and higher inflation costs.

I would also point out that the preliminary estimate of $3 billion assumes enactment of about $5 billion of mandatory supplemental requirements which were assumed in the second budget resolution ceiling but which no longer can be fully accommodated within the ceiling because of actions outside congressional control that have occurred in other programs.

Mr. JOHNSTON. Really, the ultimate question, and I might as well ask it now, is this: Is not the Kennedy amendment really subject to a point of order since we have already exceeded the outlays in the second concurrent resolution and this would simply further exceed that second concurrent resolution? Would the Senator give his opinion on that?

Mr. MUSKIE. If what we had was an outlays ceiling about to be pierced by an appropriations bill, then the answer clearly would be yes. The appropriations which are involved here were enacted into law last year. So a rescission would not give rise to a point of order. I do not believe, either, given that these intervening events are not yet reflected in the current scorekeeping system—and will not be until mid-March—that a new appropriation under the present circumstances would trigger a point of order under the Budget Act.

Mr. JOHNSTON. I think there are two questions here involved. First, it is the legal question of whether an amendment to a rescission which increases the action of the Budget Committee is subject to a point of order. That is one question. Then, second, there is the question of whether the facts we know to be, that is, that the second concurrent resolution has already been exceeded—we know that to be a fact because of the reasons the Senator has stated—since that has not yet appeared in print, whether or not that furnishes the predicate for a point of order.

Would the Senator be prepared to speak to the second question? I believe the Parliamentarian would be prepared to prove on the first question that an amendment which adds to the action of the Budget Committee if the second concurrent resolution is already exceeded would be subject to a point of order. I believe the problem of the Parliamentarian is on the second question. That is, has the second concurrent resolution been pierced.

The PRESIDING OFFICER. The Chair has been advised that this does not deal with new budget authority. It rescinds a prior authority. Therefore, it would not be subject to a point of order. The Chair rules that it does not come under the Budget Act, as such.

Mr. JOHNSTON. Whether or not the second resolution has already been pierced?

The PRESIDING OFFICER. That is correct.

Mr. JOHNSTON. I thank the Chair.

Mr. MUSKIE. May I make another point on that? The Budget Committee reported to the Appropriations Committee with a recommendation that the committee endorse the House figure and that, in addition, the Appropriations Committee examine the remaining rescissions proposed by the President to determine whether or not it might approve others. Actually, the Appropriations Committee has reported more rescissions than the House, a greater cut than the House.

May I say this in addition: There are some supplementals that are going to create problems with respect to the ceiling on budget authority. If they breach that ceiling, then a point of order will lie—a point of order on the supplementals when they come along. All of us must closely examine these supplementary requests for budget authority which are coming down the pike because they conceivably could breach the ceiling of the budget resolution.

With respect to the impact of higher interest rates and inflation after Congress went out of session, that presents a clear policy question for the Congress to decide. Should programs assumed in the second budget resolution last year be cut because events over which Congress had no control, which took place after Congress went out of session, had the effect of boosting outlays? If outlay ceilings determined by the Congress are to be fixed and unchangeable, then unavoidably programs would have to be cut below levels for which they were appropriated last year if the outlay ceiling is to be held.

In effect, that gives the Federal Reserve Board an indirect impact which I am sure it did not intend. The action of the Board may necessitate a cutback in congressional appropriations without any program evaluations or evaluational need in order to stay within the ceilings of the second budget resolution.

That is a tough judgment, but that is where we are with this case and that is where the budget resolution is with the facts as they have developed.

Finally, I should like again to commend my good friend from Washington for what I think is a masterful job.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Will the Senator yield some time to me?

Mr. KENNEDY. How much time?

Mr. HATCH. Five minutes.

Mr. KENNEDY. I yield 5 minutes to the Senator from Utah.

Mr. HATCH. Mr. President, I simply wish to offer a brief word in support of the amendment I have cosponsored with Senators SCHWEIKER and KENNEDY, an amendment to restore the $33.5 million medical capitation monies which were earlier cut from the Appropriations Committee bill.

Earlier in this debate, Senator KENNEDY, Senator MAGNUSON, and Senator MUSKIE indicated that they agree generally on financial matters and economic matters about 95 percent of the time. I am one who probably disagrees with Senator KENNEDY at least 95 percent of the time on fiscal matters.

I certainly have no reputation as a big spender, nor would I want one. I believe that there are many items which should be trimmed from our obese Federal budget, and I shall in the future, as I have in the past, continue to fight for a stronger diet of fiscal prudence and common sense in our budget process. The time to do this, though, is during the period of authorization. The time to cut back on spending is before and during the period when Federal promises are being made. Once they have been made, however, we have a responsibility as a responsible political body to assure that they are not broken. In my opinion, the White House has committed an act of bad faith in proposing this particular cut from the appropriations bill.

The cut comes six months after medical schools have already begun to run the gauntlets of their respective budget cycles. It comes a half year after these medical schools, hospitals, and teaching facilities were promised by the Federal Government—promised that these commitments would be met, For my money, the White House appears to be treating American medical schools and teaching institutions no better than it has been treating the Republic of China on Taiwan. It is time for the White House to be reminded of the value of a commitment, and this is why I believe that this matter is less a question of economics than a question of propriety.

The House of Representatives already recognizes this. By a vote of 262 to 139, the House refused to accept any rescission in capitation funding in spite of the heavy White House pressure that they do so. The House acted responsibly, in my opinion, sharing a view I hold with many others. It is one which all of us who admit to being fiscal conservatives should hold, and it is this: Rescissions should not be used to fight past budget battles. Rescissions as an instrument should be used to recapture appropriations only where there is a question of serious mismanagement of programs, or unneeded surpluses, or changed circumstances of a very unusual nature. But rescissions should not be used as the indiscriminate weapon the White House appears to favor, a weapon which guts all medical schools which have already mailed letters announcing their new tuition levels for the coming academic year.

Middle class Americans are already being priced out of the medical school market. Unless the rescissions which the White House proposes are restored, as our amendment would have done, there will be only two classes of people in this country who could afford going to medical school: The very rich, and the very poor. Those without the additional financial means of the wealthy or the transfer payment relief assistance of the very poor cannot even dream of medical training. And so many who would otherwise pursue medical careers will be unable to do so. This comes at a time when the Federal Government is otherwise trying to encourage a new generation of doctors into shortage areas like primary care in the rural areas and in the back regions of States like my own home region of Utah.

The funds we are talking about are not immediately replaceable by the medical schools affected. These schools were made a promise by the Federal Government, a promise they took as a commitment to include the capitation moneys in question in the coming fiscal year's budget. At a time when the strength of our economy depends so much on the faith of citizens in their government, let us not further reduce that faith to the too commonly held view that our Government is not to be trusted. I implore my colleagues, for the sake of our medical schools, the sake of American medicine and the people's trust in our Government, to support our amendment to assure that the White House keep its word.

Finally, I wish to state that I compliment the distinguished chairman of the Committee on the Budget and the distinguished ranking minority member of the committee for their zeal in constantly fighting to keep the budget under control. I think they are fighting, in this particular instance, certainly, in good faith to do so. On the other hand, I think when you weigh it in the balance, this is not the appropriate place to make this particular cut. I, for one, hope this amendment will be supported by my colleagues in the U.S. Senate.

I thank the Chair.

Mr. KENNEDY. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TSONGAS. Will the Senator yield?

Mr. KENNEDY. I yield as much time as the Senator from Massachusetts needs.

Mr. TSONGAS. Mr. President, I thank my colleague.

Mr. President, I rise in support of the amendment to restore rescissions proposed for capitation grants to schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy and nursing.

It is my understanding that the capitation grant program was born of a need to provide a firm financial base from which health professions schools could develop plans which would respond to national needs. Capitation funding was authorized by the Comprehensive Health Manpower Act of 1971, Public Law 92-157, and has been a factor in the operation budget of health professions institutions since that time.

I oppose rescission of capitation funds for several reasons. The first reason is that rescission of such funds during the middle of the academic year will deal a devastating blow to the schools of medicine, dentistry, osteopathy, and nursing and the others. These schools forecast their revenue needs on the basis of what the Congress assured them they would receive through capitation. To snatch such funding in midstream is irresponsible, unfair, and will impugn the very credibility of this Congress and the President.

One example of what rescission of capitation funds would mean in my State, in the State of Massachusetts, is an automatic increase of at least $250 per year for medical school tuition. Mr. President, this increase of $250 would cause the tuition in one of the schools in my State, Tufts University School of Medicine, to exceed $9,000 per student. It would cause the tuition at Boston University Medical School to skyrocket, overnight cause the tuition at the State school, the University of Massachusetts School of Medicine, to increase beyond what is now a manageable level for the students. Rescission of capitation funds now, during the middle of the academic fiscal year, would be the deathblow to the medical education hopes of students now matriculating, and to many institutions hoping to serve a low and middle income constituency.

With particular respect, Mr. President, to capitation grants for nurse training, rescission smacks of hypocrisy. During the 95th Congress, reauthorization of the Nurses Training Act passed overwhelming in both Houses of Congress. The President pocket-vetoed the bill. However, in his memorandum of disapproval, which is the veto message dated November 11, 1978, the President said this:

> Disapproval of the bill will not cause an abrupt termination of funding for the nurse training programs, since funds are available for fiscal year 1979 under continuing resolution.

I interpret this to be an indication of the President's commitment to nurse training programs at least through fiscal year 1979. The President led us to believe that there would be no abrupt termination of funding. Yet rescission now, only 4 months later, is exactly that. It is my opinion, Mr. President, that such an action smacks of hypocrisy.

I am sure that I need not remind my colleagues that the faith of the American public in the Government they elect is at an all-time low. Rescission of capitation funds would serve only to further weaken that faith. Mr. President, I am not willing to be a party to that weakening.

I recognize and applaud the hard work and tough decisions faced by members of the Appropriations Committee. I am confident it was not their intention to demoralize the American public. During this time of necessary austerity we must closely check Government expenditures. That, Mr. President, is another reason I oppose the rescissions proposed here today. We have not closely checked these expenditures.

The Health and Science Authorizing Committee, the subcommittee chaired by the Senator from Massachusetts (Mr. KENNEDY), has not recommended such drastic action. In fact, Senator KENNEDY's subcommittee is in the process now of reviewing health manpower needs. The health manpower programs authorized by Public Law 94-484 will expire on September 30, 1980, unless reauthorized. Capitation grants is one of those programs. This body will soon have the benefit of a comprehensive and thorough evaluation of health manpower needs. Until that time, rescission of funds is both premature and unwise.

A fourth reason, Mr. President, why I support the amendment to restore capitation funds is that capitation is the only mechanism by which Government can help shape health education policy to respond to national needs. We have succeeded in increasing medical school enrollment of minority students only because receipt of capitation funds required it. We have successfully increased the number of family practice residencies largely because of capitation. If we terminate capitation funding, we surrender the only mechanism we have to effectuate decisions within our medical schools.

A fifth reason, Mr. President, why I support the amendment to restore capitation funds is that loss of such funds would likely lead to abandonment of affirmative action programs. In the wake of the Bakke decision, this body must do all it can to guarantee equal opportunity and access of minority students to medical education. A recent GAO study of the role of Federal capitation support in medical schools reports:

> A loss of capitation and a subsequent increase in tuition would result in changing the socio-economic characteristics of the student body because only students from affluent families would afford increases.

Mr. President, in the interest of the needs of all of this Nation's citizens, we cannot allow rescission to occur. Already, schools in my home State are losing excellent minority students to schools which can afford them. The loss of capitation funds will significantly decrease the number of schools which can afford financial support for minority and other low-income students.

I shudder to think that we will allow affrmative action to die, that we will allow retrenchment. I am hopeful that we will continue to provide equal opportunity for all students.

Mr. President, I am fully aware of the fiscal crisis which this Nation faces, I respectfully request that we in this body act responsibly to control Government expenditure. I ask that we closely reexamine our spending priorities of the past, in order to bring equity to current and future priorities.

I believe in balancing the budget. I believe it can be achieved in a manner which recognizes human needs as priorities, while strengthening American families and our Nation's security.

Mr. President, I ask that my colleagues join me in supporting the amendment to restore the rescissions proposed for capitation programs. It is my fervent belief that restoration of these funds will serve in the long term interest and health of this Nation

I shall not take the time of the Senate to reiterate the arguments that have been made in recent moments. Let me just, if I may, point out again that, in the State of Massachusetts, Tufts University Medical School—if this is passed as is—will have a tuition in excess of $9,000 a year. If people coming out of average backgrounds, as I did, or people coming out of minority backgrounds are going to have any hope of penetrating the medical profession, it seems to me we have to show some interest at this point, or we are going to have nothing more than a society in which doctors beget doctors and the situation continues ad infinitum.

Mr. BELLMON. Will the Senator yield me 5 minutes?

Mr. MAGNUSON. I yield such time as the Senator may need.

Mr. BELLMON. Mr. President, the argument has already been made here that we need budget cuts, we need a sound fiscal policy, we need to head in the direction of balancing the budget, but that we should not make these cuts at the expense of the Nation's medical and nursing schools. Unfortunately, I am not aware of any method of achieving budget cuts which do not involve sacrifices in programs which are considered valuable by constituents. On the other hand, I am convinced that the American people are ready to make these sacrifices.

We have found out here today already that this reduction is not going to hurt the number of doctors or the number of nurses, it is not going to change the way these health professionals are distributed around the country. It seems to me a very logical place for the Senate to start making a record that we are serious about establishing a responsible fiscal policy. If we do not do it today, I do not know when we can do it.

It is up to us, I believe, to take this initiative and demonstrate that we have the resolve to make these difficult choices we are going to be facing over the next several months.

Capitation grants represent one area in which cuts can be made without seriously jeopardizing the health manpower needs of this Nation. There is almost unanimous agreement from studies published by the Institute of Medicine, the Carnegie Foundation, and HEW that we are heading for a physician surplus over the next 5-10 years. A recent HEW report projects that the number of physicians in the United States will increase by over 40 percent during this period. The ratio of physicians to population will increase from about 177 per 100,000 in 1977 to 241 per 100,000 in 1990. I have a table showing projected physician manpower through 1990 and I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—ACTUAL AND PROJECTED NUMBERS OF ACTIVE HEALTH PRACTITIONERS AND RATIOS PER 100,000 POPULATION FOR SELECTED YEARS FROM 1940 TO 1990, BY TYPE OF PRACTITIONER

Year	Physicians				Dentists	Optometrists	Pharmacists[2]	Registered nurses	Veterinarians
	Total MD and DO	MD		Osteopathic					
		USMG[1]	FMG						
Number of active practitioners:									
1940	188,800	178,600	NA	10,200	75,800	10,500	82,600	NA	11,100
1950	219,900	209,000	NA	10,900	79,200	14,800	89,200	401,000	13,700
1960	259,500	216,300	[3] 31,000	12,200	90,100	16,100	92,700	550,000	19,500
1970	323,200	256,800	54,400	12,000	102,200	18,400	109,600	723,000	25,900
1975	378,600	288,300	76,200	14,100	112,000	19,900	122,500	911,000	31,100
1980 (projected)	444,000	341,900	84,400	17,700	126,200	22,000	144,300	1,099,600	37,500
1990 (projected)	594,000	472,100	92,100	29,800	154,500	26,700	185,000	1,466,700	54,900

Year	Physicians				Dentists	Optometrists	Pharmacists[2]	Registered nurses	Veterinarians
	Total MD and DO	MD		Osteopathic					
		USMG[1]	FMG						
Practitioners per 100,000 population:[4]									
1940	142.3	143.6		7.7	57.2	7.9	62.3	NA	8.4
1950	144.4	137.3		7.1	52.0	9.7	58.6	250	9.0
1960	143.6	119.7	17.1	6.8	49.9	8.9	51.3	292.8	10.8
1970	157.8	125.3	26.6	5.9	49.9	9.0	53.5	354.7	12.6
1975	177.3	135.0	35.7	6.6	52.5	9.3	57.4	420	14.6
1980 (projected)	198.0	153.0	38.0	8.0	56.8	9.9	64.9	485	16.9
1990 (projected)	243.9	193.9	37.8	12.2	63.4	11.0	76.1	585	22.5

[1] U.S. medical graduate total includes graduates of Canadian schools.

[2] Assumes existing activity rates despite increased proportions of women pharmacists; see the pharmacy section for further discussion.

[3] 1963 figure.

[4] U.S. Bureau of the Census, Current Population Reports, Series P-25, No. 704, Series II estimates and projections of total population.

Source: HEW, 1978.

(Mr. TSONGAS assumed the chair.)

Mr. BELLMON. Mr. President, this means that by 1990, we will have 1 practicing physician for every 415 persons in the United States. Only two other countries in the world—Israel and the Soviet Union have a physician-to-population ratio this high.

The HEW projections for nurses indicate that the aggregate number is adequate and will continue to increase for the next decade. The number of active full-time equivalent nurses is expected to increase from 381 per 100,000 in 1976 to over 540 per 100,000 in 1990. In 1963, the Surgeon General's consultant group on nursing recommended a goal of 425 per 100,000.

This means we are going to have 115 more nurses per hundred thousand than the Surgeon General said we need in the study that was made in 1963. This ratio is sufficient to meet the National League of Nursing's recommended standard that hospital patients receive an average of 3.5 nursing hours per patient day with 2.4 hours provided by professional nurses. It is true that expanded roles for nurses could increase nursing manpower needs somewhat. Efforts at hospital cost containment, on the other hand, are likely to result in reduced demand as pressures build to close underutilized facilities. Currently, the Institute of Medicine estimates that there are at least 100,000 excess short-term, acute-care hospital beds which could be closed without hurting the health care delivery system of this country.

The increased supply of health professionals, especially physicians, represents a major inflationary threat to the health sector which already has an inflation rate twice the rate of other goods and services. In a recent study, the Council on Wage and Price Stability reported that during the 1950–77 period, physicians' fees increased 43 percent faster than nonmedical care prices. The study further stated that increased physician supply did not result in competition and reduced fees. On the contrary, the data indicate just the opposite: fees are highest in areas with the highest physician-to-population ratio. In the face of expanded supply, physicians are able to maintain their income by increasing fees, providing more services, and increasing the intensity of services.

The Council on Wage and Price Stability estimated that each new physician increased overall health expenditures by over $200,000 annually. Thus, an estimated oversupply of 23,000–51,000 physicians could result in unnecessary physician-generated demand costs of $6–$13 billion per year by 1990.

So, Mr. President, there is no justification for programs that are going to give us an oversupply of doctors.

It will be argued, Mr. President, that we need to keep capitation grants in order to insure that under-served areas will be able to attract adequate health manpower.

But that has been shot down today by looking at the facts. Unfortunately, the tremendous increase in overall supply of physicians and nurses has not helped under-served areas. In 1975, the Secretary of HEW listed 1100 shortage areas containing over 16 million people. The total number of shortage areas has actually increased since 1971 when capitation funds were added to health manpower legislation. Clearly, capitation funds have not solved the problem of geographic and specialist maldistribution.

Mr. President, I emphasize that the proposed rescissions do not reduce funds which are intended to improve geographic and specialist distribution.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MAGNUSON. I yield 2 more minutes to the Senator.

The PRESIDING OFFICER. The Senator has 47 seconds.

Mr. KENNEDY. I yield 2 minutes to the Senator.

Mr. BELLMON. I thank the Senator from Massachusetts.

Mr. President, the Senator from Massachusetts and the Senator from Washington, and others, have taken note of the maldistribution problem and already programs are in place that will help.

Such programs as the National Health Services Corps, have been increased by nearly $50 million in the past 3 years. In addition, direct support to students to assist with tuition and other costs of medical education has been substantially expanded. For example, student loans and scholarships have been increased by over $50 million in the past 3 years—approximately $20 million more than the proposed cuts in capitation funds. Direct support for primary care physicians who are more likely to practice in underserved areas has been increased dramatically in the past 2 years. Thus, the level of support for medical education remains very high, but there should be increasing shifts of funding to those programs which benefit under-served areas, and we should not deduct the capitation grants that simply spread the money over the whole spectrum.

Mr. President, capitation funds are designed primarily to increase the overall supply of physicians. There are two major problems with this policy, in addition to those already mentioned. First, it provides the same level of support to a medical school in New York City, which already has over 250 physicians per 100,000 people, as it does to one in South Dakota which has less than 80 per 100,000. It is obvious that some attempt should be made to target resources into shortage areas and this cannot be accomplished with the current capitation funding mechanism. Second, health statistics show that there is practically no correlation between the over-all supply of physicians and the health status of the population. For example, Washington, D.C. has one of the highest physician to population ratios in the Nation and yet it has extremely high rates of infant mortality and other indicators of poor health. Policies which emphasize increased supply do little to meet the health needs of all citizens unless they help to encourage appropriate geographic and specialty distribution of health care providers. A decrease in capitation funding and an increased emphasis upon the National Health Services Corps, primary care physicians and loan and scholarship programs represents an appropriate response to the need to place physicians where they can best serve those who have inadequate health care.

Finally, Mr. President, it will be argued that we must not approve this rescission because commitments have already been made to medical and nursing schools. It should be emphasized that these programs are forward-funded and that funds received by schools last summer are available for use during the full 1978–79 academic year. In his January budget, the President proposed that capitation grants be eliminated for the 1980 fiscal year. Thus, schools have been on notice that the capitation grant program might be phased out.

The rescission proposed by the Appropriations Committee represents a fair and reasonable compromise between those who want to fully fund capitation grants and those who want to eliminate it completely. It would actually reduce physician and dental capitation (MOD) from $1,339 to $1,072 per student, a decrease of $267. Veterinary medicine would be reduced by $143; optometry by

$75; pharmacy by $69; podiatry by $93 and nursing by $28 per student.

Decreases of this magnitude can be absorbed without dramatic increases in tuition or program reductions provided medical and nursing schools are willing to make minimum sacrifices in order to assist in the fight against inflation.

As I stated in the beginning of my remarks, efforts to achieve fiscal restraint and contain inflation will require tough, responsible decisions. These decisions will often involve cuts in programs which have strong local support. This rescission bill represents the first real test of the ability of the Congress to make these kind of decisions. Cuts can be made in these programs without seriously endangering the legitimate health needs of the American people. I urge my colleagues to reject this amendment and send a signal to the people that the Congress is responsive to their desire for fiscal responsibility.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I would like to first yield to the Senator from North Carolina for 5 minutes, then I will yield.

Mr. MORGAN. Mr. President, I rise in support of the substitute amendment offered by the Senator from Massachusetts and in opposition to the proposed rescission of funding in the health manpower programs and in support of the amendment proposed by Senators KENNEDY and SCHWEIKER.

I wish I did not feel obliged to oppose the majority of the Appropriations Committee on this question, for I appreciate the courage they have shown in reporting out this measure. The fact that we are even discussing this on the floor of the U.S. Senate today is an encouraging sign, is an indication that the Congress will make very real progress toward balancing the budget this year.

An equally encouraging omen with regards to approaching a balanced budget is the very fact that, by the end of today, the Senate will be passing a rescission bill that will reduce already appropriated funds by an amount somewhere in the neighborhood of $700 million, more than two-thirds of the amount originally requested by President Carter.

We are, despite what some people say, making very real progress. And yet, simply because it is important to balance the budget and even though we all want to do so, does not mean that we can uncritically approve every proposal for reducing funds that comes before us.

I strongly feel that to rescind funds from our health manpower programs for doctors, nurses, and other health professionals is a serious mistake, a mistake both because it is bad public policy and because it is being done so late in the fiscal year when most schools and many students are nearly finished making their financial plans for the upcoming school year.

First, I would like to direct a few words to the proposed elimination of capitation grants for the schools of medicine and dentistry.

To reduce these capitation grants by $24 million is going to cause a major hardship for the medical schools throughout the country. Because of Federal policies, medical schools have become greatly dependent on these capitation grants. It does not seem right to me to penalize these schools for something we have caused and without any warning.

For example, at Duke University, the various departments have been working on the budgets for the upcoming school year for the last 2 months, and final departmental proposals are due within the next 2 weeks. Can we really expect them to throw out all the work they have already done? To look for new sources of funding on such short notice? To reduce faculty and course offerings should they not obtain new funds but do so after class sizes for the upcoming year has been decided? I think not.

I also have a great deal of trouble with the administration's prediction that there will be a major surplus of doctors in the near future. Maybe this is even true, but I know there is a major shortage in North Carolina, a shortage that is being eliminated only very slowly despite all the Federal activities in this area and State government efforts that are among the most innovative and successful in the Nation.

Part of my suspicion toward this estimate is motivated by its sudden appearance. For years, we have been told that there is a doctor shortage, that we must expand our medical schools and do other things to create more doctors; yet, overnight, this shortage has vanished and now we are told we have a surplus.

But, the military cannot get enough doctors and there are shortages all over the country. I visited the naval base in Key West, Fla., several months ago, and found, much to my surprise that every doctor on the base is foreign born and foreign trained.

I might add, that in my State, organized medical societies have done their best throughout my years in public service to prevent any activities by either the Federal, State, or local governments designed to increase their numbers. Even today, they are opposing the assignment of National Health Service Corps doctors to even those areas of the State with the most severe shortages.

I am even more concerned with the proposal to rescind nearly $16 million from our nurse training programs, something that this amendment here would only partially correct.

Before exploring the substantive issues surrounding the proposed reduction in nurse training funds, it is worth noting that President Carter, upon vetoing the Nurse Training Act last year, made a moral commitment to continue funding through the present fiscal year. He said, in his veto message, and I quote:

> Disapproval of this bill will not cause an abrupt termination of funding of the nurse training programs, since funds are available for fiscal year 1979 under the continuing resolution.

Three months later, he proposes to retroactively eliminate $84 of the $108 million appropriated under the continuing resolution. I just do not understand that, especially when one considers that plans have and are being made for the use of the funds, that some of those funds have surely been committed, et cetera.

If the President wishes to end the nurse training programs he should continue to oppose the reauthorization of the Nurse Training Act. If this position prevails, then there will surely be no funding for the program in the upcoming fiscal year. It does not make sense for him to try to impose a rescissin request, with all the bad feelings that will result, on a program that the Congress tried to reauthorize last year by a voice vote in the Senate and a vote of 396 to 12 in the House, only to have it pocket vetoed.

Now, why is the rescission request for nurse training being proposed? Apparently, the administration believes there is an adequate supply of nurses in the country today and, to quote President Carter, "the outlook is good for adequate, sustained growth in the supply of nurses."

I asked for documentation of these statements. Shortly thereafter, I received a letter explaining that the Federal Government has spent over $1 billion on nurse training in the last 22 years, and that because of this, the number of active nurses increased from 291 per 100,000 population to 395 per 100,000.

If I correctly remember the lessons I had in school about logic, the fact that we have 395 nurses per 100,000 people does not, by itself, prove anything. Maybe 395 nurses per 100,000 is an adequate number, but I know of no standards and guidelines to judge by, nor has the administration suggested any.

I do know that in virtually every part of the country nurses are in great demand. Certainly, there are major shortages in even the largest cities of North Carolina, where health manpower shortages are the least likely to appear.

According to a recent article in the Charlotte News, there is a shortage of about 80 nurses in the Charlotte area. Now, that is out of over 1,000 positions, so maybe it does not seem so serious, but we must remember that Charlotte is the biggest city in my State. Duke Medical Center, which is affiliated with Duke University and its excellent and renowned nursing school, has 170 vacant positions. When its new wing opens in the near future, another 190 positions will have to be filled. At Pitt Memorial Hospital in Greenville, which is located next to two institutions with nursing programs, East Carolina University and Pitt Technical Institute, the nursing shortage is so severe that the hospital is occasionally forced to turn away patients with less serious problems to make room for emergency cases. Pitt Memorial, as a result, has been forced to establish an expensive recruiting program which has even gone as far an Canada looking for trained nurses.

I could go on for some time describing specific cases in which there are clearly nursing shortages, but two facts should highlight this problem. First, a 5-week survey of American newspapers, taken at the beginning of this year, found 124 articles in 34 States describing local nursing shortages. It should be obvious that a survey covering a longer time frame would have found more articles in more States.

Additionally, the unemployment rate for registered nurses in 1977 was only 2.6 percent, well below what is considered to be full employment. Only 1.9 percent of all nurses licensed in July, 1977, were still looking for employment 6 months later. Over 95 percent of those nurses were actually working as nurses. Those figures clearly demonstrate that there is a strong demand for additional trained nurses in this country.

One final factor needs to be considered in discussing nurse training funds, and that is the crucial need to get additional nurses in areas with severe shortages, primarily the poorer central cities and rural areas.

A great deal of research has not been done on how best to attract health professionals to these areas, but there are some preliminary findings that black nurses are significantly more likely to work in areas with large minority populations than white nurses, that people from rural areas are more likely to want to work in rural areas than others, and so forth.

According to a recent Congressional Budget Office report, 25 percent of the scholarship and loan recipients under the Nurse Training Act were black or from some other minority group, and over 70 percent were from families with incomes of less than $10,000 per year. These are the people who are prepared to go to the areas with the greatest health care shortages, and we should not prevent them from receiving necessary assistance on the basis of an undocumented claim that there is an adequate number of nurses and that the outlook is good for sustained growth in the total supply.

Unfortunately, Senator KENNEDY's amendment does not address the entire rescission proposed for the nurse training programs. It does, however, restore the $6 million for capitation grants. While it does not attempt to restore the $9 million for the loan program, I do notice that the House approved no rescission in this area.

In discussions with other Members of the Senate, I have learned that we will not really be able to do much about the loan rescission today. However, I would hope that the conference committee would take care of this problem, realizing that it is going to be awfully hard to go back to our constituents and say that we cut back funding for loans to nurses who only have a 2-percent default rate while continuing scholarship money.

In conclusion, I would like to say that I support the bulk of this rescission bill, and I intend to vote for it on final passage. A balanced budget is important, and I have, during my previous 4 years in the Senate, consistently worked toward that goal.

But, I cannot support what amounts to a refusal to support commitments made to good programs more than halfway through the fiscal year. I understand that the Health and Environment Subcommittee in the House will be holding hearings on all the health manpower programs later this year. I would expect the Human Resources Committee to do the same. There certainly would be a good deal of discussion concerning the Nurse Training Act and whether to reauthorize it. In addition, the Congress is now beginning to consider the fiscal year 1980 budget, which will give us another forum to review these programs.

I believe that rescinding the funds from the health manpower programs is poor public policy and inequitable. I will vote for the amendment to restore the capitation grants, and urge my colleagues to do likewise.

Mr. President, I take a back seat to no Member of this Senate in my efforts during my tenure in the Senate to cut unnecessary spending. I say to the President of the United States that when this year of the Congress is over he will find that I will have voted to cut as much out of the budget, perhaps, as any other Member. But this is one area where I do not believe we can cut.

I have been involved in questions of medical care for 20 years. In 1958, as a member of the board of trustees at the university, we tried to get a nursing school. We were told that there was a surplus of nurses. We had to override the board of governors to establish a new nursing school. There is still a shortage of nurses all over the country, and especially in North Carolina.

In 1963, when we could not find doctors anywhere in rural North Carolina and hardly any in the cities, I introduced a bill in the legislature to create a new medical school. I passed that bill in the Legislature of North Carolina five times. I fought the AMA and the accrediting agency, which is appointed by the AMA, year after year after year, and the school was finally opened as a 4-year school, I believe, last year.

Now we are told, we were told in 1963 there is a surplus of doctors, that it is a simple question of distribution.

As the Senator from Arkansas pointed out, it does not matter how many we have got if we do not have enough so they will locate where needed.

We hear this story, that there is a surplus of doctors, and yet in my home State and even here in the city of Washington, we cannot find doctors.

I was at Key West Naval Base in January, and every single naval doctor in the Key West Naval Hospital was foreign trained and foreign born, except one. Then I was at the naval hospital in Camp Lejeune, N.C., and 20 percent were foreign trained.

Mr. President, I dare say, and I would wager, that half of the doctors treating mentally ill patients in America today were trained in foreign countries and are foreigners. It should be a crime, Mr. President, for these people who need medical treatment to get it from somebody who cannot communicate with them and to have to get it from doctors we find are not competent to practice downtown. We will not license them in North Carolina, but we say they are competent to practice on these unfortunate human beings who are locked up and have no choice whatsoever.

I do not know how many doctors we have, but I know we do not have enough serving the people.

A couple of years ago, if I remember correctly, we mandated the medical schools that they admit some of these doctors who were trained overseas based upon a capitation grant.

Mr. JOHNSTON. Will the Senator yield?

Mr. MORGAN. Now we want to say we will cut it off in the middle of a budgeting year.

I yield.

Mr. JOHNSTON. Is the Senator aware that every single slot everywhere in the country in the medical schools is filled and there is a waiting list of something like 2½ to 1 trying to get in every slot, and the capitation grant has absolutely nothing to do with the supply of doctors?

Mr. MORGAN. I certainly would not agree with the Senator, it will help increase it in the future.

When the doctors, the Air Force doctors, come to my office after having been educated by the American public, expenses paid by the Government, and then demand wages and salaries almost equal to the chief of staff, I say, in the next budget, let us take some of this money and double the entering class at the new medical school.

This will enable the medical schools to do a better job.

The PRESIDING OFFICER. The 5 minutes have expired.

Mr. MORGAN. I thank my distinguished colleague.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 7 minutes.

Mr. KENNEDY. I yield myself 5 minutes.

Mr. President, the Senator from North Carolina is entirely correct. We made the contingency for capitation a greater emphasis on the primary care function. This is the kind of function needed in the rural areas of North Carolina as well as in the inner cities. So by cutting back on capitation, we eliminate one of the important incentives to train the kind of personnel that are important in the communities which the Senator has mentioned.

Of the approximately $720 million proposed for rescission, we are taking out $34 million—moneys targeted to the medical education of our young people in medical schools, nursing, and other schools. The effect of this amendment would be to leave some $50 million rescinded in the health area. We are not trying to restore that money.

Mr. President, during the earlier course of the debate, we discussed the merits and the quality of medical education, and how we were going to meet the health needs of our people across the country. It is important to remind the Members that what we are basically talking about is the word of the Federal

Government—the Congress of the United States and the national administration—to medical schools and other schools.

Last year, we appropriated funds, the President signed the appropriation bill into law, and the schools went ahead and based their plans, budgets, and flow charts on what was appropriated. The President of the United States did not say, "This much is appropriated, but I may rescind some." He said, "This I sign."

Mr. President, it seems to me that we are talking about the increasing importance of a Federal commitment to the medical schools.

The President of the United States comes back from the Middle East with estimates of what it is going to cost in terms of American taxpayers' dollars—$10 billion. What are the Middle East leaders going to think when the President says he is for $10 billion, and then we have Congress act, and then the President of the United States signs the bill, and then maybe a little later—1 year later, 2 years later, 3 years later—a rescission comes up?

That is what we are talking about—a very fundamental, basic policy issue. It is a different issue from that raised with respect to the new building at NIH. The ground for that building has not been broken. There is not the same kind of reasonable reliance on a Federal commitment.

Make no mistake about it: Although the proposed reduction is only $20 million, it is the same as we had the year before in medical education due to a 10-percent inflation rate. More fundamentally, the rescission involves the ability of the Congress of the United States to make a commitment.

Approval of the amendment I have offered is the only way we can bring about restoration of our basic word to the medical schools. If acceptance is essential to medical education, I hope the amendment will be accepted.

Mr. President, I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Two and a half minutes.

Mr. KENNEDY. I yield 2 minutes to the Senator.

Mr. DOMENICI. I thank the Senator.

Mr. President, I support the Senate Appropriations Committee report on H.R. 2439, a bill to rescind moneys for a variety of programs.

I believe we have to send a signal to the American people, and to the entire world, that we in the Senate are serious about spending restraint in these extremely inflation-ridden times. This rescission contains a little pain for everyone. For example, it changes Federal policy on helium procurement, which may have a measurable impact eventually on scientific research in my home State of New Mexico. It cuts some energy programs moneys that I have supported in the past. It cuts some nursing moneys that I have supported.

Yet, I will vote for the rescission as proposed by the Senate Appropriations Committee, because I believe that it is time for us to really bite the budget bullet. We have a clear chance here to show Americans that we hear their voices, and we should take advantage of this opportunity.

I point out to my colleagues that this is really a relatively painless kind of surgery we undertake today, compared to the kind of cuts that I believe we will be called upon to make in the near future. If we are to be frightened by these cuts—cuts that will still retain the programs in question at approximately the levels originally requested by the distinguished Senator from Washington (Mr. MAGNUSON) last year—then fiscal restraint and prudence are in for tough times, indeed, in this Chamber.

Mr. President, I commend the Appropriations Committee and its chairman. They are sending out a good signal on their activities here.

If anyone thinks this is a hard bullet to bite—what the committee has recommended—then they had better not go home and tell their constituents that they are for a lean and austere budget in 1980, because this is a little trial run of what we will have to do in the 1980 budget. If we do not have the courage to go along with the Appropriations Committee on a minor cut, then we are not going to come out with a lean and austere budget in 1980. For those who have said they are in favor of cutting the budget and are opposed to overspending, this is a good opportunity to tell the American people that, come 1980, they are going to do that, also.

The medical schools have no arguments, in my opinion, nor do the nursing schools. In January of this year, the President proposed this rescission. This is a forward-funded program, for the very reason that we wanted to fund it a year in advance so that they would all know where they were. We are cutting a year in advance. They have no right to rely on this kind of program.

I say to my good friend from Utah, who is not in the Chamber at this time, that he is always arguing about getting rid of uncontrollables and entitlements; and he takes the floor today and says somebody is entitled to this money. No one is entitled to it. We pay $267 for medical students, out of $1,339. They probably get $3,000, $4,000, or $5,000 from other sources.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMENICI. Does the Senator from Washington have any time remaining?

The PRESIDING OFFICER. Three seconds.

Mr. MAGNUSON. I yield the Senator 3 seconds.

Mr. DOMENICI. Mr. President, I ask unanimous consent that I may have 1 minute.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DOMENICI. Mr. President, I believe that the medical schools will be back next year if we give them this, and there will be another excuse for more money.

I note in this morning's newspaper that the State of Maryland has $300 million surplus they do not know what to do with. Why does not someone tell them to help the medical students? Senator MAGNUSON and his committee are going to be very generous, but they can give them each $267. They have $300 million. My State, with a budget under $1 billion, has a $130 million surplus. They are wondering what to do with it. I think they can give our medical students $267 and nobody is going to hurt.

This is a good signal that the Appropriations Committee has sent out, and I submit that it is a good test for those who purport to be for a lean and austere budget in 1980. We will see whether they are going to take the heat on that or not.

● Mr. PERCY. Mr. President, I support the amendment offered by Senators KENNEDY and SCHWEIKER to fully restore the funds for the health manpower programs, particularly those for nurse training programs and capitation grants. We will still have rescinded $690 million of budget authority. Failure to adopt the pending substitute might do serious harm to this Nation's health care delivery system.

We must seriously consider the implications of our actions. Have we fully considered the adverse effect this would have on rural, less-populated, and inner-city areas, where there is a real shortage of health professionals? Have we considered this action in light of the fact that we are an increasingly aging society, and the older we get the more health care we will need? Have we fully considered the aspirations of many of our young people, aspirations that will go unfulfilled simply because they will not be able to afford to attend medical school? Have we considered the adverse effect this action will have on minorities, who are vastly underrepresented in the health professions but whose numbers are growing precisely because of the programs that we propose to cut today?

I daresay that the implications have not been fully considered, for if they had, we would not be here today trying to cut the financing for these programs. Let us look at the facts.

It has been claimed that there are enough doctors and, therefore, there is no further need for Federal assistance to medical students. If this is so, why are so many rural areas in my State begging for doctors? Why is there such a dearth of health professionals in the inner-city areas of the cities of my State? Everybody says that we have to get more doctors into our rural and inner-city areas, that is a major problem. What will a reduction in capitation grants contribute to the solution of that problem? Absolutely nothing. Not only will it not help solve the problem, it will exacerbate it. I received word from the dean of the dental school at the University of Illinois, that with the help of capitation grants, they have been able to fund a program designed to encourage graduates to practice in rural areas. To date, they have had great success, placing more than 60 dentists in rural areas. This program will stop if we rescind these funds today.

It has been claimed that there is an adequate supply of nurses. Well, even the Appropriations Committee does not believe this, because it states in its report that it—

> Feels very strongly that nurse training programs should continue to be a high priority. Nurses are becoming a more effective and integral part of the health care system.

A recent survey conducted by the Illinois Hospital Association documented the fact that 74 percent of its membership of 284 hospitals have budgeted registered nurse vacancies. Put another way, at least 210 hospitals in Illinois have an average of 17 vacancies per hospital. This comes out to a need for at least 3,570 additional registered nurses in Illinois alone right now. As the need for nursing services grows, and it will, we will need even more nurses in the years ahead. Even the U.S. Department of Labor estimates that by 1985, nursing jobs could increase by 240.000 positions. The able Governor of Illinois, the Honorable James R. Thompson, has stated:

> In public health nursing, the emphasis on prevention and health maintenance, increases the demand for more and better educated community health nurses. The emphasis on alternatives to high cost institutional care, e.g., home health care, increases demand for R.N.s to provide and supervise such care.
>
> Nurse practitioners are providing increasing care to the elderly and children, particularly in underserved rural and inner-city areas and the training programs rely heavily on federal funds from the Nurse Training Act.

From where will these additional nurses come? In a letter, Governor Thompson also informed me that there are "over 68 vacant faculty positions in schools of nursing in Illinois." According to the Illinois Department of Registrations and Education, there is only one school in Illinois that offers a major in the teaching of nursing. This is disturbing information. It is, therefore, clear that not only is there an inadequate supply of nurses, but also we should be doing more to encourage and facilitate nurse training.

It is obvious from these facts that, as I stated earlier, this effort to rescind funds for health manpower programs is ill-conceived and ill-considered. We need a more sober evaluation of health manpower needs than provided by either the administration or today's debate.

I urge the Senate to act responsibly and restore the funds for the health manpower programs for fiscal year 1979.●

HEALTH PROFESSIONALS CAPITATION GRANTS

● Mr. CULVER. Mr. President, capitation grants for medical education have made a major contribution to meeting the health needs of the American people. This has especially been the case in my own State of Iowa which has suffered historically from the three general problems of medical personnel supply: An overall shortage, geographic maldistribution, and distortions in specialty distribution. I believe that the costs of abruptly cutting back the capitation program through rescission of all or part of the fiscal year 1979 funds would far exceed any immediate savings to be made by these reductions. I, therefore, support the current amendment to maintain the appropriation for capitation at the level approved by Congress last year.

There may well be disagreement over whether the total number of physicians and other medical personnel is sufficient to provide for the health needs of the citizens of this country. Even if this were shown decisively to be the case, however, that conclusion would be of little consolation to States such as Iowa whose physician-population ratios lag far behind that of the Nation as a whole. The most recent statistics which I have seen indicate that for every 100,000 people in the United States there are 177 physicians. In New York that ratio rises to 221. Yet Iowa must attempt to serve each 100,000 of its citizens with only 107 physicians. As to nursing, Iowa ranks 45th among the 50 States in the percentage of its nurses with baccalaureate degrees and well below the national norm in those with advanced degrees. Similar situations exist in other categories of medical manpower.

Associated with the question of total medical personnel supply is the issue of distribution—both in geographic terms and among the different specialties. In general, rural areas have had far more difficulty than metropolitan areas in attracting qualified physicians, nurses, and dentists. And in general, specialty fields have been better supplied than those in primary care such as general practice and pediatrics. In addition, as observers have noted, the three supply issues—overall adequacy, geographic maldistribution, and specialty maldistribution—are interrelated. As the overall supply situation improves, proportionately more medical students are attracted from relatively underserved areas and proportionately more graduates emphasize primary practice fields.

For a State such as Iowa with a large rural population and significant problems in meeting its medical manpower needs, the capitation grant approach has been a useful one. The Comprehensive Health Manpower Act of 1971 authorized statutorily established amounts per student per year in various health professions and a bonus for enrollment of first-year students beyond mandated levels. Schools may use the funds for any purpose except direct student aid and construction. In order to receive such grants, the schools were required to expand enollment, maintain non-Federal financial effort, and conduct programs responsive to national manpower needs.

This approach had an appreciable and positive effect. A GAO study indicated that of the schools surveyed, enrollment increased 22 percent from 1972 to 1977. Officials from the University of Iowa have brought to my attention that first-year enrollment at their College of Medicine climbed from 120 in the sixties to 175 in the mid-seventies. Greater emphasis was placed on preparing physicians in the primary care fields. By the late seventies, a progressive decline which had characterized physician manpower in the past in Iowa was reversed. There were net gains of 72 in 1977 and 62 in 1978. Still it will take 11 more years of maintaining that annual net gain to bring Iowa to a level of 119 physicians per 100,000 people. And that ratio will be 50 percent below the national average. Finally the situation in general practice, family care, and pediatrics remains urgent. Except for the most recent graduates, physicians specializing in these areas tend to fall heavily among older practitioners and hence show higher rates of death and retirement than those in other specialties. In Iowa, it has only been in the last few years that a renewed emphasis on primary care has established the annual number of physicians active in those fields. Iowa cannot risk declines in enrollment which would threaten these recent achievements.

In summing up, Mr. President, I would like to cite the conclusion of the May 1978 GAO report which said:

> Federal capitation support—while only a minor part of medical school revenues—has played an important role in medical education. The flexible nature of Federal capitation support has allowed medical schools to initiate innovative learning experiences for medical students and promote the training of primary care physicians.

That certainly has been the Iowa experience. I believe that rescinding these funds would be false economy.●

HEALTH SERVICES RESCISSION PENNY WISE AND POUND FOOLISH

● Mr. HELMS. Mr. President, the proposed capitation grant rescissions for medical and nursing students will have a substantial detrimental effect upon delivery of medical care in North Carolina and the United States. These capitation grants have significantly increased the number of medical and nursing students available for service in North Carolina.

Often States with large rural populations face the most difficult problems in delivering health care services. For example, my own State of North Carolina suffers one of the worst infant mortality rates in the Nation. Its infant mortality rate is higher than 47 other States. Often a lack of basic care results in infants who are handicapped or crippled and then need substantial and expensive rehabilitation and intensive care. We cannot hope to reduce such health problems without the education, research, and training of skilled medical personnel which this money provides.

In addition Mr. President, it was not too long ago that the Office of Inspector General reported that in fiscal year 1977:

> The incidence of fraud, abuse and waste (at the Department of Health, Education, and Welfare) at a minimum ranged between $6.3 and $7.4 billion.

This Senator and others have proposed practical, specific reforms to reduce such fraud and waste at HEW which continue to be disregarded by those who propose to reduce Federal spending by cutting off funds to programs designed to increase the number of doctors and nurses.

Yet while asserting the need to reduce the budget in this area, the administration is requesting an increase of $700 million in funding for additional food stamp benefits. This Senator has often proposed a substantial reduction in Federal spending, but such reductions cannot be made without reference to certain priorities. At the least we must approach limits to Federal spending from the standpoint of preventing such increases as is now proposed in regard to food stamps, before cutting back programs for which appropriations have already been made and upon which so many people have relied.●

The PRESIDING OFFICER. The Senator from Massachusetts has 48 seconds.

Mr. KENNEDY. Mr. President, I yield back the time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts to the amendment of the Senator from Louisiana. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. MATSUNAGA) is necessarily absent.

I also announce that the Senator from Arkansas (Mr. PRYOR) is absent because of illness.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) is necessarily absent.

The PRESIDING OFFICER. Have all Senators in the Chamber voted?

The result was announced—yeas 41, nays 56, as follows:

[Rollcall Vote No. 18 Leg.]

YEAS—41

Bayh
Bentsen
Bradley
Bumpers
Cranston
Culver
Durenberger
Gravel
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Javits
Jepsen
Kassebaum
Kennedy
McGovern
Melcher
Morgan
Moynihan
Nelson
Pell
Percy
Pressler
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Stafford
Stevenson
Stewart
Thurmond
Tsongas
Weicker
Williams
Zorinsky

NAYS—56

Armstrong
Baker
Baucus
Bellmon
Biden
Boren
Boschwitz
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Danforth
DeConcini
Dole
Domenici
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Hart
Hollings
Huddleston
Humphrey
Inouye
Jackson
Johnston
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
McClure
Metzenbaum
Muskie
Nunn
Packwood
Proxmire
Roth
Simpson
Stennis
Stevens
Stone
Talmadge
Tower
Wallop
Warner
Young

NOT VOTING—3

Mathias
Matsunaga
Pryor

So the amendment (UP No. 47) was rejected.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

The question recurs on agreeing to the amendment of the Senator from Louisiana.

Mr. MAGNUSON. The question is on agreeing to the amendment of the Senator from Louisiana, which cuts the amount of the committee recommendation, and I oppose the amendment.

The PRESIDING OFFICER. The Senator is correct.

The yeas and nays are ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. MATSUNAGA) is necessarily absent.

I also announce that the Senator from Arkansas (Mr. PRYOR) is absent because of illness.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) is necessarily absent.

The PRESIDING OFFICER. The Senate will please be in order.

Mr. ROBERT C. BYRD. Mr. President, no debate is in order during the rollcall, but there will be no more rollcall votes today.

The call of the roll was resumed and concluded.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote? The Chair recognizes the Senator from West Virginia.

Mr. ROBERT C. BYRD voted in the negative, as recorded below.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 14, nays 83, as follows:

[Rollcall Vote No. 19 Leg.]

YEAS—14

Armstrong
Bellmon
Byrd, Harry F., Jr.
Danforth
Hart
Humphrey
Johnston
Long
Lugar
Morgan
Proxmire
Simpson
Stone
Warner

NAYS—83

Baker
Baucus
Bayh
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Inouye
Jackson
Javits
Jepsen
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Magnuson
McClure
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Stafford
Stennis
Stevens
Stevenson
Stewart
Talmadge
Thurmond
Tower
Tsongas
Wallop
Weicker
Williams
Young
Zorinsky

NOT VOTING—3

Mathias
Matsunaga
Pryor

So Mr. JOHNSTON's amendment was rejected.

Mr. SCHWEIKER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MAGNUSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, I have some time left on the bill. I yield such time as the Senator from Pennsylvania desires.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, in submitting its rescission requests to Congress, the administration proposes to wipe out all of the $18 million appropriated for veterinary, optometry, podiatry, and pharmacy capitation grants in fiscal 1979.

The administration seeks to accomplish this in two ways. First, it proposes an outright rescission of $9,094,000 of the so-called VOPP capitation grants. Then, it would take the remainder of the $18 million—some $8.9 million—and use this money to cover increased pay costs. Of the $8.9 million, about $1.4 million would be routinely reprogramed while the balance, or some $7.5 million, would be "transferred" to the Indian Health Service to cover pay costs there.

However, the Indian Health Service is not funded in the Labor-HEW appropriations bill, but, rather is funded in the Interior appropriations bill. In light of this fact, it would take something more than a standard reprograming to accomplish the requested "transfer." It may require an act of Congress.

The funds appropriated by Congress for VOPP were made available to assist institutions providing training in certain medical specialties, and not to cover increased pay costs somewhere else in the Federal Government. In the circumstance, I was glad to see that the House Appropriations Committee "deferred consideration of the request to reprogram and "transfer" almost half of the VOPP funding to meet unrelated pay costs and that both the committee and the full House did not rescind VOPP funds. I hope the House Committee's deferral of consideration on the reprograming and "transfer" of VOPP funds means that the issue will end there.

I believe we also must take a stand on this to disabuse HEW of any notion that there are no or few constraints on the funds we appropriate.

To this end I pose this question to my chairman, Senator MAGNUSON: Am I not correct that we reject the HEW proposal to use $8.9 million of the funds appropriated for VOPP capitation grants in fiscal year 1979 to cover increased pay costs?

Mr. MAGNUSON. The Senator is absolutely correct.

Mr. DECONCINI. If the Senator will yield for a question, the committee's report accompanying this bill appears to confine career incentive funding to secondary and postsecondary activities. Was it the committee's intention to lay down an absolute and categorical prohibition against the provision of career incentive assistance to elementary schools? Or should the committee's directive, that is, that $15 million be used "exclusively" to fund career education in secondary schools, be construed more freely to mean that the Office of Education should put the primary emphasis on secondary schools in the initial stages of implementing the Career Education Incentive Act?

Mr. MAGNUSON. I think the second interpretation is closer to what the committee had in mind in drafting the language to which you refer. It would not seem advisable totally to exclude every elementary program from the funds available for career education programs.

● Mr. DOLE. Mr. President, I support the recommendation of the Senate Appropriations Committee which calls for a modest rescission of funds for the Health Resources Administration during fiscal year 1979. I believe that this is a fair and reasonable compromise which recognizes the seriousness of inflation on one hand and the need to prevent disruption of the budgets of our academic institutions on the other.

I respect the judgment of my colleagues on the Appropriations Committee whose health subcommittee has provided such capable leadership in the development of health care programs for so many years.

Realizing that inflation is the Nation's most serious economic problem, we need to make positive steps toward bringing it under control. But again I stress, we also need to protect our valuable resources, namely, our health education institutions and their students.

I believe this compromise proposal does protect students while taking note of current economic problems. We need to look carefully at how we finance health education, how to maximize our dollars, but we should do this in the context of a full debate on health manpower. In the interim, a show of limited restraint in spending is both necessary and appropriate.●

● Mr. HOLLINGS. Mr. President, there are amendments proposed for both items under the jurisdiction of the State, Justice, Commerce, the Judiciary, and related agencies subcommittee.

For the Foreign Claims Settlement Commission the committee recommends reducing the rescission by $1,000,000 in order to retain that amount for the Commission's 1980 expenses. Similar action was taken with respect to the Commission's budget in 1979 and this action is consistent with the committee's recommendations to the Budget Committee.

The committee also recommends rescinding $6,065,000 of the $14,665,000 rescission proposed for the Small Business Administration. We have worked with the Small Business Committee on this and would really rescind $12,065,000 of the amounts proposed by the President for rescission; or all but the $2,000,000 for additional contracted management assistance to minority firms, and the $600,000 for the Small Business Institute. However, we recommend retaining $6,000,000 for the administrative expenses of the $620,000,000 disaster loan fund supplemental that was submitted by the President on March 5. This was not in the rescission proposal, but the committee believes it makes little sense to rescind funds one day and restore them a week later.●

Mr. MAGNUSON. Mr. President, I yield back the remainder of my time and move passage of the bill.

Mr. SCHWEIKER. Mr. President, I yield back the remainder of my time.

Mr. MAGNUSON. Now the question recurs on the passage of the bill, Mr. President.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 2439), as amended, was passed.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of the Senate amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I move the Senate insist upon its amendments, request a conference with the House on the disagreeing votes thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Chair appointed Messrs. MAGNUSON, STENNIS, PROXMIRE, INOUYE, HOLLINGS, BAYH, EAGLETON, CHILES, JOHNSTON, YOUNG, HATFIELD, STEVENS, MATHIAS, SCHWEIKER, BELLMON, and WEICKER conferees on the part of the Senate.

SENATE RESOLUTION 104—RESOLUTION HONORING CLARENCE M. MITCHELL, JR.

Mr. BAYH (for himself, Mr. KENNEDY, Mr. GLENN, Mr. BENTSEN, Mr. BRADLEY, Mr. BUMPERS, Mr. BURDICK, Mr. ROBERT C. BYRD, Mr. CANNON, Mr. CRANSTON, Mr. DECONCINI, Mr. DURKIN, Mr. EAGLETON, Mr. FORD, Mr. GRAVEL, Mr. HART, Mr. HOLLINGS, Mr. INOUYE, Mr. JACKSON, Mr. JOHNSTON, Mr. LEAHY, Mr. LEVIN, Mr. MAGNUSON, Mr. MCGOVERN, Mr. MELCHER, Mr. METZENBAUM, Mr. MOYNIHAN, Mr. MUSKIE, Mr. NELSON, Mr. PELL, Mr. PROXMIRE, Mr. SARBANES, Mr. STEVENSON, Mr. STONE, Mr. WILLIAMS, Mr. LONG, Mr. BAKER, Mr. BELLMON, Mr. CHAFEE, Mr. COHEN, Mr. DANFORTH, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. GARN, Mr. GOLDWATER, Mr. HATCH, Mr. HATFIELD, Mr. HEINZ, Mr. JAVITS, Mrs. KASSEBAUM, Mr. LAXALT, Mr. LUGAR, Mr. MATHIAS, Mr. MCCLURE, Mr. PACKWOOD, Mr. PERCY, Mr. PRESSLER, Mr. SCHWEIKER, Mr. SIMPSON, Mr. STAFFORD, Mr. STEVENS, Mr. THURMOND, Mr. TOWER, Mr. WARNER, and Mr. WEICKER) submitted the following resolution:

S. RES. 104

Whereas Clarence M. Mitchell, Junior, has improved the quality of life for all Americans through his leadership as Director of the Washington Bureau of the NAACP, Legislative Chairman of the Leadership Conference on Civil Rights, and various government posts;

Whereas he has played a vital role in the enactment of numerous civil rights statutes such as the Civil Rights Act of 1964 and the Voting Rights Act of 1965 and its extensions;

Whereas he served with great distinction as an advocate of international cooperation, understanding, and justice as United States Representative to the Seventh Special Session of the United Nations and the Thirtieth Session of the General Assembly of the United Nations;

Whereas his tireless dedication to the pursuit of substantive civil rights legislation has been an inspiration to all Americans;

Whereas he has embodied deep devotion to equality for all under the law through dedicated service to his fellow human beings in the cause of civil rights; and

Whereas his commitment to fundamental principles and his commitment to the tenets of freedom and equality exemplify the highest form of American citizenship: Now, therefore, be it

Resolved, That at this time of his retirement from his position as chief legislative spokesman for the National Association for the Advancement of Colored People (NAACP) the Senate of the United States honors Clarence M. Mitchell, Junior, for his contributions to the establishment of justice and equality in America, and expresses gratitude for his efforts to improve the quality of life for all Americans.

Mr. BAYH. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 104) noting the retirement of the Honorable Clarence M. Mitchell, Jr., and expressing gratitude for his contributions for the cause of civil rights and the enhancement of life in America.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAYH. Mr. President, it is with great pleasure that I rise to offer this resolution in honor of a remarkable human being and a great American, Clarence M. Mitchell, Jr.

It is quite appropriate that this body adopt a resolution honoring Mr. Mitchell, out of deference for the great service he has paid his country over the past 40 years. There is probably no one person in this country who has made more appearances before congressional committees than my good friend, Clarence Mitchell. As the chief legislative spokesman for the National Association for the Advancement of Colored People, this great debater has convincingly testified on matters ranging from foreign affairs to domestic civil rights.

Mr. President, when I first arrived in

Washington, D.C., as a freshman Senator back in 1963, I soon became acquainted with Clarence. It was at that time that he met with me in my office regarding the 1964 Civil Rights Act. I must admit that I was thoroughly impressed with his gentlemanly but persuasive manner. He not only convinced me that a "yes" vote on the civil rights legislation was a correct vote, but that I should also become an active fighter in the cause of justice and equality in America.

With the help of his wise counsel and advice, we in the Congress were able to take on the Nixon administration and defeated the nominations of two incompetent nominees to the Supreme Court. We were able to pass the 1965 Voting Rights Act, which led to the enfranchisement of millions of American citizens throughout the South. Again in 1968, through the effective lobbying of Mr. Mitchell, we passed a stronger civil rights act, which outlawed discrimination in the sale and rental of housing. In 1970 and in 1975, because of Clarence's direct involvement, the Congress extended the Voting Rights Act. Listing his accomplishments in the service of his country would take up many pages of the CONGRESSIONAL RECORD. However, bear with me while I list just a few more. Mr. Mitchell's assistance was critical in the passage of the 26th amendment, which lowered the voting to 18; in the passage of the Civil Rights Attorney Fees Act of 1976; and the District of Columbia full voting rights in 1978.

Mr. President, these are a few of Mr. Mitchell's accomplishments. Even though he has a distinguished record as a lobbyist, let me add that this great warrior has served his country in an additional capacity. Allow me for a few minutes to elaborate. I recall during the hearings for District of Columbia representation, Mr. Mitchell complemented me for having a black man sitting next to me as my staff aide. Well I think it is time for me to turn that complement around and say to Clarence that probably his greatest accomplishment has been as a model for young, bright, and articulate black men and women throughout America.

He has alerted black youth through hard work and dedication, there is a place for them in the halls of Congress, the courts and the executive branch of government. In a time when young people, both black and white, are searching for an identity, and are in need of leadership, Mr. Mitchell stands as a symbol of what is yet to come. He symbolizes the greatness of America and the opportunities that this country offers to all its citizens. He symbolizes the change that has occurred over the years making it possible for black men and women to compete on an equal basis in our democratic system.

He admonishes the forces of injustice "that would destroy us and our country by causing us to lose faith in the power of just laws. Whether it comes from a Ku Klux Klan meeting in a cow pasture or a street corner meeting in Harlem, the voice that ridicules our Constitution, that demeans our Supreme Court and discounts our civil rights laws is the sound of man's ancient enemy ignorance." He correctly advices young black Americans that they must continue to struggle for what they believe in and they must never crack under the pressure of adversity. He sincerely believes that the adversities are far outweighed by the many opportunities he and other fighters have created for all Americans.

Finally, Mr. President, let me add that Mr. Mitchell is more than anything else, a true scholar and gentleman. He is a God-fearing man who recognizes the need for just laws based on the concept of equality, fairness and justice for all America's children, be they black, white, red, or yellow. Because Clarence Mitchell, a friend of mine, and a friend of America has meant so much to so many, I feel honored to be able to introduce this resolution in his behalf, for your consideration.

Mr. THURMOND. Mr. President, I rise to express my support for the resolution introduced by the Senator from Indiana (Mr. BAYH) to make special recognition of the retirement of Clarence Mitchell as the chief legislative spokesman of the NAACP.

During my more than 24 years in the Senate, Mr. Mitchell and I have been on opposite sides of many issues, but throughout that time he has always had my respect. In 1957, I took the floor to filibuster the first major civil rights bill to come before the Senate. The reason I did so was to oppose a provision that would have eliminated a jury trial for persons fined under $300 or 45 days for civil rights violations. I believed then, and do today, that such a provision violates the sixth amendment right to a jury trial. During my speech, there was one spectator along with my first wife, Jean Crouch Thurmond, who remained in the Senate gallery throughout that long day and longer night. That man was Clarence Mitchell.

Mr. President, since those days of the first civil rights bills, Mr. Mitchell has appeared on numerous occasions before the Senate Judiciary Committee, on which I serve as ranking Republican, to testify on a wide variety of issues. He has always been courteous, informative, and helpful to the committee and its efforts. He has always maintained a low-key, soft-spoken manner in his dealings on Capitol Hill.

His supporters and opponents alike have always found Mr. Mitchell cooperative and pleasant, but dedicated to his beliefs and his cause. These are qualities that over time earn the respect of every person. He has shown courage in the face of overwhelming opposition and grace in time of victory.

Clarence Mitchell believes in the rule of law and not of men. His years on Capitol Hill have been witness to his deep-seated trust in the U.S. Constitution and democratic government. He has always followed the processes of law and our system of justice to pursue his objectives.

I am pleased to join as a cosponsor of this resolution.

● Mr. BAKER. Mr. President, I am delighted to join the distinguished gentleman from Indiana, Mr. BAYH, in sponsoring a resolution honoring one of the Senate's oldest and best friends.

Clarence Mitchell is retiring as director of the Washington bureau of the National Association for the Advancement of Colored People, but we are happy to note that he will continue as chairman of the NAACP's Leadership Conference on Civil Rights.

Mr. Mitchell has labored his whole lifetime for the advancement of civil rights, beginning in his hometown of Baltimore and spreading his influence throughout the country and indeed the world.

He has witnessed a great many changes in our society in its struggle for human rights, and every legislative advance made in this field over the last 30 years bears his stamp.

Another champion of civil rights, Hubert Humphrey, once said:

> Clarence Mitchell is a man of unswerving principle whose devotion to justice is matched only by his great wisdom and capacity for understanding. Firm in his faith in the Almighty and in the brotherhood of man, Clarence has always sought to bring out the best that is in human nature.

As usual, Hubert spoke well. We are grateful to Clarence Mitchell for his exemplary service. We will miss him in this house, and we have tried to tell him how we feel about him in this formal resolution.

But our most genuine appreciation of the life and work of Clarence Mitchell will be demonstrated best whenever we take a legislative action which advances the cause of human and civil rights.

It is my hope that Clarence Mitchell will be here to see many such actions in the years ahead.●

● Mr. MOYNIHAN. Mr. President, I am pleased to join with my colleagues in introducing this resolution to honor Clarence Mitchell, who has served with distinction for nearly three decades as director of the Washington bureau of the NAACP. Surely, few men have contributed more to the struggle for civil rights in our Nation and none has greater cause for pride in its accomplishments. I served with him during my tenure as Ambassador to the United Nations, and it has been a privilege and an honor to have been associated with him in innumerable other endeavors over the last 15 years. I feel this resolution to be a most appropriate, if wholly inadequate, expression of our gratitude for his contributions to our Nation.●

● Mr. KENNEDY. Mr. President, I rise in support of the resolution honoring Clarence M. Mitchell, Jr.

This evening at the Washington Hilton several hundred people who have come from all the corners of our great Nation will pay tribute to this most remarkable man. For nearly four decades he has relentlessly walked the halls and testified before the committees of Congress for the cause of civil rights.

His courage, dedication, and wisdom have helped to better the quality of life for all Americans.

When we examine the struggle for equality in America and the visible progress that has been made, Clarence

Mitchell stands out as a leader in a movement that produced some of the Nation's most outstanding champions of human rights. His mark is clearly imprinted among those who have made possible the civil rights and human rights progress of recent years.

Clarence Mitchell has helped the Nation patch the cracks in the Constitution and fill the gaps in the Bill of Rights. Thanks to his tireless efforts and commitment, this body, for one, was never allowed to forget the need for fundamental change. For this reason I prefer to think of Mr. Mitchell as a 20th century Founding Father—maybe I should say founding parent of a new vision of America—one which embraces all people.

He has chastised and taught us, and then shown us the way toward the fulfillment of the American dream—that all of us are created equal and endowed with certain inalienable rights. Above all he has given us the knowledge and perspective of our weaknesses and human and national frailties. He has shown us what must be done and the way to do it.

Although he is retiring from his position as chief of the NAACP's Washington bureau, his voice will still ring strong and clear so long as work remains to be done and the agenda of human rights remains unmet.●

● Mr. GLENN. Mr. President, it gives me great pleasure to join Senators BAYH and KENNEDY as a coauthor of this resolution honoring a truly great American, Mr. Clarence Mitchell.

As chief lobbyist of the NAACP and spokesman for the Leadership Conference on Civil Rights, Clarence Mitchell has established for himself an absolutely indelible place in the history of the United States and of the U.S. Senate.

Clarence Mitchell, truly acting as the "101st Senator" fought the epic legislative battles that have begun in the 1950's, 1960's, and 1970's to bring some measure of sanity and justice to our often tragic history of race relations. He has utilized his tremendous legal, political and personal skills to fight and win some of the epic legislative battles of this century. I am speaking of the Civil Rights Act of 1964, the Voting Rights Act of 1965, and its subsequent extensions as well as many, many others. I also speak of his efforts across government to effectively and persuasively represent minority interest and to protect hard-won rights.

I could go on in this vein, but my two senior colleagues, Senators BAYH and KENNEDY are perhaps better qualified as they played major active parts in many of these early battles. I have only had the honor of actually working with Mr. Mitchell for 4 years. Yet, even in this short period of time, I have been honored to count Clarence as a friend and ally in our efforts to strengthen the EEOC, to protect minority interests and rights in the Federal work force, to extend fair hiring practices to our body, to achieve greater minority representation in areas of Government heretofore untouched such as the regulatory agencies. In every instance in my own experience, Mr. Mitchell's legislative skills and acumen have been simply outstanding.

In closing, I want to say that any discussion of Clarence Mitchell is not exclusively a discussion of past achievements. In many ways it is a discussion of the future. Clarence distinguishes himself from others because he has a vision of the future. He envisions a society where racial questions and problems are behind us. He envisions a society where today's black youth rapidly assume tomorrow's role as national leaders. It is a remarkable quality about this man that he works with, encourages and supports a younger generation of blacks who are relatively new to the legislative and governmental processes. I think this quality, when coupled with an unmatchable career of achievement, is a tremendous testimony to a great American.

I strongly support this resolution and urge its passage.●

● Mr. BENTSEN. I am pleased and honored to rise today to cosponsor this resolution expressing the Senate's respect and gratitude for Clarence Mitchell, who is now retiring.

Few people in our Nation can match his record of leadership in the great causes of civil rights. As director of the Washington office of the NAACP, as legislative chairman of the Leadership Conference on Civil Rights, and as a spokesman on numerous issues relating to human rights, Clarence Mitchell has commanded our attention, respect, and support.

He has spoken out when it was courageous to do so. He has provided a voice for hope and justice, a voice inspiring us to act in the highest traditions of the American ideal. His voice was heard on behalf of the Civil Rights Act of 1964. It was heard on behalf of the Voting Rights Act of 1965. It has been heard on behalf of jobs for the poor, health care for the ill, food for the hungry, and justice for all.

Every American who believes we can build a society that is fair and prosperous owes a great debt to Clarence Mitchell. Throughout his distinguished career, he has proven the power of purpose and idealism. He demonstrated that one person fighting for a just cause can make a difference in the course of events.

I am sad that he is retiring, but we can look back and be proud and thankful for the great civil rights struggles he has helped to lead.

Just as we must remember that there is a long way to go, we must not forget that it is because of the work of Clarence Mitchell and his allies and supporters that we have come as far as we have.

For these efforts, we can only say "Thanks," and we can be confident that sometime in the future, when a difficult issue confronts the conscience of Congress, his voice will be heard once again.●

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The PRESIDING OFFICER. What is the will of the Senate?

The Chair recognizes the Senator from Indiana.

Mr. BAYH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. STEWART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR ROUTINE MORNING BUSINESS TOMORROW

Mr. STEWART. Mr. President, I ask unanimous consent that, after the special order tomorrow, there be a period of 30 minutes for the transaction of routine morning business, with statements therein limited to not more than 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. STEWART. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 11 a.m. tomorrow.

The PRESIDING OFFICER (Mr. BAUCUS). Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. THURMOND. Mr. President, I ask unanimous consent that Richard Velde, James Lockemy, and Mr. Dennis Shadd of the Judiciary Committee be granted the privilege of the floor for the balance of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Also, if the distinguished Senator from Indiana brings up the Presidential election bill, for the duration of consideration of that bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. I ask unanimous consent that Mr. Nels Ackerson, Ms. Mary Jolly, Ms. Marcia Atcheson, Ms. Louise Milone, Ms. Linda Rogers-Kingsbury, and Mr. Ben Dixon of my staff of the Subcommittee on the Constitution of the Committee on the Judiciary be given the privilege of the floor during the consideration of any matter pertaining to Senate Joint Resolution 28 (Calendar No. 13), the direct election amendment joint resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Will the Senator yield for a unanimous-consent request?

Mr. BAYH. Yes.

Mr. HATCH. Mr. President, I ask unanimous consent that Tom Parry and Stephen Markman of my staff may have the privilege of the floor throughout the consideration of the matters referred to.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR LEAHY TOMORROW

Mr. STEWART. Mr. President, I ask unanimous consent that, when the Senate convenes tomorrow, Mr. LEAHY be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

DIRECT POPULAR ELECTION OF THE PRESIDENT AND VICE PRESIDENT

Mr. BAYH. Mr. President, I have cleared the following request with both the majority leader and the minority leader. I understand that the distinguished ranking member of the Judiciary Committee has also been advised. I ask the Chair to lay before the Senate Calendar Order No. 13, Senate Joint Resolution 28.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

> A joint resolution (S.J. Res. 28) proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the immediate consideration of the resolution and without objection, the joint resolution will be considered to have been read the second time at length.

Mr. BAYH. Mr. President, today we begin debate on a constitutional amendment to abolish the Electoral College and establish direct popular election of the President and Vice President. This proposal has been studied intensively in the Senate for well over a decade, but has only once reached the Senate floor and has never reached a vote. In 1970 it was approved in the House by a vote of 339 to 70, but the Senate was denied its opportunity to vote due to a filibuster, which occurred during the closing days of the session when many of the Senators were running for election and there was the problem of getting them back, so we took it off the calendar and it was never voted on by the Senate.

I am confident that the 96th Congress will pass this joint resolution by the necessary two-thirds vote and the State legislatures will ratify this amendment, thereby finally providing our political system with a safe and fair means of electing the President and Vice President.

John Roche once described the Electoral College as "merely a jerry-rigged improvisation which has subsequently been endowed with a high theoretical content. The future was left to cope with the problem of what to do with this Rube Goldberg mechanism."

That two-sentence quote from John Roche carries a lot of meaning for anyone who has had a chance to really study the way in which the electoral college actually works.

Despite its eccentricities the electoral college is not a lovable old mechanism to be kept and treasured. Mr. President, the electoral college is not harmless. If, as its defenders like to say, it has worked it has worked oftentimes in strange ways. It carries with it always the risk that it may not work at all. As the Presidential election of 1980 approaches, I hope that the Congress will take heed of the ominous rumblings we have had from this cumbersome counting machine in the past, and begin the amendment process that would provide the country with political protection from a breakdown which could occur anytime in the future. To finally replace the electoral college with direct election is simply to give us insurance before it is needed.

I have read with a great deal of interest certain editorials of very distinguished columnists, the essence of which was, "If it ain't broke, Birch, don't fix it."

That is almost like saying, "If your house is not on fire, don't take out fire insurance. If you don't have heart trouble or if you don't have cancer or if you haven't had an accident on the way to the Senate that broke both legs and put you in the hospital at $150 a day, don't take out health insurance."

What we are trying to do in this effort is not to revolutionize the electoral process or dramatically change the constitutional structure of this country; what we are trying to do is put a little grease on a very squeaky wheel, which has come very close to having consequences which could prove unacceptable to the people of this country.

The electoral college has given problems since it was first created. Speaking in Federalist 67 of the manner of electing a President which had been chosen by the 1787 convention, Alexander Hamilton said:

> There is hardly any part of the system which could have been attended with greater difficulty in the arrangements of it than this . . .

That was Alexander Hamilton speaking, yet we are going to be told here by some of the opponents of this effort that the Founding Fathers had infinite wisdom and all believed they had come forth with a majestic solution to electing the President. Not so, Mr. President.

The manner of electing the President was debated extensively during the summer of 1787. Debate centered mainly between those who believed in a direct popular vote and those who wanted election by the National Legislature. However, John Feerick, chairman of the American Bar Association Committee on Election Reform, an outstanding scholar of the workings and mechanism of the electoral college, reports from the historical records, that on July 25 the following proposals were all debated but none adopted:

> Among the proposals made, but not adopted were that he be chosen by: Congress and, when running for re-election, by electors appointed by the state legislatures; the chief executives of the states, with the advice of their councils, or, if not councils, with the advice of electors chosen by their legislatures, with the votes of all states equal; the people; and the people of each state choosing its best citizen and Congress, or electors chosen by it, selecting the President from those citizens.

A committee of 11 finally was appointed to break the deadlock over how votes for President would be apportioned in the National Legislature. The committee discarded the legislative election method, and in the final days of the convention recommended a system of intermediate electors. Their recommendation was accepted.

I will say, Mr. President, that this was after the great compromise which put the union together. The Federal system had already been formulated; the compromise between the large and small States, the large States being represented in the House and the small being represented in the Senate.

The electoral college was not considered to be an indispensable part of that compromise. It was not even considered at that time.

Clearly, the electoral college system was neither the most obvious, the most popular nor the most inspired of the Founding Father's great works in framing the Constitution. What is more, the Founders did not envision political parties, the unit rule, or popular election of electors. These aspects of the present system of electing a President evolved quickly and changed the system dramatically, but not by design of the delegates to the 1787 Convention.

James Madison, one of the original Founding Fathers, wrote some 36 years later, as he looked back on his offspring:

> The difficulty of finding an unexceptionable process for appointing the Executive Organ of a Government such as that of the U.S., was deeply felt by the Convention; and as the final arrangement took place in the latter stages of the session, it was not exempt from a degree of the hurrying influence produced by fatigue and impatience in all such bodies, tho' the degree was much less than usually prevails in them.

For its time, however, the electoral college made some sense.

I think it would be wrong for me to stand here and criticize this as a solution, but this was done 200 years ago by our Founding Fathers. We were living in a different age. The Founding Fathers were dealing with a much different society and the electoral college was a device for that society. The land mass of the country was huge; communication was primitive; and education was limited at best. Lack of information about possible Presidential candidates was in fact a very real consideration. Direct election would have been a difficult proposition, a reality which James Madison, one of its strong proponents, acknowledged reluctantly. Added to this were the problems involving suffrage. Out of a total population of 4,000,000, almost 700,000 were slaves, almost 90 percent of the South. It was not possible to count the slaves along the lines of a 3 to 5 compromise type of solution in a direct popular vote system. This would have led to northern-dominated elections and would have been wholly unacceptable unless the slaves were permitted to vote which was equally unacceptable.

James Madison spoke to this problem on July 19, 1787:

> There was one difficulty however of a serious nature attending an immediate choice by the people. The right of suffrage was much more diffusive in the Northern than the Southern States; and the latter could have no influence in the election on the score of the Negroes. The substitution of electors obviated this difficulty.

From the beginning the electoral college did not work as intended. Those who feel this has been a perfect mechanism should harken back to 1800. By 1800, the first crisis occurred when Burr and Jefferson tied in the electoral vote for President. Thus, the election was put to the House of Representatives. After 36 ballots and 6 days, Jefferson finally won, but it was clear that an amendment was needed. In 1804 the 12th amendment was ratified, solving only the immediate problem of the 1800 election, but leaving the already outmoded electoral college in place.

As has been often said, the system has backfired three times. In the elections of 1824, 1876 and 1888 the candidate who received the most votes did not win. That is three elections out of the 39 which have recorded popular votes, or a failure rate of 8 percent. Each of these elections has shown some peculiar flaw of the electoral college system.

Mr. President, as I pointed out just a moment ago, those who say, "If it ain't broke, don't fix it," are poor readers of history.

A failure rate of 8 percent, and some very near misses that increase the almost failure rate to an unacceptable level, hardly support the notion that "it ain't broke."

I will deal with these near misses of more recent vintage in the memory of most of us in just a moment.

The election of 1824 ended up in the House of Representatives. It taught us a lesson to be carried to this day. What happened then was remembered 144 years later and hovered behind the fears about George Wallace's third party candidacy in 1968. Despite a popular vote plurality of 40,000 votes out of almost 400,000 votes cast—a 10 percent popular vote plurality—Andrew Jackson did not receive sufficient electoral votes to win. During the period between the election and House action, the Nation was subjected to the spectacle of the asking and the suspected granting of every manner of favor as Jackson and Adams vied for the votes of House Members. Charges of a corrupt deal followed Adams through his presidency and as a result of his anger over the election, Andrew Jackson formed our modern Democratic Party.

With direct election, no such deal-making or charges of deal-making ever would be possible. In the unlikely event that the leading candidate does not receive 40 percent of the popular vote, an event which has occurred only once in our history, the people themselves will get to choose the candidate they prefer in a runoff election.

The decision will not be made in a smoke-filled room where the vote of representatives could likely go to the highest bidder.

The election of 1876 was the result of a system steeped in corruption before the election, a nation not yet recovered from the bitterness and division of a Civil War and a system that permitted fraud in a handful of States to decide an election. Even President Rutherford Hayes, in his diary, admits that Samuel Tilden, in fact, won the Presidency. Fraud is an ever present possibility in the electoral college system, even if it rarely has become a proven reality. With the electoral college, relatively few irregular votes can reap a healthy reward in the form of a bloc of electoral votes, because of the unit rule or winner take all rule. Under the present system, fraudulent popular votes are much more likely to have a great impact by swinging enough blocs of electoral votes to reverse the election. A like number of fraudulent popular votes under direct election would likely have little effect on the national vote totals.

I have said repeatedly in previous debates that there is no way in which anyone would want to excuse fraud. We have to do everything we can to find it, to punish those who participate in it; but one of the things we can do to limit fraud is to limit the benefits to be gained by fraud.

Under a direct popular vote system, one fraudulent vote wins one vote in the return. In the electoral college system, one fraudulent vote could mean 45 electoral votes, 28 electoral votes.

So the incentive to participate in "a little bit of fraud," if I may use that phrase advisedly, can have the impact of turning a whole electoral block, a whole State operating under the unit rule. Therefore, so the incentive to participate in fraud is significantly greater than it would be under the direct popular vote system.

In addition, there is one other incentive, it seems to me, which does not exist today, to guard against fraud under the direct popular vote. In a direct popular vote, each vote counts. It does not make any difference whether you are going to win or lose by 1 vote or a million. Each vote adds to the national total. So each precinct committeeman and committeewoman standing at that polling place, represening his or her party, has an incentive to police each of those votes to see that it is a legitimate vote.

On the other hand, in the electoral college system, in which, if you are going to lose by 100,000, you might as well lose by 200,000, because either way you lose all the electors, there is no benefit given to the party that comes close. There is no incentive to either the winner or the loser at the precinct level to get out more votes; because once you have lost a State by one vote, you have lost everything you had to lose—namely, all the electoral votes. In a direct popular election each vote would count on the national scale, committeewoman would know in advance that that was going to be the case. You would have a much more severe policing of the precincts as the votes were counted, and you would have a self-policing mechanism the likes of which is not present in many precincts today.

We may cite New York in 1976 as an example. Cries of voting irregularities arose on election night. At stake were 41 electoral votes—more than enough to elect Ford over Carter in the electoral college. Carter's popular margin was 290,000. The calls for recount were eventually dropped, but if fraud had been present in New York, Carter's plurality of 290,000 would have been enough to determine the outcome of the entire national election. Under direct election, Carter's entire national margin of 1.7 million votes would have had to have been irregular to affect the outcome.

Fraud was also involved in the election of 1888, but there is no question that Grover Cleveland won the popular vote by a 23,000 plurality and lost the electoral vote 219 to 182, simply because the electoral system allowed it to happen. Had Cleveland not been so willing to return to public life; had he, like Jackson, gone home and created a great storm of controversy, we have no way of knowing how the people would have reacted.

What happened in 1888 represents the greatest danger presented to us by the electoral college. Of course, no one can foretell with accuracy what would be the reaction in the United States in the second half of the twentieth century if the duly elected President were not the popular vote winner. But we should be thinking about it. There have been three near misses in the last five elections.

Let us think of that. There have been three near misses in the last five elections. It may be broken; it sure is rumbling and sputtering, if in three of the last five Presidential elections we almost had a miscarriage of what we traditionally would call electoral justice.

When we consider our present day increased suffrage, widespread education, ever-present communications systems, and, perhaps most important, popular dissatisfaction with and distrust in the political process, it is reasonable to predict that there would be a political crisis if a President were elected and tried to govern after receiving fewer votes than the candidate against whom he was running. Surely, there is nothing speculative in the view that the mandate of the President to lead would be severely, perhaps irreparably, weakened.

This morning, about 12:30 or 1 o'clock, I stood at Andrews Air Force base with my son and others of my countrymen, with my heart in my throat, as Air Force I came wheeling to a stop and the Marine Corps Band played "Hail to the Chief." As the President of the United States left the plane, to the cheers of the multitude, I could not help thinking how difficult a burden that man carries. It has become almost impossible to be a good President of the United States because of the complex society in which we live today.

It would increase the difficulty of governing for any President if he knew in the back of his mind, if Congress knew, if the people knew, that the man sitting down there, calling orders in the White House, was not the choice of most of the people, but was defeated by the popular vote in the last election.

Mr. President, that is what concerns me—not that the President who has fewer votes might not be an outstanding President. He or she might be a great American, but how could such a President lead our people effectively if more voters chose his opponent. We are living in a time when the people are looking with great dissatisfaction, distrust, and disenchantment at the political process, and I do not know how the public would respond to the leadership of a President who is not the choice of the people of this country.

Mr. President, I emphasize that the danger that the electoral college will produce a President who is not the choice of the voters is not remote—it is not a speculative danger. On several occasions in this century, a shift of less than 1 percent of the popular vote would have produced an electoral majority for the candidate who received fewer popular votes. I repeat: A change of 1 percent would have produced this electoral majority for the candidate who received fewer popular votes.

To reflect on recent years 1960, 1968, and 1976, most of us remember those years. We should remember the dangers that have been all too close.

To this day we cannot be absolutely certain whether John Kennedy in fact won the popular vote or not in 1960.

If you look at the record, in the States of Alabama and Mississippi, States where unpledged Democratic electors were run and some of them won positions as Presidential electors, many did not vote for President Kennedy when the electoral college met; yet the popular votes for these electors was included in the Kennedy tally by the television networks and by the newspapers and most of those who did the counting.

So we really do not know what the national tally was. We do know it was frighteningly close to a backfire, though we do know if there had been a change of a few thousand votes in the State of Illinois we would have had a much different situation.

Most frightening in this election was an attempt by a Republican elector from Oklahoma to combine with other conservative electors, to disregard the popular vote and vote a Byrd-Goldwater ticket out of the electoral college.

My distinguished colleague, the senior Senator from Virginia, should be assured that we mean no disrespect for his distinguished father who was highly considered by many people throughout the country and performed a great service in this body. I use this as an example to show what actually has, in fact, happened under the system. Persons not even on the ballot have been urged in the electoral college—and in recent years.

Henry Irwin sent the following telegram in 1960 to his fellow electors:

> I am an Oklahoma Republican elector. The Republican electors cannot deny election to Kennedy. Sufficient conservative Democratic electors available to deny labor socialist nominee. Would you consider Byrd President, Goldwater Vice President, or wire any acceptable substitute. All replies strict confidence.

That is a fact. That is not some cheap TV-only novel that we have to watch interspersed with commercials.

In 1968, which concerned me, very frankly, much more, we entered an election and built a strategy based on the notion George Wallace could deadlock the electoral college and broker the Presidency there.

Here are the questions and answers by candidate Wallace in a press conference:

> QUESTION. If none of the three candidates get a majority, is the election going to be decided in the Electoral College or in the House of Representatives?
>
> WALLACE. I think it would be settled in the Electoral College.
>
> QUESTION. Two of the candidates get together or their electors get together and determine who is to be President?
>
> WALLACE. That is right.

In other words, the Constitution requires that, when the votes are cast by the electors in December, if a majority is not received by one candidate then the matter goes to the House of Representatives. But what Governor Wallace was saying plainly, openly, for everyone to see, was that he intended to broker his support to one of the other candidates in the electoral college, and it was perfectly legal under the Constitution. We are not accusing him of being devious—quite the contrary, he was quite open and flagrant—what he was trying to do he nearly accomplished. His purpose was to get electors, and he got 36. If there then had just been a change of a handful of votes, neither Nixon nor Humphrey would have had a majority of electoral votes and Wallace would have prevented the matter from going to the House of Representatives. He would first sit down with Mr. Nixon and then Mr. Humphrey, or vice versa, and cut a deal.

But I am here to say, without any irreverence to either one of these men, practical politics being what it is, one of those would have literally purchased, and I use the term advisedly, purchased the Wallace electors and the decision would have been made then in the electoral college. There the independent Wallace electors would have joined in the electors of the other candidates and there would have been a majority without the matter having to go to the House of Representatives.

Wallace managed to get his name on the ballot in all 50 States and came within 54,000 votes of accomplishing this goal. We can only speculate how the American people at the height of the controversy over the Vietnam war would have reacted to the kind of deals that might well have taken place between election day and the meeting of the electors.

We might even ask ourselves more significantly how the voters would react today where their faith and confidence in the political processes and the political leaders of our country has gone even lower than it was at the height of the Vietnam war.

In the last election, in 1976, a change of less than 9,500 votes combined, in Ohio and Hawaii would have made Ford the President while Carter had an almost 1.7 million vote plurality. Such a misfiring of the system in our present climate could have grave consequences for our system and for the person charged with carrying out the duties of the Presidency.

One of the things that I have really appreciated about the particular effort that many of us have been involved in over the years is that it is a really bipartisan, multiphilosophy effort. We cannot say everyone who is for direct election belongs to one party or one part of either party. It has been a conglomeration of Senators, House Members, and individual citizens who are concerned about the problem.

One of our distinguished allies from the moment he had the opportunity to serve on the American Bar Association panel back in the late 1960's, was our distinguished colleague, the senior Senator from Oklahoma, Senator BELLMON. He will have his say on this and so I will not relate his experience as he sat there and watched how this system really works and determined that he was not going to support the electoral college system which prior to that time he had thought benefited his relatively sparsely populated State.

The reason I bring this up right now is that I recall after that spectacle of election night, with Carter with almost a 2 million vote plurality, and Ford with a change of less than 10,000 votes having the opportunity to get an electoral college majority. I called HENRY BELLMON and I said:

> Henry, what do you think? Do you think we ought to give it another try?

He said:

> Well, I have been intending to call you. If that had backfired and Ford had been elected it would have been good for the Republicans but it would have been bad for the Republic.

That takes a pretty big man to say something like that, but that is the truth.

I would have said the same thing about the 1968 election. As most of you know, I am not one of Richard Nixon's most avid supporters. But if Nixon had a plurality of that popular vote he ought to be elected President, and we should not have some gerry rigged kind of situation to end up with throwing out the popular vote winner.

In a runaway election—like that of 1972—any system will produce an electoral victory for the popular vote winner. But the real test of a system is whether it really will stand the test in close elections and in elections as close as that of 1960 the present system offered only a 50–50 chance that the electoral results would agree with the popular vote. For an election as close as 1968, where some 500,000 popular votes separated the candidates, there was one chance in three that the electoral vote winner would not be the popular vote winner as well. Even in the 1976 election, where Mr. Carter's plurality was 1.7 million, our statistical experts who run this through their computers tell us the chance of misfiring was one out of every four. According to the evidence, the danger of an electoral backfire is clear and present.

It is easy for us to forget, when a near miss is past, that we should prepare for the future. Not enough of us remember the flood of magazine and newspaper articles speculating on disaster when the possibility of an electoral college backfire was imminent in 1968.

And I think it is important that we remember that in the days just prior to the 1976 election the cry began again only to subside when all turned out to be safe. I would hope that we would not allow ourselves to wait until the electoral college actually does backfire again before we rouse ourselves to act. Insurance cannot be bought after the house has burned down.

Forgive me for reminiscing just a moment at this hour of the evening, but I cannot help but remark to my very sincere colleague and some who study and write about this outside of this Chamber: We talk about: "Well, it never has backfired. It ain't broke. Don't fix it." This is not all that important.

It was that similar kind of cry that some of us faced when we tried to amend the Constitution with the 25th amendment. "Two hundred years of history had never presented us with a sequence of circumstances that would be met by filling a Vice-Presidential vacancy, so you do not really need to act." Or, "Put it aside. Wait for another day. Other things are more important."

As a matter of fact, the ink was hardly dry on the 25th amendment when we were confronted with a crisis, a dual crisis, where it was necessary to appoint two Vice Presidents.

My judgment is if it had not been for the 25th amendment, this Congress and this country would have been subjected to tortuous and divisive impeachment trials the like of which would have done severe damage to this country. But the Congress in its wisdom then did not put it off. It acted and, hopefully, Congress will take out the same kind of insurance policy so far as our electoral process is concerned.

Mr. President, the history of the electoral college is not significant simply because it has carried the threat of misfiring. Its very nature is contrary to the political ideals which we as a nation have come to realize over the years. In a very basic way, the electoral college is inimical to our political life. Unlike any other election in the United States from county commissioner to U.S. Senator, in a Presidential election all votes do not count the same.

What we want to do is to see that we return the election of the President and the Vice President to the same basis which has help up and held up very well in the election of every other official in the country. Under the electoral college, one American's vote is not equal to another's, simply on the basis of where he happens to live. Only with the direct election system would all votes be equal. The electoral college's strange alchemy of apportioning electoral votes plus its "winner-take-all" rule produces the anomalous result that, for example, a citizen from Iowa's vote is actually worth less than his neighbor's in Illinois, but more than his neighbor's in Nebraska. This effect is contrary to our experience in all other elections and the principles behind our form of government. I am sometimes told that with direct election, I am trying to make a major change in our political system. Far from it. With direct election, I think, we would simply be bringing our method of Presidential choice in line with all the rest of our voting process.

We worry a great deal nowadays about the "empty voting booth" in America. We speculate on why so few of us choose to take advantage of our right to vote.

The fact of the matter is I think a lot of people are smart enough to know that in that electoral college their votes do not count in some circumstances, and in others they count for the candidate they actually voted against. The time has come to put this aside so that I, in Indiana, when I vote for Carter, do not have my vote cast for Ford; and when a colleague of mine in Ohio, who voted for Ford, just as surely had that vote counted for Carter.

The time has come to convince people that if they come to the polls, their vote is going to count no matter whether the State goes big for the candidate they want or big against their candidate, or get out and vote, and see that those votes are counted.

Mr. President, in my opinion, the inequities inherent in the electoral college are also inimical to voter participation. The electoral college system provides a disincentive to voter turnout, and this is reflected in the way Presidential campaigns are conducted. It makes no difference to a Presidential candidate how many people show up on election day in any State so long as he receives a plurality of one, for that one extra vote determines the outcome of the State's bloc of electoral votes. The votes constituting the plurality over the winner's vote of one are actually worthless. Conversely, all the votes for the loser are not simply lost; they are in effect recast for the winner along with the State's bloc of electoral votes.

These inequities are of great consequence to the way campaigns are run and thus on the degree of encouragement by candidates for voter participation. With the electoral college, some States are inherently more influential than others, helping a candidate to decide where he will spend his time and effort. Therefore, he will, in all likelihood, ignore much of the plains and mountain States and the South. If he reasonably expects to either win or lose a State, however, he will probably write it off as well. Thus, few Democratic candidates go to Massachusetts or Rhode Island, or Republicans to Wyoming. The electoral college gives neither the candidate nor the national party any motivation to either work to turn out the votes in those States, or widen the margin of victory if he expects to win, or narrow it if he expects to lose.

There is no advantage in building significant margins of victory. As an example of what I mean, in 1976 Mr. Ford picked up 45 electoral votes in California with a 127,000 plurality; Mr. Carter earned 45 electoral votes in five Southern States with a 1,044,000 plurality. The difference in popular votes made no difference in the electoral votes.

Winning under direct election, however, depends precisely on a party's ability to get out the vote and to build sizable pluralities in every community simply because every vote counts and, therefore, no State nor population can easily be ignored.

Mr. President, there is little doubt that American citizens are ready to abolish the electoral college and establish direct election in its place. For over 10 years, polls have shown that support of direct election is over 75 percent, and that support comes from every region of the country, every political ideology, both parties and independents, all races and religions, all professions and economic strata, consistently across the board. The amendment is endorsed by an array of national organizations including the American Bar Association, the U.S. Chamber of Commerce, AFL–CIO, UAW, League of Women Voters, Common Cause, National Federation of Independent Business, the ACLU, National Small Business Association, the ADA, the American Federation of Teachers, and the National Farmers Union.

You name it, the list is long. This is another example of why we have frustrations in our society, where the people are out ahead of our leaders.

When I ask a question why should we have the direct election for President, most people look back at me and say, "Why shouldn't we?" Most people think it already exists.

All the more reason to fear the consequences when they awaken on election night or the morning after and find out that although candidate A has scored a smashing popular vote victory, because of the nuances of the electoral college system, his opponent, who may have garnered, perhaps, only 40 percent of the popular vote still, because of his concentrated effort in the large metropolitan areas, where we can elect a President of the United States by carrying 10 States, plus the District of Columbia, has turned out to be a loser who becomes the winner. The people of this country will scratch their heads and say, "It can't happen here." Let us act now so that it will not happen here.

In the 95th Congress it was cosponsored by 45 Senators, including 28 Senators from small States. It has broad support in the House where it passed by an 83-percent vote in 1969.

The direct election amendment should have been before this body years ago, but despite 43 days of hearings, including 9 in the last Congress, for one reason or another, direct election has consistently been delayed in committee until floor action was virtually impossible. Now we have an opportunity to take advantage of all this study and to come to grips with the issue on the merits. I am sure that my 36 colleagues who have chosen to cosponsor the direct election amendment in the beginning of this 96th Congress join me in urging that in 1979 the time has come to replace the strange mode of Presidential election which was left to us in the last harried hours of the constitutional convention. It is time, Mr. President that we in Congress take the action that a great majority of our constituents long have supported and for which many of our colleagues have labored, and pass the direct election amendment. It is long overdue.

I invite any of my colleagues who remain yet uncertain, and who have heard varying arguments about why it is not in their interest, their State's interest, the country's interest, perhaps even the world's interest, to change the electoral process for President, to look at that strange amalgam of U.S. Senators who have joined in supporting this measure.

It is impossible to find one philosophical strain, one political strain, or one geographical strain. It is hard to convince a CLAIBORNE PELL or a JOHN CHAFEE or a FRANK CHURCH or a JAKE GARN that the small States are going to be disadvantaged by the change. It is hard to convince JAKE JAVITS, JOHN GLENN, HOWARD METZENBAUM, CARL LEVIN that the large States are going to be disadvantaged. The fact of the matter is the country is going to be disadvantaged if this process backfires, and the country will be served if we are successful in our efforts.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. I yield such time as he may desire to the distinguished Senator from Utah (Mr. HATCH).

Mr. HATCH. I thank the distinguished Senator from South Carolina.

I have enjoyed listening to the remarks of my friend and colleague from Indiana, who is very sincere with regard to this subject.

John F. Kennedy said with regard to this very same subject, against which he led the fight a number of years ago, that if it is not necessaary to change, it is necessary not to change.

I think it is pretty important to realize that there have been a great number of Americans, of all types of ideologies and feelings, who have opposed the direct election amendment to the Constitution. But, in particular, at this time I want to point out what I consider to be an excellent article which came out today in the Los Angeles Times entitled "Electoral College Rates a Little Rah-Rah," by Curtis B. Gans, who is the director of the Washington-based Committee for the Study of the American Electorate.

Mr. Gans states:

> Those who have come to believe that "you can't teach an old dog new tricks" would be well advised to direct their attention to Sen. Birch Bayh (D-Ind.).
>
> For that senior senator is about to demonstrate—some might even say pull—an entirely new trick on the U.S. Senate and the American people.
>
> With the acquiescence of Senate Majority Leader Robert C. Byrd (D-W. Va.). Bayh is planning to bring to the Senate floor his proposed constitutional amendment to abolish the electoral college and substitute direct elections as the means of choosing American Presidents. Bayh wants an early vote, and does not plan to hold hearings either in his constitutional-amendments subcommittee or before the full Senate Judiciary Committee.
>
> Bayh's gambit raises two important procedural questions:
>
> Should *any* amendment to the U.S. Constitution be brought to a vote in *any* session of the U.S. Senate unless and until that amendment has had a full, fair and complete hearing in the appropriate committees and subcommittees?
>
> Should the 97th Senate, one-fifth of whose members will be serving for the first time, consider a measure as important as a constitutional amendment without the Senate as a whole, and especially the newer members, having the benefit of thorough, open hearings?
>
> The answer to both questions is an unequivocal "no."

Mr. President, I ask unanimous consent that the article by Mr. Gans be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Mar. 14, 1979]

ELECTORAL COLLEGE RATES A LITTLE RAH-RAH

(By Curtis B. Gans)

Those who have come to believe that "you can't teach an old dog new tricks" would be well advised to direct their attention to Sen. Birch Bayh (D-Ind.).

For that senior senator is about to demonstrate—some might even say pull—an entirely new trick on the U.S. Senate and the American people.

With the acquiescence of Senate Majority Leader Robert C. Byrd (D-W. Va.), Bayh is planning to bring to the Senate floor his proposed constitutional amendment to abolish the electoral college and substitute direct elections as the means of choosing American Presidents. Bayh wants an early vote, and does not plan to hold hearings either in his constitutional-amendments subcommittee or before the full Senate Judiciary Committee.

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Should the 97th Senate, one-fifth of whose members will be serving for the first time, consider a measure as important as a constitutional amendment without the Senate as a whole, and especially the newer members, having the benefit of thorough, open hearings?

The answer to both questions is an unequivocal "no."

In proposing his amendment, Bayh is seeking to address three problems of American democracy:

The possibility that the American people would cast a majority or plurality of their votes for one candidate, only to see another candidate win a majority of the electoral vote and the Presidency.

The possibility that a minority candidate—a demagogue or a third-party candidate—might win the electoral vote of a sufficient number of states to force the election into the House of Representatives.

The fact that, because votes are counted by state rather than nationally, individual votes do *not* carry equal weight.

Bayh's solution to these problems? Eliminate the electoral college.

But Bayh's amendment raises substantive questions that are more complex than the procedural ones.

Minority voices would be less important. Because blacks are a large and vociferous minority in most Southern and Northern states, farmers are a sizable and influential minority in some Midwestern states, Chicanos can make the difference between winning and losing California, Texas, Arizona and New Mexico—and because the electoral-college system forces Presidential candidates to compete state-by-state for electoral votes—a candidate who ignores the views of these and other minorities does so at his peril. All that could change.

Media manipulation may grow. Truth has suffered as a consequence of the drive toward TV campaigning. Even the most honest of one-minute and 30-second television spots must oversimplify and distort. Participation in politics—volunteer activities, precinct organization, local clubs, storefront campaigning, neighborhood coffee klatches—has diminished. That vestiges of these activities have survived at all is directly attributable to the need to capture electoral votes in the various states.

Abolition of the electoral college could increase already-strong voter apathy. For the past two decades the percentage of eligible Americans willing to cast their ballots has been steadily declining, as has the belief of an increasing number of citizens that their votes can or will make a difference. Nonvoters tend to be nonparticipants in any organized aspect of society; voters tend toward multiple involvements. Because direct elections would foster a politics increasingly devoid of popular participation, they would increase the likelihod that citizens would not vote.

Of all the checks and balances that the founding fathers wrote into the Constitution, in the long run none may prove more important than the check of federalism that ceded power to the states and protected that power by insuring that national elections would be determined by state electoral votes. Granted, the founding fathers may not have envisioned Watergate, Vietnam, electronic eavesdropping or bureaucratic inertia, but they were aware of the danger of overweaning national power. Their prescient concern and our recent experience should caution against any attempt to weaken subnational government.

The American people are said by pollsters to favor direct elections as their method of choosing the President. They have not however, been asked whether they are willing to enhance the decline in voting, weaken the voice of American minorities, accelerate the trend toward media manipulation and undermine federalism in order to achieve that goal.

Hearings might help to illuminate the real nature of the choices involved, and also might lead to a compromise reform that almost all Americans could support: abolishing the *human* electors in the electoral college, and providing for a runoff election should no candidate obtain more than 40% of the popular vote.

The first provision would eliminate the possibility that an individual elector or group of electors would cast a vote for someone other than the winner of their state's presidential election; the second provision would insure that every President would enter office with a mandate sufficient to govern.

Such an amendment might not be as revolutionary as Bayh's, but it would carry a minimal cost to the American democratic process, and would stand a good chance of passing without being railroaded through the Senate.

Mr. HATCH. As the ranking minority member of the Committee on the Judiciary, Subcommittee on the Constitution, I feel very strongly that there are ways to propose constitutional amendments and there are ways not to propose constitutional amendments. In this particular case, I think this is the way not to propose a constitutional amendment, and especially one that has the potential of altering the basic democratic federalism of the American political structure.

The longer I serve in this body, the longer I serve on the Judiciary Committee, the longer I serve on the Subcommittee on the Constitution and study the Constitution, the more impressed I am by the tremendous job the Founding Fathers did in establishing the Constitution of the United States and this Government. It is uncanny how they contemplated so many of the difficulties that would arise.

One of the things they did not provide for was a pure democarcy; in contrast to what many people in this country seem to think, we are not a pure democracy; we are a representative republic, more importantly a federal republic. There is a good reason why the Founding Fathers set up our Government in this fashion. They were afraid of the tyranny of the majority in a pure democracy, and they wanted checks and balances that would protect large States, small States, and varieties of opinions of the citizens within those States.

One of the most important things that they put into the Constitution in this respect was the electoral college system. The electoral college system was established as part of the great compromise, which consisted of, among other things, the debate concerning the powers of the large States and the small States. The electoral college was one way the Founding Fathers provided that we would have some protection for the smaller States.

It is important to note that with the exception of Oregon and Colorado, every State with fewer than eight electoral votes had a larger share of the national electoral vote in 1976 than of the popular vote. The decline in influence under popular election would be particularly severe for the smallest States, which are guaranteed a minimum of three votes. I might cite Alaska and Wyoming as examples, the two smallest States population-wise. The 10 largest States would have a greater influence.

But, as important an argument as that is, I do not think it is the most important argument against the resolution of my friend and colleague from Indiana that a number of the small States, in fact all of the small States, will be disadvantaged by his amendment. I think that is important. But I think there are other matters that, perhaps, bear even greater importance.

Approximately half of the Senators in this body are in their first term. I may be wrong in that, but I believe it is a large number, approximately 48. There are more than 20 Senators who are brand new, who have never considered this question before, except perhaps as they studied political science prior to coming here. Certainly, they have not participated. to my knowledge, in the hearings process.

In addition, on the Judiciary Committee itself, there are six new members this year, none of whom, to my knowledge, has been able to give any extensive consideration to this most important constitutional question. In fact, I cannot think of a more important constitutional consideration than this one, because it involves the basic fabric, the basic political structure, and the basic philosophy that have been the foundation of this country for almost 200 years.

Because of its importance, it seems to me that the very least we should do in this situation is to send this matter to committee, where complete hearings can be held; where Senator SIMPSON and Senator HEFLIN, brand new Senators who are also on that committee, Senators of inestimable worth and ability, would be able to consider all of the ramifications of this particular issue; and where we might be able to strengthen the deliberative processes of the U.S. Senate.

I feel strongly about this issue and about the way this issue is being brought to the floor. I think it a unjustified exception to the regular order. If we have to continue to put up with this type of amendment, and this type of issue, being brought to the floor because certain Senators feel they cannot get them out of subcommittees and out of the full committee—and that I do not think is the case here—then I am prepared to do everything in my power to start sending a strong message to the majority in this body and my colleagues on the floor of the Senate, that perhaps we try to do too much work here. Perhaps, we push too much legislation through this body. Perhaps, we do not consider things as well as we should. Perhaps, we have far too many unanimous-consent requests. Perhaps, we do not give enough consideration to the minority. Perhaps, we do not give enough consideration to the minority viewpoint in various issues, regardless of whether it is a Democratic or Republican viewpoint. Perhaps, we should slow our legislative process down just a little bit.

This same procedure occurred last year on a constitutional amendment, and I think it is wrong. But the current procedure is even worse because, in a brand new session of Congress, with a large number of brand new Senators, with an inordinately high number of first-term Senators, we have not so much as held a minute of hearings on this matter.

I do not care what our political philosophies are; I do not care what our differences are; I do not care how tough it may be to get this out on the floor of the Senate. I feel that it is unconscionable to bring up legislation under these circumstances. Keep in mind, I am not particularly finding fault with my friend from Indiana, because he has tried for years to bring this thing up. He has lived according to the regular order. I think the current procedure is wrong, however, particularly under this set of circumstances.

That is not to say that my dear friend and colleague should not advocate his position in the strongest possible way that he can. Those who know my good friend and colleague from Indiana know that he does an excellent job of advocacy for his particular point of view on all issues. I have nothing but respect for him. But on this very important question, I think it is wrong for the Senate to proceed to consideration without the hearings that are necessary.

It is wrong not to have committee hearings on this matter. To bypass the committee is, I think, to denigrate the committee process, especially when an amendment to the Constitution of the United States of America, the most important document in the history of this Nation, is involved.

There are many other reasons why Senate Joint Resolution 28 should not be considered. For instance, there are those who would say that the electoral college system works to reinforce popular majorities, and legitimize narrow popular victories. There are those who would say that it buttresses the two-party system. There are those who would say it draws the attention of candidates to States that would otherwise be easy to ignore. There are those who would say that it affords minorities, blacks, labor, ethnics, southerners, a crucial role in the electoral process. There are those who would say that it is an important remaining fixture of dual federalism in the national political process, providing the States with an influence that would vanish in a national popular vote.

There are those who would raise questions such as: First, would the nationalization and homogenization of elections, and the submergence of vital State and minority interests, represent an improvement? Second, would the encouragement of multiple candidacies and splinter parties represent an improvement? I do not see how anyone could look at this proposed amendment without recognizing that this is one of the greatest forms of incentive to multiple parties and splinter parties.

Third, would runoffs, that is, second elections when the leading candidate failed to obtain the necessary 40 percent plurality, represent an improvement? The runoff, one critic has maintained, would be the true election and the initial election would look a little bit like the start of the Boston marathon with its motley crowd of contestants.

Fourth, in closely contested elections, there are those who question whether or not every local political boss would lock up the ballot boxes for a second count while maneuvering to make deals.

Fifth, there are those who are concerned that we would not know the Wednesday following the Tuesday Presidential election who was the President of the United States. In addition, if it was a close election, within 100,000 votes, for example, would not that loser want a recount in almost every case in every one of the 50 States. I think that he would.

Edwin Yoder, of the Washington Star, observes that—

> Presidential elections by popular vote would satisfy a late blooming populistic theory of one man-one vote democracy. But at what price?
>
> Further erosion of the two party system, and with it the exercise of collective political accountability? Presidential elections dominated by network television exposure, giving less and less weight to political competence and more and more to pinchbeck glitter and glamour? A run of contested, unstable Presidencies?

Mr. President, I ask unanimous consent that the following articles be printed in the RECORD at this point.

An article entitled "Don't Fool With the Electoral College," written by George F. Will, appearing in Newsweek, April 4, 1977; an article written by James J. Kilpatrick entitled "The Electoral College: Why Bayh Is Wrong"; and the article written by Edwin M. Yoder, Jr., entitled "'If It Ain't Broke, Don't Fix It,' Mr. Bayh."

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From Newsweek, Apr. 4, 1977]

DON'T FOOL WITH THE ELECTORAL COLLEGE

(By George F. Will)

President Carter has joined Sen. Birch Bayh's crusade to abolish the electoral college, the world's most tested and vindicated mechanism for choosing a Chief Executive, For years the Indiana Democrat has been advocating direct election so "the people" can choose presidents, and because the electoral college is "undemocratic" and dangerous.

One of Bayh's terrors is the "faithless elector" who does not vote for the candidate who carries his state. Actually, of the 17,000 electors since 1789, about ten have been "faithless," none has altered an election. If this specter haunts Bayh, it can be exorcised by abolishing the office of elector, and leaving the electoral college in peace.

Bayh also says the electoral college must go because in three elections (1824, 1876, 1888) the electoral-vote winner was not the popular-vote winner. Actually, even if in "only" 45 of 48 elections the same person won both, that would not justify Bayh's calling the electoral college "electoral roulette."

In 1876 and 1888, exuberant fraud on both sides probably involved more votes than the narrow victory margins. In 1824 all four candidates were together on ballots in only five of 24 states. Six states (including New York) had no elections: the legislatures selected the electors. Only about 350,000 of the 4 million eligible white males voted. Andrew Jackson won 38,149 more votes than John Quincy Adams, but neither had a majority of electoral votes. So the House of Representatives decided, picking Adams.

JUSTIFYING REVISION

This was before the emergence of the two-party system. But Bayh says the events of 1824 (and 1876 and 1838) justify fundamental constitutional revision.

Actually, an electoral-vote victory by a candidate who loses the popular vote by a substantial margin is improbable and has never happened. And only extremely dogmatic majoritarians think democracy would be "subverted" (Bayh's word) if the electoral college gave the Presidency to a candidate who lost the popular vote by a wafer-thin margin. It is odd to say that the "nation's will" could be "frustrated" in a standoff.

Bayh is fond of the somewhat feverish thought that under the electoral college a candidate "could" win with just 25 percent of the vote by narrowly winning in the eleven largest states, even if he did not get a single vote in any other state.

But under direct election a candidate "could" sweep Alaska's 231,000 eligible voters, lose 49 states by an average of 4,700 votes, and win. This "possibility" is about as probable as the one that Bayh is fond of imagining.

Bayh is not apt to produce what Madison was too sober to attempt, a constitutional arrangement under which no unwanted outcome is even theoretically possible. Serious people consider probabilities, not possibilities. And direct election would make probable a grave difficulty.

The electoral-vote system, combined with the winner-take-all rule (a custom, not a constitutional requirement), discourages ideological third parties: such parties are unlikely to win pluralities in many states, so they are effectively shut out of the decisive electoral-vote competition. But direct elections would *incite* such parties. They could hope to prevent any candidate from receiving a national majority, or even an impressive plurality of popular votes.

SUBSTANTIAL DANGER

Bayh's remedy for this defect in direct elections posses a substantial danger. He proposes a *second* election, a runoff between the two leaders, if neither gets 40 percent the first time. But a runoff would be an *incentive* to minor parties. They would try to force a second vote so they could sell their support.

Bayh evidently is undisturbed by the fact that direct election might frequently produce "41 percent" presidents. The electoral college has only produced three presidents with such low pluralities, in 1824, before the two-party system developed, and in 1860 and 1912, when the two-party system was in disarray But Alexander Bickel of Yale warned that direct elections might make disarray permanent.

"The monopoly of power enjoyed by the two major parties would not likely survive the demise of the electoral college. Now, the dominance of two major parties enables us to achieve a politics of coalition and accommodation rather than of ideological and charismatic fragmentation, governments that are moderate, and a regime that is stable."

The genius of the Constitution is the effect it has on the *character* of majorities. The electoral college promotes unity and legitimacy by helping to generate majorities that are not narrow, geographically or ideologically, and by magnifying (as in 1960, 1968, 1976) narrow margins of victories in the popular vote.

Such considerations are of no interest to single-minded majoritarians, who consider democracy a matter of mere numbers. They note that in 1976, 123,545 Alaskans determined three electoral votes, one for each 41,181 voters, but in California (7,867,043 voters, 45 electoral votes) there was only one electoral vote for each 174,823 voters. Is an Alaskan four times more powerful than a Californian? Is a Californian more powerful because he helps to determine a larger bloc of electoral votes? Bayh says that in any case, the system is "undemocratic." His understanding of democracy has the charm of simplicity: "Every vote should count the same." That, he says, is constitutional propriety, as stated by the Supreme Court in its "one man, one vote" reapportionment ruling. But Bickel revealed the foolishness of this argument by expressing it this way: "It is time for the system to be ideologically pure. The Court has said that the Constitution commands equal apportionment. We should, therefore, reapportion the Presidency. In effect, we must now amend the Constitution to make it mean what the Supreme Court says it means."

ARITHMETICAL MAJORITARIANISM

As Irving Kristol and Paul Weaver have written: "In recent decades, the democratic idea has been vulgarized and trivialized. From being a complex idea, implying a complex mode of government, appropriate to a large and complex society, the idea of democracy has been debased into a simple-minded arithmetical majoritarianism—government by adding machine."

Defenders of the electoral college are defending not an eighteenth-century artifact, but a system that has evolved, shaping and shaped by all the instruments of politics, especially the two-party system. It is an integral part of a constitutional system with premises too subtle and purposes too varied to be summed up in slogans like "one man, one vote." Bayh insists that the electoral college "is, by simple definitions, undemocratic." But this constitutional democracy was not devised by, and should not be revised by, persons addicted to simple definitions of democracy.

THE ELECTORAL COLLEGE: WHY BAYH IS WRONG

(By James J. Kilpatrick)

The opening gavel had barely fallen last month upon the 96th Congress before Sen. Birch Bayh was on his way to the clerk's desk. He was bearing the same old shopworn, unloved resolution he has tried to sell the country since he came to the Senate 16 years ago—for a constitutional amendment establishing direct election of our presidents.

While Bayh was thus occupied in the Senate, Rep. Barber Conable of New York was trying to get an alternative started in the House: the old "District Plan." If we are going to rewrite Article II of the Constitution, Conable's approach is infinitely superior to Bayh's, but there is yet another alternative more desirable still. Let me come back to it in a moment.

At present, as every schoolboy knows, the people vote in their several states for presidential electors equal in number to the state's total representation in the Congress. Virginia, for example, has ten members of the House and two senators, hence 12 electors. Following the November general election, the electors meet and cast their surrogate votes for president and vice president. If no pair of candidates wins a majority of the 538 electoral votes, the election must go to the House, where each of the 50 state delegations will cast a single vote.

Under Bayh's amendment, the electoral college would be obliterated root and branch. The people would vote directly for president and vice president. If the winning team polled at least 40 per cent of the total vote, nothing more would be required. If the winning plurality were less than 40 per cent, a run-off would be held between the two highest candidates.

Conable's resolution, by contrast, would preserve the basic structure of electoral votes within the several states. But instead of awarding a state's entire electoral vote to the statewide winner, Conable would divvy up the votes by congressional district. Suppose that in Virginia in 1980, Republican Ronald Reagan carries seven congressional districts, Democrat Jimmy Carter carries three. Reagan wins the statewide popular vote. Under the District Plan, Reagan gets nine electoral votes (for seven districts plus the whole states), Carter gets three.

The vice in Bayh's radical plan is that it would destroy the last vestiges of federalism in our country. Under the Constitution. whenever we act politically, we act through our states. The concept of a union of separate, sovereign states has served us wonderfully well for nearly 200 years. This bedrock principle of American government ought not to be destroyed without the most compelling cause.

Conable's proposal is attractive. While the rule of winner-take-all is sound enough in electing a county sheriff, it is widely perceived as unfair in electing a president. In 1976, Carter carried Ohio by only 11,000 votes but claimed all of the state's 25 electoral votes. Meanwhile, Ford carried California by only 140.000 (out of 7.5 million votes cast) and claimed all 41 electoral votes there. The District Plan would more fairly reflect the people's wishes.

But there is great wisdom in the maxium that says: if it ain't broke, don't fix it. The electoral machinery may be clumsy and antiquated, but it works. If Article II is to be modernized at all, prudence suggests mild repairs instead of massive overhaul. We ought to protect the country from the risk of the maverick elector who dishonors his surrogate duty; such electors have appeared in each of the past three elections. And we ought to discard the provision that allows each state but one vote if an election were thrown into the House.

Bayh feels his proposal has been hashed over long enough. He promises to seek an early vote in the Senate. The Conable substitute will be pushed in the House, though perhaps not as vigorously. One way or another, this important constitutional issue is heading for a showdown. We ought to be thinking about it, and we ought to be thinking about it now.

[From the Washington Star, Feb. 22, 1979]

"If It Ain't Broke, Don't Fix It," Mr. Bayh

(By Edwin M. Yoder Jr.)

Sen. Birch Bayh still yearns to liberate the American presidential voter from the elitist clutches of the electoral college.

That ambition has smitten more thoughtful men. But Senator Bayh runs the Senate subcommittee on constitutional amendments, and his views on electoral college "reform" enjoy a pertinence which their superficiality scarcely warrants.

Senator Bayh is a "one man, one vote" zealot. The only truly "democratic" elections, as he sees it, are by raw head count, with every vote "counted the same." The electoral college, he said in a recent interview with this newspaper, "has totally outlived its usefulness." Some quite considerable students of the Constitution (the late Profs. Alexander Bickel and Martin Diamond, for example, as well as Prof. Arthur Schlesinger Jr. and the late President John Kennedy) have thought otherwise. But Senator Bayh, ignoring them, attributes the resistance to reactionaries who want "political protection" for their states.

Before the Senator's zeal sweeps us to irreparable change, let us recall the Bert Lance principle: "If it ain't broke, don't fix it."

Is the electoral college system really "broke," as Senator Bayh and company insist? They worry that it could produce a president who pulled a smaller popular vote than his rival. That is a possibility, but as the number of one-party states declines, it is increasingly remote. Grover Cleveland, ninety-odd years ago, was the last presidential candidate so victimized, and the only one in U.S. history. Since then the electoral college vote has faithfully followed the popular verdict and often amplified it.

In fact, the main argument for the electoral college system is the oldest argument of all. *It works.* It works to reinforce popular majorities; it buttresses the two-party system; it draws the attention of candidates, in the winner-take-all system, to states that would otherwise be easy to ignore, it affords politically sensitive minorities (blacks, labor, ethnics, southerners) a crucial role in closely-fought states; and it is very nearly the last fixture of dual federalism in the national political picture—giving the states a role that would vanish in a national popular vote.

Another of Senator Bayh's worries is the menace of the "faithless elector"—the presidential elector who flouts the popular verdict in his state. It has happened, although to no effect. But is it true, as Senator Bayh claims, that "electors . . . are completely free to ignore the wishes of the electorate"? Not at all. The Supreme Court has ruled that the fidelity of presidential electors is a "political" matter, for states to decide. State legislatures may enforce compliance with the popular vote. When they choose to do otherwise they risk defiance of their own voters, at no cost to the rest of us. But the faithless elector threat, if such it is, could be removed without radical overhaul of the electoral college system. A simple constitutional amendment abolishing elector discretion would do the trick.

Senator Bayh obviously won't be content with tinkering; he insists on sweeping change. Would the senator's radical "reform" improve the system of presidential selection?

That depends on what one means by "improvement." Would the nationalization and homogenization of elections (and the submergence of vital state and minority interests) be an improvement? Would the encouragement of multiple candidacies and splinter parties be an improvement? Would runoffs—second elections when the leading candidate failed to obtain the necessary 40 per cent plurality—be an improvement? "The runoff," one critic has observed, "would be the true election, and the initial election would look a bit like the start of the Boston Marathon with its motley crowd of contestants."

And you could count on another hitch. In closely contested elections, every local political boss would lock up the ballot boxes for a second count and maneuver to make deals and share the spoils. Now we wait on election night for states to come in; under the Bayh popular vote plan, we might have the dubious privilege of waiting for dozens, even hundreds or thousands, of late precincts.

Senator Bayh and his allies don't seem to recognize that in politics, as in nature, there is a natural balance of forces. Fundamental "reforms," even at best, entail tradeoffs of good and bad.

Presidential elections by popular vote would satisfy a late-blooming populistic theory of one-man-one-vote democracy. But at what price? The further reduction of states to political ciphers? Further erosion of the two-party system, and with it the exercise of collective political accountability? Presidential elections dominated by network television exposure, giving less and less weight to political competence and more and more to pinchbeck glitter and glamor? A run of contested, unstable presidencies?

Senator Bayh probably won't renounce his zeal for reform. But he ought to remember that every reform has its nemesis.

Mr. HATCH. Mr. President, I would strongly encourage the distinguished Senator from Indiana to agree to recommittal of this proposal to the committee. I would suggest a period of 3 months, not an unreasonable amount of time for further consideration, during which we can hold the hearings that are essential for a complete consideration of this most critical issue.

I think there are not only important constitutional issues here, but I think there are important Senate procedural issues.

I thank the distinguished Senator from South Carolina for yielding time to me. I did want to say these things and I am very grateful to him. In all that I have said, again, I am very respectful of the distinguished Senator from Indiana, and of his sincere desire to have this matter considered at this time. I hope he will consider deferring it for hearings in this new session so that all of us can take a greater look and a greater review of this very, very important constitutional issue.

Mr. THURMOND. Mr. President, one of the great issues that will come before the Congress this year will be the question of revising the Presidential election system. The distinguished Senator from Indiana (Mr. Bayh), who is chairman of the Committee on the Judiciary's Subcommittee on the Constitution, has chosen to bypass both the subcommittee and the full Judiciary Committee in placing this measure directly upon the Calendar of the Senate—this despite the fact that there are 20-odd new Members of the Senate this year, and there are six new members of the full Committee on the Judiciary who have never had the opportunity to consider this measure. Mr. President, I think this would be a great mistake. I think it would be a great mistake to bypass the Judiciary Committee of the Senate, because we feel that an opportunity should be afforded all the members of the Judiciary Committee to have a hearing on this matter in order that they can arrive at a decision with which they will be pleased.

I came to the Senate on the 24th of December 1954, and actually began working, you might say, in Washington in January 1955. In 1956, I worked with a number of Senators here—the distinguished Senator from Texas at that time, who had been Attorney General, and the distinguished Senator from South Dakota, Mr. Mundt—to bring about electoral reform in a manner that we thought was best for the country. We voted on a constitutional amendment in the Senate, in the spring of 1956, that would have given the States the opportunity to choose whether they wanted the so-called proportional system, which means to split the electoral vote in the same proportion as the popular vote, or the district system, which means that a candidate would get two votes for carrying a State and one vote for each congressional district he carried. It received a majority vote but not the necessary two-thirds. However, the Senate refused to endorse the direct election of the President. Bills have been introduced intermittently since that time to bring about a direct election of the President. The Senate has continually refused to endorse the direct election of the President.

I think the Senate has been wise, because this system would change the entire structure of the Government. The idea, when the Constitution was written, was not only to acknowledge the people of the country by States, but to acknowledge the States themselves. That is the reason we have this great compromise in which the House of Representatives represents the people in the different congressional districts of the Nation and the Senators represent the States. We should not get away from that. This is a form of government that has been unparalleled in the history of mankind. No nation in the world has ever prospered as this country has under this system of government. I would rather see no change in the electoral system than see the direct election issue prevail, because to do so is to ignore the States. This will, in addition, hurt the little States.

There have been studies made by the Library of Congress and an article was prepared by Congressional Quarterly—which I shall place in the Record in a few minutes—in which it is shown clearly that the little States of this Nation will lose voting power—States like Montana, South Carolina, and other smaller States.

Mr. President, if we are going to amend the electoral system, I would suggest that we adopt the proportional system. That is a fair system. Under that system, we would alleviate the objections to the present system, in which the winner takes all, where the candidate that carries the State gets all the electoral votes.

Of course, the electoral votes in the electoral college are the same number as the congressional delegation, two representing the Senators and one for each congressional district. That would be a much fairer system and would be a compromise between the system of direct election and the present system with the electoral college.

If we are going to have electoral reform and do not adopt the proportional system, I think it would be well if we adopted the district system, because that takes us back to the grassroots. The only objection to the district system, possibly, is that the winner takes all in the congressional district. If the candidate carriers a State, he gets two electoral votes and he gets one electoral vote for each congressional district that he carries. But the candidate gets only one vote more than the other candidate in any congressional district, then he gets the whole electoral vote. This disadvantage is not present in the proportional system.

Under the proportional system, the electoral vote is split directly in proportion to the popular vote down to the thousandths. This represents exactly the way that people think, but it retains the same electoral votes in computing the election as we have in the electoral college. Accordingly, the smaller States of the Nation are protected from complete domination by the large States and metropolitan areas.

Mr. President, I do not want to see a system adopted where 12 big-city States can practically elect a President, where the candidates will have little inducement to go into the smaller States. If we are going to base our election system purely on popular votes, why will the candidates not spend their time in New York City; Detroit, Mich.; Chicago, Ill.; Los Angeles, Calif.; or other places in the big-city States? We want to see this whole country represented. We want to see all of the States have an equal opportunity to elect a President. We feel that the electoral college would be much preferable to a change to a direct election, although I do think it would be an improvement if we adopted the proportional or the district system.

Mr. President, I shall dwell more on the merits later in this debate. The hour is late. I am not going to take a great deal of time this evening to discuss the merits. I ask unanimous consent that a study made by the Library of Congress on the effect of the adoption of direct popular election of the President and Vice President and the relative influence of the several States in electing the President and Vice President in 1976——

Mr. BAYH. Mr. President, I do not want to interrupt the request, but I do want to reserve the right to ask the Senator a question in exchange.

Mr. THURMOND. This was made by Joseph B. Gorman, analyst in American National Government, Government Division, March 5, 1979.

Mr. President, I ask unanimous consent it be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. Mr. President, I ask unanimous consent that the results reported in an article prepared by the Congressional Quarterly entitled "Direct Election: Who Gains? Who Loses?" dated March 10, 1979, be printed in the RECORD following the study by the Library of Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. THURMOND. Mr. President, I ask unanimous consent to have printed in the RECORD following those documents a letter I mailed to my colleagues on March 8, 1979, to which I attached a mailgram addressed to me and signed by a large number of black leaders of different organizations in this country.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. THURMOND. Mr. President, I might say that this mailgram is signed by:

Vernon E. Jordan, Jr., Chairman, Black Leadership Forum, President, National Urban League.

M. Carl Holman, Executive Secretary, Black Leadership Forum, President, National Urban Coalition.

Dorothy Height, President, National Council of Negro Women, Inc.

Jesse Jackson, National President, Operation PUSH.

Elton Jolly, National Executive Director, OIC of America.

Coretta Scott King, President M. L. K. Center for Social Change.

Joseph Lowery, President, Southern Christian Leadership Conference.

Bayard Rustin, President, A. Philip Randolph Institute.

Eddie Williams, President, Joint Center for Political Studies.

Hon. Richard G. Hatcher, Mayor of Gary, Indiana.

Mr. President, I ask unanimous consent that following my remarks a letter signed by the distinguished Senator from Utah (Mr. HATCH) and myself, dated March 14, 1979 be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 4.)

Mr. THURMOND. Mr. President, it is clear there are serious concerns that still exist in this argument of how we choose our President. What method is best for the country—the current method, the district plan, the proportional plan, the direct plan, or some other? What are the effects on small States or large metropolitan areas? How are minorities affected by change?

There are many other questions that need to be answered.

The best place to study these issues is before the full Judiciary Committee of the U.S. Senate. I see no reason why this committee should be short-circuited by this bill not being referred there. If a bill of this nature is not going to be referred to a committee to consider it, I do not know why we need committees in the U.S. Senate.

This is a comprehensive bill. This is a complex bill. This bill has far-reaching effects on our total system of government and, by all means, should have careful study by the members of the present Judiciary Committee of the U.S. Senate.

The Judiciary Committee is the proper machinery for referral of this resolution. It is set up under our rules for considering a measure of this kind. It should be utilized and should not be sidestepped as is attempted to do here with this procedure.

Mr. President, in view of the fact that this bill was placed on the calendar directly, without reference to the Judiciary Committee, I move that the bill be committed to the Judiciary Committee for its consideration and action.

Mr. President, I ask unanimous consent that a vote not be taken on this bill before tomorrow, since it is now late and most of the Senators, I presume, have gone home.

The PRESIDING OFFICER. Is there objection?

The Chair hears none. It is so ordered.

EXHIBIT 1

EFFECT OF THE ADOPTION OF DIRECT POPULAR ELECTION OF THE PRESIDENT AND VICE PRESIDENT ON THE RELATIVE INFLUENCE OF THE SEVERAL STATES IN ELECTING THE PRESIDENT AND VICE PRESIDENT IN 1976

In the tables below, the second column, "Percentage of 1976 Electoral College," presents the percentage of the total number of 538 electoral votes cast by each State and the District of Columbia. The third column, "Percentage of Nationwide Popular Vote," presents the percentage of the total nationwide popular vote of 81,555,889 cast in each State and the District of Columbia. The fourth column, "Percentage Gain/Loss Under Direct Popular Election," presents the gain/loss, in percentages, of the respectives States' and the District of Columbia's share of influence in electing the President and Vice President had direct popular election replaced the present electoral college system for the 1976 election. [Source: Richard M. Scammon and Alice V. McGillivary, comps. America Votes 12 (Washington, Congressional Quarterly, 1977) 15.]

I. Alphabetical listing

State	Percentage of 1976 electoral college	Percentage of nationwide popular vote	Percentage gain/loss under direct popular election
Alabama	1.6729	1.4504	−13.31
Alaska	.5576	.1515	−72.83
Arizona	1.1152	.9107	−18.35
Arkansas	1.1152	.9411	−15.61
California	8.3643	9.6463	+15.33
Colorado	1.3011	1.3262	+1.93
Connecticut	1.4870	1.6940	+13.92
Delaware	.5576	.2892	−48.13
District of Columbia	.5576	.2070	−62.88
Florida	3.1599	3.8632	+22.26
Georgia	2.2305	1.7993	−19.33
Hawaii	.7435	.3572	−51.96
Idaho	.7435	.4219	−43.25
Illinois	4.8327	5.7861	+19.73
Indiana	2.4164	2.7225	+12.67
Iowa	1.4870	1.5686	+5.49
Kansas	1.3011	1.1745	+9.73
Kentucky	1.6729	1.4311	−14.45
Louisiana	1.8587	1.5676	−15.66
Maine	.7435	.5925	−20.31

I. Alphabetical listing—continued

State	Percentage of 1976 electoral college	Percentage of nationwide popular vote	Percentage gain/loss under direct popular election
Maryland	1. 8587	1. 7655	−5. 01
Massachusetts	2. 6022	3. 1237	+20. 04
Michigan	3. 9033	4. 4801	+14. 78
Minnesota	1. 8587	2. 3909	+28. 63
Mississippi	1. 3011	. 9434	−27. 49
Missouri	2. 2305	2. 3954	+7. 39
Montana	. 7435	. 4031	−45. 78
Nebraska	. 9294	. 7451	−19. 83
Nevada	. 5576	. 2475	−55. 61
New Hampshire	. 7435	. 4164	−43. 99
New Jersey	3. 1599	3. 6962	+16. 97
New Mexico	. 7435	. 5130	−31. 00
New York	7. 6208	8. 0119	+5. 13
North Carolina	2. 4164	2. 0586	−14. 81
North Dakota	. 5576	. 3644	−34. 65
Ohio	4. 6468	5. 0418	+8. 50
Oklahoma	1. 4870	1. 3393	−9. 93
Oregon	1. 1152	1. 2628	+13. 24
Pennsylvania	5. 0186	5. 6658	+12. 90
Rhode Island	. 7435	. 5042	−32. 19
South Carolina	1. 4870	. 9841	−33. 82
South Dakota	. 7435	. 3687	−50. 41
Tennessee	1. 8587	1. 8102	−2. 61
Texas	4. 8327	4. 9928	+3. 31
Utah	. 7435	. 6636	−10. 75
Vermont	. 5576	. 2302	−58. 72
Virginia	2. 2305	2. 0800	−6. 71
Washington	1. 6729	1. 9073	+14. 01
West Virginia	1. 1152	. 9208	−17. 43
Wisconsin	2. 0446	2. 5800	+26. 19
Wyoming	. 5576	. 1917	−65. 62

II. In descending order according to percentage gain/loss under direct popular election

State	Percentage of 1976 electoral college	Percentage of nationwide popular vote	Percentage gain/loss under direct popular election
Minnesota	1. 8587	2. 3909	+28. 63
Wisconsin	2. 0446	2. 5800	+26. 19
Florida	3. 1599	3. 8632	+22. 26
Massachusetts	2. 6022	3. 1237	+20. 04
Illinois	4. 8327	5. 7861	+19. 73
New Jersey	3. 1599	3. 6962	+16. 97
California	8. 3643	9. 6462	+15. 33
Michigan	3. 9033	4. 4801	+14. 78
Washington	1. 6729	1. 9073	+14. 01
Connecticut	1. 4870	1. 6940	+13. 92
Oregon	1. 1152	1. 2628	+13. 24
Pennsylvania	5. 0186	5. 6658	+12. 90
Indiana	2. 4164	2. 7225	+12. 67
Ohio	4. 6468	5. 0418	+8. 50
Missouri	2. 2305	2. 3954	+7. 39
Iowa	1. 4870	2. 5686	+5. 49
New York	7. 6208	8. 0119	+5. 13
Texas	4. 8327	4. 9928	+3. 31
Colorado	1. 3011	1. 3262	+1. 93
Tennessee	1. 8587	1. 8102	−2. 61
Maryland	1. 8587	1. 7655	−5. 01
Virginia	2. 2305	2. 0890	−6. 34
Kansas	1. 3011	1. 1745	−9. 73
Oklahoma	1. 4870	1. 3393	−9. 93
Utah	. 7435	. 6636	−10. 75
Alabama	1. 6729	1. 4503	−13. 30
Kentucky	1. 6729	1. 4311	−14. 45
North Carolina	2. 4164	2. 0586	−14. 81
Arkansas	1. 1152	. 9411	−15. 61
Louisiana	1. 8587	1. 5676	−15. 66
West Virginia	1. 1152	. 9208	−17. 43
Arizona	1. 1152	. 9107	−18. 35
Georgia	2. 2305	1. 7993	−19. 33
Nebraska	. 9294	. 7451	−19. 83
Maine	. 7435	. 5925	−20. 31
Mississippi	1. 3011	. 9434	−27. 49
New Mexico	. 7435	. 5130	−31. 00
Rhode Island	. 7435	. 5042	−32. 19
South Carolina	1. 4870	. 9841	−33. 82
North Dakota	. 5576	. 3644	−34. 65
Idaho	. 7435	. 4219	−43. 25
New Hampshire	. 7435	. 4164	−43. 99
Montana	. 7435	. 4031	−45. 78
Delaware	. 5576	. 2892	−48. 13
South Dakota	. 7435	. 3687	−50. 41
Hawaii	. 7435	. 3572	−51. 96
Nevada	. 5576	. 2475	−55. 61
Vermont	. 5576	. 2302	−58. 72
District of Columbia	. 5576	. 2070	−62. 88
Wyoming	. 5576	. 1917	−65. 62
Alaska	. 5576	. 1515	−72. 83

EXHIBIT 2

DIRECT ELECTION: WHO GAINS? WHO LOSES?

The following chart compares each state's voting strength in the 1976 presidential election under the electoral college system and direct popular vote.

A plus (+) is indicated next to each state that had a higher share of the national total using its total popular vote, while a minus (−) is indicated next to states which had a lower share.

	Electoral vote	Percentage of national total	1976 popular vote	Percentage of national total
East:				
Connecticut	+8	1. 49	1, 381, 526	1. 69
Delaware	−3	. 56	235, 834	. 29
District of Columbia	−3	. 56	168, 830	. 21
Maine	−4	. 74	483, 216	. 59
Maryland	−10	1. 86	1, 439, 897	1. 77
Massachusetts	+14	2. 60	2, 547, 558	3. 12
New Hampshire	−4	. 74	339, 618	. 42
New Jersey	+17	3. 16	3, 014, 472	3. 70
New York	+41	7. 62	6, 534, 170	8. 01
Pennsylvania	+27	5. 02	4, 620, 787	5. 67
Rhode Island	−4	. 74	411, 170	. 50
Vermont	−3	. 56	187, 765	. 23
West Virginia	−6	1. 12	750, 964	. 92
South:				
Alabama	−9	1. 67	1, 182, 850	1. 45
Arkansas	−6	1. 12	767, 535	. 94
Florida	+17	3. 16	3, 150, 631	3. 86
Georgia	−12	2. 23	1, 467, 458	1. 80
Kentucky	−9	1. 67	1, 167, 142	1. 43
Louisiana	−10	1. 86	1, 278, 439	1. 57
Mississippi	−7	1. 30	769, 361	. 94
North Carolina	−13	2. 42	1, 678, 914	2. 06
Oklahoma	−8	1. 49	1, 092, 251	1. 34
South Carolina	−8	1. 49	802, 583	. 98
Tennessee	−10	1. 86	1, 476, 345	1. 81
Texas	+26	4. 83	4, 071, 884	4. 99
Virginia	−12	2. 23	1, 697, 094	2. 08
Midwest:				
Illinois	+26	4. 83	4, 718, 914	5. 79
Indiana	+13	2. 42	2, 220, 362	2. 72
Iowa	+8	1. 49	1, 279, 306	1. 57
Kansas	−7	1. 30	957, 845	1. 17
Michigan	+21	3. 90	3, 653, 749	4. 48
Minnesota	+10	1. 86	1, 949, 931	2. 39
Missouri	+12	2. 23	1, 953, 600	2. 40
Nebraska	−5	. 93	607, 668	. 75
North Dakota	−3	. 56	297, 188	. 36
Ohio	+25	4. 65	4, 111, 873	5. 04
South Dakota	−4	. 74	300, 678	. 37
Wisconsin	+11	2. 04	2, 104, 175	2. 58
West:				
Alaska	−3	. 56	123, 574	. 15
Arizona	−6	1. 12	742, 719	. 91
California	+45	8. 36	7, 867, 117	9. 65
Colorado	+7	1. 30	1, 081, 554	1. 33
Hawaii	−4	. 74	291, 301	. 36
Idaho	−4	. 74	344, 071	. 42
Montana	−4	. 74	328, 734	. 40
Nevada	−3	. 56	201, 876	. 25
New Mexico	−4	. 74	418, 409	. 51
Oregon	+6	1. 12	1, 029, 876	1. 26
Utah	−4	. 74	541, 198	. 66
Washington	+9	1. 67	1, 555, 534	1. 91
Wyoming	−3	. 56	156, 343	. 19
Regional totals:				
East	+144	26. 77	22, 115, 807	27. 12
South	−147	27. 33	20, 602, 487	25. 26
Midwest	+145	26. 95	24, 155, 289	29. 62
West	−102	18. 95	14, 682, 306	18. 00
Total	538		81, 555, 889	

In contrast, the 10 largest electoral vote states would enjoy greater influence under direct vote, with the greatest advantage going to rapidly growing states like California and Florida that gain additional electoral votes only once a decade.

Regionally, the 1976 results showed the South and West with greater influence under the electoral college system, with the more populous East and Midwest benefiting from direct vote.

Opponents of direct vote contend that since the small states would lose numerical influence, adoption of the Bayh plan would result in presidential candidates focusing even more attention on the larger states and placing a higher proportion of their money into impersonal media advertising.

"The electoral college system works," argued Hatch. "It buttresses the two-party system. It makes candidates look at all the states and not the 12 that would elect under direct vote."

FEDERALISM

Another major argument of direct vote critics is that the Bayh plan could bring a further erosion in the federal system, establishing a nationalized form of direct democracy in contrast to the philosophy of the Founding Fathers, who deliberately created a system that recognized the states as separate political entities. "We have a federal republic," continued Hatch, "with checks and balances. I think the Constitution would be worse for direct vote."

Supporters of the Bayh amendment, though, see the electoral college system as an outmoded relic of 18th century America—suited for its time but quickly outgrown as the nation evolved into a larger and more democratic society.

They claim that the electoral college is not a true example of federalism, since it does not enhance the power or sovereignty of the states. According to Sen. Dole, direct vote is "commonsense federalism." * * *

EXHIBIT 3

WASHINGTON, D.C., *March 8, 1979*.

DEAR COLLEAGUE: I have attached a mailgram that I recently received which should clarify any confusion as to the position of many black organizations regarding S. J. Res. 28. A new signatory on this mailgram is the Honorable Richard G. Hatcher, Mayor of Gary, Indiana. You may be interested to know that Benjamin Hooks, Executive Director of The NAACP, has also renewed his opposition to the proposal for the direct election of the President.

Please do not hesitate to let me know if I may provide you with additional information.

Sincerely,

STROM THURMOND.

[Telegram]

MARCH 6, 1979.

Hon. STROM THURMOND,
Washington, D.C.:

On the question of the proposed abolition of the electoral college and the direct election of the president, a re-canvassing of the black leadership forum members who could be reached has elicited the consensus which follows:

It is regrettable that misunderstandings have developed around our original statement on S.J. Res. 28. While on the substance of this matter we may find ourselves in disagreement with friends with whom on most issues we have agreed in the past and hope to agree in the future. We must reaffirm our opposition to S.J. Res. 28 on the grounds that it would not only result in the dilution of the votes of blacks and other minority groups but that it would have negative consequences for the nation's political process as a whole. Moreover, there has not yet been developed persuasive evidence to show that abolition of the electoral college is needed or that direct elections would be in the best interests of the country.

Vernon E. Jordan, Jr., Chairman, Black Leadership Forum, President, National Urban League; M. Carl Holman, Executive Secretary, Black Leadership Forum, President, National Urban Coalition; Dorothy Height, President, National Council of Negro Women, Inc.; Jesse Jackson, National President, Operation PUSH; Elton Jolly, National Executive Director, OIC of America; Coretta Scott King, President M.L.K. Center for Social Change; Joseph Lowery, President, Southern Christian Leadership Conference; Bayard Rustin, President, A. Philip Randolph Institute; Eddie Williams, President, Joint Center for Political Studies; and Hon. Richard G. Hatcher, Mayor of Gary.

EXHIBIT 4

DIRECT ELECTION

S.J. Res. 28, providing for the direct election of the President and Vice President, is scheduled for floor consideration on Thursday. Senator Bayh, the Chairman of the Judiciary Subcommittee on the Constitution, has chosen to bypass both the Subcommittee and the full Judiciary Committee in placing this measure directly upon the Calendar of the Senate. This, despite the fact that there are six new Members of the full Committee who have never had the opportunity to consider the measure.

We are taking the liberty of attaching a reprint of testimony given before the Subcommittee during the last Congress by the late Martin Diamond, Professor of Government at Georgetown University. We believe that it summarizes the case in opposition to direct election in an extremely clear and succinct manner.

The argument in opposition to direct election is a far more complex one to articulate than is the simple one-man one-vote notion that underlies direct election. Electoral systems, such as the electoral college or proportional system, also respect popular majorities, but at the State level. They recognize that there are a variety of fundamental values that comprise American Constitutionalism, not simply that of political equality. These other values include the protection of minority rights, interests of the States, Federalism, geographical balance and checks and balances. The U.S. Senate is a non-majorititarian institution, as is the Presidential veto, the Supreme Court, the amendment process and a host of other institutions that make up the American political system. To establish direct election would be to subordinate each of these other values and disrupt the Great Compromise between the smaller and the larger States that brought our Constitution into being.

In addition to this basic understanding of our Constitutional system, the following points, we respectfully suggest, are worthy of your consideration.

Nature of the Two-Party System—Under direct election, minority party candidates would have sharply increased incentives to involve themselves in Presidential races. Currently, these candidates are discouraged because, in the absence of victory within a State, they receive no electoral votes. However, under direct election, such parties by aggregating their vote, might well be capable of serving the "spoiler" role and depriving a candidate of the 40% total to avoid a runoff. Backroom negotiating and patchwork coalitions preceding run-off elections would provide these parties with far more influence under direct election than under an electoral system. There would undoubtedly be a proliferation of Presidents winning only slightly more than 40% of the popular vote. The moderating influences of political party conventions would also be weakened as dissident candidates would find it more attractive to pursue post-convention candidacies. The two-party system in this country is not pre-ordained; it is a function of our historic political institutions.

Regionalism—Under an electoral system of Presidential selection, candidates are forced to campaign on a broad national basis. Under direct election, candidates may well find it in their interest to maximize what is basically a sectional or regional appeal.

Legitimation—The most common effect of electoral systems is to legitimize the victories of candidates with slim majorities by magnifying the margins of their victories. John Kennedy is an example of this. Although winning election in 1960 with a popular vote margin of less than 1%, much less dispute and controversy followed than would likely have been the case under direct election, because his margin was translated into a 56% electoral vote margin.

Election Finality—Under direct election, vote recounts will become far more prevalent and far more of a shadow over Presidential elections. If a candidate loses by 50,000 votes, it will be in his interest to have recounts in all fifty States to determine whether or not he can narrow his margin, rather than only in those States where the election is close.

Federal Authority—S.J. Res. 28 provides Congress with sharply increased administrative authority over the election process. If national elections are going to be determined by a single mass vote, how can the States be permitted to retain discretion concerning voter eligibility? Their role will be considerably diminished with respect to internal election procedures.

Precedent for Congressional Selection—On at least three occasions during this century, the party winning the most popular votes throughout the country for Congressional seats has failed to gain control of either the House or Senate. How can we tolerate a system whereby minority parties can control Congress?

We hope that you will take a few minutes to peruse Professor's Diamond's testimony and urge you to consider very cautiously the profound changes that S.J. Res. 28 would effect upon our political system.

Mr. BAYH addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, much has been made of that Congressional Research report relative to the small State question.

I ask unanimous consent to have printed in the RECORD, immediately following the printing of Senator THURMOND's report, a later report from the Library of Congress thoroughly discussing the whole problem.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[From the Congressional Research Service]

To: The Honorable Birch Bayh.
From: Joseph B. Gorman, Analyst Government Division.
Subject: Request for Commentary on a CRS Report of March 5, 1979.

This memorandum is written in response to your request of March 8, 1979, for comment on the CRS report of March 5, 1979, entitled "Effect of the Adoption of Direct Popular Election of the President and Vice President on the Relative Influence of the Several States in Electing the President and Vice President in 1976." You specifically inquired what consideration should be given, by a Member of Congress concerned with protecting his or her State's role in electing the President and Vice President, to that computation.

The computation in question provided the percentage of the total number of 538 electoral votes cast by each State and the District of Columbia as well as the percentage of the total nationwide popular vote of 81,555,889 cast in each State and the District of Columbia. The computation further provided data on the difference between a State's share of the electoral college and its share of the popular vote, evaluated and expressed in terms of a percentage gain or loss.

For example, Colorado cast 1.3011 percent of the electoral college vote in 1976 and 1.3262 percent of the popular vote. From these figures it was computed that Colorado's share of the popular vote was 1.93 percent greater than the State's share of the total electoral college. This computation was made as follows:

Colorado's percentage of the popular vote	1.3262
Colorado's percentage of the electoral college	1.3011
Difference	.0251

The next step was to compute what percentage .0251 was of 1.3011; the figure was 1.93. Thus, Colorado's share of the popular vote was 1.93 percent greater than the State's share of the electoral college.

Similar computations were made for the other forty-nine States and the District of Columbia. The range of gains/losses among the States ranged from a gain of 28.63 percent for Minnesota to a loss of 72.83 percent for Alaska.

You inquired whether the listing of the percentage gains/losses in the States' shares of the total popular vote compared to their shares of the electoral college would be a useful guide in determining whether a Member of Congress concerned with protecting his or her State's power in electing the President and Vice President should support or oppose a proposal to abolish the present electoral college system and replace that system with direct popular election of the President and Vice President.

I want to emphasize strongly that the

above-discussed listing presents only one of several factors which should be weighed in evaluating the desirability of preserving the electoral college or replacing that system with direct popular election of the President and Vice President. In fact, it is only one factor to consider in assessing a particular State's interest in preserving or abolishing the electoral college.

The question of which States are advantaged or disadvantaged is rather complex, and there is no clear consensus among those who have studied this subject most closely.

The reason for this uncertainty—even confusion—lies in the difficulty of evaluating two countervailing factors—(1) the "constant two" and (2) the general ticket system, in effect or practical effect in the District of Columbia and every State except Maine. In order to understand the difficulty of evaluating the more populous/less populous State advantages/disadvantages under the present electoral college system, it is necessary to understand these two countervailing factors.

Advantage of the Less Populous States under the Electoral College System: It is obvious that in the purely mathematical apportionment of the electoral college, the smaller the population of a State, the smaller the percentage of its electoral vote which is based on population (or, more exactly, its representation in the House of Representatives). This is the result of the constitutional formula for allocating electoral votes, which provides that each State will select "a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress" (Article II, Section 2). Since the number of Representatives is based on population, the smaller the number of Representatives assigned to a State, the greater the share of a State's electoral vote will be due to its two Senators (the "constant two").

Thus, in the case of Alaska, Delaware, Nevada, North Dakota, Vermont, and Wyoming, all having 3 electoral votes, 2 of those votes derive from their Senate representation, increasing their representation in the electoral college 200 percent over what it would be based (roughly) on population alone. (It should be remembered that every State is guaranteed at least one Member of the House of Representatives, even if its population falls below a computed figure for awarding Representatives. In addition, the District of Columbia also has 3 electoral votes, but that figure is constitutionally set in the Twenty-third Amendment as "a number . . . equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State.")

At the other extreme is California, 43 of whose 45 electors derive from its membership in the House of Representatives. Thus, California's electoral college vote is only 4.65 percent (2/43) greater than it would be if electoral college representation were based solely on population (or, rather, membership in the House of Representatives).

Direct election would, of course, eliminate the bonus effect of the "constant two" (Senate) factor in the present system. That elimination is what accounts for the large percentage losses of the less populous States in the computation of March 5. The eleven most affected States are those which cast either 3 or 4 electoral votes; eliminating the benefit of the "constant two," which direct election does, therefore decreases their share of the total power exercised in electing the President and Vice President. If this were the only factor to be weighed, the computation of March 5, 1979, would be a reliable guide to evaluating a State's interest in preserving or abolishing the electoral college.

There are other factors, however; one is the effect of voter turnout. Two States with the same electoral vote may cast significantly different numbers of votes.

For example, Minnesota and Louisiana both cast 10 electoral votes in 1976. However, the 1,949,931 votes cast in Minnesota exceeded the 1,278,439 votes cast in Louisiana by 671,492, or 52.52 percent. In a situation where the "constant two" is not a factor, the higher the voter turnout, the greater the share of the popular vote will be cast in a particular State. It should be noted that a State with the same electoral vote as another State could actually cast more popular votes with a lower turnout of eligible voters if the former's population had increased at a faster rate since the previous census. This is possible because the electoral college has a built-in population lag, since it is reapportioned only after a decennial census. Thus, the 1980 Presidential election will be based on electoral votes apportioned as a result of the 1970 census, ten years earlier. This lag affects, especially at the end of a decade, computations concerning shares of the popular vote and the electoral college.

In summary, even if voter turnout and population growth were constant from State to State, which, of course, they are not, a computation such as the one dated March 5, 1979, would still be an incomplete guide to a State's interest in preserving or abolishing the electoral college because of a countervailing factor, the general ticket system.

Advantage of the More Populous States under the Electoral College System: All the States (except Maine) and the District of Columbia elect Presidential electors, either formally or for all practical purposes, under a winner-take-all general ticket system. The general rule is that as a State's electoral vote increases, its chance of playing a pivotal role in electing the President increases. It is not the purpose of this memorandum to discuss in detail how theory and empirical evidence support the advantage to populous States, but it should be noted that there is no disagreement among analysts of the electoral college that such a benefit exists; what is debated, however, is how important that benefit is and, especially, the extent to which it compensates for the "constant two" advantage of the smaller States.

One of the most famous studies which attempted to quantify this benefit was the computer analysis directed by John F. Banzhaf and published as "One Man, 3.312 Votes: A Mathematical Analysis of the Electoral College," Villanova Law Review, v. 13 (Winter 1968), pp. 303–46. Banzhaf, using 1960 census figures and the 1964 and 1968 electoral vote apportionment, computed that citizens of New York, the most populous State at that time and for several previous decades, had 3.312 times the voting power of the most deprived "State," in this case the District of Columbia. The advantage to the most populous States under the electoral college, according to Banzhaf's study, correlated very closely with the size of the electoral vote, lessening as the electoral vote dropped, but increasing again when the electoral vote fell low enough to begin reflecting the effect of the "constant two," with States having 3 or 4 electoral votes. The lowest relative voting power was found in the 4 to 5 electoral vote range. The findings indicated that the most populous States had a clear advantage, with nine of the most populous States having a greater computed advantage than Alaska, the most advantaged of the less populous States.

A survey of biases of the electoral college written by John H. Yunker and Lawrence D. Longley, "The Biases of the Electoral College: Who Is Really Advantaged?" in Donald R. Matthews, ed., Perspectives on Presidential Selection (Washington, Brookings Institution, 1973), pp. 172–203, also concluded that "Large states, metropolitan area residents (including residents of central cities, SMSAs, and especially suburbs), population of foreign stock, blue-collar workers, and the regions of the Far West and the East were found to be advantaged by the electoral college" (p. 202).

Another major study, Voting for President: The Electoral College and the American Political System (Washington, Brookings Institution, 1970) by Wallace S. Sayre and Judith H. Parris, concluded that "The method of allocating electoral votes among the states, like the representation scheme for Congress, was originally intended to balance small-state and large-state interests. Although the principle of the old compromise remains, the political situation has changed. On balance, the populous states are more powerful. . . . The general-ticket system has worked to the advantage of the populous states" (p. 44).

Others have analyzed this question, and while there are disagreements among analysts, there is a preponderance of opinion that the general ticket tilts the electoral college system in favor of the most populous States.

Conclusion: There are two independent biases operating in the electoral college. One, which was illustrated by the March 5, 1979, computation to which you referred, definitely favors the less populous States. A second, the general ticket, definitely favors the more populous States. It has thus far lay beyond the expertise of political scientists to prove quantitatively and conclusively which of these biases is more significant. The most persuasive evidence tends to support Yunker and Longley's conclusion that the present system gives a significant advantage to the most populous States, a smaller advantage to the less populous States, and disadvantages to the greatest extent the medium-sized States, having between 4 and 12 electoral votes, which are too large to benefit to any significant degree from the "constant two" but are too small to derive significant benefit from the general ticket system.

I trust this memorandum responds to your inquiries. If I can be of further assistance on this or any other matter, please call me on 426-5824.

Mr. BAYH. Mr. President, the first report responded only to the questions that were asked, which, quite understandably, are asked in a way to present the most favorable bias to my distinguished colleague from South Carolina's position.

The latter report, which has now gone into the RECORD, goes into some detail and concludes, I would say for the benefit of our consideration tonight, and then we will close, that there are two independent biases operating in the electoral college.

Mr. THURMOND. Will the Senator yield on one point.

Mr. BAYH. Yes.

Mr. THURMOND. The Senator from South Carolina desires to know upon what authority any statement is made that he asked for a request to suit our purposes?

We asked that a study be made. That is the only request that was made.

Mr. BAYH. I will let the Senator from South Carolina read this report and then he can come to his own conclusions on that. I meant nothing derogatory, just stated the obvious fact.

The report was given to the Senator from South Carolina and answered only half of the problem. It is like looking at the tail end of the horse and not being able to see it had a front end.

It seems to me, what the Library of Congress says in this report, and the Senator has every reason and is certainly within his right to disagree with the conclusions, is not the same organization—put out both reports, and came up with these conclusions:

> Conclusion: There are two independent biases in the electoral college. One, which was illustrated by the March 5, 1979, computation to which you referred, definitely favors the less populous States. A second, the general ticket, definitely favors the more populous States. It has thus far lay beyond the expertise of political scientists to prove quantitatively and conclusively which of these biases is more significant. The most persuasive evidence tends to support Yunker and Longley's conclusion.

Those were two political scientists that did a very comprehensive computer analysis of the past elections and came to the conclusion the small States, far from being advantaged, were being disadvantaged.

It appears that the Library of Congress agrees with Yunker and Longley's conclusions:

> That the present system gives a significant advantage to the most populous States, a smaller advantage to the less populous States, and disadvantages to the greatest extent the medium-sized States, having between 4 and 12 electoral votes, which are too large to benefit to any significant degree from the "constant two" but are too small to derive significant benefit from the general ticket system.

The "constant two" are the constant two of senatorial electors.

That is in the record. Let everybody read it, and then conclude what the Library of Congress really believes.

I ask unanimous consent to have printed in the RECORD at this time the statement and testimony of Doug Bailey, of Bailey & Deardourff, who handled all the public relations, bought all the television and radio time, put the ads in the newspapers, for the Ford campaign. Read Mr. Bailey's testimony and see where they spent the money, and get his conclusion as to whether the small States are advantaged. Do not take my conclusion. The only thing I did in Presidential politics in my life was to lay an egg. Bailey helped run a Presidential campaign that was a very successful, well-orchestrated campaign. Take the advice of people who are more intimately involved.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT TO THE SUBCOMMITTEE ON THE CONSTITUTION, COMMITTEE ON THE JUDICIARY, U.S. SENATE

My name is Doug Bailey. I am President of Bailey, Deardourff and Associates, Inc., a Republican political consulting and advertising agency which over the past decade has worked in many varied campaigns at the local, State and national level.

In 1976, John Deardourff and I supervised the planning, creation, production and placement of all general election advertising for President Ford.

I am here to testify in favor of a constitutional amendment to replace the Electoral College with direct election of the President—and to assist the Committee in considering the potential impact of such a change on the voters, the Parties and the presidential campaigns themselves.

In my opinion there are at least six separate reasons to support a Direct Election Amendment.

1. By ending the Electoral College we would also end the only function the Electoral College can serve which is to impose a constitutional crisis upon the country. That crisis can come in any of three nightmares, each of which might conceivably have occurred in 1976 with a shift of less than two one-hundredths of one per cent of the vote.

Nightmare Number One: With a switch of less than 12,000 votes in Ohio and Hawaii, the winner of an absolute majority of the popular vote could have been denied the Presidency by the Electoral College. In the emotional wee hours of November 3rd, many of us were reduced to hoping for that outcome. But in the light of day and reason, no one can rationally have wished for the turmoil of changing Mr. Ford's status from unelected President to defeated President while still expecting him to lead and unite the country for another four years.

Nightmare Number Two: With a switch of less than 15,000 votes in Ohio and Delaware, neither Mr. Ford nor Mr. Carter would have earned a majority in the Electoral College, throwing the election into the House of Representatives, despite Mr. Carter's absolute majority in the popular vote. And the only electoral procedure we have in this country that is less rational in a democracy than the Electoral College, is that governing a presidential election in the House of Representatives, where each State delegation regardless of size has one vote. Any serious examination of today's electoral system could invite a regional demagogue's 3rd Party campaign designed to throw the election into the House, there to hold regional votes hostage to political deals over national policy. Some express concern that direct election of the President would invite fractional Parties: I dispute that; rather, I believe that the House election feature of the present Electoral College system is a far greater temptation for regional and fractional 3rd and 4th Party efforts than would be any Direct Election system with a run-off safeguard.

Nightmare Number Three: If either of the popular vote switches described above had occurred and all other State electors had voted as they actually did vote in December 1976, the election would have gone to the House and in either case, under current constitutional provisions, the contest in the House would have been between three persons: Jimmy Carter, Gerald Ford, and Ronald Reagan. A system which on the one hand can deny office to a winner of an absolute majority of the popular vote and on the other hand can substitute for him a person who received no popular votes at all is a system that needs a lot of work.

2. My second reason for supporting a Direct Election Amendment is familiar and unnecessary to dwell on: The Electoral College effectively disenfranchises millions of American voters. It is hardly an effective lesson to teach the 72 million non-voters in 1976 to tell 36 million who did vote that they might as well have stayed home because their votes had absolutely zero impact on the outcome regardless of who they voted for. Let's put it another way: It's upsetting to realize that less than 53% of those eligible to register and vote actually voted in 1976 and it's uncomfortable to realize that our President was supported at the polls by less than 27% of those eligible to register and vote; but it's appalling to realize that our President was actually elected by less than 16% of those eligible to register and vote. It is a fact, for example, that not a single vote of any constituent of four of the six Members of this Sub-Committee had anything of any kind to do with the election of President Carter.

3. My third reason for favoring abolition of the Electoral College is that it is an incentive to the expedient selection of otherwise unqualified Vice-Presidential candidates. Geographic ticket-balancing is an appropriate part of Vice-Presidential selection and I encourage you to seek a means of preserving the constitution's discouragement of selecting a Vice-Presidential running mate from the same State as the presidential nominee. But the conclusion from history is unmistakeable that reasons less important than quality have too often dominated the vice-presidential selection process. And although not in the last four cycles, one of those inadequate reasons has been the temptation of putting a lock on a large bloc of electoral votes. To underscore the point: For good or ill the electoral bloc prize was no doubt inseparable from the initial selections (and ultimate promotions) of Vice-Presidents Johnson and Nixon. Direct Election cannot guarantee quality ticket selection; but removal of the Electoral College system can also remove one of the more seductive temptations to sacrifice quality for expediency.

My remaining three reasons for supporting a Direct Election Amendment are a product of personal experience in President Ford's general election campaign—and in some planning operations for other potential presidential efforts. Let me state the three conclusions and then describe why I reached them:

4. Direct Election of the President, in my opinion, would mean increased voting, now deterred by the Electoral College system.

5. Direct Election of the President, in my opinion, would strengthen the two-Party system and the local apparatus of both political Parties.

6. Direct Election of the President, in my opinion, would reduce both the dominance of and the reliance on impersonal media campaign communications and significantly enhance participatory democracy.

None of these points can be understood fully without an appreciation of how thoroughly the Electoral College system controls the mentality and dictates the decisions of a presidential general election campaign:

It probably will surprise many people to know that while the media pollsters drumbeat their national opinion samples in the course of the election year, the presidential campaigns pay very little attention to national polls. The President Ford Committee spent half a million dollars on general election polls, but did not conduct a single national trial heat sample survey from September 14th on. Why? Because the Electoral College makes national opinion irrelevant. The only thing that matters is what's going on in each State.

Furthermore, a presidential campaign simply doesn't care what the margin of victory is in each State. Except possibly for its effect on local candidates, the President Ford Committee couldn't have cared less whether it carried California by one vote or one million—whether we lost New York by one vote or one million. The margin of victory or loss in each State simply made no difference to us whatsoever; we felt no incentive to widen the gap in a winning State or close the gap in a losing State. Why? Because the Electoral College makes the margin of State results irrelevant. The only thing that matters is who wins the State.

Consequently, presidential campaigns, regardless of their public statements, do altogether write-off States where they can't win, spending no money there and making no effort there. The President Ford Committee knew that no matter what it did in Georgia or Massachusetts or the District of Columbia, Mr. Carter would win those States. So, except for media funds to influence neighboring States, we simply spent no funds or effort in those States. Why? Because the Electoral College pays off only for winning a State, not for coming close.

Similarly, presidential campaigns also tend to ignore States where they believe they can't lose, spending no money there and making no effort there. The President Ford Committee believed that no matter what the Carter campaign did in Idaho or Kansas or Wyoming, Mr. Ford would win those States. So we simply spent no funds or effort in those States. Why? Because the Electoral College pays off only for winning a State, not for winning it big.

And if both presidential campaigns are working with siimlar poll results and similar instinctive judgments, both will end up ignoring or writing-off the same States. I've never seen the figures but I doubt very much that the Carter campaign spent any more than we did in Georgia, Massachusetts and D.C. on the one hand or in Idaho, Kansas and Wyoming on the other. Our "sure" losers were their "sure" winners; our "sure" winners were their "sure" losers. So those States must do without any attention, effort or resources from the national campaigns. Why? All because the Electoral College makes the margin of victory or defeat in a State totally irrelevant.

And, of course, presidential campaigns focus on the big States—not because that's where the popular votes are but because that's where the electoral votes are. In the Ford campaign we had one fairly simple strategic equation: Of the eight big electoral vote States (California, New York, Pennsylvania, Ohio, Illinois, Texas, Michigan and New Jersey) if we won five we'd win the election; if we won less than five we'd lose the election. (Actually we won four, but even if we had won Ohio we would have fallen four electoral votes short.) Our polling showed us competitive in all eight. We spent time, money and effort in every State where we believed both candidates had a chance to win but we concentrated our resources on these eight big States. Why? Because the Electoral College dictated that reality upon us.

Finally, all of the above realities about presidential campaign strategy under the Electoral College system were further accentuated in 1976 by the spending limits of public financing. I support public financing and I don't believe its spending limits worked to the advantage or disadvantage of either 1976 ticket. But the combination of spending limits and the Electoral College did further concentrate the campaign in some States to the disadvantage of others. In the Ford campaign the first priority call on funds was for media in States in which both candidates were competitive. The second priority call on funds was for candidate travel in States in which both candidates were competitive. The third priority call on funds was for organization in States in which both candidates were competitive. And within each priority, the greater number of electoral votes a State had, the higher call it had on the funds. In States where we were "sure" to lose, no money was spent to cut the losses. In States where we were "sure" to win, no money was spent to swell the turnout. Why? Because the Electoral College makes those things irrelevant.

In summary, the Electoral College forces every presidential campaign strategist to recognize that national popular vote totals are completely unimportant, that except in close States turnout is completely unimportant, and that except in close States the conduct of the campaign is completely unimportant.

By contrast, under Direct Election of the President what happens in every State would be important, the margin in every State would be important, turnout in every State would be important. Two examples from the 1976 figures demonstrate the point:

Mr. Carter won the 3 electoral votes of the District of Columbia but lost the 51 electoral votes of Iowa, Maine, New Jersey, New Mexico, Oklahoma, Oregon and South Dakota. And yet if it had been a Direct Election Mr. Carter's popular vote plurality in the District of Columbia would have been big enough to wipe out the Ford plurality in the other seven States combined.

Conversely, Mr. Ford won the 3 electoral votes of Wyoming but lost the 32 electoral votes of Delaware, Hawaii and Ohio. If it had been a Direct Election Mr. Ford's popular vote plurality in Wyoming would have been big enough to wipe out the Carter pluralities in the other three States combined.

But it wasn't a Direct Election so pluralities didn't matter. Ford didn't care what the Carter plurality was in the District; Carter didn't care what the Ford plurality was in Wyoming. And neither campaign cared what the size of its own winning pluralities would be either.

Under a Direct Election they would have had to care. Ford would have tried to swell the Wyoming vote; Carter would have tried to swell the D.C. vote. And each would have tried to cut their losses in the other's "sure" States. This would have meant targetted media money; it would have meant increased candidate visibility; it would have meant, most of all, organizational funds for canvassing and turnout.

The principal battlegrounds under a Direct Election system would, of course, be the same as under the Electoral College: Where the votes are. But when every vote can help and when every vote counts, presidential campaign strategy will change:

"Sure" winning States will not be ignored; they will be targets of opportunity for swelling the plurality through media and organization turnout efforts.

"Sure" losing States will not be written-off; they will be targets for loss-cutting persuasion media, canvassing and selected turnout.

And the priorities for spending will be changed to include media and organizational efforts to swell local pluralities and cut local losses through persuasion and turnout

One reason voting participation is so poor this country is that, except in those States both candidates have a chance to win, there is no incentive for the presidential campaigns to increase turnout under the Electoral Col- in this country is that, except in those States lege system. A Direct Election system would change that and therefore result in increased voting by the American people.

Especially under the spending limits of public financing, the local Party organizations receive little help, support or attention from the presidential campaigns under the Electoral College system—particularly in States which are considered "sure" winners or "sure" losers. A Direct Election system, with the importance it gives to turnout for both campaigns, will result in more campaign attention and resources to the local Party organizations as the most obvious existing vehicle for local contact, canvassing and turnout efforts. This strengthening of the local Party apparatus inevitably will work to strengthen the capacity of the existing Parties to survive and to thrive.

Under the current system of spending limits, new spending for new needs will mean less spending for old needs. With turnout being critical everywhere under a Direct Election system, new spending can be expected on turnout needs everywhere. Turnout is more a function of personal contact than media, as every candidate who has ever tried to win a Primary on media alone has found out. The result will clearly be more Presidential campaign funds for local organizational efforts (canvassing, door-to-door, phone banks, turnout systems, transportation to the polls, election day baby-sitting)—and, inevitable under limited spending, fewer Presidential campaign funds for media persuasion. Thus, Direct Election not only would mean that every vote and every voter counted; it would help involve the people in the campaign process again—and reduce today's wholly disproportionate influence of the media and those who manipulate the media and the voters alike.

I have attached a State-by-State spending chart compiled from records of the President Ford Committee. It may help the Committee consider the reality of the disproportionate spending patterns dictated by the absurdities of the Electoral College.

1976 STATE-BY-STATE SPENDING IN THE GENERAL ELECTION BY THE PRESIDENT FORD COMMITTEE

	Electoral vote	Local spot television	Local print advertising	Survey research	Organizational support
Alabama	9	$42, 500	$11, 000	$6, 200	$16, 300
Alaska	3	7, 200			16, 100
Arizona	6			500	12, 100
Arkansas	6			300	3, 700
California	45	619, 000	89, 000	54, 470	312, 000
Colorado	7			6, 990	22, 000
Connecticut	8	55, 000	400	11, 100	31, 700
Delaware	3		1, 100		7, 900
Florida	17	147, 000	27, 000	24, 934	64, 800
Georgia	12				14, 700
Hawaii	4	9, 000			19, 400
Idaho	4				7, 700
Illinois	26	294, 000	75, 000	25, 520	165, 400
Indiana	13	67, 000	18, 000	4, 286	42, 900
Iowa	8	55, 000	21, 000	14, 840	25, 800
Kansas	7				1, 900
Kentucky	9	26, 000		6, 754	30, 800
Louisiana	10	61, 000	10, 000	6, 754	8, 200
Maine	4	14, 000			10, 400
Maryland	10	67, 000	6, 000	10, 559	73, 500
Massachusetts	14				15, 200
Michigan	21	178, 000	58, 000	2, 014	44, 900
Minnesota	10				10, 800
Mississippi	7	22, 000	8, 000	11, 140	16, 300
Missouri	12	143, 000	32, 000	8, 710	49, 000
Montana	4	7, 000	3, 000		7, 300
Nebraska	5				$8, 700
Nevada	3	15, 000			11, 200
New Hampshire	4				9, 800
New Jersey	17		73, 000	26, 818	9, 100
New Mexico	4	11, 000		3, 250	15, 900
New York	41	664, 000	134, 000	34, 979	246, 200
North Carolina	13	51, 000	37, 000	10, 979	73, 900
North Dakota	3	10, 000			9, 000
Ohio	25	278, 000	100, 000	22, 859	136, 100
Oklahoma	8	39, 000	14, 000	3, 800	14, 500
Oregon	6	61, 000	15, 000	3, 800	24, 100
Pennsylvania	27	331, 000	124, 000	32, 556	155, 900
Rhode Island	4	25, 000		2, 360	7, 500
South Carolina	8	44, 000	16, 000	3, 950	15, 800
South Dakota	4	7, 000			11, 800
Tennessee	10	54.000		13, 877	23, 200
Texas	26	217, 000	36, 00)	36, 000	170, 900
Utah	4				5, 900
Vermont	3			1, 127	11, 800
Virginia	12	67.000	16, 000	12, 344	81, 500
Washington	9	83, 000		8, 127	28, 200
West Virginia	6		100		5, 300
Wisconsin	11	67, 000	29, 000	17, 803	27, 100
Wyoming	3				5, 100
District of Columbia	3	85, 000	600		1, 800

TESTIMONY OF DOUGLAS L. BAILEY, PRESIDENT, BAILEY, DEARDOURFF & ASSOCIATES, INC., WASHINGTON, D.C.

Mr. BAILEY. Thank you, Mr. Chairman.

I have submitted a longer statement which I would like to briefly summarize at this time.

My name is Doug Bailey. I am President of Bailey, Deardourff & Associates, Inc., a Republican political consulting and advertising agency which over the past decade has worked in many varied campaigns at the local, State, and national level.

In 1976, John Deardourff and I supervised the planning, creation, production, and placement of all general election advertising for President Ford.

In my opinion, there are at least six separate reasons to support a direct election amendment:

First, by ending the electoral college, we would also end the only function the electoral college can serve which is to impose a constitutional crisis upon the country.

My second reason for supporting a direct election amendment is familiar and unnecessary to dwell on: the electoral college effectively disenfranchises millions of American voters.

My third reason for favoring abolition of the electoral college is that it is an incentive to the expedient selection of otherwise unqualified Vice Presidential condidates.

My remaining three reasons—and these are the ones that I think may be the reason my testimony may be of some help—are a product of the personal experience that we had in President Ford's general election campaign.

Those reasons are these:

One, direct election of the President in my opinion, would mean increased voting—now deterred by the electoral college system.

Two, direct election, in my opinion, would mean a strengthening of the two-party system and the local apparatus of both political parties.

And, three, it would mean, in my opinion, a reduction—both of the dominance of and the reliance on impersonal media campaign communications and would significantly enhance participatory democracy.

The principal battlegrounds under a direct election system would, of course, be the same as under the electoral college—that is, where the votes are.

But when every vote can help and when every vote counts, Presidential campaign strategy will change.

The so-called sure winning States will not be ignored as they are now. They will be targets of opportunity for swelling the plurality through media and organization turnout efforts.

The so-called sure losing States will not be written off as they are now. They will be targets for loss-cutting persuasion media, canvassing, and selected turnout.

And the priorities for spending will be changed to include media and organizational efforts to swell local pluralities and cut local losses through persuasion and turnout.

One reason voting participation is so poor in this country—it's not a major reason, but it is a factor—is that except in those States where both candidates have a chance to win there is no incentive for the Presidential campaigns to increase turnout under the electoral college system.

A direct election system would change that; and, therefore, result in increased voting by the American people.

Especially under the spending limits of public financing, the local party organizations receive little help, support, or attention from the Presidential campaigns under the electoral college system—particularly in States which are considered sure winners or sure losers.

A direct election system, with the importance it gives to turnout for both campaigns, will result in more campaign attention and resources to the local party organizations as the most obvious existing vehicle for local contact, canvassing, and turnout efforts.

This strengthening of the local party apparatus inevitably will work to strengthen the capacity of the existing parties to survive and to thrive.

Under the current system of spending limits, new spending for new needs will mean less spending for old needs.

With turnout being critical everywhere under a direct election system, new spending can be expected on turnout needs everywhere.

Turnout is more a function of personal contact than media, as every candidate who has ever tried to win a primary on media alone has found out.

The result will clearly be more Presidential campaign funds for local organizational efforts—canvassing, door-to-door, phone banks, turnout systems, transportation to the polls, election day babysitting, and so forth.

Inevitable under limited spending, this will mean fewer Presidential campaign funds for media persuasion.

Thus, direct election not only would mean that every vote and every voter counted, but it would help involve the people in the campaign process again and reduce today's wholly disproportionate influence of the media and those who manipulate the media and the voters alike.

Thank you.

Senator BAYH. I must say, Mr. Bailey, your testimony has provided some real insight.

I guess you'd be the first to say that none of us knows absolutely for certain what would happen if we change, but I don't know of anybody else who has really sharpened a pencil as you have and determined how and where and in what manner you would spend campaign and issue resources in a national campaign.

Mr. BAILEY. Let me say, Mr. Chairman, that I have for years believed the first three of my six points.

But it is really only the experience of having gone through the Presidential campaign that the last three become real.

I think it is very dangerous, obviously, to generalize and to predict with any certainty what would happen under a change of this magnitude. However, I have at least one guide. I know how the Ford campaign organized and approached the general election in 1976, and I know what the electoral college system dictated to the campaign in terms of strategy.

In reaching these conclusions, what I have attempted to do is simply to relive that campaign and ask myself what would we have done differently if it had been a direct election, rather than an electoral college system.

Senator BAYH. This is fascinating. I sit here with sort of a country-Indiana logic on this.

What you say makes a lot of sense from my perspective having been out in the precincts and having tried to get the Presidential or Vice Presidential candidate to come into the State and being told that they're sorry, but they have to spend their time elsewhere.

I understand their reasons in light of the search for electoral votes, but I have a personal experience with what that means.

May I ask you to be a bit specific when you talk about increased turnout and attention to party organization in some places that now may be ignored.

Mr. BAILEY. Let me give you some examples, again, from the Ford campaign.

Under the electoral college system, what was automatically imposed upon us was an assessment early as to in which Sates the campaign was really competitive: In which States were we fairly sure to lose, and in which States were we fairly sure to win?

Because the electoral college dictates that a campaign would them ignore both categories of States and spend no money—

I have attached to my statement a listing from the Ford records of moneys spent in individual States.

We concluded, for example, that there was no way—regardless of what the Ford campaign might do, that we could ever win the State of Georgia; that we could ever win the District of Columbia; that we could ever win the State of Massachusetts.

And it did not matter, as it does not under the electoral college system, how badly we lost those States. We had no incentive whatsoever to cut the losses in those States. We had no incentive whatsoever to come close. We didn't care whether the plurality that we lost was 1 vote or 1 million votes. And so we ignored them.

Senator BAYH I wish you hadn't spent so much money in Indiana. [Laughter.]

Mr. BAILEY. Actually, Senator, early on we had Indiana listed as a relatively safe State. We got one bad poll, and we put more money into the State. This is automatically what happens.

The opposite is also true. We had concluded, for example that States such as Kansas and Idaho and Wyoming, from our reading, were solid Ford States. Unless Jimmy Carter spent an extraordinary amount of money and time in those States, those States were not going to be competitive. Mr. Ford was going to win them regardless of what either campaign did and, therefore, we ignored them.

We ignored them in the sense of media money, organizational money or effort, and for candidate travel—for the most part.

It did not matter how much we won the State of Kansas by because it was irrelevant. The plurality in Kansas, Wyoming, or Idaho was totally irrelevant.

Now under a direct election system, all of that changes. It would have mattered enormously what the Carter plurality in the District of Columbia was.

It would have mattered enormously what the Ford plurality in the State of Wyoming was.

The fact of the matter is that President Carter won the three electoral votes of the District of Columbia, but under a direct election system his plurality in the District of Columbia was big enough to wipe out the Ford pluralities in, I believe 7 or 8 seperate States where Ford won over 50 electoral votes.

Conversely, the Ford plurality in Wyoming under a direct election system, would have been large enough to wipe out the Carter plurality in Ohio and Delaware and Hawaii combined where Carter won 32 electoral votes.

The point is that the plurality in each State makes an enormous difference. Every vote counts under a direct election system and, therefore, turnout is critical. Presidential campaigns have got to be at least aware of the potential danger of losing any State or any area under direct election of a wide margin and the opportunity of swelling the margin in other States where turnout would help swell it.

So I feel confident that if the 1976 election had been a direct election, President Ford's campaign would have spent considerably more effort in making a competitive showing in the District of Columbia and Massachusetts, and even in Georgia, and would have spent considerably more effort in maximizing the turnout in those States where they were sure to win—because maximizing the turnout would maximize the plurality and, therefore, help nationally.

Senator BAYH. You use some good, specific examples there.

I have a list of all the States and their returns and the percentages of votes for both candidates. For President Ford, Wyoming had 60 percent; Utah, 64 percent; Arizona, 57 percent; Colorado, 55 percent; Idaho, 61 percent; Nebraska 59 percent; Montana, 54 percent—that belt where President Ford did very well.

What you're saying, as I understand it, is that in a direct popular vote system, you would really put more funds into those areas because you would think you would have a bigger chance to increase the margin there?

Dr. BAILEY. Frankly, you hype the election. You concentrate a good deal of media, but principally turnout money, to hype the election to get greater interest in the election. The greater the turnout in those areas where you're going to win big, the greater the plurality you receive.

In a direct election, that's what we're talking about.

So I don't think there is any question that there would have been a more concentrated effort.

I'm not suggesting that that belt of States becomes the turning point and receives all the money in a Presidential election—obviously, that is not so. The urban centers, clearly, are still where the votes are and where they're concentrated.

But it stands to reason that in a direct election where increased turnout is going to benefit you, that's an opportunity that you can't afford to ignore.

Senator WALLOP. I hear what you're saying about hyping the turnout and everything else, but nevertheless there is this dollar limitation and there is the fact that there is only so much that you can hype anything with.

In some States, like my State, it is extremely expensive to reach a voter with media; isn't that true?

Aren't we going to be faced with the same thing anyway? You might hype the local precinct and county chairman.

But I'm curious to know whether there is any advantage in spending a lot more money in Wyoming if you think that it's going to run that kind of plurality anyway—in terms of media and visits and so on.

Mr. BAILEY. I really do believe that there is an advantage in it.

While the changes may not be dramatic, I think the turnout becomes a major factor in Presidential direct election in every State. To that degree, those campaigns are going to spend money on turnout.

That may not mean media money as much as party organization money.

Senator WALLOP. But turnout is a party function that exists with or without Presidential election. You always have one or the other Senator being elected, and you have your congressional candidates for a certainty always. So turnout becomes——

I'm not sure that that enters into it so much. Turnout is the job of local party organization.

Mr. BAILEY. I think one of the reasons that turnout—and I assume it's true in Wyoming; it certainly is true everywhere else—in a Presidential year is higher, is because interest is greater. The greater the interest you can create in a Presidential election—whether on a national scale or on a local basis—the greater the turnout is going to be.

What I'm suggesting, Senator, is not that there is going to be an extraordinary amount of new money or reallocated money spent for this purpose, but I'm suggesting that under an electoral college system there is none.

The fact of the matter is that except for a few buttons and bows the State of Wyoming got nothing from the Ford campaign—not only in money or resources but even in attention.

To be perfectly blunt about it, we took Wyoming for granted, and there was no reason for Wyoming to be of interest unless it slipped into—whatever the reason—a category where we might have lost it.

Senator WALLOP. I doubt you'd have done very much for turnout anyway, because we ran I think either the highest or second highest percentage of eligible voters in the country.

Partly that's my own particular judgment, because Wyoming continuously turns out high percentages of its eligible voters.

In sum, at least, there are other reasons why you have high percentage turnouts, and that's when people have confidence in local government. They tend to participate in elections more than otherwise.

But I would like to just pursue this thing, because Senator Bayh has been very kind to me. And I think one of the reasons we're having this extended hearing is because I have not been a part of it, and I do have ambivalence of feelings.

I don't think we're faced with an either/or situation. I'm not sure that the only answer is to simply obliterate the electoral college system. It might be possible to modify it to accommodate some of your worst fears, which I share. Precinct election results are not what anybody particularly wants.

On the other hand, I'd like to get into the whole business of regionalism and federalism as it exists.

Were you in the Ford campaign from the very beginning primarily—in the primaries?

Mr. BAILEY. No, sir.

From the convention on.

Senator WALLOP. Were you involved with the campaign at the convention?

Mr. BAILEY. We were at the convention, but that was our first participation in the campaign. Actually there wasn't any agreement reached until the day after the nomination.

Senator WALLOP. This would be a similar question that I would ask to whoever ran President Carter's campaign too. But doesn't a certain amount of what you're talking about as missing take place in the party platforms and the selection of the candidates and other things? Aren't we looking to the whole country in structuring who is going to be the running mate and structuring platforms? Don't they seek to address minority groups, whether they're small populations of States like Wyoming, or any other kind of minority? Isn't that part of what the conventions are all about, to address this on as broad a basis as you can those kind of things?

Mr. BAILEY. Yes, sir, I would agree with that.

Senator WALLOP. So it does take place anyway. They are addressed. Isn't that true?

Mr. BAILEY. It may be the last point at a campaign in which they are addressed—at least if the Ford experience is a general one.

Senator WALLOP. But it might also be otherwise.

You're saying that the electoral college dictated to you in terms of strategy what you were going to do, but the absence of it would still dictate to you in terms of strategy what you wouldn't do?

Mr. BAILEY. Yes, sir.

Senator WALLOP. The strategies would be different, but they would still have to be calculated with a limited amount of funds and time for candidates.

Mr. BAILEY No question.

Senator WALLOP. So while I would agree with you, and it probably might increase the media participation and tailoring in areas of the country, wouldn't they be just the same areas?

Mr. BAILEY. No, sir.

Let's take the reverse example from the Wyoming one.

I believe it's true, historically, frankly, that one of the reasons the Republican Party does as poorly with the black votes as it does is that in many States in a Presidential election, it was particularly true in the Ford campaign, in States where there is a significant black vote there is no chance for the Republican to win and, therefore, very little attention is paid to those States and therefore very little attention is paid to the black vote.

And the District of Columbia is the prime example. There was no possibility for Ford to win.

One of the reasons I believe that there is relatively little attention paid within the Republican Party to going after the black vote is that in Presidential elections, under the electoral college system, there is not a great premium on it.

That doesn't mean that in urban centers in the industrial States it is not a significant vote and a significant factor, but it may be an even more significant factor in States in the South in which the Ford campaign couldn't possibly have won.

So I think a direct election, for example, would result, I believe, in the Republican Party attempting to become, or at least in its Presidential campaign attempting to become, more competitive in the Southern States and more competitive in the District of Columbia and, therefore, more competitive with the black vote.

I think that's a significant difference.

Senator WALLOP. It is; I'm not sure that it would change in terms of strategy and where your money is going to be best spent. You might still draw the same conclusion. I would hope that it wouldn't, but it might still draw the same conclusion that you're not apt to get the organizational talent or the enthusiasm sufficient to warrant the dollars that you have to spend, and you might ignore it just the same. I would hope that's not true.

Mr. BAILEY. I would think that it would be true. In thinking back through my own experience in the Ford campaign and trying to relive those strategy sessions where strategy was adopted, under the electoral college, when you come to the western belt of States that the chairman just cited—Wyoming and Utah and Montana and so forth—where the final popular vote figures in those States were pretty substantial for the President, rather than our strategy session saying those States are safe and ignore them, there would be the discussion that in those States we not only have a chance to carry them, but we have a chance to carry them big and the plurality that we can build in those States gives us an opportunity to offset the pluralities that we know we're going to lose by in other States or urban centers.

And, therefore, there is a whole different context within which the discussion is held.

Now I'm not sure——

Senator WALLOP. That's the one that worries me. Those discussions are going to be held, are they not, in the areas where most of the people are?

If you have a limited amount of money and a limited amount of time, are you not really going to concentrate almost completely on where the large populations are to get your organization and your tailored messages across?

Mr. BAILEY. I'm not at all sure that there wouldn't be campaigns that would reach that conclusion. In the Ford campaign, they would have reached that conclusion over my strenuous objections—I'll tell you that.

It just stands to reason that in all of those States that Senator Bayh listed, when the President won big without any campaign, that the expenditure of a relatively small amount of money to make the campaign more competitive and to hype the turnout would have swelled those figures. And, therefore, increase the pluralities.

Senator WALLOP. Let's approach it from another way.

Let's suppose that Bailey, Deardourff & Associates are hired by the Republican or Democratic party. We're going to write the movie, "The Candidate," only we're going to do it for real.

You have from the beginning to create

this person who is going to be the candidate who is going to appeal to the most popular votes that you can achieve. Starting from the very beginning wouldn't you really seek a different kind of candidate than you might with the electoral college?

In all likelihood, wouldn't you pick somebody from a large, urban area, preferably with labor credentials and minority credentials where mostly the population's concentrated and tend to ignore more cowboys and other things which are not going to appeal to a whole lot of people across the country.

Mr. BAILEY. Yes; I think you probably, in terms of a Presidential candidate, if you were drawing an ideal profile of a Republican candidate to win a national election—or a Democratic candidate—you have to have one that appeals to the major urban centers.

Hopefully, you would be bright enough at the same time to balance that ticket so that you don't run the risk of picking both candidates from that exact same category and run the risk that the other ticket, if it is balanced; would have greater appeal in the rest of the country.

The fact of the matter is that while a great deal of the population of this country is centered in the urban areas, there is a vast population, with every vote counting, that you cannot ignore in a direct election.

I think the easiest way to understand what I'm talking about—at least for me to understand what I'm talking about—is that the Presidential election is the only election that we've ever been in, working under anything that approaches an electoral college system. Every other election—every election of every member of this committee—is a direct election.

When it comes to the State of Wyoming, for example, you know full well that you're not going to win Sweetwater County, but you don't totally——

Senator WALLOP. Actually that's wrong, because I nearly did.

We concentrated like crazy down there.

Mr. BAILEY. Precisely my point, Senator. According to my records, you did very well in Sweetwater County—but only by comparison to other Republicans frankly. But not close to winning Sweetwater County—37 percent—if my figures are right.

There are some counties in Wyoming that if it were constructed on an electoral college map, you'd have to conclude you're not going to win.

If you were working on an electoral college system, you'd ignore it. But you don't ignore it in direct election.

Senator WALLOP. On that basis, not. However, Wyoming differs from most States in that we have only one congressional delegate.

But, in essence, you come down to an almost electoral type of thing by having congressional districts. You're perhaps tailoring candidates to the types of districts in which they run.

Mr. BAILEY. But the point I'm suggesting is that in a direct election—whether Indiana, Wyoming, Alaska, or wherever—I don't know of any statewide candidate who simply runs media in only one part of the State, because he's going to lose the other part of the State. You have an interest in cutting your losses; you have an interest in swelling your pluralities.

Senator WALLOP. I'm having a difficult time translating one into the other, and I certainly hope I never do; but the problem in Wyoming, for example, in miniscale may be what you might be facing.

If you draw a media map of the State and try to get some kind of coverage, you have to go to Colorado; you have to go to Utah, Montana, and South Dakota to get television coverage that comes somewhere near.

Senator BAYH. Senator Wallop, I apologize to you and to Mr. Bailey for interrupting, but I must leave temporarily to testify before another committee. Mr. Bailey, I will return in a few minutes. Senator Wallop has graciously agreed to chair this hearing in my absence.

Senator WALLOP. Let's see. I talked about media.

So we did have to make some very careful judgments as to where to spend money. We had in the initial stages a limited amount. At the end stages we had a rather reckless attitude about how far we'd gone and that we'd better finish it—figuring that we needed to waste something for sure or waste a whole bunch, possibly.

But we did make those kinds of judgments. Frankly, there were areas of the State which we just could not afford to reach with media because we couldn't afford to buy Denver television in order to——

Mr. BAILEY. Did you compensate for that, then, with your own campaign schedule?

If you were unable to reach an area by media, would you increase your campaign time in that area?

Senator WALLOP. Only to a degree.

As a matter of fact, we tried to coordinate and maximize the impact of television. We frankly used television as an introduction, so the door-to-door campaign didn't look like I was the Fuller Brush man, and people would hopefully recognize you when you showed up there.

So to an extent that ignoring was almost enhanced by the fact that we couldn't reach it with media anyway. We tried to do that I guess, by organizational——

Mr. BAILEY. My point is—and I know nothing about Wyoming other than looking at one set of registration figures—that you have counties like Park, I believe, where there is a significant Republican advantage in terms of numbers—although the numbers may not be overwhelming—but there is a Republican advantage.

And you're pretty sure to win Park County, but you want to swell your plurality in Park County. You have other counties, like Sweetwater, where there is an overwhelming Democratic advantage; but you want at least to cut the losses.

The whole thinking of the electoral college system is that those areas that you're sure to lose or win, you ignore.

All I am suggesting is that that thinking is out the window when it comes to direct election.

You have to pay some attention. You may conclude, having paid attention to the fact, that it is not the wisest expenditure of the moneys that you have to concentrate on turnout. But it seems to me inevitable that some Presidential campaigns will conclude—and rightly so—that they ought to spend increased funds on turnout, and organizational matters, and local media in areas other than the urban centers—in order to either cut their losses to the degree they can or to increase the pluralities where they can.

Senator WALLOP. That's true.

To go back to your statement that you don't know of any other election in which anything like the electoral college takes place, there is no other election that is nationwide either.

Mr. BAILEY. True.

Senator WALLOP. We are also broken down regionally and by district, particularly with the House of Representatives. So the two concepts are not entirely diverse.

The fact is that regionalism and sectionalism is recognized.

I share your concerns about your first three points. I'm not sure that I would draw the same conclusions with the second three.

I'm trying to see if there isn't some reform without entirely abandoning the procedure which I think lends credibility to the American Government; that is, that there is some value in federalism and State boundaries and there is some value in regionalism.

There is some very real value to the country that has to be considered as an additional factor in your strategy.

I, for one, would hate to see us adopt a system which would pay attention only to heavily populated areas and which would, in the end, represent only those views.

Mr. BAILEY. I guess I have extraordinary confidence in the institution of the U.S. Senate to preserve the values of the Federal system.

I really don't believe, frankly, that it changes the deficiencies very much to reduce the electoral college system from a State block to congressional district block of votes, for example.

I still think that the same rules—practical rules—of politics would be imposed on the Presidential campaigns. I'm not suggesting that the direct election doesn't impose its own set.

But under an electoral college system, where electoral blocks were provided on a congressional district basis, for example, which is one proposal I know, it still would mean the same thing.

There are many congressional districts in this country where the Republican party is simply noncompetitive.

The first thing you do, I presume, in a Presidential election under that kind of system is to ignore those districts. Then you turn around and you largely ignore those where you can't lose.

You do battle in those districts which are competitive.

That, in my mind, frankly, is a solution which I presume the previous witness would be absolutely opposed to. Because most black congressional districts, for example, would get no campaign from the Republican party whatsoever.

Therefore, while the maximum influence of the black vote may be felt in one sense, a competitive two-party system would not be in operation in terms of the black vote at all.

I don't think that is constructive.

Senator WALLOP. Is it your opinion that this is an either/or situation—that there is no modification which would accommodate your initial three fears?

Mr. BAILEY. The congressional system——

Senator WALLOP. I love these conversations; I could go on forever, because it's a fascinating subject to me.

Again, Senator Bayh has been more than kind to my ambivalence on this thing.

I see advantages to both direct popular election and the electoral college system.

But have you ever thought of modifications—other than just simply the abandonment of it?

Mr. BAILEY. Clearly, modification in terms of the faithless elector it seems to me are obvious steps in the right direction.

But the principal modification that I have heard about is to change to a congressional district electoral block system, which I frankly think is worse.

Senator WALLOP. Why would that be?

Mr. BAILEY. The one strong reaction I have to it, frankly, is the black vote.

I think congressional district lines are drawn for a whole variety of different purposes. Basically, the redistricting procedure is almost always conducted in a fairly bipartisan atmosphere where the attempt is to carve out safe. Republican districts and safe, Democratic districts and leave relatively few truly contestable districts.

If that is the way in which congressional lines are drawn, then you maximize the problem that I'm talking about that confronts the Presidential campaign and electoral college now.

You would maximize the number of districts that are safe Republican; and, therefore, a Presidential campaign doesn't focus on them.

You maximize the number of districts that are safe Democratic; and, therefore, a Presidential campaign doesn't focus on them.

The whole campaign comes and focuses on those marginal seats which could be won by either candidate and tends, therefore, to have campaigns pay no attention to a variety of concentrated minority groups.

The black congressional districts in Chicago, a Republican candidate has absolutely no reason, under a congressional electoral system, to compete there. That is basically true in every black congressional district in the country.

Therefore, it drives the Republican party into the position of ignoring the black vote—or consciously, perhaps, taking a position to seek white voters at the expense of black voters.

I just think that system is worse than what we have.

Another middle course might be to divide electoral votes proportionately to the popular vote. But if we're going to make that change, why don't we change to direct election?

I don't see any particular advantage over that.

Senator WALLOP. There are other ones.

Mr. BAILEY. It safeguards the State's two extra votes.

Senator WALLOP. But there still is a possibility of a President being elected with less than a majority of the votes—no matter how you construct this thing.

If you have three candidates, one of them could get 40 percent, and the other two 30 percent each. So you still have somebody who essentially is less than the majority President.

That doesn't worry me as much as it does some other people. It's the capricious result which worries me the most.

Mr. BAILEY. What frankly interests me most on that score is that while we moan and groan a lot in this country and are quite appalled by the fact that close to 48 percent of the people eligible to register and vote didn't vote in the Presidential election. Under the electoral college system, President Carter was elected by the votes of less than 16 percent of people in this country who are eligible to register and vote. And that's wrong.

Senator WALLOP. I share that.

But I don't think this will address that.

I think when we get our political act together and have a little more respect for people and they feel as though they can approach government—that's another subject, and I don't want to get into it right now, because we could go on forever.

I want to thank you very much.

It's been interesting to me, and I'm sure the other witnesses appearing will be the same.

This is an interesting exercise and political scientists will have some kind of resolution surely soon.

Mr. BAILEY. Thank you, Senator.

Mr. BAYH. With respect to the validity of the strategy of going directly to the Calendar, I ask unanimous consent to have printed in the RECORD the letter I wrote to all my colleagues relating what had been the history of this particular amendment.

There being on objection, the letter was ordered to be printed in the RECORD, as follows:

THE 13-YEAR HISTORY OF SENATE CONSIDERATION OF THE CONSTITUTIONAL AMENDMENT FOR DIRECT POPULAR ELECTION OF THE PRESIDENT

DEAR COLLEAGUE: The proposed constitutional amendment to abolish the Electoral College and provide for direct popular election of the President is on the Senate Calendar and I hope will be considered soon. S.J. Res. 1 was introduced on the first day of this Congress, and S.J. Res. 28, which is identical, was introduced January 25, 1979, and placed directly on the calendar for consideration.

The direct election amendment has been the subject of extensive hearings and committee debate since 1966. Forty-three days of hearings have been conducted in the Senate since that time, and testimony covering 3,735 pages has been received from 179 witnesses. This resolution has been on the Judiciary Committee agenda since 1969, and has been debated at great length in the Committee since that time. In the 95th Congress alone, nine additional days of hearings were conducted and the resolution was the pending business of the Committee for eight called meetings.

The recent history of this proposal, especially when combined with the earlier debate on the desirability of direct popular election of the President, established this as the most carefully studied proposed Constitutional amendment in our nation's history. Clearly, it is the most fully debated proposed amendment that has not been allowed a vote in the Senate.

In spite of the fact that more than half of the Senate has indicated support for this amendment, on a bipartisan basis, for several years, its opponents have succeeded in prolonging Judiciary Committee consideration in every Congress so that a Senate vote has been made impossible. Only two times—in 1970 and in 1978—did the proposal reach the Senate Calendar, and on both occasions Committee action was so late that there was insufficient time for Senate action in the presence of a filibuster and filibuster threats.

In 1970 the proposal reached the Senate after receiving an overwhelming 339–70 (or 85%) favorable vote in the House of Representatives. Senate opponents, nevertheless, delayed the Senate Judiciary report until August of 1970. Floor debate commenced on September 8, only 5 weeks before adjournment, and a filibuster by opponents killed the proposal without a vote.

It was not until the last Congress that the Judiciary Committee was again able to reach agreement to shut off Committee debate and reach a vote on the direct election amendment. After prolonged discussion, the ranking Subcommittee member, Senator William Scott, and the ranking Committee member, Senator Strom Thurmond, agreed to permit the resolution to proceed to a vote if (a) more hearings were conducted, and (b) the resolution would not reach the Senate Calendar before the second session. Four more days of hearings were conducted. The ranking Committee member suggested only one new witness, who was invited and testified. The resolution was reported favorably by the Judiciary Committee. But after the Panama Canal debate and the Labor Reform debate and in the presence of other pressing business, there was not enough time to schedule action in light of holds and filibuster threats by the same opponents of the resolution. It was at that time that the Majority Leader, the new Judiciary Committee Chairman, Senator Kennedy, and I agreed to defer action until the beginning of the 96th Congress and to place the resolution on the Senate Calendar without further Committee action. I realize this is not the normal process, and I regret the need to follow this procedure. However, in light of the past record of the opponents, this appears to be the only procedure to allow the full Senate an opportunity to debate the merits of this proposal and vote it up or down.

Finally, I should mention that some time ago all new members of the Senate received copies of the hearing record from the 95th Congress, including a summary of earlier testimony on electoral reform back to 1952. There are no new arguments to be addressed and there will be ample time during floor debate to consider again all of the issues that have been discussed many times over the years.

Enclosed, for your information, is an outline of the history of Senate consideration of this amendment. I look forward to working with you in bringing this matter to full Senate consideration and a vote for the first time in history.

Sincerely,

BIRCH BAYH,
Chairman, Subcommittee on the Constitution.

COMPARISON OF SENATE HEARING RECORDS ON CONSTITUTIONAL AMENDMENTS

Proposed constitutional amendment	Days of hearings	Number of witnesses	Pages of testimony	Senate action
1. Direct popular election of President.	[1] 43	[1] 179	[1] 3,735	No vote in Senate after passing House.
2. Presidential electors for the District of Columbia (23d amendment).		43	221	Passed/both Houses and ratified.
3. Abolition of the poll tax (24th amendment).	11	25	1,165	Do.
4. Presidential inability and succession (25th amendment).	9	45	498	Do.
5. Lowering of voting age to 18 (26th amendment).	7	46	737	Do.
6. Equal rights amendment..	7	67	1,054	Passed/both Houses.
7. District of Columbia representation in Congress.	9	84	705	Do.

[1] Record from 1966 to present only. For all other amendments the full historical hearing record is presented, so the direct election hearing record is understated.

HISTORY OF S.J. RES. 1

Hearings	Committee action	Floor action
89th Cong.: 1966, 7 days, 50 witnesses.	----------------	
90th Cong.: 1967, 1968, 11 days ("Election of the President," hearings before the Subcommittee on Constitutional Amendments, 89th Cong., 2d sess. and 90th Cong., 1st sess.).	----------------	
91st Cong.: 1969, 11 days, 49 witnesses ("Electing the President," hearings before the Subcommittee on Constitutional Amendments, 91st Cong., 1st sess.)	September	

HISTORY OF S.J. RES. 1—Continued

Hearings	Committee action	Floor action
91st Cong.:		
1970, 3 days, 16 witnesses ("Electoral College Reform," hearings before the Committee on the Judiciary, 91st Cong., 2d sess.).	Feb. 3, agreed on additional hearings with date certain for vote. Apr. 23, 1970, approved Aug. 14, 1970, reported.	Sept. 8, floor debate started' Sept. 17, cloture fails (54–36); Sept. 29, (53–34), cloture fails. Oct. 5, 1970, unanimous consent to return to the calendar.
92d Cong., 1971, 1972		
93rd Cong.:		
1973, 2 days, 9 witnesses ("Electroal College Reform," hearings before the Judiciary Committee, 73d Cong., 1st sess.).	Subcommittee reported to Judiciary Committee.	
93rd Cong.:		
1974	No committee action	
94th Cong.:		
1975	Subcommittee reported to Judiciary Committee.	
1976	No committee action	
95th Cong.: 1977, 9 days, 55 witnesses ("The Electoral College and Direct Election," hearings before the Committee on the Judiciary and supplement, 95th Cong., 1st sess.).	June 10, 1977; July 13, referred to Subcommittee for hearings, with date certain for vote; Sept. 14, agree to vote; Sept. 15, approved; Dec. 14, 1977, reported.	

Note: 43 days; 179 witnesses; 3,735 pages.

Mr. BAYH. Mr. President, I point out that nobody in the U.S. Senate has exhibited more expertise, more deftness, and has had greater results in using the rules than the senior Senator from South Carolina. They are his right to use—to keep this matter from reaching the floor of the Senate. My first experience was in 1970, when the distinguished Senator from South Carolina and my late good friend, the Senator from Alabama, filibustered this matter to death. He said it never would reach a vote on the floor of the Senate. The reason it did not was that they filibustered it both in the Judiciary Committee and on the floor. Last year, they went through the same ruse; they would not let it out of committee.

We went back and had hearings. Interestingly enough, when I held hearings, we had to go out and get the witnesses. They offered only one witness. In fact, the distinguished Senator from South Carolina did not even show up for the hearings.

So I want to see that this matter is heard.

I point out that the letter that has just been put in the RECORD, has shown conclusively that this matter already has been heard to a greater extent than any other constitutional amendment in the modern day history of the United States. We have had three times as many witnesses; we have had three times as many pages of testimony.

Let us look beyond the rhetoric to the real reason for wanting to hold hearings; namely, the Members of this body who are opposed want to use their procedural rights, as they have every right to do, to keep the U.S. Senate from standing up and being counted yea or nay on this issue. That is clearly and simply what the issue is.

I respect the position of my friend from South Carolina and my friend from Utah, but I think it is important for us to understand what the nature of the strategy is and what some of the procedure is which effectively could prevent the matter from reaching the floor and being voted on.

I feel very strongly that it is my responsibility to take whatever steps I can to see that this important matter finally is voted on in a timely fashion. If we are defeated, we are defeated. If the Senator from South Carolina wants to propose his amendment for the proportional plan or for the district plan, that is fine. Let us vote them up or down, but let us vote. Let us put this debate on the floor of the Senate and then see what the Senate really feels about the matter.

I appreciate the patience of the Senate. I particularly appreciate the patience of our distinguished Presiding Officer, the junior Senator from Montana. He has great patience and perseverance to stick with us through this hour.

Mr. THURMOND. Mr. President, I have not seen the report from the Library of Congress to which the Senator has referred, but I am sure it would not change the results of the study made by the Library of Congress showing that 31 States will lose voting power.

In order that there be no question about it, I will now read the names of the States that would lose voting power: Tennessee, Maryland, Virginia, Kansas, Oklahoma, Utah, Alabama, Kentucky, North Carolina, Arkansas, Louisiana, West Virginia, Arizona, Georgia, Nebraska, Maine, Missisissippi, New Mexico, Rhode Island, South Carolina, North Dakota, Idaho, New Hampshire, Montana, Delaware, South Dakota, Ohio, Nevada, Vermont, District of Columbia, Wyoming, and Alaska.

There is no challenge to that, Mr. President. That is the fact. That is what the study showed, and that is what the Congressional Quarterly article showed—that these 31 States will lose voting power if we go to the direct election of the President, as proposed by the distinguished Senator from Indiana.

Mr. President, there has been some suggestion here about whether the matter will be held in committee. In order that there be no possible question raised on that point, I move that Senate Joint Resolution 28 be committed to the Judiciary Committee for its consideration, with instructions that the committee issue its report on Senate Joint Resolution 28 within 90 days subsequent to the committal and report back to the Senate.

The PRESIDING OFFICER. Will the Senator send his motion to the desk?

Mr. THURMOND. I ask unanimous consent that we vote on that amendment tomorrow, Thursday.

Mr. BAYH. Mr. President, I respectfully object to that.

The PRESIDING OFFICER. Objection is heard.

Mr. BAYH. When tomorrow comes, this issue will be before us, and the Senator from Indiana is prepared to consider it then. But to guarantee that we are going to have a vote on that particular issue—I would rather wait and see.

Mr. HATCH. We can vote on it tomorrow or later.

Mr. THURMOND. Mr. President, I ask unanimous consent that we vote on this subsequent to tonight.

Mr. BAYH. I respectfully suggest——

Mr. HATCH. It cannot be tonight.

Mr. BAYH. I do not want to vote tonight. I suggest that by tomorrow there may be other ideas we want to vote on which make more sense than this one, with all respect to the Senator from South Carolina. He might even be persuaded to accept a different amendment. I have no objection to this being the pending motion.

I respectfully suggest that I do not think it is fair to nail down that that is the only thing we can vote on or guarantee that we have a vote on that. The Senator can do what he wants to do.

The PRESIDING OFFICER. Is there objection to the Senator's unanimous-consent request?

Mr. BAYH. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. THURMOND. Mr. President, I ask that that motion be placed in the RECORD following my remarks, and I will bring it up in due time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair informs the Senator that the motion is pending at the moment.

Mr. THURMOND. Which motion is now pending?

The PRESIDING OFFICER. The pending motion is the motion to recommit with instructions.

Mr. THURMOND. It is to commit with instructions.

The PRESIDING OFFICER. The Senator is correct.

Mr. THURMOND. I ask unanimous consent that that motion be amended in the respect I just mentioned, that the committee report back to the Senate within 90 days. Is there objection to that?

The PRESIDING OFFICER. The motion is so modified.

Mr. BAYH. That is what it is, is it not?

Mr. HATCH. That is the pending motion.

The PRESIDING OFFICER. That is the pending motion.

Mr. HATCH. Mr. President, I ask unanimous consent that no vote on the pending motion shall take place prior to tomorrow.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAYH. Mr. President, I want to make certain, since we are trying to play Library of Congress roulette here, that we read carefully the later report that has just been put into the Record. I just received it, and that is the reason why I made it available.

It points out that there are two prejudices—if I may use the word they used—that exist. The greater prejudice, according to the Library of Congress, is in favor of the larger States. The lesser prejudice is in favor of the smaller States. But the group of States in the middle, from 4 to 12 electors, are the ones that have no advantage under any circumstances. That is what the Library of Congress said.

It should be pointed out that the Congressional Quarterly did not do a study. They wrote an article, and that article contained a Library of Congress table which is now explained in greater detail by the subsequent report. It is in the Record. Let Senators read it and determine for themselves.

I imagine we will have an opportunity to explore any questions that might be in Senators' minds at length in the future.

Mr. THURMOND. Mr. President, I ask unanimous consent that the motion I made be printed so it can be placed on the desk for the information of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion will be printed.

Mr. THURMOND. Mr. President, is there anything else on this subject?

Mr. BAYH. Mr. President, just for the edification of all of us who are here and those who may read the motion, it seems to me we could conceivably have two motions before us because one has been made and it has not been withdrawn and another one has subsequently been made.

I am perfectly happy to go along with either of these motions that my colleague from South Carolina wants.

Could he repeat the one which is the pending business or will be the pending business tomorrow?

The PRESIDING OFFICER. The pending motion is the motion to commit with instructions.

The Senator from South Carolina.

Mr. THURMOND. Mr. President, I previously asked unanmious consent to print that motion in the Record, but that is unnecesary now, I presume.

The PRESIDING OFFICER. The Senator is correct.

Mr. THURMOND. I just wanted to get a ruling from the Chair that my first motion is withdrawn and the second motion is the pending business.

The PRESIDING OFFICER. Without objection, the motion is withdrawn.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 11:05 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2479. An act to help maintain peace, security, and stability in the Western Pacific and to promote continued extensive, close, and friendly relations between the people of the United States and the people on Taiwan.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DeCONCINI, from the Committee on the Judiciary, with an amendment:

S. 443. A bill to amend the Federal District Court Organization Act of 1978 with respect to certain administrative matters arising from the redrawing of the Federal judicial districts in the State of Illinois, and for other purposes (Rept. No. 96–34).

By Mr. DeCONCINI, from the Committee on the Judiciary, without amendment:

S. 450. A bill to improve the administration of justice by providing greater discretion to the Supreme Court in selecting the cases it will review, and for other purposes (Rept. No. 96–35).

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. Res. 105. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 349. Referred to the Committee on the Budget.

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, with an amendment:

S. 349. A bill to increase the authorization for the Council on Wage and Price Stability, and to extend the duration of such Council (together with additional and minority views) (Rept. No. 95–36).

By Mr. HATFIELD, from the Committee on Energy and Natural Resources, with an amendment and with a preamble:

S. Res. 78. A resolution expressing the sense of the Senate with respect to the immediate need for energy emergency preparedness in the United States, in light of world oil supplies and the situation in Iran (Rept. No. 96–37).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on the Judiciary:

Rya W. Zobel, of Massachusetts, to be U.S. district judge for the District of Massachusetts.

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation:

Anne P. Jones, of Massachusetts, to be a member of the Federal Communications Commission.

Jesse Hill, Jr., of Georgia, to be a member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1979.

Joan Fleischmann Tobin, of the District of Columbia, to be a member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1980.

Jesse Hill, Jr., of Georgia, to be a member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1982.

(The above nominations from the Committee on Commerce, Science, and Transportation were reported with the recommendation that they be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. NELSON (for himself, Mr. Baucus, Mr. Weicker, and Mr. Huddleston):

S. 653. A bill to amend the Internal Revenue Code of 1954 to provide for the nonrecognition of gain of the proceeds from the sale of incentive stock if those proceeds are reinvested in such stock, and for an incentive in basis for incentive stock held for certain period; to the Committee on Finance.

By Mr. GOLDWATER (for himself, Mr. Huddleston, Mr. Stennis, Mr. Garn, Mr. Hatch, Mr. Tower, and Mr. Armstrong):

S. 654. A bill to remove residency requirements and acreage limitations applicable to land subject to reclamation law; to the Committee on Energy and Natural Resources.

By Mr. WEICKER (for himself, Mr. Moynihan, Mr. Chafee, Mr. Hatch, Mr. Nelson, and Mr. Pressler):

S. 655. A bill to amend the Internal Revenue Code of 1954 to provide a credit against tax for investment in original issue stock of small and medium-sized corporations; to the Committee on Finance.

By Mr. INOUYE:

S. 656. A bill to amend titles XVIII and XIX of the Social Security Act to provide for inclusion of services rendered by a certified nurse-midwife under the medicare and medicaid programs; to the Committee on Finance.

S. 657. A bill to amend title 5, United States Code, to provide for access to a certified nurse-midwife without prior referral in the Federal employee health benefits program; to the Committee on Governmental Affairs.

By Mr. DeCONCINI:

S. 658. A bill to correct technical errors, clarify and make minor substantive changes to Public Law 95–598; to the Committee on the Judiciary.

By Mr. PRESSLER:

S. 659. A bill for the relief of the Black Hills Area Council of the Boy Scouts of America; to the Committee on the Judiciary.

By Mr. CHURCH (by request):

S. 660. A bill to authorize appropriations under the Arms Control and Disarmament Act for the fiscal year 1980, and for other purposes; to the Committee on Foreign Relations.

By Mr. HATCH:

S. 661. A bill for the relief of Mrs. Brian C. Record, formerly Graciela Fidela Lopez; to the Committee on the Judiciary.

By Mr. CHURCH (by request):

S. 662. A bill to provide for increased participation by the United States in the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund; to the Committee on Foreign Relations.

By Mr. STEVENSON (for himself, Mr. CANNON, Mr. FORD, and Mr. RIEGLE):

S. 663. A bill to establish an Earth Data and Information Service, in the National Aeronautics and Space Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SCHWEIKER:

S. 664. A bill to amend the Health Programs Extension Act of 1973 to provide for unbiased consideration of applicants to federally supported health professional schools; to the Committee on Labor and Human Resources.

By Mr. BENTSEN:

S. 665. A bill to establish an Office of Hispanic Affairs in the Executive Office of the President, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DURKIN:

S. 666. A bill to amend the Natural Gas Pipeline Safety Act of 1968 to provide for the safe operation of liquefied natural gas and liquefied petroleum gas facilities, to provide standards with respect to the siting, construction, and operation of liquefied natural gas facilities, to establish a comprehensive liability and compensation fund for such facilities, to provide for the licensing of such facilities beyond the limits of territorial seas subject to the jurisdiction of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. JACKSON (by request):

S. 667. A bill to amend the Revised Organic Act of the Virgin Islands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HATFIELD (for himself and Mr. PACKWOOD):

S. 668. A bill to permit the Cow Creek Band of the Umpqua Tribe of Indians to file with the United States Court of Claims any claim such band could have filed with the Indian Claims Commission under the Act of August 13, 1946 (60 Stat. 1049); to the Select Committee on Indian Affairs.

By Mr. BAYH (for himself, Mr. MORGAN, and Mr. DURKIN):

S. 669. A bill to provide for the exclusion of industrially funded personnel in computing the total number of civilian personnel authorized by law for the Department of Defense in any fiscal year; to the Committee on Armed Services.

By Mr. BAYH:

S.J. Res. 48. A joint resolution proposing an amendment to the Constitution to provide for election of the President and Vice President of the United States by the national bonus plan; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON (for himself, Mr. BAUCUS, Mr. WEICKER, and Mr. HUDDLESTON):

S. 653. A bill to amend the Internal Revenue Code of 1954 to provide for the nonrecognition of gain of the proceeds from the sale of incentive stock if those proceeds are reinvested in such stock, and for an incentive in basis for incentive stock held for certain period; to the Committee on Finance.

SMALL BUSINESS CAPITAL PRESERVATION ACT OF 1979

Mr. NELSON. Mr. President, in 1969, companies with a net worth of less than $5 million offered 698 public stock underwritings with a total value of $1.4 billion. In 1975, there were four such underwritings valued at only $16 million. To make matters worse, regulation A stock issues, which are subject to less formal controls than full registration, fell from $256 million in 1972 to $46 million in 1977 and many of them were unsuccessful. Clearly, venture and expansion capital for small and innovative businesses has all but disappeared in the Nation.

It should be a matter of great concern that capital markets previously open to smaller innovative businesses are all but closed. The future of small business is in greater jeopardy today than ever before.

I am introducing a proposal today which offers individuals who own an interest in a small business with a net worth of $25 million or less an opportunity to sell their interest for cash and defer any capital gains tax they may owe as a result of the sale, provided they reinvest the proceeds from the sale in another small business concern within 18 months from the date of sale. Under the proposal, an individual would only be taxed if he fails to reinvest the sale proceeds in a qualified small business within the 18-month period.

Those who are interested in the future of capital formation in the small business community are particularly alarmed by the increase in economic concentration among large capital intensive industries. For example, in 1976, small companies (those with assets of less than $1 million) accounted for nearly three-fourths of all companies which were the victims of mergers and acquisitions. And half of the acquiring firms were large companies (those with assets exceeding $100 million).

The concentration of corporate control of manufacturing assets in this country has risen dramatically in recent years. By 1976, 70 percent of all assets and 72 percent of all profits in this country were controlled by the 451 largest corporations.

Conglomeration threatens the very survival of the free enterprise system and the small business community. The selling out to giant conglomerates does little to facilitate badly needed capital formation. In fact, it usually has the opposite effect. Due to depressed stock prices and the higher cost of capital, it has become more advantageous for big business to purchase a mature, low-risk business with a market already established, than to invest in a new plant and equipment with a greater risk and no guarantee of a greater return.

The investment incentive has shifted away from younger, faster growing companies which have been the foundation of Amercia's technological growth. These companies have a high record of growth in sales and jobs, compared with older established firms.

A recent study by the Massachusetts Institute of Technology Development Foundation demonstrated the importance of new companies and new technologies to capital formation and jobs in America. It compared the performance of six mature companies, five innovative companies, and five young high-technology companies. From 1969 to 1974, the average annual contributions of these companies in jobs and revenues shaped up as follows:

[Answers in percent]

Type of companies:	Sales growth	Job growth
Mature	11.4	0.6
Innovative	13.2	4.3
Young high technology	42.5	40.7

Although these companies are not only growing faster but are actually creating more jobs than the giants of American industry, we see an increase in disincentives to investing in them.

For example, our existing tax structure has the effect of subsidizing the growth of big business usually at the expense of the small business community. Present tax laws encourage those who own an interest in a small business to sell out to large companies because the acquiring company may exchange its stock for the stock of the small business. The entire transaction is tax free under present law. The small businessman who sells out may defer the immediate payment of capital gains taxes until he ultimately sells his new stock.

This same tax advantage is unavailable if the small businessman sells his business for cash to another independent businessman. In this case, he must pay an immediate capital gains tax on the sale.

Many private investors and entrepreneurs would rather sell their interests in small businesses to other independent businessmen. But they can not do so in view of the existing tax consequences.

This proposal would provide greater incentives for reinvesting in small businesses. It would allow anyone owning an interest in a small company with a net worth of $25 million or less to sell that interest for cash, reinvest that money in another small business and defer any capital gains tax on the sale until the proceeds are taken out of the small business and not reinvested within an 18-month period.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 653

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part III of subchapter O of chapter 1 of the Internal Revenue Code of 1954 (relating to non-taxable exchanges) is amended by adding at the end thereof the following new section:

"SEC. 1041. SALES OF SMALL BUSINESS STOCK.

"(a) NONRECOGNITION OF GAIN.—If small business stock is sold, gain (if any) from such sale shall, at the election of the taxpayer, be recognized only to the extent that the taxpayer's sale price exceeds the cost of small business stock purchased by the taxpayer within 18 months after the date of such sale.

"(b) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

"(1) SMALL BUSINESS STOCK.—The term 'small business stock' means common or preferred stock issued by a domestic corporation or small business investment company (other than an electing small business corporation as defined in section 1371(b))—

"(A) which does not, for the taxable year in which such stock is issued, have passive investment income (as defined in section 1372 (e)(5)(C)) in excess of the limitation set forth in section 1372 (e)(5)(A), and

"(B) the equity capital (within the meaning of the last sentence of section 1244(c)(2)) of which does not exceed $25,000,000.

"(2) Controlled corporations.—In the case of a corporation which is a member of a controlled group of corporations (as defined in section 1563(a)(1)), the equity capital of all members of the controlled group shall be treated, for purposes of paragraph (1)(A) of this subsection, as the equity capital of the issuing corporation.

"(3) Stock acquired by underwriter.—No acquisition of stock by an underwriter in the ordinary course of his trade or business as an underwriter, whether or not guaranteed, shall be treated as a purchase for purposes of subsection (a).

"(4) Definition of Small Business Investment Company.—The term 'small business investment company' has the same meaning as when such term is used in title III of the Small Business Investment Company Act of 1958 (15 U.S.C. 681 et seq.), except that such term shall not include an electing small business corporation (as defined in section 1371(b)).

"(C) Limitations.—

"(1) 12-month holding period.—Subsection (a) shall only apply to gain attributable to sale of small business stock with respect to which the taxpayer's holding period is more than 12 months.

"(2) Application with section 44D.—Subsection (a) shall not apply with respect to any small business stock with respect to which a credit is allowed under section 44D for the taxable year in which it is acquired.

"(d) Basis of small business stock.—The basis of small business stock purchased by the taxpayer during the 18-month period shall be reduced by the amount of gain not recognized solely by reason of the application of subsection (a). If more than one share of small business stock is purchased, such reduction in basis shall be applied to each such share in chronological order of purchase. The amount of the reduction applicable to each share shall be determined by multiplying the maximum gain not to be recognized pursuant to subsection (a) by a fraction the numerator of which is the cost of such share and the denominator of which is the total cost of all such shares.

"(e) Statute of Limitations.—If during a taxable year a taxpayer sells small business stock at a gain, then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such gain shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of—

"(A) the taxpayer's cost of purchasing small business stock which the taxpayer claims results in nonrecognition of any part of such gain,

"(B) the taxpayer's intention not to purchase property within the period specified in paragraph (2), or

"(C) a failure to make such purchase within such period; and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.".

(b) Section 1223 of such Code is amended by redesignating paragraph (12) as paragraph (13) and by inserting a new paragraph (12) as follows:

"(12) In determining the period for which the taxpayer has held small business stock the acquisition of which resulted under section 1041 in the nonrecognition of any part of the gain realized on the sale of small business stock, there shall be included the period for which small business stock with respect to which gain was not recognized had been held, and the period such replacement small business stock was held as of the date of such sale or exchange."

(c) Clerical Amendment.—The table of sections for part III of subchapter 0 of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 1041. Sales of small business stock.".

Sec. 2. The amendments made by this Act shall apply with respect to stock acquired after the date of enactment of this Act.

● **Mr. BAUCUS.** Mr. President, I am pleased to cosponsor today the Small Business Capital Preservation Act of 1979.

One of the crises facing America today is the fact that small businesses are increasingly pressed by the difficulties of capital formation on the one hand, and the pressures of inflation and increased Government regulation on the other. Yet, our Nation and our economy rests on the solid base of small business. In a State like Montana, industry and commerce would quickly grind to a halt were it not for small business.

We in this Congress must do whatever we can to preserve and foster the development of small business. I believe the Small Business Capital Preservation Act is well designed to contribute to that goal. By allowing the taxpayer to defer capital gains tax when he or she sells a qualified interest in small business to another small business person, the individual is given an incentive to reinvest earnings in another business and also to sell the business to another small businessperson rather than to a conglomerate.

It is measures such as these that will let the small business community know that we in the U.S. Congress are interested and concerned in its well-being. It is thus with great pleasure that I cosponsor this legislation.●

● **Mr. WEICKER.** Mr. President, I am pleased to join Senator Nelson in introducing this legislation to amend the Internal Revenue Code of 1954 to provide for a deferral of tax on capital gains realized on an investment in a small business where the gain is reinvested in another eligible small enterprise. This bill will help solve the critical problem of providing equity capital for America's small businesses.

The capital formation problem received a great deal of attention in the 95th Congress and many salutary measures were adopted. All businesses, large and small, will benefit from the significant reduction in the effective tax rate on long-term capital gains. The new graduated corporate income tax rate, which eliminates the sudden jump in tax brackets from 22 to 48 percent at the $50,000 income level, will increase the incentive to finance a corporation's capital needs through operations. Additionally, the increase in the limit under which regulation A offerings may be made will enable small businesses to raise a greater amount of capital while taking advantage of the reduced costs associated with these offerings.

Although these measures will help small businesses, more must be done to insure that small businesses are able to obtain the equity financing necessary to enable them to grow and provide jobs. Today, I joined with a number of our colleagues in reintroducing the Small Business Investment Incentive Act. This legislation would provide an investor with a credit against tax of 10 percent of the first $7,500—or $15,000 in the case of a joint return—invested in corporations with a net equity of less than $25 million.

The Small Business Preservation Act which we are introducing today, which complements the Small Business Investment Incentive Act, provides an additional incentive for equity investments in small enterprises. Pursuant to this act, the tax on a gain realized on the liquidation of an investment in a small business with a net worth of $25 million would be deferred provided the gain is reinvested within 18 months in another eligible small concern. Alan Greenspan, former Chairman of the Council of Economic Advisers, in testimony before the Select Committee on Small Business characterized the deferral concept as "an excellent idea, and one which would enhance the capacity of small business to expand on its capital base which has been unduly retarded."

I strongly urge my colleagues to join in the support of the Small Business Preservation Act which will help open the capital markets for our Nation's small businesses.●

● **Mr. HUDDLESTON.** Mr. President, I am pleased to be an original cosponsor of the Small Business Capital Preservation Act. The bill offers incentives to individuals to invest in small businesses. We know that new small firms make significant contributions to productivity, employment, and new technologies, products and processes. Yet in recent years startup capital for new innovative firms has become very scarce. We simply cannot afford to lose the benefits which these small businesses can provide for our economy.

New small companies have a much higher rate of employment growth than large firms. In fact, the younger the business, the higher the employment growth rate. Small firms have produced nearly half of our major innovations. Because of its market position, a small firm has more to gain by concentrating on the production of radically new products which would increase its market share and enhance its competitive position. Furthermore, small companies tend to use their resources more efficiently than large firms, especially in the initial stages of research and development.

Young high technology companies in particular have an excellent record in this regard. They have a high rate of output, employment and productivity growth—factors which are essential if we are to see our general economic growth continue. Yet these are the businesses which are hit hardest by the capital shortage in the first place.

New public equity offerings by small companies have declined drastically since the 1960's. One study shows that companies founded in the 1970's have been able to raise only about half as much equity capital as those founded in the late sixties, and firms founded more recently also have a higher debt to equity ratio. I believe the Small Business Capital Preservation Act will help to reverse this trend. Investors will be able to defer paying taxes on gains on investments in a small business provided that the funds are reinvested in another small business within 18 months. The legislation provides incentives to invest funds just where they are most needed and will be used most efficiently.

Mr. President, other legislation which has been introduced this session also provides essential assistance to small businesses. I was an original cosponsor of S. 110, the Small Business Depreciation Reform Act, which provides for accelerated and simplified depreciation for small business. This should make more internally generated capital available for small business investment. Depreciation deductions are a primary source of funds for businesses. Considering the shortage of externally generated investment capital, we can see the importance of accelerated depreciation allowances to small business expansion.

Just as important, this legislation would streamline the system, making it more accessible to small firms. Many tax provisions, including the present depreciation provision, give full advantages mainly to large companies which can afford expensive tax specialists to decipher the tax code and the regulatory baggage which goes with it. Eliminating this complexity should be a primary consideration, because small businesses don't have the resources to expend in plowing through a mass of regulations. Many small business people refuse to deal with the Government at all unless they absolutely have to, because of complex regulatory and paperwork requirements. Certainly we can start by helping small businesses get the tax benefits they are entitled to.

I have also cosponsored the University and Small Business Patent Procedures Act, S. 414, which would establish a consistent patent policy for discoveries made under Government-funded research for small businesses, universities, and nonprofit organizations which spend the additional private funds necessary to bring the discoveries to market. Many small business people are discouraged from applying for direct Government aid of any sort because they are convinced that Government policy will prevent them from using the results of their federally supported research. Unfortunately, they are very often right. This legislation would remove some of the disincentives to small business participation in federally funded research programs.

The changes suggested here would promote new investment opportunities in small business, a sector of the economy which can provide a high rate of return. But the problems we are addressing here are not unique to small business. An uncertain economic climate which discourages risk-taking adversely affects other types of investments as well. Excessive regulatory and paperwork requirements are a costly drain on our limited resources. When businesses and individuals have to spend time and money on nonproductive activities, everyone suffers in the end through higher prices and less efficient services. I think it is important to provide more equitable treatment for small businesses which have to bear the brunt of these disincentives to investment. To complement this effort, however, we must also concentrate on general regulatory reform and improved congressional oversight procedures, in order to ease unnecessary restrictions on private sector activities and restore confidence in the Federal Government's ability to manage its programs responsibly.●

By Mr. GOLDWATER (for himself, Mr. HUDDLESTON, Mr. STENNIS, Mr. GARN, Mr. HATCH, Mr. TOWER, and Mr. ARMSTRONG):

S. 654. A bill to remove residency requirements and acreage limitations applicable to land subject to reclamation laws; to the Committee on Energy and Natural Resources.

REPEAL OF ACREAGE LIMITATIONS AND RESIDENCY REQUIREMENTS OF RECLAMATION LAW

● Mr. GOLDWATER. Mr. President, I am introducing legislation today to correct problems under the antiquated provisions of reclamation law. The bill offers a simple, clean answer: Repeal completely the acreage limits and residency requirements of the 1902 law.

Mr. President, I am happy to include as cosponsors of the legislation the Senator from Kentucky, Mr. HUDDLESTON; the Senator from Mississippi, Mr. STENNIS; the Senators from Utah, Mr. GARN and Mr. HATCH; the Senator from Texas, Mr. TOWER; and the Senator from Colorado, Mr. ARMSTRONG.

The immediate need for the legislation arises out of the effort of the Department of the Interior, under court order, to enforce outdated and unrealistic acreage limitation provisions of the Reclamation Act of 1902.

In our opinion, the proposed regulations will stifle efficient farm production by limiting farm operations to an arbitrary size. The certain result will be a decline in the quantity and quality of American foods and fibers, with much higher costs to the housewife.

Mr. President, the large size of farms in producing crops, such as grains, alfalfa, vegetables, and cotton, did not just happen. They grew up out of necessity. It takes expensive, fuel-consuming machinery working a large acreage to run an economical farming operation.

There is no way to define an optimum size. In my opinion, no magic figure exists. No flat rule can apply to every type of crop. Even if someone could develop a figure applicable to specific crops in different areas of the country, today's figure will not be adequate tomorrow due to changing technology, demand, and costs of production.

The only true solution is the simple one: Repeal of all acreage limits and residency rules.

Mr. President, this approach, and our bill, is currently being endorsed by the American Farm Bureau, the National Cotton Council of America, and the Southern Environmental Resources Conference. The Arizona State Legislature also voted to endorse it in March of last year.

Mr. President, I should point out that the problems of existing law do not only apply to farmland irrigated with water from Federal reclamation projects.

The 1976 decision of the Ninth Circuit Court of Appeals in U.S. against Tulare Lake Canal Co. has raised a serious question concerning the potential applicability of reclamation law to certain Corps of Engineer's projects outside the 17 reclamation States. The court's opinion examined the legislative history of the Flood Control Act of 1944 in great detail and concluded that section 8 of the act made the reclamation laws applicable to all dams and reservoirs operated under the direction of the Secretary of the Army constructed after 1944. The court's decision states that:

> The third sentence (of section 8) is general in coverage; it provides that all dams operated under the direction of the Secretary of War are to be utilized for irrigation only in conformity with the section, i.e. under the reclamation laws . . .

Therefore, I would suggest to my friends in the East and South that this is not just a Western problem. It is a matter affecting irrigation water nationwide.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 654

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, (a) notwithstanding any other provision of law, no limitation on acreage applicable to land subject to the Federal laws shall apply to such land if it is also subject to the reclamation law.

(b) Notwithstanding any other provision of law, no conditions of residency shall apply to any entryman, lessee, or owner of land subject to the reclamation law.

SEC. 2. The limitation on acreage in the following provisions of law is repealed:

(1) Section 2 of the Act of February 2, 1911, entitled "An Act to provide for the sale of lands acquired under the provisions of the reclamation Act and which are not needed for the purpose of that Act" (43 U.S.C. 374).

(2) Section 2 of the Act of May 20, 1920, entitled "An Act to provide for the disposition of public lands withdrawn and improved under the provisions of the reclamation laws, and which are no longer needed in connection with said laws" (43 U.S.C. 375).

(3) Section 2 of the Act of March 31, 1950, entitled "An Act to authorize the disposal of withdrawn public tracts too small to be classed as a farm unit under the Reclamation Act" (43 U.S.C. 375c).

(4) Section 44 and 46 of the Act of May 25, 1926, entitled "An Act to adjust water-right charges, to grant certain other relief on the Federal irrigation projects, and for other purposes" (43 U.S.C. 423c, 423e).

(5) Section 2 of the Act of May 16, 1930, entitled "An Act to authorize the disposal of public land classified as temporarily or permanently unproductive on Federal irrigation projects" (43 U.S.C. 424a).

(6) Section 3 and 5 of the Act of June 17, 1902, entitled "An Act appropriating the receipts from the sale and disposal of public lands in certain States and territories to the construction of irrigation works for the

reclamation of arid lands" (43 U.S.C. 431, 434).

(7) Section 2 of the Act of February 21, 1911, entitled "An Act to authorize the Government to contract for impounding, storage, and carriage of water, and to cooperate in the construction and use of reservoirs and canals under reclamation projects and for other purposes" (43 U.S.C. 524).

(8) Section 3 of the Act of July 30, 1947, entitled "An Act to relocate the boundaries and reduce the area of the Gila Federal reclamation project, and for other purposes" (43 U.S.C. 613b).

(9) Section 3 of the Act of September 2, 1964, entitled "An Act to provide for the construction, operation, and maintenance of the Savery-Pot Hook, Bostwick Park, and Fruitland Mesa participating reclamation projects under the Colorado River Storage Project Act" (43 U.S.C. 616jj).

(10) Section 9 of the Boulder Canyon Project Act (43 U.S.C. 617h).

(11) Sections 5 and 6 of the Act of August 11, 1916, entitled "An Act to promote the reclamation of arid lands" (43 U.S.C. 627–628).

(12) Section 4 of the Act of August 18, 1894, entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-five, and for other purposes" (43 U.S.C. 641).

(13) The first section of the Act of August 30, 1949, entitled "An Act to authorize the sale of the public lands in Alaska" (43 U.S.C. 687b).

SEC. 3. The following sections are repealed:

(1) Sections 12 and 13 of the Act of August 13, 1914, entitled "An Act extending the period of payment under reclamation projects, and for other purposes" (43 U.S.C. 418, 435, 443).

(2) Section 9 of the Act of August 13, 1953, entitled "An Act to permit the exchange and amendment of farm units on Federal irrigation projects, and for other purposes" (43 U.S.C. 451h).

(3) Section 501(d) of the Colorado River Basin Project Act (43 U.S.C. 620a–2).

SEC. 4. For the purposes of this Act, the term "reclamation law" shall have the meaning prescribed for it by subsection A of section 4 of the Act of December 5, 1924 (43 U.S.C. 371).●

By Mr. WEICKER (for himself, Mr. MOYNIHAN, Mr. CHAFEE, Mr. HATCH, Mr. NELSON, and Mr. PRESSLER):

S. 655. A bill to amend the Internal Revenue Code of 1954 to provide a credit against tax for investment in original issue stock of small- and medium-sized corporations; to the Committee on Finance.

SMALL BUSINESS INVESTMENT INCENTIVE ACT

● Mr. WEICKER. Mr. President, I am pleased to join Senators MOYNIHAN, CHAFEE, HATCH, NELSON, and PRESSLER in reintroducing the Small Business Investment Incentive Act. This legislation, which provides for a credit for investment in stock of small- and medium-sized corporations, will encourage the participation of individual investors in the capital markets and thereby help to solve the critical problem of providing equity capital for America's small businesses.

The Small Business Investment Incentive Act is similar to S. 3320 which was introduced during the 95th Congress. The bill is based on a proposal initially made by representatives of the American Stock Exchange in testimony before the House Ways and Means Committee last year. It was discussed at length at hearings held by the Senate Finance Committee and Small Business Committee. The Securities and Exchange Commission offered technical corrections so that the language of the bill would be consistent with the Federal securities laws and thereby insure the protection of investors. The legislation which we are introducing today reflects the recommendations made by the SEC and various witnesses at the hearings.

It is imperative that the private sector provide for the Nation's future employment needs. Smaller, growth-oriented businesses hold the key to solving these needs. For example, a study conducted by the American Electronics Association disclosed that the employment growth rates for young companies—less than 20 years old—were 20 to 115 times greater than for the companies more than 20 years old. According to the Commerce Department, the Nation will require 1.5 million new jobs annually until 1985. Smaller businesses, with their capacity to produce new jobs, will play a key role in satisfying this need. Yet, these companies are unable to obtain the equity financing they need to enable them to grow and provide jobs.

Furthermore, small businesses will also be an integral factor in the solution of the problems confronting our Nation's urban centers. To get our cities back in business, we must have businesses in our cities to provide the jobs which generate the income, financial resources, and dignity so essential for urban growth. Mayor Koch of New York City testified in a hearing before the Small Business Committee that he was "concerned about continued high unemployment, particularly in our inner city area—and Government's inability to provide a structural solution. It is time that we affirmatively encouraged private investment that is the principal source of new jobs." He urged Congress to "help inner city areas to counter a declining tax base by helping our business enterprises, both manufacturing and service, attract permanent capital in order to grow, compete, and provide jobs." Ernesta Propcope, a businesswoman active in urban affairs testified that, for minorities, "the key to unlocking a better life must be found in the private sector." It is important that the availability of capital is facilitated to enable small businesses to play its role in helping our cities get back in business.

As ranking minority member on the Select Committee on Small Business, I have chaired numerous hearings on the capital formation problem confronting this Nation's smaller businesses. The severity of the problem has been attested to by an outstanding array of individuals representing diverse interests. Their testimony conclusively confirmed that these smaller businesses, which are a principal source of new ideas, new jobs, and economic growth, are not able to obtain the equity financing which is instrumental for growth.

Economists have expressed great concern over the expected gap between the need for new investment and the funds which will be available to meet the need. A New York Stock Exchange estimate projects a cumulative capital gap of $650 billion by 1985. A 1977 study conducted for the Financial Executives Research Foundation was no more encouraging. This study concluded that the total gap between capital needs and anticipated savings for the next 10 years would be approximately $1 trillion, depending on the rate of inflation.

The decline in the number of public equity securities offerings supports these dire predictions. According to figures compiled by the Securities and Exchange Commission, there were 698 underwritings for companies with less than $5 million in assets in 1969. However, only 80 corporations of that size made public offerings in the 4 years between 1974 and 1977. The offerings in 1969 raised almost $1.5 billion, whereas the offerings in the 4-year period combined to produce merely $415 million in new capital. Equally disturbing is the decline in the number of corporations, of all sizes, making first-time public offerings. In 1972, 633 unseasoned corporations went public and raised nearly $1.7 billion. However, there were only 125 initial offerings in the 3-year period from 1975 to 1977, and these first-time offerings raised just $459 million. In 1978, there were only 70 initial offerings which raised merely $295 million.

Another indication of the difficulty which small businesses are having in obtaining equity capital is that the number of regulation A offerings which were filed with the SEC shrank from 998 in 1972 to 158 in 1977. Of those regulation A offerings which were filed, the 650 which cleared in 1972 raised $256 million, while the 124 which cleared in 1977 raised only $46 million. As a result of Congress raising the limit on the aggregate offering price of securities which may be sold without a registration statement, and the corresponding increase in the size of a permissible regulation A offering from $500,000 to $1,500,000, there were 209 such offerings which cleared the SEC in 1978, raising nearly $127 million. Although the trend shown by the revitalization of initial offerings and regulation A offerings is encouraging, there is still a long way to go. The scarcity of equity capital has effectively foreclosed most smaller companies from going public, which is the traditional first step for companies on their way to becoming larger ones.

THE EXODUS OF INDIVIDUAL INVESTORS FROM THE CAPITAL MARKETS

At the same time these smaller, growth-oriented companies are being squeezed out of the capital markets, individual investors have been steadily withdrawing from these markets. In addition to depriving small businesses of an important source of capital, this flight of the individual investor from the securities market has resulted in a growing concentration of economic power in too few hands. Perhaps most importantly, because the individual's stake in the economic system has been sharply curtailed, he is less likely to fight to protect it. This alarming trend therefore threatens to undermine the essence of our free enterprise system.

The number of individual investors,

after reaching an alltime high of 32.5 million in 1972, has declined by 18 percent to a level where only about 25 million Americans now own stock. Individuals have been net sellers of approximately $5 billion of corporate stock annually over the last 5 years. Shareholders with total investments less than $10,000 have fallen from 62 percent of all investors in 1970 to less than 50 percent, and those with total investments of under $5,000 fell from 41 percent to less than one-third of all present investors.

Nor is this trend likely to be reversed without the anactment of remedial legislation. Arthur Levitt, Jr., chairman of the American Stock Exchange, told the Senate Finance Committee last year that he was disturbed with:

> The findings of a recent survey that there will be relatively few new American stockholders in the immediate future. Of those who are former owners of stock, only 8 percent indicated that they might again become shareholders; and of those who had never owned stock only 2 percent thought they might acquire stock this year. Also . . . the average age of American shareholders increased from 48 to 53 between 1970 and 1975. . . .

Mr. Levitt concluded that—

> The shareholder population can be expected to continue to decline unless effective measures are taken to make equity investment more attractive.

James Davant, chairman of Paine Webber, Inc., told the Senate Select Committee on Small Business that the individual investor has been replaced by financial institutions which traditionally have been less willing to invest in small businesses. Although institutions owned, by value, less than 15 percent of New York Stock Exchange common stock in 1949, they now own more than 33 percent. In 1976, institutions were responsible for more than 70 percent of the value of all shares traded on the NYSE, while individuals accounted for less than 30 percent. Twenty years ago, these proportions were the reverse. Furthermore, in 1976, new issues of debt and equities totaled $230.4 billion, and 5 out of every 6 of these dollars were invested by institutions.

The potential ramifications of this trend are quite disturbing. The decrease in the number of individual investors and the concomitant dominance of financial institutions portends an increased concentration of economic influence in the hands of a powerful few. If the individual does not have a stake in our economic system, he will not fight to protect its viability and integrity. John Whitehead of Goldman, Sachs & Co. discussed the impact of the flight of the individual from the capital markets in testimony given before the Small Business Committee:

> I would suggest that the very essence of the American system is involved with the stock ownership of our great American corporations spread very broadly. When we have 30 million stockholders, we avoid concentration of power and concentration of ownership that I think all of us feel is an important part of America and that possibly distinguishes us from other developed countries such as Japan and Germany where their large corporations are not broadly owned, and where there is a concentration of ownership in the hands of a small number of institutions.

Clearly it is extremely important to the future of our free enterprise system to get the individual investor back into equity markets.

THE SMALL BUSINESS INVESTMENT INCENTIVE ACT

Mr. President, the Small Business Investment Incentive Act addresses the serious problems of providing equity capital for small businesses and staunching the flight of the individual investor from the capital markets. The benefits of the legislation are directed at the middle-income investors whose participation is necessary to insure the viability of our free enterprise system and at the small- and medium-sized corporations which provide the principal source of new ideas, new jobs, and new growth. These two groups are key elements of our free enterprise system.

One reason that investors have turned away from investments in smaller businesses is that the risk-to-reward ratio has been altered over the past few years. The risk inherent in investing in a small business has been increased by the economic uncertainties caused by inflation, increased Federal regulations, and a breakdown in the distribution system for small business securities. Concomitant with this increased risk, Federal tax policies had reduced the possible rewards to be reaped by the investor.

Legislation passed by the last Congress to reduce the effective capital gains tax rate from 49 to 28 percent will go a long way in stimulating investment in the equity markets. The expansion in the supply of capital caused by this reduction will benefit small businesses which must compete in the capital markets for funds. However, this benefit will be reaped due to a trickling down process. It is likely that many of the investors who will return to the market as a result of this change will prefer a relatively secure position in a large corporation. Direct equity investment in small businesses, which cannot guarantee immediate returns in the form of dividends, will not increase appreciably. Thus, something more must be done to attract investors to smaller businesses.

The Small Business Investment Incentive Act will provide the stimulus needed to get the individual investor to participate in the solution of the capital formation problem of America's small and medium businesses. Pursuant to this bill, the investor will be given a credit against tax of 10 percent of the first $7,500 investment in qualifying stock issues during the taxable year.

In the case where a joint return is filed, a credit of 10 percent would be given on the first $15,000 invested. Dependents would be ineligible for the credit, thereby preventing a child who has income from a trust fund from applying the credit against the tax on the trust fund or other investment income. Foreign citizens would not be eligible for the credit. The credit would be recaptured if the stock is disposed of in any way before being held more than 1 year.

This 1 year holding period reflects existing tax code provisions regulating the availability of preferential capital gains rates for long-term capital gains. The only exceptions to the recapture rule are for transfers of ownership by reason of death or gift, and even in these cases the stock must be held by the transferee until a time more than 1 year from the date of original purchase.

Utilizing a credit, as opposed to a deduction, and limiting the credit to a specific dollar amount, assumes that the benefits of this legislation will flow primarily to middle-income taxpayers, whose participation in the marketplace is essential to the viability of our free enterprise system. A tax credit for investors, such as this, is a concept that the tax laws have recognized as instrumental in the stimulation of investment in other areas.

The legislation will not result in a windfall to millionaires. However, it would provide an incentive to higher income investors who would otherwise invest less than $7,500 in qualifying stock to invest to that limit. The beneficiary of this added investment would be the smaller business which would not have had access to this equity but for the credit provided by this bill.

Pursuant to this bill, the credit is available only for investment in common or preferred stock issued in a public offering of less than $25 million by a corporation with a net equity of less than $25 million. The term "public offering" includes all primary security issues of stock registered with the SEC for immediate cash sale to the public pursuant to the requirements of the Securities Act of 1933 or regulation A of that act. Credit would not be limited to initial public offerings, but would be available for all offerings provided the size limitations are met. The shares must be registered with the SEC under section 12 of the Securities Exchange Act of 1934, and the Secretary of the Treasury would issue regulations so that eligibility for the credit would be predicated upon the registration staying in effect for a minimal period of time after completion of the public offering. The size limitation imposed on the issuing corporation is based on findings made by the 1977 SBA Task Force on Venture and Equity Capital. This task force recommended that "pension fund managers—should be relieved—of ERISA restrictions in investing up to 5 percent of pension funds in companies having less than $25 million in net worth and larger companies having limited market ability for their securities." A review of corporations with equity capital less than $25 million discloses that the limited marketability for their securities brings them within the guidelines recommended by the task force. Presently, in excess of 3,500 small- and medium-sized corporations would be eligible under this size criterion, and it is hoped that many of the small businesses which are presently partnerships might incorporate to take advantage of this legislation.

Frequently an offer of original issue common or preferred stock to the public by a domestic corporation will be combined with the sale of stock to the public by large stockholders of the same corporation pursuant to the same registration with the SEC under the Securities Act of 1933. Generally there is no ready way of determining whether shares acquired by an investor in such a public offering are the shares newly issued by the issuing corporation or shares sold by the stockholders of the corporation. In such situations, an investor acquiring qualifying stock would be considered to have acquired stock issued by the issuing corporation, and would qualify for the credit to the extent of the ratio that the number of shares to be issued by the issuing corporation bears to the total number of shares to be sold in the public offering. The Secretary of the Treasury would issue regulations designed to achieve this effect. The sale price of any stock included in the registration which is not being sold by the issuing corporation, but instead is being sold by large stockholders of the corporation, would not be included in determining whether the dollar limitation imposed by the bill has been exceeded.

To assure that the equity capital raised pursuant to this legislation is used by small businesses for their active operations, the credit is available only if there has not been an acquisition of the corporation's stock, within 6 months, which exceeds 10 percent of the aggregate sales price of the qualifying stock. Furthermore, the credit will not be available in those situations where the issuing corporation and members of a controlled group, as defined in the Internal Revenue code, have passive investment in excess of 20 percent of the gross receipts for the year.

Mr. President, concerns were expressed in the Finance Committee last year that this measure might induce small investors to make unwise investments in risky corporations. These fears are unfounded. Because a credit would be available only for issues of stock registered with the SEC, the investor will be protected. Former SEC chairman William J. Casey testified in a SEC public hearing on the effect of SEC rules and regulations on small businesses that registration requirements discourage new ventures and unseasoned businesses from using registration as a hunting license encouraging open season on those investors who can neither assess nor afford the risk of investment. The involvement of the SEC will insure the existence of adequate safeguards for investors.

Further protection is afforded by the know your customer and suitability rules imposed upon broker-dealers. The rules of the National Association of Securities Dealers, which was formed pursuant to section 15A of the Securities and Exchange Act of 1934, require that stock dealers, in recommending to a customer the purchase of a security, must have "reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his other security holdings and as to his financial situation and needs." Thus, the dealers through whom the investor will purchase stock are mandated to assess the suitability of the stock for the investor. This requirement insures that a person with limited income will not invest in highly speculative stocks. In short, by tying the availability of the credit in with the provisions of the Federal securities laws, the protection of the investor is insured.

The Joint Committee on Taxation has estimated that the provisions of this legislation would result in an annual revenue loss of $70 million.

Mr. President, the benefits to be derived from the legislation are immense in comparison to the estimated revenue loss. By providing a stimulus for investment in smaller businesses, a new source of equity capital will be made available. The unhealthy debt-to-equity ratio of these businesses will be remedied. There would be significant gains in employment and economic growth caused by the strengthening of the capital structure of the Nation's small and medium businesses. Furthermore, an important consequence of this bill would be the broadening of the base of stock ownership for the American economy which will result from increasing the participation of individuals in our free enterprise system.

We welcome the support of our colleagues in this legislation to encourage the participation of individual investors in the serious problem of providing equity financing for our Nation's smaller businesses.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 655

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled,

SECTION 1. ALLOWANCE OF CREDIT FOR INVESTMENT IN CERTAIN NEW ISSUES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting immediately before section 45 the following new section:

"SEC. 44D. INVESTMENT IN ORIGINAL ISSUE STOCK OF SMALL OR MEDIUM-SIZED CORPORATIONS.

"(a) GENERAL RULE.—In the case of an individual who is a citizen or resident of the United States there is allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to 10 percent of the adjusted basis (within the meaning of section 1011) of the taxpayer for incentive stock (as defined in subsection (c)) acquired during the taxable year.

"(b) LIMITATIONS.—

"(1) CREDIT NOT ALLOWED TO CERTAIN DEPENDENTS.—No credit is allowable under subsection (a) to an individual with respect to whom a personal exemption deduction is allowable for the taxable year to another taxpayer under section 151(e).

"(2) CREDIT NOT TO EXCEED $750.—The credit allowed by subsection (a) for any taxable year shall not exceed $750 ($1,500 in the case of a joint return).

"(3) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(4) CERTAIN TAXES NOT CONSIDERED TAXES IMPOSED BY THIS CHAPTER.—For purposes of this section, any tax imposed for the taxable year by section 55 (relating to alternative minimum tax for taxpayers other than corporations), section 56 (relating to minimum tax for tax preferences), section 72(m)(5)(B) (relating to 10 percent tax on premature distributions to owner-employees), section 402(e) (relating to tax on lump sum distributions), section 408(f) (relating to additional tax on income from certain retirement accounts), section 531 (relating to accumulated earnings tax), section 541 (relating to personal holding company tax), or section 1378 (relating to tax on certain capital gains of subchapter S corporations), and any additional tax imposed for the taxable year by section 1351(d)(1) (relating to recoveries of foreign expropriation losses), shall not be considered tax imposed by this chapter for such year.

"(c) DEFINITION OF INCENTIVE STOCK.—

"(1) IN GENERAL.—For purposes of this section, the term 'incentive stock' means common or preferred stock registered under section 12 of the Securities Exchange Act of 1934 offered by the issuing corporation in a primary public offering—

"(A) which is issued by a domestic corporation the equity capital (within the meaning of the last sentence of section 1244(c)(2)) of which does not exceed 25,000,000 immediately before such offering, and

"(B) which is part of an issue of stock the aggregate sale price of which does not exceed $25,000,000.

"(2) CONTROLLED CORPORATIONS.—In the case of a corporation which is a member of a controlled group of corporations (as defined in section 1563(a)(1)), the equity capital of all members of the controlled group shall be treated, for purposes of paragraph (1) (A) this subsection, as the equity capital of the issuing corporation.

"(3) STOCK ACQUIRED MORE THAN 180 DAYS AFTER ISSUANCE; STOCK ACQUIRED BY DEALER.—No stock shall be treated as incentive stock for purposes of this section if it is first purchased more than 180 days after the date on which it is issued. No acquisition of stock by a dealer, as defined in section 2(12) of the Securities Act of 1933, in the ordinary course of his trade or business as a dealer, whether or not guaranteed, shall be treated as an acquisition for purposes of subsection (a).

"(4) CERTAIN REDEMPTIONS AND REFINANCING ISSUES NOT TREATED AS INCENTIVE STOCK.—An issue of stock which, but for this paragraph, would be treated as incentive stock under this section shall not be treated as incentive stock if, within 180 days before or after the date of issuance, the issuing corporation (or any other corporation which is a member of the same controlled group of corporations, within the meaning of section 1563, as the issuing corporation) has acquired stock (including acquisition by way of redemption) of the issuing corporation or of any other member of the controlled group with an aggregate purchase price in excess of 10 percent of the aggregate sale price of the issue of incentive stock.

"(5) INVESTMENT COMPANY STOCK NOT TREATED AS INCENTIVE STOCK.—Stock issued by an investment company shall not be treated as incentive stock. For purposes of this paragraph—

"(A) a corporation shall be treated as an investment company if the corporation has gross receipts for the taxable year in which the stock is issued more than 20 percent of which consist of passive investment income (as defined in section 1327(e)(5)(C)), and

"(B) in the case of a corporation which is a member of a controlled group of corporations within the meaning of section 1563 (a), subparagraph (A) shall be applied—

"(i) first, to the issuing corporation by itself, and

"(ii) then, by treating the gross receipts and passive investment income of the controlled group as the gross receipts and passive investment income of the issuing corporation.

"(d) DISPOSITION OF INCENTIVE STOCK BEFORE IT IS HELD FOR MORE THAN 12 MONTHS.—

"(1) DISPOSITION BEFORE FILING RETURN FOR TAXABLE YEAR OF ACQUISITION.—No credit is allowable under subsection (a) with respect to incentive stock acquired during a taxable year which is not held by the taxpayer on the date established by law for filing a return of tax for that taxable year, if, as of that date, the taxpayer has disposed of the stock after holding it for less than 12 months and one day.

"(2) OTHER PREMATURE DISPOSITIONS.—If during any taxable year incentive stock is disposed of by the taxpayer before the stock has been held by the taxpayer for more than 12 months, then the tax under this chapter for the taxable year shall be increased by the amount of the credit claimed by the taxpayer for any preceding taxable year with respect to the acquisition of such stock.

"(3) EXCEPTIONS.—Paragraphs (1) and (2) of this subsection shall not apply in the case of the disposition by request or gift unless—

"(A) the bequest or gift is deductible under section 170 (determined without regard to the limitations contained in subsection (b)), 2055, or 2522, or

"(B) the recipient disposes of the stock before the stock has been held for more than 12 months (including any periods of time during which the stock was held by the original purchaser).".

(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting immediately after the item relating to section 44C the following new item:

"Sec. 44D. Investment in original issue stock of small or medium-sized corporations.".

(c) CONFORMING AMENDMENTS.—Subsection (b) of section 6096 of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44C" and inserting in lieu thereof "44C, and 44D".

(d) CREDIT NOT ALLOWED TO ESTATES AND TRUSTS.—Subsection (a) of section 642 of such Code (relating to special rules for credits against tax for estates and trusts) is amended by adding at the end thereof the following new paragraph:

"(3) INVESTMENT IN INCENTIVE STOCK.—An estate or trust shall not be allowed the credit against tax for investment in incentive stock provided by section 44D.".

(e) EFFECTIVE DATE.—The amendments made by this Act shall apply with respect to taxable years beginning after December 31, 1979, and to stock acquired after the date of enactment of this Act. For purposes of the preceding sentence, stock acquired before January 1, 1980, shall be treated (except for purposes of section 44E (c) (3) and (d) of the Internal Revenue Code of 1954) as acquired on the first day of the first taxable year of the taxpayer beginning after December 31, 1979.●

● Mr. MOYNIHAN. Mr. President, I am pleased to join Senator WEICKER in introducing the Small Business Investment Incentive Act. The reintroduction of this measure is particularly timely in light of the continued decline in the rate of productivity growth in the private business sector. Last year, this increase was just three-tenths of 1 percent, the lowest since the end of World War II.

During the last Congress, we heard a great deal of testimony on many different proposals to stimulate capital formation in our economy. These included integration of corporate and individual income taxes, deferral of taxation on reinvested dividends, excluding portions of capital gains from taxation, and the like. Many of these proposals would reduce the cost of capital for mature, stable companies but because of the competitive nature of the capital markets might thereby actually disadvantage growth companies by raising their cost of capital vis-a-vis the others. This bill would help correct that inequity and provide a relatively inexpensive stimulus to the newer, more capital intensive, high technology companies that provide much of the growth in employment in our economy.

The estimated cost of this legislation is only $70 million a year, a small price for a measure that has so much potential.●

● Mr. PRESSLER. Mr. President, today I am joining Senators WEICKER, MOYNIHAN, NELSON, and CHAFEE in reintroducing the Small Business Investment Incentive Act.

I have often said in the past that small business forms the base of our free enterprise system. Without it, competition has little or no standing in the marketplace.

Over the past few years, however, small businesses have come upon an immovable obstacle: They cannot accumulate enough capital to grow. Oftentimes, they are unable to accumulate enough to even compete with large corporations. As a result, many of them needlessly fall by the wayside.

This legislation is designed to get the individual investor to participate in the solution of the capital formation problem. This legislation would allow an investor to claim a credit against tax of 10 percent of the first $7,500 ($15,000 in the case of a joint return) invested in qualifying stock issues during the taxable year.

If given a chance, the private sector could provide funding necessary for capital formation for many small- and medium-sized corporations. It is a known fact that small businesses grow faster than large corporations. As such, their capacity to create new jobs and stimulate the economy is great.

At the present time, individual investors are discouraged from investing in smaller, growth-oriented companies. Because large corporations are less risky, more dollars are being invested in them. As a result, our economy is being dominated more and more by large corporations.

The time has come when we have to start fighting for our small businesses. We have to fight for the individuals in our economic system. We cannot afford to let any more small businesses die. The economic system that we have known for the past 200 years will not survive in a world of large corporations.

At this moment I am talking about the Small Business Investment Incentive Act. At this time, we all need to give careful thought to the future of our free enterprise system, and the role that small business plays in that future.

Over the next few months, I will be introducing additional legislation to aid the cause of our small businessmen. Mr. President, I ask that my colleagues give this legislation their very careful consideration, and I ask for their help and guidance when dealing with small business in the future.●

By Mr. INOUYE:

S. 656. A bill to amend title XVIII and XIX of the Social Security Act to provide for inclusion of services rendered by a certified nurse-midwife under the medicare and medicaid programs; to the Committee on Finance.

S. 657. A bill to amend title 5, United States Code, to provide for access to a certified nurse-midwife without prior referral in the Federal employee health benefits program; to the Committee on Governmental Affairs.

● Mr. INOUYE. Mr. President, today I am introducing two bills which would provide for the independent reimbursement for the services of certified nurse-midwives under our Federal medicare and medicaid acts, and our Federal employee health benefits program.

Under these bills, a certified nurse-midwife is defined as an individual who is a registered nurse, who has successfully completed a program of study and clinical experience meeting guidelines prescribed by the Secretary of Health, Education and Welfare, or who has been certified by an organization recognized by the Secretary and performed services in the area of management of the care of mothers and babies throughout the paternity cycle which he or she is legally authorized to perform in the State.

I would like to emphasize that these bills rely heavily upon our State Nursing Practice Acts to establish a minimum educational and experiential criteria for reimbursement. In no way can this legislation be viewed as usurping a State's rights to monitor the quality of health care providers; instead, they will insure that our Federal employees and those individuals who rely on medicare and medicaid will have ready access to nurse-midwives if they so desire.

In essence, our Nation's certified nurse-midwives are individuals who are educated in two disciplines: Nursing and midwifery. The American College of Nurse-Midwives, which certifies these individuals, has over 1,500 members. There are in excess of 1,000 nurse-midwives currently practicing in 42 States and the District of Columbia. It is a growing profession which has doubled its membership over the past 5 years. Certified nurse-midwives provide a wide range of health services to the women and children of this country, in a variety of health care settings—clinics, hospitals, private practices—as well as in urban (41 percent), suburban (30 percent), and rural (29 percent) areas.

While certified nurse-midwives work with individuals from a variety of socioeconomic backgrounds, they have demonstrated most dramatically the contribution they can make to the improved health of our women and children in medically underserved areas. For example, it has been determined that 30 percent of the nurse-midwives in the United States work in communities with populations under 30,000.

In Holmes County, Miss., in 1968, the neonatal mortality rate was 28 per 1,000 live births. In 1971, just 2 years after the expansion of maternal-child health services using certified nurse-midwives, the rate dropped to 8.5 per 1,000 live births (the national rate that year was 14.9 per 1,000 live births).

In Shiprock, N. Mex., in 1970, the perinatal mortality rate was 28 per 1,000 live births. In 1971, a project began using certified nurse-midwives and pediatric nurse practitioners to expand services to mothers and children. The 1974 perinatal mortality rate had dropped to 14 per 1,000 live births.

At this time, Mr. President, I ask unanimous consent to have printed in the Record a copy of an August 29, 1977, Time magazine article entitled "Rebirth for Midwifery." As my colleagues will see, the figures that I have just noted are quite representative of those reported in the Time article.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From Time, Aug. 29, 1977]

Rebirth for Midwifery

For most of the human species' existence the delivery of babies has been the exclusive prerogative of women. It was only at the turn of the century that U.S. physicians, most of them then male, decided to put the delivery business into masculine hands.

The move was not sexist. It was simply part of the notion that all life's problems could best be corrected through technology. In difficult births a midwife was clearly no match for a trained obstetrician, often backed by hospital facilities. In the U.S. at least, a steady shift to doctor, and then doctor-plus-hospital deliveries soon threatened to turn midwifery into a lost art, and in many states an outlawed one. Old-fashioned "granny" midwifery is still in decline. But delivery by professional nurses and trained lay midwives is now becoming more popular in the U.S., though the practice remains less common than in such countries as Sweden, Britain and The Netherlands.

As medical costs skyrocket and more American women choose natural childbirth, often at home, over the impersonal facilities offered by many hospitals, it seems likely that the trend will accelerate. A bill, currently pending in Congress—sponsored by Senator Daniel Inouye of Hawaii—would authorize Medicaid payment of fees to nurse midwives. Next week the California assembly will consider a bill, backed by Governor Jerry Brown, legalizing the practice of midwifery by adequately trained people whether or not they are also registered nurses.

Touching as it does matters of love and money, health and deep feminist feeling, the question of midwifery has stirred strong argument, with more to come: an incredible patchwork of wildly inconsistent state laws now govern, ignore or tacitly condone various kinds of midwifery. Setting adequate licensing and training standards, therefore, will not be easy.

Much of the organized medical profession, including the American Academy of Family Physicians, has opposed most midwifery for a variety of reasons. Among them: the difficulty in regulating midwife procedures, the belief that women get better basic care in hospitals and the fact that many deliveries may require aid that few midwives can provide in the home. Examples: anesthesias; delivery by cesarean section; forceps delivery; episiotomy, a surgical procedure in which an incision is made from the vulva through the perineum to widen the birth canal.

The advocates of trained midwifery, many of them women who have experienced childbirth in hospitals, are passionately unimpressed by such arguments. Where prenatal screening is properly practiced, they say, most of those births likely to need specialized care can be anticipated—and handled in hospitals. But at least 90% of births are uncomplicated, they assert, and in those cases women often find themselves in the hands of an overworked hospital staff and subject to perhaps unnecessary procedures. Says a registered nurse and lay midwife in California: "Just in case the woman tears, the hospital does an episiotomy; just in case she bleeds, they give her an intravenous solution during labor; just in case she may need a cesarean, they don't feed her." Another frequent complaint concerns the mother's position during labor. In hospitals, the complaint runs, women are strapped to delivery tables, though some women who have practiced natural childbirth find that other positions can be as effective and more comfortable.

Such statistics as exist seem to indicate that midwife-assisted birth is generally safe. During a test period in Santa Cruz County, Calif., 10% of the deliveries were at home by lay midwives. The infant mortality rate was lower than for the county as a whole (3.2 deaths, *v.* 15.1 per 1,000), though such figures may be misleading because predictably hazardous births were handled in hospitals. To support their claims, proponents of midwifery point to The Netherlands, where midwifery is widespread and the national infant mortality rate in 1975 was only 10.6 per 1,000, *v.* 16.1 per 1,000 in the U.S., a country admittedly with a much larger and less homogeneous population.

In public at least, those doctors who oppose licensed midwifery do not often speak of one reason that may be on their minds—money. Obstetrics is one of the largest and most lucrative specialties in U.S. medicine. Parents and proponents of midwifery are voluble on the subject of money, however. In California, for instance, the cost of having a baby has risen from $16 per hospital day in 1950 to $175 in 1976, and now stands at about $1,500 per birth. By contrast, the cost of birth at midwife-run institutions like the Los Angeles Childbirth Center is as little as $300. The California department of consumer affairs asserts that even if only 10% of needy parents were allowed to use Medi-Cal money to pay licensed midwives, the state would save $10 million a year. State officials also report that only 37% of California's obstetricians will deliver babies for the poor because they can only pay the $300 allowed under Medi-Cal.

There are always dangers in childbirth, and clearly, in the event of an unexpected medical crisis, both mother and baby are safer with immediate access to hospital facilities. Still, if money talks, and it usually does, the use of properly trained midwives is a service that U.S. medicine and U.S. mothers can hardly afford to do without. Says Dr. Donald Creevy, a California obstetrician who favors the new bill: "The medical profession can't go on saying, 'If you don't accept good care on our terms, you don't get good care.'"

Mr. INOUYE. Mr. President, all of us are becoming increasingly aware of the need to drastically modify our present delivery of health services and to actively foster the development of innovative and cost-effective efforts. In my judgment, we cannot be successful in curtailing the rapidly escalating cost of health care in the United States until we begin to accept a nurse-midwife and her counterpart, the nurse-practitioner, as true professionals. The time has long passed for us to accord them independent reimbursement status under our various Federal programs. During the last Congress, in enacting Public Law 95–457, the Department of Defense Appropriations Act for 1979, both Houses of Congress agreed to direct the Department of Defense to independently reimburse certified nurse-midwives under their Civilian Health and Medical Programs of Uniformed Services (CHAMPUS) program. This program is responsible for providing health services to 8.6 million Americans and I am confident that it will be the forerunner to the status of nurse-midwives under our forthcoming national health insurance program.

Mr. President, I ask unanimous consent that the text of these two bills be printed in the Record.

There being no objection, the bills were ordered to be printed in the Record, as follows:

S. 656

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1861(s)(12) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by adding the word "and" at the end of subparagraph (E); and

(3) by adding at the end thereof the following new subparagraph:

"(F) services furnished by a nurse-midwife (as defined in subsection (bb)) which he is legally authorized to perform under State law or State regulatory mechanisms;".

(b) Section 1861 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Nurse-Midwife

"(bb) The term 'nurse-midwife' means a registered nurse who has succesfully completed a program of study and clinical experience meeting guidelines prescribed by the Secretary, or has been certified by an organization recognized by the Secretary, and performs services in the area of management of the care of mothers and babies (throughout the maternity cycle) which he is legally authorized to perform in the State in which he performs such services.".

Sec. 2. (a) Section 1905(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (16);

(2) by redesignating paragraph (17) as paragraph (18); and

(3) by inserting after paragraph (16) the following new paragraph:

"(17) services furnished by a nurse-midwife (as defined in section 1861 (bb) of this Act) to the extent recognized by State law or State regulatory mechanisms; and".

(b)(1) Section 1902(a)(13)(B) of the Social Security Act is amended by striking out "clauses (1) through (5)" and inserting in lieu thereof "clauses (1) through (5) and (17)".

(2) Section 1902(a)(13)(C)(i) of such Act is amended by striking out "clauses (1) through (5)" and inserting in lieu thereof "clauses (1) through (5) and (17)".

(3) Section 1902(a)(13)(C)(ii) of such

Act is amended by striking out "(1) through (16)" and inserting in lieu thereof "(1) through (17)".

(4) Section 1902(a)(14)(A)(i) of such Act is amended by striking out "clauses (1) through (5) and (7)" and inserting in lieu thereof "clauses (1) through (5), (7), and (17)".

Sec. 3. (a) The amendments made by this Act shall be effective with respect to payments under title XVIII of the Social Security Act for calendar quarters beginning after the date of enactment of this Act.

(b) The amendments made by this Act shall be effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning more than one hundred and twenty days after the date of enactment of this Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 8902(k) of title 5, United States Code, is amended by striking out "or optometrist" each place it appears and inserting in lieu thereof ", optometrist, or certified nurse-midwife".

Sec. 2. The amendments made by this Act shall become effective with respect to any contract entered into or renewed on or after the date of enactment of this Act.●

By Mr. DeCONCINI:

S. 658. A bill to correct technical errors, clarify and make minor substantive changes to Public Law 95-598; to the Committee on the Judiciary.

● Mr. DeCONCINI. Mr. President, today I am introducing a bill to make certain technical, clarifying, and minor substantive amendments to the recently enacted Bankruptcy Reform Act of 1978. That act was one of the largest and most complex pieces of legislation in volume processed during the 95th Congress and there have been a number of inevitable errors and needed clarifications that have come to my attention in the past few months. Extensive hearings were held last Congress on the subject of bankruptcy and I anticipate further hearings will not be required for the bill.

I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 658

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AMENDMENTS TO TITLE 11 OF THE UNITED STATES CODE

Sec. 101. Section 101(1) of title 11 of the United States Code is amended by striking out the second "accountant" and inserting "an individual" in lieu thereof.

Sec. 102. Section 101(2)(D) of title 11 of the United States Code is amended by striking out "or all" immediately after "business".

Sec. 103. (a) Section 101(8)(B) of title 11 of the United States Code is amended by striking out the colon at the end thereof and inserting a semicolon in lieu thereof.

(b) Section 101(9)(B) of title 11 of the United States Code is amended by inserting "348(d)" after "section", and by striking out "or 502(i)" and inserting ", 502(i), or 1305" in lieu thereof.

(c) Section 101(14) of title 11 of the United States Code is amended by inserting "or" immediately after "trust,".

(d) Section 101(24) of title 11 of the United States Code is amended by striking out "stock broker" and inserting "stockbroker" in lieu thereof.

(e) Section 101(26)(B)(ii) of title 11 of the United tSates Code is amended—

(1) by striking out "separate" each place it appears and inserting "nonpartnership" in lieu thereof; and

(2) by striking out "the kind specified in subparagraph" and inserting "a kind specified in subparagraph (A)(i) or" in lieu thereof.

(f) Section 101(35)(B)(vi) of title 11 of the United States Code is amended by striking out "specified in clause (xii) of subparagraph (A)" and inserting "of a kind specified in subparagraph (A)(xii)" in lieu thereof.

(g) Section 101 is amended by adding the following immediately after paragraph (37):

"(37A) "State" includes the Commonwealth of Puerto Rico, the Panama Canal Zone, the District of Columbia, and any territory or possession of the United States;".

Sec. 104. Section 102 of title 11 of the United States Code is amended—

(a) by striking out "and" at the end of paragraph (7);

(b) by striking out "continued" and inserting in lieu thereof "contained" in paragraph (8);

(c) by striking out the period at the end of paragraph (8) and inserting "; and" in lieu thereof; and

(d) by adding at the end thereof the following:

"(9) "United States", when used in a geographical sense, includes the District of Columbia, the Commonwealth of Puerto Rico, the Panama Canal Zone, and the territories and possessions of the United States.".

Sec. 105. (a) Section 103(c) of title 11 of the United States Code is amended by striking out "stockholder" and inserting "stockbroker" in lieu thereof

(b) Section 103(d) of title 11 of the United States Code is amended by striking out "except with respect to section 746(c) which applies to margin payments made by any debtor to a commodity broker or forward contract merchant".

(b) Section 103(d) of title 11 of the United States Code is amended by striking out "except" and all that follows through "merchant".

Sec. 106. (a) Section 109(c)(5)(D) of title 11 of the United States Code is amended by striking out "preference" and inserting "transfer that is avoidable under section 547 of this title" in lieu thereof.

(b) Section 109(d) of title 11 of the United States Code is amended by striking out "stockholder" and inserting "stockbroker" in lieu thereof.

Sec. 107. (a) Section 303(b) of title 11 of the United States Code is amended by inserting "against a person" immediately after "involuntary case".

(b) Section 303(j)(2) of title 11 of the United States Code is amended by striking out "debtors" and inserting "debtor" in lieu thereof.

Sec. 108. Section 321(b) of title 11 of the United States Code is amended by striking out "a case" and inserting "the case" in lieu thereof.

Sec. 109. (a) Section 326(a) of title 11 of the United States Code is amended by inserting "of this title" immediately after "7 or 11".

(b) Section 326(b) of title 11 of the United States Code is amended by striking "all payments under the plan" and inserting in lieu thereof "all moneys paid by trustees to creditors under the plan or to the debtor's attorney, or authorized to the trustee as reimbursement for expenses. In no event shall the trustee appointed under section 1302(2) receive compensation in excess of the maximum compensation allowable to a standing trustee pursuant to section 1302(3) of this title".

(c) Section 326(d) of title 11 of the United States Code is amended by striking out "and" and inserting "or" in lieu thereof.

Sec. 110. (a) Section 330(a) of title 11 of the United States Code is amended by striking out "and to the United States trustee".

(b) Section 330(a)(1) of title 11 of the United States Code is amended to read as follows:

"(1) reasonable compensation for actual, necessary services rendered by such trustee, examiner, professional person, or attorney, as the case may be, and by any paraprofessional persons employed by such trustee, professional person, or attorney, as the case may be, based on the nature, the extent, the value of such services to the debtor or estate, the time spent thereon, and the cost of comparable services other than in a case under this title; and".

(c) Section 330(b) of title 11 of the United States Code is amended by deleting the period at the end of the section and substituting ", payable from appropriated funds." in lieu thereof.

(d) Section 330 of title 11 of the United States Code is amended by adding the following at the end:

"(c) When a trustee performs substantial service in a case in which there are no funds to pay an adequate commission, the Director shall pay the trustee a special service fee not to exceed $80 from appropriated funds, if ordered by the bankruptcy judge. Such order shall be the exception and not the rule.".

Sec. 111. Section 341(a) of title 11 of the United States Code is amended by deleting "there shall be a meeting of creditors" and inserting "the court shall call a meeting of creditors" in lieu thereof.

Sec. 112. Section 344 of title 11 of the United States Code is amended by deleting "Immunity for persons required to submit to examination, to testify, or to provide information in a case under this title may be granted under part V of title 18." and inserting in lieu thereof the following:

"(a) No testimony, or any evidence which is directly or indirectly derived from such testimony, given by a debtor at the meeting of his creditors at the hearing upon objections, if any, to his discharge, and at such other times as the court shall order, shall be offered in evidence against him in any criminal proceeding.

(b) If the debtor is a corporation or partnership, any individual designated by the court to perform the duties of the debtor shall be entitled to the same immunity as provided by paragraph (a) of this section.".

Sec. 113. (a) Section 346(c)(2) of title 11 of the United States Code is amended by striking out "operation" and inserting "corporation" in lieu thereof.

(b) Section 346(j)(7) of title 11 of the United States Code is amended by striking out "owned" and inserting "owed" in lieu thereof.

Sec. 114. Section 350(b) of title 11 of the United States Code is amended by striking out "a" and inserting "A" in lieu thereof.

Sec. 115. Section 361(1) of title 11 of the United States Code is amended by inserting "a cash payment or" immediately after "make."

Sec. 116. (a) Section 362(a)(1) of title 11 of the United States Code is amended by inserting "action or" immediately after "other".

(b) Section 362(b)(6) of title 11 of the United States Code is amended by inserting immediately before the semicolon the following: ", or, under subsection (a) of this section, of the setoff of any claim of a commodity broker or forward commodity contract merchant against the debtor for a margin payment, as defined in section 761(15) of this title, or settlement payment arising out of a commodity contract, as defined in section 761(4) of this title or forward commodity contract, against cash, a security, or other property held by such commodity broker or forward commodity contract merchant to margin, guarantee, or secure such commodity contract or forward commodity contract".

(c) Section 362(b)(7) of title 11 of the United States Code is amended by striking out "said" and inserting "such" in lieu thereof.

(d) Section 362(d)(2) of title 11 of the United States Code is amended by inserting "under subsection (a) of this section" immediately after "stay".

(e) Section 362(f) of title 11 of the United States Code is amended by inserting "with or" immediately after "court".

SEC. 117. (a) Section 363(e) of title 11 of the United States Code is amended by striking out "section" the second time it appears, and inserting "subsection" in lieu thereof.

(b) Section 363(j) of title 11 of the United States Code is amended by striking out "compenation" and inserting "compensation" in lieu thereof.

(c) Section 363(l) of title 11 of the United States Code is amended—

(1) by striking out "conditions" and inserting "condition" in lieu thereof;

(2) by striking out "a taking" and inserting "or taking" in lieu thereof; and

(3) by striking out "interests" and inserting "interest" in lieu thereof.

SEC. 118. Section 364(f) of title 11 of the United States Code is amended by inserting "or convertible to an equity security" immediately before the period at the end thereof.

SEC. 119. (a) Section 365(b)(3) of title 11 of the United States Code is amended by striking out "purposes" and inserting "purpose" in lieu thereof.

(b) Section 365(c)(1)(A) of title 11 of the United States Code is amended by inserting "by virtue of the nature of the contract or lease" immediately before ", whether".

(c) Section 365(f)(3) of title 11 of the United States Code is amended by inserting a comma immediately after "applicable law".

(d) Section 365(h)(1) of title 11 of the United States Code is amended by striking out "treat the lease" and inserting "treat such lease" in lieu thereof.

(e) Section 365(h)(2) of title 11 of the United States Code is amended by inserting "under such lease" immediately after "debtor".

(f) Section 365(i)(2)(A) of title 11 of the United States Code is amended—

(1) by striking out the comma after "may"; and

(2) by inserting "under such contract" immediately after "debtor".

(g) Section 365(j) of title 11 of the United States Code is amended by inserting "to or for the benefit of the debtor" immediately before the period at the end thereof.

SEC. 120. (a) Section 502(b) of title 11 of the United States Code is amended by inserting "(e)(2)," immediately after "subsections".

(b) Section 502(b)(1) of title 11 of the United States Code is amended by striking out ", and unenforceable against" and inserting "and" in lieu thereof.

(c) Section 502(b)(4) of title 11 of the United States Code is amended by inserting "the" immediately after "exceeds".

(d) Section 502(b)(6) of title 11 of the United States Code is amended—

(1) by striking out "the claim" and inserting "such claim" in lieu thereof; and

(2) by striking out the comma.

(e) Section 502(b)(7)(A)(ii) of title 11 of the United States Code is amended by striking out "reposessed" and inserting "repossessed" in lieu thereof.

(f) Section 502(c)(2) of title 11 of the United States Code is amended by inserting "right to payment arising from a" immediately after "any".

(g) Section 502(d) of title 11 of the United States Code is amended by striking out "or transferee" each place it appears.

(h) Section 502(e)(1)(B) of title 11 of the United States Code is amended by inserting "or disallowance" immediately after "allowance".

(i) Section 502(j) of title 11 of the United States Code is amended by striking out "Before a case is closed, a" and inserting "A" in lieu thereof.

SEC. 121. Section 503(b) of title 11 of the United States Code is amended—

(1) by striking out the comma immediately after "there shall be allowed";

(2) in paragraph (1)(B), by inserting ", collected, or withheld" immediately after "incurred";

(3) in paragraph (3), by inserting a comma immediately after "paragraph (4) of this subsection";

(4) in paragraph (3)(C), by striking out the comma; and

(5) in paragraph (4) by striking out "the time," and "and" immediately before "the value", and inserting "to the debtor or estate, the time spent thereon," before "and the cost of comparable services".

SEC. 122. (a) Section 506(a) of title 11 of the United States Code is amended by inserting ", except to the extent that such creditor does not have recourse, under any agreement or applicable law, against the debtor on account of such claim," immediately before "is an unsecured claim".

(b) Section 506(d)(2) of title 11 of the United States Code is amended—

(1) by striking out "or" at the end of paragraph (1) and by inserting "502(b)(6) or" immediately after "section", and striking out the period at the end of the paragraph and inserting "; or" in lieu thereof; and

(2) by adding at the end thereof the following:

"(3) such secured claim is not an allowed secured claim due only to the failure to file a proof of claim under section 501 of this title.".

SEC. 123. (a) Section 507(a)(3) of title 11 of the United States Code is amended by inserting a comma after "severance".

(b) Section 507(a)(4)(B)(ii) of title 11 of the United States Code is amended by striking out the comma.

(c) Section 507(a)(6)(A) of title 11 of the United States Code is amended by striking out clause (ii) thereof and inserting in lieu thereof the following:

"(ii) assessed within 240 days before the date of the filing of the petition or with respect to which an offer in compromise was made within 240 days after the date of assessment of such tax, if—

"(I) the date of assessment was within 240 days, plus any time during which such offer was pending, before the date of filing of the petition; or

"(II) such offer was pending within 30 days before the date of the filing of the petition; or".

(d) Section 507(a)(6)(D) of title 11 of the United States Code is amended to read as follows:

"(D) an employment tax on a wage, salary, or commission—

"(i) of a kind specified in paragraph (3) of this subsection; or

"(ii) paid before the date of the filing of the petition for which a return is last due, under applicable law or under any extension, after three years before the date of the filing of the petition;".

(e) Section 507(b) of title 11 of the United States Code is amended—

(1) by striking out "If" and inserting "Notwithstanding section 726(b) of this title, if" in lieu thereof;

(2) by striking out "creditor" each place it appears and inserting "holder" in lieu thereof; and

(3) by striking out "subsection (a)(1) of this subsection" and inserting "section 503(b) of this title" in lieu thereof.

(f) Section 507(c) of title 11 of the United States Code is amended by striking out "shall be treated the same" and inserting "has the same priority" in lieu thereof.

SEC. 124. Section 509(c) of title 11 of the United States Code is amended by striking out "section 509 of this title" and inserting "this section" in lieu thereof.

SEC. 125. Section 510(b) of title 11 of the United States Code is amended by striking out "recission" and inserting "rescission" in lieu thereof.

SEC. 126. (a) Section 522(b)(1) of title 11 of the United States Code is amended by striking out "does not so authorize" and inserting "prohibits application of such subsection (d)" in lieu thereof.

(b) Section 522(c) of title 11 of the United States Code is amended—

(1) by inserting a comma immediately after "arisen";

(2) in paragraph (1), by striking out "section" the second time it appears;

(3) in paragraph (2)—

(A) by inserting "a debt secured by" immediately before "a lien";

(B) by redesignating subparagraph (A) as subparagraph (A)(i);

(C) by inserting "and" immediately after subparagraph (A)(i);

(D) by redesignating subparagraph (B) as clause (ii); and

(E) by striking out "(C)(i) a tax lien," and inserting "(B) a tax lien, (i)" in lieu thereof.

(c) Section 522(h)(1) of title 11 of the United States Code is amended by striking out "title" and inserting "title" in lieu thereof.

(d) Section 522(i)(2) of title 11 of the United States Code is amended by striking out "his" and inserting "this" in lieu thereof.

SEC. 127. (a) Section 523(a)(2) of title 11 of the United States Code is amended by striking out "refinance" and inserting "refinancing" in lieu thereof.

(b) Section 523(a)(5)(A) of title 11 of the United States Code is amended by inserting after "otherwise" the following: ", except as provided in section 656(b) of title 42 of the United States Code".

SEC. 128. (a) Section 524(a) of title 11 of the United States Code is amended—

(1) by striking out "any act" each place it appears, and inserting "an act" in lieu thereof, and

(2) in paragraph (2)—

(A) by inserting "except as provided in section 522(c) of this title," immediately before "operates"; and

(B) by inserting a comma immediately after "recover".

(b) Section 524(d) of title 11 of the United States Code is amended—

(1) by inserting "and" immediately after paragraph (1) thereof; and

(2) in paragraph (2), by striking out "subsection" the second time it appears and inserting "section" in lieu thereof.

SEC. 129. Section 525 of title 11 of the United States Code is amended by inserting "the" immediately before "Perishable".

SEC. 130. (a) Section 541(a)(3) of title 11 of the United States Code is amended by inserting "363(n)," immediately after "section".

(b) Section 541(a)(5) of title 11 of the United States Code is amended by striking out "An" and inserting "Any" in lieu thereof.

(c) Section 541(c)(1) of title 11 of the United States Code is amended—

(1) by inserting "in an agreement or applicable law" immediately after "provision"; and

(2) in subparagraph (B)—

(A) by striking out "the taking" and inserting "taking" in lieu thereof; and

(B) by inserting "before such commencement" immediately after "custodian".

SEC. 131. Section 542(a) of title 11 of the United States Code is amended by striking out "value or benefit" and inserting "value and benefit" in lieu thereof.

SEC. 132. Section 543(c)(3) of title 11 of the United States Code is amended by striking out "appointed or" and inserting "appointed and" in lieu thereof.

SEC. 133. Section 544(a)(2) of title 11 of the United States Code is amended by striking out "and" at the end thereof and inserting "or" in lieu thereof.

SEC. 134. (a) Section 545(1)(A) of title 11 of the United States Code is amended by striking out "is" immediately after "debtor".

(b) Section 545(1)(C) of title 11 of the United States Code is amended by striking out "apponted" and inserting "appointed" in lieu thereof.

SEC. 135. (a) Section 546(a) of title 11 of the United States Code is amended by striking out "or 553" and inserting "553, or 724 (a)" in lieu thereof.

(b) Section 546(b) of title 11 of the United States Code is amended by striking out "the trustee under section 544, 545, or" and inserting "a trustee under sections 544, 545, and" in lieu thereof.

(c) Section 546(c) of title 11 of the United States Code is amended—

(1) by striking out "the trustee" and inserting "a trustee" in lieu thereof; and

(2) in paragraph (2), by inserting "the" immediately after "if".

(d) Section 546 of title 11 of the United States Code is amended by inserting at the end thereof the following:

"(d) Notwithstanding sections 544, 545, 547, and 548 of this title, the trustee may not avoid a transfer that is a margin payment, as defined in section 761(15) of this title, deposit, or settlement payment, made by or to a commodity broker or forward contract merchant, and that occurs before the commencement of the case, except under section 548(a)(1) of this title.".

SEC. 136. Section 547(c)(5) of title 11 of the United States Code is amended by striking out "all security interest" and inserting "all security interests" in lieu thereof.

SEC. 137. (a) Section 548(a)(1) of title 11 of the United States Code is amended by striking out "occurred" and inserting "was made" in lieu thereof.

(b) Section 548(a)(2)(B)(ii) of title 11 of the United States Code is amended by inserting "or a transaction" immediately after "engaged in business".

(c) Section 548(c) of title 11 of the United States Code is amended—

(1) by inserting "or may retain" immediately after "lien on"; and

(2) by striking out ", may retain any lien transferred,".

(d) Section 548(d)(1) of title 11 of the United States Code is amended by striking out "occurs" and inserting "is made" in lieu thereof.

SEC. 138. Section 549(a) of title 11 of the United States Code is amended by striking out "subsection" and inserting "subsections" in lieu thereof.

SEC. 139. Section 550(d)(2) of title 11 of the United States Code is amended—

(1) by striking out "such property; (E) discharge of any lien against"; and

(2) by redesignating subparagraph (F) as subparagraph (E).

SEC. 140. Section 551 of title 11 of the United States Code is amended by striking out "but only with respect to property of the estate".

SEC. 141. Section 553(b)(1) of title 11 of the United States Code is amended by striking out "or 365(h)(1)" and inserting ", 365 (h)(2), or 365(i)(2)" in lieu thereof.

SEC. 142. Section 554(d) of title 11 of the United States Code is amended by striking out "section (a) or (b) of".

SEC. 143. (a) Section 702(b) of title 11 of the United States Code is amended by inserting "(a)" immediately after "341".

(b) Section 702(c)(2) of title 11 of the United States Code is amended by inserting "a" immediately before "trustee".

SEC. 144. Section 704(8) of title 11 of the United States Code is amended by deleting "make a final report and file a final account of the administration of the estate with the court" and inserting "file interim reports on the condition of estates and make a final report and account of the administration of the estate with the court".

SEC. 145. Section 705(a) of title 11 of the United States Code is amended by inserting "of creditors" immediately after "meeting".

SEC. 146. (a) Section 707(1) of title 11 of the United States Code is amended by striking out "and" at the end thereof and inserting "or" in lieu thereof.

(b) Section 707(2) of title 11 of the United States Code is amended by striking out "and" and inserting "or" in lieu thereof.

SEC. 147. (a) Section 723(a) of title 11 of the United States Code is amended by striking out "title" and inserting "chapter" in lieu thereof.

(b) Section 723(c) of title 11 of the United States Code is amended—

(1) by striking out "such case" each place it appears and inserting "such partner's case" in lieu thereof;

(2) by striking out "be property" and inserting "by property" in lieu thereof;

(3) by striking out "(a)"; and

z(4) by striking out "the kind" and inserting "a kind" in lieu thereof.

SEC. 148. (a) Section 724(b) of title 11 of the United States Code is amended—

(1) in paragraph (2), by inserting "the holders of" immediately after "second, to";

(2) by inserting immediately after paragraph (4) the following:

"(5) fifth, to the holders of claims specified in sections 507(a)(1), 507(a)(2), 507 (a)(3), 507(a)(4), and 507(a)(5) of this title, to the extent that such claims are not paid under paragraph (2) of this subsection;";

(3) by striking out "(5) fifth" and inserting "(6) sixth" in lieu thereof; and

(4) by striking out "(6) sixth" and inserting "(7) seventh" in lieu thereof.

(b) Section 724(c) of title 11 of the United States Code is amended—

(1) by striking out "creditor" and inserting "holder of a claim" in lieu thereof; and

(2) by striking out "creditors" each place it appears and inserting "holders" in lieu thereof.

SEC. 149. (a) Section 726(b) of title 11 of the United States Code is amended by striking out "administrative expenses" each place it appears and inserting "claims allowed under section 503 of this title" in lieu thereof.

(b) Section 726(c)(1) of title 11 of the United States Code is amended by striking ing out "Administrative expenses" and inserting "Claims allowed under section 503 of this title" in lieu thereof.

(c) Section 726(c)(2) of title 11 of the United States Code is amended—

(1) by striking out "for administrative expenses" and inserting "claims allowed under section 503 of this title" in lieu thereof;

(2) by inserting "(a)" immediately after "507"; and

(3) in subparagraph (C) by inserting a comma immediately before "including", "are", and "such".

SEC. 150. (a) Section 727(a)(6)(C) of title 11 of the United States Code is amended by striking out "property" and inserting "properly" in lieu thereof.

(b) Section 727(a)(7) of title 11 of the United States Code is amended by inserting "under this title or under the Bankruptcy Act" immediately after "another case."—

(c) Section 727(a)(8) of title 11 of the United States Code is amended by inserting a comma immediately after "371".

SEC. 151. Section 728(c) of title 11 of the United States Code is amended by striking out the comma immediately after "taxable income".

SEC. 152. Section 741(5)(A)(i) of title 11 of the United States Code is amended—

(1) by inserting a comma immediately after "petition"; and

(2) by striking out "customer name securities" and inserting "any customer name security" in lieu thereof.

SEC. 153. Section 743 of title 11 of the United States Code is amended by striking out "(a)".

SEC. 154. (a) Section 752(a) of title 11 of the United States Code is amended by deleting "customers allowed" the second time it appears and inserting "customers' allowed" in lieu thereof.

(b) Section 752(b)(2) of title 11 of the United States Code is amended by striking out "(a)".

SEC. 155. (a) Section 761(2) of title 11 of the United States Code is amended by inserting "made" immediately "on".

(b) Section 761(4) of title 11 of the United States Code is amended—

(1) by striking out "if the debtor is" each place it appears and inserting "with respect to" in lieu thereof; and

(2) in subparagraph (D), by inserting ", or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by the debtor" immediately before the semicolon.

(c) Section 761(9) of title 11 of the United States Code is amended—

(1) by striking out "if the debtor is" each place it appears and inserting "with respect to" in lieu thereof;

(2) in subparagraph (A)—

(A) by striking out "the debtor" each place it appears and inserting "such futures commission merchant" in lieu thereof; and

(B) by striking out "the debtor's" and inserting "such futures commission merchant's" in lieu thereof;

(3) in subparagraph (B)—

(A) by striking out "the debtor" each place it appears and inserting "such foreign futures commission merchant" in lieu thereof; and

(B) by striking out "the debtor's" and inserting "such foreign futures commission merchant's" in lieu thereof;

(4) in subparagraph (C)—

(A) by striking out "the debtor" each place it appears and inserting "such leverage transaction merchant" in lieu thereof;

(B) by striking out "the debtor's" and inserting "such leverage transaction merchant's" in lieu thereof;

(C) by inserting "or" after the semicolon at the end of clause (i); and

(D) in clause (ii), by striking out "hold" and inserting "holds" in lieu thereof;

(5) in subparagraph (D), by striking out "the debtor" each place it appears and inserting "such clearing organization" in lieu thereof; and

(6) in subparagraph (E)—

(A) by striking out "the debtor" each place it appears and inserting "such commodity options dealer" in lieu thereof; and

(B) by striking out "the debtor's" and inserting "such commodity options dealer's" in lieu thereof.

(d) Section 761(12) of title 11 of the United States Code is amended by inserting a comma immediately after "property".

(e) Section 761(13) of title 11 of the United States Code is amended by striking out "217 of the Commodity Futures Trading Commission Act of 1974 (7 U.S.C. 15a)" and inserting "19 of the Commodity Exchange Act (7 U.S.C. 23)" in lieu thereof.

SEC. 156. Section 764 of title 11 of the United States Code is amended by striking out subsection (c) thereof.

SEC. 157. Section 765(b) of title 11 of the United States Code is amended by striking out "commitment" and inserting "commodity contract" in lieu thereof.

Sec. 158. (a) Section 766(b) of title 11 of the United States Code is amended by inserting "the" immediately after "rules of".

(b) Section 766(j)(2) of title 11 of the United States Code is amended by striking out "(a)"

Sec. 159. (a) Subchapter IV of chapter 7 of title 11 of the United States Code is amended by adding at the end thereof the following new section:

"§ 767. Contractual right to liquidate a commodity contract or forward contract

"Nothing in any provision of Federal or State law shall operate to prevent, stay, or otherwise prohibit a commodity broker or forward contract merchant from exercising a contractual right to liquidate a commodity contract, as defined in section 761(4), or forward contract, or to cause the liquidation of a commodity contract or forward contract, nor shall any court issue any order preventing, staying, or otherwise prohibiting the exercise of such contractual right, unless if such order is required because of a threat to the national security. As used in this section, the term 'contractual right' includes, but is not limited to, a right set forth in a rule or bylaw of a clearing organization or a contract board thereof.".

(b) The table of sections for such chapter and for such subchapter are each amended by adding at the end thereof the following new item:

"767. Contractual right to liquidate a commodity contract or forward contract.".

Sec. 160. Section 901(a) of title 11 of the United States Code is amended by inserting a comma immediately after "1111(b)".

Sec. 161. Section 903(2) of title 11 of the United States Code is amended by striking out "to" the first time it appears.

Sec. 162. Section 921(c) of title 11 of the United States Code is amended by striking out "an" and inserting "any" in lieu thereof.

Sec. 163. Section 922(a)(1) of title 11 of the United States Code is amended by inserting "a" immediately before "judicial", and inserting "action or" immediately before "proceeding".

Sec. 164. Section 943(b)(5) of title 11 of the United States Code is amended to read as follows:

"(5) except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the plan provides that on the effective date of the plan each holder of a claim of a kind specified in section 507(a)(1) of this title will receive on account of such claim cash equal to the allowed amount of such claim; and".

Sec. 165. (a) Section 1103(c)(1) of title 11 of the United States Code is amended by striking out "or debtor in possession".

(b) Section 1103(c)(3) of title 11 of the United States Code is amended by striking out "recommendations" and inserting "determinations" in lieu thereof and inserting "or rejections" immediately after "acceptances".

(c) Section 1103(c)(4) of title 11 of the United States Code is amended by striking out ", if a trustee or examiner, as the case may be, has not previously been appointed under the chapter in this case".

Sec. 166. Section 1105 of title 11 of the United States Code is amended by striking out "estate, and" and inserting "estate and of the" in lieu thereof.

Sec. 167. (a) Section 1106(b) of title 11 of the United States Code is amended by inserting ", except to the extent that the court orders otherwise," immediately before "any other'.

(b) Section 1107(a) of title 11 of the United States Code is amended by inserting "serving in a case" immediately after "on a trustee".

Sec. 168. Section 1108 of title 11 of the United States Code is amended by inserting ", on request of a party in interest and after notice and a hearing," immediately after "court".

Sec. 169. (a) Section 1111(b)(1)(A)(ii) of title 11 of the United States Code is amended—

(1) by striking out "is sold under section 363" and inserting "is sold subject to section 363(k)" in lieu thereof; and

(2) by striking out "or is to be sold" and inserting " abandoned under section 554 of this title, or surrendered to such holder, or is to be sold, abandoned, or surrendered" in lieu thereof.

(b) Section 1111(b)(1)(B) of title 11 of the United States Code is amended—

(1) by striking out "A class of claims may not elect application of paragraph (2) of this subsection" and inserting "An election of application of paragraph (2) of this subsection by a class of claims is ineffective" in lieu thereof; and

(2) in clause (ii)—

(A) by striking out "the holder of a claim of such class has recourse against the debtor on account of such claim";

(B) by striking out "is sold under section 363" and inserting "is sold subject to section 363(k)" in lieu thereof; and

(C) by striking out "or is to be sold" and inserting ", abandoned under section 554 of this title, or surrendered to the holders of such claims, or is to be sold, abandoned, or surrendered" in lieu thereof.

(c) Section 1111(b)(2) of title 11 of the United States Code is amended by inserting "full" immediately before "extent".

Sec. 170. Section 1112(b)(8) of title 11 of the United States Code is amended by striking out "and" at the end thereof and inserting "or" in lieu thereof.

Sec. 171. (a) Section 1121(c)(3) of title 11 of the United States Code is amended by striking out "the claims or interests of which are" and inserting "of claims or interests that is" in lieu thereof.

Sec. 172. Section 1123(a)(3) of title 11 of the United States Code is amended by striking out "shall".

Sec. 173. Section 1125(a)(2)(C) of title 11 of the United States Code is amended by inserting "of" immediately after "holders".

Sec. 174. (a) Section 1126(b)(2) of title 11 of the United States Code is amended by striking out "(1)".

(b) Section 1126(f) of title 11 of the United States Code is amended by—

(1) striking out "solicitition" and inserting "solicitation" in lieu thereof; and

(2) striking out "interest" and inserting "interests" in lieu thereof.

(c) Section 1126(g) of title 11 of the United States Code is amended by striking out "any payment or compensation" and inserting "receive or retain any property" in lieu thereof.

Sec. 175. (a) Section 1129(a)(1) of title 11 of the United States Code is amended by inserting "and with other applicable provisions of this title" immediately after "chapter".

(b) Section 1129(a)(4) of title 11 of the United States Code is amended—

(1) in subsection (A) by striking out "promised" and inserting "to be made" in lieu thereof; and

(2) in subsection (B)(ii) by striking out "fixed" and inserting "made" in lieu thereof.

(c) Section 1129(a)(5) of title 11 of the United States Code is amended—

(1) by striking out the period at the end of subparagraph (A) and inserting "; and" in lieu thereof; and

(2) in subparagraph (B), by striking out "The" and inserting "the" in lieu thereof.

(d) Section 1129(a)(7)(B) of title 11 of the United States Code is amended by striking out "creditor's" and inserting "holder's" in lieu thereof.

(e) Section 1129(b)(2)(B) of title 11 of the United States Code is amended by inserting "other than claims of a kind specified in section 507(a)(3), 507(a)(4), or 507(a)(5) of this title" immediately after "unsecured claims".

(f) Section 1129(b)(2)(C)(i) of title 11 of the United States Code is amended by striking out "claim" and inserting "interest" in lieu thereof.

Sec. 176. Section 1141(a) of title 11 of the United States Code is amended—

(1) by striking out "Except" and inserting "Notwithstanding section 510(a) of this title and except" in lieu thereof; and

(2) by striking out "any creditor or equity security holder of, or general partner in," and inserting "any creditor, equity security holder, or general partner in" in lieu thereof.

Sec. 177. (a) Section 1142(a) of title 11 of the United States Code is amended by striking out the comma after "plan" the second time it appears.

(b) Section 1142(b) of title 11 of the United States Code is amended—

(1) by striking out "debtor and" and inserting "debtor or" in lieu thereof; and

(2) by inserting "a" immediately after "by".

Sec. 178. Section 1145(a)(4) of title 11 of the United States Code is amended by striking out "stockholder" each place it appears and inserting "stockbroker" in lieu thereof.

Sec. 179. Section 1168(a) of title 11 of the United States Code is amended by striking out "racks' and inserting "tracks" in lieu thereof.

Sec. 180. Section 1301(c)(3) of title 11 of the United States Code is amended by inserting "continuation of" immediately after "by".

Sec. 181. Section 1302(e)(2) of title 11 of the United States Code is amended by deleting "all payments under plans" and inserting "all money paid by trustees to creditors or the debtor's attorney under the plan or authorized to the trustee as reimbursement for expenses", in lieu thereof.

Sec. 182. Section 1306(e)(2)(A) of title 11 of the United States Code is amended by deleting "all payments under plans" and inserting "all moneys paid by trustees to creditors under the plan or authorized to the trustee as reimbursement for expenses", in lieu thereof.

Sec. 183. (a) Section 1307(b) of title 11 of the United States Code is amended by inserting a comma immediately after "time".

(b) Section 1307(c)(6) of title 11 of the United States Code is amended by striking out "and" at the end thereof and inserting "or" in lieu thereof.

Sec. 184. (a) Section 1322(a)(2) of title 11 of the United States Code is amended by inserting a comma immediately after "payments".

(b) Section 1322(b)(8) of title 11 of the United States Code is amended by striking out "any".

Sec. 185. Section 1324 of title 11 of the United States Code is amended by striking out "the" the second place it appears.

Sec. 186. Section 1326(a)(2) of title 11 of the United States Code is amended by inserting "of this title" immediately after "1302(d)".

Sec. 187. (a) Section 1328(c)(2) of title 11 of the United States Code is amended by striking out "(a)".

(b) Section 1328(e)(1) of title 11 of the United States Code is amended by inserting "of the debtor" immediately after "fraud".

(c) Section 1328(e)(2) of title 11 of the United States Code is amended—

(1) by striking out "knowledge of such fraud came to"; and

(2) by inserting "did not know of such fraud until" immediately after "party".

Sec. 188. Section 15102 of title 11 of the United States Code is amended by striking out "chapter" the first time it appears and inserting "title" in lieu thereof.

Sec. 189. Section 15103(f) of title 11 of the United States Code is amended by inserting "330(a)," immediately after "326(b),".

Sec. 190. Section 15322(b)(1) of title 11 of the United States Code is amended by striking out "(2)".

Sec. 191. Section 15326 of title 11 of the United States Code is amended by striking out ", but may allow reasonable compensation under section 330 of this title of a trustee appointed under section 1302(a) of this title for the trustee's services, payable after the trustee renders such services, not to exceed five percent upon all payments under the plan".

Sec. 192. Section 15330 of title 11 of the United States Code is amended to read as follows:

"§ 15330. Compensation of officers

"(a) After notice to any parties in interest and to the United States trustee and a hearing, and subject to sections 326, 328, 329, and 15326 of this title, the court may award to a trustee, to an examiner, to a professional person employed under section 327 or 1103 of this title, or to the debtor's attorney—

"(1) reasonable compensation for actual, necessary services rendered by such trustee, examiner, professional person, or attorney, as the case may be, and by any paraprofessional persons employed by such trustee, professional person, or attorney, as the case may be, based on the time, the nature, the extent, and the value of such services, and the cost of comparable services other than in a case under this title; and

"(2) reimbursement for actual, necessary expenses.

"(b) In a case in which the United States trustee serves as trustee, the compensation of the trustee under subsection (a) of this section and section 330(b) of this title shall be paid to the clerk of the bankruptcy court, and by the clerk, into the Treasury.".

Sec. 193. Section 151102(b) of title 11 of the United States Code is amended by striking out "interest of" and inserting "interest," in lieu thereof.

TITLE II—AMENDMENTS TO TITLES II, III, AND IV OF PUBLIC LAW 95–598

Sec. 201. Section 160(a) of title 28, United States Code, is amended by striking out "each circuit" and inserting "such circuit" in lieu thereof.

Sec. 202. (a) Section 206(1) of Public Law 95–598 is amended by striking out "district or bankruptcy judge" and inserting in lieu thereof "district, or bankruptcy judge".

(b) Section 206(2) of Public Law 95–598 is amended by striking out ", district judge or bankruptcy judge" and inserting ", district, or bankruptcy judge" in lieu thereof.

Sec. 203. Section 216 of Public Law 95–598 is amended by deleting "record" and inserting "records" in lieu thereof.

Sec. 204. Section 221 of Public Law 95–598 is amended by inserting "court" after "bankruptcy".

Sec. 205. Section 222 of Public Law 95–598 is amended by deleting "assistance" and inserting "assistants" in lieu thereof.

Sec. 206. Section 223 of Public Law 95–598 is amended by inserting "(a)" immediately after "Sec. 223." and by adding at the end thereof the following new subsection:

"(b) Section 571(b) of such title is further amended by striking out "the United States Marshal under regulations prescribed by".

Sec. 207. Section 586(b) of title 28, United States Code, is amended by striking out "United States trustee" the second time it appears and inserting "United States trustees to serve as standing trustee." in lieu thereof.

Sec. 208. (a) Section 771(c) of title 28 of the United States Code is amended by inserting "with the approval of the Director" after "court" in the second sentence.

(b) Section 773 of title 28 of the United States Code is amended by adding at the end the following:

"(d) Court reporters appointed under this section shall be appointed in accordance with all of the standards and procedures applicable to appointments under section 753 of this title and shall be governed by the same rules and regulations applicable to court reporters appointed under section 753 of this title.".

Sec. 209. Section 236(a) of Public Law 95–598 is amended in the paragraph relating to section 1293(a) of title 28 of the United States Code by striking out "District court of the United States" and inserting "district court of the United States," in lieu thereof.

Sec. 210. (a) Section 1334(b) of title 28, United States Code, is amended by striking out "interlocutory orders and decrees" and inserting "interlocutory judgments, orders, and decrees" in lieu thereof.

(b) Section 1334(c) of title 28, United States Code, is amended by striking out "that section" and inserting "this section" in lieu thereof.

Sec. 211. (a) Sections 1471(c) and 1471(e) of title 28, United States Code, are each amended by striking out "commenced" and inserting "pending" in lieu thereof.

(b) Section 1471(e) of title 28, United States Code, is amended by inserting "and of all property, wherever located, of the estate in such case" immediately before the period at the end thereof.

(c) Section 1472(1) of title 28, United States Code, is amended by striking out "principle" and inserting "principal" in lieu thereof.

(d) Section 1473(c) of title 28, United States Code, is amended by striking out "section" the first time it appears and inserting "subsection" in lieu thereof.

Sec. 212. Strike out section 245 of Public Law 95–598 and insert in lieu thereof the following:

Sec. 245. Section 1923(b) of title 28, United States Code, is amended to read as follows:

"(b) The docket fees of United States attorneys shall be paid to the clerk of court, the docket fees of United States trustees shall be paid to the clerk of the bankruptcy court, and all fees then paid by the clerks into the Treasury.".

Sec. 213. Section 247(1) of Public Law 95–598 is amended by striking out "in cases under title 11" and inserting "in cases under title 11 and civil proceedings arising under title 11 or arising in or related to cases under title 11" in lieu thereof.

Sec. 214. Section 248 of Public Law 95–598 is repealed.

Sec. 215. Section 19 of the Commodity Exchange Act (7 U.S.C. 24) added by section 302 of Public Law 95–598 is redesignated as section 20 of the Commodity Exchange Act.

Sec. 216. Section 308(f)(3) of Public Law 95–598 is amended by striking out "C" and inserting "(C)" in lieu thereof.

Sec. 217. Section 312(b) of Public Law 95-598 is amended by inserting "except cases under Chapter 13," after "Code" and inserting "except cases under Chapter 13," after "Act".

Sec. 218. Section 151 of title 28, United States Code, is amended by striking out "mean" and inserting "means" in lieu thereof.

Sec. 218A. Section 326 of Public Law 95–598 is repealed.

Sec. 219. Section 338(b) of Public Law 95–598 is amended by striking out "After" and inserting "On and after" in lieu thereof.

Sec. 220. A new section 339 is added to title III of Public Law 95–598 as follows:

"Sec. 339. Section 1827(a) of title 28, United States Code, is amended by striking out 'referee in bankruptcy' and inserting 'bankruptcy judge' in lieu thereof.

Sec. 221. A new section 340 is added to title III of Public Law 95–598 as follows:

"Sec. 340. Section 6301(2)(xiii) of title 5, United States Code, is amended by striking out the period at the end of clause (xiii) and inserting ", and a United States Magistrate," in lieu thereof.

Sec. 222. (a) Section 402(c) of Public Law 95–598 is amended by striking out "210,".

(b) Section 402(d) of Public Law 95–598 is amended by inserting "232," immediately after "230".

Sec. 223. Section 403(e) of Public Law 95–598 is amended to read as follows:

"(e) Notwithstanding subsection (a) of this section—

"(1) a fee may not be charged under section 40c(2)(b) of the Bankruptcy Act in a case in which the plan is confirmed after September 30, 1978, to the extent that such fee exceeds $100,000;

"(2) after September 30, 1979, all moneys collected for payment into the referees' salary and expense fund in cases filed under the Bankruptcy Act shall be collected and paid into the general fund of the Treasury; and

"(3) any balance in the referees' salary and expense fund in the Treasury on October 1, 1979 shall be transferred to the general fund of the Treasury and the referees' salary and expense fund account shall be closed.".

Sec. 224. (a) Section 404(b) of Public Law 95–598 is amended—

(1) by deleting "upon the expiration of his appointed term as referee"; and

(2) by inserting "upon the expiration of his appointed term as referee" before "shall serve on the court of bankruptcy"; and

(3) by adding at the end the following new sentence:

"During the transition period, bankruptcy judges shall be exempt from annual and sick leave laws and regulations.".

(b) Section 404(c) of Public Law 95–598 is amended by deleting the first sentence and inserting in lieu thereof "There shall be established for each judicial district a merit screening committee composed of the president or the designeee of the president of the State bar association, the president or designee of the president of a local bar association for the area wherein a referee in bankruptcy maintains his official headquarters within the judicial district, and the dean or designee of the dean of a law school located within the judicial district, if any, or State, if any, and if no law school exists, then a lay member selected by the chief judge of the United States district court for the judicial district wherein the referee in bankruptcy maintains his official headquarters."

(c) Section 404(e) of Public Law 95–598 is amended by inserting after the first sentence the following new sentence: "Bankruptcy judges for the district shall decide on the headquarters office of the clerk of the bankruptcy court and, if unable to agree, the United States district judge for the district shall make the decision.".

Sec. 225. (a) Section 405(c)(2) of Public Law 95–598 is amended by inserting "240," immediately after "238,".

(b) Section 405(d) of Public Law 95–598 is amended by striking out "248" and inserting "247" in lieu thereof.

Sec. 226. Section 406(b) of Public Law 95–598 is amended by adding after the first sentence thereof the following new sentence: "The recommendations may provide for a bankruptcy judge to serve in more than one judicial district or circuit.".

Sec. 227. Section 407(c) of Public Law 95–598 is amended by striking out "332" and inserting "333" in lieu thereof.

Sec. 228. Section 408 of Public Law 95–598 is amended by adding at the end thereof the following:—

"(d) During the transition period, section 604(f) of title 28, United States Code, does not apply to bankruptcy courts for districts listed in section 581(a) of such title.".

SEC. 229. Section 409(a)(1) of Public Law 95–598 is amended by striking out "September 30, 1983" and inserting "March 31, 1984" in lieu thereof.

SEC. 230. The official title of Public Law 95–598 is amended—

(1) by striking out "Law" and inserting in lieu thereof "law", and

(2) by striking out "Subject" and inserting in lieu thereof "subject".

TITLE III—EFFECTIVE DATES

SEC. 301. (a) Except as provided in subsection (b), the amendments made by this Act shall take effect on October 1, 1979.

(b) The amendment made by section 222(b) of this Act shall take effect on November 6, 1978.

SEC. 302. Notwithstanding section 402(d) of Public Law 95–598, relating to the effective date of repeals contained in sections 317 and 327 of Public Law 95–598, section 439A of part B of title IV ofthe Higher Education Act of 1965 (20 U.S.C. 1087–3) and section 733(g) of the Public Health Service Act (42 U.S.C. 294f) as in effect immediately prior to November 6, 1978, shall take effect on the date of enactment of this Act and shall remain in effect until October 1, 1979. ●

By Mr. PRESSLER:

S. 659. A bill for the relief of the Black Hills Area Council of the Boy Scouts of America; to the Committee on the Judiciary.

● Mr. PRESSLER. Mr. President, today I am introducing legislation which would reimburse the Black Hills Area Council of the Boy Scouts of America $18,831.

The Boy Scouts incurred these expenses while reconstructing a portion of the Black Hills National Forest road, which provides access to Medicine Mountain Boy Scout Camp, Hill City, S. Dak.

The road that was reconstructed is an access road for the Forest Service. The Forest Service was planning to reconstruct the road at a later date, but the Boy Scouts offered to do it, so that the road would be finished in time for the summer camping season. They did so with an understanding that they would be reimbursed by the Department of Agriculture. Because of technicalities, the Department of Agriculture was not able to reimburse the Boy Scouts.

Mr. President, because the Forest Service would have had to reconstruct the road, and because the Boy Scouts were promised that they would be reimbursed, I ask that my colleagues carefully consider this legislation.●

By Mr. CHURCH (by request):

S. 660. A bill to authorize appropriations under the Arms Control and Disarmament Act for the fiscal year 1980, and for other purposes; to the Committee on Foreign Relations.

ARMS CONTROL AND DISARMAMENT AUTHORIZATIONS, 1980

● Mr. CHURCH. Mr. President, I introduce by request a bill to authorize appropriations for the Arms Control and Disarmament Agency for fiscal year 1980.

The bill has been requested by the President of the United States and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the analysis of the bill, and the letter from the President to the President of the Senate dated March 6, 1979, and the letter from the Director of ACDA to the President of the United States transmitting the draft legislation.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 660

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 49(a) of the Arms Control and Disarmament Act (22 U.S.C. 2589(a)) is amended to read as follows:

"SEC. 49. (a) To carry out the purposes of this Act, there are authorized to be appropriated and to remain available until expended—

(1) for fiscal year 1979 the sum of $18,395,000 (and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs) of which $1,000,000 shall be available only for the purpose of furthering the nuclear safeguards programs and activities of the International Atomic Energy Agency, and of which such sums as may be necessary shall be available to conduct a study of the arms control study centers at academic institutions, and to report the results of such study with possible recommendations to Congress not later than January 31, 1979;

(2) for fiscal year 1980 the sum of $18,876,000 (and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, foreign currency exchange rates, and other nondiscretionary costs); and

(3) for fiscal year 1981 such sums as may be necessary to carry out the purposes of this Act."

DRAFT AMENDMENT TO THE ARMS CONTROL AND DISARMAMENT ACT—ANALYSIS

The proposed legislation would authorize appropriations for fiscal years 1980 and 1981. For fiscal year 1980 the sum of $18,876,000 is requested. An accurate estimate for fiscal year 1981 is not yet available, therefore the request is simply for such sums as may be necessary to carry out the purposes of the Act. The requested authorization for fiscal year 1980 represents a modest increase over the funds authorized and appropriated for fiscal year 1979. These funds will be devoted primarily to the anticipated third phase of the Strategic Arms Limitation Talks with the Soviet Union, extensive negotiations on implementing agreements pursuant to the SALT TWO Treaty at the Standing Consultative Commission, support for negotiations on a comprehensive test ban and for the Mutual and Balanced Force Reduction negotiations, negotiations on the limitation of anti-satellite weapons, work on techniques and additional agreements to prevent the further proliferation of nuclear weapons and to better safeguard the nuclear fuel cycle, exploration of new possibilities on the limitation of the transfer of conventional weapons, and work on other negotiations as may arise. In addition, support for other arms control activities, such as those of the Committee on Disarmament in Geneva, will also be funded under this authorization request.

THE WHITE HOUSE,
Washington, March 6, 1979.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I transmit herewith for consideration of the Congress proposed legislation to extend the appropriation authorization for the U.S. Arms Control and Disarmament Agency together with a letter from the Director of the Agency in support of this legislation.

Arms control efforts are primary elements of our national security policy. By reducing the level of international confrontation they lessen the possibility of resort to war. Thus, as the Agency centrally involved in development and implementation of arms control policy, the Arms Control and Disarmament Agency plays an important part in the preservation of our national security.

In the Strategic Arms Limitation Talks, in which it has the leading role, the Agency is engaged in efforts to limit the nuclear arms race with the Soviet Union. In the Comprehensive Test Ban negotiations, another negotiation in which the Agency has the lead, the Agency is working to control the spread of nuclear weapons through measures that inhibit their future development. Other important international arms control negotiations in which the Agency has the leading role include the Mutual and Balanced Force Reduction negotiations in Vienna, negotiations on the limitation of anti-satellite weapons and the United Nations associated Conference on Disarmament in Geneva. The Agency is also involved in researching techniques and discussing measures with other governments for preventing the unintended spread of nuclear materials through the nuclear fuel cycle and in controlling the transfer of conventional weapons and related technology.

Additionally, the Agency engages in research which supports on-going arms control negotiations and explores possibilities for further progress and new initiatives in arms control. Current authorization for appropriations for the U.S. Arms Control and Disarmament Agency expires September 30, 1979. I am transmitting the attached draft bill in order that Congress may begin its consideration of future authorizing legislation for the Agency. I urge the early enactment of this legislation.

Sincerely,

JIMMY CARTER.

U.S. ARMS CONTROL AND
DISARMAMENT AGENCY,
Washington, D.C., March 1, 1979.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: Enclosed for your approval and transmittal to the Congress is a draft bill to amend the Arms Control and Disarmament Act. The purpose of the proposed legislation is to authorize appropriations for the U.S. Arms Control and Disarmament Agency.

The Agency's current authorization expires on September 30, 1979. The proposed legislation would authorize appropriations for fiscal year 1980 of $18,876,000 (plus such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, foreign currency exchange rates, and other nondiscretionary costs).

The funds to be authorized by this legislation will be devoted primarily to the anticipated third phase of the Strategic Arms Limitation Talks with the Soviet Union, negotiations on a comprehensive test ban, support for the Mutual and Balanced Force Reduction negotiations, negotiations on the limitation of anti-satellite weapons, work on techniques and agreements to prevent the further proliferation of nuclear weapons material through the nuclear fuel cycle, exploration of new possibilities on the limitation of the transfer of conventional weapons, and work on other negotiations as may arise. In addition, support for other arms control activities, such as those of the Committee on Disarmament in Geneva, and other multinational fora will also be funded under this authorization.

The early enactment of this legislation is essential to permit Congressional consideration of the Agency's 1980 budget.

Very truly yours,

GEORGE M. SEIGNIOUS II.

By Mr. CHURCH (by request):

S. 662. A bill to provide for increased participation by the United States in the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund; to the Committee on Foreign Relations.

INCREASED PARTICIPATION IN THE INTER-AMERICAN DEVELOPMENT BANK, THE ASIAN DEVELOPMENT BANK, AND THE AFRICAN DEVELOPMENT FUND

● Mr. CHURCH. Mr. President, I introduce by request a bill to provide for increased participation by the United States in the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund.

The bill has been requested by the Acting Secretary of the Treasury and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the Acting Secretary of the Treasury to the President of the Senate dated March 5, 1979.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 662

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—INTER-AMERICAN DEVELOPMENT BANK

SEC. 101. The Inter-American Development Bank Act, as amended (22 U.S.C. 283 et seq.), is further amended by redesignating section 29 as section 28 and by adding at the end the following new section:

"Sec. 29. (a) The United States Governor of the Bank is authorized to vote for two resolutions which were proposed by the Governors at a special meeting in December 1978, and are pending before the Board of Governors of the Bank. These resolutions provide for (1) an increase in the authorized capital stock of the Bank and additional subscriptions thereto and (2) an increase in the resources of the Fund for Special Operations and contributions thereto. Upon adoption of these resolutions, the United States Governor is authorized on behalf of the United States (1) to subscribe to two hundred twenty-seven thousand eight hundred ninety-six shares of the increase in the authorized capital stock of the Bank of which two hundred ten thousand eight hundred four shall be callable and seventeen thousand ninety-two shall be paid-in and (2) to contribute to the Fund for Special Operations $700,000,000: *Provided, however,* That any commitment to make such subscriptions to paid-in and callable capital stock and to make such contributions to the Fund for Special Operations shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

(b) In order to pay for the increase in the United States subscription and contribution provided for in this section, there are hereby authorized to be appropriated, without fiscal year limitation, for payment by the Secretary of the Treasury (1) $2,749,207,988 for the United States subscription to the capital stock of the Bank and (2) $700,000,000 for the United States share of the increase in the resources of the Fund for Special Operations.

TITLE II—ASIAN DEVELOPMENT BANK

SEC. 201. The Asian Development Bank Act, as amended (22 U.S.C. 285 et seq.), is further amended by adding at the end the following new section:

"SEC. 24. (a) The United States Governor of the Bank is hereby authorized to contribute on behalf of the United States $445,000,000 to the Asian Development Fund, a special fund of the Bank: *Provided, however,* That any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution to the Asian Development Fund provided for in this section, there are hereby authorized to be appropriated without fiscal year limitation $445,000,000 for payment by the Secretary of the Treasury.".

TITLE III—AFRICAN DEVELOPMENT FUND

SEC. 301. The African Development Fund Act, as amended (22 U.S.C. 290g et seq.), is further amended by redesignating section 212 as section 211 and by adding at the end the following new section:

"SEC. 212. (a) The United States Governor of the Fund is hereby authorized to contribute on behalf of the United States $125,000,000 to the Fund as the United States contribution to the second replenishment of the resources of the Fund: *Provided, however,* That any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution provided for in this section, there is hereby authorized to be appropriated without fiscal year limitation $125,000,000 for payment by the Secretary of the Treasury."

TITLE IV—EFFECTIVE DATE

SEC. 401. This Act shall take effect on the date of its enactment, except that no funds authorized to be appropriated by any amendment contained in titles I, II or III may be available for use or obligation prior to October 1, 1979.

THE SECRETARY OF THE TREASURY,
Washington, D.C., March 5, 1979.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill, "To provide for increased participation by the United States in the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund."

Title I of the bill authorizes the United States Governor of the Inter-American Development Bank (IDB) to vote for increases in the authorized capital stock of the IDB and in the resources of the Fund for Special Operations (FSO). The bill also authorizes the U.S. Governor to agree on behalf of the United States to subscribe to 227,896 shares of the capital stock of the IDB and to contribute the sum of $700 million to the FSO. The bill requires any commitment to subscribe to the paid-in and callable capital stock of the IDB and to make a contribution to the FSO to be effective only to such extent or in such amounts as are provided in advance in appropriation acts. Finally, it authorizes the appropriation of $3,449,207,998 for the U.S. subscription and contribution.

Title II of the bill authorizes the United States Governor of the Asian Development Bank (ADB) to contribute on behalf of the United States $445,000,000 to the Asian Development Fund (ADF), a special fund administered by the ADB. The bill requires any commitment to make a contribution to the ADF to be made subject to obtaining the necessary appropriations. Finally, the bill authorizes appropriations of $445,000,000 for the ADF.

Title III of the bill authorizes the United States Governor of the African Development Fund (AfDF) to contribute on behalf of the United States $125,000,000, as the United States contribution to the second replenishment of the resources of the AfDF. The bill requires any commitment to make a contribution to the AfDF to be made subject to obtaining the necessary appropriations. Finally, the bill authorizes the appropriation of $125,000,000 for the African Development Fund.

Title IV provides, in accordance with the procedural requirements of the Congressional Budget and Impoundment Control Act of 1974, that funds authorized in this bill cannot be used or expended before October 1, 1979.

The bill being submitted is made necessary by provisions contained in the Participation Acts relating to the IDB, ADB, and AfDF. Section 5 of the Inter-American Development Bank Act provides that Congressional authorization must be obtained for the United States Governor to agree to an increase of the capital stock of the IDB and of the resources of the FSO as well as to an increase in the U.S. subscription to the capital stock and in U.S. contributions to the FSO. Section 5 of the Asian Development Bank Act provides that Congressional authorization must be obtained for the United States to provide financing to the Asian Development Bank. Section 205 of the African Development Fund Act contains a comparable provision relating to U.S. contributions to the AfDF.

In its nineteen years of operation, the IDB has approved loans totalling over $6 billion from its capital resources. The IDB has also approved more than $5 billion in loans from the FSO since 1961. The IDB has played an important role in the economic and social development of Latin America. The proposed growth of IDB resources is necessary if the IDB is to continue to help meet the pressing development challenges in Latin America. Particularly, the IDB will be giving special emphasis to projects designed to benefit low income sectors, while concentrating its lending on the poorer countries of Latin America and on projects to promote urban and rural development.

This increase in resources is required to carry out this vital plan of action since the IDB's convertible currency loan commitment authority—the authority to make loans against available resources—will be exhausted for both capital resources and the FSO by mid-1979. Accordingly, the IDB Board of Governors has proposed increasing IDB capital resources for CY 1979–82 by $7,969 million (exclusive of unassigned shares) of which $598 million (7.5 percent) would be paid-in capital. The United States' share of this increase would be $2,749 million—34.5 percent of the total—comprised of $2,543 million of callable capital and $206 million of paid-in capital. For the FSO, the increase proposed for 1979–82 would amount to $1,750 million of which the United States' share would be 40 percent of the total ($700 million). Appropriation action will be sought over a four-year period, beginning with FY 1980.

This increase in IDB resources is characterized by two important advances—increased burden-sharing by the non-regional and advanced developing member countries and a further shift in emphasis from the concessional FSO to the capital resources.

Among other actions designed to further increase burden-sharing, Argentina, Brazil, and Mexico have agreed to increase the freely usable portion of their FSO contributions from 25 percent to 75 percent. These countries have also reiterated their decision to refrain from borrowing convertible currencies from the FSO and, for the first time, have been joined by Chile and Uruguay who likewise will not borrow convertible FSO resources. The non-regional members, for their part, have agreed to substantially increase their total share of the capital by taking an 11 percent share of the capital incrase. Moreover, the non-regional members have agreed to maintain a 30 percent share of the FSO replenishment. Taken together, these actions represent significant progress toward effective burden-sharing by all IDB members. In addition, IDB lending during this replenishment to Argentina, Brazil and Mexico will remain at a constant level, thus permitting the poorer countries of the region to attain significant annual real increases in their borrowing from IDB resources.

The United States would provide 78 percent of its contribution in the form of capital subscriptions as compared to 73 percent in the 1976 replenishment and 45 percent in the 1970 replenishment. Since only 7.5 percent of the capital subscription would be paid-in, greater burden sharing by the regional and non-regional members coupled with a smaller annual level of the FSO replenishment will result in decreased budget outlays for the United States. While the budget outlay commitments for the 1976–78 replenishment, as negotiated, were $240 million per year, the proposed 1979–82 replenishment would result in annual budget outlays of only $226.5 million—an annual contribution of $175 million to the FSO and a $51.5 million subscription to paid-in capital per year.

United States participation in the proposed increase in resources would constitute a positive and concrete expression of United States interest in and concern for the development of Latin America and the Caribbean. A continuing flow of resources through the IDB will help the region further to improve its economic situation and that of the millions of Latin Americans who still live in poverty. It is a cooperative effort in which the more advanced Latin American countries are joining the industrial countries in providing a part of the convertible currency resources for IDB lending to the poorest countries in the region. This will perpetuate the economic successes of the last two decades as Latin American countries seek to build strong economies that will be increasingly able to finance their own development.

In its twelve years of operation, the ADB has approved loans totaling over $3.8 billion from its ordinary capital resources. Since 1969, the ADB has also approved over $1.6 billion worth of loans from its Special Funds resources.

Prior to 1973, the ADB's Special Funds were a collection of bilateral contributions each of which carried different terms and conditions as to its use. In 1973, the ADB's Board of Governors, with United States support, adopted a resolution creating a new multilateral Special Fund, the ADF, to which all contributions for the ADB's Special Funds lending operations would be made and used on the same terms and conditions. Subsequently, agreement was reached among the ADB's developed country members on a $525 million initial resource mobilization for the new ADF for the three-year period ending December 31, 1975. The U.S. contribution was $150 million.

The first replenishment of the ADF's resources provided for a replenishment of $809 million of which the U.S. share was $180 million, or 22.25 percent of the total replenishment. Authorization for these funds was received in 1977, and appropriations totaling $120 million were received in FY 1978 and FY 1979, leaving $60 million still to be appropriated for FY 1980.

The ADB Board of Governors, on July 24, 1978, adopted a resolution providing for the second replenishment of the ADF resources and authorizing the ADB to accept contributions to the replenishment from its developed country members in amounts specified in the resolution. The size of the basic replenishment agreed to in the resolution is $2.0 billion, of which the proposed U.S. contribution is $445 million. However, the replenishment resolution allows donor countries to make supplementary contributions, over and above their basic contributions, in order to facilitate a concessional lending program of $2.15 billion over the four-year period 1970–82. Certain donor countries, Australia, Austria, Germany, Japan, Switzerland and the United Kingdom, have made such additional pledges to raise the total of basic and supplementary contributions to $2.15 billion. The U.S. share of this larger amount is 20.7 percent, which compares with Japan's 36.8 percent share. The Administration proposes to seek appropriations in four equal annual installments of $111.25 million beginning with FY 1980.

The United States, in these negotiations, has therefore successfully pursued several Congressional concerns. There has been increased burden-sharing on the part of other donor countries. There have also been significant increases in the flow of resources to the poorest and least developed member countries in Asia and the Pacific, and an increased emphasis on lending for projects intended to meet the needs of the poorest peoples in these countries.

The AfDF makes loans to the poorest countries in Africa whose low per capita incomes and limited external debt repayment capacity warrant concessional lending. Except under the most unusual circumstances, loans are not granted to countries with per capita GNP above $550. Absolute priority is given to nations with per capita GNP of $280 or less. Since its creation in 1973, the Fund has made 103 loans totalling over $467 million. Agriculture, transportation, and public utilities are the largest components of AfDF lending.

Since the AfDF anticipated that all of its loanable resources would be exhausted by the end of 1978, the Board of Governors approved a resolution authorizing a second replenishment of the AfDF for lending activity in 1979–81. A $770 million target was set for the replenishment, to which $713.5 million has actually been pledged to date.

The U.S. contribution to the replenishment would be $125 million, 17.5% of pledged resources. While our share of the AfDF would increase as a result of the second replenishment, it would still be well below the level of our contributions to the other soft loan windows of the development banks. It is, therefore, fully consistent both with our interest in burden-sharing and our increased priority on Africa. Appropriations for the U.S. contribution to the second replenishment would be sought in three installments for FY 1980–82.

United States participation in the second AfDF replenishment is an important way of demonstrating our commitment to Africa's development. The U.S. has a strong humanitarian interest in aiding the poor of the world's least developed continent. Moreover, we have growing economic, political and security interests in Africa which underscore the need to strengthen our ties with the nations of this region.

Special Reports of the National Advisory Council on International Monetary and Financial Policies on the replenishment of resources in the IDB, ADF and AfDF will be transmitted separately to you and to the Speaker of the House of Representatives.

It would be appreciated if you would lay the proposed bill before the Senate. A similar proposed bill has been submitted to the House of Representatives.

The Office of Management and Budget has advised that there is no objection to the presentation of this proposal to Congress and that enactment of this bill would be in accord with the President's program.

Sincerely yours,

ROBERT CARSWELL,
Acting Secretary.●

By Mr. STEVENSON (for himself, Mr. CANNON, Mr. FORD, and Mr. RIEGLE):

S. 663. A bill to establish an Earth Data and Information Service, in the National Aeronautics and Space Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EARTH DATA AND INFORMATION SERVICE ACT OF 1979

● Mr. STEVENSON. Mr. President, I introduce today, for myself, Senator CANNON, Senator FORD, and Senator RIEGLE, the Earth Data and Information Service Act of 1979. This legislation establishes an operational system to provide data and information on resources and the environment with remote sensing satellite technology. The bill is a refinement of S. 3589, introduced during the closing days of the 95th Congress by myself and other Senators. S. 3589 was itself an outgrowth of earlier bills introduced by Senator FORD early in the 95th Congress and Senator Frank Moss of Utah during the 94th Congress. As this history indicates, there has been continuing attention in the Senate to the requirement of a permanent remote sensing satellite system.

The United States is the world's leader in developing remote sensing satellite technology. We should use this knowledge to build an operational remote sensing system that benefits this country and others in managing the Earth's resources. If we do not act, other countries, such as France, will take the lead in offering these services.

Experimental R. & D. efforts since the early 1970's have demonstrated the usefulness of remote sensing in crop monitoring, minerals and fuels, exploration, land and forest management, pollution control, flood and drought control, and other such activities. We should postpone no longer the next step in development of an operational system that meets the needs of private sector and governmental users.

This new bill is associated with the Space Policy Act of 1979, S. 244, which I introduced for myself, Mr. CANNON, Mr. CRANSTON, Mr. FORD, Mr. HAYAKAWA, Mr. HOLLINGS, Mr. MATHIAS, Mr. ZORINSKY, and Mr. STEWART, on January 29. One of the objectives to be achieved within 10 years under S. 244, is "the establishment of an operational system of remote sensing of the Earth's resources, environment, and related conditions." The legislation I introduce today would achieve this objective.

NEED FOR AN OPERATIONAL SYSTEM

Landsat 1 was launched by the National Aeronautics and Space Administration on July 23, 1972; Landsat 2 was launched on January 22, 1975; and Landsat 3 on March 5, 1978. These and other remote sensing satellites, such as the heat capacity mapping mission, have provided experimental remote sensing data on the Earth's resources and its environment. A second generation satellite, Landsat D, is scheduled for launch in 1981; it will have substantially better resolution than the earlier Landsats.

For many years NASA has devoted considerable effort to developing the technology of remote sensing of the Earth's resources and environment by satellite. These research and development efforts have been carried out in collaboration with other Federal departments and agencies and State, regional and local governments, private companies, and a number of foreign countries. The usefulness of satellite remotely sensed data is well documented. It is being used in relation to agriculture, water resources, forestry, rangeland management, energy and materials exploration, urban land use, coastal zone management, energy and materials exploration, ing to natural disasters. Moreover, a commitment by the Federal Government to move beyond an experimental system, as provided by this bill, is necessary to aggregate the users of this technology in the public and private sectors.

The issues which this legislation addresses are clear cut: Does the research and development in remote sensing technology that has produced the successful experimental satellites justify a commitment to provide data on a permanent basis? How should a system to provide such data be developed?

RECENT ACTIVITIES

While there is much support in Congress and in the agencies of the executive branch, as well as in the private sector, for creating an operational remote sensing system, it seems that the Office of Management and Budget is opposed. Two years ago the Subcommittee on Science, Technology, and Space held hearings on the Senator from Kentucky's, Senator FORD, bill S. 657. At that time a number of Federal agencies, including NASA, the Department of the Interior, the Department of State, and the Department of Agriculture were prepared to testify in support of the basic objectives of S. 657. A short time before the hearings these agencies were instructed by the Office of Management and Budget to change their testimony to oppose passage of S. 657.

Since then, the executive branch has established a number of interagency committees to consider the issue of moving beyond an experimental system. Several useful reports have been prepared examining the management of remote sensing satellites. These include: "State and Local Government Perspectives on Landsat Information System," prepared by the National Resource and Environmental Task Force of the Intergovernmental Science, Engineering, and Technology Advisory Panel; "State Legislative Recommendations on Landsat Technology," prepared by the National Conference of State Legislators; and "Earth Information from Space by Remote Sensing," a report prepared for Dr. Frank Press, Director of OSTP, by Bruno Augenstein, Willis H. Shapley, and Eugene B. Skolnikoff. Earlier, a Committee on Remote Sensing for Development, chaired by Harlan Cleveland of the National Academy of Sciences, examined the relevance of remote sensing satellite data to resource planning and management in developing countries.

These reports recognize the importance of pushing ahead with an operational remote sensing system so that users have a continuous, timely, reliable, and useful flow of data. Although some users are, in effect, using the experimental system in an operational way, this fact does not make the experimental R. & D. system operational. Indeed, these same reports also recognize limitations in the existing arrangements. In particular, data often does not reach users in a timely and useful way. In the private sector, many potential users refrain from making necessary investments for the use of remotely sensed data because they fear the experimental system may be abandoned by the Government. By keeping the technology locked in an artificial world of research and development we are impeding market development that must be the driving force in determining the characteristics of a permanent operational system.

There is only one way to resolve this dilemma. The Federal Government must commit itself to moving beyond the experimental system toward a fully operational system.

ESTABLISHMENT OF SERVICE IN NASA

There is no self-evident solution to the problem of establishing an operational remote sensing system. Many approaches are possible. However, after considerable thought and discussion, I have concluded that the most satisfactory approach is to charge NASA with primary responsibility for developing an operational system during an interim period not to exceed 7 years. Once the system has been perfected, the President should recommend to Congress a permanent institutional structure. This could be retention of the responsibility by NASA, shifting responsibility to another Federal agency, creating a new Federal agency or Government corporation, or shifting ownership and responsibility to the private sector. The legislation specifies that the private sector will not be precluded from eventual ownership of the system if the experience gained during the interim period indicates the merits of that approach. It is, however, premature to make that decision today.

Responsibility within NASA is lodged in an office separated from the agency's research and development function. However, a principal reason for choosing NASA for this assignment is the importance of maintaining close ties between development of the system and continuing research and development activities. NASA is directed to work closely with the user community in developing the operational system. Emphasis will be on developing useful data and basic information products. Users will bear principal responsibility for refining these data into more specialized information.

In other words, this legislation recognizes that a period of time is needed to bring the present experimental system to operational status. Nonetheless, the legislation also assumes that development of this operational system means a commitment by the Federal Government to maintain such a system at the end of the interim period of no more than 7 years.

The legislation establishes an Earth Data and Information Service as a separate office in NASA. The principal operating arm of the Service is an Earth data and information system—an integrated system of satellites, ground equipment, facilities, and procedures that produce data and basic information products for public and private users.

Authority to establish and manage the Service is vested in the Administrator of NASA. Direct operational responsibility rests with the General Manager of the Service, who is appointed by the President by and with the advice and consent of the Senate. The bill gives the Administrator and the General Manager considerable latitude in achieving the purposes of the act.

The interim period of no more than 7 years is to be used for developing the institutional, financial, technical, and marketing capabilities needed to bring the Service to full operational status. During this interim period, whenever he deems it feasible, the President will prepare and transmit to the Congress recommendations on the appropriate institutional entity to continue an operational system after the interim period.

The Service is directed to meet the needs of all users, domestic and foreign, Government and private, at terms to be established by the Administrator. It is intended that those receiving the benefits of the Service should pay the costs.

Collaboration among nations in using remote-sensing technology is growing. The United States should take the initiative in developing a global information system that would serve the international community in a more comprehensive fashion. Creation of a U.S. Earth Data and Information Service is the necessary first step in such a process. Under the bill, the Service is encouraged to engage in international activities; the Administrator of NASA under the supervision of the President, and with the advice and participation of the Secretary of State, is given this responsibility.

The legislation would make all U.S. remote sensing satellites subject to regulation by the Federal Government. However, this restriction does not preclude contractual or other arrangements with the private sector; indeed, the bill encourages such arrangements. Nor does it preclude eventual private ownership. The bill also requires participation of users in planning the system and in acquiring, processing, analyzing, and distributing the data and basic information products. The bill emphasizes the need for cooperation in these matters with regional commissions, States, and local governments.

The President must transmit annually to the Congress a report on the accomplishments of the Service. However, this report can be included as a part of his annual Aeronautics and Space Report required by the National Aeronautics and Space Act of 1958.

A FIRST BUT ESSENTIAL STEP

Mr. President, the bill I introduce today creates an institutional framework in the National Aeronautics and Space Administration for a remote sensing system that will provide data and basic products needed by many users in the Federal Government, State, and local governments, the private sector, and other countries. This institutional framework will facilitate moving from the present experimental satellite remote sensing systems to an operational system. The legislation does not prejudge the ultimate disposition of the system. It simply identifies NASA as the most sensible location for the system during the interim period.

Testimony before the Subcommittee on Science, Technology, and Space, together with recent surveys of remote sensing activities, indicates that a clear decision is needed to establish an institutional framework in which an operational system can be developed. The benefits of such a system, already considerable, will increase rapidly once the user community knows that such data and information products are guaranteed.

I hope an accommodation can be achieved with the executive branch on this issue. Task forces of the Space Policy Review Committee are presently examining how to integrate the products of existing and future remote sensing systems and how to involve the private sector in these activities. Moreover, Dr. Press has testified that the administration is committed to guaranteeing data through the 1980's. Given this commitment I see no compelling reason to postpone further a decision to initiate the transition from an experimental to an operational system.

Mr. President, I ask unanimous consent that the text of the Earth Data and Information Service Act of 1979 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 663

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Earth Data and Information Service Act of 1979".

PURPOSE

SEC. 2. It is the purpose of this Act to establish the institutional framework that will acquire and make available to users, on a timely and continuing basis, reliable data and basic information products on the Earth's resources and environment.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) "Administration" means the National Aeronautics and Space Administration;

(2) "Administrator" means the Administrator of the National Aeronautics and Space Administration;

(3) "data" means a set of signals acquired by a spacecraft, other vehicle, or other means by remote sensing or otherwise from objects on the Earth's surface, within the Earth's atmosphere, or in space, and transmitted from such spacecraft, other vehicle or other means to an Earth ground station, including such corrections to the acquired signals by preliminary processing as needed to make the acquired signals complete and useful for further processing into information products;

(4) "basic information products" means a number of information products meeting the needs of a broad spectrum of users and specifically described in advance by the Service;

(5) "interim period" means that period immediately following the date of enactment of this Act during which the Service develops the institutional, financial, technical, and marketing capabilities of the Service, but such period may not exceed seven years;

(6) "Service" means the Earth Data and Information Service, established under section 6;

(7) "System" means Earth Data and Information System which includes—

(A) the Earth remote sensing satellites and other observation or acquisition devices,

(B) the associated equipment for command and control,

(C) data reception, aggregation, preprocessing, and processing,

(D) the development of basic information products from the data, and

(E) the archiving and dissemination of the data and basic information products by the Service; designed to contribute to the understanding of the quality and quantity of Earth's resources and environment; except the term does not include systems established primarily for (i) purposes of national security, (ii) the National Weather Service, or (iii) commercial telecommunications, either domestic or international; and

(8) "user" means any person or organization, governmental or private, domestic or foreign, which obtains data or basic information products, or both, by purchase or other legal arrangement from the Service.

FINDINGS

SEC. 4. The Congress, recognizing that effective management of the resources and environment of the Earth is essential to the needs of mankind, including the prevention of the needless depletion of resources, and that the acquisition and interpretation of data on the quality and quantity of the resources and environment of the Earth are necessary for better understanding and effective management of such resources and environment, finds that—

(1) there now exist technologies that can provide the opportunity for better understanding and effective management of the Earth's resources and environment;

(2) data provided by Earth remote-sensing satellites and other sources, and basic information products derived from such data, have a broad community of users requiring the timely and continuing availability of reliable data and basic information products;

(3) an institutional framework should be established in order to provide timely and continuing availability of reliable data and basic information products, and thereby contribute to the attainment of national objectives, serve the needs of Federal, State, and local governments and the private sector, and provide for the betterment of all mankind through cooperative programs with other countries or groups of countries;

(4) the successful development of such an institutional framework is dependent on the establishment of systems requiring innovative institutional arrangements that encourage initiative by, and participation of, the private sector;

(5) an interim period is required to develop the institutional, financial, technical, and market structure to achieve the purpose of the Act;

(6) continuing research and development of remote sensing systems is essential; and

(7) technology and data transfer between military and civilian space activities, to the maximum extent practicable, will enhance the benefits to be realized from remote sensing technology.

POLICY

SEC. 5. (a) The Congress declares that it is the policy of the United States that—

(1) the United States acknowledges the fundamental right of all countries to acquire data from space;

(2) the United States shall provide for the development and operation of active and passive remote sensing systems on a global basis in support of national needs, and to meet the needs of other users;

(3) the capabilities of the private sector shall be used, to the maximum extent practicable, to achieve the purpose of this Act and especially in the design and operation of the System;

(4) all United States Earth-oriented remote sensing satellites shall be regulated by the Federal Government;

(5) technological advances in the remote sensing of the Earth from space shall be permitted pursuant to appropriate governmental controls which shall be based upon an assessment of civil benefits, national security, and foreign policy;

(6) the Administrator, under supervision of the President, and with the guidance of the Secretary of State, shall cooperate with other countries and groups of countries in carrying out the provisions of this Act; and

(7) remote sensing data shall be used for the benefit of all mankind.

Nothing in this Act shall be construed to preclude the ownership and operation of the service, or of a subsequent organizational arrangement that achieves the functions of the Service, by private business at the end of the interim period.

(b) The Congress of the United States directs that—

(1) the Service shall provide rapid processing of, and ready access to, the data and basic information products produced by the System at a reasonable cost to the users;

(2) the Service shall be developed so as to encourage and promote competition among suppliers of equipment and services for the System and to promote maximum use of remote sensing data and basic information products; and

(3) the products provided by the Service shall be made available to all users, both domestic and foreign, on the basis of charges to be established by the Administrator.

EARTH DATA AND INFORMATION SERVICE

SEC. 6. (a)(1) There is established in the Administration the Earth Data and Information Service.

(2) The functions of the Administrator under this Act shall be administered through the Service.

(3) The Service shall consist of the integrated institutional, managerial, financial, technical, marketing, and other operations necessary to make available the timely and continuing flow of reliable and useful data and basic information products to the users.

(b) The General Manager and the Deputy General Manager shall not engage in any other business, vocation, or employment while serving as such.

(d) Whenever the President determines that it is feasible to do so, during the interim period but not later than one hundred and eighty days prior to the end of the interim period, the President shall prepare and transmit to the Congress recommendations, together with supporting justification, on the appropriate organizational arrangement best designed to continue the functions of the Service as a function of a Federal agency (either as an independent agency or as a unit of an existing agency), a Government corporation or a private corporation.

FUNCTIONS OF THE SERVICE

SEC. 7. (a) In order to carry out the purposes of this Act, the Administrator shall establish in the Service an Earth Data and Information System.

(b) The Administrator is authorized to plan, initiate, construct, acquire, own, manage, and operate the System either directly or in conjunction with private businesses, not for profit organizations, academic institutions, governmental entities, other countries or groups of countries.

(c) The Administrator shall develop and manage the System to achieve the timely and continuing flow of reliable and useful data and basic information products to users at the earliest practical date.

(d) In order to carry out the purposes of this Act, the Administrator is authorized—

(1) to conduct or contract for research and development activities, systems operations, and for user training;

(2) to acquire the necessary physical facilities, equipment, and devices, including remote sensing satellites and associated equipment, and the ground facilities, whether by construction, purchase, lease or gift;

(3) to provide satellite launching and related services;

(4) to enter into contracts or other arrangements with users on such terms as the Administrator may deem appropriate;

(5) to develop plans for the technical specifications of all elements of the System after conferring with user representatives; and

(6) to appoint and fix the compensation of such officers and employees as may be necessary.

(e)(1) The Administrator is authorized to establish such communication networks as may be necessary to transmit data and basic information products on a timely basis consistent with the needs of the users as determined by the service in consultation with the users. Insofar as practicable, the communications services needed to establish such communication networks shall be procured from the private sector.

(2) Before establishing any communications network authorized by this subsection the Administrator shall consult with the National Telecommunications Information Agency of the Department of Commerce, and the Federal Communications Commission.

(f) The Administrator shall—

(1) provide recommendations for continued research and development by the Administration on remote sensing components, subsystems, and systems for both space and ground operations of the System;

(2) arrange for the participation of the scientific, technical, and user communities in planning the System, and in acquiring, processing, analyzing, and distributing data and basic information products to the users; and

(3) provide for the widest practical and appropriate dissemination of the data and basic information products to the users.

(g) The Administrator, under the supervision of the President, may participate in a program of international activities related to the functions of the Service, pursuant to agreements made by the President or by the President, by and with the advice and consent of the Senate, as may be appropriate. Under the supervision of the President and with the advice of the Secretary of State, the Administrator may initiate and conduct negotiations with other countries or groups of countries relating specifically to the functions of the Administrator under this Act. The Administrator shall keep the Secretary of State informed of discussions or negotiations with other countries or groups of countries. The Secretary of State shall keep the Administrator advised on significant foreign policy considerations and developments related to such discussions and negotiations. The Administrator shall request the Secretary of State to assist in such discussions and negotiations and the Secretary shall render such assistance as may be appropriate.

REGULATIONS

SEC. 8. The President and the Administrator are authorized to establish such regulations as may be necessary to carry out the provisions of this Act.

USER CHARGES

SEC. 9. (a) The Administrator shall establish a schedule of charges for products and services provided to users as required to carry out the provisions of this Act. The Administrator shall design such charges to assure, insofar as practical, that by the end of the interim period, the income from such charges, combined with any other income to the Service, will cover the costs of the Service exclusive of costs incurred by the Administration for research, development, and testing on remote sensing systems, subsystems, and components carried out under the National Aeronautics and Space Act of 1958.

(b) Each department or agency of the Federal Government needing data and basic information products of the kind that are provided by the Service, shall procure such data and basic information products from the Service. The Administrator with the agreement of the President shall establish the fees charged to such departments and agencies for such data and basic information products.

(c) The head of each department or agency of the Federal Government shall investigate the technical and economic applicability of using the data or basic information products, or both, of the Service in carrying out the functions of that department or agency.

(d) Nothing in this Act shall be construed to prevent a department or agency of the Federal Government from providing financial or other assistance to State and local governments in the procurement of data and basic information products from the Service or in the use of such data and basic information products.

(e) In establishing charges and collecting such charges from users, the Administrator is exempt from the provisions of section 552 of title 5, United States Code and is not restricted or limited to charges for reproduction and handling set forth in that section.

(f) Nothing in this section shall be construed to limit or otherwise affect the information, analysis, and distribution functions of any department or agency of the Federal Government.

PROHIBITION OF REPRODUCTION FOR SALE OR DISTRIBUTION OF DATA AND BASIC INFORMATION PRODUCTS

SEC. 10. (a) It shall be unlawful for any person to reproduce for sale or distribution, or to sell or distribute, any data or basic information product produced by the Service, except in accordance with conditions specified by the Administrator.

(b) Notwithstanding the provisions of subsection (a), the fair use of any data or basic information product, including such use by reproduction in copies or by any other means specified by the Administrator, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), or scholarship, is not a violation of subsection (a) of this section. In determining whether the use made of any data or basic information product in any particular case is a fair use the factors to be considered shall include—

(1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;

(2) the nature of the data or basic information product;

(3) the amount and substantiality of the portion used in relation to the data or basic information product as a whole: and

(4) the effect of the use upon the potential market for or value of the data or basic information product.

(c)(1) Whoever violates any provision of subsection (a) or, any regulation issued under subsection (a), shall be subject to a civil penalty of not to exceed $5,000 for each such violation.

(2) Any such civil penalty may be compromised by the Administrator. In determining the amount of the penalty, or the amount agreed in the compromise, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in the compromise, may be deducted from any sums owing by the United States to the person charged.

(d)(1) The United States district court shall have jurisdiction, for cause shown, to restrain or enjoin violations of subsection (a) of this section upon petition by the appropriate United States attorney, or the Attorney General on behalf of the United States.

(2) Actions under paragraph (1) of this subsection may be brought in the district where any act or transaction constituting the violation occurred or in the district court where the defendant is found or is an inhabitant or transacts business, and process in such cases may be served in any other district or where the defendant is an inhabitant or wherever the defendant may be found.

(3) In any action brought under this subsection, subpoenas for witnesses who are required to attend a United States district court, may run into any other district.

APPLICABILITY OF THE NATIONAL AERONAUTICS AND SPACE ACT OF 1958

SEC. 11. (a) Except as otherwise provided in this Act, the Administrator shall, in carrying out his functions under this Act, have the same powers and authority the Administration has under the National Aeronautics and Space Act of 1958 to carry out its functions under that Act.

(b) Nothing in this Act shall be construed to reduce or otherwise affect the authority of the Administration under the National Aeronautics and Space Act of 1958 to continue the research, development, and testing of remote sensing components, subsytems, and systems for experimental purposes. Such research, development, and testing activities shall be coordinated with the activities of the service.

TRANSFER OF RELATED FUNCTIONS

SEC. 12. (a) Subject to the provisions of this section, the President during the interim period, may transfer to the Service any functions and parts of functions of any other department or agency of the United States, or of any officer or organizational entity thereof, which relates primarily to the functions of the Service as prescribed by this Act. In connection with any such transfer, the President may, under this section or other applicable authority, provide for appropriate transfers of records, property, civilian personnel, and funds.

(b) Whenever any such transfer is made prior to January 1, 1982, the President shall transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate a full and complete report concerning the nature and effort of such transfer.

(c) After December 31, 1981, no transfer shall be made under this section until—

(1) a full and complete report concerning the nature and effect of such proposed transfer has been transmitted by the President to the Congres, and

(2) the first period of sixty calendar days of regular session of the Congress following the date of receipt of such report by the Congress has expired without the adoption by the Congress of a concurrent resolution stating that the Congress does not favor such transfer.

REPORTS TO THE CONGRESS

SEC. 13. (a) The Administrator shall transmit to the President, who in turn shall transmit to the Congress in January of each year, a report which shall include a comprehensive description of the activities and accomplishments of the Service during the preceding calendar year together with an evaluation of such activities and accomplishments in terms of the attainment of the objectives of this Act and such recommendations including recommendations for additional legislation as the Administrator deems necessary or desirable. The President may transmit each such report to the Congress as part of his report to the Congress as required under section 206 of the National Aeronautics and Space Administration Act of 1958.

(b) No information which has been classified for reasons of national security shall be included in any report made under this section, unless such information has been declassified by or pursuant to authority given by the President.

COMPENSATION OF OFFICERS

SEC. 14. (a) Section 5314 of title 5, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(70) General Manager, Earth Data and Information Service, National Aeronautics and Space Administration.".

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(125) Deputy General Manager, Earth Data and Information Service, National Aeronautics and Space Administration.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 15. (a) There are authorized to be appropriated to the Service such sums as may be necessary for the fiscal year 1980, for the purposes of carrying out the provisions of this Act, including research and development, operations of the Service, construction of facilities, and payment of personnel. None of the funds appropriated pursuant to this Act may be used for the acquisition or condemnation of any real property, or the construction of any facility in excess of $500,000 unless (1) a period of thirty days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, of notice given by the Administrator containing a full and complete statement of the acquisition or construction proposed to be taken, or (2) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed acquisition or construction. Sums appropriated pursuant to this subsection for the construction of facilities, or for research and development activities, shall remain available until expended.

(b) Any funds appropriated for the construction of facilities may be used for emergency repairs of existing facilities when such existing facilities are made inoperable by major breakdown, accident, or other circumstances and such repairs are deemed by the Administrator to be of greater urgency than the construction of new facilities.

(c) Notwithstanding the provisions of this or any other law, no appropriation may be made to the Service for any fiscal year or portion thereof beginning after September 30, 1981, unless previously authorized by legislation hereafter enacted by the Congress.●

By Mr. SCHWEIKER:

S. 664. A bill to amend the Health Programs Extension Act of 1973 to provide for unbiased consideration of applicants to federally supported health professional schools; to the Committee on Labor and Human Resources.

● Mr. SCHWEIKER. Mr. President, I am today introducing a bill to protect applicants of this country's medical schools, nursing schools, and other federally supported institutions dealing with health care education or training from discrimination based upon their views on abortion.

This bill is similar to the one I introduced as an amendment to S. 2159, the Public Health Service Act amendments in the last session. The Senate voted to approve that measure on November 4, 1977. However, the House of Representatives conferees expressed their desire for further study on the issue before passing legislation and consequently the conference version of the legislation mandated the conduct of such a study. In August 1978, the Bureau of Health Manpower in DHEW accomplished its "Survey Report on Medical, Nursing and Osteopathic School Admissions Policy Relating to Abortions/Sterilization" (Contract No. HRA 232-78-0003).

The study confirms earlier findings that some medical schools and nursing schools continue to discriminate in their admissions policies against prospective students for their moral beliefs. Additionally, the source of these allegations was not limited to medical or nursing school applicants, but included those seeking medical residency programs as well. Based on the evidence, I am concerned now more than ever that legislation is necessary to stop outright discrimination and to discourage its more subtle manifestations.

Mr. President, I first became aware of this situation through a survey done by Dr. Eugene Diamond in February 1976. Dr. Diamond discovered that a large number of medical schools asked student applicants their views on abortion. He found some schools even admitted prolife views would be a negative factor in the admissions process. The text of Dr. Diamond's survey appeared in the CONGRESSIONAL RECORD on February 24, 1977, at page 5196.

Subsequent to introducing my original bill, S. 784, on this issue, a number of persons contacted me with their particular stories of discrimination and expressing support for my legislation. Often their personal experiences in applying to medical school disclose clearly the kind of questioning that Dr. Diamond's and DHEW's studies reveal. Several of these letters were printed in the CONGRESSIONAL RECORD on September 21, 1977.

The study findings and personal accounts trouble me deeply since I believe the freedom of physicians and other health professionals to enter and practice medicine in accordance with their moral convictions is essential. I am personally opposed to abortion on demand and have fought long and hard to block Federal funding of abortion services. Nevertheless, I recognize that discrimination occurs on both sides of the abortion issue. No one should be forced to compromise his beliefs in order to seek his chosen profession. We are really speaking to a first amendment issue—protecting the freedom of those whose opinion may not be shared by others in the medical education establishment.

Several years ago Congress enacted legislation guaranteeing the freedom of conscience of people in the medical profession. We acted to prevent any health education institution receiving Federal funds from requiring any doctor or health professional to participate in abortions against his or her will. However, the conscience clause does not encompass applicants to health professions schools for study or training in its protection. For that reason, Mr. President, my bill proposes to expand the Health Programs Extension Act of 1973 (section 401, 42 U.S.C. 300a-7) to protect students and other training applicants against such discrimination.

I believe this is a sound measure which will provide ample protection to students seeking medical education or health training. Its underlying principle of freedom is one with which I hope everyone could agree.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 664

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 401 (42 U.S.C. 300a-7) of the Health Programs Extension Act of 1973 is amended by adding at the end thereof the following new subsection:

"(e) No entity which receives, after the date of enactment of this paragraph, any grant, contract, loan, loan guarantee, or interest subsidy under the Public Health Service Act, the Community Mental Health Centers Act, or the Developmental Disabilities Services and Facilities Construction Act may deny admission or otherwise discriminate against any applicant (including applicants for internships or residencies) for training or study because of the applicant's reluctance, or willingness, to counsel, suggest, recommend, assist, or in any way participate in the performance of abortions or sterilizations contrary to his religious beliefs or moral convictions.".●

By Mr. BENTSEN:

S. 665. A bill to establish an Office of Hispanic Affairs in the Executive Office of the President, and for other purposes; to the Committee on Governmental Affairs.

OFFICE OF HISPANIC AFFAIRS ACT OF 1979

● Mr. BENTSEN. Mr. President, today I am pleased to introduce legislation that will enable the executive branch of our Government to address more effectively the pressing and unique problems of Hispanic Americans. My legislation would establish an Office of Hispanic Affairs in the Executive Office of the President, charged with advising the Federal Government's-executive departments and agencies on policies affecting Hispanic Americans. The office would assess the performance of the Federal Government in fostering equal opportunity for these citizens and advise the President on measures required to improve and strengthen programs that have been established to deal with issues unique to the Hispanic community. This legislation would also authorize task forces to study problems that confront Hispanics in such areas as employment, education, health, and housing. A report on the condition of Hispanic Americans would also be required and developed by the office.

Mr. President, the Federal Government is now preparing for the 1980 census. This population assessment is a vital governmental effort. It will provide the basis for all other statistics that are gathered and analyzed by the Federal Government. During the upcoming census year, the Bureau of the Census will focus particular emphasis on Hispanic Americans. I am pleased by this initiative and I commend the Bureau for developing census questions that will assist in producing a more representative enumeration of Hispanic Americans. With the aid of these data, we will for the first time have the opportunity to clarify problems that prevent Hispanic Americans from sharing fully in the opportunities of the American experience.

With the aid of efforts such as the census we can embark on the important task of bringing to bear those limited and precious resources available to the Government and focus them directly on the problems faced by Hispanic Americans. My legislation provides such an opportunity without creating a new layer of bureaucracy and without excessive Government expenditure.

My legislation seeks to bring together our current endeavors, our accomplishments, and to build upon our past efforts. The office I propose today, provides a mechanism for examining problems and targeting solutions more effectively. We have no need to reinvent the wheel to accomplish these important tasks. I submit that we merely require elements that can produce a better wheel.

Through careful analysis of problems, we can better develop remedies where needed and appropriate. Through judicious planning, we can manage our resources more effectively. Through the forces of creativity, we can tailor our programs to meet vital objectives.

I urge the Senate's support and careful consideration of this legislation, which I consider a vital step in dealing more directly with the legitimate needs of our Hispanic population.●

By Mr. DURKIN:

S. 666. A bill to amend the Natural Gas Pipeline Safety Act of 1968 to provide for the safe operation of liquefied natural gas and liquefied petroleum gas facilities, to provide standards with respect to the siting, construction, and operation of liquefied natural gas facilities, to establish a comprehensive liability and compensation fund for such facilities, to provide for the licensing of such facilities beyond the limits of territorial seas subject to the jurisdiction of the United States, and for other purposes; to the Committee on Commerce, Science and Transportation.

COMPREHENSIVE LIQUEFIED ENERGY GAS SITING SAFETY AND LIABILITY ACT OF 1979

● Mr. DURKIN. Mr. President, huge quantities of liquefied natural gas (LNG) and liquefied petroleum gas (LPG) are being brought into the United States and transported through heavily populated areas each day, including in New Hampshire. These fuels, which are collectively referred to as liquefied energy gases or LEG, play a vital role in our national energy supply, especially in New Hampshire and New England, which have no indigenous supply of petroleum.

Despite their importance to New England and the rest of the country, these fuels are extremely hazardous. For this reason, it is essential that strong measures be taken to insure their safe transportation and storage, and that is the major purpose of the legislation I bring before the Senate today.

Legislative action is necessary because the Federal Government now is not doing nearly enough to protect the public from the dangers posed by the transportation and storage of LEG. In the past year, there have been several serious mishaps involving LEG, resulting in extensive property damage and loss of life. Just last fall, a freight train with two LPG tank cars Derailed in Portsmouth, N.H. Fortunately, no serious results occurred, but such an accident had the potential to be a catastrophe.

To insure that the public is adequately protected from the dangers of LEG, I am introducing the Comprehensive Liquefied Energy Gas Siting, Safety and Liability Act of 1979. The bill's major purposes include:

First. To improve Federal regulations pertaining to the operation of existing LNG facilities and the location and construction of new ones.

Second. To assure that the industry has formally submitted to the Department of Transportation a contingency plan which delineates the steps which should be taken in the event of an LNG accident.

Third. To establish a comprehensive liability and compensation fund for LEG accidents.

Fourth. To provide for the licensing of LNG facilities both beyond and within the limits of the U.S. territorial sea.

Fifth. To insure adequate safeguards and protective measures are taken to prevent sabotage or terrorism threats to an LEG ship or facility.

Sixth. To subject the transportation and storage of LPG to the civil procedures authorized under the Natural Gas Pipeline Safety Act of 1968.

I am convinced that the Congress must act swiftly in all the areas covered by this bill. My own investigation, and studies provided by the General Accounting Office (GAO), the Office of Technology Assessment, and the Congressional Research Service all indicate the need for major improvements in existing Federal regulations pertaining to LEG. Last year I chaired Commerce Committee hearings in New England that further convinced me of the necessity of improved LEG regulations. At these hearings a wide range of witnesses—including local officials from New Hampshire and representatives from fire departments and Federal and State regulatory agencies—all testified in favor of increased Federal regulation of LEG.

LNG SAFETY AND FEDERAL REGULATIONS

Few would argue with the contention that we need Federal regulations to promote the safety of LNG facilities. To realize fully what is at stake here, we must be aware of the potential hazards of LNG.

In its liquid state, LNG is extremely cold (-260° F.) and will freeze skin tissue on contact. If the LNG spills from its container, it vaporizes rapidly, becoming a highly flammable and explosive gas. If LNG vapor is mixed with air and ignited in a confined area like a building, the explosion is very likely to level that building.

In addition to explosions, fire is another substantial hazard resulting from the escape of LNG. After LNG is spilled on the ground, and the resulting vapor catches fire, the fire will continue to burn until all of the liquid has evaporated. If the vapor is not immediately ignited, it can form clouds and move downwind, creating significant dangers in the form of secondary explosions and fires for areas far removed from the initial LNG spill.

Another potential danger associated with LNG is the vulnerability its facilities have to sabotage. GAO found that security procedures and physical barriers at LEG facilities are generally not adequate to deter even the most amateur saboteur. Because successful sabotage at an LNG facility in an urban area could cause a real catastrophe, security at all such facilities must be improved.

Of special concern to me is the fact that LNG is often stored in densely populated areas and is also transported by truck on busy streets and highways. Unexpected release of LNG resulting in a transportation mishap, could well endanger life and property over a large geographical area.

In view of all these potential dangers, the Federal Government should have acted to make sure these facilities were safe before they became so prevalent. Unfortunately, this is not the case. Regulatory agencies and witnesses before the House and Senate Commerce Committees have sharply criticized the Federal agencies responsible for insuring the safe transport of LNG. Several studies have shown that Federal inspection and safety programs for LNG facilities are woefully inadequate. For instance, the Department of Transportation (DOT), which oversees the moving of hazardous materials, has no special inspection program for LNG trucks. Further, the DOT has not adopted stringent fire protection standards for the LNG industry, despite widespread opinion that such standards are needed.

My bill addresses the problem of inadequate LNG regulations by identifying the criteria that the DOT must consider in setting new safety standards. I consider this program to be of the utmost importance since numerous LNG facilities are likely to be proposed and constructed under the existing inadequate regulations. To make sure that these new regulations are followed, the DOT would be required to license the construction of each new LNG facility and inspect all LNG facilities annually. I also will do my utmost to make sure the DOT has enough inspectors to carry on this vital function.

I consider the question of safety and siting of LNG facilities to be a State as well as a Federal responsibility. Therefore, under this bill a State agency may adopt additional or more stringent standards for LNG facilities as long as such standards are compatible with the Federal minimum requirements.

LIQUEFIED PETROLEUM GAS

LPG is an extremely hazardous fuel. I am convinced that Federal regulations to protect the public from its dangers are also inadequate.

LPG is heavier than air. If accidentally released from a pressurized container, the gas forms a highly flammable cloud that clings to the ground and has the capacity to sink into sewer drains and subway tunnels. The LPG in one tank truck could fill 110 miles of sewer line or 15 miles of subway tunnels, posing a potential hazard over a large area.

Because it is stored under pressure, the force of an LPG explosion can propel a ruptured tank like a rocket, trailing liquid flame hundreds of feet. In one such incident, in Arizona in 1973, 12 firefighters were killed and numerous onlookers, as far away as 1,000 feet, were severely burned following an LPG explosion.

The National Transportation Safety Board reported that, while LPG was involved in only 10 percent of the pipeline accidents in 1976, it was responsible for 66 percent of the deaths and 48 percent of the injuries.

Under my bill, this highly volatile fuel will be covered by the civil procedures for the regulation of natural gas. This conforms to the repeated recommendations of the National Transportation Safety Board and the GAO and corrects a gross deficiency in the law which allows this dangerous gas to be regulated as other much less volatile petroleum products like gasoline.

By including LPG under the regulatory procedures for natural gas, I do not intend that the same regulations should apply to both natural gas and LPG. LPG clearly represents greater hazards, and this bill will insure that regulations governing its use will be tailored to its unique properties.

LIABILITY AND COMPENSATION

Mr. President, as a former insurance commissioner, I am certain of the need to hold those causing damage to other parties strictly liable for their actions. After reading the GAO's report on LEG liability, I am convinced that anyone affected by a disaster involving these materials would not be compensated properly or in a timely fashion.

The GAO found that a major LEG accident could cause damage of such severity that injured parties could not be fully compensated under existing arrangements. The GAO noted present corporate structures and legal limits on liability offer great protection for parent corporations and tend to diminish incentives for safety. Most of the assets in the LNG system are protected by these corporate chains, and the top corporations, which derive all of the profits, would generally not be liable for the consequences of an accident since often each facility or ship is owned by a separate "paper" corporation.

Mr. President, I am of the philosophy that those who share in the profits of an enterprise must also share in the risks.

GAO found that the frontline companies, which are most vulnerable to liability claims, are usually the most thinly capitalized in the chain. Most of their assets may be the ship or terminal itself, which is unlikely to survive an accident that does extensive offsite damage.

Furthermore, GAO noted the liability of shipowners and bareboat ship charterers is limited by U.S. statute to the post-accident value of the vessel, plus any amounts owing for freight, if they can prove that they did not know about the causes of the accident.

Claimants after a major LNG accident would face long, complex, and expensive litigation involving potential complications at every step in the legal process. If the defendant corporation is foreign-owned, it and its assets may be out of reach—in fact, it may be impossible to serve legal papers on the corporation unless it maintains an agent in the United States.

It is not always possible to prove the primary cause of a major accident, since critical evidence may be destroyed by the accident itself. If the accident resulted from sabotage or natural forces, the company may not be liable at all.

We must act to correct these inequities. Under the Comprehensive Liquefied Energy Gas Siting, Safety and Liability Act of 1979, the following are some of the actions to be taken:

First. A liquefied energy gas incident liability and compensation fund would be established;

Second. Except in certain special cases, the owner and operator of a vessel, facility, or company engaged in the transportation or operation of a liquefied energy gas facility/vessel shall be held jointly and severely liable, without regard to fault for damages arising out of an incident involving liquefied gas stored in, or discharged from, the vehicle, vessel, or facility.

Third. Each owner or operator of a liquefied gas facility, vessel, or vehicle shall establish and maintain evidence of financial responsibility sufficient to satisfy the maximum amount of liability as defined in the bill.

Fourth. Establishment of a claims procedure for those adversely affected by a liquefied gas incident.

Mr. President, there are many other provisions in this comprehensive bill that are necessary to improve and upgrade Federal regulation over the transportation, siting, safety, and liability of liquefied energy gases.

I feel that the Congress must devote more attention to these issues in order to formulate responsible legislation. I have introduced this legislation today, not as a finished document, but as a working manuscript, with the goal of promoting congressional action in this vital area.

Considerable parts of this legislation draw on provisions of other legislation introduced but not yet acted upon. I have tried to draw the most effective provisions from these bills in order to provide the framework for a coherent, effective legislative approach to the difficult issue of liquefied energy gas regulations. I hope that in hearings over the next few months we can begin to grapple with the difficult, but important, issues posed by the increasing use of these volatile energy sources in the United States.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 666

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Liquefied Energy Gas Siting Safety and Liability Act of 1979."

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SECTION 1. Except as otherwise expressly provided, whenever in this title any reference, amendment or repeal is expressed in terms of a reference or amendment to, or repeal of, a section or other provision, it shall be considered to be made to a section or other provision of the Natural Gas Pipeline Safety Act of 1968.

TITLE I—SITING AND SAFETY OF LIQUEFIED NATURAL GAS FACILITIES

SEC. 101. Section 2(a), as redesignated, is amended by striking out "and" at the end of paragraph (10) (as redesignated), by striking out the period at the end of paragraph (11) (as redesignated) and inserting a semicolon in lieu thereof, and by adding at the end thereof the following new items:

"(12) 'Liquefied Natural Gas or LNG' means natural gas in a liquid, semisolid, or solid state;

"(13) 'Liquefied Natural Gas facility' or 'LNG facility' means any storage tank, pipeline, or other fixed site, stationary structure or equipment, whether on-shore or off-shore, used for the transportation, storage or use of LNG, or for LNG conversion in interstate or foreign commerce;

"(14) 'LNG conversion' means conversion of natural gas into LNG (liquefaction or solidification) or the conversion of LNG into natural gas (vaporization);

"(15) 'Construction' means construction, reconstruction, or erection, and includes, with respect to any LNG facility, any act which the Secretary determines would result in the creation or substantial increase of capacity of such facility for transporting or storing LNG or for LNG conversion;

"(16) 'Existing LNG facility' means—

"(A) with respect to siting standards, any LNG facility for which application for regulatory approval was filed and finally approved by the appropriate Federal agencies before the date of enactment of this title;

"(B) with respect to construction and operation standards, any LNG facility the construction of which commences within two hundred and ten days of the date of enactment of this title;

"(17) 'New LNG facility' means any LNG facility other than an existing LNG facility;

"(18) 'LNG accident' means any release, burning, or explosion of LNG resulting from a rupture or other failure of a storage tank, pipeline or other LNG facility, from any cause, which accident results in property damage of an amount equal to or greater than $10,000 or personal injury, or both;

"(19) 'Interstate or foreign commerce' means any trade, traffic, transportation, exchange, or other commerce—

"(A) between any State and any place outside of such State, or

"(B) which affects any trade, transportation, exchange, or other commerce described in subparagraph (A);

"(20) 'Affected State' means the state in which an LNG facility is located. If such a facility is located within 25 statute miles of a State boundary, or if a vessel transporting LNG to such a facility would travel through the waters of an adjacent State, the adjacent State or States shall also be considered as 'affected States' for the purposes of this title; and

"(21) A 'liquefied petroleum gas accident' means any release, burning or explosion of liquefied petroleum gas or LPG resulting from a rupture or other failure of a storage tank, pipeline, or facility, from any cause, which accident results in property damage of an amount equal to or greater than $10,000 or personal injury, or both."

SITING AND SAFETY STANDARDS

SEC. 102. (a) The Act is amended by redesignating sections 6 through 17 as sections 8 through 19, respectively, and by inserting after section 5 the following new section:

"STANDARDS FOR LNG FACILITIES

"SEC. 6. (a)(1) After the date standards first take effect under this section, no new LNG facility may be constructed, unless the Secretary approves such construction and then only to the extent that such construction is in accordance with the applicable standards prescribed under subsection (b) and such other terms and conditions as the Secretary determines are appropriate to assure that the facility will be constructed and operated in compliance with standards under subsection (b). After the effective date of standards issued under subsection (b) the Secretary shall issue a construction permit on the basis of an application submitted pursuant to this Act and which meets the siting standards established pursuant to subsection (b) for all new LNG facilities.

"(2) The Secretary shall not approve construction of any LNG facility under this subsection unless the person seeking such approval submits (1) a site-specific contingency plan which sets forth these steps which are to be taken in the event of an LNG accident and which the Secretary determines to be adequate to insure maximum protection of public health, safety, and property,

"(b) Not later than ninety days after the date of the enactment of this section, the Secretary shall publish proposed standards not later than one hundred and eighty days after enactment, final standards covering:

"(1) minimum siting standards for determining the location of any new LNG facility to encourage such facilities to locate at maximum feasible safe distances from heavily populated or industrialized areas,

"(2) minimum standards for the design and construction of any new LNG facility, and

"(3) minimum standards for the operation and maintenance of any new LNG facility.

Any standard under this section shall be in addition to, and in lieu of, standards under section 3 which are not inconsistent with such standard, and shall be developed independently by the Department of Transportation. The Secretary shall make every effort to improve upon existing Federal and industry standards in the development of standards in this bill.

"(c) Not later than one hundred and eighty days after the date of the enactment of this section, the Secretary shall establish minimum standards to be maintained with respect to the operation and maintenance of existing LNG facilities. After the effective date of the standards issued under this subsection the Secretary shall issue an operating permit on the basis of an application submitted pursuant to this Act. The permit shall be issued on the basis of an application which demonstrates that the facility meets the standards adopted pursuant to this subsection for existing LNG facilities, or specifies the steps that the facility shall take to come into compliance with these standards, as well as the time that will be necessary for such actions. In the latter case the Secretary may at his discretion issue an interim permit for no longer than ninety calendar days, and with renewal contingent upon continued satisfactory progress toward full compliance with the operating standards adopted pursuant to this subsection.

"(d) In prescribing standards under subsections (b) and (c), the Secretary shall take into consideration—

"(1) with respect to standards relating to the location of any stationary new LNG facility—

"(A) the nature of the use of the facility;

"(B) criteria to be used in determining the number and characteristics of other sites to be considered as alternative locations for such LNG facility;

"(C) the existing and projected population and demographic characteristics associated with each location considered;

"(D) the existing and proposed land uses near each such location;

"(E) the meteorological, geological, topographical, seismic, and other natural physical aspects of each such location;

"(F) the medical, law enforcement, and fire prevention and fighting capabilities existing near each such location to cope with risks created by such a facility;

"(G) in consultation with the Secretary of Energy, the costs of constructing and operating such LNG facility at each such location, including the costs to the United States and to State and local governments which are associated with such construction and operation; and

"(2) with respect to standards applicable to the construction of any new LNG facility—

"(A) the thermal resistance and other characteristics of materials to be used in the construction of such facility as compared to alternative materials;

"(B) design factors (such as multiple diking, underground storage, insulated concrete, and vapor containment barriers);

"(C) the characteristics of the LNG to be stored or converted at, or transported by, such facility (for example, whether it is to be in a liquid, semisolid, or solid state); and

"(D) the public safety factors of the design as compared to alternative designs (particularly the ability under such a design to prevent and contain an LNG spill);

"(E) security aspects including anti-intrusion design features (such as double fencing, electronic detection devices, and lookout towers.); and

"(3) with respect to standards for the operation of any LNG facility—

"(A) the conditions, features, and type of equipment and structures which comprise, or which are used in connection with such facility;

"(B) the fire prevention and firefighting containment equipment and structures which comprise, or which are used in connection with such facility;

"(C) the security measures to be used with respect to the operation of such facility for the prevention of sabotage or other intentional acts which could cause an LNG accident;

"(D) maintenance procedures and equipment;

"(E) the training of personnel with respect to the equipment, structures, measures, and procedures described in subparagraphs (A), (B), (C), and (D); and

"(F) other factors and conditions relating to the safe handling of LNG.

"(e) At any time after the effective date of standards initially prescribed under subsections (b) and (c), the Secretary shall, on his own motion or on the motion of any person, amend such standards to the extent he considers necessary to reflect changes in technology or to otherwise carry out the purposes of this section.

"(f) Any standards prescribed under this section, and amendments thereto, shall become effective thirty days after the date of issuance of such standards unless the Secretary, for good cause recited, determines an earlier or later effective date is required as a result of the period reasonably necessary for compliance and such date is specified in the order establishing or amending such standard.

"(g) The provisions of subchapter II of chapter 5 of title 5 United States Code, shall apply to all orders establishing, amending, or revoking, any standard established under this section. The Secretary shall afford interested persons an opportunity to participate fully in the establishment of such safety construction, operating, and siting standards through submission of written data, views, or arguments. The Secretary at his discretion may provide interested parties the opportunity to present oral testimony and have a full hearing on the record.

"(h) Any State agency may adopt additional or more stringent standards for LNG facilities if such standards are not inconsistent with the Federal minimum standards.

"(i) The Secretary shall, within five days following the receipt by him of any application for construction of a liquefied natural gas facility pursuant to this section, notify the Governor of the affected State, in writing, concerning such application. No such application shall be approved unless at least one hearing is held in the affected local district in connection with such application.

"(j) In no case shall the Secretary issue any permit for the construction of, or a license for the operation of, a liquefied natural gas facility unless: (1) environmental impact statements required by law in connection therewith have been prepared in accordance with such law. (2) The Governor of the affected State, or a responsible State agency having jurisdiction with respect to such sitings within any such affected State, has approved the specific location of the proposed facility as contained in any such application.

If the Governor or responsible State agency has not communicated to the Secretary his disapproval of the application within one hundred and eighty calendar days after the Secretary informs him of the application in accordance with the preceding subsection, the application shall be deemed to be acceptable to such Governor or State agency.

"(k) The Secretary shall approve or deny any application for construction of a liquified natural gas facility or any application for a license to operate a liquified natural gas facility submitted pursuant to this subtitle not later than ninety days after the last public hearing regarding such application, or after the time for approval by the Governor or responsible State agency has run in accordance with the provisions of the preceding subsection.

"(l) In carrying out the provisions of this title the Secretary shall consult with the Secretary of Energy to insure that appropriate consideration is given to the technical, economic, and security aspects of LNG as they relate to the energy supply situation of the United States. This title, however, does not supersede the existing statutory responsibilities of the Department of Energy except insofar as they are in conflict with this title. Nonetheless, the Department of Transportation has sole and exclusive responsibility and authority for setting and enforcing Federal safety, design, or construction standards for fixed-site liquefied natural gas and liquefied petroleum gas facilities.

"(m) After the effective date of the standards for the operation of new LNG facilities the Secretary shall issue regulations to ensure that such facilities are inspected at least on an annual basis by qualified Federal inspectors, or a state inspector certified by the Secretary of Transportation."

"(n) The Secretary is authorized, on his own motion or on the motion of any person, to amend the standards of this title in order to reflect technological changes or otherwise carry out the purposes of this title.

"(o) Any standards prescribed under this title, and any amendments thereto, shall become effective thirty calendar days after the date of publication in the Federal Register unless the Secretary, for good cause recited, determines that an earlier or later effective date is required for compliance and such date is specified in the order establishing or amending such standards."

(b)(1) Section 2(a)(4), as redesignated, is amended by striking out "or affecting".

(2) Section 2(a)(10), as redesignated, is amended by inserting ", LNG facilities," after "pipeline facilities" the first place it appears therein.

(3) Section 3(d), as redesignated, is amended (A) by inserting "or LNG facilities" after "pipeline facilities"; and (B) by inserting after "in the same manner" the following: "and to the same extent".

(4) Section 4(b) (relating to Pipeline Transportation Safety Committee) is amended by inserting ", LNG facilities," after "pipeline facilities".

(5) Section 9 (relating to cooperation), as redesignated, is amended—

(A) by inserting "or LNG facility" after "affected pipeline facility" and after "gas pipeline"; and

(B) by inserting "or LNG facilities" after "pipeline facilities".

(6) Section 10 (relating to compliance), as redesignated, is amended by inserting "LNG facilities" after "pipeline facilities".

(7) Section 13 (relating to injunction and jurisdiction), as redesignated, is amended by inserting after "pipeline facility" the following: "or LNG facility".

(8) Section 14 (relating to inspection and maintenance plans), as redesignated, is amended—

(A) by inserting after "facilities" the following: "or LNG facilities" each place it appears;

(B) by striking out "pipeline safety" each place it appears and inserting in lieu thereof "pipeline and LNG facility safety"; and

(C) by inserting in paragraph (2) after "pipeline transportation" the following: "or LNG facility".

(9) Section 14 (relating to records, etc.), as redesignated, is amended by inserting after "pipeline facilities" each place it appears the following: "and LNG facilities".

(10) Section 17(a)(2) (relating to annual report), as redesignated, is amended by inserting after "pipeline" the following: "or LNG facilities".

(11) Section 17(a)(4) (relating to annual report), as redesignated, is amended by striking out "and pipeline facilities" and inserting in lieu thereof ", pipeline facilites, and LNG facilities,".

ENFORCEMENT OF STANDARDS AND CIVIL PENALTIES

SEC. 103. (a) Section 11(a) (relating to civil penalty), as redesignated by section 202 of this Act, is amended by inserting "(1)" before "Any person" and by adding at the end thereof the following new paragraph:

"shall be subject to a civil penalty of not to exceed $50,000 which penalty shall be in addition to any other penalties to which such person may be subject under this subsection.".

(b) The Act is further amended by redesignating sections 12 through 19 (as redesignated) as sections 13 through 20, respectively, and by inserting after section 11 the following new section:

"CRIMINAL PENALTY

"SEC. 12. Any person who willfully and knowingly violates the provisions of section 6 shall, on conviction thereof, be punished by a fine of not more than $50,000, or by imprisonment for not more than five years, or both.".

ADVISORY PANEL

"SEC. 104. The Secretary shall, within one hundred and eighty days after the enactment of this title, appoint a Hazardous Materials Regulatory Advisory Panel, which panel shall be composed of—

(1) the Chairman of the National Transportation Safety Board, who shall be chairman of the Panel;

(2) the Chairman of the Interstate Commerce Commission

(3) two private members, who shall be compensated for actual service performed at a rate determined by the Secretary, but not to exceed $300 a day.

This Panel shall report to the Secretary at least yearly on the adequacy of the regulations promulgated pursuant to these Amendments as well as on the effectiveness of Federal, State, local and private safety inspectors and the enforcement of such regulatory orders The Secretary shall make such reports public, together with any additional comments he may wish to make, within thirty days after receipt."

APPROPRIATIONS AUTHORIZATION

SEC. 105. Section 18(b) (relating to appropriations authorization), as redesignated, is amended by adding at the end thereof the following new paragraph:

"(3) There are authorized to be appropriated to carry out section 6 of this Act for the fiscal year ending September 30, 1979, not to exceed $2,000,000.".

TITLE II—LIABILITY AND COMPENSATION FUND

SEC. 201. The Ports and Waterways Safety Act of 1972 is amended by adding at the end thereof the following:

"INTERNATIONAL AGREEMENTS

"SEC. 227. The Secretary of State, in consultation with the Secretary, shall seek effective international action and cooperation in support of the policy and purposes of this Act and may formulate, present, or support specific proposals in the United Nations and other competent international organizations for the development of appropriate international rules and regulations relative to the construction, ownership, and operation of offshore facilities and vessels transporting liquefied energy gases, with particular regard for measures that assure protection of such facilities as well as the promotion of navigational safety in the vicinity thereof. The Secretary shall also determine the feasibility and desirability of negotiating treaties or other means to establish effective liability insurance provisions governing the transnational transportation of liquefied natural gas or liquefied petroleum gas.".

FUND ESTABLISHMENT

SEC. 202. (a) There is established in the Treasury of the United States a Liquefied Energy Gas Incident Liability and Compensation Fund (hereinafter in this title referred to as the "Fund"), to be available for the payment of claims under this subtitle. The Fund shall be administered by the Secretary of the Treasury in consultation with the Department of Transportation, as provided in this subtitle. The Fund shall consist of an amount not to exceed $250,000,000, except that such limitation may be increased to the extent necessary to permit the deposit into the Fund of moneys referred to in paragraphs (2) and (3) of subsection (b) which are recovered or collected on behalf of the Fund. The Fund may sue or be sued in its own name.

(b) The Fund shall be constituted from—

(1) fees collected pursuant to subsection (c);

(2) amounts recovered on behalf of the Fund under section 105; and

(3) all other amounts recovered or collected on behalf of the Fund under this title.

(c)(1) The Secretary of the Treasury shall collect from the owner of each liquefied natural gas facility or facility for the importation of liquefied petroleum gas an amount which shall, in his judgment, be sufficient to establish and operate the Fund, as specified in the following subsection, but which in any case shall not be more than 1 cent per thousand cubic feet equivalent of natural gas received at such facility for export, for entry into the United States, or for transportation in interstate commerce. Gas upon which a fee has been levied under this paragraph shall not be subject to a subsequent levy hereunder.

(2) The Secretary of the Treasury shall from time to time, and in accordance with the limitation set forth in paragraph (1) modify or suspend the amount of the fee to be collected under this subsection in order to maintain the Fund at a level which, within thirty-six months after the enactment of this title, shall total not less than $50,000,000 and not more than $250,000,000, subject to permissible increase under section 102(a).

(d)(1) The Secretary shall determine the amount in the Fund which is required for immediate access in order to meet potential obligations of the Fund.

(2) All sums in the Fund in excess of the level determined under paragraph (1) shall be invested by the Secretary of the Treasury in income-producing securities issued by the United States. The income from, and the proceeds from the sale of, any securities held in the Fund shall be credited to the Fund.

RECOVERABLE DAMAGES

SEC. 203. (a) Claims for damages arising out of a liquefied natural gas or liquefied petroleum gas accident may be asserted under this subtitle for—

(1) personal injury; or

(2) damage to, or destruction of, real or personal property in an amount equal to or exceeding $10,000.

(b) For the purposes of this title, a liquefied petroleum or natural gas accident is defined as in Section 101 of these Amendments.

LIABILITY

SEC. 204. (a)(1) Notwithstanding any other provision of law and except as provided in subsections (b) and (c)—

(A) the owner and operator of a vessel shall be held jointly and severally liable, without regard to fault, for damages or injuries done or consummated on land arising out of an accident involving liquefied natural gas or liquefied petroleum gas being carried on or being discharged from such vessel; and

(B) the owner and operator of a liquefied gas facility shall be held jointly and severally liable, without regard to fault, for damages or injuries done or consummated on land arising out of an accident involving liquefied gas received, stored in or being discharged from such facility.

(2) The total of the liability under paragraph (1) of an owner or operator of a vessel, facility or transportation company shall not exceed $100,000,000, except that if the accident is caused primarily by—

(A) the gross negligence or willful misconduct within the privity and knowledge of such owner or operator of such vessel or facility; or

(B) a violation of applicable Federal safety, construction, or operating standards including hazardous materials transportation and pipeline safety standards; such owner and operator shall be jointly and severally liable for the full amount of such damages.

(3) No liability shall be imposed under paragraph (1)—

(A) when the accident is caused primarily by an act of war carried out by another nation; or by a natural phenomenon of an exceptional, inevitable, or irresistible character; or

(B) as to a particular claimant, to the extent that the incident or damage is proximately caused by the negligent or intentional act of such claimant.

(b)(1) Except as provided in paragraph (2), the Fund shall be liable, without any limitation, for all damages for which a claim may be asserted under section 103 to the extent that the damage is not otherwise compensated.

(2) No liability shall be imposed under paragraph (1)—

(A) when the accident is caused primarily by an act of war carried out by another nation.

(B) as to a particular claimant, to the extent that the incident or damage is caused by the negligent or intentional act of such claimant.

(3) If at any time the moneys available in the Fund are insufficient to meet the obligations of the Fund, the Secretary shall issue notes or other obligations to the Secretary of the Treasury in such forms and denominations, bearing such interest rates and maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of these notes or obligations shall be made by the Secretary from moneys in the Fund. These notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of comparable maturity. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and, for that purpose, he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purpose for which securities may be issued under that Act are extended to include any purchase of these notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of these notes or other obligations shall be treated as public debt transactions of the United States.

SUBROGATION

SEC 205. (a) Any person, including the Fund, who pays any amount to a claimant for a loss compensable under section 103, shall be subrogated to all rights, claims, and causes of action which that claimant has under this title.

(b) Upon request of the Secretary, the Attorney General of the United States may commence an action on behalf of the Fund for any amount paid by the Fund to a claimant pursuant to this title. Such an action may be commenced against any owner, operator, or person providing financial responsibility, or other person, who may be liable to the compensated claimant or to the Fund for the damages for which the amount was paid.

FINANCIAL RESPONSIBILITY

SEC. 206 (a) Each owner or operator of a liquefied energy gas facility or liquefied energy gas vessel, shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which such owner or operator could be exposed in a case in which he would be entitled to limit his liability under section 204(a)(2). Financial responsibility may be established by any one, or a combination of, the following methods acceptable to the Secretary: (1) evidence of insurance, (2) security bonds, (3) qualification as a self-insurer, or (4) other evidence of financial responsibility satisfactory to the Secretary.

(b)(1) Any person who fails to comply with the requirements of this section shall be liable for a civil penalty of not more than $10,000.

(2) The Secretary of the Treasury shall refuse the clearance required by section 4197 of the Revised Statutes of the United States to any vessel subject to this subsection, which does not meet the requirements for financial responsibility established under subsection (a).

NOTIFICATION

SEC. 207. The owner or operator of, or the person in charge of, a liquefied energy gas vessel or facility which is involved in an accident shall notify the Secretary as soon as he has knowledge of such accident. Notification received pursuant to this subsection or information obtained by the exploitation of such notification shall not be used against any person providing such notification in any criminal case, except a prosecution for perjury or for giving a false statement.

CLAIMS PROCEDURE

SEC. 208. (a) Whenever the Secretary receives notification under section 107, or information from any person alleging a liquefied energy gas accident involving a liquefied energy gas vessel, or facility, he shall notify the owner or operator of the vessel or facility of any such allegation and of his liability under this subtitle. Such owner or operator may, within five days after receiving such notification, deny any such allegation, or deny liability for damages for any of the reasons set forth in section 104(a)(3).

(b) Any denial made under subsection (a) shall be adjudicated in accordance with the provisions of subsections (j) and (k).

(c)(1) If a denial is not made pursuant to subsection (a) of this section, the owner and operator, or the person providing financial responsibility, shall advertise, in accordance with regulations promulgated by the Secretary, in any area where damages occurred or may occur, the procedures under which claims may be presented to such owners and operators or such person providing financial responsibility. The Secretary shall publish the text of such advertisement, in modified form if necessary, in the Federal Register. If any person fails to make any advertisement required by this paragraph, the Secretary shall do so and such person shall pay the costs of such advertisement.

(2) If a denial is made pursuant to subsection (a) of this section, the Secretary shall advertise and publish procedures under which claims may be presented to the Secretary for payment from the Fund.

(3) Any advertisement made under this subsection shall begin no later than fifteen days after the date of the notification of owners and operators under subsection (b) and shall continue for a period of no less than thirty days.

(d)(1) Except as provided in subsection (e) of this section, all claims shall be presented (A) to the owner and operator, or (B) to the person providing financial responsibility.

(2) Any person to whom a claim has been presented under paragraph (1) shall promptly notify the claimant of the rights which such claimant may have under this title and notify the Secretary of receipt of such claim.

(e) The following claims may be presented to the Secretary for payment by the Fund:

(1) Any claim for damages resulting from any accident with respect to which a denial has been made pursuant to subsection (a) of this section.

(2) Any claim which has been presented to any person pursuant to subsection (c)(1) of this section, if such person—

(A) has not accepted liability for such claim for any reason,

(B) submits to the claimant a written offer for settlement of the claim, which the claimant rejects for any reason, or

(C) has not settled such claim by agreement with the claimant within sixty days after the date on which (i) such claim was presented, or (ii) advertising was commenced pursuant to subsection (c) of this section, whichever date is later.

(f) In the case of a claim which has been presented to any person under subsection (d)(1), and which may be presented to the Secretary under subsection (e)(2), such person shall, within two days after a request by the claimant, transmit directly to the Secretary such claim and such other supporting documents as the Secretary may by regulation prescribe, and such claim shall be deemed presented to the Secretary for payment by the Fund.

(g)(1) Except as provided in paragraph (2), the Secretary shall use the facilities and services of private insurance and claims adjusting organizations or State Agencies in processing claims against the Fund and may contact to pay compensation for those facilities and services. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5), upon a showing by the Secretary that advertising is not reasonably practicable. The Secretary may make advance payments to a contractor for services and facilities, and the Secretary may advance to the contractor funds to be used for the payment of claims. The Secretary may review and audit claim payments made pursuant to this subsection. A payment to a claimant for a single claim in excess of $100,000, or two or more claims aggregating in excess of $200,000, shall be first approved by the Secretary. When the services of a State agency are used in processing and settling claims, no payment may be made on a claim asserted on behalf of that State or any of its agencies or subdivisions unless the payment has been approved by the Secretary.

(2) In the case of extraordinary circumstances in which the facilities and services of private organizations described in paragraph (1) are inadequate to process all claims against the Fund, the Secretary may use Federal personnel to the extent necessary to process such claims.

(h) (1) The Secretary shall prescribe, and may from time to time amend, regulations for the filing, processing, settlement, and adjudication of claims against the Fund for damages resulting from liquefied energy gas accidents.

(2) Each person's damage claims arising from one accident which are presented to the Secretary shall be presented in one form, which may be amended to include new claims as they are discovered. Damages which are known or reasonably should be known, and which are not included in the claim at the time compensation is made, shall be deemed waived.

(3) All claims under this title shall be presented to the owner or operator, or the person providing financial responsibility, or to the Secretary for payment from the Fund, not later than three years after the discovery of any damage for which such claim is made, except that no such claim may be presented after the end of the six-year period beginning on the date on which advertising was begun pursuant to subsection (c) (1).

(i) The following matters in dispute shall be submitted to the Secretary and adjudicated pursuant to the provisions of this section:

(1) Upon the petition of a claimant, in the case of a claim which has been presented to the Secretary for payment by the Fund, and in which the Secretary—

(A) has, for any reason, denied liability for such claim; or

(B) has not settled such claim by agreement with such claimant within ninety days after the date on which (i) such claim was presented to the Secretary, or (ii) advertising was commenced pursuant to subsection (c) (2) of this section, whichever date is later.

(2) Upon the petition of the owner and operator or the person providing financial responsibility, who is or may be liable for damages under this title—

(A) any denial made pursuant to subsection (b) (1) of this section;

(B) any objection to an exception to the limit of liability set forth in section 204(a) (2) of this title; and

(C) the amount of any payment or proposed payment by the Fund which may be recovered from such owner and operator, or such person providing financial responsibility, pursuant to section 205.

(j) (1) Upon receipt of any matter in dispute submitted for adjudication pursuant to subsection (j) of this section, the Secretary shall refer such matter to a hearing examiner appointed under section 3105 of title 5, United States Code. Such hearing examiner shall promptly adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code.

(2) For purposes of any hearing conducted pursuant to this subsection, the hearing examiner shall have the power to administer oaths and subpena the attendance and testimony of witnesses and the production of books, records, and other evidence relative or pertinent to the issues presented for determination. Subpenas shall be issued and enforced in accordance with procedures in subsection (d) of section 55 of title 5, United States Code, and rules promulgated by the Secretary. If a person fails or refuses to obey a subpena, the Secretary may invoke the aid of the district court of the United States where the person is found, resides, or transacts business in requiring the attendance and testimony of the person and the production by him of books, papers, documents, or any tangible things.

(3) A hearing conducted under this subsection shall be conducted within the United States judicial district within which the matter in dispute occurred, or, if such matter occurred within two or more districts, in any of the affected districts or, if such matter in dispute occurred outside of any district, in the nearest district.

(k) Upon a decision by the hearing examiner and in the absence of a request for judicial review, any amount to be paid shall be promptly disbursed by the Fund. Such decision shall not be reviewable by the Secretary.

JUDICIAL REVIEW

SEC. 209. (a) Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner under section 108(j) may, not later than sixty days after such decision is made, seek judicial review of such decision (1) in the United States district court for the district in which the damage occurred, or, if such damage occurred outside of any district, in the United States district court for the nearest district; or (2) in the United States District Court for the District of Columbia.

(b) In any case in which the person responsible for the accident, or the Fund, seeks judicial review, attorney's fees and court costs shall be awarded to the claimant if the decision of the hearing examiner is affirmed.

JURISDICTION AND VENUE

SEC. 210. (a) The United States district courts shall have original jurisdiction over all controversies arising under this subtitle, without regard to the citizenship of the parties or the amount in controversy.

(b) Venue shall lie in any district (1) wherein the damage complained of occurred, or, if such damage occurred outside of any district, in the nearest district, or (2) wherein the defendant resides, may be found, or has its principal place of business. For the purposes of this section, the Fund shall reside in the District of Columbia.

ACCESS TO RECORDS

SEC. 211. (a) Each person responsible for contributing to the Fund in accordance with this subtitle shall keep such records and furnish such information as the Secretary shall prescribe in regulations. Collection shall be at such times and in such manner as shall be prescribed in regulations.

(b) The Secretary shall have access to any books, documents, papers, and records of such person relevant to the administration of subtitle, and shall undertake regular examinations of and audits on the collection of fees.

(c) The Comptroller General shall have access to any books, documents, papers, records, and other information of any person liable to contribute to the Fund, relevant to the administration of this title, and to all books, documents, papers, records, and other information of the Fund.

ANNUAL REPORT

SEC. 212. Within six months after the end of each fiscal year, the Secretary of the Treasury, in consultation with the Secretary of Transportation, shall submit to the President of the Senate and the Speaker of the House of Representatives (1) a report on the administration of the Fund during such fiscal year, (2) a summary of the management and enforcement activities of the Fund, and (3) recommendations to the Congress for such additional legislative authority as may be necessary to improve the management of the Fund and the administration of the liability provisions of this subtitle.

AUTHORIZATION OF APPROPRIATIONS

SEC. 213. (a) There are authorized to be appropriated such sums as may be necessary for the administration of the Fund.

(b) The authority to issue notes or other obligations under section 104(b) (3) shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this title.

PREEMPTION

SEC. 214. (a) Except as otherwise provided in this title, (1) no action may be brought in any court of the United States, or of any state or political subdivision thereof, for damages, for an economic loss described in section 202, a claim for which may be asserted when under this title, and (2) no person may be required to contribute to any fund, the purpose of which is to pay compensation for such a loss, or to establish or maintain evidence of financial responsibility relating to the satisfaction of a claim for such a loss.

(b) Nothing in section (a) shall prohibit an action by the Fund, under any other provision of law, to recover compensation paid pursuant to this title.

PRESIDENTIAL STUDY

SEC. 215. The DOT Secretary shall study the adequacy of existing provisions of admiralty law and insurance practices related to coverage of vessels carrying liquefied gases and shall report to the Congress no later than five hundred forty days after the enactment of this Act on his findings and recommendations.

DEFINITIONS

SEC. 216. For purposes of this title, the term—

(1) "Secretary" means the Secretary of the Department in which the Coast Guard is operating.

TITLE III—MISCELLANEOUS PROVISIONS

Subtitle A

Except as otherwise expressly provided, whenever in this subtitle, any reference, amendment or repeal is expressed in terms of a reference or amendment to, or repeal of, a section or other provision, it shall be considered to be made to a section or other provision of the Natural Gas Pipeline Safety Act of 1968.

WILLFUL DESTRUCTION OF INTERSTATE PIPELINE TRANSMISSION OR LNG FACILITIES

SEC. 301. Section 12 (as added by section 204 of this Act) is amended by inserting "(a)" after "SEC. 12." and by adding at the end thereof the following new subsection:

"(b) Any person who willfully injures or destroys, or attempts to injure or destroy—

"(1) any pipeline facility for the interstate transmission of natural gas, liquefied natural gas, liquefied petroleum gas, or petroleum, including any facility or equipment covered under this Act under section 2 (b) or (d) used in the interstate transmission of gas or liquefied petroleum gas, or

"(2) any liquefied gas facility to which section 6 applies, shall be fined not more than $15,000 or imprisoned not more than fifteen years, or both."

CITIZENS' CIVIL ACTION

SEC. 302. Section 20 (relating to citizen civil suits), as redesignated, is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"SEC. 20 (a) (1) Except as provided in subsection (b) any aggrieved person may commence a civil action for equitable relief as a citizen whenever such action constitutes a case or controversy—

"(A) against any person (including (i) the United States, and (ii) any other governmental instrumentality or the agency to the extent permitted by the eleventh amendment to the Constitution) alleged to be in violation of any provision of this Act, any order or regulation issued under this Act, or any condition of approval pursuant to section 6 of this Act; or

"(B) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under this Act, which is not discretionary with the Secretary.

"(2) Any action brought against the Secretary under paragraph (1) (B) shall be brought in the district court for the District of Columbia or for the judicial district in which the facility involved is located or proposed to be located.

"(3) In suits brought under this section, the district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce any provision of this Act or any condition of approval pursuant to section 6 of this Act or to order the Secretary to perform such act or duty, as the case may be.

"(b) No civil action may be commenced under this section—

"(1) under subsection (a) (1) (A)—

"(A) prior to sixty days after the plaintiff has given notice of the violation (i) to the Secretary (or to the applicable State agency in the case of a State which has been certified under section 5(a) and in which the violation is alleged to have occurred) and (ii) to any alleged violator; or

"(B) if the Secretary (or such State agency) has commenced and is diligently pursuing administrative proceedings or the Attorney General (or the chief law enforcement offices of such State) has commenced and is diligently prosecuting a civil or criminal action with respect to such matters in a court of the United States but in any such action any person may intervene as a matter of right; or

"(2) under subsection (a) (2) prior to sixty days after the plaintiff has given notice of such action to the Secretary (or such State agency).

Notice under this subsection shall be given in such a manner as the Secretary shall prescribe by regulation.".

APPOINTMENTS OF DIRECTOR OF PIPELINE SAFETY OPERATIONS AND DIRECTOR OF MATERIALS TRANSPORTATION BUREAU

SEC. 303. (a) Notwithstanding any other provision of law—

(1) no individual may serve for more than one hundred and eighty days (in the aggregate) in an acting capacity in a position the principal duties of which were identified as of March 1, 1978, as assigned to the Director of the Office of Pipeline Safety Operations, Department of Transportation, or may serve as the Acting Director of the Materials Transportation Bureau, Department of Transportation, and

(2) if a person is not appointed to such position within one hundred and eighty days after a vacancy occurs in that position, the Secretary shall personally carry out the functions of such position until an appointment is made to that position and all delegations of authority under the Fuels Transportation Safety Act shall be suspended until such appointment is made.

(b) In the case of any vacancy in such positions on the date of the enactment of this Act, periods of service before the date of enactment shall not be taken into account for purposes of subsection (a).

LIQUEFIED PETROLEUM GAS SAFETY STANDARDS

SEC. 304. (a) Section 2(3) is amended—

(1) by striking out "transportation of gas" and inserting in lieu thereof "Pipeline transportation"; and

(2) by inserting after "interstate or foreign commerce" the following: ", or the transmission or distribution (but excluding the gathering) of liquefied petroleum gas by pipeline, in interstate or foreign commerce".

(b) Section 2 is amended by redesignating paragraphs (3) through (10) as paragraphs (4) through (11), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) 'Liquefied petroleum gas' means propane, butane, any related product, or any mixture or combination thereof:".

(c) Section 2(2) is amended by inserting ", but such term does not include liquefied petroleum gas" after "toxic or corrosive".

(d) Section 2(4), as amended and redesignated, is further amended by inserting after "distribution of gas" the following: "(whether in a gaseous or nongaseous state)".

(e) Section 2 is amended by inserting "(a)" after "SEC. 2." and by adding at the end thereof the following new subsection:

"(b) Any storage facility, or category of storage facilities, physically connected to any pipeline facility, or facilities, used for the transmission or distribution of liquefied petroleum gas shall be included by the Secretary, by regulation, within the meaning of subsection (a) (4) if—

"(1) the Secretary finds that such inclusion would further the purposes of this Act; and

"(2) such facility has a storage capacity of thirty thousand gallons or more, or is used in connection with one or more other storage facilities at the same site which have, in the aggregate, a storage capacity of thirty thousand gallons or more.".

(f) Section 3 is amended by adding at the end thereof the following new subsection:

"(f) (1) Standards, or amendments to standards, required under this section by reason of the enactment of the Act of 1978 shall be prescribed not later than eighteen months after the date of the enactment of such Act.

"(2) As soon as practicable but not later than three months after the enactment of such Act, the Secretary shall, by order, adopt interim minimum Federal safety standards for pipeline facilities and pipeline transportation to the extent not covered by this Act immediately before the date of the enactment of the Comprehensive Liquefied Energy Gas Siting and Safety Act of 1979. Such standards shall, to the extent the Secretary determines appropriate, be the State standards regulating pipeline facilities and pipeline transportation within such State on such date of enactment. In any State in which no such standards are in effect, the Secretary shall, by order, establish interim Federal safety standards for such pipeline facilities and pipeline transportation in such State which shall, to the extent the Secretary determines appropriate, be such standards as are common to a majority of States having safety standards for pipeline facilities and pipeline transportation on such date. Interim standards shall remain in effect until amended or revoked pursuant to this section. Any State agency may adopt such additional or more stringent standards for pipeline facilities and pipeline transportation not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, or the Interstate Commerce Act, as are not incompatible with the Federal minimum standards.".

(g) (1) The following provisions are amended by striking out "the transportation of gas" each place it appears and inserting in lieu thereof "pipeline transportation":

(A) section 2(a) (5) and (9), as redesignated by subsection (a);

(B) section 3 (b) and (e);

(C) section 4(b);

(D) section 8(a);

(E) section 11;

(F) section 12(a);

(G) section 13(b); and

(H) section 14(a) (4).

(2) The following provisions are each amended by striking out "transportation of gas" each place it appears and inserting in lieu thereof "pipeline transportation":

(A) section 2(a) (10), as redesignated by subsection (a);

(B) section 5(b) (3); and

(C) section 10(a).

(3) The following provisions are each amended by striking out "gas pipeline" each place it appears and inserting in lieu thereof "pipeline":

(A) section 3(e);

(B) section 4(a); and

(C) section 14(b).

(4) Section 2(a) (4), as redesignated and amended, is further amended by striking out "or its storage" and inserting in lieu thereof ", or its storage in connection with such gathering, transmission, or distribution,".

(5) Section 4(c) (1) is amended—

(A) by striking out "gas safety programs" and inserting in lieu thereof "pipeline safety programs", and

(B) by striking out "date of enactment of this section." and inserting in lieu thereof the following: "date of enactment of the Comprehensive Liquefied Energy Gas Siting and Safety Act of 1978".

(6) The short title set forth in the first section is amended to read as follows: "Fuels Transportation Safety Act".

COVERAGE OF CERTAIN NONPIPELINE FACILITIES

SEC. 305. (a) Section 2, as amended by this Act, is further amended by adding at the end thereof the following new subsection:

"(d) (1) If the Secretary finds that the purposes of this Act would be furthered, he may, by regulation, require that the provisions of this Act shall apply with respect to any specified type or class of facility or equipment used in the transportation on land of gas or liquefied petroleum gas, in interstate or foreign commerce, or storage in connection with such transportation, to the same extent and in the same manner as such provisions apply with respect to pipeline facilities.

"(2) This subsection (or any action hereunder) shall not be construed to relieve any person from having to meet standards or meeting other requirements under any other Federal law; except that, if any regulation under this subsection results in the imposition of a standard or other requirement relating to any matter that the Secretary finds is covered by any other standard or requirement pursuant to any provision of law under the jurisdiction of the Secretary, the Secretary shall so state in such regulation, and that standard or requirement shall supersede and preempt the standard or requirement pursuant to such other provision of law to the extent such matter is covered under the regulation under this subsection.".

(b) Section 5(a) is amended by inserting "section 2(c)," after "Except for".

Subtitle B—Offshore Liquefied Natural Gas Facilities

SEC. 306. The Ports and Waterways Safety Act of 1972 is amended by adding at the end thereof the following:

"SEC. 311. It is the policy of the Congress in enacting this subtitle to—

"(1) authorize and regulate the location, design and construction, and operation of offshore liquefied natural gas facilities, by establishing standards for safety and environmental review;

"(2) encourage the construction and utilization of offshore liquefied natural gas transportation facilities and other facilities posing significant safety or environmental hazards to persons, property, and the natural environment, on the Outer Continental Shelf or in superjacent waters, subject to the jurisdiction of the United States.

"LICENSE

"SEC. 312. (a) No person may engage in the ownership, design, construction, or operation of an offshore liquefied natural gas facility except in accordance with a license issued pursuant to this subtitle. The license required by this subtitle shall be the sole approval required for any such facility with respect to siting and safety standards.

"(b) The Secretary is authorized, upon application and in accordance with the provisions of this subtitle, to issue, transfer, amend, or renew a license for the ownership, construction, and operation of an offshore liquefied natural gas facility.

"(c) The Secretary may issue a license under this subtitle if—

"(1) he determines that the applicant's proposed location, and plans for design, construction, and operation comply with the requirements established pursuant to section 313, and the applicant agrees in writing that there will be no substantial change in such proposal and plans without prior approval in writing from the Secretary;

"(2) he determines that the applicant will comply with applicable laws and regulations, and any conditions the Secretary may prescribe in accordance with subsection (d)(1);

"(3) he determines that the facility will not unreasonably interfere with international navigation or other reasonable uses of the high seas, as defined by treaty, convention, or customary principles of international law;

"(4) he determines that the applicant is financially responsible;

"(5) the Governor or each adjacent coastal State has approved the issuance of the license pursuant to section 313(c)(1);

"(6) the adjacent coastal State to which the offshore facility is to be directly connected by pipeline has developed, or is making reasonable progress toward developing, an approved coastal zone management program pursuant to the Coastal Zone Management Act of 1972.

"(d)(1) In issuing a license for the ownership, construction, and operation of an offshore facility, the Secretary shall prescribe any conditions which he deems necessary to carry out the provisions of this subtitle.

"(2) The Secretary shall establish such bonding requirements or other assurances as he deems necessary to assure that, upon the revocation or termination of a license, the licensee will remove all components of the offshore facility. In the case of components lying in the subsoil below the seabed, the Secretary is authorized to waive the removal requirements if he finds that such removal is not otherwise necessary and that the remaining components do not constitute any threat to navigation or to the environment.

"(e) Upon application, licenses issued under this subtitle may be transferred if the Secretary determines that such transfer is in the public interest and that the transferee meets the requirements of this subtitle.

"(f) Any citizen of the United States who otherwise qualifies under the terms of this subtitle shall be eligible to be issued a license for the ownership, construction, and operation of an offshore facility.

"(g) Licenses issued under this subtitle shall be for a term of not to exceed twenty years. Each licensee shall have a preferential right to renew his license subject to the requirements of subsection (c) of this section, upon such conditions and for such term, not to exceed an additional ten years upon each renewal, as the Secretary determines to be reasonable and appropriate.

"APPLICATION

"SEC. 313. (a) Each person seeking a license for an offshore facility under this subtitle shall make an application to the Secretary in accordance with the provisions of this section. An application shall be in such form, and contain such information, as the Secretary may require, including—

"(1) the name and address of the applicant;

"(2) the name, address, and citizenship of any person with whom the applicant has made, or proposes to make, a significant contract for the construction or operation of the facility, and a copy of such contract;

"(3) an exact description of the proposed location, along with such other information as may be necessary to demonstrate compliance with the siting requirements prescribed under section 324(b);

"(4) detailed plans for the design of each component of the facility and for the construction of the facility, including anticipated dates of completion for each phase of construction, along with such other information as may be necessary to demonstrate compliance with the design and construction requirements prescribed under section 324(c);

"(5) such information with respect to proposed operating procedures as may be necessary to demonstrate compliance with the operation requirements prescribed under section 324(d);

"(6) such information as may be necessary to determine the impact of the proposed facility on the marine environment and on the environment of adjacent coastal States;

"(7) the financial and technical capabilities of the applicant to hold a license issued under this subtitle.

"(b)(1) Not later than twenty-one days after the receipt of an application, the Secretary shall determine whether the application contains all of the information required by subsection (a). The Secretary shall immediately notify the applicant of any required information that is not contained in the application. If the Secretary determines that the required information appears to be contained in the application, he shall, not later than five days after making such determination, publish notice of the application and a summary of the plans in the Federal Register.

"(2) At least one public hearing shall be held in each adjacent coastal State. Any interested person may present relevant material at any hearing. If the Secretary determines after hearings in each adjacent coastal State are concluded, that there exists one or more specific and material factual issues which may be resolved by a formal evidentiary hearing, at least one adjudicatory hearing shall be held in accordance with the provisions of section 554 of title 5 of the United States Code in the District of Columbia. The record developed in any such adjudicatory hearing shall be the basis for the Secretary's decision to approve or deny a license. Hearings held pursuant to this subsection shall be consolidated insofar as practicable with hearings held by other agencies. All public hearings with respect to an application shall be concluded not later than two hundred and forty days after notice of the initial application has been published pursuant to paragraph (1) of this subsection.

"(c)(1) Not later than ten days after issuing notice of an application pursuant to subsection (b), the Secretary shall transmit a complete copy of the application to the Governor of each adjacent coastal State. The Secretary shall not issue a license if any such Governor notifies the Secretary of his disapproval of the application, and specifies the grounds on which the application is inconsistent with State programs relating to safety, environmental protection, land and water use, or coastal zone management, not later than forty-five days after the last public hearing on such application. The Secretary must condition a license so as to make it consistent with such State programs.

"(2) An adjacent coastal State may apply for financial assistance under the coastal energy program pursuant to section 7 of the Coastal Zone Management Act of 1972, as amended, for the recovery of any environmental, economic, and administrative costs incurred as a result of the construction and operation of an offshore facility.

"(d) The Secretary shall approve or deny any application submitted pursuant to this subtitle not later than ninety days after the last public hearing on a proposed license.

"(c)(1) The Secretary may establish and collect such fees as may be necessary to recover the costs of processing applications. In addition, adjacent coastal States may collect such fees as may be necessary to recover costs incurred in considering an application for an offshore facility adjacent to such State.

"(2) A licensee shall pay annually in advance to the Secretary the fair market rental value (as determined by the Secretary of the Interior) of the subsoil and seabed of the Outer Continental Shelf of the United States to be utilized by the offshore facility, including the fair market value of the right-of-way necessary for the pipeline segment of the facility located on such subsoil and seabed. Such funds are to be used by the Secretary to defray the costs of implementing this Act, the remainder are to be transferred to the general funds of the United States Treasury.

"SAFETY AND ENVIRONMENTAL STANDARDS

"SEC. 314. (a)(1) The Secretary shall, in consultation with the Secretary of the Interior and the Administrator of the National Oceanic and Atmospheric Administration, not later than one year after the date of the enactment of this Act, issue regulations prescribing safety and environmental standards for the location, design, and construction, and operation of offshore liquefied natural gas facilities, in accordance with the provisions of this section.

"(2) The Secretary shall periodically review and whenever necessary, revise in the same manner as originally developed, standards established pursuant to paragraph (1) of this subsection.

"(b) The Secretary shall prescribe within one hundred eighty days after enactment of this Act, standards for the siting of offshore liquefied natural gas facilities, which shall be designed to minimize the danger to persons, property, and the marine environment of an accident, and which shall include standards—

"(1) for the location of offshore facilities in safe navigation areas, taking into consideration navigational hazards and the adequacy of surveys and charts in the area of the proposed facility, and vessel traffic patterns, the existence of internationally approved traffic separation schemes, and other uses of the seas adjacent to the proposed facility;

"(2) for the location of offshore facilities at a safe distance from other facilities or operations which might be a hazard to the offshore facility or which might be endangered by a liquefied natural gas incident;

"(3) with respect to natural hazards, such as meteorological or geological conditions, which might present a danger to an offshore facility;

"(4) for accident prevention and control facilities capable of controlling an accident and minimizing damage;

"(5) with respect to the effect of facilities on the marine environment, oceanic currents and wave patterns, and alternative uses of the oceans; and

"(6) with respect to such other factors as the Secretary deems necessary.

"(c) The Secretary shall require that the best available technology be used in the design and construction of offshore facilities, by prescribing—

"(1) minimum standards for materials, and for methods and techniques of design and construction, which shall be applied to each such facility; and

"(2) additional standards which may be applied in individual cases as deemed necessary by the Secretary to carry out the purposes of this subtitle, and which may be prescribed as conditions to a license under section 322(d)(1).

"(d) The Secretary shall prescribe regulations for the operation of offshore facilities which shall be designed to insure the safe transfer and storage of liquefied natural gas, and which shall include standards—

"(1) for vessel safety in accordance with title I of this Act, including the establishment of safety zones around offshore facilities;

"(2) for the use of Coast Guard-certified tankermen in the handling and transfer of liquefied natural gas from vessels to facilities, and for the training of such other personnel as is necessary for the operation and protection of facilities;

"(3) for the availability and use of incident prevention and control equipment at facilities;

"(4) for the use of security measures at facilities for protection against intentional acts which might cause incidents;

"(5) for the maintenance in safe condition of facilities and equipment, and for periodic safety and health inspections by the Coast Guard; and

"(6) for any other safety measures deemed necessary by the Secretary.

"REGULATIONS

"SEC. 315. (a) The Secretary shall, as soon as practicable after the date of the enactment of this subtitle, issue regulations to carry out the purposes and provisions of this subtitle. Such regulation shall pertain to, but need not be limited to, application, issuance, transfer, renewal, suspension, and termination of licenses. Such regulations shall provide for full consultation and cooperation with all other interested Federal agencies and departments and with any adjacent coastal State, and for consideration of the views of any interested members of the general public. The Secretary is further authorized, consistent with the purposes and provisions of this subtitle, to amend or rescind any such regulation.

"(b) The Secretary shall, consistent with the purposes of this subtitle, prescribe regulations relating to those activities involved in site evaluation and preconstruction testing at potential offshore facility locations that may (1) adversely affect the environment, (2) interfere with other authorized users of the Outer Continental Shelf, or (3) pose a threat to human health and welfare. Such activity may not be undertaken, after the issuance of such regulations, except in accordance with such regulations.

"RELATIONSHIP TO OTHER LAW

"SEC. 316. (a)(1) The Constitution, laws, and treaties of the United States shall apply to an offshore facility licensed under this subtitle and to activities connected, associated, or potentially interfering with the use or operation of any such facility, in the same manner as if such facility were an area of exclusive Federal jurisdiction located within a State. Nothing in this subtitle shall be construed to relieve, exempt, or immunize any person from any other requirement imposed by Federal law, regulation, or treaty. Offshore facilities licensed under this subtitle do not possess the status of islands and have no territorial seas of their own.

"(2) Except as otherwise provided by this subtitle, nothing in this subtitle shall in any way alter the responsibilities and authorities of a State or the United States within the territorial seas of the United States.

"(b) The law of the nearest adjacent coastal State is declared to be the law of the United States, and shall apply to any offshore facility licensed pursuant to this subtitle, to the extent applicable and not inconsistent with any provision or regulation under this subtitle or other Federal laws and regulations. All such applicable laws shall be administered and enforced by the appropriate officers and courts of the United States.

"(c) Except in a situation involving force majeure, a licensee of an offshore facility shall not permit a vessel, registered in or flying the flag of a foreign state, to call at, or otherwise utilize an offshore facility licensed under this subtitle unless (1) the foreign state involved, by specific agreement with the United States, has agreed to recognize the jurisdiction of the United States over the vessel and its personnel, in accordance with the provisions of this subtitle, while the vessel is located within the safety zone, and (2) the vessel owner or operator has designated an agent in the United States for receipt of service of process in the event of any claim or legal proceeding resulting from activities of the vessel or its personnel while located within such a safety zone.

"(d) The customs laws administered by the Secretary of the Treasury shall not apply to any offshore facility licensed under this subtitle, but all foreign articles to be used in the construction of any such offshore facility, including any component thereof, shall first be made subject to all applicable duties and taxes which would be imposed upon them by reason of their importation if they were imported for consumption in the United States. Duties and taxes shall be paid thereon in accordance with laws applicable to merchandise imported into the customs territory of the United States.

"(e) The United States district courts shall have original jurisdiction of any action arising out of or in connection with the construction or operation of an offshore facility. Any such action may be brought in the judicial district in which any defendant resides or may be found, or in the judicial district nearest the place where the cause of action arose.

"INTERNATIONAL AGREEMENTS

"SEC. 317. The Secretary of State, in consultation with the Secretary, shall seek effective international action and cooperation in support of the policy and purposes of this subtitle and may formulate, present, or support specific proposals in the United Nations and other competent international organizations for the development of appropriate international rules and regulations relative to the construction, ownership, and operation of offshore facilities, with particular regard for measures that assure protection of such facilities as well as the promotion of navigational safety in the vicinity thereof.

"SEC. 318. For purposes of this subtitle, the term

"(1) 'Secretary' means the Secretary of the Department in which the Coast Guard is operating.

"(2) 'Offshore liquefied natural gas facility' or 'Offshore facility' means a liquefied natural gas facility, including vessels or installations used for the transfer, storage, and regasification of liquefied natural gas are located on the Outer Continental Shelf or in superjacent waters subject to the jurisdiction of the United States.

"(3) 'Adjacent coastal State' means, with respect to an offshore facility, any coastal State which (A) would be directly connected by pipeline to an offshore facility, or (B) would be located within twenty-five miles of a proposed offshore facility.

"(4) 'State' means any State of the United States of America, including its territories and possessions.

"(5) 'Liquefied natural gas accident' or 'accident' means an event of natural or manmade origin involving the transportation of liquefied bulk gases in the marine mode, and the transfer, storage, and regasification of such substances which causes, or poses an imminent threat of, significant damage to persons and property, real and personal.

"(6) 'Construction' means the supervising, inspection, actual building, repairing, or expanding of an onshore or offshore facility, or any of its components.

"(7) 'Person' includes an individual, a firm, corporation, association, partnership, consortium, joint venture, or governmental entity.

"(8) 'Vessel' means every description of watercraft or other artificial contrivance used and means of transportation on or through the water.

"(9) 'Owner' means any person holding title to, or, in the absence of title, any other indicia of ownership of, a vessel or facility, but does not include a person who, without participating in the management or operation of a vessel or facility, holds indicia of ownership primarily to protect his security interest in the vessel or facility.

"(10) 'Operator' means—

"(A) in the case of a vessel, a charterer by demise or any other person, except the owner, who is responsible for the operation, manning, victualing, and supplying of the vessel, or

"(B) in the case of a facility, any person, except the owner, responsible for the operation of the facility by agreement with the owner.".

SECTION-BY-SECTION ANALYSIS—LIQUEFIED ENERGY GAS SITING SAFETY AND LIABILITY ACT OF 1979

TITLE I. SITING AND SAFETY STANDARDS

Section 101.—Definitions.

Section 102.—This section amends the Natural Gas Pipeline Safety Act of 1968 by adding a new section which pertains to standards for the design, construction, operation, and maintenance of LNG facilities. No new liquefied natural gas facility may be constructed nor may construction occur with respect to an existing facility until the Secretary of Transportation (hereinafter "Secretary") determines that the construction, operation and maintenance of such facility would be in accordance with standards prescribed under this section. After the effective date for the standards to be issued under subsection B, the Secretary shall issue a construction on the basis of the application submitted which meets standards applicable for all new LNG facilities.

Additionally, the Secretary shall not approve construction of a liquefied natural gas facility unless the applicant submits a site-specific contingency plan which details steps to be taken in case of a liquefied natural gas accident or supply interruption, and which the Secretary under this section determines to be adequate to ensure maximum protection of public health, safety, and property.

Construction standards prescribed under this section would not apply in the construction of those facilities for which an application for approval was filed and approved by appropriate Federal agencies before the date of enactment. The remaining facilities, defined as existing facilities, would be subject to standards mandated by this section which pertain to operation of facilities. If the capacity of an existing facility is to be expanded, standards mandated by this section pertaining to construction would be applicable to the expansion. New facilities would be subject to all standards mandated by this section.

The section requires that, within 90 days after enactment, the Secretary must establish proposed minimum standards pertaining to: the remote siting of new stationary liquefied natural gas facilities; the design and construction of new LNG facilities; and the operation and maintenance of new facilities. Standards shall be developed independently by the Department of Transportation and shall make every effort to improve upon existing Federal and industrial standards. Final standards must be established within 180 days after enactment.

Within 180 days of enactment, the Secretary would be required to establish minimum standards pertaining to the operation and maintenance of any liquefied natural gas facility. After the effective date of operation and maintenance standards, the Secretary shall issue operating permits for existing LNG facilities on the basis of an application submitted pursuant to the procedures prescribed in the bill.

In prescribing minimum standards for new stationary facilities the Secretary would be required to consider: (1) the nature of the use of the facility; (2) alternative locations; (3) existing and projected population and demographic characteristics of alternative locations and land uses near each location; (4) physical aspects of each location including seismic aspects; (5) medical, law enforcement and fire prevention and fire fighting capabilities of the location; and (6) costs of construction, operation and the desirability of remote location. The last factor shall be considered in consultation with the Department of Energy.

In promulgating standards for the design and construction of any new liquefied natural gas facility the Secretary must consider: (1) thermal resistance and other characteristics of materials used in the construction of such facilities; (2) design factors (e.g., multiple diking); (3) the characteristics of the liquefied natural gas to be stored or converted (e.g., whether the gas is in liquid, semi-solid or solid state); (4) the public safety factors of the design as compared to alternative designs (with special attention to design elements intended to prevent and contain a liquefied natural gas spill); and (5) security aspects, including anti-intrusion features.

In promulgating standards relating to the operation of any liquefied natural gas facility, the Secretary must consider the following: (1) the condition, features and types of equipment and structure utilized in the facility; (2) the fire prevention and containment equipment of the facility; (3) the security measures to be used to prevent sabotage; (4) maintenance procedures and equipment; (5) training techniques in regard to the equipment; (6) its operation and security measures; and (7) other factors pertaining to the safe handling of liquefied natural gas.

Any standard prescribed under this section would become effective 30 days after the date of issuance unless the Secretary, upon a showing of good cause, determines that an earlier or later effective date is necessary to better assure compliance. Additionally, the Secretary would be directed to amend such regulations, on his own motion or on the motion of any person, in order to reflect changes in technology or to carry out the purposes of this section. The Secretary can also afford interested parties the opportunity to present verbal or written testimony on such changes and to have full hearings on the record.

The section also permits state agencies to adopt additional or more stringent standards for liquefied natural gas facilities provided those standards are compatible with Federal minimum standards. The Secretary shall determine whether state standards are compatible. No construction application for a new LNG facility shall be approved without at least one hearing in the affected local district. Under no circumstance shall a permit be issued for construction, or licensing for operation of a facility without approval of the Governor of the affected state, or deny any application for construction, or licensing of a facility within a 90-day period after the last hearing regarding the application. The Governor has 180 days after notification to act on the application; inaction shall be deemed to be acceptance.

In carrying out the provisions of this title the Secretary also shall consult with the Secretary of Energy to ensure consideration of the technical, economic, and security aspects of liquefied energy gas supply. The Secretary is also required to issue regulations that ensure all LNG facilities inspected at least annually by qualified Federal inspectors, or a state inspector certified by the Department of Transportation.

Section 104.—This section creates an Advisory Panel to report to the Secretary on the adequacy of regulations and monitoring of hazardous materials and related matters. The Panel is made up of the Chairman of the National Transportation Safety Board (designated as Chairman), the Chairman of the Interstate Commerce Commission, and two private members to be named by the Secretary. The Panel is required to report to the Secretary at least yearly. It is contemplated that this report shall complement other required reports (such as the NTSB report on pipeline safety issues).

The Title contains amendments of a technical and conforming nature, provides for civil and criminal penalties for violations and authorizes $2 million to carry out the provisions of this section.

TITLE II. LIABILITY AND COMPENSATION

Section 201.—This section directs the Secretary of State, in consultation with the Secretary of Transportation, to seek international action in support of this bill. It authorizes the Secretary of State to formulate specific proposals for the U.N. and other international organizations dealing with construction, ownership and operation of offshore facilities and vessels carrying LEG, and directs the Secretary to determine the feasibility and desirability of negotiating treaties or other means to establish liability insurance covering LEG vessels.

Section 202.—This section establishes a Liquefied Energy Gas Incident Liability and Compensation Fund in the Treasury, and provides for cooperative administration by the Secretaries of the Treasury (as lead agency) and Transportation. It authorizes a total amount for the Fund of up to $250 million, plus any additional amounts collected or recovered in later actions by the Fund and provides that the Fund may sue or be sued in its own name. The Fund shall be constituted from amounts recovered or collected, as well as fees of not more than 1 cent per thousand cubic feet on liquefied energy gases received for export, entry into the United States, or transportation in interstate commerce. These fees shall be collected from the owners of each liquefied natural gas facility or liquefied petroleum gas importation facility. The Secretary of the Treasury is directed to modify or suspend the amount of these fees in order to maintain the Fund at a level of between $50 million and $250 million. Any excess funds shall be invested by the Secretary of the Treasury in income-producing U.S. securities, with the proceeds credited to the Fund.

Section 203.—This section provides that damage claims may be asserted for an accident involving liquefied energy gases which involve personal injury (including death), or property damage equal to or exceeding $10,000.

Section 204.—This section provides strict liability for the owner and/or operator of a vessel carrying liquefied energy gases, or the owner/operator of a liquefied energy gas facility. Total liability for a specific claim is limited to $100 million, unless the incident is caused primarily by gross negligence or willful misconduct of the owner/operator or his agents, or by a violation of applicable Federal standards including hazardous materials or pipeline safety standards. This section also provides that no liability will be found if the accident is caused primarily by an act of war if such an act of war is carried out by another nation (this provision is designed to clarify the intent of legislation to cover any terrorist acts), or by an act of God. Furthermore, no liability is imposed if the damages are proximately caused by the negligent or intentional actions of the claimant. If the Fund is inadequate to meet claims, the Secretary shall issue notes or other obligations to the Treasury. Ultimate redemption of these notes shall be made from the Fund. In the meantime the Treasury is directed to purchase such notes and these transactions are treated as public debt transactions.

Section 205.—This section subrogates the Fund as well as any other person paying any amount to claimants under the Act, and provides that upon the request of the Secretary of Transportation, the Attorney General shall bring an action on behalf of the Fund against any person who may be liable to the claimant or the Fund itself.

Section 206.—This section requires each owner-operator of a liquefied energy gas facility or vessel to maintain evidence of financial responsibility that is adequate to satisfy the maximum limit of liability provided under Section 204. The Secretary is directed to promulgate regulations establishing methods to demonstrate financial responsibility, and provides that such a demonstration may include evidence of insurance, security bonds, qualifications as a self-insurer, and/or other evidence of financial responsibility. A failure to comply creates liability for a civil penalty of not more than $10,000, and any vessel failing to comply with the requirements of the section shall be refused clearances.

Section 207.—This section requires the owner/operator of a liquefied energy gas vessel or facility to notify the Secretary as soon as he or she becomes aware of an accident involving LEG. Provides that any information received through or as a result of such a notification shall not be used in a subsequent criminal case, except for a prosecution for perjury or for giving a false statement.

Section 208.—This section requires the Secretary of Transportation to notify the owner/operator of an LEG facility or vessel of any information related to an LEG accident as well as potential liability. The owner/operator then has five days to admit or deny liability for damages. If the owner/operator fails to deny liability, he (or his insurer) shall advertise claims procedures in accordance with regulations to be promulgated by the Secretary of Transportation; the Secretary is also charged with publishing the advertisement in the Federal Register. If a denial is made, the Secretary is required to advertise procedures for presenting claims. Advertisements are required within fifteen days after the Secretary notifies owner/operators and must continue for at least thirty days. Any person to whom a claim has been presented is required to notify the claimant of all his or her legal rights and also notify the Secretary of the claim.

The following types of claims can be submitted directly to the Secretary: claims for which a denial has been filed, as well as those where the owner/operator has refused liability, submitted a written settlement offer which has been rejected by the claimant, or has not settled the claim within sixty days after the later of the dates on which the claim was presented or advertising was started.

The Secretary is also required to use and compensate private insurance companies or State agencies to process claims against the Fund, unless there are extraordinary circumstances where the Secretary determines that private or State facilities are inadequate. Each person's damage claims shall be presented in a single form that is amendable to include newly-discovered claims. However, damages that are known or reasonably should be known to the claimant, but that nevertheless are not included in the claim at the time that compensation is paid to the claimant are effectively waived.

The section also provides that all claims under the Act shall be presented to the owner/operator or his or her insurer, or to the Secretary for payment by the Fund, within three years after the discovery of damage. In any case, no claim may be presented after six years following the first day of advertising.

The section provides for the Secretary of Transportation to appoint a hearing examiner to hear any matter in which the Secretary has denied the petition of a claimant, or not settled a claim within ninety days after submission or first-advertising, or where the owner/operator objects to a denial or to an exception made by the Secretary to the limitation of liability. The examiner in these adjudicatory hearings shall have the power to administer oaths and subpoena witnesses and documents. Decisions by the hearing examiners are not reviewable by the Secretary.

Section 209.—This section authorizes a party to seek review of the hearing examiner's decision in the United States District Court in the district where the damages occurred (or the nearest circuit if the damages occurred outside the jurisdiction of any district, or in the District Court for the District of Columbia): if the owner/operator appeals and the claimant prevails, fees and costs shall be awarded to the claimant.

Section 210.—This section provides that the United States District Courts shall have original jurisdiction for all controversies under this title, without regard to diversity of citizenship or the amount in controversy. Venue lies in any district where the damage occurred (or the nearest district if the damage occurred elsewhere), or where the defendant resides, may be found or has its principal place of business. The Fund "resides" in the District of Columbia.

Section 211.—This section requires each person responsible for contributing to the Fund to maintain such records as the Secretary of Transportation shall require.

The Secretary and the Comptroller General are given access to books and records relevant to the administration of this title.

Section 212.—This section requires the Secretary of the Treasury, in consultation with the Secretary of Transportation, to submit an annual report on the administration of the Fund and any recommendations to the Congress within six months after the end of each fiscal year.

Section 213.—This section preempts other actions in the Federal or State courts for damages covered by this title.

Section 215.—This section requires the President to study the adequacy of existing provisions of admiralty law as well as marine insurance practices relative to the coverage of vessels carrying liquefied energy gases. A report to the Congress is required within a year and a half after enactment.

TITLE III

Subtitle A—Miscellaneous provisions

Willful Destruction of Interstate Pipeline Transmission or Liquefied Gas Facilities

Section 301.—This section amends section 12 by subjecting any person who willfully injures or destroys or attempts to injure or destroy a pipeline facility for the interstate transmission of gas or petroleum or a liquefied gas facility to a fine of not more than $15,000 or imprisonment for not more than 15 years or both.

Citizen's Civil Action

Section 302.—This section amends section 20, as redesignated, (Citizens Civil Action) by redrafting subsections a and b to include reference to new section 6. The section provides that any person may commence a civil action for equitable relief whenever that citizen has a case or controversy against any person including the United States or any other government instrumentality (to the extent permitted by the 11th amendment of the Constitution) for violation of any provision, order or regulation of the Act or for violation of any condition of approval of new section 6 (Siting). Additionally, a citizen could bring suit against the Secretary for failure to perform any nondiscretionary act or duty. Any action brought against the Secretary must be brought in the district court of the District of Columbia or in the district court for the judicial district in which the facility is located or proposed to be located. The district court would have jurisdiction over suits brought under this section without regard to the amount in controversy or the citizenship of the parties.

A suit by a citizen against any person (involved in the shipment or storage of natural gas or liquefied gas) or governmental entity for an alleged violation of the act could not be brought prior to 60 days after the plaintiff has given notice to the Secretary, or to the appropriate State agency certified under section 5(a) and to the alleged violator.

A citizen could not bring a civil action against a person or governmental entity if the Secretary or Attorney General or chief law enforcement officer of a State has commenced a civil or criminal action, but the citizen could intervene as a matter of right. This provision tracks the existing provisions in the Act.

For purposes of this Act an "aggrieved" person means such person who otherwise has standing to bring such action notwithstanding the lack of any direct economic interest or injury thereto.

Appointments of Director of Office of Pipeline Safety Operations and Director of Materials Transportation Bureau

Section 303.—This section provides that no individual may serve as Acting Director of the Office of Pipeline Safety Operations, or as Acting Director of the Materials Transportation Bureau, of the Department of Transportation, for more than 180 days. It provides that if a Director of such an Office or Bureau is not appointed within 180 days after a vacancy occurs in such position, the Secretary of Transportation shall personally carry out the functions of such position and all delegations of authority under this Act shall be suspended until such appointment is made. It also provides that periods before the date of enactment shall not be taken into consideration in computing the 180-day period.

Liquefied Petroleum Gas Safety Standards

Section 304.—This section brings the transportation by pipeline of LPG within the ambit of the Act. The first step of this incorporation amends section 2 (Definitions), specifically section 2(3), to substitute "pipeline transportation" for the term "transportation of gas" and defines pipeline transportation to include the transmission or distribution (excluding gathering) of liquefied petroleum gas in interstate or foreign commerce.

Section 2(2) of the Act is amended to specifically exclude "liquefied petroleum gas" from the definition of "gas."

This section also permits the Secretary to include by regulation within the meaning of "pipeline facilities" any storage facility or category of such facilities which are physically connected to any pipeline facility used for the transmission or distribution of liquefied petroleum gas if

(1) The Secretary finds that the inclusion would further the purposes of the Act, and

(2) The facility has storage capacity of 30,000 gallons or more or is used in conjunction with other facilities having an aggregate storage capacity of 30,000 gallons or more.

The section also amends section 3 of the Act by requiring that new standards or amendments to standards pertaining to amendments described in this section shall be prescribed not later than 18 months after enactment. In the interim, the bill prescribes a procedure for interim regulations which parallels the procedure for interim regulations employed by the 1968 Act. Thus, within 3 months from enactment, the Secretary shall, by order, adopt interim minimum Federal safety standards for pipeline facilities to bring such facilities within the ambit of the Act. To the extent appropriate, such standards shall be the State standards regulating such facilities within such State on the date of enactment of this Act. If a State has no standards, the Secretary must promulgate standards which are common to a majority of States which have such standards. This provision also states that a State can adopt stricter standards for intrastate facilities, but cannot adopt or maintain more rigid standards for interstate facilities after Federal minimum interim standards are adopted.

The remaining provisions of the section are conforming, i.e., substitute "pipeline transportation" for "transportation of gas" in certain sections, etc.

Coverage of Certain Nonpipeline Facilities

Section 305.—This section authorizes the Secretary, if he finds the purposes of the Act would be furthered, to require by regulation that the provisions of the Act apply to specified types of classes of facilities or equipment used in the transportation on land of gas to the same extent or manner as pipeline facilities. If the Secretary promulgates a regulation or other requirement relating to a matter which is covered by another standard or requirement instituted pursuant to the authority of the Secretary, the Secretary shall so state in the regulation and the regulation issued pursuant to this Act shall supersede and preempt the prior standard or requirement.

Subtitle B—Offshore Liquefied Natural Gas Facilities

Section 306.—This section amends the Ports and Waterways Safety Act of 1972 to establish regulatory procedures for the licensing, construction and operation of offshore liquefied natural gas facilities. The following sections refer to the Ports and Waterways Safety Act of 1972.

Section 313.—Application and licensing procedures for application for a construction license for an offshore LNG facility and specific information to be supplied by the applicant are prescribed. The Secretary is required to hold at least one public hearing in each adjacent coastal State which shall be basis for the Secretary's desire to approve or deny a license. The Secretary is required to approve or deny an application within 90 days after the last hearing.

The Secretary shall not issue a license if a Governor of an adjacent coastal state disapproves of the application on the grounds that the application is inconsistent with State programs relating to safety, environmental protection, land and water use, or coastal zone management.

Under this section, coastal States may apply for financial assistance under the coastal energy impact program pursuant to the Coastal Zone Management Act of 1972 for the recovery of any environmental, economic, and administrative costs incurred due to construction and operation of an offshore LNG facility.

Licensees shall pay the fair market rental value of the subsoil and seabed of the OCS used by an offshore facility.

Section 314.—Safety and Environmental Standards.

The Secretary shall within one year of enactment issue regulations establishing safety and environmental standards for the location, design, construction and operation of offshore LNG facilities.

The Secretary also shall issue standards for the siting of offshore LNG facilities designed to minimize the danger to persons, property, and the marine environment of an accident.

The Secretary shall require that the best available technology be used in the design and construction of offshore facilities by prescribing minimum standards for materials and methods and techniques of design and construction.

The Secretary also shall prescribe operating standards to ensure the safe transfer and storage of LNG.

Section 315.—Regulations.

The Secretary is authorized to insure regulations to carry out the provisions of this subtitle, including regulations to protect the environment and human health.

Section 316.—Relationship to Other Law.

This section brings offshore LNG facilities under the constitution, laws and treaties of the U.S. as well as the laws of the nearest adjacent coastal State.

No licensee shall permit a vessel flying a foreign flag to call at an offshore LNG facility unless the foreign state involved recognizes the jurisdiction of the U.S. over the vessel and of personnel in U.S. waters and the vessel owner has a designated agent in the U.S. to handle any claims.

The customs laws administered by the Secretary of the Treasury shall not apply to any offshore facility licensed under this subtitle.

U.S. district courts shall have original jurisdiction of any action arising out of construction or operation of an offshore facility.

Section 317.—International Agreements.

The Secretary of State shall seek international action in support of the policies and purposes of this subtitle.

By Mr. JACKSON (by request):

S. 667. A bill to amend the Revised Organic Act of the Virgin Islands, and for other purposes; to the Committee on Energy and Natural Resources.

● Mr. JACKSON. Mr. President, by request, I send to the desk for appropriate reference a bill to amend the Revised Organic Act of the Virgin Islands, and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the bill and the executive communication which accompanied the proposal from the Under Secretary of the Interior be printed in the Record.

There being no objection, the bill and letter were ordered to be printed in the Record, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Subsection (b) of section 31 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1545(b)) as amended, is further amended by numbering the existing paragraph "(1)" and by the addition thereto of the following new paragraph:

"(2) Subject to valid existing rights, title to all property in the Virgin Islands which may have been acquired by the United States from Denmark under the Convention entered into August 16, 1916, not reserved or retained by the United States in accordance with the provisions of Public Law 93-435, 88 Stat. 1210, is hereby transferred to the Virgin Islands Government."

Department of the Interior,
Washington, D.C., February 27, 1979.

Hon. Walter F. Mondale,
President of the U.S. Senate,
Washington, D.C.

Dear Mr. President: Enclosed herewith is a proposed bill, "To amend the Revised Organic Act of the Virgin Islands, and for other purposes.".

We recommend that the bill be referred to the appropriate Committee for consideration, and that it be enacted.

The proposed bill would convey to the Virgin Islands Government title to certain property that currently is owned by the Federal Government, although the property has consistently been used by the Virgin Islands Government in the exercise of its governmental functions.

Section 3 of Public Law 93-435 provides in part that:

"All right, title, and interest of the United States in the property placed under the control of the Government of the Virgin Islands by section 4(a) of the Organic Act of the Virgin Islands of the United States (48 U.S.C. 1405c(a)), not reserved to the United States by the Secretary of the Interior within one hundred and twenty days after the date of enactment of this subsection, is hereby conveyed to such government."

It appears clear that the Congress intended to convey title to all property being used by the territorial government that was no longer required in the exercise of Federal functions or responsibilities. The language quoted above authorized the Secretary of the Interior to reserve property to the United States and the statute specifically excepted from the conveyance of title the lands administered by the Secretary of the Interior as a part of the National Park System.

Nevertheless, there are five pieces of property that never were "placed under the control of the Government of the Virgin Islands" pursuant to Section 4(a) of the Organic Act. However, they have been used by the territorial government in carrying out its functions.

These properties were transferred "to the control and jurisdiction of the Secretary of the Interior for use in the administration of the government of the Virgin Islands" by Executive Order No. 5602, dated April 20, 1931. They are properties acquired from the Government of Denmark in accordance with the agreement to purchase the islands.

The properties in question are:

Marine Barracks (Senate Building), consists of 2.0 acres of land and 9 buildings.

Quarters "B," consists of 0.4 acres of land and 4 buildings.

Military Cemetery, King's Quarters, consists of 1.3 acres of land.

King's Hill Home for the Aged, No. 23aa King's Quarter, consists of 34.9 acres of land and 7 buildings.

Public Works Yard, Nos. 1 and 2 East Street, consists of 1.4 acres of land and 4 buildings.

The first three properties are on St. Thomas and the latter two are located in Christiansted, St. Croix. In addition to these five properties, there may be other isolated parcels which have not been specifically identified. The bill is broadly drafted to convey all properties acquired from Denmark. This is permissible because, under Public Law 93-435, the United States Government reserved all the property for its own purposes in the Virgin Islands.

At the time of the issuance of Executive Order No. 5602 in 1931, there was no organic legislation for the Virgin Islands and the administration of the territory was a Federal activity. Even with the enactment of organic legislation in 1936 and its revision in 1954, there remained a substantial degree of Federal responsibility for administration and thus, perhaps, there was a continuing rationale for retaining title to the foregoing properties in the Federal Government.

There have been progressive steps in self-government in recent years with the amendments to the Organic Act providing for the election of a delegate to Congress and the election of the Governor who preivously had been a Presidential appointee with the advice and consent of the United States Senate. There is no longer any administrative reason for the Federal Government to retain title to these properties. For many years they have been operated and maintained by the territorial government; they serve local governmental needs. Enactment of the enclosed proposed bill will remove an anachronism in the development of self-government in the Virgin Islands dating from the pre-Organic Act days.

The Office of Management and Budget has advised that there is no objection to the submission of this proposed legislation from the standpoint of the Administration's program.

Sincerely,

James A. Joseph,
Under Secretary.●

By Mr. HATFIELD (for himself and Mr. Packwood):

S. 668. A bill to permit the Cow Creek Band of the Umpqua Tribe of Indians to file with the U.S. Court of Claims any claim such band could have filed with the Indian Claims Commission under the act of August 13, 1946 (60 Stat. 1049); to the Select Committee on Indian Affairs.

● Mr. HATFIELD. Mr. President, I am introducing today, together with Senator Packwood, legislation which would allow the Cow Creek Band of the Umpqua Indians of Oregon to file with the U.S. Court of Claims a claim for alleged failure of the United States to fulfill treaty obligations. This bill, which is being introduced in the House today by Congressman Jim Weaver, would waive the statute of limitations in the Indian Claims Commission Act of 1946.

The history of the alleged failure by the United States to fulfill their obligation dates to a treaty signed with the Cow Creek Umpquas in 1853. The tribe was promised a reservation and payment of $12,000 in 20 installments in return for their cession of 800 square miles of aboriginal land. Pending creation of a permanent home, the Cow Creeks were moved onto a temporary reservation, and two payments of $500 each, in the form of physical improvements, cattle and seed grain were made to the tribe. At the outbreak of the Rogue River War in 1855 between the settlers and the Rogue River Indians, the majority of the Cow Creeks fled the temporary reservation, while a few stayed behind to join in the battle against the white man. During the war, the U.S. Cavalry moved onto the temporary reservation, slaughtered the cattle for food and fed the grain to their horses.

At the close of hostilities, those surviving Cow Creeks, who had fought against the whites, numbered about 60 and were moved to the Grande Ronde Reservation. The remainder of the payments made to satisfy the Government's end of the bargain were made to the Superintendent of the Grande Ronde Reservation. The Superintendent, in turn, distributed the funds to all the Indians living on the reservation, regardless of their tribal affiliation. The majority of the Cow Creek Band of the Umpqua Indians did not live on the reservation and did not receive the payments due them.

This bill will not provide those additional payments to the heirs of the Indian treatymakers. This bill would merely waive the statute of limitations in the Indian Claims Commission Act of 1946, which mandated that Indian tribes would have until 1951 to file claims against the U.S. Government. I believe that this band of Native Americans is fully justified in asking for their day in court. The reason is that our Government had a clear statutory duty under provisions of the Indian Claims Commission Act, to notify all recognizable groups of Native Americans residing in the United States of their right to make claim. Also, the Government was to make available any information that would assist the Indians in their endeavor. No notice was given the Cow Creek Band of their right to claim, nor was information held in possession of the Government disclosed to them.

There is an explanation for this communications failure. The Cow Creeks were a social and politically cohesive group of Indians that have resided since the 1920's between the North Umpqua River and Cow Creek in southern Oregon. However, they were considered Umpqua Indians by the Government. They were on school rolls classified as Umpquas, they were known to others in the area as Umpquas, and in fact, they thought of themselves as Umpqua Indians. Therefore, when the Government began notifying identifiable groups of American Indians of their right to claim, the Cow Creeks were excluded. They expected that as Umpquas they would share in the Umpquas' claim and accordingly did not present a claim of their own.

The Rogue River claim, which included payments to the Umpqua Tribe, came to judgment in 1950 and when the Government began disbursing funds in 1955, the Cow Creeks were told they did not qualify as Umpquas. They learned that none of their ancestors could be identified as members of the Umpqua Tribe. At this time the Cow Creeks realized that they were to have neither the land that was their due, nor money to compensate for its taking. This discovery took place after the 1951 deadline for filing claims.

It was after the 1974 passage of the Freedom of Information Act that the Cow Creek Umpqua Tribal Council became aware of the historical facts I have recounted. In 1977 they learned they had a distinct claim of their own—a claim for just payments for 800 square miles of land conveyed to the U.S. Government in 1853.

Let me stress, Mr. President, that this bill does not provide land to the tribe, payment for land, nor any rights to hunting or fishing. It would allow a group of Native Americans their undeniable right to exercise their constitutional guarantee and it would give the U.S. Government the opportunity to see that due process is not denied. I urge my colleagues to lend to this bill their support.●

By Mr. BAYH (for himself, Mr. MORGAN, and Mr. DURKIN):

S. 669. A bill to provide for the exclusion of industrially funded personnel in computing the total number of civilian personnel authorized by law for the Department of Defense in any fiscal year; to the Committee on Armed Services.

DOD CIVILIAN MANPOWER CEILINGS: BARRIERS TO NATIONAL SECURITY

● Mr. BAYH. Mr. President, today I am introducing legislation to remove statutory ceilings from industrially funded defense activities. At a time when increasing public attention is properly turned to efforts aimed at improving efficiency in the management of the Federal Government, we must be careful not to persist in a practice which constitutes an overregulation of the Federal Government by itself. Perhaps more so than other agencies, the Department of Defense can ill-afford a perpetuation of manpower ceiling restraints unrelated to funded workload. Such a practice is especially detrimental to the so-called industrially funded activities of the Department of Defense.

These facilities, which constitute the industry base of DOD, bid for contracts and work like any private company. However, under the present manpower policy, each such installation must operate on a fixed number of employees that is often arbitrary and unrelated to the amount of work scheduled and funded in an effort for the wide range of DOD activities to meet the ceiling requirements we have written into the law.

In a study completed last year by the Brookings Institution called "Shaping the Defense Civilian Work Force," it was noted that:

> The degree to which efforts to match or offset improvements in Soviet military power increase the financial burden of defense will depend largely on how efficiently U.S. defense resources are managed; controlling manpower costs will be an essential element in any such program.

I would submit that continuation of a practice where we actually forgo savings in overhead costs and reduce the mobilization base of such vital DOD facilities as shipyards, weapon support centers, engineering acquisition facilities and air rework facilities is not managing U.S. defense resources efficiently. And we must remember that the weapons systems we procure one year are no better than the levels of maintenance which we permit them in the years they serve a fleet, an air wing or an artillery regiment.

Mr. President, we are talking about a naval engineering acquisition center which has developed the guidance for the Tomahawk sea launched cruise missile or an air rework facility which keeps F-14 fleet defense interceptors not only flying but full service capable as well. In the shipyards as well, it is difficult to understand how we can continue to be satisfied with anything less than optimum management of fleet repair and refurbishment.

In addition, it is possible to cite present workloads insufficiently supported by manpower in ammunition production and depot facilities of the Army. In short, this whole range of problems supports and buttresses the assessment of a General Accounting Office report of June 2, 1977, which concluded that:

> Federal manpower management can be improved by employing or otherwise acquiring the most appropriate types of personnel resources for specific circumstances and purposes rather than by limiting the number of persons that may be reported on the Federal payroll on one particular day.

That report, termed and titled "Personnel Ceilings—A Barrier to Effective Manpower Management" summarizes other analyses and demonstrates that the Department of Defense itself recognizes the merit of managing its civilian manpower resources through other than ceiling constraints. Quite frankly, while these are attractive political instruments to suggest a determination to brake bureaucratic growth, I am convinced that both Congress and OMB are wasting rather than saving tax dollars by continuing such controls on DOD industrially funded activities.

It was on this invitation to growth argument absent rigid personnel ceiling constraints that led the Brookings Institution to conclude that such an assumption:

> Presumes that defense planners are clamoring to increase the size of the civilian component of their labor force, a presumption that flies in the face of experience, at least in the Department of Defense. Unlike other government agencies, counterpressures exist in the Pentagon; civilian personnel are not the essence of defense organization. The natural predilection for filling the jobs with uniformed employees, on the other hand, and the unusually heavy financial demands of capital equipment, on the other, are efficient checks on growth. Indeed, it could be argued that some form of external pressure (such as the imposition of civilian substitution programs) is needed before additional jobs are opened to Federal employees . . .

Clearly then, removal of ceiling controls from industrially funded activities should not result in a sharp increase in this sector of the Federal workforce. If anything, it will go a long way to halt the turbulence which has come to characterize manpower situations at vital facilities. In so doing, it will enhance the readiness of our fighting forces and provide us with optimum return on the defense dollar.

Mr. President, at this point I ask unanimous consent that a copy of this legislation be inserted in the RECORD as well as a listing of DOD industrially funded activities throughout the country.

There being no objection, the bill and list were ordered to be printed in the RECORD, as follows:

S. 669

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 138(c)(2) of title 10, United States Code, is amended by adding at the end thereof the following new sentence: "In computing such end strength for civilian personnel, there shall be excluded civilian personnel engaged in industrially funded activities.".

DEFENSE DEPARTMENT "INDUSTRIALLY-FUNDED" FACILITIES AFFECTED

ALABAMA

Anniston Army Depot, Anniston 36201.

Army Missile Command, Redstone Arsenal 35809.

ARKANSAS

Pine Bluff Arsenal, Pine Bluff 71601.

CALIFORNIA

Naval Weapons Station, Concord 94520.

Naval Weapons Station, Seal Beach 90740.

Naval Ships Weapons Systems, Port Hueneme 93043.

Naval Public Works Center, Naval Base, San Diego 92136.

Naval Construction Battalion Center, Civil Engineering Lab, Port Hueneme 93043.

Naval Weapons Center, China Lake 93555.

Naval Undersea Center, San Diego 92132.

Naval Electronics Lab Center, San Diego 92152.

Sacramento Army Depot, Sacramento 95813.

Sharpe Army Depot, Lathrop 95330.

McClellan Air Force Base 95652.

Material Air Lift Command, Norden Air Force Base 92409.

Naval Air Rework Facility, Naval Air Station, Alameda 94501.

Naval Air Rework Facility, Naval Air Station, North Island, San Diego 92135.

Naval Missile Center, Point Mugu 93042.

Long Beach Naval Shipyard, Long Beach 90801.

Mare Island Naval Shipyard, Vallejo 94592.

Hunters Point Naval Shipyard, San Francisco 96810.

Depot Maintenance Activity, Marine Corps Supply Center, Barstow 92311.

COLORADO

Pueblo Army Depot, Pueblo 81001.

Rocky Mountain Arsenal, Denver 80240.

FLORIDA

Naval Air Rework Facility, Naval Air Station, Pensacola 32508.

Naval Air Rework Facility, Building 604, Naval Air Station, Pensacola 32508.

Naval Public Works Center, Naval Air Station, Pensacola 32508.

Naval Coastal Systems Lab, Panama City 32401.

GEORGIA

Atlanta Army Depot, Forest Park 30050.

Robbins Air Force Base, Macon 31098.

Depot Maintenance Activity, Marine Corps Supply Center, Albany 31704.

HAWAII

Pearl Harbor Naval Shipyard, Pearl Harbor Navy Public Works Center.

ILLINOIS

Rock Island Arsenal, Rock Island 61201.

Navy Public Works Center, Building 1A, Great Lakes 60088.

INDIANA

Naval Avionics Center, 21st and Arlington Avenue, Indianapolis 46218.

Naval Ammunition Depot, Crane 47552.

KENTUCKY

Blue Grass Depot Activity, Lexington 40507.

MARYLAND

Edgewood Arsenal 21010.

Army Research & Development, Aberdeen Proving Ground 21005.

Naval Air Test Center, Patuxent River 20670.

Naval Ordnance Station, Indian Head 20640.

Naval Ordnance Laboratory, White Oak, Silver Spring 20910.

MASSACHUSETTS

Army Material Mechanics Research Center, Watertown 02172.

NEVADA

Naval Ammunition Depot, Hawthorne 89415

NEW HAMPSHIRE

Portsmouth Shipyard, Portsmouth 03801.

NEW JERSEY

Picatinny Arsenal, Dover 07801.

Naval Air Engineering Center, Lakehurst 08733.

Naval Air Propulsion Test C., Trenton 08628.

Naval Ammunition Depot, Earle, Colts Neck 07722.

NEW YORK

Watervliet Arsenal 12189.

NORTH CAROLINA

Naval Air Rework Facility, Marine Corps Air Station, Cherry Point 28533.

OHIO

Wright-Patterson A.F. Base, Dayton 45433.

Newark Air Force Station, Newark 43055.

OKLAHOMA

Tinker Air Force Base, Oklahoma City 73145

Naval Ammunition Depot, McAlester 74501.

PENNSYLVANIA

Letterkenny Army Depot, Chambersburg 17201.

New Cumberland Army Depot, New Cumberland 17070.

Tobyhanna Army Depot, Tobyhanna 18466.

Frankfort Arsenal, Philadelphia 19137.

Philadelphia Naval Shipyard, Philadelphia 19112.

Navy Publication & Printing Service, Northern Division, Building 4, Section D, Philadelphia 19111.

Naval Air Development Center, Warminster 18974.

RHODE ISLAND

Naval Underwater Systems Center, Newport 02840.

SOUTH CAROLINA

Charleston Army Depot, North Charleston 29406.

Charleston Naval Shipyard Naval Base, Charleston 29408.

Naval Weapons Station, Charleston 29408.

POLARIS Missile Facility, Atlantic, Charleston 29408.

TEXAS

Red River Army Depot, Texarkana 75501.

Aeronautical Depot Maintenance Center, USA, Corpus Christi 78418.

Kelly Air Force Base, San Antonio 78241.

UTAH

Tooehle Army Depot 84075.

Air Force Printing and Duplicating Services, Air Force Material Command, Hill A.F. Base 84406.

VIRGINIA

Naval Air Rework Facility, Naval Air Station, Norfolk 23511.

Norfolk Naval Shipyard, Portsmouth 23709.

Navy Public Works Center, Norfolk 23511.

Naval Service Weapons Center, Dahlgren.

WASHINGTON

Puget Sound Naval Shipyard, Bremerton 98314.

● Mr. MORGAN. Mr. President, we are currently holding hearings in the Armed Services Committee on a Department of Defense Authorization bill which will be for about $135 billion.

The biggest part of our defense budget goes to personnel costs, both military and civilian. If we are going to be able to afford the military equipment we so clearly need and to keep a healthy capability to service and maintain that equipment we must learn to manage our Department of Defense resources more like a prudent businessman.

We currently have the situation where an industrially funded activity, which is supposed to work like a business, is authorized a number of workers determined in advance by the Department of Defense. This is done in competition with other personnel needs of the Department of Defense and to meet the arbitrary ceilings we put in the law each year for the entire Department. This is an unrealistic way to operate facilities which are industrial in nature and whose work expands and contracts to meet the needs of the Department.

Let me describe a typical industrially funded activity.

The Naval Air Rework Facility, Cherry Point, N.C., is 1 of 6 depot level aircraft overhaul facilities within the Department of the Navy and 1 of 13 similar facilities in the Department of Defense. The Naval Air Rework Facility, Cherry Point, has the largest payroll of any industry located at one site in the State of North Carolina, approximately $49 million in fiscal year 1978. The Naval Air Rework Facility, Cherry Point, is the east coast rework point for the F-4 jet fighter and H-46 transport helicopter aircraft, and it is the only facility in the United States capable of reworking the AV-8A Harrier jet attack and the OV-10 turbo-prop observation aircraft. The Harrier is the only operational vertical/short take-off and landing aircraft in the United States. The Naval Air Rework Facility, Cherry Point, overhauls 6 different jet engines and 9,000 line items of different aeronautical components, including helicopter rotor blades, pneumatic, hydraulic, and electronically actuated devices. Work is accomplished primarily for the Navy and Marine Corps but Air Force, Army, Coast Guard, and NASA work load is also performed at Cherry Point. There are 2,500 civilian employees and 80 Marines at the Naval Air Rework Facility, Cherry Point. The 2,500 civil servants work in 270 different skills and management positions, including production controllers, aerospace engineers, aircraft sheet metal mechanics, aircraft electronic system mechanics, aircraft engine mechanics, management analysts, patternmakers, toolmakers, machinists, and so forth.

When an industrially funded activity must operate under a rigid manpower allocation, inevitable inefficiencies happen. Either the facility has too many people for the work which moves through the plant (resulting in idle and costly workers) or it does not have enough people (which increases costs through inefficiency and overhead and endangers the product).

If we are really interested in saving scarce tax dollars by improving management, one of the obvious things we should do is to require the Department of Defense to run its industrial facilities as would any prudent manager. We should remove the manpower of industrially funded activities from the civilian end strength computations and allow the activities to have the proper work force for their vital projects.

I am pleased to be able to sponsor this bill with Senator BAYH.●

● Mr. DURKIN. Mr. President, when discussing Department of Defense manpower, we have a tendency to think exclusively of men and women in uniform who are the bulwark of our national defense. But just as important to our national security are the civilian personnel who maintain, prepare, repair, and operate so much of our military equipment. The men and women who service our nuclear submarine fleet at Portsmouth Naval Shipyard in New Hampshire, for instance, are as crucial to our strategic forces as anyone else or anything else in our defense establishment.

That is one reason I have been extremely concerned by the policy of counting civilian personnel engaged in industrially funded activities in civilian personnel ceilings within the Department of Defense. Setting an arbitrary cap on these personnel weakens our national defense as surely as supplying our front line troops with antiquated weaponry or furnishing our intelligence operations with secondrate electronics equipment.

Therefore, I am pleased today, to cosponsor legislation along with my distinguished colleague from Indiana, Senator BAYH, to exclude civilian personnel engaged in industrially funded activities from civilian DOD manpower ceilings. It is time Congress took this important step, for a delay can only mean problems for our national defense in the future.

I am sure my colleagues realize that this bill is not meant to do away with manpower ceilings altogether. There is certainly a place for rationally applied manpower ceilings. But the present method of capping industrially funded personnel who are a numerically small portion of the defense establishment neither provides an efficient use of taxpayers dollars nor adequately provides for our national defense.

I have several major objections to the present policy of arbitrarily limiting the number of civilian workers engaged in industrially funded activities. First, these arbitrary ceilings have the net long-term impact of increasing the cost of our defense efforts while decreasing the overall effectiveness of our defense capabilities. As the General Accounting Office and others who have studied this problem have noted, this limitation has the effect of preventing management from pursuing the most effective and economical management policies. This objection is important because it is clear that if this Congress and this country is serious about fiscal responsibility, we must insure that every dollar spent brings the maximum in return. In the vital area of national defense, that means quite simply that every dollar spent makes the greatest contribution to our defense effort. Because there is widespread agreement of the importance of a vigorous and strong defense effort, there is little question that we must adopt those policies which will bring more defense for the dollar. Yet, it has been demonstrated that manpower ceilings for industrially funded activities hamstring efforts to pursue the soundest and most efficient management policies.

Additionally, because this policy of ceilings on industrially funded personnel prevents implementation of policies which are more efficient and cost effective, it actually frustrates our overall goal of enhancing the combat readiness and effectiveness of our forces. I believe that our emphasis today must be on increasing our military strength and not on eroding it through the continuation of outmoded policies and practices.

Aside from the impact this policy has on Federal spending and our national defense effort, it should also be observed that these ceilings significantly disrupt the civilian workforce in those areas where industrially funded facilities operate. For example, adherence to this policy all too often results in job cutbacks and layoffs, preventing the accomplishment of needed, and usually vital, work for which there is adequate funding. This policy also aggravates unemployment at a time when we must be doing everything possible to reduce our all-too-high unemployment rate.

It is important to note what this legislation does not do. It does not eliminate manpower ceilings for the Department of Defense. Rather, it only removes these ceilings on a small segment of employees, a segment where it has been demonstrated that these ceilings do more harm than good. Similarly, this legislation does not challenge the policy that manpower ceilings in general are an effective means for the Congress to control the size and growth of the Federal Government. This measure is designed to be cost effective and cost efficient in the short run as well as in the long run.

Mr. President, we in New Hampshire are privileged to have the Portsmouth Naval Shipyard within our State. Like so many others in New Hampshire, I am proud of the long tradition of outstanding service and efficiency for which the Portsmouth Shipyard is noted. The skill, dedication, and extraordinary ability of the men and women who work at the Portsmouth Shipyard have made an immeasurable contribution to our defense effort over the years. However, I am deeply concerned that the policy of arbitrary ceiling limitations on civilians at industrially funded facilities such as Portsmouth has worked to frustrate rather than enhance their efforts. It is time we abandoned a policy which hampers our defense effort and restricts our ability to bring fiscal responsibility to all areas of Federal spending.

For these reasons, I urge approval of this important legislation, and I also wish to commend Senator BAYH for his exemplary efforts on behalf of this legislation not only this year, but in past Congresses as well.●

By Mr. BAYH:

S.J. Res. 48. A joint resolution proposing an amendment to the Constitution to provide for election of the President and Vice President of the United States by the national bonus plan; to the Committee on the Judiciary.

THE NATIONAL BONUS PLAN FOR ELECTING THE PRESIDENT

● Mr. BAYH. Mr. President, soon we will begin consideration of the proposed constitutional amendment to provide for direct popular election of the President. Senate debate on this proposal will complete the most extensive Senate study of a constitutional amendment in the Nation's history. We have conducted 43 days of committee hearings on reform of the electoral college in the last 13 years alone, including 9 days in the last Congress. Witnesses since 1966 have totaled 179 and hearing pages have totaled 3,735.

ALL ELECTORAL REFORM PROPOSALS HAVE BEEN STUDIED

The study of electoral reform over these years has included careful examination of the existing electoral college system and all of the various proposals for electoral reform, including:

First, the proportional plan;
Second, the district plan;
Third, the automatic plan;
Fourth, the national bonus plan; and
Fifth, direct popular election.

After the unprecedented amount of study and public scrutiny that has been completed on this area of constitutional reform, the proposal for direct election of the President remains the preference of an overwhelming majority of the American people and a clear majority of the Senate.

THE NATIONAL BONUS PLAN HAS ATTRACTED LITTLE SUPPORT

Mr. President, among the proposals for electoral reform is a suggestion that has been made from time to time and has recently become known as the national bonus plan. Two variations of that proposal were put forward in the last Congress. First, was a suggestion by Arnold J. Levin in the May 22, 1977, Washington Post. At the request of Senator WILLIAM SCOTT, Mr. Levin's version of the national bonus plan was printed at page 531 of the Record of Hearings on the Electoral College and Direct Election (supplement), July 20, 22, 28, and August 2, 1977.

Second, was a proposal advanced by a task force brought together by the 20th Century Fund which issued its report a year ago and attracted some attention. On the day of the 20th Century Fund's public report (March 17, 1978), I introduced their proposal, which was numbered Senate Joint Resolution 123. I stated at that time my continuing and complete commitment to direct popular election (Senate Joint Resolution 1).

However, I thought it was important for the people of our country and for my colleagues to have before them all proposals that are advanced.

Mr. President, a year has now passed since the national bonus plan was most recently put forward, yet it has appeared to attract no support in the Senate. I believe there is good reason for the lack of support, because the national bonus plan has serious—even dangerous—flaws, which I would like to describe.

THE BONUS PLAN WOULD PRESENT NEW DANGERS

The bonus plan scheme would keep the electoral college (except to eliminate faithless electors) but award 102 extra "bonus" electoral votes to the national popular vote leader. The presidential winner, then, would be the candidate who achieves a majority of the total 640 electoral votes, including the bonus votes. In the event of no electoral vote majority a runoff between the two popular vote winners would be held, with the candidate with the majority of electoral votes as specified being declared winner.

First. The bonus plan is a sham. It is direct election masquerading as the electoral college.

It is evident that the bonus plan is nothing more than a direct election achieved by a highly complicated mechanism. Any retention of the character of the electoral college system is illusory at best; at the worst, the vestiges of the electoral college serve to create new complexities and concerns. By appearing to be what it is not, it is deceptive to the electorate.

With the bonus plan, as its proponents claim, the popular vote winner invariably would win the election, under any conceivable set of circumstances. The 100 electoral vote bonus to the popular vote winner would have such an absolute, determinative effect on the outcome, that the popular vote winner would always be elected. No matter what the system is called, that is direct popular election.

For example a popular vote winner with only 41 percent of the present electoral college votes would be pushed over the electoral vote majority by virtue of his "bonus" of 100 votes. So a popular vote winner would be elected even if 59 percent of the electoral votes went to his opponent. It is not conceivable that in any reasonably expected circumstances one who is not the popular vote winner could receive 60 percent or more of the traditional state electoral votes.

The effect of granting a popular vote winner 102 extra electoral votes is so decisive to the outcome of the election that any of the impact of electoral vote allotment granted to a particular State, or of the effect of the winner-take-all rule on that State's bloc of votes is virtually eliminated. It is clear that those conducting campaigns would soon come to that realization, and plan their strategies accordingly; that is, to achieve the greatest number of popular votes nationwide. Similarly, any other speculative effects on our political system would be identical to the effects of direct popular election. The 20th Century Fund report on the bonus plan is thus misleading if it claims that Presidential campaigns will be conducted differently than under direct popular election.

Mr. President, in almost all respects, then, the bonus plan is direct election. It is achieved, however, by a new gimmick superimposed on top of the complicated mechanism of the electoral college. At least one dangerous difference from direct election deserves mention, however, and I want my colleagues to be aware of it.

Second. Under some circumstances the bonus plan would create the risk of naming a President who received only 25 percent of the popular vote, or even less.

The direct election amendment, Senate Joint Resolution 1, of course, requires a 40-percent minimum of popular support for a winning candidate. The bonus plan does not. In the usual strong two-man race, this lack of a floor of popular support creates no problems, even if a fairly strong third candidate is also in the race. As discussed earlier, a winning candidate in the bonus plan would have to have at least 41 percent of the traditional State electoral votes in order to achieve a majority of the total, including bonus electoral votes. With only 41 percent of the electoral votes, the winning candidate is likely to have close to 40 percent of the popular votes. If a fragmented election situation should occur, however, the bonus plan allows the winning candidate, though possessed of a very low popular mandate, to have 41 percent of the electoral votes.

For example, in a strong four-man field, it would be feasible for the winner to hold only 26 percent of the popular votes. This is possible because of the magnified effect of the electoral college system's unit rule. The entire bloc of electoral votes of a State can be won by a plurality of 1 popular vote, and should a candidate achieve his 219 electoral votes by close margins, he could very conceivably surpass his opponents nationally by only 1 percent or 2 percent of the popular vote. Therefore, we could have a President against whom three-fourths of the country was opposed, and his ability to function effectively would be placed in question.

Mr. President, I am introducing the bonus plan proposal again today, as I did last year, for the purpose of placing it before our colleagues and before the public. For the reasons I have mentioned, I do not consider it a satisfactory alternative.

I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 48

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. The President shall be elected by a majority of all electoral votes for President, and the Vice President shall be elected by a majority of all electoral votes for Vice President.

"SEC. 2. Each State shall have one electoral vote for each Member of the House of Representatives, and one electoral vote for each Senator. The District of Columbia shall have a number of electoral votes equal to the whole number of Senators and Representatives to which it would be entitled if it were a State. These votes shall be automatically allocated by State to the candidates for President and Vice President who receives the most popular votes for each office in each State.

"In addition, there shall be a national pool of electoral votes which shall be equivalent to the number of Senators, including an additional two for the District of Columbia, as if it were a State. These votes shall be automatically allocated to the candidates for President and for Vice President who win the most popular votes across the Nation for each office.

"SEC. 3. In the event that no candidate receives a majority of electoral votes, there shall be a second election between the top two candidates in the national popular vote, to be held within thirty days of the first election. The winner shall be the candidate who receives a majority of electoral votes as specified.

"SEC. 4. Congress shall have the power to implement this article with appropriate legislation.".●

ADDITIONAL COSPONSORS

S. 51

At the request of Mr. BENTSEN, the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 51, the Regulatory Budget Act of 1979.

S. 52

At the request of Mr. BENTSEN, the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 52, the Regulatory Conflicts Elimination Act of 1979.

S. 53

At the request of Mr. BENTSEN, the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 53, the Independent Agencies Regulatory Improvements Act of 1979.

S. 54

At the request of Mr. BENTSEN, the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 54, the Regulatory Cost Reduction Act of 1979.

S. 58

At the request of Mr. INOUYE, the Senator from Oklahoma (Mr. BOREN) was added as a cosponsor of S. 58, a bill for the relief of Joseph Y. Quijano, his wife Marichu Larrazabal Quijano, and his son, Franz Joseph Quijano.

S. 94

At the request of Mr. BENTSEN, the Senator from Indiana (Mr. LUGAR), the Senator from Mississippi (Mr. COCHRAN), the Senator from New Mexico (Mr. SCHMITT), the Senator from Vermont (Mr. LEAHY), the Senator from New Mexico (Mr. DOMENICI), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), the Senator from South Carolina (Mr. THURMOND), the Senator from Oregon (Mr. HATFIELD), and the Senator from Alabama (Mr. STEWART) were added as cosponsors of S. 94, a bill to amend the Internal Revenue Code of 1954 to allow individuals to compute the amount of the deduction for payments into retirement savings on the basis of the compensation of their spouses, and for other purposes.

S. 123

At the request of Mr. Inouye, the Senator from Vermont (Mr. Leahy) and the Senator from West Virginia (Mr. Randolph) were added as cosponsors of S. 123, a bill to amend the Social Security Act to provide for the payment under medicare for services by psychologists.

S. 233

At the request of Mr. Cannon, the Senator from Florida (Mr. Stone) was added as a cosponsor of S. 233, a bill to amend the International Travel Act of 1961 to authorize additional appropriations, and for other purposes.

S. 246

At the request of Mr. Bentsen, the Senator from Nebraska (Mr. Zorinsky) and the Senator from Indiana (Mr. Lugar) were added as cosponsors of S. 246, to amend the Internal Revenue Code of 1954 to encourage greater individual savings.

S. 270

At the request of Mr. Bumpers, the Senator from Vermont (Mr. Leahy), the Senator from Oregon (Mr. Hatfield), the Senator from Oklahoma (Mr. Bellmon), the Senator from Indiana (Mr. Lugar), the Senator from Wyoming (Mr. Wallop), and the Senator from New Mexico (Mr. Schmitt) were added as cosponsors of S. 270, a bill to amend the Occupational Safety and Health Act of 1970 to insure equal protection of the laws for small business and to provide that any employer who successfully contests a citation or penalty shall be awarded a reasonable attorney's fee and other reasonable litigation costs.

S. 344

At the request of Mr. Stafford, the Senator from New Mexico (Mr. Domenici) and the Senator from South Dakota (Mr. Pressler) were added as cosponsors of S. 344, a bill to amend section 131, title 23, United States Code.

S. 380

At the request of Mr. Durkin, the Senator from Texas (Mr. Bentsen) and the Senator from Maine (Mr. Cohen) were added as cosponsors of S. 380, a bill to amend the Bank Holding Company Act of 1956 to limit the property and casualty and life insurance activities of bank holding companies and their subsidiaries.

S. 395

At the request of Mr. Chiles, the Senator from Pennsylvania (Mr. Heinz) was added as a cosponsor of S. 395, the Medicare Supplemental Health Insurance Information Disclosure and Protection Act of 1979.

S. 396

At the request of Mr. Dole, the Senator from Nebraska (Mr. Zorinsky) was added as a cosponsor of S. 396, a bill to amend the Internal Revenue Code to exempt farm trucks and soil and water conservation trucks from the highway use tax.

S. 451

At the request of Mr. Schweiker, the Senator from West Virginia (Mr. Randolph) and the Senator from Utah (Mr. Hatch) were added as cosponsors of S. 451, the Diabetes Research and Training Amendments and National Diabetes Advisory Board Extension Act.

S. 464

At the request of Mr. Inouye, the Senator from Montana (Mr. Melcher) was added as a cosponsor of S. 464, a bill to amend the Internal Revenue Code of 1954 to expend the category of targeted groups for whom the new employee credit is available to include displaced homemakers.

S. 518

At the request of Mr. Bumpers, the Senator from Arkansas (Mr. Pryor), the Senator from Louisiana (Mr. Long), the Senator from Louisiana (Mr. Johnston), the Senator from North Carolina (Mr. Morgan), the Senator from Alabama (Mr. Stewart), and the Senator from Texas (Mr. Bentsen) were added as cosponsors of S. 518, a bill to amend the Poultry Products Inspection Act so as to restrict the authority of the Secretary of Agriculture to regulate the speed of processing poultry on the basis of State, region, or other area, or on the basis of a lack of inspectors.

S. 525

At the request of Mr. Riegle, the Senator from Ohio (Mr. Metzenbaum) was added as a cosponsor of S. 525, the Drug Abuse Prevention, Treatment and Rehabilitation Act of 1979.

S. 623

At the request of Mr. Kennedy, the Senator from Rhode Island (Mr. Pell), was added as a cosponsor of S. 623, to provide for the public financing of general elections for the U.S. Senate and for other purposes.

SENATE JOINT RESOLUTION 41

At the request of Mr. Burdick, the Senator from Arizona (Mr. DeConcini) was added as a cosponsor of Senate Joint Resolution 41, to establish National Family Week.

SENATE CONCURRENT RESOLUTION 2

At the request of Mr. Goldwater, the Senator from Wisconsin (Mr. Proxmire) and the Senator from Tennessee (Mr. Baker) were added as cosponsors of Senate Concurrent Resolution 2, to uphold the separation of powers between the executive and the legislative branches of Government in the termination of treaties.

SENATE CONCURRENT RESOLUTION 7

At the request of Mr. Schweiker, the Senator from New Hampshire (Mr. Humphrey) was added as a cosponsor of Senate Concurrent Resolution 7, expressing the sense of the Congress on the nonenforcement of sanctions against Zimbabwe-Rhodesia.

SENATE CONCURRENT RESOLUTION 9

At the request of Mr. Goldwater, the Senator from Kansas (Mr. Dole) was added as a cosponsor of Senate Concurrent Resolution 9, relating to the restoration of the free exercise of religion in the Ukraine.

SENATE RESOLUTION 105—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, reported the following original resolution, which was referred to the Committee on the Budget:

S. Res. 105

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such waived with respect to the consideration of S. 349. Such waiver is necessary because S. 349 authorizes the enactment of new budget authority which would first become available in fiscal year 1979, and such bill was not reported on or before May 15, 1978, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible in this instance because the Council on Wage and Price Stability was designated to monitor the administration's voluntary wage and price standards. This expanded role was not foreseen at the time the previous authorization was approved.

The effect of defeating consideration of this authorization will be to impede seriously the monitoring of the voluntary wage and price standards which are key elements of the administration's anti-inflation program.

SENATE RESOLUTION 106—SUBMISSION OF A RESOLUTION RELATING TO THE NOMINATION TO THE POST OF AMBASSADOR TO AFGHANISTAN

Mr. PELL (for himself and Mr. Lugar) submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. Res. 106

Resolved, That the United States Senate shall not grant its advice and consent, as required under Article II, Section II of the United States Constitution, on the appointment of an ambassador to Afghanistan, until the President certifies to the Congress that:

(1) The Government of Afghanistan has apologized officially and assumes responsibility for the death of Ambassador Adolph Dubs.

(2) The Government of Afghanistan has provided assurances that it will be guided by the advice of the United States Government in responding to threats to the lives of United States Government personnel in Afghanistan.

(3) The Government of Afghanistan has agreed to provide adequate protection for all United States Government personnel in Afghanistan.

SENATE CONCURRENT RESOLUTION 11—SUBMISSION OF A CONCURRENT RESOLUTION DESIGNATING "APPROPRIATE TECHNOLOGY WEEK"

Mr. TSONGAS submitted the following concurrent resolution, which was referred to the Committee on the Judiciary:

S. CON. RES. 11

Whereas April 27 through May 1 has been designated as "Appropriate Technology Week" throughout the United States; and

Whereas appropriate technology is energy saving, anti-inflationary, labor intensive, decentralized, easily maintained, environmentally sound, capital saving, and fosters free enterprise and competition; and

Whereas the American people, industry, and labor should be made aware of the realization and potential of appropriate technologies; and

Whereas Federal, State, and local governments should promote and encourage further development, refinement, and deployment of appropriate technologies; and

Whereas the realization and the promise of appropriate technology will be observed and celebrated on the Washington Mall from April 27 through May 1, 1979, through the ACT '79 Fair/Conference: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the 27th day of April through the 1st day of May 1979, be proclaimed "Appropriate Technology Week", and that the people and the representatives of government, industry, and labor in the United States be urged to participate in the programs, discussions, demonstration, celebrations, and other activities to mark the week.

AMENDMENTS SUBMITTED FOR PRINTING

DIRECT POPULAR ELECTION OF THE PRESIDENT AND VICE PRESIDENT—SENATE JOINT RESOLUTION 28

AMENDMENT NO. 107

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. HARRY F. BYRD, JR., submitted an amendment intended to be proposed by him to Senate Joint Resolution 28, a joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States.

INTERNATIONAL SECURITY ASSISTANCE ACT OF 1979 AND THE INTERNATIONAL DEVELOPMENT ASSISTANCE ACT OF 1979—S. 584 AND S. 588—SENATE RESOLUTION 106

AMENDMENT NO. 108

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. PELL (for himself and Mr. LUGAR) submitted an amendment intended to be proposed by them, jointly, to S. 584, the International Security Assistance Act of 1979.

AMENDMENT NO. 109

(Ordered to be printed and to lie on the table.)

Mr. PELL (for himself and Mr. LUGAR) submitted an amendment intended to be proposed by them, jointly, to S. 588, the International Development Assistance Act of 1979.

TIME TO REDUCE TIES WITH AFGHANISTAN

● Mr. PELL. Mr. President, today it is exactly 4 weeks since our Ambassador to Afghanistan, Adolph "Spike" Dubs, was killed as a result of the Afghan Government's mishandling of the effort to free Ambassador Dubs from his kidnapers. So far, the administration has protested and announced that a planned military training program with Afghanistan will be canceled and that development assistance programs in Afghanistan will be cut back, but not totally eliminated. These are steps in the right direction, but they do not go far enough in my view, and the requirements for reinstating the canceled or reduced programs have not been spelled out.

On February 22, I made a statement in the Senate and sent a letter to President Carter proposing four specific actions on our part that would be rescinded only when the Afghan Government: First, apologizes offically and assumes responsibility for Ambassador Dubs' death, second, provides assurances that in the future it will be guided by U.S. Government advice in the handling of threats to the lives of its representatives, and third, provides adequate protection for all U.S. Government personnel in Afghanistan.

The four specific proposals that I made contingent on the three Afghan actions just mentioned were:

First, to terminate immediately all of our economic and military aid programs, including all money in the pipeline, and withdraw all AID personnel;

Second, to withdraw all Peace Corps volunteers;

Third, to inform the Afghan Government that we will not reappoint an ambassador to succeed Ambassador Dubs, and

Fourth, to reduce our Embassy staff by one-half and require the Afghan Embassy in Washington to do the same.

Since the administration has only announced a partial program relating to the first action I have recommended, I am today submitting two amendments to the appropriate foreign assistance bills to implement all aspects of my first proposal. I have declared my intention to propose an amendment to the Peace Corps authorization bill to implement my second proposal, when the Peace Corps bill is introduced. I am also submitting today a Senate resolution (S. Res. 106) relating to the deferral of Senate action on any nomination by the President of a successor to Ambassador Dubs until certain conditions are met. I am reserving action on my fourth proposal until after the Foreign Relations Committee holds hearings on the State Department and ICA authorization bills.

However, my proposal of that amendment may not be necessary since I understand that, for reasons of their own safety and program effectiveness, our Peace Corps volunteers are soon to be withdrawn.

It is my view that our Government must send a strong message to the Government of Afghanistan and make it clear that we will not tolerate the kind of treatment that led to Ambassador Dubs' death. The amendments and resolution I am introducing today will do just that.

Mr. President, I ask unanimous consent that the text of my amendments and resolution be printed in the RECORD, together with an article and editorial that appeared in the March 2 edition of the Wall Street Journal.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 108

At the appropriate place in the bill add the following:

SEC. —. No credits (including participations in credits) may be extended and no loan may be guaranteed under the Arms Export Control Act with respect to Afghanistan. No deliveries of any such assistance, credits, or guaranties may be made to Afghanistan on or after the date of enactment of this section. No sales (including cash sales) may be made and no export license may be issued under the Arms Export Control Act with respect to Afghanistan on or after the date of enactment of this section until the President certifies to the Congress that:

(1) The Government of Afghanistan has apologized officially and assumes responsibility for the death of Ambassador Adolph Dubs.

(2) The Government of Afghanistan has provided assurances that it will be guided by the advice of the United States Government in responding to threats to the lives of United States Government personnel in Afghanistan.

(3) The Government of Afghanistan has agreed to provide adequate protection for all United States Government personnel in Afghanistan.

AMENDMENT NO. 109

At the appropriate place in the bill add the following:

Sec. — (a) At the end of Chapter I of part III of the Foreign Assistance Act of 1861, insert the following:

SEC. 620(D). PROHIBITION ON ASSISTANCE TO AFGHANISTAN.—(a) None of the funds authorized to be appropriated under this Act may be used to furnish assistance to Afghanistan nor may funds authorized to be appropriated under this Act before October 1, 1979 be expended for assistance to Afghanistan until the President certifies to the Congress that—

(1) The Government of Afghanistan has apologized officially and assumes responsibility for the death of Ambassador Adolph Dubs;

(2) The Government of Afghanistan has provided assurances that it will be guided by the advice of the United States Government in responding to threats to the lives of United States government personnel in Afghanistan, and

(3) The Government of Afghanistan agrees to provide adequate protection for all United States government personnel in Afghanistan.

(b) The restriction made by subsection (a) may not be waived pursuant to any authority in this Act".

(c) The total amount of assistance authorized to be appropriated by this Act for the fiscal year 1980 is reduced by $16,992,000.

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 349. Such waiver is necessary because S. 349 authorizes the enactment of new budget authority which would first become available in fiscal year 1979, and such bill was not reported on or before May 15, 1978, as required by section 402(a) of the

Congressional Budget Act of 1974 for such authorizations.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible in this instance because the council on Wage and Price Stability was designated to monitor the administration's voluntary wage and price standards. This expanded role was not foreseen at the time the previous authorization was approved.

The effect of defeating consideration of this authorization will be to impede seriously the monitoring of the voluntary wage and price standards which are key elements of the administration's anti-inflation program.

OPPOSING AFGHANISTAN'S "SOCIALISTS"

(By Hannah Negaran)

Traditional U.S. policy toward Afghanistan has been largely one of neglect combined with some economic aid. Now the U.S. ambassador to Afghanistan, Adolph Dubs, has been killed under peculiar circumstances by an as yet unidentified group, which may even, according to some sources, include the Afghan government itself. Thus, the U.S. is faced with making a number of fundamental policy decisions toward the Afghan region.

The April 1978 military coup d'etat in Afghansitan which overthrew President Mohammad Daud Khan and brought Khalq, a Marxist-Leninist pro-Soviet party, to power has increased Soviet capability for challenging Western interests in the area surrounding Afghanistan. These challenges may range from providing limited political and military support to a variety of political groups, especially those ideologically aligned to the Soviets, to mounting large-scale military operations against Iran and Pakistan.

While the new Afghan regime provides the U.S.S.R. with opportunities, it also involves serious potential risks which the West has not tried to capitalize on. The Kabul regime's Marxist ideology and strong ties with the Soviets have alienated most Afghan political groups, especially those motivated by Islam, the religion of more than 95 percent of the population. Although the opponents of the regime have considerable support inside the country, they are receiving little support from outside. The opposition is poorly armed. With even limited support from other countries, it could pose a serious challenge to a crucial Soviet gain in an important region of the world.

SCIENTIFIC SOCIALISM

At the beginning of its rule, the new Afghan regime resented being called "Communist," "Markist-Leninist," or "scientific socialist." Now the regime calls its ideology "scientific socialism" and the Afghan coup the "true continuation of the Great Soviet October Revolution." Noor Mohammad Taraki, Afghanistan's Prime Minister, has dismissed several thousand government officials including university professors and deans, governors, military officers, civil servants and internal security forces. The vacant positions have been filled with party loyalists or sympathizers and Soviet citizens, especially those from central Asia. A large number of well-educated central Asians, mostly Tajiks who speak a dialect of Persian that most Afghans understand, are playing crucial roles in almost all Afghan government agencies. Reportedly, Soviet military personnel advise Afghan units down to the platoon level. The increased Soviet presence in Afghanistan was noticeable during the Dubs incident when Soviet officials were reported to have directed the Afghan police.

On international issues, the Khalq regime is invariably supportive of the Soviet position. It has signed a 20-year treaty of friendship and cooperation with the Soviet Union similar to those signed between the Soviet Union and some Eastern European countries in the 1940s and to those of Vietnam and Ethiopia in recent times. The treaty calls for the development of "cooperation in the military field" between the two countries. Foreign Minister Hafizullah Amin has said that "the Soviets will protect the Afghan revolution."

The Afghan regime has become the most enthusiastic apologist for Soviet foreign policy. According to Amin the U.S.S.R. has never attempted the exploitation of developing countries, and "in no country in the world there has existed or exists the interference of the Soviet Union." Afghanistan has also supported Soviet allies such as Ethiopia, Angola, Mozambique, Cuba, Vietnam and North Korea. It has broken off diplomatic relations with South Korea, and has recognized North Korea as the only legitimate representative of both Koreas. Afghanistan was one of the first countries to recognize the new Vietnam-backed Cambodian regime.

The Khalq regime in conjunction with the Soviets has opened training camps in Afghanistan for political and military training of Pakistani and Iranian nationals. According to former Iranian Prime Minister Shahpur Bakhtiar, several hundred armed men crossed into Iran from Afghanistan earlier this year. There have also been reports of arms smuggling across Afghanistan's 40-mile border with Iran. There is a historical relationship between Iran's Tudeh party (the Iranian Communist party) and Khalq dating back to the early 1960s. Dunia, a Tudeh publication, for example, published Taraki's speeches, and Khalq's publications have been very similar to Tudeh's. In case of domestic conflict such as civil war in Iran and Pakistan, rather than intervening directly themselves, the Soviets may use Afghans to help those elements sympathetic to Moscow.

The Taraki regime's ideology and pro-Soviet foreign policy have led to increased opposition to the government. The opposition includes religious groups, such as Hezbi Islam and Jamati Islami, nationalist groups and several tribes. Among Taraki's opponents the Muslim groups are the strongest. In their publications, such as Saff, these groups have called the Taraki regime a "handful of Kremlin servants," who have given Afghanistan to the Soviets.

Both Hezbi Islam and Jamati Islami have declared a *jihad* (holy war) on the regime, have more than 5,000 people under arms, and have carried out several large-scale military operations against the regime in different parts of the country. They claim both to have killed 300 Soviet citizens in Afghanistan and to have carried out an assassination attempt last December on the Soviet ambassador, in which his chauffeur was killed. Nonetheless, Taraki's opponents are poorly armed and factionalized among themselves and have little outside support. They are receiving some help from Iran's religious leader, Ayatollah Khomeini, as well as Saudi Arabia, and to some extent Pakistan.

Pakistan, which for geographic reasons can most help Taraki's opponents, is reluctant to provide substantial help because it lacks a credible alliance relationship with the United States. Although Pakistan is concerned about the political developments in Afghanistan because of the latter's support for secessionist elements in its Northwest Frontier and Baluchistan provinces, it's afraid to challenge a Soviet ally alone. In order to increase their support for Taraki's opponents, the Pakistani leaders want to be confident that other powers, especially the United States, would support Pakistan in case it is threatened by the Soviets.

Although the Afghan regime is very unpopular, has violated many human rights, and is violently anti-West, the U.S. government has not criticized it. Economic aid, including Agency for International Development (AID) projects and Export-Import Bank loans, have continued, though much of that was substantially cut recently. The Department of State's Deputy Assistant Secretary for Near Eastern and South Asian Affairs in a March 16, 1978, statement before a congressional committee said that "internally, the political situation is stable [in Afghanistan]" and "President Daud remains very much in control and faces no significant opposition." After the April coup, the State Department tried to convince the Congress that the new regime is not Communist so that it would not block all credits to Afghanistan.

WHAT THE UNITED STATES CAN DO

With Pakistani encouragement, Taraki opponents have sought Western, including American, aid. There is no evidence that the United States is providing help to Taraki's opposition. There are a variety of things the U.S. can do to boost the morale of anti-Soviet forces in Afghanistan as well as in the region.

The administration might express concern about the violations of human rights in Afghanistan as it has in the case of a number of other countries. In order to decrease Pakistan's feeling of abandonment, it might agree to the export of major weapons to that country. Alternatively, it might encourage other industrial countries and China to increase their contribution to Pakistan's defense. Given that Afghanistan serves as one of the Soviet bases for export of weapons and other support to pro-Soviet forces in the region, the United States might also encourage its allies in the region to support the popular opposition in Afghanistan.

The large-scale opposition in Afghanistan provides the anti-Soviet forces in the region and the world with an opportunity to increase significantly the price of expansionism for the Soviets and reduce the likelihood of the consolidation of a Cuban-type regime in a crucial part of the world. With modern weapons and training, Taraki's opponents could seriously threaten the Afghan regime. At best the opposition might overthrow the Taraki regime, and at worst it could make Afghanistan the Soviet Union's Vietnam.

THE CHILL IN KABUL

President Carter has ordered a sharp cutback in U.S. aid to Afghanistan, expressing American displeasure at official Afghan handling of the terrorist incident leading to the death of U.S. Ambassador Adolph Dubs. The aid cutback is also, we should note, one step toward the more resolute foreign policy many of us have been urging on the administration.

This is important to recognize since the administration's defenders dismiss its critics as "macho" types ready to send Marines as an answer to every problem anywhere. But the real point of the criticism is that if you are willing to put obvious instruments to their obvious use, you are far less likely to find yourself in the position of having to call Marines. The death of Ambassador Dubs has finally forced the administration to do the obvious, but the step comes late in the game.

In fact, the Carter administration spent the better part of the year preceding Mr. Dubs' assassination trying to evade the terms of a U.S. statute that would require it to end all aid to Afghanistan. In 1962 Congress prohibited U.S. aid to Communist countries unless the President makes a formal determination that in a particular case it serves the national interest.

The Afghan regime, installed by a coup last April, is plainly not only Communist but a Soviet puppet. This has long been apparent to most non-Communist observers, including the U.S. Embassy in Kabul. Since Prime Minister Mohammed Noor Taraki seized power, the Soviet Union has poured in advisers at an overwhelming rate, placing 3,000 Russians in the Defense Ministry alone. Yet the U.S. has refused to label the regime for what it is, for fear of triggering the 1962 law. Indeed, the Embassy in Kabul was ordered not to apply the Communist label in its political analysis of the regime.

Even in the aftermath of the Ambassador's death, the President's aid cuts fall short of satisfying this law. Some small development projects will continue, and the Export-Import Bank is going ahead with an $18.7 million loan to Ariana Afghan Airlines, the national carrier 51 percent owned by the government and 49 percent owned by Pan American. The State Department was especially eager to arrange the Ex-Im Bank loan.

The case for the State Department position is that if its aid mission closed it would lose what little leverage it retained on the country. Even if Prime Minister Taraki and his Khalq party are Communist, goes the argument, the society as a whole and even much of the government is not. So stay in touch and hope for a change in direction. And anyway when Congress tries to dictate the tactics of foreign policy, it generally makes stupid laws.

In the abstract, such arguments may have some merit, but such policy also has its costs. State in effect has been covering up for Mr. Taraki and his Soviet help. This attitude gives them legitimacy. It demoralizes resistance, from Afghans and Afghanistan's neighbors. And in return the U.S. has purchased so little influence that when our Ambassador's life was endangered by Afghan government plans to rush his kidnappers, an embassy official couldn't even get in to see the Afghan national police commander in charge of the "rescue."

Beyond even that, what impression do we create in the rest of the world when we refuse not only to act when our interests are threatened, but refuse to acknowledge the fact and cover up evidence to the contrary? The obvious conclusion is that the U.S. is a pushover. It may be too much to suggest that this impression led to the attack on Ambassador Dubs, especially since we now hear a similar but unsuccessful attack was made on the Soviet ambassador in Kabul four weeks earlier. But accumulating incidents throughout the region—attacks on the American Embassy and listening posts in Iran, cancellation of a Washington trip by Saudi crown prince Fahd and so forth—show the serious practical effects of a pattern of American passivity.

This passivity is especially inexcusable when so many other options cry out to be taken. Almost everywhere the Russians have taken their Cuban and East German mercenaries some kind of indigenous national resistance has sprung up or gathered renewed strength. In Afghanistan, as recounted in the article on this page, an Islamic Rescue Front has already risen in rebellion and appealed for U.S. help; the Front sees the Dubs killing, for which it denies any responsibility, as a government plot to quelch such aid. In Angola, the Cuban-propped government of Dr. Agonstino Neto is still opposed by the UNITA group of Dr. Jonas Savimbi, which wants to drive Cuban troops from the country. Yet these local rebellions haven't created Soviet quagmires, since anti-Soviet rebels have not been able to get American aid, or even moral support.

The Carter administration nonetheless hesitates over such options as clandestine arms supplies to rebels, sending ships to show the flag in trouble spots, prapaganda, aid cut-offs or even applying even-handed human rights standards to regimes like Afghanistan or Angola. Thus it rules out a whole range of non-military options that have been traditional adjuncts to diplomacy. Then when the situation blows out of control, the administration and its apologists argue that we can't use military force because it won't work. The cut-off of Afghan aid is a partial break in this pattern. We hope, for the sake of the Afghans, Angolans and Americans, that it is not the last.●

MOTION ORDERED TO BE PRINTED

Mr. THURMOND proposed the following motion, which was ordered to be printed:

MOTION

I move that Senate Joint Resolution 28 be committed to the Committee on the Judiciary for its consideration with instructions that the committee issue its report on Senate Joint Resolution 28 within 90 days subsequent to committal.

NOTICES OF HEARINGS

HEARINGS ON FEDERAL REORGANIZATION

● Mr. MELCHER. Mr. President, at 10 a.m. on Tuesday, March 27, the Subcommittee on Environment, Soil Conservation, and Forestry of the Senate Committee on Agriculture, Nutrition, and Forestry will hold a hearing on the President's intention to reorganize the natural resource functions of the Government. The focus of the hearings will be on personnel and financial savings which are expected as a result of the reorganization. Witnesses will be those representing the administration, and two expert witnesses, Richard McArdle and Ed Crafts.●

SUBCOMMITTEE ON ENERGY REGULATION

● Mr. JOHNSTON. Mr. President, the Subcommittee on Energy Regulation has previously announced hearings on March 19 and 20, 1979, to receive testimony from interested persons on the administration's proposals for emergency energy conservation and gasoline rationing. The time of these hearings has been changed from 10 a.m. to 9:30 a.m. The hearing room remains 3110 Dirksen Senate Office Building. Questions about these hearings should be addressed to Benjamin S. Cooper or James T. Bruce of the subcommittee staff at 224–9894.●

COMBATING INFLATION WITHOUT IMPEDING ECONOMIC GROWTH AND HIGH EMPLOYMENT

● Mr. RIEGLE. Mr. President, the Subcommittee on Economic Stabilization of the Committee on Banking, Housing, and Urban Affairs is about to begin hearings on the problem of inflation.

Inflation is a deep-rooted disease that has plagued the American economy throughout the 1970's. It has, moreover, accelerated sharply in recent months. Consumer prices rose 9.3 percent between January 1978 and January 1979, and the January 1979 increase was at an annual rate of 11.2 percent.

This acceleration of inflation exacts hardship on many of our citizens, it is both a cause and a consequence of the weakness of the dollar, and the restrictive fiscal and monetary policies that are needed to slow the inflation threatening the continuing prosperity of our economy.

On Thursday, March 22, Dr. Alfred E. Kahn, Chairman of the Council on Wage Price Stability will appear before the subcommittee. Then, on Friday, March 23, Dr. Otto Eckstein, president of Data Resources, Inc., will testify and be followed by a panel representing the organization Consumers Opposed to Inflation in Necessities. This panel will be headed by Mr. Gar Alperovitz of the Exploratory Project for Economic Alternatives.

One purpose of these initial hearings is to study the genesis of the present inflation. What were its causes? Why has it persisted? Why is it accelerating? And what can be done about it? We will, in addition, attempt to ascertain why certain specific categories—food, energy, housing—have been so troublesome in recent months. Hopefully these and subsequent hearings will lead to constructive legislative proposals that will help the Nation come to grips with inflation.

The hearings will be held in room 5302 in the Dirksen Senate Office Building. The hearing on March 22 begins at 9:30 a.m. and the hearing of March 23 commences at 9:45 a.m.

A second set of hearings devoted to the relationship between fiscal policy and inflation will be held on April 25 and 26.

Additional information about the subcommittee's hearings can be obtained from Thomas F. Dernburg, staff director of the Subcommittee on Economic Stabilization, at 224–3608.●

HEARING ON RANDOLPH-SHEPPARD ACT AMENDMENTS OF 1974

● Mr. RANDOLPH. Mr. President, as chairman of the Senate Subcommittee on the Handicapped, I announce that our subcommittee has scheduled an oversight hearing on the Randolph-Sheppard Act Amendments of 1974. The hearing will be held on Monday, April 30, 1979, in room 4232, Dirksen Senate Office Building, starting at 9:30 a.m.

Persons wishing to testify should contact Mrs. Patricia Forsythe, staff director, 10–B Russell Senate Office Building, 202–224–9075.●

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON SMALL BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Select Committee on Small Business be authorized to meet during the session of the Senate today beginning at 3:30 p.m. to hold an executive session to consider recommendations to the Senate Budget Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

IRAN

● Mr. INOUYE. Mr. President, the Honorable Clare Boothe Luce, former Member of Congress and U.S. Ambassador to Italy, presently lives in Honolulu and occasionally writes articles on important foreign policy issues. I have always been impressed by the special energy and insights Ms. Luce brings to foreign affairs.

Ms. Luce recently brought her talents to bear on the problems in Iran in an article which appeared in the Honolulu Advertiser. I would like to share this article with my colleagues and the American public and, therefore, I submit it for the Record.

The article follows:

U.S.S.R. Real Winner in U.S. Loss of Iran

(By Clare Boothe Luce)

What has happened in Iran is a sudden shift in the world balance of power in favor of the Soviet Union.

For the past 20 years, the pro-American government of Shah Reza Pahlavi was the strategic linch-pin in NATO's defense in the Middle East. The shah's forces were the only forces in Islam with both the will and the strength to resist a sudden Soviet incursion into the oil-rich Arab lands long enough for NATO forces to come to their assistance. Billions of dollars of the most modern military weapons are now in the hands of the Iranian revolutionaries.

Ayatollah Khomeini's revolution is essentially nationalistic and religious in character. Its real slogan might well be, "Iran for Iran and Mohammed." Nevertheless, because historically circumstances have also made it anti-American, anti-capitalistic, and anti-Israeli, it has been enthusiastically supported by all Moslem leftists, the Iranian Communist Party (the Tedeh), and Moscow.

The revolution marks the effective expulsion of U.S. power and influence from Iran. The symbol of this is the flight of 50,000 Americans from Iran, the recent attack on the U.S. Embassy and the hauling down of the American flag by Iranian revolutionaries.

The reality in the Middle East is that without firing a shot, the Soviet Union has, overnight, become the dominant power, and now has its hand within both political and military reach of the world's oil barrel.

When we realize this, what will the U.S. do to restore the balance of power in our favor?

U.S. recognition of the new Iranian regime will certainly not restore our influence over the Iranian government. Even in a peaceful world, it would take a decade to erase the anti-American feelings of the Iranian masses. (Every American president since World War II has supported Shah Pahlavi's Peacock Throne.) Moreover, recognition of the new anti-American regime is a recognition of the success that further anti-American revolutions can expect to enjoy in the Middle East. Consequently, we must expect anti-American Moslem revolutionary movements to spread into Saudi Arabia, Kuwait, Yemen, Oman, Pakistan, and sooner rather than later, into Egypt.

(In pro-Soviet Afghanistan, our ambassador has just been murdered by either Marxist or anti-American terrorists—does it matter which? Ethiopia, Libya, Syria and Iraq are already in Moscows' corner, and anti-American feeling in Moslem Turkey, still a NATO partner, has been steadily building.)

Arab rulers who have no taste for exile or assassination, in order to save their own skins or royal burnooses, will begin to trek to Moscow, seeking "better relations." They will, of course, continue to sell oil to the West—but in ever-smaller amounts and at ever-higher prices. And under the nudging of Moscow, political conditions will be attached to the sales.

One condition that might be made on oil sales to the U.S. was recently suggested by Ahmed Sahati, the head of a Libyan "goodwill" delegation visiting Washington. The Arab countries, he said, might halt oil exports to the United States if we do not change our pro-Israeli policy. Asked if this was a threat of a new oil embargo, Sahati replied smiling, "Your (American) interests are on the side of the Arabs, but your support is for the Israelis. This formula must be corrected."

The U.S. can manage without Libyan oil, and even without Iranian oil. But American industry would soon come to a standstill without Saudi Arabian oil. If we do nothing to redress the balance of power in the Middle East, we will be forced to abandon Israel.

All the European nations and Japan are utterly dependent on Middle East oil. If we do nothing, the NATO nations will also be forced to accept whatever new political conditions the OPEC, under Soviet pressure, may lay down as the political price of oil. These will almost certainly be foreign policies more friendly to Moscow, and less friendly to Washington (and China).

For the past six or seven years the NATO nations have increasingly perceived the U.S. as a declining military power, which altogether lacks the will to confront the U.S.S.R. militarily anywhere in the world. Europeans will use the framework for political accommodation with Moscow which already exists. It is called "Eurocommunism."

The No. 1 foreign policy objective of all the Eurocommunist parties is the destruction of the U.S.-European military alliance. If the political price of oil for the wheels of European industry becomes checking out of NATO, our European partners will as surely drop NATO as they dropped Israel in the days of the 1973 oil embargo.

The end of a U.S. do-nothing road will be the political and military isolation of America from Eurasia and Africa, and Soviet hegemony of the entire Eastern hemisphere. How much "peace and prosperity" would America then enjoy?

The question is—What can we do now to redress the balance of power in the Middle East?

Presidential warnings against Soviet "intervention" in the Middle East will be an exercise in spitting into the wind. Moreover, the Soviets will not militarily invade the Middle East. It is no longer necessary. They will instead become its protector against American military and economic "imperialism."

The idea that U.S. diplomatic recognition of poor, weak China (desperate itself for help) will in any way restore our political or military credibility in the Arab world is good only for a laugh. And only an idiot can believe that larger loans to Moscow, or further SALT concessions, will help to retrieve our position. On the contrary, any concessions made to Moscow will be viewed as one more evidence of American impotence.

The President has said, the secretary of state has said, the secretary of defense has said, the secretary of energy has said, that our interests in the Middle East are "vital to our security," and to the defense of the West. What none of them has said is what steps we must take, and what sacrifices—and risks—we must make to defend them.

While waiting for the enlightenment and leadership generally expected of statesmen, the American people might themselves begin to ponder what a great nation should do when its vital interests are in peril and it is threatened with an economic Pearl Harbor. A good time to begin would be on Sundays, when all the gas stations close down.●

SALT AND THE MAD HATTER

● Mr. GARN. Mr. President, on Monday of this week in my remarks on an article by Representative Robin Beard, I quoted from a paper of Mr. John Lehman, recently published in the Washington Quarterly. I believe that Mr. Lehman's article dealing with SALT and U.S. defense policy would be of value to my colleagues, and I ask that it be printed in the Record.

The article follows:

SALT and the Mad Hatter

(By John Lehman)

Paul Warnke, late of the Arms Control and Disarmament Agency (ACDA), is a man firmly fixed in the traditions of that thankless trade. He is no doubt grateful for the usufructs of Christianity intervening between him and the stern retribution delivered by an earlier people upon their disarmament negotiators. The Carthaginians physically tore their own ACDA director limb from limb after he delivered in turn three successive treaties of deep unilateral arms reductions, and then final defeat at the hands of the Romans. Even among Georgians, however, such justice is on the decline.

Warnke's swift exit from the scene highlights a peculiar difficulty in coming to grips with the strange agreement he has negotiated. It is a difficulty not limited to the SALT II agreements, but one encountered in approaching the overall strategic and defense policies of the Carter administration. The difficulty is a deep schizophrenia that runs through the administration on the most fundamental issues.

A conspicuous example is found in official discussion of the very meaning of parity. Like "freedom and democracy" all factions do homage to the objective of SALT, defined as the attainment of a stable balance based on "parity." But in the Carter administration there is a great split as to the contents of that pious phrase.

There is first the holy writ of declaratory policy found in official statements and congressional testimony. Most authoritatively, Secretary of Defense Harold Brown said in his annual posture statement:

"By essential equivalence, I mean a condition such that any advantages in force characteristics enjoyed by the Soviets are offset by other U.S. advantages. . . . Our strategic nuclear posture must not be, and must not seem to be, inferior in performance to the capabilities of the Soviet Union."

Borrowing from the president's decision paper PD–18, Brown defined "essential equivalence" further as meaning the maintenance of conditions such that:

"Soviet strategic nuclear forces did not become usable instruments of political leverage, diplomatic coercion, or military advantage; nuclear stability especially in a crisis is maintained; any advantages in force characteristics enjoyed by the Soviets are offset by U.S. advantages in other characteristics;

and the U.S. posture is not in fact, and is not seen as inferior in performance to the strategic nuclear forces of the Soviet Union."

Surely these are sound common sense axioms in which even the most benighted hardliners might take their ease. While some have suggested that these sentiments owe more to the continuity of Pentagon ghost writers than to the true aspirations of Secretary Brown, nonetheless this doctrine is official, and it is being repeated ardently by members of the SALT community in their new missionary endeavors to the outermost rotary clubs. It therefore must be true.

But, cohabiting with these declarations are broad currents of a decidedly different direction. There are, for instance, the policy decision makers themselves, bright striving men who, though young in age, have well-established—some would say inescapable—records of policy advocacy. From all reports, the fervor of their convictions has not been diminished by two years in power.

These men have in common, in addition to dominant positions in deciding SALT policy, a world view rooted in the historical revisionism so trendy in the mid-1960s when most of them completed their educations. In the past, this mind-set was identified with the so-called "minimum deterrence" school of which we heard so much in the McNamara days and during the great ABM debate. Today they are more accurately known as the "So what?" school. In this view, strategic disparities are viewed with complete indifference. Greatest intellectual effort seems to be addressed to the problems of constraining U.S. military programs. This single-minded focus of attention restraining American and Western systems has led some to conclude that these gentlemen truly believe that it is Western military institutions and Western contractors that constitute the principal threat to world stability. It is held as an act of faith by important policymakers that military superiority in the nuclear age has no consequence, and hence there should be no cause for concern as the Soviets attain it.

Listen to Mr. Walter Slocombe, chairman of the Department of Defense SALT Task Force:

"Thus it is mutuality of assured destruction and not parity which eliminates the possibility of the most clearly decisive kind of attack. At the other end of the spectrum of possible nuclear conflicts, the ability of either side to make small attacks on the other, to attack third countries or to conduct "tactical" i.e., geographically limited, nuclear wars is, as a technical matter, unaffected by the size of the forces on the other side. . . . On the historical record, even nuclear monopoly, much less a first-strike superiority over a lesser nuclear power, does not give its possessor the dominating political influence which a comparison of strictly military capabilities would imply." (*The Political Implication of Strategic Parity*, Adelphi Paper no. 77, 1971, The International Institute for Strategic Studies)

Or, listen to Mr. Victor Utgoff, Mr. Brzezinski's principal advisor on SALT matters:

"Even if the U.S. could attain strategic superiority it would not be desirable because I suspect we would occasionally use it as a way of throwing our weight around in some very risky ways. . . . It is in the U.S. interest to allow the few remaining areas of strategic advantage to fade away." (American Institute of Aeronautics and Astronautics meeting, Monterey, Ca., Feb. 1, 1978)

One cannot understand the current SALT agreements without realizing that these are not merely bizarre views of a few eccentrics, but the dominating orthodoxy within the Carter administration SALT community.

Having surrounded himself with this Washington equivalent of the cult of the Rosicrucians, President Carter himself seems to have evolved an approach to the Russians which might be called "morally uplifting economism." In President Carter's recent speech at the Annapolis commencement, a year after he cancelled the B-1, shortly after he cancelled deployment of the neutron warhead, and a few months before he vetoed the nuclear aircraft carrier, he expounded the theme that in effect our moral superiority and Soviet economic woes make the military balance irrelevant. Kenneth Adelman, in response, smartly excavated Hugh Seton-Watson's tart remark that "man is a far more advanced species than the crocodile but all the same he would be ill-advised to rely on this while swimming in the Ganges."

This schizophrenia in the administration also characterizes their consideration of Soviet intentions. A coherent approach to SALT must be based on one of two exclusive assumptions about Soviet goals in SALT: Either the Soviets seek to attain through SALT a stable strategic balance at equivalent levels just as we so seek; or the Soviets do not seek a stable balance based on parity, but rather seek a policy of strategic superiority in which SALT may play a useful tactical role.

As we have seen, there are many in high councils who believe the term strategic superiority has no meaning at current levels, but common sense suggests otherwise. This has been well and simply stated by former British disarmament chief Lord Alun Chalfont:

"Strategic superiority is . . . a simple and incontrovertible proposition, namely that the nuclear balance ceases to exist at the moment when one side believes that it has acquired the capacity to deliver an effective nuclear attack upon the other and survive the ensuing retaliation."

After 12 years of pursuing SALT and 16 years of undiminished Soviet military build-up, there is ample data on which the reasonable man should be able to make a judgment about which of the two assumptions should guide our approach to SALT. After nine years of watching the Soviet build-up and four years of SALT negotiations, the president's current national security advisor, Zbigniew Brzezinski, made the following judgment:

"My concern is that the Soviet leaders—and particularly the Soviet military—may be deliberately exploiting SALT to attain military "superiority" over the United States. In that context SALT serves as a useful tactic, inhibiting U.S. efforts to improve, in more complex configurations, the U.S. defense potential, and strengthening the hand of those in the United States that argue for a lower U.S. defense posture as a means for promoting an eventual arms control agreement with the Soviet Union." (*Newsweek*, April 26, 1971, p. 45)

Mr. Brzezinski's judgment on the issue seems to be eminently sensible; indeed it is difficult to see how the facts of the last 16 years can be interpreted in any other way. It is quite possible that to reach this objective Soviet tactics in SALT have been guided by two criteria: first, to create a climate wherein the American policymakers and the American public are anesthetized to the Soviet build-up, and second, to encourage the "So what?" school and the more traditional defense skeptics in the United States to restrain the advancement of American military technology.

This interpretation of course need not mean that Soviet authorities seek military superiority for the purpose of launching an attack upon the United States or NATO. We are told that the Soviets have avidly taken up the reading and study of the classical theoreticians, such as Sun Tzu, Clausewitz, Mahan, and Mackinder, who seem to have been dropped from most American curricula. In conformity with the insights of these wise men, the Soviets would probably prefer to prevail without actually resorting to war. This would be a sound objective for the Soviets political utility of nuclear force.

Such a Soviet view would make very good sense. Military advantages confer diplomatic and political leverage. Strategic military advantages are no different. In a nuclear war there will be a military victor and a military loser. If deterrence fails and there is such a war, it will be better to be the victor than to be the loser. If the prospect of such a horrible war is too repugnant to contemplate and a nation chooses instead, if only by default, to allow a nuclear strategic imbalance to develop so that an adversary's victory in such a cataclysmic war becomes mathematically probable, then that single fact will become the central reality of world politics.

In such an environment, the threat of escalation to that level of violence beyond which a nation has accepted inferiority then becomes an irresistible political tool for the superior adversary to invoke in all potential conflicts and confrontations where high national interest is at stake. This could be Berlin, the Persian Gulf oil fields, freedom of the seas, or some other unforeseeable crisis of future years. Faced with such a threat, the nation that has accepted inferiority beyond a certain level must rationally and prudently accept terms.

Accepting that the second of the above assumptions is the basis of Soviet intentions in SALT does not mean, however, that SALT should not be pursued. On the contrary, it makes it the more desirable. It does, however, require a totally different approach to conducting the negotiations than has been followed in the last two years. If the Soviets seek to gain advantage through SALT, the talks themselves can become the most useful medium for transmitting our firm intention to do what is necessary to prevent those advantages from being gained by the Soviets. The administration is correct in pointing out that we cannot expect SALT to solve our strategic problems or to preserve our strategic parity—this is something the United States must do for itself. The SALT negotiations provide the perfect forum to make it unmistakably clear to the Soviets that the United States will not tolerate the emergence of strategic imbalances adverse to the United States. When the Soviet leadership comes to accept this reality as fact, then SALT becomes a possible forum for the negotiation of an equitable agreement for arms limitation.

The administration unfortunately provides only confusion on this crucial issue. On the one hand, officials and their spokesmen on Capitol Hill give strong endorsement to the second assumption, that the achievement of strategic superiority is the Soviet goal, by their jeremiads about what awful consequences would follow a failure to approve the SALT II agreements. Rep. Les Aspin produced a study warning that if SALT II was not approved, the Soviet Union would proceed to deploy up to 3,500 strategic systems against the United States by 1985. He, of course, had taken a leaf from the well-publicized "Team-B Report" which had warned of a similarly high deployment level in their worst-case analysis. The irony seems to have been overlooked, of course, that the Team-B members openly conclude in their study that military superiority was indeed the unambiguous objective of Soviet policy.

Not content with one assumption, the same administration spokesmen wish also to benefit from its logical contradiction, that the Soviets wish only to achieve stability in a strategic balance based on parity. Accordingly, they argue that if we do approve the current SALT treaty, the Soviets may be trusted to behave in a responsible manner to abide by even its most unverifiable terms, and to foreswear exploiting the many advantages bestowed by the agreements.

While the intellectual foundations of the administration's strategic policy are based on logic worthy of the Mad-Hatter, the terms they have negotiated at SALT are by contrast serenely consistent: for ICBMs, SLBMs, the Backfire bomber, and cruise missiles, they have simply accepted the substance of Soviet demands.

EFFECTS OF APPROVAL

In the area of ICBMs, by abandoning the objective, first put forward in March 1977, of obtaining limits on the number of warheads and the throw-weight of Soviet missiles, and allowing the Soviets to proceed with the deployment and MIRVing of their large throw-weight missiles up to a number of 820, the SALT agreements have created the single most controversial issue: the nonsurvivability of the American ICBM force during the term of the agreements. The terms of the agreements provide the Soviets an advantage in their ICBM force of nearly six to one in countermilitary capability, of nearly five to one in throw-weight, of over three to one in numbers of reentry vehicles, of over five to one in deliverable megatonnage, and of one to one in overall accuracy. The net result is a major disparity in disarming first-strike capability favoring the Soviets.

Meanwhile, permitting the Soviets to retain and even increase their current 40 percent advantage in numbers of ballistic missile submarines, and permitting them to deploy three new SLBM missiles including MIRVs, the SALT II agreements provide the Soviets with a one-to-one throw-weight ratio in SLBMs, and a four-to-one megatonnage advantage, thereby offsetting a three-to-one U.S. advantage in number of warheads. Coupled with the freedom provided by the agreements for improvement of accuracy in SLBMs, the Soviets have every prospect of obtaining both a superiority in secure strategic reserve, and a second-strike hard-target kill capability in the SLBM force.

Similarly, by permitting the Soviet Backfire bomber, a supersonic, fast-escape, low-level intercontinental penetrating bomber to be outside the limits of the SALT agreements, coupled with Carter's cancellation of the B-1 bomber, the agreements provide the Soviets with approximately a 1.4-to-one throw-weight advantage in the bomber force (counting only the Backfires assigned to long-range aviation), and a two-to-one advantage in megatonnage. What is more significant is that the agreement, coupled with the Carter defense programs, virtually assures the disappearance of the manned penetrating leg of the American triad in the period shortly following the term of the agreements. The air-launched cruise missile was conceived as an implement to extend the life of the B-52 force and, when deployed on approximately 250 of them, to provide a counter to increasing Soviet air defense, and thereby enhance the effectiveness of the penetrating force of 240 B-1 bombers. With the provisions contained in SALT II limiting the number to 120 of B-52s able to be equipped with these ALCMs, the air-launched cruise missile force ceases to be an effective threat against projected Soviet air defenses. Moreover, the B-52s themselves will be highly vulnerable to preemptive attack even when airborne through the ability of the Soviets to barrage escape routes.

By accepting the Soviet demand that sea-launched cruise missiles be limited to a straight-line distance of 325 nautical miles, the SALT agreements also preclude with one blow two very promising and inexpensive options. First, with the Carter policy of severely paring the Navy to a level of about 400 ships, the ability to do even a much-reduced mission of sea control would be greatly enhanced by a long-range antiship cruise missile. Such an option is prohibited by these agreements. Second, the valuable option of using sea-launched cruise missiles for theatre nuclear deterrence in the European flanks and in the Pacific is similarly prohibited. In addition, the promising possibilities for conventional attack of land targets at great distances from the sea is foreclosed by the Protocol.

By accepting the Soviet demand to prohibit deployment of ground-launched cruise missiles (GLCMs) beyond a range of 325 nautical miles, the Protocol excludes the very valuable option of relieving the 600-odd fighter-bombers now assigned to the nuclear strike role in Europe. GLCMs provide many advantages over the alternatives of tactical aircraft, which should be freed for use during the conventional phase of the defense, and the option of deploying mobile MRBMs such as the Soviet SS-20 system. These latter systems are useful when deployed because they possess a higher kill probability than GLCMs, but they do not have the low cost or the ability to disperse that a complementary force of GLCMs would provide. Conventional precision attack roles for the GLCM also are prohibited by the Protocol.

Much has justifiably been made of the pernicious impact that the "non-circumvention" clause of the SALT agreement will have on our NATO allies. This clause prohibits the circumventing of the terms of the agreements through third countries. On its face this clause will be a pervasive obstacle to sharing cruise missile technology with our European allies. The deployment of sea-launched cruise missiles on their submarine force, and air-launched cruise missiles on the British Tornado bomber force, and perhaps their V-bomber force are very promising defense options. Moreover, providing the continental Europeans with cruise missiles for the tactical nuclear mission under the same procedures now in use for the aircraft assigned to tactical nuclear strike roles, is a particularly cost-effective and attractive option.

While that shortcoming of the SALT agreements is a serious one, it is the deeper issue of which it is a part that most threatens the future vitality of the alliance. The SALT II agreements provide the strongest impetus to Gaullism in the last 20 years. If these agreements are approved, the United States will legitimize the concept that weapons which threaten the European allies in a strategic mode—what the Germans call continental strategic weapons like the SS-20 mobile MRBM and the SU-19 strike bomber, and the Golf-class ballistic missile submarine—are outside the scope of our strategic concern, whereas systems like GLCMs, based in Europe to deter the use of such Soviet-based weapons, are to be foresworn. Put even more starkly, as it inevitably will be by the Europeans, we have mortgaged systems of direct relevance to the defense of our allies in order to obtain very modest ceilings on weapons that threaten only the United States.

LINKAGES

In considering whether these agreements should be approved, one can hardly ignore certain linkages. First, in taking such an important contractual step with the Soviet Union, it would be the height of imprudence not to consider the larger web of relationships and activities in which the Soviets engage worldwide. At the very least this is necessary to assess the basic Soviet objectives in entering into the agreements. One, for instance, would not be considered sound of mind in choosing as trustee a financial institution known to have engaged elsewhere in embezzlement and fiduciary chicanery. So too the United States would be imprudent to say the least to enter into a SALT agreement without at least contemplating Soviet activities in the Horn of Africa, and the overall build-up of Soviet offensive land and naval power.

Another set of linkages of even greater importance are those between these agreements and the overall approach to defense planning of the Carter administration. Here the linkage should be far more than a corollary consideration, but should indeed be determinate. The Carter administration's record of defense planning and programming, conducted and carried out concurrently with the SALT negotiations, is appalling. The unilateral withdrawal from Korea, the cancellation of deployment of the neutron warhead in Europe, the drastic slashing of the Navy shipbuilding program, the cancellation of the nuclear carrier, the cancellation of the B-1, the cancellation of Minuteman III production, the slowdown of the MX missile, the stretchout of the Tomahawk cruise missile program, and a host of less conspicuous reductions in U.S. defense programs must cause all but the stoutest McGovernites to tremble with doubt.

It is difficult, then, to consider any other course than the substantial modification of these agreements by the Senate. At a very minimum, the Senate should remove the unbalanced restrictions on U.S. programs. Most of these restrictions on cruise missiles and on survivable basing of ICBMs are found in the Protocol and will probably be removed with relative ease. The treaty will also require modification in at least two parts. First, the restriction in language which would seem to prohibit the deployment of a multiple-aim-point basing mode for ICBMs, and second, the less important but symbolic prohibition on American heavy missiles (the Soviets are permitted 326) should be removed. With these changes, the treaty might then be ratified by the Senate, after the which the Soviets could make the choice to accept it or not. But their decision would not be of momentous significance. Whether they do or don't, it would be desirable to return to the negotiating table for the beginning of a serious negotiation with the Soviets.

It is of course possible that Senate consideration of the SALT agreements will proceed for a very long time and, indeed, may not be concluded at all. It may be recalled that the ratification of treaties has for many decades in the history of this country been an exception rather than the rule. If the Soviets do not accept the modifications of the Senate, then there will be a prompt resumption of SALT negotiations, or there will be a hiatus of one or several years. Both outcomes have advantages and disadvantages, but neither will make a significant difference in the strategic balance.

Despite the dire predictions of some that the nonapproval of SALT would require a massive crash program of American spending on strategic systems, this is in fact not the case. All that would be required to maintain the strategic balance, including the survivability of all three legs of the triad, would be to pursue the same prudent program that was in effect until the Carter cutbacks in 1977. First, an MX missile of approximately 8,000 pounds throw-weight should be put into production and approximately 300 deployed beginning in 1983 in a redundant basing mode. This would provide the survivability of a sufficient percentage of the force to ensure that the Soviets would not have a tempting first-strike option. Second, the B–1 or a less sophisticated and updated version of the B–1 retaining its prelaunch survivability and advanced penetration aids should be put in production and deployed. Third, the Trident II missile with accuracy advances providing some sea-based counterforce capability should be put into advanced development. Fourth, ALCMs should be deployed on at least 200 B–52s. Fifth, sea-launched cruise missiles should be deployed on attack submarines in a secure, strategic reserve role. Sixth, ground-launched cruise missiles of intermediate range, i.e., 1,500 to 3,000 km., should be deployed in Europe. Despite the wild claims of some administration spokesmen, these programs can be carried out within the constraints of a three percent real growth budget, using the base line of the FY-1977 budget submission. All of these systems can be deployed while keeping the defense budget below six percent of the GNP. The result will be parity regardless of what the Soviets do, short of going to a wartime mobilization level of spending.

According to the recently submitted CIA report to the Joint Economic Committee of the Senate, Soviet defense spending, which has been increasing by about four to five percent a year since 1967, will continue to take between 11 and 13 percent of the GNP of the Soviet Union with or without a SALT agreement. In other words, with the current level of Soviet strategic spending approximately three times that of the United States, the Soviets are permitted by SALT II to do all that their high and growing level of spending would permit them to do in any case. Far from the alarmist projections put forward by administration spokesmen, the principal difference between Soviet actions under SALT and in the absence of SALT would seem to be their retention in the force of some 200-300 older SS–7 and 8 missiles that would be dismantled to meet the SALT ceilings. Their level of MIRVed ICBMs would probably not exceed 900, and their number of MIRVed SLBMs would almost certainly not be able to exceed some 300 missiles. In summary, the increment of threat deployed by the Soviets without SALT is small.

Whether SALT III is initiated immediately upon the nonapproval of SALT II, or resumed after a cooling off period of several years, when talks do resume, the American position should be based upon testing the proposition that the Soviets can find it in their interest to restrain the arms race not on the basis of their attainment of strategic superiority but on their acceptance of real parity. The Soviet Union will not limit their strategic programs unless they are given reason to conclude that they can gain no strategic advantage by further deployments, since the United States can match and effectively deter with greater economic ease any additional Soviet deployments. The focus of SALT III must be placed upon missiles and reentry vehicles and not upon launchers which are a largely irrelevant measure. Maximum flexibility should be provided in any SALT agreement to encourag substantial diversification, dispersion, and redeployment of strategic offensive forces to guarantee substantial invulnerability on both sides. The question of antiballistic missile defense of ICBM sites should be reopened because of its potential contribution to stability. So-called Gray area systems, like the Soviet SS–20 IRBM, should be included in the calculations of strategic balance. This carries with it the logical implication that other parties, particularly Western European nuclear powers, ought to be included as parties to the negotiations.

CONCLUSION

Even if the Soviets in their quest for strategic superiority were to react to an American rejection of the current SALT terms by deploying 3,000–3,500 systems (this is the worst case scenario argued by the administration), this would be far less adverse for American and Western interests than would the destabilizing consequences of approving the agreements as outlined above.

The administration repeatedly reminds us that we cannot expect SALT to solve our strategic problems. That is certainly true, but it would seem to be even more self-evident and indeed imperative that we cannot expect nor permit SALT to interfere with solving our strategic problems.●

HERE'S A GREAT TAX BREAK FOR OVER-55 HOMEOWNERS

● Mr. CHURCH. Mr. President, as the former chairman of the Senate Committee on Aging and now its ranking majority member, I have had a longstanding interest in easing the tax burden of older Americans.

Last fall, the Congress approved my amendment to provide taxpayers 55 years or older with a one-time, up to $100,000, exclusion from capital gains tax when they sell their homes. This provision applies to elderly homeowners who sell their homes on or after July 27, 1978.

The practical effect is that almost all elderly homeowners will be exempt from capital gains tax when they sell their personal residences.

Once in a lifetime, when a person is preparing to retire on a limited income, there ought to be an opportunity to sell the family home without paying a whopping capital gains tax, which is primarily a tax on inflation.

My office has already received numerous inquiries about the details of this legislation from elderly persons, national senior citizen organizations, and others.

A recent article by Sylvia Porter provides an excellent description of the amendment.

In addition, the Senate Committee on Aging staff has prepared a brief fact sheet explaining the key provisions in my amendment as well as the tax savings under four typical situations.

Mr. President, I ask that the Sylvia Porter article, entitled "Here's a Great Tax Break for Over-55 Homeowners," and the fact sheet on the Church capital gains tax amendment be printed in the RECORD.

The material follows:

HERE'S A GREAT TAX BREAK FOR OVER-55 HOMEOWNERS

(By Sylvia Porter)

If you're a homeowner 55 years of age or older, you were handed a fantastic tax break by the 1978 Revenue Act—in the form of a once-in-a-lifetime election to exclude from income up to $100,000 of any profit on sale of your principal residence. And "principal residence" also includes condominium and cooperative apartments.

With prices of condominiums and co-ops doubling, tripling, and otherwise skyrocketing, countless hundreds of thousands of you who own your homes could sell your residence at profits running up to and over $100,000. But if you did sell at a profit, you ordinarily would have to pay capital gains tax on your profit unless you bought another residence for at least as much as your selling price.

In short, if you wanted to move out of your house into an apartment or from a big house to a smaller, less costly residence, you ordinarily would have to pay tax on the profit on your house sale.

But if you already had reached 55 years of age when you sell or exchange your house after July 26, 1978, you can make this new election—entitling you to collect up to $100,000 of profit without any federal capital gains tax on the profit.

(You can exclude only up to $50,000 if you are a married individual who files a separate return.)

Your profit is tax-free even if you don't buy another house. What a tax break! Here are the requirements that you must meet in order to make the election:

(1) You must be as least 55 or older when you make the sale of the house, co-op or condominium.

(2) The house, co-op or condominium must be your principal residence. For instance, if you own a summer cottage which you occupy for only a month or two during the year, that is not your principal residence. You cannot, therefore, exclude from tax the profit you make on sale of that cottage.

(3) If you were 55 or over but not yet 65 when you make the sale, you must have owned and used the property as your principal residence for periods totaling three years or more during the five-year period ending on the date you sell or exchange it. If you already are 65 or over when you make the sale—and the sale is completed before July 26, 1981—you can qualify for the election if you owned and occupied the property as your principal residence for five out of eight years before the sale, even if you don't meet the three out of five-year test.

To illustrate how important this alternative test can be for an owner who is 65 or older when he sells, Leon Gold, chief tax counsel for the Research Institute of America, cites an owner who after living in his house for many years moves to an apartment, and allows his son and daughter-in-law to move into and live in the house. After three years, the owner sells the house at a substantial profit. If the owner is 55 or over but not yet 65 when he sells, he won't qualify for the election because he hasn't used the house as his principal residence for the required three out of five years immediately before the sale; he used it as his principal residence for only two out of the five years.

But if he was 65 or over when the sale was made, he could qualify for the election under the five-out-of-eight-year alternative test. He would have used the house as his principal residence for the five years immediately preceding the three years during which his son and daughter-in-law occupied it before he sold it.

(4) This is strictly a one-shot, once-in-a-lifetime election. Once you or your spouse make an election on a sale or exchange of a principal residence, neither of you can make a similar election for any subsequent sale or exchange of a later principal residence.

For instance, say you bought your principal residence for $25,000, sell it for $50,000 and move into an apartment. Assuming you qualify, you can elect to exclude your $25,000 profit from tax. If you do, that's your one-shot exclusion and you can't make any later election to protect another $75,000 of profit from tax.

To illustrate this, you may give up your apartment after several years and buy another house of $50,000. Then, after occupying it for the required time, you sell this house for $100,000, giving you a $50,000 profit. You cannot elect to exclude this $50,000 profit from tax because you previously used up your once-in-a-lifetime election in the $25,000 profit from sale of your previous house.

Warning: Think hard and long before deciding when to use your one-shot once-in-a-lifetime election! If you buy another house, all or part of your profit may be exempt anyway without the election.

Reminder: If you made a sale of your principal residence after July 26, 1978, and before Jan. 1, 1979, and you meet all the above requirements of age, holding period, etc., you can elect to treat your profit as tax-free on your 1978 federal income tax return.

If you expect to sell your house in the future, keep this new election clearly in mind. You may, for example, be a 54-year-old homeowner. You can and you want to sell your surburban house at $100,000 profit, with the intention of moving into a rental apartment in the city. If you do this before you become 55, your entire $100,000 profit will be taxable as capital gain.

If you hold off selling until you reach the age of 55, it's possible that a deterioration in the housing market or a serious change in home-selling conditions in your area may result in a lower profit to you (at least possible and you must weigh this).

But your entire profit on your sale will be tax-free! When put this starkly, your choice becomes unmistakable. You hold off until you reach 55.

FACT SHEET ON CHURCH CAPITAL GAINS TAX AMENDMENT

Age Requirement: You or your spouse must be at least 55 years of age when your home is sold.

Ownership and Use: You must have owned and used your home as your principal residence for three years within the five-year period preceding the sale.

Gain Excluded: You may exclude up to $100,000 of profits on the sale of your principal place of residence ($50,000 for married individuals filing separate tax returns).

Effective Date: You must sell your home on or after July 27, 1978.

Application of Exclusion: The exclusion is available only once in your lifetime.

Special Note: Certain taxpayers may be affected by other provisions of the capital gains tax law. In addition, certain taxpayers 65 or older who had taken an exclusion under previous law (which allowed an exclusion of up to $35,000) may be entitled to take a second exclusion under the new law. And, because residency requirements are different under the new law than under the old, certain taxpayers over age 65 may be affected by a special transition rule.

In all of these cases, taxpayers should get in touch with their local Internal Revenue Service office.

The effect of the Church amendment under four typical situations for a husband and wife (one or both of whom are 55 or over) who sell their personal residence and do not purchase a replacement home costing as much or more on or after July 27, 1978:

(Note: the following tax computations assume the taxpayers claim the standard deduction.)

SITUATION A

Family income is $25,000, and the home was purchased in 1968 for $27,000. It has just been sold for $54,000, showing a capital gain of $27,000.

With a capital gains tax in effect on this profit, the family's total bill would equal $9,751 (including a $525 minimum tax and $4,288 in income taxes).

Total savings because of the Church amendment: $5,463.

SITUATION B

Family income is $20,000, and the home was purchased in 1968 for $27,000. It has just been sold for $54,000, showing a capital gain of $27,000.

With a capital gains tax in effect on this profit, the family's total tax bill would equal $7,747 (including a $525 minimum tax and $2,899 in income taxes).

Total savings because of the Church amendment: $4,848.

SITUATION C

Family income is $15,000, and the home was purchased in 1968 for $20,000. It has just been sold for $40,000, showing a capital gain of $20,000.

With a capital gains tax in effect on this profit, the family's total tax bill would equal $4,288 (including no minimum tax, but $1,701 in income taxes).

Total savings because of the Church amendment: $2,587.

SITUATION D

Family income is $10,000, and the home was purchased in 1958 for $10,000. It has just been sold for $30,000, showing a capital gain of $20,000.

With a capital gains tax in effect on this profit, the family's total tax bill would equal $2,899 (including no minimum tax, but $757 in income taxes).

Total savings because of the Church amendment: $2,142.●

GEN. FRANK E. PETERSEN, JR., USMC

● Mr. DOLE. Mr. President, on March 12, 1979, the Senate confirmed numerous nominations in several of our military services. I am proud to announce that among those to be confirmed was Frank E. Petersen, Jr., from the great State of Kansas.

MARINE GENERAL FROM TOPEKA, KANS.

Frank E. Petersen, born and raised in Topeka, Kans., has become the Marine Corps' first black aviator to attain star rank. General Petersen's distinguished career in the Marine Corps began with his enlistment in the U.S. Navy in 1950. Determined to be the first black marine pilot, he completed naval flight training at Pensacola, Fla., in 1952, with the designation of being a naval aviator and commissioned a second lieutenant in the Marine Corps Reserve.

General Petersen's distinguished career includes air combat missions in Korea and Vietnam. For his service in Korea, he was awarded the distinguished Flying Cross, this country's highest aviation medal.

In Vietnam, he commanded Marine Fighter Attack Squadron 314, making him the first black in the naval service to command a tactical air squadron. Under his command, this squadron received the Hanson Award for aviation in 1968 as the best fighter squadron in the Marine Corps. For his service in Vietnam, he was awarded the Legion of Merit with Combat "V." General Petersen is currently Chief of Staff for the 9th Marine Amphibious Brigade, based on Okinawa.

SPECIAL ASSISTANT TO THE COMMANDANT FOR MINORITY AFFAIRS

General Petersen's career has not been solely one of flying around the world in defense of our country. In 1969, the post of Special Assistant to the Commandant for Minority Affairs was created and initially filled by then, Lieutenant Colonel Petersen. In this capacity he served as a valuable advisor to the commandant on the fundamentals of minority problems and their resolution.

This was a particularly important assignment for General Petersen and the Marine Corps when you consider the disproportionate number of senior black officers. Today there are approximately 33,500 blacks in the Marine Corps, representing 3.7 percent of the officers and 19.3 percent of enlisted personnel.

U.S.M.C. IN LOOKING FOR A "FEW GOOD MEN" FIND BEST IN GENERAL PETERSON

Mr. President, the Marine Corps has a well known recruiting "jingle" which states they are not just looking to recruit anybody but out to recruit the "best." I believe the Marine Corps did exactly that when they found Frank Petersen.

Mr. President, I join the people of Kansas and, particularly, from Topeka, Kans. in congratulating General Petersen for his dedicated work and high principles which resulted in his historical promotion to brigadier general in the U.S. Marine Corps.●

SPEECH BY GOV. PETER T. COLEMAN OF AMERICAN SAMOA TO THE HAWAII STATE SENATE

● Mr. INOUYE. Mr. President, I wish to share with my colleagues a speech by Gov. Peter T. Coleman of American Samoa to the Hawaii State Senate of January 29, 1979. Without direct representation in the Congress, the problems of U.S. Pacific Islands are frequently overlooked. I am pleased to note that Governor Coleman is appreciative of the efforts of the Hawaii delegation to represent those interests—and we will continue to do so—but these islands are nevertheless at a distinct disadvantage in receiving assurance that the interests of Americans on these far-flung islands in the Pacific are given consideration by the Congress and by the executive departments in the writing of regulations and in the making of policy.

I wish to call the particular attention of my colleagues to the problem of the line islands where once again it appears as if our State Department is giving insufficient consideration to the needs of the U.S. Pacific Islands in determining the future of this area.

I am heartened by the decision of the White House Domestic Council to recently convene a meeting on our development policy for our island territories. Hopefully, that effort, which I understand is being spearheaded under Under Secretary Joseph's stewardship in the Department of Interior, will mark a major step forward.

Mr. President, I am happy to share with my colleagues the remarks of Governor Coleman on a number of issues of great importance to the United States in the Pacific and request it be printed in the Record.

The speech follows:

SPEECH OF PETER T. COLEMAN

Mr. President, honorable members of the Senate, ladies and gentlemen—Talofa and mahola nui loa for this opportunity to chat briefly with you this morning. Having addressed our own legislature—the Fono—on the state of the Territory of American Samoa earlier this month, I know the challenges facing Legislators generally. Like you, our Senate has new younger leadership which we look forward to working with constructively, recognizing also that in their senior colleagues there is much wisdom.

We, in American Samoa feel very close to the people of Hawaii. My personal connection is very deep educationwise and familywise. Some 20,000 people of Samoan ancestry live here—but because of our extended family (aiga) system—they never really cut their ties to their homeland 2,400 miles to the south. To remind yourself of these ties you need only catch a fully loaded PanAm plane during your summer at Honolulu or Pago Pago airports and see what comes off the baggage carousel!

American Samoa is not a large place—the main island (of 7) is 18 miles long and 6 miles across at the widest point. Our resident population is about 31,000, a considerable number of whom have come from Western Samoa. We do not have sufficient arable land to become a major agricultural supplier. While Hawaii is larger and does have significant agricultural export industries, you too, could not support your rapidly expanding population on agriculture alone.

Since taking office as American Samoa's first elected Governor one year ago, therefore, encouragement of economic opportunity has been high on our priority list. Effects, however, of years of rule by paternalistic palagi (haole) governors appointed by Washington are not changed overnight, nor for that matter in a single year. As an unincorporated, unorganized territory we still are a creature of the U.S. Interior Department and depend a great deal upon its understanding and support. But we are moving as rapidly as we can to develop our assets so as to become less dependent on U.S. financial support.

We have a number of assets, both human and material—chief among the latter are beautiful Pago Pago harbor and Pago Pago International airport.

This transportation complex is the best in the South Pacific with the possible exception of Suva Harbor and Nadi Airport in Fiji. While Suva and Nadi may provide somewhat more diversified surface-shipping services, they are separated by a ½ hour plane ride or an 8-hour drive, whereas Pago Pago Harbor and Airport are a 15-minute drive (even at 25 miles per hour!)

We also have the advantage of being within the U.S. tariff barrier; provided 50% value is added to a product in American Samoa.

To attempt to take advantage of this tariff break, prior American Samoa administrations created an industrial park adjoining the airport, and the Fono enacted a fairly broad scheme of tax incentives.

Despite these earlier efforts, progress toward economic self sufficiency has been slow. Since taking office last January, we have thoroughly analyzed our problems and taken action to pull our act together. We are well on our way to completing a comprehensive development plan and have worked very closely with our chief private industry (fishing) on a number of politico-economic problems.

To better understand our fundamental problems and how we are approaching them I first want to share with you a short analysis of the problems of small Pacific Islands such as ours.

The problems which we face as islands are not difficult to outline. Small Pacific Island countries operate at a disadvantage in the world economy.

Most small islands depend on a few main commodities to earn overseas exchange: usually coconut products, fruit, sugar and spices, and in a few cases minerals or fish. In fact the average Pacific Island derives over half its export earnings from one main commodity. We in American Samoa are dependent on our fish cannery exports—about $100 million in 1978.

For most Pacific countries primary exports are subject to extreme price fluctuations on the world market. The Pacific islands' share of production is too small to affect world prices in any of these commodities. The only major operating scheme to help small islands with this problem is Stabex, signed under the ACP/EEC Lome' Convention. It has provided its four Pacific members (Fiji, Tonga, Western Samoa and Papua New Guinea) with very valuable stabilization funds. There are also some minor bilateral marketing agreements. Unfortunately, American Samoa and other island countries do not share in these benefits.

In trade, the Pacific suffers more than the other developing island groups because of isolation from major markets. Due to transport and market communication problems per capita Pacific exports have never been as high, as say, the Caribbean. Many individual and regional efforts have been made to lower the cost and improve the frequency of Pacific shipping, without great success to date. Modern shipping requires economics of scale to operate efficiently. To avoid this problem, some Pacific islands are now exporting high value fresh fruit and vegetables by air.

Because of existing transport services and old colonial links, Pacific trade has been very tightly tied to particular metropolitan powers: exports are concentrated on traditional markets although these may not be the closest or most profitable. New Zealand and Australia, for example, are heavily connected to the South Pacific islands—while both U.S. exports and imports are under represented. Only three percent of Pacific trade is among the islands themselves. Some attempts have been made through the South Pacific Bureau for Economic Co-operation (SPEC) to arrange regional marketing agreements. However, the dilemma of the Pacific islands is that, unlike the OPEC countries, they control only a tiny proportion of world production.

Increasingly the most important source of funds for small islands is foreign aid.

This aid is not without strings. Almost all aid in the Pacific is bilateral. In 1976, on average, each country or territory received about eighty-five percent of its aid from one donor country. This pattern also is based on colonial ties. For other Pacific island nations this is now changing, with Japan, Western Europe, Canada and regional development organizations becoming major donors. American Samoa, however has been totally dependent on the U.S. for budgetary aid. For economic development purposes we have received about one million dollars and are not eligible for development loans by international financing bodies. Contrast that with over twenty million dollars of development capital which was made available to the independent country of Western Samoa last year by the World Bank, Asian Development Bank and other bilateral aid projects.

Another problem that many small island countries face is the exploiting activities of multinational private companies. Foreign commercial firms can certainly affect Pacific economies, and there is evidence that some have done so. Island countries also face great problems in administration because of their small size.

In our way way we in American Samoa fit this pattern of the small island nations.

How then to solve our economic problems?

During this past year of my administration we have made considerable progress in transportation and communication matters. We fought tenaciously for better civil air service—the basis of a sound tourism program and an essential element of commerce. As of May 1st Continental will be making 5 weekly daytime flights to Pago Pago. Another link—regular surface shipping to Hawaii was re-established late in 1978. We are also looking forward in June to satellite communication.

An event of less than two weeks vintage points up an even more progressive development in the long run.

The progressive development to which I refer is the role that American Samoa is now playing in affairs of the region—particularly in its relations with the other Eastern Polynesian island states and territories. A visible demonstration of this role took place during the week of January 8–12 when the Prime Ministers of Tonga and Tuvalu, the premiers of Niue and the Cook Islands, prominent Ministers from Western Samoa, and French Polynesia (Tahati), at my invitation together with the Governor of the Northern Marianas Islands Commonwealth, attended the most recent Pacific Islands Development Commission (PIDC) Meeting in Pago. The PIDC is as you know, an organization composed of the chief executives of Guam, T.T.P.I., the Northern Marianas Islands, Hawaii and American Samoa as well as private interests, largely from the fishing industry. While our formal meetings in Pago might be characterized as "routine" our "off the record" and personal discussions were barrier breaking.

As Premier Tom Davis of the Cooks said in last week's speech to Pago Pago Rotary, we can work together constructively by lowering our shortsighted barriers to interisland trade and intercourse; by encouraging private enterprise not by talk alone, but by direct measures; by reducing overlapping duplicatory services of regional air carriers; processing plants, etc. etc. American Samoa has two major fish canneries in addition to prime shipping and airport facilities—it makes no sense to duplicate these facilities in Apia, Rarotonga, or Funafuti.

Joint Pacific island efforts on controlling immigration, agricultural disease and other threats to the environment will be more productive than individual efforts. There is no sense, too, in duplicating large capital facilities with high overhead—e.g. educational facilities, airports and major harbors. This is the sort of thing we talked about with other leaders of the South Pacific at our Pago PIDC meeting.

Another example is our joint plan with our close neighbor, Western Samoa to assist tourism facility development with Continental Airlines who will be making a major commitment to the South Pacific as of May 1st.

What does all of this mean to you in Hawaii? Your own DPED report "Hawaii and the Other Pacific Islands" prepared by Harlan Lee while on leave from the State Department puts it this way:

"As a gateway to the immense U.S. market, Hawaii offers the other Pacific islands an ideal market place for their exports. In turn Hawaii has the potential of serving as a convenient supermarket or department store for a wide variety of goods—at prices competitive with other sources—that the islands need from the U.S.

We in American Samoa are the gateway to the South Pacific for Hawaii and in turn the gateway for our other small island regional neighbors to trade with Hawaii and the Mainland U.S. We are already an integral geographic part of the South Pacific. We are determined to become an integral economic part of the South Pacific. If we succeed in achieving this goal—we are sure there will be many benefits for Hawaii, too.

So as I see it our mutual economic interests are in tandem in this part of the world. We have already worked very closely with Hawaiian fishing interests—and are very active together in the Western Pacific Regional Fisheries Council headed by Senator Wads Yee. We work closely with Andy Gerakas of PIDC, and hope that you will again support this program. In addition, we are increasingly looking to Hawaii for contract and permanent employees for our government. Our new liaison office (whose director is your former Senate colleague, Fred Rohlfing) is functioning as a valuable interface with government, business and the community-at-large on a number of employment, immigration, educational, material, supply and legal matters. He can provide you with detailed information about American Samoa, and the region of which it is a part. Also of note is our recent appointment of your former director of Personnel, Edna Taufa'asau as our Director of Manpower Resources and former State Representative Joe Dwight, Jr., as our Attorney General.

As a state you are a fully integrated part of the U.S. but we are, as the lawyers say—an "inchoate" territory—unorganized and unincorporated. For you non-Constitutionalists, unincorporated means any territory to which the U.S. Constitution has not been expressly and fully extended. Unorganized does not mean we don't have our act together, it only means Congress has not written an organic act for us as they did for Hawaii in 1900. Our political study commission is now reviewing political status alternatives for us.

Despite this difference we have much in common politically—we too have to deal with those federal agencies whose rules and regulations all seem to be devised for landlocked midwestern states with temperate climates. Can you imagine having to post a right turn on red sign on an island where there are *no* traffic signals in order to preserve federal hi-way grants in aid? I'm sure you can—with your problems on sewer effluent and the water quality act.

We have no votes in Congress. Consequently we rely heavily on the help of the Hawaii delegation and some other friends from Western states. I wish to say here and now . . . fa'afatai tele lava to Senators Inouye and Matsunaga and Representatives Akaka and Heftel for all of their help.

We are both surrounded by water—have common Polynesian antecedents—a common connection with the greatest nation in the world and a comparable record of sacrifice to our nation.

Increasingly, your attention and ours is being directed to the ocean that surrounds us. When we start exercising that attention we are automatically projected into an international political arena—Law of the Sea conferences, Regional fishing compacts, etc. We in American Samoa have learned—the hard way—that we can't sit back and expect the federal government to act in our best interest automatically. Certainly we can't assume they will. We must express our views to them. A case in point is the question of the South Central Pacific disputed islands, islands over which the U.S., U.K., and New Zealand have had conflicting claims for over 100 years. Just last Thursday and Friday State Department representatives met with a joint delegation from the U.K. and the shortly-to-be-indepenednt Gilbert Islands.

Some 14 disputed islands of the Line and Phoenix group are involved. Without going into great detail, the U.S. based most of its claims on the Guano mining of the 1800's (the Guano Act of 1856). But in the case of islands like Canton and Enderbury we have had a settled presence since the islands became important for civil aviation and defense activities. Little weight was given (strangely) to the fact that Polynesians had occupied these islands for centuries while travelling to and from Hawaii and the south. To us the islands are important . . . for every island there is a 200 mile radius of fishing economic zone around it. As I said earlier, we in Samoa are dependent for our survival on the continued health of our fish canneries. Access of our fleet to Pacific waters is vital. When we learned, through a published statement in the Pacific Islands Monthly of the State Department's alleged willingness to give up all U.S. claims we went to "battle stations". We made a strong presentation of our case in Washington to the State Department. You in Hawaii are also deeply affected by these events since you are trying to develop your long range fishing fleet. It is a natural for that fleet to operate up north out of Midway during summer months and off the Line Islands to the south during winter months. If the Gilberts assert their 200 mile economic zone and license another nation's fishing boats *exclusively* we both have a real problem. I am happy to say that your state administration joined American Samoa's protection of any outright give away as of last Wednesday, and as of today through our involvement we have achieved a positive working relationship with the Gilbertese.

So again we see how our interests are interlinked.

Neither Hawaii nor American Samoa can escape the fact that we are oceanic states, unique in the American Constellation. While science has produced new technologies, governments are notoriously snaillike in their relations. This is particularly so in the field of oceanic technology. The problems of new industries that might be based in Hawaii and/or American Samoa cannot be handled except at the international level, at least the regional international level. This is why we in American Samoa emphasize our participation in all South Pacific and Pacificwide institutions, e.g., PIDC, the South Pacific Commission, and send observers to South Pacific Forum meetings. Hawaii, as such I might add has been largely absent from these forums, though Hawaiian residents have represented the U.S. from time to time.

We have one other important common politico-social element—our mutual desire to preserve as much as possible of our unique island cultures. As with Hawaii in the past 20 years since statehood, we in Samoa are faced with the inevitability of our greater integration into the world at large. We welcome the opportunity to participate actively in improving the lives of our own and other peoples through modern technologies. But we in Samoa are also deeply committed to the preservation of the true and abiding values of fa'a Samoa—the Samoan culture. To some we may seem slow in building hotels or adapting our land policies to development—but we do so for a reason. If its good, I will ultimately have broad support—until then we won't give the store away!

I appreciate your willingness to interrupt your important deliberations to listen to a fellow islander with deep roots here in Hawaii.

I wish you a successful session and pledge my administration to working with you and your state and county governments on mutual problems.

Little American Samoa needs a lot of help from its big sister state!

Fa'afatai tele lava, mahalo nuiloa and Aloha.

SALT II: THE PRESIDENT'S OVERSELL

● Mr. GARN. Mr. President, during his state of the Union message to Congress, President Carter remarked that "just one of our relatively invulnerable Poseidon submarines, comprising less than 2 percent of our total nuclear force of submarines, aircraft and land-based missiles, carries enough warheads to destroy every large- and medium-sized city in the Soviet Union." This is another example of the Carter administration's reckless attempt to sell the nearly completed SALT II Treaty to the American people and the U.S. Senate.

The President's statement would lead one to believe that one Poseidon-carrying submarine provides the United States with a sufficient deterrent to the Soviet nuclear arsenal and would be capable of bringing the Soviet Union to its knees in the event of a nuclear confrontation. This is a gross distortion which bears no relation to reality.

I would like to call the attention of my colleagues to an article by Howard Silber, military affairs editor of the Omaha World Herald, in which he highlights the weaknesses of the President's assertion and sets the record straight on this issue. As Mr. Silber concludes, "In short, defense leaders do not believe that the entire Poseidon force by itself constitutes an adequate deterrent, let alone the single submarine to which the President referred."

Mr. President, I ask that Mr. Silber's article be printed in the Record, and I urge my colleagues to assess the President's statement in light of the points it makes.

The article follows:

[From the Omaha World Herald, Feb. 4, 1979]

Did Carter Overstate Missile Subs' Capabilities?

(By Howard Silber)

A statement by President Carter that a single U.S. Poseidon missile-launching submarine "carries enough warheads to destroy every large- and medium-sized city in the Soviet Union" has aroused concern in the Pentagon.

Defense Department leaders are fearful Carter left the impression that one such submarine could wipe out most population centers in the USSR—which is definitely not the case.

Some leaders believe that the President, in his desire for approval of the pending SALT II agreement, intended to foster that impression when he made the statement in his State of the Union address to Congress.

They are apprehensive that the White House wants to convince the American public that U.S. strategic forces are more powerful than they have to be in order to maintain a credible deterrent and that the country can thus afford to make substantial nuclear arms limitation concessions to the Soviets.

By stressing this country's supposed overkill capabilities, the administration is attempting to soften prospective Senate resistance to an arms limitation treaty in which the U.S. might have to give more than it would receive, the Pentagon officials fear.

The ambiguous Carter statement could lead to the belief that the President was attempting to persuade Congress and the public that one Poseidon-carrying submarine could bring the Soviet Union to its knees.

Carter said:

"I will sign no agreement which cannot be verified. The American nuclear deterrent will remain strong after SALT II.

"For example, just one of our relatively invulnerable Poseidon submarines, comprising less than 2 percent of our total nuclear force of submarines, aircraft and land-based missiles, carries enough warheads to destroy every large- and medium-sized city in the Soviet Union."

The Poseidon-launching submarine is a powerful weapon system. But it does not have anything like the capability seemingly ascribed to it by the President.

Each of the Navy's 31 Lafayette-class Poseidon submarines is designed to launch 16 missiles.

Each missile normally is equipped with 10 independently-targeted nuclear warheads with a maximum range of 2,880 miles.

The authoritative London-based Institute for Strategic Studies says each of the warheads has a destructive force of 50 kilotons—2½ times more powerful than the Hiroshima atomic bomb.

A modified missile can carry as many as 14 of these warheads. But when it does, the potential maximum range is reduced by as much as 25 percent.

Formidable as this may appear, the Poseidon system has limitations.

It is recognized as the least accurate element of the deterrent triad of bombers and land- and sea-based missiles. Accuracy is becoming increasingly important as the Soviets continue to harden and disperse their missile sites and other military installations.

It is impossible to position a submarine—or a fleet of them—so that their missiles could command targets over a major portion of the USSR.

Considering that the submarines must remain some distance at sea in order to avoid detection—once detected, the "relatively invulnerable" quality mentioned by Carter is lost—and the range limitations, much of the Soviet interior could not be reached.

There also is a definite limit on the separation distance of targets assigned to an individual submarine.

Every missile equipped with independently targeted warheads has what is known to targeters as its "footprint." This is the planned impact pattern of the warheads. Poseidon "footprints" are not very large.

There also is the question of the overall reliability of the Poseidon system. Navy plans do not call for more than 15 Poseidon-carrying submarines to be at sea at any one time and, according to testimony before congressional committees, the number is often below that level.

In short, defense leaders do not believe that the entire Poseidon force by itself constitutes an adequate deterrent, let alone the single submarine to which the president referred.

The strongest evidence of this is Carter's frequently expressed support of the cruise missile.●

AMNESTY INTERNATIONAL

● Mr. RIEGLE. Mr. President, many of us are familiar with the efforts of Amnesty International to stop torture, repression, and inhumanity throughout the world. The importance of this organization was underscored when it was awarded the Nobel Peace Prize in 1977. It has been attacked from the right as being a tool of the Communists, and from the Soviets as being part of a sinister Western plot. Regardless of the criticism, Amnesty International continues its sometimes disheartening task of assisting "prisoners of conscience." They have made some progress, using the most powerful tool—world opinion—but brutality and torture remain tragic elements of the world political system.

I would like to print in the RECORD an article, from Quest Magazine December 1978, entitled, "Comrades in Conscience," by Ron Chernow. This report details the tireless efforts of Amnesty International, and gives some insight into the huge frustrations facing the people in that organization. I commend it to the attention of my colleagues.

The report follows:

COMRADES IN CONSCIENCE

(By Ron Chernow)

While placidly stirring his coffee one morning in 1961, a London lawyer named Peter Benenson spotted a small upsetting item in the paper. It said that two students in Portugal had clinked glasses in a public toast to liberty—and had been duly punished with seven years in prison. Benenson's first impulse was to rush over to the Portguese embassy and express his indignation. But as a former defense counsel for political prisoners in Hungary, South Africa, and Spain, he knew that individual protest would be fruitless. Instead, he prepared two articles, which were published simultaneously in London's *Observer* and Paris's *Le Monde*, appealing for an international crusade to stamp out the imprisonment and torture of political dissenters.

"The newspaper reader feels a sickening sense of impotence," wrote Benenson. "Yet if these feelings of disgust all over the world could be united into common action, something effective could be done."

It must have seemed a strange plea in the age of *Realpolitik*. But the twin pieces drew 1,000 letters of support. Within two months, the seedlings of an international movement had sprouted in five countries. Today, Amnesty International—the heir to Benenson's appeal—has matured into a massive global citizens' campaign. Dedicated to the release of "prisoners of conscience" (the term excludes those who employ or advocate violence), Amnesty has now recruited more than 168,000 members and supporters in 107 countries. Its London-based staff tracks down likely cases by combing press reports, trial transcripts, and prisoners' letters, many of them smuggled past guards. Once a detainee is certified as an authentic prisoner of conscience, his case is posted to one of Amnesty's 2,000 worldwide "adoption groups." The group's members then pepper the offending government with letters of protest until the prisoner is released. The campaign may go on for years before it succeeds or proves hopeless.

Amnesty estimates that the world's prisons contain half a million political prisoners. It has adopted or begun investigations into about one percent of these cases. When one browses through an Amnesty newsletter, his mind starts to reel: an East German sculptor receives a four-year sentence for criticizing the Honecker regime; Paraguayan police immerse a dissident engineer in an "electric swimming bath"; for addressing his fellow laborers, a Romanian textile worker is drugged with plegomazin, "a strong sedative which induces a state of apathy"; a Uruguayan political prisoner's captors shove his face in excrement and drive sharp objects under his fingernails. "The following day, a military lorry delivered a coffin containing his dead body to his wife."

At first glance, Amnesty may seem like a tea-partyish response to prison atrocities. Can letter and reports really halt such thuggery? But one shouldn't be duped by the velvet glove over the fist—these people mean business and produce results. When Amnesty won the Nobel Peace Prize for 1977, the complaints from dictatorships around the world dramatized its effectiveness. A top Soviet official intimated that the prize was part of a sinister plot "being conducted by certain Western circles." Admiral Sudomo, head of Indonesia's internal security force, dubbed the prizewinners "Amnesty Communist International" (perhaps because Amnesty says that Indonesia has a staggering 55,000 political prisoners, and perhaps as many as 100,000). A Uruguayan minister of state peevishly called the award "a joke in bad taste."

That Amnesty can be slandered as both an imperialist stooge and a tool of the KGB tells much about its success. Other so-called "solidarity groups" formed to free political prisoners have been vulnerable to charges of partisanship. But Amnesty has strict organizational guidelines to insure impartiality and remove any suspicions of bias. Adoption groups must foster prisoners from at least two regions or ideological blocs. Also, the groups cannot work on cases within their own countries. The result is a nonpartisan, global network of activists united solely by their belief in the values of fairness and freedom.

Amnesty's London Secretariat fills four floors of a building between Covent Garden and the Strand. The cubicle-size rooms are clean and unpretentious, the walls invariably covered by maps. Blue jeans seem to be *de rigueur*. The 120 full-time staffers come from 15 different countries, and the polyglot Babel in the corridors reminds one of the U.N. cloakrooms.

But the casual atmosphere is deceiving. Security precautions are subtle but ubiquitous. The four-story complex can be entered only by a single door, secured by a buzzer system. Visitors must wear a small gummed label with the Amnesty symbol—a candle surrounded by barbed wire. Guests are not allowed to wander about. At first I thought it a matter of good breeding that people always escorted me to my next interview; I eventually caught on. The International Secretariat, with its telex machines and staff beepers, is a highly disciplined bureaucracy, dealing continually in life-and-death matters.

"People who help us have to be made aware that we are security-conscious," says Fran Taylor, 32, an Amnesty press attaché. "After all, if they're risking their lives by getting information to us, they need to know that no one can get in here and find out who they are."

Once a fortnight Fran Taylor takes her turn at patrolling her floor, making sure that filing cabinets are locked. She checks to see that no documents marked "Internal" are left on desk tops. In fact, Amnesty is so mindful of its responsibilities that it urges adoption groups to burn all confidential materials once a prisoner is freed.

The credentials of the Amnesty staff will give little solace to the world's despots. Researchers commonly have graduate or law degrees and can chatter in several tongues. (This despite a standard salary of only £4,500, or about $9,000, a year.) Most of the researchers are in their late twenties or early thirties. There are probably few young people in the world who shoulder so much responsibility for people whom they do not know. Each of them must keep tabs on hundreds of political prisoners in a particular country, and each morning's mail may bring up to 10 new reports of torture or illegal detention. The psychic weight of all this can be crushing.

Consider the work of Patricia Feeney, 28, Amnesty's sleuth for Argentina. Feeney is a dark, pretty woman, fond of summery dresses. But she must go to sleep each night worrying about the 15,000 people who have disappeared in Argentina. Her report on human rights violations in Argentina, written in taut Amnesty prose, suggests that the country is undergoing a torture epidemic. One reads of electric shocks being applied to the breasts and vagina of a 27-year-old pregnant nursery school teacher (she miscarried two days later). There is the saga of Carlos Sgandurra, beaten until his body was a mass of sores; his captors then swiped knife blades over his wounds. There is a description of *submarino* torture: hooding a prisoner and then plunging his head underwater; when he straightens up, the wet cloth makes him feel as if he's choking. There are affidavits galore of nails being pulled out of toes, with the toes then slashed and electrically tortured. Finally, there are the multilated bodies fished out of rivers or found ground up in rubbish dumps (400 were found in May and June of this year).

"When you first start working with torture testimony, its almost too painful to translate," says Feeney. "Then you become accustomed to it and feel you're fairly hardened. But you always find testimonies that leave you very upset."

In 1976, Feeney visited Argentina on a fact-finding mission with Britain's Lord Avebury and U.S. Congressman Robert Drinan (a Catholic priest). Political violence had reached such shocking levels that Amnesty decided to supplement its case-by-case approach with a countrywide report. The Argentine military's nervous reaction to the Amnestry mission was an unspoken tribute to its prestige.

"The first night in Buenos Aires, we went back to our hotel at 12:30," says Feeney. "The lobby seemed full of men in electric-blue suits and dark glasses, the typical look of the secret police. A photographer took a photograph of Father Drinan without saying why. One reads so many reports of what kind of people abduct Argentine citizens that it could easily have been a kidnapping party." The harassment became so blatant in the city of Cordoba—they were accosted by a mob of 30 men with "bulging biceps"—that Feeney gave Father Drinan her documents and messages for her relatives in England, in case she did not return.

Patricia Feeney's concern seems palpable, but most Amnesty researchers assume a more bookish air. They speak in the neutral tones of diplomacy, avoiding words that might smack of sensationalism. "Pragmatism" is a favorite word.

Perhaps this is because Amnesty is no place for tender souls. The very walls are papered with ghoulish images. The press attachés work under a poster illustrating torture in Uruguay. Smuggled out of a prison, the poster's black-and-white photograph shows a naked hooded male, straddling a pole. His toes scarcely touch the ground, so that his genitals bear the full weight of his body. In the reception area, an oak tag bears snapshots of smiling people who have vanished in Argentina; in the middle, heartbreakingly, is an infant. (Abducted children are often found alive later, abandoned on street corners, name tags around their necks.) With one exception, I didn't meet a single Amnesty researcher who had been on the job for more than four years. It's a commentary not on their dedication (which tends to be exemplary) but on the excruciating nature of their work.

"To be honest, people burn out after a while," says Sherman Carroll, 33, a Louisianian who arrived at Amnesty by way of Harvard. "It's a very rewarding business, especially when you're successful, but it's also very hard on the nerves."

Carroll heads one of the most arduous Amnesty projects: the Campaign for the Abolition of Torture (CAT). When CAT learns of a prisoner about to be tortured, it mobilizes thousands of people who belong to its Urgent Action network. These people blitz the responsible government with cables, letters, and telegrams for six weeks. To date, about half of CAT's prisoners have experienced speedy improvements in their situation.

CAT is also trying to develop a medical and psychiatric literature on torture. Torture techniques have become so refined that they rarely leave any telltale marks, doctors often collaborate in this filthy deception. Amnesty has assembled a unique group of Danish physicians who are appealing to their colleagues to shun such work. They're also searching for definitive ways to identify torture victims. To learn the effects of the "Shock Baton"—a U.S.-made cattle prod used by callous police on human beings—the Danish doctors knew that there was only one humane way to do the experiment. They sat down in soft chairs, strapped pulse-measuring electrodes to their wrists, and shocked themselves. Sherman Carroll also felt duty-bound to subject himself to the Shock Baton.

"I took the smaller one that only had three batteries in it and I touched my fingers to it," says Carroll. "I could feel the pain right up my arm into my heart. I wouldn't have done it a second time."

To see the world through the prison of Amnesty reports is to ponder the extremes of human behavior. At first one can't believe the sum total of politically inspired barbarism in the world today. Death squads and secret agents with a license to kill roam through the streets of many countries. The savagery often seems prehistoric. How, then, does one extract a positive message from this? The suspicion grows and grows that man is inherently cruel. But, surprisingly, the Amnesty people all sem to feel otherwise. And they hardly speak as innocents on the subject.

Sherman Carroll, for example, has studied torture in Greece under the generals. He found that the torturers weren't sadists who had sought out the job; they were rural youths randomly conscripted. That these young men were transformed into brutes may say much about the human *capacity* for evil. But it says very little about its inevitability. From their cross-cultural perspective, Amnesty reports show that only certain political systems breed monsters. The crucial factor is the endemic fear that pervades dictatorships from the top down, turning self-preservation into paranoia and ultimately into hyperbolic sadism.

Steeped in Amnesty literature, one also learns that the bestiality of some regimes is often matched by the courage of their dissidents. It's astonishing how many people around the world stand up for their beliefs despite the certainty of torture and imprisonment. While talking with Malcolm Smart, 31, Amnesty's South Africa expert, I asked to see the file on one of his adopted prisoners. He pulled out the case of Barney Pityana, a Black Consciousness leader in South Africa. Pityana and his wife, Dimza, have been repeatedly subjected to "banning orders," a form of house arrest and isolation in which a person can't meet with more than two people at once. In 1975, Pityana was scolded by a South African magistrate for violating his banning order by allowing his brother and sister to visit them four times. Banned people are also forbidden to converse with one another.

"When Dimza was banned too, they had to get a special dispensation from the Minister of Justice to allow them to communicate," says Smart. "But usually only one is at home at any given time, because the other is in detention."

Although at least 19 blacks died in "detention" during one recent 12-month period, Barney Pityana's letters betray no self-pity. He asks his German adoption group for shoes (size 10) and trousers (size 40) so that he can serve his banning time in decent garb. (Amnesty now disburses almost $250,000 a year to needy prisoners of conscience.) Nor is such courage rare among South African dissidents. Malcolm Smart says that many newly released prisoners immediately contact Amnesty and similar organizations to report on the plight of remaining inmates. Smart told me that two days before, a member of a southern African liberation group had strolled into his office and dumped a batch of smuggled prison letters on his desk. Each letter, if intercepted, could have meant torture or death for its sender.

In a world of casual slaughters and commonplace cruelty, it may seem inconceivable that a group like Amnesty could be at all effective. Amnesty newsletters will detail some gory tale of a prisoner having broken bottles thrust up his anus or boiling water poured down his gullet. The synopsis will then conclude, "Please send courteously worded letters to . . ." Yet even the most corrupt regimes are curiously shy about having their secret vices exposed. Publicity may be Amnesty's only real weapon, but it turns out to be a powerful one. Torturers rarely take pride in their profession.

The human rights situation in Guatemala has been one of Amnesty's most intractable problems. At times, the country's military rulers have seemed invulnerable to either reasoned appeals or grim publicity that shames them before the world. Amnesty estimates that since 1966 government-sanctioned groups have kidnapped, tortured, or murdered more than 20,000 Guatemalans. In fact, Amnesty can only estimate the scale of such butchery by extrapolating from statistics on unidentified bodies in a Guatemala City cemetery. Torture in Guatemala seems to be synonymous with slow-motion death. Prisoners are covered with rubber hoods and insecticide is sprayed underneath. One morning in the mail, Michael McClintock, Amnesty's 28-year-old Guatemala researcher, received the most ghastly photo he'd ever seen: two decapitated heads, sitting by a roadside.

An American with a Mexican wife, McClintock is self-effacing about his work on Guatemala. But it's a bit like trying to defuse a ticking bomb. Amnesty intercession can backfire, and McClintock never sends letters to contacts there using the group's letterhead. He even thinks twice before sending unmarked notes. "It's the country where I'm most paranoid about getting someone killed," says McClintock, who also handles Nicaragua, Honduras, and El Salvador.

When McClintock and German jurist Dr. Kurt Madlener visited Guatemala in 1976, the violence went on unabated. During the five days they spent in Guatemala City, death squads shot down 35 people. Trying to chronicle this bloodshed, McClintock pored over six newspapers daily. Worried that they, too, would become victims of the marauders, McClintock and Madlener switched to a more secure room in their hotel. Although the carnage persists, it has now subsided somewhat.

"In Guatemala City, in the daylight, the overtly political killings are declining," says McClintock. I asked if he attributed this to international attention and pressure. "I think so. Last year, for the first time since 1954, there was a protest demonstration following the murder of a student. Similarly, when the dean of the law school was gunned down last year, there were 20,000 people in the street. And the government didn't dare stop it," says McClintock, a note of quiet triumph in his voice. Of course, Amnesty may not have been instrumental in the change. But in such instances, it is often one of the few outside groups that can voice dissent when local dissidents have all been killed or cowed into submission.

Before Amnesty won the Nobel Prize, most Americans had been only vaguely aware of its existence. Vietnam and Watergate had left little time to brood about Pakistani prison conditions. Yet, spurred on by President Carter's human rights campaign, American membership has recently spurted to 8,000 active participants and 85,000 contributors.

But Amnesty has thrived all along in Western Europe, where keen awareness of the Holocaust and Stalin's gulags had made people wonder what they could do to protest human rights violations beyond their borders. Did the world again have to be a mute witness to the extermination of millions? Did citizens have no recourse other than to their governments? A curious item in this context: West Germany boasts more Amnesty adoption groups—637—than any other country. Holland, a nation that resisted Nazi aggression, comes a close second. I find something cheering about that pairing.

To be sure, Amnesty adoption groups achieve only fitful success in freeing their prisoners. But they're demolishing the cant that concerned people shouldn't "meddle" in the affairs of other countries that are brutalizing their citizens. They're creating a planetary consciousness that may be essential to civilization's survival. They're saying that human responsibility transcends color, nationality, and creed. Suddenly it's common to hear politicians paying lip service to human rights. Ten or 20 years ago, it was simply not on most political agendas. Amnesty surely deserves much of the credit for this.

One day, I asked Fran Taylor, the press attaché, how she reacted to the foul stream of atrocities that flowed across her desk each day. "Sometimes it's too much to cope with," she conceded. "I believe that man is basically decent. And then one reads reports, day after day, about how shockingly individuals are treated. How do you continue your everyday work when you know that at that instant of time—at any instant of time—people are being tortured, killed, brutalized, maltreated? How do you continue without breaking up?"

Later, as I listened to Taylor telling reporters about brutal interrogations in Northern Ireland, her voice controlled but impassioned, I reflected that she and the other Amnesty people had long ago learned the answer.●

TAX INCENTIVES FOR SAVINGS

● Mr. PRESSLER. Mr. President, when I was growing up in South Dakota, emphasis was placed on saving for a rainy day. It was a way of life in years past and meant a great deal.

Now, however, credit cards and mortgages dominate our daily living. As a result, our tax laws reflect this.

Inflation is the No. 1 problem faced by Americans today. Because more emphasis has been put on spending than in saving over the past few years, one group of Americans bears a disproportionate share of the inflation burden: Our Nation's savers. It is time that we look at this problem from where they stand.

Recently I was given the opportunity to speak to a distinguished group of people in Boston, Mass. regarding the issue. Mr. President, I ask that the speech be printed in the Record.

The speech follows:

Tax Incentive for Savings: A National Priority

(By Senator Larry Pressler)

There is no question but that the United States faces an extended period of high inflation. And the length of time required to reduce our inflation rate is estimated by both private and government economists not in terms of months, but in terms of years. As a consequence, adjustments need to be made in our system in an effort to more equally distribute the burden of inflation among the American people until inflation can be brought under control.

There is one group of Americans who bear a disproportionate share of the inflation burden: our nation's savers.

According to Dr. Kenneth Thygerson, chief economist of the U.S. League of Savings Associations, when unanticipated inflation takes place, individuals who save money are losers, while those that borrow money are gainers. That's because people who save money receive dollars in the future which have less purchasing power than the dollars they originally saved. And on the other side of the coin, those who borrow money receive dollars immediately which have a higher purchasing power than the dollars they accumulate to repay the loan.

This inequity is heightened because borrowers can deduct interest as an expense for tax purposes, while savers are forced to pay taxes on their accumulated interest. If the interest rate the saver attains is not high enough to make up for a high rate of inflation, the savings disincentives are nearly overwhelming.

Savings are essential to a growing economy. Moreover, it is vital for a nation to increase its capital stock, develop more productive means, and raise its citizens' standard of living. How does this tie into the urgent housing needs of this country?

Well, we are at a point in time when the traditional home buying age group is growing faster than ever before. And we are also experiencing a substantial increase in the incidence of homeownership on the part of households—singles, retired people, and unrelated couples—that we traditionally have not thought of as candidates for homeownership. But the fact is they all are in the market for houses.

Unfortunately, the need for more savings for housing is only one example. Plant and equipment needs in the manufacturing sector are pressing, our federal government's demands for credit is ballooning, and we have urgent energy and environment needs.

All of this, then, points out a basic limitation in our economic policy arsenal. And that is the lack of personal savings incentives.

What we have in today's inflationary economy are disincentives to save. Inflation contributes to this problem in a number of ways:

First, inflation acts as a tax on the purchasing power of every dollar saved.

Second, inflation works to drive savers into higher tax brackets which increases the government's take of every dollar of interest earned.

Third, taxes on savings interest act to lower the interest return on savings to below the inflation rate.

What, then, is the answer to all of this? It is for the United States to develop incentives for personal savings.

It is ironic, Dr. Thygerson has pointed out, that a recent study by the International Union of Building Societies and Savings Associations of 30 countries, showed 24 with special tax concessions for savings or contract-for-savings plans which involved either tax concessions or government bonuses paid to savers. The United States is the major notable exception on the list.

Interestingly enough, tax exemptions for interest on savings accounts run the gamut in other countries. A few allow deductions or exclusions only for contractual savings plans, while others permit exclusions for interest earned on any savings account.

Of the 30 countries surveyed, tax exemptions for interest on savings accounts swing from all interest earned being totally tax free in Argentina, to the first $265 of interest holding tax free status in Zambia. But our country has no such plan in effect.

France, as another example, uses a contract housing/savings plan and allows $5,000 a year to be saved with interest of 4 percent a year tax free and a tax free bonus. From 1967 to 1977, more than 5 million new houses were built in France and more than half of the houses there are less than 20 years old according to a December 1978 research paper issued by the International Union of Building Societies and Savings Associations.

Other examples are the United Kingdom and West Germany. Both have special contractual savings incentive programs. In West Germany it is the savings-for-building plan. In the United Kingdom it is called the save-as-you-earn plan. In each case, the plan provides a combination of bonuses paid for systematic savings and tax incentives in the form of exemption from personal taxes of some or all of the interest bonuses paid.

So it is clear we must begin to develop a system of savings incentives which—at the minimum—would negate some of the disincentives now present in our inflationary economic and tax system.

One step that can be taken by the federal government to encourage savings would be to allow financial institutions to offer a tax-deferred savings account. Such an account could be like the Series E savings bonds offered by the U.S. Treasury. Its objective would be to encourage a higher level of savings by the average American household.

A specific advantage of a tax-deferred savings account is that it allows the saver to take full advantage of compound interest paid on a savings account. This can be highly significant over a long period of time. In addition, a tax-deferred account will allow the saver to postpone that day of tax reckoning until he faces a lower tax burden. So this would stimulate long-term savings and systematic savings over an extended period of time.

Such an account would help provide an incentive for families to supplement private pension funds and the social security system with their own personal savings program. And a tax-deferred account would have less impact on the federal budget since the Treasury would eventually collect taxes on some portion of the accumulated interest.

Let's not kid ourselves: The importance for our country to develop incentives for savings has never been more urgent. Despite rising capital needs, the savings rate as a per cent of disposable personal income has been dropping in recent years. In 1977, the savings rate as a percentage of disposable personal income dropped to a rate of 5.1 per cent, lowest in over a decade.

Significance of the current low savings rate is evident in 1978. The U.S. League of Savings Associations estimates that personal savings will be $79 billion in 1978 with a personal savings rate to disposal income of 5.46 per cent. If instead, the League says, the personal savings rate in 1978 had been 2 per cent higher, total personal savings in 1978 would have been an estimated $108 billion, or nearly $30 billion higher.

In other words, if our country had that

$30 billion of additional savings available for investment, we would have a lower rate of inflation, a lower level of interest rates, a stronger U.S. dollar, a faster long-run economic growth rate, and a rising level of productivity. What I am suggesting, of course, is that a higher rate of personal savings would contribute significantly to a higher standard of living.

Let me speak for a minute about proposals for a tax incentive for downpayment savings.

Most Americans—especially young people—who want to buy a house of their own are running into the same problem: they can't save fast enough to beat inflation. Make no mistake: When the ability to purchase one's own home becomes a privilege enjoyed only by those in the upper income brackets, we will be in a desperate situation.

We don't need sophisticated economic data to know that rising costs have made home buying nearly prohibitive to young people as well as most moderate and lower-income families. From December 1977 to December 1978, the cost of buying a new house skyrocketed at two times the overall rate of inflation. The average new home which cost $57,700 a year ago, now sells for $67,600, an increase of over 17 per cent. While the cost of purchasing today's existing home is somewhat less, about $58,000, the impact of inflation has been no less devastating. It has been averaging over 17 per cent for both the new and existing housing stock.

Congress has done much in the past to help people who already own a home. They can deduct interest payments on the mortgage, local property and real estate taxes, and certain home improvement expenses from their taxable income. But there are no comparable incentives, no tax breaks, for those who are struggling to save money for their first home. It is time we got on with the job of assisting first-time homebuyers accumulate downpayment capital for the purchase of a new home. I'm convinced it would be a major step forward.

An example of such legislation is Senator John Chafee's bill—S. 98—which would amend the Internal Revenue Code to provide a credit for amounts contributed to an individual housing account. Referred to as the Young Families Homeownership Act of 1979, Senator Chafee indicated when he introduced the bill that his proposal would assist individuals and families who wish to enter the housing market for the first time. It would award tax credits for amounts deposited to a new kind of savings plan, the individual housing account.

A prospective home buyer, Senator Chafee said, would be entitled to a 20 per cent income tax credit on contributions of up to $2,500 a year to such an account. The would-be homeowner would become eligible for a maximum $500 credit per year. The total allowable credit would be $2,000 over a ten-year period. I intend to support this legislative initiative. It makes good sense.

On the House side, there are a number of bills already introduced this session to provide tax incentives for savings. They include H.R. 810 by Representative William Whitehurst and similar legislation, such as H.R. 1052, H.R. 1840, and H.R. 1842 to provide tax savings incentives for savings accounts established for purchasing a home.

By early this month, more than 20 bills had been introduced to deal with the problem. That indicates a great deal of interest in the question and is a good sign that we can expect some action on the issue during this Congress.

We need to move forward, in a timely fashion, to enact such a program. It should be considered a national priority. It can be accomplished. Working together, we can be successful and better serve the public interest. That is a challenge I eagerly accept.●

A TRIBUTE TO NORVILL JONES

● Mr. CHURCH. Mr. President, at the end of January, Norvill Jones retired as chief of staff of the Committee on Foreign Relations. He had served in the U.S. Senate since 1945, been a member of the staff of the Committee on Foreign Relations since 1964, and was its chief of staff since 1976. Norvill's professionalism, his sound judgment, broad knowledge, and selfless leadership, have won the respect and friendship of all with whom he has worked. He served the committee well during the Vietnam war, and contributed significantly to the committee work on arms export control, foreign assistance, normalization with relations with China, East-West trade, and legislative oversight activities generally.

In recognition of his invaluable aid, I ask that the following committee resolution be printed in the RECORD.

The resolution follows:

RESOLUTION

Whereas Norvill Jones has served the United States Senate since 1945;

Whereas he has been a member of the professional staff of the Committee on Foreign Relations since 1964 and Chief of Staff since 1976;

Whereas his assistance to the Committee during the Vietnam War served to advance the Congressional role in the foreign policy-making process and to establish a more balanced relationship between the Legislative and Executive Branches in the field of foreign policy;

Whereas his meticulous draftsmanship and even-handed professionalism have contributed significantly to the Committee's work on arms export controls foreign assistance, normalization of relations with China, East-West trade, and legislative oversight activities generally; and

Whereas his sound judgment, broad knowledge, and selfless leadership have won the respect and friendship of all with whom he has worked; and

Whereas he is retiring as Chief of Staff of the Committee, effective January 31, 1979: Now, therefore, be it

Resolved, That the Committee on Foreign Relations expresses to Norvill Jones its heartfelt gratitude for his outstanding service to the Committee: Be it further

Resolved, That the Committee extends to Norvill Jones its sincere best wishes following his retirement from the Committee.

John Sparkman, Frank Church, Claiborne Pell, George McGovern, Dick Clark, Joseph R. Biden, Jr., John Glenn, Richard "Dick" Stone, Paul Sarbanes, Muriel Humphrey, Clifford P. Case, Jacob K. Javits, James B. Pearson, Charles H. Percy, Robert P. Griffin, Howard H. Baker, Jr.●

A TRIBUTE TO ABNER "BUDDY" E. KENDRICK

● Mr. CHURCH. Mr. President, Abner "Buddy" E. Kendrick had been a member of the staff of the Committee on Foreign Relations for 19 years, and has served as the chief clerk since 1976. He just retired at the end of January. Buddy ably managed to be the grease that allowed the wheels of the Committee on Foreign Relations to turn. He successfully resolved difficult administrative and personnel matters, financial and budgetary concerns that either hinder a committee's operations or allow it to complete its work with dispatch.

In recognition of his fine service to the Committee on Foreign Relations, I ask that this committee resolution be printed in the RECORD.

The resolution follows:

RESOLUTION

Whereas Abner E. Kendrick has been a member of the staff of the Committee on Foreign Relations since 1960;

Whereas he has served as Chief Clerk since 1976;

Whereas he has, in that capacity, managed administrative and personnel matters with high competence and has ably assisted the Committee in dealing with its financial and budgetary responsibilities and in improving its management and security procedures;

Whereas he has, through deft and matchless diplomacy, resolved in amicable fashion the most intractable problems of all—office space and staff parking;

Whereas he has always been available to listen to the most trying tales of woe known to man and to offer friendly advice and counsel;

Whereas he is retiring as Chief Clerk, effective January 31, 1979: Now, therefore, be it

Resolved, That the Committee on Foreign Relations expresses to Abner E. Kendrick its deepest appreciation for his outstanding service to the Committee: Be it further

Resolved, That the Committee extends to Abner E. Kendrick its most sincere best wishes following his retirement from the Committee.

John Sparkman, Frank Church, Claiborne Pell, George McGovern, Dick Clark, Joseph R. Biden, Jr., John Glenn, Richard "Dick" Stone, Paul Sarbanes, Muriel Humphrey, Clifford P. Case, Jacob K. Javits, James B. Pearson, Charles H. Percy, Robert P. Griffin, Howard H. Baker, Jr.●

DEAF TO HOPE

● Mr. HAYAKAWA. Mr. President, as inflation continues to rise we hear more and more calls for various forms of fiscal constraint. I am a strong believer in reducing Government spending and I have continually opposed our tremendous deficit expenditures. At the same time I have advocated a balanced budget, I have called for reduced tax rates. Many people have asked how, at a time when austerity and constraint are advocated, I can even suggest reduced tax rates. An editorial entitled "Deaf to Hope" which appeared in the February 27, 1979 Wall Street Journal answers many of those question so well that I ask that it be printed in the RECORD.

The editorial follows:

DEAF TO HOPE

It often happens that nations turn a deaf ear to hopeful voices at a time when their counsel is most needed. That is what we are witnessing now on the economic policy front. Counseled by tired and worn-out Keynesian doctrine, the nation seems to be settling down with the bleak prospects of trading off economic growth for lower inflation. Federal Reserve Chairman G. William Miller, for example, warned last week that the nation will have to become accustomed to a reduced level of economic growth. "We will have to settle for slower growth," he said, "dampening down the tendency for Americans to somewhat worship the cult of growth."

We seriously doubt that the inflation we are experiencing has been caused by too much economic growth. And with real economic growth as low as it already is, we don't know where Mr. Miller is going to get any to trade for less inflation. Unlike foreign exchange, it is not a commodity that can be borrowed from other nations.

The problem, we believe, is that the conventional wisdom confuses the growth in aggregate demand with the growth of the economy. Restraining inflation does require a slower growth in demand, but the economy could actually grow faster as a consequence. There is, after all, a supply side to the economy, and aggregate demand is not the only factor to which supply responds. Supply is also influenced by production incentives and expectations about the future. Both have been adversely affected by the excessive demand stimulation that the economy has experienced for over a decade.

The Keynesians who have had their hands on the policy reins rely on strong demand fed by budget deficits to spur investment and supply, but it has not worked out that way. The government's deficits have caused uncertainty about the future and shortened the time horizon of investors, with the result that productivity-increasing investment has lagged. At the same time the inflation fueled by the deficits has brought higher tax rates and eroded production incentives. The spur of investment of strong demand has been offset by greater uncertainty and smaller rewards. The problem, then, is not that too much economic growth has caused inflation, but that demand has been stimulated while supply has been stunted.

The solution is to stimulate demand less and supply more. Mr. Miller can do an important part—hold down the growth of money—but he can't do it all. The Congress must not give him any large deficits to monetize, and tax rate reductions paid for by slowing the growth in spending would restore production incentives. As monetary and fiscal restraint squeezed out inflation expectations, the interest rate would fall. And if tax rates were reduced, the added boost of incentives would send the economy on its way. This is a scenario of high growth, low inflation and a strong dollar.

The economists who offer hope today are found in the "rational expectations" and "supply-side fiscalist" schools. They say that if the economy is on a "Phillips curve" where it is forced to trade off unemployment and inflation, bad policy put it there, and good policy can get it off. Stagflation, they say, is entirely the result of neglecting the supply side of the economy and not, as some leading gurus of the old order are saying, "a disease deep in the body politic of the mixed economy."

Sooner or later the economists who offer hope will get the nation's ear. For the people's sake, we hope it is sooner rather than later.●

AS I SEE IT—HOSPITAL COST CONTAINMENT

● Mr. NELSON. Mr. President, with the public's concern focused on cutting taxes, curbing inflation, and balancing the budget, it is surprising that so little attention has been focused on one of this country's major economic problems—skyrocketing hospital costs.

The cost of health care in the United States has shot up almost 275 percent in just the last 8 years. By far, the largest element in our health care expenditures—40 cents out of every dollar—is hospital charges.

If you had been a hospital patient in 1965, your total bill would have averaged about $300. Your hospital room would have cost about $40 a day. Today that same room costs close to $200 a day, and an average hospital stay runs around $1,600.

Since 1973 hospital charges have gone up about twice as fast as all other prices, on the average. Hospital costs have gone up about 16 percent a year, compared with about 8 percent a year for all other consumer purchases.

Unless these increases are curbed, hospital expenditures are expected to increase from $83 billion in 1979 to a staggering $145.8 billion a year for hospital costs by 1985. Our economy cannot tolerate such an enormous burden.

Many health experts—within the Government, and to some extent within the health industry—have charged that the American health delivery system has too much waste, duplication, and inefficiency. There are too many empty hospital beds, too much underused equipment, and too many unnecessary surgical operations.

Certainly such inefficiency and waste contributes to hospital cost inflation.

Before the Government can attempt to guarantee any form of comprehensive national health insurance, action must be taken to curb hospital costs.

Fortunately some nine States, including Wisconsin, have begun to attack these runaway costs by enacting mandatory State statutes to contain hospital costs.

The nine States which have mandatory programs lead the Nation in containing hospital costs. The facts tell an eloquent story. According to the American Hospital Association's annual survey, the nine States with mandatory programs had a rate of increase in total hospital expenses in 1977 over 1976 of 12 percent. All other States with mandatory programs had a rate of increase of 15.8 percent. In Wisconsin the rate of hospital cost increase in 1977 was 12.4 percent, and, when all of last year's data is tabulated, Wisconsin's rate of increase in 1978 is expected to be around 11 percent.

These statistics demonstrate that hospitals can control their costs without sacrificing the quality of care they deliver. In view of this, I proposed a hospital cost containment bill last August which would impose Federal mandatory controls only if hospitals failed to control their own cost increases on a voluntary basis. The Senate adopted the bill, but the House refused to consider such a measure after heavy lobbying from hospital industry pressure groups, even though this single bill would have saved Americans some $25 billion—more than any other bill before Congress.

But we are not going to give up. This year President Carter asked me to introduce that cost containment bill again, which I did on March 7.

The new bill is even stronger than last year's bill. It is designed to save the American people $53 billion in the next 5 years, and this includes some $22 billion in tax dollars for medicare and medicaid.

No other legislation before Congress would save so much money. No other bill would have such a stunning impact on inflation and Federal spending. If the Congress is determined to cut Federal spending and curb inflation, this is a good place to begin.●

SIDNEY A. DIAMOND

● Mr. DeCONCINI. Mr. President, I should like to urge of my honored colleagues of the Senate that Sidney A. Diamond of Tucson, Ariz., be confirmed as Assistant Commissioner of Trademarks and Patents. It is a great pleasure to be able to make this insert in the Record, that the people of Arizona may thereby be informed of the accomplishments of Mr. Diamond. He has been involved in a great many national and international organizations concerning patents, trademarks, and related subjects; is a member of the bars of New York, the District of Columbia, and has been admitted to practice before the U.S. Supreme Court, U.S. Court of Customs and Patent Appeals, and various district courts and courts of appeals. He is the author of numerous publications, including "Trademark Problems and How to Avoid Them," (Crain Communications, 1973), "Establishing and Protecting Trademarks" in "Handbook of Modern Marketing" (McGraw-Hill, 1970), "What's Doing on the Legal Front" (monthly feature in Advertising Age), and various other articles and publications.

Without delving further into the many achievements and accomplishments of Mr. Diamond, I should like to state herewith that I am extremely pleased with his prospective confirmation by the U.S. Senate, and am firmly convinced that he will serve with distinction in his new post.●

EXPRESSION OF APPRECIATION FROM GOV. CARLOS CAMACHO OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

● Mr. INOUYE. Mr. President, I wish to share with my colleagues a communication of appreciation received from Governor Carlos Camacho of the Commonwealth of the Northern Mariana Islands. Governor Camacho is expressing appreciation on behalf of the Government and the people of the Northern Marianas for the final payment of the title II Micronesian war claims, authorized under Public Law 95–134 and funded this past Congress.

As Governor Camacho so eloquently notes, this payment fulfills a recognized responsibility of the U.S. Government to the people of these islands. I know that I join my colleagues in expressing gratitude for Governor Camacho's communication on behalf of the people of the Northern Marianas.

The communication follows:

Commonwealth of the Northern Mariana Islands,
January 30, 1979.

Hon. Dan Inouye,
U.S. Congress,
Washington, D.C.

Dear Senator Inouye: Final payment of the Title II Micronesian War Claims, authorized by Public Law 95–134 and funded by Public Law 95–465 was made here in the

Northern Mariana Islands on December 1, 1978; and it is my great pleasure to convey to you the gratitude of every citizen of these islands. They would have you know that they respect settlement of these claims as a just and enduring token of the United States Government's good faith; and that it fills them with new pride of their Commonwealth relationship with a nation which, though huge and powerful and with vast global responsibilities, recognizes the rights of the few people who inhabit our several small islands.

We are grateful and most appreciative of your continuing efforts, assistance and interest.

Si Yuus Maase (Thank you in God).

Sincerely,

Carlos S. Camacho,
Governor.●

SPEED LIMIT ERASED ON AUTOBAHN

● Mr. HAYAKAWA. Mr. President, I would like to share with my colleagues an article in a recent edition of Automotive News which discusses some of the solutions our friends in Europe have found to highway fuel and traffic problems. I ask that the article be printed in the Record.

The article follows:

After Five Slower Years—Speed Limit Erased on Autobahn

(By Jan P. Norbye)

Effective last Dec. 1, drivers of the Porsche 928, BMW 635–CSi and Mercedes-Benz 450–SLC 5.0 could legally determine which has the highest top speed.

The sign on the Autobahn that always indicated "Freie Fahrt" (free travel, i.e., no speed limit) now really means what it says, once again.

During the fuel crisis triggered by the Arab oil embargo, as of Oct. 15, 1973, the West German authorities imposed an advisory speed limit of 130 Km/H (81 MPH) in order to reduce gasoline consumption. It was intended to give fast driving an air of disloyalty, or lack of solidarity with the majority of the driving public.

The limit was widely observed—though at first high-performance cars tended to drop back only to 150 Km/H or so (93 MPH).

The advisory limit was a temporary law, enacted for five years. And by 1977, not many cars were seen at anything near the top speed of the country's fastest machinery. Yet, at no time were there pursuits, arrests or fines for drivers who exceeded the advisory limit.

Well before the end of the five-year period, it had been established that speed limits had little or no effect on the nation's consumption of motor fuel.

Prof. Rudolph, at the Munich Technical University, proved statistically that if all cars ran at exactly 130 Km/H on the Autobahn, the total fuel saving would be less than half of one percent of all gasoline consumed by cars.

Auto clubs, driver associations and the car makers increasingly argued that improved traffic engineering would accomplish far more in saving fuel.

Intersections with traffic lights on main roads are very costly in terms of fuel. Traffic jams in towns and built-up areas are even worse. Bypass roads for through traffic (bridges, underpasses and restricted lanes included) could help far more than slowing down the fastest cars.

What has not yet been settled is a bill by Transport Minister Kurt Gscheidle to restrict Autobahn speed to 100 Km/H (62 MPH) in the rain. The idea is safety, not saving fuel.

The heart of the problem is that many of the Autobahn surfaces are old and slick, with slants, dips and rises that form pools of water of invisible depth causing hydroplaning. If the water is deep enough and the tires bald enough, this threat exists at 100 Km/H as well as at 130.

It's not the answer. Car owners want better road surfaces. Tire companies argue for enforced tire changes when groove depth is worn down to 2.5 mm.

Two high-placed spokesmen oppose the rainy-weather speed-limit proposal. They are Dr. Richard Spiegel, a federal judge in Karlsruhe, and Dr. Dieter Schulte, head of the traffic committee of the Christian Democratic and Social Democratic parties in the Bonn Parliament.

They point to the safety problems associated with increased traffic density which would inevitably result from lower speeds. Lower speeds will bring more vehicles together per kilometer of highway, and that, statistically, means more collisions.

Dr. Spiegel also says that heavy trucks, supposedly subject to an 80-Km/H speed limit, usually go faster, and if cars are held back to 100 Km/H, the trucks will be tailgating the cars. And that is dangerous.

Ordinary highways in West Germany have carried a 100-Km/H speed limit since 1972, as a safety precaution. Traffic density is too high, and the number of crossroads, driveways, service stations, supermarkets and industrial zones too great to make traveling at higher speeds a safe way to drive.

There is no opposition to that. It serves to protect all road users and is enforced. So is the 50-Km/H (31-MPH) speed limit in towns and built-up areas.

But what about safety and unlimited speed on the Autobahn? It turns out that only 5 percent of all traffic accidents occur on the Autobahn, and Dr. Wagner, a safety engineer at Audi-NSU Auto Union AG, has calculated that the gains in restricting speed to 130 Km/H could promise no more than an 0.25-percent improvement in the overall traffic picture.

Will the rest of Europe follow Germany's action? It is doubtful. There is an inertia associated with any attempt to repeal laws once enacted, no matter how wide of the target they were aimed, and regardless of how redundant they have been made by changing conditions.

Often, politicians who backed them see their repeal as a defeat or loss of face and will fight to keep them in force.

France, the largest land mass in Western Europe, with the greatest network of paved roads, has a 60-Km/H limit for towns and built-up areas, 90 Km/H (56 MPH) for normal highways, 110 Km/H (68 MPH) for divided highways with two lanes in each direction, and 130 Km/H (81 MPH) for the Autoroutes.

Italy has its own chaotic system of speed limits, with low-powered cars restricted to 90-Km/H on both Autostrade and major highways. They include the Fiat 500, Citroen 2-CV, Honda N-360 and a few others.

The Fiat 126 and other cars in its class are allowed to go 100 Km/H on highways and 110 Km/H on the Autostrade. More powerful cars can go up to 130 Km/H on the Autostrade.

Great Britain allows no car to exceed 110 Km/H on its motorways and has a 96–Km/H (60 MPH) limit on other roads.

Sweden and Denmark, where motorway networks are now considerable, allow a 110-Km/H top speed there, with a 90-Km/H limit on other roads.

Norway, where stretches of motorway are short, imposes a 90-Km/H limit on them, with an 80-Km/H limit on other roads. These are enforced by radar traps, with fines and suspension of driving licenses as sanctions, depending on the magnitude of the offense.

Switzerland set its limits to conform with Germany's, except that the 130-Km/H Autobahn limit was absolute, not advisory. It is still in force.

In comparison, Belgium allows Autoroute drivers to run up to 120 Km/H (75 MPH) while in the Netherlands, the limit is only 100 Km/H. The same disparity exists in Spain and Portugal, with the latter having the higher speed limit.●

AMERICAN PUBLIC OPINION AND U.S. FOREIGN POLICY, 1979

● Mr. CHURCH. Mr. President, I wish to draw the attention of the Senate to an important and revealing report just published by the Chicago Council on Foreign Relations concerning American attitudes toward foreign policy and international affairs. This effort included a nationwide survey of the public as well as selected leaders in politics, government, business, labor, education, and other professions. The Gallup polling organization conducted the survey during the period from November 1978 to January 1979.

A number of very interesting conclusions emerged from this report, especially when put in the context of the first council report on the subject in 1975. I will not summarize the entire report at this time, but I do believe it is important to underline several of the key points.

A striking conclusion emerging from the survey is that the American people are ambiguous about foreign policy and in a mood which can be characterized as "selective internationalism." There is strong sentiment that the United States should be involved in international affairs, that our Nation should in fact play a more important role in the world in the future, and that we have a "vital interest" in many different countries around the globe. At the same time, as the previous survey determined, domestic economic problems take precedence over foreign policy, with an especially strong concern about inflation.

Overall support for foreign economic aid has declined since the previous survey. There is evidence that public interest in news about foreign events—and indeed in public affairs generally—has declined in the past 4 years. In this vein, faith in our public institutions generally appears to have declined since 1975. It should be stressed that the public is especially wary about committing U.S. troops to military action overseas. This is coupled, however, with apparent increasing concern about the power of the Soviet Union and a willingness to support current and even increased defense spending.

The Chicago Council on Foreign Relations is the largest international affairs organization of its kind in the United States. It is a notably distinctive, lively, and diverse organization; one which conducts in depth research and analysis projects as well as public education efforts which include—but also reach well beyond—the council's popular membership of 20,000 people. Mr. President, I commend the council for conducting this timely and worthwhile study.●

A BALANCED BUDGET

● Mr. HAYAKAWA. Mr. President, the debate over an amendment to balance the budget has grown increasingly heated. In an article on the editorial page of the Wall Street Journal of March 5, 1979, Jude Wanniski gives us an edifying exposition of the underlying arguments. I ask unanimous consent that his article be entered in the RECORD.

The article follows:

THE BALANCED BUDGET SPECTACLE

(By Jude Wanniski)

What fun it is to watch the bandwagon of the balance-the-budget constitutional amendment. It rolls along festively, crowded with spirited citizens joyously heralding what seems to be a popular cause. It's a colorful red-white-and-blue event, democracy in action. California Governor Jerry Brown lashing its horses forward, his onetime foe, Howard Jarvis, at his shoulder, riding shotgun.

To appreciate the scene, the spectator must stand back far enough to keep it in perspective. At a distance, there is more fascination and amusement, watching the crowd of politicians through which this bandwagon rolls. There are Senators and governors shouting anguished warnings. Others, uncertain, scramble to get out of the way. Still others, following Jerry Brown's lead, scramble to get aboard.

There is something satisfying, encouraging in this hurly burly. A great issue is being joined, if only symbolically. And somehow the spectator senses that with all the excitement, with all the angry noise, the dust will eventually settle and nobody will have been hurt. Something like those staged shootouts in Disney's western towns, with sixguns popping, cowboys lurching off rooftops, horses kicking up dust. Then, the audience applauds and the fallen black hats and white hats get up to take their bows.

There is, after all, little of substance in the excited scene. There is no question but that under every hat, black and white, is a fervent desire to balance the federal budget, in principle. Look, there are Milton Friedman and Teddy Kennedy, wearing the same colors, shouting against the Brown-Jarvis bandwagon. Yet they want the budget balanced too, don't they?

HOW TO DO IT?

The trouble with a constitutional amendment requiring a balanced budget is that it doesn't tell us how to do it, nor do its proponents confront the issue in these terms. Surely most of those aboard the bandwagon, if asked, would tell us they would slash federal spending. But then the public-opinion polls tell us that more than 95% of the American people want federal spending reduced.

This bit of information, though, is also of no value. Each individual citizen wants spending cut according to a list of priorities. Some would cut defense spending, some social spending. Urban citizens would cut rural spending and vice versa. It's the South against the North, the West against the East, sunbelt versus snowbelt, and so forth. But these priorities are already reflected in the voting patterns of the Congress, and still the budget is out of balance and has been for decades.

There are theoretically, only four ways to balance the budget via fiscal policy. This is where the real debate is, or should be. The four ways are these: 1) Raise federal spending levels; 2) Lower spending levels; 3) Raise tax rates; 4) Lower tax rates.

Much of the hullabaloo over balanced budgets has arisen at this point in history because the theoretical school that has dominated national economic policy for at least a dozen years—the Option (1) people—have had such poor success. That is, the economic theologians who have advised Democratic and Republican Presidents at least since 1967 have argued the notion that increased federal spending would ripple through the economy (a multiplier effect), thereby increasing tax revenues at the same time prosperity would automatically reduce social-support spending.

The result of this dynamic scenario was supposed to be a balanced budget. "A self-fulfilling prophecy," according to the Nixon economists.

If the budget cannot be balanced in this prophetic fashion, perhaps we might have more success with Option (2), lowering federal outlays. The Option (2) school has been around for a long time, but has had little success in selling its idea to policymakers who preferred to believe in the ripples and multipliers of the Option (1) school. Lower spending would presumably have a reverse, negative ripple, bringing on a recession, an increase in social welfare spending and bigger federal deficits. Besides, as pointed out earlier, the Option (2) approach has no practical value, even if true, when there is no consensus on where to cut.

The next theoretical approach, Option (3) is to balance the budget by raising tax rates. President Johnson was the last President to try this method explicitly. With the encouragement of Republicans, Mr. Johnson imposed a 10 percent surtax to help finance the Vietnam War and his Great Society. In 1968, Richard Nixon campaigned against the surtax, won the election, then decided he needed to keep the surtax an extra year in order to balance the budget. It didn't happen.

Presidents Ford and Carter have had visions of balanced budgets through a quiet, unlegislated application of Option (3). In the budget he presented in January 1976, President Ford promised to balance the budget in future years by inflating all Americans into higher tax brackets. This has also been the plan of President Carter's budgeteers.

Indeed, the Carter plan was to inflate us at a pace sufficient to produce a budget surplus that would be available to help finance national health insurance.

We have had all the inflation Presidents Ford and Carter counted upon, and more in order to implement Option (3) in conjunction with Option (1). That is, we have observed strenuous attempts to balance the budget through a combination of increasing federal spending and federal tax rates. Still, the budget is not balanced.

The only theoretical option left is Option (4), lowering federal tax rates. The Option (4) school contends that Options (1) and (3) are perverse and Option (2) politically impractical although theoretically correct. This school argues that the last dozen years of inflation have steadily increased real rates of taxation by pushing all Americans into higher progressive tax brackets. This they say, has decreased the efficiency of the economy by reducing incentives to invest, save and produce, thereby contracting the tax base and revenues and expanding political demands for social spending. Thus, huge budget deficits.

The Option (4) school—formed around Professor Arthur Laffer and his Curve of diminishing returns—recommends that marginal tax rates be reduced as a means of balancing the budget, on the theory that a restoration of incentives will expand the tax base and revenues while reducing political pressures for social spending. The Kemp-Roth tax reduction bill, written by Representative Kemp of New York and Senator Roth of Delaware, spins off Option (4), but is rejected by the proponents of Options (1), (2) and (3), who call it "snake oil" and "fiscal gimmickry."

WASTEFULNESS

This, then, is the substantive debate over budget balancing. Which leads one to wonder about the sheer wastefulness of the bandwagon to require a balanced budget through constitutional amendment. Wastefulness in the sense that enormous energy and time and resources are being devoted to moving the bandwagon and to halting it, when it contributes not a thing to the central economic debate.

What if, after years of toil and effort, the balance-the-budget bandwagon reaches its goal, and we have written into the Constitution precisely the requirement that Mr. Jarvis and Governor Brown desire? What of it? We are still faced with the same question, the same four options, the same debate. How much more efficient and productive it would be if we simply dispensed with this symbolic effort and slugged it out around the four options.

We can see in his eye, as he lashes his horses, that Governor Brown is intent upon moving the world. His aims are no doubt worthy. But Archimedes pointed out a long time ago that you need not only the long level but also the right fulcrum in order to change the world. There's a lot of sound and fury in the constitutional amendment idea, but when you peel that away there's no fulcrum at all.●

U.S. EXPORT PERFORMANCE

● Mr. INOUYE. Mr. President, recently the editor of the Honolulu Star Bulletin, Mr. Bud Smyser, wrote an editorial about the U.S. export performance. He quite correctly points out that the record merchandise trade deficit we suffered in 1978 was due not only to foreign trade barriers but also our own lack of export aggressiveness. In spite of our official rhetoric about a so-called new export policy and aggressive support for the dollar, the administration actually shows little understanding of the gravity of the trade and balance-of-payments deficits and little inclination to reverse this drift toward national impoverishment.

Three examples should suffice. The administration has decided to eliminate the U.S. Travel Service, which is authorized to attract foreign visitors to the United States, at a time when the American balance-of-payments deficit hit a record. If there was ever a need for a strong, vital USTS, that time is now.

Second, I note the United States has decided to close its export promotion center in Mexico. Such a decision is sheer folly since Mexico is rapidly becoming a major oil power with the resources to purchase capital goods. Without a significant American presence in Mexico, our share of the Mexican market can only decline.

Finally, the Wall Street Journal recently noted that the Department of Justice is investigating the Phosphate Chemical Export Association for domestic price-fixing. That same article notes that the Department has consistently opposed Webb-Pomerene Associations even though these organizations are established to stimulate American exports. It is difficult to understand how this antiexport attitude can be reconciled with the administration's public professions of support for export promotion.

I ask that these articles be printed in the RECORD.

The articles follow:

[From the Honolulu Star Bulletin, Jan. 24, 1979]

The U.S. Fails as an Exporter

The refrain was the same at government offices in Tokyo, Seoul and Taipei:

U.S. businessmen are lousy exporters.

In each country—Japan, South Korea and Taiwan—it is official policy to buy more U.S. goods so their balance of payments with the United States will even out.

Japan is afraid of stirring protectionist tariffs from the U.S. Congress if it doesn't reduce its trading advantage.

Taiwan is afraid of the economic disaster that could follow a withdrawal of support from its No. 1 trading partner, the United States.

And Korea wants to keep two-way trade humming harmoniously, too.

But they all say a weak and limp export effort by U.S. business isn't making their task any easier.

Items of complaint:

Secretary of Commerce Juanita Kreps led a U.S. trade mission to Japan recently but many of the businessmen with her didn't have any brochures describing their products. Others brought brochures printed only in English.

Europeans by contrast come to Japan with complete brochures printed in Japanese. Their exports to Japan were up 38 percent in the first half of 1978 over a year earlier. American sales were up only 6.2 percent.

Though right-hand drive cars are standard in Japan, U.S. manufacturers sell only left-hand models. The result is more European cars are sold than American.

Of 25,000 U.S. firms the U.S. Commerce Department says are in a good position to sell their products in Japan, only 10 percent actually do so.

The United States maintains only 162 trading offices in Japan. That's one-fourth the number and one-tenth the personnel that Japan has in the United States. Little Switzerland has half as many trade promotion employees in Japan as the United States has.

Korea this year will spend $20 billion abroad, maybe one-fourth of it for U.S. products, but little nations like Denmark, Finland and Norway are relatively more aggressive in product promotion in South Korea than the United States is. The government will try to balance things out by taking some of its business leaders to the United States on a buying mission.

Taiwan, which makes excellent local beer, even goes to the extent of buying U.S. beer to help the trade balance. It also imports U.S. oranges and grapefruit, though other supplies are nearer. It also closes its market to Japanese-made cars, because it is trying to stimulate a local auto industry, but allowed 4,000 U.S. cars to be imported last year.

Of some 16,500 items classified for international trade, Taiwan requires that imports of 1,200 be only from the United States or from the United States and Europe.

As an overall policy Taiwan encourages its businesses to import from the United States but the businesses often come seeking relief because U.S. prices for the items they need may be 50 or even 100 percent higher than Japanese suppliers would charge.

Taiwan also finances a trade center in Taipei to accommodate foreign businessmen and has sent three buying missions to the United States in an effort to correct the trade balance, but still hasn't succeeded.

Japan also notes rather unhappily that it drastically reduced its color TV sales to the United States from 50 percent of U.S. imports to 20, only to see the United States shift to buying from other countries—Mexico, Canada, Taiwan and Korea.

The American trade balance with Japan has been closing recently, but the gap in Japan's favor still is wide. Considering the sharp devaluation of the dollar a lot of people think it should be closing faster.

By no means did any of the government officials I talked to this month in Japan, South Korea and Taiwan put all the blame for the imbalance on languid U.S. export efforts, but they all see it as an important and exasperating factor in a situation that some U.S. Congressmen seem willing to blame solely on our trading partners.

[From the New York Times, Feb. 14, 1979]

U.S. Decides To Close Export Center in Mexico

(By Clyde H. Farnsworth)

WASHINGTON.—The Commerce Department, as part of efforts to "reprogram resources," has decided to close a big export-promotion center in Mexico, at a time when that nation is opening its doors to more trade and the United States is seeking closer commercial ties with its southern neighbor.

The decision was made known by department officials today as President Carter departed for his meeting with President Jose Lopez Portillo in Mexico City.

The Mexican center is one of five being terminated by the department in a general policy shift, but the timing of the announcement was considered unfortunate at best. House members, expressing dismay, registered a strong protest.

"I worry about that Mexico decision," said Representative Charles A. Vanik, Democrat of Ohio and chairman of the House Trade subcommittee, "because I had hoped that if we buy more oil from Mexico we would be responding with some dynamic action to keep accounts between the two nations in balance."

"What will the Mexicans think of our desire to do more business with them?" asked Representative W. Henson Moore, Republican of Louisiana.

POINTS TO JAPANESE CENTER

Mr. Vanik noted that the Japanese had just opened a trade center in Mexico City. And a few weeks after President Carter leaves Mexico City, President Valery Giscard d'Estaing of France is scheduled to visit Mexico to spearhead his country's drive to sell more in Mexico.

The Commerce Department decision, made known at hearings of the Trade subcommittee, was criticized in the legislators' report to the House Appropriations Committee on the Commerce Department's request for additional funds for export promotion.

Mexico, in deciding recently to accede to rules of the General Agreement on Tariffs and Trade, signaled its intention to end decades of isolationist trade policies and intensify its commercial relations worldwide.

Forest Abbuhl, deputy director of the bureau of international policy and research of the Commerce Department, told the subcommittee today the department intended to handle export promotion in Mexico from a regional trade center in Rio de Janeiro.

There was some confusion on this point, because we said later that there was a strong possibility Mexico would be served directly from Washington.

Frank A. Weil, Assistant Secretary of Commerce for industry and trade, said that current plans call for Mexican promotion to be handled "primarily" from Washington.

In an interview, he said that because of their high overhead and fixed facilities, trade centers had become inefficient and costly ways of mobilizing limited resources. He said businessmen liked them and so did the bureaucracy, but "now we are trying to cover the world more effectively."

The reprogramming, would involve making fuller use of embassy commercial officers giving wider regional responsibilities to some existing exhibit-management centers and mobilizing special task forces. Mr. Weil said this was a "more flexible and cost-effective approach."

Mexico, he stressed, "warrants a high level of interest from the United States Government and our private industry." He outlined department plans for five major fairs in that country to promote American petroleum-technology suppliers, computer companies and makers of construction, mining, materials-handling and plastic-production equipment.

The budget for the Mexico City center, which employs two United States and seven Mexican nationals, was $122,000 for the fiscal year 1979. It and four other centers—in Paris; Cologne, West Germany; Sydney, Australia, and Taipei, Taiwan—would be closed under the department's plans for the 1980 fiscal year, which begins Oct. 1.

But under agreements now being worked out with the State Department and Taiwan authorities, the Taipei center would be reopened immediately under the auspices of the new American Institute in Taiwan, the quasi-public body that is to assume American responsibilities following recognition of Peking.

Current plans are to maintain the existing centers in Tokyo, Manila, Rio de Janeiro, Milan and London.

U.S. Is Investigating Export Association For Phosphate Items

WASHINGTON.—The Justice Department is conducting a civil antitrust investigation of the Phosphate Chemical Export Association, a nine-member export-marketing group.

The association, based in New York and known as Phoschem, recently received a civil investigative demand for records from the Justice Department's Antitrust Division, according to William Rohrer, senior vice president of the association.

Phoschem is allowed to handle foreign marketing for its members under an antitrust exemption provided by the Webb-Pomerence Act. And the investigation apparently focuses on whether its foreign marketing efforts have affected its members' domestic phosphate prices.

According to Mr. Rohrer, the nine companies' export sales of phosphate products, such as phosphoric acid, total more than $300 million annually.

Mr. Rohrer said he was confident that the association hasn't violated any U.S. antitrust laws. "We operate in a fishbowl," he said, pointing to reports the company must file with the federal government as a registered export association.

Phoschem is one of about 30 export associations registered under the Webb-Pomerence Act, which has been the subject of much debate recently. The Justice Department, in line with its efforts toward deregulation in a number of areas, has argued that the antitrust immunity for export associations should be removed, but business groups have urged wider immunity. A presidential commission last month recommended that the act be abolished or greatly narrowed.

The nine members of Phoschem are: Agrico Chemical Co., a unit of Williams Cos., Tulsa; American Cyanamid Co., Wayne, N.J.; Beker Industries Corp., Greenwich, Conn.; First Mississippi Corp., Jackson, Miss.; Freeport Chemical Co., a unit of Freeport Minerals Co., New York; W. R. Grace & Co., New York; International Minerals & Chemical Corp., Northbrook, Ill.; Occidental Chemical International Inc., a unit of Occidental Petroleum Corp., Los Angeles, and Texasgulf Inc., Stamford, Conn.●

YOUTH UNEMPLOYMENT

● Mr. JAVITS. Mr. President, the New York Times today completes a four-part series on the endemic problem of severe minority youth unemployment, which is conservatively estimated to approach 50 percent of that labor force in some of our central cities.

The articles describe the pervasive sense of despair that characterizes the lives of countless black and other minority teenagers who are either unemployed or have finally given up on the discouraging task of looking for work.

Urban minority youth unemployment, the series makes clear, is not only a ghastly phenomenon but also is an American tragedy—the worst consequence of decades of urban blight. Corporations and our middle classes have various hatches open to them to escape from the deterioration that goes on relentlessly in our cities. But many of the economically disadvantaged, and minorities in particular, feel they cannot escape and they are locked into a world of economic devastation.

Mr. President, I have devoted my public life to working to redress this most intractable problem. Most recently, I was coauthor of the Youth Employment and Demonstration Projects Act of 1977 (YEDPA), which was reauthorized in the CETA Amendments of 1978, and which I managed on the floor of the Senate for the minority. The President recently requested $1 billion for the YEDPA programs, to establish about 200,000 jobs and training positions in the United States.

I have become convinced that we desperately need—and soon—an urban youth unemployment program; one that is targeted directly at the epicenter of this most unique problem, to wit: The cities. We need to get private business directly involved, and this can be done through the Private Industry Councils authorized under the new title VII CETA program. And we need to look at various methods, including direct financial and tax incentives, to encourage private business to hire and train unemployed minority youth.

Evaluations of YEDPA are underway, with the National Council on Employment Policy and the Labor Department's Office of Youth Programs trying to determine which programs are working and which are not. The YEDPA authorization expires next year, so all the title IV youth employment and training programs—including the summer youth program—will be reopened at that time.

Some, of course, will say that nothing works; that the problem of minority youth unemployment defies any solution because it is the product of abject poverty, disillusionment, and discrimination.

But we must keep trying; we must not lose heart. A generation of unemployed minority youth are depending on us to hold out to them the reality of the hallowed promises of our country: Equality of job opportunity; human dignity in a job; and a chance to participate in the work of building a better America.

Mr. President, I pledge my unfailing efforts on their behalf to continue to press on toward our goals and I hope to have the support of all my colleagues in this vital endeavor.

Let us not resign ourselves to the "nothing works" syndrome; instead let us continue to explore the feasible alternatives bearing in mind all the while what we are really about in this mission: Saving one of our most precious national resources—our youth.

I submit the following New York Times articles for the RECORD:

[From the New York Times, Mar. 11, 1979]

CHANGES IN SOCIETY HOLDING BLACK YOUTH IN JOBLESS WEB

(By John Herbers)

The extraordinary growth in unemployment among black youths, a trend that has persisted through both recession and prosperity and through more than a decade of civil rights enforcement and minority job programs, is largely a result of major changes in the nation's economy, in the structure of its society and in its political climate.

That is the consensus of many people who have been searching for the causes of one of the most perplexing troubles of the times—the inability of hundreds of thousands of young black adults and teenagers to move into productive work.

The problem should be of concern to more than blacks, they say, because the whole nation bears its burden in social costs, the expenses of dealing with increased criminal activity and the loss of potential economic infusions.

But there is also the psychological cost: the fear felt by city dwellers and by business people in poorer, crime-ridden areas and the despair felt by those who want to work and cannot find jobs.

The unemployment picture for minority youths, particularly blacks, is now roughly what it was for the entire nation in the depths of the Great Depression, the experts say—a fourth or more of those who want to work are unable to find jobs.

And the experts' search for the causes and cures has been given new urgency with President Carter's announced intention of cutting the Federal budget and curbing inflation. Many black leaders fear that the Administration's economic policy, with its almost certain side effect of higher unemployment, will hurt young blacks disproportionately.

Congressional testimony, interviews with public and private experts and the statements of job seekers suggest complex reasons for the persistence of the high rate of unemployment for black youths. The best documented, most frequently cited causes include the following:

A large influx of aliens, legal and illegal, who are taking jobs once held by blacks.

The entry of white women into the labor market in great numbers. According to the Bureau of Labor Statistics, the work force grew by three million last year, and 1.9 million were women. Only 400,000 of them were black women.

The rise of an underground economy of illegal activities at which youths find they can make more money with less effort.

The continued movement of jobs out of the central cities where many blacks live.

A fractured society in which various groups militantly defend their own interests, creating a new political climate that makes assimilation of blacks and other poor minorities more difficult.

DISCRIMINATION PERSISTS

Those reasons, added to the original causes of the problem—lingering discrimination in the marketplace, the failure of Federal programs to reach those most in need, and the inability or unwillingness of many youths to perform the kind of jobs that are available—have created massive unemployment for young blacks.

Although racial discrimination in employment was made illegal by the Civil Rights Act of 1964, and although successive court decisions have upheld the right of equal access to jobs, authorities say that job discrimination, while more subtle than before, nonetheless remains.

And the situation may seem all the more hopeless to young blacks because they are caught in what President Johnson described more than a decade ago as a "seamless web" of social pathology perpetuated by poor home training, poor schools, poverty and crime.

Parents who have been unable to find work themselves cannot offer guidance to their teen-age children, and the schools frequently fall short, graduating students who cannot even fill out a job application, labor experts say. It is more than an unemployment problem, they say; it is a community problem, a home problem.

SOME FEAR THE WORST

Some speak of the situation in cataclysmic terms.

"Black America today verges on the brink of disaster," Vernon E. Jordan Jr., president of the National Urban League, said in a recent report that highlighted chronic youth unemployment.

And Herbert Hill, former labor director of the National Association for the Advancement of Colored People, said: "It is evident that a permanent black underclass has developed, that virtually an entire second generation of ghetto youth will never enter into the labor force. This means that a large part of the young black urban population will remain in a condition of hopelessness and despair and that the social and psychological costs in wasted lives continues a major tragedy in American life."

Secretary of Labor Ray Marshall is more sanguine about the future. He says the Federal job and vocational education programs on which billions of dollars have been spent are beginning to help young blacks.

There is general agreement, however, that the reasons for the continuing problem are exceedingly complex and difficult to sort out.

As Robert Shranck, projects director for the Ford Foundation and a former manpower commissioner for New York City, explained, no one yet understands the relative impact of even those causes that are known.

THE BACKGROUND

The unemployment problem can be traced to the rural South and the time when the number of farms shrank and the remainder became mechanized. Blacks who had been engaged in agriculture moved by the millions to the cities just as factory and laboring jobs were drying up or going to the suburbs with the middle class.

Through the 1960's, they were systematically barred from construction and other jobs by union or company discrimination, and they were seldom where the jobs were. Industrialization in the South usually took place in areas where whites predominated or where discrimination was still strong enough to give whites job preference, despite civil rights laws and judicial rulings.

Those old patterns and practices have combined with changes in the economy and in social practices to keep the overall black unemployment rate where it has been for many years, at about twice that for whites.

For black youth, however, both men and women, the gap has widened. In 1954, the unemployment rate for blacks 16 to 19 years old was 16.5 percent, as against a 12.1 percent rate for whites of the same age; in 1978, the rate for blacks of that age was 36.3 percent, as against 13.9 percent for whites. The rate for teen-age blacks then dropped, hitting 32.7 percent in January 1979. But figures released Friday show that the rate climbed again last month, to 35.5 percent, while the rate for whites has held almost steady, fluctuating between last year's 13.9 percent and 13.6 percent.

The picture has been better for blacks 20 to 24 years old than for teen-agers. In that category, the 1978 unemployment rate was 20.7 percent, as against 9.5 percent for whites. Nevertheless, the rate for blacks is twice what it was in 1968, the year the urban riots reached a peak, when it stood at 10 percent.

A LESS NEGATIVE VIEW

Labor Secretary Marshall and Robert Taggart, administrator of the Office of Youth Programs, say a better way to view the picture is through employment. In 1978 the number of employed black youths 16 to 19 years old grew from 613,000 to 669,000, mostly because of new jobs created by Government programs. The rate of unemployment declined slightly, from 38.3 to 36.3 percent, about where it stood in the recession year of 1975.

Based on the 1978 figures for those seeking work, it would require 445,000 jobs for blacks from 16 to 24 to equalize the unemployment rates for whites in the same category. This is a comparatively small number of jobs; the national work force now stands at about 100 million.

But even if the 445,000 jobs were added, labor officials believe, other blacks, currently not counted as jobless because they are not actively seeking work, would be encouraged to do so, thus raising the unemployment rate again.

Without the Government programs, the situation would have worsened considerably for blacks, Mr. Taggart said. And the unemployment rate would have been lower, he said, had not many young blacks, encouraged by the opening of new government jobs, entered the labor market and got themselves counted in the ranks of those actively seeking work.

Yet that only underscores the depth of the difficulty and gives credence to the belief of some black leaders that unemployment rates do not begin to reflect the number of idle young people in communities across the country.

INACCURACIES CONCEDED

Even the census interviewers who collect data for the Bureau of Labor Statistics say there are inaccuracies in the figures. Occasionally the one person interviewed per household is not honest or is mistaken in thinking a teen-ager is looking for work, they say, and sometimes, because the interviewer may be required to work in areas that can be dangerous, answers are faked, interviews never conducted.

But John Bregger, of the Bureau of Labor Statistics, says unemployment for black youths has been so widespread for so long that any statistical errors in the employment rate are not of a magnitude that is meaningful.

The unemployment statistics show about 677,000 blacks 16 to 24 years old looking for work. About half are younger than 20, and Mr. Taggart estimated that to put that group alone in jobs would cost the Government roughly $9 billion a year, almost as much as it spends on its overall manpower program, the Comprehensive Employment and Training Act.

But black leaders say the statistics do not reflect many more youths—in the central cities but also in suburbs, small towns and rural areas—who are out of school and have quit trying or have never tried to find a job.

THE UNDERGROUND ECONOMY

No one knows how many are on the streets, hustling in dope, prostitution and gambling or staging robberies and burglaries, but the number is not inconsequential.

Several studies have shown a direct correlation between unemployment and youth crime. More youths 18 to 24 years old are in local jails than in the Job Corps and other Federal service programs put together, according to census figures. Others crowd the penitentiaries, and the number of idle on the streets increases.

Joseph Cooper, a black student at Harvard Law School who is a research economist at the National Bureau of Economic Research, recently told of the underground economy at a hearing in Washington conducted by Youth Work, Inc., a privately financed group created to monitor the new Federal youth job programs.

In preparation for a bureau study on jobless youth, Mr. Cooper talked with about 60 unemployed youngsters in Boston. Although it was too small a sample from which to draw conclusions, he said, he nevertheless came away with some impressions.

THE DESIRE FOR WORK

"More than half of the youngsters interviewed said that they had engaged in illegal activity during the course of the survey week," he said. "These youths sold marijuana frequently, and some reported that robbery, pickpocketing, burglary and breaking and entering took up most of their time the week prior to the survey week. All of the teen-agers wanted a full-time permanent job."

There is a widely held belief that a system has evolved in the United States in which poor members of minorities in many areas find little stigma attached to crime and prefer to make a living that way.

Black leaders say this is obviously true for some, but they cite evidence of a desire for legal work in legal pursuits on the part of many others. Whenever new Federal jobs are opened in a city or rural area, officials are beseiged with applications. In Atlanta, the crush was so great for one offering that the crowd broke through a plate glass window to get in line. Almost every day, young people crowd the Urban League's public employment offices waiting for openings. When substantial number of jobs were filled in the experimental youth programs last year in Syracuse and other cities, the authorities noted a decline in crime.

WHO GETS THE JOBS?

Eli Ginzberg, the Columbia University economist who heads the National Commission on Employment Policy, noted in an article in "Scientific American" in November 1977 that 28 million jobs had been added to the economy in the past quarter of a century, an increase of almost 50 percent in the civilian work force. But in that period the number of Americans seeking jobs increased even more rapidly. Young people reaching working age and married women accounted for most of the rise.

With more competition for the jobs available, minority teen-agers began to lose out even more than in the past. Orley Ashenfelter of Princeton University described this development in a paper for the Labor Department that said:

"Apart from a small drift upward, adult employment has remained at around 60 percent of adult population throughout most of the last two decades. Though more erratic and at a lower level, the employment-population ratio of white male teen-agers 14 to 19 has followed a similar pattern.

"Employment-population ratios for white females 14 to 19, on the other hand, have drifted continually upward in a qualitative pattern much the same as that for white female adults.

"For black youngsters, however, the employment-population ratio for males and females have been tending steeply downward for the past two decades. It is this latter, largely unexplained phenomenon that has suggested a cause for alarm."

Mr. Ashenfelter said the decline in employment was particularly sharp for black males, not only for teen-agers but also for those 20 to 24.

EDUCATION IS CRITICAL

"Cities like New York, where many blacks live, have become white-collar factories," said Mr. Schranck. "Education is critical. If you are illiterate you are in a lot of trouble, the school system is turning out a lot of kids who can't read or do arithmetic."

While the public schools have been widely condemned in Congressional and other testimony for not educating pupils, the problem goes deeper.

Representative Parren J. Mitchell, Democrat of Baltimore, said in the Youth Work hearings:

"The most difficult thing that we have to deal with in our youth problem of unemployment is a constellation of attitudes which come together and create what is essentially apathy. I don't blame young people for being apathetic. I don't blame them for saying, 'There is no way I can win in this system,' because they look at their fathers, who have been unemployed for the past five years if they are black or Hispanic, and they say, 'If Dad can't win, I can't win.' "

THE OVERQUALIFIED APPLICANT

Some blacks who continue to knock on doors for jobs encounter yet another change in the society that works to their disadvantage—lower-level jobs are being taken by persons trained as professionals who cannot find jobs at the higher level.

And a number of economists say the minimum wage, now $2.90 an hour, is partly responsible, although they do not think it a major factor. Businessmen forced to pay the minimum wage either reduce the number of jobs or hire the more productive adult or both, they say.

"I have young applicants who are qualified for jobs that used to go to high school graduates," said Ross Knight, employment director for the Richmond Urban League. "But now people who are college graduates will come in and take those jobs because that is the best they can find. Naturally, the employer is going to take the higher-qualified person."

And the more qualified person is likely to be older and white.

A variation on that theme has occurred in the jobs created by government. When the Carter Administration made a commitment of $10 billion to public service jobs two years ago as part of its package to stimulate the economy, one of the purposes was to reach those groups most in need, a category that includes young blacks because of their high unemployment rate and their relative poverty.

BEST QUALIFIED WERE HIRED

The bulk of the jobs, however, were provided through the state and local governments. And many of those governments, especially the cities, were so hardpressed for revenue that they had reduced their payrolls and personnel for basic services. Therefore, they hired the best-qualified people they could find under the Federal guidelines, and those people usually were not black youths.

The Carter job initiatives helped lower the overall unemployment rate but had only a marginal impact on that for young blacks. A renewed effort is under way to direct the jobs more to those in need, but few outside the Government believe that in a time of declining domestic appropriations the effort will have much effect.

In communities around the country, there is visual evidence of what has happened. Iranians are driving taxis. Asians and South Americans are doing restaurant work. Hispanics are picking vegetables and citrus fruits in fields and orchards where blacks once labored. The statistics show it, too. Unemployment is high for all poor minorities, but is highest for blacks.

THE ILLEGAL IMMIGRANT FACTOR

Some members of those other minorities are in this country illegally. Secretary of Labor Marshall says nobody knows the number of illegal aliens, that the estimates vary from four million to 12 million. Nevertheless, he says, their presence is a significant factor in black unemployment.

There are those who say black leaders, trying to instill pride in black youths, also instilled an unwillingness to labor at menial jobs. The accepted view has become that aliens take the undesirable jobs that blacks, who may be on welfare, do not want to perform.

But Mr. Marshall said in an interview that it was not that simple. Employers from apple-growers to housewives prefer to hire foreigners because, whether they are here illegally or hold visas, they are in no position to complain about pay or working conditions. Most blacks are American citizens with the full protection of the law.

THE FRACTURED SOCIETY

Vernon Jordan says there is a "creeping malignant growth of a new negativism that calls for a weak passive Government and indifference to the poor." However defined, the experts agree that the nation has developed a political climate that makes it more difficult to address minority needs than a few years ago.

The movement on behalf of some whites to halt "reverse discrimination" in the great middle-class uprising for lower taxes in college tax credits are cited as symptoms.

Further, various special interest groups—the aged, the handicapped, women, farmers, even salesmen—have become increasingly active in competing for public attention and funds.

M. Carl Holman, president of the National Urban Coalition, said that causes have so proliferated since the civil rights movement of the 1960's that the nation has difficulty sorting out the most important needs. Some interest groups that once worked in consort for the disadvantaged have become defensive and splintered.

In an interview, Harold Fleming, president of the Potomac Institute, who has spent his career in race relations, said in response to a question about new divisions in America. "How can I help but believe that part of our problem is that we are losing the ability to create a common culture? We are a more fractured society than at the time when we were carrying out such atrocities as segregation. It was easier then to move back and forth between groups because there were more commonly held values."

A LACK OF AWARENESS

A number of persons interviewed about black youth unemployment said there was a greater tendency than before for each different group to look after its own and to find jobs for its own. Blacks, as a group, control fewer jobs than any other group, so their teen-agers cannot avail themselves of the time-honored practice of finding work through adults or friends.

A New York Times/CBS News Poll conducted last year showed that one-fifth of those questioned in a national sample believed that unemployment was higher for whites than for blacks. The experts agree that a middle class revolting against taxes and inflation has not noticed, or does not care, about continued discrimination.

"There are companies in this town that belong to the Urban League," said Mr. Knight of Richmond. "They carry the sign that they are an equal opportunity employer, but they do not have blacks. I placed black salesman for the first time with one company but he was harassed by the other employees until he left. It still goes on."

[From the New York Times, Mar. 12, 1979]

COST OF BLACK JOBLESSNESS MEASURED IN CRIME, FEAR AND URBAN DECAY

(By Thomas A. Johnson)

The parade had been organized by black churchmen to honor the birth of the late Rev. Dr. Martin Luther King, Jr. Thousands of blacks and whites marched solemnly through the downtown business district of the parade-famous city of New Orleans last Jan. 15.

Suddenly there were shouts and screams up and down the route of the march, mixed with the sounds of breaking glass and police sirens. More than 30 reports of violence were registered with the police that day, most involving black youths who were not part of the parade.

Part of that under-30 age group of Americans that is statistically responsible for more than three-quarters of this nation's violent crimes, the black youths in New Orleans illustrate a disturbing phenomenon that reflects the unrelieved severity of the lack of employment for black youths.

They brought home that day to white shoppers, business people and politicians, if only for a few moments, the violence that can occur at any time in poor black districts.

A high crime rate and the fear it spreads through the larger community is only one of the costs to society of a persistently high unemployment rate for young blacks persists that has created a permanent underclass of the jobless.

Virtually every segment of life, in the white community as well as the black, suffers with the hundreds of thousands of Americans who remain outside the job market throughout their productive lives.

The effects are felt in the increasing burden placed on every community service, from fire protection and street repair to health code enforcement and drug control.

They are also felt in the declining productivity of urban areas as the energy and skills of an entire layer of the community are left out. And they are sensed in the community's talk of the decline in the "livability" of cities.

Only limited study of the impact of black youth unemployment on criminal justice, social work, public welfare, the census, civil rights and the economy has been made by researchers associated with foundations and universities. But these experts agree that the impact must be "astronomical."

It may be, says Sar Levitan, professor of economics at George Washington University and chairman of the National Commission on Employment and Unemployment Statistics, that such figures would be meaningless, anyway, because "some things are simply not quantifiable."

While black youth unemployment puts a drain on the national economy, an even greater price is levied on black and white Americans in the fear that has grown out of rising youth criminality.

The Law Enforcement Assistance Administration's Victimization Surveys shows that the most likely victim of a violent assault in any city is a young, black, poorly educated male. But more than half the Americans living in large cities—black and white—are afraid to go out at night, Charles B. Silberman says in the book, "Criminal Violence and Criminal Justice."

Mr. Silberman, director of the Study of Law and Justice, wrote:

"Because domestic tranquility appeared to be the norm, Americans who came of age during the 1940's and 50's were unaware of how violent and crime-ridden the United States had been. Although they continued to romanticize violence in detective stories and westerns, an entire generation became accustomed to peace in their daily lives.

"After 350 years of fearing whites," he continued, "black Americans have discovered that the fear runs the other way, that whites are intimidated by their very presence . . . The taboo against expression of anti-white anger is breaking down, and 350 years of festering hatred has come spilling out."

RISE IN DELIBERATE BRUTALITY

Robbery, mugging, petty theft, dealing in stolen goods and working the "numbers" racket have been on the rise nationally since the early 1960's, and the authorities have also observed an increase in violence and deliberate brutality accompanying such crimes.

Calling these the "survival crimes," Dr. Alex Swan, the chairman of the sociology department of Texas Southern University and an authority on criminal justice, has estimated that some 48 percent of the nation's hard-core unemployed black youths can be expected at one time or another to commit them.

Dr. Charles P. Smith, director of the National Juvenile Justice System Assessment Center in Sacramento, Calif., a Federal agency, estimated that black youths up to 25 years of age might be responsible for crimes amounting to $5.9 billion a year.

He said total justice-system expenditures for such things as police work, courts and prisons came to about $19 billion in 1976. And he estimated that blacks under 25 probably were responsible for the expenditure of about $5.1 billion of the total.

Authorities on crime and unemployment say that their professional experiences indicate that high unemployment leads to crime.

"There is no question about it, high unemployment rates are important to crime—although not necessarily the exclusive cause," said Herrington Bryce, editor of a report entitled "Black Crime: a Police View," conducted for the Joint Center for Political Studies.

And Patrick V. Murphy, president of the Police Foundation, said he found during 25 years of police work in New York City Detroit, Syracuse and Washington that in urban areas of "high unemployment and degradation, there were high crime rates, often 50 to 100 times higher than in other parts of these cities."

Senator Charles H. Percy, Republican of Illinois, has found Americans far more concerned about street crimes than other crimes, he says, although "the white collar criminal can be just as much a thief as the mugger in the street." At a recent meeting of the National Black Policemen's Association in Chicago, Senator Percy noted that the average bank robber nets $10,000 and the average computer crime yields $193,000, while the average street robbery nets $338 and the average arson for profit $6,403.

Mr. Silberman does not find that attitude unreasonable. "It is perfectly rational for Americans to be more concerned about street crimes than about accidents or, for that matter, about white collar crime," he points out in his book. "Violence at the hand of a stranger is far more frightening than a comparable injury incurred in an automobile accident or fall; burglary evokes a sense of loss that transcends the dollar amount involved."

This year, say businessmen in the popular Atlanta Entertainment Center, The Underground, such fear might well put them out of business.

Criminal activity in the vicinity has pretty much been stopped, said Dr. Lee P. Brown, Atlanta's Public Services Commissioner, but not before it received a lot of public attention.

The Jamaica, Queens, shopping district, which is one of New York City's largest, recently lost a commercial mainstay—a branch of the Macy's department store chain—because of youth crime and deteriorating conditions.

Large-scale looting is fast becoming the norm when events such as the 1977 blackout in several New York City communities and the recent snowstorm in Baltimore make it relatively easy.

Urban crimes and the fear they generate have been responsible for what Mayor Tom Bradley of Los Angeles termed the creation of "no man's lands—places of terror and fear for old and young alike." Communities that are "already suffering from blight and high unemployment lose jobs, services and hope," he said.

New Orleans police officers tried to trade on the fear of violence in their recent strike, suggesting that chaos could follow if more than a million visitors arrived for Mardi Gras at a time when trained, uniformed police were not on the streets. When no agreement could be reached with the police, Mayor Ernest Morial canceled many of the festivities, saying that order could not be guaranteed by the police supervisors, state troopers and the National Guardsmen on duty.

THE COSTS OF UNEMPLOYMENT

E. Charles Brown, a veteran community organizer who now heads the New Orleans Area Development Project, believes it costs the nation far more in terms of crime, fear, deterioration and urban blight than it would to create jobs programs for black youths. But political, economic and social institutions have "abdicated their responsibility to black youths," he said.

Black youth unemployment exacts a harsh toll—in dollar and in human terms—on the people required to live through it.

Eddie Morris, 19 years old, drank cheap wine and smoked marijuana recently in an abandoned building on Jones Street in St. Louis' slums and told a visitor: "I've been to the employment office and they've got jobs there only in the suburbs and I don't have a car. It wouldn't be worth my time to pay bus fare, taxes, lunch and stuff for a job way out in the suburbs that pays $2.65 an hour."

Mr. Morris lives with his mother and admits to just enough petty thievery "to stay alive."

If he is caught and jailed, says Ernest Green, an Assistant Secretary of Labor, "it will cost an average of $20,000 a year" to keep him behind bars "but it would only cost $5,000 to pay a year's tuition for an average private college."

Crime is, in a sense, part of the "Catch-22" of black youth unemployment. Without employment, the youths drift into crime, making future employment even more difficult to obtain. The middle class abandons the crime area, taking away businesses that had provided some employment, and, in the process, taking away the community's tax base.

With each succeeding generation, the problem only grows. Herbert Hill, an economics professor at the University of Wisconsin who was national labor director for the National Association for the Advancement of Colored People, notes that today's unemployed black youngster is part of "the second generation of blacks not likely to enter the labor force."

Quentin James and his brothers, Thurston, 21, and Inell, 16, are the sons of a gardener living in the Lafitte Housing Projects in New Orleans heavily black north side. They will go to court in April on charges that they attacked a policeman and later resisted arrest.

The charges, the men say, grew out of the fact that Thurston James went to the Sixth Precinct late in January to report that he had been robbed. His older and younger brothers came inside the precinct when they learned he was there.

The police charge that the three brothers attacked them. The brothers have accused the police of aggression.

Thurston James, trained by a CETA program to cook, works as a beginning chef in a New Orleans hotel and studies business administration at Delgado Junior College. Inell is a high school junior with no definite plans for the future.

But Quentin James, 23, has been arrested seven times and spent 28 months in prison for robbery. Fearful of being arrested "if I so much as walk into some of those downtown stores," Mr. James ambles instead along streets with names like "Pleasant," "Desire" and "Abundant" hoping someone will "need a man to load or unload a truck or something."

A BIG MISTAKE

"Tell me," Quentin James says of his latest brush with the law, "what would I look like, an ex-convict, attacking a big old police station full of policemen? What would I look like, huh?"

Police sources in New Orleans now say the arrests were "a big mistake."

Quentin James "has been written off by the general society, with the exception of the criminal justice system," said Bill Rousselle, Director of the New Orleans Committee for Accountable Police. "For most Americans, he does not exist."

And that is the real tragedy of black youth's unemployment problem, say black leaders.

Vernon E. Jordan, president of the National Urban League, put it this way: "America cannot write off a whole generation of young people. The American social system cannot survive the threat of significant numbers of its young people deprived of a stake in society. We must not become a nation at war with its future."

[From the New York Times, Mar. 13, 1979]

JOBLESS RATE OF BLACKS STILL RISING DESPITE A 25-YEAR FEDERAL EFFORT

(By Jerry Flint)

There is no shortage of programs aimed at helping the unemployed—particularly the poor, the black and the young.

For a quarter-century the Federal Government has been developing programs intended to help solve the unemployment problem. But the jobless rate for non-white youths seems to worsen nevertheless.

Twenty-five years ago the rate was 16.5 percent for blacks 16 to 19 years old; 10 years ago it was 24 percent; last month it was 35.3 percent. About 445,000 blacks between 16 and 24 who said they wanted work did not find it last year.

"The '60's yielded many programs, and the conventional wisdom is that they produced little and that billions of dollars were wasted," Mitchell Sviridoff, a Ford Foundation official and a former Human Resources Commissioner for New York City, said. "The fact is that we don't really know" what worked and what did not, he said, because no one kept track.

"You spent $40 billion over 10 years and it is hard to find something to show for it?" asked Bernard E. Anderson, economics professor at the Wharton School in Philadelphia. "If you hadn't spent $40 billion you would have a hell of a lot to show for it and it wouldn't be nice."

Without the Government programs, he said, "this problem would have been infinitely worse—their mere existence has given hope" to the people at the bottom.

Whether the programs have worked or not, one thing is certain: When one does not answer, there is always another—about $12 billion worth this past year.

Fifteen years ago it was job training, but "when they get out the program, the job is not there," noted Sar A. Levitan, economics professor of George Washington University.

After the riots of the 1960's, private business set up its programs. Then there were affirmative-action quotas and programs to create black businesses.

PRIVATE EFFORTS RENEWED

Then the Government decided to put the jobless on its payrolls—and received such poor reviews that jobs and job training in private business began coming back into vogue.

Some say the so-called Government jobs involve so little work that they are "counter-productive," because youngsters get the idea that they can do little or nothing and still get paid.

"The work atmosphere isn't half as stiff as in the private world," said David Robison, a manpower consultant who has studied major youth efforts around the nation. "Those jobs aren't respected by the participants or employers" outside the Government, he said, and not much that is learned is "transferable."

Not all the problems are with the job programs, however. Mr. Levitan noted that black youths are where the jobs are not, that they are not properly educated, that employers do not want them and that black leaders have created "unrealizable expectations."

"To be a busboy is an unacceptable job for a black. Look around here," he said, pointing to the white and Hispanic youths carrying dishes in a university restaurant." "Blacks will not take it."

Most black leaders disagree, however, saying that the scramble for jobs when new programs open up is clear proof that young blacks want work.

A "MARGINAL" IMPROVEMENT

Robert Taggart, who heads the Labor Department's Office of Youth Programs, said his programs last year accounted for the entire gain of 56,000 in the number of working black youths 16 to 19 years old. He admitted that the $1.5 billion a year he was spending had not improved things "much more than marginally" but contended that, without that effort, the job outlook for black youths "is disastrous."

It is easier to find fault with the programs, certainly, than with the youths who take part in them.

There is Francille Reaves, only 16 years old but a 12th grader at Martin Luther King High School in Detroit. She puts in four hours a day at Blue Cross headquarters for $2.90 an hour in a federally sponsored program. Her boss is proud of how her skills on the job have grown, of the way she dresses.

"Now if I can just get her to knock on the door before she opens it and comes in," he said with a laugh.

That job may have helped create her unusual self-assurance and her determination to get a college education. "I'll go to Marygrove and take business administration, and possibly graduate school—law," Miss Reaves said firmly.

AIN'T NO JOBS

There is Jimmy Brown, 17, with six brothers and sisters. He is an 11th grader at Murray-Wright High in the Motor City and puts in four hours of hard, dirty work after school at Trend Industries, an autoparts factory. The Government pays his $2.90 an hour and Trend gets free labor.

The youth doesn't love the factory, but said, "I tried McDonald's, Big Boy, Burger King, White Castle. Ain't no jobs."

The teen-agers scorn their compatriots who do not work. "Lots of people say, 'I don't want to work that,'" Mr. Brown said. "They don't want to work, period."

And Miss Reaves said: "If they want $25, they work for the $25. The rest of the time they feel they don't have to work, and stop showing up. They're not responsible."

PROGRAM HAD PROBLEMS

Ironically, the Detroit program that has given these two youngsters work, money, self-assurance and a leg up is one that was poorly organized, badly run, wasteful, split by political infighting between city and school officials, and fouled up with lost records and missed payrolls, according to Federal inspectors.

It was finally shut down and started up again, but a good deal of time and money was lost.

This particular group of programs, which will cost $25 million across the nation, probably will be abandoned by the Federal Government anyway, Washington insiders say, whether they work or not. They would cost too much to expand.

Charges of inefficiency and corruption are not all that unusual for such programs.

Denver's District Attorney accused job directors of creating ghost employees with forged time sheets and false indentification cards. In Atlanta, 11 employees under the Comprehensive Employment and Training Act were indicted for embezzlement and eight others were fired. A new inspector general's office in the Labor Department says it has contributed to 67 indictments and 24 convictions for fraud since January 1978.

CUTS PROPOSED FOR CETA

The complaints have led to proposed cuts in the entire CETA program for the next year: to $11 billion from $11.7 billion, with a loss of 100,000 CETA-paid public service jobs.

While some of the lost jobs may have been held by young blacks, it is possible that this disadvantaged group will benefit from the changes planned for CETA—if they are carried out.

The jobs, training and money now will go "to the right people," said Ray Marshall, the Secretary of Labor, instead of to the old City Hall employees. This "new CETA," as Mr. Marshall calls it, will put half its money into training in fiscal 1980, as against 39 percent in fiscal 1977, and less in the much criticized public service jobs and "work experience."

To the Government's embarrassment, it was disclosed recently that CETA had 150,000 jobs that went unfilled last year, jobs aimed particularly at the hard-core unemployed. Only 525,000 of the 675,000 CETA jobs were filled as of last December. Secretary Marshall blamed the problem on confusion over the new legislation and difficulties at the local level in defining the "hard-core" unemployed and finding suitable work.

SECOND LOOKS OFTEN DISILLUSION

Some Federal summer job programs are so bad that some in the Labor Department call them "income transfer" rather than "meaningful work experience." What that means is that wages are paid but there is not much real work.

Even those programs that seem to work may, on second look, turn out to be less impressive.

One Federal report, looking at a youth work project in Pasadena, noted enthusiastic supervisors and "a group of youths obviously turned on by the experience" of cleaning and painting the homes of the poor and elderly.

But it turned out that the supervisors did not know anything about painting, which was "a disaster," according to the report, which explained, "The paint was already chipping from one house that had been finished only a week before."

In another town, an inspector reported: "Based on conversation with the prime sponsor and prior to arrival on site, one's expectations were to see labor-intensive efforts underway whereby youths would be involved in landscaping, planting flowers and trees, constructing shelters, planting buildings, cementing walkways, repairing tennis courts, etc."

Instead they emptied park trash cans, picked up paper and cleaned toilets.

The park supervisor called this important because it allowed the permanent city workers "to catch up on their work." But the youths considered that their efforts allowed the permanent park personnel to do no work at all, and that meant the youngsters were frequently absent, often tardy, and invariably disgruntled.

"The product of this project, we would suggest, is disillusionment," the inspector concluded.

Six months of training "cannot make up for 15 years of neglect," said Dr. Anderson of the Wharton School.

NO MAGICAL TRANSFORMATION

"You think you can take a youngster in high school who wasn't doing very well anyway, with no work experience, in a family without any role models of rewarding work—and if it is a young woman maybe she has a child—and you'll just teach her to type and she'll get a job downtown at the insurance company?" he asked.

"You cannot do it. You can't transform them from poverty to the middle class," he said. "No sir, that doesn't happen."

The programs, in effect, are an effort to make up for all the failures that have gone before, say some experts, pointing out that the largest program of all, the public school system, spends $75 billion annually and still produces tens of thousands of black youths who cannot read or speak the English language well.

Of course, jobs programs have become an industry, with specialists who design, administer and criticize them—all of which means money and power for the designers, consulters, administrators and critics who get Government contracts.

Through all the programs under CETA and the Youth Employment and Demonstrations Project Act of 1977, the Federal Government passes money to the local level to "prime sponsors," usually a political body, the city or the county.

The cities and counties may run the programs or contract them out to other political units—schools, such "community-based organizations" as churches or the Urban League, or private businesses—with the result that the infighting for contracts, which mean money and power, is not unsimilar to battles between defense contractors.

THE DEFINITION OF SUCCESS

Whether the new, revised programs will succeed any better than past programs is unknown, but then the definition of what works may not be not quite the same to people at the bottom.

For example, Mr. Sviridoff said, "supported work"—special low-stress jobs for the "marginally employable"—is successful.

"There is a 20 percent success rate," he noted, and the programs work well with unmarried welfare mothers. If 20 percent seems low, he says, remember that "that compares to a control group rate of zero."

But Mr. Sviridoff acknowledged that the "employment and other social programs of the Sixties have had only minimal impact on the underclass" of blacks. "Instead," he said, "it is the street hustle, petty crime and welfare programs that dominate this culture."

He also noted that the nation's social programs—welfare, food stamps, unemployment compensation, training stipends and the like—mean today's jobless, unlike the unemployed of past generations, will not go hungry if they do not work.

TREND TO INVOLVE BUSINESS

In theory, public jobs were to be a transition to jobs with private business.

In practice, they were not.

But if there is a new trend now it is toward involving private business in jobs programs more. With the new Private Industry Councils, federally subsidized employees or training with private business instead of with public agencies. In addition, there are new tax credits for companies that hire the disadvantaged.

Larger companies, however, often dislike Government programs because of the rules and red tape. Further, they are under Government pressure to hire, promote or retain women, Hispanic persons, the physically and mentally handicapped, Vietnam veterans, drug addicts and the elderly. Young blacks have to be fitted in with the other quotas, so the new tax-incentive program, if it works, will have to appeal to smaller companies.

That does not mean that private business has been ignoring youth unemployment. set up their own programs, and excellent results have been reported in Cleveland and Chicago.

And in Detroit General Motors Corporation is setting up a "Pre-Employment Training Center," collecting $3.2 million in private donations and Federal money for a month-long program of studies ranging from filling out job applications to "hands-on" training with machinery. The new program probably copies a model auto plant Chrysler Corporation set up in Detroit to train jobless youth.

But "until there's effective working relationships between business, the schools, the unions and local government leaedrship, until these four elements work together, ain't much going to happen," insists Fred Wentzel, who heads youth programs for the National Alliance of Businessmen, which pushes summer job and vocational training programs.

MOTIVATION NEEDS WORK

Another change is the idea that job training—or even a job—is not enough, that a package of motivational development is needed.

That type of thinking is evident in a program run by Chrysler Learning, a job-training unit of the automaker. In one session, black youngsters, sitting in a circle, are drawn into analyzing the actions that will hurt them on the job. "It was his attitude—he was just drinking beer and slouching against the wall," said one youth, explaining why a friend lost a job.

The Chrysler training sessions start at 6:30 a.m.; those who don't get there on time are thrown out of the program. Discipline seems firm.

At a Chrysler training factory where youths learn to run machinery—also starting at 6:30 a.m.—extra cash for baby-sitter fees or bus tickets is disdained. "Mothers will find ways to take care of their children, they always do," said Will Blake, who runs the program. "We try to move the client to self-reliance. Just because somebody pushes you in the mud is no reason for you to wallow around and enjoy it."

REINFORCING THE WRONG IDEA

"You say, 'We know you can't do it so we're going to lower the standards,'" and that "reinforces the idea that he can't do it," said Monica Emerson, who runs Chrysler's career education programs, which the company wants to sell to public schools.

These programs use the same "group dynamics" techniques to show youngsters how much they can accomplish and help them learn about career possibilities.

"If you've got kids low in skills, low in education, living among other kids not in the labor force, non-working becomes part of the culture. You're dealing with a behavior, motivational problem," Mr. Sviridoff said. "When they do get a job they can easily strike out, and then the employers don't want to take them because they aren't good workers."

Create programs that raise levels of education, skill and motivation, and then worry about employment, he says.

To those who despair at the idea of more programs, Mr. Levitan said, "They work the best they can, considering the obstacles."

"These programs are a solution," he said. "If you're down and out, and dropped out of school, and a little pregnant, it's a solution—not forever, but for today."

[From the New York Times, Mar. 14, 1979]

JOB PROGRAMS FOR BLACK YOUTHS NEED COORDINATION, EXPERTS SAY

(By Robert Reinhold)

"I've been at this for a long time," Garth L. Magnum was saying. "There are no real answers. A lot of things have helped. But all you can expect is to make some marginal improvements."

The prognosis by Professor Magnum, who heads the Human Resources Institute at the University of Utah, reflects the caution that prevails among those who deal with the seemingly intractable problem of finding productive work for the nation's black youth.

Subdued by years of disappointment, false starts and prodigious effort that was only occasionally rewarded by success, the experts are uncharacteristically modest. Few seem willing to propose grand solutions in the absence of some fundamental changes in the educational, family and health conditions that leave so many ghetto-raised youngsters unable to compete effectively in the world of work.

Since scarcely any of the unemployment specialists believe the country has the will or commitment now to remedy those underlying maladies, they advocate a broad variety of more modest approaches and ad hoc programs to relieve their symptoms.

NO ONE SOLUTION

"It is not a problem that speaks to one solution," said William J. Grinker, head of the Manpower Demonstration Research Corporation, a quasi-public organization that oversees and evaluates some of the major Federal employment training experiments for youth.

"The tendency is to pour in a billion dollars and then everybody is disappointed later because it does not work," he said. "You can either throw up your hands in exasperation, or you can say this or that is the answer. But the truth is really in the middle.

"There is a lot that can be done," he continued.

The proposed remedies cover a wide range. On the one hand, some conservative economists argue that private industry can solve much of the problem if only it is given adequate tax incentives and is freed from the fetters of the minimum wage and union hiring rules. On the other hand, some black leaders contend that little progress will be made until the Federal Government agrees to become the employer of last resort.

Most, however, including the Carter Administration, fall in the middle. They believe in a combination of private and public efforts to acquaint as many youngsters as possible with the basic work experience and to equip them with specific job skills to function independently in an economic system in which four of every five jobs are in private business.

There is a growing realization that simply creating jobs is not enough to reach a population that lives far from most new jobs and that is ill-equipped to find and keep what work is available. Accordingly, many experts say further effort must be made to better direct the existing government and private programs to black youth and to promote a better "linkage" between public programs and private jobs.

"Until you break out into a brave new world, you are talking about doing more of the things we've done for 10 years," said Bernard Anderson, a leading black economist at the University of Pennsylvania. "We've got to improve what we've got. There are not that many new solutions."

Mitchell Sviridoff, a former Human Resources Commissioner of New York City who is now a vice president of the Ford Foundation, believes that no one program will raise black youth employment by more than a percentage point or two.

But together, he hopes, such programs as the Job Corps and the supported work and youth entitlement measures can achieve modest but steady gains. "If, over time, you can reduce the problem from 400,000 kids to 300,000 to 220,000, through a variety of programs, that's the best we can hope for," he said. "I do not look for sweeping solutions."

Conversations about unemployment among young blacks almost inevitably return in frustration to the social conditions that incubate it.

"It is not a job or an education problem—it is an urban problem," says Richard Nathan of the Brookings Institution. "It is all these conditions coming together in cities with huge concentrations of distressed population. This limits what we can do with direct intervention."

"It isn't going to get better until leaders say, 'It isn't going to get solved until we focus on these places,'" he went on. "But are we willing? It's not lack of knowledge, but lack of commitment—there is a turning away."

Every time Richard G. Hatcher, the black Mayor of Gary, Ind., visits a low-income housing project in his industrial city, he says he is besieged by black youths asking for work. He is not optimistic the country will do much for them.

"There is a feeling in the land that we've really done so much for these people that we cannot afford to use any more of our resources on them," he said.

Black teen-age unemployment was 1.3 times greater than that of whites in the 1950's, it is more than 2.6 times higher today and the gap is widening.

DEMOGRAPHICS OFFER HOPE

Some who are concerned about the situation take hope from the basic demographics of the labor market.

Nearly all the people who will enter the American labor force between now and the end of the century have already been born, leaving aside immigration. Declining birth rates over the last two decades mean fewer and fewer teen-agers will be competing for beginning jobs every year for many years to come; the number of 16- to 19-year-olds in the labor force will drop from 9.2 million in 1974 to 7.1 million in 1990.

At the same time, however, the youth unemployment problem will increasingly become a black youth unemployment problem because black fertility has not dropped nearly so sharply as that for whites. Where black teen-agers made up 11 percent of the youth labor force in 1970, they will account for 15 percent by 1985 and probably more than 20 percent in the early 1990's.

If one out of five unemployed young people today is black, one out of three will be black in 1985 if current trends persist.

The Congressional Budget Office has estimated that the shrinking youth population will cut youth unemployment by only about two percentage points by 1985, assuming moderate economic growth. The extent to which young blacks will benefit will depend in part on how much competition they get for "entry-level" jobs from increased competition from women, elderly people seeking part-time work, nonwhite adults and illegal immigrants.

The alien labor question depends on future Government policy, so it is still an unknown. Experts say that they expect the number of women seeking work to level off soon but that large numbers of elderly people will be seeking part-time work as Social Security restrictions are loosened.

NUMBERS NOT INSURMOUNTABLE

In absolute numbers, the black youth problem does not seem insurmountable. Under the official concept of unemployment, fewer than 400,000 black teen-agers are jobless at any time, about 445,000 blacks 16 to 24 years old.

But Lester Thurow, an economist at the Massachusetts Institute of Technology, has estimated that there are another 700,000 who have "disappeared from the system," who are "not unemployed, not employed, not in school—they are on the streets."

Even that underestimates the problem in the view of Eli Ginzberg, a Columbia University economist who heads the National Commission for Employment Policy. He says millions of black youths will pass into full adulthood handicapped by having had only the most marginal links to the labor market.

Such poor early job experience has been found crucial by Professor Magnum and his former colleague at Utah, Arvil L. Adams, now with the National Commission on Employment and Unemployment Statistics.

In a study for the W. E. Upjohn Institute for Employment Research, they found a "hangover" effect among out-of-school youths. That is, those with unfavorable early job experiences are more likely to do poorly in the labor market later in life than are others, where education and social backgrounds are equal.

DISPROPORTIONATE SUFFERING

Such early disappointment seems to be disproportionately suffered by blacks. Richard B. Freeman, a Harvard economist, has found that new black entrants to the labor market make up a much larger share of black teen-age unemployment than new white entrants in the white teen-age unemployment ranks. In contrast to white youths, he finds that failure to obtain a job rapidly upon entering the labor market is a growing stumbling block for black youths.

The outlook is further clouded by the changing character of work in America. The economy is steadily shifting toward white-collar and service jobs, not the kind of blue-collar and farm work that young blacks have traditionally taken.

The Labor Department has projected that by 1985 two of every three jobs will be in white collar and service occupations. In the 1970's, 44 percent of black youth were concentrated in slow-growth, blue-collar jobs, as against 36 percent for whites.

Moreover, the location of jobs continues to shift toward the suburbs, smaller towns and the Sun Belt, far from where the young people live.

"The concentration of young blacks in slow-growth, blue collar employment will adversely affect their employment in the 1980's," according to the Adams-Magnum study, entitled "The Lingering Crisis of Youth Employment."

Any real solution, says Professor Magnum, would involve either totally redeveloping the ghetto economy or depopulating the ghetto by moving youngsters out, neither of which he or anybody else expects to happen very soon. So he and others look to smaller efforts that amount to getting employment and teen-agers to meet each other halfway.

Growing unease over what Richard Schubert, president of Bethlehem Steel, calls the "time bomb" of young people who might become a "permanent class" detached from the work force is spurring new interest in private industry. Frank W. Schiff, chief economist of the business-oriented Committee for Economic Development, states that the "time is ripe" for business to enter the picture.

"More firms are starting to become concerned that a failure to equip large numbers of our young people with useful skills and work attitudes may lead to serious shortages of skilled entry-level personnel five to ten years hence," he comments.

Like most business leaders, Mr. Schubert, a member of the Business Roundtable's Task Force on National Planning and Employment Policy, feels that the initiatives should come from private business and that heavy reliance on public service jobs is futile because they do not provide a ladder to self-sustaining private jobs.

A study for the Joint Economic Committee of Congress that echoes the business viewpoint. Walter E. Williams, an economist at Temple University, expressed doubt in the study that added public service jobs would do much good.

RESTRUCTURING THE LABOR MARKET

Rather, he says, the Federal Government should stress the "revision of the institutional structure of the labor market" to lower what he says are barriers against young blacks who are trying to break in. In particular, he urges the abolition of minimum wage laws, or at least the setting of a lower wage for teenagers, as well as a reduction in the age at which one can legally leave school, the loosening of child labor laws and the easing of licensing and certification requirements.

The private approach has support from some unlikely sources. Margaret Bush Wilson, president of the National Association for the Advancement of Colored People, said her organization was "leaning toward" the concept.

"If you talk about looking to the Government, you are not addressing real economic growth, just income transfer," she said. "If we could tie economic development to job training we might begin to get a handle on the problem."

But the notion of relying on business and the vicissitudes of the free economy leaves many other blacks cold.

"The private sector has failed black youth," said Mayor Hatcher of Gary. "They are very helpful up to the point where helping a youngster clashes with the level of profit—that's the end of it.

"A total strategy to assist the private sector is a mistake," he said. "Black youth unemployment will get worse."

Mayor Hatcher favors greatly expanded Federal aid.

The prevailing philosophy in Washington is to use Government programs to ease entry into private jobs. "The basic premise is that most employment growth is in the private sector," said Paul Jensen, an aide to Secretary of Labor Ray Marshall. "The goal is to give people the skills and attitudes needed in the private economy, not to stay forever in public service jobs or go on welfare."

The Administration is banking heavily on the new employment tax credit, which allows employers credit for the first half of the first $6,000 in wages paid to each chronically unemployed person the first year and a quarter the second year.

Whether that makes a dent in the problem will turn in part on how well the teenager can cope with workplace needs. Unresolved in many minds is whether Government programs should stress training in specific skills, which in the past has not always matched the available jobs, or just general work experience that would give youngsters the discipline and attitudes required to hold down a regular job.

The dilemma was posed recently by Peter Edelman, former head of the New York State Division of Youth, at a conference held by Youthwork, Inc., one of three "intermediary corporations" set up to bridge the gap between public programs and private business. He said:

"In the classic 1960's, you trained people and then there were no jobs, and the mistake we tend to fall into today is giving people work experience but no training. Somehow we never can get the whole thing together."

"Clearly, school-derived skills are not enough," agrees Graham Finney, head of the Corporation for Public/Private Ventures. "The employer wants a set of attitudes to go along. They want a person who is job ready." Mr. Finney's Philadelphia-based intermediary is testing new ways to use Federal and foundation money to gain access to private jobs.

The changing economy makes it difficult for Mr. Finney to be sure that training in skills is best.

"My crystal ball gives me great worry about what these young people are going to do usefully in the big cities," he said. He believes special emphasis should be placed on locating youngsters in smaller businesses because that is the fastest-growing sector of the economy. Moreover, they are often better equipped to give the special attention that ghetto youngsters often need.

Some argue that what is needed is not more money or programs, but to have the black community accept more of the responsibility in changing the attitudes and habits of black youth.

Sar A. Levitan, head of the National Commission on Employment and Unemployment Statistics, contends that, with racial bias in the job sphere fading, menial jobs are no longer dead ends for black youth. Yet, he says, the young blacks spurn such jobs, which would give them the start they need.

"The black leadership is looking for a quick fix," he said. "To blame it on Whitey is not very productive."

Such words rankle with many black leaders, but a self-help message is also preached by the Rev. Jesse L. Jackson, who heads the Chicago-based Operation PUSH, and his tenets are gaining influence in the black community.

All the uncertainty about what to do has not entirely squelched the "blue skying" that often accompanies major social problems.

Mrs. Wilson of the N.A.A.C.P. talks of a national program to assess every youngster's strengths and weakenesses and of using empty ghetto churches for teaching.

Mr. Schubert of Bethlehem Steel talks of using factories and journeymen that have been idled by economic turndowns to train black youths in the trades.

Professor Magnum says it is important to make crime poorly paid.

And the Committee for the Study of National Service recently proposed a kind of voluntary draft to put young people to work in nonmilitary service to the country.

PROBLEM WITH DEEP ROOTS

But in the long run, many believe, the problem is rooted more deeply.

"What we are talking about is trying to redress the failures of school systems which do not know how to cope with unmotivated kids," said Fred R. Wentzel, head of youth development programs for the National Alliance of Business, which maintains 120 centers across the United States to try to place unemployed youngsters in private jobs.

Professor Ginzberg says he believes in the various "second chance" efforts. "But I believe this problem is an integral part of the way society operates," he said. "It is very deeply embedded in racism and the concentration of the black population, so it will only be moderated with time—it is not given to simple gadgeteering. All one can do is improve the escape routes."

Still, he is optimistic that a gradual but growing acceptance of young blacks into the mainstream of the economy, along with a decline in black birth rates that will ultimately bring them into line with white levels, will greatly ease the problem in another generation or so.

Until then, he said, the Government can only act to reduce the number of failures and "just give as much support as possible."

HOW FLOOD ASSISTANCE PROGRAMS WORK

● Mr. CULVER. Mr. President, nature is throwing a one-two punch at Iowa this year. First, heavy snows caused serious economic and community hardships over the last few months. Now, warming weather, rain and runoff threaten to cause major floods along the Mississippi River, in the Iowa and Cedar River basins, and elsewhere.

The Rock Island District Office of the U.S. Army Corps of Engineers, which coordinates flood control activities for most of Iowa, recently announced that there is a significant potential for spring flooding, although the exact extent is not yet known. Severe flooding is likely, however, along the Maquoketa, Wapsipinicon, Turkey, Iowa, and Cedar Rivers. A number of communities, including Marshalltown, Waterloo, Evansdale, Estherville, Charles City, Davenport, Muscatine, and Burlington, has asked the Corps to provide sandbags to help minimize the flood threat.

As a number of the Senate Committee on Environment and Public Works, which oversees the Corps' flood protection program, I believe it is essential that communities know in advance about Federal and State assistance that is available before, during and after a flood in order to take the necessary steps now to reduce the devastation from floods later.

The old saying that "an ounce of prevention is worth a pound of cure" is especially apt when talking about flood protection and preparedness measures. Under the Federal Emergency Flood Control Act, the Corps of Engineers is authorized to assist communities with advance measures to protect life and property against anticipated floods. These measures include constructing temporary dirt levees and purchasing additional sandbags to help keep a river from overflowing its banks. Local officials, however, must take the initiative in order to receive assistance under this program. Here is the sequence of steps to follow:

First, the community itself must take initial preventive action, such as purchasing sandbags or relocating portable property to higher ground.

Then, if additional help is needed, local officials should contact the Iowa Department of Disaster Services, in Des Moines. If the State also believes that additional flood protection help is warranted, the Governor must send a letter to the corps' district engineer to request Federal aid. The district engineer will then send the request, with a recommendation, to the Director of the corps' civil works program in Washington, where a final decision will be made.

Many Iowa communities have exhausted their emergency resources combatting winter snow and, therefore, might well be eligible for Federal assistance under the advance measures program. However, it is important to remember that this Federal assistance will be forthcoming only after the community and State have taken reasonable steps to prepare for anticipated floods.

The Corps of Engineers also will help during actual flood disasters. They can provide equipment—such as sandbags, plastic sheeting, and drainage pumps—as well as technical assistance in fighting the flood.

Normally, direct corps involvement ends when the flood ceases, and the Federal Disaster Assistance Agency takes over to provide financial aid to help communities recover from the disaster. The FDAA, however, can also direct the Corps to help communities clean up in the flood's aftermath.

Flood damage is, unfortunately, something that every Iowan is all too familiar with. Each year, flooding causes about $2 million in damage to my State.

This year, the potential for flooding is even more serious than normal, but adequate foresight and preparation can help reduce its worst economic and social consequences.

When in doubt about what action to take or what assistance may be available local officials should contact the Corps of Engineers and the State Disaster Assistance Department. Again, it should be emphasized that although Federal and State assistance is available, local communities must take the first steps to prepare for potential flood damage.

Thank you, Mr. President.●

TRIBUTE TO JOE R. WILLIAMS

● **Mr. MORGAN.** Mr. President, this past Friday I had the privilege of addressing the 32d annual meeting of Tobacco Associates, a group that is devoted to promotion of American tobacco in overseas markets. This meeting was especially important to me, because it also marked the end of an era, the presidency of Joe R. Williams.

Mr. Williams is truly a special person. Born and raised in Yadkin County, N.C., Mr. Williams was promoted to the highest ranks in the Foreign Agricultural Service. He distinguished himself as an agricultural attaché in Brussels, Belgium, Ankara, Turkey, and in Salisbury, Rhodesia. Mr. Williams also served as director of the tobacco division of the Agricultural Conservation and Stabilization Service after holding a prominent post with the North Carolina Farm Bureau.

Mr. Williams is a special person to me, because he has always assigned a top priority to the interest of America's farmers. Many of the Members of this Chamber, especially those with an interest in farm exports, will know that American tobacco today is exported to 110 countries, markets that Joe Williams has worked hard to develop and maintain. Indeed, tobacco is exported to more countries than any other farm commodity. Tobacco, in fact, has opened the door for wheat, feed grains, soybeans, and other farm commodities in every corner of this globe. In conclusion, it is fair to say that all farmers owe Mr. Williams a debt of gratitude.

Mr. President, the March issue of the Flue Cured Tobacco Farmer magazine contains a revealing article of Mr. Williams' views on a number of important matters to tobacco farmers. Because I believe these comments are worthy of wide circulation, especially here in the Congress, I ask that a copy of this article be printed in the RECORD.

The article follows:

THE WAY JOE WILLIAMS SEES IT—1979 WILL BE A YEAR OF OPPORTUNITY

FOUR CONTINENTS AND 44 YEARS

Few men have as thorough a knowledge of the tobacco industry as Joe R. Williams. From administering federal farm programs in Yadkin Co., N.C., to dealing with agricultural problems on an international level, Joe Williams has first-hand experience in the varied workings of the tobacco industry—its export markets, programs and problems.

The North Carolina native began his 44-year service career with a term in the State Senate (1935–36). During the following 19 years, he was chief clerk with the Agricultural Adjustment Agency in Yadkin Co., assistant executive secretary of the North Carolina Farm Bureau, and executive secretary of the Tobacco Board of Trade in Winston-Salem.

Then he moved to Washington as the director of the tobacco division of ASCS/USDA.

The Sixties found Williams overseas, dealing with tobacco in three key posts: He worked with Common market principals in Brussels, Belgium; as agricultural officer in Salisbury, Rhodesia, a major flue-cured competitor; and as agricultural attache in Ankara, Turkey, source of much Oriental leaf in U.S. cigarettes.

Early in 1969, Williams returned to Washington as associate director of the tobacco division in Foreign Agriculture Service.

On January 1, 1972, he was named president of Tobacco Associates, Inc. He will retire this month.

RECORD YEAR

In 1978, flue-cured tobacco gross sales of 1,288.916 million pounds for a record average of $135.18 per hundredweight gave another billion dollar crop, with only five percent of total production going to the Flue-cured Tobacco Stabilization Corporation.

Although domestic consumption remained static, world-wide consumption increased three percent and the trend is expected to continue in 1979.

New records in tobacco exports were set in fiscal year 1978 as exports rose to $1,838 million, and imports totalling $41 million gave tobacco a net contribution to the U.S. foreign trade balance in excess of $1.4 billion.

Due to increased U.S. cigarette manufacture, unmanufactured leaf tobacco imports also continued the upward trend. Duty-paid imports for consumption reached a record 150,910 tons valued at $371 million, up eight percent and 18 percent, respectively, when compared with 1977 figures.

EXPORT OUTLOOK

The outlook for flue-cured tobacco exports in 1979 is favorable. After unfavorable seasons in 1976 and 1977, the large crop of high quality tobacco produced in 1978 has gone a long way in re-establishing the U.S. as a dependable supplier of high-quality flue-cured tobacco on a continuing basis.

It is the consensus in the international tobacco trade that flue-cured farmers in 1978 did the best job in handling and grading tobacco of any year in recent history. The slightly reduced flue-cured allotment for this year with a support price of $1.29 per pound should be an incentive for farmers to go the extra mile in making the 1979 crop surpass that success.

Although export sales to Japan and West Germany may hold firm in 1979, inventories of most foreign buyers of high quality tobacco remain comparatively low. The U.K. and Ireland, Netherlands, Belgium, Italy and Scandinavian countries should show some increases. Increases are also likely in Eastern Europe, the Philippines and the developing countries of Africa and South America.

The outlook in the Mid-East, of course, is tempered by peace negotiations.

Taiwan purchased a record $60 million of U.S. flue-cured tobacco in 1978. This purchase, slightly in excess of current demand, was prompted by a favorable trade balance. Taiwan for many years has been a loyal friend and major purchaser of U.S. flue-cured tobacco and the cooperator in one of our major market development programs.

Recognition of the Peoples' Republic of China opens many trade possibilities for food and fiber. But the tobacco industry won't likely share this new market: Mainland China is the world's largest producer of flue-cured tobacco. In addition, their lack of hard currency will force them to give top priority to technology, industrial machinery and emergency food products.

We are hopeful that Taiwan will be able to continue its current trade policy including tobacco for many years. A Hong Kong type arrangement would be economically positive to the entire world. Exports to the remainder of the Far East look promising for 1979.

DOMESTIC FINANCES

Facing the Administration and Congress in 1979 are the major problems of inflation, U.S. trade deficit and the devalued dollar. The devalued dollar has been highly beneficial to tobacco exports for the past five years and will continue to be helpful in 1979, but in the long run this advantage must be phased out. Inflation and trade deficit are interrelated problems which focus national attention on the importance of exports.

To off-set the staggering U.S. deficit which results from the tripled price of imported energy, national policy demands off-setting exports. Agricultural commodities head the list when it comes to meeting the criteria of competitive exports. Agricultural exports have contributed annually over $10 billion in 1978.

Last year, agricultural exports accounted for one out of every three acres of production. And for the past few years farm exports have contributed annually over $10 billion to the U.S. balance of trade. Tobacco alone has contributed $1 billion a year.

SMOKING AND HEALTH

I thought at one time that the sound defeat of Proposition 5 (to forbid smoking in most public places in California) was certainly the crest of the anti-smoking campaign and that we could see the issue subside in 1979. After all, tobacco has been under attack for 300 years, and we have seen periods of vicious attack followed by diminished efforts which led to normalcy.

But in the light of the activity which has followed Proposition 5, I'm not sure that the cycle will be repeated.

I'm delighted that the domestic industry has belatedly recognized the fact that the issue simply won't go away and has come out fighting for the survival of our great industry.

The fight against tobacco is not only a so-called health issue filled with zeal and emotionalism; it is also big business, headed by highly paid and competent personnel, supported by many national, state and even county organizations. Such strength enables opponents to solicit funds and channel facts or propaganda to even the remote areas of this nation.

When you add to this the militant leaders of the government and Congress, then each segment of our industry—including farmers—must realize that we are fighting for our survival in 1979.

TRADE NEGOTIATIONS

Of all the agricultural commodities produced in the U.S., tobacco has the greatest stake in the multinational trade negotiations which will culminate in 1979. Throughout the world—especially in the European Community—U.S. tobacco is faced with discriminatory tariff and non-tariff barriers not faced by other U.S. industry and agriculture.

The long-range future of tobacco exports is dependent on obtaining market access in these negotiations. We don't know what will happen, but we feel that Ambassadors Strauss, Wolff and McDonald are to be commended for their diligent efforts to finalize an agreement during this current period of international protectionism running rampant throughout the world.

In addition to a successful conclusion of trade negotiations in 1979, the greatest supplemental action to increase U.S. tobacco exports would be the granting of Most Favored Nation treatment to Russia and Eastern Europe along with Mainland China. The consumption of tobacco products in Western Europe and Eastern Europe is virtually the same. Western Europe constitutes 50 percent of our export trade while Eastern Europe constitutes only three percent. Major factors in this ratio are tariff, credit and aid differentials.

MARKET STABILITY

The world tobacco industry is the most stable of all industries. World-wide consumption of tobacco is increasing, and by the turn of the century, 20 billion pounds of raw tobacco will be required annually to meet the demand. As demand grows, so does competition.

Exports are as important today as they were in Colonial days. During the past seven years, although we have gradually lost our percentage of the world market, we have exported more flue-cured tobacco than in any continuous period in history. In 1977, and very likely during 1978, over 50 percent of actual flue-cured production went into exports.

A sudden or even gradual loss of these export markets would bring a repetition of the market collapse that we saw in 1939 when Britain withdrew from the market upon entering the war.

Tobacco farmers will contribute their share to a favorable trade balance if they share equitably in expanding U.S. market development programs. In a period of stable domestic consumption, future prosperity of flue-cured tobacco farmers is heavily dependent upon expanded exports.

Domestic income and price policies must be delicately balanced to keep U.S. tobacco farmers in business and at the same time maintain their competitiveness in the world markets by ensuring that their premium prices reflect only the superior quality of their tobacco.

From Florida to Virginia we have two million acres of flue-cured tobacco land that by virtue of geographical location, soil, climate, distribution of rainfall and 15 hours of sunshine a day can produce a quality of tobacco with a flavor and aroma that cannot be duplicated anywhere else in the world.

This is the most valuable commodity franchise in all the world, and I am confident that the tobacco leadership will accept the challenge in 1979 and beyond of record expansion of U.S. agricultural exports.●

INTERNATIONAL TRADE AND INVESTMENT REORGANIZATION ACT

● Mr. INOUYE. Mr. President, on February 7, Senators ROTH and RIBICOFF, together with Senators DANFORTH and HEINZ, introduced the International Trade and Investment Reorganization Act. I support this important legislation, and have agreed to cosponsor this bill, as I did last year when it was introduced as S. 1990.

It is no secret, of course, that the administration is currently preparing its own reorganization with the objective of creating a Department of Trade, Technology, and Industry based on the current Department of Commerce. I would like to offer a few comments at this time as to why I am cosponsoring the Roth-Ribicoff initiative instead of waiting for the submission of the administration's proposal.

There appears to be a consensus about the need to centralize and rationalize the Federal Government's trade, technology, and investment activities. If that effort is to be effective, however, it cannot and must not consist simply of reassembling and moving about programs and activities like elements on a wall chart.

The new Department must be given a firm, clear mission. It must be given strong Presidential and congressional support. That support is far more likely if that Department were created in a bill with comprehensive Executive and congressional review rather than through a reorganization plan. I would urge therefore, that if the administration does submit its proposal, it do so as legislation rather than as a reorganization. Since the Roth-Ribicoff bill already embodies this principle, it is to be preferred.

Second, I believe that the Roth-Ribicoff bill explicitly acknowledges the gravity of the international economic crisis in which the United States finds itself and the need for urgency to restructure our trade and investment institutions to meet the global competition. Last year the United States suffered a record merchandise trade deficit of $28.5 billion and a record balance-of-payments deficit of $19 billion.

In comparison, the German balance of trade doubled from DM10.5 billion in 1977 to DM19.8 billion and the current account surplus increased from 8.6 to 16.2 billion. In dollar terms, Germany, whose population is less than one-third of ours, exported as much as America in 1978 according to the International Monetary Fund—approximately $142 billion.

Japan's performance is equally impressive. In spite of a rapidly increasing yen, Japan's trade surplus with the United States increased from $8.1 billion in 1977 to an estimated $11.9 billion in 1978.

The shrinking value of the U.S. dollar, encouraged at one point by American officials, has increased inflation, encourraged international monetary turmoil, and reduced investment. These factors alone should be sufficient to impel the administration to create the institutions to deal with these problems. However, one reads in the media that the establishment of a Department of International Trade and Industry has received far less attention and priority within the administration than the proposed Departments of Education, Natural Resources, or Development Assistance. Yet the dimensions and dangers of the international economic crisis are increasing daily, and time is running out for us to fashion effective responses.

My cosponsorship of the Roth-Ribicoff bill does not mean that I endorse all of its provisions, and I reserve the right to suggest improvements. For example, the new Department would be an ideal place for a productivity agency. More importantly, it must be recognized that economic problems, including our faltering export performance, usually have domestic as well as international causes. To separate the two would create an artificial perspective which would hamper our efforts to resolve our international economic problems. Thus the new Department should include those services and programs which would enhance our trade and technological performance even though some may be ostensibly "domestic" in impact.

Mr. President, Senators ROTH and RIBICOFF are performing an important service by introducing this critical national legislation. They deserve the support of the Senate, and I hope that hearings on their measure are scheduled as soon as feasible.●

FRANK PIERCE—SUPER GUY

● Mr. CHILES. Mr. President, I would like to bring to the attention of the Senate, the actions and accomplishments of a citizen of my State who is sincerely respected and beloved by those persons who know him.

Frank Pierce recently celebrated his 56th birthday and over 130 people in St. Petersburg celebrated with him. There were many of us, particularly in Florida politics, who could only be with him in spirit.

Floridians were with Frank Pierce because for so many years he has been with us. He has given many of Florida's officeholders a strong commitment to good government, a willingness to organize and serve in campaigns and a deep devotion to high political ideals.

I am told that Frank Pierce has lung cancer. Yet, in the face of this dreaded disease, Frank's courage is admirable. He continues to serve as chairman of the Urban Development Corporation (a housing counseling service for low-income residents), a board member of Dean Mohr Plaza, a member of the Pinellas Democratic Executive Committee, the education committee of the Chamber of Commerce and president of the Community Democratic Club.

A lot of people who know Frank Pierce, know of his tremendous interest in young people. He was one of the original faculty members at Gibbs Junior College. He was the head of the science department, the coach of the basketball team, and the director of student activities. When integration brought about the merger of Gibbs Junior College and St. Petersburg Junior College, Frank Pierce went to the Junior College's Clearwater campus. He has taught there in the biology department for the past several years.

Those persons that he did not meet in his biology science classes, Frank met on the campaign trail or at one of the numerous community and civic club meetings he attended.

The friends of Frank Pierce who organized the party on his behalf called it the "Super Guy Bowl." They could not have given it a better name.

Over the years Frank Pierce has been more to me than a campaign worker and a political confidante. He has been a very special friend. His inspirational leadership has and continues to be warm and enduring not only in the Black community in St. Petersburg but throughout the total community in the State of Florida.

I know that in the crucial months ahead Frank's courage and determination will sustain him. But that has always been the case.

Mr. President, I ask that the news article from the St. Peterburg Times be printed in the RECORD.

The article follows:

A CAMPAIGN SECRET: MAPPING PLANS TO SURPRISE AND HONOR SPJC'S "BEANIE" PIERCE

(By Helen Huntley)

Frank Pierce's friends knew just how to lure him to his surprise birthday party. They told him it was a campaign planning meeting.

Politics is Pierce's passion. If it's a campaign for someone he likes, you can't keep him away.

When he got to the Sweden House on that Jan. 20, however, the planning was long done. What he found was a gathering of more than 130 friends jamming the banquet room to wish him a happy 56th birthday and give tribute to a life filled with accomplishments.

His colleagues from the St. Petersburg Junior College (SPJC) faculty were there, along with former students and friends from politics, church and civic activities.

They came for the "Super Guy Bowl," to eat dinner and to laugh at the antics of "commentators" Rubye Wysinger and Jack Highsmith. They came to bring him presents such as a bag of peanuts supposedly from President Carter and an orange supposedly sent along by Anita Bryant.

Most of all, however, they came to show their love and affection for Pierce, who has terminal lung cancer.

"It was perhaps the greatest event that has ever been planned for me," Pierce said. "There were people there I hadn't seen in years. There were some people there I didn't even know. They know me, but I don't know them."

A lot of people know Pierce, who came to St. Petersburg in 1957 as one of the original faculty members at Gibbs Junior College. He was the head of the science department, the coach of the basketball team and the director of student activities. When integration brought the merger of Gibbs and SPJC, Pierce went to the junior college's Clearwater Campus. He's been there ever since, teaching biology.

In his years with the junior college system and before then at Florida A & M University's demonstration school, thousands of students have passed through his classes. Among them are those who went on to become doctors and university presidents.

Most of those in Pinellas who know him, however, didn't meet him in the classroom, but on the campaign trail or in one of the countless civic meetings he has attended.

Pierce has been co-chairman of the Community Alliance, a member of the Pinellas County Charter Commission and the Pinellas County Transportation Authority, chairman of the Pinellas Opportunity Council and board member of the United Way, the NAACP, the St. Petersburg Planning Commission and the Community Services Council.

Despite his illness, he continues to serve as chairman of the Urban Development Corp. (a housing counseling service for low-income people), a board member of Dean Mohr Plaza, a member of the Pinellas Democratic Executive Committee, a district leader for the party and president of the Community Democratic Club, an arbitrator for the Citizens Dispute Settlement program, a member of Alpha Phi Alpha fraternity and a member of the Chamber of Commerce Education Committee.

As a little boy, Pierce passed out leaflets for Franklin Roosevelt and he has been caught up in politics ever since. Over the years he has worked for dozens and dozens of Democrats, including John F. Kennedy, Reubin Askew, John Lindsay, Hubert Humphrey, Jimmy Carter, Richard Stone and Lawton Chiles. At Christmas, he can count on a card from the President.

He has run for the Pinellas County School Board twice and lost—both times to former board chairman Charles Crist. Had it not been for his illness, he would have run again last year, he said.

"My interest basically is in young people," Pierce said.

His accomplishments may sound impressive, but Pierce's friends still call him "Beanie," a nickname he picked up as a child when one of his brother's friends saw him throwing dried beans at someone.

"Even my college professors referred to me as Beanie," he said. At his birthday party there were lots of jokes about Beanie Cream to help children learn better in school and Beanie Ointment to cure itchy toenails.

A native of Georgia, Pierce spent his youth in Augusta, then moved with his family to New York. He played football in high school and college, but at 187 pounds, he said, he was too small to play with the pros. Pierce has a bachelor's degree from South Carolina State College and a master's degree from New York University.

Pierce's wife Juanita is a former first-grade teacher at Campbell Park Elementary School. He has a 27-year-old son Paul, who works for the city of Nashville, and two grandsons.●

SCANDINAVIAN DAY IN HAWAII

● Mr. INOUYE. Mr. President, America has appropriately been called a great "melting pot," but one of the things that contributes to our unique character is that the many immigrants to our shores have not abandoned their traditions and heritages after coming here but have attempted to preserve those which were most cherished. I believe it is important to recognize the contributions different ethnic groups have made to this country. It is in this spirit that I wish to share with my colleagues a proclamation recently issued by Governor Ariyoshi of Hawaii setting aside February 14 as "Scandinavian Day in Hawaii." The date commemorates the arrival in Hawaii 98 years ago of the first large group of Norwegians and Swedes to immigrate to the Islands. I welcome this opportunity to call national attention to Hawaii's recognition of the significant contribution they and their descendants have made to the well-being of the State and the Nation.●

PRELIMINARY NOTIFICATION OF PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million, or in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that five such notifications were received on March 9 and 12, 1979, and ask that they be printed in the RECORD.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

The notices follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., March 12, 1979.
In reply refer to: I-8296/78ct.
Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a European country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,
WALTER B. LIGON,
Acting Deputy Director,
Defense Security Assistance Agency.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., March 12, 1979.
In reply refer to: I-3/79ct.
Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State. I wish to provide the following advance notification.

The Department of State is considering an offer to a NATO country tentatively estimated to cost in excess of $25 million.

Sincerely,
WALTER B. LIGON,
Acting Deputy Director,
Defense Security Assistance Agency.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., March 12, 1979.
In reply refer to: I-5964/78ct.
Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a European country tentatively estimated to cost in excess of $25 million.

Sincerely,

WALTER B. LIGON,
Acting Deputy Director,
Defense Security Assistance Agency.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., March 9, 1979.
In reply refer to: I-11381/78ct.
Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Near Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

Lt. Gen. ERNEST GRAVES,
Director, Defense Security Assistance Agency.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., March 12, 1979.
In reply refer to: I-5963/78ct.
Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a European country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

WALTER B. LIGON,
Acting Deputy Director,
Defense Security Assistance Agency.●

PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I submit for the RECORD at this point the two notifications I have received. A portion of one of the notifications, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room S-116 in the Capitol.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., March 12, 1979.
In reply refer to: I-11379/78ct.
Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 79-12 concerning the Department of the Air Force's proposed Letter of Offer to the Federal Republic of Germany for services estimated to cost $53 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

WALTER B. LIGON,
Acting Deputy Director
Defense Security Assistance Agency.

Attachments.

[Transmittal No. 79-12]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Federal Republic of Germany.

(ii) Total Estimated Value: Major Defense Equipment*, $0.0 million; other, 53.0 million; total, $53.0 million.

(iii) Description of Articles or Services Offered: Base Level maintenance in support of the F/TF 104G German Pilot Training Program.

(iv) Military Department: Air Force (MCR).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: March 12, 1979.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., March 12, 1979.
In reply refer to: I-23360/78ct.
Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover Transmittal No. 79-13, concerning the Department of the Navy's proposed Letter of Offer to Denmark for articles and services estimated to cost in excess of $25 million.

Sincerely,

WALTER B. LIGON,
Acting Deputy Director,
Defense Security Assistance Agency.

Separate cover: Transmittal No. 79-13, Policy Justification.

[Transmittal No. 79-13]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Denmark.

(ii) Total estimated value:

Major defense equipment,* 0.0 million; other, in excess of $25.0 million; total, in excess of $25.0 million.

(iii) Description of articles or services offered: [Deleted].

(iv) Military department: Navy (ABN).

(v) Sales commission, fee, etc., paid, offered or agreed to be paid: None.

(vi) Date report delivered to Congress: March 12, 1979.

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* As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).●

DIRECT ELECTION OF THE PRESIDENT AND VICE PRESIDENT

● Mr. INOUYE. Mr. President, I wish to join Senator BAYH and 46 of my colleagues in the U.S. Senate, in supporting Senate Joint Resolution 1, which proposes an amendment to the Constitution of the United States to abolish the antiquated and unpopular electoral college, and substitute direct election of the President and Vice President. This joint resolution also provides that the President and Vice President be elected by at least 40 percent of the entire number of votes cast. This insures that the elected candidates are the people's choice by popular vote, unlike the present system.

One of the major defects of the present electoral college system is the "winner take all" unit rule, which awards all of a State's electoral votes to the statewide popular vote winner. Thus, millions of voters who chose to vote for the losing candidate are treated as though they had not voted at all. The low voter turnout in Presidential elections may be a direct consequence of this apparently undemocratic system.

Perhaps the most dangerous result of this "winner take all" rule is the fact that the candidate with the most popular votes may not be awarded enough electoral votes to win the election. This has occurred three times, in 1824, 1876, and 1888, when the candidates who became President of the United States had not received more of the popular votes cast. Thereby, the mandate of the American people was totally ignored by the electoral college system. As recently as 1976, 5,559 voters in Ohio and only 3,687 voters in my home State of Hawaii could have caused President Ford to prevail over Jimmy Carter, although Carter would have received more popular votes. Such a system is dangerous and unjust, and should be changed.

What we are proposing today in Senate Joint Resolution 1 is a much needed change in the electoral college system, a change that would allow the American voter to directly elect his or her own President and Vice President. This is based on a fundamental concept of fairness: That each vote be counted the same, whether the voter be rich or poor; black, white, Hispanic, or Asian; a resident of a large, populous State, or a small, rural State. A community in the State of New Hampshire would have equal weight as a similar-sized community in New York, California, or Hawaii. Thus, direct election would finally accomplish equality in voting between all American citizens in choosing their President and Vice President.

I urge my fellow colleagues in the Senate to carefully consider the statements presented today and vote in favor of Senate Joint Resolution 1. It is time to change this archaic, unjust electoral college system, to one which allows each citizen to have a direct say in who is to be his or her next President and Vice President. Such a step would restore the American voter's confidence in our democratic form of government and electoral system.●

DOMESTIC SUGAR POLICY

● Mr. CHURCH. Mr. President, the Senate is nearing action to establish a fair and workable domestic sugar policy. Hearings in the Finance Committee on the Sugar Stabilization Act of 1979, which I introduced several weeks ago, will be held March 21st and 26th.

Recently, the New York Times editorialized on the subject of sugar legislation and offered the view that we should abandon our domestic sugar industry and become reliant on imported sugar. Although there were several fallacious arguments in the editorial, the notion that we should become dependent on sugar imports prompted me to reply.

It is important that the Senate understand the disastrous impact consumers would experience if we adopted the viewpoint expressed by the New York Times. I ask that the editorial and my letter reply be printed in the RECORD.

The material follows:

UNCLE SAM AS UNCLE SUGAR

In the Washington world of special interest politics, no issue is more complex than Federal price supports for sugar. On one side are the growers of cane and beet sugar and their sometime allies, the producers of liquid corn sweetener. On the other are the big commercial customers—pastry, soft drink and candy companies—backed by State Department officials who are eager to keep open the American market to sugar growers in underdeveloped countries.

President Carter has been caught in the crossfire. His sympathies are with the sugar consumers, but his policies are political compromises, like this year's White House proposal—a price support program that would raise the nation's sugar bill by about $180 million and cost the Treasury another $112 million in subsidies. It is a dismaying program, though not nearly as bad as the one proposed by the sugar lobbies' friends in the Senate.

The central problem is the dismal economics of American sugar. Domestic growers say they cannot compete with producers in the Caribbean and Asia. Efficient American sugar and corn syrup producers need to get about 14 cents a pound to hold their own; Louisiana's less efficient cane growers probably need 17 cents. But foreigners can deliver sugar to New York for 10 cents a pound and still turn a profit.

The most efficient sugar policy, therefore, would phase out American production altogether. The United States doesn't grow cocoa or bananas; why sugar? But that solution is not in the cards as long as benefactors of the domestic sugar industry like Russell Long of Louisiana and Frank Church of Idaho are chairmen of powerful Senate committees. Hence, the legislative battle over sugar turns on how much support the growers should get and whether the aid should come as price supports (paid by consumers) or subsidies (paid by all taxpayers).

Direct subsidies to sugar growers make slightly more sense. Unlike price supports, they raise the incomes of sugar farmers without raising the price of imports or of competing corn sweeteners. But for precisely that reason, the producers of corn sweeteners oppose the subsidy approach. The sugar growers, too, prefer price supports because the money comes from consumers rather than from Congressional appropriations, which are less reliable.

Senators Long and Church, joined by Senator Matsunaga of Hawaii, are calling for about a two-cent increase in the price support level to 17 cents a pound. The tariff on sugar imports assures that foreign sugar will rise to the domestic price. The increased price supports would cost consumers $450 million a year. President Carter wants a 15.8-cent price support plus a half-cent direct subsidy.

Is the Carter sugar plan worth accepting? Probably, in view of the alternative. The sugar price support level would exceed the average farmer's production costs. That would be a troubling precedent; other agricultural support programs have generally aimed only at insuring that the average farmer covers his expenses. Still, the Carter plan is not likely to stimulate domestic output very much, and should thus maintain access to the American market for underdeveloped countries. Given the muscle of the sugar lobby, the Carter plan may be the best that can be expected this year. Nonetheless, the compromise is disappointing from a President who is trying to make credible his fight against inflation.

To the Editor:

THE IMPORTANCE OF U.S. SUGAR

Your Feb. 26 editorial concerning U.S. sugar policy seriously misleads your readers on the issues involved. It is ironic that the editorial begins by stating that the issue is complex and winds up by offering the simplistic solution that we should become totally dependent on imports.

About 85 percent of the sugar grown in the world is produced under special arrangements involving guaranteed profits and governmental support. The remaining volume constitutes the world market that The New York Times advocates our consumers rely upon. That market historically fluctuates wildly in price. Are our memories so short that we have forgotten that the world price of sugar shot up to about 70 cents per pound in 1974? The impact of that escalation was mitigated for United States consumers because we have a domestic industry that can produce sugar for far less than that.

We already spend over $1 billion per year importing sugar to supply half our needs. Why further add to our trade deficit and increase the erosion of the value of the dollar by becoming dependent on foreign sugar, as we now are on foreign oil and coffee? If we phase out our production, as your editorial advocates, consumers can only look forward to repetition of the 1974 price spiral in the world sugar market. Meanwhile, an industry that employs 100,000 of our people and adds about $13 billion annuallly to our domestic economy would be lost.

FRANK CHURCH,
U.S. Senator.●

THE JOHN WAYNE MEDALLION

● Mr. HELMS. Mr. President, there is only one "Duke"—and I make that statement in the Chamber that some say is populated by 100 individuals all of whom think they are medieval dukes.

John "Duke" Wayne is a unique American phenomenon. In his motion pictures, in his television performances, and in countless personal appearances, Duke Wayne is to many people the embodiment of the best American virtues. He is renowned for his patriotism, and unashamedly defends his country at a time when it is unfashionable to do so. He is recognized for his strength of character and as a model for our young people—at a time when there are precious few public figures worthy of such a compliment.

He has done much to inspire Americans of all ages. That there is a proposal before the Senate to honor John Wayne with a commemorative medallion should come as no surprise. His accomplishments are such that we might well ask why this has not been proposed before.

I am proud to be a cosponsor of the bill before the Senate. But most of all, I am proud to be a friend of Duke Wayne, and to have him as mine.●

THE STANDBY GASOLINE RATIONING PROGRAM

● Mr. BOREN. Mr. President, the standby gasoline rationing program submitted to the Congress by President Carter last month is blatantly and grossly unfair to many regions and States of the country because it asks some States including Oklahoma to suffer more of the hardships which will result if such a plan is implemented than it asks of other regions.

As a Senator representing Oklahoma, which will greatly suffer if such a plan is implemented, I am outraged by the unfairness of this program and am pleased to be listed as a cosponsor of Senate Resolution 98 submitted by Senator Bentsen expressing the sense of the Senate that the President should withdraw this unfair rationing program.

It is absurd that the President's plan distributes rationing coupons to States according to national average gasoline consumption rates per registered vehicle instead of doing so in a logical fashion by allocating coupons according to the State per capita historical gasoline usage figures for the individual States.

Rationing in any form would be totally unnecessary if a more logical approach were used to increase domestic production of energy.

Of course, the major disaster of the 1973 embargo was the creation of the Department of Energy. If we are victims of another gasoline shortage in the months to come, it will be because we are victimized by Federal price controls and other bureaucratic regulations which discourage the domestic production of all forms of energy.

This ridiculous rationing plan, developed by the Department of Energy, not only is unfair to States such as Oklahoma but is costly to all citizens. The rationing plan itself, during the "preimplementation" stage of 1979 and 1980 is estimated, by DOE, to cost $53.4 million alone. This is before the plan is even fully in operation. Preliminary estimates are that it will cost another $350 million to start rationing and $400 million per quarter to operate this plan. These costs will be paid for by an approximately 1 to 1½ cents per gallon fee imposed on gasoline during the period of rationing.

Nowhere does this standby program take into account the individual physical and geographical differences of the States of this Union. Some States, such as Oklahoma, have widely dispersed population centers and lack of alternative forms of transportation which are more common in the States of the North and Northeastern United States.

The "white market" which allows the sale of coupons is being touted as a free market way of distributing the coupons where they are needed most.

What it is, in fact, is an income transfer plan to the areas with traditional mass transit and small land mass, from areas with great distances among communities and little mass transit. You can see the impact on Oklahoma and the Southwest when you consider that this plan would cause us to incur a 13.8 percent to 14.7 percent larger reduction in gasoline availabilty than would the United States as a whole. Using a 25-percent reduction in supplies, several States would receive coupons for over 90 percent of their normal supplies while Oklahoma would receive less than 70 percent of their normal supplies. It is estimated that there would be a transfer of $300 million per year from Oklahoma to other States to make up the shortfall. It is easy to see who would profit from the white market system and who would pay. In addition to a greater reduction in availability, the Southwest would also suffer a disproportionate loss of tax revenue. There is an estimated $109 to $171 million more severe reduction in Southwestern gasoline use tax receipts than if the coupons were distributed according to historical usage. Oklahoma would lose approximately $54 million in gasoline tax revenues annually under this plan.

I think it significant to note the impact of the proposed gas rationing plan on the farming community. Under section 570.32 of the proposed regulations, supplemental ration allotments for off-highway vehicles used in farming would receive sufficient ration checks for farming only if they meet production goals set by the President. It appears to me that this is yet another way for the Federal Government to interfere with the American farmer—to blackmail him into conforming to Federal guidelines. His only alternative to conforming in order to get his coupons would be to go into the "white market" and try to get the gas he needs to run his farm.

In short, this plan violates a basic principle which the President has said should apply to any energy policy, that is fairness to all citizens and regions of the country. Oklahomans stand ready to make their fair share of the sacrifices necessary for the good of the Nation but this rationing plan imposes upon my constituents and those in some other States, more than their fair share of the burden.●

SENATOR JACKSON ADDRESSES THE NATIONAL ENERGY RESOURCES ORGANIZATION

● Mr. CHURCH. Mr. President, once again international events, in this case the current situation in Iran, serve to warn us of the political and economic dangers accompanying our heavy dependence on foreign oil. And once again events serve to indicate how unprepared we still are to cope with an interdiction of international oil supplies. As a consequence there has been a dramatic tightening of the world market for crude oil supplies.

The seriousness of the problem facing the United States was dramatized by Senator Henry M. Jackson, chairman of the Committee on Energy and Natural Resources, on February 27, 1979, as the keynote speaker before the National Energy Resources Organization's (NERO) third annual awards dinner. As Senator Jackson noted:

> A tight world market has produced rapid escalation in oil prices. Last week the authoritative Platt's Oilgram Price Report published a chilling chronology of world spot market sales above OPEC posted prices.
>
> Early January: $1 to $2 per barrel above official prices;
>
> Mid-January: $2 to $4 per barrel above official prices;
>
> Early February: $4 to $6 per barrel above official prices; and, finally,
>
> During the past two weeks, $8 to $9 per barrel above official OPEC prices.
>
> This means that oil is selling for $23 to $24 per barrel on the world market. There is no evidence of any slowdown in the trend. OPEC governments have been watching this panic with keen interest. Their announcements of adjustments in posted prices have followed the spiral in spot market prices.

Mr. President, there is no excuse for our continuing inability to act to effectively mitigate the advesre effects of interdictions of international oil supplies. In his address Senator Jackson has set forth a number of actions that can be taken in the areas of mandatory conservation, the conversion from oil to natural gas and coal, increased production from the naval petroleum reserves, and nuclear power, as well as new energy supplies from Alaksa, Mexico, and Canada.

I commend this address to my colleagues and asked that it be printed in the Record.

The address follows:

EXCERPTS FROM REMARKS OF SENATOR HENRY M. JACKSON

From January through August 1978, the consortium of Western oil companies operating in Iran produced 5.6 million barrels of crude oil per day (b/d) and exported 4.9 million b/d. Iranian exports accounted for about 9 percent of non-Communist crude oil demand. No Iranian oil has been sold on the world market since late December, 1978. The result has been a dramatic tightening of world market crude oil supplies.

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Saudi Arabia after cutting production from 10.2 million b/d in December to 9.5 million b/d in January, is charging the full 14.5 percent increase for barrels sold above the official Saudi 8.5 million b/d production ceiling;

Abu Dhabi and Qatar have increased posted prices by 7 percent;

Libya has increased prices by 5 percent;

Algeria has increased prices by 10 percent;

Syria has increased prices by 25 percent; and

Venezuela has apparently suspended use of the posted price system, meaning that transaction with Venezuela will be negotiated individually.

Domestic crude oil producers have followed suit. Stripper oil, exempted from price controls since August 1976, is now widely posted at $16.00 per barrel, retroactive to January 1. For most of 1978 stripper oil sold for $14.00 per barrel.

The prospects are dim for relief from these price increases. It is unlikely that Iranian production will ever return to the levels set by the government of the Shah. There is doubt that the present Iranian government will be able to export any oil in 1979. The best hope of the optimists is for around 2 million b/d later in the year. The price will not be cheap.

No matter what happens to Iranian production, the oil consuming nations of the world are facing large, permanent increases in oil prices in 1979, well above the 14.5 percent increase announced by OPEC in December 1978. The problem is a problem of price and of its impact on the world economy. In my opinion this nation must prepare itself for impacts comparable to those which followed the oil price increases of 1973–74.

There is simply no excuse for the continuing inability of the Federal government to act. There are things we can be doing—and should be doing—right now to reduce our demands on the world oil market. It is essential that the tremendous pressure placed on world oil prices by U.S. oil imports be relieved. Each day we remain in a wait-and-see posture on energy increases the ultimate world oil price level at which the OPEC producers will aim.

Here are some of the things that need to be done:

MANDATORY CONSERVATION

The President's ability to act in the area of mandatory energy conservation on an emergency basis must be placed in a state of readiness. Existing law permits the President to implement mandatory plans for the conservation of energy if he will only submit these plans to Congress for approval. We should get on with the job of reviewing these plans.

The President needs to have authority to ration gasoline and diesel fuel should that become necessary. Submission of a standby gasoline and diesel fuel rationing plan has been required by law since 1976. This plan is long overdue. It will be formally submitted on Thursday. It requires close Congressional scrutiny and an approved plan should be in place as soon as possible.

The Federal government must announce and prepare to implement a series of actions of increasing toughness designed to get control of the consumption of gasoline. Motor gasoline represents 40 percent of our demand for petroleum. Demand for motor gasoline increased 3 percent in 1978. We cannot tolerate this kind of increase in 1979. If past trends in gasoline use continue, we are certain to have shortages this summer. And these shortages are certain to be followed by even more severe shortages of heating fuel next winter. There is little doubt that we are in for this cyclic pattern of shortages. Its severity is a matter of our choice.

It is going to be necessary for the Government to introduce some certainty into the demand picture. If the world oil situation remains tight, as it almost certainly will, mandatory conservation measures will be necessary to curtail summer gasoline use and permit refineries to produce winter inventories.

To be safe, less drastic measures such as Sunday closings should be initiated soon and the impact closely monitored. If demand does not moderate, more controls, perhaps even rationing, may be necessary during the summer months.

It would be the height of folly to blindly rely upon exhortations and hope until we enter the winter with inadequate inventories.

The curtailment of summer vacation driving is an inconvenience. Heating oil shortages in a hard winter is a catastrophe.

Therefore, the agenda to deal with the problem involves

Preparation and approval of standby rationing and conservation authorities;

Strict monitoring of levels of demand, production and inventories;

Imposition of mandatory gasoline allocation and milder forms of mandatory conservation, such as Sunday service station closings;

Mandatory establishment of refinery yield patterns and inventory levels to assure the production and availability of optimum slates of refined petroleum products; and, finally,

Coupon rationing.

I hope we will not be required to go to the latter elements of this agenda, but there is no excuse for not being prepared to do so.

CONVERSION FROM OIL TO GAS AND COAL

Electric utilities have 20,000 megawatts of oil-fired generation capability that has a natural gas alternate fuel burning capability. In addition, a large percentage of those industrial and commercial firms whose use of natural gas has been curtailed in the past have switched to oil. At the same time there are persistent reports of surplus natural gas productive capacity in the intrastate market. Estimates of the size and potential duration of this "overdeliverability" of natural gas vary widely. Whatever the potential is, the emergency availability of excess gas to those who can most conveniently switch away from imported oil should be encouraged.

At the same time we should continually review the potential—on a plant-by-plant basis—for conversion from oil to coal. In many cases these conversions will require longer-term commitments because of the size of the investments involved. Coal is our most abundant domestic energy resource. The current crisis only serves to underline the urgent need to replace as much of our dependence on oil as we can with the use of domestic coal.

STRATEGIC PETROLEUM RESERVES

Despite the fact that implementation of a Strategic Petroleum Reserve has been plagued by bad management, we do have approximately 75 million barrels of crude oil in storage. We should avoid using this supply for as long as possible. If needed, emergency draw-down of this oil could reach 200,000 b/d within 45 days of shutting down fill operations and 250,000 b/d after 60 days. In addition, some 10 million barrels of oil destined for Strategic Reserve is in transit and could be diverted to use.

NAVAL PETROLEUM RESERVE

Another source of increased domestic crude production is the Naval Petroleum Reserve at Elk Hills. Since enactment of the Naval Petroleum Reserve Production Act of 1976, production from the Reserve has gone from 2,600 to 119,000 b/d. Continuation of this expansion could further increase production by another 25–30,000 b/d.

GASOLINE SUPPLY

Even if we manage to find sufficient crude oil supply to make gasoline in 1979 and 1980, the U.S. refining industry still will not have the capacity to produce enough gasoline to meet demand in 1980—unless some fundamental policy changes are made.

This country simply will not have enough refining capacity to produce the higher octane unleaded gasoline that motorists are demanding, unless refiners are permitted to use octane boosting additives. Unfortunately, EPA has been systematically banning these additives through regulation. And EPA admits that their decisions will result by 1980 in the loss of around 500,000 barrels per day of gasoline production capacity.

What we are seeing here is the result of a complicated interaction between policy decisions that were made independently in Detroit, at the EPA, DOE and in Congress.

Since the switch to catalytic converters and unleaded gasoline, American motorists have noticed that their new cars are "knocking" and "dieseling" on unleaded gasoline. Despite what Detroit pledged in 1971, new cars are *not* running very well on 91 octane unleaded gasoline.

Moreover, the public and the Congress are becoming increasingly unhappy with the difference between the fuel economy that EPA claims that automobiles will achieve and the fuel economy that the average motorist gets on the highway. Recent studies indicate that this disparity is getting worse. It is about 17% now.

The most pressing problem facing us right now is the EPA decision on lead phasedown. As of October 1, 1979, refiners must decrease the amount of lead in their leaded gasoline by about one half—from 1.2 gms. per gallon down to .5 gms. per gallon. EPA's waivers which it granted to about 80% of the industry, expire as of that date. 500,000 barrels per day of gasoline will be lost by 1980 because of EPA's desire to remove lead from gasoline, at a faster rate than would be required anyway as cars with catalytic converters replace cars without them.

However, I believe that the Administration should give serious consideration to extending the waivers in the lead phasedown program. We simply do not have many available options for increasing the supply of crude oil, and we certainly cannot afford to lose one half million barrels of gasoline as a result of one regulatory decision.

I feel strongly that the Congress must revisit the Federal policies which affect the automobile, and do so in a comprehensive way, on an urgent basis.

There are a number of issues affecting longer-term prospects for energy production which clearly call for action by the Federal government.

SYNFUELS

Ultimately our energy problems derive from inadequate supplies of liquid fuels. Today's transportation technologies depend almost entirely on liquids, and there is little on the horizon to change this picture. Therefore, we must come to grips with the need to demonstrate synthetic liquid fuels, if only to place a ceiling on the price we can be charged for imported oil.

NUCLEAR POWER

Present Federal and state policies towards nuclear power are, in fact, stifling a major alternative source of energy which is domestic in its entirety, which has exceptional attributes for "clean-air" considerations, and which would diversify the dependence of electric power systems upon other, more vulnerable fuels. The Congress must reenter the nuclear policy debate and eliminate the uncertainties and drift which characterizes present policy.

FEDERAL LANDS

During the next decade, development of conventional oil and gas from the United States Outer Continental Shelf from onshore Federal lands and particularly in Alaska may well provide the largest single source of increased domestic supply.

We must accelerate and expedite the decisionmaking process affecting the leasing of these lands for development.

REFINERY POLICY

Crude oils available in the future will increasingly be heavy oils which are high in sulfur content. At the same time, our demand for low sulfur fuel oil and unleaded gasoline is increasing. We urgently need to provide the policy environment which will encourage the modernization and expansion of our domestic refinery capacity.

ALASKA PIPELINE

The Trans-Alaska Pipeline System can currently carry 1.2 million barrels per day. The ultimate design capacity is 2.0 million barrels per day, which would require installation of additional pump stations and other facilities. New field production capability and reserves can be developed to support longer term expansion of the pipeline capacity. Industry and government must work together to make this happen.

MEXICO AND CANADA

On the international front, we must recognize the need for and encourage, increased world oil production capacity and slow world oil demand. While we need to increase our energy independence, we must recognize that for a long time we will continue to be energy interdependent.

The United States is in a unique position to encourage Mexico's emergence as a major oil exporter. Because of the physical proximity of the two nations, the United States is Mexico's natural trading partner.

We should continue and enhance our cooperation with the Canadian government to develop mutually beneficial policies for development and transportation of the vast energy potential of arctic North America.

THE PROBLEM IN INSTITUTIONAL CONSTRAINTS

Nearly all of the initiatives which I have suggested depend to a great extent upon aggressive action by the American business community. Unfortunately, the climate of uncertainty, red tape, and delay, which has evolved in nearly all regulatory and licensing actions of Federal, State and local government, make business investments in energy-related undertakings even more tenuous and unlikely.

There are sound reasons for most, if not all, of the governmental involvements in the activities of the energy industries. Like it or not, energy is a vital resource—a virtual life-support system of our social and economic communities. In the current circumstances of exploding price increases and unreliable supplies, government at all levels, will become more—not less—concerned with energy industries. The public will demand it; that is certain.

What need not be certain is that governmental involvement in the energy business has to lead to uncertainty, red tape, and delay.

The public interest can be protected with timely decisions on licensing and ratemaking as well as—or better than—it can be protected by cumbersome procedures, indecision and endles inaction.

Public health and safety, consumer protection, and environmental management decisions are no more obscure and difficult than the fundamental considerations of economics and finance which are already inherent in major business undertakings. We simply must insist that Federal, State and local bodies which exercise regulatory functions make definitive decisions based upon explicit and predictable policies.

In the interest of broader public involvement, we have added to the administrative procedures surrounding regulatory decisions. Perhaps we have carried these procedures to an unworkable extreme. It is time to reexamine administrative procedural requirements, in the light of experience, to separate real contributions to the decision process from opportunities for meaningless debate.

It is time perhaps to review the statutes and regulations which underlie regulatory decisions, and to prune out some of the requirements for unreasonable data collection and repetitive procedures which, in turn, provide the grounds for endless judicial review once decisions have been made.

But the fault does not entirely lie with the procedures nor the objectors and intervenors. Careful analysis of a whole variety of regulatory programs will reveal that simply inaction and indecision on the part of the regulators is responsible for most of the delay.

Basic governmental policy cannot be reviewed anew each time a license application is considered. The fear of challenge or of judicial review is not an excuse for endless indecision. Government's responsibility to represent the public interest in business decisions is coupled with another responsibility—no less significant—to act promptly and decisively.

Business, I have found, can cope with problems. Governmental policies will not prove insurmountable to businessmen if there are constraints rather than prohibitions, and if they are explicit and reasonably consistent over time.

And that raises a final consideration. Of all of the obstacles to greater energy independence, our self-imposed policy constraints are—in theory at least—the easiest to overcome. I think the time has come to reexamine the practicality of some of the policy constraints which we have adopted.

Since 1970, we have evolved a set of national environmental goals which strive not only to avoid adding to the damages of the recent past, but to remedy the damages of the past century in the shortest practicable time.

Without the energy crisis, that was a heroic undertaking. With today's problems, it may be impossible.

We might as well face the fact that imported, low-sulphur petroleum has less impact upon the U.S. environment than any short-term alternative except conservation. As we strive to displace imported petroleum, we will have to accept environmental costs, at least for the short term.

I believe it is time to take another look at clear air regulations, for example, both for stationary sources and for the automobile. We should not reduce our ultimate goals, but we may have to postpone the schedules which our current goals imply.

We may have to wait for technology. We may simply not be able to afford to do without the alternative energy sources which are barred by extreme clean air standards. We may have to develop a whole new approach to automotive emission controls and postpone our clean air aspirations in the meantime. We may have to give more consideration to the anti-conservation aspects of current pollution control technologies.

I realize that environmental goals are important. They are sometimes a matter of life and death—for individuals and even societies. I was saying this before "environmentalists" knew they were "environmentalists".

But the international energy situation is also critical. There are considerations of human rights, health and safety, and outright survival implicit in solving our energy problems.

We had better get serious about it.

CONCLUSION

I am sure that many of you have disagreed with energy policies already established by Congress. Some of you undoubtedly disagree with some of the suggestions I have just outlined. Despite these disagreements, I believe that the Congress, the Administration, the energy industry, consumer and environmental groups, indeed all Americans, share a number of goals, including the ultimate goal of a strong, prosperous United States of America.

Let's identify our shared goals and our inevitable differences, and work out mutually-acceptable policies.

We need dialogue, not diatribe. We need reasoned responses, not knee-jerk reactions. Working togther we can find a way to achieve a strong economy, a healthy environment, and a secure and adequate energy supply.●

GOOD NEWS ABOUT ENERGY

● Mr. DURKIN. Mr. President, it is often said that our cheapest source of energy is energy efficiency and conservation. Just how true this is is documented in compelling detail by the Council on Environmental Quality's newly released study, "The Good News About Energy." At a time when energy shortages are again dominating our Nation's headlines, CEQ's analysis of the potential energy conservation savings this Nation can make without altering our standard of living is indeed good news. The CEQ shows that we could save 30 to 50 percent of the energy we now use in the transportation, housing and industrial sectors with economically sound improvements in energy efficiency. No source of energy looms on the horizon that is simultaneously so cheap, so labor intensive, so environmentally acceptable and so free of foreign domination.

Energy conservation has not been given the public attention and acceptance it deserves because people associate energy conservation with not doing something. This is a misconception. Energy conservation means energy efficiency. Energy conservation means doing the same thing with less energy input. Energy conservation means improving our energy productivity, wringing more useful space heat, industrial power, or transportation miles out of the same quantity of fuel.

I strongly recommend to my colleagues the CEQ's study on the potential impact of improved energy efficiency in the United States and I ask unanimous consent that the text of the executive summary be printed in the RECORD.

The summary follows:

THE GOOD NEWS ABOUT ENERGY

Like many others, the Council on Environmental Quality is concerned about the possible environmental impacts of continuing our historically high rates of energy growth. Projected to the turn of the century, these impacts could prove unacceptable to a major segment of the American people. Spurred by this concern, we undertook several months ago to investigate the potential for achieving lower energy growth in the United States and the implications of this low energy growth for the economy, the environment and government policy.

Our overall conclusion, described in detail in the following report, is that the United States can do well, indeed prosper, on much less energy than has been commonly supposed. The principal basis for this good news is the accumulating evidence that the means are available to wring far more consumer goods and services out of each unit of fuel that we use, whether it be a barrel of oil or a ton of coal or uranium.

The technology to increase greatly the *productivity* of the U.S. energy system is at hand. It is also economical. Improved housing construction can save the homeowner several dollars for every dollar judiciously invested in making the house more energy efficient. Automobile users can economically reduce fuel costs by 50 percent or more by selecting vehicles with more efficient designs. Waste heat recovery systems available to industry today can often provide a 30 to 50 percent per year return on investment.

Energy productivity, as discussed in the following report, thus refers to getting more from the energy we use, not to a back-to-the-caves reduction in amenities. It means more efficient and durable products and buildings: automobiles with higher fuel economy, household appliances with improved designs to reduce energy consumption, and buildings with substantial amounts of thermal insulation and more efficient heating and air conditioning systems. And it means placing greater emphasis by industry on the cogeneration of electricity and process steam, and on the development of new, more efficient industrial processes.

The studies cited in the report indicate that increases in the productive efficiency of energy possible with today's technology would allow the U.S. economy to operate on 30–40 percent less energy. As a result of this large potential for energy savings, we can fuel the growth of the economy in years ahead in large part by increasing the productivity of the energy we now use rather than by greatly increasing our energy inputs. Energy-wise, a barrel of oil saved through increased efficiency is as useful as a barrel produced, and in other respects it is better.

The recent studies that support these conclusions also point out that in the decades immediately ahead the Gross National Product is not likely to grow as rapidly as in the past, principally because of slowed population growth. A continuation of this trend means that our demand for the things that energy can provide will be growing at a reduced rate at the same time that our ability to provide those things with less energy is increasing.

Accordingly, if we take energy productivity seriously, we can have a healthy, expanding economy in the coming decades with energy growth far below that predicted only a few years ago. Then, and occasionally still today, simple extrapolations of historical energy growth "showed" that the U.S. would need to more than double its current energy consumption by the year 2000. Revised and more realistic estimates now indicate that with a moderate effort to improve energy productivity, our energy consumption in the year 2000 need not exceed current use by more than about 25 percent, and that with a determined effort it need not increase by more than about 10–15 percent. These estimates are obviously subject to uncertainties, but unforeseen developments seem far more likely to reduce energy growth than to increase it.

The feasibility of low energy growth is indeed good news, for it means that the tremendous difficulties posed by high energy growth to the environment and the economy can be largely avoided:

Instead of over 500 new coal and nuclear power plants, we can limit the number of new plants needed by the year 2000 to a fraction (perhaps 25 percent) of what would otherwise have been required, thereby greatly reducing projected pollution, radiation hazards, and land disrupted by surface and underground mining and transmission corridors;

Instead of deepening our dependence on foreign fuels, we can substantially cut our oil and gas imports from what they otherwise would have been, thus aiding our energy security and our balance of payments;

Instead of investing an ever increasing share of funds in new energy production facilities, we can adopt less costly conservation options, and in the process make capital available for more socially useful and job-producing investments; and

Instead of depleting our fossil fuels at an ever increasing rate and facing the possibility of chronic or acute shortages, we can conserve our resources for the future and buy the time needed for the introduction of preferable renewable energy alternatives.

Achieving low energy growth will not be easy or cheap, but it will be far easier and less costly than achieving high energy growth. In an age increasingly beset by all kinds of limits (resource, environmental, and social), conserving energy through improving fuel productivity is the single most effective means of easing our long-term environmental and energy problems. And it provides an essential link in the inevitable transition toward an economy based on renewable energy sources.

With the passage of the National Energy Act, a major stride has been taken toward the achievement of a sustainable energy future. NEA policies and programs, together with President Carter's decision to make conservation the cornerstone of national energy planning, mark an important turning point in our national effort to address the energy problem. But further efforts are necessary, both to carry out existing conservation measures and to augment them with additional initiatives. A strengthened national commitment, building on the progress of recent years, will be required to realize the many benefits of increased energy productivity and low energy growth. We must approach this task with an even greater intensity and determination than that we bring to our priority energy supply projects. In addition to individual action, the full range of federal, state, and local government initiatives is needed:

Energy should be priced accurately at its replacement cost (including the costs not traditionally considered—such as environmental and national security) and programs implemented to cushion the impact on low-income people;

Institutional barriers and market imperfections that inhibit cost-effective investments in energy conservation should be identified and removed; when this proves impossible, counterbalancing measures should be developed;

Mandatory requirements should be adopted where necessary to ensure further but still economiclly sensible energy efficiency improvements, for example, in new autos, buildings and appliances;

Support should continue for basic research and development for more productive and efficient designs and processes for use in all sectors of the economy; and

Leadership and public education, essential to the success of energy conservation programs, should be provided.

In sum, with a determined national effort to increase energy productivity—an effort supported by an informed public and driven by vigorous conservation policies at the federal, state and local levels and by the expected energy price increases—total U.S. energy use need not increase greatly between now and the end of the century, perhaps by no more than 10–15 percent. Such an effort is well worth the cost, for the cheapest, cleanest and least vulnerable energy option for the United States today is to use more of the large portion of our energy that is now lost through inefficient use. The resulting investment in increased energy efficiency will yield a higher return on investment and will have a more positive effect on GNP and employment than most supply expansion options.

The conclusion that the United States can maintain a healthy economy without massive increases in energy means that we can choose an energy future which greatly reduce the international, environmental and social risks the Nation must face in the 1980s, 1990s and beyond. An important point is that everyone can contribute to the achievement of this goal. Indeed, it will only be through countless decisions made by individual citizens that the many benefits of the wise use of our energy resources will ultimately be secured.●

THE PLIGHT OF THE CANADIAN HARP SEAL

● **Mr. WILLIAMS.** Mr. President, this week a gruesome annual ritual begins on the ice flows off the eastern coast of Canada. Up to 180,000 harp seals, most of them only a few days old, will be slaughtered during this spring's hunt. Their fine, white fur will be fashioned into trinkets for tourists and trim for clothes. Disregarding international opposition to this senseless destruction, the Canadian Government continues to allow, and indeed, support the seal hunt.

The hunt's defenders maintain that it is humane and consistent with sound conservation practices. However, noted scientists, veterinarians, and international conservation organizations disagree.

Dr. William Jordan, a veterinarian who observed the 1978 hunt for Great Britain's Royal Society for the Prevention of Cruelty to Animals, found that clubbing of the seals did not always bring instantaneous and painless death as the Canadian Government claims. In fact, the skulls of over half of the just-killed seal pups he examined had not been fractured before the seals were skinned. Instead, some of these pups had been struck on the side of the head, on the nose, or in the eye, raising the possibility that they were still conscious when they were skinned. He found that repeated blows were often necessary to fracture the skull. Since the sealers worked alone, clubbing and immediately skinning the pups, there was no way for government officials to enforce their regulations requiring humane killing.

Dr. D. M. Lavigne, a profession of zoology at the University of Guelph, Ontario, has done considerable research into the population dynamics of the harp seal and authored a number of scholarly articles on the subject. He has found that while the harp seal is not immediately endangered, it has undergone a marked decline in population and is susceptible to overexploitation. In a 1977 paper, he noted that:

> There is reason for concern about the future welfare of the harp seal in the Western Atlantic. The current management policy does involve certain risks which are not consistent with a conservative management philosophy.

Last year, the International Union for the Conservation of Nature and Natural Resources (IUCN) found that the 1978 quota of 180,000 seals conflicted with the best available data on the harp seal population. The IUCN recommended that:

> If this year's (1978) hunt cannot be called off or delayed, then the 1978 quota of 180,000 should be reduced to bring it into line with the best available scientific findings, and the 1979 hunt should be postponed or cancelled.

People around the world have joined in protesting the harp seal hunt. For them, it symbolizes man's wanton destruction of his environment and his fellow creatures. Despite an extensive public relations campaign by the Canadian Government, there are encouraging signs that the protest is having an impact. Italy has banned the importation of seal products, and the Netherlands is expected to follow.

In the United States, the importation of harp seal products has been banned since 1972. Under the Marine Mammal Protection Act, which I sponsored, no marine mammal under 8 months of age may be killed by an American citizen and no products from such animals may be imported into this country.

In 1977, both the Senate and the House passed a concurrent resolution urging the Canadian Government to reassess its policy of permitting the harp seal hunt. This resolution remains in effect and has put the Congress on record in opposition to the hunt. As a sponsor of the resolution, I wish to reiterate my support for it and my continuing hope that Canada will bring this destructive hunt to an end.

Mr. President, Brian Davies, the executive director of the International Fund for Animal Welfare, and Eliot Porter, a wildlife photographer, have recently collaborated on a book called "Seal Song." It is filled with touching photographs of the harp seal and its habitat. Ray Bradbury has written a thought-provoking preface for the book which I would like to share with my colleagues. Therefore, I ask that Mr. Bradbury's poem be printed in the RECORD.

The preface follows:

PREFACE

(By Ray Bradbury)

Of Shoes and Ships and Sealing-Wax of Harp Seals in the Spring

I would hate to be the captain of a space expedition landing on a strange world confronted by strange creatures.

I would hate to be the governor of a state making decisions about similar creatures in my own environment.

I would hate to be President of the United States pleading with other countries to understand our concerns about some warm-blooded animals with whom we share the world.

I would hate to play the Pope's part in such an antagonistic world.

I would hate to be God, pointing here and saying: Procreate. Pointing there and saying: Leave the room. Forever.

These thoughts crowd in upon me as I leaf through the book and look at the photographs that you hold in your hands.

If you will permit me random thoughts before I stumble into my inconclusions.

I have often wondered what we might do if, landing upon a far planet, we were confronted with a race of giant spiders, whose architectures of web spanned hundreds of yards instead of measurement of feet and inches. Would we, if we could, invent a very largish boot and step on them?

If, here on Earth, tomorrow, someone said that the black widow was an endangered species, would we care, would we weep, would we move to save?

I ask these questions in no frivolous mood.

These are difficult times, but then they have always been difficult times. We are stuck with an incredible age when we can do everything and because we can do it we must. By everything I mean everthing worth doing, everything that, one would hope, we all value. We can give priority to a rainbow of excursions with ideas and outcroppings of those ideas into a real world and the world waiting beyond in the sky.

Which means we can build thresholds on the Moon and Mars and at the same time clean the ice packs of blood for a time and let certain creatures alone for a while and gently pressure the better selves hidden in many men who live in and out of cruel weathers to take some few summers off before picking up the bludgeon again.

I suppose if we carried this pressure far enough, we would knock the sledgehammers out of "ox-killers' hands" in butcher factories and revert to herbivorousness. But the cow is threatened only personally and not as a diminishing race.

So we go with puzzlement and paradox, confused feelings, delayed priorities, other people's necessities, clean and unclean consciences.

Finally, all that I really know is the signal that flashes from the eyes of the creatures within this book. Something of my soul fires itself in that gaze, deny it as I might. And whether it is romantic and fallacious and oversentimental beyond sentiment, I must respond.

In some far part of the Universe, ten thousand years from this noon, we may well confront creatures more vital, more intelligent than ourselves, who will read in our eyes, one hopes, a similar signal. What we want at that moment is recognition. Acceptance. A welcoming in to some universal sill.

And, once in, we would also hope, there is no killing club behind the door.

That about says it. The world, the sea, the land, the sky, the worlds beyond our world, the Universe itself, are filled with miracles both small and large. I stand in terror of some of it, in awe of all of it.

These are not nephews or cousins in this book. But somewhere far back down the line, our hearts and blood moved much the same. Some old racial memory lost in me remembers this. It is hard for me to look and not read the bright signals. I hear that old heartbeat from a million-plus years ago.

Their family, my family, our family, are here gazing at one another in this book. I cannot refuse the stare that asks great questions that must be answered. I cannot turn away.●

ON BEHALF OF PRESIDENT CARTER

● Mr. CHURCH. Mr. President, with breathless anticipation, the entire world watched as President Carter embarked on his courageous mission of peace to the Middle East. Seizing upon every announcement, we have waited anxiously for that magical breakthrough; but the increasingly gloomy reports served only to confirm the deeply-rooted suspicion that the hopes of the people of Egypt and Israel would be dashed again. Yet the President perserved with unrelenting determination until the elusive finally became the imminent. Today, the people of Israel and Egypt stand at the crossroads to a future of peace, freed at last from the ravages of war.

President Carter's efforts must surely be recognized as one of the boldest in the history of modern diplomacy. The President, undaunted by seemingly insurmountable obstacles and unwilling to accept failure, has truly earned our heartfelt gratitude.

Of course, we are all aware that a treaty has not been signed yet. I have just heard that the Israel Cabinet overwhelmingly approved the new proposals submitted to them yesterday. The cabinet must still vote on the entire treaty to be followed by consideration in the Israel Knesset. This process admittedly allows for uncertainties but it is an inherent part of the democratic system of Israel. I have every expectation that after careful deliberation the Israel Government will fully support the recommendations of its Prime Minister.

I congratulate both President Sadat and Prime Minister Begin for their vision in rising above the politics of the past and present. Truly, they have felt the weight of history and their responsibility to the future. The opportunity of peace attended them and, as true statesmen, they rose to the occasion.

The requirements of peace, should it come, will be considerable. We must be sensitive to Egypt's particular development needs that will help raise the standard of living of her people. In short, the United States and other industrial nations must be prepared to invest generously in the furtherance of peace. Let us all help in the building of a solid foundation of peace, that cannot be eroded by changes in the political leadership down the line. A peace agreement between Egypt and Israel represents a beginning—not an end—to the establishment of stability throughout the Middle East. In such a cooperative endeavor, we should reach out to Japan, our West European allies, and to the moderate regimes of the Middle East.●

U.S. POSTAL SERVICE TIGHTENS ITS ENERGY BELT

● Mr. JACKSON. Mr. President, lavish praise for actions taken by the Postal Service is neither popular nor common practice, but clearly, present actions undertaken by that agency deserve both praise and recognition. I would like to direct my colleagues attention to an article I read by Postmaster William Bolger in the Postal Leader describing their determined efforts to reduce their energy consumption. In view of the precarious energy situation we are currently facing, we would do well to adhere to the Postal Service's plan or we all could be left out in the cold.

The article is as follows:

LET'S MAINTAIN OUR JUMP ON THE ENERGY CRUNCH

As conditions in the Middle East once again are forcing Americans to tighten their energy belts, it's important for us in the Postal Service to reexamine our conservation efforts.

Since the 1973 oil embargo, we have taken a number of major steps to reduce our use of fuel. For example, the average use of fuel per vehicle has dropped from 927 gallons in 1973 to 814 in 1975 and 762.8 in fiscal 1978. Our goal has been to reduce energy consumption in our facilities by at least 20% between 1975 and 1985, and we're well along that path. Our latest figures show that we were nearly 12% below our 1975 fuel consumption level in facilities, primarily because of more efficient building management.

We have also begun a major program to improve the energy conservation characteristics of our buildings. During Phase I of the program, we studied the 100 largest facilities to determine possible construction modifications to make the buildings more energy efficient. Improvements like "watt-miser" lighting and better temperature control systems are now being installed.

During Phase II of the program, the next 260 largest facilities are being surveyed. The criteria we use is that the cost of the changes must be offset by the energy savings. Eventually every post office will undergo a similar survey.

In addition to taking advantage of improvements in traditional energy systems, we're also testing the use of solar power in our facilities. We currently have three operating solar heated and cooled facilities, and four more are being designed.

Solar technology is still pretty much experimental, but it's important that we are committed to participating in efforts to learn how we can harness this inexhaustible power supply.

We're also exploring ways to improve the fuel efficiency of postal vehicles, This is a difficult task, given the nature of most postal vehicle use, but any improvement we can make will result in considerable savings since our fleet is so large.

One important step we've taken is ordering 4-cylinder instead of 6-cylinder engines for the quartertons in our current purchase. This will put approximately 9,000 of the more fuel efficient models on the road by the end of this year.

In addition, to determine which vehicles are more economical, we'll replace 200 quarter-ton jeeps with compact and sub-compact cars in 10 post offices this spring.

Also on the drawing board for spring is a nationwide study of the movement, operation and fuel consumption of postal vehicles. Tachographs will be installed in all postal vehicles to provide information on the number of miles driven, idling time, driving speed, starts and stops, and even the operator's driving habits.

Many police forces and trucking companies use tachographs and are learning a great deal from them. They can identify energy-wasting driving habits, such as jackrabbit starts, and help pinpoint engine malfunctions which cause excessive fuel consumption.

Now we get to the real question: What can we, as individual postmasters, supervisors and managers do to help ease the energy crunch?

The solution is as simple as flipping a switch. If you and your employees get in the habit of turning off equipment and lights which are not being used, you've begun to do your part.

If you keep temperatures within recommended energy-saving guidelines, you're doing even better. In heating seasons, set your thermostat at 65° F during working hours and lower it to 55° during non-work periods. In warmer weather, keep interior temperatures no lower than 80° in offices and 78° in work areas.

Check your facilities for sources of air transfer, such as uncaulked windows or open doors, to avoid excessive loss of warm or cool air.

Finally, if you can convince your employees to operate their postal and personal vehicles in an energy-conscious manner, remembering not to idle for long periods, and to accelerate gently and maintain driving speeds lower than 50 miles per hour, we'll really make some progress.

No matter how much the Postal Service does or spends to meet the energy crunch, the real responsibility ultimately falls back on you and your employees.

We can weatherstrip the daylights out of doorways, but if someone leaves them open, we'll all be left out in the cold.●

LITHUANIANS REACH CHICAGO

● Mr. STEVENSON. Mr. President, after more than 40 years, John Jodwalis and his sister, Lorraine Jodwalis Vaicekauskas, were reunited with their family in Chicago last month. The Jodwalises, who were born in Chicago, were taken to Lithuania by their mother during the depression. The war, Soviet takeover of Lithuania, and subsequent Soviet restrictions prevented their return to America. Nonetheless, their sister, Bertha Jodwalis, a Chicago nun, persevered for years in her efforts to get them back to the United States. I and many others long attempted to persuade the Soviet authorities to permit their emigration. Most recently, during my trip to the Soviet Union in November, I included the Jodwalises on a list of cases of special interest to the people of Illinois.

Now, happily, they and most of their immediate families are in the United States. I welcome them and wish them good luck and good fortune as they take up their lives again in the land of their birth.

The Chicago newspapers provided excellent coverage of the welcome the Jodwalises received on their arrival. I ask that the following three articles from the Chicago Tribune and the Chicago Sun-Times be printed in the RECORD.

The articles follow:

[From the Sunday Sun-Times, Feb. 18, 1979]

SOVIETS RELEASE MAN, SISTER FROM LITHUANIA

(By Gilbert Jimenez)

John Jodwalis and his sister, Lorraine Vaicekauskas, returned home to Chicago late Saturday.

The native Chicagoans had been in Lithuania 49 years—imprisoned for a time and denied permission by the Soviets to return to the United States.

They and their families were met at O'Hare Airport by friends and relatives, many of whom had written and prayed for their release for years.

Jodwalis, 55, his wife, Valeria, and two of their three children, 12-year-old Kestutis and Diane, 18, were allowed to leave Lithuania. But another of Jodwalis' sisters, also named Diane, and his eldest son, Gediminas, 27, could not leave because they had been married there.

Lorraine Vaicekauskas, her husband, Paul, and their daughters, Lorraine, 19, and Aurelia, 13, also were permitted to return home.

"I feel joy, and somehow a sadness in coming home, the sadness of coming back to the city where I once lived," Mrs. Vaicekauskas said.

Tired from the trip, which took three days because of Soviet red tape, Aurelia Vaicekauskas said she looked forward to a choice of jobs and schools.

During a visit to Lithuania in 1930, John Jodwalis and his sister, Lorraine; their mother, Mary; two brothers, and a sister weren't able to go home. Under the subsequent Nazi and Communist regimes there, they were denied permission to leave, even though they were American citizens.

But Hubert, Edward and Lucille Jodwalis escaped and returned to Chicago, enrolling in school here.

The father, John Jodwalis Sr., and another daughter, Bertha, frequently wrote to Moscow seeking the family's release. But the Soviets withheld permission.

After John Jr. refused to be inducted into the Russian Army during World War II, he and his sister were sentenced to life imprisonment at the Vorkuta gold mines. Eleven years later, Nikita Khrushchev pardoned the siblings, but he refused to allow the family to leave the country.

Mrs. Jodwalis died in Lithuania in 1958 and her husband died here in 1952.

Bertha Jodwalis, now a Roman Catholic nun and nurse, continued to petition Moscow to release her brother and sister and their families.

[From the Chicago Tribune, Feb. 18, 1979]

"WE SURVIVED!" REDS FREE FAMILY

(By Eileen Ogintz)

NEW YORK CITY.—They couldn't stop crying and laughing and talking and hugging each other.

"At last, I don't have to worry about them any more," Sister Bertha Jodwalis said softly. She was not willing, even for a moment, to let go of her brother John and her sister Lorraine Vaicekauskas, who had just walked through customs at New York's Kennedy International Airport.

This was no ordinary family reunion. It had taken more than 30 years and hundreds of letters to senators, congressmen, newspapers, and the U.S. Department of State to bring Jodwalis, his wife, and two children, and Mrs. Vaicekauskas, her husband, and two children back from Lithuania.

Finally, after a plea made late last year by Secretary of State Cyrus Vance to Soviet Premier Leonid Brezhnev, exit visas for the family were granted. "The Department of State is fantastic," said a jubilant Mary Rudis, president of the Lithuanian Relief Fund of America, who was also instrumental in bringing the family home.

"Today our dream has been fulfilled," said Mrs. Vaicekauskas, wiping tears from her eyes. "Once more we can rest with our own."

Jodwalis, 52, and Mrs. Vaicekauskas, 54, are American citizens and Chicago natives. But until last week Soviet authorities would not permit them to leave Lithuania.

The brother and sister had served 11 years hard labor in a notorious Siberian work camp. They and their families had been ostracized and discriminated against—because they refused to join the Communist Party and continued to plead for permission to leave.

"At last our 30 years of battle are over. We've survived everything. Today is our victory day," said John Jodwalis, looking very tired but very happy.

"I'm numb with joy," said Sister Bertha, a member of the sisters of St. Casimir in Chicago, and a nurse at Loretto Hospital. "It had always seemed so hopeless.

The 62-year old nun was only 13 when she said goodbye to her mother, brothers John, 4, Edward, 6, and Hubert, 7, and sisters Lucille, 12, and Lorraine, 5, who left Chicago to visit relatives in Lithuania. Bertha, about to enter a convent, remained behind with their father.

"They were just going for a visit, but I never saw my mother again," she said. She explained that the family remained in Lithuania because of the Depression in the United States.

Eventually, the three oldest children, Edward, Lucille, and Hubert, returned to Chicago to attend high school. But Mrs. Jodwalis, John, Lorraine, and Diane—born shortly after their arrival in Lithuania—stayed too long and were trapped in Lithuania by World War II.

In 1941, the Russians drove the Germans out and later annexed Lithuania. And three years later, when John Jodwalis turned 18, he was drafted into the Soviet army. But he refused to go, arguing that he was an American.

Soviet authorities didn't see things his way, and banished him and Lorraine to Siberia. Eleven years later, their cases were reviewed, they were found innocent, and freed—but only after they agreed to accept Soviet internal passport and identification.

The two Americans had become Soviets. And this dual citizenship frustrated all attempts until now to have them repatriated. Efforts to get them out were started more than 30 years ago by their father, and continued after his death by their family here—Bertha in Chicago, Lucille Jodwalis Ferrente in Massachusetts, Edward Jodwalis in Florida, and Hubert Jodwalis in Alaska.

"They always had so much hope. I was determined to get them out," Sister Bertha said.

"I just never gave up."

The reunion was tinged with sadness, however, because two family members were left behind. Diane, now 48, remained in Lithuania with her husband and family, as did John Jodwalis' oldest son, Gediminas, 23.

But, the rest of the group, John and Valeria Jodwalis, their daughter Diane, 18, and son, Kestutis, 12, and Lorraine and Paul Vaicekauskas, and daughters Lorraine, 19, and Aurelia, 13, couldn't wait to get to Chicago and their new lives.

"We're ready to start over again," Mrs. Vaicekauskas said firmly. "We want America to be proud of us."

[From the Chicago Tribune, Feb. 20, 1979]

LITHUANIANS' FLIGHT TO FREEDOM ENDS

(By Jeff Lyon)

In the kitchen, where the table was covered with cakes, cheese, and cognac, the eight newcomers sat against the wall and traced the scene of plenty with their eyes.

They seemed afraid the sight might vanish, like people looking through coin telescopes who hear the timer ticking and grow frantic that their minute's up.

Sister Bertha Jodwalis cleared her throat. "Here, eat," she commanded, and the two Lithuanian families, that of her brother, John, and of her sister, Lorraine, relaxed and began to fill their plates.

The contrast in their faces was remarkable. Sister Bertha's, beneath the top of her nun's habit, was smooth and had a healthy tone, showing little of her 62 years.

But she had spent her life in America.

Her brother and sister, on the other hand, although American citizens born in Chicago, had been trapped in Lithuania at the outbreak of World War II and spent lifetimes of incredible suffering at the hands of the Russians.

You could read a biography of that suffering in their faces, and in those of their mates. All four adults, although 10 years younger than Sister Bertha, looked far older. Their skin was pale and etched with lines and wrinkles, and dark circles underscored their eyes.

For more than 30 years they waited, while the patient nun from Chicago labored to get them out of the Soviet Union. And last weekend it finally happened.

Now, still disbelieving, John and Valeria Jodwalis, and Paul and Lorraine Vaicekauskas sat in an American kitchen on South Rockwell Street in Chicago and said a silent prayer of thanks.

Then, mostly so the world would not forget, they began to talk about the cruelty of their lives. Their four children, too young to remember the full horror, drifted away to the living room.

They had been teen-agers in 1945, when Stalin made them part of his plan to exile Lithuanians en masse to Siberia.

They were sent to Vorkuta, a slave labor camp in the tundra of eastern Russia, thousands of miles from Lithuania. Each of them was under a sentence of banishment.

John Jodwalis, who had been beaten viciously until he renounced his American citizenship and was then convicted of trumped-up charges of subversion, was to spend 11 years in Vorkuta.

He was assigned to railroad construction in the Ural Mountains. Men and women would dig, using only shovels and wheelbarrows, in temperatures that reached 60 degrees below zero. The shovels would barely dent the frozen ground, but each laborer was required to dig 12 tons of dirt a day. They were to fill 12 wagons, each holding a ton of soil.

"Our food was one slice of black bread per day and a bowl of watery soup filled with fish heads and fish entrails to give it flavor," Jodwalis said

Thousands died of starvation or frostbite and were tossed into mass graves. Women deliberately cut off their fingers so they wouldn't have to work anymore. If someone missed his work quota, he was beaten.

"If you complained too much, they'd put you into solitary confinement," Jodwalis said. "You had to do everything to avoid it, it was so terrible. They'd put you into a foxhole gouged into the ground and for two days you were there, with no food at all. Four times I went through that. I don't know how I lived. Most people didn't. If you did live, they sent you right back to work, without letting you warm up."

Paul Vaicekauskas was in Vorkuta eight years, digging tunnels. His job was to load stones, and his quota was 19 tons a day.

His crime? He had been a seminary student, and they found him "guilty" of spreading religious propaganda.

Lorraine and Valeria, who were to meet their husbands in Vorkuta, worked first at roadbuilding and later in sewing sweatshops, where women became so faint from hunger they collapsed.

They were guilty of no crimes. Just being Lithuanian was enough.

Conditions were cruel. "You slept on wooden shelves, one on top of the other, on mattresses of wood shavings," recalled Lorraine. "It was so cold you slept in your clothes while bedbugs and lice ate you alive. Once every 10 days the kareivial, the guards, let us melt some snow so we could wash. They would put a drop of soap on your finger to wash your whole body and your hair with."

Their nightmare in the labor camps ended with Stalin's death, and they were allowed, after a time, to return to Lithuania. But in the intervening years, the oppression has only grown subtler. Life is still unremittingly harsh for captive Lithuanians.

Moscow has been waging a "Russification" program, flooding the once-independent Baltic nation with Russians in an attempt to dilute the population.

"They've built dozens of factories in the countryside and staffed them entirely with Russians they've brought in," Paul said. "All the banks are staffed with Russians. Only Russians may hold administrative jobs in Lithuania. The result is we estimate the population now is only 30 per cent Lithuanian."

They have tried, with only mild success, to force the Lithuanians to speak Russian.

Professionals are mistrusted. A civil engineer like Paul was making up to 100 rubles a month less than John, who was a laborer in a tool and die factory. Neither of them was doing well, however.

Paul made 190 rubles a month. Forty rubles went for rent. The rest went for food. If someone wanted a pair of shoes—45 rubles—it came out of the food budget. That meant they ate hearts and lungs instead of other meat cuts that month. But since meat is scarce—most of Lithuania's agricultural bounty is drained off to Russia—it wasn't missed that much.

Families of less than seven must live in two-room apartments. In most apartment buildings, six families share a kitchen, and appointments must be made to cook food. Bathrooms are shared.

If families in the U.S. want to send gifts, the import duty is prohibitive. The duty on a $25 pants suit is $45; the duty on a $15 pair of blue jeans is $30. Job choice is nonexistent. A Lithuanian must take the job he's assigned. If a Russian wants to take his job, the Lithuanian is out.

As the newcomers sat in the kitchen and told their story, they began to gain some distance on the suffering in their lives. It was as if a catharsis were occurring.

And very slowly, the coin telescope look in their eyes seemed to be ebbing.●

VOYAGER MISSION—A TRIUMPH OF U.S. SCIENCE AND TECHNOLOGY

Mr. STEVENSON. Mr. President, since we often dwell on negative aspects of the American scene, it is a pleasure to comment on a positive achievement. The successful encounter of Voyager I at Jupiter provided us with the first detailed views of the planet's turbulent atmosphere and its moons. On Monday, while witnessing the first pictures of Io and the complex motions around Jovian Red Spot, one could only marvel at the ingenuity and technology that carried these scenes more than 400 million miles. We should take pride in this scientific and technological success.

Two Voyager spacecraft were launched toward Jupiter about 18 months ago. Voyager I has reached its first objective. Voyager II will arrive at Jupiter in July, providing different views of the planet and its satellites. Using the enormous mass of Jupiter as a celestial slingshot, the two spacecraft will travel on toward Saturn to explore its rings and the nearly Earth-sized satellite, Titan, 1980 and 1981. There is the further possibility that Voyager II will be directed toward a 1986 encounter with Uranus, some 2,000 million miles from Earth.

This week the pictures of Io showed us a place unlike anything ever seen. It resembled neither our Moon nor the planet Mars, and it propounded new questions for physicists to answer in order to explain the strange physical processes at work there. These investigations will contribute to many disciplines of scientific study.

The Voyager missions inexorably will discover one new world after another, 15 in all. Exploration of the solar system conducted by the National Aeronautics and Space Administration, in cooperation with scientists from the United States and other nations, continues to be one of this country's most successful and rewarding endeavors.

We should congratulate the team of scientists, engineers, technicians, and staff that is conducting the Voyager mission. The work of NASA's Jet Propulsion Laboratory deserves special commendation. The collaborative effort of Government, the university community, and private industry offers a striking example of what this country can achieve when it marshals its intellectual and material resources in quest of a challenging objective.

Mr. President, the decision to visit the outer planets of Jupiter, Saturn, and Uranus was made a decade ago. Our concern today should be whether we have comparable vision. The Space Shuttle will open for the United States a new era of scientific and technological opportunities. Passage this year of S. 244, the Space Policy Act of 1979, will insure that these opportunities are not to be squandered.

Mr. President, I ask that a description of the Voyager mission prepared by NASA be printed in the RECORD.

The material follows:

VOYAGER 1 EXAMINES JUPITER

NASA's Voyager 1 will conduct the most detailed scientific examination ever made of Jupiter, five of its major satellites and the violent environment of the Jovian domain during the first week of March.

After 18 months of flight, the instrument-laden spacecraft will make its closest approach to the Solar System's largest planet on March 5, taking pictures and making measurements.

The spacecraft crossed the orbit of Sinope, the most distant of Jupiter's 13 moons on Feb. 10 and will spend more than six weeks swinging through the Jovian system en route to the ringed planet Saturn and its retinue of moons.

Only four months behind is Voyager 2, an identical spacecraft bound for a close encounter with Jupiter on July 9. Voyager 2 also will go to Saturn and may continue on to Uranus.

The two-spacecraft expedition could span a decade and is expected to produce a wealth of new information on as many as 15 major bodies of the outer Solar System.

Many scientists believe that the giant outer planets may hold secrets to the origin of the Solar System, that they have changed little since their formation, and that their hydrogen-rich atmospheres may be similar to Earth's atmosphere in its geologic past. Voyager data thus may shed new light on the early history of the Solar System and on the origin of our own planet.

Voyager 2 was launched first, (Aug 20, 1977) from Cape Canaveral, Fla., aboard a Titan Centaur rocket. On Sept. 5, Voyager 1 was boosted onto a faster, shorter trajectory, overtaking and passing its sister spacecraft before the end of the year. At Saturn encounter, Voyager 1 will be about nine months ahead.

Using Jupiter's enormous gravity, the trajectories will be bent and the Voyagers accelerated for the Saturn leg of the mission. Voyager 1 will arrive at Saturn in November 1980 and Voyager 2 in August 1981. An option exists to change the Voyager 2 trajectory at Saturn for a January 1986 Uranus encounter.

After completing their planetary missions, both spacecraft will search for the outer limit of the solar wind, that boundary somewhere in our part of the Milky Way where the influence of the Sun gives way to the other stars of the galaxy.

Each Voyager uses 10 scientific instruments and its spacecraft radio system to study the planets, their principal satellites, Saturn's rings, the magnetic and radiation regions surrounding the planets and the interplanetary medium.

The Voyagers carry telescope-equipped, slow-scan TV cameras; cosmic ray detectors; infrared spectrometer-radiometers; low-energy, charged-particle detectors; magnetometers; photopolarimeters; planetary radio astronomy receivers; plasma detectors; plasma wave instruments and ultraviolet spectrometers.

More than 80 scientists make up the Voyager science investigation teams.

The television investigation will result in as many as 50,000 pictures of Jupiter, Saturn, Saturn's rings, 11 of their moons and open space near the planets in a search for new Jovian and Saturnian satellites. Uranus, its newly-discovered ring system and one or more moons also may become targets for the Voyager 2 cameras.

The other Voyager instruments will study the planetary and satellite atmospheres and ionosphere; the magnetospheres of Jupiter and Saturn and the relationships between these regions and the solar wind that streams from the Sun through interplanetary space; and radio signals from Jupiter which, after the Sun, emit the strongest radio noise in our sky. Other objectives include all-sky surveys of interplanetary space and the measurement of cosmic rays which invade the Solar System from other regions of the galaxy.

Measurements of Voyager's radio communications waves will provide information on the gravitational fields and atmospheres of the planets and their satellites, the rings of Saturn, the solar corona and general relativity.

Until recently, our knowledge of Jupiter and Saturn was only rudimentary. Ground-based studies by optical, infrared and radio astronomy have defined the most basic properties of Jupiter and Saturn and their satellites and hinted at the unique scientific potential of these systems. Even less is known about Uranus and its environs.

In 1973 and 1974, Pioneer 10 and Pioneer 11 made reconaissance flights to Jupiter. As the spacecraft sped past Jupiter, their instruments began to reveal the complexity of its atmosphere and the extent and strength of the Jovian magnetosphere.

(Both spacecraft are still operating. Pioneer 11 will fly close by Saturn in September this year.) Building on the Pioneer experience, Voyager is the next step in the exploration of the Jovian and Saturnian systems.

Jupiter and Saturn are by far the largest planets and together account for more than two-thirds of all the moons in the Solar System. Jupiter's diameter is 11 times that of Earth and the planet contains more matter than all of the other planets and moons combined. With 13 known moons, four of them the size of small planets, Jupiter is a kind of miniature Solar System. Saturn has 10 satellites and a spectacular ring system which appears to be made up of tiny pieces of ice and snow.

Both planets are giant gaseous and liquid balls, composed mostly of hydrogen and helium, with no apparent solid surfaces. They have their own internal energy sources, radiating more energy than they receive from the Sun. Their atmospheres are driven by the same forces that act on Earth's atmosphere, but on a much larger scale. Major cyclones, like the Great Red Spot on Jupiter, are thousands of miles across and persist for decades and even centuries.

Jupiter has a powerful magnetic field and is surrounded by radiation belts similar to the Van Allen belts around Earth, but thousands of times more intense.

The vast, rapidly spinning magnetosphere makes Jupiter a major source of several types of radio radiation.

The four largest satellites of Jupiter—Io, Europa, Ganymede and Callisto—provide a varying and fascinating microcosm of unique world. Some are believed composed largely of rock, some largely ice and water. Their surfaces may range from lunar-like cratered plains, to salt-covered beds of extinct seas, to exotic landforms created of ice and mud. Totally unfamiliar geologic forms are expected.

Most of Saturn's satellites apparently are composed mainly of ice. Titan, (Saturn's moon), has, in addition, a relatively extensive atmosphere. Scientists expect that organic molecules are being created today in Titan's atmosphere.

The spectacular rings that encircle Saturn are not well understood; they may be the remains of a satellite that came too close and was crushed by the strong tidal forces of the planet; or they may be remnants of material from the birth of the Solar System that never coalesced to form a moon.

Jupiter orbits the Sun at a distance of 778 million kilometers (483 million miles). One Jupiter year equals 11.86 Earth years. Jupiter's day is 9 hours, 55 minutes long.

Saturn orbits at 1.42 billion km (883 million mi.). It completes one orbit every 29.46 Earth years. A day on Saturn is 10 hours, 14 minutes long. The widest visible ring has a radius of about 137,000 km (84,500 mi.) at its outside and width of about 26,000 km (16,000 mi.).

Voyager scientific operations began shortly after launch with observations of the Earth and Moon. Fields and particles measurements have been made almost constantly during the long cruise.

The Jupiter reconnaissance spans nearly eight months during 1979—from early January until August.

Voyager 1 began its "observatory" phase on Jan. 4, 1979, studying large-scale atmospheric processes on Jupiter and phenomena associated with the relationship between Jupiter's magnetosphere and the large inner moons.

Voyager 1 makes its closest approach to Jupiter at 4:42 a.m., PST[*] on March 5 at a distance of about 278,000 km (172,750 mi.) from the visible cloud tops. Activity will reach a peak during the "near encounter" phase, a 39-hour period surrounding closest approach.

The spacecraft instruments will continue studying the Jupiter system until early April.

Planetary operations for Voyager 2 will begin in late April and continue through early August. Closest approach to Jupiter—this time at an altitude of about 644,000 km (400,000 mi.)—will occur shortly after 4 p.m. PDT July 9.

The trajectory for each spacecraft is unique and was designed for specific observations at both Jupiter and Saturn. Voyager 1 will fly past Jupiter just south of the equator, while the second spacecraft makes its Jupiter pass deep in the southern hemisphere.

Although Voyager 1's encounters with Jupiter's inner moons occur after the spacecraft swings past the planet, Voyager 1 began photographing them two weeks earlier—Callisto Feb. 18, Ganymede Feb. 25, Europa March 1, Io March 2 and tiny Amalthea (the closest to Jupiter) March 4.

Voyager 1 flies to within 19,000 km (11,800 mi.) of Io at 7:51 a.m. PST on March 5; Ganymede 112,000 km (69,600 mi.) at 6:53 p.m., March 5; and Callisto, 124,000 km (77,000 mi.) at 9:47 a.m. on March 6. The closest Voyager 1 will come to Europa will be 732,000 km (455,000 mi.) at 9:56 a.m. March 5.

The Voyager 1 close passage at Io was designed to send the spacecraft through the so-called Io flux tube, a magnetic link between Io and Jupiter. The flux is a cylindrical zone where charged particles spiral along the Jovian magnetic lines of force as they pass through Io. Voyager 1 will spend about five minutes in the flux tube under the south pole of the satellite.

Another Io phenomenon to be examined by Voyager 1's instruments is a cloud of sodium vapor surrounding the satellite. Because Io's surface is believed to be a source of sodium, the cloud may be generated by intense radiation bombardment of the surface material.

The Voyager 1 trajectory also carries the spacecraft behind Jupiter, relative to Earth and the Sun. As Earth disappears behind Jupiter, then emerges after two hours of occultation, the changes in the signal characteristics of the spacecraft radio link with Earth will give information about the vertical structure of the atmosphere, ionosphere and clouds. As the Sun is occulted by Jupiter, the ultraviolet spectrometer tracks the limb of the planet observing similar scattering effects on sunlight as it penetrates the atmosphere. The Earth occultation experiment begins at 8:14 a.m. PST March 5, and continues until 10:20 a.m.

Sun occultation extends from 9:07 a.m. to 11:24 a.m.

At Saturn, in late 1980, Voyager 1 will conduct Sun and Earth occultation experiments with the planet, the moon Titan and Saturn's rings. If Voyager 2 goes on to Uranus, occultations may be possible with the planet and its rings.

Voyager 2 will fly past Jupiter's satellites on the inbound passage as follows: Callisto on July 8 from 220,000 km (136,000 mi.) and Ganymede and Europa on July 9 from 60,000 km (37,000 mi.) and 201,000 km (125,000 mi.), respectively. It will not repeat the close flyby of Io.

NASA's Office of Space Science has assigned management of the Voyager Project to the Jet Propulsion Laboratory, (JPL) a government-owned facility in Pasadena, Calif., which is managed for NASA by the California Institute of Technology. JPL designed, assembled and tested the Voyager spacecraft, and conducts tracking, communications and mission operations. JPL operates the Deep Space Network for NASA's Office of Tracking and Data Systems.

NASA program manager is Rodney A. Mills and the JPL project manager is Robert J. Parks. Dr. Milton A. Mitz is NASA program scientist. Dr. Edward C. Stone of Caltech is project scientist.

Estimated cost of the Voyager Project, exclusive of launch vehicles, tracking and data acquisition and flight support activities, is $343 million.

MINORITY AND SMALL BUSINESS SET-ASIDES

● Mr. HEINZ. Mr. President, the International Government Procurement Code that the President is presently negotiating in Geneva will have some far-ranging effects on the way the Federal Government purchases. One of those effects that has not been fully evaluated concerns minority and small business set-asides. Under the provisions of the code, Federal agencies would be prohibited from setting aside contracts for small and minority businesses. This effect is a total reversal of longstanding policy to encourage small and minority businesses through the Federal procurement process. Support for this code by the administration also brings into question the President's announced goal to triple Federal procurement from minority firms.

An article on the front page of the Washington Post this morning discusses this issue and I believe it is worthy of discussion by the Senate when we consider the results of the multilateral trade negotiations. I ask that this article be printed in the RECORD.

The article follows:

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[*] The spacecraft actually flies closest to Jupiter at 4:05 a.m., PST on March 5, 1979. But if one were able to watch the event from Earth, the eye would see the close encounter 37 minutes, 40 seconds, later—the time it takes light to travel nearly 680 million kilometers (422 million miles). The same is true using the Voyager radio to watch the event. Hence, all times listed here are in Earth-received time.

U.S. WOULD RELAX PREFERENCE TO SMALL AND MINORITY FIRMS

(By Art Pine and Claudia Levy)

The Carter administration has agreed to overturn longstanding policy requiring key federal agencies to earmark specified portions of their procurement businesses for domestic firms, small business, minority enterprises and other groups.

The new procedures, which are expected to provoke a storm of controversy, are part of a long-sought provision in the multilateral trade agreement, which is in the final stages of negotiation.

As part of that trade pact, the United States has agreed to allow foreign producers greater access to bidding on federal contracts here in return for a pledge by European governments and Japan to open up more of their procurement business to American exporters.

To carry out its part of the agreement, the administration has pledged to relax current restrictions in federal procurement policies that have required key agencies to grant special preferences to domestic firms, small business and minority companies.

Sources said the changes will allow foreign manufacturers to bid on an estimated $10 billion in added business. In exchange, European governments, have promised to lift restrictions on about $25 billion worth of business to allow U.S. firms to bid.

The difficulty domestically is that, while the changes will help U.S. exporters, they will hurt the very firms that four previous presidents had tried to protect. As a result, although the liberalization has been long sought by U.S. policymakers, it may spark some ire.

Rep. Joseph P. Addabbo (D-N.Y.), chairman of the House minority enterprises subcommittee, is expected to make a speech on the House floor today denouncing the provision as a setback for longtime efforts to encourage black-owned businesses.

According to the administration's own figures, the shift would affect approximately $9 billion worth of the $18 billion in federal procurement contracts now awarded to small business. Officials yesterday had no separate breakdown for minority firms.

However, administration officials stressed that the tradeoff also would enable U.S. firms, both large and small, for the first time to crack the lucrative foreign government procurement market.

In general, the easing of restrictions would apply only to government purchases whose value exceeded $150,000 "special drawing rights," an accepted international measure that currently translates into about $190,000. That figure would rise if the dollar declined.

However, the liberalization would apply only to selected government agencies. It would not affect entities such as the Tennessee Valley Authority, or Defense Department purchases of shoes, steel, textiles and a spate of other specifically exempted items.

Officials said the United States still is negotiating for broader Japanese concessions. The administration wants Tokyo to allow bids on purchases by the Nippon Telephone and Telegraph Corp. and other big firms.

Critics of the administration's action contended that relaxing the small business preferences would in effect leave most government procurement here in the hands of large corporations. Small business now provides about 20 percent of Washington's $90 billion yearly purchases.

The current "Buy America" order requires federal agencies to award purchase orders to U.S.-based firms unless foreign companies underbid them by at least 6 percent—or up to 12 percent in the case of small businesses and 50 percent in the case of Defense Department contracts.●

JAMES RISSER WINS STOKES AWARD

● Mr. CULVER. Mr. President, I would like to call to the attention of my colleagues the recent presentation of the 1978 Thomas L. Stokes Award to James Risser, the Washington Bureau Chief of the Des Moines Register.

The Stokes Award has been granted each year since 1958 for excellence in analysis or commentary on environmental, conservation, or natural resource issues.

Mr. Risser is the first person in the history of the award to win it twice, a unique honor.

He was given the 1978 award for a series of articles analyzing the environmental costs of modern, high-production agricultural techniques. He previously won the award in 1971 for a series of articles on the U.S. Forest Service.

Mr. Risser is one of our State's most distinguished journalists. Since joining the Register in 1964, he has also won the Pulitzer Prize, the Sigma Delta Chi Award, the Raymond Clapper Memorial Award, and the Worth Bingham Prize.

He well deserves these many honors for the important contributions he has made to State and national dialog on a wide variety of issues of pressing concern.

Mr. President, I request that the March 8, 1979, Des Moines Register article describing Mr. Risser's latest award be printed in the RECORD.

The article follows:

RISSER WINS STOKES AWARD FOR REPORTING

WASHINGTON, D.C.—James Risser, chief of the Washington bureau of the Des Moines Register, has won the 1978 Thomas L. Stokes Award, Julius Duscha, director of the Washington Journalism Center, announced Wednesday.

Risser will be presented the $1,000 award today at a luncheon in Washington for a series of articles demonstrating the high cost of modern farming to the natural environment of the United States. The seven-part series was published last September.

The Stokes Award, named after the late syndicated columnist, has been given annually since 1958 for the best analysis or comment in a daily newspaper on the development, use and conservation of energy sources, the protection of the environment, or other conservation and natural-resource issues. There were 93 entries in the 1978 competition.

Risser also won the 1971 Stokes Award for a series of articles on the U.S. Forest Service. He is the first person in the 21-year history of the contest to win the award twice.

The judges for the 1978 Stokes Award were: Wayne Kelley, executive editor of Congressional Quarterly; Daniel Rapoport, contributing editor of National Journal, and Lewis W. Wolfson, professor of communications at American University.

In making the award, the judges said: "We were impressed with Risser's excellent in-depth reporting of all aspects of the growing national problem of the effects of farming on the environment. The series unfolded with a clear logic and was remarkably well written. A good overview was presented of such problems as pesticides, land erosion and the depletion of water supplies by the 'mining' of underground wells. The series also pinpointed the ineffectiveness of current federal and state soil-conservation programs and the Agricultural Stabilization and Conservation Service regulations."

Risser, 40, is a graduate of the University of Nebraska and has a law degree from the University of San Francisco.

A member of the Register staff since 1964, Risser also has won the Pulitzer Prize, Sigma Delta Chi Award, Raymond Clapper Memorial Award and the Worth Bingham Prize.

The judges of the 1978 Stokes competition awarded certificates of honorable mention to three persons:

Dan Allegretti of the Madison (Wis.) Capital Times for a series of articles on the disposal of toxic chemicals in Wisconsin; Michael Desmond of the Buffalo (N.Y.) Courier-Express for a series of articles outlining national problems involved in the disposal of toxic wastes, and Gene Weingarten of the Detroit (Mich.) Free Press for articles on pollution problems in Michigan.●

SENATOR BRADLEY ON ENERGY

● Mr. WILLIAMS. Mr. President, my distinguished colleague from New Jersey made a proposal over the weekend that caught my imagination and it is one I would like to share with those in the Chamber.

Senator BILL BRADLEY has urged that we conduct a "national teach-in" to raise public consciousness about the dangerous and perplexing situation we face in the field of energy. In an interview with award-winning reporter Gordon Bishop of the Star-Ledger in Newark, N.J., Senator BRADLEY has outlined his views on this vital question and provided many insights concerning energy policy.

I commend this fine interview to my colleagues' attention and that the text of the March 11, 1979, Star-Ledger article be printed in the RECORD.

The article follows:

BRADLEY PROPOSES "TEACH-IN" ON ENERGY

(By Gordon Bishop)

A national "teach-in" on energy—similar to the historic public debate on Vietnam in the 1960's—is being proposed by U.S. Sen. Bill Bradley as a dramatic way of focusing America's attention on "one of the most important issues" confronting the Free World today.

In his first interview on energy since being elected senator last November, Bradley, a member of the Senate Energy and Natural Resources Committee, called for a national "teach-in" involving every school, business and public and private group so that a broad debate can begin on the real energy problems affecting every aspect of American life, and how the citizenry can prevent a Depression-like crisis.

"The American people are utterly confused over energy and what they can do about it," Bradley emphasized in a wide-ranging interview on oil, gasoline, rationing, nuclear, solar, garbage fuels, utilities, regulations and the economic and foreign policy implications of energy supply and use.

The 35-year-old senator and former New York Knicks basketball star sees energy as the dominant force shaping America's domestic and foreign policy for the rest of this century.

"I believe the American people are prepared to take the necessary steps once they see the sacrifice will be borne equitably," Bradley thinks. "But now all they see is confusion and conflicting signals from government and industry as to whether in fact there is a real serious energy problem."

He fears the growing energy shortages may become so acute that it could lead to war.

"Because of the defense of the United States, the oil in those (foreign) countries is essential to our national wellbeing," Bradley explained. "We have to be prepared to defend it" in the event of an interruption of supply that could cripple the economy.

To get the public fully involved in the crucial energy debate as it relates to their daily activities and future, Bradley envisions thousands of ongoing "teachins" across the country so that government and industry will promote solutions supported by the people.

Bradley cited the confrontation between New Jersey Energy Commissioner Joel R. Jacobson and Exxon U.S.A. as a classic example of "misunderstanding" between government and corporate energy "experts."

Last year, Exxon released a 20-year energy plan, showing that solar energy will account for only 1 to 2 percent of the nation's total energy needs by the year 2000.

Jacobson, a former United Auto Workers labor leader, challenged the Exxon forecast, which relied heavily on nuclear, coal, oil and gas.

Jacobson developed New Jersey's first 20-year energy master plan, which showed that solar could account for up to 20 to 25 percent of the state's energy requirements over the next two decades.

Which projection—Exxon's or Jacobson's—is correct will depend on how industry and government spend available capital and tax dollars, according to Bradley.

"The Exxon-Jacobson confrontation illustrates several things," Bradley observed. "First of all, it illustrates there are different opinions about this issue. Second, it illustrates this issue is highly complex and that there are special interests and political forces on both sides of the issue. And third, it illustrates that the average American really doesn't know much about where energy comes from and what are the alternatives.

"That's why I think it's incredibly important that we have the equivalent of a teach-in on energy in this country."

Bradley compared the new dialogue to the emotional debate over America's involvement in the Vietnam war.

"No one knew in the 1950s what the various provinces in Vietnam were, or what the various ethnic and tribal groups were, and what their attitude toward the war was.

"No one knew how Cambodia related to Vietnam and what the affect was on Ho Chi Minh's childhood or teaching in the Soviet Union on the conduct of military policy in Vietnam.

"But over a period of four to five years, people found out about the facts and took an interest in the facts. It was a national debate. Unfortunately it was devisive and, in some sense a destructure of the fabric of community. But it's that kind of open exchange we desperately need at this stage of the game."

Teach-ins, where people get together and share information and come up with consensus solutions, will, Bradley's convinced, create an atmosphere in which real energy choices can be made.

"That's the only way this issue is going to be decided," Bradley believes. "Otherwise, there will always be a great deal of cynicism in the public's mind, saying, 'The oil companies are taking us to the cleaners,' and a lot of statements from the oil companies saying, 'The people don't understand how our business works' and, in between, people like me advocating solar, urban wastes recycling, conservation, and some government officials predicting major crisis, like (U.S. Energy Secretary James) Schlesinger, and other government officials like (U.S. Treasury Secretary W. Michael) Blumenthal saying we don't have a crisis because Blumenthal wants the value of the dollar to stay high, while Schlesinger wants to make sure that we do have adequate energy supplies."

To bridge the widening rift between the various opposing forces in government and industry, Bradley is calling for a broad national debate on the direction of energy policy.

"What we have to do is decide where we're going to go as a country, and do we want to go that way?" Bradley asserted.

Philosophically, New Jersey's junior democratic senator is personally committed to the "reaffirmation of community, rather than a punishment of self-interests."

He elaborated: "The idea of self-reliance is appealing. The idea of having control over your own use of energy and focusing on end-use needs is intriguing. It's a challenge. And it's good. But it's not the only answer out there. We're going to have to have a mix—a pluralistic system."

On gasoline rationing, Bradley hopes it won't have to be put in place. But if the alternative is gasoline at $2.50 a gallon or rationing, he believes rationing would be less onerous.

On the role of the automobile industry, he had this to say:

"There is a continuous debate going on in the automobile industry that involves both labor and management as to what retooling to that degree (building only fuel-efficient vehicles) would have on employment and how people would react.

"I would like to see the automobile companies move toward more fuel-efficient engines, a process which has begun.

"I just bought a diesel-fueled car, for example, and my wife drives a Datsun. I think there are thousands of other Americans that are making the same decision."

But Bradley finds it will be difficult to "dictate" to the automobile industry on producing only engines that get 40 to 50 miles per gallon.

On the role of government in an energy crisis, he started by mentioning a conversation he had two weeks ago with the economics minister of West Germany:

"He (the minister) was less than kind to the collective discipline of the American people. They (West Germany) have reduced their consumption dramatically in the last five to six years. We have increased our dependence on foreign oil.

"Now we do not have a government that can dictate policy. We are in a democracy, a federal system where it requires cooperation and awareness of what the problem is. And to me, that's one of the real problems.

"In Europe, which has many solid waste energy plants of the 500-ton per day variety, they decided 8 to 10 years ago, 'Look, we're going to have these, let's do them'—and they did it.

"That's not the way policy can be made in this country. The federal system makes it very difficult to do that. You have to work through incentives and cooperation."

Under Bradley's pluralistic approach, every practical solution would be incorporated into a workable energy plan.

That includes conservation, solar energy, converting garbage into a fuel that can be burned to generate electricity, all renewable resources such as biomass (conversion of biological matter into clean fuel)—and nuclear.

"We can move much more on conservation and the alternate energy route," Bradley stressed. "But we're up against some really short deadlines."

In that context, "nuclear," Bradley contends, "does have a role." He referred to New Jersey and the present electric-grid system, which is relying increasingly on nuclear or uranium fuel, instead of oil, coal and natural gas.

"To date, there has not been a major problem," Bradley noted, adding "there are some unanswered questions" about the disposition of nuclear radioactive wastes.

His concern lies not so much with the use of nuclear power, but with the increasing dependence on centralized power systems utilizing nuclear fuels.

Nuclear, like coal, oil and natural gas, are finite fuels whose costs rise in direct proportion to their dwindling supplies. Utilities are now dependent on nonrenewable resources.

Bradley comments: "Once we make that shift away from fossil fuels to renewables (solar, biomass, etc.), we will be entering a time when you will not have the conflict with the environment or inflationary pressures, and the kind of massive financing you need now (to build power plants, dig for coal or offshore oil).

"Ultimately, I see solar providing the opportunity for individuals to generate their own sources of energy in their own neighborhoods, cities or even homes. That's a remarkable opportunity."

Bradley sees no reason why the centralized utilities cannot get into the solar business and take advantage of renewable sources.

"The whole point about a technologically developed society in a capitalist system is flexibility of movement," Bradley expounded. "You move where the action is. You have a chance of providing a new service to meet the demand."

In his view, it's a "challenge to the American will, to American ingenuity, to entrepreneurship and to American discipline."

Enthusiastically, he looks to the "opportunities of entrepreneurship and the opportunity for creating new ways of living—not the punishment of self-interests, but a reaffirmation of community."

Should that fail, then mandatory controls would have to be imposed in the absence of a national public commitment toward conservation and the development of alternate energy sources.

Bradley prefers to look at the positive side to get people moving in the right direction.

Example: "If a builder sees he can make a lot of money by designing homes that are energy efficient, that in the long run will save the consumer money, then there are going to be a lot of people building and buying energy-efficient homes, and that's going to lessen the demand for energy."

Bradley would like government to level with the people and stop adding to the confusion.

"The gas rationing plan was supposed to be up to the United States Congress by 1976," Bradley related. "It came up last Thursday (March 1). That's two-and-a-half years late."

In questioning Schlesinger at a committee hearing two weeks ago, Bradley learned that it will take 10 additional months to make a rationing plan operational.

"If a crisis should hit this summer or early fall, we wouldn't be ready for it, which to me shows the executive branch hasn't even thought the crisis is so great that they would have prepared this plan on time, or at least sooner than they have," Bradley complained.

He criticized the federal bureaucracy for failing to heed four major warnings during the last five years, beginning with the oil embargo in the winter of 1973–74, followed by the natural gas disruptions in 1976, the coal strike in 1978, and the Iranian oil cutoff this year.

In shifting from foreign oil and nonrenewable to more independent and decentralized sources such as solar, Bradley proposes a complete restructuring of federal subsidies that now discourage alternatives.

He claims if subsidies for fossil and nuclear fuels are removed, their prices would rise, making solar and other alternatives economically attractive.

And if subsidies were shifted to renewables, they could compete much more favorably with the nonrenewables, Bradley maintains.

During the transition to perpetually renewable resources, the U.S. should continue to use, "most efficiently," the oil and gas still in the ground.

And, to lessen dependence on countries on the other side of the globe, Bradley suggests a North American Common market be established, thereby solidifying relations between Canada, and U.S. and Mexico.

"That kind of a geographical market has a certain appeal in the energy field," Bradley reflected. "The idea of focusing peoples' attention on our neighbors, in some sense a meshing of needs and resources, is appealing."

Another roadblock Bradley sees in the development of alternate technologies is government regulations.

"The regulation environment is bewildering," he said. "I think FERC (Federal Energy Regulatory Commission) is more complicated than Farsi (the language of Iran)."

He cited an administrative decision in 1976 not to permit the pass-through of costs on gasoline, but only on heating oil. Both are refined from the same crude oil.

As a result, there are shortages of gasoline because oil companies didn't spend the money to increase their gas capacity and production.

Two weeks ago, the administration decided to allow the pass-through of costs in the production of gasoline to pay for the costs of increasing capacity.

"That was an administrative decision taken to make up for an error in another administrative decision in 1976," Bradley said. "The question of price shouldn't be set administratively. It should be set by officials elected by the people." ●

THE CURIOSITY OF ALBERT EINSTEIN

● Mr. STEVENSON. Mr. President, the celebration of great men and women is often occasion for making them symbols of great institutions, movements, or nations. On the 100th anniversary of Albert Einstein's birth, we will hear a great deal about education, the university, internationalism, and especially about science.

Einstein detested, however, the "education machine" of the German gymnasium. He completed his formal education with a modest record at a polytechnic institute. He found uncongenial the prestigious University of Berlin and the Prussian Academy of Sciences. Einstein spent his most productive years at, of all places, the Swiss patent office, where he spent his free hours working out the theory of the photoelectric effect and the special theory of relativity. He epitomized the solitary scientific theorist rather than the great experimentalist and collaborator. He was a frequent endorser of humanitarian causes but a reluctant joiner of them. Periodically attacked by ideologues of the right and left or, alternatively, beseiged by fawning admirers, he was never deterred from his devotion to physics.

Einstein once suggested that his discoveries were in part the product of a child's mind. "A normal adult never stops to think about problems of space and time. Most people have thought about these problems when they are children. But my intellectual development was slow, and so I did not start to think about space and time until I was already grown up." "Consequently," he added with classic understatement, "I went into those problems more thoroughly than a child would." The author Janos Plesch quoted Einstein as saying that "the gift of fantasy has meant more to me than my talent for absorbing positive knowledge."

The Einstein centennial is most appropriately an occasion to celebrate the capacity of the individual human mind for both imagination and precision. "Curiosity," Einstein said, is a "delicate little plant, which aside from stimulation, stands in need of freedom." Einstein's life and work prove the ability of curiosity to flower even in unlikely circumstances.

I request that an article by William Stockton in the New York Times magazine and some astute observations by Henry Mitchell in the Washington Post be printed in the Record.

The material follows:

[From the New York Times Magazine, Feb. 18, 1979]

Celebrating Einstein

(By William Stockton)

We will always think of Albert Einstein as a possessed genius. He will always be the epitome of the absent-minded professor whose genius left no room for the trivia of life. His mind was so great and so far removed from our humdrum concerns that he could dress to go out for dinner and only after reaching his host's home notice that he had forgotten his socks. He was a man who used an uncashed check as a bookmark and then lost the book; who went on a trip with a bag carefully packed by his wife and never opened it; who helped a young girl with her arithmetic and got the answers wrong; who fell out of time at an amateur music recital and was rebuked with, "Einstein, can't you count?"

Einstein has been dead almost 24 years, and when he died doctors paid his genius a supreme compliment: They removed his brain for a study that is still going on. Einstein endures in our culture—and probably will always endure—as genius personified, a kind, warm, fatherly and humble genius. Part of his appeal even now is his appearance, the disheveled old man whose hair seemed always to stand on end, as if he were slightly electrified or deliberately aping our notion of the brilliant, eccentric scientist.

He was a sloppy dresser and something about that still touches a chord in us. He was more brilliant than we can ever be, but his dress brings him to our level and enhances our self-esteem. Because Einstein stories are legion, it is often difficult to sort out fact from myth. Ronald W. Clark, an Einstein biographer, says, "The legends themselves, melting in the harsh light of investigation, show not so much what sort of man he really was as what kind of man the world thought him." And so it may always be.

Einstein's 100th birthday is March 14 and it marks the opening of the Einstein Centennial Year. In Washington, they are erecting a statute by Robert Berks that has become a *cause célébre*. It is being roundly condemned. Helen Dukas, Einstein's longtime secretary and for the last 19 years of his life his housekeeper as well, is said to be furious. He would eschew the whole project, those who knew him assert. Perhaps they are right. Before he died, Einstein left instructions that he be cremated and the resting place for his ashes be kept secret; there would be no grave, no headstone, no monument, no steady stream of gawking tourists.

At the Institute for Advanced Study in Princeton, where he worked the last 22 years of his life in exile from Germany, all the great names of physics will convene next month. They plan to pay homage during six days of elegant deliberations and tell us in the main what we already know: that Einstein altered our concepts of space and time; that he gave us $E = mc^2$; that he changed theoretical physics immutably; that his theories about relativity have withstood the test of time; that his was probably the greatest scientific mind of our century, perhaps of all time though that can be argued—Freud, Darwin, Newton, Copernicus are rivals, certainly.

There will be more during this Einstein Centennial: A traveling exhibition prepared by the American Institute of Physics; a centennial lecture bureau to book Einstein speakers in local communities throughout the country; a yearlong centennial show at the Smithsonian Institution; a film on Einstein's life and work to be broadcast by the Public Broadcasting Service next fall. But an inevitable part of the celebration of this famous scientist will be a certain amount of reassessment, if not revisionism: His physics is being re-examined; so is his success, or lack of it, in the activist arena where he fervently espoused pacifism, Zionism, internationalism and humanitarianism; finally, the person, Einstein the father, husband, friend and fellow man is being looked at anew.

There is no doubt that Einstein's genius possessed him, even tormented him. When a problem in physics had hold of him he would work himself to the edge of exhaustion with fierce single-mindedness. Einstein fell ill in 1917 of a stomach ailment and near nervous collapse. His doctor-friend Janos Plesch observed, "As his mind knows no limits, so his body follows no set rules. He sleeps until he is awakened; he stays awake until he is told to go to bed; he will go hungry until he is given something to eat; and then he eats until he is stopped."

There also is no doubt that he was a man of contradictions and paradoxes that still puzzle us. For example, consider Einstein the sailor. Sailing was the outdoor passion of his life. And he was a bold, even reckless sailor. He had little fear of rough weather and sometimes had to be towed in—the sailor's ultimate disgrace—when high winds broke his mast. He also was a loner throughout life. So he often sailed alone. Because he had a fervent desire to pass through life simply, unencumbered by accessories, he carried no life preservers on his small boat, even though he couldn't swim. A sailing companion told how Einstein once came too close to another boat without noticing and suddenly but expertly veered away when the companion called a warning. When the companion mentioned the close call, Einstein laughed and began sailing directly at boat after boat, veering away at the last minute each time and laughing gleefully.

This makes Einstein sound somewhat wild and foolish, even suicidal. But instead, it may reflect the man's boldness, his supreme confidence that he was correct in all that he did, both perhaps essential elements of his genius. Einstein was so certain that he was right about relativity—before conclusive proof had been obtained in 1919—that as part of the divorce settlement with his first wife he pledged to her the proceeds from the Noble Prize he was certain he would win. Several years later, in 1921, he became a Nobel laureate.

It probably was foolish to sail his boat directly at others. But it also reflected his light-hearted, impish, humorous nature. In fact, Einstein's wit is sometimes overlooked in our tendency to concentrate upon his genius. Once while listening to an after-dinner speech, he leaned to the person next to him and whispered, "I have discovered a new theory of eternity." All his life he entertained his friends and colleagues by dashing off little poems at a moment's notice in response to some event. One he delighted in, though it's not certain that it was he who wrote it, stemmed from the occasion of his sitting for a bust by Jacob Epstein in England in the fall of 1933, and went:

Three wonderful people called Stein;
There's Gert and there's Ep and there's Ein.
Gert writes in blank verse
Ep's sculptures are worse
And nobody understands Ein.

Worldwide fame burst upon Albert Einstein on Nov. 7, 1919, when British astronomers announced they had found the first confirmation of Einstein's general-relativity theory. Einstein had already become known in scientific circles because of his two astonishing theories: the special theory of relativity, published in 1905 when he was only 26 and a minor clerk in the Swiss patent office, and the general theory of relativity, advanced between 1913 and 1915. He was considered so brilliant by other scientists that in 1914 he was invited to join the prestigious Royal Prussian Academy of Sciences and to become head of the research branch at the Kaiser Wilhelm Institute. He accepted the offer and moved to Berlin.

In his special theory of relativity he had made a great leap away from the laws of motion which Sir Isaac Newton had formulated two centuries earlier. Newton's work was based on the concept that time is an imperturbable river flowing ever onward, an absolute of absolutes. Newton theorized that all the laws of motion were the same everywhere. This was called the principle of relativity.

Einstein set out initially to show that the constant speed of light conformed to that principle. He approached the problem by thinking of time and space in a new way. He said that time and uniform motion are not constant but relative. For example, imagine two people traveling at different speeds in two space ships, each with great clocks aboard that can be seen from both ships. To each person, his own clock seems to be behaving normally, but the other's seems to be going more slowly. The faster the ships separate from each other the more the other clock seems to be slowed. In fact, if one ship could travel away at the speed of light, each clock would appear to the observer on the other ship to have stopped—time would appear to have halted. When one observer looks at the clock aboard the other ship and then takes a second look later to see how fast it's been going, the other ship may have moved 100,000 miles away in the interim, so the sequence of images of the clock get stretched out, taking longer to get back to the viewer's eye. Einstein's calculations showed, similarly, that length, too, is relative.

Next, using his time-and-motion equations, Einstein deduced the famous $E=mc^2$: Energy, he stated with stunning boldness, equals mass times the speed of light squared. He had calculated that if a body gives off energy in the form of light, it loses some mass. This meant that energy and mass can be converted from one to the other. For example, a piece of white-hot iron gives off light, but as a result its mass is diminished, although the change is small—less than a millionth of a gram after 100 years. And the relationship later proved to be the theoretical foundation of the atomic age. Physicists went on to discover that if an atom of uranium were split apart, part of its mass would be converted into enormous amounts of energy.

Still another consequence of Einstein's equations was that they showed there was a continuity between space and time, a so-called space-time continuum. Events that to one observer are separated by particular intervals of space and time are, to another observer, separated by different intervals of space and time.

In formulating the general theory of relativity, Einstein turned to the nature of gravity itself. He realized—and this was another of his great insights—that the force of gravity cannot be distinguished from any force we feel in accelerated motion. For example, if our car speeds up, we feel a force that is exactly like a gravity force. He therefore wanted to find equations that would relate observers moving separately in entirely arbitrary ways, an assignment that was far more difficult than studying observers moving at constant speeds in straight lines. Though the work demonstrated his intellectual audacity, it was tortuous and filled with false starts and blind alleys. He had to stop and master tensor calculus, a form of mathematics developed 20 years earlier as a tool in measuring spacial relationships (when other physicists learned that they would have to master tensor calculus to understand Einstein's theories, they were thrown into panic). The project took him a decade, but he was able to establish that gravity was, in fact, a distortion of the very fabric of space and time. The ordinary inertia of planet will keep it moving in a straight line but if there is a large mass nearby, such as the sun, this mass will warp the space-time continuum, and the planet's path will be curved around the sun.

"In the light of knowledge attained," Einstein wrote later, "the happy achievement seems almost a matter of course, and any intelligent student can grasp it without too much trouble. But the years of anxious searching in the dark, with their intense longing, their alternations of confidence and exhaustion and the final emergence into the light—only those who have experienced it can understand it." At another point Einstein spoke of his discoveries and his slow development as a child (he didn't speak until he was 3). "A normal adult never stops to think about problems of space and time. Most people have thought about these problems when they are children. But my intellectual development was slow, and so I did not start to think about space and time until I was already grown up. Consequently, I went into those problems more thoroughly than a child would." Einstein and Janos Plesch once had a conversation about the creative similarities between writing fiction and working in mathematics. Plesch quoted Einstein as saying: "When I examine myself and my methods of thought, I come to the conclusion that the gift of fantasy has meant more to me than my talent for absorbing positive knowledge."

Many physicists agreed with Einstein's work from the start, but many others did not. They insisted on proof, on confirmation in the real world. A crucial tenet of his general-relativity theory was that light would be bent by gravity because it had mass. And, in the spring of 1919, British astronomers observing a solar eclipse had an opportunity to test the idea: They photographed starlight whose path to earth was close to the sun but was visible only when the sun was obscured by the moon. The astronomers spent the summer analyzing their work. In September, Einstein got the first word, in a telegram from the Dutch physicist H. A. Lorentz, that his theory had been confirmed. Einstein dashed off a postcard to his ailing mother in Switzerland: "Good news," he said. "H. A. Lorentz has wired me that the British expeditions have actually proved the light deflections near the sun." On the afternoon of Nov. 6, 1919, the astronomers announced their results to the Fellows of the Royal Society and the Royal Astronomical Society in London. The photographs revealed that the rays of starlight near to the eclipsed sun were indeed bent—and to the exact degree that Einstein had predicted!

Newspaper reporters were present at the Royal Society meeting and the next morning The Times of London declared that Einstein's work had overthrown the certainty of ages, that it made necessary "a new philosophy of the universe, a philosophy that will sweep away nearly all that has heretofore been accepted as the axiomatic basis of physical thought." The press descended upon Einstein in Berlin. He hated the experience, and soon grew to detest newspaper reporters, particularly the Americans, whom he regarded as the brashest of all. "I have become rather like King Midas," Einstein lamented, "except that everything turns not into gold but into a circus." At another point he said, "Since the deluge of newspaper articles I have been so flooded with questions, invitations, suggestions, that I keep dreaming I am roasting in Hell and the mailman is the devil eternally yelling at me, showering me with more bundles of letters, because I have not answered the old ones."

The fame was no flash that flared and died. Undoubtdely the very nature of relativity itself helped sustain it. In 1919 there were probably not more than a dozen or two scientists who fully understood Einstein's work. In part because of this ignorance, people quickly attached great religious and mystical significance to his theories. Relativity began to be regarded as either enhancing or threatening conventional views of God and man. To some, Einstein merely imposed a finer, more profound order upon Newtonian laws. But to many others the new theory of relativity stirred something deep in the breast, something either troubling or liberating—again, depending on the point of view—because it seemed to say that the old absolutes were no longer absolute: Relativity came to be intellectually perceived in the 20th-century as delivering a final blow to man's persistent notions of a singular order and implicit harmony in a grand and theistic universe of design and truth. The existentialism of Sarte, for example, or the experimentalism in art, literature and, to some extent, social behavior, owed a debt to the theories of relativity whether Einstein had any intention of draping them in philosophical or cultural vestments or not.

In terms of physics, Einstein's general-relativity equations remain a cornerstone of the theories of the universe. Today, with the discoveries of strange celestial objects—quasars, pulsars and black holes where gravity is so strong that no light can escape—astronomers turn to Einstein's relativity to explain what is happening. The papers to be presented at Princeton next month illustrate his continuing impact; among them: "Galaxies and Intergalactic Matter," "Beyond the Black Hole," "Issues in Cosmology," "Einstein and the Unity of Theoretical Physics," "Einstein and the Physics of the Future."

Albert Einstein's fame grew and grew. After that magic moment in November of 1919, his life was never the same again. His celebrity never ceased to amaze him, and indeed was part of one of his paradoxes: Here was a person who attracted immediate worldwide attention and overnight was perceived as a man for all ages but who preferred in the end to be by himself. Tragically, in a sense, this aloneness kept him away from the mainstream of physics.

In the 1920's, with relativity firmly established, physicists quickened the pace of discovery about the structure of matter. Using Einstein's work as building blocks, other Europeans—including Niels Bohr, Erwin Schrödinger and Werner Heisenberg—proposed that matter behaved both as particles and as waves. They suggested that within the atom this motion was governed by probability, that the structure of matter was like a dice game decided by chance. Sometimes it behaved as particles, sometimes as waves.

Einstein could never accept this view because of his own notions of how the universe must be structured, which was intertwined with his notions about God. He would not believe in a fundamental indeterminism that relied on a throw of the dice.

Einstein's God was the God of Spinoza, the 17-century philosopher who believed that God revealed himself in the structure of nature. "I believe in Spinoza's God who reveals himself in the orderly harmony of what exists, not in a God who concerns himself with the fates and actions of human beings," Einstein once wrote. He was certain that God would have chosen a simpler structure in nature rather than a complex structure. Einstein couldn't accept the notion that God would have structured matter so that randomness governed its behavior. "I shall never believe that God plays dice with the world," he said.

Einstein devoted considerable energy to showing that probability was not the answer to how matter was structured. Time has shown him in the main to have been wrong. He also made a great attempt in later life to construct his unified-field theory, a grand theory that would unite electromagnetism, gravity, space and time under one set of equations. He wasn't successful. By the 1940's, physics had clearly left Einstein behind and he was even a subject of ridicule among some scientists. Putting it gently after the great man's death, J. Robert Oppenheimer, who became director of the Institute for Advanced Study in Princeton in 1947, wrote that, during the last 25 years of Einstein's life, his earlier tradition as a master of physics had failed him. "They were the years he spent at Princeton and this, though a source of sorrow, should not be concealed." But the public was unaware of this decline. Most of us regarded him to the end as the world's supreme scientist, the oracle of oracles.

In 1930, Einstein made a revealing remark: "My passionate sense of social justice and social responsibility has always contrasted oddly with my pronounced lack of need for direct contact with other human beings and human communities. I am truly a 'lone traveler' and have never belonged to any country, my home, my friends or even my immediate family with my whole heart. In the face of all these ties, I have never lost a sense of distance and a need for solitude—feelings that increase with the years." These words, more than any others, hold the key not only to why Einstein drifted away from the center of physics but also to the nature of his activism. This sense of distance and need for solitude—aloofness, really—was inexorably tangled with his physics. Physics came first, ahead of all other things, but the aloofness cut him off from the ideas of his fellow physicists, and it also prevented him, ultimately, from committing himself to social causes in a way that would have made him far more effective.

On the surface, Einstein's record as an activist is impressive. Einstein was a socialist, pacifist, Zionist, internationalist and humanitarian. He marched, picketed and signed petitions. He founded, joined and denounced political organizations. He wrote, lectured, served on committees, gave speeches, influenced politicians, raised funds, attended rallies, urged others to resist the draft, opposed capital punishment and opposed McCarthy. He was devoted to freedom of expression.

He also was a prolific writer and his writing, in letters to friends, letters to editors, articles and books, was an integral part of his activism. There was Einstein on: the world economic crisis, newspaper reporters, academic freedom, good and evil, the meaning of life, production and work, disarmament, women and war, classic literature, Christianity and Judaism, symptoms of cultural decay, insuring the future of mankind, education for independent thought, reconstruction in Palestine, the pacifist problem, teachers and pupils, Jewish ideals, the pursuit of peace, the need for ethical culture, compulsory service, culture and prosperity.

Banesh Hoffmann, a retired mathematics professor at Queens College who worked with Einstein in Princeton for several months in 1936 and has written an excellent biography, says, "I suppose it was conscience. He saw things in his own particular way. He believed in the way he saw things. And then, if he believed, he had the feeling he shouldn't be a coward and keep quiet. He should speak out strongly, boldly and without fear."

Activism usually begins in the teens or the 20's, the age when blood runs hot and men and women march in the streets. Einstein was born in Germany and went to schools in Germany. Early in his life he grew to detest the regimentation and militaristic manner of the German schools and as a young man he renounced his German citizenship for Swiss citizenship. Still, there was no hint of any activism until the start of World War I, when he was 35.

In early October 1914, a few months after the war had begun, 93 leading German intellectuals signed a prowar endorsement of Germany's invasion of Belgium. Einstein had been in Germany only a few months in his new position at the Kaiser Wilhelm Institute. But he and three others signed a counter-manifesto condemning the invasion, and a month later he helped found Bund Neues Vaterland (Association for a New Fatherland), a pacifist group calling for a supranational organization to prevent future wars. "My pacifism is an instinctive feeling," he said, "a feeling that possesses me because the murder of men is disgusting. My attitude is not derived from any intellectual theory but is based on my deepest antipathy to every kind of cruelty and hatred." He ran the grave risk of being branded a traitor in Germany by expressing such strong antiwar views, but his Swiss citizenship prevented that.

Early in 1910, before he had achieved worldwide fame, the Zionists approached Einstein and asked him to join them. Long discussions followed, in which Einstein began to confront some of his feelings about being a Jew. He became a Zionist. Then with the avalanche of publicity that followed the proof of his relativity theories, Einstein began to be subjected to vicious anti-Semitism. The emerging right wing and the fledgling Nazi Party turned on him; his relativity theory was branded first as part of a Jewish conspiracy, later as a Jewish-Communist plot. In 1920, the most dedicated relativity opponents held a large, public, antirelativity meeting at the Berlin Philharmonic Hall. The program, heavily anti-Semitic in tone, had already begun when whispers of "Einstein, Einstein" swept the packed hall. And there was Albert Einstein, come not to just look into the lions' den but to take a front-row seat. He laughed about some of the more outrageous statements about relativity but he did not publicly speak.

Such things deepened Einstein's sense of his Jewish heritage and his obligations to it. By 1921 his emerging view of himself as a Jew had grown enough so that Chaim Weizmann, the head of the Zionists, persuaded him to come to America on a fund-raising tour. By then, he had adjusted to his fame and decided to use it in support of his causes. If the world wanted to make a hero of him—however silly it seemed—then he would take advantage. (He once charged for autographs and donated the proceeds to the poor refugees.)

In the 1920's Einstein helped solicit rich American Jews and channel their money to the emerging Jewish nation in Palestine and particularly to Hebrew University. He pushed pacifism and internationalism. He supported the Weimar Republic. As the German right wing grew more powerful, assassinations of German public figures ran rampant. At one point Einstein kept a low profile for a few days because there were fears that he was marked, but he soon emerged to march defiantly in a demonstration and was not harmed or threatened. As the Nazis gathered power and anti-Semitism grew, Einstein fought them openly, using his influence to help those under attack.

After he came to the United States permanently in 1933, when Hitler seized power, his activism continued. He tirelessly aided refugees from Germany. Of course, everyone remembers the famous letter he wrote to President Roosevelt warning of the possibility of an atomic bomb and urging that work on such a weapon begin lest the enemy develop it first. After the war, he spoke out in favor of the civil rights of blacks long before that was popular; he opposed McCarthyism, actively campaigned for control of nuclear energy and warned of the danger of nuclear weapons. In the months before he died in 1955, he was drafting a statement with Bertrand Russell warning of the peril of the nuclear arms race. The statement was published after his death.

To suggest that this rather substantial degree of social involvement was somehow not enough may perhaps be a little like criticizing Babe Ruth for not hitting 70 home runs in 1927 instead of 60. Yet it is clear that Einstein's effectiveness fell short of its enormous potential. For one thing, his passion for solitude, along with his devotion to physics, left him with a distaste for the maneuvering often necessary in political and social contexts to bring change. Even the famous Roosevelt letter may have a bit of a hollow ring. Others had the idea of writing it; they sought Einstein's signature. And even if there had been no letter, the United States, in all probability, would have had the bomb on the same schedule.

Ronald W. Clark, an Einstein biographer, argues that Einstein's power to bring change through Zionism, pacifism and German politics was weakened because physics always came first. He turned down a request to succeed Weizmann and become Israel's President, for example. Whenever the danger of becoming too involved in a cause loomed, some new scientific paper to be written intervened. Whether such retreats in favor of the press of physics were deliberate on Einstein's part or merely the result of the ebb and flow of his professional life we may never know.

Indeed, his actions sometimes countered each other. There are hints he may have signed too many petitions and declarations and statements without reading them thoroughly. He was sometimes too easily persuaded to endorse some cause without investigating it completely. Clark describes him as having a particularly blind spot about pacifism and signing the most outrageous "pacifist" statements. There also is some evidence that he ignored the source of some of the funds used to pay his salary and finance his operations in Berlin during World War I. At least some of the money came from a banker, Leopold Koppel, who founded the Kaiser Wilhelm Foundation for Military Technical Sciences. A German professor once summed up what was known of the relationship by saying, "Einstein knew that the sumptuous bed in which he lay swarmed with bugs."

Sybil Milton, a historian of modern Germany at the Leo Baeck Institute in New York, perceives some inconsistencies in Einstein's character. "He could have used his reputation more to aid the German Democratic Party, which he helped found . . . but he pulls back at a strange time." And Martin Klein, a Yale physicist who is also an Einstein biographer, agrees that Einstein "used his fame for a cause he believed in, but always only up to a point."

In 1922 he was invited to become a member of the International Committee on Intellectual Cooperation of the League of Nations. Germany did not belong to the League of Nations in 1922 and Einstein was appointed because of his accomplishments in physics and not as a German. But Einstein's tenure on the committee was contradictory and vacillatory from the beginning. He resigned within two months of accepting the appointment, saying vaguely that a Jew in Berlin should be careful of political involvement. This came in the wake of the assassination of his friend Walther Rathenau, a minister in the German Government. Committee members sought to change his mind. Einstein went on a long trip to the Orient and Palestine, leaving the committee hopeful that he would in fact reconsider; his resignation hadn't become publicly known. But when he returned, he wrote out a second resignation, which he made public. His reason then was France's invasion of Germany's Ruhr industrial area because of nonpayment of war reparations. Committee members again persuaded him to reconsider and he agreed. He finally attended his first committee meeting in 1924 and did become involved in some committee affairs. But his attendance was intermittent. When he did appear, he sometimes sat silently and often declined participation in subcommittee work citing the press of his own.

In the 30's, Einstein wrote countless letters of introduction for scientists fleeing Hitler. At Oxford University, so the story goes, a point was reached where a refugee scientist clutching a letter from Einstein would be advised that he could go farther if he didn't mention the endorsement.

Einstein's ultimate distance from others, despite his humor, charm, obvious human warmth and concern on a less profound level, affected his family life in much the same way as it lessened the impact of his activism.

His first marriage ended in mid-1914 when his wife, who had moved with him to the new life in Berlin a few months before, took their two sons and returned to Switzerland. He once complained that she had been jealous of his friends. It might be that she was jealous of his physics, of the time discussing physics with his colleagues; years later he remarked that he was unable to talk to her about his work.

From letters he wrote a close friend, we know that he came to detest his first wife but that he agonized over her financial plight and struggled to send her money; and he was deeply troubled by the schizophrenia diagnosed in one son. The friend became a go-between, arranging school for the boys, handling money problems, dealing with the woman herself. One of the sons is on record as wishing he had experienced a closer relationship with his father, and there is said to have been a definite sense on the part of the family that Einstein deserted them after the breakup.

In Berlin, Einstein had become reacquainted with his cousin Elsa Lowenthal, and, when he became ill in 1917, it was she who nursed him back to health. He moved into the apartment where the widowed Elsa and her two daughters lived; two years later, when his divorce from his first wife was final, he married Elsa.

Apparently even his second marriage was far from ideal. Elsa's letters hint that Einstein was the epitome of the male-chauvinist husband. She waited on him hand and foot and expressed unhappiness over his lack of sympathy and tenderness. But she also apparently played the role willingly, lovingly, leaving The Professor free for his struggles to unravel the secrets of the universe. When the Einsteins came to Princeton, the relationship seemed unusual by American standards. The wife of a Princeton University official, commenting to Einstein on how his wife did everything for him, asked what he did for her

"I give her my understanding," he replied.

In 1936, Elsa lay dying even as Einstein and Banesh Hoffmann and another physicist worked in Einstein's study. When she died, Hoffmann remembers Einstein's looking haggard. They suggested their work be put off a few days. Einstein refused. "Now, more than ever, I need work," he said.

Writing to Max Born, a physicist from Einstein's European days, Einstein mentioned almost in passing that his wife had died, saying: "I hibernate like a bear in its cave, and really feel more at home than ever before in all my varied existence. This bearishness has been accentuated further by the death of my mate, who was more attached to human beings than I." Max Born wrote of Einstein later, "For all his kindness, sociability and love of humanity, he was nevertheless totally detached from his environment and the human beings included in it." Perhaps this master of abstract thought found it easier to love people in an abstract, uninvolved way than to risk too much emotional attachment.

Such glimpses of Einstein the man bring other questions to mind. Was he vain, mean, vindictive? Did he have feuds with those who disagreed? As a young man, he was very handsome, and later, both handsome and famous. Did he have a love affair? The questions have occurred to those who are studying him. There is speculation that perhaps the Einstein estate has held back some papers that might answer such questions.

Otto Nathan, an economist who was a close friend of Einstein's, is co-executor of Einstein's literary estate. Nathan became angry when I asked him whether documents have been held back. "Untrue. Completely untrue," he said. "We have only one reservation. We do ask the right to withhold letters of a very private character. But we have not exercised that right."

"Are there such letters?"

"I said we have not exercised that right so far."

"But are there letters of a very private nature?"

"I'm sorry I cannot answer that. Tell your friends they have misinformed you." But then he added, "Einstein revealed himself and he didn't withhold anything. There is nothing in the papers which as far as I know would give a different light on Einstein. He was very frank in everything he did."

Martin Klein wonders if there might be revealing personal correspondence in the hands of Einstein's descendants. "To the best of my knowledge, the collection of Einstein papers in the archives in Princeton does not include family papers of any sort—that is, correspondence with his first and second wives, his stepdaughters or his sons from his first marriage. None of that is published as far as I know. To my knowledge, scholars have never seen any of this correspondence. I should add that as far as I know there are no scandals that are hidden. I've never seen any allusion to that."

Albert Einstein died in Princeton an hour after midnight on April 18, 1955. Later that morning, a photographer recorded his office. It was cluttered—the bookshelves, the desk in front of the blackboard, the blackboard covered with equations. Now 24 years later, the scene has changed very little. The office is occupied by a visiting mathematician. There's a table piled with journals and manuscripts; the bookshelves are cluttered; the desk is only slightly less so. A small framed drawing of Einstein is on the wall. It is dated 1930. Morning sun slants through the wide, handsome bay window that looks out on an expanse of winter brown lawn and woods beyond. The window needs cleaning. There is no street in Princeton named for this great man except a drive on the institute grounds. No museum, no statue, only a bust in the institute's mathematics library. Whatever one expects to find there, for someone who has always been and always will be an Einstein-admirer, it is all vaguely disappointing.

A memory comes to me.

It is the seventh grade and the math teacher is an elderly woman lightly tapping a ruler on her desk top. She is angry because no one seems to have done the homework or know the answer to the problem. "What about you?" she says, catching my eye. Reluctantly, I drag myself up from the desk and recite the answer, the blood creeping into my face.

"Correct," she says, some of her irritation melting.

Thankfully, I slide down into my seat. But a hiss from the next row reaches me. Those who hear it titter.

"Einstein!" comes the taunt. The word is spit out with derision and resentment.

As I am writing this, the radio plays softly in the background. A commercial interrupts the music. It advertises a bank. "You don't have to be an Einstein to understand our free checking," the announcer says.

[From the Washington Post, Mar. 9, 1979]

EINSTEIN, MOZART AND THE THEORY OF RITARDANDO

(By Henry Mitchell)

PRINCETON, N.J.—Einstein liked music and like many another physics fellow played the fiddle himself. Once the Juilliard Quartet showed up at his little house on Mercer Street here to play for just him.

A member of the quartet, which came to play for the Einstein Centennial, said it was very interesting. Einstein went into the next room, leaving the door open. He wanted to hear the music without the distraction of the musicians in front of him.

Then (the musician told people here this week) they asked Einstein to join them in a Mozart quartet.

Einstein said no, he had hurt his hand. But of course in the end he played.

Now Einstein held the view that music is often played too fast. The quartet let him set the tempo, and the Juilliard fellow said that under Einstein's beat the Mozart quartet had three movements: slow, slower, slowest.

One of the quartet members told Einstein the Juilliard often was charged with playing too fast. (This was after Einstein had led them through a vastly slow rendition of Mozart).

But Einstein said he found nothing wrong with their tempo at all.

Einstein smoked. This presented trouble in Berlin when Einstein was young but already as famous as a man can well get in science. The director of the Berlin institute abhorred smoke and nobody dared to.

How to solve this? Simple:

Nobody could smoke there except Einstein. And Einstein could smoke where and when he wanted to. An ideal solution.

Once a young physicist asked advice from some famous older men about a project of his. Except for Einstein, the others gave somewhat discouraging answers, based on their best thinking. Einstein merely said, "Why not?" and the young man proceeded—right on to glory, as I recall, though a folder of my notes was lifted from the coat rack of the Institute for Advanced Study.

An elder figure of physics said Einstein used to always sit on the first row when new papers were read at Leyden. If the reasoning seemed sound, Einstein never said anything. If something seemed to him unclear or inadequately developed, then he asked questions.

Many a paper, it was said, ultimately owed its clarity and polish to Einstein's criticism.

An older man Einstein often did wear socks. Many stories attest to that, and some people thought Einstein forgot to put them on. But of course he never forgot at all. He just didn't like them.

But as a younger man, he wore wool socks and (as an old acquaintance said at the Centennial) not shoes. Indoors, of course. Indoors he was forever taking off his shoes and padding about in wool socks.

Maybe there's a rite of passage, at which a man like Einstein starts wearing shoes and stops wearing socks. If so, it is not recorded precisely when Einstein switched.

After a busy day of four lectures followed by commentaries, in the Institute for Advanced Study seminar honoring Einstein's memory, everybody gathered for music.

The Juilliard had played two nights earlier, and now, as the seminar approached its last day, the Emerson Quartet was to play.

More people came to hear the music than came to hear the learned lectures. Earlier I noticed the scientists tended to sit on the right side of the main aisle. For every 43 people on the left, there were 56 on the right. Future generations may wish to know that fact.

But for the music, both sides were occupied equally.

There were a lot of young scientists, some still in their 20s. The program was all Mozart.

Somebody clattered a dish in the back. A man cleared his sinuses four times at 50-second intervals and then (praise the Lord) was clear or else died or something.

The music commenced.

Needless to say, Mozart chamber music defangs panthers and there is always a soft mood in a hall where they play him.

But this mood, I thought, was exceptional. You will notice, as you get older, that your judgment of concert hall moods is not altogether subjective, there is a reality there.

People were bound together in an uncommon way. It was not like one of those great nights when a theater is riveted and galvanized in between explosions of joy.

This was more like a Quaker meeting, I imagine, in which a spirit began to move. Without fireworks. More like a tide.

The clarinet quintet (A Major) began.

The work begins with some polite and pleasing tootles, for Mozart does not begin such works with an ultimatum to deliver your soul.

That composer does not come at you like five bears in heat, but like a guide who knows his way all the way to Oregon.

With your permission, which he always asks and gets, he stops on the way to show you rivulets and clean plateaus. And by the way, would you like to meet God?

He debriefs you for the world you really live in before he's done. You are under no obligation—it was his pleasure to show you the sights of his country.

Einstein, we may assume, always played Mozart too slow because being mortal, he could not endure the thought it might ever end.●

JET LAG

Mr. STEVENS. Mr. President, today I completed the 185th round trip to my State of Alaska. When I figure in the trips I have taken to NATO assemblies, interparliamentary assemblies, Vietnam, and other places as part of my service in the Senate, I think I can speak with some authority when I say that the problem of jet lag is something that very few people understand, and that we would be a lot better off if more people realized exactly what it entailed.

I ask unanimous consent to have printed in the RECORD an article on the subject of jet lag, written by Jane E. Brody and published in a recent issue of the New York Times.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PERSONAL HEALTH

(By Jane E. Brody)

A half century ago, when jet travel was not even an aviator's dream, Wiley Post, who piloted his monoplane around the world in eight days, had already discovered what we now call "jet lag." Mr. Post recognized the disruption of body rhythms caused by rapidly changing time zones and worked out a program to counter the deleterious effects of altered sleep-wake cycles on flying efficiency.

Nowadays, every year tens of millions of people—most of them passengers rather than pilots—cross four or more time zones in a matter of hours. Watches are easily reset to local time, but bodies tend to lag behind. For days, multitime-zone travelers are likely to find themselves getting hungry and sleepy at the "wrong" times.

They are alert when they should be asleep, sluggish when they need to react quickly. They may experience a loss of appetite, lethargy and disturbed sexual functioning. Often, they return home long before they've fully adapted to the "new" time but having changed just enough to make the "old" time now seem strange.

At the current speed of air travel, as many as six time zones can be crossed in as little as six hours. When you land, your body is six hours off schedule, according to the local time. Coast-to-coast flights cross four time zones, trans-Atlantic flights cross five or six time zones, and trans-Pacific flights cross eight. If you fly from New York to New Delhi, you land with your body exactly half a day off: day is night and night is day. Since such abrupt changes in time zones did not occur while the human species was evolving, we are not in any way equipped to make the necessary adjustments rapidly.

While virtually all travelers are aware of the effects on sleeping and eating patterns, few may realize that in abruptly changing multiple time zones, they throw more than 100 different bodily functions out of whack.

Normal circadian rhythms for a host of biological activities are no longer in synchrony. Included are not only the accustomed times to sleep and eat, but also such less-obvious cycles as those for body temperature, breathing, heart rate, hormonal output, urine and blood constituents, and the chemical activities of the kidneys, liver, digestive tract and central nervous system.

This disruption of the body's many internal clocks can detract from the joy of a vacation and the wits of a negotiating executive, as well as the physical prowess of a competing athlete and the expertise of a pilot. It pays, therefore, to know the possible effects of jet lag and how they may be mitigated or, at least, accommodated.

Studies of people subjected to real and laboratory-created "phase shifts," as disruptions of circadian rhythm are called, have revealed that decrements occur in mental alertness, reaction time, short-term memory, grip strength, ability to solve simple mathematical problems and performance of complex psychomotor tasks (such as piloting a flight simulator). Such diminished abilities may last for two or three days after a "flight" across several time zones.

Biological functions vary in the length of time it takes for them to adapt to a time change of four or more hours. Whereas a person may adjust in a few days to a new sleep-wake and eating cycle, daily rhythms in hormones and body temperature may take a week or two to catch up. It may be two weeks or longer before all the disrupted, rhythmic functions become resynchronized. In general, it takes one day to adapt for each time zone crossed.

According to one study, body temperature readjusts in 11 to 12 days after a westerly flight across six time zones, and in 14 to 15 days after an equally long easterly flight. Reaction time takes six days to return to normal after the westward trip, but nine days after the eastbound return.

For reasons not well understood, it seems easier for people to adjust to a flight in a westerly direction, in which the traveler lands at an earlier time than his biological clock says it is, than to flights going east. People have less trouble staying up a few hours later than usual (as would happen going west) than arising a few hours earlier (as occurs after an eastward flight).

There is also a great deal of individual variation in sensitivity to time zone changes. Whereas some people experience little or no disturbances or become quickly resynchronized, others can be severely impaired. The older you get, the more difficult it seems to be to rapidly reset your biological clock.

Although there is no way to prevent the disruption of your body clock short of flying only directly north or south, studies of jet lag have revealed a number of tips to help mitigate the symptoms. They include the following:

Preadapt your body rhythms to the time zone of your destination. Starting several days before departure, gradually change your eating and sleeping schedule. If you're going to be flying west, go to bed an hour later each day (and sleep later in the morning). If you're flying east, go to bed and arise earlier each day.

If you're just crossing one or two time zones and will be gone only a few days, keep your watch—and your schedule—on home time.

For longer trips, be sure you are well rested before starting out. Avoid eating heavy meals or drinking alcoholic beverages just before or during the flight. The combined effects of alcohol and altitude greatly enhance fatigue, and two or three drinks consumed at 5,000 feet (the altitude to which the cabin is pressurized) have the physiological effect of three or four drinks at sea level.

Similarly, avoid smoking during flight. The accumulation of carbon monoxide in your blood combined with the effects of an altitude of 5,000 feet is equivalent to the fatigue from lack of oxygen experienced at 10,000 feet.

Schedule your flight so that you arrive as close to your regular bedtime as possible. Then go to bed and try to sleep through to a reasonable waking hour at your destination. If you're flying eastward and will be arriving at midday local time (bedtime on your body's clock), don't schedule any demanding activities or a night on the town for the remainder of that day. Instead, eat a light meal and go to bed "early."

If you have trouble falling asleep, take a warm bath, get some exercise (run around the room if need be) or read a boring book. But avoid tranquilizers, sleeping pills and alcohol. These can further interfere with sleep patterns that are already disrupted.

If you're traveling on business and must have your wits about you, go a day earlier than necessary. Whether traveling for business or pleasure, if you're going a great distance—say, from New York to Tokyo—schedule a day or two of rest in Honolulu instead of making a direct flight.

Dr. Morton S. Buchsbaum of the National Institute of Mental Health reports in the current issue of Psychology Today that a number of psychiatric drugs may prove useful in countering jet lag, particularly for people like pilots.

Included are lithium, which appears to slow the biological clock, and imipramine, which speeds it up. Alcohol also slows the clock, so if you insist on drinking while flying, save it for westbound flights.

ALBERT EINSTEIN AND THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, today marks the 100th birthday of a monumentally great scientist. We owe much of the basis and direction of modern physics to Albert Einstein. But we also owe him much more. Albert Einstein, during the cruel Nazi decade, acted unselfishly as a humanitarian.

It is little known that during the 1930's, Professor Einstein used his influence and what small wealth he possessed to provide the necessary financial guarantees for Jewish immigrants to enter this country. His support was not directed only toward doctors, scientists, and people of prominence. Hundreds of Germans, from all walks of life, wrote Einstein, who gave of his influence and resources unflaggingly. Many were saved from almost certain death in Nazi gas chambers as a result of his efforts.

Mr. President, on the 100th birthday of this great humanitarian, it would, indeed, be fitting that we take an active role in the pursuit of the ideals for which Einstein lived. One such ideal is embodied in a treaty which has been pending before the Senate now for almost 30 years—the Genocide Convention. This treaty deals with the prevention and punishment of the most inhumane crime: A crime which Professor Einstein spent vast amounts of his time and resources fighting. It would, indeed, be an enduring and appropriate tribute to Albert Einstein for the Senate to ratify the Genocide Convention.

COST OF PANAMA CANAL TREATY

Mr. THURMOND. Mr. President, the serious consequences facing this Nation as a result of the Panama Canal Treaties of last year are finally beginning to dawn on the Congress.

An article entitled "A Billion Dollars To Give Away the Panama Canal?" will appear in the March 19, 1979 issue of U.S. News & World Report magazine.

This article points out that despite administration testimony that the canal giveaway would cost the American taxpayer nothing—the real facts are now being understood. Frankly, I believe the $1 billion estimate is low and the final cost could more closely approach the $2.3 billion figure I cited during the canal debate.

Mr. President, the issue of enactment of the Panama Canal implementing legislation is not a question of just how much the canal giveaway could cost the American taxpayer. It goes much further. How these treaties are implemented could have great economic impact on our Nation's seaports, and especially those of the Atlantic coast and gulf coast States.

TOLL COST ISSUE

One key issue rests on what level of tolls are set to help finance the treaties. To reduce costs for the American taxpayer some will favor high tolls, but the effect of this approach will be to reduce shipping and cause injury to our ports through loss of business and unemployment. Such an approach could also cause a shift of traffic away from the canal. a development which would have far-ranging economic and military implications.

INTEREST PAYMENTS

Last year the administration took the attitude that interest payments from the canal to the U.S. Government could continue. Now that the treaties have passed, the administration favors ending those payments which, of course, increases the cost of the canal giveaway to the taxpayer. But here again we are on the horns of a dilemma. If we insist on these payments being made, then the canal tolls will have to be increased and this approach would also damage U.S. ports, as traffic to and from the canal would fall off sharply.

Another unfortunate aspect of this problem is that the interests of ports in the Southern States and Northern States could run at cross interests and create a parochial approach to this delicate problem.

These are some of the reasons I opposed these treaties last year. Unfortunately, we lost by a narrow margin. Today Congress, and especially the Senate, is faced with the problems we have placed on ourselves and the American people. Finding a solution will not be easy.

Mr. President, before closing, I want to once again note that famous statement by Secretary of State Cyrus Vance last year when he testified before the Senate:

> The treaties require no new appropriations, nor do they add to the burden of the American taxpayer.

I ask unanimous consent that the U.S. News & World Report article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A BILLION DOLLARS TO GIVE AWAY PANAMA CANAL?

Handing over the Panama Canal is turning out to be a lot more expensive than Washington policymakers said it would be.
shell out at least 350 million dollars by the

The latest estimate: U.S. taxpayers will time the canal is transferred to Panama, and the sum could reach 1 billion dollars.

The bulk of the money will go to dismantle Canal Zone military bases and to pay the pension benefits for some 1,400 U.S. canal employes who now must take early retirement.

The 350-million-dollar figure was obtained from Carter administration officials by a House Merchant Marine subcommittee as it debated proposals for carrying out two treaties that cede the canal to Panama by the year 2000.

The accords providing for the turnover itself were approved by the Senate on March 16, 1978. But unlike the treaties, the legislation needed to implement the pacts will require approval by both houses of Congress. And opponents in the House, still smarting over being shut out of the treaty process are determined to scuttle it.

The implementation measure would create a temporary commission to manage the canal and set waterway tolls until Panama takes control of it at the end of this century.

Tea time. At the first subcommittee hearing on the measure, Representative John D. Dingell (D-Mich.) lashed out at surprised administration witnesses: "We in the House are tired of you people in the State Department going over to your tea-sipping friends in the Senate. Now you good folks come up here and say you need legislation after you ignored the House. If you expect me to vote for this travesty, you're sorely in error."

Dingell and other subcommittee members charge that the State Department deliberately misled senators about the cost of honoring the treaties. As proof of this, they cite Secretary of State Cyrus Vance's 1978 testimony before the Senate Foreign Relations Committee, in which Vance said flatly: "The treaties require no new appropriations, nor do they add to the burden of the American taxpayer."

Vance wasn't alone in making that claim. When the Senate was debating the pacts, treaty negotiators repeatedly assured lawmakers that any costs would be financed from canal revenues or other sources and not from tax funds.

Yet in recent testimony before the House subcommittee, Deputy Secretary of State Warren M. Christopher conceded, "There will be payments by the United States . . . for things in the interest of the United States."

He added that the administration's promise last year was intended only to mean that no tax money would go to the Panamanian government in connection with the transfer. This still holds true, he said.

But it became clear from Christopher's testimony that the cost of many items had been underestimated. For example, it will cost an extra 1.5 million dollars just to move the remains of deceased American residents of the Canal Zone.

U.S. Comptroller General Elmer B. Staats, head of the General Accounting Office, testified that his own study indicates outlays will total at least 399 million dollars and easily could be twice that. In his view, the costs will approach a billion dollars if lawmakers buy President Carter's plan to terminate interest charges collected by the Treasury on U.S. investment in the canal. These charges, paid by the canal's present operator, the Panama Canal Company, amount to about 20 million dollars annually.

How high the toll? A Senate provision tacked onto the treaties specifies that the payments must be continued—an arrangement Carter accepted during the treaty debate. But he since has changed his mind, because he is worried about the effect it might have on canal tolls.

Canal operators say that if they are spared the interest payments, toll increases in the near future can be held to 20 percent. Otherwise, the tolls will go up by as much as 50 percent, they say. Shippers have responded by warning that the larger increase would force them to seek other means of moving their cargoes.

The President and his critics on the subcommittee are at odds over other issues as well. He wants the canal to be run by a quasi-governmental corporation whose American members would be presidential appointees. The body would be similar to Amtrak's board, responsible more to the White House than to Congress.

But rival legislation would make the commission a government agency, giving Congress more authority over its budget. Appointees would have to be confirmed by the Senate.

Summer dreams. Carter is almost certain to receive implementing legislation in some form, but probably not by his June 1 target for action. Three House committees have pieces of the proposal; the Senate hasn't even begun hearings.

Then, once Congress enacts a bill, Carter must return to Capitol Hill with a request for the money he needs for the transfer. This will touch off more fighting over appropriations.

One Republican in the House remarks: "By the time this is over, the President is going to wish he had never heard of the Panama Canal.

ALASKA COMMUNICATIONS PIONEER

Mr. STEVENS. Mr. President, as many other Senators know, Alaska is a large State. If a map of Alaska is superimposed on the lower 48, Ketchikan would be over Savannah, Ga. The North Slope oil fields would be in the vicinity of Chicago, and the Aleutian Islands would extend beyond the coast of California. In a State this large modern communications are crucial.

Alaska's communications needs are enormous and the history of the industry in Alaska is a good one. Several farsighted individuals deserve the thanks of all Alaskans for bringing improved communications to Alaska. With their dedication and energy Alaska's communications industry has grown and prospered.

Among the pioneers in Alaska communications is Wally Christiansen of Ketchikan. Back in the early 1950's Wally brought cable TV to southeastern Alaska. His operation was the first in the State. A recent profile in TVC magazine featured Wally Christiansen and his work. As a testament to this Alaskan communications pioneer, I ask unanimous consent that this profile be printed in the RECORD.

There being no objection, the profile was ordered to be printed in the RECORD, as follows:

EDWARD "WALLY" CHRISTIANSEN

Where there's a will there's a way. And back in 1953 when Wally Christiansen decided to provide television service to the community of Ketchikan, Alaska, the fact that the Federal Communications Commission had put a freeze on broadcast licenses nationwide didn't stop him. "I looked for a roundabout way of getting the job done," he recalls. The solution, of course, was cable, and through his pioneering efforts with R. D. Jensen, Ketchikan became the first town in the state to enjoy the benefits of CATV and Christiansen forged his way into a career which has earned him the respect of industry veterans around the country.

The process sounds uncomplicated today but the situation in Alaska was and is quite different than that of the lower 48. Ketchikan is located 650 miles north of Seattle, Washington which, at that time, harbored the closest over-the-air station. So Christiansen's venture became much more than simply picking up a signal via microwave. He had to originate all of the station's programming himself. And that he did, subsequently marking a milestone for the industry as well as opening the lines of communication for residents of the nation's 49th State.

Christiansen has worked in the technical electronics industry most of his life. He served in the U.S. Navy between 1944 and 1945 as a radar instructor and has held an FCC first class radiotelephone license with radar endorsement since that time. He is the immediate past president of the Alaska Cable Television Association, a position which he held for two years, and is a member of the Pacific Northwest Cable Communications Association, the NCTA, CATV Pioneers, and SMPTE.

Still in partnership with R. D. Jensen, Christiansen now serves as technical director for Ketchikan Alaska Television Inc., where his responsibilities include general management and the overseeing of all functions including the technical operation of a full color studio and facilities for origination on four channels simultaneously. As of late his energy has been directed towards the construction of two new earth stations in Ketchikan and Sitka, the first of which he predicts will begin operation this April.

Politically, Christiansen holds that cable deregulation at the federal level is dangerous. "Those areas that the FCC gives up will be taken over by local or state agencies to the operator's detriment," he warns. A proponent of no regulation at all, Christiansen compromises by saying that if necessary, he would "rather have regulation from as far away as possible."

He and his wife Elva have four children—Kaye Hamilton, Judi Freeman, Barbara and Roger. A man who is as enthusiastic about his personal life as he is about his work, Christiansen sports a number of hobbies including salt and fresh water fishing, boating, hunting, flying, photography and scuba diving.

RECESS UNTIL 11 A.M. TOMORROW

Mr. BAYH. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 11 a.m. tomorrow morning.

The motion was agreed to, and at 6:46 p.m., the Senate recessed until tomorrow, Thursday, March 15, 1979, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate March 14, 1979:

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be general

Lt. Gen. Bennie Luke Davis, [redacted] FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Andrew Philip Iosue, [redacted] FR, U.S. Air Force.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be general

Gen. John Joseph Hennessey, [redacted] (age 57), Army of the United States (major general, U.S. Army).

HOUSE OF REPRESENTATIVES—*Wednesday, March 14, 1979*

The House met at 3 p.m.

The Chaplain, Rev. James David Ford, B.D., offered the following prayer:

Almighty God, grant us the desire to live at peace with one another. We pray for all people, reaching out to those who live in enmity and in suspicion and in fear. May we learn to reason together and so serve the common good.

Give us peace in our hearts and in the world, and lead us always in the path of righteousness and peace for Your sake. This we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

An act to help maintain peace, security, and stability in the Western Pacific and to promote continued extensive, close, and friendly relations between the people of the United States and the people on Taiwan.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2479) entitled "An act to help maintain peace, security, and stability in the Western Pacific and to promote continued extensive, close, and friendly relations between the people of the United States and the people on Taiwan," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CHURCH, Mr. PELL, Mr. GLENN, Mr. BIDEN, Mr. STONE, Mr. JAVITS, Mr. PERCY, and Mr. HELMS, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a resolution of the following title, in which the concurrence of the House is requested:

S. RES. 50

Resolved, That the Senate disapproves the proposed deferral of budget authority (Deferral D79–6) to promote and develop fishery products and research pertaining to American fisheries set forth in the special message transmitted by the President to the Congress on October 2, 1978, under section

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

1013 of the Impoundment Control Act of 1974.

H.R. 2154 AND H.R. 1301 SCHEDULED FOR SUSPENSION CALENDAR

(Mr. WRIGHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WRIGHT. Mr. Speaker, I take this time to notify the House, in conformance with the rules of the House, that it will be the purpose of the leadership to schedule two bills on suspension of rules on either Monday next or Tuesday next.

Those two bills are H.R. 2154, to revise the Strategic Materials Stockpiling Act, and H.R. 1301, concerning the international shipment of certain lottery materials.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2283, COUNCIL ON WAGE AND PRICE STABILITY ACT AMENDMENTS

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 96–34) on the resolution (H. Res. 156) to amend the Council on Wage and Price Stability Act to extend the authority granted by such act to September 30, 1981, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2534, TEMPORARY DEBT LIMIT INCREASE

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 96–35) on the resolution (H. Res. 157) to provide for a temporary increase in the public debt limit, and for other purposes, which was referred to the House Calendar and ordered to be printed.

☐ 1505

PRESIDENT DESERVES ADMIRATION FOR HIS EXTRAORDINARY JOURNEY FOR PEACE

(Mr. RODINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RODINO. Mr. Speaker, the President has returned home after an extraordinary journey for peace. He deserves our deepest admiration for the determination, the skill, and the patience of his mission in the Middle East.

Rarely has an American President shown as much tenacity in the pursuit of peace. President Carter persisted in his effort toward a treaty between Israel and Egypt no matter what pessimistic assessments were offered, no matter what warnings were sounded, no matter what grim setbacks occurred.

And rarely has an American President shown as much courage in the pursuit of peace. President Carter had the courage to be unconventional, the courage to be imaginative, the courage to risk failure in his journey.

He did not fail, because he was determined to keep trying.

He did not fail, because he remained confident always of the fundamental good will of the leaders of Israel and Egypt.

He did not fail, because he was willing, modestly, to depart from the traditional pinnacle of Presidential prestige to fly personally from place to place in his quest for peace.

I am proud of our President's achievement, and I believe that his magnificent leadership for peace in the Middle East has stirred the pride of all Americans and won the respect and admiration of all the world.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Speaker, I commend the gentleman from New Jersey (Mr. RODINO) for what he has said, and would like to associate myself with his remarks in praise of President Carter's efforts in the Middle East. There can be no doubt that without the persistence and negotiating skill of President Carter, this remarkable achievement would not have been possible.

The entire Nation—and the world—owe President Carter their gratitude.

COMMEMORATING 100TH ANNIVERSARY OF THE BIRTH OF ALBERT EINSTEIN

(Mr. BROWN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of California. Mr. Speaker, I asked to take this time because today it is the 100th anniversary of the birth of Albert Einstein, probably the greatest scientist of this century and possibly of any century.

I intend to place in the Extension of Remarks of the RECORD some additional material bearing on this date, but I felt that I wanted to make one or two comments about the character of this man.

During the 1930's when I was myself a youngster, an adolescent, trying to determine what my own career choices would be, I was much moved by the example of Einstein and developed my own interest in science largely as a result of his influence.

Mr. Speaker, I want to point out two characteristics of Mr. Einstein's life which I think contradict the normal stereotype society has of scientists. First, he was a man of great morality. We sometimes tend to think of scientists as Dr. Strangelove kinds of creatures, unconcerned with the social implications of their work.

☐ 1515

But let me quote what he said in 1932 in Pasadena:

> The more powerful the tools which the creative ability of past generations (have) delivered into our hands, the greater must be man's moral powers to use them wisely.

He said:

> Man does not lack the intelligence to overcome the evils in society; what is lacking is his selfless, responsible dedication to the service of mankind.

These remarks were made long before the advent of nuclear weapons, but they could have been aimed at such developments, as well as many of the other products, of modern technology.

Second, he was a world citizen, who urged everyone to take their citizenship seriously. One of Einstein's statements about education demonstrated this. He said the aim of education in a free society "must be the training of independently acting and thinking individuals who, however, see in the service of the community their highest life problem."

ALBERT EINSTEIN'S ADVICE

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, I want to commend the gentleman from California (Mr. BROWN) for what he said in tribute to this remarkable man. What he has had to say reminds me of the experience I had in 1950 upon meeting Albert Einstein at the Institute for Advanced Study at Princeton. A group of Americans was waiting in a room in that institute at a reception before we were going off abroad to study, and I had my eye on the door to see an old friend of mine from school days. When the door came open, in shuffled this man with a wool hat, a sweater, khaki trousers, and shoes without socks. We fell back as if a divinity had walked in the room because it was Albert Einstein. Dr. Frank Aydelotte, the director of the Institute for Advanced Study, turned to our guest and said as if addressing an institution, which he was, not "Professor," not "Doctor," but Professor Aydelotte said, "Einstein, what have you got to tell these boys?"

Although it is almost 30 years since, I remember still. From anybody else it would have been a cliche, but not from Albert Einstein. He said, "Well, I think the most important thing is that they should think for themselves." I think that is what I came away with as one modest contribution of this extraordinary human being.

I thank the gentleman from California.

ALBERT EINSTEIN

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, I would like to associate myself with the tribute to the one perhaps authentic genius of the 20th century who was happily and warmly received in my congressional district.

PUERTO RICO IMPORTS SEEN AIDING U.S. ECONOMY

(Mr. CORRADA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CORRADA. Mr. Speaker, I would like to call the attention of my colleagues to a short article which was recently printed in the San Juan Star, an English language daily published in Puerto Rico:

> Puerto Rico's imports contributed 153,000 jobs and $3.47 billion in gross income to the mainland economy in fiscal 1977, according to a recent Fomento study.
>
> The five states which benefited most from supplying the island were the following:
>
> New York, which earned $355 million by exporting scientific and professional instruments, drugs and clothes.
>
> California, which earned $304 million with food products, canned food and transportation and communications equipment.
>
> Texas, which profited by $205 million from petroleum products, milled rice, chemicals and miscellaneous food products.
>
> Illinois, which showed earnings of $188 million from fabricated metal products, cleaning and toilet goods, food products and drugs.
>
> Florida, which earned $186 million with fresh fruits and vegetables, canned foods, paper and card board products.
>
> These figures did not include a "multiplier" effect, or in other words, the other jobs an income generate when the $3.47 billion is circulate through the economy, the report said.
>
> The mainland economy also receives other benefits outside the scope of the study, the report explained including earnings and employment from transportation of goods and people, banking, insurance, advertising and expenditures of Puerto Rican visitors to the mainland.

PRESIDENT CARTER'S FOREIGN POLICY

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, at a later time today I will insert in the RECORD my views on President Carter's overall handling of our foreign policy.

For the moment he deserves our congratulations for getting Israel and Egypt to sign a peace accord, but that does not by any means guarantee a comprehensive peace for the entire Middle East. It is only a beginning, although a significant one.

When we were briefed after the Camp David meetings, I asked the President point blank whether there were any financial commitments made at the time and the answer was a flat "no."

Two questions later the President did acknowledge his agreeing to relocate two Israeli air bases from the Sinai.

Since the President was less than candid in his answer to my question, I would be willing to bet that when all the fine print is exposed to public view, every one of President Carter's characteristic bear hugs with Sadat and Begin will cost the American taxpayer a billion dollars or more per hug.

□ 1525

SPECIAL PROSECUTOR URGED TO INVESTIGATE CARTER PEANUT BUSINESS

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SHUSTER. Mr. Speaker, on May 27, 1976, Presidential candidate Jimmy Carter told an audience in Cincinnati, Ohio, quote:

> I see an America that has turned her back on scandals and corruption and official cynicism and has finally demanded a government that deserves the trust and respect of her people.

I wholeheartedly agree with that vision. Therefore, I again call on the Attorney General to appoint a special prosecutor to look into charges and allegations concerning President Carter and his brother relating to the operation of the Carter peanut business in Georgia.

Columnist William Safire summed it up in a nutshell in the New York Times:

> Remember, we are not dealing merely with charges against Billy Carter; we are dealing with potential fraud, conspiracy to misapply bank funds and tax evasion in a company 63 percent owned by Jimmy Carter. We are not looking merely at a trick with collateral to increase cash flow, but also into a long-delayed Federal Election Commission report, a questionable I.R.S. audit, a closely related 18 month criminal investigation, and a two year pattern of deliberate withholding of pertinent operating statements of the Carter warehouses by the Carter press secretary and counsel.

In conclusion, Mr. Speaker, I ask: "Why not the best?"

DOW CHEMICAL REPORTS ON EFFECT OF FEDERAL REGULATION

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, the Dow Chemical Co., one of the largest employers in my district, has just issued a startling report on the cost of Government regulations.

This study shows that compliance with multitudinous Federal regulations cost Dow $268 million in 1977, up 82 percent from 1975.

The quarter-billion-dollar price tag of dealing with the 80 Government agencies that harass it does nothing but raise prices, cost jobs, and make us less competitive in the world market.

Only Congress can do something about cutting the entangling web of Federal regulations, and as a start, I have introduced legislation to abolish OSHA.

Combined with the unconscionable Federal policies of runaway inflation and runaway taxation, runaway regulation can strangle our free and productive economy, unless Congress lives up to its constitutional mandate to provide for the general welfare, and ends these three destructive activities.

PROVIDING FUNDS FOR EXPENSES OF INVESTIGATIONS AND STUDIES BY COMMITTEE ON AGRICULTURE

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 117) to provide funds for the expenses of the investigations and studies to be conducted by the Committee on Agriculture, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 117

> *Resolved*, That, effective January 3, 1979, the expenses of the investigations and studies to be conducted by the Committee on Agriculture, acting as a whole or by subcommittee, not to exceed $1,100,000, including expenditures for the employment of investigators, attorneys, clerical, stenographic, and other assistants, for specialized training, pursuant to section 202(j) of such Act, as amended (2 U.S.C. 72a(j)), of committee staff personnel performing professional and nonclerical functions, and for the procurement of services of individuals or organizations, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $2,000 of the total amount provided by this resolution may be used to provide for specialized training, pursuant to section 202(j) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(j)), of staff personnel of the committee performing professional and nonclerical functions but this monetary limitation for specialized training shall not prevent the use of such funds for any other authorized purpose.
>
> SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Agriculture shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.
>
> SEC. 3. Funds authorized by this resolution shall expire immediately prior to noon on January 3, 1980.
>
> SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. BRADEMAS (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

COMMITTEE AMENDMENT

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

> Committee amendment: Strike out all after the resolving clause and insert:
>
> That, effective January 3, 1979, the expenses of the investigations and studies to be conducted by the Committee on Agriculture, acting as a whole or by subcommittee, not to exceed $1,025,000, including expenditures for the employment of investigators, attorneys, clerical, stenographic, and other assistants, for specialized training, pursuant to section 202(j) of such Act, as amended

(2 U.S.C. 72a(j)), of committee staff personnel performing professional and nonclerical functions, and for the procurement of services of individuals or organizations, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $2,000 of the total amount provided by this resolution may be used to provide for specialized training, pursuant to section 202(j) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(j)), of staff personnel of the committee performing professional and nonclerical functions but this monetary limitation for specialized training shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Agriculture shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall expire immediately prior to noon on January 3, 1980.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. BRADEMAS (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER. The gentleman from Indiana (Mr. BRADEMAS) is recognized for 1 hour.

Mr. BRADEMAS. Mr. Speaker, House Resolution 117 provides $1,025,000 for investigations and studies to be conducted by the Committee on Agriculture.

Mr. Speaker, the amount approved by the Committee on House Administration is $115,000 more than they received last year but is $75,000 less than the committee requested.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield for the purpose of debate only to the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. I thank the gentleman for yielding.

Mr. Speaker, the information which we got from the Agricultural Committee office was that in 1978 they spent $774,200. I notice that the Committee on House Administration has authorized a recommendation for 1979 of $1,025,000. That is an increase of 32.4 percent in one year, for 1979, over what was spent by this committee in 1978.

Considering that our President has asked the American people to limit increases in prices and wages to no more than 7 percent and, indeed, that the President has recommended to the Congress that wage increases of Federal employees be limited to no more than 5.5 percent, what justification do we have for a recommendation to the House that we authorize an expenditure level for this committee which is 32.4 percent more than what they spent last year?

☐ 1535

Mr. BRADEMAS. I might say to the gentleman that Mr. WAMPLER, the gentleman's colleague, who is the ranking minority member of the committee and who stands in strong support of the resolution, might best be able to respond to the gentleman's question. I would, before yielding to him however, yield to the distinguished chairman of the Committee on Agriculture, the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I thank the chairman of the subcommittee. I think the gentleman from California has a false analogy. This committee has not paid its employees even the rates permissible under existing law. We do not have the highest level, grade 4 level, on this committee. We have had a lower level of staffing for a subcommittee than any major committee in the House. I think the gentleman will know by experience how many subcommittee staff are existing on subcommittees. We do not even have two subcommittee staff persons per subcommittee, considering both Democrats and Republicans—and this committee has always had a one-third minority staffing.

The fact that we turn back money, as the gentleman suggests, that should be used against this committee because it tried to be frugal and careful in the expenditure of its budget, is a sad reflection of what has happened all too often in the executive branch of Government where it is common knowledge that many agencies try to expend the maximum amount of their appropriation every year for the very reason that they do not want someone like the gentleman standing up and saying, "Why do they need more money? They have not spent what they had last year."

It is very easy for Mr. WAMPLER, and myself, who control the budget of this committee between us, to see to it that every penny authorized and appropriated by this Congress is expended and, in fact, that the committee goes into some debt and comes and asks for a supplemental appropriation and supplemental authorization. If that is what the gentleman would like, I would be happy to see that that is done. I do not think the gentleman wants that. I think he wants this committee and all committees to spend what they have carefully and frugally, and when we have a chance to spend less than we are authorized, we are proud that we are able to come back and demonstrate effective management of this committee by turning money back.

But, we do have a problem. Members like the gentleman come back and say, "Why do you need more staff when you are turning money back?" We have had a very small staffing. In fact, our whole investigative budget is the second lowest of all the major committees of this House next only to the Armed Services Committee.

Mr. BRADEMAS. Mr. Speaker, I thank the gentleman from Washington for his observations. I share them.

Mr. Speaker, I yield to the distinguished ranking minority member of the Committee on Agriculture, thte gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, let me say to my colleague from California that I commend him for his concern of fiscal responsibility. There are many of us in this House who for many years have tried to vote that way. Let me assure him that in working with the distinguished chairman of the House Committee on Agriculture in preparing this budget, we were frugal. As the gentleman from California might well know, the Committee on Agriculture has very broad jurisdiction and, like most committees of this House, I hope that this will be the year of oversight in which our committee expects to look into a number of programs affecting American agriculture and the American consumer.

I would point out that every year, I believe, that I have been ranking minority member of this committee we have turned back to the Treasury unexpended balances of our budget. One might ask, why then do we present a budget that goes over the actual expenditures? My conception of a budget is that it is something that is realistic, that we think we need, and then by operating in a very frugal manner we are within our budget and are making an effort to return money to the Treasury every year. I wish every agency of the Federal Government would do the same.

So, I assure my colleague from California and all Members of the House that I perceive this as being a realistic budget. I want to assure the gentleman that to the extent I have any participation in the levels of these funds, we are going to spend them very carefully. Hopefully, this year we will do what we have done in the past years, that is, turn back the unexpended balance.

☐ 1540

Mr. BRADEMAS. Mr. Speaker, I thank the gentleman from Virginia (Mr. WAMPLER) for his contribution.

The SPEAKER. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. BRADEMAS. Mr. Speaker, I move the previous question on the resolution, as amended.

The previous question was ordered.

The SPEAKER. The question is on the resolution, as amended.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FUNDS FOR INVESTIGATIONS AND STUDY OF WELFARE AND PENSION PLANS BY COMMITTEE ON EDUCATION AND LABOR

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 114) providing funds for the expenses of a welfare and pension plans task force under the jurisdiction of the Committee on Education and Labor, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 114

Resolved, That the expenses of a special study and investigation of welfare and pension plans to be conducted by the Committee on Education and Labor, acting as a whole or by subcommittee, not to exceed $360,000 including expenditures for the employment of attorneys, actuaries, investigators, individual consultants, or organizations thereof, and clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $15,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

Such $360,000 shall be available and allocated to the Subcommittee on Labor Management Relations in connection with the ongoing study and investigation of the impact and effect of the Employee Retirement Income Security Act of 1974 on private pension and welfare plans and public employee pension and welfare plans pursuant to sections 3021 and 3031 of that Act, and related bills. Particular need has been demonstrated to continue a professional study of vesting, funding, portability, benefit insurance, fiduciary responsibility, adequate disclosure, and other aspects related to the expansion and full effectuation of private and public pension and welfare plans as a meaningful supplement to the social security system.

The Subcommittee on Labor-Management Relations, through the Committee on Education and Labor, shall report to the House as soon as practical during the present Congress the results of its investigation and study with such recommendations as it deems advisable.

Sec. 2. Except as provided by sections 3021 and 3031 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1231), no part of the funds authorized by this resolution shall be available for expenditure in connection with the study of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Education and Labor shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

Sec. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. BRADEMAS (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

COMMITTEE AMENDMENT

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Strike out all after the resolving clause and insert:

That the expenses of a special study and investigation of welfare and pension plans to be conducted by the Committee on Education and labor, acting as a whole or by subcommittee, not to exceed $167,500 including expenditures for the employment of attorneys, actuaries, investigators, individual consultants, or organizations thereof, and clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $15,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of iindividual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

Such $167,500 shall be available and allocated to the Subcommittee on Labor-Management Relations in connection with the ongoing study and investigation of the impact and effect of the Employee Retirement Income Security Act of 1974 on private pension and welfare plans and public employee pension and welfare plans pursuant to sections 3021 and 3021 of that Act, and related bills. Particular need has been demonstrated to continue a professional study of vesting, funding, portability, benefit insurance, fiduciary responsibility, adequate disclosure, and other aspects related to the expansion and full effectuation of private and public pension and welfare plans as a meaningful supplement to the social security system.

The Subcommittee on Labor-Management Relations, through the Committee on Education and Labor, shall report to the House as soon as practical during the present Congress the results of its investigation and study with such recommendations as it deems advisable.

Sec. 2. Except as provided by sections 3021 and 3031 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1231), no part of the funds authorized by this resolution shall be available for expenditure in connection with the study of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Education and Labor shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

Sec. 3. The authorization granted by the resolution shall expire immediately prior to noon on January 3, 1980.

Sec. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. BRADEMAS (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER. The gentleman from Indiana (Mr. Brademas) is recognized for 1 hour.

Mr. BRADEMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 114 provides $167,500 for a special study and investigation of pension plans to be conducted by a pension task force under the jurisdiction of the Committee on Education and Labor.

Mr. Speaker, the Committee on House Administration reduced the task force's 2-year, $360,000 request to a single-year allocation of $167,500.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentlewoman from New Jersey, for purposes of debate only.

Mrs. FENWICK. Mr. Speaker, I thank my colleague for yielding.

I think all of us on this side of the aisle were impressed and heartened and I may say amazed, in a way, to hear the fine report as to the staffing, from the point of view of the minority, on the Committee on Agriculture, which the distinguished chairman has just revealed to us.

I wonder whether the gentleman could tell us what proportion of the staff of the minority will be involved with this committee?

Mr. BRADEMAS. Mr. Speaker, I may say to the gentlewoman from New Jersey that the gentleman from New Jersey (Mr. Thompson) is the father of the one-third rule, a position which has caused a certain amount of grief for him on this side.

However, before yielding to him, I will yield to the gentleman from Illinois (Mr. Erlenborn), for purposes of debate only.

Mr. ERLENBORN. Mr. Speaker, I thank the gentleman for yielding.

In answer to my colleague's question, the Pension Task Force which we are seeking to have refunded at this time was suggested by me to our former colleague, John Dent, during consideration of the legislation which finally was enacted in 1974, the private pension legislation known as ERISA.

We had a fine bipartisan approach at the time ERISA was enacted and in the activities of the Pension Task Force since September of 1974, when that bill was signed into law. The minority is well represented on the task force. As a matter of fact, at the present time the actuary, who is a minority appointee, has been with the committee for a long time. The counsel, a majority appointee, professional appointee, has just joined the task force. The highest paid employee on the task force at the present time happens to be the minority appointee.

As the ranking member of this subcommittee and having been on the task force since its creation, I want to say that the minority has been well represented. We have had a very nonpartisan or bipartisan approach to this legislation.

Mr. Speaker, if the gentleman will yield further, in anticipation of a question as to the amount of this appropriation, those of us who were in the Congress in the last 2 years know that our colleague, now retired, John Dent, was stricken about 2 years ago with difficulties which led finally to the removal of one of his eyes and the possibility of trouble with the remaining eye. As a result, he was hospitalized for a long period of time.

Because of the technicalities involved in ERISA—and it is a rather esoteric subject—and the inability of our colleague, John Dent, to be here to lead the task force in its activities, the activities of the task force were greatly reduced.

□ 1545

In the last Congress, as a matter of fact, when the majority appointee of the task force, the counsel of the task force, finally left, he was not replaced because of the low level of activities. We anticipate a resumption of a full schedule of activities of the task force in this year. For comparison purposes, in the 94th Congress the annual expenditures of the task force were $149,000. The amount in this resolution is $167,500, so that on an annualized basis the increase has been approximately 3 percent per year. I would say that that compares most favorably with the request.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding.

I think that is a very fine report. I just want to ask the gentleman, has this committee the additional $1½ million for staff by statute?

Mr. ERLENBORN. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding.

This is not a standing committee but merely a task force serving one of the subcommittees. This is the only money available to the task force.

Mrs. FENWICK. If the gentleman will yield further, I think that is a very fine record, and I congratulate the committee.

Mr. BRADEMAS. I thank the gentlewoman from New Jersey and the gentleman from Illinois.

Mr. Speaker, I yield now to the gentleman from New Jersey (Mr. THOMPSON), the distinguished chairman of the Committee on House Administration and the Chairman of this task force.

Mr. THOMPSON. I thank the gentleman for yielding.

First of all, Mr. Speaker, I want to thank the Chairman and the members of the subcommittee, and extend thanks to my distinguished colleague, the gentleman from Illinois (Mr. ERLENBORN) who in response in that colloquy answered very much of what I was going to say. I have only to add this, that there are virtually innumerable requests existing now made by Members for highly technical answers to pension questions. This task force, I believe, is the only unit in existence with the capability of answering these questions.

I might point out as well that we are faced with a deadline of enormous importance, and that is July 1, which is coming very rapidly. In 1974 when we passed ERISA, we enacted a self-funding insurance system for guaranteeing pension benefits of participants whose employees terminated plans with insufficient assets to pay benefits. In 1977 we postponed mandatory coverage under this system until July 1 of this year for 8 million workers throughout the United States who are participants in multiemployer pension plans. It is of the utmost importance that State, county, municipal, private, and public pension plan participants be covered.

I might point out that there are in existence nearly $500 billion of pension funds which this law must protect. We will undertake to do that. It is a very small, very highly trained staff, Mr. Speaker. I certainly hope that this modest amendment will be approved.

Mr. BRADEMAS. I thank the gentleman.

Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. DANNEMEYER), for debate only.

Mr. DANNEMEYER. I thank the gentleman for yielding.

I notice in 1978 this committee expended on an annualized basis approximately $109.5 thousand, and the recommendation of the Committee on House Administration for this year 1979 is $167.5 thousand, which represents an increase of some 53 percent in 1 year over what they spent last year. Can the gentleman explain to this House why we should vote to approve an increase in expenditure of a magnitude of better than 50 percent in just 1 year for this one committee?

Mr. BRADEMAS. I would be glad to do so by yielding to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. I thank the gentleman for yielding.

Let me just repeat to my colleague that in the 94th Congress the expenditures were $149,000 per year. I would again repeat, because of the illness of the Chairman of the committee the task force was inactive to a certain extent during the last Congress. If we were to compare this with the expenditures in 1975 and 1976, the increase asked for now would be less than 3 percent a year. That is a record of which I think we can be proud.

Mr. BRADEMAS. Mr. Speaker, I thank the gentleman from Illinois for his observations.

The SPEAKER. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. BRADEMAS. Mr. Speaker, I move the previous question on the resolution as amended.

The previous question was ordered.

□ 1550

The SPEAKER. The question is on the resolution, as amended.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 336, nays 73, not voting 23, as follows:

[Roll No. 39]

YEAS—336

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Derrick
Devine
Dicks
Dingell
Dixon
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Del.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Leach, La.
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McDade
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marriott
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond

Rinaldo
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Rudd
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shuster
Simon
Skelton
Slack
Smith, Iowa
Snowe
Snyder
Solarz
Spence
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Taylor
Thompson
Traxler
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vento
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff, N.Y.
Wolpe, Mich.
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Mo.
Zablocki

NAYS—73

Archer
Bafalis
Bauman
Bereuter
Bethune
Breaux
Brinkley
Burgener
Carney
Coleman
Collins, Tex.
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
Deckard
Derwinski
Dickinson
Erdahl
Evans, Ind.
Frenzel
Gibbons
Glickman
Green
Grisham
Hance
Hansen
Holt
Hopkins
Jeffries
Jones, Okla.
Kelly
Kramer
Lagomarsino
Latta
Leach, Iowa
Lee
Loeffler
Lott
Lujan
Lungren
McClory
McDonald
Marlenee
Martin
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Nelson
Pashayan
Paul
Quayle
Ritter
Runnels
Santini
Schulze
Sebelius
Shumway
Smith, Nebr.
Solomon
Stangeland
Stenholm
Stump
Symms
Tauke
Thomas
Trible
Vanik
Volkmer
Whittaker
Winn
Young, Fla.

NOT VOTING—23

Alexander
Anderson, Ill.
Ashley
Bevill
Bowen
Conyers
Diggs
Dodd
Dornan
Edgar
Evans, Ga.
Flood
Fountain
McCloskey
McKinney
Mathis
Moffett
Mottl
Nowak
Pepper
Spellman
Williams, Ohio
Zeferetti

☐ 1605

Mrs. SCHROEDER and Mr. YOUNG of Missouri changed their vote from "nay" to "yea."

Mr. BEREUTER changed his vote from "yea" to "nay."

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER LEGISLATIVE PROGRAM

(Mr. PEYSER asked and was given permission to address the house for 1 minute.)

Mr. PEYSER. Mr. Speaker, I would like to announce that the third funding resolution on House Information Systems will not be taken up this afternoon, but will be taken up on Monday. The Committee on Committees report dealing with that committee will also be taken up on Monday.

Mr. Speaker, there will be no votes on Monday, and all votes will be delayed.

GENERAL LEAVE

Mr. PEYSER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolutions just agreed to.

The SPEAKER. Is there objection to the request to the gentleman from New York?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR EXPENSES OF INVESTIGATIONS AND STUDIES BY COMMITTEE ON THE JUDICIARY

Mr. PEYSER, from the Committee on House Administration, submitted a privileged report (Rept. No. 96-36) on the resolution (H. Res. 86) to provide for the expenses of investigations and studies to be conducted by the Committee on the Judiciary, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR EXPENSES OF INVESTIGATIONS AND STUDIES BY COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Mr. PEYSER, from the Committee on House Administration, submitted a privileged report (Rept. No. 96-37) on the resolution (H. Res. 123) to provide for the expenses of investigations and studies to be conducted by the Committee on Post Office and Civil Service, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR EXPENSES OF INVESTIGATIONS AND STUDIES BY COMMITTEE ON AGING

Mr. PEYSER, from the Committee on House Administration, submitted a privileged report (Rept. No. 96-38) on the resolution (H. Res. 128) to provide for the expenses of investigations and studies to be conducted by the Committee on Aging, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FUNDS FOR INVESTIGATIONS AND STUDIES FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES

Mr. PEYSER, from the Committee on House Administration, submitted a privileged report (Rept. No. 96-39) on the resolution (H. Res. 132) providing funds for investigations and studies for the Committee on Merchant Marine and Fisheries, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR EXPENSES OF INVESTIGATIONS AND STUDIES BY COMMITTEE ON SCIENCE AND TECHNOLOGY

Mr. PEYSER, from the Committee on House Administration, submitted a privileged report (Rept. No. 96-40) on the resolution (H. Res. 134) to provide for the expenses of investigations and studies to be conducted by the Committee on Science and Technology, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR EXPENSES OF INVESTIGATIONS BY COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Mr. PEYSER, from the Committee on House Administration, submitted a privileged report (Rept. No. 96-41) on the resolution (H. Res. 137) to provide funds for the expenses of investigations to be conducted by the Committee on Interstate and Foreign Commerce, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR EXPENSES OF STUDIES AND INVESTIGATIONS BY COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. PEYSER, from the Committee on House Administration, submitted a privileged report (Rept. No. 96-42) on the resolution (H. Res. 139) to provide funds for the expenses of studies and investigations to be conducted by the Committee on Interior and Insular Affairs, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR EXPENSES OF INVESTIGATIONS, STUDIES, OVERSIGHT, AND FUNCTIONS BY COMMITTEE ON GOVERNMENT OPERATIONS

Mr. PEYSER, from the Committee on House Administration, submitted a privileged report (Rept. No. 96-43) on the resolution (H. Res. 140) to provide for the expenses of investigations, studies, oversight, and functions to be conducted by the Committee on Government Operations, which was referred to the House Calendar and ordered to be printed.

DEATH KNELL FOR SMALL BUSINESS PROGRAMS FORECAST

(Mr. ADDABBO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ADDABBO. Mr. Speaker, my admiration for Ambassador Robert Strauss has increased with every year I have known him, and it therefore grieves me to disagree with him. Nevertheless, Mr. Strauss—acting on behalf of the White House—is embarked on a mission that could have simply disastrous consequences for small and minority-owned business firms in this Nation, could cause any number of industries to be closed down and would certainly impact badly on the Nation's high unemployment areas.

I am referring to the proposed trade treaty with members of the European

Common Market and some eight other nations around the world. This treaty, if implemented as designed, would remove all protective laws within this Nation which were passed to protect U.S. companies and workers from unfair foreign competition.

To implement this treaty, the administration would ask Congress to pass an implementing bill which could not be amended or debated. The net effect of this bill would be to repeal small business set-asides, minority enterprise set-asides—this is the 8-a program—the labor surplus procurement program and the Buy American Act.

Mr. Strauss justifies repealing these acts because the United States is asking the other involved nations to make concessions in their protectionist laws so that American companies can bid for foreign contracts just as foreign firms would then be allowed to bid for U.S. Federal procurement contracts. That sounds nice enough. But the reality is that small and minority enterprise programs, as well as the other programs I have mentioned, will be undermined completely because U.S. firms have to comply with U.S. laws concerning minimum wage, safety and pollution standards, retirement and insurance benefits, and all of the other assorted regulations we insist upon—and the foreign companies do not. That is not free trade except in name alone.

Nevertheless, what is most important is that if the administration concludes its negotiations, the House will be the final judge of this issue when the implementing bill comes before us.

I urge the Members to take a hard look at the ultimate effect that such a treaty will be on those companies large enough to be multinational. I further suggest that the big losers will be the small companies and the people who work for them, the minority-owned businesses and those other have-nots who are struggling so hard to become part of our free enterprise system, and those large pockets of high unemployment which would be left to drift further toward decay and hopelessness.

Mr. Speaker, this morning I put out a comprehensive statement on this issue, and I include that in the Record:

Death Knell for Small Business Programs Forecast

Small Business programs as well as other programs to protect American workers from unfair competition from imported goods will be effectively destroyed if the Carter Administration follows through with trade negotiations presently under way, Congressman Joseph P. Addabbo said today.

Addabbo (D.-N.Y.) added that almost all of the gains so painstakingly made over the last 10 years to protect American industry and on behalf of minority enterprise will be lost "in one fell swoop, if this trade agreement is signed as the Administration plans to do."

Negotiations are nearly ended now between U.S. Ambassador Robert Strauss and foreign nations which include members of the European Common Market, Canada, Japan, Sweden, Switzerland, Mexico, Brazil, Taiwan and Korea. The White House has already conducted preliminary discussions with members of congressional committees regarding required legislation to implement the treaties.

"The goal of the Administration is admirable," Addabbo said, "but the net effect of this proposed treaty would be to place in jeopardy everything that has been gained for the small business and have-nots of our nation while the only apparent U.S. winners would be the large, multinational corporations."

Most nations, including the U.S. have laws which favor domestic businesses when they sell products to their respective governments. Here in the U.S., government purchasing policies must also take into consideration the Buy American Act, the Small and Minority Business Set-Aside Programs, and the Labor Surplus Area Procurement Program, all of which are designed to funnel billions of dollars each year of government procurement to segments of America where extra help is necessary. Without these programs, large segments of American industry would be driven out of business by cheaply-produced imported goods, minority enterprise programs would have withered away and huge pockets of unemployment areas would have no hope of recovery.

The trade agreement now being considered by the White House would remove most, if not all, of these protections. That means, according to Congressman Addabbo, ". . . that foreign firms which are not subject to U.S. laws that require minimum wage, OSHA, pollution control standards or tax requirements, would be able to compete unequally with U.S. firms for government contracts.

"This is to be done in the name of fair competition," Congressman Addabbo notes, "but to force our businesses into head-to-head competition with foreign companies who use cheap labor and may be government subsidized is not my idea of fair competition. This is either a classic example of good intentions going awry or a serious misinterpretation of the eventual consequences of this treaty."

Noting that the certain consequences of signing this proposed treaty would be the further loss of American jobs, the loss of contracts by small and minority-owned companies and the inability to channel a percentage of federal procurement contracts to high unemployment areas, Addabbo observed that "this is directly contrary to the President's stated commitment of help to the cities which resulted in his Urban Message of a year ago.

Among the laws the President would ask Congress to repeal so that the trade treaty could be implemented would be:

Small business Set-Asides—allowing federal agencies to "set-aside" or restrict competition on certain contracts to small businesses only; Minority Enterprise Set-Asides (8(a) Program)—authorizing Small Business Administration contracts with federal agencies which then subcontract for actual performance to minority-owned companies on a sole source basis;

Labor Surplus Procurement Program—Allowing federal agencies to "set-aside" or restrict competition on certain contracts to firms which will perform a substantial proportion of the production under the contract in a high unemployment area;

**Buy American Act—applies to an offer submitted by a foreign firm for a federal contract and "tacks on" to that offer a fixed percent of the offered price and only then is the foreign offer compared to other offers received from domestic firms.

There is a limited list of particular products which the Government buys and which are to be excluded from the terms of the trade agreement. In addition, contracts under $190,000 in amount will not be covered. Representative Addabbo stated:

"If the Administration dares to offer a bill which, in any way, limits the scope of the Buy American Act, or the small, minority business or labor surplus area programs, it ought to go down to sure defeat on the Floor of the House. I sincerely hope that the Administration will reevaluate its position before we are forced to reject the entire trade agreement and thereby cause the Administration embarrassment both here and in the international community."

AGRICULTURE PROBLEMS AGGRAVATED BY WHITE HOUSE INDECISION

(Mr. HIGHTOWER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HIGHTOWER. Mr. Speaker, as you, and other Members of Congress have heard me say before, we have many problems in agriculture.

Time and timeliness mean the difference between success and disaster in farming. If a producer does not plow and plant, buy and sell at the right time, a year's labor and a year's income can be lost.

My greatest frustration is trying to get decisions affecting farmers out on a timely basis. I give the people at the Department of Agriculture a hard time on getting decisions out when they need to be announced. The people at the Department of Agriculture, however, do an outstanding job compared to what happens when the proposals go down the street to Pennsylvania Avenue. Let us give you an example.

There is a provision in the 1977 Farm Act that provides for the Secretary of Agriculture to allow wheat producers to graze-out up to 40 percent of their wheat instead of harvesting the wheat for grain. Now that is not a decision of Earth shattering dimensions. If it had been announced last fall when the rest of the wheat program was announced it would have allowed producers to contract for cattle or lease out part of their grazing. We have had a hard winter in the Great Plains area this year and winter forage is in short supply. This decision would be of great benefit to many producers.

The Department of Agriculture has approved this decision and sent it across the street for final approval after a short comment period. It is my understanding that the comments ran almost 300 to 1 in favor of the provision. The cattle market needs the additional grazing to keep cows and heifers from going in the feedlots and to encourage rebuilding of herds and we already have 411,291,025 bushels of wheat under loan and we are looking at a very strong wheat crop. Estimates are running around 26 percent over last year's crop.

In the meantime, this decision that could help a large group of financially troubled farmers is tied up in Mr. Kahn's shop because some think it might be inflationary. If the 25 to 30 million acres that this program might pull out of the spring harvest are pulled it will not amount to 1 cent of an increase in the cost of a loaf of bread. In the meantime, every day of delay means fewer farmers will be able to take advantage of this program.

The group down at the White House cannot seem to make up their minds on what to do on this issue. Statements and stories appear that are attributed to the inflation fighting task force that refer to "possibilities" of planting soybeans on set-aside acres and opening the beef imports up again even though there is not any beef available to come into this country. Some decisions based on the needs of this country could do a lot more for inflation than all of the newspaper stories and media plays in the world.

Making those decisions when they need to be made could go a long way in restoring this countries faith in their Government. If every decision that comes out of any department must still go through the many councils over at the White House, why do we have the agencies?

☐ 1510

EXPRESSING PRIDE IN PRESIDENT CARTER'S ACHIEVEMENT IN THE MIDDLE EAST

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, I am glad to say I was among the Members of the Congress who went to Andrews Air Force Base early this morning to greet the President on his return from the Middle East. I wish that every Member of this body and, in fact, every American had had that opportunity. I am sure they would have shared my pride in the President's achievement. He showed strength, wisdom and perserverance, and he showed that the United States remains without equal, that this Nation of ours is indeed the great peacemaker of the world, and that our efforts around the world are worthy of respect.

During these lengthy negotiations, there have from time to time been expressions of doubt as to President Carter's personal commitment to the security of Israel. I want to make the point that I do not in any way doubt the sincerity of the President's commitment to the well-being of the State of Israel. While I have obviously not yet reviewed the provisions of a final agreement, I am confident that adequate provisions will be included to protect the security of this critically important ally.

My support for the President in his efforts for peace in the Middle East is unequivocal. He deserves credit for having brought Israel and Egypt to the verge of peace, and that is something that all too many have thought would never be possible.

CAN WE BUILD A TOWER INTO BUDGETARY HEAVEN?

(Mr. LONG of Louisiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LONG of Louisiana. Mr. Speaker, in this first Congress elected in the aftermath of proposition 13, political heaven for most Members, I suspect, would be to create a Federal Government that is both efficient and operates on a balanced budget. That is my vision of heaven, as well. Aware of the congressional and public sentiments toward these lofty aims, the new Subcommittee on the Legislative Process of the Committee on Rules held its organizational meeting this week. This new subcommittee, which I have the honor to chair, carries forward the work begun by the Subcommittee on the Rules and Organization of the House which I chaired in the 95th Congress.

Our primary legislative goal for this Congress is to develop a practical procedure for systematic program review by the Congress. For if political heaven is indeed more efficient and less costly Government, then such systematic review can be a tower into that heaven.

I fear, however, that like our biblical ancestors in Babel, we may have a language problem. Everyone involved has the same end goal in building this new tower of oversight, but each speaks his own language when asked how to construct it. Some call it sunset, others call it sunrise. Some call for review every 5 years, others say every 10. If we do not communicate and exercise care in how we design this new procedure, we could all end up, like Babel's Tower, in rubble.

The role of our subcommittee is to find a common language—to focus Members' desire for better and more systematic oversight in a way that produces meaningful review without obstructing the legislative process at the same time. A requirement for program review can organize our mandated responsibility for conducting oversight, or it can become a procedural nightmare that keeps us from performing our other legislative functions. It can reinstill public confidence in Congress, or it can further disillusion that public.

In the coming months, our subcommittee will weigh all the alternatives for program review and after careful study, we will make legislative recommendations. I will soon be announcing hearings on this subject, and I hope that many Members will come forward with their views and advice to help us in this complicated matter.

Success in improving congressional oversight will require a sound and experienced collective judgment with broad and bipartisan support. I remind you: we are all in this together.

CITIZENS' POSTAL RATE RELIEF ACT OF 1979

(Mr. FORD of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FORD of Michigan. Mr. Speaker, I am today introducing legislation to provide each American with the option of a first-class deferred level of mail service. Under the Citizens' Postal Rate Relief Act, the rate for this could be as low as 11 cents, compared to the regular first-class rate of 15 cents. Most importantly, however, it would give the individual citizens of our country an option on postal rates—an option that is glaringly absent from the current postal rate structure, especially since every other class of mail enjoys a variety of rates from which to choose.

Only last month, the Postal Service released "the Report of the Joint Industry/Postal Service Alternative Delivery Task Force." This contained 75 recommendations on improving the service for second-, third-, and fourth-class mailers. Individual first-class mailers are not mentioned.

While I vigorously applaud and fully support the efforts of the present Postmaster General to retain diminishing mail volumes and to attract new volume, I would be remiss if I did not point out that the role of the Postal Service is not one dedicated exclusively to the mail of commerce. It has the responsibility to provide affordable mail service for everyone in this Nation. It was this concept—the universality of our Nation's mail system—which led the Postal Service, the administration support, to propose a citizens' rate in 1977. But to this date, with all the proposed and actual rate options for all other classes of mail, the individual has none.

As I stated upon introducing similar legislation on June 1, 1977:

> In carrying out its role in commerce, the Postal Service should not forget the private citizens who write their Congressman, the child who sends a greeting to a distant friend, or the young adults who take the time and care enough to write some loved ones.

The American people must be afforded the means to communicate at a price which is reasonable and fair. The present situation is unfair and must be remedied. My bill will provide that long overdue remedy and relief. It will result in a Postal Service that is responsive to the needs of all mailers and to its legal commitment to "bind the Nation together."

The text and analysis of the Citizens' Postal Rate Relief Act of 1979 follow:

H.R. 2973

A bill to amend title 39, United States Code, to establish a reduced rate of postage for certain mail matter of private individuals

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "Citizens' Postal Rate Relief Act of 1979".

SEC. 2. (a) Subchapter II of chapter 36 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"S 3329. Reduced rate for certain mail matter of individuals

"(a) Notwithstanding the provisions of this subchapter or of subchapter III of this chapter, the rate of postage established under such subchapters for each ounce or less of qualified mail matter (as defined in subsection (d) of this section) shall not exceed the minimum per piece rate for regular rate third-class bulk mail (exclusive of any special discount for presorting) established in accordance with this subchapter pursuant to the Mail Classification Schedule approved and ordered into effect by the Board of Governors of the United States Postal Service on June 2, 1976 or in such later Schedule as may be adopted by the Board for that type of mail. plus an amount equal to the difference between the rate for ordinary single-piece first-class mail sealed against inspection and the discounted rate for such mail when presorted, as established pursuant to such Schedule or Schedules, except that such rate shall be rounded to the next highest whole cent.

"(b) The rate referred to in subsection (a) of this section shall become effective on the effective date of the first temporary or permanent rate increase authorized pursuant to this subchapter, or subchapter III of this chapter, following enactment of this Act.

"(c)(1) Except as authorized by this section, no person shall mail any matter at the rates prescribed pursuant to subsection (a) of this section.

"(2) Any person who violates paragraph (1) shall be subject to a civil penalty not to exceed $500 for each violation.

"(3) The Postal Service shall have authority to assess a civil penalty under paragraph (2). The Postal Service shall provide any person alleged to have violated paragraph (1) with written notice of the decision to impose a civil penalty and the charges upon which such penalty is based. The Postal Service may, and upon timely request by the person alleged to have violated paragraph (1) shall, order a hearing on the charges pursuant to sections 554 and 555 of title 5.

"(4) The decision of the Postal Service to impose a civil penalty, whether or not pursuant to a hearing under paragraph (3), shall be final and conclusive unless it is appealed to any court of appeals of the United States within 15 days after service of the decision upon the person. The court to which it is appealed shall have jurisdiction to review the decision in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, except that the facts underlying a decision to impose a civil penalty shall not be subject to trial de novo by the court. Issues which become final and conclusive because no appeal was taken to a court of appeals, and issues which were raised or might have been raised in a court of appeals, may not be raised as a defense to a suit by the Postal Service for collection of a civil penalty.

"(d) For purposes of this section, the term 'qualified mail matter' means domestic letter mail—

"(1) of the class that is maintained under section 3623(d) of this title for the transmission of ordinary letters sealed against inspection;

"(2) prepared in accordance with such reasonable mail preparation requirements as the Postal Service may prescribe by regulation;

"(3) sent by an individual; and

"(4) which is subject to the same service standard as third-class bulk mail.

For purposes of this subsection, the term 'individual' does not include a corporation, company, business, association, partnership, professional entity, proprietorship, institution, or governmental unit or any similar entity."

(b) The table of sections for subchapter II of chapter 36 of title 39, United States Code, is amended by adding at the end thereof the following new item:

"§ 3629. Reduced rate for certain mail matter of individuals.".

SEC. 3. The amendments made by the foregoing provisions of this Act shall apply to any qualified mail matter, as defined in section 3629 of title 39, United States Code, as added by section 2 of this Act which is mailed on or after the effective date of such regulations as are prescribed pursuant to subsection (d)(2) of such section 3629, but not earlier than the effective date specified in subsection (b) of such section 3629.

ANALYSIS: CITIZENS RATE MAIL

The Citizen's Postal Rate Relief Act of 1979 is designed to allow citizens to obtain the benefits of a lower cost of deferred first-class mail service. It should be noted that this lower rate service is optional—the citizen can, if he wishes, elect to pay the full regular first-class rate and get regular first-class priority service.

The basic theory behind the proposed pricing scheme for Citizens' Rate Mail is to offer the citizen the same lower-cost deferred service available to regular-rate bulk third-class business and institutional mailers, while at the same time requiring the citizen pay the added sorting cost needed by Citizen's Rate Mail.

The 1978 Postal Rate Commission decision in Rate Case R77–1 established the average attributable/assignable cost of a first-class letter as 13.80 cents and established the average attributable/assignable cost of regular-rate bulk third-class letters as 7.71 cents. These figures show the difference in actual cost between the two types of service. There are basically two elements to this cost difference: (1) the higher sorting cost for first-class not needed for presorted third class; and (2) the lower cost of transporting and delivering bulk regular-rate third-class mail because of its deferred status. There are certain minor cost differences such as forwarding for first-class mail, which costs a minor amount, and weight differences which make third-class mail slightly more expensive to handle. But, essentially these balance each other out and, for this reason, are not considered in the Citizen's Rate Mail legislation.

Under the proposed bill, Citizen's Rate Mail would have the same deferred status as regular-rate bulk third-class mail.[1] Accordingly, the rate for the citizen using lower priority Citizen's Rate Mail service would be set at the regular-rate bulk third-class rate, plus the additional sorting cost of the citizen's mail, which is established by the first-class pre-sort discount independently determined by the Postal Rate Commission. To cover any added costs which might not be offset in this manner, the rate thus established is rounded upward to the nearest cent so that a fraction of a cent extra is paid by the citizen mailer.

The regular-rate bulk third-class rate is now 8.4¢ per piece.[2] The pre-sort discount is now 2¢. The Citizen's Rate, given these numbers, would now be 11¢ (8.4¢ plus 2¢ equals 10.4¢ rounded up to 11¢).

Under the proposed legislation, the Citizen's Rate would not be introduced until the next rate proceeding. The actual numbers then, of course, would differ based upon costs at that time. The institution of Citizen's Rate Mail could slightly alter the cost structure of regular first-class. In particular, the first-class non-Citizen's Rate would rise several tenths of a cent because, as in the Postal Service's Citizen's Rate Mail proposal, regular first-class would be assigned the cost of six-day delivery, but Citizen's Rate Mail, like deferrable business mail, would not. The lower rate for Citizen's Rate Mail would come from lower rates for lower service in transporting, delivery, and processing Citizen's Rate Mail. (Under the Postal Service's Citizen's Rate Mail proposal, citizen's mail was given a priority in both transportation and processing, which would not exist under this legislation, so the cost savings would be greater here). To accomplish these savings, whenever it was necessary, the Postal Service would riffle mail to remove Citizen's Rate Mail which would be identified by a special stamp. The Postal Rate Commission established the cost of riffling as 0.0019¢ per letter which is nominal. Eventually, machine culling would be used.

The Citizen's Rate legislation would have no effect on other classes, whose costs would remain the same. There would be no need for any form of subsidy since the priority mail would pay the cost of priority services while non-priority mail would obtain the benefits of the lower costs it engenders. Total revenues and total costs would be balanced, the same as under the current Act.

The Postal Service, in its original proposal to the Postal Rate Commission on mail classifications (in compliance with Section 3623 (a) of the Postal Reorganization Act of 1970) recommended a similar breakdown of mail classifications, i.e. priority, regular and deferred levels of service.

The case presently pending before the Commission, dealing with a surcharge for "Red-Tag" or expedited second-class publication mail service, is similarly predicated on two levels of service within one class of mail.

ALBERT EINSTEIN'S TEXAS LEGACY

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PICKLE. Mr. Speaker, all things being relative, one would not, in the everyday course of events, except Texas and this century's preeminent scientist, Albert Einstein, to have much in common. But, as Einstein showed us, time and again, appearances can deceive; and one must look beyond common perceptions to discern the truth of the matter, so to speak. Last night, many of you may have been impressed with the TV production on Channel 26 filmed at McDonald Observatory in far west Texas.

At the University of Texas Physics Department, the fields where the cattle lowed and the sagebrush blew have long ago given way to someday unified fields of gravity and electromagnetism, to quantum theory and to all the other "quarks" of the trade which tell the modern physicist so much about our universe and leave the rest of us in baffled wonder.

While devoting their considerable talents to the development of new energy technologies, an incredible cadre of physicists at the University of Texas also have held strong sway for several years over Einstein's great theories and their aftermath. More than once they have showed how efforts to disprove elements of Einstein's work simply have missed the original question. With persistent regularity, they have stretched Einstein's contribution to new heights.

Texans are a very open and friendly people. I like to think that that—as well as the quality of his colleagues and the untiring efforts of University of Texas Physics Department Chairman Tom Griffy—had a hand in bringing John Archibald Wheeler to our university a few years ago.

We have all heard of black holes. Prof. Johnny Wheeler coined the term for us and has led the way in the exploration of this cosmic mystery. He is one of the handful of physicists who have the deepest understanding of what Einstein meant and who have done the most to carry his work onward into areas and theories even Einstein did not reach. Professor Wheeler also affords us one of our best views of Einstein as a person.

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[1] Service standards for Citizen's Rate Mail would be delivery on the third day for zone 2 up to the 10th day for the distant Postal zones.

[2] The minimum per piece rate is used because it is the only relevant rate. Higher third-class rates are for items weighing more than two ounces while the Citizen's Rate Bill would establish the Citizen's Rate for one ounce. An additional amount equivalent to the basic Citizen's Rate would be payable for each additional ounce.

On this occasion of the 100th anniversary of Einstein's birth, I would like, therefore, to share with my colleagues three short pieces by or about Professor Wheeler. The following poem and two short articles help us all to understand a little better why Einstein was—and is—so important to us as a scientist and as a human being.

[From the Washington Post, Mar. 11, 1979]

POEM

(By John A. Wheeler)

(John Wheeler, a University of Texas physicist who developed the concept of the "black hole" in space, taught at Princeton when Einstein lived there. He read this poem at a Smithsonian Institution lecture in January.)

Einstein, your cosmology reveals
No before before the big bang,
No after after the big crunch.
What do you leave us but to believe
The laws of nature are mutable,
Coming into being at one gate of time,
Fading out of existence at the other?
No one did more than you to teach us
Blind chance rules the elementary quantum process.
Vainly fighting this lesson in later years,
You inspired Niels Bohr to the term "phenomenon"
To summarize the interaction of
The observed system with the observing device.
Today we recognize
No elementary phenomenon is a phenomenon
Until it is an observed phenomenon.
We are inescapably involved in bringing about
That which appears to be happening.
Do billions upon billions
Of elementary acts of observer-participancy
Add up to all that we call creation?
What other way do we have to understand existence
Except to say that we have to do with
A "self-excited circuit,"
The universe giving rise to observer-participancy,
Observer-participancy turning conceivabilities into actualities?
No other way has ever been proposed
To bring into being
Plan without plan,
Law without law,
Substance without substance.
No other idea has ever been conceived
To explain the strange necessity of the quantum
In the construction of the universe.
No other conception of the universe has ever been put forward
That more clearly exposes itself to destruction,
Predicting as it does,
Every law tested to the last iota of precision
Will fail and be found to be built
On the blind chance of multitudinous events.
Einstein, you taught us
At every given stage of science
One construction proves itself absolutely superior
To all the others.
Tell us that we will first understand
How simple the universe is
When we recognize
How strange it is.

[From Newsweek, Mar. 12, 1979]

THE OUTSIDER

(By John Archibald Wheeler)

"This huge world," Einstein exclaimed, "stands before us like a great eternal riddle." What is its secret central principle of construction? That is the unscaled Everest of all knowledge. Mere way stations on the laborious climb toward that highest outlook—that was Einstein's assessment of his discoveries about space and time, about the strange quantum nature of light and matter, and about gravitation and the universe. For him, these findings were not goals. He had only one goal: the distant peak. It will surely be reached someday by someone, he declared: "The most incomprehensible thing about the universe is that it is comprehensible." Today we have less ground than ever before for allowing ourselves to be forced away from this wonderful belief.

Which means more to us today—the goal he was climbing toward, or how he tried to reach it? "How" for him meant catch-as-catch-can, try-and-try-again — explanation enough for his definition of a scientist as an "unscrupulous opportunist." There were three additional rules of Einstein's work that stand out for use in our science, our problems, and our times. First, out of clutter find simplicity. Second, from discord make harmony. Third, in the middle of difficulty lies opportunity.

SIMPLE CENTRAL POINT

Many not close to his work think of Einstein as a man who could only make headway by dint of pages of complicated mathematics. The truth is the direct opposite. As the great mathematician of the time, David Hilbert, put it, "Every schoolboy in the streets of Göttingen understands more about four-dimensional geometry than Einstein. Yet * * * Einstein did the work and not the mathematicians." The amateur grasped the simple central point that had eluded the expert. Where did Einstein acquire this ability to sift the essential from the nonessential?

The management-consultant firm of Booz, Allen & Hamilton, Inc., has a word of advice: "What a young person does and who he or she works with in the first job has more effect on his or her future than anything else anyone can easily analyze." What was Einstein's first job? To many, clerk in the Swiss patent office was no proper job at all. But it was the best job available to anyone with his unpromising record of resisting all required learning.

Einstein served in the Bern patent office for seven years. Every morning he faced his quota of applications, each accompanied by the inventor's working model. Over and above the papers and the models was the boss, Friedrich Haller, a kind man, a firm man and a wise man. He gave strict instructions: explain briefly why the device will work or why it won't, why the application should be granted or denied.

Day after day, Einstein had to distill the central lesson out of objects of the greatest variety. Who knows a greater way to learn what physics is and how it works? It is no wonder that Einstein always delighted in the machinery of the world—from the actions of a compass to the meandering of a river.

Was it a miracle for the obscure clerk rather than the experts to discover in 1905 that "space by itself, and time by itself, are * * * mere shadows, and only [space-time], a kind of union of the two, preserve[s] an independent reality"? And to derive from this concept of space-time the famous $E=mc^2$, with all its consequences? From all the clutter of facts, who else could better distill the central point—space-time—than someone whose job it was over and over to extract simplicity out of complexity?

Bern does honor to the bears from which it gets its name by having a great open bear pit. There one can watch the bears go round and round on all fours with their heads to the ground. The young Albert Einstein liked to take his visitors there. Only very rarely, he pointed out, does one rear on its hind legs and look around for a wider view. For Einstein, that bear symbolized the thinker. For us, let the bear symbolize the outsider who by virtue of being an outsider understands the situation of the insider better than any insider.

What do we mean by the word "outsider"? Someone alienated from the world is the last thing we want the term "outsider" to mean, and the last description that could ever be applied to Einstein. He had the optimistic outlook of all great investigators. He rarely grumbled. Once he spoke of autograph hunting as the last vestige of cannibalism. Another time he described hell as the devil approaching menacingly every half hour with his pitchfork loaded with a fresh bale of letters to be answered. But if Abraham Lincoln was right when he said that people are generally as happy as they make up their minds to be, then Einstein had made up his mind to be happy.

DREAM AND DRIVE

To one who discussed physics with him from time to time over a span of 21 years, studied his writings and worked with his great theme, Einstein will always mean an outsider with a vision in his early days above the vision of all insiders, united with a try-and-try-again drive. This combination of dream and drive makes an uncommon outsider. Still more uncommon, and still more needed today, is the outsider-generalist who, like Einstein, can lead the way surefootedly through the complex world of science and technology to goals that were overlooked or deemed impossible by most experts. I am afraid I shall have no lesson to offer about this. I don't know how to manufacture such treasures, and I don't know anyone who does. I can only say, when you see one, treasure him or her.

[From the New Yorker, Mar. 5, 1979]

THE TALK OF THE TOWN

John Archibald Wheeler was a professor of physics at Princeton during most of the period when Albert Einstein was at the Institute for Advanced Study. Recently, in honor of Einstein's hundredth birthday, he wrote a brief memoir to be included in "Einstein: A Centenary Volume," shortly to be published by the Harvard University Press, which reads in part:

"In 1938, I moved to Princeton and at frequent intervals called on Einstein at his house at 112 Mercer Street, climbing the stairs to his second floor study that looked out on the Graduate College. Especially vivid in my mind is a call I made in 1941 to explain the 'sum over histories' approach to quantum mechanics then being developed by Richard Feynman, whom I was fortunate to have as a graduate student. [Feynman is now a professor of physics at the California Institute of Technology and was a co-winner of the Nobel Prize for physics in 1965.] I had gone to see Einstein with the hope to persuade him of the naturalness of quantum theory when seen in this new light. . . . He listened to me patiently for twenty minutes until I finished. At the end he repeated that familiar remark of his. 'I still cannot believe that the good Lord plays dice.' And then he went on to add again in his beautifully slow, clear, well-modulated, and humorous way, 'Of course I may be wrong; but perhaps I have earned the right to make my mistakes.' "

Professor Wheeler continues, "I had to be away from Princeton for national reasons from 1942 to 1945 and again from 1950 to 1953; but on my return in the fall of 1953 I gave for the first time the course in general relativity [Einstein's great theory of gravitation, published in 1916] in which I was to learn so much from my students over the years. That fall, about a year and a half before he died, Einstein was kind enough to invite me to bring the eight to ten students in the course around to his house for tea.' Einstein, while he never had a "school" of physics, or even many students, was always receptive to the ideas of young scientists.

Soon after he met Niels Bohr, at a time when Bohr was not well known, Einstein wrote to him: "I am studying your great works and—when I get stuck anywhere—now have the pleasure of seeing your friendly young face before me smiling and explaining." Professor Wheeler goes on, "Margot Einstein [his stepdaughter] and Helen Dukas [his secretary from 1928 to his death, in 1955] served . . . as we sat around the dining room table. The students asked questions about everything from the nature of electricity and unified field theory to the expanding universe and his position on quantum theory and Einstein responded at length and fascinatingly. Finally, one student outdid the others in the boldness of his question: 'Professor Einstein, what will become of this house when you are no longer living?' Einstein's face took on that humorous smile and again he spoke in that beautiful, slow, slightly accented English that could have been converted immediately into printer's type: 'This house will never become a place of pilgrimage where the pilgrims come to look at the bones of the saint.' And so it is today. The tourist buses drive up. The pilgrims climb out to photograph the house—but they don't go in."

The real "place of pilgrimage" that Einstein left for us is his work. Einstein was the last and greatest of the classical physicists. But although his general theory of relativity replaced Newton's theory of gravitation, and although he took the steps that made the modern quantum theory possible, his intuitions were deeply rooted in classical geometry. He had a very visual mind. He thought in terms of images—gedankenexperiments, or experiments carried out in the mind. This mode of thinking went back to his childhood. In his autobiographical notes, which were written at the age of sixty-seven and were published by the Library of Living Philosophers as an introduction to a collection of essays about him called "Albert Einstein: Philosopher-Scientist," and which he called his "obituary," he wrote "At the age of 12, I experienced a second wonder [the first being his encounter with a magnetic compass when he was five] of a totally different nature; in a little book dealing with Euclidean plane geometry, which came into my hands at the beginning of a school year. Here were assertions, as for example the intersections of the three altitudes of a triangle in one point, which—though by no means evident—could nevertheless be proved with such certainty that any doubt appeared to be out of the question. This lucidity and certainty made an indescribable impression upon me. That the axiom had to be accepted unproved did not disturb me. In any case it was quite sufficient for me if I could peg proofs upon propositions the validity of which did not seem to me to be dubious. . . . Also, the objects with which geometry deals seemed to be of no different type than the objects of sensory perception, 'which can be seen and touched.' "

To a modern physicist, the world that Einstein theorized about seems vastly oversimplified. Modern physics deals with objects—quarks, gluons, and the rest—that cannot "be seen and touched." After laying the foundation upon which these modern theories have been built. Einstein abandoned the enterprise. He could not make himself believe that the quantum theory, with its probabilities, its remoteness from the visual, was the final answer—"the true Jacob." His colleagues and successors went on without him. Many people find something tragic in this. He never did, and he went about his work serenely. Indeed, one might say that since *he* failed to do what he set out to do in terms of classical physics, it very likely cannot be done. He was acutely and painfully aware of the fragility of the human species, and more especially so after the Second World War, when it became clear that we now had the technology for self-annihilation. This fragility has clouded our times with a kind of uneasy melancholy. But Einstein's example—his warm and generous nature, his absolute honesty, and his courage—shows us what we are capable of at our very best.

☐ 1520

BLACK HISTORY REFLECTS THE AMERICAN PAST

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BADHAM. Mr. Speaker, I received the following letter from a fellow Californian, William Bradshaw, who resides outside the 40th Congressional District but who was kind enough to bring two articles which appeared in the Pendleton Scout to my attention. As you may know, Camp Pendleton lies within the boundaries of my district. Mr. Bradshaw's letter reads:

> Dear Congressman Badham: Even though I am not one of your constituents, I thought you may be interested in the attached from the Pendleton Scout. Unfortunately, the military generally doesn't receive recognition for the positive steps they make in trying to alleviate racial problems of misunderstanding. . . .

It is my pleasure to insert the two articles from the Pendleton Scout at this point in the Record:

Black History Reflects the American Past

Black people have affected every aspect of United States history since the first cargo ship of slaves landed at Jamestown, Va. in 1619.

Most Americans recognize the black achievements in sports and entertainment, while black contributions to literature, science, and many other fields remain, for the most part, unknown.

Black inventor and writer Benjamin Banneker (1731–1806) constructed the first wooden clock made in America in 1761. He predicted a solar eclipse in 1789 and a few years later published an almanac containing tide tables, future eclipses, medicinal products and formulas.

Banneker was later appointed by President George Washington to the commission that planned the District of Columbia. He reproduced the plans from memory when Major Pierre Charles L'Enfant, chairman of the commission, resigned and took the original plans back to France with him.

Another black man, Ebenezer Don Carlos Basset (1833–1908), served as an educator and government official.

Basset proved to be a skillful minister and successful diplomat after being appointed as resident and consul general to Haiti in 1869. He later became the diplomatic representative of Haiti to the United States, serving as consul and general consul.

Black accomplishments were only getting started when Dorie Miller (1919–1943), a black sailor and war hero added to these achievements in 1941 by bringing down four Japanese planes during the Pearl Harbor attack, a feat for which he was awarded the Navy Cross.

A Navy messman at that time, Miller had had no previous gunner experience. He was commended for "distinguished devotion to duty, extreme courage and disregard of his own personal safety during the attack." He was killed in action in the South Pacific in 1943.

One of today's leading black Americans is Thurgood Marshall, Associate Justice of the United States Supreme Court.

In 1954, as director-counsel of the National Association for the Advancement of Colored People's (NAACP) Legal Defense Committee, he argued the historic case of Brown v. the Board of Education before the United States Supreme Court, which led to the desegregation of public schools.

Marshall was appointed to the Supreme Court in 1967 and was the first black man to become a justice. He received the coveted Spingarn Medal in 1946 for his outstanding achievements in the field of law.

Black women have also made their share of contributions to America.

One such woman is lawyer Eleanor Holmes Norton, chairperson of the United States Equal Opportunity Commission (EOC).

Mrs. Norton was the assistant legal director for the New York Civil Rights Liberties Union and also legal director for the New York Civil Rights Liberties Union and also legal advisor to the Student Nonviolent Coordinating Committee (SNCC) Black Women's Liberation Committee.

She was appointed chairperson of the Human Rights Commission in 1970 and became the highest ranking black woman in Mayor John V. Lindsay's administration.

One of our leading black ministers and civil rights leaders is the Reverend Jesse Louis Jackson. He was a co-worker of another well-known black minister, the late Rev. Martin Luther King Jr. Rev. Jackson is the national president of People United to Save Humanity (PUSH).

From the working and African songs of the slaves to the symphonies and contemporary sounds today, black contributions to American music have been strong.

Stevie Wonder, who not only overcame the hardships associated with being black, but also of being blind, is a renowned musician.

His recordings, many of which include his own compositions, have earned him more than a dozen Gold Record awards.

Having mastered several instruments, including the drums, piano and harmonica, Wonder is now one of the most well-known musicians of the century.

Why is it possible for one black person to gain prominence in society while another doesn't? Is it because he had a chance, an opportunity to get "in on the action"? Was he born at the right time, in the right place?

Sometimes this is the case. Many black people who have come "up from the ghetto" have had help from white benefactors. Yet with or without assistance the move from black childhood to adult success requires an enormous amount of courage and determination.

By learning of the accomplishments and contributions black Americans have made to this country and realizing the seemingly impossible obstacles that they—and thousands of others—have overcome through hard work, we can all look forward with confidence to a rich and rewarding future.

(Above story and chronology by LCpl. Valentine A. Smith.)

History Notes Contributions

The following is a chronological list of some of the thousands of contributions made by blacks since their arrival in the United States.

1619—A Dutch man-of-war landed at Jamestown, Va. with the first cargo of black slaves.

1790—Jean Baptist Pointe DuSable established the first permanent settlement in Chicago.

1831—Jo Anderson, a black slave, assisted his owner with the invention of the reaper (grain harvester).

1834—Henry Blair received a patent for a corn harvester.

1848—Lewis Temple, a black whaler, invented the toggle harpoon.

1861–1865—During the Civil War, 16 black soldiers and five black sailors received the Medal of Honor.

1863—Henry McNeal Turner, the first black chaplain in the United States Army, was commissioned by President Abraham Lincoln.

1867—Robert Tanner Freeman became the first black dental graduate from Harvard Dental School.

1870—Jonathan J. Wright became the first black State Supreme Court Justice.

1872—Black inventor Thomas J. Martin patented the first design for a fire extinguisher.

1873–1882—Patrick Healy, a black Jesuit priest, served as president of Georgetown University.

1875—Black jockey Oliver Lewis rode the winning horse in the first Kentucky Derby race.

Late 1800's—Rebecca Cole was the first black woman physician to practice in the United States.

1908—Six blacks were awarded the Medal of Honor for valor in the Spanish-American War.

1917—Emmett J. Scott was appointed Special Assistant to the Secretary of War.

Mid-1920's—Black cowboy George McJunkin discovered an archeological find that is today referred to as Folsum Man.

1920—The first black baseball league, the National Negro Baseball League, was organized.

1922—Bessie Coleman received her license and became the first black woman aviator.

1927—Laura Wheeler Waring, black artist, received the Harmon Award for fine art.

1936—Black athlete Jesse Owens won four gold medals at the Berlin Olympics.

1939—Jane Bolin was the first black woman judge in the United States.

1939–1945—During World War II, Benjamin Oliver Davis Sr. was the first black general in the United States Army.

1941—The 99th Pursuit Squadron, the first all-black air combat unit, was formed at Tuskegee Institute.

1942—Black poetess Margaret Walker won the Yale University Younger Poets Award for her collection of poetry entitled "For My People".

1945—Benjamin C. Davis Jr., assigned to Godman Field, Kentucky, was the first black to command an air base.

1945—Phyllis Mae Dailey became the first black nurse in the Navy Nurse Corps.

1948—The first black person in the regular Army Nurse Corps was First Lieutenant Nancy Leftenant.

1949—Gwendolyn Brooks won the Pulitzer Prize for her volume of poetry entitled "Annie Allen".

1949—Wesley A. Brown became the first black to graduate from the Naval Academy at Annapolis.

1950—Edith Sampson became the first black person to be appointed as a United States representative to the United Nations.

1954—Althea Gibson won the Wimbledon Tennis Championship.

1959—Negro playwright Lorraine Hansberry won the Critics' Circle Award.

1963—Black artist George Olden designed a United States postage stamp commemorating the 100th anniversary of the Emancipation Proclamation.

1967—Carl B. Stokes was elected mayor of Cleveland, Ohio.

1968—Shirley Chisholm became the first black women elected to the United States Congress.

1975—Arthur Ashe won the Wimbledon Tennis Championship.

1978—Ernest N. Morial became mayor of New Orleans.

REQUEST FOR NATIONAL ACADEMY OF SCIENCES TO STUDY FEASIBILITY OF ESTABLISHING A SINGLE NATIONAL CANCER RISK ASSESSMENT POLICY FOR EVALUATING CARCINOGENICITY OF SUBSTANCES

(Mr. WAMPLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WAMPLER. Mr. Speaker, in the search to find the magic bullet with which to conquer cancer we have encountered a most serious problem. Almost daily the consuming public is being bombarded with news stories that hundreds of substances—in such items as bacon and hot dogs, saccharin, beer, asbestos, tobacco, spinach, pesticides used to control insects and weeds in food production, and cleaning fluids—that people breathe, touch, eat, or drink or encounter in the workplace every day are suddenly suspected of causing cancer. These media announcements, generally unsupported by the scientific community, give the public a horrible fright. Of greater concern, however, many in the general public are beginning to wonder who and what to believe, because so many beneficial subtances, long in use, are being linked to this ever-growing suspect list of substances that are alleged to cause cancer.

To add to the problem, we find that despite the expenditure of billions of dollars of public and private funds to determine what causes this dreaded disease in man and how best to treat and prevent its occurrence, we have made but little progress against it.

Congress, which is a nonscientific body, has in the past been called upon to write legislation concerning carcinogens, a subject whose scientific issues are enormously complex. We have authorized various Federal agencies to regulate the use of chemicals that may pose a risk to cancer. We have not told them how to do it, but have entrusted them with the task of using their scientific expertise to formulate policies that would protect our population from harm while preserving the capability of our farmers and our industries to carry on their business, and the working people of this country to earn their bread and butter. Unfortunately, we were too optimistic in assuming that "scientific validity" necessarily leads to "workability." We find that today no less than seven agencies operating from nine laws promulgated by several congressional committees, are involved in assessing the cancer risk posed by various chemicals, and that they all have their own policies for doing so. The result—despite the recent efforts of a task force of the Interagency Regulatory Liaison Group to come up with a common Federal policy—has been haphazard application of controls on potential carcinogens that has left both the public and large segments of American agriculture and other industries in a state of confusion and uncertainty.

Even more to the point, a recent major study for Congress by the National Academy of Sciences has called for an overhaul of the U.S. food safety policy as it relates to carcinogenic and other toxic substances in the food supply. The Academy's study committee said the current regulatory system "has become complicated, inflexible, and inconsistent in implementation," and was generally "inadequate to meet (the) changing and increasing complexities of current food safety problems." The Academy recommended a modernization of the 1958 Delaney absolute zero risk principle, substituting instead that: Relative risks be assessed, along with health benefits, and with full participation of the public and opposing groups. However, the Academy left unresolved the problems of an overall cancer risk assessment policy, which I am addressing in this statement.

Mr. Speaker, the point I wish to make is that this confusion is understandable, for there is no scientific consensus of opinion on risk assessment of chemical carcinogenesis. Implicit in cancer and toxic substances research is a large degree of uncertainty and a distressing scarcity of hard facts. The long-term effect of many chemicals is simply not known, nor is the validity of some of the tests currently used to measure the toxicity or carcinogenicity of a particular substance. Above all, there is little agreement on how the results of animal tests should be applied to humans.

Now, if we had only a few chemicals to worry about, we could probably muddle through with our present policies. Eventually, exhaustive testing would be completed and we could say with some assurance which substances were safe and which hazardous. We all know, however, that the magnitude of the problem dictates otherwise. Let me share with you some figures that were supplied to me by the Office of Toxic Substances of the Environmental Protection Agency. I learned that the universe of known chemicals is something on the order of 4.2 million, of which roughly 50,000 to 70,000 are in the inventory of Chemicals in Commerce being compiled under the Toxic Substance Control Act. In addition, there are probably between 1,000 and 2,000 new chemicals introduced every year.

With so many substances to consider hazardous, to determine those that are, our scientists need a set of priorities to guide the regulators in dealing with "worst things first." Certain criteria are already used by researchers, such as the chemical similarity of a compound to known carcinogens, the extent of probable human exposure, the volume of use of the chemical, and the amount manufactured. It is my belief that we should address the issue of testing priorities in a major scientific study conducted by the most prestigious group we can assemble.

Meanwhile, what progress have we made to date in testing for carcinogenic activity? Out of the whole universe of 4.2 million, EPA states that only 1,500 to 2,000 substances have undergone testing that is considered scientifically valid. Those chemicals were selected for testing on animals, because they had, at one time or another, fallen under suspicion of being carcinogens. Results accumulated over recent years, according to EPA, indicate that between 700 and 1,000 substances, or roughly 50 percent of those tested, show reasonable solid evidence of being animal carcinogens. Another measure of the approximate number of suspected carcinogens is the list maintained by the National Institute of Occupational Safety and Health (NIOSH). As of the 1977 edition, it named 2,091 compounds that were referred to as suspected carcinogens at least once in the scientific literature. On the other hand the National Cancer Institute informs me that the U.S. Public Health Service Report No. 149 lists some 7,000 chemicals tested, including some tests which were fragmentary. Less than 1,000 of these chemicals tested show possibilities of carcinogenicity to animals. NCI states that only 600 to 800 of these animals tests were conducted using what they consider to be acceptable test methods. Finally, the National Cancer Institute cites findings in the reports of the International Agency for Research on Cancer, volumes 1 through 16, identify only 247 of 368 chemicals that had positive animal tests, which might show some evidence of carcinogenicity to man.

Having established to some degree the extent of known chemical carcinogenesis in laboratory animals, the crucial question now becomes: How are these data to be extrapolated to humans so that the risk of cancer in man may be assessed? Here is where we find disagreement among scientists and divergence of policy among the regulatory agencies charged with controlling chemicals.

While it is generally agreed that the best method of documenting carcinogenicity in man is through epidemiological studies, it is also recognized that such studies have severe drawbacks. The reliability of human studies is influenced by variability in individual susceptibility, by the often long latency period between exposure and the appearance of cancer, and by the difficulty of isolating one variable for study when humans are exposed to a complex mix of chemical agents in their daily lives. The limitations on human studies are such that only 30 or so chemicals have definitely been identified as carcinogenic in man.

For all practical purposes, then, the detection of carcinogenic activity of chemicals is necessarily based on animal experimentation. It is the process of interpreting the resulting data for application to humans that generates scientific and regulatory controversies.

Mr. Speaker, for the above reasons I am today reintroducing a bill which I sponsored in the 2d session, 95th Congress. This bill directs the Administrator of the Environmental Protection Agency to request the National Academy of Sciences to study the feasibility of establishing a single national cancer risk assessment policy for evaluating the carcinogenicity in man of various chemical substances. This identical legislation was cosponsored by 24 of our colleagues in the last Congress and was referred jointly to the Committee on Agriculture and Interstate and Foreign Commerce.

There are two actions mandated by my bill. First, the National Academy of Sciences is requested to assemble a panel of the best scientific minds available on this subject to conduct a 14-month study evaluating the state-of-the-art of carcinogen testing, with the aim of determining if we have enough scientific know-how to standardize a chemical carcinogen testing and risk assessment policy. Second, upon completion of this study, the Academy will report its findings to Congress, detailing its recommendations for a cancer risk assessment policy if one appears feasible, or, if not feasible, describing to Congress what areas need further development. Additionally, my bill asks the Academy to study each of the areas of controversy and evaluate the likelihood of resolving them in a single national cancer risk assessment policy. Examples of these problem areas are mentioned in the bill and include such issues as the biological significance of test systems, the validity of different methods of statistical analysis, the problems of potency of the substance, the problems of reproducibility of the tests, various techniques of bioassay and their validity (including short-term or in-vitro tests), the problems of dose levels and thresholds, and the assessment of risk of naturally occurring substances. These problems must be answered or we will just continue this whole emotional issue "ad infinitum."

Mr. Speaker, regardless of the final outcome of the Academy's study, I believe the Congress and the Nation will benefit greatly from the effort. If the National Academy of Sciences is able to make recommendations leading to a standard policy for assessing cancer risk in humans, we will have at last the means of orienting the regulatory agencies along a common course, which will end the confusion that now exists in the Federal Government's cancer risk assessment programs. Achievement of this goal will give us an attendant hope for the future enhancement of public safety and for relief from the adverse socioeconomic consequences of the present uncoordinated activities of our Federal Government.

On the other hand, the Academy may report that our knowledge of cancer risk assessment is not yet sufficient to develop a national policy. Though disappointing, this outcome would still have value, for we would have gained a sense of where we are, what remains to be done, and how we as Members of Congress can address ourselves through informed and constructive action to a matter of great public concern.

□ 1530

MULTILATERAL TRADE AGREEMENT AND ITS EFFECT ON SMALL BUSINESS

(Mr. LUKEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUKEN. Mr. Speaker, as chairman of a Small Business Subcommittee, I would like to urge the administration to reconsider a provision in the multilateral trade negotiations that would end "set-aside" contract preferences for U.S. small businesses in Government contract awards.

The provision will give large foreign companies the ability to compete with small businesses in the United States. The goal of fair trade is admirable, but it must be fair in practice as well as in rhetoric. If the agreement to eliminate small business preferences stands, our small firms would be sacrificed in return for giving large U.S. multinationals better footing in foreign markets.

Mr. Speaker, I would like to point out the inherent inability of small businesses to equitably and effectively compete with large businesses in the Government procurement process. A policy such as the one being considered in the trade negotiations would wipe out what progress that has been made in the last 10 years in gaining a fair share of the Federal procurement dollar for the small business community.

The administration viewpoint seems to be that by knocking out domestic set-aside provisions, American small businesses would somehow be able to compete for foreign contracts. However, I am sure we would all agree that it is a fallacy to think that the limited resources of small, independent businesses are capable of competing alongside the large multinationals in foreign markets.

Mr. Speaker, I am particularly concerned about the impact of this decision on U.S. research and development policy. It is conceivable that German or Japanese firms would receive U.S. Government funds to develop advanced technology. Are we to suppose that foreign governments will allow U.S. firms the same ability to compete for their government contracts? I question this, and again, even if it were true, only the largest U.S. firms would be in a position to compete.

I would like to draw my colleagues attention to a recent report issued after joint House-Senate Small Business Committee hearings which showed that small firms are the mainstay of American technological innovation. Our technological edge has already been eroded through policies that favor the larger, less-innovative firms. A trade policy that eliminates set-aside preferences for small businesses would in the long run only further weaken our international trade competitiveness.

In closing, I would also like to express my concern that the Small Business Committee was not consulted during the trade negotiations about those provisions which have such a profound impact on small business. Communications with the committee should have originated at the beginning of these negotiations so that the interests of the small business community could be properly represented.

WORLD OWES DEBT OF GRATITUDE TO PRESIDENT JIMMY CARTER

(Mr. FOUNTAIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOUNTAIN. Mr. Speaker, whatever the future may hold for the embattled people of the Middle East who have eaten the bitter herbs of war for 30 years, clearly the whole world owes a debt of gratitude to President Jimmy Carter for what he has accomplished so far in the historic peace negotiations just concluded.

A similar debt of gratitude is also owed to President Anwar Sadat of Egypt and to Prime Minister Menachem Begin of Israel for their wisdom and judgment and perseverance.

Real courage was required for these leaders to stake their political careers on making a major step toward solving a persistent problem which no one else in the world has been able to solve in the last three decades—a problem which has caused war after war and which has kept the Middle East a powder keg, always on the verge of exploding.

At this point, perhaps the most significant thing to take notice of is the dedicated way in which our President steadfastly pursued his goals in a commendably single-minded way despite the obstacles and roadblocks which continually developed, despite the doubts continually expressed by so many here at home.

There was despair around the world when it began to appear that nothing tangible would come out of this trip. The world is a small place today, and what happens in the Middle East affects all people everywhere on the face of the globe. No one is exempt from being a citizen of the planet Earth, whether we like it or not.

Now that the President's remarkably effective dedication shows signs of bearing real fruit, the whole world is breathing a sigh of relief and is hoping that the final outcome will be favorable, an outcome so many have hoped and prayed for.

The news media give the President full credit for avoiding the "tragedy of failure" and for moving the all but unproductive shuttle summit talks forward—by main force of will—to the point where it can be reported that the main ingredients of peace—of a peace treaty—have been successfully defined.

Still to come is the ratification of the agreement by the Israeli Knesset and I join with so many in hoping that the Israeli Parliament will, in fact, see fit to approve it. If they do, it will be an historic step forward. If they do not, no one can fault President Jimmy Carter for not going the extra mile—going the extra mile again and again and again.

Of course, we must not expect too much of one peace agreement. It will not—could not—solve all of the decade-old problems of the Middle East at one fell swoop. Too many other Arab nations are involved. They are too many other problems. But, what President Carter has gone after and gotten, at the highest executive level anyway, is a gigantic step forward in bringing about peace between the two major antagonists in that whole region.

Other Middle Eastern nations border Israel, still more also have a direct interest in what happens there—some, like Libya are fanatics about it, but Egypt is and always has been Israel's main protagonist. We have but to read the Old Testament of the Bible to discover that good relations between Egypt and Israel were just as crucial to Middle Eastern peace thousands of years ago as they are today.

Now that prospects for peace between Egypt and Israel are the brightest ever, thanks to Messrs. Carter, Begin, and Sadat, there is hope that the Palestinian question may also ultimately be resolved. There is hope that some accommodation with Jordan and Lebanon and Syria can also eventually be achieved.

These other nations, seemingly implacable foes of Israel, must eventually wake up and realize that all of the inhabitants of the whole region can and should live together in peace and prosperity. War is costly and destructive and all of these nations would progress together if they could but grasp the golden ring of peace. Hopefully, the Israeli-Egyptian agreement will teach them that.

We used to hear a lot about the diplomacy of brinksmanship and the connotation of it was bad, having to do with taking the world to the brink of nuclear war. What we have had in the past 48 hours is a demonstration of a totally different kind of brinksmanship—taking the Middle East to the brink of peace, brinksmanship of an incomparably better kind.

And for that I say, thank you, Mr. President.

PERSONAL EXPLANATION

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, the following states how I would have voted on rollcall votes, which I unavoidably missed on Thursday, March 8, 1979, because of a family emergency:

Rollcall No. 26, a vote on an amendment to the United States-Taiwan Relations Act, H.R. 2479, which would have reestablished in substance the security language contained in the Mutual Defense Treaty between the United States and Taiwan—requiring the United States to consider an attack on Taiwan a direct threat to the interests of the United States. This amendment was rejected by a vote of 149 to 221. I would have voted against this amendment.

Rollcall No. 27, a vote on an amendment to the same bill that sought to require the President to consider withdrawing diplomatic recognition of the People's Republic of China in the event that it threatened Taiwan. This amendment was also rejected—169 to 197. I was paired against the amendment and would have voted against it.

Rollcall No. 28, a vote on another amendment to the same bill that would have changed the unofficial status of the institutions designated in the bill for handling U.S. interests in Taiwan to that of an official liaison office. This amendment was rejected as well by a vote of 171 to 181. I was paired in opposition to the amendment and would have voted against it.

PERSONAL EXPLANATION

(Mr. FOUNTAIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOUNTAIN. Mr. Speaker, on rollcall 35 yesterday, I was not recorded. Had I been recorded, I would have voted "aye."

Also, I was unavoidably detained on rollcall 39, which was just finished. I would like the RECORD to show that had I been present, I would have voted "aye."

□ 1615

PROPOSED DEPARTMENT OF EDUCATION: MORE PROBLEMS, FEW SOLUTIONS

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, the Congress is once again gearing up for a battle on the proposed Department of Education. The taxpayers won a narrow victory in the 95th Congress when opponents of the bill were able to prevent floor action in the House after the Senate matter-of-factly adopted the legislation. It is pretty common knowledge, however, that we will hear more about this boondoggle in the 96th Congress.

To date, several of my colleagues, on both sides of the aisle, have voiced their concerns about this proposal. We know that President Carter still has a campaign debt to pay to the National Education Association and we know that he intends to make a concerted effort to push this bad penny under the guise of reform and reorganization. This time around, let us put a stop to it once and for all.

Many Members of this body were elected or reelected last fall as a direct result of their vowing to stop inflation, slash taxes, and eliminate much of the vast bureaucracy which cripples the American economy. Now the born for the first time conservatives who made these promises have the opportunity to back them up with more than shallow rhetoric. It is easy to say that a new Department of Education will improve our declining system of public education and for many Members of Congress, that is enough. Why bother to explore the additional problems which will be created by the passage of this irresponsible legislation when we can take the easy way out? Mr. Speaker, I do not intend to take the easy route and I hope that my colleagues choose to do the same.

Schools are going broke all over the country. At the State and local levels, few issues take precedence over the sad state of education. Naturally, many in Washington want to come to the rescue by creating a new department charged with this critical issue. Then they can sit back and proclaim that we in Washington have acted on the problem. This approach is utter nonsense. We agree that we want to cut the redtape out of education yet they work to create more. We want to restore local controls to the school disricts yet they would give more authority to the Federal Government.

We want to return basic education to our schools but they would add more bureaucrats to the Federal payroll charged with determining brand new Washington ideas for local schools. Sheer nonsense.

An excellent article appeared in the January edition of Universitas, which outlined many of the criticisms leveled at this proposal. I think it should be shared with those who oppose and support this legislation. The article by Dr. Donald J. Senese follows:

WOULD A CABINET-LEVEL DEPARTMENT OF EDUCATION BENEFIT THE EDUCATION PROFESSION?

(By Donald J. Senese)

Academicians should retain a scholarly interest in a piece of legislation which failed of enactment in the waning days of the 95th Congress—the proposal to create a separate, Cabinet-level Department of Education.

The proposal received the enthusiastic support and lobbying efforts of the National Education Assn. Sponsored by a long-time proponent and former Health, Education, and Welfare Secretary, Senator Abraham Ribicoff steered it through Senate Government Affairs Committee and it sailed through the Senate, after some amendments, by a vote of 72–11 on September 28, 1978 (S 991). Strong opposition surfaced in the US House of Representatives (HR 13778) and the measure was pulled from the House agenda without coming to a floor vote in the House before adjournment. President Jimmy Carter, who received active NEA support in his presidential race, pledged strong support for a separate education department and it remains a strong priority of the NEA. It certainly will appear early in the 96th Congress.

Attention is usually focused on two major arguments of supporters. First, a Cabinet-level education department would increase efficiency by unifying a great number of education programs which are scattered among various governmental Departments (e.g., Indian education programs in the Department of the Interior, school nutrition programs in the Department of Agriculture) into one department. Further, this coordinated management of education program would focus more attention on a major industry—education—employing millions of people and spending billions of dollars. It would thus give education a more significant place in the bureaucratic system. (Federal expenditures for education in Fiscal Year 1979 are consuming about $12.6 billion of a total of $185 billion HEW budget; federal support for all types of education-related programs, in and out of HEW, will constitute a total of almost $23 billion.)

The efficiency argument is an attractive one but not a convincing one after closer examination. A similar case for efficiency was made for uniting the bits and pieces of housing and city-oriented programs into a separate Department of Housing and Urban Development, but the resulting overlapping programs, bureaucratic entanglements, and excessive costs have not fulfilled the early promise or expectation. Neither the Labor Department nor the Commerce Department—uniting a single interest under one Cabinet-level department—has contributed to either federal government efficiency or effectiveness. Lumping all government programs with an "education" tag under one bureaucratic roof is not an automatic guarantee of more efficiency, better management, or more effective programing.

One point may be conceded to the proponents on the second proposition—a Cabinet-level education department would give more visibility and stature to the field of education. But, we may ask, for what purpose? The most likely results would be to enhance the position of the professional education bureaucrat (not the dedicated educator); to give focus for additional pressures for more federal money, rather than excellence, in education; to encourage the professional organizers to move in for unionization and collective bargaining; and to diminish the one great strength of our educational system at the state and local level—decentralized control. A Cabinet-level education department would give impetus to the trend toward centralization in education. Congresman John Erlenborn of Illinois concludes: "A Department of Education would end up being the nation's Super School Board. This is something we can all do without"

A Cabinet-level education department—with the resulting increases in education bureaucrats, pressures for increased expenditures, and promotion with political clout—would lead inevitably to a setting of a "national" education policy. Professor Roger A. Freeman, senior fellow emeritus of the Hoover Institution at Stanford University, pointed out the results in a recent study on federal involvement in education ("Uncle Sam's Heavy Hand in Education," *National Review*, August 4, 1978): "Federal influence generally aims not at attaining academic excellence but at social engineering and the accomplishment of political goals." With the setting of a national education policy, the publicly supported schools—elementary through university—would lose the value of diversified input, a chief value of control of schools at the local level. In a more significant development, it would increase the public school monopoly at all levels to the detriment of private educational institutions.

College and university professors already concerned about federal inroads in academic policy through "affirmative action" programs, grant aid programs, title IX (sex discrimination) guidelines, and the recent Internal Revenue Service-proposed new "revenue procedure" (which would seriously compromise the tax exemption of private schools supposedly to eliminate "racial discrimination") would have additional concerns over the potential power of a new Cabinet-level department of education. The *Chicago Tribune* in a perceptive editorial ("Education and the Feds," October 9, 1978) crystalized the problems already experienced by higher education from federal coercive power: "Some universities have compromised their proper power to appoint their own faculties without bureaucratic interference, and others have had to spend too much time and energy in educating HEW functionaries in the criteria of faculty recruitment."

A Department of Education would become a full-time lobbying unit to promote unionization and enforced collective bargaining at all levels of education. Federal financial power over schools would be fully mobilized to achieve this goal.

Experience has taught us that more money and more federal interference does not automatically provide better education. In fact, a stronger case can be made for the opposite conclusion. In an American society which has prided itself on building a locally controlled elementary and secondary education system and autonomous institutions of higher learning, a course leading to more centralization in education is unacceptable for the betterment of education.

Duplication of, and waste in, education programs should be eliminated; better results should be achieved with more effective use of present expenditures; present federally supported education programs should be periodically examined as to continued usefulness and effectiveness. All this should be accomplished within the framework of the present HEW structure—and especially with more effective oversight by Congress. A new separate, Cabinet-level department of education could create more problems than it would ever solve.

BEVERAGE CONTAINER REUSE AND RECYCLING ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Vermont (Mr. JEFFORDS) is recognized for 10 minutes.

● Mr. JEFFORDS. Mr. Speaker, yesterday I reintroduced H.R. 2812, the Beverage Container Reuse and Recycling Act of 1979.

I know my colleagues are aware how important it is that the Congress look to legislative initiatives which will address the dual problems of the ever-increasing inflation rate and the depletion of our Nation's energy source supplies. Mr. Speaker, I am convinced that the bill I reintroduced yesterday with the gentleman from Virginia, JOE FISHER, is a measure which speaks directly to these two issues. I insert H.R. 2812 in the RECORD at this time, to allow all of my colleagues the opportunity to review this bill, and reach what I think will be similar conclusions:

H.R. 2812

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Beverage Container Reuse and Recycling Act of 1979".

FINDINGS AND PURPOSES

SEC. 2. Congress finds and declares that:

(1) The failure to reuse and recycle empty beverage containers represents a significant and unnecessary waste of important national energy and material resources.

(2) The littering of empty beverage containers constitutes a public nuisance, safety hazard, and esthetic blight and imposes upon public and private agencies unnecessary costs for the collection and removal of such containers.

(3) Empty beverage containers constitute a significant and rapidly growing proportion of municipal solid waste, disposal of which imposes a severe financial burden on local governments.

(4) The reuse and recycling of empty beverage containers would eliminate these unnecessary burdens on individuals, local governments, and the environment.

(5) A national system for requiring a refund value on the sale of all beverage containers is compatible with, and should be an integral part of, the national solid waste management policy and would result in a high level of reuse and recycling of such containers.

(6) A national system for requiring a refund value on the sale of all beverage containers would be anti-inflationary and help create jobs in areas of commerce.

(7) A national system for requiring a refund value on the sale of all beverage containers would result in low administrative costs and would be self-enforcing in operation.

(8) Collection of State and local sales taxes based on a refund value (or deposit) on returnable beverage containers acts as a burden on the commerce of such containers among the States.

(9) Requiring retailers and distributors to pay refunds on refundable beverage containers promotes the commerce among the States of beverage in such containers.

DEFINITIONS

SEC. 3. For the purposes of this Act:

(1)(A) The term "beverage" means beer or other malt beverage, mineral water, soda water, or a carbonated soft drink of any variety in liquid form and intended for human consumption.

(B) The term "beverage container" means

a container designed to contain a beverage under pressure of carbonation.

(C) The term "refundable beverage container" means a beverage container which has clearly, prominently, and securely affixed to, or printed on, it (in accordance with section 4) a statement of the amount of the refund value of the container.

(2) (A) The term "consumer" means a person who purchases a beverage container for any use other than resale.

(B) The term "distributor" means a person who sells or offers for sale in commerce beverages in beverage containers for resale.

(C) The term "retailer" means a person who purchases from a distributor beverages in beverage containers for sale to a consumer or who sells or offers to sell in commerce beverages in beverage containers under pressure of carbonation to a consumer. The Administrator shall prescribe such regulations as may be necessary to establish what person is a retailer with respect to the sale of beverages in beverage containers under pressure of carbonation to consumers through beverage vending machines.

(3) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(4) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof,

(B) within the District of Columbia or any territory of the United States, or

(C) which affects trade, traffic, commerce, or transportation described in subparagraph (A) or (B).

(5) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

REQUIRED BEVERAGE CONTAINER LABELING

Sec. 4. No distributor or retailer may sell or offer for sale a beverage in a beverage container under pressure of carbonation unless there is clearly, prominently, and securely affixed to, or printed on, it (in accordance with regulations prescribed by the Administrator) a statement of the amount of the refund value of the container, such amount being not less than 5 cents.

RETURN OF REFUND VALUE OF BEVERAGE CONTAINERS

Sec. 5. (a) (1) If a consumer tenders for refund an empty and unbroken refundable beverage container to a retailer who sells (or has sold at any time during the period of six months ending on the date of such tender), a brand of beverage which was contained in the container, the retailer shall promptly pay the consumer the amount of the refund value stated on the container.

(2) If a retailer or consumer tenders for refund an empty and unbroken refundable beverage container to a distributor who sells (or has sold at any time during the period of six months ending on the date of such tender) a brand of beverage which was contained in the container, the distributor shall promptly pay the person the amount of the refund value stated on the container.

(b) The opening of a bevarege container in a manner in which it was designed to be opened and the compression of a metal beverage container providing the refund label is readable shall not, for purposes of this section, constitute the breaking of the container.

RESTRICTION OF FLIP-TOP METAL BEVERAGE CONTAINERS

Sec. 6. No distributor or retailer may sell or offer for sale a beverage container a part of which is designed to be detached in order to open such container.

PREEMPTION OF STATE AND LOCAL LAW

Sec. 7. (a) (1) Except as otherwise provided in this section, no State or political subdivision thereof may establish or continue in effect any law respecting a refund value of beverage containers sold with a beverage under pressure of carbonation to the extent the Administrator determines the law is inconsistent with this Act.

(2) Paragraph (1) does not prevent a State or political subdivision thereof from—

(A) requiring refund values of different amounts (of not less than 5 cents) for differing types or sizes of refundable beverage containers, and

(B) establishing or continuing in effect any law respecting a refund value on containers other than for beverages.

(b) No State or political subdivision thereof may, for purposes of determining the amount of any tax imposed by such State or subdivision on the sale of any refundable beverage container, take into account any amount charged which is attributable to the refund value of such container.

(c) A State may require that a distributor pay a retailer for the tender of a refundable beverage container an amount, in addition to the amount of the refund value required to be paid under section 5(a) (2), for the retailer's handling or processing of the container.

ENFORCEMENT

Sec. 8. (a) Whoever violates any provision of section 4(a), 5(a), or 6 shall be fined not more than $1,000 for each violation.

(b) If a retailer or distributor fails, without good cause, to promptly make payment to a consumer or retailer, respectively, of the refund value of a beverage container in accordance with section 5(a), the consumer or retailer, respectively, shall be entitled to collect, in an appropriate action in any appropriate State or federal court, from the retailer or distributor, respectively, in addition to the amount of the refund value, an amount equal to the sum of (1) the amount of any damages proximately resulting from such failure to make payment, (2) the amount of court costs and reasonable attorneys' fees and any other reasonable costs attributable to the collection of such refund value, plus (3) $10 for each beverage container for which the retailer or distributor, respectively, fails to make payment. The court in such an action may order such additional relief, including injunctive and declaratory relief, as the court determines to be appropriate to enforce the provisions of section 5(a).

(c) Any retailer or distributor who knowingly fails to make payment in accordance with section 5(a) may be assessed a civil penalty of not more than $100 for each such failure with respect to a container; except that the maximum civil penalty shall not exceed $10,000 for any related series of violations. Such penalty shall be assessed by the Attorney General and the Administrator and shall be collected in a civil action brought by the Attorney General or by the Administrator (with the concurrence of the Attorney General) by any of the Administrator's attorneys designated by him for this purpose.

EVALUATION AND TECHNICAL ASSISTANCE

Sec. 9. (a) The Administrator shall monitor, before and after the effective dates of section 4(a) and 6, the rate of reuse and recycling of beverage containers, and shall evaluate and report to Congress * * * of the first three years after the date of the enactment of this Act and biennially thereafter on the impact of the provisions of this Act on—

(1) conservation of energy and material resources;

(2) resource recovery and reduction of solid waste and litter; and

(3) the economy.

(b) The Administrator shall evaluate and report, not later than one year after the date of the enactment of this Act, to Congress on the potential role that centers for the redemption of refundable beverage containers might serve in assisting in the return of the refund value of beverage containers under section 5(a) and on any recommendations for changes in this Act to promote such a role.

(c) The Administrator shall monitor and report to Congress on any additional net costs incurred by retailers as a result of enactment of this Act. And shall include in such report any recommendations the Administrator may have with respect to requiring distributors to pay retailers for the tender of refundable beverage containers, amounts, in addition to the amounts of the refund value required to be paid under section 5(a) (2), for the retailer's handling or processing of the containers.

(d) The Administrator shall provide such technical assistance and information to State distributors, retailers, and consumers, and to manufacturers of beverage containers, as is necessary to carry out the provisions and purposes of this Act.

CONSULTATION ON EMPLOYMENT DISLOCATION

Sec. 10. The Administrator shall advise and consult with the Secretary of Labor on steps that the Secretary might take, through existing authorities, to identify and provide assistance to individuals whose employment may be adversely affected by this Act.

EFFECTIVE DATES

Sec. 11. (a) Except as otherwise provided in subsections (b) and (c), this Act shall take effect on the date of its enactment.

(b) The provisions of section 4(a) (relating to required labeling of beverage containers) shall apply with respect to beverages in beverage containers sold or offered for sale in interstate commerce on or after the end of the two-year period beginning on the last date of the month in which this Act is enacted.

(c) The provisions of section 6 (relating to prohibiting flip-top cans) shall apply with respect to beverages in beverage containers sold or offered for sale in interstate commerce on or after the end of the one-year period beginning on the last date of the month in which this Act is enacted.

(d) The provisions of section 7(a) (relating to preemption of State and local laws) shall preempt State and local laws to the extent to which they are inconsistent with the provisions of this Act only on and after the respective effective dates of such provisions.●

MATERIALS POLICY RESEARCH AND DEVELOPMENT ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. Hollenbeck) is recognized for 5 minutes.

● Mr. HOLLENBECK. Mr. Speaker, it is with great pride that I cosponsor the Materials Policy Research and Development Act introduced last week by Chairman Fuqua and other distinguished colleagues of both parties of the Science and Technology Committee. I believe that the crucial materials problems facing the Nation over the coming generation are national problems and surpass partisan interests and ideologies, partisan policies, and planks. For you have heard the ranking minority member of our committee, Mr. Wydler, state that we are currently dependent on foreign sources for 58 percent of the 38 basic minerals used by the United States.

Mr. Speaker, for practically as long as I have been a member of the Science Committee, I have been deeply concerned about the future materials problems facing the country. These problems are to be compounded over the coming years because of the growing international demand for increasingly scarce mineral supplies. We must have a comprehensive national materials R. & D. policy coordinated with a national policy for materials science and technology to help us avoid these problems by anticipating their onset. I hope, for once, this country will find itself dealing with these critical resource problems in advance of a crisis instead of always riding the roller-coaster of shortage, surplus, and shortage such as we have seen to occur in energy over the last 5 years. I am not sanguine if the example of energy is typical, but I join on this bill and hope that we have learned some lessons from the repeated energy crisis.

The bill has a number of important provisions. The first is that the bill would require the Director of the Office of Science and Technology Policy to assess national materials needs and technological changes over the next 5 years and, where possible, extend that assessment in 10-, 25-, and 50-year increments over the expected lifetimes of these needs and technological changes. No prediction can be perfect, but it is imperative, as I said last year when I introduced long-range materials policy legislation, that the public policies of this Nation be integrated with the economic and technological and intellectual life cycles of our materials, industry, labor, and consuming public.

Public policies should evolve in phase with the turnover of the capital stock of materials industries, with the turnover of materials skills in the labor force, with environmental cycles affected by materials use, and with changing human aspirations. This is a process which occurs over a generation. It seems evident that any materials policy or the materials R. & D. which underlies it should consider at least three components of this process of technological change: namely, the long-term generational change in aspirations as they are reflected in different materials uses; the rate of investment as reflected in the capital structure and the turnover of skills in the labor force over the intermediate term of 10 to 50 years; and finally, over the short term, we must be prepared to meet shortages and surpluses of materials which arise too fast for a response in the structure of our materials industries or in the abilities of our labor force to change.

I hope that in carrying out these assessments, the Director of OSTP will specifically consider the necessity for integrating public policies and technological change and, to the extent that this evolution is not understood, that he will stimulate research to attain better understanding.

Mr. Speaker, dependence of foreign sources of materials often places us in the position of having to trade or to be completely dependent upon these nations, even when we would prefer not. Chromium is an example. The United States has no domestic reserves of chromium and must obtain its sources over the long run from Rhodesia or South Africa, both of whose political systems are antithetical to ours. Furthermore, aside from the balance of payments, over the long run, continued trade with these two nations is probably shortsighted. When their eventual replacement by black African regimes occurs, we may be shut out entirely from supplies of chrome because of our complicity with these racist governments. As the National Academy of Sciences recently pointed out, there are substitutes for a very substantial number of our requirements for chromium and there are substantial conservation opportunities which could be incorporated in our materials production and consumption over the next 10 or 15 years. But we must begin to plan these transitions now and we must carry out the necessary research to find substitutes for as many uses of chromium as possible. Thus, materials research and development can contribute to other foreign policy objectives such as the concern for human rights and foreign trade deficits which I have mentioned here.

The bill also has another important point: namely, it requires the President to submit within 6 months to Congress a plan to implement programs which can carryout the materials policy set forth in the substantive provisions of the bill.

Mr. Speaker, for the last 18 months we have heard the administration telling us that as soon as they complete their review of nonfuel mineral policy they will come to us with requests, but nothing has been seen that is concrete or heard of from the administration on this subject. And nonfuel minerals is only a tiny part of the problem. Meanwhile, each day our position becomes more precarious. This bill should, I believe, goad the administration into action if enacted. For this reason, although I believe that the detailed arrangements for implementing a materials science and technology policy should be left to the Executive, this bill provides an important step toward requiring the Executive to come up with concrete proposals and to do soon.

Mr. Speaker, the bill contains many other interesting and important concepts which I hope we shall have a chance to explore and examine in greater detail as our committee considers this bill during the coming session. One, for example, is the use of remote sensing of materials and natural resources from space. In this context, I would hope that our committee would consider establishing a comprehensive, operational natural resource, environmental and energy space monitoring program which could be encompassed within the superstructure of the materials research program to be mandated.

For all these reasons, I urge the favorable consideration in the near future of this bill by the House. I hope that my colleagues here and the general public will contribute their suggestions; the bill is not cast in concrete, and it is my desire that it should provoke and stimulate any innovative ideas in this important field. It is with great pride, therefore, that I join in sponsoring the Materials Policy Research and Development Act of 1979.●

TWO BILLION DOLLARS DOWN THE DRAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, I swallowed hard the other day when I picked up the Los Angeles Times and read the page 1 story by Grayson Mitchell estimating waste in our social security system to be $2 billion annually. Social Security Commissioner Stanford Ross admitted waste and fraud is rampant in his Administration. Thousands who are ineligible receive benefits. Poor management, lack of accounting controls, and widespread abuse are responsible for at least—at least—$2 billion from the public till going down the drain each year. Some estimate the actual loss to be twice this amount. According to an official of the General Accounting Office, the GSA scandal is a drop in the bucket compared to the mess at social security.

Social security is the epitome of uncontrollable growth in Government. The program conceived in the 1930's has mushroomed to proportions far beyond its original intention. Today, the Social Security Administration employs 85,000 people, spending $130 billion annually. That is roughly a quarter of our total Federal budget. The mere size of the agency is such that bookkeeping practices which may be relatively inconsequential in smaller organizations, can cause multimillion-dollar losses at social security. For instance, the procedure of rounding off benefit payments to the highest dime instead of issuing checks for the exact amount, may provide for easier accounting methods, but it costs the taxpayer an extra $64 million.

What surprised me about the article were reports that Capitol Hill has turned a deaf ear to warnings from the GAO and others that this money is being wasted. I have yet to hear a justifiable reason for refusing to address this situation. When Government funds are paid to those not entitled to receive them, Congress has an obligation to investigate.

The philosophy of Congress has been to raise taxes as a way of compensating for these losses. I have suggested that a thorough review of social security be conducted with thoughts of restructuring the system so that it is actuarially sound. It will be a difficult undertaking, but we cannot sweep the problem under the rug, no matter how politically unpalatable it may be. Just how much more money, Mr. Speaker, will go down the drain before we decide to put a stop to it?●

EXTENDING TERMS OF OFFICE FOR OFFICERS OF LOCAL LABOR ORGANIZATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, this year, 1979, marks the 12th anniversary of the enactment of the Labor-Management Reporting and Disclosure Act of 1959. This act marked the first time in which the Federal Government participated in a major way in the internal affairs of labor organizations. Such governmental policies is warranted, and has served the best interests of both union members and our society.

In many respects the Landrum-Griffin Act has been highly successful. In the 1950's charges of financial mismanagement and racketeering in labor unions, both valid and invalid, were a subject of national debate. Since that period, neither the public nor the Congress have been exposed to such unsettling disclosures. This does not mean that the Labor-Management Reporting and Disclosure Act has solved all problems, nor is it a statute perfect in every respect. I believe that some aspects of that law need reevaluation in light of our recent 20-year history.

It is in this spirit that I have introduced H.R. 103, a bill which would amend section 401(b) of the Labor-Management Reporting and Disclosure Act of 1959 to change the period of time within which a local labor organization is required to elect its officers. The maximum time period would go from once every 3 years to once every 5 years under H.R. 103.

Such a seemingly simple amendment in the law would have a number of beneficial effects, not only on labor organizations themselves, but on the stability of our system of labor relations.

The major benefit derived from such a change is that it would help to keep demagogic politics out of the local union. It has been well established in hearings on similar legislation in the past, that in many cases a 3-year tenure for local union officials is simply too short. Too much time is spent "running" for the next election, and not enough on serving the members' needs. This is particularly true for newly elected local union leaders who must, necessarily, spend a good part of their new term "getting their feet on the ground."

The short period of office also has become a destabilizing force in labor-management relations. A local union leader who is overly concerned with pleasing a vocal minority for short-term political gains, is less likely to attempt to establish sound bargaining relationships with management. Also, the short term of office tends to make collective-bargaining contracts very political and has, in some cases, led to rejection of an agreement and to strikes. Demagogic politics have spilled over in other arenas, as local officials, rather than leading their members in a responsible fashion, are at times forced by a vocal minority to accede to demands for a wildcat strike or an irresponsible contract demand.

Finally, in this respect, it should be kept in mind that local union leaders are not only politicians in the sense that they stand for election, they also perform a variety of duties from managing a local union's business affairs, to enforcing and at times negotiating a collective bargaining agreement. Allowing local union officers to spend more time serving their members' needs and less time running for reelection will not lessen union democracy, but lead to better-run union locals and more responsible and stable labor relations.

A final point I would like to make in support of H.R. 103 is that we hear more and more that the American people are demanding less governmental regulation and interference in their daily affairs. This bill is very compatible with that goal. It would in no way require that local union officers extend their terms of office, but if the members see fit, they could amend their union constitutions to hold local elections within every 5 years. Such decisions should be left to the individuals concerned and not dictated by the Congress.

In closing, I would like to add some comments which my colleagues may be surprised to hear. We all have read of reports of opinion polls showing that the public holds labor leaders in low esteem (somewhere close to politicians). A recent, more thorough study was completed by the University of Michigan Institute for Social Research, the "Quality of Employment Survey," on contract with the U.S. Department of Labor. While the survey found that in general American workers are less satisfied with their jobs in 1977 (the year of the survey) than in 1973, members of labor unions gave their unions high marks. A section of the survey concludes:

> By and large, workers in the 1977 sample express fairly positive attitudes toward labor unions. On the subject of union goals, all workers were asked what things they thought unions in this country were trying to do. Among union members 66 percent mention *only* positive things (e.g., improving wages or benefits, improving job security) whereas merely 15 percent mention *only* negative things (e.g., self-aggrandizement). Among non-members, the corresponding figures are 45 percent and 28 percent, respectively.
>
> Union members were also asked to evaluate the performances of their own unions. They give their unions higher marks for their handling of traditional functions than for less traditional functions. Large majorities report that their unions do a "somewhat" or "very" good job in securing better working conditions: better wages (76 percent for white collar workers, 75 percent for blue collar workers); better fringe benefits (69 percent and 71 percent, respectively); improved health and safety on the job (74 percent and 71 percent, respectively); and improved job security (76 percent and 74 percent, respectively). Members also rate their own unions high on handling members' grievances (79 percent and 74 percent, respectively) and on other indicators of responsiveness of members' needs. Members feel less positive about their unions' handling of nontraditional issues: helping to make jobs more interesting (39 percent and 32 percent, respectively), getting workers a say in how their employers run the businesses or organizations (42 percent and 34 percent, respectively), and getting workers a say in how they do their own jobs (57 percent and 48 percent, respectively). In interpreting these findings it should be kept in mind that members also express the view that their unions *should* put greater effort into the traditional than into the less traditional union functions. By way of overall evaluation union members express a high degree of satisfaction with their own unions. Fully 71 percent of the blue collar workers and 77 percent of the white collar workers report that they are "somewhat" or "very" satisfied.

Thus, in spite of what some opinion polls have told us, it is clear that American workers are generally pleased with their unions and the job they have been performing. I urge the support of my colleagues for H.R. 103.●

CONGRESSIONAL CONCERN REGARDING SOVIET EMIGRATION AND FREEDOM OF SPEECH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. MURPHY) is recognized for 5 minutes.

● Mr. MURPHY of New York. Mr. Speaker, today I am introducing a resolution which expresses the concern of Congress and the Nation regarding free emigration and expression of ideas by the citizens of the Soviet Union.

Today marks the second anniversary of the arrest of Soviet dissident Anatoly Shcharansky. Shcharansky, a computer scientist, was arrested by the KGB on March 15, 1977 and held incommunicado on charges of treason against the Soviet Union. Shcharansky was also accused of working for the CIA, an accusation categorically denied by President Carter last year. The unfounded charges against Shcharansky, as well as his lengthy incarceration prior to trial and subsequent conviction, has made a mockery of the Soviet judicial system, and has ignited heated protests from civil libertarians throughout the world.

But such remonstrations have gone unrecognized and unheeded. As I speak to you now, Shcharansky, who received a 13-year sentence, is being held in a prison camp on the Volga. He is denied visits by his family, despite the fact that he is in ill health, and has been prevented from exercising his right to launch an appeal of his conviction.

Shcharansky is a man of principles, an individual willing to endanger his future health and prosperity in order to further the cause of human rights in his homeland. We have no way of knowing how many more like Shcharansky have been subjected without cause or due process to such injury. But is is certain that the Soviet Union is continuing in its attempts to stifle the spirit of those seeking to exercise basic human rights. And it is imperative that we, as a nation wholly committed to the primacy of human rights, challenge such actions and challenge them now.

The repression of basic human freedoms is like a disease allowed to go unchecked, it spreads mercilessly throughout nations unprotected by safeguards such as those written into our Constitution. We need only recall the horrors suffered upon the countless individuals during the 1930's and 1940's to realize the virulent potency of the malady.

Our moral obligation to fight such indignities transcends political differences or territorial boundaries. Anatoly Shcharansky is not a unique product of our time—countless others like him emerge from our history books, from Socrates to Joan d'Arc. Indeed, our own country was founded on those very principles which we seek to defend here today. Dissent and disagreement have been major factors in the growth of the United States. Inherent in our system is a flexibility, an ability to absorb criticism and change accordingly. The Soviet Government's continued efforts to suppress disagreement and dissent only serves to evidence the Soviet's lack of confidence in their ability as a political system to withstand analysis and review.

In furtherance of this Nation's unwavering commitment to preserve and protect the rights of all people, this resolution should be unanimously passed. This bill would direct the President to:

First, impress upon the Soviet Government the grave concern of the American people with the intimidation of those within the Soviet Union who do not adhere to prevailing ideology;

Second, call upon the Soviet Government to permit the free expression of ideas and emigration by all its citizens in acordance with the Universal Declaration of Human Rights, and

Third, use the medium of current negotiations with the Soviet Union as well as informal contacts with Soviet officials in an effort to secure an end to repression of dissent.

Mr. Speaker, in considering this resolution, let us remember the words of one of our most distinguished presidents, Franklin Delano Roosevelt, who said: "Born to freedom, and believing in freedom, we are willing to fight to maintain freedom." I urge my colleagues to add their support to this resolution so that we can, as an entity, voice our concern about the continuing repression of Anatoly Shcharansky and other citizens of the Soviet Union.

Finally, we must realize that there is no greater potential danger to our own liberties than for us to stand by silently while human rights are denied to others.●

PRIVACY OF MEDICAL RECORDS ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

● Mr. PREYER. Mr. Speaker, I am today introducing the Federal Privacy of Medical Records Act, a bill to protect the privacy of personally identifiable medical information maintained by hospitals and other medical facilities.

The bill is meant to be a starting point for discussion. It is generally based on the recommendations of the Privacy Protection Study Commission, with several new features that I hope will generate some comment.

Briefly, the legislation would guarantee an individual the right to inspect his or her medical record and to seek correction of erroneous information contained in that record. Another major function of the bill is to regulate the dissemination of sensitive medical data by setting the ground rules for disclosure of medical records when the individual patient's consent has not been obtained.

Individual practitioners would not be affected by this bill. The act covers all medical care facilities that participate in medicare and medicaid, as well as all Federal medical facilities.

The Federal Privacy of Medical Records Act is similar to H.R. 13994 which I introduced in the 95th Congress, and both are derived from the proposals of the Privacy Protection Study Commission. Since the Privacy Commission issued its report in July 1977, we have made significant progress in understanding the many uses to which medical records are put outside of the doctor's office. I think that many of my colleagues will be surprised to learn of the numerous groups that use medical information in fields unrelated to patient treatment. One of the reasons why medical records confidentiality legislation is needed is to restrict and regulate these nontreatment uses.

Striking a balance between an individual's right of privacy and the legitimate information needs of law enforcement agencies, auditors, researchers, and others who perfrom important functions, is never easy. In the last Congress, a law was enacted to define the availability of personal financial records to law enforcement officials. The struggle over the Right to Financial Privacy Act was intense, even though its scope was limited to records concerning bank depositors and to the question of Federal Government access. Legislation regulating use of medical records will be much harder to enact because the records contain information that is personally more sensitive and because there are so many groups that claim to have a vital interest in using medical records.

If we are to successfully deal with medical records confidentiality, we will need the help of doctors, hospitals, public health authorities, law enforcement officials, auditors, researchers, and others. I have an open mind about these questions and the relative needs of all of these groups. Other bills dealing with medical records have been introduced in the House and in the Senate this session, and the long-awaited Presidential message on privacy is expected to include a medical records confidentiality proposal. That message is expected soon.

Because of the difficulty of the task, we must begin quickly. The Subcommittee on Government Information and Individual Rights which I chair will hold the first in a series of hearings on medical records confidentiality legislation next month on April 2, 4, 9, and 11. Anyone with comments on the Federal Privacy of Medical Records Act or with an interest in the subject generally is invited to contact the subcommittee at (202) 225-3741.

Mr. Speaker, I include a section-by-section analysis of the bill in the RECORD:

SECTION-BY-SECTION ANALYSIS OF THE FEDERAL PRIVACY OF MEDICAL RECORDS ACT

Section 1 provides that the Act may be cited as the "Federal Privacy of Medical Records Act." The designation "Federal" is used to distinguish this Act from any existing or subsequent state legislation.

Section 2 contains the findings and purposes of the Act.

Section 101 contains the Act's definitions. A "medical care facility", the entity to which the Act applies, is defined as any hospital, skilled nursing facility, intermediate care facility, or other entity which is approved for participation in, or coverage under, Medicare and Medicaid. Individual physicians are not included. Federal medical care facilities are covered by the Act.

A "medical record" is defined as any identifiable information relating to the health, examination, care, or treatment of an individual.

"Government authority" includes any agency or department of the United States or of any State or political subdivision.

Section 102 provides that any State or local laws governing the confidentiality of medical records maintained by a medical care facility subject to the Act are superseded. However, the Act does not disturb the disclosure restrictions in federal, state, or local laws relating to psychiatric treatment or treatment for alcohol or drug abuse.

Section 103 provides that rights of an incompetent or a minor shall be exercised by a parent or guardian.

Section 111 permits an individual to inspect and have a copy of a medical record about the individual maintained by a medical care facility. A facility may deny the right to inspect if it determines that inspection might reasonably be expected to cause sufficient harm to the individual so as to outweigh the desirability of permitting access. Where inspection is denied, the individual may select an appropriate person (as defined by the Secretary of H.E.W.) to inspect the record. A facility may not charge a fee for permitting an inspection, and any copying fees must be reasonable.

Section 112 provides that a facility must, within 30 days of a request by an individual, make the requested correction of a medical record or explain its refusal. If a requested correction is not made, then the individual has the right to include a concise statement of disagreement in the record.

Section 113 requires a facility to provide an individual with a written notice of record keeping practices detailing the disclosures that can be made from a medical record without consent and the individual's rights of inspection and correction.

Section 114 restricts disclosure of medical records to those authorized by the individual or those authorized by the Act. Records can only be disclosed to properly identified persons, and disclosures must be limited, where practicable, to information needed to accomplish the purpose for which the disclosure is made.

Section 115 provides that an individual may only authorize the disclosure of a medical record with a written, dated, and signed authorization describing the facility, the person to whom the record may be disclosed, and the purpose of the disclosure.

Sections 121 through 131 define the circumstances under which a facility may disclose a medical record without authorization from the individual. Section 121 permits disclosure to an employee of the facility maintaining the record who has a need for the record in the performance of his duties.

Section 122 permits disclosure to a medical care professional who is consulted in connection with health services provided to the individual.

Section 123 permits disclosure of admission and health status information if the individual has not objected to the disclosure.

Section 124 permits disclosure for use in a health research project determined by an institutional review board to be of sufficient importance so as to outweigh the intrusion into privacy that would result from the disclosure. Any person obtaining a record under this section must 1) comply with security standards established by the Secretary; 2) remove identifiers where practicable; and 3) not redisclose the record except under specified circumstances. Disclosures for use in another health research project which has been approved by an institutional review board are permitted.

Section 125 permits disclosure for use in an audit or evaluation. Any person obtaining a record under this section must 1) comply with security standards established by the Secretary; 2) remove identifiers where practicable; and 3) not redisclose the record except under specified circumstances.

Section 126 permits disclosures to assist in the identification of a dead person or pursuant to a showing of compelling circumstances affecting the health or safety of any person or involving imminent danger of serious property damage. A facility must keep an accounting of disclosures made under this section. Any government authority obtaining a medical record under this section or under Sections 127, 129–31 may only disclose the records where necessary to fulfill the purpose for which the record was obtained or where disclosure is consistent with disclosures permitted under the Act.

Section 127 permits disclosure where required by Federal or State law.

Section 128 permits disclosure to the Secret Service or to a Federal agency authorized to conduct foreign intelligence activities. Redisclosures may be made only where necessary to fulfill the purpose for which the record was obtained.

Section 129 permits disclosure of the medical record of an individual to a government authority for use in an investigation or prosecution (directed at a person other than the individual) of fraud, abuse, or waste in a government funded program. Disclosure may also be made to a government authority to assist in the identification or location of a suspect or fugitive. A facility must keep an accounting of disclosures made under this section.

Section 130 permits disclosure pursuant to the Federal Rules of Civil or Criminal Procedure or comparable rules of other courts or agency in connection with litigation to which the individual is a party.

Section 131 permits disclosure pursuant to administrative, judicial, or grand jury summons or subpena or pursuant to a search warrant, provided that the access procedures of Section 141 have been followed. Use and disclosure of information acquired by federal grand jury subpena is limited to grand jury purposes.

Section 132 provides that the provisions of the Act allowing disclosure shall not be read as requiring that information be disclosed unless required by other Federal, state or local laws. The Secretary is required to prescribe security standards for the use and maintenance of medical records by researchers, auditors, and evaluators; to publish guidelines for the accounting requirement of the Act; and to prepare a notice of challenge rights in accordance with Section 142.

Section 141 establishes access procedures for a government authority using a judicial, grand jury, or administrative summons or subpena. The authority may seek access only if (1) there is reasonable cause to believe that the record will produce information relevant to a legitimate law enforcement inquiry; (2) the individual has been served with a copy of the process, together with a notice describing challenge rights; and (3) 14 days have passed since the individual has been served. In the case of a search warrant, the individual shall be informed of the warrant within thirty days after it was served on the facility. Notice to an individual may be delayed if a court finds that informing the individual will result in serious jeopardy to an investigation or proceeding.

Section 142 provides that an individual may challenge a summons or subpena by filing a motion to quash in the appropriate state or federal court. In order to enforce the process, the government authority must demonstrate to the court that there is reasonable cause to believe (1) that the process is related to a legitimate law enforcement inquiry; and (2) that the records sought are relevant to that inquiry. The motion to quash may nevertheless be granted if the individual can show that his privacy interests outweigh the government's need for the record. A motion to quash must be decided expeditiously by the courts, and no interlocutory appeals may be taken by the individual.

Section 143 requires Federal agencies that request access to medical records to file an annual report with Congress.

Section 151 makes compliance with the Act by a facility a requirement for participation in Medicare and Medicaid.

Section 152 makes it a crime to request or obtain a medical record or an authorization under false or fraudulent pretenses.

Section 153 allows an aggrieved individual to seek a civil remedy, including actual and punitive damages and equitable relief, for violations of the Act.

Section 153 provides a civil remedy for violations of the Act.

Section 201 exempts medical records of Federal agencies from coverage under the Privacy Act if those records are subject to this Act.

Section 301 makes the Act effective on the first day of the first calendar quarter beginning 180 days after the date of enactment.

Section 302 requires the Secretary to issue final regulations under the Act two months before the effective date.●

SECRETARY OF THE INTERIOR ANDRUS WRITES ON PROTECTING ALASKA

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, by now I believe most Members of Congress would agree that Secretary of the Interior Cecil D. Andrus is one of the most outstanding members of President Carter's Cabinet. He has proved himself to be a champion of the public interest in every sense of the word and has shown particular skill in balancing the often competing needs for balanced development and protection of American's natural resources, especially those in the public domain administered by the Department of the Interior.

The New York Times for Monday, March 12, contained an article by Secretary Andrus on the subject: "Protecting Alaska." The Secretary points out that the debate over Alaska national interest lands has been portrayed as a contest between developers and conservationists. In his words:

> That portrayal misses the point: at least two-thirds of Alaska will be open for development. The real issue: How much of the rest will be protected for all Americans?

Mr. Andrus' article goes on to describe the basis on which he and President Carter acted to protest some of the key wilderness areas of Alaska and keep open the options of the Congress in establishing permanent legislation for these areas. Congress is again in the process of developing such legislation. I believe all Members will find that Secretary Andrus' article gives them an excellent summary of the basic issues.

The full text of the Secretary's article follows these remarks:

[From the New York Times, Mar. 12, 1979]

PROTECTING ALASKA

(By Cecil D. Andrus)

WASHINGTON.—The debate over Alaska National Interest Lands has been portrayed as a contest between developers and conservationists. That portrayal misses the point: at least two-thirds of Alaska will be open for development. The real issue: How much of the rest will be protected for all Americans?

Two years ago, the Administration called for designation of 92.5 million acres of Federal land in Alaska as new conservation areas. Within these proposed boundaries lie wild, mostly untouched territory. This includes the nation's highest mountain and the continent's greatest mass of high peaks and glaciers. It includes places where traditional people remain true to their ancient traditions. It includes the calving grounds for America's only large, healthy herd of free-roaming caribous and the breeding grounds for about 10 percent of our country's waterfowl. No one can seriously argue that these places do not have national importance. In fact, some argue we seek protection for too little of Alaska.

The problem we took seriously, though, was striking a balance in land use. We developed and applied two basic principles. First: Include only areas of true national significance, and use watershed or ecosystem boundaries to be sure that they will remain as healthy, self-sustaining units; in other words, don't plan for environmental "salvage operations" later. Second: Exclude areas of purely economic value whenever possible.

By applying these principles, we achieved a unique plan. We located and marked for protection places that will cotninue to stun future generations with their beauty, natural productivity and historical significance. Also, more than 90 percent of Alaska's high-potential on-shore oil and gas areas, all the offshore areas and more than 70 percent of the high protection places that will continue to stun potential of hard-rock mineral areas remain available for exploration and development.

As our ability to work in the far north developed, so did our understanding of the special conditions that require major conservation efforts. For the first time, we have both the opportunity to balance development with conservation and the knowledge to understand exactly why we should do so. One important tool, while we drew the boundaries, was a computerized-resource inventory developed by the state of Alaska.

Last May, the House of Representatives, 277–31, passed an Alaskan lands bill. An end-of-session filibuster threat blocked a Senate vote. With Congress adjourned and statutory protection for our proposed areas about to expire, President Carter decided too much was at stake not to act and extended administrative protection to these lands. Under emergency powers, I withdrew 110 million acres from all claims. Subsequently, President Carter designated 56 million of these acres as national monuments under provisions of the Antiquities Act.

The genesis of Alaska conservation goes back more than 40 years when there was a call for protection of all land north of the Yukon River. Little thought was given to that proposal, though, until oil was discovered on state land at Prudhoe Bay in 1968. Suddenly, Alaska's seemingly impervious wilds were threatened by construction of the Trans-Alaska Pipeline.

Legislation to clear land titles for the pipeline and settle Alaska native claims struck a bargain between Alaska and the rest of the nation: America would support development in Alaska if Alaska would support large-scale conservation there for all Americans. While this bargain indicated that selection of Alaska's vast 104-million-acre statehood grant might be slowed to allow native selections, it also guaranteed Alaska a sound economic future. But many Alaskans and their allies in the resource industries now seem to have forgotten the agreement with the other 200 million Americans.

Too often conservation has been an effort to salvage some remnant of beautiful land or a small population of once-numerous animals. In Alaska we have a second national opportunity to protect healthy, productive lands, simply allowing them to continue in their natural state. Few nations are ever favored with the chance to make a decision to protect their natural heritage. If we decide to reject this opportunity to conserve and develop, we will deserve the insults that our grandchildren will remember us with. Let's do it right, for once, the first time.●

PERSONAL EXPLANATION

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. PEPPER. Mr. Speaker, I had to leave the floor on Tuesday before the final vote on H.R. 2479, the United States-Taiwan Relations Act, on account of illness in my family. Had I been present I would have voted with the Committee on Foreign Affairs on the amendments which I missed and I would have voted for the bill on final passage.●

PERSONAL EXPLANATION

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. PEPPER. Mr. Speaker, I regrettably must be absent for the votes today due to illness in my family. If I had been present I would have voted for the three resolutions funding standing committee of the House and would have voted in favor of the resolution to establish a Select Committee on Committees.●

CLARENCE MITCHELL HONORED ON HIS 68TH BIRTHDAY

(Mr. RODINO asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. RODINO. Mr. Speaker, there are many celebrities in America today, but there are only a handful of truly great men.

And rarer still is the great man who can be passionate with dignity, the man of zealous principle who can nonetheless operate steadily and effectively—who simply and quietly can get things done.

Mr. Speaker, one such man—Clarence Mitchell—will be honored tonight on the occasion of his 68th birthday. It will be a significant event because Clarence, by any definition, is a great American. We in this Chamber realize that there are few officials anywhere in this town who have not been touched by his work. But far more important, there are few citizens anywhere in this Nation whose lives have not been enriched by the fruits of his accomplishments.

A month ago Clarence Mitchell retired as the Washington representative of the NAACP. For nearly 30 years he served as that great organization's chief advocate and no man will ever bring greater honor to his profession.

In fact, I often find myself referring to Clarence as the consummate advocate, and in trying to put these thoughts on paper I tried to pinpoint just why that is. Perhaps it is because Clarence so completely believed in the legislative process, because he so thoroughly respected this country and respected the institution of the Congress of the United States. He understood the uniquely collegial nature of the representative branch and he appreciated the special role it plays under the Constitution.

But I think equally important: Clarence knew how to win and he knew when he had to lose. And because when he lost he kept his faith in America, and he refused to give up on the elective process, his ultimate victories were among the most significant in our history: The Civil Rights Act of 1964, the Voting Rights Acts of 1965 and 1975, the Fair Housing Act of 1968 * * * the list is long and impressive. And as long as the list is and as critically important as the issues were, Clarence proceeded simply, with none of the fanfare or hoopla associated with congressional politics. He had a job to do and he got it done.

For all these reasons, Clarence was the consummate advocate. But the most important reason was the simplist: he was a treat to deal with, a pleasure to be around. He is kind, he is caring and above all he is knowledgeable. No man ever brought to his trade the same combination of passion and commonsense. And no man ever demonstrated a greater living commitment to the special dignity and human rights of every individual.

Mr. Speaker, I was privileged to be privy to Clarence Mitchell's private counsel during many of the most important civil rights battles of recent decades. On some occasions I served as floor manager in the House for the landmark statutes of the 1960's. I know firsthand the value of his support, the enormous strength of his private encouragement. I owe to Clarence—as does the Nation—a large debt and a large measure of gratitude.

Mr. Speaker, I do not propose to say here that I shall miss Clarence Mitchell. Clarence will be among us for many years and I intend to continue to value his counsel and his friendship. This is merely to salute him on the occasion of his birthday and to add my voice to the many who have acknowledged, and will acknowledge, the greatness of this man and his contributions to great causes.●

CONGRATULATIONS TO PRESIDENT CARTER FOR MAJOR BREAKTHROUGHS

(Remarks delivered in the House on Tuesday, March 13, 1979.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Lewis) is recognized for 10 minutes.

Mr. LEWIS. Mr. Speaker, today I rise to extend high praise and congratulations to President Carter, Israeli Prime Minister Menachem Begin, and Egyptian President Anwar Sadat for the major breakthroughs made today that could very likely lead to a treaty of peace between Israel and Egypt.

I urge citizens throughout America to express their positive support for the progress made thus far. I further encourage all Americans to communicate to the citizens of Israel and Egypt in every possible way, their expressions of hope for a lasting peace.

In response to Sadat's acceptance of new compromise proposals presented by President Carter today, Prime Minister Begin said, and I quote for the record * * * "Great progress has been made * * *." Further, he said his Cabinet and Israel's Parliament will have to debate the new American proposals and if the Parliament were to reject his recommendations to accept the proposals, "it would be the duty of the Government to resign."

Prime Minister Begin's strong position of support for the new proposals which address virtually every remaining issue—and President Sadat's acceptance of them, brings us to the verge of the first treaty between Israel and Egypt since the days of the Pharaohs and lights the hope of lasting peace.

Although the shape of the compromise is not yet available, the following issues remain to be worked out: The Israeli desire for Sinai oil, Egypt's desire for liaison officials to supervise Palestinian self-rule in the Gaza strip, and the Israeli desire for a quick exchange of ambassadors to show the level of normalized relations that are to be achieved.

In view of the recent developments in Iran, the Soviet and Cuban presence in the People's Democratic Republic of Yemen (South Yemen); the assassination of the American Ambassador in Afghanistan and the movement of Saudi Arabia away from its close ties with the United States, today's developments could not be more welcome or timely.

In closing, I urge my colleagues to join me in a bipartisan show of respect for the Office of the Presidency by going to Andrew's Air Force Base this evening to be present for President Carter's return to America.

I could not disagree more with the President's general handling of foreign affairs. But, his success today deserves our praise. Indeed, at a time of credibility crisis for the Nation among friend and foe alike, our unified expression of support for the Office of the President is desperately needed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Gilman (at the request of Mr. Rhodes), for Thursday, March 15, on account of personal business.

Mr. Pepper (at the request of Mr. Wright), after 5 p.m., Tuesday, March 13, and for balance of the week, due to illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Erdahl) to revise and extend their remarks and include extraneous material:)

Mr. Jeffords, for 10 minutes, today.

Mr. Hansen, for 60 minutes, on March 15.

Mr. Ritter, for 5 minutes, today.

Mr. Hollenbeck, for 5 minutes, today.

Mr. McClory, for 60 minutes, on March 20.

Mr. Goldwater, for 5 minutes, today.

Mr. Shuster, for 60 minutes, on March 20.

(The following Members (at the request of Mr. Wyatt) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Weaver, for 10 minutes, today.

Mr. Murphy of New York, for 5 minutes, today.

Mr. Preyer, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Erdahl) and to include extraneous material:)

Mr. Shuster.

Mr. Symms in three instances.

Mr. Broyhill.

Mr. Michel.

Mr. Conable.

Mr. Rudd.

Mr. Moorhead of California in two instances.

Mr. Taylor.

Mr. Schulze.

Mr. Hinson.

Mr. Hansen in five instances.

Mr. Lee.

Mr. Paul in four instances.

Mr. Wampler.

Mr. Gingrich.

Mr. Marlenee.

Mr. Gilman in two instances.

Mr. Lagomarsino in two instances.

(The following Members (at the request of Mr. Wyatt) and to include extraneous matter:)

Mr. Hamilton.

Mr. Rodino.

Mr. Nowak in five instances.

Mr. Mazzoli.

Mr. Anderson of California in three instances.

Mr. Gonzalez in three instances.

Mr. Florio.

Mr. Steed.

Mr. Bonker.

Mr. D'Amours.

Mr. Daschle.

Mr. Kildee.

Mr. Beilenson.

Mr. Ambro.

Mr. Udall.

Mr. Dellums.

Mr. Gray.

Mr. Pickle in five instances.

Mr. Mattox.

ADJOURNMENT

Mr. WYATT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 19 minutes p.m.), the House adjourned until tomorrow, Thursday, March 15, 1979, at 11 o'clock a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the fourth quarter of calendar year 1978 in connection with foreign travel pursuant to Public Law 95–384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1, AND DEC. 31, 1978

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. George Danielson	12/7	12/11	Germany	573	300.00	162.78	88.44	185.87	100.16	921.65	488.60
	12/11	12/13	Italy	191,250	225.00	39,667	47.26	20,502.5	24.38	251,419.5	296.64
	12/13	12/17	England	170.21	340.00	29.33	58.59	28.83	57.59	228.37	456.18
Estimated airfare							(2,123.72)				
Don Edwards	12/8	12/15	South Africa		75/450.00		1,494.70		100.00		2,044.70
Hon. Billy Lee Evans	12/10	12/13	Switzerland	648.45	380.00	202.50	122.43			850.95	502.43
							1,589.00				1,589.00
Hon. Hamilton Fish, Jr	11/10	11/11	Belgium	6,518	222.00	9,068	312.61			15,586	534.61
	11/12	11/16	Switzerland	884.05	545.00	1,189.50	725.75			2,073.55	1,270.75
	11/16	11/24	Italy	565,650	675.00	634,700	745.83			1,200,350	1,420.83
Transportation, Rome to New York.							1,174.00				1,174.00
Estimated military cost									(487.97)		
	12/10	12/13	Switzerland	648.45	380.00	202.50	122.43			850.95	502.43
							1,548.00				1,548.00
Hon. Herbert Harris	12/7	12/11	Germany	573	300.00	162.78	88.44	185.87	100.16	921.65	488.60
	12/11	12/13	Italy	127,500	150.00	39,667	47.26	20,502.5	24.38	187,669.5	221.64
	12/13	12/17	England	170.21	340.00	29.33	58.59	28.83	57.59	228.37	456.18
Estimated airfare							(2,123.72)				
Hon. Elizabeth Holtzman	12/10	12/13	Switzerland	648.45	380.00	202.50	122.43			850.95	502.43
							1,509.00				1,509.00
Hon. Romano Mazzoli	12/7	12/11	Germany	373.75	195.68	162.78	88.44	185.87	100.16	722.40	384.28
	12/11	12/13	Italy	146,455	172.30	39,667	47.26	20,502.5	24.38	206,624.5	243.94
	12/13	12/17	England	170.21	340.00	29.33	58.59	28.83	57.59	228.37	456.18
Estimated airfare							(2,123.72)				
Hon. Carlos Moorhead	12/7	12/11	Germany	573	300.00	162.78	88.44	185.87	100.16	921.65	488.60
	12/11	12/13	Italy	191,250	225.00	29,667	47.26	20,502.5	24.38	251,419.5	296.64
	12/13	12/17	England	170.21	340.00	29.33	58.59	28.83	57.59	228.37	455718
Estimated airfare							(2,123.72)				
Hon. Tom Railsback	12/7	12/11	Germany	573	300.00	162.78	88.44	185.87	100.16	921.65	488.60
	12/11	12/13	Italy	127,500	150.00	244,467	288.20	20,502.5	24.38	392,469.5	462.58
	12/13	12/17	England	170.21	340.00	29.33	58.59	28.83	57.59	228.37	456.18
Estimated airfare						(2,123.72)					
Hon. Harold S. Sawyer	12/7	12/11	Germany	573	300.00	162.78	88.44	185.87	100.16	921.56	488.60
	12/11	12/13	Italy	191,250	225.00	244,467	288 20	20,502.5	24.38	456,219.5	527.58
	12/13	12/17	England	170.21	340.00	29.33	58.59	28.83	57.59	228.37	456.18
Estimated airfare							(2,123.72)				
Garner J. Cline	12/10	12/13	Switzerland	648.45	380.00	202.50	122.43			850.95	502.43
							1,589.00				1,589.00
Garner J. Cline	11/9	11/15	Switzerland	1,251.60	763.00	396.50	241.92			1,648.10	1,004.92
	11/15	11/26	Italy	693,450	825.00	634,700	745.83			1,328,150	1,570.83
							1,787.00				1,787.00
Alexander B. Cook	12/10	12/13	Switzerland	648.45	380.00	262.50	122.43			850.95	502.43
							751.00				751.00
Arthur P. Endres, Jr	12/10	12/13	Switzerland	648.45	380.00	202.50	122.43			850.95	502.43
							1,589.00				1,589.08
Gail Higgins Fogarty	12/7	12/11	Germany	573	300.00	162.78	88.44	185.87	100.16	921.65	488.60
	12/11	12/13	Italy	191,250	225.00	39,667	47.26	20,502.5	24.38	251,419.5	296.64
	12/13	12/17	England	132.66	265.00	29.33	58.59	28.83	57.59	190.82	381.18
Estimate airfare							(2,123.72)				
Tom Mooney	12/7	12/11	Germany	573	300.00	162.78	88.44	185.87	100.16	921.65	488.60
	12/11	12/13	Italy	191,250	225.00	244,467	288.20	20,502.5	24.38	456,219.5	537.58
	12/13	12/17	England	170.21	340.00	29.33	58.59	28.83	57.59	228.37	456.18
Estimated airfare						(2,123.72)					
Michael Remington	12/7	12/11	Germany	573	300.00	162.78	88.44	185.87	100.16	921.65	488.60
	12/11	12/13	Italy	191,250	225.00	39,667	47.26	20,502.5	24.38	251,419.5	296.64
	12/13	12/17	England	170.21	340.00	29.33	58.59	28.83	57.59	228.37	456.18
Estimated airfare						(2,123.72)					
William Shattuck	12/7	12/11	Germany	573	300.00	162.78	88.44	185.87	100.16	921.65	488.60
	12/11	12/13	Italy	127,500	150.00	244,467	288.20	20,502.5	24.38	392,469.5	462.58
	12/13	12/17	England	170.21	340.00	29.33	58.59	28.83	57.59	228.37	456.18

See footnotes at end of table.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1, AND DEC. 31, 1978—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Estimated airfare						(2, 123. 72)					
Raymond V. Smietanka	12/7	12/11	Germany	573	300. 00	162. 78	88. 44	185. 87	100. 16	921. 65	488. 60
	12/11	12/13	Italy	191, 250	225. 00	39, 667	47. 26	20, 502. 5	24. 38	251, 419. 5	296. 64
	12/13	12/17	England	170. 21	340. 00	29. 33	58. 59	28. 83	57. 59	228. 37	456. 18
Estimated airfare							(2, 123. 72)				
Committee total					14, 817. 98		19, 638. 17		2, 103. 43		36, 559. 58

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

PETER W. RODINO, JR., Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON MERCHANT MARINE AND FISHERIES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1, AND DEC. 31, 1978

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S currency [2]
Corrado, Ernest J	11/14	11/19	United Kingdom	225. 28	450. 00		1, 459. 00				
									1, 909. 00		
Everett, Ned P	12/6	12/9	Georgetown, Guyana	763. 56	300. 00				300. 00		
	12/10	12/11	Belem Para, Brazil	1, 500. 00	75. 00				75. 00		
	12/11	12/16	Brasilia, Brazil	9, 166. 50	450. 00				450. 00		
Howell, Martin D	10/16	10/19	Japan	79, 920	432. 00		1, 365. 00				
									1, 797. 00		
	12/10	12/15	Costa Rica	3, 202. 50	375. 00		509. 00				
									884. 00		
Kyros, Peter	11/14	11/19	United Kingdom	225. 28	450. 00		1, 459. 00				
									1, 909. 00		
Marshall, Curt	10/21	10/28	Netherlands	908. 81	456. 00	Bus 17. 00	8. 53				
						Air (State)	1, 459. 00		1, 923. 53		
Morris, Patrick	10/21	10/28	Netherlands	908. 81	456. 00	Bus 17. 00	8. 53				
						Air	1, 459. 00		1, 915. 00		
	11/14	11/19	England	225. 28	450. 00		1, 459. 00				
									1, 909. 00		
Perian, Carl L	11/13	11/16	Japan		336. 00		[3] 2, 431. 00				
									2, 667. 00		
Watt, Donald	12/10	12/11	Belem, Para, Brazil	1, 500. 00	75. 00				75. 00		
	12/11	12/16	Brasilia, Brazil	9, 166. 50	450. 00				450. 00		
	12/6	12/9	Georgetown, Guyana	763. 56	300. 00				300. 00		
					5, 055. 00		11, 617. 06		16, 563. 53		

[1] Per diem constitutes, lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Portion returned to State Department because traveler did not visit all places authorized/traveler paid for Florida to New York and New York to District of Columbia from his personal funds.

JOHN M. MURPHY,
Chairman, Committee on Merchant Marine and Fisheries.

Jan. 31, 1979.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

955. A letter from the Comptroller General of the United States, transmitting a report that the impoundment of Navy research, development, test and evaluation funds for the AV–8B advanced Harrier aircraft program constitutes a deferral of budget authority which has not been reported to the Congress by the President, pursuant to section 1015(a) of Public Law 93–344 (H. Doc. No. 96–74); to the Committee on Appropriations and ordered to be printed.

956. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend chapter 47 of title 10, United States Code, to prescribe the power of the President to promulgate rules for the administration of military justice within the Armed Forces; to the Committee on Armed Services.

957. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of five construction projects proposed to be undertaken by the Army Reserve, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

958. A letter from the Chairman, National Advisory Council on International Monetary and Financial Policies, transmitting the Council's special report on the proposed second replenishment of the African Development Fund; to the Committee on Banking, Finance and Urban Affairs.

959. A letter from the Chairman, National Advisory Council on International Monetary and Financial Policies, transmitting the Council's special report on the proposed second replenishment of the Asian Development Fund; to the Committee on Banking, Finance and Urban Affairs.

960. A letter from the Chairman, National Advisory Council on International Monetary and Financial Policies, transmitting the Council's special report on the proposed increase in the resources of the Inter-American Development Bank; to the Committee on Banking, Finance and Urban Affairs.

961. A letter from the Assistant Secretary of State for Congressional Relations and the Assistant Secretary of the Treasury for Legislative Affairs, transmitting a report on the role of the multilateral development banks in increasing food production and improving nutrition in developing countries, pursuant to section 901 of Public Law 95–118; to the Committee on Banking, Finance and Urban Affairs.

962. A letter from the Chairman, National Labor Relations Board, transmitting the 43d annual report of the Board, covering fiscal year 1978, pursuant to section 3(c) of the National Labor Relations Act, as amended; to the Committee on Education and Labor.

963. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b (a); to the Committee on Foreign Affairs.

964. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b (a); to the Committee on Foreign Affairs.

965. A letter from the Director of ACTION, transmitting a draft of proposed legislation to further amend the Peace Corps Act; to the Committee on Foreign Affairs.

966. A letter from the Supervisory Copyright Information Specialist, Copyright Office, Library of Congress, transmitting a report on the Office's activities under the Freedom of Information Act during calendar year 1978, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

967. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to authorize the Secretary of Commerce to conduct policy assessments, collect data and work to improve the balance of payments with respect to international travel; to the Committee on Interstate and Foreign Commerce.

968. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to extend expiring appropriation authorizations for emergency medical services systems and health information and promotion, and for other purposes; to the Committee on Interstate and Foreign Commerce.

969. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend and extend provisions of law concerned with nurse training, and for other purposes; to the Committee on Interstate and Foreign Commerce.

970. A letter from the Commissioner, Im-

migration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, pursuant to section 212(d)(6) of the act; to the Committee on the Judiciary.

971. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend section 5519 of title 5, United States Code, relating to crediting amounts received for certain reserve or National Guard service; to the Committee on Post Office and Civil Service.

972. A letter from the Comptroller General of the United States, transmitting a report on the Department of Energy's analysis of the energy effects of certain tax measures (EMD-79-26, March 13, 1979); jointly, to the Committees on Government Operations and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MURPHY of Illinois: Committee on Rules. House Resolution 156. Resolution providing for the consideration of H.R. 2283. A bill to amend the Council on Wage and Price Stability Act to extend the authority granted by such act to September 30, 1981, and for other purposes (Rept. 96-34). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 157. Resolution providing for the consideration of H.R. 2534. A bill to provide for a temporary increase in the public debt limit, and for other purposes (Rept. No. 96-35). Referred to the House Calendar.

Mr. BRADEMAS. Committee on House Administration. House Resolution 86. Resolution to provide for the expenses of investigations and studies to be conducted by the Committee on the Judiciary; with amendment (Rept. No. 96-36). Referred to the House Calendar.

Mr. BRADEMAS. Committee on House Administration. House Resolution 123. Resolution to provide for the expenses of investigations and studies to be conducted by the Committee on Post Office and Civil Service; with amendment (Rept. 96-37). Referred to the House Calendar.

Mr. BRADEMAS. Committee on House Administration. House Resolution 128. Resolution to provide for the expenses of investigations and studies to be conducted by the Committee on Aging; with amendment (Rept. No. 96-38). Referred to the House Calendar.

Mr. BRADEMAS. Committee on House Administration. House Resolution 132. Resolution providing funds for investigations and studies for the Committee on Merchant Marine and Fisheries; with amendment (Rept. No. 96-39). Referred to the House Calendar.

Mr. BRADEMAS. Committee on House Administration. House Resolution 134. Resolution to provide for the expenses of investigations and studies to be conducted by the Committee on Science and Technology; with amendment (Rept. 96-40). Referred to the House Calendar.

Mr. BRADEMAS. Committee on House Administration. House Resolution 137. Resolution to provide funds for the expenses of investigations to be conducted by the Committee on Interstate and Foreign Commerce; with amendment (Rept. No. 96-41). Referred to the House Calendar.

Mr. BRADEMAS. Committee on House Administration. House Resolution 139. Resolution to provide funds for the expenses of studies and investigations to be conducted by the Committee on Interior and Insular Affairs; with amendment (Rept. No. 96-42). Referred to the House Calendar.

Mr. BRADEMAS. Committee on House Administration. House Resolution 140. Resolution to provide for the expenses of investigations, studies, oversight, and functions to be conducted by the Committee on Government Operations; with amendment (Rept. No. 96-43). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BETHUNE:

H.R. 2875. A bill to exempt loans and mortgages insured under title I or II of the National Housing Act from usury provisions of State constitution or statutes; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. BOUQUARD:

H.R. 2876. A bill to provide that certain cost-of-living and other increased benefits received under title II of the Social Security Act will not be considered as income for purposes of determining eligibility and the amount of benefits of participants in the food stamp program and for purposes of determining eligibility and the amount of benefits of participants in certain programs concerning surplus agricultural commodities; to the Committee on Agriculture.

H.R. 2877. A bill to amend section 1488 of title 10, United States Code, to provide survivor benefits in case of death of certain members or former members of the Armed Forces who die before becoming entitled to retired pay for non-Regular service, and for other purposes; to the Committee on Armed Services.

H.R. 2878. A bill to amend title 10, United States Code, to grant survivors of Reserves who retire for non-Regular service and die before becoming entitled to retired pay eligibility for certain survivor benefits; to the Committee on Armed Services.

H.R. 2879. A bill to repeal sections 102 and 202 of the Flood Disaster Protection Act of 1973 which make flood insurance coverage and community participation in the national flood insurance program prerequisites for approval of any financial assistance in a flood hazard area, and for other purposes; to the Commitee on Banking, Finance and Urban Affairs.

H.R. 2880. A bill to provide that housing benefits available to a veteran, under title 38 of the United States Code, shall not be considered in determining, under title 5 of the Housing Act of 1949, whether such veteran is able to obtain credit for housing from sources other than the Farmers Home Administration; to the Committee on Banking, Finance and Urban Affairs.

H.R. 2881. A bill to amend the National Labor Relations Act to make it an unfair labor practice to discharge an employee because he testifies before any committee of the Congess, and for other purposes; to the Committee on Education and Labor.

H.R. 2882. A bill to permit teachers to change employment across State lines without substantial loss of retirement benefits; to the Committee on Education and Labor.

H.R. 2883. A bill to establish a Department of Education, and for other purposes; to the Committee on Government Operations.

H.R. 2884. A bill to provide for the use of telecommunication devices by the Senate and the House of Representatives to enable deaf persons and persons with speech impairments to engage in toll-free telephone communications with Members of the Congress; to the Committee on House Administration.

H.R. 2885. A bill to permit individuals and their relatives to supplement medicaid payments for skilled nursing facility services and intermediate care facility services provided under title XIX of the Social Security Act; to the Committee on Interstate and Foreign Commerce.

H.R. 2886. A bill to establish an Office of Rural Health within the Department of Health, Education, and Welfare, and to assist in the development and demonstration of rural health care delivery models and components; to the Committee on Interstate and Foreign Commerce.

H.R. 2887. A bill to amend title XIV of the Public Health Service Act to provide Federal grants for small public water systems to meet national primary drinking water regulations; to the Committee on Interstate and Foreign Commerce.

H.R. 2888. A bill to amend the Fair Packaging and Labeling Act to require the disclosure by retail distributors of retail unit prices of consumer commodities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 2889. A bill to amend the Public Health Service Act to provide for the screening and counseling of Americans with respect to Tay-Sachs disease; to the Committee on Interstate and Foreign Commerce.

H.R. 2890. A bill to authorize interest subsidy payments to assist nursing homes in repair and renovation in order to comply with Federal standards; to the Committee on Interstate and Foreign Commerce.

H.R. 2891. A bill to improve the safety of products manufactured and sold in interstate commerce, to reduce the number of deaths and injuries caused by such products, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 2892. A bill to amend title XIX of the Social Security Act to make certain that individuals otherwise eligible for medicaid benefits do not lose such eligibility, or have the amount of such benefits reduced, because of increases in monthly social security benefits; to the Committee on Interstate and Foreign Commerce.

H.R. 2893. A bill to amend title 19 of the Social Security Act to require States to establish ombudsman programs to investigate nursing home complaints and represent consumer interests; to the Committee on Interstate and Foreign Commerce.

H.R. 2894. A bill to provide 100 percent Federal funding of financial audits of facilities participating in medicare and medicaid conducted by State personnel; to the Committee on Interstate and Foreign Commerce.

H.R. 2895. A bill to amend title VI of the Public Health Service Act to provide for the making of direct loans for the construction and rehabilitation of nursing homes owned and operated by churches and other nonprofit organizations; to the Committee on Interstate and Foreign Commerce.

H.R. 2896. A bill to provide that any claim arising out of the loss, miscarriage, or negligent transmission of letters or postal matter be subject to the provisions of the Federal Tort Claims Act; to the Committee on the Judiciary.

H.R. 2897. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to authorize programs for the provision of escort services to the elderly in high crime areas, and for other purposes; to the Committee on the Judiciary.

H.R. 2898. A bill to provide for additional sentences for commission of a felony with use of a firearm; to the Committee on the Judiciary.

H.R. 2899. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to require as a condition of assistance under such act that law enforcement agencies have in effect a binding law enforcement officers' bill of rights; to the Committee on the Judiciary.

H.R. 2900. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide that rescue squad members are entitled to death benefits made available to such act; to the Committee on the Judiciary.

H.R. 2901. A bill to amend title 39, United States Code, to require that the notice included in a mailed solicitation stating that such solicitation is not a bill or an account due shall be displayed at or near the beginning of such solicitation; to the Committee on Post Office and Civil Service.

H.R. 2902. A bill to provide that any increase in the rate of pay for Members of Congress proposed during any Congress shall not take effect earlier than the beginning of the next Congress; to the Committee on Post Office and Civil Service.

H.R. 2903. A bill to amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments; to the Committee on Public Works and Transportation.

H.R. 2904. A bill to authorize financial assistance to States for major highway repairs; to the Committee on Public Works and Transportation.

H.R. 2905. A bill to amend certain provisions of the Tennessee Valley Authority Act of 1933, as amended, relating to the charge rates for power of the Tennessee Valley Authority; to the Committee on Public Works and Transportation.

H.R. 2906. A bill to amend the Congressional Budget Act of 1974 to require full congressional review of each Federal program once every 2 years under zero-base budgeting procedures; to the Committee on Rules.

H.R. 2907. A bill to improve congressional oversight of Federal Programs and activities by requiring greater specificity in setting program objectives, by requiring continuing information on the extent to which programs are achieving their stated objectives, by requiring periodic review of new authorizations of budget authority and tax expenditures, and for other purposes; to the Committee on Rules.

H.R. 2908. A bill to amend the Small Business Act to provide regulatory flexibility for small business in certain instances so the effect of regulation matches the size of business regulated; to the Committee on Small Business.

H.R. 2909. A bill to authorize the Small Business Administration to make grants to support the development and operation of small business development centers in order to provide small business with management development, technical information, product planning and development, and domestic and international market development, and for other purposes; to the Committee on Small Business.

H.R. 2910. A bill to amend the Small Business Act to provide that the Small Business Administration shall, in assisting small business concerns in the sale of materials and services to the Federal Government, give special preferences to small business concerns with 100 or fewer employees; to the Committee on Small Business.

H.R. 2911. A bill to deny entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of less than honorable discharges from service during the Vietnam era, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 2912. A bill to amend title II of the Social Security Act to create portability in social security by permitting married couples to elect to combine their earnings in any year for benefit purposes, and to make other changes designed to foster the more equitable treatment of individuals and families under the social security program; to the Committee on Ways and Means.

H.R. 2913. A bill to amend the Internal Revenue Code of 1954 to provide tax relief to small businesses by establishing a graduated income tax rate for corporations; to the Committee on Ways and Means.

H.R. 2914. A bill to amend the Internal Revenue Code of 1954 to allow individuals to compute the amount of the deduction for payments into retirement savings on the basis of the compensation of their spouses, and for other purposes; to the Committee on Ways and Means.

H.R. 2915. A bill to amend the Internal Revenue Code of 1954 to exempt nonprofit volunteer firefighting or rescue organizations from the Federal excise taxes on gasoline, diesel fuel, and certain other articles and services; to the Committee on Ways and Means.

H.R. 2916. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

H.R. 2917. A bill to repeal the carryover basis provisions added by the Tax Reform Act of 1976; to the Committee on Ways and Means.

H.R. 2918. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide that disability insurance benefits shall be financed from general revenues rather than through the imposition of employment and self-employment taxes as at present, to adjust the rates of such taxes for old-age and survivors insurance and hospital insurance purposes, to provide for reductions in the amount of such disability benefits to take account of the recipient's need as determined on the basis of his family income, to improve disability determination procedures, and for other purposes; to the Committee on Ways and Means.

H.R. 2919. A bill to amend the Internal Revenue Code of 1954 to provide tax relief to small businesses; to the Committee on Ways and Means.

H.R. 2920. A bill to amend title XVI of the Social Security Act to provide that an individual who applies for supplemental security income benefits on the basis of disability shall be considered presumptively disabled if he has received social security supplemental security income benefits as a disabled individual within the preceding 5 years; to the Committee on Ways and Means.

H.R. 2921. A bill to amend the Tariff Schedules of the United States to repeal, in the case of certain wearing apparel and nonrubber footwear, the special tariff treatment accorded to articles assembled abroad with components produced in the United States; to the Committee on Ways and Means.

H.R. 2922. A bill to amend title II of the Social Security Act and the Internal Revenue Code of 1954 to provide that any individual may elect (on an annual basis) to contribute to a private retirement plan rather than participating in the social security program; to the Committee on Ways and Means.

H.R. 2923. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for expenses incurred by a taxpayer in making repairs and improvements to his residence, and to allow the owner of rental housing to amortize at an accelerated rate the cost of rehabilitating or restoring such housing; to the Committee on Ways and Means.

H.R. 2924. A bill to amend title II of the Social Security Act to provide that an individual may qualify for disability insurance benefits, and the disability freeze if he has 40 quarters of coverage, regardless of when such quarters were earned; to the Committee on Ways and Means.

H.R. 2925. A bill to amend the Internal Revenue Code of 1954 to provide to individuals who have attained the age of 62 a refundable credit against income tax for increases in real property taxes and utility bills; to the Committee on Ways and Means.

H.R. 2926. A bill to amend the Internal Revenue Code of 1954 to provide that trusts established for the payment of product liability claims and related expenses shall be exempt from income tax, that a deduction shall be allowed for contributions to such trusts, and for other purposes; to the Committee on Ways and Means.

H.R. 2927. A bill to amend the Internal Revenue Code of 1954 to suspend the imposition of interest, and to prohibit the imposition of a penalty for failure to pay tax on underpayments of tax resulting from erroneous advice given in writing by the Internal Revenue Service; to the Committee on Ways and Means.

H.R. 2928. A bill to amend the Internal Revenue Code of 1954 to eliminate the adjusted gross income limitation on the credit for the elderly; to the Committee on Ways and Means.

H.R. 2929. A bill to provide for the modification of the medicare reimbursement formula to allow small hospitals in rural areas with low occupancy to provide long-term care but only in those areas where there are no appropriate nursing home beds available; to the Committee on Ways and Means.

H.R. 2930. A bill to amend title II of the Social Security Act to require that procedures be established for the expedited replacement of undelivered benefit checks, to require that decisions on benefit claims be made within specified periods, and to require that payment of benefits on approved claims begin promptly; to the Committee on Ways and Means.

H.R. 2931. A bill to amend the Internal Revenue Code of 1954 to permit an exemption of the first $5,000 of retirement income received by a taxpayer under a public retirement system or any other system if the taxpayer is at least 65 years of age; to the Committee on Ways and Means.

H.R. 2932. A bill to provide bonuses for honorable Vietnam service through tax credits; to the Committee on Ways and Means.

H.R. 2933. A bill to assure that an individual or family whose income is increased by reason of a general increase in monthly social security benefits will not, because of such general increase, suffer a loss of or reduction in the benefits the individual or family has been receiving under certain Federal or federally assisted programs; to the Committee on Ways and Means.

H.R. 2934. A bill to amend title XVI of the Social Security Act to provide that an alien may not be paid supplemental security income benefits unless he not only is a permanent resident of the United States but has also continuously resided in the United States for at least 1 year; to the Committee on Ways and Means.

H.R. 2935. A bill to amend the Internal Revenue Code of 1954 to provide that trusts established for the payment of product liability claims and related expenses shall be exempt from income tax, and that a deduction shall be allowed for contributions to such trusts; to the Committee on Ways and Means.

H.R. 2936. A bill to amend the Internal Revenue Code of 1954 to provide cost-of-living adjustments to the adjusted gross income limitation on the exclusion for certain disability payments; to the Committee on Ways and Means.

H.R. 2937. A bill to require admissions contracts between nursing homes participating in Federal programs and the patients they serve; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

H.R. 2938. A bill to amend title XVIII of the Social Security Act to require the continued application of the nursing salary cost differential which is presently allowed in determining the reasonable cost of inpatient nursing care for purposes of reimbursement to providers under the medicare program; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

H.R. 2939. A bill to require the immediate reporting of epidemic diseases or accidents in nursing homes participating in Federal programs; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

H.R. 2940. A bill to require physician visits to patients in skilled nursing facilities at least once every 30 days; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

H.R. 2941. A bill to amend titles II and XVIII of the Social Security Act to include qualified drugs, requiring a physician's prescription or certification, and approved by a Formulary Committee, among the items on Ways and Means, and Interstate and and services covered under the hospital insurance program; jointly, to the Committees Foreign Commerce.

H.R. 2942. A bill to amend titles II and XVIII of the Social Security Act to include eligible drugs, requiring a physician's prescription or certification and approved by a Formulary Committee, among the items and services covered under the hospital insurance program; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

H.R. 2943. A bill to provide increased benefits under part B of the medicare program with respect to the treatment of mental, psychoneurotic, and personality disorders of outpatients; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

H.R. 2944. A bill to amend title XVIII of the Social Security Act for the purpose of including community mental health centers among the entities which may be qualified providers of service for medicare purposes; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

H.R. 2945. A bill to provide for congressional review of all regulations relating to costs and expenditures for health care, reimbursements to individuals or providers of health care, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, Ways and Means, and Rules.

H.R. 2946. A bill to amend the Social Security Act to provide for inclusion of the services of licensed practical nurses under medicare and medicaid; jointly, to the Committes on Ways and Means and Interstate and Foreign Commerce.

H.R. 2947. A bill to amend part B of title XI of the Social Security Act to exempt small hospitals and other small inpatient facilities, in rural and other areas, from the requirement of review by a Professional Standards Review Organization; and from the related requirements and provisions of that part; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

H.R. 2948. A bill to provide mandatory minimum prison sentences for persons illegally manufacturing, distributing, or dispensing certain narcotic drugs, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce and the Judiciary.

H.R. 2949. A bill to amend the Social Security Act to provide for placing responsibility for medical care provided by skilled nursing facilities under titles XVIII and XIX in a medical director; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

H.R. 2950. A bill amending title 5 of the United States Code to improve agency rulemaking by expanding the opportunities for public participation, by creating procedures for congressional review of agency rules, and by expanding judicial review, and for other purposes; jointly, to the Committees on the Judiciary and Rules.

H.R. 2951. A bill to provide for the installation of telecommunications devices for the deaf in agencies of Federal, State, and local government, in offices of Members of Congress, and in other locations; jointly, to the Committees on Government Operations and House Administration.

H.R. 2952. A bill to amend the Social Security Act to provide for inclusion of the services of licensed (registered) nurses under medicare and medicaid; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

H.R. 2953. A bill to amend the Social Security Act to provide for a system of inspections of State inspection and enforcement mechanisms with regard to facilities receiving payments under titles XVIII and XIX; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

H.R. 2954. A bill to amend title XVIII of the Social Security Act to establish a program of long-term care services within the medicare program, to provide for the creation of community long-term care centers and State long-term care agencies as part of a new administrative structure for the organization and delivery of long-term care services, to provide a significant role for persons eligible for long-term care benefits in the administration of the program, and for other purposes; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

H.R. 2955. A bill to amend part B of title XVIII of the Social Security Act to broaden the coverage of home health services under the supplementary medical insurance program, and remove the 100-visit limitation presently applicable thereto, to amend part A of such title to liberalize the coverage of post-hospital home health services thereunder, to amend title XIX of such act to require the inclusion of home health services in a State's medicaid program, and to permit payments of housing costs under such a program for elderly persons who would otherwise require nursing home care, to require contributions by adult children toward their parents' nursing and home health care expenses under the medicaid program, to provide expanded Federal funding for congregate housing for the displaced and the elderly, and for other purposes; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

H.R. 2956. A bill to amend title XVIII of the Social Security Act to provide for the coverage of certain psychologists' services under the supplementary medical insurance benefits program established by part B of such title; to the Committee on Ways and Means and Interstate and Foreign Commerce.

H.R. 2957. A bill to reduce the amount of paperwork required by Federal agencies, and to increase congressional awareness of the increase in paperwork required by bills and joint resolutions under consideration by Congress; jointly, to the Committees on Government Operations and Rules.

H.R. 2958. A bill to amend title XVIII of the Social Security Act to include hearing aids and dentures among the items and services for which payment may be made under the supplementary medical insurance program; jointly, to the Committees on Interstate and Foreign Commerce and Ways and Means.

H.R. 2959. A bill to amend title XVIII of the Social Security Act to authorize the provision of intermediate care services under medicare, and for other purposes; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

H.R. 2960. A bill to amend title X of the Social Security Act to provide coverage for services which may be performed by a dentist on the same basis as presently allowed for physicians under the medicare program, and to authorize payment under such program for all inpatient hospital services furnished in connection with dental procedures requiring hospitalization; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

H.R. 2961. A bill to direct the Secretary of Health, Education, and Welfare to more effectively obtain records of deaths for the purpose of preventing fraud and waste in payments under the Social Security Act; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

H.R. 2962. A bill to encourage investment in small business concerns, and for other purposes; jointly, to the Committees on Education and Labor, Interstate and Foreign Commerce, Small Business, and Ways and Means.

H.R. 2963. A bill to establish a comprehensive program of long-term care services for aged individuals, and to provide for the creation of community long-term care centers and State long-term care agencies as part of a new administrative structure for the organization and delivery of such services; jointly, to the Committees on Agriculture, Education and Labor, Interstate and Foreign Commerce, the Judiciary, and Ways and Means.

H.R. 2964. A bill to establish a Federal Insurance Commission to regulate the insurance industry, to establish Federal product liability tort law standards, and to amend the Internal Revenue Code of 1954 to provide that trusts established for the payment of product liability claims and related expenses shall be exempt from income tax, that a deduction shall be allowed for contributions to such trusts, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs, Interstate and Foreign Commerce, and Ways and Means.

By Mr. BROOMFIELD:

H.R. 2965. A bill to amend title 5 of the United States Code to establish a uniform procedure for congressional review of agency rules which may be contrary to law or inconsistent with congressional intent, to expand opportunities for public participation in agency rulemaking, and for other purposes; jointly, to the Committees on the Judiciary and Rules.

H.R. 2966. A bill to require authorizations of new budget authority for Government programs at least every 5 years, to provide for review of Government programs every 5 years, and for other purposes; jointly, to the Committees on Rules and Government Operations.

By Mr. CHAPPELL:

H.R. 2967. A bill to amend the Immigration and Nationality Act to provide for the deportation of certain nonimmigrant aliens who knowingly participated in unlawful or violent acts in connection with a political demonstration; to the Committee on the Judiciary.

By Mr. DASCHLE:

H.R. 2968. A bill entitled, "Agricultural Subterminal Facilities Act of 1979"; jointly, to the Committees on Agriculture and Ways and Means.

By Mr. DELLUMS (for himself, Mr. Conyers, Mr. Ford of Tennessee, Mr. Garcia, Mr. Nolan, Mr. Mitchell of Maryland, Mr. Stokes, Mr. Stark, and Mr. Richmond):

H.R. 2969. A bill to establish a U.S. Health Service to provide high quality health care and to overcome the deficiencies in the present system of health care delivery; jointly, to the Committees on Armed Services, Banking, Finance and Urban Affairs, the District of Columbia, Education and Labor, Interstate and Foreign Commerce, the Judiciary, Post Office and Civil Service, Veterans' Affairs, and Ways and Means.

By Mr. ECKHARDT:

H.R. 2970. A bill to declare the Port of Houston Authority bridge over Greens Bayou, Tex., to be for all purposes a lawful bridge as defined in an act to provide for the alteration of certain bridges over navigable waters of the United States, for the apportionment of the cost of such alterations between the

United States, and the owners of such bridges, and for other purposes, approved June 21, 1940 (33 U.S.S. 511 et seq.); to the Committee on Public Works and Transportation.

H.R. 2971. A bill to provide for assistance to certain owners of property damaged by floodwaters at the Galveston Bay project at Baytown, Tex.; to the Committee on Public Works and Transportation.

By Mr. EDWARDS of California (for himself, Mr. Seiberling, Mr. Drinan, Mr. Volkmer, Mr. Beilenson, Mr. Butler, Mr. McClory, and Mr. Corrada):

H.R. 2972. A bill to amend title 28 of the United States Code to provide that certain judicial pleadings and proceedings in the Commonwealth of Puerto Rico may be conducted in the Spanish language, and for other purposes; to the Committee on the Judiciary.

By Mr. FORD of Michigan:

H.R. 2973. A bill to amend title 39, United States Code, to establish a reduced rate of postage for certain mail matter of private individuals; to the Committee on Post Office and Civil Service.

By Mr. GREEN:

H.R. 2974. A bill to amend sections 375 and 376 of title 28 of the United States Code, relating to judicial annuities, to provide that annuities under such sections shall not terminate by reason of remarriage of an annuitant after attaining 60 years of age; jointly, to the Committees on the Judiciary and Post Office and Civil Service.

By Mr. LAGOMARSINO (for himself, Mr. Goldwater, Mr. Clausen, Mr. Sebelius, Mr. Burgener, Mr. Bob Wilson, and Mr. Badham):

H.R. 2975. A bill to establish the Channel Islands Marine National Park in the State of California and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. LEHMAN:

H.R. 2976. A bill to establish a private right of action for certain residential owners to correct and prevent abusive use of long-term leasing of recreation and other project-related facilities; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MILLER of California (for himself, Mrs. Boggs, Ms. Mikulski, Mr. Addabbo, Mr. Barnes, Mr. Brademas, Mr. Bonior of Michigan, Mr. Clay, Mr. Conyers, Mr. Edgar, Mr. Edwards of California, Mr. Evans of Georgia, Mr. Flood, Mr. Ford of Tennessee, Mr. Forsythe, Mr. Frenzel, Mr. Gonzalez, Mr. Green, Mr. Hawkins, Mrs. Heckler, Ms. Holtzman, Mr. Hyde, Mr. LaFalce, Mr. Lederer, Mr. Lehman, Mr. Long of Maryland, Mr. Mathis, Mr. McClory, Mr. McHugh, Mr. Mikva, Mr. Mitchell of Maryland, Mr. Moorhead of Pennsylvania, Mr. Murphy of Pennsylvania, Ms. Oakar, Mr. Ottinger, Mr. Patten, Mr. Pepper, Mr. Pritchard, Mrs. Schroeder, Mr. Simon, Mrs. Spellman, Mr. Thompson, Mr. Traxler, Mr. Vento, Mr. Walgren, Mr. Weiss, Mr. Winn, Ms. Ferraro, Mrs. Chisholm, Mr. Marks, Mr. Lent, Mr. Downey, Mr. Scheuer, Mr. Diggs, Mr. Richmond, Mr. Lundine, Mr. Bonker, Mr. Leach of Louisiana, and Mr. Brodhead):

H.R. 2977. A bill to provide for Federal support and stimulation of State, local, and community activities to prevent domestic violence, and assist victims of domestic violence, for coordination of Federal programs and activities pertaining to domestic violence, and for other purposes; to the Committee on Education and Labor.

By Mr. PASHAYAN (for himself and Mr. Coelho):

H.R. 2978. A bill to authorize the Secretary of the Army to construct improvements on Redbank and Fancher Creeks, Calif.; to the Committee on Public Works and Transportation.

By Mr. PREYER:

H.R. 2979. A bill to protect the privacy of medical records maintained by medical care facilities, to amend section 552a of title 5, United States Code, and for other purposes; jointly, to the Committees on Government Operations, Interstate and Foreign Commerce, and Ways and Means.

By Mr. STARK (for himself, Mr. Edgar, and Mr. Simon):

H.R. 2980. A bill to amend title XVI of the Social Security Act to provide that an individual who applies for supplemental security income benefits on the basis of disability shall be considered presumptively disabled if he has received social security or supplemental security income benefits as a disabled individual within the preceding 5 years; to the Committee on Ways and Means.

By Mr. STARK (for himself and Mr. Fowler):

H.R. 2981. A bill to amend title XX of the Social Security Act to incerase the entitlement ceiling while preserving permanently the special allocation for child day care services (with full Federal matching) which is presently in effect; to the Committee on Ways and Means.

By Mr. WAMPLER (for himself, Mr. Hagedorn, Mr. Ireland, and Mr. Martin):

H.R. 2982. A bill to direct the Administrator of the Environmental Protection Agency to request the National Academy of Science to conduct a study concerning standardizing certain tests for determining potential carcinogenicity, and for other purposes; jointly, to the Committees on Agriculture and Interstate and Foreign Commerce.

By Mr. WHITTEN:

H.R. 2983. A bill to protect the national security; protect the economic well-being of the American people including the Nation's present supplies and undeveloped sources of energy, fuel, food, and fiber from damage due to arbitrary and unsound regulation, order, or decision issued by any executive department, agency, or commission, and for other purposes; to the Committee on the Judiciary.

H.R. 2984. A bill to abolish the U.S. Postal Service, to repeal the Postal Reorganization Act, to reenact the former provisions of title 39, United States Code, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 2985. A bill to amend the Internal Revenue Code of 1954 with respect to the determination of whether certain charitable organizations are publicly supported; to the Committee on Ways and Means.

H.R. 2986. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for expenses incurred by a taxpayer in making repairs and improvements to his residence, and to allow the owner of rental housing to amortize at an accelerated rate the cost of rehabilitating or restoring such housing; to the Committee on Ways and Means.

H.R. 2987. A bill to protect funds invested in series E U.S. savings bonds from inflation, and to encourage persons to provide for their own security; to the Committee on Ways and Means.

H.R. 2988. A bill to amend the Internal Revenue Code to remove the limitations on the amount of medical and dental expenses which may be deducted, to permit taxpayers to deduct such expenses, to arrive at their adjusted gross income, and for other purposes; to the Committee on Ways and Means.

H.R. 2989. A bill to provide for determination through judicial proceedings of claims for compensation on account of disability or death resulting from disease or injury incurred or aggravated in line of duty while serving in the active military or naval service, including those who served during peacetime, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. WYDLER:

H.R. 2990. A bill to provide policies, methods, and criteria for the acquisition of property and services by executive agencies; to the Committee on Government Operations.

By Mrs. BOUQUARD:

H.J. Res. 257. Joint resolution to amend the Constitution of the United States to provide for balanced budgets, and elimination of the Federal indebtedness; to the Committee on the Judiciary.

H.J. Res. 258. Joint resolution proposing an amendment to the Constitution of the United States to provide that appropriations made by the United States shall not exceed its revenues, except in time of war or national emergency; and to provide for the systematic paying of the national debt; to the Committee on the Judiciary.

H.J. Res. 259. Joint resolution proposing an amendment to the Constitution of the United States for the purpose of limiting the power of Congress to tax; to the Committee on the Judiciary.

By Mr. MURPHY of New York:

H. Con. Res. 74. Concurrent resolution expressing the sense of the Congress regarding the free emigration and expression of ideas by citizens of the Soviet Union; to the Committee on Foreign Affairs.

By Mrs. BOUQUARD:

H. Res. 158. Resolution to reaffirm the use of our national motto on currency; to the Committee on Banking, Finance and Urban Affairs.

H. Res. 159. Resolution expressing the sense of the House of Representatives that the effect on our society of the level of violence depicted on television requires more consideration and study; to the Committee on Interstate and Foreign Commerce.

H. Res. 160. Resolution to declare a "state of war" against the dreaded disease, amyotrophic lateral sclerosis; to the Committee on Interstate and Foreign Commerce.

H. Res. 161. Resolution to amend the Rules of the House of Representatives to establish the Committee on Internal Security, and for other purposes; to the Committee on Rules.

H. Res. 162. Resolution to amend the Rules of the House of Representatives to require that reports accompanying certain bills and joint resolutions reported by committees contain computations of the potential tax impact of such bills and resolutions on the individual taxpayer; to the Committee on Rules.

MEMORIALS

Under clause 4 of the rule XXII, memorials were presented and referred as follows:

69. By the SPEAKER: A memorial of the Legislature of the State of Idaho, relative to preservation of Amtrak's "Pioneer Route" from Seattle, Wash., to Salt Lake City, Utah; to the Committee on Interstate and Foreign Commerce.

70. Also, memorial of the Legislature of the State of Nevada, relative to the use of Ruby Lake in White Pine County, Nev., as a refuge for migratory waterfowl; to the Committee on Merchant Marine and Fisheries.

71. Also, memorial of the Legislature of the State of North Dakota, relative to the earned income exemption in the aid to families with dependent children program; jointly, to the Committees on Agriculture, and Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

By Mr. JOHN L. BURTON:

H.R. 2991. A bill for the relief of Richard S. P. Woo, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 21: Mr. Howard.

H.R. 65: Mr. Ashley, Mr. Blanchard, Mr. Bonior of Michigan, Mr. Brodhead, Mr. Buchanan, Mr. Corrada, Mr. Edwards of Oklahoma, Mr. Evans of Georgia, Mr. Hall of Texas, Mr. Hamilton, Mr. Hance, Mr. Hughes, Mr. Kemp, Mr. Kogovsek, Mr. Latta, Mr. Mattox, Mr. Mica, Mr. Mineta, Mr. Mottl, Mr. Murphy of Pennsylvania, Mr. Regula, Mr. Rinaldo, Mr. Roe, Mr. Russo, Mrs. Smith of Nebraska, Mr. Solomon, Mr. Spence, Mr. Stump, Mr. Vento, Mr. Wolpe, and Mr. Zeferetti.

H.R. 486: Mr. Patterson and Mr. Nolan.

H.R. 596: Mr. Ottinger and Mr. Richmond.

H.R. 655: Mr. Derwinski, Mr. Ottinger, Mr. Winn, Mr. Hall of Texas, Mr. Whitehurst, and Mr. Charles Wilson of Texas.

H.R. 1293: Mr. Vander Jagt.

H.R. 1475: Mr. Kelly.

H.R. 1603: Mr. Goldwater, Mr. Robert W. Daniels, Jr., Mr. Heftel, and Mr. Pashayan.

H.R. 1612: Mr. Diggs, Mr. Lent, Mr. Lewis, and Mr. Wydler.

H.R. 1613: Mr. Diggs, Mr. Lent, and Mr. Wydler.

H.R. 1644: Mr. Gibbons, Mr. Murphy of New York, Mr. Cavanaugh, Mr. Mollohan, Mr. Young of Alaska, Mr. Ford of Michigan, Mr. Mottl, Mr. Hall of Texas, Mr. Coughlin, Mr. Abdnor, Mr. Barnard, Mr. Baldus, Mr. Sabo, and Mr. Kelly.

H.R. 1785: Mr. McEwen, Mr. Buchanan, Mr. Broyhill, Mr. Lee, Mr. Tauke, Mr. Coughlin, Mr. Horton, Mr. Hyde, Mr. Sharp, Ms. Mikulski, Mr. Scheuer, Mr. Gudger, and Mr. Beard of Rhode Island.

H.R. 2020: Mr. Stark, Mr. Seiberling, and Mr. Evans of the Virgin Islands.

H.R. 2036: Mr. Glickman, Mr. Stark, and Mr. O'Brien.

H.R. 2172: Mr. Ireland, Mr. Pashayan, and Mr. Rangel.

H.R. 2212: Mr. Andrews of North Dakota. Mr. Bedell, Mr. Buchanan, Mr. Cleveland, Mr. Davis of South Carolina, Mr. Emery, Mr. Florio, Mr. LaFalce, Mr. Lott, Mr. McDade, Mr. Murphy of Pennsylvania, Mr. Price, Mr. Rahall, Mr. Vento, and Mr. Drinan.

H.R. 2370: Mr. Rostenkowski, Mr. Gibbons, Mr. Stark, and Mr. Lederer.

H.R. 2727: Mr. Flippo, Mr. Huckaby, Mr. Jones of Tennessee, Mr. Leach of Louisiana, and Mr. Young of Missouri.

EXTENSIONS OF REMARKS

THE GOSPEL ACCORDING TO JACK BROOKS

HON. JIM MATTOX

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. MATTOX. Mr. Speaker, my reading of yesterday's Washington Post was enlivened when I turned to page 3 and read "The Gospel According to Jack Brooks." It seems that my good friend and colleague from Beaumont, Tex., made a rousing speech 2 days ago to the National Association of Counties about a subject dear to their hearts—revenue sharing.

Now Jack is not afraid to speak his mind, and so he came down hard on them, pointing out the evils of this Federal boondoggle like a Baptist preacher exhorting his congregation to temperance. But rather than boo or hiss him, they were swayed by the sheer logic of his argument, and gave him a standing ovation.

Jack Brooks has been speaking out against this waste of taxpayers' money for many years, and it looks as if this year the program faces serious opposition in Congress. Recently, I introduced a bill to end revenue sharing to States, a move that would save us about $2.3 billion. If the beneficiaries of this giveaway program can be moved to temporary sanity by the preaching of Jack Brooks, I encourage him to travel this land far and wide spreading the word, so that we can finally get on the road to fiscal responsibility.

I encourage my colleagues to read the article below, and perhaps Jack's voice crying out in the wilderness can become a chorus:

The Gospel According to Jack Brooks

(By Susanna McBee)

Rep. Jack Brooks (D-Tex.), the crusty arch-enemy of the federal government's general revenue-sharing program, saw that he had a tough audience yesterday.

There they sat—1,000 county officials devoutly dedicated to the beneficence of the program that is sending states, counties, cities, towns, townships, boroughs, Indian tribes and Alaskan native villages some $6.8 billion this year in string-free funds.

Speaking to such a group as the National Association of Counties, said Brooks, warming to the task, is "always a pleasure . . . It brings out the missionary spirit in me. I look out and see all those souls needing to be saved from the false doctrine of revenue sharing, and I welcome the opportunity to try to bring you into the light of reason—and fiscal responsibility."

Like a minister trying to win the heart of a backslider, Brooks, the powerful chairman of the House Government Operations Committee, tried the friendly approach first.

"I have great regard for county commissioners," he began. "Together we've spent an awful lot of federal money."

Then he tried the empathetic approach.

"I can understand your dedication to such a program [as revenue sharing]. It is a great treat for a public official to enjoy the pleasures of spending without the pain of raising the money. I don't blame you for enjoying it.

"I'd dedicate those parks and the street work and that pothole work. I'd pay a couple of cops extra money, a couple of nurses, a couple of firemen. I'd buy a new something-or-other.

"I'd smile at the people, buy a new set of keys to the city, get my picture in the paper and tell them, 'We're just trying to do a good job for the folks here down home.' "

Some of the county officials, who obviously didn't like the message, were smiling in spite of themselves.

Brooks, the good ol' boy from Beaumont, Tex., was still playing the local official dispensing the revenue-sharing largesse. He said with sarcasm, "Don't say one damn word about where the money's coming from. Just tell 'em, I'm trying to help you all."

Now the NACO audience was laughing, and Brooks came to the point of his sermonette about a program that started in 1972 and, unless Congress renews it will end Sept. 30, 1980:

"The truth of the matter is, it's a fraud," he intoned. And, seeing the smiles drop, he added, "But it's fun. I dont' blame you. It's fun.

"But I'll tell you—that fun is running out. The federal borrowing power has reached its limit. . . . The national debt is expected to hit $900 billion by the end of 1980. Just the payment of interest on the current debt is costing over $55 billion a year. The American people are demanding that we reduce federal spending."

Brooks concluded with something approaching a prayer, an exhortation to work together to find ways to help communities "that need help"—ways that do not mean "simply sending them more money. . . .

"I hope you will put your considerable talents to that task and not use them to lobby Congress for programs that will only push us farther down the road toward centralized government and fiscal disaster."

He got a standing ovation. The NACO members were smiling, laughing, applauding.

Then, a few hours later they realized what hit them. A statement was drafted and the press was called.

Charlotte Williams, NACO president and a commissioner of Genesee County (Flint), Mich., said county officials will "strongly resist" any move in Congress to cut or eliminate revenue sharing.

"Inflation has hit local governments so hard that many have been forced to use revenue-sharing dollars just to maintain existing services," she said. "If revenue sharing were eliminated, county officials would either have to raise property taxes, a move citizens would surely oppose, or curtail many services."

Williams chided Brooks for saying that aid to state and local governments is leading the country toward centralized government and, on the other hand, for opposing revenue sharing because Congress cannot control how it is spent.

"If Rep. Brooks were really concerned about maintaining our decentralized form of government," she argued, "he would support revenue sharing because it's the one federal program allowing states and localities to make their own decisions on spending priorities."

Brooks, informed of her reaction, said he expected it. He added, "It's hardly likely that the people who are spending all that free money would want to start raising it themselves." ●

TRIBUTE TO HARRY F. GREEN

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. FLORIO. Mr. Speaker, I would like to take this time to offer my tribute to a truly great man, Harry F. Green, formerly of Gloucester City, N.J. It is indeed an honor to have had such an outstanding man as a resident of my

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

district. Sixty-six years ago, Harry Green formed a small class of boys into Troop No. 1 of the Boy Scouts of America. Mr. Green, who will be 96 years old at the end of this month, has dedicated his life to the future of our country, by working and helping the youth of this country.

The Boy Scouts of America is an organization which crosses all generational lines, and Mr. Green is testimony to that fact. As Scoutmaster of Troop No. 1, he has watched his original scouts become leaders of their communities, and models for society. He taught them valuable principles through example, for instance, when the boys had to work selling magazines to pay for their uniforms and camping equipment. Mr. Green taught his scouts to appreciate and conserve our now scarce resources. I warmly praise Mr. Green for his dedicated efforts—a man who is still concerned about youth as he was 66 years ago.

Recently, Mr. Green received a letter of praise, thanks, and congratulations from Mr. Harvey L. Price, chief Scout executive. I would like to enter this justly deserved recognition into the RECORD:

NATIONAL OFFICE—BOY SCOUTS OF AMERICA,
North Brunswick, N.J., January 30, 1979.

Mr. HARRY F. GREEN,
Masonic Home,
Burlington, N.J.

DEAR MR. GREEN: It has come to my attention that you organized the first troop of Boy Scouts in Gloucester City, New Jersey and that you received a commission from the National Headquarters of the Boy Scouts of America in 1913. 95 years old! What a great milestone!

The world has changed much in the past decades. One only has to look at the advances in medicine and science, in engineering and in the social sciences to see how very many changes there really have been.

Truly, you are one of a kind—to the best of our knowledge. No other man can boast of having been Scoutmaster from the days when Lindbergh flew the Atlantic through the landing on the moon and through so many other things—good and bad. You've lived history. You've made history. We're proud of you and your efforts in behalf of your fellowman.

We extend to you our wholehearted thanks for your contribution and devotion to Scouting.

Warm best wishes.

Sincerely,

HARVEY L. PRICE,
Chief Scout Executive.

I hope that we recognize more Harry Greens for their work and love of today's youth, who are tomorrow's promise.●

CARTER INVESTIGATION REQUIRES SPECIAL PROSECUTOR

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. SHUSTER. Mr. Speaker, on May 27, 1976, Presidential candidate Jimmy Carter told an audience in Cincinnati, Ohio, and I quote:

> I see an America that has turned her back on scandals and corruption and official cynicism and has finally demanded a government that deserves the trust and respect of her people.

I wholeheartedly agree with that vision. Therefore, I call on the Attorney General to appoint a special prosecutor to look into charges and allegations concerning President Carter and his brother relating to the operation of the Carter peanut business in Georgia.

Columnist William Safire summed it up in a nutshell in the New York Times:

> Remember, we are not dealing merely with charges against Billy Carter; we are dealing with potential fraud, conspiracy to misapply bank funds and tax evasion in a company 63 percent owned by Jimmy Carter. We are not looking merely at a trick with collateral to increase cash flow, but also into a long-delayed Federal Election Commission report, a questionable IRS audit, a closely related 18 month criminal investigation, and a two year pattern of deliberate withholding of pertinent operating statements of the Carter warehouses by the Carter press secretary and counsel.

In conclusion, Mr. Speaker, I ask: Why not the best?

At this point, I am inserting into the RECORD the full text of Mr. Safire's column for the benefit of my colleagues:

U.S. VERSUS CARTER?

(By William Safire)

WASHINGTON, March 7.—Political appointees who run the Carter Justice Department are staring glumly at a report put together by a dozen agents of the Federal Bureau of Investigation that raises questions about the honestly of President Carter's family business.

New York Times reporter Nicholas Horrock revealed yesterday that the preliminary F.B.I. investigation of the Carter warehouse business had found that "large amounts of peanuts, the collateral for some $3 million in commodity loans from the bank, had been moved out of the control of the bank." This could mean that the Carter family was unlawfully misleading the bank or making double use of its collateral, a technique their banker, Bert Lance, is known to have used.

Justice Department sources hastened to add that the F.B.I. had presented "no hard evidence that the President's brother or bank officials had colluded in falsifying documents"; at this stage, the lawbreaking was described as merely a "technical" violation. I wonder how many men sit in jail today insisting their violations were "technical."

The F.B.I. was not ordered to conduct this investigation until some of us demanded to know why the President's partner-brother took Fifth Amendment protection before the Lance grand jury. When Criminal Division chief Philip Heymann was criticized in this space last year for neglecting to follow up that lead, he reluctantly authorized the probe that is now bearing bitter fruit.

Belatedly, the House and Senate Judiciary Committees have begun to do their duty. Under the Ethics-in-Government Act, signed by President Carter last Oct. 26, the minority of either committee may petition the Attorney General to appoint a special prosecutor in matters involving the President.

The other day—thanks to the initiative of one Republican freshman, Representative Jim Sensenbrenner of Wisconsin—Attorney General Bell, Deputy A. G. Ben Civiletti and Mr. Heymann met with Republican members of House Judiciary and tried to explain why a special prosecutor would not be a good idea. The Carter appointees pointed to a couple of loopholes in the ethics act through which Carter Justice might squeeze, and hinted that perhaps an internal panel of reviewers, similar to the Namorato Trio in the Lance case, might satisfy the demand for independence.

But Carter Justice has already shown itself highly reluctant to prosecute Carter friends. Evidence of Bert Lance's possible lawbreaking was delivered to Justice by the Controller of the Currency and the Senate as early as September, 1977. After 18 months, the prosecution memo is still being agonizingly "reviewed" and no indictment has been drafted.

Moreover, the Carter Internal Revenue Service has shown itself to be unusually gentle in its review of Carter warehouse and personal taxes. Charges in this space that a "sweetheart audit" may have taken place in the Atlanta office seem to be substantiated by the preliminary F.B.I. findings. I.R.S. Commissioner Jerome Kurtz will someday be held accountable for any misfeasance, but Chairman Al Ullman of the Joint Committee on Taxation is unwilling to step up to his oversight responsibility; only an independent special prosecutor is likely to find what happened in I.R.S.

In a matter going directly to the President's reputation for personal honestly, let us stick to the law. The Ethics-in-Government Act, Public Law 95-521, requires the Chief Justice to appoint a three-judge panel to select a special prosecutor upon request by the Attorney General. On Jan. 12, 1979, Chief Justice Burger appointed Federal Judge Roger Robb of the District of Columbia Circuit to preside, with J. Edward Lumbard, senior judge of the Second Circuit in New York and Lewis Render Morgan, senior judge of the Fifth Circuit in Georgia.

I trust Judges Robb, Lumbard and Morgan to choose a special prosecutor who will select a staff and move with dispatch; I do not trust prosecutors Bell, Civiletti and Heymann (honest men, all) not only because it is wrong for a man to be judge in his own case but because it is a slap in the face to the electorate to circumvent a constitutional process so recently set up to deal with precisely this kind of case.

Remember, we are not dealing merely with charges against Billy Carter; we are dealing with potential fraud, conspiracy to misapply bank funds and tax evasion in a company 63 percent owned by Jimmy Carter. We are not looking merely at a trick with collateral to increase cash flow, but also into a long-delayed Federal Election Commission report, a questionable I.R.S. audit, a closely related 18-month criminal investigation, and a two-year pattern of deliberate withholding of pertinent operating statements of the Carter warehouses by the Carter press secretary and counsel.

The time is past for brushing aside suspicion as motivated by partisanship or vengeance. The time is ripe for a new special prosecution force to crack this case cleanly and expeditiously. The time has come for the Congress to do its duty, and for the Department of Justice to obey the law.●

HEALTH MAINTENANCE ORGANIZATIONS

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. PAUL. Mr. Speaker, the Federal Government has spent billions subsidizing Health Maintenance Organizations (HMO's). Starting with President Nixon, and continuing with Presidents Ford and Carter, the taxpayer has been called upon to support HMO's because we have been told they are superior to fee-for-service medicine.

HMO's, we are told, provide more cost-efficient care because doctors have no incentive to overtreat.

But economic incentives operate in HMO's, as in any other human activity.

and they operate not to the benefit of the patient.

Dr. Harry Schwartz, medical journalist and member of the editorial board of the New York Times, has written the best article I have ever read on HMO's. Because Congress will be called upon to appropriate increasing sums for them, I would like to call this important article, that appeared in Private Practice magazine, to my colleagues' attention by inserting it in the RECORD.

The article follows:

HMO ECONOMICS: LIMITING THE PATIENT'S CHOICE

(By Harry Schwartz)

There has been so much public discussion about HMOs this past decade that it is amazing the economist's view of these organizations has gotten little publicity. The conventional wisdom about HMOs—voiced, for example, by HEW Secretary Joseph Califano—is that they are splendid organizations which combine quality medical care with economy. Reading the speeches of Mr. Califano and his ilk, one gets the impression that by some occult process HMOs know exactly how much and what kind of medical care to give their members—not too much and not too little. In addition, of course, the impression is given that the HMO has an economic incentive to keep its members healthy, thus hinting that an HMO may even have the secret of immortality. No economist, qua economist, would make such far-reaching claims on so little evidence.

It is not for nothing that economics has been called the "dismal science." For one thing, economists tend to look at people as economic men—economic persons I guess in the present atmosphere. An economic man or person is someone solely concerned with maximizing his income—salary or profit—without regard to anything else. Mr. Califano and his henchmen normally regard fee-for-service physicians as economic men. It is on that assumption that HEW assumes that every fee-for-service physician is concerned only with doing as many operations, X-ray examinations, catheterizations, CAT scans, biopsies, and the like as possible.

HEW sees only that the more procedures done on a patient the more fees for more services.

With this view of fee-for-service physicians, it is not surprising that HEW bureaucrats see needless medical procedures everywhere they look, and dream of ending fee-for-service as soon as possible. Meanwhile, they try to put the blame for rocketing medical costs on fee-for-service physicians and their alleged greed for more fees and more income.

Yet, curiously, HEW never seems to approach HMOs with the assumption that HMO doctors are economic men or economic persons. The reason, of course, is that to do so brings some disconcerting conclusions, conclusions that are hardly useful for the Madison Avenue campaign now energetically trying to induce all Americans to join HMOs. Let us look at the matter more closely.

HMOs are mainly of two types. One is the so-called closed panel or Kaiser-Permanente model. In this, a very limited number of doctors are hired to give care to an HMO's patients. With rare exceptions, if any exceptions at all, patients are not permitted to see outside physicians unless they want to pay the costs out of their own pockets. The second is the so-called IPA, or individual practitioner, model. In this there are usually a larger number of doctors—sometimes all the doctors of a community—involved. In both types of HMO, however, payment is by annual capitation; that is, the organization's income is determined by the number of members, not by how much or how little the HMO does for or to its members.

The essential point about the closed-panel HMO was well-grasped several years ago by an entrepreneur I met who was seeking to create an HMO for an entire state. His dream, he told me, was that his entire membership would consist of Christian Scientists. Since devotees of that religion do not believe in medical care, an HMO composed of Christian Scientists would have no medical expenses and its entire income, for all practical purposes, would be pure profit for the lucky owner!

What this gentlemen understood perfectly was that in a closed-panel HMO everyone involved has an incentive to do as little as possible for the members: to hospitalize them only in extreme emergencies, to operate only when life is at stake, to have an internist or a general practitioner spend as little time as possible with a patient. In this situation an HMO will seek to have as few doctors on the payroll as possible. If patients have to wait many weeks or months for an appointment, that is their problem. What we economists call the "time cost" of waiting to the patient costs the HMO not a penny, while to add more doctors so as to cut patient waiting time would add to HMO costs. Frequently, moreover, HMO doctors are given a direct stake in doing as little as possible for patients. This is accomplished by estimating at the beginning of the year that medical costs in an HMO will reach a certain figure, and then telling the doctors that if they can achieve savings by reducing medical costs below the estimate, they will divide the savings among themselves in end-of-year bonuses. Thus, when an HMO doctor thinks of hospitalizing a patient, of recommending an operation or the like, he frequently sees himself taking money out of his own pocket. Little wonder, therefore, that when in doubt the HMO physician usually decides to do as little as possible.

From the point of view of an HMO the patient who has a heart attack and lives to be moved into a cardiac intensive care unit, where he may remain for weeks, is a financial disaster. Each day in the intensive care unit costs the HMO hundreds of dollars. Little wonder some HMO entrepreneurs and doctors pray that when their patients get heart attacks, they will die immediately, or, if not immediately, then certainly before they can reach the hospital. It's a matter of dollars and cents.

Now of course HMO doctors—in the closed-panel we are discussing here—are no more economic men or economic persons than fee-for-service doctors. No doubt many HMO physicians want to do a good job for their patients even if it involves hospitalizing them, having them operated on, or even having them maintained for a long time in an intensive care unit. But when HMO doctors behave in this way, they are behaving irrationally from an economic point of view. All the anti-fee-for-service propaganda assumes that fee-for-service physicians are moved only by rational economic calculation to increase their incomes. Taking the same attitude toward HMOs, one has to argue that insofar as they are governed by their economic interests, they want to do as little as they can get away with for their patients.

As for the notions that HMOs have some magic way of keeping their patients healthy, the idea is ridiculous and all candid HMO people I've met admit that it's nonsense. An HMO doctor can give the same immunizations as a fee-for-service doctor: he can give the same advice to lose weight if the patient is obese, to stop smoking, to cut down on alcohol consumption, to exercise, etc. as a fee-for-service doctor. But magic devices such as the propaganda suggests, HMO doctors don't have and many of them are disgusted by the dishonest claims made in some sources about HMO wonders in preventive medicine.

The IPA requires a separate analysis. Here the central organization also gets paid on a capitation basis so that its total gross income depends simply upon the size of the membership. The physicians in this type of organization, however, still work on what looks like a fee-for-service basis, but they send their bills to the IPA headquarters, not to the patient. Moreover, the IPA tends to have a fixed fee schedule, and a utilization committee which examines the services performed and refuses to pay for what are deemed to be unnecessary services. In an IPA all the physician members are at risk. That means that if their combined fees for patient service during a year, say, exceed the organization's income, they will be paid less than their fees, in proportion to the degree that the money available to pay them is less than their total billings. So at the end of a year a physician may be paid only 80 or 90 percent of his total billings.

Again on the assumption that IPA physicians are economic men and economic women, what can we say about their probable behavior in the organizational form sketched above?

To the extent that a physician's compensation in an HMO is based initially on the fees he charges for the services he performs, the incentives to do as much as possible for patients are the same here as in straight fee-for-service. Where the difference arises, however, is that there is only a fixed amount to be paid out to all the physicians. This makes an IPA what the mathematical economists call a zero sum game. Physician A can only get more for himself if physicians B, C, D, etc. get less and vice versa. What this means is that an IPA is, at least in theory, a splendid device for making physicians hate each other, for turning them into jealous rivals, and for inspiring physician conflict. In such an atmosphere one would expect physicians to bad mouth each other to patients and to engage in other similar unpleasant phenomena. It is a war of all against one and one against all, a situation in which each physician will be tempted to do everything his patient needs rather than refer to specialized consultants who may be more competent in particular areas.

There is, of course, another possibility for an IPA embracing all or almost all physicians in a community, and desirous of avoiding the nasty war of all physicians against all physicians described above. This alternative is simply to agree beforehand on how the IPA's income shall be distributed, thus making sure it has nothing to do with how little or how much any individual physician does for his patients. In this case, the IPA members would become, in effect, members of a joint monopoly and their incentive as "economic men" would be to do as little as possible for their patients. Thus, an IPA in which such a deal has been struck has precisely the same incentives for short-changing patients that exist in a prepaid closed-panel group. That is, of course, because by agreeing in advance how much each member of the IPA shall get, the members have agreed to accept salaries as if they were employees of a prepaid closed-panel group. Such an effort at monopoly would of course be illegal, but in the current government enthusiasm for cutting medical bills, reducing the number of operations, X-ray examinations and the like, one may suspect that HEW would exert strong pressure to protect such an IPA against any spoil-sport who wanted to call in the Department of Justice to implement the antitrust laws.

Here again I want to stress that this analysis assumes that IPA physicians have only economic motivation. Obviously that isn't true and they have in many cases the same desire to serve their patients honestly and well as most physicians do. But the economic pressures created by an IPA create incentives for ugly behavior and no honest analysis can ignore that.

If pressed, the supporters of HMOs—whether of the closed-panel or IPA type—will argue that their worst incentives are counteracted in real life by important safeguards. HMO physicians can be sued for malpractice—and it should be noted that some very heavy malpractice awards have been won against HMOs, even from Kaiser. A patient joining an HMO can leave it after a year and go back to fee-for-service for medicine if he doesn't like the way the HMO treats him. So, between legal safeguards and competition, HMO supporters maintain, patients are protected and the worst one might fear from HMO medicine doesn't happen.

But little credence is given by these same people to the fact that the same forces operate under fee-for-service and tend to moderate what Mr. Califano sees as fee-for-service's insatiable greed for operations, X-rays, and biopsies. But there is another point that I personally think is most important. In an HMO—whether of closed-panel or IPA type—the patient is essentially limited to a group of doctors. But under fee-for-service, a patient literally has the entire country—and sometimes even the entire world—from which to choose the doctor and the institution he wants to treat him. The economies of HMOs depend fundamentally upon limiting the patient's choice. That may not be of any importance if a person is healthy and has only an occasional cold and stomach upset. But when and if one has cancer or hemophilia or multiple sclerosis or any one of dozens of other terrible ailments, the sensible patient wants the best specialist he can find. And the typical HMO, unfortunately, is not likely to have that top specialist on its roster. Perhaps that explains why so few of the rich and powerful look to HMOs for their own medical care, especially when they're seriously ill.●

USING SPANISH IN THE U.S. DISTRICT COURT

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. CORRADA. Mr. Speaker, I am introducing today with my colleague Don Edwards, chairman of the Subcommittee on Civil and Constitutional Rights, House Committee on the Judiciary, a bill to allow the use of Spanish in the U.S. District Court for the District of Puerto Rico. As you will note, it has a bipartisan support.

This bill is the result of extensive hearings here in Washington and in Puerto Rico. Undoubtedly, this bill will improve judicial efficiency by permitting persons in Puerto Rico who are parties or witnesses in criminal and civil proceedings a much better understanding of such proceedings by allowing the use of the Spanish language under certain circumstances. It is a significant and necessary piece of legislation given the fact that the district court in Puerto Rico is serving a Spanish speaking society. The ability to understand the language is critical to the fairness of the proceedings. The existing situation in the district court for Puerto Rico is not the most effective nor the most fair way to operate the proceedings before the court. This situation not only creates problems for parties and witnesses to civil and criminal proceedings, but also eliminates half the population from possible jury service.

I wish to commend the efforts of Chairman Edwards' subcommittee for sponsoring with me a bill that will solve the existing problems. It is an excellent piece of legislation.

The Senate already passed a similar measure during the last Congress and I trust that the House will do the same thing during the first session of the 96th Congress.

To conclude, I fully support and urge you to support this bill for the following reasons:

First. The administration of justice in any community should allow proceedings to be conducted in the language of that community, even in a court which forms part of a Federal system of a country where another language is the prevalent language.

Second. This bill will improve due process and quality of justice to litigants in Puerto Rico.

Third. If Spanish is used, the trial time in cases will be reduced by the amount of time it takes court interpreters to translate the proceedings from Spanish to English and English to Spanish.

Fourth. Allowing some proceedings to be conducted in Spanish will in no way jeopardize the rights of those parties who prefer to have the proceedings conducted in English.

Fifth. If Spanish were to be allowed, those attorneys who do not litigate in the Federal court because they do not feel their mastery in English is good enough to allow them to represent their clients adequately, would begin to protect their clients' interest in the most appropriate forum whether State or Federal.

Sixth. Once Spanish speaking attorneys are allowed to plead in Spanish, and try their cases in Spanish they will go to the Federal court in order to get the benefit of a jury trial in civil cases which they do not get in the Puerto Rican State courts and to claim the benefits of Federal rights more effectively.

Seventh. On the merits the bill represents a positive step toward guaranteeing a better quality of justice to litigants in Puerto Rico.

I urge you, when this measure comes to the House floor for its final consideration, to vote for it. The passage of this measure is long overdue. This is an anomalous situation that should be corrected now. It is a vestige of colonialism, which is unacceptable to the people of Puerto Rico, our culture and traditions.●

ADM. THOMAS D. HAYWARD

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. MOORHEAD of California. Mr. Speaker, Adm. Thomas D. Hayward, Chief of Naval Operations, is being honored by his home town, Glendale, Calif. There can be no doubt the recognition is merited and the praise well-deserved because the admiral's career is one of valor and accomplishment, service and growth, commitment and excellence. That he is now the senior sailor in the U.S. Navy, attests amply to the successful and exceptional nature of his record.

In light of this attainment, it is not surprising that his boyhood home would follow the time-tested American tradition of honoring a native son who has made good. In assuming this communal prerogative, Glendale will, no doubt, flush slightly in reflected glory as it permits itself to take part of the credit for the admiral's exemplary career.

How much credit the people and the city deserve will always go unanswered. However, I am certain the admiral would not object to this gentle piracy. He would surely be generous in giving credit to his hometown for having a beneficial influence on his early years.

The CNO was born in Glendale on May 3, 1924, to Mr. and Mrs. E. Payson Hayward. He went to elementary and secondary schools in the city before attending Glendale College. He then enrolled in Occidental College before being accepted at the U.S. Naval Academy in 1944.

From that point to the present, Admiral Hayward's biography looks like the ideal. His Navy experience has been wide, his responsibilities many, and his decorations numerous. His ability is self-evident. It is with pride and delight that I take this moment to play a small role in honoring Admiral Hayward. He does great honor to his family, his city and his Nation. He is a credit to the American military establishment. During these crisis times, it is most reassuring that he is manning the bridge.●

A GOOD WORD FOR AMERICA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, March 14, 1979, into the Congressional Record:

A GOOD WORD FOR AMERICA

There is a mood of discontent among the American people today.

The reasons for the mood are understandable: inflation surges ahead; the job market is tight; the family and other important institutions are under attack; a lack of confidence in public officials makes virtually every government action suspect; threats to our security and well-being crop up almost daily in some part of the world. Our seeming inability to cope with the difficulties that surround us leads some of us to believe that America is slipping. We have the sense that we have lost our bearings and no longer control our destiny.

No sensible person will deny that we have serious problems as a nation. Likewise, no sensible person can fail to have questions about our ability to cope with problems. We must realize that the pre-eminence of America among nations is not written in the stars. At the same time, however, we should be sensitive to the dangers of shortsightedness and misplaced emphasis. It seems to me that we should not ask what is wrong with our country unless we also ask what is right with it. As I survey the American scene, I am not persuaded that we are on a downhill course. There is a lot more right than wrong with America.

America has always had serious problems. The struggle to found a new nation, the Civil War, the early trade union movement, the Great Depression, World War II, the war in Korea, the civil rights movement, and the war in Vietnam are just a few episodes that sorely tried and tested the American people. In each instance the voices of gloom and defeat were raised, but the nation persevered and eventually prospered. Each episode had its costs, but the country drew on its experience and grew in knowledge and stature. We have met grave challenges, survived them, and bettered ourselves in the process.

We need not wait for future events to renew our confidence in America. National accomplishments of great significance are all around us. We sometimes forget that, despite inflation and other economic problems, we are more prosperous than ever before. We forget too that, despite too much bureaucracy and occasional dishonesty, our government has done more than any other to protect the freedom of its citizens. Our military power is second to none, and we are better educated and healthier than we have been at any time in the past. I mention these things only to underscore the remarkable strengths that America has.

Many people have suggested that the mood of discontent is a sign of apathy or, what is worse, total disillusionment. Some have even called it a symptom of sickness. I understand what these people are saying, but I do not see things exactly as they do. To me, the discontent is mainly an indication that Americans are not pleased with the status quo. We perceive a gap between reality and hope, and we want to change the reality so that it will conform more closely to the hope. Such a desire for change is healthy. I like the idea that Americans will not be satisfied until achievement and expectation are brought closer together. I reject the diagnosis of America as an indifferent, disillusioned, or sick society. I would not want to live in a nation where the people did not restlessly search for a better life.

There are other reasons why I have confidence in America. First, I see that the motives of the people are generous and good. Americans are honestly grappling with the right questions. We are asking ourselves about the kind of nation we ought to have, how we can reconcile the sometimes conficting principles of liberty and equality, and what our proper role in the world should be. More often than not we have defined America in terms of commitment to the less fortunate among us. On the whole we have done a good job of balancing personal freedom with equal opportunity. Traditionally we have acted as defenders of democracy and human rights in the world. The mistakes we make are mistakes of the head, not of the heart.

Second, America has an enormous advantage that cannot be easily measured by objective standards. No matter how much discontent there is, America is a nation where initiative and accomplishment are rewarded. In this climate the intelligence and vitality of the people have been released for productive purposes. I have never ceased to be impressed with our foremost natural resource: creative and alert individuals who are willing to work hard and make sacrifices on behalf of us all.

Finally, much of the discontent is due to a heightened awareness of problems. Communications technology is so advanced today that it bombards us with far more information than we can absorb. We just do not have the time to put all the data into perspective. Trouble and strife have always existed in the world, but they are much more apparent to us now. This heightened awareness of problems must be considered a good thing even though it can cause pessimism.

In sum, I conclude that America, in spite of its problems, is a pretty nice place to livc.●

WHAT IS U.S. ROLE?

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. BROYHILL. Mr. Speaker, there is much concern being expressed across this country about the role of the United States in today's world. Members of Congress from both sides of the aisle—conservatives, moderates, and liberals—have begun questioning our foreign policy. An intelligent, thought-provoking editorial, entitled "U.S. Must Reassert Its Strength and Will," appeared in the March 3 edition of the Durham, N.C., Morning Herald. Another fine example of much of the thought which is going on at the current time in this country appeared in the March 12 edition of Business Week. It is entitled "Why the U.S. Is Losing Power in the World." I commend both of these editorials, which are printed below, to my colleagues in the Congress.

U.S. MUST REASSERT ITS STRENGTH AND WILL

Is the United States abdicating its 100-year-old status as a Great Power among nations?

To the man in the street, not privy to the high councils of our government, it can hardly seem otherwise. He's struggling with worries about gasoline for his car, inexplicably threatened by little-understood goings-on in a part of the world he rarely heard of before 1973. He also worries about the rising price of everything from wool blankets to paper clips, which he hears are somehow tied to the oil business and the American dollar's problems. Last but not least, he's getting ominous noises from his boss about cutbacks.

Everyone, or almost everyone, wants to forget the debacle of Vietnam, never mind the debate over whether we should have been there in the first place, through the current malaise seems to have taken root in those jungles. It was never officially a war, so the United States still hasn't lost a "war" in this century.

What it did lose in Vietnam was face.

Face is an Eastern concept, known mostly to Occidentals through tales about Orientals who killed themselves because they had lost face—with their families, their peers, their whole world.

What too few Westerners have bothered to examine is the meaning of loss of face—what makes that single condition a reason to commit suicide rather than go on living.

"Ain't got no respect" may be the closest our Southern expressions come to the concept. One who has lost face has lost all the respect he once enjoyed. Our concept of pride is close to the mark but seldom goes as deep. An Easterner, from the Persian Gulf or the steppes of Russia, from Mongolia or Japan, understands face. He lives and is governed by the rules that go with the concept.

Only the magnitude of the United States' past reputation has kept our loss of face from leading to more than feints against us so far.

Since the end of United States involvement in Vietnam, our country has been like a shadow boxer for whom the light keeps shifting. It doesn't help that the boxer's wearing dark glasses.

The small Islamic nations around the Persian Gulf, long considered in an offhand fashion as an economic appendage of our industrial might by virtue of a geological quirk—their enormous oil supplies—threw the first successful feint. The Arab oil embargo was successful in the sense that it produced havoc and indecision among the leaders of the world's most powerful nation out of all proportion to the embargo's potential impact at that time.

The United States' international forays since have been received with less than the rapt attention they once commanded.

And the delusion that nothing has changed in others' perception of U.S. leadership and direction in the community of nations has apparently made our leaders deaf to sound advice from those who still like and basically respect us, for our good intentions if not always for our performance.

Three years ago, an American abroad walked with head high, confident in the protection of his government so long as he obeyed the laws of his host country, knowing the full presence and power of the United States was on call if anything untoward befell him.

As recently as six months ago, at least to the average American, it was unthinkable that any country in the world would dare tolerate the kidnapping of a United States Marine within its borders.

Surely, such a thing would bring down the wrath of the strongest country in the world, backed by the world's finest fighting force, the U.S. Marine Corps.

Just days ago, a U.S. Marine was kidnapped from his duty post in a country under the opening guns of its own civil war.

Was the 82nd Airborne Division ordered to alert? Was so much as a Navy gunboat posted to the Iranian coast? Not so far as the American public or the world at large know.

The diplomatic French, masters of opportunity and decently paying some old debts of their own, came to the rescue of the impotent United States. The French made a personal appeal for the return of a favor. They had provided sanctuary for one of the contenders to power in Iran and as a favor, would the Ayatollah help retrieve the wounded U.S. Marine?

The Ayatollah did and the Marine is home safe.

Tolerance, patience and a steady but gentle hand come most readily from strength. Unfortunately, there are those in this world who must have the strength firmly and forcibly demonstrated before they listen to the rationale that accompanies the gentle hand, patience and tolerance.

The United States has stepped away from each attempt to test its strength for almost a decade now. In a lot of short memories, that is cause enough to go farther with the testing, to try to see whether the strength and the arm to wield it still exist.

In the current world climate, a number of steps could be taken to prove that both the strength and the will to use it do exist:

The SALT II negotiations should be postponed until the United States solves its compliance monitoring problems. We are blind and mentally infirm to go forward with the Strategic Arms Limitation Talks when we have no way to monitor Russia's compliance with its terms, already leaning in their favor in the official versions. Loss of viable status in Iran means the United States lost the monitoring sites that were essential to the pact for us.

The United States must show tangible evidence that we honor our commitments. As Cambodia and Vietnam slug it out, and Vietnam and the People's Republic of China dispute a border, there has been no public evidence that the United States intends to stand by the allies it still has in Southeast Asia, making those governments seem less stable and more attractive targets for anarchical foment.

Within its own borders, the United States leadership needs to forswear the political approach to our energy supply problems for the less palatable but far more productive approach of letting real-world economics help through deregulation of domestic energy prices. That would be very painful, like pulling a tooth, for a short time. Short, because there's no doubt the most resourceful people on earth can come up with a way to cope. It would also have less serious long-range consequences than continuing the present policy, which amounts to letting the tooth abcess until it poisons the whole system. As a byproduct, such a departure could not only help the dollar right itself in the world and at home, it could also announce the belt-cinching that a good fighter starts his next round with.

Finally, every American with any sensibilities wants to be rid of that gnawing, nagging, edge-of-the-mind sensation that something very valuable is slipping away, perhaps forever, because he hasn't grasped the danger it's in.

Why the United States Is Losing Power in the World

For almost exactly 100 years—from the end of the Civil War to the middle of 1965 when Lyndon Johnson sent American troops into the Vietnam war—the U.S. exerted rapidly increasing power in the world affairs and commanded growing respect from allies and enemies alike. Since 1965, the trend has reversed. There has been an alarming decline in U.S. strength and a succession of disasters involving U.S. policies. The erosion of U.S. power and influence is proceeding so rapidly that many policymakers in other nations doubt the ability of the U.S. to define its own interests or to deliver on its commitments (page 36).

The difficulty President Carter has had in bringing President Sadat and Prime Minister Begin back to Camp David, the fall of the Shah's government, and the resulting shortage of oil, which some members of the Organization of Petroleum Exporting Countries quickly exploited by again raising prices, are only the latest in a string of setbacks for the U.S. All of them testify to the absolute necessity of a review and revision of foreign policy that will enable the Carter Administration to cope with the great forces at work in the world today.

Such a restructuring of U.S. attitudes must begin with recognition of two basic facts: First, the economic and political components of a nation's policy are inseparable from the stand it takes in foreign relations. Power and influence in the world have to be based on a solid foundation of a healthy economy and a political system that presents great issues to the country honestly and clearly instead of obscuring and confusing them. Second, the U.S. has tried to conduct foreign policy as if it were living in a make-believe world created by academics and do-gooders. The model that successive Administrations have used is a fiction; so it should not be surprising that it produced an unreal solution.

THE FOUNDATIONS OF POLICY

To translate these principles into specifics, the Carter Administration would have to:

Maintain defense spending at a level that will discourage any nuclear attack against this country and at the same time permit an effective response below the nuclear level where clearly defined U.S. national interests are threatened.

Develop economic policies that will restore stability to the dollar in international markets, check inflation, and encourage investment as well as consumption—instead of relying on rhetoric filled with empty promises to do these things.

Redesign the Administration's machinery for making foreign policy, eliminating contradictions, disputes, and incompetence, all of which are uncomfortably evident in the present apparatus.

Use all the tools of foreign policy, including a revitalized intelligence agency that can gather useful information, analyze it quickly, and conduct covert operations when they are called for.

The most vital interest of the U.S. clearly is preserving a decisive balance of strategic power to dissuade the Kremlin from taking actions anywhere in the world that could lead to nuclear war. A well-drawn treaty limiting strategic arms might contribute to effective deterrence of a nuclear attack at less cost than an all-out arms race. But the President has been so preoccupied with selling such a treaty to Congress that he sometimes seems to represent it as a substitute for keeping up with the Soviets in strategic weapons. This is totally misleading. A new treaty might reduce the investment in nuclear arms, but the U.S. simply cannot afford to stop developing new strategic weapons.

THE SOURCES OF ADVICE

A crucial element in the balance of power, of course, is the system of alliances that the U.S. has built with the nations of Europe and with Japan. And here is a point where the close connection between economic policy and foreign policy is easy to see. Relations between the U.S. and its allies have been badly strained by economic tensions arising out of the weakness of the dollar and the continuing trade deficits the U.S. has been running. The sad decline of U.S. influence in the past decade has been associated with the flight of investors and speculators alike from the dollar and the inability of U.S. goods to compete in world markets. The same policies of deficit financing and undisciplined government spending that have wrecked the domestic price structure have kicked back to weaken the alliances that the U.S. built in its time of strength.

Perhaps the most frightening aspect of the decline of U.S. power is the apparent failure of the Carter Administration to recognize what is happening. Part of the trouble is that the President has divided authority and responsibility between the State Dept. headed by Secretary Cyrus R. Vance and the National Security Council staff headed by Zbigniew Brzezinski. Since the two men are often at odds, it is sometimes hard to tell who is making foreign policy.

A more fundamental source of confusion is the mindless destruction of the Central Intelligence Agency by hostile congressmen. To say, as Senator Frank Church (D-Idaho) has said to *Business Week*, that the CIA should not undertake covert operations under any circumstances is to say that the Administration is to be shut off from taking actions that good sense dictates in critical areas. The CIA needs better oversight than it was getting, but it cannot report to eight congressional committees and remain a competent agency.

Above all, the President needs better advice. And he must pay more attention to what the financial markets are trying to tell him. They cause they reflect the judgment of people who speak in terms of reality, not in theories, beare betting money, not just offering opinions. The failure to listen to people who are really immersed in the world's problems is a lot of what is wrong with President Carter's foreign policy.

The growing unease in Congress over the nature of U.S. power in the world is likely to have at least one positive effect: it will give a significant push to efforts to improve the competitiveness of American industry both abroad and against foreign competition in the U.S. market. Increasingly, influential members of Congress believe that the Carter Administration is relatively ineffective in improving either.

Senator Adlai E. Stevenson III (D-Ill.), chairman of the Senate subcommittee on international finance, with strong backing from congressional leaders, is readying legislation to force President Carter to do more to help U.S. industry. And there's a good chance that he will succeed.

Stevenson has introduced legislation to amend the Export-Import Bank Act and the Trade Act with the aim of liberalizing restrictions on exports to the Soviet Union and other Communist countries. One proposal would ease significantly the requirements of the Jackson-Vanik amendment, which forbids the extension of credit and equal tariff treatment to Communist nations with restrictive emigration policies. Now, these governments must offer "assurances" to the U.S. that such policies have been changed. Under Stevenson's proposal, the President would merely have to make a "determination" of compliance.

The proposed amendments would also cut a lot of underbrush now tangling trade policy toward Communist nations. Among the changes: extension of credit and equal tariff treatment for five years instead of one, and an end to the prohibition on financing of oil, gas, and coal projects.

Stevenson also has a batch of bold proposals that reflect his desire to stake out areas in which he can differ from the Administration, since he is talking about challenging the President in 1980.

For one thing, Stevenson is talking about softening the antibribery and antiboycott restrictions on U.S. multinational corporations. He also favors stretching the antitrust laws to permit formation of Japanese-style trading corporations, which are integrated with manufacturing and banking units.

Nearly all of Stevenson's proposals are politically explosive. But Carter may be attracted to some of them, largely because his chief trade negotiator, Robert S. Strauss, is warning him that the implementing legislation for the current round of trade agreements may well not get by Congress unless it is escorted by a tough export program that would compensate for weaker protection of domestic industries.●

PAUL E. OWEN

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. LAGOMARSINO. Mr. Speaker, I would like the House to join me in paying tribute to Paul E. Owen, director of intergovernmental projects for the city of Ventura, Calif. He is a highly respected American who has spent a total of 31 years in California local governments.

Paul's career in government began with the city of Glendale in 1946. In 1955 he went to work for the city of Oxnard and since 1960 he has been with the city of Ventura, where he has served in capacities such as water superintendent, director of public works and, since 1974, as director of intergovernmental projects.

Paul's direct contributions include a $9 million EPA expansion and improvement of wastewater treatment facilities, disaster relief assistance repair from

1969 flooding, and eight EPA grants totaling $5 million that upgraded public works and deficiencies.

Paul has also served through involvement with business and civil associations. Paul's leadership in children's adoption assistance, and with improvement projects through the chamber of commerce and other organizations have resulted in numerous benefits to the community at large.

Paul's long-term service to the people of Ventura has been recognized by numerous agencies and organizations. The Ventura Chamber of Commerce, the League of California Cities, and the California State Legislature have all recognized Paul for his past service.

Mr. Speaker, because of Paul's long and distinguished career of dedicated service to the citizens and the city of Ventura, I ask the Members of the House to join with me and his many friends in extending congratulations to Paul E. Owen, and wishing him a long and happy retirement.●

SIXTIETH ANNIVERSARY OF SAN ANTONIO KIWANIS CLUB

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. GONZALEZ. Mr. Speaker, I am proud to announce that the San Antonio chapter of the Kiwanis Club is celebrating it's 60th anniversary the 19th of March. At this time I would like to present to my colleagues the history and present activities of this fine community service organization.

The Kiwanis Club of San Antonio was organized March 19, 1919, with a total of 203 members.

In the first year of its organization the Kiwanis contributed $550 to charity, and now 60 years later, it has grown to an organization contributing over $18,000 to charity in 1978 and 1979. Through the years a variety of ideas, efforts, energies and talents have been directed toward fulfilling their motto of "We build."

Thousands of individuals and hundreds of organizations have been the recipients of funds raised and donated to help the less fortunate in the San Antonio area. In June 1944 the San Antonio Kiwanis Club, in conjunction with the San Antonio Optimist Club jointly agreed to support "Boysville," a home for dependent and neglected boys, ages 6 through 18. With an original capacity of 12, Boysville has grown to a housing capacity of 98. The Kiwanis Club of San Antonio has given their full and continued support to this project for 35 years.

For the past 17 years the Kiwanis Club of San Antonio has directed its major efforts toward "Fun-Tier Nites," a music and food extravaganza held in La Willita Assembly Hall. They are held for 7 weeks during the summer with all net proceeds going to Boysville.

Other recent recipients of charity funds from the Kiwanis are the American Citizenship Center, Bexar County Jr. Livestock Show, T.O.U.C.H. (Drug Rehabilitation), Circle K, Mission Road Foundation, Rural Youth, School Safety Patrol Awards, Texas Foundation on Deafness, Youth for Christ, Youth Philharmonic Orchestra of San Antonio and Youth Alternatives.

I commend the Kiwanis for their fine work in San Antonio and wish them well in their future endeavors as they continue their efforts in behalf of those in need.●

DAUGHTERS OF AMERICAN REVOLUTION HOLD STATE CONFERENCE

HON. JON CLIFTON HINSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. HINSON. Mr. Speaker, for many years the members of the Mississippi Chapter of the Daughters of the American Revolution have exemplified the patriotism and citizenship which I was taught during my years as a school boy in Mississippi. Members of the Mississippi Chapter of the Daughters of the American Revolution do not merely give lip service to American ideals; rather the members of the Mississippi Chapter of the Daughters of the American Revolution take an active interest in the day-to-day affairs of the American Government and the people of the United States and fearlessly take stands on issues which threaten the very fabric of American life. In February of this year the Mississippi Chapter of the Daughters of the American Revolution held their State conference on the Mississippi gulf coast. At this conference, the members approved a number of resolutions among which were a statement of the severing of official ties with the Government of Taiwan; a statement of concern that the United Nations International Year of the Child is a dangerous encroachment of the United Nations into American family life; a resolution calling upon individuals to protest the proposed IRS guidelines for determining tax-exempt status for certain private and parochial schools; a resolution sharply opposing any form of Federal Government regulated health care or socialized medicine; a resolution calling upon the House of Representatives to refuse to convey U.S. property rights in the Panama Canal; and a resolution calling upon the Federal Government to discard the use of racial or sex quotas in favor of individual merit, achievement and successful competition.

I commend the members of the Mississippi Chapter of the Daughters of the American Revolution for their courage and concern for the future of our Nation.●

IN SUPPORT OF H.R. 2810

HON. GENE TAYLOR

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. TAYLOR. Mr. Speaker, I would like to thank my colleague from Arkansas, the Honorable JOHN PAUL HAMMERSCHMIDT for his support and joint sponsorship of H.R. 2810, legislation that seeks to bring about a small but important change in the law pertaining to the burial of the spouse of a deceased veteran in a national cemetery.

Under the present law, a widow may be buried in or adjacent to the grave of her deceased husband. This eligibility is terminated should the widow remarry. It can be reinstated if the second marriage is terminated by divorce, annulment, or upon the death of the second husband. If the widow should pass away before her second husband dies she is not eligible for burial in a national cemetery.

I have recently been contacted by the widow of a veteran in my congressional district who has remarried but desires to be buried in the grave of her first husband. Her second husband has planned to be buried with the deceased wife of his prior marriage.

The veteran's widow cannot make plans for burial with her deceased veteran first husband because she is not eligible if she dies before her second husband.

This is a most unfortunate situation that H.R. 2810 seeks to rectify. The bill will simply permit the widow to be buried with her veteran deceased husband in the national cemetery even though her second marriage has not been terminated.

The text of the bill is as follows:

H.R. 2810

A bill to amend title 38, United States Code, to allow a surviving spouse of a deceased veteran to be buried in a national cemetery with such veteran even if the surviving spouse has remarried

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That section 1002(5) of title 38, United States Code, relating to persons eligible for interment in national cemeteries, is amended to read as follows:

"(5) The wife, husband, or surviving spouse of any of the persons listed in paragraph (1) through (4), any minor child, and, in the discretion of the Administrator, any unmarried adult child, of any person listed in paragraphs (1) through (4) and any person who would be a surviving spouse of a person listed in paragraphs (1) through (4) but for the fact that such person has remarried, but any such person may be buried in a national cemetery under this paragraph only at such person's election and if such person's grave is adjacent to the grave of the person described in paragraph (1) through (4)."●

REQUIRING A BALANCED BUDGET

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. PAUL. Mr. Speaker, my good friend Jim Davidson, chairman of the National Taxpayers Union, is a worthy general in the battle to balance the budget.

While I think we need to cut spending drastically as well as balance the budget, I would like to call Mr. Davidson's recent article in the Washington Post on "Requiring a Balanced Budget" to my colleagues' attention. Mr. Davidson is an eloquent champion of the overburdened American taxpayer.

REQUIRING A BALANCED BUDGET

The first success of the movement for a balanced-budget amendment has been to open debate about the conduct of government finances to popular participation. Now that 29 legislatures, of a needed 34, have called for a limited constitutional convention for the sole purpose of outlawing incessant deficit spending, leaders in Congress and other supporters of the prevailing orthodoxy have no choice but to defend their position.

That will prove more difficult than they suspect. They have not been prepared by recent experience to argue the case that deficit spending is beneficial. Now that they must do so, they will find that the arguments of 50 years ago, upon which the Washington spending consensus depends, no longer carry the weight of conviction. The feeling in Washington has been that the public cannot be relied on to comprehend complex issues, so politicians are obliged to do what they know is best while deceiving or mollifying the public as to the fiscal consequences.

Such an attitude leads the politicians to deceive themselves as well as their constituents. By pretending to seek balanced budgets while chronically failing to do so, they have suppressed or ignored the true reasons for far-reaching policy decisions. Thus they have trivialized their own thinking.

This is evident from the responses which have been forthcoming now that the defenders of deficit spending have been moved at a frantic speed to prepare their case. They could have entered the argument long ago. They did not, perhaps in hope that by ignoring the movement for a balanced budget they could make it go away. Since this has not happened, and the call for a limited constitutional convention is nearing success, the public is finally hearing the best arguments for deficits, along with an incredible variety of alarms about every aspect of the spending-reform movement. At this stage, readers of the Washington Post are well aware of many arguments which allegedly makes it useless, dangerous or impossible to balance the budget. Unfortunately, there is not room at this writing to fully answer all of the objections. An attentive citizen would note, however, that the opponents refute many of their own points by arguing at cross-purposes. They claim, for example, that the budget cannot be balanced because the Congress lacks the forward vision to project revenue and expenditure accurately. With the next breath, they claim that the same congressmen, who lack the foresight to do their sums, can predict when the economy will fall into a tailspin and need the fiscal tools to "fine tune" the economy. That is like saying that someone who is too blind to wield an axe should be trusted as a surgeon.

The efficiency of debt in stimulating the economy is already declining markedly through over-use, as a recent Solomon Brothers study confirms. Beyond that, when the budget is in balance there is no necessity that control of the money supply be tied to fiscal policy. The Federal Reserve Board has the power to regulate the money supply without a growth of government debt.

You also have heard that a convention, once convened, would celebrate a sort of witches' Sabbath by "dismantling" the Constitution (according to Sen. Kennedy), repealing the Bill of Rights, and, as one writer in the Washington Post recently charged, unleashing "conflicts that would make the other political crises since the Civil War look puny."

We invite anyone who has been persuaded by these alarms to consider a more sober interpretation. Not only is it highly unlikely that a convention could get out of hand, but there are also actually more checks upon an amendment emerging from a convention than is the case with a congressionally proposed amendment.

If the convention decided to turn America into the Land of Oz, any amendment it proposed would not only have to be ratified by 38 states. It would also be subject, as congressionally initiated amendments are not, to review in the courts for having strayed beyond the call. The sum of these considerations is such that a reasonable observer would have no more basis to object to a constitutional convention than to the Congress itself. It is effectively sitting as a perpetual convention whose constitutional deliberations are neither limited nor subject to court review. And our view of the matter is hardly idiosyncratic. The deans of Harvard Law School and The University of Chicago Law School; the American Bar Association, former senator Sam Ervin and many other constitutional experts conclude that the convention route can be a safe, limited, method of proposing specific amendments.

The true significance of a convention call to balance the budget and its true danger from the point of view of Congress, is not that it would do something preposterous but that it is a repudiation of the current way of doing business. If our movement should succeed it would be, as The Wall Street Journal said, "a colossal vote of no-confidence in the United States Congress. The people would be saying that they have finally decided that Congress can't be trusted with money."

That is exactly the point. There really is a difference between the career interests of congressmen and the public interest. As everyone who is alert to policies knows, the first commitment of most politicians is to themselves. Beyond everything else, most congressmen wish to be re-elected. As a matter of pure logic, they improve their chances by resorting to deficit spending. It enables them to make the benefits of increased spending immediately evident to special constituencies while disguising the costs in the form of borrowing and inflation which are diffused over large numbers of the rest of society. Under such conditions, the incentives of the politicians clearly point toward ever-increasing spending with continued inflationary deficits.

Even the classic Keynesian formulation of deficits in lean years and surpluses in good years has proven impossible to follow in practice. The corollary to the deficits, the off-setting surpluses, can never be achieved because they involve making the political costs of the budget more evident than the benefits. Thus, since 1969, the dollar total of deficits over the one surplus has been a ratio of 100 to 1. This does not reflect "flexibility needed to deal with changing economic conditions," as proponents of unfettered spending propose. It reflects the degeneration of the system because of perverse incentives which lead individual congressmen to make spending decisions which are favorable to their career interests but bad for the public.

Furthermore, as Edward R. Tufte has documented in his book, "Political Control of the Economy," the ups and downs of the economy which politicians claim unfettered deficit spending is needed to counter, are at least partly caused by political manipulation in the first place. In addition to the business cycle (which may be ultimately caused by expansion of the money supply), we must consider the "electoral-economic cycle" which is clearly caused by politicians seeking to heat up the economy prior to elections.

A balanced-budget amendment would have other good consequences beyond merely making government more accountable. A balanced budget would reduce "crowding out." When deficit spending leads government to borrow massive amounts of money, it soaks up available capital, raising interest rates and reducing stock prices. A balanced budget would lower borrowing costs throughout the economy, stimulating investment raising stock prices and promoting faster real growth.

Furthermore, an end to deficit spending would lead to less waste of resources by government. Currently, much wasteful spending is excused because it is considered part of a needed "stimulus for the economy." Without a balanced-budget requirement as a check on federal spending. Congress rarely asks, "Is this program worthwhile, or is it the best use of the taxpayers' money, or should we reduce taxes?" As Otto Eckstein puts it: "If the political process must levy the taxes to pay for the expenditures, there is likely to be a more careful scrutiny than if the expenditures can be clothed in the virtue of deficit-creating stimulus packages."

Beyond all these consideration is the greater good—the almost universally acknowledged fact that balancing the budget would reduce inflation. That is something we must do, not merely to save money but to preserve the civic virtues of democracy. These cannot be maintained through long-protracted inflation. The experience of many countries proves this.

As Thomas Mann wrote: "There is neither system nor justice in the expropriation and redistribution of property resulting from inflation. A cynical 'each man for himself' becomes the rule of life." Under such conditions when the majority is deprived, defrauded, and frightened, politics can take frightening turns. We dare not attempt to prove that America would be an exception to the rule that protracted inflation weakens and eventually destroys free institutions.

That is why we must heed the advice of responsible people of all parties, and enact a constitutional amendment outlawing inflationary deficit spending.●

CHURCH AND SCHOOL

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. MOORHEAD of California. Mr. Speaker, in Glendale on the evening of March 24, the St. Mary's Armenian

Apostolic Church and School will celebrate its fourth anniversary with a dinner/dance.

In 4 short years, the Glendale Armenian community has blossomed from a few to a robust 6,000. The St. Mary's Armenian Apostolic Church has also prospered, growing in size and vitality. Keeping pace, the school, grades kindergarten through 4, has more than 150 students.

Within Glendale, there are numerous other signs of a stable, progressive and expanding Armenian influence. This is the city's gain for Armenians are active in community affairs, in politics, in education and in business. They are a cohesive group, which, nevertheless, melds effectively with other elements of society.

Making special contributions is the St. Mary's Armenian Apostolic Church and School. It is a parish which has demonstrated an uncommon devotion to the family unit. It has not allowed it to wither or unravel. The family structure has been maintained because of St. Mary's adherence to a moral code which it has refused to subjugate to expedience or amend to suit the moment. And this same devotion to principal has been carried by the parish into the community.

I am happy to join the other members of the community in commending St. Mary's Armenian Apostolic Church and School for its accomplishment during the last 4 years.●

PRESIDENT CARTER IS TO BE COMMENDED FOR MISSION OF PEACE

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. KILDEE. Mr. Speaker, President Carter is to be commended for his courageous and persistent efforts to bring Egypt and Israel together in a treaty that could help establish peace throughout the Middle East. The President's unprecedented pursuit of peace is a stirring and dramatic example for all the world's leaders to follow.

We can fully appreciate the vital importance of bringing peace to the Middle East, where years of conflict and repeated warfare carry a serious threat to global stability. The President's trip to the Middle East has moved Egypt and Israel closer than they ever have been before, and peace now appars to be an immediate prospect. The Camp David summit talks, the negotiations that followed, and the President's trip to the Middle East, all have emanated from President Carter's courageous and persistent commitment to attaining peace. When it is achieved, that peace will benefit all of the world, and it will truly be a great tribute to President Carter's leadership.

All of mankind's progress has come from leaders who worked for constructive, not destructive, approaches to the great problems. As war is the most destructive approach of all, there is no more worthy goal than that of working for peace. President Carter has knowingly accepted great political risk in his endeavor. But in doing so, he has shown a leadership that is admirable in that it has cleared the way for a constructive solution in one of the world's most dangerously troubled areas.●

REORGANIZE THE USDA?

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. JONES of Tennessee. Mr. Speaker, for the information of my colleagues I ask permission to place in the RECORD an editorial from the Memphis Commercial Appeal which opposes the President's proposal to weaken the U.S. Department of Agriculture through various reorganization proposals.

Since this editorial was printed, the President has released more details of the plan. Basically he would transfer the Forest Service to a new Department of Natural Resources and Farmers Home Business and Industrial Loan program to the Economic Development Administration.

As one who has worked my whole career in the interest of agriculture and rural America, I am 100 percent opposed to both proposals.

It makes little sense to me to take programs and agencies which are working well and transfer them elsewhere.

I am in total agreement with the Commercial Appeal editorial which says, "It all sounds like a giant game of musical chairs. All this shuffling of offices and personnel isn't likely to result in greater efficiency but could easily result in greater confusion, especially for the people the agencies are supposed to serve."

I especially urge my colleagues from the Midsouth-Tennessee, Arkansas, and Mississippi to take note of this editorial. The Commercial is the largest daily in the area and keeps close account of the wishes, desires, and needs of its readers. This editorial, I am convinced, reflects those desires and needs.

REORGANIZE THE USDA?

As President Carter moves along with his plans to reorganize the federal government, some members of Congress are expecting the ax to fall next on the Department of Agriculture.

Reports are that the President is reviewing proposals that deal with economic and community development programs and the nation's natural resources. Included are reported to be proposals to remove large portions of agencies from the USDA and place them in newly organized departments.

The Farmers Home Administration, for example, might be placed in a new Department of Economic and Community Development built around the existing Department of Housing and Urban Development. The Soil Conservation Service and Forest Service might be placed in a new Department of Resources built around the present Department of Interior.

It all sounds like a giant game of musical chairs. All this shuffling of offices and personnel isn't likely to result in greater efficiency, but could easily result in greater confusion, especially for the people the agencies are supposed to serve.

Most of the agencies in the USDA were created to perform as their names indicate—services to people. Originally it was services only for farmers and rural people, but in recent years those services have been expanded, as they should have been, to include many urban dwellers, too.

Instead of pulling apart the existing departments, what may be needed is a comprehensive review of the services the many agencies perform, a sort of sunset review, to determine whether they are doing what is needed and justified.

That should be done periodically in conjunction with the department's appropriation requests.

And beyond that, perhaps, the department might be renamed the Food and Agriculture Department, indicating that the emphasis should be shifted from the original concept of helping farmers to make two blades of grass where only one grew before to one that encompasses the needs and concerns of all the people of the nation.●

PHOENIXVILLE HIGH SCHOOL PHANTOMS WRESTLING TEAM

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. SCHULZE. Mr. Speaker, it gives me great pleasure to rise once again to present to you and my colleagues the accomplishments of a group of 12 young men from my district. The Phoenixville High School Phantoms wrestling team has just completed their season, and their record deserves our praise.

The Phantoms carried on the winning tradition of their school and for the fourth straight year won the Ches-Mont League. For the third straight year they have won the section IV, district I PIAA championship, and for the second consecutive year they are the south district I PIAA champions. In addition, this team has compiled a record of 43 straight wins over the last 4 years.

We are particularly proud of these young men because this was supposed to be a "building year" for the Phantoms. After 3 years of undisputed strength in the Ches-Mont League, Phoenixville was not picked to win the championship again in the preseason polls. Yet these young men, under the outstanding leadership of Coach Lonny Moore, worked together and continued their team's winning tradition. Their dedication and determination deserves recognition as well as tribute, and it gives me great pleasure to present their achievements to you here today.

The members of this winning team are Joe Holland, who also won the regional title for his weight division, Steve Vodantis, Tim deBolt, Ted Harrop, John Tornetta, Evan Weiss, Doug Sykes, Pete Brennan, Ed Kracz, Pete Famulari, Fran O'Neill, and John Ujobai.

I congratulate these young men and their coaches for another outstanding year, and hope that I will again be able to rise next year to honor them for a fifth consecutive championship.●

KEEPING BUSINESS IN GERMANTOWN

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. GRAY. Mr. Speaker, one of the strengths of the city of Philadelphia has always been found in its neighborhoods, with their ethnic flavors, their community spirit, and their busy commercial centers.

But as in most of our great urban centers, Philadelphia has suffered from the flight of retail businesses to suburban shopping malls. Many of my city's formerly vibrant commercial districts have declined in recent years.

However, Mr. Speaker, in a good number of our neighborhoods, the people of Philadelphia have not sat by passively watching their communities dwindle away.

One such neighborhood is Germantown, a community rich in history dating back to our Nation's earliest days. This area is anchored by a commercial district which, like others in our country, in 1979 finds that it badly needs a resurgence of business.

I commend to my colleagues' attention the following two news accounts from the Germantown Courier of February 21, 1979. They demonstrate not only the determination of the merchants of Germantown Avenue to work together to retain and attract customers, but the need for Federal and local efforts to revitalize our urban commercial districts:

BUSINESSMEN PLAN FOR PR CAMPAIGN

(By Bob Golfen)

The Germantown Businessmen's Association is making plans for a wide ranging campaign designed to boost Germantown's flagging central business district.

Modeled after other successful efforts, the "I Love Germantown" drive will, it is hoped by the businessmen's group, attract new businesses to the area, inspire existing businesses to upgrade their facilities and bring in federal and city funding.

The campaign is spearheaded by Don Scott of the Northwest Interfaith Movement (NIM), a coalition of religious leaders that has been working on the business problems for some time. Last year, NIM completed a study that identified problems in the business district, which includes the retail stores on Chelten Avenue and adjacent blocks of Wayne and Germantown Avenues.

"We decided (in the study) what is really needed is a more in-depth study that integrates parking, traffic flow and market demand—what kinds of goods people want to buy," Scott said at an Association meeting Thursday afternoon. "One thing we hope to do is pull together a community advisory committee that could later become a planning committee."

Scott said that NIM received financial assistance from the city to complete its study, and that more money could be forthcoming.

"We told them (city officials) that, after all, Germantown's loss is a loss to the city," Scott told the businessmen, "in terms of tax base."

NIM and the businessmen met last night to set plans for a rally sometime in the spring to kick off the campaign. The rally, Scott said, would be "a symbolic gesture" that would "dispell rumors of Germantown's demise."

One thing Scott hopes the rally will accomplish, along with the other efforts, would be to unite local residents in working toward a common goal. One of divisiveness," he pointed out. "The clouds over us are very serious and we have to pull together, work together. Nearly all elements of the community have to work together."

Association vice president Russ Montgomery, manager of the Penney's store on Chelten Avenue, echoed Scott's view on unity.

"People are working together for the first time," Montgomery said Monday. "More people want to get in to the association. People want to get in and help out. It looks very promising."

Montgomery said that the campaign "looks very promising" with local merchants getting together for four advertising promotions during the year and a new involvement by the smaller store owners.

Now that a number of larger stores on the Chelten Avenue business strip have closed down, Montgomery said, "the small merchants have to work for themselves."

The "I love Germantown" campaign, he explained, is "an image—a focal point, you might say. It could be a year-long thing for the whole town."

Besides the other goals of the campaign, Montgomery hopes that it will make city officials take more notice of Germantown's business needs.

"Funds go wherever there's an organized group willing to stand behind them," he said. "That's what we're trying to do."

MERCHANTS HOPE FOR FUNDING

(By Rebecca Rhodin)

If Joan Keene is correct in her prediction, upper Germantown Avenue merchants can expect a resurgence of business.

Keene, who is the new president of the Germantown-West Mt. Airy Merchants Association, said that because of the nation's inevitable energy shortage, customers soon will "take a visible turn back to the cities." And small businesses, like her own flower shop, will benefit.

The Merchants Association organized a year and a half ago with ten members to meet this anticipated burst of business by improving the avenue and its store fronts. They participated in a historical and architectural survey of the commercial district by architect Dennis Johnson last year, and before winter began to plant much needed trees on Germantown Avenue.

In the meantime, about 50 businesses joined the soon to be incorporated group, which will work with neighborhood organizations, including East and West Mt. Airy Neighbors, to launch a cleanup campaign in the spring.

Keene, the Merchants Association's second president, succeeded John Stanton in November.

She said that the goal of the organization is to obtain government funds, not available to individuals, for improving Germantown Avenue.

Although she would not say what opportunities are available to organized merchants, nor detail her plans as president, Keene noted the uniqueness of the avenue, where stores sit side by side with colonial buildings, and where artisans sell items found nowhere else in the city.

Speaking cautiously of the difficulties of upper Germantown Avenue, she noted that the road is badly in need of repair, the stores have little off-street parking, and merchants are fighting a crime problem, which CLASP, a crime prevention organization, is currently evaluating.

According to Keene, eventually the merchants will extract assistance from city government.

"In allocating funds for the city in general, significant funds have rarely been allotted to Germantown and Chestnut Hill," she said. "We are a lucrative tax base for the city, but the government has not allocated an equal amount of the city budget to us as they have to center city. The squeaky wheel gets the grease. We plan to get their attention."

Keene noted that the strength of the organization will be the merchants themselves.

She expects improvements to become "an ongoing process", and that the group will attract more members as the years go by. Through organization, Keene said, upper Germantown Avenue merchants will tame the historically amorphous growth of the neighborhood, in preparation for a new and strong flow of customers.●

ABOLISH THE ELECTORAL COLLEGE

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. BONER of Tennessee. Mr. Speaker, the current method for electing Presidents and Vice Presidents of the United States has been the subject of debate and criticism from the earliest days of the Republic. I believe the frequent criticism of our present system is justified and therefore I support a change from our current Presidential election process to the direct election of our President and Vice President.

At this point I wish to indicate my support, and cosponsorhsip, of Congressman JACK EDWARDS' bill, House Joint Resolution 189, relating to the direct election of the President. In addition, I understand that the House bill is identical to Senate Joint Resolution 1, introduced by Senator BIRCH BAYH on January 15, 1979.

The result of a direct election would give a more accurate picture of relative party strength than an electoral vote. Today's winner-take-all system unfairly gives the candidate with the most popular votes all of a States electoral votes. This means that a candidate receiving only one vote less than his opponent gets none of that State's electoral votes.

With direct election, it would be unnecessary to preserve the system of referring a close election to the House of Representatives. The House of Representatives has been called upon twice to elect the President, first in 1800 and again in 1824. In 1800 the House elected the candidate, Jefferson, who had received the most electoral votes but in 1824 it chose John Quincy Adams over Andrew Jackson, despite Jackson's plurality of electoral votes.

Under our present system, it is possible for the candidate with a fewer number of popular votes to win over the candidate with the largest number of popular votes. My amendment would make this impossible while also making the election simpler for the voter to understand. The American people believe they have elected their President when actually the undemocratic electoral college has elected the President. The 538 members of the electoral college are not bound to follow the will of the American people. If those electors decided to transfer their votes to some other candidate, it is doubtful whether existing laws can keep them from doing so.

With direct election, party campaigns might be more evenly distributed throughout all parts of the country. Under the current system, campaigns tend to concentrate in the large so-called pivotal States. Presidential aspirants from those pivotal States have a disproportionate chance of receiving the nomination. By choosing a nominee from one of these States, a party may attract the few votes it needs to carry the State.

Furthermore, these close States may be won or lost by such extraneous circumstances as rainy days, blizzards, or just plain voter apathy. The present system is also highly sensitive to frauds, whereas it is unlikely the results of a nationwide direct election would be so close that minor accidents or small scale frauds would have any effect on the outcome.

It would seem to me, Mr. Speaker, that our goal should be the increased participation of the individual in the democratic process and because each vote would count equally, direct election would almost certainly encourage more people to vote. The voter support for this amendment is evident with the Harris and Gallup polls in recent years showing 72 to 82 percent of the American people favoring direct election. An array of national organizations have endorsed direct election including the American Bar Association, U.S. Chamber of Commerce, AFL–CIO, UAW, League of Women Voters, National Small Business Association, Common Cause and the National Farmers Union.

The method of electing the President and Vice President was a major concern to the Constitutional Convention in 1787 and has remained a continuing issue in American politics ever since. Yes, Mr. Speaker, I feel it is time for a major change in our Presidential election process. I believe the proposal introduced in the Senate and the one I am cosponsoring in the House, presents the best approach to this problem.●

THE 50TH ANNIVERSARY OF THE HOLY TRINITY PARISH

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. NOWAK. Mr. Speaker, the Holy Trinity Parish of the Polish National Catholic Church of Lackawanna, N.Y., will celebrate its 50th anniversary on April 29, 1979.

Holy Trinity Parish was organized in March 1929 and had its new edifice blessed in June 1930 by the ordinary of the Buffalo-Pittsburgh Diocese, the late Most Reverend John Zenon Jasinski.

Throughout the years, Holy Trinity Parish has contributed in large measure to the spiritual, moral, cultural, and economic good and welfare of the Lackawanna communtiy. The Reverend Senior Matthew J. Kubik has served the parish and the community faithfully since November 1952.

The 37th District of New York boasts a large concentration of Polish-American citizens who have helped build the proud heritage of the Polish National Catholic Church.

I rise today to congratulate the Holy Trinity Parish of the Polish National Catholic Church on its golden anniversary and to wish it continued success and good fortune in the future.●

ST. PATRICK SCHOOL HONORED

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. LEE. Mr. Speaker, I am pleased to call your attention to the 100th anniversary of an excellent educational institution located in Seneca Falls, N.Y.—a community I have the privilege to represent in this great legislative body.

St. Patrick School has provided over seven generations of students with a complete well-balanced education. Since St. Patrick School was founded by the Sisters of St. Joseph in September 1879, it has endeavored to educate thousands of young people from preschool through eighth-grade levels.

St. Patrick School has been dedicated to instilling in its students a strong sense of service to neighbor and community, as well as providing a sound educational program in the fundamental academic disciplines.

Seneca Falls, N.Y., is the industrial hub of the Finger Lakes region. As this community grew it became the home for hundreds of immigrant families from Ireland, Italy, and Eastern Europe who came to this country seeking a better way of life. From the classrooms of St. Patrick's many of the sons and daughters of these families were provided a first glimpse of their new Nation's past and present.

Students at St. Patrick's have evidenced academic excellence by consistently achieving test results above national norms. However, throughout its history St. Patrick School has extended its students' learning experience beyond the classroom into the community. Young people's enthusiasm and energy have been channeled into organized activities to assist the elderly, the sick, the disabled, and the poor.

For 100 years St. Patrick School has been proud to share its talents, hopes, and dreams with the people of Seneca Falls. As St. Patrick's looks to its next century I am sure its future will be as dedicated to the spirit of service as was its past.●

CONGRESS EVADES ISSUE

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. GINGRICH. Mr. Speaker, this morning an editorial from the Atlanta Daily World, a black newspaper, was brought to my attention. The editorial concerned the issue of Congressman CHARLES DIGGS. This is the second editorial dealing with Mr. DIGGS' case. The editorial accused Congress of evading the issue of Mr. DIGGS by referring the case to Committee on Standards of Official Conduct.

I am sure my colleagues will find the editorial interesting and thought-provoking. The text of the article is inserted below:

CONGRESS EVADES ISSUE

Early last year results of polls showing how the citizens rate the confidence they have in the Congress and the way it is performing its job and a majority of those contacted gave a negative rating.

The action in the House this past week in the matter of whether veteran Congressman Charles Diggs of Detroit should continue to have the right to vote on issues brought before that body will not improve the rating.

Last October Cong. Diggs was convicted by a Washington jury on 29 felony counts for mail fraud, padding payrolls and receiving kickbacks. However, these convictions decided by a jury of 10 Negro women, one Negro man and one White man are being appealed as such convictions are usually done.

Cong. Peter Kostmayer, D-Pa. and Newt Gingrich, R-Ga., had attempted to block Diggs' voting but a vote along party lines prevailed to permit continuation of voting by Diggs but the body also referred the case to the Ethics Committee.

The chairman of this committee, Charles Bennett, D-Fla., says he expects the inquiry can be made within 60 days.

Cong. Parren Mitchell, D-Md., and former head of the Black Caucus arguing against ousting Diggs said to oust him would leave his constitutents without representation. This is the obvious. Then he made the following strange remarks: "The will of the people—that's what the House is all about. If they want to elect Hitler or a Klansman, it's their right." Apparently Mitchell was referring to Diggs' re-election last November.

This was strange reasoning from a black civil rights leader who has depended on the law and moral power to overcome many racial barriers.

However, Cong. M. Caldwell Butler, R-Va., opposed the move by the House Democrat Leadership, to let Diggs continue to serve "demeans the Congress of the United States and members when we continue to tolerate that."

We agree with this latter statement and add that it is not probable that any appeal will set aside all or any of these convictions.

Furthermore, to permit this case to drag on will surely give wider publicity to this criminal action by the senior members of our racial group in Congress. And the position taken by members of the Black Caucus will reduce their influence with votes as a whole over the nation.

Congress has the power to decide the fitness of its members. We do not think any person who has been convicted is fit to sit in the congress.

We are thinking about the effect Congress' action will have on young people who should be given the example of opposition to convicts voting on laws for the nation, especially when there are mitigating circumstances in the case.

Standing for high moral principle got rid of slavery in this country and it helped remove racial barriers not covered by law. So we think it wise to continue to support moral principle.

We commend the members in Congress who are are opposing Diggs remaining in that body. It will be in his own best interest to resign.●

THE SALVATION ARMY SUPERIOR CORPS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. STOKES. Mr. Speaker, it gives me great pleasure to rise on this occasion to salute one of our finest religious and charitable organizations in Cleveland, Ohio, the Salvation Army Superior Corps.

Mr. Speaker, this great organization has endeared itself to people of every faith, because it serves humanity regardless of class, color, or creed.

It is significant to mention that the first attempt to establish the work of the Salvation Army in the United States was in Cleveland Ohio. James Jeremy, a disciple of the venerable founder, "General" William Booth, came to Cleveland in 1871. While walking among the poor of Cleveland, his heart was moved to bring to them some services William Booth, the founder was providing in London, England.

Jeremy happened upon a small black congregation and a young Methodist minister named Jack Plackier. This friendship flourished until 1872, when they together founded a branch of the Christian mission at (then) 239 Erie Street in Cleveland, Ohio. Although this first mission ran for only 4 years, it is plausible that the present Salvation Army spirit and program in Cleveland owes much to that first small black church who saw the Salvation Army spirit and caught its enthusiasm.

The Superior Corps presently located at 9000 Superior Avenue, Cleveland, Ohio, has provided service as a community center and a religious institution for the past 90 years.

In 1971, the present new edifice was dedicated. Its programs are all inclusive providing recreational facilities for our youth, facilities for our senior citizens, and spiritual consolation.

The Superior Corps is commanded by one of our distinguished ordained female ministers. Capt. Dorothy Lykes who is not only carrying on its rich history and spirit of the Salvation Army, but in addition, serves as a member of the Council of Negro Women Cleveland Section, Church Women United, Shoreway District PTA, and the Glenville Community Youth and Planning Commission. Born and educated in Canada, Commander Lykes joined the Salvation Army as a volunteer 22 years ago. In 1975, she was elevated to the rank of captain. In 1977, she became the commander of one of Cleveland's oldest and finest charitable institutions, the Superior Corps which is a branch of a worldwide organization serving needy and forgotten people in 81 countries throughout the world.

This week, Mr. Speaker, the Superior Corps will commemorate its 90 years of unbroken service with a week of fellowship and reflections. Certainly this will be a proud moment for its founding officers and all those who have benefited from this organization's superlative service.

Mr. Speaker, at this time, I would like to call on my colleagues in the House to join me in applauding the Superior Corps. May they continue to serve in the fine tradition of the Salvation Army legend and may they continue to provide help and hope to thousands of families and youth who are yet searching for life, liberty, and a pursuit of happiness in our great democracy.●

TRIBUTE TO JAMES H. ARRINGTON

HON. TOM STEED

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. STEED. Mr. Speaker, I regret deeply to report the death of a distinguished longtime public servant and political servant and political figure in Oklahoma, James H. Arrington.

For 14 years Jim Arrington served as a member of the Oklahoma House of Representatives from Payne County. During that period he was State Democratic chairman for 4 years.

Later, he was named Democratic national committeeman, a position he held for 12 years longer than anyone else in Oklahoma history.

Jim Arrington was a native of Arkansas who came to Oklahoma to attend Oklahoma A. & M. College at Stillwater, where he was graduated in 1931, for 30 years he lived at Stillwater and was closely identified with the college, sponsoring the legislation that changed its name to Oklahoma State University. A versatile businessman, he was active in oil, ranching, and real estate.

He was always proud of the fact that while he was State chairman Oklahoma was carried by President Truman by a greater percentage margin than any other State in 1948.

Jim Arrington was my constituent from the redistricting in which Payne County was added to the area I represented in 1952 until he moved to Oklahoma City almost 10 years later. But our association continued beyond that. He was a friend whom I will sorely miss.

Mrs. Steed and I extend our deepest sympathy to Mrs. Arrington and the entire family.●

THE NEED FOR FULL FUNDING OF IMPACT AID

HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. D'AMOURS. Mr. Speaker, since its inception the Federal impact aid program, which provides essential tax relief to communities burdened by tax free Federal installations, has been under constant attack by one administration after another as an unjustified raid on the Federal Treasury.

Mr. Speaker, nothing could be further from the truth. In fact it is the Federal Government which is raiding the treasuries of States and localities by taking land off the tax rolls while at the same time adding students to local school systems.

The net effect is that the cost of the local school system goes up while the tax base goes down. Without the impact aid program the local citizens are the ones who end up holding the bag.

Under the impact aid program the Federal Government is supposed to reimburse local school districts for 100 percent of the cost of educating students whose parents both live and work on Federal property—the so-called "A" students—and 50 percent of the cost of educating students whose parents live or work—but not both—on Federal property—the so-called "B" students. The reimbursement rate for "B" students is only half the rate for "A" students because they represent less of a fiscal drag on communities; "B" students usually only deprive communities of the tax revenues on the workplace of the Federal employee.

As a result of heavy administration pressure, however, the impact aid program has rarely been fully funded. Each year the Federal Government proposes to shirk a little more of its responsibility to local governments.

This year, for example, the administration has proposed eliminating funding for all "B" students, a cut that would have devastating effects on thousands of school districts across the Nation.

In my congressional district the elimination of "B" funding will completely wipe out the revenues received by 82 percent of the school districts that currently receive impact aid funds. The city of Portsmouth, a community of about 25,000 people, will lose about $234,500 if this cut is approved by the Congress. This would result in a $40 tax increase for an average family of four.

My colleagues should be aware that even if the administration's new proposal to eliminate funding for all "B" students is rejected their school districts still will not be receiving anything near full funding for most of their impact aid students.

Let me illustrate this shortfall using the city of Portsmouth as an example. The city of Portsmouth has 1,100 "A" students whose parents live and work on Pease Air Force Base. It costs the city of Portsmouth $1,595 to educate each student or approximately $1,750,000 for all 1,100 students. Due to the lack of full funding of the impact aid program, HEW will only pay $1,036 a student or about $1,140,000. The net result is that the taxpayers of Portsmouth have to make up the difference of $599 a student for a total of about $615,000. This costs the average family of four about $100 a year in increased taxes.

These figures may look like peanuts when compared against the $500 billion dollar plus budget of the Federal Government but let me tell you what they have meant for the city of Portsmouth and the students in Portsmouth's schools: All elementary athletics have been eliminated. The remedial summer school has been eliminated. All group activities have been eliminated. One-third of normal building repairs have been deferred. A special program for children from low-income families has been eliminated. A speech therapist has been eliminated. A reading and learning disability specialist has been eliminated. A music teacher has been eliminated. An art teacher has been elminated. A library/resource aide has been eliminated. Many other programs have been cut back or have not received their normal increases to cover inflation.

Lack of full funding for impact aid has one other serious ramification. It destroys the otherwise good working relationship between the Federal Government and the local community in which the Federal installation is located. In a recent letter a Portsmouth school official summed up the city's feelings far better than I could:

> If I sound bitter, it is only because I am reflecting the feelings of our Portsmouth Board of Education and those administrators who are forced to sit down yearly and suffer the agony that results from slowly destroying an outstanding school system simply because the Federal Government is unwilling to pay its bills.

Mr. Speaker, I believe that it is time for the Federal Government to rebuild its relationship with communities which contain tax free Federal installations and which provide for the education of children of Federal employees. We can achieve this goal and restore faith in the Federal Government by fully funding the impact aid program.●

POLITICAL ECONOMY

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. PAUL. Mr. Speaker, Dr. Paul Craig Roberts distinguished himself by brilliant economic and policy analysis while on the staff of U.S. Senator ORRIN HATCH. Now that he has joined the editorial page of the Wall Street Journal, he continues this tradition with a iconoclastic look at the stake some politicians and most bureaucrats have in economic instability.

Because of its relevance to the issues we will be discussing and voting on this year, and to the troubles our economy faces because of Government-generated inflation, unemployment, and regulation—not to speak of hypertaxation to support this leviathan—I would like to call this article to my colleagues attention by inserting it in the RECORD.

INSTABILITY: CUI BONO?

(By Paul Craig Roberts)

Somehow economic instability persists in the face of strong public support for its eradication. This is remarkable when you consider all those public institutions that have been created to conduct economic policy in the public interest. The Fed, the President's Council of Economic Advisers, the Congressional Budget Office, and House and Senate committees on the budget are all charged with protecting the public from unemployment and eroding purchasing power. Yet all this commitment has not only failed to prevent inflation and unemployment, it has managed to achieve both simultaneously. Such outstanding public failure needs explanation. It is as if NASA had failed to put a man on the moon.

Economists are not much help in understanding the persistence of economic instability. They attribute instability to policymakers having the wrong policy target, such as an interest rate target instead of a money supply target or a full employment target without an incomes policy. They are too busy arguing among themselves about the appropriate policy target to think about whose interests are served by public policy. Instead, they take the failure of public policy for granted, and that may be where they go wrong. What appears to the economist as a failure may appear to the politician as a success.

It is, after all, unemployment that provides the rationale for deficit spending—Congress's "something for nothing" method of giving handouts. Politicians could not build all their spending constituencies if they had to legislate higher taxes to pay the bill. And without the need to fight unemployment, more people would have perceived politicians using public monies to build power bases. If economists thought about the number of political spending programs that have a stake in unemployment, they would understand that everybody doesn't see unemployment as a failure.

For the government, economic instability is like a two-headed coin. If it lands with its inflation side up, Washington wins as well. And they know it. The congressional Joint Committee on Taxation has made it clear that inflation increases government's income faster than its expenses. If prices rise by 10%, the government's revenues go up by 16%, so even if all government costs rise with inflation there is still a net gain with which to fund new spending.

Inflation brings the government power as well as money. Wage, price, credit and exchange controls all originate in inflation. These controls give politicians and bureaucrats tremendous power to affect decisions and elicit cooperation. It is crisis, not stability, that puts in place whole new bureaucracies such as the Council on Wage and Price Stability and, some believe, the Department of Energy.

The DOE owes its origin to crisis, or at least to the public's belief in one. The box may be empty, but the government wrapped it well enough to sell it. Once you get an energy department you are in for it, because you have a policymaking body with no interest whatsoever in abundant, reasonably priced energy. DOE simply can't be as disturbed as the rest of us about turmoil in Iran, which gives high officials reason to talk of closing gasoline stations on weekends, seeing lines back at the pump and even possibly pulling those gasoline ration coupons out of DOE's drawer. Each of these actions expands DOE's power over American life. And while the coupons have been printed, the strategic oil reserve program is 18 months behind schedule. This result is entirely consistent with an incentive structure in which the prosperity of DOE is directly proportional to the shortage of energy.

If we come right down to it, there is a great deal of government that is inconsistent with economic stability. Put simply, economic stability does not increase the demand for bureaucrats and their services or for pork-barrel legislation to deal with the consequences of instability. It doesn't increase the demand for economists either.

This is not to say that government and the economics profession are busily pursuing economic instability. But it is to point out that the private interests of policymakers don't coincide with the public's interest in economic stability. There is a conflict of interest here that in a private context would raise eyebrows. No matter how public-spirited and good-intentioned, how can so many policymakers with such a large stake in instability achieve the opposite?

Both conservatives and liberals have strong reactions when someone talks about the self-interest of government. The former believe it is unpatriotic to talk about one's government in such a way, and the latter resent the implication that the road to progress is not paved with government programs. They dismiss the iconoclast as conspiratorial minded.

It is odd to my mind that conspiracies are widely thought to be unique to the private sector—where, according to some public officials, big banks drive down the value of the dollar and big oil companies drive up the price of energy. But I am not suggesting a public sector conspiracy; I am merely pointing out that the rewards from economic stability do not accrue to the policymakers.

The incentive and reward structure confronting public policymakers is a challenge that democracy has so far ignored. It goes way beyond putting a public official's private wealth in a blind trust. That doesn't get at his use of public policy to make himself politically successful.

Perhaps the conduct of public policy could be contracted out to private firms, with large monetary rewards for successful performance and no rewards for failure. If economic stability carried a payoff to policymakers, whether public or private, I'm sure they would achieve it.●

PETER SHAPIRO

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. RODINO. Mr. Speaker, I want to call my colleagues' attention to one of the brightest, most able young men I have known to enter politics in many years. Peter Shapiro, the 26-year-old county executive from Essex County, N.J., came to Washington this week and was quick to impress many veterans of Government service. I believe we can expect great things from this young man.

Mr. Speaker, I was very pleased to note that the Washington Post today included a story on Mr. Shapiro and his visit. I include the story in the RECORD:

LOOKING FORWARD, LOOKING BACK—THE WUNDERKIND OF ESSEX COUNTY, N.J.

(By Carla Hall)

At 9 Monday morning, Peter Shapiro, the new county executive of Essex County, N.J., was on his second breakfast meeting here—with one more still to go.

Five years ago, he would not have been awake at that hour. He was a senior at Harvard, waking up in time to eat lunch and maybe catch an afternoon class. He'd spend the rest of the day and night working at the Harvard Crimson where he was managing editor, then unwind in the wee hours by playing pinball.

Now he makes $50,000 a year in what some observers say is the second most powerful political job in New Jersey, after the governor.

Shapiro is one of a handful of under-30 Wunderkinder who have won substantial political offices in the '70s. Rep. James Michael Shannon (D-Mass.), who won now-Sen. Paul Tsongas' seat, is the youngest member of the House at the age of 26. Rep. Tom Downey (D-N.Y.) made it to the House four years ago at the age of 25.

A liberal Democrat, Shapiro broke the Democratic Party's primary opposition to win a newly created office last November as the first county executive of the largest county in New Jersey—roughly a million people, including the poor of Newark and the rich of Short Hills.

He immediately inherited control of 10,000 patronage jobs, got a phone call from President Carter offering help, and became something of a celebrity. Splashes of stories in the New York and New Jersey papers chronicled his rapid rise to the top and his charm as a young bachelor.

All this at the age of 26.

"It's pretty wild," he said, slouching in a chair at the Madison Coffee Shop, feet stretched out. "In the state legislature you can concentrate on a few issues. As county executive you have to have a position on virtually everything."

Shapiro does. After only four months in office, he's gotten a $209-million budget passed (a few million short of what he wanted), established a good relationship with the mayor of Newark (a city Shapiro would particularly like to focus on) and begun to forge good supportive relationships among the nine freeholders who are the Essex equivalent of a county council—even those who did not support him during the election. He is insistent about developing job skills for the high numbers of jobless in the county, and advocates more production of solar energy.

Shapiro has a reputation for jumping in fast. When elected to the state assembly at the age of 23, he grabbed a position on the prestigious appropriations committee which reviews the state budgets. When the county Domecratic Party boss told the young man how to use $15,000 allotted to him for staff, Shapiro ignored him.

Instead of hiring the people he was supposed to, "I took out a classified ad for one of the positions on the staff," Shapiro said. "We interviewed about 50 people and hired the best. That's what I got elected to do—to take on the machine."

In his first race for state assembly, a boyish and handsome Shapiro won largely by personally knocking on thousands of doors—although at the end of the campaign, he got a little help from his college friend Bobby Kennedy, son of the late Robert F. Kennedy.

Over a breakfast of club soda Monday, Shapiro, who was here this week for the annual National Association of Counties (NACo) conference, yawned from time to time as he talked easily about himself and his office—one minute quoting budget figures, and the next poking fun.

"We've hired a ton of women," he said about the county government. "We're trying to change the look of the place." He smiled.

Shapiro became interested in politics in the summer of 1973, between his junior and senior years in college. He worked for The Wall Street Journal and became dismayed with the people in Congress. After college he worked for one of New Jersey Gov. Brendan Byrne's cabinet members. "I decided that this government could use some good people," Shapiro said, and then smiled at the pretentiousness of his remark.

As a measure of his new-found responsibility, Shapiro was booked solid into meetings with Carter staff aides these past three days, spending more time on Capitol Hill than at the NACo conferences. He met with Ann Wexler, Jack Watson, Tim Kraft—all wanting to know how they could help.

But even his intermittent presence at the conference was noted. Another young county executive—who, when first elected at the age of 30, claimed to be the youngest in the county—ran up to Shapiro and exclaimed, "You stole my title!"

In addition to Hill people, Shapiro hobnobbed with like-minded progressives from the local Conference on Alternative State and Local Public Policies. They threw him a reception—and their encouragement.

Now that Shapiro makes a county executive's salary, he plans to buy a house and move out of his small apartment in Irvington, which has a large low-income population.

"Why did I live there?" he said. "I was lower income!"●

CARTER AND THE TOOTH FAIRIES

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. LAGOMARSINO. Mr. Speaker, the disheveled state of American foreign policy is becoming increasingly obvious to observers in this country as well as abroad. The effect of this disorganization and lack of direction from the highest levels of our policymaking organization is discussed in the article reprinted below from the Los Angeles Times January 25, 1979 edition. The article is written by Stef Halper and Roger Fontaine.

CARTER AND THE TOOTH FAIRIES

(By Stef Halper and Roger Fontaine)

Americans listened closely Tuesday as President Carter gave his midterm State of the Union address. For those who believe in tooth fairies, Carter's speech was, perhaps, wonderfully reassuring.

Carter's failure to conclude a Mideast settlement, to initial a SALT II treaty and to moderate the recent price increases of the Organization of Petroleum Exporting Countries were brushed aside. Further, he didn't mention the biggest foreign-policy failure in a decade—the collapse of Iran as we have known it, and the probable bobbling of America's strategic and economic interests in that turbulent region.

Nothing better reveals the continuing incoherence of Carter's thinking than the Administration's tragic and now-disastrous policy toward Iran.

Shah Mohammed Reza Pahlavi's government, though guilty of human-rights abuses, has been the linchpin of American policy in the Persian Gulf and, indeed, throughout the Mideast.

For more than three decades, the United States invested enormous military, diplomatic, economic and intelligence assets in protecting the so-called Northern Tier—that vast arc of countries stretching from the Dardanelles to the gates of India.

To protect that region, American Presidents took decisive action. In 1946, Harry Truman forced the Soviets out of a virtual occupation of Iran's northwestern province of Azerbaijan, and he did so as part of a coherent strategic policy that came to be known as "containment."

That policy viewed the Soviet Union realistically as an adversary with a combative ideology antagonistic to the West and with the power to probe the vulnerable nations on its borders. Containment called for the United States to assist pro-Western nations willing to resist Soviet aggression or internal subversion with economic, diplomatic and, if necessary, military aid.

In the case of Iran, the results were dramatic. The United States, after returning the shah to power with the help of the CIA in 1953, went on to sell more than $100 billion in goods and services over the next two decades—putting the trade-balance figures in the black for many of those years. Iran supplied us with 7% of our oil imports—a figure that was growing until the recent disturbances. Moreover, one barrel out of five of the oil imported to the United States, Western Europe and Japan came from Iran.

Today, with oil production curtailed—even if Saudi Arabia and other friendly producing states make up the loss—the safety margin for the West is gone. A fire, sabotage or production strike, or even a severely cold winter, could lead to chaos.

In the past decade, parallel U.S.-Iranian strategic interests took concrete form in the shah's commitment to protect the Persian Gulf and Red Sea routes that carry over half the oil used by Western nations.

Moreover, the shah's generous supply of oil for Israel and his protection of the small and highly vulnerable oil-producing mini-states along the gulf were further reflections of the mutual interests of the two powers.

A final element in the tragedy of Iran is the interruption and probable loss of vital intelligence facilities—facilities made even more critical after their loss in Turkey. These monitors provide crucial information on military developments in Iraq, Afghanistan and the Soviet Union—and without them some State Department and CIA analysts believe that any strategic arms limitation treaty would become virtually unverifiable.

Lacking any cohesive principle around which a strong foreign policy might be organized, Carter has displayed a remarkable inability to define the nature and extent of America's foreign geopolitical interests. For some countries, like the People's Republic of China, the watchword is "simple reality"—the Carter version of *realpolitik*. For others, like Argentina and (sometimes) Iran, it's "human rights"—and never the twain shall meet.

Iran's demise illuminates the Carter Administration's policy paralysis. All at once, 18 months of human-rights chatter stopped. Then Carter, afraid to offend his liberal domestic coalition, said nothing—followed by his disastrous Dec. 7 prediction that the shah might not survive, followed by embarrassed expressions of support, followed by the dramatic dispatch of a carrier task force, followed by a command to halt the task force so that it was left cutting figure 8s in the Indian Ocean.

The plain fact is that beyond Carter's human-rights litmus test there has been very little in the way of hard-nosed calculations of strategy. When there has been, there has not been the courage to act decisively.

The shah's departure ushers in an era of uncertainty. It diminishes the moderate influence on Saudi policy, indirectly making it more difficult for Egypt and Israel to realize their long-sought peace. But, perhaps most damaging, it illustrates to the world a drastic lack of American resolve, an inability on the part of the United States to sense and act on its strategic interests, and it further devalues the currency of an American commitment to a friend and ally.●

FEDERALIZATION OF DAY CARE

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. PAUL. Mr. Speaker, there are bureaucrats in this city who believe they—and not parents—should be in charge of raising our children.

One giant step in this direction would be the federalization of day care. Not only would this further the essentially totalitarian idea of Government child-raising, but it would add more billions to our already morbidly obese Federal budget.

It is heartening that one of the best editorials on this subject appeared in the liberal Washington Star. I would like to bring it to my colleagues' attention by inserting it in the Record:

Day Care: Why Federalize?

Day care, that hardy perennial of the feminist agenda, is up for national consideration again. The cause, defeated by the Nixon veto of the Child and Family Services Act in 1972, showed its continuing vitality when Jimmy Carter endorsed it during his presidential campaign. And now, here it is before Congress in the form of identical new bills, each bearing the name of a California Democrat: Alan Cranston in the Senate, Edward R. Roybal in the House.

What the bills call for is a $2.3 billion program of federal aid to the states for funding child care facilities. There could be a certain amount of grass roots differentiation among the facilities, but, as in any distribution of federal largesse, there would be the Washington standards to meet.

That reads "strings" to a lot of people who have noticed what has happened with federal aid to education, to name only one manifestation of the federal presence in local affairs. Many fear it as a regimenting influence in American life and a further weakening of family influence.

The sequence forseen and feared is familiar enough. First, there are licensing standards scarcely anybody could object to: a minimum amount of space per child, for example. No firetraps. Then, pretty soon, the health and safety regulations have pushed a lot of people out of informal versions of the day care business and there are new guidelines to meet about qualifications for caretakers.

About this time, it becomes illegal to leave the baby with Grandma while Mother goes to work unless Grandma has a degree in child psychology and can prove the woodwork in her house is covered with lead-free paint. About this time, too, early childhood education outside the home becomes mandatory for two-year-olds.

So run the premonitions of a loose alliance against federalized day care. It includes, along with the so-called Pro-Family coalition of anti-abortion and anti-ERA people, many kinds of skeptics about bureaucracy, big government and the professional education establishment.

On the other side, there's an almost equally mixed line-up. The women's movement is all for it—as long ago as when Bella Abzug was in Congress, she was calling for a $10-billion-a-year program of round-the-clock day care facilities. Albert Shanker, of the American Federation of Teachers, has been similarly outspoken in favor of it; many teachers displaced by a dwindling school-age population have been finding jobs in the day care field. And there also the conservative advocates of "workfare" who see federalized day care as a way of getting poor mothers off Aid to Families with Dependent Children and onto payrolls.

The new money-consciousness has given day care surprising new enemies, however, Arabella Martinez, HEW Assistant Secretary for Human Development Services, has testified at Senator Cranston's hearings that there is no need for further federal underwriting of this particular service.

Besides reluctance to add further billions to already threatened budgets, there are new arguments to support this position. One is that working parents seem to prefer informal, generally familial child-care arrangements to the kind of facilities federalized day care promises.

For example, the Seattle-Denver income-maintenance study of the way money affects work motivation and family decision-making showed child-care subsidies going into such arrangements no matter what alternatives were available. Only three per cent of mothers who did not work gave the absence of day care as a reason.

All the evidence suggests, further, that the cost of federalized day care would be astronomical. As long ago as 1971, when Edward Zigler's Office of Child Development at HEW studied the situation, it was accepted that "desirable" institutionalized day care would cost about the same as tuition at an Ivy League university—the figure then was between $3,000 and $5,000 a year per child.

The fact that more and more women are working outside the home makes it axiomatic that some kind of day care is and will be part of American life. But there are alternatives to the federalizing provided by the Cranston and Roybal bills. Tax credits and allowances, to name only two, would leave families to make the decisions, which is to say it would leave scope for more cultural diversity than federal underwriting. That, plus probable costs of federalizing, plus the evidence of parent preference, plus the claims of freedom from bureaucratic benevolence make a strong case against further federal intervention.●

INTRODUCTION OF LEGISLATION AFFECTING THE U.S. DISTRICT COURT OF PUERTO RICO, MARCH 14, 1979

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. EDWARDS of California. Mr. Speaker, today I have introduced, on behalf of myself, six former and present members of the Judiciary Subcommittee on Civil and Constitutional Rights and the Resident Commissioner of Puerto Rico, legislation which would permit the use of Spanish in certain pleadings and proceedings in the U.S. District Court for the District of Puerto Rico. It is significant to note that this legislation has bipartisan support.

The Subcommittee on Civil and Constitutional Rights conducted extensive hearings and meetings last session, both in Washington, D.C., and in Puerto Rico, which addressed the problems existing in the District Court of Puerto Rico. We found that despite the fact that U.S. census figures for 1970 indicate that over 50 percent of the population in Puerto Rico does not speak English, all proceedings in that court are required to be conducted in English. The extensive use of interpreters, that cause lengthy delays in such proceedings, has been the practice in the District Court of Puerto Rico since 1917 when the English language requirement was instituted. Similarly, only persons who are able to speak and understand English may serve on petit or grand juries in the District Court of Puerto Rico. The obvious result is that over half the population is excluded from potential jury service; such juries are often more "white collar" than a true cross section of the general population of the island. Subcommittee members had first-hand exposure to this discrepancy when they viewed both a Federal district court jury panel and a State court jury panel during their visit to Puerto Rico last session. State court proceedings are conducted entirely in Spanish, and thus over 50 percent of the population of the island is not systematically excluded from eligibility for jury service. Even visually, the difference in the makeup of the jury panel was striking.

By permitting the use of Spanish in certain pleadings and proceedings in the Federal District Court of Puerto Rico, the legislation introduced today takes into account the fact that all the district court judges in that district, as well as the attorneys in the Federal public defender and the U.S. Attorney's offices in Puerto Rico are bilingual, even though their primary language may be Spanish. The bill provides that pleadings and proceedings shall be in the English language, unless—

First, the defendent in a criminal case requests such pleadings and proceedings be conducted in the Spanish language;

Second, all parties in a civil case agree that such pleadings and proceedings be conducted in the Spanish language, or

Third, upon application of a party or upon the court's own motion, the court, in the interest of justice, orders that the further pleadings or proceedings, or any part thereof, shall be conducted in the Spanish language.

By permitting some flexibility in the District Court of Puerto Rico, we hope to increase the quality of justice which is dispensed there. This bill permits eligibility for service on a petit or grand jury based on competency in either the Spanish or English language and thus makes more meaningful in that district court the concept of a "jury of one's peers." A potential juror may be excused, however, if not competent in the language in which the proceeding or trial is to be conducted.

It is important to note, at this point, that these proposed changes would apply only to that particular Federal District Court because of the unique circumstances which exist in Puerto Rico. Similar versions of this legislation have been passed by the Senate in previous years. I urge my colleagues to join me, and the other cosponsors, in supporting this legislation.●

CUYAHOGA COUNTY BAR ASSOCIATION'S 33D ANNUAL PUBLIC SERVANTS AWARD

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

○ Mr. STOKES. Mr. Speaker, I would like to take this opportunity to bring to your attention and to the attention of my colleagues in the House, five individuals in Cleveland, Ohio, who have given freely of their time and talents for the betterment of our city.

These dedicated and committed individuals were selected by the Cuyahoga County Bar Association to receive recognition at the association's 33d Annual Public Servants Merit Award Luncheon which was held February 27, 1979, at the Cleveland Plaza Hotel.

The merit award winners honored this year are Mary Ann Bodnar, secretary, auto title department, county clerk's office; Theresa L. Carpinelli, deputy assignment commissioner, domestic relations; Vincent Maniaci, supervisor, criminal branch, municipal clerk's office; Joseph P. Moravick, deputy-bailiff, probate court; Andrew P. Pierce, supervisor, clerk's office, juvenile court.

Mr. Speaker, I ask my colleagues to join me in commending and congratulating these outstanding public servants for their dedicated service to the community. They are truly deserving of this distinguished honor.

The following is a press statement released by the Cuyahoga Bar Association on their 33d Annual Public Servants Merit Award Luncheon:

THE CUYAHOGA COUNTY BAR ASSOCIATION,
Cleveland, Ohio, February 1, 1979.

In its first Fifty years, The Cuyahoga County Bar Association has discovered that its most successful annual event is its Public Servant's Merit Awards luncheon, which this year will be held Tuesday, February 27, 1979, at 12:00 Noon at the Cleveland Plaza Hotel, Grand Ballroom, Euclid Avenue and East 12th Street, President, Leo M. DeGrandis announced today.

The five new names to be added to the Bar Foundation bronze plaque, which is located in the foyer of the Court House are: Mary Ann Bodnar, Secretary, Auto Title Department, County Clerk's Office: Theresa L. Carpinelli, Deputy Assignment Commissioner, Domestic Relations Division, Common Pleas Court: Vincent Maniaci, Supervisor, Criminal Branch, Municipal Clerk's Office: Joseph P. Moravick, Bailiff-Deputy, Probate Court and Andrew P. Pierce, Supervisor, Clerk's Office, Juvenile Court.

A large committee of Officers, Trustees and Auxiliary headed by Attorney, Franklin A. Polk, Honorable Harry Auslander, Secretary, Harold Sieman, Coordinator, Leo Chimo, Fred Mandel, Ranelle Gamble, Janis J. Nash, Bernard J. Nosan, Andrew J. Lukcso, Allen Kacenjar, Eli T. Naffah and Lucien B. Karlovec, Jr., are in charge of arrangements. An attendance of 1,000 persons is expected.

Professor Jack P. Nantell, an attorney who teaches at Dyke College will eulogize the record of service of each Honoree. Ohio Attorney General, William J. Brown and presidents of local, state and national legal groups are among those scheduled to offer commendations for the extraordinary devotion to duty of this year's selectees. Their century and a half of employment as Court Attaches will be recited in the Congressional Record and extoiled in Resolutions from the Ohio General Assembly.

The Bar Association will present an embossed certificate of appreciation along with an engraved Silver Bowl to each Award winner. Tickets are $5.50 and can be obtained by calling The Bar Office at 621–5112.

Mary Ann Bodnar has been with the County Clerk's office since February of 1950. Her first assignment was as a typist in the Auto Title Mortgage Department, where she was named its Head in 1958. Richard Goldbach, Office Supervisor of the Auto Title Bureau, who was himself honored as an outstanding Public Servant by the Bar in 1974, describes Miss Bodnar, who became his personal secretary in 1976, as a conscientious and dependable employee who seldom missed a day of work in 29 years.

Mrs. Theresa L. Carpinelli, wife of Carl, and mother of Michael Anthony age 16 and Carla Louise age 10, is the Deputy Assignment Commissioner for the Domestic Relations Division of the Common Pleas Court. Theresa was graduated from Charles F. Brush High School in 1955 and after two years of bookkeeping for TRW, joined the Common Pleas Court on February 3, 1957 as an employee of Divorce Assignment Commissioner, Willia Franz. On May 20, 1961, she was married to Carl Carpinelli, who currently serves as a Bailiff to Probate Judge Joseph Nahra. In her 22 years in the assignment room, Mrs. Carpinelli hopes she has given the public a better understanding of the policies of her branch of the court by rendering patient and courteous service to all who sought her assistance.

Vincent Maniaci 47, began his public career in 1955 after attending Miami and John Carroll University's, with the County Clerk as a Deputy, issuing auto titles. Within a year he transferred to the Cleveland Municipal Court Clerk's Office and has successively served for 23 years under Muny Clerk Johnny Kilbane, Helen Lyons, Dennis Kucinich and his current boss, Jerome Krakowski, who regards him as one of the most competent and knowledgeable deputies to have ever served in the Criminal Branch of Municipal Court. Vince had a two year stint as a Civil Branch cashier before becoming a bookkeeper, cashier and office supervisor of the Criminal Division. Maniaci, his wife Comella, of 23 years, and children, Sharon, age 18, Dave, 18, and John age 15 are active members of the Mayfield Heights First Assembly of God Church. Vince enjoys playing softball, and golf. He also has coached and managed various little league teams in the Euclid League. He enlisted for 23 months of army service in Korea during 1952–53 as a sargeant in Medical Co. 23rd Infantry Regiment, 2nd Division.

Joseph P. Moravick 67, worked as an installer and foreman at the Art Window Shade Co. from 1930 to 1957 before joining the Probate Court as a Deputy Clerk. In 1965 he was appointed a Bailiff of the Court. He is held in high regard by his superiors as a conscientious employee and is beloved by his fellow workers as a most willing "ombudsman" Probate Judge Francis J. Talty commented when submitting his name as a nominee for recognition.

Joe married Ann Bednarik on July 4, 1935 and they have a son Robert, 37 and five grandchildren. Moravick is a member of Nativity Parish, where he has served as a Catholic Charities Solicitor and as a President of its Holy Name Society.

Andrew P. Pierce 57, is a graduate of East Tech High School class of 1940 and the Stenotype Institute of Cleveland, 1948. From 1940–43 he was a machine operator at Warner & Swasey Co. From 1943–54 he was a member of the U.S. Army Air Force Ordinance Unit as an Aircraft weapons mechanic. After his Army duties, he returned to Warner & Swasey for a year before enrolling in a Court Reporter School. After 5 years of training, Pierce joined the Juvenile Court as a Court Clerk.

He has served as Clerk for Judge's Harry L. Eastman, Albert A. Woldman, John F. Corrigan and visiting Judges assigned to the Court. Since June, 1974 he has been supervisor in the Clerk's Office. His special skills as a stenotype reporter have been most valuable to the Court and to the attorneys practising there, his nominators advised.

He and his wife Anne, to whom he was married on July 26, 1946, have a son Andrew John Pierce, age 22, who is a senior at the University of Tampa. They live in Bedford. When questioned about his hobbies, Andy admitted to none, but his court associates report that he is an avid golfer.●

TAX CONTROL ACT OF 1979

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. CONABLE. Mr. Speaker, in an effort to stem inflation-induced increases in Federal taxes I have introduced the Tax Control Act of 1979 (H.R. 2804). Joining me as cosponsors of this measure are Representatives SAM GIBBONS of Florida, JOHN DUNCAN of Tennessee, BILL ARCHER of Texas, BILL FRENZEL of Minnesota, L. A. (SKIP) BAFALIS of Florida, RICHARD SCHULZE of Pennsylvania, BILL GRADISON of Ohio, JOHN ROUSSELOT of California, and W. HENSON MOORE of Louisiana.

The rationale behind this bill has been forcefully and convincingly delineated by Paul H. O'Neill, a former Deputy Director of the Office of Management and Budget, in his article, "How Government Makes Its Living," which appeared in the most recent issue of Commonsense magazine. O'Neill analyzes the factors that have led to the present insupportably high level of Government spending. He concludes, correctly, that none of the previously tried methods to bring this spending under control have worked, and he suggests that what is needed is "an adequate counterforce to all of the pressures that push for more Federal involvement." The lever he proposes, a system to curb "taxation by stealth," is embodied in the Tax Control Act of 1979.

The act proposes two distinct steps. First, the President is required to include in his annual budget submission an outline of the anticipated increase in Federal revenues and to spell out the portions of this increase attributable to inflation, to growth in the gross national product, to tax increases already contained in existing law (such as social security) and to proposed legislation. (This provision was also contained in

H.R. 2446, the Alternative Budget Act, which I introduced earlier with Senator BOB PACKWOOD.)

Then, the Tax Control Act requires that Congress act by March 15 to set a limit on how much of this anticipated increase in revenues it is willing to accept. The Committees on Ways and Means and Finance are to report by March 1 a concurrent resolution on taxes which establishes a ceiling on revenues for the upcoming fiscal year. This resolution must be adopted by March 15 and is intended to provide an aggregate limit on revenues when the first required concurrent resolution on the budget is considered. The floor on revenues in both the first and second concurrent resolutions on the budget may not exceed the ceiling on revenues established in the resolution on taxes. If economic conditions change, additional resolutions on taxes could be approved.

I have reluctantly come to the conclusion that unless a mechanism such as this is created, Congress will do nothing to end the annual automatic tax increases that create a multibillion dollar windfall for the Federal Government. This extra money is taken by the Government as a matter of course, almost without notice, and freely spent. As long as this process is permitted to occur without any congressional consideration, we will never put a brake on Government spending and taxation. Both the President and the Congress should have to face and consider whether these increases should really be permitted.

Continued refusal to come to grips with automatic increases risks pushing the drive to amend the Constitution to require a balanced Federal budget over the top. The number of States that have petitioned Congress to call a constitutional convention to draft a balanced Federal budget amendment is nearing the total of 34 required to force action.

Fiscal policy has obviously gained considerable momentum as one of the most significant issues before the 96th Congress. Much more is at stake than just the conventional spending and taxing decisions we will implement during the coming period of economic slowdown. The very credibility of Congress rests on how we respond to the pressures coming from both the electorate and the economy to get the Nation's fiscal affairs in order.

One of my chief concerns is that when Congress moves to balance the budget—either on its own initiative or because it is required to do so by a constitutional amendment—it will try to achieve balance by simply sitting back and letting the automatic tax increases ratchet revenues up to a level sufficient to cover spending as usual.

There is some evidence that this is already happening. Revenues which averaged 18.6 percent of GNP since the Korean war, and which stood at 18.5 percent as recently as 1976, have begun to skyrocket. Federal taxes rose to 19.5 percent of GNP in 1977, 19.7 percent in 1978 and 19.9 percent in 1979. The President's budget projects a revenue level equal to 20.1 percent of GNP in 1980—in large part to keep the deficit below $30 billion while maintaining current spending levels. Then in 1981, a postwar record of 20.9 percent is projected and an even higher 21.6 percent by 1980. Do we really want to balance the Federal budget at these record high levels? I think not.

The clamor for a balanced budget is coming from people who think the size of the Federal Government in relation to the economy has grown too large. To balance the budget by further enlarging the Federal bite would further damage the credibility still left to Congress as an institution.

The Tax Control Act offers a way out of this dilemma. Controls on outlays have proved to be a bad place to begin to achieve a budget cutback because of the difficulty in deciding which programs will be trimmed or eliminated. Tax cuts, on the other hand, are seldom spurned by politicians, and therefore provide a more palatable point at which to begin the process of curbing the growth of the Federal Government.

The various indexing proposals advanced in recent years would serve, if enacted, to hold revenues steady as a percent of GNP. However, Congress has thus far refused to enact indexing legislation in part because its automatic scaling back of taxes would eliminate the congressional role in this process.

The Tax Control Act, on the other hand, is in many ways the opposite of indexing. It requires Congress each fiscal year to take an affirmative action either to approve a tax increase or to provide a tax cut. As O'Neill points out, the issue would not be judged permanently, and changes in economic circumstances might actually merit tax increases in some years.

A great deal of attention is going to be paid in the year ahead to devising procedures, formulas, and disciplines to bring fiscal policy under control. The Tax Control Act of 1979 is offered as a contribution to the revenue side of this process. I hope that it will receive serious consideration and that its central theme—requiring congressional approval of inflation-generated tax increases—will be incorporated into ongoing or new congressional budgeting systems. I for one intend to raise this issue at various points in the budget process so that both the Members of Congress and the public develop an awareness of the extent to which taxes are being permitted to rise in the absence of a decision to the contrary.

I include tables illustrating some of the developments I have described:

TABLE 1.—RECEIPTS, OUTLAYS AND FEDERAL DEBT AS A PERCENT OF GNP

[Dollar amounts in billions]

		Budget receipts [1]		Outlays [2]						Federal debt, end of year			
				Unified budget		Off-budget Federal entities		Total		Total		Held by the public	
Fiscal year	Gross national product	Amount	Percent of GNP	Amount	Percent of GNP	Amount	Percent of GNP	Amount	Percent of GNP	Amount	Percent of GNP	Amount	Percent of GNP
1958	442.1	$79.6	18.0	$82.6	18.7			$82.6	18.7	$279.7	63.3	$226.4	51.2
1959	473.3	79.2	16.7	92.1	19.5			92.1	19.5	287.8	60.8	235.0	49.7
1960	497.3	92.5	18.6	92.2	18.5			92.2	18.5	290.9	58.5	237.2	47.7
1961	508.3	94.4	18.6	97.8	19.2			97.8	19.2	292 9	57.6	238.6	46.9
1962	546.9	99.7	18.2	106.8	19.5			106.8	19.5	303.3	55.5	248.4	45.4
1963	576.3	106.6	18.5	111.3	19.3			111.3	19.3	301.8	53.9	254.5	44.2
1964	616.2	112.7	18.3	118.6	19.2			118.6	19.2	316.8	51.4	257.6	41.8
1965	657.1	116.8	17.8	118.4	18.0			118.4	18.0	323.2	49.2	261.6	39.8
1966	721.1	130.9	18.1	134.7	18.7			134.7	18.7	329.5	45.7	264.7	36.7
1967	774.4	149.6	19.3	158.3	20.4			158.3	20.4	341.3	44.1	267.5	34.5
1968	829.9	153.7	18.5	178.8	21.5			178.8	21.5	369.8	44.6	290.6	35.0
1969	903.7	187.8	20.8	184.5	20.4			184.5	20.4	367.1	40.6	279.5	30.9
1970	959.0	193.7	20.2	196.6	20.5			196.6	20.5	382.6	39.9	284.9	29.7
1971	1,019.3	188.4	18.5	211.4	20.7			211.4	20.7	409.5	40.2	304.3	29.9
1972	1,110.5	208.6	18.8	232.0	20.9			232.0	20.9	437.3	39.4	323.8	29.2
1973	1,237.5	232.2	18.8	247.1	20.0	$0.1	(2)	247.1	20.0	468.4	37.9	343.0	27.7
1974	1,359.2	264.9	19.5	269.6	19.8	1.4	.1	271.1	19.9	486.2	35.8	346.1	25.5
1975	1,457.3	281.0	19.3	326.2	22.4	8.1	.6	334.2	22.9	544.1	37.3	396.9	27.2
1976	1,621.7	300.0	18.5	366.4	22.6	7.3	.5	373.7	23.1	631.9	39.0	480.3	29.6
1977	1,834.0	357.8	19.5	402.7	22.0	8.7	.5	411.4	22.5	709.1	38.7	551.8	30.1
1978	2,043.4	402.0	19.7	450.8	22.1	10.3	.5	461.2	22.6	780.4	38.2	610.9	29.9
1979 estimate	2,289.4	456.0	19.9	493.4	21.6	12.0	.5	505.4	22.1	839.2	36.7	650.9	28.4
1980 estimate	2,505.7	502.6	20.1	531.6	21.2	12.0	.5	543.5	21.7	899.0	35.9	689.9	27.5
1981 estimate	2,758.6	576.8	20.9	578.0	21.0	11.5	.4	589.5	21.4	940.3	34.1	701.9	25.4
1982 estimate	3,025.2	652.6	21.6	614.9	20.3	11.1	.4	626.0	20.7	951.9	31.5	674.3	22.3

[1] See footnotes to table 1 for changes in budget coverage.
[2] 0.05 percent or less.

Source: The Budget of the U.S. Government, fiscal year 1980.

TABLE 2.—TAX LIABILITY FOR MARRIED INDIVIDUAL, 2 CHILDREN, $19,000 GROSS INCOME IN 1979, FACING 8-PERCENT ANNUAL INFLATION

Year	Gross income	Taxable income	Taxes due	Percent of gross income	Taxes at 10.8 percent (as in 1979)	Tax increase	Real tax increase	Unindexed real tax liability
1979	$19,000	$15,000	$2,055	10.82				$2,055
1980	20,520	16,520	2,390	11.65	$2,220	$170	$157	2,212
1981	22,161	18,161	2,784	12.56	2,398	386	331	2,386
1982	23,935	19,935	3,209	13.41	2,590	619	491	2,546
1983	25,849	21,849	3,734	14.45	2,797	937	689	2,744

DISTRIBUTION OF BURDEN

Income class expanded income (thousands)	Percent distribution aggregate tax liability	Percent distribution of tax increase caused by inflation
Less than $5	0.1	1.6
$5 to $10	6.1	9.8
$10 to $15	13.4	13.0
$15 to $20	17.0	14.9
$20 to $30	24.2	24.7
$30 to $50	16.3	20.8
$50 to $100	12.2	10.8
$100 to $200	6.0	3.3
$200 plus	4.8	1.1

SUMMARY OF THE TAX CONTROL ACT OF 1979

The Act amends the Budget and Accounting Act to require that the budget transmitted from the President to Congress each year contain a statement of any anticipated increases in Federal revenues, specifying the total of such increases and the portion of the total attributable to inflation, real economic growth, previously scheduled tax increases (such as Social Security) and proposed new increases. In addition, the statement shall include an estimate of the tax impact of each portion of the tax increase on individual taxpayers according to family size and income level. Such recommendations as may be deemed appropriate with regard to these anticipated increases in Federal revenues shall also be included.

The Act amends the Congressional Budget Act of 1974 to require Congress to act affirmatively to set a ceiling on the level of taxation for the upcoming fiscal year. By March 1, a Concurrent Resolution on Taxes must be reported by the Committees on Ways and Means and Finance, after consultation with the Budget Committee in each of their respective Houses. In addition, the Resolution on Taxes shall include, but not be limited to, a comparison of the revenue levels estimated and recommended by the Budget Committee with those set forth in the President's budget, an allocation of revenues within the proposed ceiling among the major sources of such revenues, the economic assumptions and objectives which underlie the committee's recommendation, and other information indicating the manner in which the committee arrived at the proposed ceiling. Congress is required to complete action on the Concurrent Resolution on Taxes on or before March 15.

The Act provides that it shall not be in order in either the House or the Senate to consider the first concurrent resolution on the budget for any fiscal year until the concurrent resolution on taxes for that year has been agreed to. Furthermore, the floor set on revenues by the first or second concurrent resolution on the budget may not be set at a level in excess of the amount provided in the ceiling contained in the concurrent resolution on taxes.

In the event of changed economic conditions or fiscal objectives, the Act provides for adoption of subsequent concurrent resolutions on taxes in the same way that additional concurrent resolutions on the budget may be brought up after adoption of the second required resolution.●

INDIANA DUNES NATIONAL LAKESHORE PARK

HON. FLOYD J. FITHIAN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. FITHIAN. I am pleased to join Senators BIRCH BAYH and RICHARD LUGAR in introducing legislation to complete the boundaries of the Indiana Dunes National Lakeshore Park in northwestern Indiana.

In 1966 the Congress enacted legislation to preserve the Indiana Dunes and establish the Nation's first urban national park. Ten years later the legislation which I sponsored authorized an expansion of the Indiana Dunes and added nearly 4,000 acres to the national park, but Congress deferred action on three specific parcels (the Beverly Shores "Island," the Highway 12 strip, and the NIPSCO Greenbelt) until additional information could be gathered on these areas by the National Park Service. This detailed study was submitted to Congress on July 1, 1977. Senator BAYH, Senator LUGAR, and I introduced similar bills in 1978 (H.R. 11110 and S. 2540) incorporating these areas during the 95th Congress. This 1978 legislation passed the Senate but unfortunately, there was not enough time for the House to act in the waning days of the session. The legislation which I introduced on March 8, 1979, is identical to S. 599 on the Senate side and is very similar to the bill introduced in the last Congress.

H.R. 2742 provides for the inclusion of the Beverly Shores "Island" (area III-A) a 652 acre, low density population area. In fact, over 500 acres of this parcel are unimproved lands, readily available for park use. The Highway 12 strip (III-C) is a strip of 56 acres, about 1.5 miles long on both sides of the highway, which includes low density residential and commercial areas. The NIPSCO Greenbelt (section II-A) was not included in this legislation but will be considered at a future time.

I would like to discuss briefly the acquisition of these areas. When Congress created the Indiana Dunes National Lakeshore Park, it included two-thirds of the community of Beverly Shores, but excluded a 652 acre area in its center, thus creating an "island" in the middle of the park.

The Federal acquisition of the Beverly Shores area would insure the preservation of this interesting and unique area, would facilitate Park Service development and management, and would eliminate conflicts between park visitors and local residents. These lands are needed to promote the optimum utilization of the eastern portion of the national lakeshore. The continuity of the high dune bluff, interdunal ponds, and wetlands in this portion of the park is disrupted by the "island."

The National Park Service special study concluded that the uncontrolled private development of these two areas in Beverly Shores, including multifamily dwellings, high rise, commercial and industrial building, would seriously impair visitor access to the lakeshore's largest land and beach area.

The inclusion of the "island" would facilitate the recreational development of the area, prevent noncompatible land uses and preserve a unique ecosystem for public use.

Although the acquisition of Beverly Shores may be expensive, when compared to the acre-by-acre cost of the vast unoccupied lands of the Western United States, its present inclusion is prudent and fiscally responsible. Since I am convinced that it will be necessary at some time to add this "island," I believe it is imperative that we begin as soon as possible. By acting swiftly, we can combat the rapidly escalating values of land and improved property, fight inflation, and save the taxpayers some hard-earned dollars. Conversely, the acquisition of the "island" will result in reduced Federal spending, and void any multimillion-dollar plans for erosion control along the beach at Beverly Shores.

The acquisition of the Highway 12 strip would complete 6.7 miles of continuous frontage and would greatly enhance the scenic beauty of the area. The highway strip and the "island" are inexorably linked together, and should be considered a single unit. Neither unit could stand alone and survive as the "town" of Beverly Shores.

The third area of the study is the NIPSCO Greenbelt (section II-A), a 92-acre parcel adjacent to Cowles Bog. In the 95th Congress, legislative language was drafted by BAYH, LUGAR, and me concerning the Greenbelt. It was our understanding at that time that the provisions would adequately protect the natural resources of the Greenbelt and the adjacent national park without interfering or jeopardizing existing or expanded NIPSCO facilities, including the Bailly nuclear plant. Since then, Senator LUGAR has concluded that there is no acceptable solution to the Greenbelt. Senator BAYH and I have included no Greenbelt provisions in this legislation at this time.

The acquisition of the Greenbelt would facilitate comprehensive management by the National Park Service. It would establish a definite boundary for the lakeshore without bisecting ponds and wetlands, would preserve the environmental integrity of the area, and would protect Cowles Bog. I also believe that nothing should be done to impair or interfere with the existing or planned operations by NIPSCO. The delayed acquisition clause of the 1978 Senate and House bills provided for this. Any provision for the acquisition of the Greenbelt must take into consideration the following essential points: First, the acquisition of the area and the "Bailly" construction are two separate, independent issues which must be resolved on their own individual merits. Second, a policy of delayed acquisition for the western portion of the Greenbelt should result in its acquisition after December 31, 1985—provided that NIPSCO does not despoil the land or utilize it in an ecologically destructive manner. The delayed acquisition policy should allow adequate time for the completion of the powerplant without it being jeopardized by any NPS land acquisition. Third, there are four parcels near the NIPSCO substation which should be deleted from any land acquisition proposal because it would impair NIPSCO operations. Thus, NIPSCO would be able to add additional power transmission lines and expand their substation without any interference from the National Park Service—provided a cooperative agreement between the company and NPS can be worked out to protect the dune environment. Fourth, any acquisition proposal should embody statutory requirements for a detailed restoration and management plan prepared by the National Park Service prior to the acquisition of any Greenbelt lands, and the costs of any restoration could be discussed as part of the acquisition negotiations. NIPSCO would be in a position to press for compensation in the manner of severance damages, that is, costs or obligations imposed upon a landowner as a result of land acquisition by the Government. Fifth, it should be the clear intent of the Congress that NIPSCO would continue to utilize fully the private access service road both before and after land acquisition, to develop security defenses along the road, and control access to the road. Sixth, NIPSCO should be permitted to maintain and operate the weather monitoring tower in the western portion of the Greenbelt, a stipulation required by the Nuclear Regulatory Commission for monitoring meteorological events. Last, the company also should be permitted to establish easements for power and transmission lines, with the approval of the Secretary of Interior.

In the near future, I will be working with Senator BAYH to design a compromise that would embody these points. I hope it will satisfy the basic interests of all parties and allay any fears they might have. I will present this amendment to the Interior and Insular Affairs Committee at the appropriate time.

H.R. 2742 also seeks to modify some of the homeowner provisions previously included in the 1976 legislation. When I first introduced legislation in 1975, the provisions for homeowners included: A 25-year leaseback, a life estate, an exemption from condemnation, and the right of first refusal to the Federal Government. Unfortunately, the 1976 legislation in its final form reduced the leaseback period to 20 years, provided for no life estate or right of first refusal, and eliminated the exemption from condemnation which had existed since 1966. In essence, the Congress and the National Park Service changed the rules of the game in the midstream of park acquisition and development, establishing a discriminatory situation in which some homeowners within the park would be treated differently from others. I believe the Government has a commitment to the people to treat all residents in national parks on a fair and equitable basis and not to set up different rules for each national park. I firmly believe that the homeowners at Indiana Dunes should be extended the same rights and benefits that are granted to others in the national park system. Indiana Dunes, I believe, is the only national park in the Nation in which homeowners have not been granted a life estate.

These homeowner provisions will not thwart park development or park management, but will establish a fair and equitable system that redresses the inequities of the existing statutes. There is widespread public support for these provisions throughout northwestern Indiana. The cut-off date for the study areas is July 1, 1977.

The legislation also provided for a transportation access study of motorized and nonmotorized transportation to be completed by October 1, 1979. The cost is $250,000. The study is designed to allow a regional planning commission the authority to work on it.

This legislation also establishes a Community Council, an intergovernmental forum, for the discussion of mutual programs and problems including such important aspects as police and fire protection, litter and garbage collection, traffic coordination, zoning regulations, and so forth. This 21-member council of elected and appointed officials will, I believe, encourage better communications between the local communities and the National Park Service and facilitate the resolution of mutual problems.

Another important aspect of H.R. 2742 that is extremely important to me is the dedication of the park to the late Senator Paul H. Douglas of Illinois. During the 95th Congress there were numerous efforts to rename the entire park for the late Senator. Admittedly, there would not be a national park for the Indiana Dunes without his efforts, and no one, either in Indiana or Illinois, denies his important contributions to preserving the Indiana Dunes.

There are, however, many people who are opposed to renaming the park for Senator Douglas, including myself. Most of the Indiana congressional delegation is opposed, as are thousands of Hoosier citizens. The Governor of the State, elected officials, and community leaders are opposed. Newspapers in Illinois and Indiana have editorialized against renaming the park. Leading environmental groups, such as the Save the Dunes Council, are opposed. Lastly, the National Park Service and Department of the Interior are strongly opposed to renaming any monuments or national parks for specific individuals. National parks should bear the name associated with the region and its historical identity—in which case, the name should be Indiana Dunes.

An important question remains. I believe the entire park should not and will not be renamed for Senator Douglas. But how can we as a Nation recognize his lasting contribution to Indiana Dunes? I am hopeful that the provisions of H.R. 2742 will satisfy those who correctly desire to honor the memory of Senator Douglas. This legislation would dedicate the entire park to Senator Douglas. It would further designate the West Beach unit as the Paul H. Douglas Ecological and Recreational Area, authorize funds for the development of the "Paul H. Douglas Center for Environmental Education," and require that the National Park Service publicize Douglas' contribution to the Indiana Dunes. I believe that these provisions are an acceptable compromise that will recognize Douglas' preservation efforts without renaming the entire park.

The struggle to save the Indiana Dunes has been a long, hard-fought battle, a battle in which the Congress has played a leading role. We cannot afford to abandon the hopes and dreams of millions of our fellow Americans and become complacent about the Dunes. We must remain steadfast in our determination that future generations will, indeed, have a park to use and enjoy. It is a promise that we have made, not only to ourselves, but to the future generations of Americans.●

INTERGOVERNMENTAL COMMITTEE FOR EUROPEAN MIGRATION

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. RODINO. Mr. Speaker, I would like to invite the attention of my colleagues to the changes which took place in Geneva, Switzerland, on March 1, 1979, in the directorship of the Intergovernmental Committee for European Migration.

On that date, after 10 years of dedicated service as Director of this 33-nation organization, John F. Thomas turned over the stewardship of this unique agency to James L. Carlin, recently retired Deputy Assistant Secretary of State for Humanitarian Affairs.

Over the many years of my service as a member and chairman of the Immigration Subcommittee and more recently as chairman of the Committee on the Judiciary, I have come to know the organization and these two dedicated public servants very well.

The creation of the Intergovernmental

Committee for European Migration was the fruition of a concept nurtured by a former distinguished chairman of the subcommittee, the Honorable Francis E. Walter. His high resolve to eliminate the refugee camps in Western Europe, to promote family reunification in the aftermath of a long war, and to relieve unemployment and underemployment of the suffering populations of the Western European countries involved in the conflict led him to seek and obtain international cooperation in these goals. Although some of the original objectives of the Intergovernmental Committee for European Migration have changed over the years, it lives today as a viable international organization ready to lend its support in emergency operations in response to specific requests for assistance by its member governments.

I have had the honor of attending many meetings of the governing bodies of ICEM as a congressional adviser to the U.S. delegation and as chairman of the ICEM Council in 1971 and 1972.

ICEM has faced many challenges in the past and no doubt will do so in the future. Over the years it has had its budgetary problems, but with the goodwill, understanding and support of all its members, the organization can continue to perform an essential and vital operational role in the migration and refugee field.

In wishing John Thomas a fruitful and happy retirement, I would like to commend him for his long dedication and devotion to the cause of refugees. He has actively participated in most of the major refugee situations since 1945 from the displaced persons camps in Germany to the evacuation of Indochinese refugees in Vietnam in 1975. President Johnson twice called on him in emergency refugee programs, once to head the U.S. Cuban refugee program in HEW in Washington and again to AID in Saigon to coordinate the mass displacement of refugees occasioned by military operations.

It can truly be said that John Thomas has dedicated his life to the cause of refugees.

As to his successor, I can think of no other man who could fill John Thomas' shoes better than James Carlin. He too has devoted more than 30 years to the refugee and migration field. His experience as the refugee and Migration Chief in the U.S. Mission in Geneva for many years and his active participation as a U.S. representative to the ICEM and UNHCR governing bodies' meetings make him eminently qualified to lead the organization into the challenging years ahead.

In 1978, ICEM organized and carried out the migration movement of an overall total of 91,118 persons, the highest number since the organization handled the major influx of refugees from Hungary in 1956.

For 1979, ICEM forecasts the movement of 110,000 to 120,000 persons including at least some 70,000 Indochinese refugees and 35,000 from Eastern Europe.

I am sure you all join me in wishing James Carlin and ICEM great success in the coming years.●

IN CELEBRATION OF THE 100TH BIRTHDAY OF ALBERT EINSTEIN

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. BROWN of California. Mr. Speaker, while I am confident that every Member of Congress is aware that this is the year of the Einstein centennial, and most are even aware that today is the 100th anniversary of Einstein's birth, most Members are probably not aware of the dimensions and breadth of Einstein's contribution to the people of the Planet Earth. His contributions to fundamental scientific understanding, to new conceptual approaches in viewing the physical universe, and to setting an example and establishing a philosophical framework for public service by scientists are all worthy of praise. But perhaps the most important thing which can be said about Einstein is that his contributions in all areas have withstood the test of time, and the value of his work has become more obvious to succeeding generations.

Mr. Speaker, I need not add to these comments, since others far more competent to speak about Einstein have already done so. I would, however, like to draw my colleagues' attention to two items which I will insert in the Record. The first is a statement by the distinguished scientist, J. Robert Oppenheimer on the occasion of Einstein's 60th birthday, more than 40 years ago. The remarkable thing is that it is not at all dated. Everything said about the value of Einstein's work years before many aspects of his work were proven, and certainly not applied, Einstein was recognized as a great scientist. His contributions to philosophy and humanity were also recognized at that time, but only were fully recognized as of equal importance after the United States developed the atom bomb several years later. The best way I know to describe Einstein's philosophy is to use his own words. One excellent example of this aspect of Einstein follows, on the subject of the moral obligation of the scientist, written in October 1952. Both articles below come from the March 1979 issue of the Bulletin of Atomic Scientists:

CELEBRATION OF THE SIXTIETH BIRTHDAY OF ALBERT EINSTEIN

(The 60th birthday of Albert Einstein, March 16, 1939, was marked by a special radio program from Oakland, Calif. Professor J. Robert Oppenheimer spoke as follows:)

This program is in celebration of the sixtieth birthday of Albert Einstein. His name is perhaps more widely known than that of any other living scientist; and to many millions of people it has come to stand for science itself, and for all that we admire in the way of life and thought of the scientist.

Most of us who are concerned with research in one or another branch of scientific work, are proud to have in Einstein a popular symbol of what we are doing and trying to do. Few men have contributed so much to our understanding of the Physical World, to our ability to predict and follow and control its behavior. And we see in Einstein, especially those of us who have come to know him a little, all those personal qualities that are the counterpart of great work: selflessness, humor, and a deep kindness.

But if few scientific workers would quarrel with the fact that Einstein is in many ways a perfect symbol of their work, there are many who would feel that there is something a little false and fabulous in the way he is thought of. There was a fable at one time that there were only a dozen men who could understand what Einstein had done; there is certainly a general impression, supported in part by his eminence, that his work has been qualitatively different from that of his fellow workers; that it is abstruse, and remote, and useless. This seems to me a very strange ground for admiration. And of course it is not true; and the truth is much better than the fable.

All discoveries in science grow from the work, patient and brilliant, of many workers. They would not be possible without this collaboration; they would not be possible without the constant technological developments that are necessary to new experiment and new scientific experience. One may even doubt whether in the end they can be possible except in a world which encourages scientific work, and treasures the knowledge and power which are its fruits.

For science is not parasitic on society: it makes a good return. And it is for its return, and not its abstruseness, that our children, when they learn of Einstein's work in college or in school, will prize it. It will be part of their thought, as for us today the work of Newton and of Pasteur; they will be able to trace its history in the development of countless new and powerful technological methods. In fact it was some of the early work of Einstein on the theory of relativity that first pointed the way to vast and hitherto untapped sources of energy. We know now that most of the sun's heat comes from these sources. And it is one of the most spectacular projects of contemporary atomic physics to make this energy available terrestrially, and thus to solve as far as human wants are concerned the problem of mechanical and electrical power. One could multiply instances of the usefulness, in the most direct and immediate sense, of Einstein's discoveries. But in every case we would find their development so closely interwoven with the work of countless other scientists and technicians that there would seem something artificial to such an analysis, and we would come away with only a deepened conviction of the cooperative and interrelated character of scientific achievement. And if we were to trace the effects of any great scientific discovery on human thought and culture, we should find a similar story.

It seems appropriate, on Einstein's sixtieth birthday, to speak of these simple things with a certain seriousness, for we know that he himself has been led to question the possibility of continued scientific progress in a world dominated by fascism and by fascist thought. We may be sure that it is not the special persecution to which he has been subject which has raised those grave doubts. It is a deeper thing. For it would seem that in a fascist world neither the technological nor the cultural fruits of science could find anything but abuse. For technology, by rendering less desperate the struggle for an adequate and rich existence, should tend to reduce and not increase the exploitation of man by man and of nation by nation. And in general the effect of science is to reduce too the absoluteness of the difference between people, and to increase their common understanding: that is just the content of its objectivity.

There are surely graver reasons for concern in the contemporary world than this threat to the future of science. But I doubt whether today there can be any better way to honor Einstein than to commit ourselves to the kind of world in which such work as his can be possible.

ON THE MORAL OBLIGATION OF THE SCIENTIST

We are living in a period of such great external and internal insecurity and with such a lack of firm objectives that the mere confession of our convictions may be significant even if these convictions, as all value judgments, cannot be proven through logical deduction.

There arises at once the question: should we consider the search for truth—or, more modestly expressed, our efforts to understand the knowable universe through constructive logical thought—as an autonomous objective of our work? Or should our search for truth be subordinated to some other objective, for example, to a "practical" one? This question cannot be decided on a logical basis. The decision, however, will have considerable influence upon our thinking and our moral judgment, provided that it is born out of deep and unshakable conviction. Let me then make a confession: for myself, the struggle to gain more insight and understanding is one of those independent objectives without which a thinking individual would find it impossible to have a conscious, positive attitude toward life.

It is the very essence of our striving for understanding that, on the one hand, it attempts to encompass, the great and complex variety of man's experience and that, on the other, it looks for simplicity and economy in the basic assumptions. The belief that these two objectives can exist side by side is, in view of the primitive state of our scientific knowledge, a matter of faith. Without such faith, I could not have a strong and unshakable conviction about the independent value of knowledge.

This, in a sense, religious attitude of man engaged in scientific work has some influence upon his whole personality. For apart from the knowledge which is offered by accumulated experience and from the rules of logical thinking, there exists in principle for the man in science no authority whose decisions and statements could have in themselves a claim to "Truth." This leads to the paradoxical situation that a person who devotes all his strength to objective matters will develop, from a social point of view, into an extreme individualist who, at least in principle, has faith in nothing but his own judgment. It is qutie possible to assert that intellectual individualism and the thirst for scientific knowledge emerged simultaneously in history and have remained inseparable ever since.

Someone may suggest that the man of science as sketched in these sentences is no more than an abstraction which actually does not exist in this world, not unlike the homo oeconomicus of classical economics. However, it seems to me that science as we know it today could not have emerged and could not have remained alive if many individuals, during many centuries, had not come very close to the ideal.

Of course not everybody who has learned to use tools and methods which directly or indirectly appear to be "scientific" is to me a man of science. I refer only to those individuals in whom the scientific mentality is truly alive.

What, then, is the position of today's man of science as a member of society? He obviously is rather proud of the fact that the work of scientists has helped to change radically the economic life of men by almost completely eliminating muscular work. He is distressed by the fact that the results of his scientific work have created a threat to mankind since they have fallen into the hands of morally blind exponents of political power. He is conscious of the fact that technological methods, made possible by his work, have led to a concentration of economic and also of political power in the hands of small minorities which have come to dominate completely the lives of the masses of people, who appear more and more amorphous. But even worse: the concentration of economic and political power in the hands of a few has not only made the man of science dependent economically, it also threatens his independence from within; the shrewd methods of intellectual and psychic influences which it brings to bear will prevent the development of independent personalities.

Thus the man of science, as we can observe with our own eyes, suffers a truly tragic fate. Striving in great sincerity for clarity and inner independence, he himself, through his sheer superhuman efforts, has machined the tools which are being used to make him a slave and to destroy him also from within. He cannot escape being muzzled by those who have political power in their hands. As a soldier he is forced to sacrifice his own life and to destroy the lives of others even when he is convinced of the absurdity of such sacrifices. He is fully aware of the fact that universal destruction is unavoidable since historical development has led to the concentration of all economic, political and military power in the hands of national states. He also realizes that mankind can only be saved if a super-national system, based on law, were created to eliminate for all time the methods of brute force. However, the man of science has slipped so much that he accepts the slavery inflicted upon him by national states as his inevitable fate. He even degrades himself to such an extent that he helps obediently in the perfection of the means for the general destruction of mankind.

Is there really no escape for the man of science? Must he really tolerate and suffer all these indignities?

Is the time gone forever when, aroused by his inner freedom and the independence of his thinking and his work, he had a chance of enlightening and enriching the lives of his fellow human beings? In placing his work too much on an intellectual basis has he not forgotten about his responsibility and dignity? My answer is: while it is true that an inherently free and scrupulous person may be destroyed, such an individual can never be enslaved or used as a blind tool.

If the man of science of our day could find the time and courage to think honestly and critically over his situation and the tasks before him and if he would act accordingly, the possibilities for a sensible and satisfactory solution of the present dangerous international situation would be considerably improved.

ALBERT EINSTEIN.

OCTOBER 1952.●

MATERIALS POLICY, RESEARCH, AND DEVELOPMENT ACT

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. FUQUA. Mr. Speaker, today I am introducing a bill entitled "Materials Policy, Research and Development Act of 1979." I am pleased to note that I am joined in this action by Mr. WYDLER, the ranking minority of the committee, as well as Mr. BROWN, Mr. AMBRO, Mr. HOLLENBECK, Mr. WALKER, and Mr. RITTER.

This legislation follows in succession a line of materials-related bills introduced in the 94th and 95th Congresses by members of the Committee on Science and Technology, including our former chairman, Olin E. Teague. The bill is on what is admittedly a complex, yet exceedingly important issue.

The essence of the bill is to require the administration to establish a program and means to coordinate the various Federal materials research and development activities. Policy and objectives, as well as strategy for organizations and structures necessary to achieve those objectives, are outlined. A long term assessment of materials and materials research and development needs are provided for in the bill.

Our work is by no means complete on this matter. The bill itself is still far from final refinement; nor do we expect it to be a panacea for all the materials problems we have determined in our studies. Further discussion and debate will be required. I look forward to working with my fellow colleagues to that end with the hopes of reporting out a workable measure during this session of Congress.

Few Americans are aware of the severity of the materials problems facing us or the importance of materials to our national wellbeing and security. The strong side of our world economic position is due in large measure to readily available and abundant natural resources of the past. But, like our petroleum resources, most of our docestic nonrenewable resources are becoming unavailable or exhausted, precipitating what could well be termed a "hidden crisis." Given our past proliferation of goods and products, we often suffer from the illusion of an abundance of unending natural resources. Due to inattention and lack of foresight, the United States now sees an end to its once "inexhaustible" domestic supplies. Because of that illusion and in part due to the proliferation of "throw-away" goods and products, the United States has become increasingly vulnerable—economically and otherwise—through import dependence on key and critical materials.

Before going further, let me clarify what I mean by materials. Materials is defined as those basic resources—minerals, metals, organics, natural or derived—upon which we base our industry for manufacturing goods and products. Excluding food and fuel resources, materials and the basic materials industries represent today roughly $20 billion in the U.S. economy. If we include primary products derived from the basic materials, such as steel, glass, and so forth, the total is well over $170 billion. This is greater than 10 percent of the GNP. We are now import dependent on various critical materials such as manganese, cobalt, platinum, chromium, bauxite, and many others. Of 27 critical materials listed by the Bureau of Mines of the Department of the Interior, the United States imports 18 at levels of 50 percent or greater.

On a global scale, there is little foreseeable shortage of resources. At least, economists offer the argument that market forces alone are enough to prevent any long-term difficulties of supply. As we are uncomfortably aware from the problems of 1973–1974, however, this is not true of embargoes or short-term shortages. We are now exceedingly vulnerable to certain key materials. A few examples are illustrative:

The element cobalt.—This element is principally a product of Zaire, Africa, imported at a level of 97 percent. It is key to the manufacture of jet turbine blades, tool and die alloy steels, and permanent magnets. Because of political unrest last summer, cobalt production has come to a virtual standstill. Long-term customers are receiving allocations of about 75 percent of their needs and prices have gone from $6 per pound 6 months ago to a current high of $48 per pound. At present it is estimated that our industries have less than a 3-month supply. The situation, if it continues, will have a sustaining, rippling effect throughout the U.S. industries.

The element chromium.—This is the principal alloying element used in critical high temperature, high strength alloys and corrosion resistant, stainless steels. A recent report from the National Academy of Sciences, estimates that better than two-thirds of our present consumption is considered as critical and essential. At present there are no substitutes for these critical applications. Up to half of this amount could be substituted in about 10 years but only after extensive programs of research and development. We now import 89 percent of our chromium from South Africa, Turkey and the U.S.S.R. Twenty percent or more of that is now imported from Russia. Any sudden interruptions in supply, requiring mandatory conservation, will result in severe economic dislocations.

Such problems are not just limited to mineral or metal commodities. Much of our advanced energy technology for example, including solar, coal, fusion, fission, and magneto-hydrodynamics (MHD), depends specifically on the resolution of materials technologies or problems.

Microfabrication, an area of special emphasis to this administration's research budget, requires special basic knowledge of materials behavior at subminiature levels. Japan has devoted over $1 billion in the past 3 years in hopes of leapfrogging our electronics industry in this highly competitive area.

It is estimated that we lose over $70 billion annually due to the cost of corrosion, $10 to $20 billion of which could be avoided with known, economical technology.

Environmental problems of nuclear waste disposal, resource recovery from municipal waste, conservation, and recycling are all dependent on the resolution of materials technology problems.

The Federal Government is now putting about $1 billion annually into materials research and development as compared to about $4 billion in the private sector. Yet there exists no formal coordination, and collaboration with the private industry is almost nonexistent. A study last year by GAO suggests that several millions of dollars could be saved by use of a proper coordination and information system.

Last year in the testimony before our committee, representatives from the President's Office of Science and Technology Policy noted: "It would be difficult to find an area more important than materials to our eonomy, national security, foreign relations, the environment and recovery and use of resources or where science and technology can play a larger role."

On the other hand, the administration's response to these problems has not been encouraging. The only official interagency coordinating group, the Committee on Materials, under the Federal Coordinating Council for Science, Engineering, and Technology, was officially disbanded as a result of reorganization. Since the early 1950's at least three major national studies on materials problems have occurred. In answer to congressional inquiries 2 years ago on vital domestic mineral questions, the President initiated still another large scale minerals/materials study. The results of that study are still forthcoming, with only the first portion completed.

As I noted earlier, the problems of materials and their possible resolutions are international in nature. Given our vulnerability to various key materials, it is important that we discover and develop more domestic and international sources. One way of doing this would be through the use of advanced detection methods using remote sensing from space. Further development of such technologies will require the obvious cooperation and collaboration of many other nations and the appropriate institutions necessary to support those operations.

The bill states that among other objectives, the United States should, First, promote a vigorous and comprehensive program of materials research and development; second, establish a long-range assessment of materials needs, including the research and development necessary to meet those needs; third, establish a mechanism for the coordination of Federal materials research and development, and fourth, promote cooperative research and development with other nations for the equitable and frugal use of materials and energy.

In achieving these objectives, special emphasis is placed on programs of research and development in areas of: First, wear, corrosion, fracture, and durability of materials; second, materials processing in space; third, remote sensing of materials and natural resources from space, and fourth, novel, low grade, and abundant sources of materials.

The bill further stipulates that the President shall submit to Congress within 6 months of enactment of the act, First, a plan for implementation of organizations and programs for carrying out the policy and objectives of the act; second, recommendations for the collection and use of information concerning materials, including materials research and development, and third, recommendations for further legislation to establish such programs and institutional structures thought necessary.

The legislation further provides for special emphasis on long-range assessment of national materials needs and the research and development necessary to meet those needs as part of the Office of Science and Technology Policy's annual report to Congress. The Federal Coordinating Council for Science, Engineering, and Technology is designated as the instrument to implement and carry out relevant policy and objectives established in the act.

In recent weeks we have heard increasing reports concerning the reorganization and establishment of a new Department of Natural Resources. Such reorganization schemes must be studied with care and perhaps viewed with certain skepticism where materials R. & D. is concerned. The problems of coordination and evaluation of materials R. & D. in the Federal Government is not likely to be resolved by simply moving organizational boxes on a chart—if, in fact, this is what the reorganization turns out to be. New mechanisms and implementing policies will be requried to produce the comprehensive program this bill envisions.

Mr. Speaker, I am including the text of the bill in the RECORD at this point.

The text of the bill follows:

H.R. 2743

A bill to provide for a national policy for materials research and development and to strengthen the materials research and development capability and performance of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Materials Policy, Research, and Development Act of 1979".

FINDINGS AND DEFINITION

SEC. 101. (a) The Congress finds and declares that—

(1) technological progress in the area of materials is essential for national well-being and security and to enable adaptation to (A) increasing dependence on foreign sources for essential industrial materials, (B) instability of materials markets, (C) international competition for materials, and (D) need for energy conservation and environmental quality;

(2) the United States lacks a coherent national materials policy and a coordinated program of materials research and development consistent with the goals and policies as set forth in the National Science and Technology Policy, Organization, and Priorities Act of 1978 (Public Law 94–282; 42 U.S.C. 6601 et seq.);

(3) extraction, production, processing, use, recycling, and disposal of materials are closely linked with national concerns for energy and environment; and

(4) the United States is strongly interdependent with other nations through international trade in materials and other products.

(b) As used in this Act, the term "materials" means substances of current or potential use in the production of goods or services, with the exclusion of food and of energy fuels used as such.

DECLARATION OF POLICY

SEC. 102. The Congress declares it is the continuing policy of the United States to promote an adequate and stable supply of materials necessary to maintain the national well-being and security with appropriate attention to a long-term balance between energy, a healthy environment, natural resources conservation, full economic factors, and societal needs. Enactment of this policy requires that the United States Government, among other objectives, should—

(1) promote a vigorous and comprehensive program of materials research and development consistent with the policies and priorities set forth in the National Science and Technology Policy, Organization, and Priorities Act of 1976 (Public Law 94-282; 42 U.S.C. 6601 et seq.);

(2) establish a long-range assessment capability concerning materials needs, including the research and development necessary to meet those needs;

(3) establish a mechanism for the coordination of Federal materials research and development and for the evaluation of materials research and development, Federal and private; and

(4) promote cooperative research and development programs with other nations for the equitable and frugal use of materials and energy.

ACHIEVEMENT OF OBJECTIVES

SEC. 103. For the purpose of achieving the objectives set forth in section 102, the Congress declares that the Federal Government should—

(1) support basic and applied research and development to provide for (A) advanced technology for the exploration, discovery, and determination of nonfuel materials, (B) enhanced methods and processes for the use of renewable resources, (C) improved methods for the extraction, processing, recovery, and recycling of materials which encourage the conservation of materials, energy, and the environment, and (D) improved understanding of new and current materials performance, processing, substitution, and adaptability in engineering designs;

(2) provide for increased dissemination and effective communication, through existing private and professional channels and otherwise, of technical information and data resulting from research and development activities of Federal, State, and local governments and other sources as appropriate;

(3) provide for continuing programs for and the assessment of technically trained personnel necessary for materials research, development, and industrial practice;

(4) recommend appropriate measures to promote industrial innovations in materials and materials technologies;

(5) encourage cooperative materials research and problem solving (A) by private corporations performing the same or related activities in materials industries and (B) by Federal and State institutions having shared interests or objectives; and

(6) place special emphasis on programs of research and development in the areas of (A) corrosion and durability of materials, (B) materials processing in space, (C) remote sensing of materials and natural resources from space, and (D) novel, low grade, and abundant sources of materials.

IMPLEMENTATION

SEC. 104. Within six months after the enactment of this Act, the President shall submit to the Congress—

(1) a plan to implement such programs and organizational structures within the executive branch, existing or prospective, as he finds necessary to further the policy and objectives as set forward in sections 102 and 103, with such programs and organizational structures providing for the following minimum elements:

(A) policy analysis and decision determination within the Executive Office of the President;

(B) continuing private sector consultation in policy analysis; and

(C) interagency coordination at the level of the President's cabinet;

(2) recommendations for the collection and use of information concerning materials, including materials research and development; and

(3) recommendations for legislation to establish programs and institutional structures necessary for the implementation of a national materials research and development policy.

LONG-RANGE ASSESSMENT AND REPORT TO CONGRESS

SEC. 105. (a) In accordance with the provisions of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (Public Law 94-282; 42 U.S.C. 6601 et seq.), the Director of the Office of Science and Technology Policy shall place special emphasis on the long-range assessment of national materials needs and the research and development, Federal and private, necessary to meet those needs. Pursuant to section 206 of that Act (42 U.S.C. 6615), the Director shall assess national materials needs and technological changes over the next five years and where possible extend his assessment in ten-, twenty-five, and fifty-year increments over the expected lifetime of such needs and technologies. Such assessment shall be revised annually and used in accordance with such section 206.

(b) The Federal Coordinating Council for Science, Engineering, and Technology shall exercise the functions vested in it under section 401(e) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6651(e)) in implementing and carrying out the policy and objectives established in this Act.

AMENDMENT

SEC. 106. Section 209(a)(4) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (Public Law 94-282; 42 U.S.C. 6618(a)(4)) is amended by inserting after "problems" the following: ", including those involving materials." ●

THE CARTER RECORD IN FOREIGN POLICY

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. MICHEL. Mr. Speaker, it would appear that there will be an Israeli-Egyptian peace treaty. This development must be credited to the courage, faith, and endurance of President Jimmy Carter. He deserves the highest praise for his untiring efforts.

Questions still remain, of course, that must be answered before we can conclude that real peace is at hand. As I watched the airport arrivals of the President at Cairo and in Israel, I could not help but wonder how much each of those warm embraces would cost the American taxpayer. And CBS news reports that Egyptians are wondering what bilateral agreements were made between the United States and Israel, outside of the context of the treaty, but essential for Israel's existence.

And needless to say, we must learn what the response of the other Arab nations will be before we can say peace is at hand.

But President Carter does deserve high praise. This success, however, should not blind us to the fundamental flaws in the Carter foreign policy approach, flaws which have not been overcome with one stroke of diplomatic success. A brief look at some of these flaws might serve to put in perspective the meaning of the Mideast success.

First, let us have a brief review.

For a long period after the Vietnam war, Americans seemed to shy away from anything even resembling foreign policy problems. But recently we have seen a rebirth of interest.

China, Vietnam, SALT II, Cuban mercenaries in Africa, Iran, Afghanistan—the list could go on and on. There is intense interest concerning our relations with the nations of the world.

As this interest has grown, criticism of the President's handling of foreign affairs also has been growing in intensity. Recent events in Iran and Southeast Asia have led to sharp attacks on the administration's foreign policy.

But a backlash of sympathy for the President seems to have developed. Even those who might be critical of some aspects of his handling of foreign affairs believe that some of the criticism leveled against him is unwarranted, even demagogic. The argument of those who hold this view goes something like this:

"Yes, there have been troubles in foreign affairs. Yes, Iran fell and China invaded Vietnam and our ambassador was killed in Afghanistan and the Mexican President publicly criticized President Carter. These things have all happened. But what would the critics of President Carter have him do? Would they have sent troops to Iran? Would they have invaded Afghanistan? Would they have broken off relations with China for its invasion? These critics are heavy in negative criticism but rarely have constructive criticism. They are damaging the President's ability to deal with other nations. Let us have a little more responsibility and a little less criticism."

This seems to be the feeling of supporters of the administration and of some members of the media as well.

Let me say that I believe there is something to be said for the charge that some of the criticism of the President has been opportunistic and perhaps even irresponsible.

I disassociate myself from those who criticize the President for not engaging in "gunboat" diplomacy while not saying exactly what they would do in his position.

Yet, despite the fact that some of the President's critics have over-reacted, the fact remains that the administration's handling of foreign policy has raised serious questions. These questions can not be ignored or dismissed as partisan sniping. When it comes to foreign policy we are all Americans, not Republicans or Democrats. The President should be aware of flaws in his foreign policy and it is the duty of the loyal opposition to point it out, clearly and responsibly.

What I would like to do is to lay before you the facts, as more and more are seeing them—leading us to the conclusion that our Nation's foreign policy is in disarray. Some of the facts may seem harsh—but I will leave it to others to judge whether they deserve a hearing.

With this in mind, let me turn now

to the problem areas of the President's foreign policy.

One of the major problems has been the rhetoric used by the administration in explaining foreign policy goals. All too often it has served to confuse rather than enlighten. In some cases, I fear, it has led to undesirable consequences.

Let me offer some examples of what I mean.

In 1978, the President spoke to the graduating class of the U.S. Naval Academy. His speech contained these words: words:

> Our long-term objectives must be to convince the Soviet Union of the advantages of cooperation and the costs of disruptive behavior.

I agree wholeheartedly with that statement. But can anyone tell me a single action the President has taken before or since those words to show the Soviets the "cost of disruptive behavior?"

Has he done anything to convince them that their Cuban mercenaries should get out of Africa? Has he convinced the Soviets that their outright cheating on the SALT I treaty provisions is unacceptable? Has he convinced the Soviets that they should have kept their agents out of Iran and South Yemen? Has he convinced the Soviets that their client state, Vietnam, has threatened world peace with its invasion of Cambodia?

Let's set the record straight. It was not the President's critics but the President himself who said we have to convince the Soviets of the cost of disruptive behavior. Evidently he had some kind of plan in mind when he said this. But I ask you: What plan did he have in mind and what will it take to convince him to implement this plan?

He made a threat and the Soviets have seen he has not carried it out. That is disastrous in foreign policy. Either he should not have suggested he would make the Soviet pay a price for their disruptive behavior or he should have taken some action when such behavior occurred. It is the President himself who talks tough and then forgets what he has said.

Let me cite another example of how rhetoric has contributed to the present difficulties of the administration:

On the last day of 1977, President Carter toasted the Shah of Iran at a New Year's Eve celebration. The President praised the Shah's "great leadership," called Iran "an island of stability," and referred to the "respect and admiration and love which your people give to you."

Little more than 13 months have passed since the President spoke those words, the Shah has fled from Iran and our relationship with that country's new leadership can best be described as tenuous.

The President's words can, I suppose, be explained away as the overgenerous compliments of a gracious host. But nothing that was said by the President for 10 months after those words were spoken gave any idea that he doubted their truth. Only when the Iranian situation reached crisis stage did the Presidential rhetoric change. By then it was too late. Yes, the President was a victim of bad intelligence gathering. But this does not mean the President can be excused. It is his responsibility to inform the American people about the facts. If he did not know the facts in Iran, that is his fault.

Too often the administration has given out contradictory signals. When U.N. Ambassador Andrew Young, in 1977, was saying Cuban mercenaries were a "stabilizing influence" in Africa, the President was criticizing that influence. But the President never criticized, corrected or fired Young. Where does the administration stand? That is a question that has perplexed both Republicans and Democrats in Congress throughout the Carter Presidency.

On May 22, 1977, the President delivered what was billed as a "major foreign policy address" at Notre Dame University. In that speech, the President spoke of the NATO alliance in these terms:

> Historical trends have weakened its foundation. The unifying threat of conflict has become less intensive even though competition has become more intensive.

But at a NATO Ministers meeting on May 10 of that same year, 1977, President Carter said:

> The threat facing the alliance has grown steadily in recent years.

On May 10 the threat to NATO was growing—12 days later it had lessened. At least that is what the President seemed to be saying.

Now let me pause here and say that I am not presenting these contradictions just to gloat about them. I am convinced that they represent a pattern that has existed in the administration from its beginning, a pattern that we have to call schizophrenic diplomacy. The administration seeks contradictory goals and appears to have two or more policies on major issues. This confuses our friends and encourages our adversaries to take advantage of what they see as administration confusion.

The President's lack of familiarity with the complexities of foreign affairs was evident from the beginning. In February of 1977, the New York Times carried a front page story. The headline stated: "Carter says Cubans may leave Angola . . ."

The President was quoted as saying that "an indirect source" told him the Cubans would leave Angola. Needless to say, the only Cubans to leave Angola went to Ethiopia and other African countries to continue their missionary work for their Soviet bosses.

The President had been given misinformation. Or rather, it would appear that he had been given what the Communists refer to as "disinformation." Their word for lies spread to confuse the enemy. Why did the President publicly repeat this false report without first checking it? I don't know. But I do know that the Cubans are still in Africa and that the administration is still "receptive on ties" to Castro's island.

In his first news conference as President, the President said—and I quote:

> I would not let the (cruise missile or Backfire bomber) stand in the way of a SALT agreement.

We now know, of course, that those two weapons systems are at the very heart of the SALT talks. But what did the President mean when he said he would not let them stand in the way of a treaty? No one seemed to know then and no one seems to know now.

You might say that the last two examples I have used can be explained away as understandable mistakes of a new President. But when you put them in the context of the other remarks I have quoted, a pattern is discernible.

This pattern leads to confusion. The confusion leads to frustration. The frustration leads to anger which turns into skepticism about the President's ability to lead in foreign affairs.

Are these the words of a partisan? I think not. The New York Times and Columbia Broadcasting System's latest survey, released 1 week ago, show that only 30 percent of Americans approve of the way President Carter has handled foreign policy—a new low for the administration. When asked which President handled foreign policy better, Lyndon Johnson received 36 percent to Carter's 33 percent; Gerald Ford got 51 percent to Carter's 24 percent, and Richard Nixon received 56 percent to Carter's 31 percent. That is not a vote of confidence.

Clearly I am not talking here about partisan sniping. I am talking about something which is bordering on a national problem of grave significance.

Remember: Foreign policy is not something patched together in bits and pieces. It must have some unifying theme, some connection with the past, some projection of an inner vision for the future, some continuity. You will recall the President's tremendous triump at the Camp David summit—but how many recall that little more than a year before, he had invited the Soviet Union to talks in Geneva to settle the Mideast situation, easily one of the more incredible suggestions ever made by an American President. And after the Camp David euphoria, we had the inevitable let down when the cold realities showed that Israel and Egypt were still far apart.

I was one of those at the time who said, just wait until they get down to the fine print.

My question at Presidential briefing—were there any financial considerations?

I hope the President is successful in getting parties to sign, but will be willing to wager a good sum that we will be getting a significant bill amounting to billions to implement any settlement.

What I have tried to establish here, is that recent criticism of the President's handling of foreign policy has to be seen against the background of what the administration has been doing and not doing for 2 years.

It is argued that Jimmy Carter has kept us out of war, that he did recognize China and that he did get the Panama Canal Treaty ratified. It is said that even if you disagree with the way he has gone about other things you have to give him credit for those accomplishments.

Well, I suppose this is true, although I have serious misgivings about the way Taiwan was unceremoniously dumped.

But the pattern I have mentioned, the pattern of two policies at the same time or no policy at all, has created an atmosphere of confusion and doubt.

Remember: while keeping us out of war is an accomplishment, it is an accomplishment that could be achieved only because President Carter's predecessors have given us a strong national defense. Any nation that might want to attack us thinks twice and I believe this fact, rather than any strategic vision on the President's part, is what has kept us out of war.

But what about our national defense needs now? The President has unilaterally cancelled the B-1, and halted development of the neutron weapon. Our Navy is dwindling as the Soviet Navy grows. Furthermore it would appear that the administration is prepared to sign a SALT II Treaty that even members of his own party admit could be harmful to U.S. interests.

It is not enough for defenders of the administration to say that this is a tough, complex world and that the President's options are limited. We all know this to be true. Indeed, how much better off we would be if, in 1976, candidate Carter had fully recognized the complexities of foreign policy.

From the beginning of his administration, President Carter has followed a pattern of confused and confusing policies, changing, it often seems, from day to day, or from spokesman to spokesman.

We now seem to be in the "get tough" phase, as the President sends an aircraft carrier to the waters off South Yemen. But if he had been strong and resolute 2 years ago, that aircraft carrier would not be necessary today. He is doing what the football teams call playing catchup ball. When you are behind you start to take risks. You can win a game that way—but you can also make silly mistakes. The same goes in foreign policy.

What the critics are really saying, I think, is that many of these recent crises would not have occurred if, from the beginning, the President had shown a resolute, more consistent, and clearly defined foreign policy.

He is now reaping the problems that his earlier sowing of confusion brought about.

I hope that in these remarks, I have been able to explain some of the reasons why some of us are concerned and worried. It has nothing to do with President Carter personally. He is a fine man and every poll shows that the American people admire his personal qualities. But every poll also shows that there is grave doubt about his leadership in many areas.

What I hope happens is that the President realizes that many of his current problems can be traced to his own prior approaches to problems. I hope he recognizes that fact and then addresses the American people and states from now on American foreign policy will be guided by these four principles:

First, American self-interest is at the heart of our foreign policy. We have been told we are not the policemen of the world. Well, we are not the missionaries of the world, either. A human rights policy can only be believable if an American President puts America first all the time. All those high-sounding phrases about human rights ring hollow if dictators see our Nation as bewildered and confused. Why should any dictator be worried about our view of human rights if he sees us weak and inconsistent?

Second, all foreign policy spokesmen in the administration should speak with one tongue or resign. If this means sending Andy Young to the showers after his next exercise in one-man diplomacy, so be it.

Third, all major policy pronouncements of the President should be free of contradictions or promises impossible to fulfill. As a candidate, Mr. Carter said on no fewer than five occasions, in unambiguous terms, that he would never relinquish actual control of the Panama Canal. As a candidate Mr. Carter denounced what he called secret diplomacy.

As President he relinquished actual control of the Panama Canal and carried on secret diplomatic negotiations leading to the recognition of mainland China and the dumping of Taiwan.

Now you may argue that there was good and sufficient reasons to do these things. But you also have to realize that when such actions are taken in the context of previous promises to the contrary, the President's credibility is shattered at home and abroad. He must regain that credibility, if it is not too late, and he can start by making certain this rhetoric reflects rather than ignores reality.

Finally, the President is going to have to adopt a bipartisan stand in the creation of foreign policy if he wants bipartisan support in the defense of that policy. I can tell you that as minority whip I have been consulted if that is the word—no more than 2 or 3 times in over 2 years of foreign policy questions. Once at a hastily called meeting after Secretary Vance's abortive trip to Moscow and the other consultation took the form of a phone call less than 24 hours before the fact, telling me that China was about to be recognized. If that constitutes consulting with Congress—as the President promised he would do—then I would hate to see what neglect of Congress looks like.●

DECIMAL RATIO SYSTEM

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. JONES of Tennessee. Mr. Speaker, Mr. William L. Hodge, Jr., of Memphis, Tenn., has asked that I provide for inclusion in the Extensions of Remarks of the CONGRESSIONAL RECORD his proposed decimal ratio system and a related article from Science magazine. Those items follow:

DECIMAL RATIO ANALYSIS OF HORSEPOWER

One of the first matters of business for the newly established United States was to settle on standards of weights and measures. Secretary of State, Thomas Jefferson in 1790, wrote a report recommending a system based on decimal ratios be created, but Congress took no action on the report.[1]

It is appropriate in this the 200th year of the United States, that the so-called "English units" which are factors of the "decimal ratio" be closely analyzed.

English weights and measures are related to the ratio 1/12 which, when added to the basic ratio for time, 1/60 yields the "decimal ratio" 1/10, e.g., 1/12+1/60=1/10.

Consider the metric system is a decimal system rather than a decimal ratio. The standard for all weight, specific gravity which equals 1 (one), is water which weighs 8 and ⅓ lbs./gal., which is 1/12 of 100 lbs. at a constant temperature of 39.2 F. The English standard for measurement is one inch which is 1/12 of a foot. One standard for time is the minute which is 1/60 of an hour. The three "English units", then work together in numerical relativity to form the "decimal ratio" proposed by Mr. Jefferson.

The familiar unit of work, horsepower, demonstrates clearly and concisely this ratio, which is of historical significance, as well as a most practical method for today's calculations.

The following is a brief analysis of the decimal ratio form of horsepower:

Value of work 1,000—1%: *1.

Work in terms of foot-tons per hour: Horsepower.

(The —1% is the nominal loss (heat) in an electric motor.)

A calculation guide, for example is the rating of horsepower in thousands minus 1%, expressed in foot-tons per hour. Example: 1 HP—1,000(990)—1% ft.-tons/hr.

The horsepower rating (times 2) is number of million minus 1% yielding horsepower in terms of foot-pounds per hour. Example: 1 HP=1,000(2,000)=2,000,000(1,980,000)—1% ft.-lb/hr.

The horsepower test data (dynamometer) is calculated thus: 1,980,000 ft-lb/hr)=÷60 33,000 ft-lb/min. 1 hp lift/lower 1 ton—1% 1,000 ft in 1 hr. 2 hp lift/lower 2 tons—1% 1,000 ft in 1 hr., etc. Hp=0.00101 ft-tons/hr.

Thus a consonance is demonstrable between foot pounds/minute and foot tons/hour.

The following is a suggested procedure for computing the rating of horsepower at sight using the formula H.P.≈.00101 ft. tons/hr.

	Horse power at any speed						
Feet	20	40	60	80	100	120	200
Tons/hour:							
(2) 198	4.0						
(1) 200	4.04	8.08	12.12	16.16	20.2	24.2	40.4
400	8.08	16.16	24.2	32.3	40.4	48.5	80.8

The utility and ease of calculation is observed in the thousandth of the formula cancels 3 zeros in the product of tons per hour times feet. The 100 thousandth is a repeating decimal giving the rated horsepower.

(1) for (1) 200 tons/hour times 20 ft as 4.0404. To make the above chart a true horsepower chart, simply deduct 1 percent from the tons per hour column which will give an even horsepower rating, e.g., 4.0 when (2) 198 tons per hour times 20 ft, rather than 4.0404 when 200 tons per hour times 20 ft.

The above decimal ratio is comprised of the familiar "English units", which when factored reveals the defined horsepower figure of 33,000 ft. lbs./min.

WILLIAM LEONARD HODGE, Jr.

State of Louisiana, Parish of East Baton Rouge.

Sworn to and subscribed before me this 14th day of April, 1975.

LUMINA C. NEWCHURCH,
Notary Public, Parish of East Baton Rouge, La.

My Commission is for Life.

PRIME NUMBERS DERIVED FROM RATIOS

All prime numbers (with the exception of 2 and 3, the product of which is 6) are relative to multiples of 6 plus and/or minus 1, but no number ending in 5 (except 5) is a prime number.

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[1] "United States is on the brink of adopting a metric system". Phil LaRose, Advocate Staff Writer November 2, 1975.

N prime	Multiples of G	omega prime
5	6	7
11	12	13
17	18	19
23	24	−(5 x 5)
29	30	31
(5 x 7)−	36	37
41	42	43
47	48	−(7 x 7)
53	54	−(5 x 11)
59	60	61
(5 x 13)−	66	67
71	72	73
(7 x 11)−	78	79
83	64	−(5 x 17)
89	90	−(7 x 13)
(5 x 19)−	96	97
101	102	103

1st 3 prime number=10
1st 9 prime number=100
(5 x 5)=prime product

As multiples of 6 increase, the quantity of prime number decreases because "prime products" increase.

M=multiple of 6.

*$M \pm 1$=odd number which can be prime.

If "M" is other than a multiple of 6 then the resultant cannot be prime.

Notice that prime products are sequential:

5 x 5	7 x 7
x 7	x 11
x 11	x 13
x 13	
x 17	
x 19	

*To check an odd number to determine if it can be prime divide by 6. If the decimal is 0.1666 then the odd number can be a prime number on the high side of "M". If the decimal is 0.8333 then the odd number can be a prime number on the low side of "M".

Example: $42 \pm 1 = 41$ and 43.
$41 \div 6 = 6.8333$ and $43 \div 6 = 7.1666$
Whereas: $57 \div 6 = 9.5$, therefore 57 cannot be prime.

[From Science Magazine, Aug. 11, 1978]

THE FEDERAL GOVERNMENT AND INNOVATION

In the recent third annual AAAS R & D Policy Colloquium, "R & D in the Federal Budget," about half the agenda was devoted to university-government relationships, the other half to industrial research and development. Attention to the business sector is timely; the United States has lost its ability to compete in many products involving technology. This contributes to a sinking dollar, inflation, and unemployment.

Speakers at the symposium, including President Carter's Science Adviser, Frank Press, emphasized that a major factor has been a lack of innovations. In the past, new high-technology products were an important source of prestige and of a favorable balance of payments. Innovations also fostered gains in employment and productivity.

For nearly two decades after World War II, the United States was a leader in fostering research and development. Expenditures for R & D rose to 3 percent of the gross national product (GNP). At the same time, Western Europe and Japan were only gradually recovering from the war. But while trading rivals continued a vigorous effort to catch up, the United States ceased to expand its support of R & D. In constant dollars, the level of effort has been static for more than a decade and now represents only 2.2 percent of the GNP. While governments in other countries such as Japan worked closely with industry to foster innovations and exports, the United States adopted a hostile attitude toward business, subjecting it to thousands of costly regulations. For example, in the making of steel, companies must comply with more than 5000 regulations issued by 27 different federal agencies.*

A similar level of federal intervention prevails in other industries, and it represents only part of the problem: states and municipalities have added further burdens. The cost of federal regulations, which is passed on to consumers, has been estimated as high as $100 billion a year and it is increasing. The higher cost fosters inflation at home and inabilty to compete abroad.

One of the effects of creating this vast structure of federal regulations has been an enormous concentration of power in Washington. In contrast, vice-presidents for R & D of major companies tend to be subdued and anxious. One of them told me he devoted 90 percent of his efforts to matters dictated by regulations or anticipated regulations. The time required to proceed from research to the introduction of an innovative product is 10 years or more. In the meantime, who knows what regulations may be imposed?

Other factors discouraging innovation inpenditures in 3 to 5 years. Here, 10 years or clude high interest rates and tax policies. In Japan, companies can write off capital exmore is common.

The result of the current climate is that many major companies are concentrating their R & D on improvements in existing processes and products. At the same time, the creation of small high-technology companies has virtually ceased.

Frank Press, who is fully aware of the trends in innovation, has brought the matter to the President's attention. In consequence, a major domestic policy review has been launched. The Cabinet-level study will be undertaken by a committee drawn from 15 federal departments, agencies, and offices. The committee will be chaired by Secretary of Commerce Juanita Kreps, with day-to-day coordination by Jordan Baruch. During the study industry, labor, and public interest groups will have an opportunity to make inputs.

The initiative of Press and the good intentions of President Carter are to be applauded. But the committee is loaded with representatives of the regulators. They will be merely acting as humans if they seek to escape blame. Even so, the policy review will surely have constructive consequences as the committee looks at the government's role in inhibiting innovation.

—PHILIP H. ABELSON●

TRIBUTE TO LEW AMES

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. AMBRO. Mr. Speaker, I serve on a citizens committee in my Long Island congressional district that was formed to recognize and pay tribute to one of our most selfless and dedicated community leaders.

The citizens committee to honor J. Lewis Ames will be holding a dinner-dance testimonial later this month to give formal recognition to the contributions and achievements of a truly outstanding civic leader.

Since most Members of this Chamber pride themselves on their devotion to public service, I would like to share with my colleagues the sterling record compiled by this private citizen during the past three decades. It is a record each of us should strive to emulate.

Lew Ames has served for 27 years on the Massapequa, L.I., Board of Education, including 21 years as its president, 2 as vice president, 2 as secretary, and 6 years as school district attorney—all without pay.

We Long Islanders take great pride in the quality of education we provide our children through independent, locally controlled school boards. Hundreds of Long Islanders make great personal sacrifices to serve voluntarily on these school boards, parents' groups and advisory committees. For Lew Ames, that service has been a lifelong preoccupation with achieving and maintaining exemplary educational standards.

He is a past president of the Nassau-Suffolk School Boards Association and remains an ex officio member of its executive committee. Lew has served as a trustee of Randolph-Macon College since 1955 and served 10 years as a member of the advisory committee for New York City Community College. Over the years, he has served on numerous committees of the New York State School Boards Association.

Lew Ames' sense of community purpose goes beyond education alone. He is a former president of the Harbour Green Civic Association; was chairman of the citizens advisory committee for the creation of Marjorie Post Park; and was appointed by our late Vice President Nelson Rockefeller to the Citizens Advisory Board for the Long Island Railroad.

He was named Man of the Year by the Massapequa Park Citizens Association and later similarly honored by the village trustees of Massapequa Park.

He is a lawyer, a former agent of the Federal Bureau of Investigation, was an intercollegiate basketball official and a senior corporate officer.

In 1970, the Parkside School was renamed the J. Lewis Ames Junior High School—a fitting permanent reminder of this man's contributions to his neighborhood, his community, his town and indeed all of Long Island.

I am honored to be participating in the J. Lewis Ames testimonial dinner, Friday, March 30, at the Holiday Manor in Bethpage, L.I., and I ask all of my colleagues in this Chamber to join me in saluting this outstanding American.●

THE UNCERTAINTIES OF A CONSTITUTIONAL CONVENTION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. MAZZOLI. Mr. Speaker, I would like to call to the attention of my colleagues an editorial by Marvin Stone which appeared in the U.S. News & World Report of March 12, 1979.

This article expresses the uncertainties which surround a Constitutional Convention called to write a balanced budget amendment.

Everyone is anxious to reduce Government red ink. But, as Mr. Stone suggests, rigid restrictions placed into our Nation's foundation document may not be the prudent way to procede.

The article is as follows:

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*Council on Wage and Price Stability, *Catalog of Federal Regulations Affecting the Iron and Steel Industry* (Government Printing Office, Washington, D.C., 1976).

A CONSTITUTIONAL CONVENTION?

(By Marvin Stone)

A year ago, it looked futile. But no longer. At this writing, 28 of the necessary 34 states have approved resolutions calling for a constitutional convention. The goal: an amendment requiring a balanced federal budget.

Without more ado, we repeat what we said last year: This thing does not belong in the Constitution. Such a declaration is made regretfully, because we applaud the initiative and courage of the amendment's sponsors. We share their desire to end wild spending, waste and graft, and we would like to see the budget balanced in all normal seasons.

A great many people seem to want this well-intended amendment tacked onto the Constitution, but we wonder if they have reflected on all the consequences.

Likewise, the remaining legislatures, charged with a fateful decision, had better do more thinking before it is too late. Edmund Muskie, chairman of the Senate Budget Committee, makes the point that aid to states would be among the very first places Congress would look for the billions that must be cut off if the pinch should come. It makes sense. The federal deficit next year will be 29 billion dollars. Yet 83 billion in federal funds is earmarked as aid for state and local governments.

True, a number of governors descended on Washington demanding a budget-balanced amendment and offering to accept less aid—but aid of kinds they specify. No such deal is likely any time soon. Besides, there are more-fundamental questions about the amendment plan.

Some opponents emphasize their fears of what a constitutional convention, once called, might do. They observe that the only previous such convocation, in 1787, met from May to September and threw out the entire system of government it was supposed to improve. The preponderance of legal opinions seems to indicate that a new convention could be held to a single issue—the budget. This is an interesting field for speculation, but entirely beside the main concern: Would an amendment forcing a balanced budget be good for the country?

If the amendment were adopted, it could make a shambles of the national economy. Deficit spending is indispensable at times to head off a depression or relieve acute suffering. Budget planning is one of the most convoluted human endeavors. An unbalanced budget may even be viewed as necessary just to revive business enough to provide tax revenue to balance a future budget. Then there are unpredictable demands of defense and war.

Very well, say amendment backers: Include exceptions for emergencies. But Congress often has to act before the emergency arrives; and the definition of an emergency opens the way to endless political arguments.

The fact is that budget regulation will not work without a mass of legal detail beyond the reasonable scope of a federal constitution. Balance what budget? Variations are as diverse as the human imagination.

States have been able to operate under such restrictions simply by leaving out of the primary budget such items as capital expenditures, and financing heavy costs through bond issues. A federal government could resort to endless devices.

So it would be necessary to define "budget" and print out a complete set of rules, often too technical for the majority of us to understand. One amendment devised by an eminent economist uses more words than the entire Bill of Rights. And if all the possible troubles are not foreseen, we will find ourselves trying to amend an amendment.

There already is a law aimed at bringing federal deficits under control. Progress is being made under this law. While we honor the motives of the amendment sponsors, and fully concur on the need to hold Congress's feet to the fire, we can't see turning the Constitution into a technical manual. The Constitution merits higher regard than this.●

AGRICULTURAL SUBTERMINAL FACILITIES ACT OF 1979

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. DASCHLE. Mr. Speaker, today I am pleased to introduce the Agricultural Subterminal Facilities Act of 1979.

Once again, those of us who represent the agricultural heartland of this Nation are seeing the beginning of another crisis in the movement of farm goods to market. For over a century, our agricultural shipping needs have been crippled by inherent inadequacies in the farm-to-market system. Although many of my colleagues and I have worked hard to revitalize the family farm and farm prices, such efforts will mean little to the farmer if he has no reliable, cost-efficient means to transport his product to vital domestic and export markets.

To date, our Nation's agricultural storage and shipping system consists largely of limited onfarm storage, small capacity elevator operations, unreliable and insufficient rail service and increasing reliance on expensive truck operations. Historically Federal programs and policies designed to assist agricultural producers have considered commodity storage and shipping as two separate and distinct issues. Unfortunately, the two are inseparable, and past policies based on this error may have exacerbated rather than helped our Nation's farmers. In addition, the shipping problem has been viewed by most to be a transportation problem rather than an agricultural issue. Again, this kind of error has resulted in failure and has kept agricultural shipping out of the 20th century.

The vast majority of our grain production for export markets depends on rail transportation. The rail industry cannot efficiently or economically move farm products when their equipment must be distributed simultaneously across a vast trackage system to thousands of small collection points. However, this is precisely what happens at harvest or during a major grain sale. The cost of providing service substantially increases when a carrier must provide a few pieces of equipment here and there over several thousand miles of its system. Those high costs are then in part translated to reflect unviable branchline operations, many times resulting in a filing for abandonment.

This legislation cuts to the heart of the farm product movement dilemma as well as the problem faced by elevator operators who are presently located on lines scheduled for abandonment. In a nutshell, it allows those operators and local producers to enhance and protect their existing operations through the construction of a subterminal elevator on nearby healthy rail lines with assistance from the Department of Agriculture. These subterminals would serve as major collection and transfer points along key rail and highway intersections and would be served by existing local elevator operations. The high capacity of such subterminal operations would command better multicar and unit train rates which again directly translates into better prices for the farmer. In addition, due to our present inefficient system of agricultural shipping, the agricultural industry now faces losses of millions of dollars annually for delayed shipments of contract grain due to unreliable service. This situation would also be rectified by the implementation of a subterminal system in that the carriers would serve a smaller number of shipping points which could handle multicar trains rather than one or two box cars at a time, thus decreasing their cost of providing service.

In essence, the Agricultural Subterminal Facilities Act has three main features. The first would provide funds to finance efforts to determine location of subterminals. The second furnishes a means to assure adequate financing of construction and startup operations at reasonable cost. And perhaps more importantly, this proposal contains provisions to assure continued local control over the movement and storage of farm products.

The Secretary of Agriculture would be authorized to make planning grants available to a State or group of States acting together on a regional basis to develop a bulk agricultural commodities storage and shipping plan. These funds would be made available upon application by the Governor or appropriate State agency from an appropriation authorized by the act.

Subterminal State or regional plans shall prescribe in detail the location and capacity of subterminal facilities. They must include an analysis of marketing, shipping, storage, and production trends for bulk agricultural commodities in the State or region and a determination of the need for subterminal facilities.

State or regional plans must include a program for the continued use of existing on-farm storage facilities and the movement of bulk agricultural commodities from the farm to subterminals or to market or export points.

Plans must provide an assessment of the impact of subterminals on small rural storage facilities and present a program for their continued use under arrangements which make subterminal facilities available to them on a fair basis.

An evaluation of the various types of subterminal nonprofit and for profit ownership arrangements providing maximum benefits for producers, including improved command of their markets, must be a part of that planning package. Provision must be made for reasonable opportunities for subterminal ownership by small storage operators and to otherwise minimize adverse impacts on small storage facilities.

An evaluation of the potential benefits of subterminal ownership or lease of rail rolling stock must be presented in the plan. An assessment must be given of the potential benefits of substantial operation of State or regional offices to coordinate the use of transportation equipment.

In addition, subterminal plans must include provisions for constructing and improving subterminal facilities.

Mr. Speaker, it is imperative that the location of subterminals be coordinated on a State and regional basis so that they tie into other transportation systems. Subterminals may wish to join together in the purchase of transportation equipment such as trucks and covered hopper cars and in this instance a regional coordinating office would be established to orchestrate their use, thereby maximizing both the utilization and income earning power of the equipment. It would alleviate the problem of a boxcar sitting useless on a rail line while someone else is in great need of that car.

This is not a high cost program. The money for planning is quite small. When loans for subterminal construction are not available in the private sector, funding can be made available for Federal loan guarantees through the Consolidated Farm and Rural Development Act which would be amended to specify loans for subterminal construction.

The Secretary of Agriculture will establish a formula for loan authority for each qualifying State and will set the total loan authority for subterminal construction. Loan authority not used by one State shall be reallocated to other States. The formula shall include the total railroad mileage in each State, annual bulk agriculture commodity production, and the existing storage capacity for such commodities in each State.

In order to qualify for Federal assistance under this program, States must hold public hearings on their proposed subterminal plans. The Secretary of Agriculture, in addition to approving these plans, must determine which States qualify for assistance based on their production of bulk agricultural commodities. The Governors of such States must certify that the bulk agricultural producers have experienced severe storage and shipping problems for 3 years prior to the application for assistance. States must, in addition, have Department of Transportation approved rail plans under provisions of the Railroad Rehabilitation and Regulatory Reform Act of 1976 which requires development of core systems plans to qualify for branchline subsidies.

Finally, Mr. Speaker, I wish to stress that this act will in no way lead to the demise of the existing country grain elevator. Provisions are made to protect the absolutely essential and central role the country elevator holds in rural America. Storage capacities of subterminals will be such that country elevator and on-farm storage facilities will still be needed. The Subterminal Agricultural Facilities Act will allow the elevator operator the first opportunity to participate in the ownership and operation of the subterminal. Furthermore, this act would amend the Internal Revenue Code to allow existing elevator operators to sell their holdings and invest in subterminals or other enterprises without being subject to a capital gains tax. The local elevator operator will have an opportunity to expand his regions' economic base and provide more efficient and increased service to producers.

Mr. Speaker, this plan makes eminent sense. For a small cost, it gives us a locally controlled delivery and storage system which takes full advantage of all modes of transportation; it is consistent with State transportation plans and is coordinated within regions; it provides the producer with a reliable and efficient storage and delivery system which allows him to react quickly to conditions in the marketplace.

Mr. Speaker, I ask unanimous consent that the text of the bill be printed in the RECORD.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Subterminal Facilities Act of 1979".

FINDINGS

SEC. 2. The Congress finds and declares—

(1) that an adequate system for the efficient transient storage and movement of bulk agricultural commodities is essential to the overall success of the agricultural industry of the Nation, the development of rural areas of the Nation, and the economic stability of the Nation;

(2) that the movement and storage of bulk agricultural commodities has been seriously and repeatedly impeded by shortages of transient storage facilities, adequate rail rolling stock, and the deterioration of many railroad track beds and rural highways throughout the United States;

(3) that the efficient movement and storage of bulk agricultural commodities may be achieved and facilitated by the joint location at strategic points throughout the United States of transient storage facilities and multimodal terminal facilities constructed especially for the efficient shipment and receipt of agricultural commodities; and

(4) that the location of such facilities must be carefully planned to assure maximum benefits to producers of agricultural commodities and to assure the most efficient means of transporting bulk agricultural commodities to domestic and export markets.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "Secretary" means the Secretary of Agriculture.

(2) The term "subterminal facility" means any facility—

(A) which is used for the transient storage of bulk agricultural commodities or for the transporting, upgrading, receiving, drying, or loading out of such commodities;

(B) which is used for the transient storage of any commodity or product that is used by producers in the production of agricultural commodities and that can be stored or shipped in bulk, such as fertilizer and fuel;

(C) which is located in the area of production of agricultural commodities and any major storage or major export point for such commodities; and

(D) which is located (or after construction, will be located) at a place that conveniently serves the needs of producers and purchasers of such commodities.

Such term also means any rail siding, loading, or unloading facility which can accommodate unit railroad trains or multiple car trains of 20 cars or more and other appropriate transportation modes designed for the transport and storage of bulk agricultural commodities and production materials.

(3) The term "bulk agricultural commodity" means any agricultural commodity that can be transported in bulk from the farm where produced and can be temporarily stored in bulk quantities without undergoing processing or packaging. Such term also includes any commodity or product that is used by producers in the production of agricultural commodities and that can be stored or shipped in bulk.

STATE AND REGIONAL PLANS; PLANNING GRANTS

SEC. 4. (a) (1) The Secretary shall, beginning not more than 180 days after the date of enactment of this Act, make financial assistance available to States which make application therefor, and which otherwise meet the requirements of this section and further requirements developed by the Secretary for the purpose of assisting such State in the development of a subterminal facilities plan (hereinafter in this Act referred to as the "State plan") for such State. Assistance under this section shall be made available in the form of a grant. No grant may be made to any State unless the Governor of such State or the appropriate agency of such State makes an application therefor as provided in this section.

(2) The Secretary may also make such grants available to two or more States acting together to develop a coordinated regional subterminal facilities plan (hereinafter in this Act referred to as the "regional plan") for such region.

(3) The amount of the grant made under this section to any State, or to any two or more States acting together (as provided in paragraph (2)), shall be proportionate to the amount to which such State, or States acting together, would be entitled for the purpose of implementing an approved State plan or an approved regional plan (as defined in subsection (d)) under the provisions of section 310B (e) (2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932 (e) (2)), except that in no case may the amount of the grant exceed an amount equal to 80 percent of the cost of preparing the State plan or regional plan, as the case may be.

(4) The State or regional plan shall prescribe in detail the actions such State or group of States proposes to take in order (A) to facilitate the efficient movement of bulk agricultural commodities from the points of production within such State or region to major market or export points, (B) to provide adequate storage facilities for such commodities between points of production and market, and (C) to provide adequate receiving, storage and loading facilities for any commodity or product used in the production of agricultural commodities and that can be stored or shipped in bulk.

(5) The State plan of any State or regional plan of any group of States shall include the following:

(A) an analysis of the trends in the marketing, shipping, storage, and production of bulk agricultural commodities produced in such State or region and the short and long range projections with respect to the marketing, shipping, storage, and production of such commodities in such State or region.

(B) A determination, on the basis of the analysis and projections described in clause (A), of the needs of the State or region for subterminal facilities and a determination of the most efficient locations for and the handling capacity of such facilities.

(C) A program for the continued use of existing on-farm storage facilities located within the State or region and for facilitating the transport of bulk agricultural commodities stored on the farm, either to subterminal facilities or directly to market or export points.

(D) An assessment of the impact of subterminal facilities on small rural storage facilities within the State or region and a program for the continued use of such small storage facilities under arrangements which make subterminal facilities available to them on an equitable and fair basis.

(E) An evaluation of the various types of nonprofit and for profit ownership arrangements available with respect to subterminal facilities that will provide maximum benefits for producers of agricultural commodities within the State or region, that will enhance such producers' control over the marketing of commodities produced by them, that will provide reasonable ownership participation opportunities of subterminal facilities by the owners and/or operators of small rural storage facilities, and that will otherwise minimize any adverse impact on existing small rural storage facilities within the State or region.

(F) An evaluation of the potential benefits of subterminal ownership and leasing arrangements for rail rolling stock (including locomotives), motor trucks, barges and other bulk agricultural commodity transport equipment that will help achieve maximum benefits from the operation of subterminal facilities within the State or region.

(G) Findings regarding the need for, the potential benefits of, the estimated cost of and the possible methods of financing a State or regional office which would (i) coordinate the use of freight transportation equipment with subterminal shipping requirements, and (ii) be owned and operated by the subterminal facility developed in such State or region with assistance under this Act.

(H) Specific plans for constructing and improving subterminal facilities within such State or region, including features of such facilities that will facilitate the efficient movement of bulk agricultural commodities from points of production to market or export points.

(b) Any funds made available to a State or region for the purpose of assisting such State or region to develop a State or regional plan shall be made available on condition that the appropriate State agency (1) hold public hearings in connection with the development of such plan, and (2) upon completion of such plan submit a copy thereof to the Secretary.

(c) No State or region shall be eligible for a grant under this section unless—

(1) the average annual production of bulk agricultural commodities by such State or region meets minimum levels established by the Secretary for a period the Secretary considers appropriate preceding the year in which application for such grant is made;

(2) the Governor of such State or the Governors of such States acting together on a regional basis certifies to the Secretary that producers of agricultural commodities have experienced serious storage and transportation problems within such State or region during the three years preceding that year in which application for such grant is made; and

(3) such State or group of States acting together on a regional basis has established an adequate plan, as described in section 5(j) of the Department of Transportation Act (49 U.S.C. 1654), for rail service in such State or States.

(d) Whenever any State or group of States acting together on a regional basis has submitted a State or regional plan under this section, the Secretary shall approve such plan if it meets the conditions specified in this Act and those prescribed in regulations of the Secretary to carry out this Act. Such a plan when appoved by the Secretary shall be known as an "approved State plan" or an "approved regional plan", as appropriate.

(e) To carry out the puposes of this section, there are authorized to be appropriated not to exceed $5,000,000 for the fiscal year 1980 and for each of the three succeeding fiscal years.

LOANS UNDER THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

SEC. 5. Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1930) is amended by adding at the end thereof a new subsection as follows:

"(e) (1) The Secretary may also make and insure loans under this section to public, private, or cooperative organizations organized for profit or nonprofit, or to individuals for the purpose of constructing or improving a subterminal facility in any State if the construction or improvement of such facility is consistent with the approved State plan or approved regional plan of such State or region. Such loans may also be made to purchase rolling stock (including locomotives), motor trucks, barges, and other bulk agricultural commodity transport equipment to be used in conjunction with the operation of subterminal facilities.

"(2) (A) The total amount of loan authority made available for the purposes of this subsection for any fiscal year shall be allocated by the Secretary among those States that have approved State plans or approved regional plans. Such allocation shall be made among such States on the basis of such formula as the Secretary shall prescribe by regulation, except that any such formula shall include the following factors: the total railroad mileage in each such State, the annual production of bulk agricultural commodities in each such State, and the existing storage capacity for bulk agricultural commodities within each State. In no event may the amount of loan authority allocated to any such State in any fiscal year be less than an amount equal to one percent of the total loan authority available for allocation in such fiscal year.

"(B) Any loan authority available for use in any State in any fiscal year that is not utilized by such State shall be reallocated, to the extent practicable, among other States eligible for the assistance provided under this section, in accordance with the same formula developed by the Secretary for the initial allocation of loan authority under this section.

"(C) The total railroad mileage, bulk agricultural commodity production, and storage capacity within any State shall be determined by the Secretary in consultation with the Interstate Commerce Commission.

"(3) As used in this subsection, the terms 'subterminal facility', 'approved State plan', or 'approved regional plan' shall have the same meanings as provided in the Agricultural Subterminal Storage Facilities Act of 1979.

"(4) Within 180 days after the date of enactment of the Agricultural Subterminal Storage Facilities Act of 1979, the Secretary shall establish such rules and regulations as may be necessary to implement the provisions of and to carry out the purposes of this subsection.".

NONRECOGNITION OF GAIN FROM SALE OF FACILITY IF PROCEEDS ARE REINVESTED IN ANY TRADE OR BUSINESS PROPERTY

SEC. 6. (a) Section 1033 of the Internal Revenue Code of 1954 (relating to involuntary conversions) is amended by redesignating subsections (g) and (h) as (h) and (i), respectively, and by inserting after subsection (f) the following new subsection:

"(g) Certain Agricultural Storage Facilities Adversely Impacted Under the Agricultural Subterminal Storage Facilities Act of 1979—If the taxpayer sells or exchanges a single purpose agricultural structure (within the meanings of section 48(a) (1) (D)) used by the taxpayer during a preceding taxable year ending 24 months or less before the date of sale or exchange by the taxpayer in his trade or business for the storage of agricultural commodities, and such sale or exchange is due to the construction of a subterminal facility (as defined in paragraph (2) of section 3 of the Agricultural subterminal Storage Facilities Act of 1979) which serves the area previously served by the taxpayer's structure, then—

"(1) the sale or exchange shall be treated as an involuntary conversion for purposes of this section.

"(2) the sale or exchange shall not be considered a disposition of, or cessation of being section 38 property for, such property for purposes of section 47, and

"(3) any other property (including real property) used by the taxpayer in a trade or business, including farming, shall be treated as property similar or related in service or use to the property converted.

For purposes of this subsection, the gain, if any, properly allocable to the sale or exchange of any building or structure used in connection with such an agricultural structure, or to any land on which such structure (and building and other structure) is located used in connection with the operation of the agricultural structure, shall be treated the same as gain from the sale or exchange of the agricultural structure if such building, structure, or land is sold at the same time as the agricultural structures.".

(b) The amendments made by this section shall apply to taxable years beginning after December 31, 1979.●

INTRODUCTION OF ELEPHANT PROTECTION ACT

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. BEILENSON. Mr. Speaker, following is the text of H.R. 2826, the Elephant Protection Act of 1979, which I introduced March 13, 1979.

MEMBERS OF CONGRESS COSPONSORING THE ELEPHANT PROTECTION ACT

Ambro, Anderson (Calif.), AuCoin, Bedell, Bennett, Bingham, Blanchard, Brodhead, Brown (Calif.), Burgener, Corman, Corrada, Dellums, Derwinski, Diggs, Downey, Drinan, Edgar, Edwards (Calif.), Emery, Ertel, Fazio.

Forsythe, Fowler, Gephardt, Hollenbeck, Holt, Horton, Hughes, Hyde, Jacobs, Kildee, Kostmayer, Lagomarsino, Lloyd, Long (Md.), McCloskey, McCormack, McHugh, Mikva, Mikulski, Moakley, Mottl, Ottinger, Panetta, Pease, Pritchard, Richmond.

Rodino, Roe, Roth, Rousselot, Sabo, Scheuer, Schroeder, Seiberling, Solarz, Spellman, Thompson, Van Deerlin, Vento, Waxman, Weaver, Weiss, Whitehurst, Wilson (Texas), Wolff, Wolpe, Yates.

H.R. 2826

A bill to prohibit the importation or exportation and certain other transactions involving elephant products, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Elephant Protection Act of 1979".

CONGRESSIONAL DECLARATION OF PURPOSE AND POLICY

SEC. 2. (a) DECLARATION OF PURPOSE.—The purpose of this Act is to ensure the continued existence of large and healthy populations of all species of elephants and, to this end to—

(1) eliminate the role of the United States in creating the world demand for elephant products; and

(2) encourage other nations to join in a ban on trade in such products.

(b) CONGRESSIONAL FINDINGS AND POLICY.—The Congress finds and declares that a drastic decline in populations of elephants has occurred in East Africa, and a gradual but steady decline is taking place throughout most of the other African countries which elephants inhabit, and that a major cause of this decline is the widespread killing of elephants for the commercial value of their ivory tusks. Accordingly, it is the policy of the United States to—

(1) pursue actively through international initiatives the establishment of effective controls on the killing of elephants;

(2) pursue actively a ban on the international trade in elephant products; and

(3) provide all appropriate forms of aid to nations wishing to prevent the destruction of elephant habitats and the overexploitation of elephant populations.

DEFINITIONS

SEC. 3. FOR PURPOSES OF THIS ACT—

(1) The term "elephant" means a member of any species of elephant.

(2) The term "elephant product" means any part of an elephant or any product composed in whole or in part of any part of an elephant.

(3) The term "import" means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

(4) The term "interstate or foreign commerce" means any transaction—

(A) between any person in any State and any person outside of such State,

(B) between persons in any State if the item involved is moving in any place outside of such State,

(C) between persons within one foreign country,

(D) between persons in two or more foreign countries, or

(E) between persons within the United States if the item involved is moving in any place outside of the United States.

(5) The term "commercial activity" means any activity of industry or trade, including the buying or selling of commodities and any activity conducted for the purpose of facilitating such buying or selling. Such term does not include exhibition of commodities by museums or similar cultural or historical organizations.

(6) The term "Secretary" means, unless otherwise provided in this Act, the Secretary of the Interior.

(7) The term "person" means any individual, corporation, partnership, trust, association, or any other private entity or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof, or of any foreign government.

(8) The term "district court of the United States" includes the District Court of Guam, the District Court of the Virgin Islands, the United States District Court for the District of the Canal Zone, and the District Court for the Northern Mariana Islands.

(9) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(10) The term "United States", when used in a geographical context includes all States.

UNITED STATES INITIATIVES FOR INTERNATIONAL PROTECTION OF ELEPHANTS

SEC. 4. In pursuance of the policies set forth in this Act, the President or his delegate shall propose, as soon as possible, to the Convention on International Trade in Endangered Species that all trade in elephant products by member nations be suspended until accurate data demonstrate that large and healthy elephant populations have been reestablished and are biologically stable over large geographic areas.

PROHIBITED ACTS

SEC. 5. It is unlawful for any person subject to the jurisdiction of the United States to—

(1) import into the United States or export from the United States any item which such person knows, or in the exercise of due care should know, is an elephant product, if such importation or such exportation occurs after the date of the enactment of this Act;

(2) possess, deliver, receive, carry, transport, ship, or sell or offer for sale, by any means whatsoever, any item which such person knows, or in the exercise of due care should know, is, or is composed in whole or in part of, an elephant product imported in violation of the provisions of this Act;

(3) sell or offer for sale in interstate or foreign commerce any item which such person knows, or in the exercise of due care should know, is an elephant product; or

(4) make any false record or render a false account of the contents of any shipment transported in interstate or foreign commerce and received by such person, if such shipment contains any item which such person knows, or in the exercise of due care should know, is, or is composed in whole or in part of, an elephant product imported in violation of the provisions of this Act.

ADMINISTRATIVE PROVISIONS

SEC. 6. (a) ADMINISTRATION BY SECRETARY OF THE INTERIOR.—Except as otherwise provided in subsections (e) and (f) of section 7 of this Act, the Secretary, in consultation with the Department of the Treasury and the department in which the Coast Guard is operating, shall administer the provisions of this Act. The Secretary may issue such regulations as are necessary to carry out the provisions of this Act.

(b) PERMITS.—(1) The Secretary may permit, under such terms and conditions as he may prescribe, any act otherwise prohibited by this Act for scientific purposes or to enhance the propagation or survival of any species of elephant.

(2) The Secretary shall publish notice in the Federal Register of each application for a permit which is made under this subsection. Each notice shall invite the submission from interested parties, within thirty days after the date of the notice, written data, views, or arguments with respect to the application. Information received by the Secretary as a part of any application shall be available to the public as a matter of public record at every stage of the proceeding.

(3) The Secretary may grant any permit under paragraph (1) of this subsection only if he determines to his satisfaction that such permit—

(A) was applied for in good faith,

(B) if granted and exercised, will not operate to the disadvantage of any species of elephant, and

(C) will be consistent with the purpose and policy set forth in section 2 of this Act.

PENALTIES AND ENFORCEMENT

SEC. 7. (a) CIVIL PENALTIES.—(1) Any person who violates, or who commits an act in the course of a commercial activity which violates, any provision of this Act, or any provision of any permit issued under section 6(b) of this Act, or of any regulation issued under this Act, may be assessed a civil penalty by the Secretary of not more than $10,000 for each violation. No penalty may be assessed under this subsection unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be remitted or mitigated by the Secretary. Upon any failure to pay a penalty assessed under this subsection, the Attorney General may institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty. The court shall hear such action on the record made before the Secretary and shall sustain his action if it is supported by substantial evidence on the record considered as a whole.

(2) Hearings held during proceedings for the assessment of civil penalties authorized by paragraph (1) of this subsection shall be conducted in accordance with section 554 of title 5, United States Code. The Secretary may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as contempt.

(b) CRIMINAL VIOLATIONS.—Any person who knowingly commits an act which violates any provision of this Act or of any permit issued under section 6(b) of this Act shall, upon conviction, be fined not more than $20,000 or imprisoned for not more than one year, or both.

(c) DISTRICT COURT JURISDICTION.—The several district courts of the United States shall have jurisdiction over any actions arising under this Act. For purposes of this Act, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii.

(d) REWARDS.—Upon the recommendation of the Secretary, the Secretary of the Treasury may pay an amount equal to one-half of the civil penalty or fine paid, but not to exceed $2,500, to any person who furnishes information which leads to a finding of civil violation or a conviction of a criminal violation of any provision of this Act or any regulation or permit issued under this Act. Any officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall not be eligible for payment under this section.

(e) ENFORCEMENT.—(1) The provisions of this Act and any regulation or permit issued under this Act shall be enforced by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating, or all such Secretaries. Each such Secretary may utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency or any State agency for purposes of enforcing any provision of this Act.

(2) The judges of the district courts of the United States and the United States magistrates may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this Act and any regulation issued under this Act.

(3) Any person authorized by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating, to enforce any provision of this Act may detain for inspection and inspect any package, crate, or other container, including its contents, and all accompanying documents, upon importation or exportation. Such person may make arrests without a warrant for any violation of this Act if he has reasonable grounds to believe that the person to be arrested is committing the violation in his presence or view, and may execute and serve any arrest warrant, search warrant, or other warrant or civil or criminal process issued by any officer or court of competent jurisdiction for enforcement of any provision of this Act. Such person so authorized may search and seize, with a warrant in such a manner and to such extent as is legal under the Constitution. Any item so seized shall be held by any person authorized by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating pending disposition of civil or criminal proceedings, or the institution of an action in rem for forfeiture of such item pursuant to paragraph (4) of this subsection, except that such Secretary may, in lieu of holding such item, permit the owner or consignee to post a bond or other surety satisfactory to such Secretary, but upon forfeiture of any such property to the United States, or the abandonment or waiver of any claim to any such property, it shall be disposed of (other than by sale to the general public) by such Secretary in such a manner, consistent with the purposes of this Act, as such Secretary shall by regulation prescribe.

(4)(A) Any item possessed, sold, purchased, offered for sale, transported, delivered, received, carried, shipped, exported, or imported contrary to the provisions of this Act or any permit or regulation issued under this Act shall be subject to forfeiture to the United States.

(B) Any vessel, vehicle, aircraft, or other means of transportation used to aid the possessing, selling, purchasing, offering for sale or purchase, transporting, delivering, receiving, carrying, shipping, exporting, or importing of any item in violation of this Act or any permit or regulation issued under this Act shall be subject to forfeiture to the United States upon conviction of a criminal violation pursuant to subsection (b) of this section.

(5) All provisions of law relating to the seizure, forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel for the proceeds from the sale thereof, and the remission or mitigation of such forfeiture, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, to the extent that such provisions of law are applicable and not inconsistent with the provisions of this Act, except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Department of the Treasury shall, for purposes of this Act, be exercised or performed by the Secretary or by such persons as he may designate.

(f) REGULATIONS.—The Secretary, the Secretary of the Treasury, and the Secretary of the department in which the Coast Guard is operating, are authorized to promulgate such regulations as may be appropriate to enforce the provisions of this Act and charge reasonable fees for expenses to the Government connected with permits or certificates issued pursuant to this Act, including processing applications and reasonable inspections, and with the transfer, board, handling, or storage of items seized and forfeited under this Act. All such fees collected pursuant to this subsection shall be deposited in the Treasury to the credit of the appropriation which is current and chargeable for the cost of furnishing the services. Appropriated funds may be expended pending reimbursement from parties in interest.

(g) CITIZEN SUITS.—(1) Except as provided in paragraph (2) of this subsection, any person may commence a civil action on his own behalf—

(A) to enjoin any person alleged to be in violation of any provision of this Act or regulation issued under the authority of this Act; or

(B) to compel the Secretary, Secretary of the Treasury, or Secretary of the department in which the Coast Guard is operating to apply the prohibitions set forth in or authorized by this Act.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce any such provision or regulation, as the case may be. In any civil suit commenced under subparagraph (B) of this paragraph the district court shall compel the Secretary, or Secretaries, to apply the prohibition sought if the court finds that the allegation is suported by substantial evidence.

(2)(A) Any action under this subsection may be brought in the judicial district in which the violation occurs.

(B) In any such action under this subsection in which the United States is not a party, the Attorney General, at the request of the Secretary, may intervene on behalf of the United States as a matter of right.

(3) The court, in issuing any final order in any action brought pursuant to paragraph (1) of this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(4) Any injunctive relief granted pursuant to this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief.

(h) COORDINATION WITH OTHER LAWS.—Nothing in this Act shall be construed as superseding or limiting in any manner the functions and responsibilities of the Secretary under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or sections 42 through 44 of title 18, United States Code, or of the Secretary of the Treasury under section 527 of the Tariff Act of 1930 (19 U.S.C. 1527) or any other section of such act.

PREEMPTION

SEC. 8. Any law or regulation of any State which applies with respect to the importation or exportation of elephant products or interstate or foreign commerce involving elephant products is void to the extent that it may effectively—

(1) permit what is prohibited by this Act or by any regulation issued under this Act, or

(2) prohibit what is authorized pursuant to any permit or any regulation issued under this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. There are authorized to be appropriated from time to time such sums as are necessary to carry out the provisions of this Act.●

REGULATORY COMMONSENSE

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. WAMPLER. Mr. Speaker, I am most pleased to insert into the CONGRESSIONAL RECORD a commentary of syndicated columnist James J. Kilpatrick, titled "Regulatory Common Sense," which appeared in the Washington Star on March 8, 1979.

No sensible person wants to down-play the danger of cancer. It is a dreaded disease and the determination of what causes it and how best to treat it should be a matter of national priority. But, making it a national priority does not mean we should act irrationally when we seek out causes and cures for it. Mr. Kilpatrick's article puts this important subject in a far better perspective than some of his brethren in the Fourth Estate usually do. With this in mind, I commend Mr. Kilpatrick's article to my colleagues.

Following is the Kilpatrick article:

REGULATORY COMMON SENSE

(By James J. Kilpatrick)

A special committee of the National Academy of Sciences last week came up with a delightfully encouraging report. The encouraging thought is that at long last, elements of reason and rationality may be restored to the regulation of food and drugs.

If so, that pleasant condition will have been a long time coming. For more than 20 years, from the time that Rep. James Joseph Delaney of New York added a little amendment to the Food and Drug Act, federal regulators, food processors and consumers have been trapped in the rigid language of the Delaney Clause.

Delaney's contribution was to say that every food product or food additive must be banned absolutely if after appropriate tests, it is found to induce cancer in man "or animals." Manifestly, so inflexible a rule leaves no room for scientific or political judgment. Under the Delaney Clause, it is immaterial if a particular product, such as saccharin, is of incalculable value to victims of diabetes. It is irrelevant that repeated studies have failed to prove that saccharin causes cancer in human beings. All that counted in the matter of saccharin was that one Canadian test indicated that massive doses of saccharin could cause cancer of the bladder in rats. The iron gates of Delaney clanged shut.

Well, not quite shut. Congress intervened to prevent the Food and Drug Administration from taking the drastic action the Delaney Clause would have required. Congress also directed the National Academy of Sciences to study and report on the whole situation. It was this report that appeared a few days ago.

With only 7 of its 37 members dissenting, the academy's ad hoc committee denounced the "rigidity" and the "complicated, inflexible and inconsistent" requirements of the Delaney Clause. In its place, the academy suggested that consideration be given to new risk classifications for foods and food additives: high, moderate and low risk. And why not?

The idea makes great good sense. It accords with old ideals of personal responsibility, and it ties in with the idea of cost benefit ratios. Yes, the academy's approach would require value judgments from key people in the FDA; they no longer could lock themselves safely within the iron bars of Delaney. But the public would benefit from a flexibility that would provide something better than the two extremes—unlimited use or absolute prohibition.

The problem of saccharin comes first to mind. The FDA's idea, in sedulous obedience to Delaney, is to ban the artificial sweetener altogether from diet foods and drinks. The unusual Canadian experiment, involving massive doses of saccharin to two generations of rats, did induce tumors in male animals. But studies involving thousands of diabetics (and different thousands of bladder cancer victims), have established no correlation between saccharin and cancer in humans. The FDA's decree is irrational.

The academy committee's moderate recommendations echo the position that is constantly urged by the independent, non-profit American Council on Science and Health. Headed by Dr. Elizabeth N. Whelan, a research associate at the Harvard School of Public Health, the council provides a cool, intelligent counterweight to the fire-alarm frenzies of those who see cancer scares everywhere.

Dr. Whalen and her associates certainly do not pooh-pooh cancer as such—not when 400,000 persons die every year from the disease. They do criticize the hysteria that has invaded public debate on the relationship between cancer and the environment. They are skeptical of the evidence most often adduced to "prove" that such-and-such a chemical "causes" cancer in humans. Over the past 30 years, while the use of new chemicals has increased, the incidence of cancer actually has declined.

What is most urgently needed in this whole emotional area is a measure of common sense. Whether we are talking about nitrites in bacon, or red dye in maraschino cherries, or cyclamates in soft drinks, of saccharin for a diabetic, the government's primary role should be to publicize the risk, the cost and the benefit—and let the people find their own way.•

CONGRESS SHOULD PROHIBIT USE OF TAX DOLLARS FOR TEST-TUBE BABY RESEARCH

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

• Mr. RUDD. Mr. Speaker, much attention and concern has been focused recently on the scientific developments which may result from research involving in vitro fertilization—"in glass" fertilization—popularly known as test-tube babies.

So far, such experimentation has resulted in the birth on July 15, 1978, of Louise Brown to parents in Lancashire, England, and on January 14 this year the birth of Alastair Montgomery to parents in Scotland. In both instances, the doctors involved were gynecologist Patrick Steptoe and physiologist Robert Edwards.

Medical science has now demonstrated that conception outside the womb is biologically possible. The question which we in Congress must confront is whether such experimentation is advisable, and specifically whether Federal dollars should be available for research in this controversial area.

RECOMMENDATION EXPECTED SOON

By way of background, let me point out that a special 13-member Ethics Advisory Board of the Department of Health, Education, and Welfare, appointed by HEW Secretary Joseph Califano, has been considering whether the Department should fund such projects here in the United States involving human in vitro fertilization. Such funding has been suspended since 1975.

HEW's advisory board opinion is awaited by Dr. Pierre Soupart of Vanderbilt University in Nashville, Tenn., who has applied to the National Institutes of Health for a $375,000 research grant for test-tube baby research.

The Ethics Advisory Board is scheduled to meet on March 16 and 17 here in Washington. While the Board has not yet made its recommendation, the preliminary indications are that it will support a resumption of Federal funding for such research. Indeed, the draft copy of the report is entitled: "Draft Report: HEW Support of Human In Vitro Fertilization and Embryo Transfer."

Mr. Speaker, I believe that our national policy should not be one which encourages such unrestrained bioscientific research. It is my intention to work vigorously within the Appropriations Committee on which I serve, with other Members of Congress, to see that no tax dollars go to the support of this unprecedented and highly questionable research.

Probably one of the most incisive and comprehensive statements on the in vitro controversy was made by Prof. Paul Ramsey of the Department of Religion at Princeton University. Professor Ramsey's testimony before the Ethics Advisory Board was recently reprinted in the Winter 1979 edition of The Human Life Review. Professor Ramsey's thesis, with which I concur, can be summed up concisely and pointedly,

> In vitro fertilization and embryo transfer should not be allowed by medical policy or public policy in the United States—not now, not ever.

IN VITRO PROCEDURE

Perhaps I should initially outline in nonscientific language the procedure which takes place in in vitro fertilization and embryo transfer. The female egg is surgically removed from the woman's body due to blockage of the fallopian tubes leading from the ovary to the uterus. Both insemination, with the male sperm, and conception take place in a test tube, outside the woman's body.

While in vitro means "in glass," it can refer in this context to a variety of containers or devices which may be made of plastic, ceramic, metal, or a combination of these materials. And it can be any size, shape, or complexity.

Once the egg is fertilized and, after several days, has divided repeatedly to become a cluster of cells called the blastocyst, the incipient embryo is implanted into the woman's uterus where it should develop in an otherwise normal manner.

I think perhaps we should examine some of the questions which HEW Secretary Joseph Califano specifically asked the Ethics Advisory Board to consider, and some of the initial evidence concerning the profound implications of such research.

DAMAGED OR DEFORMED CHILDREN?

> . . . Can techniques of *in vitro* fertilization and transportation of the embryo damage the resulting fetus and lead to abnormal children?"—Califano memo

One of the major concerns I have is the very real possibility that such embryo manipulation will bring forth a damaged human being. We have the case of Louise Brown, for instance, who was born in England, as a demonstration of the preliminary "success" of such advanced experimentation. But how do we measure that success?

We know Louise Brown has the physical characteristics of a child, but the true story of the type human being brought forth may be many years down the road. Mere physical characteristics are not the only measure of success with such experiments. Other physical and mental ramifications will not be discovered until later in her life.

And what of the failures?

One of the doctors who helped develop the procedure and was involved in the birth of Louise Brown, Dr. Patrick Steptoe, admitted that his first success came after roughly 100 unsuccessful efforts. They "discarded"—which is apparently bioscientific language for destroyed—these fertilized embryos because they suspected that they were not going to turn out "right"—that is, physically and mentally healthy.

It should be noted, in addition, that Dr. Soupart's funding request was initially designed for fertilization followed by observation and then destruction of the embryo within 2 weeks, with absolutely no intent to even attempt transfer to the mother's womb.

CAVALIER EXPERIMENTATION

I am gravely concerned about experimenting with human life in such a casual and indifferent manner. Indeed, the whole area of in vitro fertilization research seems to reflect a declining regard for the paramount value of the sanctity of human life and human individuality.

It is indeed regrettable, Mr. Speaker, but I feel that the passion for such research further demonstrates how ingrained in our society has become the humanist philosophy of man attempting to master his own fate. The reduction of man's uniqueness and individual personality to "laboratory perfection" is, indeed, a sad state of affairs. It is regrettable that the permissive atmosphere in our country has reached the point where such cavalier experimentation could take place. I suppose we have the liberal abortion mandates of the Supreme Court to thank for opening the door to the acceptability of this further devaluation of human life. Only in a nation which sanctions abortion could such biological exploration and destruction of human genesis be allowed.

Ironically, the "need" for destroying the artificially-produced embryos is because the laboratory fertilization does not provide the same natural selection by which the human body screens the fertilization process. In short, the human body, not surprisingly, is better able than are laboratory scientists to determine whether specific sperm and egg should be joined. Poor selection by the scientist, resulting in defective embryos, necessitated their destruction. The possibility still exists, however, that "defects" will develop after the embryo is transplanted into the mother's body.

UNKNOWN AND UNKNOWABLE RISKS

Additionally, there is the question of what sort of psychological influence—possible damage—may be transmitted to the embryo, but which may not be expressed until later life.

Previous studies of normal conception and prenatal development have suggested that smoking and drinking by the mother during pregnancy may influence the health of the child, or even the tendency toward smoking or drinking of the child in later life. Indeed, there has been speculation that even the mother's psychological attitude during pregnancy may influence the personality of her child.

What consequences may develop from having been conceived in a test-tube? But, most importantly, are we so engrossed with scientific research that we are willing to answer this and other related questions by experimenting on the lives of human beings in this manner?

Professor Ramsey answered this question on apparent insatiable scientific curiosity in his testimony:

> . . . We ought not to try to discover these truths by human experimentation upon them. But there is no other way to find out. The argument is conclusive, unless as a people we mean to make technical medical advance by creating our progency at risk of unknown and unknowable damage from the procedure itself.

In areas of disease control and prevention, scientists can experiment with animals in order to discover the application of certain principles to humans. However, we are unable to do so in this case, since no animal or mammal is sufficiently like the human in the matter of reproductive physiology to constitute a comparable model. Thus proponents of in vitro fertilization have little choice but to continue advocacy of experimentation on humans since they have now essentially learned all they can from animal in vitro fertilization.

I believe that we should not encourage such research. Indeed, there has been some discussion that individual States may act more restrictively to prohibit or limit such research within their jurisdictions. Additionally, it is a subject which will surely generate much ethical discussion within the medical-scientific community.

Secretary Califano also raised the question of Government liability in the case of defects of a child conceived in the course of federally funding research. Additionally, there is the possibility that parents would not care for an abnormal child—especially after so much scientific advertisement on receiving a safe and healthy baby—and would relinquish the child to society at large.

How ironically tragic it is to see the tangled situation we confront when we attempt to alter the natural order. Hundreds of thousands of babies are aborted yearly in this country—needlessly, senselessly killed. Meanwhile other hundreds of thousands of couples earnestly desire to have children. Some are infertile. Others simply prefer adoption entirely, while many couples wish to add to their own biological family some child less fortunate.

What a national shame that these desires cannot once again be directed into constructive adoption channels. No need for abortion, no demand for reproductive tinkering.

SELECTIVE BREEDING

Another question raised by Secretary Califano is whether in vitro research could lead to selective breeding. Unfortunately, the answer appears to be in the affirmative, for apparently science's voracious appetitie knows no bounds, and has no self-imposed limit for its curiosity.

Let me note that initially, at least, the stated objective of in vitro research is the idea of assisting women whose fallopian tubes are now blocked and who desperately desire children.

However, it is easy to see that in the name of scientific research, further, more elaborate and highly questionable ventures will be attempted. Just how much laboratory experimentation will we sanction?

The admission that imperfect embryos were destroyed at an early stage of development in England opens the door to the concern of just how much more tampering will be done by scientists.

How far away are scientific discoveries involving "gene-splicing?" Will parents select their embryos based on sex—"We wanted a boy." What we face, as Professor Ramsey observes is:

> . . . The immediate (not remote and not unintended) specter that we are going right now to begin to "design" our descendants up to the limit that is scientifically possible.

I believe this proclivity for human design over nature is a dangerous trend. "Made-to-order" children may some day be something more than science fiction if we proceed down the path of in vitro fertilization and the many ominous possibilities it encompasses. The dehumanized and depersonalized atmosphere which this method foretells is one which I believe we should discourage before it goes any further.

For while the present stated intention is to overcome the infertility of the mother, it soon becomes obvious that the "semen donor" need not be restricted—at least biologically—to the married husband of the would-be mother. We have already seen the gradual shift in this direction in the area of artificial insemination.

No longer is it, as originally promoted, simply a means of facilitating a pregnancy of the wife by her legitimate husband, but by other "donors" as well. Anonymous sperm donors are being used in artificial insemination. Why not next in in vitro fertilization?

And indeed, with the development of sperm banks, can egg banks be far behind? Let us not delude ourselves into thinking that such a possibility is impossible or even unlikely. On the contrary.

SURROGATE MOTHERS: WOMBS FOR RENT

One of the other areas which Secretary Califano specifically asked the Ethics Advisory Board to consider was whether in vitro research could indeed lead "to attempts to control the genetic makeup of offspring or to the use of 'surrogate parents' where, for example, rich women might pay poor women to carry their children?"

In other words, the husband and wife could have—that is, hire—a third party "mother" to carry their child to birth. An army of lawyers will no doubt be needed to adjudicate the legal custody questions which would arise from such arrangements.

Who is the "real" parent? Or in the converse, who is legally and financially responsible for the child after birth? Such questions will be especially relevant if some birth defect should render the baby "unacceptable" to the contracting parents. The peripheral issues are probably as boundless as the biological possibilities of the research itself.

Any combination of fertilization for the embryo is possible should this technology proceed. What is to limit the research to the husband and wife, except morality? As Dr. Leonie S. Watson observed in testimony before the ethics boards, this progression opens the "possibility of using an ovum from one woman, the womb of another, and sperm from a man not married to either of them."

And could not single women "buy" fertilized embryos? Those who think this scenario is impossible need only read the February 12 issue of Newsweek to see that this perverse development is precisely what has resulted from unrestricted artificial insemination. The Newsweek story indicated that unmarried lesbians have been able to obtain pregnancies from artificial insemination received via anonymous donors at sperm banks.

The possibilities for manipulating the reproductive process are almost limitless. As described, not all ways are simply for the well-meaning desire to overcome fallopian tube blockage in a wife. In my view, the development of in vitro fertilization will ultimately lead to unintended, but inevitable, abuse with grave consequences for marriage, family, and society.

Some have already speculated on the possibility of total in vitro fertilization and pregnancy whereby a laboratory generation of humans becomes a viable alternative to normal pregnancy. Visions of Aldous Huxley's "Brave New World" and its impersonal hatcheries come uncomfortably to mind. Is it possible to have in vitro development from conception to birth? Possibly. Surely the scientists will continue in this direction, if encouraged.

But is it worth the violation of ethical norms to allow a few scientists to say they can bring forth life from a new process? I think not. Medical science can aid those wives and husbands having difficulty bearing children in other ways than to have scientists take over the function which has been reserved up to now to marriage and the family.

I believe it is clear that in vitro fertilization represents a process which has serious ethical and moral implications for our society. Continuation of such experimentation—no matter how tantalizing—will surely lead to harm and severe future consequences.

It is essential that we provide absolutely no Federal taxpayer funding or encouragement for such futuristic experimentation.●

DEREGULATION

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 14, 1979

● Mr. UDALL. Mr. Speaker, once in awhile, a newspaper editorial comes along that is deserving of wider circulation. Such an editorial appeared in the February 28, 1979, edition of the Oro Valley Voice/Catalina Call, a paper published in the Second Congressional District of Arizona. The writer makes a clear and concise case for deregulation of my State's transportation industries, and how such a move could lead to competition, better service, and lower prices. In the end, everyone benefits. It is a good editorial, and I commend it to my colleagues:

MONOPOLY SHIPPERS NEED COMPETITION

Governor Babbitt is on the right track when he calls for deregulation of the transportation industries in Arizona, thus stimulating competition.

For too long, monopoly carriers have dominated key routes in this state while giving mediocre or substandard service to customers. Also, too often, those customers have paid premium prices because there were no competitors to choose between.

Deregulation wouldn't change that immediately—but it certainly would help smaller competitors to "break into the business." And theoretically, at least, more competition will bring better service at lower rates.

It's ironic that the president of Greyhound Corp., largest in the nation and headquartered in Phoenix, should be opposed to state deregulation.

As a consistent user of Greyhound's package freight service between Tucson and Phoenix—a reluctant customer only because there is no one else certified to serve that route—we can testify that service is erratic, undependable, and that the company refuses to stand behind its performance claims, even in cases where the bus line has lost, permanently, shipments worth thousands of dollars.

Greyhound's abuse of its monopoly will be continued so long as the monopoly exists, we suspect. There are undoubtedly others whose records are similarly dismal.

The only way for the state to protect consumers and defend against such shoddy service is to encourage competition through appropriate legislation.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellatioins or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, March 15, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 16

9:00 a.m.

Governmental Affairs

To hold hearings on the nomination of Peter H. Wolf, of the District of Columbia, to be Associate Judge of the Superior Court of the District of Columbia.

1114 Dirksen Building

Judiciary

Antitrust, Monopoly and Business Rights Subcommittee

To hold hearings on S. 600, to preserve the diversity and independence of American business.

6226 Dirksen Building

9:30 a.m.

Appropriations

Agriculture and Related Agencies Subcommittee

To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Agriculture.

1114 Dirksen Building

Energy and Natural Resources

Energy Research and Development Subcommittee

To resume hearings on proposed authorizations for fiscal year 1980 for nuclear programs.

3110 Dirksen Building

Foreign Relations

To continue hearings on proposed fiscal year 1980 authorizations for foreign assistance programs.

4221 Dirksen Building

Human Resources

Health and Scientific Research Subcommittee

To hold hearings on S. 230, proposed Nurse Training Amendments Act.

4232 Dirksen Building

Judiciary

Antitrust, Monopoly and Business Rights

To resume hearings on the practice and procedures used by the life insurance industry's industrial and monthly debit ordinary life insurance policies.

2228 Dirksen Building

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To continue hearings on proposed budget estimates for fiscal year 1980 for the Veterans' Administration, the American Battle Monuments Commission, and the U.S. Army cemeterial expenses.

1318 Dirksen Building

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for FY 1980 for the Office of Human Development Services, Department of HEW.

S-128, Capitol

Budget

To continue hearings in preparation for reporting the first concurrent resolution on the FY 1980 congressional budget.

6202 Dirksen Building

Commerce, Science, and Transportation

Surface Transportation Subcommittee

To hold hearings on the Northeast corridor improvement project.

235 Russell Building

2:00 p.m.

Budget

To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1980 congressional budget.

6202 Dirksen Building

Select on Intelligence

Budget Authorization Subcommittee

To resume closed hearings on proposed fiscal year 1980 authorization requests for intelligence operations of the Federal Government.

S-407, Capitol

MARCH 19

9:30 a.m.

Judiciary

To hold oversight hearings on the activities of the Office of the Solicitor General, Department of Justice.

2228 Dirksen Building

Judiciary

Antitrust, Monopoly, and Business Rights Subcommittee

To resume hearings on S. 300, proposed Antitrust Enforcement Act.

1318 Dirksen Building

Energy and Natural Resources

Energy Regulation Subcommittee

To resume hearings on the Department of Energy's proposals for emergency energy conservation and gasoline rationing.

3110 Dirksen Building

10:00 a.m.

Armed Services

Military Construction and Stockpiles Subcommittee

To receive testimony on S. 290, proposed Strategic and Critical Materials Stock Piling Revision Act.

212 Russell Building

Environment and Public Works

Environmental Pollution Subcommittee

To hold hearings on proposed legislation authorizing funds for programs of the Safe Drinking Water Act (P.L. 95-190), the Toxic Substances Control Act (P.L. 94-469), and the Ocean Dumping Act (P.L. 95-153).

4200 Dirksen Building

Finance

International Trade Subcommittee

To hold hearings on H.R. 1147, to extend temporarily the authority of the Secretary of the Treasury to waive the imposition of countervailing duties, to insure completion of congressional consideration of the Multilateral Trade Negotiations in terms of their agreements and implementing legislation.

2221 Dirksen Building

10:30 a.m.

Commerce, Science, and Transportation

Business meeting, to discuss the status of the U.S. Multilateral Trade Negotiations.

235 Russell Building

2:00 p.m.

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for FY 1980 for the Department of HEW.

S-128, Capitol

Appropriations

State, Justice, Commerce, the Judiciary Subcommittee

To hold hearings on proposed budget estimates for FY 1980 for the Equal Employment Opportunity Commission, U.S. Metric Board, and the Legal Services Corporation.
S–146, Capitol

Select on Intelligence
Budget Authorization Subcommittee
To resume closed hearings on proposed FY 1980 authorization requests for intelligence operations of the Federal Government.
S–407, Capitol

MARCH 20

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices
To hold hearings on S. 399 to revise the Federal Crop Insurance program.
324 Russell Building

9:30 a.m.
Energy and Natural Resources
Energy Regulations Subcommittee
To continue hearings on the Department of Energy's proposals for emergency energy conservation and gasoline rationing.
3110 Dirksen Building

Human Resources
Child and Human Development Subcommittee
To resume hearings on S. 4, proposed Child Care Act.
4232 Dirksen Building

Judiciary
To mark up S. 237, proposed Magistrate Act, and S. 373, proposed Court-Annexed Arbitration Act, to be followed by continuing hearings on S. 382, proposed Competition Improvements Act, and on proposed legislation to reform and restructure the Federal Judicial System.
2228 Dirksen Building

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1980 for International Financial Institutions. Department of the Treasury.
1114 Dirksen Building

Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Office of Territorial Affairs.
1224 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for FY 1980 for the Social Security Administration, Department of HEW.
S–128, Capitol

Governmental Affairs
To hold hearings on S. 262, proposed Reform of Federal Regulation Act.
3302 Dirksen Building

Joint Economic
Fiscal and Intergovernmental Policy Subcommittee
To hold hearings on long term economic trends for cities, the quality of city life, and the sacrifices made to balance local budgets.
2220 Rayburn Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for FY 1980 for the Department of HEW.
S–128, Capitol

Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on proposed budget estimates for FY 1980 for the Federal Communications Commission and the Small Business Administration.
S–146, Capitol

2:30 p.m.
Agriculture, Nutrition, and Forestry
Environment, Soil Conservation, and Forestry Subcommittee
To hold oversight hearings on the administration's plan to phase out long-term soil and water conservation programs.
324 Russell Building

MARCH 21

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume oversight hearings on the implementation of P.L. 94–282, establishing the Office of Science and Technology Policy.
235 Russell Building

Judiciary
Constitution Subcommittee
To hold hearings on S. 506, proposed Fair Housing Amendments Act.
6226 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Office of Territorial Affairs.
1224 Dirksen Building

Appropriations
Military Construction Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for military construction programs.
1114 Dirksen Building

Banking, Housing, and Urban Affairs
To hold oversight hearings on the contract profit policy of the Department of Defense.
5302 Dirksen Building

Finance
Tourism and Sugar Subcommittee
To hold hearings on S. 463, to implement the International Sugar Agreement and to insure stable domestic sugar prices.
2221 Dirksen Building

Judiciary
To hold hearings on proposed legislation to abolish Federal diversity's jurisdiction based on U.S. citizenship.
2228 Dirksen Building

Rules and Administration
To receive testimony on and consider budget requests for fiscal year 1980 for the Federal Elections Commission, and on other administrative matters.
301 Russell Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on proposed budget estimates for FY 1980 for the Commission on Security and Cooperation in Europe, Federal Maritime Commission, Marine Mammal Commission, and on supplemental appropriations for FY 79 for the Board of International Broadcasting.
S–146, Capitol

Select on Intelligence
Budget Authorization Subcommittee
To resume closed hearings on proposed fiscal year 1980 authorization requests for intelligence operations of the Federal Government.
S–407 Capitol

3:00 p.m.
Labor and Human Resources
Health and Scientific Research Subcommittee
To mark up S. 230, proposed Nurse Training Amendments, S. 497, proposed Emergency Medical Services Systems Amendments S. 527, proposed National Science Foundation Authorization Act for Fiscal Years 1980 and 1981, S. 544, proposed Health Planning Amendments, and S. 590, proposed Clinical Laboratory Improvement Act.
Room to be announced

MARCH 22

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To hold hearings on proposed legislation authorizing funds for programs of the Resource Conservation Recovery Act of 1976 (P.L. 94–580).
4200 Dirksen Building

Governmental Affairs
Civil Service and General Services Subcommittee
To hold hearings on S. 532, proposed Pension Policy Commission Act, and on proposed legislation to authorize funds through fiscal year 1981 to continue the Commission's work.
357 Russell Building

Judiciary
To hold oversight hearings on the activities of the Federal Bureau of Investigation, Department of Justice.
2228 Dirksen Building

Judiciary
Constitution Subcommittee
To continue hearings on S. 506, proposed Fair Housing Amendments Act.
5110 Dirksen Building

Veterans' Affairs
To resume hearings on S. 330, to provide for a judicial review of the administrative actions of the VA, and for veterans' attorney fees before the VA or the courts
6226 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Environmental Protection Agency.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the U.S. Geological Survey.
1318 Dirksen Building

Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
S–126 Capitol

Banking, Housing, and Urban Affairs
Economic Stabilization Subcommittee
To hold oversight hearings on the administration's anti-inflation program, and to review the nature and causes of inflation.
5302 Dirksen Building

Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 14, proposed Reclamation Reform Act.
3110 Dirksen Building

Finance
Health Subcommittee
To mark up proposed legislation to control increases in hospital revenues (Hospital Cost Containment).
2221 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on proposed budget estimates for FY 1980 for the Commission on Civil Rights and the Federal Trade Commission.
S–146, Capitol

Appropriations
Military Construction Subcommittee
To continue hearings on proposed budget

estimates for fiscal year 1980 for military construction programs.
1223 Dirksen Building

Energy and Natural Resources
Energy Research and Development Subcommittee
To continue hearings on S. 14, the Reclamation Reform Act.
3110 Dirksen Building

Select on Intelligence
Budget Authorization Subcommittee
To continue closed hearings on proposed fiscal year 1980 authorization requests for intelligence operations of the Federal Government.
S-407, Capitol

2:30 p.m.
Labor and Human Resources
Health and Scientific Research Subcommittee
To mark up S. 230, proposed Nurse Training Amendments, S. 497, proposed Emergency Medical Services Systems Amendments, S. 527, proposed National Science Foundation Authorization Act for Fiscal Years 1980 and 1981, S. 544, proposed Health Planning Amendments, and S. 590, proposed Clinical Laboratory Improvement Act.
Room to be announced

MARCH 23

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on a proposed joint government/industry program of advanced automotive technology development.
235 Russell Building

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To resume hearings on proposed fiscal year 1980 authorizations for the Department of Energy.
3110 Dirksen Building

Environment and Public Works
Resource Protection Subcommittee
To continue hearings on proposed legislation authorizing funds for programs of the Resource Conservation Recovery Act of 1976 (P.L. 94-580).
4200 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Environmental Protection Agency, and the Consumer Information Center.
1318 Dirksen Building

Banking, Housing, and Urban Affairs
Economic Stabilization Subcommittee
To continue oversight hearings on the administration's anti-inflation program, and to review the nature and causes of inflation.
5302 Dirksen Building

Finance
Health Subcommittee
To continue markup on proposed legislation to control increases in hospital revenues (Hospital Cost Containment).
2221 Dirksen Building

MARCH 26

9:00 a.m.
Finance
Tourism and Sugar Subcommittee
To resume hearings on S. 463, to implement the International Sugar Agreement and to insure stable domestic sugar prices.
2221 Dirksen Building

9:30 a.m.
Energy and Natural Resources
Energy Regulation Subcommittee
To hold oversight hearings on the competitive situation in the retail gasoline market.
3110 Dirksen Building

Labor and Human Resources
Health and Scientific Research Subcommittee
To hold hearings on preclinical and clinical drug testing by the pharmaceutical industry.
4232 Dirksen Building

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for FY 1980 for the Department of Labor, and related agencies.
S-128 Capitol

To resume hearings on S. 85, to Banking, Housing, and Urban Affairs strengthen the ability of the Federal Reserve Board to conduct monetary policy, promote greater competitive equality, enhance the safety and soundness of the banking system, and improve the efficiency of the Federal Reserve payments system.
5302 Dirksen Building

Energy and Natural Resources
Energy Resources and Materials Production Subcommittee
To hold hearings to examine strategic petroleum reserve regional storage.
3302 Dirksen Building

MARCH 27

9:00 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold oversight hearings on the activities of the National Highway Traffic Safety Administration and on proposed legislation authorizing funds for fiscal year 1980 for the National Traffic and Motor Vehicle Safety Act (P.L. 89-563), and the Motor Vehicle Information and Cost Savings Act (P.L. 92-513).
5110 Dirksen Building

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To resume hearings on proposed fiscal year 1980 authorizations for the Department of Energy.
3110 Dirksen Building

Labor and Human Resources
To hold hearings on S. 420, to strengthen State workers' compensation programs.
4232 Dirksen Building

Labor and Human Resources
Child and Human Development
To mark up S. 239, authorizing funds for programs administered by Domestic Volunteer Service Act (ACTION).
6226 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Bureau of Indian Affairs.
1224 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for FY 1980 for the Department of HEW.
S-128, Capitol

Appropriations
Military Construction Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for military construction programs.
S-126, Capitol

Banking, Housing, and Urban Affairs
To continue hearings on S. 85, to strengthen the ability of the Federal Reserve Board to conduct monetary policy, promote greater competitive equality, enhance the safety and soundness of the banking system, and improve the efficiency of the Federal Reserve payments system.
5302 Dirksen Building

Finance
To hold hearings on S. 350 and S. 351, to encourage and facilitate the availability, through private insurance carriers, of basic health insurance at reasonable premium charges.
9221 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for FY 1980 for the Department of HEW.
S-128, Capitol

Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To receive testimony from Members of Congress on proposed budget estimates for FY 1980 for the Departments of State, Justice, Commerce, and the Judiciary.
S-146, Capitol

MARCH 28

9:00 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To continue oversight hearings on the activities of the National Highway Traffic Safety Administration and on proposed legislation authorizing funds for fiscal year 1980 for the National Traffic and Motor Vehicle Safety Act (P.L. 89-563), and the Motor Vehicle Information and Cost Savings Act (P.L. 92-513).
5110 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To hold hearings on proposed legislation on biomedical research programs.
Room to be announced

9:30 a.m.
Commerce, Science, and Transportation
To hold oversight hearings on the trucking industry economic regulation by the Federal Government.
235 Russell Building

Human Resources
To continue hearings on S. 420, to strengthen State workers' compensation programs.
4332 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To resume hearings to explore the areas of basic learning skills used in elementary and secondary schools.
457 Russell Building

Judiciary
Constitution Subcommittee
To resume hearings on S. 10, authorizing the Department of Justice to initiate suit to enforce constitutional rights to institutionalized persons.
1114 Dirksen Building

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for FY 1980 for the Department of HEW.
S-128, Capitol

Banking, Housing, and Urban Affairs
To continue hearings on S. 85, to strengthen the ability of the Federal Reserve Board to conduct monetary policy, promote greater competitive equality, enhance the safety and soundness of the banking system, and improve the efficiency of the Federal Reserve payments system.
5302 Dirksen Building

Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To hold hearings on proposed fiscal year 1980 authorizations for the Department of Energy.
3110 Dirksen Building

Finance
To continue hearings on S. 350 and S. 351, to encourage and facilitate the availability, through private insurance carriers, of basic health insurance at reasonable premium charges.
2221 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for FY 1980 for the Department of HEW.
S-128, Capitol

MARCH 29

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices
To resume hearings on S. 399 to revise the Federal Crop Insurance Program.
324 Russell Building

9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To continue oversight hearings on health programs administered by the National Institutes of Health.
4232 Dirksen Building

Judiciary
Constitution Subcommittee
To continue hearings on S. 10, authorizing the Department of Justice to initiate suit to enforce constitutional rights to institutionalized persons.
1202 Dirksen Building

Veterans' Affairs
To hold hearings to receive legislative recommendations for FY 1980 from AMVETS, Paralyzed Veterans of America, Veterans of World War I, blinded veterans, and Purple Heart.
6226 Dirksen Building

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1980 for ACTION—International Program.
1114 Dirksen Building

Appropriations
HUD-Independent Agencies Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the National Aeronautics and Space Administration.
1224 Dirksen Building

Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the National Endowment for the Humanities.
1224 Dirksen Building

Commerce, Science, and Transportation
To hold joint hearings with the Energy and Natural Resources Subcommittee on Energy Resources and Materials Production on S. 493, proposed Deep Seabed Mineral Resources Act.
3110 Dirksen Building

Energy and Natural Resources
Energy Resources and Materials Production Subcommittee
To hold joint hearings with the Committee on Commerce, Science, and Transportation on S. 493, proposed Deep Seabed Mineral Resources Act.
3110 Dirksen Building

10:30 a.m.
Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for FY 1980 for the Departments of Labor and HEW.
S-128, Capitol

2:00 p.m.
Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
S-146, Capitol

Energy and Natural Resources
Parks Recreation, and Renewable Resources Subcommittee
To hold oversight hearings on the National Park Service's concession policy.
3110 Dirksen Building

MARCH 30

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To resume hearings on proposed fiscal year 1980 authorizations for the Department of Energy.
3110 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the National Aeronautics and Space Administration.
1318 Dirksen Building

APRIL 2

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To resume hearings on proposed fiscal year 1980 authorizations for the Department of Energy.
3110 Dirksen Building

Human Resources
To resume hearings on S. 420, to strengthen State workers' compensation programs.
4232 Dirksen Building

10:00 a.m.
Veterans' Affairs
To hold hearings on the nomination of Allan L. Reynolds, of Virginia, to be Inspector General, Veterans' Administration.
457 Russell Building

10:30 a.m.
Commerce, Science, and Transportation
To hold hearings on proposed legislation to authorize funds through fiscal year 1985 for the Fishery Conservation Management Act (P.L. 94-265), and the Anadromous Fish Conservation Act (P.L. 93-362).
235 Russell Building

APRIL 3

9:30 a.m.
Human Resources
To continue hearings on S. 420, to strengthen State workers' compensation programs.
4232 Dirksen Building

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for programs administered by the Department of State.
1114 Dirksen Building

Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Office of the Secretary and the Office of the Solicitor.
1224 Dirksen Building

Eneregy and Natural Resources
Energy Conservation and Supply Subcommittee
To resume hearings on proposed fiscal year 1980 authorizations for the Department of Energy.
3110 Dirksen Building

2:00 p.m.
Energy and Natural Resources
Parks, Recreation, and Renewable Resources Subcommittee
To resume oversight hearings on the National Parks Service's concession policy.
3110 Dirksen Building

APRIL 4

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the National Science Foundation.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Heritage Conservation and Recreation Service.
1224 Dirksen Building

Banking, House, and Urban Affairs
International Finance Subcommittee
To hold hearings on the implications of the proposed multilateral trade agreements for U.S. exports.
5302 Dirksen Building

Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To hold hearings on S. 640, authorizing funds for fiscal year 1980 for certain maritime programs of the Department of Commerce.
235 Russell Building

Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To continue hearings on proposed fiscal year 1980 authorizations for the Department of Energy.
3110 Dirksen Building

APRIL 5

9:00 a.m.
Veterans' Affairs
To hold hearings on proposed legislation extending certain veterans' health benefits programs through FY 1980.
5110 Dirksen Building

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1980 for foreign assistance programs.
1114 Dirksen Building

Appropriations
HUD-Independent Agencies Subcommittee policy.
To resume hearings on proposed budget estimates for fiscal year 1980 for the National Science Foundation, and the Office of Science and Technology policy.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To continue hearings on proposed budget estimates for FY 1980 for the Heritage Conservation and Recreation Service.
1224 Dirksen Building

Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
318 Russell Building

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To resume hearings on the implications of the proposed multilateral trade agreements for U.S. exports.
5302 Dirksen Building

2:00 p.m.
Appropriations
Transportation Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Tranpsortation.
318 Russell Building

APRIL 6

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To mark up 357, proposed budget estimates for fiscal year 1980, S. 354 and proposed supplemental appropriations for fiscal year 1979, both for NASA.
235 Russell Building

Energy and Natural Resources
Energy Research and Development Subcommittee
To resume hearings on proposed fiscal year 1980 authorizations for the Department of Energy.
3110 Dirksen Building

10:00 a.m.
Appropriations
Transportation Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

11:00 a.m.
Appropriations
Transportation Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

2:00 p.m.
Appropriations
Transportation Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

APRIL 9

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on proposed legislation to establish an Earth Data and Information Service which would supply data on the Earth's resources and environment.
457 Russell Building

Labor and Human Resources
Alcoholism and Drug Abuse Subcommittee
To markup S. 440, proposed Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act, and S. 525, proposed Drug Abuse Prevention, Treatment, and Rehabilitation Act.
4232 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
To resume joint hearings with the Energy and Natural Resources Subcommittee on Energy Resources and Materials Production S. 493, proposed Deep Seabed Mineral Resources Act.
3110 Dirksen Building

Energy and Natural Resources
Energy Resources and Materials Production Subcommittee
To resume joint hearings with the Committee on Commerce, Science, and Transportation on S. 493, proposed Deep Seabed Mineral Resources Act.
3110 Dirksen Building

APRIL 10

9:30 a.m.
Veterans' Affairs
To hold oversight hearings on the role of the Federal Government in providing educational employment.
6226 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Fish and Wildlife Service.
1223 Dirksen Building

Finance
To mark up S. 350 and S. 351, to encourage and facilitate the availability, through private insurance carriers, of basic health insurance at reasonable premium charges.
2221 Dirksen Building

APRIL 11

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings on proposed legislation to establish an Earth Data and Information Service which would supply data on the Earth's resources and environment.
457 Russell Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Federal Emergency Management Administration.
1318 Dirksen Building

Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To hold hearings on S. Res. 59, proposed Small Savers Equity Resolution.
5302 Dirksen Building

Energy and Natural Resources
Parks, Recreation, and Renewable Resources Subcommittee
To resume oversight hearings on the National Park Service's concession policy.
3110 Dirksen Building

Finance
To continue markup on S. 350 and S. 351, to encourage and facilitate the availability, through private insurance carriers, of basic health insurance at reasonable premium charges.
2221 Dirksen Building

APRIL 12

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of the Treasury.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Bureau of Mines.
1223 Dirksen Building

Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue hearings on S. Res. 59, proposed Small Savers Equity Resolution.
5302 Dirksen Building

2:00 p.m.
Appropriations
Transportation Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

APRIL 24

10:00 a.m.
Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Bureau of Land Management.
1223 Dirksen Building

APRIL 25

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold oversight hearings on the Civil Aeronautics Board plan to implement the Airline Deregulation Act (P.L. 95-504).
235 Russell Building

Human Resources
To hold oversight hearings on the conditions, trends, and new approaches to linking education, health, and work in the coming decade.
4232 Dirksen Building

Veterans' Affairs
To mark up S. 330, to provide for a judicial review of the administrative actions of the VA, and for veterans' attorneys fees before the VA or the courts, and on proposed legislation extending certain veterans' health benefits programs through FY-1980.
412 Russell Building

10:00 a.m.
Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Department of the Interior, to hear congressional witnesses.
1223 Dirksen Building

Banking, Housing, and Urban Affairs
Economic Stabilization Subcommittee
To resume oversight hearings on the administration's anti-inflation program, and to review the nature and causes of inflation.
5302 Dirksen Building

APRIL 26

9:30 a.m.
Human Resources
To continue oversight hearings on the conditions, trends, and new approaches to linking education, health, and work in the coming decade.
4232 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Housing and Urban Development.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To continue hearings on proposed budget estimates for FY 1980 for the Office of Surface Mining Reclamation and Enforcement, Office of Water Research and Technology.
1223 Dirksen Building

Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

Banking, Housing, and Urban Affairs
Economic Stabilization Subcommittee
To continue oversight hearings on the administration's anti-inflation program, and to review the nature and causes of inflation.
5302 Dirksen Building

2:00 p.m.
Appropriations
Transportation Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

APRIL 27

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Housing and Urban Development, and the Neighborhood Reinvestment Corporation.
1318 Dirksen Building

Appropriations
Transportation Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

MAY 1

9:30 a.m.
Human Resources
Child and Human Development Subcommittee
To hold oversight hearings on the implementation of the Older American Volunteer Program Act (P.L. 93–113).
4232 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the National Park Service.
1223 Dirksen Building

MAY 2

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for HUD and independent agencies.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Smithsonian Institution.
1223 Dirksen Building

MAY 3

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for HUD
1318 Dirksen Building

Appropriations
Interior Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Energy.
1223 Dirksen Building

Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

MAY 7

10:00 a.m.
Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

2:00 p.m.
Appropriations
Transportation Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

MAY 8

10:00 a.m.
Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Energy.
1223 Dirksen Building

MAY 9

10:00 a.m.
Appropriations
Interior Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Energy.
1223 Dirksen Building

MAY 10

10:00 a.m.
Appropriations
Interior Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1980 for the Department of Energy.
1223 Dirksen Building

Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

MAY 17

10:00 a.m.
Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

2:00 p.m.
Appropriations
Transportation Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1980 for the Department of Transportation.
1224 Dirksen Building

SENATE—*Thursday, March 15, 1979*

(Legislative day of Thursday, February 22, 1979)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. MAX BAUCUS, a Senator from the State of Montana.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God, who by Thy spirit dost lead men to desire Thy perfection, to seek for truth and to rejoice in beauty; illuminate and inspire, we beseech Thee, all thinkers, artists, craftsmen, statesmen, patriots, and prophets; that in whatsoever is true and pure and lovely, Thy name may be hallowed and Thy kingdom come on Earth, through Him whose name is above every name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 15, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MAX BAUCUS, a Senator from the State of Montana, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. BAUCUS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The acting minority leader is recognized.

Mr. STEVENS. Mr. President, I yield such time as the Senator from South Dakota wishes from the minority leader's time.

SHARING OF COSTS OF PROPOSED MIDDLE EAST PEACE SETTLEMENT

Mr. PRESSLER. Mr. President, I would like to briefly address a subject that is on everybody's mind, that is the peace treaty the President has concluded.

I applaud the President for his work, and I shall support such treaty.

I am concerned about one matter regarding it. I would propose that a consortium of nations help pay the cost of that treaty.

I believe that the United Nations, Japan, the Common Market, and several other areas of the world have a responsibility and a desire to have peace in the Middle East.

In addition to paying the costs, participation by other nations would also insure peace and stability, and I hope that our President and our Government will make a formal request to the nations of the world to participate in paying the costs of that treaty.

What are the costs? First of all, I spoke with the State Department this morning and they said they were under instructions at this point not to discuss the costs. But, according to what the President has said and from press accounts, we will be giving approximately $4 billion in grants to Israel over a 2- or 3-year period; and we will be giving undoubtedly an equal amount to Egypt.

There is also the issue of the Arab States at their Baghdad meeting last November when they said they would cut off aid to Egypt if Sadat signed a treaty. This will amount to approximately a $1 billion loss in aid from Kuwait and Saudi Arabia and other countries.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Thus, if we add up the figures, Uncle Sam will be paying a bill of between $8 and $10 billion over 2 or 3 years.

As a member of the Budget Committee of the U.S. Senate it has occurred to me that $8 or $10 billion is a lot of money even if spread over a 2- or 3-year period. It is several times what we spend on farm programs or on aid to education. Yesterday we had a very difficult vote in this body on reducing the aid to training doctors and nurses in our own country.

So my point is that I think many of the industrialized countries of the world, Japan, members of the Common Market, and other prosperous countries that have a great interest in peace in the Middle East should join with us, and we should ask them to join with us, in this effort.

I thank the Senator from Alaska for yielding, and I yield back the remainder of my time.

Mr. STEVENS. Mr. President, there is no other request for time on this side. I would say that I think that many will join with the Senator from South Dakota in expressing some concern. I have just left a hearing on the Indian Health Service, and I find that as to four of the hospitals that have already been constructed with moneys that were provided by Congress with add-ons, both in the last administration and this administration, there are no moneys requested for the equipment and for the staffing that are necessary to put those hospitals into operation.

I think if we are in such a tight budget situation that we cannot continue with the commitments we have made to our Indian and native people, we had better be careful about the commitment we make abroad in terms of such large sums of money.

I yield back the remainder of the minority leader's time.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Vermont (Mr. LEAHY) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, do I have some time remaining under the leadership order?

The ACTING PRESIDENT pro tempore. The Senator from West Virginia has 9 minutes remaining.

Mr. ROBERT C. BYRD. Does the minority leader have any time remaining?

The ACTING PRESIDENT pro tempore. The minority leader has 6 minutes remaining.

Mr. STEVENS. I yield that time to the majority leader and I ask unanimous consent that my previous request be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the distinguished minority whip. I suggest the absence of a quorum, Mr. President, and ask that it be charged against my time.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 670—RURAL DEVELOPMENT POLICY AND COORDINATION ACT OF 1979

Mr. LEAHY. Mr. President, some of the most important legislation which will be considered by this Congress will be that which does not make the headlines. Much of the very necessary legislation of this Congress will not create new programs to meet societal needs. Rather, much of the priority legislation of the 96th Congress will revolve around improving existing Federal programs. We must move expeditiously to make what we have work better.

The bill I am introducing today is basically good government legislation. It creates no new programs but is designed to build upon and refine existing Federal efforts in rural development. This legislation, the Rural Development Policy and Coordination Act of 1979, is offered to strengthen the Rural Development Act of 1972.

As the new chairman of the Agriculture, Nutrition and Forestry Committee's Subcommittee on Rural Development, I now have the opportunity to carry out what I consider to be a labor of love. The opportunity exists for the Subcommittee on Rural Development to review Federal rural development legislation and improve its ability to assist rural Americans. I am not about to pass up this opportunity and have, accordingly, begun a review of this act.

In the course of this review it has become evident that certain rural needs are not being sufficiently met by any Federal actions. In these limited areas I feel it appropriate to introduce legislation to meet these needs. For example, I recently introduced legislation to create a rural development bank to expand rural credit.

However, Mr. President, in my review of Federal rural development efforts it has become apparent that in the majority of instances it is not new programs that are necessary but improvements of existing ones. This type of fine tuning legislation is a primary interest of mine and it is the type I am introducing today.

The Rural Development Policy and Coordination Act of 1979 will do away with overlap in Federal rural reporting requirements, it will further integrate rural development planning with State rural development strategies, and it will strengthen the Secretary of Agriculture's hand in coordinating the various programs serving rural areas.

This bill creates no new grandiose scheme for serving the needs of rural areas. Actually, it cuts back on and makes sense of grandiose, fragmented schemes of the past.

Currently, there are five reports mandated on rural conditions. Up until now, these reports have been of little benefit to anyone except, perhaps, those bureaucrats paid to write them. These reports are a contradiction. They are a fragmented approach to coordinated Federal rural development policy.

Specifically, these reports are on Federal rural outlays as compared to urban outlays, the location of Federal facilities, the technical assistance and information available to rural areas, the President's goals for rural areas, and a report showing the annual levels of HUD and USDA assistance available to rural areas.

Now, I have few complaints with the information these reports present or the recommendations they make. What I do have problems with, however, is that these analyses and recommendations have little or no effect upon programs serving rural areas. They do little to make existing programs work better together. The bill I am submitting today will alleviate this problem.

The Rural Development Policy and Coordination Act of 1979 would direct the Secretary of Agriculture to establish and maintain a rural development management process involving local and State governments and all executive departments and agencies.

The Secretary's responsibilities under this management process would include a report every 5 years on national rural development goals, an inventory of rural needs and opportunities, recommendations of long- and short-term strategies to meet these inventoried needs, and program and budget changes necessary to meet these needs and implement these strategies.

The Secretary would also be required to make a biennial report on progress made to meet the goals contained in the 5-year report. The appraisal would contain a section comparing rural and urban employment, income and population trends, a section identifying needs unique to certain rural areas, an assessment of rural housing conditions and programs, a section on rural community facilities and a section analyzing Federal outlays in rural areas as compared to urban areas.

Three million dollars would be authorized annually for the development of these 5- and 2-year reports. These reports would replace the five currently mandated but inefficacious rural development reports. Also, these funds will greatly strengthen the Secretary of Agriculture's hand in coordinating Federal rural development efforts. They would make possible a thorough assessment of nonmetropolitan conditions and develop strategies for addressing rural problems.

Through these reports and the rural development policy management process which would be created by the Rural Development Policy and Coordination Act, a clearer focus and consistent direction would be given to efforts to improve the quality of life for rural residents. The tools for rural development management which my bill would give to the Secretary of Agriculture make sense. They represent an attempt to bring a sound management process to rural development.

A second feature of this bill involves the Rural Development Act's section 111 moneys for State rural development planning; $20 million would be authorized annually in grants to States through section 111. These moneys would assist States taking part in the Secretary of Agriculture's rural development policy management process.

This doubling of section 111 authorizations is necessary and justified by the increased responsibilities designated under my legislation. The proposed revision of section 111 would greatly broaden the State's rural development policy management process. It would enable the States to act in consort with the Secretary of Agriculture's rural development policy management process.

These grants would allow States to collect rural needs data, and help to establish local and State rural development strategies to meet these needs in conjunction with Federal programs.

In essence, what would result from this legislation is that the Secretary of Agriculture would control a process involving the executive branch, States and local governments in the formulation of flexible rural development policies that encompass differing local needs and conditions while also addressing problems common to all areas and reflecting national objectives.

Mr. President, I am hopeful that this Congress will give this legislation prompt and serious attention. It is not a controversial bill and goes a long way toward improving and strengthening the 1972 Rural Development Act. It is good Government legislation that I believe every Member of Congress will want to support.

Mr. President, I ask unanimous consent that the Rural Development Policy and Coordination Act of 1979 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 670

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Rural Development Policy and Coordination Act of 1979."

SEC. 2. (a) Congress finds that—

(1) Rural development was given the highest priority in the Agricultural Act of 1970 (title IX, section 901(a)) as a means of achieving a sound balance between rural and urban America which Congress termed so essential to the peace, prosperity, and welfare of all our citizens.

(2) Congress passed the Rural Development Act in 1972 as a manifestation of this commitment to rural development.

(3) In section 603(4)(b) Congress assigned the mission for rural development to the Secretary of Agriculture authorizing and directing him to provide leadership and coordination within the executive branch of all Federal rural development efforts and programs as well as assigning him the "responsibility for coordinating a nationwide rural development program utilizing the services of executive branch departments and agencies, bureaus, offices, and services of the Department of Agriculture in coordination with rural development programs of State and local governments."

(4) Congress finds that this mandate has yet to be implemented and that the need for coordination of rural development programs is even more pressing today than in 1972.

(5) Congress finds that the programs of many Federal departments and agencies impact on rural areas.

(6) Congress finds that this lack of coordination is resulting in wasteful duplication of efforts, conflicts among Federal programs, and excessive bureaucratic redtape and confusion which is hindering effective delivery of services and assistance to rural areas.

(7) It is therefore the purpose of this Act to provide for effective implementation of the congressional mandate of the Rural Development Act of 1972.

SEC. 3. (a) Section 526 of the Revised Statutes (7 U.S.C. 2204), as amended, is amended by striking out the last two sentences in subsection (b) and inserting in lieu thereof the following: "In carrying out this responsibility the Secretary of Agriculture shall establish and maintain a rural development policy management process involving local and State governments and all executive branch departments and agencies and major private sector institutions having policies and programs affecting the quality of life in rural (nonmetropolitan) areas. The elements of this policy management process shall include—

"(1) the development, collection, and assessment of data and information to determine and compare rural and nonmetropolitan conditions, problems, needs, and opportunities at the national, multistate, State, and substate levels, and the impact of governmental policies and program actions thereupon;

"(2) the formulation of broad, long-range rural development goals, policies, and strategies, at the national, multistate, State, and substate levels that are consistent with the balanced growth and development of the Nation;

"(3) the establishment of short-range rural development strategies, plans, and program objectives by Federal, State, and local agencies that are consistent with the long-range strategies and support long-range goals; and

"(4) the periodic reporting of progress towards meeting the broad long-range national goals and specific short-range program objectives and the identification of needed changes in program emphasis."

SEC. 4. (a) Section 901 of the Agricultural Act of 1970, is amended by—

(1) striking out the last sentence in subsection (b); and

(2) striking out subsections (c), (d), (e), and (f) in their entirety.

(b) Section 603(c) of the Rural Development Act of 1972, is amended by—

(1) amending paragraph (2) to read as follows:

"(2) The Secretary shall make an appraisal every five years of rural conditions, needs, problems, and opportunity in rural areas of the United States. The Secretary's report of this appraisal shall be delivered to the Speaker of the House of Representatives, the President of the Senate, the chairman of the House Committee on Agriculture, and the chairman of the Senate Committee on Agriculture, Nutrition, and Forestry on the first day after Congress convenes in 1981 and on that day every five years thereafter. Each appraisal shall include—

"(A) broad, long-range national rural development goal statements that reflect national policy with respect to the quality of life in rural areas that are consistent with the balanced growth and development of the Nation;

"(B) an inventory of specific problems, needs, and opportunities for development as they relate to national rural development goals;

"(C) recommended long- and short-range strategies needed to address the problems, needs, and opportunities identified in the inventory; and

"(D) recommended policy, program, and budget changes needed to implement the proposed development strategies."; and

(2) adding new paragraphs (3) and (4) to read as follows:

"(3) The Secretary shall make a biennial report on progress toward attaining national rural development goals. This report shall be submitted to the Speaker of the House of Representatives, the President of the Senate, the chairman of the House Committee on Agriculture, and the Senate Committee on Agriculture, Nutrition, and Forestry on the first day after Congress convenes in 1979 and on the day every two years thereafter except in those years in which the five-year rural development progress appraisal is submitted. Each biennial report shall include—

"(A) a section that compares rural and metropolitan employment, income, and population conditions and trends;

"(B) a section that identifies and discusses the problems, needs, and opportunities of those rural areas that differ significantly in terms of employment, income, and population experience from metropolitan standards;

"(C) a section that appraises the current status of housing in rural areas, analyzes conditions affecting rural housing, analyzes Federal rural housing action, and provides information on the Federal program strategies to be employed over the next succeeding two years to address the Nation's rural housing problems. In addition, this section shall identify specific rural areas and population groups having the greatest housing needs and provide information on the short-range strategies to be employed by the Federal Government to address those needs;

"(D) a section on rural community facilities and services. This section shall contain data and information reflecting the needs of rural (nonmetropolitan) America for selected community facilities and services and a statement of the Federal strategy to be employed to meet those needs. The specific community facilities and services to be assessed in each biennial report shall be selected after the consultation with the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry and in consideration of the availability of current data;

"(E) a section of the needs of disadvantaged rural people. This section shall review the needs and problems of selected population groups and describe the Federal strategy for addressing their problems; and

"(F) a section analyzing Federal outlays in rural areas as contrasted with those in metropolitan areas.

"(4) The Secretary is authorized to initiate new and expand ongoing research and development efforts related to the solution of rural development economic, technology, and social problems."

SEC. 5. There is authorized to be appropriated annually not to exceed $3,000,000 for the development of a rural development policy management process which shall include both an appraisal every five years of rural conditions, needs, problems, and opportunities, and a biennial report on progress toward attaining national rural development goals.

SEC. 6. (a) Section 111 of the Rural Development Act of 1972 is amended to read as follows:

"SEC. 111. RURAL DEVELOPMENT POLICY MANAGEMENT GRANTS.—Section 306(a) of the Consolidated Farmers Home Administration Act of 1961 is amended by adding at the end thereof a new paragraph as follows:

"'(11) The Secretary may make grants, not to exceed $20,000,000 annually, to State government and State government-designated area planning bodies to assist in establishing and maintaining the rural development policy management process provided for in subsection (b) of section 526 of the Revised Statutes (7 U.S.C. 2204), as amended, at the State and substate levels. Such grants are to be used to establish and maintain a process to—

"'(A) collect data and information needed to assess area and State rural conditions, needs, problems, and opportunities;

" '(B) establish local and State government rural development policies, strategies and programs objectives to address these conditions, needs, problems, and opportunities;

" '(C) enable participation by the grantees in the Federal, State, and local rural development policy management process;

" '(D) design, in conjunction with other levels of government, programs needed to implement rural development goals, objectives, and strategies; and

" '(E) provide for a flow of rural development information among the citizens, local governments, designated substate planning bodies, State governments, and the Federal Government.' "

SEC. 7. As used in this title the term "rural (nonmetropolitan) area" means all the territory of a State, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, or Guam that (1) is not within the boundary of any standard metropolitan statistical area, as designated by the Office of Management and Budget, and (2) in addition, all territory within any such standard metropolitan statistical area that is also within counties, parishes, towns, plantations (in Maine), and townships having a population density of less than two hundred persons per square mile, as determined by the Secretary of Agriculture according to the latest census of the United States.".

SEPARABILITY

SEC. 8. If any provisions of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provisions to other persons or circumstances shall be affected thereby.

S. 671—EXTENSION OF TITLE V OF THE RURAL DEVELOPMENT ACT

Mr. LEAHY. Mr. President, I rise, with the Senator from Alabama (Mr. STEWART), to introduce legislation to provide for the 2-year reauthorization of title V of the Rural Development Act of 1972. The current authorization of title V expires on September 30, 1979.

Title V is the research arm of Federal rural development efforts. It provides the essential knowledge necessary for successful, innovative and practical rural development. This research and its dissemination is critical to giving States, organizations, universities and local governments the capability to carry out varied rural development efforts in their areas.

Title V is administered by the Science and Education Administration of the Department of Agriculture. Through SEA, title V research and information dissemination is conducted by the Extension Service and the Cooperative State Research Service.

The research carried out under this title provides both public and private entities with the information they need to meet the needs of rural areas. Rural areas are heterogeneous, hence, research to meet their needs must be varied. That is exactly what title V provides and is the key to its success. Research made possible through title V provides these areas with the best available scientific, technical, economic, organizational, environmental and management information. Furthermore, this information is uniquely packaged to meet the particular needs of a nonmetropolitan area.

Title V is not cloistered research benefiting only the researchers. A tenet of title V research is that it must be practical. Unlike much academic research, people can and do use title V studies to improve the quality of their lives. This is true whether it be research for local planning, craft marketing, or operating a family farm.

Title V is a very efficient use of Government funds. However, there are some areas where this program could be enhanced. The first and foremost being funding. Title V must receive sufficient appropriations. To date this has never occurred, but I am hopeful that this problem will not continue.

Other relatively minor realignments of Title V are inextricably linked to insufficient funding. Many argue that title V should expand its small farm focus. Others tell me that title V research should be carried out by nonland grant universities and private nonprofit groups, not just by the land-grant universities. I agree with these points but also realize that these changes in title V would be totally meaningless without sufficient appropriations to pay for them.

Although these enhancements are necessary, the sand in the hourglass runs short. The budget deadline of May 15 means that this bill will have to move expeditiously if title V is not to expire in September 1979. This time crunch is why I have chosen to propose the straight reauthorization of title V rather than a rewrite of the program at this time. The changes necessary in title V are relatively minor and not worth jeopardizing the program over.

Recognizing the serious need to reauthorize title V and fine tune it, I am introducing the reauthorization today and have begun work to bring about the necessary but minor legislative language changes in title V at a later date. This work will continue over the next several months.

Finally, Mr. President, I hope that the Senate will provide this legislation with prompt and positive consideration. Without swift action, the valuable benefits provided in title V will no longer be available to the rural residents in every State in the Union.

In this regard, Mr. President, I am extremely fortunate in being able to join with Senator STEWART in the introduction of this legislation. He has shown a strong commitment to rural America and a strong desire to improve the lot of rural areas. I think that the fact that our committee has his expertise and his chairmanship of a fine subcommittee within the committee bodes well for this effort.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 503 of the Rural Development Act of 1972 (7 U.S.C. 2663(a)) is amended—

(1) by striking the word "three" and inserting in lieu thereof the word "five"; and

(2) by striking "1979" and inserting in lieu thereof "1981".

Mr. LEAHY. Mr. President, I yield to our colleague from Alabama.

Mr. STEWART. Mr. President and Members of the Senate, I am honored to join with the Senator from Vermont in the introduction of this legislation, and in certain remarks indicating my support of it.

TITLE V: DELIVERING THE UNIVERSITY TO THE PEOPLE

Mr. President, I am pleased to join with Senator LEAHY to introduce legislation for the reauthorization of title V of the Rural Development Act of 1972.

When Congress created the land-grant universities through the Morrill Act, a new dimension was added to advanced education. The Congress said, take the knowledge that is developed and refined on the college campus, and deliver it to the people; transfer the technology from the laboratory and put it to practical use to improve the quality of life of the American people.

Although this congressional decision was made more than a century ago, the concept continues today as a piece of modern genius that flies in the face of the usual university thinking, that universities are for scholars and scholarship only. University provosts continue to shrink from the idea that faculty members should be given academic tenure if they are providing services to people rather than publishing esoteric information in learned journals.

Fortunately, there are individuals like Gene Bramlett at Auburn, Gene Younts at Georgia, and others at land-grant colleges through the land who remain committed to the principles of the Morrill Act. They are bringing the universities to the people.

The main benefits of the Morrill Act have accrued to American agriculture. The research and extension efforts of the land-grant universities have made our agricultural system the finest and most productive in the world.

The purpose of title V of the Rural Development Act is to expand the concepts of research and extension to provide for rural community needs.

Title V has been used to help provide water, sewer, and solid waste systems, housing, financial services, recreation, public transportation, roads, health services, local government improvement, law enforcement, planning, fire protection, and the whole gamut of community needs.

An evaluation of the title V program done by the National Rural Center concludes:

> The land grant universities have, for the most part, shown their willingness and ability to perform the organizational and procedural processes stipulated in the law and the regulations in working toward the overall objectives of Title V. And, despite receiving only a fraction of the funds originally anticipated, the states and Puerto Rico have succeeded in helping many rural citizens in selected parts of the country attain some of their high priority needs, including better housing, water and sewerage facilities, jobs, and health services.

There are problems with title V, and I believe the Rural Development Subcommittee is prepared to come to grips with those problems during the next couple of years.

Not enough work has been done through the program to assist marginal farmers and rural residents. There are still some universities that are so strongly tied to agriculture that they have not done the job that they should be doing with respect to total rural development. The evaluation report points out, there is too little money in title V, and as a result the land-grant colleges of 1890, Tuskegee Institute, and the junior colleges have not been able to participate. The lack of financial commitment by the Federal Government has kept some of the land grant institutions from doing the rural development job they would like to do.

The university system of the State of Georgia has built a State rural development center at Tifton, Ga., that has been a driving force for improving the quality of rural living in my neighbor State. Not every State can afford such a center. Other States cannot get such centers built because of the urban bias of their Federal and State legislative bodies. The title V program has shown that with a minimum of Federal influence and money, the land-grant institutions will multiply the Federal effort many times over to help the communities and people of rural America in ways that they cannot do for themselves.

Many of our major cities in this country have more municipal employees than we have as population totals in some Alabama country towns. These little communities cannot hire planners and engineers or people whose only job is to get grants from the Federal Government.

The land grant tradition of universities for the people as provided for under the Morril Act and strengthened by title V should be continued and strengthened. It is purely American tradition that has been successful beyond belief. While I am somewhat disappointed that we are not now prepared to improve the program's legislative delivery system at this time, I think we have no choice other than to reauthorize the program until we can work with the land-grant community to make it better than the good program it already is.

ORDER OF PROCEDURE

The ACTING PRESIDENT pro tempore. Does the Senator from Vermont yield back the remainder of his time?

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, for not to exceed 30 minutes, with statements therein limited to 5 minutes each.

(Routine morning business transacted and additional statements submitted are printed later in today's Record).

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

DIRECT POPULAR ELECTION OF THE PRESIDENT AND VICE PRESIDENT

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of Senate Joint Resolution 28, which will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 28) proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States.

The ACTING PRESIDENT pro tempore. The pending question is on the motion to commit the resolution to the Committee on the Judiciary with instructions.

Mr. ROBERT C. BYRD. Mr. President, I have had discussions with the manager of the resolution, Mr. Bayh, with the distinguished acting Republican leader, and through him with Mr. Thurmond, and I propose the following unanimous-consent request:

That Senate Joint Resolution 28, at the close of business today, be committed to the Committee on the Judiciary for its consideration, with the instructions that the committee issue its report on Senate Joint Resolution 28 within 21 days subsequent to committal; that the majority leader be authorized at any time after June 1 of this year to call up Senate Joint Resolution 28 and make it the pending business before the Senate.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object, just so that everyone will understand—if I may have the attention of the Senator from South Carolina—as I understand it, this means that the resolution would be committed to the Judiciary Committee; that it would be reported back to the Senate no later than the 5th, so that it actually could be before the Senate on the 6th; that the majority leader could be and would be authorized to call up this resolution and make it the pending business; that it would not be a debatable motion, and it could be brought up at any time after the 1st of June and be made the pending business.

Mr. THURMOND. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. Mr. President, I ask that I may be protected in my rights to the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the role.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Huddleston). Without objection, it is so ordered.

S. 673—DEPARTMENT OF ENERGY AUTHORIZATIONS FOR SECURITY PROGRAMS, 1980 AND 1981

Mr. JACKSON. Mr. President, for myself and the senior Senator from Mississippi (Mr. Stennis) I introduce for appropriate reference a bill to authorize appropriations to the Department of Energy for national security programs for the fiscal year 1980 and fiscal year 1981, and for other purposes.

Mr. President, this bill refers primarily to the development and production of nuclear weapons—a matter under the jurisdiction of the Committee on Armed Services. There are some programs in the bill—specifically, inertial confinement fusion, naval reactor development, security and safeguards, and the naval petroleum reserves program—which have some potential for civilian application.

Mr. President, I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and explaining its purpose be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Department of Energy,
Washington, D.C., February 13, 1979.
Hon. Walter F. Mondale,
President of the Senate,
Washington, D.C.

Dear Mr. President: In accordance with section 660 of the Department of Energy Organization Act and section 208 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1979, I am submitting proposed legislation to authorize appropriations for the Department of Energy's national security programs for fiscal years 1980 and 1981. The enclosed bill would authorize specific appropriations for FY 1980, and such sums as might be necessary for FY 1981. The total FY 1980 authorization request contained herein is $3,126,888,000, including $2,467,264,000 in operating expenses and $659,624,000 in plant and capital equipment.

The Waste Isolation Pilot Plant (WIPP) authorization request for FY 1980 is for $55 million for activities leading to a facility for high level waste experimentation and permanent disposal of defense TRU wastes. Consistent with Congressional guidance and consultation, the project as proposed does not provide for other than defense waste disposal, nor does it provide for licensing by the Nuclear Regulatory Commission. However, the Administration is in the final stages of a comprehensive review of the entire commercial and defense nuclear waste management programs. This review is expected to lead to recommendations to the President for changes in present waste activities likely to affect the WIPP project both with respect to licensing and the inclusion of demonstration facilities for commercial waste disposal. The Department of Energy has proposed that NRC licensing authority be extended to cover facilities for the permanent disposal of TRU wastes and the permanent disposal of up to 1000 commercial spent fuel assemblies, which would be initially retrievable, in the WIPP facility. Should these recommendations be accepted by the President, appropriate legislative adjustments would be requested. The Department has been in continuous close contact with the appropriate committees of the Congress on this matter, and I appreciate the Congressional efforts being made to resolve the issues surrounding the WIPP project.

Under established Executive Branch procedures, the Arms Control and Disarmament Agency is responsible for transmitting arms control impact statements to the Congress. We understand that such statements (including that for the Department) will be forwarded in the near future.

Enclosure 1 is the draft legislation, while Enclosure 2 is the section-by-section analysis.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely,

JAMES R. SCHLESINGER,
Secretary.

Mr. JACKSON. Mr. President, I have consulted with the distinguished chairman of the Committee on Armed Services, Senator STENNIS, and we have agreed that titles I, III, and IV of the bill should be referred jointly to the Armed Services Committee and that title II of the bill, which pertains to those programs with potential civilian application, should be referred jointly to the Committees on Armed Services and the Energy and Natural Resources Committee.

Mr. President, I ask unanimous consent that the bill be so referred.

Mr. STEVENS. Mr. President, reserving the right to object.

Mr. JACKSON. Mr. President, I revise my unanimous-consent request by stating that the bill be referred jointly to the two committees, Armed Services and Energy and Natural Resources, with the understanding that the Armed Services Committee will handle titles I, III, and IV of the bill, and title II of the bill by the Energy and Natural Resources Committee.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object, and I am not certain that I will object.

Mr. JACKSON. If there is any problem, I say to the distinguished acting minority leader, on this, I will be glad to have the order revoked.

We have hearings coming up a week from Monday, and that is the reason for it.

Mr. STEVENS. I want to make certain this is precisely the way the same bill was handled in the last session of Congress.

Mr. JACKSON. The Senator is correct, exactly.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, this has not been cleared with the leadership. It has been cleared with the chairman of the committee?

Mr. JACKSON. Yes, it has.

Mr. STEVENS. I might say to the majority leader I just received word that with regard to title II only, that I am correct, that title II goes to one committee.

Mr. JACKSON. Title II goes to the Energy and Natural Resources Committee.

Mr. STEVENS. Only.

Mr. JACKSON. Only.

Mr. STEVENS. The remainder of the bill will go to the——

Mr. JACKSON. As I understand, under the rules we can only do it by referring the bill jointly with the stipulation that the specific titles be handled by the committees that are mentioned in my request. I am so advised by the Parliamentarian.

Mr. STEVENS. If that is agreeable with the majority leader it is agreeable with the minority.

Mr. ROBERT C. BYRD. My only problem is, and this is not as to Senator JACKSON, but this business of jont referrals is just getting to be a headache, and I think we should go by the rule which requires that a measure be referred to the committees that have the preponderance of jurisdiction. This is why I wish to be cautious in approving these before we make sure that the measure has been cleared with the committee chairmen all the way around.

Mr. JACKSON. That has been done.

Mr. ROBERT C. BYRD. I think we ought to stick to the rules as closely as possible. If the preponderance of jurisdiction is in a committee, we ought to be careful about jointly referring it to a B committee or C committee.

I know nothing about this or where the preponderance of jurisdiction lies, and I am not going to object, but I hope the Parliamentarian will help us in the future to try to put the brakes on this matter of joint referrals if it is clear that the preponderance lies within the jurisdiction of a particular committee.

I have no objection.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I withdraw my objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I will need the attention of the Parliamentarian to keep us on the straight and narrow path, Mr. President.

Mr. President, this request has been cleared with Mr. THURMOND, Mr. BAYH, Mr. HATCH, Mr. SIMPSON, and Mr. STEVENS, the acting Republican leader. It has also been cleared with Mr. SARBANES, Mr. METZENBAUM, Mr. PRYOR, Mr. BAUCUS, and others.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the close of business today, Senate Joint Resolution 28, the joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and the Vice President of the United States, be referred to the Committee on the Judiciary with instructions that it be ordered to be reported back to the Senate by the 10th of April; provided further, that the report thereon be available to the Senate on May 1; provided further, that the majority leader be authorized to call up the joint resolution and make it the pending business before the Senate at any time after June 1.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object, it is my understanding that that May 1 date includes both the majority and minority views to be filed in one document on May 1. Is that the understanding?

Mr. ROBERT C. BYRD. That is correct.

Mr. BAYH. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, reserving the right to object, and I do not object, that is the understanding that we have arrived at. I feel that during the 3 weeks allowed we can arrange for our witnesses to appear and testify. Then we can vote on the matter on or before the 10th of April, after which reports can be submitted by May 1. I believe this is probably a fair arrangement to both sides and we have no objection.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, let me make sure that we are clear on the matter of the availability of the report. It is the understanding, I believe, that—first, there will be a committee report; second, that that report must be filed on May 1.

Mr. STEVENS. Reserving the right to object, it was my understanding that the whole idea was that both the majority and minority reports would be filed by May 1. Is that correct?

Mr. THURMOND. That is correct.

Mr. STEVENS. It will include both. There would be normally a period of time after the majority has its report prepared, 3 days. We are trying to put those all together so that both the majority and the minority report will be presented to the Senate by May 1.

Mr. ROBERT C. BYRD. The committee report automatically has the minority report.

Mr. STEVENS. That is right.

Mr. ROBERT C. BYRD. So the committee report would be filed by May 1. Is that the understanding?

Mr. STEVENS. Yes.

Mr. THURMOND. With the understanding, of course, as is the usual custom, that the minority would have 3 days after the majority had prepared its report to prepare the minority report.

Mr. STEVENS. They understand that. I am sure that there will be time for the minority to have its normal period of time to comment on the majority report so that both reports can be incorporated in the one committee report and presented to the Senate by May 1.

Mr. ROBERT C. BYRD. Mr. President, the internal workings of the committee are matters that are to be worked out within the committee, and I am sure they will be, between the distinguished chairman of the subcommittee and the ranking member. It is the same way with respect to the full committee. The order merely lays out the framework, the parameters of time being included, and it is up to the committee, within itself, to determine the rest of it.

Mr. STEVENS. There is no objection that I know of on this side.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. I have no objection.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Reserving the right to object, Mr. President, I appreciate the efforts of the leader and all parties named in trying to reach this unanimous-consent agreement. I will not object, but I would like to say for those who have been anxious supporters of the direct popular election issue, who have sat there hour after hour and listened and read the hearings that we have had in the past, this does not change my interpretation that this matter has been adequately heard, but this is an effort to try to reconcile some concerns that members of the committee do have. In exchange, we will be given the right to bring this matter to the floor of the Senate as an issue instead of having to fight a filibuster on the motion to take up.

So it seems to me, in the real world in which we are living, each side gives a bit and we will be in a position then in relatively short order to have this matter on the floor substantively and to dispose of it once and for all.

Mr. THURMOND. Mr. President, I just want to say that this is one of the most comprehensive bills——

The PRESIDING OFFICER. Is the Senator reserving the right to object?

Mr. THURMOND. Mr. President, I reserve the right to object.

This is one of the most comprehensive bills that has been brought before the Senate or that could be brought before the Senate. We have over 20 new Members of the Senate this year who have not been apprised of this situation or heard debate on it. We have six new members on the Judiciary Committee who have not had the opportunity or benefit of hearings on this important matter. That is the reason that we contended that it be committed to the Judiciary Committee for hearings.

I wish to thank the majority leader and the acting minority leader for their cooperation in this matter. I can assure there will be no delay, that all we want is a fair hearing. We expect to have fair hearings and to get the bill back to the Senate.

The PRESIDING OFFICER. Is there objection?

The Senator from Wyoming.

Mr. SIMPSON. Mr. President, reserving the right to object, and I will not object, I strongly support the agreement that has been arrived at with regard to sending this back to the full Committee on the Judiciary for consideration, for a limited period. In my view, this is absolutely necessary if this newly constituted Senate is to properly discharge its responsibility to the American people. There are 20 new Senators who have not yet had the opportunity to consider this issue in the depth which it requires and who have not yet had the time to read and consider the RECORD of past hearings, even though the Senator from Indiana, I am sure, has heard the arguments and pronouncements many times.

As one of those of us who have considered the amendment and have definite reservations, I am very much in concurrence with the agreement and will submit in more complete detail for the RECORD my statement so I do not prolong consideration of the unanimous consent request any further. I think the essence of my statement is that not only new Members of this body, but the new members on the Committee on the Judiciary of both parties, have not had that opportunity in past years that many of the rest of you have had to participate fully in hearings on this issue. This Senator is one of those. Furthermore, I do not perceive how this delay will in any way lessen the chances for an up or down vote. In my longer statement I will also express some of my reservations about the amendment.

Mr. President, I strongly support the motion to commit this resolution to the full Judiciary Committee for consideration for a limited period. In my view this is absolutely necessary if this newly constituted Senate is to discharge its responsibility to the American people. There are 20 new Senators who have not yet had the opportunity to consider the issue in the depth it deserves, and who have not yet had the time to read and consider the record of past hearings. There are new Senators—of both parties—on the Judiciary Committee who did not have the opportunity to participate in the hearings on this issue. This Senator is one of those.

Furthermore, I do not perceive how a delay of short duration this early in the session could possibly threaten the chance for an up or down vote.

Let us again note what we are discussing. We are talking about amending the fundamental law of the land—the law that controls the creation and enforcement of all other laws, the law that embodies the procedural consensus and most basic values of all Americans, that gives our Nation much of its unity and our Government its legitimacy. We should consider proposals to amend the Constitution more carefully than any other measure that comes before us. I have heard the principal sponsor relate this many times.

I think the American people would strongly disapprove of what is being attempted here. This kind of procedure should not be used for a constitutional amendment. It is bound to adversely affect—to some degree—the legitimacy of the process. I know it will affect us all greatly if this amendment is passed without adequate consideration by the present Senate. Prof. Charles Black of Yale Law School has stated that it "will be the most deeply radical amendment which has ever entered the Constitution of the United States." Something that is radical is not necessarily bad, but let us not deceive ourselves about how fundamentally this amendment would change our system. The Founding Fathers considered direct election of the Executive, but rejected it, apparently in the face of objections by small States.

I realize that hearings have been held on this issue many times, but as a new Senator I have not yet had time to digest the great reams of material. I doubt if many of my fellow freshmen Senators—who constitute 20 percent of this body—have had the time to do so. Furthermore, I have many questions. As a member of the Judiciary Committee of this Senate, I want the opportunity to participate in hearings that would enable me to submit my questions to expert and lay witnesses.

It is my understanding that the electoral college system developed for many of the same reasons as the "two-house" legislature, the necessity for compromise between large and small States. It has been my long-time belief that the electoral college gives extra influence to a small State and that this compromise was in effect one of the basic conditions on which small States ratified the Constitution or joined the Union. In a sense this amendment is a type of breach of contract.

I have heard challenges to each of these beliefs. Late yesterday the Senator from Indiana stated that the small State advantage is more than offset by the effect of the winner-take-all rule, that voters in large States in theory have more influence due to the greater number of electoral votes affected by small shifts in voting in close elections. Supposedly, certain computer studies show this. Well, I have not seen these studies. Maybe they are as valid as computer studies on earthquake protective construction at nuclear sites. I do not know if these conclusions are valid. I would certainly like to know. I would like to question the authors of such studies about their conclusions and also about their assumptions. I think the American people are losing their awe of computers—they have seen too many mistakes and too many false economic predictions. More and more people are becoming aware of that wise old saying among computer programers: "Garbage in, garbage out." In other words a computer depends on the program and the assumptions given to it by a human being. If those are faulty, then the results will be faulty.

I have also heard that the electoral system was not part of the great compromise. As an old country lawyer, I am not sure what is meant by that. Why else would the system have been created, other than as a compromise between large and small States?

Perhaps I am wrong in feeling that the electoral college system works to the advantage of small States. I would certainly like to test my reasons for thinking that it does. I also understand, however, that the "winner-take-all rule" is not in the Constitution, is not required by constitutional doctrine, is not followed in at least one State, and, therefore, could be changed. In fact, I believe there are proposals to do this. I do not know whether that is desirable or not. I am told that there are good arguments against changing the rule.

I am not stating that my decision about this amendment will be determined solely by the issue of whether it would increase or decrease the influence of small States, although I do represent a small State and my people elected me to represent their interest. If I am to vote to decrease the influence of my State—and I am told that this would happen in 31 of our States—I will have to be presented with a very persuasive argument that the national interest requires an even greater investment of power in large States.

There are several factors which indicate that the amendment may be adverse to the Nation and therefore to large and small States alike. I am concerned about the increased threat of sectionalism that would exist—about the effect which this would have on the perceived legitimacy of the office of President and therefore on the stability of our Government. Direct elections increase the threat that an overwhelming popular vote victory in one section of the country or even one State could offset close losses in all other sections or States. If a President was elected by only one section of the country, I think there would be significant damage to our system. That is a view which may be labeled naive, while it is born in sincerity. Again, I hoped for the opportunity to quiz some "experts" about whether this possibility is more or less likely and more or less damaging than the possibility under the electoral system of a President being elected who is runnerup in the popular vote. Is the Senator from Indiana certain he knows?

In a way that is the very heart of the issue. How damaging would the election of a runner-up President be and how does this damage compare to the various kinds of damage that might occur in a direct election system. We have had one "runner-up" President and I am not aware that much damage was done at all. I am told that this almost happened this election or that election, that it almost happened in 1976. Well, so? What if Mr. Ford had been elected with a very few less votes? What would the people have said? Probably that Mr. Carter had more popular votes because he won bigger in the South than Mr. Ford won elsewhere. Would that mean that people would have regarded Mr. Ford as not legitimately elected?

I know that polls seem to show that the American people support direct election, or at least that they answered certain posed questions in that way. However, I am not at all sure that the American people understand the full implications of a direct election system, nor that they would prefer the possibility of a sectionalist President to a broadly elected minority President.

One of the most effective arguments against the direct election amendment is related to this point. We know about the electoral college system. It has given us 200 years of smooth transfers of executive power without any serious crises of which I am aware. Why are we changing it for a system that may or may not be any better? Is it for the sake of greater legitimacy? Is it to prevent the crisis of a runner-up President? Why is this possibility (which we have already gone through without crisis) more frightening than a sectionalist President opposed by other areas of the country?

Or is it rather our now seemingly limitless pursuit of a dogmatic one-man-one-vote system? Is this to be our most important value, contravening all the most basic concepts of our Founding Fathers—surely the most gifted single group of statesmen in history—which has given us a government with a degree of stability and democracy and freedom that is totally unique? Is their work really "archaic" as the Senator from Indiana says? Is the kind of balance they sought on all levels of government no longer important? I am skeptical, but if the answer is yes, then where do we stop? Is the next step a few years hence, the U.S. Senate? Is it really fair that a citizen of Wyoming should have a greater say—through his Senators—than the citizen of California in, for example, ratifying treaties or confirming justices of the U.S. Supreme Court?

There are other issues but they have been ably raised by others. I could go through them again, but my basic point would be: I have questions. As you can see, Mr. President, and as I hope the Senator from Indiana can see, I have a good many questions. I do not wish to vote yet. I admit that I now feel a bias against the amendment, but I sincerely want to know more. A tough issue.

Why is the Senator from Indiana reluctant to allow sufficient time for a few additional hearing days and for new Senators to give this issue the attention it deserves? I am sure that he is not fearful of losing support because of any weakness in his arguments. Therefore, it must be because he does not see any support to be gained by delay and that delay might well jeopardize his eventual chance for an up or down vote. I have sincerely attempted to present to the Senator from Indiana my belief that there is a sincere point to the request for delay and I do not feel a delay of 90 days—this early in the session—could possibly jeopardize the chance for a vote.

Let me emphasize again how very strongly I feel about this issue, not only because of the importance of this particular amendment, but because the Constitution of the United States should not be amended this way—with one-fifth of the Members of the Senate never having had an opportunity to consider properly the amendment at issue. This Senator, for one, will be deeply disappointed if no accommodation can be reached.

Perhaps I will eventually learn that Senators do not have time to make considered decisions even on amendments to the Constitution. And that this is but a naive hope. However, I am not at that point yet. I trust it will never be bad form in the U.S. Senate to demand respect for the legislative process.

I ask the Senator from Indiana to consider a suggestion that would accommodate him with respect to his concerns, but would also accommodate those new Members with an honest desire for more complete hearings. I must say that I find 90 days a reasonable time, but if it is not, I request that the Senator from Indiana to explain to me why it is not and why I should not be frustrated and alarmed at the thought of having to cast what I feel is the most important vote, on an amendment to our Constitution, without adequate hearing preparation.

Is what the Senator from Indiana—my colleague—and an old ATO fraternity brother—saying in effect "Al, I don't believe there is really any point in your rassling this issue or participating in hearings—everything has been considered before—trust me or trust the Senator from South Carolina, Mr. THURMOND, or the Senator from Utah, Mr. HATCH—are you for it or against it?" Maybe the votes are there to do this, to ignore concern and roll it on through. But the quality of legislation will surely suffer if we produce it without the tempering process used to strengthen legislation—a tempering of the precious constitutional metal—shaped under the twin hammers of debate and reason. We need that here. I trust my concerns might be accommodated—I assure the Senator from Indiana that I shall always attempt to accommodate his.

I thank the leadership for delaying while the junior Senator from Wyoming was culling his notes so a result similar to this could be obtained. I thank the leadership for that opportunity and I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the unanimous-consent request.

Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators for cooperating in getting the agreement.

ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, may I inquire of the distinguished majority leader what will be the business for the remainder of the day? This agreement that has just been entered into, as I understand it, sends this resolution back to the committee at the close of business today.

Mr. ROBERT C. BYRD. The Senator is is correct.

Mr. STEVENS. It is our understanding that those who did have statements they wish to make about this resolution, will proceed today to make those statements so long as Senators wish to make those statements.

Mr. ROBERT C. BYRD. Yes; that is correct.

ORDER FOR RECESS TODAY UNTIL MONDAY, MARCH 19, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 12 noon on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

NO FRIDAY SESSIONS CONTEMPLATED THROUGH APRIL

Mr. ROBERT C. BYRD. Mr. President, I wish to state for the benefit of Senators, and particularly for the benefit of staff directors of committees and ranking on both sides of the aisle, it is my intention to avoid, where possible, Senate sessions through April on Fridays, from now through April on Fridays, with the caveat that if there is an emergency matter that needs attention, requires attention, on Friday—or Saturday, for that matter, or Sunday; in such an emergency, that is understood, I hope—of course, this statement of mine, it is understood, will be waived.

I make this statement so that staff directors of committees may know now that they can schedule hearings of committees in connection with legislation before the committees on Fridays without any interruption by the Senate. They will not have to worry about getting consent for the committees to meet on Fridays. They can meet. But I hope committees will take advantage of this opportunity.

As I say, I want to lay down the double caveat that if something occurs, by virtue of an expiring deadline, and so forth, and so forth, that will require our being in on Fridays, that is a different matter. Otherwise, it is my plan to go over from Thursday to Monday from now on through April.

APOLOGY TO SENATOR METZENBAUM

Mr. STEVENS. Will the Senator yield on a different subject?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. Mr. President, I note my good friend from Ohio is on the floor. He has, I think legitimately, taken umbrage at a comment I made when I was being interviewed concerning a resolution passed last week. I want to apologize to him if he was offended by that. I really meant nothing personal. I am sure he knows that I have every respect for him and knows that there is no man in the Senate who pursues his rights more formidably than the Senator from Ohio. I do hope he accepts my apology for the interpretation given to it. I meant nothing by it.

Mr. METZENBAUM. I thank the Senator from Alaska very much.

S. 680—CITIZENS' RIGHT TO STANDING IN FEDERAL COURTS ACT

Mr. METZENBAUM. Mr. President, the other bill I would like to offer today on behalf of myself, Senator KENNEDY, and Senator RIBICOFF would broaden the rights of citizens to sue in Federal courts for unlawful governmental action. It is the second of two bills being offered today to make public and private officials more accountable to individual citizens through the court system. I shall ask unanimous consent that the bill be referred to the Committee on the Judiciary and if and when reported that the bill then be referred to the Committee on Governmental Affairs for a period not to exceed 30 days.

This bill is entitled "Citizens' Right to Standing in Federal Courts Act." The subject of the bill is "standing," a technical legal concept involving the right of a plaintiff to present a case in court. More particularly, standing relates to whether a plaintiff has enough of an interest in a matter to warrant allowing him or her to sue. It is designed to prevent people who have no real interest in prosecuting a suit from maintaining an action. Recently the courts have been narrowing the class of persons entitled to sue through an overly restrictive definition of "standing." I believe this is inappropriate. As Mr. Justice Douglas observed:

> (T)he American dream teaches that if one reaches high enough and persists, there is a forum where justice is dispensed. I would lower the technical barriers and let the courts serve that ancient need.

The legislation we propose today seeks to eliminate certain barriers to "standing" that have prevented Federal courts from hearing meritorious citizen complaints against illegal or unconstitutional governmental action. Toward the end of last session, I introduced with Senators KENNEDY and RIBICOFF S. 3005, a bill similar to the legislation we are offering today. Extensive hearings were held by the Judiciary Committee's Subcommittee on Citizens and Shareholders Rights and Remedies and by the Governmental Affairs Committee. Extremely useful changes were suggested by the expert witnesses we heard from and some of those changes have been incorporated in the bill we are introducing today.

Specifically, the Citizens' Right to Standing in Federal Courts Act provides that a Federal court may not dismiss an action for lack of the plaintiff's standing on any one of four grounds:

First, because the injury complainted of is a "generalized grievance";

Second, because the defendant's conduct is not the primary cause of the injury,

Third, because a decision for the plaintiff on the merits of the case is not substantially likely to remedy or redress the injury the plaintiff suffered; or

Fourth, because the plaintiff seeks to protect an interest that is not arguably within the zone of the interests to be protected by the law in question.

I will discuss these four grounds in greater detail in a moment.

Enactment of the proposed legislation will produce two results: First, a broader range of issues involving illegal governmental action could be presented to Federal judges for resolution; second, the bill's enactment would clarify the existing confusion in the law involving the "standing" concept and eliminate the inordinate amount of energy and resources presently devoted to the litigation of "standing" in the Federal courts.

The proposed citizens' right to standing in Federal Courts Act is the product of a significant group effort. Members of my staff and the staffs of Senators KENNEDY and RIBICOFF have worked with the Department of Justice on the issues underlying this bill for over a year. The Justice Department endorsed last session's bill and has endorsed the modifications made in this year's bill.

This measure also reflects, we believe, the commitment of the President to greater citizen access to the courts. As the President stated in April 1977:

> I support legislation which will give citizens broader standing to initiate suits against the government, in appropriate cases ....

I agree with the President's statement that relaxation of present "standing" barriers will "enhance the consumer's influence with Government without creating another unwieldy bureaucracy."

Therefore, the legislation we introduce today has, in principle, the support of the Department of Justice and is intended to reflect the President's commitment to greater access to the courts by citizens.

This bill removes barriers to suit created by some of the rules of standing developed by the courts over the years through judicial decision. Congress in the past has acted to expand "standing" on numerous occasions—in such legislation as the Toxic Substances Control Act, the Safe Drinking Water Act, the Consumer Product Safety Act, and the Noise Control Act. It is time for Congress to act again so that ordinary citizens, who have been victimized by illegal governmental action, will have a more meaningful right to present their claims in Federal courts.

Let us examine more thoroughly the four barriers to standing that the proposed Citizens' Right to Standing in Federal Courts Act will eliminate.

First, the legislation would prevent Federal courts from denying a plaintiff "standing" on the ground that the injury complained of is a generalized grievance—that is, one shared equally by all or an identifiable group of citizens. For example, in Schlesinger against Reservists Committee To Stop the War (1974), the Supreme Court refused to consider the merits of the plaintiff's complaint that the participation of Congressmen in military reserve units violates the constitutional prohibition against Members of the House and Senate holding offices in the executive branch. The Court reasoned that the claim represented a generalized grievance. Thus, in applying this barrier to "standing," the Court is in the anomalous position of denying relief to a meritorious claim simply because the injury is shared by many Americans. The legislation we propose today would eliminate such a rationale for refusing our citizens access to their Federal courts.

The second "standing" barrier addressed by the proposed Citizens' Right to Standing in Federal Courts Act involves the concept of causation. In Linda R.S. against Richard D. (1973) the Supreme Court stated that a complaining party must allege "some threatened or actual injury resulting from the putatively illegal action. . . ." In that case, the causation barrier prevented litigation on the merits of a mother's contention that the Texas penal statute, making it a crime for a parent to fail to support his child, was being discriminatorily enforced only in favor of legitimate children. The Court reasoned that even if the plaintiff received a ruling requiring enforcement of the statute in favor of her illegitimate child, the father might nevertheless fail to provide the financial support for the child the mother was seeking. In practice, however, the causal link between the enforcement of such statutes and a father's willingness to support his child is not as indirect as the Court suggested. Certainly there is no question that the mother's interest in financial help for her child represented a personal stake in the outcome of the case, as the Constitution requires. The bill we offer for your consideration today would change the frequently criticized result in the Linda R.S. case.

The third barrier to "standing" treated by the legislation involves the concept of redressability—that is, whether a court decision can cure all aspects of a plaintiff's injury. According to the Supreme

Court in Simon against Eastern Kentucky Welfare Rights Organization (1976), known as "EKWRO", a plaintiff must show "an injury that is likely to be redressed by a favorable decision" in order to have sufficient "standing" to litigate the merits of his suit. In EKWRO the Supreme Court refused to hear the challenge of low-income plaintiffs to a revenue ruling by the Internal Revenue Commissioner extending tax-exempt status to a hospital that failed to serve indigents at the level of the hospital's financial ability. The Court concluded that the plaintiffs had failed to show that a reversal of the ruling would result in the treatment of indigents by the hospitals. The redressability requirement places an almost insurmountable burden of proof on plaintiffs. Under the proposed "Citizens' Right to Standing in Federal Courts Act," a plaintiff need only show some likelihood that his injury will be redressed, or cured, by a favorable ruling.

The fourth barrier to "standing" treated by this legislation involves the so-called "zone-of-interest" concept. In the Association of Data Processing Organization, Inc. against Camp (1970), the Court formulated a two-pronged test of standing: First, injury in fact to the plaintiff, and second, whether the interest plaintiff seeks to protect is arguably within the zone of interests that the statute or constitutional guarantee in question is designed to protect or regulate. This test is roundly criticized by the scholarly community as causing undue confusion and unnecessary expenditure of judicial time. As the Department of Justice pointed out to me in a recent letter, the Supreme Court has essentially ignored the doctrine in deciding any question of "standing." It has never used the zone-of-interest test to deny "standing" to a plaintiff, and a Justice Department survey of published opinions between 1974 and 1978 shows that although courts of appeals frequently discussed the doctrine, the zone-of-interest test was used to deny standing in only 13 cases. Moreover, the Department found that these cases could have been dismissed through the application of other standing doctrines. In these times of crowded judicial dockets and unnecessarily lengthy, expensive litigation, it seems senseless to maintain a doctrine that serves no practical purpose, but rather serves to waste precious judicial time and unnecessarily prolong litigation.

Finally, I should add that the bill we propose today does not address the issue of taxpayer "standing".

Mr. President, this bill does not just benefit individual citizens who have been denied access to Federal courts by an overly restrictive definition of standing. It benefits all citizens by facilitating suits by "private attorneys general," that is, suits by ordinary citizens seeking to enforce the requirements of the law. Such suits augment the enforcement efforts of Federal officials and they allow citizens to assume part of the responsibility for the effective operation of their Government. As the Committee on Government Affairs of the U.S. Senate observed in volume III of its study on Federal regulation:

> We believe that the restrictive course the Supreme Court has taken on the issue of standing is unfortunate. The ability of members of the public to obtain judicial review of allegedly unlawful agency action is a key element in citizen participation in the regulatory process. It is also, in our opinion, an essential ingredient of a well-functioning democratic process. It is our view that persons with a legitimate an genuine interest in a particular matter shoul have the opportunity to challenge allegedly illegal or unconstitutional Government action in the Federal courts. For those wrongs, there shoud be a judicial remedy available to the public.

The bill we propose today incorporates these vital considerations. The legislation recognizes that citizen access to the Federal courts to redress unlawful governmental action is essential to the democratic process. The bill acknowledges that limited judicial resources are better used to reach prompt resolution of lawsuits on their merits than in the interpretation of technical "standing" issues.

The "Citizens' Right to Standing in Federal Courts Act" emphasizes that Congress intends the Federal courts to settle disputes that have long-term and significant impact on American consumers.

Mr. President, I might add that I do not necessarily believe this bill represents the complete answer no the standing issue. While the enactment of this bill would go a long way toward permitting citizens whose constitutional rights have been violated to have their day in court, we are aware of the fact that a number of legal experts, including Justice Douglas, believe the scope of this legislation should be significantly expanded. During hearings on this bill, we will give these views close consideration and if merited seek appropriate amendments.

I ask unanimous consent that the text of the "Citizens' Right to Standing in Federal Courts Act" be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 680

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Citizens' Right to Standing in Federal Courts Act".

FINDINGS AND POLICY

SEC. 2. The Congress finds and declares that—

(a) the ability of members of the public to have access to the Federal courts to obtain redress for unlawful governmental action is essential to the democratic process, both to enable members of the public to protect their own interests and to allow redress of injuries that affect many members of the public in relatively equal measure;

(b) substantial uncertainty surrounds the specific requisites for standing to sue in the Federal courts, forcing both the courts and individual litigants to devote inordinate amounts of their resources to this issue;

(c) unduly restrictive standing requirements have prevented the prompt resolution of meritorious lawsuits, and have resulted in the dismissal of complaints alleging serious violations of the Constitution and laws of the United States without consideration of their merits, even where plaintiffs have shown injuries sufficient to enable adequate presentation of relevant issues in a concrete and adversary context;

(d) it is a more efficient and productive use of limited judicial resources to reach prompt resolution of meritorious lawsuits alleging violations of the Constitution and laws of the United States by officers and agencies of Government rather than utilizing those resources for the interpretation of unduly restrictive or complex standing requirements.

SEC. 3 (a) Part IV of Title 28 of the United States Code is amended by redesignating chapter 97 as chapter 99 and by inserting immediately after chapter 95 the following new chapter:

"Chapter 97.—COURTS OF THE UNITED STATES: STANDING

"SEC.

"1591. Standing to challenge unlawful governmental action.

§ 1591. Standing to challenge unlawful governmental action

"(1) A court of the United States shall not dismiss an action brought against the United States or any officer or agency thereof or against any State or local governmental entity or officer or agency thereof or against the District of Columbia or any officer or agency thereof based in whole or in part upon an act or omission alleged to be in violation of the laws or Constitution of the United States, on the ground that the plaintiff lacks standing to sue because—

"(a) the injury which plaintiff alleges to have suffered as a result of the defendant's conduct is shared by all or a large class of persons; or

"(b) the defendant's conduct which forms the basis for the complaint is not or may not be the primary cause of the injury complained of; or

"(c) the injury which plaintiff alleges to have suffered as a result of the defendant's conduct is not substantially likely to be remedied or prevented by a determination on the merits in the plaintiff's favor, if such determination may contribute in significant part to remedying or preventing such injury; or

"(d) the injury which plaintiff alleges to have suffered as a result of defendant's conduct is not within the zone of interests to be protected or regulated by the applicable statutes or constitutional provisions.

"(2) This section shall not affect the standing or lack of standing of persons to sue as taxpayers and shall not affect the standing or lack of standing of persons to challenge agency action which affects the liability or status of another person under the revenue laws.

(b) The table of chapters of Part IV of title 28 of the United States Code is amended by striking out the item relating to Chapter 97 and inserting in lieu thereof the following:

"97. Courts of the United States: standing . . . 1591.

"99. Jurisdictional immunities of Foreign States . . . 1602.

Sec. 4. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

Mr. KENNEDY. Mr. President, the Citizens' Right to Standing in Federal Courts Act concerns a citizen's basic right under our system of justice to hold his government accountable. The bill which Senators METZENBAUM, RIBICOFF, and I are proposing today will broaden citizens' access to the courts to challenge unlawful Government action. In recent years, courts have blocked that access by limiting citizens' standing to sue. Our legislation would eliminate some of these artificial barriers to standing. It prevents a Federal court from denying standing on any of several grounds which have been used in an overly restrictive fashion.

"Standing" is a technical legal concept, familiar to lawyers and judges but hardly a household word. Yet it can be crucial to the ability of many of our citizens to enjoy the protection or benefits of laws which Congress enacts to help them. It is fundamental to the interests of all Americans in the rule of law over the actions of Government agencies.

The doctrine of "standing" regulates the right of citizens to have their case heard and has been used to control the business of the courts. It is a simple preliminary consideration: Is the plaintiff the appropriate person to bring the lawsuit? If a plaintiff cannot show "standing to sue," his case is thrown out of court, regardless of the merits. He never gets a hearing. Surely, we would oppose legislation which made the courts off limits and unavailable to prevent unlawful Government action. Unfair application of standing tests, however, can block citizen access to their courts just as effectively.

The core of the standing requirement is constitutional. Article III of the Constitution limits the power of the judicial branch to hearing true "cases and controversies." One required element is that the plaintiff have a sufficient interest in the matter. As the Supreme Court held in *Baker* v. *Carr*, 369 U.S. at 204, the plaintiff must have "such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends."

In recent years, however, courts have embellished this constitutional requirement and superimposed additional barriers. These so-called prudential tests of standing have been fashioned as a matter of judicial administration to shape and control the docket of cases in Federal courts. Suits have been dismissed even in cases when plaintiffs demonstrated real injury sufficient to present important issues in a fully adversary, concrete context. In some instances a plaintiff has been asked to prove that the Government action being challenged clearly was the direct primary cause of his injury, and that the relief requested inevitably would remedy his injury. In other instances, under the doctrine of "generalized grievance," the courthouse doors have been closed on the ironic ground that the Government action injured too many citizens and was not peculiar to the plaintiffs. In other words, if unlawful Government action harms enough citizens, officials are insulated from challenge in the court.

These decisions and others have spawned unnecessarily complex and restrictive doctrines which thwart the efforts of citizens, businesses, or groups to protect their interests against improper Government action. In his April 1977 consumer message to Congress, President Carter said "I support legislation which will give citizens broader standing to initiate suits against the Government in appropriate cases—recent court decisions have greatly restricted their ability to do so."

The law of standing has become so convoluted and confusing that citizens must waste substantial time and money litigating their way through its maze, and in the process, using up judicial resources as well.

Moreover, these excessive hurdles encourage premature judicial speculation, before discovery or presentation of proof, about the ultimate merits of each party's case. The exact nature of the causal relationship between the plaintiff's injury and the challenged action goes to the ultimate question of whether there is a case on the merits for plaintiff to win the suit and obtain the relief he seeks. But it should not be necessary to resolve it at the outset of the litigation as a threshold matter.

The legislation we offer today would bar these tests from being used to deny a citizen his day in court. The bill basically follows legislation which Senators METZENBAUM, RIBICOFF, and I introduced last year, and on which the Judiciary Committee and the Committee on Governmental Affairs held joint hearings. In addition, our revised bill precludes one more judicially created "standing" bar. This is the "zone of interest" test which requires a plaintiff to establish a direct link between his inquiry and the interests sought to be protected by the statute whose enforcement is at issue. That test overlaps other standing concepts, requires exhaustive research on legislative history and is more appropriate to the Court's ultimate decision on the merits. At the standing stage, it has been widely criticized as confusing and unnecessary.

The legislation we offer today would bar these tests from being used to deny a citizen his day in court. Standing could not be denied on the grounds that:

First, the injury plaintiff allegedly suffered was shared by a large class of persons;

Second, the defendant's conduct may not be the primary cause of the alleged injury; or

Third, plaintiff's inability to prove that the determination he seeks is substantially likely to cure his injury; or

Fourth, the plaintiff's injury is not within the "zone of interests" regulated by the statute in question.

Two arguments have been raised against legislation to prune present standing rules. The first claim is that such reform will pull the courts into policy areas best left to the political process and decision by the Congress. The second objection is that strict standing tests are needed to restrict the heavy workload of the Federal courts. Mr. President, neither of these claims withstands close scrutiny.

When enforcement of a statute is being challenged, Congress has already acted on the policy issues. The problem is that a Government official or agency is not following the Congressional mandate; the courts are needed to insure that the law is properly enforced. Our proposal leaves intact such doctrines as "ripeness" and "political question," which courts could still use to avoid questions best left to other branches of government.

As for the heavy workload of our courts, restrictive standing doctrines are a wasteful addition to their burden. Matters have been litigated at length, over several years, all the way up to the Supreme Court, only to have the case thrown out for lack of standing. Often, that does not end a legitimate controversy, but merely leads to a search for other parties who can better fit within the Court's complex formulas. Under our bill, courts and litigants will avoid devoting inordinate amounts of time and resources to the standing issue before they eventually deal with the real claims at issue.

More importantly, however, I reject the notion that citizens with legitimate grievances against their Government should be unable to obtain relief.

The Judiciary Committee is presently reviewing the business of the Federal courts to determine the appropriate order of priorities for their work. Measures such as the Federal Arbitration Act, the Federal Magistrates Act and the abolition of diversity jurisdiction, which Senator METZENBAUM and I are introducing today, are available to remove matters which should be heard in State courts, and to provide auxiliary procedures to dispose of appropriate cases which remain in the Federal courts. But as the president of the American Bar Association testified at our hearings a few weeks ago on Citizen Access to Justice, we must make sure that we do not let the crowded dockets of our courts become an excuse to bar those cases which involve the most important priorities of the Federal Judiciary. In my view, one of the highest priorities is to hear those cases which have broad public impact because they challenge unlawful Government action.

Finally, the Judiciary Committee will consider this measure in the full context of the standing problem. I have repeatedly indicated my view that we should examine all the prudential standing doctrines. My presumption is that standing should be grounded solely in the requirements of article III of the Constitution, and not on preferences of judicial expedience.

Moreover, "prudential" analysis of standing and constitutional analysis are increasingly commingled in judicial decisions. It is not clear to what extent some of the fine spun requirements concerning injury are now viewed as part of the article III "Case and Controversy" standard. However, the Supreme Court has indicated in specific areas that Congress may create standing which might not otherwise exist, by defining the injury which citizens suffer when a statute is not properly implemented. The Court has recognized the right of Congress to define standing as broadly as permitted by the Constitution. In our hearings on this measure, we will also explore the scope of congressional power to define broad categories of injury arising from failure to enforce Federal law, injury which can be claimed by those who would benefit from proper enforcement and which would satisfy the constitutional requirement of a sufficient stake to confer standing.

Mr. RIBICOFF. Mr. President, I am pleased to join with my distinguished colleagues, Senators METZENBAUM and KENNEDY, in reintroducing the Citizens' Right to Standing in Federal Courts Act.

During the 95th Congress, much progress was made in this legislation. The bill was first introduced last April, and was the subject of 2 days of hearings in August 1978. At those hearings, which were jointly held by the Judiciary and Governmental Affairs Committees, a wide variety of information was received. That important groundwork makes our task much easier this year.

Among the important developments of the hearings was the unqualified support the legislation received from the Justice Department. In its prepared statement, the Department indicated that the bill—

> . . . appears to be well within the constitutional authority of the Congress to enact. The principles which it includes form a useful and pragmatic approach to problems of standing.
>
> Over a year ago, President Carter expressed this Administration's support for "legislation which will give citizens broader standing to initiate suits against the government, in appropriate cases." . . . When combined with other pending measures required to ease the costs and difficulties of litigation in federal courts, the bill is an important step in achieving access to justice for all of our citizens.

The principal purpose of this bill is to enhance the ability of citizens to obtain judicial review of allegedly unconstitutional or unlawful Government action. The bill does this by eliminating certain technical and nonconstitutional restrictions on the judicial standing. Congress has undisputed authority to take this action.

Specifically, the bill provides that standing may not be denied in lawsuits alleging unlawful Government action on these four grounds:

First, that plaintiff's injury is shared by all or a large class of persons; or

Second, defendants' conduct may not be the primary cause of plaintiff's injury; or

Third, judgment on the merits for plaintiff is unlikely or uncertain to cure the plaintiff's injury; or

Fourth, that the injury complained of is not within the "zone of interest" protected by a particular statute.

It is useful to recall that this legislation results from a joint effort between the Department of Justice and the sponsors of the bill. The bill, in draft form, was the subject of careful review and revision within the Department of Justice. We have incorporated all of the suggested changes proposed by the Department.

The substance of this bill was also recommended by the Governmental Affairs Committee's "Study of Federal Regulation." Volume III of our study, which was conducted pursuant to Senate Resolution 71 and published in July 1977, contains a detailed discussion of the law of judicial standing. As a principal finding, the committee study concluded:

> The Supreme Court in recent years has taken an increasingly restrictive view of the standing requirements that make it difficult for citizens to obtain a judicial review of allegedly unlawful government action. At present, some of the Supreme Court's decisions in this area constitute a considerable barrier to citizen participation in the regulatory process.

Recommendation No. 1 of volume III stated that, "Congress should ease the requirements of standing in order to provide greater public access to the Federal courts for review of regulatory agency decisions." More specifically, the committee study proposed that Congress should "expressly declare in the statute that standing to sue should not be denied on the basis of nonconstitutional or prudential standing requirements established by the judiciary." Effective citizen participation in the regulatory process, in my opinion, requires formal access to the courts.

The measure we introduce today reflects those recommendations.

Judicial standing to sue in court is essentially a permission to bring the action. Standing does not concern the merits of the issues to be raised. Rather, it focuses on the persons who wish to have those matters decided by the court. It is a threshold question; namely: Is the plaintiff in a lawsuit entitled to initiate that action against a named defendant?

At present, the law of judicial standing is not as clear as it ought to be. Judicial standing, as the late Mr. Chief Justice Warren observed, is one of the "most amorphous [concepts] in the entire domain of public law."

The bill we reintroduce today will cut through much of the thicket that surrounds and confuses the law of judicial standing. It will measurably clarify the situation, thereby benefiting citizens who seek to challenge allegedly unlawful government action. And that would be a satisfying achievement. This bill enjoys wide support. It has the endorsement of the Department of Justice. Because of the progress made in the 95th Congress, I am hopeful that we can now act expeditiously on this important piece of legislation.

Mr. President, I ask unanimous consent to include in the Record at this point an article from today's Washington Post which indicates the continuing problem posed by the doctrine of standing to effective public challenge to Government action.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Mar. 15, 1979]

Sirica Limits Nader Groups' Rights To Sue

(By Jerry Knight)

U.S. District Court Judge John J. Sirica has ruled that consumer organizations founded and run by Ralph Nader have no legal right to file lawsuits on behalf of the general public.

The decision was described as "unprecedented" and "unfortunate" by Nader aides, who said it could restrict the power of public interest groups to challenge government authorities in court.

Implicitly criticizing Nader's one-man rule over the consumer groups he heads, Sirica said a democratically organized group, with dues-paying members and elected officers, would have a legitimate right to sue on behalf of its members, representing the public at large.

But Sirica noted, the Nader groups involved in the case have no dues-paying members and no elected officers. "Mr. Nader would hardly be in a position to seriously argue that his contributors or supporters exercise any substantial degree of even indirect control over his organizations," Sirica said.

Since Nader started the organizations, appointed their officers, and runs them under tight personal control, the groups cannot claim to represent consumers as a whole, Sirica said.

Sirica's decision came in a lawsuit against Food and Drug Administrator Donald Kennedy by two of Nader's Washington organizations, Public Citizen, Nader's umbrella fund-raising agency, and Health Research Group, a medical consumers association.

"Public Citizen [and in turn HRG] was founded by Ralph Nader and is operated by Mr. Nader, the board of directors he appoints, and the employees hired by that board," Sirica said in his opinion.

Sirica added he "does not doubt that [the Nader groups] have been and would continue to be competent and effective advocates" of the interests of consumers. "But such abilities are not sufficient to confer standing" to sue

Although Sirica's ruling applies only to the case against the FDA, it could have a far-ranging impact if upheld in other jurisdictions.

Dismissing the suit filed by the two groups, Sirica said yesterday he will decide later whether the case can be kept alive by substituting three individuals as plaintiffs, as the Nader group proposed.

Acknowledging that "no one has ever made a ruling like this on standing before," Gerry Spann, acting director of Nader's Public Citizen Litigation Project, said the decision could make it more difficult to sue the government.

He said no decision has been made on appealing the ruling.

The role of the Nader organizations was challenged by the Propriety Association, a trade group representing the over-the-counter drug industry. The drug makers hired the Washington law firm of Clifford & Warnke to intervene in the lawsuit which Nader's associates filed against Kennedy.

The lawsuit sought to overturn FDA regulations that allow drug manufacturers to continue for several years to sell products containing ingredients that have not been proven effective.

If successful, said Nader aide Sidney Wolfe, the lawsuit would have removed from the market or required changes in the formulation of such common remedies as Contac, Dristan and Coricidin.

These cold remedies and many other nonprescription drugs contain ingredients whose effectiveness has been challenged. The FDA proposed letting the drugs be sold and giving their manufacturers more time to prove their effectiveness.

Contending the FDA ruling would lead consumers to spend millions of dollars a year on worthless nostrums, the two Nader groups went to court.

Mr. METZENBAUM. Mr. President, I rise to offer a bill on behalf of myself, Senator Kennedy, and Senator Ribicoff, and I ask unanimous consent that the bill be referred to the Committee on the Judiciary and, if and when reported, that the bill then be referred to the Committee on Governmental Affairs for a period not to exceed 30 days. I advise the members of the minority and the majority that this matter has been cleared with the staffs and all respective parties.

Mr. ROBERT C. BYRD. Mr. President, I am going to have to object to this policy. There is no personal animus involved. This business of sequential referrals, joint referrals—just name it, you have it—is getting to be almost intolerable. If we expect to complete the work of the Senate when time runs out at the end of the year and at the end of next year, we are going to have a glut of legislation in which a half dozen committees have a part in every piece of legislation before the Senate.

It has been my experience—it has been my unfortunate experience on too many occasions—to find that before I can bring a bill up in the Senate, there are a half dozen committees—that is an exaggeration, but there are more than one committee—two committees, three committees—that all have a voice in it. Because they have all had a piece of the hearings process, they feel that it should not be brought up until they are ready. I have had some very difficult situations develop because of these joint referrals, multiple referrals, sequential referrals, and it is just getting out of hand.

I hope we will stay by the rule. What is the rule on this bill? The rule says that any bill is supposed to be referred to the committee that has the preponderance of the jurisdiction. What committee has the preponderance of jurisdiction on this bill? I reserve the right to object pending receipt of that information.

The Parliamentarian has not even looked at the bill; he has not even had a chance to look at the bill.

Mr. METZENBAUM. I think there is not much question that probably jurisdiction—it has to do with the Right to Standing in Federal Courts Act.

The PRESIDING OFFICER. The Chair advises that it is predominantly the Committee on the Judiciary that has jurisdiction on this legislation.

Mr. METZENBAUM. I say to my good friend, the leader, for whom I have tremendous respect, I understand his position. I ask him in this instance not to make the objection, for the following reason: This matter was before both committees in the past. It did not pass—I am not certain that it passed the Senate; I am not certain about that. At any rate, Senator RIBICOFF has had a strong interest in it.

I wonder if it would not be better procedure, and I hope the leader will indicate so—it would be an embarrassment at this moment if this bill were not jointly referred. I wonder if all Senators could not be advised by a communication from the leader indicating his view on the subject. I certainly do not take issue with that view, but in this instance, it would be embarrassing if my committee got it and Senator RIBICOFF's committee did not get it. I hope he will not raise an objection at this point.

Mr. ROBERT C. BYRD. Has this been approved by Senator RIBICOFF; not by staff, but by Senator RIBICOFF?

Mr. METZENBAUM. Senator RIBICOFF is a cosponsor.

Mr. ROBERT C. BYRD. Has it been cleared with him for referral? I do not care if he is a cosponsor.

Mr. METZENBAUM. I cannot say that, but I feel absolutely certain that this does reflect the views of Senator RIBICOFF.

Mr. ROBERT C. BYRD. Will the Senator mind talking with Senator RIBICOFF on that?

Mr. METZENBAUM. No, I do not mind.

Mr. ROBERT C. BYRD. Staff clears too much and really generates too much of this around here. I hasten to say we could not get along without the staff, they are dedicated and very helpful. But I do know that a good many of these things—not this—are generated by staff saying, "We ought to have a piece of this, Mr. Chairman, we ought to ask that this be referred here because it has one sentence here that says something about something we are interested in."

We are going to have to do something about this. I can think of one or two things we can do. One is to require the chairman of a committee, ask the chairman of a committee that has the preponderance of jurisdiction to be here if a request is made for that particular piece of legislation to go to some other committee. I do not think I should elect myself as a committee of one, to stand up here and hold the bridge on this matter. It is getting to be just out of control. Everybody wants all the bills referred to every committee, this committee or that committee. Who am I to say no, except that it causes problems down the road?

We are going to have to find some way whereby the chairmen of committees make these requests.

Then if the chairman of the committee that has the preponderance of jurisdiction wants to object, let him be here to object. If he wants to make the request, let him be here to make the request.

If we do not stop this thing at some point, we might as well throw that rule XXV out—just throw it away.

All we need to do is just have any Member come over, "Mr. President, I ask unanimous consent that the bill be referred to my committee, too. I am the chairman of the 'Subcommittee on Mountain Music', or 'Bluegrass Fiddling,' or something. I want it in my subcommittee, so I ask unanimous consent it be referred jointly to my subcommittee."

Well, who is going to object?

Mr. STEVENS. If it was mountain music, nobody, if it were going on the Senator's committee.

Mr. ROBERT C. BYRD. So I do not take umbrage with the Senator from Ohio. I hope he does not with me.

But I just talked about this a few minutes ago when Senator JACKSON came over.

Mr. METZENBAUM. I was not aware of it.

Mr. ROBERT C. BYRD. I have talked about it to Senators this week.

So I would hope we can work some way out of this whereby we stop this great proclivity on the part of all too many to get referrals of measures to various committees. It slows down the work of the Senate and it creates friction. It is contentious. It just creates opportunities for problems to be raised by committees that really do not have the preponderance of jurisdiction, but have some jealousy in the matter of their jurisdiction over certain legislation.

So, Mr. President, I do not object.

Mr. METZENBAUM. I thank the distinguished leader. Certainly, his message is very clear.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. The message was not intended for the Senator alone.

Mr. METZENBAUM. I understand that.

Mr. ROBERT C. BYRD. The message is for myself, as well.

Mr. STEVENS. But this bill was jointly referred.

Mr. ROBERT C. BYRD. I hope the Republican leadership will also be alert on this matter and will work with me to control it. I would not say "curtail it," but control it. It is just getting out of hand.

I know this is a good way to make me immensely unpopular with my colleagues, but I want the Republican leadership to join with me in being unpopular.

But I will tell you all, I am trying to protect the committees that have the preponderance of jurisdiction, whatever the committee. That is all I am trying to do. Plus, I am trying to remove this potential bottleneck which can hamper the Senate in its operations down the road.

(Later the following occurred:)

Mr. METZENBAUM. Mr. President, this morning I made a sequential referral of a measure to the Judiciary Committee and to the Governmental Affairs Committee, chaired by Senator RIBICOFF, a bill coauthored by Senator RIBICOFF, Senator KENNEDY, and myself. I have since discussed with Senator RIBICOFF the majority leader's point of view that we ought not have sequential referrals. Senator RIBICOFF is entirely cooperative. I therefore ask that the earlier action making the sequential referral be vitiated and that the matter be referred to such committee as the Parliamentarian deems appropriate. I believe that to be the Judiciary Committee.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS—ORDER OF PROCEDURE

Mr. STEVENS. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. Would the majority leader, in order to avoid any complications, and except for our making agreements on Senate Joint Resolution 28, also consider making this a period for routine morning business for statements that are nongermane, up to 10 minutes?

Mr. ROBERT C. BYRD. Yes.

But Mr. President, I ask unanimous consent that Senators may speak out of order during the remainder of the 3-hour period under the Pastore rule, and that they may speak out of order on morning business, as well, for the remainder of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

DIRECT POPULAR ELECTION OF THE PRESIDENT AND VICE PRESIDENT

Mr. LEAHY. Mr. President, the method of electing the President and Vice President was of major concern to the Constitutional Convention in 1787 and has remained a continuing issue in American politics ever since.

Earlier this afternoon I had the privilege of presiding in the Senate and listening to the distinguished Senator from Indiana as he began discussion of the history of that situation. Hundreds of bills have been introduced in both Houses of Congress since 1787 to alter the Presidential election process. The major, although not the only initiatives for reform since 1960 have come from those who seek to replace the present system with direct popular election of the President and Vice President.

I have noticed recently that much of the recurrent criticism leveled at the direct election system of voting for the President and Vice President has been that smaller States would lose power in determining who would be elected President. As a Senator from a small State and a cosponsor of Senate Joint Resolution 1, I would like to respond to these critics.

Due to a diverse geography and settlement pattern, the population of the United States is not equally distributed among our 50 States. While the present system allots three votes per State regardless of population, the emphasis is still on the States with large electoral counts.

Due to the unit rule, the winner of the popular vote in a State is awarded all of the electoral votes. This immediately puts the emphasis on the States with the largest population. Thus, a voter in a State with a larger electoral count would have more influence on the final outcome, proportionately, than a voter in a sparsely populated State.

Throughout the election campaign candidates concentrate on the States with larger electoral votes and, on election night, news commentators focus on the large vote States, even keeping separate tallies of those States with the greatest numbers needed to swing the election to one candidate or another. The emphasis is already on larger populated areas. The direct election method would not create this situation.

The alternative is the proportional system offered by several other Senators. Problems that present themselves under the present system, however, are still not solved by the proportional method. For one, under this system it would be possible for a candidate to finish second and still be elected President.

Mr. President, the people in the State of Vermont have told me many a time that they are very concerned about a situation which comes about in each Presidential election wherein the person receiving the largest number of popular votes could easily lose the election.

Second, the proportional system does not fairly represent the choice of voters across America as individual State totals are devised to equalize the population of all 50 States. In doing so, a resident of Vermont would individually carry more weight than a resident of New York or California. That is not something that we Vermonters are asking for. This would represent a disproportionate picture of the citizens' true choices. The proportional method would still remove determination of the final outcome one step from the voter.

Under the direct election system, individual votes would not be disenfranchised as all votes would count toward the total figures. Under the present system, a town in Illinois or Texas with the same population as Burlington, Vt., would carry more weight as candidates sought to win all the support in that State and a bigger prize, a larger electoral vote count.

Under the direct election system, a community in Vermont would carry the same weight as a town of the same population in Nebraska, California, or Hawaii. Since each vote in every State nationwide would count toward the total, I believe that even more emphasis would be placed on individual States as candidates and partisans would strive to win support of voters in every State, not just a few.

We are predominately a Nation of rural States with large urban and suburban centers. Yet evidence shows that under the electoral system rural States are at a disadvantage because candidates shun these areas in favor of the high populated areas or rural areas in large electoral vote States.

Some critics of direct election feel that since travel to all States is prohibitive that media coverage would increase in importance. The media already has an influence on the outcome of Presidential elections, particularly in the primary stage.

It is a known fact that during a Presidential election, media coverage is concentrated on the States with the six largest electoral votes. Thus, Columbus, Ohio, is saturated with media coverage and candidate visits while Denver, Colo., a city of similar population, is given considerably less attention. Under the direct election system, however, Denver, Colo's. voting power will be equally important as that of Columbus, Ohio's.

It is true that under direct election candidates will still be interested in large metropolitan areas. But at the same time, with voter strength equally important in all States and regions, candidates may begin to focus on rural as well as urban problems and concerns. Media coverage and candidate visits will thus be planned to give States and regions within States a more equal consideration.

Another factor which works against small States under the electoral college system is that small States tend to be more "one-party" States than large ones. The effect of the unit rule of the electoral college in one-party States is to discourage voter turnout and two-party competition. Since the margin of victory is inconsequential, and because losing candidates votes cannot be pooled across State lines, citizens who might have voted for the losing candidate in their State have little incentive to vote. Presidential candidates can afford to write off one-party States. Under direct election, both Nebraska Democrats and Rhode Island Republicans would see their votes count—and even, I might add, Mr. President, the three of us who are members of the Democratic Party in Vermont would get our votes counted.

This country is a union of States which, in turn, are made up of American citizens no one of whom, individually, is more equal than another. Direct election is perfectly consistent with the principles of federalism as set forth in the Constitution. It protects and enhances the integrity of each State by allowing votes from every citizen in every State to count directly toward the final total of each candidate.

What is more important is that if the direct election system of voting for the President is adopted, for the first time in our Nation's history, each of our citizens' votes will count directly and equally toward the candidate of their choice. And in a Nation that prides itself on the freedom of choice for its citizens, direct election of the President and Vice President becomes one of our finest expressions of that freedom.

Mr. President, I commend the present Presiding Officer (Mr. BAYH) in his capacity as chairman of the Subcommittee on the Constitution for his sponsorship and his long and tireless efforts on behalf of this constitutional amendment. I think it is one that is sought throughout the country. It is certainly one that is needed, and one that will rebound to the advantage, rather than the disadvantage, of those of us in the small, more rural States.

Mr. President, I suggest the absence of a quorum.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER (Mr. BAYH). Will the Senator withhold that?

Mr. LEAHY. Certainly. Mr. President, I withhold the request for a quorum call, and I yield to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, prior to 1913 Members of this body were elected to service by members of the State legislature rather than by the people of their State. That system of indirect election had been established because we thought that the people were not wise enough, were not educated enough, were not capable enough of directly selecting members to sit in the U.S. Senate. We have, of course, abandoned that system. The caliber of the people serving in this Senate demonstrates the wisdom and the ability of the people to speak directly.

And since we let the people speak directly to this Chamber, I suggest it is time to let them speak directly to the White House and the President and Vice President of the United States.

The main justification for the electoral college system was the fear that the people did not know enough to elect a President. As Hamilton said, the election of the President "should be made by men most capable of analyzing the qualities adapted to the station, and acting under circumstances favorable to deliberation, and to a judicious combination of all the reasons and inducements which were proper to govern their choice. A small number of persons, selected by their fellow citizens from the general mass, will be most likely to possess the information and discernment requisite to such complicated investigations." However, this argument is clearly no longer valid. I doubt that it was valid in 1870 when only 2 percent of American adult population had completed high school, but it is certainly not a valid concern in the 1970's when over 76 percent of the adult population has a high school degree.

But, like any established institution, the electoral college has become so firmly entrenched that it is not enough to demonstrate that it is no longer needed. One must go beyond that to demonstrate that its continued existence poses a threat of some kind, a real and present danger.

Over the course of the years, such a demonstration has been made many times over. While there have been no hearings on this subject during this session, there have been over 40 days of testimony from over 175 witnesses in recent years. The last round of hearings took place in 1977 and they did not reflect a significant shift in either argument or opinion from the positions advanced in the hearings held back in 1966 or 1973.

Surely we have heard enough and we have read enough about this subject to have formed a conclusion. While the issues are complex and the arguments are often subtle, the preponderance of evidence has established that the electoral college presents our country and our political future with a significant problem.

First, the electoral college violates the one person one vote principle. That principle, based on equal protection of the law, is an overriding democratic value. The present system violates it in at least three ways. The first violation occurs because of the very nature of the system. It gives each State the number of electoral votes equal to the congressional delegation plus their two Senators. Since the Senate representation is a constant, that means that some States which are only entitled to one vote on a population basis end up with three. Other states which are entitled to two votes end up with four and so on. Thus, in the upcoming 1980 Presidential election, Alaska, for example, will cast one electoral vote for every 100,000 residents while New York will cast that same one electoral vote for every 450,000 residents. Clearly an inequity exists here and a violation of principles that are basic to each of us privileged to live in a democracy.

But that is not the only reason why the electoral college violates the basic democratic constitutional principle of one person one vote. The fact is that the system is built on outdated information on how many electoral votes a State is entitled to. That determination is made on the basis of a census count which can be as much as 10 years out of date. Population shifts which have taken place between census measurements—and we all know that such shifts do in fact take place—are simply not reflected, and thus some States, and some citizens are cheated out of the few rights that even the electoral system is designed to guarantee them.

But the violation of the consitutional principle of one person one vote takes place at yet another level as well, and this may be the most basic and most significant of all. Assume that the proportion of electoral votes, as determined by population, were appropriate and we did, in fact, want to assign a given population the equivalent of one electoral vote. Even given that assumption, the electoral system is unfair because it does not reflect voter turnout. What that means is that if two States have comparable populations and the same number of electoral votes, and one State has a 90 percent voter turnout and the other has a 60 percent voter turnout—and that situation is a real, not an imagined one—then in the State with the lower turnout each individual vote would count for one and one-half the votes in the higher turnout State. As a result, even were electoral votes to be awarded accurately on a population basis, the system would still be unfair because it omits voter turnout as a factor.

In at least these three ways, Mr. President, the electoral college system denies the constitutional principle of one person one vote. The violation of this principle is so blatant that I suggest that if we had a direct election system and Congress saw fit to legislate the electoral college it would be declared unconstitutional by the Supreme Court. The only reason the electoral college is constitutional is because it is in the Constitution, not because it embraces the Constitution's fundamental principles.

But we can go well beyond constitutional problems in making a case against the electoral college. In a variety of political arenas we have decided that imposition of a unit rule is undemocratic in both principle and practice. For example, my own party decided in 1972 that the unit rule which bound all the delegates of a primary State to cast their ballots for the winner of their primary at our nominating convention was unjustified. The same logic, it seems to me, should apply to all delegate-electors who are forced to cast their votes for the winner of the general election in their State in the convention of the electoral college. It is good not to have 49 percent of the voters of a given State effectively disenfranchised, and they are disenfranchised now since all their electoral votes may be cast for another candidate. That simply makes no sense in theory. And in practice it makes even less sense since it leads to the development of strategies which have no place in American politics.

For example, we all know that a candidate can win the Presidency by carrying the electoral votes of only 11 States. Yet, surely, no one would want to see a President who felt particularly obligated to represent the attitudes of only those States or even appear to so represent. Similarly we do not want to see more "southern strategies" of the kind used by one of the candidates in 1968—strategies which have the effect of dividing the country and promoting regionalism. Nor do we want to see third party candidates run on the hope that they can carry a few States and thus deny the major candidates the electoral total they need and throw the election into the House with all the nightmare potentials that that scenario carries with it. In theory and in practice the unit rule is undesirable and unacceptable.

In discussing the unit rule I made brief reference to the possibility of the election being thrown into the House. No one really knows what would happen in that event, but we do know that it can happen. And, further, we know that some prominent political figures have attempted to manipulate weaknesses in the system to achieve just that result. One weakness which is conducive to the creation of the conditions which would lead to House determination of the President is the fact that electors are not legally bound to vote for the candidate who carried their State. The fear of the faithless elector is well known. And it is also well known that some few electors in the past have been faithless. What is less known is that political strategies have been developed which affected the Presidency of this country on the hope of manipulating the nonbinding nature of the charge given to electors.

In a recent book on the 1976 Presidential election, Jules Witcover points to this conceptualization in the strategy of former Senator Eugene McCarthy. McCarthy sought to gather independent electors who would be pledged to support his candidacy. Such electors would then call for an actual meeting of the electoral college and there, in Witcover's words, "the electors would then deal among themselves." The scenerio of McCarthy's 1976 campaign is laid out in Witcover's book, and it is a frightening one—and one that could only take place with the system we struggle under today. I ask that the relevant portions of that material be inserted in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Beyond all these actual and potential Democratic candidates there remained one other major political figure long identified with the Democratic Party whose ambitions and reading of the American political climate had to be considerd in the 1976 equation. He was Eugene McCarthy. Disillusioned with his party, and with the orthodox presidential politics he had pursued with considerable success in 1968 until elbowed aside by Robert Kennedy, McCarthy had given up his Senate seat, toyed for a while with the notion of running for the House of Representatves, then instead became a book editor, wrote poetry, and gave lectures. Perhaps one of the few real political philosophers among America's active, vote-seeking politicians, McCarthy brooded long over the function and performance, in both the constitutional and the practical senses, of the two major parties. The Founding Fathers had made no provision in the Constitution for political parties or for primary elections and national conventions. The President and Vice President were to be selected by electors chosen by the state legislators (or, later, by popular vote)—a collection of the United States' wise men, as it were, who in their wisdom would choose Presidents and Vice Presidents of genuine stature and ability. The emergence of the parties, however, undermined and eventually scuttled this concept, replacing it with fierce political competition by ambitious men who actively sought these high offices. It was McCarthy's notion to try to turn the selection process back to the simpler and theoretically purer approach. His objective was not, of course, entirely altruistic; he would be that individual of genuine stature and ability for whom the electors of 1976 would vote in the electoral college.

Forecasting a large multicandidate field that would create disarray in his old Democratic Party, and regarding the Republican Party as a wounded minority body, McCarthy set about enlisting individuals in many states to run as independent electors committed to him. He knew that the public seemed to be disenchanted with the two major parties and with politics-as-usual, and he hoped that after the conventions they would seize the

> alternative he would offer in the general election. He saw the electoral college as no mere formality, no mere paper concept, but as a living body that would be forced by necessity actually to meet or at least communicate among its members and deliberate on the selection of a President and Vice President. The law provides only that electors in their respective states forward their votes to the seat of national government to be counted; thus, there is not an actual "meeting" of the full electoral college; McCarthy's scheme would have had such a meeting take place in the event no candidate had a majority as a result of the election itself. The electors would then deal among themselves, producing a majority for one candidate, obviating the necessity of turning the matter over to the House of Representatives, as the Constitution provides when the electoral college cannot produce a winner. In the Democratic-controlled House, theoretically at least, an independent candidate such as McCarthy would have little chance against the Democrat in what could expected to be a straight party-line vote. But there was always the possibility that the Republicans would prefer to make a deal with an independent in the electoral college rather than face sure defeat and selection of a Democrat in the House. And finally, there was also the prospect of Wallace as still another independent controlling electoral votes. Such an eventuality would compound the confusion, and perhaps increase the willingness of both Democratic and Republican electors to deal with some alternative to Wallace."

Mr. LEVIN. The prospects are frightening, and, as we well know, when the stakes are the Presidency of the United States—if there is a way to manipulate the system, then that way will at some time be used.

But one need not even accept the notion of "faithless electors" or independent electors to see that the electoral college contains within it the seeds of political chaos. A more realistic prospect is the elevation to the Presidency of a candidate who did not win the popular vote. This has happened three times in American history, and as other speakers have indicated, it is more a matter of luck than design which has held the number of instances to that level.

In 1976, for example, a change of 10,000 votes in two key States would have given the Presidency to Gerald Ford despite the fact that Jimmy Carter would have held a commanding lead of a million and a half popular votes. Perhaps this country could survive a minority President back in the 1800's, but such a President in the 20th century is unthinkable. This country would be paralyzed with doubt and weakened by uncertainty. And in the climate of today, such a situation is untenable. The very political fabric of the country would be ripped apart.

These, then, Mr. President, are the main arguments against the continuation of the electoral college. They are not new arguments—they have been discussed for decades. And they have been accepted for decades. Institutions and organizations like the American Bar Association, the U.S. Chamber of Commerce, the United Auto Workers, Common Cause, League of Women Voters, National Federation of Independent Business, and the National Small Business Association have heard and accepted these arguments and joined in the call for the abandonment of the electoral college.

I think the real debate, Mr. President, is not on whether we should retain the electoral college but rather what we should replace it with. Clearly I support the direct election alternative, but there are other proposals with some merit which are also being considered. I am pleased that so many of my colleagues have given careful thought to this situation and I commend their efforts. However, I think that all the alternatives fall short of the direct election approach. All the alternatives address some of the problems in the present system, but none of them address and correct all of the problems. Only the direct election alternative contains within it structural solutions to all the weaknesses in the present system.

But I recognize, Mr. President, that no plan is immune from criticism, and direct election certainly has not been. There have been arguments raised against the direct election alternative and some of those arguments have some degree of validity. After careful study, however, I am not persuaded that they have enough validity to justify rejecting direct election. Let me share with you some of my thinking about three of the major objections.

First, some claim that direct election will disadvantage the smaller States since it gives so much importance to sheer raw numbers. There is some validity to that argument, but I think its impact is minimized when you consider two responses. First, from at least one perspective, the small States are disadvantaged under the present system. Theoretically one voter in California (a large State) can influence 45 electoral votes while a voter in Alaska (a small State) can only influence 3 electoral votes. That places the small State at a disadvantage. But under direct election, there would be no such disadvantage. Each voter would have one vote and no individual would have more potential power than any other individual. Second, objective analysis of campaign strategy indicates that small States are disadvantaged now in the sense of candidate visits and financial commitments to campaign in their boundaries. No one has been able to demonstrate that there is a comparative disadvantage to small States under the direct election. At worst, then, direct election may perpetuate an injustice, but it certainly does not intensify it.

The second major objection to direct election is the argument that direct election will minimize the power of minorities from influencing an election by voting as a bloc and thus providing the swing votes to carry a State into a candidate's column. This argument also has some validity on a psychological level. But in reality, objective analysis of previous elections demonstrates that minority votes have never independently determined the outcome of an election. Additionally I would suggest that the present system actually works against minority political power. For instance in my own State of Michigan, Gerald Ford carried all 21 electoral votes. That was true despite the fact that 95 percent of the black population in the State voted for Jimmy Carter. In terms of having an impact on national politics, the electoral college system wipes out the power of a minority unless it happens to be on the winning side—and then only if they can claim that their votes made the difference in the margin of victory.

The third and final objection is a philosophical one about the implications direct election has for the future of federalism. We are all familiar with the argument and it too has some validity but I would suggest that ultimately it can not be sustained for two reasons. First, the electoral college was never envisioned as a bulwork of federalism. The evidence indicates that the Constitution incorporated this system simply because they feared an uneducated electorate. But even if that was its initial role, I would suggest that federalism is built on much stronger and more justifiable pillars now. Increasingly we have attempted to structure into our system Federal-State cooperative relationships, and I think those relationships are the operational basis of federalism—not the electoral college.

Mr. President, this is, as I said, a complex issue. But it is one we have devoted enough time to. We can and should reach a decision on it. We can and should send the direct election proposal embodied in this resolution to the States at least for their consideration, and hopefully their consent.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. LEAHY). Does the Senator from Michigan yield to the Senator from Kansas?

Mr. LEVIN. I am happy to yield.

Mr. DOLE. Mr. President, I am in accord with much of what the distinguished Senator from Michigan has said. Like others in this body, I support and I am pleased to speak in support of Senate Joint Resolution 28, a resolution calling for a constitutional amendment to provide for the President and Vice President to be elected by direct election. For some time I have advocated such a change, and I am pleased that the full Senate now has an opportunity to debate this topic.

The question of whether or not to abolish the electoral vote system and replace it with direct election is one which has occupied our attention before. The Judiciary Subcommittee on the Constitution first held hearings on such legislation in the mid-60's, although an amendment calling for direct election was introduced as early as 1824. Since then, many hearings have been held and over 300 witnesses have testified in Senate hearings. While abolishing the electoral college has never been a flashy news item, it does generate a slow, steady stream of constituent letters. The almost unanimous recommendation of persons writing me is that the electoral system should be a abolished in favor of direct election.

Many letters have come from high school students studying this topic in class. These students write to ask how the Congress can justify retention of a system which is also easily subjected to error and misrepresentation of voter mandate. Others who write reflect a long-time dissatisfaction with the current system and an inability to understand why change has not been enacted. But, whatever reason stimulated them to write, their letters reflect a common dissatisfaction with the electoral college.

Public opinion surveys taken by both the Harris and Gallup polls show the public favors direct election by a margin of five to one. In studying the background of those polled, there are no distinguishable factors among those favoring direct election—it draws support from both political parties, all geographical districts, rural and urban areas alike, and from all job classes.

CURRENT SYSTEM

The electoral vote system was designed early in American history as a compromise between democratic and aristocratic instincts. Considering the climate of the country and the political forces then in existence, I think it was a functional system that met our needs at that time. We are fortunate that it has worked as well as it has. Yet, in three elections—1824, 1876, and 1888—the winner has not received the greatest number of popular votes. In addition, we have had several elections, most recently, the 1976 contest between Gerald Ford and Jimmy Carter, in which a shift of several thousand votes from one State to another would have changed the outcome of the election. That we have been lucky in the past is slight defense for continuing with a system that fails to meet the demands we now place on our election process.

CRITICISMS OF CURRENT SYSTEM

Mr. President, my major objection to the electoral vote system is that it does not insure that the candidate receiving the greatest number of electoral votes wins the election. This is a perversion of democracy, which should demand victory for the candidate who receives the largest number of popular votes. The electoral vote system holds no such guarantee. In the 1976 election, a shift of fewer than 10,000 votes would have given the Republican ticket victory. In spite of Carter's 1.7 million vote plurality, it was Ford who would have won the electoral college vote and, with it, all the power for good or evil that goes with the American Presidency. Personal and political reasons aside, I do not think a President should assume such responsibility without winning a vote of confidence from a majority of his countrymen.

ONE MAN, ONE VOTE

Another tenet fundamental to our democracy is that each person's vote is of equal importance. The electoral college does not even attempt to make this claim. Common Cause makes the case quite well by reminding us that Alaska has 1 elector per 100,000 citizens, based on the 1970 census. California has 1 elector per 450,000 citizens. This discrepancy is obvious and indefensible. Should an election require resolution by the House of Representatives, the discrepancy becomes even more glaring.

In addition, the electoral college by its very makeup adds import to the vote of a person who lives in a State with a large number of electoral votes. Political reality dictates that a person from an adjoining State with three electoral votes finds his ballot carries less weight. The electoral college enshrines De Toqueville's "tyranny of the majority".

SMALL STATES' ARGUMENT

When discussing direct election, some persons are quick to protest that the electoral vote system offers some type of protection to the small States. In reality, the electoral college system emphasizes populous States. Under direct election, the importance of large and small State voters becomes more balanced. While there would still be the natural attraction a candidate feels to large metropolitan areas, it will make the voters in Alaska, Wyoming, Nevada, Vermont and other small States equally attractive with those in the nonmetropolitan areas in Texas, Pennsylvania, New York and California. After studying the situation, it seems to me that small States will gain in stature once large States forsake the artificial advantages given to them through the electoral college.

ENCOURAGE VOTER TURNOUT

Finally, I maintain that direct election would encourage voter turnout. No longer would votes cast for the losing candidate be disregarded, as they are now. With direct election, they would accumulate from State to State, and could affect the national result. Twice in this century, a Presidential candidate has won without carrying the majority of the States. This occurred in the victories of John Kennedy and Jimmy Carter.

Direct election would also give new light to the minority party and what have traditionally been one-party States. If there is no real chance that the minority party can muster enough votes to overcome the majority party, that State holds little incentive for either voter or candidate turnout. When a narrow or a wide margin of victory makes no difference in the final outcome, neither party candidate feels particularly drawn to that State, because of the unit rule. I believe that direct election would stimulate both voter and candidate interest in most States which are perceived to be one-party States.

CONCLUSION

Mr. President, for a number of years I have been interested in reforming the electoral college. There have been a number of changes which I have considered, and have come to believe that direct election would be the most equitable. I realize that while not everyone agrees on direct election as the best alternative to the present electoral vote system, most advocate changes of one type or another. The time has come to let the full Senate address this issue, and hear from all interested Members their views on the subject. At any rate, I believe that the States should be given the opportunity to vote on this matter, and to decide collectively what should be done regarding the electoral vote system. I believe that it is Congress responsibility to allow the States to make this decision. I look forward to having the opportunity to debate this issue on the Senate floor, for it is a matter which affects the entire country. It is a matter of simple justice.

Mr. BAYH. Mr. President, will the Senator from Michigan yield?

Mr. LEVIN. I yield.

Mr. BAYH. Mr. President, I would like to express my deep appreciation to the Senator from Michigan, the Senator from Kansas, and the Senator from Vermont, who have recently addressed themselves to this question.

I rise and dare to interrupt my colleague from Michigan at this time because it seems to me we have here three Senators who are representative examples of diverse interests and of everything that makes the United States of America great. The fact that they would have studied this issue and come to the conclusion that not only are some of the horror stories we hear about direct popular election not well founded, but that all three of them, as well as many of our colleagues, have concluded that direct election would be in the best interests of the country. I simply want to say how much I am indebted to them, not only for their statements now, but for the steadfast support they have manifested over a long period of time.

Mr. DOLE. Mr. President, I appreciate the remarks of the distinguished Senator from Indiana. As I indicated at a press conference a couple of days ago, I supported the direct election concept long before 1976, but I now more fully appreciate the reasons why we should have direct elections more than prior to that time. As a part of the Ford-Dole team, I can give two examples.

First of all, to those who say the electoral college system may not be perfect, but it has always seemed to work, I found it strange that I received one more electoral vote than President Ford, because some distinguished elector in the State of Washington voted for Governor Reagan for President, but voted for me for Vice President.

But more importantly, with the change of some 10,000 popular votes in 1976 in Ohio, Louisiana, Michigan, Hawaii, or any of several States, we would have won the election—as I have said, I could have learned to adjust to that—even though President Carter had received 1.7 million more popular votes.

So it seems to me we can make all the arguments, and we can say it does violence to small States—as the Senator from Indiana stated, we have two or three small States represented on the floor right now—but it is difficult to tell the American voter, "Really, your vote does not count."

I do not know what would have happened in 1976 had we chalked up those 10,000 votes in the right places, but I am more convinced now than ever that direct election is the right way to go, and I thank the distinguished Senator from Michigan for yielding.

Mr. LEVIN. Mr. President, I appreciate the remarks of the Senator from Indiana. It is always a pleasure to listen to him. With a State as large as ours, we like to cover the waterfront as much as possible.

Mr. BAYH. In northern Michigan?

Mr. LEVIN. In Northern Michigan, yes. We appreciate also the remarks of Senator DOLE.

In this regard, Mr. President, the

Senator from Kansas has had a personal experience which places him in a much better position to comment on this proposal. I believe his experience will be very important as the debate proceeds. My experience is based on a study of the problem and, therefore, is more academic.

I think it well to take the testimony from one of the electors, James Michener, the famous author who spoke the other day on this matter, who was so concerned in 1968 when he was a Humphrey elector that the election could be thrown into the House of Representatives if a third party candidate got sufficient votes, that before the election took place he decided that he and other electors would get together to make sure that that could not happen, that a third party candidate could not act as a spoiler and throw the election into the House of Representatives.

There was eloquent testimony from Mr. Michener at that time.

Mr. President, I ask unanimous consent that his statement be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF MR. MICHENER

Distinguished Senators, representatives of the political process, I would like to speak to one point only. That is the terrible danger under which we live under our present system of electing responsible electors to select the President of the country. For many of you I suppose this is the first time in your life you have ever seen anyone who has ever voted for President of the United States. You never have—you voted for people like the four of us and it was our responsibility to select the president. I read the other day a statement by the distinguished senator from Kansas which was so true that in the early morning hours of the last election when it looked as if the thing were going to hang in the balance as thoughtful Republicans were looking across the nation to find electors for Mr. Carter who might swing their vote to Mr. Ford. They are entirely entitled to do that.

There is no legal restraint which prevents them from doing that and indeed it has happened quite often in the last twenty years. I saw that many people did not take this seriously so I would like you to listen to what was happening in the election of 1968 when Mr. Nixon, Mr. Humphrey and Governor Wallace were competing for the presidency. I happened to be the president of the Electoral College of our third largest state at that time—Pennsylvania. And we were thinking along these lines.

I was a democratic elector selected by Mr. Humphrey, I had written his campaign biography, I held in great affection as did many other. But when it appeared that Mr. Wallace might get enough votes to prevent the election from being final so that it would be thrown into the House of Representatives where any kind of chicanery that you could imagine would occur, as it did indeed in 1876, and especially early in the period in the 1800's some of us decided that it would be improper to allow Governor Wallace personally to select the next president of the United States.

With all of the deals that would be involved and all the difficulties it might ensue, we felt that was not the way democracy should proceed and we decided before the election that if as indeed it almost turned out, Mr. Nixon would come in with a heavy majority of the vote and almost enuogh votes to be elected president and Senator Humphrey would be trailing, and Governor Wallace would have the swing votes that we would vote for Mr. Nixon to prevent the debacle that would ensue under other circumstances.

Now when Senator Dole makes his perceptive comments that the Republicans might search for electors to swing the '76 election, I can assure you that the same ideas were circulating in 1968 and there were people prepared to do exactly what Senator Dole was talking about. Now I think it is a dreadful miscarriage of the political process to allow someone like me without really any responsibility to assume a position that we were prepared to assume in 1968. I think this is alien to all of our principles, I think that a gap exists in our political system and unless it is corrected I have always felt that in the course of the next 20, 32, 44 years the situation that we faced in 1968 is going to be repeated. And people like me—I was a professor of American history—I doubt that many electors have the knowledge of American history that I have but even someone like that to give him that power is preposterous. It is a grave danger to our nation and it ought to be eliminated.

Mr. LEVIN. Before yielding the floor, Mr. President, I commend the Senator from Indiana for his steadfast commitment to a principle which is so basic to American democracy, and that principle is the direct election of the President at this time in our history. I commend him on that.

I know he has been put through the test on this many times, and that his patience, at times, has worn thin. I want to assure him that there are millions of people who stand behind him in his steadfastness, and I know that he is going to continue proudly on that course.

Thank you, Mr. President.

Mr. BAYH. Mr. President, I thank the Senator from Michigan for his thoughtful words, and I thank him for his dedicated support of this proposal.

The Senator from Indiana would be glad to yield to the Senator from North Carolina if he seeks the floor at this time.

Mr. HELMS. The Senator as always is most kind. I would be delighted to defer to the Senator.

Mr. BAYH. Maybe I just might say for the benefit of those who are conducting other Senate business, but who may have staff observing what is transpiring here, either by listening or observing personally, that as far as the Senator from Indiana is concerned the opportunity to make ourselves heard on this issue is the reason for this period of discussion. As far as I am concerned, and we should check with the leadership and those on the other side of this issue, I see no reason to try to have an endurance test, to match each other word for word on into the night. I just make that comment for those who may be inclined to bring something over and share it with us.

The PRESIDING OFFICER. The Senator from North Carolina.

THE ELECTORAL COLLEGE AND AMERICAN DEMOCRACY

Mr. HELMS. Mr. President, the proposal to abolish the electoral college affects much more than simply the means by which the American people elect their President. It directly strikes at the fundamental nature of our federal system under the Constitution.

It should be emphasized that proposals to do away with the electoral college are not new. Since 1824, when Senator Thomas Hart Benton led the first efforts for its abolition, more than 500 constitutional amendments have been introduced in Congress to alter or eliminate it. While it is often denounced as an anachronism, the dangers which would follow its elimination have caused such distinguished constitutional scholars as Alexander Bickel, Philip Kurland, Charles Black, the late Martin Diamond and our former colleague Sam J. Ervin, Jr., to strongly oppose its abolition.

Mr. President, it is often forgotten tnat the Constitution is a contract between the States and that just as any contract or agreement is negotiated to provide certain compromises, concessions, and safeguards, the Constitution as well provides for such a resolution of often competing interests. Obviously one aspect of this resolution is the compromise between large States and small States as is reflected in the apportionment of Representatives and Senators in the Congress. And it is equally clear from history, that this compromise was a fundamental condition to a number of States agreeing to enter the Union and ratify the Constituition.

But the issue of the electoral college is much more profound than the resolution of potential conflicts between highly populated industrial States and sparsely populated rural States. The late Prof. Martin Diamond explained:

> The issue regarding the Electoral College is not democratic reform versus the retention of an undemocratic system but rather a matter of which kind of democratic reasoning is to prevail in presidential elections—the traditional American idea that channels and constrains democracy or a rival idea that wishes democracy to be its entirely untrammeled and undifferentiated national self.

Professor Diamond continued:

> Americans have always believed that there is more to democracy itself than merely maximizing national majoritarianism; our idea of democracy includes responsiveness to local majorities as well." America is a nation of minorities and all of us belong to one or more religious, racial, ethnic or regional minorities. For example, national minorities which happen to be regional majorities are protected because of the system of districted representation through the House of Representatives. Similarly, the approach of statewide representation in the Senate and through the Electoral College provides a practical, workable response to the dynamics of local democracy. Otherwise such local and regional interests may be completely neglected.

Mr. President, the authors of the Constitution understood, as did Edmund Burke, that the constitution of a nation is not a problem of arithmetic. Those men who sought a stable, constitutional framework for government in the United States perceived the people, Mr. Walter Lippmann suggests:

> As having many dimensions in space, in time, in weight, in quality . . . The American founders sought to represent this many-sided people and they thought of the people's will as an equilibrium of its many elements . . . And so in their practical arrangements they sought to make the government as nearly representative as possible

> of the many facets of the popular will, of the people acting as citizens of local communities, acting as citizens of regions (and) of states.

The central question in considering the electoral college is what method best reflects the national character and the national consensus. Are we willing to arrive at such a consensus at the price of failing to protect certain minorities? Are we willing to advance the interests of certain minorities in such a way as to frustrate a representative majority? I believe that the abolition of the electoral college and its replacement with a system of direct national election inherently carries with it the prospect of both these grave dangers.

Mr. President, I am not much of a politician, but it seems to me that American politics is a politics of coalition. These coalitions exist under the present system of electing a President and they will exist if a direct election method is adopted. As the late Prof. Alexander Bickel has observed:

> The only question is when and how coalitions are formed and compromises take place.

Under the present system, coalitions are formed at the conventions of the two major political parties and the State primaries and conventions which precede them. This approach to the resolution of often competing interests is essentially an open and accessible one.

However, under a Presidential election system which provides for a runoff if no candidate receives 40 percent of the vote, those factors which foster unity and coalition in the major parties before the general election will be replaced by a tendency toward fragmentation. Various special interest and single issue groups which now realize a necessity to reach agreement with the major party candidates by the time of the national convention or shortly thereafter will suddenly find their bargaining position increased if they are able to deprive either major party candidate of a 40-percent-plus-one margin and force a runoff election. Special interest groups will be encouraged to form political parties to maximize this political leverage.

Mr. President, in such a multiparty system, the formation of winning coalitions will be placed in the hands of a small group of candidates and their campaign managers during the time between the general and runoff election. Can there be much doubt that the process of compromise and coalition will be less open and with less popular access to the process under this procedure?

Professor Bickel responded to that in this way:

> Governments will be weaker, less stable and less capable than our governments are now of taking clear and coherent actions. Where multiparty systems have been tried, they have been found costly in just these ways, and they have scarcely yielded the ultimate in participatory democracy and good government. Nor have they lasted.

Of course, the one country which elects its President substantially the way the United States would elect a President if the direct election method was adopted is France. This Senator thinks it would be very instructive to consider what has happened in French elections under this procedure. I believe that there were seven serious candidates for President during the 1974 election. Would this country benefit if we duplicated the quid pro quo bargaining that characterize French politics just prior to their runoff election? With the increasing proliferation of single-issue constituents, can we doubt the real possibility within the next few years of the emergence of 5 to 10 splinter parties in the United States? Indeed, rather than guarantee a President who is elected by the majority, this direct election proposal may guarantee a minority President or, at the very least, advance the interests of single-interest minorities at the expense of the interests of the majority.

Professor Bickel has suggested that the runoff provision would substantially affect the stability of the American political system:

> The runoff would be, not an occasional occurrence, but the typical event. The major party nomination would count for much less than it does now, would count, in truth, for about as much as the State democratic committee designation of candidates for Governor and Senators in New York counts this year, and might even eventually begin to count against a candidate. There would be little inducement to unity in each party at or following the conventions. Coalitions would be formed not at conventions, but during the period between the general election and the runoff. All in all, the dominant position of the two major parties would ont be suitable.

The electoral college prevents the fragmentation of the American political process by substantially denying splinter parties the ability to compete for electoral votes. Historically, only those third parties with an effective regional appeal have been able to carry any State electoral votes. The election of 1948, as a matter of fact, provides an excellent example of how the electoral college deals with splinter party movements. In that year both STROM THURMOND and Henry Wallace received approximately the same number of popular votes. However, Mr. THURMOND's Southern Party obtined 39 electoral votes while Wallace's Progressive Party received none and soon thereafter dissolved.

The knowledge that, almost without exception, third party efforts will be shut out of the electoral college has done much in modern times to curtail the development and spread of splinter parties in American politics. Now, it may be true that on a theoretical level, the electoral college does not necessarily prevent the spread of third parties, but the psychology of the electoral college suggests to the average voter that if the total vote in the electoral college will be zero, a new party is probably a futile undertaking and a vote for that party's candidate is probably wasted.

The President of the United States is the President of all the people of this country and, as such, should be responsive to more than just a narrow constituency or set of concerns. The electoral college reinforces this important aspect of the Presidency by distributing at least a minimum number of electoral votes across the country. However, under the direct election method, it is not the distribution of votes, but merely its size which matters.

The electoral college forces candidates for the Presidency to meet and respond to voters in areas whose importance to the Nation is much more than simply a matter of numbers. For example, in the United States today only 3 percent of the population grow enough food to feed the remaining 97 percent and additional millions around the world. It is the design of the electoral college to reflect in some measure the importance of the rural, agricultural States. Similarly, the votes of various minority groups within the heavily industrialized States can be decisive in the disposition of all of those States' electoral votes. Here too, the importance of such groups and their concerns often exceed their simply numbers. By thus requiring candidates to adopt a broadly based platform, the electoral college arrives at a national consensus while protecting important minority interests.

Mr. President, we have heard over and over again of the potential danger that a candidate might lose the popular vote in a close election and yet win the election on the basis of the electoral vote. However, there has been very little consideration of the real danger that with the abolishment of the electoral college a candidate might win with overwhelming majorities in two or three large States and then lose by narrow margins in the remaining 47 or 48. The Nation would then have a popularly elected President who had won majorities in only two or three States. Would such an outcome be more democratic than the election of a candidate who loses the popular vote by 50,000 or 100,000 votes, but wins in the electoral college?

Commented Bickel:

> It is sheer illusion, a willful suspension of disbelief to pretend that there is no deadlock when a popular election produces a winner with under 50 percent of the total vote, and with a plurality of perhaps 25,000 or 50,000 or 100,000 out of upward of 70 million. That is deadlock, as much deadlock as when there is no absolute majority in the electoral college. . .
>
> All methods of resolving deadlock, all methods of making a choice when there is no clear popular choice, are arbitrary and all that is needed is settlement in advance upon one sensible and well understood method. That is all that is needed, and that is all that is possible.

Mr. President, the electoral college system also acts to contain the extent of recounts much the same as the many watertight compartments of a ship act to contain flooding. Presently, recounts are compartmentalized by State and only a very close election in a State would tempt a candidate to ask for a recount and only if the electoral college vote were very close. However, under the Senate Joint Resolution 28 approach recounts would suddenly become nationalized and candidates who lost votes in a particular area would be tempted to gain votes in another. Even in States where a candidate lost by a wide margin, recount votes could still add to his nationwide total.

The real potential for danger regarding recounts can be seen by reviewing the close results in three of the last five Presidential elections: Kennedy and Nixon in 1960; Nixon and Humphrey in 1968; and Carter and Ford in 1976. Are we seriously considering subjecting the Nation to the protracted instability that a nationwide recount would have upon our political process? Can there be much doubt that a victory margin of 200,000 votes, such as Kennedy's in 1960 out of 70 million votes would not raise the strong possibility of a recount? And the specter of a recount arises not only to determine the President-elect, but also to determine which two out of three or more candidates has the first and second highest vote totals thereby determining who would be included in the runoff election. The distinct possibility arises of not just one nationwide recount, but two before a President is finally selected.

Mr. President, Will Rogers was fond of saying that the problem with Congress is that it is always trying to fix something which is not broken. No better assessment could be made of the efforts of some to abolish the electoral college. It is argued that we must do away with the electroal system, because it is claimed that on three occasions it has thwarted the public will in electing a President.

However, a look at history indicates that the precedents prove nothing of the sort. In 1824, John Quincy Adams was elected by the House of Representatives as one of four candidates, none of whom enjoyed a majority of the popular votes. Although Andrew Jackson obtained a plurality of 37,000 popular votes, six States with 71 electoral votes at that time chose their electors by a vote of the legislature, not the people. In 1876, although the statistics state a popular majority for Tilden over Hayes, supporters for both candidates engaged in widespread vote fraud and thus undermined the validity of any claim as to the popular choice in that election.

This leaves the election of 1888 as the one historic example of the so-called "loaded electoral gun" pointed at the head of the Nation. But as Professor Diamond observed:

> Now the funny thing about this loaded pistol is that the last time it went off, in 1888, no one got hurt; no one even hollered. As far as I can tell, there was hardly a ripple of constitutional discontent, not a trace of dangerous delegitimation, and nothing remotely resembling the crisis predicted by present-day critics of the electoral college.

Here, too, vote fraud blurred the actual popular vote outcome.

It is also claimed that the electoral college must be abolished, because the individual electors are not bound to vote for the winner of the popular vote in their States. While numerous theoretical scenarios may be possible, the historical fact remains that less than 5 percent of the electors have voted for candidates other than those mandated by their States and that in no election has such an elector affected the final outcome of the election.

Mr. President, any electoral process has certain benefits and certain costs or disadvantages. Such is the case with the electoral college, but the historical record indicates that it has served the country well and enhanced the stability of our political system. Any existing or potential drawbacks to its operation are slight, when compared with the substantial difficulties inherent with Senate Joint Resolution 28.

Mr. President, I ask unanimous consent that editorial columns by George F. Will, Edwin M. Yoder, Jr., and James J. Kilpatrick be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

DO NOT FOOL WITH THE ELECTORAL COLLEGE

(By George F. Will)

President Carter has joined Sen. Birch Bayh's crusade to abolish the electoral college, the world's most tested and vindicated mechanism for choosing a Chief Executive. For years the Indiana Democrat has been advocating direct election so "the people" can choose presidents, and because the electoral college is "undemocratic" and dangerous.

One of Bayh's terrors is the "faithless elector" who does not vote for the candidate who carries his state. Actually, of the 17,000 electors since 1789, about ten have been "faithless," none has altered an election. If this specter haunts Bayh, it can be exorcised by abolishing the office of elector, and leaving the electoral college in peace.

Bayh also says the electoral college must go because in three elections (1824, 1876, 1888) the electoral-vote winner was not the popular-vote winner. Actually, even if in "only" 45 of 48 elections the same person won both, that would not justify Bayh's calling the electoral college "electoral roulette."

In 1876 and 1888, exuberant fraud on both sides probably involved more votes than the narrow victory margins. In 1824 all four candidates were together on ballots in only five of 24 states. Six states (including New York) had no elections: the legislatures selected the electors. Only about 350,000 of the 4 million eligible white males voted. Andrew Jackson won 38,149 more votes than John Quincy Adams, but neither had a majority of electoral votes. So the House of Representatives decided, picking Adams.

JUSTIFYING REVISION

This was before the emergence of the two-party system. But Bayh says the events of 1824 (and 1876 and 1888) justify fundamental constitutional revision.

Actually, an electoral-vote victory by a candidate who loses the popular vote by a substantial margin is improbable and has never happened. And only extremely dogmatic majoritarians think democracy would be "subverted" (Bayh's word) if the electoral college gave the Presidency to a candidate who lost the popular vote by a wafer-thin margin. It is odd to say that the "nation's will" could be "frustrated" in a standoff.

Bayh is fond of the somewhat feverish thought that under the electoral college a candidate "could" win with just 25 per cent of the vote by narrowly winning in the eleven largest states, even if he did not get a single vote in any other state.

But under direct election a candidate "could" sweep Alaska's 231,000 eligible voters, lose 49 states by an average of 4,700 votes, and win. This "possibility" is about as probable as the one that Bayh is fond of imagining.

Bayh is not apt to produce what Madison was too sober to attempt, a constitutional arrangement under which no unwanted outcome is even theoretically possible. Serious people consider probabilities, not possibilities. And direct election would make probable a grave difficulty.

The electoral-vote system, combined with the winner-take-all rule (a custom, not a constitutional requirement), discourages ideological third parties: such parties are unlikely to win pluralities in many states, so they are effectively shut out of the decisive electoral-vote competition. But direct elections would incite such parties. They could hope to prevent any candidate from receiving a national majority, or even an impressive plurality of popular votes.

SUBSTANTIAL DANGER

Bayh's remedy for this defect in direct elections poses a substantial danger. He proposes a second election, a runoff between the two leaders, if neither gets 40 per cent the first time. But a runoff would be an incentive to minor parties. They would try to force a second vote so they could sell their support.

Bayh evidently is undisturbed by the fact that direct election might frequently produce "41 per cent" presidents. The electoral college has only produced three presidents with such low pluralities, in 1824, before the two-party system developed, and in 1860 and 1912, when the two-party system was in disarray. But Alexander Bickel of Yale warned that direct elections might make disarray permanent:

"The monopoly of power enjoyed by the two major parties would not likely survive the demise of the electoral college. Now, the dominance of two major parties enables us to achieve a politics of coalition and accommodation rather than of ideological and charismatic fragmentation, governments that are moderate, and a regime that is stable."

The genius of the Constitution is the effect it has on the *character* of majorities. The electoral college promotes unity and legitimacy by helping to generate majorities that are not narrow, geographically or ideologically, and by magnifying (as in 1960, 1968, 1976) narrow margins of victories in the popular vote.

Such considerations are of no interest to single-minded majoritarians, who consider democracy a matter of mere numbers. They note that in 1976, 123,545 Alaskans determined three electoral votes, one for each 41,181 voters but in California (7,867,043 voters, 45 electoral votes) there was only one electoral vote for each 174,823 voters. Is an Alaskan four times more powerful than a Californian? Is a Californian more powerful because he helps to determine a larger bloc of electoral votes? Bayh says that in any case, the system is "undemocratic." His understanding of democracy has the charm of simplicity: "Every vote should count the same." That, he says, is constitutional propriety, as stated by the Superme Court in its "one man, one vote" reapportionment ruling. But Bickel revealed the foolishness of this argument by expressing it this way: "It is time for the system to be ideologically pure. The Court has said that the Constitution commands equal apportionment. We should, therefore, reapportion the Presidency. In effect, we must now amend the Constitution to make it mean what the Supreme Court says it means."

ARITHMETICAL MAJORITARIANISM

As Irving Kristol and Paul Weaver have written: "In recent decades, the democratic idea has been vulgarized and trivialized. From being a complex idea, implying a complex mode of government, appropriate to a large and complex society, the idea of democracy has been debased into a simple-minded arithmetical majoritarianism—government by adding machine."

Defenders of the electoral college are defending not an eighteenth-century artifact, but a system that has evolved, shaping and shaped by all the instruments of politics, especially the two-party system. It is an integral part of a constitutional system with premises too subtle and purposes too varied to be summed up in slogans like "one man, one vote." Bayh insists that the electoral college "is, by simple definition, undemocratic." But this constitutional democracy was not devised by, and should not be revised by, persons addicted to simple definitions of democracy.

"If It Ain't Broke, Don't Fix It," Mr. Bayh

(By Edwin M. Yoder, Jr.)

Sen. Birch Bayh still yearns to liberate the American presidential voter from the elitist clutches of the electoral college.

That ambition has smitten more thoughtful men. But Senator Bayh runs the Senate subcommittee on constitutional amendments, and his views on electoral college "reform" enjoy a pertinence which their superficiality scarcely warrants.

Senator Bayh is a "one man, one vote" zealot. The only truly "democratic" elections, as he sees it, are by raw head count, with every vote "counted the same." The electoral college, he said in a recent interview with this newspaper, "has totally outlived its usefulness." Some quite considerable students of the Constitution (the late Profs. Alexander Bickel and Martin Diamond, for example, as well as Prof. Arthur Schlesinger Jr. and the late President John Kennedy) have thought otherwise. But Senator Bayh, ignoring them, attributes the resistance to reactionaries who want "political protection" for their states.

Before the senator's zeal sweeps us to irreparable change, let us recall the Bert Lance principle: "If it ain't broke, don't fix it."

Is the electoral college system really "broke," as Senator Bayh and company insist? They worry that it could produce a president who pulled a smaller popular vote than his rival. That is a possibility; but as the number of one-party states declines, it is increasingly remote. Grover Cleveland, ninety-odd years ago, was the last presidential candidate so victimized, and the only one in U.S. history. Since then the electoral college vote has faithfully followed the popular verdict and often amplified it.

In fact, the main argument for the electoral college system is the oldest argument of all. It works. It works to reinforce popular majorities; it buttresses the two-party system; it draws the attention of candidates, in the winner-take-all system, to states that would otherwise be easy to ignore; it affords politically sensitive minorities (blacks, labor, ethnics, southerners) a crucial role in closely-fought states; and it is very nearly the last fixture of dual federalism in the national political picture—giving the states a role that would vanish in a national popular vote.

Another of Senator Bayh's worries is the menace of the "faithless elector"—the presidential elector who flouts the popular verdict in his state. It has happened, although to no effect. But is it true, as Senator Bayh claims, that "electors . . . are completely free to ignore the wishes of the electorate"? Not at all.

The Supreme Court has ruled that the fidelity of presidential electors is a "political" matter, for states to decide. State legislatures may enforce compliance with the popular vote. When they choose to do otherwise they risk defiance of their own voters, at no cost to the rest of us. But the faithless elector threat, if such it is, could be removed without radical overhaul of the electoral college system. A simple constitutional amendment abolishing elector discretion would do the trick.

Senator Bayh obviously won't be content with tinkering; he insists on sweeping change. Would the senator's radical "reform" improve the system of presidential selection?

That depends on what one means by "improvement." Would the nationalization and homogenization of elections (and the submergence of vital state and minority interests) be an improvement? Would the encouragement of multiple candidacies and splinter parties be an improvement? Would runoffs—second elections when the leading candidate failed to obtain the necessary 40 percent plurality—be an improvement? "The runoff," one critic has observed, "would be the true election, and the initial election would look a bit like the start of the Boston Marathon with its motley crowd of contestants."

And you could count on another hitch. In closely contested elections, every local political boss would lock up the ballot boxes for a second count and maneuver to make deals and share the spoils. Now we wait on election night for states to come in; under the Bayh popular vote plan, we might have the dubious privilege of waiting for dozens, even hundreds or thousands, of late precincts.

Senator Bayh and his allies don't seem to recognize that in politics, as in nature, there is a natural balance of forces. Fundamental "reforms," even at best, entail tradeoffs of good and bad.

Presidential elections by popular vote would satisfy a late-blooming populistic theory of one-man-one-vote democracy. But at what price? The further reduction of states to political ciphers? Further erosion of the two-party system, and with it the exercise of collective political accountability? Presidential elections dominated by network television exposure, giving less and less weight to political competence and more and more to pinchbeck glitter and glamor? A run of contested, unstable presidencies?

Senator Bayh probably won't renounce his zeal for reform. But he ought to remember that every reform has its nemesis.

The Electoral College: Why Bayh Is Wrong

(By James J. Kilpatrick)

The opening gavel had barely fallen last month upon the 96th Congress before Sen. Birch Bayh was on his way to the clerk's desk. He was bearing the same old shopworn, unloved resolution he has tried to sell the country since he came to the Senate 16 years ago—for a constitutional amendment establishing direct election of our presidents.

While Bayh was thus occupied in the Senate, Rep. Barber Conable of New York was trying to an alternative started in the House: the old "District Plan." If we are going to rewrite Article II of the Constitution, Conable's approach is infinitely superior to Bayh's, but there is yet another alternative more desirable still. Let me come back to it in a moment.

At present, as every schoolboy knows, the people vote in their several states for presidential electors equal in number to the state's total representation in the Congress. Virginia, for example, has ten members of the House and two senators, hence 12 electors. Following the November general election, the electors meet and cast their surrogate votes for president and vice president. If no pair of candidates wins a majority of the 538 electoral votes, the election must go to the House, where each of the 50 state delegations will cast a single vote.

Under Bayh's amendment, the electoral college would be obliterated root and branch. The people would vote directly for president and vice president. If the winning team polled at least 40 per cent of the total vote, nothing more would be required. If the winning plurality were less than 40 per cent, a run-off would be held between the two highest candidates.

Conable's resolution, by contrast, would preserve the basic structure of electoral votes within the several states. But instead of awarding a state's entire electoral vote to the statewide winner, Conable would divvy up the votes by congressional district. Suppose that in Virginia in 1980, Republican Ronald Reagan carries seven congressional districts, Democrat Jimmy Carter carries three. Reagan wins the statewide popular vote. Under the District Plan, Reagan gets nine electoral votes (for seven districts plus the whole state), Carter gets three.

The vice in Bayh's radical plan is that it would destroy the last vestiges of federalism in our country. Under the Constitution, whenever we act politically, we act through our states. The concept of a union of separate, sovereign states has served us wonderfully well for nearly 200 years. This bedrock principle of American government ought not to be destroyed without the most compelling cause.

Conable's proposal is attractive. While the rule of winner-take all is sound enough in electing a county sheriff, it is widely perceived as unfair in electing a president. In 1976, Carter carried Ohio by only 11,000 votes but claimed all of the state's 25 electoral votes. Meanwhile, Ford carried California by only 140,000 (out of 7.5 million votes cast) and claimed all 41 electoral votes there. The District Plan would more fairly reflect the people's wishes.

But there is great wisdom in the maxim that says: if it ain't broke, don't fix it. The electoral machinery may be clumsy and antiquated, but it works. If Article II is to be modernized at all, prudence suggests mild repairs instead of massive overhaul. We ought to protect the country from the risk of the maverick elector who dishonors his surrogate duty; such electors have appeared in each of the past three elections. And we ought to discard the provision that allows each state but one vote if an election were thrown into the House.

Bayh feels his proposal has been hashed over long enough. He promises to seek an early vote in the Senate. The Conable substitute will be pushed in the House, though perhaps not as vigorously. One way or another, this important constitutional issue is heading for a showdown. We ought to be thinking about it, and we ought to be thinking about it now.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, at the outset I wish to make clear I strongly object to the manner in which Senate Joint Resolution 28, providing for direct popular election of the President and Vice President, was placed on the Senate calendar circumventing its consideration by the Senate Judiciary Committee. It is true hearings on this issue have been held in the past; but as my distinguished colleague from South Carolina, Senator THURMOND, the ranking minority member of the Judiciary Committee, has pointed out, there are 20 new Members of the Senate in the 96th Congress. There are six new members on the Judiciary Committee alone. An amendment of this magnitude, bearing as it does the likelihood if not the certainty of drastically altering the political processes which have provided us stable, legitimate government should not be passed on lightly. Those whose duty it is to vote on the proposal should hear all the information available before making their decision, regardless of whether some of the same points were heard by their predecessors in office. Moreover, the fact hearings have occurred in the past does not preclude the possibility that some new thought or argument which may be persuasive will be brought out during additional consideration in committee.

It is this situation which prompts me to state that if Senate Joint Resolution 28 had been made the pending business of the Senate without the agreement that has been reached I would have offered my own resolution as an amendment in the nature of a substitute. I, of course, prefer that this resolution be considered thoughtfully and deliberately under the committee process as it should.

Mr. President, I do not disagree that the institution of the electoral college may benefit from reform. In fact, the purpose of the delegates to the Constitutional Convention in providing for a select college of electors was at least partially lost almost from the outset by the development of the party system, and the coalescing of electors within the State into partisan slates committing their votes in advance. From a very early point electors came to be considered—and considered themselves—as mere automatic registers of the popular will.

Still, while it has happened only rarely, the potential for an individual elector to circumvent the expectations of the voters of his State by casting a vote for a candidate of his own and not the peoples' choosing exists. It is disturbing. While the so-called "faithless elector" may be fully within his rights as contemplated by the authors of the Constitution, it nonetheless does not coincide with what the American people have come to expect, and under the system now operating, have a right to expect. We expect to cast our votes for the candidate of our choice; not for electors to do our thinking and choose a President for us.

But let me make clear I have been speaking about the institution of the electoral college; not the electoral vote itself. It seems to me most of the arguments put forth by those who would abolish the electoral vote entirely are, at best, highly speculative in nature. The Senator from Indiana continues to argue on the basis of what could have happened if a few votes were changed here or there. Even the American Bar Association, from whom I would expect better reasoning and judgment, bases its support for direct election on pure speculation as to what would have resulted if voting had been different in certain elections in specific States. But the point is—it was not. Supposition, guesswork, and speculation aside, nearly 200 years of experience is on the side of the electoral system.

Proponents of direct election would have us believe the electoral system were to blame for the three instances in our history when a President was elected without winning the popular vote: 1824, 1876, and 1888. They imply Senate Joint Resolution 28 in its present form would avert that risk. Neither supposition is warranted.

It is true Andrew Jackson received a plurality of the popular vote in 1824, but Presidential elections at that time were significantly different from modern ones. Not all States chose electors by popular vote. New York, for example, chose its electors by vote of the State legislature. Candidates did not run in every State. Furthermore, Jackson lost the Presidency to John Quincy Adams when Adams and Henry Clay joined forces in the House of Representatives. Senate Joint Resolution 28 would not prevent a first round winner from losing the second round if the runners-up combined forces against him.

In 1876, the problem was not the electoral system, but electoral fraud. A Republican-dominated special electoral commission rejected the election results in South Carolina, Florida, and Louisiana, and southern Democrats in the House accepted the commission findings in exchange for an agreement by President-elect Hayes to remove Union troops from the South and end reconstruction. In 1888, the vote was extremely close. Grover Cleveland claimed a plurality of 100,000 votes, but neither Cleveland nor Benjamin Harrison had a majority of the popular vote. Harrison, however, had a majority of the electoral vote and was elected President. Chaos did not ensue. The country had solid, stable, legal Government for 4 years, and the voters elected Cleveland the next time around.

In short, the situation of a candidate winning the electoral vote after having lost the popular vote by a substantial margin has never occurred. The fear that change in a few votes here or there would create national chaos by electing a President who has lost the popular vote is purely speculative.

What is not speculative, Mr. President, but entirely clear is that adoption of direct popular election of the President as envisioned by Senate Joint Resolution 28 would weaken our Federal system.

It is not difficult to see why polls on the question show many people in favor of direct election. On its face the idea has great appeal. It is a simple concept—it is easy to understand; but the ideas and concepts binding this Nation together are not simple, and those who advocate abolishing the electoral system overlook some of the most fundamental of them.

They bear consideration.

The American Nation is unique in history. Unlike the other great democracies wherein certain rights and liberties were granted to the people by their sovereign governments only after hard-fought struggles, the American people in creating a new nation granted limited power to their government. And in agreeing through their States to become part of that nation the people recognized and expected that they would be governed by a Constitution both federal and national in its composition. James Madison, writing in the Federalist No. 39, defined the concepts of this government in this manner:

> In its foundation it is federal, not national; in the sources from which the ordinary powers of government are drawn, it is partly federal and partly national; in the operation of these powers it is national, not federal; in the extent of them, again, it is federal not national; and finally, in the authoritative mode of introducing amendments it is neither wholly federal nor wholly national.

Clearly the method prescribed by the Constitution for electing the President and Vice President is also Federal, not national. The President is not simply our chief national executive officer; he is also our chief Federal officer.

The effect of the proposed amendment will not be to increase the democracy of the election. The President is already directly and popularly elected—in every State. The practical effect of the amendment will be to destroy the federalness of the election, to eliminate the States from their constitutional share in the political process. The election of the President cannot be made more directly democratic. What is proposed is to make it more national. If that is the intention, so be it; but let us at least be candid about what is taking place, and not be confused by high-sounding rhetoric about democratic principles and just and equitable elections.

Mr. President, the large State/small State compromise imbedded in our Constitution was intended to preserve the identity of the States, and more specifically, to protect the rights of the small, rural States. The electoral system is a part of that compromise, the idea being to build into Presidential elections the same two principles of representation contained in membership in Congress. As such it is part of the contractual basis on which the States agreed to enter the Union. By giving each State a number of electors equal to the number of Senators and Representatives which the State has in Congress, the present system indeed gives the small States a definite advantage. But I do not think those of us from the smaller States should be apologetic for this, since the arrangement was entered deliberately after long and careful consideration by representatives of both large and small States in recognition of the fact the smaller States might have a more difficult time making their views and needs known to the executive branch. Arguments suggesting the one-man, one-vote principle demands direct election of the President are no more persuasive than saying that principle demands proportionate representation in the Senate.

In this same regard it is argued the electoral system stands to circumvent majority rule, but we must recognize and remember our Constitution and system of Government was intended to protect the rights of the minority as well.

Those whose concept of democracy is merely rule by the majority have little if any understanding of the intricate workings of democracy as practiced successfully in the United States for over 200 years. Here we recognize that dictatorship by the majority is as real a threat to the rights of the minority as any totalitarian regime. We recognize a leader of this Nation must not only represent large numbers of our people, but must also represent a diverse cross section of our people. These things the electoral system provides by recognizing the diversity of Americans and their interests. Take for example, the black voter, who is in part afforded attention from Presidential candidates because they hold the balance of power in so many States even though they represent only about 10 percent of the electorate. That minorities of all kinds would lose under this proposition is certainly underscored by the telegram in opposition to this measure sent to Senator Thurmond by an impressive group of black and civil rights leaders.

Under the present system, no candidate for President can conduct a campaign on appeals to solely urban, suburban, or rural interests, or by the same token to only narrow factions of political thought. One need only look to the last two or three elections to recognize national campaigns are already concentrating more and more on the big city states. Abolition of the electoral college would accelerate this trend and reduce the influence of small States even further. At the same time the already enormous influence of the broadcast media would increase since the news reporting and broadcast industry is headquartered and controlled in the population centers. The inevitable result would be to turn Government over exclusively to urban interests without concern for the rights of the rural minority.

Advocates of direct election vehemently contend under a sadly simplistic understanding of our system of government, that it would result in every vote counting the same, and would thus "democratize" the system; but they ignore the anti-democratic possibility of a President elected by only 40 percent of the popular vote. The plan offered by Senator Bayh not only encourages that possibility, but mandates it as a desirable outcome. Moreover, the runoff provision of Senator Bayh's proposal is a tacit admission direct election would encourage the formation of third parties and splinter groups polarized among narrow, dogmatic ideological lines. To understand how this would weaken a government one needs only to look to the history of modern France, Italy, or pre-war Germany. When Hitler took control of Germany, ther were 32 functioning political parties in the country. Rather than the permanence and stability of our Government, divisive runoff campaigns and a resultant bitterly divided electorate, vigorous bargaining and substantial concession in an effort to form majority coalitions would become the order of the day. By gathering together various like-thinking interest groups a third-party candidate with a narrowly based appeal could gain a powerful swing position in a Presidential election, there being no requirement for carrying a State in order to have influence.

Mr. President, I am not opposed to needed reform, but I believe the remedy should suit the problem. I am convinced the real challenge in reform of the electoral system is to provide a method suited to the times in which we live while at the same time preserving the federal principle. I believe the legislation I am introducing today does just that by providing a middle ground which is a sensible, workable alternative. It would solve the problem of the faithless elector by abolishing the electoral college, but it would maintain the principle of federalism by retaining the electoral vote. It would provide that the chief election officer of each State merely certify the results of the Presidential election in his State, reporting to the President of the Senate the winner (or winners) of his State's electoral vote. The concentration of control of the election machinery in Washington as contemplated by Senate Joint Resolution 28 would be avoided.

We are a nation of 50 States, and the boundaries between those States are more than lines on a map. States as States have a distinct and important role to play in our system of government. The federal system is the very heart of representative government as we know it. The fact recent elections have been close, or the fear a political crisis might develop if an electoral-popular vote conflict occurs does not provide sufficient reason for abandoning the federal principle in the election of our Presidents. Let us abolish the electoral college, guarantee democratic results, and preserve the basis of our Government. Let us not overreact by destroying valuable principle.

Mr. President, I ask unanimous consent that the full text of my proposed amendment be printed in the Record.

There being no objection, the proposed amendment was ordered to be printed in the Record, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"Article —

"Section 1. The office of elector of the President and Vice President, as established by Section 1 of Article II of this Constituton and the twelfth and twenty-thrd articles of amendment to this Constitution, is hereby abolished. Each State shall have a number of electoral votes for President and Vice President, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress, and the District constituting the seat of Government of the United States shall have a number of electoral votes for President and Vice President equal to the whole number of Senators and Representatives in Congress to which such District would be entitled if it were a State, but in no event more than the least populous State.

"Section 2. The day for holding elections for President and Vice President shall be determined by the Congress, which day shall be the same throughout the United States. The times, places, and manner of holding such elections and entitlement to inclusion on the ballot shall be prescribed in each State by the legislature thereof. The times, places, and manner of holding such elections and entitlement to inclusion on the ballot in such District shall be prescribed by the Congress. Following the election the Secretary of State or official custodian of the election returns of each State and such District shall make a reporting of the pair or pairs of persons joined as candidates for President and Vice President who have won the electoral votes of such State and such District, and the manner in which such votes are to be apportioned: which reporting he shall sign and certify, and transmit sealed to the Seat of Government of the United States, directed to the President of the Senate.

The President of the Senate shall in the presence of the Senate and House of Representatives open all the certificates and the votes shall then be counted. The person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electoral votes; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of these voted for as President, the Senate and House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the State, and a majority of the States shall be necessary to a choice. The person having the greatest number of votes as Vice President, shall be the Vice President, if such number be a majority of the whole number of electoral votes; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as Vice President, the Senate and House of Representatives shall choose immediately by ballot, the Vice President, in the same manner and subject to the same provisions as the President, but no person constitutionally ineligible for the Office of President shall be eligible for the Office of Vice President of the United States."

"Section 3. The Congress shall have the power to enforce this article by appropriate legislation."

"Section 4. This article shall take effect on the 31st day of January next after one year shall have elapsed following its ratification."

Mr. BAYH. Mr. President, I must confess to mixed feelings at this particular moment. I always feel a sense of satisfaction when the Senate is able to resolve differences of opinion in a way that is amicable instead of acrimonious, and, indeed, the referral back to committee with instructions to report back to the Senate is a harmonious agreement.

On the other hand, Mr. President, this is another in a long series of steps which have been taken under one guise or another which have for years delayed final consideration by the U.S. Senate on the issue of reforming the electoral college system and giving the people the opportunity to vote for the President by direct popular vote. Unlike earlier steps of delay, however, now we have a unanimous agreement for the first time that will assure early—even though not immediate—action in this Congress.

I confess to my willingness to agree to the unanimous-consent order based only on my feeling that this would not, in the long run, in any way deter our final consideration of this matter.

I am convinced that the leader soon will have the chance to bring this matter up. He has been steadfast in his commitment to do just that. If, in the process of achieving this assurance to consideration, we can make it possible for other Members of the Senate to have a chance to more thoroughly consider the issue, then all of us have gained.

I start my remarks this morning on that basis because I feel that I have a personal obligation, to significantly more than half of the Members of the U.S. Senate who support this direct popular vote measure, to let them know we are not striking our colors. We are even more determined and even more confident that this matter, in relatively short order, will be reported back again to the Senate and be disposed of.

The concession that was given on the part of the opponents will be helpful when the matter is referred back out of committee because then we will have the matter of a filibuster on the motion to take up, which has been used successfully in the past, behind us.

The possibility of a filibuster on the issue will, of course, be very much before us. But it was the contention of the leader—and I respect and accept his judgment on this—that there was a great deal to be gained by getting the agreement not to filibuster the motion to take up. So, at the first opportunity, after June 1, the leader, I am confident, will bring this matter before the Senate; and we will have a chance to debate the issue and not be confronted with another long, attenuated discussion, on the procedure.

(Mr. HEFLIN assumed the chair.)

Mr. BAYH. Mr. President, I should like to take a moment to look at the question of the necessity of hearings. I do not think any other Member of the Senate is more concerned about openness and full consideration of any matter before this body is required to vote on it. I have had the good fortune to be in the Senate for almost 17 years now, and I never have seen an issue that has been as thoroughly debated as this one.

I ask unanimous consent to have this table printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARISON OF SENATE HEARING RECORDS ON CONSTITUTIONAL AMENDMENTS

Proposed constitutional amendment	Days of hearings	Number of witnesses	Pages of testimony	Senate action
1. Direct popular election of President	[1] 43	[1] 179	[1] 3,735	No vote in Senate after passing House.
2. Presidential electors for the District of Columbia (23d amendment).	4	43	212	Passed both Houses and ratified.
3. Abolition of the poll tax (24th amendment.	11	25	1,165	Do.
4. Presidential inability and succession (25th amendment).	9	45	498	Do.
5. Lowering of voting age to 18 (26th amendment).	7	46	737	Do.
6. Equal rights amendment	7	67	1,054	Passed both houses.
7. District of Columbia representation in Congress.	9	84	705	Do.

[1] Record from 1966 to present only. For all other amendments the full historical hearing records presented, so the direct election hearing record is understated.

Mr. BAYH. Mr. President, this table compares the Senate hearings on this constitutional amendment to other such amendments that have been before us. It shows very clearly that the direct popular vote issue has had four times the number of days of hearings of any other issue. It has had four times as many witnesses. It has had three times as many pages of testimony. So the suggestion by some that the effort to go directly to the calendar is some sort of nefarious way to keep the Senate from having a chance to properly study this matter is not borne out by the facts.

In addition, I suggest that anyone who peruses the RECORD carefully will find that almost every major civil rights bill that passed the U.S. Senate over a long period of time—during which the distinguished Senator from South Carolina was in the Senate—used this same approach, of going directly to the calendar rather than going through the committee process. Why? Because those who opposed civil rights legislation would not let the matters out of committee.

In fact, in studying the RECORD, I ran across a little statement that was issued in August of last year by the distinguished Senator from South Carolina, in which he was supporting the District of Columbia amendment, which had been put on the calendar the same way the direct election amendment had been put on the calendar, without one day of hearing before the Senate. Yet, the distinguished Senator from South Carolina said:

> By supporting this resolution, the Senate is now taking final action, because the States of the Nation will have to consider it, and three-fourths of them will have to ratify it before it becomes part of the Constitution.
>
> The people of each State will have the opportunity to express their views on this matter before any change is made in our Constitution. The procedure to amend the Constitution insures that whatever decision is reached will truly represent the wishes of the people of the Nation.

Mr. President, if that made sense last year when we were considering an amendment to the Constitution to give the people of the District the right to have representation in this body—which I heartily supported—it seems to me that the same logic holds this year, when we are being presented with an amendment dealing with the electon of the President.

The number of days of hearings in connection with the District of Columbia matter were 4. We have had 43 days of hearings on direct popular election. The number of witnesses on the District of Columbia matter were 43. We have had 179 witnesses in the direct popular vote matter.

So, although I reluctantly went along with this agreement to let us have another 21 days or so to have this matter back in committee, to have 3 or 4 days of hearings, I must confess that I did so in spite of the fact that the matter had been well heard previously.

I recall that last year, when we were trying to get this matter out of committee, the former Senator from Virginia, Mr. Scott, and the ranking minority member of the Judiciary Committee, Senator THURMOND, were very insistent that we have more hearings. I reluctantly said, "All right, we will have more hearings."

Senator THURMOND could present only one witness. My staff and I had to scurry around and get witnesses even to present their side of the issue. One of those distinguished gentlemen was so interested in the hearings that he never showed up to hear any of the witnesses. The other came for part of 1 day. It was completely within their rights to do just that, and I do not say it to be personally offensive at all, but I want the Senate to know that this matter has been heard seriously.

Every new Member of the Senate has received the extensive volumes of hearings we have had, and I assume that those who are interested in this subject will have an opportunity to read these matters. Of course, they now will have the chance to hear any new testimony that may be forthcoming before the Judiciary Committee.

Mr. President, I leave the question of the recent agreement. The agreement provides that this matter will be back before the Senate. Several of our colleagues are prepared to make speeches and put statements in the RECORD on this subject today, before the unanimous-consent request takes effect. I assume that this is true on the side of the opposition as well as on the side of the proponents of the direct popular vote method. But while awaiting the arrival of any of our colleagues who care to be heard on this issue, I should like to address myself to some of the points that were raised by my two colleagues who spoke in opposition last year.

The distinguished junior Senator from Utah very persuasively, as he always does, included John Kennedy in the list of individuals who opposed direct popular vote. It is true that back in the 1950's when this matter was before the Senate, President Kennedy then Senator Kennedy, defended the electoral college system and opposed the direct popular vote. But anyone who cares to read the entire RECORD and to see the reason why President Kennedy—then Senator

Kennedy—opposed the direct popular vote can see that the reasons behind Senator Kennedy's opposition to direct popular vote have been dissipated. He was concerned about large numbers of disinfranchised voters, primarily minority citizens, who by law at that time could not vote under any Presidential election system if they lived in certain States.

Now, because of the 1965 Voting Rights Act, that has been laid to rest; and I hope that the whole question of who can and cannot vote is a piece of history that will fade quickly and will not repeat itself. The fact is that hundreds of thousands of voters—indeed, millions—have been put on the registration rolls and now can vote. They could not vote before. I believe an even greater number would be registered under the direct popular vote. That was the basic reason for concern on the part of our former President.

Now let me look to the question that was raised by both the distinguished Senator from Utah and the distinguished Senator from South Carolina about exactly what our constitutional fathers were trying to accomplish.

As I said in my remarks yesterday, I do not suppose that we ever have had in one room a larger group of bright individuals, in the history of mankind, than those constitutional fathers. They put together a tremendous document that has borne the test of time very well.

However, one of the great wisdoms those men possessed was that they recognized their lack of infallibility. So they provided that even that great document could be amended.

Interestingly enough—our distinguished Presiding Officer is a great jurist, and he knows the Constitution very well—one of the first amendments adopted by a Congress which contained some of the Founding Fathers was an amendment with respect to the way the President is elected.

We ran into the Jefferson-Burr situation in the 1800 election, which led to the 12th amendment ratified in 1804 by a Congress, let me say, which contained some of the Founding Fathers themselves.

We also have abundant quotations from both Hamilton and Madison expressing their position that the electoral college was not a good procedure. Madison strongly supported the direct popular vote, but of course he lost.

If we look at the federal system, anyone who bothers to go back and look at the debates of the constitutional convention, who bothers to read the Federalist Papers and other historical documents, has to conclude that the electoral college agreement had little to do with the federal system and nothing to do with the Great Compromise.

The Great Compromise was an agreement in which the U.S. Senate and the U.S. House of Representatives were created, and it is in the U.S. Senate that the small States are protected, not in the electoral college system.

One who reads history, for someone who really wants to check the validity of this conclusion, will find that it was well after the Great Compromise establishing the federal system was reached that the Convention considered the election of the President, and they had some rather heated arguments, debates, and votes. Some of our constitutional fathers wanted to have a direct popular vote system. Another group wanted to have Congress, the national legislative body, elect the President. And the major thrust began to move toward letting Congress decide who was going to be the President. They could not decide whether they were going to vote within the Congress by State or by population, and so they appointed a committee of 11 to resolve the disagreement. The committee of 11 ultimately abandoned the congressional vote altogether and came up with the electoral college system which had not ever been considered favorably prior to that time.

So, I think it is clear that the federal system of this country is in no way dependent upon the electoral college system.

Let me deal with some of the other matters that were raised in yesterday's debate. There has been a concern about what happens to the political structure of an election unit when we have a direct popular vote system. I think it was our colleague, the junior Senator from Utah who talked about the nationalization of the electorate. I must say in my State we have had the direct popular vote for a good number of years, electing Governors, and Senators and other office holders, and I have not seen any destruction of the political system there.

Every State in the Union has the commingling of electors from North, South, East, and West as it votes for its State officials.

The party structure exists at the State and the grassroots levels. It is utilized to elect township trustees, parish officials, the county sheriff, school board members, State legislators, Congressmen and women, Senators, and Governors. The anomaly in our political process is not the direct popular vote but the electoral college.

The only election in the whole country year after year where we have a unique system—where the direct popular vote is not used—is in the election of President and Vice President.

Why is the Senator from Indiana pursuing so doggedly the direct popular vote? For three basic reasons:

First of all, I think in the democratic process, if we have an election, the winner should be the person who gets the most votes. Three times in our history that has not been the case under the electoral college system, and the proportional plan, which I think now has been introduced by our distinguished colleague from South Carolina, would not guarantee that the winner was the person who got the most popular votes. Quite the contrary, in some instances the winner would really be the loser under the proportional system and other nonpopular vote means of counting votes in elections.

Second, I think that any system should see that everyone who votes should have the same influence on the outcome and everyone's vote should be counted for the candidate for whom it is cast. Under the electoral college system, as we all know, this is not true. Depending upon the circumstances, I think one can make a case that in some instances, as the congressional research study showed, the smallest States have a small advantage. That congressional research service study also showed in more instances that largest States have an advantage. And as that study also shows uniquely the States that fit into the category from 4 to 12 electors are always at a disadvantage. Why should that exist? Let everyone's vote have an equal advantage or disadvantage and let it be cast for the candidate for whom it is voted.

Why should I in Indiana vote for Jimmy Carter and have my vote cast by an elector for Jerry Ford? Why should my neighbor in Ohio who voted for Jerry Ford have his vote cast by an elector for Jimmy Carter?

That is ridiculous. That is why we have the possibility of electing a President who received fewer votes than the person he ran against.

Mr. President, another matter that was used as a reason to be against the direct popular vote during the debates yesterday was the concern that the direct popular vote would lead to splinter parties, and thus be destructive of the basic two-party political system that exists in our country.

First of all, I think anyone who has observed what is happening under the electoral college system can hardly have great confidence in the future of the political system of this country.

Never in the history of American politics has the party system been in such ill repute, and that has happened not because of direct popular vote, certainly—we do not have direct popular vote for President. I frankly do not believe it is the result of the electoral college process either. It is due to other factors.

But to suggest that the electoral college system is a strengthening feature of our party system ignores the fact that while we have the electoral college system the parties have been getting weaker.

I must confess, Mr. President, that when I first started studying this issue I was not a supporter of direct popular vote. It was not until I had had a chance to study it, and we arrived at the 40-percent formula, which took away the incentive for minor splinter parties to get involved to prevent the initial election from reaching a conclusion, that I became a supporter of the direct popular vote system.

For a splinter party to have any impact on the outcome it would have to gain at least 20 percent, and the other two major parties would have to have an equally divided vote, each with less than 40 percent.

Historically we have seen this has never happened, save for the 1860 experience when President Lincoln fell below the 40-percent mark, getting only 39.76 percent of the vote, and he was not on the ballot in 10 States. So I think we can say, if the same rule had been applied in all States in that election, that never has a party or a situation been able to keep the winner from getting below 40 percent of the vote.

Even if we look at the most dramatic example, where we had the Bull Moose Party running against the Republicans and Woodrow Wilson, and we had Eugene Debs getting 1 million votes, even in that situation, where the Bull Moosers came in second, Wilson still managed to get, I think, almost 42 percent of the popular vote.

So the opportunity for nuisance by splinter parties on various issues that may be prevalant in today's political system—for them to ever get more than 20 percent of the popular vote—is relatively remote, in my judgment. They cannot affect the outcome.

Under the electoral college system, they not only can but they have affected outcomes in key States and in elections. I mean not to suggest that the direct popular vote is perfect, but if you compare it to the present system you see that it has fewer imperfections.

We are all still very much aware of the 1968 election where, under the electoral college system, a candidate concentrated his support in a regional area. Although he was on the ballot in my State of Indiana, as well, as I recall, and got about 13 percent of the vote, by concentrating his support in one region he was able to get not 13 percent of the vote but 36 electors, and he almost brought the political process to a standstill, almost threw it into the House of Representatives.

I see my distinguished colleague from Arkansas, who is an enthusiastic supporter of this legislation. He and I were together yesterday and heard James Michener, whom we consider as an author and not really as a political figure or concerned with the political mechanisms of this country. Yesterday we heard him recall—as those of us who have had a chance to read his book on the subject of the electoral college were forewarned—some of the behind-the-scenes maneuvering that had gone on in the 1968 election. Mr. Michener was a Democratic elector. Humphrey carried Pennsylvania, so Michener was elected, and he and others were really very concerned that Wallace would be able to get into a situation where he could make the determination by dealing those 36 electors off. As I recited yesterday in a press conference, the Governor made it very clear that he was not going to let it go to the House of Representatives. He was going to sit down and cut a deal with somebody, and to the highest bidder would go those 36 electors.

Well, Michener and his fellow Democratic electors were so much concerned that they were prepared to vote for Nixon, cast the Democratic electors for Nixon—the popular vote winner—in order to be able to keep Wallace from cutting this kind of a deal.

That kind of situation exists today. We do not like it, but it exists today. We do not have to look that far to see what a very small splinter faction can do.

It was my privilege to serve in this body with the distinguished former Senator from Minnesota, Gene McCarthy, and I really have a great deal of respect for Senator McCarthy. I do not agree with some of his political maneuvers, but I am sure he does not always agree with mine, and it is a free country.

But if we look at the 1976 election, Senator McCarthy embarked on another venture to campaign to be President of the United States. His goal was not really to be President, but he embarked on a venture to run for President in order to keep somebody else from becoming President of the United States. Gene McCarthy knew very well he was not going to be elected, but he thought if he ran in the right places he could keep Jimmy Carter from being elected. He nearly did it.

If you look at the difference between the Ford and Carter margin, and if you look at the McCarthy margin, I think you can make a very good case, almost an irrefutable case, that McCarthy's vote took enough away from Carter in four States to give them to Ford, and I found no one who disagreed with the fact that if he had been on the ballot in New York he would have taken enough votes away from Carter to have given New York to Ford, and thus McCarthy's candidacy, with less than 1 percent of the popular vote, would have given Ford the election.

That exists today. It is perfectly legal. I do not say criticize the persons in this system in any way that is derogatory. That is the way the system works now. The question is do we want to continue to let it work that way? I do not. Rather I would like to emphasize that direct popular voting is one of the things we can do to strengthen the two-party system. We can guarantee that every vote counts. Right now, from a practical standpoint, every vote does not count.

I would just like to emphasize this matter, and that is that under the present system it does not make any difference how large a margin you have in a State. Once you get past the majority of one or a plurality of one, you get the whole State, all electors. So it is if you lose. If you lose by one vote, you might as well lose by a million.

In a direct popular vote there would be an incentive for each precinct committeeman and committeewoman—and they are the building blocks of the Democratic and Republican Parties, those are the folks who actually do the work—there would be an incentive for them to get those extra votes registered and get them voted, because they would know if they are going to lose by 100,000 votes, and if they can cut that margin down by 50,000, those 50,000 votes are going to count in the national total.

If you are going to win by 50,000, those extra 50,000 votes will be added to the national total. That is an incentive, it seems to me, to strengthen the two-party system, to get them to know that if they get the votes out they are going to be counted, and counted for the candidates for whom they are cast.

One last thought on the party structure, and then I would like to move into another question here involving one of the points raised by both Senator HATCH and Senator THURMOND, and others, and that is which States will really be affected detrimentally by which electoral system, because I think all of us who represent our States to the best of our ability do not want to do anything that will be detrimental to our States. But before moving away from the party system, let me emphasize the political structure of this country is based on the most fundamental level of our politics, the county level, the parish level, the precinct level, right on up to the State, and in each of those units, each of those voting units, they have direct popular vote, and we have not seen a destruction of the two-party system. We have not seen the horror stories at the State level or at the congressional level that people feel we are going to have if we are going to have a direct national vote at the national level.

So I would just like to say, in concluding this point, that contrary to the concern that some have that the direct popular vote would be detrimental to a two-party strong political structure, I think it would be helpful to a political structure, helpful to a political system.

Let me, if I may, yield to my distinguished colleague and friend from Arkansas, who is a strong supporter of the direct popular vote provision, and who is no Johnny-come-lately to this issue. I might just remind my colleagues in the Senate it has been our good fortune to have the Senator from Arkansas serve as a colleague in the other body, as a distinguished Member of the House, for a number of years. He then went back to the State of Arkansas and was honored by his State by being elected and then reelected Governor of the State of Arkansas. Having concluded those responsibilities, he now joins us again, so it seems to me he comes to this argument with the perspective both of a man who represented a congressional district, a man who served his State as chief executive—the chief political official of his State really, because the Governor's office is where all the State political action is, if I may say so to my colleague—and he is now a Member of this body.

Could I ask our distinguished colleague from Arkansas, who comes from one of those States that, although it is of reasonably large size and much wealth in many ways, if you add up the numbers of people, is not a heavily populated State, in fact some of the statisticians might call it a small State in terms of numbers of people—would the Senator from Arkansas share his thoughts with all of us about how he views the direct popular vote, as contrasted to the electoral college vote, and its effect on his State?

Mr. PRYOR. I thank the Senator. I do not have any notes, so my response will be extemporaneous.

First, Mr. President, I would like to compliment as sincerely as I know how the Senator from Indiana for his dozen years of laboring in the vineyard for this particular cause. I do not know of any cause he has dedicated his life more to than the cause of the people of this country having the right and the ability to elect, by direct popular vote, the two top officers in this land, the President and the Vice President of these United States.

Even when I was a Member of the House of Representatives a dozen years ago, the Senator from Indiana's work in this field was an inspiration to me and to our colleagues in the other body, as I know his work has been an inspiration to our colleagues in the Senate and all across this land. Without his work and his inspiration, it is perhaps true, as some have said, that this cause would long since have died. So I deeply appreciate his dedication and his activity in working for this particular cause.

Mr. President, I would like to say that in recent weeks, since I have been in preparation to discuss this issue I have seen many studies of political scientists and computer printouts of those who agree and those who disagree on particular points of this great debate which we are touching off this week across this country, the debate on whether or not—I do not like to say to abolish the electoral college; we might use that description, but I would prefer to say, Mr. President, that it is time to "retire" the electoral college, and to supplant that electoral college with a more modern, efficient, honest, and fair way to elect the President and Vice President of these United States.

In the studies that I have had the opportunity to read, and in my discussions with my colleagues and those who are very knowledgeable of this particular arena of political activity within our constitutional framework, I can say without reservation I do not think there is an area of greater dispute among political scientists and those who call themselves constitutional lawyers and statisticians than the question as to whether or not the electoral college benefits or hurts the small States. The authorities are split. Some say it hurts small States: some say the electoral college helps the small States.

I am going to leave that judgment up to the individual Members of this body. But I would like to say that whomever we might believe, or whichever statisticians we might last read—I know the Congressional Quarterly has come out as late as this last Monday saying the electoral college might be of benefit to the smaller States, but studies as recently as 1970 by the Brookings Institution and studies in 1973 by other noted political scientists indicate that the smaller States might be hurt by the electoral college system of electing the President—Mr. President, I maintain only this point: We might accept those arguments, or we might like other arguments, but my question is this: Do we in this country desire for the President of the United States to represent States, or do we ask that our President represent people?

I think without question our answer would be, out in the 50 States, that Americans look at the President as one who must and who should represent people, not States. In every basic decision in the last two decades of our U.S. Supreme Court, when it relates to the voting rights of people—Baker against Carr, or whatever—we have seen time and time again that great premise of democracy espoused over and over of one man, one vote, or the equality of one vote counting as much as another vote. To fulfill the American dream, every vote must be equal.

Today, that is what the people of this country are saying, when, in 1977, according to George Gallop and Lou Harris, Americans, by an overwhelming majority—over 70 percent, of the people polled—indicated that they want to see in this country a system whereby our President and our Vice President are elected like any other public officials in this country, just like the member of the local school board is elected, just like the 50 Governors are elected, just like the Members of the U.S. Senate and the House of Representatives are elected: by a direct popular vote.

In the last several weeks, in preparation for this debate, in reading and asking people about their viewpoints on this particular issue, I have sensed, Mr. President, a certain degree of fear—a certain degree of fear that is expressed within the Halls of this great Capitol, a fear, I must say, that is found in this very body a fear of change, a fear of doing away with the electoral college, a fear of what it might bring.

Mr. President, I can only quote what Franklin Roosevelt said 40 years ago, when he said that the only thing we have to fear is fear itself. I believe that can be applied directly when we consider this debate on whether or not we have the electoral college system, or supplant it with a system whereby we elect a President and a Vice President directly.

The fear we find expressed is, with all due respect to the people on the other side of this question, being expressed by those in the political sector. The people of this land do not fear this change; they support it. As I mentioned a moment ago, in 1977, more than 70 percent of the people supported this move. In 1969, by 80 percent, the people, speaking through their elected representatives in the House of Representatives, supported this move.

So where is this fear of change? It is right here. Hopefully, such fears will be discouraged and will go away as this debate continues, and we will see the need for changing this system which has been in effect for these 200 years.

Finally, Mr. President, a lot of questions have been asked me about the electoral college. Last week I was speaking to two student bodies in the State of Arkansas, in two fine high schools, and some of the students in the school asked, "How did the electoral college system come to be in the first place, and why should we change it if it serves us so well?"

First, I would like to say I am not certain it has served us so well. It has served us. By some miracle, we have been able to manage, time and time again, to survive almost near disaster—in spite of the electoral college.

On three occasions in the history of this country, Mr. President, we have seen three Presidents of this great land chosen who did not receive a majority of the vote. We saw that take place in the election of President John Quincy Adams. We saw that take place in the election of Rutherford B. Hayes. We saw that once again take place, Mr. President, in the election of Benjamin Harrison.

We do not want to see that situation occur again, because it goes against the basic premise of what this country stands for: Equity and fairness and every vote being counted as it was cast. No matter whether you live in the South, the North, the East, or the West, that is immaterial. Our vote should count the same. Our votes in Little Rock, Ark., should count just the same as a vote cast in San Francisco, Calif. A vote cast in Terre Haute, Ind., should count just the same as a vote cast in Brooklyn, N.Y.

We abide by this principle in every other facet of our political lives, in every other facet of our political practice. Somehow it has escaped for these 200 years of finding itself expressed in the system of electing the President of the United States.

The electoral college system is with us today because, in the remaining days and hours of the Constitutional Convention of 1787, and even with the doubts expressed by James Madison, who we call the father of our Constitution and a supporter of direct election of a President, a compromise was reached. Because of a lack of communication in this country, because of the inability to travel, and, basically, because of the fact of life that our public at that time was considered to be uneducated, the electoral college system was devised and made a part of our federal system.

Hopefully, this country has matured enough, hopefully America has reached a stage in our growth, that we are educated enough to cast our vote for President of the United States and Vice President of the United States, and to have that vote counted equally with every other person who casts their vote.

The electoral college system has served its purpose. It is time that the electoral college system be replaced with the simplest and the best way to elect a President and a Vice President that we have devised, and that is through a direct popular vote of the people.

If we say less or if we listen to the argument for a "proportional system" for electing a President, or some other system for electing the President, what we are doing as a political body is questioning the wisdom of the people in this great land of ours.

Mr. President, I look forward to the debate that is going to be held in the coming weeks. I hope the American public will follow this debate. I hope they will express themselves on this issue because there is no issue of any more importance than the issue of how our President is elected. I do not think there is an issue that is more important to this country or to this country's future than the one which we are beginning to debate this week.

Once again, Mr. President, I compliment the senior Senator from the State of Indiana for the tremendously fine work he has been engaged in concerning this issue. I thank him and I thank those who have joined in the sponsorship of Senate Joint Resolution 28. Hopefully, that resolution will be adopted and sent to the House of Representatives and, ultimately, Mr. President, out to the 50 State legislatures of this great country.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, I want to thank the Senator from Arkansas for his very thoughtful observations and for his compliment to the Senator from Indiana. I want to express my appreciation for his persistence over a good many years.

Could I ask his indulgence to explore the small State argument a little further?

All of us received a report from the Library of Congress sent out from some of our opponents, our distinguished colleagues who take a different view on this than the Senator from Arkansas and I, in which the Library of Congress was asked to take the population, divide it by the Electoral College vote, and tell us how many States lost what percentage of their influence under the direct popular vote system than they now have under the electoral system.

Back came the answer detailing how the less populous or smaller State lost what would appear to be a rather significant advantage given to them, what the Library of Congress calls constant two; in other words, the two electors that are given because of the Senate representation in addition to the number of electors based on State population.

This caused a great deal of concern on the part of some Senators who rather obviously are not going to stand here and vote for something that they really feel hurts their States.

I must say I come down on this issue on the side of the Senator from Arkansas, that I think we are electing a President of the United States and, thus, I do not get quite so concerned about this tradeoff. I also saw that it was totally in consistent with everything that had been given us by witness, in our hearings.

We had a professor by the name of Longley and another by the name of Yunker who had gone into an extensive research project on this. Banzhaf was another. I invite those who may want to explore this problem further to look at the Banzhaf study and the Longley study, where they particularly analyzed all the elections. They came to the conclusion that, quite to the contrary, the small States do not have an advantage under the electoral college system. So we went back to the Library of Congress.

I see our distinguished colleague from Utah. He also represents one of those States filled with wonderful people, many resources and more scenery than you can imagine, who happens to be one of those long ago who said there is no sense in this small State argument.

We went back to the Library of Congress and asked, "How come you arrive at a different conclusion than these other studies?" They said, "We were responding to the questions we were asked."

We said, "Put the whole picture out there."

I will put this whole study into the RECORD for anybody who wants to read it. We are not trying to pull the wool over anybody's eyes.

If I might summarize their conclusion, they say it all depends on which election it is. You can make a good case that in certain circumstances the large States, 10 of them plus the District of Columbia, can elect a President. Under other circumstances, but rarely, the smaller States will have a greater effect.

Mr. President, I ask unanimous consent that the whole study be printed in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

To The Honorable Birch Bayh, Attn: Ms. Marsha Atcheson.

From Joseph B. Gorman, analyst, Government Division.

Subject: Request for commentary on a CRS report of March 5, 1979.

This memorandum is written in response to your request of March 8, 1979, for comment on the CRS report of March 5, 1979, entitled "Effect of the Adoption of Direct Popular Election of the President and Vice President on the Relative Influence of the Several States in Electing the President and Vice President in 1976." You specifically inquired what consideration should be given, by a Member of Congress concerned with protecting his or her State's role in electing the President and Vice President, to that computation.

The computation in question provided the percentage of the total number of 538 electoral votes cast by each State and the District of Columbia as well as the percentage of the total nationwide popular vote of 81,555,889 cast in each State and the District of Columbia. The computation further provided data on the difference between a State's share of the electoral college and its share of the popular vote, evaluated and expressed in terms of a percentage gain or loss.

For example, Colorado cast 1.3011 percent of the electoral college vote in 1976 and 1.3262 percent of the popular vote. From these figures it was computed that Colorado's share of the popular vote was 1.93 percent greater than the State's share of the total electoral college. This computation was made as follows:

Colorado's percentage of the popular vote	1.3262
Colorado's percentage of the electoral college	1.3011
Difference	.0251

The next step was to compute what percentage .0251 was of 1.3011; that figure was 1.93. Thus, Colorado's share of the popular vote was 1.93 percent greater than the State's share of the electoral college.

Similar computations were made for the other forty-nine States and the District of Columbia. The range of gains/losses among the States ranged from a gain of 28.63 percent for Minnesota to a loss of 72.83 percent for Alaska.

You inquired whether the listing of the percentage gains/losses in the States' shares of the total popular vote compared to their shares of the electoral college would be a useful guide in determining whether a Member of Congress concerned with protecting his or her State's power in electing the President and Vice President should support or oppose a proposal to abolish the present electoral college system and replace that system with direct popular election of the President and Vice President.

I want to emphasize strongly that the above-discussed listing presents only one of several factors which should be weighed in evaluating the desirability of preserving the electoral college or replacing that system with direct popular election of the President and Vice President. In fact, it is only one factor to consider in assessing a particular State's interest in preserving or abolishing the electoral college.

The question of which States are advantaged or disadvantaged is rather complex, and there is no clear consensus among those who have studied this subject most closely.

The reason for this uncertainty—even confusion—lies in the difficulty of evaluating two countervailing factors—(1) the "constant two" and (2) the general ticket system, in effect or practical effect in the District of Columbia and every State except Maine. In order to understand the difficulty of evaluating the more populous/less populous State advantages/disadvantages under the present electoral college system, it is necessary to understand these two countervailing factors.

Advantage of the Less Populous States under the Electoral College System: It is obvious that in the purely mathematical apportionment of the electoral college, the smaller the population of a State, the smaller the percentage of its electoral vote which is based on population (or, more exactly, its representation in the House of Representatives). This is the result of the constitutional formula for allocatiing electoral votes, which provides that each State will select "a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress" (Article II, Section 2). Since the number of Representatives is based on population, the smaller the number of Representatives assigned to a State, the greater the share of a State's electoral vote will be due to its two Senators (the "constant two").

Thus, in the case of Alaska, Delaware, Nevada, North Dakota, Vermont, and Wyoming, all having 3 electoral votes, 2 of those votes derive from their Senate representation, increasing their representation in the electoral college 200 percent over what it would be based (roughly) on population alone. (It should be remembered that every State is guaranteed at least one Member of the House of Representatives, even if its population falls below a computed figure for awarding Representatives. In addition, the District of Columbia also has 3 electoral votes, but that figure is constitutionally set in the Twenty-third Amendment as "a number . . . equal to the whole number of Senators and Representatives in Congres to which the District would be entitled if it were a State, but in no event more than the least populous State.")

At the other extreme is California, 43 of whose 45 electors derive from its membership in the House of Representatives. Thus, California's electoral college vote is only 4.65 percent (2/43) greater than it would be if electoral college representation were based solely on population (or, rather, membership in the House of Representatives).

Direct election would, of course, eliminate the bonus effect of the "constant two" (Senate) factor in the present system. That elimination is what accounts for the large percentage losses of the less populous States in the computation of March 5. The eleven most affected States are those which cast either 3 or 4 electoral votes; eliminating the benefit of the "constant two," which direct election does, therofore decreases their share of the total power exercised in electing the President and Vice President. If this were the only factor to be weighed, the computation of March 5, 1979, would be a reliable guide to evaluating a State's interest in preserving or abolishing the electoral college.

There are other factors, however; one is the effect of voter turnout. Two States with the same electoral vote may cast significantly different numbers of votes.

For example, Minnesota and Louisiana both cast 10 electoral votes in 1976. However, the 1,949,931 votes cast in Minnesota exceeded the 1,278,439 votes cast in Louisiana by 671,492, or 52.52 percent. In a situation where the "constant two" is not a factor, the higher the voter turnout, the greater the share of the popular vote will be cast in a particular State. It should be noted that a State with the same electoral vote as another State could actually cast more popular votes with a lower turnout of eligible voters if the former's population had increased at a faster rate since the previous census. This is possible because the electoral college has a built-in population lag, since it is reapportioned only after a decennial census. Thus, the 1980 Presidential election will be based on electoral votes apportioned as a result of the 1970 census, ten years earlier. This lag affects, especially at the end of a decade, computations concerning shares of the popular vote and the electoral college.

In summary, even if voter turnout and population growth were constant from State to State, which, of course, they are not, a computation such as the one dated March 5, 1979, would still be an incomplete guide to a State's interest in preserving or abolishing the electoral college because of a countervailing factor, the general ticket system.

Advantage of the More Populous States under the Electoral College System: All the States (except Maine) and the District of Columbia elect Presidential electors, either formally or for all practical purposes, under a winner-take-all general ticket system. The general rule is that as a State's electoral vote increases, its chance of playing a pivotal role in electing the President increases. It is not the purpose of this memorandum to discuss in detail how theory and empirical evidence support the advantage to populous States, but it should be noted that there is no disagreement among analysts of the electoral college that such a benefit exists; what is debated, however, is how important that benefit is and, especially, the extent to which it compensates for the "constant two" advantage of the smaller States.

One of the most famous studies which attempted to quantify this benefit was the computer analysis directed by John F. Banzhaf and published as "One Man, 3.312 Votes: A Mathematical Analysis of the Electoral College," Villanova Law Review, v. 13 (Winter 1968), pp. 303–46. Banzhaf, using 1960 census figures and the 1964 and 1968 electoral vote apportionment, computed that citizens of New York, the most populous State at that time and for several previous decades, had 3.312 times the voting power of the most deprived "State," in this case the District of Columbia. The advantage to the most populous States under the electoral college, according to Banzhaf's study, correlated very closely with the size of the electoral vote, lessening as the electoral vote dropped, but increasing again when the electoral vote fell low enough to begin reflecting the effect of the "constant two," with States having 3 or 4 electoral votes. The lowest relative voting power was found in the 4 to 5 electoral vote range. The findings indicated that the more populous State had a clear advantage, with nine of the most populous States having a greater computed advantage than Alaska, the most advantaged of the less populous States.

A survey of biases of the electoral college written by John H. Yunker and Lawrence D. Longley, "The Biases of the Electoral College: Who Is Really Advantaged?" in Donald R. Matthews, ed., Perspectives on Presidential Selection (Washington, Brookings Institution, 1973), pp. 172–203, also concluded that "Large states, metropolitan area residents (including residents of central cities, SMSAs, and especially suburbs), population of foreign stock, blue-collar workers, and the regions of the Far West and the East were found to be advantaged by the electoral college" (p. 202).

Another major study, Voting for President: The Electoral College and the American Political System (Washington, Brookings Institution, 1970) by Wallace S. Sayre and Judith H. Parris, concluded that "The method of allocating electoral votes among the states, like the representation scheme for Congress, was originally intended to balance small-state and large-state interests. Although the principle of the old compromise remains, the political situation has changed. On balance, the populous states are more powerful. . . . The general-ticket system has worked to the advantage of the populous states" (p. 44).

Others have analyzed this question, and while there are disagreements among analysts, there is a preponderance of opinion that the general ticket tilts the electoral college system in favor of the most populous States.

Conclusion: There are two independent biases operating in the electoral college. One, which was illustrated by the March 5, 1979, computation to which you referred, definitely favors the less populous States. A second, the general ticket, definitely favors the more populous States. It has thus far lay the expertise of political scientists to prove quantitatively and conclusively which of these biases is more significant. The most persuasive evidence tends to support Yunker and Longley's conclusion that the present system gives a significant advantage to the most populous States, a smaller advantage to the less populous States, and disadvantages to the greatest extent the medium-sized States, having between 4 and 12 electoral votes, which are too large to benefit to any significant degree from the "constant two" but are too small to derive significant benefit from the general ticket system.

I trust this memorandum responds to your inquiries. If I can be of further assistance on this or any other matter, please call me on 426–5824.

Mr. BAYH. The conclusion on page 8 states:

> There are two independent biases operating in the Electoral College. One, which was illustrated by the March 5, 1979, computation to which you referred,—

Which had been sent out earlier and concerned some Senators—

> definitely favors the less populous States. A second, the general ticket (or the unit rule feature) definitely favors the more populous States. It has thus far lay beyond the expertise of political scientists to prove quantitatively and conclusively which of these biases is more significant. The most persuasive evidence tends to support Yunker and Longley's conclusion that the present system gives a significant advantage to the most populous States, a smaller advantage to the less populous States, and disadvantages to the greatest extent the medium-sized States having between 4 and 12 electoral votes, which are too large to benefit to any significant degree from the 'constant two' but are too small to derive significant benefit from the general ticket system.

Having said that, I am going to say I think that is probably statistically sound, that the ones that are really going to get hurt, and do get hurt consistently, are those between 4 and 12. But you can make a case either way. Who cares? Why should a constituent of the Senator from Montana have a lesser or a smaller vote than a constituent of the Senator from Indiana, given the circumstances? Why should my friends from Utah or Arkansas, or our distinguished colleague from Mississippi, not have their vote count the same, and why should it not be cast for the person for whom they want to cast it?

I cannot understand that.

I yield to my friend from Utah.

Mr. GARN. I had no intention of making a speech at this point, but, walking on to the floor and hearing the Senator talk about a small State, I felt I must.

I come from a small State, obviously. Utah has four electoral votes, two Senators, two Congressmen, 1,300,000 population. When this issue first came up, my first response was to rely on what I had heard all my life, that the electoral college favors small States. But I wondered about that, so I did a lot of research on it. I found that Utah's votes represent, I think, about seven-tenths of one percent of the electoral college and the popular vote represents an even smaller percentage of the national popular vote. Therefore, the electoral college appears to give Utah a theoretical advantage. But going back to statehood in 1896, I have never been able to determine that there has ever been a practical advantage to the State as a result of its four electoral votes. I think it really is a myth. How we perpetuate a system that will allow someone possibly to be elected President of the United States who did not receive a majority of the popular vote, I do not even understand. It is grossly unfair; it seems un-American to me that it even exists.

Just this morning, I happened to apply the concept of an electoral college to my own State, using State senators and representatives as the determining factors in allocating electoral votes to the counties. If U.S. Senators were elected by an electoral college in the State of Utah, I would not be a U.S. Senator today. There are 29 counties in the State. There are 75 representatives, 29 senators, for a total of 104. I lost Salt Lake County by 1,000 votes, 87,000 to 86,000. I lost the next most populous county by 2,000 votes, Weber County. Just losing those two counties and winning the entire rest of the State, I would have been defeated by 57 to 47 electoral votes and would not have been the U.S. Senator for the last 5 years. Yet I won the popular vote by 25,000 votes. I won 25 out of the 29 counties. But I would have lost if we had used an electoral college system. And I might add that a 25,000 vote margin is a healthy margin, historically, in my State. It was 6 percent, with a third party candidate involved—50 to 44 to 6. But I would have lost.

When I campaigned, I campaigned in every county of that State, more than once. I was down on one of the Indian reservations, in a place called Montezuma Creek, with a muddy airport runway you had to buzz once to clear the cattle off of. I was in towns that had populations of 56 and 57 people. Most of our counties have less than 5,000 population. But every vote counts, so you pay attention to those small counties.

So, although I lost Salt Lake County by 1,000 votes, I won those small counties by margins like 3,000 to 1,000. So you had better believe those counties are important to me and you had better believe I campaigned in every county of my State, and you had better believe that when I became a Senator, I continued to travel to those counties. But if we were to have an electoral college system, where would candidates be likely to go? Salt Lake and Weber County, and that is about it. A candidate will say, "no matter if I lose one of those other counties 7,000 to 6,000, I had better win Salt Lake and Weber Counties by one vote." So that is where the candidates would concentrate their efforts, along the Wasatch Range, in two or three big counties. If that is not grossly unfair to the small counties, I do not know what is.

So, as a small State Senator, I am not going to defend a system that will allow a President to be elected by 10 or 11 large States and where the people in my State are told, "Your vote is worthless, it does not even count." The statistics show Presidential candidates do not visit my State very much anyway, even with four electoral votes, because they do not care. I can be even more blunt about it and tell you the only reason they come to Salt Lake City is not because of the fact that we have a million or so people or four electoral votes there; they come because it is the headquarters of the Mormon Church and there are 4 million Mormons who live in other States. They want it to be said that the President showed up and met with the president of the Mormon Church so those other 4 million Mormons who are twice the number of the population of the State of Utah, will think: "Isn't that nice? I will vote for him even though I live in California."

Or, they stop in Salt Lake City because it is a convenient stopping-off point on the way to the west coast—the "Crossroads of the West," we call it.

Whatever the reasons are, I can tell you that it is not because the voters of Utah can determine the outcome of the election.

I cannot condone it, and I am probably going to get into trouble, because the theory of the small-State advantage still exists. But the fact still remains that I would not have been a Senator if we had an electoral college system in our State, despite the fact that I received the support of a sizable majority in the State.

Mr. BAYH. I thank the Senator for his persistence in this matter. I had not been aware of some of the perceptions that existed in his State.

As I recall a poll taken last year by a Salt Lake newspaper, even in that area where he and I might be concerned that there is a misperception, a majority of about 20 percent of the people still thought, "Why not? We ought to have a chance to directly elect the President of the United States."

Mr. GARN. That is true, but perceptions can be changed around. They have not heard all the rhetoric about how this favors the small States and they may change their minds. I hope they will not.

I would hope that we are able to remove the electoral college system so that a Presidential candidate will not lose with a majority of the popular vote.

(Mr. GRAVEL assumed the chair.)

Mr. BAYH. I have been in the good company of my distinguished friend from Utah often enough to know that he can more than hold his own. That is doubly the case when he has the merits on his side, and he is in pretty good company: People like former President Ford, former President Lyndon Johnson, President Jimmy Carter and former President Richard Nixon, going clear back to James Madison, who was one of the early advocates of direct election. I think if the people look at who has supported this proposition, they would gain even greater respect for his stand.

May I just show the Senator just how right he is, for any of his constituents who may take the time to read the CONGRESSIONAL RECORD? He talks about how his State is ignored in an electoral college system. We asked Doug Bailey, who is President of Bailey Deardourff Eyre, and did all the media for the Republican President candidate last time, to testify in some of the hearings we had. He came in and spread out the whole budget, item by item, where they spent money on newspapers, radio, TV, organization. And would you believe, there were some of those small States where they did not spend one dime. Some of those States that have the big advantage, that are so important, they did not spend a nickel on television there, because their few electoral votes were not worth the effort.

We asked Mr. Rafshoon the same question and, would not you know, those national Democrats did the same thing? It is a system where you concentrate your political campaigns in those large electoral-vote States.

I listened to our distinguished colleague from South Carolina and I am sorry he is not here, because I was going to say it in his presence. He talked about the horrors of those 12 large cities where we are going to elect the next President of the United States—New York, Los Angeles, Philadelphia, and so on. You and I know that is where most of the action is right now because that is where most of the people are.

We did a study back in 1968, right after that Wallace situation, and it was published in 1969 for anybody who wants to look at it, in which we tried to deal with this problem. We took similar-sized areas like Oakland, Springfield, I think it was Flint, Lancaster, Rochester, and Toledo, I think—similar sized cities—where, in the 1968 campaign, both Mr. Nixon and Mr. Humphrey, went at least once, some of them twice.

We took similar-sized cities like Phoenix, Salt Lake City, and Denver, in small States where they had the same number of people, but where nobody went. If you look at what actually happens under the present system, candidates spend more time in small communities in large-electoral-vote States than they spend in the largest city in the State in a small-electoral-vote State.

I did not need to add that to the persuasive evidence, the personal evidence of the Senator from Utah. But I could not resist the temptation. I hope he will forgive me.

I yield to the Senator from Arkansas.

Mr. PRYOR. I want to thank the Senator from Indiana for yielding to me and also to associate myself with the remarks of the Senator from Utah, who made such an eloquent statement on the small-State issue.

Those who are from small States, such as myself, and those who might be swayed by the argument that small States benefit by the electoral college, need to recognize a very simple fact of life. That is that, today, 11 States in our Union can elect a President of the United States.

Only 11 States does it take to elect a President.

The Senator from Utah talked about Presidential campaigns and where nominees of the two respective parties go and where they spend their time. The Senator from Indiana added where they spend their money.

I would say, as a general rule, that during the heat of a Presidential campaign bout the only time a candidate for Vice President or President goes to one of the smaller States, such as Arkansas and such as the State of Utah, is by accident and, specifically, if they do go, it is usually to touch down, say "hello" and "goodbye" and never really get to sense what the real concerns are nor what the problems are within that particular State.

I think that small States would benefit a great deal if the candidates and the two major parties recognized that the votes in the small States would be counted with equal weight as the votes in the large States.

Mr. President, there is another issue that needs to be brought out and mentioned at this time in this debate. We call our method of choosing a President in this country an "election," and I put that word in quotes. We say we will have a Presidential election in 1980.

Mr. President, we will not have a Presidential election in 1980 in the technical sense of the word. We will have a recommendation of the people of this country, recommending to 538 electors whom they would like to see become President.

The point is, Mr. President, that the electors in the electoral college when casting their votes for President are not bound by the will of the voters of the respective States that they represent.

We have a system of unpledged electors. Electors may cast their votes for any candidate they so choose, whether or not that candidate was on the ballot in those particular States.

We have a case of independent, free-wheeling electors, who are not bound by laws, not bound by the Constitution, not bound by any party regulation. These electors are free to cast their votes for whomever they so desire.

So I say, in effect and technically, that what we have when we say we have a Presidential election is a Presidential recommendation, a recommendation of the people with the hopes and prayers that the recommendation will be carried out in the electoral college.

Mr. President, as this debate continues, I believe the argument of the small States versus the large States ought to be very quickly put aside.

I think we must ask ourselves what kind of President we want. Do we want a President who represents States or a President who represents people? Our President must represent the people.

These arguments as to whether the electoral college helps or hurts the small States or the large States is an argument I hope will be put aside.

Mr. President, I yield to the Senator from Indiana.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, I appreciate the perceptive remarks of my distinguished colleague from Arkansas. I think he adds another of the several dimensions that constitute the United States of America, when it is interesting to see all segments, all parties, all philosophies, people from all backgrounds who have joined in this effort over a good long period of time.

● Mr. METZENBAUM. Mr. President, I rise to express once more my support for Senate Joint Resolution 28, the proposed amendment to the Constitution that would abolish the electoral college and institute a system for the direct election of the President and Vice President. As a cosponsor of this measure in the last Congress, I wish to commend my good friend and colleague, Senator BAYH, for his sustained efforts to reform our electoral system.

The electoral college is an arcane and outmoded institution. The purposes for which it was designed are no longer appriate to our mode of Government. The framers of the Constitution did not believe that the people were qualified to elect their top leaders. As a result, they insulated the most important offices in the land by creating the intermediary structure of the electoral college.

We know too well today the dangers of a Presidency insulated from the people. The electoral system developed by the Founders of this Nation was a unique and brilliant one, but it was not meant to outlive its relevance. In fact, the original electoral system lasted for only 16 years until the rise of party politics made it necessary to enact the 20th amendment.

Our Nation has evolved into a representative democracy that has benefited all of us and served as a model to the world. But our system is flawed in one overwhelming respect. Our people still do not directly elect their top leaders. This must be changed.

A blue-ribbon American Bar Association Committee, after years of careful study, has concluded that the electoral college system is "archaic, undemocratic, complex, ambiguous, indirect, and dangerous." Even so, amending the Constitution is serious business; to do so, one must make a strong case for the necessity of modification. I believe that such a case has been made.

This Nation—its people and its Constitution—have experienced unprecedented shocks in the last decade. The revelations of Watergate and related abuses of power have punctured our deeply held belief in the inherent integrity of our Government. We have seen a President resign under the threat of certain impeachment. We have seen a Vice President resign because of his criminal activities. We have had our first nonelected Vice President, and our first nonelected President. That we have survived these shocks intact is a tribute to the resiliency and strength of our free institutions.

The patience of our people cannot be relied upon forever. The retention of the electoral college extends the glaring potential for mass frustration and constitutional instability.

On three separate occasions men who have lost the popular vote became President: John Quincy Adams, Rutherford B. Hayes, and Benjamin Harrison—all were quirks of our electoral system Fortunately, there has not been a presidential victor who lost the popular vote in nearly 90 years. Yet recently we have come far too close for comfort.

In 1960, a shift of less than two-hundredths of a percent in the popular vote would have given Richard Nixon victory in the electoral college, with John Kennedy still the popular winner. In 1968, a switch of seven-hundredth of a percent would have made Hubert Humphrey President even though more Americans preferred Richard Nixon.

Our most recent election has underlined the danger of retaining the electoral college. In my own State of Ohio, a shift of 5,559 votes would have brought Gerald Ford within two electoral votes of victory. Had 3,687 votes also switched in Hawaii, Mr. Ford would have been elected President with less than a popular majority. A shift of only one-hundredth of a percent of the 79.7 million votes cast could have plunged us into another constitutional crisis.

A related flaw and potential source of instability is the "faithless elector" problem. In many States electors are not bound to vote for the candidate who carried their States. In the past three Presidential elections, electors have cast their votes for a candidate other than the popular victor in their State. This situation removes the election of the President even further from the people's control.

No one wants to have a President rejected by the people. There is no rationale in favor of it, and there is no excuse for its occurrence. Tradition is no defense for irrelevance. The way to insure that this does not happen is to pass Senate Joint Resolution 28. The country needs it and the people want it. Opinion polls have shown that over 80 percent of the people of this country favor direct popular election of the President.

In addition to insuring the popular election of the President, there are other advantages to abolishing the electoral college. We have accepted the egalitarian principle of "one man, one vote." Yet, under our present system, millions of votes do not count if they are cast for the loser in a particular State. A system of direct election of the president would give every vote the same weight, no matter what the size of the particular State or the choice of other people in that State.

Finally, one of the dangerous drawbacks of our present system is the power given to the House of Representatives to choose a President if no candidate receives an electoral college majority. It goes completely against the grain of the American spirit for the Presidency to be decided by a political bargaining process in the House. Had George Wallace's popular support been somewhat stronger in 1968, he could have brought the election into the House and negotiated for the candidate of his choice. No power brokers should tell us who will be President, except the ultimate power brokers—the people.

Senate Joint Resolution 28 provides a more rational system for choosing a President in the unusual case where there is no clear victor. If no candidate receives at least 40 percent of the popular vote, there will be a popular runoff between the top two choices. The people will decide, as they should.

Mr. President, the need for this constitutional amendment is clear. Our democratic spirit requires it. The stability of our institutions requires it. And the people call out for it. I urge swift passage of this proposed constitutional amendment.●

● Mr. HAYAKAWA. Mr. President, I rise in support of the agreement that has been reached to commit Senate Joint Resolution 28 to the Judiciary Committee for their consideration. This legislation, providing for the direct election of the President, was originally placed directly on the calendar of the Senate, bypassing both the subcommittee and the full Judiciary Committee. Mr. President, the electoral process has served the country well for nearly 200 years. While I realize that there have been hearing on this measure in previous years, there are six new members on the full committee who have not had the opportunity to hear the proposal in committee. Surely it is not too much to ask that this bill be considered in committee, as it would make profound changes in our electoral system if it were passed by the Congress and ratified by the States.

This amendment would strike at the heart of the most important principle of American Government: The principle of federalism. The beauty of this Nation is the way in which the many States have come together to form a Federal Union. The electoral college preserves this Union by compiling the votes on a State by State basis.

Thus you have reporters announcing on election night, "Ohio has gone for Candidate B," and "Candidate A has just captured California." If the electoral college were abolished in favor of direct election, State coalitions would be replaced by large interest groups, at the expense of minority groups that now have clout within their States, but who would have none when competing with the Nation as a whole. Instead of hearing that the blacks in Ohio have tipped the scale in that State in favor of one candidate, you would hear perhaps that labor interests supported one candidate, while big business supported the other, and that the election was a struggle between these two interests. And you would hear that neither candidate had been seen in South Dakota, or Alaska, or Wyoming, because none of these States have the kind of big vote numbers needed to attract the candidates there to campaign. Instead of the Jewish voters being given attention because they can tip the scales in New York, or Illinois, or California, you would hear that their interests were virtually ignored by the candidates because as a voting group they comprise less than 3 percent of the electorate. Under the present system every person's interest is heard because they are operating within a State, not within the entire United States. May I submit, Mr. President, that it is better to cast your vote as a big fish in a small pond, rather than as a small fish in a big one.

Finally, Mr. President, I must point out that the greatest argument in favor of committing this measure to the Judiciary Committee is that of wisdom. Nothing in the Constitution leads the careful reader to believe that the Founding Fathers intended to establish a purely democratic form of government. Rather it is clear that they set out to establish a representative form of government based on democratic principles—a form of government in which the electoral college functions now, as it did then, to preserve the integrity of the States in the electoral process. The brief period of time that the bill will be heard in committee is not too long to delay floor debate on a measure that would alter a system that has worked remarkably well for a long, long time. I fully support the agreement that was reached by the leadership of the Senate to consider this bill in committee.●

NUCLEAR POWER AND NUCLEAR MYTHS

Mr. THURMOND. Mr. President, the U.S. Industrial Council has recently published in pamphlet form an article by Marc Geneste, French nuclear expert, entitled "Nuclear Power and Nuclear Myths."

This article addresses the causes and effects of the violent antinuclear demonstration in France last year at the site of the French fast-breeder reactor at Creys Malville.

Mr. President, the author sees such demonstrations as a threat to the free world's efforts to expand the benefits of nuclear energy. He says that democracies are most susceptible to such events, but that the free nations must not succumb to such pressures.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ANTI-NUCLEAR SABOTAGE; NUCLEAR MYTHS: THE MEANING OF CREYS MALVILLE

(By Marc Geneste)

Thousands of demonstrators. Molotov cocktails. Hand grenades. A black flag in the city hall. Many people wounded. By chance, only one casualty—an innocent teacher, who had come to fight the devil: the atom.

This was the climax of the many antinuclear demonstrations which have plagued the free world, especially Western Europe, in recent years. Nothing very grave indeed in terms of loss of lives or property. It might have been much worse, except for this unfortunate teacher who met his fate at Creys Malville.

It raises a crucial question, nevertheless, regarding the ability of democratic societies to face the challenge of the future, not only for their economic needs, but for their defense as well. Let's say, perhaps for their survival. In that respect Creys Malville is a warning light.

A few days before the demonstration, many camping tents were pitched in the countryside and villages around the "Super Phenix" nuclear facility in Creys Malville. Many of these "tourists" came from West Germany, Switzerland, Holland and other European countries.

The plant itself was heavily guarded in expectation of such demonstrations which have occurred, as a matter of routine in recent years, around all new nuclear facilities in Western Europe. But this one had a particular meaning. "Super Phenix," following the success of its prototype, "Phenix," is the first full scale (1000 megawatt) industrial breeder reactor, and the cornerstone of the next generation of peaceful nuclear reactors.

The breeders are the nuclear plants which use plutonium in their nuclear cores. By neutron irradiation, the chain reactions which produce energy "breed" more plutonium in their natural uranium mantles than they consume for heating. That way, as everyone knows (or should know), via the plutonium cycle the limited resources of natural uranium can be almost completely burned to produce energy, instead of only the infinitesimal fraction of their mass (0.7%) which constitutes the fissile material (isotope 235) that generates energy in standard nuclear plants.

In other words, using the same quantity of natural uranium, one can produce, theoretically at least, 50 to 100 times more energy with this system than with the conventional nuclear plants.

It is needless to stress the paramount importance of such systems for France, or Western Europe, which lack completely the natural resources in fossil fuels of nations such as the U.S. and the U.S.S.R., and which have only very limited resources in natural uranium. Hence, the determination of the French government to exploit the superb work of the Commissariat a l'Energie Atomique and to push in this very promising direction, which is the only one able to provide the link with the fusion processes, and alleviate, in the meantime, the political and financial pressure of oil blackmail by the Organization of Petroleum Exporting Countries, which occurred in 1973.

"Super Phenix" is, at the same time, the symbol of a "second step" in mastering nuclear energy for peaceful purposes, and the proof of the value of the French nuclear technology is similar to that of the Concorde supersonic transport jet. To some extent it is a matter of national pride. No wonder, then, that such a project was to become, quite naturally, the central target of all those who oppose nuclear energy in all its forms.

Hence, the presence of special protective forces surrounding the plant. They observed in the countryside the deployment of "tourists," coming with their tents, trailers, and, in many cases, some rugged weaponry (as it was to be discovered later), during the week before the much-advertised "demonstration day" set for July 30 and 31, 1977.

At about the same time, the new President of the United States, who himself had some expertise in nuclear matters, "excommunicated" plutonium and breeders from consideration as a future source of energy. This was naturally an unexpected and tremendous psychological help for the legion of "Super Phenix" enemies flocking around Creys Malvills. Plutonium can be, indeed, the best or the worst of things. It can help feed people through its civilian use, or kill them through its military use. So, by the way, are kitchen knives. They can cut bread, or throats. The civilian army besieging Creys Malville had gotten the providential help of the nation that had taken the first step toward the peaceful use of atomic energy, with the use of uranium, and then abruptly turned its back on step no. 2, the era of plutonium.

"Super Phenix" was in for a rough time . . .

The demonstrators attacked at dawn on July 30. Three columns converged toward the plant, brandishing posters and shouting the usual slogans. They came from surrounding villages in good order. Twenty thousand, mostly young men and women, marched to express their visceral hostility to any use of nuclear energy. Most of them sincerely believe that the atom spells the end of the human race. The original sin of the atom is still with us. The clouds of Hiroshima and Nagasaki extend their ghastly shadow on the minds of people and will remain, for a long time to come, the sinister background of any nuclear enterprise, civilian or military.

Eighty percent of the people do not know the nuclear facts, beyond Hiroshima, and most of them simply do not want to know them. The attack on Creys Malville was the assault of ignorance against the obscure threat of the unknown that human nature instinctively abhors.

Due to the massive mobilization that articles, leaflets and posters over all of France and Europe had publicized in July for this "antinuclear crusade," the results appear relatively small, and the demonstrators were fewer than anticipated. The work in Creys Malville continues.

The question remains: who exactly is behind this antinuclear conspiracy in Western Europe? It is hard to believe that such campaigns are spontaneous. They require a lot of money if only to print posters—and some central staffing is necessary to mount international operations such as the assault on Creys Malville.

"Is fecit cui prodest" said the Roman. Who can be interested in scuttling nuclear enterprises, especially in Western Europe. Who is suspect? Who is benefited?

Naturally, there is an internal opposition to the atom in all free societies, for all the above reasons. But who exploits this trend and why? There is not one single political party in France, today, that disagrees with the development of the atom, civilian or military. Even the Communist Party has recently changed its view on the "Force de Frappe" after years of opposition. The official position charges some international anarchist movement, and indeed the black flags were seen around Creys Malville, as they were in the Sorbonne in 1968. Some people hint that the only governmenal position against breeders is the recent American one, while the Russians continue to develop the nuclear breeder.

Others remind us that any turmoil in capitalist societies is to the benefit of the Kremlin. Even some observers go as far as saying that some obscure agreement between the "superpowers," inspired by the non-proliferation philosophy, will stop the spread of plutonium and control nuclear fuels at all costs.

All sorts of "explanations" of this kind are heard, here and there, to provide an answer to this question. The anarchists are first on the list of suspects, due to their well-known dedication to subvert everything, but the Soviets and even the Americans are also suspect in the popular imagination, due to their declared official hostility to the development of nuclear weapons among other nations, and their natural tendency to "control" everything they can.

Be that as it may, this suspected antinuclear international "conspiracy," even if it is imaginary, has had the effect of closing the ranks of the immense majority of the French people in defense of their "Super Phenix."

They did so to defend "Concorde" against U.S. hostility, and will do so again if the Russians, following the U.S. example, continue to prevent the new French airliner "Airbus" from landing in Moscow.

This also has the merit of spreading more knowledge on nuclear matters and helping to exorcise the devil of the atom, which, since Hiroshima, had raised more emotional than rational reactions in the public opinion of the free world.

The mere fact that many foreigners participated in the Creys Malville demonstration has fostered the national will to continue the development of nuclear power.

This is as least a positive contribution of the alleged "conspiracy" to the development of the French nuclear industry, just as the MacMahon Act and all sorts of pressures from abroad have been, in the recent past, a providential help for those who defended the French military atom against massive internal opposition from the Socialists and Communists.

In 1972, the *"programme commun de la Gauche"* banned the *Force de Frappe* from future French military systems. Today both the Socialists and the Communists have completely reversed their positions, and propose to expand the *Force de Frappe . . .*

Although the attack on Creys Malville backfired and strengthened the French determination to go ahead with breeders, the capability of any group of citizens, or any foreign conspiracies to promote such campaigns within free societies, raise a fundamental question for the future. Regardless of ideology, there are two types of societies: the democratic ones, where government policies depend on public acceptance and are vulnerable to popular myths; and the totalitarian, where public opinion, shaped by the government, has no influence whatsoever.

In defense matters, this fundamental assymmetry is a terrific weakness for the democracies, since rapid technological changes are not easily understood by the public. In that respect, strategy should not be dictated by the popular polls, but by the new military considerations that few can grasp. Unfortunately, this is not the situation today. The French military situation before World War II should be recalled as an example of this unfortunate truth.

Everyone remembers that following World War I, the French built the Maginot Line as a defense against attack from the east. This considerable and expensive undertaking was widely supported by the people. World War I had witnessed the triumph of firepower—machine guns and artillery—over movement, and the ascendancy of defense over offense. Military technology, at that time, was in line with popular trends, which naturally favor defense over aggression.

The very few who had noticed, at the end of *"la Grande Guerre"* the capability of tanks to breach linear defenses, or of planes to fly over them, wasted their time explaining that with the progress of military technology, the Maginot Line was obsolete. Among them was Charles de Gaulle, who tried unsuccessfully to fight a popular myth which was widely accepted by politicians, whose personal fate depended on the popular vote.

But the specialists had not the slightest chance to change public—and political—minds fast enough to cope with the speed of technological and military changes. Even such figures as Marshal Petain and other leaders of World War I, who had correctly predicted in 1918 the future needs of the French Army, finally gave in to the general mood and supported the Maginot myth.

On the opposite side, it took a few years for Adolf Hitler to understand and adopt the ideas of Manstein, Guderian, and other professionals who had reached the same conclusion as Charles de Gaulle. Hitler did not have to waste time convincing the German public that panzer divisions, aircraft and the blitzkrieg, rather than position defense, would rule the modern battlefield.

One recalls the result. The June 1940 French debacle was a surprise to all but those few who understood the truth.

Today, at the beginning of the atomic age when technological progress in all civilian and military fields is occurring at an unprecedented pace, one must be extremely careful not to fall into the same trap. The tragedy would be, in democratic societies, to allow popular myths to hamper, or to delay the necessary changes in military systems, strategy and tactics, while facing an opponent whose defensive needs are not subject to public polls. Otherwise, the obvious superiority of free societies to create the material means of a better life and a better defense might suffer a massive military surprise as the French did in June 1940.

Since 1945, unfortunately, some new kinds of Maginot Lines have been built and gotten popular support, and appear difficult to dismantle. To take but a few examples, let's consider popular myths fraught with terrific dangers.

In the beginning of the atomic age the awful consequences of Hiroshima led people to believe, the world over, that war itself was dead for good, provided a sufficient number of civilians could be held as strategic "hostages" on both sides.

This is the famous Mutual Assured Destruction (MAD) strategy and, at first glance, it makes sense because people believe that there is no defense possible against a nuclear strike; the very rationale of MAD strategy reinforces this belief. The Maginot Line was widely advertised in the 1930s as an impregnable fortress. Likewise, MAD was advertised as the best guardian of peace in the 1960s.

No one cared to notice, except a few experts, that if the Japanese had constructed bomb shelters in Hiroshima, or even basements, and if they had been alerted in time, most of them would have saved their lives, if not their property. The hostage concept in the MAD system is not so effective and war not so "unthinkable"; and this new kind of Maginot Line not so hermetic.

It is, apparently, the conclusion of Soviet experts that even a nuclear war is thinkable and can be won. They build their military systems accordingly.

How could Western leaders possibly reverse the trend of MAD after so many years of comfortable sleep behind this new Maginot Line? How long would it take to get popular—hence political—support for such a radical change?

Another example of this dangerous strategic assymetry is the arms control and disarmament business that has been applauded the world over as the beginning of the end of a crazy strategic arms race. The achievement of agreements in this area, which raises so many hopes in public minds, is almost a "must" in Western societies for political leaders vulnerable to popular votes.

The signing of SALT I in 1972 (an election year in the U.S.) seems to have been a hasty move to gather popular votes for President Richard Nixon, rather than a good deal for Western security. This agreement sacrificed active antiballistic missile defenses for both sides without prohibiting the other effective form of defense: passive defense. The Soviets have obviously, since then, without violating the letter of this SALT I agreement, violated the spirit by digging shelters for their populace and key military industries. They have succeeded in changing the strategic balance of "hostage" civilian populations to such an extent that the number of "hostages" is ten to one in their favor. The MAD strategy is no longer practicable. Such a deceptive maneuver would be practically unthinkable in a free society.

For one cannot imagine the American President accepting the ban on active defense while asking for more funds for passive defense. Other examples are cited by the critics of SALT in the U.S.; this is not said here to criticize the arms control or disarmament undertakings, including SALT, but to point out the difficult task of Western negotiators as compared to their adversaries.

The former are condemned to seek genuine agreements to limit the arms race, in good faith, under pressure from their free press and public opinion. The latter can very well use such negotiations to cleverly promote their own military superiority. Perhaps the Soviets are not that Machiavellian, but certainly they can be. Nothing within their system prevents them from cheating. The game is not equal, and is terribly dangerous.

A further example of the assymetries of disarmament negotiations is the problem of tactical nuclear weapons, which have recently come back in the headlines with the neutron bomb. Since the beginning, Western attitudes toward tactical nuclear defense has been the result of emotional, rather than rational reactions, due to another myth of our times, the myth of escalation. This fallacy might be the hardest one to deal with.

It is a popular belief that any use of nuclear weapons would automatically lead to a strategic holocaust, through an unavoidable process of nuclear escalation; here again, the American political leadership, beginning with Secretary of Defense Robert MacNamara, have made it an official dogma to promote their "flexible response" strategy designed to check the Red Army threat in Europe.

In other words, should NATO use tactical nuclear weapons to stop a Red Army conventional thrust in Europe, escalation towards nuclear holocaust would inevitably follow.

Needless to say, the current results of MAD and SALT, which have considerably changed the strategic balance to the disadvantage of the West cannot but reinforce the American abhorrence of using these tactical weapons for the defense of Europe, since the U.S. public continues to put in the same basket both tactical and strategic nuclear weapons.

The myth of escalation, so widely accepted in the U.S., and officially endorsed in the MacNamara era, does not stand up to serious examination.

Someone has to start the process of escalation. Would the Russians, if the Red Army was stopped at the Iron Curtain by a NATO tactical barrage, start bombing America and sacrifice their own cities? The risk of escalation certainly does exist, but it is extremely remote. For the European, the risk of invasion is far greater.

Today, and her myth is supported by the U.S. government, and accepted by the public at large: European defense and forward strategy should be built on the virtue of modern conventional weapons, which proved their effectiveness during the 1973 Yom Kippur war.

This fallacy is dangerous because it has some validity. Indeed, the Yom Kippur war demonstrated that defense with conventional weapons is much more effective than it used to be, that offense is extremely costly, and that the ratio of attackers versus defenders necessary to breach defensive lines has at least doubled.

This principle leads to the misleading conclusion that European defenses could be built on conventional weapons and no longer on the dreaded tactical nuclear missiles and artillery; that some "conventional deterrence" could exist for Europe. Unfortunately, this is not the whole truth. Although blitzkrieg tactics have become more costly, thanks to the greater sophistication and effectiveness of conventional arms, they would carry the day in Europe as they finally did in the Yom Kippur War. The reason is that the concentration of attackers can always be augmented to saturate defenses if the defender relies only on conventional weapons. The only weapon able to prevent this saturation of defense and war is the tactical nuclear weapon, particularly the neutron bomb, combined with modern conventional arms—not replaced by them.

The Russians understand that basic truth very well, and their current campaign to prevent the United States from developing the neutron bomb is the best proof of its validity.

But how could the U.S. get the necessary political support for the neutron bomb, when it has to fight two myths that it has itself so widely encouraged: the myth of escalation, of the 1960's which eliminated tactical nuclear arms from the public mind; and the myth of conventional deterrence in the 1970s, which raises the fallacious hope of establishing a European defense on conventional weapons alone?

There is no space here to discuss all the aspects of the very difficult defense problems confronting America, Europe, and NATO. The above examples are cited only to demonstrate that their intrinsic complexity is multiplied in our free societies by the need for a consensus of a public which does not grasp the elements of strategy. Our defense needs are subject to political and emotional considerations which are completely ignored by totalitarian states.

The Soviet Union, being a totalitarian state, enjoys total freedom of action in devising its strategy. This, incidentally, explains why Nazi Germany with 80 million people was able, 38 years ago, to conquer Europe in a few months and hold it five years against the most formidable military coalition of all time. This was chiefly due to the myth of the Maginot Line, which was much more attractive politically than it was effective militarily. Let's not build other Maginot Lines today. Another myth could be the superiority of Western technology, which did not demonstrate its effectiveness during the French or American wars in Vietnam.

All these political and strategic considerations are far from Creys Malville. But the relatively minor incident of "Super Phenix," following the demonstrations against new nuclear facilities all over Western Europe, illustrates the intrinsic vulnerability of free societies to all sorts of subversion. It is to be hoped that the commendable trend to preserve the natural environment will, sooner or later, recognize the realities of the nuclear age, and eventually the antinuclear crusades will end.

Even if the U. S. persists with its current policy of discouraging the use of plutonium, which adds considerable fuel to the antinuclear crusade, "Super Phenix" will continue. The American decision is grounded on principles sound to the American mind, but difficult to understand for the West European. Perhaps the U.S. has enough resources in energy to sacrifice 90% of the potential energy of uranium for the sake of nonproliferation abroad.

The Frenchman or the Western European certainly cannot afford such a waste.

But the Europeans know from their own national experience that acquiring nuclear weapons at great cost is crucial; and they know that no MacMahon Act will ever physically prevent any developed nation from building its national defense on modern weapons if it feels its survival is at stake. To a large extent the escalation myth, which prevented the U.S. from building in due time credible tactical nuclear defenses on the Iron Curtain, has been one of the reasons for the French proliferation: perhaps the main one.

In summary, the atomic age in which we are now irrevocably immersed will witness the perpetual collision of rational expertise versus public emotion in free societies in both its civilian and military applications of nuclear energy. To be sure, the specialists should be under some degree of political control.

But an excess of political control of technology is dangerous, since political decisions in democracies are vulnerable to public emotions that can be too easily exploited by hostile groups, whoever they may be, with the help of the free mass media. A few days before "Operation Creys Malville," President Valery Giscard d'Estaing said that, since the beginning of nuclear activities in France, not one single fatality had occurred in nuclear power generation. (during that same period of time, there were 1,200 fatalities in the French coal mines). This remarkable safety record of nuclear power has to be compared with the human cost incurred by the advent of new technologies such as automobiles or airplanes that everyone accepts today: they are worth the risks.

Should the atom, which is the surest guardian of peace, be sacrificed on the grounds that it might become indeed a terrible instrument of war? Should we forget, because it *might* kill people, that it *does* deter war?

The fate of nations has been sealed by good or bad decisions by political leaders at crucial times in their history. These decisions must stem from objective examination, by people who understand national problems, regardless of the popular sentiments.

The fate of democracies might, in the long run, depend on their capacity to cope with popular myths. It is indeed the difficult task of democratic leaders.

This is the fundamental message of Creys Malville. If the message is understood as it should be, the demonstration of July 30–31 would have been indeed a salutary warning for the free world.

ADDRESS OF SENATOR BOB DOLE AT VFW CONGRESSIONAL AWARD DINNER

Mr. THURMOND. Mr. President, last Tuesday evening our colleague, the distinguished senior Senator from Kansas (Mr. DOLE) was paid a signal honor upon being presented the Congressional Award by the Veterans of Foreign Wars of the United States. The VFW is a great veterans organization, comprised of more than 1.8 million men and women who know from personal experience the price that must be paid to preserve freedom in the world.

Every year at its congressional dinner the VFW presents the Congressional Award to that Member of Congress who has demonstrated outstanding service to our Nation, particularly in the areas of veterans affairs and national defense. Receipt of this award is certainly one of the most coveted that can be bestowed upon a Member of Congress, and, certainly, a better choice than BOB DOLE could not have been made.

Following the award ceremony, Mr. DOLE made a strong and perceptive statement concerning American foreign policy. Mr. President, BOB DOLE's record as a soldier, a disabled veteran, a distinguished Member of the U.S. Senate, and former Vice Presidential candidate, well qualify him to speak on the pressing and crucial issues of our time. For the benefit of my colleagues and the Nation, I request unanimous consent that Mr. DOLE's remarks be inserted in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR BOB DOLE

It's a great honor for me to be with you this evening, and to accept the distinguished award you have chosen to present to me. A lot of water has flowed under the bridge since we shared the battlefields of Europe. I don't know how you feel about it, but I'm reminded of what Douglas MacArthur said about old generals fading away. This may be true—at least until you try getting into your old uniform.

This meeting, as you can tell, is a magnet for presidential candidates. It's not hard to see why. As General Bradley said of George Patton, "He'd move his army twenty miles for a headline, and fly a thousand miles for a speech."

But this evening is too important for nostalgia, too ominous for laughter.

Tonight, as every night, millions will say a prayer to their God, be he Christian, Jewish, Moselm, Buddhist. You and I will join in their prayers. For we have seen war first hand. We have watched men die at our feet. We have lived amidst blood and death and suffering.

Yet, in this nuclear age, when science has devised and politics has put into place the forces of mass annihilation, a few great powers hold in their hands the fate of all mankind.

Such is the ordeal of leadership in the modern era. It demands from us sacrifice. It demands our wealth, our expertise, and our permanent courage. And it calls for a new bipartisan spirit united around strong presidential leadership in the pursuit of certain vital and legitimate American interests. It is that spirit I wish to call forth tonight.

A NEW BIPARTISANSHIP

The old bipartisanship is easily misunderstood. More or less limited to our conduct of European relations, it grew up in the aftermath of the Second World War to meet the sudden threat posed by international Communism in the rubble of wartorn Europe.

It was never absolute. Dwight Eisenhower did not hesitate to criticize Harry Truman's conduct of the Korean War. If bipartisanship began to break down, it was during the Ford Administration when members of both parties did not hesitate to assault the President and Secretary Kissinger for their conduct of policy regarding SALT, the Middle East, or Cyprus.

The old bipartisanship served a purpose. But the world is not as it was in 1945. New threats have emerged, new dangers to peace have arisen. The time has come for a new bipartisanship, cutting across party lines and the exhausted labels of left and right. The new bipartisanship is more than a response to recent failures of American leadership.

Yet, even a cursory examination of the headlines will convince most Americans that something is terribly wrong in the way we approach the world.

The cheklist is a sobering one. There is Iran, convulsed by revolution and converted to a shrill anti-Israel line. Saudi Arabia, made nervous by the turmoil in the Persian Gulf, broods behind a wary exterior. While we all hope and pray that the President's trip to Egypt and Israel may succeed in bringing peace to that troubled corner of the globe, we know from bitter experience that the road to lasting peace in the Middle East will be a rocky and uncertain one.

Half a globe away, American recognition of the People's Republic of China is followed within six weeks by a Chinese attack on Vietnam.

Indeed, we must ask ourselves if our hasty and one-sided recognition of the People's Republic followed by the Chinese invasion of Vietnam, may not actually increase the Russian presence in the Far East. For the Soviets are anxious to consolidate their military presence by constructing a naval base at Cam Ranh Bay, a danger we may have indirectly encouraged.

A RESPONSIBLE OPPOSITION

The cumulative effect of all this is a crisis of confidence in the ability of this administration to conduct the foreign affairs of a great power in a way befiting a great power. I share that lack of confidence. I am assailed by questions about what is wrong with the Carter approach and what can be done to correct it.

This is no time for Americans to abandon their mission of leadership. Such a mission is more important than winning a headline or gaining a few points in the Gallup Poll. Partisan potshots have a way of returning to haunt their authors. This I would point out to my colleagues of both parties.

The requirements of the new bipartisanship are far more than denunciation of failure.

PULLING BACK TO IMPOTENCE

In the wake of the Vietnam war, millions of Americans decided that neo-isolationism was the only course that could preserve peace. To those Americans, any sign of assertive foreign policy could be equated with intellectual machismo. They confused assertive diplomacy with sending in the Marines.

At the same time, confidence in American government itself has been eroding at an alarming rate for the last twenty years. Jimmy Carter didn't start the trend, but neither has he stopped it. Vietnam accelerated this process, as did Watergate. But such erosion—while not ncessarily related directly to international relations—becomes a clear and present danger when it spreads to the conduct of foreign policy. It can poison the effectiveness of any president, and undermine our credibility with allies and enemies alike.

The combined effect of all this has been a kind of self-imposed impotence. America has retreated into an uncertain shell. She has embraced timidity over courage, in the vain conviction that the rest of the world will pass us by if only we would refrain from causing trouble.

Not everyone in Washington is willing to adopt so docile an outlook. Many members of both parties are taking issue with the confusing and contradictory attempts of the Carter Administration to formulate and carry out a foreign policy.

Energy Secretary Schlesinger, for instance, has displayed veto power over negotiations with Mexico for new sources of gas and oil. Yet this five star general in what the President calls "the moral equivalent of war" is given no reprimand for his insubordination.

Then there's Ambassador Andrew Young, who appears omnipotent when it comes to Southern Africa. It was also Ambassador Young who, when Prime Minister Baktiar was installed as Iran's last best hope for constitutional government, told anyone who would listen that the Ayatollah Khomeini was a modern saint.

Is it any wonder that the rest of the world seems confused by America's intentions?

RESTORING A CREDIBLE DEFENSE

Nations look on in alarm as America luxuriates in complacent disregard of the Soviet threat. We would all like to live by the biblical injunction that promises the meek shall inherit the earth. But in the atomic age, where danger is everpresent and destruction just a pushbutton away, we might do better to accept Leo Durocher's warning that nice guys finish last.

The new bipartisanship calls for immediate measures to counter that threat. We reject completely any theory that America can disarm unilaterally. We reject the weakening of the CIA, where current morale is so low that agency analysts are reluctant to interpret intelligence into any pattern at odds with the Administration's well meaning but dangerous view of the world.

Iran is a prime example of this timid outlook. Did you know that the Shah's supposedly crack police force was never trained in riot control? Nor were they provided with rubber bullets and riot shields. When the riots came, urgent pleas from the Iranian government for equipment more suited to the reality of street demonstrations were rejected. They were rejected on grounds of human rights!

Eighty years ago, Theodore Roosevelt warned us "If we shrink from the hard contests where men must win at hazard of their lives and at the risk of all they hold dear, then the bolder and stronger peoples will pass us by and will win for themselves the domination of the world."

T.R.'s question is more relevant than ever: are we encouraging other nations to be bolder and stronger? Facts are facts, and the facts of current American preparedness are hardly encouraging. Just three years ago, a widespread consensus existed in support of the Ford Administration's call for a 5 to 6 percent real growth in the annual defense budget. Instead of this increase, we have been given defense budgets that average a 2-percent decline in real spending.

The dangers don't end there: American forces in Europe are supplied with mechanized infantry vehicles 20 years behind their Soviet adversaries. The American Navy has fewer than 400 ships left in the active fleet, while the five year shipbuilding program presented to Congress by President Ford in January, 1977 is left to gather dust. The B-1 bomber is dropped, the cruise missile halted, the MX missile languishes.

THE LEADERSHIP VACUUM

Through all this, we can hear from the left in this country the recurrent theme; America is an international troublemaker. Strip her president of his authority to act, reduce the military establishment to near-impotence—then, say the new isolationists, then and only then will international peace be secured.

Well, America is not an international troublemaker.

America remains, now as in the past, the only protector of that sunlit portion of mankind that knows, or hopes to know, freedom. America is the ultimate bulwark against totalitarian tyranny. I haven't forgotten that fact, even if some foreign policymakers have.

I do not criticize the President out of political selfishness. I do not hesitate to criticize members of my own party for voting to abandon the Panama Canal at a time when America was perceived by friend and foe alike to be in retreat from its responsibilities and obligations. Panama represented a dangerous misuse of bipartisanship in foreign policy.

Vote to support the President on Panama, we were told, or he will lose his credibility to conduct foreign affairs. Well, he won that vote, and does anyone seriously suggest that our foreign policy is any more credible today than it was a year ago?

The issue here is larger than one man. The issue is truly bipartisan, in the sense that the forces which compel our action go far beyond the scope of any single party or individual.

The new bipartisanship prefers action to inaction, advance to retreat. It believes in a military defense second to none, for military strength is respected more than pious pledges unbacked by action. Such objectives could be accomplished if the presidency were again the cornerstone of coherent and farsighted leadership.

The President must provide leadership to which the American people can respond. His leadership must give focus to the rising public demand for stand-up diplomacy in support of our vital and legitimate interests.

America's leadership must extend to our allies and friends abroad. The lack of such leadership contributed to the loss of strategic Iranian assets, including oil and listening posts which would have monitored any SALT agreement.

The loss of Iran may yet shock the Administration into a new line. Certainly that is what the new bipartisanship is all about. It is not just Republicans who offer an alternative to more of the same drift that has marked the Carter Administration. Many Democrats also share my fear of America's self-imposed impotence.

They too, seek a strong hand at the helm of state. They too, support a foreign policy that stands tall.

The weeks ahead will see the final negotiations on a new SALT treaty. Then will come the Senate turn to analyze and advise the President on whether to accept this latest pact as written. Once again, the temptation will be great to score political debating points in preference to serious discussion.

But one principle will guide me as I ponder SALT: a bad treaty would be worse than no treaty, for a bad treaty would guarantee American weakness vis-a-vis the Soviet Union. A bad treaty would freeze in place an imbalance of forces, and send the world a convincing signal that American wishes to withdraw from the struggle for freedom.

SALT is a critical test for the Administration: More important, it is a test for the nation. Tonight, I call upon the VFW to join with me and others—Democrats and Republicans—to forge a new bipartisanship for American foreign policy. It is based on a belief in our mission as freedom's guardian. It is rooted in a strong national defense and a clear sense of what good can be accomplished, not by partisan potshots at any president, but by the careful promotion of a policy of peace through strength.

I call for a foreign policy of clear definition and decisive leadership in sustaining America's vital—and legitimate—interests in the wider world.

I call on you to be partisans for peace.

We have all sacrificed too much already to shrink from sacrifice now. We have fought in war. We have witnessed the agonies of combat. To our children, to history itself, we have an obligation to do better.

May God grant us the courage to do so.

SENATOR McGOVERN ON "FACE THE NATION"

Mr. PROXMIRE. Mr. President, on Sunday, March 11, Senator GEORGE McGOVERN appeared on the CBS television program Face the Nation. The questioning ranged from a discussion of the Middle East peace initiative, to SALT II, to the energy crisis.

Senator McGOVERN pointed out the perils in the argument that the United States should automatically intervene with force during foreign crises. He correctly observed that—

> Whenever the critics who develop that line are asked what they would do, they tail off into kind of vague generalities that we have to be tougher, and we have to be stronger, but they always stop short of specific suggestion as to what we ought to do because when you get to that point you start looking ridiculous.

The advantage of the general critic lies in his escape from responsibility.

The Senator from South Dakota also outlined his concerns that the SALT II Treaty, as presently envisioned, may "present the illusion of arms control without the fact." He continued:

> I think we're going to end up, if we ratify SALT with the present side deals that have been negotiated, with an esclating arms race and an escalating military budget, rather than a controlled reduced arms race.

Mr. President, I commend these observations to my colleagues, and I commend the distinguished Senator from South Dakota whom, I think, all of us recognize as one of the most sensitive, thoughtful, humanitarian, and compassionate Members of the Senate and, indeed, one of the outstanding Americans of our generation.

I ask unanimous consent that a transcript of the Face the Nation telecast be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

FACE THE NATION

HERMAN. Senator McGovern, President Carter has now met with both President Sadat and Prime Minister Begin, and the President reports that there is as yet no final agreement, and that important issues remain unresolved. Was the President ill-advised to undertake this experiment in personal presidential diplomacy?

SEN. McGOVERN. Well, I think the President must have been aware that it was a political risk. The conventional view is that you don't undertake a high visibility diplomatic effort of this kind unless you're thoroughly sure that you're going to come back with a solution. Nevertheless, I, for one, applaud the President's courage in moving in as dramatically as he has. The alternative would have been further deterioration in whatever gains were scored at Camp David. I think it's been clear to all of us that since the high hopes of the Camp David conference there has been deterioration on both sides—on the part of the Egyptians, as well as the Israelis. All of that has been complicated by the unsettling impact of the Iranian crisis, but I believe the President went to the Middle East thinking that it was necessary for another vigorous effort to be made. We don't know at this point what results he has achieved, but I think most Americans think the effort is worthwhile. The Mideast is a crucial issue to the entire world, and President Carter is doubtless right in giving it the priority he has.

ANNOUNCER. From CBS News, Washington, a spontaneous and unrehearsed news interview on FACE THE NATION, with Senator George McGovern, Democrat of South Dakota. Senator McGovern will be questioned by CBS News Congressional Correspondent Phil Jones, by Haynes Johnson of The Washington Post, and by CBS News Correspondent George Herman.

HERMAN. Senator McGovern, there's a lot of conventional wisdom, as you say, about the President's trip and one part of it is that if the President should fail, it will damage President Carter, it will damage the United States' standing in the world. Do you believe that conventionalism?

Sen. McGOVERN. Well, I think, obviously, it would be a setback to the President's prestige. Also, it would be chalked up as another failure. On the other hand, one has to consider the alternative. What would the evaluation be if the President did nothing, and the Middle East situation deteriorated to the point where open conflict developed once again? One can almost hear the critics saying, why didn't we have a president who acted in time, with greater force, with greater initiative? So I think the President had to take that risk in something that—that's worth some risk taking. I think the alternatives would have been worse.

JOHNSON. Senator, acting with greater force and doing nothing has been an issue for some time in the Middle East, particularly now, and as an aftermath of what's happening to the instability there—we have sent a carrier, we are—we are sending weapons to North Yemen, and there's talk about putting American military presence in the Middle East. Do you—how do you feel about that?

Senator McGOVERN. Well, Mr. Johnson, generally I've been on the side of restraint in the commitment of American military power. I think that's quite a different dimension than calling for a vigorous diplomatic initiative. While I recognize there are exceptions to this rule, ordinarily I think American power in the Middle East, as elsewhere, ought to be confined to diplomatic initiatives. The situation in Yemen is very confusing. Here you have a country of some eight hundred thousand people, apparently invading one of eight million. One has to ask why it's necessary for outside power to be interjected in a situation like that. You also have the Soviet Union with advisors in both North Yemen and South Yemen. It's somewhat puzzling to me why the North Yemen government hasn't asked the Soviets to go home, if in fact the Soviets are orchestrating the attack from the south. I go into this because I think it reminds us again of the hazards of getting involved militarily in a complicated political and military dispute of this kind. As a general rule, I'd want to come down on the side of applauding President Carter's restraint in the use of American force in the various international incidents that have developed over the last year.

JONES. If I might, Senator, before we get too far away, I'd just like to clear up the setback that you say that the President could suffer if he doesn't get something out of the Mideast. Specifically, what are the political ramifications to President Carter if he doesn't get something there?

Senator McGOVERN. Well, I think it's just—if—if he comes back emptyhanded from the Middle East, the worst that can be said about it is that his diplomacy failed, that he was unable, even with the great power and prestige of the White House, to bring the two sides together in a settlement. Obviously that's a loss. It's better to win when you engage in a diplomatic settlement of this kind than it is to lose. On the other hand, I think the American people understand, after some thirty years of conflict and failure and frustration in the Middle East, that no previous president has been able to bring that part of the world to a peaceful settlement. The United Nations hasn't been able to do it. No combinations have been able to do it. So we're—we ought to be mature enough at this point to understand that when President Carter goes to the Middle East in search of peace, he's undertaking one of the most difficult and complicated diplomatic initiatives that any world leader could undertake, but I don't think it's going to be irreparable to the President's standing in the eyes of the American people if he's unable through his good offices to get the Egyptians and the Israelis together.

HERMAN. Can I extrapolate from your remark about applauding the President's restraint and ask you, does that mean that you do not side with those who say the President has been a weak leader because he hasn't really responded to the crisis and emergencies in the world?

Senator McGOVERN. Absolutely, Mr. Herman, I do not side with those who are calling on the President to flex our muscles, as they say, or to show American power. Whenever the critics who develop that line are asked what they would do, they trail off into kind of vague generalities that we have to be tougher, and we have to be stronger, but they always stop short of specific suggestion as to what we ought to do, because when you get to that point you start looking ridiculous. For example, when our ambassador was killed by a handful of terrorists in Afghanistan, obviously every American was distressed and angered about that, as was the President. But what did his critics expect him to do? To go over to the Embassy of Afghanistan in Washington and grab their ambassador and shoot him at high noon? When our—when our embassy was overrun temporarily by a gang of terrorists in Teheran, there were those who said we ought to take action. What kind of action? We got our embassy staff out safely by working with the government in Iran. What would we have gained by sending a squadron of Marines down Massachusetts Avenue to seize the Embassy of Iran, or send the Sixth Fleet steaming up the Persian Gulf? It's that kind of ridiculous, immature implication in some of the criticism of President Carter that makes me come to his defense when he practices what I think is intelligent restraint. Now no one who knows my record with regard to this administration will label me an automatic defender. The administration——

HERMAN. You've anticipated my next question.

Senator McGOVERN. Things were—I have taken—taken issue with them, but I don't think a spasm of violence is the best way to show the maturity and wisdom and power of this country I think President Carter's restraint—restraint, incidentally, which has prevented one single American soldier from being committed to combat anywhere in the world during the Carter presidency is perhaps the strongest, single moral and political factor the President has going for him.

JOHNSON. Senator, specifically on the Sinai, there is an issue there whether we should put—we, the Americans, should put a military force, perhaps, to replace the Israelis moving out. Do you favor that? Would you agree with that? Would you support that?

Senator McGOVERN. Well, I wouldn't close the door on that, Mr. Johnson. I—I had felt all along that if we can get a just settlement in the Middle East, one that really holds out a strong prospectus for peace, that some kind of an American guarantee of that settlement would be in order. I'm not sure this is the specific way to do that best, but I would not close the door on the possibility of an American guarantee of a settlement, provided that settlement is one that we're convinced can endure.

HERMAN. Senator, when you said you are not an automatic supporter of President Carter's, immediately comes to mind the question of the SALT II treaty which the President is backing and which you have signed a letter, along with Senators Proxmire and Hatfield, saying you will not support. Let me just explore that a little bit. You will not support it under any conditions, or is there some way it can be brought to win your support?

Senator McGOVERN. Well, I'd like to—I'd like to comment on that because I do think that SALT is a tremendously important issue before this country. It has to do with our whole—our whole approach to nuclear weapons. I've thought, ever since the end of World War II, that how we control those nuclear weapons may be the most important test of statesmanship, not only in this country, but in the Soviet Union and on the part of other nuclear powers. My concern about SALT is that as it now stands with all the side deals that are being agreed to in order to get Pentagon support, is that it presents the illusion of arms control without the fact. It may—it may dissipate the strong desire in this country for arms control by giving the American people the implication that somehow if the Senate ratifies SALT II, we now have the arms race under control. I think the negotiating process that the administration apparently felt was necessary to get the approval of the Pentagon for that treaty, has defeated any good purpose that treaty could serve. Concessions have been made of what we refer to as the hawks in the Senate, in an effort to get them to buy the strategic arms limitation agreement. Those concessions, in my judgment, have gone so far that the present SALT package either ought to be withdrawn or defeated so that we can get on with the real business of scaling down the arms race—

HERMAN. You're saying it's a sham.

Senator McGOVERN. It is a sham. As it now stands, it's a deal between Moscow pacifying its hawks in the Kremlin, Washington pacifying its hawks, so that those two great superpowers can get together, but what they've agreed upon is that they'll hold down the more or less obsolete weapons that neither side is interested in moving ahead on anyway, so that each side will have complete freedom in deploying the most murderous, sophisticated, complicated nuclear weapons the human mind can imagine. I think we're going to end up, if we ratify SALT with the present side deals that have been negotiated, with an escalating arms race and an escalating military budget, rather than a controlled, reduced arms race.

JONES. Senator McGovern, I don't believe, though, you answered George's original question directly. Will you vote against the SALT treaty?

Senator McGOVERN. As matters now stand, I would have to vote against it. If the President of the United States would make a flat-out commitment to those of us in the Senate he's depending on for support of this treaty, that if the treaty carries, he will call for a substantial reduction in the arms budget—under those conditions, I would reconsider my present opposition to the treaty.

HERMAN. How does he have to make that commitment, Senator McGovern?

Senator McGOVERN. A flat-out public commitment that instead of going ahead on the M-X missile, a 30 to 35 billion dollar monster that destabilizes any possible gain we could get out of SALT II, that we're going to hold back—

HERMAN. I'm just exploring the kind of commitment, because commitments, if they're simply verbal, can be made, and unmade, and I'm just trying to find out what you want or require.

Senator McGOVERN. I understand that. I think I'll be able to understand whether the President is sincerely committed to a reduction in arms expenditures, or whether it's simply a window-dressing. Now President Carter—I think very wisely—campaigned for the Presidency on a pledge to reduce military outlays on the range of five to seven billion dollars a year. After he was in office, he said it was his hope that we could abolish all nuclear weapons on this planet by the end of the century. Now, as a means of getting support for the SALT treaty from people who have never favored arms control, or arms limitations, he has said that this treaty has been negotiated in such a way that we can do anything we want in the way of defense deployment. We can build the M-X missile; we can go ahead with the Trident submarine; we can have air-launched and sea-based Cruise missiles; we can even go ahead with a penetrating bomber. Those are the stuff out of which highly dangerous nuclear arms escalation will take place in the wake of SALT II if we move ahead as it's now structured.

JOHNSON. Senator, I'd like to go back to the Middle East for a minute. We haven't talked about the equation of oil and energy and inflation, and the President's policies.

HERMAN. Would you let me just nail down one more SALT question before you go off to the Middle East? Senator, you won't—you and your colleagues of the liberal persuasion won't vote for SALT unless M-X and other things are dropped. The right-wingers, so to speak, the Hawks won't vote for it unless M-X and so forth are continued. Is not SALT II, then, effectively dead, 'cause you can't win a consensus without—

Senator McGOVERN. Mr. Herman, it's my judgment that we don't have the votes for SALT right now. Senator Hatfield, Senator Proxmire and I have all said we're going to withhold our votes in the face of this sell-out to the hawks in the Senate, a desperate effort to get enough votes to ratify that treaty. But even if Senator Hatfield, Senator Proxmire and George McGovern were voting for the SALT treaty, there isn't a two-thirds majority in sight. If the treaty goes down under those terms, with opposition from those who say it limits the United States too much, that creates the political climate for another splurge in arms spending. If the SALT treaty goes down partly because some of us say it doesn't put a tight-enough restriction on arms spending, I think we have a better option then of moving in the wake of that defeat to confront a genuine arms limitation and arms control.

JOHNSON. All right, back to the Mideast now. I just want to get your views upon where we stand with oil, energy and inflation. There's been continual debate about the nature of the crisis, what we should do about it here at home; the President has a voluntary program of guidelines that does not seem to be working. How do you assess the policies and what should we be doing to change the—that relationship?

Senator McGOVERN. Well, having praised the President for his restraint in foreign policy, I think the energy policy's been a disaster. If I had any one word of recommendation to make to President Carter today, it would be to—to get rid of Mr. Schlesinger, and start off with an energy chief who can look at the whole problem of energy in this country with more imagination and more intelligence. We have an energy policy today that's increasing our dependence on overseas oil. We used to talk about project independence a few years ago, but we've doubled our dependence on foreign oil, and one of the reasons is that under the leadership of Mr. Schlesinger, we have no alternative source of energy program. After committing ourselves a year ago to increase the use of coal in this country, we've cut down—at Mr. Schlesinger's recommendation—on funds for coal development and coal conversion. We have no strategic oil reserve worthy of the name, and haven't really tried to build one up. Under the clumsy diplomacy of Mr. Schlesinger, we soured relations with Mexico in 1977. What he has done is to try to build a program of conservation by raising oil prices here at home, which is obviously inflationary. It may have enriched the oil companies, but it's impoverished the American people and added to the inflationary pressures. So for all of those reasons, I think the first thing the President ought to do is to get a new energy czar.

JOHNSON. Well, the President's approved—it isn't just the Schlesigner policy, this is the Carter Administration policy, surely, and it isn't quite fair to put all the onus—if there is an onus—upon Mr. Schlesinger, is it? The President backed, can articulate, and defend—

HERMAN. And his economic advisers have defended and explained—

Senator McGOVERN. The President has attempted to explain the Schlesinger policy; I would hope after experimenting it—experimenting with it for the last two years the President would now be ready to look to another adviser in this field. I think a good many of my colleagues in the Congress of the United States share this view. The frustrations, the confusion, the difficulties of working out an energy package last year with Mr. Schlesinger orchestrating the Administration side of that argument was a disastrous failure. There's a desperate need, now, for this country to give a real sense of urgency to the development of alternative sources of energy. We ought to begin with coal. We ought to move on to solar energy, to hydroelectric power, to the conversion of waste materials to energy.

HERMAN. Senator—

Senator McGOVERN. And we're not going to do that simply by raising the price of oil.

HERMAN. Senator, I was going to say, if I were keeping score, I would now score one strong plus for President Carter on foreign policy and restraint, one strong minus that you've advanced on his energy policy—do you think, as his policies develop, that you will be supporting President Carter for nomination and re-election?

Senator McGOVERN. That's my present intention. I want to leave that question open. It's a long time until 1980; I'd like to see how matters move from here on out, but as things now stand, I think the President will probably be renominated and re-elected; in all probability I'll be supporting him. One has to—

HERMAN. That's not the most enthusiastic statement I've ever heard.

Senator McGOVERN. Well, I think we need to keep the pressure on. I'm not satisfied with some of the initiatives the President has taken on the domestic side; I don't think his inflation-control program is going to work. High interest rates; high military spending, cut-backs—pardon?

JONES. How can you support him, as you list all these things?

Senator McGOVERN. Well, what I think my function is, as a member of the Democratic Party, is to express my dissent when I disagree; to express my support when I agree, and hope that the President will move in the direction that I think he ought to go. I would say this, when you look at the Republican alternatives, it's not all that reassuring. We've just had a big fight erupt into the open between Mr. Crane and Mr. Reagan in New Hampshire that has prompted Senator Baker to say they need a council of Republican elders to keep the Republicans from knocking each other off over the next year and a half.

JOHNSON. Excuse me—you could almost

say the same thing about your own party, could you not? I mean, it isn't an absence of alternative people who seem—want to run in the Democrats against Mr. Carter. There's—Governor Brown is making very aggressive steps; Senator Stevenson says he might run; many others are interested, so it isn't just sweetness in the Democratic, surely.

Senator McGovern. No, and I think dissent is all to the good. I think the Democrats have lived it long enough so we don't feel the need to set up a council of elders to tell us what we can say and what we can't say.

Jones. Senator McGovern, I must ask you—are you thinking about running for the Presidency again?

Senator McGovern. No, I'm not thinking about it, Mr. Jones. I have days late at night when I think it would be nice to make that effort again, and I think about the need to build a new anti-war coalition in this country to deal with fact that the leaders of both political parties tend to yield to the Pentagon too much, but I had a chance in 1972; the voters felt elsewise about the priorities that I set in this campaign, '72, so in all probability, my effort in 1980 will be directed at re-election to the Senate.

Herman. Let me just explore what's left out in that. For a moment there, it sounded like a Shermanesque statement, that you, yourself, were not going to run, under any conditions. Is that—remain?

Senator McGovern. I don't plan it; I don't think anybody ought to ever take a pledge that they're going to foreclose the possibility of running for the Presidency, but I can look you in the eye and tell you in complete candor, I'm not planning on doing that.

Herman. Thank you very much, Senator McGovern, for being with us today on Face the Nation.

Announcer. Today on Face the Nation, Senator George McGovern, Democrat of South Dakota, was interviewed by CBS News Congressional Correspondent Phil Jones; by Haynes Johnson of the Washington Post; and by CBS News Correspondent George Herman. Next week, another prominent figure in the news will Face the Nation.

PRESIDENT CARTER'S STATEMENT REITERATES NEED FOR GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, during his dramatic peaceseeking mission to the Mideast, President Carter payed a visit to Yad Vashem, the Israel memorial to the 6 million Jewish victims of the Nazi holocaust. Accompanied by Prime Minister Menachem Begin and war crimes prosecutor Gideon Hausner, himself a survivor of a Nazi concentration camp, President Carter was grimly reminded of the horrors of the holocaust, and he emotionally vowed that the world would not again witness "this horrible episode in the history of mankind."

Mr. President, Mr. Carter's statement hits the nail right on the head. When faced with such ineradicable tragedies like the holocaust, our only course of action is to take preventative measures to insure that such events never recur.

What, then, can we do?

First, we must continue to remind ourselves through our educational institutions, news media, and public memorials about the historical reality of the holocaust. As the oft-quoted Santayana stated, "Those who cannot remember the past are condemned to repeat it."

Second, we must make a concerted effort on the international level to insure that such a tragedy does not repeat itself.

Mr. President, there is only one course of action that can accomplish this. President Carter, as well as every President since President Truman, has urged us to take it. We must ratify the only treaty that makes genocide a crime under international law.

Mr. President, the time has come when we should act. I am delighted to see that my good friend from Indiana, the senior Senator, Senator Bayh, is making such a strong fight for—and I cosponsored his amendment for—the direct election of the President of the United States. I am very hopeful we can act on that as soon as it is reported.

I also hope that at this early stage in the 96th Congress life that we will bring up and pass the Genocide Convention. Thirty years are long enough and, obviously, if we are not going to act on it now it is going to be harder with every week that passes to get it up and get it acted upon because they always say, "Well, you are going to get in the way of other legislation."

Mr. President, if the time has ever come for this legislation, the time has come now, with the holocaust, with the situation in the Middle East, with the wide recognition of the viciousness of genocide, and with the fact that only the U.S. Senate is the body that stands in the way of action on that treaty.

Mr. President, I yield to the floor.

S. 79, REINSTATEMENT OF DEDUCTION OF GASOLINE TAXES

Mr. STEVENS. Mr. President, I want to announce my support for S. 79, which would reinstate the Federal tax deduction for State and local gasoline and motor fuel taxes. The Senate will recall that this deduction was eliminated in the Revenue Act of 1978 when, due to a parliamentary technicality, the Senate was restricted from voting on the elimination. I am convinced that, had we been able to vote, the deduction would have been retained.

As was ably stated by Senator Helms upon introduction of S. 79, the deduction for State and local gasoline taxes is one which primarily benefits those taxpayers with adjusted gross incomes of between $10,000 and $50,000; and its elimination, therefore, runs counter to our stated goal of reducing the tax liability of our overburdened middle-class taxpayers. In addition, and fundamental to the call for reinstatement of this deduction, is the tenet that income should not be taxed twice. In other words, income upon which a State gasoline tax has been assessed should not be retaxed at the Federal level. This is the same rationale used for the deduction of State and local income taxes, and I seriously doubt that this body would be willing to eliminate this deduction.

I commend the Senator from North Carolina for his efforts to see that this tax deduction is retained, and I am confident that Congress will take action to insure that the one-third of American taxpayers who itemize their returns will not find their tax burdens increased through elimination of this deduction.

ESOP'S AND TRASOP'S AN EXPLANATION FOR EMPLOYEES

Mr. LONG. Mr. President, I was most pleased last week to testify in favor of a bill, S. 388, being sponsored by Senators Nelson, Weicker, Stewart, Hatch, Pressler, Morgan, and Hayakawa. This bill would provide Small Business Administration (SBA) assistance to employees who wish to acquire ownership of their company through employee stock ownership (ESOP's) and other employee ownership techniques.

We all recognize that the small business concern faces many problems which are not applicable to its larger competitors. For example, it has been difficult for a small business to attract investment capital; a venture capitalist is always reluctant to invest his money in a closely held business because usually he is unable to acquire a majority interest in the business and because there is usually no ready market for his stock if he wishes to sell.

In addition, most lending institutions have been slow to respond to the financial needs of closely held businesses; this has made it extremely difficult for the small business to borrow money.

The need to assist the small business community to overcome such problems is the very reason why the SBA was created.

I am firmly convinced that the use of ESOP's will facilitate the raising of capital and operating funds by the closely held business. As reflected in the Senate Committee on Finance publication "ESOP's and TRASOP's—An Explanation for Employees," the ESOP provides a vehicle whereby the closely held business can borrow funds, repaying any indebtedness incurred thereby with tax deductible dollars, and provide a market for the stock of existing shareholders.

In addition, employee stock owership, through an ESOP or through some other program, provides an additional benefit to the closely held business through increased employee motivation and productivity. This necessarily produces increased profitability for the employer-owned business.

In recent years, sociologists and economists have begun to study the motivational and productivity impetus given by employee stock ownership. The overwhelming preponderance of evidence gathered to date reflects that employee-owned firms are both more profitable and productive than similar conventionally owned firms and that employee ownership results in better working conditions for everyone.

A study conducted by Mr. Paul Bernstein, entitled "Worker-Owned Plywood Firms Steadily Outperform Industry," World of Work Report, June 24, 1977, reflected that employee-owned firms had a 30-percent higher productivity and 25-

percent higher wages than conventional firms.

In the Survey Research Center study of 100 employee-owned firms, profits were 1.5 times higher in employee-owned firms than in nonemployee owned firms, and conversations with managers of these employee-owned firms indicated much higher levels of employee satisfaction through employee ownership and greater productivity and improved work atmosphere.

The most recent expression I have seen regarding employee ownership and productivity was in a February 13, 1979, Washington Post article on the creation of a new automobile manufacturer, the DeLorean Motor Corp. The founder, John Z. DeLorean, is starting a new company to build $15,000 sports cars in Ireland. In the article, it is pointed out that—

> Mr. DeLorean is also planning to have all his employees—including 2,000 plant workers—own a piece of the company, because it gives them added incentives to help the company succeed.

With the closely held business, where individual relationships among workers count for so much more than in a large business, the motivational and productivity aspects of employee ownership are enhanced even further.

As I stated in a speech before the Senate on August 25, 1978, a Washington Post editorial, reflecting the sad state of American productivity gains during the decade 1967–77, caused me a great deal of concern. That editorial listed the following increases in productivity in manufacturing among some of the leading industrial powers: United States, 27 percent; France, 72 percent; West Germany, 70 percent; Italy, 62 percent; Japan, 107 percent; Canada, 43 percent; and Great Britain, 27 percent.

To learn that the greatest nation in the world is increasing individual productivity at the lowest rate of any industrial nation in the Western world is most alarming. If these studies are correct, and employee stock ownership does increase individual productivity, this concept is something which mandates the support of every member of this Congress.

Clearly, we as a country are not increasing our productivity at a rate which makes us competitive with the other free-world economic powers.

As every Senator knows, one major consequence of declining or lagging productivity is inflation. That we are now in a period of spiraling inflation cannot be denied. What we need to do is find ways to increase each individual's productivity and thereby increase the volume of goods and services which are competing for the consumers' dollar. This is one of the important ways in which we can begin to break the cycle of too many dollars chasing too few goods and begin to place a lid on the inflation spiral which we have thus far been so helpless to stem.

Also, as productivity rises, so does the potential for corporate profits and, thus, the likelihood of expanded capital investment.

Last July, the Senate Committee on Finance held 2 days of hearings on employee stock ownership plans (ESOP's). During these hearings, we received testimony from such major corporations as Sears, Roebuck & Co., Potomac Electric Power Co., the Dow Chemical Co., and Lowe's Cos., Inc. These companies were unanimous in their opinions that providing employees with a stock ownership in their employers carries with it major benefits not only for the employer and its employees, but for the economy as a whole.

There was complete agreement that the unified interest between employer and employee which results from employee stock ownership has a definite impact on productivity. Since that time, I have received statements of support for the ESOP concept from such corporations as General Telephone & Electronics Corp., Gulf Oil Corp., Weyerhaeuser Corp., McDonald's Corp., and Celanese Corp.

I have long believed that employee stock ownership increases productivity and I was delighted to have my opinions reinforced by the heads of these corporations.

At the same time, we received testimony from Ambassador Robert S. Strauss, Special Counselor on Inflation. Mr. Strauss indicated that he would look carefully at ESOP as a possible solution to the problem of declining productivity and increasing inflation since, as he pointed out, an employee always works harder when he has "a piece of the action." My longstanding commitment to giving employees "a piece of the action" is well known.

Through this proposed legislation, the SBA will be given the opportunity and the mandate to work with small businesses to promote employee stock ownership and to give these businesses the true benefits which employee stock ownership can provide. These businesses will be able to borrow money and generate capital for business expansion, improvements of plant and equipment or other necessary expenditures, repaying any indebtedness incurred thereby with tax-deductible dollars.

This will clearly make them more competitive with their larger business counterparts. In addition, they will benefit from increased employee motivation and individual productivity which recent studies reflect are a natural result of employee stock ownership.

In a speech before the Senate on December 15, 1977, I discussed the very fact that we needed to encourage the Small Business Administration and the Farmers Home Administration to follow the lead of the Economic Development Administration in providing funds or credit to employees who wish to use an ESOP to acquire an ownership interest in their companies.

At the time, I was pleased to learn that the employees of a Stockton, Calif., company, Pacific Paperboard Products, had been able to acquire ownership of their company through the use of an employee stock ownership plan (ESOP).

This was extremely significant in that approximately 1,000 jobs were preserved through the ESOP. Had the employees not been able to effect this transaction, the company would probably have been liquidated by the parent company, resulting in a loss of these jobs, a dramatic increase in the level of unemployment in the Stockton, Calif., area and a great loss of tax revenues in the locality.

This California ESOP was particularly gratifying because the U.S. Government assisted in the venture. Responding to strong congressional support for the ESOP concept, the Economic Development Administration (EDA) made low interest long-term funds available to the employees to facilitate their purchase of the company for which they work. We made it possible for them to buy the company.

If there has been any weakness in the development of ESOP, it has been the lack of funds or credit available to employees who wish to use the ESOP mechanism to acquire an ownership interest in their company. Lending institutions have been cautious about extending credit or committing funds for a concept which has been in its embryonic stage. Although this reticence is somewhat understandable, it has impeded the growth of ESOP.

However, the participation by EDA in the Pacific Paperboard project reflects a growing interest in ESOP on the part of that agency. I expressed the wish at the time that other agencies, like the Small Business Administration and the Farmers Home Administration, would follow the lead of the EDA and get involved.

The bill sponsored by Senators NELSON, WEICKER, STEWART, HATCH, PRESSLER, and others would make the SBA's role in this endeavor a very active one, as it should be.

Mr. President, the EDA had even earlier participated in similar ESOP-oriented projects in the past. In 1975, the EDA assisted employees in South Bend, Ind., in acquiring ownership of South Bend Lathe. In 1976, also with EDA support, employees acquired ownership of Rich-SeaPak Corp., in St. Simon's Island, Ga., and ownership of Okonite Co. in New Jersey.

These projects were all made possible by EDA grants of funds under title IX of the Public Works and Economic Development Act of 1965. However, the EDA has other programs through which funds could be made available to support employee stock ownership, either through direct loans or loan guarantees. This would also be true for the SBA and FmHA.

I would like to see these agencies commit some creative thought as to how they can participate in the development of this critically important concept. Continued support by Federal agencies should, in turn, encourage private lending institutions to participate on a greater basis, thereby broadening the access to stock ownership for employees.

With the strong entry of Senator NELSON, Senator WEICKER, Senator STEWART, Senator HATCH, and Senator PRESSLER into the forefront of congressional support for employee ownership through the operations of the SBA, I feel confident that we in Congress will continue to fulfill our responsibility of giving our working men and women a true "piece of the action" and a stake in the future of American enterprise.

The legislation proposed by my five colleagues, and now joined in by several others, would add a most helpful program to the several changes in the law we have already made in an effort to encourage ESOP's.

In seven pieces of legislation over the past 6 years, Congress has expressed its commitment to the ESOP concept as a means of providing employees with access to stock ownership in their company. These are as follows:

First. The Regional Rail Reorganization Act of 1973 (Public Law 93-236) which would have permitted ConRail to utilize an ESOP as part of its financing program, thereby enabling it to repay at least a portion of its indebtedness with pretax dollars;

Second. The Employee Retirement Income Security Act of 1974 (Public Law 93-406) which formally recognized ESOP as an employee benefit plan and established criteria for its adoption and administration;

Third. The Trade Act of 1974 (Public Law 93-618) which as part of the relief package being established for companies that are members of foreign trade-impacted industries, provided that some preference would be given for assistance to such companies which adopt an ESOP;

Fourth. The Tax Reduction Act of 1975 (Public Law 94-12); and

Fifth. The Tax Reform Act of 1976 (Public Law 94-455) which established and expanded, the availability of an investment tax credit for employers that adopt an ESOP (called a TRASOP) and which are otherwise eligible for the investment tax credit;

Sixth. The Revenue Act of 1978 (Public Law 95-600) which simplified many of the provisions relating to ESOP's and TRASOP's, made them more attractive to employers, and extended the TRASOP credit provision through December 31, 1983; and

Seventh and Eighth. (Public Law 95-565 and Public Law 95-611) which, in addition to the United States Railway Association authorizations for 1979, mandated the creation of an ESOP by ConRail and the Delaware & Hudson Railway as part of their Federal funding.

Mr. President, I ask unanimous consent that an excerpt of the Senate Committee on Finance report on employee stock ownership plans be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

ESOPs AND TRASOPs—AN EXPLANATION FOR EMPLOYEES

INTRODUCTION

Since 1974, the United States Congress has by legislation created two programs which are designed to give employees the chance to acquire a stock ownership in their employer. In the Employee Retirement Income Security Act of 1974, Congress first defined the employee stock ownership plan, or "ESOP" as it is usually called. In the Tax Reduction Act of 1975, and the Tax Reform Act of 1976, Congress implemented, and expanded, a different form of employee stock ownership plan, usually called a "TRASOP." The ESOP and TRASOP provide stock ownership for each employee without requiring the employee to spend any of his own money; his investment is the time and effort he puts into his job to make his employer profitable. Although some ESOPs and TRASOPs permit or require employees to put money into the ESOP or TRASOP, most provide that the employer will make all necessary ESOP and TRASOP payments.

WHAT IS AN ESOP OR TRASOP?

An ESOP or TRASOP is an employee benefit plan which is "qualified" under the Internal Revenue Code. That is, it has been written in such a way that it satisfies the requirements of the Internal Rvenue Code. As a qualified plan, the ESOP or TRASOP is required to be operated for the "exclusive benefit" of participating employees (and their beneficiaries).

HOW DOES AN ESOP WORK?

The ESOP is designed to acquire stock of an employer for the benefit of employees. To do so, the ESOP may borrow money from a bank or other lender (including the employer). The stock is bought directly from the employer or from shareholders. When the ESOP borrows money, the employer guarantees to the lender that the ESOP will repay the loan. Employees are never required to assume any obligation for the repayment of the money borrowed by the ESOP. The employer is required to make annual payments to the ESOP in an amount at least equal to the amount the ESOP must pay on the money it borrowed. These amounts are then paid by the ESOP to the lender each year.

The employer is also permitted to make additional payments of cash or stock to the ESOP each year. The amount of these additional payments is usually decided by the board of directors of the employer. Because the ESOP is "qualified," the employer gets a tax deduction for all payments to the ESOP, up to a maximum limitation established by the Internal Revenue Code. This tax deduction is available for the required employer payments and any additional payments, and its effect is to reduce the annual cost of the ESOP to the employer. Cash put into the ESOP by the employer will be used primarily to purchase employer stock. In addition, this cash may be invested temporarily in savings accounts or certain other permitted investments.

HOW DOES A TRASOP WORK?

An employer which adopts a TRASOP may claim a tax credit against its Federal income taxes if it makes payments of its stock, or cash which is used to purchase its stock, to the TRASOP. The amount of the credit which the employer may claim is limited by law, and part of it may only be claimed if the employees make payments to the TRASOP which match the payments made by the employer. Only employers which buy things like equipment and machinery are generally able to adopt a TRASOP, because the tax credit is based upon the amount spent for things like capital equipment and machinery.

WHAT DO EMPLOYEES GET AS PART OF THE ESOP OR TRASOP?

Each year, all amounts of cash and employer stock paid by the employer and employees to the ESOP, and employer stock bought with cash held in the ESOP, are allocated among the accounts of employees who are participating in the ESOP. This allocation is usually done on a formula related to each employee's salary or wages as compared to the salaries or wages of all other participating employees. Take as an example an employee who earns $10,000 per year from a company where the total salaries of all participating employees equal $500,000. That employee's salary or wages is 2 percent of the total, so his share of allocations of cash and employer stock under the ESOP for that year would be 2 percent. If the employer contributed $100,000 to the ESOP during the year, the employee's share would be $2,000.

A trust will be established (under the ESOP) to hold the cash and employer stock paid to the ESOP for the benefit of employees (and their beneficiaries). It is created by a separate written trust agreement and will be administered by a trustee. This is done to assure that each employer's interest in ESOP assets will be protected.

Under a TRASOP, allocations to employees' accounts is done in the same way as under an ESOP, except that the maximum of any employee's salary or wages which can be taken into account under a TRASOP is $100,000 each year.

WHAT DO I OWN IN THE ESOP OR TRASOP?

An ESOP, like most employee benefit plans, is designed to benefit employees who remain with the employer the longest and contribute most to the employer's success. Therefore, an employee's ownership interest in cash and employer stock held in the ESOP is usually based on his number of years of employment with the employer. The employee's ownership interest in the ESOP is called his "vested interest," and the language in the ESOP which determines his vested interest is called a "vesting schedule." Although there are many vesting schedules which may be used by an ESOP, most vesting schedules are set up so that the longer an employee stays with the employer, the greater his vested interest becomes.

If an employee terminates employment with the employer for any reason other than his retirement, or, in some cases his death, his vested interest will be determined by looking at the vesting schedule and measuring how many years he has worked for the employer. All cash and employer stock in which he does not have a vested interest because he has not worked for the employer for enough years will be treated as a "forfeiture," to which the former employee will not be entitled. Forfeitures are usually allocated among the ESOP accounts of the remaining employees on the same basis as employer payments to the ESOP are allocated.

The vesting schedule applies only where an employee does not end his employment because of retirement or, in some cases death. If an employee retires, or, in some cases if he dies, he will immediately have a 100-percent vested interest in all ESOP assets held for him.

Under a TRASOP, each employee automatically has a 100 percent vested interest in all amounts which he or his employer contribute to the TRASOP and which are allocated to his account. Therefore, there are never any forfeitures under a TRASOP.

WHEN DO I RECEIVE WHAT I OWN FROM THE ESOP OR TRASOP?

Even though employer stock and cash are usually put into the ESOP or TRASOP for an employee each year, and put into a special account under his name, he will normally not be able to actually get any employer stock and cash from the ESOP or TRASOP until after his employment with the employer terminates and he ceases to be a participant in the ESOP or TRASOP.

After an employee's participation in the ESOP or TRASOP ends, he (or his beneficiary) will be eligible to receive a payment of his vested interest. There are many permissible times and methods for making the payment to him from the ESOP or TRASOP. For example, it may provide that payment will be made as soon as possible after an employee's termination of employment. On the other hand, it may require that any payment be deferred until some later time, such as the employee's death or his normal retirement date. However, payment of a former employee's vested benefit must start soon after his death or attainment of age 65. Payment may be made to a former employee (or his beneficiary) in a lump sum, or it may be made in installments.

Payment of an employee's vested interest from an ESOP or TRASOP may be made in cash or employer stock, as determined under the ESOP or TRASOP, subject to the right of the former participant (or his beneficiary) to demand a distribution of his benefit in shares of employer stock.

WHAT CAN I DO WITH MY SHARES OF EMPLOYER STOCK FROM THE ESOP OR TRASOP?

Once a former employee (or his beneficiary) gets his shares of employer stock from the ESOP or TRASOP, they are his property and he can do what he wants with them. He can vote the shares of employer stock at shareholders' meetings, receive any dividends paid on the stock by the employer, and he may keep the stock as long as he wishes.

However, if he wishes to sell or otherwise transfer ownership of the stock to a third party, he may be required by the terms of the ESOP or TRASOP to first offer to sell the stock to the employer and the ESOP or TRASOP. This requirement is called a "right of first refusal" for the employer and the ESOP or TRASOP; they can exercise this right and purchase the employer stock at its fair market value. Generally, the price offered by the prospective buyer or the price at which the stock is publicly traded would establish the fair market value for the stock. The purpose of this right of first refusal is to protect the employees or the employer by preventing the stock from being acquired by outside parties who have no interest in the employer or the ESOP or TRASOP and to protect the employer whose stock is closely held from violating any Federal law as a result of having its stock sold when it does not satisfy certain Government rules.

In addition, at the time the former employee (or his beneficiary) receives employer stock which is not publicly traded from the ESOP or TRASOP, he must be given a "put option," the right to demand that the employer buy his shares of employer stock at their fair market value. In such a case, the ESOP or TRASOP may provide that the ESOP or TRASOP may buy the employer stock, although the ESOP or TRASOP may not be required to buy the stock under the put option. The purpose for including a put option is to assure that each former employee (or his beneficiary) will have someone available to buy his share of employer stock if he wishes to sell.

HOW DOES THE ESOP OR TRASOP HELP MY EMPLOYER?

The employer benefits primarily from the favorable tax treatment it receives for all payments made to the ESOP for TRASOP. As explained before, an employer receives a tax credit for amounts paid to a TRASOP and a tax deduction for amounts paid to an ESOP. This is very important when the employer uses the ESOP as a means of borrowing money. In order to understand how the use of the ESOP to raise money benefits the employer, a comparison must be made with the usual method of borrowing money.

If an employer which does not have an ESOP wishes to borrow money to build a new building, expand production, or for any other reason, the employer would go to a bank to borrow money. When the employer repays the loan, it will also pay interest on the loan, just like an individual person would do with a charge account. Although the interest payments would be tax deductible, the principal payments on the loan would not. This means that the employer would first figure its taxable income, then pay its income taxes, and then make its payment on the loan.

The use of an ESOP for this purpose greatly helps the employer because of the effect it has on the employer's taxes.

In this situation, the ESOP borrows the money from a bank, and signs a promissory note for the money.

As part of the ESOP loan, the employer gives a written guarantee to the bank, promising that the ESOP will repay the loan and that each year the employer will pay to the ESOP enough money to permit the ESOP to make its annual repayment of the loan.

The ESOP then uses the money from the loan to buy stock from the employer.

Each year, the employer makes a tax-deductible payment to the ESOP, sufficient to let the ESOP make its annual debt repayment to the bank.

The effect of this transaction is to allow the employer to borrow money from a lender and repay the loan with tax-deductible dollars. Since the principal and interest payments are deducted before the employer's taxable income is determined, the taxable income is lower than through regular borrowing and the employer's taxes are reduced.

Since the major portion of the ESOP or TRASOP assets are used to buy employer stock, the value of each employee's ESOP or TRASOP benefit is directly tied to the financial success of the employer. Also, the employer, as a result of the use of an ESOP or TRASOP, benefits because employees understand that their work performance directly affects the financial success of the employer and the value fo ESOP or TRASOP assets. After all, they now own part of the company. This should encourage employees to work more productively and increase the profitability of their employer.

Another benefit to the employer is that the ESOP provides its shareholders with a buyer for their stock if they wish to sell. For stockholders of a small employer, this is a tremendous advantage, and it could also assist the employer in attracting additional investors.

SUMMARY

The adoption of an ESOP or a TRASOP provides benefits for the employer, its shareholders and its employees. Our tax laws encourage the establishment and use of ESOPs and TRASOPs. Congress has passed seven laws in the past 6 years to encourage employers to consider ESOP and TRASOP. Will it continue? Senator Russell B. Long, chairman of the Senate Finance Committee, has repeatedly stated: "Just as in 1862, when Congress passed a law to allow Americans who had very little money to own and develop up to 160 acres of land, we should now give Americans the opportunity to become owners of our growing frontier of new capital (stock). The way to do this is through laws which encourage the development of programs like ESOP."

Mr. BAYH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR MOYNIHAN'S UNESCO TRIP REPORT (S. DOC. NO. 96–16)

Mr. MOYNIHAN. Mr. President, at the end of the 95th Congress, I visited Europe to discuss with our representatives there important issues certain to become more prominent as the 96th Congress pursues its work. In Geneva, I met with our negotiators both at the SALT talks and at the Multilateral Trade Negotiations. I also visited Paris, where the 20th session of the United Nations Educational, Social, and Cultural Organization was about to conclude. Having served as Permanent Representative of the United States to the United Nations, I was especially interested in the importance of those proceedings.

I have prepared a report which summarizes the condition of UNESCO as I now find it, and I ask unanimous consent that the report be printed in the RECORD at the conclusion of my remarks, and printed as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MOYNIHAN. Mr. President, it might be of interest that I discuss at some length the question of the blatant Soviet infiltration of KGB agents into the civil service—if we may use that term—of the United Nations system. This placing of Soviet spies in the United Nations is a direct violation of article 100 of the United Nations Charter. It is conspicuous. It is not avowed, but it is well known.

Only last winter, two Soviet spies were convicted in an American court of espionage. Both were employed in the U.N. Secretariat.

Most recently, and more egregiously, a member of the KGB has been put in charge of personnel for the United Nations activities in Geneva. I might note that the Geneva activities of the U.N. are greater than those located at New York.

Those of us who hope that the United Nations might be taken seriously in the world must also hope, I think, that our Government and other democratic governments would take seriously this violation of the charter and one of its most fundamental provisions, which is that the United Nations' Secretariat shall not be perverted to political uses of any one power, least of all a power whose behavior is so at odds with the human rights standards set forth in the charter.

EXHIBIT 1

UNESCO TRIP REPORT

During the Senate recess in late 1978, I visited Paris (November 28-December 2) for the last days of the twentieth session of the General Conference of the United Nations Educational, Scientific, and Cultural Organization. UNESCO's biennial conferences have earned a particular reputation. To some appearances the traditional forms and procedures of the organization are still observed, but the content of its activities has altered profoundly since its founding a generation ago.

UNESCO was founded in 1946. Like the United Nations Charter itself, it was the creation of western beliefs about the kinds of societities which ought to exist as a matter of right. That post-war generation was unambiguous; what it envisioned was a liberal world order, built on liberal principles and constitutional doctrines with which everyone was then familiar. Having served as United States Permanent Representative to the United Nations, I could not have been unaware of this history. After my term of service had ended, I published, in the summer of 1976, an article in the Harvard Journal of International Law entitled "Abiotrophy at Turtle Bay." What we needed to remind ourselves, I wrote:

". . . is that the Charter is a constitutional document utterly opposed in spirit and hostile in its provisions to totalitarianism. The Orwellian inversion of language has progressed so far in our time that it is easy to assume that no enduring meaning is to be attached to words of any sort, but this is a mistake. The meaning of the Charter is clear. It is a constitutional document drafted in the tradition of Western liberal societies. The similarities with the United States Constitution are obvious enough:

"We the people of the United States . . .

"We the peoples of the United Nations . . .

"The Anglo-American stress on 'fundamental human rights,' on 'the dignity and worth of the human person,' and on 'the equal rights of men and women' is encountered at the outset of the documents and recurrently thereafter. The Charter takes as a given those propositions about 'human rights and . . . fundamental freedoms for all,' which are the common philosophical foundations on which the democratic societies of the West have been constructed. If the Soviets signed, so much the worse for them. In doing so, they undertook as did all others, to promote, through the United Nations, respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion . . ."

The democracies have lost their majority in the United Nations, and the new majority—consisting of states either totalitarian or authoritarian in their internal organization—find themselves in a curious situation. They know that in the strictest sense, their internal systems disqualify them from membership in the organization they are nonetheless coming to dominate. They know that so long as they control the writing and promulgation of United Nations pronouncements on the subject of political principles, their violations of the Charter will go unaccounted. Yet they know, too, that the truth of the matter is against them and, therefore, just as lies must be promulgated, truths must be suppressed.

To enter the world of the Paris meetings in late November and early December 1978 was to come face to face with this process in action. Two matters before the Conference were especially illustrative. The first had to do with UNESCO's effort to promulgate a "Declaration on Fundamental Principles Concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, the Promotion of Human Rights and to Countering Racialism, Apartheid and Incitement to War." The second concerned two areas of Israeli policy on the West Bank of the Jordan—the state of education and culture in the territory, and the conduct of archaeological investigations in the City of Jerusalem.

Both of these matters had been treated with the trappings of solemnity and high purpose. The forms of objective inquiry had been preserved. Panels of experts and advisers had been convened and their findings were duly reported to the UNESCO secretariat that had commissioned them. But observance of the traditional forms of inquiry—superficially in accordance with the liberal principles which are supposed to undergird UNESCO—was in fact very misleading. As I shall note in greater detail, the exercise in the case of the mass media led toward the adoption of a text which gave away much to the totalitarian bloc, but produced nothing in the way of strengthening the position of the free press in the world; the exercise, in the case of Israeli behavior on the West Bank, led to the adoption of condemnatory resolutions—even though the "experts" convened to study Israeli action had actually concluded that the charges made against Israel were essentially groundless.

The Israeli case, as we shall also note in greater detail, confirms the current *modus operandi* of the organization: certain governments make an accusation against one of the democracies (in this case Israel); the accusation, upon analysis, is found to be a lie; the evidence of the lying is suppressed, and the organization proceeds as if the lie were true in the first place.

It is particularly difficult for Americans to understand that this, in fact, is what is happening. The difficulty is at once simple and complex. The reason is that the forms are still ongoing in UNESCO, which allows us to believe, and to hope, that what we see there is a temporary aberration which will soon exhaust itself. The more complicated reason is that we do not really understand the importance of this area of "foreign policy" to the overall well-being of the United States and of the other democracies.

For years, the affairs of the United Nations have been regarded as "low politics"—"high politics" being the issues of national security, of Soviet-American negotiations, of weapons procurement decisions, or whatever. Matters relating to what the Soviets like to call the "ideological struggle" were always given for lower standing. A Foreign Service Officer, for example, if he were bent on establishing a reputation as a "serious person" so as to advance his career, was well advised to avoid the tedium of international organizations affairs. The United Nations was regarded by the "hardheaded" and "toughminded" as something akin to an irrelevant sideshow, where the only thing that went on was "mere talk."

Our difficulties in international organizations these days are, in part, the result of these attitudes. The United Nations has become a place where the democracies find themselves under a constant, unremitting, ideological and political attack designed to advance the interests of the totalitarians. The themes are manifold—to show the United States as weak and isolated in the world; to establish the legitimacy of totalitarian practices so that those practices can go on undisturbed by criticism or rebuke; to convince as many nations as possible that the "real" balance of power in the world is shifting from the liberal democracies toward the totalitarian states so that those nations will be more accommodating to the strategic and foreign policy ambitions of the Soviet Union especially; to discredit those states which have close relations with the United States in strategically significant areas of the world, so as gradually to force a retreat by the United States from whatever "forward positions" it holds. Thus, in the first instance I mentioned, that of the mass media declaration, the purpose was to redefine the language of the Charter in a way that would make it appear that "real freedom" was present only in the totalitarian world, not in the democratic one. In the second instance, that of Israel, the purpose was to discredit what is, after all the sole surviving democracy in the Middle East.

THE DECLARATION ON THE MASS MEDIA

The emergence of the "mass media" as an international issue has been superbly documented by Leonard Sussman, executive director of Freedom House, in his book *Mass Media and the Third World Challenge.* (Beverly Hills, Sage Publications, 1977)

Indeed, the history of the "controversy" reveals the persistent effort of the Soviet Union to gain international acceptance for the doctrine—to quote from a Soviet draft submitted to the 1976 UNESCO biennial conference at Nairobi—that "states are responsible for the activities in the international sphere of all mass media under their jurisdiction."

The Soviets raised the issue of "mass communication policies" in UNESCO as early as 1970. At the 1972 biennial meeting, the Soviet Union and Beyelorussia introduced a resolution calling on UNESCO's Director-General to prepare a draft declaration on "the fundamental principles of the mass media with a view to strengthening peace and international understanding and combatting war propaganda, racialism, and apartheid." This Soviet formulation was to remain the working title of the project through 1978—until a so-called "compromise" was finally adopted by the organization. But at this stage, the UNESCO process was still grinding away.

A new draft was produced in March, 1974; it was considered at the 1974 biennial meeting, and postponed once again. Another panel of "experts" from 85 countries met in Paris in December 1975. Their draft still incorporated the Soviet phraseology regarding the state responsibility for the activities of the mass media. Yugoslavia proposed and secured adoption of an amendment to the draft preamble recalling General Assembly Resolution 3379, adopted on November 10, 1975, which had declared Zionism to be a form of racism and racial discrimination. For this reason the United States, Australia, Canada, Norway, and the members of the nine European Economic Community countries withdrew from the meeting.

The nineteenth biennial session of the UNESCO General Conference convened in Nairobi on October 26, 1976, and ended its work on November 30. The draft declaration on the mass media was placed before the meeting. The draft still enshrined, in Article XII, the Soviet principle of state responsibility over the media; the equation of Zionism with racism still remained in the preamble. The draft, to quote Ambassador John Reinhart's report on the proceedings, was "replete with directives on the uses and specific responsibilities of the mass media which generate connotations of government manipulation and control." *

Against this background, the inevitable parliamentary maneuvering began. It ended with the adoption of a resolution postponing the matter until the next general conference, and instructing the Director-General of the organization to prepare for 1978 a new draft in "broad consultation with experts." In familiar fashion, the United States regarded this as a victory for our side. Indeed, the official report of the United States delegation to the Nairobi meetings noted with exuberence that "the results of the 19th General Conference with regard to communications were indeed salutary for they indicated a willingness on the part of a large majority of member states to avoid sterile and disruptive political debate in favor of identifying specific problem areas and in seeking ways to solve them." **

"Indeed salutary." The same official report had predicted that in the intervening two years there would be a host of UNESCO activities which would "afford greater insights into the various problem areas and help UNESCO in finding step-by-step solutions in a calm and rational way." (*Report . . ., p. 37). What really happened was that the Director-General convened his panel of experts—headed by Sean McBride who, *inter alia*, is a recipient of the Lenin Peace Prize. Then, in the fall of 1977, a "new" draft began to be circulated. It retained the same Orwellian title, and the same blatant totalitarian content. The "salutary" outcome of Nairobi was shown, in fact, to have been but another stage in a continuing offensive.

Nothing better illustrates the by now institutionalized unwillingness to perceive what these disputes are really about than the official American response to the renewed effort against press freedom. We have noted the origins of the campaign in the Soviet Union in 1972; by 1976, we had allowed the issue to be transformed into one involving the "third world" and the "developed world." This, of course, had happened before at the United Nations. The Soviets were the primogenitors of the notion that Zionism was a form of racism; as early as 1971, Soviet propaganda had begun to depict Israel in the role of Nazi Germany. The Soviets also supplied the analytical framework, if we can call it that, for the discussion of the so-called "New International Economic Order," whereby all Third World economic ills were attributable to "neo-colonialism." The Communist countries excused themselves, accordingly, from any participation in the funding for Third World economic development. And, now again, an East-West conflict over political principles was allowed to become another "North-South" dispute.

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*(Report of the United States Delegation to the 19th Session of the General Conference of UNESCO, prepared by Richard K. Nobbe, submitted to the Secretary of State, April 6, 1977, p. 33).

**(Report on the 19th session . . ., p. 37).

As the issue of the mass media unfolded, we seemingly agreed that we were involved in a dialogue with Mr. Masmoudi of Tunisia, chief "third world" theoretician of the "New World Information Order." We were in fact involved in a struggle with the Soviet Union over the definition of terms employed in world politics. But because we had come to see this as a problem involving our relations with the "Third World," we countered with a solution born of our perceptions of our relations with those countries which *we* could resolve by our acts of penance. In a word, we redefined a totalitarian challenge as a problem belonging to the realm of "foreign aid" and "developmental assistance", not to the realm of the truly ideological. Thus, on November 3, 1978, the United States unveiled what the Washington *Post*'s correspondent called a "three part program to help overcome what Western governments have come to agree are legitimate Third World grievances that the world's media are monopolized by the advanced industrial nations."

The three parts are instructive: first, a new satellite program for such countries to beam programs to their remote areas; second, a program to establish regional centers to train third world journalists; third, establishment of a new international organization to coordinate the efforts of advanced countries in improving the media of less developed nations. In that the prospective recipients of this assistance are overwhelmingly states where political liberty is absent, what do we propose? Do we seek to strengthen the world's free press by aiding state propaganda agencies? Do we propose to commit our resources and the resources of international bodies to the subsidizing of media operations built on anti-democratic principles? Such is the matter whereby we seek respite for ourselves in these gatherings.

Once again, however, the *forms* were observed. The latter days of the Paris meetings once again saw the predictable parliamentary maneuverings. They begat a "compromise" declaration which won overwhelming approval on November 22, 1978. (The full text of the declaration appears in Appendix A of this report.) It will be argued that the "compromise" is less noxious than the original, but in reading it, one still encounters the preponderant language of world politics of this period—Marxist-Leninist Russian as rendered into United Nations English. The document, in sum, was rightly described by the New York *Times* in an editorial of November 27, 1978 as "an affront to the very idea of communication." The Washington *Post*, in an editorial of the same day, called it, "a clear erosion of the favor and protection [the American news media] were accorded three decades ago by the UNESCO Charter."

No matter. One fully expects that when the official report of the United States delegation to the twentieth session of the UNESCO General Conference is finally written, it will echo the report of the nineteenth session—whose obtuse optimism we have already encountered. And two years from now, the process will probably repeat itself yet again. An outrageous demand will be served upon us: we will agree to, say, thirty percent of it, and then applaud ourselves for not having given "them" the other seventy percent.

Thus, as Roger Tatarian, former editor-in-chief and vice president of United Press International, stated in an article in the Washington Post of February 24, 1979:

"It is now abundantly clear that many member states, largely from the Communist bloc and the developing world, do not regard the declaration as an end in itself—as Western journalists had hoped—but rather as the beachhead for another thrust toward regulation of news."

Indeed, listen to one American representative describe what occurred in Paris in November 1978, as he spoke less than two weeks later. George Dalley, Deputy Assistant Secretary of State for International Organizational Affairs, spoke on December 4, 1978, to the United Nations General Assembly Special Political Committee in New York. The adoption of the mass media declaration in Paris, Mr. Dalley said, "signified the triumph of cooperation over confrontation and laid the foundation for a more equitable information order." The United States, he commented, "sincerely desires this pattern to continue."

If it so desires, how can this pattern not continue?

THE RENEWED ASSAULT AGAINST ISRAEL

Though the mass media "controversy" was the most widely reported issue raised at the UNESCO conference, it is important to call attention to some other representative events at the Paris meetings. Routine and predictable, but no less pernicious for that, are, for example, UNESCO pronouncements on the subject of "race and racial prejudice." Such pronouncements derive, in the main, from General Assembly Resolution 3379, adopted on November 10, 1975—the notorious resolution which declared Zionism to be a form of racism and racial discrimination. That one act has corrupted all United Nations actions on the subject ever since. Since the equation of Zionism with racism makes Israel an illegitimate state as far as the UN majority is concerned, it therefore follows that Israel has acquired a special role as the subject for an unrelenting campaign of slander and condemnation.

Two isues of note relating to Israel were raised at the meetings, and the manner with which they were handled speaks volumes for the modus operandi that has become depressingly commonplace in UNESCO. In 1974, Israeli excavations in Jerusalem had been condemned for "altering the historical features of the City." A similar resolution was passed in 1976, and UNESCO financial assistance to Israel—amounting to $12,500—was cut off. The 1974 action had led to a public law, which withheld U.S. contributions to UNESCO until a presidential determination could be made asserting that the organization "has taken concrete steps to correct the recent actions of a primarily political character." President Ford made the necessary determination in December of 1976 and, last year, the U.S. resumed its contribution of one quarter of the UNESCO budget.

It is not clear what UNESCO made of the avowed U.S. sensitivity on this subject; its actions seem unaffected. The Associated Press reported as follows on November 27, 1978:

"In a 55–6 vote, with 27 abstentions, the conference plenary session approved a resolution condemning what it claims is the systematic cultural assimilation of Arabs living in the territories Israel has occupied since the 1967 war."

(It should be recorded that the six "no" votes were Australia, Canada, Honduras, Israel, Paraguay, and the United States. That is all.)

What makes this event so revealing is the fact that the Director-General of UNESCO had in his possession a report he had himself commissioned, and which refuted the allegations—but which the Director-General had chosen not to release. The report was written in the main by Paul-Marc Henry, a former deputy director of the United Nations Development Program and now special advisor at the Center for Research for International Development at Paris.

To understand how the Henry report came to be suppressed, and what its suppression signifies, I cite in *extenso* a report on the episode prepared by Andre Lwoff of France, a Nobel Laureate in medicine and president of the International Committee for the Universality of UNESCO:

"On November 22, 1976, the nineteenth General Conference of UNESCO once again expressed its concern about the conditions of the populations in the Arab territories occupied by Israel, on the grounds that these populations 'do not fully enjoy their inalienable rights to education and to cultural life in harmony with their normal aspirations and their national identity.' The General Conference asked the Director General to send a mission to study the situation and the Israeli Government gave its agreement for the dispatch of a group of experts composed of:

1. Paul-Marc Henry (France), special adviser at the Center of Research for International Development, Paris (head of mission);

2. Samuel Cookey (Nigeria), former member of the Executive Board of UNESCO and former Director of the Department of Education Commonwealth Secretariat, London:

3. Joaquin Ruiz-Gimenez (Spain), Professor of the Philosophy of Law at the University of Madrid;

4. Pierre De Senarclens (Switzerland), Professor of Contemporary History at the Faculty of Political Science, Lausanne University.

5. Vladimir Velebit (Yugoslavia), former Executive Secretary of the United Nations Economic Commission for Europe.

Jacqueline Henin was entrusted with the task of assisting the mission in its work.

Paul-Marc Henry sent the experts' report to the director general on April 1, 1978 and, on April 17, his own report, the text of the 'mission's report.'

The Executive Board met at the beginning of June 1978. On the morning of June 6, a United States representative asked why the report of the head of mission had not been distributed. The Director General of UNESCO replied that the head of mission had not handed over a report but only a confidential letter passing on the reports of the other members. On the same afternoon of 6 June the United States delegate reiterated his request in urgent terms and the Director General then found himself forced to react 'to observations concerning a document which was reported (sic) to have been drafted by the head of the mission.' The Director General of UNESCO said he had in fact received 'a draft report which set out to provide a synthesis.' It was out of concern for objectivity, he said, that he preferred not to issue the Henry Report which he did not consider a satisfactory synthesis. But why then did he deny its existence?

Since the situation had become embarrassing, the Director General then considered himself obliged to add that the mandate which he had received consisted of sending a fact finding mission and that he was not required 'properly speaking' (sic) to submit a report etiher to the Executive Board or to the General Conference. He added that in future it would be up to the General Conference to decide whether a report ought to be published or not. However, if the report were not issued, on what basis could the General Conference base its decision? Probably on the opinion of a member carefully chosen by the automatic majority, such as the one, for example, who declared during the discussions that the observations of the members of the commission 'bore the stamp of a praiseworthy but excessive (sic) concern for impartiality.' But this was not always the case. Thus one can read in the Henin Report the following passage: 'Arab books are reported (sic) to have been reprinted in Israel under the signature of Israeli authors.' This charge is patently based on gossip and it is not the only case of its type. It was probably to give this document more weight that UNESCO gratuitously endowed Mrs. Henin, a lecturer, with the title of Professor at the National Institute of Oriental Languages and Civilizations.

Since it was published, the Henin Report was judged satisfactory. One might have thought that the Henry Report, which was said to be unworthy of publication, is of particularly low quality. Fortunately—or unfortunately—this report mysteriously reached Reuters News Agency and, God knows how, also found its way onto my desk. The ways of Providence are impenetrable. A reading of this report makes everything clear. One understands why the Director General of UNESCO, after denying the existence of the Henry Report, describes it as a draft and an 'unsatisfactory' synthesis. The report indeed suffers from 'excessive impartiality' and one can be sure it would have displeased the automatic majority. Perhaps this is why it has not been published.

However that may be, here is an attempt at a synthesis of the experts' principal conclusions. In the Gaza Strip and Sinai, since 1967, the number of schools and pupils has risen respectively from 199 to 347 and from 80,000 to 136,800. On the West Bank of the Jordan, it has risen from 1,188 to 1,548 and from 154,296 to 230,736. Besides this, four universities have been created—there was none before 1967. The quality of teaching has not deteriorated; on the contrary, and 'the mission was unable to detect the slightest violation, restriction or obstacle to freedom of religious teaching or human rights, and nothing justifies charges against the Israeli authorities of systematic action against the cultural identity of the populations.'"

I have obtained a copy of Mr. Henry's report, and the full text of it is reprinted in Appendix B.

A similar procedure was employed by UNESCO when it took up the question of Israeli archeological activity in Jerusalem. Once again, I have reference to the obervations of Dr. Lwoff:

"It is on the soil of Israel that the Jewish, Moslem and Christian religions were born. Jews and Arabs are Semites and both consider themselves descendants of Abraham. According to a famous phrase, Christianity is an Essene doctrine which has made good, and all the founders of Christianity were Jews. It is not surprising that the capital of Judea, the holy city, has attracted archeologists throughout the ages. Between 1863 and 1967 there were 46 digging companies and nine between 1967 and 1973. Dominicans and Franciscans dig, Armenians dig. American, English, Swedish schools have dug. No criticism has ever been lodged against the diggings except, however, those carried out under the authority of the Israeli Government. This has been the target of numerous complaints from Arab countries, and particularly from Jordan and Morocco which accuse these diggings of imperiling Moslem monuments. The report of Professor Lemaire, who was entrusted with a mission by the Director General of UNESCO, gives short shrift to the charges leveled against the Israeli diggings. The important fact is that no monument—Moslem or otherwise—has been damaged or endangered by these explorations. The diggings have produced many discoveries. Discoveries concerning the First and Second Temples dating back 27 centuries. Discovery of a building from the period of the Crusades. Discovery of a sixth century church which Justinian decided to have built. Discovery of Moslem buildings built by Abd El Melik. Discovery of a wall which has made it possible to trace the site of Jerusalem's first city wall. In the terms of a representative of the Director General of UNESCO (Report 19 C 113), 'the diggings were conducted with technical and scientific skill by specialists who knew their job.'

A UNESCO General Conference has also recognized that the diggings do not represent a danger for the monuments. Resolution 3,427 proclaims in effect that the diggings 'represent a danger as a result of the illegal occupation' of Jerusalem. It is impossible to be so clear without seeking to do so.

UNESCO's task is to promote science and culture and the Jerusalem diggings reflect the very spirit of its constitution.

THE LEGAL POINT OF VIEW

The General Conference of UNESCO wanted to found its successive condemnations on legal grounds. So it is appropriate to adopt a lawyer's approach.

The question of archaeological diggings was discussed during the negotiations for the Hague Convention in 1954, but the discussion did not produce an agreement. However, Article 39 the Hague Convention defines the procedures which must be followed to modify or amend the Convention. Indeed, the committee of experts appointed by UNESCO to prepare the 1956 Conference made the following remarks: 'The question (of diggings) raises complex problems which ought to be studied with the utmost care and which could only be solved by adopting arrangements embodied in a convention.' The 'recommendation' concerning international principles for archaeological diggings adopted by the 1956 UNESCO General Conference can in no way be considered as an amendment or a complement of the Hague Convention. The procedure provided for in the Hague Convention for changes or amendments has not been enforced.

Furthermore, the representative of the Director General declared during the 18th session (1974) of the General Conference of UNESCO: 'First of all, it is appropriate to remark that the Hague Convention of 1954 on the Protection of Cultural Property contains no provision which expressly forbids archaeological diggings in occupied territory. However, it is exact that a provision which appears in a recommendation adopted by the General Conference in 1956 'recommends occupying powers to refrain from undertaking diggings in occupied territory. It is not up to the Director General or the Secretariat to interpret these texts.'

The General Conference of UNESCO which followed, in no way took these remarks into account. The 1956 resolution served as the basis for many later resolutions and recommendations and as the basis for the condemnations which followed. *However, in no case can a resolution or recommendation of a UNESCO assembly, even the General Conference, take the place of an international convention.* The fact remains that since 1974 Israel has been the object of repeated sanctions and all assistance from UNESCO in the fields of science, education and culture has been withdrawn from it. The nineteenth General Conference (Nairobi, 1976) and the twentieth (Paris, November 1978) have once again voted and reaffirmed the sanctions. However, contradicting itself in an absurd manner, the General Conference, while condemning and applying sanctions against Israel, simultaneously asks for its cooperation, for example concerning education in the occupied territories.

UNESCO has given birth to a pyramid of resolutions, recommendations, condemnations and sanctions, all of which lack any legal basis or grounds in law. The pyramid is balanced on its point which is supported by a vacuum.

I may offer a personal note. From December 8–10 I was in Dublin where I received word of the death of former Israeli Prime Minister Golda Meir, and was asked by the President to be a member of the official United States delegation to her funeral. I reached Israel on December 11. After Mrs. Meir's funeral, I toured the archaeological sites in Jerusalem. I might also add that my wife, Elizabeth, visited these very sites last November and stated in a Washington *Post* article of February 20, 1979:

"On November 28, I was in Jerusalem and visited the South Wall with Professor M. Ben-Dov of Hebrew University, now in charge of the site. I have never seen an excavation conducted with such care and historical sensitivity. Far from damaging existing Moslem buildings on the Mount, the Israeli archaeologists have uncovered a previously unknown Islamic palace and complex of five other buildings of the Omayyad period (660–750) adjacent to the Wall. Apparently destroyed in the major earthquake of 747–748, the large buildings were then neglected and forgotten, became buried under debris and eventually built upon by later inferior buildings. Preservation of the remains and schematic reconstruction of the palace have been possible as a result of the painstaking excavations."

MANAGING THE OPERATIONS OF THE UNITED NATIONS

These episodes, revealing in their face, nonetheless point to another matter which must be of substantial concern. The United States, which contributes its customary one-fourth of the UN budget, seems to have been excluded effectively from the inner workings of the organization. Consider the highest ranks of the UNESCO secretariat. There is a Director General, and he is from Senegal. There is a Deputy Director General, from Spain. Then there are seven Assistant Directors-General, who head the seven sectors into which UNESCO's activities are divided. The head of the education sector is from the Soviet Union, the head of the science sector from Syria, the head of the social science sector from Peru, the head of external relations from Yugoslavia, the head of general administration from France, and the head of public information from Yugoslavia. These are the "commanding heights," and our Frenchman would appear to be the sole "democrat" in the lot. According to the latest Freedom House *Comparative Survey of Freedom*, France is the only one of the above mentioned countries which enjoys a "free" status; of the others, two are "partially free" and three are "not free." (January-February, 1978, Number 44.) More generally, the General Accounting Office surveyed the presence of Americans in UNESCO at the behest of the Senate Governmental Affairs Committee and its able chairman, Senator Ribicoff, and found, in mid-1977, that of some 71 "managerial" positions, Americans held seven, or about 9.9 percent. The U.S. is underrepresented throughout the UNESCO bureaucracy; even if that underrepresentation could be attributed to a shortage of Americans willing and or able, the exclusion of Americans from the *policymaking level* is clearly a political act.

It is time we took this situation more seriously. When performs these tasks does make a difference. There are, no doubt, many international civil servants who take seriously their pledge to remain immune from guidance from their own governments. Article 100 of the United Nations Charter is unambiguous as to what and whom UN employees are responsible:

"1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.

2. Each Member of the United Nations undertakes to respect the exclusively inter-

national character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities. (Charter of the United Nations, Chapter XV, Article 100.)"

A Soviet national cannot do this, and the question is otherwise moot. Were he of the sort who did not "cooperate" with the Soviet government, it would not allow him to take up the position in the first place.

For example, on May 20, 1978 Rudolf P. Chernyayev, a member of the Training and Examinations Service in the Division of Personnel Administration, and Valdik A. Enger, a Political Affairs Officer in the Department of Political and Security Council Affairs (Unit for Coordination and Political Information), were arrested by the FBI on espionage charges that they paid $16,000 for secret Navy antisubmarine warfare documents. A third Russian citizen, Vladimir P. Zimyakin, who was attached to the Soviet Mission at the UN, was also picked up, but was subsequently released because he had diplomatic immunity. On October 14, 1978 the two Soviet UN employees were convicted and six days later were sentenced to fifty years imprisonment each. At the U.S. Government's request, the two were freed pending their appeals. (Mr. Chernyayev, at the P3 grade enjoyed a salary of approximately $34,000, and Mr. Enger, at the P4 level, received approximately $41,000.)

It will also be remembered that in June of 1978, there were press reports describing the disappearance of Valdimir Rezun, an attache at the Soviet mission in Geneva. He surfaced two weeks later in Great Britain, having been granted political asylum, with his wife and two children. On June 29, 1978 West German newspapers reported that Rezun had identified several important Soviet international civil servants as agents of the KBG, the Soviet secret police. Mr. Geli Dneprovsky, who as Deputy Chief of Services in the Division of Personnel Administration received between $38,000 and $48,000 at his P5 grade, was one of those so identified; he was slated to become Chief of Personnel Administration for the UN's European headquarters in Geneva. The Secretary-General of the United Nations delayed his transfer to Geneva on July 5, 1978 pending his investigation into the allegations. On August 29 of 1978, Mr. Dneprovsky assumed the post of UN personnel director in Geneva along with its $100,000-plus salary; Mr. Waldheim had decided he would leave the decision to bar Dneprovsky's entry into the country up to the Swiss. Western protests about Dneprovsky's espionage affiliations had apparently been unavailing.

This is how the United Nation's bureaucracy responds when the United States is upset, and upset at a serious matter.

How does it respond when the Soviet Union is upset? The comparison is instructive. I quote some sentences from a news dispatch of December 12, 1978 that appeared in the New York Times:

"A student version of the United Nations General Assembly was barred from the Palais des Nations here today after its opening session yesterday led to a Soviet protest.

The Soviet mission to the international organization in Geneva was said to have objected to the adoption of a mock resolution calling for the ouster of the Ukraine and Byelorussia from the United Nations on the ground that the two republics are an integral part of the Soviet Union. A student delegate, supposedly representing the United Arab Emirates, said that the Soviet Union, like other countries, should have one vote and that the 1945 accord to give it three should be rescinded.

Zoya V. Mironova, head of the Soviet mission, who had been advised of the developments by a staff member, made the protest to the United Nations office.

Luigi Cottafavi of Italy, Director General of the office, then prevented the 500 students, most of them from Swiss and French high schools, from reconvening at the United Nations' assembly hall.

Four days later, another dispatch appeared in *The Times*:

"The United States has questioned the impartiality of United Nations officials who ejected 500 students from the Palais des Nations here at the demand of the Soviet Union.

The United States protest, in a letter signed and delivered by William J. vanden Heuvel, the United States Ambassador, said that Mr. Cottafavi had ousted the students 'in response to pressure from the Soviet Union,' and asserted that the move could only raise 'doubt whether ranking UN officials are capable of maintaining standards of impartiality.'

'My government cannot accept that United Nations officials violate the principles of free debate to appease any one or group of member states,' the letter continued."

An illuminating episode. The UN bureaucracy will not respond to the presence of a Russian spy in its midst; it will, and without delay, evict a group of high school students from its premises—for offending the Russians. Surely, this has something to do with those who work there. But just as obviously, it is not simply a bureaucratic or administrative matter.

This condition is not beyond remedy, but one wonders whether such remedies will arise spontaneously within the Executive Branch without substantial encouragement from the Legislative. It is a matter to which we in the Congress will turn as the pieces of relevant legislation make their way through the two Houses. In particular, I intend to raise before the Senate, as it considers appropriations for the coming year's contributions, the question of withholding funds which will be spent in violation of Article 100 of the UN Charter.

Surely, as a democracy, we have a powerful case to make about these organizations, products as they are of a particular democratic impulse, reflective as they once were of America's status as first power in the world. In this sense, certain things go together. I do not anticipate that the recovery of America's position in world organizations can proceed at a pace much faster than that of the recovery of American self-confidence and self-respect generally, and American power and prestige particularly. But none of these battles is, as yet, irrevocably lost.

APPENDIX A

TEXT OF THE UNESCO COMPROMISE DECLARATION ON A FREE FLOW OF WORLD NEWS

PARIS.—Following is the text of UNESCO's declaration on news organizations as adopted unanimously today by the organization's 20th General Assembly.

Draft declaration on fundamental principles concerning the contribution of the mass media to strengthening peace and international understanding, the promotion of human rights and to countering racialism, apartheid and incitement to war.

PREAMBLE

The general conference.

1. Recalling that by its constitution the purpose of UNESCO is to "contribute to peace and security by promoting collaboration among the nations through education, science and culture in order to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms" (Art. I, 1), and that to realize this purpose the organization will strive "to promote the free flow of ideas by word and image" (Art. I, 2).

2. Further recalling that under the constitution the member states of UNESCO, "believing in full and equal opportunities for education for all, in the unrestricted pursuit of objective truth, and in the free exchange of ideas and knowledge, are agreed and determined to develop and to increase the means of communications between their peoples and to employ these means for the purposes of mutual understanding and a truer and more perfect knowledge of each other's lives" (sixth preambular paragraph).

3. Recalling the purposes and principles of the United Nations, as specified in the charter.

4. Recalling the Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations in 1948 and particularly Article 19 which provides that "everyone has the right to freedom of opinion and expression, this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers", and the International Covenant on Civil and Political Rights, adopted by the General Assembly of the United Nations in 1966, Article 19 of which proclaims the same principles and Article 20 of which condemns incitement to war, the advocacy of national, racial or religious hatred and any form of discrimination, hostility or violence.

5. Recalling Article 4 of the International Convention on the Elemination of All Forms of Racial Discrimination adopted by the General Assembly of the United Nations in 1965, and the International Convention on the Suppression and Punishment of the Crime of Apartheid adopted by the General Assembly of the United Nations in 1973, whereby the states according to these conventions undertook to adopt immediate and positive measures designed to indicate all incitement to, or acts of, racial discrimination, and agreed to prevent any encouragement of the crime of apartheid and similar segregationist policies or their manifestation.

6. Recalling the declaration on the promotion among youth of ideals of peace, mutual respect and understanding between peoples, adopted by the General Assembly of the United Nations in 1965.

7. Recalling the declarations and resolutions adopted by the various organs of the United Nations concerning the establishment of a new international economic order and the role UNESCO is called upon to play in this respect.

8. Recalling the Declaration of the Principles of International Cultural Cooperation, adopted by the general conference of UNESCO in 1966.

9. Recalling Resolution 59(1) of the General Assembly of the United Nations, adopted in 1946 and declaring "Freedom of information is a fundamental human right and is the touchstone of all the freedoms to which the United Nations is consecrated, freedom of information requires as an indispensable element the willingness and capacity, to employ its privileges without abuse. It requires as a basic discipline the moral obligation to seek the facts without prejudice and to spread knowledge without malicious intent."

10. Recalling Resolution 110(ii) of the General Assembly of the United Nations adopted in 1947 condemning all forms of propaganda which are designed or likely to provoke or encourage any threat to the peace, breach of the peace, or act of aggression.

11. Recalling Resolution 127(ii), also adopted by the General Assembly in 1947, which invites member states to take measures, within the limits of constitutional procedures, to combat the diffusion of false or distorted reports likely to injure friendly relations between states, as well as the other resolution of the General Assembly concerning the mass media and their contribution to strengthening peace, thus contributing to the growth of trust and friendly relations among states.

12. Recalling Resolution 9.12 adopted by the General Conference of UNESCO in 1968 reiterating UNESCO's objective to help eradicate colonialism and racialism, and resolution 12.1 adopted by the General Conference of UNESCO in 1976 which proclaims that colonialism, neo-colonialism and racialism

in all its forms and manifestations are incompatible with the fundamental aims of UNESCO.

13. Recalling Resolution 4.301 adopted in 1970 by the General Conference of UNESCO in the contribution of the information media to furthering international understanding and cooperation in the interests of peace and human welfare, and to countering propaganda on behalf of war, racialism, apartheid and hatred among nations, and aware of the fundamental contributions that mass media can make to the realization of these objectives.

14. Recalling the declaration on race and racial prejudice adopted by the General Conference of UNESCO at its 20th session.

15. Conscious of the complexity of the problems of information in modern society, of the diversity of solutions which have been offered to them, as evidenced in particular by consideration given to them within UNESCO as well as of the legitimate desire of all parties concerned that their aspirations, points of view and cultural identity be taken into due consideration.

16. Conscious of the aspirations of the developing countries for the establishment of a new, more just and more effective world information and communication order.

17. Proclaims in this . . . day of . . . 1978 this declaration on fundamental principles concerning the contribution of the mass media to strengthening peace and international understanding, to the promotion of human rights and to countering racialism, apartheid and incitement to war.

ARTICLE I

The strengthening of peace and international understanding, the promotion of human rights and the countering of racialism, apartheid and incitement to war demand a free flow and a wider and better balanced dissemination of information. To this end, the mass media have a leading contribution to make. This contribution will be the more effective to the extent that the information reflects the different aspect of the subject dealt with.

ARTICLE II

1. The exercise of freedom of opinion, expression and information, recognized as an integral part of human rights and fundamental freedoms, is a vital factor in the strengthening of peace and international understanding.

2. Access by the public to information should be guaranteed by the diversity of the sources and means of information available to it, thus enabling each individual to check the accuracy of facts and to appraise events objectively. To this end, journalists must have freedom to report and the fullest possible facilities of access to information. Similarly, it is important that the mass media be responsive to concerns of peoples and individuals, thus promoting the participation of the public in the elaboration of information.

3. With a view to the strengthening of peace and international understanding, to promoting human rights, and to countering racialism, apartheid and incitement to war, the mass media throughout the world, by reason of their role, contribute effectively to promoting human rights, in particular by giving expression to oppressed peoples who struggle against colonialism, neo-colonialism, foreign occupation and all forms of racial discrimination and oppression and who are unable to make their voices heard within their own territories.

4. If the mass media are to be in a position to promote the principles of this declaration in their activities, it is essential that journalists and other agents of the mass media, in their own country or abroad, be assured of protection guaranteeing them the best conditions for the exercise of their profession.

ARTICLE III

1. The mass media have an important contribution to make to the strengthening of peace and international understanding and in countering racialism, apartheid and incitement to war.

2. In countering aggressive war, racialism, apartheid and other violations of human rights which are inter alia spawned by prejudice and ignorance, the mass media, by disseminating information on the aims, aspirations, cultures and needs of all people, contribute to eliminate ignorance and misunderstanding between peoples, to make nationals of a country sensitive to the needs and desires of others, to insure the respect of the rights and dignity of all nations, all peoples and all individuals without distinction of race, sex, language, religion or nationality and to draw attention to the great evils which afflict humanity, such as poverty, malnutrition and diseases, thereby promoting the formulation by states of policies best able to promote the reduction of international tension and the peaceful and the equitable settlement of international disputes.

ARTICLE IV

The mass media have an essential part to play in the education of young people in a spirit of peace, justice, freedom, mutual respect and understanding, in order to promote human rights, equality of rights as between all human beings and all nations, and economic and social progress. Equally they have an important role to play in making known the views and aspirations of the younger generation.

ARTICLE V

In order to respect freedom of opinion, expression and information and in order that information may reflect all points of view, it is important that the points of view presented by those who consider that the information published or disseminated about them has seriously prejudiced their effort to strengthen peace and international understanding, to promote human rights or to counter racialism, apartheid and incitement to war be disseminated.

ARTICLE VI

For the establishment of a new equilibrium and greater reciprocity in the flow of information, which will be conducive to the institution of a just and lasting peace and to the economic and political independence of the developing countries, it is necessary to correct the inequalities in the flow of information to and from developing countries, and between those countries. To this end, it is essential that their mass media should have conditions and resources enabling them to gain strength and expand, and to cooperate both among themselves and with the mass media in developed countries.

ARTICLE VII

By disseminating more widely all of the information concerning the objectives and principles universally accepted which are the bases of the resolutions adopted by the different organs of the United Nations, the mass media contribute effectively to the strengthening of peace and international understanding, to the promotion of human rights, as well to the establishment of a more just and equatible international economic order.

ARTICLE VIII

Professional organizations, and people who participate in the professional training of journalists and other agents of the mass media and who assist them in performing their functions in a responsible manner should attach special importance to the principles of this declaration when drawing up and insuring application of their codes of ethics.

ARTICLE IX

In the spirit of this declaration, it is for the international community to contribute to the conditions for a free flow and wider and more balanced dissemination of information, and the conditions for the protection, in the exercise of their functions, of journalists and other agents of the mass media. UNESCO is well placed to make a valuable contribution in this respect.

ARTICLE X

1. With due respect for constitutional provisions designed to guarantee freedom of information and for the application of international instruments and agreements, it is indispensable to create and maintain throughout the world the conditions which make it possible for the organizations and persons professionally involved in the dissemination of information to achieve the objectives of this declaration.

2. It is important that a free flow and wider and better balanced dissemination of information be encouraged.

3. To this end, it is necessary that states should facilitate the procurement, by the mass media in the developing countries, of adequate conditions and resources enabling them to gain strength and expand, and that they should support cooperation by the latter both among themselves and with the mass media in developed countries.

4. Similarly, on a basis of equality of rights, mutual advantages, and respect for the diversity of cultures which go to make up the common heritage of mankind, it is essential that bilateral and multilateral exchanges of information among all states, and in particular between those which have different economic and social systems be encouraged and developed.

ARTICLE XI

For this declaration to be fully effective it is necessary, with due respect for the legislative and administrative provisions and the other obligations of member states, to guarantee the existence of favorable conditions for the operation of the mass media, in conformity with the provisions of the Universal Declaration of Human Rights and wth the corresponding principles proclaimed in the International Covenant on Civil and Political Rights adopted by the General Assembly of the United Nations in 1966.

APPENDIX B

To the Director General of UNESCO:

DEAR MR. M'BOW: I have pleasure in enclosing herewith, the text of the report on the mission which you designated to visit the Israeli occupied Arab territories. This report has been signed by all the members of the mission and is divided into three parts, including two main annexes (it goes without saying that the texts and documents, which were given to the mission by the Israeli authorities and also by certain Arab authorities, will be added to the final report).

Part I (pages 1 to 17) consists of a general introduction describing the conditions under which the mission was carried out, and includes reflexions (of a general nature) on the situation prevailing in the occupied territories and the different constraints which affect the functioning of the educational and cultural system in these territories.

Part II (pages 18 to 32) is a descriptive section, including the following sub-chapters:

General system of education and teacher-training (paras. 26–30);

Higher education (paras. 31–40);

Cultural institutions (paras. 41–43);

Censorship (paras. 44–45);

Recommendations (pages 33 to 36).

Annexes: (one of which has not yet been translated into French):

Annexe I: Educational system (detailed description);

Annexe II: Higher Education (detailed description of existing centres).

I should like to take this opportunity of reiterating the intellectual and moral satisfaction which I have experienced in the accomplishment of this mission, in collaboration with such eminent, qualified and objective colleagues.

I have the honour to be . . .

PART I—GENERAL INTRODUCTION

1. The UNESCO General Conference has repeatedly examined the situation of the territories placed under an occupation régime by the Israeli Armed Forces, following the 1967 war.

The relevant Resolutions are as follows:

(a) Resolution 13.1, adopted at the 18th Session;

(b) Resolution 15.1, adopted at the 19th Session.

2. In Resolution 15.1 (22nd November, 1976) the General Conference once again expressed its concern as to the situation of the population of the Israeli occupied Arab territories, who:

'. . . do not fully enjoy their unalienable rights to the education and cultural life, commensurate with their normal aspirations and their national identity".

The General Conference requested the Director General to implement his decision to send a fact-finding mission to the occupied territories to study the situation on the spot, as soon as was practically feasible.

3. After intensive consultation, the Israeli Government (while reserving its position concerning the above-mentioned Resolution) informed the Director General that a group of independent experts—selected and named by him personally—would be invited to visit the occupied territories, in order to be able to submit a report to him which was based on information gathered on the spot.

4. The mandate of this group of experts followed the general terms of the recommendations of Resolution 15.1; that is to say that the group was to "evaluate to what extent the population of the Arab occupied territories had access to the education and culture respecting their national identity." It was concerned with collecting "on-the-spot information on: the general conditions under which the right to education is ensured and instruction provided in the occupied Arab territories, with particular reference to curriculum content; the nature, origin and content of the text-books used; the numbers, origin, situation and qualifications of teachers; the number and state of educational premises, together with the school-enrollment trend."

The group was also entrusted with studying the conditions affecting cultural life and especially the means of cultural expression and development available to the population of these territories, the freedom of religious teaching, and the freedom of access to sources of culture and information. To sum up, the task of the mission was to gather on-the-spot "information on the situation of education and that of cultural life".

Conditions and constraints which affected the progress of the mission in Israel:

5. It was only after prolonged negotiations with the Israeli Government, concerning the composition of the mission and the conditions relating to the operation of their mandate, that the mission were able to go to Israel from 26th February to 7th March, 1978.

It had been agreed that the mission would last for approximately two weeks, that their programme and itinerary would not be determined ahead of time, but would be organized after discussions with the Israeli authorities who were directly concerned locally and on the spot, and who would present certain proposals. Insofar as travelling within the occupied zones was concerned, the Head of mission would be allowed to make appropriate decisions, while taking the general constraints resulting from the local situation into account.

6. The mission were greeted with great courtesy on the part of the Israeli authorities. The fact must be underlined, however, that the mission operated at the level of the occupation authorities as such, that is to say in conjunction with the military commander of the occupied territories (General Orly) and the subordinate commanders of the different territories—all of whom are directly subordinate to the Ministry of Defence.

7. Throughout their entire programme, the mission were accompanied by qualified representatives from the Ministry of Foreign Affairs, the Ministry of Education and Labour, but from the official point of view, there was no single opportunity provided for a discussion, at an official level and with ministers versed in Government policy, of the attitude towards the occupied territories and their future. *In the circumstances, this attitude is understandable.* The great difficulties that the mission encountered, while trying to conceive feasible plans with regard to certain realistic "scenarios" for the development of the occupied territories and the future of their population, inevitably affected the evaluation of a siutation which, however transitory it may appear, remains basically uncertan and problematical.

8. During the first meeting, which was held in Jerusalem, under the chairmanship of General Orly, and in the presence of highly competent representatives of the military government of the occupied territories and of the appropriate ministries, the Israeli authorities' attitude towards the mandate of the mission was clearly defined. The Israeli authorities made a point of insisting on their general reservations with regard to Resolution 151 of the 19th Session of the General Conference while, at the same time, reiterating that the physical presence of the mission in Israel was a proof of the Israeli Government's good-will with regard to the Director General of UNESCO, whose idealistic and objective attitude was much esteemed.

The Israeli authorities proposed an extremely wide programme for visiting scholastic, university, cultural and religious establishments at all levels and in all the occupied regions, while—at the same time—offering to put all logistic means possible at the mission's disposal in order to facilitate their task. The military authorities, being responsible for security, requested to be informed well in advance of any visits which were planned and the consequent movements of the group. It was pointed out that not only the security of the members of the mission was being considered, but security in the widest sense of the term.

9. Confronted with such a situation, the Head of mission and his colleagues, agreed to accept the programme as proposed in its general terms, while stipulating that they reserved the possibility of modifying details at any time by request. At the same time, a list of people the mission wished to have the opportunity of meeting (which had been drawn up in consultation with certain Arab personalities concerned) was given to the Israeli authorities, with the request that they facilitate the contacts (which, generally speaking was done, with the exception of certain people who were met later on in Jordan).

10. On the basis of this general agreement, the military authorities assisted the mission in every way to the best of their ability. They supplied all the automobile and air transport necessary for far-away areas such as Southern Sinai and the Golan Heights.

All the requests put forward by the mission were granted, with the following three exceptions:

(a) It proved impossible for the mission to visit the University of Bir-Zeit as a group. It was only after repeated requests that the mission were finally able to meet Dr. Gari Baramki, Vice Chancellor of the University, in Jerusalem (it was, however, finally possible to assemble all relevant information);

(b) For various reasons, the mission were unable to meet the governmental Commission responsible for censorship, and the information (both written and oral) which the mission were able to gather is quite insufficient;

(c) The Israeli authorities did not deem it necessary to organize contacts with the teaching staff of the different schools, mostly of primary level, which operate under the authority of UNRWA. Here again, certain contacts and visits were able to be organized by the members of the mission without the direct, or indirect, assistance of the authorities.

11. During the first meeting the group had with the commander of the occupied territories, General Orly had assured the mission that they would have free scope to establish contacts considered to be indispensable to the accomplishment of their mandate. Practically speaking, however, most of the visits took place in the presence—and sometimes even with the active participation—of military or civilian Israelis.

12. The mission feels obliged to mention, however, that in strict contrast with the general climate of discipline and concern for security which obtains in the occupied territories and which did not fail to affect the progress of the mission—in a more or less pervasive way—they nevertheless had many opportunities of meeting outstanding Israeli personalities, from governmental as well as university circles, in an informal and frank atmosphere. On these occasions it was possible to exchange ideas freely and to ask questions which greatly transcended the specific scope of the mission.

During a final meeting with General Orly and his colleagues, the Head of mission expressed their sincere thanks to the Israeli authorities for their extreme goodwill, taking into account the inevitable constraints which are attached to the situation of the occupied territories as such, and also to the nature of the very fact of military occupation, during which security considerations (either long or short term) remain predominant.

Supplementary information collected during the mission's visit to the Arab countries concerned:

13. Following the invitation by the governments of the Arab countries directly concerned, the mission visited the following countries: Jordan, Syria (where they also met the official representatives of the P.L.O.), the Lebanon (in order to discuss the question with the UNRWA Director General and his colleagues) and finally Egypt (where they were able to meet the Secretary General of the Arab League, the leaders of ALECSO, and those of the Association of Arab Universities).

14. It is not our intention to consider here, in detail, the views of the Arab governments and organizations concerned. These views are sufficiently well known, and have been the central pivot of numerous consultations within the context of the debates at the Nairobi General Conference, as well as on certain occasions at Unesco itself. It must, however, be underlined that the authorities, at the governmental as well as the regional level, showed a great interest in the mission, proved by the very fact that it had been allowed to take place, and that first-hand information had thus been acquired.

The mission were given many documents, and certain statistics were checked out. As far as the very special case of Jerusalem was concerned, the municipal authorities of the town (now living in Amman, as are the exiled religious authorities) expressed their point of view vigorously and with great clarity.

It had also been possible to collect supplementary information (in Jordan, Syria and Egypt) about the level of Palestinian students coming from the occupied territories, about the progress of their studies and about their professional organization in the Arab countries. Given the special links which continue to exist between Jordan and the West Bank now occupied by Israel, and the numerous contacts which continue to flourish between the two banks of the Jordan river, the political and university authorities of Amman are particularly well placed to evaluate the situation and its evolution. Not only that, but, the Jordanian universities represent—to some extent—a valid reference system by which one could measure the relative backwardness of the secondary and higher educational institutions in the occupied zones.

15. While in Damascus, the mission met the Director General of Education for the P.L.O., and also other important officials of the civilian branch of the Organization. At this stage one must point out that the P.L.O. is virtually organized like a government in exile (without having the official legal backing) and is responsible for a Palestinian nation which consists of more than three million people, of whom approximately one million live in the occupied territories, and nearly two million in the Arab countries, a majority of whom are technically "refugees" in the international sense of the term (that is to say according to the UNRWA criteria ratified by the General Assembly of the United Nations).

Concerning the educational and cultural aspect, the P.L.O. is particularly pre-occupied by the problem of maintaining the cultural identity of the Palestinians in the occupied territories. To this extent the Organizations' pre-occupations coincide with the mission's concern in that they fear that an educational and cultural system, directly or indirectly based on an alien environment (that of the occupier) runs the risk of causing it ultimately to lose its true significance. The occupation contributes to the erosion of the Palestinian national identity by favouring the emigration of the young to other countries, while at the same time causing the social integration of students trained in foreign universities to be highly problematical and, generally speaking, by progressively confirming the occupied territories' economic and social dependence with regard to Israel. One can fully appreciate that as far as the P.L.O. is concerned, the university situation, that is to say the existence of university centres situated in the present occupied territories and corresponding to the long term needs of the Palestinian people, should be a key question. It should be noted, for further information, that the P.L.O. suggests that UNESCO should play a more active role in the occupied territories to ensure that the Palestinians have access to the higher education which they need in order to affirm their autonomy and their identity.

International legal aspects concerning the educational institutions in the Arab territories occupied by Israel since 1967:

16. According to the decisions taken by the United Nations' Security Council and the numerous resolutions of the General Assembly, concerning the present situation which results from the Israeli occupation of Arab territories following the 1967 war (and including the part of the town of Jerusalem which was occupied by Jordan, according to the demarcation line of 1948 and now "administered" by Israel), these territories are to be considered as "occupied territories". The principles of international law and the standards governing the status of the occupied territories should therefore be applied and, in particular, articles 42 to 56 of the ruling annexed to the 4th Hague Convention (1907) and the 4th Geneva Convention (12th August, 1949).

It would appear relevant to reiterate the main points at issue:

17. According to these principles, although the Occupying Power has no actual sovereignty over the occupied territory it is, in some degree, the "manager" of this territory. In this capacity it has not only rights, but also obligations towards the territory and its inhabitants. One of its most important duties is precisely that of the satisfactory administration of the territory.

Given the fact that the occupation is a durable situation, the occupier must necessarily introduce a certain infrastructure in order to ensure military security and public order, as well as to ensure the functioning of the administration of the territory.

This administrative and management function that the Occupying Power is called on to supply, should in no way be substituted for the legal system that was in force before the occupation, which retains its validity in its entirety; the Occupying Power must make no changes to the laws or to the constitution except in cases where it can justify that the maintenance of security and of public order specifically require them.

The occupier must administer the territory taking into account the respect for security and public order, of family rights, of private life, of liberty and religious beliefs, in conformity with article 46 of the ruling at The Hague. The 4th Geneva Convention contains a similar clause in article 27.

The general principle is thus that the personal status of protected persons must be respected. The educational domain is of particular importance in this connection. Modification of the educational system cannot be envisaged without violating article 43 of the Hague ruling.

As far as the 4th Convention is concerned, article 50 states that:

"The Occupying Power, with the help of the local authorities, will facilitate the good functioning of establishments devoted to the care and education of children".

The present article does not specify an age limit for the children concerned; the upper limit of 15 years could be taken as a criterion (this is the age mentioned in the other articles of the Conventions), but the limit could also be interpreted as covering adolescents until the age of their majority.

18. It must be pointed out that Israel refuses to recognize formally that the Geneva Convention, concerning the protection of civilians during wartime, is applicable to the inhabitants of the occupied territories. The Israeli authorities, in fact, maintain that the Geneva Convention stipulates a "partial or total" occupation of "territories belong to one of the signatories of the Convention". Now, as it happens, the occupation of the West Bank (of the Jordan) by the Hashemite Kingdom, and then the annexation of this region by Jordan (the Hashemite Kingdom of Jordan) in 1950, was recognized in 1967 only by Great Britain and Pakistan. As to the Gaza Strip, ever since 1948 Egypt was only considered as an "Administrative Power". The situation of the Golan Heights, as that of Sinai, is clearer, since in these two cases one is concerned with territories based on Syrian and Egyptian sovereignty respectively, and now occupied for purely military reasons.

As far as Jerusalem is concerned, Israel states positively that the section of the town which came under the jurisdiction of the Jordanian authorities before the 1967 war is now an integral part of Israeli territory. This statement is, of course, a unilateral decision which, however and as from now, comprises certain legal effects on the interior level, since the inhabitants of the ex-Jordanian section of Jerusalem are considered as dependent on the Israeli sovereignty in the same way as the inhabitants of Arab origin living in specifically called Israeli territory since 1948.

Considerations relative to Human Rights:

19. Quite apart from the purely legal aspects of the occupation situation, it must be mentioned that the UNESCO Director General asked the mission to take into account all the aspects of the educational and cultural situation in the territories concerned which have particular relevance to his concern with regard to the protection of cultural values and cultural identity.

At the 19th Session of the General Conference held in Nairobi, the Director General had insisted on "the close connection between past and present", and had underlined "the urgent necessity for the preservation and the promotion of authentic cultural values and for the affirmation of a cultural identity which should be not only specific but open-minded and dynamic". The affirmation of a cultural identity is necessary because "the criterion of all true development is to be qualitative and no longer merely quantitative". In this connection, it is worth recalling that article 26 of the Universal Declaration of Human Rights recognizes the right to education as a fundamental right. Article 13 of the International Convention concerning economic, social and cultural rights and article 5 of the Convention on racial discrimination are also applicable in this connection.

20. Article 26 of the Universal Declaration of Human Rights states that:

"Each individual has the right to education. Education must be free, at least insofar as basic and elementary education are concerned. Elementary education is compulsory. Technical and professional education must be generalized; access to higher education must be open in full equality to all according to their merit.

Education must aim at the full blossoming of the human personality, and at the reinforcement of the respect of Human Rights, and of basic freedom. It must favour understanding, tolerance and friendship between all nations and all racial or religious groups, as well as the development of the activities of the United Nations for the maintenance of peace.

Parents have the right to have priority in the choice of the type of education to be given to their children".

Article 27 of this Declaration protects cultural life in these terms:

"Each individual has the right to take part freely in the cultural life of the community, to enjoy the arts and to participate in the scientific progress and benefits which derive therefrom."

General remarks about the defacto situation of the occupied territories:

21. It must be remembered that the mission had not been entrusted with making an in-depth study on the facts attacking the Rights of Man in a global sense, but to register these facts insofar as they actually directly affect the educational and cultural institutions. Various reports concerning these facts have been prepared and submitted to the appropriate international authorities, such as the International Red Cross and the United Nations (as to the details concerning UNRWA). The documents collected by the mission will be included as annexes to the present report.

Furthermore, the Israeli authorities do not claim that their presence in the West Bank or in the Gaza Strip has met with the approval and agreement of the population concerned. They have not attempted to conceal the difficulties they have encountered with their occupation policy, and have admitted, that in this respect, the first three years of occupation had been extremely difficult. The Ministry for Foreign Affairs pointed out with satisfaction (in its memorandum No. 10, dated February 1974 and entitled "The Administered Territories, Aspects of the Israeli Policy") that since July 1970 "the incidents had practically ceased". This does not prevent the fact that relatively numerous and recent incidents, particularly in the West Bank, prove that a certain tension inevitably results from the continuance of an occupation policy as it is felt by the population concerned. This reality is an important factor in the life and evolution of the educational and cultural institutions of the occupied territories. The requirements of military security lead to repressive measures, some of which are of a particular nature, and which have important repercussions on the educational system of the territories, because they impose a series of constraints which manifestly prevent the free exercise of an independent cultural life.

General remarks concerning the problem of cultural identity:

22. The mission was required to examine whether the Israeli authorities had used the educational and cultural institutions, up to the present time, as the direct instrument of a policy aimed at modifying profoundly the cultural identity of the occupied population. A special chapter of this report is dedicated to the important question of censorship.

Generally speaking, the policy followed seems to stem from considerations of security rather than from a deliberate desire to undermine the foundations of Arab culture. It would be appropriate at this point to distinguish between Arab culture as such and the cultural aspects of the developing Palestinian identity. It is difficult to separate this question from the more general problem posed by the cultural and political co-existence of a large Arabic-speaking population, of Islamic or Christian religion, in Israel proper. In fact, movement of persons between the occupied zones and Israel proper is in effect totally free. It is also difficult to tell whether the messages diffused at all levels by the Israeli authorities and in all fields (via the mass-media for example, and radio and television in particular) are likely, sooner or later, to undermine the Arabo-Palestinian cultural identity. All that one can say at this stage is, that the capacity for cultural resistance by a dominated and occupied population is necessarily less developed than that of a population which participates fully in the political life of the country.

23. In spite of the fact that the mission had neither the mandate nor the possibility to make a comparison between the conditions existing in the occupied territories, and those which affect the Arab population living in Israel, they were given the opportunity of visiting the Israeli radio-television studios and of ascertaining that there was a tendency toward the development of radio and television programmes in Arabic. On the Israeli side, one can discern a certain leaning towards a form of Hebro-Arabic bi-lingualism in the Israeli territory, which is facilitated by the fact that a large number of Israelis themselves originally came from the arabo-phone regions of North Africa and the Near East.

24. It is impossible to evaluate the cultural importance of the mass-media. Let it be borne in mind, however, that all the populations of the occupied territories, and particularly those in the West Bank, have access to television emitted by the Arab countries, as well as to the radio-diffusion. The effects of these contradictory messages would be well worth an in-depth study, which the mission had neither the means nor the time to undertake satisfactorily.

A certain type of reasoning exists according to which the present problems of co-existence in the occupied zones (like those between Israel and the Arab countries), are the result of the inevitable clashes between a society which is young, modern, democratic, highly developed from the scientific and technical point of view, and whose way of life reflects this development on the one hand and, on the other hand, the traditional Arab civilisation constrained by archaic values advancing at a slower pace along the way traced by the western model followed by the Israeli society. This view is certainly widespread not only in Israel but also in western circles. Without any doubt, this stems from an ethnocentric way of thought, which pre-supposes the existence of only one type of rationality and of one model for society, that being the way of the West. It must be added that this rationality is challenged in Israel, even as it is in the West. The debate on this point is in progress throughout the appropriate UNESCO channels and committees. The mission can only take note.

Descriptive analysis of the systems of education in the occupied Arab territories:

25. The critical and descriptive analysis of the systems of education and of the cultural infrastructure is presented under the following headings:

(a) The general educational system and teacher training;

(b) Higher education;

(c) Cultural institutions.

An analysis of the problem of censorship will be the subject of a special chapter. In the last section, and in the form of a conclusion, recommendations will be presented with regard to a possible orientation of UNESCO's policy concerning the occupied territories.

PART II—GENERAL SYSTEM OF EDUCATION AND TEACHER TRAINING

26. A detailed description of the educational systems in the Gaza Strip and Sinai (which follow the system in Egypt), in the West Bank, which follows the Jordanian system, and in the Golan Heghts where the system tends to follow that in Israel, is included as an annex to the present chapter. The main body of information, including the figures quoted, is drawn from a document entitled "Educational and structural situation in the Administered Territories", published by the Ministry of Defense for Israel in November, 1977. Statements made by Israeli authorities, by directors of schools and those officials responsible for educational establishments visited by the mission, have also been taken into account. Further information has also been gathered from independent sources.

27. As far as education is concerned, the major complaints by Arab countries against education in the occupied territories are that:

(a) The standard of education has declined since the occupation, in comparison with the standards in Jordan and Egypt; the countries which were responsible respectively, until 1967, for the Graza Strip and the West Bank;

(b) The supply of teachers is inadequate in quantity and in quality, due to unsatisfactory training; and

(c) Teachers and students in the various education institutions suffer a multitude of vexations and are the object of arbitrary sanctions on the part of the military authorities.

28. Given the fact that the mission was a straight-forward fact-finding mission and was neither authorized nor equipped to carry out a thorough inspection or a detailed evaluation, it is far from easy to establish comparisons between the standards of education in the West Bank and Jordan itself for example, or between the Gaza Strip and Egypt. It should have been possible to visit schools of a comparable level in the Arab countries concerned; unfortunately the mission did not have the time to do so and, in any case, such comparisons are not easy to make.

It would appear, however, that the results of the "matriculation" examination could be taken as a valid criterion. According to the statistics provided by the Israeli authorities, the standards have been maintained, and even slightly improved since 1967. We have received no indication from either Jordan or Egypt contradicting this statement. Indeed, students coming from the occupied zones continue to be admitted into the universities in Jordan and Egypt in the normal fashion. This might indicate that the students coming from these zones have reached an adequate level. It must be noted, however, that a quota system exists which guarantees about 1,000 places for students coming from the Gaza Strip—but the quota is not necessarily filled. Jordan also has its quota for each educational district, the West Bank being regarded as a district for this purpose. The University of Amman organizes intensive courses for all its first year students before they go on to their normal university studies. It would seem that there is very little difference in the level between the students from Jordan and those coming from the West Bank. However, compared with the schools in Amman, the general quality of education of West Bank schools had apparently gone down, relatively speaking. This might well be the case, but to be a valid argument it would seem fairer to compare performance in the West Bank with performance in Jordan as a whole.

As far as the Gaza Strip is concerned, the Egyptian authorities recognize that the quality of education in the area is fairly good and that students coming from this zone do well in the Matriculation examination which is the same as in Egypt and, indeed, administered by the Egyptian education authorities.

29. Generally speaking, the mission received a positive impression from the majority of schools visited in the West Bank and Gaza. Students and professors seem positively interested by their work. The level of the teachers, however, does not always appear to measure up to the required standards. This question definitely merits further study. At all events, it would appear that the Israeli authorities were not making any deliberate attempt to lower the quality of education in the educational institutions in the occupied territories. On the contrary, certain Israeli educators maintained that they could have improved the level and brought the quality of education to the standard reached in the Israeli school system, if the Occupying Power had not been tied down by its obligations to follow the Egyptian curriculum in the Gaza Strip and Sinai, and the Jordanian curriculum and text-books in the West Bank.

30. However, it seems quite clear that the standard of education in the occupied territories is not as good as it could have been in normal circumstances and that the prevailing situation is not favorable to the normal running of the educational system. The main difficulties are:

(a) The censorship of text-books. This question is treated in a more general way in a special chapter. Text-books in the West Bank have to be approved successively by the Jordanian authorities (who are still responsible for the overall system), by UNESCO itself and finally by the Israeli authorities. This cascade of approbations results in long delays before the text-books can be put into circulation. The Arab authorities also complain about the fact that entire passages, regarded as of great historical, cultural or national interest, are deleted from the text-books. For their part, the Israeli authorities claim that they never substitute passages, but merely delete sections which they consider likely to encourage hatred, subversion and violence;

(b) Conditions of service for teachers. With the possible exception of the teachers who are dependent on the Jordanian administration (that is to say those who were already employed in the West Bank at the time of the Israeli occupation), and who enjoy two salaries—the basic Jordanian salary and also a salary from the Israeli authorities—the majority of teachers considered themselves as poorly paid and are obliged to accept other jobs in order to be able to support their families. One can note a certain desertion of teachers from the teaching profession, which creates undoubted difficulties for recruitment into the teacher-training establishments;

(c) School equipment. The situation with regard to school equipment is not satisfactory, generally speaking, and in particular as far as libraries are concerned (the only library we visited of an acceptable standard was the one at the "El Arouv Teacher Training Seminary/Agricultural School"; and even here it must be added that the Arab section was very poorly stocked). Most of the elementary and secondary schools are poorly endowed. As for science teaching, this cannot be satisfactory without the use of adequate science teaching equipment; theoretical teaching at the black-board is just not sufficient. It is well known that the quality of scientific and mathematical teaching depends on the quality of the professional teaching at all levels (it should be mentioned here, that import duty is imposed by the Israeli authorities, even on equipment specifically imported for teaching purposes);

(d) Frequent interruption of school activities. There were many complaints, particularly in the West Bank, about the occupation authorities descending upon institutions at the slightest provocation and interrogations of a police-like nature which sometimes lead to detention or to the payment of high fines. It is obvious that these interruptions are linked with security reasons, but they are certainly not conducive to continuing and effective work. In fact, the institutions of higher education suffer most from this state of affairs, but so do the secondary schools;

(e) Exit Regulations. All young people between the ages of 16 and 26 years must obtain a permit in order to be able to leave the West Bank (this permit is generally given to them), but once out, they are not permitted to re-enter the occupied territories under six months. This means that students who wish to visit Jordan or other Arab countries with a view to admission into the universities, can find themselves in a difficult position if they are not lucky enough to be admitted and yet are not allowed to return home. Furthermore, students who have permits to study in Europe and America are virtually condemned to a permanent exile unless they can renew their permits in person every year after the first year of their absence. The negative effects of this Regulation are obvious. Some people consider this to be an indirect way on the part of the Israeli authorities to encourage a "brain drain" out of the West Bank.

HIGHER EDUCATION

31. From the point of view of Higher education, one must make a distinction between the situation in the Golan Heights, the Gaza Strip and Sinai, on the one hand, and the situation in the West Bank on the other hand.

(a) As for the first-mentioned regions, one can not but underline the inexistence of university centres in these zones. This can be explained by the fact that until the 1967 war, the Golan Heights were an integral part of the Syrian state, Sinai was an integral part of the Egyptian state and the Gaza Strip was under Egyptian military administration. Consequently, the students from these regions who wished to pursue higher studies automatically went to the University of Damascus and to the Universities of Cairo and Alexandria. A detailed section of supplementary information on the present situation in these regions, with particular regard to the running of the system of grants, is included as an annex;

(b) In Cisjordania (West Bank) there are now three centres of Higher education (Hebron, Bethlehem and Bir-Zeit) which can be termed "Universities" from the formal and juridical point of view, although there are serious lacunae in their organization (a detailed description of these centres is also to be found as an annex). In addition, there is a preliminary outline of a Higher educational institution at Nablus.

32. It is worth recalling the main criticisms presented by the Arab countries, in general terms, concerning the over-all situation of education in the occupied territories. They can be divided into four categories:

(a) Serious difficulties encountered by students and professors following the repressive actions by the Israeli occupation forces in the Palestinian towns where centres of a university character, or centers for higher professional training exist (Hébron, Bir-Zeit, Bethlehem and Nablus). Cf. "Report of the Special Committee to investigate Israeli practices affecting the Human Rights of the Population of the Occupied Territories" UN General Assembly A/32/284, of 27th October, 1977;

(b) Insufficiency of Arab centres of Higher education in the occupied territories in relation to the school population of these zones which is in continual demographic growth, which situation is aggravated by the massive influx of refugees coming from other regions of Palestine (Cf. Resolution 15/19/CG; and relevant documents of the UNRWA/UNESCO Department of Education);

(c) Absence of certain faculties in the university centres of the occupied territories which are absolutely indispensable for the future of the Palestinian students. One can note in particular, that there is neither a faculty of medicine, of civil engineering, of architecture, of agriculture nor of economics. One must also mention the practical difficulties encountered by the Arab students of these centres when they wish to go to universities in the neighboring Arab countries (Cf. various communications from the permanent Delegations of Syria, of Egypt and of Jordan to the Director General);

(d) Lack of autonomy of the Arab university centres in the occupied territories. They are not allowed to draw up their study plans and programmes with any freedom. They have no free access to indispensable texts and books nor to educational material in general. The practices of the occupation authorities are detrimental to the "cultural identity" and the political attitude of the Arab students.

33. Detailed comments on each establishment, on the personalities encountered and on the documentation which was collected are included as annexes.

34. Insufficiency of true universities.

The mission are obliged to state that the present "university centres" are totally insufficient to measure up to the needs of the population of the occupied territories, taking into account their demographic expansion and also the great number of potential young students qualified under the category of "refugees". This insufficiency is even more obvious if one compares these centres with the universities of the State of Israel and those of the neighbouring Arab countries.

One only of these centres can in fact be considered as a true university strico sensu, comparable with the other universities of the Arab world and, moreover, accepted as a member of the Association of Arab Universities. The centre at Hébron is basically an establishment devoted to Islamic religious formation. The Bethlehem centre concentrates on Humanities and Natural Sciences. It is still too soon to speak about the university centre at Nablus, since it has only just begun to operate. It is only the centre at Bir-Zeit, therefore, that can be considered as a university stricto sensu.

35. Basic lacunae in the composition of the universities.

Not only are the four universities mentioned insufficient in themselves to satisfy quantitatively the needs of a rapidly growing school population, but they are lacking certain faculties, departments or institutes which are indispensable for the formation of students with regard to activities contributing to the general development, such as medicine, pharmacy, chemistry, civil engineering, architecture, electronics and agriculture. There is, in fact, no existing infrastructure to promote scientific and technical studies at a high level. The fragmentary character of certain aspects of the teaching of social and political sciences must also be underlined.

36. Obstacles regarding the choice and recruitment of professors.

(a) First of all there are obstacles of an economic character, given the insufficiency of the material resources at the disposal of the universities;

(b) There are also administrative problems whenever there is question of professors coming from abroad. It is difficult, for example, to obtain the services of "visiting professors" under the existing rules. These difficulties, which are theoretically administrative, are in fact political.

37. Difficulty of access to educational equipment.

Access to educational equipment is not merely complicated by economic difficulties but also by those difficulties which are linked with censorship (see the chapter on censorship, paras. 44 and 45).

38. Violations against the freedom of teaching.

The mission were unable to detect any violations, restrictions or obstacles with regard to the freedom of religious teaching or that concerned with Human Rights (apart from the suppression of certain texts for reasons of security).

On the other hand, the violations and difficulties which stem from the activities of the security forces have already been pointed out, and contribute to a deterioration of the moral climate under which the universiy work operates.

39. Problems encountered by the students.

These problems stem basically from the absence of certain faculties, which cause serious professional frustrations for many young Arabs, and which add to the economic difficulties encountered by their families in the financing of their children's studies in other Arab countries. Moreover, many highly qualified young Arabs are unable to find professional employment commensurate with their diplomas in their home territory. Naturally students are more sensitively aware to political problems than other people and are directly affected by the repercussions of the constraints of all types which are linked to the situation in the occupied territories.

40. General remarks.

If the cultural identity of the populations concerned was exclusively concerned with the religious beliefs and practices of the Musulman and Christian Palestinians, it would be unfounded to accuse the Israeli authorities of a systematic action opposed to this cultural identity. Insofar as the general question of "westernization" is concerned (particularly with regard to co-education, the promotion of role of women and the predominance of lay or secularizing currents of thought) it has already been pointed out that this is a question which goes far beyond the specific problem of the occupied territories.

CULTURAL INSTITUTIONS

41. As their approach to the analysis concerning the cultural institutions, the mission made up of the four basic objectives within the framework of the operations to be undertaken as first priority by the National fund for the promotion of culture:

(a) Polyvalent centres for research and creativity;

(b) Cultural programmes on radio and television;

(c) Publications;

(d) Festivals and exhibitions.

Throughout their whole visit to the occupied territories, the mission were not invited to visit a single cultural centre. It would appear that, apart from the social welfare and community centres (as found in Sinai), not one single "cultural foyer" or "cultural club" exists—to our knowledge. Nor, to our knowledge, is there a single municipal theatre where local groups could perform within the Arab municipalities of the occupied zones. This is obviously in strong contrast with the remarkable cultural manifestations of all sorts which go on in Jerusalem or in other Israeli towns. Certain remarks have already been made about radio and television. It should be remembered that there is a possibility of sixteen hours' listening-time in Arabic on the radio and six hours of television in Arabic. The programmes are varied and reach a large listening and watching audience, even in Jordan. One can but remark (while reserving final judgment based on deeper study of the question) that the concern for health or social education seems to override the concern for cultural activities as such in these programmes. In this context, it should be noted that remarks have been made by certain Palestinians concerning the fact that, as far as folklore music is concerned, numerous Israeli songs are—in fact—Arab songs, altered to a greater or lesser degree.

42. Festivals and exhibitions are all submitted to prior authorization by the military authorities, and are sometimes forbidden or cancelled at the last minute. The mission did not have the opportunity of making an in-depth study on this point.

43. Cultural life, as educational life, is in fact dominated by the question of censorship, which is dealt with in the following chapter.

CENSORSHIP

44. There is a Censorship Commission based in Jerusalem which the mission were unfortunately unable to meet. As a result, the mission are unable to answer the following question concisely:

(a) According to what precise criteria are publications either accepted or refused;

(b) What are the working methods of this Commission, and how frequently does it meet;

(c) What is the composition of the Commission and, specifically what level of knowledge of the Arabic language and civilisation is possessed by each one of the censors, who are responsible for deciding on the publication or the non-circulation of a given product.

The only useful information gathered was that, as it happens, all questions to do with censorship are centralized in Jerusalem and any delegation of power (concerning censorship) to the local commanders of the occupied zones has been abolished.

45. Education—School text-books.

There have already been numerous and precise reports drawn up about the content of text-books and the alterations that they undergo. Particularly noteworthy on this subject is the report by ALECSO, dated 1975, a report by the Jordanian Ministry of Education and a report by the P.L.

The main areas where this censorship is exercised are essentially literature, history, geography and religious questions.

As far as literature is concerned, the books are watered down by the suppression of all poetry or patriotic prose, or any allusion to a sacrifice for the country. The Pre-Islamic poets are no safer than the contemporary poets. In addition to this, the use of mementos has grown, either to replace certain works that are permanently banned, or to serve as a palliative to the delays involved in the re-printing of works originating from Arab countries. All these books, moreover, carry the reference "Military Commandment of the West Bank" in Hebrew then in Arabic, instead of the true origin (Jordanian Ministry of Education for example).

Where History and Geography are concerned, the problems are obvious: truncated maps, special optics introduced with regard to events concerning the region or the neighboring Arab countries, the almost systematic replacement of the word "Palestine" by "Israel".

The delay caused by the re-printing of text-books (that is to say the delay due to the length of time required by the censors) sometimes leads to historical aberrations; a text-book on Geography for example, for use by the sixth year primary grade, printed in June 1977, includes a chapter entitled: "The Libyan Kingdom" (p. 46 to 60 of the book).

As far as books on religious education are concerned, among the grievances that are voiced, the following recur repeatedly: the suppression of the notion of Djihad or "Holy War" and of "martyrs" of noble causes. The only book on religious education which was given to the mission by the Israeli authorities "At tarbiyya al Islamiyya" (for the use of the third year in the secondary schools) is immune from this criticism, since it contains two chapters where the following ideas are clearly explained:

(1) The notion of Djihad, and the appropriate verses from the Coran;

(2) The obligations of the Musulman state with respect to the families and children of soldiers killed for the just cause of Djihad (p. 259 to 265).

It would therefore appear, in this connection, that the Israeli Censorship Commission usually proceeds by elision and sometimes by the cutting-out of entire paragraphs which, naturally enough, weakens and removes the interest from the chapters concerned. It seems that the Commission does not act either with the tact, the intellectual rigour, or the necessary information.

RECOMMENDATIONS

1. Guided by the spirit and letter of the instructions given them by the Director General, the mission attempted to look towards the future, rather than to dwell unduly on the present circumstances which dominate the situation in the occupied territories and which are fundamentally based on the political and military status quo. It is perfectly apparent that the indispensable improvements, which should be incorporated into the present system in order to favour the valid expansion of education and culture in the occupied territories, are also dependent on a decision of political order.

2. It is only insofar as the Israeli authorities might be able to lighten the military and police control that they exert in the occupied territories, that it would be possible to give the necessary impulse to the educational system at all levels, and particularly at university level.

3. It is only insofar as it might be possible to establish a real programme of economic development in the specific interests of the inhabitants of the occupied territories, that a positive orientation could be given to the programmes for professional formation and to the setting up of university centres planned to mould the most qualified elements of the population in view of their economic and social responsibilities, and to avoid an emigration which would be prejudicial to the cultural identity of the Palestinians.

4. It is important that the present regulations concerning the movement of students to universities in the neighbouring Arab countries, and their subsequent return to the occupied territories, should be relaxed. The "Open Bridges" policy, which has been practised with success with Jordan and which encourages the movement of persons other than students, should be extended largely to include the latter and also the members of the teaching body.

5. As far as the internal security of the occupied territories is concerned, it is important that the policy followed by the occupation authorities should, in actual fact, not lead to interference (of an arbitrary and unforeseeable nature) in the satisfactory running of the educational and cultural institutions.

6. Concerning censorship, the Censorship Commission should undertake a revision of the lists of banned works, in a less restrictive sense. For example, the parcels of books sent by Arab countries, and which could be of great service to pupils and students, could be examined in detail instead of being sent back en bloc. The censorship of school text-books should be relaxed and, in any case, speeded up. An Arabic speaking UNESCO representative should be consulted by the Commission.

7. With regard to university education:

(a) It is essential that the present system of grants be extended in the Golan Heights, the Gaza Strip and Sinai, where there is no existing university centre, and that the running of the system should be facilitated by the free movement of students to the university centres of their choices outside their own territory;

(b) It is essential that the university centres of Bir-Zeit, Hébron, Bethlehem and Nablus, should receive a large-scale contribution of help to enable them to resolve their pedagogical and economic problems as quickly as possible. It is also important that these Universities should be considered qualified as full parity members of the Association of Arab Universities.

(It should be remembered that the Mayor of Bethlehem has suggested the possibility of the creation of "a bank for international cooperation" to provide for the cultural aims of the West Bank);

(c) The existing university centres must have access to the indispensable pedagogical equipment, and must benefit from international support, in one form or another, in order to participate fully in the cultural and university activities of the Arab world.

8. As far as primary and secondary educations is concerned, it is essential that the status of the teaching profession should be improved by a rapid review of the salary scale and fringe benefits. It is also essential that the members of the teaching body should not suffer from a transfer and promotion policy which is based on the concern for security rather than that of the satisfactory running of the system. It is essential that the teachers and professors should benefit from a permanent well-structured and systematic programme of in-service training, comparable with that which has been developed in the scholastic system coming under UNRWA's responsibility.

The schools must have access to better pedagogical equipment, better endowed libraries and to scientific educational equipment which measures up to the standards fixed by UNESCO. At least some part of the equipment should be locally produced.

9. The mission were informed of a proposal suggesting the creation of an "Open University", either outside the occupied territories, or in the occupied territories themselves. This question is well worth examining. At the same time it must be pointed out that the P.L.O. informed the mission that the Organization wished to see establishments already in existence in the occupied territories made use of in order satisfy the true university requirements.

10. The Israeli Government could therefore be requested to:

(a) Relax the circulation regulations and facilitate the visits by students and professors from the occupied zones to the Arab countries; and facilitate the visits by professors coming from the Arab countries and the return of the students to the occupied territories;

(b) Abolish the customs duty on the importation of teaching equipment, including scientific equipment;

(c) Relax the preliminary censorship of teaching equipment, and facilitate the entry of cultural equipment of every description;

(d) Patronize cultural activities of every description and encourage the active participation by the populations of the occupied territories in audio-visual activities.

Para. 12. During a final meeting with General Orly and his colleagues, the Head of the Mission expressed their sincere thanks to the Israeli authorities for their extreme goodwill, taking into account the inevitable constraints which are attached to the situation of the occupied territories as such, and also the nature of the very fact of military occupation, during which security considerations (either long or short term) remain predominant.

Para. 28. According to the statistics provided by the Israeli authorities, the standards have been maintained, and even slightly improved since 1967. We have received no indication from either Jordan or Egypt contradicting this statement.

Para. 38. The Mission were unable to detect any violations, restrictions or obstacles with regard to the freedom of religious teaching or that concerned with human rights.

Para. 40. If the cultural identity of the populations concerned was exclusively concerned with religious beliefs and practices of the Musulman and Christian Palestinians, it would be unfounded to accuse the Israeli authorities of a systematic action opposed to this cultural identity.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, the Senate, at 3:41 p.m., took a recess, subject to the call of the Chair.

The Senate reassembled at 4:12 p.m., when called to order by the Presiding Officer (Mr. TSONGAS).

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

SEA POWER AND NATIONAL SUPREMACY

Mr. CHAFEE. Mr. President, the U.S. Navy plays a vital role in advancing our global foreign policy interests. Similarly, the Naval Reserve is a crucial force component.

My distinguished colleague, the senior Senator from Maryland, has highlighted these problems in his March 5 address entitled "Sea Power and National Supremacy" delivered at a combined meeting of the National Reserve Association, Naval Enlisted Reserve Association, and the Navy League of the United States. Mr. President, I ask unanimous consent that the text of the Senator's thoughtful remarks be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SEA POWER AND NATIONAL SUPREMACY

(By Senator CHARLES McC. MATHIAS, JR.)

I am delighted to have this chance to speak to the members of the Naval Reserve Association, the Naval Enlisted Reserve Association and the Navy League of the United States. In fact, when Captain Lynne asked me to talk to you, I jumped at the chance because there's a lot I want to get off my chest.

My association with the Navy goes back to December 1942 when I enlisted as an apprentice seaman. My service during World War II and my almost 30 years in the Navy Reserve are a source of great personal pride. I love the Navy and I want it to prosper.

But I am troubled now. I am troubled by the depleted state of our Navy. I am troubled by Administration proposals to reduce the Navy Reserve. And I am troubled by our deteriorating ability to meet challenges that face us around the world.

At the turn of the century, Alfred Thayer Mahan—naval officer, historian and tireless advocate of U.S. naval power—woke this country up to the historical relationship between seapower and national supremacy. Today, we seem to be dozing off again as our naval power declines.

A second lesson that Alfred Thayer Mahan taught was that the ability of any nation to survive as a sea power depends on its ability to sustain a Merchant Marine. Looking at what's left of our once great Merchant Marine, I'd say our survivability as a sea power is in some doubt. Unless we wake up pretty soon, we can kiss national supremacy and a lot of other things goodbye.

If this were the best of all possible worlds, we might not have to worry about keeping up our naval strength. But a quick look at the real world around us, gives plenty of cause for worry.

Right now we're importing 50 percent of our oil and almost all of it reaches our shores on foreign bottoms. Less well known is the fact that we import 100 percent of the natural rubber we use; 98 percent of the manganese; 96 percent of the cobalt; 95 percent of the titanium; 94 percent of the bauxite; 92 percent of the chromium, and 90 percent of the tin, to name only the top seven.

Not only is our economy heavily dependent on foreign imports, it is also heavily export-oriented. Today, one in eight manufacturing jobs in the United States produces for export. Forty percent of our construction machinery is produced for export and exports account for 25 percent of the cash receipts of our agricultural sector.

More and more we are a globally-oriented economy, supplying and being supplied by a complex interdependent world. But just consider this fact: foreign vessels now carry 95 percent of all our exports and imports. That is a very sobering thought. Imagine the havoc that would be created by some disruption in the shipping. It would make the Arab oil embargo seem like a Sunday School picnic.

These are harsh realities and they aren't going to change. With our economic lifeline stretched to every corner of the globe, we must maintain a Navy capable of keeping the sea lanes open and we must maintain a Merchant Marine capable of carrying the goods we need for survival. But we aren't getting any leadership on this from the Administration.

Obviously we face more than economic challenge around the world. Right now, in the Far East, there's a war going on between the People's Republic of China and Vietnam. This war could escalate with consequences that could affect our interests in that area.

The disintegration of Iran as a stable element in a volatile area is a drastic blow to our national security. It has implications for Pakistan, for nations of the Persian Gulf and for Iraq, whose adventurism Iran previously restrained. It has implications for the United States as well. Approximately 30 percent of our oil imports came from the Persian Gulf region last year. With Iran in chaos, threats to that source of supply have multiplied dramatically.

In the Mediterranean, our friends and allies have severe problems. Israel faces an emerging union between Iraq and Syria, which possibly will have Iranian support. Turkey has internal political problems which could remove another stabilizing element from the volatile Middle East equation.

These are some of the problems we face today. And they are symptomatic of the types of challenges that we will continue to face in the 1980's and beyond.

We face other challenges in Europe with the NATO/Warsaw Pact balance. I strongly support the Administration's effort to beef up NATO But this effort cannot be made at the expense of our ability to cope with problems elsewhere in the world. Those challenges bring us back to the U.S. Navy.

Last summer Under Secretary of the Navy R. James Woolsey wrote that, "In over 200 crises, large and small, since 1945, in which the United States was involved, U.S. Navy and Marine forces were deliberately employed in 177 cases . . ." That says a lot about our need for a strong Navy.

In the Pacific, in the Indian Ocean and the Persian Gulf, in the Mediterranean and, of course, in the Atlantic, we must be able to keep the sea lanes open and, where necessary, to project American power. We are in danger of losing that ability.

During his election campaign, President Carter said that he favored "an aggressive shipbuilding program" for the Navy. (New York Times 6-6-76) Since coming to the White House, he has changed his tune. The Navy was hit hard in the President's FY '79 Defense Budget. Its plan to build new warships and support vessels was cut by 20 percent.

Today our 479-ship fleet is only a pale shadow of the 600-ship fleet experts say is the minimum the Navy will need to carry out the tasks assigned it in the 1980's. The forward-looking five-year shipbuilding program President Ford outlined in his FY 1978 budget has been scuttled. Instead, this Administration proposes in its FY 1980 budget that we build 16 new ships in all, only 11 of them combat ships. At that rate, we won't even have a 500-ship fleet in the 1980's, much less a 600-ship fleet.

Typical of the programs left on the cuttingroom floor, when the Administration finished trimming the Navy budget, was the Surface Effect ship (SES). SES tests on the Patuxent River have gotten some pretty impressive results, but there's not a dime in the President's FY '80 budget to support the SES. We simply have not given this new technology a chance.

One of the most glaring examples of the Administration's dangerous lack of strategic vision is its repeated efforts to cut back Naval Reserve strength levels. The President's FY '80 budget makes this same mistake again. As everyone in this room knows only too well, the recommended Naval Reserve complement this year is 48,700, down over 38,000 from the currently authorized level of 87,000.

Of course, these are not just cuts in men, but also cut in hardware. According to the Navy, force level reductions will result in losses which include 20 destroyers, two amphibious assault ships and one amphibious cargo ship. We will lose helicopter squadrons, C-118 tactical support squadrons—the list goes on.

Making predictions about what Congress will or won't do is a very "iffy" business under any circumstances. As Will Rogers said: "All you can say for sure about Congress is that it begins with a prayer and ends with an investigation." And making predictions about what Congress will do in these days of Proposition 13 is even more "iffy" than usual. As former Senator Norris Cotton used to say: "The boys are in such a mood that if someone introduced the Ten Commandments they'd cut them down to eight."

But Congress has taken the Administration on before on this issue and I predict Congress will do it again. I have fought for the Navy year after year in the Appropriations Committee and I'm ready to do it again. I must say, however, that I have to wonder why there are so many slow learners in the Administration. I have to wonder how many fights in the Appropriations Committee it will take to teach them not to keep coming back with these proposed cuts.

Chief of Naval Operations Admiral Thomas B. Hayward told the Naval Reserve Association's 25th National Convention last October that the Naval Reserve, "is a vital element in today's Naval Capability and our strength and our fighting force."

I agree. And I have every reason to believe that Admiral Hayward feels more strongly even than these words of his suggest.

We no longer live in the day of the Minuteman, when a farmer could grab his musket and go off to war prepared to do battle. The complex realities of modern warfare make the citizen soldier obsolete. We need the security that only a ready reserve can provide.

So what we should be talking about is not cutting back our reserves. We should be talking about stabilizing the force level. Without such stability, long range planning is impossible. We should be talking about getting our Navy Reserve the tools it needs to do its job. As Admiral Hayward has said, we must "get away from the tradition of putting into the surface Reserve basically old, antiquated and obsolete ships and equipment."

Our survival as a nation depends increasingly on our ability to safeguard our vital world-wide interests. We cannot retreat into a "Fortress America" and bar the gates. We must have a foreign policy which acknowledges the global nature of our national security interests and which positions us to protect them.

A strong Navy is an absolutely critical element in the strategic foreign policy we so badly need and so sadly lack. We need a Navy which can respond to crises in every corner of the globe, as it has been asked to do, and has been able to do, so often in the past. And we need a Naval Reserve capable and equipped to go into action in the event of conflict anywhere which affects our security.

The times we live in are too troubled for us to let down our guard.

IN SUPPORT OF A TAX DEDUCTION FOR CHARITABLE CONTRIBUTIONS

Mr. CHAFEE. Mr. President, during the past 2 years, I have supported and cosponsored legislation permitting taxpayers to take a deduction for charitable contributions, whether or not they itemize their tax returns. As a member of the Senate Finance Committee, I pledge a vigorous effort to insure prompt passage of S. 219, the bill which would accomplish this purpose.

The private nonprofit institutions, the so-called "third sector" of our society, have long been fundamental to our way of life in this country. They represent the spontaneous concerns we share for our human condition, and the personal commitments we have made to enriching our society.

Americans have always been self-starters. We have a traditional strength in private initiative. Our vast educational system, for example, had its origin in the efforts of individuals who sought to enhance their lives and the lives of their children—it may surprise some to realize that the State board of education was not always there to turn to. Most of the great medical and scientific achievements have been made by individuals because they saw the need. Civil rights, environmental and consumer protection, establishment of the arts and many, many others have been achieved largely on private initiative.

In the United States, we do not call on our Government to solve every problem. Yet, there has been a trend in recent years away from the private nonprofit sector and toward the Government sector. Part of this is understandable and, I suspect, has resulted from the demand for rapid and accelerated solutions to some of our very serious social and economic problems.

However, that trend presents us with some rather serious problems of its own. For example, between 1971 and 1976 charitable giving in the United States fell from a total of 1.98 percent of GNP to 1:74 percent—a 12 percent decline in just 5 years.

As Senator PACKWOOD, sponsor of the charitable contributions bill, said recently:

> One reason contributions are not keeping pace with the economy is that, as the government provides more and more services, a citizen can say, "Let Uncle Sam do it."

But there is another more disturbing reason for the overall decline in charitable giving:

> Uncle Sam himself is making it harder and more expensive to give.

How can this be? As recent tax reform legislation has simplified the process of filing tax returns, it has reduced the portion of taxpayers who itemize their deductions. Therefore, those who no longer itemize can receive no tax benefit from their contributions. This is contrary to the principle long espoused in this country that private donations to non-profit organizations for essentially public purposes should not be taxed.

In 1970, 48 percent of taxpayers itemized. By 1977, only 23 percent did so. And if President Carter's tax reform proposals succeed, only about 16 percent will itemize in the future.

Figures show that itemizers contribute twice as much to charitable organizations as nonitemizers, yet the vast majority of middle and lower income taxpayers is being systematically denied any tax deduction for its support of nonprofit institutions.

In fact, the biggest decline in giving has been among middle income groups. These are the groups that form the bedrock support for such organizations as the United Way, the Red Cross, the Catholic charities, and others, while wealthier donors often tend to support a different range of charities such as higher education and cultural institutions. Both kinds of charities are important, and this legislation to allow the deduction to all taxpayers will help restore equity to all charitable giving.

In Rhode Island, we depend heavily on donations to nonprofit organizations for programs as basic as Meals on Wheels to others as esthetic as historic preservation.

In a State with less than a million population, the United Way for example, raises $9,965,000 to budget in 1979. The funds are allocated to 314 separate programs run by 143 nonprofit agencies and their branches.

This is the result of 180,000 individual contributions. In addition to about 20 full-time employees, our United Way has enlisted the active participation of some 27,000 volunteers who serve as contact persons in various businesses and neighborhoods to raise money.

And, Mr. President, this remarkable effort is accomplished with an administrative cost of only 8 cents from every dollar contributed. I have yet to see any governmental agency do so much at so little cost with so few full-time employees. Furthermore, our entire way of life would suffer irreversibly if our Government had to assume the burden of services now provided voluntarily by groups like the Salvation Army, the YMCA, the Scouts, Red Cross, day care centers, settlement houses, psychiatric counselors, and a host of others.

In a separate effort, the Catholic Charities of Rhode Island have set a goal of $2.3 million for their annual spring fundraising appeal. This effort supports an impressive array of 35 different agencies and programs throughout the State. Where would thousands of people turn if they could not count on Catholic Charities for services in day care, child care, elderly housing, family counseling, summer camps, education, unwed mother programs, and community affairs advocacy programs?

Mr. President, it troubles me a great deal that Government policies—no matter how inadvertently—are creating a heavier burden for the people who fund our nonprofit organization.

I have always supported efforts to simplify personal income tax returns. This has benefited the many people who find it difficult to deal with a long and complex system of itemization.

However, I also believe that the interest of fairness requires us to provide a simple deduction for individuals who make charitable contributions, whether they itemize their tax returns or not. As subtle as this change might be on individual behavior, it would certainly provide a clear statement of national policy in support of private initiative and our great nonprofit institutions.

I urge my Senate colleagues to give S. 219 swift and favorable consideration.

DIRECT POPULAR ELECTION OF THE PRESIDENT AND VICE PRESIDENT

Mr. CHAFEE. Mr. President, the matter we are currently dealing with is the subject of the constitutional amendment dealing with direct popular election of the President. I am pleased to cosponsor Senate Joint Resolution 28, which was introduced by Senators BAYH and DOLE, which proposes an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States.

Direct popular election will not only eliminate the inequities of the electoral college system which threaten our very ideal of a popularly elected President; it will also enhance the political position of smaller States.

A good deal has been said on this subject about its effect upon the small States.

Being from the smallest State in the Union, I would like first to address some of the concerns which have been raised regarding the effect direct popular election will have on the distribution of political power between larger and smaller States.

The electoral college system, in my judgment, does not serve to protect the smaller States. While many people have calculated on the floor so far in this debate, that a smaller State's bloc of electoral votes often inflates its influence beyond what it might be in a popular election, we must remember that this is only a theoretical advantage.

In fact, it is precisely the unit rule which most damages the political position of the smaller States. Our "winner-take-all" system, which takes no account of the size of a candidate's plurality—has insured the neglect of the smaller States during national elections.

A candidate can win by a million votes or he can win by one vote in a State and he still gets all the electoral votes. This has resulted in the neglect of the smaller States during the national elections. This is understandable from a political perspective. Presidential candidates, naturally determine that the populous States, like Illinois, California, New York, and so on, are far more profitable targets for their campaign money and for their appearances, while the smaller States, which are often perceived as being dominated by one party or another and possessing so many fewer electoral votes, have not merited the expenditure of the time or energy or money or personal attention that it might take to win it. Why waste your time in Rhode Island, Delaware, Maine, Vermont, or New Hampshire, because they have so few electoral votes? So the Presidential candidates have ignored these States.

During the last election, the Presidential election, in 1976, in the crucial months of September and October and the first days of November, the 15 smaller or less populous States were not even visited once by President Ford or Candidate Carter.

Not only is the large State voter more sought after by the candidates, but he or she is relatively more influential in the outcome of an election because of the unit rule. The electoral college's unit rule allows the large State voter an opportunity to determine the swing of a much larger bloc of votes.

Let us look at this more closely. For instance, let us suppose that in 1980, equally close outcomes determine the direction of California's bloc of 45 electoral votes and Rhode Island's bloc of four. In that situation, it could be said that each Californian's vote has more than 11 times the national impact of each Rhode Islander's vote, because each vote in California helps move toward that great block of 45 electoral votes.

We should strive to eliminate these weighted factors in our election process. Direct popular election will not allow future Presidential candidates to neglect smaller States because each individual's vote, regardless of where it is cast, will count the same.

A vote in Virginia or a vote in Rhode Island, a vote in New Hampshire, no matter where it might be, is of equal importance, as they each count toward the whole. So Presidential candidates will take the trouble to visit all around the country, not just in the great electoral vote States.

It seems to me we have an equal problem, Mr. President, which I draw to your attention. That is, we are faced with a situation in this country where fewer and fewer voters are participating in our national elections. The Bureau of Census statistics clearly indicate diminishing voter participation in Presidential elections. In 1964, 69.3 percent of eligible voters voted. They took the trouble to go out and vote.

By the way, that was hardly a crucial year. That was the year when it was going to be a runaway. There was no question who was going to win in 1964. It was President Johnson all the way. But nearly 70 percent of voters came out. Four years later, that had shrunk to 68.7 percent; 4 years later, down to 63 percent. In our last Presidential election, 1976, just over 59 percent of the voters eligible to vote came out and cast their ballot. It seems to me that that is a shocking situation, very discouraging. Yet it is understandable in a way. With the knowledge that no voter is advantaged, each individual, whether a Democrat in Iowa or a Republican in Rhode Island, if each of them knew that their vote truly counted, would take the trouble to come out. But why, in a Presidential election now, would a Republican in Rhode Island bother coming out? He knows the State is going to go for the Democratic ticket, as they have so consistently at the national level over many years.

So there is no incentive for a voter in that situation, or a voter in another State that is dominated by one party or another, to come out because he cannot affect the national election, because the electoral votes in his State are clearly going one way or another.

Perhaps for that reason recent surveys indicate that approximately 80 percent of the American people support direct popular election, as shown through recent polls.

Aside from these geographical considerations, we must also consider a most dangerous prospect. Under the electoral college system, we have no assurance that a candidate who receives a majority of the popular vote will be elected President.

We are all aware that the country has had three Presidents who failed to win the popular support of American voters. However, we should also recognize the number of times in which a shift of less than 1 percent of the popular vote would have produced a similar situation. In 1948 a shift of less than 30,000 votes in three States would have made Governor Dewey our 32d President, despite having lost the popular election to President Truman by more than two million votes—30,000 votes would have made the difference for him. Similarly, it has been calculated that a swing of less than 10,000 votes in two States would have reelected former President Ford in 1976, despite President Carter's popular vote victory of more than 1.6 million votes.

Our present system of Presidential elections, including the electoral college, diminishes the position of the less populous States, and threatens the ideal of a popularly elected President. It is a proven possibility that a candidate who wins a majority or plurality of popular votes might be deprived of the Presidency, because his popular support was not distributed in a pattern consistent with the distribution of electoral votes.

It is for these reasons that I support the abolition of the electoral college and the direct election of the President and Vice President of the United States.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS FOR 35 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 35 minutes.

There being no objection, the Senate, at 4:26 p.m., recessed until 5:01 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BRADLEY).

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from New Jersey, suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF THE PUBLIC DEBT LIMIT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the House of Representatives on H.R. 2534 be held temporarily at the desk, pending further disposition.

Mr. ARMSTRONG. Mr. President, reserving the right to object, could the majority leader tell us what his plans are for the disposition of this measure?

Mr. ROBERT C. BYRD. I cannot at the moment, no. I have cleared this with the minority, though, the request I have made.

Mr. ARMSTRONG. Mr. President, further reserving the right to object, I apologize to the majority leader for taking his time on this: Are we now discussing the debt limit bill?

Mr. ROBERT C. BYRD. This is the debt limit bill. We are not now discussing it. I just asked that the measure be held temporarily at the desk until the chairman of the Finance Committee and other interested Senators can be here, and we can make some disposition of it.

Mr. ARMSTRONG. For further action in a few minutes or some such time?

Mr. ROBERT C. BYRD. I am sorry, I cannot state a definite time.

Mr. ARMSTRONG. Mr. President, my difficulty is, I do not wish to impede the majority leader, but——

Mr. ROBERT C. BYRD. Mr. President, I withdraw my request. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 2534, the public debt limit and debt management bill, which has just been messaged over from the House, remain at the desk temporarily pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DOUBLING THE DEBT

Mr. HARRY F. BYRD, JR. Mr. President, the national debt has doubled since 1970. At the end of fiscal year 1970, the public debt totaled $383 billion. Today it is a shade under $800 billion—and Secretary of the Treasury Blumenthal last month testified before the Subcommittee on Taxation and Debt Management that the debt would increase by $98 billion during the next 18 months.

I have prepared a table showing the debt by years beginning with the year 1900. I ask unanimous consent that this table be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

The national debt in the twentieth century[1]
(Totals at the end of fiscal years (rounded to the nearest billion dollars))

1900	1
1901	1
1902	1
1903	1
1904	1
1905	1
1906	1
1907	1
1908	1
1909	1
1910	1
1911	1
1912	1
1913	1
1914	1
1915	1
1916	1
1917	3
1918	12
1919	25
1920	24
1921	24
1922	23
1923	22
1924	21
1925	21
1926	20
1927	19
1928	18
1929	17
1930	16
1931	17
1932	19
1933	23
1934	27
1935	29
1936	34
1937	36
1938	37
1939	48
1940	51
1941	58
1942	79
1943	143
1944	204
1945	260
1946	271
1947	257
1948	252
1949	253
1950	257
1951	255
1952	259
1953	266
1954	271
1955	274
1956	273
1957	272
1958	280
1959	288
1960	291
1961	293
1962	303
1963	311
1964	317
1965	323
1966	329
1967	341
1968	370
1969	367
1970	383
1971	409
1972	437
1973	468
1974	486
1975	544
1976	632
1977	709
1978	780
1979*	839
1980*	899

[1] Gross Federal debt.

*Estimated figures.

SOURCE.—Office of Management and Budget.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REVISION OF PROPOSED RESCISSION FOR THE SMALL BUSINESS ADMINISTRATION—MESSAGE FROM THE PRESIDENT—PM 39

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers, which was referred to the Committee on Appropriations, the Committee on the Budget, and the Select Committee on Small Business, jointly, pursuant to order of January 30, 1975:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report a revision to a previously transmitted rescission proposal for the Small Business Administration. This revision decreases the amount previously proposed by $6.0 million. The details of this revised rescission proposal are contained in the attached report.

JIMMY CARTER.

THE WHITE HOUSE, *March 15, 1979.*

PRESIDENTIAL APPROVAL

A message from the President of the United States stated that on March 7, 1979, he had approved and signed the following act:

S. 37. An act to repeal a section of Public Law 95–630.

MESSAGES FROM THE HOUSE

At 1:24 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to H.R. 2439, an act to rescind certain budget authority contained in the message of the President of January 31, 1979 (H. Doc. 96–46), transmitted pursuant to the Impoundment Control Act of 1974; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. WHITTEN, Mr. BOLAND, Mr. NATCHER, Mr. SLACK, Mr. SMITH of Iowa, Mr. YATES, Mr. CONTE, Mr. MICHEL, and Mr. O'BRIEN were appointed managers of the conference on the part of the House.

4:12 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to H.R. 2479, an act to help maintain peace, security and stability in the Western Pacific and to promote continued extensive, close, and friendly relations between the people of the United States and the people of Taiwan; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. ZABLOCKI, Mr. FASCELL, Mr. WOLFF, Mr. MICA, Mr. HALL of Ohio, Mr. BROOMFIELD, Mr. DERWINSKI, and Mr. FINDLEY were appointed as managers of the conference on the part of the House.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2534. An act to provide for a temporary increase in the public debt limit, and for other purposes.

HOUSE BILL HELD AT DESK

The following bill was read by title and ordered to be held at the desk, by unanimous consent:

H.R. 2534. An act to provide for a temporary increase in the public debt limit, and for other purposes.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC–841. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend chapter 47 of title 10, United States Code (Uniform Code of Military Justice), to prescribe the power of the President to promulgate procedural rules for the administration of military justice within the armed forces; to the Committee on Armed Services.

EC–842. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to authorize the Secretary of Commerce to conduct policy assessments, collect data and work to improve the balance of payments with respect to international travel; to the Committee on Commerce, Science, and Transportation.

EC–843. A communication from the Secretary of Transportation, transmitting, pursuant to law, a final report on the Amtrak route system; to the Committee on Commerce, Science, and Transportation.

EC–844. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within 60 days of the execution thereof; to the Committee on Foreign Relations.

EC–845. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within 60 days after the execution thereof; to the Committee on Foreign Relations.

EC–846. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend section 5819 of title 5, United States Code, relating to crediting amounts received for certain reserve or National Guard service; to the Committee on Governmental Affairs.

EC–847. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "A Review of the Department of Energy's Energy Tax Policy Analysis," March 13, 1979; to the Committee on Governmental Affairs.

EC–848. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the 12th report on the Indochina refugee assistance program, for the year October 1, 1977, to September 30, 1978; to the Committee on Labor and Human Resources.

EC–849. A communication from the Deputy Assistant Secretary for Indian Affairs, Department of the Interior, transmitting, pursuant to law, a proposed plan for the use and disposition of the Bois Forte Band of Chippewa Indian judgment funds in the award in docket 18–D before the Indian Claims Commission; to the Select Committee on Indian Affairs.

EC–850. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders entered in 1,186 cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of such aliens; to the Committee on the Judiciary.

EC–851. A communication from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to extend expiring appropriation authorizations for emergency medical services systems and health information and promotion, and for other purposes; to the Committee on Labor and Human Resources.

EC–852. A communication from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend and extend provisions of law concerned with nurse training, and for other purposes; to the Committee on Labor and Human Resources.

EC–853. A communication from the Chairman, National Labor Relations Board, transmitting, pursuant to law, its annual report for the fiscal year ending September 30, 1978; to the Committee on Labor and Human Resources.

EC–854. A communication from the President and national executive director, Girl Scouts of the United States of America, transmitting, pursuant to law, its 29th annual report; to the Committee on Labor and Human Resources.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM–94. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Environment and Public Works:

"ASSEMBLY JOINT RESOLUTION NO. 11

"Whereas, At the time when the United States Fish and Wildlife Service requested the consent of the people of the State of Nevada to the acquisition and use of the portion of Ruby Lake in White Pine County as a refuge under the Migratory Bird Conservation Act (16 U.S.C. §§ 715—715r), the service represented to the people of the State of Nevada that one of the purposes of the acquisition was to provide them with an area for fishing, hunting and other recreation; and

"Whereas, The State of Nevada and White Pine County gave their consent in reliance upon that representation of purposes; and

"Whereas, Subsection 5 of NRS 328.201 provides that the consent of the State of Nevada continues only so long as Ruby Lake is used for the purposes for which it was acquired; and

"Whereas, The United States Fish and Wildlife Service has violated its representation to the State of Nevada by substantially impairing the recreational use of Ruby Lake; now, therefore, be it

"*Resolved by the Assembly and Senate of Nevada, jointly,* That the consent of the State of Nevada to the acquisition and use of the portion of Ruby Lake in White Pine County as a refuge for migratory waterfowl is hereby revoked, and the United States Fish and Wildlife Service and the Congress of the United States of America are hereby requested forthwith to terminate the status of the portion of Ruby Lake in White Pine County as such a refuge and to transfer the management of that area to the Nevada department of fish and game; and be it further

"*Resolved,* That copies of this resolution be transmitted by the legislative counsel to the Secretary of the Interior, to the Vice President of the United States as presiding officer of the Senate, to the Speaker of the House of Representatives and to each member of the Nevada congressional delegation; and be it further

"*Resolved,* That this resolution shall become effective upon passage and approval."

POM–95. A concurrent resolution adopted by the Legislature of the State of Texas; to the Committee on the Judiciary:

"HOUSE CONCURRENT RESOLUTION No. 31

"Whereas, With each passing year this nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues, so that the public debt now exceeds hundreds of billions of dollars; and

"Whereas, The annual federal budget continually demonstrates an unwillingness or inability of both the legislative and executive branches of the federal government to curtail spending to conform to available revenues; and

"Whereas, Unified budgets do not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit; and

"Whereas, Knowledgeable planning, fiscal prudence, and plain good sense require that the budget reflect all federal spending and be in balance; and

"Whereas, Believing that fiscal irresponsibility at the federal level, with the inflation which results from this policy, is the greatest threat which faces our nation, we firmly believe that constitutional restraint is necessary to bring the fiscal discipline needed to restore financial responsibility; and

"Whereas, Under Article V of the Constitution of the United States, amendments to the federal constitution may be proposed by the congress whenever two-thirds of both houses deem it necessary, or on the application of the legislatures of two-thirds of the several states the congress shall call a constitutional convention for the sole purpose of proposing amendments. We believe such action vital; now, therefore, be it

"Resolved by the House of Representatives of the State of Texas, the Senate concurring, That the 65th Legislature propose to the Congress of the United States that procedures be instituted in the Congress to add a new article to the Constitution of the United States, and that the State of Texas request the congress to prepare and submit to the several states an amendment to the Constitution of the United States requiring, in the absence of a national emergency, that the total of all federal appropriations made by the congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year; and, be it further

"Resolved, That alternatively, this body request that the Congress of the United States call a constitutional convention for the specific and exclusive purpose of proposing an amendment to the federal constitution requiring in the absence of a national emergency that the total of all federal appropriations made by the congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year; and, be it further

"Resolved, That this body also propose that the legislatures of each of the several states comprising the United States apply to the congress requesting the enactment of an appropriate amendment to the federal constitution; or requiring the congress to call a constitutional convention for proposing such an amendment to the federal constitution; and, be it further

"Resolved, That official copies of this resolution be prepared and forwarded to the President of the Senate and the Speaker of the House of Representatives of the United States Congress and to all members of the Texas delegation to congress; and, be it further

"Resolved, That official copies of this resolution also be prepared and forwarded to the secretaries of state and to the presiding officers of the legislatures of the other states with the request that they join this state in making application to the United States Congress to call a convention for proposing the aforementioned amendment to the United States Constitution."

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LEAHY:

S. 670. A bill to amend the Rural Development Act of 1972; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEAHY (for himself and Mr. STEWART):

S. 671. A bill to extend for 2 years the authorization of appropriations for carrying out title V of the Rural Development Act of 1972; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CRANSTON:

S. 672. A bill to exempt lands within the Imperial irrigation district of California from certain acreage limitations of the Federal reclamation laws; to the Committee on Energy and Natural Resources.

By Mr. JACKSON (for himself and Mr. STENNIS) (by request):

S. 673. A bill to authorize appropriations to the Department of Energy for national security programs for fiscal year 1980 and fiscal year 1981, and for other purposes; to the Committee on Armed Services and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

By Mr. CRANSTON (by request):

S. 674. A bill to amend section 101 of title 38, United States Code, to limit the recognition of persons as legally adopted children of a veteran if adopted through courts in foreign countries; to the Committee on Veterans' Affairs.

S. 675. A bill to amend title 38, United States Code, to authorize a pilot program for the treatment and rehabilitation of veterans with alcohol or drug-dependent disabilities, and for other purposes; to the Committee on Veterans' Affairs.

S. 676. A bill to amend title 38, United States Code, to provide readjustment professional counseling to Vietnam-era veterans and their families, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. KENNEDY (by request):

S. 677. A bill to provide for improvements in the administration of justice, greater efficiency in the Federal appellate courts, and more uniform decisions in those courts, and for other purposes; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself and Mr. DECONCINI):

S. 678. A bill to provide for improvements in the structure and administration of the Federal courts, and for other purposes; to the Committee on the Judiciary.

By Mr. METZENBAUM (for himself, Mr. KENNEDY, and Mr. DOMENICI):

S. 679. A bill to eliminate the amount in controversy requirement for Federal question jurisdiction, to modify the jurisdictional requirements with respect to diversity of citizenship, and for other purposes; to the Committee on the Judiciary.

By Mr. METZENBAUM (for himself, Mr. KENNEDY, and Mr. RIBICOFF):

S. 680. A bill to strengthen the rights of citizens to sue in Federal courts for unlawful governmental action; to the Committee on the Judiciary.

By Mr. COHEN (for himself, Mr. DOLE, Mr. RIBICOFF, and Mr. MOYNIHAN):

S. 681. A bill to amend title XVIII of the Social Security Act to provide for reciprocal agreements for services covered outside the United States; to the Committee on Finance.

By Mr. McCLURE:

S. 682. A bill entitled the "Historic Coin Preservation Act"; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. COHEN:

S. 683. A bill to establish the North Country National Scenic Trail located in portions of New York, Pennsylvania, Ohio, Michigan, Wisconsin, Minnesota, and North Dakota, as a component of the National Trails System; to the Committee on Energy and Natural Resources.

By Mr. MAGNUSON:

S. 684. A bill to establish an equitable and comprehensive liability regime for the marine transportation of oil by vessel, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. JOHNSTON (for himself, Mr. JACKSON, and Mr. CHURCH):

S. 685. A bill to establish a program for Federal storage of spent fuel from civilian nuclear powerplants, to set forth a Federal policy and initiate a program for the long-term storage of nuclear waste from civilian activities, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BIDEN:

S. 686. A bill to amend the Congressional Budget Act of 1974 to require authorizing legislation for tax expenditures, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to order of August 4, 1977.

By Mr. CHAFEE (for Mr. PELL (for himself and Mr. CHAFEE)):

S. 687. A bill to amend the Rhode Island Indian Claims Settlement Act to provide an exemption from taxes with respect to the settlement lands and amounts received by the State Corporation, and to provide a deferral of capital gains with respect to the sale of settlement lands; to the Committee on Finance.

By Mr. JACKSON (by request):

S. 688. A bill to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980 and fiscal year 1981, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. TALMADGE (for himself and Mr. CRANSTON) (by request):

S. 689. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their surviving spouses and children, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. KENNEDY (by request):

S. 690. A bill to amend the Public Health Service Act to extend expiring appropriation authorizations for emergency medical services systems and health information and promotion, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DANFORTH:

S. 691. A bill to prohibit the use of appropriated funds to lobby members of State legislatures and legislative bodies of political subdivisions; to the Committee on Governmental Affairs.

By Mr. KENNEDY (by request):

S. 692. A bill to amend the Public Health Service Act concerning nurse training, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. COHEN:

S. 693. A bill for the relief of Russell W. Allen; to the Committee on the Judiciary.

By Mr. WEICKER:

S. 694. A bill to conform the Ethics in Government Act of 1978 to rule XLII of the Standing Rules of the Senate; to the Committee on Governmental Affairs.

By Mr. KENNEDY:

S. 695. A bill to amend title 28 of the United States Code to provide for an exclusive remedy against the United States in actions based upon acts or omissions of U.S. employees, and to amend title 5 of the United States Code to permit a person injured by a constitutional tort to initiate and participate in a disciplinary inquiry of the offending act or omission, and for other purposes; to the Committee on the Judiciary.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY:

S. 670. A bill to amend the Rural Development Act of 1972; to the Committee on Agriculture, Nutrition, and Forestry.

(The remarks of Mr. LEAHY when he introduced the bill appear elsewhere in today's proceedings.)

By Mr. LEAHY (for himself and Mr. STEWART):

S. 671. A bill to extend for 2 years the authorization of appropriations for carrying out title V of the Rural Development Act of 1972; to the Committee on Agriculture, Nutrition, and Forestry.

(The remarks of Mr. LEAHY when he introduced the bill appear elsewhere in today's proceedings.)

By Mr. CRANSTON:

S. 672. A bill to exempt lands within the Imperial Irrigation District of California from certain acreage limitations of the Federal reclamation laws; to the Committee on Energy and Natural Resources.

IMPERIAL IRRIGATION DISTRICT

Mr. CRANSTON. Mr. President, I introduce for appropriate reference a bill to exempt lands in the Imperial Irrigation District of California from the provisions of Federal reclamation law and to require the payment of market interest on the balance of the project cost by subsequent landowners in the district.

The Imperial Irrigation District is located in the Imperial Valley in southern California, and receives water from the Colorado River through the All American Canal. The Imperial Irrigation District has had recognized vested Colorado River water rights and has made beneficial use of these water rights since 1901—40 years before the All American Canal began to deliver water to the Imperial Valley. These Colorado River water rights are specifically recognized by the Colorado River Compact and the Boulder Canyon Act. Prior to 1940, the valley received its water from a privately financed canal running from the Colorado River through Mexico to the Imperial Valley.

The United States built the all American canal to improve water storage and flood control on the Colorado River and to have a canal that did not pass through Mexico. The landowners approved of the construction of the canal and accepted the contract which the irrigation district entered into in 1932 with the Federal Government. They did so, however, only on the understanding that they were not under the acreage limitations of Federal reclamation law.

The 1932 contract did not provide for any acreage limitations on the private lands receiving water through the Federal water project. From that time on, no acreage limitations were enforced with respect to the privately owned lands in the Imperial Valley. For almost 50 years since the passage of the Boulder Canyon Act Federal authorities and State and Federal Courts have held that the act did not make Federal reclamation law applicable to the valley.

Thousands of individuals in the Imperial Valley have relied on the Federal Government's longstanding practice and assurances in building their farms and businesses. A single exception came in 1964 when the Solicitor of the Department of Interior interpreted Federal reclamation law to apply to the Imperial Valley. The matter was subsequently taken to court and in January 1971, the U.S. District Court in San Diego ruled that Imperial Valley farmers were not subject to the Federal reclamation law. In August 1977, the Ninth Circuit Court reversed this judgment, and the matter is still in litigation.

Mr. President, I strongly support a Federal reclamation law. Conglomerates and corporations with huge farm holdings should not get millions of dollars in windfall gains through subsidized water paid for by the taxpayers. The basic reclamation—the Reclamation Act of 1902, as amended and supplemented—has been on the books for more than half a century during which time Western agriculture has grown and prospered. I believe we need to be very conservative in granting exemptions from this or any law.

However, I have carefully studied the case of the Imperial Valley farmers and I have concluded that the special circumstances in this case warrant an exemption, even if the courts ultimately determine that the Imperial Irrigation District legally might be subject to the Federal reclamation law.

One of the primary purposes of Federal reclamation law is to foster the family farm. But that situation already largely exists in the Imperial Valley. Of the 973 farms there, 919 are operated as single family or multifamily farms. That is 94.5 percent of the total farms, representing 93 percent of the total acreage. Of the remainder, some farms are operated by family trusts or public entities. Only 15 of the 973 farms are what could be characterized as nonfamily farms; that is, farms operated by public corporations or nonresident investor partnerships.

These nonfamily farms constitute only 1.5 percent of the total number of farms and represent less than 5 percent of the total irrigated acreage in the valley. Of those 15 nonfamily farms, only 3 comprise more than 500 acres of irrigated land.

Clearly, imposing an acreage limitation in Imperial Valley would serve no useful purpose. The objective of a limitation law—the establishment of family farms—has already been attained.

Further, a strict residency requirement would serve no purpose inasmuch as the vast majority of Imperial Valley farmers live on or near their farms. There are 3,752 owners of farmland in the Imperial Irrigation District. Records show that 76.5 percent of them are residents of Imperial County. Only 882—roughly 23.5 percent—are nonresidents and the majority of them formerly resided in the valley. They moved to other areas upon retirement and continue to hold and lease their land, which represents their life savings. Typically, these people now depend on the rental income from their land for their support.

Mr. President, the imposition of acreage limitations and residence restrictions as currently proposed by the Interior Department would have a further devastating impact on the Imperial Valley because of the pattern of farming that has evolved over the past 75 years. There is every reason to believe that many of the new farms that might be created by the application of the 160-acre limitation would be composed of the very poorest land in the valley.

About 200,000 acres presently are composed of imperial clay, a heavy and impermeable soil that is difficult to farm even under the best of conditions. Between 75,000 and 150,000 acres of this soil are currently farmed, but only as an adjunct to larger operations. By spreading the costs of his equipment and overhead over this additional acreage, a farmer can reduce his unit cost and is able to farm this poorer soil economically.

But a farmer required to sell part of his land to comply with Federal reclamation law would likely choose to sell this poor land first. New farmers tilling this poor type soil would not likely succeed. Indeed, much of this marginal land quite possibly will go out of production altogether if acreage limitations are applied. There is at least one estimate that as much as 100,000 acres—nearly 20 percent of the irrigated land in Imperial Valley will be lost to production in this way.

The total project cost o fthe All-American Canal was about $25 million, all of which is being repaid to the United States by the Imperial Irrigation District. Thus, there is no subsidy to the valley farmers in the capital cost. This leaves the matter of interest. While existing farmers benefited from this interest-free loan, there is no justification for future landowners in Imperial Valley to receive that susidy.

The bill I am introducing today would exempt from the provisions of Federal reclamation law both current and future owners of land presently in the Imperial Irrigation District. Future owners of land in excess of the acreage limitation, however, would, under my bill, have to pay the interest on the unpaid balance of the district's indebtedness for project costs attributable to their excess lands. The bill provides that the interest rate used shall be the average rate paid on Treasury bills during the year preceding the annual payment. I understand that the unpaid balance for the Imperial Irrigation District currently is $12 million.

Mr. President, the provisions of my bill are applicable only to irrigated lands within the Imperial Irrigation District as of January 1, 1979. The exemption from Federal reclamation law would not apply to any lands brought under irrigation or added to the district beyond that date.

Finally, I am concerned that the exemption from Federal reclamation law might act as a magnet for foreign investment capital in the Imperial Valley. I have been concerned about the growing number of purchases of American farmland by foreign aliens. I think that extending the exemption to aliens would be inconsistent with the continuance of family farming. Therefore, the bill provides that the exemption would not apply to nonresident alien owners in the Imperial Valley.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 672

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the following provisions of the Federal reclamation laws shall not apply to lands within the Imperial Irrigation District of California on January 1, 1979:

(1) section 5 of the Act of June 17, 1902 (43 U.S.C. 431);

(2) section 46 of the Act of May 25, 1926 (43 U.S.C. 423e); and

(3) any other provision of law amendatory or supplementary to either of such sections.

(b) Subsection (a) shall not apply to any land during any period during which such land or any interest therein is owned by any person who is not a citizen of the United States or an alien admitted to the United States for permanent residence, if such ownership commences after the date of the enactment of this Act.

Sec. 2. (a) Any person who, after the date of the enactment of this Act, purchases or otherwise acquires irrigable land in the Imperial Irrigation District of California, or the beneficial ownership of such land, which would be in excess of the acreage limitations of the Federal reclamation laws except for the exemption provided by the first section of this Act, shall pay interest annually on that part of the unpaid balance of the District's indebtedness for project costs which is allocable on a pro rata basis to such land. This subsection shall not apply with respect to any land or interest acquired by devise or inheritance or otherwise acquired by reason of the death of any person.

(b) The interest rate applicable for purposes of subsection (a) shall be the average interest rate paid on Treasury bills during the year preceding each annual payment.

By Mr. JACKSON (for himself and Mr. Stennis) (by request):

S. 673. A bill to authorize appropriations to the Department of Energy for national security programs for fiscal year 1980 and fiscal year 1981, and for other purposes; to the Committee on Armed Services and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

(The remarks of Mr. Jackson when he introduced the above bill appear elsewhere in today's proceedings.)

By Mr. CRANSTON (by request):

S. 674. A bill to amend section 101 of title 38, United States Code, to limit the recognition of persons as legally adopted children of a veteran if adopted through courts in foreign countries; to the Committee on Veterans' Affairs.

Mr. CRANSTON. Mr. President, I am introducing today, at the request of the administration, S. 674, a bill to amend section 101 of title 38, United States Code, to limit the recognition of persons as legally adopted children of a veteran if adopted through courts in foreign countries. I ask unanimous consent that the letter of transmittal and the text of the bill be printed in the Record.

There being no objection, the bill and letter were ordered to be printed in the Record, as follows:

S. 674

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (4) of section 101 is amended by adding at the end thereof the following new sentence:

"A person shall not be considered a 'legally adopted child' (of a veteran) unless such person was adopted by decree of a court of competent jurisdiction and provided further that if such court was not a court of the United States or of a political subdivision of the United States, then such person (1) must have been living in the veteran's household at the time of the adoption or at the time of the veteran's death, (2) must have been receiving more than 50% of such person's support from the veteran at the time of the adoption or the time of the veteran's death, (3) must not have been in the care and custody of a natural parent, unless such natural parent is the spouse of the veteran at the time of adoption, and (4) must have been under 18 years of age at the time of the adoption."

Veterans Administration,
Washington, D.C., March 6, 1979.

Hon. Walter F. Mondale,
President of the Senate,
Washington, D.C.

Dear Mr. President: There is transmitted herewith a draft bill "To amend section 101 of title 38, United States Code, to limit the recognition of persons as legally adopted children of a veteran if adopted through courts in foreign countries." We request that it be introduced and considered for enactment.

Under the existing law, numerous cases have come to our attention wherein disabled and aged veterans in foreign countries have legally adopted minor children who were not, either at the time of adoption or at any time thereafter, actual members of the veterans' households. In most of these foreign adoption cases, no legal flaws or violations have been uncovered which preclude their recognition by the Veterans Administration for the purpose of payment of benefits. The aged, disabled veterans in most of these instances had neither the capacity nor the intent to raise such children, but seemingly resorted to this mechanism in an effort merely to receive additional monetary benefits and to qualify the children for veterans' survivor's benefits.

The Social Security Administration has recognized this problem and has obtained the passage of amendatory legslation (section 111 of Pub. L. No. 92–603, October 30, 1972) to limit the recognition of adopted children (for purposes of their programs) to those children adopted through courts of competent jurisdiction within the United States (42 U.S.C. § 402(d)(8)(D)(i)).

While we believe that foreign country adoptions should be recognized for purposes of Veterans Administration benefits where the standards and legal requirements for adoption and the facts in a given case justify such recognition, it is evident that legislation is necessary to prevent abuses which result in payments to veterans for persons not otherwise entitled to support by the veteran and in placing on survivor benefit rolls persons not otherwise qualified as survivors.

The enclosed draft bill would have no effect upon adoptions under decrees of courts within the United States. It would, however, in cases involving adoptions by decrees of courts of foreign countries, limit recognition of a "legally adopted child" to a person who was residing in the veteran's household, received the major portion of support from the veteran, was not in the custody of a natural parent (except if the natural parent was the veteran's spouse) and was under age 18.

It is not possible to estimate with any degree of accuracy the savings in costs which this proposal would effect. However, it is estimated that the savings resulting from the enactment of this draft proposal would be "minimal" each year, but the long-term cost savings would be significant since the children involved could be on benefits rolls for many years.

Advice has been received from the Office of Managment and Budget that enactment of this legislative proposal would be in accord with the program of the President.

Sincerely,

Max Cleland,
Administrator.

By Mr. CRANSTON (by request):

S. 675. A bill to amend title 38, United States Code, to authorize a pilot program for the treatment and rehabilitation of veterans with alcohol or drug-dependent disabilities, and for other purposes; to the Committee on Veterans' Affairs.

Mr. CRANSTON. Mr. President, I am introducing today, at the request of the administration, S. 675, a bill to amend title 38, United States Code, to authorize a pilot program for the treatment and rehabilitation of veterans with alcohol or drug-dependent disabilities, and for other purposes. I ask unanimous consent that the letter of transmittal, the text of the bill, the section-by-section analysis, and the changes in existing law be printed in the Record.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 675

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subchapter II of chapter 17 of title 38, United States Code, is amended by inserting at the end of such subchapter the following new section:

"§ 620A. Treatment and rehabilitation in private facilities for alcohol or drug dependence or abuse; pilot program

"(a) The Administrator, in carrying out his responsibilities to furnish hospital, nursing home, domiciliary care and medical and rehabilitative services under this chapter, is authorized to conduct a pilot program for a period of three years, under which the Administrator may contract for the treatment of eligible veterans suffering from alcohol or drug dependence or abuse disabilities in halfway houses, therapeutic communities, or psychiatric residential treatment centers. Such pilot programs shall be planned, designed, and conducted by the Chief Medical Director, with the approval of the Administrator, so as to demonstrate both the medical advantages and cost effectiveness, or lack thereof, of furnishing care to veterans with alcohol and drug dependence or abuse disabilities both in contract facilities, as authorized by this section and in VA-operated facilities.

"(b) The Administrator or designee shall, prior to placing any veteran in a contract facility as authorized by this section, certify the validity and effectiveness of the program operated by such facility for the purpose for which such veteran is to be placed therein."

SEC. 2. The table of sections at the beginning of chapter 17 of title 38, United States Code, is amended by inserting after "620. Transfers for nursing home care." the following:

"620A. Treatment and rehabilitation in private facilities for alcohol or drug dependence or abuse; pilot program.".

VETERANS ADMINISTRATION,
Washington, D.C., March 12, 1979.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill, "To amend title 38, United States Code, to authorize a pilot program for the treatment and rehabilitation of veterans with alcohol or drug-dependent disabilities, and for other purposes", with the request that it be introduced so that it may be considered for enactment.

The VA now treats the medical consequences of both alcohol abuse and drug abuse in its hospitals. Furthermore, the VA has long recognized alcoholism as a treatable condition. Alcoholism treatment units have in fact been established at 93 VA medical facilities. Fifteen of those units have been activated in this fiscal year. The VA treated more than 135,000 patients for alcoholism and related problems in fiscal year 1978. In addition, there are more than 50 VA drug treatment units operating now, with a capacity to treat approximately 29,000 patients annually.

Despite the recent growth of VA programs for treatment of drug and alcohol abuse, the VA believes additional legislative authorities may help VA respond to the needs of certain alcohol and drug-dependent veterans. For example, successful treatment outcomes for veterans sometimes can only be achieved if treatment is provided to the veteran and other members of his family by the same source of care, e.g., care obtained by contract from a halfway house or other civilian institution. Also, in certain areas lacking a similar VA alcohol or drug treatment modality, it might be desirable to assist veterans needing such care through placements with community programs.

The draft bill would address these needs by authorizing the establishment of a broadened treatment and rehabilitation program on a pilot basis for veterans suffering from alcohol or drug dependence. A new range of treatment modalities would be provided, including the use of private halfway houses and psychiatric residential treatment centers on a contract basis, as complements to the Veterans Administration's own facilities.

Post-hospital care for alcohol and drug dependence throughout the nation is increasingly being furnished in halfway houses, therapeutic communities, and residential treatment centers. At present, however, the VA is limited to contracting for such care only for veterans with service-connected disabilities.

To remedy this limitation, this draft bill would authorize VA to contract for these externally based modalities of care without regard to whether the veteran's disability was service-connected. While we anticipate that the availability of these additional optional modalities of care will enhance the overall quality level of services delivered to the veterans concerned, we do believe that this effort must be evaluated after an initial period of time in order to closely examine the cost-effectiveness and efficacy of treatment obtained through contracting. Therefore, we propose that this program be authorized on a pilot basis for three years. During this time, we will evaluate the program and submit our findings and recommendations regarding it in time for consideration of program continuity.

We wish to note that general policy on the issue addressed in the enclosed draft bill is that care should be provided, to the extent possible, in VA-operated facilities. At the same time it is recognized that there are situations, such as the need for family care or care where a VA program is not available, where to meet our medical obligations to particular categories of veterans, treatment in private facilities should be obtained on a contractual basis.

Our clear intention is to use these modalities only for therapeutic purposes. In addition to the proposed statutory requirement to limit placements to those facilities which VA has certified, we intend to develop regulations which explicitly call for these facilities to be used for a time-limited period and for a valid treatment regime only. In this manner, we hope to avoid the sort of situation which would result in the long-term use of taxpayers funds for housing or shelter purposes only.

It is estimated that enactment of this draft bill would result in a cost of approximately $2.4 million the first fiscal year, $8.2 million the second year, and $6.3 million for the third and final year.

We were advised by the Office of Management and Budget that there is no objection to the submission of this draft legislation to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

MAX CLELAND,
Administrator.

SECTION-BY-SECTION ANALYSIS OF DRAFT BILL

Section 1.

The draft bill adds a new section 620A to chapter 17. Subsection (a) of the bill would authorize the establishment of a broadened treatment and rehabilitation program on a pilot basis for veterans suffering from alcohol or drug dependence. A broader range of treatment modalities than now provided under title 38 in VA-operated facilities would be authorized, including the use of private halfway houses, therapeutic communities and psychiatric residential treatment centers on a contract basis for veterans suffering from alcohol or drug dependence or abuse disabilities. The draft bill accordingly would authorize VA to contract for these externally based modalities of care without regard to whether the veteran's disability was service-connected. Such care would be made available on a pilot basis.

Subsection (a) would require that prior to placing any veteran in a contract facility as authorized by this section, the Administrator or his designee certify the validity and effectiveness of the program operated by the contract facility for purpose for which the veteran is to be placed therein.

Section 2.

This amends the table of sections at the beginning of chapter 17 of title 38 to reflect the addition of the new section 620A.

Changes in existing law made by the draft bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is underscored, and existing law in which no change is proposed is shown in roman):

TITLE 38—UNITED STATES CODE

* * * * *

PART II—GENERAL BENEFITS

* * * * *

Chapter 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

SUBCHAPTER II—HOSPITAL, NURSING HOME OR DOMICILIARY CARE AND MEDICAL TREATMENT

* * * * *

610. Eligibility for hospital, nursing home and domiciliary care.
611. Care during examinations and in emergencies.
612. Eligibility for medical treatment.
613. Medical care for survivors and dependents of certain veterans.
614. Fitting and training in use of prosthetic appliances; Seeing-eye dogs.
615. Tobacco for hospitalized veterans.
616. Hospital care by other agencies of the United States.
617. Invalid lifts and other devices.
618. Therapeutic and rehabilitative activities.
619. Repair or replacement of certain prosthetic and other appliances.
620. Transfers for nursing home care.
620A. Treatment and rehabilitation of alcohol or drug dependence or abuse disabilities.

* * * * *

Subchapter II—Hospital, Nursing Home or Domicilary Care and Medical Treatment

* * * * *

§620. Transfers for nursing home care

* * * * *

§620A. Treatment and rehabilitation in private facilities for alcohol or drug dependence or abuse; pilot program

(a) The Administrator, in carrying out his responsibilities to furnish hospital, nursing home, domiciliary care and medical and rehabilitative services under this chapter, is authorized to conduct a pilot program for a period of three years, under which the Administrator may contract for the treatment of eligible veterans suffering from alcohol or drug dependence or abuse disabilities in halfway houses, therapeutic communities, or psychiatric residential treatment centers. Such pilot programs shall be planned, designed, and conducted by the Chief Medical Director, with the approval of the Administrator, so as to demonstrate both the medical advantages and cost effectiveness, or lack thereof, of furnishing care to veterans with alcohol and drug dependence or abuse disabilities both in contract facilities, as authorized above, and in VA-operated facilities.

(b) The Administrator or designee shall, prior to placing any veteran in a contract facility as authorized by this section, certify the validity and effectiveness of the program operated by such facility for the purpose for which such veteran is to be placed therein."

* * * * *

By Mr. CRANSTON (by request):

S. 676. A bill to amend title 38, United States Code, to provide readjustment professional counseling to Vietnam-era veterans and their families, and for other purposes; to the Committee on Veterans' Affairs.

Mr. CRANSTON. Mr. President, I am introducing today, at the request of the administration, S. 676, a bill to amend title 38, United States Code, to provide readjustment professional counseling to Vietnam-era veterans and their families, and for other purposes. I ask unanimous consent that the letter of transmittal, the text of the bill, the section-by-section analysis, and the changes in existing law be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 676

Be it enacted by the Senate and House of the United States of America in Congress assembled, That subchapter II of chapter 17 of title 38, United States Code, is amended by inserting after section 612 the following new section:

"§ 612A. Eligibility for readjustment professional counseling

"(a) The Administrator shall furnish readjustment professional counseling (including a general mental and psychological assessment in connection therewith) for any veteran who served on active duty in the Vietnam era who has readjustment problems and who, within a period of one year after the date of such veteran's discharge or release from service or one year after the date of enactment of this section, whichever is later, requests such assistance.

"(b) If on the basis of initial counseling furnished under subsection (a) of this section, it is determined by a physician employed by the Veterans' Administration that the provision of mental health services is necessary to facilitate the successful readjustment of the veteran, such veteran shall be furnished such services (including initial professional counseling services to such veteran's family or household members or legal guardian where essential to the effective treatment and rehabilitation of the veteran) on an outpatient basis under the conditions specified in clause (1)(B) of section 612(f) of this title. For the purposes of furnishing such mental health services, the counseling furnished under subsection (a) of this section shall be deemed to have been furnished as a part of hospital care. Any hospital care and other medical services deemed necessary on the basis of such initial counseling shall be furnished only in accordance with the eligibility criteria otherwise set forth in this chapter (including section 611(b) thereof). With respect to a particular veteran who is not eligible for such necessary care or services, the Administrator shall provide referral services to assure, to the maximum extent practicable, that such care or services are provided from sources outside the Veterans' Administration.".

SEC. 2. The Table of Parts and Chapters at the beginning of title 38, United States Code, and the table of sections at the beginning of chapter 17 of such title are each amended by inserting after

"612. ELIGIBILITY FOR MEDICAL TREATMENT."

the following:

"612A. ELIGIBILITY FOR READJUSTMENT PROFESSIONAL COUNSELING.".

VETERANS' ADMINISTRATION,
Washington, D.C., March 12, 1979.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill "To amend title 38, United States Code, to provide readjustment professional counseling to Vietnam-era veterans and their families, and for other purposes.", with the request that it be introduced so that it may be considered for enactment.

The bill is an attempt to make VA health care resources available to Vietnam veterans having readjustment problems. It would authorize the establishment of a new program of readjustment professional counseling to assist Vietnam-era veterans who request such assistance either within one year after enactment of this bill, or within one year after discharge, whichever is later.

Testimony by psychiatrists, psychologists, social workers, and counselors, both at recent Congressional hearings and as far back as 1969, brought out that many Vietnam veterans have suffered significantly as a result of society's general indifference to the sacrifices they made during their periods of military service. Large numbers of returning Vietnam veterans have experienced guilt, bewilderment, alienation, pessimism, tension, restlessness, and other symptoms of low-grade readjustment problems may result in grade readjustment problems. These problems may result in unemployment, family and other interpersonal relations difficulties, alcohol or drug dependence, arrest records, and other forms of social and economic stress. The experience of our mental health professionals indicates that many veterans with readjustment problems do not generally present themselves to the VA for evaluation or treatment for several years after their discharge. This reluctance to seek readjustment assistance is likely due to an unwillingness to admit that one cannot necessarily solve one's own problems, taken together with doubts both as to whether VA can be of help, and as to one's eligibility for treatment by VA.

Accordingly, the draft bill is an attempt to reach "readjustment problems", by which is meant problems not usually amounting to a definable mental illness, or mental health problems not requiring extended professional services. Rather, readjustment problems, as used in the draft bill, are those involving low-grade motivational or behavioral impairment which interferes with a veteran's job, educational performance, interpersonal relationships, or overall ability to cope reasonably with daily life. Basically, the draft bill is intended to assist Vietnam-era veterans to make or try to smooth the transition from military to civilian life, and to help the veteran to become a productive member of society without necessarily resulting in the creation of a stigmatizing mental health unit record. The bill contemplates that Vietnam-era veterans will have readjustment counseling services readily available and accessible on an outpatient basis, quickly, and without any prior hospitalization requirement.

The draft bill is thus intended to fill the present gap between the provision for a relatively short, "across-the-(VA)-board" personal interview by contact by personnel pursuant to the Veterans Outreach Services Program, called for in section 241 of title 38, United States Code, and the type of detailed in-depth interview and assessment generally associated with evaluating, treating, and counseling a veteran presenting himself to a VA mental health unit with symptoms and possible resulting diagnosis of mental illness.

Noteworthy in this connection is that there would be no initial record of mental illness made concerning a veteran under the draft bill, who could be professionally counseled successfully without the need to refer such veteran to a VA mental health unit. It is anticipated that very few veterans who would receive readjustment counseling under this bill would require hospitalization for their readjustment problems.

It is also noteworthy that the bill authorizes the furnishing of initial professional counseling services to such veteran's family on an outpatient basis, where essential to the effective treatment and rehabilitation of the veteran, as determined by a VA physician.

It is estimated that enactment of this draft bill would result in a cost of approximately $9.9 million for the first fiscal year, $9.9 million for the second fiscal year, and $6.6 million for each of the following three fiscal years.

We were advised by the Office of Management and Budget that there is no objection to the submission of this draft legislation to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

MAX CLELAND,
Administrator.

SECTION-BY-SECTION ANALYSIS OF DRAFT BILL

"To amend title 38, United States Code, to provide readjustment professional counseling to Vietnam-era veterans and their families, and for other purposes."

SECTION 1

The draft bill adds a new section 612A to subchapter II of chapter 17 which would establish a program of readjustment professional counseling for veterans who served on active duty in the Vietnam era, defined in section 101(29) as the period beginning August 5, 1964, and ending on May 7, 1975.

Subsection (a) would require the Administrator to furnish initial readjustment professional counseling (including needed related assessments) to any veteran who requests such readjustment assistance for a readjustment problem within a period of one year after such veteran's discharge or release from service or within one year after enactment of this section, whichever is later.

Subsection (b) provides that if, on the basis of initial counseling, it is determined by a VA physician that mental health services are necessary to facilitate the successful readjustment of the veteran, such mental health services may be furnished the veteran on an outpatient basis (including discretionary initial professional counseling for members of the veteran's family where essential to the effective treatment and rehabilitation of the veteran) provided the veteran has met all eligibility requirements for post-hospital care under section 612(f)(1)(B), except that the initial counseling is deemed to satisfy the requirement of prior hospitalization. That exception does not broaden eligibility for hospitalization. Veterans who, on the basis of the initial counseling, are determined to be in need of hospital care for medical services, other than mental health services for a readjustment problem, would be eligible therefor only if otherwise meeting chapter 17 eligibility requirements. If the veteran is not eligible for such care and services, the Administrator would provide referral services to assure, to the maximum extent practicable, that the veteran receives such care from sources outside the VA.

Changes in existing law made by the draft bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is italicized, and existing law in which no change is proposed is shown in roman):

TITLE 38—UNITED STATES CODE

Part II—General Benefits

Chapter 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

Subchapter II—Hospital, Nursing Home or Domiciliary Care and Medical Treatment

610. Eligibility for hospital, nursing home and domiciliary care.
611. Care during examinations and in emergencies.
612. Eligibility for medical treatment.
612A. Eligibility for readjustment professional counseling.
613. Medical care for survivors and dependents of certain veterans.
614. Fitting and training in use of prosthetic appliances; Seeing-eye dogs.
615. Tobacco for hospitalized veterans.
616. Hospital care by other agencies of the United States.
617. Invalid lifts and other devices.
618. Therapeutic and rehabilitative activities.
619. Repair or replacement of certain prosthetic and other appliances.
620. Transfers for nursing home care.

Subchapter II—Hospital, Nursing Home or Domiciliary Care and Medical Treatment

§ 612. Eligibility for medical treatment

§ *612A. Eligibility for readjustment professional counseling.*

(a) The Administrator shall furnish readjustment professional counseling (including a general mental and psychological assessment in connection therewith) for any veteran who served on active duty in the Vietnam era who has readjustment problems and who, within a period of one year after the date of such veteran's discharge or release from service or one year after the date of enactment of this section, whichever is later, requests such assistance.

(b) If on the basis of initial counseling furnished under subsection (a) of this section, it is determined by a physician employed by the Veterans' Administration that the provision of mental health services is necessary to facilitate the successful readjustment of the veteran, such veteran shall be furnished such services (including initial professional counseling services to such veteran's family or household members or legal guardian where essential to the effective treatment and rehabilitation of the veteran) on an outpatient basis under the conditions specified in clause (1)(B) of section 612(f) of this title. For the purposes of furnishing such mental health services, the counseling furnished under subsection (a) of this section shall be deemed to have been furnished as a part of hospital care. Any hospital care and other medical services deemed necessary on the basis of such initial counseling shall be furnished only in accordance with the eligibility criteria otherwise set forth in this chapter (including section 611(b) thereof). With respect to a particular veteran who is not eligible for such necessary care or services, the Administrator shall provide referral services to assure, to the maximum extent practicable, that such care or services are provided from sources outside the Veterans' Administration.

SECTION 2

Amends both the Table of Parts and Chapters at the beginning of title 38, and the table of sections at the beginning of chapter 17 to reflect the addition of the new section 612A.

Noteworthy in this connection is that there would be no initial record of mental illness made concerning a veteran under the draft bill, who could be professionally counseled successfully without the need to refer such veteran to a VA mental health unit. It is anticipated that very few veterans who would receive readjustment counseling under this bill would require hospitalization for their readjustment problems. While the bill provides that, for purposes of furnishing mental health services, a veteran's episode of initial counseling is deemed to satisfy a requirement of prior hospitalization, the bill does not have the effect of broadening eligibility for VA hospitalization. To the contrary, the draft bill specifically provides that veterans who, on the basis of initial counseling, are deemed to need hospital care or medical intervention, other than mental health services, must meet general eligibility requirements.

By Mr. KENNEDY (for himself and Mr. DeConcini):

S. 678. A bill to provide for improvements in the structure and administration of the Federal courts, and for other purposes; to the Committee on the Judiciary.

FEDERAL COURTS IMPROVEMENT ACT OF 1979

● Mr. KENNEDY. Mr. President, today I join Senator DeConcini in introducing one of the most comprehensive Federal judicial reform packages in our Nation's history. This legislation—developed in close cooperation with the Department of Justice and the House of Representatives—would make long overdue changes in the structure and administration of our Federal judicial system. The legislation is the culmination of many decades of debate over the nature and structure of the Federal courts. Certain sections of the bill—such as those establishing a new court of appeals to handle tax cases—have been debated for over half a century. For too long all three branches of Government have been unable or unwilling to confront the structural and procedural defects which obstruct and inhibit the effective and efficient administration of justice; the Federal Courts Improvement Act is designed to deal with some of the myriad problems which have plagued the Federal judicial system. When read in conjunction with other legislation announced a few weeks ago by the President and supported by this administration—magistrate and arbitration reform, an end to obligatory Supreme Court jurisdiction, legislation to encourage alternatives to the judicial resolution of disputes and, most importantly, an end to most Federal diversity jurisdiction—this bill should be viewed as an important step in the direction of broadening access to the Federal courts while improving the quality of our Federal court system.

The Federal Courts Improvement Act of 1979 provides the following reforms in addition to those recently announced by the President:

First. A provision which would eliminate the trial jurisdiction of the Court of Claims over Federal civil tax cases. As a result, trial court litigation involving tax would be limited to the Federal district courts or the U.S. Tax Court.

Second. A new provision creating a Federal court of appeals with exclusive jurisdiction over all Federal civil tax appeals. This provision is the culmination of a half a century of debate concerning the appropriate forum for the resolution of civil tax appeals. Under current law, tax appeals are resolved among the various circuit courts; under this provision all appeals from the district courts and the U.S. Tax Court would be the exclusive province of the new U.S. Court for Tax Appeals. This court would consist of 12 existing Federal circuit court judges; no new judgeships would be created by this section. The judges of this court would be chosen by the Chief Justice of the United States, would sit in panels of not less than three and would serve on a rotating basis. By creating a new court comprised of existing Federal judges, the provision attempts to avoid past emotional debate over the issue of whether or not specialized tax experts sitting permanently in Washington should decide such cases. The goal in creating a new centralized tax court is to develop a consistent body of case law and remove tax cases from the overburdened Federal circuit courts.

Third. New procedures for the disciplining of Federal judges. Under this provision, judicial circuit councils in each circuit would have the primary responsibility for regulating the conduct of the Federal judges in that circuit. A broad array of sanctions would be available to the council—such as reprimand, censure, suggesting voluntary retirement, and the temporary elimination of a judge's caseload—but unlike previous legislation introduced in the Senate, the council would have no authority to remove any Federal judge short of impeachment by the House of Representatives. An appellate procedure is provided whereby the Judicial Conference of the United States would review the actions of the council; the Conference itself could recommend impeachment to the House of Representatives in an appropriate case.

Fourth. A new provision allowing the appeal of interlocutory issues—normally not appealable until the end of the case—when required in the interests of justice and because of the extraordinary importance of the case. As a general rule, individual issues raised in the course of a Federal district court proceeding cannot be appealed until a final judgment of the district court is rendered. This provision allows an important new exception to this general rule; there are rare cases—such as the recent case in New York when the Attorney General of the United States was held in contempt of court by a district judge for refusing to disclose the names of certain informants in the Socialist Workers Party litigation—when an immediate appeal should be permitted and not await the end of the entire case. This provision would permit such an appeal—whether or not approved by the district court judge—if the court of appeals so certified the appeal.

Fifth. The bill would implement a long-overdue reform concerning judicial retirement. Current law requires that in order for a judge to retire or assume senior status he or she must be at least 70 years of age and have served a minimum of 10 years as a Federal judge. This rule has been criticized as being too inflexible; the new provision would implement the so-called rule of 80. Under this section, retirement or senior status could be effectuated in any case where the age of the judge—when added to his years of continuing service—adds up to 80 or more (the 10 year minimum service requirement is retained, however). This provision will have a minimal impact, and will be relevant to less than 5 percent of the existing Federal judiciary. But it could prevent a rare injustice in cases where one is appointed to the Federal bench at a very early age and should not have to wait until 70 to assume senior status.

Sixth. A new provision would implement a proposal long championed by Chief Justice Burger by expressly permitting existing Federal judges to be temporarily assigned to direct the Federal Judicial Center or the Administrative Office of the United States Courts. Under current law, such a temporary assignment is not possible since the judge must first resign from the bench before assuming such a new position. This provision also assures that the experience and knowledge obtained by the judge in his new capacity will benefit the entire Nation; the section provides that the judge—upon leaving the Center or the Administrative Office—need not return to the court from which he came but, instead, may remain in Washington as a judge on the U.S. District Court or Court of Appeals for the District of Columbia.

Mr. President, these reforms—when read in conjunction with those already introduced—signal a new awareness by the Congress of the need to reform our judicial institutions and make our courts readily accessible to all our citizens. The Senate Judiciary Committee will hold one day of hearings on this package of reforms; the bill will then be referred to Senator DECONCINI who is committed to holding a detailed series of hearings on all aspects of the proposal.●

● Mr. DECONCINI. Mr. President, I am pleased to join with the distinguished chairman of the Committee on the Judiciary in introducing one of the most comprehensive packages of court reform legislation in history. The bill being introduced today has had the benefit of the labor of many distinguished scholars from throughout the country, the Department of Justice, and numerous Federal judges. It also represents a very tangible display of the great interest in and efforts for our Nation's courts that Senator KENNEDY has displayed for so many years.

It is our hope that this legislation can be speedily processed by the Subcommittee on Improvements in Judicial Machinery which I am privileged to chair, before being reviewed by the full committee and returned to the floor of the Senate for approval by this body. An initial hearing will take place next week at the full committee to be followed by more detailed and extensive hearings at the subcommittee in the following weeks. It is certain that the hearing process will bring about refinement of many of the concepts addressed and we welcome that evolution.

With the chairman's support and that of the Chief Justice of the United States, and the Attorney General, it will be my goal to pass this package out of the Senate sufficiently quickly to allow the House of Representatives adequate time to conscientiously perform its duties.

During the last Congress a number of significant court reform bills were enacted by Congress and this year work is underway on several more. Court administration techniques have improved dramatically over the past few years out of the necessity of meeting the crushing caseload burden that descended on the Nation's court beginning in the late 1960's. If court administration techniques continue to improve and bills such as the magistrates bill, the arbitration bill, the Supreme Court jurisdiction bill, and this bill find their way into public law, the corner will have been turned in the effort to speedy and accessible justice for all Americans.●

By Mr. METZENBAUM (for himself, Mr. KENNEDY, and Mr. DOMENICI):

S. 679. A bill to eliminate the amount in controversy requirement for Federal question jurisdiction, to modify the jurisdictional requirements with respect to diversity of citizenship, and for other purposes; to the Committee on the Judiciary.

ACCESS TO JUSTICE

Mr. METZENBAUM. Mr. President, I am introducing today two bills that are designed to enhance "access to justice" for the ordinary citizen who has found it increasingly difficult to file a lawsuit in the Federal courts. Crowded court calendars and technical judicial barriers frequently frustrate thousands of Americans who seek redress of their grievances through the courts.

We all know that Federal courts have become overburdened in recent years due to an ever-increasing caseload. Increasingly, this has resulted in the development of judicial policies which greatly restrict citizens' access to the courts. While I support the need to reduce the tremendous caseload that impairs the effectiveness of our Federal court system, I believe the right of all citizens to obtain judicial redress must not be compromised. The bills I am submitting today will significantly reduce the caseload of Federal judges while at the same time reopening the courtroom doors to certain citizens who have been the victims of several recent Supreme Court decisions which unfairly deny them access to courts.

The first bill I am introducing with Senators KENNEDY and DOMENICI will transfer approximately 25 percent of the Federal caseload to State courts by abolishing Federal court jurisdiction based on diversity of citizenship of the parties. In addition, this bill abolishes the amount in controversy requirement for all Federal cases.

Federal diversity jurisdiction does not involve cases based on Federal questions. Rather, it is limited to cases in which State law must be applied. It would seem logical, therefore, that only State courts should decide such cases. The original justification for diversity jurisdiction was the fear that State courts would be prejudicial against citizens of other States involved in litigation before them. Today, however, there is scarcely any basis for the view that there is any State judicial prejudice against litigants from other States.

Chief Justice Warren Burger, a strong advocate for the elimination of diversity jurisdiction, has stated:

> Diversity cases have no more place in Federal courts in the second half of the 20th century . . . than overtime parking tickets or speeding on the highways simply because the street or highway is Federally financed. This is important because diversity cases represent one-fourth of the civil cases in district courts each year. To shift these cases from 400 Federal district court judges to more than 6,000 judges in State courts of general jurisdiction will impose no undue burden on the States. In any event, non-Federal cases must be decided under State law and can best be handled by State judges.

Elimination of Federal diversity jurisdiction will result in the transfer of 30,000 cases a year to the State judges. This will mean an increase in the overall State court workload of only 1 percent. There is complete willingness by the States' judiciary to accept this jurisdiction exclusively, as expressed in a recent resolution adopted by the Conference of Chief Justices of the 50 States:

> Our State court systems are able and willing to provide needed relief to the Federal court system in such areas as . . . the assumption of all or part of the diversity jurisdiction presently exercised by Federal courts.

The strength of support for abolition of diversity of citizenship jurisdiction was clearly shown last year in House passage by a 266 to 133 vote on H.R. 9622, a counterpart of the bill I introduced in the Senate last year and which I resubmit today.

In addition, the Department of Justice fully supported both bills.

It is argued that since 117 district court judges were added to the Federal bench last year through the "omnibus judgeship bill," further Federal court access legislation is not needed. However, those who have been dealing with the enormous problem of court congestion know that increasing the number of Federal judges is only a partial solution to the problem. Writing in favor of passage of abolition of diversity legislation last June, Assistant Attorney General Daniel Meador stated:

> The House of Representatives has correctly concluded that the congestion in the Federal courts could be relieved only by a broad-based approach, i.e., increasing the number of judges and reducing the number of cases that could be filed in the Federal courts. Indeed, there are other measures . . . which are still under consideration. None of these proposals, standing by themselves, will suffice to provide the relief necessary. With the growing increase in Federal question cases all of these reforms, if enacted, will likely serve only as temporary relief for the Federal courts.

The legislation I introduce today also provides for removal of the $10,000 amount in controversy requirement in all Federal question cases. This will complete the action taken by Congress in 1976, which eliminated the amount in controversy as a necessity when the defendant is the United States, a Federal agency, or a Federal official. The Judicial Conference of the United States has indicated that there is no valid reason for retaining the amount in controversy requirement in any Federal question case. This will result in only a slight increase in the number of suits in Federal courts and will give every citizen the right to litigate his or her Federal claim before a Federal court if he or she so chooses. This provision was also included in the legislation passed by the House last year.

Mr. President, by abolishing Federal diversity of citizenship jurisdiction, this bill will allow Federal courts to concentrate more fully on the interpretation of Federal law and the resolution of Federal question cases, permit State courts to develop State law principles autonomously, and expand access to Federal courts to citizens with Federal claims, regardless of the monetary size of the claim.

I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 679

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Jurisdictional Amendments Act of 1979".

Sec. 2. (a) Section 1331 of title 28, United States Code, is amended to read as follows:

"§ 1331. Federal question

"The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.".

(b) The item relating to section 1331 in the table of sections for chapter 85 of title 28, United States Code, is amended by striking out "; amount in controversy; costs.".

Sec. 3. (a) Section 23 (a) of the Consumer Product Safety Act (15 U.S.C. 2072 (a)) is amended—

(1) by striking out "subject to the provisions of section 1331 of title 28, United States Code, as to the amount in controversy,"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof "; Provided that the matter in controversy exceeds the sum or value of $12,000, exclusive of interest and costs, unless such action is brought against the United States, any agency thereof, or any officer or employee thereof in his official capacity.".

(b) Section 23 of the Consumer Product Safety Act (15 U.S.C. 2072) is amended by redesignating subsection (b) as subsection (c) and by inserting immediately after subsection (a) the following new subsection:

"(b) Except that when express provision is made in a statute of the United States, in any case in which the plaintiff is finally adjudged to be entitled to recover less than the sum or value of $10,000, computed without regard to any setoff or counterclaim to which the defendant may be adjudged to be entitled, and exclusive of interests and costs, the district court may deny costs to the plaintiff and, in addition, may impose costs on the plaintiff.".

Sec. 4. (a) Subsections (a) and (b) of section 1332 of title 28, United States Code, are each amended by striking out "$10,000" and inserting in lieu thereof "$25,000".

(b) Section 1332(a) of title 28, United States Code, is amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), and (4), and all references thereto, as paragraphs (1), (2), and (3), respectively.

(c) Section 1332(c) of title 28, United States Code, is amended by striking out "section 1441" and inserting in lieu thereof "section 1335".

(d) Section 1332(d) of title 28, United States Code, is amended by inserting immediately after "section" the following: "and section 1335 of this title".

(e) The section heading for section 1332 of title 28, United States Code, is amended by striking out "Diversity of citizenship" and inserting in lieu thereof "Alienage".

(f) The item relating to section 1332 in the table of sections for chapter 85 of title 28, United States Code, is amended by striking out "Diversity of citizenship" and inserting in lieu thereof "Alienage".

Sec. 5. (a) Section 1335(a)(1) of title 28, United States Code, is amended by striking out "as defined in section 1332 of this title,".

(b) Section 1335 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) For purposes of this section, the term 'claimants of diverse citizenship' means claimants who are—

"(1) citizens of different States;

"(2) citizens of a State and citizens or subjects of a foreign State;

"(3) citizens of different States and in which citizens or subjects of a foreign State are additional parties; or

"(4) a foreign State, as defined in section 1603(a) of this title, and citizens of a State or of different States.".

Sec. 6. Section 1342(1) of title 28, United States Code, is amended by striking out "diversity of citizenship" and inserting in lieu thereof "alienage".

Sec. 7. (a) Section 1391(a) of title 28, United States Code, is amended—

(1) by striking out "wherein jurisdiction is founded only on diversity of citizenship"; and

(2) by striking out "in which the claim arose" and inserting in lieu thereof "in any judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated".

(b) Section 1391(b) of title 28, United States Code, is repealed and subsections (c) through (f) of such section, and all references thereto, are redesignated as subsections (b) through (e), respectively.

Sec. 8. Section 1441(a) of title 28, United States Code, is amended—

(1) by inserting "as provided in paragraph (2) or" immediately after "Except" and by adding at the end thereof the following new paragraph:

"(2) If the original jurisdiction of the district courts of the United States is based upon section 1332(a) (1) or (2), such action may be removed only by a party in interest properly joined and served as a defendant who is a citizen or subject of a foreign State."; and

(2) by repealing subsection (b) and redesignating subsections (c) and (d), and all references thereto, as subsections (b) and (c), respectively.

Sec. 9. The amendments made by this Act shall apply to any civil action commenced on or after sixty days from the date of enactment of this Act.

Mr. KENNEDY. Mr. President, I am pleased to cosponsor legislation introduced by Senator Metzenbaum which would eliminate most Federal diversity jurisdiction. Too many cases now clogging the Federal courts involve issues of State law that would be better heard and resolved by our State courts. Abolition of Federal diversity jurisdiction is a States rights issue; State courts should retain jurisdiction over State cases and Federal courts should retain jurisdiction over Federal matters.

Diversity of citizenship has formed a basis for Federal jurisdiction since the First Judiciary Act of 1789. "Diversity of citizenship," refers to the situation in which a plaintiff resides in a different State than does the defendant. This legislation would retain Federal diversity jurisdiction over suits between aliens or foreign states on the one hand and citizens of the United States on the other. The bill would also retain Federal interpleader which greatly facilitates the settlement of multiparty claims in which personal jurisdiction over all necessary parties cannot be effectuated in the courts of any one State. (I will also consider an amendment retaining diversity in cases involving aircraft disasters or other massive tragedies involving literally hundreds of litigants, where the Federal courts may provide the only convenient, effective forum.)

This legislation is not the first attempt to curtail Federal diversity jurisdiction. Twice during the 1930's the Senate Judiciary Committee favorably reported out legislation similar to this bill; indeed, the debate over Federal diversity jurisdiction goes back at least to the 1920's when both Felix Frankfurter and Henry J. Friendly advocated limiting diversity.

Why should we abolish most Federal diversity jurisdiction? One reason is the sheer volume of Federal cases flooding our Federal courts. The number of civil cases filed in the Federal district courts in 1977 was approximately 130,500, an increase of over 11 percent from 1975 and of almost 50 percent from 1970. Approximately 25 percent of these civil suits—nearly 30,000 cases—were grounded in diversity. And this number continues to grow.

At the same time—unlike the situation which existed in 1789—the Federal business of our Federal courts has substantially increased. In 1789 our Federal courts had relatively little to do; indeed, with some exceptions, diversity jurisdiction constituted their only real business. This has dramatically changed. Increased Federal court business began with a trickle in 1863, when Congress passed a statute providing for the removal to Federal court of suits against Federal officers. In 1875 the Federal courts were given general Federal question jurisdiction at the option of either party. But it is the 20th century that has seen a surging growth in Federal jurisdiction. The list of laws creating new Federal causes of action and expanding the regulatory and enforcement responsibilities of the Federal Government is extensive: Securities Act of 1933, Securities Exchange Act of 1934, National Labor Relations Act of 1934, Social Security Act, Fair Labor Standards Act of 1938, Civil Rights Act of 1957, Civil Rights Act of 1964, Voting Rights Act of

1965, Civil Rights Act of 1968, Age Discrimination in Employment Act of 1967, National Environmental Policy Act of 1969, Freedom of Information Act, Government in the Sunshine Act, Occupational Safety and Health Act of 1970, and the Consumer Product Safety Act are all examples of legislation which have created new kinds of litigation unforeseen by the Founding Fathers in 1789.

It is, of course, true that this growth of Federal question jurisdiction has resulted in a situation where the actual proportion of all Federal suits grounded in diversity has consistently been reduced. But, as I have already pointed out, the diversity caseload is increasing as well. The key point is this—although diversity jurisdiction cannot be blamed for the growing burden confronting our Federal courts; and although this legislation to curtail diversity jurisdiction is not intended to remove the causes of that growing burden, nevertheless, the goal of this bill is to remove those cases from the Federal courts which least require a Federal forum. Our Federal courts can no longer afford the luxury of retaining cases grounded in diversity; they must be permitted to concentrate their efforts and limited resources on cases involving matters of truly Federal import.

Various arguments have been raised in recent years in opposition to the abolition of Federal diversity jurisdiction. But I believe that the arguments fail on the merits:

First. Some maintain that the increasing burden on the Federal courts can be alleviated by increasing the number of Federal judges. According to this argument, the Congress recently expanded the number of Federal judgeships by over 30 percent, thus permitting the Federal courts to continue to hear diversity cases. But expanding the number of judges is not a satisfactory solution to the problem of diversity. As we increase the number of appellate judges, for example, it becomes more and more difficult to administer the work of the circuits or to resolve cases en banc. This point was made abundantly clear last year during the lengthy congressional debate over the splitting of the fifth and ninth circuits. In addition, as the number of judges increases, the likelihood of intracircuit and intercircuit conflicts also increases. Finally, even if the number of Federal judges could be increased without any loss of effectiveness, the resulting increased workload would raise further havoc with the Supreme Court docket, already a cause of concern.

Second. Abolition of diversity jurisdiction will serve no useful purpose, since the 30,000 cases would simply be transferred to State courts where the dockets are even more crowded. But, although the total increase in State court caseloads might very well equal the total decrease in Federal dockets, the increased burden on the courts of any one State would be slight; 30,000 diversity cases heard by some 600 Federal judges would be transferred to more than 5,600 State court judges—a total increase of State cases of less than 1 percent. Proof positive that the transfer of these cases will not create a burden for State judiciaries can be found in the endorsement of this legislation by the National Conference of State chief justices, representing the interests of our local court systems.

Nor is it at all clear that the transfer of these cases to the State court would result in a commensurate increase in the burden confronting States courts. First, the State courts would not be obligated to litigate the often complex and difficult prerequisite of whether or not diversity jurisdiction requirements have been met. Second, Federal judges are less familiar with State law than are the judges of the State courts—and in cases based on diversity, Federal judges are mandated by the Supreme Court to construe the law of the State in which they sit. This point is buttressed by the fact that all of the courts of appeals except that of the District of Columbia routinely hear diversity appeals from more than one State. It is unlikely that Federal judges—especially appellate judges—are familiar with the law of more than one State at the time of their appointment. Third, at least at the appellate level, State appellate courts have a lighter workload than do the Federal circuit courts. For example, in 1975, each Federal circuit judge was responsible for approximately 20 percent more appeals than each State appellate judge. Fourth, under the landmark Supreme Court decision in *Erie R.R. Co.* v. *Tompkins;* 304 U.S. 64 (1938), Federal courts must decide diversity cases on the basis of State law. This, in and of itself, is often a time-consuming task which should be better left to the State courts themselves. The Erie doctrine prohibits that any Federal court interpretation of State law be given precedential reach beyond the immediate case being decided. As a result, bringing State law cases into the Federal courts may well impede the development and evolution of authoritative State law.

Third. Continuing diversity allows Federal judges to broaden their experience and creativity by being exposed to issues of State law. But this argument—incapable of being proved—is belied by the recent statements of the experts. For example, to the contrary. Prof. Charles Allen Wright has recently concluded that not only are Federal judges lukewarm to being exposed to issues of State law but, that, in any event, State courts generally ignore Federal decisions pertaining to matters of State law. Professor Wright—in his testimony last year—noted that he had not always favored the abolition of Federal diversity jurisdiction but had since been convinced that such abolition would make important improvements in the effectiveness of our Federal judiciary.

Fourth. Finally, one must confront the primary argument voiced against the abolition of diversity jurisdiction—the possibility of bias in a State court against an out-of-State party. There are several responses to this argument. First, such a claim of bias cannot empirically be justified; those who make the argument are quick to cite "their own experience" or "practical commonsense." But statistical studies proving such bias are nonexistent. Second, even when this argument is made, it is not cited for the proposition that the statutory or common law of a State favors a resident more often than it favors a nonresident. The equal protection and due process clauses of the 14th amendment, as well as the privileges and immunities clause of article IV, guarantee that a State may not have one set of substantive rules governing claims by and against residents and another set governing claims by and against nonresidents. The bias argument, therefore, concerns prejudice in the context of jury trials. But since Federal juries today are composed of residents of the State in which the Federal court sits, it is difficult to understand how bias will be eliminated by retaining such cases in Federal court. The same biased citizens who sit on local juries are called to Federal jury duty as well. It is true that Federal judicial districts are somewhat larger than State districts, so that Federal juries may be more broad based. This factor, however, may be important in alleviating rural/urban bias only; it is largely irrelevant in curing State jury bias against an out-of-State resident. This is what I believe the distinguished Senator from Alabama, Senator HEFLIN, alluded to during recent Senate Judiciary Committee hearings on "Access to Justice." There may very well be a need to do something about bias in rural courts (although, again, there is scant evidence on the subject); but the answer to that problem, if it exists, is not solved by retaining diversity jurisdiction in the Federal courts. Why should urban residents of a given State be subjected to rural bias in that same State? The answer to this type of parochial bias may be the development of flexible, local, venue transfer rules, allowing liberal transfer from one local judicial district to another local judicial district.

In any event, the possibility of bias against an out-of-State litigant—even if true in the rare case—hardly justified retaining nearly 30,000 cases in our Federal courts.

In debating the merits of whether or not Federal diversity jurisdiction should be retained or abolished, one must also consider the harm which may result by continuing such jurisdiction. I have already mentioned the problem of not permitting our Federal courts to give their full attention to adjudicating other more pressing Federal questions. But, in addition, as long as lawyers and litigants can choose their choice of a Federal or local forum, they will opt for that system which, in their view, provides better judges, procedures and facilities. This is perhaps the most important argument for abolishing diversity. If the justification for retaining diversity jurisdiction comes down to the basic proposition that our Federal courts provide "better justice" than the State courts, then we must ponder why this better justice should be granted on the fortuitous basis of diverse citizenship, when it is denied in suits among parties residing in the same State. Indeed, one must query why such differences in the quality of justice should be tolerated at all. If, indeed, State courts do not adjudicate as satisfactorily as Federal courts—a proposition which again cannot be proved or disproved empirically—then the appropriate remedy is to improve the quality of our State courts. Continued access to the Federal courts in diversity cases inhibits corrective action and obstructs efforts to improve the quality of local judiciaries.

In recent years the Supreme Court has asserted its confidence in the ability of State courts to entertain and resolve many questions of Federal law. Justice Brennan has expressly stated that—in the context of criminal cases—"each State has power to impose higher standards governing police practices under State law than is required by the Federal Constitution." A growing number of States have protected individual rights by relying upon independent, non-Federal grounds found in several State constitutions.

Mr. President, Federal diversity jurisdiction is an anachronism which can no longer be justified. This bill has been endorsed by the President, the Chief Justice, the Attorney General, the Chief Justices of the 50 States, and the House of Representatives—which last year passed the bill by an overwhelming margin. It is time we did the same.

Finally, in order to understand fully the appropriateness of abolishing Federal diversity jurisdiction, one must recognize that this bill is part of a larger comprehensive effort to redistribute the Federal caseload while improving the efficiency of our Federal court system. The bill introduced today by Senator METZEMBAUM recognizes this; like the legislation which passed the House of Representatives last year, it would remove diversity cases while, at the same time, abolishing the amount in controversy requirement for Federal questions cases. This latter aspect of the bill is primarily symbolic; only a few Federal question cases are currently subject to a minimal jurisdictional amount requirement. For example, the minimal jurisdictional amount has never applied to section 1983 suits against State officers, where jurisdiction is based on 28 U.S.C. section 1343 rather than the general Federal question jurisdictional provision, 28 U.S.C. section 1331. And in 1976, we enacted a further exception to the amount in controversy requirement in suits against Federal officers. Thus, the provisions of this bill eliminating the amount in controversy in Federal questions would only apply to a small number of miscellaneous private actions raising a Federal question, suits arising under Federal common law, and to constitutional challenges to State law not covered by section 1983. Given the current unacceptable situation—where Federal law attaches a price tag to admission to the Federal court for certain constitutional claims but not for others—I am convinced that a comprehensive and uniform Federal question jurisdiction should be established at the same time that we modify our archaic diversity rules.

By Mr. METZENBAUM (for himself, Mr. KENNEDY, and Mr. RIBICOFF):

S. 680. A bill to strengthen the rights of citizens to sue in Federal courts for unlawful governmental actions; to the Committee on the Judiciary.

(The remarks of Mr. METZENBAUM when he introduced the bill appear elsewhere in today's proceedings.)

By Mr. COHEN (for himself, Mr. DOLE, Mr. RIBICOFF, and Mr. MOYNIHAN):

S. 681. A bill to amend title XVIII of the Social Security Act to provide for reciprocal agreements for services covered outside the United States; to the Committee on Finance.

● Mr. COHEN. Mr. President, I am introducing with Senators DOLE, RIBICOFF, and MOYNIHAN a bill that, while costing little, will remedy a serious defect in the medicare program. The proposed legislation would authorize the President to enter into reciprocal agreements with other countries to provide hospital and medical benefits for medicare beneficiaries living or traveling outside the United States. Similar legislation was incorporated into the medicare amendments of 1978, which passed both Houses of Congress but, unfortunately, died without conference consideration at the end of the last session.

Under the existing medicare statute, hospital care and related physician and ambulance services furnished abroad are covered only when provided in Canada or Mexico, and even then only under very limited circumstances. First, benefits can be paid when the beneficiary is hospitalized in those two countries as the result of an emergency that arose in the United States. This coverage applies only where the foreign hospital is either nearer to, or more accessible than, the nearest suitable U.S. hospital. Social security legislation enacted in 1972 added two more exemptions to the general exclusion of services rendered abroad. One permits payment to be made for a U.S. resident in a border State who lives nearer to a suitable foreign hospital than to the nearest U.S. hospital that is adequately equipped to meet his needs. For these beneficiaries, benefits can be paid without regard to whether an emergency existed or where the illness or injury took place. The 1972 amendments also provide benefits for U.S. residents who are forced by a medical emergency to be hospitalized in Canada while traveling from Alaska to another State.

The various provisions for paying medicare benefits abroad are very important to the relatively few aged and disabled U.S. citizens who are involved. However, they meet only a part of the problem. For those who lose their medicare eligibility because they do not meet the narrow limitations of the law, hospitalization abroad could lead to financial ruin.

Of the approximately 27 million people eligible for medicare benefits in the United States, authorities estimate that fewer than 225,000 live abroad. Of that number, close to one-third live in Canada or Mexico and already have access to U.S. medical facilities. Only the remaining 150,000 and those medicare eligibles who happen to be traveling abroad when illness or accident strikes—a relatively small, but no less important group of American citizens—would be reenfranchised by my bill.

There is ample precedent for continuing the health insurance protection of insured persons while they are absent from the United States. This is generally provided for in private health insurance plans. The Veterans' Administration and the State Department have also demonstrated that health benefits can be made available abroad while maintaining adequate cost and quality controls. Veterans and State Department employees have received health services in private medical facilities abroad where there have been no U.S. military facilities available for many years.

The problems faced by the elderly and disabled in need of health services while abroad are not peculiar to the United States. Such agreements already exist among many countries, including a multilateral agreement among the nine members of the European Common Market, which permits workers and tourists from any member country to obtain social security medical benefits in any other member country. Recognizing that the process of negotiating international agreements is often lengthy, the bill authorizes the Department of Health, Education, and Welfare to extend medicare hospital benefits abroad on an interim basis. Pending the conclusion of such agreements, hospitals accredited by the Joint Commission on Accreditation of Hospitals—or such other hospitals as the Secretary finds meet health and safety standards equivalent to those required by medicare in the United States and accredited in the foreign country concerned—could participate in the medicare program on the same basis as hospitals in this country.

In light of the seemingly uncontrollable budget of Federal health care programs, we are all concerned with costs. Yet, bear in mind that these people have previously established their right to these services through their contributions into the medicare system. Furthermore, costs of health care in the United States are higher than in almost every other country. In any event, limitations in my bill assure that costs will not exceed what is paid in the United States. As a result, extension of medicare abroad will be less costly than if those eligible were taken care of at home, as they are entitled to be.

In summary, the bill would affect relatively few individuals. It would, however, protect those individuals from medical bills that could wipe out a lifetime of savings and lead to the very dependency that social security and its medicare program were created to prevent. The bill has the support of all the leading American organizations abroad, including the Association of American Residents Overseas, the American Legion, the American Chambers of Commerce, the Federation of American Womens Clubs Overseas, and others. Congressman JOHN DUNCAN intends to introduce a similar measure in the House.

As a Senator from a border State, I am particularly aware of the jeopardy many elderly and disabled individuals place themselves in when they travel or live abroad. Nevertheless, all my colleagues are potentially faced with this problem if their medicare eligible constituents go abroad. I believe that compassion and justice should move us to quickly close this gap in medicare protection.

Mr. President, I ask unanimous consent that my legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 681

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"INTERNATIONAL AGREEMENTS

"SEC. 1882. (a) The President is authorized to enter into agreements establishing reciprocal arrangements between the programs established by this title and the program of any foreign country under which similar services are provided directly to entitled individuals or under which insurance is provided to meet all or part of the expenses of entitled individuals for such services.

"(b) Any agreement establishing such a reciprocal arrangement pursuant to this section shall specify—

"(1) the nature and extent of payment to be made to or on behalf of (A) individuals entitled to benefits under this title for services covered under this title when such individuals are present in the foreign country and receive such services from persons who are authorized under the program of that foreign country to furnish them, and (B) individuals entitled to benefits under the program of that foreign country who receive services covered under this title in the United States from persons meeting such requirements or conditions as are required under this title;

"(2) such limitations on the nature and duration of services for which payment may be made in one country to individuals entitled to benefits under the program of the other country, as the President deems appropriate, except that no agreement shall authorize any individual to receive benefits in the United States on a reciprocal basis in excess of those provided for individuals entitled to benefits under this title, and no agreement shall authorize any payment to be made under this title for a service rendered outside the United States if payment for such service could not be made if the service were rendered inside the United States.

"(3) such limitations on entitlement of individuals to benefits on a reciprocal basis under an agreement in the United States and in the foreign country, as the President deems appropriate, except that no argument shall provide entitlement to benefits under this title in the United States for an individual who does not meet the requirements for entitlement applicable under this title with respect to age or medical condition;

"(4) the methods by which the cost of providing services to persons on a reciprocal basis shall be shared equitably by the persons receiving such services and by the respective programs of the United States and the foreign country; and

"(5) such other provisions, not inconsistent with this section, as the President deems appropriate.

"(c) The Secretary shall make rules and regulations and establish procedures which are reasonable and necessary to implement and administer any agreement which has been entered into in accordance with this section.

"(d) Pending the conclusion of an agreement under this section with a foreign country, the Secretary is authorized to enter into interim arrangements with any hospital in that country which is accredited by the Joint Commission on Accreditation of Hospitals, or such other hospitals as the Secretary finds meet health and safety standards equivalent to those required under this title for hospitals in the United States and which are accredited in the foreign country concerned, under which payment may be made for inpatient hospital services, as defined in section 1861, provided to or on behalf of an individual who is entitled to such benefits under part A of this title. For purposes of making payment under such an interim arrangement, the Secretary shall use whichever of the methods provided for in section 1814(f) he finds appropriate, except that any payments made under part A of this title to the individual or to the hospital shall be reduced to the extent that the individual has no legal obligation to pay for any items or services furnished to such individual by reason of the laws of the foreign country in which the hospital is located, or such individual's membership in an insurance plan that provides for payment for such items or services.".

SEC. 2. Negotiations to enter into agreements under section 1882 of the Social Security Act may begin on or after the date of the enactment of this Act, but no payments may be made under such agreement (including an interim arrangement under section 1882(d) of the Social Security Act) prior to September 15, 1980.●

By Mr. McCLURE:

S. 682. A bill entitled the "Historic Coin Preservation Act"; to the Committee on Banking, Housing, and Urban Affairs.

● Mr. McCLURE. Mr. President, I am today introducing a bill designed to augment the national coin collection in the Smithsonian Institution by requiring the Mint to transmit periodically to the museum two examples of all coin and medal issues, including pattern and experimental pieces, that are produced. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my remarks.

The purpose of this proposed legislation is to require the preservation of at least two specimens of all types of coins and medals produced by the Mint as a means of historical record.

At the present time, there is no requirement for current coins struck by the Mint to be sent to the Smithsonian for inclusion in the national coin collection. While there may be an informal practice to send some items for placement in the national coin cabinet, it is an irregular one. No current coins have been sent, and even the pewter set of special bicentennial medals were not forwarded, despite the substantial help that the curators gave to the Mint in the preparation of literature distributed with the medal sets.

Moreover, Mr. President, in July of this year, the Susan B. Anthony dollar will be formally placed in circulation. In order to obtain the final design, and appropriate size and shape, numerous pattern specimens and experimental issues were produced by the Mint Bureau at Philadelphia. This included a rendering of a Flowing Haired Liberty pattern by Chief Engraver Frank Gasparro, and several different-shaped pattern coins bearing the portrait of Martha Washington on a piece "dated" 1759. These are pieces which belong in the Smithsonian for future students to examine, and my bill would require two examples of these patterns to be transmitted to the Smithsonian Institution to the extent that they are available to do so. It would also require that any and all future pattern issues made by the Mint be similarly transmitted for permanent recording and study.

Nearly a century ago, Patterson DuBois wrote in the American Journal of Numismatics that pattern issues are "half forgotten witnesses * * * [to] the impractical schemes of visionaries and hobbyists—a tale of national deliverance from minted evil * * * the tale of 'what might have been.'"

Early on, pattern pieces were included in the national cabinet of the Mint itself, and when that was turned over to the Smithsonian, a sizeable number of pieces were included. But, in recent years, the practice has been halted, and students of numismatics, as well as historians, are the lesser for it. When the Mint produced a silver dollar dated 1964, no specimen was forwarded to the Smithsonian, and presumably, because they were all reported to be melted down, none exists for study today despite the fact that at least one congressional hearing was held in the House some years ago on why these coins were produced at all. Trial strikes of a 1974 aluminum cent similarly were not transmitted to the Smithsonian by the Mint, though one specimen now is there as a result of private donation. And, of course, the small-sized dollar coin manufactured in 10-, 11-, and 13-sided versions just begins to cover the topic of the various pattern pieces produced prior to the striking of the Anthony dollar.

There is a little cost to the proposal that I am introducing today; it simply, and directly, requires that two specimens of all coins—including foreign pieces—produced by the Mint be transmitted to the Smithsonian for accessioning into the national collection. Second, it permits the Secretary of the Treasury to allow similar specimens to be lent for exhibition purposes, and study, to nonprofit, educational associations, societies, and museums.

Finally, it requires that to the extent possible, patterns for the small-sized dollar authorized by the Susan B. Anthony Dollar Act of 1978 (Public Law 95–447) be similarly transmitted to the Smithsonian Institution for inclusion in the permanent collection of coinage.

I want to emphasize the importance of this piece of legislation, Mr. President, and my personal commitment to it. At the present time, the only means by which currently circulating United States coins find their way into the national numismatic collection is if the curator is able to find a private donor, or if acquisition funds are expended that could be best spent elsewhere. In the case of pattern coins and experimental issues, together with some medal issues, there is no possibility of the Smithsonian acquiring them because the specimens are not released from the Mint.

With the President's permission, I ask unanimous consent to include at this point in the RECORD a commentary which explores the issue thoroughly, and explains a bit more about the history of pattern coins, experimental issues and trial strikes. The first is an extract from "Toward a Revision of the Minting and Coinage Law of the United States," authored by David L. Ganz, the able legislative counsel of the American Numismatic Association. While the article is extensive, and covers the whole of the minting and coinage law, the section I would like to include here relates to pattern coins and the legislating of their transmittal to the Smithsonian. The article was first published in the Cleveland State Law Review last year, and is currently being reprinted in the Numismatist, monthly journal of the American Numismatic Association.

In conclusion, Mr. President, I urge the adoption of this legislation and hope for prompt consideration during this session of Congress.

There being no objection, the excerpt and bill were ordered to be printed in the Record, as follows:

Extract From 'Toward a Revision of the Minting and Coinage Laws of the United States"

(By David L. Ganz)

3. PATTERN COINAGES AND EXPERIMENTAL AND TRIAL STRIKES

Pattern coinages, experimental issues, and trial strikes represent American monetary history—a twilight heritage reflected in the coinage and minting laws since the Mint was organized in 1792. As Patterson DuBois noted in an early article, pattern issues are "half-forgotten witnesses . . . [to] the impractical schemes of visionaries and hobbyists—a tale of national deliverance from minted evil . . . the tale of what might have been.' "[340]

Throughout the long history of patterns, trial strikes, and experimental issues,[341] there is strong evidence that coin collector interest in this fascinating field was tolerated, if not encouraged by Mint officials.[342] In 1866[343] the first rules were adopted by the Mint to deal comprehensively with pattern issues.[344] With particularity, the rules provided that no coins nor patterns were to be struck after the year of their date,[345] that all were to be issued in their "proper metal,"[346] and that patterns of experimental pieces were to be obtainable "within the year of [their] date but not after,"[347] with standing orders for the same acceptable[348] at a price of three dollars in currency for all but precious metal patterns. These were valued at the cost of the bullion contained in the coins plus a three dollar charge.[349] Interestingly, early Treasury Rules expressly permitted the Director of the Mint to send patterns to numismatic societies incorporated in the United States, requiring payment only for the cost of precious metal.[350] Most important in this early set of rules was that "profits . . . are not to be the perquisite of any person holding a place in the mint,"[355] a statement probably necessary in the light of past practices at Philadelphia.

The Coinage Act of 1873,[352] engineered by John Knox and Dr. Henry R. Linderman,[353] was designed to codify existing law, as well as to pave new paths in the field. Dr. Linderman served as first Director of the Bureau of the Mint. During his five year tenure, the coinage act he helped create was first tested and tried. In May, 1874[354] Linderman promulgated regulations governing the striking and sale of certain specimen pieces. In pertinent part they provided that the Superintendent of the Philadelphia Mint "shall have general supervision of the manufacture of medals and the striking of proof and pattern pieces."[355]

In amplification of the rules of 1866, also promulgated by Linderman,[356] the 1874 regulations required that the hubs of pattern dies be destroyed at the end of each year.[357] The 1874 regulations expressly permitted the sale of proof and pattern coins at prices established by the Superintendent of the Mint with the approval of the Director.[358] With particularity, the regulations provided further that "[n]o coins or patterns shall be struck after the year of their date, or in any other metal or alloy than that in which the coin is issued or intended to be issued,"[359] and that "[w]hen a pattern piece is adopted and used in the regular coinage in the same year, it will then be issued as a proof at a price near its current value."[360]

These provisions were further amplified by an 1881 regulation[361] which provided that pattern pieces could be struck and sold subject to the earlier regulations when authorized by the Director of the Mint,[362] at a price fixed by the Superintendent and approved by the Director[363] as long as the coins or pattern pieces were struck within the year of their date in the appropriate metal or alloy,[364] and as long as the dies for production were defaced at the end of the calendar year. By the regulations of January 17, 1887,[365] the Director made a substantive change by requiring that no pattern pieces could be coined nor dies executed in denominations other than those used for general circulation during the year.[366] The practice of permitting the Superintendent of the Philadelphia Mint to furnish patterns to incorporated numismatic societies were continued,[367] with the usual provision requiring payment in bullion cost only for precious metal.[368]

Dr. Linderman died in 1879. To raise funds for his widow and son, a significant portion of his collection of coin patterns was put up for public auction eight years later. Bangs and Company set the auction for June 28, 1887, but the government intervened and prevented the sale.[369]

On July 1, 1887, Director of the Mint James P. Kimball issued a formal circular[370] with the approval of Treasury Secretary C. S. Fairchild which misstated the previous regulations,[371] and while quoting accurately from the Coinage Act of 1873 and the Revised Statutes, misinterpreted the legislative history behind those sections which regulated the denominations, standards, and weights of coinage. In pertinent part, the circular stated that "the emmission [sic] of impressions of experimental dies whether in soft metal or in metal of the same weight and fineness proper to coins of the same denomination, is unlawful except in the case of pattern pieces . . . [which] are coined for general circulation during the calendar year of their date."[372] The circular further stated that the impression taken from any experimental dies was required to be destroyed. These requirements were mistakenly ascribed by the circular as coming from the May 14, 1874 regulations,[373] which it is evident they did not.

In addition, the circular suggested that "the striking of a piece in semblance of a United States coin in a metal or alloy, or of a weight and fineness other than prescribed by law is in violation of Section 5460 of the Revised Statutes,"[374] a statute designed to prevent debasement of coinage and no more.[375] The Director invoked section 3517 of the Revised Statutes[376] in tandem with section 5461, which he alleged prohibited the "emission or offer for sale or exchange of any impression from any die of a coin of the United States, or of a proposed coin of the United States, bearing a legend as of a coin of the United States, but with a device or devices not authorized by law."[377] In the same connection, Kimball noted that "[n]o impression from any coinage die of the United States struck in other metal than that authorized by law, or of a weight and fineness other than that prescribed by law (Revised Statutes [§§] 3513,[378] 3514,[379] 3515[380]), nor pattern piece bearing a legend of a coin of the United States, and bearing a device or devices not authorized by law (Revised Statutes [§§] 3516,[381] 3517,[382] Mint Regulations[383]), should be in existence longer than required for the lawful purpose for which it was authorized to be struck."[384]

Kimball's argument was structured upon the premise that coin-debasement and counterfeiting statutes, coupled with provisions specifying which coins might be struck, their required inscriptions. and the appropriate alloy, militated against the issuance of patterns. To bolster his argument, he cited a further provision which stated that no coins of any metal or type could be issued unless in conformity with the requirements of the Coinage Act of 1873.[385]

The legislative history of the sections of the Revised Statutes cited by Director Kimball indicate a contrary result to that advanced by the Director. The Coinage Act of 1873, codified in the Revised Statutes and later in Title 31 of the United States Code, specified in section 15 that the silver coins of the United States were to be certain enumerated denominations, while section 16 imposed the same requirement for minor coins. The effect of these provisions on the handling of pattern pieces, however, must be evaluated through reference to section 17 of the 1873 Act, which prohibited the issuance of coins other than in the denominations, standards, and weights set forth in the Act. The legislative history of section 17 makes it clear that while these sections were designed to eliminate the silver dollar and other issues from Mint production and to prohibit any future deposits of silver for domestic circulation following the Mint's conversion of the bullion to coin, they were never intended to regulate the production and disposition of pattern pieces.

Concededly, it was within the power of the director of the Mint to issue regulations banning pattern ownership in futuro, but the retroactive application was not only arbitrary but unjustified. Regulations were subsequently issued in 1888[386] which effectively ended pattern strike acquisitions by collectors. Section 15 of these regulations required that "[a]ll experimental and trial pieces shall be struck by the engraver from planchets furnished by the coiner upon requisition by the Superintendent for a specific number of pieces," while section 16 declared it to be a misdemeanor for an officer or employee of the Mint to strike either by hand or by machinery a coin of the United States or a dated pattern or experimental piece after the year of its date. The second subsection prohibited utilization of any coin in other than the prescribed metal and fineness. Finally, the fourth subsection provided that experimental pieces of proposed denominations were to be struck in proper metals and alloys which, if not adopted for regular coinage during the year of striking, were to be defaced and melted.

Notwithstanding the explicit regulations, numerous patterns are known to have been struck thereafter, as well as experimental and trial strikes. These pieces include the 1933 double eagle, the 1942 plastic cents, the 1964-dated silver peace dollar, the 1965 pattern clad-coinage, the 1974 aluminum cents, and the 1975–1976 small-size dollar patterns in a multitude of sizes and shapes. The Mint claims never to have released these patterns. Most earlier issues, such as the 1913 Liberty nickel, may be traced to public or surreptitious sales by officials or employees of the Mint.

There is little in the way of precedent to guide the framing of legislation for this area. The controversies concerning the

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Footnotes at end of article.

estates of Dr. Linderman in 1887,[387] and that of a well-known coin dealer in 1910,[388] were both settled without trial. One double eagle dated 1933 was seized by the government in an action upheld by the courts,[389] but the result might be different today in an era of legalized private gold ownership.[390]

FOOTNOTES

[340] DuBois, *The Pattern Piece,* 17 AM. J. NUMISMATICS 56 (1883).

[341] See J. JUDD, UNITED STATES PATTERN, EXPERIMENTAL AND TRIAL PIECES (6th ed. 1977).

[342] See Ganz, *Wild Ideas to Change U.S. Coins,* 11 COINAGE 33 (Oct. 1975); Logan, *Twilight Coinage,* 11 COINAGE 64 (Nov. 1975).

[343] Rules for the United States Mint at Philadelphia (effective July 1, 1866) [hereinafter cited as 1866 Rules].

[344] The author wishes to acknowledge the gracious assistance of Miklos Lonkay, Esq., Counsel to the Mint, for kind assistance in locating these early, obscure rules, copies of which are found in Treasury archives in a file pertaining to pattern seizures. *See* notes 355–90 *infra* and accompanying text.

[345] 1866 Rules, *supra* note 343, at Rule 1.

[346] *Id.* at Rule 2.

[347] *Id.* at Rule 3.

[348] *Id.*

[349] *Id* at Rule 4.

[350] *Id.*

[351] *Id.* at Rule 6.

[352] Act of Feb. 12, 1873, ch. 131, 17 Stat. 424.

[353] G. EVANS, HISTORY OF THE UNITED STATES MINT AND COINAGE 105 (rev. ed. 1889); A. WEINSTEIN, PRELUDE TO POPULISM: ORIGINS OF THE SILVER ISSUE 1867–1878, at 15 & n. 21, 16 & n. 22 (1970).

[354] Regulations for the Striking and Sale of Medals and the Furnishing of Proof Coins and Specimen Pieces at the Mint Under the Coinage Act of 1873 (issued May 14, 1874) [hereinafter cited as 1874 Regulations].

[355] Id. at Regulation (emphasis added).

[356] *See* note 343 *supra.*

[357] 1874 Regulations, *supra* note 354, at Regulation 2, § 3.

[358] *Id.* § 8.

[359] *Id.* § 9.

[360] *Id.* § 10.

[361] Regulations of the Director of the Mint, June 25, 1881 (effective July 1, 1881).

[362] *Id.* § 7.

[363] *Id.* § 8.

[364] *Id.* § 9; *see* 1874 Regulations, *supra* note 354, at Regulation 2, § 9.

[365] General Instructions and Regulations (effective March 1, 1887).

[366] *Id.* at art., 15, § 3.

[367] *Id.* at art., 15, § 7.

[368] *See* note 349 *supra* and accompanying text.

[369] For details, *see* articles cited in note 342 *supra.*

[370] U.S. Dept. of the Treasury Circular No. 76, Bureau of the Mint Circular No. 11 (July 1, 1887) (Unlawful Traffic in United States Mint Pattern Pieces).

[371] *See* 1874 Regulations, *supra* note 354, at Regulation 2.

[372] *See* S. Misc. Doc. No. 132, 41st Cong., 2d Sess. (1870).

[373] *See* note 354 *supra.*

[374] REV. STAT. § 5460 (1875) (repealed by Act of March 4, 1909, ch. 321, § 341, 35 Stat. 1153).

[375] *See* Coinage Act of 1873, ch. 131, § 64, 17 Stat. 424. *Compare id.* § 43 (original draft), *and id.* § 67 (revised draft), *with* the British Coinage Act of 1870, 33 Vict., ch. 10, § 3. The British act was similar in purpose and was apparently considered by Knox in the drafting. *See* [1896] DIR. OF THE MINT ANN. REP. 491, 498.

[376] REV. STAT. § 3517. 17 Stat. 427 (1875) (current version at 31 U.S.C. § 324 (1970)).

[377] *See* note 374 *supra.*

[378] 31 U.S.C. § 316 (1970).

[379] U.S.C. § 321 (1970).

[380] 31 U.S.C. § 317 (1970 & Supp. V. 1975).

[381] 31 U.S.C. § 322 (1970).

[382] 31 U.S.C. § 324 (1970).

[383] *See* notes 343, 355, 361 & 365 *supra.*

[384] U.S. Dept. of the Treasury Circular No. 76, Bureau of the Mint Circular No. 11 (July 1, 1887).

[385] Act of Feb. 12, 1873, ch. 131, § 17, 17 Stat. 427 (current version at 31 U.S.C. § 322 (1970)).

[386] Regulations of Jan. 21, 1888 (effective April 1, 1888).

[387] *See* articles cited in note 342 *supra.*

[388] United States v. Hazeltine (preliminary proceedings in Federal District Court for the Eastern District of Pennsylvania, 1910) (pleadings and documents on file at the U.S. Dept. of the Treas., Washington, D.C. (1910 file 1)).

[389] United States v. Barnard, 72 F. Supp. 531 (W.D. Tenn. 1947).

[390] Holzer, *How Americans Lost Their Right to Own Gold—And Became Criminals in the Process,* 39 Brooklyn L. Rev. 517 (1973). *See* Ganz, *The U.S. Gold Coin That Is Still Illegal,* Numismatic News Weekly, Jan. 18, 1975, at 44.

S. 682

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. That two specimens of all pattern coins, trial strikes, experimental pieces, minor coin, subsidiary coin, dollars, proof or specimen sets, foreign coins, medals, and mint sets produced by the Bureau of the Mint at its several facilities, whether or not intended for circulation, shall be transmitted to the Smithsonian Institution for inclusion in the national numismatic collection.

SEC. 2. At the discretion of the Secretary of the Treasury, other specimens of the pieces enumerated in section one of this Act may be lent for exhibition purposes, under such terms, conditions and regulations as the Secretary may prescribe, to non-profit educational associations, societies, and museums, and to such other groups as the Secretary may direct.

SEC. 3. This Act shall be effective immediately upon enactment, *Provided however,* to the extent feasible, the Secretary shall cause the Bureau of the Mint to transmit to the Smithsonian Institution national numismatic collection such patterns, trial strikes and experimental issues of the 26.5 millimeter (1.043 inch) dollar coin authorized by Public Law 95–447 as may be available, in quantities prescribed in section one of this Act.●

By Mr. COHEN:

S. 683. A bill to establish the North Country National Scenic Trail located in portions of New York, Pennsylvania, Ohio, Michigan, Wisconsin, Minnesota, and North Dakota, as a component of the National Trails System; to the Committee on Energy and Natural Resources.

NORTH COUNTRY NATIONAL SCENIC TRAIL ACT OF 1979

● Mr. COHEN. Mr. President, today I am introducing at the request of the International Backpackers Association, a bill which would establish the North Country Trail as the first east-west long-distance foot trail as part of the National Trails System.

This bill would create a 3,246-mile trail extending from the Appalachian Trail in Vermont through the States of New York, Pennsylvania, Ohio, Michigan, Wisconsin, and Minnesota to the proposed Lewis and Clark Trail in North Dakota.

The North Country Trail was recommended for inclusion in the National Trails System following a 7-year study by the Department of the Interior. According to 1970 census figures, it is within a 2-hour drive of 50 million people, and within a half day's drive of nearly half of the Nation's population.

I hope to see quick consideration for this bill during this session.

I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, this bill was ordered to be printed in the RECORD, as follows:

S. 683

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "North Country National Scenic Trail Act of 1979".

SEC. 2. There is hereby established as a component of the National Trails System, created by the Act of October 2, 1968 (82 Stat. 919; 16 U.S.C. 1241), the North Country National Scenic Trail, a corridor of approximately three thousand two hundred miles, extending from eastern New York State to the vicinity of Lake Sakakawea in North Dakota following the approximate route depicted on the map, identified as "Proposed North Country Trail—Vicinity Map" in the Department of the Interior North Country Trail Report dated June 1975: *Provided,* (1) that only those segments of the corridor located within exterior boundaries of federally administered areas are established as the North Country National Scenic Trail by this Act; and (2) that segments outside of the exterior boundaries of federally administered areas may be established as part of the North Country National Scenic Trail upon application to the appropriate Secretary by the State or local governmental agencies or private interests involved if such segments meet the criteria established in the National Trails System Act and are administered by such agencies or interests without expense to the United States.

SEC. 3. Within three years after the date of enactment of this Act, the Secretary of the Interior shall select for the North Country National Scenic Trail a right-of-way, which shall be located within the corridor depicted on the map referred to in section 2. The locations and the width of such rights-of-way across Federal lands under the jurisdiction of another Federal agency shall be by agreement between the head of that agency and the appropriate Secretary. In selecting the location and rights-of-way for non-Federal segments of the trail, the Secretary of the Interior shall obtain the advice and assistance of the States, local governments, private organizations, and landowners and land users concerned. After the final route of the trail has been published in the Federal Register, the ten-mile wide planning corridor used in selecting that route shall cease to exist. The Secretary of the Interior shall develop guidelines for the acquisition, development, management, and maintenance of the trail with the advice and assistance of the Secretary of Agriculture and other affected Federal, State, and local agencies and organizations.

SEC. 4. The Secretary of the Interior shall, within one year after the date of enactment of this Act, further study and report to the Congress his recommendations regarding the feasibility and desirability of establishing a connecting trail between the North Country National Scenic Trail authorized by this Act and the Appalachian National Scenic Trail.

SEC. 5. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.●

By Mr. MAGNUSON:

S. 684. A bill to establish an equitable and comprehensive liability regime for the marine transportation of oil by vessel, and for other purposes; to the Committee on Commerce, Science, and Transportation.

OIL TRANSPORTATION BY VESSEL LIABILITY ACT

● Mr. MAGNUSON. Mr. President, today I am introducing a bill that would establish an equitable and comprehensive liability scheme for vessels transporting oil. This is a problem that has existed without adequate resolution for decades. The root of the problem is the 1851 Limitation of Liability Act, which limits the liability of a tanker owner for an oilspill to the value of the vessel after the accident. As the *Torrey Canyon*, *Argo Merchant*, and *Amoco Cadiz* disasters vividly demonstrate, this could well result in no liability for the tanker owner.

Although there is Federal legislation in place that deals with the cleanup of oilspills, existing law still does not deal adequately with third-party damages. Damaged parties may still have no means to be compensated for their losses that result from an oilspill.

Mr. President, the bill that I am introducing today does not deal with the question of what is or is not pollution. It does not deal with what is or is not a legal oil discharge into our waters. This bill deals with the legal liability questions that arise after there has been an oilspill, and what the various rights and duties of the various affected parties are. It differs from legislation that has been introduced in previous Congresses in that it deals only with vessels. It does not deal with facilities; it does not touch on the problems of ground water pollution; and because nobody has yet found a workable, reasonable solution to hazardous substances, the bill does not include them in its coverage. Of course, the hazardous substance controversy appears to focus on facilities more than vessels anyhow. In short, the bill is intended to deal only with the liability of vessels transporting oil.

Mr. President, this bill works from concepts which are not new in nature. Briefly, it would establish a strict, but limited, scheme of liability for any vessel carrying oil, which causes an oil pollution incident. If that limited liability is exceeded, then a fund, which is constituted from a fee imposed on the oil cargo, will be available to fully compensate all damaged parties. This could be analogized to a risk-sharing scheme, whereby the vessel owner bears the initial (and substantial) legal responsibility for the consequences of a spill, and the cargo owner is responsible for the balance of damages that result from major catastrophes. In those instances where the source of a spill is unknown, the cargo fund is responsible for fully compensating the injured parties.

Up until the present time, it has been decided that innocent parties—the property owner or the fisherman—should bear the costs of oil pollution damage from tanker operations. This state of the law cannot be allowed to continue. It is inadequate, illogical, and inequitable. This bill would change this situation and shift the economic responsibility for such spills to those who directly benefit from the carriage of oil by vessel—the shipowner, the oil industry, and ultimately, the oil consumer.

Mr. President, this bill is lengthy, and I will not attempt to explain all of its provisions at this time. Briefly, after stating the bill's policies and definitions, section 4 sets forth what the liability of a vessel carrying oil is. Section 5 sets forth the recoverable damages and eligible claimants. Section 6 and 7 establish the oil cargo liability fund and the fund's fee structure. Section 8 governs the Government's subrogation rights, and section 9 sets forth some lengthy, but hopefully useful, claims procedures. Section 10 sets forth the vessel's financial responsibility obligations. The remainder of the bill is more technical in nature, covering public access to information, court actions, enforcement, and relationship to other law.

Mr. President, there is no excuse for the Congress to allow the present liability scheme for tankers and other vessels to continue. Those parties that may be damaged by oilspills from such vessels and find that they have no legal recourse for compensation have every right to be astonished that Congress has not addressed this problem. The bill I am introducing would remedy this gross legal deficit in our laws.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 684

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Oil Transportation by Vessel Liability Act".

Sec. 2. Declaration of Policy.

(a) Findings.—The Congress finds and declares the following:

(1) Existing admiralty law governing the liability of vessels carrying oil is inadequate, inequitable, and outdated.

(2) The legal rules applicable to vessel liability for oil pollution need to be rationalized and reformed to assure that adequate and timely compensation is available to all damaged parties, and to establish uniform legal criteria with which vessels are to comply.

(b) Purposes.—It is the purpose of the Congress in this Act to—

(1) impose strict liability on vessels transporting oil for all damages resulting from a discharge of oil from such vessels; and

(2) provide adequate sources of compensation and an expeditious procedure to compensate all persons damaged by the marine transportation of oil.

Sec. 3. Definitions.

As used in this Act, unless the context otherwise requires, the term—

(1) "barrel" means 42 United States gallons at 60 degrees Fahrenheit;

(2) "claim" means a claim, made in writing for a sum certain, for compensation under this Act for damages or cleanup costs resulting from a discharge of oil;

(3) "cleanup costs" means all actual and reasonable costs incurred by any person in—

(A) removing or attempting to remove oil resulting from an incident; or

(B) taking other measures after an incident has occurred to prevent, reduce, or mitigate oil damages to private property, or public health, property, or welfare resulting from such incident, including shorelines, beaches, or natural resources;

(4) "damages" means damages for which compensation may be claimed, other than cleanup costs, as set forth in section 5;

(5) "discharge" includes any spilling, leaking, pumping, pouring, emptying, or dumping of oil, however caused—

(A) in an unlawful quantity or at an unlawful rate—

(i) in or on the navigable waters or their connecting or tributary waters within the United States or immediately adjacent thereto; or

(ii) in or on the waters of the contiguous zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606); or

(B) in or on the waters of the high seas outside the territorial limits of the United States—

(i) when discharged in connection with activities conducted under the Deepwater Port Act of 1974, as amended by this Act (33 U.S.C. 1501 et seq.);

(ii) which may cause injury to or loss of natural resources belonging to, appertaining to, or under the exclusive management authority of, the United States; or

(iii) when such oil was discharged from a ship which received such oil at the terminal of the pipeline authorized by the Trans-Alaska Pipeline Authorization Act, as amended by this Act (43 U.S.C. 1651 et seq.), for transportation to a port in the United States, and was discharged from such ship prior to being brought ashore in such a port; or

(C) in or on the territorial sea, internal waters, or adjacent shoreline, of a foreign country, if damages and cleanup costs are recoverable by a foreign claimant under section 5;

(6) "fund" means the Oil Cargo Liability Fund established pursuant to section 6;

(7) "incident" means any occurrence, or series of occurrences, involving one or more vessels, which causes, or poses an imminent threat of, a discharge of oil;

(8) "insurer" means any person who provides, in accordance with section 10, evidence of financial responsibility for the owner or operator of a vessel;

(9) "natural resources" means land, fish, wildlife, biota, air, water and other such resources owned, managed, held in trust or otherwise controlled by the Federal Government (including the fishery resources of the fishery conservation zone established by section 101 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1811)), any State or local government, or any foreign government;

(10) "oil" means oil of any kind (except animal or vegetable oils), in any form, including petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredge spoil;

(11) "operator" means any person who is responsible for the operation, manning, victualizing, and supplying of a vessel or who charters by demise such vessel;

(12) "owner" means any person holding title to, or in the absence of title, any other indicia of ownership of, a vessel, except that the term does not include a person who, without participating in the management or operation of a vessel, holds indicia of ownership primarily to protect a security interest in such vessel;

(13) "person" means an individual, a public or private corporation, partnership

or other association, or a governmental entity;

(14) "person in charge" means the individual immediately responsible for the operation of a vessel;

(15) "public vessel" means a vessel which is owned, or chartered by demise, and operated by the United States, any State or subdivision thereof, or any foreign government; and is not engaged in commercial service;

(16) "refinery" means a terminal which receives crude oil for the purpose of refinement;

(17) "Secretary" means the Secretary of Transportation;

(18) "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the United States Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States;

(19) "terminal" means any permanently situated facility which is located within the territorial limits of the United States; is not owned by any agency of the Federal Government; and receives oil in bulk directly from any vessel; and

(20) "vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation through or on water.

SEC. 4. LIABILITY OF VESSELS CARRYING OIL.

(a) IN GENERAL.—Notwithstanding any other provisions of law, or rule of law, according to the following provisions of this section, the owner and operator of a vessel (other than a public vessel) which is the source of, or poses an imminent threat of, a discharge of oil, shall be jointly, severally, and strictly liable for all damages and cleanup costs for which a claim is asserted under this Act.

(b) LIMITS OF LIABILITY.—Except as provided in subsection (c), the liability of the owner or operator of a vessel under subsection (a), including cleanup costs incurred on behalf of such owner or operator, shall not exceed—

(1) $150 for each gross ton of any vessel which does not carry oil in bulk as cargo; or

(2) $500,000 or $300 for each gross ton, whichever is greater, of any vessel which carries oil in bulk as cargo.

(c) COMPLETE LIABILITY.—Notwithstanding the provisions of subsection (b), the liability of the owner or operator of a vessel under subsection (a), including cleanup costs incurred on behalf of such owner or operator, shall be the full extent of the damages and cleanup costs resulting from a discharge of oil if the—

(1) incident is caused by gross negligence or willful misconduct within the privity or knowledge of the owner or operator;

(2) incident is caused by a gross or willful violation, by the owner or operator, of applicable safety, construction, or operating standards or regulations of the Federal Government; or

(3) owner or operator fails or refuses to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup activities.

(d) DEFENSES.—There shall be no liability under subsection (a)—

(1) if the incident is caused solely by—

(A) an act of war, hostilities, civil war, or insurrection, or by a natural phenomenon of an exceptional, inevitable, and irresistible character, and such incident could not have been prevented or avoided by the exercise of due care or foresight; or

(B) an act or omission of a person other than (i) the claimant, (ii) the owner or operator, (iii) an employee or agent of the claimant, the owner, or the operator, or (iv) one whose act or omission occurs in connection with a contractual relationship with the claimant, the owner, or the operator;

(2) if the incident occurs when the vessel is moored at a deepwater port;

(3) as to a particular claimant, if the incident or loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

(4) as to a particular claimant, to the extent that the incident or loss is caused by the negligence of that claimant.

(e) INTEREST.—(1) In addition to the damages and cleanup costs for which claims may be asserted under this Act, and without regard to the limitation of liability provided for in subsection (b), the owner, operator, or insurer of the vessel which is the source of a discharge of oil shall be liable to any claimant for interest on the amount paid in satisfaction of the claim, pursuant to section 6, for the period from the date upon which the claim was presented to such owner, operator, or insurer to the date upon which the claimant is paid, inclusive, less the period, if any, from the date upon which the owner, operator, or insurer offers to the claimant an amount equal to or greater than that finally paid in satisfaction of the claim to the date upon which the claimant accepts that amount, inclusive. However, if such owner, operator, or insurer offers to the claimant, within 60 days after the date upon which the claim was presented, or after the date upon which advertising was commenced pursuant to section 9, whichever is later, an amount equal to or greater than that finally paid in satisfaction of the claim, then such owner, operator, or insurer shall be liable for the interest provided in this paragraph only from the date the offer was accepted by the claimant to the date upon which payment is made to the claimant, inclusive.

(2) The interest provided for in paragraph (1) shall be calculated by the Secretary at the average of the highest rate for commercial and finance company paper of maturities of 180 days or less, obtaining on each of the days included within the period for which interest must be paid to the claimant, as published in the Federal Reserve Bulletin.

(f) ADJUSTMENT OF LIMITS.—The Secretary shall, from time to time, report to the Congress on the desirability of and, where appropriate, recommendations on adjusting the limits of liability contained in this section. In considering any such recommendation, the Secretary shall publish any proposed recommendation in the Federal Register and provide 30 days for any interested party to submit comments.

(g) PROHIBITION.—No indemnification, hold harmless, or similar agreement shall be effective to transfer from the owner or operator of a vessel to any other person the liability provided for under this Act, other than as specified under the provisions of this Act.

SEC. 5. RECOVERABLE DAMAGES AND CLAIMANTS.

(a) DAMAGES.—Claims for damages for economic loss resulting from a discharge of oil may be asserted under this Act for:

(1) injury to, or destruction of, real or personal property;

(2) loss of use of any real or personal property;

(3) injury to, or destruction of, natural resources;

(4) loss of use of any natural resources, without regard to ownership of such resources;

(5) loss of profits or impairment of earning capacity resulting from any damage to, or destruction of real or personal property, or natural resources; and

(6) loss of tax, royalty, rental, or net profits share revenue by the Federal Government or any State or local government, for a period of not to exceed 1 year.

(b) TRUSTEE OF NATURAL RESOURCES.—The President, or the authorized representative of any State, shall act on behalf of the public as trustee of the natural resources to recover for damages to such resources. Sums recovered shall be used to restore, rehabilitate, or acquire the equivalent of such natural resources by the appropriate agencies of the Federal Government, or such State.

(c) FOREIGN CLAIMANTS.—Claims for compensation for damages and cleanup costs may be made under this Act by any citizen of a foreign nation or by any foreign nation if such damages or cleanup costs resulted from a discharge of oil, or threat of a discharge of oil, from—

(1) an incident occurring in the navigable waters of the United States; or

(2) a vessel carrying oil as cargo between two ports subject to the jurisdiction of the United States.

SEC. 6. OIL CARGO LIABILITY FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the Oil Cargo Liability Fund (hereinafter referred to as "the Fund"). The Fund shall be administered by the Secretary and the Secretary of the Treasury in accordance with the provisions of this Act. The Fund may sue and be sued in its own name.

(b) CONTENT.—The Fund shall be constituted from—

(1) all fees collected pursuant to section 7;

(2) all moneys recovered through subrogation under section 8;

(3) interest on, and the proceeds from the sale of, special obligation bonds of the United States, as provided in subsection (e); and

(4) amounts received by the Secretary from the sale or issuance of notes or other obligations under subsection (f).

(c) LIABILITY OF THE FUND.—(1) Subject to the provisions of paragraph (2), the Fund shall be liable for all damages and cleanup costs for which a claim may be asserted under this Act, to the extent that the loss is not otherwise compensated on behalf of the owner or operator involved.

(2) Except for cleanup costs incurred under the provisions of law specified in subsection (d)(2), there shall be no liability under paragraph (1)—

(A) where the incident is caused primarily by an act of war, hostilities, civil war, or insurrection;

(B) as to a particular claimant, where the incident or economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

(C) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

(d) DISBURSEMENTS.—The Secretary may use the money in the Fund solely for the following purposes:

(1) The payment of any valid claim for damages presented according to the provisions of this Act.

(2) The payment of any valid claim for cleanup costs incurred by any claimant.

(3) Administrative and personnel costs of the Federal Government incident to administration of the fund, including costs relating to claims settlement, and adjudictory and judicial proceedings, whether or not such costs are recoverable under section 8, after appropriation in an appropriations Act.

(4) After appropriation in an appropriations Act, the cost of assessing injury to or the destruction of natural resources resulting from a discharge of oil, such assessment to be undertaken by the National Oceanic and Atmospheric Administration.

Moneys in the Fund shall be immediately available for payment of cleanup costs incurred under subsections (c), (d), or (l) of section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), section 5 of the Intervention on the High Seas Act (33 U.S.C. 1474), or section 18(b) of the Deepwater Port Act of 1974, as amended (33 U.S.C. 1517(b)), and may be obligated for such purpose by any person so designated by the Secretary.

(e) Investment.—The Secretary of the Treasury may invest any portion of the moneys in the Fund which the Secretary determines is not immediately required to meet the potential obligations of the Fund. Such investments shall be made only in interest-bearing special obligations of the United States. Any such obligations that are issued to the Fund may be redeemed at any time, in accordance with the terms of the special issue and regulations promulgated by the Secretary of the Treasury in cooperation with the Secretary. The interest on, and the proceeds from the sale of, any such obligations shall be credited to and form a part of the Fund.

(f) Insufficiency.—If the money available in the Fund is not sufficient to pay any amount which the Fund is obligated to pay under this Act, the Secretary shall issue to the Secretary of the Treasury notes or other obligations (only to such extent and in such amounts as may be provided for in appropriations Acts) in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury prescribes. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States on comparable maturities during the month preceding the issuance of such notes or other obligations. Any sums received by the Secretary through such issuance shall be credited to the Fund. The Secretary of the Treasury shall purchase any notes or other obligations issued under this subsection, and for this purpose such Secretary may use, as a public debt transaction, the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force. The purposes for which securities may be issued under that Act are extended to include any purchase of notes or other obligations issued under this subsection. The Secretary of the Treasury may at any time sell any of the notes or other obligations so acquired under this subsection. All redemptions, purchases, and sales of such notes or other obligations by the Secretary of the Treasury shall be treated as public debt transactions of the United States.

(g) Annual Report.—Within 6 months after the end of each fiscal year, the Secretary shall submit to the Congress (1) a report on the administration of the Fund during such fiscal year, and (2) recommendations for such additional legislative authority as may be necessary to improve the management of the Fund and the administration of the liability provisions under this Act.

Sec. 7. Oil Cargo Liability Fund Fee.

(a) Establishment of the Fee.—There is hereby established a fee, of not more than 3 cents per barrel, to be levied on each barrel of crude oil received at any refinery from a vessel, and on each barrel of oil received at any terminal from a vessel for export from or entry into the United States. Oil on which a fee has been levied under this subsection shall not be subject to any subsequent such levy.

(b) Collection of the Fee.—The Secretary of the Treasury shall collect the fee established by subsection (a) from (1) the owner of any refinery receiving crude oil from a vessel, and (2) the owner of any terminal receiving oil from a vessel for export from or entry into the United States, whether for import or transfer to a foreign country. The person who owns such oil shall be obligated to reimburse the owner of such refinery or terminal, as the case may be, the full amount of the fee levied on the oil of that person and paid by the owner of the refinery or terminal.

(c) Fee Schedule.—The Secretary of the Treasury, after consultation with appropriate Federal agencies, may promulgate and, from time to time, amend regulations relating to the collection of fees under this section, including the establishment of a fee schedule. Any such fee schedule shall be designed to insure that the Fund is maintained at a level which, along with all other moneys covered into the Fund, is sufficient to meet the obligations of the Fund, but in no case more than $250,000,000. No regulation establishing a fee schedule, or any amendment of such regulation, whether or not in effect, may be stayed by any court pending completion of judicial review of such regulation or amendment.

(d) Penalties.—Any person who fails to collect or pay any fee required under this section shall be liable for (1) a civil penalty of not to exceed $10,000, to be assessed by the Secretary of the Treasury; (2) the amount of the fee required to be collected or paid; and (3) the amount of interest that would have been earned by such fee if it had been collected or paid when due and invested in special obligation of the United States. The Attorney General may, at the request of the Secretary of the Treasury, bring an action in the name of the Fund against any person who fails to pay any fee required under this section, or any amount for which such person is liable under this subsection.

(e)(1) Records.—The Secretary of the Treasury may, by regulation, require persons from whom fees are to be collected pursuant to this section to keep such records and documents as the Secretary deems necessary. The Secretary of the Treasury and the Comptroller General of the United States shall have access to such records and documents for the purpose of audit and examination.

(2) Any person who falsifies records or documents required to be kept under any regulation promulgated under this subsection shall be subject to prosecution for a violation of section 1001 of title 18, United States Code.

Sec. 8. Subrogation.

(a) General.—Any person, including the Fund, who pays compensation pursuant to this Act to any claimant for damages or cleanup costs resulting from an incident, shall be subrogated to all rights, claims, and causes of action for such damages and cleanup costs as such claimant has under this Act or any other law.

(b) Action To Recover.—Upon request of the Secretary, the Attorney General shall commence an action on behalf of the Fund to recover any compensation paid by the Fund to any claimant pursuant to this Act, and, without regard to the limitation of liability provided for in section 4(b), all costs incurred by the Fund by reason of the claim, including interest, administrative and adjudicative costs, and attorney's fees. Such an action may be commenced against any owner, operator, or insurer, or against any other person who is liable, pursuant to any law, to the compensated claimant or to the Fund, for damages for which the compensation was paid.

Sec. 9. Claims Procedures.

(a) In General.—The Secretary shall prescribe, and may from time to time amend, regulations for the filing, processing, settlement, and adjudication of claims under this Act, including uniform procedures and standards for the appraisal and settlement of claims against the Fund.

(b) Notification.—The person in charge of a vessel which is involved in an incident shall immediately notify the Secretary of the incident as soon as he has knowledge thereof. Notification received pursuant to this subsection, or information obtained by the exploitation of such notification, shall not be used against any such person or his employer in any criminal action, other than an action involving prosecution for perjury or for giving a false statement.

(c) Identifying the Source of an Incident.—When the Secretary receives information, pursuant to subsection (b) or otherwise, of an incident which involves a discharge of oil, the Secretary shall, where possible—

(1) identify the source of such discharge; and

(2) immediately notify the owner, operator, and insurer of the vessel which is the source of such discharge of such identification.

(d) Advertisements.—(1) If the source of a discharge of oil, identified by the Secretary under subsection (c), is a private vessel, then the owner, operator, or insurer of such vessel shall, within 15 days after being notified by the Secretary of such identification, begin to advertise such identification along with a description of the procedures to be followed for presenting claims to the owner, operator, or insurer, except that such owner, operator, or insurer shall not have the duty of making such advertisement if—

(A) such owner, operator, or insurer denies liability for such discharge of oil; and

(B) notifies the Secretary of such denial within 10 days after receiving notice from the Secretary of such identification.

Any owner, operator, or insurer who denies liability for a discharge of oil, as provided in this subsection, and who is subsequently found to be liable for the damages or cleanup costs resulting from such discharge, shall be liable, in addition to whatever other such costs or damages for which they might be liable, for the costs of making the advertisements he otherwise should have made under this subsection.

(2) The Secretary shall make advertisements of a discharge of oil, along with a description of the procedures to be followed in presenting claims to the Fund, where—

(A) the source of the discharge is from a public vessel;

(B) the Secretary is unable to identify the source of the discharge; or

(C) the owner, operator, and insurer each deny liability for the discharge of oil.

(3) Advertisements made under the provisions of this subsection shall—

(A) begin within 15 days after the date the Secretary notifies the owner, operator, or insurer of the identification under subsection (b), or within 15 days after the Secretary determines that the source of the discharge cannot be identified or the source is a public vessel;

(B) continue for at least 30 days thereafter; and

(C) be carried in a newspaper of general circulation in the vicinity of the discharge for which such advertisement is being made.

(e) Presentation of Claims.—(1) Except as provided in paragraph (2), all claims shall be first presented to the owner, operator, or insurer of the vessel which is the source of the discharge of oil resulting in the cleanup costs or damages for which such claim is presented.

(2) Claims shall be first presented to the Fund—

(A) if the Secretary has advertised or otherwise notified claimants in accordance with subsection (d)(2); or

(B) by any owner or operator for cleanup costs incurred on behalf of such owner or operator if such owner or operator—

(i) is entitled to a defense to liability under section 4(d), or

(ii) is entitled to a limitation of liability under section 4(b) and the claim is only for the amount of cleanup costs incurred in excess of such limit of liability.

(3) If a claim is presented in accordance with paragraph (1) and—

(A) the person to whom the claim is presented denies all liability for the claim, for any reason; or

(B) the claim is not settled by any person by payment to the claimant within 60 days after the date upon which (i) the claim was presented, or (ii) advertising was commenced pursuant to subsection (d) (1), whichever is later;

then the claimant may elect to commence an action in court against the owner, operator, or insurer involved, or to present the claim to the Fund, such election to be irrevocable and exclusive.

(4) If a claim is presented in accordance with paragraph (1), and full and adequate compensation in unavailable, either because the claim exceeds a limit of liability invoked under section 4(b) or because the owner, operator, and insurer involved are financially incapable of meetiing their obligations in full, a claim for the uncompensated damages may be presented to the Fund.

(5) If a claim which has been presented to any person, pursuant to paragraph (1), is being presented to the Fund, pursuant to paragraph (3) or (4), that person to whom the claim was first presented, at the request of the claimant, shall transmit the claim and supporting documents to the Fund. The Secretary may, by regulation, prescribe the documents to be transmitted and the terms under which they are to be transmitted.

(6) If the Fund—

(A) denies all liability for a claim, for any reason, presented to it under paragraph (2), (3), or (4); or

(B) does not settle such a claim by payment to the claimant within 60 days after the date upon which (i) the claim was presented to the Fund, or (ii) advertising was commenced pursuant to subsection (d) (2), whichever is later;

then the claimant may submit the claim to the Secretary for settlement, except that a claimant who has presented a claim to the Fund pursuant to paragraph (2) may elect to commence an action in court against the Fund in lieu of submission of the claim to the Secretary for settlement, that election to be irrevocable and exclusive.

(f) SETTLEMENT OF CLAIMS.—(1) Except as provided in paragraph (2), the Secretary shall use the facilities and services of private insurance and claims adjusting organizations or State agencies in processing claims against the Fund and may contract to pay compensation for those facilities and services. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), upon a showing by the Secretary that advertising is not reasonably practicable. Notwithstanding any other provision of law, the Secretary may make advance payments to a contractor for services and facilities, and the Secretary may advance to the contractor funds to be used for the payment of claims. The Secretary may review and audit claim payments made pursuant to this subsection. A payment to one claimant for a single claim in excess of $100,000, or payment of two or more claims of one claimant aggregating in excess of $200,000, shall be first approved by the Secretary. When the services of a State agency are used in processing and settling claims, no payment may be made on a claim asserted on or on behalf of that State or any of its agencies or subdivisions unless the payment has been approved by the Secretary.

(2) To the extent necessitated by extraordinary circumstances, where the services of such private organizations or State agencies are inadequate, the Secretary may use Federal personnel to process claims against the Fund.

(g) CLAIMS SETTLEMENTS BY THE SECRETARY.—(1) Upon receipt of a request to settle claims under the provisions of subsection (e) (6), the Secretary shall refer such claim to either an administrative law judge, appointed under section 3105 of title 5, United States Code, or to a panel appointed by the Secretary as provided under subsection (h). Upon referral of a claim, the administrative law judge or panel, as the case may be, shall adjudicate such claim and render a decision on the record after an opportunity for an agency hearing.

(2) In any proceeding conducted by an administrative law judge or panel under the provisions of this subsection, the presiding officer may require by subpena any person to appear and testify or to appear and produce books, papers, documents, or tangible things at a hearing or deposition at any designated place. Subpenas shall be issued and enforced in accordance with procedures in section 555(d) of title 5, United States Code, and rules promulgated by the Secretary. If a person fails or refuses to obey a subpena, the Secretary may invoke the aid of the district court of the United States where the person is found, resides, or transacts business in requiring the attendance and testimony of the person and the production by him of books, papers, documents, or any tangible things.

(3) A hearing conducted under this subsection shall be conducted within the United States judicial district within which the cleanup costs were incurred or the damage complained of occurred, or, if such costs were incurred or such damage occurred within more than one district, in any of the affected districts, or, if such costs were incurred or such damage occurred outside any district, in the nearest district.

(4) The decision of the administrative law judge or panel under this subsection shall be the fiinal order of the Secretary, except that the Secretary, in his discretion and in accordance with rules which he may promulgate, may review the decision upon his own initiative or upon exception of the claimant or the Fund.

(h) JUDICIAL REVIEW.—(1) Any party who suffers legal wrong or who is adversely affected or aggrieved by any final order, act or omission of the Secretary under this Act may, not later than 60 days after the date of publication of such order, or not later than 60 days after such act or omission occurred or should have occurred, petition of judicial review of such order in the appropriate United States district court.

(2) In the case in which (A) the person responsible for the discharge of oil, or (B) the Fund, seeks judicial review under this section, attorneys fees and court costs shall be awarded to the claimant if the final order of the Secretary under subsection (g) (4) is upheld.

(i) ESTABLISHMENT AND APPOINTMENT OF PANELS.—(1) The Secretary is authorized to establish, from time to time, and to appoint the members of, panels to settle claims submitted to him under subsection (e) (6). A panel established under this subsection shall terminate 180 days after it was established.—

(2) Each panel shall consist of three members, at least one of whom (who shall be the presiding member) shall be qualified to conduct adjudicatory proceedings. Each member of the panel shall be appointed from among individuals who, by their education, training, or experience, are competent to evaluate and assess property damage and the economic losses resulting therefrom. Each panel member, in addition, may be appointed without regard to whether such member is or has been employed by any governmental entity, except members of the staff administering the Fund shall not be appointed to any panel.

(3) Each member of a panel who is not otherwise employed by the Federal Government shall be entitled to receive compensation of $100 per day (including traveltime) for each day during which he is engaged in the actual performance of the duties of the panel. Each member of a panel who is an employee or officer of the Federal Government shall serve on a panel without additional compensation therefor. In addition, while away from their homes or regular places of business in the performance of the duties of the panel, each member of a panel shall be allowed travel expenses, including per diem in lieu of subsistence, according to the provisions of chapter 57 of title 5, United States Code.

(4) The provisions of chapter 11 of title 18, United States Code, and of Executive Order 11222, as amended, regarding special Government employees, shall apply to each panel member who is not otherwise employed by the Federal Government.

(5) Each member of a panel, and the administrative law judge, to which a claim is referred under subsection (g), shall be a resident of the United States judicial district within which the cleanup costs were incurred or the damage complained of occurred, or, if such cleanup costs were incurred or such damage occurred within more than one district, of any of the affected districts, or, if such cleanup costs were incurred or such damage occurred outside any district, of the nearest district.

(j) NOTICE OF ACTIONS.—(1) In any action brought against an owner, operator, or insurer, both the plaintiff and defendant shall serve a copy of the complaint and all subsequent pleadings therein upon the Fund at the same time as those pleadings are served upon the opposing parties. The Fund may intervene in any such action as a matter of right. If the Fund receives from either the plaintiff or the defendant notice of such an action, the Fund shall be bound by any judgment entered therein, whether or not the Fund was a party to the action.

(2) In any action to which the Fund is a party, if the owner, operator, or insurer admits liability under this Act, the Fund, upon its motion, shall be dismissed therefrom.

(3) If neither the plaintiff nor the defendant gives notice of such an action to the Fund, the limitation of liability otherwise permitted by this Act shall not be available to the defendant, and the plaintiff shall not recover from the Fund any sums not paid by the defendant.

(4) In any action brought against the Fund, the plaintiff may join any owner, operator, or insurer, and the Fund may implead any person who is or may be liable to the Fund under any provision of this Act.

(k) DIRECT ACTION.—In defending any claim asserted directly against any insurer of an owner's or operator's liability under this Act, such insurer—

(1) shall be entitled to invoke all rights and defenses which would be available to the owner or operator under this Act; and

(2) shall not be entitled to invoke any other defense which he might have been entitled to invoke in proceedings brought by the owner or operator against him.

(l) EXPIRATION DATES.—No claim may be presented, nor may an action be commenced for damages recoverable under this Act, unless such claim is presented to, or that action is commenced against, the owner, operator, or insurer, or against the Fund, as to their respective liabilities, within 3 years after the date of discovery of the economic loss for which a claim may be asserted under this Act, or within 6 years after the date of the incident which resulted in that loss, whichever is earlier.

SEC. 10. FINANCIAL RESPONSIBILITY.

(a) GENERAL.—(1) The owner or operator of any vessel (except a public vessel and any non-self-propelled barge that does not carry oil as cargo) over 300 gross tons which uses any facility or the navigable waters shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility sufficient to satisfy the limits of liability applicable to that vessel under section 4. Certificates shall be furnished to such owner or operator as evidence that the requirements of this subsection have been complied with.

(2) The Secretary of the Treasury shall deny the clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. 91) to any vessel subject to this subsection which does not have a valid certificate of compliance issued under paragraph (1).

(3) The Secretary, in accordance with regulations promulgated by him, shall—

(A) deny entry to any port or place in the United States or navigable waters; and

(B) detain at the port or place in the United States from which it is about to depart for any other port or place in the United States;

any vessel subject to this subsection which, upon request, does not produce a valid certificate of compliance issued under paragraph (1).

(b) EVIDENCE.—Financial responsibility may be established by any one or any combination, of the following methods acceptable to the Secretary:

(1) An insurance policy.
(2) A guarantee.
(3) A surety bond.
(4) Qualification as a self-insurer.

Any bond filed shall be issued by a bonding company authorized to do business in any State.

SEC. 11. CONSOLIDATED ACTIONS.

(a) ACTIONS BY ATTORNEY GENERAL.—The Attorney General may act on behalf of any group of persons which the Secretary determines would be more adequately represented as a group in the recovery of claims under this Act. Sums recovered shall be distributed to the members of any such group.

(b) OTHER ACTIONS.—If, within 90 days after the date of a discharge of oil, the Attorney General does not act on behalf of a group the members of which may be entitled to compensation under this Act, any member of such group may maintain a consolidated action to recover such compensation on behalf of such group. That the Attorney General has not acted within such 90 days shall have no bearing on any action maintained by any member of such group under this subsection.

(c) NOTICE.—If the number of members of any such group exceeds 1,000, publishing notice of the action in the Federal Register and in local newspapers of general circulation in the areas in which the members of such group reside shall be deemed sufficient to fulfill the requirements for public notice established by rule 23(c)(2) of the Federal Rules of Civil Procedure.

SEC. 12. PUBLIC ACCESS TO INFORMATION.

(a) GENERAL.—To the extent required by section 552 of title 5, United States Code, copies of any communication, document, report, or information transmitted between any official of the Federal Government and any person concerning liability and compensation for damages or cleanup costs resulting from a discharge of oil shall be made available to the public for inspection, and shall be available to the public upon identifiable request, for the purpose of reproduction at a reasonable cost.

(b) RELEASE.—Nothing contained in this section shall be construed to require the release of any information of the kind described in section 552(b) of title 5, United States Code, or which is otherwise protected by law from disclosure to the public. For the purposes of this section, any contractor acting on behalf of the Secretary pursuant to section 9(f), and any employee of such contractor, shall be deemed an employee of the Secretary for the purposes of this section.

SEC. 13. JURISDICTION, AND VENUE.

(a) IN GENERAL.—The district courts of the United States shall have exclusive original jurisdiction over all controversies arising under this Act, without regard to the citizenship of the parties or the amount in controversy.

(b) VENUE.—Any action (including actions seeking judicial review) brought under this Act shall be brought in any United States judicial district (1) wherein the cleanup costs were incurred or the damage complained of occurred; (2) if such costs were incurred or such damage occurred, outside of any district, in the nearest district; or (3) if such cost were incurred or such damage occurred in more than one district, in any affected district, or (4) in the district where the defendant resides, may be found, or has its principal office. For the purposes of this subsection, the Fund shall be deemed a resident of the District of Columbia.

SEC. 14. PENALTIES.

(a) FINANCIAL RESPONSIBILITY.—(1) Any person who fails to comply with the requirements of section 10, the regulations promulgated thereunder, or any denial or detention order, shall be subject to a civil penalty of not more than $10,000.

(2) Such penalty may be assessed and compromised by the Secretary. No penalty shall be assessed until notice and an opportunity for hearing on the alleged violation has been given. In determining the amount of the penalty or the amount agreed upon in compromise, the demonstrated good faith of the party shall be taken into consideration.

(3) At the request of the official assessing the penalty, the Attorney General may bring an action in the name of the Fund to collect the penalty assessed.

(b) NOTIFICATION.—Any person in charge who fails to give the notification required by section 9(b) shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both.

Sec. 15. RELATIONSHIP TO OTHER LAW.

(a) FUNDS.—No person may be required to contribute to any fund, by any Federal, State, or other law, the purpose of which is to pay compensation for any loss which may be compensated under this Act. Nothing in this subsection shall preclude any State from imposing a tax or fee upon any person or upon oil in order to finance the purchase or prepositioning of oil discharge cleanup equipment or other preparations for the cleanup of an oil discharge which affects such State.

(b) FINANCIAL RESPONSIBILITY.—Except as provided in this Act, no owner or operator of a vessel who establishes and maintains evidence of financial responsibility in accordance with this Act shall be required under any State law, rule, or regulation to establish any other evidence of financial responsibility in connection with liability for the discharge of oil from such vessel. Evidence of compliance with the financial responsibility requirements of this Act shall be accepted by a State in lieu of any other requirement of financial responsibility imposed by such State in connection with liability for the discharge of oil from such vessel.

(c) STATE LAW.—(1) Except as provided in subsections (a) and (b), this Act shall not be interpreted to preempt the field of liability or to preclude any State from imposing additional requirements or liability for damages and cleanup costs, within the jurisdiction of such State, resulting from a discharge of oil.

(2) Any person who submits a claim or commences an action for damages or cleanup costs under any State law shall be precluded from submitting a claim or commencing an action for the same damages or cleanup costs pursuant to this Act. Any person who submits a claim or commences an action for damages pursuant to this Act shall be precluded from submitting a claim or commencing an action for the same damages or cleanup costs under any State law.

(d) FEDERAL LAW.—In the case of conflict or inconsistency, the provisions of this Act shall supersede all other provisions of Federal law.

SEC. 16. CONFORMING AMENDMENTS.

(a) OUTER CONTINENTAL SHELF LANDS ACT.—(1) Section 301 of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1811) is amended as follows:

(A) by striking "or vessels, or any combination thereof" in subsection (4);

(B) by striking subsections (5) and (6) and redesignating subsections (7) through (25) as subsections (5) through (23), respectively;

(C) by striking "or vessel" in section (13), as so redesignated;

(D) by striking "a vessel or" in section (14), as so redesignated, and inserting in lieu thereof "an";

(E) by striking "a vessel or" each time it appears in section (17), as so redesignated, and inserting in lieu thereof "an", and by striking "vessel or" after "security interest in the"; and

(F) by striking "—(A) in the case of a vessel, a charterer by demise or any other person, except the owner, who is responsible for the operaiton, manning, victualing, and supplying of the vessel; or (B) in the case of an offshore facility," in section (18), as so redesignated.

(2) Section 303 of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1813), is amended as follows:

(A) by striking "a vessel or" in subsection (b)(1) and inserting in lieu thereof "an"; and

(B) by striking "or from a vessel" in subsection (b)(6)(C).

(3) Section 304 of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1814) is amended as follows:

(A) by striking "of a vessel other than a public vessel or," in subsection (a);

(B) by striking "—(1) in the case of a vessel, limited to $250,000 or $300 per gross ton, whichever is greater, except when the owner or operator of a vessel fails or refuses to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup activities; or (2) in the case of an offshore facility," in subsection (b);

(C) by striking "or vessel" each time it appears in subsection (d); and

(D) by striking "or vessel" in subsection (g).

(4) Section 305 of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1815) is amended as follows:

(A) by striking all of subsection (a) and redesignating subsections (b), (c), and (d) as (a), (b), and (c), respectively;

(B) by striking "or vessel" in subsection (c); and

(C) by striking "of vessels," and the comma after "onshore facilities" in subsection (d).

(5) Section 306 of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1816) is amended as follows:

(A) by striking "a vessel or" in subsection (a), and inserting in lieu thereof "an";

(B) by striking "a vessel or" in subsection (b)(2) and inserting in lieu thereof "an"; and

(C) by striking "(2) the source of the discharge was a public vessel; or (3)" in subsection (c) and inserting in lieu thereof "or (2)".

(6) Section 310 of the Outer Continental

Shelf Lands Act Amendments of 1978 (43 U.S.C. 1820) is amended by striking "or vessel" each time it appears.

(7) Section 311 of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1821) is amended by striking "or vessel".

(b) Intervention on the High Seas Act.—Section 17 of the Intervention on the High Seas Act (33 U.S.C. 1486) is amended to read as follows:

"Sec. 17. The Fund established under section 6 of the Oil Transportation by Vessel Liability Act shall be available to the Secretary for actions and activities, relating to oil pollution, taken under section 5 of this act, and the revolving fund established under section 311(k) of the Federal Water Pollution Control Act (33 U.S.C. 1321(k)) shall be available for other actions and activities taken under section 5 of this act.".

(c) Deepwater Port Act.—Section 18 of the Deepwater Port Act of 1974 (33 U.S.C. 1517 et seq.) is amended as follows:

(1) In subsection (b), strike "a vessel or".

(2) Clause (3) of subsection (c) is amended by striking "Deepwater Port Liability Fund established pursuant to subsection (f) of this section.", and inserting in lieu thereof "Fund established under section 4 of the Oil Transportation by Vessel Liability Act.".

(3) Subsection (g) is amended by striking "(d) or"; by striking "the owner or operator of a vessel or"; by striking ", (e), or (f)"; by striking "owner or operator of a vessel, the"; and by striking ", or the Fund".

(4) Paragraph (1) of subsection (k) is amended by striking "or a vessel within any safety zone".

(5) Subsections (d), (f), (h), (i), (j), (l), and (n) are deleted.

(6) Subsections (e), (g), (k), and (m) are redesignated (d), (e), (f), and (g), respectively.

(d) Trans-Alaska Pipeline Act.—(1) Subsection (b) of section 204 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653 (b)) is amended by inserting in the first sentence after "any area", the words "in the State of Alaska"; by inserting after "any activities", the words "related to the Trans-Alaska oil pipeline"; and by inserting at the end of the subsection a new sentence to read as follows: "This subsection shall not apply to cleanup costs covered by the Oil Transportation by Vessel Liability Act.".

(2) Subsection (c) of section 204 of the Trans-Alaska Pipeline Authorization Act is hereby repealed. The Trans-Alaska Pipeline Liability Fund is hereby abolished. All assets of that fund, as of the effective date of this section, shall be transferred to the Oil Cargo Liability Fund established by section 6 of this Act. The Oil Cargo Liability Fund shall assume any and all liability incurred by the Trans-Alaska Pipeline Liability Fund under the terms of subsection (c) of section 204 of the Trans-Alaska Pipeline Authorization Act, and shall also assume any and all liability incurred by the officers or trustees in the execution of their duties involving the Trans-Alaska Pipeline Liability Fund, other than the liability of such officers or trustees for gross negligence or willful misconduct.

(3) The Secretary of the Interior shall certify to the Secretary the total amount of the claims outstanding against the Trans-Alaska Pipeline Liability Fund at the time the transfer of assets required under paragraph (2) is made. If the Secretary finds that—

(A) the total amount of the assets so transferred is greater than the total amount of the outstanding claims so certified, subject to paragraph (4) of this subsection, the difference between the amount of the assets so transferred and the amount of the outstanding claims so certified shall constitute an advance payment toward payment of the fee due under section 7 of this Act on barrels of oil, and the Secretary may waive such fee until such time as the total amount of the fees so waived equals the difference between the amount of the assets so transferred and the amount of the outstanding claims so certified; or

(B) the total amount of the assets so transferred is less than the total amount of the outstanding claims so certified, the Secretary shall increase by 2 cents per barrel the fee imposed under such section 7 on barrels of oil until such time as the total amount of the 2-cents-per-barrel increase so collected equals the difference between the amount of the certified outstanding claims and the amount of the transferred assets.

(4) In the event that the local amount of the actual claims settled is less than the total amount of the outstanding claims certified, the difference between these amounts shall be rebated by the Secretary directly to the operator of the trans-Alaska oil pipeline for payment, on a pro rata basis, to the owners of the oil at the time it was loaded on the vessel.

(5) If an owner of oil (as that term is used in section 204(c)(5) of the Trans-Alaska Pipeline Authorization Act) who prior to enactment of this Act paid fees to the operator of the pipeline for transfer to the Trans-Alaska Pipeline Liability Fund receives the benefit of an advance payment under paragraph (3) of this subsection for the collection or payment of fees established under section 7 of this Act, such owner of oil shall compute, based upon accepted accounting procedures, what the oil production tax and what the royalty paid to the State of Alaska would have been had payments not been made to the Trans-Alaska Pipeline Liability Fund in the amount of fees waived. The difference between the amounts so computed and amounts actually paid to the State of Alaska shall be paid by each such owner to the State of Alaska. Such owner shall make such payment to the State of Alaska during such time as the collection of payment of fees under section 7 of this Act is waived.

(6) For purposes of paragraphs (3) and (4), the term—

(A) "barrels of oil" means only barrels of oil which would, but for the repeal made by paragraph (1), be subject to the fee imposed under section 204(c)(5) of the Trans-Alaska Pipeline Authorization Act; and

(B) "Secretary" means the Secretary of the Treasury.

Sec. 17. Authorization of Appropriations.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. JOHNSTON (for himself, Mr. Jackson, and Mr. Church):

S. 685, A bill to establish a program for Federal storage of spent fuel from civilian nuclear power plants, to set forth a Federal policy and initiate a program for the long-term storage of nuclear waste from civilian activities, and for other purposes; to the Committee on Energy and Natural Resources.

NUCLEAR WASTE POLICY ACT

● Mr. JOHNSTON. Mr. President, today I am introducing the Nuclear Waste Policy Act on behalf of myself, Senator Church, and Senator Jackson. This legislation is designed to establish a firm Federal responsiblity for the problem of the disposal of nuclear wastes which has so perplexed the public and those responsible for adequate supplies of electric energy.

The Committee on Energy and Natural Resources intends to hold hearings on this bill and to mark it up. I am convinced that the present wholly inadequate Federal policy for nuclear waste disposal places unreasonable burdens on a promising alternative to imported oil. This legislation will, I hope, remove obstacles associated with past failures on the part of the Federal Government to live up to its responsibilities.

The bill I am introducing today is a beginning. I expect to receive extensive comment on its provisions at the hearings we will hold. We will undoubtedly find ways to improve the legislation and my colleagues will, no doubt, have many amendments to offer. I intend to urge the Committee on Energy and Natural Resources to make this legislation a major priority for the 96th Congress.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 685

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Nuclear Waste Policy Act".

TITLE I—FINDINGS AND PURPOSE

FINDINGS

Sec. 101. The Congress finds and declares that—

(a) a reliable system adequate to provide sufficient electrical energy to meet the Nation's current and anticipated needs is an essential part of a comprehensive national energy policy and is vital to national security and public welfare;

(b) such a system requires a diversified base of primary energy sources in order to avoid excessive reliance upon any single alternative energy source;

(c) a diverse base of primary energy sources can be achieved only if each available source competes on an equal footing in decisions on the siting and construction of facilities for the generation of commercial power;

(d) Nuclear energy can:

(1) make a significant contribution to national supplies of electricity;

(2) offer site-specific advantages in environmental impact, cost, and fuel availability over other primary sources of energy; and

(3) help reduce United States dependence on insecure sources of foreign oil;

(e) the existing Federal policies for civilian nuclear powerplant siting along with the absence of an effective Federal policy for the interim storage of spent fuel and long-term storage of nuclear waste from civilian nuclear activities unreasonably burden the choice of nuclear energy as an alternative primary source in decisions on siting and construction and operation of powerplants and unduly constrain efforts to establish a diverse base of primary energy sources;

(f) the Federal Government has the responsibility for the interim storage of spent fuel from civilian nuclear powerplants and the long term disposal of high-level radioactive waste from civilian nuclear activities in order to protect the public health and safety and common defense and security; and

(g) the costs associated with the storage and disposal of nuclear wastes from civilian activities should, to the greatest extent possible, be borne by the direct beneficiaries of such activities and should be considered in the selection or rejection of nuclear energy over alternative primary energy sources.

PURPOSE

SEC. 102. The purpose of this Act is to—

(a) assume the Federal responsibility for the acquisition and interim storage of spent fuel from civilian nuclear powerplants and the long-term disposal of high-level radioactive waste from civilian nuclear activities;

(b) establish a Federal policy for the long-term storage of high-level radioactive waste from civilian nuclear activities;

(c) authorize the Secretary to:

(1) acquire or construct one or more facilities for the interim storage of spent fuel from civilian nuclear powerplants;

(2) select a technology and design for a system comprised of a Federal facility or facilities for the long-term storage of high-level radioactive waste generated by civilian nuclear activities and to select a site and design for the first component of such a system;

(3) finance the construction, operation, and maintenance of nuclear waste storage and disposal facilities.

(c) accelerate the examination and consideration of alternative technologies for the ultimate, long-term storage and disposal of nuclear waste; and

(d) improve the efficiency of the process for the siting and licensing of civilian nuclear powerplants.

TITLE II—INTERIM STORAGE OF SPENT FUEL FROM CIVILIAN NUCLEAR POWERPLANTS

SEC. 201. The Secretary is directed to offer to enter into, and is authorized to enter into contracts with persons owning and operating, or planning to own and operate, nuclear powerplants which contracts shall provide that the Federal Government will (1) take title to spent fuel from such powerplants, (2) transport such spent fuel to Federally owned and operated interim storage facilities and store such fuel therein, and (3) ultimately dispose of waste products associated with such spent fuel.

SEC. 202. Any contracts entered into pursuant to section 201 shall provide—

(a) for a one-time payment by such electric utility at the time of acquisition by the Federal Government of such spent fuel of a charge per unit of spent fuel, as such unit is defined by the Secretary, which charge is determined by the Secretary to be adequate to cover:

(1) the cost of transportation of such spent fuel from the powerplant to the site of the Federal interim storage facility;

(2) the proportion of the costs of the construction and the operation and maintenance for a period of not to exceed twenty years of such Federal interim storage facility which proportion is associated with such spent fuel; and

(3) a surcharge to reflect the cost of long-term disposal of high-level radioactive waste associated with such spent fuel.

(b) for the retention by the owner of such spent fuel of a nontransferable right to the value of the remaining fuel resource less the costs of recovery, as determined at the time of recovery. The right so retained shall terminate upon any action by the United States resulting in the recovery of the remaining fuel resource and upon subsequent tender to the owner of the right to an amount of money equal to the value of the recovered fuel less the costs of recovery;

(c) that title to such spent fuel together with all rights to such fuel, except as otherwise provided herein, shall pass to the Secretary at the site of the powerplant; and

(d) that such contract shall become effective upon the availability of the interim storage facility, as determined by the Secretary by notice in the Federal Register.

SEC. 203. The Secretary shall provide notice of intent to enter into such contracts by publishing notice in the Federal Register not later than one hundred eighty days from the date of enactment of this Act. Such notice shall contain such information as the Secretary deems appropriate concerning proposed terms and conditions of such contracts including the estimated schedule of charges.

SEC. 204. The Secretary is authorized and directed to construct or acquire one or more facilities for the interim storage of spent fuel from civilian nuclear powerplants. Such facilities shall—

(a) be made available in adequate capacity and in a timely manner to accommodate all spent fuel for which commitments have been made pursuant to section 201 of this Act; and

(b) be subject to a license under the provisions of section 202(3) of the Energy Reorganization Act of 1974 (88 Stat. 1233).

SEC. 205. Subsequent to the date of availability of the interim storage facility the Secretary is directed to take possession of and transport to a designated storage facility any spent fuel which is subject to a contract made pursuant to section 201 of this Act, within thirty days from the date on which the owner of such spent fuel provides notice in writing to the Secretary that such spent fuel are available.

SEC. 206. There is authorized to be appropriated for fiscal year 1980 $300,000,000 to remain available until expended, to carry out the purposes of section 204 of this Act.

TITLE III—LONG-TERM DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE RESULTING FROM CIVILIAN NUCLEAR ACTIVITIES

SEC. 301. It shall be the policy of the Federal Government to provide a federally owned and operated system for the long-term disposal of all high-level radioactive waste resulting from civilian nuclear activities.

SEC. 302. Within one year from the date of enactment of this Act, the Secretary shall transmit to the Congress a proposal for a system consisting of one or more facilities for the long-term storage of high-level radioactive waste resulting from civilian nuclear activities. Such facility or facilities shall be designed to—

(a) accommodate the storage of spent fuel from civilian nuclear activities without reprocessing, as well as the high-level radioactive waste produced from the reprocessing of spent fuel or which results from other civilian nuclear activities;

(b) permit continuous monitoring, management, and maintenance of the stored spent fuel and high-level radioactive waste for the foreseeable future;

(c) provide for the ready retrieval of any stored spent fuel and high-level radioactive waste for further processing or disposal by an alternative method; and

(d) safely contain such high-level radioactive waste and spent fuel so long as may be necessary, by means of maintenance, including, but not limited to, replacement as necessary, of such facility.

SEC. 303. The proposal shall include—

(a) the general description, cost estimates, and construction schedule for a system which shall be initially designed for a capacity adequate at a minimum to receive in a timely manner the high-level radioactive waste produced by all ongoing civilian nuclear activities and the spent fuel which has resulted or will result from the operation of all civilian nuclear powerplants for which any application for any Federal license or permit has been received prior to the date of enactment of this Act; and

(b) site specific designs, specifications, and cost estimates adequate to solicit bids for the construction of an initial facility within the system which will demonstrate the feasibility of long-term retrievable storage as a disposal technique for spent fuel and high-level radioactive waste and which has capacity for the storage of not less than one thousand spent fuel rods along with a volume of processed high-level radioactive waste from military and other civilian activities limited to the amount sufficient to accomplish the purpose of this subsection.

SEC. 304. In formulating the proposal, the Secretary shall consult with the Chairman of the Nuclear Regulatory Commission and the Administrator of the Environmental Protection Agency, and shall transmit their comments on the final proposal to the Congress together with the proposal.

SEC. 305. (a) Preparation and transmittal of the proposal to the Congress shall not be considered to be a major Federal action significantly affecting the environment within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969 (83 Stat. 852) and an environmental impact statement shall not be prepared on the proposal prior to said transmittal.

(b) Upon subsequent authorization by the Congress of construction of said initial facility, the usual requirements of the National Environmental Policy Act shall apply: *Provided*, That no environmental impact statement required in connection with said facility shall consider any alternative to the statutorily approved site selection or to the design criteria set forth in section 302 of this Act.

(c) In its consideration of the application filed by the Secretary for the initial facility, the Commission may not consider any alternative to the statutorily approved site selection or the design criteria set forth in section 302 of this Act but shall comply with the requirements of the licensing process as otherwise provided by law.

SEC. 306. (a) The Secretary is authorized and directed to continue a program of research, development, and investigation of alternative technology for the long-term disposal of high-level radioactive waste from both civilian and national defense activities. Such program shall include, but is not limited to—

(1) investigation into the problems of geologic disposal of nuclear waste;

(2) collection of baseline data and environmental information relative to potential disposal sites;

(3) examination of various waste disposal options including, but not limited to:

(i) placement in mined repositories,

(ii) placement in deep ocean sediments,

(iii) placement in very deep drill holes,

(iv) placement in a mined cavity in a manner which leads to rock melting,

(v) partitioning of reprocessing waste, transmutation of heavy radionuclides, and geologic disposal of fission products,

(vi) ejection into space.

(4) dissemination of fundamental scientific information;

(5) development, analysis, and near-term validation of long-term predictive models;

(6) extensive, independent, objective review of results by scientific experts, and of proposed facilities and operations through the licensing process;

(7) practical experience, including careful monitoring of nuclear waste isolation systems;

(8) a demonstrated capability to take any needed corrective or mitigating actions; and

(9) an ongoing research and development program to increase the state of the art of knowledge about storage and disposal of nuclear waste.

(b) The Secretary shall report to the Congress his findings and recommendations resulting from the program authorized by this section, as follows—

(1) as a part of the annual report required by section 657 of the Department of Energy Organization Act (91 Stat. 565) the Secretary shall report concerning the status of the program; and

(2) from time to time, the Secretary shall make recommendations arising from his studies concerning the advisability of modifying or replacing the technology adopted pursuant to section 302 of this Act.

TITLE IV—FINANCIAL ARRANGEMENTS

SEC. 401. (a) There is hereby established in the Treasury of the United States a separate account to provide for the operation of the interim fuel storage and long-term storage and disposal program. There shall be covered into the account any sums appropriated pursuant to section 206 of this Act and all charges collected pursuant to Section 203 as well as any receipts derived from the sale of any reprocessed fuel together with the proceeds from any obligations issued pursuant to section 402 of this title.

(b) Notwithstanding the provisions of the Congressional Budget and Anti-Impoundment Act of 1974 (88 Stat. 297), the Secretary may draw on such account as he deems necessary to achieve the purposes of this Act with the exceptions of section 306 and title VI.

SEC. 402. (a) In order to carry out the purposes of this Act the Secretary may borrow money from the Treasury of the United States in such amounts as may subsequently be provided in Appropriation Acts, but not to exceed $300,000,000. Such borrowings from the Treasury shall have such maturities, terms, and conditions as may be agreed upon by the Secretary and the Secretary of the Treasury, but the maturities may not be in excess of thirty years, and such borrowings may be redeemable before maturity at the option of the Secretary. Such borrowings shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the average market in outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of obligations to the Secretary. The interest payments on such obligations may be deferred with the approval of the Secretary cf the Treasury but any interest payment so deferred shall bear interest. Said obligations shall be issued in amounts and at prices approved by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Secretary issued under this section and for this purpose the Secretary of the Treasury is authorized to use as a public debt transaction of the United States the proceeds from the sale of any securities issued under the Second Liberty Loan Bond Act, as amended, and the purposes for which securities may be issued under the Second Liberty Loan Bond Act, as amended, are extended to include any purchase of obligations from the Secretary under this section.

(b) Appropriations made pursuant to section 206 of this Act for the acquisition of an interim storage facility shall be repaid into the General Fund of the Treasury out of the account, together with interest until the date of repayment at a rate determined by the Secretary of the Treasury taking into consideration the average market on long-term obligations of the United States during the fiscal year in which such appropriations are made. The Secretary is directed to repay such appropriation together with interest within thirty years from the time at which such appropriations become available for expenditure.

TITLE V—CIVILIAN NUCLEAR POWER-PLANT SITING

SEC. 501. The Atomic Energy Act of 1954, as amended, is further amended by adding a new Section 193 to read as follows:

"EARLY SITE APPROVAL

"SEC. 193. (a) The Commission is authorized to issue a site permit for approval of a site for one or more production or utilization facilities upon the application of any person, notwithstanding the fact that no application for a construction permit for such a facility or facilities has been filed with the Commission. The Commission, on the basis of such siting criteria and other requirements as it may by rule or regulation establish to determine the suitability of the site for the contemplated facility or facilities, including, but not limited to.

"(i) the number, type or types, and thermal power level of the contemplated facility or facilities;

"(ii) the boundaries of the site;

"(iii) the general location of each facility contemplated for such site;

"(iv) the anticipated maximum levels of radiological and thermal effluents associated with each contemplated facility;

"(v) the seismic, meteorological, hydrologic, and geologic characteristics of the proposed site; and

"(vi) the population density of the area surrounding the proposed site may issue the site permit, refuse to issue the site permit, or issue the site permit with such conditions as the Commission deems appropriate. Any permit issued pursuant to this Section shall prescribe the term for such permit: *Provided*, That no term may exceed 10 years; *Provided further*, That upon application for renewal of the permit by the holder of the site permit no less than eighteen nor more than forty-eight months prior to the expiration of the term and after review of such application pursuant to such rules and regulations as the Commission may prescribe, the Commission may approve such renewal and issue a new permit, reject such renewal, or approve such renewal subject to additional or different conditions and issue a new permit accordingly. The Commission shall approve any application for renewal of a site permit unless it finds that significant new information relevant to the site has become available and that as a result thereof it is likely that the site will not comply with the requirements of this Act or the Commission's regulations for protection of the public health and safety and the common defense and security.

"(b) Unless otherwise ordered by the Commission, any applicant for a construction permit for a facility or facilities to be located on a site approved pursuant to this section, may prepare the approved site for construction and perform such limited construction activities thereat as the Commission may, by rule or regulation, determine to be permissible. Such activities shall be conducted at the risk of the applicant and shall be subject to modification, suspension, or revocation by the Commission at any time. Safety related construction activities may not proceed beyond one year unless the Commission extends such period.".

SEC. 502. The Atomic Energy Act of 1954, as amended, is further amended by adding a new section 194 to read as follows:

"APPROVAL OF STANDARIZED FACILITY DESIGN

"SEC. 194. (a) Upon application by any person, the Commission is authorized to approve any standardized nuclear facility design, as defined by the Commission, by rule or regulation, notwithstanding the fact that no application has been filed with the Commission for a construction permit for such facility. In addition, the Commission may approve preliminary or final standardized designs for any major subsystem of such nuclear facility which represent a discrete element of such facility, as defined by the Commission by rule or regulation.

"(b) An approval pursuant to this section shall be deemed a 'license' for all purposes of the Atomic Energy Act of 1954 (68 Stat. 919), as amended, and shall be granted only in accordance with procedures established by the Commission which provide for a rulemaking or manufacturing license proceeding in which a hearing shall be held, as provided by section 189 a.(1) of the Atomic Energy Act of 1954, as amended.

"(c) Any approval pursuant to this section shall be valid for a period of 10 years from the date of issuance and shall apply and be conclusive with respect to any application incorporating such approved design filed with the Commission during the term of the approval.

"(d) The Commission may, on its own motion or upon petition by any interested person, consider proposed amendments to an approval pursuant to this section: *Provided, however*, That the Commission may not require the modification of any standardized design except upon a finding by the Commission, for reasons stated in its order, that such modification will result in substantial improvement to public health and safety, or the common defense and security and the costs justified. In such a proceeding, the burden shall be upon the party seeking the modification to establish that such modification satisfies said criteria."

SEC. 503. The Atomic Energy Act of 1954, as amended, is further amended by adding the new section 275 as follows:

"FINALITY OF DETERMINATION

"SEC. 275. Notwithstanding any other provision of law with respect to any application submitted to the Commission for approval the determination made by an agency of a State having jurisdiction over the siting or licensing of a production or utilization facility for the generation of commercial power or by the governing body of a nonregulated electric utility of (a) the public need and convenience for additional electrical and/or (b) the choice of nuclear fuel over other primary energy options shall be final, conclusive, and binding on the Commission and may not be reviewed nor any alternatives to such determinations considered in any proceeding before the Commission or in any environmental impact statement prepared pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (83 Stat. 852) if such determination was made after public hearings in accordance with administrative procedures similar to those which would apply to such determinations if made by the Commission. For the purpose of this section "nonregulated electric utility" has the same meaning as that term has in the Public Utilities Regulatory Policies Act of 1978 (92 Stat. 3117).".

SEC. 504. The Atomic Energy Act of 1954, as amended, is further amended by redesignating section "185" as section "185 a.", by deleting the fourth and fifth sentences thereof, and by adding the following new sentences and new subsection: "Upon a finding by the Commission that such facility has been constructed and will operate in conformity with the application, as amended, the provisions of this Act and the rules and regulations of the Commission, and in the absence of good cause being shown why the granting of an operating license would not be in accordance with the provisions of this Act, the Commission shall issue an operating license to the applicant.

For all other purposes of this Act, a construction permit is deemed to be a 'license.'

"(b) The design and construction of a production or utilization facility licensed pursuant to section 103 shall comply with the rules and regulatory standards of the Commission in effect on the date of docketing of the construction permit application, provided that the applicant may utilize designs which have been previously approved by the Commission under section 194 of this Act. The Commission may require the design or construction of a production or utilization facility to comply with rules or regulatory standards promulgated by the Commission subsequent to such date only if the Commission finds, for reasons stated in its order, that such compliance is required substantially to improve public health and safety or the common defense and security. The Commission shall publish its proposed findings in the Federal Register and provide opportunity for a public hearing thereon pursuant to section 189 of this Act. In such a proceeding, the burden shall be on the Commission to establish that compliance is required and the costs justified. As used in this paragraph, 'rules and regulatory standards' include design criteria, regulatory guides, standard review plans, branch technical positions or any other practice or procedure routinely followed by the Commission."

SEC. 505. In order to improve the effectiveness and efficiency of the civilian nuclear powerplant siting and licensing process, to facilitate the use of standardized powerplant designs, and to avoid unnecessary duplication of review among Federal agencies and between Federal and State or local units of government, the Nuclear Regulatory Commission is hereby designated the lead agency for consideration of all applications made to the Federal Government for a license for the siting and construction of civilian nuclear powerplants, and for the coordination of all Federal responsibility for such license.

TITLE VI—LOW LEVEL WASTE

SEC. 601. (a) The Secretary shall prepare and submit to the Congress within one year after the date of enactment of this Act a plan which—

(1) defines the disposal capacity needed for present and future low-level waste, and any need for remedial action at existing low-level waste disposal facilities;

(2) evaluates the transportation requirements for the low-level waste facilities, and defines such requirements on a regional basis;

(3) evaluates the ability of DOE owned and operated low-level waste disposal facilities to provide interim storage for commercially generated low-level waste;

(4) estimates costs for the above; and

(5) provides for performance of additional research and development work, as needed.

TITLE VII—DEFINITIONS

SEC. 701. As used in this Act the term—

(a) "nuclear powerplant" means a utilization or production facility for the generation of commercial power as that phrase is used in the Atomic Energy Act of 1954, as amended;

(b) "Commission" means the Nuclear Regulatory Commission;

(c) "Secretary" means the Secretary of the Department of Energy;

(d) "environmental impact statement" means any document prepared pursuant to or in compliance with the requirements of section 102(2)(c) of the National Environmental Policy Act of 1969 (83 Stat. 852); and

(e) "spent fuel" means nuclear fuel that has been irradiated in and recovered from a nuclear powerplant.●

By Mr. BIDEN:

S. 686. A bill to amend the Congressional Budget Act of 1974 to require authorizing legislation for tax expenditures, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to order of August 4, 1977.

TAX EXPENDITURE CONTROL ACT OF 1979

● Mr. BIDEN. Mr. President, one of the many important recent developments in the effort to control Government spending is the congressionally enacted requirement that the President transmit as a part of his budget a tax expenditures budget which "shall set forth the levels of tax expenditures under existing law for such fiscal year" as well as showing any changes in the existing levels based on proposals contained in the budget. Thus, for the first time, the President in his budget is required to take cognizance of the existence of tax expenditures. The importance of this requirement becomes clear when we recognize that the tax-expenditure estimate submitted by the President for 1980 is well over $160 billion, or nearly one-third of the estimated direct budget outlays for that year.

The question is: What is Congress going to do with this budget? The bill I am introducing today begins to seek an answer to that question.

The concept of such a thing as a "tax expenditure" or of a "tax expenditure budget" is still relatively new. Briefly stated, a tax expenditure is a deviation from the basic tax structure for the purpose of providing a subsidy, a preference or an incentive payment to an individual or corporation through the tax system, rather than by direct expenditure through the appropriations process. The real point is that tax expenditures, although contained in tax law, are not really a part of tax and revenue raising policy. They are the same as spending programs and they have as their objectives the accomplishment of some purpose that the Congress presumably feels to be in the national interest.

A part of the problem is that they can become embedded in our tax law and do not come up for review every year. Nonetheless, they are a means of carrying out Government policy.

There are many direct expenditure programs in the budget each year which provide assistance payments for such programs as housing, agriculture, medical care, and encouragement of exports, to name a few. There are also tax expenditure programs in the tax laws relating to all of these matters. However, in times of fiscal restraint (such as now), it is the direct expenditures that tend to receive the scrutiny, while the less visible tax expenditures remain untouched. There is no reason why a subsidy for housing or exports should receive more scrutiny when it is delivered through the appropriations process than when it is delivered through the tax system.

Therefore, the tax expenditure budget can become an important tool in our efforts to achieve efficiency and economy in the use of Federal funds. The scrutiny of a tax expenditure budget should help to assure that our tax expenditure programs are working in consonance. It will make it possible for Congress to review the equity of these tax programs and to consider their effectiveness in achieving national policy goals.

A tax expenditure budget can do all of these things. The question is whether the present Budget under the present system will do all of these things. This question needs to be answered at this time because we are embarking on a strenuous effort to restrain the role of government in our lives, reduce the Federal deficit and lower the general tax burden. The effort this year to hold down government spending is an essential part of the fight that is being waged against inflation. In doing this, however, it would be a mistake to overlook the opportunity to restrain the deficit and reduce the general tax burden by increasing tax equity and fairness. This can be done by giving tax expenditures the same scrutiny we will give to direct Federal spending. If we can use the additional revenue to hold down the deficit or reduce general tax rates.

Unfortunately, we do not really have the tools for using the tax expenditure budget. Let us examine for a moment what we do have.

For over $160 billion in tax expenditures, the tax expenditure budget occupies just 29 pages in the special analyses section of the 1980 budget. Twenty-nine pages is not very much analysis for more than $160 billion.

However, leaving aside the adequacy of the document, the real question becomes, What can the Congress do in an orderly and efficient manner to affect tax-expenditure programs? All that the law currently calls for is studies and reports.

These are very important matters that we are dealing with. In this $160 billion is buried many a program which affects the economy of our Nation, the deficit in our budget and the well-being of our citizens. Some of them work well; others may not.

Also hidden in this tax expenditure budget are subsidies to individuals and corporations that might never be granted if direct payments were being made. It is in this budget that many of the well-known tax loopholes reside. The result of many tax expenditures could be in direct contradition to the results sought through other directly appropriated funds.

Mr. President, I believe that, considering the magnitude of the sums involved, the Congress should begin immediately to consider what possible actions it might take to assure control of the use of tax expenditures. That is the purpose of the Tax Expenditure Control Act of 1979.

Briefly stated, my bill recognizes tax expenditures for what they are. It considers them, in fact, to be direct government expenditures through the tax system, but without the usual controls that are attached to direct expenditures. Specifically these tax expenditure programs are not reviewed by the committees that would normally oversee the activity with which the tax expenditure is associated.

On the appropriations side, we have a system of checks and balances. There, the legislative committee with jurisdiction over the subject and with the expertise on the subject, develops authorizing legislation. Only after that authorizing legislation has been adopted do the appropriations committees apply their fiscal expertise to weigh priorities and develop appropriation bills. Most important, the appropriations committees apply that expertise in the framework of legislative policy set down by the Congress.

There is no such system for tax expenditures. By and large, there is no equivalent to the authorization process used for appropriated funds. The tax law does not state the objectives of the law. The Congress does not consider, in the light of recommendations from the committees with specialized information, the content of the programs which are to be financed by tax expenditures. Nor does it consider the integration of tax expenditures with direct spending.

My bill, the Tax Expenditure Control Act, would require authorizing legislation for each tax expenditure. Authorizing legislation would be referred to the standing committee normally responsible for the activity covered by the tax expenditure. The Ways and Means and Finance Committees would continue to be charged with the responsibility for using their expertise to develop the appropriate tax mechanisms for best carrying out the programs authorized by Congress, as well as for developing revenue-raising measures.

The Tax Expenditure Control Act would limit the life of legislation authorizing tax expenditures to 10 years. It would also terminate all existing tax expenditures within 10 years from the effective date of the act, thus eventually subjecting all present tax expenditures to the new authorizing process.

In these days, direct Government spending programs are coming under more careful, periodic review. Sunset legislation seems close to adoption for direct spending programs. A periodic review and reconsideration of the subsidies, preferences and incentives in the tax system is as important as a review of direct spending programs. To the extent that one individual's tax is forgiven or reduced, the taxes of the others must rise as surely as if new spending programs had been enacted. It is important, therefore, that we look periodically to see what we are getting for our tax expenditure dollars.

I think the advantages of such a system will be many. Such a system will provide for better coordination of tax and budget-expenditure programs because they will each be reviewed and authorized by the same committee. It will also require more careful and deliberate consideration of tax expenditure policy because Congress will be required to consider each tax expenditure as a Government program, and make a conscious decision as to whether it is a good program for the country. These questions tend to get lost when the subject is presented in tax language.

Tax expenditures are not necessarily bad. That is the last thing that my remarks or my bill are intended to imply. I do believe, however, that the tax laws can become a haven for unwise subsidies and undeserved tax breaks that manage to escape the regular scrutiny and consideration. Other solutions that will meet the objectives of this bill may well be found to be preferable. I do hope, however that this legislation will stimulate thought and discussion among my colleagues on this $160 billion question.

I ask unanimous consent that the text of the Tax Expenditure Control Act of 1979 be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 686

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Tax Expenditure Control Act of 1979".

Sec. 2. Title IV of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following new section:

"AUTHORIZING LEGISLATION FOR TAX EXPENDITURES

"Sec. 405. (a) Authorization Requirement.—It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution, or any amendment to a bill or resolution, which, directly or indirectly, enacts new tax expenditures unless such enactment is authorized by law.

"(b) Required Reporting Date.—It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new tax expenditures to become effective during a fiscal year—

"(1) unless that bill or reolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year, and

"(2) if that bill or resolution authorizes the enactment of new tax expenditures to be effective during a period exceeding 10 consecutive calendar years.

"(c) Reference.—A bill or resolution authorizing the enactment of new tax expenditures shall be referred to the Committee of the House of Representatives or the Senate, as the case may be, which has jurisdiction over the activity which such new tax expenditures is intended to affect.

"(d) Waiver in the Senate.—The provisions of Section 402(c) of the Congressional Budget Act of 1974 shall apply to any bill or resolution reported under Section 405 of this Act.

"(e) New Tax Expenditures.—For purposes of this section, the term 'new tax expenditures' means the enactment of a tax expenditure or the increase of an existing tax expenditure."

Sec. 3. (a) The amendment made by section two of this Act shall take effect on the first day of the first regular session of the 97th Congress. Any tax expenditure enacted before the date of enactment of this Act shall be repealed on the earlier of—

(1) the termination date of such tax expenditure, or

(2) December 31, 1990.

(b) The provisions of section 904 of the Congressional Budget Act of 1974 shall apply to section 405 of that Act as added by section two of this Act.●

By Mr. JACKSON (by request):

S. 688. A bill to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980 and fiscal year 1981, and for other purposes; to the Committee on Energy and Natural Resources.

DEPARTMENT OF ENERGY AUTHORIZATIONS FOR CIVILIAN APPLICATIONS AUTHORIZATIONS ACT, 1980 AND 1981

● Mr. JACKSON. Mr. President, I introduce, by request, the "Department of Energy Authorization Act for fiscal years 1980 and 1981—Civilian Applications." This is a bill to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980 and fiscal year 1981, and for other purposes.

This measure has been requested by the Secretary of Energy in accordance with section 660 of the Department of Energy Organization Act.

I ask unanimous consent that the bill be printed in the Record, together with the letter from the Secretary of Energy to the President of the Senate and the accompanying section-by-section analysis.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 688

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Energy Authorization Act for Fiscal Years 1980 and 1981—Civilian Applications."

TITLE I—RESEARCH AND DEVELOPMENT

Sec. 101. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating and capital equipment expenses for the following fossil fuel programs:

(1) Coal, $585,613,000;

(2) Petroleum, $57,386,000; and

(3) Enhanced Gas Recovery, $27,593,000.

Sec. 102. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for fossil energy construction relating to coal, including planning, construction, acquisition, or modification of facilities, including land acquisition, as follows:

(1) Project 80–FE–1, Technology Transfer Building, Bartlesville, Oklahoma, $3,000,000;

(2) Project 80–FE–2, Renovation and upgrading of Building B–1, Morgantown, West Virginia, $1,750,000;

(3) Project 80–FE–3, Program support facility, Pittsburgh Energy Technology Center, Bruceton, Pennsylvania, $1,700,000;

(4) Project 80–GPP–1, General plant projects for energy technology centers, six locations, $5,600,000;

(5) Project 76–1–b, High-Btu synthetic pipeline gas demonstration plant, site undetermined, an additional sum of $55,000,000 for a total project authorization of $150,000,000; and

(6) Project 78–2–c, Low-Btu fuel gas small industrial demonstration plant, Hoyt Lakes, Minnesota, an additional sum of $10,000,000, for a total project authorization of $25,000,000.

Sec. 103. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following supply research and development programs;

(1) Solar, $397,021,000;

(2) Biomass, $57,338,000;

(3) Nuclear Fission, $602,274,000;

(4) Magnetic Fusion, $256,058,000;

(5) Geothermal, $137,727,000;

(6) Low-Head Hydroelectric, $8,468,000;

(7) Environmental Programs, $234,158,000;

(8) Basic Research, $238,324,000; and

(9) Electric Energy Systems and Storage, $91,231,000.

Sec. 104. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for supply research and development plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, as follows:

(1) Solar

(A) Project 80–ES–1, Wind Energy Systems Test Center Building, Rockwell International, Rock Flats, Colorado, $2,140,000;

(B) Project 79–1–q, Solar Energy Research Institute facility, Golden, Colorado, an additional sum of $27,000,000 for a total project authorization of $30,000,000;

(C) Project 76–2–b, Ten megawatt central receiver solar thermal power plant, Barstow, California, an additional sum of $36,500,000 for a total project authorization of $108,000,000; and

(D) Solar capital equipment not related to construction, $8,400,000;

(2) Biomass capital equipment not related to construction, $500,000;

(3) Nuclear Fission

(A) Converter

(i) Project 80–GPP–1, General plant projects, various locations, $800,000;

(ii) Converter capital equipment not related to construction, $8,800,000;

(B) Spent Fuel Disposition capital equipment not related to construction, $2,000,000;

(C) Advanced Nuclear Systems capital equipment not related to construction, $2,100,000;

(D) Breeder

(i) Project 80–ES–3, Physical security and safeguards project, test reactor area, Idaho National Engineering Laboratory, Idaho, $1,200,000;

(ii) Project 80–ES–4, Laundry decontamination facility, Idaho National Engineering Laboratory, Idaho, $2,200,000;

(iii) Project 80–ES–5, Modifications to reactors, various locations, $2,800,000;

(iv) Project 80–ES–6, Boilers, heating and ventilating, and fuel tank and roof replacement, Idaho National Engineering Laboratory, Idaho, $1,900,000;

(v) Project 80–ES–11, Idaho Laboratory facility, phases I and II, Idaho National Engineering Laboratory, Idaho, $22,000,000;

(vi) Project 80–GPP–1, General plant projects, $12,300,000;

(vii) Project 78–6–e, Energy technology center facility modifications, Energy Technology Engineering Center, Santa Susanna, California, an additional sum of $5,500,000 for a total project authorization of $11,100,000;

(viii) Project 78—6—f, Fuels and materials examination facility, Richland, Washington, an additional sum of $30,200,000 for a total project authorization of $170,000,000; and

(ix) Breeder capital equipment not related to construction, $28,121,000;

(4) Magnetic Fusion

(A) Project 80–GPP–1, General plant projects, Princeton Plasma Physics Laboratory, Plainsboro, New Jersey, $1,400,000;

(B) roject 80–GPP–1, General plant projects, Oak Ridge National Laboratory, Oak Ridge Tennessee, $3,3500,000;

(C) Project 78–3–b, Fusion materials irradiation test facility, Richland, Washington, an additional sum of $67,850,000 for a total project authorization of $82,250,000; and

(D) Magnetic fusion capital equipment not related to construction, $29,800,000;

(5) Geothermal capital equipment not related to construction, $3,200,000;

(6) Environmental Programs

(A) Project 80–ES–8, Modifications and additions to biomedical and environmental research facilities, various locations, $3,500,000;

(B) Project 80–GPP–1, General plant projects, $2,500,000; and

(C) Environmental programs capital equipment not related to construction, $14,500,000;

(7) Basic Research

(A) Project 80–ES–9, Intense Pusled Neutron Source–I (IPNS–I), expanded experimental capabilities, Argonne National Laboratories, Argonne, Illinois, $2,400,000;

(B) Project 80–ES–10, Chemical and materials sciences laboratory, Lawrence Berkeley Laboratory, Berkeley, California, $12,600,000;

(C) Project 80–GPP–1, General plant projects, various locations, $250,000; and

(D) Basic research capital equipment not related to construction, $14,550,000;

(8) Electric Energy Systems and Storage capital equipment not related to construction, $2,660,000.

Sec. 105. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses and capital equipment not related to construction for the following conservation research and development programs:

(1) Buildings and Community Systems, $66,700,000;

(2) Industrial; $31,758,000;

(3) Transportation, $95,861; and

(4) Multisector—Inventors Support, $3,200,000.

Sec. 106. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following general science and research programs:

(1) Life Sciences Research and Biomedical Applications, $40,737,000;

(2) High Energy Physics, $215,133,000; and

(3) Nuclear Physics, $81,768,000.

Sec. 107. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for general science and research plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, as follows:

(1) Life Sciences Research and Biomedical applications capital equipment not related to construction, $1,500,000;

(2) High Energy Physics—

(A) Project 80–GS–1, Accelerator improvements and modifications, various locations, $6,000,000;

(B) Project 80–GPP–1, General plant projects, various locations, $5,000,000;

(C) Project 78–10–b, Intersecting storage accelerator (ISABELLE) 400x400 GeV, Brookhaven National Laboratory, Upton, New York, an additional sum of $241,500,000 for a total project authorization of $275,000,000;

(D) Project 79–9–b, Energy saver, Fermi National Accelerator Laboratory, Batavia, Illinois, an additional sum of $26,900,000 for a total project authorization of $38,900,000; and

(E) High energy physics capital equipment not related to construction, $36,000,000;

(3) Nuclear Physics—

(A) Project 80–GS–2, Bates Linear Accelerator Beam Recirculator Project, Middleton, Massachusetts, $1,800,000;

(B) Project 80–GS–3, Experimental support addition, Los Alamos Scientific Laboratory, Los Alamos, New Mexico, $2,400,000;

(C) Project 80–GS–4, Accelerator improvements and modifications, various locations, $1,600,000;

(D) Project 80–GS–5, National Superconducting Cyclotron Laboratory, Michigan State University, East Lansing, Michigan (A–E and long-lead procurement only), $6,000,000;

(E) Project 80–GPP–1, General plant projects, various locations, $3,000,000; and

(F) Nuclear physics capital equipment not related to construction, $8,200,000.

Sec. 108. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the uranium enrichment process development program, as follows:

(1) Uranium Enrichment Process Development operating expenses, $77,400,000.

Sec. 109. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for uranium enrichment process development plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, as follows:

(1) Project 79–2–d, Technology test facilities, various locations, an additional sum of $13,000,000 for a total project authorization of $20,000,000;

(2) Uranium Enrichment Process Development capital equipment not related to construction, $5,030,000.

Sec. 110. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for expenses of the Geothermal Resources Development Fund as follows:

(1) Geothermal Resources Development Fund, $288,000.

TITLE II—REGULATION AND INFORMATION AND OTHER ACTIVITIES

Sec. 201. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act as follows:

(1) to the Economic Regulatory Administration for expenses, $133,646,000;

(2) to the Office of Hearings and Appeals for expenses, $3,000,000.

Sec. 202. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for expenses for the Federal Energy Regulatory Commission as follows:

(1) Federal Energy Regulatory Commission expenses, $73,187,000.

Sec. 203. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for expenses for the following energy information program:

(1) Energy Information expenses, $85,657,000.

Sec. 204. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for expenses for the following strategic petroleum reserves program:

(1) Strategic Petroleum Reserves expenses, $8,391,000.

TITLE III—COMMERCIALIZATION AND RELATED ACTIVITIES

Sec. 301. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for expenses for the following commercialization and related activities programs:

(1) Fossil Energy—Expenses

(A) Coal Utilization and Supply, $4,500,000;

(B) Shale Oil Development Program, $5,000,000;

(C) Oil and Gas Development Projects, $3,000,000; and

(D) Program Direction, $4,295,000;

(2) Renewable Resources—Expenses

(A) Solar Commercial Planning, $5,000,000;

(B) Market Development and Training, $27,000,000; and

(C) Program Direction, $1,479,000;

(3) Conservation Activities—Expenses

(A) Buildings and Community Systems, $9,762,000;

(B) Industrial, $10,509,000;

(C) Transportation, $3,062,000; and

(D) State and Local, $6,783,000.

TITLE IV—POWER MARKETING, FEDERAL LEASING AND OTHER ACTIVITIES

Sec. 401. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for expenses for the following power marketing programs:

(1) Alaska Power Administration, including expenses for engineering and economic investigation to promote the development and utilization of the water, power, and related resources of Alaska, $2,660,000;

(2) Southeastern Power Administration including continuing fund $1,400,000;

(3) Southwestern Power Administration including continuing fund, $32,180,000;

(4) Western Area Power Administration, for construction, rehabilitation, operation, and maintenance of electric power transmission facilities, and power marketing activities, $122,800,000, of which $107,400,000 shall be derived from the Department of Interior reclamation fund;

(5) Western Area Power Administration, for the Emergency Fund established pursuant to the Act of June 26, 1948 (43 U.S.C. 502), to assure continuous operations during unusual or emergency conditions, $200,000, all of which shall be derived from the reclamation fund; and

(6) Western Area Power Administration, for continued work on the transmission system of the Upper Colorado River Storage Project, authorized by section 1(1) of the Act of April 11, 1956 (Public Law 485 of the Eighty-fourth Congress; 70 Stat. 105) and legislation supplementary thereto, including the Act of August 10, 1972 (Public Law 92–370), $5,152,000.

Sec. 402. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for expenses for the following Federal leasing and fuel data gathering and analysis programs:

(1) Federal Leasing expenses, $3,368,000;

(2) Fuel Data Gathering and Analysis expenses, $3,000,000.

TITLE V—NUCLEAR ASSESSMENT, SPENT FUEL DISPOSITION OPERATIONS AND DECONTAMINATION AND DECOMMISSIONING

Sec. 501. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following uranium resource assessment program:

(1) Uranium Resource Assessment operating expenses, $78,693,000.

Sec. 502. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for uranium resource assessment plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, as follows:

(1) Project 80–GPP–1, General plant projects, Grand Junction, Colorado, $2,500,000;

(2) Uranium Resource Assessment capital equipment not related to construction, $3.110.000.

Sec. 503. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for expenses for the spent fuel disposition operations and the decontamination and decommissioning programs as follows:

(1) Spent Fuel Disposition Operations expenses, $13,300,000;

(2) Decontamination and Decommissioning expenses, $23,000,000.

TITLE VI—OTHER RENEWABLE RESOURCES AND CONSERVATION ACTIVITIES

Sec. 601. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for expenses for the other renewable resources and conservaiton activities programs as follows:

(1) Buildings and Community Systems—Analysis and Technology Transfer, $6,675,000;

(2) State Energy Management and Planning, $110,000,000; and

() Multisector—Appropriate Technology, $9,135,000.

TITLE VII—OTHER DEPARTMENTAL ACTIVITIES

Sec. 701. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organizaiton Act for operating expenses for the following uranium enrichment activities programs:

(1) Diffusion Operations and Support, $680,683,000;

(2) Centrifuge Operations and Support, $6,200,000; and

(3) Program Direction, $2,566,000.

Sec. 702. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for uranium enrichment activities plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, as follows:

(1) Project 80–UE–6, UF6 tails cylinders and storage yards, gaseous diffusion plants, $7,000,000;

(2) Project 80–GPP–1, General plant projects, various locations, $16,200,000;

(3) Project 80–UE–5, Motor and switchgear upgrading, gaseous diffusion plants, $28,500,000;

(4) Project 80–UE–4, Power recovery demonstration cells, gaseous diffusion plants, $10,500,000;

(5) Project 80–UE–3, Plant facilities security improvements, gaseous diffusion plants, $17,000,000;

(6) Project 80–UE–2, Control of water pollution, gaseous diffusion plants, $17,000,000;

(7) Project 80–UE–1, Control of gaseous effluents, gaseous diffusion plants, Oak Ridge, Tennessee and Paducah, Kentucky, $7,000,000;

(8) Project 76–8–g, Enriched uranium production facilities, Portsmouth, Ohio, an additional sum of $220,000,000 for a total project authorization of $802,630,000; and

(9) Uranium Enrichment Activities capital equipment not related to construction, $18,400,000.

Sec. 703. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the commercial waste management program as follows:

(1) Commercial Waste Management—Operating Expenses, $182,349,000.

Sec. 704. Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for commercial waste management plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, as follows:

(1) Project 80–ES–7, Plant operation maintenance facility, Richland, Washington, $2,000,000;

(2) Project 80–GPP–1, General plant projects, $3,300,000; and

(3) Commercial Waste Management capital equipment not related to construction, $11,800,000.

Sec. 705. (a) Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for Departmental administrative activities programs as follows:

(1) Policy Analysis and Systems Studies, $16,500,000;

(2) Management and Support, $241,208,000;

(3) International Affairs, $3,500,000;

(4) Intergovernmental and Institutional Relations, $35,906,000;

(5) In-House Energy Management, $3,600,000;

(6) Cost of Work for Others, Changes in Inventory and Working Capital, $44,254,000; and

(7) Security Investigations, $16,400,000.

(b) Funds are hereby authorized to be appropriated for fiscal year 1980 in accordance with section 660 of the Department of Energy Organization Act for Departmental administrative activities plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition; and acquisiton and fabrication of capital equipment not related to construction as follows:

(1) In-House Energy Management

(A) Project 80–DA–1, Modifications for energy management, various locations, $19,700,000;

(B) Project 80–DA–2, Automated energy management system, Argonne National Laboratory, Argonne, Illinois, $4,500,000;

(C) Project 80–DA–3, Process waste heat utilization, Portsmouth Gaseous Diffusion Plant, Piketon, Ohio, $4,200,000;

(D) Project 80–DA–4, Automated energy management system, Pantex Plant, Amarillo, Texas, $4,000,000; and

(E) Project 80–DA–5, Conversion of boiler no. 5 to high sulfur coal firing, Argonne National Laboratory, Argonne, Illinois, $5,000,000;

(2) Other Supporting Activities

(A) Project 80–PE&D–1, Plant engineering and design, various locations, $9,000,000;

(3) Departmental administration capital equipment not related to construction, $4,815,000.

TITLE VIII—GENERAL PROVISIONS

Sec. 801. No amount appropriated pursuant to this Act may be used for any program:

(1) In excess of either (i) 105 percent of the amount authorized for that program by this Act, or (ii) ten million dollars more than the amount authorized for that program by this Act, whichever is the lesser, or

(2) Which has not been presented to, or requested of, the Congress,

unless (i) a period of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the appropriate committees of Congress receive notice from the Secretary of Energy (hereinafter in this title called the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (ii) unless each such committee before the expiration of such period has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

SEC. 802. When so specified in an appropriation Act, the unexpended balances of any appropriations may be transferred to any new appropriation account established for the same purpose pursuant to an appropriation Act authorized by this Act, and balances so transferred may be merged with funds in the applicable newly established account and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 803. When so specified in an appropriation Act, amounts appropriated pursuant to this Act may remain available until expended.

SEC. 804. (a) When so specified in an appropriation Act, any moneys received by the Department may be retained and used for operating expenses, and many remain available until expended, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), except that—

(1) this section shall not apply with respect to sums received from disposal of property under the Atomic Energy Community Act of 1955 or the Strategic and Critical Materials Stockpiling Act, as amended, or with respect to fees received for tests or investigations under the Act of May 16, 1910, as amended (42 U.S.C. 2301; 50 U.S.C. 98h; 30 U.S.C. 7);

(2) revenues received by the Department from the enrichment of uranium and retained by the Department pursuant to such specification in an appropriation Act shall be used for the specific purpose of offsetting both operating expenses and plant and capital equipment expenses, including expenses incidental thereto, incurred by the Secretary in conducting uranium enrichment activities and uranium resource assessments; and

(3) this section shall not apply with respect to moneys received from power marketing and naval petroleum reserve activities, the disposition of which shall be in accordance with the law pertaining to such activities.

(b) When an appropriation act authorizes the retention of revenues as provided in subsection (a), the amounts authorized to be appropriated under sections 108, 109, 501, 502, 701, 702 and 705 of this Act shall be reduced by the estimated amounts of such retained revenues for the purpose of the authorization of appropriations only, but not for the purpose of determining the amounts authorized to be appropriated in applying the provisions of sections 801, 809, 810 and 811 of this title.

SEC. 805. Authorizations for "Plant and capital equipment" line item projects (except for capital equipment not related to construction and general plant projects) shall remain effective without fiscal year limitation.

SEC. 806. Subject to the provisions of appropriations Acts, amounts appropriated pursuant to authorizations in this Act for Departmental administrative activities, plant engineering and design, and for general plant projects are available for use for those purposes, when necessary, in connection with all programs of the Department of Energy.

SEC. 807. When so specified in an appropriation Act, funds authorized to be appropriated by this Act may be transferred to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which they are transferred.

SEC. 808. Appropriations authorized by this Act for salary, pay, retirement or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

SEC. 809. The Secretary is authorized to start any project under a General Plant Project line item in this Act only if the estimated cost of such project at the time of the start does not exceed $1,000,000; the total cost of all projects undertaken under such General Plant Project line item shall not exceed the total amount authorized in such General Plant Project line item by more than 25 percent unless and until appropriations covering such excess are authorized.

SEC. 810. (a) Amounts appropriated pursuant to authorizations in Title I and sections 501 and 703 of this Act for "Operating expenses" may be used for—

(1) the construction, expansion, modification, or acquisition of any facilities, including laboratories, or major items of equipment, which may be required at locations other than installations of the Department, for the performance of research, development, and demonstration activities, and

(2) grants to any organization for purchase or construction of research facilities.

No such funds shall be used under this section for the acquisition of land. Fee title to all such facilities and items of equipment shall be vested in the United States, unless the Secretary or his designee determines in writing that the research, development, and demonstration, appropriations for which are authorized by this Act, would best be implemented by permitting fee title or any other property interest to be vested in an entity other than the United States; but before approving the vesting of such title or interest in such entity, the Secretary shall (i) transmit such determination, together with all pertinent data, to the appropriate authorization committees of the Congress and (ii) wait a period of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

(b) No funds shall be used under subsection (a) for any facility or major item of equipment, if the estimated cost to the Federal Government exceeds $5,000,000 in the case of such a facility or $2,000,000 in the case of such an item of equipment, unless such facility or item has been previously authorized by the appropriate committees of the Congress, or the Secretary—

(1) transmits to the appropriate committees of the Congress a report on such facility or item showing its nature, purpose, and estimated cost, and

(2) waits a period of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Secretary written notice to the effect that such commitee has no objection to the proposed action.

SEC. 811. (a) Not to exceed 1 percent of all funds appropriated pursuant to authorizations in Title I and sections 501 and 703 of this Act for "Operating expenses" may be used by the Secretary to construct, expand, modify, or acquire any facilities, including laboratories or major items of equipment, or to acquire land at any location under the control of the Secretary, if the Secretary determines that (i) such action would be necessary because of changes in the national programs authorized to be funded by this Act or because of new scientific or engineering developments, and (ii) deferral of such action until the enactment of the next authorization Act would be inconsistent with the policies establihed by Congress for the Department.

(b) No funds may be obligated for expenditure or expended under subsection (a) for activities described in such subsection unless—

(1) a period of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the Secretary has transmitted to the appropriate committees of the Congress a written report containing a full and complete statement concerning (i) the nature of the construction, expansion, or modification involved, (ii) the cost thereof, including the cost of any real estate action pertaining thereto, and (iii) the reason why such construction, expansion, or modification is necessary and in the national interest, or

(2) each such committee before the expiration of such period has transmitted to the Secretary a written notice to the effect that such committee has no objection to the proposed action;

except that this subsection shall not apply to any project the estimated total cost of which does not exceed $50,000.

SEC. 812. The Secretary is authorized to perform construction design services for any construction project whenever (i) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Department, and (ii) the Secretary determines that the project is of such urgency in order to meet the needs of national defense or protection of life and property or health and safety that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

SEC. 813. (a) Nothing in this Act shall apply with respect to any authorization in any other law for appropriations for fiscal year 1980 for any military application of nuclear energy, for research and development in support of the armed forces, or for the common defense and security of the United States.

(b) For purposes of subsection (a):

(1) The term "military application" means any activity authorized or permitted by chapter 9 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2121, 2122).

(2) The term "research and development", as used in this section is defined by section 11x. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014).

(3) The term "common defense and security" means the common defense and security of the United States as used in the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.).

SEC. 814. Section 201 of the Department of Energy Act of 1978—Civilian Applications (Public Law 95-238, February 25, 1978) is repealed effective September 30, 1979.

TITLE IX—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1981

SEC. 901. Thre is hereby authorized to be appropriated to the Department of Energy to be available no earlier than October 1, 1980, such sums as may be necessary for fiscal year 1981 for programs set forth in this Act.

SEC. 902. All of the provisions which are applicable to amounts appropriated pursuant to other titles of this Act shall apply in the same manner to amounts appropriated pursuant to this title.

DEPARTMENT OF ENERGY,
Washington, D.C.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: In accordance with section 660 of the Department of Energy Organization Act, I am transmitting proposed legislation to authorize appropriations for the Department of Energy's civilian programs for fiscal years 1980 and 1981. The enclosed bill would authorize specific appropriations for FY 1980, and such sums as might be necessary for FY 1981. For FY 1980, the amount authorized would total $6,539,462,000.

Enclosure 1 is the draft legislation, while Enclosure 2 is the section-by-section analysis.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely,

JAMES R. SCHLESINGER,
Secretary.

SECTION-BY-SECTION ANALYSIS

TITLES I—VII

Secs. 101 through 705. These sections comprise the first seven titles of the bill. They authorize the appropriations necessary to support the Department's civilian activities during fiscal year 1980. The respective titles are: I—Research and Development; II—Regulation and Information and Other Activities; III—Commercialization and Related Activities; IV—Power Marketing, Federal Leasing and Other Activities; V—Nuclear Assessment, Spent Fuel Disposition Operations and Decontamination and Decommissioning; VI—Other Renewable Resources and Conservation Activities; and VII—Other Departmental Activities. These portions of the bill meet the requirements of section 660 of the Department of Energy Organization Act calling for annual authorization for appropriations for Departmental activities. Detailed justifications of the amounts to be authorized are contained in the Department of Energy FY 1980 Budget Justifications.

TITLE VIII

Sec. 801. This section defines and delimits the authority of the Department to use funds appropriated pursuant to the authorizations of the bill in excess of certain stated amounts or for programs not yet put before the Congress. In order to exceed such limits, the Secretary must report in detail to the Congress and the report must be before the appropriate committees for 30 days unless before that time each committee advises the Secretary that it has no objection to the proposed action.

Sec. 802. This section allows the merger of appropriations authorized in the bill with unexpended but available balances from prior-year appropriations to the Department for like purposes, when specified in an appropriation Act.

Sec. 803. This section provides for amounts appropriated pursuant to the bill to remain available until expended, when specified in an appropriated Act.

Sec. 804. Subsection (a) permits the Department to retain revenues for use toward operating expenses, when specified in an appropriation act. Specific exceptions from this treatment of revenues are set forth. Uranium enrichment revenues must be used for offsetting both operating and plant and capital expenses, and expenses incidental thereto, incurred by the Secretary in conducting uranium enrichment activities and uranium resource assessments.

Subsection (b) makes clear that when the Department retains revenues received, those revenues are to be offset against the amount authorized to be appropriated. The amount set forth in the bill in such a case is comprised of appropriations of funds from the Treasury and of the estimated amount of revenues, and will govern for the purposes of applying the provisions of sections 801, 809, 810, and 811 of the bill. These sections deal generally with authorization levels in the bill.

Sec. 805. This section provides with certain exceptions that authorizations for "Plant and capital equipment" line item projects shall remain available until fully appropriated.

Sec. 806. This section provides authorization, when pursuant to the bill for Departmental administrative activities, plant engineering and design, and general plant projects to be used for those purposes in connection with all Department programs.

Sec. 807. This section provides authorization, when specified in an appropriation Act, for transfer of funds appropriated pursuant to the bill to other Government agencies for performance of the work contemplated by the appropriation. Transferred funds may be merged with appropriations for the receiving agency.

Sec. 808. This section provides authorization for additional or supplemental appropriations necessary to fund increases authorized by law in salary, pay, retirement or other benefits for Federal employees.

Sec. 809. This section permits the initiation of a general plant project only if the estimated cost of that project at the time of the start does not exceed $1 million, and provides that the total cost of all projects undertaken under a General Plant Project line item shall not exceed the total authorization by more than 25 percent until additional appropriations to cover the excess are authorized.

Sec. 810. Subsection (a) permits the Department, in the case of appropriations authorized pursuant to Title I and sections 501 and 703 of the bill, to construct or acquire facilities or major items of equipment at non-Department locations for research, development, and demonstration activities. This subsection also permits grants to organizations to purchase or construct research facilities. Funds may not be used under the provision to acquire land. The Government will take title to all facilities and equipment unless the Secretary determines that the program would best be implemented by vesting title outside the Government. Such determination cannot be approved by the Secretary prior to reporting the determination to appropirate authorizing committees and waiting 30 days unless earlier notified of no objection by each such committee.

Under subsection (b), a 30-day report-and-wait requirement substantially the same as that in subsection (a) must precede the use of funds under that subsection for a facility whose Federal cost is estimated to exceed $5 million or a major item of equipment where the Federal cost will exceed $2 million.

Sec. 811. Subject to the same type of 30-day report-and-wait requirement as set forth in section 810, this section permits the Secretary to use up to 1% of funds appropriated pursuant to the bill's authorizations in Title I and sections 501 and 703 of the bill for "Operating Expenses" to construct, expand, modify or acquire facilities, including laboratories or major items of equipment, or to acquire land at locations under the control of the Secretary. The action must be based on a determination by the Secretary that the action is necessary because of changes in national programs treated in the bill or because of new scientific or engineering developments, in a case where deferral of action until the next authorization Act would be inconsistent with policies established by Congress for the Department. The report-and-wait requirement does not apply to projects of $50 thousand and under.

Sec. 812. This provision authorizes the Secretary to undertake construction design of any construction project included in a proposed authorization bill transmitted to the Congress. Such work would be undertaken to expedite projects deemed of such urgency to meet the needs of national defense or protection of life and property or health and safety that physical construction should be initiated as soon as appropriations are available.

Sec. 813. This section provides that nothing in the bill shall apply with respect to any authorization in any other law for appropriations for fiscal year 1980 for any military application of nuclear energy, for research and development in support of the actual forces, or for the common defense and security of the United States.

Sec. 814. This section repeals section 201 of Public Law 95-238, the fiscal year 1978 civilian authorization Act for the Department, effective September 30, 1979. That provision established certain general provisions pertaining to annual authorizations of appropriations for a portion of the Department's activities.

TITLE IX

Public Law 93-344, Congressional Budget and Impoundment Control Act of 1974, section 607, states that ". . . any request for the enactment of legislation authorizing the enactment of new budget authority to continue a program or activity for a fiscal year . . . shall be submitted to the Congress not later than May 15 of the year preceding the year in which such fiscal year begins . . ." Accordingly, section 901 requests authorization of appropriations for FY 1981, and section 902 provides that applicable provisions of other titles of the bill pertain to Title IX.●

By Mr. TALMADGE (for himself and Mr. CRANSTON) (by request):

S. 689. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their surviving spouses and children, and for other purposes; to the Committee on Veterans' Affairs.

VETERAN'S DISABILITY COMPENSATION AND SURVIVOR BENEFITS ACT OF 1979

● Mr. TALMADGE. Mr. President, on behalf of the chairman of the Veterans' Affairs Committee (Mr. CRANSTON) and myself, I am introducing today, at the request of the administration, S. 689, the proposed "Veterans' Disability Compensation and Survivor Benefits Act of 1979." I ask unanimous consent that the letter of transmittal and the text of the bill be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 689

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Veterans' Disability Compensation and Survivor Benefits Act of 1979".

TITLE I—VETERANS' DISABILITY COMPENSATION BENEFITS

RATES OF DISABILITY COMPENSATION

SEC. 101. Section 314 is amended—

(a) by striking out "$44" in subsection (a) and inserting in lieu thereof "$47";

(b) by striking out "$80" in subsection (b) and inserting in lieu thereof "$86";

(c) by striking out "$121" in subsection (c) and inserting in lieu thereof "$130";

(d) by striking out "$166" in subsection (d) and inserting in lieu thereof "$179";

(e) by striking out "$232" in subsection (e) and inserting in lieu thereof "$250";

(f) by striking out "$292" in subsection (f) and inserting in lieu thereof "$315";

(g) by striking out "$346" in subsection (g) and inserting in lieu thereof "$373";

(h) by striking out "$400" in subsection (h) and inserting in lieu thereof "$431";

(i) by striking out "$450" in subsection (i) and inserting in lieu thereof "$485";

(j) by striking out "$809" in subsection (j) and inserting in lieu thereof "$872";

(k) by striking out "$1,005" and "$1,408" in subsection (k) and inserting in lieu thereof "$1,083" and "$1,518", respectively;

(l) by striking out "$1,005" in subsection (l) and inserting in lieu thereof "$1,083";

(m) by striking out "$1,107" in subsection (m) and inserting in lieu thereof "$1,193";

(n) by striking out "$1,258" in subsection (n) and inserting in lieu thereof "$1,356";

(o) by striking out "$1,408" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$1,518";

(p) by striking out "$604" and "$900" in subsection (r) and inserting in lieu thereof "$651" and "$970", respectively;

(q) by striking out "$905" in subsection (s) and inserting in lieu thereof "$976"; and

(r) by striking out "$175" in subsection (t) and inserting in lieu thereof "$189".

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

Sec. 102. Section 315(1) is amended—

(a) by striking out "$49" in clause (A) and inserting in lieu thereof "$53";

(b) by striking out "$83" in clause (B) and inserting in lieu thereof "$89";

(c) by striking out "$110" in clause (C) and inserting in lieu thereof "$119";

(d) by striking out "$137" and "$27" in clause (D) and inserting in lieu thereof "$148" and "$29", respectively;

(e) by striking out "$34" in clause (E) and inserting in lieu thereof "$37";

(f) by striking out "$61" in clause (F) and inserting in lieu thereof "$66";

(g) by striking out "$88" and "$27" in clause (G) and inserting in lieu thereof "$95" and "$29", respectively;

(h) by striking out "$40" in clause (H) and inserting in lieu thereof "$43";

(i) by striking out "$89" in clause (I) and inserting in lieu thereof "$96"; and

(j) by striking out "$75" in clause (J) and inserting in lieu thereof "$81".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

Sec. 103. Section 362 is amended by striking out "$218" and inserting in lieu thereof "$235".

TITLE II—SURVIVORS' DEPENDENCY AND INDEMNITY COMPENSATION BENEFITS

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

Sec. 201. (a) Section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the persons upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	*Monthly rate*
E–1	$320
E–2	331
E–3	338
E–4	360
E–5	370
E–6	378
E–7	397
E–8	418
E–9	[1]438
W–1	405
W–2	421
W–3	433
W–4	459
O–1	405
O–2	418
O–3	448
O–4	473
O–5	522
O–6	586
O–7	636
O–8	696
O–9	748
O–10	[2]819

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $471.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $877."

(b) Subsection (b) of such section is amended by striking out "$35" and inserting in lieu thereof "$38".

(c) Subsection (c) of such section is amended by striking out "$89" and inserting in lieu thereof "$96".

(d) Subsection (d) of such section is amended by striking out "$45" and inserting in lieu thereof "$49".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

Sec. 202. Section 413 is amended—

(a) by striking out "$150" in clause (1) and inserting in lieu thereof "$162";

(b) by striking out "$216" in clause (2) and inserting in lieu thereof "$233";

(c) by striking out "$278" in clause (3) and inserting in lieu thereof "$300"; and

(d) by striking out "$278" and "$56" in clause (4) and inserting in lieu thereof "$300" and "$60", respectively.

RATES OF SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

Sec. 203. Section 414 is amended—

(a) by striking out "$89" in subsection (a) and inserting in lieu thereof "$96";

(b) by striking out "$150" in subsection (b) and inserting in lieu thereof "$162"; and

(c) by striking out "$76" in subsection (c) and inserting in lieu thereof "$82".

TITLE III—EFFECTIVE DATE

Sec. 301. The amendments made by this Act shall take effect on October 1, 1979.

Veterans Administration,
Office of the Administrator
of Veterans Affairs,
Washington, D.C., February 23, 1979.
Hon. Walter F. Mondale,
President of the Senate,
Washington, D.C.

Dear Mr. President: Transmitted herewith is a draft bill, "To amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their surviving spouses and children; and for other purposes." It is respectfully requested that it be introduced and considered for enactment.

The measure, to be cited as the "Veterans' Disability Compensation and Survivor Benefits Act of 1979," would accomplish the following purposes:

a. increase the basic rates of monthly compensation payable to veterans for service-connected disabilities, as well as the additional amounts authorized for veterans with dependents;

b. increase the monthly rates of dependency and indemnity compensation (DIC) payable to surviving spouses and children of veterans whose deaths were service connected; and

c. increase the annual clothing allowance to certain veterans wearing or using a prosthetic or orthopedic appliance.

The basic purpose of the disability compensation program (chapter 11, title 38, United States Code), throughout its history, has been to provide relief for the impaired earning capacity of veterans disabled as the result of their military service. The amount payable varies according to the degree of disability which, in turn, is required by the law (38 U.S.C. § 355) to represent to the extent practicable, the average impairment in earning capacity resulting from such disability or combination of disabilities in civil occupations. Additional compensation for dependents is payable to any veteran entitled to basic compensation for disability rated at not less than 30 percent.

Under chapter 13 of title 38, DIC payments are made to surviving spouses and certain parents and children of veterans who die of a service-connected cause. For surviving spouses, the monthly rates are geared to the military pay grade of the deceased veteran, ranging from $297 for the surviving spouse of an E–1 to $760 for the surviving spouse of an O–10. The applicable surviving spouse's rate is increased by $35 for each child of the veteran under age 18. An additional amount of $89 is payable where the surviving spouse is (1) a patient in a nursing home, or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person. If the surviving spouse does not qualify for the $89 "aid and attendance" rate but is permanently housebound, the additional amount is $45 per month.

For children, where no surviving spouse is entitled, the monthly rates range from $150 for one child to $278 for three children (plus $56 for each additional child). In the case of certain children specified under 38 U.S.C. § 414(a) who are permanently incapable of self-support, the applicable basic rate is increased by $89 for each child. Under 38 U.S.C. §§ 414(b) and (c), in cases wherein a surviving spouse is receiving benefits, monthly amounts of $150 and $76, respectively, are paid separately to certain children of the veteran who are (1) permanently incapable of self-support, or (2) attending school while between 18 and 23 years of age.

Title I of the draft bill relates to compensation payable to veterans for service-connected disabilities. Section 101 provides increases in the basic compensation rates of 7.8 percent. The additional amounts for dependents provided by 38 U.S.C. § 315 in cases of veterans with service-connected disabilities of at least 30 percent would also be increased approximately 7.8 percent by section 102 of the measure. Section 103 would increase the amount of the annual clothing allowance provided by 38 U.S.C. § 362 from $218 to $235, for a percentage increase of approximately 7.8 percent.

Title II of the draft bill is concerned with rates of dependency and indemnity compensation (DIC) payable to the survivors of deceased veterans. Section 201 provides increases of 7.8 percent in the monthly benefits payable to surviving spouses. The new basic rates would range from $320 to $819, according to the pay grade of the deceased veteran. The additional amount for each child under 18 would be raised from $35 to $38; the special rate for aid and attendance for a qualified surviving spouse would go from $89 to $96; and the special rate for housebound status would go from $45 to $49. Sections 202 and 203 would also increase children's DIC rates by approximately 7.8 percent.

The needs of the disabled have been regularly recognized in the face of changing economic conditions. Since July 1952, there have been 14 compensation rate increases, with the latest having become effective on October 1, 1978. The surviving spouses and children of veterans who die of service-connected causes have also received similar increases. The rates of DIC payable to them were last increased effective October 1, 1978.

It has been the policy of the Government to recommend Veterans Administration benefit increases for the disability compensation and DIC programs periodically in order to insure that our programs remain responsive to changing economic conditions. The Veterans Administration supports increases designed to offset the decline in purchasing power due to inflation which are based on changes in the Consumer Price Index (C.P.I.). The 7.8 percent increase proposal contained in this draft bill is considered an accurate projection at this time of the increase in the cost of living between October 1, 1978, the date these benefits were last increased, and October 1, 1979, the effective date of the provisions of this bill if enacted. The estimated 5-year costs of this proposal are as follows:

Fiscal Year:	*Millions*
1980	$498.4
1981	499.9
1982	500.4
1983	500.9
1984	501.2

Title III of the draft bill provides that its provisions would become effective October 1, 1979.

Advice has been received from the Office of Management and Budget that enactment of this legislative proposal would be in accord with the program of the President.

Sincerely,

MAX CLELAND,
Administrator.●

By Mr. DANFORTH:

S. 691. A bill to prohibit the use of appropriated funds to lobby members of State legislatures and legislative bodies of political subdivisions; to the Committee on Governmental Affairs.

● Mr. DANFORTH. Mr. President, I am introducing today a bill which would prohibit the use of Federal funds to lobby State and local legislatures. It is obvious on its face that Congress should not pay individuals or corporations to lobby it. Similarly, as a general rule, it makes no sense to pay individuals or corporations to lobby State or local legislatures. The notion of Congress appropriating funds for the purpose of influencing itself has an aura of Alice in Wonderland. Using Federal funds for lobbying State or local legislatures is much more serious. It attacks the fundamental notion of federalism.

The United States Code, at 18 U.S.C. section 1913, prohibits federally appropriated funds for the purpose of influencing legislation before Congress unless expressly authorized. In addition, the various annual appropriation bills customarily include language prohibiting the use of funds appropriated by Congress "designed to support or defeat legislation pending before Congress." However, no such general prohibition applies to the lobbying of State legislatures.

The issue is not an academic one. In Missouri recently, it was widely publicized that a local health systems agency has hired a professional lobbyist to lobby the State legislature for a tough certificate-of-need law. Not only does this undermine the credibility of the entire health planning process, but it is a wasteful and inappropriate use of federal dollars. It attacks the very principle of federalism. I hope that the bill I introduce today, which is designed to correct this kind of abusive activity, will be enacted quickly.●

By Mr. WEICKER:

S. 694. A bill to conform the Ethics in Government Act of 1978 to rule XLII of the Standing Rules of the Senate; to the Committee on Governmental Affairs.

S. 694 AND SENATE RESOLUTION 109—REFORM OF SENATE ETHICS

● Mr. WEICKER. Mr. President, today I am introducing the Official Conduct Amendments of 1979 and Ethics in Government Amendments of 1979. This legislation is designed to simplify and strengthen ethics regulation in this Senate.

This comprehensive ethics reform responds to the frustrating and debilitating experience of the Senate over the last 2 years under the present Code of Official Conduct. This complex, arbitrary and incomprehensible system has yielded neither higher ethical standards nor greater public respect for this institution. The proposals I submit today will make ethics a credible, meaningful and understandable exercise for both the membership of this body and the people we represent.

The package I introduce today has three broad purposes: First, to rebuild the Official Code of Conduct to establish full financial disclosure as the foundation of Senate ethics; second, to restructure the administrative and investigative functions of the ethics jurisdiction in the Senate; and third, to conform title I of the Ethics in Government Act to the Senate rules as amended by this proposal.

Two years ago this Senate found it necessary to demonstrate its rectitude to a skeptical public. It did so under the Damoclean sword of an unpopular pay raise, recommended not by Congress but by a Presidential commission. The official code of conduct under which we now live was the product of haste and expediency. The time has come, Mr. President, to take a look at what we passed on April Fools Day 1977 and understand that the cruel joke was on us and on those we serve.

Senate Resolution 110 was intended to provide a comprehensive system to monitor ethical behavior of Senators and staff. What we got was partial disclosure and restrictions on otherwise legal activities. A so-called code of ethics was patched together on and off this floor during 10 days of debate. In approving Senate Resolution 110, Senators agreed that our ethical obligation has been satisfied and that the public relations of this body had been well served. The price we have paid for that quick fix of respectability has been enormous. In this Senator's opinion we have blackened our eyes to save face. It is time we got down to the real issues of ethics and left the cosmetics to lesser men and women than ourselves.

Full financial disclosure must be recognized as the force and essence of ethics regulation in the Senate. We must fashion a code of ethics which provides the media, the voters and political opponents with every significant fact which bears on the conscientious performance of official duties of an incumbent or candidate. Compelling each Member, candidate, and key staff member to reveal to public scrutiny a complete history of financial dealings is the most credible and legitimate role we can play.

The present code rests on two dangerous presumptions that first, we are an inherently dishonest and corruptible lot, and second, that the Senate must step in where the electorate has failed to enforce proper conduct. We cannot legislate respect for this body, Mr. President. We must earn it. We cannot do so by stepping on the franchise of the American voter. We will not do so through a system of partial disclosure which leaves the public more confused than enlightened. We cannot do so by telling the Nation through our Code of Ethics that 100 grown Senators need a nanny of an ethics panel to keep us in line.

Mr. President, the opportunity to serve in the U.S. Senate gives this Senator great pride. To participate in one of the noblest Government institutions in history is both a high honor and a solemn responsibility. But I am ashamed, Mr. President, of this Senate when we engage in an exercise of the rank of this so-called Code of Official Conduct. In it we barter the substance of congressional ethics for its appearance. In it we trade our accountability as representatives for a flimsy guise of regulated propriety. In it we degrade ourselves, our constitutional system, and our constituents.

For the last 2 years, the Senate Select Committee on Ethics has labored to bend reality into shapes dictated by Senate Resolution 110. Almost 200 interpretative rulings have been handed down by the select committee to explain to Senators what it was they passed, and in some important issues, the select committee has been unable to provide any meaningful guidelines.

As a former member of that committee I can personally attest to the fact that its deliberations resemble something out of Dante's Inferno. Such weighty issues as: may two Senate employees who wed accept a gift of shrimp for their reception from a State official? and what meaning can be put into meaningless terms and restrictions on conflict of interest, divestiture, and gifts. If further evidence of the failure of this particular experiment in congressional ethics is needed, note the stampede of Members to get off the select committees in the House and Senate.

Mr. President, we need an Ethics Code worthy of this great body and the responsible, intelligent, decent citizens who sent us here. Therefore, I am today introducing ethics reform legislation which is designed to streamline and strengthen the Senate ethics system. I invite my colleagues to examine carefully the specific provisions of this legislative package. I welcome comment and criticism, and would be pleased to discuss modifications to improve these proposals. But what is most important is that the Senate, after 2 years of experience with Senate Resolution 110, reconsider what it is we really mean by ethics in Government.

In summary, the Official Conduct Amendments of 1979 would substitute a new rule XLII which requires full disclosure of assets, liabilities, gifts, and honoraria received, and positions held by persons covered by the rule, as well as disclosure of tax returns (except for itemized medical deductions or charitable contributions). Because full disclosure should be the essence of ethics in the Senate, rule XLIII (restrictions on gifts and foreign travel) and rule XLIV (restrictions on outside earned income and honoraria) are repealed (however, existing statutory restrictions, on foreign travel and honoraria, for example, are not affected). Rule XLV (conflict of interest) is amended to permit outside business or professional activity which is not inconsistent or in conflict with performance of official duties. Rule XLVI (unofficial office accounts) is amended to include the language of Senate Resolution 25 which was reported earlier this year by the Select Committee on Ethics. Rules XLVII through L are retained without amendment.

The resolution further restructures the ethics jurisdiction of the Senate by separating the administrative and investigative functions of ethics regulation. The Select Committee on Ethics will have the sole responsibility of investigating complaints of improper misconduct which have been referred to it by the Committee on Rules, which will have the responsibility of administering the disclosure and other provisions of the code. However, since the rules to be administered have been simplified in number and complexity, and since the number of persons covered by the disclosure and other rules has been reduced by more than half, the administrative burden on the Rules Committee will be substantially less than that of the Ethics Committee.

The third part of the ethics reform package, contained in legislation amending the Ethics in Government Act of 1978, would provide that the requirements for disclosure under title I of that act as to Senators and certain Senate employees. would be satisfied by filing under rule XLII of the Standing Rules of the Senate. Thus, the requirement for two different filings for certain persons covered by the act and the rules would be eliminated without lessening and in fact through strengthening of the disclosure requirement. Our recent experience on this floor with Senate Resolution 93 indicates both the need for responsible ethics reform and broad Senate support for it. On March 8, 1979, without benefit of committee action, extensive floor debate or a rollcall vote, the Senate approved a 4-year postponement of rule 44, limitation on outside income. The logic of this specific resolution, which I supported, applies generally to the initiative I offer today that financial disclosure is the best enforcer of ethics and that restrictions of otherwise legal activities create more problems than they solve.

Mr. President, I am hopeful that the Senate will afford these proposals serious consideration. I realize ethics is a controversial subject that many in this Chamber would rather not bring up ever again. However, I strongly believe that we owe it to our constituents and to ourselves to assure that the Senate understands what ethics is all about, and makes it work. Public integrity is not assured by arbitrary restraints on personal activity—it is achieved when a fully informed public is in a position to render judgment on its elected representatives. Full disclosure is the foundation of ethical responsibility in our participatory democracy. It is time now for the Senate to live up to this simple yet supremely effective principle of ethics regulation.

Mr. President, I ask unanimous consent that the texts of Official Conduct Amendments of 1979 and the Ethics in Government Act Amendments of 1979 be printed at this point in the RECORD. I further ask unanimous consent that supplementary explanatory material on the legislation, including, first, a section-by-section analysis of the resolution; second, a comparative textual and descriptive analyses of the Senate rules as amended under Senate Resolution 110 and as amended under this resolution, and third, an article I wrote on full disclosure which appeared in the New York Times on March 23, 1977, be printed in the RECORD following the texts of the resolution and the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 694

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Ethics in Government Act Amendments of 1979".

SEC. 2. (a) Sections 102 (a) and (b) of the Ethics in Government Act of 1978 are each amended by striking out "Each" and inserting "Except as provided in subsection (g), each".

(b) Section 102 of such Act is amended by adding at the end thereof the following:

"(g) Each report required to be filed under section 101 by an individual who is required by Rule XLII of the Standing Rules of the Senate to file a report shall contain the information required by such rule.".

(c) The amendments made by this section shall take effect on January 1, 1980, with respect to reports to be filed after such date.

S. RES. 109

(Referred to the Committee on Governmental Affairs.)

Resolved,

SHORT TITLE

SECTION 1. That this resolution may be cited as the "Official Conduct Amendments of 1979".

SELECT COMMITTEE ON ETHICS

SEC. 2. (a) Section 2 of Senate Resolution 338, Eighty-eighth Congress, agreed to July 24, 1964, is amended to read as follows:

"SEC. 2. (a) The Select Committee shall, subject to rules of procedure established under subsection (c) of the first section of this resolution, be convened each time a complaint is forwarded to it by the Committee on Rules and Administration under section 3 of the Official Conduct Amendments of 1979.

"(b) It shall be the duty of the Select Committee to—

"(1) investigate allegations contained in complaints described in subsection (a) and to make appropriate findings of fact and conclusions with respect thereto;

"(2) recommend to the Senate by report or resolution by a majority vote of the full committee disciplinary action (including, but not limited to, in the case of a Member: censure, expulsion, or recommendation to the appropriate party conference regarding such Member's seniority or positions of responsibility; and, in the case of an officer or employee: suspension or dismissal) to be taken with respect to violations which the Select Committee determines, after according the individual concerned due notice and opportunity for hearing, to have occurred; and

"(3) report violations by a majority vote of the full committee of any law to the proper Federal and State authorities.

"(c) For purposes of this section, 'investigation' is a proceeding undertaken by the Select Committee after a finding, on the basis of an initial review, that there is substantial credible evidence which provides substantial cause for the Select Committee to conclude that a violation within the jurisdiction of the Select Committee has occurred.

"(d) No investigation of conduct of a member or officer of the Senate, and no report, resolution, or recommendation relating thereto, may be made unless approved by the affirmative recorded vote of not less than four members of the Select Committee.

"(e) (1) If a complaint described in subsection (a) is forwarded to the Select Committee, it shall promptly conduct an initial review of that complaint. The initial review shall be of duration and scope necessary to determine whether there is substantial credible evidence which provides substantial cause for the Select Committee to conclude that a violation within the jurisdiction of the Select Committee has occurred.

"(2) If, as a result of an initial review under paragraph (1), the Select Committee determines by a recorded vote that there is no such substantial credible evidence, the Select Committee shall report such determination to the complainant and to the party charged, together with an explanation of the basis of such determination.

"(3) If, as a result of an initial review under paragraph (1), the Select Committee determines that a violation is inadvertent, technical or otherwise of a de minimis nature, the Select Committee may attempt to correct or prevent such a violation by informal methods.

"(4) If, as the result of an initial review under paragraph (1), the Select Committee determines that there is such substantial credible evidence but that the violation, if proven, is neither of a de minimis nature nor sufficiently serious to justify any of the penalties expressly referred to in subsection (b) (2), the Select Committee may propose a remedy it deems appropriate. If the matter is thereby resolved, a summary of the Select Committee's conclusions and the remedy proposed shall be filed as a public record with the Secretary of the Senate and a notice of such filing shall be printed in the Congressional Record.

"(5) If, as a result of an initial review under paragraph (1), the Select Committee determines that there is such substantial credible evidence, the Select Committee shall promptly conduct an investigation if (A) the violation, if proven, would be sufficiently serious, in the judgment of the Select Committee, to warrant imposition of one or more of the penalties expressly referred to in subsection (b)(2), or (B) the violation, if proven, is less serious, but was not resolved pursuant to paragraph (4) above. Upon the conclusion of such investigation, the Select Committee shall report to the Senate, as soon as practicable, the results of such investigation together with its recommendations (if any) pursuant to subsection (b)(2).

"(f) The Select Committee may, in its discretion, employ hearing examiners to hear testimony and make findings of fact or recommendations to the Select Committee concerning the disposition of complaints.

"(g) Notwithstanding any other provision of this section, no initial review or investigation shall be made of any alleged violation of any law, the Senate Code of Official Conduct, rule, or regulation which was not in effect at the time the alleged violation occurred. No provision of the Senate Code of

Official Conduct shall apply to or require disclosure of any act, relationship, or transaction which occurred prior to the effective date of the applicable provision of the Code. The Select Committee may conduct an initial review or investigation of any alleged violation of a rule or law which was in effect prior to the enactment of the Senate Code of Official Conduct if the alleged violation occurred while such rule or law was in effect and the violation was not a matter resolved on the merits by the predecessor Select Committee.

"(h) The Select Committee shall adopt written rules setting forth procedures to be used in conducting investigations of complaints.

"(i) The Select Committee from time to time shall transmit to the Senate its recommendation as to any legislative measures which it may consider to be necessary for the effective discharge of its duties.".

(b) The first section of such Senate Resolution is amended—

(1) by striking out subsection (d) and redesignating subsection (e) as subsection (d), and

(2) by striking out ", subject to the provisions of subsection (d)," in paragraph (3) of subsection (d), as redesignated by paragraph (1).

(c) The amendments made by this section shall take effect on January 1, 1980, except that any initial review or investigation begun by the Select Committee on Ethics before such date shall be continued without regard to such amendments.

TRANSFER OF CERTAIN FUNCTIONS TO COMMITTEE ON RULES AND ADMINISTRATION

SEC. 3. (a)(1) The Committee on Rules and Administration (hereinafter in this section referred to as the "Committee") shall receive complaints of improper conduct which may reflect upon the Senate and violations of law, violations of the Senate Code of Official Conduct, and violations of rules and regulations of the Senate relating to the conduct of individuals in the performance of duties as Members of the Senate or as officers or employees of the Senate.

(2)(A) The Committee shall investigate any complaint received under paragraph (1) only to the extent necessary to determine if the complaint is frivolous.

(B) If the Committee, by majority vote, determines that the complaint is not frivolous, it shall forward the complaint to the Select Committee on Ethics, along with any accompanying evidence it may have.

(C) A member of the Committee shall be ineligible to participate, or shall disqualify himself from participation, in any matter under this paragraph in the same manner as provided in paragraphs (1) and (2) of subsection (d) of the first section of Senate Resolution 338, Eighty-eighth Congress, agreed to July 24, 1964.

(b)(1) The Committee shall prescribe and publish such regulations as it feels are necessary to implement the Senate Code of Official Conduct.

(2) The Committee is authorized to issue interpretative rulings explaining and clarifying the application of any law, the Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction.

(3) The Committee shall render an advisory opinion, in writing within a reasonable time, in response to a written request by a Member or officer of the Senate or a candidate for nomination for election, or election to the Senate, concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(4) The Committee may in its discretion render an advisory opinion in writing within a reasonable time in response to a written request by any employee of the Senate concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(5) Notwithstanding any provision of the Senate Code of Official Conduct or any rule or regulation of the Senate, any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraph (3) and (4) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction by the Senate.

(6) Any advisory opinion rendered by the Committee under paragraphs (3) and (4) may be relied upon by (A) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered, except that the request for such advisory opinion must have included a complete and accurate statement of the specific factual situation; and (B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

(7) Any advisory opinion issued in response to a request under paragraph (3) or (4) shall be printed in the Congressional Record with appropriate deletions to assure the privacy of the individual concerned. The Committee shall to the extent practicable, before rendering an advisory opinion, provide any interested party with an opportunity to transmit written comments to the Committee with respect to the request for such advisory opinion. The advisory opinions issued by the Committee shall be compiled, indexed, reproduced, and made available on a periodic basis.

(8) A brief description of a waiver granted under paragraph 2(C) of rule XLII or paragraph 1 of rule XLIII of the Standing Rules of the Senate shall be made available upon request in the Committee office with appropriate deletions to assure the privacy of the individual concerned.

(c) All functions and duties, other than functions and duties set forth in such Senate Resolution 338 (as amended by section 2 of this resolution), of the Select Committee on Ethics are transferred to the Committee.

(d) Section 3 of such Senate Resolution 338 is amended by striking out subsection (e).

(e)(1) Each of the following provisions of the Standing Rules of the Senate are amended by striking out "Select Committee on Ethics" and inserting "Committee on Rules and Administration":

(A) Paragraphs 1(a) and 4(a) of Rule XLIII.

(B) Paragraphs 5 and 6(a) of Rule XLIX.

(2) Each of the following provisions of the Standing Rules of the Senate are amended by striking out "Select Committee" and inserting "Committee on Rules and Administration":

(A) Paragraph 4(b) of Rule XLIII.

(B) Paragraph 8 of Rule XLV.

(f)(1) Except as provided in paragraph (2), the provisions of this section shall take effect on January 1, 1980.

(2) Any regulation, interpretive ruling, or advisory opinion of the Select Committee on Ethics issued before January 1, 1980, shall remain in effect, and may be relied upon in the same manner as before such date, until repealed or amended by the Committee.

SIMPLIFICATION OF FINANCIAL DISCLOSURE

SEC. 4. (a) Rule XLII of the Standing Rules of the Senate is amended to read as follows:

"Rule XLII

"PUBLIC FINANCIAL DISCLOSURE

"1. (a)(1) Each individual who for a period in excess of ninety days during a calendar year is a Senator, or an officer or employee of the Senate who is compensated at a rate in excess of $30,000 a year, shall file a report containing a full and complete financial statement for that calendar year.

"(2) Each employee designated under rule XLIX to handle campaign funds during any calendar year shall file a report containing a full and complete financial disclosure statement for that calendar year.

"(b) Each individual described in subparagraph (a) who during any calendar year ceases to occupy an office or position described in such subparagraph shall file a report containing a full and complete financial statement for that portion of such year beginning on January 1 and ending on the date on which he ceases to occupy such office or position.

"(c) Any individual who seeks nomination for election, or election, to the office of United States Senator shall file in any year in which such individual has—

"(1) taken the action necessary under the law of a State to qualify for nomination for election, or election, or

"(2) received political contributions or made expenditures, or has given consent for any other person to receive political contributions or make expenditures, with a view to bringing about such individual's nomination for election, or election, to such office,

a report containing a full and complete financial statement for the preceding calendar year.

"(d) The Secretary of the Senate shall submit annually to the Committee on Rules and Administration (hereinafter refered to as the 'Committee') a complete list of Members, officers, and employees of the Senate who are required to file a report under this paragraph and shall submit at the close of each calendar quarter a list of individuals required to file such report who have begun or terminated employment with the Senate or been designated pursuant to rule XLIX.

"2. Each individual shall include in the report to be filed under paragraph 1 a copy of the returns of taxes, declarations, statements, other documents, and amendments thereto, which he, he and his spouse jointly, his spouse separately, his dependents, or any fiduciary (regarding income received on behalf of such individual), made for such year in compliance with the income tax provisions of the Internal Revenue Code of 1954, except that the deduction for medical and dental expenses and for charitable contributions may in each case be shown only as the total amount of such expenses and contributions, and the supporting information required therewith need not be disclosed. Each individual shall also include in such report a full and complete financial statement in such manner and form as may be prescribed by the Committee and which shall include the following:

"(a) The identity and fair market value of each asset (other than household furnishings, goods, jewelry, and clothing) held during the calendar year which is in excess of $1,000.

"(b) The identity and amount of each liability which is in excess of $1,000 owed at any time during the preceding calendar year.

"(c) Each gift or aggregate of gifts from one source (other than relatives) received during the calendar year which exceeds $100.

"(d) An itemized listing of all honoraria received by him in the calendar year.

"(e) The identity of all positions held at any time during the calendar year as an officer, director, trustee, partner, adviser. proprietor, agent, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, and any educational or other institution. "3. (a) For purposes of subparagraphs (a) through (e) of paragraph 2, an individual shall report each gift received, each item received in kind, each asset held, each liability owed, and each position held by him, his spouse, or any of his dependents, or by him and his spouse jointly, him and any of his dependents jointly, or his spouse and any of his dependents jointly, or by any person acting on his behalf.

"(b) For the purposes of paragraph (2) (a), if the fair market value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, an individual may list (A) the date of purchase and the purchase price of the interest in the real property, or (B) the assessed value of the real property for tax purposes, adjusted to reflect the market value of the property used for the assessment if the assessed value is computed at less than 100 percent of such market value, but such individual shall include in his report a full and complete description of the method used to determine such assessed value. If the fair market value of any other item required to be reported under such paragraph is not ascertainable without an appraisal, such individual may list the book value of a corporation whose stock is not publicly traded, the net worth of a business partnership, the equity value of an individually owned business, or with respect to other holdings, any recognized indication of value, but such individual shall include in his report a full and complete description of the method used in determining such value. In lieu of any value referred to in the preceding sentence, an individual may list the assessed value of the item for tax purposes, adjusted to reflect the market value of the item used for the assessment if the assessed value is computed at less than 100 percent of such market value, but a full and complete description of the method used in determining such assessed value shall be included in the report:

"(c) Any individual need report only information which he has knowledge of.

"4. (a) Except as provided in subparagraph (b), each reporting individual shall report the information required to be reported pursuant to paragraph 1 with respect to the holdings of and the income from a trust or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, such individual, his spouse, or any dependent child.

"(b) A reporting individual need not report the holdings of or the source of income from any of the holdings of—

"(1) any qualified blind trust (as defined in clause (3)); or

"(2) a trust which was not created directly by such individual, his spouse, or any dependent child, and

"(A) the holding or sources of income of which such individual, his spouse, and any dependent child have no knowledge of

"(B) but such individual shall report the amount of income received by him, his spouse, or any dependent child from the trust under paragraph 1.

"(c) For purposes of this paragraph, the term 'qualified blind trust' includes any trust in which a reporting individual, his spouse, or any dependent child has a beneficial interest in the principal or income, and which meets the following requirements:

"(1) The trustee of the trust is a financial institution, an attorney, a certified public accountant, or a broker, who (in the case of a financial institution or investment company, any officer or employee involved in the management or control of the trust who)—

"(A) is independent of and unassociated with any interested party so that the trustee cannot be controlled or influenced in the administration of the trust by any interested party,

"(B) is or has not been an employee of any interested party, or any organization affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party, and

"(C) is not a relative of any interested party.

"(2) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the Committee.

"(3) The trust instrument which established the trust provides that—

"(A) except to the extent provided in clause (2) of this subparagraph, the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

"(B) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

"(C) the trustee shall promptly notify the reporting individual when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than $1,000;

"(D) the trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in such a manner as is necessary to complete an interested party's tax return), shall not be disclosed to any interested party;

"(E) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by paragraph (1), but such report shall not identify any asset or holding;

"(F) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (i) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or longterm capital gain), (ii) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which notification directs that the asset not be held by the trust, or (iii) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

"(G) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.

"(4) The proposed trust instrument and the proposed trustee is approved by the Committee on Rules and Administration.

For purposes of this paragraph 'interested party' means a reporting individual, his spouse, and any dependent child if the reporting individual, his spouse, or dependent child has a beneficial interest in the principal or income of a qualified blind trust; and 'broker' has the meaning set forth in section 78 of title 15, United States Code.

"(d) An asset placed in a trust by an interested party, shall be considered a financial interest of the reporting individual, for the purpose of section 208 of title 28, United States Code, and any other conflict of interest statutes or regulations of the Federal Government, until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than $1,000.

"(e)(1) The reporting individual shall, within thirty days after a qualified blind trust is approved by the Committee, file with such office a copy of—

"(A) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and

"(B) a list of the assets which were transferred to such trust.

"(2) The reporting individual shall, within thirty days of transferring an asset (other than cash) to a previously established qualified blind trust, notify the Committee of the identity and value of each such asset.

"(3) Within thirty days of the dissolution of a qualified blind trust, a reporting individual shall—

"(A) notify the Committee of the dissolution, and

"(B) file with the Committee a copy of a list of the assets of the trust at the time of such dissolution and the value of each such asset.

"(4) Documents filed under clauses (1), (2), and (3) of this subpargraph and the lists provided by the trustee of assets placed in the trust by an interested party which have been sold shall be made available to the public.

"(5) A copy of each written communcation with respect to the trust under subparagraph (1)(3)(F) shall be filed by the person initiating the communication with the Committee within five days of the date of the communication.

"(f)(1) A trustee of a qualified blind trust shall not knowingly or negligently (A) disclose any information to an interested party with respect to such trust that may not be disclosed under subparagraph (1), (B) acquire any holding the ownership of which is prohibited by the trust instrument; (C) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by subparagraph (1) or the trust agreement; or (D) fail to file any document required by this subsection.

"(2) A reporting individual shall not knowingly or negligently (i) solicit or receive any information with respect to a qualified blind trust of which he is an interested party that may not be disclosed under subparagraph (1) or (ii) fail to file any document required by this subsection.

"5. (a) Each individual required to file a report under paragraph 1(a) for any calendar year shall file such report with the Secretary of the Senate not later than May 15 of the next year.

"(b) Each individual required to file a report under paragraph 1(b) for a portion of a year shall file such report with the Secretary of the Senate on the last day he occupies an office or position described in paragraph 1 during such year.

(c) Each individual required to file a report under paragraph 1(c) shall file such report with the Secretary of the Senate not later than the thirtieth day following the day on which such individual first fulfills the filing requirements of such paragraph during such year or May 15 of that year, whichever is later.

"(d) A copy of each report filed under subparagraphs (a), (b), and (c) shall be provided to the Committee by the Secretary of the Senate.

"(e) Each Senator, and each individual required to report under paragraph 1(c), shall cause his report to be filed as a public document with the Secretary of State (or, if there is no Office of Secretary of State, the equivalent States offices) in the State which the Senator represents or in which the individual is a candidate for the position of Senator.

"(f) The Committee may grant one or more reasonable extensions of time for filing any report but the total of such extensions shall not exceed sixty days.

"(g) No later than July 30, the President pro tempore of the Senate shall cause the report of each individual Member to be published in a separate issue of the Congressional Record.

"6. (a) The Secretary of the Senate shall make each report filed with him under this rule available to the public within fifteen days after the receipt of such report, and shall provide a copy of any such report to any person upon a written request.

"(b) The Secretary of the Senate may require any person receiving a copy of any report under subparagraph (a) to supply his name and address and the name of the person or organization, if any, on whose behalf he is requesting such copy and to pay a reasonable fee in any amount which the Secretary of the Senate finds necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. The Secretary of the Senâte may furnish a copy of any such report without charge or at a reduced charge if he determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the public.

"(c) Any report received by the Secretary of the Senate shall be held in his custody and made available to the public for a period of seven years after receipt by the Secretary of the Senate of such report. After such seven-year period, the Secretary of the Senate shall destroy any such report.

"(d) The committee shall review all financial statements filed pursuant to paragraph 1 to determine whether such statements are filed in a timely manner and are complete and in proper form.

"(e)(1) The Comptroller General shall, under such regulations as he may prescribe, and which are approved by the committee, conduct, on a random basis, audits of approximately 5 per centum of the reports filed with the Secretary of the Senate (other than those filed by a Member of the Senate).

"(2) The Comptroller General shall, during each six-year period beginning after the date of enactment of this Act, audit at least one report filed by each Member of the Senate, except that no such audit shall take place during the calendar year such Member is up for reelection.

"(3)(A) In conducting an audit under clause (1) or (2), the Comptroller General is authorized to request that the committee issue a subpena to require the production of books, papers, and other documents.

"(B) The Comptroller General may use outside consultants to assist him in his responsibilities under this subparagraph.

"(4) The Comptroller General shall transmit the findings of each audit to the Committee and the individual being audited.

"7. For the purpose of this rule—

"(a) the term 'asset' includes, but is not limited to any real or personal property, and commodities futures or securities, held directly or indirectly, and any patent right, copyright, or contract or agreement for future employment, and

"(b) the term 'commodity future' means commodity future as defined in sections 2 and 5 of the Commodity Exchange Act, as amended (7 U.S.C. 2 and 5);

"(c) the term 'Comptroller General' means the Comptroller General of the United States;

"(d) the term 'dependent' has the same meaning set forth in section 152 of the Internal Revenue Code of 1954;

"(e) the term 'employee of the Senate' has the same meaning given to such term in paragraphs 2, 3, and 4 of rule XLVII;

"(f) the term 'gift' means a payment, subscription, advance, forebearance, rendering, or deposit of money, services, or anything of value, including food, lodging, transportation, or entertainment, and reimbursement for other than necessary expenses, unless consideration of equal or greater value is received, but shall not include (1) a political contribution otherwise reported as required by law, (2) a loan made in a commercially reasonable manner (including requirements that the loan be repaid and that a reasonable rate of interest be paid), (3) a bequest, inheritance or other transfer at death, or (4) anything of value given to a spouse or dependent of a reporting individual by the employer of such spouse or dependent in recognition of the service provided by such spouse or dependent;

"(g) the term 'political contribution' means a contribution as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431);

"(h) the term 'relative' means, with respect to a person required to file a report under this rule, an individual who is related to the person as father, mother, son, daughter, brother, sister, uncle, aunt, great uncle, great aunt, first cousin, nephew, niece, husband, wife, grandfather, grandmother, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the person reporting;

"(i) the term 'security' has the meaning set forth in section 2 of the Securities Act of 1933, as amended (15 U.S.C. 77b); and

"(j) the term 'transactions in securities and commodities futures' means any acquisition, transfer, or other disposition involving any security or commodity future.".

"8. Each individual required to file a report under subparagraph (a) who is required to file a report under title I of the Ethics in Government Act of 1978 need not file a report under this rule if a report is filed under such Act and the information required by this rule is included in such report in lieu of the information required by such Act.".

(b) The amendment made by subsection (a) shall take effect on January 1, 1980, except that reports required to be filed on May 15, 1980, shall include information with respect to 1979 for individuals required to file reports for such year.

REPEAL OF RESTRICTION ON GIFTS

SEC. 5. (a) Rule XLIII of the Standing Rules of the Senate is repealed.

(b) The amendments made by this section shall take effect on January 1, 1980.

REPEAL OF RESTRICTION ON OUTSIDE EARNED INCOME

SEC. 6. (a) Rule XLIV of the Standing Rules of the Senate is repealed.

(b) The amendments made by this section shall take effect on January 1, 1980.

CONFLICT OF INTEREST

SEC. 7. (a) Rule XLV of the Standing Rules of the Senate is amended to read as follows:

" 'RULE XLV

" 'CONFLICT OF INTEREST

" '1. A member, officer, or employee of the Senate shall not receive any compensation, nor shall he permit any compensation to accrue to his beneficial interest from any source, the receipt of which would occur by virtue of influence improperly exerted from his position as a Member, officer, or employee.

" '2. No Member, officer, or employee shall engage in any outside business or professional activity or employment for compensation which is inconsistent or in conflict with the conscientious performance of official duties.

" '3. No officer or employee shall engage in any outside business or professional activity or employment for compensation unless he has reported in writing, when such activity or employment commences and on May 15 of each year thereafter so long as such activity or employment continues, the nature of such activity or employment to his supervisor. The supervisor shall then, in the discharge of his duties, take such action as he considers necessary for the avoidance of conflict of interest or interference with duties of the Senate.

" '4. No Member, officer, or employee shall knowingly use his official position to introduce or aid the progress or passage of legislation, a principal purpose of which is to further only his precuniary interest, only the pecuniary interest of his immediate family, or only the pecuniary interest of a limited class of persons or enterprises, when he, or his immediate family, or enterprises controlled by them, are members of the affected class.

" '5. A Member, notwithstanding the provisions of Rule XII of the Standing Rules of the Senate, may decline to vote, in committee or on the floor, on any matter when he believes that his voting on such a matter would be in a conflict of interest.

" '6. An employee of the staff of a committee who is compensated at a rate in excess of $30,000 per annum and employed for more than ninety days in a calendar year shall divest himself of any substantial holdings which may be directly affected by the actions of the committee for which he works, unless the Committee on Rules and Administration, after consultation with the employee's supervisor, grants permission in writing to retain such holdings or the employee makes other arrangements acceptable to the Committee and the employee's supervisor to avoid participation in committee actions where there is a conflict of interest, or the appearance thereof.

" '7. If a Member, upon leaving office, becomes a registered lobbyist under the Federal Regulation of Lobbying Act of 1946 or any successor statute, or is employed or retained by such a registered lobbyist for the purpose of influencing legislation, he shall not lobby Members, officers, or employees of the Senate for a period of one year after leaving office.

" '8. If an employee on the staff of a Member, upon leaving that position, becomes a registered lobbyist under the Federal Regulation of Lobbying Act of 1946 or any successor statute, or is employed or retained by such a registered lobbyist for the purpose of influencing legislation, such employee may not lobby the Member for whom he worked or that Member's staff for a period of one year after leaving that position. If an employee on the staff of a committee, upon leaving his position, becomes such a registered lobbyist or is employed or retained by such a registered lobbyist for the purpose of influencing legislation, such employee may not lobby the members of the committee for which he worked, or the staff of that committee, for a period of one year after leaving his position.

" '9. For purposes of this rule—

" '(a) "employee of the Senate" has the same meaning given to such term in paragraphs 2, 3, and 4 of rule XLVII;

" '(b) an individual who is an employee on the staff of a subcommittee of a committee shall be treated as an employee on the staff of such committee; and

" '(c) the term "lobbying" means any oral or written communication to influence the content or disposition of any issue before Congress, including any pending or future bill, resolution, treaty, nomination, hearing, report, or investigation; but does not include—

" '(1) a communication (A) made in the form of testimony given before a committee or office of the Congress, or (B) submitted for inclusion in the public record, public docket, or public file of a hearing; or

" '(2) a communication by an individual, acting solely on his own behalf, for redress of personal grievances, or to express his personal opinion.

" '(10) For purposes of this rule—

" '(a) a Senator or the Vice President is the supervisor of his administrative, clerical, or other assistants;

" '(b) a Senator who is the chairman of a committee is the supervisor of the professional, clerical, or other assistants to the committee except that minority staff members shall be under the supervision of the ranking minority Senator on the committee;

" '(c) a Senator who is a chairman of a subcommittee which has its own staff and financial authorization is the supervisor of the professional, clerical, or other assistants to the subcommittee except that minority staff members shall be under the supervision of the ranking minority Senator on the subcommittee;

" '(d) the President pro tempore is the supervisor of the Secretary of the Senate, Sergeant at Arms and Doorkeeper, the Chaplain, the Legislative Counsel, and the employees of the Office of the Legislative Counsel;

" '(e) the Secretary of the Senate is the supervisor of the employees of his office;

" '(f) the Sergeant at Arms and Doorkeeper is the supervisor of the employees of his office;

" '(g) the Majority and Minority Leaders and the Majority and Minority Whips are the supervisors of the research, clerical, or other assistants assigned to their respective offices;

" '(h) the Majority Leader is the supervisor of the Secretary for the Majority and the Secretary for the Majority is the supervisor of the employees of his office; and

" '(i) the Minority Leader is the supervisor of the Secretary for the Minority and the Secretary for the Minority is the supervisor of the employees of his office.".

(b) The amendments made by this section shall take effect on January 1, 1980.

PROHIBITION OF UNOFFICIAL OFFICE ACCOUNTS

SEC. 8. (a) Paragraph 1(c) of Rule XLVI of the Standing Rules of the Senate is amended to read as follows:

"(c) funds derived from contributions (as defined in section 301(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(e)) to—

"(1) the Member's principal campaign committee (as defined in section 301(n) of such act (2 U.S.C. 431(n));

"(2) the Democratic Senatorial Campaign Committee and the National Republican Senatorial Committee; and

"(3) the national committee of a political party and the State committee of a political party with which the Member is affiliated; and".

(b) The amendment made by subsection (a) shall take effect on January 1, 1980.

ANALYSIS OF PROPOSED RESOLUTION SUBMITTED BY SENATOR LOWELL WEICKER

BACKGROUND—SECTIONS 1–3 OF WEICKER RESOLUTION

S. Res. 110, the Code of Official Conduct, was adopted by the Senate on April 1, 1977. The resolution had three purposes: first, to amend the Standing Rules of the Senate to create a Code of Official Conduct (Title I); second, to amend S. Res. 338, the original resolution establishing the Select Committee on Standards of Conduct (later the Select Committee on Ethics—S. Res. 4, adopted February 4, 1977) to provide for additional procedures for enforcing the new Code of Official Conduct (Title II); and third, to direct other Senate committees to study certain matters related to S. Res. 110 which were either not within the jurisdiction or the capacity of the Special Committee on Official Conduct, which drafted the Code, to resolve (Title III).

Sec. 1–3 of Senator Weicker's proposed resolution addresses Title II of S. Res. 110 by seeking to amend certain provisions of the Code of Official Conduct, repeal other provisions and realign jurisdictional responsibilities in order to accommodate the new provisions. Essentially, the first three sections of the proposed resolution seeks to limit the function of the Select Committee on Ethics to that of investigating charges of improper conduct and making a report on the findings of the investigation.

The remaining sections of the proposed resolution address Title I and are covered later in this report.

DISCUSSION—SECTION 1

Section 1 cites the proposed resolution as the "Official Conduct Amendments of 1979."

DISCUSSION—SECTION 2

Section 2 of the proposed resolution seeks to amend Title II of the Code of Conduct, which established the procedures relative to the Select Committee on Ethics. The existing procedures include a provision designed to insure that every sworn complaint directed to the Select Committee will receive an initial review by the Select Committee; that if the Committee determines the complaint to be lacking in merit, the complainant and the accused will be informed; if the Committee decides that the complaint warrants a full investigation, then the committee is authorized to obtain necessary staff resources, including Special Counsel; conduct the full investigation and submit a report to the Senate, stating findings of fact, conclusions and suggestions for proposed recommendations if the latter is called for.

Sec. 2 of the proposed resolution seeks to redefine the role of the Select Committee on Ethics as outlined in Title II of S. Res. 110. The authority for receiving sworn complaints is transferred from the Select Committee to the Committee on Rules and Administration. Accordingly, all sections in S. Res. 338, as amended, dealing with a definition of, a description of, or a procedure for the handling of sworn complaints would be eliminated and the responsibility given to the Rules Committee under the proposed "Official Conduct Amendments of 1979." The proposed resolution retains, however, the language and intent of Title II concerning the conduct of initial reviews and investigations and their subsequent reporting requirements, and leaves that function with the Select Committee.

Additionally, Title II allows for the employment of hearing examiners to take testimony and make findings of fact. The proposed resolution retains this provision within the purview of the Select Committee on Ethics.

Title II mandates the Select Committee to adopt internal rules of procedure and supplies the committee with the authority to transmit legislative recommendations to the Senate. Sec. 2 of the proposed resolution retains each of these functions within the scope of the Select Committee.

The provisions of Sec. 2 of the proposed resolution would take effect on January 1, 1980, except that any initial review or investigation begun by the Select Committee prior to such date should be continued without regard to the amendment.

DISCUSSION—SECTION 3

Sec. 3 of the proposed resolution transfers certain functions presently under the aegis of the Select Committee on Ethics to the Committee on Rules and Administration.

As previously stated, the Select Committee is presently authorized to receive sworn complaints of improper conduct. The proposed resolution would transfer that authority to the Committee on Rules and Administration. The proposed resolution goes further than the original legislation, however, in defining the procedures to be followed after the receipt of a complaint. Title II states that a prompt initial review will be conducted to determine if there is substantial credible evidence that a violation has occurred. The Weicker resolution invests in the Rules Committee the authority to investigate any complaint it receives to determine if the complaint is frivolous, thereby providing an additional step in the review process. If the Rules Committee determines that the complaint is not frivolous, it would forward the complaint and all materials related to it to the Select Committee which would proceed according to guidelines set forth in Section 2 of the proposed resolution in order to investigate the complaint.

Title II allows the Select Committee on Ethics to prescribe and publish such regulations as it deems necessary to implement the Code of Official Conduct. Section 3 of the proposed resolution transfers this function to the Committee on Rules and Administration. Further, under existing law, the Select Committee is authorized to issue interpretative rulings explaining and clarifying the application of the Code of Conduct. Section 3 of Senator Weicker's resolution transfers that function to the Rules Committee. In addition, under Section 3 of the proposed resolution the Rules Committee would assume the Select Committee's present responsibility for rendering advisory opinions concerning the application of the law to a specific factual situation pertinent to the conduct of the person seeking the advisory opinion.

Regulations concerning waivers granted under Rule 42 of the Standing Rules of the Senate would be transferred to the Rules Committee under Section 3.

Finally, Section 3 would take effect on January 1, 1980. However, any regulation, interpretative ruling, or advisory opinion issued prior to that date would remain in effect until it was repealed or amended by the Committee on Rules and Administration.

Section 3 of this proposed resolution transfers to the Committee on Rules and Administration all other functions and duties in S. Res. 338, as amended, not specifically set forth and altered by Sec. 2.

In addition, by eliminating the provisions of P.L. 95–521, the Ethics in Government Act of 1978, which were applicable to the Senate, the proposed resolution removes the functions and duties that were assigned to the Select Committee.

SECTION 4—FINANCIAL DISCLOSURE

The Weicker resolution, as well as present Rule 42, would require Senators, senatorial candidates, and designated officers and employees of the Senate to file annual financial disclosure reports with the Secretary of the Senate. However, under the Weicker proposal, designated officers and employees include those compensated at a rate in excess of $35,000 a year instead of the present $25,000.

Each designated individual would be required to include in his/her financial disclosure report a copy of the returns of taxes, declarations, statements, other documents, and amendments thereto, which he/she, or with spouse jointly, or separately, dependents, or any fiduciary (regarding income received on behalf of such individual) made for the year for which the financial disclosure report covers. However, deductions for medical and dental expenses and for charitable contributions may in each case be shown only as the total amount of such expenses and contributions, and the supporting information required need not be disclosed.

This requirement contrasts the present rule which requires the same information, as well as medical and charitable deductions, to be filed with the Comptroller General of the United States in a sealed envelope. Each envelope held by the Comptroller General is to remain sealed except when being used by the Comptroller General in an audit required by Senate Rule 42 or after a majority of the members of the Committee on Rules and Administration, in accordance with established procedures, has voted to examine an individual's tax returns. By requiring the filing of tax returns, the proposed resolution eliminates the present requirement for filing information on income, both earned (other than honoraria) and unearned.

The resolution also requires the reporting of the identity and fair market value of each asset (other than household furnishings, goods, jewelry, and clothing) in excess of $1,000 and held during the year for which information is reported. The term "asset" includes but is not limited to: any real or personal property; commodities futures or securities, held directly or indirectly; any patent right, copyright, or contract or agreement for future employment; and the holdings and sources of income of a trust or other financial arrangement in which a Senator, officer, or employee has an interest, whether "blind" or not, and whether or not created under the control of the reporting individual or his/her spouse and dependents. There are some exceptions to the requirement for reporting on the holdings and sources of income of a trust or other financial arrangement, but reporting individuals must list the net cash value of his/her interest in the total trust holdings.

This proposal is a much simpler version of the existing rule which requires the listing of the identity and category of value of each item of real property which has a fair market value in excess of $1,000 as of the close of the preceding year, and the same information for each item of personal property held in a trade or business or for investment or the production of income. Rule 42 also presently requires, with some exceptions, the reporting of the identity, date and category of value of transactions in securities or commodities futures exceeding $1,000 and the same information on purchases, sales, or exchanges of any interest in real property if the value of the property involved exceeds $1,000 as of the date of the transaction. Further, Rule 42 calls for the reporting of any contract, promise, or other agreement with respect to future employment as well as a leave of absence during the reporting individual's government service and continuation of payments by a former employer (other than the U.S. Government) and continuing participation in an employee welfare or benefit plan maintained by a former employer.

In addition, Rule 42 requires information to be reported on the holdings and income from a trust or other financial arrangement, and, like the proposed resolution, also allows the creation of blind trusts which qualify under standards established in Rule 42. However, under Rule 42 the income from a trust is reported by category of value as unearned income, whereas under the Weicker proposal this information would be included in a reporting individual's tax return.

The Weicker resolution requires the reporting of the identity and amount of each liability in excess of $1,000 and owed at any time during the year for which information is reported. In contrast, Senate Rule 42 requires the reporting of the identity and category of value of each personal liability owed, directly or indirectly, which exceeds $2,500 at any time during the year for which information is reported.

Under the proposed resolution, each gift or aggregate of gifts exceeding $100 received from one source (other than relatives) would have to be reported. The term "gift" under this proposal means a payment, subscription, advance, forbearance, rendering or deposit of money, services, or anything of value, including food, lodging, transportation, or entertainment, and reimbursement for other than necessary expenses, unless consideration of equal or greater value is received, but does not include a political contribution otherwise reported as required by law; a loan made in a commercially reasonable manner; a bequest, inheritance or other transfer at death; or anything of value given to a spouse or dependent of a reporting individual by their employer in recognition of the service provided by them.

Rule 42, at present, requires the reporting of gifts into two categories. First, the identity of the source, a brief description of, and the value of gifts of transportation, food, or entertainment aggregating $250 and provided by one source, have to be reported. However, gifts from relatives, and food, lodging, or entertainment received as part of personal hospitality of any individual does not have to be reported. Rule 42 requires the reporting of the identity of the source, a brief description, and the value of all other gifts aggregating $100 or more from one source (other than a relative). Rule 42 does not require the aggregation of gifts of value of less than $35 and contains some exceptions to the requirement for reporting gifts.

The Weicker proposal requires an itemized listing of all honoraria received. Rule 42 requires the reporting of the identity of the source, the amount, and the date of each honoraria received and and an indication of which honoraria, if any, were donated to charity.

Both the Weicker proposal and Rule 42 require the reporting of the identity of all positions held at any time (during the year for which information is reported) as an officer, director, trustee, partner, adviser, proprietor, agent, employee, or consultant of any corporation, or other business enterprise, any nonprofit organization, and any educational or other institution.

Under the proposed resolution a reporting individual has to report all items regarding spouse and dependent's income, business holdings and the like. This is in contrast to Rule 42 which sets qualifications regarding what is mandatory to report regarding spouse and dependents. For example, if a spouse or dependent is self employed, only the nature of the business from which they received income in excess of $1,000 must be reported, whereas the proposal requires as complete a filing for spouse and dependents as it does for the reporting individual.

Both the Weicker resolution and Rule 42 stipulate May 15 of the next year as the required filing date of financial disclosure statements. Further, both the resolution and the present rule designate the Secretary of the Senate as recipient of the filings. The Secretary is responsible for providing these filings to the Committee on Rules and Administration, for making them available to the public within 15 days after receipt of the report, and for keeping them in his custody for a period of 7 years.

However, the Weicker resolution adds a new dimension to this procedure by giving the President Pro Tempore the responsibility for causing the report of each Member to be published in a separate issue of the CONGRESSIONAL RECORD. No comparable provision exists under the present rule. In addition, both the present rule and the resolution requires the reporting individual to file his statements with the Secretary of State in the State which the individual represents.

Random audits by the Comptroller General, under regulations he prescribes, are required by both present Rule 42 and the Weicker resolution, and the results of the audit would be transmitted to both the Committee on Rules and Administration and the individual subject to the audit.

The Weicker resolution would take effect on January 1, 1980, except that reports required to be filed on May 15, 1980, should include information with respect to 1979 for individuals required to file reports for such year.

SECTION 5—REPEAL OF RESTRICTIONS ON GIFTS

The proposed resolution repeals the present Rule 43 of the Standing Rules of the Senate regarding restrictions on gifts to Senators, officers of the Senate, and Senate employees. Although Section 5 of the resolution alleviates the requirements on the acceptance of gifts, Section 2 still requires the disclosure of any gift received by such persons. Procedures for such disclosure also are contained in Rule 42 as amended by Section 2 of the proposed resolution.

Presently, Rule 43 prohibits a Member, officer, or employee, or a spouse or dependent, accepting gifts with aggregate value exceeding $100 during the calendar year from a person, organization, or corporation having direct interest in legislation before the Congress; or from a foreign national. There are certain exceptions relating to gifts which are private and personal or gifts of educational travel to a foreign country.

Since the rule became effective April 1, 1977, a number of interpretative rulings have been requested of the Select Committee on Ethics by Senators and employees for assistance in determination of the propriety in acceptance of gifts. Often interpretations have not been obvious from the rule itself. Thus far, at least thirty-five opinions have been rendered by the Committee. With repeal of the rule, full disclosure would still be maintained under requirements of Rule 42, as amended by Section 2 of the proposed resolution.

While Rule 43 would be repealed, Senators, officers, and employees would still be subject to the provisions of the Foreign Gifts and Decorations Act (5 U.S.C. 7342) and the Mutual Educational and Cultural Exchange Act (22 U.S.C. 2458). The Foreign Gifts and Decorations Act prohibits American citizens from accepting any gift (including travel) from a foreign government, unless (1) it is a gift of minimal value, which would, according to existing regulations, be worth less than $100, or (2) refusal of the gift would cause embarrassment to the foreign country or adversely affect foreign relations between the United States and that country. Under the latter circumstance, the Act approves the acceptance of a gift, even if its value exceeds the $100 limit otherwise imposed. The statute also requires that the gift become property of the United States. Such gift would not belong to the Senator, officer or employee, and therefore would not be considered a gift to that person.

The Mutual Educational and Cultural Exchange Act permits a Federal employee to accept a grant or other form of assistance provided by a foreign government to facilitate that employee's participation in a type of cultural exchange program as defined in the Act. Under existing law and regulations such an individual is prohibited from accepting any such assistance if it exceeds a set value. Any grant by a foreign government must conform to limitations set forth in the Act and in every case the exchange must be approved by the Secretary of State. The Act specifically prohibits any form of assistance in connection with the foreign grant to any member of the family of a Federal employee.

SECTION 6—OUTSIDE EARNED INCOME

Rule 44 currently details regulations regarding outside earned income. Outside earned income is defined as compensation of personal services other than Senatorial salary. Effective January 1, 1983, Rule 44 placed limitations on the amount of outside earned income that may be received by a Member, officer or employee who is compensated at a rate in excess of $35,000 per annum and works for the Senate more than 90 days in a calendar year. Essentially, these individuals are unable to earn in excess of 15% of their Senate salary from outside sources. In addition, further limitations exist. Senators are prohibited from receiving honoraria in excess of $1,000 and officers and designated employees are prohibited from receiving honoraria in excess of $300 for each speech, appearance or article, a total of $1,500 in any calendar year. This rule supersedes the higher limits previously permitted by the Federal Election Campaign Act Amendments of 1976 (P.L. 94-282). A U.S. District Court judge dismissed in March 1978 a challenge to this rule, which had been filed by five Senators in July 1977. (*Laxalt et. al. v. Kimmitt et. al.*)

Senator Weicker proposes to repeal this provision. Essentially, by eliminating the limitation on outside earned income, Senator Weicker is proposing to give freedom to Members, officers and employees to maintain professional lives outside the halls of Congress. Accordingly, the proposed resolution would alleviate the cumbersome process of deciding whether or not a Member or congressional employee could engage in outside business or professional activities as defined within the boundaries of the Code of Conduct. The resolution would in effect give precedence to financial disclosure as the key element in a Code of Conduct. Although the resolution would erase any boundaries for outside income, it would not alleviate the Member or employee from filing the nature or amount of the income as described in Sec. 4 of the proposed resolution. By means of disclosure, the public is kept fully appraised of a Member's outside employment activities and is thereby able to judge for itself the potential for any impropriety.

SECTION 7—CONFLICT OF INTEREST

Section 7 of the Weicker Resolution amends Rule 45 of the present Senate Rules and renumbers the rule as 43. Rule 45 presently sets forth regulations pertaining to issues such as improper influence in Senate matters; compensation from outside businesses and professional activities; lobbying activities; voting on matters that could represent a conflict of interest; service on the boards of publicly held corporations; and divestiture of investment holdings.

The Weicker resolution repeals two paragraphs of Rule 45. One deleted paragraph (45.6) provides that no Member, officer, or employee compensated at a rate in excess of $25,000 per year and employed for more than 90 days (unless hired on a per diem basis) shall provide professional services for compensation. The other paragraph (45.7) provides that no Member, officer, or employee shall serve as an officer or member of the board of any publicly held or publicly regulated corporation, financial institution or business entity. The present prohibition does not apply to service without compensation as officers or directors of entities exempt from tax under section 501(c) of the Internal Revenue Code or organizations that are principally available to Members, officers or employees of the Senate or their families.

This resolution will not alter the meaning or the intent of the provisions of Title V of the Ethics in Government Act of 1978, which concerns post employment conflicts of interest for executive branch officials.

The two deleted paragraphs prohibit activities that are routinely disclosed in Rule 43 of the Weicker resolution. This amended rule relates to officers and employees of the Senate and requires a report in writing at the time when Senate staff engage in any outside business activity or employment. Reports under this regulation are required to be made each year to the employee's supervisor and the supervisor has the responsibility to take the necessary action to avoid conflicts of interest. Thus, the Weicker resolution again casts the light of publicity, rather than the burden of prohibition, upon the outside business activities of the Senate.

SECTION 8—PROHIBITION OF UNOFFICIAL OFFICE ACCOUNTS

The proposed resolution would clarify the meaning of "political committee" as used in Senate Rule 46. The definition would include not only a Member's own authorized campaign committee, but also the senatorial campaign committees (the Democratic Senatorial Campaign Committees and the National Republican Senatorial Committee) and the national committee of a political party and the state committee of a political party with which the Senator is affiliated.

Rule 46, paragraph 1, of the Senate Code of Conduct prohibits the use of unofficial office accounts. The rule, however, does allow exceptions with respect to funds received from four other sources, providing that these four sources are the only ones from which a Senator may defray expenses incurred in connection with his official duties. One of the exceptions is funds derived from a "political committee," as defined in the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 431(d)). A ruling issued in July 1977 by the Select Committee on Ethics states that the term "political committee" referred only to a Senator's own authorized campaign committee, as defined in 2 U.S.C. 431(n). The Committee's decision was based mainly on the legislative history of Rule 46.

However, the Senate's original intent remains unclear regarding the definition of "political committee." The fact remains that the exception for funds derived from a political committee cites 2 U.S.C. 431(d), which is the definition of "political committees" in general, rather than 2 U.S.C. 431(d) which defines only a candidate's principal campaign committee.

The Select Committee on Ethics endorsed the clarification, as proposed in this resolution, early in the 96th Congress noting that while expenses incurred by Senators in official duties should normally be paid from official allowances, appropriated funds are occasionally found to be insufficient to cover official office expenses. In endorsin- the broader definition of "political committee" the Committee also noted that committees representing political parties are subject to strict reporting requirements and limits on contributions made to them by individuals, as prescribed in the 1971 Elections Act, as amended. While this amendment to Rule 46 specifically permits funds derived from certain political committees to be used to defray official expenses, all funds received by the committee will have been subject to the limits of the election law relating to campaign contributions. There would be no limit on the amounts subsequently derived from the political committees to defray a Senator's official expenses.

COMPARATIVE ANALYSIS OF THE "OFFICIAL CONDUCT AMENDMENTS OF 1979" (WEICKER RESOLUTION) AND THE STANDING RULES OF THE SENATE (S. RES. 110)

OFFICIAL CONDUCT AMENDMENTS OF 1979	STANDING RULES OF THE SENATE
I. Who Must File: Weicker	Rule 42
(1) Senators	(1) Identical
(2) Senate employees earning $35,000 or more	(2) Senate employees earning $25,000 or more
(3) Senate candidates	(3) Identical
(4) Spouses and dependents are included	(4) No such provision
II. Contents of Disclosure Report: Weicker	Rule 42
(1) Federal tax return of previous year; medical and charitable deductions may be aggregated	(1) No such provision
(2) Identity and amount of all assets (except personal belongings) including: personal and real property, securities, commodity futures, contracts for future employment trusts (see below) over $1,000	(2) Assets disclosed in categories of value
(3) Identity of all liabilities over $1,000	(3) Identity of liabilities over $2,500
(4) Transactions disclosed in tax return and asset statement	(4) Identity, data and category of value of transactions in securities, commodity futures, and real property
(5) Identity of positions held in profit or non-profit corporations	(5) Identical
(6) Itemized list of honoraria	(6) Identical
III. Gifts Weicker	Rule 42
(1) Gift or aggregate of gifts from one source (other than relatives) over $100 must be disclosed	(1) Same except gifts less than $35 need not be aggregated
(2) Gifts in-kind (travel, food, lodging) aggregating over $100 must be disclosed	(2) Gifts in-kind aggregating over $250

IV. Trusts

Weicker	Rule 42
(1) Similar language from Ethics in Government Act	(1) Trust must be disclosed with two exceptions: (a) when trust not established by the Senator or employee and when he has no knowledge of the holding or sources of income of the trust (b) a qualified '"blind trust"

V. Tax Returns

Weicker	Rule 42
(1) Returns will be disclosed with the exception of medical and charitable deductions which can be aggregated	(2) Returns will be submitted in sealed envelopes in case of litigation

VI. Restriction on Gifts—Rule 43

Weicker	Rule 43
(1) Rule 43 is repealed; all gifts disclosed under Rule 42 as amended	(1) No member or employee may accept a gift or gifts aggregating over $100 from any party having a "direct interest in legislation before Congress"

VII. Restriction on Outside Earned Income—Rule 44

Weicker	Rule 44
(1) Rule 44 is repealed; all outside income or positions held are disclosed under Rule 42 as amended	(1) Senators and employees compensated at over $35,000 cannot earn outside income in excess of 15% of salary
(2) Restriction exists in public law, 2 USC 4411	(2) Senators shall not receive in excess of $1,000/appearance; staff: $300/appearance or $1,500 in aggregate
	(3) Unearned income excluded *Note: On March 8, 1979, the Senate approved, without a roll call vote, S. Res. 93, a resolution to postpone the effective date of Rule XLIV (44) from January 1, 1979, to January 1, 1983.

VIII. Conflict of Interest—Rule 45

Weicker	Rule 45
(1) Identical	(1) No member or employee shall receive income for improperly exerting influence
(2) No restrictions other than reporting requirement	(2) No member shall engage in outside business activity in conflict with conscientious performance of official duties
(3) Identical	(3) Prohibits use of position to aid passage of legislation beneficial to his pecuniary interest
(4) No restriction other than reporting requirements	(4) No member may serve on the board of a publicly owned or regulated corporation
(5) Identical	(5) Committee staff must divest themselves of interests in conflict with conscientious performance of official duties

IX. Prohibition of Unofficial Office Accounts—Rule 46

Weicker	Rule 46
(1) Identical	(1) No member may maintain an unofficial office account for his use
(2) Unofficial accounts do not include:	(2) Unofficial accounts do not include:
(a) identical	(a) personal funds
(b) identical	(b) official funds appropriated for that purpose
(c) funds from a member's principal campaign committee, Democratic and Republican Senatorial Committees, national and state political parties	(c) funds from political committees
(d) identical	(d) reimbursements
(3) Identical	(3) No contribution of the 1971 Federal Election Campaign Act shall be diverted for personal use

X. Rules 47–50

The remainder of the Senate Code of Official Conduct (Rule 47: Foreign Travel, Rule 48: Franking Privilege, Rule 49: Political Fund Activity, Rule 50: Employment Practices) is unchanged by the Weicker resolution.

STANDING RULES OF THE SENATE

RULE XLII

PUBLIC FINANCIAL DISCLOSURE

1. (a) (1) Each individual who for a period in excess of ninety days during a calendar year is a Senator, or an officer or employee of the Senate who is compensated at a rate in excess of $25,000 a year, shall file a report containing a full and complete financial statement for that calendar year.

Sec. 4 (a) "Para 1(a)(1)"

(2) Each employee designated under rule XLIX to handle campaign funds during any calendar year shall file a full and complete financial disclosure statement for that calendar year.

(b) Each individual described in subparagraph (a) who during any calendar year ceases to occupy an office or position described in such subparagraph shall file a report containing a full and complete financial statement for that portion of such year beginning on January 1 and ending on the date on which he ceases to occupy such office or position.

(c) Any individual who seeks nomination for election, or election, to the office of United States Senator shall file in any year in which such individual has—

OFFICIAL CONDUCT AMENDMENTS OF 1979

"RULE XLII

"PUBLIC FINANCIAL DISCLOSURE

"1. (a) (1) Each individual who for a period in excess of ninety days during a calendar year is a Senator, or an officer or employee of the Senate who is compensated at a rate in excess of $35,000 a year, shall file a report containing a full and complete financial statement for that calendar year.

42.1 (a)(1)

Identical to Sec. 4(a) "Para 2"

STANDING RULES OF THE SENATE	OFFICIAL CONDUCT AMENDMENTS OF 1979
(1) taken the action necessary under the law of a State to qualify for nomination for election, or election, or (2) received political contributions or made expenditures, or has given consent for any other person to receive political contributions or make expenditures, with a view to bring about such individual's nomination for election, or election, to such office, a report containing a full and complete financial statement for the preceding calendar year.	
(d) The Secretary of the Senate shall submit annually to the Select Committee on Ethics (hereinafter referred to as the "Select Committee") a complete list of Members, officers, and employees of the Senate who are required to file a report under this paragraph and shall submit at the close of each calendar quarter a list of individuals required to file such report who have begun or terminated employment with the Senate or been designated pursuant to rule XLIX.	(d) The Secretary of the Senate shall submit annually to the Committee on Rules and Administration (hereinafter referred to as the 'Committee') a complete list of Members, officers, and employees of the Senate who are required to file a report under this paragraph and shall submit at the close of each calendar quarter a list of individuals required to file such report who have begun or terminated employment with the Senate or been designated pursuant to rule XLIX.
42.1 (a) (2) (a)-(d) None	Sec. 4(a) "Para 1(2)(d)" 2. Each individual shall include in the report to be filed under paragraph 1 a copy of the returns of taxes, declarations, statements, other documents, and amendments thereto, which he, he and his spouse jointly, his spouse separately, his dependents, or any fiduciary (regarding income received on behalf of such individual), made for such year in compliance with the income tax provisions of the Internal Revenue Code of 1954, except that the deduction for medical and dental expenses and for charitable contributions may in each case be shown only as the total amount of such expenses and contributions, and the supporting information required therewith need not be disclosed.
2. Each individual shall include in each report for each calendar year for which he is required to file a report under paragraph 1 a full and complete statement, in such manner and form as the Select Committee shall prescribe, which contains the following:	Sec. 4(a) "Para 2" Each individual shall also include in such report a full and complete financial statement in such manner and form as may be prescribed by the Committee and which shall include the following:
(a) (1) The amount and the identity of each source of earned income (exclusive of honoraria) received during such calendar year which exceeds $100 in amount or value;	(a) The identity and fair market value of each asset (other than household furnishings, goods, jewelry, and clothing) held during the calendar year which is in excess of $1,000.
(2) the identity of the source, the amount, and the date, of each honorarium received during such calendar year and an indication of which honoraria, if any, were donated to a charitable organization pursuant to paragraph 2(c) of rule XLIV; and	(b) The identity and amount of each liability which is in excess of $1,000 owed at any time during the preceding calendar year.
(3) the identity of each source of income (other than earned income) received during such calendar year which exceeds $100 in amount or value, and an indication of which of the following categories the amount or value of such item of income is within;	(c) Each gift or aggregate of gifts from one source (other than relatives) received during the calendar year which exceeds $100.
(A) not more than $1,000, (B) greater than $1,000 but not more than $2,500, (C) greater than $2,500 but not more than $5,000, (D) greater than $5,000 but not more $15,000, (E) greater than $15,000 but not more than $50,000, (F) greater than $50,000 but not more than $100,000, or (G) greater than $100,000.	(d) An itemized listing of all honoraria received by him in the calendar year. (e) The identity of all positions held at any time during the calendar year as an officer, director, trustee, partner, adviser, proprietor, agent, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, and any educational or other institution.
42.2 (a) (1)—(3)	Sec. 4(a) "Para 2(a)—(e)"
(4) For purposes of clauses (1) and (3), any gift described in subparagraphs (b) and (c) of this paragraph shall not be considered as income. 42.2 (a) (4)	None
(b) The identity of the source, a brief description of, and the value of any gifts of transportation, lodging, food, or entertainment aggregating $250 or more provided by any one source other than a relative during the calendar year except that any food, lodging, or entertainment received as part of the personal hospitality of any individual need not be reported.	None
(c) The identity of the source, a brief description of, and the value of all other gifts aggregating $100 or more from any one source other than a relative during the calendar year unless, in an unusual case, a waiver is granted by the Select Committee.	
(d) (1) Gifts with a fair market value of less than $35 need not be aggregated for the purposes of subparagraphs (b) and (c) of this paragraph.	
(2) In aggregating gifts for purposes of subparagraphs (b) and (c) of this paragraph, the reporting individual may deduct from the total value of gifts received from any source during the calendar year the total value of gifts given by the reporting individual to that source during the calendar year, except that, if gifts with a fair market value of less than $35 received from that source are not aggregated, gifts with a fair market value of less than $35 given to that source may not be deducted.	
(e) (1) The identity and category of value of each item of real property held, directly or indirectly, during such calendar year which has a fair market value in excess of $1,000 as of the close of such calendar year; and	

STANDING RULES OF THE SENATE	OFFICIAL CONDUCT AMENDMENTS OF 1979
(2) the identity and category of value of each item of personal property held, directly or indirectly, during such calendar year in a trade or business or for investment or the production of income which has a fair market value in excess of $1,000 as of the close of such calendar year. 42.2 (b)-(e)	
(f) The identity and category of value of each personal liability owed, directly or indirectly, which exceeds $2,500 at any time during such calendar year. (g) The identity, date, and category of value of any transaction, directly or indirectly, in securities or commodities futures during such calendar year exceeding $1,000, except that (1) any gift to any tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code of 1954 involving such a transaction need not be reported, and (2) any transaction solely by and between the reporting individual, his spouse, and dependents need not be reported. (h) (1) The identity, date, and category of value of any purchase, sale, or exchange, directly or indirectly, of any interest in real property during such calendar year if the value of the property involved in such purchase, sale, or exchange exceeds $1,000 as of the date of such purchase, sale, or exchange, except that (1) any gift to any tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code of 1954 involving such a transaction need not be reported, and (2) any transaction solely by and between the reporting individual, his spouse, or dependents need not be reported. 42.2 (f)-(h) (1)	None
(2) For the purposes of subparagraph (e)(1) of this paragraph and clause (1) of this subparagraph, the identity of an item of real property shall include the number of acres of property (if there is more than one acre), the exact street address (except with respect to a personal residence of a reporting individual), the town, county, and State in which the property is located, and if there are substantial improvements on the land, a brief description of the improvements (such as "office building"). (i) Any patent right or any interest in any patent right, and the nature of such patent right, held during such calendar year. (j) The identity of all positions held as an officer, director, trustee, partner, adviser, proprietor, agent employee, or consultant of any corporation, company firm, partnership, or other business enterprise, any nonprofit organization, and any educational or other institution. (k) A description of, the parties to, and the terms of any contract, promise, or other agreement between such individual and any person with respect to his employment after such individual ceases to occupy an office or position described in paragraph 1, including any agreement under which such individual is taking a leave of absence from an office or position outside of the United States Government in order to occupy an office or position described in paragraph 1, and a description of and the parties to any agreement providing for continuation of payments or benefits from a prior employer other than the United States Government. **42.2 (h) (2)-4.2(k)**	None
An officer or employee of the Senate required to file a report under paragraph 1 shall include in this report the identity of any person, other than the United States Government, who paid the reporting individual compensation in excess of $5,000 in any of the two calendar years prior to such calendar year and the nature and term of the services the reporting individual performed for such person. The preceding sentence shall not require any individual to report any information which is considered confidential as a result of a privileged relationship, established by law, between such individual and any person nor shall it require an individual to report any information with respect to any person for whom services were provided by any firm or association of which such individual was a member, partner, or employee unless such individual was directly involved in the provision of such services. 3. (a) For purposes of subparagraphs (e) through (h) of paragraph 2, an individual need not specify the actual amount or value of each item required to be reported under such subparagraphs, but such individual shall indicate which of the following categories such amount or value is within: (1) not more than $5,000, (2) greater than $5,000 but not more than $15,000, (3) greater than $15,000 but not more than $50,000, (4) greater than $50,000 but not more than $100,000, (5) greater than $100,000 but not more than $250,000, (6) greater than $250,000 but not more than $500,000, (7) greater than $500,000 but not more than $1,000,000, (8) greater than $1,000,000 but not more than $2,000,000, (9) greater than $2,000,000 but not more than $5,000,000, or (10) greater than $5,000,000. 42.2 (k)—42.3(a)	None

STANDING RULES OF THE SENATE	OFFICIAL CONDUCT AMENDMENTS OF 1979
(b) For the purposes of subparagraph (e) of paragraph 2 if the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, an individual may list the date of purchase and the purchase price of the interest in the real property instead of specifying a category of value pursuant to subparagraph (a) of this paragraph. If the current value of any other item required to be reported under subparagraph (e) of paragraph 2 is not ascertainable without an appraisal, such individual may list the book value of a corporation whose stock is not publicly traded, the net worth of a business partnership, the equity value of an individually owned business, or with respect to other holdings, any recognized indication of value but such individual shall include in his report a full and complete description of the method used in determining such value. (c) (1) For the purposes of subparagraphs (a) through (c) of paragraph 2, the individual need only report the source, not the amount, of any earned income over $1,000 or gifts over $100 ($250 in the case of transportation, lodging, food, or entertainment) received by a spouse or minor dependent, and of gifts of over $500 received by an adult dependent, but with respect to earned income, if his spouse or minor dependents are self-employed in his or her own business or profession, only the nature of such business or profession need be reported.	None
(2) For the purposes of subparagraph (a) (3) and subparagraphs (e) through (j) of paragraph 2, a reporting individual shall also report the interests of the spouse or dependents of that individual if such interests are within the constructive control of the reporting individual. For the purposes of this subparagraph, an interest is in the constructive control of a reporting individual if the enhancement of the interest would substantially benefit the reporting individual.	"3. For purposes of subparagraphs (a) through (e) of paragraph 2, an individual shall report each gift received, each item received in kind, each asset held, each liability owed, and each position held by him, his spouse, or any of his dependents, or by him and his spouse jointly, him and any of his dependents jointly, or his spouse and any of his dependents jointly, or by any person acting on his behalf.
42.3(b)–(c)(2)	Sec. 4(a) "Para 3"
(3) No report shall be required with respect to the interests of a spouse living separate and apart from the reporting individual.	Sec. 4(a) "Para 4a"
(d) (1) Except as provided in clause (2), each reporting individual shall report, in accordance with the provisions of paragraph 2, the identity of the holdings of and the identity of the source of income from a trust or other financial agreement from which income is received by or with respect to which an equity interest is held by, such individual, his spouse, or any of his dependents. (2) A reporting individual need not report the holding of or the source of income from any of the holdings of— (A) any qualified blind trust (as defined in clause (3)); or (B) a trust— (i) which was not created directly by such individual, his spouse, or any of his dependents, (ii) with respect to which such individual, his spouse, and any of his dependents have no knowledge of the holdings or sources of income of the trust, and (iii) with respect to which such individual has requested the trustee to provide information with respect to the holdings and sources of income of the trust and the trustee refuses to disclose the information, but such individuals shall report the category of the amount of income received by him, his spouse, or his dependents from the trust under paragraph 2(a) (3).	"(b) A reporting individual need not report the holdings of or the source of income from any of the holdings of— "(1) any qualified blind trust (as defined in clause (3)); or "(2) a trust which was not created directly by such individual, his spouse, or any dependent child, and "(A) the holding or sources of income of which such individual, his spouse, and any dependent child have no knowledge of "(B) but such individual shall report the amount of income received by him, his spouse, or any dependent child from the trust under paragraph 1.
42.3(c) (3)–(d) (2)	Sec. 4(a) "Para 4b"
(3) For purposes of this subparagraph, the term "qualified blind trust" includes any trust in which a reporting individual, his spouse, or any of his dependents has a beneficial interest in the principal or income, and which meets the following requirements: (A) The trustee of the trust is a financial institution, an attorney, a certified public accountant, or a broker who (in the case of a financial institution or investment company, any officer or employee involved in the management or control of the trust who)— (i) is independent of any interested party so that the trustee cannot be controlled or influenced in the administration of the trust by any interested party, (ii) is not an employee of any interested party, or any organization affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party, and (iii) is not a relative (as defined in paragraph 7(j)) of any interested party. (B) Any asset transferred to the trust by any interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the Select Committee on Ethics.	Identical to Sec. 4. (a) "Para. 4c"
42.3 (d) (3) (A)–(B)	

STANDING RULES OF THE SENATE	OFFICIAL CONDUCT AMENDMENTS OF 1979
(C) The trust instrument which establishes the trust provides that— (i) except to the extent provided in subclause (B), the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party; (ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation; (iii) the trustee shall promptly notify the reporting individual and the Select Committee on Ethics when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holdings is less than $1,000; (iv) the trust tax return shall be prepared by the trustee or his designee and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return) shall not be disclosed to any interested party; (v) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by paragraph 2(a)(3) of this rule but such report shall not identify any asset or holding; 42.3 (d)(3)(c)(i)–(v)	Identical
(vi) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset and which notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and (vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.	Identical
(D) The proposed trust instrument and the proposed trustee shall be approved by the Select Committee on Ethics.	"(4) The proposed trust instrument and the proposed trustee is approved by the Committee on Rules and Administration.
42.3 (a)(3)(c)(iv)–(viii), (D) For purposes of this subparagraph, the term "interested parties" means a reporting individual, his spouse, and dependents if the reporting individual, his spouse, or dependent has a beneficial interest in the principal or income of a qualified blind trust and the term "broker" is used as defined in section 78 of title 15, United States Code. (4) An asset placed in a trust by an interested party (within the meaning of clause (3)) shall be considered a financial interest of the reporting individual, for the purposes of any conflict of interest statutes or regulations of the Federal Government, until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than $1,000.	IDENTICAL
(5)(A) The reporting individual shall file within thirty days after a qualified blind trust is approved by the Select Committee on Ethics a copy of— (i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and (ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under paragraph 3(a), with the Secretary of the Senate. (B) The reporting individual shall, within thirty days of transferring an asset (other than cash) to a previously established qualified blind trust, notify the Select Committee on Ethics of the identity of each such asset and the category of value of each asset as determined under paragraph 3(a). (C) Within thirty days of the dissolution of a qualified blind trust, a reporting individual shall— (i) notify the Select Committee on Ethics of such dissolution, and (ii) file a copy of a list of the assets of the trust at the time of such dissolution and the category of value under paragraph 3(a) of each such asset with the Secretary of the Senate. 42.3 (d) (3) (D)–42.3(d)(4), (5) (A)–(c)(ii)	"(e)(1) The reporting individual shall, within thirty days after a qualified blind trust is approved by the Committee, file with such office a copy of—

STANDING RULES OF THE SENATE	OFFICIAL CONDUCT AMENDMENTS OF 1979
None	"(f)(1) A trustee of a qualified blind trust shall not knowingly or negligently (A) disclose any information to an interested party with respect to such trust that may not be disclosed under subparagraph (1), (B) acquire any holding the ownership of which is prohibited by the trust instrument; (C) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by subparagraph (1) or the trust agreement; or (D) fail to file any document required by this subsection. "(2) A reporting individual shall not knowingly or negligently (i) solicit or receive any information with respect to a qualified blind trust of which he is an interested party that may not be disclosed under subparagraph (1) or (ii) fail to file any document required by this subsection.
(D) Documents filed under subclauses (A), (B), and (C) of this clause shall be made available to the public in the same manner as a report is made available under paragraph 5 and the provisions of paragraph 5, as appropriate, shall apply.	Identical
(E) A copy of each written communication with respect to the trust under clause (3)(C)(vi) of this subparagraph shall be filed by the person initiating the communication with the Select Committee on Ethics within five days of the date of the communication.	
(F) Any trust which is in existence prior to the effective date of this rule shall be considered a qualified blind trust if— (i) the Select Committee on Ethics determines that the trust was a good faith effort to establish a blind trust; (ii) the previous trust instrument is amended, or, if such trust instrument does not by its terms permit amendment, all parties to the trust instrument, including the reporting individual and the trustee, agree in writing that the trust shall be administered in accordance with the requirements of clause (3)(C) of this subparagraph and a trustee is (or has been) appointed who meets the requirements of clause (3) of this subparagraph; and (iii) a copy of the trust instrument (except testamentary provisions), a list of the assets previously transferred to the trust by an interested party, and the category of value of each such asset at the time it was placed in the trust is filed and made available to the public as provided under clause (5) of this subparagraph. (e) An individual only is required to report information within his knowledge. 42.3 (d)(5)(D)–(F)	(None)
4. (a) Each individual required to file a report under [42.4] paragraph 1(a) for any calendar year shall file such report with the Secretary of the Senate not later than May 15 of the next year. (b) Each individual required to file a report under paragraph 1(b) for a portion of a year shall file such report with the Secretary of the Senate on the last day he occupies an office or position described in paragraph 1 during such year. (c) Each individual required to file a report under paragraph 1(c) shall file such report with the Secretary of the Senate not later than the thirtieth day following the day on which such individual first fulfills the filing requirements of such paragraph during such year or May 15 of that year, whichever is later. (d) A copy of each report filed under subparagraphs (a), (b), and (c) shall be provided to the Select Committee by the Secretary of the Senate. (e) Each Senator and each individual required to report under paragraph 1(c) shall cause his financial disclosure statement to be filed as a public document with the Secretary of State (or, if there is no Office of Secretary of State, the equivalent State officer) in the State which the Senator represents or in which he is a candidate for the position of Senator. (f) The Select Committee may grant one or more reasonable extensions of time for filing any report but the total of such extensions shall not exceed ninety days. 42.4 (a)–(f)	Identical to Sec. 4(a) "Para 5"
(g) The Comptroller General shall provide assistance in completing any reports required under this rule when requested by a Member, officer, or employee of the Senate. 42.4 (g)	None
None	"(g) No later than July 30, the President pro tempore of the Senate shall cause the report of each individual Member to be published in a separate issue of the Congressional Record. Sec. 4(a) "Para 5 (g)"

STANDING RULES OF THE SENATE	OFFICIAL CONDUCT AMENDMENTS OF 1979
5. (a) Except as provided in this paragraph, the Secretary of the Senate shall make each report filed with him under this rule available to the public within fifteen days after the receipt of such report, and shall provide a copy of any such report to any person upon a written request.	"6. (a) The Secretary of the Senate shall make each report filed with him under this rule available to the public within fifteen days after the receipt of such report, and shall provide a copy of any such report to any person upon a written request.
42.5 (a)	Sec. 4(a) "Para 6(a)"
(b) The Secretary of the Senate shall require any person receiving a copy of any report under subparagraph (a) to supply his name and address and the name of the person or organization, if any, on whose behalf he is requesting such copy and to pay a reasonable fee in any amount which the Secretary of the Senate finds necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. The Secretary of the Senate may furnish a copy of any such report without charge or at a reduced charge if he determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the public.	Identical to Sec. 4(a) "Para 6(b)-(d)"
(c) Any report received by the Secretary of the Senate shall be held in his custody and made available to the public for a period of seven years after receipt by the Secretary of the Senate of such report. After such seven-year period, the Secretary of the Senate shall destroy any such report.	
(d) The Select Committee shall review all financial statements filed pursuant to paragraph 1 to determine whether such statements are filed in a timely manner and are complete and in proper form.	
42.5 (b)-(d)	
(e) (1) The Comptroller General shall, under such regulations as he may prescribe, and which are approved by the Select Committee, conduct, on a random basis, audits of approximately 5 per centum of the reports filed with the Secretary of the Senate (other than those filed by a Member of the Senate).	Identical to Sec. 4(a) "Para 6(e) 1-3".
(2) The Comptroller General shall, during each six-year period beginning after December 31, 1977, audit at least one report filed by each Member of the Senate except that no such audit shall take place during the calendar year such Member is up for reelection.	
(3) (A) In conducting an audit under clause (1) or (2), the Comptroller General is authorized to request that the Select Committee issue a subpena to require the production of books, papers, and other documents.	
(B) The Comptroller General may use outside consultants to assist him in his responsibilities under this subparagraph.	
(4) The Comptroller General shall transmit the findings of each audit to the Select Committee and the individual being audited.	(4) The Comptroller General shall transmit the findings of each audit to the Committee and the individual being audited.
42.5(e)	Sec. 4(a) "Para 6(e) (4)"
6. (a) Each individual who is required to file a financial statement under paragraph 1 for any calendar year shall file with the Comptroller General, in a sealed envelope, a report containing a copy of the returns of taxes, declarations, statements, other documents, and amendments thereto, which he, or he and his spouse jointly, or any fiduciary (regarding income received on behalf of such individuals), made for such year in compliance with the income tax provisions of the Internal Revenue Code of 1954. Such report shall be filed not later than the date on which such individual is required to file a financial statement under paragraph 1.	None
42.5(e)	
(b) Except as otherwise provided by this paragraph, all papers filed with the Comptroller General under this paragraph shall be kept by the Comptroller General for not less than seven years, and while so kept shall remain sealed. Upon receipt of a resolution of the Select Committee, adopted by a recorded majority vote of the members of the Select Committee, requesting the transmission to the Select Committee of any of the reports filed by an individual under this rule, the Comptroller General shall transmit to the Select Committee the envelopes containing such reports. After such recorded vote has been taken, but prior to the transmittal to the Select Committee of the envelopes containing such reports, the individual concerned shall be informed of the vote to examine and audit, and shall be advised of the nature and scope of such examination. When any sealed envelope containing any such report is received by the Select Committee, such envelope may be opened and the contents thereof may be examined only by members of the Select Committee in executive session. If, upon such examination, the Select Committee determines that further consideration by the Select Committee is warranted and is within the jurisdiction of the Select Committee, it may make the contents of any such envelope available for any use by any member of the Select Committee, or any member of the staff of the Select Committee, which is required for the discharge of his official duties. The Select Committee may receive the papers as evidence, after giving to the individual concerned due notice and an opportunity for hearing in a closed session. The Comptroller General shall report to the Select Committee not	

later than the 1st day of June in each year the names of Senators, officers, and employees who have filed a report. Any paper which has been filed with the Comptroller General for longer than seven years, in accordance with the provisions of this paragraph, shall be returned to the individual concerned or his legal representative. In the event of the death or termination or service of a Member of the Senate or an officer or employee of the Senate, such papers shall be returned unopened to such individual, or to the surviving spouse or legal representative of such individual within one year of such death or termination of service unless the Select Committee directs that such papers be returned at a later date.

(c) Notwithstanding the provisions of subparagraph (b), the Comptroller General, after giving notice to the individual being audited, may examine the material filed pursuant to this paragraph for the purpose of conducting an audit as required under paragraph 5(e).

42.6(b), (c)

None

(d) Whenever in any criminal case pending in any competent court in which a Member, officer, or employee of the Senate is a defendant, or in any proceeding before a grand jury of any competent court in which alleged criminal conduct of the Member, officer, or employee of the Senate is under investigation, a discovery order of such court is served upon the Comptroller General directing him to appear and produce any reports filed pursuant to this rule, the Comptroller General shall—

(1) within a reasonable time prior to appearing in response to such discovery order of such court, notify the individual whose report is requested of the receipt of the discovery order of such court,

(2) if such report is in a sealed envelope, unseal the envelope containing such report and have an authenticated copy made of such report, replace such report in such envelope and reseal it, and note on such envelope that it was opened pursuant to this clause in response to a discovery order of such court, a copy of which shall be attached to such envelope, and

(3) appear in response to such discovery order of such court and produce the authenticated copy so made. For purposes of this subparagraph, the term "competent court" means a court of the United States, a State, or the District of Columbia which has general jurisdiction to hear cases involving criminal offenses against the United States, such State, or the District of Columbia, as the case may be; and the term "discovery order" includes a subpena approved by a competent court.

(e) The Select Committee on Ethics shall promulgate regulations and procedures to insure the confidentiality of tax returns and tax return information examined by the staff of that committee pursuant to subparagraph (b) above. Such regulations shall include the sanction of dismissal for any employee who knowingly and willfully communicates to any unauthorized person information derived from any confidentially filed tax return or tax return information examined pursuant to subparagraph (b) above.

42.6 (d), (e)

None

"7. For the purpose of this rule—

"(a) the term 'asset' includes, but is not limited to—

"(1) any real or personal property, and commodities futures or securities, held directly or indirectly, and any patent right, copyright, or contract or agreement for future employment, and

"(2) the holdings and sources of income of a trust or other financial arrangement in which a Senator, officer and employee has an interest, whether 'blind' or not, and whether or not created by or under the control of the reporting Senator, officer or employee or the spouse or dependents of such reporting individual except that the identity of the holdings and the sources of a trust's income need not be disclosed if—

"(A) the trust was not created directly or indirectly by the reporting individual, his spouse, or dependents,

Sec. 4(a) "Par 7(a)(1)–(2)"

None

"(B) the reporting individual, his spouse, and dependents have no knowledge of the contents or sources of income of the trust, and

"(C) the reporting individual has requested the trustee to provide information with respect to the holdings and sources of income of the trust and the trustee refuses to disclose the information.

However, where the identity of the holdings and the sources of income of a trust need not be disclosed, the reporting individual must list the net cash value of his interest in the total trust holdings under subparagraph (a) of paragraph 2;

STANDING RULES OF THE SENATE	OFFICIAL CONDUCT AMENDMENTS OF 1979
Sec. 4(a) "Para 7(a) (2)" 7. As used in this rule— (a) the term "commodity future" means commodity future as defined in section 2 and 5 of the Commodity Exchange Act, as amended (7 U.S.C. 2 and 5); (b) the term "Comptroller General" means the Comptroller General of the United States; (c) the term "dependent" has the meaning set forth in section 152 of the Internal Revenue Code of 1954;	Identical to Sec. 4a "Para 7(b)-(c)"
(d) the term "earned income" means outside earned income (as defined in rule XLIV) and any salary disbursed to an individual by the Secretary of the Senate;	None
(e) the term "employee of the Senate" includes any employee or individual described in paragraphs 2, 3, and 4(c) of rule XLIX; 42.7 (a)-(e)	"(e) the term 'employee of the Senate' has the same meaning given to such term in paragraphs 2, 3, and 4 of rule XLVII; Sec. 4a "Para 7(e)"
(f) the term "gift" means a payment, subscription, advance, forbearance, rendering, or deposit of money, services, or anything of value, including food, lodging, transportation, or entertainment, and reimbursement for other than necessary expenses, unless consideration of equal or greater value is received, but does not include (1) a political contribution otherwise reported as required by law, (2) a loan made in a commercially reasonable manner (including requirements that the loan be repaid and that a reasonable rate of interest be paid), (3) a bequest, inheritance, or other transfer at death, or (4) anything of value given to a spouse or dependent of a reporting individual by the employer of such spouse or dependent in recognition of the service provided by such spouse or dependent;	Identical to Sec. 4a "Para 7(f)"
(g) the term "income" means gross income as defined in section 61 of the Internal Revenue Code of 1954;	None
(h) the term "political contribution" means a contribution as defined in section 301 of the Federal Election Campaign Act of 1971 (U.S.C. 431); 42.7 (f)-(h)	Identical to Sec. 4a "Para 7(g)"
(i) the term "political expenditure" means an expenditure as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431);	None
(j) the term "relative" means, with respect to a person required to file a report under this rule, an individual who is related to the person as father, mother, son, daughter, brother, sister, uncle, aunt, great uncle, great aunt, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, grandddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, fiancé, fiancée, or who is the grandfather or grandmother of the spouse of the person reporting; (k) the term "security" has the meaning set forth in section 2 of the Securities Act of 1933; as amended (15 U.S.C. 77b); and (l) the term "transactions in securities and commodities futures" means any acquisition, transfer, or other disposition involving any security or commodity future.	Identical to Sec. 4a "Para 7(j)-(l)"
42.7 (i)-(l) None	(b) The amendment made by subsection (a) shall take effect on January 1, 1980, except that reports required to be filed on May 15, 1980, shall include information with respect to 1979 for individuals required to file reports for such year. Sec. 4(b)
RULE XLIII GIFTS 1. (a) No Member, officer, or employee of the Senate, or the spouse or dependent thereof, shall knowingly accept, directly or indirectly, any gift or gifts having an aggregate value exceeding $100 during a calendar year directly or indirectly from any person, organization or corporation having a direct interest in legislation before the Congress or from any foreign national unless, in an unusual case, a waiver is granted by the Select Committee on Ethics. In determining whether an individual has accepted any gift or gifts having an aggregate value exceeding $100 during a calendar year from any person, organization, or corporation, there may be deducted the aggregate value of gifts (other than gifts described in subparagraph (c)) given by such individual to such person, organization, or corporation during that calendar year. (b) For purposes of subparagraph (a), only the following shall be deemed to have a direct interest in legislation before the Congress: (1) a person, organization, or corporation registered under the Federal Regulation of Lobbying Act of 1946, or any successor statute, a person who is an officer or director of such a registered lobbyist,	REPEAL OF RESTRICTION ON GIFTS Sec. 5. Rule XLIII of the Standing Rules of the Senate is repealed. Sec. 5

STANDING RULES OF THE SENATE	OFFICIAL CONDUCT AMENDMENTS OF 1979
or a person who has been employed or retained by such a registered lobbyist for the purpose of influencing legislation before the Congress; or (2) a corporation, labor organization, or other organization which maintains a separate segregated fund for political purposes (within the meaning of section 321 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b)), a person who is an officer or director of such corporation, labor organization, or other organization, or a person who has been employed or retained by such corporation, labor organization, or other organization for the purpose of influencing legislation before the Congress. 43.1(a), (b)	
(c) The prohibitions of subparagraph (a) do not apply to gifts— (1) from relatives; (2) with a value of less than $35; (3) of personal hospitality of an individual; or (4) from an individual who is a foreign national if that individual is not acting, directly or indirectly, on behalf of a foreign corporation, partnership or business enterprise, a foreign trade, cultural, educational or other association, a foreign political party or a foreign government. 2. For purposes of this rule— (a) the term "gift" means a payment, subscription, advance, forbearance, rendering, or deposit of money, services, or anything of value, including food, lodging, transportation, or entertainment, and reimbursement for other than necessary expenses, unless consideration of equal or greater value is received, but does not include (1) a political contribution otherwise reported as required by law, (2) a loan made in a commercially reasonable manner (including requirements that the loan be repaid and that a reasonable rate of interest be paid), (3) a bequest, inheritance, or other transfer at death, (4) a bona fide award presented in recognition of public service and available to the general public, (5) a reception at which the Member, officer, or employee is to be honored, provided such individual receives no other gifts that exceed the restrictions in this rule, other than a suitable memento, (6) meals, beverages, or entertainment consumed or enjoyed, provided the meals, beverages, or entertainment are not consumed or enjoyed in connection with a gift of overnight lodging, or (7) anything of value given to a spouse or dependent of a reporting individual by the employer of such spouse or dependent in recognition of the service provided by such spouse or dependent; and (b) the term "relative" has the same meaning given to such term in paragraph 7(j) of rule XLII. 43.1(c)-43.2(b)	None
3. If a Member, officer, or employee, after exercising reasonable diligence to obtain the information necessary to comply with this rule, unknowingly accepts a gift described in paragraph 1, such Member, officer, or employee shall, upon learning of the nature of the gift and its source, return the gift or, if it is not possible to return the gift, reimburse the donor for the value of the gift. 4. (a) Notwithstanding the provisions of this rule, a Member, officer, or employee of the Senate may participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization if such participation is not in violation of any law and if the Select Committee on Ethics has determined that participation in such program by Members, officers, or employees of the Senate is in the interests of the Senate and the United States. (b) Any Member who accepts an invitation to participate in any such program shall notify the Select Committee in writing of his acceptance. A Member shall also notify the Select Committee in writing whenever he has permitted any officer or employee whom he supervises (within the meaning of paragraph 12 of rule XLV) to participate in any such program. Prior to the beginning of any such program, the chairman of the Select Committee shall place in the Congressional Record a list of all individuals participating; the supervisors of such individuals, where applicable; and the nature and itinerary of such program. (c) No Member, officer, or employee may accept funds in connection with participation in a program permitted under subparagraph (a) if such funds are not used for necessary food, lodging, transportation, and related expenses of the Member, officer, or employee. 43.3, 43.4	None

RULE XLIV[1] STANDING RULES OF THE SENATE OUTSIDE EARNED INCOME	REPEAL OF RESTRICTION ON OUTSIDE EARNED INCOME OFFICIAL CONDUCT AMENDMENTS OF 1979
1. During the period of service in a calendar year of a Senator, or of an officer or employee of the Senate compensated at a rate exceeding $35,000 a year and employed for more than ninety days in a calendar year, the aggregate amount of the outside earned income of such individual for such period shall not exceed 15 per centum of— (1) the aggregate amount of the salary of such an officer or employee disbursed by the Secretary of the Senate during such period; and (2) in the case of a Senator, the aggregate amount of base salary paid to Senators and disbursed by the Secretary of the Senate for that period. 2. (a) A Senator shall not receive honoraria in excess of $1,000 for each appearance, speech, or article. (b) An officer or employee of the Senate covered by paragraph 1 shall not receive honoraria in excess of— (1) $300 for each appearance, speech, or article, and (2) $1,500 in the aggregate in any one calendar year. (c) Notwithstanding the limitations under paragraph 1 or 2(b)(2), any Senator, officer, or employee may accept honoraria in excess of the amount allowed in paragraph 1 or 2(b)(2) but not in excess of $25,000, if he donates such honoraria to an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954 and if no tax benefits accrue to such Senator, officer, or employee for such donation. 44.1, 44.2	Sec. 6. Rule XLIV of the Standing Rules of the Senate is repealed. Sec. 6
3. (a) For purposes of this rule, the term "outside earned income" shall, subject to the provisions of subparagraph (b), mean any income earned by an individual (other than the salary received as a Senator or officer or employee of the Senate) which is compensation received as a result of personal services actually rendered. (b) For purposes of subparagraph (a), the term "outside earned income" does not include— (1) advances on books from an established trade publisher under usual contract terms; (2) royalties from books; (3) proceeds from the sale of creative or artistic works; (4) any "buyout" arrangement from professional partnerships or businesses which is reasonably related to the fair market value of the partnership or business interest in the enterprise at the time of the sale of such interest, payable within a reasonable period of time, and not related to future services or profitability of the enterprise; (5) income from family enterprises, if the services provided by the Senator, officer or employee are managerial or supervisory in nature, necessary to protect the interests in the family enterprise and do not consume significant amounts of time while the Senate is in session; and (6) distributive shares of partnership income if the distributive share received represents not more than a pro rata return on the capital invested in the partnership and the services provided by the Senator, officer, or employee are managerial or supervisory in nature, necessary to protect the interests in the partnership, and do not consume significant amounts of time while the Senate is in session. 44.3	None
RULE XLV CONFLICT OF INTEREST 1. A Member, officer, or employee of the Senate shall not receive any compensation, nor shall he permit any compensation to accrue to his beneficial interest from any source, the receipt or accrual of which would occur by virtue of influence improperly exerted from his position as a Member, officer, or employee. 2. No Member, officer, or employee shall engage in any outside business or professional activity or employment for compensation which is inconsistent or in conflict with the conscientious performance of official duties. 3. No officer or employee shall engage in any outside business or professional activity or employment for compensation unless he has reported in writing when such activity or employment commences and on May 15 of each year thereafter so long as such activity or employment continues, the nature of such activity or employment to his supervisor. The supervisor shall then, in the discharge of his duties, take such action as he considers necessary for the avoidance of conflict of interest or interference with duties to the Senate. 4. No Member, officer, or employee shall knowingly use his official position to introduce or aid the progress or passage of legislation, a principal purpose of which is to further only his pecuniary interest, only the pecuniary interest of his immediate family, or only the pecuniary interest of a limited class of persons or enterprises, when he, or his immediate family, or enterprises controlled by them, are members of the affected class.	Identical to Sec. 7

STANDING RULES OF THE SENATE	OFFICIAL CONDUCT AMENDMENTS OF 1979
5. A Member, notwithstanding the provisions of rule XII of the Standing Rules of the Senate, may decline to vote, in committee or on the floor, on any matter when he believes that his voting on such a matter would be a conflict of interest.	
45.1–45.5 6.[1] No Member, officer, or employee of the Senate compensated at a rate in excess of $25,000 per annum and employed for more than ninety days in a calendar year shall (a) affiliate with a firm, partnership, association, or corporation for the purpose of providing professional services for compensation; (b) permit that individual's name to be used by such a firm, partnership, association or corporation; or (c) practice a profession for compensation to any extent during regular office hours of the Senate office in which employed. For the purposes of this paragraph, "professional services" shall include but not be limited to those which involve a fiduciary relationship.	None
45.6 7.[1] No Member, officer, or employee of the Senate compensated at a rate in excess of $25,000 per annum and employed for more than ninety days in a calendar year shall serve as an officer or member of the board of any publicly held or publicly regulated corporation, financial institution, or business entity. The preceding sentence shall not apply to service of a Member, officer, or employee as— (a) an officer or member of the board of an organization which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954, if such service is performed without compensation; (b) an officer or member of the board of an institution or organization which is principally available to Members, officers, or employees of the Senate, or their families, if such service is performed without compensation; or (c) a member of the board of a corporation, institution, or other business entity, if (1) the Member, officer, or employee had served continuously as a member of the board thereof for at least two years prior to his election or appointment as a Member, officer, or employee of the Senate, (2) the amount of time required to perform such service is minimal, and (3) the Member, officer, or employee is not a member of, or a member of the staff of any Senate committee which has legislative jurisdiction over any agency of the Government charged with regulating the activities of the corporation, institution, or other business entity.	None
45.7 8. An employee on the staff of a committee who is compensated at a rate in excess of $25,000 per annum and employed for more than ninety days in a calendar year shall divest himself of any substantial holdings which may be directly affected by the actions of the committee for which he works, unless the Select Committee, after consultation with the employee's supervisor, grants permission in writing to retain such holdings or the employee makes other arrangements acceptable to the Select Committee and the employee's supervisor to avoid participation in committee actions where there is a conflict of interest, or the appearance thereof.	"'6. An employee of the staff of a committee who is compensated at a rate in excess of $35,000 per annum and employed for more than ninety days in a calendar year (unless hired on a per diem basis) shall divest himself of any holdings which may be directly affected by the actions of the committee for which he works, unless he has received permission in writing from his supervisor and the Committee on Rules and Administration to retain such holdings.
9.[1] If a Member, upon leaving office, becomes a registered lobbyist under the Federal Regulation of Lobbying Act of 1946 or any successor statute, or is employed or retained by such a registered lobbyist for the purpose of influencing legislataion, he shall not lobby Members, officers, or employees of the Senate for a period of one year after leaving office.	"Sec. 7 (a) "Para 6" Identical
45.8, 45.9 10.[1] If an employee on the staff of a Member, upon leaving that position, becomes a registered lobbyist under the Federal Regulation of Lobbying Act of 1946 or any successor statute, or is employed or retained by such a registered lobbyist for the purpose of influencing legislation, such employee may not lobby the Member for whom he worked or that Member's staff for a period of one year after leaving that position. If an employee on the staff of a committee, upon leaving his position, becomes such a registered lobbyist or is employed or retained by such a registered lobbyist for the purpose of influencing legislation, such employee may not lobby the members of the committee for which he worked, or the staff of that committee, for a period of one year after leaving his position.	Identical to Sec. 8.
11. For purposes of this rule—	Identical to Sec. 9

STANDING RULES OF THE SENATE	OFFICIAL CONDUCT AMENDMENTS OF 1979
(a) "employee of the Senate" includes an employee or individual described in paragraphs 2, 3, and 4(c) of rule XLIX; (b) an individual who is an employee on the staff of a subcommittee of a committee shall be treated as an employee on the staff of such committee; and (c) the term "lobbying" means any oral or written communication to influence the content or disposition of any issue before Congress, including any pending or future bill, resolution, treaty, nomination, hearing, report, or investigation; but does not include— (1) a communication (i) made in the form of testimony given before a committee or office of the Congress, or (ii) submitted for inclusion in the public record, public docket, or public file of a hearing; or (2) a communication by an individual, acting solely on his own behalf, for redress of personal grievances, or to express his personal opinion. 45.10, 45.11	
12. For purposes of this rule— (a) a Senator or the Vice President is the supervisor of his administrative, clerical, or other assistants; (b) a Senator who is the chairman of a committee is the supervisor of the professional, clerical, or other assistants to the committee except that minority staff members shall be under the supervision of the ranking minority Senator on the committee; (c) a Senator who is a chairman of a subcommittee which has its own staff and financial authorization is the supervisor of the professional, clerical, or other assistants to the subcommittee except that minority staff members shall be under the supervision of the ranking minority Senator on the subcommittee; (d) the President pro tempore is the supervisor of the Secretary of the Senate, Sergeant at Arms and Doorkeeper, the Chaplain, the Legislative Counsel, and the employees of the Office of the Legislative Counsel; (e) the Secretary of the Senate is the supervisor of the employees of his office; (f) the Sergeant at Arms and Doorkeeper is the supervisor of the employees of his office; (g) the Majority and Minority Leaders and the Majority and Minority Whips are the supervisors of the research, clerical, or other assistants assigned to their respective offices; (h) the Majority Leader is the supervisor of the Secretary for the Majority and the Secretary for the Majority is the supervisor of the employees of his office; and (i) the Minority Leader is the supervisor of the Secretary for the Minority and the Secretary for the Minority is the supervisor of the employees of his office. 45.12	Identical to Sec. 10
RULE XLVI PROHIBITION OF UNOFFICIAL OFFICE ACCOUNTS	PROHIBITION OF UNOFFICIAL OFFICE ACCOUNTS
1. No Member may maintain or have maintained for his use an unofficial office account. The term "unofficial office account" means an account or repository into which funds are received for the purpose, at least in part, of defraying otherwise unreimbursed expenses allowable in connection with the operation of a Member's office. An unofficial office account does not include, and expenses incurred by a Member in connection with his official duties shall be defrayed only from— (a) personal funds of the Member; (b) official funds specifically appropriated for that purpose;	Sec. 8. Paragraph 1(c) of Rule XLVI of the Standing Rules of the Senate is amended to read as follows: Identical
(c) funds derived from a political committee (as defined in section 301(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)); and	"(c) funds derived from contributions (as defined in section 301(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(e)) to— "(1) the Member's principal campaign committee (as defined in section 301(n) of such Act (2 U.S.C. 431(n)); "(2) the Democratic Senatorial Campaign Committee and the National Republican Senatorial Committee; and "(3) the national committee of a political party and the State committee of a political party with which the Member is affiliated; and". Sec. 8
(d) funds received as reasonable reimbursements for expenses incurred by a Member in connection with personal services provided by the Member to the organization making the reimbursement. 2. No contribution (as defined in section 301(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)) shall be converted to the personal use of any Member or any former Member. For the purposes of this rule "personal use" does not include reimbursement of expenses incurred by a Member in connection with his official duties.	Identical to Sec. 8 "Para 1 (d), 2"

[From the New York Times, Mar. 22, 1977]

Full—Full—Disclosure

(By Lowell P. Weicker, Jr.)

WASHINGTON.—Seventy-four years ago, the British philosopher George Edward Moore wrote of the "difficulties and disagreements" that arise over the subject of ethics. The problems, he wrote, "are mainly due to a very simple cause: namely, the attempt to answer questions without first discovering precisely what question it is which you desire to answer."

The United States Senate, now considering a new code of ethics, provides living proof of Moore's thesis. Members know full well that they must answer the public cry for stringent rules of conduct; the issue can no longer be ignored. Yet, they are rushing to meet the challenge without a clear perception of what the so-called reforms will remedy.

The Senate ethics plan under consideration is an amalgam of arbitrary restrictions and incomplete regulations whose only claim to the title "reform" stems from its public-relations value.

The proposal proclaims tough, new financial-disclosure provisions for senators and top Senate aides. But it stops well short of revealing *all* financial interests. No tax returns need be revealed. No specific amounts or assets or liabilities need be listed.

When the Senate and House approved the $12,900 pay raise (recommended incidentally not by the Senate and House but by an independent commission), lawmakers drew criticism. Their response was to promise "reform" and to limit the amount of a senator's outside earned income to 15 percent of his new salary.

Ignoring the fact that one cent paid a public servant demands proper conduct in return, the new reform bill implies that a $57,500-a-year senator requires improved ethics over the $44,600-a-year model. There is no magic to the 15 percent ceiling. Even the bill's sponsors admit that it is pulled from thin air.

But some type of income limit is vital to the integrity of the institution, they argue. Senators making more than $8,625 a year giving speeches, writing books or maintaining an outside business interest might appear to be in the pocket of special interest groups or shortchanging the American people by failing to devote enough time to their Senate work.

No consideration is given to those senators whose profits from stocks, bonds or family wealth far exceed the earned income of their less-wealthy colleagues. In essence, this "reform" rules out outside income for less well-to-do senators while permitting rich lawmakers to get richer.

Would not the potential for legislative conflict of interest be greater for a senator holding 1,000 shares of stock in a major corporation than for another lawmaker who earns $1,000 delivering a speech to an educational institution?

Instead of scurrying for public favor through artificial and illogical restraints on officeholders, the Senate should consider the effectiveness, not the cosmetics, of its ethical standards.

If the question of ethics hinges on a faltering public trust in its elected officials, there is one best way to restore confidence: Let the American people police their own politics.

Instead of senators' judging the propriety of their fellow senators, give the public all the facts and let the voters decide what is a conflict and what is proper.

Senators should be required to make public every financial detail they possess through yearly publication of individual income-tax returns and an itemized statement of net worth, detailing assets, liabilities and gifts received. Every share of stock, every holding in trust, every interest payment on every loan should be offered to the voters for consideration.

The financial status of Senators' spouses and dependent children should also go public, with all the records being published in a single, easily accessible public document. If voters from a Midwestern state feel that their senator's owning a farm helps him to better understand their rural problems, why should I, from the urban Northeast, say no? Likewise, if another state's voters are outraged by their senator's earning one nickel from a law firm, who should I say 15 percent is all right?

The wealthy already dominate the Senate's membership. Inequitable regulations based on mythical standards of financial right and wrong can only serve to increase that fact.

A no-exceptions policy of financial disclosure will insure accountable ethics rather than a muddle of self-regulation. Replacing the people's freedom to elect, and the senators' to associate, with a how-to book on honesty simply won't work.

Lay it on the table and let the people decide. Their decisions on who should serve, rather than those of Common Cause, the United States Senate or the news media are good enough for me.●

By Mr. CHAFEE (for Mr. PELL (for himself and Mr. CHAFEE)):

S. 687. A bill to amend the Rhode Island Indian Claims Settlement Act to provide an exemption from taxes with respect to the settlement lands and amounts received by the State Corporation, and to provide a deferral of capital gains with respect to the sale of settlement lands; to the Committee on Finance.

AMENDMENT OF THE RHODE ISLAND INDIAN LAND CLAIM SETTLEMENT ACT

Mr. CHAFEE. Mr. President, during the last session of Congress, the Senate passed a bill ratifying the settlement of the land claims by the Narragansett Indians in Rhode Island. The House of Representatives passed this bill and it was signed into law by President Carter.

The legislation that Senator PELL and I are introducing today is an amendment to that Settlement Act, and is comprised of two basic parts.

The first part of the bill would provide a tax exemption to the State corporation which, as specified by the Settlement Act, will carry out the purchase and management of this land. The State corporation would be eligible for this tax treatment so long as the money it received was used solely for the purchase of the land, as described in the Settlement Act. Any money not immediately needed for this purchase could only be invested in public debt securities of a branch of the Government, or in time or demand deposits in a U.S. financial institution.

The second part provides for special capital gains tax treatment for private landholders who have agreed to sell their land to facilitate the settlement. This treatment would allow them to defer paying taxes on the profit they realize from the sale of their land, as long as this money is reinvested in a similar asset.

Mr. President, the provisions of this amendment were part of the bill as it was originally introduced. The bill—including these provisions—underwent long and extensive scrutiny by the White House, the Office of Management and Budget, and the staff of relevant congressional committees. It passed that scrutiny.

However, these provisions were later withdrawn from the bill solely to streamline it and expedite its passage in the short amount of time that remained as the last session of Congress came to a close.

The deferral of capital gains was an essential element of the negotiated settlement, and the landholders entered into the agreement in the belief that deferral would be part of the final document. Significantly, deferring the capital gains on these transactions will only have a small, fixed impact on Federal tax revenues.

Mr. President, this amendment would make complete the language and concepts agreed upon by the Indians and the private defendants. The act, and this amendment, are a response to a unique set of circumstances involving a comparatively small claim. Neither is intended to serve as a precedent for land claims in other parts of the country. I urge the Senate Finance Committee to give it quick and favorable consideration, and I am hopeful that it will receive approval when it comes to the Senate floor for a vote.

I ask unanimous consent to have the bill and a section-by-section analysis printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 687

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Rhode Island Indian Claims Settlement Act (Public Law 95–395) is amended by adding at the end thereof the following new sections:

"EXEMPTION FROM TAXATION

"SEC. . (a) Except as otherwise provided in subsections (b) and (c), the settlement lands and any moneys received by the State Corporation from the Fund shall not be subject to any form of Federal, State, or local taxation.

"(b) The exemption provided in subsection (a) shall not apply to any income-producing activities occurring on the settlement lands.

"(c) Nothing in this Act shall prevent the imposition of payments in lieu of taxes on the State Corporation for services provided in connection with the settlement lands.

"(d) The exemption provided in subsection (a) as it relates to amounts received by the State Corporation from the Fund shall not apply if any of such amounts are used for, or diverted to, any purpose other than—

"(1) the purposes authorized under this Act; or

"(2) investment (but only to the extent that the invested portion of such amounts is not currently needed for the purposes otherwise authorized by this Act) in—

"(A) public debt securities of the United States,

"(B) obligations of a State or local government which are not in default as to principal or interest, or

"(C) time or demand deposits in a bank (as defined in section 581 of the Internal Revenue Code of 1954) or an insured credit union (within the meaning of section 101(6) of the Federal Credit Union Act (12 U.S.C. 1752(6)) located in the United States.

"DEFERRAL OF CAPITAL GAINS

"SEC. . For purposes of subtitle A of the Internal Revenue Code of 1954, any sale or disposition of private settlement lands pursuant to the terms and conditions of the Settlement Agreement shall be treated as an involuntary conversion within the meaning of section 1033 of the Internal Revenue Code of 1954.".

SECTION-BY-SECTION ANALYSIS

SECTION I

Provides an exemption from taxation for the "State Corporation" established pursuant to Public Law 95–395, the Rhode Island Indian Claims Settlement Act. (Under the Act, the Corporation is set up to receive a federal payment of $3.5 million for the purchase of 900 acres agreed to in the settlement. The Corporation is also authorized to hold and manage the settlement lands in perpetuity).

a. The settlement lands themselves and money received by the corporation for purchase of such lands are not to be subject to any form of federal, state or local taxation.

b. Any income-producing activity on the settlement lands, however, will be taxable.

3. The Act does not prevent imposition by the Town of Charlestown, Rhode Island of payments in lieu of taxes on the Corporation for services it may agree to provide in connection with development or other activity on the settlement lands.

d. To retain its tax-exempt status, the Corporation must observe two basic rules:

i. It must not divert any of its funds to uses other than those specified by the Rhode Island Indian Claims Settlement Act (i.e., the purchase of settlement lands).

ii. Any money in its fund not currently needed for purposes described in the Act must be invested in public debt securities of the United States, or of a state or local government, or in time or demand deposits in a U.S. financial institution.

SECTION II

Provides that any sale of private property pursuant to the settlement agreement shall be regarded as an involuntary conversion, and therefore eligible for capital gains treatment under Section 1033 of the Internal Revenue Code.

A conversion of property is usually considered involuntary when it results from theft, seizure, requisition or condemnation. The circumstances surrounding the Rhode Island Indian Claims are considered to be akin to such a requisition or condemnation.

Under Section 1033 there is no recognition of capital gains from an involuntary conversion of property if, within two years, the owner reinvests in similar or related property. Therefore, land owners in the Rhode Island settlement area would not be taxed on their capital gain so long as the proceeds from the sale of their property to the State Corporation are reinvested in land of similar or related use.

By Mr. KENNEDY:

S. 695. A bill to amend title 28 of the United States Code to provide for an exclusive remedy against the United States in actions based upon acts or omissions of U.S. employees, and to amend title 5 of the United States Code to permit a person injured by a constitutional tort to initiate and participate in a disciplinary inquiry of the offending act or omission, and for other purposes; to the Committee on the Judiciary.

FEDERAL TORT CLAIM ACT AMENDMENTS

● Mr. KENNEDY. Mr. President, today I am introducing legislation proposed by the Department of Justice, which is designed to insure that every person who is injured by the unconstitutional act of a Federal official will be compensated by the United States for his damages and which establishes administrative proceedings to discipline any Federal official who engages in such unconstitutional acts.

The current system for compensating citizens deprived of their constitutional rights by Federal officials is inadequate from the perspective of the person injured by the unconstitutional conduct of a Federal employee, from the perspective of the vast majority of Federal employees who carry out their duties diligently and in good faith, and from the perspective of the Federal Government.

Presently, a person injured by the unconstitutional conduct of a Federal official is, in many situations, barred from suing the United States by the doctrine of sovereign immunity, and his only recourse is to institute expensive, lengthy, and rarely successful legal proceedings against the Federal employee who engaged in the unconstitutional conduct. In the past, few plaintiffs have succeeded in recovering monetary damages from Federal officials.

The main reason for the failure of the present legal remedy to vindicate constitutional rights is that under Supreme Court precedents, Government employees are not liable for damages as long as they can show that they acted reasonably and in good faith. Furthermore, even if a plaintiff can succeed on the merits, there is a good chance that the defendant is not wealthy enough to pay the monetary damages, and is, therefore, judgment proof.

Viewed from the employee's perspective, under the present system, a Federal employee who has acted in good faith is subject to law suits for large amounts of money whenever he takes an innovative or courageous action. Even though he may ultimately prevail by asserting his good faith defense, the employee must face the spectre of financial ruin, the anxiety, and the damage to reputation which are inherent in any law suit which is, in essence, attacking his personal integrity. Thus the possibility of personal liability for monetary damages arising from activities performed in the scope of their employment is a Sword of Damocles which discourages Federal officials from performing assignments vigorously and courageously.

Finally, under the present system, the Government spends a large amount of money in attorney's fees every year to represent Federal officials who have been sued in their individual capacity and who cannot be represented by the Government attorneys because of possible conflict of interest. The Justice Department has spent over $2,000,000 on its private attorneys program.

During the last session, the Judiciary Committee had under active consideration amendments to the Federal Tort Claim Act, proposed by the Justice Department to remedy these problems. While that legislation provided citizens injured by unconstitutional acts by Government employees with compensation and insulated Government employees from harassment, many people, including myself, were troubled by that legislation's failure to provide an adequate disciplinary proceeding to insure that Federal employees were held accountable for improper behavior and deterred from such behavior.

Although no final action was taken by the Judiciary Committee on the Department's proposal last year, significant progress was made during negotiations between the Department and the committee toward resolving the issue of accountability. Those negotiations have continued. The revised Department proposal I am introducing today includes many compromises modifying the disciplinary proceeding which resulted from those negotiations.

Essentially, the legislation I am introducing today:

First, provides a cause of action against the United States where Federal agents commit constitutional torts;

Second, exempts Federal officials from tort liability for constitutional torts they committed while acting within the scope of their employment;

Third, eliminates the Government's "good faith" defense which currently bars most recoveries; and

Fourth, substitutes a disciplinary proceeding for individual tort liability.

The competing issues involved in the legislation are complex and not easily resolved. On the one hand are considerations of employee accountability, and deterrance of improper behavior. On the other hand is the need to provide adequate compensation for victims of unconstitutional behavior and the need to protect officials acting in good faith from the harassment of lawsuits. I believe that the concept of this amendment provides a reasonable way to reconcile those interests.

The first part of this legislation amends the Federal Tort Claim Act by providing an exclusive remedy against the United States for all unconstitutional acts or omissions of U.S. employees whom the Attorney General certifies were acting within the scope of their office or employment. Although an injured plaintiff may not sue the Federal employee personally, the plaintiff is more likely to succeed in recovering damages because the United States cannot assert sovereign immunity or the reasonable good faith belief of the employee whose violation is complained of as a defense to the action. Moreover, this legislation includes a liquidated damages provision which is a significant gain for the plaintiff who is deprived of a constitutional right. Under current Federal law, a plaintiff can collect only actual damages suffered which, in constitutional tort cases, are often noneconomic and, therefore, difficult to compute.

The Department proposes that the injured person may be compensated either for actual damages or for liquidated damages computed at the rate of $100 per day for each day of violation or $1,000, whichever is higher, up to a maximum of $15,000 plus reasonable attorney's fees and other litigation costs.

Punitive damages are precluded and a cap of $1,000,000 would be imposed on any class action award. Some differences exist with regard to what the dollar limits on liquidated damages recovery should be, but I am confident that these differences do not pose a major obstacle to the legislation.

The remedy is somewhat different if the Attorney General determines that the employee has acted under "color of his office or employment", but not "within the scope of his office or employment." In such a situation, the plaintiff could elect to proceed either against the United States under the Federal Tort Claim Act or against the employee individually, but not against both.

The issue of granting absolute immunity to Federal employees continues to be one of the most controversial provisions of this legislation. The debate has focused on the breadth of the "scope of office or employment" standard, and whether the United States should be exclusively liable in cases where the improper conduct is willful and wanton. I, too, am troubled by the prospect of immunizing employees who have committed egregious constiutional violations. In committee, we will explore this question thoroughly and weigh the competing concerns so that an equitable solution is fashioned, consistent with the basic scheme of the legislation.

The second section of the legislation amends title 5 of the United States Code to permit an aggrieved party to initiate, and, at the agency's discretion, to participate in a disciplinary inquiry of the offending act or omission. While the nature of the sanction which may be imposed differs according to the category of employee involved, all Federal employees—current employees, former employees, and Presidential appointees—are subject to a disciplinary proceeding. The bill further provides that if the complainant is unsatisfied with the agency's disciplinary decision, he may request administrative review of that decision by the Merit Systems Protection Board, the successor to the Civil Service Commission, and if necessary, seek judicial review.

In the absence of individual tort liability, the nature and adequacy of the administrative disciplinary procedure is critical to guaranteeing that individuals will be held accountable for improper behavior. While I endorse the principle of substitution of administrative discipline for individual tort liability, I continue to question whether we have yet found the most effective disciplinary procedure. This issue will be closely examined in hearings to determine whether strengthening of those proceedings is warranted. I would welcome all suggestions as to how we can improve the bill in this or other respects.

Finally, I note that the Senate Intelligence Committee has been working on the particularly difficult problems this area poses in the case of alleged wrongdoing by our foreign intelligence agencies. The intelligence agencies present special situations which may require separate treatment, to take into account the secrecy which might surround any disciplinary proceeding, the need for special arrangements to provide review of internal agency inquiries and discipline decisions, and the relationship between these remedial issues and the underlying substantive restraints in any intelligence charter. Although the bill I introduce today, by its terms, would apply to the intelligence agencies as well, this legislation should not be interpreted as necessarily precluding a departure from the general rule to meet the specific circumstances which concern the Intelligence Committee. That, of course, would be a matter for the Intelligence Committee to decide.

Mr. President, the measure I offer today addresses many important goals:

Safeguards the rights of our citizens;

Holds Government employees accountable for their actions;

Minimizes the costly and difficult-to-administer private counsel program;

Encourages effective job performance;

Enhances the chances of recovery;

Reduces instances of litigation;

Expedites and encourages the settlement of claims.

I look forward to working closely with the Justice Department and all interested parties to assure that the approach taken in this legislation adequately balances the many competing concerns. I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 695

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1346(b) of title 28, United States Code, is amended by striking the period at the end of the section and adding the following: ", or where the claim sounding in tort for money damages arises under the Constitution of the United States when such employee of the Government is acting within the scope of his office or employment, or under the color thereof, such liability to be determined in accordance with applicable Federal law.".

SEC. 2. Section 2672 of title 28, United States Code, is amended in the first paragraph—

(1) by inserting after "occurred" the following: ", or where the claim sounding in tort for money damages arises under the Constitution of the United States when such employee of the Government is acting within the scope of his office or employment, or under the color thereof, such liability to be determined in accordance with applicable Federal law"; and

(2) by inserting after "$25,000" the following: "or any award, compromise, or settlement based on a claim arising under the Constitution of the United States".

SEC. 3. Section 2674 of title 28, United States Code, is amended—

(1) by inserting after "claims" in the first paragraph the following: "based upon negligent or wrongful acts or omissions";

(2) by inserting "(a)" before the first paragraph;

(3) by inserting "(b)" before the second paragraph; and

(4) by adding at the end the following new subsection:

"(c)(1) The United States shall be liable, respecting the provisions of this title relating to tort claims arising under the Constitution of the United States, to the extent as recognized or provided by applicable Federal law, but shall not be liable for interest prior to judgment or for punitive damages.

"(2) Damages in any such case shall be actual damages but may not be less than liquidated damages computed at the rate of $100 a day for each day of violation or $1,000, whichever is higher, up to a maximum of $15,000, plus a reasonable attorney's fee and other litigation costs reasonably incurred. Attorney's fees or costs attributable to processing an administrative claim filed under section 2672 of this title are not included.

"(3) The United States shall not assert as a defense to a tort claim arising under the Constitution of the United States, the absolute or qualified immunity of the employee whose violation is complained of or his reasonable good faith belief in the lawfullness of his conduct, except that the United States may assert such a defense if the violation complained of is that of a Member of Congress, a judge, a prosecutor, or a person performing analogous functions.".

SEC. 4. Section 2675(a) of title 28, United States Code, is amended—

(1) by inserting after "employment" the following:

"or upon a claim against the United States for money damages for a tort arising under the Constitution of the United States caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, or under the color thereof"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof a semicolon and the following:

"except that class actions in conformity with the requirements of the Federal Rules of Civil Procedure may be instituted for money damages for a tort arising under the Constitution of the United States only if (1) the claim presented to the appropriate Federal agency under this section expressly asserts the representative nature of the claim and specifically describes the class, the common interests of the claimant and such class, and the basis upon which the claimant believes he can fairly and adequately protect the interests of the class as their representative, and (2) if otherwise deemed appropriate by the court before which the action is filed. An award for liquidated damages for any one class may not exceed $1,000,000.".

SEC. 5. Section 2678 of title 28, United States Code. is amended by striking out "No" at the beginning of the first paragraph and inserting in lieu thereof the following:

"Except as otherwise provided by section 2674(c) of this title, no".

SEC. 6. Section 2679 (b) of title 28, United States Code, is amended to read as follows:

"(b)(1) The remedy against the United States provided by sections 1346(b) and 2672 of this title for claims for injury or loss of property or personal injury or death resulting from the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment and for such claims arising under the constitution of the United States resulting from the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, is exclusive of any other civil action or proceeding arising out of or relating to the same subject matter against the employee whose act or omission gave rise to the claim, or against the estate of such employee.

"(2) In no event shall a claim for a tort arising under the Constitution of the United States resulting from the negligent or wrongful act or omission of any employee of the Government while acting solely under color of his office or employment, lie against both the employee in his individual capacity and against the United States under sections 1346 (b) and 2675 of this title.".

SEC. 7. Section 2679(d) of title 28, United States Code, is amended to read as follows:

"(d)(1) Upon certification by the Attorney General that the defendant employee was acting within the scope of his office or employment, or that he was acting solely under the color of his office or employment, at the time of the incident out of which the action arose, any such civil action or proceeding commenced in a United States district court shall be deemed an action against the United States under the provisions of this title and all references thereto, and the United States shall be substituted as the party defendant, unless within 10 days after notification that the Attorney General has certified that the defendant employee was acting solely under color of his office or employment, the plaintiff notifies the court of his election to proceed only against the defendant employee. After such substitution, the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States under this chapter and section 1346(b) of this title.

"(2) Upon certification by the Attorney General that the defendant employee was acting within the scope of his office or employment or that he was acting solely under the color of his office or employment, at the time of the incident out of which the action arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending. Such action shall be deemed an action brought against the United States under the provisions of this title and all references thereto, and the United States shall be substituted as the party defendant, unless within 10 days after notification that the Attorney General has certified that the defendant employee was acting solely under color of his office or employment, the plaintiff notifies the district court of his election to proceed only against the defendant employee. After such substitution, the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States under this chapter and section 1346(b) of this title. The certification of the Attorney General shall conclusively establish scope of office or employment for purposes of such removal.

"(3) The certification by the Attorney General under subsection (d) (1) or (2) that the defendant employee was acting within the scope of his office or employment, or that he was acting solely under the color thereof, shall be binding and conclusive, except that the defendant employee may request the district court of the United States before which the action has been filed or removed to alter or modify the certification or, in the event that the Attorney General has not made a certification, to find and certify that the employee was acting within the scope of his office or employment, or that he was acting solely under the color of his office or employment.

"(4) Where an action or proceeding under this chapter is precluded because of the availability of a remedy, compensation, or other benefits from the United States as provided by any other law, the action or proceeding shall be dismissed, but in that event the running of any limitation of time for commencing or filing an application or claim in a proceeding for any other remedy, compensation, or benefits shall be suspended during the pendency of the civil action or administrative proceeding under this chapter.".

SEC. 8. Section 2679 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(f) If an action or proceeding under section 1346(b) or 2672 of this title arising under the Constitution of the United States results in a judgment against the United States or an award, compromise, or settlement paid by the United States, the Attorney General shall forward the matter to the head of the department or agency which employed the employee at the time of the act or omission, for such further administrative investigation or disciplinary action as may be appropriate.".

SEC. 9. (a) The introductory language to section 2680 of title 28, United States Code, is amended to read as follows:

"(1) The provisions of this chapter and section 1346(b) of this title shall not apply to—".

(b) Section 2680 of title 28, United States Code, is amended by adding at the end thereof the following new paragraph:

"(2) The provisions of this chapter and section 1346 (b) of this title apply to any tort claim arising under the Constitution of the United States except an action arising from the activities of the Tennessee Valley Authority, the Panama Canal Company, a Federal land bank, a Federal intermediate credit bank, or a bank for cooperatives.".

(c) Section 2680(h) of title 28, United States Code, is amended to read as follows:

"(h) Any claim arising out of libel, slander, misrepresentation, deceit, or interference with contract rights.".

SEC. 10. (a) Subsections (a) through (d) of section 4116 of title 38, United States Code, are repealed, and subsection (e) of that section is amended—

(1) by striking out the designation "(e)"; and

(2) by striking out "person to whom the immunity provisions of this section apply (as described in subsection (a) of this section," and inserting in lieu thereof "employee of the Department of Medicine and Surgery".

(b) Subsections (a) through (c) of section 224 of the Public Health Service Act are repealed, and subsection (f) is amended by striking out the designation "(f)".

(c) Subsections (a) through (e) of section 1091 of the Foreign Service Act of 1946 are repealed.

(d)(1) Subsections (a) through (e) of section 1089 of title 10, United States Code, are repealed.

(2) Subsection (f) is amended by striking out "person described in subsection (a)" and inserting in lieu thereof "employee of the Armed Forces, the Department of Defense, or the Central Intelligence Agency,".

(3) Subsection (f) is redesignated as subsection (a), and subsection (g) is redesignated as subsection (b).

(e) Subsections (a) through (e) of section 307 of the National Aeronautics and Space Act of 1958 are repealed, subsection (f) is amended by striking out the designation "(f)" and by striking out "person described in subsection (a)" and inserting in lieu thereof "employee of the National Aeronautics and Space Administration".

SEC. 11. Section 2520 of title 18, United States Code, is amended by adding the following paragraph at the end thereof:

"This section shall not apply to any civil cause of action against an officer or employee of the United States while acting within the scope of his office or employment, or while acting under the color of his office or employment.".

SEC. 12. (a) Title 5, United States Code, is amended by adding immediately after chapter 77 the following new chapter:

"Chapter 78—EMPLOYEE DISCIPLINE

"Sec.
"7801. Definitions.
"7802. Administrative inquiries generally.
"7803. Conduct of employees of the United States.
"7804. Conduct of former employees and Presidential appointees.
"7805. Individuals and bodies conducting inquiries and review.
"7806. Regulations.
"7807. Miscellaneous.

"§ 7801. Definitions.

For the purposes of this chapter, the term—

"(1) 'agency' means a Federal agency, as defined in section 2671 of title 28;

"(2) 'employee', unless otherwise described, means a present employee of the Government as defined in section 2671 of title 28, other than a uniformed member of the Armed Forces;

"(3) 'Presidential appointee' means an employee, other than a Public Health Service officer or a Foreign Service officer, appointed by the President;

"(4) 'disciplinary action' means removal, suspension without pay, reduction in pay, admonishment or reprimand, or transfer, for such cause as will promote the efficiency of the service; and

"(5) 'person' means any person with rights recognized under the Constitution of the United States.

"§ 7802. Administrative inquiries generally

"(a) A person who obtains a monetary recovery from the United States on a tort claim under section 1346(b) or section 2675 of title 28 arising under the Constitution of the United States may, within 60 days thereafter, request an administrative inquiry under this chapter into the conduct alleged or found to have given rise to the claim.

"(b) A person who brings an action under section 1346(b) of title 28 on a tort claim arising under the Constitution of the United States may, not earlier than 60 days nor more than 120 days thereafter, request an administrative inquiry under this chapter into the conduct alleged to have given rise to the claim.

"(c) An agency which undertakes to conduct an administrative inquiry of the conduct of one of its employees may, in its sole and unreviewable discretion, invite a person who may have been adversely affected by the alleged conduct to participate in the administrative inquiry to the extent provided by sections 7803 (b) and (e) of this title.

"(d) A person who has requested an administrative inquiry under subsection (b) of this section, or who has been invited to participate in an administrative inquiry under subsection (c) of this section, may not subsequently request an administrative inquiry into the same conduct under subsection (a) or (b) of this section.

"§ 7803. Conduct of employees of the United States

"(a) A request under section 7802 (a) or (b) of this title for an administrative inquiry with respect to the conduct of an employee of the United States shall be made to the head of the agency or his designee by which the employee is employed. The request shall be accompanied by a written statement, certified and subscribed as permitted by section 1746 of title 28, of such facts as are known to the person making the request regarding the conduct of the employee which is alleged to have violated such person's rights under the Constitution, and a request may be made with respect to the conduct of an employee whose identity is unknown if the request sets forth other information sufficient for the commencement of an inquiry.

"(b) The inquiry shall be conducted without unnecessary delay by the head of the agency or his designee. If after preliminary inquiry the head of the agency or his designee finds that the matter is so lacking in substance or so unsubstantiated as not to warrant further inquiry, he may, upon notice to the person requesting the inquiry under this section, terminate such inquiry. A hearing shall be held with respect to the conduct of the employee if there is a genuine, material, and substantial dispute of fact which can be resolved with sufficient accuracy only by the introduction of reliable evidence in a hearing and the decision of the agency in the matter is likely to depend on the resolution of such dispute. In his sole and unreviewable discretion, the head of the agency or his designee may give to a person, or an employee, or both, in the event of a hearing, the opportunity to examine and cross-examine witnesses, and to suggest witnesses to be called and documents to be produced. This discretion shall not be construed to provide access by unauthorized persons to information specifically protected from disclosure by statute, or by Executive order relating to national security, national defense, or foreign affairs. The head of the agency or his designee shall determine whether disciplinary action is warranted, issue a statement of findings, including the nature and degree of disciplinary action taken, and notify the person requesting the inquiry and the employee of the action taken by the agency and the reasons therefor.

"(c) Except as provided in subsection (e), within 60 days after notification of the action taken by the agency, or if no final agency action has been taken within one year after the inquiry was requested, the person who requested the inquiry may seek an administrative review by the appropriate individual or body described in section 7805 (a) of this title. The individual or body conducting the administrative review shall determine on the record whether the action taken by the agency was reasonable. If no final agency action has been taken, or if the reviewing body or individual is unable to conduct such review because it finds the record inadequate, it may remand to the agency for further proceedings or it may, in its discretion, supplement the record by taking additional evidence. The final decision shall be transmitted to the agency, the employee, and the person requesting the review, and shall include a statement of findings and a recommendation which shall be binding on the agency with respect to disciplinary action against the employee.

"(d) Except as provided in subsection (e), within 60 days after the issuance of a final decision on an administrative review, the person requesting the inquiry may petition for review of the final decision by a United States court of appeals, pursuant to chapter 158 of title 28, United States Code. The court may deny the petition, affirm the decision of the reviewing body or individual, or set aside such decision and vacate it or remand it for further proceedings if the court finds on the basis of its review of the record such decision to be arbitrary or capricious, or finds material factual determinations to be unsupported by substantial evidence. The court's review shall be held in camera for matters specifically protected from disclosure by statute, by Executive order relating to national security, national defense, or foreign affairs, or in the court's own discretion if it determines that in camera review is necessary.

"(e) The right to request an administrative review under subsection (c) and to petition for judicial review under subsection (d) or section 7804(c) of this title shall not be available to a person who has not obtained a monetary recovery from the United States on a claim under section 2675 of title 28 or in an action under section 1346(b) of title 28 arising under the constitution of the United States, unless the agency which conducted the inquiry under subsection (b) of this section consents in its sole and unreviewable discretion to that person's requesting administrative or judicial review.

"(f) An employee who is not entitled under other provisions of law to seek administrative or judicial review of disciplinary action taken against him may, if an administrative review is conducted under subsection (c) of this section, participate in such review and give evidence or testimony if a hearing is held, and, to the extent provided by subsection (d) of this section, may petition for judicial review of a final decision if any disciplinary action recommended under subsection (c) of this section is greater than that proposed by the employing Federal agency.

"(g) If an inquiry under this section is requested with respect to conduct alleged to have occurred while the employee was employed by an agency other than that agency by which he is employed at the time the inquiry is requested, then the agency by which he was employed at the time the conduct was alleged to have occurred shall conduct an inquiry pursuant to this section and forward its findings and recommendations to the agency by which he is presently employed. The head of the agency by which he is employed shall, after reviewing the findings and recommendations of the agency conducting the inquiry, take such action as he deems appropriate. For the purposes of determining the forum for administrative review under subsection (c) of this section and section 7805(a) of this title, the employee shall be considered to be an employee of the agency conducting the inquiry.

"(h) This section does not apply to Presidential appointees and former employees who are covered by section 7804 of this title.

"§ 7804. Conduct of Presidential appointees and former employees

"(a) In an action brought against a former employee or former Presidential appointee of the President based upon a tort claim arising under the Constitution of the United States, upon the certification of the Attorney General as provided by section 2679(d) of title 28, shall be substituted for the former employee or former Presidential appointee as a defendant in such action, provided the former employee or former Presidential appointee has agreed to submit to the disciplinary procedures set forth in this chapter with respect to employees. If the former employee or former Presidential appointee elects to subject himself to such disciplinary procedures, the discipline that may be imposed shall be limited to a reprimand or a civil penalty not to exceed one-twelfth of the former employee's or former Presidential appointee's average annual Federal salary earned during the period in which the act or omission occurred for which such employee or appointee is being disciplined.

"(b) A request under section 7802 of this title for an administrative inquiry with respect to the conduct of a Presidential appointee shall be made to the appropriate individual or body described in section 7805 (a) of this title, who shall conduct such inquiry without unnecessary delay. If after preliminary inquiry the individual or body finds that the matter is so lacking in substance or so unsubstantiated as not to warrant further inquiry, it may, upon notice to the person requesting the inquiry under this section terminate such inquiry. A hearing shall be held with respect to the conduct of the appointee if there is a genuine, material, and substantial dispute of fact which can be resolved with sufficient accuracy only by the introduction of reliable evidence in a hearing and the decision of the individual or body in the matter is likely to depend on the resolution of such dispute. In its sole and unreviewable discretion, the individual or body may give to a person or a Presidential appointee, or both, in the event of a hearing, the opportunity to examine and cross-examine witnesses, and to suggest witnesses to be called and documents to be produced. This discretion shall not be construed to provide access by unauthorized persons to information specifically protected from disclosure by statute, or by Executive order, relating to the national security, national defense, or foreign affairs. The individual or body shall issue a statement of findings and recommend appropriate disciplinary action, if any, to the President.

"(c) A former employee or former Presidential appointee who has been assessed a civil penalty under subsection (a) of this section and, except as provided by section 7803(e) of this title the person who requested the inquiry or hearing under subsection (a) of this section may, within 60 days after the issuance of a final decision by the individual or body conducting the inquiry under subsection (a), petition for review of the final decision by a United States court of appeals pursuant to chapter 158 of title 28. The court may deny the petition, affirm the decision, or set aside such decision and vacate it or remand it for further proceedings if the court finds on the basis of its review of the record such decision to be arbitrary or capricious, or finds material factual determinations to be unsupported by substantial evidence. The court's review shall be held *in camera* for matters specifically protected from disclosure by statute, by Executive order relating to the national security, national defense, or foreign affairs, or in the court's own discretion if it determines that *in camera* review is necessary.

"(d) In any action to collect a civil penalty imposed under subsection (a), the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"§ 7805. Individuals and bodies conducting inquiries and review

"(a)(1) An administrative inquiry under section 7804 of this title or an administrative review under section 7803(c) of this title shall be conducted by the following persons:

"(A) The head of an agency with a personnel system under the Foreign Service Act of 1946 (22 U.S.C. 801), or his designee, with respect to an officer or employee of the Foreign Service.

"(B) The head of an agency with a personnel system under the Public Health Service Act (42 U.S.C. 201), or his designee, with respect to an officer or employee of the Public Health Service.

"(C) A body designated by the President within 60 days of enactment of this chapter, other than the Central Intelligence Agency, the Federal Bureau of Investigation, the National Security Agency, the national intelligence components of the Defense Department or the National Security Council and its component parts, with respect to an officer or employee who is determined by the agency employing him at the time the conduct is alleged to have occurred to have been engaged in intelligence activities.

"(D) The Merit Systems Protection Board, or its designee, in any other case.

"(2) Notwithstanding the provision of paragraph (1) of this subsection, in the case of administrative review under section 7803 (c) of this title, such review shall be conducted by the Merit Systems Protection Board if the employee has and chooses to exercise any right of review before the Merit Systems Protection Board of the disciplinary action which he would have under another provision of law. The Merit Systems Protection Board, may, in its discretion, refer any matter before it as a result of this chapter to the Special Counsel of the Merit Systems Protection Board for the purpose of taking evidence or making recommendations, or both.

"(b) A designee of a Secretary, agency head, or entity described in this section, who conducts an administrative review shall not be responsible to or subject to the supervision or direction of any designee of the agency who conducted the administrative inquiry under review.

"(c) No person who has been an employee of the Central Intelligence Agency, the Federal Bureau of Investigation, the National Security Agency, the national intelligence components of the Defense Department or the National Security Council or its component parts during the preceding 2 years may be appointed to serve on the body designated to conduct an administrative review under subsection (a)(1)(C) of this section.

"§ 7806. Regulations

"(a) Within 90 days after enactment of this chapter, the individuals and bodies described in section 7805(a) of this title shall issue such regulations as are necessary and appropriate for the implementation of sections 7803(c), 7804, and 7805 of this title.

"(b) Regulations issued by the Merit Systems Protection Board under this section shall be approved by the Attorney General.

"(c) The head of each agency subject to the administrative review provisions of section 7803(c) of this title shall comply with the regulations issued by the particular administrative body designated by section 7805 (a) of this title to review administrative inquiries conducted by the Federal agency pursuant to section 7803(b) of this title, and shall, 60 days after the effective date of such regulations, issue rules, regulations, and instructions not inconsistent therewith.

"(d) For purposes of promulgating regulations pursuant to this section, the body designated under subsection (e) of section 7805 of this title shall be an 'agency' of the Government within the meaning of section 551 of this title.

"(e) All regulations issued under this section shall be subject to the public comment provisions of section 553 of this title, notwithstanding subsection (a) of such section 553, and subject to judicial review under chapter 7 of this title. The court's review shall be held in camera for matters specifically protected from disclosure by statute, or by Executive order relating to the national security, national defense, or foreign affairs, or in the court's own discretion if it determines that in camera review is necessary.

"§ 7807. Miscellaneous

"(a) Nothing in this chapter shall affect the rights of an employee to appeal or to seek review or other means of redress of any disciplinary action which he would have under other provisions of law, except that an employee who is the subject of a disciplinary action recommended by the Merit Systems Protection Board pursuant to subsection 7803 (c) of this title, shall not be required by any other provision of law to take an appeal to the Merit Systems Protection Board prior to seeking judicial review of that action.

"(b) Nothing in this chapter shall affect the availability of defenses which an employee may raise in any administrative or judicial proceeding.

"(c) Nothing in this chapter shall require a Federal agency to delay taking disciplinary action against an employee, or empower the Merit Systems Protection Board to reduce the severity of disciplinary action taken by an agency against an employee who would not have a right to seek the Merit Systems Protection Board's review of such action under other provisions of law.

"(d) Nothing in this chapter shall authorize a Federal agency to delay or refrain from taking disciplinary action against an employee in the absence of a request filed under section 7802 (a) or (b) of this title.

"(e) Notwithstanding any other provision of law, any party who was a complainant in or the subject of a discipline proceeding may, in an action for judicial review of agency action under section 7803 (d) of this title, recover reasonable attorneys' fees, fees and reasonable costs of experts, and other reasonable costs of litigation, including taxable costs, incurred during judicial review if the court affords such person the relief sought in substantial measure.".

(b) The table of chapters for title 5, United States Code, is amended by inserting immediately after the item relating to chapter 77 the following new item:

"78. Employee Discipline............ 7801.".

SEC. 13. (a) This Act shall apply to all claims and actions filed after the date of enactment of this Act, and to all claims and actions pending on the date of enactment. In any such pending claims and actions, or as to any causes of action known to an aggrieved party on or before the date of enactment of this Act, such aggrieved party, claimant, or plaintiff may elect to retain his right to a jury demand if made prior to the date of enactment in the case of a plaintiff who has filed an action, or if such right has not expired by the date of enactment, in the case of such plaintiff, claimant, or aggrieved party. In the case in which a plaintiff elects to retain his right to jury demand, the amendments made by section 3 of this Act to section 2674 of title 28, United States Code, relating to liquidated damages, waiver of absolute or qualified immunity, and attorneys' fees, shall not apply.

(b)(1) Except as provided in paragraph (2), in the event a case is pending on appeal on the date of enactment of this Act, it shall be remanded to the appropriate district court for further proceedings in accordance with the amendments made by this Act, upon certification by the Attorney General that the defendant employee was acting within the scope of his office or employment, or that he was acting solely under the color of his office or employment, at the time of the incident out of which the action arose.

(2) In the event that the appeal was taken from a judgment rendered in favor of a plaintiff, the judgment shall be binding on the United States in any case in which it is substituted as a defendant.

SEC. 14. (a) This Act is effective for a five year period beginning on the date of enactment of this Act. Five years from the date of enactment of this Act, the provisions in effect on the day before the date of enactment of this Act shall be revived, notwithstanding the provisions of section 108 of title 1, United States Code. Any claim, action, or disciplinary action filed or initiated during the five year period shall not be affected by the termination of such period.

(b) Six months prior to the termination date of the provisions of this Act, the Attorney General and the Office of Personnel Management shall submit a report to the President of the Senate and the Speaker of the House of Representatives setting forth his recommendations on whether the provisions of this Act should be continued.●

ADDITIONAL COSPONSORS

S. 3

At the request of Mr. HELMS, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) was added as a cosponsor of S. 3, a bill to provide procedures for calling constitutional conventions for proposing amendments to the Constitution.

S. 7

At the request of Mr. CRANSTON, the Senator from Wyoming (Mr. SIMPSON), the Senator from Georgia (Mr. TALMADGE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Florida (Mr. STONE), the Senator from New Hampshire (Mr. DURKIN), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from South Carolina (Mr. THURMOND), and the Senator from Vermont (Mr. STAFFORD), were added as cosponsors of S. 7, the proposed Veterans' Health Care Amendments of 1979.

S. 100

At the request of Mr. PACKWOOD, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 100, a bill to amend the Internal Revenue Code of 1954 to provide a deduction for expenses incurred for reforestation, and for other purposes.

S. 264

At the request of Mr. HEINZ, the Senator from Kentucky (Mr. HUDDLESTON) and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of S. 264, the Fair Trade Act of 1979.

S. 331

At the request of Mr. PROXMIRE, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of S. 331, a bill to require a balanced budget when the economy grows at a real rate of 3 percent or more.

S. 598

At the request of Mr. BAYH, the Senator from Maine (Mr. COHEN) and the Senator from Wyoming (Mr. WALLOP) were added as cosponsors of S. 598, the Soft Drink Interbrand Competition Act.

S. 600

At the request of Mr. KENNEDY, the Senator from Wisconsin (Mr. NELSON) was added as a cosponsor of S. 600, to preserve the diversity and independence of American business.

S. 623

At the request of Mr. KENNEDY, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 623, a bill to provide for the public financing of general elections for the U.S. Senate and for other purposes.

S. 642

At the request of Mr. STEVENS, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 642, a bill to amend title 39 of the United States Code to provide reduced rates for certain mail matter sent by the U.S. Olympic Committee and its affiliated organizations.

S. 654

At the request of Mr. STEVENS (for Mr. GOLDWATER), the Senator from Georgia (Mr. TALMADGE) was added as a cosponsor of S. 654, a bill to remove residency requirements and acreage limitations applicable to land subject to reclamation laws.

At the request of Mr. COCHRAN, his name was added as a cosponsor of S. 654, to remove the residency requirements and acreage limitations applicable to land subject to reclamation laws.

SENATE RESOLUTION 98

At the request of Mr. BENTSEN, the Senator from Oklahoma (Mr. BOREN) and the Senator from Texas (Mr. TOWER) were added as cosponsors of Senate Resolution 98, to express disapproval of the President's standby gasoline rationing program.

SENATE CONCURRENT RESOLUTION 10

At the request of Mr. HEINZ, the Senator from New Hampshire (Mr. HUMPHREY) and the Senator from Wyoming (Mr. SIMPSON) were added as cosponsors of Senate Concurrent Resolution 10, to authorize the wearing of the red beret by the Army airborne units.

SENATE RESOLUTION 107—SUBMISSION OF A RESOLUTION DISAPPROVING THE DEFERRAL OF CERTAIN BUDGET AUTHORITY

Mr. HART submitted the following resolution, which was referred to the Committee on Appropriations, the Committee on the Budget, and the Committee on Armed Services, jointly, pursuant to order of January 30, 1975:

S. RES. 107

Resolved, That the Senate disapproves the deferral of budget authority in the amount of $107,964, for engineering development of the AV–8B Advanced Harrier V/STOL aircraft, as reported to the President of the Senate in a letter from the Comptroller General of the United States, dated March 14, 1979, under section 1013 of the Impoundment Control Act of 1974.

IMPOUNDMENT RESOLUTION ON THE AV–8B

Mr. HART. Mr. President, I send to the desk a resolution to disapprove the deferral of $108 million in funding for the development of the AV–8B Advanced Harrier V/STOL aircraft.

Yesterday, the General Accounting Office sent to the Congress notice of an impoundment. The funds involved, $108 million, are to provide for the engineering development of the AV–8B V/STOL aircraft for the Marine Corps. On January 16, the Navy acted to deny these funds to the AV–8B program. Since that time, no deferral notice or recission request has been submitted to the Congress.

The AV–8B program is vital to the future not only of Marine Corps, but also of Navy aviation. The AV–8B is the only V/STOL combat aircraft being developed for production in the United States in the next decade. Without V/STOL, it will be impossible to disperse naval aircraft to ships other than the 13 large aircraft carriers. We will remain dependent on those large carriers through the 1980's, as their vulnerability increases.

The Senate has in the past shown strong support for the AV–8B program. In its report, the Senate Armed Services Committee last year stated:

> The committee strongly supports the AV–8B as evidenced by the recommended addition of $87.4 million in the fiscal year 1979 budget program and expects the Defense Department also to support the program and to restore the development schedule to achieve the originally planned IOC date of 1984.

The Senate concurred with the committee's recommendation of an additional $87.4 million. It also voted, in a record vote, to provide $5.5 million for the AV–8B+, the naval version of the AV–8B.

The deferral of $108 million of the $123 million provided for AV–8B engineering development is directly contrary to the intent of Congress. It creates additional costs for the program, and it delays the IOC which the Senate Armed Services Committee specifically directed the Department of Defense to respect.

In response to this situation, I wrote to the Comptroller General, asking that he investigate the Department of Defense's action, and make an appropriate recommendation to the Congress. My letter read as follows:

U.S. SENATE,
Washington, D.C., March 13, 1979.
Hon. ELMER B. STAATS,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

DEAR MR. STAATS: I wish to bring to your attention a potential violation of the Congressional Budget Impoundment and Control Act of 1974. The Congress authorized and appropriated $173,000,000 in FY 1979 to provide the Marine Corps with a new V/STOL light attack aircraft for the 1980's and beyond ("the AV–8 program"). These funds would provide the only V/STOL aircraft option for the United States in the 1980's and could play a major role in Naval as well as Marine Corps aviation.

As the attached documents reveal, the Department of Defense is trying to prevent the expenditure of $108,000,000 authorized specifically for this program.

As you know, Section 1013 of the Impoundment and Control Act provides whenever the President, or head of any department, or any officer or employee of the United States "proposes to defer any budget authority provided for a specific purpose or project," the President must transmit a message to Congress concerning his action, and either House by resolution may disapprove.

Notwithstanding the withholding of funds documented in the attached documents, the Congress has received no such message from the Administration. Therefore, I respectfully request that you, pursuant to the authority provided under Section 1015(a) of the Impoundment and Control Act, review this matter and determine whether a report to the Congress is appropriate. I and my staff stand ready to provide any additional information you may require.

Sincerely,

GARY HART.

Mr. HART. The Comptroller General, in a letter to the President of the Senate, confirmed that a deferral of the funds has taken place, and that notification to the Congress under the Impoundment Control Act of 1974 is justified. The letter reads:

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., March 14, 1979.
Hon. WALTER F. MONDALE,
President of the Senate.

DEAR MR. PRESIDENT: This letter reports a deferral of Department of the Navy budget authority that has not been reported to the Congress pursuant to the provisions of the Impoundment Control Act of 1974.

Section 1015(a) of the Impoundment Control Act requires the Comptroller General to report to the Congress whenever he finds that the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any other officer or employee of the United States has ordered, permitted, or approved the establishment of a reserve or deferral of budget authority and the President has failed to transmit a special message with respect to such reserve or deferral. This report is submitted in accordance with the requirement imposed by section 1015(a) and, consequently, has the same effect as if it were a deferral message transmitted by the President.

In the Department of Defense Appropriation Act, 1979, Public Law 85–457, approved October 13, 1978, Congress appropriated to the Department of the Navy $4.5 billion for research, development, test, and evaluation activities (RDT&E). See 92 Stat. 1231 at 1241–2. In determining the amount to be provided for Navy RDT&E program components, consideration was given to funding the AV–8B Advanced Harrier Aircraft Program, a Marine Corps V/STOL fighter. Ultimately, of the $4.5 billion appropriated, $123 million was earmarked for the initiation of engineering development for this aircraft. See, for example, H. Rep. 95–1398, 95th Cong. 2d Sess. 338 (1978) ($122.964 million for AV–8B); and S. Rep. 95–1264, 95th Cong. 2d Sess. 8, 180 (1978) ($122.964 million for AV–8B).

In reviewing certain program and budget documents regarding the Navy's fiscal year 1979 plans for use of the current RDT&E appropriation, we have determined that $107.-964 million of the $123 million intended for use for the AV–8B are not currently available for use.

In discussing the matter with Department officials we learned that, by memorandum dated January 16, 1979, the Comptroller of the Navy formally informed the Assistant Secretary of the Navy (Research, Engineering and Systems) of a reduction in previously available resources to the AV–8B program in the amount of $107.694 million. Official departmental documentation states the funds were:

"Placed in DON [Department of the Navy] Reserve pending a budget review to determine the most efficient use of these funds. (NAVCOMPT Deferral)."

The effective date of this budgetary action was specified as January 31, 1979.

Subsequently, by memorandum dated January 26, 1979, the Under Secretary of Defense (Research and Engineering) advised the Assistant Secretary of the Navy (Research, Engineering, and Systems) that only $15 million of the $123 million congressionally earmarked for AV–8B engineering development could be allocated to the program and that:

"No effort should be undertaken by the Navy to initiate engineering development, including ordering of any long leadtime hardware for additional developmental aircraft or subsystems."

We understand that, sometime in the May–June 1979 time-frame, a decision is expected regarding the uses to which the $108 million will be put. Until that time, the funds are to be withheld from all Department of the Navy RDT&E programs. One departmental official opined that the funds will probably remain "on hold" until the House and Senate Committees on Armed Services complete their action on the fiscal year 1980 Department of Defense Authorization bill; action that is expected to take place during the May–July 1979 timeframe.

In discussing the matter with one Department of Defense official, we were reminded that the subject funds were provided on a lump-sum basis for all Navy RDT&E activities and not just for the AV–8B program. We, of course, agree and note in this regard that there is no statutory impediment to applying the $108 million to any one or all of the authorized Department of the Navy RDT&E activities during fiscal year 1979. In this connection we have determined that the action of the Navy Comptroller has effectively precluded utilization of the $108 million in any of the Navy RDT&E programs at the present time.

Finally, one Department of Defense official expressed concern that treating the instant situation as an impoundment of budget authority could conceivably create a procedural morass with respect to the literally hundreds of routine administrative determinations that are made regarding the allocation and reprogramming of lump sum appropriations. We disagree. In our view the subject funds are not simply being withheld for a brief period to allow for the development and approval of a reprogramming proposal. As noted above, the $108 million has been formally reserved while the Congress considers the fiscal year 1980 AV–8B program—a process that is likely to take through July of this year.

In the light of the above, we conclude that the present situation is a deferral of budget authority within the scope of section 1013 of the Impoundment Control Act of 1974, 31

U.S.C. 1403. As such, the matter is being reported to the Congress for its consideration.

Sincerely yours,
ELMER B. STAATS,
Comptroller General of the United States.

Mr. HART. Mr. President, the AV-8B program has been strongly supported by the Senate, and it merits our continued support. The action of the Defense Department in deferring $108 million for that program is in violation of explicit congressional intent, and, in terms of the procedures chosen, is also in violation of the Impoundment Control Act. I urge my colleagues to join me in rejecting this deferral, and to continue the Senate's strong support of this program, which is so vital to the future of naval and Marine Corps aviation.

SENATE RESOLUTION 108—SUBMISSION OF A RESOLUTION AUTHORIZING PRINTING OF "DEVELOPMENTS IN AGING: 1978"

Mr. CHILES submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. RES. 108

Resolved, That there shall be printed for the use of the Special Committee on Aging the maximum number of copies of part 1 of its annual report to the Senate, entitled "Developments in Aging: 1978," which may be printed at a cost not to exceed $1,200.

SENATE CONCURRENT RESOLUTION 12—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO THE PANAMA CANAL TREATY DOCUMENTS

Mr. HELMS submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. CON. RES. 12

Whereas, the people of the United States of America were asked by President Carter to relinquish control over the Panama Canal in the national interest, and

Whereas, the Senate of the United States ratified the Panama Canal treaties in April of 1978, based on numerous assurances by the President and his representatives that there existed a valid agreement between the United States and the Republic of Panama, and that the transfer of the Canal would not create any financial burden on American taxpayers, and

Whereas, after extensive Congressional hearings it has been learned that the transfer actually could cost the American taxpayers in excess of $4 billion in additional appropriations, and

Whereas, the leaders and representatives of the Government of Panama now claim that Panama is entitled to the possession of all moveable equipment and materials presently in the Panama Canal Zone, even though this is not provided in the treaties, and

Whereas, the leaders and representatives of the Government of Panama now claim retroactive tax jurisdiction over U.S. corporations in the Panama Canal Zone for at least the past seven years, even though this is not provided in the treaties, and

Whereas, the leaders and representatives of the Government of Panama now demand that the U.S. repair and renovate all facilities in the Panama Canal Zone, including those unused for many years, before turning them over to Panama, even though this is not provided in the treaties, and

Whereas, the sum total of this information raises serious doubts about the existence of a valid agreement between the U.S. and the Republic of Panama on the transfer of the Panama Canal, and casts doubt on all assurances and understandings about the treaties which were given to the Congress and the American people, THEREFORE BE IT

Resolved, by the Senate (the House of Representatives concurring), that it is the sense of the Congress of the United States that the President should immediately withdraw the instruments of ratification of the Panama Canal treaties of 1977, until such time as the total costs of those treaties and their full implications for U.S. citizens are determined.

PRESIDENT CARTER SHOULD WITHDRAW RATIFICATION DOCUMENTS ON PANAMA CANAL TREATIES

Mr. HELMS. Mr. President, today I am submitting a concurrent resolution calling upon President Carter to withdraw immediately the instruments of ratification of the Panama Canal treaties, exchanged last June. This resolution is identical to the resolution being introduced in the House by my good friend and colleague, Representative BOB BAUMAN, of Maryland's First District.

Although the resolutions of ratification were exchanged 9 months ago, the date upon which the ratification becomes effective is April 1. The President therefore has 2 weeks left for action.

When the President went down to Panama last June, I wrote to him suggesting that the ratifications not be exchanged because the procedure of exchange was premature, because it circumvented the expressed will of the Senate in the Brooke reservation, and because Panama had served notice in a diplomatic white paper that Panama did not accept the terms of the treaty as modified and interpreted by the U.S. Senate. My statement on the Senate floor on June 5, 1978, included dozens of pages of documentation from the Panama Canal debates, contrasting the legislative history with the interpretations of the Panamanian white paper.

The House Panama Canal Subcommittee has been having extensive hearings over the past few weeks.

Unfortunately, these hearings have not been given much coverage by the major media of this country. But, in any case, they have been held and they are vitally important to the people of this country.

As Representative BAUMAN, the ranking minority member of the subcommittee, has pointed out, the implementation of the treaty, according to the information collected in the subcommittee hearings, will amount to at least $4.1 billion of the tax money of the American people.

Mr. President, it needs to be emphasized over and over again that this is a direct contradiction of the assurances given to this Congress and to the American people last year by the administration to the effect that not one dime of the taxpayers' money would be required. I think the people need to be alerted as to what is about to happen.

Moreover, as Representative GEORGE HANSEN has pointed out, the $4.1 billion exceeds by far the annual budgets of all but the largest States. It is, for example, 22 times the budget of South Dakota, 19 times the budget of Vermont, 18 times the budget of New Hampshire, 17 times the budget of Nebraska, and 13 times the budget of Idaho.

So, with all due respect to the President of the United States, we are not talking about peanuts. We are talking about $4.1 billion of the taxpayers' money to go to Panama in direct contradiction of what was assured this Congress and the American people at the time this Senate unwisely approved the treaties with Panama last year.

If President Carter would give the $4.1 billion to the State of North Carolina, instead of to Panama, our State could run its government for over a year and a half, without the taxpayers of North Carolina having to put up one cent—and I can guarantee they would love that.

Indeed, the $4.1 billion we are giving to Panama would pay New York City's debt, with a billion dollars left over. It could eliminate the Federal gasoline tax of 4 cents per gallon. It would nearly support the Department of Agriculture farm price supports for a year.

So the Panama Canal giveaway turns out to be a gigantic giveaway indeed. That is reason enough to pull back the instruments of ratification.

But an even more important reason has come out of the House Panama Canal Subcommittee hearings. Based upon the statements received by the subcommittee from Panamanian officials, including President Royo, it is now evident that there is no meeting of minds on the actual terms of the treaty. The subcommittee has confirmed the situation that I pointed out 9 months ago, that Panama does not agree with the terms of the treaty. More than that, Panama is making demands and practical interpretations which go beyond the bounds of anything ever discussed in the negotiations or treaty debates on this Senate floor when these treaties were approved—unfortunately.

Can there be any doubt in an objective observer's mind that the administration has broken faith with the Congress and the American people. The President has 2 weeks in which to renegotiate the stark differences with the Panamanian Government and secure specific assurances in writing that Panama accepts the amendments added by the Senate. Of course, it may be too late for that.

If an understanding cannot be reached the instruments of ratification should be withdrawn before March 31.

Mr. President, I ask unanimous consent that tables showing the annual State budget of each State compared with the length of time the Panamanian giveaway could finance each State budget, in addition to other similar comparisons, as prepared by Representative George HANSEN, be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

CHARITY BEGINS AT HOME

If the U.S. Government were to transfer funds to one of the fifty states equivalent to what is being given to Panama under the treaties, there would be no taxes for those citizens to pay for the designated number of years.

State	1970 census population	Annual State budget FY 1978 (millions)	Panama Canal transfer costs $4.1 billion (yrs. w/o taxes)
Alabama	3, 444, 164	$1, 495. 2	2. 75
Alaska	302, 173	1, 375. 0	2. 99
Arizona	1, 772, 482	1, 023. 6	4. 02
Arkansas	1, 923, 295	772. 3	5. 32
California	19, 953, 134	17, 578. 4	. 23
Colorado	2, 207, 259	1, 208. 0	3. 40
Connecticut	3, 032, 217	2, 142. 2	1. 92
Delaware	548, 104	539. 7	7. 62
Florida	6, 789, 443	3, 021. 4	1. 36
Georgia	4, 589, 575	2, 379. 6	1. 73
Hawaii	769, 913	907. 9	4. 53
Idaho	713, 008	319. 0	12. 89
Illinois	11, 113, 976	6, 848. 0	. 60
Indiana	5, 193, 669	1, 789. 9	2. 30
Iowa	2, 825, 041	1, 491. 9	2. 76
Kansas	2, 249, 071	988. 2	4. 16
Kentucky	3, 219, 311	1, 715. 9	2. 40
Louisiana	3, 643, 180	3, 819. 6	1. 08
Maine	993, 663	459. 0	8. 96
Maryland	3, 922, 399	2, 298. 0	1. 79
Massachusetts	5, 689, 170	3, 601. 0	1. 14
Michigan	8, 875, 083	4, 256. 4	. 97
Minnesota	3, 805, 069	3, 142. 0	1. 31
Mississippi	2, 216, 912	892. 2	4. 61
Missouri	4, 677, 399	1, 578. 4	2. 60
Montana	694, 409	$240. 1	17. 12
Nebraska	1, 483. 791	550. 8	7. 46
Nevada	488, 738	(1)	(1)
New Hampshire	737, 681	219. 0	18. 77
New Jersey	7, 168, 164	4, 394. 4	. 94
New Mexico	1, 016, 000	683. 5	6. 01
New York	18, 241, 266	12, 022. 9	. 34
North Carolina	5, 082, 059	2, 577. 9	1. 59
North Dakota	617, 761	(1)	(1)
Ohio	10, 652, 017	4, 719. 7	. 87
Oklahoma	2, 559, 253	779. 7	5. 27
Oregon	2, 091, 385	1, 035. 8	3. 97
Pennsylvania	11, 793, 909	5, 786. 0	. 71
Rhode Island	949, 723	603. 3	6. 81
South Carolina	2, 509, 516	1, 400. 0	2. 94
South Dakota	666, 257	185. 7	22. 14
Tennessee	3, 924, 164	2, 456. 5	1. 67
Texas	11, 196, 730	3, 383. 0	1. 22
Utah	1, 059, 273	656. 9	6. 26
Vermont	444, 732	207. 4	19. 82
Virginia	4, 648, 494	2, 276. 5	1. 81
Washington	3, 409, 169	2, 839. 6	1. 45
West Virginia	1, 744, 237	965. 1	4. 26
Wisconsin	4, 417, 933	4, 866. 7	. 84
Wyoming	332, 416	182. 0	22. 59

City	1975 census population	Annual city budget 1976–77) (thousands)	Panama Canal transfer cost $4.1 billion (yrs. w/o taxes)
Atlanta	436, 057	$253, 633	16. 2
Baltimore	851, 698	1, 155, 499	3. 6
Chicago	3, 099, 391	1, 348, 748	3. 0
Denver	488, 434	410, 788	10. 0
Cleveland	638, 793	$373, 522	11. 006. 69
Los Angeles	2, 727, 399	1, 721, 856	2. 3
New York City	7, 481, 613	14, 603, 093	. 28
Philadelphia	1, 815, 808	1, 203, 128	3. 4

[1] Not available.

New York City debt, $3 billion in loans (Less than the fees required to pay for transferring the Panama Canal).

Total motor fuel consumption for U.S. (1977), 123,350,462,000 gallons.

Federal gas tax .04 cents per gallon.

Total Federal gas tax paid by U.S. consumers, $4,934,000,000 (Panama Canal transfer costs alone would save every U.S. consumer approximately 3 cents per gallon on gasoline for a year.—Total Treaty costs would mean 4 cents less per gallon for over 5 years.).

1978 hospital and medical care for America's veterans, $5,638,000,000 (Treaty costs would provide for Veterans for nearly 5 years).

1978 hospital and medical care for America's veterans, $5,638,000,000 (Treaty costs would provide for Veterans for nearly 5 years).

One nuclear electric generator for 1,000 megawatts—enough to power cities larger than Denver or Atlanta—cost $1 billion each—the Panama transfer costs alone would buy 4 of these generators and the total treaty costs would buy 26.

1979 estimated total budget for Department of Energy Research and Energy Technology Development, $4,896,000,000 (Treaty costs would provide for nation's energy program for over 5 years).

1978 U.S.D.A. price support programs, $5.6 billion (Panama Treaty costs would run nation's farm programs for nearly 5 years).

1978 Federal Highway Administration budget, $7,638,000,000 (Treaty costs would pay for nation's Federal highway program for over 3 years).

Amtrak Department of Transportation operating grant for 1979, $90,000,000 (to finance annual deficit) (Transfer funds alone would run Amtrak for nearly 46 years and total Treaty funds would keep Amtrak going for 289 years).

SENATE CONCURRENT RESOLUTION 13—SUBMISSION OF A CONCURRENT RESOLUTION WITH RESPECT TO THE UNITED NATIONS REPORT ON GENOCIDE

Mr. LEVIN submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. CON. RES. 13

Whereas between 1915 and 1918 the Armenian people endured what has been described as the first genocide in the twentieth century; and

Whereas a "Study of the Question of the Prevention and Punishment of the Crime of Genocide," issued on July 4, 1978, has been submitted to the United Nations Commission on Human Rights; and

Whereas the study contains no paragraph describing the genocide of the Armenian people: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the United Nations Commission on Human Rights should amend the "Study of the Question of the Prevention and Punishment of the Crime of Genocide," issued on July 4, 1978, to include a paragraph describing the Armenian genocide between the years of 1915 and 1918.

Mr. LEVIN. Mr. President, when the United Nations Commission on Human Rights decided to take another look at its subcommission's report on Genocide in Geneva on March 14, a victory for human rights was achieved.

If the report had been approved, it would not have included a reference that recognized the Armenian genocide of 1915–18 when 1,500,000 Armenians were killed.

In my first speech on the floor of the Senate, I called on the United States to take a strong stand when this report came before the Human Rights Commission. Hopes were slim, then, that the U.S. delegation would succeed in their attempt to pursuade the Commission to reconsider the report as amended without the Armenian genocide reference.

But through the admirable efforts of the U.S. delegation, and especially that of U.S. representative to the United Nations, Mr. Set Momjian, the Commission agreed to delay final passage of the report and reconsider the Armenian genocide reference.

If this Armenian genocide reference is included in the report, it will enable the Armenian genocide to be recognized for what it was, a historical reality which can never, and should never be blotted from the conscience of mankind.

Acts of destruction can only be redeemed if they are recognized; they can only be memorialized if they are mentioned; they can only be prevented in the future if they are remembered.

It is for these reasons that I submit this resolution that was originally submitted by the distinguished Congressman from California, Mr. CHARLES PASHAYAN, in the House of Representatives on March 7, 1979, expressing the sense of the Congress that the United Nations Commission on Human Rights should amend the report on genocide to include the Armenian genocide reference.

SENATE CONCURRENT RESOLUTION 14—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO A MORATORIUM ON THE COMMERCIAL KILLING OF WHALES

Mr. MAGNUSON submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. CON. RES. 14

Whereas whales are a unique marine resource of great aesthetic and scientific interest to mankind and are a vital part of the marine ecosystem; and

Whereas the protection and conservation of whales are of particular interest to citizens of the United States; and

Whereas the United States, which effectively banned all commercial whaling by United States nationals, in December 1971, has sought an international moratorium on the commercial killing of whales since 1972; and

Whereas in 1971 the Congress adopted resolutions requesting the Secretary of State to negotiate a ten-year moratorium on the commercial killing of whales; and

Whereas the United Nations Conference on the Human Environment, composed of one hundred and seventeen nations, adopted a resolution in 1972 calling for a ten-year moratorium on commercial whaling; and

Whereas that call for a ten-year moratorium was confirmed at the United Nations Governing Council for Environment Programs in 1973 and 1974 and the Council continues to support ongoing whale conservation efforts; and

Whereas the management regime established by the International Convention for the Regulation of Whaling, signed in 1946, and implemented by the International Whaling Commission, is not providing adequate protection to the world's whale population; and

Whereas the data gathering structure established under the International Whaling Commission has not provided all the available data necessary for sound whale conservation; and

Whereas there is strong evidence of continuing and increasing importations of whale products by Commission member nations from nonmember nations; and

Whereas defects in the present Commission management regime allow harvests of whale species that are in a state of decline: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby urges—

(1) the International Whaling Commission to adopt a moratorium on the commercial killing of whales; and

(2) Brazil, Denmark, Iceland, Japan, Norway, and the Soviet Union (those parties to the International Convention for the Regulation of Whaling which still engage in commercial whaling) and Chile, the People's Republic of China, Peru, Portugal, the Republic of Korea, the Democratic Republic of Korea, Spain, and Taiwan (those nations that are not parties to the Convention and still engage in commercial Whaling) to recognize and comply voluntarily with a moratorium on the commercial killing of whales, as endorsed by the United Nations environment program, pending adoption of such moratorium by the Commission.

● Mr. MAGNUSON. Mr. President, today I am submitting a resolution calling for a moratorium of indefinite duration on the commercial killing of whales. These awesome and magnificant citizens of the world's oceans are in constant peril. I wish to draw your attention, as I have done in the past, to the seriousness of their plight.

The pursuit and slaughter of these creatures continues unabated as the great whale populations steadily decline. Considerable progress has been made toward achieving international protection for the whales—much of this progress spurred by the actions of the U.S. Congress. Yet the desires of the American people and the international community are often undermined by the reductance of whaling nations to abide by the protective measures established by the International Whaling Commission.

Compliance with international whaling management measures is tenuous. The humane taking of whales is not adequately guaranteed under existing provisions and even those stocks in grave danger of over-exploitation are not always spared the whalers' harpoon. In open defiiance of the international community, pirate whaling operations continue to exploit dwindling whale populations, supported by other nations through either direct sale of whaling equipment or continued importation of whale products.

It is not clear, based on available scientific evidence, that whale populations can sustain exploitation indefinitely. The International Whaling Commission management decisions flow from the findings of scientific studies. These studies are based largely on the application of models used to indicate how a given population will react to one management action as opposed to another. Such models rely heavily on estimates of the size of various components of whale populations. However, despite valiant efforts on the part of the international scientific community, the level of accuracy of scientific data on whale populations is highly variable. For example, part of the whale management classification scheme is based on the relation of the present population size to the initial population size. Yet the only data available for estimating initial population size is frequently "antidotal" in nature and present population size is often estimated using data from commercial whaling operators, with the biases prevelant in such sources. Both methods have serious deficiencies and can result in poor numerical estimates. Thus, the uncertainties pervasive in the estimates of whale populations dictate that extreme caution be exercised in our protection and management of these creatures.

It would be a tragic mistake to allow the demise of these noble animals. The depredations they have suffered at man's hands are innumerable; if we are to preserve this natural heritage for future generations, the slaughter of these rare and intelligent creatures must cease. The International Whaling Commission is being pressured to consider, at its next meeting in July 1979, a 10-year moratorium on deep sea commercial whaling. I do not believe this affords adequate protection. Therefore, this resolution calls for a moratorium on the commercial killing of whales indefinitely—this is consistent with evolving management philosophies and reflects a continuing concern on the part of the American people for the future of these intelligent and sensitive inhabitants of the ocean.

Our opposition to the commercial killing of whales must be clearly demonstrated; the adoption of this resolution is an excellent means to do so.●

NOTICES OF HEARINGS

SUBCOMMITTEE ON ANTITRUST, MONOPOLY AND BUSINESS RIGHTS

● Mr. METZENBAUM. Mr. President, the Judiciary Subcommittee on Antitrust, Monopoly, and Business Rights, will hold hearings on S. 600, the Small and Independent Business Protection Act, on March 23, 1979. The hearings will begin at 9:30 a.m. in room 6226, Dirksen Senate Office Building.●

CANCELLATION OF CHILD-CARE HEARING

● Mr. CRANSTON. Mr. President, I am today canceling the March 20 hearings of the Subcommittee on Child and Human Development, which I chair on the Labor and Human Resources Committee. Those hearings were scheduled to continue consideration of my bill, the proposed "Child Care Act of 1979," S. 4.

Senate committees are required by the congressional budget process to act by May 15 on all legislation to be considered by the full Senate that will authorize appropriations for the coming year.

Mr. President, I do not believe it is realistic to expect that the child-care bill can be approved by the Human Resources Committee by that deadline. Nor do I think it likely that the bill could pass the Senate in time to receive operating monies next year.

I base those conclusions on the following factors:

First. The mood of the 96th Congress and of the American public in general is very negative toward proposals for new Federal programs at this time regardless of social need and cost effectiveness.

Second. Divisions continue to separate leaders of the many diverse groups which support the bill. There is significant disagreement over scope and strategy for Federal child-care legislation. There are important differences about some details of the bill, and there are proposals to change the bill to mandate more comprehensive forms of care. This would mean more Federal regulation and intervention, and more cost. These divisions among child-care advocates prevent the kind of national public educational effort needed to enact a bill like S. 4.

Third. The Carter administration has withheld its support for S. 4, even though Vice President MONDALE has the Senate's leading advocate of child-care and child development programs during his years in the Senate, and the President, during his campaign, had expressed his support for the concept of child care and pledged his active cooperation in developing legislation.

Mr. President, the need for child-care assistance for working parents has been well documented in our six subcommittee hearings over the past 18 months. The bill I introduced was a modest effort to make a beginning to cope with the problems of millions of American children contribute to the rise in juvenile cared for while their parents, by economic necessity, work. And to cope with the problems of mothers who want to get off welfare and work, but cannot because they have no way to provide adequate care for their children.

These unsupervised "latch-key" children contribute to the rise in juvenile delinquency, crime, vandalism, and drug and alcohol abuse. They are often a physical danger to themselves and others.

The factors that make child-care problems so very pressing today will continue to grow in the years ahead. We can expect that there will be increasing numbers of women in the workforce, more homes with two working parents, and more single-parent families. It would make good sense to take steps now to provide decent care for their children. Moreover, these kinds of services would save money over the long haul. That has been substantiated by a recent study by the congressional watchdog and audit agency—the General Accounting Office.

A strong case can be made that the social and economic benefit of encouraging women to stay off—or get off—welfare would, by itself, justify further Federal efforts to help States provide child care services. But that case cannot be fairly evaluated in the present budgetary environment.

My bill is a victim of these austere times, but the problems it seeks to address remain with us, and the victims of those problems remain with us, too. Therefore, I intend to continue to work closely with people and groups deeply concerned about the effects of juvenile delinquency, vandalism, welfare dependency, and child abuse, and about helping American families in search of adequate day care for their children. Together with organizations like the American Legion, the National Conference of Catholic Charities, major children's groups, and dozens of others that support the thrust and purpose of S. 4, I will seek to develop and consolidate widespread support for efforts to resolve the serious, distressing problem of unattended, vulnerable, helpless children.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate today beginning at 2:30 p.m. to hold an executive session for a briefing by Secretary of State Vance on the Middle East.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate today to continue hearing testimony on S. 428, the fiscal year 1980 Department of Defense authorization request.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SALT AND WESTERN EUROPE

● Mr. GARN. Mr. President, much of the debate in the months ahead concerning ratification of the nearly completed SALT II Treaty will focus on the impact the proposed treaty will have on United States and Soviet nuclear forces. While this is essential, I believe it is also important not to lose sight of the implications SALT II will have for the security of Western Europe. As a member of NATO, the United States has played a key role in preserving the independence of our allies in Europe. This is a matter of mutual interest, and one which we should keep in mind when examining the SALT II Treaty.

Unfortunately, as the treaty now stands, our European allies can hardly be overjoyed with the results of the SALT negotiations. In fact, as Laurence Martin makes clear in an article recently published in the Washington Quarterly, U.S. negotiating concessions hold troubling implications for European security and alliance cohesion. We have accepted the Soviet contention that the Backfire bomber is not an aircraft with intercontinental capabilities, and should not therefore, be counted in the ceilings envisioned by the treaty on strategic nuclear-launched vehicles. Mr. Martin correctly notes that the American tolerance of the Soviet position on the Backfire "is only the most explicit instance of going beyond merely neglecting threats to allies at SALT to actually diverting them in that direction. * * *"

Our European allies are intensely interested in acquiring cruise missile technology as a counterweight to the Soviet Union's growing tactical nuclear threat aimed against NATO, particularly the SS-20, a mobile IRBM. By the terms of the new SALT accord, however, the United States has agreed to ban the deployment of ground and sea-launched cruise missiles with a range of over 600 kilometers for the duration of the 3-year protocol. It is said that we will be free to deploy cruise missiles with greater ranges after this period, but it should come as no surprise that the Soviets will treat the protocol as an interim agreement to be extended under SALT III. That we will have the fortitude to move ahead with cruise missile technology despite foreign and domestic pressure is hardly a foregone conclusion. In addition, the "noncircumvention" clause which prohibits the circumventing of the treaty through third countries will be a source of mischief for the Soviets and concern for our allies.

SALT II fails to impose restrictions on the Soviet's heavy land-based ICBM's, thus contributing to the problem of U.S. Minuteman vulnerability. Moreover, there is still dispute as to whether or not the MX mobile ICBM, specifically designed to resolve this vulnerability problem, is in accord with the terms of SALT II. This is hardly any way to assure our allies of the credibility of the U.S. nuclear deterrent.

Mr. President, the article by Mr. Martin elucidates these and other points in the SALT debate. I commend it to the attention of my colleagues, and ask that it be printed in the RECORD.

The article follows:

SALT AND U.S. POLICY

(By Laurence Martin)

The debate about SALT in general and SALT II in particular has been prolonged, complicated, and prolific in technicalities. There being perhaps little chance of contributing anything that combines novelty with reasonableness, it may be worthwhile referring to some simple but sometimes neglected truths and to do so from a European perspective.

Thirty years after the American nuclear guarantee was implicitly extended over Western Europe by the North Atlantic alliance, European dependence on the United States for security remains ultimately almost total. U.S. obligations as an ally, and long-accepted conceptions of the extended American national interest, compel constant awareness of this dimension of nuclear strategy. Europeans cannot realistically expect the United States to regard their security as identical with their own or to follow every European strategic preference. On the other hand, the United States should not complain too bitterly about the burden of European defense. For barring Finlandization, the only alternative to the American guarantee would be a degree of European military independence, including nuclear forces, which most Americans would mistrust and to precluding which much American policy has been deliberately devoted.

For a Western Europe so dependent on American nuclear power, there are two crucial questions to ask about any SALT agreement or about any tacit constraints that the SALT process may impose on American strategic nuclear policy. The first is whether the constraints are compatible with the security of the United States itself; for American self-confidence in confrontation is the vital basis for American responsiveness to Europe's needs in war or crisis. The second question is whether the agreements have directly favorable or unfavorable implications for European security.

Much the same questions can be asked, of course, about any major shift in American strategic policy, whether reached by agreement with the Soviet Union or not. Whenever it appears that in pursuit of the United States' own security, the Americans may have sacrificed a direct European interest, the Europeans find themselves in a difficult dilemma which they approach in varied styles. Typically the German or British preference is to adapt to the American view, on the grounds both that the Americans may understand the technicalities better and that, in any case, allied solidarity, or at least the appearance of it, generally outweighs specific defense policy decisions in the deterrent balance. The French style is notoriously different, tending to emphasize differences of opinion as renewed justification for an independent course of action.

If a SALT II agreement takes the form widely predicted in the fall of 1978, it will impose considerable strain on those who traditionally prefer to take the optimistic and cooperative view of U.S. policy. Turning first to the effects upon American security in the narrower sense and to the future confidence of the United States in confrontations with the Soviet Union, an agreement that leaves the latter with sole possession of "heavy" missiles and, party as a consequence, with a massive superiority in "throw-weight," does litte to reduce the increasing vunerability of the American ICBM force. According to plausible estimates the proposed limits could confer an advantage of 10:3 in throw-weight and 2:1 in hard target kill capability on the Soviet Union by 1982. Nothing in recent history suggests the Soviet Union will fail to avail itself of this opportunity.

There may or may not be technological possibilities open to the United States for offsetting this trend. These, in turn, may or may not be compatible with the SALT II agreements or with the political climate that these accords will create in the United States. But it was hardly the purpose of a further strategic arms negotiation to leave the United States with this problem. During the protracted SALT I negotiations it became the clear overriding purpose of the United States to preserve the invulnerability of the Minuteman force. Proceeding by way of an ABM treaty and the relegation of restrictions on offensive missile power to an interim agreement, was explicitly a second-best outcome. The fact that the agreement was merely "interim" registered its basically unsatisfactory nature, leaving, as it did, crude numerical and thus, by the grace of technological refinement, potential strategic superiority to the Soviet Union. The Jackson amendment was intended to ensure that the inequities of SALT I were indeed rectified. At that time, however, both administration and critics could afford to be a litte more relaxed in their approach because contemporary relative capabilities and vulnerabilities of the Soviet and American ICBM forces still favored the United States by most indices.

PAST PATTERNS AND THE FUTURE

The years since then have illustrated a phenomenon that it would be wise to assume will be a constant feature of future arms control regimes: namely, that where there are unexploited margins or ambiguities, the Soviet Union will proceed vigorously to fill them. Where counterforce is concerned, no amount of enthusiasm for aircraft or cruise missiles, with their debatabe capability for survival and penetration, or SLBSs, with their uncertain C^3, can obscure the vita role of ICBMs. The crucial index in this case is throw-weight, which technology can convert into hard target kill unless other weapon characteristics can be effectively constrained of the political will for force improvement is lacking. SALT II appears to do little to prevent energetic Soviet fostering of a marriage between their huge throw-weight and increased accuracy, larger numbers of reentry vehicles, and improved yields. The United States, on the other hand, is locked by limitations on size and numbers into a much more restricted range of possibilities, many of which have already been substantially exploited. Hence some of the pessimistic projections of future relative counterforce capabilities.

Whether such details matter depends on one's theory of deterrence, including the perceptional elements. To a fully fledged advocate of MAD (mutual assured destruction), the impending vulnerability of American ICBMs to a small fraction of the Soviet force is of little consequence in view of the probable survival of large numbers of SLBMs. This is not the place to discuss the validity of a triad basis for a secure second strike even in crude countervalue form. What cannot be overlooked, however, is the unnerving impact an adoption of MAD by the United States must have on Europe. Given the irreducible element of mutual vulnerability the superpowers must suffer under present strategic and technological conditions, only some form of limited nuclear option can plausibly sustain any strategic guarantee to allies. Complete holocaust can only be threatened credibly, if at all, as retaliation for a full-scale countervalue attack on the retaliating nation itself. From now on only more subtle and limited doctrines, ranging from the virtually symbolic strike to the discriminating, damage-minimizing attack, can be planned in aid of extended deterrence for allies. Yet it is precisely for such strategies that the counterforce balance becomes critical and the accuracy, penetration reliability, and effective control of the ICBM is essential. Consequently, from a European perspective, SALT II must be judged not merely by the standards of the cruder, second-strike retaliatory models, within which the degree of tolerance for inequities and disadvantages may be high, but also by the much more demanding standards of selective employment and mutually coercive tactics. Such strategies may not, of course, require American possession of a very large strike force; they would, however, seem to be incompatible with Soviet retention of an immense counterforce capability.

Concern with the strategies for the actual use of strategic nuclear weapons in warfare is given bite, of course, by the increasing difficulty of attributing MAD thinking to the Soviet Union or persisting with the vain and arrogant hope that the Russians may yet be "educated" into adopting that outlook. It is the increasingly inescapable conclusion of many scholars that the Soviet Union has never accepted the goal of stability founded on mutual vulnerability that many in the West set for arms control efforts. Admittedly, the Soviet Union has had to recognize the inevitability of a degree of strategic vulnerability; there is no sign they can be tempted to welcome the idea. While full-scale defense may be impossible, the energies Soviet leaders bestowed on their own early ABM system almost certainly expressed their fundamental instincts; their later acceptance of the ABM treaty was a realistic recognition of the inferiority of their defensive technology to that then about to be deployed by the United States, rather than a conversion to the merits of vulnerability. Soviet strategic nuclear policy as a whole seems to have been consistently directed toward fostering such elements of defense as the nature of technology and the identity of their foes permit. Deterrence is undoubtedly important to the Soviet Union, but it is not regarded as an alternative to defense. Rather it is the product of an across-the-board military capability combining all the defensive and offensive means available. The consequent combination of defensive and offensive weapons with doctrines of damage limitation and preemption is what justifies using the commonly attributed concept of "war-fighting" to characterize Soviet strategy.

Equally significant, the deeper purpose of Soviet military policy is not the preservation of stability but the advancement of Soviet foreign policy, even if, given the dangers of warfare under present technological conditions, the preferred way of doing this is by neutralizing the military power of others and thereby freeing safer aspects of Soviet activity from deterrence. It seems very plausible that the disparity between this outlook and the concepts of defense and arms control dominant in much recent Western policy helps to account for the steady erosion of Western negotiating positions: the process whereby such goals as excluding FBS from SALT or insisting on gross equality of strategic delivery systems have been slowly compromised. For while the United States has approached SALT as a cooperative search for common interests, the Soviet Union quite frankly treats it as one arena in an all-pervading pursuit of advantage? Nor should it be forgotten that such basic differences of strategic concept can directly affect the significance of specific terms of agreement; that within a war-fighting framework such "operational factors" as a readiness to preempt can alter the implications of the categories of amount and quality of hardware in which strategic agreements are commonly expressed.

Such a perspective on SALT may help to explain the course of recent strategic history in which the United States has seemed to inhibit its research, development, and deployment while it strives for agreements that are never consummated in perfect form. The vigor with which the Soviet Union meanwhile pursues its own military programs later compels the United States into anxious expedients for catching up which, like MX, may well be less than optimal technologically and which certainly extract a high price in terms of domestic politics. Such behavior entails a double risk with regard to foreign perceptions of United States strategic policy, for while reluctance to pursue a vigorous program of technological innovation may look to some like a general lack of will to maintain the American end of the balance of power, others seize on the periodic dramatic debates over catching up as evidence of militarism and provocativeness.

AMERICAN WILL AND SOVIET "EUROSTRATEGY"

The question of American will leads to the specifically European interest in the current state of SALT. If the United States nuclear guarantee remains the essence of NATO, rising American vulnerability inevitably conditions that pledge. The dilemma faced by the United States is exemplified year by year in the annual posture statement of the secretary of defense, in which the cause of stability is preached in the pages on strategic nuclear forces, while the process of escalation remains alive if not well in the sections devoted to Europe. American vulnerability arises chiefly not from SALT agreements but from the vigor and quality of Soviet nuclear deployment. Yet the linkage between the American SIOP and European security remains indispensable.

Not even a full-scale effort to match Soviet conventional military power in Europe—an achievement the Soviet Union would in any case be unlikely to countenance at any level of expenditure within conceivable Western political practicability—would not solve Europe's problem in the absence of the SIOP linkage, because of the vulnerability of Europe to the Soviet Union's theatre-oriented nuclear forces. At least some limited strategic nuclear option engaging United States strategic nuclear forces remains essential. Moreover, some such limited strategic doctrine is an essential basis for NATO's own policy for the use of theatre nuclear weapons. Such a link is the only condition under which any theatre nuclear strategy can be sustained in face of the enhanced Soviet capability for nuclear action at the "Eurostrategic" level. This being so, there is all the more reason for European concern on perceiving how Soviet efforts in both SALT and MBFR are dedicated to driving a wedge between SIOP forces and the theatre nuclear balance and to establishing definitions of "strategic" calculated to play on American inhibitions and European weakness. This tendency has come to appear all the more ominous with the emergence of the SS–20.

These developments present Western Europe with the specter of a distressing syndrome: the United States SIOP is inhibited by Soviet retaliatory capacity, a condition symbolized by the Declaration of San Clemente and its concept of bilateral superpower consultation to avoid nuclear war; NATO theatre nuclear weapons, once a useful adjunct to the SIOP, are neutered by Soviet possession of a theatre nuclear force that in absolute terms could wreck Western Europe and that, in relative terms, given the balance of vulnerabilities between the Eastern and Western theatre forces, may enjoy "escalation dominance" at all the higher levels of nuclear action. This scenario constitutes a fundamental reversal of the conditions under which the flexible response of 14/3 was supposed to resolve NATO's strategic problem.

The danger can be elaborated in various speculative ways. The established answer to the Soviet capability to wreck Europe with systems distinct from the intercontinental forces, is to engage part of the SIOP directly in the theatre battle; witness the dedication of SLBMs to Strategic Air Command Europe (SACEUR). In a condition of overall United States confidence, the engagement of forces similar to those in the SIOP was an escalatory step that could be considered a useful added deterrent. This mechanism reverses, however, under conditions when full-scale strategic nuclear war is unquestionably too dangerous to contemplate and limited strategic actions are rendered dubious to inferiority.

Any such European fears about the deterioration of the American relative strategic nuclear capability are exacerbated to the extent that SALT contributes to direct deterioration in the theatre balance. There are, in fact, a number of such contributions; although it would be going too far to say that none of the unfavorable consequences would have ensued in the absence of an explicit agreement. Tolerating the Soviet Backfire bomber so long as it is not deployed in an anti-United States mode—that is, so long as it is deployed against areas bordering the Warsaw Pact—is only the most explicit instance of going beyond merely neglecting threats to allies to actually diverting them in that direction, behavior of which Stalin suspected Chamberlain in 1939.

At least equally unsatisfactory from the European point of view is the treatment of the cruise missile in SALT II. On this issue Europe is caught two ways. Restriction on the deployment of the air-launched cruise missile (ALCM) classifies it as a system subject to noncircumvention understandings. A moratorium on deployment of other forms of cruise missile capable of more than short, tactical ranges, threatens to deprive NATO of a very attractive option for a medium to intermediate range system for interdiction or retaliation within the European theatre. Some such system is urgently required both as an answer to the Soviet Eurostrategic threat and as an adjunct to the European battle. Given the role of rear echelons in the Red Army's theory of offensive warfare, a deep-strike capability would put Soviet success seriously in question. The provision of a more powerful and, above all, less vulnerable force for this purpose would therefore be a considerable added deterrent against any Soviet march Westward.

Consequently it seems unfortunate that, while the SS-20 escapes SALT II and the Backfire is merely steered away from the United States, all but the shorter-range cruise missiles are embraced in one way or another. It has been strongly argued that the restrictions on deployment of cruise missiles other than ALCM are strictly temporary; meanwhile NATO can seek a better bargain or look for a better military concept. As to the concept, whil it is probably true that the merits of immediately available cruise missile technology have been exaggerated, it represents a whole new field of possibilities that could promise much to the more technically sophisticated side and which it would be foolhardy to rule before its implications have been more than dimly discerned.

The true significance of the restrictions being "temporary" will be greatly affected by the asymmetry of the Soviet and American decision-making mechanisms. Dedication of many influential elements in Western society to arms control, and the competition of nonmilitary claimants on Western budgets, make it far from sure that a United States administration would assert its right to deploy cruise missiles once the moratorium had technically expired. This might be particularly the case if the weapons in question were primarily designed for the European theatre. Nor should we overlook other hostages given to fortune so far as a free hand to pursue the most military desirable systems is concerned. The realization of the proposed Comprehensive Test Ban Treaty (CTBT) might severely limit adaptability of warheads to new equipments. Much more specifically, the introduction of Option III in MBFR raises the possibility, perhaps a probability, that an improvement of Pershing—a conceivable way of remedying NATO deficiencies—or indeed any innovations in NATO theatre nuclear weapons, might be branded as a circumvention.

That such a danger is taken seriously when Option III is, after all, only a proposal suggests how powerful the inhibitions about new programs are in the West. The extraordinarily badly handled affair of the "enhanced radiation weapon," from which neither the United States nor its European allies emerged with great credit, aroused an intensity of public concern and popular opposition to official preferences not seen in Europe since those other theatre weapon systems, the Thor and the Jupiter, spurred on the agitations typified by the British Campaign for Nuclear Disarmament. Even without SALT II, there is thus a real danger that any attempt to modernize theatre nuclear weapons or to take a stand against any imperfect arms control to proposal concerning them would arouse heated opposition. The ensuing debate might well erode support for other aspects of NATO's overall defense effort.

Politically sensitive though the theatre nuclear issue is, it is unfortunately central to the solidarity of the alliance and the effectiveness of its common deterrent. Western escalation dominance may have been irrevocably lost to the scale of Soviet military efforts but it would be quite another matter to concede dominance to the Soviet side. At the very least the Western coalition collectively needs equivalence at all relevant levels and not merely for its military potential but also as a psychological underpinning for dealings both within and without the alliance. Equivalence at the strategic level needs to be coupled to a viable, adequately invulnerable theatre nuclear force to deter or defeat hostile action at that level. For the maximum deterrent potential, such a force should ideally combine elements of the American SIOP with theatre-based forces in the ownership and management of which the Europeans can participate. This also puts us clearly on notice that the French and British nuclear force must be a major consideration when approaching future adjustments of the total Western capability, whether through the medium of arms control or not.

EUROPEAN PERSPECTIVES IN SUMMARY

It is not, of course, for Europeans—or Japanese, for that matter—to tell the United States what to regard as its vital interests. It is legitimate, however, to point out from a European perspective the possible consequences of various American policies for issues that have consistently been taken seriously by the United States and for which the United States has made and continues to make considerable sacrifices.

Although it may be reading too much into parochial European concerns, the interface of SALT with regional security problems does suggest that some difficulties arise from a fundamentally flawed approach to SALT that should now be revised in the light of experience. The flaw, if it exists, may arise from an oversimplified conception of the task, deriving perhaps from the fact that when the SALT process began, many in the West believed it had merely to cut off one or two troublesome technological trends that were endangering the strategic stability that would otherwise emerge almost inevitably from the nature of nuclear weapons. This has encouraged the belief that the problem of strategic stability can be handled by seizing on a few crude quantitative indices of power, rather than recogizing that there is an almost seamless web of military interactions. The temptation to oversimplify is understandable in view of the intellectual and political difficulty of mastering the complex reality. Yet there are obviously great risks in attempting to freeze one or two bits of an organic whole, when changes elsewhere in the system may radically alter the significance of any particular constraint. Perhaps the proposed CTBT is the most reckless instance of introducing an arbitrary and total rigidity into an imperfectly understood technological dialectic process.

Presumably those who design arms control packages try to evaluate the broader strategic consequences of particular items. Perhaps this should be made a much more conscious and consistent part of the process, so that arms control proposals are measured against the various strategic functions that our diplomatic and military efforts must fulfill, rather than by such narrower, even formalistic, categories as "strategic," "theatre," "tactical," and so on. This might well mean that insistence on maintaining the triad as the basis for strategic nuclear forces came to seem unnecessary. On the other hand, the mere striking of an apparently fair bargain by crude indices of quantity or even quality might be unacceptable if the result were inability to discharge specific politico-military tasks related to extended deterrence.

Possibly we would do better in this respect if we abandoned the identification of deterrence with assured destruction and moved toward the Soviet concept whereby deterrence is regarded as one product of the ability to perform a range of military tasks and consequently to prevail in a variety of potential conflicts. This would have the merit of ending the divorce between defense and deterrence, which goes against the whole course of military history and contributes frequently to the excessive compartmentalization of military thinking. One specific result could be reconsideration of the contribution some forms of defense against strategic nuclear attack might make to stability in crisis.

What is essential is to integrate much more effectively the formation of arms control policy at all levels—strategic, theatre nuclear, conventional, and so on—and to relate this process much more intimately with military planning at each level. There is a continuous set of defensive and deterrent considerations from SALT's adjustment of the SIOP forces to the issues about tank armies being debated in MBFR. A deterioration in Western military strength at one level erodes the posture at others. Moreover, negotiating concessions that seem evenly balanced at one level of negotiation may have serious adverse consequences at another. It is not necessary and in any case is certainly impractical to have a single negotiating forum. But if the game is to be played on several fields, some involving negotiations with the Soviet Union, others involving discussions between allies, and yet others involving the internal dispositions of the Western military etablishments, it is all the more important that some consistency is imposed by a coherent strategic overview. Frequently it will not be easy to arrive at this broad consensus within the American security establishment, let alone within the alliance as a whole. There may indeed be times when consensus is unobtainable and, clearly, the United States cannot allow its diplomacy to be paralyzed. Failure to coordinate allied policy should not, however, be accepted prematurely. It is a recipe for disaster to allow an appetite for continual and short-term "successes" at the East-West negotiating table to hurry NATO into agreements before the strategy they are intended to serve has even been worked out. From the perspective of long-term strategic stability it is very doubtful whether there is any particular need for haste. We are often told it is necessary to get an agreement before this or that technological innovation gets beyond the point of controllability. Experience suggests that in the first place the proposed agreement probably won't contain the innovation and, in the second, that the earlier the agreement is reached, the sooner some other technological novelty will upset it.

Thus it is more important that the West retains flexibility to put its own strategic house in order as technological and political changes require. It would be a good start to resolve that SALT III will not be seriously broached until NATO has sorted out its ideas on such matters as a preferred posture for theatre nuclear weapons, properly integrated with policy toward the conventional balance and any arms control proposals affecting it. Some commitments to this effect would be a highly desirable concomitant of ratification, if ratification there is to be. If, alternatively, a SALT agreement were rejected by the Senate, it would arouse considerable concern among sections of West European public opinion. But this is largely because SALT has been widely misrepresented as the source of the detente, which is a useful moderator of many political tensions within Western European states. The most fundamental basis for a sound approach to SALT would therefore be to establish a clearer public understanding that detente arises not from SALT but from the military equilibrium to which SALT is only one and not always the most constructive contribution.●

A RAMP IS A STEP AHEAD

● Mr. MUSKIE. Mr. President, Lisa Flanagan, a junior at Deering High School in Portland, Maine, has won the 16th annual "Ability Counts" contest in Maine sponsored by the Governor's Committee on Employment of the Handicapped. I am sure that most of my colleagues are familiar with this annual contest, which culminates in a national competition sponsored by the President's Committee on Employment of the Handicapped. Awards include a trip to Washington, scheduled this year for May 3 and 4.

Lisa's essay uses ramps as a symbol not only of the removal of physical barriers, but of the barriers of loneliness, the ignorance of others, and the occasional inattention of the government.

She concludes:

> A ramp is a step ahead for the disabled person in his quest for independence and a place in society. This ramp may be legislation, new attitudes, or even an inclined plane making a building accessible. No matter what shape it takes, it is a step ahead.

I know our colleague, the distinguished chairman of the Senate Environment and Public Works Committee, JENNINGS RANDOLPH, has been a leader in this body in assuring better access for the physically handicapped. His accomplishments in this field ought to be a source of special satisfaction for him. They have certainly earned our appreciation and thanks.

Mr. President, I ask unanimous consent that the winning essay by Ms. Lisa Flanagan be reprinted in the RECORD at this point.

The essay follows:

A RAMP IS A STEP AHEAD

(By Lisa Flanagan)

A ramp is truly a step ahead for the handicapped in an effort to achieve independence and full acceptance in today's society. This ramp is oftentimes more than a cement incline or a curb that has been made accessible. A ramp may be in the form of a visiting health care agency, an advocacy group for the handicapped, or a modified public transportation service. All of these "ramps" make life for the handicapped more like that which they are entitled to.

Accessibility is often the key to success for the handicapped individual, and here the ramp plays a vital role. Within Southern Maine, an extremely well organized and influential group for the handicapped has a barriers committee for the expressed purpose of investigating, and hopefully eliminating, physical restrictions of free movement. Considering access, the Barrier Committee of the Southern Maine Association for Handicapped Persons (SMAHP) makes recommendations for modifications to the business involved or, if necessary, introduces litigation. The Maine Coalition for Children with Special Needs and the Human Resources Development Corporation (HRDC) have filed a complaint with the Department of Health, Education, and Welfare (HEW) because Maine schools are not meeting the standards of accessibility. Stephen Barren,[1] HRDC student and child advocacy program coordinator, said that an investigation by the HEW is currently taking place but has yet to yield results. In the Portland school system, a school at each level has been designated accessible. Currently, Riverton Elementary and Lyman Moore Junior High are totally accessible; however, the long awaited elevator at Deering High School has yet to materialize.

The new Rainbow Mall was praised by a SMAHP report for its accessibility and cross section of business operations. In this complex is a store selling the products of the Maine Institution of the Blind exclusively. The American Optician Company in Portland has made the hiring of the handicapped a success. Not all businesses are as aware and receptive as these. A suit was recently brought against the Maine Mall Cinemas of South Portland by an area woman for its failure to be accessible. A ramp was later installed.

Public services have not overlooked those who are disabled physically. The Portland Parks and Recreation Department has allotted time for the use of city swimming pools for the exclusive use of the handicapped. The Cumberland County Civic Center is totally accessible. A shut-in book delivery service is currently operated by the Portland Public Library enabling the handicapped library privileges they are entitled to. Homemakers are available through the Holy Innocents' Homemaker Services to eligible citizens throughout York and Cumberland Counties. The YWCA was made accessible at the request of a disabled person wanting to use the services offered, says Nancy H. Payne, a member of the board. This physical access for the disabled person to schools, business, and services is a step ahead for them as individuals.

Another "ramp" takes the shape of legislation and government. An articulate handicapped student at Deering High School, Lance Gridley,[2] related to me the need for unity and cooperation among bureaus that he has to deal with because of his disability. Bounced between the Social Security Office and the Department of Human Service, he sees a definite void. Lance also sees an acute need for a lobbying group with the handicapped as its special interest. He finds trying to obtain services he is entitled to a discouraging game. A succesful insurance man, and president of the SMAHP, is Herbert S. Merril[3] who, breathing with the aid of an iron lung, spoke of the need for an adjustment or modification of medicare for the handicapped. The problem arises when the rehabilitated handicapped person secures a job. The worker must now have an attendant to escort him to and from work at his own expense. Because he has a job, his social security and medicare have been eliminated, thus it is often economically wiser for him not to work. The Consumer Advocate Referral Center for the SMAHP was recently established in Portland. This office is designed to aid the handicapped and is a coordinating center for the SMAHP. This legislative "ramp" has a great deal of affirmative power; however, it must be modified so that it suits the needs of the handicapped in a better fashion.

Perhaps the most important "ramp" is moving the handicapped out of the closet in the minds of able-bodied people. Mark Harmon,[4] administrative coordinator of the Consumer Advocate Referral Center for the SMAHP, Vice President of the SMAHP, and editor of Coping newsletter, summarized some of the goals and projects of the SMAHP. Besides the study of architectural accessibility, housing, and public transportation, the group will work on public relations and awareness. Coping newsletter, published by SMAHP, is an important link to rural areas of Southern Maine, to all other members of the SMAHP, and a great number of able-bodied people in the area.

Mainstreaming the handicapped child into public schools with able-bodied students is designed to give the disabled child the services he is entitled to in the least restrictive environment possible, said Mr. Barren.[5] Because of the mainstreaming, a new awareness of the handicapped has grown in the students attending school with the disabled child. Growing up with this attitude, able-bodied people will be much more aware of the handicapped needs and be more receptive to them. This ramp of recognition can lead only to more services and from these to an independence of each handicapped person.

A ramp is a step ahead for the disabled person in his quest for independence and a place in society. This ramp may be legislation, new attitudes, or even an inclined plane making a building accessible. No matter what shape it takes, it is a step ahead.●

ISRAELI-EGYPTIAN PEACE PROPOSAL

● Mr. DOLE. Mr. President, yesterday the Israeli Cabinet approved the American sponsored compromise on the final two issues which remained obstacles to a Mideast peace treaty. With the signing of such a document next week, a great opportunity for peace, in a land mostly associated in the past 30 years with war and terrorism, will again be in reach to the peoples of Israel and Egypt. After so many false starts in this long negotiation process, it seems that at last a treaty has resulted; but Mr. President, does this mean peace? Have we reached the basis for an enduring workable agreement? All indications are hopeful and it is the opinion of this Senator that we can look, with cautious optimism, toward a permanent settlement between Egypt and Israel. It might be unwise to make a hasty judgment on the substance of a treaty proposal for which we have very few details yet—we do not want to fall into a repetition of the premature euphoria following the Camp David meetings. However, it is the understanding of this Senator that the right mix of ingredients has finally been found from which a true peace may emerge.

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[1] Barren, *Interview*.

[2] Gridley, *Interview*.

[3] Merrill, *Interview*.

[4] Harmon, *Interview*.

[5] Barren, *Interview*.

The key ingredient has been the willingness of the United States to get strongly involved and fully committed in the settlement process. The world has just witnessed what the power of the Presidency of the United States can accomplish when applied with forcefulness and dedication. President Carter deserves the praise not just of all Americans, but from the peoples of every nation, for the faith and effort he personally pledged for the great cause of peace.

Certainly, the compromises made between two men of genuine good will, Prime Minister Begin of Israel and President Sadat of Egypt, were essential. But events have proved that there can be no settlement without the participation of the United States. For 2 years efforts to bring all parties together in Geneva failed. Only when President Carter put himself on the line, with direct U.S. intervention and promise of support and aid, were the peoples of the Mideast able to feel confident enough to compromise. The Mideast has long been a tinderbox, filled with volatile passions, and it has taken the steadying hand of a strong American presence and involvement to keep the chance for peace alive.

The United States is capable of such action only when it presents the image of a strong and capable nation, confidently and wisely dealing with the crises in world events. The people of the Middle East need to feel they can depend on us. They were severely shaken by the loss of Iran and our failure to take any steps to prevent the Shah's overthrow.

In the past the obstacles to peace have often seemed insurmountable. Our course in the future will not be easy. The present agreement postpones many difficulties that we must be prepared to face in the coming months. The Palestinian question, in particular, has troubled all sides. The Israelis, with good reason, fear the establishment of an autonomous Palestinian state, flanking them on both the East and the West, in the Gaza Strip and on the West Bank. Yet to solve this complex problem in a way that will not leave Sadat out in the cold from his Arab neighbors must be a major concern to us. We have seen in Iran how the loss of one strong man can quickly turn around the entire complexion of a government. If Sadat is ostracized and left increasingly vulnerable, the attempt to hold the peace agreement together will become more difficult than the achievement of a treaty has proved to be.

The United States must continue to show willingness to dedicate itself to peace by projecting a strong commitment, a definite involvement, in the affairs of the Middle East. And the Senator from Kansas believes he is speaking with the view of the entire Congress, when he says that we will support all such efforts to bring this painful process to a successful conclusion. But only by maintaining a strong America will we maintain the credibility to act forcefully abroad. There is no partisan feeling on this vital issue, only a unanimous desire for peace and success.●

IMPACT OF GASOLINE RATIONING ON TOURISM

● Mr. HOLLINGS. Mr. President, recently the South Carolina House of Representatives passed a resolution memorializing the Congress to consider the service impact that gasoline rationing would have on the tourism industry in South Carolina and the country. I think it is important to review the facts presented in this resolution as we consider energy conservation plans and standby gasoline rationing plans. The tourism industry is an important component of the economy and as we all contribute to the demand to conserve energy and ration gasoline, it is important that no one segment of the economy bear an unequal burden.

On behalf of the senior Senator from South Carolina (Mr. Thurmond) and myself, I ask that the following resolution be printed in the Record.

The resolution follows:

Resolution

Whereas, in 1976 travel generated 3.8 million jobs and helped to create indirectly an estimated 2,000,000 more positions; and

Whereas, during that same year domestic and foreign visitors spent over 104,000,000,000.00 in the United States, providing $22,000,000,000.00 in wages and salary income and $13,000,000,000.00 in federal, state and local tax revenues; and

Whereas, over $300,000,000.00 is spent annually by the private sector to promote tourism, with the states contributing $65,000,000.00, and with $17,000,000.00 used directly for advertising; and

Whereas, travel and tourism are among the leading revenue producers in all United States, Puerto Rico, Guam, Virgin Islands, American Samoa and the Northern Mariana Islands; and

Whereas, the federal government estimates its efforts at promoting tourism at approximately $12,000,000.00; and

Whereas, in 1978 South Carolina had a total of 40,500,000 travelers entering the State with expenditures of all travelers totaling $1,747,100,000.00; and

Whereas, tourism is the second largest industry in South Carolina; and

Whereas, the citizens of South Carolina are highly dependent upon tourist related industries; and

Whereas, taxes collected from travelers in South Carolina in 1978 totaled over $100,000,000.00; and

Whereas, to consider closing gasoline stations on weekends as a method of saving energy could have a disastrous impact on tourism inasmuch as casual travelers will simply purchase gasoline on other days but long distance travelers will be deprived of gas, which has the effect of singling out the tourism industry to bear the brunt of conservation efforts.

Now, therefore, be it resolved by the House of Representatives:

That the Congress become cognizant of the vital economic role tourism plays in South Carolina and the entire country.

Be it further resolved that the Congress take notice of the potential severe adverse impact on the economy of South Carolina from weekend closings and rationing, including significant loss of income by government, businesses and individuals.

Be it further resolved that Congress realize that the result of weekend closings would be a financial disaster for hundreds of motels and other tourist-serving business and resort areas as well as a serious loss of employment.

Be it further resolved that the Congress recognize the importance of vacationing on the overall quality of life, family stability and children's growth.

Be it further resolved that the Congress take all possible steps to insure that tourism is not unfairly burdened in the nation's conservation efforts and in doing so consider closing stations on a week day or closing all stations after a certain hour every night inasmuch as this procedure would have the effect of sharing the conservation efforts of our country with all segments of the economy rather than singling out the tourism industry.●

THE DISARRAY IN OUR DEFENSE AND CIVILIAN NUCLEAR POLICIES

● Mr. McCLURE. Mr. President, the distinguished senior Senator from South Carolina (Mr. Thurmond) recently gave an excellent speech on the disarray now occurring in our defense and civilian nuclear policies. As the ranking Republican member of the Senate Armed Services Committee, Senator Thurmond paints a bleak picture of our nuclear defense posture as we approach Senate consideration of a SALT II treaty. On the civilian side, his speech echoes many of the concerns that I have voiced over the past 2 years on this administration's disastrous nuclear policy. In particular, Senator Thurmond calls attention to the impacts of the President's action to defer breeder reactor development and nuclear fuel reprocessing.

I offer for the benefit of my colleague's reading the complete text of Senator Thurmond's speech and request that it be printed in the Record.

The speech follows:

Postponing Progress

President Walske, Mr. Vogtle, ladies and gentlemen: It is a pleasure to have this opportunity to express my views to the membership of this Forum. While I am no expert in nuclear energy, as a Member of Congress, it seems that energy issues, especially nuclear energy questions, are constantly before us in one form or another.

Today I would like to comment briefly in two areas: First, Defense Nuclear Programs, and Second, Civilian Nuclear Energy Programs.

DEFENSE NUCLEAR PROGRAMS

Since coming to the Senate in 1954, I have taken a special interest in national defense matters. I am the senior minority member of the Senate Armed Services Committee. We presently have before us the $3 billion Fiscal Year 1980 Department of Energy National Security Program budget.

While this budget has many facets, I would like to comment today on five aspects of this bill in which I have a special interest or concern. These include the low level of testing, decline in weapons research, the neutron warhead, weapons production and weapon plant modernization.

LOW LEVEL OF TESTING

First, the Administration has requested a significantly lower level of funding in Fiscal Year 1980 for our underground nuclear weapons testing program at the Nevada Test Site.

These reductions are a cause for concern, especially in view of the high level of Soviet testing. This situation has resulted in part from President Carter's refusal to deploy the neutron warhead and the B–1 bomber and his slowdown of the MX missile and cruise missile programs. He has ordered these deferrals despite any evidence of Soviet restraint, and actually in the fact of an unprecedented Soviet buildup of its own strategic nuclear arsenal. The U.S. actions are a form of unilateral disarmament which have shocked and dismayed military and defense minded leaders in Washington.

While the need for future U.S. nuclear testing is obvious, the Administration appears to be implementing its own version of a Comprehensive Test Ban Treaty without any concession from the Soviets.

WEAPONS RESEARCH DECLINING

Second, there is cause for concern relative to the strength of our nuclear weapons research and development capability. Morale is low in our nuclear weapons research laboratories as the Administration lacks a consistent and strong plan in this vital area. These labs have been under manpower constraints for a number of years and are down 25% in manpower over the past decade. In my view, further manpower losses will seriously degrade our capacity in this vital area.

Another concern is the rapid increase of non-defense projects being programmed into the nuclear weapon laboratories. The weapons development mission of these vital facilities is being diluted by a rising percentage of non-defense projects.

Our weapons research program is further troubled by the deteriorating relationship with the University of California, which is the prime contractor for two of the laboratories. The pressure to increase non-defense work in the labs reflects the changing attitude of the University towards nuclear weapons activities.

While there is a commonly held perception that the U.S. has a substantial edge over the Soviets in nuclear weapons technology, this is not the view within the weapons research community itself. These experts are not sure about the quality of all Soviet weapons technology, but enough is known to strongly suggest that the Soviets lead the U.S. in some vital areas. The implications of such a lead on both SALT and a new Comprehensive Test Ban Treaty are obvious and serious.

NEUTRON WARHEAD

Third, President Carter's decision on the so-caller "neutron bomb" is really no decision at all. He has directed that production proceed on the new nuclear version of the LANCE missile warhead and the 8-inch artillery round. However, he has ordered that the components necessary to give these weapons an enhanced radiation capability be placed on the shelf.

Unfortunately, a crucial part of that decision has been overlooked in the press and is hidden somewhat by classification requirements. It boils down to the fact that the enhanced radiation components on the shelf will not be in a state of readiness which would permit quick conversion.

Indeed, if we were to get into a crisis situation requiring rapid deployment, the competition for these critical materials from other weapons systems would probably preclude the enhanced radiation conversion of the neutron-capable warheads.

Thus, we have the worst of both worlds—we do not have the neutron warhead which could significantly improve our now inferior theater nuclear posture in NATO—and yet the Soviets will have to assume that the weapons we deploy are ER capable and react accordingly.

WEAPONS PRODUCTION DOWN

Fourth, our production of nuclear weapons last year fell to an all-time low—something less than 100 weapons. This resulted from the on-again, off-again decision on the neutron warhead, the delays in the MX mobile missile, cruise missiles and Trident, and a general pause as new defense policies failed to take shape.

Fortunately, events should force this production back up in the months ahead to a realistic level commensurate with our defense needs.

It is worthwhile to note at this point that the average age of weapons in our stockpile is now the highest it has ever been. This has resulted from the stretchouts and postponements of new production. If these weapon decisions continue to slip, as has been the case with many of our most important defense programs, the average age of our stockpile weapons will continue to increase dramatically.

WEAPON PLANT MODERNIZATION

Fifth, inadequate attention has been given by the Energy Department and its predecessor agencies to the maintenance of the facilities engaged in nuclear weapons production. Serious deterioration has occurred and estimated costs to correct these deficiencies range up to one billion dollars. For instance, many of the vital production facilities and equipment at Oak Ridge, Richland and Savannah River are 20 to 30 years old. In some cases, only new equipment can resolve these deficiencies. The Savannah River Plant in my own State, is the sole U.S. producer of weapons grade plutonium, tritium, heavy water and other special nuclear materials. The SRP is a first-class operation run by the Dupont Company, but funding cuts made at DOE and the Budget Bureau over the past 3–5 years have brought this Plant to a condition described in a House Committee report as "galloping obsolescence." Due to this situation, Congress last year enacted on my initiative, a statutory requirement for a nationwide review to determine our needs in this vital area.

As an example of this problem, in only the past 3 years, $81 million in requests for capital equipment projects were deferred from the budget at Savannah River alone. General plant projects and maintenance projects were also inadequately funded.

Now, the Administration is faced with the requirement for a substantial modernization program at all these facilities. While some funds are in the FY 1980 budget, the low funding level indicates this program is not being given proper priority.

NUCLEAR CARRIER VETO

This peculiar attitude toward nuclear systems is also reflected in other defense areas. The President vetoed the nuclear aircraft carrier last year in part because it was a nuclear vessel. In the current budget the building rate for nuclear attack submarines has been reduced to a level which could close one of our two producing shipyards and bring our force levels down to a dangerous point.

I could give an entire speech on the operational benefits of a nuclear carrier. While the nuclear carrier acquisition cost may be slightly higher than that for an oil-fired ship, this vessel can operate for 13 years without refueling. As Admiral Rickover says, "think of what it would be like to have an automobile that would run for 13 years without going to the gas station."

Furthermore, consider the value of a nuclear carrier today in the context of the fall of Iran. This same Administration now desires a presence in the Indian Ocean and the Persian Gulf, two areas at the end of our supply lines. It is in just such circumstances that nuclear ships and escorts are essential. Fortunately, we have a fueling station on Diego Garcia in the Indian Ocean to help with this deployment.

These are but a few of my concerns relative to current Administration policy towards nuclear weapons. Such policies are greatly damaging our military posture and must be reversed. I intend to work vigorously for a defense structure which will assure our safety without qualification.

CIVILIAN NUCLEAR ENERGY

Your leaders, when asking me to speak on this occasion, requested that I expound my views regarding civilian nuclear energy programs. These areas, largely due to current Administration policy, are as badly misdirected as some defense programs.

In this regard, I would like to comment briefly on the nuclear fuel cycle, reprocessing, utilization of recovered plutonium and radioactive waste disposal.

As progress towards a sound national defense posture has been postponed, I feel that this same policy of postponing progress is found in the current Administration's policies towards nuclear energy.

NUCLEAR FUEL CYCLE

A major disruption of the nuclear fuel cycle has taken place in my own state with the postponement of operation at Allied General's Barnwell reprocessing plant. This, of course, resulted from President Carter's nonproliferation policy. The nuclear fuel cycle has been further disrupted by the declining production of enriched uranium, failure to support the Clinch River Breeder Reactor and the lack of an aggressive program to deal with nuclear wastes.

Senator Henry Jackson, Chairman of the Senate Energy Committee, recently summed up the results of these policies when in discussing nuclear energy he said, "A pall has settled over an industry which just three or four years ago was robust and optimistic."

As you know, these disruptions in the nuclear fuel cycle had their genesis in the April 1977 nonproliferation policy embraced by President Carter. Now, after nearly two years, it is my view this policy has not been successful from many standpoints.

Of great significance is the fact that the basis for the nonproliferation policy has been rejected by the relevant Congressional Committees, the General Accounting Office, the National Academy of Sciences and other reviewers. Further, it appears likely this policy was manipulated by arms control advocates with little consideration given to critical energy ramifications.

On the international front, this policy has also found few friends. Most of the Western industrialized nations are moving ahead directly with their pre-1977 plans for commitments to increased nuclear power development, reprocessing, the breeder reactor, and nuclear waste disposal, despite almost two years of discussion with the Administration.

In the 1978 Bonn Economic Summit communique and now in the final stages of the International Nuclear Fuel Cycle Evaluation initiated by the President, the Administration has been forced to acknowledge the abject rejection by Japan and the European nations of the April, 1977 policy initiative.

Most ironically, in fact, we now understand that, despite the Administration's policy, this country will be providing the plutonium required for the breeder reactor and advanced research and development programs of several of the European nations and Japan. Clearly, then, the 1977 nonproliferation policy was not only unsuccessful, but it appears to have been an embarrassing and ill-advised failure for United States nuclear policy, foreign policy and domestic energy policy.

Besides playing havoc with our own nuclear energy process, it has not deterred other nations from plans to reprocess and develop their own breeder reactors. As Sen. James McClure, ranking Minority Member of the Senate Energy Research and Development Subcommittee recently stated, "The United States can ill afford to become a nuclear power isolationist in a rapidly progressing world."

NUCLEAR FUEL REPROCESSING

Actually, as this group knows well, there is some risk with nuclear reprocessing, particularly in developing nations. The real issue is how great is that risk and what weight should it be given against likely benefits of going forward.

On this subject, I was impressed with an article by Carolyn Heising, presently a postdoctoral researcher at the Massachusetts

Institute of Technology. In December 1978 she published an article in the Electric Power Research Institute Journal entitled, "The Reprocessing Decision."

After comparing nine available routes to weapons material, she found the commercial reprocessor route comparatively unattractive to a non-weapons state. Her conclusion was, "by closing the nuclear fuel cycle, the United States would incur, at most, only 3% greater chance of proliferation than if it decides to prohibit or delay reprocessing."

The issue of what is to be gained by going forward with reprocessing may be amply illustrated by the fact that the Barnwell plant could handle the spent fuel discharged from 50 reactors per year and therefore, could provide the equivalent of about 300 million barrels of oil per year in fresh nuclear fuel. Through the year 2000 this one plant could save $40 billion on our balance of payments by reducing oil imports to the U.S.

BREEDER REACTOR SLOWDOWN

Besides this issue, the Administration's opposition to the Clinch River Breeder Reactor has been most disruptive. Just as reprocessing, the breeder reactor offers hope of immense benefits in meeting our energy problems.

As a member of Congress with a special orientation towards defense, I see our current dependence on foreign oil as not only a great threat to our economic system, but one which could lead us into a military confrontation of far-reaching consequences. The more we can reduce our dependence on foreign oil, the better off we will be.

USING RECOVERED PLUTONIUM

I also believe that plutonium should be used to fuel nuclear reactors. People forget that at the SRP near my hometown, the government has been operating three defense reprocessing plants for about 25 years. My father-in-law, Paul R. Moore, has been associated with this operation since its inception. Therefore, I know his views and those of other scientists connected with this plant.

While the output of these plants has been tailored to weapons needs, our people know how to handle weapons grade materials like plutonium and how to safeguard it.

Just recently a new process has been developed by Allied General to make the theft of plutonium less attractive to potential diverters. This process offers the hope of raising the plutonium-238 content of spent fuel to a level that makes weapons fabrication nearly impossible.

RADIOACTIVE WASTE DISPOSAL

On my final point, nuclear waste disposal, I think I can say to you without fear of contradiction that Congress is probably more disturbed and uneasy over waste management than any other nuclear issue.

Not only has there been a number of congressional hearings on this subject, but several Senators have introduced their own bills. Just over two weeks ago the Administration submitted its initial recommendations which are embodied in the Spent Fuel Act of 1979.

In my own state we already have great amounts of nuclear waste from defense operations. As serious as the civilian waste situation might be, I favor highest priority being given to a defense program to solidify these wastes and move them to an acceptable permanent storage site.

Of nearly equal concern to me is the accumulation of spent fuel rods at commercial plants. If this problem is not dealt with promptly, we may see reactor shutdowns, thus diminishing our power supplies.

Two other issues on this subject concern me: First, the individual state must be given a voice from the beginning in any decision to store nuclear wastes within its borders. Each region also should accept responsibility for its own wastes. Second, I am concerned about what I perceive to be a push to give the civilian oriented Nuclear Regulatory Commission licensing authority over defense nuclear operations.

Many of these problems could be eased by a more realistic Administration policy. The reprocessing delay has been a key element in complicating our waste storage problems and has also discouraged the planning for new nuclear plants.

SENATOR SCHMITT COMMENTS

Senator Harrison Schmitt of New Mexico, a former astronaut, who has studied this subject in depth, recently stated: "A decision against reprocessing would mean there would be ten times more nuclear material as spent fuel rods that must be transported, stored and protected."

Ladies and gentlemen, this country desperately needs leadership which will reaffirm its national commitment to fully use nuclear energy. We must exploit this power resource, which along with coal, will be necessary in increased amounts to get us to the year 2000. While I support aggressive and large-scale research in solar and other energy areas, I believe only coal and nuclear energy are available to us in sufficient supply to meet our short-term requirements.

PROGRESS IN HIATUS

Progress in nuclear power research is in a hiatus and even private utilities feel they now need a clear signal from the Administration before they can be expected to commit to more nuclear power plants beyond those currently planned.

The lead time to build nuclear plants must be reduced, reliability of fuel supply increased, design standardization encouraged, the review required by intervenors compressed, waste programs initiated and all areas of research vigorously pursued.

CONGRESS MORE FLEXIBLE

Congress and the Nation are confused by the Carter Administration's nuclear policy. Congress has shown it is not willing to cast aside promising technologies such as reprocessing and the breeder.

The President should reevaluate this situation and reopen the options to reprocess and develop the breeder pending international recommendations, evaluation of proliferation-resistant fuel cycles and improvements in safeguards.

POLICY SHIFT SEEN

Therefore, I would call upon the President, at the very least, to give visible support soon to light water reactors as a reasonable option to meet our energy needs. Signals from various sources in the Administration indicate to me such a step is under active consideration.

In my view, current policies are postponing progress in assuring our national security needs as well as slowing nuclear progress in the private sector. Until the Administration takes a more flexible stance, Congress and the President will continue on a confrontation mode.

RICKOVER'S STATEMENT

Admiral Hyman Rickover, the father of nuclear energy in the Navy, succinctly stated the importance of energy resources as far back as 1957, when he made the following comment in a speech:

"High energy consumption has always been a prerequisite of political power. The tendency is for political power to be concentrated in an ever smaller number of countries. Ultimately, the nation which controls the largest energy resources will become dominant. If we give thought to the problem of energy resources, if we act wisely and in time to conserve what we have and prepare well for necessary future changes, we shall insure this dominant position for our own country."

Thank you very much.●

YOUNG AND OLD TOGETHER

● Mr. CRANSTON. Mr. President, an interesting article, entitled "The Young and the Old Together: A Joyful Bond", by Mark Hucklebridge, appeared in the July/August 1978 issue of Perspective, a publication of the National Council on Aging. The article described the activities of the Elvirita Lewis Foundation's Intergenerational Child Care Center in Santa Cruz, Calif.

This center was originally created in 1976 in order to demonstrate that elderly individuals can play valuable and constructive roles in meeting community needs. The article reveals that the center has demonstrated that and much more.

Mr. President, I have long been interested in programs designed to assist elderly individuals in contributing to meeting societal needs—programs such as the Foster Grandparent, RSVP, and Senior Compansion programs in the ACTION Agency and the Community Service Employment program under the Older Americans Act. In addition, in my role as chairman of the Subcommittee on Child and Human Development of the Committee on Human Resources, I have been very involved with programs providing services to children. Thus, I am greatly encouraged when I read of programs such as this one—a program providing rewarding experiences for participants, young and old alike.

Mr. President, the Intergenerational Child Care Center is an example of a particularly fine activity. It offers a program that meets an important need of children and parents, while providing fulfilling experiences for elderly individuals.

Mr. President, I ask that the article be printed in the RECORD.

The article follows:

YOUNG AND OLD TOGETHER: A JOYFUL BOND

(By Mark Hucklebridge)

It's morning, and the day has begun at the Elvirita Lewis Foundation's Intergenerational Child Care Center in Santa Cruz, California.

Outdoors, an elderly lady and small child enjoy the vibrant fuchsias and African daisies in the garden. Inside, a cluster of children surround a gentleman in a wheelchair, reading [aloud] "The Little Engine That Could." Three- to five-year-olds are playing finger games, painting, listening to records and building with blocks—all under the encouraging supervision of elder teacher aides.

"The segregation of the elderly [from children] is one of the most unnatural things in our society," declared Dr. Wilson Riles, California Superintendent of Public Instruction, at the center's dedication in June 1977. "We need to experience each other." With this philosophy in mind, the Intergenerational Child Care Center gives 40 children and 30 older persons a special experience, as well as providing part-time jobs for the elderly participants.

Director/teacher Sallie Johnson has supervised the center since it opened in November 1976—with three elders and six children in an unused elementary school building. Now in a new facility designed for the needs of all ages, the center was created by the Elvirita Lewis Foundation for Geriatric Health and Nutrition to demonstrate that elders in constructive roles can help provide a needed community service.

HAS MANY EXPERIENCES TO RELATE

Sallie enjoys talking about the interaction of children with the elder aides and the meaning the center has for their lives. Mary Gessner 60, who described herself as a "grandmother on her job application, has found the work so satisfying that she applied for a second part-time position at another preschool, because she wanted to spend both mornings and afternoons with youngsters.

"My life is filled with children," said Mary, who has also made close friends her own age while working at the center. Sallie explains, "The children really like Mary, and there are some who confide only in her when events at home are troubling them."

A couple in their late sixties, Al and Mary Dolbec, who were new to the area, accepted a joint assignment at the center. They have made new friends, learned about about new activities from their fellow aides and enjoy teaching young children—something they would otherwise miss with their own grandchildren so far away.

Sallie describes Helen Anderson, 67, as a "teacher's teacher." During a lifelong career in education, Mrs. Anderson spent her winters in the classroom and led Sierra pack trips during the summer months. During her off hours, he baby-sat, prepared meals for homebound elders and tutored. Somewhat bewildered by the unconventional manner and dress of a few of the children's parents. Helen began reading current books, such as Tom Wolfe's "Electric Kool Aid Acid Test " to learn more about a generation she had taught as children but did not know as adults.

CHILD INTRIGUED BY WHEELCHAIR

When elders arrive for their workday at the Intergenerational Child Care Center, a child usually rushes to the door to give hugs and greetings. When Charlie Coffin, an elder who uses a wheelchair, came to the center and started talking with the children, four-year-old Nathan, who is highly active and sometimes destructive, stood spellbound as Charlies explained why he couldn't walk.

As he listened to Charlie, Nathan began stroking Charlie's legs, apparently hoping to bring some life to them. An often difficult child was experiencing a sensitivity to another person's world. Afterwards, he "took care" of the wheelchair during the months Charlie worked at the center.

Most of the elder aides began as volunteers or as substitutes to see if they liked the busy atmosphere children always create before they made a commitment to be permanent aides. Most now consider their time at the center to be both a job and a leisure activity.

Discipline problems are shared at staff meetings, so that the aides can voice their concerns about individual problems. One older man was disturbed about a child who kept removing his pants. When the aides discussed it, other aides suggested a way to handle it was to say, "Jason, pull up your pants." The man learned from his peers new ways of relating to children and new ways of dealing with inappropriate behavior.

ENJOY HAPPY, VARIED PROGRAMS

Every effort is made to ensure that each person at the center is treated as an individual. Children's differences, and the differences among the older staff members, are discussed and used in teaching; the children are encouraged to interact with their elders. It's a happy place for learning, and the varied experiences of everyone involved help make the rich atmosphere for growth that a mingling of years can produce.

A hot lunch is served each day. The menu for the meal at the center is prepared for the specific nutritional needs of both youngsters and older persons. Places are set for everyone to sit down to eat together. "This has helped considerably in training the children's manners," said elder aide Josephine Repass, 72. "Many of the children have learned to sit still at the table and wait for their food, though there are still some Tartars who may never learn." At mealtimes, the children also gradually learn to use proper "school language," and the presence of the elders confirms the appropriateness of considerate and helpful behavior.

Abby Goss, former projects director and now assistant executive director of the Elvirita Lewis Foundation, developed the staff training and orientation procedures to include concepts of intergenerational education. Workshops coordinated by Goss, director/teacher Sallie Johnson and Debby Everett, another teacher, have helped the aides recognize their strengths and needs in working with the children.

"The cross section of our aides' experience is amazing," said Goss. "We have a former beautician who always wanted to be a teacher and a retired accountant who missed raising his own children." There is no licensing requirement for aides in California, though a credentialed teacher is on duty at all times at the center.

ELDERS ARE SUBSTITUTE GRANDPARENTS

"Drawing on decades of experience has resulted in the sharing of time-forgotten songs, games and stories," said Goss. "Many of the children rarely see their own grandparents but have adopted ones they see each day at the center. In turn, the children play an important part in the vitality of the lives of the elder aides."

Not every retired person wants to work with children, but for those who do the Intergenerational Child Care Center is a welcome environment. Most of the paid aides at the center are over 50. The benefits policy established by the foundation gives part-time aides accrued health and vacation leave benefits for whatever hours they work.

"Older part-time employees are the backbone of not only the Intergenerational Child Care Center but of all the Elvirita Lewis Foundation programs," noted executive director Steven W. Brummel. "We hope that employers in this country will wake up to the fact that older workers are valuable workers. Sometimes they move more slowly, but we've found they make few errors and their judgment is sound."

The Intergenerational Child Care Center also serves the senior community as a focus for activities of several local senior organizations. Members of the Senior Crafts Co-op and Retired Senior Volunteer Program sewed many of the quilts used for nap time. Residents of a convalescent hospital have come to visit with the children. Even the frail elderly enjoy children for brief periods of time; members of The Ole House and Sunrise Senior Centers have often spent time at the center as volunteer aides.

CENTER AIDED BY OTHERS

A unique partnership of support systems exists at the child care center. While the Elvirita Lewis Foundation developed the concept and established the center, additional funding has come from a California Department of Education grant for innovative child care programs. In-kind assistance and the land on which the center stands were provided by Santa Cruz city schools. The combined efforts of public and private entities may serve as a model for future integrated funding efforts.

A college of photographs depicting the early childhood and adolescence of the elder aides was recently placed on the center's bulletin board. A little girl looked long and hard at a picture of the woman who is her teacher and friend, there is a baby carriage. One could almost see her mind working to understand that everyone was once a child and that someday she would be an older person, too.

When the child's parents arrived to take her home, the little girl told them, "Except for the wrinkles, I want to get old." These words are a far cry from those of the legendary Peter Pan, who vowed he'd never grow up.●

REPEAT OFFENDERS PROSECUTION ACT

● Mr. MATHIAS. Mr. President, yesterday, I introduced S. 565, the Repeat Offenders Prosecution Act.

I ask that the text of the bill be printed in the Record.

The text of S. 565 follows:

S. 565

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Repeat Offenders Prosecution Act".

STATEMENT OF FINDINGS AND DECLARATION OF PURPOSE

Sec. 2. (a) The Congress finds that—

(1) criminal recidivists account for a significant proportion of the individuals arrested for serious crime in the United States;

(2) large numbers of criminal recidivists escape identification as criminal repeaters and use their familiarity with the criminal justice system to avoid prosecution and punishment;

(3) increasing the number and speed of convictions of career criminals would have a significant impact on the level and frequency of serious crime in the United States; and

(4) increasing the research efforts relating to the amount of crime committed by criminal recidivists is of prime importance to adequate planning for the criminal justice system.

(b) The Congress declares that it is the policy of the United States to assist units of general local government having populations of at least two hundred and fifty thousand individuals by way of grants and technical assistance to improve the capacity of such units of general local government to deal with career criminal offenders.

DEFINITIONS

Sec. 3. As used in this Act—

(1) "Administrator" means the Administrator of the Law Enforcement Assistance Administration;

(2) "Director" means the Director of the Office of Repeat Offenders Prosecution Projects;

(3) "Office" means the Office of Repeat Offenders Prosecution Projects established within the Law Enforcement Assistance Administration; and

(4) "eligible units of general local government" means any such units of general local government defined in section 601 of the Omnibus Crime Control and Safe Streets Act of 1968 having a population of two hundred and fifty thousand or more individuals on the basis of the most satisfactory current data available to the Administrator.

FINANCIAL ASSISTANCE AUTHORIZED

Sec. 4. The Administrator is authorized to make grants to eligible units of general local government and to provide technical assistance to such units of general local government to assist such units in establishing and operating programs designed to identify and expedite the prosecution and conviction of career criminal offeners.

APPLICATION

Sec. 5. (a) A grant may be made under this Act only pursuant to an application submitted to the Administrator at such time, in such manner, and containing or accompanied by such information as the Administrator deems reasonably necessary. Each such application shall—

(1) designate or establish a local agency or office to implement and administer the repeat offender prosecution program for which assistance is sought;

(2) set forth the rate of crime in the area served by the eligible unit of local government including the number of repeat of-

fenders and a detailed description of the existing components of the criminal justice system of the eligible unit of general local government, including but not limited to, police agencies, prosecutors, courts, correctional agencies and public defenders, and how each of the components so described will be utilized, altered, or reformed to implement the repeat offender prosecution program for which assistance is sought under this Act;

(3) contain satisfactory assurances of the actual and continuing cooperation of all the components of the criminal justice system of the eligible unit of general local government in such a repeat offender prosecution program;

(4) set forth criteria to be used in the selection of career criminal offenders to be prosecuted under such repeat offender prosecution programs;

(5) provide for the collection of information necessary to identify career recidivists to classify such career recidivists, as career criminal offenders, and to follow the cases of such criminal offenders through the criminal justice system of such eligible unit of provision of section 524(b) of the Omnibus Crime Control and Safe Streets Act of 1968;

(6) provide for the collection and submission of such information as the Director may reasonably require;

(7) provide for procedures to protect the rights and privacy of accused individuals and to assure that the information collected regarding such individuals will be used only for law enforcement and criminal justice purposes in accordance with the provisions of section 524(b) of the Omnibus Crime Control and Safe Streets Act of 1968;

(8) set forth a description of the anticipated impact of the repeat offender prosecution program assisted under this Act on detention facilities and a description of actions to be taken by the eligible unit of general local government to address the problems raised by such anticipated impact;

(9) provide an itemized estimated cost for the implementation and operation of the repeat offender prosecution program for which assistance is sought under this Act;

(10) provide for continuing coordination between the repeat offender prosecution program assisted under this Act and related law enforcement activities assisted under title I of the Omnibus Crime Control and Safe Streets Act of 1968;

(11) set forth policies and procedures which assure that Federal funds made available under this Act for any fiscal year will be so used to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the eligible unit of general local government for the purposes described in the application, and in no case supplant such funds; and

(12) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for Federal funds paid to the eligible unit of general local government under this Act.

(b) An application by an eligible unit of general local government for financial assistance under this Act may be approved by the Administrator only if it meets the requirements set forth in subsection (a) of this section.

(c) Amendments of applications shall, except as the Administrator may otherwise provide, be subject to the approval in the same manner as original applications.

TECHNICAL ASSISTANCE

SEC. 6. The Administrator is authorized to undertake such activities as he determines are necessary to provide either directly or by way of grants, contracts, or other arrangements, technical assistance to eligible units of general local government in planning, developing, and administering repeat offender prosecution programs for which assistance is provided under this Act.

LIMITATIONS ON PAYMENTS

SEC. 7. (a) No payment may be made under this Act to any single eligible unit of general local government in any fiscal year in an amount less than $100,000.

(b) No payment for any fiscal year under this Act to the eligible units of general local government in a single State shall exceed 12½ per centum of the aggregate payments to all eligible units of general local government in that year under this Act.

PAYMENTS

SEC. 8. (a) The Administrator shall pay in any fiscal year to each eligible unit of general local government which has an application approved pursuant to this Act for that fiscal year the amount necessary to carry out such application as determined by him.

(b) Payments under this section may be made in installments in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

(c) The Administrator shall give due consideration to providing financial assistance for the continued funding of programs of demonstrated effectiveness which otherwise meet the requirements of this Act.

CONSULTATION

SEC. 9. In carrying out the provisions of this Act, the Administrator shall consult with the Attorney General and the heads of such other Federal agencies as he determines will assist in carrying out the provisions of this Act.

OFFICE OF REPEAT OFFENDERS PROSECUTION PROJECTS ESTABLISHED

SEC. 10. (a) There is established within the Law Enforcement Administration of the Department of Justice, the Office of Repeat Offenders Prosecution Projects.

(b) The programs authorized by this Act, unless otherwise specifically provided in this Act, shall be administered by the Office established under this section.

(c)(1) The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate. Under the general supervision and direction of the Administrator, the Director shall exercise all of the functions of the Office under this Act.

(2) There shall be in the Office a Deputy Director who shall be appointed by the Administrator. The Deputy Director shall perform such functions as the Director may prescribe and shall be Acting Director during the absence or disability of the Director or in the event of a vacancy in the office of the Director.

FUNCTIONS OF THE OFFICE

SEC. 11. In order to carry out the purposes of this Act, the Administrator shall—

(1) make grants to eligible units of general local government for special prosecution programs for career criminal offenders in accordance with this Act;

(2) provide technical assistance to eligible units of general local government in the planning, establishment, and operation of such programs;

(3) provide for the widest practicable and appropriate dissemination of information including an analysis and evaluation of the performance and results obtained from the operation of repeat offender prosecution programs for career criminal offenders assisted under this Act; and

(4) prepare and submit a report to the President for transmittal to the Congress at least once each year on the activities of the Office and programs assisted by the Office, together with such recommendations, including recommendations for legislation, as the Administrator deems appropriate.

ADMINISTRATIVE PROVISIONS

SEC. 12. (a) The Administrator is authorized, in carrying out his functions under this Act, to—

(1) appoint and fix the compensation of such personnel as he deems necessary;

(2) employ experts and consultants in accordance with section 3109 of title 5, United States Code;

(3) appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as he deems desirable to advise him with respect to his functions under this Act;

(4) promulgate such rules, regulations, and procedures as may be necessary to carry out his functions, including the establishment of priorities to be applied in the approval of applications under this Act;

(5) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities, with or without reimbursement therefor;

(6) without regard to section 529 of title 31, United States Code, to enter into and perform such contracts, leases, cooperative agreements, and other transactions as may be necessary to carry out his functions under this Act with any public agency, with any person, firm, association, corporation, or educational institution, and make grants to any public agency or private nonprofit organization;

(7) accept voluntary and uncompensated services, notwithstanding the provisions of section 665(b) of title 31, United States Code;

(8) request such information, data, and reports from any Federal agency as the Administrator may from time to time require and as may be produced consistent with other provisions of law; and

(9) arrange with the heads of other Federal agencies for the performance of any of his functions under this Act with or without reimbursement, and with the approval of the Attorney General, delegate and authorize the redelegation of any of his functions under this Act.

(b) Upon request made by the Administrator each Federal Agency is authorized and directed to make its services, equipment, personnel, facilities, and information (including suggestions, estimates and statistics) available to the greatest practical extent to the office in the performance of its functions.

(c) Each member of the committee appointed pursuant to paragraph (3) of subsection (a) of this section shall receive $120 a day including traveltime, for each day he is engaged in the actual performance of his duties as a member of the committee. Each such member shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties.

COMPENSATION OF THE DIRECTOR

SEC. 13. Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(152) Director, Office of Repeat Offenders Prosecution Projects, Law Enforcement Assistance Administration.".

WITHHOLDING OF GRANTS

SEC. 14. Whenever the Administrator, after reasonable notice and opportunity for a hearing to any eligible unit of general local governments, finds—

(1) that there has been a failure to comply substantially with any requirement set for in the application of an eligible unit of general local government approved under section 5; or

(2) that in the operation of any program or project assisted under this Act there is a failure to comply substantially with any applicable provision of this Act; the Administrator shall notify such eligible unit of general local government of his findings and that no further payments may be made to such local government under this Act until

he is satisfied that there is no longer any such failure to comply, or the noncompliance will be promptly corrected. The Administrator may authorize the continuance of payments with respect to any program or project assisted under this Act which is being carried out pursuant to such application and which is not involved in the noncompliance.

REVIEW AND AUDIT

SEC. 15. The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination, to any books, documents, papers, and records of a grant made under this Act that are pertinent to the grant received.

SAVINGS PROVISION

SEC. 16. Nothing contained in this Act shall be construed to prevent or impair the enforcement of any other provision of Federal law.

AUTHORIZATION OF APPROPRIATIONS

SEC. 17. There are authorized to be appropriated $40,000,000 for the fiscal year 1979, $35,000,000 for the fiscal year 1980, and $30,000,000 for the fiscal year 1981 to carry out the provisions of this Act.●

IMPACT OF RISING ENERGY PRICES ON NEW ENGLAND

● Mr. KENNEDY. Mr. President, we are all aware of the rise in energy prices recently. A relatively small shortfall in world oil production has led to a substantial hike in energy prices, especially for home heating oil and gasoline. While the price of energy nationwide has risen at an annual rate of 10 percent during the 1970's, in the last 5 months alone home heating oil prices in Massachusetts shot up 20 percent.

When you look at the impact of these prices on low-income consumers the true story of inflation reveals itself most brutally. A new report done by the Energy Systems Research Group of Boston documents this as well as it has ever been done, and I suggest that "Analyzing Impacts of Energy Costs on Residents of New England" is an important document to bring to the attention of the Senate.

While the typical New England household will spend one-tenth of its income on energy, a low-income household spends 27 percent; and if prices go up 20 percent fully one-third of a poor family's income will be devoted to energy costs. The report points out a basic fact too often overlooked: "Even though the amounts of energy purchased tend to decrease with income, the relative burden placed on family resources by energy bills increase as household income falls." The report's statistics reveal this only too well. For instance, the low-income household spends three times as much as the typical income household on the percentage of income devoted to energy, and five times as much on electricity alone.

Mr. President, without objection I ask that excerpts from this timely and important document be printed in the RECORD.

The statement follows:

ANALYZING IMPACTS OF ENERGY COSTS ON RESIDENTS OF NEW ENGLAND

SUMMARY

The purpose of this study is to investigate the impact of energy costs on New England residents and to analyze methods of estimating the effects of increased energy prices on New Englanders. The study compares the energy cost burden of low-income residents with that of average-income residents.

This study is designed to supplement already available basic information on patterns of residential energy consumption, such as found in the book The American Energy Consumer and the recent report to the New England Regional Energy Project, "The New England Energy Consumer", by Eunice S. and George Grier.

While this study does provide estimates of energy costs and price increase impacts, its larger purpose is to report on the adequacy of existing data gathering, analysis and reporting techniques for providing useful information about the costs of energy to New England residents at different income levels. This assessment has implications for national Department of Energy analysis activity.

FINDINGS

Energy costs vary by region and income class. Energy costs are higher in New England than they are in the nation as a whole. Energy costs are regressive; they fall proportionally more heavily on low-income households than upon typical-income households.

We investigated the direct costs of energy forms to New England households at "typical" and "low" income levels under present (1977) circumstances and under hypothetical price increases of ten, twenty-five and fifty percent. Our findings are summarized in the following table.

DIRECT ENERGY COSTS TO NEW ENGLAND HOUSEHOLDS AT TYPICAL AND LOW INCOME LEVELS, UNDER ALTERNATIVE PRICE CONDITIONS

	Annual costs (in dollars)		Costs as percentage of average household income	
	Low income household (mean income $3,318)	Typical income household (mean income $16,582)	Low income household	Typical income household
Costs at current prices	912	1,594	27.5	9.6
Costs with 10-percent price increase	1,003	1,725	30.2	10.4
Costs with 25-percent price increase	1,140	1,913	34.5	11.5
Costs with 50-percent price increase	1,368	2,200	41.2	13.3

The regressivity of direct energy costs is clearly shown in the table. Indirect costs—those "passed through" to consumers when energy costs add to business costs—are also regressive in effect. This much is corroborated by the few relevant studies available. Given the evidently serious distributional impact of energy price increases, accurate information about household energy consumption patterns is critical in developing equitable energy policies.

However, information on energy usage and cost is scattered, incomplete, poorly organized and reported, and internally inconsistent.

INTRODUCTION

The equity implications of energy price changes are serious. The burden of energy costs varies by region and by income level. Households at low income levels spend a larger proportion of their income on energy purchases than do other households. Research on energy prices pays insufficient attention to this problem.

This report is addressed to the problem of determining present and their costs of energy to residents at different income levels. In order to adequately analyze the direct costs of energy to residents, analysts must model household energy consumption on an end-use basis. Income, housing mix, weather data, and other variables must be linked to the patterns of ownership and use of specific energy consuming devices ("end-uses").

It is important for analysts to consider the indirect as well as direct costs of energy. Direct costs refer to consumer purchases of electricity, heating fuel, gasoline, or other energy forms. Indirect costs refer to business and other institutional energy costs which are included in the final retail price of goods and services. Energy prices paid by manufacturers, wholesalers, and retailers are obviously reflected in consumer prices. But calculating such indirect effects is much more difficult than analyzing direct costs.

This report develops preliminary estimates of price increase impacts by income level. The analysis underlines the fact that development of a good methodology and data base for estimating present direct and indirect energy costs is the basis for accurate projection of the consequences of future price increases.

II. DIRECT COSTS

To begin the analysis of direct costs, we select an income range representing a "typical" income household, and another representing a "low" income household. From among the income classes considered in the Mathematica study, we selected the $10,000-$14,999 class as our Typical class for further analysis, and a $0–$5,000 class as our Low income class. These classes were originally given in 1974 dollars. Allowing for changes in purchasing power, as measured by the Consumer Price Index for the Northeast, Typical corresponds to a range of $10,800-$16,205 in 1975. This is very close to the range of median family income for 1975, $11,839-$15,244, shown in the Griers' *Report*. Scaling to 1977, Typical becomes $12,050–$18,075. Both 1977 median family income ($17,302) and the 1977 median household income ($14,611) for the Northeast are within this range.

The under $5,000 class, in 1974 dollars, corresponds to below $6,025 in 1977. This is consistent with the official poverty level for a family of four ($6,169 in 1977) and is far below the Bureau of Labor Statistics' lower level budget for a family of four, which is $10,481 (14,15). Thus, from among the classes considered in the Mathematica analysis, these are best suited for the analysis of Typical and Low income household expenditures.

TABLE 7.—PRELIMINARY ESTIMATES OF NEW ENGLAND HOUSEHOLD FUEL CONSUMPTION AND EXPENDITURES, 1977 [1]

Household	Oil	Natural gas	Electricity	Bottled gas	Coal	Gasoline	Total	
							Home	All
Class 1:								
Spent	$551	$408	$333	$303	$252	$681	$962	$1,594
Percent using fuel	73.4	45.7	100	12.6	0.3	91.9	100	100
Class 2:								
Spent	$516	$282	$183	$282	$294	$430	$734	$912
Percent using fuel	70.3	52	99.9	13.6	0.6	40.7	100	100

[1] The figures in table 7 are based on data furnished by Mathematica Policy Research, Inc. Table 7 gives 1977 costs in 1978 dollars.

Table 7 presents Mathematica's preliminary data for the classes we selected for analysis. It estimates $1,594 to be the average annual direct cost of energy to a Typical New England household, and $912 to be the cost to a Low income household. These estimates will be used as the base against which we develop indirect cost impacts later in this report.

It is interesting to compare the Mathematica Typical expenditures shown in Table 7 with those that can be developed for the average NE household using the BNL data. The BNL data exclude gasoline, so the comparison is valid for home fuels only. We begin with information developed from the fuel mix tables in the BNL study. Since that study presented results only for 1972 and 1985, we used linear interpolation to develop Tables 8 and 9.

TABLE 8.—RESIDENTIAL FUEL MIX, 1977

End use	Fuel			
	Natural gas 10^6 Btu (MCF)	Oil 10^6 Btu (gallons)	Electricity 10^6 Btu (KWH)	Bottled gas (gallons)
Base			23.05 (6,755.6)	
Cooking	8.8 (8,696)		3.7 (1084.4)	8.8 (102.7)
Domestic hot water	39.8 (39.3)	36 (263.2)	22.7 (6653.0)	
Space heat	156.2 (154.3)	187.5 (1370.6)	75 (21,981.2)	

TABLE 9.—RESIDENTIAL FUEL USE, 1977

End use	Fuel			
	Natural gas	Oil	Electricity	Bottled gas
Base	0	0	1.0	0
Cooking	.37	0	.58	.05
Domestic hot water	.3	.46	.24	0
Space heat	.22	.7	.08	0

Tables 8 and 9 provide a basis for calculating Typical energy costs. Table 8 shows what fraction of a given end use is satisfied by a given fuel. For example, 37 percent of New Englanders cook with gas. Table 9 shows what amount of energy is consumed, by fuel and end use. Thus, those cooking with gas use 8,000 cubic feet of gas for that purpose per year. In order to translate the information in Table 9 into fuel *costs*, we had to establish unit cost. For electricity and natural gas, this required the use of rate structures.

It was decided to use Boston Edison Co. electric rates and Boston Gas Co. gas rates. Comparison with *Typical Electric Bills* data showed Boston Edison prices to be a bit higher than the regional average, but not far out of line. Gas rates for all New England companies were collected, and the Boston gas rates were found to be within the range encountered. Bottled gas prices were obtained from Country Gas in Danvers, Massachusetts. Checking with other firms showed their prices to be average for the region. Oil prices were obtained from the EIA and gasoline prices from the Bureau of Labor Statistics. The gas and electric rate structures that we used are shown in Appendix B to this report. The remaining fuel prices are as follows:

	Per gal.
Bottled Gas	$.93
Heating Oil	.48
Gasoline (unleaded regular)	.672

Note that the Mathematica data on energy costs (shown in Table 7 above) are for 1977 consumption, but the dollar amounts are shown in 1978 dollars. We have tried to compensate for this by using 1977 BNL consumption data and 1978 prices to capture some inflation effects. The only exception here is bottled gas, which declined in price, and for which we used the 1977 price.

Applying the above price and rate data to the BNL data on fuel use shown in Table 9, we developed an estimate of 1977 energy costs as shown in Table 10 below:

TABLE 10.—AVERAGE RESIDENTIAL ENERGY COSTS, 1977

[In 1978 dollars]

End use	Fuel				
	Natural gas	Oil	Electricity	Bottled gas	All home fuel
Base electricity use			382.77		382.77
Cooking	68.26		61.44	85.24	65.15
Domestic hot water	149.34	126.34	191.60		148.90
Space heat	515.46	657.89	703.40		630.20
Total					1,227.02

Thus the analysis of BNL data suggests a higher Typical fuel expenditure level in New England than does the Mathematica data ($1227 against $962 for *home* fuels). However, the Griers' estimate, though not strictly comparable, is closer—$1007 per year for major non-gasoline fuels.

For Low income households, Mathematica reports an average 1977 expenditure (for *all* fuels) of $912 per year. Comparison can only be made with the Griers, who show a range of $1220–$1250 per year.

An analysis of differing expenditure estimates for particular fuels can highlight some of the particular variations and some of the data problems that confront analysts. We begin with fuel oil.

OIL

We will assume, as appears reasonable, that all households which use oil for heating hot water also use oil for space heating. Thus, BNL shows 70 percent of households using oil. For our Typical and Low classes, Mathematica shows 73.4 percent and 70.3 percent respectively. The Briers' *Report* 71.2 percent, so there is good agreement here. In the area of costs, the agreement is not good. The BNL figures show $657.89 for home heating alone, the Griers show $720. Combining water and space heating, BNL shows $740.91, while Mathematica shows $551 and $516 for Typical and Low, respectively. It appears Mathematica is low here, but we cannot be certain without further work.

NATURAL GAS

Here Mathematica shows higher usage, 45.7–52 percent, than shown for any one use in the BNL data. Assuming that those who heat with gas use it for hot water also, and those that use it for hot water cook with it, we obtain average gas cost per user of $495.84 from the BNL data. This is close to the Typical cost of $408 shown by Mathematica, but far above the $282 shown for Low. The reason for the divergence for the Low case should be investigated.

ELECTRICITY

Both BNL data and Mathematica show essentially 100 percent electrification in New England. Using the same hierarchy of usage as in natural gas, the BNL data shows $520.66. The Griers show $301, and the Mathematica data, $333 and $183 for Typical and Low respectively. Because the BNL data is based on 1972 usage and projections, before the rapid escalation in electric costs, it may be high. This should be looked into.

BOTTLED GAS

There is extreme divergence here. BNL shows 5 percent using this fuel for cooking only at $85.24 per year. Mathematica shows 12.6–13.6 percent usage at $303–$282 for Typical and Low respectively. This clearly needs further investigation; however, preliminary investigation shows that BNL is probably too low.

GASOLINE

Mathematica shows 91.9 percent of Typical owning at least one car. Since 82.9 percent had at least one car in 1970 this is reasonable. The 40.7 percent ownership in Low seems too low and should be checked. Mathematica shows $681 and $430 for Typical and Low. In contrast, the Grier report shows a range of $393–$436 depending on type of fuel. In our view, there is no reason to feel that the number of miles driven, obtained by the Griers from 1975 survey data, should have increased dramatically. The price data used ($687 for unleaded regular) is a bit higher than we used, but the assumption of no increase in miles per gallon would offset this difference. Thus we feel the Griers' estimate is probably accurate and the figures supplied by Mathematica to be high. However, this matter should be investigated further.

Using these data, the overall cost of energy to New England households at Typical and Low income levels is restated in Table 11. The higher percentage of income paid for energy purchases by low-income families is consistent with the results of all available studies.

TABLE 11.—DIRECT ENERGY COSTS AS A PERCENTAGE OF NEW ENGLAND HOUSEHOLD INCOME, 1977

Household income class [1]	Dollars per year		Energy costs (1978 dollars)	Costs as percentage of mean income
	Income range	Mean income		
Typical	13,267–19,896	16,582	1,594	9.6
Low	0–6,635	3,318	912	27.5

[1] Classes as defined at beginning of this section of the report

III. INDIRECT COSTS

In the area of indirect costs, a search of the literature revealed that there was no data on New England available. Further, only one approach to the calculation of indirect costs seems to have been developed. This approach, described in a Rand Corporation paper by J. Stucker, relied upon a national input/output approach. The national aproach cannot capture the effects of regional or sub-regional changes in energy prices, such as those associated with a utility rate increase. Therefore, using ESRG work in the area of commercial electric load forecasting and other previous work of one of the authors, we developed our own preliminary estimate of the indirect costs due to electric consumption in the commercial sector. In this section of our report, we will describe our methodology and present our estimates of indirect costs.

"Indirect effects" refer to the increased cost of goods and services due to the increased cost of electricity experienced by the suppliers of those goods and services. The estimation of the indirect effects is a two-step process. First, we must determine the categories of consumer expenses which will be affected. Information on the patterns of consumer expenditures by income class were obtained from the U.S. Department of Labor Consumer Survey, 1972–1973. These expenditures were grouped by income class and type of establishment. Using this data on the allocation of disposable income, we were able to apportion the sales of each type of establishment among our income classes.

TABLE 12.—PERCENTAGE OF EXPENDITURES IN COMMERCIAL CATEGORIES BY HOUSEHOLD TYPE

Household income class	Retail food[1]	Department store[2]	Miscellaneous retail[3]	Health services[4]	Restaurant[5]
Typical	24.09	23.09	24.02	23.52	23.97
Low	7.23	4.15	4.96	6.46	4.36

[1] SIC 54.
[2] SIC 53, 56, 57, 202, 37.
[3] SIC 52, 55, 59 (except 598), 72, 75, 76, 78, 79.
[4] SIC 80.
[5] SIC 58.

Next, we estimated the cost of proposed rate increases to the establishments of each type. This was done on the basis of employment in each category of establishment as shown in County Business Patterns. Figures on square feet per employee and annual electric consumption in KWH per square foot were obtained. Multiplying by these factors converts our employment data into annual electric consumption data by type of establishment. Multiplying by the cost of electricity then yields an estimate of the cost of electricity to each type of commercial establishment. The results of this calculation are shown in Table 13.

IV. THE EFFECT OF INCREASED PRICES ON DIRECT AND INDIRECT ENERGY COSTS

Increases in the price of energy bear heavily on low-income households. First, we apply hypothetical short-run across-the-board energy price increases of 10, 25, and 50 percent to 1977 direct costs. In order to assess the impact of price increases, one must make some assumptions about elasticity, *i.e.* the sensitivity of consumer demand to increased prices.

In computing the effect of short-run price increases on Typical households we used national short-run own price elasticities for gas, oil and electricity. Bottled gas and coal were assigned elasticities equal to the average of the other household fuels. For gasoline, we used —.12, the largest figure consistent with available studies. Cross price elasticities were all set equal to zero.

For Low income residents we have taken all elasticities to be zero. This is supported by studies of the consumption patterns of low income households which show that these households have few "luxury" energy consuming devices, and that their current levels of consumption for essential uses are at a minimum. The question of the elasticity of demand for poor persons should be the subject of further analysis. If inelasticity can be demonstrated rigorously, this could form the basis for gas and electric rate designs based upon marginal cost principles which could have redistributive effects.

The application of the three price increases under these elasticity assumptions increases the Low income burden. Our results are presented in Table 16 below.

TABLE 16.—EFFECTS OF PRICE INCREASES ON DIRECT ENERGY COSTS OF LOW-INCOME AND TYPICAL-INCOME NEW ENGLAND HOUSEHOLDS

Mean income (dollars/year)	Price-increase levels					
	10 percent		25 percent		50 percent	
	Costs[1]	Percentage[2]	Costs	Percentage[2]	Costs	Percentage[2]
6,635	$1,725	10.4	$1,913	11.5	$2,200	13.3
3,318	1,003	30.2	1,140	34.5	1,368	41.2

[1] New 1977 costs, in 1978 dollars.
[2] Costs as percentage of income.

Now, we apply the same elasticity assumptions to the indirect costs estimated in the preceding section of this report. Remember that our calculations of indirect effects were limited to the bulk of the local impacts of electricity price increases only. Even these partial indirect effects constitute a high proportion of low household income. Price increases would increase the disproportionate low income burden due to indirect energy costs. The results are displayed in Table 17, our final table. Our summary and conclusions have already been presented.

TABLE 17.—INDIRECT ELECTRICITY COSTS TO NEW ENGLAND HOUSEHOLDS AT TYPICAL AND LOW INCOME LEVELS, UNDER ALTERNATIVE PRICE CONDITIONS

Price level	Annual cost		Costs as percentages of mean income	
	Low income household (mean income $3,318)	Typical income household (mean income $16,582)	Low income household	Typical income household
Costs at current prices	$183	$333	5.5	1.1
Costs with 10 percent price increase	198	359	6.0	1.2
Costs with 25 percent price increase	212	397	6.4	1.3
Costs with 50 percent price increase	249	453	7.5	1.5

●

DISTRIBUTION OF PONDEROSA PINE SEEDLINGS TO DRAMATIZE PROPOSED ADMINISTRATION BUDGET CUT FOR REFORESTATION ON OUR NATIONAL FORESTS

● Mr. McCLURE. Mr. President, with the cooperation of the Idaho Forest Industry Council, Congressman STEVE SYMMS and I have participated in the delivery of ponderosa pine seedlings to every congressional office, the White House, and members of the administration. We have used this means to demonstrate that planting trees is a sound investment for the future.

Many of us in the Congress have been dismayed over the years at the lack of a long-term commitment for managing our national forest resource. We hoped this would change with the passage of the Resources Planning Act of 1974, as amended by the Forest Management Act of 1976. We set goals for eliminating the backlog of reforestation that had built up over the years. This, along with intensive management such as thinning, genetic development of superior trees, and more recently, efforts to resolve roadless controversies on national forest lands, are all aimed toward the goal of meeting the many forest needs of this and future generations.

Reforestation is a wise investment that pays dividends in improved game habitat, recreation opportunities, watershed protection, and a multitude of forest products. We hope the administration will reconsider its proposed funding for reforestation and timber stand improvement, now set for fiscal year 1980 at $21.8 million less than the level set in 1979. We are advised this budget trimming will do three things: First, extend the time necessary to eliminate the reforestation backlog; second, waste moneys already invested in seedlings that cannot be planted because of lack of funding, estimated by the Forest Service to be $2 million, and third, decrease the volume of forest products for the future by the amount not planted and not released for growth because of reduced timber stand improvement. Cutting back in this area of the budget is not sound management of our natural resources.

During March 14 hearings before the Subcommittee on Department of the Interior and related agencies of the Senate Committee on Appropriations, Forest Service Chief John McGuire and Agriculture Assistant Secretary M. Rupert Cutler testified that the fiscal year 1980 timber sale budget of 11.7 billion board feet was the maximum that could be sustained in an environmentally sound and economically sound program. The drop from fiscal year 1979 level of 12.4 billion board feet to fiscal year 1980 level of 11.7 billion board feet has left many Western areas stranded that depend on national forests for timber supply. This chilling news does not even take into account the future reduction that is likely at the conclusion of the Forest Service roadless area review and evaluation (RARE II).

For many years the Congress has set housing goals at about 2.3 million starts per year. Only in a few years have we approached these goals. Housing demand continues strong, despite costs of money increases, rises in land and development costs, government redtape, and increases in lumber and plywood costs.

We are leaving a sad legacy for future generations of homeowners by our failure to plant enough trees for our forest products needs. The land is there along with the ability to manage those lands for increased production. Chief McGuire testified the potential yield on our national forests could be as high as 16 billion board feet per year. We need to develop the will to go along with the ability and our land base to better meet the needs of our future generations.●

INDIANA JEFFERSON AWARDS

● Mr. LUGAR. Mr. President, I would like to commend this year's winners of the Indiana Jefferson Awards. From among 400 nominees, the following 10 individuals were selected for their persistent dedication to public service and community improvement: A. Raymond Bosso, Joan K. Bowen, Gilbert A. Cordova, Marcella Guthrie, Archie Kuoppala, Agnes Mahoney, Will G. McLaughlin, Raymond W. Mitchell, Millie Pilot, and Charles R. Williams.

To be chosen from so large a number of eminently qualified nominees is indeed a high honor, and I congratulate them for their achievements. These individuals have devoted many hours and much effort to a wide variety of public service activities in schools, churches, hospitals, and other institutions. They share a commitment to improve their communities through selfless dedication. Their work is in the finest American tradition of local involvement and community development.

Mr. President, all Hoosiers are proud of these representatives of Indiana. I wish them well in their continuing endeavors to make their communities rewarding and fulfilling places to live.

I submit the full text of the following article from the Indianapolis Star for the RECORD.●

1979 JEFFERSON AWARDS RECOGNIZE YEARS OF SELFLESS PUBLIC SERVICE

A businessman involved in employment and youth training, a company president who works with the mentally retarded, a housewife engaged in political activism, a citizen who has championed the cause of Hispanics and an 83-year-old retired school principal active in church work—these are among 10 Hoosier men and women about to achieve public recognition for years of selfless public service.

The 10 have been selected from among 400 nominees as winners of The Indianapolis Star's Indiana Jefferson Awards. They were nominated for their persistent dedication to helping other people and improving their communities.

Award winners will be honored at a civic luncheon Friday with plaques from The Star presented to each winner. Each will also receive a bronze medallion from the American Institute for Public Service, sponsor of the national Jefferson Awards, for which they will be considered. The award is named in honor of President Thomas Jefferson.

Helping to honor the award winners of the luncheon, to be attended by invitation only, will be Lt. Gov. Robert D. Orr, Mayor William H. Hudnut and Michael A. Carroll, special assistant to U.S. Sen. Richard G. Lugar (R-Ind.).

Winners of The Star's third Indiana Jefferson Awards are:

A. Raymond Bosso, 140 Kenwood Court.
Joan K. Bowen, Greenfield.
Gilbert A. Cordova, 3732 Thorncrest Drive.
Marcella Guthrie, Terre Haute.
Archie Kuoppala, 5735 Crestview Avenue.
Agnes Mahoney, Plainfield.
Will G. McLaughlin, Wabash.
Raymond W. Mitchell, 8022 Taunton Road.
Millie Pilot, Hammond.
Charles R. Williams, 6131 Woodside Drive.

Chairman of the judging panel for The Star's competition was James T. Neal, president and editor of the Noblesville Ledger and former chairman of the Indiana Republican State Central Committee. Assistant judges were:

John V. Barnett, former president of the Indiana Chamber of Commerce.

Edna Lacy, president, treasurer and chairman of the board of Lacy Diversified Industries Inc.

Dr. Frank P. Lloyd, vice president and director of medical research at Methodist Hospital.

Doris Parker, president of the Indianapolis Urban League.

Gordon St. Angelo, senior program officer and director of volunteer programs for Lilly Endowment Inc., and former chairman of the Indiana Democratic State Central Committee.

Dallas Sells, director of Region Three of the United Auto Workers.

Neal, referring to the hundreds of nominations reviewed by the judges, said, "We could have reached into the stack and any name we would have selected would have been worthy of recognition.

"The dedication of the winners selected typifies the selfless contributions given by so many people to help others without looking for recognition for their services," he added.

The diverse careers and many services of the 10 Jefferson Award winners are as follows:

JOAN K. BOWEN

Countless hours of work devoted to the betterment of her community and county have earned Joan K. Bowen of rural Greenfield a 1979 Indiana Jefferson Award.

Her nomination, by the ABC Club of Brandywine Township, (A Better Community Club) read in part: "Joanie is totally committed to the betterment of our community and its interests. Without exaggerating, we know she spends almost every day in these endeavors."

Born and reared on a Kansas stock farm, she and her husband, Richard E. Bowen, a research veterinarian, came to Brandywine Township in 1965. Since then, her tireless activities have won her statewide recognition.

She has won awards from the Hancock County Extension Homemakers, the Greenfield Elks, the Hancock County Bicentennial and the Calvary Baptist Church.

She is serving a second term as president of the Hancock County Mental Health Association, and has served on its board for 10 years and as a mental health volunteer for 12 years.

As a volunteer she has spent hundreds of hours working with patients at the New Castle State Hospital and raised the county Christmas gift collection from 300 to 1,100 gifts for patients in the hospital and in nursing homes. For the past 10 years, she has "adopted" two patients each year, entertaining them in her home. She also is the Gold Volunteer chairman of the state board organization.

As publicity chairman of the Betty Crocker Coupon Project, a community betterment club, she helped collect 2 million coupons, resulting in a contribution of $10,000 to the Indiana Medical Center for Renal Disease for purchase of equipment. She also served on the Kidney Foundation of the Indiana board in 1973.

She has been chairman of the Riley Festival, which under her leadership has developed into an event that annually draws hundreds of people to Greenfield.

She has been a 4-H leader 13 years and served as president of the 4-H Leaders of Hancock County in 1976 when the Farm Progress Show was held in Hancock County. Various clubs sold refreshments at the show, raising $10,000. This money was used for various community projects such as the Heart Fund and the American Cancer Society.

Mrs. Bowen was the first woman elected to the Southern Hancock Community School Corp. board. She tutors slow readers at the elementary school, and is a past president of the Brandywine PTO.

She sponsored a high school student from the Philippines through the Youth for Understanding Program in 1973–74, and also sponsored a French student in the Experiment in International Living in 1978.

A charter member of St. James Lutheran Church, she is vice president of the church council and has taught Sunday school for 13 years. Additionally, she is superintendent of the Vacation Bible School.

Mrs. Bowen is the mother of two daughters, Kelly, an Indiana University freshman, and Lisa, a third-grade pupil.

GILBERT A. CORDOVA

The lives of Hispanics in Indiana, whether residents or migrant farm workers, have been improved and enriched due to the tireless efforts of Gilbert A. Cordova.

Cordova, 43, 3732 Thorncrest Drive, has devoted many hours away from his job as preventive maintenance supervisor at Fort Benjamin Harrison to increase the community's awareness and knowledge of its Hispanic residents and their contributions and needs.

A native of Raton, N.M., Cordova moved to Indianapolis in 1959 when he married his wife, Janet, an Indiana native. They have a son and a daughter.

He sees 1972 as the year when he began to take an active role in Hispanic affairs, when he was asked to become an equal employment opportunity counselor at Fort Harrison.

Cordova was a major force in the creation of IMAGE de Indianapolis Inc., the local chapter of IMAGE Inc., a national organization which works on problems related to the employment of Hispanics in the federal work force.

IMAGE de Indianapolis also is concerned with the training, hiring and promotion of Hispanics in local government and private industry. During early meetings of the chapter, Cordova acted as president and is now a member of the executive board and chairs the Job Bank Committee.

A member of the United Mexican-Americans in Kokomo, he has worked to help improve the conditions faced by migrant farm workers around the state, visiting many farm labor camps and helping with their fund-raising efforts.

He also helped form the Mexican-American Citizens organization, is a member of the Hispano-American Center and is an active member of the Indianapolis Council of Federal Agencies.

Along with his supervisory duties at Fort Harrison, he spends many part-time hours as the Hispanic Employee Program coordinator for the Administration Center, in which he continues his equal employment activities. Fort workers and guests at the annual activities celebrating Hispanic Heritage Week also are enjoying the fruits of his work as coordinator.

Youth activities also have a place in his busy life. Cordova has served as a vice president of the Eagledale Football Association, and has been a Boy Scout leader and an Eagledale Little League coach.

AGNES MAHONEY

Come rain, sleet, hail or blizzard, for 59 years nothing has kept Agnes Mahoney from traveling from her Plainfield home to the Indiana Boys School to help with church services.

At 83, she has been named one of the winners of the Indianapolis Star's Jefferson Awards in recognition of her efforts beyond the normal "call of duty."

Miss Mahoney, whose 48-year career in the Indianapolis Public Schools centered on disadvantaged children, began her work at Plainfield when she was asked to teach Sunday School by a fellow teacher at School 54. She retired in 1961 after serving 30 years as principal at School 9.

She sees the boys as her own children, providing gifts and entertainment during the holidays, writing letters for the boys, buying them clothes, helping them find work and visiting their parents. Many of them still keep in touch with her after many years.

At one time she edited a paper for the boys at the school.

It takes a lot to keep her away. Several years ago, while teaching summer college classes at the University of Missouri, she drove back each weekend for Sunday services.

And, once, many years ago, the interurban train she was taking to the school was unable to cross a bridge that had iced over. She and another Sunday school teacher crawled across the bridge on their hands and knees to the Sunday services.

During the blizzard last year, she drove out to the school in her old Chevrolet, picking up the priest on the way so the boys could hear Mass.

During her long career with young people and in education, she has served on the Governor's Conference on Crime and Juvenile Delinquency and the Governor's Conference on Special Education.

She has also served on the boards of Catholic charities, the St. Mary Child Center and the Indianapolis Chapter of the American Red Cross, and has served on the advisory boards at the Noble School for the Retarded, Juvenile Court, the Junior Red Cross and the Marion County Parent and Teacher Association.

She was also a member of the Indiana and National Conferences on Social Work and the National Catholic Social Work Conference.

MARCELLA GUTHRIE

If something has to be efficiently and successfully accomplished in the Terre Haute area, Marcella Guthrie is probably the person who is contacted for the job.

It was primarily through her efforts that about 100 elderly or ill persons in Vigo County have hot meals delivered to their doors, one of the reasons she received one of The Star's 1979 Indiana Jefferson Awards.

Mrs. Guthrie did most of the legwork in researching and organizing the Meals on Wheels program there and served as its first president.

When she served in a now-defunct group called Housewives' Effort for Local Progress, city officials were "politely persuaded" into eliminating burning waste at dumps and setting up a county park system. Mrs. Guthrie was a HELP board member four years and a two-year member of the group's education committee which monitored school board activites.

She was also on the committee which founded and developed Wabash Valley Planned Parenthood, which has grown from a church-based operation to one which boasts a $337,000 budget.

The mother of four sons, Mrs. Guthrie's contributions to the Wabash Valley Council of Boy Scouts of America alone deserve special recognition. Serving as a den mother and as a member of various cub pack and Boy Scout troop committees, she became the first vice president of Cub Scouting and the first female ever elected to the executive board.

"She has the sensitivity and concern to identify and meet human needs," said Scout executive Earl L. Brandt, and the "ability to make something happen."

A group known for its "people-helping" functions, the Vigo County United Way was facing numerous problems when Mrs. Guthrie joined forces with struggling executives.

According to her husband, Frank Guthrie, "She restored integrity to the allocations process (of the United Way) and assisted significantly in regaining the support of the agencies who had all but lost faith."

An elementary school teacher six years, Mrs. Guthrie made recommendations for remodeling and building schools when she served on the County School Facilities Survey Team in 1975.

She recently was asked to be a member of the Hospital Authority of Vigo County, formed to issue and sell bonds to expand Union Hospital. She serves as vice president.

On the civic side, Mrs. Guthrie is active in theater and has performed in such plays as "Fiddler on the Roof" and "I Remember Mama." In both plays she won awards as outstanding actress.

In her church, Washington Avenue Presbyterian, she set up a nursery school and over a 10-year period, it has served more than 150 disadvantaged families. This school also was selected as a model for other church schools.

She has been a church school teacher and superintendent, a choir member, a youth fellowship adviser, an active member of the women's association and an elder, presently starting her second three-year term.

A. RAYMOND BOSSO

A. Raymond Bosso has devoted years to aiding the young people and the minorities of the Indianapolis community.

His working hours are spent as a field representative for the AFL–CIO Appalachia Council Job Corps project. His job involves helping underprivileged youths find and learn a basic skill or trade.

After work, his list of contributions in time and leadership is long and varied and spans decades.

A sports enthusiast, Bosso spent six years as a Little League coach and 13 years as a coach for the Catholic Youth Organization (CYO). He was a member of the CYO board of directors five years and its vice-president for a year. He also headed baseball teams four years in American Legion play.

He served four years on the board which supported the Indianapolis Scarborough Peace Games.

He recently resigned after five years as director of the junior baseball program for the City of Indianapolis, a post in which he oversaw 352 teams and more than 5,000 youngsters. As athletic director at First Baptist Church, he at present has in his charge more than 400 children participating in basketball and about 500 in baseball.

Bosso is a past president of the Tabernacle Presbyterian Church recreation committee and a coach there 15 years in the past.

He is a member of the advisory board of the Fellowship of Christian Athletes, a position he has held for three years.

As a former director of management assistance for the Indiana District of the Small Business Administration, Bosso was appointed in 1973 to establish a Small Business Council within the Indianapolis Chamber of Commerce to deal with the problems encountered by small businesses.

He presently is a member of the Contract Compliance Board for Indianapolis. The board is responsible for seeing that minorities receive the proper amount of city work and contracts.

In the last six years, he has given his time on the board of directors of the Indianapolis Business Development Foundation, to which he recently was elected vice president. He also has served as chairman of its Investment Committee, which furnishes startup money, management and technical assistance to minority business.

His business expertise was called upon by Development Plus for six years, during which time he provided management instruction and training to individuals and companies.

Bosso spent 18 months on the Mayor's Task Force for Manpower Development and one year on the steering committee for the Black Opportunity Fair.

He has served on the board of directors of Brebeuf Preparatory School and is a past president of its Dad's Club.

Bosso is a trustee of St. Luke's Catholic Church and has served on the parish council of St. Joan of Arc and on a fund-raising committee for the Catholic archdiocese of Indianapolis.

He and his wife, Rosemary, have a son, Drew Bosso, and two daughters, Ann and Beth Bosso.

MILLIE PILOT

"I've never really thought about things," says Jefferson Award winner Millie Pilot. "They just happen. You go through life and as opportunities come, you take them."

Nine years ago, radio became one of those unplanned opportunities for the Hammond businesswoman, who already had distinguished herself statewide as a crusader for better government.

Once President of the Indiana League of Women Voters, Mrs. Pilot had served on numerous citizen panels which brought about legislative change, including the landmark School Reorganization Act. The volunteer work, and her career as business manager for her physician husband, Jean, provided her enough work, travel and satisfaction for several people.

Then somebody suggested she try a new career as a radio journalist. Sure, she said.

Since going to work for Hammond's WJOB Radio in 1970, Mrs. Pilot has established herself as one of the Indiana news media's foremost experts on state government and two of its most complex facets: taxation and education. Just as important, she can communicate what she knows within the tight constraints of broadcast.

"I get lots of comments from listeners about legislation," she says. "I always ask them what they're interested in that I'm perhaps not covering. Often, the interest is very personal. For example, this week they passed legislation upping teacher retirement benefits. I taped a lot of floor debate because I know there are a lot of retired teachers who want to know this."

Mrs. Pilot's reporting has produced numerous awards, including School Bell citations from the Indiana State Teachers Association in 1975 and 1976, and the State Medical Association's Radio Communications Award in 1975.

In 1977, the Indianapolis Chapter of Women in Communications Inc. presented her with its Frances Wright Award as journalist of the year.

Her work in government has produced an even longer list of distinctions—former chairman of the State Committee on School Finance, organizer of the Northwest Indiana Comprehensive Health Planning Council, and former member of the Citizens Advisory Committee on the Judiciary, the National Committee for Support of the Public Schools, the Indiana Commission on State Tax and Financing, and many other civic groups.

Nor are those memberships just so many lines on a resume. Mrs. Pilot's groups worked. The efforts of the Interim Legislative Study Committee on Public Access to Government Decision-Making, on which she served, led to passage of the "sunshine law" mandating open meetings by public bodies.

Of all her accomplishments, Mrs. Pilot unhesitatingly ranks first her six-year stint on the State Commission for Reorganization of School Corporations.

"We set a tone of getting rid of some of the inadequate school districts," she recalls. "It was an opportunity to improve education. We started out with a thousand school corporations and now we have 305."

"The work took me to every county in the state. It was thrilling."

CHARLES R. WILLIAMS

Actively involved, extremely interested and willing to make personal contributions—these traits describe Charles R. Williams, a recipient of The Star's 1979 Indiana Jefferson Awards.

Aside from his official responsibilities as special assistant to the major, Williams has devoted countless hours working to help disadvantaged youngsters achieve their educational goals.

In 1974, for example, Williams promoted the Broadway play "River Niger" to raise funds for Alpha Kappa Alpha Sorority's scholarships. Two years later, he promoted a blues show featuring such notables as B. B. King, Bobby Blue Bland and Roy Ayres for the Prince Hall Mason's scholarship drive.

As a result of the first Wes Montgomery Memorial Concert in 1978, which Williams organized and promoted, Indianapolis Public Schools now include jazz in its music curriculum. A nationally known guitarist, the late Montgomery was a life-long resident of Indianapolis.

Perhaps most important of Williams' public service contributions is the work he put into encouraging students to strive for excellence in learning through Operation People United to Save Humanity of Indianapolis. Operation PUSH is an extension of the Chicago group headed by the Rev. Jessie Jackson, who spearheaded the student excellence concept.

Last March, designated "PUSH For Excellence Month" here, Williams encouraged 15,000 students to sign a pledge promising they would study two hours a day without the distractions of television or radio.

Williams persuaded popular rock entertainers, appearing in the city for a special concert promoting PUSH, to visit schools and endorse the importance of striving for scholastic excellence. A follow-up study indicated grades had improved. PUSH now has programs in 26 local schools.

Charity basketball games which he has organized here have netted new uniforms for Crispus Attucks High School's basketball team and hospital expenses for cancer victim Sylvia Boyd, disabled policeman Harry Dunn Jr. and 11-year-old Howard Means, who is losing his sight.

Children who wanted to join the Fall Creek YMCA but couldn't afford to pay membership fees can now take part in activities there as a result of Williams' fund-raising efforts.

Williams attended Crispus Attucks and graduated from Hirsch High School at Chicago. He majored in business at Black Hawk College at Moline, Ill. He was listed in the 1978 Who's Who of America.

Williams has served as executive producer of "Info 79," a public information show aired weekly on a local radio station which won a 1978 Casper Award, and executive vice president of Indiana Black Expo. He's also vice president of Indianapolis Pre-Schools and originator of a radio program which lets citizens speak to the mayor monthly about their problems.

An active member of Second Christian Church, Disciples of Christ, Williams serves on the boards of several civic and social groups, including Big Brothers of Greater Indianapolis and the Heritage Place Senior Citizen's organization.

WILL L. M'LAUGHLIN

Thanks to the efforts of Will G. McLaughlin, the mentally retarded children of Wabash County have the services of the Wee Haven School for Retarded Children.

For his work in helping found the school, the 42-year-old Wabash resident, president of MarkHon Industries, Inc., has been named a recipient of The Star's Jefferson Award, given to those who have provided extraordinary services to their fellow citizens.

McLaughlin is the father of six daughters, one of whom was born with Down's syndrome. He became involved with the education and training for the retarded in 1973.

Having become active in the Wabash Association for Retarded Children, he and other parents began seeking out information on the best way to aid the development of preschool retarded children.

They then began the long and difficult process of starting a school. Eventually, space was obtained in a church. Two teachers then were hired following a series of interviews. McLaughlin and other parents traveled around the state with the teachers and other staff, visiting existing pre-school programs to gather the best teaching techniques and aids.

The final step was perhaps the most difficult: Convincing parents to send children to school. Many parents were reluctant to admit that their child was retarded.

The school is now serving 12 pre-school children, many of whom also have severe physical handicaps. Many pieces of special equipment have been obtained, increased space has been provided rent-free by the church, and grants and donations made possible the purchase of a special van to bring students to the school.

McLaughlin, who began his career with the Kroger Co. in Marion, has also been active in civic activities in the Wabash area, serving as president of the Wabash Association for Retarded Children, president of the Wabash Chamber of Commerce, general chairman of the United Fund and numerous other activities.

RAYMOND MITCHELL

So you think you're a busy person? Have a seat. Because after hearing about the volume of service Raymond W. Mitchell has provided the community, you may think you need some Gatorade.

"Commitment" is an overused word these days but a look at the blood, sweat and tears Mitchell has put into improving employment opportunity here convinces even the casual observer that the shoe fits. And until an ulcer slowed him down last November, Mitchell was more than willing to wear it.

"I'm still doing a lot on a nonleadership basis," he says. "But after becoming ill, I had to quit about nine boards."

There was no special expertise, no special training, he says. The interest began when his company, Sperry Rand Corp., began looking at its own minority hiring practices in 1973. Mitchell is branch manager of custom engineering for the firm's Sperry Univac Division. He's been with the company 25 years.

That led to acquaintances with members of the Indianapolis Chamber of Commerce, and it wasn't long before Mitchell was deeply involved. By 1976, he was chairman of the Urban Employment and Training Subcouncil of the Indianapolis Chamber of Commerce Urban Affairs Council, and later he served as vice chairman of the larger council.

He was appointed to then Mayor Richard G. Lugar's Manpower Committee, which later became the Employment and Training Advisory Council. And Gov. Otis R. Bowen picked him to serve on the Indiana Manpower Development Council subcouncil.

"At that time, I found Mr. Mitchell more knowledgeable about the Comprehensive Employment Training Act of 1973 regulations than many professionals in the manpower field," says Barbara Gunn, director of the statewide services division of the Indiana Office of Manpower Development.

But clearly those activities weren't enough to keep Mitchell busy. So he took it upon himself to design an automated job counseling referral system that was implemented by Sperry Rand Corp. and the Indianapolis Urban League and put into use for Indiana Black Expo.

And beginning in 1977, Mitchell served as a member of the Governor's Statewide Youth Committee, a group designed to advise on programs and dollar expenditures for the improvement of employment opportunities for disadvantaged youth.

Mitchell has been honored with selection as a participant in the Stanley K. Lacy Indianapolis Executive Leadership Series and the 17th Annual Weinberg Labor, Management and Public Interest Seminar at Cornell University.

Tired? There's more. There's the Indianapolis Urban League board, for one thing. The Center for Leadership Development Inc. board, for another. The National Conference of Christians and Jews—Indiana Region—board. The Mayor's Contract Compliance Advisory Committee. The Economic Club of Indianapolis. Shall we go on?

Mitchell's health has forced him "to back off" from all but a few of his commitments, but he remains heavily involved in the Kiwanis Club and as a member of the board of Central Indiana Health Systems.

ARCHIE KUOPPALA

Archie Kuoppala has such an effacing attitude in negotiating about the city's real estate, and shows such real concern for both sides of any deal that he is respected—but almost unknown.

He retired earlier this year after 19 years as administrator of the city's Division of Urban Renewal. But Kuoppala has been working in the office every day but two since then—and he is doing it without pay.

His nominators referred to his "selfless dedication," but the application was written before Kuoppala "retired."

Kuoppala, 67, was asked to stay on as a consultant, and hurriedly has come to cost agreements with the multiple owners of the first two square blocks of Indiana Avenue for the future home of the $50-million American United Life Insurance Co. tower.

"He can negotiate the shoes off anyone," commented Robert N. Kennedy, director of the Department of Metropolitan Development.

To talk to Kuoppala, one would think he would be a pushover. But ask anyone with whom he has worked out a deal. A Capitol Avenue businessman whose property will be acquired for AUL remarked, "There's something about the way he handles himself that makes me just want to take the first price he's offered."

Although all property owners with whom Kuoppala has dealt have not been as easily swayed, city officials are proud of the negotiating he has done to acquire land for major downtown developments and urban renewal projects.

Back in 1968, city officials were worried there would be time-consuming problems acquiring the property for the Indiana Convention-Exposition Center, but Kuoppala's dealings went so smoothly there was not one condemnation suit.

If it were not for Kuoppala, city officials who backed him for the award said there would never have been a Merchants Plaza, the Mall Block, successful relocation for the Indiana University Dental School, location of Indiana University Hospital, and Project H.

Project H has turned out to be a remarkable urban renewal project. The Riley Towers, Lugar Towers, Indianapolis Fire Department Headquarters and Indianapolis Red Cross Center are all located there now—and there are plans for a multimillion-dollar apartment and recreation complex and an 11-story office building.

He also is responsible for acquiring the land for the $35-million Claypool Center project, including renovation of the Indiana Theater for the new home of the Indiana Repertory Theater, $20-million hotel and a yet-to-be-financed office building.

Kuoppala has been the dealer in numerous neighborhood redevelopment projects. "There is hardly a neighborhood organization with which he lacks familiarity Citizens of every degree from the private sector have found in him an embodiment of the ideal public servant," wrote Kennedy.

Mayor William H. Hudnut commented: "He has dispatched his duties with integrity and a sensitivity to the needs of the total community."

Not only has this quiet, shy man performed his duties with little fanfare or applause, he has worked through illnesses that would have deterred almost any official, it was generally agreed.●

MEDICARE FOR U.S. CITIZENS ABROAD

● Mr. COHEN. Mr. President, I ask to print in the RECORD a statement by the senior Senator from Connecticut (Mr. RIBICOFF) in support of legislation to make medicare available to U.S. citizens who are otherwise eligible for the program, but are living or traveling abroad when benefits are needed.

During my short tenure in the Senate, I have had the opportunity to work closely with Senator RIBICOFF on this and other issues, and I welcome his support of this important legislation. I hope that all of my colleagues will take the time to review his comments.

The statement follows:

STATEMENT BY SENATOR RIBICOFF

Mr. President, I am pleased to join Senators Cohen and Dole in sponsoring legislation which will make it possible for Americans living abroad or traveling abroad to be covered by Medicare if they would have been otherwise eligible.

Under present law, Medicare coverage is provided, with a few limited exceptions, only for hospital and medical services rendered within the United States. These exceptions cover only cases in which the beneficiary needs emergency hospital services while traveling in Canada between the 48 States and Alaska or needs hospital services because of a medical problem that arose while traveling or residing within the United States near the border and a Canadian or Mexican hospital is more accessible than the nearest U.S. hospital. The effect of this limitation is to deny health care benefits to otherwise entitled Americans living abroad or traveling abroad.

Eligible Americans living abroad have paid into the Social Security Fund and they pay income taxes. These are the primary source of Medicare financing. This results in the very inequitable situation where such eligible Americans not only lack the prepaid health protection they need but they also have helped finance programs from which they cannot benefit.

In the past, the failure to extend Medicare coverage to eligible Americans overseas was justified because the costs and difficulties of administration were feared to be too great. In addition there was concern that health facilities and services overseas might not measure up to acceptable American standards.

The legislation we are introducing today deals with these concerns in a way which will finally make it feasible and economical to correct this inequity in the Medicare law. Under this proposal, the President would be authorized to conclude bilateral agreements with other countries. This will permit the flexibility to meet the widely varying conditions abroad. During the interim period before such agreements could be finalized, the Secretary of HEW is authorized to enter into interim arrangements with hospitals accredited by the Joint Commission on Accreditations of Hospitals or other hospitals which the Secretary finds meet health and safety standards equivalent to hospitals in the United States which provide services reimbursed under Medicare.

The benefits provided to eligible Americans abroad would be limited to those which the person could receive in the United States under Medicare. Only those individuals who are eligible for Medicare benefits in the United States could be provided services under the agreements which would be negotiated.

Mr. President, this legislation provides an efficient and practical way to correct a serious inequity in our Medicare law which now denies Medicare benefits to eligible Americans overseas. I look forward to working with Senators Cohen and Dole to achieve the prompt enactment of this legislation.●

VOICE OF DEMOCRACY

● **Mr. McCLURE.** Mr. President, I am pleased and proud to announce that Joyce Ann Fehringer, an American Falls, Idaho, high school senior, is the fourth-place winner in the VFW annual Voice of Democracy Essay Contest. Miss Fehringer's inspirational essay aptly points out the challenges and advantages of our identities as American citizens. A Girls' State representative and award-winning debater, Miss Fehringer is also a student body officer, cheerleader, and Power County's Junior Miss. Mr. President, I join the people of Idaho in saluting Joyce Ann Fehringer's accomplishments and request that her essay be printed in the RECORD following my remarks.

I am always proud to join our Idaho officers of the VFW at their annual banquet in our Nation's Capital, and happy to salute them for this very worthwhile program. Having the Idaho winner place in the national competition is frosting on the cake. We are all proud of her!

The essay follows:

VOICE OF DEMOCRACY

I care about America because America has cared about me. America has given me a name, a home, and the chance to be me. America claimed me as its child on the day I was born. It raised me through childhood and gave me an education. America encouraged me to drive forward and to strive for the utmost, to be what I wanted to be. America has given me the chance to prove to the world that I am who I am; that I am anything I want to be. But America doesn't force me to be anything that I am not.

But what is America? Who is America? America is simply the expressed values of a group of individuals who knew the true wonders of freedom, of freedom that not only protects from the bindings of other powers, but a freedom that helps to expand and augment hope within its people. When the founding fathers united so many years ago, they were only men with a common desire to declare their independence from the rest of the world. To rid the chains that bound them to the rule of other countries. It was these men and their great work that set forth the rudiments for our nation's way of life.

Then, soon after, with the adoption of the Bill of Rights, we as Americans were accepted as individuals with a need to outwardly express ourselves. We were encouraged to grow and to challenge our government, our way of life. Now we are welcomed to be a part of that government.

America and all its rights to freedom have made its men a strong people. For a man is only what he believes in and his beliefs are what make him a man.

Although the Constitution was drafted to be a restricted governmental power, the power it provides is magnificent, for now the power lies within its people. And with a love for their government, the people cannot be stifled. They will march forward, proud and contented. They will defend their country for it is truly only an expression of themselves. They will defy any hurdle that troubles their way.

So many men have died for our country and me. They gave their lives for what they believed in and for what they wanted me to have a chance at. To these men and their loyalty to my country I owe my life. It is for these men and any fellow American, that I live my life for, because as Americans we are all one.

I care about America because America has cared for me. It's given me my name, my home, my chance in life, but most of all America has given me pride in myself and my country.●

SCARED STRAIGHT

● **Mr. WALLOP.** Mr. President, last Thursday, a documentary was aired on television that depicted a new extraordinary approach to juvenile justice.

With hushed uncertainty, 15 juvenile offenders face as many men serving prison sentences of 30 years to life. A 2-hour verbal tirade stopping just short of physical violence dispels any glamorous or nonchalant notion of prison life the juveniles may have had.

The scene is from a documentary, "Scared Straight," filmed at Rahway State Prison in New Jersey, where twice a day, different groups of young chronic lawbreakers are literally frightened into giving up their criminal tendencies and going "straight."

In an inmate-designed and run juvenile awareness program, "lifers" vividly discuss the realities of prison life. "We see ourselves in you punks," the convicts tell the juveniles. Stripped of the "tough guy" facade they had when they entered the prison, 80 to 90 percent of the juveniles who visit Rahway decide that a future in prison is not for them.

This successful juvenile awareness program is virtually cost-free, unlike the juvenile delinquency programs that have been implemented by the Federal Government. If every inmate participant can keep just one juvenile out of jail, the benefit of this program would be immeasurable. Implementation of similar, brutally direct juvenile awareness programs throughout the country would be a concrete stride toward stemming the self-perpetuating flow of juvenile offenders into America's prisons.

I believe this explosive film can serve as an impetus for inmates at other prisons to initiate their own juvenile deterrent programs. The inmates who developed the program depicted in "Scared Straight" to help "save" juvenile offenders from a prison experience should be commended for their courageous and highly successful effort.●

THE MARCH OF TIME

● **Mr. SCHMITT.** Mr. President, an event worthy of note occurred at the NASA Johnson Space Center yesterday when my former colleague, Astronaut William B. Lenoir, celebrated his 40th birthday. Dr. Lenoir is the youngest astronaut who was on duty in the space program at the time of last year's selection of 35 new astronaut candidates. The youngest astronaut candidate, Dr. Stephen A. Hawley, will not turn 40 until December 12, 1991. It should also be noted that yesterday marked the 100th birthday of another eminent scientist, Albert Einstein.

The space age and the age of science will continue indefinitely. Those future explorers for science, the astronauts, will some day be the first to see the marriage of Einstein's theories of time and space affect the rate by which they age. That marriage may not come for Dr. Lenoir or Dr. Hawley, but it will come.●

EPA ADMINISTRATOR DOUGLAS COSTLE REVIEWS HAZARDOUS WASTE ISSUES

Mr. RANDOLPH. Mr. President, one of the major concerns of the Congress this year will be devising ways to improve management and disposal of hazardous wastes and toxic substances.

Emerging problems in that area are, as many Senators know, so serious that they demand priority attention now. The only question is when, and in what form, the issue is to be addressed—initially by the Environment and Public Works Committee and then by the Senate as a whole.

The elements with which we will be dealing are varied and complex and their implications are vast and far reaching.

Those factors were spotlighted accurately and in considerable depth by Administrator Douglas Costle of the Environmental Protection Agency in addressing the National Governors Conference last month.

His comments are pertinent to the issue soon to confront us and I ask that the text of his speech be printed in the RECORD.

The address follows:

SPENDING SOME POPULARITY: THE POLITICS OF HAZARDOUS WASTE MANAGEMENT

Once, at a formal dinner, Winston Churchill had the misfortune to be seated next to a lady of high rank who detested his opinions, his policies, and him. After an hour or so of acrimonious conversation, she finally leaned over to him and hissed, "Sir, if I were your wife, I'd pour strychnine in your tea." "Madam," Churchill replied, "If I were your husband, I'd drink it."

That story is apropos of absolutely nothing. I just wanted to tell it. Actually, I stumbled over it in my mental attic while searching for another Churchill quote . . . one that has to do with making tough political decisions. On another occasion, Churchill was warned by an aide that if he took a certain course of action, he would lose a considerable amount of public support. Churchill asked, "What's the use of popularity if you're not willing to spend some of it in a good cause?"

Churchill's point seems to me to apply to this hazardous waste issue in an ironic way. Certainly safeguarding the public from the deadly legacy of hazardous wastes is a good cause. Moreover, since Love Canal and a dozen similar disasters hit the headlines and our national consciousness, it is a highly visible cause, and one that the public will support. But managing those wastes—not only those inherited from the past, but those generated now and in the future—will call for some decisions that will antagonize the same public we are trying to protect. In the course of doing our jobs, we are going to have to spend some popularity.

The dimensions of this problem are awesome. Industry produces about 35 million metric tons of hazardous waste a year. Of this 35 million, 90 percent is handled under practices that will not meet new federal standards . . . either disposal in non-secure ponds, lagoons, and landfills, or incineration without proper safeguards. Establishing control over this volume of waste will involve 270,000 waste-generating facilities, 10,000 transporters, and 30,000 storage or disposal sites.

Both the dimensions of this problem and the fact that its sources are so diffused throughout the country—in every state and in thousands of localities—create delicate political problems. None of us is responsible for the Love Canal, or for its appalling siblings in other states. Industry is . . . and, where we can assign responsibility, we shall compel individual corporations—through the courts, if necessary—to shoulder the financial burden of repairing the damage their wastes have caused.

In the case of companies that have gone out of business, however, or of those whose assets cannot begin to compensate for the damage, some unit of government will have to accept responsibility. Our citizens do not care which unit of government does the job; they just want it done.

Yet our citizens may prove to be the greatest barrier to effective action. For—if early reactions are a reliable barometer of their feelings—they are agreed on two points: first, they want hazardous wastes managed safely; but second, they do not want such wastes managed in their own communities.

Thus the question of political responsibility is not academic. Any mayor may fear that it would mean political suicide to allow a new hazardous-waste site to be located in his town. Similarly, pressures are bound to rise—they already have—for governors to prohibit the transportation of hazardous wastes through their states from another . . . or the acceptance of such wastes from beyond their borders. In such contexts, action on hazardous waste management is likely to be held up by repeated chants of "Not here . . . Not here . . . Not here," while the problem—environmental damage and threats to public health—go unsolved.

What are the appropriate federal and state roles here?

We are dealing with two discrete issues: number one, the management of wastes that are being generated today, or will be generated in the future; and number two, with the management of wastes that have been improperly handled in the past.

The Resource Conservation and Recovery Act deals only with today's wastes and those of the future. That Act requires EPA and the states to institute a "cradle-to-grave" management system; in it, Congress assigned the states an active role as consultants in developing federal standards, and—if they choose, and can qualify—as managers in carrying out the Act within their borders.

We are doing everything we can to help the states develop their programs. The Administration is asking Congress for $18.6 million in state grants for fiscal 1980, up from $15 million this year. These grants require no matching funds from states that are just beginning their programs.

Our best estimate now is that 41 of the 56 states and territories will assume management of a hazardous waste program. I would urge all of you to do so, for EPA simply does not and will not have the resources to do this job for you. Moreover, there are sound reasons why you should take it on.

First, the failure by states to take the initiative in developing a program will cost them business and jobs. I am told that one corporation decided to locate a product line on the West Coast for the single reason that no nearby hazardous waste sites were available elsewhere.

For the last few decades, industry has taken more and more variables into account when deciding to locate a new plant. Early on, those variables included proximity to rail and truck transportation, to raw materials, to abundant water supplies, and to cheap power. Today, more and more, such environmental factors as quality of air and water have begun to figure in the corporate calculus. From now on, because of legal liabilities connected with hazardous-waste disasters, industry will look for states that provide management sites that meet federal standards. I understand that damage suits filed as a result of Love Canal alone already total $2 billion. Thus the availability of an approved site may become not just one more variable, but the dominant variable, in a corporate decision to locate, expand, or even close down a facility.

Second, it is obvious that the public will expect their elected officials to provide an effective waste-management program in every state; their health is at stake. Refusal by governors to establish secure facilities will not protect their citizens from disaster. On the contrary, such a refusal will simply encourage "midnight dumping" by the outlaws of our technological society. State law may provide for indemnity against such criminals, to be sure; but such legal provisions are next to useless when damages far exceed the assets of fly-by-night operators. Again and again, in cases where responsibility cannot be fixed, or where the original owners cannot pay for the damage they have caused, the state has been stuck with the bill.

And that bill can be awesome, as has been demonstrated by the costs of correcting situations caused by improperly managed wastes from the past. Almost every such situation reinforces a homely but important truth: it's a lot cheaper to do the job right the first time, than to go back and correct it years later.

So far, for example, New York has spent at least $23 million to evacuate families from the Love Canal area, purchase their homes, and control the chemicals oozing there. We estimate that proper control would have cost $4 million . . . and that's in 1979 dollars. Back in 1950, control costs would have been about $1.4 million.

Similarly, costs to North Carolina for cleaning up PCBs illegally sprayed along more than 200 miles of roadside have been estimated at from $2 to $12 million. State officials hope to find a cheaper solution. . . but in any case, proper disposition of those wastes would originally have cost only $100,000.

Finally, we estimate that an investment of about $200,000 would have made the Life Sciences plant in Hopewell, Virginia, safe for the production of Kepone. So far, court judgments against the companies involved total $12 million; that figure does not include damage suits settled out of court. And it would cost as much as $8 billion to clean up the James River . . . if that can be done, ever.

We hear a lot of criticism these days about the costs of environmental protection; as these figures illustrate, we ought to give equal thought to the costs of environmental neglect. Such figures also demonstrate the need for a much more massive hazardous waste program than any of us—including Congress—had anticipated. Presently, there are no resources to respond to waste emergencies, or to contain and clean up bad sites as they are discovered.

Clearly the states cannot handle this problem themselves. Industry, which created the problem, must contribute to its solution. Accordingly, we are preparing legislative proposals to create a fund, based on a fee assessed against the generators of wastes, to assist in financing necessary damage-control.

State responsibility for hazardous waste-management does not necessarily mean that each state must act alone. On the contrary, cooperation with other states can offer economic and environmental benefits. In New England, for example, six governors have initiated a federal-state-industry partnership aimed at developing a regional waste-management program. In a recent article, Governor Garrahy of Rhode Island offered a sound rationale for such cooperation:

"Siting, developing, and operating the necessary treatment and disposal facilities within each state," he wrote, "encourage unnecessary duplication of expensive facilities. In states where the economics of waste facilities does not attract private businesses, the state would be faced with the choice of constructing and operating the facilities with state funds, or with the loss of existing or potential new industry . . . The volume of waste generated within individual states seldom justifies the construction of complex facilities to serve each state."

At the opposite pole from cooperating with each other, some states may be tempted to try excluding wastes from others. That just won't work; we cannot continue shipping waste around from one stop to another, like Charlie on the MTA. Hazardous waste will come to rest somewhere; much better that it goes to a site designed to handle it properly, than that is simply disappears . . . and makes its appearance known years later, with ugly results that we cannot control.

Whatever the evolution of federal and state programs on the management of hazardous waste, the critical issue remains the political one. It might seem easier to walk away from the problem and leave it to the feds; almost every possible waste-management site is in somebody's back yard. But we have got to confront the unpleasant necessity for selecting and choosing sites despite local opposition to the choice . . . and I think we will all be better off if state officials—with their knowledge of local conditions—undertake this responsibility, rather than leaving it to an EPA technician from a regional office two states away.

Every state, I suggest, needs to establish a process—consistent with its own Constitution and laws—for making decisions on the siting of hazardous waste facilities. That process must be one that the public will judge environmentally sound and politically fair. Above all, that process must go beyond debate and produce decisions.

By any traditional standard, hazardous-waste management is the least attractive of all possible issues. Yet it is obviously critical to the health of our citizens and our economy. It's a good cause . . . and I hope you will agree that it justifies our spending the necessary popularity on it.

Thank you.

REMOVAL OF INJUNCTION OF SECRECY—EXECUTIVE L, 96TH CONGRESS, FIRST SESSION

Mr. ROBERT C. BYRD. Mr. President, as in executive session,

I ask unanimous consent that the injunction of secrecy be removed from the protocols for the fourth extension of the Wheat Trade Convention and Food Aid Convention constituting the International Wheat Agreement, 1971, the protocols being established by a conference which met in London on March 23, 1978 (Executive L, 96th Congress, first session), transmitted to the Senate today by the President of the United States.

I ask that the treaty be considered as having been read the first time, that it be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Protocols for the Fourth Extension of the Wheat Trade Convention and Food Aid Convention constituting the International Wheat Agreement, 1971, open for signature in Washington from April 26 through May 17, 1978. The Protocols were established by a Conference which met in London on March 23, 1978.

I transmit also, for the information of the Senate, the report of the Department of State with respect to the Protocols.

The Protocol for the Fourth Extension of the Wheat Trade Convention, 1971, extends the Convention until June 30, 1979, and maintains the framework for international cooperation in wheat trade matters. It also continues the existence of the International Wheat Council.

The Protocol for the Fourth Extension of the Food Aid Convention, 1971, extends until June 30, 1979, commitments of donor member states to provide minimum annual quantities of food aid to developing countries.

Declarations of Provisional Application of both Protocols were signed and deposited for the United States on May 17, 1978, allowing our country to continue full and active participation in the International Wheat Council and Food Aid Committee. The Council and the Committee have granted the United States an extension through June 30, 1979, to deposit instruments of ratification.

It is my hope that the Senate will give early and favorable consideration to the two Protocols so that ratification by the United States can be effected and instruments of ratification deposited no later than June 30, 1979.

JIMMY CARTER.

THE WHITE HOUSE, *March 15, 1979.*

REREFERRAL OF NOMINATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, as in executive session, that the nomination of Carlon M. O'Malley, Jr., of Pennsylvania, to be U.S. attorney for the middle district of Pennsylvania, be rereferred to the committee inasmuch as it was erroneously reported and now appears on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CERTAIN ACTION TO BE TAKEN DURING RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the recess of the Senate over until Monday, the Vice President of the United States, the President of the Senate pro tempore, and the Acting President pro tempore, be authorized to sign all duly enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the recess of the Senate over until Monday, the Secretary of the Senate be authorized to receive messages from the other body and from the President of the United States and that such messages be appropriately referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL MONDAY, MARCH 19, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 12 o'clock noon on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDERS FOR MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of the two leaders on Monday under the standing order, Mr. JAVITS, Mr. BAKER, Mr. STEVENS, Mr. TOWER, and Mr. ROBERT C. BYRD be recognized, each for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I am not in the position to state at this time as to whether or not the debt limit measure will be called up on Monday. It may be Monday or it may be Tuesday. At this point I just cannot say.

But so far as I know that is about all I can say with respect to Monday. That is not to say that there will not be other business, but I am just not in a position to say that there will be.

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Mr. President, I advise the distinguished majority leader that apparently there will be amendments from this side to the debt limit bill, and I simply tell the majority leader that so he will know how to plan the agenda for Monday or Tuesday.

I have no idea how long they will take. I expect if they are offered, at least one of them will require a rollcall vote.

I might also say, while the Senator has kindly yielded to me, that I hope we might be able to proceed with the Executive Calendar or much of it on Monday.

Mr. ROBERT C. BYRD. May I say to the distinguished minority leader that I would hope we could do this, too. At least I would not want to proceed on Monday unless all of the nominees had been cleared by that time.

Mr. BAKER. I will try to have some further information for the distinguished majority leader then at the time we convene on Monday and be able to advise him a little further in that respect.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

RECESS UNTIL MONDAY, MARCH 19, 1979

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order just entered, that the Senate stand in recess until the hour of 12 o'clock noon on Monday next.

The motion was agreed to; and at 5:58 p.m., the Senate recessed until Monday, March 19, 1979, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate March 15, 1979:

JUDICIARY

Bailey Brown, of Tennessee, to be a U.S. circuit judge for the sixth circuit, vice Harry Phillips, retired.

Harold Duane Vietor, of Iowa, to be U.S. district judge for the southern district of Iowa, vice a new position created by Public Law 95–486, approved October 20, 1978.

IN THE COAST GUARD

The following-named Reserve officers of the Coast Guard to be permanent commissioned officers in the grades indicated:

To be captain

James R. Costello

To be lieutenant commander

Ross Bell

To be lieutenants

Daniel J. Connolly
John L. Cooper
Vivien S. Crea
Thomas M. Daley
Michael J. Perrone
Ronald C. Zabel

To be lieutenants (junior grade)

John K. Backhus
Mark E. Benjamin
Jonathan L. Blaney
David F. Breuninger
John S. Browning
Joseph M. Buonaiuto
Andrew J. Cascardi
Dennis J. Cashman
Thomas F. Conlan
Robert E. Davila
Douglas P. Fortune
Frederick R. Galloway
Gary E. Gamble
Jerri D. Geer
David R. Glaser
John P. Guyer
Jack L. Hardin
Victor R. Hawks, Jr.
Robert E. Heins
William J. Hutmacher
Charles W. Isherwood
Stephen R. Judson
Timothy M. Keegan
Susan H. Kinner
Robert L. Knapp
Richard R. Kowalewski
Lucille T. Laliberte
John F. Lazaretti
William B. Leland
William E. Lesko
David A. Maes
Michael R. Mallery
David J. Martyn
Jill D. McBride
Brian E. McCaffrey
Galan R. McEachin
John B. Moore
William H. Morgan II
Richard M. Mullen
Rita A. Nesel
Janice E. Page
Raymond W. Parzych
Roger B. Peoples
Robert J. Pittman
Robert G. Pond
Joseph R. Ponds
William M. Porter
William P. Prosser
Gordon B. Reddick
Peter A. Richardson
Michael P. Rolman
Florian F. Rundio
Charles T. Schmincke
William D. Shipley
James G. Simpson
James D. Spitzer
James A. Stamm
Terry L. Steinford
Michael E. Tobbe
John A. Turner
Cordell S. Viehweg
Robert H. Warman
Paul K. Westcott
John B. Whiddon
Peter J. Wolfe
Catherine A. Zimmer

The following-named officer to be a permanent commissioned officer in the Coast Guard in the grade of chief warrant officer, W–3, having been found fit for duty while on the temporary disability list:

Louis J. Jensen

IN THE ARMY

The following-named Army Medical Department officers for appointment in the Regular Army of the United States, to the grade indicated, under the provisions of title 10, United States Code, sections 3284, 3306 and 3307.

To be major general, Medical Corps

Maj. Gen. Kenneth Ray Dirks, [redacted] Army of the United States (brigadier general, Medical Corps, U.S. Army).

Maj. Gen. Enrique Mendez, Jr., [redacted], Army of the United States (brigadier general, Medical Corps, U.S. Army).

To be brigadier general, Medical Service Corps

Brig. Gen. James Julius Young, [redacted], Army of the United States (colonel, Medical Service Corps, U.S. Army).

IN THE ARMY

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C., section 3383:

ARMY PROMOTION LIST

To be colonel

Clay, Brent A. [redacted].
Crawford, Byron D., [redacted]
Cullum, William D. [redacted]
Darst, Henry J., Jr., [redacted]
Getmanov, Nicholas, [redacted]
Hartsook, Richard M., [redacted]
Jackson, Merwyn L., [redacted].
Laufe, David M. [redacted]
Marshall, Richard W., [redacted].
Martin, Elmo [redacted].
Merton, Richard D., [redacted].
Pistorius, Joseph, Jr., [redacted].
Richardson, Billy, [redacted].
Sandler, Roger W., [redacted].
Strimbeck, Donald C. [redacted]
Thames, Lee D. [redacted]
Weil, Richard G. [redacted].
Werner, Charles P., [redacted].
Wilson, George B. [redacted].
Wilson, Paul H., [redacted]
Wood, Richard A., [redacted].
Yonno, Eugene J., [redacted].

CHAPLAIN

To be colonel

Lieberman, Alvin I., [redacted].
Torsiello, Ralph C., [redacted].

ARMY NURSE CORPS

To be colonel

Szymanski, Bernice V., [redacted]

MEDICAL CORPS

To be colonel

Davis, George B., [redacted]
Johnson, David E., [redacted].

MEDICAL SERVICE CORPS

To be colonel

Fountain, William A., [redacted].
Kenyon, Gerald P., [redacted].

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C., section 3383:

ARMY PROMOTION LIST

To be lieutenant colonel

Abts, Norris P., [redacted]
Alpers, Norman E., [redacted]
Armstrong, Charles F., [redacted]
Atwater, Charles F., [redacted]
Baker, Donald E., [redacted]
Bootzin, Jerold A., [redacted]
Boucher, Paul J., [redacted]
Bowen, Floyd C., [redacted]
Brown, Spencer L., [redacted]
Bryant, Max L., [redacted].
Cary, John H., [redacted].
Cary, Martin W., Jr., [redacted]
Cazier, James R., [redacted]
Connolly, Felix K., [redacted]
Contacos, Samuel P., [redacted]
Cortinez, Robert R., [redacted]
Cuschieri, Joseph, M., [redacted]
Day, Joseph, Jr., [redacted]
Dennis, Arvis R., [redacted]
Dippold, Edgar E., [redacted]
Dixon, David L. [redacted].
Flandro, Mark V., [redacted]
Freeman, Lindsay M., [redacted]
Furioni, Richard J., [redacted]
Gdodek, Thomas R., [redacted]
Gilbert, Barton J., [redacted]
Graves, Lawrence S., [redacted]
Guthrie, James R., Jr., [redacted]
Hobgood, William B., [redacted]
Holder, William R., [redacted]
Holtsinger, Rollie D., [redacted]
Huck, Thomas L., [redacted]
Jacobson, Lowell D., [redacted]
Johnson, Morgan L., [redacted]
Katuzny, Walter E., Jr., [redacted]
Kihlberg, Fred E. [redacted]
Kilgallon, Joseph D., [redacted]
Kilgore, Carmen L., [redacted]
Kimbrough, William P., [redacted]
King, Henry S., [redacted]
King, Howard F., Jr., [redacted]
Korsnes, Aasgeir, [redacted]
Kutka, Ronald A., [redacted]
Langstron, Donald R., [redacted]
Logsdom, David P., [redacted]
Loughlin, Thomas A. [redacted]
McCollough, Joe L., [redacted]
McManis, Kenneth, [redacted]
Mellgren, Laurence K., [redacted]
Milwee, Raymond F., Jr., [redacted]
Mitchell, Waylon R., [redacted]
Mullins, William R. [redacted]
Nolan, Maxcy P., Jr., [redacted]
Normand, Hoffard D., [redacted]
Osora, Ralph T., [redacted]
Panczyszyn, Frank, [redacted]
Pearman, Thomas H., [redacted]
Porter, William R., [redacted]
Reinhardt, Robert L., [redacted]
Repichowski, Steve, [redacted]
Rogers, Alfred J., [redacted].
Rogers, Harry R., [redacted]
Salzinger, Hans K., [redacted]
Schaller, James E., [redacted]
Schardein, Max L., [redacted]
Scheinkoenig, Joseph, [redacted]
Scott, James K., [redacted].
Selig, John S., [redacted].
Shamlin, Gary E., [redacted]
Slauer, Arthur W., [redacted]
Smith, Edwin R., [redacted]
Stauber, Jerome E., [redacted]
Stefanick, Michael, Jr., [redacted]
Stieger, Jacob, [redacted].
Stokes, Thomas E., [redacted]
Stuart, Edward, III, [redacted]
Tarzon, Steven, [redacted].
Tillman, Harold E., [redacted]
Townsend, Samuel E., [redacted]
Unger, Dallace W., [redacted]
Vos, Arthur J., Jr., [redacted]
Weedman, William L., [redacted]
Westbrook, William A., [redacted]
Wheeler, Leonard E., [redacted]
Wilson, Ronald L., [redacted]
Withers, Hilton M., [redacted]
Woods, Edwin, [redacted].

CHAPLAIN

To be lieutenant colonel

Reichard, Richard, [redacted]
Stricklin, Gilford A., [redacted]

ARMY NURSE CORPS

To be lieutenant colonel

Greenhill, Elizabeth, [redacted]
Jantz, Duane L., [redacted].
MacDonell, Daniel R. A., [redacted]
Pizzuto, Gerlinde C., [redacted]

DENTAL CORPS

To be lieutenant colonel

Amick, Jack A., [redacted].
Falasco, Raymond F., [redacted]

MEDICAL CORPS

To be lieutenant colonel

Coe, John R., Jr., [redacted].
Kelly, Francis J., [redacted].
Leary, John P., [redacted].
Nemani, Bal Mukand, [redacted]
Silva, Wayne E., [redacted].
Strong, Michael D., [redacted]

MEDICAL SERVICE CORPS

To be lieutenant colonel

Beker, Robert J., [redacted]
Brosseau, Terrance, [redacted]
Damico, Frank V., [redacted].
Prescott, Paul W. [redacted]
Wheeler, Robert J., [redacted]

VETERINARY CORPS

To be lieutenant colonel

Dill, Garrett S., Jr., [redacted]

The following-named officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C., sections 591, 593, and 594:

DENTAL CORPS

To be lieutenant colonel

Kane, Donald L., [redacted].
Mackay, Noel C. [redacted].

MEDICAL CORPS

To be lieutenant colonel

Battle, James W., [redacted]
Carrasco, Ernesto, [redacted]
Ennis, Arthur L. [redacted]

George, Lynn D., [redacted].
Newton, Robert F., [redacted].
Nugent, Thomas E., [redacted].
Sanchez, Alex F., [redacted].
Smith, Vestal B., [redacted].
Susac, John O., [redacted].
Ullmann, Thomas M., [redacted].

The following-named officers for appointment in the Army of the United States, under the provisions of title 10, U.S.C., section 3494:

MEDICAL CORPS

To be lieutenant colonel

Anderson, Robert W., [redacted].
Chaffee, Barbara, [redacted].
Kiesel, Tonu M. [redacted].

The following-named Army National Guard officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C., section 3385:

ARMY PROMOTION LIST

To be colonel

Aguirre, Ramon J., [redacted].
Alfaro, Armando J., [redacted].
Barnette, Anderson, [redacted].
Benabe-Benabe, E., [redacted].
Bond, Richard E., [redacted].
Bourne, Darden J., [redacted].
Braund, Richard I., [redacted].
Cadwalader, Richard, [redacted].
Dechert, Robert C., [redacted].
Episcopo, Leonard M., [redacted].
Figueroa, Jose R., [redacted].
Gant, Harold L. [redacted].
Graybill, David C., [redacted].
Hanson, Edward L., [redacted].
Harrington, John F. [redacted].
Harrison, Patrick W., [redacted].
Hazel, Gene C. [redacted].
Hedden, Donald L. [redacted].
Himsel, Kenneth W. [redacted].
Huber, James J., [redacted].
Jarrell, Richard P. M., [redacted].
Markle, Fred W., [redacted].
Miller, James M. [redacted].
Milton, Clifton F. [redacted].
Newbold, Kenneth R., [redacted].
Parks, James E., Jr., [redacted].
Porter, John L. R. [redacted].
Pulket, Arthur W. [redacted].
Quigley, William A. [redacted].
Richardson, Alan D., [redacted].
Robinette, Joe A. [redacted].
Ryan, James A., [redacted].
Sharp, Thomas A., [redacted].
Skelton, Thomas C., [redacted].
Stuart-Collazo, William, [redacted].
Sweetman, James L., [redacted].
Taylor, Harold N. [redacted].
Tuttle, Allen H. [redacted].
Uhlenhake, James R., [redacted].
Whillen, Theron D., Jr., [redacted].
Williams, Enoch H., [redacted].

MEDICAL CORPS

To be colonel

Steinberg, Sidney R., 405–46–1076.

MEDICAL SERVICE CORPS

To be colonel

Green, Robert D., [redacted].

ARMY PROMOTION LIST

To be lieutenant colonel

Agrafiotis, C. C. [redacted].
Alewel, Roger L. [redacted].
Amoroso, Francis J. [redacted].
Anderson, Guy W., [redacted].
Baldwin, Edward S., [redacted].
Barker, Larry C. [redacted].
Bell, Duane R. [redacted].
Bennett, Robert W., [redacted].
Bullock, Hubert E., [redacted].
Carmickle, Marion A. [redacted].
Catron, Claude F. [redacted].
Christensen, Neil C. [redacted].
Clark, Dudley M. [redacted].
Cole, Grover H., [redacted].
Davis, Wallace C. [redacted].
Davoli, Donald H. [redacted].
Dixon, James H. [redacted].
Dunlap, John L. [redacted].
Fannin, Rufus W. [redacted].
Florence, William E., [redacted].
Forslund, Gerald W., [redacted].
Gordon, Melvin G. [redacted].
Griffith, Robert H. [redacted].
Halle, Richard R. [redacted].
Hansen, Robert L., [redacted].
Holbrook, George E., [redacted].
Jackson, Gary W., [redacted].
Jennings, Charles E., [redacted].
Johnson, Edwin E. [redacted].
Kaplan, Lawrence P., [redacted].
Kieta, Vincent J. [redacted].
Krull, Jacob J [redacted].
LaFerriere, Robert [redacted].
Leglev, Pedro [redacted].
Levins, Robert R. [redacted].
Long, James H [redacted].
Lyles, William J. [redacted].
McAlister, James H., [redacted].
McClanahan, Ken O., [redacted].
McGinnis, Alfred C., [redacted].
McIntosh, Wililliam F., [redacted].
McKenzie, Fred L. [redacted].
McKoane, James L., [redacted].
Martin, William L., [redacted].
Metz, Laurence L., [redacted].
Nichols, William C., [redacted].
Nolan, Turner [redacted].
Noles, Billy J. [redacted].
O'Keefe, James W., [redacted].
Olson, Charles E. [redacted].
Paige, Billy D. [redacted].
Pieretti, Hector G., [redacted].
Powers, John T., Jr., [redacted].
Raleigh, Edgar [redacted].
Raper, James M. [redacted].
Richards, Gary D., [redacted].
Ross, Ernest R [redacted].
Rountree, Jack W., Jr., [redacted].
Schumaker, Theodore A., [redacted].
Schwartz, Melvin J., [redacted].
Schwartzkopf, Roland J., [redacted].
Sefton, Frank N., III, [redacted].
Shaver, Fred W., Jr., [redacted].
Smoak, Joseph M. [redacted].
Sniadach, Louis M., [redacted].
Stallard, James D. [redacted].
Stone, Arthur W [redacted].
Terry, Tom B. [redacted].
Tyler, Terry J. [redacted].
Upchurch, James F., [redacted].
Watchilla, Joseph [redacted].
Wigley, William V., [redacted].
Williams, Byron A., [redacted].

MEDICAL CORPS

To be lieutenant colonel

Bianco, Emidio A., [redacted].
Eves, John H., [redacted].
Gilford, Lawrence M., [redacted].
Hemry, David A. [redacted].
Marcel, Jesse A., Jr., [redacted].
Mason, Howard M., [redacted].
Pomponio, Joseph G., [redacted].
Smith, Leonard [redacted].

MEDICAL SERVICE CORPS

To be lieutenant colonel

Avallone, Frank A. [redacted].
Chalk, Francis L. [redacted].
Rodrigues-Castells, Ariel, [redacted].

VETERINARY CORPS

To be lieutenant colonel

Rodriguez, Pedro P., [redacted].

The following-named persons for appointment in the Regular Army of the United States, in the grade specified, under the provisions of title 10, United States Code, sections 3283 through 3294:

To be major

Alexander, Le Ester, [redacted].
Bogard, Robert L., Jr., [redacted].
Boynton, Ralph T., [redacted].
Coffman, Glenn E., [redacted].
Crowell, Allen C., Jr., [redacted].
Frailing, Leroy G., [redacted].
Golas, Robert J., [redacted].
Hickman, James L., [redacted].
Hoffmann, Peters, [redacted].
Hosaka, Melvin I., [redacted].
Howell, Samuel A., Sr., [redacted].
Kauffman, Lewis E., [redacted].
McCraney, Donald K., [redacted].
McMonegal, William P., [redacted].
Murphy, Robert M., [redacted].
Nettles, Ora G., [redacted].
Parker, Frank O., [redacted].
Parker, Fred G., [redacted].
Parrilli, Matthen, [redacted].
Pittillo, Winnie R., [redacted].
Rodriguez, Alvarez Orl, [redacted].
Willis, Raymond E., [redacted].

To be captain

Adams, Kerry G., [redacted].
Aldrich, Thomas H., [redacted].
Allen, Charles F., Jr., [redacted].
Allison, Michael J., [redacted].
Alspaugh, James D., [redacted].
Anckaitis, Robert G., [redacted].
Anderson, Edward J., [redacted].
Angelly, Ronald L., [redacted].
Arens, Noel J., [redacted].
Ariail, Thomas M., Jr., [redacted].
Atwell, Robert C., [redacted].
Atwood, Delbert W., [redacted].
Bailey, Cecil E., [redacted].
Bailey, Linwood P., [redacted].
Bailey, Thomas L., [redacted].
Baker, Gary C., [redacted].
Baldwin, Frank A., Jr., [redacted].
Banis, Felix G., II, [redacted].
Barfield, Ann L., [redacted].
Barnett, James O., [redacted].
Barrett, Richard E., [redacted].
Batron, Arthur D., [redacted].
Baugh, Milton, III, [redacted].
Bays, Leland R., [redacted].
Billick, Gary E., [redacted].
Billings, David N., Jr., [redacted].
Beach, Joseph E., [redacted].
Beatty, Eugene E., Jr., [redacted].
Belich, William A., Jr., [redacted].
Bell, Robert J. [redacted].
Benson, Terry R., [redacted].
Betit, Eugene D., [redacted].
Blake, James T., [redacted].
Boutin, Wilbur H., Jr., [redacted].
Bowles, Raymond S., [redacted].
Broderick, John D., [redacted].
Brogan, Lawrence N., [redacted].
Brooks, Roy A., [redacted].
Brown, Frank G., III, [redacted].
Bryant, Loran G., [redacted].
Buie, Ralph M., [redacted].
Burke, Nicholas J., [redacted].
Calhoun, Joe N., [redacted].
Calhoun, John P., [redacted].
Cameron, Ronald F., [redacted].
Campos, Julio C., [redacted].
Canada, Arnold J., [redacted].
Cappelletti, Siro A., [redacted].
Carnes, Edward L. J., [redacted].
Carroll, James F., [redacted].
Carroll, Michael G., [redacted].
Chmelir, John D., [redacted].
Ciarlo, Felix J. J., [redacted].
Clifton, Brantley E., [redacted].
Clodfelter, Gregory K., [redacted].
Collat, Carlos M., [redacted].
Collier, James E., [redacted].
Colliver, Keith W., [redacted].
Comstock, Norman G., [redacted].
Condon, Paul D., [redacted].
Cook, Rolf L., [redacted].
Cookson, Tommy W., [redacted].
Cooley, Daniel B., [redacted].
Cotterman, James E., Jr., [redacted].
Cotton, John P., [redacted].
Cox, Loring B., Jr., [redacted].
Cover, Winston Al, [redacted].
Craig, Henry R. [redacted].
Crocker, George K., [redacted].

Crumal, Thomas M., [redacted]
Cunningham, Daniel A., [redacted]
Curry, Paul M., Jr. [redacted]
Dallas, Michael D., [redacted]
Davis, Frank C. III, [redacted]
Dennis, Theodore H., [redacted]
Dixon, Richard W., [redacted]
Dolder, Alfred, [redacted]
Dolivo, David T., Jr., [redacted]
Draudt, Frederick R., Jr., [redacted]
Dress, Harold J., [redacted]
Dubay, Ronald E., [redacted]
Duncan, Norman L., [redacted]
Duval, Jean J., [redacted]
Eaton, Harmon L., Jr., [redacted]
Edwards, John P., [redacted]
Ellis, James P., [redacted]
Eloridge, Ralph S., Jr., [redacted]
Engelking, Stephen C., [redacted]
Engstrom, Charles L., [redacted]
Ervin, David L., [redacted]
Fackner, William P., Jr., [redacted]
Felter, James E., [redacted]
Ferdon, John R., [redacted]
Ferguson, Bernard B. II, [redacted]
Ferris, Marshall A., [redacted]
Filgo, James D., [redacted]
Fitzgerald, Albert W. I., [redacted]
Ford, John A. Jr., [redacted]
Forney, William R., [redacted]
Fox, Frederick G. III, [redacted]
Francis, Webster E., Jr., [redacted]
Fraser, James E. [redacted]
Frist, Dennis M., [redacted]
Gangloff, John A., [redacted]
Gaynor, Jeffrey R., [redacted]
Gedney, Roy C., [redacted]
Gerber, Harold J. [redacted]
Gnage, James C., [redacted]
Goetz, Bruce P., [redacted]
Gookins, Michael R., [redacted]
Gordon, Robert E., [redacted]
Grauer, Franklin H., Jr., [redacted]
Greene, Edward J., [redacted]
Gribschaw, James S., Jr., [redacted]
Groom, Charles H., [redacted]
Hand, William L., [redacted]
Hardy, Curtis W., [redacted]
Harless, Larry L., [redacted]
Harris, Robert B., Jr., [redacted]
Harrison, Mark E., [redacted]
Haskins, Lyle K. [redacted]
Hauser, Benjamin C., [redacted]
Heehn, Richard C., [redacted]
Heldreth, Curtis L., [redacted]
Henry, Raymond E., Jr., [redacted]
Hermann, Marilyn A., [redacted]
Hickman, Bobby G., [redacted]
Hinds, Randy C., [redacted]
Hines, John H., Jr., [redacted]
Hood, Floyd C., Jr., [redacted]
Horvath, William C., [redacted]
Hotz John J. [redacted]
Jackson, Norman I., [redacted]
Jacobs, Michael L., [redacted]
Jakobson, Ronald D., [redacted]
Jamell, Donald G. [redacted]
Jeanes, Bill F. [redacted]
Jelinski, Barry J., [redacted]
Johnson, Dan [redacted]
Kapranopoulos, John, [redacted]
Kedzierski, Edmund F., [redacted]
Kelley, Thomas G., [redacted]
Kemmitt, William G., [redacted]
Kiernan, David R. [redacted]
Kraynak, Robert P., [redacted]
Kryway, James G. [redacted]
Lane, William L. [redacted]
Lefort, Gary L. [redacted]
Lipsey, Richard D., Jr., [redacted]
Lofton, Ronald E., [redacted]
Lovejoy, Ronald K. [redacted]
Lubaczewski, Thomas J., [redacted]
Luck, Frederick M. [redacted]
Ludwig, Wesley A. [redacted]
Lynch, Michael E. [redacted]
Macel, John A., Jr., [redacted]
Mack, Richard [redacted]
Madden, Everett I., II, [redacted]
Marrs, Edward W., III, [redacted]
Marshall, Edwin R., Jr., [redacted]
Marshall, Eric R., [redacted]
Martin, Gary L., [redacted]
Martin, Larry G., [redacted]
Markle, Ross E., [redacted]
Markowski, Larry R., [redacted]
Mays, Gordon E., [redacted]
McClam, James W., [redacted]
McCool, Dennis L., [redacted]
McCormick, Michael D., [redacted]
McCoy, James M., [redacted]
McDaneld, Kenny P., [redacted]
McDonald, Robert J., [redacted]
McLaughlin, Raymond G., [redacted]
Mears, Gary R., [redacted]
Memrick, Joseph N., [redacted]
Meyer, James F., [redacted]
Meyers, Charles P., [redacted]
Meyerson, Barry, [redacted]
Miller, Gary G., [redacted]
Milne, Douglas R., [redacted]
Moton, Lawrence M., [redacted]
Moyer, David E., [redacted]
Murphy, Gary A., [redacted]
Murphy, Stanley J., [redacted]
Myers, Larry J. [redacted]
Myers, Robert J. [redacted]
Nadrah, Kenneth S., [redacted]
Napier, Kenneth A., [redacted]
Neff, William J., [redacted]
Nyberg, James E., [redacted]
Oberthaler, David P., [redacted]
Ocasio, Jose A., [redacted]
O'Connor, James C., [redacted]
O'Connor, John S., [redacted]
Oedewaldt, Gary A., [redacted]
Olson, Russell V., Jr. [redacted]
Ott, John J. [redacted]
Pack, James C. [redacted]
Patrick, Robert W., [redacted]
Peterman, Arnold W., Jr., [redacted]
Peth, Stephen B., [redacted]
Perry, Robert S. [redacted]
Pinnell, Roger I., [redacted]
Pollard, Willie R., Jr., [redacted]
Pollock, David H., [redacted]
Porter, Dennis D. [redacted]
Post, William E. [redacted]
Pressley, Harvey L. [redacted]
Price, Gerald M. [redacted]
Price, Raney M. [redacted]
Prins, Danny L. [redacted]
Puhala, Edward R., [redacted]
Pyrek, William J. [redacted]
Quellette, Ronald R., [redacted]
Quigley, Howard A., [redacted]
Raburn, Henry L., Jr., [redacted]
Rader, William P. B., [redacted]
Randall, William A. [redacted]
Randolph, Stephen C., [redacted]
Rapps, John M. [redacted]
Raseta, Thomas G., [redacted]
Regan, John J. [redacted]
Resnick, Allan M., [redacted]
Richard, Newton M., III, [redacted]
Rietz, Dieter R. [redacted]
Roberts, Frederick A., [redacted]
Robinson, David A., [redacted]
Romich, Ronald F., [redacted]
Ronningen, Jerome O., [redacted]
Roop, Troy J. [redacted]
Ross, Stephen L. [redacted]
Roulston, Grayson D., [redacted]
Rovansek, Joseph S., Jr., [redacted]
Rulison, Ronald A., [redacted]
Rumgay, James A. [redacted]
Saunders, Craig L., [redacted]
Scarfo, Daniel [redacted]
Schachleiter, John W., [redacted]
Schiffner, Frederick W., [redacted]
Schneider, Kent R., [redacted]
Scroggins, Coy R., [redacted]
Schoonmaker, Tracey A., [redacted]
Schroeder, Larry D., [redacted]
Schumacher, Mark W., [redacted]
Seay, Joe D. [redacted]
Shepherd, Johnie L., [redacted]
Shirley, John H., Jr., [redacted]
Simcoe, Darwin D., [redacted]
Simmons, Ronald J., [redacted]
Smith, David B. [redacted]
Smith, Floyd C. [redacted]
Smith, Freddie R., [redacted]
Smith, Joe C. [redacted]
Smith, John F. [redacted]
Smith, Lee G. [redacted]
Smith, Paul F. [redacted]
Smith, Russell P., III [redacted]
Smith, Thomas C. [redacted]
Stahl, Benjamin F., III [redacted]
Stephenson, Elton R. [redacted]
Stovall, Austin A. [redacted]
Suber, Carson G. [redacted]
Sudler, John C. [redacted]
Sundberg, Frederick C. [redacted]
Szureyi, Arpad A. [redacted]
Talbert, David A. [redacted]
Tavano, Michael J. [redacted]
Teague, John A., Jr., [redacted]
Thomas, David G. [redacted]
Thomas, Thomas E. [redacted]
Tompson, Larry D. [redacted]
Tompson, Robert P. [redacted]
Thorpe, John W., Jr. [redacted]
Tillery, Herbert R. [redacted]
Timmerman, Jesse R. [redacted]
Tobin, Daniel A. [redacted]
Tobin, William F. [redacted]
Todd, Richard A. [redacted]
Town, Barrie A. [redacted]
Tucker, Ronnie W. [redacted]
Tuttle, Thomas L. [redacted]
Van Epps, James R. [redacted]
Verrett, Joseph A., III [redacted]
Vincent, Barry D. [redacted]
Voorhees, Delloyd, Jr. [redacted]
Wagner, Edward L. [redacted]
Wallace, Richard A. [redacted]
Waller, Mark C. [redacted]
Walls, Osborne K. [redacted]
Walsh, John R. [redacted]
Walsh, William P. [redacted]
Walter, Alan H. [redacted]
Warner, Michael L. [redacted]
Wayne, David H. [redacted]
Wehrman, Mary R. [redacted]
Wells, Daniel W., III [redacted]
Wells, Kenneth B. [redacted]
Westbrook, Stephen W. [redacted]
White, Phillip O. [redacted]
Whitley, Roy W. [redacted]
Wiess, James E., Jr. [redacted]
Williams, Douglas A. [redacted]
Williams, Henry T. [redacted]
Williams, Robert C. [redacted]
Williamson, Norman L. [redacted]
Wright, Gary W. [redacted]
Wright, John E., III [redacted]
Wynn. John E. [redacted]
Yule, James C. [redacted]
Zeigler, Ronald L. [redacted]

To be first lieutenant

Acurio, Diane M., [redacted]
Alexander, Ronald H., [redacted]
Allen, Jay D. [redacted]
Almond, Robert L., [redacted]
Anderson, John C., [redacted]
Anderson, Martin F. III, [redacted]
Arneson, Jeffrey A., [redacted]
Austria, Duane A., [redacted]
Avery, Reginald T., [redacted]
Bailey, Donovan B., Jr., [redacted]
Bell, Honor M., [redacted]
Bir, Anthony, [redacted]
Billings, Robert K., [redacted]
Blanchard, Levell, [redacted]
Bombard, John J., [redacted]
Borchini, Charles P., [redacted]
Bowman, Keith W., [redacted]
Bowman, Vicki Y., [redacted]
Brenner, Charles B., [redacted]
Brissette, Norman E., [redacted]
Bruno, Bedford N., [redacted]
Bushee, Charles E., [redacted]
Bute, Neil D. [redacted]
Campbell, Benjamin A. J., [redacted]
Capin, Mary P., [redacted]
Carroll, Walton C., Jr., [redacted]
Carter, Roger L., [redacted]
Caswell, James R., [redacted]
Chaplin, Larry D., [redacted]

Charlson, Thomas L., [redacted].
Chavez, John R., [redacted].
Clayton, Dennis D., [redacted].
Cline, Lawrence E., [redacted].
Cloyd, William L., [redacted].
Coburn, Thomas M., [redacted].
Cochrane, Robert G., [redacted].
Collier, Joe E., [redacted].
Cribbs, John M., [redacted].
Cunningham, Joyce L., [redacted].
Curtis, Edward D., [redacted].
Dallas, Lawrence M., [redacted].
Davidson, Ronald H., [redacted].
Davis, Jay L., [redacted].
Defrees, David L., [redacted].
Defreie, Danny L., [redacted].
Delane, James L., [redacted].
Dougherty, William T., [redacted].
Duncan, Marvin J., [redacted].
East, Robert B., [redacted].
East, Stephen C., [redacted].
Eberz, Matthew G., [redacted].
Eggert, Julie M., [redacted].
England, George W. III, [redacted].
Eskridge, Jeffrey R., [redacted].
Farr, Thomas F., [redacted].
Fletcher, Douglas L., [redacted].
Flom, Ronald C., [redacted].
Ford, Eunice [redacted].
Freedman, Liane, [redacted].
Fry, James N., [redacted].
Frye, Richard H., [redacted].
Greene, John M., Jr., [redacted].
Greene, Robert T., [redacted].
Goebel, David P., [redacted].
Gogely, John A., [redacted].
Good, James E., [redacted].
Graham, John K., [redacted].
Griffin, Gary B., [redacted].
Gunther, Richard E., [redacted].
Hall, Charles W., [redacted].
Hamel, Charles P., [redacted].
Hare, Gene R., [redacted].
Harmon, James T., [redacted].
Haynes, Kenneth N., [redacted].
Heredia, Jesse C., [redacted].
Heumphreus, Garey R., [redacted].
Hill, Michael G., [redacted].
Holland, Paul R., III [redacted].
Hollingsworth, Mary A., [redacted].
Holloway, Reginald G., [redacted].
Hoxie, Brian J., [redacted].
Johnson, Charles E., [redacted].
Johnson, Robert E., [redacted].
Jorgensen, David R., [redacted].
Joslin, S. Stewart, III, [redacted].
Kane, Edward M., [redacted].
Kastner, William G., [redacted].
Keenan, Maureen J., [redacted].
Keller, Howard W., Jr., [redacted].
Kendall, Marilyn J., [redacted].
Keyser, Janet S., [redacted].
Knarr, William M., Jr., [redacted].
Knight, Ronald E., [redacted].
Kozup, Michael J [redacted].
Komo, Linda L., [redacted].
Lafevers, Gary L., [redacted].
Lance, Darrell G., [redacted].
Lanzillotta, Lawrence, [redacted].
Larson, Luann E., [redacted].
Larkin, Thomas C., [redacted].
Leicht, Robert C., [redacted].
Lutz, Raymond R., [redacted].
Maddox, Dale F., [redacted].
Magrino, Gary J., [redacted].
Major, Edward B., [redacted].
McDavid, Allen M., [redacted].
McGuffey, David C., [redacted].
McIntosh, Perman, Jr., [redacted].
Messamore, John B., [redacted].
Mihalek, Thomas C., [redacted].
Mills, Grady S., II, [redacted].
Morris, Terence M., [redacted].
Mozingo, Gary C., [redacted].
Murray, Kirk E., [redacted].
Nash, John M., [redacted].
Neefe, Roger H., [redacted].
Novosad, Jerry J., [redacted].
Obermeyer, Kenneth M., [redacted].
Odom, Charles F., [redacted].
Olson, Larry J., [redacted].
Pavlick, Charles R., [redacted].
Pierce, Andy R., [redacted].
Propst, Robert D., [redacted].
Raffaeli, Paul J., [redacted].
Rall, Thomas C., [redacted].
Reft, Joseph H., [redacted].
Reid, Bennet W., Jr., [redacted].
Reynolds, Ronald M., [redacted].
Roberts, Ronnie R., [redacted].
Robertson, John S., [redacted].
Robinson, Michael K., [redacted].
Rollins, Charles L., [redacted].
Rooney, Clarie A., [redacted].
Roop, Steven L., [redacted].
Rose, Charles A., [redacted].
Rothbrust, Florian K., [redacted].
Ruffin, Charlotte E., [redacted].
Roebuck, Roy E. III, [redacted].
Saulsburg, Kurt R., [redacted].
Sauls, Margaret T., [redacted].
Sigle, Patricia A., [redacted].
Smith, Sandra E., [redacted].
Spaulding, Gregory H., [redacted].
Spencer, Carmen J., [redacted].
Spickelmier, Roger K., [redacted].
Stas, Ernest H [redacted].
Stevens, Jack H., [redacted].
Stevenson, Donald J., [redacted].
Stouffer, Samuel K., [redacted].
Sweet, Paul S., [redacted].
Tannich, Richard L., [redacted].
Tenuta, Gene J., [redacted].
Thibeault, Andre E., [redacted].
Thomas, Stephen R., [redacted].
Tillman, James A. III, [redacted].
Tompkins, James W., Jr., [redacted].
Tucker, William A., Jr., [redacted].
Vandenberg, Gary A., [redacted].
Vanderheiden, Merle M., [redacted].
Walus, Hohn E., [redacted].
Waren, John S., [redacted].
Watts, Michael G., [redacted].
Whythe, Alexander III, [redacted].
Wilkins, Charles W., Jr., [redacted].
William, Harold E., [redacted].
Yogel, Richard J., [redacted].
Young, Randall W., [redacted].

To be second lieutenant

Jorgenson, Charles H., [redacted].
Stephens, Willi P., [redacted].

IN THE NAVY

The following-named (Navy Reserve Officers Training Corps candidates) to be appointed permanent ensigns in the line or staff corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

Jerry S. Davidson
William E. Labian
Michael J. O'Connell
Joann L. S. Peterson
Delmar S. Spivey
Jonathan W. Stoehr
Patricia A. Strat
Randall R. Tanaka
Steve Tannenbaum
Richard W. Tarbell
Robert J. Tate
Michael R. Tavik
Don B. Taylor
Patricia A. Tayntor
David P. Tedin
Jefferson E. Tedrow
Ross D. Telson
Gary S. Tepera
James C. Tertocha
Richard G. Theisen
Bradley A. Thomas
Howard Thomas
Michael D. Thomas
Ronald E. Thomas
Stuart J. Thomas
Kenneth J. Thompson
Peter M. Thompson
Raymond J. Thornber
Donald J. Thornley
Christopher M. Tilton
Mark E. Tilton
Douglas R. Tindell
Timothy M. Tobin
Douglas P. Tomlinson
Gary A. Toribio
Jeffrey J. Torrence
James P. Tortorelli
Larry J. Tortorich

The following-named (U.S. Naval Reserve officer) to be appointed a permanent commander in the Medical Corps in the U.S. Navy, subject to the qualifications therefor as provided by law:

Robert W. Lukens, Jr.

THE JUDICIARY

Paul G. Hatfield, of Montana, to be U.S. district judge for the district of Montana, vice Russel E. Smith, retired.

Donald James Porter, of South Dakota, to be U.S. district judge for the district of South Dakota, vice a new position created by P.L. 95-486, approved October 20, 1978.

CORPORATION FOR PUBLIC BROADCASTING

The following-named persons to be members of the board of directors of the Corporation for Public Broadcasting for terms expiring March 26, 1984:

Michael A. Gammino, Jr., of Rhode Island (reappointment).

Jose A. Rivera, of New York, vice Louis P. Terrazas, term expired.

NATIONAL COUNCIL ON THE ARTS

The following-named persons to be members of the National Council on the Arts for terms expiring September 3, 1984:

Thomas Patrick Bergin, of Indiana, vice James Wyeth, term expired.

James Rosenquist, of Florida, vice Billy Taylor, term expired.

NATIONAL TRANSPORTATION SAFETY BOARD

Patricia A. Goldman, of the District of Columbia, to be a member of the National Transportation Safety Board for the term expiring December 31, 1983, vice Philip Allison Hogue, term expired.

HOUSE OF REPRESENTATIVES—*Thursday, March 15, 1979*

The House met at 11 a.m.

The Reverend Michael Easterling, Briggs Baptist Church, Bethesda, Md., offered the following prayer:

Let us pray.

We are reminded today of the words of the ancient prophet who said:

He hath showed thee O man what is good; and what doth the Lord require of thee, but to do justly; and to love mercy, and to walk humbly with thy God.—Micah 6: 8.

O God, may these words characterize us in every aspect of our lives and especially as we attempt to carry out our responsibilities as leaders of our beloved Nation.

Grant to us, in all of our deliberations, a sense of the just course of action. May we be men and women who are characterized by justice as we dream—as we plan—as we make decisions—and as we begin to dream again.

Grant, O God, that we might be leaders known for our practical compassion and mercy. Deliver us from getting to the point where we become callous and hardened to human need, simply because we are confronted by it so often. Help us to have hearts which always remain sensitive to the hurts and heartaches of our brothers and sisters everywhere.

And finally, O Lord, grant that we might know what it means to walk humbly with You, our God. Let humility be a garment for each of us as we view ourselves, as we walk in our relationships with one another, as we carry

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☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

out our constant responsibilities, and as we stand before You, the Author of our lives.

We give thanks again this day for the incredible blessings which we have as individuals and as a nation.

And we ask again for Your blessing as we humbly seek to do Your divine will. In Thy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House, by Mr. Chirdon, one of his secretaries, who also informed the House that on March 7, 1979, the President approved and signed a bill of the House of the following title:

H.R. 1902. An act to amend the Bank Holding Company Act Amendments of 1970.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2439. An act to rescind certain budget authority contained in the message of the President of January 31, 1979 (H. Doc. 96-46), transmitted pursuant to the Impoundment Control Act of 1974.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 2439) entitled "An act to rescind certain budget authority contained in the message of the President of January 31, 1979 (H. Doc. 96-46), transmitted pursuant to the Impoundment Control Act of 1974," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MAGNUSON, Mr. STENNIS, Mr. PROXMIRE, Mr. INOUYE, Mr. HOLLINGS, Mr. BAYH, Mr. EAGLETON, Mr. CHILES, Mr. JOHNSTON, Mr. YOUNG, Mr. HATFIELD, Mr. STEVENS, Mr. MATHIAS, Mr. SCHWEIKER, Mr. BELLMON, and Mr. WEICKER to be the conferees on the part of the Senate.

THE THREAT OF EUROPEAN MONETARY SYSTEM AND EUROPEAN MONETARY FUND

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GONZALEZ. Mr. Speaker, of course, the headlines that have gone out lately have to do with the President's efforts in the Middle East and the apparent success thereof; however, I think there is one that has been lost in the headlines that will rival the importance of the Presidential trip and it has to do with the development and the final clearance for the EMS, or the European Monetary System, and its accompanying fund, the European Monetary Fund.

Most of the American leaders, including the Secretary of the Treasury and the Under Secretary of the Treasury consider this to be a development that has no ominous significance to the country. I do not agree with it. I think it is one of the most ominous threats we have to the well-being of the financial and credit life of the United States and the value of our money and the dollar of anything I have seen developed recently and this, coupled with the stranglehold that the Arab OPEC nations now have on our private banking institutions, principally centered in New York where there are over $30 billion worth of short-term deposits that can easily be withdrawn. We are vulnerable and neither the Congress nor the President seem to be aware.

□ 1105

RISING HEALTH CARE COSTS

(Mr. WALGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALGREN. Mr. Speaker, when we judge the administration the most basic test should be whether the President selects the most critical problems for attack. With regard to health, this administration passes that test with flying colors and President Carter should be given real credit for his focus on raising hospital costs for containment.

Health care costs could be the greatest threat of all to family and Federal budgets. Health costs are rising at a rate that will soon place health care out of reach of middle-income families and we now ration health care by the fear of the cost of medical bills keeping people away from the doctor.

Medicare and medicaid payments have risen from $3 billion to $30 billion in just slightly more than 10 years, bankrupting the social security system and requiring major increases in payroll taxes. And management demands to eliminate traditional health care benefits provided to employees was the basic cause of the coal strike last year. That will threaten future management-labor relations very deeply.

Hospital costs are the largest single factor in health care costs, being 40 percent of the health care dollar with the Government paying $55 out of every $100 in that area. By any test President Carter has placed the highest priority right where it ought to be, on hospital cost. Thus far it is the Congress that has failed our people in this area.

HUMAN RIGHTS IN NORTHERN IRELAND

(Mr. WOLFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLFF. Mr. Speaker, I rise to address the House on a matter that has touched me deeply throughout my tenure in the Congress, the cause of human rights in Northern Ireland.

Most specifically, I refer to the article that appeared in the March 15th edition of the Washington Post. This article reports that a British Government inquiry has concluded that suspects in Northern Ireland have been physically mistreated by Ulster police in an effort to extract confessions from them. As this body knows, I have stood on the floor on many occasions to call the attention of this Congress and the Nation to the brutal violations of human rights committed by the factions in Northern Ireland. As one who has visited these prisons to get the true story, I can say with sadness that the article demonstrates what I have said on so many occasions before.

The revelation that this article makes, while they should cause the world to grieve, also present an opportunity which we must seize before it passes us by. I applaud the British for finally reexamining the detention act and their methods for interrogation. I now call upon the parties who have fought so violently in Northern Ireland to put an end to the violence, brutality, and discrimination that exists there.

With the success and promise of the Middle East talks as our guide and the spirit of St. Patrick's day as our inspiration, let us renew our efforts to fight for the human rights of the people of Northern Ireland.

Mr. Speaker, I will include the article of today's Washington Post in the Extensions of Remarks today.

SHAH OF IRAN BROUGHT DOWN BY HIS OWN (AND NIXON'S) FOOLISHNESS

(Mr. SEIBERLING asked and was given permission to revise and extend his remarks.)

Mr. SEIBERLING. Mr. Speaker, in yesterday's Washington Star there appeared a brilliant article by the distinguished statesman and diplomat George W. Ball entitled "What Brought Down the Shah." He points out that the Shah of Iran was brought down by his own foolishness and despotism, encouraged by the misguided adulation and unrestrained arms sales by the Nixon administration. With all the talk these days about who lost Iran, Mr. Ball's article brings a tremendous and much-needed perspective and some lessons that we can learn—and must learn, if we are not to repeat the same kind of mistakes in the future.

The article follows:

WHAT BROUGHT DOWN THE SHAH

THE NEW PERIL AT THE OIL CROSSROADS

(By George W. Ball)

The most puzzling question in the aftermath of the shah's departure is not why his regime crumbled after almost three decades of autocratic power but why it did not collapse earlier.

The shah's form of government—an absolute monarchy—was a museum piece. Even as a museum piece it lacked authenticity since the Pahlavi dynasty was established only a little more than 50 years ago when the shah's father, a colonel in a Persian

Cossack regiment, seized power in a military coup.

Continually conscious of his shaky claim to legitimacy, the shah staged costly extravaganzas to create the impression that his reign was in the line of succession from the great Persian emperors Cyrus and Darius, exploiting as theatrical props treasures from Persia's glorious past. In 1967 he crowned himself and his empress in the spectacular setting of the Golestan Palace and the famous Peacock Throne.

Four years later he spent $125 million of public funds to celebrate the 2,500th anniversary of the founding of the Persian empire with a spectacular pageant against the backdrop of Cyrus' former capital, Persepolis.

Though most Iranians—conditioned by their history to monarchial display—accepted the shah for what he was, the glamor of royalty had far more effect on many Americans—including presidents and secretaries of state. They instinctively accorded him a presumption of legitimacy and permanence they would never have extended to a dictator unaccoutered in the robes of royalty.

Yet, expensive as those robes might be, they did not immunize Iran from the ills endemic to most developing countries. Nor did they save the shah from the mistakes dictators habitually make.

Iran was beset by three problems that are the common curse of Third World countries: demography, urbanization and spendthrift and corrupt government. Its revolution stands out from the traditional Third World pattern only because of the country's strategic location, its huge oil resources and the role of Islamic fervor in the revolutionary process.

As with many other Third World countries, the product (apart from oil) that Iran most amply produces is more Iranians, and the consequences of an annual population increase of 2.8 percent have been twofold.

Not only has the population vaulted from 13 or 14 million at the end of the Second World War to 35 or 36 million today, but such a rapid rate of increase has drasticaly distorted the profile of that population, shifting the median age sharply toward the lower end of the spectrum. Today nearly half of the Iranian people are under the age of 16 and two-thirds under the age of 30.

Since subsistence farmers cannot go on indefinitely splitting up small plots among an expanding number of children who survive into adolescence, the young flocked into the cities. While at the end of the Second World War only a quarter of the population was "urban," today the cities (and particularly Tehran) have been the victims of a pernicious hypertrophy, forced by social and economic pressures to accomodate 50 percent of the entire population.

It is a currently faddish cliche that the shah's regime came apart because he tried to modernize Iran too quickly. Yet his error was not the speed of his effort but the way he undertook it.

With a mounting number of young Iranians clamoring for a place in the labor force, a wise ruler would have concentrated his country's revenues on agriculture and labor-intensive industries. Instead the shah lavished money on spectacular undertakings—process industries, steel mills, automobile factories and fantastically costly nuclear power plants—projects that absorbed significant amounts of unskilled labor only during the construction period.

Nor did he provide fulfilling employment for educated Iranians. To operate and manage these 20th century facilities, he gave preference to a vast number of foreign technicians, leaving the educated Iranian elite to find unrewarding work in a greatly overblown bureaucracy.

Even so, the shah might have mitigated the corrosive effects of many of his policies had he not developed an almost psychotic sense of his own importance—and to this the United States contributed.

During the 1960s, America had dealt with Iran as a friendly, medium-sized country that faced serious problems of development. The United States had encouraged the shah to use his nation's revenues prudently for the benefit of the people and to try to advance Iran's political and social evolution in pace with its developing economy.

FROM LAND REFORM TO PROFLIGACY

Under our prodding, the shah in 1962 adopted a land reform program and made some efforts to permit limited freedom for opposing views.

But in 1972 the United States recklessly reversed course. Instead of urging the shah to fiscal prudence, we encouraged his *folie de grandeur* and his profligacy.

That critical reversal occurred when President Nixon and the then national security adviser, Henry Kissinger, paid a brief visit to Tehran in May 1972. Because the British had withdrawn from the Persian Gulf four years earlier, President Nixon decided that Iran was a good place to apply the so-called Nixon Doctrine, which held that instead of providing direct protection, the United States would build up friendly nations "to assume the primary responsibility of providing the manpower for [their] defense."

In the case of Iran he went beyond the literal language of his earlier pronouncements by anointing the shah as the "protector" not only of his own country but of the whole Persian Gulf area.

That meeting was a turning point in America's relations with Iran. Nixon no longer treated the shah in the correct-but-arm's-length manner we had hitherto followed but, rather, as a co-equal leader. Iran under the shah's leadership was, he implied, a power that could provide the same protection in the Persian Gulf the United States provided in other areas of the world.

As Kissinger has recently conceded, the time to have urged the shah to stop repression and move toward a more liberal society was when he was at the height of his power and authority—or, in other words, at the precise time when Nixon and Kissinger called on him in 1972.

IGNORE U.S. LIBERALS, NIXON SAID

Within the next four years he had passed his peak; even though oil prices had by then increased fivefold, his extravagant spending on arms and grandiose projects was producing budgetary deficits and forcing him to cut back on projects already commenced.

But Nixon did not urge him to adopt more democratic practices and give more recognition to human rights. On the contrary, Nixon told the shah of his admiration and envy at the way he handled his dissident students (by putting them in jail) and advised the shah to pay no attention to American liberals who were, in his words, "all failures."

Such talk enormously inflated the shah's sense of importance, but to make matters worse Nixon recklessly agreed that the United States would sell him unlimited quantities of even our most advanced weapons—much the same as giving an alcoholic the keys to the world's largest liquor store.

Pursuant to that agreement, Kissinger, in the name of the president, directed the departments of Defense and State to sell the shah any arms he wanted, making it explicitly clear that the Iranian government—not our defense authorities—should be the final judge of what was needed.

The Kissinger directive specifically mentioned such highly sophisticated weapons as F–14s (which carry Phoenix missiles) and F–15s, both still on the drawing board at the time, and laser-guided bombs just then being delivered to our troops in Vietnam.

That set the shah on a buying binge unparalleled in history. Up to that point, postwar American administrations had consistently kept a tight rein on his appetite for arms, selling him only such weapons and equipment as our defense authorities thought appropriate.

U.S. AGENCY CRITICISM INHIBITED

In the 21 years from 1950 through 1971, the shah's military purchases from America had thus amounted in the aggregate to only $1.2 billion; but, in the first year following the Nixon visit, the shah ordered from the United States military goods amounting to $2.1 billion, and in the seven years following the Nixon-Kissinger visit, the purchases aggregated $19.5 billion.

The designation of the shah as America's chosen instrument entitled to special favors had major effects both in the United States and Iran. It discouraged our foreign service and intelligence bureaucracies from ever suggesting any criticism of the shah's behavior or from reporting any weakening of his political strength.

It made it personally inadvisable for any American official to urge him to modernize his political structure to keep pace with his country's progress. At the same time, it helped induce in the shah a progressive personality change.

Increasingly, our government found itself talking to a ruler who believed his own fantasies. During the 1960s the shah told me on several occasions that by the time he died he hoped that his country would achieve a standard of living equal to that of a European country (which I took to mean Greece or Portugal); in the latter 1970s he began to boast to other visitors that, by the end of his reign, Iran would be the fifth most powerful nation in the world, even overtaking West Germany, and that God had several times intervened to block assassins' bullets so he might achieve that destiny for his country.

Lacking objective advice from us and isolated from his own people by the iron barrier of his increasingly authoritarian power, the shah escaped further and further into unreality.

Since he tolerated only sycophants in his entourage, used his secret police (SAVAK) ruthlessly to suppress dissent and kept the press under tight censorship, he had no means of finding out what was going on in his country.

INSENSITIVITY TO CONDITIONS

Thus, he could hardly be expected to know that the cancer of discontent had metastasized through the whole body of Iranian society and that he had in fact alienated his entire country.

Apart from cruelty and corruption, his major fault was insensitivity to the condition of his people.

In spite of vast revenues, his wild spending led to a cash squeeze; belatedly, he responded by cutting back on construction programs, an action that ruthlessly threw unskilled workers out of their jobs. At the same time he had lopped off bureaucratic make-work that furnished employment to educated Iranians crowded out of jobs by his imported technicians.

No sector of society was immune from his heavy hand. Though his land reform program was well-intended, he had angered both the rich landowners and the mullahs by taking their lands, while pre-empting a quarter of the appropriated land for his own family's graft-ridden foundation.

He had outraged members of the professional middle class by denying them any place in the political life of the state. He had incensed the students by suppressing the free expression of their views, and offended the bazaar merchants by harsh price-control measures.

Finally—and this was his most unforgivable offense—he had sickened the whole country by the mindless cruelty of his secret police.

With members of literally thousands of families suddenly disappearing without a trace, the legion of his enemies constantly grew. When added to this was the corruption openly practiced by his family and hangers-on and their indecent display of wealth and waste in a country where the bulk of the population was still abysmally poor, it is no wonder the shah had to go.

With almost every sector of the population hating him, Iran was clearly ripe for revolution. All that was required was a unifying symbol, and that symbol appeared in the form of Ayatollah Khomeini.

DOCUMENTATION OF ABUSE IN ULSTER

(Mr. FISH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FISH. Mr. Speaker, I, too, rise to comment on the news of the report of Britain's Bennett Committee. This committee of inquiry began last summer, after Amnesty International detailed 78 cases of alleged brutality in the Castlereigh Interrogation Center. It follows on the heels of and confirms Dr. Irwin's disclosure of similar injuries, that he concludes could not be self-inflicted.

It is interesting to note that Dr. Irwin is an Ulster police surgeon, one of the few people who would be permitted in the Castlereigh facility where we were denied access during our visit to Northern Ireland.

I think it is interesting to note that today's publicity is a confirmation of what is already a public document in the volume known as the "Castlereigh Files" written by Fathers Murray and Faul.

I want to point out that in addition to documentation of visible injuries resulting from police interrogation, the "Castlereigh Files" describes 20 examples of injuries that do not show. The British Parliament has an opportunity now to change the Prevention of Terrorism Act, which is before it for review.

INTRODUCTION OF LEGISLATION TO SET NEW FISCAL POLICY

(Mrs. HOLT asked and was given permission to address the House for 1 minute and to revise and extend her remarks).

Mrs. HOLT. Mr. Speaker, I fear the consequences if we sail into debating the specifics of the 1980 budget without first establishing fiscal policy—the ceilings to guide and discipline us.

The budget process should be a vehicle for setting fiscal policy, then ordering our priorities under that policy.

Instead, the system we are using forces us to debate the priorities, accommodating this or that special interest as we proceed, before arriving at the total amount we want to spend.

Mr. Speaker, this is a very sorry way to budget. It is such a shabby process that it hardly deserves to be called budgeting. Many of us have been through the experience in prior years, and the American people are paying a terrible price for our unwillingness to impose discipline on ourselves.

I have introduced H.R. 55 to require us to set fiscal policy before we start haggling about programs. I hope that many Members of this House will cosponsor this legislation to provide us with an orderly, rational budget process.

THE COST OF PEACE EFFORTS IN THE MIDDLE EAST

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. PAUL. Mr. Speaker, I applaud the President's desire to achieve a lasting peace in the Middle East, but I question the attempt to do so at an outrageous cost to the American people.

Tragically, the chances are slim that a real peace will be secured, but the odds are great that the American taxpayer will be asked to foot a bill much bigger than the $5 to $6 billion the administration has confessed to. Already, Mr. Sadat has hinted at $15 billion for Egypt alone.

It is time the taxpayers of our country, oppressed by inflation and big government, no longer be called on to finance both sides of every war and pseudo-peace.

Lasting peace cannot be purchased.

In the Middle East, peace will come when the Israeli and Arab peoples themselves want it badly enough.

A peace treaty drafted on American currency will probably depreciate as quickly as our paper dollars.

☐ 1115

CONTAMINATED RADIUM SITES

(Mr. KRAMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KRAMER. Mr. Speaker, there have been a number of items in the news lately about the discovery of contaminated radium sites in metropolitan Denver and several other locations in Colorado, including Colorado Springs, which is in my district.

Although the Department of Energy has been able to assist in identifying the location of these radioactive wastes, there presently is no legislation which will permit DOE to assist in cleanup efforts. The Uranium Mill Tailings Act of 1978 is very specific in that it applies only to U.S. acceptance of liability for uranium contamination from 1931 on.

The radium problem can be traced back to the early 1920's, when radium was considered a cure-all for a number of health problems, including cancer and deafness. Many of the firms engaged in commercial use of uranium were located in Colorado. Frankly, they did not employ the safeguards which would be required today because they did not know any better. As a result, radioactive wastes were buried, spilled on building walls and stairs, poured down drains and even dumped into the river.

Those responsible have long since died and their companies have gone out of business. Since it would be difficult, if not impossible, to track down those who are liable, it is my opinion that Government should take the lead in this matter.

The bill I am introducing today would give cleanup authority to DOE and provide a Federal expenditure of up to $10 million out of DOE's current authorization. Thus no new Federal moneys are involved. The State of Colorado would be required to put up a 10 percent match.

To date, 36 contaminated sites have been identified. Tests are now being conducted to determine how serious a health problem might have resulted from long-term exposure to these radioactive wastes. I would urge quick passage of this bill. It is imperative that cleanup action be started as soon as possible.

INTRODUCING CONCURRENT RESOLUTION REQUESTING THE PRESIDENT TO WITHDRAW INSTRUMENTS OF RATIFICATION OF PANAMA CANAL TREATIES

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, I am today introducing a concurrent resolution, together with my colleague in the other body from North Carolina, Senator HELMS, which requests that the President of the United States withdraw the instruments of ratification of the Panama Canal Treaties. I do this for reasons fully set forth in my remarks at page 4790 of the RECORD of March 13, 1979, based on the findings of the Panama Canal Subcommittee hearings which have been conducted for the last 6 weeks.

I invite my colleagues who might wish to cosponsor this very responsible approach to a major matter of foreign policy to contact me immediately.

A copy follows:

H. CON. RES. —

Resolved by the House of Representatives (the Senate concurring),

Whereas, the people of the United States of America were asked by President Carter to relinquish control over the Panama Canal in the national interest, and

Whereas, the Senate of the United States ratified the Panama Canal treaties in April of 1978, based on numerous assurances by the President and his representatives that there existed a valid agreement between the United States and the Republic of Panama, and that the transfer of the Canal would not create any financial burden on American taxpayers, and

Whereas, after extensive Congressional hearings it has been learned that the transfer actually could cost the American taxpayers in excess of $4 billion in additional appropriations, and

Whereas, the leaders and representatives of the Government of Panama now claim that Panama is entitled to the possession of all moveable equipment and materials presently in the Panama Canal Zone, even though this is not provided in the treaties, and

Whereas, the leaders and representatives of the Government of Panama now claim retroactive tax jurisdiction over U.S. corporations in the Panama Canal Zone for at least the past seven years, even though this is not provided in the treaties, and

Whereas, the leaders and representatives of the Government of Panama now demand that the U.S. repair and renovate all facilities in the Panama Canal Zone, including those unused for many years, before turning them over to Panama, even though this is not provided in the treaties, and

Whereas, the sum total of this information raises serious doubts about the existence of a valid agreement between the U.S. and the Republic of Panama on the transfer of the Panama Canal, and casts doubt on all assurances and understandings about the treaties which were given to the Congress and the American people, therefore be it

Resolved, by the House of Representatives (the Senate concurring), that it is the sense of the Congress of the United States that the President should immediately withdraw the instruments of ratification of the Panama Canal treaties of 1977, until such time as the total costs of those treaties and their full implications for U.S. citizens are determined.

PRESIDENTIAL JET FUEL DUMPED OVER MEDITERRANEAN

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, it was with some shock that I read in the paper yesterday, at a time when we have an energy shortage, we are talking about rationing fuel, we are talking about allocation, to see where Air Force One had topped off its tanks with precious jet fuel in preparation for the President to return to the United States. He changed his plan and, rather than draining the tanks to make it more safe to land in Cairo, they took Air Force One out over the Mediterranean and dumped 50 tons of jet fuel into the Mediterranean. It cost just about $10,000. That sounds like a foolhardy thing, in these days of energy shortage, when the Government should be setting an example. I would think that even the environmentalists might feel strongly about dumping all of that fuel in the Mediterranean.

APPOINTMENT OF CONFEREES ON H.R. 2439, BUDGET AUTHORITY RESCISSION

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2439) to rescind certain budget authority contained in the message of the President of January 31, 1979, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi? The Chair hears none, and appoints the following conferees: Messrs. WHITTEN, BOLAND, NATCHER, SLACK, SMITH of Iowa, YATES, CONTE, MICHEL, and O'BRIEN.

REVISION TO PREVIOUSLY TRANSMITTED RESCISSION PROPOSAL FOR SMALL BUSINESS ADMINISTRATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96–75)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report a revision to a previously transmitted rescission proposal for the Small Business Administration. This revision decreases the amount previously proposed by $6.0 million. The details of this revised rescission proposal are contained in the attached report.

JIMMY CARTER.

THE WHITE HOUSE, *March 15, 1979.*

PROVIDING FOR CONSIDERATION OF H.R. 2534, TEMPORARY PUBLIC DEBT LIMIT

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 157 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 157

Resolution providing for the consideration of the bill (H.R. 2534) to provide for a temporary increase in the public debt limit, and for other purposes

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2534) to provide for a temporary increase in the public debt limit, and for other purposes, all points of order against said bill for failure to comply with the provisions of clause 5, rule XXI, are hereby waived, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment. No amendments to the bill shall be in order except (1) amendments offered by direction of the Committee on Ways and Means, which shall not be subject to amendment and (2) amendments only changing the date certain on page 1, line 4, or only changing the numerical figure on page 2, line 2, and said amendments shall not be subject to amendment except pro forma amendments for the purpose of debate and germane amendments only changing the date certain on page 1, line 4, or only changing the numerical figure on page 2, line 2. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

☐ 1120

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), and pending that I yield myself such time as I may consume.

Mr. Speaker, there are not many people on the floor, but it seems to me that this may be the time to try to explain what is really going on. It is easy to shadowbox, but it is, I think, important not to on anything this important.

In the first place, there will be a time in this Congress to have a proper vote on the issue that concerns most people today, and that is the question of the balanced budget. I am not in a position to give a guarantee as to when that will be, but I am in a position to say that the Rules Committee is going to take up the question of amendments to the Budget Act. It is clear that that has to be done.

We are going to do it in an orderly fashion, and I think there will be other opportunities for budget balancing amendments earlier, but I know that at some point in this Congress, after we have dealt with sunset initially—not conclusively; after we have dealt with the legislative veto initially—not conclusively, we are going to have to deal with the whole Budget Act. I want to remind the Members that in the end I was the final floor manager of the Budget Act. I think it needs change.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I will be glad to yield to the gentleman from Arizona.

Mr. RHODES. I wonder if, in studying the Budget Act, the gentleman from Missouri intends also to study the other part of the act, which is the impoundment portion? It seems to me there are some defects in the impoundment portion.

Mr. BOLLING. Absolutely; no question.

Mr. RHODES. If the gentleman will yield further, I was informed the other day that there is a tremendous balance available in the Airport Trust Fund, funds which have not been expended. It remains in the Treasury subject to expenditure, and yet many of the airports are really needing the type of improvements which would ensure the safety of our citizenry.

I certainly would hope, and I understand that the impoundment portion does not provide for the trust funds, but I am wondering if maybe it should not. I congratulate the gentleman, and I hope the study will proceed as rapidly as possible.

Mr. BOLLING. I do too, but that puts in perspective, I think, one point here. I think there will be earlier opportunities than when we report to have votes on a balanced budget amendment. But, the other point is—and it is speculative because I cannot tell what my friend from Ohio is going to do, and he has got every right to change his amendment—we are going to have a fight over the previous questions, and I think it is not a very meaningful fight because I think most everybody knows by now that if the so-called Latta amendment is offered, that a point of order will be made to it. Based on the precedents—and not trying to outguess the Speaker—based on the precedents I would think there is a pretty good chance that it would be sustained. Thus, it seems to me that it is important to get down to the reality. We are going to have the chance to vote to the balanced budget. We are not really going to get that chance out of any maneuver today, and it seems to me now that we can get down to the real subject that is before us.

☐ 1125

The real subject that is before us is that if we do not increase the debt limit, we are going to waste money, get into a great deal of trouble perhaps all over the world, and accomplish nothing but trouble because we are going to end up finally paying the bill. I have not the least criticism of my friends on both sides who feel very strongly that we must have greater fiscal discipline. If anybody cares to, he could go back and look at the debate on the Budget Act when it passed and I said that it was not going to accomplish anything that we intended unless we had the will. Up to this moment we have not had the will to be fiscally responsible, in my opinion.

There have been a number of occasions in the years that I have served here when we needed to run surpluses. We needed to run surpluses for general economic reasons. They would withstand inflation. They would have stopped inflation in its tracks. But we needed to run surpluses so we could better run deficits at other times. So I do not think that any of us have been wholly responsible or successful in dealing with it. Thus, I think that what we had better do now is—it is all right to go through the motions, and I can understand why because it is a good-faith effort—to make it clear that we mean business. I know my friend, the gentleman from Ohio (Mr. LATTA) and a great many other people mean business. They very strongly and sincerely believe in their cause. I am not going to say much more except to say let us try to deal with the cause in a reasonable and rational way. I cannot guarantee anything, but I can come fairly close to saying that at some time this House is going to have an opportunity to vote on this matter.

Mr. LATTA. Mr. Speaker, will the gentlemen yield?

Mr. BOLLING. I yield to the gentleman from Ohio.

Mr. LATTA. I thank the gentleman for yielding, and I thank him for the statement he has made which brought into focus several things that have been on my mind, especially the Budget Act revision that will be coming up in our committee.

But he has also touched on a matter that concerns several of us very deeply, and that is the matter of getting to this floor a resolution for a constitutional amendment to balance the budget. Do I read into what the gentleman is saying that we are going to have that opportunity?

Mr. BOLLING. That I must say I did not address.

Mr. LATTA. The gentleman inferred that we might consider a constitutional amendment, and I was just wondering whether or not we are going to have that opportunity. If we are going to have that opportunity, we do not have to go through this exercise today, as far as I am concerned.

Mr. BOLLING. As far as a constitutional amendment, if I referred to a constitutional amendment, I misspoke myself. I certainly was talking about a balanced budget, but I was not talking about a constitutional amendment, as far as I know.

Mr. LATTA. Let me further say that I agree with the gentleman that the Budget Act does need some revision. As he knows, I supported it in our committee. I supported it on the floor. But let us just take a look at the record. The President signed this act on July 12, 1974.

Mr. BOLLING. I do not want to be rude to my friend, the gentleman from Ohio, but would my friend from Ohio use his own time?

Mr. LATTA. I would be happy to yield the gentleman more time out of my time, but I just thought he might want to get this on the record.

Mr. BOLLING. I would be glad to get it on the record, but I have the floor.

Mr. LATTA. I will be happy to use my time.

Mr. BOLLING. I thank the gentleman.

Mr. Speaker, I reserve the remainder of my time.

Mr. LATTA. Mr. Speaker, I yield myself 10 minutes. Let me just take up where I left off with the gentleman from Missouri (Mr. BOLLING) on his time, and now I am consuming my time. I would like to get his attention if I could. As I was about to say, the President signed the Budget Act on July 12, 1974, and a very casual glance at the report that we have before us now shows that in fiscal year 1974, December 3 through June 30, we had a debt of $475 billion. Now just since this Budget Act, which I agree with the gentleman needs revision, we have before us a request to increase the national debt to $830 billion so we can pay our bills.

☐ 1130

So I agree with the gentleman that something has not worked. We did not think back on July 12, 1974, when the President signed this act that we would have all this debt, almost $400 billion of debt, acquired just since this Budget Act came on stream; so something has not worked. Would the gentleman agree with that?

Mr. BOLLING. Mr. Speaker, I think I find it a little more complicated than the gentleman does. Some of the things that have happened to this country since that first date have been quite remarkably destructive, including the oil embargo and all the consequences thereof; but there is no question that we have a larger deficit at this stage than anybody would have anticipated in 1972, 1973, and in there, there is no question about that.

Mr. LATTA. Mr. Speaker, I thank the gentleman for his comments.

Just let me say, I do not think we can claim that all this debt is the responsibility, or even the major part of this debt is the responsibility of the Arab embargo on oil. That did not last too long.

I certainly cannot agree with that answer to the question; but I do agree with the gentleman that the act has not been working as we envisioned, or we would not have all this debt.

Now, the first step that I think this Congress has got to take is to take a good hard look at that Budget Act itself and revise it and put some teeth into it. On our side we have been yelling for a good many months that we ought to be doing something about placing aggregate limits on spending before we start putting all the goodies in the budget and then agree this new total is the amount in the budget.

I think that is ridiculous. That is what we were doing long before we had the Budget Act. We had these appropriation bills coming before this Congress and Congress passed them separately and hoped that they would add up right, but they did not add up right and we got further and further in debt. Then we came along with the Budget Act and they said this will make it possible to control the budget. But when we get all the requests in place on the Budget Committee, the majority starts sorting them out and adding them up an they come up with an aggregate figure which is absolutely ridiculous. That is not my concept of restraint.

The facts are in this committee report on the debt limit that every Member has today. We cannot deny the results.

Now we are faced with this question of increasing the debt limit to $830 billion so we can pay our bills.

Let me just say, I heard yesterday when the Speaker's news conference was called, the Speaker addressed this question about whether or not the amendment to the rule making the Gramm-Lott-Jones amendment in order would be germane if it was proposed, if the previous question is voted down. Recalling the precedents on this it seems to me that the Speaker is probably right on the decision apparently he will make on this question.

The Committee on Rules, however, according to the precedents, could have made this amendment in order, without question; but we did not have the votes.

I think the only way the membership today can indicate that they support something being done along these lines during this Congress is to vote down the previous question and give themselves an opportunity to say what their thinking is on the balanced budget question. The only place we are going to have an opportunity for it is voting down the previous question, because the Speaker, I am sure, is a man of his word and he is going to rule, I am sure, that this amendment is out of order.

Now, what are we talking about in this Jones amendment? Well, the gentleman here on our side of the aisle on the Committee on Rules is a cosponsor of it and has asked for some time, the gentleman from Mississippi (Mr. LOTT).

Mr. Speaker, I will be happy to yield 5 minutes to the gentleman from Mississippi (Mr. LOTT) to address that question.

☐ 1135

Mr. LOTT. Mr. Speaker, I would like to thank the gentleman for yielding me this time.

I would like to urge my colleagues to join with me in stopping and seriously looking at what we are asking you to do here in defeating the previous question. Now that sounds like sort of a technical thing that we might not want to really get into but it goes to the heart of this issue.

Here we are again on our annual or, more than that, sometimes several times a year, effort on deciding what to do with the debt ceiling. I think the chances are very good this debt ceiling might be voted down again today.

What we are asking you to do in voting

down the previous question is to give us an opportunity to offer a logical, reasonable, rational, step-by-step process in which we can actually commit this House to a balanced budget.

Now we all ran on that subject last year. It makes beautiful rhetoric for both parties.

I joined with my colleagues, the gentleman from Texas, (Mr. GRAMM) and the gentleman from Oklahoma (Mr. JONES) in this effort because it is not a partisan effort. I want us to quiet down the partisanship. I want us to really do something about getting a balanced budget.

I will not go into great detail about how this is going to work but it does say in effect that, yes, we will go along with the debt ceiling this year and $897 billion perhaps in 1980 but at some point, hopefully fiscal year 1981 we would commit ourselves to a balanced budget.

I do not think that is asking too much. We are looking at using the administration's own figures, which some of my colleagues on this side of the aisle are not too happy about, but I think in order to get the balanced budget language which could be binding, which could follow up on the Byrd amendment that was passed last year in the Bretton Woods bill, that we can do it with this process.

Now I think we have got a really good chance of defeating the previous question. It is obvious to me we have a good chance because there is already so much talk about what would occur if we do defeat the previous question.

At that point a substitute rule would be offered which would make in order the balanced budget amendment. Perhaps the Chair would rule it as nongermane but I have substantial documentation that such a ruling would be unprecedented. There has not been a clear precedent on this approach as far as I have been able to determine.

Yesterday in the Committee on Rules when this substitute rule was offered no point of order was made against it for being nongermane.

I think we have a legitimate approach here. I urge my colleagues to join with us in trying to actually do something and not just talk about it.

I urge my colleagues to vote down the previous question. Let us pursue this balanced budget amendment and if we do not succeed this time let us be prepared to come back and do it again and again because we cannot continue to vote for higher and higher debt ceilings that will soon exceed $900 billion without some commitment, real commitment to a balanced budget.

The point was raised in the Committee on Rules that this is not the proper vehicle. I maintain to you this is a proper vehicle and it is the best one we are going to have probably the rest of this year. Let us make this a bipartisan effort and defeat the previous question so we can have a vote on a balanced budget.

Mr. LATTA. Will you yield to me?

Mr. LOTT. I will be glad to yield.

Mr. LATTA. Since you did not address yourself specifically to the amendment I think maybe we ought to get it on the record.

Is this the amendment to which the gentleman refers:

> 1. That for fiscal 1979 the total debt limit would be $830 billion (the amount provided for in H.R. 2534),
>
> 2. That for fiscal 1980, the total debt limit would be $897 (the amount Treasury projects is necessary to cover a $29 billion deficit that year), and
>
> 3. That beginning in fiscal 1981, it would not be in order in either the House or Senate to consider any legislation to increase the public debt limit—
>
> *a*. until the Second Concurrent Resolution on the Budget for that year has been agreed to, and
>
> *b*. unless—
>
> 1. the Second Budget Resolution provides for outlays equal to or less than revenues, or
>
> 2. more than two-thirds of the Members voting in both the House and the Senate agree to a Second Concurrent Resolution which provides for a deficit.

Mr. LOTT. That is correct. That is the one offered as a substitute rule offered in the Committee on Rules and is the one printed in the RECORD March 13, 1979, by the gentleman from Texas (Mr. GRAMM).

Mr. LATTA. I thank the gentleman.

Mr. LOTT. I yield back the balance of my time.

□ 1140

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Speaker, I thank the gentleman for yielding this time to me.

Let me say at the outset on the substantive bill we are talking about today, increasing the debt limit, I hope that this House will vote to pass the debt limit. The time for the gamesmanship on this issue has passed, and if we do not do it today, we will have set in motion for the first time in our nearly 200-year history the precedent of having the full faith and credit of the U.S. Government being denied.

I say that if that happens, the detriment that can result in the international money markets and what it would do to depress our dollar would be much more damaging to our country than our inability to procedurally vote on this balanced budget amendment today.

But the frustration to those of us who have not only made speeches but who firmly believe that we must get our fiscal house in order and discipline ourselves in spending is that when it comes to having an amendment or proposal with teeth in it, we are procedurally denied from offering that amendment on the floor of this House. The amendment that we would like to offer today under the sponsorship of the gentleman from Texas (Mr. GRAMM), the gentleman from Mississippi (Mr. LOTT), and myself was offered in the Committee on Ways and Means. We were denied a hearing there on the narrow question of lack of jurisdiction. We took it to the Committee on Rules, and we were denied a rule. Procedurally, we will not be able to bring it up today.

That is the frustration we have, because we think that the overwhelming demand of the American people is that we have one of two things: Either a balanced budget in 1981, as President Carter promised, or, coupled with that, a strict restriction on the amount of our gross national product that is being spent by the Federal Government.

We have in the last 10 years been on a drunken spending spree. We have created $105 billion more debt in the last 10 years of our history than we created in the first 180 years of our history. Taxation has remained at approximately the same level of 18 or 19 percent but, as a percentage of our gross national product, Federal spending has increased to more than 23 percent. It is now down to between 21 and 22 percent.

Mr. Speaker, the only way an alcoholic can become sober and stay sober, as one of my colleagues said, is to put a cork in the bottle and quit drinking. We must impose a legal discipline to quit deficit spending.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Oklahoma (Mr. JONES) and underscore the sense of urgency that many of us feel about this issue.

It is no secret that the debate today is not really about the debt limit bill but about the balanced Federal budget by 1981. It is out of the sense of frustration the gentleman has mentioned that the first vote today will be to force this issue, and if we are cut off and we allow the issue to be turned back on yet another technicality, we had better get ready for a constitutional amendment, and we will once again confirm the skepticism about this body's inability to discipline itself.

Mr. Speaker, I congratulate the gentleman from Oklahoma (Mr. JONES) for his observations.

It is no secret that the debate today is not really about the debt limit bill.

This debate is being used, appropriately, to force the Congress to agree to balance the Federal budget by 1981.

The questions of fiscal policy and a balanced budget are fundamental and profound—perhaps the most important that will come up in the 96th Congress. We ought not have to be dragged forcibly to consider them.

We cannot sweep this issue under the rug. If we refuse to take it up today because of a technicality, it will just come up again and again later on.

The credibility of Congress on fiscal policy is at stake. The American people already doubt that we will act decisively, and they are calling, through their State legislatures, for a constitutional amendment to force us to listen to them.

We all know that an amendment to the debt limit bill has been proposed by our colleagues, Representatives JONES, GRAMM, and LOTT.

This amendment was first offered in the Ways and Means Committee—it was ruled out of order because it was not germane to the committee's jurisdiction.

Then it was brought before the Rules Committee. Again it was turned back.

Frankly, some of us are beginning to wonder if a balanced budget amendment will ever be in order.

We remember what has happened, for example, in the past when we tried to use the congressional budget process to vote first on the spending and taxing aggregates before we decided on all the individual spending items. Even that approach has now been ruled out of order.

We feel like we are lost in a maze where every path to a balanced budget is cut off by a technicality, a point of order, or a ruling.

It is out of this sense of frustration that the first vote today will be to force this issue. A bipartisan coalition working for the Jones, Gramm, Lott amendment to balance the budget in 1981 will vote against the previous question on the rule.

This is not a technical issue. It is the only way we can force Congress to take up the issue of balancing the budget during the debt limit debate.

If this vote fails—or if we win the vote and then allow the issue to be turned back on yet another technicality—we had better get ready for a constitutional amendment. We will have confirmed once again the skepticism with which the voters hear our empty promises about fiscal restraint and balancing the budget.

I urge you to vote against the previous question and for a balanced budget.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the gentleman from Ohio.

Mr. LATTA. Mr. Speaker, the gentleman has pointed out the overwhelming support for a constitutional amendment by the American people. I have in my hand the latest Gallup poll reported in the Los Angeles Times on Sunday, February 25, which indicates that 78 percent of the people polled support a constitutional amendment for a balanced budget.

Mr. JONES of Oklahoma. Mr. Speaker, I think what the American people are really saying is that we have to do something to straighten out our fiscal policy and to bring spending in line with a balanced budget. It does not have to be at the constitutional level. I think we ought to test this on a statutory basis first and work out the problems, and then if we are going to have to go to the Constitution, we will have a good constitutional amendment, one that we know is testworthy.

It is true we have made a lot of progress in this effort so far. From the time we introduced this amendment until the present debate, there were powerful forces in this body who refused to admit that we really need to come to grips with this question, who have now changed their minds.

Mr. Speaker, we have received the commitments from the leadership and the committee chairmen that we will have an opportunity in the next few months to vote on this question and deal with it sensibly.

The SPEAKER. The time of the gentleman from Oklahoma (Mr. JONES) has expired.

Mr. LATTA. Mr. Speaker, I yield 2 additional minutes to the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Speaker, let me just say that the vote on the previous question today is not just an exercise in futility.

□ 1145

It is a key question because it will be the first time in the 96th Congress in which those who have set a goal for a balanced budget, for reducing spending, will be able to give some signal that they are serious about it. If we have a strong vote on the previous question or if we defeat the previous question, I think that is our insurance policy that we will have the opportunity in the next few months to vote on a substantive amendment to require a balanced budget and an amendment with teeth in it. This amendment has teeth in it. If it did not have, I do not think there would have been all of the meetings and scurrying around that has occurred in this body over the past few days.

The American people are looking for leadership. We can provide that leadership. We can provide the discipline. We can provide the legal procedures it takes to get a balanced budget. If we will have a strong vote or defeat the previous question, we will give ourselves the opportunity to vote for legislation that will give us that balanced budget.

I urge my colleagues to vote down the previous question and then I urge my colleagues, on the substantive issue of the debt limit, to pass it, so that we do preserve the fiscal integrity, as it is viewed particularly from abroad, of the U.S. Government.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. GRAMM).

Mr. GRAMM. Mr. Speaker, I rise to speak in opposition to the previous question in an effort to allow us the opportunity to discuss and, hopefully, to enact an amendment which will for the first time in the history of this body set forth a step-by-step process to balance the Federal budget, an amendment which can establish a target date which is clearly defined, which is reasonably set, which falls within the guidelines set forth by our President, which falls within the guidelines which have already been mandated by law through the Byrd amendment and which provides what I feel is a reasonable escape clause which will, in time of dire emergency, allow us to circumvent this requirement if things beyond the control of this Congress make it impossible for us to balance the budget.

There is no doubt that we have to raise the debt ceiling at some point. We have to pay our bills. That has never been at issue here. What is at issue is: Under what circumstances are we going to pay those bills? Are we going to continue to pay them on an open-ended basis, where there is no clearly defined end in sight, or are we going to pay them on a basis whereby we set out an orderly and responsible process to end this deficit spending, to end the growth in the Federal debt and in the process to stop the inflation?

I believe we do need restraints on this Congress. We have 435 sets of priorities in this Congress. An expenditure that is considered irresponsible by some Members is considered essential by others. We have nursing shortages in Texas, unemployment in New York. We are told it is going to take $5 billion to buy the peace in the Middle East. Some will call that irresponsible; some will think it is a good buy at the price. The point is that we all have our own views as to how we ought to spend $530 billion, but we do not have binding constraints which force us to reconcile those differences, which force us to set priorities. I believe, by requiring a balanced budget within a reasonable time, we have a chance to require that those priorities be set, and we have a chance to require that the Congress make the hard decisions to balance the budget.

Our problem is that, not being required to set limits, not being required to engage in the hard decisions, we have run big deficits. That has driven up interest rates and has deprived Americans of the right to own their own homes. We have entered the marketplace, competing against private citizens for goods and services, with money that we did not earn, borrow or tax.

□ 1150

In the process, we have driven up demand and imposed a tax of inflation on the American people. There are a number of fancy names to call this inflation in politics and economics, but there is a simple term that is understood by every American schoolchild which defines it perfectly, and that term is "theft." It is theft in its most destructive form, because it does not fall evenly on the shoulders of all Americans. It falls disproportionately heavy on the shoulders of those who are old and poor; it falls on the shoulders of those living on fixed incomes, and it falls on the shoulders of those trying to work to earn, to save, to provide for their futures and the futures of their children.

We are told by those who oppose this move that this is not the time and the place, but having engaged for the last 3 days in dialog with these same people, I can tell the Members of this House that the great majority of these people believe that there is no time and there is no place to force this Congress to balance the budget. Those who say that there is a time, and others who say there is a place, say it is not now; it is in the vague future, it is in some poorly defined place. I say that the time is now, that the place is here, and that we need to stand up and take steps that can, in a responsible manner, put this country on a balanced budget.

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. GRAMM. I yield to the gentleman from Connecticut.

Mr. GIAIMO. There has been one spending bill before this Congress this year which would really have had effect on cutting the budget, and that was the rescission bill of a week and a half ago. In that bill, there was a recommendation by the President of the United States that we cut about $32 million or $38 million out of that bill—a very real spending bill. It was not only the President's recommendation, but also the recommendation of one of the most respected committees in the Congress, the Appropriations Committee, which suggested that here is a specific chance for Congress to show its intent to hold the line and reduce spending in a responsible way where it is possible. And that was in that rescission bill.

I submit that the gentleman voted not to cut money in that bill, but voted to increase the spending in that bill. I submit that we in this body, if we are serious about cutting money, must cut money where it really cuts the money in the spending, in the spending bill; not—not by being in favor of cutting spending in principle, as the gentleman would do with his amendment on this bill, but in fact cut not one penny of spending, but rather he should have voted as the Appropriations Committee recommended, to cut $38 million in unnecessary spending; and he failed in his first effort.

The SPEAKER. The time of the gentleman from Texas has expired.

Mr. LATTA. I yield the gentleman from Texas 2 additional minutes.

The SPEAKER. The gentleman from Texas is recognized for 2 additional minutes.

Mr. GRAMM. Mr. Speaker, I am very happy to have the opportunity to answer that charge. The gentleman is charging that I was not willing to vote to allow the President to set my priorities for me——

Mr. GIAIMO. And the committee of the Congress.

Mr. GRAMM. I was not willing to allow a committee of the Congress to set my priorities for me. I was not elected by the President; I was not elected by a committe of the Congress. I was elected by the people of the sixth district. One out of every 12 hospitals in this country is in Texas. We have an acute nursing shortage, and it is hospital costs that will be increasing the most in this country.

I cast that vote because I have a set of priorities representing my district and my people. Your point, Mr. Chairman, is the point I am making. We all have different priorities, and our problem here is that we are casting votes on bills without an ultimate reconciliation. My amendment would simply force on us today the hard decision to push together, to get Congress to reconcile our priorities—and there are 435 of them.

So, no, I am not going to stand here and let someone attack me on a single vote and say that I am not fiscally responsible.

☐ 1155

We are spending $535 billion in this country, and it is my obligation in representing my people to outline what we should do with it. What I want is an absolute ceiling so that if we increase the training of nurses, which we need in Texas, we have got to come up with cuts somewhere else. As it is now, we do not have to do that.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. GRAMM. I yield to the gentleman from Texas.

Mr. PICKLE. I thank the gentleman for yielding.

Let me say to the gentleman from Texas first that I am impressed with his presentation. This is one of the first addresses the gentleman has made to this body. I think he has given us a good, logical, and sound reason why we ought to take his approach, and I commend him.

Let me also say to the gentleman from Connecticut that the type of vote we had last week was technical and of the same kind of votes we have had for 15 or 20 years. It is not a single vote to stay, or that would cause us to, stay within or without the budget. But we are continuing the same process.

If I were to go back and tabulate what the gentleman from Connecticut has done, I would say, over the years I could find four score and ten instances where he voted against a balance of his own priority. So I will say to the gentleman from Connecticut, thou, too, have been guilty.

The SPEAKER. The time of the gentleman has expired.

Mr. BOLLING. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, this is the time and this is the place to face up to one issue and one issue only, and that is whether this Government is going to live up to its obligations and pay the indebtednesses that we have already incurred. I urge the Members today to vote on that issue.

The other issue of budgeting I will agree is a critical issue in this Congress. I will agree that we must find a responsible platform on which to debate that issue in a responsible way and find a solution. I am one who has said publicly that if this economy continues as it is without a major downturn, the President does have an obligation to send us a balanced budget in 1981, and we have a responsibility to face up to the hard answers and vote a balanced budget. But I want to say to those people who are talking about hard answers, a vote against this kind of a budget ceiling is not a hard vote; it is an easy vote on a hard issue. I am going to tell the Members that they are not ever going to solve this problem with these kinds of easy votes on a hard issue. They are going to solve the problem by hard votes on hard issues.

I voted against my nurses in Oregon, and they are just as important, and our hospital shortages are just as important, as they are in any other State. But I voted against that increased expenditure because I am willing to make some hard answers. I am willing to go home and say, Yes, you have a problem, but the greater problem is the fiscal responsibility of this country which has an inflation rate that is totally out of control, that is going to destroy every one of us if we do not make these hard answers. So each one of us in our own districts is going to have to make some hard answers.

Our solution is not the easy answer that comes on a vote on the debt ceiling bill. I am for a responsible platform for this debate. This Congress is going to have to do it, and I am going to be supportive of some kind of responsible mechanism that is going to assist us in being fiscally responsible. The consequences, though, of voting against the previous question are too far reaching for me to contemplate here. We are all concerned about the dollar problem. We are all willing to blame somebody else.

If we vote against increasing the debt ceiling, the consquences are so far reaching that they could destabilize the dollar all over the world, and it could be a terrible blow against the credibility of this country.

I urge the Members to vote for the previous question and for the bill.

The SPEAKER. The time of the gentleman has expired.

Mr. BOLLING. Mr. Speaker, I yield 4 minutes to the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, I rise in support of the rule and against making the amendment in order. Holding the debt ceiling request hostage to the aims of one group or another, one legislative fad or another, points up a major flaw in our legislative process. It is not bad enough that it has become a Washington insider's game to cast a few votes against the debt ceiling each time around and then quietly pass it, lest the Government go into default; with the clock practically run out, we are confronted with threats that we have to accept someone's grand, simplistic scheme to save the Republic, or face the collapse of our financial markets in a matter of days or even hours.

There are, as the authors of this amendment well know, perfectly legitimate procedures whereby committees with jurisdiction hold hearings, deliberate the merits of a proposal, report favorably with backup material and analysis, and then the full House has a chance to debate and consider amendments. Such procedures go back years and came into being to prevent just the sort of thing being attempted here today—a stampede to endorse but one of countless responses to an overwhelming public yearning for a reduction in Government spending and a savings in taxes.

This is not the way to legislate; it makes a mockery of our claim to being a deliberative body. This is not fiscal responsibility or monetary statesmanship; it is Russian roulette with our economy, playing "chicken" up against well-known debt maturities. This is not the vehicle for preventing future spending, but rather the time to honor our obligation to cover past excesses.

Those of you who are genuinely anxious to be on record as favoring economy and cutbacks in future spending will have every opportunity to do so when the House takes up the first budget resolution under our new budget process. That is the proper context. All the economic facts and doubts will be before you. All the categories of Government spending will compete for a share of the pie. And looming over the whole deliberation will be a substantially reduced deficit figure. Those with political courage to really do something will be welcome allies on that occasion.

And that is what it all boils down to: political courage and responsibility. Deficits will not disappear by legislative fiat or even constitutional amendments. Their elimination requires a willingness to make not just one grand gesture, but a whole series of agonizingly difficult, tough decisions. Putting slogans in the Constitution or passing laws curbing the majority's ability to govern are not acceptable alternatives. We cannot roll back the waves. In short, deficits will only disappear when men of courage actually vote to reduce spending by indicating where the cuts should be made. Even then, the economy must cooperate and not go into a downturn.

I know it is not fashionable today to be rational about what deficits are and how they come about, what their relationships to economic recovery are and what they have to do with inflation. The bitter truth is that even the best-laid plans can go astray, and the adoption of a balanced budget resolution does not necessarily make a balanced budget reality.

I think we all learned in fiscal year 1976 that for every increase in unemployment of 1 percent, $20 billion are added to the deficit, as the result of revenue fall-off and a jump in countercyclical payments such as unemployment, welfare, food stamps, and even veterans benefits. The irony is that to attempt to offset this phenomena by additional cutbacks would only worsen the downturn.

The danger with any simplistic solution is that it throws out the baby with the bath water. No one is seriously proposing legislating away the business cycle at work in our economy. As long as we have such cycles—whatever their cause—we will have deficits from time to time. What the people are upset about is that in recent years there just doesn't appear to be any letup. We have deficits year-in and year-out, in good times and bad times. What they are questioning is Congress' willingness to reduce and eliminate deficits when the economy is well into a recovery and when we should be dampening inflationary forces.

The fact that recent years have been years of neither one thing nor the other—but high unemployment and high inflation coexisting simultaneously whether the economy is going up or down—is causing severe problems for traditional fiscal policy. It has definitely made it more difficult to call the shots: When to stimulate, when to put the brakes on. However complicated, the problem is not made any easier by eliminating fiscal policy as one of our options.

All that does is make us totally dependent on monetary policy. I don't know anyone who thinks monetary policy alone can do the job. What is needed is greater coordination between fiscal and monetary policy. Nor do I know anyone who is really prepared to stand here and support turning over the entire direction of our Nation's economic affairs to the Federal Reserve Board, a nonelected group. Their track record has not been much better than ours.

Adoption of this amendment will result in total inflexibility. Total inability to respond to the cycles of the economy. There is nothing new in this philosophy. We followed it as a nation from before the Civil War until the Great Depression. Balanced budgets year in and year out; war debt reduced with subsequent surpluses—whatever was happening to the economy. And we all know the toll that extracted in terms of unemployment in excess of 10 percent much of the time, financial crashes on a regular basis and two deep depressions. Whatever the last 40 years have been like, they have been better than that.

And no one has brought up taxes. Last year that was all we heard about. Income taxes had to be slashed to offset inflation and social security tax increases. Without last year's tax bill, modest as it was, we could have eliminated 21 billion from next year's projected 29 billion deficit and 31 billion from fiscal year 1981. You cannot have it all ways. Slashing taxes does add to the deficit, at least initially. Are we preventing the regular tax adjustments we have become so fond of making? Are our constituents behind that?

In the end, it all boils down to a choice among priorities. Making it more difficult to get agreement by a two-thirds or three-fourths rule will not help matters. Unless, of course, what you wanted all along is minority rather than majority rule. Future tax reductions might well take preference over funding certain programs. This is as it should be. We have to make the tough decisions. No one can make them for us. The maddening aspect of recent surveys is that our constituents are hardly united on where reductions should be made. They are against waste and inefficiency. Unfortunately, these are not line items in the budget.

So we have got to stick our necks out and put together nonexistent and hard-to-form consensus. In the end, the voters already have the best weapon available, the ballot box.

I want to illustrate the corner we paint ourselves into with amendments such as these. If a rigid debt ceiling were in place today, we would find ourselves in emergency session in the next few weeks or months, requiring a two-thirds vote to resolve the stalemate, in order to possibly accommodate the unanticipated aid demands the Egyptian-Israeli agreement would be making on us. I really do not think we should risk the success of such an historic agreement on the willingness of a possibly recalcitrant third of the Members to go along with the majority.

When all is said and done, we do not need to search for more ways to make the already difficult task of governing more difficult. Rather, we should all be searching our consciences for the courage to pick and choose among countless attractive priorities and our districts for programs we can do without. Political courage and balanced budgets, like charity and Government largesse, begin at home.

□ 1200

So in summary, when we take up the spending bills of this Congress, when we take up the entitlement bills of this Congress, which will mandate expenditures, you can effectively reduce and cut Federal spending at that time; but you cannot reduce Federal spending one iota by legislative fiat, by merely saying budgets must be balanced. We do not have legislative resolutions to abolish and do away with inflation; you know it will not work. Why do we not have legislative resolutions to abolish unemployment? You know it will not work, and you know you cannot balance budgets just by having a legislative slogan or statement saying you will balance the budget. You must do it when the spending bills come before you and when the budget resolution comes before you. At that time, you can exercise your will.

As I stated earlier, to date this House has failed. There was one case, one opportunity to cut spending, and that was a week and a half ago on a rescission bill from the Committee on Appropriations. Many people who had voted against raising and adopting the debt ceiling resolution in the recent past voted for increased spending in that one rescission bill—the one opportunity to cut spending. You cannot have it both ways. You cannot vote for increased spending and then say you would not vote the money to pay for it. You cannot vote for increased spending and then vote for a balanced budget label.

Mr. FISHER. Mr. Speaker, will the gentleman yield?

Mr. GIAIMO. I will be delighted to yield to the gentleman from Virginia.

Mr. FISHER. Mr. Speaker, I want to support what the gentleman in the well has said. He has spoken correctly and with great responsibility. The way to deal with this question is in connection with the budget resolution, and even more, in connection with the appropriation measures that will be coming from them. That is really the way to do it.

To confuse the issue by attaching it now to the debt ceiling, which is the critical matter before us, does not do service to the processes of this body.

The SPEAKER. The time of the gentleman from Connecticut is expired.

Mr. LATTA. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, you know, this is becoming a little bit laughable, if I did not have such a good memory. Our good chairman was just in the well saying, "You've got to cut that budget resolution," and then the gentleman from Virginia says, "Thats right."

Well, I can remember last year when the gentleman from Virginia offered a little 2-percent cut of that budget resolution in the Committee on the Budget, and who opposed it? Our good chairman.

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. Mr. Speaker, will the gentleman yield? Will the record show that?

Mr. LATTA. Mr. Speaker, I will be happy to yield, if the gentleman can explain that.

Mr. PICKLE. There must be a misunderstanding.

Mr. LATTA. There is no misunderstanding, it is in the RECORD.

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I will be happy to yield to my chairman. Is that correct, the statement I made?

☐ 1205

Mr. GIAIMO. It pains me to have to point out to the gentleman from Ohio again, that we had one opportunity to save some money.

Mr. LATTA. I refuse to yield further to the gentleman.

The SPEAKER. The gentleman from Ohio has 14 minutes left.

Mr. LATTA. I yield 5 minutes to the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Speaker, did you ever go to a movie and get to that point where people say, "Well I think this is where we came in"?

I think this is the 21st year that I have heard the same argument, not from the same people. We have demonstrated during that period that in the Congress of the United States, and I am speaking collectively of the Congress, some of us like to be excluded in the overall painting of the brush, cannot discipline itself, nor resist the temptation to play Santa Claus.

The chairman of the Committee on Rules, the gentleman from Missouri (Mr. BOLLING), I respect very highly. He is an honest man. He is good for his word. We disagree often philosophically but he says here in the well, and I believe what he says, this is not the place to do it. We have heard that year in and year out: This is not the place. Maybe it is not the place to do it. But there does not seem to be any place else either.

I agree fully with the chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. ULLMAN), when he says a responsible vote is yes. To vote to increase the temporary debt ceiling in order to pay the obligations that we have authorized. That is the responsible vote because responsible people pay their obligations.

We have not been responsible around here during the entire time I have had the honor to serve. You know it is so easy for a Member of Congress to vote aye, vote yes, authorize, yes, appropriate and go back to our constituents and say, "Look what I have done for you."

When the time comes to pay for it they get a reading, they feel the pulse of the constituency and find they do not want an increase in taxes, so the Members do not vote for an increase in taxes but just vote to spend and spend and authorize more programs and brag about what good they have done.

What does the Government have to do? They have to go out and borrow the money to pay for the authorizations that we have made in the Congress, and pay high interest rates, which is inflationary too.

I have been hearing this same argument when the national debt ceiling was $280 billion. We say we have to discipline ourselves. What in the world has happened during this intervening period? We have proven time and time again that we cannot discipline ourselves. That is why we have this annual exercise. We do it more than once each session to increase the debt ceiling in order to pay for the excesses of our brethren that vote for every spending boondoggle that comes down the road.

It may be a token to vote "No" but, we do not seem to be able to do it any other way.

Mr. GRAMM. Will the gentleman yield?

Mr. DEVINE. I yield.

Mr. GRAMM. I would like to make this point. There is confusion when the chairman of the Committee on the Budget talks about what we are debating here. We are not debating a simplistic plan, we are not debating a plan at all. We are simply debating whether we are going to open up the rule and allow discussion of the No. 1 issue in the country, which is Federal deficit spending and which is our absence of a balanced budget and which is inflation. That is what is being debated: Whether or not we are going to allow that to be discussed on the floor in relation to the debt ceiling.

☐ 1210

Mr. Speaker, that is the issue.

Mr. DEVINE. Mr. Speaker, I thank the gentleman from Texas (Mr. GRAMM) for his contribution.

Let me conclude by saying that I plead not guilty to being one of the big spenders around here. The fact is that I have probably been classified as moderately conservative from the time I first came to this body.

But I would suggest on that basis that the better part of wisdom would be to follow the lead of the gentleman from Ohio (Mr. LATTA) as it relates to voting down the previous question in order to make in order an appropriate amendment.

Mr. Speaker, let me finalize by advising the gentleman from Connecticut that I happened to vote for the rescission which also was a vote for economy. That occurred last week when I had the opportunity to do so, and I expect to continue to vote against deficit spending, for a balanced budget and never cease the battles against inflation that hurts everybody.

Mr. LATTA. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I urge my colleagues to vote against the previous question. I want to assure the chairman of the Committee on the Budget that I voted to sustain the rescissions. I also voted to eliminate that unnecessary new research facility at the National Institute of Health. That, we were told, was going to cost $36 million; we are now told that if we had gone ahead with it, it would have cost $50 million.

There are a lot of us who vote against many overbloated appropriations. By the same token, I think it wrong to attack or to undertake to ridicule one Member because maybe he voted against the one rescission. In the budget resolution process, we do not allow the Members to vote first, on the five principle aggregates. Instead of debating the functional categories, first we should set the overall major aggregates of revenue, outlays, debt, and so forth—but the chairman of the Budget Committee will never support the effort to vote first on the five major aggregates in a budget resolution.

So we keep saying that we always have to do this in some other way. We have been told that for 20 years.

What happens by opening up the rule? All we do is allow my colleagues, the gentleman from Texas (Mr. GRAMM), the gentleman from Mississippi (Mr. LOTT), and the gentleman from Oklahoma (Mr. JONES), to offer a simple additional amendment. Let me review with my colleagues how a portion of this amendment reads.

It says:

> Beginning with fiscal year 1981—

Which the President also set as a target—

> There may be no more debt limit increases unless the second concurrent resolution on the budget provides for a balanced or surplus budget or more than two-thirds of the House and Senate agree to a budget resolution which projects a deficit.

Why is that so difficult? Why does that throw the whole country into a turmoil, just because we open up the rule?

We are capable of debating that issue. I really do not see that action is so disastrous. It makes sense.

We checked with the Treasury today, and revenues can last until the first week in April on the basis of what is available now without an increase in the debt ceiling. It so happens that I also checked with OMB, and I find we are not spending quite as fast as we have appropriated dollars—almost, but not quite.

So the necessity and the pressure that we have heard so much about today is not there. We are told we have got to do it or the whole country is going to come to a crashing stop. That is just pure bunk. We are just asking to open up the rule here for an honest debate on a simple portion of the amendment that my colleagues will offer.

Mr. Speaker, I wish to make it clear that I am in opposition to H.R. 2534, legislation which would permit a combined permanent and temporary limit on the public debt of $830 billion for the period through September 30, 1979. The temporary debt limit will be $430 billion and the permanent ceiling will remain at $400 billion. My astute colleagues will note that the Committee on Ways and Means, following the earlier defeat of a debt limit ceiling of $836 billion, has reported a bill containing a reduction in the temporary limit of $6 billion. Even though this show of fiscal responsibility will be encouraging to our constituents who are struggling to survive in this inflationary economy caused, in large part, by Federal overspending.

On February 28, when this House defeated the first debt limit increase bill, rhetoric in this Chamber would have led people to believe that we had finally gotten serious about balancing the budget and ending the deficit financing which has proven not only inflationary, but also ineffective in solving any of the problems facing the country. Unfortunately, the reality of the situation is that the Members of this body are more comfortable talking about fiscal control and responsibility than in actually conducting the Nation's business in that way.

We all know that eventually a more minimal debt limit increase bill will be passed by the House, passed by the Senate, and signed by President Carter. Already, we are hearing the cries of panic from the executive branch that without a debt limit increase, Government will grind to a halt, services to the public will end, and chaos will reign through the land. Many of us might argue that great harm will not befall the Republic should the Government cease to operate for a few days, but that is not the reason the debt limit bill must be defeated.

H.R. 2534 should be rejected, and all future debt limit bills should similarly be defeated, until this body takes steps to balance the budget and to install an effective mechanism for achieving this widely discussed and supported goal. Several proposals have been circulated which tie any increase in the debt limit to the second budget resolution and a limit to Federal outlays. I support efforts to recognize that what we do each year with regard to the debt ceiling has a direct relationship to the budgetary process and should be considered in that respect. The much-heralded congressional budget process will be meaningless without that correlation.

I urge my colleagues to defeat the rule and allow amendments to be made which make the essential connection between the debt ceiling and the budget process. Failing this, we must, once again, defeat the debt ceiling bill. We must let the administration, and the leadership of this House, know that debt limit bills will continue to go down to defeat until progress is made toward actual fiscal control, not just rhetorical.

□ 1215

Mr. LATTA. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, naturally, we all have our own priorities. I have listened to this debate with great interest. While I have been listening, I made a request to send over from my office the National Taxpayers Union scoreboard on House Members. It is amazing to see how many of these Members, who say this is not the time and place, rate so low on this nonpartisan sheet that I have in my hands. If the Members have not seen their performance in the last Congress, you ought to look at it. I do not want to put it in the RECORD as it would cost too much money to put it in the RECORD, but it is available.

Here is one Member who agrees with the gentleman from Texas (Mr. GRAMM), who said he is not going to let Jimmy Carter tell him what to do or what bills he is going to agree to or that he is going to rescind for me downtown. He could rescind anything and everything we vote for and I do not think we had ought to fall into that kind of a trap.

We are going to have a lot of opportunities in this session of Congress to cut, and immediately ahead it will be in the Budget Committee, where I am going to offer an awful lot of amendments. I am going to keep a record of some of the Members who spoke out here today and I am going to read it back to them. Especially, when we get to HEW, and we have about $7 billion of waste there in that one Department. I would just like to cut out a little bit of that waste, maybe one-half of it. That would be $3.5 billion. I am also talking about some of these giveaway programs and some of these housing programs where they are being forced on communities where they do not want them and do not need them. There are a few areas like this where we could cut down billions of dollars. You are talking about peanut-type cuts sent down here by the administration. We are going to give the Members an opportunity to vote on substantial and meaningful cuts in the billions of dollars.

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I hope the gentleman is about to say that he is going to agree with me.

Mr. GIAIMO. Is the gentleman saying that $38 million is peanuts?

Mr. LATTA. It is compared to the $830 billion bill before us.

Mr. GIAIMO. It is a lot of money and a lot to the taxpayers, $38 million.

Mr. LATTA. I agree but comparatively speaking we are talking about billions not millions in this bill. I invite his attention to this little sheet.

Mr. LUKEN. Mr. Speaker, will the gentleman yield?

Mr. LATTA. Does the gentleman wish to look at the record?

Mr. LUKEN. Does the gentleman want to read my record?

Mr. LATTA. I would be glad to.

Mr. LUKEN. I would like to say that I agree with the gentleman.

Mr. LATTA. I thank the gentleman.

Mr. LUKEN. The gentleman has just made an eloquent statement, that the place to debate this, to decide it, is in the appropriations process and in the budget process. What happens here, if we pass this amendment, it will be meaningless, because any subsequent Congress or this Congress can simply waive it by majority vote.

Mr. LATTA. Let me reclaim my time just to say that there is one other place where we can take care of it—and unless we get some action, we will have an opportunity for the Members to take care of it—and that is by way of a constitutional amendment. Unless we have that constitutional resolution out of committee before too many days, I am going to file a discharge petition, my second since I have been in Congress, and try to bring it out here so the Members can vote on it. As soon as we get that majority, we will have it out and have a full debate. Let me say that I think the American people want to see some action on a constitutional amendment for a balanced budget, with the proper exceptions for national emergencies and they are hopefully going to have that action.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes, the balance of my time, to the gentleman from Texas (Mr. WRIGHT), the majority leader.

□ 1220

Mr. WRIGHT. Mr. Speaker, I yield to the gentleman from Pennsylvania (Mr. KOSTMAYER) for a statement.

Mr. KOSTMAYER. Mr. Speaker, I thank the gentleman for yielding.

If the gentleman from Ohio will check my rating he will see that it is the highest among Members of my own party from the National Taxpayers Union in my State, and the third highest in a delegation of 25. I disagree with the gentleman from Ohio, however. What we are doing is allowing the possibility of a two-thirds on the budget resolution rather than a simple majority vote.

I speak now to Members of my own party. What we are doing is ceding control of the budget process to the minority. If the people of this country wanted minority control of this House, they would have so voted. But the majority controls the House. When we allow a two-thirds vote and not a majority vote, we are relinquishing that important power which we have and a fundamental democratic responsibility.

I think it is our responsibility to continue to control the budget process. I hope the Rules Committee will be upheld.

Mr. WRIGHT. Mr. Speaker, I do not disagree with what our colleagues JIM JONES, PHIL GRAMM and TRENT LOTT are attempting to do. I very much agree with the purpose which they seek to achieve—a balanced budget.

The bill presently before us, however, is not a statement of future purpose. It is the payment of debts incurred.

Surely no government, no business, no family, and no individual could ever hope to improve its reputation for fiscal responsibility by simply refusing to pay its debts.

That is what we would be doing if we were to reject this bill today. It would not create respect, but doubt and disrespect, for the value of our currency.

So far as a commitment to achieve a balanced budget is concerned, I very heartily endorse that principal. I commend our colleagues for their initiative. I think I can assure them that there will be an opportunity this year to go on record for that commitment.

More important than to say we shall balance the budget, however, is to balance it. The public looks to Congress for action, not merely for words.

Twenty years ago, in 1959, I introduced a bill to require the payment of 1 percent annually on the national debt. If we had been able to do that, beginning that year, we now would have reached a point where our payments on principal and interest combined would be less than our unproductive payments of interest alone.

For various reasons, the Congress did not adopt that policy. Even if it had, without the congressional budget process, it would have been difficult indeed to have maintained a continuity of purpose.

With the aid of the congressional budget process, we now are embarked on a consistent plan and a persistent effort to reach a budget balance. We have made steady progress toward that goal.

In 1976, the budget deficit was $66 billion. In 1978, it was $51 billion. In our budget for fiscal 1979, we reduced it to $38 billion. Now both the President and the Congress are striving to bring in a budget for fiscal 1980 with the deficit below $30 billion.

This is demonstrable progress.

It is my earnest belief that, if we can maintain a steady economy, we can attain the goal of a balanced budget, on target, for fiscal 1982.

Let us put the question in some perspective. Debt, by its very nature, is inflationary. Inflation, classically defined, is too much money chasing too few goods. Debt, of whatever sort, bids up the price of goods by adding to the money in our pockets other money which we do not yet have in the pursuit of the existing quantity of goods.

But it would be grossly incorrect to conclude that the Federal deficit was the principal cause of the inflation. It is contributory. It is, no doubt, a bad example to the rest of the economy. But it is far from the principal cause.

Private and corporate debt have grown much more rapidly—and have affected the national economy far more profoundly—than has the public debt.

In 1950, the Federal debt was equal to 75 percent of our gross national product. This year, it is only 28 percent of our gross national product.

In this, a nation is somewhat like a family. No debt is really healthy. But the amount of debt it can carry is directly related to the amount of its income.

As a percentage of the gross national product, the Federal deficit declined from 4.6 percent in 1976 to 1.6 percent this year.

Compare that movement with what has been happening in the private economy. While the Federal debt declined since 1950 from 75 percent of our national income to less than 30 percent today, the debt of private individuals rose from 33 percent of national income in 1950 to almost 60 percent of present—and corporate debt in this country skyrocketed from 50 percent to a present 84 percent of the national product.

Today private debt accounts for 70 percent of all the money owed in this country. The Federal debt is less than 20 percent. State and local debt is 10 percent.

And so, by all means, let us continue the steady and unbroken progress toward a balanced budget. Let us resolve that, while attending the necessary needs of our Nation, we shall not be deflected or distracted from that goal. That is my goal. It is the goal of the congressional leadership. It is the goal of Congress. It is a goal to which the President of the United States has publicly committed himself—a balanced budget by fiscal 1982.

Let us pursue that goal with deeds. And let us act in a responsible manner today to pay those debts that our Nation already has incurred.

☐ 1225

The SPEAKER. All time has expired.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER. The question is on ordering the previous question.

Mr. LATTA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 201, nays 199, not voting 32, as follows:

[Roll No. 40]

YEAS—201

Addabbo
Akaka
Albosta
Ambro
Andrews, N.C.
Annunzio
Applegate
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnes
Bedell
Beilenson
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bowen
Brademas
Breaux
Brodhead
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Coelho
Conyers
Corman
Cotter
D'Amours
Danielson
Daschle
Derrick
Dicks
Diggs
Dingell
Dixon
Downey
Drinan
Eckhardt
Edgar
Edwards, Calif.
Ertel
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Gonzalez
Gore
Gray
Guarini
Gudger
Hamilton
Hanley
Harris
Hawkins
Hefner
Heftel
Holtzman
Howard
Hubbard
Hughes
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kogovsek
Kostmayer
LaFalce
Lederer
Lehman
Lloyd
Long, La.
Long, Md.
Lowry
Kildee
Kastenmeier
Luken
Lundine
McCormack
McHugh
McKay
Maguire
Markey
Marks
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Peyser
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Rodino
Roe
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Schroeder
Seiberling
Shannon
Sharp
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Stewart
Stokes
Stratton
Studds
Swift
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Weaver
Weiss
Whitley
Whitten
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff, N.Y.
Wolpe, Mich.
Wright
Yates
Young, Mo.
Zablocki

NAYS—199

Abdnor
Andrews, N. Dak.
Archer
Badham
Bafalis
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bouquard
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carter
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Donnelly
Dougherty
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Findley
Fish
Flippo
Forsythe
Frenzel
Fuqua
Glickman
Goldwater
Goodling
Gradison
Gramm
Grassley
Green
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Heckler
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Huckaby
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Johnson, Colo.
Jones, Okla.
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
McClory
McDade
McDonald
McEwen
Madigan
Marlenee
Marriott
Martin
Mathis
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Nelson
Nichols
O'Brien
Pashayan
Paul
Pickle
Pritchard
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roth
Rousselot
Rudd
Runnels
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Steed
Stenholm
Stockman
Stump
Symms
Synar
Tauke
Taylor
Thomas
Treen
Trible
Vander Jagt
Volkmer
Walker
Wampler
Watkins
White
Whitehurst
Whittaker
Wilson, Bob
Winn
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.

NOT VOTING—32

Alexander
Anderson, Calif.
Anderson, Ill.
Anthony
Ashbrook
Ashley
Bevill
Brooks
Chappell
Cheney
Collins, Ill.
Crane, Daniel
Crane, Philip
Dellums
Dodd
Dornan
Duncan, Oreg.
Flood
Gilman
Gingrich
Hall, Ohio
Harkin
Holland
McCloskey
McKinney
Mottl
Pepper
Rose
Scheuer
Waxman
Williams, Ohio
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Hall of Ohio for, with Mr. Mottl against.

Mr. Pepper for, with Mr. Ashbrook against.

Mrs. Collins of Illinois for, with Mr. McCloskey against.

Mr. Rose for, with Mr. Gilman against.

Mr. Flood for, with Mr. Philip M. Crane against.

Mr. Dellums for, with Mr. McKinney against.

Mr. Waxman for, with Mr. Anderson of Illinois against.

Mr. Scheuer for, with Mr. Dornan against.

Mr. Dodd for, with Mr. Williams of Ohio against.

Until further notice:

Mr. Zeferetti with Mr. Cheney.

Mr. Anderson of California with Mr. Holland.

Mr. Alexander with Mr. Daniel B. Crane.

Mr. Duncan of Oregon with Mr. Harkin.

Mr. Brooks with Mr. Gingrich.

Mr. Ashley with Mr. Bevill.

Mr. Chappell with Mr. Anthony.

☐ 1240

So the previous question was ordered.

The result of the vote was announced as above recorded.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. HARKIN. Mr. Speaker, I arrived on the floor just about 6 minutes after the end of the voting which took place on the previous question to H.R. 2534. I was attending a memorial service at the Methodist Building across the street for Alberto Fuentes Mohr, a Guatemalan Congressman who was assassinated in January. Alberto Fuentes Mohr's wife, Shirley, was present as were a number of other dignitaries and I was asked to give a commemorative address on Mr. Mohr's life and his legacy. Due to that commitment, I was unable to be here for the vote. Had I been here for the vote on the previous question on H.R. 2534, I would have voted "aye" on the previous question.

TEMPORARY PUBLIC DEBT LIMIT

Mr. ULLMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2534) to provide for a temporary increase in the public debt limit, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2534, with Mr. McHUGH in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill will be dispensed with.

Under the rule, the gentleman from Oregon (Mr. ULLMAN) will be recognized for 30 minutes, and the gentleman from New York (Mr. CONABLE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

☐ 1245

Mr. ULLMAN. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, the outstanding public debt will reach the present statutory limit this week and it is urgent that Congress act now to enable the administration to pay the Federal Government's bills as they come due. This bill, H.R. 2534, deals with this requirement and two matters which relate to debt management.

PUBLIC DEBT LIMIT

At present, the limit on the amount of public debt is $798 billion, and authority to issue $398 billion of this total is available only temporarily through March 31, 1979. After that date, the temporary authority will expire, and only the permanent authority to issue $400 billion in debt will continue to be available.

In this bill, the Committee on Ways and Means has reported an increase in the debt limit to $830 billion through the end of this fiscal year. This limit is $6 billion below the amount specified as the appropriate public debt limit in the second budget resolution last September. This limit also is $6 billion below the amount requested by the administration for meeting the Federal Government's fiscal year 1979 financial obligations which Congress approved before the start of this fiscal year.

Both the proposed level of debt and the period during which it will be available have been selected to meet Federal fiscal needs until after Congress completes action on the second budget resolution for fiscal year 1980. At that time, in the second half of September, the House will be able to set a public debt limit for fiscal year 1980 that is consistent with its budget perspective reflected in the budget resolution and the appropriations bills.

This is a critical distinction which the Members of the House must make. The public debt limit increase in this bill applies to fiscal year 1979 which will be half completed at the end of this month. The debt authority will be used to pay bills for obligations which already have been incurred under appropriations bills enacted before fiscal year 1979 began.

The budgetary concerns which Members have been expressing have been mistakenly directed at obligations made in the past. If a balanced budget is desired by the House of Representatives, it must act prospectively on the budget for fiscal year 1980 and beyond. Committee reports on that budget are to be filed today with the Budget Committee. The first budget resolution and the appropriations bills for fiscal year 1980 will come before the House between today and early September. In these next 6 months the members will have ample opportunity to shape the fiscal year 1980 budget to reflect their will.

The debt limit increase in this bill does nothing more than assure that the Federal Government will be able to meet its past obligations until the Members have been able to shape future budgets to their satisfaction.

In the immediate situation, there are very unpleasant prospects, if the House does not pass a new public debt ceiling today, or later this month, if necessary. When the present statutory debt limit is reached—which will occur any day now, the administration will be able to pay for Federal programs only as tax receipts and various fees are paid into the Treasury Department. Through the end of this month, outstanding debt which matures this month may be reissued, dollar for dollar, so long as the debt certificates are delivered this month. Additions to the reserves of the trust funds could not be invested, and the financing of various credit programs through the Federal Financing Bank will be suspended.

The administration also must anticipate the implications of a failure to pass a debt limit bill before the start of next month. Under present law, the temporary limit of $398 billion will expire after March 31, and the public debt limit will revert to $400 billion. In that circumstance, additional financial restrictions must go into effect. Maturing debt may not be reissued; two issues totaling $6.5 billion which would be auctioned later this month for delivery in April would be suspended. This has potentially serious, adverse implications in foreign money markets where the dollar slowly has been reestablishing its strength, because foreigners do not understand the refusal to increase the public debt limit as it becomes necessary. When the cash balance runs out, no bills could be paid and no loans repaid. In the first 3 days of each month, about $13 billion in payments must be made under various entitlement programs—the largest of them being the payment of social security benefits. In addition, on each working day, there are payrolls to be met and payments made on grants to State and local governments and on contracts for goods and services purchased from private business.

For these reasons, it is necessary that we pass this debt limit increase today.

INCREASE IN LIMIT ON LONG-TERM BOND AUTHORITY

The second issue in the committee bill deals with the authority of the Treasury Department to issue long-term bonds. Since 1970, Congress has allowed the Treasury Department to issue bonds which carry interest rates above the statutory ceiling of 4¼ percent. This ceiling applies to U.S. debt with maturities longer than 10 years which are held by the public. When Congress agreed to an administration request for an additional exception, it acted only with respect to the immediately prospective financial requirements.

At the present time, the exception provides authority for $32 billion of these bonds to be outstanding. The Treasury Department told the committee earlier this month that $40 billion in authority had not yet been used, and an additional $8 billion in authority would be needed for the Treasury Department to complete its financing program for fiscal year 1979.

When the committee has accommodated administration requests for an addition to this exception, the addition has been just enough to meet requirements in the immediate future. The committee has been wary of granting too much authority for long-term bond issues when prudent policy calls for the Government to minimize its participation in the long-term bond market. At the present time, however, appropriate debt management policy would have the Federal Government issue long-term debt because it is substantially less inflationary than short-term debt which, because there is a large market for it, is considered as almost the equivalent of money.

Nevertheless, the committee believed it should provide an additional exception only with caution, in order to avoid creating a capricious increase in long-term interest rates.

DISCRETIONARY AUTHORITY TO RAISE SAVINGS BOND INTEREST RATES

The third issue in the committee bill deals with the discretionary authority available to the Treasury Department to raise interest rates on savings bonds. In recent months, the value of redemptions of savings bonds has been greater than the value of sales of the bonds. Generally, money market specialists, inside and outside of the Federal Government, think that the higher interest rates available to savers through banks and savings institutions have become an alternate source of investment for many people. The administration believes that, if this trend continues, an increase in the interest rate of savings bonds above the present 6-percent limit will be required to make U.S. savings bonds an attractive investment once again.

Accordingly, the committee bill grants the Secretary of Treasury additional discretionary authority to raise the interest rate on U.S. savings bonds by raising the limit from 6 to 7 percent, the rate which the House agreed to by adopting Mr. VANIK's amendment when the last public debt bill was before the House. This authority may be exercised only with the approval of the President. The committee believes that the administration prefers not to raise this interest rate. Nevertheless, if the administration has this discretionary authority available before the need to use it, it can be exercised quickly if conditions in the money market require that the interest rate on savings bonds be raised. When this authority is used, the higher rate will be paid on all new and outstanding savings bonds.

It is imperative that we extend the public debt limit to allow the Treasury Department to pay the bills that are coming due under present law. I urge the House to pass this bill.

Mr. CONABLE. Mr. Chairman, I yield myself 5 minutes.

(Mr. CONABLE asked and was given permission to revise and extend his remarks).

Mr. CONABLE. Mr. Chairman, I can agree with much of what has been said on the majority side about this particular issue. I do not believe that it is a good idea to tinker with our procedures. I think we ought to address them very seriously. I note with interest the promise of the gentleman from Missouri, the distinguished chairman of the Rules Committee, that something will be done on a balanced budget, that at least it will be considered seriously. I hope he is correct, and I hope he is in a position to deliver on that.

I want to say, though, that we would not be considering procedures if it were not for this particular type of vote, if we did not have some people who are willing to stand up against the repetitive raising of the debt ceiling. I understand the argument about responsibility and irresponsibility. I would like to ask a question: How responsible is it to come back here time after time and raise the debt ceiling when those who are in control of this Chamber refuse to consider the procedures by which we deal with fiscal policy, or refuse to participate in the reform of those procedures so that we can be responsive to what we all agree the American people want at this point?

☐ 1255

In other words, we have to use the tools that are available to us, those of us on the minority side anyway do, excluded from the moment of decision as we are, in order to force reconsideration of procedures which have become virtual anarchy in a fiscal sense. I hope my friends here on the minority side will hang in there. I hope they will continue to hold out against a raising of the debt ceiling, if that is the device that is necessary to bring about a sufficient sense of urgency so that we will have some procedural change. We cannot go on the way we are. If this debt ceiling is voted through, the Members can be sure that in a short time we will be right back here, and the same argument about responsibility and irresponsibility will be adduced as an argument against trying to bring about improvement in our procedures. I just think the time has come to stand up. I think the American people expect us to stand up, and I hope we will be responsive to what they want. That is one of our functions here in this Chamber.

As I have observed before, Mr. Chairman, this debate is not about the tired old proposition of increasing the temporary limit on the public debt.

Most of us have shaped and refined our position on the debt limit in the frequent and repetitive debates that occur each year. Each time the debt bill comes up, spending and taxing decisions are already locked in. At that point each of us must decide whether it is more responsible to vote for the debt limit increase in order to honor the Government's obligations, or to vote against the debt which is based on spending decisions we opposed. I have found myself in the latter category in recent years. I remain there today. The reduction in the proposed debt limit by $6 billion, seven-tenths of 1 percent, has not changed my position from what it was 2 weeks ago.

Now, having done with the obligatory discussion of the debt limit, I would like to turn to the issue we are really debating today: Whether or not we are as committed to responsible fiscal policy as most of us say we are, particularly when we are campaigning back home. This issue is framed by the Jones-Gramm-Lott amendment. Its contents are familiar to us—two incremental debt limit increases to carry through fiscal 1979 and 1980 respectively, and after that a balanced budget except in circumstances extraordinary enough to merit a two-thirds vote to the contrary.

The growing clamor for a constitutional amendment to force us to adopt a balanced budget policy cannot be denied. If we do not act decisively and soon, such an amendment will become a reality. With or without such an amendment, legislation to implement a balanced Federal budget will be needed, either in place of an amendment or to implement an amendment.

The Jones-Gramm-Lott amendment is a reasonable and appropriate way to approach the balanced budget issue. It moves step by step toward a balanced budget in 1981, giving Congress and the Administration sufficient notice to prepare for the necessarily difficult policy choices that will confront us. It provides a safety valve in the form of a two-thirds vote to override. It recognizes that even with a balanced budget, future debt limit increases will be necessary to cover off-budget items and the investment of trust fund surpluses in Government securities.

However, we will not have an opportunity to vote on this proposal today, even though it is the central issue of the debate. The question, therefore, becomes whether or not the game of legislative "chicken" will continue a little longer. Will we simply give up on trying to tie the debt limit to a balanced budget requirement, or will we hold to the goal? I think that those of us who want to balance the budget ought to hold out a while longer.

The situation down at Treasury is not yet desperate, although I may have detected a little sweat on a few brows. Last month we were told to expect fiscal calamity not later than March 9. But a magnificent job of weathering this crisis has been done, and today the debt stands some $700 million under the limit. These funds may carry us through the end of next week. In fact, I surmise that the severe crunch may not occur until the end of the month when the debt limit reverts to the permanent limit of $400 billion. That is another story in and of itself.

We all know that sometime during the next few weeks a debt limit bill must be enacted. The real question is whether or not this bill will contain a mechanism to bring spending under control, whether we really want to balance the budget or just like to talk about it.

I intend to vote against the debt bill today in hopes that another bill can be brought to the floor which contains a balanced budget amendment. I urge my colleagues to do likewise.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CONABLE. Mr. Chairman, I yield myself 4 additional minutes.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding and for the very eloquent statement the gentleman has made. I would like to advise the gentleman that a week from Tuesday the House Committee on the Judiciary will open its hearings on the proposed constitutional amendment to mandate a balanced Federal budget, and related proposals of that nature which are designed to bring some responsible management to the fiscal business of our Federal Government. There are some who indicate their opposition to the constitutional-amendment approach and suggest that this subject of balancing the budget can be handled by legislation, and that we should as a responsible legislative body take care of this subject of balancing the budget or of keeping the expenditures at or below the revenues of the Nation, and to try to bring some order out of the chaotic situation which has developed from perennial Federal deficits. Yet, it seems to me that when we deny the opportunity to build into a legislative measure some restraints with regard to Federal spending that we are denying the discipline which we should impose on ourselves and the opportunity to impose such restraints on ourselves as we say we are capable of imposing.

☐ 1300

The chances of having a constitutional amendment are enhanced every time this body votes down its opportunity to provide legislatively for a balanced Federal budget.

Mr. CONABLE. Mr. Chairman, I thank the gentleman for his contribution.

I certainly wish the Committee on the Judiciary well in its hearings. I suspect those hearings would not be occurring, except for the tremendous pressure brought to bear on devices of this sort. I hope that the hearings will be expeditiously conducted, so that we can have before us through the regular procedure an orderly process consideration of the fiscal concerns that we all know the country needs.

Mr. McCLORY. Mr. Chairman, if the gentleman will yield further, I might say, there are various options that include, of course, a constitutional requirement for a balanced Federal budget and imposing limitations on spending consistent with the growth of the national economy.

Mr. ULLMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. GRAMM).

Mr. GRAMM. Mr. Chairman, for the last 2½ weeks I have worked on this amendment with the gentleman from Oklahoma (Mr. JONES) and the gentleman from Mississippi (Mr. LOTT) in seeking to bring some fiscal responsibility to the floor of this Congress.

Mr. Chairman, 199 people voted to suspend the rules and bring that amendment to the floor. Seventeen of my colleagues from Texas voted with me. Many of those people opposed my amendment, but voted with me to give me the opportunity to present that amendment on the floor. I think we have made an important point here today and that is that our party cannot deny to the American people, consideration of the No. 1 issue in the country. That issue is going to come to this floor and we are going to have to deal with it head on.

Taking the approach that we are going to point fingers on individual votes is not going to work. The American people demand a binding constraint, such as they face in their households and in their businesses. I believe they are going to demand we impose it on ourselves.

When we vote on raising the debt ceiling, in deference to the 17 Members of the Texas delegation who voted with me, and in deference to those who opposed my position but felt it should be heard today, I am going to vote to raise the debt ceiling. But in doing so, I simply point out that we are going to be back here in several months to consider another debt ceiling extension.

I simply want to put the leadership on notice that I intend to do everything that I can to bring before this Congress the amendment which the gentleman from Oklahoma (Mr. JONES) and the gentleman from Mississippi (Mr. LOTT) and I have labored on.

I hope that by that time we will have built up sufficient strength in every congressional district so that we will get an opportunity to make our case.

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I am happy to yield to the distinguished gentleman from Oklahoma.

Mr. JONES of Oklahoma. Mr. Chairman, I want to congratulate the gentleman in the well for the leadership he has put into this effort at having a balanced budget. It was a very significant victory in the last vote cast today by those who want to see a balanced budget actually achieved, and I will join my colleagues in voting to raise the debt limit because it is absolutely necessary.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. ULLMAN. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. HEFTEL. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I yield to the gentleman from Hawaii.

Mr. HEFTEL. Mr. Chairman, I just want to applaud the gentleman from Oklahoma (Mr. JONES) and the gentleman from Mississippi (Mr. LOTT) for the manner in which they have focused our attention on what happens when we keep spending more than we receive as income. The way to solve the problem we have today is going to be offered to us in the next year. Every time the budget has come out and every time the appropriations come out, if we cut 3 percent from the present target we will reduce the estimated deficit of $30 billion to $10 billion or $12 billion. That is the way that we can demonstrate to the American people that we mean business and that we want fiscal responsibility.

I hope that all of us will join together, Republicans and Democrats, in making those cuts. It is the only way it will ever happen.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

Mr. ULLMAN. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. Chairman, will the gentleman yield to me?

Mr. GRAMM. I yield to the gentleman from Oregon.

☐ 1305

Mr. ULLMAN. I certainly recognize the gentleman's sincerity and determination in this effort and I think he is right. It is an issue that is going to have to be resolved by this Congress in this session and at an early date.

I hope the gentleman will not get locked into the kind of procedures he had in his amendment. In my judgment, the solution to fiscal responsibility does not lie in putting some kind of further restraints on our ability to pay our bills after we have incurred the indebtedness.

I think the gentleman should be attempting to work with me and others in attempting to develop a sound procedure that would face the real issue and that is to vote down those expenditures as they arrive and to get our priorities straightened out and procedurally build that kind of discipline into the House action.

Mr. CONABLE. Mr. Chairman, I now yield 5 minutes to the distinguished gentleman from Kentucky (Mr. HOPKINS) whose voice we welcome on this issue.

Mr. HOPKINS. Mr. Chairman, last week a bill to raise the temporary debt limit was defeated. I am proud to say I was one of those voting to hold the line on increased deficit spending.

My remarks, brief as they must be are not directed at those of you who voted to increase the debt last time because, by and large, you are the hardcore big spenders who got us into this financial mess to start with. You are not the answer because you, in fact, are part of the problem. You do not see anything inherently wrong with deficit spending and I doubt I have the eloquence to convince you otherwise.

On the other hand, I obviously do not need to address my remarks to the fiscal conservatives. That would be like preaching to the choir.

But, I do want to talk with my colleagues who last time voted against increasing the debt and who are this time, maybe, considering changing their vote.

No doubt, you have had some of the same pressures applied to you as have I.

They tell you that a vote against this bill is the height of irresponsibility. Those supporting this legislation predict the Government will come to a screaming halt; little old ladies will stop getting their social security checks if the debt limit is not increased.

They think we are naive enough to believe all that. The truth is this Government is not going to come to a screaming halt if we do not pass this bill. But, what will happen, is some very difficult decisions on where to reduce expenditures will have to be made and that is what these doomsdayers really fear.

On at least two occasions I have listened to the distinguished majority leader quote the slogan of the Revolutionary War "Taxation without representation is tyranny." I agree. but. in the name of heaven, look what we how have with representation. The people in this country have had it up to their ear lobes with excessive Government spending—increasing budget deficits—and the inflation and high taxes these produce. All across this country people are calling for us to put an end to these irresponsible fiscal policies.

It is the opinion of over 70 percent of the people in this country that we must reduce Government spending and we must balance the Federal budget.

If the majority leader wants this House to listen to history, let's look at the Declaration of Independence—In its very first sentence Thomas Jefferson explains the necessity of Government officials having a decent respect for the opinions of mankind. Then, Jefferson states a long list of grievances against King George III and, will you listen carefully to just this one.

Jefferson says:

> He, the King, has erected a multitude of new offices and sent hither swarms of officers to harass our people and eat out of our substances.

Now our forefathers revolted because they would not tolerate that, and what we are tolerating today from our own Government makes King George III look like a piker.

If we do not heed the overwhelming demand of our constituents then we are no better than the tyranny of King George III when he did not listen to the voice of his constituents.

In conclusion: I am a new Member of Congress but, after 2 months, I have come to the inescapable conclusion that the Government is doing such a good job, that the people can hardly stand it.

□ 1310

Mr. ULLMAN. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio (Mr. Vanik).

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, recently, when a vote was taken to raise the public debt limit to $836 billion, I voted "nay." I did so because I felt quite strongly that we could do some further trimming from the budget levels included in the second concurrent budget resolution we approved last fall. The fact that this resolution came back to the floor so quickly and with a $6 billion reduction in the authorized debt ceiling indicates to me that my earlier vote was a wise one, that by holding the Government's feet to the fire we could force some meaningful cut in the anticipated debt. Under the bill that is brought to us today, it will be necessary to pass another increase in the debt ceiling before the end of the fiscal year, and therefore hopefully we will have the opportunity to approve a budget balancing process in the interim. I appreciate the fact that the Ways and Means Committee took a second look and shared the view made evident by the full House last week that we could do a better job. And I will support this legislation today. And as so many of my colleagues have noted, not passing a reasonable debt ceiling bill would be irresponsible. The U.S. Government would be in a position not to meet its financial obligations, the stability of U.S. capital markets and of the dollar would be in serious jeopardy, and, as our colleague from Missouri (Mr. Gephardt) noted in a recent letter to each of us, there would be a significant loss in interest income to Government trust funds, including the social security trust fund that we are trying to put on its feet again.

However, I did vote to defeat the restricted rule under which this bill was to be considered. I feel quite strongly that issues of this significance should be subject to full debate and open to any relevant amendment. I also share the interest in bringing the Federal budget into balance which prompted our colleagues who urged us to defeat the rule. We need to have the opportunity to vote in the very near future for a method to balance the budget by fiscal year 1981 or 1982.

Mr. VANIK. Mr. Chairman, I hope that the committee and the House will report out this debt ceiling legislation.

I want to put in the Record some facts that have not been discussed. Yes, Government spending and Government waste have contributed to our debt and deficit, however, the major impact on our debt and our deficit has resulted 10 times more from tax cuts which have taken place over the last 15 years.

I just want to add these figures up for the committee. The 1962 tax cut has had a cumulative cost to the Treasury of $10 billion; the 1964 tax cut, $228 billion; the 1971 tax cut, $73.6 billion; and the 1975 tax cut, $56 billion.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. VANIK. Mr. Chairman, I will ask the gentleman to let me finish. Let me get these figures in first, and then I will be glad to yield.

Mr. CONABLE. I thank the gentleman.

Mr. VANIK. In addition, the 1976 tax cut had a cumulative Treasury loss of $17 billion, and the 1977 tax cut cost the Treasury $10 billion. Now, I did not get to 1978, but up to that point the Treasury has lost in this progression of tax cuts $394.9 billion, almost a half trillion dollars of revenue which has drained away from the Treasury in that series of tax cuts.

Last year we had a $20 billion tax cut. Our deficit would have been substantially reduced if we had not taken that action which provided some individual citizens of this country a tax break of as much as $25,000.

Now, this is where a good part of our revenue has gone. This is an important and a contributing cause of the deficit and the debt.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. VANIK. Mr. Chairman, before I yield to the gentleman, I want to commend the distinguished gentleman from New York (Mr. Conable) for his position against the wage insurance program, because this program could have cost the Treasury $2.5 to $15 billion, and I want to commend the minority for having the wisdom to hold back on that one.

I am now happy to yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I am pleased that the gentleman has yielded to me. I was so astonished by what the gentleman was saying that I really want to interject my appreciation for the understanding he has given us.

From that, I assume the gentleman opposes tax cuts; is that correct?

Mr. VANIK. I oppose tax cuts to privileged people. I just mentioned one capital gains tax break. One tax cut that we passed last year provided certain people who have a capital gain of $100,000 no taxes on that gain.

□ 1315

That is a $25,000 tax break to one citizen in 1 year. I think that is unfair to all of the other people of America. That is the kind of thing I complain about.

Mr. CONABLE. If the gentleman will yield further to me, I wonder if the gentleman has information about what the leveling of taxation would be if we had not passed all of those remarkable tax cuts which seem to be such a contributing factor to our deficit.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. Vanik) has expired.

Mr. ULLMAN. Mr. Chairman, I yield 2 additional minutes to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I want to point out, in response, that some portion of the tax cut may have had a stimulative effect. I do not know. We have to gage that. But what I want to point out is that we have already indexed, for inflation in our tax programs. Secretary Blumenthal was absolutely correct in his recent assessment. I think if we look at this program of almost one-half trillion dollars in lost revenue, we can find billions of dollars which were provided in tax cuts which were provided in a very unfair, inequitable manner. It was not an equal tax cut. It was a preferential tax cut which was enjoyed by certain privileged citizens of America, not all of the people.

Mr. CONABLE. I hope the gentleman will come in and suggest ways in which we can raise taxes, if he feels that is the biggest contributing factor to our deficit.

It is my impression that, in fact, the rate of taxation in the aggregate has gone up somewhat, despite the indexing to which the gentleman refers.

Mr. VANIK. I can say that this Congress, coming up for election every 2 years, is not likely to increase taxes. But I want to point out that this record indicates that these tax cuts for some of the affluent and special people who got them could have been avoided and we would be closer to the revenues the Government needs to administer the essential affairs of our country.

When we talk about a constitutional amendment, when we talk about legslative restrictions on Government spending, when we talk about all of these limitations, we also have to take the position that perhaps we cannot afford harum-scarum tax cuts that are provided for special, select groups of our people. Tax cuts have to apply to everyone in a fair, just, equitable manner. I am complaining about the injustice in preferential tax cuts which increase our debt and deficit.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. Vanik) has again expired.

Mr. ULLMAN. Mr. Chairman, I yield 1 additional minute to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I am going to make every effort to delineate, out of this $400 billion of revenue loss, how much of it had no purpose, how much of it went to only special, select groups in our society, I want to identify how much of that lost revenue is contributing to the injustice of our tax laws which are abhorrent to every decent citizen of this country.

Mr. HEFTEL. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Hawaii.

Mr. HEFTEL. I thank the gentleman for yielding.

Mr. Chairman, I am always delighted to watch the performance of the esteemed gentleman from Ohio. But I would like to observe that we have been predicting recession and higher unemployment rates for over a year, and those did not occur because there were dollars in the marketplace with which to stimulate the private economy. That is where the jobs and that is where the investment come from. And if you take the $400 billion out of the private sector, then where do you find the jobs? In CETA programs? We should be thankful that we have a program that allows enough investment, which encourages the jobs and capital investment that we need.

Mr. VANIK. Mr. Chairman, in response to my colleague on the Committee on Ways and Means I would only say that if we were to follow the economic policy of tax cutting as a sole source of capital formation we could eliminate all taxation and perhaps all government.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the facts and the figures that my colleague has given us, almost $4 billion.

Mr. VANIK. $400 billion.

Mr. ROUSSELOT. $400 billion. Excuse me. The gentleman is correct.

The gentleman certainly is not suggesting the Federal Government would have necessarily spent that revenue any better, is he?

Mr. VANIK. I absolutely did suggest that it could have been better utilized. This $400 billion, part of it has gone out to provide selective tax cuts, not for everyone, but to a select group in our society, whether they are industrial or other groups, to those who could enjoy capital gains. The great majority of the American people have not the slightest idea of what a capital gain is. They will never enjoy a capital gain. They are denied a tax privilege that only people of affluence and wealth can enjoy. I am talking about the inequity.

□ 1320

Mr. CONABLE. Mr. Chairman, I reserve the balance of my time.

Mr. ULLMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Chairman, all this debate is very interesting, but it does not add up to a whole lot. We are here today to face reality. The Federal Government is overspending. That is a far greater problem than the deficit. The State governments are overspending, but they have great surpluses because of the way they operate. The local governments are overspending. We have got to correct this. All that is conceded, but what are the realities of today?

This morning, our Government started reneging on its credit. The ads for the sales of the bonds that must be sold in order to pay the debts that have already been incurred this morning carried a footnote: "This sale may not take place."

America is beginning to renege. For the first time in our 200 years of history, we are not going to put the money in the bank after the money has been spent and the checks have been written and the obligations have been made. Now, this reneging will escalate until next Tuesday, when we renege formally and officially, and that is where we are today.

I decry the deficit. I decry the excessive spending, but we must pay the bills once they have been obligated. The fire is directed toward the Ways and Means Committee because of this. Really, the solution to this problem is a procedural solution that lies within the domain of the Rules Committee, and we would all accomplish far more if we directed our energy and our efforts and our talents and our intelligence to that forum rather than this forum.

The issue is very simple. We began the reneging process this morning when we told people that we may not be able to deliver the bonds at the auction that is to take place next Tuesday. By next Tuesday, if this legislation is not on the President's desk, we cannot hold the auction. We cannot sell the bonds. The checks will begin to bounce, and Uncle Sam will become "Uncle Welcher." Nothing could hurt the full faith and credit of the United States more than that. Nothing could hurt our image in the world, in the international marketplace and money place, more than that.

All of these speeches about economy, all of these speeches about frustration, of where we go from here in order to control this situation, are fine, but today we started to renege. If we want to renege permanently, then we will vote this down and become Uncle Welcher, but I say the responsible vote is to vote it up and let it go.

Mr. ULLMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, first I want to commend the chairman of our committee for his statement. We face a difficult vote, and it has got to be passed. In the world of realities, we simply must raise this limit. I commend him for his comments.

I also want to commend Speaker O'NEILL. Some have said that the Speaker might be a large, white-headed, and slowly moving Irishman, but when that vote was 201 to 199 the Speaker moved faster than a whitetailed deer in south Texas. He can act effectively and affirmatively, and I commend him for it.

□ 1325

Mr. Chairman, I was one of those who voted no on the previous question. For 5 years now we have tried to make our budget process work, and it is a good mechanism, but we have not had the determination and the willingness to do it. I hope we will do it in the immediate months ahead, but if our track record is any measurement, we may not do it. For that reason I thought we ought to take a stronger step, and so I voted no on the previous question.

The fact is now we have got to face the music, and we have got to raise the limit, so I want to make this further point to the Members.

There are some of us who may think we will do what we have done in the last session of Congress. Six times we came out and we raised the debt ceiling. I would hope this time we are not playing games. I, as one member of the Committee on Ways and Means, am going to resist any effort now to take this bill back to the committee, massage it, sprinkle a little fiscal alum on it, shrink it just a bit, and then bring it back again. I hope we do not do that, and I will resist it. This is not going to be a situation of a roulette wheel spinning and we take our chance at another time. I say to the Members, this may be the last train leaving, and we had better get on board. Let us do it, and it will at least give us 6 months to see if we cannot come back with a better approach. I, therefore, say vote for raising the ceiling limit.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ULLMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. GEPHARDT).

Will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, I want to commend the gentleman from Missouri. He has gone far beyond the call of duty in contacting Members and stressing to them the urgency of being responsible in this vote. I want to commend him. He has been of great help.

Mr. GEPHARDT. I thank the chairman.

Mr. Chairman, I heard yesterday that a poll was taken by one of the famous pollsters revealing that, of the 18 major professions in our country, the people of the United States rated U.S. Congressmen as 18th in terms of respect and in terms of their view of our ability to carry out our jobs in a respectable, responsible manner. I think that what we do on this debt ceiling bill lends to that impression on the part of the American people because, by failing to pass it, we demonstrate once again that we are not willing to stand behind the decisions that we make as an institution.

Some Members have said to me in working on this bill, "I have added up the votes I made on spending, and I am not the one who is responsible for causing the debt ceiling to go up." I am sure that they checked their votes, and I am sure that what they say is true. But I would submit to the Members that if they did not vote for one dime of spending, each of us still has an institutional responsibility to finance the decisions that we make as an institution.

As a member of my family, I do not make every spending decision. My children make decisions; my wife makes decisions; I often do not get consulted; and sometimes I do and I do not agree. But when the bill comes, it is my responsibility, as it is theirs.

I would submit to the Members that we destroy the credibility of this institution when we fail to stand behind our decisions. On April 2 this country and the Department of the Treasury will fail to be able to "roll over" some short-term securities, and we will in effect not be able to pay bills. You may say, which bill will we not pay? It really does not make any difference whether it is a social security check or whether it is a bill owed to a contractor. Whatever it is, the effect of that action will be a shot that will be heard around the world. In other countries the inability to pay one's debt would bring down a whole government. The spectacle of seeing the most powerful country in the world, the leader of the free world, the leader of the world economy, not be able to pay its debts would have an effect that would be very far reaching.

I ask the Members as responsible Members of this institution to vote for this debt ceiling bill so that we can stand by the decisions we have made as an institution.

□ 1330

Mr. CONABLE. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. MARKS).

Mr. MARKS. Mr. Chairman, I have a copy of a letter dated March 12, 1979, from the Secretary of the Treasury to the Honorable AL ULLMAN, chairman of the Committee on Ways and Means. I would like to refer to that letter, which I am sure the chairman himself will place in the RECORD, at this point in time.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. MARKS. I will yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, first, I want to commend the gentleman for a very courageous vote on this issue; but I am glad the gentleman referred to the letter. When we get back in the House, it is my intention to put it in the RECORD.

Mr. MARKS. Mr. Chairman, I thank the gentleman for his comments.

Mr. Chairman, the letter dated March 12, 1979, suggests the following, and I am quoting now from Secretary Blumenthal's letter:

> Without new legislation, on March 20 we would be forced to announce postponement of the regular monthly auction of two-year notes because we would be unable to assure delivery on April 2 of notes purchased in that auction. Without new legislation by March 27, we would be forced on that day to announce postponement of Treasury's regular monthly auction of fifty-two week bills because we could not assure delivery of those securities on April 3.
>
> Postponement of those auctions poses risks to the stability of the U.S. capital markets and the international position of the dollar.
>
> If the $3.5 billion of two-year notes and $3 billion of fifty-two week bills maturing on April 2 and 3 are not refunded, Treasury would run out of cash on or about April 3 and would be unable to meet obligations of the United States Government on or about that date.

Mr. Chairman, I believe it is responsible government to meet our obligations, particularly in light of the fact that 90 percent of us in this House of Representatives voted for those bills and those programs that required dollars, and those dollars must be paid now.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. ULLMAN. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. MARKS. Mr. Chairman, I thank the gentleman for the additional time.

May I suggest that those of us who were a part of those social programs and those defense programs that are vital to the country, and who voted to put those programs into existence or keep them in existence for the benefit of this country, now must pay the bill, and seeing to it that we have the money to pay those bills is a vital concern to the country.

This is not a political issue. I do not care what anyone has said or will say, it is not a Democratic or a Republican issue. It is an issue we must face as individual Members of this Congress and not to do so would, to some extent, be irresponsible.

Mr. CONABLE. Mr. Chairman, I yield back the balance of my time.

Mr. ULLMAN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read for amendment. No amendments to the bill are in order except: First, amendments offered by direction of the Committee on Ways and Means, which shall not be subject to amendment; and second, amendments only changing the date certain on page 1, line 4, or only changing the numerical figure on page 2, line 2, and said amendments shall not be subject to amendment except pro forma amendments and germane amendments only changing the date certain on page 1, line 4, or only changing the numerical figure on page 2, line 2.

The bill reads as follows:

H.R. 2534

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, during the period beginning on the date of the enactment of this Act and ending on September 30, 1979, the public debt limit set forth in the first sentence of section 21 of the Second Liberty Bond Act (31 U.S.C. 757b) shall be temporarily increased by $430,000,000,000.

SEC. 2. Effective on the date of the enactment of this Act, the first section of the Act of August 3, 1978, entitled "An Act to provide for a temporary increase in the public debt limit" (Public Law 95–333), is hereby repealed.

SEC. 3. The last sentence of the second paragraph of the first section of the Second Liberty Bond Act (31 U.S.C. 752) is amended by striking out "$32,000,000,000" and inserting in lieu thereof "$40,000,000,000".

SEC. 4. With respect to interest accrual periods beginning after the date of the enactment of this Act, praagraph (3) of section 22(b) of the Second Liberty Bond Act (31 U.S.C. 757c) is amended to read as follows:

"(3) The Secretary of the Treasury, with the approval of the President, may increase the investment yield on any United States savings bonds above the 5½ per centum limitation contained in paragraph (1) so long as such yield does not exceed 7 per centum per annum compounded semiannually.".

The CHAIRMAN. The Chair asks the chairman of the Committee on Ways and Means if there are any amendments offered by the committee.

Mr. ULLMAN. Mr. Chairman, there are no committee amendments.

The CHAIRMAN. The bill is open for amendment at any point.

Are there any other amendments? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FOLEY) having assumed the chair, Mr. McHUGH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2534) to provide for a temporary increase in the public debt limit, and for other purposes, pursuant to House Resolution 157, he reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. CONABLE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 212, nays 195, not voting 25, as follows:

[Roll No. 41]

YEAS—212

Addabbo
Akaka
Albosta
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnard
Barnes
Bedell
Beilenson
Benjamin
Bennett
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Coelho
Conte
Conyers
Corman
Cotter
Danielson
Derrick
Derwinski
Dicks
Diggs
Dingell
Dixon
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Ertel
Fary
Fascell
Fazio
Ferraro
Fisher
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Garcia
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Gonzalez
Gore
Gramm
Gray
Guarini
Gudger
Hamilton
Hanley
Harris
Hawkins
Hefner
Heftel
Hightower
Holland
Holtzman
Howard
Hughes
Hutto
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Kastenmeier
Kazen
Kildee
Kogovsek
LaFalce
Leach, La.
Lederer
Lehman
Leland
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack

McHugh
McKay
Maguire
Markey
Marks
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Nedzi
Nelson
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Peyser
Pickle
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Roberts
Rodino
Roe
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Seiberling
Shannon
Sharp
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weiss
Whitley
Whitten
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff, N.Y.
Wolpe, Mich.
Wright
Wyatt
Yates
Young, Mo.
Zablocki

NAYS—195

Abdnor
Ambro
Anderson, Calif.
Andrews, N. Dak.
Badham
Bafalis
Bauman
Beard, R.I.
Beard, Tenn.
Bereuter
Bethune
Bouquard
Bowen
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burton, John
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Devine
Dickinson
Donnelly
Dougherty
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Findley
Fish
Fithian
Flippo
Forsythe
Fountain
Frenzel
Gaydos
Gingrich
Goodling
Gradison
Grassley
Green
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harkin
Harsha
Heckler
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Huckaby
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Johnson, Colo.
Jones, Tenn.
Kelly
Kemp
Kindness
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Lott
Lujan
Lungren
McClory
McDade
McDonald
McEwen
Madigan
Marlenee
Marriott
Martin
Mathis
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Murphy, Pa.
Myers, Ind.
Neal
Nichols
Nolan
O'Brien
Pashayan
Paul
Pritchard
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roth
Rousselot
Rudd
Runnels
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Treen
Trible
Vander Jagt
Walker
Wampler
Watkins
Weaver
White
Whitehurst
Whittaker
Winn
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.

NOT VOTING—25

Alexander
Anderson, Ill.
Archer
Ashbrook
Atkinson
Bevill
Collins, Ill.
Crane, Daniel
Crane, Philip
Dellums
Dodd
Dornan
Flood
Gilman
Goldwater
Hall, Ohio
McCloskey
McKinney
Mollohan
Mottl
Pepper
Rose
Williams, Ohio
Wilson, Bob
Zeferetti

□ 1350

The Clerk announced the following pairs:

On this vote:

Mr. Mollohan for, with Mr. Mottl, against.

Mr. Hall of Ohio for, with Mr. Archer against.

Mr. Pepper for, with Mr. Ashbrook against.

Mr. Flood for, with Mr. McCloskey against.

Mr. Rose for, with Mr. Gilman against.

Mrs. Collins of Illinois for, with Mr. Dornan against.

Mr. Dellums for, with Mr. Williams of Ohio against.

Mr. Dodd for, with Mr. Philip M. Crane against.

Until further notice:

Mr. Alexander with Mr. Atkinson.

Mr. Bevill with Mr. Anderson of Illinois.

Mr. Zeferetti with Mr. Bob Wilson.

Mr. Goldwater with Mr. Daniel B. Crane.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to extend my own remarks, and to include extraneous matter, and that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 43, H.R. 44, H.R. 45, AND H.R. 46

Mr. CORCORAN. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bills H.R. 43, H.R. 44, H.R. 45, and H.R. 46, as my name appeared in the February 15 CONGRESSIONAL RECORD without my knowledge and consent.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 2479, UNITED STATES-TAIWAN RELATIONS ACT

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2479) to help maintain peace, security, and stability in the Western Pacific and to promote continued extensive, close, and friendly relations between the people of the United States and the people on Taiwan, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan? The Chair hears none, and, without objection, appoints the following conferees: Messrs. ZABLOCKI, FASCELL, WOLFF, MICA, HALL of Ohio, BROOMFIELD, DERWINSKI, and FINDLEY.

There was no objection.

□ 1355

PERMISSION FOR COMMITTEE ON FOREIGN AFFAIRS TO HAVE UNTIL 5 P.M. FRIDAY, MARCH 16, 1979, TO FILE REPORT ON H.R. 2774, ARMS CONTROL AND DISARMAMENT AGENCY APPROPRIATIONS AUTHORIZATION

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs have until 5 p.m. Friday, March 16, 1979, to file a report on the bill (H.R. 2774) authorizing appripriations for the Arms Control and Disarmament Agency for fiscal years 1980 and 1981.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO FILE REPORT ON H.R. 2154, REVISING THE STRATEGIC AND CRITICAL MATERIALS STOCKPILING ACT

Mr. PRICE. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services may have until midnight tonight, Thursday, March 15, 1979, to file a report on the bill (H.R. 2154) to revise the Strategic and Critical Materials Stockpiling Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

COAL: ITS ROLE IN OUR FUTURE ENERGY NEEDS, PART II

(Mr. RAHALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RAHALL. Mr. Speaker, I want to share with my colleagues, an article from one of the newspapers in my district relative to the "impending energy crisis."

The energy crisis solution from the Department of Energy as far as I can determine, lacking any DOE specific energy plan, goal or strategy, is something like this: force/allow the cost of gasoline to go up so high that only the rich can afford it, thus forcing the burden of conservation on the middle and lower income people; express the need for alternative energy sources, that is, coal, but through Government regulation and lack of Federal commitment, keep coal economically depressed.

The enclosed article points out the chaotic policy—if one can call chaos a policy—DOE is applying to a serious situation without equitable results:

[From the Bluefield Daily Telegraph, Mar. 7, 1979]

WHOSE SIDE IS HE ON?

Suppose you are a member of the widget industry, doing reasonably well selling widgets at 50 cents a dozen. Then a high federal official starts announcing at every opportunity that widgets are soon going to be selling at a dollar a dozen. You aren't going to waste any time marking up your widgets to the new price, are you?

The only apparent explanation for Energy Secretary James Schlesinger's seeming eagerness for the new $1 a gallon price level for gasoline is that the Carter administration thinks that the higher the price the less petroleum will be consumed, and of course that is right.

The problem is that there are countless areas where the use of petroleum products cannot be sharply reduced, which means that in those areas the new higher prices will have to be paid. And we know who is going to pay those prices in the end, don't we?

Schlesinger and the other doom-sayers are using the Iranian oil shortage as the peg for the latest scare. But in fact, it has been noted that a complete cessation of Iranian oil production can cause only a 3 percent drop in total world oil production. That would seem to mean that if, on the average, the nation could reduce its consumption of oil-based products by just 3 percent, the problem should be no worse than it is now.

There also is ample reason for most of us to be increasingly skeptical of all this talk about critical shortages of energy. It doesn't require a long memory to recall that the oil companies reported the greatest profits in their history during the first oil scare of 1973–74, and have been doing very well since then. Nor is it difficult to remember that despite all the talk about a disastrous shortage of natural gas, it has suddenly became remarkably plentiful now that government price controls have been eased.

Schlesinger's real job in the federal government is to develop and implement an energy program which will free this nation of its dependence on foreign oil sources. This can be done with an all-out drive to utilize the energy available from coal and nuclear processes.

If he would spend more time doing that and less serving as a mouthpiece for oil profiteers, all of us would be a lot better off.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I take this time for the purpose of inquiring of the distinguished majority whip, the gentleman from Indiana (Mr. BRADEMAS), the program for next week.

Mr. BRADEMAS. Mr. Speaker, will my colleague, the distinguished minority whip, the gentleman from Illinois (Mr. MICHEL) yield?

Mr. MICHEL. I will be happy to yield.

Mr. BRADEMAS. I thank the gentleman for yielding.

Mr. Speaker, the program for the House of Representatives for the week of March 19, 1979, is as follows:

On Monday, March 19, the House meets at noon. I would observe that all recorded votes will be postponed until Tuesday, March 20. After the call of the Consent Calendar, there will be two bills to be considered under suspension. They are:

H.R. 2154, Revise Strategic Materials Stock Piling Act; and

H.R. 1301, international shipment of lottery materials.

Then there will be one House committee funding resolution, followed by consideration of

H. Res. 118, to establish Select Committee on Committees.

On Tuesday, March 20, the House will meet at noon for the Private Calendar. There will be no bills under suspension. There will be recorded votes on the bills debated on Monday, March 19. The House will then consider:

H.R. 2283, Council on Wage and Price Stability Reauthorization, under an open rule, with 1 hour of debate.

On Wednesday, March 21, the House will meet at 3 p.m. for a series of eight House committee funding resolutions, to be followed by:

H. Res. 13, to reestablish Select Committee on Narcotics Abuse and Control; and

H. Res. 38, to reestablish Select Committee on Population.

On Thursday, March 22, the House will meet at 11 a.m. for:

H.R. 90, small business programs authorizations, subject to a rule being granted; and

H.R. 2774, Arms Control and Disarmament Agency authorizations, fiscal years 1980 and 1981, subject to a rule being granted.

On Friday, March 23, the House will not be in session.

The House will adjourn by 5:30 p.m. on all days except Wednesday. Any further program will be announced later.

Mr. MICHEL. Might I inquire of the gentleman whether we can be assured, then, that those record votes carried over from Monday will be the first order of business on Tuesday?

Mr. BRADEMAS. If the gentleman will yield further, the answer to the gentleman's question is "Yes."

Mr. MICHEL. Would we expect to have cluster voting on the series of eight funding resolutions on Wednesday?

Mr. BRADEMAS. No decision has yet been reached on that matter, I may say to my colleague.

Mr. MICHEL. But if it is decided to take that route, would there be an announcement of that on that day?

Mr. BRADEMAS. On the day before.

Mr. MICHEL. On the day before. I thank the gentleman.

MISS LILLIAN VISITS THE CAPITOL

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, I only take this moment to observe that we all are honored today to have in the Capitol an outstanding citizen of our country, the mother of the President of the United States, best known as Miss Lillian. We are very honored, indeed, to welcome her to the Capitol.

☐ 1400

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday of next week.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

ADJOURNMENT TO MONDAY, MARCH 19, 1979

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday, March 19, 1979.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

AMENDMENT TO THE U.S. CONSTITUTION TO BALANCE THE FEDERAL BUDGET

(Mr. WHITE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WHITE. Mr. Speaker, on February 26, I sponsored and addressed the House on House Joint Resolution 213, a proposed constitutional amendment to make a balanced Federal budget the norm in the management of the Nation's fiscal affairs. During that speech I gave a brief explanation of how this proposed balanced budget amendment would work. Subsequently, I have received several inquiries asking for additional information on certain points. Let me address several of those points at this time.

FLEXIBILITY TO RESPOND TO VARYING ECONOMIC CONDITIONS

The most important of these concerns the flexibility in our amendment to deal with circumstances or conditions that are out of the ordinary. While critics of the constitutional amendment approach repeatedly assert that an amendment would be "too inflexible" and would "tie the hands of Congress," nothing could be further from the truth as applied to our proposal. House Joint Resolution 213 places no substantive restrictions on the Congress whatsoever. Rather, it provides that to enact a deficit budget a vote of two-thirds of the Members of both Houses is required—as opposed to the simple majority of both Houses currently required. Let us be clear about the purpose of this amendment. For 17 of the past 18 years the United States has run budget deficits at the Federal level. It is our opinion that this kind of fiscal irresponsibility must be curbed. Our amendment has the explicit purpose of making it more difficult to adopt a deficit budget, but it is equally clear that two-thirds of the Members of both Houses will have precisely the same flexibility with regard to enacting a budget deficit under our proposal as a simple majority of the Members of both Houses now have. Thus, the charge that a constitutional amendment has to limit the Congress flexibility to take substantive action to respond to economic conditions in order to be effective is wrong.

ACCOUNTING GIMMICKRY TO BALANCE BUDGET

Other critics are advocating an alternative approach to balancing the budget. They propose dividing the budget into a capital and an operating budget. This approach, they assert, would provide a truer picture of what is being utilized in any budget year. We, too, think there is some merit in this suggestion and the Judiciary Committee should certainly study its merit when holding hearings on the budget balancing amendments, but it is not the solution to the Federal Government's budgetary problems. To allow one Congress to purchase now and prorate the payments over a number of years—thereby shifting the burden to future Congresses—is an accounting gimmick and a license to fiscal disaster on the installment plan.

NO PUNITIVE ACTION

Then, there is the assertion by some of my colleagues in the Congress that certain of the States are responsible for the rising public sentiment across the land to balance the budget by constitutional amendment and that, therefore, the States should bear the brunt of the necessary budget-balancing reductions if the amendment is adopted. These Federal legislators are threatening that Federal aid to the States will be the first item to be eliminated in any effort to cut expenditures. But Congress does not behave that way. It may prove necessary to cut Federal aid to the States in order to balance the budget just as it will be necessary to cut many other programs. The States recognize this, and they have acted wisely in stressing the importance of a balanced Federal budget. If Congress acts wisely it will do likewise. But there will be no punitive action.

CONGRESSIONAL ACTION

Mr. Speaker, I am pleased to be able to say that support for our effort is growing. House Joint Resolution 213 now has 79 cosponsors, and I now urge all my colleagues to join with us in this effort. The States are listening to the citizens' demand that the Federal budget be balanced, and the States are pursuing the only alternative available to them. The Congress should begin to listen, too, rather than threatening the States with punitive action. The overwhelming public sentiment in behalf of a balanced Federal budget deserves expeditious congressional response. We again urge the Judiciary Committee to promptly begin hearings on this most important matter.

H.J. RES. 213

Mr. Speaker, the following is House Joint Resolution 213:

H.J. RES. 213

Joint resolution proposing an amendment to the Constitution of the United States to provide that the level of total outlays of the United States for any fiscal year shall not exceed the level of total receipts of the United States for such fiscal year and for the disposition of unanticipated deficits.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years of the date of the final passage of this joint resolution:

"ARTICLE —

"SECTION 1. Except as provided in section 2, the level of total outlays of the United States for any fiscal year shall not exceed the level of total receipts of the United States for such year to the end that the level of the national debt in the hands of the public is not increased.

"SEC. 2. The provisions of sections 1 and 3 shall not apply to any fiscal year—

"(1) if, at any time during such fiscal year, the United States is in a state of war declared by the Congress, or

"(2) if, with respect to such fiscal year, the Senate and the House of Representatives determine, by an affirmative vote of two-thirds of the Members present and voting of each House, to suspend the application of such section of this article.

"SEC. 3. Except as provided in section 4, the amount of any unanticipated deficit in any fiscal year shall, upon its determination, be considered an expenditure of the United States for the first fiscal year following the fiscal year in which such amount is determined to exist. If the amount of such deficit exceeds 2 per centum of the level of total expenditures of the United States for such first following fiscal year, the Congress shall provide for a corresponding increase in the level of total receipts of the United States for such first following fiscal year.

"SEC. 4. The Congress may, in any fiscal year—

"(1) by an affirmative vote of a majority of the Members present and voting of each House, apportion the amount of any unanticipated deficit, upon determination of its existence, or any part thereof, for such fiscal year as an expenditure of the United States over one or more of the four fiscal years following the fiscal year in which such deficit is determined to exist, or

"(2) by an affirmative vote as prescribed in section 2(2), include such deficit or any part thereof in the debts of the United States.

"SEC. 5. The Congress shall have the power to carry out the terms of this article by appropriate legislation.

"SEC. 6. This article shall take effect on the first fiscal year which begins more than three fiscal years after the date of ratification of this article.".

SECTION-BY-SECTION ANALYSIS

Mr. Speaker, the following is a section-by-section analysis of House Joint Resolution 213:

SECTION-BY-SECTION ANALYSIS OF H.J. RES. 213

Section 1: The purpose of Section 1 is to make a balanced Federal budget the norm, thereby reversing the trend toward ever-larger government, burgeoning deficits, accelerating inflation and rising unemployment. Simply stated, section 1 establishes the deliberate, systematic balancing of outlays with receipts as the norm in Federal fiscal management.

Section 2: While section 1 contemplates budgetary balance as the norm, section 2 recognizes that circumstances may require deliberate, discretionary departures from the norm. In time of war, balanced budgets are neither feasible nor desirable. Thus, during a time of war declared by Congress, the provisions of section 1 shall not be binding. Moreover, even in peacetime, circumstances may justify a deliberate departure from budgetary belance. Section 2 requires in anticipated cases and in certain unanticipated cases that a departure from the norm be predicated upon an affirmative vote of two thirds of the members present and voting in each House of the Congress.

Section 3: It is recognized that, on occasion, realized tax receipts may be less than expected. In these circumstances, passive deficits will emerge. Section 3 provides that such deficits, once determined, be considered an expenditure for the first following year after the tax revenues have been collected and the deficit is determined. In the event the passive or the reapportioned deficit exceeds two percent of total expenditures for the first fiscal year after such deficit has been determined, section 3 requires that the Congress provide for a corresponding increase in tax revenues.

Section 4: Because of prevailing economic or other conditions, provision of compensatory tax increases during the first fiscal year following determination of the magnitude of a deficit may be counterproductive. Section 4 provides, therefore, that the Congress may, upon an affirmative vote of the majority of members present and voting in each House, apportion all or part of the deficit over one or more of the four following fiscal years. Alternatively, upon a two-thirds vote of the members present and voting in each House, the Congress may elect to include such deficit, or any portion thereof, in the Federal debt.

Section 5: Empowers the Congress to implement the terms of this article by any legislation deemed appropriate.

Section 6: The purpose of section 6 is to provide for the orderly transition to a balanced budget. The transition period would cover three full fiscal years after ratification of this article.

☐ 1110

DOUBLE BARREL EXPOSURE OF HUMAN RIGHTS ILLS IN NORTHERN IRELAND

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BIAGGI. Mr. Speaker, just yesterday I placed into the RECORD an article from the Sunday Washington Post detailing the findings of a Northern Ireland police surgeon who stated that some 150 suspects that he examined had been mistreated by Royal Ulster Constabulary officers.

Today I wish to insert another article—this time from this morning's Washington Post entitled "British Inquiry Finds Abuse in Ulster." The findings are disturbingly similar—this time an official British Government inquiry concluded that suspected Republican terrorists have been physically mistreated by Ulster police trying to extract confessions. The significance of this rests with the fact that this represents the first time ever that the British Government has acknowledged that Ulster police have mistreated prisoners.

Throughout my 10 years in the Congress and most especially in the 18 months that I have served as chairman of the 122-member Ad Hoc Congressional Committee for Irish Affairs I have been imploring our administrations to recognize the severity of the human rights problems in Northern Ireland and apply pressure to rectify the situation. Thus far mine and others pleas have fallen on unresponsive ears. President Carter has just returned from a magnificent mission to the Middle East where his own personal determination resulted in a Middle East peace treaty. I call on the President in this same spirit of peace to acknowledge the human rights problems in Ireland and call on Great Britain to restore all lost human and civil rights in Ulster. It seems difficult to fathom a full fledged St. Patrick's Day celebration while there are violations of human rights—while there is an H block—while there is oppression. Let us pledge our strongest effort to having these problems rectified before St. Patrick's Day—1980.

The Washington Post article follows:

British Inquiry Finds Abuse in Ulster—Government Probe Concludes Northern Ireland Police Mistreated IRA Suspects

(By Leonard Downie, Jr.)

London, March 14—A British government inquiry into police interrogation practices in Northern Ireland has concluded that suspected IRA terrorists have been physically mistreated by Ulster police trying to extract confessions from them.

The report's conclusions, based on medical evidence and interviews with police and medical informants constitute the British government's first official acknowledgement that the Ulster police have mistreated some IRA suspects.

The government committee of inquiry, headed by Judge Harry Bennett, has found numerous cases in which the Irish-Republican Army suspects in Ulster police custody suffered serious injuries that "were not self-inflicted," according to sources with knowledge of the report's contents.

The committee reportedly recommends that interrogations of IRA suspects in Ulster be monitored by senior police officials on closed-circuit television, that the police complaint process be improved and that terrorist suspects be allowed to contact a lawyer within 48 hours of their arrest, a right they do not have under the British Prevention of Terrorism Act.

Northern Ireland Secretary Roy Mason reportedly was disturbed by the findings and has decided to carry out as many of the committee's recommendations as possible.

Mason received the report several weeks ago but had not planned to present it to Parliament or the public until next week. Highlights of the report were confirmed by informed sources here today after some had been revealed by The Guardian newspaper.

Last Sunday, an Ulster police surgeon, Dr. Robert Irwin, said on television here that he had examined many suspected IRA terrorists who were seriously injured during police questioning at the Royal Ulster Constabulary's Castlereigh interrogation center in Belfast. His statements were attacked this week by Ulster authorities including the chief constable of the Royal Ulster Constabulary, who said Irwin had made formal brutality complaints in only 10 cases.

Mason has refused comment to reporters or Parliament since Irwin's television interview created new controversy about Ulster here. In the past, Mason has strongly praised the Ulster police for helping the British Army reduce sectarian violence and killing during his 2½ years as the British official in charge of Northern Ireland.

Mason has been gradually withdrawing British soldiers from Northern Ireland, turning over more and more of the responsibility for security there to the Royal Ulster Constabulary.

The Bennett Committee inquiry began last summer after Amnesty International detailed 78 cases of alleged brutality at the Castlereigh interrogation center. The committee was authorized to report on interrogation practices generally, rather than investigate individual cases in depth.

Critics of the British government's Northern Ireland policy are not expected to be satisfied with the Bennett Committee's report for this reason. Gerry Fitt, a Catholic Social Democratic and Labor Party member of Parliament from Northern Ireland, said today that general conclusions about brutality would not be enough. He said he wanted every individual case investigated thoroughly and the police responsible for mistreatment brought to trial.

The Bennett Committee's report and Irwin's televised testimony about brutality came at particularly inopportune time for the British government, which assumed direct rule over Northern Ireland in 1972.

Next week, Parliament debates the further extension of the five-year-old "temporary provisions" of the Prevention of Terrorism Act, under which terrorist suspects can be detained without charges for seven days and can be convicted of terrorism, usually on their own confession, by a judge sitting without a jury. Opponents of the act are expected to use the new revelations of police brutality as reasons the detention powers and the reliance on confessions should be restricted.

The British government also has become increasingly concerned about the IRA's propaganda efforts abroad, particularly in the United States, to discredit a recent crackdown on violence in Northern Ireland.

The IRA has drawn attention to several hundred IRA prisoners living without clothes or blankets in cells fouled by human waste in the Maze Prison in Ulster. Northern Ireland officials have emphasized that the prisoners themselves have refused to wear clothes or use toilet facilities in protest against the British government's refusal to classify them as political prisoners.

The European Commission on Human Rights, which found Northern Ireland guilty several years ago of mistreating IRA suspects imprisoned without trials, is now investigating conditions at the Maze Prison. To present their side of the story about the prison, which was built as a model facility, Northern Ireland officials have taken members of Parliament on a tour of the prison and plan to take reporters inside soon.

At this point in the Record I wish to insert the article from the Washington Post entitled "Ulster Doctor Says IRA Suspects Maimed in Police Custody":

Ulster Doctor Says IRA Suspects Maimed in Police Custody

(By Leonard Downie, Jr.)

London, March 10.—A Northern Ireland police surgeon has revealed that 150 to 160 suspected IRA terrorists he examined in police custody during the past three years were beaten and otherwise "physically illtreated" while being interrogated by police in Belfast.

In a taped interview to be broadcast Sunday on Weekend World, a popular television news magazine program here, Dr. Robert Irwin said he was disturbed by the injuries he found prisoners to be suffering after they had been questioned by the Royal Ulster Constabulary at its Castlereagh interrogation center in Belfast.

"I've seen five ruptured eardrums," Irwin said. "I have seen two injuries to bones of the forearm . . . I have seen joint injuries in both the wrist and to the little joints in the fingers, which have been caused by squeezing the hand or by twisting the fingers."

Irwin said these are not injuries that could be self-inflicted, as the authorities in Northern Ireland have sometimes claimed.

"Ruptured eardrums, I would say, being one of the most serious injuries, could not possibly be self-inflicted," he said. "There is not enough leverage in one person's arm to rupture their own eardrums, and falling about does not produce a ruptured ear. It can only be produced by a blow with force from somebody else.

"Also, some of the sites of some of the injuries would defy even a contortionist to produce the injuries, and the extent of the bruising that has been seen on occasions indicates that considerable force had been used from some other source."

Irwin said such mistreatment, which he attributed to "probably twenty" Ulster police officers at Castlereagh, is "destroying" the Ulster police force's reputation and undermining the "magnificent" work of the majority of its officers, who he said have helped the British army reduce violence in Northern Ireland in recent years.

His public statements corroborate an Amnesty International report of last summer, which described 78 cases of brutality allegedly suffered by suspected terrorists in police custody in Ulster. Amnesty International complained repeatedly in the report that Ulster police authorities would not allow access to police surgeons or their records.

The report prompted the British government to set up a committee, headed by a noted judge to investigate these allegations and report on interrogation methods in Northern Ireland.

The committee's inquiry is finished and its report is now being reviewed by Britain's Northern Ireland secretary, Roy Mason, before being made public later this month. A spokesman for the Northern Ireland office said today he would not comment on Irwin's statements or on reports here that the investigating committee has found that Ulster police interrogation methods "leave a lot to be desired."

Irwin, an official of the Association of Police Surgeons of Great Britain, said he will resign if the committee's report does not acknowledge the mistreatment he has found. He said he also would urge the other 600 police surgeons in Britain to "walk out in protest."

A Protestant lawyer recently resigned from the complaints committee of Northern Ireland's police authority because, he said, it took no action on a number of specific complaints of "alleged torture" he had presented. "They don't want to know," attorney Jack Hassard said.

More than 1,000 formal allegations of police brutality during interrogations of suspected IRA terrorists in Ulster have been made in the last three years. Some police officers have been prosecuted, but none has been convicted.

British security forces have killed 10 persons in Northern Ireland in the past year. Authorities have acknowledged that some innocent people may have been killed mistakenly in these incidents, and there have been disputes about whether some suspected terrorists were shot by British soldiers although they offered no resistance.

British officials, who point out that sectarian killing has decreased dramatically in the recent years of direct British rule, nevertheless have become increasingly sensitive about allegations that the British Army and the predominantly Protestant Ulster police have been brutal in their treatment of Catholic terrorist suspects.

The European Commission of Human Rights, which previously found the Ulster police guilty of brutality in their treatment of IRA suspects interned without trials—a practice later abandoned—is now investigating allegations that convicted terrorists are being mistreated in prison.

For the past year, about 300 IRA terrorists imprisoned in the Maze prison outside Belfast

> for robbery and other crimes have been refusing to wear clothes, wash or use the prison's toilet facilities, in an IRA-orchestrated campaign to have them recognized as political rather than criminal prisoners.

ISRAELI-EGYPTIAN PEACE TREATY

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ANNUNZIO. Mr. Speaker, it is evident that without President Carter's courageous personal intervention, the stalemated Middle East negotiations could not have been brought from the abyss of failure to the brink of virtual success.

At a time when Egyptian-Israeli agreement on a peace treaty seemed unattainable, our President's daring shuttle summitry achieved the compromise not many had envisioned only a few days ago.

President Carter's patience, determination, and steadfastness have helped him to score a great personal success as well as a stunning diplomatic triumph.

Most importantly, for the first time in memory, there is hope for bringing an end to conflict in the Middle East and for insuring a genuine and lasting peace in that troubled area of the world.

I congratulate the President on bringing about agreement between President Anwar Sadat and Prime Minister Menachem Begin on an unprecedented Israeli-Egyptian peace treaty, and express the pride of my fellow Americans in his inspiring leadership.

An editorial from the March 14 Chicago Sun-Times entitled, "Carter Succeeds," follows:

> CARTER SUCCEEDS; NOW IT IS UP TO SADAT, BEGIN
>
> A valiant, tireless, incredibly patient President Carter apparently has pulled it off.
>
> He has ended his high-risk mission to the Mideast having turned what was yesterday's apparent disaster into today's success—a tenuous success, but success nevertheless.
>
> "I am convinced," he said, "that now we have defined all of the main ingredients of a peace treaty between Egypt and Israel and which will be the cornerstone of a comprehensive settlement in the Middle East."
>
> We do not yet have a peace treaty, no more than we had one after the euphoric conclusion of the Camp David talks last September. But the hard decisions have been made. The words are in place.
>
> If President Anwar Sadat and the sharply divided government of Prime Minister Menachem Begin now would cease attempting to dot *t's* and cross *i's*, then they could soon begin the hard task of implementng the peace.
>
> And Carter, one huge burden lifted off his back, could turn fuller attention to strategic, regional problems even larger than those posed by Egypt and Israel—the dangerous instability of the Islamic world from Pakistan across North Africa.
>
> Much has been made of the domestic political risks that Carter—with his low public opinion ratings—was running in undertaking the Mideast mission. In our mind, he deserved high marks even had he failed—for pressing, prodding, never surrendering to repeated frustration.
>
> The larger danger in failure was to the influence Carter and the United States still can bring to bear on events throughout the region.
>
> When Israel's cabinet takes up the newest proposals to come out of the negotiations, it would do well to take to heart Carter's words to the Knesset on Monday: "Israel's security will rest not only on how the negotiations affect the situation on your own borders, but also on how it affects the forces of stability and moderation beyond your borders."
>
> And this will apply even more to the Knesset, the parliament, when—indeed if—it acts on a treaty draft. Begin startled Carter when he said the Knesset will be authorized to debate, and even amend, the text point by point. The hazards in that procedure were made obvious in the Knesset's raucous, rancorous outbursts in Carter's presence.
>
> But Begin with heartening speed said his government would resign if the Knesset rejects a treaty draft. It approved the Camp David accords 84 to 19. The logic behind that vote now has only been underscored.

CONCURRENT RESOLUTION PROTESTING USE OF WAIVER AUTHORITY IN ARMS AND MEN FOR YEMEN

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PANETTA. Mr. Speaker, I am today introducing a concurrent resolution protesting the administration's use of its waiver authority in order to expeditiously transfer modern weapons and American military personnel in the form of mobile training teams to the Arab Republic of Yemen (North Yemen). Mr. Speaker, I want to assure you and my colleagues in the House that I do not introduce this resolution lightly or capriciously. I do so only because I believe the administration's actions in this instance raise the gravest of issues involving the perogatives of Congress in determining how, when, and where the United States will become militarily involved in a foreign country.

The administration has asserted that the United States must respond expeditiously to an attack on North Yemen by the Democratic People's Republic of Yemen (South Yemen). In order to do so, the President has invoked for the first time ever, his authority to waive the requirements of section 36(b) of the Arms Export Control Act. This action denies to the Congress an opportunity to examine all relevant facts in the Yemen war and determine whether making this kind of major new commitment to North Yemen is in the best interests of the nation. Does the administration have adequate empirical justification or legal authority to deny the Congress its legitimate role in determining the wisdom of this kind of military involvement?

Mr. Speaker, our involvement in the Vietnam war should have taught us one very basic and cardinal lesson, one which we ignore today only at great risk to the Nation. That lesson is that Congress must be permitted to exert prudent and proper control over the military involvement of our Nation abroad and that the executive must make every effort to consult with the Congress before committing this Nation militarily abroad. If Congress fails to assert its proper role in this area, then we have only ourselves to blame, and we may see the tragic history of Vietnam repeat itself much sooner than we ever thought possible.

In passing the war powers resolution in 1973 (Public Law 93-148), Congress unambiguously signaled to the President its desire to be regarded as a full partner in making decisions which might involve America militarily in conflicts abroad. Section 4(a)(c) of the war powers resolution requires the President to report to Congress "in any case in which U.S. Armed Forces are introduced into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances." Section 8(c) of the war powers resolution defines the term "introduction of U.S. Armed Forces" to include the assignment of members of such Armed Forces to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such military forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities.

By invoking this waiver authority the administration is in effect asserting that an emergency exists in North Yemen, an emergency triggered by armed invasion from South Yemen, which requires the transfer of arms and military personnel from this country "immediately in the national security interests of the United States." I suggest to my colleagues that if such a military emergency does in fact exist in North Yemen, arising from an armed invasion and ongoing hostilities, then there is a de facto imminent threat of our military personnel becoming involved in such hostilities. In other words, by invoking the waiver of section 36(b) of the Arms Export Control Act, the President raises serious questions in my mind about the appropriations of this proposed involvement under the War Powers Act. I believe Congress needs time to examine all the issues involved in this decision, and we need to insure that the authority of the Congress under the war powers resolution is not usurped by the executive.

Furthermore, Congress in passing the arms export control 1976 (Public Law 94-329) expressed its interest in sharing with the President authority to decide matters involving major arms sales to a foreign country. Section 21(c) of this act states that—

> Personnel performing defense services sold under this Act may not perform any duties related to training, advising, or otherwise providing assistance regarding combat activities, outside the United States in connection with the performance of these defense services.

Use of U.S. Defense Department personnel in the form of mobile training teams may in fact conflict with this section of Public Law 94-329.

More to the point at hand, however, is section 36(b) of the Arms Export Control Act which provides Congress with its most direct and explicit authority over specific sales under the foreign military sales program. This section requires that any letter of offer to sell defense articles or services in the amount of $25 million or more or any major defense equipment in the amount of $7 million or more shall be submitted to Congress prior to being issued and shall not be issued if the Congress, within 30 calendar days after receiving such statement, adopts a concurrent resolution stating that it objects to the proposed sale.

The President does have the authority to waive this requirement, and it is the use of that waiver in the case of North Yemen which prompts me to introduce the resolution which follows. In brief, the President can waive the requirement of section 36(b) if he certifies that an emergency exists which requires the sale in the national security interests of the United States.

But I would ask the President: Exactly what is the emergency in this case? Why is it that this particular attack by South Yemen against North Yemen is of vital concern to the United States? And why should not Congress be allowed sufficient time to look into the situation before commiting $400 million worth of arms, and perhaps as many as 300 Americans, in a conflict situation about which neither the Congress nor the American people know anything at this point? Why is it that we are so hastily sending these weapons, including 12 F-5E aircraft and 64 M-60 tanks, when the North Yemeni military has few if any personnel trained to use these modern weapons? What is the rush and are not the American people entitled to more information before such a major step is taken?

Mr. Speaker, I am particularly concerned that Congress is being asked to sit on the sidelines while the administration apparently is attempting to send political signals to impress the Saudis or the Russians with our resolve. In this morning's Washington Post, one U.S. official is quoted as saying:

> That was a signal for the Saudis. The entire package is intended as a political signal, to the South Yemenis and the Russians not to push any further, and to the Saudis that we won't let this be pushed any further. The North Yemenis couldn't possibly get these arms in place in time to determine the outcome of the present fighting.

Mr. Speaker, I would strongly assert that "sending political signals" in no way constitutes the kind of emergency situation envisioned by the Arms Export Control Act. If the Congress simply stands by and fails to demand that the administration fully justify the emergency nature of this transfer of arms and men, it will set a dangerous precedent for this and future administrations seeking to bypass the requirements of the law.

I would urge the Congress, in the absence of a fully and complete justification of such action, to reassert itself under the laws it has adopted. If the administration truly believes this is an emergency involving our national security interests, let it say so. If not, let us proceed by the laws we have adopted to fully consider these actions and to assert a congressional role in supporting such a significant change in foreign policy.

Mr. Speaker, my concurrent resolution reads as follows:

H. CON. RES. 78

Whereas section 36(b) of the Arms Export Control Act provides for a 30-day period during which Congress can disapprove a major arms sale in order that may control the transfer of arms under the Foreign Military Sales Program; and

Whereas such a requirement can be waived by the President only when "an emergency exists which requires such sale in the national security interests of the United States" and has never been invoked before by the President; and

Whereas section 21(c) of the Arms Export Control Act further requires that "personnel performing defense services sold under this Act may not perform any duties of a combatant nature, including any duties related to training, advising, or otherwise providing assistance regarding combat activities, outside the Untied States in connection with the performance of those defense services"; and

Whereas section 4(a)(1) of the War Powers Resolution requires a report from the President "in any case in which United States Armed Forces are introduced . . . (1) into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances"; and

Whereas the Administration has decided to waive the requirement of section 36(b) of the Arms Export Control Act and intends to expeditiously sell to the Arab Republic of Yemen $390,000,000 worth of modern weaponry, including 12 F-5E aircraft and 64 M-60 tanks, and to furnish United States military personnel to provide military training and technical assistance at a time when the Arab Republic of Yemen has been attacked by the Democratic People's Republic of Yemen and hostilities between the two countries are presently taking place; and

Whereas the Administration testimony on March 12, 1979, before the Subcommittee on Europe and the Middle East of the House Committee on Foreign Affairs failed to substantiate the existence of a national security emergency in that the weapons being provided by the United States will not have a significant military effect in the current conflict because of the lack of trained personnel able to operate F-5E aircraft or M-60 tanks for a matter of weeks or months; and

Whereas the military situation in Yemen and the political stability of the Arab Republic of Yemen are questionable at this time, raising the potential for direct combat involvement of United States personnel or the compromising of our military weapons in this unstable environment; and

Whereas this transfer of arms and advisers represents a significant new military commitment of the United States, and the desirability and consequences of such a commitment have not been adequately assessed or considered by the Congress: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That—

(1) the Congress objects to and protests the Administration's use of waiver authority in this instance;

(2) the Congress hereby requests that the sale of arms and personnel to the Arab Republic of Yemen be delayed for the 30-day period which would be required by the Arms Export Control Act if the waiver authority had not been exercised;

(3) the Congress be given this time to fulfill necessary oversight functions under section 36(b) of the Arms Export Control Act to determine if the actions of the Administration are justified and should be supported by Congress.

Mr. WEAVER. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Speaker, I would like to associate myself with the gentleman's remarks very simply and very deeply and ask, are we going to send our boys to die in the Middle East so we can continue wasteful and sloppy gas guzzling at home?

ELEVEN PERCENT INCREASE IN GRANT IN AID PROGRAMS OF ACIR

(Mr. MILLER of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of Ohio. Mr. Speaker, we had a vote just a little while ago concerning the national debt and I have a little information that will convey why we had to have that vote.

Mr. Speaker, the Advisory Commission of Intergovernmental Relations (ACIR) has recently released an update of its catalog of Federal grant-in-aid programs to State and local government. For fiscal year 1978 ACIR has identified 492 categorical grant-in-aid programs available to State and local political subdivisions. This is 50 more programs than ACIR counted in fiscal year 1975, an 11-percent increase. General revenue sharing and five block grants are not included in the catalog.

During this 3-year period 37 formula based grants were enacted or implemented while 13 programs were discontinued or replaced for a net increase of 24. Sixty-four project grant programs were enacted or implemented while 38 were dropped for a net growth of 26 project grants.

The ACIR has performed a valuable service in identifying these grants and their nature, scope, and distribution. But the catalog tells only part of the story of the growth in Federal grants. In fiscal year 1975 categorical grants to States and localities amounted to $38.1 billion. Three years later the figure stood at $56.8 billion, a 49-percent increase. In other words, between fiscal year 1975 and fiscal year 1978 increase in actual expenditures was 4½ times greater than the growth of number of new programs. In the President's fiscal year 1980 budget categorical programs to the States and localities is estimated at $64.7 billion or a 70-percent increase over fiscal year 1975.

When we broaden the analysis of Federal support to States and local governments to include general purpose, broad base as well as categorical grants and take it back to fiscal year 1972, we find an even more dramatic growth. In fiscal year 1972, Federal aid amounted to $34.3 billion. In fiscal year 1980, it will stand at $82.9 billion or an increase of 144 percent. While the Federal Government has recorded a deficit every year since 1969, State and local government has carried a surplus each year.

What has happened then is that each year the Federal Government drives itself into deeper and deeper debt (approaching $900 billion) by creating new programs for and pumping more money into State and local governments that cumulatively operate in the black. Because it is such a significant contributor to the inflationary budget deficits, the explosive growth of grant-in-aid to State and local government has to be curbed. The Federal Government simply cannot afford to financially carry States and local subdivisions with ever-increasing doses of aid. Nor can the States and localities afford to lose their autonomy and identity through growing dependence on Washington.

□ 1410

COMMEMORATING SECOND ANNIVERSARY OF THE IMPRISONMENT OF ANATOLY SHCHARANSKY

The SPEAKER pro tempore (Mr. FARY). Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 60 minutes.

Mr. DRINAN. Mr. Speaker, I have asked to address this body today in order to commemorate the second anniversary of the arrest of Anatoly Shcharansky. Two years ago today, Shcharansky was arrested in Moscow by the KGB and charged with spying for agents of the U.S. Government—a charge that could not be further from the truth. I believe that there is an urgent need for the American people to be reminded of this situation, which tests our commitment to the most basic moral and political values of our time. I ask the Soviet Government to hear our angry cries and to free this innocent victim of harassment and oppression.

I take this opportunity to speak out in defense of Mr. Shcharansky, and all those who seek to leave the Soviet Union under the terms and conditions of the final act of the Helsinki agreement, which the Soviet Union is obligated to uphold—and for which Anatoly Shcharansky lost his freedom. Today, Shcharansky languishes in Christopol prison and labor camp, reportedly in ill health, having been denied the right to be visited by even his own mother and brother.

Two years ago, on March 15, 1977, Anatoly Shcharansky was arrested, and last July he was sentenced to 13 year's imprisonment, allegedly for "anti-Soviet activities."

But Anatoly's only real "crimes" were that he is both a dynamic leader of the Soviet Jewish movement and a key figure in the human rights movement related to the Helsinki accords. The specific charges against Anatoly were bluntly and completely denied by President Carter and our State Department. The 31-year-old Moscow Jewish leader was singled out for special harassment by the KGB, because of his outspoken advocacy of human rights, and because of his informal role as teacher, translator, and spokesman for the scores of Soviet Jews awaiting permission, like Anatoly, to leave for Israel.

Even while imprisoned, Anatoly has been further harassed and denied his rights. Visits with his family have been forbidden. The official transcripts of his trial, at first said to be "unavailable," have been given to him, but not to his family or lawyers working on behalf of his appeal. The Soviet Government's cruel handling of Shcharansky and others is recognized around the world as blatant injustices and repugnant violations of human rights principles.

Anatoly first applied for a visa to emigrate to Israel in 1973. Permission was refused on the grounds that he "had access to classified material," even though he had deliberately taken a "nonclassified position" with the Moscow Research Institute for Oil and Gas—a totally open institution. In 1973, he was refused permission to attend the International Congress on Mathematics.

On July 4, 1974, he and Avital were married. The visa office informed the new bride that she would be granted a permit to leave the country only if she would leave by July 5. If she did not, she was sternly told, the opportunity would never reoccur. The authorities promised Avital at that time that her husband would be allowed to follow her shortly thereafter. They have not been able to contact each other since.

Anatoly has been repeatedly refused permission to emigrate and has been subjected to uninterrupted surveillance by the KGB. On several occasions his home was ransacked and he was arrested and imprisoned without charges. In March 1975, he was dismissed from the Research Institute, and found that it was impossible for him to keep a job, regardless of how menial. In order to earn a living, he was forced to give lessons in English, mathematics, and physics. The finance department of the town of Istra, where he lived, refused to register him as a private tutor, apparently because his students lived in Moscow. And in a classic Catch 22, the Moscow authorities refused to register him there, because he lived in the town of Istra.

Mr. REUSS. Mr. Speaker, will the gentleman yield?

Mr. DRINAN. Mr. Speaker, I am very happy that many of my colleagues are here to participate in this special order today, and I am happy to yield to them. I gladly yield at this time to the distinguished chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Speaker, today we commemorate the melancholy second anniversary of the arrest of Anatoly Shcharanksy. His continuing imprisonment is a source of anger and sadness for freedom-loving people around the world. Because a relative of Shcharansky's is a close friend and constituent, the pain of the persecution of Shcharansky has been brought even closer to home.

The presence of Avital Shcharansky in our country, and expressions of concern like the ones made here today, are important parts of the effort to obtain Shcharansky's release. They keep the spotlight of disapproval on the Soviet authorities, reminding them that this most fundamental concern for Anatoly Shcharansky, and for those he represents, will not go away.

Mr. DRINAN. Mr. Speaker, I thank the gentleman for his contribution.

May I add something further about another facet of Mr. Shcharansky's career.

In May 1976, Shcharansky became a founding member of the committee for the implementation of the Helsinki agreement in Moscow. Anatoly's aim was to promote Soviet law, not to try to alter it. He was meticulous in insuring that all activities to emigrate were legal, because he felt there was no future for him, as a Jew, in the U.S.S.R. He was the main spokesman in a television documentary filmed in Moscow by a British television company, in which he said he lived in daily fear of arrest.

In March 1977. articles appeared in Izvestia, the official Soviet press, stating that Shcharansky and others were guilty of treason and working for the CIA, an accusation denied by President Carter in June 1977. On the 15th, shortly after the release of Dr. Michael Shtern, Anatoly was arrested for the final time.

The rest of the story is well-known and has received worldwide attention in the past. The culmination of the injustices against Anatoly happened last July when the Soviets tried and convicted him without the benefit of a fair trial. He was denied the right to call defense witnesses, and was not granted sufficient time to prepare a legal defense. Anatoly's closing speech was published on the front page of every major newspaper in the free world—his picture was on the covers of both Time and Newsweek. The international outrage at the verdict of that trial was a reassuring indication of the moral conscience of the free world at this outrageous event.

□ 1415

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. DRINAN. I yield to the gentleman from New York.

Mr. WEISS. I appreciate the gentleman's yielding.

Mr. Speaker, I want to commend our distinguished colleague, the gentleman from Massachusetts (Mr. DRINAN) for requesting this special time on the House floor to discuss the unjust imprisonment of Anatoly Shcharansky.

Today is the second anniversary of the arrest and imprisonment of this heroic dissenter. Last July, Mr. Shcharansky was tried and convicted in a manner that clearly exposed the oppression and injustice that are so pervasive in the Soviet Union. With each day that he remains in prison, the Soviet system of repression stands condemned in the court of world opinion.

Anatoly's wife, Avital, reports that the Shcharansky family has not even been issued a copy of the verdict from the July trial and is thus unable to appeal his 13-year sentence. During his confinement, Shcharansky has been subjected to vindictive and repeated humiliation. His wedding band and watch have been confiscated without being recorded and his mail privileges have been severely curtailed.

Anatoly Shcharansky is a brave and principled individual. He is also a symbolic leader of the dissident movement in the Soviet Union and is considered one of the key forces behind the entire refusenik initiative. As a founder of the Group to Monitor the Helsinki Accord in the U.S.S.R., Shcharansky's commitment to the cause of human rights and an open society is courageous and durable.

I am an honorary sponsor of the New York Committee To Free Anatoly Shcharansky and I have joined many of my colleagues in several appeals to the Soviet Government and the Belgrade review conference on Shcharansky's behalf.

The travesty of justice in Shcharansky's case is apparent from a look at the record and at the proceedings of his trial. The charge that he is a CIA agent was categorically and publicly denied by the President of the United States last year. Shcharansky's mother, Ida Milgrom, has described the kangaroo court atmosphere in which her son was convicted on false charges.

I would like to quote from her account:

> The judge declared that the court, in its administrative session, had already decided in advance to conduct the judicial investigation of the charge of espionage in a closed court. By doing this, the court forbade all reference in open sessions of the court to the testimony of the witnesses, conclusions of the experts and documents connected in any way to the accusation of espionage.

We must continue, in the face of this undisguised oppression, to protest Shcharansky's treatment and to speak out for human rights and civil liberties in the Soviet Union. Today's special order is one way in which we can remind the world that Anatoly Shcharansky and many other dissidents are living testament to humanity's quest for freedom and justice. Our efforts do have an impact. We should take some satisfaction in the fact that worldwide protests have enabled Ida Milgrom to finally receive a letter from her son.

It is most distressing to me to have to make a speech like this 2 years after Shcharansky's imprisonment. I fervently hope that by next March 15 we will instead be celebrating the liberation of this man of conscience.

Mr. DRINAN. I thank the gentleman for his remarks.

Mr. Speaker, I would like to add that Mrs. Shcharansky is in the city of Washington today. There will be a reception for her in the Senate from 5 to 7 o'clock tonight, sponsored by our colleague, the gentleman from Florida (Mr. FASCELL), and many others.

Mrs. HECKLER. Mr. Speaker, will the gentleman yield?

Mr. DRINAN. I yield to the gentlewoman from Massachusetts.

Mrs. HECKLER. I thank my distinguished colleague for yielding, and I state that I am here today to stand with the gentleman in the fight for Anatoly Shcharansky.

Mr. Speaker, the case of Anatoly Shcharansky reminds us that the words "human rights" are more than a phrase—more than a cause—more than an abstraction.

Anatoly Shcharansky is one mortal man, a Russian citizen whose courage, determination, and insatiable thirst for freedom have given him the strength to stand up, head high, against the massive overweening weight of the Soviet Government.

He is no stranger to the Members of this and previous Congresses.

They have passed to us by their example a commitment to hold the torch of individual conscience high, to keep the pressure, constantly, firmly on the Soviet Government to empty the prisons of these men and women whose only crime is to believe and practice a life which exalts the dignity of the individual, sacred human spirit.

Mrs. Shcharansky has traveled the length and breadth of our country, not once but two or three times—exhausting herself in the process of keeping our attention focused on the plight of Anatoly Shcharansky and those who share his fate.

It is important to understand the policy of the Soviet Government and it is important to put the present and past into the perspective of the future.

Next year the Olympic games are scheduled to take place in Moscow. The repression, the round-up and imprisonment of Soviet Jews of today and yesterday are part of a plan to purge the Soviet environment of any and all free spirits whose presence, words, or example might in any way compromise the image and reality which the Soviet Government wishes to present to its 1980 visitors.

I know, Mr. Speaker, that those of us who come into the well of this House this afternoon speak for tens of millions of our countrymen when we assure Mrs. Shcharansky that we will not forget; we will not be deterred.

When the bell tolls for Anatoly Shcharansky, it tolls for every one of us.

Until Anatoly Shcharansky has his freedom, ours is diminished.

We, here, today and tomorrow, rededicate ourselves to the persistent, patient, struggle to reunite Anatoly and Avital Shcharansky. In freedom, in good health, in happiness.

Mr. DRINAN. I thank the gentlewoman for her comments, and I am happy to state that Mrs. Shcharansky is now with us, having had lunch with Senators, and I am happy to greet her brother Michael Stiglitz who has come to this country, along with Avital.

Mr. Speaker, the danger that is before us today, however, is that the Soviet effort to remove Shcharansky from the limelight of world public opinion threatens to erase the plight of this man from our memories. It is precisely the fact that there has been no dramatic change in the Shcharansky case that is so tragic. We must remember the single fact—that Shcharansky continues to be confined behind Soviet bars, isolated and alone.

To impress upon us the importance and the value of maintaining public pressure on the Soviets, Shcharansky's wife, Avital, accompanied by her brother Michael Stiglitz, has come again to this country. Avital has endured the pain and the suffering of the last 2 years, but they have not been easy times for her or for her close friends and relatives. I take this moment to commend her on her valiant efforts to seek the release of her husband and others who remain behind Soviet bars, or who have been denied exit permits to leave that country.

Today we are reminded of the events of 2 years ago, and we are reminded of the trial last July, but most of all we are reminded of the fact that at this moment, Anatoly remains imprisoned, denied the right to receive visits from his mother and brother, and denied even the right to read his wife's letters. We must not neglect our solemn responsibility to raise Mrs. Shcharansky's case in every international forum until justice is served—until Anatoly is released from prison and allowed to join his wife in freedom.

● Mr. KOSTMAYER. Mr. Speaker, today, March 15, 1979, is the second anniversary of the arrest of Anatoly Shcharansky. Last summer, Anatoly Shcharansky moved America with his courage as he faced a Soviet court, without a lawyer and without ever having been formally charged with any crime. Because of the injustice of his trial, Shcharansky made headlines for weeks in every major newspaper in the United States. When he was sentenced to 10 years in a labor camp, America was distressed and many of us in Congress expressed our concern. But until today, America has been largely silent on the plight of a man whose fate was the focus of national attention just a few months ago, when we watched the Soviets put Anatoly Shcharansky through a trial only Kafka could have understood.

Mr. Speaker, we cannot afford to forget Anatoly Shcharansky or the many other Russians who have been persecuted for attempting to exercise their basic rights. Silence is toleration. America has an obligation to condemn the denial of human freedom wherever it occurs. There is no greater danger to our own freedom than for us to stand by while the human rights of others are denied.

Anatoly Shcharansky's only crime is that he tried to secure the right, for himself and for other Russian Jews, to emigrate to Israel. For 4 years, Shcharansky sought his government's permission to emigrate to Israel so that he could be reunited with his wife, Avital, who had emigrated there earlier. But his requests were repeatedly refused and he became the target of KGB harassment. Having observed the harsh treatment of Jews by the Soviet authorities, Shcharansky decided to work actively for Jewish human rights in the Soviet Union. Prior to his arrest, Shcharansky was a founding member of the committee for the implementation of the Helsinki agreement in Moscow. At considerable personal risk, members of this group publicly worked to see that the freedoms theoretically protected in the Soviet Constitution and in the Helsinki agreement were recognized. Anatoly Shcharansky only sought to promote, not alter Soviet law, and for this he was arrested and thrown into a work camp.

While today we condemn the Soviet Union for this injustice, we also express hope that Anatoly will one day be free and able to join his wife. We pray that the courageous cry of Soviet Jews—"Next year in Jerusalem"—will become a reality not just for Anatoly Shcharansky but for many other Soviet Jews as well. Today, I join my colleagues in calling upon the Soviet Union to release Anatoly Shcharansky and allow him to emigrate to Israel. As we recall Anatoly Shcharansky's courage and his commitment to human freedom, let us rededicate ourselves to the struggle for human freedom in the Soviet Union and throughout the world.●

● Mr. PHILLIP BURTON. Mr. Speaker, I rise to protest the outrageous violation of human rights that the Soviet Union continues to perpetuate upon Anatoly Shcharansky.

His incarceration defies all notions of humane treatment.

I call upon the Soviet Union to recognize the error of its ways, and free Shcharansky immediately.

I want to express my heartfelt sympathy to his courageous wife and family.●

● Mr. MINETA. Mr. Speaker, in recent months, repression of freedom and human rights of many people in this world has moved away from the spotlight of foreign affairs. Yet, the restrictions and deplorable acts of many governments against people who refuse to compromise their fundamental human rights continues. Soviet dissident Anatoly Shcharansky remains one example of this continued repression.

It is with disdain and sadness that I speak of the plight of Anatoly Shcharansky. On this second anniversary of his arrest, we acknowledge that Mr. Shcharansky has sacrificed 13 years of his life for his uncompromised political beliefs. Mr. Shcharansky has reportedly fallen ill in the forced labor camp he was sentenced to for unfounded charges of contacting agents of the Central Intelligence Agency. Mr. Shcharansky has been denied a simple visit from family members, let alone release from his unjustified incarceration.

On this second anniversary of Anatoly Shcharansky's arrest, Mrs. Shcharansky has come to the U.S. Congress seeking our support and assistance. Mrs. Shcharansky's campaign for her husband's release serves as a reminder of the responsibility of the Members of Congress to condemn repression in the world. As human beings we all owe to Mr. and Mrs. Shcharansky any assistance which will lead to Anatoly Shcharansky's release. With Mrs. Shcharansky's devotion and effort as the guiding spirit we all hope that someday soon justice will prevail for Anatoly Shcharansky.●

● Mr. BARNES. Mr. Speaker, I commend the distinguished gentleman from Massachusetts for sponsoring this special order today. I know how deeply Father DRINAN cares about human rights and the particular attention he has devoted to the international effort to secure the release of Anatoly Shcharansky. Recently I had the privilege of participating with him in a vigil across from the Soviet Embassy in Washington on the birthday of Mr. Shcharansky. As a new Member of the House of Representatives, I look forward to joining with the gentleman and with many others in this body in further efforts to keep the Shcharansky case in the forefront of international concern.

All of us are well aware that the arrest of Anatoly Shcharansky, his fraudulent trial for treason and the harsh conditions of his imprisonment are all gross violations of the Helsinki agreements. We all know that the Soviet Union has consistently been unyielding in its reaction to efforts by the United States and other governments and by individuals all over the world to secure reconsideration of the Shcharansky case, at least up to this point.

Mr. Speaker, I believe that we as Members of the House of Representatives have the responsibility constantly to monitor the degree of Soviet compliance with the Helsinki agreements, and to urge President Carter to raise the issue of Shcharansky and others similarly persecuted, as part of our continuing diplomatic contacts with the Soviet Union. I believe that the persistence of the United States in this effort may serve to convince the Soviet Union that our concerns are not transient in nature and will not be sacrificed or abandoned.●

● Mr. OTTINGER. Mr. Speaker, I am pleased to join my colleague, Representative ROBERT F. DRINAN, in marking the second anniversary of the arrest of Anatoly Shcharansky.

Mr. Shcharansky submitted an application for a visa to emigrate to Israel in 1974. He was refused on the grounds that he was in "possession of classified information." For each succeeding appeal, the Soviet authorities continued to reject his application on these unfounded grounds, even though it is a known fact that the work he did at Moscow Institute of Physics and Technology was unclassified. Shcharansky was an active participant in the cultural and scientific seminars organized by Soviet Jewish refuseniks before his arrest and incarceration. He was actively involved in meetings with visiting American Government officials who were concerned with the plight of Soviet Jews wishing to emigrate. Indeed, he was and still is an important leader for all Soviet Jewish refuseniks. The Soviet authorities know all of this. The fact that President Carter, himself, directly intervened on Mr. Shcharansky's behalf in refuting the charges against him serves only to highlight the Soviet Union's blatant disregard for human rights and justice for Soviet refuseniks.

In 1973, the Soviet Union signed the Helsinki Final Act and, thereby, became obliged to act in accordance with the aims and principles of the covenant on civil and political rights and the universal declaration of human rights in which article XIII declares: "Everyone has the right to leave any country, including his own, and to return to his country." As a signatory of the Helsinki Final Act, the Soviet Union is committed to "respect human rights and fundamental freedoms including the freedom of thought, conscience, religion or belief for all without distinction as to race, sex, language or religion."

The Soviet Union has stepped too far beyond tolerable limits of compliance and has abused too many individuals' rights for the United States to let it go unnoticed. Cynically, they have been increasing the number of Soviet Jews whom they have allowed to leave the country, while at the same time, increasing the isolation and persecution of the leaders of the Soviet Jewry and dissident movements. Anatoly Shcharansky is one of the primary leaders of those Soviets who want to leave the country to be reunited with their families or who simply want to leave the country for philosophical and moral reasons. Mr. Shcharansky is a scientist; he has a wife and a family. He has the inalienable right to be with his wife and family in the country of his choosing and to practice and to develop himself as a scientist.

I offer my deep emphathy and respect for his wife, Avital Shcharansky who is here with us today, and I urge all my colleagues to take strong and unequivocal steps to let the Soviet Union know that we will not tolerate abuses of human rights such as those perpetrated against Mr. Shcharansky.●

● Mr. PEYSER. Mr. Speaker, last year the world heard the sentencing of Anatoly Shcharansky and mourned along with his wife, friends, relatives, and concerned citizens. We, in free societies, are shocked at the harsh punishment given to this "dissident." And, at the same time, we are disgusted with the officials of the Soviet Union who have, once again, shown the world their determination to silence those individuals who speak out against their government and speak out for freedom.

Because of his candor, Mr. Shcharansky was found guilty of treason, anti-Soviet agitation, and propaganda. He received a 13-year sentence—the first 3 years to be served in prison and the remainder in a strict-regime labor camp, an extremely harsh sentence which could and inevitably is, most certainly killing him.

Anatoly Shcharansky was a member of a group monitoring the Soviet observance of the 1975 Helsinki agreement. As a signatory of the United Nations Universal Declaration on Human Rights and as a party to the Helsinki Final Act, the Soviet Union had indicated its commitment to internationally recognized human rights. The world's regard for the Soviet Government's observance of human rights declined sharply as a result of the harsh and discriminatory treatment of this man. In addition, at least two dozen members of this group are already imprisoned and, inescapably, all other members involved in this organization will be silenced—whether it be by imprisonment or by other means that the Soviet aggressors will eventually decide.

Mr. Shcharansky is no more guilty than the rest of the citizens of the world who speak out against prejudice, aggression, and injustice. Mr. Shcharansky's real crime appeared to be an expression of freedom of speech, the desire to emigrate to Israel, and a history of helping other Soviet Jews who have been victims of Soviet aggression. Acting as a go-between with Western correspondents who wrote on Russians attempting to emigrate to Israel as well as to condemn the repressive tactics of his countrymen, Mr. Shcharansky was alleged to have been a member of the Central Intelligence Agency. Nothing could be further from the truth. Russian officials have attempted to discredit him and will stop at nothing to discredit him. We, in the United States, are most fortunate that we have the protection of the Constitution. We are afforded the freedom to challenge those individuals with whose opinions we differ, without fear of reprisal.

The trial dramatized the difference between the American and Soviet system of justice. By prohibiting members of Shcharansky's family and members of the Western press, and only allowing those individuals with passes to attend, a mockery of a trial existed. Even today, Mr. Shcharansky is allowed no visitors, even immediate relatives.

We, as Members of Congress, must actively fight for the freedom of Anatoly Shcharansky and those individuals such as Eduard Kuznetsov and Simon Shnirman, who are presently being persecuted in their homeland. Mrs. Shcharansky's impassioned plea to Congress last year stressed that "the Soviet Union does not react to words." She is here again to reaffirm her message to all of us. We shall show the world that we will not sit idly by and watch Jewish citizens, scientists, and those who continue to fight for freedom of all individuals be silenced. It is still our turn to act.●

● Mr. RICHMOND. Mr. Speaker, 1 year ago I joined with my colleagues on a day like this to speak out on behalf of a courageous young man, Anatoly Shcharansky, to commemorate the first anniversary of his arrest and imprisonment by Soviet authorities.

At that time, Anatoly was awaiting trial on obviously phony charges of "treason." The real reason, of course, for the Soviet Union's persecution of Anatoly Shcharansky, was his role as a leader of the Russian dissident movement and highly visible symbol of the Soviet Jews who wish to emigrate from the U.S.S.R. and live in freedom in countries of their choice.

Now, once again, after Anatoly has been found "guilty" in a sham trial which can only be termed a mockery of justice, we are commemorating the anniversary of his second year of imprisonment.

What we do here today is to focus world attention on the Soviet Union's continuing oppression and harassment of Soviet Jews and its continuing pattern of brutally repressing human rights. We speak out to remind the Soviet Union and the world that the persecution of Soviet Jews—as exemplified by the imprisonment of Anatoly Shcharansky—only strengthens the cause of human rights, and our commitment to that cause. Today, we commemorate the faith and courage of Anatoly Shcharansky and all Soviet Jews, whose uncompromising quest for freedom continues, despite threats, harrassment, and brutal reprisals.●

● Mr. STEWART. Mr. Speaker, I join my colleagues under the special order of Congressman ROBERT F. DRINAN in calling attention to the deplorable plight of Anatoly Shcharansky.

Today marks the passage of 2 full years since his imprisonment. On March 15, 1977, Anatoly Shcharansky was arrested by the Soviet Government's secret police, the KGB.

Not until last July was he tried and convicted in a spectacular show trial. Today he is serving a harsh 13-year sentence in a Soviet prison and labor camp.

Anatoly Shcharansky has been one of the leading Jewish activists in the Soviet Union and a major figure in the group of dissidents monitoring Soviet compliance with the Helsinki human rights accords.

Today we are highlighting the case of Anatoly Shcharansky. An additional purpose is to present the plight of the dissident movement in the Soviet Union.

Soviet repression of this movement has been intense, often effective. Soviet authorities have resorted to arrests, trials, and imprisonment, confinement in psychiatric hospitals, forced emigration for some, and refusal to allow emigration for others, as in the cases of many Soviet Jews.

I protest that the Soviet Government is repressing people who are exercising basic and fundamental human rights.

How a government treats its own people, including minorities and dissenters, and how that government gives recognition to human rights are fundamental factors in determining how that government is judged by international public opinion.●

● Mr. MARKEY. Mr. Speaker, I rise today to join my colleague and friend, Father DRINAN, to offer some thoughts on this, the second anniversary of Anatoly Shcharansky's arrest.

In 1968, the author Moses Moskowitz published a book called "The Politics and Dynamics of Human Rights." In it, he wrote that "with almost half the world in the grip of Communism, with one-third in the throes of social and economic convulsion, and with the erosion of human individuality everywhere, international concern with human rights cannot be said to be in the mainstream of contemporary thought and action."

Moskowitz was right then and, to a considerable degree, his view holds true today. And yet I believe that reality is beginning to change; at least in the mainstream of thought in the free world.

Today, I believe thinkers in our Nation, including those who make public policy, are coming to one basic truth that has for too long been hidden. That truth is, that the struggle for human rights is undeniably and unalterably linked with the cause of world peace. We are realizing that it is not enough to deal with nations on the basis of military realities and economic need. Universally, we must address the problem of providing those fundamental rights of the individual that would allow him to participate fully in the human experience. Everywhere, in all instances, we must state our concerns and use the might of our own moral conviction to give men and women the wherewithal to determine their own worth.

Without this commitment, any talk of world peace becomes mere rhetoric. For as long as there are people without food, as long as there are people who cannot say the things they feel, who cannot worship God as they see fit, who are refused knowledge and art, and who are imprisoned for the very thought of wanting to leave their country, then true peace will exist only in the dreams of men.

Perhaps the underlying, most important social right is inscribed in article 13 of the United Nations Declaration of Human Rights. That provision calls for the free movement of people among nations. It is the right to leave one's country at will and to return if he so desires. What makes article 13 so important is that where other rights may be taken away—such as freedom of speech, conscience, or religion, they may all be restored by allowing a person to emigrate to a free country. It is also fundamentally true, that we will never achieve world stability without a free flow of ideas and people across the barriers that now divide nations.

I know of no country today that contains more people yearning to leave it than the Soviet Union. And I know of no country so resolute in its oppression of people who would do so.

Last year, the trials of Analtoly Shcharansky, Aleksandr Ginzburg and other dissidents who attempted to monitor Russian compliance with the Helsinki accords, strongly tested our convictions that these insults to humanity would not go without protest. During the trials of Shcharansky and Ginzburg, I joined many of my colleagues in writing Ambassador Dobrynin, demanding that this mockery of justice be stopped. I cosponsored a resolution urging President Carter to inform the Soviets that the outcome of the trials would have a direct bearing on future military and economic agreements between our two countries.

It would be wrong to say our efforts ended in failure. For I believe there was more at stake than the well-being of these two men. With the convictions and harsh sentences of Shcharansky and Ginzburg, the Soviets were trying to show the world that they can do whatever they want, to whomever they want, within their borders. But I believe the Soviet Union told the world much more than it had bargained for.

The trials revealed the Soviet leaders as ruthless individuals whose quest for power has led both themselves and their country into an era that mocks justice, manipulates truth, and destroys those who would seek both.

America will not forget the looks of pain on the faces of those men now paying the price for dignity in Russia.

And we will not forget the sad poignance of Shcharansky who said before he was sentenced, "I am happy although I should be sad—I am happy that I helped people, that I have known brave and honest people such as Andrei Sakharov, Yuri Orlow and Ginzburg. Five years ago I applied to emigrate; now I am as far from my dreams as I have ever been."

It is true that Mr. Shcharansky is far from his dream. But that dream is not forgotten. Days after Mr. Shcharansky was sentenced, I met with his wife, Avital, who is again in Washington. What struck me then was the serene dignity she held in the face of all that pain. I vowed then, and I repeat that vow today, that I will not dim my voice until the sacred prayer, "Next year in Jerusalem," becomes a reality for Avital's husband and for thousands like him.●

● Mr. DOUGHERTY. Mr. Speaker, I stand here today with my colleagues in the House to pay tribute to a young man of unusual courage who has come to symbolize not only the Soviet Jewry movement in the West but his case goes to the very heart of the differences in political systems between us and the Soviets.

The Soviet Union in 1975 pressed for the signing of the Helsinki accords. Basket III deals with various facets of human rights. In terms of its Jewish citizens as well as other minorities, the Soviet Government has done all it can to prevent whole families from emigrating by splitting families on a variety of ludicrous grounds. If the husband served as a cook in the Soviet Army he would be denied exit because he possessed "state secrets." In terms of religious or ethnic pride a St. Patrick's Day parade would be forbidden in the Soviet Union since it would be considered subversive.

Anatoly Shcharansky wanted to be a loyal and productive Soviet citizen. As a youth he was a member of the Octabrinis (Soviet version of the Cub Scouts), the Pioneers and Komosols. His parents had been lifelong Communists; his father a journalist and his mother, a teacher. Yet his disaffection with Soviet life came about because of his experiences with anti-Semitism which he felt was state inspired. After the 1967 and 1973 Middle East wars the Soviet Union did everything it could to woo the Arab world. The U.S.S.R. has become the largest propagator of anti-Semitic and anti-Zionist materials since the Nazi Third Reich. The Arabs come to the Soviets for such materials and inspiration.

This atmosphere coupled with endless shows on Soviet radio and television singling "Zionists" as the cause of the deprivation of Arab rights, wars in the Middle East and disloyalty to the Soviet state and its principles, convinced many Jews it was time to leave. In the past few years the Soviets have decreased and now increased the statistics in which those who want to leave are let out. But, the doors can shut again at any given moment. Only the United States has the leverage with the U.S.S.R. to try to persuade the Soviets to alter their behavior.

May I just say that if we lose that leverage, that is to say our military posture, since that is the key factor the Soviets evaluate their competitors by, the Helsinki accords will be worthless and more than even human rights will be at stake.

Shcharansky was convicted of treason, espionage and anti-Soviet agitation in July 1978. He received 3 years imprisonment and 10 years in a special regime camp until March 1990. His trial was a sham by Western standards with the defendant constantly jeered by a selected courtroom crowd. President Carter has personally attested to the fact that Anatoly was not an American agent. He simply spoke to Los Angeles Times Moscow Bureau Chief Robert Toth, who himself was detained by Soviet authorities, and gave him some personal papers on parapsychology—hence "state secrets." The Soviets have gone so far as to discredit the marriage of Anatoly to Avital for whom there will be a reception tonight on the Senate side.

I call on the Soviet Union to release Anatoly Shcharansky and permit him to join his wife in Israel.●

● Mr. LEHMAN. Mr. Speaker, I appreciate the opportunity to speak on behalf of Anatoly Shcharansky on this second anniversary of his arrest.

We are all very familiar with the facts surrounding the courageous plight of Anatoly Shcharansky. When he spoke out on behalf of his fellow citizens, we admired Anatoly Shcharansky. When he was separated from his wife of only 1 day, we felt a disbelief, a disbelief later only made real by his arrest and subsequent conviction on charges of treason. We were confused as to whether his sentence, 13 years of imprisonment and hard labor, was some awful, twisted joke or if the Soviets had some harsh and cruel motive in their actions—perhaps both, we thought.

Today marks the second year this brave man has spent behind prison walls, not 1 day for which he in any rational view of justice deserved. After Shcharansky's conviction, President Carter said, "We are all sobered by the reminder that, so late in the 20th century, a person can be sent to jail simply for asserting his basic human rights." While those words once echoed our saddened disbelief, Anatoly Shcharansky's continued incarceration causes them to toll with a frightening and mounting intensity.

A martyr has been defined as one who sacrifices something of great value for the sake of principle. In the case of Soviet Jews and other dissidents, that principle is the human right to express oneself freely, to worship freely, and to live without fear of being separated from ones' family. But let us not be hasty to label Anatoly Shcharansky a martyr. He is simply a man, a Jew, a husband a human being who insists on living his life in freedom. Is not every human being also imprisoned, if only in spirit, with each new morning that this man must wake in a prison camp?

I join with my colleagues in focusing world attention on the continuing plight of Anatoly Shcharansky.●

● Mr. ROSENTHAL. Mr. Speaker, today marks the second anniversary of the arrest of Soviet dissident Anatoly Shcharansky. Last July the world watched as he was unjustly tried, convicted, and sentenced to 13 years of labor for fabricated crimes.

Shcharansky's trial brought worldwide attention to bear on the Soviet Government's shameful and brutal tactics of intimidation and repression. Since last summer, the level of public and press attention has diminished—but Shcharansky's fate is as bleak as ever. We have called this special order to remind the Congress, the Nation, the Soviet Union and the world that we have not forgotten Anatoly Shcharansky or the countless other Soviet Jews who are suffering harassment, persecution and imprisonment for their "crime" of wanting to emigrate to Israel.

Shcharansky is still being harassed by the authorities. He has been repeatedly denied visits from his parents. The most recent visit, which was scheduled for February 2, was denied by the authorities as a "violation of discipline." This withdrawal of visitation rights punishes not only Anatoly, but his aged and sick parents. In addition, letters he has written to them from prison have not reached them or are unreasonably delayed.

Shcharansky has even been denied the opportunity for an appeal of his sentence. Though his trial was in July, he did not receive the verdict which he needs to make his appeal until November. And, because he has been denied visits from the outside world, his family cannot obtain the verdict and his appeal cannot be arranged. We once again, on the second anniversary of Shcharansky's arrest, urge the Soviet Union to release this innocent man and let him join his wife in Israel.●

● Mr. LENT. Mr. Speaker, today, March 15, 1979 marks the second anniversary of the arrest of Anatoly Shcharansky by the Soviets. Two years ago the Soviet Union's deliberate scheme to liquidate the Jewish emigration movement came to a climax. The succeeding detention, "trial," and the conviction of Anatoly Shcharansky made a cruel mockery both of justice and of the Soviet Union's professed "commitment" to the Helsinki accords. As we all know, not only did the Helsinki accords incorporate provisions for free emigration, but also did provide for the reunification of families. However, just as in the case of Hillel Butman, my adopted "prisoner of conscience," the incalculable suffering which has resulted from the Soviets callous treatment of Anatoly Shcharansky and others seeking freedom, along with the Soviets' systematic denial of basic rights are precisely the kinds of oppression the accords sought to prevent.

While there may have been some increases in the numbers of people emigrating from the Soviet Union, the continued repression and harassment toward those applying to emigrate belie these superficially benign statistics. The numbers say nothing of the continued persecution which Soviet dissidents, and Soviet Jews in particular, face in exercising their right to choose their country of residence.

For these reasons the struggle for the rights of Soviet Jewish dissidents continues unceasingly. Avital Shcharansky, Anatoly's courageous wife, has arrived in the United States for a speaking tour on behalf of her husband and other prisoners of conscience, such as Hillel Butman, Vladimir Slepak, Ida Nudel, and Aleksandr Ginsburg. Joining Avital in the struggle are long-time friends of Soviet dissidents, like the Long Island Committee for Soviet Jewry, which is chaired by Mrs. Lynn Singer, a devoted fighter in the movement for human liberties in the Soviet Union.

In closing, let me say that the words of Anatoly Shcharansky ring out as testimony to the indomitable courage of the spirit of Jewish dissidents. In has closing remarks at his "trial," when his future held the threat of a firing squad or banishment to the frozen wastes of Siberia, Anatoly bravely stood his ground and said,

> For more than 2,000 years the Jewish people, my people, have been dispersed. But wherever they are, wherever Jews are found, every year they have repeated, "Next year in Jerusalem." Now, when I am further than ever from my people, from Avital, facing many arduous years of imprisonment, I say, turning to my people, my Avital: "Next year in Jerusalem."

Mr. Speaker, on this, the second anniversary of Anatoly Shcharansky's arrest, such courage stands as an example to us all. Let our efforts never cease so that some day soon the cry may be, "Today, in Jerusalem." ●

● Mr. PEPPER. Mr. Speaker, I would like to join my distinguished colleagues today in paying tribute to the suffering endured by Soviet dissident Anatoly Shcharansky for the cause of human dignity, rights, and freedoms.

It has been 2 years, today, that Shcharansky has been in prison following his arrest on charges of treason and "crimes against the state." Convicted last summer after the culmination of his show trial, during which President Carter himself denied Shcharansky's charged involvement with the CIA, Shcharansky is presently serving a 13-year hard labor and prison sentence at Christopol prison in the Soviet Union.

This is the fate of one man who merely applied for his emigration papers out of the Soviet Union, to move his young family to Israel, the country of his choice. Harassed and denigrated in countless familiar ways by Soviet authorities, finally denied his exit visa, he publicly protested the mental brutalities applied to him.

It is the nature of violations against the human rights of one that they will be perceived as misdeeds which may, ultimately, threaten us all, applied by hostile men. It is in that very real sense that Anatoly Shcharansky, in his spiritual resistance against the Soviet assault upon his will, his thoughts, his feelings, his integrity of beliefs, stands against that challenge for us all. Let us honor him and remember through the years who waits for our aid and our compassion.●

● Ms. MIKULSKI. Mr. Speaker, I would like to join with my colleagues today to pay tribute to a most heroic individual who is now unjustly serving a 13-year sentence in a Soviet prison and labor camp. It was 2 years ago today that Anatoly Shcharansky was arrested. The charges brought against him included his involvement as a member of the Moscow Group, his leadership in the Jewish emigration movement, his liaison work for Soviet dissidents and Western newsmen, and his alleged connection with the CIA.

The trial and subsequent conviction of Anatoly Shcharansky constitute an attack on freedom itself. The basic human rights of belief and expression have been denied in this instance—and this denial has not stopped with the Shcharansky case. The continued imprisonment of Anatoly Shcharansky deserves the strongest condemnation by everyone concerned about the sanctity of human rights and international accords.

When the Soviet Union signed the Helsinki accords, it agreed to comply with its terms. The fact that the efforts of oversight of the agreement's provisions, one of the reasons for which Mr. Shcharansky is currently imprisoned, only makes a sham of the goals of the Helsinki pact.

We, who in this part of the world are able to make our beliefs and political views known, must continue to work with Avital Shcharansky, until her husband is released from prison and allowed to leave the Soviet Union. We must make it clear that we are not trying to change the Soviet form of government—all we are working for are basic human rights for all people.●

● Mr. ZEFERETTI. Mr. Speaker, I would like to take this opportunity to commend my distinguished colleague from Massachusetts, Congressman DRINAN, on his request for a special order. It is the intent of this order to further discuss the order of Anatoly Shcharansky, the Soviet dissident who is presently serving a harsh 13-year sentence in a Soviet prison and labor camp.

Today, Avital Shcharansky is present here in Washington after just completing a nationwide tour of the United States to commemorate the second anniversary of the arrest of her husband. I also commend Mrs. Shcharansky on her efforts to focus further attention on this deplorable situation.

Since the Leningrad trials of 1970, there has been a concerted effort in America to educate and arouse public interest in the plight of Soviet Jews sentenced to long terms in Soviet labor camps. Because they sought to live freely as Jews in Israel, these courageous people are held under the most inhumane conditions. Each day of incarceration with constant harassment and maltreatment brings new dangers to their very existence.

Repeatedly, the prisoners and their families have linked their hopes for justice and freedom to concerted pressure from concerned people and governments in the West. In response, numerous campaigns have been undertaken. Perhaps no program has had a more long-term impact than the congressional adopt-a-prisoner program.

While the Soviet Government may not officially sanction open displays of anti-Semitism, it is well known and well documented that harassment and intimidation often follows a Soviet Jew's request to emigrate from Russia. There is little doubt that, should there be any relaxation of our vigilance, new and disastrous waves of persecution could occur. The struggle to liberate these courageous human beings is a long-term commitment. The adopt-a-prisoner program here in Congress, must continue its efforts to remind Soviet authorities their responsibilities to human rights under the Helsinki agreement.

The current status of Soviet Jews is far from satisfactory. However, each new effort on our part can be seen as a renewed pledge of concern for the rights of Soviet Jews who have been denied their rights to live as Jews, denied their rights to freely emigrate, and denied their rights to be reunited with their families outside of the Soviet Union—rights guaranteed by the Helsinki agreement.

As a signatory of the United Nations Declaration on Human Rights and as a party to the Helsinki agreement of 1975, the Soviet Union has advised the world of its commitment to let Soviet citizens enjoy internationally recognized human rights. However, recent events in the Soviet Union indicate that the provisions of the Helsinki agreement continue to be violated every day, with little regard to individual rights.

It is my concern that we take the time to voice our concerns over the injustices to Soviet Jews in prison and continue to campaign to liberate Soviet Jews and help them achieve the rights they desire.

We in America must continue to be concerned for the oppressed everywhere in the world. I urge my colleagues to do their utmost to press the Soviets to respect the rights of their own people.●

● Mr. BLANCHARD. Mr. Speaker, this Thursday, March 15, marks the passage of the second year since the arrest of Anatoly Shcharansky. It is yet another date that we commemorate with sadness in the ongoing struggle for freedom for Soviet Jews.

When Mr. Shcharansky was placed on trial last July and, in turn, unjustly sentenced and convicted by the Soviet court, the international community took notice of the event. There were many cries of outrage at the Soviets' blatant disregard of President Carter's personal and categorical denial of Mr. Shcharansky's involvement with any agent of the United States. There was a public clamor when the Soviet court convicted Mr. Shcharansky and harshly sentenced him to a 13-year term in a Soviet prison and labor camp.

Yet, as is often the case with events concerning the freedoms of those in other parts of the world, once the trial was out of the headlines much of the public outcry quieted. Some talk of a prisoner exchange between the Soviet Union and the United States has been mentioned, but as far as public awareness is concerned, little more has transpired.

This terribly unjust event, however, has not quieted for Mr. Shcharansky, for his wife Avital, or for his family. Soviet authorities have continued their campaign to harass and mistreat him. Recently we learned that he has been denied even visits from his mother and brother, and he is also reported to be in poor health.

It is our task, indeed our responsibility, to take this day of sadness and try as best we can to turn it into a positive force. We must rekindle the outrage that all of us knew when the unjust trial and harsh conviction of Mr. Shcharansky were in the headlines of media throughout the world. We must renew the public outcry for Mr. Shcharansky's release from prison. We must once again focus world attention on this deplorable situation if for no other reason than to let the Soviets know that the people of the free world will not look the other way and ignore their oppression.

I call upon all of my colleagues and on the American people to reassert their demand for the Soviets to end the oppressive treatment of Mr. Shcharansky and allow him to leave the Soviet Union.●

● Mr. EDWARDS of California. Mr. Speaker, today is the second anniversary of the arrest of Anatoly Shcharansky. I am pleased that Congressman DRINAN has arranged for this special order so that we might speak out in behalf of Mr. Shcharansky, an outspoken defender of human rights and prominent member of the Helsinki watch group.

Mr. Shcharansky was convicted in July of 1978 in a mockery of a trial. I need not go into the details of this trial now as I am sure most of my colleagues are already familiar with the distressing story. I know that other participants in this special order will be discussing this particular point in more detail.

I only want to make it clear that I abhor the unjust conviction of Mr. Shcharansky and strongly protest his continued incarceration. I am deeply distressed by reports that he has been denied visits by his family and that needed medical attention has not been provided. I join my colleagues in calling for an end to this continued mistreatment of Mr. Shcharansky.

I strongly hope we will not find the need for another special order to call for Mr. Shcharansky's release, and I urge the Soviet authorities to move quickly to correct this horrible injustice by releasing Anatoly Shcharansky and allowing him to leave the Soviet Union.●

● Mr. HUGHES. Mr. Speaker, today is the second anniversary of the arrest and imprisonment of Anatoly Shcharansky in the Soviet Union. The courage and perseverance of this brave individual has clearly served as an inspiration to millions throughout the world, and I feel that this tribute to him today is certainly in order.

Anatoly Shcharansky was a victim of his desire for freedom and liberty. If this is a crime, surely we Americans are guilty of it each day.

In 1974, just one day after his religious marriage, Anatoly Shcharansky's wife, Avital, was forced from the Soviet Union. For the past 5 years, Shcharansky has unsuccessfully attempted to rejoin his beloved in Israel, the homeland of his Jewish forefathers.

When his efforts were unfruitful, Shcharansky publicized his plight, in the hope of focusing world attention on the apparent futility of his quest, in order to awaken the world to the repression and anti-Semitism which presently exists in the Soviet Union, despite the Russians' acceptance of the Helsinki accords and their promise to guarantee basic human rights to all.

Shcharansky's trial was a mockery of justice. During his trial, Shcharansky outlined the futility of his own defense:

> I understand that to defend myself in a semi-closed trial such as this is a hopeless case from the very beginning, all the more so here since I was declared guilty by Izvestia a full year and a half before this trial took place, and even before the case was opened and the investigation begun. My social activities were transformed by the editors of this newspaper and by my accusers to anti-social deeds and anti-state activities. My open efforts to produce information of a non-secret character, available to all, were transformed into espionage.

As he predicted, Shcharansky was sentenced to 15 years at hard labor, after being convicted of a series of badly contrived and trumped-up accusations. He was found guilty of making contact with an agent of the U.S. Government, a charge which has been categorically denied by the President of the United States. He was also convicted of collecting the names of Soviet Jews who were refused emigration, of assembling documentation on the deprivation of human rights in Russia, of speaking out on the lack of Jewish culture available in the Soviet Union, and of sending a telegram of congratulations to President Carter on the occasion of America's bicentennial.

Yet despite this attempt at degradation, Shcharansky has still triumphed over his adversaries by maintaining his dignity, the human right which not even the Soviets can take from him. In his final speech before the Soviet court, Shcharansky beautifully expressed this fact before the world:

> Five years ago I submitted my application for exit to Israel. Now I'm further than ever from my dream. It would seem to be cause for regret. But it's absolutely otherwise. I am happy. I am happy that I lived honestly, in peace with my conscience. I never compromised my soul, even under the threat of death.

The plight of Anatoly Shcharansky is a tragic story. Yet, at the same time, it is a symbol of hope for all Soviet Jews, and for all throughout the world. To this brave dissident, and to all those struggling Jews in the Soviet Union seeking to return to their homeland, I say, "Next year in Jerusalem." America salutes you, and joins you in your hope that some day you will, too, be free.●

● Mr. MIKVA. Mr. Speaker, the shocking injustices perpetrated by the Soviet authorities against Anatoly Shcharansky, a Soviet Jew and dissident, continue. It is now 2 years since the appalling arrest of Shcharansky, whose only "crime" is that he dared to insist that the Soviet Government abide by its agreement to the Helsinki human rights accords which call for the free movement of peoples.

I welcome Shcharansky's wife, Avital, to the United States, as she pursues her courageuos and unrelenting quest for justice in her husband's case. Her words remind us of our responsibility to speak out:

> It is so important to tell the truth. The way it is with Soviet propaganda, they never prove what they say. They just repeat it many, many times, and finally it fills the world up. So it is important to say the truth many, many times back.

Shcharansky's applications to emigrate to Israel to live with his wife have been repeatedly refused. As the founder of an unofficial group which monitors Soviet compliance with the Helsinki accords, Shcharansky is the target of outrageous intimidation and repression by Soviet officials. Following his arrest, he was held incommunicado without benefit of counsel for over a year.

A sham trial and conviction for treason followed, resulting in an unjustly harsh, 13-year sentence in a Soviet prison and labor camp. Recent reports indicate that Shcharansky is in ill health and is being denied adequate medical care. Soviet authorities have refused to allow a visit by his mother and brother.

The second anniversary of Shcharansky's arrest serves as a grim reminder of the fragility of freedom and human rights. There are countless other victims of repression, less publicized than Shcharansky, who suffer gross injustices. Shcharansky was a spokesman for their human rights and now he is among the victims. We must raise our voices higher and increase our efforts to achieve human dignity, lest the Soviet authorities believe that they can silence protest through imprisonment and intimidation of dissidents.

I fervently hope that there will be speedy improvement in this deplorable situation. I join my many colleagues in the House and others around the world who call for the end of the abuse to which Shcharansky has been subjected.●

● Mrs. FENWICK. Mr. Speaker, today marks the second anniversary of the arrest by Soviet authorities of Anatoly Shcharansky. In July of last year Shcharansky was tried on charges of anti-Soviet agitation and sentenced to 10 years in a Soviet prison and 3 in a labor camp. A long-time activist, Shcharansky has been a leader of the Moscow "Helsinki Monitors," working hard for the promised right to emigrate or travel, and drawing public attention to the Soviet Union's failure to guarantee basic human rights to its people.

Vilified in the Soviet press, Shcharansky has been accused of making secret deals with an agent of the CIA, despite explicit denial by President Carter of any such connection. He was denied contact with the outside world for the 16 months prior to his trial, and since his imprisonment his relatives have been forbidden to visit him. His letters never reach his family, but he is reported to be in ill health.

Mr. Speaker, Mr. Shcharansky's situation is truly pitiful. When will the Soviet Union see fit to honor the accords which it voluntarily signed at Helsinki on August 1, 1975? Anatoly Shcharansky is but one of a great many Soviet dissidents unjustly imprisoned for daring to speak their minds. On this day, the second anniversary of his arrest, we reaffirm our commitment to him, and to the many other brave people of the Soviet Union who demand that their country honor its agreements, and respect the basic human rights of its citizens.●

● Mr. GREEN. Mr. Speaker, today marks the second year of the arrest of Anatoly Shcharansky by the Soviet Union. The plight of this courageous man is one of too many tragic tales which symbolize the struggle of Jews living in the Soviet Union who face government-inspired harassment and oppression at every level of their daily lives.

Religious freedom is something that too many Americans take for granted. It is something for which Anatoly Shcharansky has given up 2 years of his life, and his suffering will continue unless the force of the world opinion and the efforts of our Government in his behalf convince the Soviet Union to let him go. The extremely harsh 13-year sentence he received after his sham trial is the Russian Government's attempt to make an example of him and suppress the efforts of other Soviet Jews who attempt to protest the Soviet Union's broad program of oppression.

We should pause on this sad anniversary; to reflect on Anatoly Shcharansky's courage and personal strength; to pray for his health in the face of a severe prison regime; and to serve notice to the Soviet Union that we will not forget this man.●

● Mr. CORRADA. Mr. Speaker, I rise to express my deep concern over the continued imprisonment in the Soviet Union of Anatoly Shcharansky. I am sure that all of us share a great sense of sadness that, again this year, we must rise to enjoin the Soviet Union to abide by its own constitution and the provisions of the Helsinski agreement and free Anatoly Shcharansky.

Today is the second anniversary of Mr. Shcharansky's arrest; an arrest that followed his request to emigrate to Israel. Mr. Speaker, if Mr. Shcharansky committed a crime it was the crime of wishing to be free; to be free to join his wife Avital in Israel where they would be able to practice the tenets of their faith without continued persecution and harassment by the Soviet authorities. But it was not to be. Mr. Shcharansky was put on trial. I use the word trial cautiously for the procedure which took place in Moscow can hardly be called a trial even in the broadest of legal definitions. He was sentenced to a 13 year prison term for hooliganism, a crime of which only those who wish to emigrate from the Soviet Union are convicted.

Mr. Speaker, all of us here and all freedom loving people throughout the world know that justice was not carried out in this case. The Soviet Union also knows this and yet continues to deny Mr. Shcharansky and many others like him even the most basic human rights. Avital Shcharansky is to be admired and praised as a very strong and brave woman for she has steadfastedly continued the fight to obtain her husband's release from prison. Her continued battle against seemingly insurmountable odds is a reflection of her deep and unquestioning faith in God. And yet she is denied even the basic right of being able to communicate with her husband to find out how he is and to let him know that all efforts continue to be made on his behalf. I am proud to be a co-host this evening with Congressman DANTE FASCELL and Senator CLAIBORNE PELL of a reception for Mrs. Shcharansky to let her know that her work has not been forgotten and that we will continue to support her efforts until Anatoly Shcharansky has been released from prison and allowed to emigrate to Israel.

Mr. Speaker, we must not cease in our efforts to convince the Soviet Union that the release of Anatoly Shcharansky will be hailed throughout the world as an example of the good faith of the Soviet Union in abiding by her commitments to the world community. I exhort all my colleagues to continue with this quest until our goal is met.●

● Mr. AuCOIN. Mr. Speaker, I join with my colleagues today in marking the second anniversary of the arrest of Anatoly Shcharansky, a Soviet dissident who is now unjustly imprisoned in a Soviet labor camp.

Two years ago, Mr. Shcharansky was arrested and incarcerated in Moscow's Lefortovo Prison. His crime: Wanting to emigrate to Israel to join his wife.

His arrest came after several years of harassment by the police and when his efforts on behalf of other Soviet Jews desiring to emigrate began to attract world attention. But no charges were made against him at the time.

Indeed, he spent over a year in solitary confinement before being formally charged with any crime, and even then the allegations of treason by the Soviet State were without foundation.

This became evident at Mr. Shcharansky's trial last summer: A pro forma exercise with no real challenge to the State's case. It was an effort to justify the Government's treatment of him and show the world that the U.S.S.R. would not succumb to international pressure on behalf of its citizens who seek a better life elsewhere. The verdict was as much of an outrage as the process: Thirteen years at hard labor.

But the trial of Anatoly Shcharansky did more than mock the very name of justice: It demonstrated to the world that, as one American diplomat observed:

> The ideals to which the U.S.S.R. has committed itself in the Helsinki accords are still far from realization.

Now, before the first year of that sentence is done, we hear that he is in ill-health and that he has been denied a visit by his mother and brother. The Soviet campaign of harassment continues.

So we mark this day, the second anniversary of Mr. Shcharansky's arrest, to protest the circumstances that led to his current imprisonment; to demonstrate our apprehension for Mr. Shcharansky's fate; and to voice the strongest concern of the American people that such a code of justice could exist in a nation that is a signatory to the Helsinki accords on human rights.

But our commemoration today on behalf of Anatoly Shcharansky should do more than recall abuses of human rights perpetrated in the name of justice. It should be the occasion for a renewal of our commitment to human rights and the just treatment and welfare of every individual.

This should be the occasion when we renew our pledge to champion the cause of individual freedom and individual conscience—and take the lead in its pursuit.

Anatoly Shcharansky has shown his commitment to this ideal and set an example for us all. The renewal of our own commitment to human rights will assure that his sacrifices have been heeded by us and by the international community.

To lead the world in the pursuit of human rights is not easy. The path to universal recognition of human dignity and the worth of the individual is a road of difficult turns and dangerous passes. At each crossroads, there are hard choices: Which way is best?

I am confident, however, that we can follow this road and that we can take the lead. I am confident that we choose the right turns and reach our destination. Anatoly Shcharansky has shown us the courage we need to follow this path.

Our first steps begin today in calling attention to his plight. We salute his family and those who speak out for him and we renew our commitment to the cause of human rights.●

● Mr. RINALDO. Mr. Speaker, today marks the second anniversary of a cold-hearted, vindictive, fear-ridden Soviet police action that underscores the oppressive nature of the Soviet Union's sham judicial system.

Two years ago Soviet dissident Anatoly Shcharansky was arrested. He was held incommunicado for 16 months and then harshly sentenced to 13 years in a Soviet prison and forced labor camp.

This 31-year-old computer scientist had helped to establish a citizens' group known as the Moscow Public Group to Promote Observance of the Helsinki Accords.

It was the kind of group that could be formed and could hold meetings anywhere in the United States or in any free world nation without harassment and without a murmur of governmental protest.

But the Kremlin did not like the idea of anyone in the Soviet Union acting or speaking in a way that might appear to be critical of its actions. So Shcharansky and at least 20 other members of the Helsinki Accord group were quickly rounded up and thrown into prison.

Just how desperate the Soviet Union was in making a case against Shcharansky became clear when he was charged with acting in a treasonous manner by making contact with an agent of the U.S. Government. This charge was flatly refuted by President Carter in an unprecedented White House action last year. But that made no difference to the Kremlin. They stubbornly stood by their trumped up charge.

The deplorably oppressive and unfair nature of the Shcharansky case has properly attracted worldwide critical attention to the plight of Soviet Jews. Yet Soviet authorities have not yielded an inch in their deplorable contempt for and repression of human rights, or in their abuse of justice.

Two months ago, along with other concerned members of the House, I wrote to Soviet President Brezhnev asking that immediate action be taken to provide Shcharansky with adequate health care and to allow members of his family to visit him in prison.

The letter also protested the imprisonment of Shcharansky and urged that evidence submitted at his trial be reviewed.

That was a humane approach, Mr. Speaker; but it did no good. Instead of taking the opportunity to redeem itself in the eyes of the free world, the Kremlin acted for the second time to expressly bar Shcharansky from seeing visitors. And the conditions under which he is being detained have become so bad that reports have been received that his health is seriously endangered.

It seems to me, Mr. Speaker, that Shcharansky has been made a scapegoat by the Kremlin in an attempt to convince the White House and the leaders of other free nations that the Soviet Government will not tolerate any attempts to loosen the bonds of communism. In doing so, the Kremlin spotlights a major flaw in its political system.

Growing awareness and resentment of the Soviet oppression has been shown in recent weeks with more than 2,400 American scientists signing pledges to end or restrict their cooperation with Soviet scientists until the Soviet Union releases Shcharansky and another jailed Soviet scientist, Yuri Orlov.

This kind of action touches the Soviet Union in a sensitive area, and is most welcome.

It supplements a series of protest actions taken during recent months by concerned members of Congress.

For example, Mr. Speaker, I have:

Joined with congressional leaders in an approach to U.N. Secretary Waldheim expressing outrage over the imprisonment of Shcharansky and Alexander Ginzburg, and cosponsored a resolution urging that the 1980 Olympic Games be moved from Moscow to Montreal because of continuing Kremlin violation of the human rights of Soviet Jews.

Met with Mrs. Avital Shcharansky to assure her that efforts will be continued in the United States to secure the release of her husband, including the promotion of a prisoner exchange.

Sponsored a resolution in the House expressing the commitment of the American people to human rights and to a thorough discussion of all violations of the Helsinki agreement at the Belgrade Conference on European Security and Cooperation.

Joined with more than 50 other members in urging the Soviets to remove all obstacles to free emigration of Soviet Jews.

Written to Anatoly Dobrynin condemning the human rights violation incurred by the conviction of Vladimir Slepak and Ida Nudel.

Protested to Leonid Brezhnev against the Soviets' disruption of a professional symposium on Jewish culture in the U.S.S.R.

Voted for a congressional resolution opposing and condemning the imprisonment of Shcharansky and other members of the Soviet Helsinki group.

Valuable support of protests against oppression of Soviet Jews also has been provided by concerned community-level organizations, including the Jewish Federation of Central New Jersey. One of the most recent helpful activities of the Federation was a campaign encouraging members of communities in central New Jersey to write to Soviet "prisoners of conscience" letting them know that the people of America are solidly behind them.

More grassroots protests should be encouraged throughout the free word, Mr. Speaker, and I very much hope that this second anniversary of the arrest of Anatoly Shcharansky will mark a renewed surge of such action.

It would be an encouraging confirmation of public support and sympathy for Mrs. Avital Shcharansky, a brave woman who is in Washington this week during a nationwide—and globe spanning—crusade to gain justice and freedom for her victimized husband.•

• Mr. AMBRO. Mr. Speaker, this week marks the celebration of the triumph of religious liberty over governmental tyranny: the festival of Purim. It also marks the tragic reminder that governmental tyranny still unfortunately exists and still attempts to strangle religious freedom, in that yesterday we commemorated the second anniversary of the arbitrary arrest of Soviet dissident Anatoly Shcharansky. It is a strange irony that these two events should come together, and it is a stern reminder to those of us living comfortably in the free world that the extinction of a Hamen, a Torquemada, or even a Hitler does not guarantee that others of the same ilk and with similar objectives will not arise in their stead.

We are all depressingly familiar with the account of Shcharansky's arrest by the KGB on March 15, 1977, after which he was held incommunicado on charges of treason against the Soviet Union and accused of being in the employ of our own Central Intelligence Agency. Most of the Members of this body raised their voices in anger and disgust at his sham trial and his terribly harsh sentence. Unfortunately, such loud protestations coming from all over the western world have gone unheeded, and on this day Anatoly Shcharansky is being held in a prison camp on the Volga, denied visits by his family, despite his ill health, and prevented from exercising his right to launch an appeal of his conviction. So much for Soviet-style justice!

The continued incarceration of Shcharansky and the many other "prisoners-of-conscience" coupled with the systematic harassment of the many hundreds of "refusnik" families not only violates the Helsinki Agreement, a pact that the Soviets initiated and promoted, but also serves as a harsh reminder that whether under the Tsars or the Commissars, the Russian political system pinpoints and punishes those who dare to be different.

It is now, and has always been my strong feeling that we as Members of the U.S. Congress, and the United States Government as a whole, must continue to let the Soviets know of our aversion to their system. We must also, by skillful maneuvers, punish them for their repressive acts. For this reason, I, along with many of my colleagues, have joined with our distinguished colleague from Massachusetts (Mr. DRINAN) in urging the U.S. Olympic Committee to take all action necessary to bring about the transfer of the 1980 summer Olympics from Moscow to a site outside the Soviet Union. The nation that imprisons Shcharansky and persecutes thousands of his fellow Jews and dissidents should not be allowed to play host to the one international sports competition that most symbolizes the highest values of freedom and brotherhood.

Finally, Mr. Speaker, I would just like to say one word about the visit to Washington this week undertaken by Anatoly Shcharansky's charming and courageous wife, Avital. If anything can sear our consciences, it is the simple eloquent pleas of this young woman who was sent into exile from her husband on the day after her wedding and who only wants to be reunited with him, to live quietly as man and wife, to raise a family. I know that most of the members of this body join me in pledging to Avital Shcharansky that we shall continue in our unceasing efforts to make her simple dream come true.

I commend the gentleman from Massachusetts (Mr. DRINAN) for requesting this special order so that we can once again remind the Soviet leadership that we shall not forget Anatoly Shcharansky.•

• Ms. HOLTZMAN. Mr. Speaker, I am distressed that I must address this House again about Anatoly Shcharansky, a Soviet Jew who has been persecuted for his desire to emigrate to Israel, and for aiding and encouraging Jews who also sought to emigrate.

On March 15, 1977, Anatoly was arrested on trumped-up charges of treason and espionage by agents of a repressive Soviet regime which has demonstrated a disregard for basic human rights. Following a "show trial" in July 1978 which received global attention, Anatoly received a sentence of 3 years in a Soviet prison camp and 10 years in a labor camp. Today marks the second anniversary of that arrest.

During my trip to the Soviet Union in 1975, I met with Anatoly, and I remember him well. He was an articulate and forceful spokesman for the "refuseniks" of the Soviet Union. I can attest to his pride in his Jewish heritage, and his sincere desire to emigrate, thwarted at every turn by Soviet authorities.

Since his arrest, he has been held incommunicado—although his wife Avital writes to him four or five times each week, Anatoly is not permitted to see her letters, nor to send her any letters of his own. It is fitting that we in the House have set aside this time to focus our attention on this and other injustices suffered by Anatoly, in flagrant violation of Soviet and international law.

On July 14, 1978, the day Anatoly's sentence was handed down, President

Carter responded with a statement which said, in part:

> We are all sobered by this reminder that, so late in the twentieth century, a person has been sent to jail simply for asserting his basic human rights . . . The struggle for human liberties is long and difficult, but will be won. There is no power on earth that can delay its progress.

I share the President's view that the struggle for human liberties will be won, and I am grateful for the opportunity to raise my voice to join the millions worldwide who share in this effort to keep this struggle alive.

Mr. Speaker, there are many cynics who question the value of pointing out the blatant violations of the Helsinki agreement by the Soviets. I am proud to share with my colleagues at this point a letter I received from Avital Shcharansky. This letter, which I deeply treasure, is evidence that our efforts are not in vain, and that significant progress is being made to improve the situation for those desiring to emigrate:

> JERUSALEM, ISRAEL, *August 9, 1978.*
>
> Hon. ELIZABETH HOLTZMAN,
> *Congress of the United States,*
> *House of Representatives,*
> *Washington, D.C.*
>
> DEAR CONGRESSWOMAN HOLTZMAN: I would like to express my deepest gratitude for your personal commitment and involvement on behalf of my husband Anatoly Shcharansky. I appreciate in particular your support of my struggle for the freedom of Anatoly at this crucial stage.
>
> With your support we have managed to achieve a few of our objectives in the first stage of this unprecedented campaign. Firstly, the death sentence originally intended for Anatoly, was averted; secondly, the Soviet authorities' plans for the complete annihilation of the Human Rights Movement and the Jewish Emigration Movement, were thwarted. Maybe for the first time the Soviets realised that they cannot deceive the free world anymore.
>
> The world will never be the same again. What happened during the trial of Anatoly Shcharansky, raised the matter of human rights from a dry legal theory to a practical living issue concerning the whole world. It is now evident that the fate of one human individual when resulting in international concern and commitment to action, can actively change something in this world.
>
> As we now enter into the next stage of this campaign, the facts stated above can be considered of vital importance in achieving our ultimate goal, the freedom of Shcharansky and ensuring the actualization of human rights as stated in the Helsinki Agreement.
>
> Yours sincerely,
> AVITAL SHCHARANSKY.

There is much work to be done, and I want to congratulate my colleague from Massachusetts (Mr. DRINAN) for arranging for the participation of our colleagues today. I hope that on the third anniversary of Anatoly's arrest, we will find him safe, healthy, and reunited with his wife in Jerusalem, and that there will be no need for further "special orders."●

● Mr. WOLFF. Mr. Speaker, I rise today to join with my colleagues in observing the second anniversary of the arrest of Anatoly Shcharansky.

Although the Soviet officials put Shcharansky on trial for "espionage and anti-Soviet activities," it was clear that he was on trial for the crime of wanting to emigrate to Israel, and for monitoring human rights abuses in the Soviet Union. Shcharansky was "set up" by a fabricated connection to the CIA. His apartment mate, Sanya Lipavsky was a "walk-on" volunteer for the CIA just long enough for the Soviets to implicate Shcharansky by association.

The trial was indeed a sham. Although there was not one secret document in all of the material for the trial, the investigation of the charge of espionage was conducted in closed court. Scharansky, acting as his own lawyer, was thus unable to refute the testimony given in closed court, even during those parts of the trial which were open, because mention of any testimony presented in a closed court was forbidden when the trial was public. As the charge of espionage was only investigated in closed court, Shcharansky was never given the opportunity to defend himself on that charge.

The sentence that Shcharansky received, 13 years of prison and exile, is harsh and unwarranted. It is likely that Shcharansky will develop serious health problems if he lives through the experience. Soviet hard labor camps do not even meet standards established by the United Nations for the minimum amount of food necessary to survive. Other inhumane conditions are well known.

I applaud those scientists who have pledged to limit their contact with Soviet scientists until Shcharansky is released. Many have canceled scientific exchanges and meetings and informed the Soviet Government of the reasons why. Others have refused to attend lectures and international conferences held in the Soviet Union, and pledged to oppose enlargement of exchange programs. This is the kind of support that Soviet dissidents need from our own citizens in order to keep the pressure on Soviet officials.

I endorse any efforts by the administration to secure Shcharansky's release. We must not give up. We must all continue to speak out, to write, and remind Soviet officials that 13 years will not be sufficient to make us forget.

The Shcharansky case cannot be considered in isolation, although it is certainly outrageous enough by itself. However, the Shcharansky case is just one of many constituting a Soviet campaign to destroy the efforts of those who were monitoring Soviet compliance with the Helsinki accords. What kind of society is it which jails its citizens, ordinary people as well as leading scientists and intellectuals, for monitoring compliance with an agreement which it signed? This shows an incredible lack of confidence in the ability of their political system to survive criticism. This fear of disclosure of the human rights situation also indicates that what we know of must be only the tip of the iceberg of abuses of human rights and civil liberties.

It is essential that we in the West continue to speak out, continue to attempt to influence the Soviets to eliminate the repression of dissidents. Some would tell us to pursue "quiet diplomacy" to secure a better human rights record. Those dissidents who have no one writing in their behalf are the ones who suffer most in the hard labor camps. Only by persisting in bringing Soviet oppression to world attention can we hope that there will ever be any change.●

● Mr. McHUGH. Mr. Speaker, in this day 2 years ago, Anatoly Shchransky was arrested. Since then, his case has become a classic example of Soviet violation of basic human rights.

Convicted and sentenced to a 13-year prison term, Shchransky cannot communicate today with those who love him and are concerned about him. So it is important for us to take this moment today to speak for him, and to tell the world that we have not forgotten his plight, that we renew our resolve to work in every possible way for his freedom and that of other victims of repressive Soviet policies.●

● Mr. CONTE. Mr. Speaker, I would like to join my colleagues this afternoon in calling attention once again to the issue of rights in the Soviet Union, or more accurately, the nonissue of rights.

To the American citizen, the freedom of expression is one of the most fundamental of rights. The unimpeded exchange and communication of one's ideas and values and the subsequent interchange and debate it generates is an enriching and enlightening experience. Only through this constant challenge of ideas can better policies and institutions be created—policies and institutions which synthesize the best of the opposing views.

In the Soviet Union, no such interplay exists. Freedom of expression is one of the many freedoms denied the Soviet citizen. And this denial is the reason behind the arrest and imprisonment of Anatoly Shchransky. As a member of the Helsinki Monitoring Group, he was disseminating information to the Western press concerning human rights violations in his homeland. Arrested, held without due process, and subsequently the defendent in the "mock trials" of last summer, Shchransky has become a focal figure in exemplifying the ludicrous nature of Soviet justice and rights.

Repression and censure have long been characteristic of the Soviet system. Only last year, the Russians led the fight to translate their parochial views on free expression to the global level in the UNESCO communications debate. Their success here would have spelled disaster for the free press and free communication of ideas internationally. Such attempts were wisely defeated. But repression in the Soviet Union continues.

Until the Soviets become cognizant of the fact that sound policy is the byproduct of the conflict of ideas and thought, repression will continue. How unfortunate for Soviet citizens such as Mr. Shchransky that their system is so tenuous as to resist the test of a dissenting view. Yet, it makes us thankful for our own—a system which for over 200 years has not only withstood, but has grown from the constant challenge of ideas generated by free expression.●

● Mr. ROSENTHAL. Mr. Speaker, this is the second anniversary of the arrest of Anatoly Shcharansky, the Soviet dissident sent to a prison labor camp following his Moscow show trial last summer which was the focus of world attention. He is now serving a 13-year sentence in a labor camp for his desire to emigrate to Israel. His wife, however, was able to leave the Soviet Union, but for her, the Washington Post reports, "the trial never stops."

Avital Shcharansky's personal crusade to keep the light of world attention focused on the outrageous trial, sentencing and imprisonment of her innocent husband has won much admiration and support for her plight throughout the United States and Europe.

Washington Post writer Judy Mann presents an interesting and informative glimpse into the life and work of this courageous women in her article, "For Avital Shcharansky the Trial Never Ends." I would like to share this article with my colleagues by inserting it in the Record today:

For Avital Shcharansky the Trial Never Ends

(By Judy Mann)

Avital Shcharansky comes to the door of the Capitol Hill townhouse where she is staying, opens her arms to the American supporter she has not seen for months, and then extends a hesitant hand to the stranger. She is as lovely as the newspaper articles have said, with short, black hair tipped with gray, big brown eyes and wonderfully high cheekbones. At first she looks the part of a tragic figure cast in one of history's follies, and then she smiles and you get a glimmer of the spirit, humor and confidence that is sustaining her long after the trial, long after the cause of Anatoly Shcharansky has slipped from the forefront of public opinion.

It has been eight months since Avital Shcharansky led marches through the streets of Paris to save her husband's life, eight months since reporters from the Western world eagerly flocked around her to get interviews and world leaders courted her and protested in outrage when her husband was tried for treason and sentenced to 13 years of confinement and hard labor in the Soviet prison system.

There was momentum and excitement and frenzy then. Avital Scharansky, caught in the middle of the storm, rode it out to the point of exhaustion, holding press conferences, leading demonstrations, giving dozens of interviews, until her husband finally was spared the death sentence he faced. Then she collapsed, cancelled her U.S. tour, and retreated to her home in Jerusalem.

Now, she is back, visiting cities across the United States, confident that the public opinion which she believes kept the Soviets from executing her husband will somehow create pressure to release him.

"I don't understand why a man who is not guilty, and everybody in the world knows he's not guilty, how he can sit in prison for 13 years. I'm here to appeal again to people to help release him," she says.

There will be vigils at the Soviet embassy, receptions for Avital, speeches on the House floor, all in an effort to keep the world from forgetting Scharansky who has now been in isolation for 24 months.

She tells the story of the Russian professor talking over the Scharansky case with a Boston lawyer who tried to help Scharansky. "The professor was very cynical. He said to the lawyer, 'I promise you after three months, everybody forgets about Scharansky. You Americans, we know you very well. You have so many problems, everyone will forget.' I think he is wrong," she concludes. "It's not going to be forgotten."

It hasn't been forgotten—not yet anyway—and that, in some part, has to do with the indelible impression this woman has made on the minds of people who've seen her on television, read the interviews, seen her picture. This is a woman with a strong sense of justice, but that is not all of it. There is something else driving her.

Avital Shcharansky has not seen her husband since the day after they were married on July 4, 1973. They had known each other only nine months before he was picked up in the first wave of arrests of Jewish dissidents who tried to go to Israel. He was released from prison for their wedding and then accompanied her to the airport when she was told she was being given her last chance to leave. She thought he would follow within six months. It has been over two years since she has spoken with him by telephone.

She says: "I know what happened is absurd. Five years I wait. It's impossible for me to live without him. I can't have a normal life. For me, it's like I fight for life. I can't be half of our family. We must be together. We're wife and husband. We must build together. I want to be a mother, to have children."

Avital Shcharansky has written perhaps 100 letters to her husband in prison, but she says that he has received only a couple of postcards that she wrote in August. He has had almost no communication with his family, and knows little of what she has done on his behalf.

"Maybe the KGB say to him, they do sometimes, your wife leave you. But I think my husband knows I'm staying with him," she says.

She touches her heart. "We have some contact. In this world, it's a very special situation. It's a tragedy. We can't see each other. I can send letters but he can't receive. I'm strong. I'm doing what I do because it's impossible in this world to stay like this. I can't separate my life from his."

Avital says that three days after she met Shcharansky, they knew they wanted to marry. "If you met Anatoly, you would know," she says. "He's just a very special person. He's not like a typical Russian. He just shines through. He was free. He's very smart and free. He's never afraid."

Avital is traveling with her brother, Michael Stieglitz, an old friend of Shcharansky's. Stieglitz says that he has tried to understand what so moved world opinion on Shcharansky's behalf, what touched people from Scandinavia to Lebanon, from Sweden to Panama. "I came to a simple thing. An innocent man is in prison. Period. That was it. But the personality of Anatoly had something to do with it. He has more friends in the West. . . . He helped personally several hundred families [to leave the Soviet Union]. He gave of himself to them," Stieglitz says.

Avital Shcharansky sits next to her brother on the sofa, smiling at the stories of her husband, nodding at the memories. Then she smiles and faint color creeps into her cheeks as he begins to tell about the letters Avital and Anatoly wrote to each other after she left. Parts of the letters will be included in the book she is writing about the case, and Stieglitz is translating them. The love in those letters, he says, ". . . is the same" as when they were first married.

"I have a jealousy toward their experience," says Stieglitz. "It doesn't happen often in these times."●

● Mr. FASCELL. Mr. Speaker, I am pleased to join my distinguished colleague from Massachusetts, Representative Drinan, in commemorating the second anniversary of the arrest of a brave and noble young man, Anatoly Shcharansky. I deeply regret, however, that continued Soviet repression, blatant disregard for human rights and fundamental freedoms, and on-going violations of the pledges made at Helsinki necessitate the observance of this tragic anniversary.

Anatoly Shcharansky was unjustly charged and convicted for treason. His real "crime", as one Soviet dissident phrased it, was that he spoke the truth and he spoke it in English. As spokesman for the Jewish emigration movement, Shcharansky earned the enmity of Soviet authorities by openly reporting to Western correspondents the capricious and arbitrary nature of Soviet emigration policy. For his selfless activities on behalf of the Jewish "refusenik" community, Shcharansky was subjected to harassment and frequent detentions. Later, when Shcharansky joined with Yuri Orlov, Aleksandr Ginzburg, Elena Bonner Sakharov, and other in forming the Moscow Helsinki Monitoring Group, the pressure on Shcharansky intensified culminating in his arrest and sham trial in July 1978.

Apparently, the mighty Soviet Government could not tolerate the threat presented by this band of courageous men and women whose avowed purpose was to publicly promote observance of the Helsinki Final Act in the Soviet Union—a purpose which, in fact, the Final Act itself encourages. Shcharansky, along with 21 other Helsinki monitors from five republics, was sentenced to a long term of imprisonment.

As Nobel laureate Andrei Sakharov—himself a champion for human rights in the U.S.S.R.—eloquently remarked:

> On the moral plane, there is a particular gravity in the persecution of persons who have defended other victims of unjust treatment, who have worked to publish and, in particular, to distribute information regarding both the persecution and trials of persons with deviant opinions and the conditions in places of imprisonment.

Anatoly Shcharansky has been held captive within Soviet prisons for 2 years. He spent 16 months of pretrial detention in Lefortovo, the KGB investigative prison. After being convicted and sentenced to 13 years in July 1978, Shcharansky was moved to the notorious Vladimir prison. Recently in a move apparently designed to rid Vladimir of its political prisoner population, Shcharansky was transferred to the isolated Chistopol prison, located about 500 miles from Moscow. Other "prisoners of conscience" serving their sentences at Christopol include Soviet Jews Hillel Butman and Iosif Mendelevich and Lithuanian Helsinki monitor Viktoras Petkus. Disheartening reports have reached the West that conditions for political inmates in this prison are even more harsh than at Vladimir. Prisoners are undernourished, underclothed and forced to spend most of their day in tiny overcrowded cells. That any of these men are able to withstand even a week in this hell-hole is a testament to the strength of their convictions.

Today, which marks the beginning of the third year of his ordeal, I join my colleagues in the Congress in saluting Anatoly's courage, in commending his lovely wife, Avital, for her efforts by offering our continued support and in condemning—once again—the deplorable actions of the Soviet government.●

● Mr. RATCHFORD. Mr. Speaker, I rise today to join my distinguished colleagues in remembering the trial and conviction of the Soviet dissident, Anatoly Shcharansky, and to recognize the personal strength and fortitude of his lovely wife Avital who is with us today in the gallery.

It was only last July that Mr. Shcharansky was made the unfortunate subject of the folly of the Soviet judicial system, and a victim of that nation's utter contempt for human rights. He was charged with treason for allegedly providing scientific secrets to a CIA agent, an unsubstantiated claim that President Carter has flatly refuted.

In a trial that was a mockery of any legal system, Shcharansky was speedily convicted and sentenced to 13 years in prison and hard-labor camps. Repeatedly, he was denied permission to emigrate to Israel, and his conviction was compelling evidence of Soviet efforts to punish Jewish dissidents, and a persistent tradition of anti-semitism.

Also tried and convicted were Vicktoras Pektus and Alexander Ginzburg, all three members of unofficial Helsinki Watch Commitees formed to monitor Soviet compliance with provisions of the 1975 Helsinki human rights agreements. Shcharansky was also a long time advocate of the Jewish struggle to free emigration, and of other ethnic groups seeking reform of the Soviet society from within.

The only real offenses of these men was that they sought to exercise the rights presumed to have been given them under Soviet law, and by international covenants such as the Helsinki accords subscribed to by the Soviet Government.

Two lessons can be derived from this unfortunate experience: First, the Soviets in deriding President Carter's credibility in his disavowal of CIA involvement, gambled that the U.S. pronouncements on human rights were merely rhetoric. Now more than ever, Mr. Speaker, we must join the President in singling repressive governments that domestic campaigns to coerce conformity through abandonment of basic human rights, will not be tolerated by this country and will not pass without meaningful international retribution. Signatures on international treaties designed to safeguard human rights can no longer be treated with disdain.

Second, that Mr. Shcharansky refused to offer any fabricated confession during his 16-month pretrial imprisonment, and would not plead guilty during his trial, was a testament to his courage and deep conviction. This case is but further evidence that in spite of such persecutions, the dissident movement in the Soviet Union will not be defeated.

No doubt Anatoly Shcharansky is an innocent man, who was boldly voicing the rights and desires of thousands of other refuseniks to an uncompassionate government. Any government sure of its policies and standing with its own people would tolerate internal debate, and respect the rights of all its citizens. Rather, the Soviets have now taken to active harassment of those like Shcharansky who voice the concerns of many.

His closing statement at the trial is as much a sign of his own courage and conviction, as it is a sign of the strong will of the Soviet dissident movement:

> One would think I would be sorry, but I am not. I am happy because I have lived at peace with my conscience and I have never betrayed my conscience even when threatened with death. I am happy that I have helped people, and I am proud to have met and to have worked with such honest and courageous people as Sakharov, Orlov and Ginzburg. I am happy to have witnessed the process of liberating Soviet Jewry. . . . For more than 2,000 years, my people have been dispersed. Wherever Jews were, they would repeat every year: "Next year in Jerusalem." . . . To my wife and my people, I can only say, "Next year in Jerusalem." To this court, which decided my fate in advance, I say nothing.

Mr. Speaker, in closing, I implore this body to continue to work feverishly to guarantee basic human rights for all peoples, and to urge the Soviets to again allow for expeditious emigration for all Jews desiring to leave the country. It is these basic freedoms that Anatoly Shcharansky fought for and that we have long held so dear that we must espouse throughout the world community.●

□ 1420

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. DRINAN. I am happy to yield to the distinguished gentleman from Ohio, author of the Jackson-Vanik amendment, and one of the great fighters for Soviet Jews.

Mr. VANIK. Mr. Speaker, I want to thank the gentleman for yielding to me. I certainly appreciate the time the gentleman has taken to raise this question before the House of Representatives.

Mr. Speaker, I want to say that I am very much chagrined at the Shcharansky case, as are most Americans. Although the emigration from the Soviet Union is very considerably improved in the past year, when about 31,000 people were permitted to leave. There is an improved climate with respect to the handling of emigration cases, which I hope will be a continuing trend. I must also say that I hope that the Soviet Union will consider the extent of and depth of the American concern in the case of Anatoly Shcharansky.

America cannot overlook the injustice which even one person might suffer, and this case has millions of Americans deeply aroused. I certainly hope that this case can be resolved, and that an aþpeal might be forthcoming. A solution in this type of case will make it possible to see more clearly the improving climate in the Soviet Union.

Mr. DRINAN. I thank the gentleman for his remarks.

MONETARY POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 60 minutes and to revise and extend his remarks.

Mr. REUSS. Mr. Speaker, without being pompous about it, this is a mini-historical report in that under the Humphrey-Hawkins law, the Full Employment and Balanced Growth Act of 1978, the Congress has mandated some new roles. One of those roles was to receive the reports of the Federal Reserve Board at the beginning of each year and again in the middle of each year on monetary policy for the upcoming year, to sift and winnow and weigh that report and then to come back to the Congress on behalf of the Banking Committees of the Senate and House and spread the views of those Banking Committees on monetary policy on the record.

Specifically, the law states, and I am quoting:

> The Board—

That means the Federal Reserve Board—

> shall consult with each such committee—

That means the Senate and House Banking Committees—

> on the reports, and thereafter each such committee shall submit to its respective body a report containing its views and recommendations with respect to the Federal Reserve's intended policies.

That report was made by your Banking Committee earlier this week, on Monday, March 12, and it is contained in Union Calendar No. 11, Report No. 96–32.

□ 1425

It will not be repeated at length here today, but let me say that as chairman of the committee I am proud of the bipartisan nature of the report. It is agreed to by all. I think that the recommendations are meaningful, and in just a moment I will summarize them and try to point out some of the high spots.

The majority has its views which are generally concurred in. The minority went further and added additional views of its own. However, I stress that these views of the minority were additional, and as I shall make clear in a moment, additions which I think are very constructive and with which I also find myself in agreement.

The five or six salient features of the report of the Committee on Banking, Finance and Urban Affairs are, No. 1, that anti-inflationary monetary policies must be closely monitored so that in their zeal to fight inflation, they not inadvertently cause a recession. While we on the committee are generally supportive of the Federal Reserve monetary performance in the last year and of its monetary projections for the year to come, we are concerned, many of us, with the fact that there has been a sharp slowdown in the growth of the monetary aggregates since October 1978. For the last 6 months M–1, the traditional tried and true aggregate for ready money, cash, and checking accounts, has been substantially flat. We perceive that if this continues for much longer, it could be doing that which nobody wants: laying the foundation for a later recession or even, heaven forbid, a depression. Therefore, we ask our friends at the Federal Reserve to be conscious of the fact that this flatness of the monetary aggregates has persisted now for a good many months, and, as we say, because of the danger of recession, the committee cautions the Federal Reserve to pursue monetary restraint with special prudence in the year ahead. That does not mean, let me hasten to add, that we now want the Federal Reserve to swing the pendulum the other way and to get back into that era of successive looseness, which, unfortunately, has characterized Federal monetary policy too often in the past. But we think that there is a moderate middle ground, and we hope that that will be followed.

Second, we look upon the Federal Reserve's target ranges for monetary growth and find them generally appropriate. In a nutshell, what the Fed says for the year 1979 is that the supply of new money narrowly defined, M_1, so to speak, should grow at a rate of 4.5 percent to 7.5 percent, with the middle of that coming out at around 6 percent. That rate would be made up of 3 percent growth of regular M_1 and 3 percent growth on top of that, adding to a total of 6 percent. That would make up that which ordinarily would be M_1, because it smells like and looks like and tastes like a checking account, but, by reason of the ingenuity of the banking profession, gets classified as a savings account and, hence is technically part of M_2, the next most narrow aggregate.

We think, in short, that a 6-percent growth target is a sensible one. Sure, there is 9 percent inflation, and how, you may ask, may we lubricate a 9-percent economy with 6 percent new money? Our answer is that we really have to lower the money supply somewhat and that we cannot validate every last percentage point of inflation. If we try to do it, we are going to make permanent the inflation.

□ 1430

But at the same time we do not think that the money supply spigot should be turned down to zero where it is now. So we look toward more reasonable achievement of the target.

Third, we ask that overnight repurchase agreements must be closely monitored by the Federal Reserve. Repurchase agreements, again, are devices which represent the ingenuity of the commercial banking industry. They are now-you-see-it, now-you-don't pieces of paper which the monetary masters of the country are not yet able to fully classify. Because of that, we say, let them be closely watched aggregates lest they turn and rend us.

The fourth point made by the committee in its overall report points out something that is terribly important—that monetary restraint by itself simply is not adequate, and that it must be accompanied by measures to solve structural problems, both on the unemployment and on the inflation side.

A lot of the problem is not, in our judgment, caused by macro-economic overall boxcar economics, but by the particular structure and the particular configuration on the supply side in the American economy.

With respect to unemployment, that refers to the prevalence of structural unemployment, the terrible scourge of structural unemployment, particularly in central cities, where as many as 40 or 50 percent of our people, and particularly blacks and Latins and disadvantaged white young people and women, are now out of work. That problem is not to be solved in the main by macroeconomics, turn-on-the-monetary spigot and fiscal policy methods. It must be solved, in my judgment, by sensible, rifle-shot, closely calibrated programs.

It was refreshing to me to hear the testimony of Federal Reserve Board Chairman William Miller before our committee when he said that he heartily agreed with that emphasis on the structural by our committee and that in his view, and I fully agree with him, the budget now before the Congress would be vastly improved if we added to the amount now in the budget to combat structural unemployment and found the wherewithal to do that from someplace else in the budget. Certainly, that is going to be the task of at least this member of the committee and I know of many others; although, of course, here I do not purport to speak for the entire committee.

On the inflation side, structural matters are vitally important. You can have the most perfect and prudent and Draconian fiscal policy in the world; you can have a monetary policy that is tight until the pips squeak; yet you will not make useful contact with inflation as long as so much of our inflation is caused, as it is, by structural and supply factors.

One could continue this special order for days by talking about farm policy as it goes off the track and creates higher costs to the consumer in food than are really necessary, instead of adjusting our farm programs to help the family-sized farmer, so that he has a decent-sized income, instead of asking the other consumers to achieve that end.

We can talk for days about how we in Congress have unwittingly added to the cost of housing by some of the things we do, such as various tax provisions, not just in the Federal Revenue Code, but at the State and local level, which cruelly add to the inflationary increases in the price of land. That is the largest single element in the increase in housing costs.

So, unless we clean up our structural stables here in the Congress, we are not going to begin to come to grips with inflation.

One could point to excessive regulation and recall that just within the last year the CAB, to its great credit, released their heavy-handed regulation. The airlines found that they could lower air fares and their planes would then run full, instead of half empty. The airlines are earning record breaking profits, which I, for one, certainly do not begrudge them in the process.

It is that kind of structural emphasis that your committee believes is desperately needed with which to festoon and couple monetary policy, if we are really going to make monetary policy succeed.

□ 1435

The fifth proposition that we advanced is that long term monetary growth targets ought to be adopted and advanced by the Federal Reserve. The Federal Reserve just gave its targets for the upcoming year of 1979. We suggest that be prolonged on a 5-year basis and that the Fed deposit monetary targets for the years to come. It could do that, we suggest, without becoming wedded to impact numbers, by hitting 6 percent new money this year—that is their target and we agree with it— and reducing it in 1980 to 5 percent, in 1981 to 4 percent, and in 1982 to 3 percent and then keeping it there, accompanied of course by the 3-percent anticipated increase in velocity until inflation is finally brought firmly under control.

We think it would be healthy if the Federal Reserve Board would do that and thus break the inflationary expectations with which so many of our people are now suffering.

The sixth proposition is that the strength of the international dollar in our judgment depends on that of the domestic dollar. Therefore we find abundant reasons for all the monetary tightness that is desirable in the domestic situation and we enjoin the Fed from not going overboard and adding unnecessary degrees of monetary tightness in some perceived vainglorious attempt to defend the international dollar.

In our view it makes no sense to pursue a monetary policy of tightness over and beyond that required to combat domestic inflation in the hope of luring to these shores foreign capital. Long before you lure to these shores foreign capital to be put into a savings account or a money market investment you are going to scare much larger numbers of dollars now in this country away from these shores, by getting into a recession which will complete the ruination of the stock and bond markets and see them the scene of departing capital.

Finally we conclude that what is essentially needed is steadiness in monetary policies, that the "stop, go, green-light-red-light" policies of yesteryear have not worked and we enjoin that steady hand at the throttle which we perceive as being so necessary to a sound and moderate monetary policy.

In the minority views there is heavy stress on productivity. The majority fully joins in that, let me say. Perhaps we erred in not coming down hard enough on that in our overall committee report.

□ 1440

But I think the Republican minority does a useful thing in stressing the absolute essentiality of getting productivity off its back and on its feet again. It is disgraceful the way it has lagged in this country.

We have—Democrats and Republicans—secured back-to-back these special orders, and I want to state that this is done on a bipartisan basis. I am happy to see a number of Members, both from the committee and from the House itself, here to join in the debate, and before recognizing my colleagues, Mr. Speaker, I will make a request.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. HANSEN. Mr. Speaker, will the gentleman yield?

Mr. REUSS. I am happy yield to the distinguished minority leader on so many of the these monetary questions, the gentleman from Idaho (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I am delighted to join with several of my colleagues on the Committee on Banking, Finance, and Urban Affairs, and particularly with the distinguished chairman of the committee, the gentleman from Wisconsin (Mr. REUSS), who has put a lot of work into this. I commend the gentleman for this effort of identifying some kind of goals and some of the kinds of problems we need to face in getting our monetary situation on track. I am happy to have the opportunity to discuss the committee's first report on monetary policy submitted under Public Law 95-523.

As the committee chairman has stated, the minority supports the committee report and, in addition, has added strengthening language and expanded views in a separate supplemental report, which I include in the RECORD at this point, as follows:

MONETARY POLICY REPORT MINORITY VIEWS

We are in general agreement with the broad thrust of the committee's Report on Monetary Policy for 1979. However, we believe there are substantive matters which deserve fuller development.

No one can deny the importance of a proper monetary policy to the resolution of our current economic problems. Nor can anyone deny the ultimate constitutional responsibility of Congress for monetary policy. The duty that Public Law 95-523 imposes on this committee relative to this report is a serious one, to be approached with due deliberation.

The committee's report rightly recognizes that a stable monetary policy alone cannot be expected to carry the full burden of curing all our economic ills. But we think this point could be further clarified by a more complete discussion of what else is required. We take occasion here to examine only a couple of these matters.

We are particularly worried by the recent behavior of American productivity. If the goals of the Humphrey-Hawkins Act are to be realized, the decline in productivity growth that has characterized the American economy during the 1970's must be reversed.

The Board of Governors of the Federal Reserve System noted in their Monetary Policy Report to the Congress (February 20, 1979) that:

"During the period from 1947 to 1967, productivity in the nonfarm business sector rose on average by 2⅔ percent per annum. * * * Since 1967, the rise in output per hour has slowed, with average gains of only 1.2 percent recorded since 1973."

Growth of productivity is essential if standards of living are to rise without inflation. Growth of productivity is significantly related to capital formation.

The inescapable conclusion is that government policies—both tax and regulatory as well as monetary—must address the issues of productivity and capital formation more aggressively. Congress made a start in that direction with passage of the so-called Steiger amendment to the Revenue Act of 1978. We must do more.

Elimination of large Federal deficits during periods of economic expansion would be extremely helpful, since such deficits have tended to be monetized by the Federal Reserve to avoid politically unacceptable "crowding out" of the private sector. Treasury borrowing on the scale encountered in the last several years has created enormous pressures on credit markets. Each and every consumer, business, school district or local government that seeks to borrow money pays higher interest rates as the price for the Treasury's overwhelming competition for the saver's dollar. In short, fiscal policy is an important source of inflationary pressures in this country via credit markets, and the resulting monetization insures constantly advancing prices. We in Congress must cooperate with the Federal Stable fiscal policy working with stable monetary policy would result in stability in the capital and money markets, particularly after such policies have reduced inflationary pressures. The reduced uncertainty in the investment environment would greatly encourage capital formation and thus productivity.

More generally, we agree that establishment of a stable monetary policy is necessary to the control of inflation, and we agree that structural reforms—especially with respect to government-induced inflationary pressures—are also necessary. But we believe further that inflation is inherent as big government increases and that no final solution to the inflationary problem can succeed until the growth of government is arrested.

Specifically, we believe that excessive monetary growth is but the means by which inflationary pressures are financed and that those pressures, particularly runaway government spending, must be restrained if prices are to be dependably stabilized. As desirable and even necessary as a stable monetary policy is, the restraint of all government, particularly as measured by government direction of resources, must be achieved if inflation is to be defeated.

MINORITY VIEWS

Mr. Speaker, it is my special responsibility on this side of the aisle to conduct this discussion, since I am the ranking minority member on the Domestic Monetary Policy Subcommittee. Our subcommittee, under the distinguished direction of its chairman, the gentleman from Maryland (Mr. MITCHELL), has held hearings this week to examine monetary policy, hearings which are in addition to the hearings conducted by the full committee.

Before discussing these hearings and the committee's report, I want to examine the history of monetary policy and associated economic events. That history is a painful one. As Gov. Charles Partee of the Federal Reserve Board said in testimony to our subcommittee 2 days ago, monetary policy over the last 10 years has been a miserable failure. He said monetary policy has to be judged by the resulting performance of the economy, and that performance has been one of alternating boom and bust, with prices and unemployment ratcheting upward in every cycle.

It cannot be doubted that this performance is related in large part, though not entirely, to the course of monetary policy. If I may take a moment to review that relationship, you will appreciate why many of us are now very worried about the immediate future, and why we have serious doubts about the possible effectiveness of the administration's proposals for winding down inflation in 1979.

Repeated economic studies over many years, using both the simplest and the most sophisticated techniques of measurement and analysis, have demonstrated clearly that significant changes in the rate of growth of the monetary aggregates will result, though with substantial lags, in significant changes in real output and later in prices.

To be more specific, an increase in the rate of growth of money by 1 percentage point, if sustained over a period of several months, will result in approximately a 1 percentage point increase in prices about 2 or 3 years later. If we set this relation up as a statistical equation, we find that money supply increases which occurred about 2 years before the increase in prices explain about 70 percent of our experience with inflation. If you do this in a simpler fashion, by a chart, the correspondence between the track of the Consumer Price Index and the track of money supply growth 2 years earlier is visually overwhelming.

There is a similar correspondence between changes in money growth and real national product, though the lag is significantly shorter, and the overall relationship looser. Nevertheless, we can see from history that a sudden deceleration in monetary growth, persisted in for 2 quarters or more, ordinarily is associated with a recession within about 1 year.

I do not want to be misunderstood as saying that the Fed alone is responsible for what happens to prices and production; clearly, the Fed's policies are but part of a chain, and there are pressures on the economy that do not even operate through that chain. All the same, as I have noted, the evidence when carefully analyzed shows that most of the underlying pressures work through money.

Furthermore, monetary policy is something that is within Government control. One of the deficiencies in the administration's plan for wage and price controls is that it attempts to manage an enormous number of things in the private economy that are not ordinarily, nor ever properly, within the Government's control. Monetary policy, on the other hand, like fiscal policy, is something we in the Government can do a great deal about. Indeed, it is entirely our responsibility.

Thus, I do not concentrate on monetary policy because it is the only link in the business cycle and inflationary chain, but because it is the link that is easiest and most effective for us to monitor and manage.

With this background, we should now look at the present situation. If you will examine monetary growth for the last couple of years, you will find that enough inflationary purchasing power has been built into the economy to make it highly unlikely that the Consumer Price Index could be made to decline enough to hit the administration target this year, no matter what pressures are applied to it. Beginning early in 1975, the rate of growth of the aggregates increased, right through the middle of 1977. As is usual, prices have followed along with about a 2-year lag. Thus, the Consumer Price Index touched down late in 1976 and has more or less increased since then. In the middle of 1977, money growth reached a plateau and we may therefore expect that now, 2 years later, inflation for the next several months is not likely to change very much from its present rate.

What worries me more is that monetary growth showed stronger growth starting about four quarters ago, but then apparently went flat in October. If the data are reliable—and there may be some question about that in light of recent financial innovations—we have had a sharp change from very fast money growth to persisting softness in growth, a situation which in the past has usually led to recession.

The Federal Reserve has established as its growth ranges for the monetary aggregates slight decelerations from actual growth over the last year taken as a whole. The report of the Committee on Banking, Finance and Urban Affairs endorses these ranges and takes a balanced and optimistic view of affairs. The report notes that these ranges, if attained, will promote price stability while not inducing recession, and notes further that continued gradual deceleration will result in price stability by the mid or late 1980's. The key word throughout the report, though, is stability of policy. Whatever the growth rates chosen, stability is of the utmost importance. It is the sudden alternation between one extreme of policy and the other that has wracked the economy so painfully. It is the avoidance of this careening from one side to the other that the report recommends, as well as a gradual, long-term deceleration of money growth.

So balanced, straightforward, and moderate is this report that the entire minority side of the committee has agreed with this report. We are entirely agreed that stability is the watchword and that gradual deceleration of monetary growth is of the greatest importance to the ultimate control of inflation.

The testimony which the Subcommittee on Domestic Monetary Policy heard this week goes in the same direction. There seems to be general agreement that stability in monetary policy has been lacking, and that it must be established if we are to stop inflation. And I want to point out specially that Congress must cooperate in this matter. The Fed does not act in a vacuum, and can scarcely ignore the effects of a spend-happy government. I believe that large deficits, financed in already crowded boom credit markets, put great pressures on monetary policymaking and implementation. Moreover, the moral influence of Congress and the administration is not to be discounted. If we, the Fed's bosses, are throwing a fiscal orgy, we can hardly expect the Fed to act like wallflowers at the party.

Whether you want to settle blame on the Fed or not, it is clear that money growth is a measure of what success we will or will not have in controlling inflation, and is the best policy tool we have because it is the principle means by which inflationary pressures are financed and turned into actual price increases.

After all this is said, after the moderation and cooperativeness of the majority and minority of the Banking Committee, after so much thoughtful testimony and evidence, it is regrettable that the Fed seems either to have missed the message or is casually ignoring the plain wishes of Congress.

The whole point of the committee's report, if I may say it again, for it bears repeating, is stability: The Fed must give up fruitless attempts to beat back inflation by severe policies that lead to recession and the abandonment of the anti-inflationary policies, which leads to another round of inflation and so on. This is the record of many years. It is rooted in the lags I spoke of earlier, the fact that monetary policy actions take effect only with long delays. When the Fed cuts back severely to cut prices, there is first a recession which leads the Fed to expand money excessively to try to cure the downturn, but that leads to inflation again.

Yesterday, the Subcommittee on Domestic Monetary Policy heard from a panel of economists, representing many radically different schools of thought, monetarist to Keynesian and beyond. They unanimously agreed with this assessment: There is no—I repeat—no school of economic thought which holds that monetary policy can have an immediate effect either on the business cycle or on prices. It was agreed that monetary policy cannot fine tune the economy by waiting until a recession is already in progress to try to cure it, nor by waiting until prices start accelerating to cut back inflation.

Yet the Washington Post reported yesterday remarks attributed to Mr. G. William Miller, Chairman of the Board of Governors of the Federal Reserve, which go entirely against this. He is quoted as saying that the restrictive monetary policy of the last year will be followed—and I quote—"until we are sure the economy is in a cooler state."

It is truly distressing, almost heartbreaking. The ink is barely dry on a nonpartisan agreement of the Banking Committee that stability is to be the keynote of monetary policy; there is, in the testimony supporting that report, unanimous agreement among the experts that such stability is the one thing most needed Both sides of the aisle in this House agree on this. Spokesmen for the Fed admit that instability has led to misery in the past. Yet Mr. Miller is reported as turning his back on all this and declaring support for business as usual, for keeping the clamps on until real damage is evident and more misery cannot be prevented.

Every person who has learned to drive in icy conditions has had the experience, in his first skid, of wanting to turn the wheel against the skid, and put on the brakes. Everyone who survives learns that it is better to turn toward the skid and accelerate just a little. Everyone knows that that would not stop you immediately, because there is a lag until you are in control again and can turn the way you want to.

One would think that monetary policymakers, having skidded so many times, would learn from their bad experiences. Or at least they would listen to those who speak with moderation, who ask not that they cure all ills, but that they just pursue stability and not add to the problems we will have in any case.

Instead, we get witnesses who do not read bills under consideration, policymakers who do not read or ignore the reports we carefully construct and adopt, an institution which is one of the most immovable, backward-looking bureaucracies in government. Bureaucracies do not like to change, and it seems that the Fed and Treasury are under that general rule. Discretionary monetary policy has been badly managed in the past. We are now asking that it change, that it take a longer view and direct its discretion and independence toward taking care of the long haul and not chasing every jiggle and turn in prices and output. But Mr. Miller's remarks give little hope that our request will be heeded.

The Fed really must do better. If we cannot get a wise use of discretion, we will have to strip the Fed of its discretion and establish a rule by which monetary policy is to be conducted.

Let me hasten to point out that I am not calling for congressional discretionary control, but for the elimination of such discretionary control altogether. For whatever reasons, the discretion of well-meaning persons has not served in the past, and it appears that our attempts to get a bureaucracy to use that discretion in a more moderate and stable way may meet with outright resistance and even contempt. The answer to this would have to be the establishment of a standard which would not depend on mistaken attempts to chase output and prices, nor on the political winds that have led to irresponsible spending and deficit financing for so many, many years.

I hope, with my colleagues on the Banking Committee, that more moderate changes, the changes envisioned by our recent report on monetary policy, will be put into effect and prove sufficient. I regard them as essential to the goals of Public Law 95-523 and to the long-term economic health of this country.

Thank you, Mr. Speaker.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. REUSS. I am pleased to yield to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Speaker, I would like to say to the distinguished chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Wisconsin (Mr. REUSS), that I think the committee has come up with an excellent report on the conduct of monetary policy. I appreciate the reference to the minority views in there and the emphasis we have placed on increasing productivity.

However, I think that if we are to have a proper monetary policy, we need first and foremost a proper fiscal policy. When I say, "a proper fiscal policy," I mean that we cannot in practice have an unbalanced budget year in and year out and expect the monetary authorities to bear all the responsibility and take all the blame for the inflation in our economy.

I think, indeed we all know, that the No. 1 problem facing our Nation today is inflation. There is little disagreement on that. I think that generally the Federal Reserve Board and those who conduct monetary policy have done a commendable job, in view of the fact they have had these pressures placed upon them by an inappropriate fiscal policy enacted by this Congress and those that have gone before.

Financing a debt of $830 billion, which we just agreed we would do a little earlier today, puts an enormous demand on the credit markets, and each and every consumer, school district, and local government that seeks money in the marketplace finds itself in competition with the Federal Government for money. Inflation is inevitable as long as the Federal Government grows at a faster rate than the private sector.

I think that under such circumstances, it is almost impossible for the monetary authorities to do their job as we in the Congress want it done. The correct conduct of monetary policy requires several essential ingredients. First and foremost, we need to balance the Federal budget, year after year except in time of national emergency or war declared by a two-thirds vote of both Houses of Congress. I have a bill which would do precisely that.

Next we need a steady monetary policy for a steadily expanding economy.

Furthermore, the gentleman in the well, the distinguished chairman of the committee, Mr. REUSS of Wisconsin, referred a little while ago to the fact that at the moment it is difficult for the Federal Reserve Board to develop a proper monetary policy because of the decline in membership in the Federal Reserve System, and because the Federal Reserve is not really able to determine with accuracy what is really happening in the monetary sector of our economy. In my opinion, it is clear that the monetary authorities need timely, accurate data on all elements of the financial sector which monetary policy seeks to stabilize for the whole economy of the United States.

In addition, these same monetary authorities need to be able to treat alike all factors in our economy which perform monetary functions. Money market funds, nonbank securities dealers, and foreign based banks do, indeed, seem to be competing with commercial banks in providing domestic banking services. I, therefore, feel that regulatory institutions created by Congress to assure a stable currency should be empowered to require from competitors of commercial banks the same information and other contributions which we require of commercial banks. This will provide a more realistic treatment of financial institutions, be constructive for the conduct of monetary policy, and responsive to the just demands of our constituents that we do something about inflation.

□ 1445

When Chairman Miller was before our committee, I asked him the question: Can we broaden the base of deposit and nondeposit liabilities which have to have reserves, lower the reserve requirement percentage, and keep the overall cost of the legislation (H.R. 7) about the same?

And I was referriing there to the idea of broadening the definition of reservable liabilities by requiring reserves on repurchase agreements, to which the gentleman referred a little earlier, and even perhaps by requiring reserves on Federal funds.

I have just received a response back today from the Federal Reserve's Chairman, which I will place in the RECORD at this point, Mr. Speaker. The substance of the answer from Chairman Miller is that it is difficult to determine for sure what the volume of reservable liabilities would be if reserve requirements were applied to repurchase agreements and Federal funds from nonbank sources. A part of the problem is that they have not been collecting the data they need to answer the question. He does say, however, that if we had reserve requirements on the RP's and Federal funds, we could reduce the reserve requirements significantly for all banks. A reduction in reserve requirements of the magnitude mentioned in the paper would significantly lower the cost of membership for commercial banks in the Federal Reserve System.

I think it is important to point out, as the gentleman has done, that if we do not do something very soon in order to make Fed membership less costly and thus more desirable, there will be more and more deposits (money) which will be outside of the direct influence of the Federal Reserve System. In addition, if we do not broaden our definition of money there will be more deposits which the Federal Reserve cannot influence because of these repurchase agreements and similar innovations which are evidently distorting everyone's perception of what is actually happening in the monetary sector of our economy.

I think the gentleman is performing a very valuable public service by taking this special order today.

The letter referred to is as follows:

FEDERAL RESERVE SYSTEM,
Washington, D.C., March 12, 1979.

Hon. CHALMERS P. WYLIE,
House of Representatives,
Washington, D.C.

DEAR MR. WYLIE: Enclosed is a response to questions that were raised in the March 2 conversation of your staff with Mr. Simpson and in your March 8 conversation with Mr. Guenther. The accompanying document discusses the issue of imposing reserve requirements on certain nondeposit liabilities of member banks—RPs and Federal funds—and the kinds of alternative liquid investments that are available to RP customers of member banks.

I hope that you find this response to be useful. If you have any further questions, please feel free to call me or other members of the Board's staff.

Sincerely yours,

DONALD J. WINN,
Special Assistant to the Board.

The question which was asked of Chairman Miller on January 24, 1979:

Mr. WYLIE. Can we not broaden the base of deposit and nondeposit liabilities which have to have reserves, lower the reserve requirement percentage, and keep the overall cost of the legislation about the same?

MARCH 9, 1979.

Response to Questions Raised by Congressman Wylie and His Staff Regarding Reserve Requirements on RPs and Federal Funds.

Assessing the amount of additional reserves that would result from imposing a reserve requirement on the repurchase agreement (RP) and/or Federal funds liabilities of member banks is complicated. First, there is the question of whether reserve requirements would be applied to all RP and Federal funds liabilities of member banks or just to those with parties other than commercial banks, in view of the important reserve adjustment function that is performed by the interbank market. In late September 1978—the most recent date for which data on such liabilities of all member banks are available—member banks borrowed in the form of RPs and Federal funds about $40 billion from other commercial banks, $12 billion from brokers and dealers, and $34 billion from other customers.

Second, there is the matter of whether reserve requirements would be assessed against only RPs or against both RPs and Federal funds from nonbank sources. Member banks have been allowed to borrow Federal funds from several nonbank institutions. Among the most important of these are mutual savings banks, savings and loan associations, and agencies of the Federal Government, particularly the Federal Home Loan Bank System. Unfortunately, current data sources combine Federal funds borrowings with RPs, rendering it difficult to separate one from the other. However, RPs are believed to account for most of Federal funds and RP borrowing from nonbank sources.[1] Of course, the reserve requirement implications of reserving both the Federal funds and RP liabilities of member banks are greater than those of reserving only RPs.

Finally, it is difficult to determine what the volume of reservable liabilities would be if reserve requirements were applied to RPs and Federal funds from nonbank sources. Banks would adjust to the higher cost of these instruments by reducing the interest rates they offer, and the public would hold correspondingly smaller amounts. For example, should RPs be reserved as short-term deposits, they could be subject to an 8 per cent reserve requirement, the same as the ratio currently applicable to large-denomination short-term time deposits. At current market rates, this would add roughly 80 basis points to the cost of RP funds. Many RP customers would likely turn to other highly liquid assets on which they could earn more favorable rates. Among these alternative assets are RPs with nonbank dealers, commercial paper, money market mutual funds, and Eurodollars.

Historical experience, unfortunately, is not a very useful guide for estimating the amount by which member bank RPs and Federal funds would consequently decline. However, should RP and Federal funds held by the nonbank public decline by one-half, reserves required against such liabilities would be $1.8 billion (.08 x $23 billion). Additional reserves of this amount could be offset by a reduction in required reserve ratios on all member bank deposits of about three-tenths of a percentage point, or alternatively, a reduction in reserve ratios on demand deposits of almost a percentage point, without affecting costs to the Treasury.

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[1] A portion of RP funds raised by member banks is used to finance their dealer departments, in much the same way that nonbank dealers use this course of funds to acquire inventories of securities.

Mr. REUSS. I thank the gentleman for his contribution, always invaluable, constructive, worth listening to, and listened to.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. REUSS. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Speaker, my friend and colleague, HENRY REUSS, has presented the first in what I presume will be a long line of committee reports on monetary policy which was mandated by the Humphrey-Hawkins law.

It seems light-years since the Employment Act of 1946 established the first important economic planning instrument for our country which emphasized the need for an expanding job market and how government policies could best achieve the goal of a completely employed society. Now with the Full Employment and Balanced Growth Act of 1978, we have expanded our scope of economic analysis and planning.

I share completely the committee report's concern with structural unemployment and the largely unsuccessful Federal attempts to deal with it. My hope is that the Humphrey-Hawkins Act reports will serve to pull together such abberational efforts and concentrate them on this chronic problem.

The chairman of the Federal Reserve Board of Governors, G. William Miller, appeared before our committee and revealed its monetary policy forecasts to us. In general the committee has deemed the target ranges for the growth of the monetary and credit aggregates as "appropriate" for the expected U.S. economic development in 1979.

What has concerned me is the criticism that the Fed's actions on interest rate adjustments too frequently have tended to be ill-advised. The complaint is the Fed's interest rate increases have often been too soon, too high, and too long and that it has frequently aggravated money supply problems, not solved them. Insofar as interest rates are very often an uncontrolled cost to private and public enterprises, they can be cruelly burdensome and economically disastrous.

The critics have described the Fed's after-the-fact posture as being like that of the French generals who are always superbly prepared for the most recent war.

I hope the Fed and the committee will together monitor these and other troublesome areas.

Chairman REUSS, I think, has shown exceptional leadership in this report, and I look forward to his continued constructive interpretation of the Humphrey-Hawkins mandate.

☐ 1450

Mr. REUSS. I thank the gentleman from Minnesota for his contribution. He is always one of the most insightful, industrious, and valuable members of the House.

Mr. Speaker, I yield to the gentleman from the District of Columbia (Mr. FAUNTROY).

Mr. FAUNTROY. Mr. Speaker, without a doubt, there is no crueler tax than the tax of inflation. It is the most decisive factor in interest rates, housing, food, fuel, and shelter. The rate of inflation continues to reach record levels and, more importantly, it is becoming the key component in determining whether or not the Federal Government should engage in certain programs.

I would, for instance, specifically note to my colleagues the impact that inflation has had upon the programs dedicated to providing decent housing for those of low and moderate incomes. Instead of asking for the generally recognized as needed number of assisted units (400,000), this administration sought to provide a mere 300,000 units with funds only enough to assist a number closer to 260,000 units. Not only are the pressures reflected upon the number of units we will be able to add to our subsidized housing stocks, but the cost of maintaining that subsidized housing stock has now risen because of inflation to an estimated $235 billion.

It is not as though these amounts are so substantial; we do not generally, for example, measure the eventual costs of medical care and food stamps over some number of future years. Certainly, any increase in the housing stocks serves to improve the total wealth of our Nation as well as to create better communities and employ people. The facts are, however, that these programs, valuable and important as they are, are cut back by a Department led by one of the most farsighted and able Secretaries simply because of the inflationary impact that is striking at the heart of our country. What is true here is true all across the Cabinet.

So, I am pleased to learn that the Federal Reserve Board is working to control inflation by lessening the growth of the money supply. As the report of your committee states—and as Congressmen MITCHELL and GARCIA, along with myself state in our supplementary views—a reduction of the growth rate in the money supply by one percentage point per year over the next 5 years will serve to substantially moderate the present tendency toward an explosive monetary growth which can only result in greater inflation and, ultimately, a massive recession.

Mr. Speaker, the supplementary views to which I have referred are as follows:

SUPPLEMENTARY VIEWS OF PARREN J. MITCHELL, WALTER E. FAUNTROY, AND ROBERT GARCIA

This is not a dissent. The points we want to make are complementary to the committee's report.

In general, we share the committee's views and recommendations on monetary policy. In October 1977, one of us, Congressman Mitchell, acting as chairman of the Subcommittee on Domestic Monetary Policy, expressed concern about the high money growth policy the Federal Reserve had been pursuing for nearly a year. There was apprehension that this policy would accelerate inflation, and it has. Last summer, Congressman Fauntroy joined Congressman Mitchell in recommending that the Federal Reserve play its part in our quest for economic stability by reducing M1 growth 1 percentage point a year over the next 5 years. All of us are delighted that the committee now recommends essentially the same strategy.

Although sharper deceleration of money growth would court recession, as the committee has cautioned, there is little to fear from a slow persistent cutting back of monetary growth to a rate "commensurate with the economy's long run potential to increase production," as is required by law. The facts show that faster money growth is fully dissipated within 2 to 3 years in faster inflation and higher interest rates, and this lays the groundwork for recession and higher unemployment. Thus the strategy for monetary policy which the committee recommends, and which we support unequivocally, will not impede achieving the employment goals of the Humphrey-Hawkins Act, and should help to achieve these goals.

However, as our colleagues understand, the employment goals of the Humphrey-Hawkins Act cannot be achieved by monetary policy alone. We need direction in fiscal policy as well as prudence in monetary policy. And direction in fiscal policy means expanding public service and other job programs and subsidies, and also training programs and subsidies. There is absolutely no reason why, at the same time as the Federal Reserve is slowing money growth, fiscal policy cannot be directed to employing the jobless, especially long term unemployment persons in the black and Spanish speaking inner-city communities, and training 16 to 19 year olds throughout the Nation who need and want job training. It would only take about $3 billion a year to fully employ 500,000 persons at the minimum wage. Another $3 billion annual fiscal expenditure would provide on-the-job training opportunities for all or nearly all youngsters who need and want initial training and skill development. In short, we can make substantial progress in solving our unemployment problem with minimal additional Government spending, while at the same time using monetary policy to reduce inflation. As Prof. Martin Feldstein put it, in testimony received by the committee, paraphrasing, we can pursue microeconomic policies that reduce the unemployment rates of high unemployment groups and prepare young people for work while at the same time proceeding with macro-economic (monetary) actions that slowly reduce nominal or dollar aggregate demand growth to our economy's long run potential for real growth. We can and we should do both.

Monetary policy alone, however, will not solve our Nation's economic ills. The administration must do its share in reducing unecessary expenditures and in eliminating waste. While working to reduce deficits the administration must also plan to target resources which will assure that those of lower and middle incomes are now denied resources necessary for food, clothing, shelter and jobs.

Your committee, in making its first report to the Congress pursuant to the Full Employment and Balanced Growth Act has repeatedly made that point. The fiscal policy and the credit policies as enunciated by our lending institutions must be guided by the administrative and the Fed toward providing jobs and other productive resources.

There is absolutely no reason that as the Federal Reserve slows the money growth that our fiscal policy cannot be directed to employing the jobless. It would take only about $3 billion a year to fully employ 500,000 persons at the minimum wage. Another $3 billion would provide on-the-job training opportunities for all or nearly all youngsters who need and want initial training and skill development. In short, we can make substantial progress against inflation and unemployment if we merely make the commitment. We can do it; I hope we will.

☐ 1455

Mr. REUSS. I thank the gentleman for his participation in the debate. He understands the problem of structural unemployment. He sees it daily in his service to his constituents, and his application of what he has seen to the dry-as-dust economics of monetary policies is a very human contribution to our deliberations here.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. REUSS. I yield to the gentleman from Ohio.

Mr. WYLIE. I thank the gentleman for yielding.

We all understand that there is a difference of opinion as to which comes first here, the chicken or the egg, whether we should have this strong monetary policy first or a strong fiscal policy first, and what amounts to a strong monetary policy and a strong fiscal policy. But does the gentleman think that if the Federal Reserve Board followed our recommendations the recommendations of the committee, that that might put some constraints on Congress so that Congress would act more responsibly from a fiscal policy standpoint?

Mr. REUSS. Yes, I do. I think the chicken-or-egg analogy of the gentleman from Ohio is well taken. A true-believing, born-again monetarist will think that the way to achieve heaven on earth is to be done entirely on the monetary side. A neo-Keynesian, a fiscalist, an anti-monetarist will say that we should pay no attention to money; money matters hardly at all; and if we are doing the right thing fiscally and structurally, all will come out right automatically with monetary policy without the ladies and gentlemen in the marble palace on Constitution Avenue having to do anything about it. I think most of the members of our committee are ecclesiastic and ecumenical on that subject. They have not quite gotten it through their heads—I certainly have not gotten it through my head—where the preponderance of the truth may lie. Be that as it may, however, I think it would be useful if the Federal Reserve let the whole world know that it is going to do its part as a member of the executive-congressional-Federal Reserve team to see that we bring about full employment without inflation, which it should be the aim of good monetary policy to achieve.

□ 1500

By saying that if others do their part, then we are, in fact, going to see a deceleration of monetary growth to where it is roughly of the quantity year after year to lubricate the necessary increases in the goods and services we produce—by saying that, I think they could do a useful thing. After all, we can talk here, as the gentleman has very responsibly, I thought, about budgetary targets, because the gentleman is one who wants to see the budget brought into balance on a day certain down the road. A part of that takes willed action later on. Words today are not going to do it, but it is useful, nonetheless, to set a budgetary target. I think it is worthwhile to set a monetary target, too; so I agree with the gentleman.

Mr. WYLIE. Mr. Speaker, if the gentleman will yield further, the gentleman has made the point I wanted to make, that there is a fine tuning mechanism which involves many different segments and sectors of our society, one of which, of course, is the Federal Reserve Board and its open market committee operations.

I happen to think that we must start out, of course, by arresting the expansion of Government and reducing the pressures from a fiscal policy standpoint; but I wanted the point made here that there is a thread all through this discussion between us that says there must be cooperation between the monetarists and the people who feel there must be a more responsible, and I put that in quotes, "fiscal policy" on the part of the Congress and the Federal Government.

Mr. Speaker, I thank the gentleman.

Mr. REUSS. Mr. Speaker, I would say on that subject that again pursuant to my promise not to be too pompous this afternoon, but just as old Mr. Adams said in that era of good feeling, "We are all Democrats, we are all Republicans now."

I hope the day may come when from the practicality of full employment without inflation, we can all say we are monetarists, we are all fiscalists now.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. REUSS. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I think there are some special problems in the dynamic system we have today that are pointed out pretty adequately in the report that bear reinforcement at this point; that is, the increased liquidity within the monetary system that we are possibly going to increase the debt, the Treasury note phenomenon on which monetary policy does not become the precise and discriminating tool it is, if it ever was; but we have many problems in terms of Eurodollars, in terms of balance of trade, in terms of investment and the outflux of investment going out with regard to the flow of dollars out of this country. I think that while Government's role is a very important one, that a goodly amount of these dollars are not under the control, nor should they be under the control of the National Government or the State governments.

In fact, the size of the Government at the Federal level has been about the same, right around 20 percent of the GNP, over the last quarter century. While the slight variations are very important in terms of meeting the problems that were so eloquently put by my good friend, the delegate from the District of Columbia, those slight changes are so important that we have to have a look at them.

I think the best we can do, and what this act purports to do is try to coordinate the disparate parts of many arguments, the impact of monetary policies, the impact of fiscal policies on the size of our deficit, to try to put it together in the Federal section and in the State and local sections and see what we are doing in terms of the impact on inflation, the impact on people and the impact on employment.

□ 1505

Mr. REUSS. I thank the gentleman from Minnesota and all those who have taken part either in person or with their added views in this constructive and very bipartisan debate.

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I would like to take just a few minutes to point out to the House some of the significance of the report of the Banking Committee on Federal Reserve monetary policy, apart from the fact that it is a "first" under the Humphrey-Hawkins Act.

Perhaps most important, Members who read this report will note a remarkable fact; namely, that the term "interest rates" is nowhere to be found in it. In the past, we in Congress have associated monetary policy almost exclusively with interest rates and have frequently criticized the Federal Reserve on that ground. Why the change?

I believe there are two parts to the answer. First, we have come to recognize on the basis of hard experience that interest rates are determined far more by the rate of inflation in the economy than they are by the Federal Reserve. When monetary policy was very easy in the recession period of 1975–76, for example, mortgage interest rates never fell much below 9 percent. The reason was that inflation never fell much below 6 percent. I should note that the forthcoming report of the Joint Economic Committee recognizes this same fact—that interest rates are chiefly a function of the inflation rate though not exclusively so.

By definition, then, we cannot ask the Federal Reserve to bring down interest rates as long as inflation persists at near double-digit levels. Nor can we place the chief blame on the Federal Reserve for any given level of interest rates except insofar as we can blame the Federal Reserve for the inflation.

The second reason for the omission of any mention of interest rates is more debatable. The majority of us on the Banking Committee have come to believe—at least tentatively—that the Federal Reserve should probably focus its effort on control of the money supply, the monetary aggregates, rather than on a target for interest rates. In addition, we believe that the Fed's policy should be more steady than in the past in achieving the desired growth of the money supply, which may mean more short-term variation in interest rates. In short, we have recognized frankly that the Federal Reserve cannot always do two conflicting things at once—aim at a target for the money supply and aim at a target for interest rates. We tend to think that the money supply target is not only more appropriate, for the purposes of diminishing inflation, but also more achievable.

Having said all that, Mr. Speaker, I want to emphasize that in signing and approving this report, I do not want to identify myself with the purely "monetarist" view of the economy. I am simply not certain where the truth lies in this difficult area. I recognize that there can be no serious inflation without excessive creation of money, but I am not convinced that money creation is the primary cause of our recent troubles. In short, I remain open-minded.

We on the Banking Committee have told the Federal Reserve that we want to see a steadier policy and one that will gradually reduce the rate of money creation. I would like to see that policy followed and to examine the results. I will not hesitate to support a different view in subsequent reports if events indicate that this approach is not working well.●

● Mr. MITCHELL of Maryland. Mr. Speaker, the goals of monetary policy are the same as the goals of the Hawkins-Humphrey Act: Full employment without inflation. I am sure that these goals have always been the Federal Reserve's goals in its conduct of monetary policy. However, the gap between promise and performance is wide. The Federal Reserve recognizes this. Only last Tuesday, Federal Reserve Board Gov. Charles Partee told my Domestic Monetary Policy Subcommittee that, judged by the record:

> I would have to say the last decade has been a dismal failure.

As all of us are painfully aware, unemployment and inflation have both increased, although fortunately not without occasional pause.

Part of the problem lies in the monster roller caster growth profile which all of the monetary aggregates—M_1, M_2, et cetera—have exhibited since the middle 1960's. Governor Partee recognizes this, too. In a colloquy with our distinguished colleague STEVE NEAL about the sharp ups and downs in monetary growth over the years, Governor Partee said:

> Our record isn't particularly good.

Governor Partee also correctly reminded us, however, that the House committee of jurisdiction, the Committee on Banking, Finance and Urban Affairs, never until now provided meaningful guidance to the Federal Reserve about its conduct of monetary policy. Now, pursuant to the Hawkins-Humphrey Act, we have done so.

Our views and recommendations are made in the midst of another building economic crisis. After several years of above target money growth, which has fueled accelerating inflation, the rate of growth in the Nation's monetary aggregates from the third quarter of 1978 to the present declined significantly. These swings provide ample evidence to support the contention about worsening both unemployment and inflation. For this latest period (since last September), there was negative growth in both M_1 and M_{1+}—1.53 percent and 4.16 percent, respectively, and a marked decline in M_2 to 2.98 percent. Additionally, for M_1, adjusted to include the new ATS and New York State NOW accounts, the annual rate of growth since August has been only 3.5 percent per year; substantially less than one-half what M_1 growth had been in the prior 18 months before introduction of these new deposits.

Ironically, it appears, therefore, that for the third time in the last 10 years, monetary policy has been redirected from fueling inflation to triggering a recession. Given the thrust of monetary policy as reflected by the sharp declaration in the growths of the monetary aggregates, and in reserves, consumer and investment spending are likely to fall by year end or even earlier. Prompt action is required to avoid this result.

Nevertheless, I am not suggesting a one-sided policy to the Federal Reserve. Monetary policy must be used to promote economic stability. Starting from the 7.6 percent growth in M_1 inclusive of ATS and NOW accounts in 1978, a gradual slowdown in monetary growth definitely is needed to promote economic stability. There is little to fear from a slow persistent cutting back of monetary growth to a rate "commensurate with the economy's long-run potential to increase production" as is required by law. There is much to be gained by following such a course—to wit, a reduction of inflation without recession. With the other members of our full Banking Committee, I recommend 6 percent growth in M_1 (adjusted for ATS and NOW accounts) for 1979, then 5, 4, and 3 percent in the next 3 years.

We are counseling the Federal Reserve to slow down slowly. The committee's 6 percent target for 1979 is a floor as well as a ceiling. Higher growth will continue to fuel accelerating inflation and higher interest rates. However, less than 6 percent money growth this year risks recession. Down that road lies continued economic stagflation wherein the economy cycles from recession to more inflation and around again and again and again. It is time to stop. That is the essence of the committee's counsel and mine.

Last, I want to stress that the goals of the Hawkins-Humphrey Act cannot be achieved by monetary policy alone. We need direction in fiscal policy as well as prudence in monetary policy. And direction in fiscal policy means expanding public service and other job programs and subsidies, and also training programs and subsidies. There is absolutely no reason why, at the same time as the Federal Reserve is slowing money growth, fiscal policy cannot be directed to employing the jobless, especially long-term unemployed persons in the black and Spanish-speaking inner-city communities, and training 16- to 19-year-olds throughout the Nation who need and want job training. It would only take about $3 billion a year to fully employ 500,000 persons at the minimum wage. Another $3 billion annual fiscal expenditure would provide on-the-job training opportunities for all or nearly all youngsters who need and want initial training and skill development. In short, we can make substantial progress in solving our unemployment problem with minimal additions in Government spending, while at the same time using monetary policy to reduce inflation. Until now, blacks and Hispanics have benefited hardly at all from our economy's recovery from the 1974–75 recession. It is time that they did.●

● Mr. CAMPBELL. Mr. Speaker, I rise to state not my general disapproval but my overall concern as to the contents of the Banking Committee's report on monetary policy for 1979.

Public Law 95-523, the Full Employment and Balanced Growth Act of 1978 calls for achieving 4-percent unemployment and 3-percent inflation by 1983, and directs the Federal Reserve to initiate a monetary policy pursuant to these objectives. To obtain these goals and not encounter a severe depression, while inflation roars away at 9.5 percent a year and the monetary supply grows at an annual rate of over 7 percent, will take an unusual amount of intestinal fortitude not usually seen at the Federal Reserve.

Yet, the Banking Committee report has seen fit to not overly criticize the Federal Reserve's historical policy of alternating between inflation and depression. It notes that such things as high unemployment, a depreciating dollar abroad, and accelerating inflation exist, and then fails to note the Federal Reserve's role in these problems. They are not to be given sole blame, but I feel their participation should be pointed out.

The tightrope that the Federal Reserve must walk for the coming year between inflation and depression will be the one it has failed to achieve in years past. Mr. Miller has stated that M_1 growth (currently above 7 percent) will drop in expectation of the shifting of funds to ATF (automatic transfer facilities) and NOW accounts in New York State. A projected 3-percent drop seems tragically optimistic due to these actions, and only continues the dramatic shifts in the supply of money that the Fed is famous for. However, the committee's report failed to adequately address this expected drop, stating only that the target ranges projected by the Fed "seemed appropriate," and should these targets not look attainable, then the Fed should revise them. I feel the committee should have spoken out stronger on the Fed's projected M_1 targets, and explained their impact on the problems our country encounters today because of their inconsistencies of the past.

I would hope that the promises by the Federal Reserve for moderation of monetary growth are achieved. It is a fact that the money supply is directly linked to inflation. I would hope that the Federal Reserve commit itself to a stable and consistent monetary policy so that dramatic swings into depression do not result as they have in the past when these policies have been abandoned.

Inflation affects every American and tears at the moral fabric of a free enterprise society. By not soliciting more concern from the Federal Reserve on the problems they have contributed to, the committee report has chosen to let the Fed off the hook and not sought a pledged response that it mend its ways. I am hopeful that even without the stern hand of the Banking Committee to reprimand them that the Federal Reserve is successful in its plan for 1979.●

● Mr. BARNARD. Mr. Speaker, I would like to concur with the Banking Committee's call for moderation in the conduct of monetary policy. Over the past 10 to 15 years, we have seen many calls for the Federal Reserve to conduct a more expansionary monetary policy, and occassional calls for a more restrictive monetary policy, but this is the first time I know of that there has been support for a slow, steady policy that does not overreact to temporary changes in conditions.

The Fed has often been charged with reacting to inflation or downturns at just the right time, and in just the right way, to make the situation even worse than before the Fed acted. There are some very convincing figures that show there was an unnecessarily restrictive monetary policy at the time of the last recession, and that there has been an overly expansionary policy since. Most economists feel that if the Fed has not caused our present inflation, it has at least made it worse.

Now we are beginning to see charges that the Fed, finally going into action against inflation after several years, has again overreacted to the extent that a recession is, at least, far more likely than before. In the last several months, the growth rates for M_1, M^1+, and M_2 have dropped from 8, 6.3, and 10 percent respectively to 3.1, 1, and 6.4 percent. At a subcommittee hearing this week, one of the members of the Board of Governors said that they were at a loss to explain the depth of the drop, and although they suspected that the figures reflected temporary conditions, if they continued, the Board would be concerned.

Mr. Speaker, I fear that they need to show some concern now. The monetary policy for our Nation is set at monthly meetings of the Federal Open Market Committee. Between meetings, the policy drifts along. Although I realize that the members of the FOMC are all professionals, and do watch the economy between meetings, I wonder if there is not a "till we meet again" feeling that results in sudden reactions without a master plan or strategy. This kind of thinking may be one of the reasons for the persistent overreaction, and the tendency to "wait until next month, and we'll see if things are different" may be a major cause of the poor timing of the Fed.

Whatever the cause, it is apparent that the present method of conducting monetary policy is not working properly. Econometrics may never be anything more than numbers that support or contradict guesses, but in this age of computers and rapid flows of information, I cannot help but wonder if it is not possible to react faster, and at the same time with more moderation, to events in the economy. There is a need for a set of more effective policy restraints than a loose range for monetary growth, and a specified plant that would give more continuity to the FOMC's monetary goals.

Actually, the situation may be worse than we think. At a hearing before the Domestic Monetary Policy Subcommittee yesterday, Lacy H. Hunt, senior vice president and economist for the Fidelity Bank of Philadelphia suggested that recent developments in the banking industry have resulted in vast understatements of M_{1+}, M_2, and M_3. While this would make the outlook for the near future somewhat better, with the probability of a recession being less, it is even more disturbing in the long run.

If this contention is correct, the FOMC has no real idea of what is going on in the money supply, and its decisions are based on nothing more than educated guesses. The situation demands a prompt study by the Fed to see how accurate its money measures are, and in the meantime, a steady, gradual policy to avoid sudden shifts on poor information. Mr. Speaker, this situation not only makes a steady monetary policy prudent, it makes it a necessity.

So far, I have only mentioned the role of monetary policy, but I do not want to give the impression that it alone can end inflation and solve the problems in our economy. Although a billion dollar shift in the money supply will have more impact on current dollar income than a billion dollar change in the conduct of fiscal policy, both must show responsibility if the economy is to go into a period of steady growth.

Just as we need a steady, responsible monetary policy, so too, we need a responsible fiscal policy without deficits as a normal feature. In the past several years, the deficit has continued to fuel inflation and damage the vitality of our economy. I feel that our present inflation is as great a threat in the long run to our economic and political systems as any external enemy ever was. Any downturn in the economy must not provoke an overreaction in fiscal policy that ends the recession but leaves inflation higher than before.

There are certain things that fiscal policy can do that monetary policy cannot. These include providing incentives for job training to reduce problem unemployment, but if these programs are combined with a deficit that continues to fuel inflation, the final result will be a weaker economy with fewer job opportunities. There is no reason that these programs cannot be implemented under a balanced budget if other spending is reduced.

Mr. Speaker, if we are to restore health to the American economy, there must be a combination of responsible monetary policies with responsible fiscal policies. The effort will be made simpler if the excess regulation that has plagued our economy is removed at the same time. Monetary policy needs to be moderated, but this approach will only work when it is accompanied by a moderate fiscal policy with a balanced budget.●

CURTAILING THE DISCRETIONARY POWERS OF THE FEDERAL RESERVE

The SPEAKER pro tempore (Mr. MONTGOMERY). Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 5 minutes.

● Mr. PAUL. Mr. Speaker, while I applaud the committee's recognition of the fact that "reducing inflation will require persistent, measured, monetary and fiscal restraint," I believe that the committee is still looking at the Federal Reserve through rose-colored glasses. Throughout its 65-year history, the Federal Reserve has pursued a policy of deliberate inflation and manipulation of the money supply, a policy which has caused numerous recessions, massive unemployment, double-digit price inflation, international exchange crises, and the largest and longest depression in our national history. The committee does note that the Federal Reserve had promised moderation and consistency in monetary policy before, but that it has been either "unwilling or unable" to keep its promise. I concur with the committee's view of the importance and necessity of the Federal Reserve keeping its promises on monetary policy, but I am skeptical nonetheless. We need only look at the record of the Federal Reserve, which I have briefly recapitulated above, in order to understand my skepticism. The only permanent and practical solution to the problem of inflation—the only way to implement the Federal Reserve's and this committee's goal of persistent monetary restraint—is to decouple money and politics altogether, removing control over the money supply from any governmental or quasi-governmental institution. The deregulation of money, not simply a slowing in the growth of the money supply, must be our goal. The committee is looking in the right direction, but it has not yet seen the correct destination.

There seems to be a growing consensus among economists that the American people will suffer through another government-caused recession later this year or early next year. The committee takes note of this view and expresses its concern. What it does not seem to realize, however, is that the persistent policy of monetary inflation pursued by the Federal Reserve makes these recessions inevitable. The timing of the next recession may be a matter of guessing; the fact of the next recession is not. In view of this fact, it is not enough to express concern and then declare that the Federal Reserve's monetary growth targets are appropriate. They are not. If we intend to pursue a genuine anti-inflationary policy, it is not appropriate to endorse a growth in the money supply. Nor is it appropriate for the committee to endorse even greater inflation should "measurements reveal that the Federal Reserve's target ranges for the growth of the other monetary and credit aggregates are not being met."

The committee is correct in demanding monetary restraint from the Federal Reserve; the problem is that it does not demand enough restraint and allows the Federal Reserve to exercise entirely too much discretion in its control of the money supply. This, of course, is not to argue for congressional control of the money supply, but it is to argue that discretionary and arbitrary control over the money supply by any governmental agency must be abolished. If any responsibility is granted to the Government with respect to money, it should be to insure that the value of the money is maintained, not systematically destroyed through a policy of deliberate inflation. In medicine there is a term for diseases caused by physicians: iatrogenic. Inflation might correctly be called politicogenic, for it is caused by the politicians (including the officers of the Federal Reserve) who for 65 years have declared that they intend to cure inflation.

One hopes that the Federal Reserve abides by its promise to decrease the rate of monetary growth; it definitely should keep its word. But its past record is not encouraging, and the committee should consider legislation to curtail the Federal Reserve's discretionary powers and to begin the process of depoliticizing money altogether. Fiat money, with which we have been forced to live, requires extensive control and management at all times, with the hope of not disrupting the functioning of the economy too greatly. As the failure of the money managers becomes more and more apparent, other programs will be declared "necessary" and "required" by those same managers: Price and wage controls, rationing, import controls, capital market controls, and so on. All these programs will be imposed on the people at the sacrifice of personal freedom and the destruction of a market economy, should our present policies of monetary management continue. Sound, honest money needs no managers. The integrity of our leaders should insure money of real value. If this were so, inflation would disappear and our economy could be put on the road to recovery.●

COMPARATIVE RISK OF MODERN TECHNOLOGY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. RITTER) is recognized for 15 minutes.

● Mr. RITTER. Mr. Speaker, modern America in the 20th century has come a long way to reduce the risk and health hazards of daily work and life. Further refinements in reducing risks are having and will have a major impact on this country's industrial production, competitiveness, and jobs. Indeed, the very maintenance of our people's standard of living will depend upon our ability as a society to make correct decisions on various environmental standards as they derive from different forms of energy production, such as fossil, nuclear, solar, and so forth. In addition to energy, the survival of many industries will be based on the "intelligent" handling of risks. In a world full of daily risks, some large, some small, the level of risk we take on the job, breathing, eating, or drinking, must be judged in context, in comparison with other risks we face and in comparison with the risks of alternatives to a given food product or technology. Otherwise, in a never ending search for the negative aspect of products or processes we will most certainly bypass the positive and the cost to the quality of modern life will be inestimable.

As the Wall Street Journal has recently said:

> In most situations it's hard to know where the balance of risk really lies. Sometimes we actually have to trade one disease against another—with saccharin, with the carcinogenic nitrites that are now used to protect cured meats against botulism, or with the highly carcinogenic aflatoxins that sometimes infest the highly nutritious food peanut butter. Sometimes, as political scientist Aaron Wildavsky has recently pointed out in the magazine American Scientist, we reduce our own risks only by displacing them onto other classes of people. When we tighten drug testing regulations, we shift testing risks onto the backs of foreigners and create new risks for patients who might benefit from drugs not yet approved. When we restrict pesticides, we reduce world food supplies and increase prices, to the detriment of poor people in nations that import food.
>
> Sometimes we create unanticipated risks—as when we come up with catalytic converters that spew sulfur dioxide. Sometimes safety may become its own defect: If we shift from "dirty" nuclear energy to "clean" solar power, the lower efficiency of solar power will require more human effort per kilowatt and so may well produce more accidents.
>
> More generally, it is by no means clear that we should always be increasing our spending exponentially to shave the last few percentage points off the risks we happen to care most about at the moment. By doing so, we deprive future generations of increased resources that would help them deal better with the risks facing them further on down the road, risks of which we may as yet have not an inkling.

Today I am introducing legislation which will require the Environmental Protection Agency and the Food and Drug Administration to prepare a comparison of risk prior to the promulgation of any risk or regulation.

The purpose of the legislation is to begin discussion of this most important issue. I urge my colleagues to study this proposal and to arrive at a consensus on what this Congress can do to bring commonsense decisions to our modern technological society.●

REMARKS OF DR. WILLIAM G. BOWEN, PRESIDENT OF PRINCETON UNIVERSITY AT WASHINGTON LUNCHEON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. THOMPSON) is recognized for 5 minutes.

● Mr. THOMPSON. Mr. Speaker, each 2 years Princeton University has a luncheon in Washington for its graduates and degree holders who are Members of Congress, employees of the Congress, persons in public service, and Washington area alumni. The event is one to which Princeton and its friends look forward to with anticipation. It is not only a splendid social event but a useful intellectual experience for all.

On March 7 Dr. William G. Bowen, president of the university, gave the principal speech at the luncheon. It was so interesting, informative, and valuable that I feel it should be shared by all. It is my pleasure as a friend and honorary degree holder from the university to make it available:

REMARKS OF DR. WILLIAM G. BOWEN

In Alec Leitch's "Princeton Companion" published last fall, the legacy to the University from Woodrow Wilson (of this year's centennial Class of 1879) is described as "a vision of an institution dedicated both to things of the mind and the nation's service. . . ."

That continues to be our vision, and we fulfill it in essential ways through our commitment to scholarship and research of the highest quality. This will be the theme of my annual report to the Univeristy community later this spring, and I would like to take advantage of this very special gathering here in Washington to discuss with you what I believe are—and should be—widely shared convictions and concerns in this area.

As Jim Leach emphasized on the floor of the House last year, and as President Carter stated in his recent budget message, scholarship and research constitute an essential investment in the nation's future. They yield insights and discoveries that increase productivity, that enhance the competitive position of American industry, and that can serve to improve standards of living all over the world. While precise calculations of economic effects are not possible, careful studies suggest that advances in knowledge have accounted for roughly one quarter to one third of the increase in national income in the United States since 1929.

As is evident in the sciences and engineering, but is no less true in other branches of knowledge which help us to understand other peoples and societies, scholarship and research also contribute importantly to national security and improved international relations. They are essential as well to the very concept of freedom. I do not believe I exaggerate when I say that all the freedoms of our society depend in significant degree on the critical exercise of scholarship and research unfettered by any ideological or political harness and uncompromising in the pursuit of truth.

Finally, scholarship and research matter greatly for more intangible reasons that have to do with our zest for learning, and with the hopes, fears, and spiritual concerns that drive us. Any literate society, interested in human values, needs its poets and philosophers, its art historians and its scholar of religion, no less than its physicists, mathematicians, and engineers. All are necessary for our health and vitality—and perhaps even for our individual and collective sanity. (Please note that at this point in time I did not think it appropriate to mention economists!).

Fortunately, there is today in the United States an enviable capacity for outstanding accomplishments in many disciplines—much of it, especially in scientific fields, developed since World War II. According to figures compiled by the National Science Foundation, for example, of 492 major technological innovations in the period 1953 to 1973, 65 percent resulted from work in the United States. And 50 percent of the Nobel Prizes in science awarded since the war have gone to Americans, as opposed to only 20 percent up to that time.

As we think about the origins of this capacity to generate new ideas, we need to remember Francis Bacon's injunction of three and a half centuries ago that we must "from experience of every kind first endeavor to discover true causes and axioms; and seek for experiments of Light, not for experiments of Fruit. For axioms, rightly discovered and established, supply practice with its instruments not one by one, but in clusters, and draw after them trains and troops of works."

While the task of finding applications of new knowledge is obviously of enormous importance, the applications and the technologies of any given age depend critically on the basic research of earlier times, generally conducted by people interested in understanding the fundamental "axioms" of their fields without the deliberate intention of solving a practical problem or achieving a specific utilitarian end.

I realize that basic research frequently is criticized—and sometimes even ridiculed—by those who question its significance and who seek assurances of more or less immediate payoff. In assessing such views, we do well to recall that the most important medical advances of this century are rooted in basic research that included no hint whatsoever of such applications as the development of antibiotics, that one of the most important "practical" discoveries of all time (hybrid corn) owes much to a one-time Princeton professor, George Shull, who was equally fascinated by his studies of the evening primrose, and that the modern science of genetics received more than a small push forward as a result of a study by Gregor Mendel that could well have been titled "How to Segregate Round from Wrinkled Peas"—a surefire candidate for a "Golden Fleece" award in its time.

It certainly is true that scholarship and research, and even basic research, are conducted in places other than universities, but universities offer special advantages, and evidence suggests that the university environment has proven to be exceptionally conducive to major advances in knowledge.

To cite just one set of findings: When the National Science Foundation recently compiled a list of 85 significant advances over the past 20 years in four fields (mathematics, chemistry, astronomy, and the earth sciences), university scientists were found to have been responsible for more than 70 percent of them. (I might note that a tabulation of where the university scientists received their highest degrees showed that, as small as it is, Princeton ranked fifth, and was one of only four universities—with Harvard, the University of California at Berkeley, and Columbia—to have educated at least one person in each of the four fields. A tabulation of where the work was done showed that Princeton ranked second, behind only the California Institute of Technology).

There are, I believe, several characteristics of universities which account in large measure for this record of accomplishment. First, universities are committed to the twin concepts of academic freedom and the pursuit of the most fundamental questions, however unsettling or controversial they may be. Moreover, the university environment tends to encourage independent thinking, comprised as it is of individuals who are charged with a particular responsibility to think for themselves, to challenge each other as well as orthodoxies old and new, and to feel no obligation to follow anyone else's sense of the right way to attack a particular problem.

Another characteristic of universities is that they encompass work in a great variety of disciplines. Thus it is possible—though no one should claim that it happens always or necessarily—for faculty members in various fields to "kibitz" on the work of colleagues in other fields, thereby providing fresh perspectives and some hope of avoiding overly narrow approaches to fundamental problems. The relatively small size and the cohesiveness of Princeton offer special opportunities in this regard, and the cross-departmental programs we have established in such areas as energy and environmental studies, East Asian and Near Eastern studies, and economic development and modernization represent efforts to take advantage of this characteristic.

Finally, universities are "special" because of the inter-relationship between research and teaching which is as important as it is evident. The involvement of graduate students in advanced research—and frequently at Princeton of undergraduates as well—not only provides exceptional opportunities to prepare the next generation of scholars, but benefits the scholarship and research of this generation by subjecting it to new sources of criticism. Almost every faculty member on our campus, I suspect, can cite examples where students have asked a question or made a suggestion that opened a promising new line of inquiry, clarified a puzzle, or called into question a convention that ultimately proved to be deficient.

What this means, in part, is that the investment in university research produces a double benefit: Not only is the research accomplished in an unusually conducive environment, but those who will be the research leaders of the next generation are instructed and encouraged at the same time.

This relationship between scholarship and research, on the one hand, and teaching, on the other, was discussed in a memorable Baccalaureate address given in 1975 by Gregory Vlastos, at that time the distinguished chairman of our Philosophy Department, when he identified four processes necessary to advance and disseminate knowledge: (1) the discovery of new ideas and new forms: (2) the critical scrutiny of these innovations; (3) the assimilation of these very new results with the vast inheritance of previously discovered knowledge; and (4) the transmission of appropriate portions of this aggregate to succeeding generations of incoming students. "The excellences at the two extremes—of research and teaching," he went on to say, "have essential bonds with what comes in between—with criticism and erudition: without excellence in each of these the creator's work would be wild and the teacher's shallow."

As we look to the future of scholarship and research, we need to bear in mind that, as always, it is the quality of the people involved that matters most—our principal task is educating, recruiting, and motivating those rare individuals who are genuinely creative as well as committed to the hard work that is indispensable to first-rate scholarship and research. Unhappily, however, even the best people generally require at least some support. I am not convinced that the hair shirt will attract the best people to theology or poetry, never mind to Chinese politics or Plasma Physics. To be sure, pain can lead to creativity—but these days it would be more than just fashionably outrageous to argue the case for poverty as a stimulus to good work; it would be extraordinarily foolish and extraordinarily dangerous.

In my annual report, I shall describe in some detail the decrease in the real value of federal support for scholarship and research that has been a fact of the last decade at the major research universities. From a national standpoint, suffice it to say that the federal government supports about two-thirds of the nation's total basic research effort and more than two-thirds of all research and development conducted at colleges and universities. And federal support for basic research, in constant dollars, has declined by roughly five percent over the last decade. Looked at another way, between 1962 and 1975, while the fraction of GNP devoted to research and development in West Germany increased by 80 percent and the comparable fraction in Japan grew by 31 percent, in the United States there was a 15 percent decline.

This is a time, I know, when many of us question the role of government in various areas; I know I do. But let us make no mistake about the role of government in supporting basic research. It is rooted directly in the character of the activity: basic research is unpredictable, and the benefits it confers take the form of new ideas which no private entity can keep entirely to itself, but which naturally and inevitably "spill over" to the entire society Accordingly, there is widespread agreement with the proposition that government has a clear responsibility to foster advances in knowledge which are the common property of all. President Carter, his science adviser Frank Press, and others have spoken forcefully of the importance of increasing support for research, and especially basic research, and they have done so at a time of great budgetary stringency. They deserve credit for making this case, and the case they have made deserves the support of all who have a sense of the long-term values at stake.

Beyond the general question of levels of support, I have time today only to mention, almost in passing, five other specific concerns related to the future of scholarship and research—all of them, I think, familiar to you, and all deserving of much more attention than I can give them in this talk.

First, there is the terribly discouraging outlook for young scholars in essentially all fields of knowledge. As is well known, various factors—anticipated declines in enrollment, an unfavorable age distribution of faculties, tight budgets, and legislative pressures for later retirement—have combined to diminish drastically opportunites for new people to be appointed and then advanced. One set of projections done for the Council on Education illustrates the seriousness of the problem. If certain factors are held constant (student-teacher ratios, fractions of age-groups being educated, etc.), and if all faculty members who do not retire before age 65 were to continue teaching until 70, aggregative statistical projections indicate that on a net basis there would be literally no new faculty openings across the country for six consecutive years—from 1983 through 1988. All such projections are of course based on assumptions subject to modification, and I am certain that in fact there will be some openings in many institutions, including Princeton. Still, the national outlook has to be seen as bleak—and not of course just for the individuals concerned, but for the quality of teaching and research, dependent as it is on new people, new ideas, and the continuity of research efforts. We cannot afford to lose a generation.

Second, there is the problem of support for the major tools of scholarship and research—which are very expensive. Special mention has to be made of the major research libraries, critical as they are to scholarship in all fields, and of the costs involved in providing proper equipment and instrumentation in laboratories. What is needed in these areas is both more money and some new organizational arrangements that will facilitate the sharing of costly resources.

Third, there is a danger that the combination of severe budgetary limitations, political pressures to spread the available funds broadly, and worries about "relevance" will strengthen the inclination of both writers of proposals and reviewers of proposals to prefer "safe" projects. Yet, it is often true that the most "unpredictable outcomes" are the most significant. The same NSF study referred to earlier documented the importance of broadly-gauged, flexible research projects. In studying the origins and characteristics of the 85 most significant advances in the four scientific fields over the last 20 years, it was found that only 43 percent of the projects which led to these advances had actually contained, in the funding proposal, a direct reference to the significant outcome; 40 percent of the advances were derived from grants for broadly defined research in the general area; and 17 percent were related neither directly nor generally to the justification used in requesting support.

A fourth concern—and I hate even to mention it because I know everyone in Washington is sick to death of hearing about it—is administrative burdens. Having mentioned it, I'm almost sorry already that I did, because it's become a kind of code phrase, used in some cases to say things I don't want to say but do not have time today to disavow. In any event, it is a fact that, whatever the reasons and justifications, time and personnel available to do research have been reduced by substantially increased administrative demands. As always, what is needed is a balanced perspective, some acceptance by the universities of their own responsibilities to be at least reasonably orderly and businesslike in their procedures, some trust on the part of government, and a renewed determination by all concerned not to let contract administration become an end in itself, independent of, if not destructive of, other goals. When bureaucratic detail and regulatory zeal threaten to crowd out creative effort, there are no winners, and the original purpose of the undertaking is defeated.

Fifth—and this is an enormous subject all its own—in our concern for science, technology, productivity, and all the rest, we dare not lose sight of the importance of those other fields of knowldege which give meaning and direction to our lives. Asymmetries in the support of the sciences and humanities need to be reviewed in the most thoughtful way—not with an eye to somehow "equalizing" things, an objective both impossible and undesirable—but with an eye to recognizing the separate needs and critical contributions of each set of subjects.

Scholarship and research, and our concerns for their future, can be thought of in quite practical, utilitarian terms; and, in one sense, there is nothing wrong with such a conception since these activities do matter so very importantly to our well-being. But such an orientation is, in my view, dangerously incomplete.

Ultimately, our commitment to the advancement of knowledge must be seen at least as much in terms of values that are more easily felt than entered on any ledger of the usual kind. For me at least, the importance of our commitment to scholarship and research transcends measurable needs. It reflects our pressing, irrepressible need as human beings to seek understanding for its own sake. It is tied inextricably to the freedom to think freshly, to see propositions of every kind in ever-changing light. And it celebrates the special exhilaration that comes from a new idea.

My greatest personal debt to Princeton as a teaching institution derives from an experience I had as a beginning graduate student in the fall of 1955. As a student in one of the last classes in the History of Economic Thought taught by Professor Jacob Viner, I was given the privilege of seeing at first hand what constitutes scholarship of a high order, and how the standards and values of scholarship can inform work that otherwise might seem routine or pedestrian—and, for that matter, can affect the whole of a person's life. I hope that those who were unable to witness Professor Viner's scholarship, or who do not know the fruits of it, will nonetheless sense the spirit of what I am trying to say through the following comment of his:

"All that I plead on behalf of scholarship is that, once the taste for it has been aroused, it gives a sense of largeness even to one's small quests, and a sense of fullness even to the small answers to problems large or small which it yields, a sense which can never in any other way be attained, for which no other source of human gratification can, to the addict, be a satisfying substitute, which gains instead of loses in quality and quantity and in pleasure-yielding capacity by being shared with others—and which, unlike golf, improves with age." ●

THE AMERICAN LEGION'S 60TH ANNIVERSARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, March 15 marks the 60th anniversary of the founding of the American Legion, and the Legion's almost 3 million members continue their sponsorship of services for children and youth as well as rehabilitation, athletic, health, and education services in communities all across our country.

About 16,000 Legion posts of the Nation invested nearly $20 million in the past year in the future of America's young people through physical fitness activities like Scouting and baseball, scholarships, health and safety programs, and the Legion's Auxiliary women and children spend time in service to their communities helping their friends, neighbors, and relatives with everything from senior citizen programs to conservation projects.

Delegates from the First American Expeditionary Force founded the Legion on March 15, 1919, in Paris, France. The preamble to the constitution of the American Legion states:

> For God and country we associate ourselves together for the following purposes: to uphold and defend the Constitution of the United States of America; to maintain law and order; to foster and perpetuate a one hundred percent Americanism; to preserve the memories and incidents of our associations in the great wars; to inculcate a sense of individual obligation to the community, State and Nation; to combat the autocracy of both the classes and the masses; to make right the master of might; to promote peace and good will on earth; to safeguard and transmit to posterity the principles of justice, freedom and democracy; to consecrate and sanctify our comradeship by our devotion to mutual helpfulness.

The American Legion has maintained the high standards it set for itself in 1919 and the members of this outstanding organization continue to be successful in making their noble ideals become a working reality. In their 60 years of proud accomplishment, Legionnaires all over the country follow in the fine tradition responsible for establishing the GI bill of rights and veterans' benefits to include jobs, education, health care, housing opportunities, and aid to disabled veterans.

Two out of three major league baseball players have gotten their start as part of the thousands of junior baseball teams sponsored by the American Legion, and a brand new program has been established benefiting the Special Olympics. The Legion also awards college scholarships, conducts Boys' and Girls' State programs, safety, and antichild abuse activities, and helps children get immunized against childhood diseases. Hundreds of young people visit Washington, D.C., each year because of the American Legion and oratorical, citizenship, and essay awards are presented each year to participating youth.

Mr. Speaker, the members of the American Legion have not only protected the interests of our Nation abroad, but have also contributed mightily to the strength of our Nation at home. On this 60th anniversary of the founding of the American Legion, I congratulate the Legionnaires of Illinois and our Nation on their magnificent record of the past and extend my best wishes for their success in future service.●

THE PEACE CORPS IN ACTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. BONKER) is recognized for 5 minutes.

● Mr. BONKER. Mr. Speaker, today, on behalf of myself and over 30 of my colleagues, I introduce the Peace Corps Reform Act which would liberate the Peace Corps from ACTION. It would reconstitute the Peace Corps as a Government foundation and restore responsibility for its own administration, goals, and programs. It will breathe new life into a slowly dying agency.

ACTION's management has been given ample opportunity under several administrations to make the disparate programs under its umbrella work. The Peace Corps has been penalized long enough.

The Peace Corps is important for America. It is our unique response to a turbulent and impoverished world. It expresses, on a human scale, America's concern for the world's neediest. It helps Americans understand other peoples better, and others to understand us.

These are precious benefits. Yet over the last 8 years the Peace Corps has been a lackluster program overshadowed by the sprawling bureaucracy of ACTION. And in the process, costs per volunteer have skyrocketed, enrollment has plummetted, morale is down and, in recent months, high ranking officials have openly disputed policy questions. Linking volunteer programs together for bureaucratic convenience has not worked. Regrettably the ultimate price may be borne by the Peace Corps.

The Subcommittee on International Development last session conducted a series of hearings on a proposal to take the Peace Corps out of ACTION. Former Peace Corps volunteers, past Directors of the Agency, Sargent Shriver and John Dellenback, and virtually everyone who appeared before the subcommittee, supported the concept. The hearing record produced convincing evidence that the Peace Corps needs to be truly independent if it is to retain its sense of purpose and be free of political meddling. Earlier suggestions to place the Peace Corps in a revamped AID program or superagency umbrella organization drew strong opposition.

There have always been structural and political problems with the ACTION concept, and despite renewed hopes in the early Carter days, that record remains today. The recent dismissal of Carolyn Payton, a devoted Peace Corps Director and competent administrator, is further evidence that a structural malaise exists in ACTION. There is no way that a Peace Corps Director can be truly independent when he or she must be accountable to another agency head.

On behalf of the worlds' poor, and in fairness to those Americans who are willing to give of themselves in the impoverished areas of the globe, I urge your support of the Peace Corps Reform Act. I am convinced this liberation will allow the Peace Corps to evolve again into the vibrant, exciting voice for positive change in the world that it once was.●

REPEALING A FEDERAL LAW PURPORTING TO PERMIT RACIAL SEGREGATION IN AGRICULTURAL COLLEGES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. LELAND) is recognized for 10 minutes.

● Mr. LELAND. Mr. Speaker, I have today introduced a bill to eliminate from the United States Code certain statutory language which purports to permit racial segregation in colleges established and financed with Federal funds under the Agricultural College Act of 1890 (the Second Morrill Act).

That act authorized payment of Federal funds for the support of colleges to teach agriculture and mechanical arts in the States and territories. At that time, in 1890, many States either provided no education for colored people—as they were then called—or educated them in schools separate from white students. The Congress therefore specified in that act that the funds authorized by that act may not be used for colleges which made "a distinction of race or color * * * in the admission of students * * *" However, in 1890 our country was not ready, unfortunately, to accept a fully nonracial educational system. The act therefore permitted funding for agricultural colleges that were maintained "separately for white and colored students," but only "if the funds * * * be equitably divided * * * between one college for white students and one institution for colored students * * *."

This "separate-but-equal" kind of educational system was declared unconstitutional almost 25 years ago when the Supreme Court, on May 17, 1954, issued its historic decisions in *Brown* v. *Board of Education*, 347, U.S. 483 and *Bolling* v. *Sharpe*, 347 U.S. 497.

It certainly startled me to find this unconstitutional "separate-but-equal" statutory formula staring at me in the current 1976 edition of the United States Code. Its presence obviously serves no valid function and, its repeal is at least 25 years overdue.

I hope that Congress will quickly enact my bill and thereby consign this "separate-but-equal" catechism to the limbo of the history that shamed our national heritage and hampered our people.●

SECOND ANNIVERSARY OF ANATOLY SHCHARANSKY'S ARREST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

● Mr. COTTER. Mr. Speaker, as I speak here today, Anatoly Shcharansky lingers in a Soviet prison. This day marks the second anniversary of his arrest by Soviet authorities on an unsubstantiated espionage charge.

The facts in this case and others suggest that the Soviet authorities continue to oppress dissident groups in direct violation of the Helsinki accords. Since this international agreement was signed, reports of actions by the Soviet Government which are completely inconsistent with the principles set forth at Helsinki continue to be brought to our attention, both directly by persons who have fled their native land and indirectly by press reports and many interested private organizations and individuals. These reports, coupled with past Soviet actions, demand a strong protest from this body.

Shcharansky's courage in the face of a Soviet campaign to destroy the movement of the dissidents in that country, is an international demonstration of the resolve for freedom.

Our actions here today, clearly indicate to the U.S.S.R. that we will not be silent until all Soviet citizens are allowed the freedoms established by the Helsinki accords.

I urge President Carter to pursue all available diplomatic avenues to seek Shcharansky's release from his internment in Soviet prison.●

THE INTERNATIONAL TRADE AGREEMENT SHOULD NOT BE USED TO OVERTURN FEDERAL PROCUREMENT POLICIES TARGETING CONTRACTS TO NEEDY BUSINESS AND REGIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 5 minutes.

● Mr. LAFALCE. Mr. Speaker, a critical flaw exists in the much ballyhooed multinational trade agreement which would render impotent procurement preference programs for small businesses, firms in high unemployment areas, and minority groups.

We have long recognized that it is necessary to direct Government procurement dollars to appropriate sectors of the American economy through our set-aside programs. Thus, since 1954 it has been both the policy and law of this country to set-aside Government contracts for small businesses; since 1952 it has been the policy to set-aside contracts for firms located in areas of high unemployment; and since 1969, it has been our policy to set-aside contracts for minority businesses. Throughout this period, the House Committee on Small Business and the Senate Select Committee on Small Business have engaged in improving and refining these programs, as well as encouraging all Government agencies to use them to the greatest extent practicable. Since the inception of these programs, great strides have been made in the implementation of these through the continued education of procurement personnel.

The proposed multinational trade agreement would end all of this. Under the agreement, these set-asides cannot be made in most instances when the value of the procurement will exceed 150,000 special drawing rights, an international measure that is the equivalent of about $190,000 (based upon present currency rates). The proposed trade agreement will apply to purchases of goods, and services incidental thereto, which amounts to $11 to $11.5 billion.

It is especially disturbing that the trade negotiators do not appear to have a significant data base. They are unable at this time to tell us how each of the set-aside programs will be affected. Yesterday, the Small Business Committee staff was able to ascertain that the minority set-aside program has an average set-aside of $222,357, and an average set-aside for manufacturers of $526,821. Since procurements of this magnitude will no longer be eligible for set-aside if the multinational trade agreement is approved in its present form, that program will most certainly be affected to the point of extinction. While we are still in the process of attempting to glean data for the other set-aside programs, I would expect the results to be comparable.

While this agreement is being undertaken in the name of fair competition, it places American companies at a severe disadvantage with foreign concerns who use cheap labor and may even be subsidized by their Government.

At this point, the action contemplated by the administration is merely proposed. The Trade Act of 1974, pursuant to which these negotiations are taking place, directs that the relevant committees in Congress be consulted with respect to the proposed action. No one has yet consulted with the members of the House Small Business Committee on this most significant proposal. While it was 4 years in the making, it was only last week that the staff of the committee was first contacted. I certainly hope and expect that the administration plans on consulting with us prior to its submission of any formal proposal to the Hill.

In all events, if the administration continues upon its path and ignores these important preference programs, I sincerely hope that my colleagues will oppose any enabling legislation effectuating these obnoxious policy reversals.

THE SALES REPRESENTATIVES PROTECTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. OTTINGER) is recognized for 5 minutes.

● Mr. OTTINGER. Mr. Speaker, Congressman MATTHEW RINALDO and I are today introducing a revised version of the Sales Representatives Protection Act. The bill, in its present form, represents 4 years of careful study and review in an effort to arrive at the best possible way to protect the independent sales representative of this Nation from abuse without unduly penalizing fair and reasonable principals.

Independent sales representatives are the lifeline of this Nation's free enterprise system. As the essential link between thousands of manufacturers and the multitudes of wholesalers and retailers, they serve as the vehicle vital to safeguarding free entry to the marketplace. The fact is that virtually any small firm can market a new product by using the resources of independent sales representatives, who work for commission only.

Unfortunately, the very source of the independent sales representatives' versatility—a commissioned salary—is also the source of his or her greatest vulnerability. Some unscrupulous manufacturers rob the sales representative of the commission he or she has earned working to build up an account for the principal. It is a devastating situation for the representative who has invested much time and personal resources in an account only to have his or her territory cut, commission slashed or an entire segment of his or her business transformed into a house account. Unlike almost every other worker or professional in this country, sales representatives are currently without recourse to protect or to defend themselves from arbitrary acts which can ruin their professional reputations, not to mention their financial well-being.

The Sales Representatives Protection Act provides a system of posttermination compensation in the event that a sales representative is abruptly and without good cause terminated. The purpose of the bill is to provide a more fair and definitive relationship between sales representatives and their principals. If the sales representatives do not meet their obligations as outlined in the bill, they can be terminated without indemnification. If the principals unreasonably, as defined by the legislation, terminate sales representatives, they must indemnify them according to an equitable formula. The legislation includes minimal standards for any contract between sales representatives and their principals.

The act further provides that if a contract exists between a sales representative and a principal that meets the minimum standards provided in title II, the provisions of the contract will be controlling and the principal will not be subject to the liabilities set forth in title I of the bill, the indemnification of the sales representative. This waiver provision is intended to encourage principals and their sales representatives to enter into reasonable contracts that provide adequate protection for both.

It is nearly 30 years since the playwright, Arthur Miller, first shocked the American people with his play, Death of a Salesman, a grim portrayal of the grueling life of a sales representative. Since that time, few advances have been made to improve the rights and working conditions of these important contributors to the American economy. Sales representatives are not eligible for union membership; they have gained neither workmen's compensation nor unemployment insurance. The Willy Lomans of the United States still look to the Congress for the equitable working conditions they deserve. On their behalf, we urge our colleagues to lend their support to the Sales Representatives Protection Act.

The text of the bill follows:

H.R. 3020

A bill to provide for payments to certain sales representatives terminated from their accounts without justification, to provide for the scope of contracts between sales representatives and their principals, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Sales Representatives Protection Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress makes the following findings:

(1) Many individuals who work as sales representatives for business firms are compensated primarily by commission.

(2) Such sales representatives operate most effectively and productively when assured that they will be compensated for their efforts in accordance with the terms of their contracts with their principals.

(3) Such sales representatives do not generally have the benefits of workmen's compensation, unemployment compensation, or company-sponsored retirement or pension plans and are not eligible to bargain collectively.

(4) Such sales representatives invest their own time and resources in the development of their territories and markets.

(5) Many sales representatives are subjected to wrongful termination from their accounts, reduction in the size of their sales territories, conversion of their accounts to house accounts serviced directly by their principals, and other abuses which deny such sales representatives the full benefits of their labor.

(6) It is in the public interest to provide a means by which sales representatives who are wrongfully terminated may be reasonably compensated for such termination.

(b) The purpose of this Act is to provide a more definitive, better and more equitable system under which sales representatives and principals can conduct their relationships.

DEFINITIONS

SEC. 3. For the purposes of this Act:

(1) The term "principal" means any person who—

(A) is engaged in the business of manufacturing, producing, assembling, importing, or distributing merchandise for sale in commerce to a customer who purchases such merchandise for resale or for use in business;

(B) utilizes sales representatives to solicit orders for such merchandise; and

(C) compensates such sales representatives, in whole or in part, by commission.

(2) The term "sales representative" means any person (other than an agent-driver or commission-driver) who is engaged in the business of soliciting, on behalf of a principal, orders for the purchase of such principal's merchandise.

(3) The term "good cause" means conduct on the part of a sales representative with respect to a principal of such sales representative which constitutes—

(A) dishonesty or fraud or other criminal activity;

(B) a material breach of the contract between such sales representative and such principal;

(C) failure to put forth a good faith effort to obtain orders for the merchandise of such principal; or

(D) gross negligence in the performance of the duties of such sales representative.

(4) The term "commerce" means trade, traffic, transmission, communication, or transportation—

(A) between a place in a State and any place outside thereof; or

(B) which affects trade, traffic, transmission, communication, or transportation described in subparagraph (A).

(5) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and the Canal Zone.

(6) The term "account" means a customer of a principal—

(A) which purchases merchandise of such principal through a sales representative of such principal for resale or for use in business; and

(B) to which such sales representative solicited orders on behalf of such principal for a period of not less than twelve months immediately preceding the termination by such principal.

TITLE I—INDEMNIFICATION

INDEMNIFICATION BY PRINCIPAL OF UNJUSTLY TERMINATED SALES REPRESENTATIVE

SEC. 101. (a) Any principal who, without good cause, terminates a sales representative from an assignment to solicit orders on behalf of such principal from an account or accounts of such sales representative shall indemnify such sales representative in accordance with section 102(a).

(b)(1)(A) Any principal who reduces the size of the geographic territory, if any, which such principal has assigned to a sales representative, with respect to an account or accounts of such sales representative shall, if such reduction results in a reduction of not less than 15 per centum in the dollar amount of commissions paid by such principal to such sales representative for orders accepted from such account in the twelve-month period immediately following such reduction in geographic territory compared with the dollar amount of commissions paid by such principal to such sales representative for orders accepted from such account in the immediately preceding twelve-month period, indemnify such sales representative in accordance with paragraph (3).

(B) In any determination under subparagraph (A), any reduction in the dollar amount of commissions paid by such principal to such sales representative because such principal failed to fill orders submitted by such account due to an act of God, an act of war or insurrection, a strike, or an act of an agency of government shall be disregarded.

(2) Any principal who reduces the rate of commission paid to a sales representative of such principal for orders accepted by such principal from an account or accounts of such sales representative shall, if such reductions in any twelve-month period is a reduction in rate of commission of not less than 15 per centum, indemnify such sales representative in accordance with paragraph (3).

(3) Upon a reduction in amount of commissions described in paragraph (1) or a reduction in rate of commission described in paragraph (2), the principal causing such reduction shall—

(A) if the sales representative involved elects to terminate his relationship with such principal with respect to the account involved, indemnify such sales representatives for such reduction in accordance wtih section 102(a); or

(B) indemnify such sales representative for such reduction in accordance with section 102(a).

COMPUTATION OF INDEMNITY

SEC. 102. (a) Any principal required under section 101 to indemnify a sales representative shall be liable to such sales representative in an amount equal to one-tenth of the average compensation of such sales representative for the preceding five years for the account which is the subject of this action, or, if the sales representative maintained such account for less than five years, one-tenth of the average compensation of such sales representative for the years in which such sales representative maintained such account.

PAYMENT OF INDEMNITY RESULTING FROM SETTLEMENT

SEC. 103. (a) Following the making of a binding agreement to settle a claim by a sales representative against a principal for an indemnity under this title, and prior to any action as set forth under Section 301(a), the principal involved shall pay the amount of such settlement to such sales representative—

(1) not later than thirty days after the date of such agreement; or

(2) if the amount of such settlement is greater than $3,000, in the manner described in subsection (b); whichever such principal elects.

(b) A principal electing under subsection (a) to pay the amount of a settlement in excess of $3,000 under this subsection—

(1) shall pay not less than 40 per centum of such amount to the sales representative referred to in subsection (a) not later than thirty days after the date of the agreement to make such settlement; and

(2) shall, at the time of the payment referred to in paragrpah (1), give such sales representative two negotiable notes, each for one-half of the balance of such amount, one of which shall be due not later than twelve months after the date of such agreement and shall bear interest at twice the highest rate of interest paid by the United States on notes issued by it during any three-day period including such date to be due in twelve months and the other of which shall be due not later than twenty-four months after the date of such agreement and shall bear interest at twice the highest rate of interest paid by the United States on notes issued by it during any three-day period including such date to be due in twenty-four months.

(c) Nothing in this section shall restrict or invalidate any right or remedy set forth in sections 301 and 303.

TITLE II—CONTRACTS BETWEEN SALES REPRESENTATIVES AND PRINCIPALS

CONTRACT TERMS

SEC. 201. Any contract between a sales representative and a principal under which such sales representative shall solicit orders for the merchandise of such principal shall include a provision with respect to each of the following items:

(1) The rate of commission to be paid by such principal to such sales representative for orders accepted by such principal from an account of such sales representative, and a statement of any other form of compensation to be paid by such principal to such sales representative.

(2) The amount and method of payment of any advance on the future compensation of such sales representative to be given by such principal to such sales representative, and the terms under which such principal will recover such advance.

(3) The amount of notice, if any, such principal shall give such sales representative before terminating such sales representative: *Provided*, That such notice is not less than thirty days after one year of representation, not less than sixty days after two years of representation, and not less than ninety days after three years of representation, and the manner in which any such notice shall be given.

(4) A description of the sales territory, if any, assigned to such sales representative and a statement of whether such territory will be an exclusive territory of such sales representative with respect to the merchandise, or a line of merchandise, of such principal.

(5) The terms, if any, under which disputes between such principal and such sales representative shall be submitted to arbitration, including, if such disputes shall be submitted to arbitration, the method to be used in selecting the arbitrator.

(6) The ownership of any samples furnished by such principal to such sales representative for use in business.

(7) The number of days after an order for the merchandise of such principal is transmitted by such sales representative to such principal within which such principal must notify such sales representative whether such order has been accepted or rejected.

(8) The terms, if any, under which such sales representative will be paid a commission for an order which was transmitted by such sales representative to such principal before the termination of such sales representative from the account from which such order was transmitted, but which was accepted by such principal after such termination.

(9) The terms, if any, under which such sales representative will receive copies of shipping documents which relate to merchandise shipped by such principal to an account of such sales representative.

(10) The terms, if any, under which such sales representative will be allowed to solicit orders for the merchandise of other principals.

DUTIES OF PRINCIPAL

SEC. 202. Any principal who enters into a contract with a sales representative under which such sales representative shall solicit orders for the merchandise of such principal shall—

(1) inform such sales representative, within a reasonable time to be specified in such contract, of such principal's receipt of each order from an account of such sales representative;

(2) furnish such sales representative, within a reasonable time to be specified in such contract, copies of all invoices and credit memorandums issued with respect to sales in the assigned geographic territory, if any, of such sales representative;

(3) furnish such sales representative monthly statements of commissions due such sales representative; and

(4) provide such sales representative, upon the request of such sales representative—

(A) an accounting showing each sale made by such principal in the preceding twelve months in the assigned geographic territory, if any, of such sales representative;

(B) information with respect to any matter which is related to any claim by such sales representative against such principal for a commission; and

(C) access to the records of such principal for the purpose of verifying information supplied under subparagraphs (A) and (B).

(5) Not, without "good cause," terminate any sales representative from an assignment to solicit orders on behalf of such principal from an account or accounts of such sales representative.

TITLE III—MISCELLANEOUS

PROCEDURE

SEC. 301. (a) An action to enforce any rights of liabilities created by this Act may be brought in a district court of the United States without regard to the amount in controversy or in any other court of competent jurisdiction.

(b) In the case of an action arising under this Act which is brought in a district court of the United States, such action may be brought in the judicial district where all the plaintiffs reside in addition to any other judicial district provided by law.

(c) No action may be brought under this Act later than 6 years after the right to such action arises.

(d) In any action brought by any sales representative against any principal under this Act, the burden of proof on the issue of whether such principal acted without good cause shall rest on such principal.

(c) In any successful action brought by a sales representative under this Act, the court may award reasonable attorneys' fees and the cost of the action to such sales representative.

(f) Payment of indemnification under this Act shall be deemed to be a payment of wages and salary under 11 U.S.C. 507(a) (3) and (4).

(g) The right to indemnification arises on the date the principal has completed the actions listed in section 101 and does not terminate upon the death of the sales representative.

WAIVER PROHIBITED

SEC. 302. Any provision in any contract between any sales representative and any principal requiring such sales representative to waive any of the provisions of this Act shall be void. However, where a contract which conforms with the provisions of title II of the Act exists, the indemnification provisions of title I shall not apply.

EFFECT ON STATE LAW

SEC. 303. Nothing in this Act shall invalidate or restrict any right or remedy of any sales representative under the law of any State.●

DID U.S. AGENCY CALL NUCLEAR PLANTS UNSAFE? LOOK AGAIN!

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 10 minutes.

● Mr. ROSTENKOWSKI. Mr. Speaker, in light of the ongoing debate concerning the mix of various energy sources, our colleague, MORGAN F. MURPHY, has noticed a glaring discrepancy in the analysis of nuclear power safety.

I recommend MORGAN's comments for your review:

[From the Chicago Tribune, Mar. 11, 1979]

DID U.S. AGENCY CALL NUCLEAR PLANTS UNSAFE? LOOK AGAIN!

(By Representative MORGAN F. MURPHY)

Earlier this year, the federal agency responsible for the safe operation of nuclear power plants issued a critique of a mammoth 1975 study on nuclear power.

The Nuclear Regulatory Commission (NRC) said the reactor safety study, known as the "Rasmussen report," had "understated" the numerical range of probability for a major reactor accident. (The 1975 report, an 18-volume work undertaken by 60 specialists, was named after the study's director, Dr. Norman C. Rasmussen of MIT.)

Some public confusion has resulted. Opponents of nuclear power are saying that the NRC statement vindicates their view that nuclear power is unsafe. They charge that the nuclear industry has relied strongly on the Rasmussen report to convince Congress and the public that nuclear energy is safe, and now that "security blanket" has been torn away.

But that does not accurately represent what the NRC said.

NRC's chief criticism was aimed not at the body of the report, but at its "executive summary," a description of the study's contents in layman's terms. The commission called the summary "poor" because it did not adequately indicate the possible hazards of a reactor accident. (The potential accident is a loss of water coolant that could cause the reactor's fuel core to melt and release radioactive gas.)

NRC also criticized the Rasmussen report for failing to acknowledge "cogent comments" of nuclear power critics.

Nevertheless, the commission in no way suggested that the chances of a reactor accident were greater now than in 1975. It only said that the study's mathematical estimates had a greater margin of error than was originally believed. As an NRC spokesmen said: "The action does not mean that the commission now considers nuclear power plants to be dangerous. . ."

In fact, the head of the panel that prepared NRC's reassessment, Dr. Harold Lewis of the University of California, said that the Rasmussen risk estimate is probably not off by much. Lewis told the Washington Post: ". . . if the probabilities (of an accident) were much more, we should have had one by now. Further, if we were on the verge of a core melt, there would have been a history of near-misses, and there hasn't been even one."

Indeed, Lewis believes that nuclear power is even safer than the Rasmussen report said it was. Lewis noted that Rasmussen's calculations did not take into account the ability of power plant engineers to respond to a dangerous situation. This "assume the worst" analysis led Rasmussen to overestimate the dangers of a nuclear accident.

To keep the risk factor in perspective, it should be remembered that the Rasmussen report concluded that the chance of a serious nuclear accident was as remote as that of a meteor striking a city. The estimated odds: once in a million years. In this context, an increase in the study's mathematical margin of error is hardly a cause for alarm.

Risk estimates aside [and the odds are heavily in favor of nuclear power], the "real world" safety record of nuclear power has been excellent. There has never been a fuel melting accident at any of the 72 nuclear power plants now operating in the U.S. Nor has a single worker suffered death from radiation at any of these plants. And unlike other energy sources, the commercial use of nuclear energy has never injured a member of the public since the first reactor was built 20 years ago.

Despite this fine record, critics have insisted for years that the safety of nuclear power was still "unproven." This argument was dealt a severe blow last December when the NRC simulated a major "accident" at a nuclear power plant in Idaho, and the test came off without a hitch. Officials deliberately broke the cooling pipes around the reactor's radioactive core, and in some seven seconds—compared to an anticipated 90 seconds—the emergency water system cooled the reactor. (The reactor had yet another back-up system if that failed.) This was well within federal safety regulations.

Contrary to what nuclear critics suggest, the NRC has relied very little on the Rasmussen report in evaluating the safety of existing reactors. Rather, it based its regulatory decisions on traditional engineering analyses. So it is doubtful that a new probability study—along the lines of a Rasmussen report—would be useful.

But whether or not a new study is conducted, one fact remains unchanged: nuclear power is a safe, clean, and abundant energy source. As such, it can help the U.S. reduce its dependence on foreign oil [if the electricity generated by nuclear power last year had been produced by oil, it would have consumed 470 million barrels].

Beyond that, nuclear power can help meet our growing energy needs for the future.●

PROVIDING FOR COVERAGE OF ADDITIONAL SERVICES UNDER MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STOKES) is recognized for 5 minutes.

● Mr. STOKES. Mr. Speaker, today I am introducing legislation to provide for the coverage of additional services under the medicare program. The new health services which would be covered are prescription drugs, eye and teeth care, hearing aids, annual physical exams, immunizations, foot care, and examinations for detecting hypertension. The necessity of these services to our senior citizens is obvious and can be supported by statistics.

There is no provision for funding out-of-pocket. As a matter of fact, the aged spent $72 per person in 1974 for prescription drugs which was nearly 2½ times the $30 average per capita expenditure for all age groups. Our senior citizens cannot continue to bear this financial burden since most are on fixed incomes and nearly one-fourth are below or near the poverty level. My bill will grant relief through the coverage of out-of-institution drugs under medicare.

It has also been found that proper vision care is one of the overlooked needs of the elderly. The percentage of our citizens requiring vision care to maintain good vision performance increases to approximately 96 percent at age 70. It has been found that through eye examination, ophthalmologists can often detect diseases such as diabetes, hypertension, arteriosclerosis, brain tumors, and eye diseases such as glaucoma and cataracts. My bill will therefore allow for medicare coverage of eye care, including examinations for prescribing, fitting, or changing eyeglasses.

Approximately half of all Americans over the age of 65 suffer significant bilateral hearings impairment which is sufficiently severe so as to restrict their understanding of speech. The law currently excludes payment for hearing aids or examination. I believe the statistics on hearing impaired elderly reveal that coverage of such examinations and hearing devices should be included in the medicare statute. Additionally, a large number of our elderly citizens also wear dentures or need other types of dental care. I, therefore, feel that these health items be covered under medicare legislation.

I also believe that with better preventive health care, many serious illnesses could be abated. Medicare coverage of immunizations and annual physical examinations would represent such a preventive health incentive.

My bill will also provide for medicare coverage of foot care including the cutting or removal of corns, warts, or calluses, and the trimming of nails, and other routine hygenic care.

And finally, my bill will provide for medicare coverage of examinations for detecting hypertension (high blood pressure). This provision is particularly important because an estimated 35 million Americans are hypertensive. The reported prevalence rate for senior citizens is 20 percent or higher. Regular testing for this chronic disease will greatly decrease death from strokes and heart attacks.

Mr. Speaker, I believe statistics support why all of these health services should be covered under the medicare program. I urge my colleagues to join me in demonstrating concern for the health of the elderly by passing this legislation.●

HEALTH PLANNING AND RESOURCES DEVELOPMENT AMENDMENTS OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. WAXMAN) is recognized for 5 minutes.

● Mr. WAXMAN. Mr. Speaker, I am pleased to join today with Dr. CARTER, the distinguished ranking minority member of the Subcommittee on Health and the Environments, and with other distinguished members of our subcommittee to introduce the Health Planning and Resources Development Amendments of 1979. This bill provides for the amendment and extension of titles XV and XVI of the Public Health Service Act which were enacted by Public Law 93-641, the National Health Planning and Resources Development Act of 1974.

As my colleagues may recall considerable attention was given to amending the health planning statute during the last Congress. The Subcommittee on Health and the Environment conducted 3 full days of hearings on this important legislation. It was carefully considered in markup by both the Subcommittee on Health and the Environment and the full Commerce Committee and reported. The bill by only seven votes failed to receive the necessary two-thirds vote by the House under suspension of the rules. The bill was subsequently given a rule and debated on the floor but was not able to be scheduled for a vote prior to the adjournment of the House. It is likely that if we had additional time last year these amendments would have passed the House.

The goal of the health planning program—to provide access to quality care at a reasonable cost—is as important today as it was in 1974 when this legislation was enacted. Many sectors of our Nation particularly rural areas do not have adequate access to even basic medical services. Health systems agencies (HSA's) the State health planning and development agencies are working with local groups to attract necessary medical resources to those areas. It is clear to us that the rapid rise in health care costs presents us with a major problem. Health planning agencies are working on this problem through their review of new institutional health services by assuring that only those services and facilities which are needed are allowed to be developed and constructed.

Excess hospital capacity is also a problem for some areas and health planning agencies are working with local communities to consolidate health care facilities or to use existing facilities to provide alternative services as appropriate. Good health planning is essential if we are to successfully meet these needs and improve the efficiency of our health care delivery system.

The structure of the health planning system provides that decisions about health care needs and priorities are made at the local level by organizations composed of consumers, local elected officials, and providers of health care working together, in conjunction with State governments. I believe that, while the planning program is not without problems, the concept of health planning at a local level is important and that the structure established by law is sound. We now need to move to continue to strengthen the health planning system so that it can begin to achieve the goals we have established.

The bill which I introduced today moves us along this road. It is identical to the bill which was reported by the Committee on Interstate and Foreign Commerce last May with some important revisions.

While the bill proposes a number of changes in the current law, the following seem to be the most central to improving health planning in our Nation:

First, the bill strengthens health systems agencies' governing body requirements. This is done by continuing to assure that a broad range of both consumer and provider perspectives are involved in the health planning process while prohibiting a self-perpetuating HSA governing body. The process for the selection of the HSA governing body would be required to be open and well publicized and be such that the governing body itself is prohibited from selecting at least one-half of its new consumer and provider members. In addition, the governing body members who have a conflict of interest in a matter before the health systems agency would be required to make that conflict known and to refrain from voting on certain issues before the health systems agency.

Second, the bill would provide a larger role for Governors in the health planning process. It would require the State health planning and development agency to identify statewide health needs at the beginning of the planning cycle which the HSA would then be required to consider in the development of its plans. The Governor would be allowed to disapprove the State health plan under certain circumstances. The Governor would also be more actively involved in the process of area and HSA designation.

Third, State certificate of need requirements would be improved. The reported bill would require closer ties between planning and regulatory decisions by requiring that certificate of need decisions not be inconsistent with the State health plan. Required certificate of need coverage would be extended to major medical equipment—defined as equipment over $150,000—that is used to serve inpatients of a hospital. This change will close a loophole in existing certificate of need law where an individual can install equipment in leased space in a hospital or a facility adjacent to a hospital and carry out diagnostic and treatment procedures avoiding certificate of need review.

Fourth, the bill would strengthen the linkages between local and State health planning and that which takes place at the Federal level. The Secretary would be required to analyze and review the health plans that are developed by the HSA's and States and use that analysis to modify the national guidelines for health planning or in developing additional guidelines. The bill makes it clear that the national guidelines for health planning are not to be rigid standards inflexibly applied but rather benchmarks that HSA's can adjust as local circumstances require. The bill requires more adequate consultation with various groups prior to revision of or establishment of additional guidelines.

Fifth, the bill would revise existing law to better assure adequate financial support of health planning. As health planning matures and takes on additional responsibilities we must continue to insure that it is properly funded. The bill provides a number of changes to provide adequate and more flexible funding for health planning agencies.

Sixth, the bill would revise the existing resource development authorities. It would extend Federal loan and loan guarantee programs to support health-care facility development although support would be limited to priority areas. Project grant authority for the construction and modernization of public hospitals and health-care facilities would be extended. New grant authority for the construction of outpatient medical facilities in medically underserved areas and the conversion of existing facilities into facilities for outpatient and long-term care would be established. Finally, the legislation would repeal the provisions of existing law which have provided allotment grants to States to develop health-care facilities.

The bill which I am introducing modifies the bill reported by the Committee on Interstate and Foreign Commerce last year in three significant ways. First, proposed resource development authorization levels have been reduced to recognize competing priorities and budget realities. The resource development authorizations in the health planning amendments last year totaled $830 million for the 3-year period covered by the bill. The bill which I introduce today recommends authorization levels 36 percent below that amount.

Second, provisions are added to the bill to better integrate our systems of planning for physical and mental health services. The bill makes it clear that persons knowledgeable about mental health services—including substance abuse—should serve on the HSA governing body and its committees and that HSA plans should include goals related to both physical and mental health. At the State level, the State mental health authority should be actively involved in working with the State health planning agency in developing a State health plan that includes mental health goals. These provisions were approved and reported by the Committee on Interstate and Foreign Commerce as part of the "Health Centers Amendments of 1978" last year.

Finally, the bill would establish a new program to assist and encourage the discontinuance of unneeded hospital services by providing Federal grant dollars to assist hospitals with debt and other costs which may be barriers to the discontinuance of hospital facilities and services. Excess hospital capacity has been shown to be a major problem in this country which adds unnecessarily to health care costs. Yet hospitals often face significant obstacles to closure even after a decision has been made to do so. This program will eliminate some of those obstacles. It is estimated that significant savings can result from reducing this excess capacity. Provisions similar to these were also approved last year by the Committee on Interstate and Foreign Commerce.

The Health Planning and Resources Development Amendments of 1979 are based on the premise that the basic planning structure created by the National Health Planning and Resources Development Act is sound. The proposed changes are aimed at improving it. In doing so the bill is designed to provide as little disruption to the planning system as possible recognizing the great time and effort that has been expended by volunteers, both consumers and providers, in developing it. I recognize that health planning is far from mature in many parts of our country, that some HSA's have performed miserably, and that some agencies have had just over 2 years to develop. Because the program is still in a developmental stage we must temper our expectations of the program's performance. Yet we must begin to evaluate its accomplishments. Some initial results look encouraging.

We will want to examine the results of these encouraging studies in the course of hearings on the health planning program. We will also begin an independent evaluation of our own into the performance of HSA's. Because the performance of health planning has been uneven, we will want to identify barriers to success—legal, technical, financial, or political—and the reasons for failure where this has occurred. We will also want to clarify congressional expectations for this important program so that 3 years from now we can expect results and more critically examine program performance.

Mr. Speaker, these amendments build upon the extensive record developed by the subcommittee in its consideration of the health planning program during the last Congress. While recognizing that this bill does not deal with all the changes that may be necessary, I believe it provides a good starting point for our discussion of health planning this year. We will be scheduling hearings in the next several weeks and I look forward to constructive debate over the provisions of this bill as well as to the consideration of other suggestions for improving health planning in our Nation.

Mr. Speaker, I am pleased to join today with Dr. CARTER, the distinguished ranking minority member of the Subcommittee on Health and the Environment, and with other distinguished members of our subcommittee to introduce several bills which extend the authorities for and make modifications in health and environmental programs. These programs are: First, emergency medical services systems (title XII of the Public Health Service Act); second, health information and health promotion (title XVII of the Public Health Service Act); third, safety of public water systems (title XIV of the Public Health Service Act); fourth, Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970; fifth, Drug Abuse Office and Treatment Act of 1972; and sixth, the Drug Enforcement Administration (the Controlled Substances Act).

All of these programs address health and environmental problems which have a direct and immediate effect on the well-being of the American people. Where appropriate, these programs focus on preventing health conditions which would require expensive and lengthy medical attention.

The proposed amendments to the emergency medical services systems (EMS) program (title XII of the Public Health Service Act) extend authorizations which were created by the Emergency Medical Services Systems Act of 1973 (Public Law 93-154), and extended in October 1976 by Public Law 94-573. HEW is currently authorized to provide grants and contracts to public and nonprofit entities for emergency medical service systems, research, training of personnel, and demonstration projects in burn injury programs. The proposed amendments create a new section which authorizes assistance for poison control information and treatment centers.

Accidental injury is the leading cause of death among all persons aged 1 through 38, and is the fourth highest cause of all deaths in the United States. The EMS program provides assistance to communities unable to respond immediately and effectively to a medical emergency, so that deaths and disability from accidents can be reduced.

These amendments authorize the EMS program for another 3 years, fiscal year 1980, 1981, and 1982. The authorization levels diminish each year to reflect the legislative intent that State and local governments continue to assume more responsibility for these programs so Federal involvement can be phased out.

In 1976, Public Law 94-317 added a new title XVII, health information and health promotion, to the Public Health Service Act. This title provides new and expanded authority for programs in health information and health promotion within the Department of Health, Education, and Welfare. Title XVII specifically provides that the Secretary shall:

First, formulate national goals, and a strategy to achieve such goals, with respect to health information and health promotion, preventive health services, and education in the appropriate use of health care;

Second, analyze the necessary and available resources for implementing those goals and strategies, and recommend appropriate educational and quality assurance polices for the needed manpower resources identified by such analysis;

Third, undertake and support necessary activities and programs to incorporate appropriate health education components into all aspects of education and health care; increase the application and use of health knowledge, skills, and practices by the general population in its patterns of daily living; and establish systematic processes for the exploration, development, demonstration, and evaluation of innovative health promotion concepts;

Fourth, undertake and support research and demonstrations respecting health information and health promotion, preventive health services, and education in the appropriate use of health care;

Fifth, undertake and support appropriate training in the operation of programs concerned with health information and health promotion;

Sixth, undertake and support, through improved planning and implementation of tested models and evaluation of results, effective and efficient programs respecting health information and health promotion;

Seventh, foster the exchange of information respecting research, demonstration, and training programs in health information and health promotion; and

Eighth, create within HEW an Office of Health Information and Health Promotion to:

Coordinate all activities within the Department which relate to health information and health promotion;

Coordinate its activities with similar activities of organizations in the private sector; and

Establish a national information clearinghouse to facilitate the exchange of information concerning matters relating to health information and health promotion.

The work of the Department is to be carried out in programs of research, community programing, and informational services.

Authorizations for this program were made in the following amounts: $7 million for fiscal year 1977, $10 million for fiscal year 1978; and $14 million for fiscal year 1979. Appropriations for this program were made in the following amounts: No funds were appropriated for fiscal year 1977; $1.5 million was appropriated for fiscal year 1978; and $1.2 million was appropriated for fiscal year 1979.

The proposed amendments would authorize this program for 3 years at $14 million in fiscal year 1980, $15 million in fiscal year 1981 and $16 million in fiscal year 1982. I believe it is apparent to all Members that efforts to promote good health and well-being and to prevent personal health conditions which contribute to illness are of paramount importance. The extension of this program will contribute to these efforts.

I also have introduced, as a part of the amendments to title XVII, proposed amendments to correct two authorizations in the community mental health centers (CMHC) program. In the 2-year authorization passed by the 95th Congress on the last days of the session (Public Law 95-622), two programs under the Community Mental Health Centers Act, consultation and education and financial distress, were inadvertently authorized at insufficient levels for fiscal year 1980. The authorizations proposed by these amendments will appropriately address the need of these two programs for fiscal year 1980. The committee will review the entire community mental health center program later in this Congress.

The third bill I am introducing today would extend for 3 years authorities for programs under the Safe Drinking Water Act (title XIV of the Public Health Service Act—Safety of Public Water Systems). This legislation would permit the Environmental Protection Agency to continue the work of assuring the provision of safe drinking water to all consumers. It would extend the Administrator's authority to make grants to States to enable them to maintain public water system supervision programs and to implement underground water source protection programs where necessary. Additionally, the bill would extend the authority of the Administrator to perform studies and research into the causes, treatment, and control of diseases stemming from contaminants in drinking water and would enable the Administrator to provide technical assistance to States and municipalities to assist them in establishing and administering public water system supervision programs. Finally, the bill would extend the Administrator's authority to provide grants to States or publicly owned water systems which are faced with emergency situations that pose a substantial danger to public health and which need Federal assistance.

The authorizations in this bill would build upon the Federal-State partnership created in 1974 by the Safe Drinking Water Act. Presently 40 States have attained primary enforcement responsibility for the operation of their public water systems and are in the process of meeting Federal standards.

The fourth bill proposes a simple 1-year extension of the authorizations of appropriations for the research, prevention, and treatment programs of the National Institute on Drug Abuse under the Drug Abuse Office and Treatment Act of 1972 and of the National Institute on Alcohol Abuse and Alcoholism under the Comprehensive Alcohol Abuse and Alcohol Prevention, Treatment, and Rehabilitation Act of 1970. The incidence of alcoholism and alcohol and drug abuse in our country is of deep concern to me. While I fully support efforts to address these seemingly untractable health problems, I am proposing a simple 1-year extension because of my concern with current deficiencies and uncertainties in leadership and management of these programs and due to my intention to carefully review the goals and objectives of the program later this year. I believe oversight of these programs is necessary to assure their effectiveness in the future. Since budget deadlines are fast approaching, a simple extension would both continue these programs and permit further oversight and any necessary legislative adjustments later this year and early next year. The proposed amendments extends authorizations at last year's levels.

The last bill proposes a 3-year extension of the authorizations of appropriations under section 709 of the Controlled Substances Act for the Drug Enforcement Administration in the Department of Justice. The Drug Enforcement Administration is the primary Federal agency responsible for law enforcement and regulatory aspects of drug abuse prevention and control.

In introducing these bills today, I am soliciting the widest possible comment from my colleagues, and administration, all interested and effected parties, and the public. In the weeks ahead, we will hold extensive public hearings on these proposals. I look forward to receiving all comments on the provisions of the bills, as well as any suggestions for alternative approaches to the provision of these important services.●

● Mr. CARTER. Mr. Speaker, I am pleased to join today the distinguished chairman of the Subcommittee on Health and the Environment, HENRY A. WAXMAN, in cosponsoring six bills reauthorizing several health programs of vital importance to our continuing efforts to improve the health care provided to the American people. The legislation extends the following authorities: Health planning and resources development, emergency medical services, health information and health promotion, the Drug Enforcement Administration, the National Institute on Drug Abuse, the National Institute on Alcohol Abuse and Alcoholism and the activities of the Environmental Protection Agency involving the safety of drinking water.

Of special interest to me is the reauthorization of the National Health Planning and Resources Development Act, (Public Law 93-641). As ranking minority member of the subcommittee, I have supported this program since its inception and I am hopeful that early passage of this measure will be secured this year. I would like to point out that the bill introduced today is virtually identical to the bill reported by the Committee on Interstate and Foreign Commerce which received 261 favorable votes on the floor of the House when it was considered last year. The major difference between this year's bill and last is that the authorizations have been reduced.

I submit that this is an important bill, one which in the past has enjoyed strong support on both sides of the aisle. The health planning program is the one avenue open to us which has the ability and the sensitivity to decide between competing goals when resources for health-care improvements are becoming ever more scarce. Most importantly, it is primarily a local program which involves individual citizens in making the decisions necessary to insure that every one of the dollars which we invest in health-care is spent as effectively and efficiently as possible. I am hopeful that my colleagues will give this bill their strong support.

I would like also to emphasize my support for the reauthorization of the activities of the Drug Enforcement Administration under the Controlled Substances Act. As our subcommittee has studied the problems of drug abuse over the last several years, one thing has become very clear; the best way to combat drug abuse and the crime and misery which it produces is to cut off the supply of dangerous drugs. And although the Drug Enforcement Administration has moved effectviely to do just that, our problems in this area are as large as ever. In fact, it was recently reported to me that traffickers in marihuana are making such large profits that they are no longer able to count their illicit gains. Instead, they weigh the stacks of bills which they receive. During the subcommittee's hearings on this issue, I intend to make sure that DEA has the tools it needs to do its job. If necessary, I will offer substantive amendments to the Controlled Substances Act to provide the necessary resources.

The emergency medical services program is one which has especially important implications for the health of this Nation. Recently, rural citizens have reported difficulty in obtaining reliable, effective emergency care. This is of particular concern to me since the availability of modern ambulance service, well-trained emergency medical technicians, and comprehensive emergency treatment is one way in which we can directly improve the life expectancy of our people. The bill being introduced today would insure that our efforts to improve these services would continue by providing funding for 3 years at about the same level as appropriated in years past. The bill would add one new program for the establishment of poison control information and treatment centers. In this time of budget constraint I intend to examine this new proposal very carefully to insure that there is sufficient need to justify the addition of a new service at this time.

The prevention of illness before it can occur has long been known to be a more effective approach to better health than remedial treatment once disease has struck. Both the Safe Drinking Water Act and the health information and promotion legislation are two such efforts to prevent illness before it can start. The Safe Drinking Water Act promotes better health by providing funding to local communities to insure that disease-causing agents are removed from our drinking water, while the health information and promotion program is intended to provide a coordinated effort to promote better health. As the original sponsor of the health promotion legislation, I strongly support its extension. I submit that both programs represent an excellent investment in good health, and I urge support for this 3-year extension of these authorities.

The bill reauthorizing the activities of the National Institute of Drug Abuse and the National Institute of Alcoholism and Alcohol Abuse is a simple 1-year extension of these two programs. Although I support the extension of both programs, I believe that both deserve close scrutiny to insure that they are doing the job which we expect of them. Unfortunately, the heavy schedule of the Subcommittee on Health and the Environment precludes the necessary examination of these programs before the Budget Act deadline of May 15. I would urge my colleagues to support this simple extension without substantive amendment with the understanding that detailed oversight of these two programs will be taken as soon as possible.

Last, I would like to say that it is a distinct pleasure to mark the beginning of a working relationship with the new chairman of the Subcommittee on Health and the Environment through this announcement of cosponsorship. I am sure that this year, as in years past, the subcommittee's work will lead to improvements in the health care provided to the people of this country.

Thank you, Mr. Speaker.●

● Mr. WALGREN. Mr. Speaker, I am pleased to join Chairman WAXMAN and my colleague from Kentucky, Dr. CARTER, in cosponsoring several bills introduced today which will extend the authorities for important health and environmental programs. These bills extend the following programs:

First, health planning and resources development;

Second, emergency medical services;

Third, health information and promotion;

Fourth, safe drinking water;

Fifth, alcohol abuse and alcoholism and the drug abuse programs; and

Sixth, drug enforcement administration.

I feel strongly that cost-effective programs which are designed to improve the health of our population deserve the careful consideration and support of Congress. I look forward to hearing from my constituents, the public and the administration on ways to promote and maintain the good management and effectiveness of these programs.●

MIDEAST PEACE TREATY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 30 minutes.

● Mr. BINGHAM. Mr. Speaker, it now appears that the signing of the Israeli-Egyptian Peace Treaty will take place within a week. After 30 years of hostility and five wars, Israel is, at last, on the brink of peace with its largest and most powerful Arab neighbor.

I do not expect that peace will emerge full blown on the day the treaty is signed. There are still many complicated issues which must be resolved before Mideast peace is a reality. But the Israeli-Egyptian Treaty is a long first step toward that peace which, I am now convinced, is inevitable.

I commend Prime Minister Menachem Begin and President Anwar Sadat for their courage and wisdom in embarking on this road. Prime Minister Begin has agreed to give up territories larger than Israel itself in return for this treaty. President Sadat has broken with a 30-year history of nonrecognition of and aggression toward the State of Israel. But the real hero of the day is our own President Jimmy Carter. He confronted, what most observers considered to be, a no-win situation and returned with peace. There are many in the Congress who have strongly criticized the President for maintaining a low profile in foreign affairs, for not showing the flag in the face of provocation. The answer to that is the Israeli-Egyptian Peace Treaty. President Carter did show the flag in the Middle East but he did it in the quest for peace.

I have noticed that many news commentators and others have remarked on the cost of this treaty to the U.S. taxpayer. The impression is left that the United States purchased this treaty and that funds which could have been spent elsewhere or used to balance the budget will now be diverted to the Middle East. That just is not so. The United States will be increasing aid to Israel and Egypt but the amounts are small compared to what the alternative of no peace would cost us.

Between weaponry and the probable lost oil, a Mideast war would be far more expensive, even if the United States were lucky enough to escape involvement. Any cost-benefit analysis would show that the Israel-Egypt Peace Treaty will be a superb investment for the American people and the world.

But, of course, there is much more to it than that. We should not weigh the costs of war and the costs of peace on the same scale. There can be no cost analysis that can accurately weigh the loss of fathers and husbands; that can gage the suffering of wives, and mothers, and children. Who can put a price on the men cut off in their prime?

Mr. Speaker, I am grateful to President Carter for his outstanding show of leadership in the Middle East. I am proud of what he has achieved and I believe all Americans should be proud of our President and of the role played by this Nation.●

DEFENSE EMPLOYMENT: DISPELING THE MYTH

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, as part of the effort to curb inflation, Congress is being asked to make some hard choices this year about how and where to make cuts in the Federal budget. Yet this year, President Carter has submitted a fiscal year 1980 defense budget request of $138.2 billion in budget authority and $125.8 billion in outlays. It seems to me that we simply cannot justify making cuts in other programs without subjecting the defense budget to the same intense scrutiny given other programs. Until recently, few economists gave much thought to the economic impact of our enormous military budget. It is now generally recognized that this expenditure is highly inflationary. The inflation and unemployment caused, in good part, by excessive and unnecessary defense spending are strong reasons for Congress to see that our defense dollars are spent wisely.

One of the myths that helps to increase the size of our military budget is that defense spending is good for the economy because it helps to create jobs. Nothing could be further from the truth. The simple fact is that fewer jobs are created by defense spending than if the same amount of money was spent on civilian programs. Last year, in a report entitled "The Empty Pork Barrel," Marion Anderson surveyed a number of Federal agencies to see how many jobs would be created in each agency by the expenditure of an additional $1 billion. The results of the survey were telling. An expenditure of $1 billion would create 85,000 jobs for nurses; 76,000 jobs for teachers; 73,000 jobs for policemen; 70,000 jobs for firemen; and only 58,000 jobs in the defense industry.

One way for Congress to help generate more jobs and curb inflation is to explore alternatives to our defense budget through the vigorous pursuit of planned economic conversion. Conversion—the redirection of our resources, facilities, and technology away from military purposes and toward peaceful purposes to meet civilian needs—is gaining support among leaders of labor and industry. Recently, an article on the benefits of economic conversion by William W. Winpisinger, the distinguished president of the International Association of Machinists and Aerospace Workers, appeared in an advertisement placed in the Washington Post by an organization called Promoting Enduring Peace. Mr. Winpisinger argues that many Members of the House and Senate, as well as labor and industry leaders, are led to support increased military spending by the mistaken belief that defense spending is good for the economy. His article makes an impressive case for economic conversion, stating that:

First. Military spending generates unemployment;

Second. Heavy defense spending is "a perpetual inflation machine";

Third. The monopolization of technology by the defense industry has deprived other industries of desperately needed technological innovation and improvement;

Fourth. The military monopolization of the economy has encouraged American corporations to step up overseas investment instead of expanding their activities in the United States; and

Fifth. Military spending weakens rather than strengthens the economy.

The full text of Mr. Winpisinger's article is as follows:

PLANNED ECONOMIC CONVERSION: GETTING OFF THE HOOK OF DEFENSE DEPENDENCY

(By William W. Winpisinger)

Ever since World War II the Military has been muscling Congress for a lion's share of the nation's resources, technology and manpower. After more than 30 years and $1.8 trillion the Pentagon has enough hydrogen bombs to blow up the world serveral times over. But each year the brass comes up with a new list of ever more sophisticated, complicated and expensive weapons it must have—B-1 bombers, neutron bombs, exotic nerve gases and nuclear powered aircraft carriers. In funding the Military's yearly spending sprees many Congressmen and Senators are impelled more by economic considerations than by the nation's actual military needs.

Defense contracts have become a gigantic, nationwide public works project—a form of technological leaf-raking. Hundreds of communities, thousands of corporations and millions of workers have become pathetically dependent on the Pentagon for prosperity, profits and jobs. The American economy has become as hooked on "defense" as a junkie on drugs. In response to anxieties of members employed in the defense-related industries, unions have usually been in the vanguard of support, beating the drums and leading the cheers for the Military's annual raid on the U.S. Treasury.

The time has come to inform union members of the facts, and show them where their real economic and social interests lie.

Fact: Military spending generates more unemployment than jobs. Defense industries are so capital intensive it takes a billion dollars to create 45,800 jobs. By comparison a billion committed to the civilian sector creates from 58,000 jobs in mass transit construction to 98,000 in public service employment. Every dollar taken by the Pentagon leaves less for other purposes. Senator Ted Kennedy has found that "defense" causes a net decrease in jobs in 26 states with 60 percent of the population. Many experts contend that $30 billion could be cut from the $128 billion Department of Defense budget without risk to the nation's security. If applied to civilian or public service sectors this $30 billion would create between 414,000 and 1.2 million new jobs, over and above the jobs lost through defense production cutbacks. The multiplier effect of the resulting increased civilian demand for civilian products would ripple throughout the economy and create still more jobs and promote the national full employment goal.

Fact: The Pentagon is a perpetual inflation machine. It drives up prices by pumping dollars, but not goods and services, into the economy, by siphoning scarce resources and raw materials into non-productive purposes, by condoning waste, cost overruns and inefficiency among prime contractors who maximize profits by inflating costs, and by fueling ever larger deficits in the federal budget. More than half the present national debt is directly traceable to the Pentagon.

Fact: Military spending retards technological progress and economic growth in civilian industries. With the training and skills of nearly half of America's scientists and engineers monopolized by "defense" the research, development and investment needs of civilian industries have been shortchanged. While Japan and Western Europe have been modernizing and upgrading basic industries, America has become increasingly non-competitive. By committing so much capital, know-how and skill to the business of death and destruction, America can produce the most sophisticated and advanced missiles on earth. But in production of electronic goods, television, radios, typewriters, machine tools, shoes, clothing, automobiles and other manufactures we have become increasingly vulnerable both in world markets and our own.

Fact: The Military drag on the civilian economy has accelerated a flight of American capital, technology and jobs to other lands. With military priorities monopolizing the nation's industrial technology, U.S.-based corporations have stepped up investment overseas. Such corporations invested $47 billion in offshore enterprises in the 1960's. According to current projections they will invest $28.8 billion in property, plants, machinery and equipment overseas this year, $32 billion next year and $32.6 billion in 1980. If these dollars were invested in civilian and consumer industries in the United States unemployment would diminish and billions of dollars now being spent for welfare, food stamps, unemployment compensation and other relief programs could be saved. In addition, the formerly unemployed people would become taxpayers, paying an average per worker of between 3–4 thousand dollars in all forms of taxes for a total of at least 3 billion dollars.

Fact: Military spending weakens rather than strengthens the economy. This is proven by simply comparing the U.S. economy with West Germany and Japan. Because the Military grabs off 26% of the federal budget the rest of the economy has deteriorated into a chronic condition of high unemployment, trade deficits, ruinous inflation and steadily weakening currency. While making only token contributions to their own defense Japan and West Germany have achieved booming prosperity, full employment, trade surpluses, stable prices and strong currencies.

Conclusion: An alternative must be found to the death and destruction business which is impoverishing America.

The dilemma for unions is that the Pentagon holds the jobs of millions of workers hostage. The American labor movement must convince working people that there is a better way. It's called Planned Economic Conversion.

Planned Economic Conversion begins with income and benefit guarantees, job retraining, portable pensions, transfer rights and moving expenses for workers stranded by plant shutdowns when Pentagon contracts are cancelled.

Planned Economic Conversion means shifting resources and facilities now being devoted to war into production for peace. It means, for example, vastly stepped up development of solar and other non-fossil energy sources, rebuilding the nation's once great railroad system, construction of urban rapid transit, renovation and beautification of decaying cities, expanded housing, cleaning up the nation's air and waterways.

Planned Economic Conversion is the humane way, the sensible way, the only way to get workers, communities, states and even corporations off the hook of defense dependency.

American workers are drafted into defense production in the interest of national security. Since there is no connection between maximum national security and the current overkill capacity, then defense workers deserve better treatment than to be discarded on the free market's human scrap-heap of unemployment.●

A NEW STRATEGY FOR MILITARY SPENDING

(Ms. HOLTZMAN asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Ms. HOLTZMAN. Mr. Speaker, I would like to share with my colleagues an article entitled "A New Strategy for Military Spending" which appeared in the October 1978 issue of Scientific American. This article is a thought-provoking analysis of the U.S. defense budget and suggests it can be reduced by almost $50 billion a year without decreasing our military capability. In fact, the authors conclude that current U.S. military forces so far exceed actual need as to be unsafe for the country and the world.

I strongly urge my colleagues to read this important study. The text follows:

A NEW STRATEGY FOR MILITARY SPENDING

(An analysis of U.S. military forces finds that they so far exceed actual military needs as to be unsafe for the nation and the world. A program for prudently decreasing these forces is here described)

(By Philip Morrison and Paul F. Walker)

In the 33 years since the end of World War II, Americans have periodically perceived the Russians as standing 10 feet tall. This is such a period. It is said, for example, that the day is close at hand when a small fraction of the U.S.S.R.'s growing number of land-based nuclear warheads will be able to hit more than 75 percent of the 1,000 silos containing Minuteman missiles, the most reliable and accurate U.S. nuclear deterrent. It is proposed that the U.S., at a cost of $20 billion or more, therefore press ahead with the development of the mobile Missile X, 200 of which would be shuttled at random among 4,000 silos spread over an area as large as Connecticut. It is urged that the U.S. not accept a new treaty based on a second round of Strategic Arms Limitation Talks (SALT II) that would interfere with Missile X or with the development of cruise missiles, the highly accurate jet-powered weapons carriers that can be launched from land, sea or air.

It is also urged that in order to counter the 20,000 tanks of the Warsaw Pact forces in Europe the U.S. deploy enhanced-radiation weapons ("the neutron bomb") for tactical purposes. With or without neutron bombs, the U.S. has asked its partners in the North Atlantic Treaty Organization (NATO) to increase their defense spending by at least 3 percent per year, in constant dollars, into the 1980's. In spite of a presidential veto, pressure continues for a fifth nuclear-powered aircraft carrier at a cost of more than $2 billion. (The U.S. already has 13 blue-water aircraft carriers; the U.S.S.R. has no comparable vessels.) At this writing the Department of Defense budget before Congress for the fiscal year 1979 is $126 billion in total authorizations, about 40 percent of net Federal spending.

There is no evidence that the Carter Administrtaion, in drawing up the first defense budget for which it is entirely responsible, has followed the method of zero-based budgeting, which President Carter so strongly recommended when he was a candidate for the office. In this method each agency of the Government would have to review and justify every one of its programs from scratch, regardless of the previous level of spending or of how many people are entrenched in the performance of particular duties. The method has been widely adopted in business as a means of controlling costs, which in all organizations tend to rise inexorably. Because we believe with President Carter that zero-based budgeting has substantial merit we have followed its precepts in trying to answer the question: How much does the U.S. really need to spend to maintain its national security? The answer summarized in this article is given at full length in a book soon to be published, *The Price of Defense: A New Strategy for Military Spending*. The book has been prepared by the informal Boston Study Group, of which we are members. (The names of the other members are given in "The Authors," page 20.)

Since the end of World War II the U.S. has put more than $2 trillion into its military establishment, including the cost of the wars in Korea and Vietnam. With this expenditure the U.S. has become by any reasonable measure the world's formost military power. The U.S. "triad" of 1.054 land-based missiles, 656 submarines-based missiles and 380-plus long-range bombers could theoretically deliver more than 6,500 megatons of nuclear explosive on more than 11,000 targets. Over a four-year period following the signing of the SALT I agreement in May, 1972, the U.S. increased the number of nuclear warheads in its constant inventory of land- and submarine-based missiles at a rate of more than 100 per month, three times the rate achieved by the U.S.S.R. in the same period. The total strategic-warhead count now stands at 9,000 for the U.S. to 4,000 for the U.S.S.R. Overall the U.S. has more than 30,000 nuclear weapons of which 22,000 are designed for tactical purposes.

Not only does the U.S. have many more nucear weapons than the U.S.S.R. but also its weapons are more advanced. Indeed, the U.S. leads the world technically in nearly every significant aspect of military hardware, non-nuclear as well as nuclear. This proficiency contributes to the power of the traditional elements of the U.S. Army, Navy and Air Force, but it is not the sole source of their strength. What makes U.S. general-purpose forces—apart from strategic forces—uniquely powerful is the combination of technical advantage with size and structure. The general-purpose forces are capable of bringing non-nuclear power to bear in any part of the world. In this respect the U.S. stands alone as the world's only truly global power.

In the view of most Americans the vast U.S. military establishment is a benign force with only one goal: to preserve the freedom of the U.S. and of its long-standing allies whatever the cost. Proponents of larger defense expenditures—the advocates of Missile X, enhanced-radiation weapons, the B–1 bomber, a new arsenal of cruise missiles and an additional nuclear aircraft carrier—have often observed that if their "present danger" scenario is in error, all that is lost is a few billions (or perhaps tens of billions) of dollars. They have further observed that if the advocates of restraint in the growth of military forces are in error, the U.S. may one day face irresistible pressure to make some repugnant accommodation. Given that choice, the arms budget continues to grow.

It is our thesis that the simplistic pursuit of military growth has after three decades passed the bounds of reason, even setting aside the externalities of inflation and fiscal soundness. In a world whose surface area does not grow at all, military forces whose physical power grows steadily are in the long run profoundly unsafe. Step by step, in the name of "realism," the U.S. has moved from a dangerous situation into one even more dangerous. Every step upward in potential damage and in speed of response has added genuine risk, the risk of unreasonable or mistaken leadership, of an error in judgment. Such is the clear history of warfare. The spring has been wound tighter and tighter each decade. The greatest real cost is not the wasted billions but the never ending escalation of technique and the growing complexities of the tautened balance. The risk is that the overwound spring will break, and the nations with it.

It is much to be wished that a winding down could be achieved by mutual agreement. Diplomacy, however, lags in seeking solutions by formal agreement; those on both sides who either do not trust the other side or have something to gain by military growth will find some imbalance in every formula for negotiation. For example, a recent report funded by the Defense Nuclear Agency asserts that the U.S. is behind in the majority of 41 "measures of Soviet-American strategic military power," regardless of whether these indexes are militarily relevant or not.

We believe the time has come for a new arms-control approach, one that can be adopted unilaterally on its merits. Our proposal is that the U.S. buy as much force as it needs but not more, that it prepare prudently for military contingencies but not overprepare and that it recognize it is too late for the rule of simple slogans such as "Peace through strength" or "Always assume the worst." The policy we propose is not based on any one axiom of military preparedness. It is based on an issue-by-issue and weapon-by-weapon examination of the world of warfare today and in the near future. We have reached the conclusion that a very different structure of military forces would better meet the ends the country seeks. Our goal has been to describe this structure.

We do not think any taint of isolationism should be or can be imputed to our effort. The new force structure we shall describe would defend directly and indirectly, as it does at present, all U.S. territory and the territory of our chief allies, that is, the NATO powers and Japan, against any plausible dangers of the next decade. The new forces we shall describe are safer forces because they would not generate in others, who may misread U.S. purposes, as great a perceived need for enlarging their forces.

The prudential military structure we propose would reduce the U.S. defense budget by about 40 percent, or some $50 billion a year. At the very least, even if the U.S. initiative we advocate fails to spark a constructive response abroad, we shall have removed from this country the onus of contributing to the forward momentum of military growth. If a reversal of such growth can be achieved, one can hope for a reduction in the fraction of world income spent on arms from the 5 to 10 percent of recent decades to the 3 percent that was typical between the world wars, or even down to the 1 percent prevailing before World War I. Such a reduction in arms expenditures would transform the world in innumerable ways; it would free an enormous volume of material and human resources for more constructive ends. Most important in our view, it would reduce the probability of a war among the industrialized nations that could be their last.

Military forces need to be judged in relative terms. They usually imply the existence of at least one major adversary; his force level goes far in determining the scale of one's own forces. To be sure, there are absolute criteria of geography and history as well. The long frontier the U.S. shares with Canada, for example, bears no comparison with the one the U.S.S.R. shares with China. Perceived threats, real or otherwise, act as the catalysts for military structures. A look at some facts of military life worldwide will demonstrate the point.

Today the four most populous nations muster the largest land forces: China, the U.S.S.R., India and the U.S. Yet immediately behind the U.S. in the size of their land forces come the Socialist Republic of Vietnam, South Korea, North Korea and Pakistan, with armies ranging from 600,000 to 400,000. The next four largest armies, ranging from 375,000 to 300,000 are those of Turkey, the Federal Republic of Germany, France and Taiwan. The U.S., with an army of 790,000, would not plan to match the Indian army of close to a million, much less the Chinese army of more than three million. Similarly, although American concern with Russian forces is persistent and intense, the relative strengths of the two countries cannot be evaluated by a count of guns, tanks, aircraft, naval vessels and missiles. Rather one must try to estimate the strength of the forces one might actually face at the time when and in the place where the contest might be joined if deterrence were to fail.

Secretary of Defense Harold Brown emphasized this point in a talk to the Commonwealth Club of San Francisco in June. The goal, he said, was effective defense without the "ideological baggage" of simplistic quantitative comparisons interpreted in spurious political terms. "We don't necessarily care," he said, "whether the Soviets have more tanks than we do. . . . We do care whether, in the event of Soviet attack, we are able to throw it back. . . . That, rather than simply outdistancing the Soviets in numbers of tanks or any other single item, is what you should demand of the U.S. and allied defense establishments."

"We could," Brown continued, "go out and simply try to duplicate Soviet capabilities, but it would not make sense to do so. . . . Our interests are different. We do not need four million men, 45,000 tanks or 10,000 surface-to-air missile launchers. We need whatever it takes to protect our interests. Basically we want to forestall or deter conflicts that could jeopardize those interests."

In seeking to assess accurately the "Soviet threat," Brown point out: "It is no secret that a quarter of the Soviet non-nuclear capability is on the Chinese border; that many aspects of the Soviet logistic capability remain fragile; that current Soviet operating doctrines require larger forces than we could use for the same purposes, and that we have stronger, more reliable allies than the Soviets."

The large differences between the structures of American and Russian military forces become clear when the two are compared function by function. Such a comparison was made two years ago by Congressman Les Aspin of Wisconsin and his staff and was subsequently verified and improved by the Defense Intelligence Agency. As is shown in the illustration on the next page, the contrasts are substantial. The U.S.S.R. has a long border with an estranged great power that ties down at least 600,000 men. Another 700,000 Russian uniformed personnel are employed in support functions for which the U.S. prefers to use civilians. The U.S.S.R. has 500,000 military personnel engaged in border patrol, coastal protection and internal security, five times the number employed by the U.S. The U.S.S.R. has about 550,000 people in a large special organization, the Air Defense Forces (PVO-Strany), devoted to protection against the long-range bombers of the U.S. Strategic Air Command.

This Russian organization mans as a defense against high-altitude bombers more than 12,000 surface-to-air missile launchers, some 2,600 interceptor aircraft and 6,000 radar installations. In a missile age the U.S. requires no equivalent defense against the far smaller Russian bomber force. The U.S. Air Defense Command (with Canadian help) flies a tenth as many interceptors, and U.S. surface-to-air launchers for continental defense have dwindled to a few active Nike batteries in Alaska and Florida and a number of newer Hawk batteries also in Florida. The entire air-defense force amounts to about 1 percent of its Russian counterpart.

Even in the case of strategic offensive forces the U.S. requires only about a fifth the personnel employed by the U.S.S.R. to operate and maintain the land, sea and air armadas that embody each nation's nuclear deterrent. When the above assignments are subtracted from a total of U.S.S.R. military establishment of 4,850,000, only about 2,100,000 Russian soldiers and airmen are available for a possible confrontation in Europe. It is a remarkable fact that out of its significantly smaller military force of 2,200,000 the U.S. has 1,900,000 available for such a confrontation. The lesson is a general one: what matters is not input but output. Little is gained by head counts that ignore functional commitments.

The irrational momentum of the arms race is seen most vividly in the 25-year history of the intercontinental ballistic missile (ICBM), which began with fragile liquid-fuel rockets sitting aboveground and progressed to solid-fuel missiles in hardened (and then rehardened) concrete silos and finally to missiles ferried through the ocean deeps on endless voyages to nowhere. In this fateful contest each of the superpowers tried to maximize its particular technological abilities and advantages. The U.S.S.R. concentrated on throw weight and nuclear megatonnage: the U.S. emphasized accuracy and multiplicity of warheads. Each side tried to match its adversary and then, if possible, to take two steps for the other's one. The feedback loop was positive and dangerous.

At this point it may be useful to put before the reader some up-to-date information about the nature of a nuclear attack. Let us imagine a single strike by one missile with 14 reentry vehicles, or warheads, on one U.S. city, Boston. If each warhead carries 40 kilotons of nuclear explosive, about three times the power of the Hiroshima bomb, the overlapping circles of the 14 warheads would kill or seriously injure about 40 percent of the three million people living in the metropolitan area. Bombs falling in the harbor would send huge waves of radioactive water pouring over the city center. The prevailing wind from the northwest would carry a radioactive fallout plume over all southeastern Massachusetts and much of Cape Cod, causing as many as 100,000 delayed deaths.

It is not difficult to extrapolate this picture to hypothetical full-scale strikes aimed at many cities in either the U.S.S.R. or the U.S. A decade ago Secretary of Defense Robert S. McNamara put into the record an estimate of the destruction that would be caused by attacks on Russian cities by ballistic missiles launched from U.S. submarines, each submarine carrying 16 missiles, each missile with 10 40-kiloton warheads (800 warheads in all), would kill 37 million people and destroy 59 percent of Russian industry. An attack by 20 submarines with 3,200 warheads would kill 74 million people and destoy 76 percent of Russian industry.

Although McNamara offered no estimate of the death and destruction that would result from a comparable U.S.S.R. attack on U.S. cities, we have made simplified estimates of our own, partly to verify with U.S. demographic data, more available to us, the extraordinary numbers given by McNamara for an attack on the U.S.S.R. A single Russian submarine, if it carried 160 40-kiloton warheads similar to those on U.S. Polaris and Poseidon submarines would probably kill or seriously injure some 18 million Americans living directly within the target areas and perhaps another two million caught in the track of the fallout plumes. An attack by nine submarines with 1,200 warheads could well kill or gravely injure 70 to 90 million people, counting delayed deaths from radioactive fallout. The destruction of industry would be massive but essentially irrelevant to the human holocaust.

How is it possible that for a generation the leaders of the U.S. have rationalized the creation of such catastrophic forces? The answer is clearly that no sane leader expects that such weapons will ever be used. His intention is to let them remain unused, as they have been so far, but nonetheless to exploit them in other ways: as a symbol, as a bargaining counter, as a prize of domestic and Pentagon politics and ultimately as a latent threat of massive retaliation against an adversary's military adventures.

From the earliest days of the ICBM's it has been recognized that a couple of hundred missiles would suffice as a second-strike deterrent, to be launched if an adversary should strike first without warning. That number can be found today in the latest reports of the Department of Defense. The U.S. however, maintains at least 9,000—45 times 200—strategic missile warheads, and its leaders are reluctant to reduce that number.

They adhere to the concept of the triad of land-based, submarine-based and air-borne strategic nuclear weapons, maintaining that it provides a prudent diversity and hence a hedge against some unforeseeable breakthrough in antimissile technology. In addition but with less conviction, they argue that the triad also provides· for "flexible options" in the selection of targets, including "conventional forces, lines of communication, war-supporting industry and targets of increasing hardness: from aircraft runways and nuclear storage sites to command bunkers and ICBM silos." In short, the mission of U.S. strategic forces goes far beyond simple deterrence, even making wide allowances for all kinds of system failure.

The argument that the present triad is necessary to carry out this broad mission fails quantitatively. The safe undersea missiles have ample capability for reaching hundreds of subsidiary targets. Can the Department of Defense seriously maintain that the destruction of so many targets represents a "flexible option" short of an all-out nuclear war?

The Air Force is hard pressed to perpetuate its two legs of the triad: land-based missiles and long-range bombers. All the existing ICBM silos have long since been mapped to within a few meters or less by orbital-satellite cameras and will soon be vulnerable to newly accurate Russian warheads. The present ICBM's will be viable only if they are launched on the mere warning of a nuclear strike. Bomber aircraft, the third leg of the triad, are not much better. Although they have the virtue of being recallable, they would need hours to reach the standoff distances at which their cruise missiles could be launched. In a missile age they are less than relevant. The Administration has shown no enthusiasm for a new bomber, the B-1, to replace the aging fleet of B-52's, hence the Air Force's request for a new land-based system of Missile X's shuttling around many empty silos or shelters. Such a system would temporarily confound targeting, but it would also make the verification of arms agreements all but impossible.

In our view the triad is more force than is safe. It would be far safer to reduce year by year the present bomber force and the land-based silos until few bombers and silos remain. As a hedge against the possibility (which no one currently takes seriously) that the submarines could be knocked out one could keep 100 of the 1,054 silos, their missiles ready to be launched on warning if and only if the submarines were mysteriously overcome. One would build no new missiles, no new bombers and no new missile-carrying submarines while the present Poseidon fleet remained serviceable. One would give up the concept of the flexible option (even though the Poseidon fleet would continue to provide many options in targeting) as being unsafe for the country.

Making the civilian population of each nation the hostage of the other, cruel as it is, is the safest course for the time being, so strange has the nature of arms become. A stable balance is the safest stance today, and it could be achieved even better by a slow reduction in the nuclear loading of the submarine force, since the Poseidon force of 31 submarines we propose should be kept carries 496 missiles with upward of 5,000 warheads. A tempered reduction in that force is what we should be discussing, not Missile X, cruise missiles and a new submarine fleet of Tridents.

The U.S.S.R. improves and expands its strategic missile forces too. Two-thirds of those forces, however, are land-based. Russian missile submarines are still not nearly as good as American ones, and Russian long-range bombers are few. Although the U.S.S.R. has about 850 seaborne missiles (as against our present 656), they are distributed among some 80 submarines, of which only 55 are nuclear-powered. Because of the long distances these submarines must travel to reach their stations, a lack of regular double crews and a slow repair cycle only eight or 10 first-line boats are on station at any one time, many fewer than U.S. hunter-killer submarines are capable of shadowing. In contrast the U.S. tries to keep its 41 Polaris and Poseidon submarines on a tight schedule: normally two months at sea submerged and a third month spent in base for refitting, with two complete crews taking alternate tours of duty. In practice repairs that take more than a month reduce the number of boats on station from the planned 60 to 65 percent to a little more than 50 percent, which is still an enviable record of skill and devotion.

On land the U.S.S.R. was allowed more ICBM's than the U.S. by the terms of the SALT I agreement. The two countries agreed that the U.S.S.R. could deploy a total of 2,498 land-based and undersea-based launchers and the U.S. a total of 1,710. The agreement also set a limit on submarine launchers of 950 for the U.S.S.R. (in a maximum of 62 nuclear-powered boats) and 710 for the U.S. (in a maximum of 44 boats). Since the U.S. actually has 656 submarine launchers, it is permitted 1,054 land-based launchers—exactly the number it has had since 1967. According to the most recent estimates, the U.S.S.R. has now put to sea 909 submarine-launched missiles and has deployed 1,477 ICBM's in silos on land, for a total of 2,386 launchers, which is roughly 110 short of the 2,498 allowed by SALT I.

The apparent advantage that SALT I gave the U.S.S.R. in strategic launchers was more than nullified by the U.S. fleet of some 380 long-range bombers, which the treaty left untouched. Perhaps more significant, the U.S. had already begun adding extra warheads—multiple independently targetable reentry vehicles (MIRV's)—to its inventory of 1,710 launchers as early as 1970 and accelerated their introduction after SALT I was signed. The U.S.S.R. made no significant progress in adding MIRV's to its land-based launchers until the Vladivostok accord of November, 1974, and it may not yet have added extra warheads to any of its submarine-launched missiles. The Vladivostok accord, which was never ratified, would have allowed each side 2,400 strategic launchers of all types, including long-range bombers. It would also have set a limit of 1,320 on missiles with MIRV's.

The Russian force of 1,477 land-based launchers embraces seven different types of missiles, of which more than 1,200 are obsolescent liquid-fuel models. The U.S.S.R.'s introduction of new solid-fuel systems, widely viewed with alarm, can be at least partly understood as a continuing effort to catch up with U.S. technology, to reach allowed SALT I levels and to help offset the marked asymmetry in the U.S.-U.S.S.R. submarine missile forces actually on station and ready to fire.

What governs nuclear war is the terrible ascendency of the offense. In conventional ground warfare too the offensive team of the tank and airplane has had an advantage over the defense. It is this ascendency, demonstrated vividly in World War II, that has aroused concern about the possibility of an attack on NATO Europe by the U.S.S.R. and its allies. Here NATO has organized a deterrent defense, with the result that most informed observers are satisfied there is a crude balance of forces along the frontiers of Europe. Our proposals for a new U.S. force structure recognize the unlikely contingency that U.S. general-purpose forces could be tested in Europe. There U.S. forces could be reduced only marginally, and the reduction would be symbolic. It should be evident to an adversary that offensive intentions do not begin by reductions in force, even small ones.

If one looks 10 years ahead, however, a new evolutionary development appears on the horizon, a development already perceived by the more farsighted in the Department of Defense. It is a profound change of weapons technology for the land battlefield (and also for the sea one) that for the first time since World War II promises a dramatic advantage to the defense.

The promise lies in the continuing advance in military technology based on microelectronics, symbolized by the ubiquitous pocket calculator. Colloquially it is called smart weaponry; the Pentagon prefers "precision-guided munitions," or PGM's. The adroit combination of small and sensitive sensors of many kinds, with effective computation and guidance made possible by miniaturized circuits, together with new explosives and new materials, offers the individual soldier or small teams of soldiers the odds-on probability of being able to destroy with one shot a formidable target; a tank, an airplane or even a ship.

As recently as the war in Vietnam thousands of aerial bombs, tens of thousands of artillery shells and millions of small-arms rounds were expended with a low probability of kill. It is reckoned that in World War II it took 300,000 small-arms rounds to kill a single soldier. Those were cheap projectiles, very numerous but very simple; the smart weapons fire fewer and more expensive but far more effective projectiles, and their hit rate has risen by orders of magnitude.

Perhaps the first widely publicized hit under operational conditions was made by a not particularly smart weapon in the Middle East war of 1967. A Russian-developed Styx surface-to-surface cruise missile, 20 feet long, first deployed in 1959 and able to fly 20 nautical miles at subsonic-jet speed, was used by the Egyptians to sink an Israeli destroyer, the *Elath*. The cost-effectiveness of the weapon startled military planners. One missile that cost $20,000 launched from a small patrol boat out of gun range had destroyed a ship worth $150 million. The Styx was then used by Indian ships against Pakistani vessels in December, 1971. Israel has now developed and deployed its own improved smart antiship missile, the Gabriel.

In May, 1972, there was another vivid demonstration of smart weapons. For six years American F-4 fighter-bombers had tried without success to knock out the well-defended Than Hoa bridge in North Vietnam with conventional bombs; it also took them many sorties to destroy the first Paul Doumer bridge near Hanoi in 1967. Eighteen aircraft had been lost in those raids. Yet in 1972 the two bridges were knocked out with smart weapons in single strikes without the loss of a plane. The rather simple Hobo homing glide bomb and the Maverick missile, viewing its target with a television camera and guided by laser beam, cost in the range of $10,000 to $20,000.

The most remarkable example of the effectiveness of such weapons, which were getting smarter all the time, came in the Middle East war of October, 1973. General Sa'ad al-Shazli, chief of staff of the Egyptian armed forces, concluded after the war that it was now impossible to guarantee the success of any armored attack until the antitank weapons of the defense were neutralized. For example, the Israeli 190th Armored Brigade had attacked the Egyptian Second Army under cover of strong air support in the Sinai. After a few hours of fighting the Israeli force had been effectively destroyed. More than 130 Israeli tanks had been killed by Russian-made Sagger antitank missiles: 25-pound wire-guided rockets carried by lightly armored vehicles, widely deployed since 1965 by the Warsaw Pact forces and others. Over the Middle East battlefields second-line Russian-made surface-to-air missiles brought down 90 Israeli fighters in two days.

Maj. Gen. Chaim Herzog of the Israel army, who has closely chronicled the war in his book, *The War of Atonement: October, 1973,* points out the mistake of the Israelis in assuming that the best antitank weapon would be the tank: "Again there was a failure to take into account available intelligence—such as that on the Sagger antitank missile—and apply its lessons organizationally and operationally." Herzog describes one Sinai battlefield on the second day: "Hundreds of guiding wires of antitank missiles lay strewn across the road as if a giant spiderweb had collapsed." These weapons all come out of the 1960's; what will the electronics world have created by the 1980's?

The lessons of such experiences have not been lost on military planners. Director of Defense Research and Engineering William J. Perry asserts in his fiscal 1979 report to Congress that technology is America's "strongest advantage" and that "precision-guided munitions" offer the "single greatest potential for force multiplication" and "the potential of revolutionizing warfare." Perry argues that "we can greatly enhance our ability to deter war without having to compete tank for tank, missile for missile with the Soviet Union."

Smart weapons, in particular battlefield antitank weapons, have now gone through several generational developments. Their precursors were systems of the bazooka type, which had to be aimed at the target; once they were fired their course could not be corrected. They were therefore effective only at unusually close range. The first generation of smart missiles were wire-guided; they changed course according to commands automatically transmitted as the firer held the target in his sights until impact. The next generations have improved guidance (although many are still wire-guided), with computerized control located in the missile rather than in the launcher. The latest models of smart weapons are "fire and forget" and "shoot and scoot" designs; the firer no longer has to keep steady aim on the target but rather can take aim, fire and run for cover, or select still another target. The smart antitank warhead is then guided to its destination by a terminal-guidance system based on infrared, optical or radar sensing. In some cases the terminal guidance is achieved by a laser spot held on the target by someone other than the firer of the missile.

Smart weapons appear to offer high probabilities of kill with a single shot. It is estimated that the Tow heavy antitank weapon, a wire-guided, optically tracked missile that can be launched from a jeep or helicopter, in wide service with U.S. forces since 1972, has a kill probability of 80 percent up to its maximum range of 3.8 kilometers. The Hughes Aircraft Company advertises that its 1974 Maverick air-to-surface, television- or infrared-tracked antitank missile has made 92 percent direct hits in 226 production firings at "tank-size targets in operational-performance incentive firings." The success of all Maverick firings (about 500) has been 90 percent. A third example of a smart weapon for which data are publicly available is the German Kormoran, an aircraft-launched, radar-homing antiship missile designed in the early 1970's. In seven test firings last year six were exactly on target and the seventh met "specification requirements." Even allowing for commercial hyperbole, these are impressive performances.

What are the keys to the success of the new weapons systems? The first is the new sensors, powerful target-acquisition systems that can pinpoint the position of an artillery battery, a ship or a tank. Perhaps the most elaborate example of target acquisition is being embodied in a U.S. computerized system designated BETA (battlefield exploitation and target acquisition). It will incorporate satellite surveillance, airborne reconnaissance, side-looking airborne radar, moving-target indication systems, infrared systems, thermal and acoustic sensors and night-vision scopes. BETA should be able to locate with precision anything sizable that moves, emits heat or presents a radar image above the general background: aircraft, ships, tanks, armored vehicles. Only those targets too numerous to follow or too cheap to bother about will remain unobserved.

The second key to the success of smart weaponry is precision servo-guidance of low weight and reasonable cost. The systems now here and improving allow little chance for a miss. What can be seen can be hit, and more and more can be seen, night and day.

The third key is the design of small warheads. The conventional artillery shell has been modified in a number of ways; dense armor-piercing slugs that discard lighter components in flight and high-explosive rounds with contact fuzes give the warhead a much better chance of piercing composite armor.

As Perry explains it, the U.S. is now "converging very rapidly" on the following three objectives: "To be able to see all high-value targets on the battlefield at any time; to be able to make a direct hit on any target we can see, and to be able to destroy any target we can hit." Today's munitions, "combined with appropriate intelligence and delivery support, can make the battlefield untenable for most modern forces."

Although the future for precision-guided munitions seems bright, counterdevelopments will come. New composite materials for armor on tanks and aircraft are said to provide better protection against both explosive warheads and attack based on the total kinetic energy of many nonexplosive projectiles. One such material is a sintered aluminum oxide in the form of ceramic tiles that have "unique kinetic-energy-dissipation properties." The British boast of a new tank armor, still highly classified, a plastic-steel laminate named Chobham (for the military laboratory where it was developed) said to absorb the energy of penetrating rounds. Israel asserts that its new 56-ton Chariot tank, a front-engine, low-profile vehicle, is capable of withstanding any shell in the Arab arsenal. The project manager for the new U.S. XM-1 tank maintains that its survivability is enhanced by extended armor protection (such as skirts to cover tracks and wheels) and by improved agility, speed and acceleration.

Critics of smart weapons hope for additional countermeasures. Heavy suppressing fire from increasingly accurate artillery may disrupt smart-weapon attacks by infantry. Countereffects may also be offered by camouflage and deception techniques, such as smokes and fogs, nets to prevent night infiltration and radar-signal reflectors. In both Vietnam and the Middle East it was learned that if the slower antitank and antiaircraft missiles were spotted in time, they could be outmaneuvered. Armor enthusiasts assert that the tank has yet to meet its match, even in smart weapons.

It seems fair to conclude, however, that as smart weapons become more versatile, more reliable, faster-moving, relatively cheap and still more accurate they will overcome expensive armor protection and the power-intensive tactics of evasion. Tanks and aircraft close to the battlefield will cost more, will have to expend more effort and time in their own defense and will attempt to survive by evasion. Around them many men and cheap pilotless vehicles with cheap but deadly weapons will be seeking their fewer and more expensive targets. It is late for the massed tank offensive; even command of the air may pass from the pilot to the ground-based soldier. The overall judgment is not in, but the fate of the battleship seems in store for the little battlecraft of the land and the strafing gun-and-rocket aircraft of present wars. They will increasingly depend on evasion; then they will be seen as not being worth their cost, and in the end they will surrender their offensive superiority.

The advances in smart weaponry are putting a premium on concealment and dispersion. The weapons will be lighter and smaller and will be moved and fired by small teams on the battlefield. In World War II each step was hard: detecting the enemy, identifying him, hitting him and then destroying him. That is no longer valid; once a tank, an aircraft or a ship can be found it can be identified and hit and probably knocked out of action. The trend was visible during a tour of an armored unit at Fort Carson, Colo., made by the authors of this article. The unit commander explained that in war games points are no longer given just for hypothetical hits by the tanks; since the experience of the Middle East war of 1973 points are subtracted for the number of seconds during which tanks and armored vehicles are visible to the enemy. The trick is to remain hidden until advance seems possible. Any detectable concentration of force or logistics becomes vulnerable.

During the 1973 Middle East war more tanks were thrown into battle than in any other past engagement (except for one battle near Kursk on the Russian front in World War II). Close to 3,000 tanks were destroyed and more than 600 aircraft were downed. This led Russian Marshal Andrei A. Grechko to call for debate on the future role of the tank, a Russian specialty. Citing the Middle East experience, Grechko has noted that "modern defense . . . has acquired greater stability . . . Tanks have become more vulnerable and the use of them on the battlefield more complicated . . . It is obvious that the traditional method of increasing the viability of tanks—directly strengthening their armor—is far from the only and, if you like, not the best way out of the situation that has built up."

Within the next decade or two the battlefield may well become untenable for all but the most agile and best concealed. This would appear to be a stabilizing development, since in most engagements it will give a decisive advantage to the tactical defense. The costly offensive force must typically come out into the open to advance; this now puts it in serious danger of taking many hits from the hidden and protected defense with cheap, numerous smart weapons. The new U.S. Army Field Manual (FM100-5, *Operations*) recognizes this "superiority of the defense." Of course, it all depends greatly on the adequacy and the deployment of the defensive systems; it is always possible to overwhelm a defense with sheer numbers.

The future of land battle nonetheless seems to lie not with ponderous, powerful armored vehicles, which are expensive and therefore few in number, easily detectable and easily destroyed but with light, mobile, less heavily armored, cheap and numerous jeeps or reconnaissance vehicles. They would carry a powerful punch in new smart weaponry. There is some evidence that armies are heading in this direction; the French, the British and the Russians have all developed several models of small, armored scout vehicles. Just a year ago the U.S. sought proposals for AHAM, an advanced heavy antitank missile, vehicle-mounted, extremely accurate and deadly. Moreover, a good part of the $44.5 billion for research and development and for the procurement of new equipment this year is going toward precision-guided munitions.

The aircraft for supporting ground forces have also grown in cost, performance, firepower and vulnerability over the past decade. In World War II it took 2,500 P-47 and P-51 fighters and B-25 and B-26 bombers to destroy 60 to 70 tanks a day; today 100 F-4, A-7 and A-10 fighters carrying smart antitank missiles can theoretically knock out 600 to 700 tanks a day. Yet the aircraft themselves are now highly vulnerable to surface-to-air missiles; in 1973 many Israeli fighters were hit at various altitudes by a variety of Russian-made surface-to-air missiles (SAM's) and radar-directed guns. Indeed, ground forces with pilotless drones and plenty of smart antiaircraft weapons may well be able to contest piloted planes for air superiority in the not too distant future. Helicopters seem even more vulnerable, although they now carry more armor than the faster fighters. All aircraft are costly and getting costlier as they are given more protection.

For the modern smart missile the most inviting target of all may well be the aircraft carrier. The U.S. currently deploys 13 such vessels; the largest is nuclear-powered, displaces 94,000 tons, is 1,100 feet long, has a deck with an area of six acres and carries a cargo of 100 combat aircraft and 6,100 sailors and airmen. These costly vessels can be targeted at all times by enemy missiles, given their high visibility on the surface and their small number. Some Navy officers still argue that the big carrier is defensible: it is mobile, it can detect enemy aircraft several hundred miles away, it has antisubmarine capability and it can absorb several good-sized hits without sinking. Soon, if not already, it may carry powerful lasers to direct against incoming missiles. But can it do much more than survive.

Experience indicates that the fighting carrier is delicate: flight-deck accidents have put carriers out of commission for months. Every carrier hit in World War II by two or more kamikaze planes was forced to retire for repairs. Prolonged carrier defense seems doubtful; cheap antiship missiles are getting more sophisticated daily. They will fly low, fast and in large numbers against carrier task forces. A couple will surely get through.

The aircraft carrier is conceivably useful in two situations: "showing the flag" in peacetime and fighting a poorly armed opponent. Carriers would be of little use in a major non-nuclear war of the future, if such a war is possible. In fact, they might be a giant liability, needing constant heavy convoys and frequent repair. Even today the carrier task force devotes much effort to self-defense: of the 100 aircraft on each carrier only a third are attack planes. The planes are capable of delivering a few hundred tons of bombs on targets a day, not exactly a cost-effective non-nuclear explosive punch. It is hardly necessary to mention the fate of carriers in a nuclear battle.

Ships, planes and tanks are all steadily more expensive and more sophisticated but more vulnerable. Each basket of eggs is more expensive but more breakable. The nuclear aircraft carrier costs $2 billion to build and and another $3 billion to fit out; more than half of the $42 billion Navy budget goes in some way to supporting the 13 carrier task forces. Fighter-aircraft costs have risen in some cases to $25 million per plane; the real cost of the F-14 Navy fighter, for example, is more than that of a couple of carrier squadrons in World War II. Tank costs have also risen steeply. Five years ago the U.S. M-60 main battle tank cost $300,000; today it costs $650,000, and the cost of the new XM-1 tank fully equipped is estimated to be close to $1.5 million. Yet each of these pieces of expensive manned equipment—the tank, the airplane and the ship—can be destroyed by one precision-guided missile costing a few thousands of dollars. Cost-effectiveness is clearly shifting to smart weapons with small, lower-performance carrying vehicles.

Defense Secretary Brown has predicted purchases over the next five years of 5,000 tanks and 2,0000 tactical aircraft, mainly for NATO support, at a respective cost of roughly $7 billion and $30 billion. The same amount would buy several million smart weapons for infantrymen, a formidable deterrent to anybody's tank assault. Such a conclusion is of course overdrawn; there will always be need for a balance of high-cost and low-cost weaponry. It nontheless makes graphic the differential in costs between the high-performance manned target and the smart weapon attacking it.

The foregoing observations have emerged from a study of the entire force structure of the U.S. that we and our colleagues of the Boston Study Group have conducted over a four-year period. We became convinced that a better and safer defense for the U.S. and its allies can now be bought for much less than the proposed $126 billion for fiscal 1979. Tradition, employment, service rivalries, political hyperbole and covert intentions ought not to dictate force planning, particularly in the face of changing technologies. If such shibboleths as "triad," "essential equivalence," "forward defense," "flexible response" and "power projection" continue to dominate military planning as they do now the U.S. runs two grave risks: (1) sporadic interventions leading to smaller or larger Vietnams and (2) eventual nuclear destruction.

The charts on the preceding two pages summarize the reductions in land, sea and air forces that we suggest could be made step by step over a period of years and that would leave the U.S. with a prudent military structure, prepared for any eventuality short of an all-out irrational nuclear attack. Against such an attack there can be no preparation and no defense for any nation, and the attacking power is as doomed as the one attacked. The major reduction would be in nuclear strategic forces; the proposal is to eliminate all long-range strategic bombers, to reduce to 100 the number of land-based Minuteman ICBM's, to reduce the number of missile-launching submarines from 41 to 31 and gradually to reduce the number of missiles and warheads carried on each. The next-largest force reduction would be made in the fleet of aircraft carriers, from 13 to three.

The number of major surface ships would be cut from 162 to 125, mainly ships now included in carrier task forces. There would be only minor reductions in the number of aircraft assigned to general-purpose forces. With the accelerated development and introduction of smart weapons the number of Army heavy divisions could prudently be reduced from 10 to 8⅓ and the number of light divisions from 7⅓ to three. In addition two of the present three Marine light divisions could be eliminated. Total military manpower would be cut a third, from 2,100,000 to 1,400,000.

The budget for the new and safer military structure would come to about $73 billion, or about 40 percent less than the U.S. defense budget of $120.4 billion originally proposed for the fiscal year just ended. The accompanying bar charts show our budget for the 1980's broken down in the two ways defense budgets are presented to Congress: by military program and by appropriation title. Our estimates include an interim rise in retirement pay to cover the transition period of manpower reductions. If one excludes such pay, the overall budget reduction comes closer to 45 percent than to 40.

What effect would our proposals have on U.S. employment, military and civilian? We assume that at the end of a 10-year period our proposal would result in a reduction of about three million people engaged in military activity directly or indirectly. We would foresee a gradual transition to the lower spending level in part because the change would be gradual and in part because it would take time for the proposals themselves to win acceptance. It is likely, then, that the number of jobs eliminated each year would be no more than 400,000. Much of the shrinkage could be absorbed by normal shifts in jobs and by retirement. Each year probably fewer than 200,000 people would actually lose their jobs and be forced to enter the civilian labor market. Compared with the rapid ups and downs in employment characteristic of American economic life, and particularly compared with the demobilization at the end of World War II, the problem of finding new jobs for 200,000 people a year should not be daunting.

As for the effect of military cuts on industry, we believe the gradual pace of the reduction and the ability of American industry to adapt to new conditions should minimize the need for large-scale public aid to distressed companies. We might also observe that several economic studies have shown that, far from creating jobs, military expenditures provide fewer jobs than equal levels of spending for civilian goods and services do. For example, the Bureau of Labor Statistics recently analyzed the effect on unemployment of shifting $1 billion from military expenditures to a variety of nonmilitary expenditures. If similar proportions hold true for the reduction in military spending we are proposing, the transfer of an equivalent sum to the civilian economy would create a net two million new jobs.

In this article we have not, of course, been able to present the detailed analysis contained in our book. There it will be seen we have tempered our judgments in two ways. First, we recognize that in complex human affairs it is not always prudent to change too rapidly, even when one is convinced of the need for change. Second, we have looked for paths of retreat from our own proposals, if they turn out to have undesirable results. Insofar as it is possible the changes we are recommending incorporate a built-in scheme for returning to an earlier state.

In the more than 30 years since the reduction in U.S. military forces at the end of the last great war those forces have steadily increased in size, firepower and cost. Bilateral and multilateral efforts at arms control and disarmament have not slowed the upward trend in armaments. In some instances they have even encouraged it. It is incumbent on the U.S., which is largely responsible for setting the technical pace, to break the spiral. We can play the role of catalyst for less risky world military policies.

A better, safer defense for the U.S. and its allies can be bought with much less risky forces and rather less money. Our analysis and recommendations are meant as tentative first steps in that direction; they are offered for broadened and serious debate. We believe our recommended force structure would (1) adequately deter nuclear and non-nuclear attack on the U.S. and ita allies (NATO, Japan and allies in the Middle East), (2) make it harder for the U.S. to be tempted to intervene in the kind of foreign situation history has shown to be disastrous, (3) set standards for decreases in armaments, (4) catalyze diplomatic progress in arms control and disarmament, (5) make U.S. forces and policy understandable and less threatening to the outside world and (6) release new economic energies in the U.S. against inflationary trends. The country could begin to fulfill

President Carter's campaign pledge to reduce military spending, to limit the upward-spiraling arms trade and to lighten the thermonuclear sword that still hangs over all mankind, sharper and heavier each decade.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks and to include therein extraneous material on the subject of the special order speech today by the gentleman from California (Mr. Waxman).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Erdahl) to revise and extend their remarks and include extraneous material:)

Mr. Paul, for 5 minutes, today.
Mr. Ritter, for 15 minutes, today.
Mrs. Fenwick, for 5 minutes, today.

(The following Members (at the request of Mr. Ratchford) to revise and extend their remarks and include extraneous material:)

Mr. Thompson, for 5 minutes, today.
Mr. Weaver, for 10 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Bonker, for 5 minutes, today.
Mr. Leland, for 10 minutes, today.
Mr. Cotter, for 5 minutes, today.
Mr. LaFalce, for 5 minutes, today.
Mr. Ottinger, for 5 minutes, today.
Mr. Rostenkowski, for 10 minutes, today.
Mr. Panetta, for 5 minutes, today.
Mr. Cavanaugh, for 10 minutes, today.
Mr. Benjamin, for 60 minutes, on March 22.

(The following Members (at the request of Mr. Vento) to revise and extend their remarks and include extraneous material:)

Mr. Stokes, for 5 minutes, today.
Mr. Waxman, for 5 minutes, today.
Mr. Bingham, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Ms. Holtzman, to extend her remarks notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $2,123.

(The following Members (at the request of Mr. Erdahl) and to include extraneous material:)

Mr. Wydler.
Mr. Broomfield.
Mr. Findley in three instances.
Mr. McEwen in two instances.
Mr. Hagedorn.
Mr. Philip M. Crane.
Mr. Badham.
Mr. Pursell in two instances.
Mr. Evans of Delaware.
Mr. McClory in two instances.
Mr. Hyde in two instances.
Mr. Lent.
Mr. Carter in two instances.
Mr. Conable.
Mr. Symms in three instances.
Mr. Corcoran.
Mr. Quayle.
Mr. Abdnor.
Mr. Marlenee.
Mr. Stangeland.

(The following Members (at the request of Mr. Ratchford) and to include extraneous matter:)

Mr. Hance.
Mr. Bailey.
Mr. Anderson of California in three instances.
Mr. Gonzalez in three instances.
Mr. Rosenthal.
Mr. Dingell.
Mr. Garcia.
Mr. Biaggi.
Mr. Giaimo.
Mr. Skelton in two instances.
Mr. LaFalce.
Mr. Ottinger in two instances.
Mr. Fountain.
Ms. Ferraro.
Mr. Ambro.
Mr. Peyser.
Mr. Udall.
Mr. Moakley.
Mr. Won Pat.
Mr. Wolff.
Mr. Boner of Tennessee in two instances.
Mr. Gaydos.

ADJOURNMENT

Mr. VENTO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 8 minutes p.m.) under its previous order, the House adjourned until Monday, March 19, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of the rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

973. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting revised budget estimates for fiscal years 1979 and 1980, pursuant to section 201(g) of the Budget and Accounting Act, 1921, as amended (88 Stat. 323), together with a report that there has been no change in the administration's estimate of the unemployment rate for 1980 or in its estimate of the cost of providing jobs under title VI of the Comprehensive Employment and Training Act, pursuant to section 602 of that act (H. Doc. No. 96-76); to the Committee on Appropriations and ordered to be printed.

974. A letter from the Under Secretary of Defense (Research and Engineering), transmitting the annual report for fiscal year 1978 on independent research and development and bid and proposal costs, pursuant to section 203(c) of Public Law 91-441; to the Committee on Armed Services.

975. A letter from the Under Secretary of Defense (Research and Engineering), transmitting detailed information used in preparation of the annual report on independent research and development and bid and proposal costs; to the Committee on Armed Services.

976. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment and services to the Yemen Arab Republic (transmittal No. 79-14), together with the President's determination that an emergency exists which requires the sale without awaiting the expiration of the 30-day notification period, pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

977. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to the Yemen Arab Republic (transmittal No. 79-15), together with the President's determination that an emergency exists which requires the sale without awaiting the expiration of the 30-day notification period, pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

978. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to the Yemen Arab Republic (transmittal No. 79-16), together with the President's determination that an emergency exists which requires the sale without awaiting the expiration of the 30-day notification period, pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

979. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Saudi Arabia (transmittal No. 79-17), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

980. A letter from the Secretary of Agriculture, transmitting a report on steps taken to implement the human rights requirements of section 112 of the Agricultural Trade Development and Assistance Act of 1954, pursuant to section 112(d) of the act; to the Committee on Foreign Affairs.

981. A letter from the Assistant Secretary of the Treasury for Administration, transmitting notice of a proposed new records system for the U.S. Customs Service, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

982. A letter from the Assistant Secretary of Transportation for Administration, transmitting notice of two proposed new records systems for the National Highway Traffic Safety Administration, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

983. A letter from the Comptroller General of the United States, transmitting a report on the Federal cataloging, engineering standardization, item entry control, and item deletion programs used by Government agencies in parts management (LCD-79-403, March 15, 1979); to the Committee on Government Operations.

984. A letter from the General Counsel of the Department of Energy, transmitting notice of meetings relating to the International Energy Program to be held on March 21 and March 22-23 in Paris, France; to the Committee on Interstate and Foreign Commerce.

985. A letter from the Executive Assistant to the Chairman, Federal Energy Regulatory Commission, transmitting final regulations amending and clarifying regulations under the Natural Gas Policy Act and the Natural Gas Act; to the Committee on Interstate and Foreign Commerce.

986. A letter from the Director, Office of Personnel Management, transmitting a draft of proposed legislation to amend chapter 87 of title 5, United States Code, to increase the amounts of regular and optional group life insurance available to Federal employees and provide optional life insurance on family members and for other purposes; to the Committee on Post Office and Civil Service.

987. A letter from the Comptroller General of the United States, transmitting a report on the adequacy of information contained in congressional data sheets as to the results of tests and evaluations of various Navy and Air Force major weapon systems (PSAD-79-46, March 9, 1979); jointly, to the Committees on Government Operations and Armed Services.

988. A letter from the Comptroller General of the United States, transmitting a report on Federal efforts to increase minority opportunities in skilled construction craft unions (HRD-79-13, March 15, 1979); jointly, to the Committees on Government Operations and Education and Labor.

989. A letter from the Comptroller General of the United States, transmitting a report on the effectiveness of the Federal incentive awards program (FGMSD-79-9, March 15, 1979); jointly, to the Committees on Government Operations and Post Office and Civil Service.

990. A letter from the Secretary of Energy, transmitting a draft of proposed legislation to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980 and fiscal year 1981, and for other purposes; divided and referred as follows: Title I to the Committee on Science and Technology; titles II and III to the Committee on Interstate and Foreign Commerce; title IV to the Committee on Interior and Insular Affairs; title V concurrently to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce; title VI concurrently to the Committees on Interstate and Foreign Commerce and Science and Technology; titles VII, VIII and IX concurrently to the Committees on Foreign Affairs, Interior and Insular Affairs, Interstate and Foreign Commerce, and Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. Report on oversight plans of the committees U.S. House of Representatives (Rept. No. 96-44). Referred to the Committee of the Whole House on the State of the Union.

Mr. DANIELSON: Committee on the Judiciary. H.R. 1301. A bill to amend title 18 of the United States Code to allow the transportation or mailing to a foreign country of material concerning a lottery authorized by that foreign country, and for other purposes (Rept. No. 96-45). Referred to the Committee of the Whole House on the State of the Union.

Mr. BENNETT: Committee on Armed Services. H.R. 2154. A bill to revise the Strategic and Critical Materials Stock Piling Act, to require that appropriations for acquisition of strategic and critical materials be authorized by law, to establish a National Defense Stockpile Transaction Fund, and for other purposes; with amendment (Rept. No. 96-46). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALBOSTA:

H.R. 2992. A bill to establish in the Department of Agriculture a National Agricultural Cost of Production Board, to increase the level of loans available for crops of certain agricultural commodities, and to provide that the price of milk shall continue to be supported at not less than 80 percent of the parity price therefor; to the Committee on Agriculture.

By Mr. BEARD of Rhode Island (for himself and Mr. St Germain):

H.R. 2993. A bill to amend the Rhode Island Indian Claims Settlement Act to provide an exemption from taxes with respect to the settlement lands and amounts received by the State Corporation, and to provide a deferral of capital gains with respect to the sale of settlement lands; jointly, to the Committees on Interior and Insular Affairs and Ways and Means.

By Mr. BIAGGI (for himself, Mr. Murphy of New York, and Mr. Pritchard):

H.R. 2994. A bill to amend the Ports and Waterways Safety Act of 1972 to provide for the award of matching grants to municipalities and public agencies in the United States to enable those authorities to protect deep-draft commercial ports and land areas adjacent to those ports from fires, explosions, or other incidents causing damage in those ports, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

By Mr. BONKER (for himself, Mr. Gilman, Mr. Pease, Mr. Akaka, Mr. Anderson of Illinois, Mr. Brademas, Mr. Carr, Mr. Cleveland, Mr. Conyers, Mr. Diggs, Mr. Downey, Mr. Drinan, Mr. Edgar, Mr. Ertel, Mr. Gudger, Mr. Hollenbeck, Mr. Kramer, Mr. Lagomarsino, Mr. LaFalce, Mr. Leach of Louisiana, Mr. Mitchell of Maryland, Mr. Murphy of Pennsylvania, Mr. Panetta, Mr. Preyer, Mrs. Spellman, Mr. Vento, Mr. Walgren, Mr. Whitehurst, Mr. Yatron, Mr. Gray, Mr. Michel, and Mr. Solarz):

H.R. 2995. A bill to restate the purpose of the Peace Corps, to establish the Peace Corps as a Government foundation, and for other purposes; to the Committee on Foreign Affairs.

By Mr. BURGENER:

H.R. 2996. A bill to exempt lands within the Imperial Irrigation District of California from certain acreage limitations of the Federal reclamation laws; to the Committee on Interior and Insular Affairs.

By Mr. BURGENER (for himself, Mr. Addabbo, Mr. Badham, Mr. Beilenson, Mr. Brodhead, Mr. Cheney, Mr. Corrada, Mr. Dougherty, Mr. Edgar, Mr. Fazio, Ms. Ferraro, Mr. Gilman, Mr. Kildee, Mr. Lewis, Mr. Mazzoli, Mr. Miller of California, Mr. Mineta, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Nolan, Mr. Patten, Mr. Richmond, Mr. Roe, Mrs. Schroeder, Mrs. Spellman, Mr. Stark, Mr. Walgren, and Mr. Bob Wilson):

H.R. 2997. A bill to provide for a national program of screening of newborn infants for metabolic disorders that could retard brain development; to the Committee on Interstate and Foreign Commerce.

By Mr. PHILIP M. CRANE:

H.R. 2998. A bill to amend the Housing and Community Development Act of 1974 for the purpose of providing guaranteed loans under title I of such Act to assist communities with a shortage of water supply; to the Committee on Banking, Finance and Urban Affairs.

H.R. 2999. A bill to amend the Airport and Airway Development Act of 1970 to make privately owned public use airports eligible for assistance under the act; to the Committee on Public Works and Transportation.

By Mr. STAGGERS (for himself, Mr. Udall, and Mr. Fuqua):

H.R. 3000. A bill to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980 and fiscal year 1981, and for other purposes; divided and referred as follows:

Title I to the Committee on Science and Technology; titles II and III to the Committee on Interstate and Foreign Commerce; title IV to the Committee on Interior and Insular Affairs; title V concurrently to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce; title VI concurrently to the Committees on Interstate and Foreign Commerce and Science and Technology; titles VII, VIII and IX concurrently to the Committees on Foreign Affairs, Interior and Insular Affairs, Interstate and Foreign Commerce, and Science and Technology.

By Mr. ROSTENKOWSKI (for himself and Mr. Michel):

H.R. 3001. A bill to extend the provisions of law relating to the business expenses of legislators, and for other purposes; to the Committee on Ways and Means.

By Mr. DICKINSON:

H.R. 3002. A bill to modify the method of establishing quotas on the importation of certain meat, to include within such quotas certain meat products, and for other purposes; to the Committee on Ways and Means.

By Mr. FASCELL (for himself, Mr. Zablocki, Mr. Bowen, Mr. Gray, Mr. Buchanan, Mr. Derwinski, Mr. Pritchard, Mr. Barnes, Mr. Bonker, Mr. Broomfield, Mr. Diggs, Mrs. Fenwick, Mr. Findley, Mr. Solarz, Mr. Studds, Mr. Winn, Mr. Wolff, Mr. Wolpe, and Mr. Yatron):

H.R. 3003. A bill to authorize appropriations for fiscal years 1980 and 1981 for the Department of State, the International Communication Agency, and the Board for International Broadcasting; to the Committee on Foreign Affairs.

By Mr. FASCELL (for himself and Mr. Dornan):

H.R. 3004. A bill to amend section 312(c) of the Federal Aviation Act of 1958, relating to research and development, to require the Secretary of Transportation to assure the development of a collision avoidance system for use on all civil and military aircraft of the United States in the interest of air safety; jointly, to the Committees on Public Works and Transportation and Science and Technology.

By Ms. FERRARO:

H.R. 3005. A bill to amend the Internal Revenue Code of 1954 to allow employers a tax credit for hiring displaced homemakers; to the Committee on Ways and Means.

By Mr. GIBBONS (for himself, Mr. Bedell, Mr. Benjamin, Mr. Blanchard, Mr. Brodhead, Mr. Cavanaugh, Mr. Derwinski, Mr. Dixon, Mr. Downey, Mr. Edgar, Mr. Edwards of California, Mr. Evans of Georgia, Mr. Fascell, Mr. Frenzel, Mr. Gramm, Mr. Guarini, Mr. Hamilton, Mr. Hughes, Mr. LaFalce, Mr. Leath of Texas, Mr. Lehman, Mr. Lloyd, Mr. McCormack, Mr. Markey, Mr. Mineta, Mr. Ottinger, Mr. Pepper, Mr. Simon, Mr. Traxler, and Mr. Vento):

H.R. 3006. A bill to provide that the public debt limit shall be established pursuant to the congressional budget procedures; jointly, to the Committees on Rules, and Ways and Means.

By Mrs. HOLT:

H.R. 3007. A bill to amend title 5 of the United States Code to permit present and former civilian employees of the Federal Government to receive civil service annuity credit for retirement purposes for periods of military service in the Armed Forces of the United States as was covered by social security, regardless of eligibility for social security benefits; to the Committee on Post Office and Civil Service.

H.R. 3008. A bill to provide that the statue of Maj. Gen. George Gordon Meade be transferred to Fort George G. Meade, Md.; jointly, to the Committees on House Administration and Armed Services.

By Mr. HYDE:

H.R. 3009. A bill to amend the Internal Revenue Code of 1954 to allow individuals to designate $1 of their income tax liability to be used for purposes of reducing the public debt of the United States; to the Committee on Ways and Means.

By Mr. KRAMER:

H.R. 3010. A bill to authorize the Secretary of Energy to enter into a cooperative arrangement with the State of Colorado respecting radium pollution in that State; to the Committee on Interior and Insular Affairs.

By Mr. LAGOMARSINO:

H.R. 3011. A bill to amend the Small Business Act to require Federal agencies to reimburse small business for certain paperwork costs; to the Committee on Small Business.

By Mr. LEACH of Iowa:

H.R. 3012. A bill to modify the Mississippi River project at Davenport, Iowa; to the Committee on Public Works and Transportation.

H.R. 3013. A bill to authorize modifications of the project for flood protection on the Mississippi River, Guttenberg, Iowa to Hamburg Bay, Ill.; to the Committee on Public Works and Transportation.

By Mr. LEDERER:

H.R. 3014. A bill to amend part D of title IV of the Social Security Act to provide continued Federal funding for the non-AFDC portion of the child support program; to the Committee on Ways and Means.

By Mr. LELAND:

H.R. 3015. A bill to repeal obsolete statutory language purporting to permit racial segregation in agricultural and mechanical arts colleges financed under the Agricultural College Act of 1890; to the Committee on Agriculture.

By Mr. McDONALD:

H.R. 3016. A bill to provide for a 10 percent reduction in congressional salaries whenever the budget is not balanced; to the Committee on Post Office and Civil Service.

By Mr. MARLENEE:

H.R. 3017. A bill to provide for a combination of Federal and State assistance for marginal mainline railroad operations which would otherwise be abandoned; to the Committee on Interstate and Foreign Commerce.

By Mr. MILLER of Ohio (for himself, Mr. Lederer, Mr. Pepper, Mr. Murphy of Pennsylvania, Mr. Kindness, Mr. Sebelius, Mr. Wylie, Mr. Mottl, Mr. Corcoran, Mr. Young of Florida, Mr. Buchanan, Mr. Charles Wilson of Texas, Mr. Bedell, Mr. Harsha, Mr. Guyer, and Mr. Ashbrook):

H.R. 3018. A bill to establish a research and development effort resulting in the commercialization of alcohol fuel additives derived from sweet sorghum or other hydrocarbon-containing agricultural crops, and for other purposes; jointly, to the Committees on Agriculture and Science and Technology.

By Mr. MOAKLEY:

H.R. 3019. A bill to amend title 5, United States Code, to provide for the reclassification of positions of U.S. border control agents; to the Committee on Post Office and Civil Service.

By Mr. OTTINGER (for himself and Mr. Rinaldo):

H.R. 3020. A bill to provide for payments to certain sales representatives terminated from their accounts without justification, to provide for the scope of contracts between sales representatives and their principals, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. QUAYLE:

H.R. 3021. A bill entitled the "Fair Treatment for Skilled Trades Act of 1978"; to the Committee on Education and Labor.

By Mr. ROUSSELOT:

H.R. 3022. A bill to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions; to the Committee on Ways and Means.

By Mr. RITTER:

H.R. 3023. A bill to require the Environmental Protection Agency and the Food and Drug Administration to prepare a comparison of risk prior to the promulgation of any rule or regulation; jointly, to the Committees on Interstate and Foreign Commerce, and Merchant Marine and Fisheries.

By Mr. ROE:

H.R. 3024. A bill to amend the Social Security Act to establish a national catastrophic illness insurance program under which the Federal Government, acting in cooperation with State insurance authorities and the private insurance industry, will reinsure and otherwise encourage the issuance of private health insurance policies which make adequate health protection available to all Americans at a reasonable cost; to the Committee on Interstate and Foreign Commerce.

H.R. 3025. A bill to amend the Federal employee health insurance provisions of title 5, United States Code, to require that notice and hearing be provided before the effective date of any reduction of health benefits or any exclusion of any type of provider of health services; to the Committee on Post Office and Civil Service.

H.R. 3026. A bill to amend titles II and XVIII of the Social Security Act to include qualified drugs, requiring a physician's prescription or certification and approved by a formulary committee, among the items and services covered under the hospital insurance program; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

H.R. 3027. A bill to amend title XVIII of the Social Security Act to provide for coverage under part B of medicare for routine Papanicolaou test for the diagnosis of uterine cancer; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. ROTH:

H.R. 3028. A bill entitled, "Domestic Crime Control and Prevention Act"; to the Committee on the Judiciary.

By Mrs. SMITH of Nebraska:

H.R. 3029. A bill to amend the Federal Property and Administrative Services Act of 1949 to require the General Services Administration to provide for fueling not less than 10 percent of Federal nonmilitary vehicles with gasohol fuels, and for other purposes; to the Committee on Government Operations.

H.R. 3030. A bill to extend for an additional 5 years the provisions of the Energy Tax Act of 1978 which exempt certain alcohol fuels from Federal motor fuels excise taxes; to the Committee on Ways and Means.

By Mr. STOKES:

H.R. 3031. A bill to provide coverage under the medicare program for prescription drugs, eye and teeth care, hearing aids, annual physical exams, immunizations, foot care, and examinations for detecting hypertension; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. STUMP:

H.R. 3032. A bill to repeal the Occupational Safety and Health Act of 1970; to the Committee on Education and Labor.

H.R. 3033. A bill to abolish the Environmental Protection Agency; to the Committee on Governmental Operations.

H.R. 3034. A bill to authorize the licensing of Hualapai Dam, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SYMMS:

H.R. 3035. A bill to amend title 39, United States Code, to eliminate certain provisions relating to private carriage of letters, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. WAXMAN (for himself, Mr. Satterfield, Mr. Preyer, Mr. Walgren, Mr. Leland, Mr. Carter, and Mr. Stockman):

H.R. 3036. A bill to extend for 3 fiscal years the authorization of appropriations for the administration of the Controlled Substances Act; to the Committee on Interstate and Foreign Commerce.

By Mr. WAXMAN (for himself, Mr. Preyer, Mr. Walgren, Mr. Leland, and Mr. Carter):

H.R. 3037. A bill to extend for 1 fiscal year the current authorization of appropriations for programs of assistance under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, and the Drug Abuse Office and Treatment Act of 1972; to the Committee on Interstate and Foreign Commerce.

By Mr. WAXMAN (for himself, Mr. Walgren, Mr. Leland, and Mr. Carter):

H.R. 3038. A bill to extend for 3 fiscal years the expiring health information programs under title XVII of the Public Health Service Act, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WAXMAN (for himself, Mr. Preyer, Mr. Walgren, Mr. Leland, and Mr. Carter):

H.R. 3039. A bill to extend for 3 fiscal years the programs under section 789 and title XII of the Public Health Service Act relating to emergency medical services, and to authorize assistance for poison control and assistance centers; to the Committee on Interstate and Foreign Commerce.

H.R. 3040. A bill to extend for 3 fiscal years the authorizations for appropriations under the Safe Drinking Water Act; to the Committee on Interstate and Foreign Commerce.

By Mr. WAXMAN (for himself, Mr. Preyer, Mr. Maguire, Mr. Walgren, Mr. Leland, Mr. Carter, and Mr. Stockman:)

H.R. 3041. A bill to amend titles XV and XVI of the Public Health Service Act to revise and extend the authorities and requirements under those titles for health planning and health resources development; to the Committee on Interstate and Foreign Commerce.

By Mr. WEAVER (for himself, Mr. Blanchard, Mr. D'Amours, Mr. Daschle, Mr. Derrick, Mr. Derwinski, Mr. Dodd, Mr. Downey, Mr. Duncan of Tennessee, Mr. Edgar, Mr. Evans of Georgia, Mr. Florio, Mr. Flood, Mr. Hanley, Mr. Hollenbeck, Mr. Hubbard, Mr. Jenrette, Mr. Johnson of California, Mr. LaFalce, Mr. Moakley, Mr. Nolan, Mr. Oberstar, Mr. Ottinger, Mr. Rodino, Mr. Santini, Mr. Seiberling, Mr. Vento, Mr. Winn, Mr. Yates, Mr. Yatron, and Mr. Zeferetti):

H.R. 3042. A bill to amend the Commodity Credit Corporation Charter Act to create within the CCC a National Grain Board, to provide the highest possible prices in foreign markets for American agricultural producers, and to provide price and supply stability in domestic markets; to the Committee on Agriculture.

By Mr. WYLIE:

H.R. 3043. A bill to authorize the conveyance to the State of Ohio for wildlife management purposes of certain lands acquired for the Big Darby Lake, Ohio, project; to the Committee on Public Works and Transportation.

By Mr. BAUMAN (for himself, Mrs. Holt, Mr. Ashbrook, Mr. Montgomery, Mr. Symms, Mr. Hansen, Mr. Satterfield, Mr. Rousselot, Mr. Edwards of Oklahoma, Mr. Carney, Mr. Lent, Mr. Wyatt, Mr. Burgener, Mr. Solomon, Mr. Hyde, Mr. Lewis, Mr. Paul, Mr. Sensenbrenner, Mr. Shumway, Mr. Kramer, Mr. Robert W. Daniel, Jr., Mr. Snyder, Mr. Young of Alaska, Mr. Young of Florida, Mr. Lott, Mr. Trible, Mr. Spence, and Mr. Cleveland):

H. Con. Res. 75. Concurrent resolution requesting that the President withdraw the instruments of ratification of the Panama Canal treaties; jointly, to the Committees on Foreign Affairs and Merchant Marine and Fisheries.

By Mr. CARNEY:

H. Con. Res. 76. Concurrent resolution providing for impartial observers of the forthcoming election in Rhodesia; to the Committee on Foreign Affairs.

By Mr. MINISH:

H. Con. Res. 77. Concurrent resolution expressing the sense of the Congress relating to films and broadcasts which defame, stereotype, ridicule, demean, or degrade ethnic, racial, and religious groups; to the Committee on Interstate and Foreign Commerce.

By Mr. PANETTA:

H. Con. Res. 78. Concurrent resolution to protest the President's use of waiver authority to expedite sale of weapons and military training personnel to the Arab Republic of Yemen, and to request a 30-day delay in such sale for congressional review; to the Committee on Foreign Affairs.

By Mr. PEASE (for himself, Mr. Solarz, Mr. Derwinski, Mr. Harkin, Mr. Dodd, Mr. Vento, Mr. Barnes, Mr. Rosenthal, Mr. Edwards of California, Mr. Dornan, Mr. Wolff, Mr. Quayle, Mr. Whitehurst, and Mr. Ottinger):

H. Con. Res. 79. Concurrent resolution calling for reconsideration of the decision to allow U.S. commercial aircraft to be sold to Libya; to the Committee on Foreign Affairs.

By Mrs. FENWICK (for herself, Mr. Zablocki, and Mr. Broomfield):

H. Res. 163. Resolution extending congratulations to the Republic of Tunisia on the 23d anniversary of its independence; to the Committee on Foreign Affairs.

By Mr. ROE:

H. Res. 164. Resolution expressing the sense of the House that optometric services be included in medical assistance programs; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

72. By the SPEAKER: Memorial of the Legislature of the State of Alabama, requesting that Congress propose, or call a convention for the specific and exclusive purpose of proposing, an amendment to the Constitution of the United States requiring, in the absence of a national emergency, that the total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated Federal revenues for that fiscal year; to the Committee on the Judiciary.

73. Also, memorial of the Legislature of the State of Oregon, requesting that Congress call a convention for the specific and exclusive purpose of proposing an amendment to the Constitution of the United States to require a balanced Federal budget and to make certain exceptions with respect thereto; to the Committee on the Judiciary.

74. Also, memorial of the Legislature of the State of Texas, requesting that Congress propose, or call a convention for the specific and exclusive purpose of proposing, an amendment to the Constitution of the United States requiring, in the absence of a national emergency, that the total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated Federal revenues for that fiscal year; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. SHUMWAY introduced a bill (H.R. 3044) for the relief of Maurice J. Courtway and Elizabeth Courtway; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 39: Mr. Ratchford, Mr. Jacobs, Mr. Regula, Mr. Beard of Rhode Island, and Mr. Barnard.

H.R. 51: Mr. Waxman.

H.R. 262: Mr. Dannemeyer, Mr. Burgener, Mr. Gingrich, and Mr. Stump.

H.R. 277: Mr. Bonior of Michigan, Mr. Harris, Mr. Moakley, Mr. Pease, and Mr. Stark.

H.R. 511: Mr. Grassley.

H.R. 656: Mr. Frost, Mr. Bingham, Mr. Nolan, Mr. Gilman, Mr. Fazio, Mr. Trible, Mr. Kemp, and Mr. Solarz.

H.R. 1068: Mr. Young of Florida, Mr. Hughes, Mr. Whitehurst, Mr. Solomon, Mr. LaFalce, Mr. Bob Wilson, Mr. McDonald, Mr. Dan Daniel, Mr. Mitchell of New York, Mr. Myers of Indiana, Mr. Robert W. Daniel, Jr., Mr. Roe, Mr. Badham, Mr. Price, Mr. Edgar, Mr. Livingston, Mr. Skelton, Mr. Gingrich, Mr. Corcoran, Mr. Hyde, and Mr. Kemp.

H.R. 1481: Mr. Cavanaugh, Mr. Edgar, and Mr. Ottinger.

H.R. 1664: Mr. Ichord, and Mr. Martin.

H.R. 2209: Mr. Addabbo, Mr. Atkinson, Mr. Bailey, Mr. Bingham, Mr. Bonior of Michigan, Mr. Buchanan, Mr. Carr, Mr. Clay, Mr. Corrada, Mr. Davis of South Carolina, Mr. Drinan, Mr. Downey, Mr. Duncan of Tennessee, Mr. Forsythe, Mr. Fowler, Mr. Gaydos, Mr. Gephardt, Mr. Grassley, Mr. Harris, Mr. Hughes, Mr. Hyde, Mr. Lederer, Mr. Long of Maryland, Mr. Mitchell of Maryland, Mr. Moffett, Mr. Moorhead of Pennsylvania, Mr. Murphy of Pennsylvania, Mr. Neal, Mr. Ottinger, Mr. Patten, Mr. Rahall, Mrs. Spellman, Mr. Stump, Mr. Udall, Mr. Vento, Mr. Walgren, and Mr. Young of Missouri.

H.R. 2292: Mr. Addabbo, Mr. Beard of Rhode Island, Mr. Boland, Mr. Danielson, Mr. Downey, Mr. Fazio, Mrs. Fenwick, Mr. Frenzel, Mr. Holland, Mr. Hollenbeck, Mr. Hughes, Mr. Lederer, Mr. Lott, Mr. Mathis, Mr. Sabo, Mr. Simon, Mr. Studds, Mr. Vento, Mr. Walgren, Mr. Bob Wilson, Mr. Yatron, and Mr. Stark.

H.R. 2374: Mr. Boland, Mr. Corrada, Mr. Dicks, Mr. Donnelly, Mr. Downey, Mr. Edgar, Mr. Edwards of California, Mr. Flood, Mr. LaFalce, Mr. Moakley, Mr. Reuss, and Mr. Richmond.

H.R. 2410: Mr. Fauntroy, Mr. Murphy of Pennsylvania, Mr. Yatron, Mr. Mottl, Mr. Jenrette, Mr. Donnelly, Mr. Dougherty, Mr. Gingrich, Mr. Duncan of Tennessee, Mrs. Bouquard, Mr. Martin, Mr. Marriott, Mr. Hyde, Mr. Grisham, Mr. Kildee, Mr. Murphy of Illinois, Mr. Walgren, Mr. Buchanan, and Mr. Lujan.

H. Con. Res. 37: Mr. Dannemeyer, Mr. Jeffries, Mr. Jeffords, Mrs. Bouquard, and Mr. Bonior of Michigan.

H. Con. Res. 38: Mr. Lott, and Mr. Pashayan.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 43: Mr. Corcoran.
H.R. 44: Mr. Corcoran.
H.R. 45: Mr. Corcoran.
H.R. 46: Mr. Corcoran.

EXTENSIONS OF REMARKS

PORT SAFETY GRANTS BILL

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. BIAGGI. Mr. Speaker, I lay before the House for consideration legislation to assist local municipalities and public agencies in protecting deep-draft commercial ports from damages caused by fires, explosions, and other incidents occurring in those ports. My proposal amends the Ports and Waterways Safety Act of 1972 to provide for a port safety grants program in the Department of Transportation.

This measure is a revised version of earlier legislation which I cosponsored in the 94th and 95th Congresses. During that time, my subcommittee conducted extensive field hearings and visits to the ports of New York, Philadelphia, New Orleans, Los Angeles/Long Beach, San Francisco, and Seattle to investigate local port safety problems, needs, and efforts. Through this lengthy process we have developed a sensitivity

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

and appreciation for the uniquely local character of port operations in this country. From this review, I have concluded that we are now at a historic turning point in Federal port policy.

Traditional policy goals in this area have been to improve the navigability of the Nation's waterways and to insure the safety and efficiency of marine transportation. The Federal interest in port development coincides with the ratification of the U.S. Constitution. A major policy shift occurred in 1789 as a new Federal Constitution supplanted the existing Articles of Confederation.

By accepting statehood, the Thirteen Colonies gave up their power to tax interstate and foreign commerce in exchange for limited Federal port development assistance, along with a constitutional guarantee against discrimination between ports by the new national Government. From this date forward, the Federal Government and the States would be partners in domestic port development. With few exceptions, the States' partnership interests devolved upon local governments.

The United States clearly got the better half of the bargain. Since 1789, the Federal Government has invested over $1.5 billion in direct port development, while collecting customs duties and other levies on imports of over $45 billion. Port customs collections siphoned off to the general revenue of the U.S. Treasury annually exceed $3 billion.

Now a technical and social revolution is fundamentally altering the original partnership basis and agreement. Two themes dominate present and future public port development in the United States—rapid technological change and capital shortage. As ships become larger, transfer operations more complex, turnaround times shorter, and the volume and variety of hazardous cargoes greater, the Federal Government—and the Coast Guard, in particular—have become increasingly involved with port safety.

At the same time, the infrastructure costs required to support port operations (including the building of new marine terminals and installation of expensive equipment) and the additional financial burden of meeting federally imposed environmental, social, health, and safety requirements have heavily taxed the capabilities of ports to raise capital.

In contrast, the economic prospects of continued port development appear endless. U.S. foreign trade is mushrooming. From 1960 to 1979, the figure has increased from $35 billion to well over $200 billion annually. The bulk of this trade flows through the 170 deep-draft commercial ports on the Nation's coastlines as well as inland rivers and canals. To facilitate this increased trade, the U.S. port industry has invested over $3 billion in public marine terminal facilities since World War II. Moreover, antithetical to the situation in many foreign countries, none of the 2,400 major terminal facilities in the United States were provided with Federal funds.

In an institutional sense, ports remain almost entirely a localized industry in the United States. Most port authorities or port commissions are extensions of the local, municipal, county, or State government under whose authority they operate. Municipal services to ports have traditionally been provided by the local municipality or public agency within whose geographic boundaries the port is located. These same local governments and agencies supply municipal services to the community at large. Virtually all of these entities find themselves at some stage of fiscal crisis at the present time. Understandably, port safety services represent an attractive candidate for necessary budget trimming. Since these traditionally benefit primarily commercial activity, cuts in this area are relatively invisible to the man on the street.

Belatedly, a reappraisal of port policy is taking place on the national level. For the first time since World War II, the United States has begun to reemphasize the strategic value of ports in terms of national defense. Moreover, recent studies have demonstrated that the economic benefits of port activity are regional and national, as well as local, in scope. The handling of the Nation's waterborne commerce annually contributes over $16 billion in revenue, over 1 million jobs, and $10 billion in Federal, State, and local taxes to the national economy. If the U.S. port industry is to continue to play the vital economic and national defense role it has played since the founding of the Republic, limited Federal cost-sharing for certain specific port expenditures like port safety will have to be provided.

Threats to port safety are real and growing. Marine fire losses are currently averaging $75 million per year. These include damage to vessels, cargoes, and waterfronts—and commercial losses from fires aboard U.S. commercial ships. They do not include the far more numerous pier and waterfront fires that occur with increasing frequency in our major ports. Vessel losses alone are predicted to grow to $100 million per year in the next 20 years.

In the Port of New York, for example, the New York City Fire Department's Marine Division annually responds to approximately 180 pier fires, 20 shipyard blazes, and 100 vessel fires. Once every 5 years, the division is called to respond to a major marine disaster such as the "Seawitch-Esso Brussels" collision and fire in 1973 in New York Harbor in which 16 seamen lost their lives. Just last month, the entire division was summoned to the scene of a five-alarm fire on a Brooklyn waterfront pier that contained cases of live ammunition. Without the assistance of the Marine Division's fireboats, supplemented by the limited resources of the Coast Guard, the city's land companies could not have extinguished a blaze of this magnitude. From our experience, the other major port cities of the United States are in a similar state of affairs.

Contemporaneous with our investigation, the Maritime Administration (MARAD)—through its office of Domestic Port Development—undertook a study of marine fire protection in the Nation's major ports. In an unrelated action, a grant was provided to the city of Seattle to initiate a pilot program in marine firefighting, utilizing specially trained land-based fire companies to fight shipboard fires.

The MARAD study concluded that the development of marine firefighting expertise in land-based firefighting companies was the most cost-effective alternative to affording adequate disaster protection in port cities. At the same time, the Seattle experiment demonstrated the success of limited Federal assistance to upgrade local land- and marine-based firefighting capability.

Building upon this experience and the knowledge gained in over 4 years of subcommittee inquiry, this legislation represents an interim, cost-effective approach to improving the safety and insuring the continuity of operation of the Nation's major deep-draft commercial ports.

It accomplishes these purposes by permitting the Secretary of Transportation to make matching grants to local municipalities and public agencies responsible for port safety planning and services in deep-draft commercial ports. This assistance would be directed to the development of comprehensive port safety plans; to the training and qualification of emergency response personnel; to the acquisition, maintenance, and improvement of marine- and land-based equipment and facilities.

The implementation of such a program in each major port city would insure the existence of an adequate disaster response capability in each major deep-draft commercial port. This objective would be accomplished by assisting a local municipality or public agency in the development of a comprehensive port safety plan and program which includes:

An inventory of local risks and hazards in a particular port;

Preparation of a comprehensive port safety contingency plan, reflecting those risks and hazards identified;

Acquisition, maintenance, and improvement of fireboats and other marine- and land-based equipment and facilities;

Training and qualification of full-time and standby emergency response personnel, including augmentation by land-based fire companies;

Submission and filing of prefire plans by vessels calling at a particular port with the local fire department;

Integration of those ship crews in firefighting training with the local fire department, and

Increased coordination and cooperation between the Coast Guard and local fire departments in marine disaster response.

My proposal opens a new phase in the traditional Federal/local partnership in port development. This legislation is designed to be self-terminating. Eventually, it may be possible to shift a portion of the cost of port safety services to the shipping industry and, ultimately, to the general public who benefit from safe, efficient port operations. For the present, I believe this program of limited Federal assistance will insure the safety and continuity of operation of our major deep-draft commercial ports.

I invite the support and cosponsorship of this measure by my colleagues.●

PRESERVING FREE ENTERPRISE

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. ABDNOR. Mr. Speaker, each year the Karl E. Mundt Historical and Educational Foundation and the Greater South Dakota Chamber of Commerce sponsor an essay contest for high school seniors on the subject. "Why the Free Enterprise System Must Be Preserved and Strengthened."

Such an opportunity fosters not only a greater appreciation for the free enterprise system, but a growing awareness of the threats to its preservation and the measures which are needed to counter these perils.

Winner of first place in the contest this year is Denise Greenough who attends Bennett County High School in Martin, S. Dak. I commend her comments to the attention of my colleagues:

WHY THE FREE ENTERPRISE SYSTEM MUST BE PRESERVED AND STRENGTHENED

(By Denise Greenough)

In its 200 years of existence, the United States has grown to be the economic wonder of the world. It has brought from its farms and factories a richness unprecedented in all history. We have also enjoyed a unique form of democratic government during this period that has been an inspiration to freedom-seeking people throughout the world. Now as we near the beginning of a new decade and soon a new century, we should be aware of the important connection between our economic progress and the vitality of our democratic form of government.

Free enterprise is a system of political, social, and economical arrangements designed to solve the basic economic problem with great efficiency. Owners of wealth use it in an effort to make profit for themselves and join with others to carry on business for private gain. This system developed as a reaction to monopolistic and restrictive practices of mercantilism, after it was presented in 1776 by Adam Smith in his book, *The Wealth of Nations*.

Through the economic system, labor, resources, and skills are brought together to produce an enormous variety of things people need and want—for example, goods, such as food, clothing, and machinery; and services—transportation, education, health care, and public safety. Basic choices must be made since there are limits to what can be produced. What goods and services will be produced? How will they be produced and who will produce them? Who will use these goods and services?

Different countries have developed different ways of answering these questions. Sweden and Great Britain have socialistic oriented economies. Socialism refers to an economy which depends heavily on the government to plan and make economic decisions and to own and control important economic resources. When government tries to provide services for the people, as in a socialistic economy, too many people are put on the public payroll. Sweden has the highest proportion of its population on its public payroll—followed by Great Britain.

Great Britain, as well as the U.S., by trying to provide too much for the people, is finding itself in an economic crisis. The pound and dollar are losing value each day. We have to understand that inflation is primarily caused by deficit spending. Deficit spending lowers the value of money resulting in our needing more of it.

We, in the U.S., have to realize that our government should do only for the people what they cannot do for themselves. We must guard against following Great Britain's example.

What can we do to preserve and strengthen the free enterprise system? I suggest the following ideas:

1. Our government should be run like a business. No business can spend more than it takes in and survive. Government should not try to either.

2. We need to hold down inflation and increase production. It is important to balance the federal budget. Competition is necessary to keep prices down. Producers who supply the best goods and services at the lowest prices generally will be the most successful. Workers need a change of attitude. They should work not only for money, but also for the pride of accomplishment.

3. We should avoid allowing social programs to be abused. People able to work should not be allowed to draw welfare instead. Sometimes it is more profitable to take welfare than look for a job. Also, unemployment fraud is common practice in some areas.

4. The federal government must not be allowed to become too powerful, it should be our servant, not our master. The problems and needs of the people of each state are different. Therefore, the federal government cannot meet all these needs. Such needs can only be dealt with by each state individually. Many times only the local government can make the decisions about what is best for that area.

5. We must not allow government to compete with private industry in providing services. Employment in private industry must be encouraged instead of creating public jobs just to get people on the payroll.

6. Our citizens must first be informed, then get involved and vote for the right people to run our country responsibly.

We, as citizens, must feel pride in our country and its free enterprise system and work to preserve it, because it has proven to be the best system. As our nation enters its third century, this system must continue to be our source of strength and achievement if we are to maintain our progress in the years to come.●

MONESSEN EDUCATOR CITED

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr BAILEY. Mr. Speaker, on March 31, 1979, a well-deserved tribute will be paid to an outstanding educator and citizen, Dr. Joseph J. Pallone, to mark over 24 years of dedicated service as the superintendent of schools in Monessen, Pa.

Ever since Dr. Pallone earned his first education degree in 1935 from Indiana State University, he has been unrelenting in his efforts to improve the quality of American education.

From 1935 until 1956, Dr. Pallone used his tremendous educational talents in serving as a teacher and then principal in the Arnold Public School System, Arnold, Pa.

It was from this position that Dr. Pallone began his 24-year tenure of public service as superintendent of schools in Monessen.

During all of these years, he continued to further his impressive educational training by earning his Master of Education degree from the University of Pittsburgh in 1938 and his Doctor of Education degree from Pennsylvania State University in 1956.

In addition to his daily involvement in the public school system, Dr. Pallone has participated in many educational and professional organizations and associations, ranging from the American Association of School Administrators to the Westmoreland County Superintendents' Association.

However, Dr. Pallone's accomplishments do not stop at the academic world. He has unselfishly devoted many hours of hard work in various community services and projects.

Most noteworthy was his service as president of the Monongahela Valley Hospital, Inc., project.

It is entirely proper that Dr. Pallone be recognized not only for his tireless efforts and achievements within our educational system but also for his dedicated service to his community.

On behalf of the good citizens of Pennsylvania's 21st Congressional District and the House of Representatives, it gives me a great deal of pleasure to salute Dr. Joseph J. Pallone, an educator who has contributed much to the improvement of the American education system.●

HEW REPORTS ON WOMEN AND SOCIAL SECURITY

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. LAFALCE. Mr. Speaker, since the enactment of Social Security in the late 1930's as a retirement program, two major benefit programs have been added. In the 1950's, disability coverage for workers and their families was included and in the 1960's medicare was extended to the elderly and disabled.

Although the Social Security program has grown over the past 40 years to meet various needs of workers and their families, recognition of the changing role of women in contemporary society has gone relatively unnoticed in terms of benefit coverage and program structure.

The Department of Health, Education, and Welfare was mandated by Congress in 1977 to study the impact of the present system on women. The study, entitled "Social Security and the Changing Roles of Men and Women," confirms the need for further reforms aimed at the equitable treatment of working couples, homemakers, and "displaced homemakers."

I include for my colleagues' attention the statement made by HEW Secretary Califano outlining the scope of the study:

STATEMENT BY JOSEPH A. CALIFANO, JR., SECRETARY OF HEALTH, EDUCATION, AND WELFARE

I am today sending to the Congress a report that constitutes a vital step in our efforts to address the important issues that have been raised in the Social Security program by the changing roles of men and women in our society. As mandated by the Congress in the 1977 Social Security Amendments, this report takes into account the practical effect of "changes in the nature and extent of women's participation in the labor force, the increasing divorce rate, and the economic value of women's work in the home."

The report endorses no specific changes. Instead, it offers for debate two alternative models—and a number of more limited changes—that begin to take into account the realities of life in the 1970s.

The report, entitled "Social Security and the Changing Roles of Men and Women" was prepared by the Social Security Administration in consultation with the Department of Justice Task Force on Sex Discrimination, the staff of the Congresswomen's Caucus, and interested Congressional committee staffs.

This report represents an in-depth study of a program, started in the mid-1930s, that has reached middle age with few adjustments for the new patterns of work and marriage in our society.

It is time for the Social Security program to begin to face the profound changes needed to assure that both men and women have the same opportunity for fair and adequate Social Security benefits.

The Social Security program has important strengths that we all recognize. But, as this report demonstrates, the Social Security program discriminates against women.

Let me list a few examples of ways in which the present benefit structure treats women unfairly:

Women unfairly lose protection against disability if they take time out from paid work to bear and raise children. For example, consider a woman who works for 15 years in jobs that are covered by Social Security, and then take 5 years out of the work force and has two children. Then she becomes permanently and totally disabled. She cannot claim disability benefits because she has not worked "recently." In addition, although unable to work because of a disability, she must pay for medical care for herself and care for her children—all without any assistance from the social security system to which she contributed for 15 years. She has, in effect, been penalized for child-rearing.

Women who take time out from their working careers to bear and raise children receive reduced social security protection when they reach retirement age. For example, consider a woman who works for 15 years at an average annual wage of $11,300 and then works at home 10 years raising three children. Another person works for 25 years at an average annual wage of $11,300. Both have 25 years of productive work. Both have received the same level of wages when they have worked for pay. But the woman who has taken time out to raise children will receive a primary social security benefit that is $50 a month less than the individual who has worked for pay for the entire 25 years.

Couples where both spouses work receive less from Social Security than couples where just the husband works—even if total earnings by the two couples are identical. For example, a couple in which each partner had lifetime average earnings of $6,000 per year (for a total of $12,000 for the couple) will receive benefits totaling $530 per month. A couple in which one partner had average lifetime earnings of $12,000 per year, and the other partner never worked in covered employment, will receive benefits totaling $636.60 per month. The benefit for the one-earner couple is more than $100 greater than that for the two-earner couple.

Let me list briefly a few other examples:

There are now inadequate benefits in some cases for aged widows.

Benefits are not provided for nondisabled surviving spouses under age 60 unless they are caring for children.

Benefits are not provided for disabled widows and widowers under age 50.

Benefits are not provided for children of deceased homemakers.

Different benefit amounts may be paid to the children of married couples with the same total average earnings.

None of these inequities is the result of deliberate policy decisions. They reflect the pre-1940s design of the Social Security program, which was based on a pattern of family relationships in American society—lifelong marriages in which women were solely homemakers and men provided economic support—that was much more common then than today.

For example, 47 percent of married women were in the labor force on any given date in 1977, compared with 17 percent in 1940. Of those married persons aged 26 to 40 in 1940, one in seven eventually were divorced. Today, one in three marriages of persons age 26 to 40 is expected to end in divorce.

At present, nearly 90 percent of all women work for pay at some period during their lives. It is simply not fair or realistic for social security to treat those women as adult dependents who had never worked when they reach retirement age. If the program is to maintain the public support upon which it depends, women must have better access to benefits in their own right.

The current benefit structure must be changed to make it more equitable. The issue is not whether, but how to change the current structure to correct the inequities while maintaining the strengths of the existing system.

This report begins the difficult but critically important process of identifying the problems and laying out possible solutions. All the issues and alternatives cannot be fully explored in a single document. This report makes no attempt to do so.

Instead, it lays out two broad models for correcting inequities to illustrate the scope of change necessary to address these inequities. There may be other approaches that can and should be disclosed, but this report will trigger the full and careful debate that must precede any major changes in a program that touches the lives of nearly all Americans.

The models outlined in this report are described on a prospective basis only. The report does not consider affecting the benefits of anyone now receiving social security. However, the report notes that transitional programs could be designed to remedy serious inequities for particular groups of current beneficiaries or for those now nearing retirement. Such provisions would increase shortrange costs.

The report also does not address the impact of changes in Social Security on other Federal programs, most notably income maintenance programs, such as Aid to Families with Dependent Children or Supplemental Security Income. That impact should be thoroughly explored in the public discussion on the models described in this report, and on any other proposed changes in the social security system.

The models described in the report are designed to address the inequities in the current system without substantially increasing long-range costs. The report makes it clear that this kind of cost constraint would require reducing benefits for some to achieve the desired equity for others.

Over the long run, however, we must recognize that eliminating inequities and improving the adequacy of benefits in the current system will either require increased funding or mean reducing other benefits. The Nation must begin to face this difficult choice. Costs are an important issue and must be thoroughly considered, but they should not obscure the central question for debate: how to structure social security benefits to be as fair, equitable and adequate as possible for all Americans—regardless of sex and regardless of marital status.

The report is a thoughtful piece of work that deserves the widest possible distribution, study and discussion by Congress and the general public. To assist in that discussion, I am submitting the report to both the Advisory Council on Social Security and the National Commission on Social Security for thorough debate. Their reaction and comments on the models described in the report will be particularly important as this discussion goes forward.

I have also asked Stanford Ross, Commissioner of Social Security, and Martha Keys, my special assistant, to consult widely and solicit comments on these models and other alternatives that address these difficult questions.

The Social Security system has important strengths. Its continued vitality surely is a remarkable achievement in light of the radical transformation our society has undergone since the 1930s. Our challenge is to recognize and correct the inequities within the system while preserving the inherent strengths of a program that has served millions of Americans so well for more than 40 years.

Let me now briefly describe the two models for comprehensive change that the report sets out:

Earnings Sharing: This prototype is designed on the general rule that a worker's Social Security benefits would be based on his or her earnings when single, and on one-half the combined earnings of a couple during their marriage. In the event of divorce, each partner's wage record would be credited with one-half the couple's combined earnings during their marriage—regardless of the length of the marriage. Each spouse would get a Social Security retirement benefit in his or her own right.

Earnings sharing would have a significant effect on several major groups:

For retired people: There would be no difference in benefit amounts for lifelong married couples with the same total earnings, regardless of whether they were one-or-two earner couples. One-earner couples would receive lower benefits than those that would be provided under current law. For all couples, the benefit of the higher-earning spouse would usually be less than under current law and the benefit of the lower-earning spouse would usually be higher, both in lifelong marriages and in the event of divorce.

For survivors: When one member of a couple dies, 80 percent of the total earnings of the couple during their marriage—but no less than 100 percent of the earnings of the higher wage earner—would be credited to the surviving spouse. (This modification of the basic earnings sharing concept was included to pay benefits that are somewhat comparable to benefits under law.) Survivors of two-earner couples would generally get higher benefits than under present law.

Benefits would be paid to a young surviving parent only until the youngest child reached age 7, rather than age 18 as under present law; the child's benefit would continue until age 18. This modification of present law is based on increased labor-force participation of women when their children enter elementary school, and on indications that the current benefit may act as a deterrent to work.

To partially make up for the loss of the parent's benefit, there would be an increase in the benefit for surviving children. In addition, an adjustment benefit equal to 100 percent of the deceased spouse's benefit would be paid for one year after the death of the spouse—regardless of whether there were any children. This benefit is intended to meet the transitional needs of surviving spouses.

For disabled people: Benefits would be roughly the same as those under the present law. They would be based on the person's own earnings, taking into account earnings shared with a spouse during a prior marriage or credits acquired on the death of a spouse. Earnings would not be shared with regard to a marriage still in effect at the time of disability.

The particular earnings sharing prototype described in the report would decrease long-range costs of Social Security by 0.06 percent of taxable payroll. If it were applied to the 1979 taxable payroll, the effect would be a decrease of $0.6 billion over present law.

Two-Tier Benefit Structure: The existing benefit structure would be replaced by a two-tier approach. The first tier would be a flat rate benefit payable to every U.S. resident, regardless of earnings, who meets the age requirements or who is disabled. The second tier would be an earnings-related benefit payable on the basis of employment covered by the Social Security program. The total benefit for an aged or disabled beneficiary would be the sum of both tiers.

The second tier described in the report includes some of the features of the earnings-sharing option: In the event of a divorce, each partner's wage record would be credited with one-half the couple's combined earnings during their marriage. Surviving spouses could inherit earnings credits.

The effects of the two-tier approach on various groups would include:

Retired people: Older people who are not eligible for any Social Security benefits under present law would get a tier I benefit. If they had any covered earnings, they would also get a tier II benefit. On average, benefit amounts would be lower than under present law for one-earner couples and roughly the same for two-earner couples.

Survivors: In addition to a tier I benefit, surviving spouses would inherit earnings as they would under earnings sharing. In most cases, benefits for a survivor of a one-earner couple with a lifelong marriage would not vary substantially from those under present law. Benefits of a survivor of a two-earner lifelong marriage would generally be higher than under present law.

A one-year adjustment benefit would be provided for a surviving spouse under age 62. The amount would be 100 percent of the tier II benefit based on all the earnings credits of the deceased person, including those from a previous marriage.

The benefit for a surviving child would be tier I plus tier II based on all the earnings credits of the deceased parent. Where there is more than one surviving child in a family, the total benefits to the children would be a tier I benefit for each child, plus one tier II benefit for the family—but no greater than a specified family maximum benefit amount.

Disabled people: Disability benefits would be payable to everyone who meets the definition of disability. There would be no requirement for the person to have worked under the Social Security program. The basic benefit would be a tier I benefit. If the disabled person had earnings credits, whether from his or her own earnings or as a result of divorce or death of a spouse, he or she would also be entitled to tier II benefits. Tier I benefits would be payable to disabled homemakers who had never worked in covered employment. Disabled widows and widowers of any age could receive tier I and tier II benefits, not just those age 50–60 as under present law.

Like the earnings-sharing option, the particular two-tier alternative outlined in the report was designed to hold changes in long-range costs to a minimum, compared to the current system. The long-range cost of this particular two-tier option would depend heavily, however, on the method used to adjust the tier I benefit for changes in wages and prices. Depending on the assumption used, the cost of the two-tier plan could range from an increase of 0.5 percent of taxable payroll ($5 billion in 1979) to a decrease of 1.86 percent of taxable payroll ($19 billion in 1979).●

8,400 RESPOND TO QUESTIONNAIRE

HON. ROBERT C. McEWEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. McEWEN. Mr. Speaker, I am very pleased to report to my House colleagues the results of my 1979 winter poll. More than 8,400 residents of my 7-county congressional district responded, providing an indication of how my constituency views the issues facing this Congress.

A question on the relationship between President Carter's emphasis on human rights and U.S. foreign policy drew the greatest number of responses—8,466—with 62.5 percent believing that the human rights matter has not improved American foreign policy. Only 21.4 percent believed it did, while 16.1 percent were undecided.

In rating the President's performance in office, 2.3 percent rated it "excellent," 23 percent "good," 44.7 percent "fair," and 30 percent "poor." The percentages represent a slight improvement for the President in each category from my fall, 1978, poll.

I call the views of my constituents to the attention of the House and Senate and to the Carter administration with the hope that their very real concerns as reflected in the responses will be appreciated and recalled as we face the challenges before us.

The results follow:

RESULTS OF JANUARY 1979 LEGISLATIVE QUESTIONNAIRE

[In percent]

	Yes	No	Undecided
1. Do you favor a U.S. constitutional amendment requiring a balanced Federal budget, except in time of war, keeping in mind that this would possibly reduce or eliminate some Federal programs which may benefit you?	74.1	16.9	9.0
2. Do you favor mandatory wage and price controls?	49.0	42.7	8.3
3. Do you favor "Sunset Laws" which would require that each Federal program be rejustified or expire at regular intervals?	84.2	8.6	7.2
4. Should the Federal Government take over regulation of the insurance industry that is now regulated by the States?	25.4	62.1	12.5
5. Federal law gives to the U.S. Postal Service the exclusive right to deliver 1st class mail. Do you favor amending that law to permit private enterprise to deliver 1st class mail?	70.3	23.5	6.2
6. Should the Congress continue its investigation of the assassination of John F. Kennedy and Martin Luther King?	15.6	79.2	5.2
7. Women are now an important part of our Armed Services. In the event of war, should they be used in combat?	44.3	46.3	9.4
8. Do you favor giving full diplomatic recognition to the People's Republic of China?	53.6	33.0	13.4
9. Do you feel the Carter administration's emphasis on human rights has improved our foreign policy?	21.4	62.5	16.1
10. Should we pass a Federal law to prohibit the purchase of American agricultural land by foreign investors?	77.0	16.0	7.0
11. Should congressional election campaigns be financed by U.S. Treasury funds on a matching basis with other contributions similar to the system now in effect for Presidential elections?	31.5	57.4	11.1
12. Should there be a Federal law requiring the registration of handguns?	52.4	42.4	5.2
13. Do you favor:			
(a) A 3-week extension of the St. Lawrence Seaway navigation season?	39.7	35.6	24.7
(b) A year-round navigation season?	22.3	51.9	25.8
(c) No extension of current navigation season?	43.7	29.6	29.4
14. How would you rate President Carter's performance in office thus far? (a) Excellent, 2.3; (b) Good, 23.0; (c) Fair, 44.7; (d) Poor, 30.0.			

●

TRIBUTE TO MARK W. HANNAFORD

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. ANDERSON of California. Mr. Speaker, Mark Hannaford established himself as a "true friend of the worker" during his 4 year tenure in the Congress. His pro labor voting record showed a constant concern for the issues that touch the lives of the average citizen. It makes him truly worthy of the special recognition he will receive on March 25,

1979. On that day, the United Automobile, Aerospace, and Agricultural Implement Workers of America, Local 148, will offer their token of appreciation for his good work in the Congress by sponsoring a luncheon in his honor.

Mark's extensive educational background helped him develop the remarkable abilities he has displayed as a public servant. After serving 3 years in the Air Force on a bomber crew, Mark attended Ball State University where in 1950 he received his bachelor's degree in political science. His completion of several graduate courses at California State University (Long Beach) led to an award of a master's degree in political science from Ball State in 1956. As a recipient of the John Hay Fellowship in 1961, he devoted a year to advanced graduate work in economics and political science at Yale University.

Following his move to southern California in 1953, he started his teaching career in a local junior high school. In 1966 he moved to the college level and became a professor of political science, a position he held until his election to the Congress.

As his teaching career progressed, his interest in community affairs grew and moved him to become an involved citizen. He served for several years as a member of the City of Lakewood's Planning Commission. His hard work in civic affairs spread his reputation as a devoted voice for the people and led to his election to the Lakewood City Council in 1966. He was reelected in 1970 and spent 4 years as Mayor before being elected to represent the 34th Congressional District.

My own home district, the 32d, borders the communities which Mark has served in his career as an elected official. During his 4 years in the Congress, I came to know personally of this man's integrity and sincere concern for the welfare of workers. Throughout these years, Mark voted consistently on their side of the issues. The fact that at times his devotion to the cause was unpopular did not weaken his determination to follow his conscience.

Mr. Speaker, I can think of no one more deserving of the special honor to be given by the U.A.W. Union than Mark. His achievements to this date will be long-lasting contributions to the labor movement.

My wife, Lee, joins me in saluting our friend, Mark, for his commendable service. We wish him, his lovely wife, Sara, and their children, Mark, Kim, and Robert many more years of success and happiness.●

VOICE OF DEMOCRACY SCHOLARSHIP WINNER

HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. STANGELAND. Mr. Speaker, the Veterans of Foreign Wars and the Ladies Auxiliary conduct each year a Voice of Democracy Contest. This year I am proud and honored, as the Representative from the Seventh District of Minnesota, to congratulate Michael George McKinnon of Crookston as the winner from the State of Minnesota. Michael is a 16-year-old junior at Mount Saint Benedict High School in Crookston, and he plans to attend Northwestern University to study theatre. Democracy and freedom are important to all of us, and I believe Micheal has done an extraordinary job in composing this essay on this great nation. As I read it, I felt a feeling of pride, a feeling deep in my heart that makes me glad I am an American. With this in mind, it is my pleasure to submit Michael McKinnon's essay to my colleagues in Congress.

1978–79 V.F.W. VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM MINNESOTA WINNER MICHAEL GEORGE MCKINNON

One hundred years ago the American eagle filled the skies, a glorious winged symbol of our highest standards: Pride, honor, and honesty. Today a pathetic handful linger on the brink of extinction. And what of America?

Even though the high-flying eagle is rarely seen, the standards he symbolizes are alive and well in the hearts of the American people. I know this because I see that in many ways Americans are remarkable. They are tough when they need to be and resilient always. But both qualities are tempered by a capacity for caring, caring enough to constantly struggle for a better life for more people. This combination of muscle and heart is part of why this land has an exciting future and why it stimulates me to care and act so that I can serve a busier, more productive America.

I care about a developing America, which I see is not just a fantasy, but a reality. Each day I see new industries developing and expanding. I see a country that is developing schools where the learning and yearning of today's young adults are being nurtured.

I care about the basic unit of society, the family, and I am thrilled when I see an America that is planning and building every day for new families and for new jobs to support these families.

America is not an endangered species. How can she be when I as well as thousands of other American youths are cheering and hoping for a busier and better America. I have hope, and I also have faith. A faith that the builders of the past possessed when they so courageously forged ahead to make America the inexhaustible font of freedom that she is. I have faith in the builders of the future, because America is future, and I see in America the future of the world.

However, looking into the future has not blinded my vision and I am very aware of present problems which I see not as doors shut in my face, but as challenges which must be met and faced with the courage to change what is evil and to preserve what is good.

I see greed in America, but it is being counteracted by the Vista worker or the volunteer who goes out to work among the hill-folk of Appalachia. I see violence and hatred, but in the midst of this unrest I see a church and people praying for peace.

I care about America, a vast land of mountains and valleys, fertile productive soil and great cities. A rich land over which the eagle soars, his head thrust upward in pride, a pride I share because I have experienced the golden opportunities America is always extending to me.

But perhaps the most beautiful ideal that I care about as an American citizen, is that of brotherhood—that unconquerable quality of laying down life and treasure to maintain hope in some national disaster. The conviction that I have an obligation to help less fortunate people, people who I do not know, people who have forgotten how to smile.

I have been given a legacy, a legacy symbolized by the American eagle: Struggling, living, and surviving.

I will cherish and care for this legacy. And I hope that my caring will bring my country just one step further down the road to peace, hope, and brotherhood. Yes, I am an American, and I care.●

ENERGY CONSERVATION WORKSHOP

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. AuCOIN. Mr. Speaker, we are all aware of the current energy crisis, and we are mindful of the critical long-range projections for our energy supplies. Last year the Congress enacted a national energy plan which will help us to meet the challenges of our energy supply. Conservation is a fundamental part of the policy established by the plan.

I am delighted to learn of a workshop to be held in our Washington community next week whose emphasis is on the practical aspects of implementing conservation on an individual basis. The Community Housing and Energy Conservation Conference is the first conference to use community-based organizations in cooperation with the Federal Government to relay practical information on energy conservation to community groups.

The conference is scheduled for Tuesday, March 20 at the Tifereth Israel Synagogue at 7701 16th Street NW, with registration beginning at 8:30 a.m.

The Department of Housing and Urban Development and the Department of Energy are cooperating with a variety of voluntary neighborhood and consumer groups in the Washington area in sponsoring this project. The conference plans an ambitious schedule combining workshops and demonstration projects. Other sessions will provide a broad overview of energy conservation activities and potentially available Federal resources.

The intent is to develop a model for similar workshops that can be held across the country. Community groups can, in turn, share this knowledge with their memberships.

We should remember that it is sometimes not enough to create policy and paint solutions to problems with broad brush strokes. Sometimes it requires a more down-to-earth effort to attain the goals of our policy. I strongly commend the leaders of this conference for their pragmatic and farsighted approach to the difficult problems associated with implementing energy policy.

It is one thing for the Congress to voice its encouragement for conservation. But it is another for conservation measures to actually be implemented. Innovative ideas such as the Community Housing and Energy Conservation Conference will enable us to put policy into practice.●

TAIWAN: "A PLACE, NOT A SYMBOL"

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. HYDE. Mr. Speaker, much has been said and written about the pros and cons of the Carter administration's policy on China. The press has debated, and we have debated in this House, the wisdom and morality of the President's position. This is as it should be, for a matter of such gravity.

It is important, therefore, that we remind ourselves that in this important debate we are dealing not only with concepts and strategies, but also with the fate of 17 million people. Human rights is one of those terms that is so often invoked, but its meaning and application seems to vary from one country to another. We demand a high standard from some countries (particularly if they are small and pro-American) and we overlook human rights abuses from large and left-wing nations. The White House and its array of spokesmen have conveniently dismissed the human rights aspect of the Taiwan question with a sad array of platitudes and contrived rationalizations. Scant thought has been given to the fate of Taiwan's 17 million people, in this glamorous game of "China cards" and global power poker. Nor has sufficient recognition been given to their accomplishments in the last 30 years, or to the solid achievements of their government in the fields of health, education, social welfare, and economic growth.

But if we are at all serious in our discussion of human rights, should we not give recognition to a government which, since 1949, has led its people to one of the highest standards of living in all of Asia, has achieved at the same time the most equitable distribution of wealth for its people of any nation on Earth (including, especially, the People's Republic of China), has afforded its population a significant measure of social and political freedom?

I have rarely heard administration spokesmen discuss these points in detail. Yet it must be painfully clear to any reasonable person that the President's deal with Peking and his plan to completely sever all official ties with Taiwan will inevitably have the effect of undermining those basic rights and achievements it has taken them so long to achieve. This, I believe, is the brutal reality which we in Congress must bear in mind as we play our limited role in the formulation of a new China policy.

A highly perceptive column on this subject appeared in the Washington Post. This article brought home to me, as no other piece has, the bedrock of reality that underlies our whole China debate. It is short, but it is also authoritative, and says what must be said. I am therefore inserting it in the CONGRESSIONAL RECORD, and I commend it as indispensable reading to anyone who takes a serious interest in the future of Taiwan's 17 million people:

TAIWAN: "A PLACE, NOT A SYMBOL"

(By Fred Reed)

In the surreal world of ideological warfare, inaccuracy is a virtue esteemed over all others, save irrelevance. So with Taiwan. Conservatives growl that Taiwan is the very flower of democracy, which it is not, and insist that she has been our staunch ally, as if she had a choice. Liberals positively warble about the thought of Coke machines in Peking. Conspicuously forgotten in all the theoretical booming and trilling is that Taiwan is a place, not a symbol—a country with real people, a government, policies, specific virtues and vices. Considered in the context of Asia—context is important—Taiwan is not what Capitol Hill imagines it to be.

I wonder whether Americans understand how bad Asia is. I spent several years as a shoestring free-lancer in the East and lived, as is customary of such disreputables, in a variety of oriental slums. A year of it should be required of journalism students. In a back street of the East one gains a grim perspective on misery, its form and degree and prospects. One learns to distinguish the humanly important from the polemically useful.

In Calcutta, one steps over comatose children lying naked in gutters, flies sucking at drainage from infected eyes. Twenty years from now, other children will probably be in the same gutters: India is not sprinting into the future. Burma is a xenophobic piece of colonial jetsam whose government, mistaking incompetence for socialism, has strangled the economy. The country has reached 1930 and is marching resolutely backwards. Thailand is hopelessly corrupt and inefficient, changing governments as other people change their socks. Cambodia is incredibly primitive. In the stark tropical countryside, I watched barefoot women with sarongs, and maybe leprosy, make fires with piles of sticks. Laos is nothing at all: hopelessly backward, isolated, hagridden by ideology. Indonesia's lepers sit in cardboard hutments, both dissolving in the monsoons.

We have been fooled by our own euphemisms: The "developing countries," by and large, aren't developing. They lack the stability, literacy, organizational ability, work ethic, governmental pragmatism, access to technology, and ability to absorb it.

Life in the back alleys is rough. I lived for eight months in the teeming slums off Truong Min Ky in Saigon, where dog heads floated in pools of green water. There were no schools, little medicine, no security, no hope. Intestinal worms flourished. Sewage stank, garbage stank. By day, lizards copulated on the walls. By night, three-inch cockroaches exploded from under the walls and raced in crazed fandangos, making papery noises.

Horrors abounded: The blind couple in their 80s who tottered by in the afternoons, tied together by a rope and begging. She usually cried; he tried to comfort her, when he could find her.

Nightmares are not exceptions in Asia. They are the routine of life, day after day after day. Things do not get better. Often they get worse. And a little bit of this can leave one impatient with the uncomprehending political chatter of well-fed sophisticates. In Asia, any government that minds its own business and raises its people above the surrounding cesspool is, ipso facto, a good government.

Which brings us, panting, to Taiwan. I lived for a year in Taiwan, mostly in the laboring section off Tung An Jye in downtown Taipei. I traveled from one end of the island to the other, hiked into remote aboriginal areas. My presumption being that all officials are liars until proved otherwise (the Nationalists certainly are), I believed nothing I didn't see. Outside of Singapore, it was the only successful nation I saw in Southeast Asia.

Taiwan is developing (developed, one might almost say). It is not paper development. Every patch of jungle with a colonel and a border has a five-year plan, but Taiwan has the roads, ports, factories, housing, schools. The young are visibly taller and healthier than their elders. People eat. Grass huts give way to whitewashed masonry. Consumer goods reach the people in quantity. Back-alley restaurants and laborers' living rooms sport baroque color televisions of extravagant hideousness. Refrigeration, rock music and stylish clothes are everywhere.

I don't think Americans grasp the importance of a luxury and a little hope. The wealthier the American, the less the grasp. On Capitol Hill, where opulence is almost lascivious, many people dismiss Taiwan's progress as . . . well, gauche: Merely economic. The implication seems to be that the Third World should live in philosophic poverty, eschewing such corrupting influences as appliances.

I suspect that if Taiwan's critics were to spend a month in, say Delhi, they would quickly conclude that the Nationalists, while not all that we might want, are all that we can hope for. It follows that President Carter's ploy may be realpolitik, and may be errorpolitik, but moral politics . . . no.●

THE DUMPING OF EUROPEAN STEEL IN THE U.S. MARKET

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. GAYDOS. Mr. Speaker, the European practice of "dumping" steel in the U.S. market has aroused considerable debate. Many have argued that the establishment of the trigger price mechanism (TPM) rather than accomplishing its avowed purpose of improving the enforcement of antidumping laws has in effect become a "license to dump." In the broadest sense, free and equitable trade is considered to be economically beneficial, but dumping is a clear distortion of the economic mechanism through which the benefits of trade are derived. The classic form of dumping is price discrimination—that is, the sale of products to an export market at prices significantly less than the home market prices for comparable products. A second form of dumping involves the exportation of products for a sustained period of time at which prices are below their full cost production.

Available evidence demonstrates that steel from Europe is being "dumped" on a massive scale in the United States on both a cost of production and market price basis. One of the most startling facts is that the financial reports of the largest European steelmakers for the years 1975, 1976, and 1977 show that without exception each lost significant amounts on their steel sales.

For at least 4 years, the entire European steel industry has registered losses of staggering proportion. This undeniable fact is a matter of public record and has long been known to the Government of the United States. For instance, total losses reported by the top fifteen steelmakers were $1,252 million, $980 million, and $2,568 million for the years 1975, 1976, and 1977, respectively. Information on the exact losses experienced by the top steel companies in 1978 has not yet been released. But press reports indicate little improvement occurred during 1978.

European steelmakers are engaging in significant price discrimination within the meaning of the U.S. Antidumping Act of 1921. For instance, European export prices to the United States are set below prices of steel sold to the European community. Furthermore, European home market prices are below the full cost of production and, therefore, should not be used by the Treasury Department in calculating the margin of dumping. Rather, a more appropriate measure such as a comparison of constructed values as defined in 19 U.S.C. 165 with export prices, should be used in calculating the margin of dumping.

Unlike Japan, Europe is not monolithic and both cost and prices can vary considerably depending on the specific country in question. However, during 1977, two plans emerged from the European states, namely the Simonet and Davignon plans, which provided for production quotas and guidance prices on intra-EEC transactions. The Simonet plan called for voluntary quotas on steel produced by European firms for distribution within the Common Market. To insure the plan's effectiveness, measures were required to limit steel shipments from third countries. This protection of Europe's home market entailed a series of bilateral agreements. The United States responded to the European plan in an aide memoire which expressed U.S. concern over the danger that the plan would prompt a dumping of steel to export markets because of the restrictions on domestic deliveries. Two months after the receipt of the American note, the European commission presented the so-called Davignon plan. One of the fundamental goals of the Davignon plan was to augment the Simonet plan by establishing minimum price levels. In sum, the system of minimum prices and quotas on steel imports into Europe have been quite effective and have allowed European nations to engage in below-cost pricing to the United States while maintaining insulation of their home markets.

The trigger price mechanism (TPM), designed to remedy the inadequacies of the traditional approach to enforcing the antidumping laws, has been, at best, only partially effective as a device for monitoring imported steel from Europe for evidence of dumping. The reasons are twofold: First, lacks of vigorous enforcement, and second, use of a single set of trigger prices based on Japanese production costs. Measured by any standard, the amount of European steel entering the United States below trigger price is substantial.

The basic premise of the trigger price mechanism is that the Japanese steel industry is the low cost industry in the world. Accordingly, the Treasury Department developed trigger prices which reportedly are based on the costs of producing steel in Japan. Granting that this assumption is correct, any foreign producer exporting to the United States at prices below Japanese costs must necessarily be selling below its own costs. Assuming the trigger prices accurately reflect Japanese costs, Treasury will be able to quickly identify any sales by Japanese producers below their own costs. However, trigger prices will not enable Treasury to detect price discrimination of Japanese or any other producers, nor will it permit Treasury to determine when European or other steelmakers are selling below their own costs. This is a crucial point since many analysts believe that European firms are not competitive in the United States unless they do engage in below-cost sales.

In spite of TPM, imports rose 9.5 percent in 1978 over 1977, to an alltime record of 21.1 million tons. The steel industry is extremely sensitive to changes in volume; and, imports have had a lot to do with the problems currently being experienced by the U.S. steel industry. If imports have moved to a higher plateau, there are profound implications for the industry and its workers, as well as the international economic position of the United States. Last year, our Nation's steel trade deficit was about $6 billion. By 1985, unless we begin expansion of our domestic steel producing capacity, 25 to 30 million tons of steel imports could be annually entering the U.S. market. This increasing dependency would mean an outflow of $12 to $15 billion a year, a huge increase in our steel trade deficit. In contrast to American policies, the EEC has effectively restricted imports and promoted exports. The EEC exported an estimated 26.5 million net tons, thereby creating a net favorable steel trade balance of more than $5 billion.

In conclusion, it is clear that European exporters are permitted to dump in the United States without triggering an antidumping investigation under the TPM, while at the same time successfully insulating their steel producers from the deleterious effects of excessive imports into their home markets.

Thus it appears that we have the same old story of heads they win and tails we lose. Regardless of the possible short-run bargain we may be gaining from imported steel, two realities emerge. First, foreign producers will, in periods of excess supply, sell steel to the United States at prices which domestic producers cannot match, leading to growing U.S. dependence on this cutrate steel. Second, in the future, the impact of this dependence, during periods of steel shortage, will be intolerable to the United States as a whole.●

ONE WAY TO REDUCE OUR NATIONAL DEBT

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. HYDE. Mr. Speaker, several times every year we play a little game in this Chamber—increasing the so-called temporary limit on the public debt ceiling. Just 15 days ago we went through act 1 of the 1979 version of this "off-broadway production," and rejected the first effort of the Ways and Means Committee. Today we are into act 2. The only difference in the two measures is slightly less than seven-tenths of 1 percent.

In reality, we are being asked to continue the game of "fool some of the people all of the time."

There is no way this issue can be adequately explained to the American people. Of necessity, taxpayers apply some self-discipline. Why can't Congress do the same?

The question still remains: How do we make the American people aware of what we are doing? What can we do to dramatize the gross Federal debt which is estimated to reach around $830 billion by September 30, 1979?

In the last Congress I introduced legislation to amend the Internal Revenue Code to allow individuals to designate on their tax return $1 of their income tax liability to be used to help reduce the national debt. The national debt now stands at nearly $798 billion; the interest payments alone, projected for fiscal 1980, are anticipated to be $57 billion, or $156 million a day.

If the American people were given an "either-or" option when dealing with the checkoffs on their income tax returns—a contribution for matching funds to help subsidize political campaigns, or a choice of checking off a contribution to help reduce the national debt—I am confident many more people would choose the latter.

I am introducing my legislation, and invite my colleagues to join me as cosponsors. Obviously, the national debt will not be significantly diminished by this method. But such a procedure will give the American taxpayers the opportunity to participate in a concerted act that would serve the public interest by focusing on the dimensions of the burden we are saddling on the backs of our own and future generations.●

IF CONNECTICUT WAS PUERTO RICO

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. GIAIMO. Mr. Speaker, I insert in the RECORD an article written for the Hartford Conn., Courant by my good friend and colleague, the gentleman from Puerto Rico (Mr. CORRADA). This article presents his views on an important domestic issue that this House cannot ignore—the future status of Puerto Rico.

This gentleman is an articulate proponent of statehood for the island, and his comments are a valuable addition to the growing debate on this subject.

The article follows:

IF CONNECTICUT WAS PUERTO RICO

(By Baltasar Corrado)

Though it is the finest in the world, American citizenship can sometimes be second-class. Ask anyone who has ever lived in Puerto Rico.

There, 3.3 million citizens of the United States do not enjoy some of the basic political rights of citizenship that are probably often taken for granted in Connecticut. The way to extend these rights to Puerto Rico is to make it the 51st state of the Union.

Perhaps the problem can be best understood by hypothetically placing Connecticut, whose size and population compares to that of Puerto Rico, in the position this U.S. Commonwealth now finds itself. Suppose the residents of Connecticut:

Could not vote for president of the United States.

Did not have full voting representation in Congress, yet remained subject to its will.

Lacked the benefits of full participation in federal programs.

Were excluded from the mainstream of national politics.

There would be one compensation: Connecticut residents would be exempt from federal taxes. However, they would be forced, instead, to pay to Connecticut even higher taxes than their fellow citizens anywhere else in the nation.

It isn't a very pleasing picture. On the one hand, Connecticut would be part of the nation, its residents willingly fighting to defend the United States in time of war, many giving their lives for their country. On the other, they would almost be forgotten citizens, looking longingly to the day when they could add their star to the 50 already proudly gracing the flag of the nation.

Until that day arrived, they would live in a political limbo, wondering whether the rest of the nation had doomed them to remain there indefinitely.

But, that is not Connecticut. It is Puerto Rico.

Surely, the people of Connecticut do not want to condemn their fellow citizens in Puerto Rico to such a fate. Confident that they do not, Puerto Rico will soon begin a journey down a path it hopes leads to statehood.

For the more than 60 years that Puerto Ricans have been American citizens, Puerto Rico has been moving steadily toward statehood. In more recent times, this pace has accelerated.

The ballot box has provided ample evidence of this trend. In every Puerto Rico election since 1952, statehood candidates for public office have received increasingly greater shares of the vote, rising from 12 percent in 1952 to more than 48 percent in 1976. The 1976 multi-party elections gave Puerto Rico's statehooders control of the island's government for the second time in eight years.

More recently, in October 1978, statehood supporters for the first time were voted into full control of Puerto Rico's delegation to the National Democratic Party in a special election that produced a record voter turnout. Puerto Rico's delegations to the 1980 Democratic and Republican national conventions will be composed exclusively of statehood delegates.

Meanwhile, Puerto Rico's political parties favoring commonwealth and independence have been rapidly losing public support over the past 26 years.

In 1952, political parties supporting commonwealth and independence peaked, nearly 69 percent of the voters cast ballots for commonwealth candidates that year, while independence candidates received nearly 20 percent of the vote. In every election since then, commonwealth and independence candidates have had their voting percentages shrink dramatically, to 44 percent and six percent, respectively, in 1976.

Recent polls indicate the trend is continuing. They show that a majority of Puerto Ricans would favor statehood in a three-way political status referendum. Against independence alone, the only true political status alternative, statehood would win by greater than five to one. A referendum is planned for 1981.

Puerto Rico will knock on the door of Connecticut, and the rest of the nation after that referendum, with a petition for statehood. It will be backed by the desire of the people of Puerto Rico to join the nation as the 51st state.

It will also be backed by a record of loyalty to the United States, loyalty demonstrated in the front lines of every war in which the U.S. has taken part in this century. Where the U.S. has fought, Puerto Ricans have fought for it in defense of its ideals—28 states have fewer war veterans than Puerto Rico.

At that time, Puerto Rico will hope that Connecticut and its 49 sister states will honor this request for statehood. Doing so would be simply nothing more than reaffirming America's commitments to democracy, equality, justice and the preservation and development of fundamental human rights.●

LONG BEACH-MIDLAND PIPELINE

HON. KENT HANCE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. HANCE. Mr. Speaker, the energy problem facing the Nation is one which grows greater by the day. In spite of attempting to address the Nation to the ideas of conservation, Congress and the administration have done little in the way of a strong energy policy to insure that we will not face the same type of crisis we did during the oil embargo of 1973. If anything, we have added to the problem because we have not provided a decent energy policy which will benefit our great Nation.

However, there are many projects in which we could help which would go a long way in both conserving energy and fulfilling other energy needs at relatively low costs when compared to other alternate means. One such project is the Long Beach-Midland pipeline project. The implementation of the project, which would stretch a pipeline east and west some 230 miles, has been held up by bureaucracy in unbelievable proportions. It has the potential of saving American consumers about $500 million per year in present energy costs, and yet we are still awaiting its construction after 4 years.

In this regard, I highly commend the following letter to the President from Mack Wallace, Texas railroad commissioner, which was sent to the White House February 19, 1979:

RAILROAD COMMISSION OF TEXAS,
February 19, 1979.

The PRESIDENT,
The White House,
Washington, D.C.

MR. PRESIDENT: As an elected official with the specific responsibility for energy production and utilization in Texas, I have, over recent years, become grievously concerned with this nation's attitude toward its energy problems. Unless we can move expeditiously to an all-out effort in energy production and conservation, I am convinced this great nation will soon face the dire consequences of our inaction. No less than our independence and economic vitality is at stake.

While failure to resolve our fundamental problems in energy are obvious, this failure seems to me to be but a part of our overall inability to reverse recent, ominous trends in production and productivity. I note with alarm that U.S. productivity increases in this decade are only half those posted in the previous decade and that last year we slipped to a miserable 0.4 percent.

Mr. President, it is imperative that while we learn to be more conservative and efficient in our use of materials, we also must move to restore the productive capability of this nation.

Examples of our inability to move forward on essential energy projects have become common place. In fact, construction of the Trans-Alaskan Pipeline System is the only major energy project completed this decade and that project finally required an act of Congress.

Perhaps the most telling example of our inability to act on vitally needed energy projects is the case of the "Long Beach-Midland" pipeline. As you know this project involves nothing more than the construction of some 230 miles of pipeline along with some relatively minor engineering to reverse an existing, but unneeded gas pipeline. The operation of such a west to east pipeline would allow the movement of some 500,000 barrels of Alaskan crude oil per day to points where necessary refining capability exists, rather than the costly tankering and lightering transport through the Panama Canal. Transmission by pipeline would save American consumers, based on three (3) dollars per barrel added cost, about $500 million per year in present energy costs.

In the four years since initial permitting for this project began, we have yet to see any west to east pipeline movement of crude oil. Rather we have seen the incredible accumulation of more than 700 federal, state, and local permits tagged to the project.

I realize that a major obstacle to the "Long Beach-Midland" project has been the actions or inactions of several California officials and agencies. I note with relative amazement that the state of California is currently exploring the availability of federal monies for Mexico-California oil and gas lines. One must conclude that California officials consider the environmental impacts of a line crossing the state much more serious than the impacts of a line that terminates in the state.

Finally, Mr. President, I am compelled to call to your attention Title V of the Public Utility Regulatory Policies Act (Pub. L.

95-617) which you signed into law on November 9 of last year. As you know this Act gives to you certain extraordinary authority to expedite this languishing project. Specifically the President may:

" . . . identify those provisions of Federal law (including any law or laws regarding the location of a crude oil transportation system but not including any provision of the anti-trust laws) which, in the national interest, as determined by the President, should be waived in whole or in part to facilitate construction or operation . . . of the Long Beach-Midland project, and he shall submit any such proposed waiver to both Houses of the Congress. The provisions so identified shall be waived with respect to actions to be taken to construct or operate such system or project only upon enactment of a joint resolution within the first period of 60 calendar days of continuous session of Congress beginning on the date of receipt by the House of Representatives and the Senate of such proposal."

Section 509(b) provides for expedited procedures for the "Long Beach-Midland" project requiring that decisions regarding issuance of federal permits, rights-of-way and leases, and other federal authorization necessary for construction and operation of the project shall be consistent with federal law and made within thirty (30) days after the date this title becomes effective (November 9, 1978). The President may extend the date for the preceding decisions to a date not later than ninety (90) days. Finally, this section is not to affect any decision made before the date of enactment of the title.

Section 511 provides generally for judicial review of decisions regarding the "Long Beach-Midland" project but precludes the issuance of temporary injunctions. In addition to these express powers, the conferees noted in the conference report to this Act (p. 109) that:

". . . actions by the State of California have resulted in delays in the construction and operation of the Long Beach-Midland project. They expressed concern over the possibility of continuing delays on the part of the State that may adversely affect the interest of the people of California and the Nation."

Accordingly, I would urge you, in the paramount national interest, to utilize the expressed authority given to you by the Congress to expedite the "Long Beach-Midland" project, and in so doing, provide a measure of relief to American consumers faced with inevitably increasing energy costs. I would also recommend that the federal government consider whether action by the state of California and its agencies over the past three years relative to this project constitute an interference with interstate commerce.

As an official of the state of Texas, wherein something on the order of a quarter of a million miles of crude, gas, and product pipelines have been constructed for the distribution of a quarter of this nation's domestic energy supply, I simply cannot view the construction of some 230 miles of lines for the "Long Beach-Midland" project as an insurmountable task.

Respectfully yours,

MACK WALLACE,
Commissioner.●

PUBLIC RESOURCES AND PRIVATE PROFIT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. MILLER of California. Mr. Speaker, several weeks ago, I sent a lengthy letter to Interior Secretary Cecil D. Andrus inquiring about a Federal program in which publicly owned oil and gas resources are leased to the public. My letter was prompted by information which I had received which indicated that many of these leases were not being developed by the original lessee, as intended under the Mineral Leasing Act of 1920, but instead were being sold to large oil, minerals and land development companies. The original lease was sold for a pittance, just $10 per bid; the turnaround sale, by contrast, netted the seller, in some cases, tens of thousands of dollars. The public, by contrast, received only the small bids, and a 12½-percent royalty on any oil or gas produced.

I have not yet received a response from Secretary Andrus. But Ellen Hume, of the Los Angeles Times, today wrote a story which details many of the serious problems involved in this leasing program. I wish to share Ms. Hume's story with the Members of the Congress, because I think it establishes the manner in which the public interest is being abused under this program, and it raises some very disturbing questions about valuable public resources falling into the hands of a small group of powerful companies.

Given the seriousness of the issues raised in Ms. Hume's excellent piece of investigative reporting, I believe that it would be appropriate to review the simultaneous leasing program in an oversight hearing at the earliest date after the receipt of Secretary Andrus' response to my inquiry. I intend to speak with the appropriate Members of the House to assure that this review is scheduled at the earliest appropriate date.

The story follows:

MIDDLEMEN CALLED WINNERS IN "LITTLE GUY" OIL LOTTERIES

(By Ellen Hume)

WASHINGTON.—All over America, people with get-rich-quick dreams have been sinking their dollars into a little-known government lottery program designed to encourage long-shot oil and gas development on federal lands.

But in its 18-year history, the lottery program apparently has done more to create a new market for speculators and middlemen than to bring these marginal sites into energy production.

Not only are some unsuspecting investors getting taken by some companies set up to "help" them play the wildcat lease game, but the federal government may be getting less than a fair market price for the oil and gas that is developed. Interior Department records and interviews with government officials indicate.

Established in 1960, the so-called simultaneous oil and gas lease lottery was designed to allow the "little guy" to compete equally with giant oil companies in leasing the less-than-promising sites.

Since then the nine largest oil companies have gained control of 24% of these leases, paying the federal government only $1 an acre in annual rent and a 12.5% royalty on the oil and gas produced.

This is "nothing short of stealing from the public's pocket," said Rep. George Miller (D-Calif.), one of the growing number of congressional critics of the lottery.

"The American taxpayers own that oil and gas," said an aide to Rep. Harold Runnels (D-N.M.), who also is studying the lottery system. "The question is, are they getting a fair return for their money?"

Known oil and gas sites on federal lands are subject to competitive bidding, as are offshore oil and gas leases, thanks to legislation Miller helped sponsor last year. Royalties on some of these offshore leases have climbed to 30% and 40% on oil and gas produced, according to Miller's office.

The lottery applies instead to old, lapsed leases on onshore sites that were not known to contain oil and gas when they originally were let. Some of these long-shot leases since have become much more valuable, thanks to rising oil and gas prices and new technology which has made oil and gas easier to tap.

The lottery leases currently account for just 5% of domestic oil production and 6% of natural gas production annually in the United States. But this proportion could be "significantly altered," Interior Secretary Cecil D. Andrus has predicted, by the discovery of 1 billion to 9 billion barrels of oil under old lease tracts in the mountainous Overthrust Belt through Colorado, Wyoming and Utah.

The number of people entering the monthly lotteries already has gone up like a gusher, along with the number of "filing companies" that help the people choose which tracts to apply for and how to sell them if they win.

An applicant simply fills out a card for the regional Bureau of Land management office specifying which tract he wishes to vie for, along with a $10 filing fee. If his name is drawn, he must immediately forward $1 per acre annual rent for the tract, which ranges from about 40 acres to a maximum of 2,560 acres.

If the lease has been identified as valuable by the oil companies and filing firms, the winner immediately will be contacted by them with offers to buy the lease.

Although the interior secretary has authority to approve these lease transfers, the system is not monitored, according to Interior Department documents and interviews with officials.

"The major result of the (lottery program) is that it has created a side market in the leases," said Guy Martin, Assistant Secretary of the Interior. "What you want it to do is create greater oil and gas development, not just a market for speculation."

Internal audits since the program began in 1960 have resulted in two key criticisms of the lottery program: It may not provide a fair market return on the oil and gas produced, and it may be conducive to fraudulent schemes.

"Throughout the history of the simultaneous leasing process, it has been burdened by suspicions of wrongdoing and cases of actual fraud," a June, 1977, Interior Department audit found. "Charges of manipulation of the drawings have been made, based on the fact that some individuals repeatedly win parcels against high odds."

Interior Department sources said Wednesday that a new report by the General Accounting Office, Congress's investigative arm, had failed to find any "systematic fraud" in the lottery process.

But Rep. Miller and other critics believe the problem persists, since the winners' lists repeatedly bear the same names and the same addresses.

"The usual practice by a fraudulent filing firm is that they insist that you use their business address on your lottery card," said New Mexico attorney Hugo C. Cotter, who has sued several filing firms successfully on behalf of speculators' clients.

"If you are successful in winning the oil companies can't contact you directly to make an offer for your lease," he said. "The filing company calls you up and says, 'You've won a poor lease. It's not worth very much. I'll buy it from you.' And they pay a modest fraction of what it's worth before you know that the oil companies are offering more."

Yet Cotter is an avid lottery participant himself, having filed 80 to 100 cards a month since 1963 to win about 55 salable leases and about 25 worthless ones. "Only one of them has produced oil and gas," he said.

Alexander Bowers, president of Stewart Capital Corp., one of the largest filing firms, contended that abuses are infrequent. "I'm not in the oil business, I'm in the real estate business," he said. "We think we've made a lot of money for a lot of people." ●

FUTURE INTERACTIONS OF THE UNIVERSITIES AND THE FEDERAL GOVERNMENT MARRIAGE OR ?

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. PURSELL. Mr. Speaker, the vice president for research at the University of Michigan, Dr. Charles G. Overberger, recently was awarded one of the American Chemical Society's highest honors—the Charles Lathrop Parsons Award, which is given biennially to recognize outstanding public service by a member.

In accepting his award, Dr. Overberger gave a very frank, but optimistic, assessment of the research partnership between the Federal Government and the Nation's universities. Universities conduct over half of our country's total basic research, and federally sponsored research in universities now approaches $3 billion annually. Dr. Overberger suggested that this "marriage needs a heavy dose of productive and mutually beneficial marriage counseling." I would like to share his remarks:

FUTURE INTERACTIONS OF THE UNIVERSITIES AND THE FEDERAL GOVERNMENT MARRIAGE OR ?

When one presents a lecture in which one makes predictions, one always must remember that it is only safe to make long-term predictions on the grounds that no one will be around to find out whether your predictions were correct, and even if they are, it will be so long that they will have forgotten them. Nevertheless, it is a great concern to all of us here, indeed all thoughtful people who are interested in the future of the United States and particularly the future of our intellectual leadership, to recognize the problems that face us. I address myself specifically tonight on the role of the University and the Federal Government for the future.

Wartime marriages are considered notoriously poor risks. Tonight I'd like to talk about one wartime marriage that has survived the years, even though some signs of rift have appeared now and then. I have in mind the research partnership of the Federal Government and universities formed during World War II.

What started as a wartime liaison, hastily concocted and heedless of the future, has now, like any marriage in its middle term, accumulated lots of trappings and bric-a-brac, lots of commitments, and a whopping financial problem. You all know that the partnership I am referring to is not a trivial matter, from whatever perspective it is viewed. Federally sponsored research in universities is now at about $2.9 billion per year, which is a lot of money even by Federal standards. On my own campus, the Federal Government spends $60.6 million per year to support research. This is almost one-sixth of our total budget. Clearly, we have a considerable stake in this marriage—financially, at least, if not emotionally.

Actually, I should hasten to say that this financial stake is, in reality a double-edged sword. My campus has benefited greatly, of course, from its large and varied research program—in obtaining new buildings, in attracting high quality faculty members and students, in developing new curricula—but there have also been costs not fully covered by the sponsors of this research. So, in one sense, the larger our research program, the more severe our financial problem.

But, finances aside, there is something of an emotional commitment as well. This much is true at least. We are strongly convinced that this marriage, if not made in heaven, is at least good in some absolute or general sense. Universities have become a great national resource as much for their research as for their training of new minds, and the continuing intellectual well-being of the nation is to some considerable extent dependent on the kind of research that is best conducted by universities.

Clearly, all parties involved admit that research in universities is part of the national research and development effort. True, not all colleges or universities have substantive research programs; so that it is clear that my remarks pertain primarily to the hundred universities that have substantial research commitments and graduate programs.

My remarks this evening can be interpreted to be optimistic ones, rather than pessimistic ones. I do not believe that our educated society will allow direct political interference in the affairs of a national resource such as the large research-oriented university.

Currently, the national research and development effort largely consists of three sectors. First, the broad division of effort in the industrial sector. Second, government laboratories and national facilities such as (a) National Institutes of Health, (b) the Fermi National Accelerator Laboratory in Batavia, (c) the National Radio Astronomy Center in Arecibo, Puerto Rico, (d) Kitt Peak National Observatory in Arizona, and (e) the National Center for Atmospheric Research in Boulder, Colorado. Many of these laboratories carry out mission-oriented research but there is much basic research carried out under a general framework of a broadly defined mission.

However, most basic research is carried out in universities, the third sector. There has been a substantial increase in basic research funds from the federal sector to the universities during the period 1955–1977. The percentage of the national total research and development effort performed in universities goes from 5% in 1955 to 9% in 1975. Universities and colleges are the primary performers of basic research. They conducted 54% of the total basic research effort in 1977. During the period 1953–77 universities and colleges increased their share of total basic research performance from 25% to 54% because of increased Federal funding of basic research in the university sector. This percentage has rather stabilized itself and indeed lost ground in more recent times because of the curse of inflation and increased competition for the same funds from federal laboratories, and indeed, even a few industrial laboratories.

I don't want to dwell on the many benefits of this marriage. I want, instead, to look at some of the concerns that I mentioned earlier. As in many marriages into their third decade, one partner seems to become increasingly suspicious, autocratic, and domineering. Divorce is out of the question, so there is an urgent need for some effective communication. Let me then highlight some of the problems that we most want to communicate about. For the most part, these are the problems that universities around the country—particularly the hundred or so universities with substantial research and graduate programs—have in common with the federal government. These must be resolved if our relationship with the federal government is going to continue to be productive and mutually beneficial. Many groups are discussing them, and I am confident that there is sufficient wisdom and patience on both sides to find workable solutions.

Looking to the future, what are the trends that will determine the soundness of the federal government-university marriage in the next ten years. In asking this question, we must remember that some conditions and phenomena that we may not think greatly significant today may well be crucial matters after a development of ten or fifteen years—just as the patterns we are following now were set some time ago, not by some master plan, but as a result of countless smaller decisions whose cumulative effects are now visible on the national scene.

It is useless to ignore the fact that the financial health of the country will play a major role in future intellectual developments in research. Financial problems in universities are a direct result of financial problems in the federal sector, and indeed, in the country as a whole. Inflation takes its deadly toll on every part of our lives.

Within our research programs, inflation has not only eroded the total structure, but also has entirely cut away certain features of research support that we found quite essential to a healthy program. The institutional funds that used to be available from the National Science Foundation, for example, permitted us to stimulate and facilitate research across a broad spectrum of the campus. A small purchase of equipment here and there, a bit of assistance to tide someone over between projects, a modest seed grant now and then—when we could bolster our program and, so to speak, put out fires with a small amount of discretionary money, we could perform a most important service to the university. The good effects of this kind of money multiply far beyond the original amounts involved. Such money may be the single most important tool of research administration in a university, even though it may also be the most difficult to justify to unfriendly critics. Some way must be found to restore these kinds of funds.

NIH has been an exception, by the way, in that it still funds support grants by which the health-science schools that receive sizable amounts of NIH competitive grant money receive also a small sum for discretionary purposes. But even this money has been eroded, and it is a constant battle in the Congress to keep these funds available.

Aside from the amount of direct financial support, the most serious problem the universities face with the federal government is the increasing pressure to conform in various ways. Although, not for the first time in U.S. history, universities are again being subjected to direct political pressure from the Congress and from society generally. Let us discuss a few instances of this.

There is, first of all, the pressure to mold university research according to the latest national problem or the most recent focus of Congressional attention. Wide swings in general research themes and in problem areas occur every few months. If universities were to pay too much attention to these swings of public attention, they would soon lose the center of gravity that gives their programs stability. Research excellence takes a long time to develop and must be built on a very broad foundaton. We want to help the nation solve its various large problems, and there is much the universities can do—as they have demonstrated—but they cannot swing from problem area to problem area as fast and as freely as many people in public life wish. We cannot just be problem solvers. We must continue to state the case for basic research and hope we can make officials understand that problem solving must rest upon a solid base of fundamental knowledge. Turn to the universities for solutions to problems, yes—but give them also the resources that build the base.

A second pressure on universities today has resulted from the national concern with goals in affirmative action of various types. In universities we applaud the goals and are working hard to achieve them, but there are real difficulties. The available pool of applicants for top positions is small, and there is fierce competition for the best among the minority candidates. With respect to the middle ranges of quality, we face a serious dilemma in balancing our need for the best minds against our need to increase the representation of minorities at universities, both as students and as faculty members. Add to this basic dilemma a patchwork of administrative requirements for reporting progress and we have an almost insuperable problem. Different monitoring agencies have asked for differenet kinds of data. The ballgame changes almost every inning, it seems, and the university offices charged with monitoring affirmative action have spent countless hours trying to collect and then re-collect the data required.

Just recently, when the Department of Labor assumed the responsibility for oversight of affirmative action programs, my university had to provide a new set of data to fulfill new requirements. To meet the deadline that was imposed, we essentially collected and compiled the data over a weekend. Every dean, chairman, and director throughout the University participated in this frantic weekend whirl, and literally hundreds of manhours were involved. The point is not that the report was unnecessary or undesirable but ways must be worked out with the monitoring agencies so that data can be collected in a routine and consistent manner. Crash programs to change all the parameters are costly and wasteful.

Attacks on the peer review system are yet another worry. It is generally agreed within the research community that there is no better way to identify meritorious proposals, and the review system itself has been refined and improved over the years. Nevertheless, and despite various studies which indicate otherwise, peer review is alleged by some critics to be biased in favor of prestigious institutions, to discriminate against young, female, and minority researchers, and to amount to little more than a mutual back-scratching and admiration exercise. These sentiments are, to some degree, the natural outgrowth of using merit as the dominant criterion for allocating public monies in a society that is simultaneously attempting to become more egalitarian. Certainly the peer review process should be monitored and controlled so that it serves the public interest. However, it would do the public a great disservice if the primary means for identifying and supporting scientific excellence were watered down or abandoned.

Accountability has become a watchword for most of our large institutions. Public confidence has fallen in the light of many disclosures in the past few years of instances of wrongdoing or poor judgment, and universities have reaped this whirlwind along with government and organizations of all types. As a result we have had to develop complex networks for compliance with rules and regulations concerning such matters as the use of human subjects in research, the use and care of animals for research, health and safety conditions, hazardous biological research, etc. The usual requirement in monitoring these conditions is to set up review committees—sometimes with members from outside the University.

I really have been talking previously from pressure from society in general. Let us mention a few other reaction parameters with the Federal sector.

(1) Capitation grants in the Health Sciences.

(2) The impact of the Nuclear Regulatory Commission.

(3) Revision of the A-21 circular and the indirect cost calculation.

(4) Auditing procedures of HEW and other Federal agencies.

(5) Geographical distribution of Federal research and development funds.

(6) Continued harassment from attention-seeking political figures on such items as indirect cost reimbursement, titles of research grants and contracts.

(7) Limitation of allocation of salaries to a research grant or contract at a fixed level.

(8) Sharing of research equipment.

(9) Pressures from OMB to terminate projects in agencies.

We, of course, recognize the necessity for complying with regulations designed to ensure the safe and proper functioning of the research program, but, at the same time, universities must not sacrifice their autonomy. If we are to survive as the intellectual leaders of the world, we must work out a long-term arrangement between universities and the Federal sector. There must be some mutual trust and understanding.

In a positive vein, it is clear that the Carter administration is supporting the role of basic research. Let me quote briefly from some remarks by Frank Press at an AAU meeting in October of 1977:

"We know that universities perform over 50 percent of all our basic research. It is most likely that this role and this proportion will remain if not expand. Although we would like to see more basic research in industry, the trend has been in the reverse direction. Therefore, the predominance of basic research will remain with the universities and that research must somehow be strengthened. The question is how? While I personally support the action in the FY 78 budget in providing financial support above the level of inflation, pumping Federal funds into this situation cannot be the sole solution to this state of affairs. Money is essential but so are improvements in the system that will absorb it. Together, we will have to do some hard thinking about this."

"One way of doing this—and I know it is one on your minds—is to lighten the load of Federal red tape involved in administering your research programs. We are sympathetic to this. Much can and probably will be done to improve the situation. I can assure you that there are a great many of us that are sympathetic to your burden in dealing with the requirements of Federal reports."

A particularly promising development is the formation, quite recently, of a National Commission on Research. The members of this group are not only very distinguished they are also knowledgeable regarding the present relationship between the federal government and the research universities. Likening this commission to a marriage counselor may be carrying my metaphor too far, but in fact the members will be addressing themselves to the various points of dissonance in the relationship. After a thorough, objective review they are expected to formulate recommendations which hopefully will provide a basis for an amicable reconciliation.

Sooner or later, this whole subject like most others of national import, will be debated in Congress, I submit. In fact, it would be healthy if this were to happen during the coming year. At the risk of being presumptuous, let me mention some important topics which should be treated in such a debate:

(a) Simplification of the research project support system in order to achieve a better balance of effectiveness accountability, and equity for all parties.

(b) Improved modes of financing basic research so as to allow for legitimate needs, such as instrumentation and facilities, and to minimize the deleterious effects of "stop and go" funding.

(c) Means of encouraging industry and universities to undertake cooperative research projects, perhaps by providing financial incentives, and certainly by minimizing patent and regulatory barriers.

(d) Development of scientific manpower policies which take account of national needs while helping to support young researchers of out-standing promise in their chosen fields.

While universities and federal agencies try to reach some understanding of mutual problems and develop working relations that will safeguard the best interests of both parties, what about the professor who is directing the theses of graduate students and interested in publishing original creative results? It is easy to be discouraged these days in university life. In the first place, there is a very high energy gap to reach a tenured position. The turnover is much slower. New, young minds keep new ideas flowing into the system. Faculty salaries are not keeping up with inflation. The very heart of our system of education is based on the interaction of a highly talented individual with younger students. The reward system for intellectual endeavor is slowly changing. Old traditions are not always necessarily the best traditions in a changing world, but certainly the importance of a measure of excellence in creative research will never change.

If I have one message tonight to Professors of Chemistry, it is simply to keep your standards high; your tendency for selfishness to a minimum. Give your time and energy to the training of young minds, not necessarily in your exact image, but in the image of a changing, creative, intellectual world of chemistry.

I am an optimist—I believe that the highly developed human species if alive will be searching for new knowledge. He will continue to search for complete explanation of his total life processes; he hopefully, will bend his marvelous intellect and will to ensure survival; and last but not least, he will continue to communicate his wisdom and knowledge to new generations.

Ordered societies, federal or otherwise, will support the endeavors of these dedicated leaders in education and research for the future. This is my long-range prediction.●

JOY L. COOPER WINS NATIONAL DEFENSE WEEK ESSAY CONTEST

HON. HOWELL HEFLIN

OF ALABAMA

IN THE SENATE OF THE UNITED STATES

Thursday, March 15, 1979

● Mr. HEFLIN. Mr. President, the Alabama Reserve Officers Association recently conducted a high school statewide essay contest as part of its observance of National Defense Week.

Miss Joy L. Cooper, who is a senior at Montgomery Academy, has been selected as this year's winner. Joy is the daughter of Melvin G. and Dolores Cooper of 175 Chalet Woods Drive, Prattville, Ala. Joy's essay is entitled "Peace Through Strength" and reflects an understanding and grasp of the complicated subject of national defense far beyond her years. She was selected by a distinguished three-judge panel consisting of Brig. Gen. Russell I. Berry, USAR, Col. Jack C. Dixon, USAF, Staff Judge Advocate, Air University Law

Center, Maxwell Air Force Base, and the Honorable Oakley W. Melton, Jr., president-elect Alabama State Bar Association. It is a fine essay and I wish to share it with my colleagues in the Senate.

Mr. President, I submit Miss Cooper's winning essay for printing in the Record.

The essay follows:

Peace Through Strength

Most persons today realize that we are living in a world of constant change. Technology is many times referred to as the ingredient in our American society which induces change. For example, one may hear a commercial about a detergent which can remove most stains from soiled clothing. In only a short time this same detergent is announced as having recently been improved so that it now cleans clothes thoroughly in cold water rather than hot water. The propensity for improving something during our age of technological advancement is almost inexhaustible.

The greatly admired Greek philosopher Plato himself advocated several thousand years before our time this same idea of constant change when he proposed his theories concerning the universe and physical science. This famous sage of antiquity, after observing the processes of nature in the world, concluded that the only constant factor associated with all living things was their inevitable inclination toward change.

We in America are, in accordance with Plato's teachings, a constantly changing society. Not only are we advancing industrially and commercially, but we are progressing politically and militarily as well. Our government has had to redirect its goals from the sixties in order to deal with the new problems and needs of the seventies.

In the 1960's our nation was absorbed in the Vietnam conflict, a smoldering Cold War with the Union of Soviet Socialist Republics, and domestic turmoil concerning civil rights. All of these issues are almost alien to the lifestyle of this present decade. However, one of these problems which existed in the era of the sixties still exists as an undercurrent in our political and military deliberations today. This conflict is America's constant indirect rivalry with the U.S.S.R. No other nation looms more threateningly over the United States in terms of military strength and political power than does the U.S.S.R. In fact in the 1960's the American populus, in a general nationwide census, expressed its anxiety about the growing superiority Russia was achieving militarily over the United States. In response to this increasing insecurity of Americans, a committee on national concern was established to determine some major priorities which our country should have to offset the industrial, political and military technological advancements made by the Russians.

This same process of evaluating our priorities should be incorporated in our Ninety-Sixth Congress as we face today a situation where the United States is significantly outnumbered by the U.S.S.R. in terms of manpower and weaponry.

As an effort to ward off any Russian aggression, our lawmakers should call for increased spending on military research and development for the 1980's, or we will no longer need a Congress or a democratic system of government for we will surely have been made the slaves of a more powerful communistic nation such as Russia. Abraham Lincoln once stated, "As I would not be a slave, so I would not be a master. This expresses my true idea of democracy." [1] Americans should not be thought of as warmongers who lavishly spend millions of dollars on supposedly superfluous defense programs. Instead our nation should channel a sizeable portion of her defense budget for research and development of military armaments which would serve as defensive insurers of continued peace rather than weapons which would be used as offensive inciters of war.

Reasoning for maintaining and encouraging research and development in the military and private sectors is six-fold.

Obviously, the first consideration favorable to military research and development is the need for new weapons to deter new threats. For example, an improved, Russian model for tanks should be counteracted by a new line of anti-tanks, which, given a sufficient amount of time and money, American defense researchers could develop.

Secondly, traditional weapons used by the three major military service branches soon become outdated and outmoded. Research concerning the improvement of the conventional American weapons is most desirable in the process of training servicemen. Cost-efficiency of weaponry production and transportation could also be improved through research.[2]

Thirdly, research and development could be spurred on to developing more innovative instruments of war by encouraging interservice technological rivalries among the United States major military branches. The different groups, given proportionate amounts of funding for their research endeavors, could be given more incentive to develop and test new defense weapons in an atmosphere of inter-service competition. Motivation through competition has always been an effective stimulus for inventiveness.

Fourthly and similar to the preceding line of reasoning, competition between the military and civilian companies who have signed research contracts with the Department of Defense could be more productive with government support of such research and development programs.

Fifthly, military and civilian programs for research and development of defensive weapons can result in technological breakthroughs for other industrial uses. The information derived from research in weaponry may be directly applied (in some instances) to designing manufactured products and appliances in America's free enterprise system.

Lastly, research and development programs can create a hedge against technological surprise. The fate of America may be dependent on the ability America maintains in keeping technological pace with her foes. If one day Russia were to unveil a device which insured her military superiority over any American counterattack weaponry, the U.S.S.R. would have no reason to hesitate in carrying out her Communistic goal which is to someday rule the world.

Despite the reasoning in favor of military research and development, many dissenters to such programs exist. Most of these persons rest their arguments on the fact that research and development plans are constantly being reprogrammed and are, thus, creating a significant amount of duplicative programs which are examples of bureaucratic wastefulness.[3] These disclaimers of the effectiveness of defense research and development programs also point out that most research and development programs have a life cycle of twenty to forty years during which time federal expenditures could have been used for more pressing needs.[4]

In reply to these negative attitudes toward military research and development, this writer maintains that the plight of America may be felt more severely when America is placed under Communist control after a Russian military takeover than when the inconveniences posed by modern-day social problems plague us.

During a time of peace a nation tends to give military preparedness a low priority on its list of important programs for which to support. This tendency to ignore the fact that the threat of war is always present is the foremost instigator of defense shortsightedness and vulnerability. Without the constant emphasis America must place on continued weaponry and transportation upgrading, she may someday find herself ignoring the penetrating words of the late Senator Robert F. Kennedy who said, "Progress is a nice word. But change is its motivator and change has its enemies." [5] The money allotted for supporting military research and development during peacetime may seem wasteful, but in order to progress as a comparable military defender against potential enemies America must be willing to change with the impetus of technology.

FOOTNOTES

[1] Abraham Lincoln, "Democracy," in Peter's Quotations: *Ideas For Our Time*, ed. Dr. Laurence J. Peter (New York: William Morrow and Company, Inc., 1977), p. 153.

[2] Judith Reppy and F. A. Long, "U.S. Military R & D: A Set of Questions," *The Bulletin of the Atomic Scientist*, May 1978, p. 37.

[3] Charles M. Herzfelt, "The Military R & D Process—A View from Industry," *The Bulletin of the Atomic Scientist*, December 1978, p. 36.

[4] Ibid.

[5] Robert F. Kennedy, "Change," *in Peter's Quotations: Ideas For Our Time*, ed. Dr. Laurence J. Peter (New York: William Morrow and Company, Inc. 1977), p. 100.●

CALM REASON AND CLOSE REVIEW IS NEEDED IN THE WAKE OF THE SOHIO PROJECT CANCELLATION

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. BROWN of California. Mr. Speaker, I have noted with great interest the political reaction to the cancellation of the Sohio oil pipeline project in California. Perhaps the most constructive recommendation about this project was made by Gov. Edmund G. Brown, Jr., who called for a full-scale congressional investigation on why this $1 billion project has been abandoned.

The best advice I have seen, particularly in the light of instant scapegoating, is the editorial by the Los Angeles Times calling for careful review in the legislatures of the land of conflicting laws and goals. As one who supports the efforts of the State of California to improve the quality of the unhealthy air in southern California, I believe some balance needs to be introduced into the discussions. As the Los Angeles Times stated:

> The case is a corporate disappointment, not a national disaster. But it could turn into a disaster if it became a kind of simplistic symbol causing a wholesale dismantling of environmental laws rather than careful analysis and correction of the real problem.

Mr. Speaker, at this time I wish to insert an article and editorial on this subject from the March 15 Los Angeles Times in the Congressional Record.

The items follow:

Brown Accuses Sohio of "Bad Faith," Asks Probe by Congress

(By George Skelton)

San Diego.—Gov. Brown bitterly accused Sohio of acting in "bad faith" Wednesday and "demanded" a full-scale congressional investigation into why the firm abandoned its $1 billion Long Beach oil terminal and pipeline project.

Brown, in his first public comments on the politically embarrassing loss of the project, declared that the time is past when a "foreign multinational" can "ride roughshod" over the environment of California or any other state.

Sohio—Standard Oil Co. of Ohio—is a subsidiary of British Petroleum. Its proposed project would have moved Alaskan crude oil from Long Beach to the Midwest.

Though final approval seemed within grasp, Sohio announced Tuesday it was dropping the project. It blamed the prospect of further state and local regulatory delays, the uncertainty of court suits and fear that a desired pipeline might not be available.

It was a particular blow to the Brown Administration, which had invested considerable time and prestige in a two-year negotiating struggle that, while delaying the project, culminated last summer in a landmark pollution "tradeoff" agreement between Sohio and Southern California Edison Co.

Sohio agreed to finance the $78 million cleanup of an Edison power plant as a tradeoff for the pollution its oil terminal would create.

"They dragged their feet. They hemmed and they hawed before they finally agreed to a responsible program," Brown angrily told reporters while flying from Sacramento to San Diego for a speech to the Council of California Growers.

Once on the ground, facing television cameras, Brown declared:

"I demand Congress investigate and find out exactly what went on in the minds of Sohio. Why did they pull out? I entered in good faith into negotiations. And now in bad faith—or for some reason best known to themselves—this foreign multinational has pulled out. I'd like to know why. I'd like to know why very quickly."

Brown said he talked Tuesday with Sen. Henry M. Jackson (D-Wash.), chairman of the Senate Energy Commission, and Jackson agreed to hold a hearing on the matter.

Asked if he might testify, Brown answered: "I might well."

Brown started off Wednesday morning shying away from discussing the Sohio episode. But as he read more and more newspaper articles about the cancellation while flying south he became increasingly incensed. And between Los Angeles and San Diego he virtually shouted nonstop to traveling reporters about Sohio.

He particularly defended his Administration's intervention to assure that Los Angeles skies were not made more polluted by the project.

"I have a responsibility to the citizens of our state, to their healths—to the senior citizens who are dying of lung diseases in nursing homes, to the children who can't play outside because of the smog. This project would have caused serious air pollution unless they were prepared to make certain investments in clean air technology," Brown said.

"Remember, we're dealing with a foreign corporation whose first duty is to foreign stockholders, not to the people of America and the people of California. The delays came from an unwillingness on the part of the British Petroleum Co. and its subsidiary Sohio to enter into a responsible arrangement to clean up the air they would dirty."

He added, "The days when British Petroleum can ride roughshod over foreign governments is over, and I told them that (during a trip to England in November, 1977). They didn't take us seriously."

The governor also asserted caustically that if Sohio had gotten its way he would have been accused of "influence peddling" because Sohio hired the law firm of his father, former Gov. Edmund G. (Pat) Brown, to represent it.

Those guys thought they could come out here and hire Pat Brown's law firm and everything would be smooth," he said. "Maybe that's the way they operate in Ohio, but California is different."

But Sohio found a friend Wednesday in new Republican Lt. Gov. Mike Curb—the first lieutenant governor of this century to be from a different political party than the governor.

"I believe Sohio bent over backwards," Curb told a business conference in the Simi Valley of Ventura County. And he said the state should now urge Sohio to reconsider—which Brown did—and "extend a hand of friendship, maybe walk them through those permit procedures."

Curb complained that the quality of Brown's appointees to regulatory boards and agencies was "just tragic." And he said he was "very seriously considering making appointments" on his own when Brown is out of state and he is serving as governor.

The only appointee Curb specifically mentioned by name was Transportation Director Adriana Gianturco.

Curb said he expects Brown to be out of state about 100 days this year campaigning for president—days when the lieutenant governor could make some quick appointments.

In Sacramento, Assembly Republican Leader Paul Priolo of Malibu said Brown "stumbled, no matter where he tries to put the blame."

Democratic legislative leaders sought to absolve the Legislature of any blame for Sohio's dropping of the project. Sohio six weeks ago began lobbying for the introduction of special legislation favorable to the project, but no agreements had been reached.

"I wish they'd proceed. We stand ready to expedite the process," said Assembly Speaker Leo T. McCarthy (D-San Francisco).

Assemblyman Victor Calvo (D-Mountain View), chairman of the Assembly Energy Committee, said it was "unfortunate" Sohio turned to the Legislature only six weeks ago.

"Had these discussions been initiated even a few months earlier, Sohio's concerns about various governmental permits might have been capable of resolution," he insisted.

Brown's speech to the growers convention in San Diego was fairly routine. He advocated completion of the state's water project control of pesticides, more foreign trade and a balanced federal budget.

A Disaster? Not Yet

Once the arm-waving and back-biting subside, there are some lessons to be learned from the decision of Standard Oil Co. of Ohio (Sohio) to abandon its plan for an oil terminal at Long Beach.

One is that federal and state laws cannot continue to require clean air, clear water, uncluttered shorelines and abundant energy in equal parts and at all times. Sometimes something must give.

Another is that any change in those laws to make it clear which goal shall be sacrificed under what narrow circumstances requires careful legislative surgery of a kind that cannot be performed while shouting "Shame!" and waving one's arms.

The case is a corporate disappointment, not a national disaster. But it could turn into a disaster if it became a kind of simplistic symbol causing a wholesale dismantling of environmental laws rather than careful analysis and correction of the real problem.

And the real problem is that regulatory agencies do not prepare their cases for themselves or for the public but for the environmental lawyers who they know will drag them into court if there is any loophole, however small, in any decision.

Sohio began about five years ago to look for a port where its tankers could unload Alaskan crude oil to be pumped through a pipeline to Texas and then to its Midwest refineries. Meanwhile, its ships carried oil through the Panama Canal, which Sohio estimated cost an extra $1 per barrel for transportation.

Sohio settled on Long Beach, and began what has now stretched into a three-year to get approval of six or seven crucial licenses and permits from the California Coastal Commission, the State Air Resources Board and the South Coast Air Quality Management District.

As of last week, Sohio seemed on the brink of final clearance. Then it quit.

Surely the regulatory process went on longer than necessary, but it is also true that the economics of the project changed. The canal operation was going smoothly, and costs were coming down. Sohio got some disturbing signals from El Paso Natural Gas Co., from which it planned to lease the pipeline to Texas, about whether the pipeline would actually be available. Production in Alaska was likely to peak well below the 2 million barrels a day forecast. The company made the kind of decision that companies make every day. It decided that it would be cheaper to operate without the project than with it.

The Long Beach project was conceived as a solution to a transportation problem, not an energy problem, and it was a proposal that we thought was in the national interest, and that we supported. But stopping Long Beach will not stop the oil. The Panama Canal can run many more ships through its locks than it now does, and it would take only one or two extra tankers a day to move all of the oil that Sohio had planned to put through its pipeline.

That is one element almost certain to be overlooked in Washington in the search for scapegoats and the effort to use the breakdown of the Sohio project as an excuse for punishing the country's environmental laws.

Another is that California worked hard for the project. It had the full support of Gov. Brown, who is being blamed unfairly for the collapse of the plan. In fact, had his air-resources staff not devised a trade-off concept to get around the federal Clean Air Act, the Sohio terminal would have been dead months ago. Under that concept, Sohio was allowed to add pollution to the Los Angeles area because it agreed to pay to suppress pollution from other sources. Under the Clean Air Act, as it read when Sohio proposed its terminal, no new source of pollution was allowed in an area where the air was already dirtier than the federal law allowed.

Sohio probably could have survived the delays of official regulators. It was the threat of citizen suits that seemed finally to make the project impossible.

Under the laws, regulators are driven not so much by their own instincts for perfection in all fine details but by a need to make the approval of any project so airtight that it cannot be challenged in court by an environmental lawyer. That is not possible. Solving the problem presents some difficult judgments about when due process has run a reasonable course. And that is the kind of careful surgery that the lawmakers in Washington and Sacramento must get down to once the arm-waving and back-biting subside.●

CHILE'S TORMENTED CITIZENS

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. HARKIN. Mr. Speaker, recently, at least five bodies were found in an abandoned mine shaft in Chile. These individuals were last seen alive in custody of Chile's brutal police squad, and there is no question that they are among the thousands of opponents of the terrorist military regime who have mysteriously disappeared over the years. Gen. Augusto Pinochet has made torture, press and judicial suppression, murder, and violence the hallmarks of his government. But the Pinochet regime cannot suppress the constant trickle of horror stories from Chile's tormented citizens. I would like to submit to the CONGRESSIONAL RECORD an article from the February 22, Washington Post describing this fresh evidence of the immoral and sadistic methods implemented by General Pinochet to maintain his illegitimate tenure as head of Chile's once-democratic state:

CHILE'S JUNTA SET BACK IN BODIES CASE

(By CHARLES A. KRAUSE)

SANTIAGO, CHILE.—Identification of at least five bodies found in an abandoned mine shaft as those of persons seized following the 1973 coup has dealt another blow to the credibility of the military government.

President Augusto Pinochet's junta has insisted that it had no responsibility for the hundreds of persons listed as missing. It charged that the issue was raised as part of an international communist campaign to undercut the government that overthrew Marxist Salvador Allende.

Human rights groups inside and outside Chile have long insisted that the missing Allende supporters were executed as part of a deliberate policy to eliminate the political left.

As with the assassination of Orlando Letelier, it looks as if another of the Pinochet government's darkest and most sensitive secrets is being exposed.

At the same time, it is a measure of the relaxation of press self-censorship and an increasingly assertive and independent judiciary that the abuses that occurred here after the coup are now coming to light.

While there are some 650 missing persons, in the case of the five positively identified from the mine shaft, there is virtually no question that they were last seen alive in the custody of police. The government has offered no explanation of their fate.

Even government supporters now acknowledge that the 14 skeletons found in a mining shaft in Lonquen are probably all persons executed without trial for political activities.

On Oct. 7, 1973, Sergio Maureira Lillo and his four sons, Segundo, Jose, Sergio and Rodolfo, were taken from their peasant hut 18 miles west of Santiago.

The five men, according to testimony long on file with the Roman Catholic Church in Chile and with the United Nations, were arrested by three members of the national police known to the Maureira family.

The five men were then taken to the National Stadium in Santiago, where political prisoners were held after the coup. Neither Sergio Maureira nor any of his four sons was seen alive or heard from again.

Residents of Lonquen, another small village about 30 miles west of Santiago, have said they remember hearing shots and vehicles coming and going one night after curfew in early 1974.

What appears to be bullet holes are also said to be visible in an abandoned house near the mine shaft where the skeletons were found three months ago.

According to the Catholic Church's human rights organization in Chile, the skeletons were discovered after a secret police agent confessed knowledge of the incident to a priest. Some clothing was found at the site.

Since late November, Adolfo Banados Cuadra, a judge assigned to Santiago's appellate court, has been assembling facts to present to the court.

Olga Adriana Maureira was shown the clothing and the skeletons and was able to identify a jacket and pair of pants as having belonged to her father. She also identified other clothing as that of her four missing brothers, she later told reporters from Santiago newspapers.

Banados has acknowledged publicly identification of the bodies.

Little is known of the political sympathies of the younger members of the family but Sergio Maureira Lillo was an unsuccessful candidate for alderman on his town council during the years before Allende's fall. He ran for a small non-Marxist party of the left.

Whether Banados will be able to complete his investigation remains to be seen. He has indicated that he will call the police identified by the family to testify.

The government so far has refused to cooperate with judicial investigations of missing persons.

Even if the government does decide to cooperate, the chances of anyone being tried are small. Pinochet declared an amnesty last year that covered crimes during the first 4½ years after the coup.●

HOW GOVERNMENT MAKES ITS LIVING

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. CONABLE. Mr. Speaker, a thought-provoking article by Paul H. O'Neill appeared in the fall, 1978 issue of Commonsense about the way automatic tax increases encourage Government spending. This article is the inspiration for the Tax Control Act which I and others introduced this week. A slightly abridged version appears below:

HOW GOVERNMENT MAKES ITS LIVING

(By Paul H. O'Neill)

In 1971, the United States passed a little remarked watershed in our history. That was the year that the federal government's expenditures for transfer payments and grants-in-aid to state and local governments exceeded, for the first time, the federal government's expenditures for the purchase of goods and services to conduct its direct business: national defense, operation of the national forest and park system, certain kinds of research, operation of the federal airway system, and the like.

That is to say, as measured by expenditures, 1971 is the year that the federal government's predominant business became the transfer of income and wealth between individuals and institutions. No less noteworthy than this shift in emphasis is the speed with which the shift occurred. In 1967, federal spending for transfer payments and grants-in-aid totaled $54 billion, 65 percent of the amount spent for the purchase of federally used goods and services. By 1971, spending for transfer payments and grants-in-aid totaled $97 billion, $2 billion more than the amount spent for the purchase of goods and services.

The shift in emphasis did not stop in 1971. In 1978, spending for transfer payments and grants-in-aid to state and local governments is estimated to total $261 billion, $102 billion more than the amount spent for the purchase of goods and services.

While it is possible to argue about the precise point at which this shift occurred and who set in motion the events that produced this result, the important facts are unmistakable. As measured by spending in the national income accounts, the principal line of business of the federal government today is transferring income and wealth. It is remarkable that we have accepted this change in the function of our government in so passive a manner.

. . . but for all the talk and debate, the facts tell us conclusively that the federal government has taken on a major new role in our society.

It can be argued, of course, and correctly, that our government has always been in the business of redistributing income and wealth because taxes have always had a differential impact—taking relatively more from those who had more and less from those with less. But collecting taxes with this differential impact to provide common and undifferentiated services for all the people (defense, say, or customs services), is hardly the same as collecting taxes with a differential impact in order to redistribute purchasing power among individuals and institutions. This is not simply a difference in degree, it is a major difference in kind.

The purpose here is not to re-argue the merits of individual programs, but rather to seek to understand what has led to this result, what forces have been created out of this relatively new role of government, and what courses of action may be available to us if we want to modify our direction in the future.

Perhaps the single most important explanation for the change in our federal government's function is the American people's charitable spirit. Examination of the legislative history behind federal programs discloses, for almost all of them, a stated desire to overcome some perceived problem in our society. The largest single program of the federal government, Social Security, was designed to assure financial security and dignity for our older citizens. Welfare was designed to help those who cannot help themselves, urban renewal programs for those cities which could not help themselves, food stamps and other food assistance programs to insure nutritional adequacy for the poor, Medicare to assure health care for the aged, Medicaid to assure health care for the poor, public service employment benefits for others, and so on to the point that today we have 1044 different federal programmatic manifestations of the American people's generous spirit.

To American generosity one might add a sense of shame as a companion explanation for the change in our government's function. By this I mean that if Americans haven't altogether bought egalitarianism, they do, nonetheless, tend to be embarrassed by inequality—and are easily enlisted in efforts to reduce it. The legislative history and public discussion leading to the establishment of our present day federal programs are full of comparisons of the condition of average Americans to the plight of the intended beneficiary group. The "average American" always seems to have much more. We have been called on to correct these "wrongs" in the name of our social conscience. And we have responded.

Our response has been grounded in the fundamental belief that most perceived problems are susceptible to solution through federal intervention; through a federal spending program, tax forgiveness or regulation.

While these are the *key* motivating factors and the fundamental beliefs that produced our current situation, there are two other contributing factors of importance. One is the weakness in the linkage between taxation and spending and the second is the "bring-home-the-bacon" reflex, built into our congressional process.

The reasons for the weakened linkage between taxation and spending are several. The income tax withholding system is a prime example. While withholding has its virtues (it smooths out the government's income stream and provides a convenience to taxpayers) it also softens considerably the impact of taxation because the taxpayer never really feels the bite. For most Americans, the total amount of taxes paid is an abstract number on a piece of paper at the end of the year. It is not an amount the taxpayer must consciously "save" by April 15th.

A second important contribution to the weakened linkage between taxing and spending is the complexity of the federal government and the way it spends money. It is doubtful that many citizens can truly comprehend a budget approaching a half *trillion* dollars, let alone make their own value judgments about the activities and programs of so large a government. As a matter of fact, it is questionable that many citizens could list even 25 of the domestic assistance programs of the federal government. It is even less believable that they could make informed judgments and give their *positive* consent for all 1044.

Despite the impossibility of informed, positive, popular consent for all these programs, the fact is that they are on the books, put there by a majority vote of the people's representatives, the Members of Congress.

For those who might still argue (in an era when pollsters find popular confidence in Congress at 10 percent) that a congressional majority represents true national sentiment, then record vote totals might suffice to measure popular consent. Those still in touch with the real world might want to look further, for congressional majorities no longer supply even an unvarying gauge of informed judgment and positive consent of the Members themselves, much less the people at large. The Members of Congress have the same human scope limitations as the average citizen, and as programs have been piled on top of programs, they have necessarily specialized and focused their attention on the subjects that concern the congressional committees to which they have been appointed. For practical purposes, this means that 25 or 30 Members of Congress, those who have committee responsibility for the individual programs, really control the decisions and actions of any particular program.

If the proposition is doubted, one need only to stand outside the House or Senate chamber and ask Members who have just voted on an issue to explain the significance and consequence of the vote. On issues of great national concern and importance, for example an energy bill or a Social Security vote, most Members would have a ready and reasonable answer, but on the great preponderance of votes, many Members would not even be able to tell you the subject of the bill. When they arrive on the floor, they are instructed by their party whip (who receives his instructions from the party leaders) how to vote—and they vote.

When this fragmented decision making process is coupled with the desire of most Members of the Congress to "succeed," that is, to get re-elected, it is not surprising to find that the inclination of most committees of Congress is to create new programs, and add money for those already on the books. It is not surprising because most Members of Congress continue to function as though their re-election depends on "bringing home the bacon."

Obviously, if a Member is going to succeed in the eyes of his constituents, he needs to be in a position to influence the things they care about. This means the preferred committee assignments are those that directly touch the constituents' interests, for example, agricultural committees for farm state representatives, armed services committees for those representing areas with large defense industries.

The specialized focus of committee members only reinforces the momentum for new and/or larger programs. Since the members of any given committee are relatively few in number, they represent a much sharper target than the Congress as a whole, for those who represent the given special interests in the general population, and for those in the given government agency who are responsible for the operation of the program.

The special interest groups and the program officials together are yet another force for keeping and adding to existing programs and creating new ones. The main motivation for both of these groups is an honest belief in what they are trying to do. In the case of the special interest groups, there are three factors that sharpen their interest in growing federal programs. The first is simply that the federal government is an easier target than the alternative sources of funds—state or local governments or private sources. (We have already identified some of the reasons why this is so).

Second, from the point of view of any individual special interest group the federal government and its tax resources seem immense, and it is clear to each of them that their interest is as deserving, or more, than any of the other things that government funds.

Third, once a program is in place and funded, each element of the special interest group has an overwhelming inducement to participate because, if it does not, it loses in an important relative sense. For example, a new program is created by the federal government to provide education money, and School District Jones chooses to participate while its neighboring District Smith chooses not to. The citizens in School District Jones will have either a higher quality program for their children, or a lower school tax rate, or a combination of the two—or, at very least, they will have "more federal money"—as compared to their neighbors in District Smith. For School District Smith it becomes just a matter of keeping up with the Jones', a powerful enough incentive by itself, made all the more so by the understandable inclination of elected school boards or superintendents to demonstrate that they are doing, if not all that can be done, at least no less than their neighbors. This pressure is further reinforced by the knowledge on the part of the citizens in School District Smith that their federal taxes will be the same whether they participate in the program or not.

Finally, there is the force provided by the federal officials who operate the programs. It has been asserted that their main motivation is a desire to keep their jobs and increase their power. This assertion is seriously overworked. As in the case of the special interest groups, these people—for the most part—believe deeply in the objectives of their programs; most believe they could do more good with more money and new programs.

The combination of congressional forces, the special interest groups, and the operating officials creates the basis for what has come to be known as the "iron triangle"—the three-way interrelationship that exists between committee members of Congress who have direct oversight responsibility for specific programs, the special interest groups that exist for every program, and the government officials who operate each program. For each of these participants, an important measure of success is maintenance of program financing levels or preferably, program growth.

These interrelationships at the federal level are not new. They have long surrounded traditional federal activities, for (best known) example, Corps of Engineers' construction projects or defense activities. But the scale of these relationships at the *federal* level is new and their realized and potential implications for the way our society functions are profound. If President Eisenhower was making his warning comment today about the "military-industrial" complex, he would probably generalize his warning to include the "special interest-federal government" complex.

This is not to say that any of the participants are driven by dark and undesirable motivations. On the contrary, the sincerity of purpose of the participants may be beyond reproach. Those who form the education triangle, the community development triangle, or any of the other triangles, may truly believe in what they are doing. Sincerity only makes the emerging problem doubly difficult because there are no villains—only victims, and consequent major changes in the way our society functions.

The essence of the problem is the growing dependence of the other institutions in our society on the federal government. This problem is not the result of a preconceived plan to accomplish this purpose. Rather, it is a natural consequence of the interaction between institutions that is created by the involvement of the federal government. . . .

. . . Given these circumstances, it is difficult to see how this flow of funds can be stopped and, as a consequence, state and local governments are in danger of being caught in the web of dependency. In fact, there is a reinforcing effect to the extent that the federal government must ultimately collect taxes to pay for these programs from the citizens of the states and localities, which means less taxpaying capacity at the state and local government level.

Clearly, under these conditions, the "winners" are those institutions that are able to realize a net inflow of funds compared to the taxes they and the citizens behind them pay into the federal treasury. This is a primary reason why there is an increasingly heated debate as to whether various regions of the nation are getting their "fair share" of federal dollars.

It is important, if difficult, to remember through all of this that the federal government does not create income or wealth, it only moves it around through a labyrinth of programs and regulatory devices. But as we have seen, the secondary institutional consequences go far beyond the primary motivation of leveling out the income and wealth distribution.

It seems clear that if we are going to get at the corrosive institutional effects of the current system we need to be able to break the chain of relationships we have described.

Over the years, many devices have been created to try to deal with the various aspects of this complex, interwoven problem. The list is long and includes the federal debt limit, block grants, general revenue sharing, maintenance-of-effort provisions, matching requirement provisions, the Executive branch budget process, the new congressional budget procedures, conflict-of-interest laws, regulations and rules, open hearing procedures (sunshine laws), advance funding procedures, longer periods of program authorization, multi-year funding, requirements for five-year estimates of spending, automatic program expiration (sunset laws), and zero-base budgeting.

Most of the devices are useful and have some merit in their own right. But neither individually nor collectively are they an adequate counterforce to all of the pressures that push for more federal involvement. The challenge for the future is to develop a positive counterforce that works.

The key to that positive counterforce may be found in a modification of the rules of the game. The proposed change would spotlight the incremental taxes that are collected each year as a consequence of inflation and real growth in the GNP.

Under the current system, the President and the Congress have the benefit of a growing revenue stream each year without having to lift a finger. In effect, they are getting a free ride, courtesy of the way the tax system works. As real income increases, the federal government gets a slice. And more insidiously, as incomes go up to account for inflation, people are driven into higher tax brackets so that government gets a bigger slice of what is often a smaller real income.

This automatic tax increase system is so powerful that it produces growing revenues for the federal government even in times of genuine economic distress. As a consequence, in good times and bad, the current procedures allow the President and the Congress to add new programs or to appear to be cutting taxes when they are, in reality, only refunding part of the automatic tax increase.

Since an explicit tax increase is one of the most undesirable issues for the President and Members of Congress, the proposed change would frame the issue in those terms.

Specifically, the Executive, as part of its annual budget submission, would be required to identify and recommend as proposed tax increases:

All inflation induced increases that will be produced by the existing tax structure.

All real tax increases that will be produced as a result of real growth in GNP.

All other proposed real tax increases.

These proposed increases would, of course, need to be further classified by income level and family size so that the average person could understand the implications.

At current budget and taxation levels, this procedure would require the Executive to "recommend" thirty to forty billion dollars worth of tax increases each year.

In response, the Congress would be required, before it enacts any spending measures, to vote directly on these increases. It may be argued that these are unnecessary steps; that they are implicit in the current procedures. In fact, these steps are buried in the current procedures.

While the Executive does estimate revenues that will be produced by the current tax structure and the Congress does vote on a budget resolution that includes revenue numbers, neither the Executive nor the Congress deal directly with inflation-induced or GNP-induced revenue increases. As a consequence, these increasing revenues slip into the coffers of the federal treasury without any of our elected representatives having to stand up and be counted on the issue: In effect, taxation by stealh.

The proposed change in procedures would end this arrangement and force our representatives to vote on these tax increases each year. Three substantive outcomes could flow from this proposed change; the increases could be voted in their entirety, in part, or not at all.

In the event the increases were voted in their entirety, the current rules would apply and Congress would go ahead with its normal procedure. If the increases were rejected or accepted only in part, the tax schedules would be adjusted to reflect that outcome and the budget would be sent back to the President with instructions to trim an equivalent amount from his budget recommendations.

Although the outcome of the proposed change is indeterminate until it is tried, the premise is that the strong Executive and Congressional aversion to explicit tax increases will result in less relative taxation and spending.

This approach has one important characteristic that distinguishes it from the automatic tax indexing proposals that have been advanced over the last several years; it would require our elected representatives to function out in the open on the tax issue each year. Most of the indexing proposals that have been advanced would judge the issue permanently and thus, automatic indexing has become a live or die issue for those representatives who believe automatic tax increases are fundamental to a progressive society.

The approach offered here would not judge the issue permanently but rather would preserve the opoprtunity for our representatives to make the case for higher taxes each year. Admittedly, it would take substantial courage, especially in today's tax cutting climate, for our representatives to face the prospect of a headline which said: PRESIDENT RECOMMENDS, CONGRESS ENACTS $40 BILLION TAX INCREASES. But after all, shouldn't our representatives have the courage to stand up for what they want?

If we can get the issue framed in this straightforward way, there is some hope that we can begin to sort out the mess we have created.●

HUMAN RIGHTS IN LITHUANIA

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. CORCORAN. Mr. Speaker, today, as always, in America we enjoy an atmosphere of freedom. We can travel at whim, communicate our views openly without persecution, and worship in a house of our own choice. But even as we enjoy these freedoms which we so easily take for granted, there are people in this world suffering from political oppression.

I am speaking about the proud people of Lithuania. February 16, 1979, marked the 61st anniversary of the reestablishment of Lithuanian independence. As we all know, this ambience of freedom was soon replaced by Soviet intimidation.

The once proud united nation of Lithuania has suffered much torture, hardship, confusion, and disillusionment. They have been subjected to incredible cruelties in a never-ceasing effort by the Soviets to destroy their national spirit. One-sixth of her population has been exiled into desolate regions of the Soviet Union, with many families broken, never to be reunited.

The Soviet Union signed the Helsinki agreement guaranteeing basic human rights, but treats its meaning as useless rhetoric. Lithuania has felt no relief from the Soviets in their desperate attempts for liberty. Their reading material is completely controlled. They are subjected to unexplained and unwarranted searches of their homes and their persons. They are sentenced for make-believe crimes with no possibility of appeal. Communists have even tried to infiltrate the Catholic seminary for the training of priests by the KGB. Human rights violations seem unending, and yet this strong people continues to withstand more abuse in their attempts to rebel.

There are over 1 million Lithuanians in America today. Many in my congressional district have expressed concern to me over the plight of their people. Mr. Speaker, as Americans we must continue to resist and denounce this obstinate oppression. We must hold fast to our ideals and encourage the United Nations to use its arm of persuasion in relieving the pain and suffering brought upon the Lithuanian people by an overbearing country. Only when these inalienable human rights are restored to countries like Lithuania can we begin to build an environment for world peace and freedom to flourish.●

MORE SUPPORT FOR ENDING MANDATORY RETIREMENT

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. FINDLEY. Mr. Speaker, earlier this week, on Tuesday, I submitted the names of 32 additional sponsors for H.R. 70, a bill to end all remaining unjustified forced retirement. Those Members, added to the 28 who joined me in cosponsoring the bill when it was introduced on the first day of the 96th Congress, bring the total number of cosponsors to 60. I am happy to report that support for ending mandatory retirement is building.

I see no reason the cosponsor list for H.R. 70 cannot grow far larger than the 115 Members who cosponsored H.R. 65 in the last Congress. That impressive show of support helped spur the 95th Congress to approve, with the House voting in favor by 359 to 4, similar legislation increasing the Federal protection against mandatory retirement from age 65 to 70. President Carter signed the bill at a White House ceremony in April of last year, and it went into effect on January 1, 1979.

That impressive bipartisan effort succeeded in granting for the first time employment rights to senior citizens. It was a dramatic first step and leads the way to further legislation.

H.R. 70 would finish the job started in the last Congress. It would do this by expanding the coverage of the Age Discrimination in Employment Act to those age 70 and above. It would also extend protection under the act to occupations previously exempted. Those include tenured college professors, top level business executives, Federal policemen and firemen, air traffic controllers, Foreign Service officers, and employees of the Alaska Railroad and the Panama Canal Zone.

Everyone can think of famous individuals who demonstrate excellence during later years. Actor George Burns was nominated for an Academy Award in his eighties. Pianist Vladimir Horowitz still plays at 73, many say better than ever. Last May many of us participated in a House of Representatives ceremony to honor a still very active Bob Hope on his 75th birthday.

Fortunately for all of us, these personalities were not forced to retire. We need to complete the expansion of our laws to see that senior citizens in ordinary walks of life will not be either.

Pernicious agism is deeply imbedded in

the thinking of our youth-oriented society. But enforcement action under an exanded age discrimination law can spur the change in attitudes already beginning to take place. Every healthy senior citizen should be able to tell an employer what 71-year-old John Wayne said to the Select Committee on Aging:

> Which one of you is going to step up and put me out to pasture?●

TREE FARM FOR JAPAN

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. BONKER. Mr. Speaker, occasionally a constituent feels strongly enough about an issue to do something about it. This is the case with Don Kennedy who realizes that we are rapidly liquidating our timber supply with no benefit to our own economy. I would like to place in the CONGRESSIONAL RECORD both Mr. Kennedy's letter to me and his recent publication on the log export issue. The document has been slightly edited where certain companies and individuals have been cited, but it is an accurate and timely appraisal of what is happening in the timber and wood products industry, and it should be available to my colleagues for possible use when this issue comes up for a vote later this year.

The material follows:

WESTERN WASHINGTON—TREE FARM FOR JAPAN

(By Don Kennedy)

At one time, barely 100 years ago, most of the land area bordering Puget Sound, in the state of Washington, was one vast virgin forest of Douglas fir, cedar, and hemlock. That forest was of immense size, stretching all the way from Puget Sound to the Pacific Ocean on the west, and from Puget Sound all the way east into the lower elevations of the Cascade mountains. It was a wonderful area of forest, and an economic resource of tremendous worth.

Most of that virgin forest is now gone, and where there was once forest there are now cities, farms, and open spaces. Today as you view this western Washington country you would never know that only a few years ago it was one great forest stretching east and west, and north and south, for hundreds of miles. It was a beautiful and wonderful country in those days, the likes of which we will never see again.

Now most all of that virgin forest is gone. It has been logged and cut up for lumber and building material and shipped to all parts of the United States. Until recently, the logging and lumber industry was the basic industry of western Washington and the source of most of the employment and income. At one time, several hundred or more sawmills were in operation in western Washington.

Now that most of that nearby forest resource is no more, most of what is left is in the foothills and on the higher elevations of the Cascade and Olympic mountains. Most of that is federal government property and managed by the U.S. Forest Service. That's where most of the logging in western Washington is now being done, and it's surely beginning to show in great areas of logged off land in the valleys, foothills, and higher elevations of the Olympics and Cascades. It isn't a pleasant sight to see so much of that pristine mountain area being scarred and made bare.

This time, the best timber being harvested is not going to western Washington sawmills, but most of the prime, best quality logs are going to Japan. They are being exported from huge holding yards at the ports of Bellingham, Anacortes, Everett, Seattle, Tacoma, Olympia, Port Angeles, and Grays Harbor. It's an immense movement, with a big fleet of Japanese logships moving regularly between Puget Sound and the Orient.

What hurts most is that this wonderful resource is being shipped to a foreign country, rather than being used in our own mills, to provide employment and building material for our own people.

It is the purpose of this study to find out, if we can, why we are not using this valuable resource ourselves, rather than shipping it to Japan. Do we need the immense quantity of saw logs being shipped to Japan, for our own mills and for our own use?

Estimates are that the United States will use approximately twice as much wood products and paper by the year 2000 as we now use. That is only 20 years ahead. The U.S. Forest Service also predicts that our nation's timberlands will not be able to supply that demand. The Forest Service estimates that the U.S. market will require at least 58 percent more timber by the end of this century. Robert Long, Asst. Secretary of Agriculture, makes just about the same prediction. Speaking before the American Plywood Association in Portland, Ore., he recently said (quote): "Between 1976 and the year 2020 (less than 50 years) the demand for forest products in the U.S. will more than double and failure to meet those needs will create shortages, higher housing costs, and further inflationary pressures." If that is true, then why are we cutting huge chunks out of what's left of our Northwest forests, and exporting that needed resource to Japan? Also, why all the rush?

In 1974, when Federal hearings were held in Portland, Oregon, concerning excessive log exports to Japan: U.S. Senator Robert Packwood had this to say about those exports: "They are driving up construction costs in every state." Answering the argument that Northwest log exports to Japan help reduce our balance of payments deficit, he pointed out that we now *import* more processed lumber and plywood from other countries than the money we receive from the sale of raw logs to Japan, and that if we used those same logs for domestic manufacture, our balance of payments situation would not suffer. He also affirmed that should we use those logs in our own sawmills that we would have larger employment, greater price and supply stability, and even larger tax revenues for local, state, and federal use. Which simply means that all would benefit, with the exception of Japan, and those few companies in the log export business.

In May, 1978, President Carter directed his Cabinet to study the possibilities of increasing the timber harvest from Federal forests. His purpose was to slow the rise in lumber and housing costs, which he considered excessive and harmful to the country, the building industry, and the American people. In response to that directive, U.S. Representative Don Bonker, Washington, addressed a letter to President Carter, saying: "If the United States faces timber-and-wood supply problems, as your directive makes it plain we do, then what long-range basis do we justify exporting the raw material?"

The Linnton Plywood Association in Oregon is another one, of many, that has felt the hurt of massive log exports to Japan. The directors of the Association recently decided to shut down their mills temporarily "because of market conditions and log exports continuing to drive up prices." Both industry and labor were the losers, and Japan and the few log exporters paid none of the bill.

The Western Council of Lumber & Sawmill Workers, with 55,000 members in 11 states, recently issued this statement, about the export of logs to Japan: "to export logs is to export jobs, and those exports are detrimental to the industry, and the country."

Seattle Cedar Lumber Mfg. Co. is another example of how log exports to Japan have affected the lumber manufacturing business in western Washington. Seattle Cedar's mill was the largest and most modern in the world but was closed because "cedar log prices had become so high priced that it made operations impossible regardless of the level of mill efficiency." Those are the words of William Black, Company president. He also stated that "Seattle Cedar could no longer buy high grade cedar logs at reasonable prices, in competition with log exporters who were paying from $350 up to $750 per thousand." From this, it appears that Seattle Cedar was forced out of business by foreign money, causing a bad loss for both industry and labor.

At the time this article was written (January, 1979) Pope & Talbot announced the closure of their plywood plant at Kalama, Cowlitz County, Washington, which cost the town of Kalama 350 jobs. William Whelan, Pope & Talbot Vice President, blames the closure on "high wood costs due to competition from log exports, and from equipment outdated because of the kind of logs now available." (The equipment was outdated because, to process culls, small logs, and export rejects, which are readily available, requires special machinery and equipment.)

Weyerhaeuser Lumber Company this Spring (1979) will close its Mill B in Everett, Washington. That big mill has been in operation for 64 years and its closure will eliminate 435 jobs. Before, when good saw logs were plentiful and reasonably priced, Mill B was successful and profitable. It's a sawmill geared to process large, good quality logs, like those sold by Weyerhaeuser for export. It's not a mill that can efficiently process culls, small logs, and export rejects, at a profit. Therefore Mill B will be closed, rather than be remodeled.

When the closure of Mill B was announced, James Langlois, speaking for the Weyerhaeuser Company, said: "Weyerhaeuser Mill B is geared only to processing the large logs we don't see any more." Yet just around the bend of the Snohomish river, on the Everett waterfront, are thousands of large, prime quality logs waitings for export to Japan, by Weyerhaeuser.

This year (1979) Pope & Talbot will begin remodeling and modernizing their sawmill at Port Gamble, Washington. The job will take two years to complete and cost $12 million. This is the oldest operating sawmill in North America.

Why the need for this Pope & Talbot changeover and mill improvement? William Whelan, chief operating officer, explains it this way (quote): "The updating is necessary because of the substantial increases in the cost of logs over the past few years. Labor used to be the key ingredient effecting profitability, but no more. *Now it's logs*. The prices of logs have gone up savagely in recent years and those price increases make sawing efficiency necessary for survival." It's to the credit of Pope & Talbot that they are making that mill improvement at Port Gamble; but few independent small-size mills have the financial resources to make such changes. That's why log exports, which have made good logs scarce and very high priced, has hurt small mill operations more than the big ones.

This year (1979) Louisiana-Pacific Corp. is moving its headquarters from Portland, Ore. back to Atlanta, Georgia. Twenty-five years ago Louisiana-Pacific moved to the Pacific Northwest from Georgia because here was where the best timber resources were located. Now they are returning to Georgia because (quote): "the South offers greater opportunities for growth in the timber industry than does the Pacific Northwest." This move is significant as Louisiana-Pacific is one of the largest forest products companies in the U.S., with 21 plywood mills in operation. Apparently, they take a dim view of our Northwest forest industry and its *future*. The comment of U.S. Congressman Don Bonker, Washington, best explains the reason. He says, (quote); "the cost of producing plywood here is up because firms exporting raw, unprocessed logs to Japan are bidding the price of timber to new and unreasonable highs with each sale."

The exorbitant price of finished lumber and plywood in the U.S. today is blamed by George Weyerhaeuser, President of the Weyerhaeuser Company, not on a shortage of trees but on a shortage of industrial capacity to process timber. He said at a news conference in Seattle . . . (quote): "inadequate manufacturing capacity in the U.S. has caused the market-price increases." He is right, *but why have so many mills closed in the Pacific Northwest?* It's because so many good quality logs are being shipped to Japan, and Weyerhaeuser is the largest shipper. To process most of the rest of the timber harvested, mostly culls, small logs, and export rejects, takes special machinery and labor-saving equipment, which few small mills can afford. That's why so many sawmills in the Pacific Northwest have folded and gone out of business.

U.S. Forest Service economist, David Darr, of the Forest Service Range Experiment Station at Portland, Ore. says this about log exports (quote) "My own impression is that if exports were stopped, an additional volume of timber would be processed here." He also predicted that if there were regulations restricting log exports that it would force timber companies to slow down liquidation of old-growth forests in the Pacific Northwest.

Vergel Clark, Oregon Forestry official, also says this about our Northwest forestry industry (quote): "The forestry industry faces an economic decline, and in the next 10 years those mills that are not up-to-date will not be able to operate, as the volume of available logs declines and the prices per thousand gets higher." Which is a trend already evident and one which has already dismantled much of our Northwest lumber industry.

To begin with, log exports to Japan have caused astronomical advances in log prices. Figures provided by the Pacific Northwest Forest and Range Experiment Station at Portland, Ore., show that Japan paid an average of $254.76 per thousand in 1973. Since then, prices have climbed considerably higher. Because of those high prices, inflated by export demand, few sawmills still operating in the Pacific Northwest can afford to buy good quality logs for processing. Most are forced to use mostly culls, small logs, and export rejects. Milling that kind of raw material is costly, unless a mill revamps its operations and installs special machinery, at great expense. Because of this most lumber mills in western Washington have either curtailed production or gone out of business altogether. It's a tough situation, especially for the small mill operator.

There is no denying the fact that log exports to Japan from the Pacific Northwest have escalated prices to extravagant levels; have caused a shortage of good logs for Washington and Oregon sawmills; and have caused many lumber mills in the Pacific Northwest to close.

In 1977 Northwest log exports to Japan totaled approximately 2.7 billion board feet, valued at $864.6 million. That gives you some idea of the vast amount of Northwest forest that was cut and shipped to Japan in that single year. At that rate we can't expect to have much left of our magnificent Northwest forests, unless log exports are slowed or stopped altogether.

The dollar value of log exported, just cited, explains why the Weyerhaeuser Company and the several other large exporters of logs to Japan are determined that they be continued. There are others, of course, who also favor such exports. Among those are the International Longshoremen's Union that loads the logs on Japanese ships. The ports on Puget Sound that handle log shipments, from which they secure substantial income, are also proponents. Certain members of the School System also favor continued log exports to Japan, as they fear a loss of income if the export of logs from State forests were curtailed. (The schools receive a certain portion of the receipts from the sale of State timber.) There are also a few private citizens who think that such business makes for better international relations. Others in Government favor such exports as they do help reduce our unfavorable trade balance with Japan, which is considerable. Then there are people like former U.S. Representative Wendell Wyatt, Oregon, who has said, (quote) "If an embargo on the export of logs to Japan was initiated, the U.S. would risk a trade war with Japan and the retaliation would be very great." (Decide for yourself the merits of that statement.) Since when must we manage our nation's affairs to suit Japan or any other foreign nation? Furthermore, the Japanese wouldn't be so foolish as to undertake such a losing venture.

Then the view of Bert Cole, who heads the Washington State Dept. of Natural Resources, shouldn't be ignored. He says, (quote) "The export market is an economic opportunity, not only for the Dept. of Natural Resources and the state of Washington, but it's also an opportunity for the U.S. to participate in world trade on which every country's economic status depends." Which is an ambiguous statement, of little worth. The fact is that most of the prime logs going to Japan come from our State owned forests; also Bert Cole has always been sympathetic towards those engaged in the export business, especially the Weyerhaeuser Company.

Now let's hear from those others who would curtail or stop altogether the export of logs to Japan from the Pacific Northwest.

Keith W. Johnson, president of the International Woodworkers of America says (quote): "The Pacific Northwest is becoming a tree farm for Japan and log exports are the major cause of the declining timber supply in Oregon and Washington and if those exports stopped, more lumber would be processed in the Pacific Northwest." He says that "Log exports have caused many lumber mills to go out of business, and prices have become so high that they are now two expensive for small mills to buy." He further says (quote): "the small mill operations are hurt most because they haven't the finances to purchase the raw logs they need, in competition with the large companies, such as Weyerhaeuser."

Another one who believes that log exports to Japan causes more harm than benefit, is former Governor Walter Hickel, of Alaska. At one time he resisted a Federal proposal to permit the export of raw logs to Japan from federally-owned forests in Alaska. At that time he stated that if log exports to Japan from Alaska were prevented, it would encourage the establishment of new sawmills in Oregon and Washington. He also said (quote): "We can't stand idly by while our timber resources are sacrificed."

George Cassiday, president of the Western Council of Lumber and Sawmill Workers, says this about log exports to Japan: "Many mills in the Puget Sound area would increase production if they were guaranteed logs; and that log exports are detrimental to the Western lumber industry, the building industry, and our country."

Peter E. Tarzick, Treasurer of the Brotherhood of Carpenters & Joiners is another one who is fearful of the effects of large volume of log exports to Japan. He is fearful because (quote): "the demand for wood is outrunning the supply."

(Hold for a moment, and consider Mr. Tarzick's warning.)

If it's true that a scarcity is developing in timber supplies, then consider the effect that will have on those few companies with tree farms and private forest holdings. Those properties will grow in value and their owners will secure fabulous financial returns. So, is it at all surprising that firms like Weyerhaeuser are dead-set against any cessation of log exports to Japan? They also favor an early and full cut State owned forest, administered by the Dept. of Natural Resources, for if the supply of that publicly held timber is depleted, log prices will advance even more.

Milton Herbert, former President of the Northwest Timber Association, and himself a lumber company owner, recently said this about log exports to Japan: "Some timber firms have gained tremendous profits from exports, frequently causing over-cuts and the premature harvesting of young trees." (The last line of the above quote is something to think about.)

From those comments, it would appear that Weyerhaeuser and a few others, could very well manipulate our Northwest forest resources, for their own benefit. It could be done by massive exports to Japan, and a more rapid cutting of our State owned forest, administered by the Dept. of Natural Resources. By creating *scarcity*, and then controlling what's left of the available timber, monopoly might easily develop. Which isn't to condemn Weyerhaeuser or any others; the fault is ours to allow such a danger to develop. To prevent such a development, the cutting our our Northwest forest should be carefully controlled and managed, and any large export of logs to Japan should be stopped at once.

The sad part of our deal with Japan is that Japan imports practically no finished lumber from the U.S. The Japanese government prevents it by "harassment" when called on to inspect imported wood products, and inspection is required. Their practice is to inspect imported finished lumber piece-by-piece, even 2x4's, and then placing a stamp of approval on each piece. Naturally, there is no such inspection of the raw logs they import from the U.S. If that's fair trade, then it would be just as fair for us to keep our logs at home and use the logs ourselves. Right?●

PEACE IN THE MIDDLE EAST

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. SKELTON. Mr. Speaker, during President Carter's recent trip to Israel and Egypt, I spoke on the floor of the House about his willingness to dare to achieve the difficult and seemingly impossible task of completing a peace treaty between those two nations. If he had returned without achieving an agreement, he would still have had our admiration for having tried. For, in the words of Erasmus:

> In great things, it is enough to have tried.

However, the President was successful, and he did help secure a proposed treaty. Hopefully, we can look ahead to extended tranquility in that region of the world, to security for the existence of Israel as a nation, and to a real peace by anyone's definition. I applaud his efforts and his success.●

LEGISLATION TO MANDATE AN AIRBORNE COLLISION AVOIDANCE SYSTEM

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. FASCELL. Mr. Speaker, on September 25, 1978, a jetliner and a small private plane crashed over San Diego, Calif., resulting in the death of 144 people.

As it has done following other midair collisions in the past, the Federal Aviation Administration in January announced new steps designed to correct what Administrator Langhorne Bond admitted were deficiencies in the agency's safety record. Tighter regulations and restrictions would be imposed at many of the Nation's airports, including a substantial expansion of the area within which all aircraft would have to operate under strict ground control.

Although the proposed regulations have been denounced by general aviation spokesmen as "absurd" cutbacks on the air space available to private aircraft, they have one major drawback: had they been in effect last year, they would not have prevented the San Diego crash. The jetliner was flying under ground control, and the Cessna with which it collided had FAA permission to be in the area for flight training.

Obviously, the existing ground-based control system was not adequate protection. Nor was the "see and be seen" flight principle of any help, since both pilots' vision was obscured. The proposed "solution" to the San Diego crash only heaps more complexity and controls on a system that is already overburdened. There remains a glaring need for a meaningful system to avoid future midair collisions.

The need is just as acute now as it was on July 19, 1967, when a jetliner collided with a twin-engined Cessna over Hendersonville, N.C. In that accident, 82 persons were killed, including Secretary-designate of the Navy John T. McNaughton.

On July 24, 1967, I first introduced a bill to require the FAA to take the lead in research and development efforts required to make available an electronic collision avoidance system which could be installed at a reasonable cost in all civil aircraft in the United States.

My reasoning in originally drafting such legislation was that each plane should have its own equipment to warn the pilot of the proximity of another aircraft in time for evasive action. Such a system would not be dependent on the ground control apparatus, with all its potential for communications problems, human error, and other technical flaws.

Since the introduction of my original bill, I have sponsored similar measures in several Congresses, including the 95th. To date, however, the legislation has not been enacted. And, unfortunately, midair collisions continue. Near-misses of airliners in the New York area were reported on February 11 and 20.

Over the years, the FAA has made many promises that it would adopt an Airborne Collision Avoidance System (ACAS). The need for such a system has been widely recognized. The National Transportation Safety Board has recommended six times—in July 1969, August 1969, November 1970, February 1971, September 1972, and May 1973—that the FAA adopt an ACAS.

In 1969, following a series of midair collisions and near-misses, a study group of the FAA itself recommended that the agency undertake "an extensive effort toward the development of an airborne collision avoidance system, with cockpit displays, as a prime solution to the problem."

Yet here we are, more than 20 years after the three midair collisions which led to the formation of the FAA, and some 12 years after the introduction of the first legislation to require an ACAS system, and still there is no workable system in place.

Clearly, the Congress must take a more active role in offering protection for the Nation's air travelers. The number of aircraft in the country will grow from 185,000 now to as many as 375,000 by the year 2000, according to FAA estimates. The recent trend toward airline deregulation may spur commercial traffic growth even more rapidly than envisioned.

With more planes anticipated to be using the same amount of air space under a system that already has been shown to be overloaded, it is essential that improved safety be achieved. Accordingly, with Congressman DORNAN, I am reintroducing and updating legislation to require the development of an Airborne Collision Avoidance System (ACAS).

The bill is based on the premise that each plane should have its own automatic equipment to warn of collision threats. Such a system would be supplementary to the existing groundbased air traffic control system, which could continue to be used and improved. The bill directs the FAA to follow up on previous ACAS research by issuing, within 1 year, a national standard of performance which will permit such a system to be marketed. It does not require the use of the equipment on any aircraft, although airliners could be expected to begin using it quickly with at least some general aviation use following later.

Until several years ago, the FAA was proceeding with the development and testing of an ACAS system which would give each equipped airplane its own independent protection against similarly equipped aircraft. More recently, the agency has shifted its emphasis to a different approach by seeking to develop other equipment which would rely, at least in part, on groundbased components such as those used in the existing aircraft separation program.

In furtherance of this alternative approach, the FAA has issued proposed national standards for the development of a Beacon Collision Avoidance System (BCAS) of its own design. This would employ a "beacon" of radio pulses designed to locate and inform the pilot of approaches of threatening aircraft. Since the technology required is of an advanced and complex nature, a number of questions have been raised about this proposal—relating to its cost, effectiveness, and practicality for general aviation. Ultimately, the equipment would be linked to a costly groundbased computer control system which is still undeveloped.

On the other hand, a simpler and cheaper ACAS system was designed and built by three manufacturers, and tested under FAA and Navy sponsorship during 1971–72. This equipment was found workable and effective in alerting pilots to potential collisions. There has been no satisfactory explanation of why the FAA did not proceed with the development and introduction of this ACAS system, since it is likely that by now it could have been in place on much of the Nation's aircraft fleet.

Some have wondered whether the FAA fears ACAS would hinder expansion of its groundbased system. It could be argued, I assume, that a successful ACAS system might reduce the need for additional FAA employees, control towers at more airports, and other expensive additions to the agency's operation, thus slowing its expansion and control over general aviation. In any event, the agency appeared to halt progress on the ACAS by merging it with its BCAS proposal.

We need to determine whether the FAA is embarked on the right course with its proposed BCAS. More importantly, we need to move forward with the ACAS as well, unless it is shown convincingly that the other system is the only solution. Hearings on this bill would provide an opportunity for full exploration of these issues.

I feel just as strongly now as I did when I first introduced this legislation in 1967 that any equipment required on aircraft should be both workable and inexpensive so that it would not impose an undue burden on small private airplane owners and pilots. On the other hand, general aviation is faced with the prospect of new and drastic limitations being imposed by the FAA on the air space available to it unless some kind of additional safety equipment is installed. The goal should be to make any such equipment as inexpensive, yet as effective, as possible.

I recognize that the FAA has criticized the already-developed ACAS system as having a "false alarm" problem at busy airport areas. If true, such a flaw would be a cause for seeking another solution, such as BCAS. If pilots repeatedly found that collision avoidance alerts proved needless, they might start switching the system off in order to get rid of such warnings. Such as been the case with ground proximity warning instruments and other existing equipment, resulting in crashes later because no warnings were made when they were really needed. To be acceptable, an ACAS system must not have false alarm problems.

In 1975, the Naval Air Development Center (NADC) tested an Avoid II ACAS using a "doomsday" traffic model of 800 aircraft all operating in the Los Angeles basin at one time. Electronic signals were generated simulating general aviation, commercial, and military flights at various speeds, altitudes, and directions. Some were flying under instrument rules, and others on visual rules. Into this mix, test flights on ACAS-equipped planes were made in all directions over the terminal area.

The NADC summary of results concluded:

> No false alarms occurred during approximately 52 hours of flight testing and 142 hours of laboratory testing.

An even more convincing series of tests was conducted over a 2½ year period in 1971–73 at the National Aviation Facilities Experimental Center (NAFEC) in Atlantic City, N.J. This very detailed and realistic test program used actual air traffic controllers in a simulation of Chicago's busy O'Hare Airport to determine how an ACAS system would perform in a situation as close to real life as could be achieved. Incoming traffic activity was simulated far in excess of reasonable real-world conditions. The only "false" or unnecessary alarms noted occurred when planes were headed toward each other in the normal approach lanes to parallel runways. These alerts were cured when the controllers made simple adjustments in the altitudes and approach lanes, with no reduction in airport capacity.

A summary of findings dated February 1, 1973, noted:

> There was no conclusive evidence that the presence of the collision avoidance system adversely affected Air Traffic Control system efficiency or controller workload.

Thus it appears that the evidence does not support contentions that the ACAS system would not work in crowded terminal areas. On the other hand, much evidence suggests that the proposed BCAS may never prove satisfactory.

An active BCAS built and tested by NAFEC detected aircraft below it only 70 percent of the time. In addition, due to "synchronous garble" or overlapping electronic signals, it did not function well in the presence of numerous aircraft and thus would not work in the vicinity of a busy airport. It would have to be turned off in major terminal areas such as San Diego, and thus would not have prevented last year's major collision there. If both planes had been equipped with ACAS, however, the tragedy might have been avoided.

The FFA has suggested that these problems of BCAS will be solved by the development of a "full" BCAS system using both active (airplane to airplane signals) and passive (ground to plane signals) modes. But the "full" BCAS will depend on an as-yet-unproven ground computer system called ATARS (automatic traffic advisory and resolution system) which may not be available for another 20 years. Also, each "full BCAS" would cost an estimated $75,000 for the portion of the equipment installed on an airplane—a cost obviously out of reach of the average general aviation aircraft owner. By contrast, an already-proven ACAS such as Avoid II is estimated to cost around $1,000.

Even the FAA's proposed interim "active" BCAS would rely on the development of its discrete address beacon system (DABS)—which requires the presence of 500 ground transmitters across the country, and is estimated to cost at least $500 million in Government funds (in 1976 dollars). In the meantime, the already-developed ACAS which requires no such outlays has been placed on the FAA's back burner for use sometime in the distant future.

The ACAS system cannot be made available to airlines and general aviation until the FAA issues a national standard specifying its performance and requirements. Originally, the FAA promised to draw up a standard by 1976—but this deadline has been extended several times until now it is questionable when it may ever be promulgatd, without congressional prodding. Yet ACAS development and testing seems to be more advanced than the BCAS for which a standard has already been proposed.

Since the research verifying the feasibility of ACAS has already been accomplished, all that remains is for the FAA to go through the paperwork involved in promulgating a standard. The bill would allow the agency 1 year, a sufficient time to achieve this.

The subject of aviation safety, and the need for an inexpensive and effective ACAS, are too important for Congress to ignore any longer. Last year, some 280 million passengers flew on commercial flights in this country, and that number is rising under the stimulation of airline deregulation which has lowered air fares. We must meet our responsibility to assure the safety of the millions of our people who depend on air transportation, by the adoption of this legislation which has been before the Congress for 12 years.

The text of the bill follows:

H.R. —

A bill to amend section 312(c) of the Federal Aviation Act of 1958, relating to research and development, to require the Secretary of Transportation to assure the development of a collision avoidance system for use on all civil and military aircraft of the United States in the interest of air safety

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 312(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1353(c)), which relates to research and development, is amended by inserting "(1)" immediately after "(c)" and by adding at the end thereof the following new paragraph:

"(2) In carrying out his functions, powers, and duties under this section pertaining to aviation safety, the Secretary of Transportation shall coordinate and take whatever steps necessary (including research and development) to promulgate standards for an airborne collision avoidance system for all United States aircraft, civil and military, to improve aviation safety. The Secretary of Transportation shall promulgate such standards within one year after the date of enactment of this Act. Such standards shall require that such collision avoidance system be designed—

"(A) to give aircraft pilots clear and unambiguous instructions concerning maneuvers to be undertaken or avoided to prevent a mid-flight collision with other aircraft;

"(B) to be totally independent of any ground-based equipment and ground stations and able to function in any remote or other area without the need for communication with ground-based equipment.

"(C) to permit modification of the performance of such system by the pilot in command of the aircraft in which such system is installed at the option of such pilot;

"(D) to prevent the functions of such system being modified in any way by signals sent from any ground-based system or equipment;

"(E) so that such system can be manufactured and sold at a cost which the Secretary of Transportation determines is sufficiently reasonable so that its use on all such aircraft would not impose an unreasonable burden on air carriers and other owners and operators of aircraft;

"(F) so that it shall not be incompatible with the air traffic control system; and

"(G) so that it shall be adequate to protect a small aircraft from a similarly equipped small private or military aircraft."●

HUNGARY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. DINGELL. Mr. Speaker, March 15 marks the 131st anniversary of the freedom fight of the Hungarian nation, 1848–49. I take great pride in joining my many constituents of Hungarian descent and all freedom-loving people in commemorating this historic occasion.

The struggle for freedom in Hungary, which still continues, is a reminder to all mankind of the blessings of freedom and national independence. The Hungarian story is written in the sorrows and courage of a people who have for centuries endured political repression, religious persecution, and the denial of basic human rights.

In recalling Hungary's revolution and struggle for independence from Austria in 1848, the names of Lajos Kossuth and Sandor Petofi stand prominent. These heroic men, principal figures in the war of independence, embodied the spirits of a people for a free and independent Hungary.

Although this revolution, which began on March 15, 1848, was crushed only 1½ years later by the military might of the Russian Army, its plea for human rights and justice echoed throughout the world, particularly in the United States. Diplomatic efforts on the part of the U.S. Government were instrumental in assisting the exiled Kossuth, who arrived in the United States on December 4, 1851, to the welcoming hearts of thousands of Hungarian-Americans.

Today, we in the United States remain concerned where rights and freedoms have been lost. For the Hungarian people, however, faith and conviction prevail. Force and oppression never once have dimmed their steadfast commitment to the principle of national self-determination.

On this anniversary, we reflect on the past, and offer our prayers and hopes for a free Hungary.●

SUMMARY OF THE AMERICAN PHYSICAL SOCIETY STUDY GROUP ON SOLAR PHOTOVOLTAIC ENERGY CONVERSION

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. WYDLER. Mr. Speaker, the Presidential Science Advisor, Dr. Frank Press, recently had a study done on the potential of solar photovoltaic energy conversion. The report was prepared by the American Physical Society Study Group and it is an objective and reasonably realistic appraisal of the promise of this technology.

The report projects roughly 1 percent of our electrical energy to be produced by photovoltaics by the end of this century. It also raises the issue that not enough research and development attention has been paid to overall systems cost for this technology and there is a critical requirement for energy storage devices for photovoltaics to make any significant impact on our energy supply picture within the last 3 decades.

I recommend the following important excerpts from the Executive summary of the report to all my colleagues:

EXECUTIVE SUMMARY OF THE AMERICAN PHYSICAL SOCIETY STUDY GROUP ON SOLAR PHOTOVOLTAIC ENERGY CONVERSION

INTRODUCTION

Solar photovoltaic energy conversion (PV), the direct generation of electricity from sunlight, has a proven "track record" of about 10% conversion efficiency in satellite and other applications. The cost, however, is high. Interest in PV as an alternative *terrestrial* energy source is based not only on the fact that sunlight is inexhaustible and ubiquitous, but also on the belief that eventually PV can be deployed on a scale sufficiently large to provide a significant fraction of the nation's electricity economically.

The development of PV into an economically competitive and significant power source requires major scientific and/or technological advances. This statement applies both to the technology of crystal silicon cells, which forms a reference for the entire field, and the present leading thin film candidate (CdS/Cu_2S), a cell whose active materials are sulfides of cadmium and copper. Nevertheless, the ultimate prospects are bright in view of the current ferment and rapid rate of progress in both photovoltaic science and technology. Unexpected developments such as amorphous hydrogenated silicon cells and GaAs-liquid junction cells have recently occurred. Future developments of this kind may well advance solar photovoltaic energy conversion to the position of a dominant technology rather than one relatively minor component in the U.S. energy mix, or a form of insurance to be used in the event of crisis.

Utilization of PV as a major source of electricity in the U.S., with a market penetration exceeding 10% of the total consumption, will, in all probability, be a long-term venture requiring perhaps 30–50 years. The R&D effort required to identify the right technology will be extensive. Once identified, that technology will have to be developed and scaled up into a PV industry that is about a thousand times bigger than today's.

A ten year build-up of PV to the significant level of generation of 5×10^{10} kilowatt hours per year (kWh/yr), or about 1% of U.S. annual electricity demand projected for the year 2000, would require an annual production of PV capacity at a rate of 2000 peak megawatts per year (MW_p/yr). The cost would range between 1 and 2 billion dollars, depending on whether the PV system capital investment cost is 50c or 100c/W_p. Assuming that technical success is achieved, the major factors leading to this modest rate of penetration are large capital risks and the time required to install the necessary facilities.

"It is unlikely that photovoltaics will contribute more than about 1% of the U.S. electrical energy produced near the end of the century. Central power production is the most extensively studied and clearly perceived long-term, large-scale application of PV for this country. Barring unforeseen rises in the cost or availability of fuels, prices for 12–16% efficient flat plate modules or concentrator arrays of about 10–40¢ per peak watt (W_p) in 1975 dollars will be required to compete with the projected cost of coal-generated electricity (about 45–70 mills/kWh levelized busbar cost in the year 2000)."

In the short term there might well be a significant intermediate market that includes foreign sales and remote applications, such as road lighting. Foreign sales might be particularly important in high insolation areas that do not have existing power grids, such as many Third World countries or the Middle East.

It would be misleading to express the value of PV electricity in terms of the amount of oil saved, because "it is anticipated that only a small fraction of the electricity generated after 1990 will be based on gaseous and liquid fuels. Therefore photovoltaics will not significantly reduce the use of these fuels. The major effect of photovoltaic generation will be a displacement of some combination of coal and nuclear fuels."

The achievement of a competitive PV technology that will satisfy a significant portion of U.S. electrical needs requires considerably enlarged R&D activities on the one hand, but only some systems tests on the other. With respect to research, the general conclusions of the Office of Science and Technology Policy Working Group on Basic Research in the Department of Energy (DOE) about the inadequacy of past long-term research activities applies specifically to PV, although welcome signs of change are now appearing. With respect to PV applications, systems testing must be carefully distinguished from the concept of a market stimulation strategy that uses procurements or subsidies. In the absence of an assured technology, it is questionable on purely technical grounds that such a strategy is desirable at this stage.

PV SYSTEMS

The cost which is economically competitive for PV systems operating in the high-insolation Sunbelt region of the U.S. around the year 2000 will be 50–100¢/W_p (in 1975 dollars). In areas having average isolation, the permissible cost range is 35–75¢W/$_p$. The uncertainty is largely determined by that of future electricity generation costs. The permissible factory module price that is necessary to meet these system cost requirements is 10–40¢/W_p.

"Because of the costs associated with encapsulation, foundations, support structure, and installation of PV array fields, there is a large economic penalty for the use of low-efficiency cells. To compete in the U.S. central power generation market, even zero cost PV cells must have a limiting minimum efficiency. The use of modules with efficiency as low as 10% will probably require substantial reduction in these other costs, even if the modules themselves are inexpensive."

The insurance value of PV is determined both by the cost of PV systems and by the ability to deploy them reasonably quickly and without excessive demands on raw material resources and energy production. Attention must be given not only to the availability of such cell materials as gallium, indium, and cadmium, but also to structural materials such as concrete, steel, and aluminum. Thus, "the minimization of materials usage in the overall PV system must be emphasized. New designs for PV systems should be tested against the availability of materials at high rates of construction of generating capacity, because political or economic developments might produce a need for accelerated rates of deployment. Some current designs, in addition to being extremely expensive, would make major demands on U.S. ability to supply certain materials in sufficient quantity."

Storage is not necessary when PV electricity generation represents only a small fraction of a utility's total capacity. The ability of a utility to adapt its generating ability to meet changing loads and facility failures can compensate to some extent for the PV system's intermittent output. Even without storage, the rough coincidence between the PV power time profile and the daily load curve for most utilities reduced the total amount of non-PV generating capacity required to maintain a fixed probability of system load loss. However, "energy storage would be necessary if photovoltaics came to supply more than about 10–20% of the electrical energy in a typical region."

The development of a balanced, national PV resource is impeded by an absence of integrated system and economic studies. This deficiency has left a void in the systematic search to identify the mixture of energy sources that would optimize the nation's electric power system, and the paths that would allow the system to evolve. The economic, social, and technical trade-offs are complex, and the institutional constraints and barriers are large. Because of the importance and scope of these issues, they should be addressed carefully. Integrated economic, social, institutional, and technical studies to explore possible paths in the evolution of the nation's total power system are badly needed.

LONG-TERM RESEARCH PROGRAM

The development of an economically competitive PV technology is inhibited by the absence of an adequate scientific and technological knowledge base. In principle, solar flux is convertible into a variety of useful forms of energy, including fuels, by the PV and photoelectrochemical (PEC) effects. The material requirements for any of these options, however, are rather stringent. Suitable configurations of material must absorb the solar flux to produce electronic excitations, separate the resulting electron-hole pairs, and convert the separated charge either into electrical energy in an external circuit or into chemical fuel. These same steps occur in a variety of converters ranging from photovoltaic cells to plants that produce fuel by photosynthesis. The need for a balanced and adequately funded research program, emphasizing the search, synthesis, and characterization of all kinds of PV materials, is clear. At present there is neither an economically competitive candiate for converting solar flux into electricity, nor a method for producing man-made fuel that is competitve with photosynthesis.

Because of the possible long-term impact of solar PV electricity and fuel production, the scope, quality, and level of the overall research effort require continuing attention. This subject is strongly interdisciplinary. The effort must therefore cut across traditional disciplinary lines to involve solid state physics and chemistry, surface science, materials science, electrochemistry, and biochemistry.

The overall success of the photovoltaic program requires the exploration of all options, and especially the search for new materials. The requisite knowledge of materials that would permit exploitation of the vast range of possibilities in this field is lacking.

"A broadly based research activity is essential for the achievement of a scientific understanding of materials useful in thin film and other PV applications, and for the guidance of a vigorous empirical search for new photovoltaic and photochemical cells."

GENERAL CONCLUSIONS

While the state-of-the-art PV or PEC technologies are still far from being competitive with conventional electricity or fuel generation in the U.S., the ultimate prospects are promising.

From the technical perspective developed here it follows:

"The Federal program should encourage a diversity of approaches to obtaining better PV systems, both in studies of all the present candidate technologies and in diligent searches for new ones."

Because none of the present PV options represents a clear-cut choice, "deployment should be limited to the scale necessary to generate field engineering and systems knowledge. Until a clear pathway to the PV future has been established, efforts to stimulate a large scale, low cost industry are premature."

Therefore:

"A long-term and innovative R&D program is needed, which must include:

"a) the search for and development of new photosensitive materials;

"b) basic research on the interfacial phenomena that control photovoltaic conversion;

"c) investigation of non-biological methods for direct production of fuels from sunlight, and

"d) development of novel photovoltaic technologies or devices (for example, bubble concentrators, encapsulants for flat plate cells, and noncell related structural materials) to aid in identifying the critical materials problems limiting performance and cost."●

THE MASSAPEQUA CHORALE

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. AMBRO. Mr. Speaker, next month residents of my Third Congressional District in New York will be treated to a truly enjoyable cultural event that is rapidly becoming one of the most popular and rewarding occasions of this kind on all of Long Island.

The Massapequa Chorale, together with Massapequa's St. Rose of Lima Choir, will perform Mozart's "Requiem" on April 7 with a full complement of chorus, soloists, and orchestra at the church, 2 Bayview Avenue in Massapequa, which is in the southernmost portion of the congressional district.

Now in its ninth year, the chorale is dedicated to the enrichment of the cultural community of Long Island. Based in Massapequa, it draws members from neighboring communities to present four concerts annually in libraries, parks, and so forth, across both Nassau and Suffolk Counties. It is funded by the New York State Council on the Arts, membership fees, and ticket sales, as well as private and corporate donations.

As a supporter of the Massapequa chorale, I take great pride in the accomplishments of this dedicated company and ask all of my colleagues in this House of Representatives to join me in saluting its members for their talents and their determination to augment Long Island's cultural heritage.●

WHY AN INTERNATIONAL SOYBEAN FAIR?

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. FINDLEY. Mr. Speaker, many of my colleagues and hundreds of others, including ambassadors and other representatives of 70 embassies, attended the 1979 International Soybean Fair on March 7 in the Cannon Caucus Room.

Many of the invited guests may well have asked themselves prior to attending this event: Why an International Soybean Fair? I hope they now have an answer to that question.

The simple answer comes from the fact that soybeans provide a high quality, low-cost protein food, and feed source for the hungry world.

The International Soybean Fair was held to dramatize to the diplomatic community the tremendous worldwide importance of this crop. Soybean meal figures prominently in high protein animal feeds. And soybean products provide protein-rich food for human consumption. Both are essential to improving diets in developing and developed countries.

We were indeed honored to have Ambassador Chai Zemin of the People's Republic of China as our special guest at this event, because of China's unique contribution to the history of soybean development. Joining in sponsorship were four nonprofit trade groups—Food Protein Council, American Soybean Association, National Soybean Processors Association, and Protein Grain Products International.

With its exhibits underlining the multitude of uses of soybeans and its smorgasbord of delicious snacks and foods made from soybean products, the International Soybean Fair showcased the tremendous value of this one important crop. The fair underlined the tremendous economic significance of soybeans to the United States. Last year, U.S. soybean exports contributed over $6.4 billion to our balance of payments. Our soybean exports accounted for more than 23 percent of our record farm exports valued at $27.3 billion.

Over 63 million acres of soybeans are grown in 30 States. The value of the 1978 soybean crop amounted to $11.8 billion. The United States exports well over half of all the soybeans, soybean oil, and soybean meal it produces, making it the world's leading supplier of vegetable oil and protein for feed and food.

That is the "why" of the International Soybean Fair.●

MIDDLE EAST PEACE: PRESIDENT CARTER MUST BRING SAUDI ARABIA INTO LINE WITH U.S. POLICY

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. LENT. Mr. Speaker, all Americans must applaud the tireless efforts of President Carter in his recent mission to get Egypt and Israel to agree on a peace treaty. All of us pray that this latest Presidential venture into personal diplomacy will not be dissipated by discord and disagreement.

I was particularly encouraged to see President Carter moving so decisively in achieving this latest breakthrough with Egypt and Israel. It was a welcome contrast from the vacillation, indecision, and failure to realize consequences which have marred recent Carter foreign policy activities.

Particularly is decisive action necessary, Mr. Speaker, as the President and his advisers look to the future in the Middle East, toward the elusive goal of a broad peace settlement which will guarantee the security of Israel's border with all Arab nations which menace her. I have been greatly disturbed by recent press accounts reporting Carter administration fears that Saudi Arabia plans to take the lead in attempting to sabotage any Egyptian-Israeli peace agreement.

It is imperative that the United States exert every possible influence on the Saudis to turn them from such a disastrous course. Regrettably, President Carter has let some opportunities slip by. Last year, the President pressured the Democratic majority in Congress to agree to let the Saudis purchase 60 highly sophisticated fighter planes from the United States. But the President failed to extract any quid pro quo from the Saudis.

At this moment, American military "advisers" are in North Yemen supervising the arrival of nearly $400 million worth of new U.S. warplanes, tanks, and weapons. The Americans and the U.S. materiel are in North Yemen at Saudi Arabia's behest to help the North Yemenis resist an invasion by Soviet-backed South Yemen. In addition, President Carter has dispatched an aircraft carrier task force to the area—a "show the flag" symbol of U.S. concern denied the tottering Shah of Iran in the final days of his rule.

Yet in dispatching this substantial U.S. contribution to North Yemen, the Carter administration failed to exact from Saudi Arabia any softening in the Saudi's anti-Israeli policies.

This must change.

The Saudis have clearly demonstrated their need for and dependence on a U.S. presence in the Middle East. Therefore, it is certainly in the best interests of the Saudis to cooperate with U.S. policies there—not oppose them. The first objective of the Carter administration in the Middle East must now be to drive home that fact on international politics to the Saudis.

By his recent actions in the Middle East, President Carter has shown, however, belatedly, a realization of the strategic importance of the Middle East to the United States. Certainly no area of the world is more vital to U.S. interests.

At this point, President Carter must recognize the fact that Israel represents the only dependable friend and peacekeeping ally the United States has in that area. Thus, while Israel needs security for her borders, the ability of the United States to protect its own security interests in the Middle East is closely linked to, if not dependent on, the maintenance of a potent Israeli military capability in the area.

Mr. Speaker, in the best interests of the United States, the President and his foreign policy advisers must apply to Israel's neighbors—particularly Saudi Arabia—at least some of the pressures we saw exerted against Israel in recent months. Without that, both Israel and the United States face an increasingly dangerous situation in the Middle East, with fading prospects for a stable, broad peace agreement.●

AMERICA'S LOVE AFFAIR WITH THE AUTOMOBILE

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. PURSELL. Mr. Speaker, it often has been said that, "America has a love affair with the automobile." In addition, something like one out of every six jobs in our country directly depends on the auto industry. We certainly are a Nation on wheels and the automobile has become an integral part of vitually every facet of our lives.

Meanwhile, there has been an increasing number of tough—often conflicting—demands on the automobile industry. V. J. Adduci, the President of the Motor Vehicle Manufacturers Association, recently addressed this important subject before an Advisory Committees Meeting of the American Automobile Association. I would like to share his timely remarks with my colleagues and others:

ADDRESS BY V. J. ADDUCI, PRESIDENT, MOTOR VEHICLE MANUFACTURERS ASSOCIATION OF THE UNITED STATES, INC.

I enjoy this opportunity to meet and talk with the people who play such an important role in determining the public policy direction of your vast, far-reaching Association.

For what you decide and what eventually develops into AAA policy will have significant bearing on the motor vehicle industry and the motoring public.

As the largest organization representing people who drive cars, AAA and its 20 million members, and MVMA member companies which produce 99 percent of this country's cars and trucks, are truly vital partners in America's unmatched transportation system.

If motor vehicle manufacturers are responsible for America's love affair with the motor vehicle—and I suggest they had a hand in it—then certainly your famous Trip-Tik helped fan the flames. Millions of Americans hold fond memories of traveling the nation's highways on exciting trips with little more than your maps to guide them—and, of course, Burma Shave signs to entertain them.

Today, you tell us where we can get a good meal, where we can get a decent motel room, and yes, where we can get fast repair service. (And your new Approved Auto Repair Services program under Jim McDowell represents still another timely example of AAA's tradition of valuable member service).

Now I don't mean to paint a Norman Rockwell scenario of the roles we both play in the transportation industry. You and I know that the industry—and today's society—is far too complicated for that.

But I think it's important that we not lose sight of just what the motor vehicle has meant to this country's past, how it has evolved as a very integral and essential ingredient in how we live, work and play in a fast-moving society before we can truly plan with insight for the 21st Century.

I want to talk about that today from the real-world perspective you and I share. As businesspeople in the eye of the storm, I believe we hold a real-world view too often missing among public sector officials responsible for determining national transportation policy.

You know, criticism of the automobile is not new—but the evils attached to it have more often than not been off target.

As the automobile made its appearance on American roads early in this Century, the president of Princeton University spoke out against it as "the arrogance of wealth." And, observed Woodrow Wilson, who was normally more accurate in his futuristic observations, it will promote socialism by dividing the "haves" and the "haves nots."

Quite the opposite was to occur over the next 70 years.

For as General Motors Chairman Tom Murphy has noted, the "automobile has gone from a rich man's novelty to the poor man's emancipation."

"It has become the symbol of America," he added. "The industry has grown with the country. In fact, it has outpaced that remarkable growth, made that growth possible.

Yet, in spite of that, there's a new buzz phrase making the rounds these days—we've all heard it—it's "re-invent" the automobile.

Now as tall an order as that is, I suspect that America's motor vehicle manufacturers—manufacturers with a history of technical excellence and unparalleled mass production efficiency—could make significant headway in that direction.

I suggest, though, that innovation cannot be easily mandated, that it cannot be placed in a timeframe. Rather, innovation is time-consuming, arduous and costly. And, I'd like to suggest that whatever we work to re-invent—whether it's the wheel . . . or, the gin mill . . . or, for that matter, our Federal government, we better make sure that what we develop is superior in every way to what we already have.

Because what we have are pretty darned good vehicles that just happen to be meeting the tough demands of a highly competitive marketplace. Vehicles that are more fuel efficient, less polluting, safer, more comfortable, more versatile, more reliable, more accessible to more people than the products of any other country's manufacturers—any time in world history.

I recall seeing a bumper sticker recently saying simply "don't mess with my ride."

That message has stuck in my mind, for it says in very plain language that Americans place a high premium on their ability to travel pretty much where and when they want—for whatever reason—in vehicles of their choice.

Sure, there's a romantic element between Americans and their cars—and manufacturers have had to satisfy that emotion with attractively designed cars, with more options to choose from than any one buyer could handle, with a variety of models aimed at meeting virtually every taste and need.

We want living-room comfort on the highway and in large measure, that's exactly what we have. Relaxing, cross-crountry trips that were once financially out of reach or too physically taxing for most Americans, are now commonplace.

And manufacturers have kept their vehicles affordable by the vast majority of Americans. Today there are nearly 150 million vehicles on the road and they clock more than 1.5 trillion miles a year.

We need to recognize that "messing with the ride" doesn't just affect motorists. It affects the entire economy.

More than 14 million people work in the total highway transportation industry—that's 22 percent of this country's workforce. More than 787,000 people work in the direct manufacture of vehicles, receiving more than $10 billion in wages and salaries annually. They work when Americans buy cars. It's that simple.

And it's not insignificant that the total cost of transporting freight and passengers over our vast highway network represents more than 18 percent of our Gross National Product.

Entire cities have been planned, shopping areas developed, housing subdivisions built because people have transportation to get to them.

I don't think these are statistics and observations that should be taken lightly. Not by manufacturers. Not by the government. And not by motorists, themselves.

Because what they say to me is that an awful lot depends on the ability of manufacturers to provide the kind of vehicles that will meet consumer demands—from aesthetics to performance to utility.

Meeting those demands is what the free enterprise system is all about. In a very real way, it's a matter of accountability.

Manufacturing decisions must reflect sound, logical business concerns—concerns that address the needs of the consumers who buy their products, stockholders who help finance the companies, boards of directors, profit and loss statements, and yes, the needs of millions of employees whose livelihoods depend on the responsible operations of their employers.

In spite of all of this, the headlines these days are made by motor vehicle detractors who choose to minimize, no perhaps ignore is a more accurate word, the motor vehicle's positive contributions to the generally high quality of life in this country and the manufacturers' responsibilities in meeting consumer transportation needs. Detractors who all too often are neither publicly accountable for their decisions nor knowledgeable about the industry they attack.

There's nothing inherently wrong about the concept of reinventing the automobile . . . or designing vehicles that reach 50 miles per gallon fuel economy . . . or engineering totally emission-free cars and trucks . . . or building vehicles in which motorists and passengers are totally protected against fatal or crippling injuries.

But objectives must be tempered with realities. Realities of our economic and tax structures. Realities of the labor force. Realities of costs versus actual benefit. Realities of physics and engineering and technology. Realities, finally, of the marketplace—the very core of this country's free enterprise system.

For in the final analysis, the millions of individual consumers who make decisions in that marketplace dictate the course of industry and our free enterprise system more so than any governmental decision.

I don't want to debate the merits of Adam Smith's economic theories, but it's often lost that he was in many ways a consumer advocate long, long before it was fashionable.

"Consumption," he wrote, "is the sole end and purpose of all production. The interest of the producer ought to be attended to only so far as it may be necessary for promoting that of the consumer."

Again, the realities of the marketplace. They represent what is . . . not what ought to be . . . they represent today . . . not tomorrow.

Every major manufacturer can build "dream" cars. In fact, most of them do. They spend billions of dollars in exploring new concepts, experimenting, developing, refining and testing . . . testing . . . and testing.

Some of these concepts eventually make it to the marketplace to take their place in the world of reality. Others simply end up on the cutting room floor.

A lot of us will recall the Federal government's dream car. Remember? Last spring the Department of Transportation unveiled what Secretary Brock Adams billed as the "ideal family car of the future." He said the experimental car "proves that the Federal fuel economy, occupant safety and exhaust emissions standards set for future cars can be converted from concepts on paper into operating vehicles."

But an interesting revelation was made by an enterprising newsman several days later. The vehicle had never been tested—neither by the Federal government nor by the research firm that built it. But we didn't hear very much about that "slight" oversight.

Alarming? Of course. And significant, too, for it contrasts so pointedly with the real world in which motor vehicle manufacturers live and die—in the marketplace, where their products undergo intense scrutiny for comfort, utility, appearance, driveability and economy. Today. Not tomorrow.

For businesspeople, for motor vehicle manufacturers, for you, tomorrow is today. With all of its realities . . . with all of its real-world confrontations and problems.

Whether they come in the form of unreasonable and unwarranted Federal regulation, attempts to resolve longstanding environmental problems in one monumental jump, energy resource dilemmas, increasing world competition, high costs of doing business . . . or countless other influences on our ability to provide a variety of vehicles for consumer use, these are problems we must confront and resolve.

I don't think it's an exercise in self-sympathy to suggest that the motor vehicle manufacturing industry has been a favorite target for scores of would-be transportation experts—in and out of government—who seem to delight in making the American car—(and I underscore "American") the central source of numerous societal problems and frustrations.

And at the same time, all too often the major accomplishments of the industry are shrugged off as simply being expected.

Manufacturers, we're told, simply aren't "innovative." And if they are, well, the government prodded them into it.

I'm not here today to either dispute the definition of innovation or to trace this industry's sterling record of innovative achievements—in wartime and peacetime—since the first Model T rolled out of the factory in 1908. I would observe, however, that about 1100 automobile companies were conceived from that period through 1926. Some 180 managed to make one or two cars. Today the domestic count is down to the Big Four.

Only the toughest, the most resourceful, yes, the most innovative few have survived over the years by building cars responsive to marketplace demands.

Dr. Paul Cheanea, General Motors Vice President in charge of the GM Research Laboratories, a facility, incidentially, created almost 60 years ago to bring the scientific approach to product reliability and manufacturing efficiency, said it this way last month:

"The customer has always been the ultimate arbiter where innovations in automobiles are concerned. If an innovation does not improve performance or comfort, or give a car a more attractive appearance at a reasonable cost, the customer doesn't buy it."

Well, let's look at the record of achievement in the marketplace. Among the products of competition you find the self-starter—remember, that's what put women behind the wheel to open up whole new horizons for traveling families—automatic transmissions, power steering, power brakes, power seats and windows, anti-theft devices, laminated glass, radial tires, sealed beam headlights, longer service intervals, stereo systems, fuel injection systems, on-board computer and countless other improvements and innovations. These were all responses to the strict demands of the American consumer.

And motor vehicle manufacturers aren't standing still. Indeed, the industry's in a technological renaissance the likes of which hasn't been seen for many years. The industry-wide downsize program—generally considered the most massive and costly change in the industry's history—demands new designs to assure roominess, new materials and engineering refinements.

I think it should be apparent to even the most casual observer of the motor vehicle industry that it took more than a magic wand to improve fuel economy nearly 50 percent in the past five years. Or—in almost a contradictory assignment—to reduce hydrocarbon emissions by 85 percent, carbon monoxide by 82 percent and oxides of nitrogen by some 50 percent since the pre-controlled cars of the Sixties.

It's estimated that the typical car of the Eighties will be 100 percent more fuel efficient than those of 1974. And, in just two years, exhaust emissions will be 95 percent lower than 1967 models.

At the same time, some of the best engineering talents to be found anywhere are conducting intense, scientific research and testing for alternate power sources and engines.

While several particulate emissions rules could signal a short life span for the diesel engine in U.S. cars—engines introduced in model year 1978 offer as much as 25 percent fuel economy improvement. And manufacturers are moving forward in various stages with electric-powered vehicles and with stratified charge, direct injection and gas turbine engines.

I think it's time we started talking about these achievements. That we started talking about what's good about the 15 million cars and trucks and buses this industry builds and markets each year * * * about the 14 million jobs it provides * * * about the joys of families cruising down modern highways in remarkably comfortable, reliable vehicles * * * about the goods and services delivered by trucks to every corner of the country * * * about the more than $23 billion in taxes motor vehicles pay Federal, State and local units of government * * * about the direct services to citizens these taxes help deliver * * * and about the scientific know how, the plain hard work it takes to blend 15,000 components into a vehicle that performs exceptionally well under grueling punishment from the elements, and frankly, in many cases from driver abuse or neglect.

And on the other side of the coin, I think it's time we started taking a very serious look at just what excessive government regulations are doing to impact these plus factors * * * what the costs are and for what real benefit * * * at what speed and at what sacrifice do we want to achieve well-intentioned environmental goals * * * at the slipping productivity of American industry and the reasons behind it * * * at the enormous amounts of money manufacturers are spending to meet questionable, often confusing and conflicting regulations—money that would be far better spent in research and development that is really essential to motor vehicle innovation.

I recall a pretty pointed observation by the director of corporate technology of Union Carbide that's right on target.

"Government officials keep asking us, 'where are the golden eggs?,' while the other part of their appartus," he said, "is beating hell out of the goose that lays them."

Last spring, I called for the establishment of a National Agenda for Agreement by government and maufacturers as a first step toward dissecting these issues and resolving the differences. In spite of diverse views from both sides, there can be common purpose.

Together, we ought to identify the real problems and establish priorities to deal with these problems in a reasonable, responsible way * * * and then, together, work toward solutions—that will not be disruptive to our economy nor unnecessarily costly to manufacturer and consumer. Solutions that acknowledge that there's an awful lot of good American cars and trucks and the role they play in our society.

I hope the recent call by Secretary Adams for a meeting of the minds of government and manufacturers is in keeping with that spirit.

Motor vehicle manufacturers long have sought more meaningful, two-way communications between themselves and government. They long have sought an atmosphere in which they feel their words do not fall on ears refusing to listen.

As the trade association for U.S. motor vehicle manufacturers, MVMA pledges to play a constructive role in exploring avenues of meaningful dialogue between government and industry—dialogue that we hope will lead to a better understanding by government regulators of the state of the art of this industry's existing technology.

And dialogue that will hopefully help establish areas of agreement and priorities for action.

Re-invent the automobile? No. I don't think too many people really consider that a workable solution. Genuine progress comes from a well-planned, deliberate process.

But I believe both government and industry would benefit from meetings where we can both roll up our sleeves and get at the heart of the issue of balancing transportation and economic realities with legitimate societal goals . . . meetings in which participants maintain open minds, explore every avenue toward responsible, practical and achievable actions.

And both government and industry must step up efforts to assure that the consumers are brought into the process. The issue is far too critical not to have the active participation, not to hear the voices of the motorists and others who enjoy—and depend on—the benefits of our transportation system.

I think you and I can do something to encourage that involvement. Further, I think we must. Certainly we owe it to ourselves, our customers and members to try.

I've started here today by spreading the word on what's right about the motor vehicle. My plea to you is to help carry that same message back to your states and to your hometowns. Talk to your service clubs about what's right with the cars and trucks in your towns. Meet with your newspaper editors. Talk to them about your local economy and the payroll and tax benefits of cars and trucks. Talk to local business people and remind them of the value cars and trucks are to them in receiving and delivering goods and services. Talk to them about the comfort, convenience, design, appearance, utility and economy of American cars.

If there are transportation control plans being discussed in your community, make sure you're involved in the discussions and solutions. If there are problems of traffic congestion, pollution, safety, or other transportation related issues, make sure you're involved in those discussions, as well.

Get involved in a positive way. Start from the view that there's an awful lot that's good—and getting better—about the motor vehicle.

My association is at your disposal. Our resources, our research programs, our working relationships with our member companies can combine with your knowledge of the transportation industry and the people who drive the products of that industry for a campaign of positive reinforcement of the American motor vehicle.

I'm convinced that our two associations with their broad-based constituency and their reservoir of knowledge in the entire transportation industry, can make dramatic inroads in establishing a re-appreciation of the motor vehicle.

I'm sure other associations and organizations involved in the great transportation industry share many of our concerns. They should be involved, as well.

I hope you give this your serious thought as you continue your meetings here this week. And, Jim (Jim Creal), I hope you and I and the appropriate members of our staffs can pursue this positive concept in specific, programmatic terms.

I think that together, we can take the motor vehicle's benefits to the people and we can make a difference—a difference that will be reflected in new, positive attitudes toward the motor vehicle by those charged with the responsibility of regulating it.

Phil Caldwell, Ford Vice Chairman and President and MVMA's Chairman, said recently that "even with all of our problems, no one can deny that there's more excitement in the automobile industry today than most of us have witnessed in many a year . . .

"There is also more of a sense of dedication," he said, "among those of us who have the privilege of supplying our fellow Americans with the cars and trucks they so vitally and dearly love—dedication to a larger dimension of the public interest, as well as to our customers.

"If that makes all of us feel a little bit better about ourselves, then maybe we deserve it. I think we've been doing a fine job . . . ," Caldwell said.

I agree with Phil and I think all of us here today support that notion. Let's go out and talk about it.

Thank you.●

TWENTY-FIFTH BIRTHDAY OF AIR FORCE ACADEMY

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. WON PAT. Mr. Speaker, I am pleased to have this opportunity to congratulate the men and women of the Air Force on the occasion of the 25th anniversary of the founding of the Air Force Academy.

The Academy has a proud record of educating future leaders of the Air Force and our country. It has performed in the great tradition of other military academies and every American can and should be proud of their success.

Today, I join with my colleague, Congresswoman PATRICIA SCHROEDER in support of a resolution which calls on Congress to officially commend the Air Force Academy on this august occasion.

We in this country are most fortunate to have the academy serving the Nation and our youth. I know that a number of young Guamanians from my own congressional district have been fortunate enough to serve in the Air Force Academy and they are the beneficiaries of a truly great education and heritage.

May the next 25 years bring equal success to the academy. I wish it every good fortune and know that this feeling is shared by my colleagues here in the House.●

THE SCANDALOUS EXPENSE OF THE PANAMA TREATIES

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. HANSEN. Mr. Speaker, I have sponsored legislation calling for President Carter to withdraw the instruments of ratification of the Panama Canal Treaties because of problems that have surfaced since Senate passage.

The facts now available regarding the new Panama Treaties clearly expose a deliberate and costly deception of the U.S. Senate, the American people, and a defiance of the authority of the House of Representatives by the U.S. State Department and other officials.

As the author of key legislation introduced when Congress convened in January which will prevent the use of any U.S. taxpayer funds to implement the treaties, I have joined with Congressman BOB BAUMAN, a senior member of the Panama Canal Subcommittee, on this additional bill because of new disturbing facts developed in recent committee hearings.

Where the Senate was repeatedly assured a transfer of the canal would be made at no cost to the American taxpayer, we now know the cost will be some $4 billion. Also Panama is making new demands which throw treaty agreements into serious question.

In addition to the transfer costs of $4 billion, there are contingency expenses of $2 billion over the 20-year joint operation period for economic aid, military assistance, loans and guarantees, and a $20 billion loss of property and installations.

The total value of this giveaway is over $26 billion. And that does not include some $300 million per year after the year 2000 for rental of military facilities.

If the U.S. Government gave only the equivalent of the costs of the transfer alone to the State of Idaho, which is close to the same population as Panama, that $4.1 billion would be enough to save Idaho citizens from payment of State taxes for nearly 13 years.

And to effect a different comparison, the total treaty costs of $26 billion would provide for the Nation's Veterans' Administration hospital and medical care programs for over 5 years.

Mr. Speaker, it is ludicrous for Congress to be talking of moving toward balancing the budget while at the same time moving to pay so huge an amount to give away the canal. Charity begins at home. We should spend this on our own education, farm, or energy programs, or better yet, let the overburdened taxpayers keep it for themselves.

I submit for the RECORD additional information regarding costs, controversies, and constitutional concerns over the new Panama Treaties and statistics illustrating how the immense funds involved could be better applied in our own country.

PANAMA TREATY BACKGROUNDER

WASHINGTON, D.C.—According to Congressman George Hansen, if proposed implementation legislation on the Panama Treaties is not stopped, it will cost each average American family of four $472 for the privilege of giving away the Panama Canal.

In a recent letter to his House colleagues, Hansen noted that the Senate narrowly approved the Treaties acting on serious misinformation and misrepresentation of facts. The Idaho Republican pointed out that high State Department officials, key Senate Treaty Sponsors and President Carter himself had repeatedly and "emphatically stated that the Canal treaties wouldn't cost the American taxpayer a single dollar." But according to recent House hearings and other documents cited by Hansen, the price-tag will actually be some $26 billion over the next 20 years—$4 billion for transfer costs alone.

"These huge figures will no doubt shock some people," Hansen observed, "but they are conservative and can be documented by reliable sources such as the General Accounting Office (GAO), the Panama Canal Company and the Department of Defense."

Included in that $26 billion price-tag prepared by Hansen are (1) the actual replacement costs of the Canal and related facilities ($20 billion), (2) Canal transfer costs ($4.1 billion direct impact on the U.S. Treasury and taxpayer for realignment expenses and cancellation of various Canal Zone debts and interest payments), and (3) treat contingency costs (over $2 billion). The latter expense represents expanded foreign aid, loans and guarantees and could increase with additional demands by the Panamanians such as restoration of certain obsolete and abandoned military posts to back operational status.

In addition to the $26 billion cost leading up to the year 2000, Hansen points to another major expense item beginning at that time for defense commitments in the Treaties. Americans can then expect to shell out somewhere between $200 and $700 million per year to Panama in the next century for military facilities rental on bases we now own rent-free, just as we now do with other foreign nations.

Hansen charges that the Administration has long stalled implementing legislation and done everything possible to circumvent the Congress in putting these fraudulent treaties into force, even to the point of premature exchange of Instruments of Ratification and unauthorized release of funds by the Department of Defense in direct defiance of Congressional Committee authority followed by gross violations of contracting procedure.

"The facts now available regarding the new Panama treaties clearly expose a deliberate and costly deception of the United States Senate and American people and a defiance of the authority of the House of Representatives by the U.S. Department of State and other officials," Hansen contends.

The treaties are not only a financial disaster for American taxpayers and consumers, according to Hansen, but they are seriously deficient in protection of American interests in Panama and the Canal Zone itself. He points to the fact that "the Torrijos government has long refused to negotiate a settlement with over 100 American citizens in Panama whose property has been nationalized and now this same oppressive government says it plans to retrotax the 180 U.S. businesses in the American Canal Zone as far back as 1903 which will put half of them out of business."

Hansen suggests, "the ill-advised treaties may even be fatally flawed constitutionally. Over 240 Members of the House during the last Congress cosponsored my resolution supporting the provisions in Article IV of the Constitution that there be no transfer of titled U.S. property without an Act of Congress, a stipulation which has been complied with in all previous Panama treaties. In addition, legal scholars have recently contended in Congressional hearings that the four Panamanians to be appointed to the joint Panama Canal Commission called for in the treaties is a legal impossibility."

Hansen also itemizes other pertinent matters of concern which complicate the treaties and seriously question the integrity of the Panamanian government and their intentions toward the United States, such as:

Panama's specific rejection in the protocols relating to the exchange of instruments of ratification of the DeConcini reservation and other treaty provisions.

A hostile foreign policy statement after Senate approval of the treaties by the Panamanian Foreign Ministry that the U.S. should get out of Guantanamo, allow self-determination for Puerto Rico, and force Israel to withdraw from all occupied Arab lands.

Recent intelligence reports that Panama is harboring Sandanista and other pro-communist guerilla groups in the unsettled portion of Panama near Costa Rica, coupled with Torrijos' continuing activities in recruiting and supporting Cuban-backed Sandanista activities in Nicaragua and throughout Central America.

Human rights violations within Panama and the statement of the Catholic Church condemning the present state of affairs and demanding a change.

The recent disclosure of Panama's Minister of Housing that $18 million of U.S. aid was "missing" and unaccounted for.

"There is no question," Hansen asserts, "but that the treaties are in trouble—and that Congress is in an angry mood over the misrepresentations of the true treaty implementation costs. Current evidence is the House Armed Services Committee's refusal in March to authorize the 1979 supplemental appropriation for Canal Zone re-alignment construction.

Hansen says he doubts that any majority of the Members of Congress *are willing* to go home and tell their constituents, "I not only allowed the Panama Canal to slip into other hands, but I paid them to take it, and we will continue to pay them hundreds of millions of dollars each year."

"Early action is vital," he concludes, "if Congress is to bail out the American taxpayer from this disastrous course before further damage is done to our national and international credibility."

CHARITY BEGINS AT HOME

If the U.S. Government were to transfer funds to one of the fifty states equivalent to what is being given to Panama under the treaties, there would be no taxes for those citizens to pay for the designated number of years.

State	1970 census population	Annual State budget FY 1978 (millions)	Panama Canal transfer costs $4.1 billion (yrs w/o taxes)	Panama treaties total costs $26 billion (yrs. w/o taxes)	State	1970 census population	Annual State budget FY 1978 (millions)	Panama Canal transfer costs $4.1 billion (yrs w/o taxes)	Panama treaties total costs $26 billion (yrs. w/o taxes)
Alabama	3, 444, 164	$1, 495. 2	2. 75	17. 39	Montana	694, 409	$240. 1	17. 12	108. 29
Alaska	302, 173	1, 375. 0	2. 99	18. 90	Nebraska	1, 483, 791	550. 8	7. 46	47. 20
Arizona	1, 772, 482	1, 023. 6	4. 02	25. 40	Nevada	488, 738	(1)	(1)	(1)
Arkansas	1, 923, 295	772. 3	5. 32	33. 67	New Hampshire	737, 681	219. 0	18. 77	118. 72
California	19, 953, 134	17, 578. 4	. 23	1. 48	New Jersey	7, 168, 164	4, 394. 4	. 94	5. 92
Colorado	2, 207, 259	1, 208. 0	3. 40	21. 52	New Mexico	1, 016, 000	683. 5	6. 01	38. 04
Connecticut	3, 032, 217	2, 142. 2	1. 92	12. 14	New York	18, 241, 266	12, 022. 9	. 34	2. 16
Delaware	548, 104	539. 7	7. 62	48. 17	North Carolina	5, 082, 059	2, 577 9	1. 59	10. 09
Florida	6, 789, 443	3, 021. 4	1. 36	8. 61	North Dakota	617, 761	(1)	(1)	(1)
Georgia	4, 589, 575	2, 379. 6	1. 73	10. 93	Ohio	10, 652, 017	4, 719. 7	. 87	5. 51
Hawaii	769, 913	907. 9	4. 53	28. 64	Oklahoma	2, 559, 253	779. 7	5. 27	33. 35
Idaho	713, 008	319. 0	12. 89	81. 50	Oregon	2, 091, 385	1, 035. 8	3. 97	25. 10
Illinois	11, 113, 976	6, 848. 0	. 60	3. 80	Pennsylvania	11, 793, 909	5, 786. 0	. 71	4. 49
Indiana	5, 193, 669	1, 789. 9	2. 30	14. 53	Rhode Island	949, 723	603. 3	6. 81	43. 10
Iowa	2, 825, 041	1, 491. 9	2. 76	17. 43	South Carolina	2, 509, 516	1, 400. 0	2. 94	18. 57
Kansas	2, 249, 071	988. 2	4. 16	26. 31	South Dakota	666, 257	185. 7	22. 14	140. 01
Kentucky	3, 219, 311	1, 715. 9	2. 40	15. 15	Tennessee	3, 924, 164	2, 456. 5	1. 67	10. 58
Louisiana	3, 643, 180	3, 819. 6	1. 08	6. 81	Texas	11, 196, 730	3, 383. 0	1. 22	7. 69
Maine	993, 663	459. 0	8. 96	56. 64	Utah	1, 059, 273	656. 9	6. 26	39. 58
Maryland	3, 922, 399	2, 298. 0	1. 79	11. 31	Vermont	444, 732	207. 4	19. 82	125. 36
Massachusetts	5, 689, 170	3, 601. 0	1. 14	7. 22	Virginia	4, 648, 494	2, 276. 5	1. 81	11. 42
Michigan	8, 875, 083	4, 256. 4	. 97	6. 11	Washington	3, 409, 169	2, 839. 6	1. 45	9. 16
Minnesota	3, 805, 069	3, 142. 0	1. 31	8. 27	West Virginia	1, 744, 237	965. 1	4. 26	26. 94
Mississippi	2, 216, 912	892. 2	4. 61	29. 14	Wisconsin	4, 417, 933	4, 866. 7	. 84	5. 34
Missouri	4, 677, 399	1, 578. 4	2. 60	16. 47	Wyoming	332, 416	182. 0	22. 59	142. 85

[1] Not available.

If the U.S. Government were to transfer funds to one of the following key American cities equivalent to what is being given to Panama under the Treaties there would be no taxes for those citizens to pay for the designated number of years.

City	1975 census population	Annual city budget (1976–77) (thousands)	Panama Canal transfer cost $4.1 billion (yrs. w/o taxes)	Panama treaties total cost $26 billion (yrs. w/o taxes)	City	1975 census population	Annual city budget (1976–77) (thousands)	Panama Canal transfer cost $4.1 billion (yrs. w/o taxes)	Panama treaties total cost $26 billion (yrs. w/o taxes)
Atlanta	436, 057	$253, 633	16. 2	102. 5	Cleveland	638, 793	$373, 522	11. 006. 69	69. 6
Baltimore	851, 698	1, 155, 499	3. 6	22. 5	Los Angeles	2, 727, 399	1, 721, 856	2. 3	15. 1
Chicago	3, 099, 391	1, 348, 748	3. 0	19. 3	New York City	7, 481, 613	14, 603, 093	. 28	1. 7
Denver	488, 434	410, 788	10. 0	63. 3	Philadelphia	1, 815, 808	1, 203, 128	3. 4	21. 6

New York City debt, $3 billion in loans.

(Less than the fees required to pay for transferring the Panama Canal.)

Total motor fuel consumption for U.S. (1977), 123,350,462,000 gallons.

Federal gas tax, .04 cents per gallon.

Total Federal gas tax paid by U.S. consumers, $4,934,000,000.

(Panama Canal transfer costs alone would save energy U.S. consumer approximately 3¢ per gallon on gasoline for a year. Total Treaty costs would mean 4¢ less per gallon for over 5 years.)

1978 hospital and medical care for America's veterans, $5,638,000,000.

(Treaty costs would provide for Veterans for nearly 5 years.)

One Nuclear Electric Generator for 1000 megawatts—enough to power cities larger than Denver or Atlanta—cost $1 billion each—the Panama transfer costs alone would buy 4 of these generators and the total treaty costs would buy 26.

1979 estimated total budget for department of energy research and energy technology development, $4,896,000,000.

(Treaty costs would provide for nation's Energy program for over 5 years.)

1978 U.S.D.A. price support programs, $5.6 billion.

(Panama Treaty costs would run nation's farm programs for nearly 5 years.)

1978 Federal Highway Administration budget, $7,638,000,000.

(Treaty costs would pay for nation's Federal highway program for over 3 years.)

Amtrak Department of Transportation operating grant for 1979, $90,000,000 (to finance annual deficit).

(Transfer funds alone would run Amtrak for nearly 46 years and total Treaty funds would keep Amtrak going for 289 years.) ●

DELAWARE VOICE OF DEMOCRACY WINNER

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. EVANS of Delaware. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its ladies auxiliary conduct a voice of democracy contest. This year, more than 250,000 schoolchildren participated in the contest, competing for 5 national scholarships.

The contest theme was "Why I Care About America." I want to commend the VFW and ladies auxiliary for conducting this important competition. The Veterans of Foreign Wars, through their work, are helping to develop a greater pride in our country by young people. It seems to be in vogue these days to knock America and focus attention on its faults. The VFW, however, focuses attention on our strengths and the reasons why America is the greatest country on the face of the Earth.

This year, the voice of democracy contest in Delaware was won by Deborah Lynn Long of Lewes. Miss Long spoke eloquently of patriotism and commitment. I insert her address in the RECORD.

1978–79 VFW. VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM, DELAWARE WINNER, DEBORAH LYNN LONG

Being an American citizen is one of the greatest blessings God has given me. During my lifetime I have lived in two foreign countries and each time, upon entering to the United States, I would cry to see our glorious flag.

America is so much more than fifty states bound together to form a nation! She is the soothing sound of the clear mountain streams, meandering through lush, green meadows. She is the majestic spires of her mountains and the incongruous beauty of her deserts. She is the lonely wonder of her endless prairies. In scenic splendor she is unequalled. However, there is another side of America just as endearing.

Her cities, who vibrate with life and activity, have a glory totally unrelated to the beauty of nature. Mixed with the friendly brick and wooden buildings of the past and present, there are stately edifices which seem to belong to some ancient Greek or Roman civilization. Above them all, tower imposing structures of glass and steel churches, stores, bank, offices, and homes. Yet, as much as I adore America's cities, it is her people who have captured my love and loyalty forever.

From the very first, America has been a nation of dreamers. The first settlers to migrate here dreamed of religious liberty. Through the years others with the same dream followed, from French Hugenots to Russian Jews. When the dream of freedom of worship was realized, there were other freedoms to be secured. Americans dreamed of a land where all men would be equal. Their motto seemed to be recorded in the words of L. D. Suenens, who stated, "Happy are those who dream dreams and are willing to pay the price to make them come true." For a nation where "life, liberty and the pursuit of happiness" were to be every man's right, the price was high. Men and women braved being shunned by friends and neighbors. They lost property and loved ones. Some gave up, but for every man who quit, another would double his efforts to succeed. Many believed as Nathan Hale, "I regret I have but one life to give for my country."

Even after our nation was formed, the dreams and dreamers kept coming. Men pushed their way west, always seeking and working for a better way of life. People arrived from all over the world, for America was a land of boundless opportunities. A country was formed, merging all races, religions and cultures.

The age of the dreamer is by no means past. Today, we are literally reaching for the stars! American minds have put men on the moon and improved communications via satellites. Medicine has also advanced immeasurably, and because we live in this sacred democracy, all of these progressions benefit the common man as they do nowhere else on earth.

Brave men and women before me have fought, not so much for this land, but for what she represents. Now, it is my turn to prove how much I care.

Although I am just one person, there is much I can do. My first obligation to my country is to develop my abilities to their highest potential. No matter what job I do, I must be conscientious about doing it. Secondly, I must take an active part in the government of my nation; may I, in the words of a well known prayer, be granted serenity to accept the things I cannot change, courage to change what I can, and wisdom to know the difference. I also have a responsibility to preserve the natural and manmade beauty of this land. This can be as easy as not littering and not defacing public property or as complicated as restoring places already ruined. The gravest responsibility every American faces, however, was stated by our forefathers in the Constitution. We must, ". . . secure the blessings of liberty for ourselves and our posterity." This means being willing to pay the price so that America may live.

I am proud to be a part of a nation such as this, prouder still to call myself an American dreamer. No mere words can ever tell others what America truly means to me. Patriotism, like all other loves, comes from within. It, therefore, requires a definition of the soul. Such definitions go deeper than words; they require actions. The only men and women worthy of the title American are those who are willing to spend their whole lives working for America and what she represents. ●

NEED FOR OFFICIAL UNITED STATES-TAIWAN TIES

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. HANSEN. Mr. Speaker, legislation dealing with the status of the Republic of China on Taiwan has now passed both Houses of Congress. As these measures proceed to House-Senate conference, I once again would like to inform my colleagues of the serious circumstances we face as I view the situation from my studies and personal experiences in Taiwan.

This was set forth in depth during my recent testimony before the House Foreign Affairs Committee regarding the recognition of the People's Republic of China at the expense of the Republic of China on Taiwan and the need for government-to-government relations and keeping our defense commitments.

It is unfortunate that the Congress has been so subservient to an arbitrary and dangerous decision by the Executive. We have witnessed a lot of early sword-waving rhetoric by Members whose final votes found their weapons sheathed as the dragon approached the maiden.

The legislation approved is woefully inadequate and efforts to repair its shortcomings in the House were retarded by impatient floor managers who demonstrated little concern for rights of free speech and the proper fulfillment of the legislative process.

We did, however, effect some needed changes, not only for the benefit of our free Chinese friends, but even more so for ourselves. Two of these, authored by Idaho's Congressmen, provided needed protection for American farmers and merchants.

A Symms amendment passed providing that new nonofficial trade offices be maintained in the same localities as previous official trade offices.

And a successful Hansen amendment provided Taiwan recognition as an independent nation in protection against Red Chinese or other boycotts the same as Israel was given against Arab boycotts under Public Law 95–52. This official recognition of Taiwan as "a country which is friendly to the United States" was an especially significant accomplishment since the United States-Taiwan Relations Act being considered was an effort to avoid any designation of Taiwan as a governmental entity.

It is my hope that further strengthening of the assurances and protections for the Republic of China on Taiwan, an old friend and vital trading partner, can be achieved in conference. It is toward this end that I submit the following remarks before the Foreign Relations Committee for the RECORD together with questions posed and my answers:

STATEMENT OF HON. GEORGE HANSEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IDAHO

PRIVATE INSTITUTE

Mr. HANSEN. I appreciate the opportunity to appear before your committee on this important legislative matter. Since I strongly oppose the administration's bill to provide for a private institute for handling U.S. dealings with the Republic of China on Taiwan, I choose to center my testimony on a positive alternative.

This thrust is embodied in legislation which I introduced this week and which was referred to this committee's jurisdiction.

Mr. Chairman, a terrible tragedy is about to occur unless we act now and act decisively to prevent 17 million free people who have fled and fought communism from being forced back into its jaws. The Republic of China and Taiwan is our eighth largest trading partner, much larger than the Soviet Union and Red China combined. American bankers and businessmen in Taiwan have billions of dollars at stake which must be protected, and American farmers and businessmen could well lose all or part of an $8 billion market; one of the only world markets unsubsidized by U.S. taxpayers.

I just returned from Taiwan. The people there want and need conitnued official government to government relationship and a continuation of the Mutual Defense Treaty. The institute proposal condemns the people of Taiwan to nonentity status among the family of nations, giving the Chinese Communist Government a hunting license to absorb Taiwan when and as it will as a matter of internal politics, with relative immunity from serious challenge from other nations.

The Institute proposal has seriously threatened the American business community concerned with Taiwan, who fear loss of markets, loss of investments, loss of assets, and already evident Red Chinese intimidation in doing business with Taiwan. We need more than resolutions of good intent in these critical times. We need firm and decisive action, preserving our longtime official government to government relations with the Republic of China and Taiwan.

There has been an official two-China policy for years, since President Nixon opened the mainland with U.S. liaison offices in Peking while continuing the U.S. embassy in Taipei I have the personal assurance of Republic of China Premier Sun that despite U.S. recognition of the Peking Government, Taiwan has always desired and continues to desire full official diplomatic relations with the United States.

PROPOSED LEGISLATION

The issue requires a strong stand. To protect America and Americans, and to help assure the independence and freedom of 17 million Chinese people in Taiwan, I Monday introduced legislation designed to force our continued recognition of the Republic of China as a condition for granting the special advantages President Carter is seeking for Communist China, such as most favored nation status.

This legislation, H.R. 1856, amends the Foreign Trade Act of 1974 and requires equal diplomatic status for the two Chinas and a close monitoring of markets for U.S. exports. It also calls for termination of U.S. trade benefits in the event of armed conflict, blockade, or boycott; and boycott is defined as in Public Law 95-52, dealing with problems in the Near East.

Free China is not our enemy. Free China has not committed acts of hostility against the United States. Free China is only guilty of being our friend and ally in a world where faithful friends are often hard to find.

Mr. Chairman, I hope this committee will study the merits of my bill, H.R. 1856, amendments to the Foreign Trade Act of 1974, an act to protect American and Free Chinese interests by preserving the international status of the Sovereign Republic of China and **balancing our** relations with the two **Chinas.**

HUMAN RIGHTS

Mr. Chairman, I would like to relate a couple of incidents. I hear a lot about human rights, and it seems to me that this could not possibly be the mainstream issue when we recognize the People's Republic of China; not when we compare their record with that of the Republic of China or anyone else. Nevertheless, I had a Belgian television team interview me when I was there. They said, "There are people in prison for political reasons in Taiwan just as on the mainland, so what is the big difference?"

I answered, Mr. Chairman, that I think the difference shows in the direction in which you swim. I haven't heard of anyone swimming to the mainland. I think this tells relatively where the human rights are and where they are not. Again, one of the people in the group I was there with, was asked the same question, and I thought he gave a very sensible answer. He said, "Human rights are when you are free to leave a country."

You are free to leave the United States if you do not like the establishment and you cannot do anything about it, and you are free to leave Taiwan, but are you free to leave the Communist nations of the Soviet Union and the People's Republic of China? I think this is a meaningful description of human rights: Are you free to leave?

This should somewhat answer the argument of human rights.

REFUGEES

I think there are also other things we need to take into account, I visited for several hours with refugees, Mr. Chairman, and some of them came out of Communist China at great peril and great cost. Not many are able to get out, but you know, when a man tells you his brother was beheaded and his mother was starved to death purely because he left the country, that's a pretty strong deterrent. There is something wrong—terribly wrong—with that kind of a system. But more important, there is something even more wrong with forcing the same people who escaped to go back under such a system of hell.

I think it is the moral duty of this committee and all of us as Members of the Congress of the United States who stand behind the freedoms that we hold dear in this country, that we do not force a nation of free people into slavery by making a non entity internationally out of the Republic of China and leaving them to be victimized by the People's **Republic of China.**

PRESIDENT'S PLAN

Mr. Chairman, the President's plan will not work. It absolutely will not work. I talked to the Embassy people, or shall I say the former Embassy people in Taipei. They have a number of questions which are not answered and cannot be answered under a facade or a fraudulent type operation such as trying to conduct government operations under a private institute-type program. They had such questions as diplomatic immunity, what happens if someone in our diplomatic corps, which is to be a nondiplomatic corps there under the new system, what happens if they run over someone or do something where they need diplomatic immunity? That is not provided under the private system proposed, at least not guaranteed.

Group insurance and retirement programs, can these be guaranteed by a word of mouth situation? There is no financing or debt recourse guaranteed under these circumstances. And once the Marines leave, Mr. Chairman, there is no protection for the people who represent the U.S. Government officially or unofficially, and there is no protection for the 5 or 6 billion worth of U.S. citizen establishments there.

It is a very shaky operation, and I do not think any of us should be responsible for instituting such a program, because I think it is going to jeopardize our interests very significantly as well as jeopardize the safety and lives of 17 million people in the Republic of China.

Comment: Thank you, Congressman. I share some of your concerns. I commend you for testifying before this committee and presenting your views so forcefully. The question of diplomatic immunity was raised earlier in our hearings, and the committee will certainly give consideration to some of the assurances and intentions which the executive branch listed. Hopefully, the omnibus bill which was introduced by request by the Chair will be amended in this respect.

I notice you mentioned the Marines are leaving Taipei. I am sure you are aware that the Marines are not allowed in Peking. It is my understanding that that Government does not allow any of the Embassies there to have security. They say it is an insult to them. There were no locks on the doors when I was there in 1975. They did not allow the Marines to be there to secure our people. . . .

VIEWS ON ONE CHINA

Now, in your statement you said that you had personal assurances from the Republic of China's Premier as to his attitude toward the United States and his desire for full official diplomatic relations, despite the fact that we have normalized relations with Peking. Did he indicate or did he state that the Republic of China has changed its views concerning one China, that the Republic of China is still representative of the mainland of China?

Mr. HANSEN. I think the one China idea is an attitude of the hoped-for reunification of the Chinas under a free flag which they have entertained, but this does not interfere with their diplomatic situation. I suppose we might have entertained certain notions in this country, not entirely realistic or attainable, about who we would have the States of the Union or whether certain areas would be independent such as Puerto Rico. The point I am getting to here is, I did ask the question of Premier Sun, "does the U.S. recognition of Red China as a government with diplomatic exchange and so forth change your desire to continue to be recognized on a government-to-government basis by the Government of the United States, notwithstanding any of your internal or national desires?" and he absolutely assured me there was no change.

In fact, he pointed out something which we are all aware of, that there has been a two-China policy for the last 7 years, where we had official offices, liaison offices in the People's Republic of China as well as an official office in the Embassy in the Republic of China in Taiwan. So all we would be doing, if we considered legislating a government-to-government relationship with Taiwan while conceding the President's recognition of Peking, would be to continue something that is already there, a two China policy that has been in effect for 7 years.

Question: Following up that question, I would ask the question: Has he indicated that the Republic of China on Taiwan will declare itself an independent state and thereby, of course, forgo any unification with China or any desire to represent the mainland?

Mr. HANSEN. I think for them to renounce their hoped-for goal really has nothing to do with our recognition. We did not ask the People's Republic of China to renounce the fact that they claimed jurisdiction over Taiwan in order to gain recognition. It seems to me that the geographical distinction is there. The mainland government owns the mainland, and the Republic of China has the real estate in Taiwan, and these are two separate entities. That is a fact of life. There has been official recognition of two entities, and it seems to me it is a problem for them internally but not for us internationally. It will be difficult for the Republic of China to make such a declaration of independence at this time because of the way their legislature is structured to include the provinces of mainland China, but this does not alter the fact that they are a separate, distinct international entity and have been considered so for many, many years, and the People's Republic of China is likewise.

Question: Could you directly advise whether there was any indication of Taiwan declaring itself an independent state?

Mr. HANSEN. I think that you, that anyone who asks this would be asking for them to declare something that is already there. They are already an independent state. They have never been controlled by the People's Republic of China, and I would think that this would be a degrading thing to ask them to do, to declare something that has been a fact for all of these years. They are an independent state. We have recognized them all of these years as an independent state. Why do we go back and make them reassure us on something that we have recognized as a fact for all of these years? And certainly no such request has been made for the People's Republic of China to declare itself separate and independent from Taiwan.

Question: There is a difference. Indeed, there have been two Chinas, but both insisted and maintained that they were one, that there was only one. Both sides may have intentions of peaceful unification. I do not believe the People's Republic of China could take Taiwan by force without a great cost; and certainly for Taiwan to try to unify China by force would be idiotic and impossible. But putting that question aside—and indeed there are two countries and two governments controlling different land masses, one much larger than the other and with a population much larger than the other—could you advise us as to whether Premier Chiang said he would declare Taiwan as a sovereign entity, a Government of Taiwan?

Mr. HANSEN. I believe they consider themselves and have always considered themselves an entity, and I guess I would have to restate what I said, that this would be a restatement of something that they would consider to be demeaning and degrading, and I do not know why it would be necessary. It seems to me if we want to prevent hostilities in that area, the best thing we can do is not give a license to one side or the other to go in and try to gobble up the other. If we recognize each one as an international entity in their own right, there is no license for one to attempt to conquer the other.

Question: So, Congressman Hansen, he did not state that that was their intention?

Mr. HANSEN. I did not pose that question because I thought it too obvious.

AGREEMENTS WITH TAIWAN

Comment: I appreciate your testimony before the committee. Congressman Hansen. I think you bring out several very strong points. One is here on the front page, where you say the Institute proposal condemns the people of Taiwan to a nonentity status.

It might have been a little softer if you said, "probably condemns them to a nonentity status," because we do not know exactly what is going to happen, but I appreciate your concern for those people over there and for those workers, it is one of the many, many things that the administration has not answered as of now. As a matter of fact, the more we get into these hearings, it seems that a great amount of the agreement or the discussions with Taiwan are based strictly on verbal agreements information. It seems to me so far there is very little in writing. I think that is something that the committee is going to want to look into.

Secondly, having not had a chance to do anything but scan your bill, H.R. 1856, I will take an opportunity as soon as the hearings are over to take a good look at that bill. It might be quite possible that I would want to cosponsor it with you.

I appreciate your appearing before the committee today. Thank you. . . .

GOVERNMENT RELATIONS WITH TAIWAN

Question: Mr. Hansen, we do appreciate your testimony. I would like to ask you a question or two regarding the specifics of your bill. You say your bill would require that any official government missions from the United States to the People's Republic of China or Republic of China would have to be the same: both embassies or both consulates or whatever. Under that situation, what would happen if the Republic of China refused to extend or exchange ambassadors with us as long as we proposed to do it with the People's Republic of China? Would that not, under the terms of your bill, deny us the opportunity to have any diplomatic relations with the People's Republic of China?

In other words, would it not put the Government of the Republic of China in the driver's seat?

Mr. HANSEN. Absolutely not, because I had the personal assurance just a few days ago from the Premier of the Republic of China that they desired full government-to-government relations with the United States to continue even under the circumstances of full recognition of the People's Republic of China on the mainland. So there is absolutely no question but what this would be accepted in other words, full government-to-government recognition would be accepted by the Republic of China on Taiwan not withstanding our recognition of Peking.

So, the question you pose is hypothetical but not real under these circumstances.

Question: I see, but that is a change of position on the part of the Republic of China Government?

Mr. HANSEN. No, sir. For 7 years we have had government-to-government relations with both nations. Since Mr. Nixon went to Communist China we have had liaison offices established there, and these are official offices of the United States. In this time the Republic of China on Taiwan made no effort to break diplomatic relations, I think they have indicated all along that while they may not appreciate our position, that they would not break diplomatic relations or refuse to have government-to-government relations with us because of this.

Comment: I am glad to hear you say that, because that is different from the information I had. My understanding is that if we were to extend formal diplomatic relations to the People's Republic of China, that the Nationalist Chinese would break relations with us.

Mr. HANSEN. I might say that I had witnesses at that meeting. Congressman Ashbrook and Senator Humphrey were with me when I asked these questions, and the facts are there. They have not broken diplomatic relations in 7 years of dual relationship or two China recognition. So, it seems to me whatever information someone is peddling about a one China policy is not valid. It could not possibly be valid because we have had 7 years' experience that shows otherwise.

ATTITUDE OF TAIWANESE

Question: I see. I would like to get some benefit from your experiences on Taiwan or in Taiwan. I understand your discussion that the Nationalist Chinese do not wish to be reunited with the mainland China, and that you expressed it by saying that there are no Nationalist Chinese trying to swim over to mainland China.

While you were there, did you get any feel for the attitude of the Taiwanese as opposed to the Nationalist Chinese in Taiwan and what their attitudes are?

Mr. HANSEN. Of course, we are all privy to the stories going around that there is a layered effect where the Kuomintang has imposed itself over the Taiwanese people, and there is hostility and some kind of effort to resist and throw them out at some opportune time. I might say I think this is really exaggerated. I could not say there are not some Taiwanese who maybe would like some kind of independent status, but I can say that is certainly not the general case from my observations. In fact, I find that both parties have been there together long enough that there is a considerable amount of intermarriage and some of the highest officials of the Republic of China are Taiwanese, as are some of the most influential people in the business community and so forth.

I would think that someone is playing a game to try to bring down the Republic of China, and it is predicated on an inaccurate premise. . . .

PRESIDENTIAL VETO

Comment: George, I appreciate your coming and sharing your views with us. I guess of all the Members of Congress you and the people who went with you have the latest hot dope from the place that is most affected by what the President did last December.

You know, it occurs to me that it is just almost an inconceivable situation where we have an official delegation, not an embassy, but an official delegation in Cuba—with all the problems we have with Cuba—yet we are told we cannot have any kind of official Government representation on Taiwan, who has been our ally for all the time of its existence, so I agree with you. I think we should do everything we can to see that there is some Government-to-Government relationship continued.

However, it is being made rather plain that President Carter would veto such legislation. What do you say about that? In other words, what they are saying in effect is: Take it or leave it. If you don't take this, you will have nothing. That is the import of what is happening.

Mr. HANSEN. I appreciate the problem posed by the gentleman . . . I might say that this is addressed in the bill I presented today, which has been referred to this committee. In a sense, we do not have the ability as Members of Congress, you know, to conduct foreign policy, and we all acknowledge that, but I think we do have the privilege of making some kind of mutually advantageous arrangement between us and the Chief Executive.

My bill is addressed to the point that if he wishes to do certain things with the People's Republic of China, such as give them most-favored-nation treatment and other things, then he also has to recognize and similarly handle the Republic of China. In other words, it has to be a dual recognition and the same treatment, a common treatment of both nations, and I think it is within the authority of Congress constitutionally and legally to exact these conditions of the President and say to him, "you can go and conduct most-favored-nation relationships with the People's Republic of China, but you can only do it under the basic circumstances or conditions we set, which means that you will still recognize Taiwan or we will not approve your PRC requests."

So, it all boils down to one of those so-called compromises we hear about on Capitol Hill every once in a while.

CONDUCTING BUSINESS WITH TAIWAN

Question: I have heard several reports—and incidentally, from some of the people who were on your trip—that the Government of the People's Republic of China has advised certain businesses who want to do business in the People's Republic that they would no longer be able to conduct business on Taiwan. Do you have any information on that, or did you hear any discussion of that sort?

Mr. HANSEN. I certainly have. This is why my bill addresses the problem of boycotts such as we experienced with the Arab and Jewish situation some time ago and which we addressed in legislation to prevent that type of thing. We have seen where already two or three firms, which I could name, have abandoned Taiwan to go to the mainland with the idea—and no one will really say it out loud at this point—but with the idea that if they want to do business with the People's Republic of China, then they cannot do business with Taiwan, or they can do it only with the permission and under the guidelines of the People's Republic of China.

I think this is unfortunate, when one nation can hold us hostage for the conditions under which we do business with another nation.

NUCLEAR FUEL POLICY

Question: Did you hear any discussion of the situation with regard to our furnishing nuclear fuel to the Government—I guess we do not furnish anything to the Government any more—but to the people of Taiwan?

Mr. HANSEN. I did meet with the United States Chamber of Commerce there. We had an extended meeting, and they expressed the concerns that you addressed in the last question, Congressman. I know firsthand that some of the things, as far as holding hostages and economic boycotts, are there, and somewhat in evidence already.

As far as the second question on nuclear fuel, Taiwan committed to buy five or six reactors from the United States, and it is only a partially filled contract. They have to be able to complete construction, buy fuel, and so forth. There are all sorts of complications as to what they can continue to buy; or, if we get them into an adverse economic position, whether they will be able to continue to be a viable economic entity. What this will do to the several billion dollars of U.S. investments and money that they owe us now in the trade area is a good question; in other words, their future ability to pay for these reactors and the fuel and everything else.

I think we are creating a problem that could be very costly to the taxpayers and consumers of the United States. . . .

PROPOSED LEGISLATION

Comment: Thank you. I appreciate your coming before the committee. As you know, some of us were in Taiwan a week or so before you went and I think we found similar attitudes. We met with the chamber there. I think we had some of the same experiences.

Mr. HANSEN. The gentleman made good waves. I heard about it.

Comment: The problem we are faced with at the committee here—and the previous gentleman touched on it—is that I do not think your bill is going to get out of committee, to be truthful. I would be very surprised. We are faced with the question of whether we are going to put some kind of structure together so that the Taiwanese can continue to do business, or are we going to fail to meet the deadline. We are on the horns of a dilemma, because the last thing we want to do is have the people of Taiwan and ourselves fail to put together some mechanism so that those people that you and I talked with can do business and can at least keep their economy going. I would share that problem with you, as I am not sure we have choices, and we are going to have to make the best out of what we can do.

I think that is a dilemma that faces you.

Mr. HANSEN. May I address that subject? I think that, yes, the realities are such that when you oppose the administration, that it is difficult to get legislation out of committee or on the floor or passed or anything else, but I must say ideas can be moved into different spheres. I would hope the committee would take up the legislation as a matter of conscience, because I think it is necessary, but if they cannot, I have no pride of authorship in the bill you pass out. If some of the ideas were adopted that would maintain a government-to-government relationship. I would be grateful, and I think the people of Taiwan would be grateful. It is the idea that is important, and not so much whose bill it is anyway.

The second thing I would like to say is, I have talked to some of the Members of the other body today, and they like many of the ideas that are in here about amending the Foreign Trade Act and embodying some of the provisions of my bill. They, I think, are going to incorporate them in some of the recommendations they have over there. So if the idea floats, that is satisfactory to me, and I hope it will. * * *

Comment: I appreciate your contribution.

GOVERNMENT RELATIONS WITH TAIWAN

Comment: I think Taiwan has a very favorable trade balance with us. In other words, they sold us some $5.2 billion whereas we only sold $2.4 billion to them, so they have indeed not been, you know, unduly harmed by trade with the United States. I wonder in your opinion if we copied the relationship we had with the Peking government, with a liaison office—it was not full diplomatic recognition—and an embassy at Taipei, if we did that, would that be satisfactory to the government, to President Chiang, to whom you spoke?

Mr. HANSEN. I think from everything I gathered—and I asked some very pointed questions there—that they want government-to-government recognition. It is essential to their survival.

Comment: I am not asking that.

Mr. HANSEN. I understand your question. I am leading to that. So what I am saying is, I think they would like to continue the way they are, and if it was to become a case of government-to-government relations in a reverse situation—that they have the liaison office and Peking has the ambassador—I think they would swallow hard and do it. In fact, I have every reason to believe they would.

Comment: Because it struck me with alarm that this gentleman to whom you spoke, the head of that government now on Taiwan, that from what you understood from him, that in the absence of government-to-government relations between us and the people of Taiwan, that the lives of our American citizens would not be safe, that the assets of our American businesses would not be safe. Is that correct?

Mr. HANSEN. That is correct.

Question: You mean that is the kind of people they are.

Mr. HANSEN. No, that is not the kind of people they are. I am just saying that even in the United States——

Question. That when the Marines are not there, our people are going to be in jeopardy?

DIPLOMATIC IMMUNITY

Mr. HANSEN. I think you are emphasizing the wrong points. The point I make is, there is no diplomatic immunity. Even under the laws of just accidents and problems that people can have, that when people are in the diplomatic service of a nation, they don't have the ability to take care of themselves in the foreign courts and foreign circumstances like they do under our own laws, but with diplomatic immunity they get that assistance.

All I am saying is, this is really asking an awful lot of people to voluntarily get out of the Foreign Service and take a voluntary situation there without any of the guarantees they have enjoyed before.

Question. None of our businessmen has diplomatic immunity. All our people who live in every nation of the world have no diplomatic immunity. So you are talking about a handful of people who might be managing the Institute?

Mr. HANSEN. Not at all, because before the U.S. business community had the services of an official U.S. Government agency right there to take care of them if they had a problem, whether they were an employee of the Government or a part of the business community. They will not have that now.

ELECTIONS IN TAIWAN

Comment: According to testimony this morning, there will be somebody there in the Institute who will have connection with our American official in Hong Kong, and that will be the place for visas and any aid that any American citizen needed. If they needed a visa, they would go to the Institute and they would be in touch with the consulate in Hong Kong.

I am trying to find out about the 17 million people in Taiwan, and all of us are concerned about the 17 million people in Taiwan. I do not think any member of this committee is entirely happy with the way that was done. I think we should have waited until the elections on December 23d to find out what the people of Taiwan think about the government they have.

That would have been a free election, I presume, and if we had waited, we would have known. We do not know now. They were cancelled, and in my opinion understandably.

So there are a great many things that do not satisfy everybody.

Mr. HANSEN. Then why do we have two standards between them and the mainland? We do not worry about elections on the mainland.

CONGRESSIONAL VISIT TO TAIWAN

Comment: We have always had two standards between them and the mainland, and I am not saying that if they canceled it, that puts them down in my book. That is their business. All I am saying is, I think it would have been wise for us to wait. I do not like the way it was done at all, and I think we owe them some consultation, too.

So, it is not that I am entirely satisfied. I am trying to see how we can best approach protection for the lives of the people who live there—American citizens primarily, and maybe all of them, but at least they are our responsibility—and the assets of people who in good faith invested there, and I am trying to find out from you what their fate might be. What was the group which went? Under what auspices did you all go?

Mr. HANSEN. There were about 10 Members of Congress and the Senate and about 20 other people. We went over with the sponsorship of the foundation that helped raise the money for some of the people. Some tickets were paid for by travelers themselves. It was kind of a combined group that went together.

Comment: I know that foundation. Tell me again the name.

Mr. HANSEN. I do not remember the name right now. It is some kind of a conservative foundation.

Question: That is right. Well, in any case, the government people were frank with you, I presume, and felt that you were friendly, Congressmen, so that they would tell you something that they would not tell somebody else?

Mr. HANSEN. Well, I think that they would have told anyone else here the same thing if they were asked the same question.

Question: Well, I do not know. It seems to me we have worked ourselves into rather a box. I do not know how we can somehow protect those people. Now, this morning there was testimony from the head of the council, the Economic Council—were you here?

Mr. HANSEN. No.

Question: It was most interesting. Of course, they are concerned about contracts and assets, and we will have to look at all of this.

Mr. HANSEN. I had a staff man here.

Comment: Mr. David Kennedy was here. Well, thank you. My time is up.

OFFICIAL RELATIONS WITH TAIWAN

Mr. HANSEN. Might I just respond to one thing you said? Many of you are champions of freedom and of open and honest government, and it seems to me that the thing to do here has to be the right thing and not just the expedient thing. Any time we are talking about some kind of an unofficial agency to take care of official business, it is a facade, a fraud, and if we really stand for free and open and honest government, we cannot in good conscience go this way.

We know what we are doing is trying to avoid an official recognition for public relations purposes so that we can fill the conditions that were agreed upon with the People's Republic of China. But if we do it under terms that are not even honest with ourselves, how can we live with and face the world? I think we have to really get down to what is the honest thing to do?

Comment: Congressman, there are other organizations of that kind. There is the Japanese Association that operates that way.

Mr. HANSEN. That operation has been shown to be absolutely a bomb-out. It has not worked. The only reason it ever even possibly worked was when the United States stabilized the area by having diplomatic relations. When we are out, it for sure does not work. It has not worked before, and certainly ours is not going to work if we are not there officially to stabilize it as under the old circumstances.

Question: That is interesting. I think we need that from you. Would you give us that information about the Japanese Association?

Mr. HANSEN. I can certainly provide it, because it has not worked.

Comment: Thank you. We need that . . .

Thank you very much Congressman Hansen . . .

Next witness: I would like to begin by congratulating this committee on holding these hearings. I can already say from the brief discussion that I have listened to that I consider the quality of focusing on the key issues considerably better than I have observed in 3 days discussion in another organization, I might say another House not too far from here . . .●

TRIBUTE TO RETIRING MAYOR JAMES SCRIVNER OF VERSAILLES, MO.

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. SKELTON. Mr. Speaker, on April 3, 1979, the Honorable James Scrivner will retire as mayor of Versailles, Mo., after completing three successful terms. During that period of time, Mayor Scrivner has worked tirelessly for the betterment of his community. He has provided outstanding leadership in civic projects and has been successful in his efforts to attract new industry to the community.

Mayor Scrivner has shown unusual dedication and enthusiasm in his role as a public servant. Versailles will long be the beneficiary of his tenure in office. It is people such as Mayor Scrivner who have, through the years, made our country and our form of government the finest in the world.

I commend Mayor Scrivner on a job well done, and I wish Mrs. Scrivner and him every happiness in the years ahead.●

U.S. BORDER PATROL

HON JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. MOAKLEY. Mr. Speaker, one of the most demanding and arduous law enforcement positions in the Federal service is that of the border patrol agent of the Justice Department's Immigration and Naturalization Service. As described to me by officials of the International Brotherhood of Police Officers, a clear need exists to insure that personnel employed as agents of the U.S. border patrol are fairly and adequately compensated, in accordance with the degree of complexity, danger, and stress they encounter in enforcing the Nation's immigration statutes.

Not only must border patrol agents undergo highly complex and demanding training, but they are unique among Federal law enforcement officers in that they are required to be bilingual to qualify for their positions.

In view of the dramatically increasing proportions of the illegal immigrant problem, I believe that prompt action is necessary to guarantee that the frontline employees who are charged with coping with the problem be compensated commensurate with the demands and talents required of them.

I am today introducing legislation which would provide a sound and fair grade structure for these employees. My bill would establish an entry grade level of GS–7 within the general schedule for border patrol agents, and would further provide for progression to GS–9 after 1 year of service and to GS–11 after 2 years of service. Further, this bill would provide a GS–12 grade for those border patrol agents required to work undercover in "plain clothes" on a regular basis.

Not only would such a grade structure insure effective recruitment and retention within the border patrol ranks, but it would more realistically recognize the special characteristics and requirements of the occupation.

I include the following:

H.R. 3019

A bill to amend title 5, United States Code, to provide for the reclassification of positions of United States Border Patrol Agents

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) it is the policy of the United States that as representatives of the United States Government, Border Patrol Agents must perform their work with authority, speed, efficiency, and sound judgment. They must retain control of difficult and dangerous situations, present an attitude of fairness and understanding, and maintain bilingual skills.

(b) Further, it is the policy of the United States that Border Patrol Agents be adequately compensated commensurate with the high degree of complexity, danger and stress incident to their unique responsibilities.

(c) Therefore, Section 5109 of Title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(d) In recognition of the unique responsibilities assigned United States Border Patrol Agents which involve maintenance of bilingual skills and high risks with exposure to potentially dangerous situations and unusual environmental stress, including operation of automobiles in high speed chases, boarding moving trains and vessels, possible gunfire, as well as frequent changes of shifts, duty stations, and long and irregular working hours, the positions of Border Patrol Agents shall be classified, in accordance with regulations issued by the Office of Personnel Management, as follows—

"(1) Upon appointment at the trainee level, such positions shall be classified as GS–7."

"(2) Upon satisfactory completion of one year of service at the GS–9 level, such positions shall be classified as GS–9."

"(3) Upon satisfactory completion of one year of service at the GS–9 level, such positions shall be classified as GS–11."

"(4) Border Patrol Agents, who, on a regular and recurring basis, may be responsible for identifying and questioning individuals suspected of violating immigration and nationality laws, including the corresponding criminal code, and who may be required, from time to time, to work out of full uniform in order to properly perform these functions, shall be classified as GS–12."

"(5) Border Patrol Agents, who are responsible for the operation and coordination of an intelligence program and for providing advance intelligence information about attempts of persons to enter the United States illegally, including alien smuggling, throughout an assigned area, shall be classified as GS–13."

SEC. 2. (a) Effective on the effective date of this Section, a Border Patrol Agent on the rolls on such date to whom the amendment made by the first section of this Act applies, shall be converted as follows:

"(1) A Border Patrol Agent presently employed at the trainee level GS–5, shall be advanced to the step of GS–7 which corresponds to his/her current step."

"(3) A Border Patrol Agent presently employed at the GS–9 level shall be advanced to the step of GS–11 which corresponds to his/her current step."

"(4) Border Patrol Agents, who, on a regular and recurring basis, may be responsible for identifying and questioning individuals suspected of violating immigration and nationality laws, including the corresponding criminal code, and who may be required, from time to time, to work out of full uniform in order to properly perform these functions, shall be advanced to the step of GS–12 which corresponds to his/her current step."

"(5) Border Patrol Agents who are responsible for the operation and coordination of an intelligence program and for providing advance intelligence information about attempts of persons to enter the United States illegally, including alien smuggling, throughout an assigned area, shall be advanced to the step of GS–13 which corresponds to his/her current step."●

BAIL SHOULD BE REQUIRED IN CASES OF SERIOUS CRIME

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. McCLORY. Mr. Speaker, this morning I read with dismay a report in the Washington Post that a suspect arrested for the murder of a young female student at Georgetown University here in Washington was free on bail when he allegedly committed the crime. Unfortunately, this is only one of many examples which support the need for an amendment to the Bail Reform Act of 1966. With the exception of capital offenses, current law limits the factors which a judge or magistrate may consider when fixing bail to those which will affect the presence of the accused at trial. In capital offenses, the court is permitted to consider both the defendant's likelihood of flight and the "danger to any other person or to the community."

In the case of the Georgetown homicide, which occurred last weekend, the suspect was on probation until 1984 after serving 2 years in a Florida prison on a charge of receiving stolen property. Furthermore, he was free on his own personal recognizance after being charged several weeks ago with larceny from a local Dart Drug store. After his arrest yesterday afternoon for the robbery of the Baracat Imports Jewelry Store, the suspect made comments about the earlier murder. Those remarks led D.C. police to his home and to a number of presumably incriminatory seizures. It should be both an embarrassment and a matter of sincere self-examination that Federal law permits this type of event to occur.

I have introduced a bill, H.R. 1525, which is designed to amend the 1966 Bail Reform Act. It is a simple bill because the only major change it makes in current law is that it extends judicial consideration of the safety of an individual or the community when setting bail to persons accused of noncapital crimes. If my bill had been law before last weekend, it is at least possible that the young Georgetown student about whom I have spoken might be alive today. I therefore urge the Judiciary Subcommittee on Courts and Administration of Justice, which has jurisdiction over matters affecting the bail statute, to give prompt attention to this defect in the law. There is little solace in the probability that now the suspect has been arrested once again and this time charged with a capital offense, he will finally be denied bail.

Mr. Speaker, all too often defendants on pretrial release commit additional crimes while awaiting the verdict of the jury. This trend is particularly evident where drug offenders are concerned.

Recently, two of this country's most prominent Government officials criticized the act my bill seeks to amend. Attorney General Griffin Bell, during an interview on ABC's "Issues and Answers." February 12, called bail laws "lax" and commented that local communities ought to be protected from criminals who have a history of recidivisim while on bail. Similarly, the Chief Justice of the United States, Warren E. Burger, commented during the mid-winter meeting of the American Bar Association on February 11:

> Law-abiding citizens must be forgiven when they ask whether release pending trial of an accused who is waiting trial on other charges poses an undue threat to the community. This gives rise to a belief that habitual criminals can commit two or more crimes "for the price of one."

H.R. 1525 is directed at reducing the growing threat to our communities. Currently, Federal statutes allow Federal judges to consider only a defendant's economic and family ties to his community when setting bail pending trial. In most jurisdictions, unless he is charged with a capital offense, that is, one which carries a possible penalty of death, a defendant must be released if his "ties" are sufficiently strong. Some appellate courts, such as the U.S. Sixth Circuit, have held that a judge has the "inherent power" to consider the potential danger to the community when setting bail. Unfortunately, this practice is not yet universal law.

It is therefore my hope that H.R. 1525 will soon be considered by the Judiciary Subcommittee on Courts and the Administration of Justice. The law in this important area should be clarified.●

SUPER BOWL 1982 TO BE PLAYED IN SILVERDOME STADIUM, PONTIAC, MICH.

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. BROOMFIELD. Mr. Speaker, I am pleased to announce to my colleagues that on January 14, 1982, millions of Americans will be watching the Super Bowl football game played for the first time in a city outside of our Nation's Sun Belt.

I take great pride in announcing this fact because this first in the history of this great athletic event will take place in the City of Pontiac's Silverdome Stadium which is located in the 19th Congressional District of Michigan—a district I am honored to represent.

I wish to commend Commissioner Pete Rozelle and the NFL owners for their wise decision to take the Super Bowl to the Silverdome. This domed stadium, which serves as the home of such great teams as the Detroit Lions and the Pistons, is considered by many to be the best domed stadium in the Nation.

I also wish to congratulate all who were involved in this truly unified community effort to bring the Super Bowl to the Silverdome. Michigan's Governor, William Milliken, Mayor Wallace Holland of Pontiac, and Mayor Coleman Young of Detroit deserve recognition for their fine presentation to the NFL owners. The local business community also deserves special congratulations for their willingness to underwrite the necessary costs of renting the Silverdome for this great athletic event.

Mr. Speaker, this is a welcome event for it is one more step in the renaissance of the Detroit metropolitan area. I wish to again offer my heartiest congratulations to all for bringing "Super Bowl 16" to the Silverdome in Pontiac, Mich.●

SUGAR LOBBY'S CAPITOL GAINS SOURING FIGHT ON INFLATION

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. PEYSER. Mr. Speaker, a new sugar bill is expected to reach the floor of the House in early April. I plan to oppose this legislation.

At a time when sugar prices are 33 percent higher than they were just 2 years ago, an artificial price system shelters sugar growers against competition and makes consumers pay the tab.

Inefficient sugar growers are being subsidized at a time when sugar is going begging on the world market and according to the New York Times when government-owned supplies are deteriorating rapidly to the point that sirup is pouring out from under the storehouse door.

It is time to say no to special interests and yes to holding the line on inflation by defeating proposals for still higher sugar prices.

New York Post Columnist James A. Wechsler, discussed the administration's surrender to the sugar lobby as it affects the President's floundering antiinflation program in an elucidating article that follows:

> SUGAR LOBBY'S CAPITOL GAINS SOURING FIGHT ON INFLATION
>
> (By James A. Wechsler)
>
> The coming congressional battle over the Administration's surrender to the sugar lobby could critically shape the fate of President Carter's floundering anti-inflation program.
>
> Much of the story could be glimpsed in the strained countenance and tortured words of Alfred Kahn, generally identified as the President's chief "anti-inflation adviser," on a televised interview the other day.
>
> He was asked (among other things) about the White House decision to yield to the pressures for a boost in sugar prices. He conceded it was "disappointing." Then he added:
>
> "But you've got to keep the major picture in mind. There are many things at stake in the price of sugar. And I can't second-guess the President in deciding what is possible and what is not possible. . . .
>
> "I wish that it were possible politically in this country to have such a powerful anti-inflationary constituency or coalition that raising the support price of sugar from 15 cents to 15.8 cents would be unthinkable and impossible. And I'll do everything I can to work in that direction."
>
> But can he really pursue that course without being shot down by the "practical men" in the Carter inner circle?
>
> In fact, there is a real drive being mounted on Capitol Hill to challenge the sugar giveaway.
>
> A key leader in that last-ditch fight is New York Rep. Peter Peyser whose testimony be-

fore the House Agriculture Committee this week received inadequate notice.

Peyser charged that sugar price support and subsidy packages being sponsored by the Administration and some influential members of Congress would provide "windfall profits" for major corporations and heavy new losses for consumers. He cited Gulf and Western, U.S. Sugar Corp. and Great Western as prospective beneficiaries of the legislation.

"Their pots will be sweetened in excess of $30 million collectively," he said.

"If either the committee legislation or the Administration proposals were to be enacted, it would be like ordering the American consumer to sign a check for $1.6 billion.

"How can we seriously talk about controlling inflation when this legislation will immediately increase the price of food in the marketplace?

"In the past two years, sugar prices have risen 15 per cent more than the inflation rate. While I see no valid reason for considering this legislation at any time, to suggest that the Congress would vote to increase food prices after we have just concluded a month with one of the highest inflationary increases in food ever is absurd."

The trouble is that such words evoke neither national headlines nor TV coverage.

Over a telephone yesterday, Peyser insisted that he believes an effective resistance can be mobilized before the issue reaches the House floor next month—a priority of scheduling obviously designed to railroad the legislation before most Americans know what is happening.

He thinks the negative case is so strong that a stampede can be averted despite White House capitulation to the sugar lobby. But other observers wonder whether anything short of Kahn's resignation could trigger sufficient public awareness and protest to block the deal.

The prevailing presumption is that Carter's retreat involved "trade-offs" with such Congressional eminences as Sen. Russell Long and other members of the sugar bloc. There is no other plausible explanation. But what possible dividends can Carter extract that would justify so deadly a blow to his vulnerable anti-inflation structure?

Kahn is one of the few men of special distinction, competence and independence enlisted by this Administration. When he assumed his post the word went out that he would be endowed with very special powers to explore every inflationary front and that his counsel would prevail over the political clout of special interests and political calculators.

It was predictable that there would be moments when his judgments would be contested and overridden by provincial tacticians. But the sugar grab is not a small, secondary incident. It has plainly vast implications for the whole Kahn endeavor to establish the credibility of Carter's pleas for reason and restraint in the common cause of economic stability

If this one is lost because the Administration collapsed under fire, where can the battle line be meaningfully drawn? Perhaps the largest service Kahn can render is to blow the whistle, loudly and clearly enough for Jimmy Carter to hear him above the sounds of mediocrity in the White House inner circle.●

SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. BONER of Tennessee. Mr. Speaker, on March 13, 1979, I was privileged to introduce in the House H.R. 2828, a bill to increase from $15,000 to $30,000, the maximum that may be allowed by the head of a Federal agency in settlement of claims for loss of personal property incident to the services of an individual who was a member of the uniformed services or a civilian employee of the Federal Government.

Recently, I had an opportunity to meet with constituents of the Fifth District in Nashville, Tenn., many of whom have returned from the serious upheavals in Iran, and they have urged me to introduce legislation to increase the $15,000 limit for damages for loss of personal property by a military or civilian employee of the Federal Government.

Mr. Speaker, in 1974 the House and Senate passed Public Law 93–455 which increased the Military Personnel and Civilian Employees Claims Act of 1964 limit on payments for loss of personal property incident to Federal service from $10,000 to $15,000. Five years ago, the House Judiciary Committee considering this legislation indicated to the Congress in their committee report that the elements of the Defense Department and the Coast Guard demonstrated their ability to administer this act, as well as the other laws authorizing payments of claims against the United States with "fairness to the claimants and concern for the protection of public funds." They indicated in 1974 that since the $10,000 limit was established, the cost of repairing or replacing property of the type whose loss or damage may give rise to claims within the terms and purpose of that act had increased significantly and the increase was due primarily to the general inflationary trend which resulted in prices of virtually all household items or personal property increasing at a tremendous rate.

It was pointed out that the $10,000 limit was established in 1964 and that a $15,000 limit appeared to be more in line with current value of property or its repair and would serve to maintain the level of protection that was previously considered appropriate for the property by Congress as a matter of fairness, support for moral and Government personnel. In addition, such protection would be further enducement to the Armed Forces for entering and continuing membership in our military services.

Mr. Speaker, I believe the arguments raised 5 years ago in increasing the limit from $10,000 to $15,000 is applicable to our present situation in increasing this limit to $30,000. It is my understanding, Mr. Speaker, that many of the civilian and military employees caught up in the world of revolutionary activity in Iran and other areas had to leave many of their personal property and household items behind for whatever purposes the Iranian military or revolutionary elements might see fit. There must be some type of fair reimbursement for the loss of this property and I am today urging the Committee on the Judiciary, where H.R. 2828 has been referred to consider and report out favorably my amendment to section 240 of title 31 of the United States Code relating to settlement of claims of military and civilian personnel for damages to or loss of personal property incident to service.

A copy of my bill follows these remarks:

H.R. —

A bill to increase from $15,000 to $30,000 the maximum amount that may be allowed by the head of a Federal agency in settlement of claims for loss of personal property incident to the service of an individual who is a member of the uniformed services or a civilian employee of the Federal Government

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Military Personnel and Civilian Employees Claims Act of 1964 (31 U.S.C. 241) is amended by striking out "$15,000" in subsections (a) (1) and (b) (1) and inserting in lieu thereof "$30,000".

SEC. 2. The amendments made by the first section of this Act shall be effective with respect to claims arising after December 31, 1978.●

THE KIND OF PEOPLE WE ARE

HON. L. H. FOUNTAIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. FOUNTAIN. Mr. Speaker, the February 5 issue of the respected newsmagazine U.S. News & World Report carried an excellent Marvin Stone editorial asking the pertinent question "What Kind of People Are We?" Feeling that the editorial presented some challenging thoughts on the present temperament of the American people, I inserted it into Extensions of Remarks on January 31.

Now, Editor Stone, in the March 19 issue of the magazine, has provided responses of several Americans from all across the country to the editorial. The reactions typify in many ways the same sort of talk which we in the Congress are hearing from our constituents.

I am pleased to bring these comments to the attention of my colleagues:

[From the U.S. News & World Report, Mar. 19, 1979]

OUR READERS SPEAK OUT

(By Marvin Stone)

In "What Kind of People Are We?"—an article on this page February 5—we examined the current state of America and some of the reasons for that state. Responses showed that readers everywhere had been pondering the same painful question. Many who wrote to us deplored conditions. Some offered solutions. Above all, their letters revealed a pervasive longing for goals and leadership.

Here is a small sampling from the outpouring of mail that came to us from all parts of the country:

Richard J. Halt of Indiana: "You have stated . . . the concerns of thousands of citizens with whom I have talked over the past 10 years. We love America but have grave concern that there is no common goal on which to focus. We yearn for a time when we can 'bind up our wounds' and get on with the business of building a future for our children and our children's children."

Jack L. Evans of Iowa: "Your editorial . . . is aptly reflected by the bumper sticker seen in Wisconsin. 'This used to be a wilderness. Now it's a jungle.' Ours used to be a nation of skilled craftsmen from watchmakers to blacksmiths, all justifiably proud of their work and their talents. . . . Now it seems that any product bearing the mark of quality also carries the byline 'Made in Japan,' or somewhere outside the United States."

R. S. Marciniak of California: "Your editorial covered everything that is wrong in this country. I condensed into a few words: 'No one gives a damn, just what is good for me.'"

Dennis L. Vannerson of Texas: "In the Great Depression, what really may have happened was that we found ways to *temporarily* save ourselves from an upheaval like the French and Russian revolutions. After noting the system had been proved decedent, New Dealers . . . propped up the cadaver and used vast infusions of borrowed money to make it appear lifelike. This subterfuge served the immediate demagogic purpose, but persistent deficit spending always brings ruin. After 45 years, the decay and depravity discussed in your February 5 editorial seem largely attributable to it."

L. J. Willett of Minnesota: "Your editorial only confirms the cycle of *every* civilization: 'slavery to freedom, to prosperity, to luxury, to apathy, to dependency, to slavery.'"

Col. Rupert E. Herr, USAF (Ret.) of Florida: "Today, the United States with its vast resources, its amazing technology, its spirited youth and sagacious elders, has everything but leadership."

Henrietta A. Parker of Indiana: "Although the Great Depression of 1929-30 was a dreadful ordeal for us as a family, this adversity developed our pride and our guts. We made it and without the help of Uncle Sam or anyone else. The present ripoff society has lost or never developed pride, the joy of making it on your own."

Thomas A. Nicholson of Montana: "On page 88 (February 5) Marvin Stone . . . asks: 'What kind of People Are We?' On page 26, an investment broker from Seattle provides the answer: 'No one is more conservative than me, and I feel for Taiwan. But Taiwan is not China, and I'm glad Teng is coming.' That, Mr. Stone, is the kind of people we are."

Lawrence J. Huber of Ohio: "The article says: 'There is no single medicine.' With this I disagree. There was a medicine prescribed years and years ago to prevent, as well as cure, this very sickness: 'Whatsoever ye would that men should do to you, do ye even so to them.'"

P. J. Murphy of Massachusetts: "Your review of the problem had . . . one silence that shouted—no mention of God or any final moral code. . . . Citizen conscience unanchored in any filial reverence for God is a weak reed indeed, and no self-enclosed humanistic society can find the sinews of self-discipline to main enduring values."●

MISSILE SITE BECOMES PARK

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. BADHAM. Mr. Speaker, I recently received a letter from Mayor Sam Cooper of the city of Brea, Calif., in which he expressed his appreciation to the U.S. Navy Seabee Construction Battalion 16 for their "excellent contribution" to the city in renovating a former Nike missile site into a wilderness-style park. The transformation from missile site to park was put into motion by a former colleague, Chuck Wiggins, in 1973. This was the year the site was dedicated to the city of Brea under the White House Legacy of Parks program.

Mayor Cooper requested I insert a Los Angeles Times article pertaining to the park into the CONGRESSIONAL RECORD as a means of expressing his sincere gratitude and commendation to the Seabees for a job well done. I include the Times article at this point in the RECORD:

CEREMONY IN BREA—EX-BASE SHOWING SIGNS OF A PARK

BREA.—The Orange County Transit District microbus crawled along a winding road in the Puente Hills, past grazing Holstein cows and working oil wells.

As the bus rounded a bend at the top of a 1,500-foot climb, silver-haired Brea Mayor Sam Cooper pointed to his right and enthusiastically proclaimed. "There's Catalina Island. What a sight?"

The sight was more than Catalina. It took in the vast panorama of Orange County, all the way to the sea and a goodly portion of Los Angeles County to the north.

The nine-passenger bus and another just like it had reached the site of the abandoned 32-acre Nike Missile Base that is being transformed by the Seabees into a city wilderness-style park.

The first phase of that conversion has been completed. And that is why city officials, officers of the Naval Mobile Construction Battalion 16 of Los Alamitos and media representatives had gathered on the majestic hilltop where, on a clear day, you can almost see forever.

There was a brief ceremony near a partially filled missile silo. Mayor Cooper, City Manager Wayne Wedin and Seabees Comdr. Lawrence H. Burks took turns at the microphone.

Wedin praised the Seabees, saying their efforts soon will make the eight-year dream of a park a reality. He took note of "the unfettered, spectacular view of Orange and Los Angeles counties." The site is in Los Angeles County, five miles from the Brea City Hall.

Then there was a tour of the old base which, at one time, provided Brea with the best protection of any city in the United States, according to Army officials.

In 1968, Nike-Hercules Battery C, stationed on the hilltop, captured its fourth award in 10 years for accuracy and efficiency in test-firing its missiles.

What basically has been accomplished in the first-phase of the project is the elimination of safety hazards. Of the 29 buildings on the site, 28 have been demolished and cleared away. Two of three missile silos have been filled with debris and dirt. The third silo is nearly filled.

Metal has been salvaged by an Orange company. One major hurdle remains, however—what to do with huge chunks of concrete that once were the foundations of the barracks.

The Seabees do not have the equipment to crush the concrete slabs. The city is thinking about buying a piece of machinery to do it.

Nevertheless, Ron Molendvke, city director of community services, had a good word for the residents of north Orange County who are anxious to use the facility.

"The city expects to open the park on a reservation basis this summer," Molendyke said. "It will be used on weekends by such groups as the Boy Scouts, Girl Scouts, YMCA and YWCA.

"What we'll have here is a much-needed camping site. There'll be riding and hiking and outdoor education. We're working on another access road that will connect to Brea Canyon Road."

At present, the only road into the park site is through the Shell oil fields.

The city has hired Recreation Systems of Fullerton to master plan the park.

Creating a park on a site that once bristled with high-powered weaponry has been a long uphill struggle.

With the help of then Rep. Charles Wiggins (R-Fullerton), the city was successful in acquiring the former Nike Missile Base at no cost in 1973. Acquisition was made through the White House Legacy of Parks program.

The main condition for acquisition was that the city make the site available for public recreation.

Vandals periodically had invaded the remote area, shattering windows and splintering some of the buildings.

City officials first turned to the U.S. Army Reserve Forces to help alleviate the hazards and clear the site for park purposes. But the Army units did not have the capabilities to perform the task.

The council then wrote a letter to President Carter and soon got a response from the Reserve Naval Construction Force Command in Kansas City.

The job of site clearing fell to Reserve Naval Construction Battalion 16 (Seabees) at Los Alamitos, under Comdr. Marvin C. Wallingford.

The battalion's mission is to provide a skilled crew that can be mobilized for national emergencies or natural disasters. The Nike site proved an excellent training ground.

Wallingford said, "These projects not only serve the community, but provide valuable team training for the Seabees. This enhances the battalion's mobilization readiness."

Master Chief Petty Officer Al Nelson and Chief Petty Officer Michael Dooner have been in charge of the Nike project.

Brea has spent $6,329 on the park site. The Seabees have put in 7,200 hours at an estimated value of $72,000 using cranes, bulldozers, dump trucks, forklifts and trucks in the process.

City officials say the rental value of the donated equipment would be about $10,000. Thus, they calculate the money saved the city by the Seabees to date is nearly $82,000.

Mayor Cooper, back aboard his bus for the return to City Hall, said the park project is a good example of what can be accomplished when military and civilian officials work for a goal "in the spirit of cooperation."

Cooper said that when the park opens "we'll have more reservation requests than we can handle. "This kind of a facility has been needed far too long," he added.●

THE NORTHERN TIER PIPELINE

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. MARLENEE. Mr. Speaker, I have been a strong supporter of the construction of an west-east pipeline to bring crude oil from Alaska to the northern tier States and to the Midwestern States. I believe the use of Alaskan crude oil can, to a large degree, solve many of our energy problems and lessen our dependence on foreign crude. This can have very beneficial effects on our balance of trade payments and on the value of our dollar.

The problems of our energy dependence have once again been dramatized by the change in the Government of Iran and it is incumbent upon us to learn the lessons that we failed to learn from the Arab oil embargo of a few years ago. Today the Sohio Co. has announced that it has abandoned plans for a 1,000-mile pipeline that would have carried oil from the west coast inland to Texas for further distribution. This will have grave consequences for the 500,000 barrel a day west coast oil surplus and without a northern tier pipeline incentives to increase production in Alaska will be sharply reduced. The cause of Sohio's pullout is all too common—regulatory delay and inactivity. This latest delay demands that we proceed swiftly with all permits for the northern tier pipeline.

We simply cannot afford to delay any longer in the construction of a pipeline and we must make sure that we do all that we can to make sure the Federal agencies involved in selecting and permitting a line do their work as expeditiously as possible.

I would like to share with my colleagues a resolution of support approved by the State legislature of Montana which accurately and plainly states the reasons and the need for the northern tier pipeline:

House Joint Resolution No. 12

A joint resolution of the Senate and the House of Representatives of the State of Montana urging that the Northern Tier pipeline be approved by necessary State and Federal jurisdictions

Whereas, there is a compelling need for development of additional energy supplies and for action by regulatory bodies and environmental protection agencies which will aid and not delay needed major projects such as industrial development, pipelines, and many other activities; and

Whereas, there is a need to accelerate actions which will produce jobs and enhance the economy compatible with strict environmental protection; and

Whereas, the United States faces a bulk oil supply shortage at the present time because of many factors, including Canada's policy regarding export of its bulk oil, political restraints put on transportation, and because supplies are not available in the continental United States, and because of federal policies which are contrary to market forces; and

Whereas, the Montana House of Representatives and Senate support a proposed Northern Tier Pipeline planned for transportation of crude oil from a location at or near Port Angeles, Washington, then eastward through Washington, Idaho, Montana, North Dakota, and terminating in or near Clearbrook, Minnesota; and

Whereas, the Northern Tier Pipeline will add an important economic and resource asset to the states and communities through which it extends; and

Whereas, the pipeline will contribute to petroleum products for argicultural needs at strategic points along its route, provide bulk crude oil to existing refineries which have been or will be impacted by domestic shortfalls and Canadian policies, and will open up economic opportunities in those states and communities through which it passes; and

Whereas, the Northern Tier Pipeline project will provide needed jobs in: construction, transportation, equipment sales, and many other fields in areas through which it extends, including Montana; and

Whereas, the Northern Tier Pipeline can be built in an environmentally sound manner; and

Whereas, the planned Northern Tier Pipeline will be primarily along existing rights-of-way, which will enhance safety and environmental protection.

Now, therefore, be it resolved by the Senate and the House of Representatives of the State of Montana:

That the Montana Senate and House of Representatives urge that the Northern Tier Pipeline be approved by necessary federal and state jurisdictions and that the construction commence at the earliest possible date; and

Be it further resolved, that upon passage and approval of this Joint Resolution, copies of it be sent by the Montana Secretary of State to the President of the United States; the Governors and U.S. Congressional Delegates from Washington, Idaho, Montana, North Dakota, and Minnesota; the Secretary of the Interior; the Secretary of the Department of Energy; the President of the Northern Tier Pipeline; the Chairman of the Energy Resources Council of the federal government; and the heads of the following federal entities: The Federal Energy Regulatory Commission, the Materials Transportation Bureau, the National Transportation Safety Board, the Environmental Protection Agency, the Department of Energy, and the Interstate Commerce Commission.●

BUSINESS OPPORTUNITY IN SOUTH BRONX

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. GARCIA. Mr. Speaker, I commend to the attention of my colleagues, the following New York Times article on business opportunity in the South Bronx:

[From the New York Times, Mar. 14, 1979]

Printer's Opportunity in Bronx

(By Alan S. Oser)

"I've learned two things," said Samuel Silberberg, who rarely misses the opportunity to draw lessons from experience. "The first thing is you're better off owning your own building. The second thing is I'm better off closer to the sources of my business."

It is a philosophy that found its opportunity in the industrial Port Morris section of the South Bronx, close to the Bruckner Expressway. Mr. Silberberg is moving his book-printing company, Publishers Production International, from rented space in Pelham Manor, just over the Bronx line in Westchester County, into a 12-year-old industrial building at 940 East 149th Street.

He came to the United States from Poland by way of Israel at the age of 23 in 1952, the only member of his family, besides his mother, to survive the Nazi concentration camps of World War II. He had no high school diploma at the time. But he went to linotype school and eventually graduated from the Rochester Institute of Technology, getting a high school diploma and college diploma simultaneously. He was a production manager for a publishing company until 1971, when his division was abolished and he lost his job. With borrowed money and a partner, from whom he has since parted, he established his own business.

On Monday Mr. Silberberg was at the building at 4 A.M., getting ready to direct the last cleanup and rehabilitation stages before the final move-in later this month. So far only one two-color press has arrived. Proudly he showed a visitor the extensive repairs that have been made in a building that lay empty and heavily vandalized for two years since Flavo Rite Foods Inc., a manufacturer of processed frozen foods, halted all operations and closed its doors.

Does Mr. Silberberg worry about the South Bronx as a place to do business? "No, because I was always taught to believe half of what you see and nothing at all that you hear," he said. "People say 'the South Bronx'—it's a broad geographical location. You're going to get the good and the bad like any other place."

Among the good, he included the Venice restaurant on East 149th Street, where he dines on finely cooked Italian fare in a homey atmosphere of camaraderie amid residential squalor outside. "Before I bought the building I thought I might have trouble getting people to come," he said. "But there wasn't one refusal."

So Publishers Production International, which employs 20 persons and hopes to expand to 30 or 35 in two years, is moving closer to the sources of its business, the New York book publishers, both hard cover and soft cover.

In their offices at 230 Park Avenue, officials of the state Job Development Authority explained how disaster for Flavo Rite Foods, which had 60 employees, became opportunity for Publishers Production International. It seems that the state agency was a 40 percent participant with the Equitable Life Assurance Society of the United States in the 1965 financing that permitted Flavo Rite to build its 21,000-square-foot steel and concrete plant. After the company went out of business, the unprotected building was quickly invaded by vandals. All the basic systems needed replacement.

Rather than write off what would have been a million-dollar loss after Equitable's foreclosure action, the Job Development Authority asked brokers to look for a new occupant, said Bernard Lawson, associate general counsel. The two-year search eventually led to Publishers Production International, which was given a 12-year loan of $300,000 to cover the cost of the building shell—$240,000—and some of the rehabilitation.

The company will own modern industrial space, on an acre of land with parking for 27 cars, at a yearly cost for financing and taxes of about $2 a square foot, Mr. Silberberg said. That compares with his rental costs in Westchester of about $3.50 a square foot.

The Job Development Authority, meanwhile, has more than doubled its staff in the last two years or so and has greatly stepped up its loan activity on the heels of new management and a revised ruling by the Internal Revenue Service on the terms under which the agency's bonds can be tax-exempt. An earlier ruling by the revenue service had "just about put J.D.A. out of business," said Michael Curley, the agency's president.

In 1976 the Job Development Authority did $7.1 million worth of business, Mr. Curley said. Since then it has averaged more than $30 million a year.

These are generally 20-year second mortgages at below-market rates, covering 40 percent of the project cost, including new equipment, in the rehabilitation or construction of a facility that leads to more jobs. The borrower typically gets a 50 percent first mortgage from a bank.

For Mr. Silberberg, this has meant opportunity. "My assumption is that the area is at the lowest it will get," he said, "and if I can get a building at $100 a month less per month than I'm paying in rent I can expand and do what I want to do."●

HUMAN RIGHTS IN IRELAND

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. WOLFF. Mr. Speaker, as a followup to my remarks this morning on the floor of the House, I submit this article from the March 15 edition of the Washington Post for the attention of the Congress of the United States.

This article reports that a British Government inquiry has concluded that suspects in Northern Ireland have been physically mistreated by Ulster police in an effort to extract confessions from them. As this body knows, I have stood on the floor on many occasions to call the attention of this Congress and the Nation to the brutal violations of human rights committed by the factions in Northern Ireland. As one who has visited these prisons to get the true story, I can say with sadness that the article demonstrates what I have said on so many occasions before.

[From the Washington Post, Mar. 15, 1979]

BRITISH INQUIRY FINDS ABUSE IN ULSTER

(By Leonard Downie Jr.)

LONDON—A British government inquiry into police interrogation practices in Northern Ireland has concluded that suspected IRA terrorists have been physically mistreated by Ulster police trying to extract confessions from them.

The report's conclusions, based on medical evidence and interviews with police and medical informants constitute the British government's first official acknowledgement that the Ulster police have mistreated some IRA suspects.

The government committee of inquiry, headed by Judge Harry Bennett, has found numerous cases in which the Irish-Republican Army suspects in Ulster police custody suffered serious injuries that "were not self-inflicted," according to sources with knowledge of the report's contents.

The committee reportedly recommends that interrogations of IRA suspects in Ulster be monitored by senior police officials on closed-circuit television, that the police complaint process be improved and that terrorist suspects be allowed to contact a lawyer within 48 hours of their arrest, a right they do not have under the British Prevention of Terrorism Act.

Northern Ireland Secretary Roy Mason reportedly was disturbed by the findings and has decided to carry out as many of the committee's recommendations as possible.

Mason received the report several weeks ago but had not planned to present it to Parliament or the public until next week. Highlights of the report were confirmed by informed sources here today after some had been revealed by The Guardian newspaper.

Last Sunday, an Ulster police surgeon, Dr. Robert Irwin, said on television here that he had examined many suspected IRA terrorists who were seriously injured during police questioning at the Royal Ulster Constabulary's Castlereigh interrogation center in Belfast. His statements were attacked this week by Ulster authorities including the chief constable of the Royal Ulster Constabulary, who said Irwin had made formal brutality complaints in only 10 cases.

Mason has refused comment to reporters or Parliament since Irwin's television interview created new controversy about Ulster here. In the past, Mason has strongly praised the Ulster police for helping the British Army reduce sectarian violence and killing during his 2½ years as the British official in charge of Northern Ireland.

Mason has been gradually withdrawing British soldiers from Northern Ireland, turning over more and more of the responsibility for security there to the Royal Ulster Constabulary.

The Bennett Committee inquiry began last summer after Amnesty International detailed 78 cases of alleged brutality at the Castlereigh interrogation center. The committee was authorized to report on interrogation practices generally, rather than investigate individual cases in depth.

Critics of the British government's Northern Ireland policy are not expected to be satisfied with the Bennett Committee's report for this reason. Gerry Fitt, a Catholic Social Democratic and Labor Party member of Parliament from Northern Ireland, said today that general conclusions about brutality would not be enough. He said he wanted every individual case investigated thoroughly and the police responsible for mistreatment brought to trial.

The Bennett Committee's report and Irwin's televised testimony about brutality came at particularly inopportune time for the British government, which assumed direct rule over Northern Ireland in 1972.

Next week, Parliament debates the further extension of the five-year-old "temporary provisions" of the Prevention of Terrorism Act, under which terrorist suspects can be detained without charges for seven days and can be convicted of terrorism, usually on their own confession, by a judge sitting without a jury. Opponents of the act are expected to use the new revelations of police brutality as reasons the detention powers and the reliance on confessions should be restricted.

The British government also has become increasingly concerned about the IRA's propaganda efforts abroad, particularly in the United States, to discredit a recent crackdown on violence in Northern Ireland.

The IRA has drawn attention to several hundred IRA prisoners living without clothes or blankets in cells fouled by human waste in the Maze Prison in Ulster. Northern Ireland officials have emphasized that the prisoners themselves have refused to wear clothes or use toilet facilities in protest against the British government's refusal to classify them as political prisoners.

The European Commission on Human Rights, which found Northern Ireland guilty several years ago of mistreating IRA suspects imprisoned without trials, is now investigating conditions at the Maze Prison. To present their side of the story about the prison, which was built as a model facility, Northern Ireland officials have taken members of Parliament on a tour of the prison and plan to take reporters inside soon.●

POPULATION PLANNING IN THE PRESIDENT'S BUDGET

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. OTTINGER. Mr. Speaker, when several major national newspapers all highlight a tiny six-page section on population of the President's 600-page "austerity" budget report for fiscal 1980, it is worth taking a second look at.

What the press recognized immediately as news was the President's discussion of "Population Change and Long-Range Effects on the Budget."

Projecting a continuation of record low rates of childbearing of 1976 and current trends in legal immigration, Mr. Carter saw over the next several decades.

Fluctuating demand for schools and teachers;

Reduced youth unemployment and youth crime;

Improved productivity and investment; and

Eventually, significantly greater demand for retirement benefits and health care for the elderly.

With education the top expense of State and local governments these days, and programs for the elderly increasingly a major Federal expense, the kinds of population changes the President foresees will have profound budget implications, indeed.

This is the first time a President has ever used his budget message—the single strongest measure of an administration's goals and priorities—to call our attention to the future. In fact, it has only been since 1970 that any President has even looked at budget trends 5 years into the future.

For those of us in Congress who have been concerned about the long-term consequences of population growth and change in the United States, I can only say, "It's about time."

Of course, the specific assumptions the President made in forecasting the future can be questioned. The rate of childbearing today is slightly higher than the 1976 rate cited in the budget message.

More significantly, the President's population projections, which foresee a gradual decrease in population size after a peaking of growth in the first half of the next century, do not take into account the growing trend of illegal immigration in the United States.

The important point, however, is that the President has undertaken this kind of forward-looking thinking, and the questions that can be asked of his specific assumptions only underscore the need for its continuation and refinement.

That is exactly what Mr. Carter plans to do.

He explained in his budget report:

> The analysis will be continued and sharpened in future years.

His Office of Management and Budget plans more thorough research on the policy implications of population changes over the next 3 months.

We in Congress can be proud that we are right in step with the President. Only the week before the President unveiled his budget request, the House Select Committee on Population released its report, "Domestic Consequences of U.S. Population Change."

Striking the same note as the President, the select committee has concluded after 3 weeks of hearings:

> The government must better anticipate population change and develop effective policy responses to it.

Reported the committee:

> Policies which influence or are influenced by population change can be found in all Federal agencies. Yet, no single agency has the authority to coordinate these often conflicting policies.

It has recommended "a thorough investigation to identify all population-sensitive programs and policies to assess their impact on population and to consider alternative mechanisms for improving the ability of the Federal Government" to plan for future population changes.

As an advocate of the establishment of

a national population policy to guide future population planning, I believe the Congress needs to work with the President to improve our understanding of demographic changes in this country and how they will affect the ability of the Federal Government to serve our constituents.

The first thing the House can do is renew the Select Committee on Population through speedy passage of House Resolution 38. Then we must urge the select committee to explore the policy issues raised by the kinds of population changes which will affect our work and the work of future Congresses. In the near future, I plan to introduce legislation to declare a national policy of population stabilization and to establish an office to coordinate the Federal Government's population-related programs.

Planning for population change means planning for the well-being and welfare of this Nation and all of its citizens. If that is not what the work of Congress is all about, I do not know what is.•

FREEDOM FOR SOVIET JEWS A VITAL ISSUE—III

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

• Mr. UDALL. Mr. Speaker, today, March 15, marks the second anniversary of Anatoly Shcharansky's arrest. After a trial before a Soviet kangaroo court, he was sentenced to 3 years' imprisonment and 10 years in a special regime camp. If there are no further complications, he will be released in March 1990. My distinguished colleague from Massachusetts (Mr. DRINAN) has organized a special order for today to focus attention on Mr. Shcharansky's status. The Soviet authorities have continued to harass Mr. Shcharansky and recently have refused to allow a visit from his mother and brother. He is in reportedly poor health.

On this tragic anniversary, we must continue to help all the Jews presently suffering in the Soviet Union. I believe we must continue to pressure the Soviets to ease their restrictions before the rapidly approaching 1980 Olympics.

At the present time, I am corresponding with the Soviet authorities and our State Department on behalf of Dr. Gregory Rosenstein (Butlerova Street 2, Korpus 1, Apt. 69, Moscow), his wife and their two young sons, who first applied for an exit visa 5 years ago. Soon after his application was received, he was dismissed from his post at a medical institute. The authorities have refused to grant him a visa because they have claimed his research on epilepsy was sensitive and secret. Now he is forced to depend on menial work to support his family, and even these jobs are sometimes made unavailable to him. Nevertheless, he has continued to participate in Jewish cultural seminars and translate religious literature into Russian.

Last year, nearly 29,000 Jews were allowed to leave the Soviet Union. The number of emigrants the previous year was only 17,000. This is an encouraging increase, but the fact remains that many more, 200,000 is a rough estimate, are still awaiting visas. Of these, 2,000 are "refusniks," who like Dr. Rosenstein, have been denied visas for 5 years or more. They all have been denied work in their primary occupations and have been subject to increasing harassment. However, the Soviets have apparently altered their Jewish emigration policy and have instructed their emigration branch to stop the blocking of routine visa applications. There appears to be little harassment and even some cooperation on the part of the Soviets. Evidently, the Russians have decided that it is to their advantage to allow all but the "refusniks" and those in prison camps to leave. Official literature has appeared indicating that such emigration could be beneficial for both parties.

This loosening of visa restrictions also has a tragic side, as there has been a substantial increase in anti-Semitic articles in official newspapers. Many more Jewish families are now being forced to leave their homeland because they feel that "there is no future for our children" in Russia. The "refusniks", who most openly defy the strict religious restrictions, still have not been allowed to leave and now fear that the shift in Soviet emigration policy will obscure their sufferings from the Western World. Those who serve prison terms under harsh conditions, Shcharansky and many others, have not been affected by the altered policy. Their unwarranted sentences have not been shortened and their sufferings have not been assuaged.

Here in the United States, our populace is angered by inflation, unemployment and deficit spending. I am sure you find these subjects common topics in constituent mail. These are certainly problems of the highest priority, but we should not close our eyes and our hearts to suffering abroad. We must remind ourselves of the indignities experienced by our fellow human beings in the Soviet Union, and recognize our moral responsibility to try to alleviate their situation. The Jews have been denied the most fundamental human rights. Although more visas are being granted, those who dare solicit them usually encounter official retribution. Even more painful, their families must also suffer. The breadwinner loses his job and is subjected, along with his family to constant harassment. This harassment has decreased but is still used to discourage would-be emigrants. Those in prison camps must complete a day's hard labor on meals totaling as low as 900 calories. Some are driven insane, others suffer from painful maladies.

The spotlight will be upon the Soviet Union during the 1980 Olympics. Earlier this year (Jan. 18), I mentioned safeguards that were needed to protect these people; one of the more important is the freedom of the international press to contact Soviet Jews. It will be a tragic occasion if these people who daily endure such hardships are forgotten. In the past we have inappropriately interfered in other nations' affairs, and we should guard against this in the future, but if the Soviets expect technological trade and expertise, they must live up to their commitments made in the Helsinki accords.

As members of Congress, we should use our influence to the utmost. We must remind the administration of our deep concern over the treatment of Soviet Jews, especially those in prison camps and the "refusniks". We must continue to represent those who have no representatives. We must uphold the rights of oppressed groups. For without our help they have little hope.•

LEGISLATION REGARDING THE PANAMA CANAL ZONE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

• Mr. PHILIP M. CRANE. Mr. Speaker, respect for the United States is at an all-time low. Foreign leaders express concern and dismay over the inconsistent and incoherent American foreign policy. They ask when we are going to accept our responsibilities as a world leader.

The Panama Canal treaties are the most blatant example of our present weak and indecisive leadership. The treaties with Panama are symbolic of our withdrawal around the world. This same lack of vision and leadership can be seen elsewhere: We hesitated while Iran crumbled, the American Ambassador to Afghanistan was killed, Taiwan is threatened by the same forces that invaded Vietnam, and North Yemen struggles to repulse aggressors.

The disposal of the canal is furthermore inconsistent with the vision of the authors of the Constitution. Article IV, section 3, clause 2 of the Constitution says:

> Congress shall have power to dispose of, and make all Rules and Regulations respecting the Territory or other property belonging to the United States . . .

The President has signed and the Senate has ratified treaties concerning the Panama Canal. These treaties were not reviewed by the House of Representatives. I have introduced legislation to give the House that opportunity.

The House of Representatives should have that review. The Constitution specifically reads "Congress." Congress consists of both the House and the Senate. Both Houses must act together to dispose of U.S. property. This joint role has been honored in tradition and history. An issue of this magnitude deserves the consideration of that body most sensitive to the will of the people—the House of Representatives. To do otherwise would violate the Constitution and disenfranchise the 435 Members of the House of Representatives from voting as Members of "The Congress" on the disposal of $8 billion worth of canal property which belongs to the United States. The United States is a participatory democracy where the right and duty of the entire Congress to take part in that decision has been recognized by prior Presidents. It is difficult to understand the motivation for excluding the House of Representatives from exercising its constitutional authority. Finally, since it was deemed appropriate for the House of Representatives to be involved in relatively minor matters concerning the disposition of property, it stands to reason that it should be involved in what could turn out to be the biggest concession in American history.

The resolution follows·

H. Res. 154

Whereas only the Congress, under the second paragraph of section 3 of article IV of the Constitution of the United States, has the power to dispose of territory or other property belonging to the United States: Now, therefore, be it

Resolved by the House of Representatives of the United States of America in Congress assembled, That no territory or other property of the United States, including the Canal Zone and the Panama Canal, may be transferred to the Republic of Panama.●

NATIONAL ACADEMY OF SCIENCES USES GOOD COMMONSENSE

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. SYMMS. Mr. Speaker, I was pleased to see a report published by the National Academy of Sciences concerning regulation of saccharin by the Food and Drug Administration. The report contained some good commonsense conclusions and suggestions about a more appropriate means of food regulation.

The Washington Star carried an article by James J. Kilpatrick on March 8, 1979, which deals with the saccharin controversy. I commend Mr. Kilpatrick's astute remarks to the Members of this body:

Commonsense on Saccharin

(By James J. Kilpatrick)

A special committee of the National Academy of Sciences last week came up with a delightfully encouraging report. The encouraging thought is that at long last, elements of reason and rationality may be restored to the regulation of food and drugs.

If so, that pleasant condition will have been a long time coming. For more than 20 years, from the time that Rep. James Joseph Delaney of New York added a little amendment to the Food and Drug Act, federal regulators, food processors and consumers have been trapped in the rigid language of the Delaney Clause.

Delaney's contribution was to say that every food product or food additive must be banned absolutely if after appropriate tests, it is found to induce cancer in man 'or animals.' Manifestly, so inflexible a rule leaves no room for scientific or political judgment. Under the Delaney Clause, it is immaterial if a particular product, such as saccharin, is of incalculable value to victims of diabetes. It is irrelevant that repeated studies have failed to prove that saccharin causes cancer in human beings. All that counted in the matter of saccharin was that one Canadian test indicated that massive doses of saccharin could cause cancer of the bladder in rats. The iron gates of Delaney clanged shut.

Well, not quite shut. Congress intervened to prevent the Food and Drug Administration from taking the drastic action the Delaney Clause would have required. Congress also directed the National Academy of Sciences to study and report on the whole situation. It was this report that appeared a few days ago.

With only 7 of its 37 members dissenting, the academy's ad hoc committee denounced the 'rigidity' and the 'complicated, inflexible and inconsistent' requirements of the Delaney Clause. In its place, the academy suggested that consideration be given to new risk classifications for foods and food additives: high, moderate and low risk. And why not?

The idea makes great good sense. It accords with old ideals of personal responsibility, and it ties in with the idea of cost-benefit ratios. Yes, the academy's approach would require value judgment from key people in the FDA; they no longer could lock themselves safely within the iron bars of Delaney. But the public would benefit from a flexibility that would provide something better than the two extremes—unlimited use or absolute prohibition.

The problem of saccharin comes first to mind. The FDA's idea, is sedulous obedience to Delaney, is to ban the artificial sweetener altogether from diet foods and drinks. The unusual Canadian experiment, involving massive doses of saccharin to two generations of rats, did induce tumors in male animals. But studies involving thousands of diabetics (and different thousands of bladder cancer victims), have established no correlation between saccharin and cancer in humans. The FDA's decree is irrational.

The academy committee's moderate recommendations echo the position that is constantly urged by the independent, non-profit American Council on Science and Health. Headed by Dr. Elizabeth N. Whelan, a research associate at the Harvard School of Public Health, the council provides a cool, intelligent counterweight to the fire-alarm frenzies of those who see cancer scares everywhere.

Dr. Whelan and her associates certainly do not pooh-pooh cancer as such—not when 400,000 persons die every year from the disease. They do criticize the hysteria that has invaded public debate on the relationship between cancer and the environment. They are skeptical of the evidence most often adduced to prove that such-and-such a chemical "causes" cancer in humans. Over the past 30 years, while the use of new chemical has increased, the incidence of cancer actually has declined. What is most urgently needed in this whole emotional area is a measure of common sense. Whether we are talking about nitrites in bacon, or red dye in maraschino cherries, or cyclamates in soft drinks, or saccharin for a diabetic, the government's primary role should be to publicize the risk, the cost, and the benefit—and let the people find their own way.●

EMPLOYMENT OF DISPLACED HOMEMAKERS

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Ms. FERRARO. Mr. Speaker, I am today introducing legislation to stimulate the private sector employment of displaced homemakers. My bill would amend the Internal Revenue Code of 1954 to expand the lists of targeted groups eligible for new employee jobs credits to include displaced homemakers. These tax credits are already available to employers who hire disadvantaged youth, welfare recipients, Vietnam-era veterans from economically disadvantaged families, and economically disadvantaged ex-convicts. The bill would allow employers to claim a credit of $3,000 per trainee for the first year, and $1,500 for the second.

Displaced homemakers are among this Nation's fastest growing group of unemployed persons. They are women who have not worked in the labor force for a substantial period and who, by reason of death of a spouse, divorce, or need for additional family income, are thrust into the labor market. They are what the term indicates—homemakers who have been displaced from that role and are now seeking to either reenter the labor force, or to enter it for the first time. While it is difficult to state the exact number of displaced homemakers, estimates are between 2 and 3 million. Moreover, many million more are potentially displaced. This last definition includes women between the ages of 45 and 64 who are not in the labor force and women who currently have minor children, but will be without government benefits when their children reach the age of 18. Given the disturbing increase in the divorce rate, the number of displaced homemakers can only rise in the future.

Mr. Speaker, not only is the scope of the problem extensive, but the plight of the individual displaced homemaker is equally severe. These women are rapidly removed from their roles as a mother and homemaker, and forced to enter the labor force. Most are ill-prepared to compete in our highly competitive job market. Understandably, employers are reluctant to take the risk of hiring a woman who has no marketable skill, or no recent paid work experience. They face not only this discrimination, but most displaced homemakers find themselves ineligible for social security benefits, unemployment compensation, or retirement funds. To them, their problems seem almost insurmountable. Yet, experience has shown that displaced homemakers can, if given the opportunity, make excellent employees.

The plight of displaced homemakers gained national recognition last year when they were included under title III, section 308(a) of the Comprehensive Employment Training Act Amendments of 1978. This legislative reaction to the problems of displaced homemakers will aid many of them in their adjustment to a new lifestyle. But, given the vast numbers of displaced homemakers, these employment projects will only scratch the surface. The $6 million which the Department of Labor has requested for the program will help some, but certainly not all, of the millions of displaced homemakers.

Mr. Speaker, I favor private sector employment over the alternative of public sector jobs. I believe that public employment should be the last resort. For this reason, I believe that my bill addresses the needs of displaced homemakers in a manner which is both cost-effective, and congruous with my commitment to the limited role that the Federal Government should assume in jobs creation. This legislation will not provide Federal jobs for these women, it will merely encourage the private sector to take the initiative in employing displaced homemakers.

This proposal is a cost-effective one, because it will take people off of the welfare rolls and put them on payrolls. Each percentage point of unemployment costs the American taxpayers between $18 and $20 billion. This figure represents lost revenues from income taxes, and the costs of Federal benefit programs designed to aid the unemployed. I, therefore, view my legislation, which would generate the private sector employment of displaced homemakers, as a proposal which is healthy for both the individual and the economy. It is harmonious with the intent of the new employee jobs credit, and with the sentiment expressed by this body when it targeted aid for displaced homemakers in CETA. I hope that my colleagues will agree, and that they will join me in this effort.●

STATEMENT IN SUPPORT OF H.R. 2770, THE INDEPENDENT LOCAL NEWSPAPER ACT OF 1979

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. BONER of Tennessee. Mr. Speaker, I rise today in support of the Independent Local Newspaper Act of 1979 introduced by our colleague, Mr. UDALL of Arizona. I join Mr. UDALL in sponsoring H.R. 2770, because of my concern over the rapid rate at which our independent, locally owned newspapers are being gobbled up by newspaper chains.

The concentration of press power in fewer and fewer hands is not a healthy trend. Too much power, no matter in what industry it is concentrated, can be abused and become an anticompetitive force.

I believe Congress has an obligation to extend a helping hand to the remaining independent newspapers to help them remain independent, especially since the stampede to chain ownership is the result of an extraordinary circumstance.

Mr. UDALL's legislation addresses this circumstance: Exorbitant estate taxes. Upon the death of a newspaper owner, estate taxes are levied based on the potential value of the publication. Since newspapers are valued at figures many times higher than their annual profits, the heirs find themselves faced with staggering tax bills based on assessments of many millions of dollars.

As we are seeing all too often, the heirs usually cannot afford such an enormous tax burden and are forced to sell out to a newspaper chain just to raise the money to pay the estate taxes.

The legislation I am cosponsoring offers a reasonable solution to this problem by allowing independent newspapers to deposit up to 50 percent of their annual earnings in special accounts from which estate taxes will be paid upon the owner's death.

Profits placed in these accounts would be tax deductible, providing an incentive for newspapers to take advantage of the new law. At the same time, potential abuses of the law would be deterred by a tax rate of 118 percent should funds in the accounts be used for any purpose other than estate taxes.

The Independent Local Newspaper Act I am cosponsoring also give a deceased owner's heirs an extension of time to pay any estate taxes which come from sources other than the advance trusts.

Mr. Speaker, the trends toward chain ownership of newspapers in this country is unmistakable. Last year the chains purchased 175 weekly newspapers and 53 dailies.

This concentration cannot help but have a negative effect on the traditional independence of our local free press. You will recall that the press was the only private industry specifically singled out in the Bill of Rights for protection from Government control and interference. For 200 years we have jealously guarded that freedom.

I urge my colleagues to lend their active support to H.R. 2770, the Independent Local Newspaper Act of 1979. If we do not pass this important legislation in the current session of Congress we can expect to see dozens more independent newspapers acquired by chains and newspaper conglomerates in 1979.●

THE FAILURES ON THE U.S. INTELLIGENCE AGENCIES

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. SYMMS. Mr. Speaker, I wish to submit an article from the Reader's Digest written by Melvin Laird regarding some of the failures of our intelligence agencies and why they are still vital to this country's national security.

And I think it is particularly important that we reexamine what is happening to our intelligence agencies in light of the recent situation in Iran and the growing uncertainty in the Persian Gulf. The President and the Congress need to reverse some of their present policies if we are to have any intelligence capabilities at all.

The article follows:

WHY WE NEED SPIES

(By Melvin D. Laird)

Last November President Carter sent an extraordinary handwritten note to his National Security Adviser, to the Director of Central Intelligence and to the Secretary of State. The President expressed extreme dissatisfaction with the quality of information being provided from abroad by American intelligence. He especially was dismayed because he had been grossly misinformed about the magnitude and significance of internal strife in Iran, whose stability and friendship are essential to the West. As a consequence, we unwittingly pursued policies that worsened the problems there.

Unless there is a swift reversal of present policies, the President can only expect more—and worse—intelligence failures. For, both our principal espionage service (the Central Intelligence Agency) and our primary counterintelligence service (the Federal Bureau of Investigation) have been shattered.

Since 1974 the CIA has been the target of prolonged, sometimes blunderbuss investigations by two Congressional committees and a Presidential commission. While uncovering comparatively few illegalities or "abuses," these investigations provided forums for lurid and wildly false allegations against our intelligence community. Congress and the Administration then over-reacted by subjecting the CIA and FBI to severely restrictive legislation and enfeebling edicts. Surveying the wreckage, former Secretary of State Henry Kissinger declared: "We have seriously damaged our entire intelligence capability, and I don't believe that what was discovered in the investigation warranted the wanton assault which took place."

OBSOLETE RESOURCE?

Thus besieged, the CIA has also been demoralized by its own leadership policies. A good part of our foreign intelligence-gathering is centered in the clandestine service of the CIA. These men and women are the managers, the case officers, who spot, recruit, direct and communicate with the foreigners around the world who, usually out of idealistic motives, are willing to spy for the United States. Between 1971 and 1976 the number of employes in the clandestine sevices was reduced by half—perhaps justifiably as part of a general retrenchment after the Vietnam war.

But now, in a misguided attempt to "streamline" and eliminate what CIA Director Stansfield Turner refers to as "excess wood," another 820 people—roughly 20 percent of the remaining force—are being fired. The result, as New York *Times* columnist William Safire noted, has been "the destruction of the clandestine service; the worst leaks of national secrets in a generation; the replacement of independent analysis by the rubber stamps of fawning yes men; and a series of misjudgments in foreign policy."

Many of the attacks against U.S. intelligence suggest that espionage and the secrecy that must surround it are alien to American traditions. History demonstrates just the opposite—beginning with George Washington, who admonished his generals in 1776 "to leave no stone unturned" in collecting intelligence. Presidents Truman, Eisenhower, Kennedy and Johnson all realized that the successful conduct of government and avoidance of war could depend upon possession of knowledge hidden within the totalitarian societies arrayed against us.

The need is even more acute today. International finance, energy supplies, nuclear proliferation—all levy new demands for knowledge. Warfare or other convulsions in unstable regions of the world can choke our economy by cutting off access to resources upon which we depend. Fanatical bands of terrorists multiply, menacing society's intricate functioning. Meanwhile, the Soviet Union, spending far more on arms than we do, grows ever more powerful.

But, people ask, hasn't modern technology made spies obsolete? Can't we collect all the intelligence we require—much more reliably and efficiently—through satellite reconnaissance and electronic monitoring? The answer is no. Rep. Samuel S. Stratton (D., N.Y.), chairman of the House Armed Forces Investigations Subcommittee, explains why: "Spies in the sky can indeed perform wonders. But there is no technological substitute for the man—or woman—on the spot. Revolutions and terrorist attacks are not customarily developed by machines. In deliberately cutting our intelligence system off from coffee houses, bars and other non-technical places where indications of intentions—as distinguished from capabilities—are most apt to be picked up, we have left ourselves, as in the case of Iran, wide open to being blindsided."

LEAD TIME

Just how indispensable spies remain can be illustrated in a heretofore-untold spy story. In 1959 an American spy in the Soviet government slipped us a secret manual showing exactly how the Russians installed one of their missile systems. In June 1962 another U.S. spy spotted Soviet missiles being trucked away from Havana harbor. Subsequent sightings by other agents in Cuba compelled resumption of U-2 reconnaissance flights, which proved the Russians were indeed deploying missiles that could have annihilated most U.S. cities. The pressures upon President Kennedy to blow up the missile sites immediately were intense, and might have been irresistible had not the CIA possessed the manual supplied by the Moscow spy three years before.

It turned out that the missiles were being installed precisely according to the manual. By studying site photographs, CIA analysts determined that the missiles were not yet quite ready to fire.

Meanwhile, our agent in Moscow sent another critical report, on long-range missiles in the Soviet Union. He explained, accurately, that the Russians had not yet perfected an adequate guidance system for their ICBMs as they had for their shorter-range missiles being emplaced in Cuba. All this information enabled President Kennedy to postpone military action long enough to negotiate firmly with the Russians—and force the Kremlin to withdraw the threat from Cuba.

Consider the 1975 incident when two refugees claimed to have seen in the Soviet Union grain silos being built strongly enough to withstand a nearby nuclear blast. It seemed incomprehensible. Why would the Russians go to the extreme expense of bombproofing storage facilities for ordinary grain? Redirecting our reconnaissance, we began to search for such fortified silos. And photo analysts soon spotted them in numerous parts of the Soviet Union—installations previously ignored as of no significance. Then we realized what the silos meant. The Russians were deadly earnest about their nationwide civil-defense program. They were caching, at enormous cost, food for the survivors of nuclear war.

The refugees were not our agents while in the Soviet Union. But the point is the same: human sources can supply vital data that technical sources miss.

Last year, when the Russian-directed, Cuban-led Ethiopian army drove Somali forces from the disputed Ogaden, there were fears that the communists would go on to invade Somalia itself. The prospect was chilling. Having gained control of Ethiopia and South Yemen, the communists, by also seizing strategically located Somalia, could further threaten Saudi Arabia and the flow of oil that is the lifeblood of the industrial democracies. Should the United States respond to such a threat?

Fortunately, in this instance we had an utterly reliable spy in the right place. I am not at liberty to say whether his nationality was Cuban, Ethiopian or Russian. But he accurately informed us that, despite appearances, the Ethiopians would not attack Somalia. The United States thus was spared the hard decision of whether or not to initiate drastic action to save that country.

Once a nation takes military action, aerial photographs and data from sensors and other intercept devices can pretty much tell us what is happening. But by then it may be too late to stop the action except by armed force. Thus we need to know *in advance* what course others intend to pursue. Only human agents can give us this kind of forewarning.

ULTIMATE WEAPON

It is impossible to defend every government official, every utility plan, every mile of transit systems, against stealthy anonymous terrorists who strike at times and locales of their choosing. Only through spies within terrorist groups can we learn of their plans in time to thwart them.

Because of CIA and FBI infiltration of terrorist organizations, we have aborted assassination plots against American leaders, against foreign chiefs of state visiting the United States, and against a number of our ambassadors abroad. We have disrupted sophisticated schemes to blow up government buildings in Washington and kill employees working in them. We have averted the shooting down of airliners, the abduction of public officials and seizure of their families as hostages.

Yet, because it is impossible to penetrate every gang, terrorism continues and multiplies in Europe and the Western Hemisphere. Although organized terrorism in this country is still in embryonic stages, in the past four years terrorist bombs have killed 17 people and injured 136 in New York City alone. A single Puerto Rican terrorist group, the FALN, has perpetrated 58 bombings in New York, Washington and Chicago. The Pacific Gas and Electric Co., principal supplier of energy to California, has been the target of 75 bombings and sabotage attempts. In the country as a whole, 324 terrorist bombings have occurred within the last six years.

Our intelligence unmistakably reveals that foreign and domestic terrorist groups are coalescing into a loose, cooperative federation to intensify assaults upon Americans and U.S. installations, here and abroad. To defeat them, we must have spies in their midst.

Finally, we must have spies to protect ourselves against hostile spies. The Soviet Union, its East European satellites and Cuba have mounted a clandestine campaign unprecedented in peacetime history. Its aim: to enlist spies who will betray our most vital secrets and to suborn Americans who can influence public opinion and national policies. In five years, the Soviet bloc has doubled the number of its professional intelligence officers stationed in the United States—to more than 900.

The most efficient means of combating this onslaught is to insinuate our own agents into the hostile intelligence services. Our most significant successes in countering espionage and subversion have been achieved in this way.

In the early 1960s, for example, a series of spectacular espionage cases rocked the West. The assistant chief of the counterespionage division of West German intelligence, Heinz Felfe, was discovered to be a Soviet agent placing other spies in critical positions throughout West German society. British intelligence officer George Blake also was unmasked as a Kremlin agent. Other Soviet spies were uncovered in Anglo-American laboratories engaged in sensitive antisubmarine research.

All of these disclosures resulted from the work of one spy, Michal Goleniewski, and a few Americans with the capacity and courage to maintain contact with him. A colonel in Polish intelligence, Goleniewski was recruited by the Soviets to spy on his own countrymen. He ostensibly served the Russians so ably that they trusted him with details of some of their most important operations in the West. All these details Goleniewski shared with his U.S. case officers, who had earned his ultimate loyalty. Thus, one American spy nullified momentous successes of the whole Soviet intelligence apparatus.

LOOSER LIMITS

I am convinced that the Administration must halt the ongoing purge of honorable CIA employes. And it must restore their *esprit de corps* by making clear that it regards them as patriotic servants and will back them up in their missions. Congress, which now consumes an enormous share of the energies of the CIA by requiring it to answer to eight committees, should consolidate its oversight efforts. And it should concentrate its scrutiny less upon mistakes made 10 to 20 years ago, more upon what must be done now to protect the nation in the future.

The plight of the FBI is equally deplorable. In 1972 it investigated 17,600 domestic-security cases involving suspected espionage, subversion and terrorism. Last year, because of restrictive legislation and Justice Department guidelines, it investigated fewer than 200! In 1975 the FBI maintained contact with some 1100 informants cooperating in national-security investigations. Last year it had only 42 informants left! Indeed, communist intelligence officers stationed in the United States now outnumber FBI counterintelligence personnel by a wide margin. Last year the FBI asked Congress to authorize a modest personnel increase so it could assign more people to counterintelligence. Congress said no. Instead, it is drafting a charter setting forth guidelines covering all FBI activities.

Among legislators who are deeply troubled by such actions is Sen. Patrick Moynihan (D., N.Y.), a member of the Senate Select Intelligence Committee. "As a liberal," he declares, "I tell you the day will come when we will look back and ask, 'For what purpose did the men of this political generation make it impossible to resist Soviet espionage in this country, and why did they do it?' And we will have a lot to explain."

Spies, today as in the days of George Washington, constitute a weapon. As with all weapons, prudent precautions should be taken to ensure that this one is not misaimed or misused. But intelligence-gathering is a weapon we cannot afford to sheath. If we do, we will increase the chances that someday, because of ignorance, we will have to resort to much more terrible weapons in conflicts that knowledge might have prevented.●

YOUNG FAMILIES HOME OWNERSHIP ACT OF 1979

HON. DAN QUAYLE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. QUAYLE. Mr. Speaker, today I am adding names to the cosponsorship of H.R. 2410, the Young Families Homeownership Act of 1979. I am also pleased to provide information on several of the features most prominently mentioned in this act.

The Young Families Homeownership Act establishes individual housing accounts, into which contributions can be made by those persons who are saving toward the purchase of a first home. Tax credits of 20 percent may be taken on the contributions to this account, for a maximum credit of $500 per year. The account may total $10,000 over a 10-year period, and interest on the account is tax free.

If the money is used for any purpose other than to make the downpayment on a first home, there is a penalty and the tax benefits are returned to the Treasury.

This bill is structured as a credit and not a deduction due in large part to testimony given by the Department of the Treasury when the Senate Banking Committee held hearings on a similar bill in 1977. It was the Treasury position that deductions would apply too extensively to those in the upper income brackets, whereas a credit could be claimed by those in the middle and lower income levels. There is also the important consideration that renters—certainly one of the most affected groups under this bill—generally do not itemize their tax returns and therefore could not take advantage of a tax deduction. A credit, however, would be useful.

Treasury also testified that a tax deduction would cause a much greater loss of tax revenue than a tax credit. As a result of these views, the bill in the 95th Congress was amended to provide tax credits and to further restrict its applicability to first homes only. This bill reflects those changes.

Cost estimates for this bill vary somewhat according to basic assumptions on the number of participants in the program. It is generally conceded that roughly 50 percent of those eligible will actually utilize IHA's. The Joint Committee on Taxation estimates the following costs to the Federal Government for H.R. 2410:

	Billion
1980	$0.52
1981	1.46
1982	1.66
1983	1.97
1984	2.18
1985	2.23

After 1985, costs would stabilize at approximately $2.2 billion per year. This only takes into account the loss of revenue as a result of this program; it does not attempt to figure in the additional revenue created by increased housing starts and the resulting generated economic activity.

It is apparent that this bill will be beneficial to all those who still seek to realize the American dream of owning your own home, and this group includes many more than just young families (although statistically they are the largest group). There are additional considerations which make this bill attractive.

It will boost savings. The U.S. League of Savings Associations, pointing out that the United States has the lowest personal savings rate of any industrialized nation, has supported legislation such as this as a means of providing increased funds for savings and loans institutions. This in turn will help to alleviate the pressure in the credit market and is expected to help stabilize or even lower interest rates in this area.

Finally, it will act as a stabilizing factor in the housing industry. New housing starts have been declining in recent months and nonseasonal indicators point to a downturn. By facilitating the purchase of new homes through these IHA's, we will serve to bolster this economically crucial industry. Housing industry experts also predict that this incentive will act to moderate the cyclical nature of the housing industry, which in turn will moderate costs.

In short, this bill will have beneficial effects for first-time home buyers, savings institutions, and the housing industry. It will cost the Government little in terms of these benefits. In the many foreign industrialization nations where similar programs are already in operation, they have proven highly successful and very popular.

Hearings are expected in the Senate on this bill during the 96th Congress, and I am hopeful of generating similar interest in this body.●

WILLIAM SIMON SAYS NATIONAL HEALTH INSURANCE NOT THE ANSWER

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 15, 1979

● Mr. SYMMS. Mr. Speaker, in Abbott Laboratories 1978 annual report, there is an article written by former U.S. Secretary of the Treasury, William Simon, which builds an excellent case for rejection of socialized health care in this country. I commend this article to the attention of my colleagues in the House.

WILLIAM SIMON SAYS NATIONAL INSURANCE NOT THE ANSWER

Ever since his appointment as Secretary of Health, Education, and Welfare (HEW), Joseph A. Califano, Jr. has issued an almost incessant stream of complaints about the system of American health care. It is, he says, "a vast, sprawling, highly expensive and virtually non-competitive industry, commanding an ever-larger share of our nation's resources."

His solution? "National health insurance to protect all Americans from the crushing burden of medical expenses is essential."

Perhaps the first thing to note here is the striking lack of logic. There is little competition in the health-care industry, Califano charges. Therefore, nationalize it. This is like saying that the way to solve the problem of the Imperial Presidency is to establish a monarchy. The concept of the divine right of kings would do little to democratize the White House. Nor would the socialization of health care increase competitiveness. Further, to imply that Americans now burdened with medical bills would be miraculously relieved of those burdens if their bills were first recycled through Washington is not only illogical but downright dishonest.

"The federal government is part of the problem of rising health-care costs."

Fourteen years back, when the economy was booming, we were told that although national health insurance would be expensive, it was necessary because many Americans were receiving inadequate care. Then came Medicare and Medicaid, the problems of equity and access were alleviated, and we were told that we were not getting what we paid for—that the government should exercise control over the *quality* of care. Now the line has shifted again, from considerations of quality to those of cost, pure and simple: we're being told that we cannot afford *not* to have a comprehensive medical program.

True, there is a cost problem with our present health system (although medical costs have not kept pace with the rise in costs of other essential services). In 1977, the national bill for medical care came to more than $160 billion. But, as even the President's Council on Wage and Price Stability has admitted, "it is all too apparent that with current reimbursement programs and the ubiquitous and often conflicting morass of regulations, the federal government, instead of being part of the solution, is part of the problem of rising health-care costs." Partial federal intervention is already driving prices skyward; total federal intervention would accelerate the process. According to a 1977 Congressional Budget Office report, a national health-insurance program would cost the government an additional $14 billion to $138 billion annually (depending on the type of plan) by 1982.

But Califano and his planners simply skip around such figures. Many of the estimates cannot be accurate, say the planners, because they do not take into account the cost-cutting theories now espoused by the government.

One such theory involves preventive medicine, and runs this way: if financial barriers are eliminated on the primary level (doctors' offices, clinic, etc.) through health insurance, then minor health problems will be arrested before they develop into major problems, thereby reducing the cost of treatment.

On the face of it, this is an attractive theory. But on reflection it makes little sense. for vast majority of our health problems are not problems that early care can prevent. Over the past year, how many of us have seen a doctor about a problem that an earlier visit would have prevented? A cracked rib, a cold, a digestive disorder—ailments like these form the bulk of the problems that we take to our doctors. None of them would be prevented by early visits.

"National health insurance could cost $14 to $138 billion annually."

There are, of course, extremely effective procedures for early detection and treatment of serious diseases, like certain methods of cancer screening, and hypertensive medication for high blood pressure. But cost alone seldom prevents people from seeking such treatment. For many of us, the fact that we procrastinate springs from something infinitely more complex than a physician's fee, and the abolition of that fee would make the prospect of a visit to the doctor no more seductive.

Human nature presents a profound problem for preventive medicine. We cause most of our own basic health problems by eating too much, smoking too much and drinking too much. We drive cars unsafely, ignore seatbelts, refuse to exercise. Change those lifestyles, preventive-medicine proponents say, and there will be far fewer health problems. All of which is true. But if advocates of preventive medicine actually believe that a socialized system would compel us to stop smoking simply because we could more easily afford to trot into our doctor's office and be told to do so, their view of human nature is hopelessly muddled.

Moreover, to characterize preventive techniques as "money-saving" is surely to miss an important point—we all die anyhow, and few of us die healthy. Save us from one thing, and we will eventually suffer from and die of another. And a great deal of money may be spent on us in the process. Consider: A man found to have operable prostate cancer at 40 may be saved to enjoy the benefits of a pacemaker at 65. Or a woman whose hypertension problems are brought under control at 60 may at 70 suffer from advanced senility and be placed in a nursing home. This treatment is as it should be, for prolonging life is what American medicine is all about. But here again we run into one of those great reversals of government logic, for a great deal more money will be spent on such patients than would have been spent had the earlier preventive techniques not succeeded.

Closely tied to the theory of preventive medicine is the assault on what has been called runaway medical technology. Federal planners argue that costs at the upper level need to be controlled. Give them the total health-care bill, they say, and they will hold down those costs by refusing to pay for certain "surplus" sophisticated and expensive equipment.

But do we really want that? It might mean, for instance, that a child with a brain tumor would not have access to a brain scanner that could pinpoint the tumor's location, or that the hospital nearest to a heart-attack victim would not have a cardiovascular unit. For, with the government determined not to pay for such equipment, it would not be purchased.

"Medical costs have not risen nearly as rapidly as the costs of other services."

If Califano truly wanted to hold down costs and enhance the quality of care, he would start at the other end and eliminate services on the primary level. This is where health-care expenditures are truly wasted. Doctors are plagued by hordes of patients with self-treatable or transitory afflictions. There is the patient with the scratchy throat, or excessive or inadequate body hair, or a funny feeling in the right shoulder. As third-party payments increase—and with them the illusion of free medicine—so does the number of patients with such minor complaints. Unlimited access, concludes a Rand Corporation study of national health insurance, would lead to a 75-percent increase in demand for medical services. Even if a national health-insurance plan covered only 75 percent of medical costs, a 30-percent increase in demand for services would occur. These increases would take place precisely where they are needed least and, what's more, would siphon off dollars essential to other health care.

Califano's most basic assertion is that health-care costs are spiraling out of sight. He would have us believe that this cost increase is outstripping the cost increase of all other commodities. But according to the Consumer Price Index (CPI), medical costs over the past decade have not risen nearly as rapidly as the costs of many other essential services. The following list shows what you paid at the end of 1978 for certain products and services that cost only $1 in 1967.

Medical care	$2.23
Auto maintenance & repairs	2.24
Home financing, taxes & insurance charges	2.69
Gas & electricity	2.38
Home maintenance & repairs	2.37
Water & sewer services	2.35
Postal fees (under government supervision)	2.57

Consider, as well, the Social Security tax bite: From 1967 through 1978, the maximum Social Security tax increased approximately twice as much as did health-care costs.

"We're missing an important point—we all die anyhow, and few of us die healthy."

But Califano is not interested in figures that undermine his case—as is especially apparent in his assaults on pharmaceuticals. Among all major industries, pharmaceuticals have been one of the most successful at keeping prices down, and in terms of real dollars we pay considerably less for prescription drugs now than a decade ago. Between 1967 and 1978, according to the Bureau of Labor Statistics, prices for all goods rose 99.3 percent. The price of prescription drugs, however, rose less than 34 percent.

That figure is especially remarkable when you consider the effect of Food and Drug Administration regulations on the drug industry. During the early 1960s, it cost approximately $1.5 million, after basic research had been completed, to develop a new drug and win federal approval to market it. Today, that cost has risen to at least $15 million. Yet in 1978, when all costs were rising 8.3 percent, drug prices rose 7.6 percent.

One wishes, before Califano nationalizes medicine, that he would reassure us all by pointing to just one instance in which government intrusion into the private sector has resulted in a less-expensive product—or for that matter, a product of higher quality. To my knowledge, that has never happened, and it would be highly unlikely to happen in the complex field of health care.

But perhaps we needn't worry. The first target date for national health insurance was late 1977. Now Califano is talking about sometime this year. Meanwhile, the American people, already afflicted by inflation and threatened by a huge new Social Security tax bite, may decide they simply do not want to foot the bill for nationalized medicine. Besides, as most Americans who think about it have come to understand, we already have a comprehensive national health-care system, created by the private sector. And in comparison to the systems of those nations—especially Great Britain—where medicine has been socialized, it doesn't look bad at all.●